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HOUSE OF REPRESENTATIVES—*Monday, September 18, 1972*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

I turn my face to the Lord God, seeking Him by prayer and supplications with fasting.—Daniel 9: 3.

Eternal God, our rock of refuge in every age and our strength for the present hour, we come before Thee realizing that we have mishandled the life Thou hast entrusted to us. We have done those things we ought not to have done and have left undone those things we ought to have done. As we survey our past, we are filled with shame that we have fallen so short of Thy high purposes for our lives and we have failed to use wisely the gifts Thou has so abundantly bestowed upon us. Humbly we make our confession to Thee.

Now with prayer and fasting we ask that Thou wilt create in us clean hearts and renew a right spirit within us. Strengthen us in our resolve to mend our ways, to serve our country more faithfully, and to trust Thee more fully. Thus may we become more worthy of Thy love.

We pray for the family of WILLIAM FITTS RYAN who has entered the larger life with Thee. Comfort them with Thy presence and strengthen them for this hour and for the days that lie ahead. May the memory of this good man, our colleague, linger long in our hearts.

In Thy holy name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 15577. An act to give the consent of Congress to the construction of certain international bridges, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested bills and joint resolutions of the House of the following titles:

H.R. 10243. An act to establish an Office of Technology Assessment for the Congress as an aid in the identification and consideration of existing and probable impacts of technological application; to amend the National Science Foundation Act of 1950; and for other purposes;

H.R. 11948. An act to amend the joint resolution authorizing appropriations for participation by the United States in the Hague Conference on Private International Law and the International (Rome) Institute for the Unification of Private Law;

H.J. Res. 984. Joint resolution to amend the joint resolution providing for U.S. participation in the International Bureau for the Protection of Industrial Property;

H.J. Res. 1211. Joint resolution to amend the joint resolution providing for membership and participation by the United States in the South Pacific Commission;

H.J. Res. 1227. Joint resolution approval and authorization for the President of the United States to accept an Interim Agreement Between the United States of America and the Union of Soviet Socialist Republics on Certain Measures With Respect to the Limitation of Strategic Offensive Arms; and

H.J. Res. 1257. Joint resolution to authorize an appropriation for the annual contributions by the United States for the support of the International Agency for Research on Cancer.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15495) entitled "An act to authorize appropriations during the fiscal year 1973 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to authorize construction at certain installations in connection with the Safeguard antiballistic missile system, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes."

The message also announced that the Senate insists upon its amendment to the resolution (H.J. Res. 1227) entitled "A joint resolution for approval and authorization for the President of the United States to accept an Interim Agreement Between the United States of America and the Union of Soviet Socialist Republics on Certain Measures With Respect to the Limitation of Strategic Offensive Arms," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. FULBRIGHT, Mr. SPARKMAN, Mr. CHURCH, Mr. SYMINGTON, Mr. AIKEN, Mr. CASE, and Mr. COOPER to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 141) entitled "An act to establish the Fossil Butte National Monument in the State of Wyoming, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JACKSON, Mr. BIBLE, and Mr. HANSEN to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 353. An act to authorize the Secretary of the Interior to construct, operate, and maintain the O'Neill unit, Pick-Sloan Missouri Basin program, Nebraska, and for other purposes;

S. 2350. An act to authorize the Secretary of the Interior to construct, operate, and maintain the North Loup division, Pick-Sloan Missouri Basin program, Nebraska, and for other purposes;

S. 3140. An act to improve the financial management of Federal assistance programs to facilitate the consolidation of such programs; to provide authority to expedite the processing of project applications drawing upon more than one Federal assistance program; to strengthen further congressional review of Federal grants-in-aid; and to extend and amend the law relating to intergovernmental cooperation;

S. 3531. An act to authorize the Secretary of the Interior to disburse funds appropriated by Congress for the planning, design, and construction of recreational facilities in connection with the 1976 Winter Olympic Games; and

S. Con. Res. 92. Concurrent resolution authorizing the printing of additional copies of the hearing before the Subcommittee on Children and Youth relating to the sudden infant death syndrome.

ANNUAL REPORT OF FEDERAL ACTIVITIES IN JUVENILE DELINQUENCY, YOUTH DEVELOPMENT, AND RELATED FIELDS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Education and Labor:

To the Congress of the United States:

I am pleased to submit herewith the

annual report of Federal activities in juvenile delinquency, youth development, and related fields, as required by section 408 of the Juvenile Delinquency Prevention and Control Act of 1968 (Public Law 90-445).

The report covers the period from July 1, 1970 to June 30, 1971 and evaluates activities of the Youth Development and Delinquency Prevention Administration in the Department of Health, Education, and Welfare. It also includes a description of the activities of other Federal Agencies and Departments in the field of juvenile delinquency.

I commend this report to your careful attention.

Richard Nixon.

The White House, *September 18, 1972.*

CHANGE IN LEGISLATIVE PROGRAM

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that the call of the Consent Calendar under clause 4, rule XIII, be postponed until tomorrow, Tuesday, September 19.

Mr. HALL. Mr. Speaker, reserving the right to object, is it the intent of the majority leader to simply defer the Consent Calendar as is listed today and make the call other than on the third Monday, in accordance with the rules and notwithstanding that rule, and is it further understood that there would be no rule of suspension invoked on any one that was put over or objected to, and that this involves no other business except the Consent Calendar as now printed?

Mr. BOGGS. The request involves the very simple process of taking up the Consent Calendar scheduled for today on tomorrow.

Mr. HALL. Mr. Speaker, in view of the loss of our colleague, one could not in good heart object to this request.

I, therefore, withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE REPORT ON FOREIGN ASSISTANCE AND RELATED PROGRAM APPROPRIATIONS, 1973

Mr. PASSMAN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on the foreign assistance and related programs appropriation bill for fiscal year 1973.

Mr. SHRIVER reserved all points of order on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

THE 25TH ANNIVERSARY OF THE U.S. AIR FORCE

(Mr. SIKES asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, I am sure the House of Representatives will note with pleasure the fact that September 18, 1972, is the 25th anniversary of the U.S. Air Force. This great fighting force has given 25 years of outstanding service to our Nation. Its motto "Pride in the past—faith in the future," symbolizes the spirit and enterprise which have distinguished the personnel of this great organization and its contributions to the security of America in the free world.

The Department of the Air Force was officially established on September 18, 1947, when the Chief Justice of the United States administered the oath of office to the first Secretary of the Air Force, W. Stuart Symington.

The U.S. Air Force was established within the Department of the Air Force on September 26, when Gen. Carl A. Spaatz was sworn in as the first Chief of Staff. The National Security Act of 1947, as amended, provides the legal foundation and mission of the Air Force as separate and equal to the other U.S. military services, under civilian policy control and leadership.

Thus began a new era in which air power became firmly established as the nation's first line of defense, chief deterrent to war, and a vital national resource.

The 1947 Air Force was comprised of about 300,000 people and was equipped predominantly with World War II propeller-driven aircraft. Now, almost a million and a half airmen and civilians fly, maintain, and support complex jet aircraft, missiles, communications, electronic, and other technical facilities around the world and around the clock.

During this quarter century, the Air Force has responded to changing U.S. defense requirements and policy. Following the Korean conflict, which confirmed the tactical air warfare lessons of World War II and demonstrated that strategic airpower could confine the hostilities to one area, the Air Force entered the era of the 1950's. The retaliatory strategic deterrent bomber force was expanded and modernized, and later reduced as the ballistic missile force was increased in the 1960's. Strategic defense forces were expanded, in cooperation with Canada.

While maintaining its strategic deterrent forces in the 1960's, the Air Force responded to the tactical warfare challenge of insurgency and limited war. In Vietnam the Air Force adapted to meet the demands for close air support of mobile ground forces, interdiction of jungle supply lines, and nighttime and bad weather operations.

Although the Air Force is a fighting force, it is also world-renowned for its humanitarian and civic actions toward man in his struggle against famine and natural disasters. During the 1948-49 Berlin blockade, the young Air Force airlifted some 2.3 million tons of food, fuel and supplies, staving off starvation for the beleagured Berliners. Since then, the Air Force has been in Spain during the 1962 floods; in the Congo with life-supporting paradrops; assisting earthquake victims in Chile, Peru, California, and Alaska; in east Pakistan struck by a disastrous tidal wave; and in Mississippi after Hurricane Camille left her path of death and destruction.

Every day, in many ways, Air Force men and women use their skills, training and dedication to peacefully benefit the people of the world. That is why, this year, Air Force people look to the past with pride and to the future with faith that they will continue this heritage.

FEDERAL SHARE INSURANCE SAVES FLOOD CLOSED CREDIT UNION

(Mr. PATMAN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PATMAN. Mr. Speaker, had Congress not enacted Federal share insurance for credit unions during the last Congress, some 700 people in Kingston, Pa., would have lost more than $500,000 due to the closing of their credit union.

But, because there was such insurance on the statute books, the members of the Blue Ribbon Cake Federal Credit Union will receive every cent that they have in their savings account even though their credit union has gone into liquidation.

The story surrounding the closing of this credit union is tragic but unique. Not only was the credit union hard hit because of the floods resulting from Hurricane Agnes, but the credit union sponsor announced that it would not reopen its plant following the floods.

When this happened, the National Credit Union Administration placed the credit union in involuntary liquidation because without jobs the borrowers from the credit union could not repay their loans. The board of the credit union concurred in the action and the payout of savings account holders began almost immediately with much of the paperwork and redtape being bypassed.

Mr. Speaker, when the legislation was passed, those of us who sponsored it knew there would be a variety of reasons why credit unions would be closed; but certainly we did not foresee that a disaster such as the magnitude of Agnes would provide such a major test for the insurance. The disaster does point up, however, the effectiveness of the insurance and speed with which claims can be paid.

In summary, I can only wonder what might have happened had the Blue Ribbon Cake Federal Credit Union not had such insurance. The August 13 edition of the Times-Leader, Evening News, Record of Wilkes-Barre carried an outstanding story describing the closing of the Blue Ribbon Cake Federal Credit Union and the payout from the National Credit Union Administration insurance fund. After reading the article, it can clearly be seen that the Federal share insurance legislation has truly been a noteworthy act of the Congress.

The article follows:

Members of "A Very Good Credit Union" Sunk by "Agnes" Recover Fully

The National Credit Union Association, an agency of the Federal government, is expected to expend approximately $188,000 from its insurance fund to satisfy claims from members of the Blue Ribbon Cake Federal Credit Union who were hit both by the flood and by Interstate Brands Corporation's decision to close its Kingston plant.

Joseph Bellenghi, Harrisburg-based director for the NCUA's five-state region which includes the Wyoming Valley area, said the estimated $188,000 payout from the agency's insurance fund will be over and above the liquid assets of the now insolvent Blue Ribbon Cake Federal Credit Union.

The credit union became insolvent, he reported, because members hard-hit by the flood and now out of work because of the plant 's closing are unable to pay their loans. Before the flood hit and the plant closed, Bellenghi stated, the Blue Ribbon Cake Federal Credit Union was solvent and "a very good credit union."

Statistical information shows that the Blue Ribbon Cake Federal Credit Union had a total of $506,902 in 720 savings accounts, including 544 regular savings accounts and 176 Christmas accounts. Average savings per member were $932 or well above the national average which, according to NCUA officials, is "just under $600."

The credit union had a total of 292 loans amounting to $355,196. Total assets of the credit union were listed as $536,632.

INVOLUNTARY LIQUIDATION

Bellenghi said the Blue Ribbon Cake Federal Credit Union was placed into involuntary liquidation by NCUA Administrator Herman Nickerson, Jr., on August 4 when Interstate Brands Corporation announced the closing of the Kingston plant. The credit union's board of directors concurred with the NCUA administrator's action.

Notices of liquidation were prepared by the NCUA local staff, working out of the agency's offices at 361 Wyoming Avenue, Kingston, and claim forms were mailed to approximately 95 percent of the credit union's members by Monday. However, since some of the members had been displaced by the flood and forced to relocate, the NCUA staffers decided to "hand carry" some of the claim forms to the members.

In addition, to expedite payment of claims to members of the credit union—some of whom are in need of ready cash because of the circumstances—the local NCUA representatives have also made provision for immediate handling of the completed claim forms in Washington, D.C., where checks will be processed through the U.S. Treasury Department. These checks which, in some instances represent all or most of the savings accrued by individuals over the years, will then be "hand carried" to the individual savings account holders.

The first four checks were delivered Friday morning to credit union members who had completed their claim forms on Tuesday afternoon. Mr. Bellenghi said the claims forms had been "walked through" the various processing steps at the direction of Administrator Nickerson. All of the claims from Blue Ribbon Cake Federal Credit Union members will receive this same "walk through" service, he reported, and it is expected all checks will be delivered to the credit union members in about a week. Bellenghi said the Treasury was giving its full cooperation to the project and noted, too, that the checks are being hand-carried to the Wyoming Valley area just as soon as they are issued.

Recipients of the first four checks are:

Edward Wilk, 23 E. Hoyt St., Kingston, who is currently residing in a HUD mobile home set up in the back yard of his brother's residence at 942 W. Main St., Plymouth Twp. Mr. Wilk, who had completed 35 years of service with Blue Ribbon on June 3, said he and his wife had lost "everything" from their Kingston home and that they were not planning to return there. The money savings in the credit union, Mr. Wilk said, was accumulated at a rate of $2 per week and represented the bulk of the couple's savings.

Mrs. Helen Piesko, 73 N. Gates Ave., Kingston, who has been employed as a finisher-packer at the Blue Ribbon plant and who had been a member of the credit union for about 20 years. Both she and her husband, Paul, are out of work as a result of the flood and plant closing. Mr. Pesko had been employed by Marvel Kitchens, Inc., Wyoming. The couple estimated flood damage to their dwelling at upwards of $30,000.

Mrs. Mary Louise Broody, 104 Barney St., Wilkes-Barre, who had completed almost four years with Blue Ribbon and was employed as a carton packer. She, too, said that most of the family's savings were represented by the money in the credit union. She and her husband, Paul, along with two sons, Michael and John, Jr., are residing in a camper-type unit pending repair of the family home which was inundated almost to the second floor by flood water.

Miss Elizabeth Ducey, 50, N. Gates Ave., Kingston, who was employed as a wrapping machine operator at Blue Ribbon before the flood hit. Miss Ducey, the daughter of Mr. and Mrs. James Ducey, is to be wed next month to a former co-worker, Jerry Rozanski of 109 Center St., Kingston. The couple has had to schedule their wedding for St. Therese's Church, Shavertown, since their own churches in Kingston were devastated by the flood.

ACCOUNTS INSURED

It was pointed out that members' accounts in the credit union are insured by the administrator up to a maximum of $20,000. While none of those in the Blue Ribbon Cake Federal Credit Union were in this maximum insured amount, it was stated that there were some savings accounts in the neighborhood of $15,000.

Members not personally contacted by the NCUA representatives were instructed to mail their completed claim forms to the National Credit Union Administration, Washington, D.C. 20456, for immediate processing.

Regarding the loans still outstanding, NCUA officials said these would be handled in various ways, dependent on the circumstances. In some cases, it was noted, the loans may be written off. Other cases may involve sale of the outstanding loans to other credit unions.

Bellenghi said the flooding caused by Tropical Storm Agnes was the worst single disaster ever to hit credit unions. Although the Blue Ribbon Federal Credit Union was the only one to close down, there were 21 credit unions in the Wyoming Valley hit by the flooding.

The job of reconstructing these credit unions, the NCUA regional director reported, was complicated by the fact that in many cases the flood not only "wiped out" the credit union itself, but also the plants which employed the credit union members and the members themselves.

Pennsylvania leads all other States in the nation in numbers of credit unions, Bellenghi declared. He noted that Wyoming Valley area was hardest-hit by the disaster. Richmond, Va., where five credit unions were "under water" was the second hardest-hit area in Bellenghi's five-state region.

The first contacts in this area with flood-affected credit unions were made on the Tuesday after the flood, it was stated. In many cases, local NCUA representatives, including Francis Muto, the agency's examiner in the Wyoming Valley area, assisted in pulling credit unions records from flood-affected offices. A short time later, with an assist from the office of Congressman Daniel J. Flood of Wilkes-Barre, the NCUA established a temporary office at the Mackin School, city, to assist in reconstruction of the affected credit unions.

Foster Bryan of the NCUA's Washington, D.C., office has been named by the agency's administration to serve as agent for the liquidating of the Blue Ribbon Cake Federal Credit Union.

WALTER BASSANO AND BILL THOMPSON, JOURNALISTS WHO MADE HISTORY—IN WORD AND DEED

(Mr. PATMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PATMAN. Mr. Speaker, for a considerable period of time the well-being, progress, and development of a large part of northeast Texas have been closely related to the parallel growth, circulation, and influence of a great daily and Sunday newspaper, the Paris News. This was accomplished under the forceful and inspiring leadership of its publisher, the Honorable Walter W. Bassano, ably assisted by his editor, Bill Thompson, and an outstanding staff of professional craftsmen and all those experts and knowledgeable people who have a hand in turning out a real good newspaper—7 days a week.

Now that Walter Bassano has come to the age of retirement, and Bill Thompson has finally yielded to the inducement of a prestigious position in the Dallas office of one of Texas' largest firms, it is high time to recognize that a glowing chapter of American history has been written and recorded by these two great journalists—Walter Bassano, imaginative, innovative, far-seeing, and creative, and Bill Thompson, consummate artisan of the printed word, student of human nature in all its phases, and always an efficient spokesman for good causes. Such massive journalistic coverage could possibly be considered a conflict of interest, but a conflict of interest that is worthy of the highest commendation, because much of the community improvement and community aspirations about which they wrote were of their own doing—a great merger of talents from which everyone benefited.

The Paris News will, of course, continue to prosper as a splendid paper—because of the constant generation-long input of these gentlemen, and because they built their paper so remarkably well.

It is, of course, only to be expected that Walter Bassano will now devote all of his energies without any time out—since there is no vacation in retirement—to his ever-expanding vision of a perfect environment, like the Pat Mayse Reservoir, whose creation over the past 20 years has been one of his most notable achievements. And it can come as no surprise to anyone if Bill Thompson from his vantage point in Dallas is found to be still working to enhance even further the amenities of daily living in the city of Paris and Lamar County—where I suspect he too will choose to retire, when the time comes, in the heart of the Great Gulf Southwest.

It is often noticed that men of superior achievement are blessed with wonderful families. Certainly Mrs. Walter Bassano and her good friend, Mrs. Bill Thompson—known as Georgia B and Jo Ann—are among the most distinguished, charming and gracious of our great

Southern ladies. In the world of today, where newspapers often carry nerve-jarring stories, it is indeed a welcome task to salute these two Texas gentlemen, their wives, and families, and to honor their constructive accomplishments; they have done more than their share to bring about those objectives set forth in the Preamble to the U.S. Constitution: to "insure domestic Tranquility * * * (and) promote the general Welfare."

APPOINTMENT OF CONFEREES ON H.R. 10243, TO ESTABLISH AN OFFICE OF TECHNOLOGY ASSESSMENT

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 10243) to establish an Office of Technology Assessment for the Congress as an aid in the identification and consideration of existing and probable impacts of technological application; to amend the National Science Foundation Act of 1950; and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from California? The Chair hears none, and appoints the following conferees: Messrs. MILLER of California, DAVIS of Georgia, CABELL, MOSHER, and ESCH.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 4383, FEDERAL ADVISORY COMMITTEE STANDARDS ACT

Mr. HORTON. Mr. Speaker, I ask unanimous consent that the conferees on the bill H.R. 4383, the Federal Advisory Committee Standards Act, may have until midnight tonight to file a conference report.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

CONFERENCE REPORT (H. REPT. NO. 92-1403)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4383) to authorize the establishment of a system governing the creation and operation of advisory committees in the executive branch of the Federal Government, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Federal Advisory Committee Act".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that there are numerous committees, boards, commissions, councils, and similar groups which have been established to advise officers and agencies in the executive branch of the Federal Government and that they are frequently a useful and beneficial means of furnishing expert advice, ideas, and diverse opinions to the Federal Government.

(b) The Congress further finds and declares that—

(1) the need for many existing advisory committees has not been adequately reviewed;

(2) new advisory committees should be established only when they are determined to be essential and their number should be kept to the minimum necessary;

(3) advisory committees should be terminated when they are no longer carrying out the purposes for which they were established;

(4) standards and uniform procedures should govern the establishment, operation, administration, and duration of advisory committees;

(5) the Congress and the public should be kept informed with respect to the number, purpose, membership, activities, and cost of advisory committees; and

(6) the function of advisory committees should be advisory only, and that all matters under their consideration should be determined, in accordance with law, by the official, agency, or officer involved.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) The term "Director" means the Director of the Office of Management and Budget.

(2) The term "advisory committee" means any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof (hereafter in this paragraph referred to as "committee"), which is—

(A) established by statute or reorganization plan, or

(B) established or utilized by the President, or

(C) established or utilized by one or more agencies, in the interest of obtaining advice or recommendations for the President or one or more agencies or officers of the Federal Government, except that such term excludes (i) the Advisory Commission on Intergovernmental Relations, (ii) the Commission on Government Procurement, and (iii) any committee which is composed wholly of full-time officers or employees of the Federal Government.

(3) The term "agency" has the same meaning as in section 551(1) of title 5, United States Code.

(4) The term "Presidential advisory committee" means an advisory committee which advises the President.

APPLICABILITY

SEC. 4. (a) The provisions of this Act or of any rule, order, or regulation promulgated under this Act shall apply to each advisory committee except to the extent that any Act of Congress establishing any such advisory committee specifically provides otherwise.

(b) Nothing in this Act shall be construed to apply to any advisory committee established or utilized by—

(1) the Central Intelligence Agency; or

(2) the Federal Reserve System.

(c) Nothing in this Act shall be construed to apply to any local civic group whose primary function is that of rendering a public service with respect to a Federal program, or any State or local committee, council, board, commission, or similar group established to advise or make recommendations to State or local officials or agencies.

RESPONSIBILITIES OF CONGRESSIONAL COMMITTEES

SEC. 5. (a) In the exercise of its legislative review function, each standing committee of the Senate and the House of Representatives shall make a continuing review of the activities of each advisory committee under its jurisdiction to determine whether such advisory committee should be abolished or merged with any other advisory committee, whether the responsibilities of such advisory committee should be revised, and whether such advisory committee performs a necessary function not already being performed. Each such standing committee shall take appropriate action to obtain the enactment of legislation necessary to carry out the purpose of this subsection.

(b) In considering legislation establishing, or authorizing the establishment of any advisory committee, each standing committee of the Senate and of the House of Representatives shall determine, and report such determination to the Senate or to the House of Representatives, as the case may be, whether the functions of the proposed advisory committee are being or could be performed by one or more agencies or by an advisory committee already in existence, or by enlarging the mandate of an existing advisory committee. Any such legislation shall—

(1) contain a clearly defined purpose for the advisory committee;

(2) require the membership of the advisory committee to be fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee;

(3) contain appropriate provisions to assure that the advice and recommendations of the advisory committee will not be inappropriately influenced by the appointing authority or by any special interest, but will instead be the result of the advisory committee's independent judgment;

(4) contain provisions dealing with authorization of appropriations, the date for submission of reports (if any), the duration of the advisory committee, and the publication of reports and other materials, to the extent that the standing committee determines the provisions of section 10 of this Act to be inadequate; and

(5) contain provisions which will assure that the advisory committee will have adequate staff (either supplied by an agency or employed by it), will be provided adequate quarters, and will have funds available to meet its other necessary expenses.

(c) To the extent they are applicable, the guidelines set out in subsection (b) of this section shall be followed by the President, agency heads, or other Federal officials in creating an advisory committee.

RESPONSIBILITIES OF THE PRESIDENT

SEC. 6. (a) The President may delegate responsibility for evaluating and taking action, where appropriate, with respect to all public recommendations made to him by Presidential advisory committees.

(b) Within one year after a Presidential advisory committee has submitted a public report to the President, the President or his delegate shall make a report to the Congress stating either his proposals for action or his reasons for inaction, with respect to the recommendations contained in the public report.

(c) The President shall, not later than March 31 of each calendar year (after the year in which this Act is enacted), make an annual report to the Congress on the activities, status, and changes in the composition of advisory committees in existence during the preceding calendar year. The report shall contain the name of every advisory committee, the date of and authority for its creation, its termination date or the date it is to make a report, its functions, a reference to the reports it has submitted, a statement of whether it is an ad hoc or continuing body, the dates of its meetings, the names and occupations of its current members, and the total estimated annual cost to the United States to fund, service, supply, and maintain such committee. Such report shall include a list of those advisory committees abolished by the President, and in the case of advisory committees established by statute, a list of those advisory committees which the President recommends be abolished together with his reasons therefor. The President shall exclude from this

report any information which, in his judgment, should be withheld for reasons of national security, and he shall include in such report a statement that such information is excluded.

RESPONSIBILITIES OF THE DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET

SEC. 7. (a) The Director shall establish and maintain within the Office of Management and Budget a Committee Management Secretariat, which shall be responsible for all matters relating to advisory committees.

(b) The Director shall, immediately after the enactment of this Act, institute a comprehensive review of the activities and responsibilities of each advisory committee to determine—

(1) whether such committee is carrying out its purpose;

(2) whether, consistent with the provisions of applicable statutes, the responsibilities assigned to it should be revised;

(3) whether it should be merged with other advisory committees; or

(4) whether it should be abolished.

The Director may from time to time request such information as he deems necessary to carry out his functions under this subsection. Upon the completion of the Director's review he shall make recommendations to the President and to either the agency head or the Congress with respect to action he believes should be taken. Thereafter, the Director shall carry out a similar review annually. Agency heads shall cooperate with the Director in making the reviews required by this subsection.

(c) The Director shall prescribe administrative guidelines and management controls applicable to advisory committees, and, to the maximum extent feasible, provide advice, assistance, and guidance to advisory committees to improve their performance. In carrying out his functions under this subsection, the Director shall consider the recommendations of each agency head with respect to means of improving the performance of advisory committees whose duties are related to such agency.

(d)(1) The Director, after study and consultation with the Civil Service Commission, shall establish guidelines with respect to uniform fair rates of pay for comparable services of members, staffs, and consultants of advisory committees in a manner which gives appropriate recognition to the responsibilities and qualifications required and other relevant factors. Such regulations shall provide that—

(A) no member of any advisory committee or of the staff of any advisory committee shall receive compensation at a rate in excess of the rate specified for GS–18 of the General Schedule under section 5332 of title 5, United States Code; and

(B) such members, while engaged in the performance of their duties away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(2) Nothing in this subsection shall prevent—

(A) an individual who (without regard to his service with an advisory committee) is a full-time employee of the United States, or

(B) an individual who immediately before his service with any advisory committee was such an employee,

from receiving compensation at the rate at which he otherwise would be compensated (or was compensated) as a full-time employee of the United States.

(e) The Director shall include in budget recommendations a summary of the amounts he deems necessary for the expenses of advisory committees, including the expenses for publication of reports where appropriate.

RESPONSIBILITIES OF AGENCY HEADS

SEC. 8. (a) Each agency head shall establish uniform administrative guidelines and management controls for advisory committees established by that agency, which shall be consistent with directives of the Director under section 7 and section 10. Each agency shall maintain systematic information on the nature, functions, and operations of each advisory committee within its jurisdiction.

(b) The head of each agency which has an advisory committee shall designate an Advisory Committee Management Officer who shall—

(1) exercise control and supervision over the establishment, procedures, and accomplishments of advisory committees established by that agency;

(2) assemble and maintain the reports, records, and other papers of any such committee during its existence; and

(3) carry out, on behalf of that agency, the provisions of section 552 of title 5, United States Code, with respect to such reports, records, and other papers.

ESTABLISHMENT AND PURPOSE OF ADVISORY COMMITTEES

SEC. 9. (a) No advisory committee shall be established unless such establishment is—

(1) specifically authorized by statute or by the President; or

(2) determined as a matter of formal record, by the head of the agency involved after consultation with the Director, with timely notice published in the Federal Register, to be in the public interest in connection with the performance of duties imposed on that agency by law.

(b) Unless otherwise specifically provided by statute or Presidential directive, advisory committees shall be utilized solely for advisory functions. Determinations of action to be taken and policy to be expressed with respect to matters upon which an advisory committee reports or makes recommendations shall be made solely by the President or an officer of the Federal Government.

(c) No advisory committee shall meet or take any action until an advisory committee charter has been filed with (1) the Director in the case of Presidential advisory committees, or (2) with the head of the agency to whom any advisory committee reports and with the standing committees of the Senate and of the House of Representatives having legislative jurisdiction of such agency. Such charter shall contain the following information:

(A) the committee's official designation;

(B) the committee's objectives and the scope of its activity;

(C) the period of time necessary for the committee to carry out its purposes;

(D) the agency or official to whom the committee reports;

(E) the agency responsible for providing the necessary support for the committee;

(F) a description of the duties for which the committee is responsible, and, if such duties are not solely advisory, a specification of the authority for such functions;

(G) the estimated annual operating costs in dollars and man-years for such committee;

(H) the estimated number and frequency of committee meetings;

(I) the committee's termination date, if less than two years from the date of the committee's establishment; and

(J) the date the charter is filed.

A copy of any such charter shall also be furnished to the Library of Congress.

ADVISORY COMMITTEE PROCEDURES

SEC. 10. (a)(1) Each advisory committee meeting shall be open to the public.

(2) Except when the President determines otherwise for reasons of national security, timely notice of each such meeting shall be published in the Federal Register, and the Director shall prescribe regulations to provide for other types of public notice to insure that all interested persons are notified of such meeting prior thereto.

(3) Interested persons shall be permitted to attend, appear before, or file statements with any advisory committee, subject to such reasonable rules or regulations as the Director may prescribe.

(b) Subject to section 552 of title 5, United States Code, the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, or other documents which were made available to or prepared for or by each advisory committee shall be available for public inspection and copying at a single location in the offices of the advisory committee or the agency to which the advisory committee reports until the advisory committee ceases to exist.

(c) Detailed minutes of each meeting of each advisory committee shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the advisory committee. The accuracy of all minutes shall be certified to by the chairman of the advisory committee.

(d) Subsections (a)(1) and (a)(3) of this section shall not apply to any advisory committee meeting which the President, or the head of the agency to which the advisory committee reports, determines is concerned with matters listed in section 552(b) of title 5, United States Code. Any such determination shall be in writing and shall contain the reasons for such determination. If such a determination is made, the advisory committee shall issue a report at least annually setting forth a summary of its activities and such related matters as would be informative to the public consistent with the policy of section 552(b) of title 5, United States Code.

(e) There shall be designated an officer or employee of the Federal Government to chair or attend each meeting of each advisory committee. The officer or employee so designated is authorized, whenever he determines it to be in the public interest, to adjourn any such meeting. No advisory committee shall conduct any meeting in the absence of that officer or employee.

(f) Advisory committees shall not hold any meetings except at the call of, or with the advance approval of, a designated officer or employee of the Federal Government and in the case of advisory committees (other than Presidential advisory committees), with an agenda approved by such officer or employee.

AVAILABILITY OF TRANSCRIPTS

SEC. 11. (a) Except where prohibited by contractual agreements entered into prior to the effective date of this Act, agencies and advisory committees shall make available to any person, at actual cost of duplication, copies of transcripts of agency proceedings or advisory committee meetings.

(b) As used in this section "agency proceeding" means any proceeding as defined in section 551(12) of title 5, United States Code.

FISCAL AND ADMINISTRATIVE PROVISIONS

SEC. 12. (a) Each agency shall keep records as will fully disclose the disposition of any funds which may be at the disposal of its advisory committees and the nature and extent of their activities. The General Services Administration, or such other agency as the President may designate, shall maintain financial records with respect to Presidential advisory committees. The Comptroller General of the United States, or any of his authorized representatives, shall have access, for the purposes of audit and examination, to any such records.

(b) Each agency shall be responsible for providing support services for each advisory committee established by or reporting to it unless the establishing authority provides otherwise. Where any such advisory committee reports to more than one agency, only one agency shall be responsible for support services at any one time. In the case of Presidential advisory committees, such services may be provided by the General Services Administration.

RESPONSIBILITIES OF LIBRARY OF CONGRESS

SEC. 13. Subject to section 552 of title 5, United States Code, the Director shall provide for the filing with the Library of Congress of at least eight copies of each report made by every advisory committee and, where appropriate, background papers prepared by consultants. The Librarian of Congress shall establish a depository for such reports and papers where they shall be available to public inspection and use.

TERMINATION OF ADVISORY COMMITTEES

SEC. 14. (a) (1) Each advisory committee which is in existence on the effective date of this Act shall terminate not later than the expiration of the two-year period following such effective date unless—

(A) in the case of an advisory committee established by the President or an officer of the Federal Government, such advisory committee is renewed by the President or that officer by appropriate action prior to the expiration of such two-year period; or

(B) in the case of an advisory committee established by an Act of Congress, its duration is otherwise provided for by law.

(2) Each advisory committee established after such effective date shall terminate not later than the expiration of the two-year period beginning on the date of its establishment unless—

(A) in the case of an advisory committee established by the President or an officer of the Federal Government such advisory committee is renewed by the President or such officer by appropriate action prior to the end of such period; or

(B) in the case of an advisory committee established by an Act of Congress, its duration is otherwise provided for by law.

(b) (1) Upon the renewal of any advisory committee, such advisory committee shall file a charter in accordance with section 9(c).

(2) Any advisory committee established by an Act of Congress shall file a charter in accordance with such section upon the expiration of each successive two-year period following the date of enactment of the Act establishing such advisory committee.

(3) No advisory committee required under this subsection to file a charter shall take any action (other than preparation and filing of such charter) prior to the date on which such charter is filed.

(c) Any advisory committee which is renewed by the President or any officer of the Federal Government may be continued only for successive two-year periods by appropriate action taken by the President or such officer prior to the date on which such advisory committee would otherwise terminate.

EFFECTIVE DATE

SEC. 15. Except as provided in section 7(b), this Act shall become effective upon the expiration of ninety days following the date of enactment.

And the Senate agree to the same.

CHET HOLIFIELD,
JOHN S. MONAGAN,
DANTE B. FASCELL,
SAM STEIGER,
GARRY BROWN,
Managers on the Part of the House.

EDMUND S. MUSKIE,
HUBERT H. HUMPHREY,
LAWTON CHILES,
LEE METCALF,
CHARLES PERCY,
W. V. ROTH, Jr.,
BILL BROCK,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4383) to authorize the establishment of a system governing the creation and operation of advisory committees in the executive branch of the Federal Government, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

1. SHORT TITLE

The Senate amendment changed the short title of the House bill to the "Federal Advisory Committee Act". The conference substitute conforms to the Senate amendment.

2. FINDINGS AND PURPOSES

The Senate amendment contained a more lengthy statement of findings and purposes than did the House bill, but did not differ substantially from the House bill. The conference substitute adopts a compromise between the two provisions.

3. DEFINITIONS

The Senate amendment contained definitions of "agency advisory committee", "Presidential advisory committee", and "advisory committee", while the House bill contained definitions of "advisory committee" and "Presidential advisory committee".

The conference substitute adopts the House definition of "Presidential advisory committee" without any change and adopts the House definition of "advisory committee" with modification.

The conference substitute definition of "advisory committee" includes committees which are established or utilized by the President or by one or more agencies or officers of the Federal Government. The conference substitute excludes from the definition of "advisory committee" the Advisory Commission on Intergovernmental Relations, the Commission on Government Procurement, and any committee which is composed wholly of full-time officers or employees of the Federal Government.

The conference substitute deletes the Senate amendment definitions of "officer" and "employee".

4. APPLICABILITY OF THE PROVISION OF THE ACT

The Senate amendment contained a provision setting forth the applicability of provisions of the Act, while the House bill contained no comparable provision. The conference substitute adopts the language of the Senate amendment with modifications. The conference substitute specifically exempts from the applicability of the provisions of the Act any advisory committee established or utilized by the Central Intelligence Agency or by the Federal Reserve System.

The Act does not apply to persons or organizations which have contractual relationships with Federal agencies nor to advisory committees not directly established by or for such agencies.

5. RESPONSIBILITIES OF CONGRESSIONAL COMMITTEES

The Senate amendment and the House bill contained minor differences regarding the legislative review functions of the standing committees of Congress. The conference substitute adopts the language of the Senate amendment.

The Senate amendment and the House bill differed regarding the duties of the standing committees of Congress when considering legislation establishing advisory committees. The conference substitute adopts the House bill with minor modifications.

The House bill provides that when the President, any agency head, or any other Federal official establishes an advisory committee, he shall follow the guidelines which are set forth in the House bill for standing committees of the Congress when they are considering legislation establishing advisory committees. The Senate amendment contained no comparable provision. The conference substitute adopts the House bill.

6. RESPONSIBILITIES OF THE PRESIDENT

The Senate amendment and the House bill differed with respect to the responsibilities of the President. The conference substitute adopts a compromise provision which provides that the President may delegate responsibility for evaluating and taking action with respect to the public recommendations of Presidential advisory committees. The conference substitute further provides that the President or his delegate shall submit a report to Congress stating his proposals for action or his reasons for inaction with respect to such public recommendations.

The House bill required the President to make an annual report to Congress regarding advisory committees. The Senate amendment required the Director of the Office of Management and Budget to make a similar annual report. The conference substitute adopts the House bill with modifications. The modifications include the adoption of a provision similar to a provision contained in the Senate amendment excluding from such annual report information which should be withheld for reasons of national security.

7. RESPONSIBILITIES OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

The Senate amendment contained several differences from the House bill with respect to the responsibilities of the Director of the Office of Management and Budget.

As noted above, the Senate amendment required the Director to make an annual report to Congress on advisory committees. The conference substitute provides that the President shall make such annual reports, as did the House bill.

With respect to the other duties of the Director, the conference substitute adopts the language of the Senate amendment with slight modification.

The conference substitute requires the Director to include in budget recommendations a summary of amounts necessary for the expenses of advisory committees.

8. RESPONSIBILITIES OF AGENCY HEADS

The Senate amendment differed from the House bill in that it provided that each agency head should designate an Advisory Committee Management Officer with specified duties, and the House bill contained no comparable provision. The conference substitute adopts the Senate amendment with slight modifications.

9. ESTABLISHMENT AND PURPOSE OF ADVISORY COMMITTEES

The Senate amendment set forth a procedure to be followed when advisory committees are established and provided that advisory committees be utilized solely for advisory functions. The House bill had no comparable provision. The conference substitute adopts the Senate amendment with modifications.

10. ADVISORY COMMITTEE PROCEDURES

With regard to the availability of the records and other papers of advisory committees and public access to their meetings, the Senate amendment differed from the House bill.

The conference substitute provides for publication in the Federal Register of timely notice of advisory committee meetings, except where the President determines otherwise for reasons of national security. The conference substitute further provides for public access to advisory committee meetings subject to restrictions which may be imposed by the President or the head of any agency to which an advisory committee reports. Such restrictions may be imposed after it is determined that an advisory committee meeting is concerned with matters listed in section 552(b) of title 5, United States Code. The conference substitute also provides that subject to section 552 of title 5, United States Code, the records and other papers of advisory committees shall be available for public inspection and copying.

The conference substitute requires that each advisory committee keep detailed minutes of its meetings.

The conference substitute requires that a designated officer or employee of the Government attend each advisory committee meeting. No such meeting may be conducted in his absence or without his approval. Except in the case of Presidential advisory committees the agenda of such meeting must be approved by him.

11. AVAILABILITY OF TRANSCRIPTS

The Senate amendment provided that agencies and advisory committees should make any transcripts of their proceedings or meetings available to the public at actual cost of duplication. The House bill contained no comparable provision. The conference substitute adopts the Senate amendment with modification.

12. COLLECTION OF INFORMATION

The Senate amendment contained a provision relating to procedures followed by the Office of Management and Budget in carrying out its duties under the Federal Reports Act. The House bill contained no such provision.

The conference substitute contains no provision on this subject.

13. FISCAL AND ADMINISTRATIVE PROVISIONS

The Senate amendment and the House bill differ slightly regarding the requirement that records be kept concerning the disposition of funds and the nature and extent of activities of advisory committees. The conference substitute provides that each agency shall keep financial and other records regarding the advisory committees under its jurisdiction and that either the General Services Administration or such agency as the President may designate shall maintain financial records of Presidential advisory committees.

The conference substitute adopts the provision of the Senate amendment concerning support services for advisory committees.

14. RESPONSIBILITIES OF THE LIBRARY OF CONGRESS

The Senate amendment and the House bill differed with respect to the responsibilities of the Library of Congress as a depository of the reports and other materials of advisory committees. The conference substitute adopts the House bill with modifications.

15. TERMINATION OF ADVISORY COMMITTEES

The Senate amendment differed from the House bill in that it provided for the termination of advisory committees created by Act of Congress before the effective date of the bill and further differed in that it provided for the termination of all advisory committees not later than December 31, 1973. The House bill provided for the termination of all advisory committees, other than those created by Act of Congress before the date of enactment of the bill, within two years after the effective date of the bill.

The conference substitute adopts the Senate amendment with modifications. An important modification to the Senate amendment is the substitution of a termination date which occurs two years after the effective date of the bill.

16. EFFECTIVE DATE

The Senate amendment and the House bill differed slightly with respect to effective date. The conference substitute adopts the Senate amendment with modifications.

Chet Holifield,
John S. Monagan,
Dante B. Fascell,
Sam Steiger,
Garry Brown,
Managers on the part of the House.

Edmund S. Muskie,
Hubert H. Humphrey,
Lawton Chiles,
Lee Metcalf,
Charles Percy,
W. V. Roth, Jr.,
Bill Brock,
Managers on the part of the Senate.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Forsythe) and to include extraneous matter:)

Mr. Steiger of Wisconsin in two instances.

Mr. Gubser.

Mr. Schwengel.

Mr. Conte.

Mr. Miller of Ohio.

Mr. Minshall in two instances.

Mr. Springer in four instances.

Mr. Hosmer in two instances.

Mr. Erlenborn.

Mr. Steiger of Arizona.

(The following Members (at the request of Mr. Mitchell) and to include extraneous matter:)

Mr. Van Deerlin.

Mr. Pepper.

Mrs. Griffiths.

Mr. Stokes in two instances.

Mr. Dent in two instances.

Mr. Annunzio in three instances.

Mr. Rarick in three instances.

Mr. Gonzalez in three instances.

Mr. Taylor in two instances.

Mr. Daniels of New Jersey.

Mr. Burlison of Missouri.

Mr. Bennett in two instances.

Mr. Anderson of California in two instances.

SENATE BILLS AND CONCURRENT RESOLUTION REFERRED

Bills and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 353. An act to authorize the Secretary of the Interior to construct, operate, and maintain the O'Neill unit, Pick-Sloan Missouri Basin program, Nebraska, and for other purposes; to the committee on Interior and Insular Affairs.

S. 2350. An act to authorize the Secretary of the Interior to construct, operate, and maintain the North Loup division, Pick-Sloan Missouri Basin program, Nebraska, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 3140. An act to improve the financial management of Federal assistance programs to facilitate the consolidation of such programs; to provide authority to expedite the processing of project applications drawing upon more than one Federal assistance program; to strengthen further congressional review of Federal grants-in-aid; and to extend and amend the law relating to intergovernmental cooperation; to the Committee on Government Operations.

S. 3531. An act to authorize the Secretary of the Interior to disburse funds appropriated by Congress for the planning, design, and construction of recreational facilities in connection with the 1976 Winter Olympic Games; to the Committee on Interior and Insular Affairs.

S. Con. Res. 92. Concurrent Resolution authorizing the printing of additional copies of the hearing before the Subcommittee on Children and Youth relating to the sudden infant death syndrome; to the Committee on House Administration.

ENROLLED BILLS SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 7701. An act to amend the act of August 9, 1955, to authorize longer term leases of Indian lands located outside the boundaries of Indian reservations in New Mexico;

H.R. 10702. An act to declare that certain federally owned land is held by the United States in trust for the Fort Belknap Indian Community;

H.R. 13025. An act to amend the act of May 19, 1948, with respect to the use of real property for wildlife conservation purposes;

H.R. 15495. An act to authorize appropriations during the fiscal year 1973 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to authorize construction at certain installations in connection with the Safeguard anti-ballistic-missile system, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes; and

H.R. 15577. An act to give the consent of Congress to the construction of certain international bridges, and for other purposes.

THE LATE HONORABLE WILLIAM F. RYAN

(Mr. STRATTON asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous material.)

Mr. STRATTON. Mr. Speaker, I have the sad task of advising the Members of the House that our distinguished colleague from New York, the Honorable William Fitts Ryan, passed away last night at 8 o'clock in the New York City Memorial Hospital.

I think all of us recognize that Bill Ryan was in many respects one of the most courageous and conscientious Members of this body. We can all recall in early August his appearance in this Chamber, in spite of the illness that subsequently was to take his life, in order to be able to vote on the vital end-the-war amendment that appeared in the foreign aid bill pending just before the recess.

This was typical of Bill Ryan because whatever he set his heart to, whatever he felt was important, he pursued that end and objective regardless of the effort or the involvement that might be incurred. In fact, one of the remarkable things about Bill Ryan was that, even during the rather bitter primary contest that he was involved in earlier this year in June, he maintained that remarkable attendance record of his in this body even during that time.

In fact, all of us who knew BILL RYAN recognized that during the past few years, as his illness did take its gradual toll on his health and his great capabilities, he demonstrated remarkable courage, with never a single concern for himself or for his own feelings. In spite of the limitations that his illness gradually placed upon him and the special efforts that were required for his participation in debate, he nevertheless was constantly on the job, constantly following through on the measures in which he believed, in spite of the demands of his illness, and the pain that he must have been suffering.

Congressman BILL RYAN was a New York City man. In fact, he was at one time the reform candidate for mayor for the city of New York—and yet his first home was in my part of the State, from upstate New York. His father was presiding judge for many years of the New York State Court of Claims. His birthplace was in Albion, N.Y., where he was born in 1922—in Orleans County, a county where my own home was located for many years.

BILL RYAN was the first of the "reformers" from New York City to come to this body. In fact, he was a successful exponent of the "new politics" long before anybody used that phrase, or even before people knew just what the "new politics" really meant.

I remember first meeting BILL RYAN in 1958 at the Democratic State Convention in Buffalo when there was then, as so often marked our party conventions in New York in subsequent years, a rather bitter controversy in connection with the nomination for U.S. Senate that in some sense shaped the future of our party in New York for many years to come.

BILL RYAN was leading the so-called "reform" delegation from New York City on the floor of that convention that year in what proved to be a rather historic battle. I remember it well, for I had just been nominated for Congress myself following a rather difficult primary battle against the established party organization in the State and in my own five-county district. We met at that time and found we shared a good many common interests. BILL told me then that he intended to run for Congress, and 2 years later, of course, in 1960 he was successful in being elected to Congress as the first member of the so-called reform movement from New York City, more exactly called the New York State Committee for Democratic Voters. That committee began its effort to take over the representation in Congress from New York State in 1960—and we are well aware that today, 12 years later, it has succeeded in winning an impressive majority of those New York City congressional seats. It was BILL RYAN who set the pattern and led the way.

BILL RYAN came to this Chamber, as we are all aware, as what might be regarded as an antiboss, anti-Establishment Congressman, and a strong supporter of the full liberal philosophy in the Democratic Party. In this House he was one of the leaders of the Democratic Study Group, and a strong believer and strong exponent of its philosophy.

He was also one of the most tireless workers in Congress. I do not know anyone in the years I have been here who has worked harder and who spoke out more frequently in support of the things in which he believed. And he was one Member who certainly did his homework. I am sure you recall seeing him, as I do, sitting in the forward sections of the Chamber even late into the afternoon during the special order period writing out his remarks by hand or correcting his RECORD copy, to make certain that his views on the issues in which he believed were properly recorded in the RECORD. He was certainly not hesitant about standing up and speaking out for the things in which he believed.

There is no question about the fact for example, that he was one of the first to speak out in opposition to the Vietnam war. I know that because I debated him on that subject on more than one occasion. He was one who we remember also took his "lumps" in this Chamber for opposing the established organization. For many years he remained on a committee which was not his first choice. Even though he watched Members who were senior to him achieve membership on committees on which he wanted to be a member, he remained on that committee and eventually had to appeal to the Democratic caucus to receive from his fellow Democrats the committee assignment to which he believed he was entitled.

Yet it is also true, and we remember this especially today, I am sure, that BILL RYAN was a really "sweet" guy, a person whose views might often be different from ours and yet one who always was friendly, cordial, pleasant, never nasty, never bitter in debate, never belligerent, a person with whom one could disagree and yet invariably, day in and day out, would never find disagreeable.

He came to the Congress in 1961 as in a sense a political outsider: The idea that anyone could take on the powerful Democratic organization in New York City and upset it and come to Congress was something really new. Yet in the 12 years that BILL RYAN served here we can truly say he won the respect, admiration, and affection of every single Member of this body.

We all knew last August, when BILL RYAN made that very difficult and courageous journey down here from New York City to be able to vote on the resolution about which he felt so strongly, that except for a miracle he would not be coming back to this Chamber. Yet I know we all hoped that miracle would somehow occur. Today we realize that miracle did not in fact occur. And so in sorrow and yet in pride we salute our fallen colleague and friend, who can be truly said to have died in the service of his country, gallant and courageous to the end.

As Franklin D. Roosevelt once said of another great Democrat in New York State, Al Smith, I believe we can also say of BILL RYAN:

> This was the happy warrior; this was he whom every man in arms would wish to be.

Mr. Speaker, to his parents and to his lovely wife Priscilla and to his four wonderful children I extend on behalf of my wife, Joan, and myself our deepest sympathy in this very dark hour of their loss.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the majority leader.

Mr. BOGGS. There is very little one can add to the beautiful statement the gentleman from New York has made about our late beloved colleague. The words that he has used are words I think everyone of us would subscribe to. BILL RYAN was indeed conscientious, he was indeed courageous, he was indeed dedicated, he was indeed probably the hardest working Member of this body. It is true too that BILL RYAN was vitally interested in the affairs of the city of New York and the State of New York, and he was also equally interested in the affairs of the Nation.

BILL RYAN was a remarkable man in many ways. I like best the gentleman's description of BILL RYAN's ability to disagree quite passionately and yet never be disagreeable. All of us will miss him here. He made an enormous contribution to this body. As the gentleman from New York said, BILL RYAN did his home work and when he engaged in debate he knew about the subject he was discussing.

He died as I presume we would wish to die—although none of us want to die—serving his country. I am happy that his colleagues and his constituency, many of whom must have known his life would not be prolonged, gave him the great distinction of returning him to this body despite that knowledge. I join with the gentleman from New York and other Members of the distinguished New York delegation in extending to BILL RYAN's family and to all of those who knew and loved him our deepest sympathy and regret.

Mr. PIKE. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from New York.

Mr. PIKE. Mr. Speaker, there was no one in the House of Representatives for whom I had greater respect or more affection than WILLIAM FITTS RYAN. No one who has sat in this body during the past few years could have failed to observe the fact that BILL was deteriorating physically, nor could anyone have failed to marvel at his unflagging spirit, courage, and good humor.

BILL and I went to the same college at the same time, and we went to the same law school at the same time, but I never really got to know him until we came to Congress together in January 1961. We fought over many things and we frequently laughed together that two people with the same educational background, in the same political party, from the same State, could have held such widely divergent views and philosophies. BILL was a crusading liberal and I was not. But I learned many things from him. First of all, I learned to respect him as a fighter. BILL would stand up for the underdog, for the oppressed, for the poor, for the minorities, for the deprived and condemned on this earth, for justice for all mankind, even if he had to stand alone. Fearsome odds never deterred him, and he was without doubt a man ahead of his time, for he espoused causes which were unpopular, and by the time they became popular he was already espousing new causes. Again, ahead of his time.

Despite his failing health, Bill maintained one of the best voting and attendance records in the entire Congress of the United States, right up until the time of his final illness. But it was not only his presence here that counted; it was the things he was doing and saying.

His mind was such that he made all of us think more deeply, and his manner was such that even when we disagreed with him wholly, we liked him and respected him. He served as a conscience for this Congress, and he did it without ever putting any other Member of this House down, or downgrading them in any way.

He probably lost far more battles here than he ever won, because he was, as I said, ahead of his time. Yet, even as he was losing those battles, he was changing the thinking of a nation. Now he has lost one more battle and his voice will be heard no more in this chamber.

Those of us who knew and loved the man, however, will always remember that voice. When it was younger and stronger it spoke out loud and clear against the brutality of war and of poverty and of hunger and of disease, and as it became huskier, it continued to speak out against man's injustice to man, and for the rights of the downtrodden. And finally, when it could only whisper, it whispered things that all of us should be shouting. It whispered that war was bad and peace was good, and that hunger and disease and poverty were unnecessary and immoral.

To his wife, Priscilla, and to his children we can only express our sorrow, and be grateful for the fact that we and they have had the privilege to know and live with and work with a gentleman, a gentle man, but above all, a man.

Mr. STRATTON. I thank the gentleman from New York.

Mrs. GRIFFITHS. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentlewoman from Michigan.

Mrs. GRIFFITHS. Mr. Speaker, when Bill Fitts Ryan came to Congress his office was right across from mine. In all the years that I have been here, I have never known any other Member who had the admiration, the affection, and the respect of his staff that Bill Fitts Ryan had. There was no amount of work that was too much. They were there from the earliest hour of the morning until the latest hour at night. They would do anything for him that he asked, and they loved him.

In my opinion, one of the real marks of a fine human being in this world is that the people who know him well love and trust and respect him. The people who worked for him loved him. In this, in my judgment, Bill Ryan stood above any other person who has ever entered this body.

To his family and to all of those who loved him, and to his district that gave him his highest tribute, I extend my sincerest sympathy.

Mr. STRATTON. I thank the gentlewoman from Michigan.

Mr. CAREY of New York. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the distinguished gentleman from New York (Mr. Carey).

Mr. CAREY of New York. Mr. Speaker, I thank the gentleman for yielding.

On behalf of the members of the New York City delegation, of which Bill Ryan was such a valued member, may I inform my colleagues that there are a number of our Members who cannot be here today because they are observing the religious holiday of Yom Kippur. I am informed that the dean of the House, Mr. Emanuel Celler, the chairman of the Committee on the Judiciary, on which Bill served so valiantly and so well, will be reserving a special order later in the week so that all Members who wish to do so may join in tribute to his memory.

I believe it is important and significant that we here today, shocked as we are at the news of his passing and our loss, express ourselves at this time about William Fitts Ryan.

Seeking words which I believe would best befit his character, his ability, his courage and his compassion, I would choose these. William Fitts Ryan was a foremost American, a foremost man. When he had to stand alone, he stood alone. When his voice was crying out and giving from the heart, to speak to the principles in which he believed—principles of peace, of justice, of dignity—it did not matter to Bill Ryan that his was the only voice that spoke; it mattered that the message was sincere and that the issue had to be raised.

Bill Ryan came to this Congress as well prepared as any man who ever entered this Chamber. My colleague from New York (Mr. Pike) has related to his career of academic distinction.

In the law, as he learned to love the law, Bill Ryan had served with great promise in what some have called the finest law office for justice in our country, the District Attorney's Office of New York County under District Attorney Frank Hogan. In that office I have learned from many of his colleagues who served with him that he was outstanding, that his knowledge and ability were surpassing.

Hence he came here prepared to know the law, to write the law, and to improve the law for all people.

I do not believe it needs to be stated over and over again that he was a foremost man, because before most of us—in fact, before any of us—he began with one voice to try to teach the people of this country what he believed to be the error of our ways. Whether it be in the organization of our political system, so that more could benefit from that system, he was before most of us. Whether it be on the need for peace—true generation of peace, if you will, a lasting peace—he saw that nonviolence was the road we had to travel. He was, foremost, before most of us.

We worked together in many campaigns in New York City, in New York State, and for this country, and Bill was always on the winning side, no matter how the votes were counted.

I believe we all know now his support of John Kennedy and Robert Kennedy—and he was an early supporter of both—proves he was on the winning side, no matter what was the result of the vote as it was counted.

He was on the winning side, the side that must and will win, on the great issues of our times—on the need for more equality in housing, the need for decent standards in employment, and the application of nondiscrimination to government policies. That became the winning side. It is the law today.

Bill was among the first to raise that issue, before most of us—before any of us, in terms of the amendment he sponsored.

He was unflagging in his determination to seek justice, to see justice triumph through the halls of Congress.

It is quite correct that he had to labor hard to get to a place where he could be effective, but in the Judiciary Committee it is well known that he earned his place in that committee and contributed greatly to the great record of that committee in these latter years.

There may be a memorial which we can raise to Bill Ryan. He dedicated his years lately to the Committee on Interior and Insular Affairs, where I served with him, to the hopes that the people of his great city; in fact, the people of our great country who live around the eastern seacoast could participate in great recreational opportunities through the Gateway National Seashore. That is the Ryan bill, and I hope we can expedite consideration of that bill. I recall that on a previous occasion when we lost Representative Clem Miller of California, we provided that when the Point Reyes National Seashore was created, we made appropriate recommendations that it would in some way serve as a memorial to Representative Miller of California. I would hope that in the same way with Gateway that we could do something about it in memory of Bill Ryan. But, no memorial, monument, nothing that we could create here is really going to carry to the children of Bill and Priscilla Ryan—in fact, to all of the children, young people, the elderly, the people of America, the people of New York City, the people of all worlds, the true measure of Bill Ryan. That remains yet to be written. It will be written when all of our people know peace, know justice, eliminate discrimination and fully participate in the dream of America.

Bill died in pursuit of that dream; he did not lose it. Bill Ryan in a real way did not lose his life; he won his most recent battles. The record will show he has won most of his battles for justice even when he was a lonely voice raised in its behalf. I say, he did not lose his life; he gave it away. He gave it to the people of the United States of America. It is ours to honor, to cherish and to remember for the love of God and His peace and His justice and His mercy.

To the Ryan family, Bill's parents. Priscilla and the children, Helen and I and our family extend our admiration and our sympathy.

Mr. STRATTON. I thank the gentleman from New York.

Mr. KING. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from New York.

Mr. KING. Mr. Speaker, I would like to join with the gentleman from New York (Mr. Stratton) and others who have spoken so beautifully about our colleague, Bill Ryan, who has left us.

Even though Bill and I were poles apart philosophically and politically, I always considered him my friend. I knew Bill when he was an assistant district attorney in the city of New York. As has been said by Mr. Carey, that was the greatest school of justice in this country. I was at that time district attorney in my own county of Saratoga. Bill and I came to Washington in 1961 and were sworn in the same day as Members of Congress.

Since that time, he has been the leader, as has been indicated by Mr. Stratton and others, in reform and in peace, justice, aid to the downtrodden, and so forth. None of us have disagreed with most of his aims, but we disagreed to a large extent in the manner in which he sought to have them accomplished.

Bill was a good lawyer; there is no question about that. He was eminently qualified to serve on the Judiciary Committee. He was a good father, and as I have indicated, a good friend. I mourn his loss, and I know that those of us who came to Congress with Bill, and those who have become friends with him afterwards, feel the same way.

I would like along with Mr. Stratton and others to extend my sympathy to his good wife, Priscilla, and to the rest of his family at the time their great personal grief.

Mr. MURPHY of New York. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Speaker, I thank my colleague for yielding.

I would like to congratulate my colleague (Mr. Stratton) as well as my other colleagues, for their very moving statements and sentiments today. I join with them in extending my deep feelings to Bill Ryan's wife, Priscilla, and to his four wonderful children as well as to his parents and friends in their hour of great loss.

Bill Ryan, of course, was an outstanding student as my colleagues have pointed out. We might well also take note that in the global conflict of World War II Bill Ryan served as an officer in the field artillery throughout the campaigns in the Philippines and Okinawa. He was an outstanding soldier. When his country needed him, he was there.

We was also in the front ranks of the fight against crime before it became such a glowing legislative issue in Washington.

He was in the forefront as prosecutor and a man of renown who was well remembered in the office of the New York City district attorney. In fact, he was frequently mentioned as a successor to the district attorney of New York County.

He was a fighter, as we have said, in the area of social reform, housing, education and civil rights. We will remember his stirring campaigns on these issues.

My colleague from New York (Mr. Stratton) pointed out a significant fact. Bill Ryan's leadership broke the ground in the early days. For every prophet there are certain times when ideas are not too popular, and this is particularly true in the very beginning when new concepts are in their gemination stage. But in Bill Ryan's case this early leadership prevented him from serving on some committees in which he was interested. But I think the wisdom of this Congress works in the long run for the public good. Bill Ryan stayed with the Committee on Interior and Insular Affairs.

As a consequence, today his Gateway legislation will probably be his lasting memory. New York and the Congress credits him for this splendid Gateway concept. A Gateway National Parks bill will bring to millions of New York and New Jersey residents open water and clean air. Those people—Bill Ryan's constituents and many others as well—because of history and the confluence of our society, do not enjoy these natural benefits as do so many people in our south or west. I think we can try to correct some inequities of the past changing Gateway's name and by establishing the William Fitts Ryan Gateway National Park as a lasting ediffice.

This Congress, I believe, can make the change in the next week or two. I think the William Fitts Ryan National Park would be a fitting memorial to him. The courage of Bill's convictions can well be an example to us all.

Mr. STRATTON. Mr. Speaker, I thank the gentleman for his excellent suggestion, the same as was made by our colleague, the gentleman from New York (Mr. Carey).

Mr. Speaker, I now yield to our distinguished colleague, the gentleman from Ohio (Mr. Hays), the chairman of the Committee on House Administration.

Mr. HAYS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it was with a very deep shock that I learned only about 45 minutes ago of the death of Bill Ryan. Bill and I voted together many times, and we disagreed many times, but I will say that never at any time, when we were on the opposite sides of a debate, when it was over was he anything but cordial and heart-warming, and friendly. I think this is one of the attributes that I will always remember about him.

As has been pointed out, he was on the losing side in many a battle here, but it never made him bitter, never made him mad, and he never displayed rancor. He was always cheerful and friendly. I think that actually the longer he stayed here the more friends he won, and even those who disagreed with him philosophically respected him, liked him and admired him because he had tenacity, he had durability, and he had the ability to stay with an idea and take a licking on it and then come back again and again until finally he was able in some instances to prevail.

I admired him very greatly for these qualities, although, as I say, philosophically we had some disagreements. It was a privilege for me to contribute to his last campaign financially, to wish him well, to hope for him the great victory his people gave him. I think that his death is a tremendous loss not only to his family, to whom I extend my sympathy, but to the city of New York, the State of New York, and the United States of America.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman.

Mr. CONABLE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to say there is some special sorrow in my district at the passing of Bill Ryan. Bill was born in Albion, N.Y. He was the son of an eminent jurist who was the chief judge of the court of claims of the State of New York.

Bill grew up in our area and later moved to New York where he so ably represented a constituency very different from the constituency from which he had come.

I have known Bill since I came here to the House of Representatives 8 years ago. I knew him as a man of courage and absolute dedication to the principles that he espoused. He was also a worker of great diligence and uncompromising in the matters of heart that he brought here to the floor so often.

We have many people here who perform their function as an intellectual exercise or as a political exercise. Bill always was a Congressman who could be characterized primarily by the heart and soul that he put into his work.

We all extend sympathy to his immediate family and the family he has left behind in Albion, N.Y., also has our sympathy at this time.

I know the Congress will be a different place without Bill Ryan. I know there will be others who will try to take up the various causes that he espoused, but I doubt that they will do it with the enthusiasm, the courage, the hard work, and the heart that Bill Ryan showed.

Mr. STRATTON. I thank the gentleman.

Mr. RANGEL. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman.

Mr. RANGEL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I commend the gentleman for taking this time so that those of us who knew and loved Bill Ryan could have this opportunity to express our feelings.

I think history will record the contributions that Congressman Ryan made to this body and, indeed, to the Nation. There is no question that Bill possessed the courage to fight for unpopular causes—to be there to speak out against the war in Southeast Asia—to work to provide medical services for the poor and for our senior citizens—to combat lead paint poisoning which really strikes down youngsters from minority races—to fight for low- and middle-income housing. Certainly the record is very clear that Bill Ryan stands head and shoulders above so many of his colleagues. Here was a man who dedicated his life to make the words "equal justice under law" a reality for all New Yorkers, for all Americans.

It was Bill Ryan who pioneered the struggle in Congress for peace in Southeast Asia. And it was Bill Ryan whose voice was the first to be raised in this Chamber to condemn the immorality of the war in Indochina.

It was Bill Ryan who authored and fought successfully for the first legislation to wipe out lead paint poisoning which kills and maims thousands of children each year. And it was Bill Ryan who led the fight to require the administration to provide free preventative health care for millions of poor children.

We have lost a spokesman for peace. We have lost a spokesman for the future of our children.

But I think that a discussion of the years I knew of Bill Ryan before coming to the Congress is perhaps where I can make a contribution here. In the so-called melting pot in the city of New York, none of us could afford the luxury of simply putting a label on Bill Ryan as being a "reformer," or being a "regular," because on the question of morality or what was right, Bill Ryan was always out front deserving, and, in fact, receiving the respect of all those who ran with or against him in our country, in our city, and in our State.

I think one of the highest tributes that can be paid to Bill is to study the ethnic composition of his district. While we read that Bill Ryan's forefathers came from Ireland, when you look at his district you see both economic wealth and poverty. The blacks, the whites, the Jews, the gentiles, the Protestants, and the Catholics—nobody but nobody would think of Bill just as a fighting Irishman but as one who truly represented all of the people in that district. I know this so well, having lived in central Harlem all of my life which bordered on Bill Ryan's congressional district since he came down here. There was absolutely no hesitation on my part to think, notwithstanding the fact that I had an elected Congressman, that I could call upon Bill Ryan either as a citizen or as an elected official from the State of New York. And in joining him here in the Congress, his hand was always out to help me.

I think Bill really raised the standards of those elected from the city of New York to this august body. Never have we fully understood how Bill Ryan was able to keep that outstanding congressional attendance record which he held so sacred, and at the same time not only make the community meetings in his district, but in other districts as well.

He has made it very difficult indeed for anyone to follow him. But I do believe, as my colleagues have pointed out, if we are in fact to leave some type of memorial for Bill Ryan, our major contribution would have to be flexible enough—if we did in fact disagree—to leave something in the area of legislation and say, "We did this. The Congress did this for the Nation and for the memory of Bill Ryan."

The Gateway National Recreation Area was something that was very close to him and was very close to the poor people in New Jersey and New York. I can think of no more solemn contribution we could make than to say that Bill Ryan deserves to have this legislation follow him.

I thank the gentleman.

Mr. STRATTON. Mr. Speaker, I thank the gentleman from New York.

Mr. Speaker, I yield at this time to the distinguished Speaker of the House.

Mr. ALBERT. Mr. Speaker, it is always difficult to say goodby and especially farewell and goodbye to a friend. That is our task today and a painful one it is. We pay our last words of tribute to our colleague, who recently was again chosen to represent his party in the November election; certainly he would have won his seat in the 93d Congress.

If I could find language to characterize Bill Ryan I think two qualities would be overriding. The first is "conviction." I have never seen a man whose convictions governed his political acts more than Bill Ryan's. Second, I think I would use the word "decency." I have never known a man who was more decent, who was more tolerant, who although he frequently stood alone, particularly in his early days here, always showed respect and good will toward those who disagreed with him.

I think if Bill were here today he would say that he and I were personal friends from the day he first took his seat. I urged him to be a little patient about getting on the Committee on the Judiciary where by reason of background and interest he belonged and where he wanted to serve, and he ultimately won a place on the committee of his choice. I helped him as much as I could in that effort.

Bill was a highly individualistic Member of the House; he was not just another Member of a large body. I think most Members of Congress have some personal qualities that give them some measure of distinction, and I do not know of one in all of my time, particularly one who served only about one decade, who stamped his character so firmly on the House of Representatives as Bill Ryan. He was good. He was conscientious. He was decent. He was kind. He was one of the best examples I have ever known of a man who took care of his myriad duties in Washington and never forgot his constituents. He meshed these two roles with great success and with steady devotion to both. Bill did his whole job as a Congressman.

His departure is a great loss to this House, whether or not we agree with any of his political points of view. The grief and loss suffered by Bill's family and his close friend, is also shared by the House of Representatives and the Nation. We shall miss our able colleague; we shall miss our dear friend. We extend our deepest sympathy to all his loved ones.

Mr. STRATTON. Mr. Speaker, I thank the distinguished Speaker for his eloquent remarks.

Mr. TAYLOR. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from North Carolina.

Mr. TAYLOR. Mr. Speaker, I would like to associate myself with the statements that have been made. Bill Ryan was a gentleman. Bill Ryan was a friend of mine, and I shall miss him. He served with ability and distinction on the House Subcommittee on National Parks and Recreation, of which I am proud to be chairman. He fought hard as legislative matters were being considered, but he was fair and he was always pleasant.

Bill Ryan had a philosophy of government and he was true to that philosophy. I often disagreed with his conclusions, but I recognized that he thought and spoke with conviction and courage. He stood firm even though he stood alone. He loved people, and he spoke for the downtrodden and the neglected.

Bill Ryan was the first Member of this body to introduce legislation creating the Gateway National Seashore or Gateway National Recreation Area in New York Harbor. On June 25, 1969, he introduced H.R. 12436 to establish the New York Harbor National Seashore in the States of New York and New Jersey, and again in the 92d Congress on January 22, 1971, he introduced H.R. 1121 to establish the Gateway National Seashore in the States of New York and New Jersey. He was the first person to discuss this legislation with me and he mentioned it often. Many Congressmen, some here today, had an important part in determining and guiding the Gateway recreation legislation. This legislation has passed the Committee on Interior and Insular Affairs and it should be considered on the House floor soon. However, no person contributed more in promoting this legislation and in securing a sound bill than did Bill Ryan. This legislation should be a fitting memorial to Bill Ryan's efforts in Congress.

Our personal sadness at Bill's passing cannot be diminished, but it is somewhat offset by the knowledge that his contribution to life and to the well-being of his fellow men will endure.

Mrs. Taylor joins with me in extending sincere sympathy and best wishes to Bill's wife and children.

Mr. STRATTON. I thank the gentleman.

I yield to the distinguished gentleman from California.

Mr. DON H. CLAUSEN. I thank the gentleman from New York for yielding to me at this time.

I want to associate myself fully with all of the remarks that he has made.

I have served on the Committee on Interior and Insular Affairs, and the Subcommittee on Parks and Recreation, chaired by the gentleman who just preceded me, Mr. Taylor, of North Carolina.

As such, I had the priviledge of working closely with Bill Ryan on the legislation to create the Gateway National

Urban Recreation Area in New York which is also known as Gateway East.

As the Statue of Liberty stands as a symbol to the immigrants who have come to this great Nation to make it the Nation that it is, I believe that Gateway East will stand equally as a symbol to the great dedication of our lost colleague, Bill Ryan, who, in my judgment, contributed the most in the way of recommendations to that very important project that I hope the Congress will pass with dispatch. He, in fact, was the architect of Gateway East, and we on the committee followed his leadership and his recommendations, as our chairman has stated.

I am going to miss Bill very much, as I am sure all of the Members of the House will miss him. But, more importantly, here is a man of dedication, courage, and conviction, and I say this with all of the sincerity at my command.

Mr. STRATTON. I thank the gentleman for his remarks.

Mr. HANLEY. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from New York (Mr. Hanley).

Mr. HANLEY. Mr. Speaker, it is with a deep sense of loss I rise to mourn my colleague and friend, Bill Fitts Ryan. In 1964, immediately after my election to Congress, the first Member who I heard from was Bill Ryan, expressing his congratulations and his willingness to help me. That initial communication was the beginning of a warm friendship which we both enjoyed through the years. He was truly one of the most remarkable human beings I have ever met.

Bill was a man of conviction and courage, a man of many ideals and no illusions. He was a fighter, first, last, and always. He fought against overwhelming odds all his life, and he fought the terrible scourge of cancer bravely.

Bill was a man of deep principle, and his firm adherence to his beliefs despite their political unpopularity won him the respect and admiration of even his most ardent foes. Bill was not only in the forefront of a great reform movement, but was the man who gave that movement its leadership and its spark. It was this same leadership ability and intense work that marked his activities in this Chamber.

The respect and friendship of so many Members of varied philosophies was best exemplified perhaps on the occasion of the recent New York primary, when so many expressed their keen interest in his success. Perhaps this was because Bill Ryan's spirit transcended politics. He embodied qualities that could be admired by all men, regardless of their persuasion. Of the many men I have met, he is most entitled to the phrase "courage of his convictions."

Someone once said, "Most of us are broken in some way by the world, but those who are too good and will not be broken, the world kills." Bill Ryan was too good, and we are all the less at his passing.

Mr. MITCHELL. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Maryland (Mr. Mitchell).

Mr. MITCHELL. I thank the gentleman for yielding.

We stand here today eulogizing a good and decent man, and that is precisely what Bill Ryan was. His very heartbeat, his every breath, was in terms of that which is good and that which is decent.

When I came to this Congress Bill contacted me to say,

> I want to help you in any way I can.

And he meant it. There were times he would call me and say,

> Parren, I see you are interested in this particular fight or this particular bill, and here is some advice I want to give you.

He would give it unsolicitedly because he believed in being good and decent.

This man was so unusual. He could not hide his love for humanity. He just loved people. There was no way he could mask it. There was no way he could hide it. I do not believe he tried to do it. But even if he had tried, that tremendous surging love for humanity would have demonstrated itself at all times in all places.

I have seen Bill almost weep over a photograph in a paper of a poor, dejected, hurt individual. He did not know the person, but he simply would say,

> This should never happen to any person in our country.

I am grateful for this opportunity to say a few words about him. It seems to me that almost 2,000 years ago a kind of message was delivered which became the credo by which Bill Ryan lived. That message was, "What does the Lord require of me? To love justice, to show mercy, and to walk humbly before Thy God."

That is what Bill Ryan did. He loved justice with a passion. He showed mercy with compassion. In doing both of them he walked humbly before his God.

Mr. STRATTON. I thank the gentleman.

Mr. Speaker, I yield to the distinguished gentleman from California (Mr. Hanna).

Mr. HANNA. I think the gentleman for yielding.

I believe all of the Members of this body agree with me that one of the most impressive periods of service in this House is one's first term.

When I became a Member of this body I took up an office on the third floor of the Longworth Building, and across the hall from my office was the office of William Fitts Ryan of New York. Being as impressionable as any who first come here to this great body, the thing which impressed me was the work that was being done in that office. It seemed that no matter how late I left my office, the work of Bill Ryan's office was still going on full force. I simply could not get over the fact that here was a place where it seemed the work was never done.

The second thing that impressed me was there were so many young people there. I learned that a good many of them were volunteers who had come down from New York City on their own, at their own expense, just to be with the man who had made such an impact on their young lives that they wanted to be by his side and serving in his cause.

I was so impressed I decided I should find out what that work was all about, and I learned one of the lessons I believe every Congressman should learn; that is, that being a Congressman is being a teacher.

Much of the work that was going on in Bill Ryan's office consisted of messages to his people to try to educate them to the issues and to the need that they be aware of and alert to the things that were being done in this Congress for their good. While he is gone, he has left that lasting impression with me that I gained in my first weeks here as a colleague across the hall from Bill Ryan.

There is one other memory that will be long in my mind, and that is of the figure of Bill Ryan; somewhat bent; always burdened with papers under one arm; intent on where he was going with a cause in his mind, with a concern on his heart that indicated that he should spend time in that day to do something about it.

So, he is not gone. His memory, his impressions are in other minds as they are in mine. That is one of the things that gives some assurance of a positive immortality—if you can make an impression that stays beyond your years on those who will live after you. I know that those young people who were with Bill Ryan carry an ever greater imprint than is in my mind and in my memory. I say that it is good that there comes to the Congress this kind of man who can make this kind of contribution, a little bit of which stays with each of us, that we might carry it on.

My wife and I join with others who have expressed their sympathy to Bill Ryan's family. I count it an honor that I was here in the years that Bill Ryan served.

Mr. STRATTON. I thank the gentleman.

Mr. DRINAN. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the distinguished gentleman from Massachusetts.

Mr. DRINAN. Mr. Speaker, I was profoundly saddened to learn of the passing of William Fitts Ryan. Mr. Ryan was one of the inspirations that helped to bring me to this Congress. I met him many years ago and, of course, held him in the highest admiration, because he was the very first Member of this House to speak out against the war in Vietnam. He did that in 1963 when the thought was unthinkable. I know from personal experience the agony and anguish he had over that war.

Way back in 1965 he spoke out once again an unthinkable thought calling for a negotiated settlement of the Vietnam war. In May of 1972, his conviction led him to a very bold and brave expression of his conviction in which, independently of any political consequences, he called for the impeachment of the President. He made that statement after the President's decision was announced to mine the habor of Haiphong.

He was brave in a number of other things. As early as 1961, Bill Ryan called for the recognition of Communist China. One of his first acts in coming to the Congress was to join a group of four Members to initiate action to cut off funds for the House Un-American Activities Committee, now the House Internal Security Committee. Bill Ryan did this because, as he put it more than 10 years ago:

> This Committee is using public money to humiliate scores of loyal American citizens.

Bill Ryan leaves as his legacy more than a hundred people in this House who now share that view.

Trying to sum up all that he has done is impossible. He recommended legislation to alleviate the lead poisoning that afflicts children in the ghetto. Another of his endeavours was his devotion to Soviet Jews. I went with Bill Ryan to the State Department and the Voice of America to carry out his determination to have broadcasts by the U.S. Information Service transmitted to the Soviet Jews in the Yiddish language.

Mr. Speaker, one of the most lasting memories that I shall have of Bill Ryan was the evening at midnight when I went with him to the detention centers where the May Day demonstrators were incarcerated in May 1971. Bill Ryan gave me courage that night. He stayed with these young people for 2 hours, and as we drove back he expressed his outrage at the way that these youths had been treated. Afterward I learned that he had spent from 1 a.m. to 3 a.m. on the phone with the parents of his constituents.

He was a brave and a good man. I and all of us weep for his dear wife Priscilla, and for his children, Priscilla, Virginia, Catherine, and William Jr.

The memory of William Fitts Ryan will be held in benediction by everyone who knew him.

Mr. STRATTON. Mr. Speaker, I thank the gentleman from Massachusetts, and I now yield to the gentleman from Texas (Mr. Eckhardt).

Mr. ECKHARDT. Mr. Speaker, I thank the gentleman for yielding, and I also wish to thank the gentleman for making this opportunity available.

Mr. Speaker, there was a happy occasion nearly a year ago on the 10th anniversary dinner for Bill Ryan, and some of us sent some notes in at that time, and, uncharacteristically, things were said during his life fully as complementary to his devotion and service as are now being said in this eulogy. At that time I said that the standards that he followed could best be described in the very great statement of Edmund Burke as to the standards which should govern parliamentary service, and almost everything said here proves that to be so. Burke said:

> Certainly, gentlemen, it ought to be the happiness and glory of a representative to live in the strictest union, the closest correspondence, and the most unreserved communication with his constituents.

And that is what has been said here today, and no language could more appropriately described the service of Bill Ryan.

He then said that:

> Their wishes ought to have great weight with him; their opinions high respect; their business unremitted attention.

These long hours that have been described here that that office of his was open, and his great attendance record, that deep service to his constituents proves up that point of his meeting that ideal of a Representative.

And then Burke said:

> It is his duty to sacrifice his repose, his pleasure, his satisfactions, to theirs—and above all, ever, and in all cases to prefer their interest to his own.

He worked hard and long hours throughout his tenure in office and even came to the floor to cast a vote which he felt of too great importance to miss even within weeks of his death.

But then the most pertinent portion of the quotation is:

> But his unbiased opinion, his mature judgment, his enlightened conscience he ought not to sacrifice to you, to any man, or to any set of men living. These he does not derive from your pleasure—no, nor from the law and the Constitution. They are a trust from Providence for the abuse of which he is deeply answerable.

And this above all was that which characterized Bill Ryan. He had a conscience which he had no choice but to follow; he had no wish but to follow.

The single word that describes him best is "courage." He had absolute courage of his convictions.

I remember a few lines from Hilaire Belloc. They are about a man of whom Belloc says: "He kept his word," in the sense that he kept his word to his conscience, to himself. He hewed to his convictions. That is what Bill Ryan did. He kept his commitment to what he felt was right.

Often he stood in the well, lonesome and unassisted by many of us who felt his cause was right but too unlikely to prosper to justify risking our "parliamentary reputations for effectiveness."

But Bill Ryan believed that to leave unspoken a deeply held conviction was "not to keep his word." He felt that, to express one's deep conviction, even when "the hour is late" and the House restive and unsympathetic, was an attribute of character not to be forfeited, and that one's word, kept and preserved intact throughout one's whole life—

> . . . [makes] God smile when it [is] shown
> Unforfeited before the throne.

Therefore, over and beyond that measuring up to the Burkian ideal which I have described, there is also this to be said about Bill Ryan:

> He kept his word as none but he
> Could keep it, and as did not we.

Mr. STRATTON. I thank the gentleman.

Mr. HUNGATE. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman.

Mr. HUNGATE. Mr. Speaker, I thank the gentleman for yielding and join in this observance in tribute to our great colleague, Bill Ryan.

I must confess I cried when I heard that Bill died. I will not be able to do that for all of you, I am afraid, as distinguished as our gathering is.

Bill Ryan had read the Constitution and the Bill of Rights and he believed the promise that is there—he believed them to be living documents. He set an example that few, if any of us, follow, and that all of us should follow.

It has been mentioned earlier about the assistance Bill had given to some Members. I, too, had the benefit of his help. I once had a most difficult problem as to which I had no experience at all. I happened to be talking to Bill and he knew exactly what the situation was and what was to be done and he gave unstintingly of his time and advice and assistance—and all of us know that because we know the sort of man Bill Ryan was.

Bill believed the old saying that one man with God is a majority. He saw many things where he stood alone, and virtually alone, but he lived to see the day that that position did become a majority position.

Unlike some of us who study the problems and test the wind and trim our sails and soften our criticism—Bill saw what should be done and what the dream of this country is and he knew nothing to do but to go straight ahead and speak his mind. All the people of this country had a champion in Bill Ryan and when he spoke, you knew that he spoke for his conscience and for the conscience of America. He had seen the light of truth and justice and through him it burned brightly.

My wife and I join the other families of Congress in expressing to Bill's widow and his children our sorrow in their bereavement at this time and in saying to them that we loved him and that we can only hope in sharing their grief that we can somehow lessen it.

Mr. STRATTON. I thank the gentleman.

Mr. MILLER of Ohio. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Ohio.

Mr. MILLER of Ohio. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I wish to associate myself with the remarks eulogizing our friend, Bill Ryan. Mr. Speaker, it was with a profound sense of shock that I learned of the passing of my colleague from New York, the Honorable Bill Ryan. Since coming to the Congress, Bill has been known as a man totally committed to the concerns of his constituents. He was as devoted to the people of New York's 20th Congressional District as any man would be to his family. In a sense, I am sure, he considered the 20th District of New York to be a very real part of his family, and it was with a great deal of pride and personal involvement that he labored day after day here on the Hill in their behalf. Though the political philosophy of Bill Ryan differed greatly with that to which I adhere, he was always most gracious on the floor of the House of Representatives and was always willing to entertain another's point of view. In many ways, I found his conduct befitting the definition of democracy itself, in that he was always willing to defend another person's right to express their opinion—regardless of its nature.

The Congress has oftentimes been described as a melting pot of ideas and diverse philosophies. Few can argue that those who congregate here are as different as the thousands whose interests we represent. If we were to all agree on every point without debate or a difference of views, the legislative process would probably become very sterile. Fortunately, we have had the chance to consider the opinions of dedicated public servants such as Bill Ryan, and I am convinced that this Nation is all the better as a result.

It has been my privilege to know Bill Ryan—both personally and politically. I wish to express my deepest sympathy to his family, for we too share in their great loss.

Mr. BURKE of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman.

Mr. BURKE of Massachusetts. Mr. Speaker, I wish to associate myself with the remarks of my colleagues with reference to my close friend, William Fitts Ryan, one of our own who up until the end continued to work day and night for the constituents of his district and countless other millions across the Nation. There was not one of us in this House who could have been unaware that for some time our colleague was in great physical pain and yet that did not in any way seem to give him pause. Whatever he knew about his suffering our late colleague chose to put it to one side and work up until the end on other people's problems. The whole life of this man was a tribute to what hard work can do. While not a headline grabber in the familiar sense of the word, our colleague knew how to use the press to great advantage and found in it a great ally in many of his most worthwhile projects. Unlike many who waged their campaigns in the press our colleague knew that hard work behind the scenes had to work with it and that one in the end had to win needed allies if one is to succeed. Perhaps the greatest tribute one could pay to the memory of William F. Ryan is to point out that the era of reform which this great New Yorker ushered in and pursued so long, so valiantly is in no danger of passing with the man himself, but rather like his memory will endure and be around to influence the deliberations of this body for some time to come. This man was a man of courage, an outspoken critic of popular policies which he questioned long before it became fashionable to do so, and the policies themselves became unpopular. Courage such as this is always admired, probably more in retrospect than at the moment, but that is why I want to mention it during these moments of reflection. I only hope Bill Ryan's life will continue to serve as a model for those who are interested in just how far a man can go in public life even today on such simple virtues as honesty, integrity, commitment, and perserverance. It is also a chilling example of the price in personal terms the burdens of political life can extract for the man who gives it his all.

Bill Ryan to me was a great Congressman. He was a man who could disagree with you without being disagreeable. He backed up his views and his philosophy by taking a stand right out in the open. He never ducked, dodged or hid on any of the vital issues that affect the people of his district and of all of the Nation.

My colleague from Texas quoted Edmund Burke, and I also feel this way—Edmund Burke said:

> You should always place your Nation above the interests of your district.

William Fitts Ryan was that type of man.

His record indicates that he covered the span from the old-style elected officials and the new-style of elected officials. Yet he always showed great concern about the people in his own district—and his staff showed that concern—working late hours and long hours into the night.

It was not unusual to go by William Fitts Ryan's office at 9 o'clock at night and see the people on his staff working to get out answers to the constituents for the requests they had made. He loved people in the true sense of the word. One had to love him, because of his way and his consistency in fighting for the causes he believed in.

William Fitts Ryan is going to be missed around here. We need men like William Fitts Ryan to stand up in the Congress every once in awhile and bring to our attention things we might not be paying sufficient attention to. He was in the vanguard of the fight on many issues which today are being generally recognized. We find some people who opposed his views at that time are now agreeing. In other words, he was patient and he took his time to get his story across. He was a great legislator and a great man.

To his widow and his children and the other members of his family I know we send our condolences and our best wishes and we ask God's blessing for them.

Mr. STRATTON. Mr. Speaker, I thank the gentleman from Massachusetts.

Mr. MOSS. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from California.

Mr. MOSS. Mr. Speaker, Bill Ryan was my good friend. I recall a few weeks ago in this Chamber when out of a deep sense of commitment, a commitment which characterized his life, he appeared here on this floor obviously at that point a man with but a brief period of days remaining. The sense of loss this morning was very real. There was no shock because that shock I think occurred in recent months as one could see the slow and inexorable ravages of one of the great killers of mankind and the considerable effort that Bill Ryan was devoting to the kinds of programs which at some future time might make the premature loss of persons from such diseases less likely to occur.

It was my privilege to give him that measure of support of which I am capable in his last effort at reelection. I was so pleased when his district again showed their commitment to him and their confidence in him, because no man more richly deserved that kind of confidence than Bill Fitts Ryan. We will not see too many of his caliber in this or any other legislative body. We have many distinguished colleagues but few truly unique, courageous, totally committed individuals. While I am confident that there was great affection for Bill Ryan from all of us and from all who came in contact with him, that affection could not match his affection for all living beings.

Mr. STRATTON. Mr. Speaker, I thank the gentleman from California for his very eloquent remarks.

Mr. RANDALL. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Missouri.

Mr. RANDALL. Mr. Speaker, I am glad I could be here to take part in this eulogy to praise the good things in the life of our departed colleague, Bill Ryan.

In my judgment the outstanding characters of Bill Ryan was his courage. I say that because I think I knew him well. It was our privilege to serve with him on the Space Committee in the golden days of space, when the first suborbital flight was made, by Alan Shepard, Jr.; then the first orbitl flight of John Glenn was made, followed by Gordon Cooper and others. Bill confided in me that he was not happy on the Space Committee. He wanted to be on the Judiciary Committee. It took a measure of courage to confront the leadership of the House and to insist upon a change of committees. We all remember his comments that were made in caucus and the fight he made to get a committee he wanted. It was a courageous fight. He was successful. He attained his objective.

It was our good fortune upon several occassions to have conversations with Bill when we would have dinner together up on Pennsylvania Avenue east of the Library. I shall never forget one of the comments he made which revealed his personal philosophy—let me interject a word to say we were in sharp disagreement on many issues. Bill was very liberal. I was more conservative. But he said to me, "Bill, you know I am more concerned about representing my people as I think they believe and want to be represented than whether or not I am popular among my colleagues." He said, "I am not involved in a popularity contest down here." He went on to say, "I hope I am acceptable to the district that I try to represent." He said he was proud of his membership in this House. As he put it this is the people's body. "This is the body that really represents the people of this country."

One evening he said to me, "You know, you can become a Governor by appointment, or you can become a Senator by appointment, but you can never, never become a Member of this body unless you are elected by the people." He said, "For such a reason I am obligated to serve my people—but I am grateful to my people. I will always do my best to represent my people as I understand their preferences, irrespective of how unpopular I may be or become among my colleagues."

I thought that sort of attitude displayed some personal characteristics that many of us would do well to emulate. We are going to miss "old Bill." He was a great guy. A good man.

I thought so much of him that I said to him at the time, "I do not know whether it will help you or hurt you, but

I want to help you in your campaign. I will go to New York and speak either for you or against you—whichever you may think will do the most good." He did not call me to help but I am sure most of us were glad to see that Bill survived the challenge that resulted from redistricting. We extend our sympathy to his survivors. He will be sorely missed. He was an able man, a distinguished Member of Congress, and a great American.

Mr. STRATTON. I yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I intend to join the distinguished chairman of the House Committee on the Judiciary later in the week in talking more about the loss of our dear friend and colleague, Bill Ryan. As one of his close personal friends, even though coming from a State 3,000 miles west of the great State of New York, I could not let the day pass without joining with my colleagues and with the distinguished gentleman from New York (Mr. Stratton) in saying to his family, Priscilla, and their four children, his father and mother, all of his many friends and constituents—and indeed it is a constituency throughout the United States and an international constituency that Bill enjoyed—that it is a terrible loss we have all suffered.

We will be comforted by memories we will retain forever—knowing Bill, watching him work, being his friends, being comforted by him on a day-to-day basis. It is a great loss, Mr. Speaker. We will not easily recover from what happened yesterday.

Mr. STRATTON. I thank the gentleman for his very eloquent remarks.

Mr. Speaker, as has already been indicated, the distinguished dean of our delegation, the gentleman from New York (Mr. Celler) is necessarily absent today because of the Jewish holiday, Yom Kippur, and the gentleman from New York (Mr. Delaney) has just suffered the passing of his wife. The gentleman from New York (Mr. Rooney) is engaged, of course, in a primary contest, and, therefore, the responsibility for informing the House today fell to me. Because of that fact Mr. Celler will request a special order later in the week so that other Members who wish to do so may participate in paying further tributes to our late colleague.

Final funeral arrangements for our beloved colleague are not entirely complete at this time. It is anticipated that the funeral service itself will be held at the Corpus Christi Church, 529 West 121st Street in New York City, at 10 o'clock on Wednesday morning. The burial will take place in the afternoon in Upper Marlboro, Md. It is anticipated that the official funeral committee will fly up for the service in New York City, and that the committee and any other Members who may wish to do so will then meet the casket when it returns to the Washington area and accompany it to the burial service.

Mr. PATMAN. Mr. Speaker, the untimely death of the Honorable William F. Ryan is a tragedy for the Nation because this was a man whose courage was as mighty as his convictions; it is a tragedy for his constituents because he was a generous and efficient worker in their behalf; it is a tragedy for his colleagues here in the House because we have looked to him to express the highest aspirations of the Congress; it is a great tragedy for his beloved family with whom he shared his nobility and greatness of character. And beyond this, the passing of William Ryan has deprived the world of what it needs most, an antidote for hate; he had wisdom to understand, imagination to create, and energy to bring about a world of justice, peace, honor, and mercy. This is the world in which he himself lived and sought to bestow upon mankind. May he rest in the knowledge that his days on earth have brought all people closer to the radiance of his ideals.

Mr. JOHNSON of California. Mr. Speaker, today we were saddened by the news that our colleague, William F. Ryan, who represented the 20th District of New York, had passed away.

Since the 87th Congress Bill Ryan has ably represented his district, the State of New York, and the Nation, and his services will be missed by those who were privileged to know and work with him.

During his service on the Committee on Interior and Insular Affairs I can well remember the interest he took in the preservation of our natural resources, especially as it related to the Redwoods National Park, the Point Reyes National Seashore, and the Golden Gate Urban Recreation Area, in the State of California. In addition, he introduced the Gateway National Urban Recreation Area for the State of New York, and played a major role in steering these important bills through the committee.

Mrs. Johnson joins me in extending deepest sympathy to his lovely wife, Priscilla, and their children.

Mr. ANDERSON of California. Mr. Speaker, I rise to pay tribute to our late colleague, the Honorable William Fitts Ryan, of New York.

His untimely death leaves a special void here in the House of Representatives, as his voice, championing the cause of the underprivileged, will be missed.

Congressman Ryan's diligent efforts, which were ahead of the times, often paved the way for future actions.

During his first term in Congress, in 1961, he fought to end school segregation.

Also in 1961, he spoke out for U.N. recognition of Red China.

In 1963, he spoke out against U.S. involvement in Vietnam.

Mr. Speaker, this Hall will surely miss Bill Ryan. The people of New York will miss him, and the underprivileged of our Nation will, indeed, miss his able leadership and ability.

Mrs. Anderson joins me in sending our heartfelt condolences to his wife Priscilla and their four children.

Mr. DANIELS of New Jersey. Mr. Speaker, this has been a sad weekend for me as the Grim Reaper struck hard. This weekend, my longtime District Representative John F. Griffin passed away and only this morning I found that our distinguished colleague, William Fitts Ryan, passed away at the untimely age of 50.

Mr. Speaker, there was no Member of this House more high minded and devoted to his duty than Bill Ryan. I can think of no one in this House or out who served the people with a more uncompromising sense of duty than Bill Ryan. A battler for peace abroad and the equality of man at home, he was in many ways the conscience of this House, a conscience who will be sorely missed by all Members of the House.

Mrs. Daniels joins me in extending our sincerest sympathy to his widow, the former Priscilla Marbury, of Upper Marlboro, Md., their four children, William, Jr., Priscilla, Virginia, and Catherine, his father, retired Judge Bernard Ryan, of the New York Court of Claims, his mother, the former Harriet Fitts, and his three brothers, Bernard, Hewitt, and Leonard Ryan. May Almighty God let perpetual light shine upon him.

Mr. BADILLO. Mr. Speaker, I join with our colleagues, and countless others throughout the country, to mourn the passing of one of our most able and dedicated colleagues, and a close, personal friend, William Fitts Ryan.

Long a champion of human rights and civil liberties, Bill Ryan actively and effectively followed the dictates of his conscience, which often required him to take positions which were not popular. In the early 1960's for example, he had the courage to vote against the appropriations for HUAC and, in 1961, he was one of only two Congressmen to urge United Nations recognition of Communist China. Bill early recognized the serious distortions of our national priorities and the senselessness and illegality of continuing our military misadventure in Southeast Asia. Almost 10 years ago he became the first member of this body to have the fortitude to speak out against our involvement in Vietnam. Since that time he was in the very forefront of efforts—both within and outside of Congress—to end the war.

Bill Ryan was an activist in the finest sense of that word and he continually fought to protect the rights of those—particularly the economically disadvantaged and minorities—who had no effective spokesman or whose pleas for aid and understanding went unheeded. His efforts on behalf of his Spanish-speaking constituents and other members of the Spanish-speaking community in New York City are particularly noteworthy and he long struggled to insure that Puerto Ricans, Cubans, and other Latin peoples received their full and just share of Federal assistance and were not denied access to our public institutions and programs. He was an especially forceful advocate for increasing and expanding bilingual education programs to assist New York's Spanish-speaking community.

Aside from his dedication to ending the Vietnam war Bill Ryan had also long spoken out in favor of extending medicaid coverage to poor children, to ending the use of chemical additives in foods, and to terminating the use of lead paint which has taken so many young lives in the crowded tenements of urban America. He also led several successful efforts to achieve meaningful and needed reforms in our immigration laws.

I have been privileged to know and work closely with Bill on countless projects for over 10 years. I will deeply miss his counsel, insight, understanding, and guidance. We are all better for having known Bill Ryan and his mark has been left indelibly on the Congress. The record he established during his six terms represents one of the most progressive and productive of anyone to serve in the House and is one to which we would all do well to aspire.

Mrs. Badillo joins me in extending our deepest sympathies to his wife, Priscilla, his parents, and his four children. I am hopeful that our words here this afternoon will bring them some sense of comfort and will help sustain them during this time of great personal loss.

Mr. WHITE. Mr. Speaker, Bill Ryan was a man of courage and sincerity. He represented his constituency diligently, conscientiously, and honestly. Bill and I did not always vote alike, but I respected him, and had to admire his determination. This Congress is diminished in spirit by his death. While we did not have the opportunities to become close friends, I sincerely say I grieve his passing, and offer my condolences to his family and close friends, and to the thousands of people in his district who relied on him.

Mr. CONTE. Mr. Speaker, with the death last evening of our colleague, William Fitts Ryan, of New York, this Chamber has lost one of its fiercest and most constant battlers against injustice.

Much has been said and written about the many stands Congressman Ryan took over the years against actions and policies he viewed as misguided or immoral—his early rise to prominence in New York as the spearhead of a growing reform movement; his longstanding opposition to the Vietnam war; his constant concern over the downtrodden.

There is one area, however, where Congressman Ryan never received the credit that was his due. As a member of the Appropriations Subcommittee on Labor-Health, Education, and Welfare, I had an opportunity to become very involved in the move to ban lead-based paint.

As we all now know, lead paint has been responsible for the poisoning of many children who live in the slums of America. When legislation authorizing programs for its detection, treatment, and elimination was finally adopted, credit for the action was claimed by many. But it was Congressman Ryan who was almost solely responsible for its success.

He brought to that issue the same fervor we have seen him exhibit in a variety of causes. From my vantage point on the committee charged with funding that legislation, I know that it was William Fitts Ryan's concern and determination which was ultimately responsible for the protection that is now afforded by this ban on lead paint.

However often we, as individuals, may have agreed or disagreed with him, Congressman Ryan had the respect of this body as a man who represented his constituents well while never wavering from the positions he held to be vital to the continued greatness of this country.

Mr. Speaker, not only this Congress but this country is diminished by his passing. I extend my deepest sympathy to his wife, his children, and all his family.

Mr. WOLFF. Mr. Speaker, I am immeasurably saddened today by the death of William Fitts Ryan. I wish to convey to his wife, Priscilla, and to their four children, William Fitts, Jr., Priscilla, Virginia, and Catherine, my profound sense of sorrow.

The death of William Fitts Ryan will be felt by many, for his passing represents a great loss for the Congress, for the people of his district whom he so ably represented, for all men everywhere who truly care about decency and integrity in government. Death is never easy to accept, how much more difficult when it strikes down a Bill Ryan.

He will be missed, Mr. Speaker, for he came to symbolize what is best in this body. The good people of his district will elect someone to succeed him—they cannot replace him.

I think John Masefield's words fitting:

Man with burning soul
Has but an hour of breath
To build a ship of truth
On which his soul may sail—
Sail on the sea of death,
For death takes toll
Of beauty, courage, youth,
Of all but truth.

Bill Ryan built his own "ship of truth" and now death has taken its toll of his "beauty, courage, youth," but where truth is concerned death's victory must go unclaimed. He chose to sail upon that "ship of truth"—how well, how very well, he sailed.

Mr. BINGHAM. Mr. Speaker, I welcome the opportunity to join with Bill Ryan's many friends and admirers in the House to express our sense of loss at his untimely death. Bill Ryan will be sorely missed—not only in the congressional district he represented so well, but here in Washington. His likes will not be seen again soon.

I had the privilege of knowing Bill many years ago when we were both active in the reorganized New York Young Democratic Club, which was a kind of forerunner of the broader reform movement which followed in the 1950's.

Bill was an inspiration to all of us who were interested in democratizing and modernizing the Democratic Party in New York as he took on one seemingly impossible challenge after another and won them all.

After my own primary victory in 1964, the Representative whose advice I naturally first sought was Bill Ryan. In the years that followed I developed enormous admiration for his great courage, his remarkable determination, and his willingness to hold to whatever position he felt was right no matter how lonely. Bill never believed in the addage about Congress: "to get along, go along." Indeed, in an almost unique way he represented the total rejection of that position.

In my years in the House, I have known no Member who was more conscientious than Bill. He would burn the midnight oil again and again, not only preparing for the next day's action on the many fronts he was particularly interested in, but also studying seemingly innocuous bills for some hidden provision that might prove harmful.

An illustration of his readiness to stand alone, even in opposition to Members he admired, was his lone dissent from the rest of the Judiciary Committee in 1970 on a bill concerning immunity for witnesses before Federal grand juries, which was later included in the Organized Crime Control Act of 1970. In his minority views, Bill vigorously criticized the provision which made it easier for prosecutors to force reluctant witnesses to testify by giving them immunity from prosecution. Bill insisted that the provision was "a misguided diminution of fifth amendment rights" and was open to abuse. His opposition to it has been fully justified by recent cases, such as that involving the so-called Fort Worth Five in which witnesses have been locked up under cruel circumstances for indefinite periods for refusing to testify when they felt the assurance of immunity was not adequate.

There is no need for me to rehearse once again at this time the many instances in which Bill Ryan was out in front in an important crusade—such as for peace in Vietnam and for civil rights. And others will, I am sure, recite his notable achievements—such as his long and effective battle for the concept of the Gateway National Park. The point I would like to make in conclusion is that to a remarkable degree he served as a conscience for many of us in the House.

My wife and I extend our deepest sympathy to Bill's wife, Priscilla, and their children for their great loss. In spite of their grief, they can be very proud of the record he made.

Mr. DORN. Mr. Speaker, with the passing of Bill Ryan, this House lost one of its most sincere, dedicated, and conscientious Members. Bill Ryan was a man of his word, and in his associations with his colleagues he was dependable, honest, and absolutely forthright. He was a dedicated liberal, and he championed the liberal cause as ably as any leader of our time.

Bill Ryan was always fair and respectful in debate. I recall, upon one occasion, debating him before a group of interns here for the summer. Bill was representing the liberal and I the conservative philosophy. It was an inspiration for me to have the privilege of debating one who held such an opposite point of view and yet, at the same time, who was so respectful of another opinion.

Mr. Speaker, Bill Ryan served his country with great honor and distinction in the battlefields of the Pacific during World War II. He came from a distinguished New York family that was dedicated to our laws and system of justice, and he ably continued in that tradition. Reform to Bill Ryan meant progress, equal rights, justice, and opportunity for all—even the most disadvantaged and underprivileged. He exemplified courage and integrity always.

Bill Ryan was an inspiration to us all, fighting back after debilitating attacks of illness. I feel that I am a better man for having known him. I feel that this is a better Congress and a better country because of his devoted service. Mrs. Dorn joins in my most heartfelt sympathy to Mrs. Ryan and her wonderful family.

Mr. HORTON. Mr. Speaker, I was deeply saddened to learn of the death of our colleague, William Fitts Ryan.

Having known Bill Ryan's father for many years when he served as the presiding judge of the New York State Court of Claims, I came to Congress knowing that Bill Ryan was a good man and I will cherish the warm friendship that we built during the past 10 years.

Bill Ryan could always be counted upon to speak with candor. There was never a moment's doubt about where he stood on a particular issue. Though you might have disagreed with him at times, you could never quarrel with his consistency or frankness. These attributes made Bill Ryan a strong force behind the causes he championed. I saw firsthand the tremendous leadership he provided in the battle against lead poisoning, one of many areas where Bill Ryan had a profound and lasting impact.

We have lost a man whose strength and compassion were unequalled in this Chamber. To his wife, Priscilla, and their four children, I extend my deepest sympathy.

Mr. KOCH. Mr. Speaker, it is with great personal sorrow that I rise today to eulogize the memory of our colleague, William F. Ryan. Last night I lost a dear friend, the Congress lost an inspiring colleague, and his constituents lost a noble and conscientious public servant.

For years Bill Ryan provided a unique form of leadership in this House. He was the first Member to speak out against the war in Vietnam; as early as 1961 he urged Red China's admission to the United Nations; and he always was in the forefront of the fight for civil rights and civil liberties. Usually, he was ahead of the times, but his spirit was indomitable, and through patience and hard work he ultimately found the Congress following the paths he had pioneered.

Bill Ryan also made a lasting imprint on New York politics. He was an initial member of the reform movement. It was during this time, the early 1960's, that I first had the privilege of working with Bill.

At a moment like this, however, while one's memory recounts his accomplishments, one's feelings and thoughts center on the man. Bill was such a dedicated and charitable person. His generosity in giving of himself to the betterment of the world and welfare of mankind was endless. But, perhaps most important was his deeply carried personal concern and consideration for the feelings and aspirations of others. No matter a Member's political differences, none could deny Bill his friendship.

At this moment, too, our thoughts must turn to his family and the loss they bear. My heart and sympathy go to his wife, Priscilla, who made it possible for Bill to give so much to this country and to his children who often had to share their father with his constituents. We can only be grateful to them as we are to Bill for his service and friendship.

A fitting memorial to this man would be the naming of the Gateway National Park, the William Fitts Ryan National Park.

Mr. RODINO. It is with a deep sense of shock and sadness that I learned this morning of our colleague, Bill Fitts Ryan's sudden death. He had encountered and overcome many difficult obstacles with a great degree of personal courage and determination. He was a good, courageous man whose loss will be felt deeply by all who labor for peace and social reform.

I knew Bill well for he served on my committee and my Immigration and Nationality Subcommittee. During those years I learned to appreciate and to admire his unwavering concern for the people he represented, and for his single-minded dedication in pursuing causes of compassion and humanity that he thought were right and just for all men. Earlier in this session Bill Ryan and I worked closely together on immigration legislation to eliminate inequities and facilitate immigration to the United States from Ireland and other European countries.

Perhaps the most fitting memorial we could undertake on his behalf here in the House, however, would be to enact his bill to establish the Gateway National Recreation Area, a project that he worked for tirelessly and one that will bring an enormous amount of good to the people of New York and New Jersey.

Our committee, the Congress and the country has lost an articulate spokesman of the people. Bill Ryan was never a man to duck an issue. He could always be counted on to stand up and work for what he thought was right regardless of the controversial nature of the issues. He carried on his duties with a great amount of zeal and oftentimes while enduring pain.

Bill Ryan was still a young man at his death. He had already become a seasoned legislator and would have been an outstanding leader in the years ahead had he not been tragically struck down.

My deepest sympathy goes to his wife and family.

Mr. ANNUNZIO. Mr. Speaker, Congressman Bill Ryan of New York served the House of Representatives and the Nation with dedication and distinction, and his death is a sad loss.

During the 12 years that he served as Congressman for the 20th District of New York, he compiled a legislative record that will be remembered with respect and gratitude.

He was a consistent champion of civil rights and civil liberties, and he was among the first in the House of Representatives to publicly oppose the Vietnam war.

Among the causes he espoused were medicaid coverage for poor children, an end to the use of chemical additives in foods, and a halt in the use of lead-based paints which studies indicate contributes to lead poisoning in children.

Bill's courageous and steadfast advocacy of causes in which he believed, although they might not have been popular at the time, marked him as being far ahead of his time.

He will be missed by his colleagues in the House of Representatives and by his constituents whom he served so well for 12 years.

Mrs. Annunzio joins me in extending our deepest sympathy to his devoted wife, Mrs. Priscilla Ryan, their four children, and to Bill's parents on their bereavement.

Mr. TERRY. Mr. Speaker, it is with great sorrow that the House of Representatives learned of the passing of one of its best-known Members, Congressman William Fitts Ryan of the 20th District in New York State. The passing of Congressman Ryan leave a void in the House which will not be readily filled.

As a colleague on the House Interior and Insular Affairs Committee, Bill Ryan and I often differed on legislation. But his dedication to the principles he so strongly supported continually shone through in his actions on the committee and on the House floor.

I first met Bill Ryan in 1968, 2 years before my election to the House. From that first meeting, through our efforts on the Interior Committee, the impression was never diluted that Bill possessed tremendous skills as a legislator and a representative of his beloved West Side of New York City.

A graduate of Princeton and Columbia University Law School, Bill cut his political teeth in the rough and tumble of New York Democratic politics. As a young assistant district attorney in New York in the 1950's, Bill's reputation reached far beyond the boundaries of New York City.

Bill Ryan did not lose many battles. He tenaciously held to his goals until they were realized or he was able to enlist more supporters for his cause.

His courage in the past few weeks against the ravages of disease are but the final example of his desire to give his all for what he believed in. The city of New York, the Empire State and the entire Nation are poorer today with the passing of Bill Ryan.

Mr. ZABLOCKI. Mr. Speaker, we have been saddened by the untimely passing of our colleague, William Fitts Ryan, and I join my colleagues in expressing my profound sorrow.

It was a privilege to serve in the House with Congressman Ryan who demonstrated enthusiasm and sincerity in the pursuit of his beliefs. He was a man who served his district and his country with dedication and gave unstintingly of himself to attain the goals and objectives he espoused.

My wife joins me in expressing deep sympathy to his beloved wife, Priscilla, his four children and his parents. May they derive some consolation from the knowledge that their sad loss is shared by his many friends.

Mr. BEGICH. Mr. Speaker, words are never enough to convey the sense of loss we feel at the passing of a man like our colleague, William Fitts Ryan. I know that each of us can only say the few things that are most important in the hope that our words will preserve the spirit of the man and his ideals.

There are others here who can say more than we about BILL RYAN's record in the House. He was everyone's leader on the issues of the war in Southeast Asia, the U.N., and innumerable matters of importance to this Nation's urban areas. Although there is much talk today about "reform," BILL RYAN was there long before anyone, when the going was the hardest.

All of these accomplishments, and many more, have been eloquently spoken of here today by BILL RYAN's colleagues in the House. If I may, I will add one further credit to an already impressive list.

To many, it was surprising to know that the Congressman from Manhattan was a vital member of the House Interior Committee, but BILL RYAN valued this committee seat and filled it in a way which will be impossible to replace. For a man representing an area like New York City, with the problems all urban areas have, to spend so much time on the environmental problems of the Nation, it meant that his eyes had to be lifted to the broadest of horizons, and BILL RYAN was the proper man for the job. The final tribute to his work on this committee, and to his environmental sensitivity, will be the Gateway National Seashore, a project which contains the vision and hard work so typical of the man.

Finally, it is time to put aside the accomplishments, which were many, and the leadership, which was of the highest order, and to simply remember the man. In this remembrance, I believe I speak for all House Members in saying that WILLIAM FITTS RYAN was our finest.

Mr. FLYNT. Mr. Speaker, I was deeply saddened when I learned last night of the passing of our friend and colleague, BILL RYAN. BILL was a fine man who gave much of himself in dedicated service to his constituents, the cause of human progress, and to his country.

He was a man of strong convictions who was not afraid to stand his ground in the face of overwhelming odds. He was profoundly and deeply concerned with the things that affect millions of people in this country.

Many times BILL RYAN took the floor to expound his views on a cause which was not popular in the House of Representatives. Even those who disagreed with those views respected and admired the fortitude and courage of the man who expressed them.

He was a man of profound convictions and believed the views which he expressed. He represented his district admirably and impressed his colleagues with the manner in which he represented his district. He was a good man and an able Representative. He will be missed by the people of his district, his State, and his colleagues in the House of Representatives.

To his wife, his children, and other members of his family, Patty and I extend our condolences and our heartfelt sympathy.

Mr. ROONEY of Pennsylvania. Mr. Speaker, the passing of a good friend always is a sad occasion, but the passing of the friend and colleague I eulogize today is an occasion I find much sadder than most.

BILL RYAN was one of the first of my colleagues to greet me when I came to Congress in 1963. His gracious offer of help and advice was one I accepted on repeated occasions during the 9 years since, and his counsel proved invaluable.

A man of courage and conviction, BILL RYAN also was a warm and loving individual who was deeply devoted to his dear wife Phyllis and their four children. He spoke often of the many pleasant weekends spent with his family in the Pocono Mountains of Pennsylvania, one of his favorite places.

BILL RYAN enjoyed the respect and admiration of his colleagues, because he earned them as a man of reason and conscience. He will be remembered in the annals of this House as one of its truly great Members.

The high regard in which he was held by the Congress was clearly evident a few months ago during a reception in his honor at the home of Mr. and Mrs. Milton Viorst. It was to be a modest group of friends, but I know BILL RYAN was overwhelmed, as I was, by the great many Members of Congress who attended.

BILL's host on that occasion, Milton Viorst, shares the sorrow all of us feel and I would like to share with my colleagues the thoughts of Mr. Viorst conveyed in a note I received today:

WASHINGTON, D.C.,
September 18, 1972.

It's hard for me to imagine a Congress of the United States without Bill Ryan. He was not the most effective member of the House, or the most eloquent, or the most charismatic. But no member had more personal honesty than he did. And no member was more consistently faithful to his ideals. For a dozen years, Bill Ryan's sensitivity led him unfailingly to the right positions on war and peace, on children and the aged, on economics and the environment, on Federal power and civil liberties, on human equality and human potential. He was the conscience of many of us—and I don't think he ever failed us. Even after he lost his good health, he gave us unremittingly of his energy, his intellect, his dedication. In a realm that is not hospitable to saints, Bill Ryan was a saintly man. Those of us who knew him sometimes found him difficult, but we loved him for that extra measure of integrity that made him different from us. William Ryan was very special in the House of Representatives. We who live and work in this city, in this country, will miss him very much.

MILTON VIORST.

Mr. Speaker, Mrs. Rooney and I extend our deep sympathy to Mrs. Ryan and the children.

Mr. TIERNAN. Mr. Speaker, I join with my colleagues of the House of Representatives in mourning the passing of our fellow Member, Representative WILLIAM F. RYAN of New York. We are saddened by his untimely death and we shall miss him.

In paying respect to his memory, I should like to record my deep and sincere admiration for his unusual courage and determination, particularly in these last 2 years when, in spite of a dreadful illness, he continued to function effectively in Congress. He never failed for a moment to serve his constituency with fervor and dedication.

His display of courage was visible not just in these last years, but was a characteristic of every year he served in the Congress. We are indebted to our colleague for his keen foresight in noting the importance of events in the 1960's which rightfully earned BILL RYAN early recognition as a leader of social reform and peace. This unusual ability to perceive the needs of the people was exemplified when he advocated the admission of Red China into the U.N., as he spoke out against the war in Vietnam, and as he marched through the South fighting for civil rights. He was truly the founder of the modern Democratic reform movement and a spokesman of social progress.

We can pay effective tribute to BILL RYAN if we in this Congress will vow to do all we can to provide Federal support and assistance to combat cancer, the dread disease which so wrongly claimed him in the prime of his life and at the pinnacle of his career.

I extend my condolences to the family of our courageous colleague, WILLIAM F. RYAN.

Mr. RAILSBACK. Mr. Speaker, the Congress and the Nation have lost a great legislator and statesman with the death of our friend and colleague WILLIAM F. RYAN, of the 20th District of New York. The passing of someone with whom you have worked and shared the burdens and sense of accomplishment of daily legislative endeavor toward common goals always comes as a tragic shock. This is especially true in the case of BILL RYAN. His wisdom and dedicated service to the public will be greatly missed by the people of his district and his colleagues in the Chamber for years to come.

As a member of the Judiciary Committee, in company with BILL RYAN, I had occasion to watch him at his very best, attempting to make the lawyers see the necessary connection between legal phraseology on the one hand, and justice and morality on the other. He was ever hard at work, arguing that law was worthless if it failed in the matter of controlling the strong and protecting the weak.

As a reformer, BILL RYAN began reforming in his own backyard; demanding honesty of the Democratic Party organization in the New York 20th District. He pushed the matter, accomplished his reform, and, when the battle was over, emerged as the controlling force within the district.

BILL RYAN was, first and foremost, the leading spokesman of the liberal cause throughout his five terms in the House of Representatives. As Congressman PIKE explained yesterday:

> He whispered things we all should be shouting.

He was the first Congressman to recommend the entrance of Red China to the United Nations. He was the first Congressman to participate personally in civil rights demonstrations organized by the late Dr. Martin Luther King. He was the first Congressman to vote against funds for the war in Vietnam. For these and other activities he was originally denounced as a radical—but as time went by, the American people began to adopt more and more of his positions.

Congressman RYAN was courageous, innovative, and concerned. He was one of the finest. We will all miss him.

Mr. BIAGGI. Mr. Speaker, it saddens me to have to stand here today and mourn the passing of my good friend, WILLIAM FITTS RYAN. He will be long remembered in this body for his untiring work and dedication to the causes of the little people of America.

BILL RYAN has often been called a man ahead of his time. I do not think it was so much he was ahead of his time as it was that he worked so diligently at his job as Congressman that he saw more clearly the problems at hand and the answers to them. His ability to fight difficult battles was proven time and time again. His knowledge of the issues made him a formidable opponent.

BILL RYAN's commitment to progressive causes here in Congress is well-known. The people of this country will remember him, too, for his fight to end lead poisoning from paint, for his efforts to establish a Gateway National Park and his constant dedication to defining the rights of all people, whether rich or poor, or black or white.

There is no doubt that BILL RYAN will be missed around here. He could always be counted on to keep his colleagues reminded of the people we serve. On the floor and in committee, his patience and diligence would work to get his message across.

In this melting pot of divergent ideas and views, BILL RYAN stood out as a prominent example of the independent thinker and resolute worker for new ideas and innovative change. While in disagreement with many, he was respected by all and will be remembered for years to come as a man who challenged others to change with the changing times and who in changing others answered the challenge to build a better world.

My sympathies go out to his widow, his children, and the other members of his family.

Mr. EVINS of Tennessee. Mr. Speaker, as the flags over the Capitol are flying at half-mast today in tribute to our departed colleague, Representative WILLIAM FITTS RYAN, of New York, permit me to join with the members of the New York delegation and others in paying a brief but sincere tribute to this outstanding legislator.

Certainly I share the sentiments expressed concerning the devotion and dedication of this hard-working, sincere colleague. BILL RYAN held liberal, progressive, and advanced views and served his district, State, and Nation faithfully and well.

I recall his pleasure and approval when the Subcomittee on Independent Offices and Housing Appropriations—which at that time I was honored to serve as chairman—secured approval of funds for the rent supplement program.

He worked diligently for the rent supplement program as well as public housing and other programs for the underprivileged and disadvantaged.

I was saddened to learn of his passing and I want to take this means of extending to members of his family this expression of my deepest and most sincere sympathy in their loss and bereavement.

Mr. BIESTER. Mr. Speaker, the passing of a good friend is always a great personal loss, but the passing of such a man as WILLIAM FITTS RYAN is an even greater loss to America.

I had the good fortune to know and work closely with BILL RYAN on the Judiciary Subcommittee. Those qualities one looks for in a Congressman were exemplified in BILL RYAN—diligence, sensitivity, intellect, and decency.

He was a maverick to many, for his convictions were too deeply held to remain unsaid. And when few others would say them, BILL RYAN would. He was not afraid to be "unpopular" so long as he felt he was right. And more often than some people cared to admit, he was right. Whether it was the war in Vietnam, health services for the poor, normalization of relationships with China, racial discrimination or the civil rights of the disadvantaged, he was there long before others climbed aboard.

No single person can ever be the conscience of the House of Representatives, but if one were to take names for an appropriate designee, BILL RYAN would have been high on such a list. He would not have looked upon himself as such—he was not that kind of man—but by word and by deed he earned that honor.

His untiring pursuit of what is right was what his life was all about. Congress was honored by his presence, and that presence will be sorely missed.

Mr. BRASCO. Mr. Speaker, when a Member of this House dies, it is standard practice to eulogize him or her with standard adjectives.

Run of the mill adjectives are not adequate to describe our departed former colleague, WILLIAM FITTS RYAN, of New York.

Many, perhaps the majority of Members of this House, disagreed with him philosophically on a number of occasions. This was because he was constantly staking out forward, ideological positions that the majority of the people in this country would adopt and Members of this House would adhere to in future years.

He never lacked the courage of his convictions. Certainly no Member of the Congress within memory every championed the cause of the dispossessed more ardently or sincerely.

Every country, especially if it espouses free ideals, needs men like BILL FITTS RYAN. He was our walking, living conscience, abrasively reminding us that it was not enough to promise equality to all; rather, we had to make it a reality by our own acts.

I know that both sides of the aisle and all shades of the political spectrum will mourn his passing for different reasons. He was an honest man, compassionately believing in the ideals our country espoused on paper. You always knew where you stood with him, and he never headed for the cloakroom when a difficult vote confronted this body.

He took his job seriously, representing his constituents ardently and conscientiously. I believe that the ideals he stood for and the convictions he possessed, in a somewhat modified form, represent the finest distillation of America's ideals. It is my hope that we in the Congress will retain our capacity for indignation at the sight of injustice. That was his hallmark.

Mr. GONZALEZ. Mr. Speaker, WILLIAM FITTS RYAN is gone, and this country as well as this national legislative body is poorer, because of it.

He was a man of vision and he has often been described as a man ahead of his time. I am sure that his critics feel that if there was ever a man who marched to the beat of a different drummer, it was he.

Yet, what he did was to live his life in such a way that one might assume that his motto was: "To thine own self be true."

He was true to himself in that he could see himself honestly in relationship to his fellow human beings.

He could see himself clearly enough that when given the opportunity for power and position, that he used this power for the betterment of his constituents and his countrymen, and not for self-centered purposes.

BILL RYAN preceded me to Congress by just 1 year, and when I came to the House for the first time in January 1962, he was one of those Members who helped me find my way.

I saw in him dedication, aggressiveness, and courage, yet his manner was quiet, gentle, and unassuming.

He worked hard for historic and progressive legislation, and it was he who led the way in many a legislative fight during this past decade which resulted in victory for the people.

I join with BILL RYAN's family, his friends, the people of the 20th District of New York, and this Congress in mourning his death.

There will never be another quite like him who will come our way again.

Mr. HELSTOSKI. Mr. Speaker, this past Sunday, BILL RYAN, a good friend and colleague, passed away. We are all saddened at such a great loss.

BILL was a man ahead of his time who believed in progressive legislation and reform. He was a man devoted to a cause and who gave unstintingly of his time and effort. He never stood by merely as an observer. He was in the arena, fighting for a better life and world for all men.

BILL's courage and outstanding career as a public servant reminds me of those words written years ago by Theodore Roosevelt on the heroic spirit:

> The credit belongs to the man who is actually in the arena; whose face is marred by dust and sweat and blood; who strives valiantly; who errs and comes short again and again; who knows the great enthusiasms, the great devotions, and spends himself in a worthy cause; who at the best knows in the end the triumph of high achievements; and who at the worst, if he fails, at least fails while daring greatly; so that his place shall never be with those cold and timid souls who know neither victory nor defeat.

Mr. Speaker, I should like to place in the Record today an article from the Washington Evening Star concerning Bill Ryan's career.

I would also like to extend my very deepest sympathy to Bill's family and friends. We will all truly miss him.

Mr. Speaker, the article follows:

Representative William Ryan, 50, Dies; Liberal and Reform Leader

Rep. William F. Ryan, a founder of the Democratic reform movement in New York City and a hero to many liberals for more than a decade, died here last night at the age of 50.

A spokesman for the congressman's office said death was caused by a recurrence of throat cancer following an operation this summer for a perforated stomach ulcer.

The spokesman, Erika Teutsch, said Rep. Ryan was "physically exhausted" from a primary campaign this spring against Rep. Bella Abzug, whose 19th Congressional District in Manhattan was redistributed into neighboring districts by reapportionment.

The campaign, described as a "liberal civil war," was marked by charges that a whispering campaign was being waged alleging that Rep. Ryan was fatally ill. At the time, he denied any illness and aides said he was in the best of health.

He was admitted to Memorial Hospital on July 6, Miss Teutsch said, for a checkup which disclosed an ulcer. While recuperating from an operation on the ulcer, she said, the throat cancer that had hospitalized Ryan in 1970 reappeared, and "his weakened condition made it difficult to undertake steps which might otherwise have been possible to remove or stabilize the cancer."

It was not immediately clear how a new Democratic nominee for Rep. Ryan's district would be chosen, but the outspoken and equally liberal Mrs. Abzug seemed a strong possibility.

Officials in the State Democratic Committee and the New York Secretary of State's Office said a nominee would probably be selected within 15 days by members of the Bronx and Manhattan Democratic County committees from the 20th Congressional district.

That designee will meet Conservative Harvey Michelman in the November election, the Associated Press reported today, but New York sources said they expect there will be no GOP opponent in the overwhelmingly Democratic district.

Mrs. Abzug, who was defeated by Rep. Ryan in the primary earlier this year, said: "My deepest sympathies go to Bill Ryan's wife and family. He was a good and courageous man. His passing is a great loss to the cause of peace and social reform."

In Huntington, W. Va., Sen. George McGovern, the Democratic presidential candidate, said Rep. Ryan "was one of the most courageous and articulate voices for peace in the United States Congress."

Rep. Ryan's liberal position on many issues cost him influence in Congress but won him the admiration and loyalty of his constituents.

He was the first congressman to vote against funds for the war in Vietnam and one of the war's earliest critics. He was attacked for advocating the admission of China to the United Nations, and he was deemed radical for marching in civil rights demonstrations throughout the South.

On those issues, and many more, events. later moved public opinion behind him.

DEFEATED BY LINDSAY

Rep. Ryan won every election he ever ran in, except for one ill-fated campaign for mayor in 1965 against John V. Lindsay. And he established the reform movement as a force to be reckoned with as he became the city's first reform district leader, then its first reform assemblyman and finally its first reform congressman, in 1960, beating Rep. Herbert Zelenko in a primary.

In recent years, his major project was the establishment of a Gateway National Urban Recreational Area in New York. He was the principal sponsor of the bill coming up for debate in Congress this week.

But while many in Congress considered him among the "wild-eyed liberals," he was respected by even the bitterest opponents.

He once said, "Many who disagree with me seem to respect the fact that when I speak, I speak out of conviction and sincerity."

Tall, red-haired and freckle-faced, with a wide smile, he was often mistakenly called "William Fitzryan," combining his middle and last names, and even those who knew better used the misnomer affectionately.

His critics said he saw things at 100 percent right or 100 percent wrong, would not compromise, could not be induced to relax and found it difficult to delegate authority.

"Is that criticism?" he once laughingly retorted.

Rep. Ryan moved from a comfortable law practice and a job as assistant district attorney in New York County into politics, working for the election of Adlai E. Stevenson for president in 1956 and winning the admiration of Stevensonians such as Gov. Herbert L. Lehman and Eleanor Roosevelt.

Many of Rep. Ryan's colleagues in Congress and in politics issued statements, of grief, regret and sympathy tonight.

Sen. McGovern also said of Rep. Ryan; "He was one of the earliest thoughtful critics of our involvement in Vietnam, a great champion of peace, a great champion of arms control and a tremendous fighter for ordinary people in this country."

URGED CHINA IN U.N.

In his first act after election in 1960, Rep. Ryan violated both the traditional silence of a junior congressman and the prevailing cold war ethic by calling for the admission of Communist China to the United Nations. He agitated against renewed funding for the House Un-American Activities Committee and voiced opposition to spending for nuclear arms.

In succeeding terms he served on the House Science and Astronautics Committee, he worked against the war in Vietnam and against Comsat—the communications satellite orbited by the government and then turned over to a private corporation—and against the seating of Mississippi congressmen he considered to have been elected illegally.

Among his actions as a congressman, besides his opposition since 1963 to the Vietnam war, Rep. Ryan was proudest of his unsuccessful 1965 challenge to the Mississippi's congressional delegation, he told a reporter this summer.

Arguing that the delegation had been elected illegally because blacks were excluded from voting, he managed to collect 145 votes for his position and to keep the matter alive for three weeks after Congress opened.

A leader of congressional efforts to end racial discrimination, Rep. Ryan in 1968 introduced the first bill in Congress to provide for a guaranteed annual income for every American family. More recently, he was among the first to recognize the dangers of PCBs—polychlorinated biphenlys—a class of chemicals found increasingly in animal and human tissues.

Although one of the foremost liberals in Congress, he was considered something of a loner, and his colleagues were frequently slow to warm to his enthusiasms.

Rep. Ryan was born in Albion, N.Y., the son of Bernard Ryan, who was for many years the presiding judge of the New York State Court of Claims. He attended Princeton University. After service in the Army during World War II, he earned a law degree at Columbia University in 1949.

He is survived by his widow, the former Priscilla Marbury; a son, William Jr.; daughters, Priscilla, Virginia and Catherine; his father and his mother, Harriett; and three brothers, Bernard Jr., Dr. Hewitt, and Leonard.

Rep. Ryan's body was to lie at the Frank E. Campbell Funeral Home tonight and Tuesday. Religious services were scheduled Wednesday at Corpus Christi Roman Catholic Church. Burial will be private.

Mr. CONYERS. Mr. Speaker, when I first came to the Congress in 1965, one of my supporters wrote to my office urging me to seek out and befriend Congressman William Fitts Ryan and to associate myself with his causes for they were just. This, she believed, would be the right way for a freshman Congressman to begin.

As it turns out, she was right. In the 8 years which followed, I came to know and respect Bill Ryan, and indeed, to share with him the many causes and battles in the name of progressive reform. He was so deeply dedicated to the issues that he was often appropriately called "the moral conscience of the Congress." Bill Ryan's untimely death at the age of 50 leaves a void not easily filled in the Congress, and in the minds and hearts of those whom he knew and served.

Bill Ryan was a man of foresight and conviction, assets which earned him a superlative voting record during his 12-year membership in this body. He was more often than not a man ahead of his time but right on the issues.

He proudly held the record as the first Congressman to speak out against U.S. involvement in Vietnam, and that in 1963 was no small measure of courage. In 1965, he held hearings on Vietnam and advocated a negotiated settlement of the war when opposition to it was still a matter of conscience and not political expediency. And, most recently, still fighting for peace, he joined with four other colleagues to introduce a resolution impeaching the President for his role in the war.

As his first act representing New York's 20th District, he called for the admission of China to the United Nations, a position whose justification came 12 long years later. Ever an opponent of the cold war mentality, he agitated against renewed funding for the House Un-American Activities Committee and voiced opposition to spending for nuclear arms, positions whose time has only recently come.

Perhaps the position for which I respected Bill "Fitzryan," the most was his early and unswerving commitment to end racial discrimination in this country. To that end, he, with a minority of others, challenged the congressional delegation from Mississippi, arguing that it had been illegally elected because blacks were excluded from voting. In 1968, he introduced the first bill in Congress to provide for a guaranteed annual income for every American family. Bill was also a longtime proponent of home rule for the District of Columbia, a champion of school desegregation, and an advocate of medicaid coverage for poor children.

The passing of Bill Ryan is more than the personal loss which we all share. It is the loss of a fine American and outstanding public servant whose death can only diminish the forces and cause of reform. He will indeed be sorely missed.

Mr. SCHEUER. Mr. Speaker, I am indeed saddened by the death of our colleague William Fitts Ryan.

I knew Bill for more years than I care to remember. He was a warm, intelligent, and thoughtful human being, a leader whose absence will be sorely felt by his family and the Congress of the United States.

Bill was a true leader; a man who was out in front of his colleagues on a great many important issues. He was a man with the courage of his convictions, a man who spoke out when others were too timid to do so.

He was a man of unquestioned integrity who refused to dissemble, who used truth as his guiding principle. He was a man who believed in service to his constituents, who kept their needs foremost in his thoughts.

He was a man who was a keen legislator, who knew the intricacies of the legislative process and used them fairly to accomplish his objectives.

In short, he was a model Congressman; a man deeply concerned with the future of this country and with the needs of his constituents.

It is true that the good a man does lives after him and on this basis alone, Bill Ryan and his work will be with us for a long time to come.

Mr. MATSUNAGA. Mr. Speaker, he was known as a fighter, but he was among the first who spoke out against the Vietnam war. He was a crusader, but he was willing to move on to new causes as those who came later took credit for the old. He ferreted out issues where others discerned none. He was impatient that the eradication of social injustices moved so slowly, yet he was tolerant of those who could not agree with him.

Such a man was William Fitts Ryan.

Congress was where a person of Bill Ryan's unique endowments belonged, and for 12 years he demonstrated these qualities of humanity, service, and courage as a member.

It was in Congress that I first met and got to know Bill Ryan. I shall always cherish the memory of our frequent discussions, whether on legislation pending before the Committee on the Judiciary or the Committee on Interior and Insular Affairs, on both of which he served with distinction, or on other matters. Bill was always ready to listen. He was always willing to help.

Being elected to my first term in Congress from private law practice, I remember saying to myself after one of our early talks: Why, Bill Ryan keeps his word—just like a brother attorney.

Bill's untimely passing is indeed a great loss to this body. But he leaves to his colleagues and to those who will follow a priceless legacy—his indomitable spirit. Many will be kindled by it; still others will benefit by it.

Mr. Speaker, Bill Ryan has gone on to greater heights; but those of us who remain must carry on the unfinished business that his vision, insight, and understanding helped to delineate and identify.

As one who was privileged to know Bill Ryan as a fellow legislator and friend, I extend to Mrs. Ryan and their children and to other members of the family my deepest sympathy in this their period of sadness.

Mr. HALPERN. Mr. Speaker, last Sunday a beloved friend and a most distinguished Congressman passed to his eternal rest Bill Ryan will sorely be missed.

He was a beautiful human being, a humane, compassionate, public servant who was genuinely devoted to the well being of his fellow man.

Bill Ryan was an outstanding leader in the effort to improve the lot of millions of people who needed a champion in their corner. He was the kind of champion that never feared to speak out for his heartfelt convictions and to work unceasingly and indefatigably on the issues he felt important to the people of his district and to all America.

All of us who knew Bill knew him to be completely dedicated to a better way of life for all. He tackled each task with the same vigor, determination, and strength as he devoted to his pet causes. He was without question one of the hardest working and genuine public servants I have ever worked with or observed in my 28 years of legislative activity.

Bill had been consistently ahead of his time in his advocacy of public causes when it came to understanding and formulating these issues few had a keener mind and a better sense of judgment than Bill Ryan.

He had that unique capacity to grasp public issues and to come up with responsible solutions. He fought relentlessly for human justice and dignity and his efforts here in Congress have made an indelible mark in helping to build a better America.

Bill was a native New Yorker, born in Albany, the son of New York State Court of Claims Judge Bernard Ryan. He served his country during World War II as an artillery officer in the Pacific theater of operations, and later earned a law degree at Columbia University in 1949. He was also an able assistant district attorney of New York County from 1950 to 1957.

As a community leader, a worker from the precinct to district level for his party as well as a stanch advocate of a responsive democratic political structure, he got to know and feel the grassroots problems of the Nation's urban areas.

Bill was that kind of special blend of Congressman—knowledgeable, hard working, warm, friendly, but above all, a gentleman, who never let the heat of congressional battles blur his vision of the essential goodness of mankind. He earned the respect of all of us, and I join Bill's colleagues in the Congress in extending to his lovely wife, Priscilla, his four children, and his dear parents heartfelt sympathy at this time of tragic loss.

The Nation has lost a devoted servant and we will all feel his passing. But we can all be consoled with the knowledge that Bill's contributions have brought us closer to the realization of a better world.

Mr. CORMAN. Mr. Speaker, this week a heartfelt loss has fallen upon my colleagues and myself in the absence of the late William Fitts Ryan.

His career in the State of New York and the Halls of Congress consistently showed him to be a man of rare qualities. His compassion for the downtrodden and disadvantaged was surpassed only by the strength of his convictions. He was respected by all who came in contact with him whether they agreed with his views or opposed them.

Bill Ryan and I began our congressional service in the same year and on the same committee, Science and Astronautics. Since our first meeting he was never too busy to offer his valuable advice and friendship.

Throughout Bill Ryan's 12-year service in the House he blazed a trail of leadership in many areas of vital concern to the American people. He was one of the first members to speak out against our involvement in Indochina and led again and again in striking blows at segregation. His record on promoting racial justice is unparalleled.

From the beginning he fought and fought hard to secure health care and needed social services for the sick, the poor and the elderly. His constituency comprised not only the people who elected him, but all Americans.

He particularly cared about children, a traditionally voiceless group. Bill Ryan championed lead paint poisoning legislation to prevent the death and sickness of thousands of children each year.

The integrity and selflessness of Bill Ryan made it an honor to serve in the same body with him. I shall long remember his achievements and long mourn his passing. It has been paraphrased many times that the loss of one man diminishes all humanity. The loss of Bill Ryan to his friends, constituents, and the Nation more than deserves this tribute.

To his wife, Priscilla and their children, Carole and I extend our deep personal sympathy.

Mr. REUSS. Mr. Speaker, conscience and courage have become overused words in this age of rhetorical overkill. But they apply with undiminished meaning to William Fitts Ryan. His death is a severe loss to this House and to this Nation.

For more than a decade, Bill Ryan was a spokesman in the Congress for the decent and the humane. Even as his physical voice weakened from the effects of the illness which has now claimed his life, his moral voice kept coming through, loud and clear, as guide and encouragement to the rest of us.

Bill's initial election—running as he was as a founder, along with Eleanor Roosevelt and Senator Herbert Lehman, of the Reform Democratic movement in New York City—gave promise of forward-looking public service to come.

He soon lived up to that promise.

As early as 1963, Bill Ryan was speaking out—all but alone—against our disastrous policy in Vietnam. He stayed in the forefront of the growing number urging that we get our troops out rather than compounding the original tragic mistake of our involvement.

Domestically, BILL RYAN was a sincere and untiring advocate of measures to guarantee civil rights for all Americans. One of his first speeches when he entered the House was a plea for a legislative "war on discrimination." More recently, BILL became a champion of the new rights battle—that for equal rights for women. And he stood up consistently for the rights of the workers in our country, whether the factory employee in his own Manhattan, or the farm laborer in California.

His active interests extended from enlarging our national park areas to expanding equal housing opportunities, from eliminating poisonous lead-based paints to safeguarding the rights of the accused.

But always the common denominator was people, and BILL RYAN's love for them.

We have all lost a good friend.

I extend my deepest sympathy to his wife and family.

Mr. DULSKI. Mr. Speaker, the House of Representatives has lost a determined, dedicated Member in the passing of our colleague, WILLIAM FITTS RYAN.

A native of western New York State and the son of a distinguished State jurist, BILL RYAN left behind an enviable record of public service and devotion to the causes in which he believed.

BILL RYAN often faced overwhelming opposition to his views and yet he never was deterred. He never lost faith. Indeed, perhaps one of his most outstanding characteristics was his ability to disagree with tenacity and intensity, and yet never be considered to be disagreeable. This is truly the mark of a man.

The last example of his complete dedication and determination was that day last month when he got up from his sick bed in New York City, and traveled to Washington to cast his vote on an issue he felt critical.

Although fighting for his health for several years—another battle he was to lose—BILL RYAN never let down on his work. He spent every ounce of his strength in behalf of his beliefs and in personal assistance to his constituents.

Mr. Speaker, BILL RYAN has gone, but we all are richer for his having passed our way. I extend my deepest sympathy to his wife and children, his parents and others in the Ryan family.

Mrs. MINK. Mr. Speaker, all Members of the House of Representatives are deeply saddened by the untimely death of our esteemed colleague, the Honorable WILLIAM FITTS RYAN of New York. There is no Member to whom the term "Honorable" could be more suitably applied.

A distinguished legislator, a humanitarian, an effective battler for lonely causes, BILL RYAN knew no peer in his dedication to service and principle. He was the earliest opponent of the Vietnam war and to the end remained its stanchest critic. Had his words been heeded, many thousands of fine young American boys would be alive today and our Nation would not have squandered its wealth, spirit, and integrity on a forlorn and fallacious cause. BILL RYAN knew that the war was, at bottom, an affront to the dignity of man, and he did his utmost to end it and thus restore human decency in place of senseless slaughter.

Since my office was next door to his in the Cannon House Office Building, I had many occasions to observe BILL RYAN working tirelessly at hours when many other Members had long since departed for the day. As a comember of the House Committee on Interior and Insular Affairs, I marveled at his immense understanding of the legislation that came before us, and his attentive interest to sound conservation practices for the benefit of all Americans.

Truly, BILL RYAN was a Member whose loss will be sorely felt in this House. He represented the ideal of a legislator whose independent thinking and judgment are brought to bear on issues of national importance. Never did he compromise on principle or bow to expediency. In his service, politics assumed a new proportion of integrity.

We can all take a lesson from his example of courage and ability, but we can never regain the crusading, idealistic spirit which he brought to this Chamber. That was unique to BILL RYAN, whose memory we will long cherish.

Mr. PICKLE. Mr. Speaker, the House has lost one of its dearest souls. BILL RYAN and I came from different parts of the country, with different backgrounds, and in some areas, with different views of government. I have had many pleasant conversations with BILL, however, and never once did we have any disagreeable words. BILL RYAN never carried his legislative fights as personal battles against individuals. He was an ardent, progressive Congressman, and I suppose he was as near a reformer or crusader as anyone in the House. His views were sincere. He worked at his job as hard as any man in the House, constantly driving forward, pushing and shoving his bills and the measures he supported. He was always a gentleman.

We all must admit that BILL RYAN probably had as uncanny a foresight into things to come or changes that would come about as any man who has served in recent times in the House. He believed in changes and worked hard for them.

Not only has the House of Representatives and his own congressional district lost a friend, but the American people have lost a good friend. BILL RYAN was the kind of person who will be remembered for what he stood for and what he did more than for what he said. He was a good man and a good Congressman.

Mr. WIDNALL. Mr. Speaker, our country and the House have just suffered a great loss in the untimely death of Congressman WILLIAM FITTS RYAN of New York.

BILL RYAN was a Democrat, I a Republican, and we represented constituencies with great differences in opinions and background. As the years passed, I learned to know how very sincere and dedicated BILL RYAN was and how well he represented the interests of those he was privileged to represent. It was my good fortune to get to know him best through his very earnest efforts on behalf of better housing for the low income and under-privileged groups in our economy.

He constantly pounded home, both on the House floor, and in appearances before our Special Subcommittee on Housing, the needs of those he represented and the great numbers of people in the country who were less fortunate than the majority.

I believe that all of my colleagues found him the same as I did, a man of complete integrity, honesty, sincerity and a great dedication toward accomplishing the best for all.

People say that BILL was a man with vision, that he was first on many issues, among them our military withdrawal from Vietnam. Well, it is one thing to have vision with nothing to lose, but it is another thing to have vision which could prove costly to oneself. BILL RYAN took stands that were unpopular, that could have hurt him, because he believed they were right and he had the courage to say so.

BILL was a real stand-up man who I feel had the respect of the Members of the House of Representatives. My deep sympathy goes to his family and I just hope that we in the House will never forget his fight for good legislation with no selfish results in mind.

Mr. MONAGAN. Mr. Speaker, I was shocked and saddened to learn of the sudden and untimely death of our colleague from New York, the Honorable WILLIAM FITTS RYAN, who had unselfishly and tirelessly served the people of his district, New York, and the Nation for 12 years in Congress.

BILL RYAN began his public service as assistant district attorney in the district attorney's office of New York County. He later pioneered the establishment of Democratic reform groups on New York's West Side.

A conscientious representative of the people, he maintained one of the best attendance and voting records in the House until the time of his final illness and was consistently prepared on the issues of House debate. BILL RYAN courageously fought for that in which he believed. He was the first Member to declare open opposition to the Vietnam war and had persisted in that opposition. In the forefront of medicare extension, efforts to curb the use of chemical additives in food and the use of lead-based paint which endangers the lives of those children who might ingest it, and civil rights legislation, WILLIAM FITTS RYAN remained the progressive reform candidate he had been when first elected to the 87th Congress.

I shall miss our interesting conversations while awaiting votes in the Speaker's Anteroom. I extend my sympathy to his wife and children at this time of their great personal grief.

Mr. DELANEY. Mr. Speaker, it was with deep sadness that I learned of the death of our esteemed colleague, the Honorable WILLIAM FITTS RYAN.

He was a deeply dedicated and sincere legislator who fought with skill, vigor, and intense conviction for those causes and issues he believed in. While often in disagreement with BILL RYAN's views, I always yielded to his sincerity of purpose and respected his deep belief in the positions he advocated.

After serving with distinction during World War II as an officer in the Field Artillery overseas, he became an outstanding prosecutor in the office of the New York district attorney. Following election to Congress in 1960, Bill gained a reputation as one of the hardest working members of the Committee on Interior and Insular Affairs. When later assigned to the Committee on the Judiciary, he contributed significantly to shaping much of the important legislation reported out by that committee.

Bill Ryan was a warm and friendly man who could disagree with a colleague, but never be disagreeable. He was truly a gentleman, and won the affection and esteem of all who knew him.

I extend my deepest sympathy to his wife and children, and other members of the family.

Mr. PODELL. Mr. Speaker, I would like to pay tribute to our late colleague and good friend William Fitts Ryan. I knew him well, and I liked him. Like so many others, I admired him for his conviction and his dedication. And that is a tribute paid him by friend and foe alike.

I will miss his presence in these Chambers. He was really just beginning his work when he died, but this is a better place for his having been here. I express my deepest feelings of sorrow and regret to his wife and his family.

The House of Representatives today named Gateway National Seashore in his honor. It will be known as William Fitts Ryan Gateway National Seashore. It was the right thing to do. Gateway is a fitting memorial to a man whose interests were with the people, first, last and always.

The late Congressman initiated the project and worked relentlessly to make it a reality. It is pure irony that he is not here to see his work come to fruition.

It is appropriate that Bill Ryan's memorial be bright, associated with the better things in life. He was that way. Still a young man at his untimely death. Mr. Ryan was a leader, often described as "ahead of his time." That was true. Much of what he advocated was novel, ahead of its time. He did the right thing by instinct, and was relentless in its pursuit. Some critics said he saw things as 100-percent right or 100-percent wrong, would not compromise, could not be induced to relax and found it impossible to delegate authority.

To that his response was "Is that a criticism?"

Because of this unswerving dedication to what he believed in, Bill collected a lot of lumps along the way. Some saw him as an outsider, and told him so. But to no avail. He spoke out of sincerity and conviction. He was uniformly respected for it.

Beyond that tribute, the genuine respect of his colleagues, naming Gateway in his honor will cause millions of people who use those facilities to recall William Fitts Ryan, and the dedication he brought to making the Nation Seashore possible. They will remember a man who cared.

Mr. ROYBAL. Mr. Speaker, I would like to take this opportunity to join with my fellow Members of the House of Representatives in expressing my deep regret and personal sadness at the passing of our good friend and colleague, Congressman William Fitts Ryan.

Bill Ryan was considered by some as a man "ahead of his times." But, I personally feel he is more aptly described as a man who was not afraid to change with the times—even if it meant initiating the change himself.

Not a man to find comfort in the security of numbers or the knowledge that his views were generally accepted, he was, many times, the "first" to challenge established policies and to propose in their place unpopular, and seemingly radical, alternatives. During the years when "liberal" thinking was not in vogue, Bill Ryan was always a leading spokesman for liberal causes. He was a man of great vision and insight who was keenly attuned to change in a swiftly and ever-changing world, and his unselfish dedication and untiring efforts for human betterment have been responsible for much reform and social progress.

It has been an honor and an inspiration to have served in the House with a man of such unusual foresight and courage. In paying respect to the memory of this outstanding legislator and man, I think that we owe it to ourselves and the people of this country to follow his fine example and never become complacent or fear change.

Mr. BURTON. Mr. Speaker, in the years I have served in the House, no thoughts or emotions have been harder to express, no words have been more difficult to form than those I speak today.

I learned of Bill Ryan's death in Huntington, W. Va., while I was traveling with Senator George McGovern. The pain of this devastating news was relieved somewhat, because I learned it from an old and dear friend of both of ours from young Democrat days, Paul Wieck.

No tribute has been more deserved. No memorial has been more nobly earned than that which we render the memory of our colleague, Bill Ryan.

To his lovely wife, Priscilla, and to his family, we extend our most heartfelt sympathy. I hope that the knowledge their loss is shared by those of us who worked with, loved, and admired this courageous and righteous giant of a man, is of some comfort to them.

Virtue, righteousness, courage, and gentleness, terms we do not often see applied to 20th-century man must be used when remembering Bill Ryan.

Bill Ryan was a dear friend. Our relationship dates back to 1957 and the National Convention of Young Democrats, when the "reform" Young Democrats led by Bill Ryan were challenging the seating of the then, DeSapio "organization" group. Our efforts to achieve this goal narrowly failed. Little did I know then, that this was to be the beginning of a warm and deep personal friendship between Bill and me. To me, he was a symbol of all that is good and noble in American political life.

In this Chamber, he voted his conscience when time and time again that conscience made him the one against the many. He served the cause of human dignity, the cause of peace, the twin causes of economic and social justice with the last ounce of energy he possessed.

Bill Ryan's first vote in this House was a vote for human dignity and justice when he voted to deny funds to the House Committee on Un-American Activities. Just a few weeks ago, despite the expressed concern of his staff and family and the urging of some of us that he remain in bed and conserve his strength, Bill Ryan again demonstrated his deep commitment to human dignity and justice by leaving his sick bed and making the difficult journey to Washington to cast his last vote—one to end the war in Vietnam.

I am richer, this House is richer, because Bill Ryan walked among us. The emotions which I feel today defy reduction to words. I personally pledge to honor his memory not with words, but by continuing the struggle for peace and justice with which the name Bill Ryan is synonymous.

Euripides said:

> When good men die, their goodness does not perish but lives though they are gone.

Bill Ryan was a good man. Bill Ryan was a man of wisdom, compassion, and love. He has touched the lives of many citizens from the deltas of Mississippi to the battlefields in Vietnam, from the West Side of New York to the Hall of this Congress. Bill Ryan will live on in the hearts and minds of all who knew him.

I could say more as recollections of my association with this giant of a man flood my mind, but I will close this most deeply felt tribute with words from Shakespeare which so aptly apply to Bill Ryan:

> He gave his honours to the world again.
> His blessed part to heaven, and sleeps in peace.

GENERAL LEAVE

Mr. STRATTON. Mr. Speaker, I ask unanimous consent that all Members who desire to do so may have 5 legislative days in which to extend their remarks in the Record on the life and accomplishments of our deceased colleague, Bill Ryan.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

THE LATE HONORABLE WILLIAM F. RYAN

Mr. STRATTON. Mr. Speaker, I offer a resolution.

The Clerk read the resolution as follows:

H. Res. 1119

Resolved, That the House has heard with profound sorrow of the death of the Honorable William F. Ryan, a Representative from the State of New York.

Resolved, That a committee of 18 Members of the House, with such Members of the Senate as may be joined, be appointed to attend the funeral.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate these resolution to the Senate and transmit a copy thereof to the family of the deceased.

The resolutions were agreed to.

The SPEAKER. The Chair appoints as members of the funeral committee the following Members on the part of the House: Messrs. Celler, Stratton, Addabbo, Carey of New York, King, Horton, Murphy of New York, Reid, Bingham, Conable, Hanley, Wolff, Brasco, Hastings, Dow, Rangel, Diggs and Hungate.

The Clerk will report the remaining resolution.

The Clerk read as follows:

Resolved, That as a further mark of respect the House do now adjourn.

The resolution was agreed to.

ADJOURNMENT

Accordingly (at 1 o'clock and 29 minutes p.m.) the House adjourned until tomorrow, Tuesday, September 19, 1972, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2334. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a report that the appropriation to the Department of the Interior for "Management of lands and resources, Bureau of Land Management," for fiscal year 1973, has been apportioned on a basis which indicates a need for a supplemental estimate of appropriation, pursuant to section 3679 of the Revised Statutes, as amended (31 U.S.C. 665); to the Committee on Appropriations.

2335. A letter from the Secretary of the Air Force, transmitting a report on the Air Force military construction contracts awarded without formal advertisement for the period January 1–June 30, 1972, pursuant to section 804, Public Law 90–110; to the Committee on Armed Services.

2336. A letter from the Acting Director, Selective Service System, transmitting his semiannual report, covering the period ended June 30, 1972, pursuant to section 10(g) of the Military Selective Service Act; to the Committee on Armed Services.

2337. A letter from the Director, Office of Emergency Preparedness, Executive Office of the President, transmitting the statistical supplement to the stockpile report for the 6 months ended June 30, 1972, pursuant to section 4 of the Strategic and Critical Materials Stock Piling Act, Public Law 520, 79th Congress; to the Committee on Armed Services.

2338. A letter from the Acting Director, Defense Civil Preparedness Agency, transmitting a report for the quarter ended June 30, 1972, on Federal contributions to States for civil defense equipment and facilities, pursuant to section 201(i) of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2281l); to the Committee on Armed Services.

2339. A letter from the Acting Director, Defense Civil Preparedness Agency, transmitting a report for fiscal year 1972 on Federal contributions to States for personnel and administration of civil defense, pursuant to section 205 of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2286 (f)); to the Committee on Armed Services.

2340. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting the annual report for the Bank for fiscal year 1972; to the Committee on Banking and Currency.

2341. A letter from the Government Affairs Officer, Export-Import Bank of the United States, transmitting a report of the activities of the Bank under the export expansion facility program during fiscal year 1972, pursuant to Public Law 90–390; to the Committee on Banking and Currency.

2342. A letter from the Chairman, Indian Claims Commission, transmitting the report of the Commission's final determination in docket No. 22–D, *The San Carlos Apache Tribe of Arizona; The White Mountain Apache Tribe of the Fort Apache Indian Reservation; The White Mountain Apache Tribe or Group, The San Carlos Apache Tribe or Group, The Cibecue Apache Tribe or Group, The Northern Tonto Apache Tribe or Group, The Southern Tonto Apache Tribe or Group, and the several bands of each of them, ex rel. respectively Clarence Wesley (White Mountain), Jess J. Stevens (San Carlos), Nelson Lupe, Sr. (Cibecue), Harrington Turner (Northern Tonto), and Ernest Cutter (Southern Tonto); The Western Apache and each group and band thereof, ex rel., Clarence Wesley, Jess J. Stevens, Nelson Lupe, Sr., Harrington Turner, and Ernest Cutter, Plaintiffs* v. *The United States of America, Defendant*, pursuant to 25 U.S.C. 70(t); to the Committee on Interior and Insular Affairs.

2343. A letter from the Chairman, Indian Claims Commission, transmitting the report of the Commission's final determination in docket No. 22–J, *The Northern Tonto Apache Tribe or group, each group and band thereof, ex rel., Harrington Turner; The Yavapai and the groups and bands thereof, ex rel., Calloway Bonnaha, Harry Jones, Fred Beauty, and Warren Gazzam; The Western Apache and each group and band thereof, ex rel., Clarence Wesley, Jess J. Stevens, Nelson Lupe, Sr., Harrington Turner and Ernest Cutter; The Yavapai-Apache Indian Community, The Fort McDowell Mohave-Apache Community, The San Carlos Apache Tribe of Arizona, The White Mountain Apache Tribe of the Fort Apache Indian Reservation, each on its own behalf, on behalf of the several bands and groups of each of them, respectively, and each on behalf of the Northern Tonto Apache Tribe or group, and each group and band thereof, Plaintiffs*, v. *The United States of America, Defendant*, pursuant to 25 U.S.C. 70(t); to the Committee on Interior and Insular Affairs.

2344. A letter from the vice president for public affairs, National Railroad Passenger Corp., transmitting reports on (1) the average number of passengers per day on board each train operated by AMTRAK, and (2) the on-time performance at the final destination of each train operated, by route and railroad, covering the month of August 1972, pursuant to section 308(a)(2) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

2345. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice; transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

2346. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the act to authorize appropriations for the fiscal year 1973 for certain maritime programs of the Department of Commerce; to the Committee on Merchant Marine and Fisheries.

2347. A letter from the Acting Administrator of General Services, transmitting a request for withdrawal of a prospectus on the post office and courthouse in Springfield, Ill.; to the Committee on Public Works.

RECEIVED FROM THE COMPTROLLER GENERAL

2348. A letter from the Acting Comptroller General of the United States, transmitting a report on the operation of the law permitting the waiver of erroneous payments of pay (Public Law 90–616); to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HOLIFIELD: Committee on Government Operations. Report on protecting America's estuaries: Puget Sound and the Straits of Georgia and Juan de Fuca (Rept. No. 92–1401). Referred to the Committee of the Whole House on the State of the Union.

Mr. PASSMAN: Committee on Appropriations. H.R. 16705. A bill making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1973, and for other purposes (Rept. No. 92–1402). Referred to the Committee of the Whole House on the State of the Union.

Mr. HOLIFIELD: Committee of conference, Conference report on H.R. 4383 (Rept. No. 92–1403). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FRASER (for himself, Mr. Edwards of California, Mrs. Griffiths, Mr. St Germain, Mr. James V. Stanton, and Mr. Mosher):

H.R. 16702. A bill to amend the Social Security Act to make certain that recipients of aid or assistance under the various Federal-State public assistance and medicaid programs (and recipients of assistance under the veterans' pension and compensation programs or any other Federal or federally assisted program) will not have the amount of such aid or assistance reduced because of increases in monthly social security benefits; to the Committee on Ways and Means.

By Mr. KING:

H.R. 16703. A bill to establish the Van Buren-Lindenwald Historic Site at Kinderhook, N.Y., and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PATMAN (for himself, Mr. Widnall, Mr. Barrett, Mrs. Sullivan, Mr. Reuss, Mr. Ashley, Mr. Moorhead, Mr. St Germain, Mr. Minish, Mr. Hanna, Mr. Annunzio, Mr. Rees, Mr. Hanley, Mr. Brasco, Mr. Koch, Mr. Cotter, Mr. Curlin, Mrs. Dwyer, Mr. Johnson of Pennsylvania, Mr. J. William Stanton, Mr. Williams, Mr. Wylie, Mrs. Heckler of Massachusetts, Mr. McKinney, and Mr. Frenzel):

H.R. 16704. A bill to consolidate, simplify, and improve laws relating to housing and urban development activities, and for other purposes; to the Committee on Banking and Currency.

By Mr. PASSMAN:

H.R. 16705. A bill making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1973, and for other purposes.

By Mr. PATMAN (for himself and Mr. BARRETT):

H.J. Res. 1301. Joint resolution to extend the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages under the National Housing Act; to the Committee on Banking and Currency.

By Mr. ABOUREZK:

H. Res. 1120. Resolution calling for the immediate suspension of American assistance to Uganda; to the Committee on Foreign Affairs.

PETITIONS, ETC.

Under clause 1 of rule XXII,

283. The SPEAKER presented a petition of the National Association of Regulatory Commissioners, Washington, D.C., relative to air quality standards for sulfur dioxide emissions, which was referred to the Committee on Interstate and Foreign Commerce.

SENATE—*Monday, September 18, 1972*

The Senate met at 9 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Spirit of God, descend upon this place to illuminate Thy servants with spiritual power and wisdom beyond their own as they undertake the tasks of a new week. Spare them from feelings of discouragement, impotence, cynicism, or fear. May they fear only divine disapproval. May they have faith in what is true and good. Move them to greater deeds for strengthening the Nation's institutions, serving the people's needs, and improving the prospects for peace throughout the world. In these days of hard decision, awaken the people to a new and elevated patriotism and a refined sense of civic responsibility which blesses each person and serves the needs of all.

In the Redeemer's name, we pray. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, September 15, 1972, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the Legislative Calendar, under rule VIII, be-dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Commerce, the Committee on Armed Services, the Subcommittee on Water and Power Resources of the Committee on Interior and Insular Affairs, and the Subcommittee on Internal Security of the Committee on the Judiciary may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

JUDGMENT IN FAVOR OF THE DELAWARE TRIBE AND THE ABSENTEE DELAWARE TRIBE OF INDIANS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1069, H.R. 14267.

The PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

H.R. 14267. To provide for the disposition of funds appropriated to pay a judgment in favor of the Delaware Tribe of Indians in Indian Claims Commission Docket No. 298, and the Absentee Delaware Tribe of Western Oklahoma, and others, in Indian Claims Commission Docket No. 72, and for other purposes.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with amendments, on page 3, line 18, after the word "manner", strike out "99" and insert "90"; and, in line 20, after the word "and", strike out "1" and insert "10".

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

THE IRONY OF 1976

Mr. SCOTT. Mr. President, as I am always delighted to share news of my Pennsylvania constituents, however temporary they may be, I ask unanimous consent that an article published in the Philadelphia Inquirer be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

IT'S THE IRONY OF '76

Whether you're for or against him as a Presidential candidate, the modesty and good humor of Sen. George McGovern in acknowledging the undeniable popularity of his campaign stalwart, Sen. Edward Kennedy, have to be admired.

The McGovern wit sparkled at his Broad and Chestnut rally. After Sen. Kennedy had received the tremendous applause he invariably receives when introducing the Democratic Presidential nominee, Sen. McGovern wryly observed: "There's only one trouble with this arrangement. He's a very tough act to follow."

Then the South Dakotan told of an incident at Pittsburgh earlier in the day: "A woman practically knocked me down to shake Sen. Kennedy's hand. She said, 'Oh, Sen. Kennedy, we can hardly wait until 1976.' Then she saw me and said, 'Oh, Sen. McGovern, I'm sorry. But that's just the way we feel out here.' "

How many voters feel that way, not only in Pennsylvania but across the nation, is one of the great questions of this election. But surely it has occurred to Sen. McGovern, as his colleague from Massachusetts travels with him on the campaign circuit, drawing enthusiastic crowd response everywhere, that there can be no Presidential campaign for Sen. Kennedy in 1976 unless Sen. McGovern losses in 1972.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Wisconsin (Mr. PROXMIRE) is now recognized for not to exceed 15 minutes.

THE COST OF LIVING AND INFLATION

Mr. PROXMIRE. Mr. President, last week, in Portland, Maine, Senator McGOVERN made what I think is one of the most important speeches in the campaign on the cost of living and the inflation program and the remarkable and dramatic failure of the administration to stop inflation in spite of its control program.

Mr. President, the figures show that in the 4 years since President Nixon has been in office, the Consumer Price Index, the most widely accepted figure on inflation, has risen twice as rapidly as in the 8 years before President Nixon took office.

The GNP deflator which is, for most economists, a better indicator of inflation, has also risen more than twice as fast in the 4 years that President Nixon has been in office compared to the preceding 8 years.

The wholesale price index, which is the best indicator of what will happen in the future, and is the fairest way to measure the success or failure of the anti-inflation program, rose three times as fast in the 4 years that President Nixon has held office.

Mr. President, these statistics do not mean much to many people. What I am doing this morning is to indicate what this means when the housewife goes to the store.

In January 1969, when she went to the grocery store to buy a 1 pound can of sliced peaches, for example, it cost 20 cents for this can which I hold in my hand. Today when she goes to the store, it costs 26 cents, an increase of 30 percent.

A giant can of kidney beans, when she went to the store in January 1969, when President Nixon took office, cost only 15 cents. Today it costs 21 cents, a rise of 40 percent.

When she went to buy 1 pound of balogna, it cost 63 cents in January 1969—but today the cost is 89 cents, an increase of 41 percent—more than 10 percent per year since President Nixon took office.

On frankfurters, which is a staple on so many tables throughout America, the cost of 1 pound—and I hold 1 pound of frankfurters in my hand—was 69 cents in January 1969, but today the cost is $1.13, an increase of 63 percent.

Mr. President, I asked the staff of the Joint Economic Committee to be very careful and go to the same store to get the same prices. We took the January 1969 prices from advertisements in the newspapers at that time. We actually went to the store on Saturday last to make these purchases and these were the comparisons.

Mr. President, I realize that these are selective but they are demonstrable reasons why the housewife is very much upset. She is convinced the consumer is getting the worst of it.

While these statistics to which I have just referred really make good sense when we dramatize them in the kind of costs which the housewife has to pay, the question arises whether Senator McGOVERN would have a better program to cope with this than President Nixon. In my view, he would. In the speech that Senator McGOVERN gave when he spoke in Portland, Maine, on inflation, he outlined a program in which he would try to cope with the situation. He had five steps to offer in his program.

First, voluntary guidelines to restrain prices not just wages.

Second, that we should set profit guidelines.

Third, Senator McGOVERN pointed out that we should concentrate on those firms and unions—the big ones—which contribute most to inflation.

Fourth, to provide for a review board.

Fifth, after the present controls lapse next April, we should provide the President with power to reverse flagrant violations of the new guidelines.

Now, Mr. President, this program has been attacked by the administration as being weaker and softer and as being a voluntary program that will not work because, they say, voluntary programs have not worked before.

The key to the McGovern anti-inflation program—will it work or not, and is it enough to stop inflation—lies in how it will be administered. The program coud do the job, or it could be too weak.

Success or failure depends entirely on how it is to be administered. I think it will do the job the present program is not doing, because I think GEORGE McGOVERN recognizes what a President must do to make this work.

Mr. President, it has been a long, long time since any candidate nominated for the Presidency by a major political party was as free from obligations either to big business or big labor as GEORGE McGOVERN. If ever a President was free to move in and crack down on whatever group is the more responsible for inflation, it is GEORGE McGOVERN. At last we have a candidate who wears no man's collar.

Mr. President, the administration's reply to the McGovern program is that it will not work because voluntary programs have never worked. Well, the administration could not be more wrong. The only time a voluntary wage price program was tried it worked. And it worked brilliantly.

This kind of program was instituted in 1962 under John F. Kennedy. It stayed in effect during the first 2½ years of the Johnson administration. And what happened to prices? Price increases averaged less than 2 percent during this period. Mr. President, how would you like to have only a 2-percent inflation now? Inflation was less than half of what it has been under the Nixon administration.

How about those who charge that the only way prices were held down was with rising unemployment and idle plant capacity? How about it? During this period from 1962 to 1966 unemployment was steadily falling until it fell down to less than 4 percent, far below today's 5½ to 6 percent. We were enjoying steadily improving economic recovery. Our factory capacity was not operating at today's recession level of 78 percent. Instead it rose steadily up to 85 percent.

So voluntary controls worked. They worked with falling unemployment. They worked with rising prosperity that used more and more of our resources. They worked because President Kennedy and President Johnson were willing to bite the bullet, to crack down on steel and copper and aluminum and in other areas with the full and powerful force of that great office, the Presidency of the United States.

Since the Nixon administration has taken over, inflation has been far worse than it was when unemployment was lower.

Why? Any economics student who wrote that this could take place would be flunked. The economists say it cannot be done. They say higher unemployment means lower prices. Well, the economics professors are wrong. And they are wrong because they ignore the immense effect that the President of the United States can have on the economy. President Nixon announced promptly after he took office that there would be no guidelines, no presidential jawboning, no power plays to roll back unjustified price increases, or to stop inflationary-wage increase.

So what happened? The big business boys and the big labor boys got the signal. They can read, and they pushed up wages and prices.

Then about a year ago the President decided he would try to stop inflation with controls. His first action was right and it worked. He called for a mandatory, legal freeze on wages and prices for 3 months. That worked. Inflation stopped—for 3 months. Then came phase II.

Phase II has not worked. This is hard to believe but the facts are clear. Prices have actually risen faster since phase II—when the controls went into effect than they did before we had any controls and far faster than they did when we had a voluntary wage price guideline system of the kind that GEORGE McGOVERN is now advocating.

How could this be? How could prices rise faster—actually faster with controls than without controls?

Does this make any sense at all? Let me again repeat for the RECORD that the consumer price index and the gross national product indicators have all risen far more rapidly. Furthermore, most prices have risen more rapidly since the controls went into effect in November of last year than they did in the 6 months before when we had no controls at all, 6 months before the freeze.

Once again, Mr. President, it only makes sense when we consider the administration of the controls. No system is any better than its administration. And in this case the administration of price controls has been weak, indecisive and pathetically ineffective. Above all the price control system has been a failure because it has been conducted in secret. Until a few days ago the law passed by this Congress calling for regular hearings for price increases has been deliberately violated by the administration. For almost a full year not a single public hearing on a price increase was held. Not one. Virtually every application for a price increase was approved automatically. Almost none were rolled back.

Yesterday the Gallup poll reported that the American people want stronger price controls not weaker. Frankly some may interpret this as a disagreement with the McGOVERN so-called voluntary approach. I emphatically do not. I think the people are right. We need a stronger system of holding down prices. And I also think McGOVERN is right. His so-called voluntary system can be and I am convinced under McGOVERN would be tougher, stronger—more effective than the Nixon phase II system.

This all means President McGOVERN must crack down as Kennedy and Johnson cracked down. He must roll back price increases. He must stand up to any inflation action by business or labor with the power of the great office he would hold as President, and I am convinced that—as a man who wears no man's collar—as a man who is as independent of economic pressure groups as any candidate nominated by either major party in a long, long time, he would do exactly that.

Finally, Mr. President, Senator McGOVERN is asking for a power that neither President Kennedy nor President Johnson ever had. And this is why his program is really a far stronger proposal than they asked. McGOVERN is asking for a shotgun in the closet. As he put it in his Portland speech:

> We should provide the President with the power to reverse flagrant violations of the new guidelines.

Now there we have it. This exceptional legal power—greater than either Presidents Kennedy or Johnson had would mean that Senator McGOVERN could not only call for price roll backs when big business or big labor got out of line, he could move in legally and stop their action.

He could not only plead and jawbone, and cajole and use the power of his office. He could act—legally—to reverse the price or wage increase.

For all these reasons, Mr. President, I think the prospects for reaching price stability as well as full employment are far better under President McGovern than under President Nixon. McGovern would mean a stronger, surer, swifter restraint against unjustified price inincreases. The McGovern election would mean that this pound of hot dogs would not rise 63 percent by a painful 43 cents as it did under President Nixon than this can of kidney beans would not go up 40 percent.

It would mean, furthermore, that these eyeglasses which I have in my hand that cost $30, 4 years ago, including the cost of consultation with the physician, would now cost $36.

The cost of painting a living room—and we get this from the Bureau of Labor statistics, and it is not something we dreamed up—is now 40 percent more than it was when President Nixon took office.

In my view, when we vote for George McGovern, it will be a vote to stop the Nixon type of inflation.

I think that the McGovern proposal, because it is voluntary, can be misunderstood and misinterpreted. However, in view of the fact that he has asked for the shotgun in the closet, the power for the President legally to roll back prices, means that he will be able to crack down on pressure groups and stop this Nixon inflation. Under these circumstances I think the McGovern proposal can be strong and effective.

Mr. President, I am now happy to yield to the distinguished minority leader.

Mr. SCOTT. Mr. President, I thank the Senator from Wisconsin for having enlightened us on the fact that bologna is inflated 37 percent nowadays. I would have thought it would have been more than that in view of the McGovern campaign and rhetoric generally. That is lower than I thought.

I am glad the Senator feels that his candidate wears no man's collar, although I would infer from that that his candidate is rather loose at the neck, or perhaps from the neck up.

The claim that inflation is the fault of the Nixon administration reminds me again of the ancient story of the man who murdered his father and mother and then threw himself on the mercy of the court on the ground that he was an orphan.

Inflation occurs and results directly from spending money for nonproductive programs; namely, Vietnam, which has cost at the rate of $30 billion a year.

The PRESIDENT pro tempore. The time of the Senator has expired.

Mr. CRANSTON. Mr. President, I yield 3 minutes to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I thank the Senator from California, and I yield briefly to the Senator from Pennsylvania.

Mr. SCOTT. Mr. President, I thank the Senators.

Vietnam has cost at the rate of $30 billion a year. It is now down to $6 billion a year. And the inflationary pressures have always come after the lag built up without reason. During this period of time the inflation is now being controlled and checked.

I would like to point out to the Senator from Wisconsin simply this, that the Senator from South Dakota (Mr. McGovern) voted for the economic controls in phase II. He also made the point that they were 2 or 3 years late. Having criticized the fact that the strict controls were not put into effect 2 or 3 years earlier, he now proposes to eliminate mandatory controls and have voluntary controls and let the economy run wild, adding a cost of up to $25 billion a year additional by having taxes on inflation.

He calls that a program. I call that baloney. And I do not call it 40-percent baloney. I would use the 1,000-percent multiplier and call it 1,000-percent inflation.

I thank the Senator for having brought out the fact that the Senator from South Dakota wears no man's collar. I consider it a loose-neck program.

Mr. PROXMIRE. Mr. President, let me respond briefly to the Senator from Pennsylvania by pointing out certain facts. One, the Senator from Pennsylvania did not and he could not refute the fact that the inflation record of the Nixon administration has been twice as bad during his 4 years in office as it was during the 8 preceding years; and, two, the war is still going on, the war President Nixon said he would end when he attacked the preceding administration. He has had 4 years to end the war, and he did not end it.

Furthermore, since the phase II program went into effect, the whole purpose of which is to stem inflation, the rise in prices has been almost as bad with respect to consumer prices and worse with respect to wholesale prices than it was during the preceding period before we had any inflation control program.

It seems to me the case is just overwhelming that this administration has failed and failed dismally to halt inflation. It has gotten worse, not better. What I have not mentioned and what the Senator from Pennsylvania did not mention is the fact that during this entire period unemployment has become almost twice as bad as when President Nixon took office and it is incredible an economic miracle in reverse that we have a combination of high inflation and severe unemployment at the same time.

ORDER OF BUSINESS

Mr. SCOTT. Mr. President, are we in the morning hour?

The PRESIDENT pro tempore. No. The Senator from California is recognized under the previous order for 12 minutes.

Mr. CRANSTON. Mr. President, I see they are building the inaugural platform once again on the Capitol steps. As I pass the workmen each day, I am reminded of Inaugural Day nearly 4 years ago; the day President Nixon began his term in office.

It was January 20, 1969. America was in the 95th month of the greatest period of sustained economic expansion in history. The previous month unemployment was charted at 3.3 percent—the lowest since the Korean war.

The man who stood on the platform had promised the American people—other things—to control inflation and stabilize the economy, without unfairly burdening any one segment of the economy and especially without increasing unemployment.

That seems like long ago, indeed. Since then the economy has become a roller coaster riding through still higher inflation, soaring prices, record high welfare costs and spiraling debt, then plummeting into the valleys of sagging industrial production, lower wages, a shrinking tax base, and rockbottom-low employment.

While wage earners and taxpayers went through the wringer, the President adopted a hands-off policy. Those first 2½ years of Nixonomics we noted these dubious distinctions:

Unemployment reached 6.1 percent nationally. In my home State of California it hit 7.7 percent, the highest since the great depression.

Interest rates reached their highest in 100 years. Interest on home mortgages hit 8.27 percent in 1970. Just 2 years earlier, a family buying a home borrowed at 6.83 percent.

Wholesale prices were leaping at an annual rate of 8.4 percent.

The Consumer Price Index was going up 7 percent a year.

The price of gold in the international market was climbing steadily, further eroding confidence in the dollar.

The second quarter balance of payments for 1971 was the worst in the Nation's history.

Twenty-seven percent of our Nation's industry lay idle in 1971.

In the fall of the year, the Nixon administration could look ahead to end of the year projections and see the first balance-of-trade deficit in this century.

In August 1971, with his economic policies totally discredited, the President flip-flopped—doing something he had sworn he would never do—and imposed a freeze on wages and prices. He also floated the dollar on the international market in an effort to rein in his runaway economy.

A year has passed since then. I think we all know who has profited and who has lost under the President's lopsided exercise of economic controls.

Under phase II, profits went up 20 percent in the first quarter of 1972, while real wages rose at the annual rate of only 3 percent. In July there was no increase in real weekly wages for workers.

Price controls have now been lifted from three-quarters of all retail stores, according to the AFL-CIO.

Twenty-one percent of all items on the Consumer Price Index are not subject to any controls, according to the Council of Economic Advisers.

Food prices increased 5.4 percent during the 6 months prior to controls. They went up 7.4 percent in the 5 months that followed.

In the month of July alone, food prices—especially meat—increased another 0.9 percent. There is every sign they will go still higher. And what does the consumer get from the Nixon administration? He gets Secretary Butz and his Marie Antoinette-style condolences.

Housing costs, spurred by high-interest rates, have become a national scandal.

The "floated" dollar was coupled with an import surcharge that threatened to touch off a world trade war and damaged our trade relations with Japan and West Germany.

Windfall breaks given big business—with the intent of allowing benefits to "trickle down" to the public—has sent the national debt skyrocketing and has abetted evasion of price controls.

There are many, many more examples of economic injustice inherent in the President's policies. My mail from Californians includes endless accounts of Mr. Nixon's broken promises.

A constituent from Sherman Oaks writes that his health insurance has increased 25 percent. He was advised by the agency that the increase "has been filed with the proper regulatory authority."

Rentals in a Los Angeles apartment building were raised 30 to 40 percent. When I looked into it I was told by the Internal Revenue Service that the building "has correctly interpreted the stabilization regulations."

A Costa Mesa man advised me the price of a Federal Government publication has gone up 45 percent. Federal fees and services, I learned are exempt from controls.

A man in San Francisco was surprised to find his Blue Cross policy increased by 70 percent. I checked with the Price Commission only to find that Blue Cross is not a "prenotification" company and is not required to file with the Commission before setting a rate increase.

It may be that some form of controls or wage-price guidelines will be necessary for a while longer. But I don't know where it says controls or guidelines can't be fair. I think most Americans are willing to endure temporary restraints to end inflation as long as the burden is shared equally.

These are not the most disturbing letters I get from constituents. By far the most heartbreaking stories are those told by men and women out of work; forced out of their jobs in a misguided and wrongheaded attempt to balance the economy.

As I have noted, a month before Mr. Nixon's Inaugural Day, unemployment was at a 15-year low—3.3 percent, or about 2.8 million workers. This summer economists marked officiall unemployment at 5.9 percent, or more than 5.2 million workers—an increase of 85 percent.

And that is just the tip of the iceberg. The number of people working only part time for economic reasons jumped from 1.7 million in 1968 to almost 3.2 million this July. Workers on unemployment insurance nearly doubled. Several hundred thousand are forced to accept jobs far below their qualifications and potential. Still more have stopped looking for work, after months of fruitless search, and are no longer included in the official unemployment count.

Hundreds of American cities and towns are officially classified economic disaster areas.

But there is more than statistics here. There are whole communities depressed; families shattered, careers cut short and hopes obliterated.

In California there are aerospace engineers; men who built their lives upon service to our Nation in space and defense, who are now exhausting their unemployment insurance and are finding themselves driven to welfare—when that is available. There are 518,000 aerospace workers—100,000 in California alone—who have been added to the welfare rolls during the Nixon years. Their children are hungry, their pride is gone, and their families are collapsing.

Veterans who have risked their very lives and often lost limbs or been otherwise maimed in the Nation's service, are unable to find jobs upon returning to this great, generous Nation. There are 750,000 Vietnam-era veterans now on welfare rolls.

The staggering unemployment among blacks, Mexican Americans and youth is testimony to this administration's continued inability to deal fairly with the minorities.

What has the President done about the unemployment crisis?

He vetoed the 1970 comprehensive manpower bill.

He vetoed the poverty bill, with its child care title that would have freed welfare mothers for gainful employment.

He vetoed this year's Labor-HEW appropriation including $250 million for public service jobs.

In fact, the President has resisted every effort to stimulate jobs in the private sector.

He has gone beyond the mere power of the veto. Programs that would rebuild America have been authorized by Congress and signed into law, but a politically-hamstrung Office of Management and Budget has impounded the necessary operating funds.

Not only is the country cheated of needed programs, but the jobs that would be created and the sales that would be boosted are also under Mr. Nixon's political lock and key.

Mr. President, our country's economy is still in very serious trouble. This administration can play a good numbers game. It will try to cover the record with a few short months of mini-recovery. But the slogans and boosterism are not going to fool working people. Instead of inspiring confidence, this administration's chorus of patently untrue economic forecasts will only bury further the peoples' lost confidence in their Government.

The optimistic reports we are getting today only look good when compared to the disastrous statistics of the first 3½ years of President Nixon's policies—policies which cost the American economy $160 billion in lost productive output, $70 billion in lost Federal revenues, and over $100 billion in lost wages to American working men and women.

Even as the economy is taking the first few tenuous steps toward recovery, the administration once again threatens to reach for the fiscal and monetary brakes, and deliberately throw still more Americans out of work in order to "cool down" the machinery.

And so, after 3½ years of Nixonomics and "game plans", with the lives and fortunes of millions of Americans hanging in the balance, this is how the ledger reads:

Three and one-half years of the worst unemployment in a generation.

Three and one-half years of continued inflation.

Three and one-half years of more and more welfare, and more and more taxes to pay for it.

Three and one-half years of higher and higher prices.

Three and one-half years of lopsided "breaks" for big business and wealthy individuals while working people are driven from their homes and off their farms.

Three and one half years of broken promises.

Four more years of this, Mr. President? That is not what I want. I do not think it is what the American people want, either.

Let me say the people have a chance to answer this, and that is to elect GEORGE MCGOVERN.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. CRANSTON. I yield.

Mr. PROXMIRE. I want to commend the Senator for an excellent speech, and for putting this in a different dimension. We not only know it is a fact that the cost of frankfurters and hamburgers and almost everything else one has to buy has greatly increased under this administration, but also, as has been well documented by the Senator from California, we have a recession level rate of unemplyoment. A 5.5 percent rate of unemployment is a level of unemployment that would be intolerabe except as compared with the somewhat worse rate of unemployment suffered earlier in the Nixon administration.

As the Senator has said so well, it is only by comparison with the very poor record during the first 3 years of this administration that the last few months look good, but, as compared with previous standards, certainly as compared with the Kennedy administration or the Johnson administration, or what I think would be the record of the McGovern administration, it is poor. Senator McGOVERN says it is possible to have stable prices with a low level of unemployment. He is right. What we have to do is have a firmly administered anti-inflation program. That is exactly what needs to be done, and he is in a position to do it.

Mr. CRANSTON. I thank the Senator, and wish to say that his opening presentation was most effective. This is the very key point the Senator responded to. Only when one compares it with the record of the Nixon administration for the first 3 years——

The PRESIDENT pro tempore. The time of the Senator has expired.

PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business for not to exceed 15 minutes, with a 3-minute limitation on statements therein, and that the Senator from California be recognized for 3 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE COST OF LIVING AND INFLATION

Mr. CRANSTON. I thank the Senator from Wisconsin. We have made our case, and I am perfectly content at this point to yield the floor.

The PRESIDENT pro tempore. Is there further morning business?

Mr. SCOTT. Mr. President——

Mr. COOPER. Mr. President, will the Senator yield?

Mr. SCOTT. I yield.

Mr. COOPER. Mr. President, I would suggest that in the future the distinguished majority leader and the distinguished minority leader advise us, so that we will be on notice, that the first half-hour or 45 minutes, particularly when we meet at 9 or 8:15 in the morning, will be known as the campaign hour, and particularly the campaign hour for Senator George McGovern.

It is not often that I comment on such a matter, but as I listened to the two speeches we have just heard, I found it impossible not to do so.

I have regard for the distinguished Senator from Wisconsin as head of the Joint Economic Committee, Senator Proxmire, but I suggest his comments on the economy would be much better accepted but for the absolutely partisan tone of his campaign speech in the Senate this morning. The Senator has a right to speak as he pleases, but I certainly would not classify it as a speech on the economy.

Let me say—and this is a brief comment I will make—I remember in 1963 the rate of unemployment was exactly what it is today, from 1962 through 1963, and we passed the kinds of bills the Senators have talked about as necessary, and 1 year later the unemployment rate was just about the same. The war came along and, of course, because of the war machine, unemployment was ended. Why? Because of the vast number of men drafted in the Armed Forces and because of the necessities of a war economy.

The Senator also referred to the number of people on welfare. I remember hearing, as we passed welfare bill after welfare bill, increasing the cost, doubling them, tripling them, quadrupling them, the cry was from those who were speaking on the other side as well as this side, that it was a compassionate thing to do, that there were people still below the level of poverty, and should receive aid. Now, a few years later, in a campaign they are talking about the very bills they initiated and supported and against compassion.

I just want to say that if political speeches are to be made here, let us have real campaign speeches and hear from this side as well. The statements of the Senators are patently incorrect, and they ought to be answered.

Mr. SCOTT. Mr. President, will the Senator yield me his 3 minutes since he used my 3 minutes?

Mr. COOPER. Yes.

Mr. SCOTT. Mr. President, I know the Senator from Wisconsin is sincere, but I want to get a correction in here first. I said earlier the Senator from South Dakota had voted for the economic controls. As a matter of fact, as usual, the Senator from South Dakota was absent. The vote was 86 to 4. The Senator from Wisconsin was one of the four voting against it. The Senator from South Dakota not only did not vote on this important matter of economic controls for the United States, on which he now speaks as an expert, but he offered no amendment, made no suggestions and, as far as I can find out, took no part in the debate.

The Senator has talked about a windfall. What is a windfall? A windfall, I suppose, is something one person gets under the tax laws which someone else thinks is more than he should have. But there is no windfall made available by the executive department. If there is any windfall from anyone, it comes from the tax laws, which the Senator from Wisconsin, the Senator from South Dakota (Mr. McGovern), the Senator from Pennsylvania, myself, voted for. So if there are windfalls, there is no windfall that we do not provide. If there are burdens on the taxpayers, there are no burdens on the taxpayers that we did not apply, and the Senator should not be here trying to imply that the administration somehow is giving benefits of the tax laws which have been established as the laws of this Union. That is, of course, merely campaign rhetoric, and nothing else, aside from being untrue.

Now to come here and say that they would do something about it makes one wonder why nothing was done about it by the critics at a time when they had an opportunity to vote, and if they tried to do something which was defeated, then it is the will of the Senate that nothing be done about it. That makes me think the laws are fair and that they have to be administered by the word of the law.

We have heard about unemployment and inflation and statements about them as if they were the facts, and I say this because someone might say, "Oh, I read it in the Congressional Record, and it must be so." Dear reader of the Congressional Record: Be warned. Much of it is not worth reading and a lot of it is wrong. If it is right, it is so only coincidentally. Make your own judgment, just as you do when you read and hear television reports and radio and newspapers.

The fact of the matter is that the real spendable income for the average worker did not increase at all between 1965 and 1968 because inflation offset wage hikes.

Since the introduction of the new economic policy——

The PRESIDENT pro tempore. The Senator's time has expired.

Mr. SCOTT. Will the Senator from Maryland yield me his 3 minutes?

Mr. MATHIAS. Mr. President, I yield my 3 minutes to the Senator from Pennsylvania.

Mr. SCOTT. Since the introduction of the new economic policy last August, which we voted for, all except four of us—and the Senator from South Dakota, as usual, was not here to vote—real earnings have risen at a rapid annual rate of four-tenths of 1 percent, and this has increased buying power—the real test and the real increase in wages. The Consumer Price Index has risen at an annual rate of only 2.91 during 11 months of phase I and II, continuing its declining trend since 1969. Inflation has been cut in half. Unemployment is dropping, and employment has increased sharply, spurred by rapid growth of output.

In July, the number of civilians employed was 2.4 million higher than a year ago. We are adding new jobs at the highest rate since 1955.

Yes, there have been jobs lost, over 2 million of them, in war-related industries and among the Armed Forces—if you call that a job. But in that same period of time, 4.5 million new jobs have been added, and the objective of this administration is, for the first time in modern times, to have full employment in peacetime, because the record of the previous administrations was that you could not have full employment without a war.

It should not take a war to make jobs. It is peace we want—peace with jobs and jobs with peace.

I now yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, may I be recognized in the morning hour?

The PRESIDENT pro tempore. The Senator from Wisconsin is recognized.

Mr. PROXMIRE. Let me say to the Senator from Kentucky that there is no man I admire more than he. No Senator is more objective nor less partisan, by and large, than the Senator from Kentucky. But I point out to him that nothing Senator Cranston or I said is demeaning of President Nixon, his character, or anything else. We said nothing demeaning of the President. He is a good man or a man of good character. I admire the President's character. I have said so many times, and say so this morning. This was not a personal attack upon the President in any sense.

Mr. President, the Senator from Kentucky asked, "Why we do not do this in the middle of the day?" I would love to do it in the middle of the day, if only I could. Look at the press gallery: There are two or three people there now. When we started, there was one. Look at the other galleries. Look at the floor of the Senate. I would love to come out here at 12 o'clock or 1 o'clock and make this kind of speech. I cannot do it, as the Senator very well knows.

The Senator said there was no one here to answer. Mr. President the most effective debater in the Republican Party is here to debate—the Senator from Pennsylvania (Mr. Scott). He was here every moment while I spoke, and he has answered me not only once, but two or three times already.

Furthermore, I am afraid the Senator from Kentucky is mistaken in his facts. It was not the Vietnam war that ended the high level of unemployment. Every study shows that it began to come to an end in January 1961, and from that period on we had uninterrupted progress in unemployment dropping, in the economy expanding and improving right along, steadily. We had the longest period of uninterrupted prosperity we have had in this century from 1961 to 1970.

Furthermore, Mr. President, the argument made by the distinguished Senator from Pennsylvania that it is the end of the Vietnam war, or I should say the slowing down of the Vietnam war, that has caused the increased unemployment does not add up when you recognize our experience in the two previous wars. We can even be bipartisan in this. Both President Truman and President Eisenhower did a far better job. After World War II, we had 16 million people in the armed services, most of whom were immediately demobilized. But we had very little unemployment, under President Truman we held that down to a level of 4 percent or so.

After the Korean war, we had similar sudden transition from war to peace, with far less unemployment. Furthermore the war is not over. Americans are still dying; and while I think the President deserves credit for having withdrawn many of our forces and having cut down on our casualties, the fact is that we are still spending over $6 billion in Vietnam.

The PRESIDENT pro tempore. The Senator's 3 minutes have expired.

Mr. SCOTT. Mr. President, will the Senator from New Jersey yield me his 3 minutes?

Mr. CASE. I yield.

Mr. SCOTT. Mr. President, the Senator from Wisconsin has evidently forgotten 1961, the year that I referred to before, when we got involved in the Vietnam war during the administration of President Kennedy. Before that, unemployment was higher than it is today. I believe the figure was 5.7 percent. It was even higher than that at one point during the year. But unemployment in peacetime under the Kennedy administration was higher than unemployment today, while we are winding down a war.

Unemployment in wartime always falls, because we send people to war and we put them in defense industries. My point is, the objective is to have people not at war and working. It is peacetime employment which we ought to compare with peacetime employment, and wartime employment should be compared with wartime employment. It is just as simple as that.

I think most of this talk we are hearing is an attempt to have the average citizen forget who brought us into war, who waged the wars, and to take credit for the employment without somehow taking responsibility for the war. I do not think you can have it both ways.

Both parties supported that war in Congress. Both parties gave their unstinting support for many years, and then gradually various members dropped off in their support. But we cannot say that this country is worse off today because it is spending $24 billion less a year in Vietnam. We cannot say this country is worse off today when the casualties are down to one death a week, though one is too many, as against 250 or 300 a week. We cannot say this country is worse off today when the number of military personnel in Vietnam is down from 543,000 to 39,000, and headed for 27,000. We cannot say this country is worse off today when 83 million people are employed—more than at any other time in our history. We cannot say this country is worse off today when we are employing more people every month, at a better rate and a higher rate, than we have been doing since 1955.

No, the country is better off, and we ought to face it.

The PRESIDENT pro tempore. All time for the transaction of morning business has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the period for the transaction of routine morning business be extended 3 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from California is recognized.

Mr. CRANSTON. Mr. President, I want first to join with the Senator from Wisconsin (Mr. Proxmire) in stating my own admiration for the Senator from Kentucky and for the Senator from Pennsylvania. I concur wholeheartedly also with the remarks of the Senator from Wisconsin that we would much prefer to be doing this at some other time of the day, but this is the only time available to us. The Senator from Kentucky is personally familiar with the way the Senate is now operating. If you want time, you get 15 minutes at the beginning of the day and maybe you can get some at the end, but you never know when the day will come to an end under the present levels of Senate business, and all time in between, under the effective and wise leadership of the Senator from Montana, the Senator from West Virginia, and the Senator from Pennsylvania, is so tightly scheduled that there is no time to talk about anything except the measures before the Senate. Look at today's schedule. There is no other time for our "slipping in." I am sorry the Senator used that language, because we both abide by the Senate rules, and if I slipped in he slipped in this morning.

The Senator spoke of welfare. Let us read the record on welfare. Instead of 8.2 million Americans on welfare, as when President Nixon took office, we have nearly 14 million Americans receiving welfare assistance today, not because of changing rules, but primarily because so many more people who want to work cannot work, have been put out of work by President Nixon's policies, and have had to resort to welfare. The cost of the program has jumped from $9.4 billion a year, as it was when President Nixon entered office, to today's $20.9 billion.

Has this been because of increased take by the individuals on welfare? No, it has not. The individual welfare check is averaging only $9 per month more than it averaged in 1968. The answer to this plainly should be not more welfare but jobs, and that has proved rather difficult under the Nixon administration, not only because their economic policies put people out of jobs but also because the Nixon administration resists programs designed to create jobs.

I do not think the Senator from Pennsylvania or the Senator from Kentucky can challenge any one of the figures used by the Senator from Wisconsin or any one of the figures used by the Senator from California. If they can find any inaccuracy, I would be very interested in seeing in which figure they could find that inaccuracy.

The Senator from Pennsylvania said that the objective is full employment in peacetime under President Nixon. I totally agree. I know that the Senator from Pennsylvania is a man of peace. I know that we must have full employment in peacetime. I do not believe the capitalistic system requires war in order to thrive. If it did, we should change the system. But are we going to have peace under Nixon? There is no sign we will. So we will never have any opportunity to see about this while he is President.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

Report on Overobligation of an Appropriation

A letter from the Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation to the Department of the Interior for "Management of lands and resources," Bureau of Land Management, for the fiscal year 1973, had been apportioned on a basis which indicates a need for a supplemental estimate of appropriation; to the Committee on Appropriations.

Report on Federal Contributions—Personnel and Administration

A letter from the Acting Director, Defense Civil Preparedness Agency, transmitting, pursuant to law, a report on Federal Contributions—Personnel and Administration, for the fiscal year ended June 30, 1972 (with an accompanying report); to the Committee on Armed Services.

Report on Final Determination of Claim of Certain Indians

A letter from the Chairman, Indian Claims Commission, reporting, pursuant to law, on its final determination relating to Docket No. 22–J, the Northern Tonto Apache Tribe or group, each group and band thereof, ex rel., Harrington Turner; the Yavapai and the groups and bands thereof, ex rel., Calloway Bonnaha, Harry Jones, Fred Beauty, and Warren Gazzam; the Western Apache and each group and band thereof, ex rel., Clarence Wesley, Jess J. Stevens, Nelson Lupe, Sr., Harrington Turner and Ernest Cutter; the Yavapai-Apache Indian Community, the Fort McDowell Mohave-Apache Community, the San Carlos Apache Tribe of Arizona, the White Mountain Apache Tribe of the Fort Apache Indian Reservation, each on its own behalf, on behalf of the several bands and groups of each of them, respectively, and each on behalf of the Northern Tonto Apache Tribe or group, and each group and band thereof. Plaintiffs, v. the United States of America, Defendant (with accompanying papers); to the Committee on Appropriations.

REPORT ON FEDERAL CONTRIBUTIONS PROGRAM EQUIPMENT AND FACILITIES

A letter from the Acting Director, Defense Civil Preparedness Agency, transmitting, pursuant to law, a report on Federal Contributions Program Equipment and Facilities, for the quarter ended June 30, 1972 (with an accompanying report); to the Committee on Armed Services.

REPORT OF EXPORT-IMPORT BANK OF THE UNITED STATES

A letter from the Government Affairs Officer, Export-Import Bank of the United States, transmitting, pursuant to law, a report of that Bank, for the fiscal year ended June 30, 1972 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

REPORT OF AMTRAK

A letter from the Vice President of Public Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report of that Corporation, for the month of August, 1972 (with an accompanying report); to the Committee on Commerce.

REPORTS OF COMPTROLLER GENERAL

A letter from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Operation of the Law Permitting Waiver of Erroneous Payments of Pay," dated September 15, 1972 (with an accompanying report); to the Committee on Government Operations.

A letter from the Acting Comptroller General of the United States, transmitting, pursuant to law, a secret report on military assistance and commitments in the Philippines (with an accompanying report); to the Committee on Government Operations.

REPORT ON THIRD PREFERENCE AND SIXTH PREFERENCE CLASSIFICATION FOR CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports relating to third preference and sixth preference classification for certain aliens (with accompanying papers); to the Committee on the Judiciary.

REQUEST FOR WITHDRAWAL OF A PROSPECTUS

A letter from the Acting Administrator, General Services Administration, requesting the withdrawal of a prospectus on the Post Office and Courthouse in Springfield, Ill., submitted to the Congress on July 28, 1971; to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

A resolution adopted by the National Association of Regulatory Utility Commissioners, praying for the enactment of legislation relating to the environment; to the Committee on Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, with amendments:

S. Res. 296. Resolution to designate the Old Senate Office Building as the "Richard Brevard Russell Office Building" (Rept. No. 92-1161).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, without amendment:

H.R. 6575. An act to amend the Act entitled "An Act to provide for the disposition of judgment funds now on deposit to the credit of the Cheyenne-Arapaho Tribes of Oklahoma," approved October 31, 1967 (81 Stat. 337) (Rept. No. 92-1164).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, with an amendment:

S. 2401. A bill to provide for the management, protection, and development of the national resource lands, and for other purposes (Rept. No. 92-1163), together with minority views.

By Mr. JACKSON (for Mr. MOSS), from the Committee on Interior and Insular Affairs, with an amendment:

S. 630. A bill to provide for the cooperation between the Secretary of the Interior and the States with respect to the future regulation of surface mining operations, and for other purposes (Rept. No. 92-1162).

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

H.R. 7614. An act to amend titles 5, 10, and 32, United States Code, to authorize the waiver of claims of the United States arising out of certain erroneous payments, and for other purposes (Rept. No. 92-1165);

H.R. 7616. An act to amend section 715 of title 32, United States Code, to authorize the application of local law in determining the effect of contributory negligence on claims involving members of the National Guard (Rept. No. 92-1166);

H.R. 8215. An act to provide relief for certain prewar Japanese bank claimants (Rept. No. 92-1167);

S. Res. 178. A resolution to refer the bill (S. 2721) entitled "A bill for the relief of Chief Petty Officer Judge P. Oliver, United States Navy, and his wife, Thelma F. Oliver" to the Chief Commissioner of the United States Court of Claims for a report thereon (Rept. No. 92-1168);

S. Res. 357. A resolution to refer the bill (S. 3953) entitled "A bill for the relief of Datronics Engineers, Inc." to the Chief Commissioner of the United States Court of Claims for a report thereon (Rept. No. 92-1169);

S. Res. 361. A resolution to refer the bill (S. 3969) entitled "A bill for the relief of United States Forgecraft Corporation" to the Chief Commissioner of the United States Court of Claims for a report thereon (Rept. No. 92-1170);

S. Res. 366. An original resolution opposing the suspension of deportation of Jesus Maria Guereca-Morales and Donall Terrance Todd (Rept. No. 92-1171);

H.R. 14173. An act for the relief of Walter Edward Koenig (Rept. No. 92-1172); and

H.R. 15865. An act for the relief of Richard L. Krzyzanowski (Rept. No. 92-1173).

By Mr. EASTLAND, from the Committee on the Judiciary, with an amendment:

S. 180. A bill for the relief of Kuay Ten Chang (Kuay Hong Chang) (Rept. No. 92-1174).

By Mr. EASTLAND, from the Committee on the Judiciary, with amendments:

S. 2518. A bill for the relief of Anna Kolbriasz (Rept. No. 92-1175).

AUTHORIZATION FOR COMMITTEE ON COMMERCE TO HAVE 1 EXTRA DAY TO FILE ITS REPORT ON HIJACKING BILL

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the Committee on Commerce be allowed one extra day to file its report on the so-called hijacking bill (S. 2280).

The distinguished Senator from Nebraska (Mr. HRUSKA) and I subscribe to that.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

Mr. MAGNUSON. Mr. President, as in executive session, I report favorably sundry nominations in the Coast Guard which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, ordered to lie on the desk, are as follows:

Claude W. Brock, and sundry other officers, for promotion in the Coast Guard; and

Paul D. Bridges, and sundry other Coast Guard Reserve officers, to be permanent commissioned officers in the Regular Coast Guard.

By Mr. EASTLAND, from the Committee on the Judiciary.

Antonin Scalia, of Virginia, to be Chairman of the Administrative Conference of the United States.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. ANDERSON:

S. 3996. A bill to require States to disregard the amount of any increase in social security cash benefits in determining eligibility of social security beneficiaries for medicaid. Referred to the Committee on Finance.

By Mr. BOGGS:

S. 3997. A bill to provide for the mailing, free of postage, of certain periodical publications to members of the Armed Forces of the United States serving overseas. Referred to the Committee on Post Office and Civil Service.

By Mr. INOUYE:

S. 3998. A bill for the relief of Mr. and Mrs. Luis R. de la Torre. Referred to the Committee on the Judiciary; and

S. 3999. A bill to remove the prohibition on the concurrent payment of military retired pay and Federal employee compensation for work injuries. Referred to the Committee on Post Office and Civil Service.

By Mr. MONDALE:

S. 4000. A bill to amend the Internal Revenue Code, in order to protect farm property from estate taxation based upon its valuation for nonfarm use. Referred to the Committee on Finance.

STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOGGS:

S. 3997. A bill to provide for the mailing, free of postage, of certain periodical publications to members of the Armed Forces of the United States serving overseas. Referred to the Committee on Post Office and Civil Service.

Mr. BOGGS. Mr. President, I am introducing a bill today to provide free mailing of hometown newspapers to servicemen stationed overseas.

As anyone who has been far from his family and friends knows, news from home takes on great significance. This is especially true of young servicemen who are often away from home for the first time.

For servicemen who easily feel cut off from their hometown life for long periods of time, newspapers can help fill the void. They are a vital link with familiar names and places.

I believe we owe this small service to our servicemen. It would, I feel sure, boost their morale.

Under this legislation, newspaper publishers would be permitted to mail their publications to servicemen with overseas addresses free of charge. The expense incurred by the Postal Service as a result of providing this service would be borne by the Department of Defense.

Mr. President, I ask that the text of this short bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3997

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 34 of title 39, United States Code, is amended by adding at the end thereof the following new section:

"§ 3406. Mailing of periodical publications to members of Armed Forces of the United States in overseas areas

"(a) A copy of any publication published once each week or more frequently, and entitled to a periodical publication rate, may be mailed by the publisher of the publication to a member of the Armed Forces of the United States on active duty, at no cost to the sender—

"(1) if the publication is mailed to that member at an address of an Armed Forces post office in an overseas area; and

"(2) if a substantial portion of the news or information of the publication, as determined by the Postal Service, relates to the State, territory, or possession of which the member is a resident.

"(b) The Department of Defense shall transfer to the Postal Service as postal revenues, out of any appropriations or funds available to the Department of Defense, as a necessary expense of the appropriations or funds and of the activities concerned, the equivalent amount of postage due, as determined by the Postal Service, for matter sent in the mails under authority of this section."

(b) The analysis of such chapter 34 is amended by adding at the end thereof the following new item:

"3406. Mailing of periodical publications to members of Armed Forces of the United States in overseas areas."

By Mr. INOUYE:

S. 3999. A bill to remove the prohibition on the concurrent payment of military retired pay and Federal employee compensation for work injuries. Referred to the Committee on Post Office and Civil Service.

Mr. INOUYE. Mr. President, I would like to introduce a bill to amend the Federal Employees' Compensation Act—FECA. As the following background information explains, my proposed bill calls for the long-overdue removal of serious inequities in the current administration of the Federal Employees' Compensation Act.

Briefly, my bill seeks to remove the existing prohibition on the concurrent payment of military retired pay and Federal employee compensation for work injuries. Under existing law, Federal employee compensation cannot be paid at the same time as any other type of remuneration from the United States, except pay for services actually performed and pensions for military service. An injured employee is permitted to elect between compensation and any other benefits payable for the same injury.

When an employee is entitled to both compensation and military retirement pay, the Office of Federal Employees' Compensation—OFEC—notifies the military agency that compensation is payable. The military agency then decides whether the retirement pay is subject to the dual payment prohibition. If so, the military agency then gives the employee the opportunity to elect between his retired pay and compensation.

In practice, the employee in the above situation invariably must choose between retired pay and compensation. Restated in other words, the theoretical exception for pay for services actually performed and pensions for military service is illusory in practice. The exception is misleading because a controlling court decision holds that military retired pay simply does not qualify as a "pension" for military service. Consequently, former military personnel receive their benefits earned by previous service—for example, retired pay, VA benefits, compensation—only so long as they work full time under civil service and remain healthy. As soon as such personnel are injured at work and begin receiving Federal employees' disability compensation, they forfeit their benefits due to prior service.

Existing legal practice compounds the original inequity, since retirement pay and other related benefits often are not halted immediately upon receipt of disability compensation. Thus, unwary individuals often discover that not only is there military retired pay unexpectedly terminated, but they are also burdened with a debt to the Government for an overpayment. This unexpected burden always falls hardest upon lower ranking retired enlisted men, who have relatively small retirement pay and low Government salaries.

Mr. President, several bills have been introduced in recent years to allow military retirees to receive both their retirement pay and compensation under the FECA at the same time. Several of the bills were introduced in the 92d Congress: H.R. 719, H.R. 2309, H.R. 53541, H.R. 9714, H.R. 9871, and H.R. 10096. Generally speaking, both the Department of Labor and the Comptroller General have favored such legislation.

Mr. President, since I think the above inequity in our law must be removed, I am now introducing this bill.

By Mr. MONDALE:

S. 4000. A bill to amend the Internal Revenue Code, in order to protect farm property from estate taxation based upon its valuation for nonfarm use. Referred to the Committee on Finance.

THE FARM PROPERTY ESTATE TAX VALUATION ACT

Mr. MONDALE. Mr. President, urban sprawl and the Federal estate tax are combining to force the involuntary sale of family farms.

The problem addressed by the bill which I introduce today arises where land presently in use for farming has a much higher value if employed for nonfarm use. For example, land worth $400 per acre for farming might be worth $10,000 per acre for location of high-rise apartments. Often this is the case where farm property is located on the outskirts of a metropolitan area, or in the path of a corridor connecting metropolitan areas.

Section 2031 of the Internal Revenue Code provides for inclusion in the gross estate, for Federal estate tax purposes, of all real property owned by a decedent. While Internal Revenue Service regulations do not speak specifically to this issue, IRS practice has been to value property for estate tax purposes at "fair market value"—its value on the open market—at its "highest and best use"

Under the doctrine of "highest and best use," the farmland would be valued for Federal estate tax purposes at the higher amount, even if the farm has been bequeathed to surviving family members who want to continue its operation. Payment of the increased estate tax would certainly cause hardship and might require the heirs to sell the farm

Section 6166 of the present law protects closely held family businesses, including farms, by permitting payment of estate tax over a 10-year period, so long as the business or farm remains within the decedent's immediate family. This is helpful, but it is not enough where farmland has been subjected to high valuation for alternate, nonfarm uses.

Retention of land for agricultural use, and preservation of the family farm, are in the vital interest of this Nation.

And yet, the present estate tax law throws the power and weight of the Federal Government into the balance to force the sale of family farms, and to convert farmlands to nonagricultural purposes.

A law which encourages farm families to leave the land—or requires them to suffer through lean years in order to pay an estate tax bill—is intolerable.

Therefore, the bill which I introduce today provides for valuation of farm property at farm value for estate tax purposes.

To avoid creating a tax shelter for those retaining farm property but later converting it to alternate use, the bill defers the remaining tax which would be assessed if the property were valued at its "highest and best use." This deferred tax would be assessed when the land is, first, converted to nonfarm use or, second, transferred out of the immediate family.

Mr. President, I ask unanimous consent that the text of the bill may appear at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 4000

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Farm Property Estate Tax Valuation Act".

SEC. 2. Part III of subchapter A of chapter 2 of the Internal Revenue Code of 1954 as amended by adding at the end thereof the following new section:

"Sec. 405. REAL PROPERTY USED IN FARMING.

"(a) VALUATION OF FARM PROPERTY.—In the case of real property used in farming by the decedent, the value of such property to be included in the gross estate shall be the value of such property for farming purposes, provided that the executor agrees to the provisions of subsection (b).

"(b) SPECIAL RULES.—The election to include farm property in the gross estate at the value provided in subsection (a) shall apply only if—

"(1) The provisions of section 6166 apply to the farming business or businesses of the decedent, and the executor could elect to pay the tax imposed by section 2001 attributable to the inclusion of the value of such property in the gross estate in installments, and information as to value in alternative uses is submitted with the estate tax return; and

"(2) the executive agrees to the payment of tax computed in accordance with the provisions of section 1253 upon the disposition of the property (a) in any manner which would accelerate the payment of tax under section 6166 (a), or (B) if any partnership, trust or corporation to which the farming property may be transferred ceases to use such property for farming.

"(c) EXCEPTION.—Where an interest in farming property (with respect to which estate tax under section 2001 has been determined using the value provided in subsection (a)) is subject to transfer as the result of the death of a person described in section 6166(h)(1)(D), such transfer shall not constitute a disposition under subsection (b), and the amount of tax with respect to such earlier transfer of such property which would have become due upon disposition of such interest shall not become due as a result of such transfer and shall not thereafter become a liability upon subsequent transfer of such interest."

SEC. 3. Part IV of Subchapter P of Chapter 1 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new section:

"SEC. 1254. GAIN FROM DISPOSITION OF FARMING PROPERTY.

"(a) CIRCUMSTANCES UNDER WHICH SECTION APPLIES.—This section shall apply to any transfer of property valued under section 2045(a) which is a disposition under section 2045(b)(2).

"(b) TAX.—In lieu of the tax imposed by section 1, there is hereby imposed upon the disposition of property to which section 2045 applied a tax which shall consist of the sum of (1) the amount by which the estate tax determined under section 2001 would have exceeded the estate tax determined by valuing farming property at farming value had such farming property been valued without regard to section 2045 or at a value at date of disposition if such value is less than the value without regard to section 2045, plus (2) if any amount is due under (1) and if the disposition would be taxable under other provisions of this subtitle, an amount determined in accordance with such other provisions using as basis the value for making the determination under (1).

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2809

Mr. TUNNEY. Mr. President, I have recently learned that by some apparent inadvertence, the Senator from North Carolina (Mr. JORDAN) was not listed as a cosponsor of S. 2809, the Drug Abuse Research and Education Act, which I introduced last November.

Senator JORDAN was the first of my colleagues in the Senate to join me as a cosponsor and, therefore, I think it is particularly important that this matter be corrected.

Mr. President, I ask unanimous consent that the name of the distinguished Senator from North Carolina (Mr. JORDAN) be added as a cosponsor of S. 2809.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 3573

At the request of Mr. SCHWEIKER, the Senator from New Hampshire (Mr. McINTYRE) was added as a cosponsor of S. 3573, the State Lottery Exemption Act of 1972.

S. 3614

At the request of Mr. WILLIAMS, the Senator from Florida (Mr. CHILES) was added as a cosponsor of S. 3614, the Education for all Handicapped Children Act.

S. 3869

At the request of Mr. COOK, the Senator from Rhode Island (Mr. PASTORE), the Senator from Oklahoma (Mr. HARRIS), and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of S. 3869, a bill to provide for civil and criminal actions to prevent or restrain physical or economic intimidation of individuals engaged in voting or activities related to voting.

SENATE JOINT RESOLUTION 264

At the request of Mr. DOLE, the Senator from Georgia (Mr. TALMADGE), the Senator from Montana (Mr. MANSFIELD), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Dakota (Mr. YOUNG), the Senator from Nebraska (Mr. CURTIS), the Senator from Rhode Island (Mr. PASTORE), the Senator from Virginia (Mr. HARRY F. BYRD, Jr.), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Idaho (Mr. CHURCH), the Senator from Colorado (Mr. DOMINICK), the Senator from Florida (Mr. GURNEY), the Senator from Arizona (Mr. FANNIN), the Senators from Tennessee (Mr. BROCK and Mr. BAKER), the Senator from Iowa (Mr. HUGHES), the Senator from Utah (Mr. BENNETT), the Senators from Illinois (Mr. STEVENSON and Mr. PERCY), the Senator from Nevada (Mr. CANNON), the Senator from Oklahoma (Mr. HARRIS), the Senator from Delaware (Mr. ROTH), the Senator from South Carolina (Mr. THURMOND), the Senator from West Virginia (Mr. RANDOLPH), the Senator from New York (Mr. JAVITS), the Senator from Nebraska (Mr. HRUSKA), the Senator from Rhode Island (Mr. PELL), the Senator from Texas (Mr. TOWER), the Senator from California (Mr. CRANSTON), the Senator from Alabama (Mr. ALLEN), the Senator from Maryland (Mr. MATHIAS), and the Senator from North Dakota (Mr. BURDICK) were added as cosponsors of the joint resolution (S.J. Res. 264) to authorize and request the President to issue a proclamation designating a week as "National Welcome Home Our Prisoners Week" upon the release and return to the United States of American prisoners of war in Southeast Asia.

SENATE RESOLUTION 366—ORIGINAL RESOLUTION REPORTING OPPOSING SUSPENSION OF DEPORTATION OF J. M. GUERECA-MORALES AND D. T. TODD

(Ordered to be placed on the calendar.)

Mr. EASTLAND, from the Committee on the Judiciary, reported the following resolution:

Resolved, That the Senate does not favor the suspension of deportation in the cases of the aliens hereinafter named in which cases the Attorney General has suspended deportation pursuant to section 244(a)(1) of the Immigration and Nationality Act, as amended (8 U.S.C. 1254; 76 Stat. 1247):

A-2239018, Guereca-Morales, Jesus Maria.

A-7917485, Todd, Donall Terrance.

FREE ENTRY OF A CARILLON FOR MARQUETTE UNIVERSITY—AMENDMENTS

AMENDMENT NO. 1547

(Ordered to be printed and to lie on the table.)

Mr. BENNETT submitted an amendment, intended to be proposed by him, to the bill (H.R. 3786) to provide for the free entry of a four-octave carillon for the use of Marquette University, Milwaukee, Wis.

AMENDMENT NO. 1548

(Ordered to be printed and to lie on the table.)

Mr. AIKEN submitted an amendment, intended to be proposed by him, to House bill 3786, supra.

LAND USE POLICY AND PLANNING ASSISTANCE ACT

AMENDMENT NO. 1549

Mr. TALMADGE submitted an amendment intended to be proposed by him to the bill (S. 632) to amend the Water Resources Planning Act to include provision for a national land use policy by broadening the authority of the Water Resources Council and river basin commissions and by providing financial assistance for statewide land use planning.

ADDITIONAL STATEMENTS

WHERE IS THE OUTRAGE?

Mr. CHURCH. Mr. President, not so long ago in this country, a scandal was a scandal. People in public life caught indulging in improper conduct were held up to public censure, and their public careers came to an abrupt end.

What happened? Where is the outrage today? The Nixon administration is beset with one scandal after another—from ITT to the Watergate affair—but nothing happens.

On August 24, a small weekly newspaper in Idaho—the Messenger-Index of Emmett—published a perceptive editorial on this subject.

Noting scandals of past decades, and the consequences for those involved, the editorial comments:

> Those were the days, not long ago, before the moral novocain of the Vietnam "inci-

dent," when people still held the capacity for moral outrage and believed in principles deeply rooted in the fabric of the Nation. Those were the days of innocence. How different it is today. These are the days of moral exhaustion of protective cynicism.

I hope that these attitudes are short-lived, and that the American people will somehow recover their belief in propriety and their capacity for indignation.

I ask unanimous consent that the editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Two-Bit Capers

When President Truman's military aide, General Vaughan, got a deepfreeze from a grateful client, the scandal rocked Washington and an entire nation was incensed.

When President Eisenhower's assistant, Sherman Adams, received a vicuna coat, there wasn't even a question about his resignation. He resigned, of course.

When General Douglas MacArthur disregarded civilian authority in the conduct of the Korean war, he was relieved of command.

Those were the days, not long ago, before the moral novacain of the Vietnam "incident," when people still held the capacity for moral outrage and believed in principles deeply rooted in the fabric of the nation. Those were the days of innocence.

How different it is today.

These are the days of moral exhaustion, of protective cynicism.

Today a general disobeys military orders and explicit civilian authority of the president by bombing hell out of innocent Vietnam peasants. He gets full retirement honors and gratuities, with 70 percent disability thrown in so that some $20,000 a year of his retirement pay is tax free.

Today ITT gets a favorable out-of-court settlement with the justice department and simultaneously agrees to guarantee $400,000 for the Republican national convention.

Today five men wearing rubber gloves and armed with electronic bugging devices and sophisticated camera apparatus are arrested at gunpoint in the dead of the night in Democratic national headquarters, all connected with the Committee to Re-elect the President. The FBI supposedly is investigating, but it is all very funny. It's the Watergate caper, a big laugh, you know.

Head of five, Bernard Barker, turns up with $89,000 apparently from CRP in a private bank account, plus $25,000 from a cashier's check apparently intended for President Nixon's campaign, made out to GOP national finance chairman Maurice Stans, lately the secretary of commerce.

Stans says he gave the check to G. Gordon Liddy, ex-FBI agent, counsel to the CRP finance committee. Liddy refused to answer questions. Hell, that's just politics: Ronald Ziegler, White House press secretary, termed it a "third rate burglary."

John Mitchell, of ITT fame as attorney general, then and but for Martha still the Nixon campaign manager, dismissed the Democratic $1 million suit over the caper as a "political stunt."

Laugh it up. It's all very funny. There are laws, but ITT doesn't even register under the Federal Lobbying Act. Dita Beard, ITT lobbyist whose private memo declared "Mitchell is definitely helping us, but cannot let it be known. Please destroy this, huh," reported expenditures for all of 1971 under the lobbying act of $7,030.

President Eisenhower had 193 press conferences. President Truman had 322. They got asked about deep freezes and vicuna coats. President Nixon has had 26 in three and one-half years. He doesn't get asked. If he were, he wouldn't discuss the amusing little capers of his hatchet men. The President is above such mundane affairs.

There are some people who still get indignant over 2,500 tons of bombs per day, over ITT and Lockheed deals, over Watergate capers, over people too busy to answer questions.

But they should relax and pay attention to their blood pressure. They are out of step with the times. These days a deep freeze or a vicuna coat are about equivalent to a two-bit tip for the waitress who serves your dinner.

NO SECRET PLAN

Mr. DOLE. Mr. President, occasionally a bit of myth or incorrect information becomes injected into the flow of public information on a given secret, and once in place, it takes on all the characteristics of a proven fact—which it is not. Often these false ideas linger and are accepted for a considerable period, undisturbed by the light of truth. But sometimes they are exposed either through the efforts of a disinterested skeptic or by a party affected by the erroneous material.

Perhaps the most famous disclosure of an accepted myth dealt with the revelation by an enterprising reporter that the widely quoted numbers of supposed Black Panther victims of alleged police brutality were nothing more than a combination of unsubstantiated militant propaganda and careless journalism, augmented by a rather understandable bit of human inertia in accepting things at face value. These numbers had received broad circulation until they were debunked, and convincingly, by a bit of solid research into the facts.

Over the past 4 years another example of myth-perpetuation has been underway in America, this time dealing with President Nixon and the record of his policy regarding the war in Southeast Asia. This myth is popularly known as the "secret plan" to end the war which the President supposedly proclaimed in the course of his 1968 campaign. The fact is, of course, that at no time did the President claim to have any sort of plan, secret or otherwise, by which he would bring about an end to the war; but, through the fine art of paraphrasing, stretched inference, and repetition, a "secret plan" was devised and made a part of history.

A clear and instructive rebuttal of the "secret plan" myth appeared in an article written by William Safire and published in the New York Times of September 12. It traces the myth's origins and history and would, I believe, be of interest to the Senate. Therefore, I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Secret of Mr. Nixon's "Secret Plan"

(By William Safire)

Washington.—"The Old Guard dies, but never surrenders." Those ringing words were supposed to have been said by Gen. Pierre Etienne de Cambronne, commanding Napoleon's Imperial Guard at Waterloo, when called upon to surrender.

He never said it. A reporter named Rougemont invented the remark some time after the battle, and General de Cambronne went to his grave firmly denying he was the author of the famous phrase.

Could that happen in modern times? With tape recorders, press conferences, attributed quotations, microfilm records—is it still possible to invent and then perpetuate a quotation?

Consider this one: "I have a secret plan to end the war."

Who said it? Why, Richard Nixon of course. When? On March 5, 1968, in Nashua, N.H. Or did he?

Everybody says he did, carefully using quotation marks to show the "secret plan," was right out of the 1968 candidate's mouth.

At George McGovern put it in 1971: "Three years ago, Richard Nixon campaigned on the pledge that he had a 'secret plan to end the war.' . . ." McGovern returned to the theme in his acceptance speech: "I have no 'secret plan.' . . ."

John Lofton, editor of the Republican National Committee's weekly publication, "Monday," has made a hobby of writing a polite query to everybody who quotes Richard Nixon directly as having used the words "secret plan." Once in a while he gets a reply.

The most forthright of these came from Anthony Lewis of The New York Times, who wrote in October 1969: "I think you have caught me in a mistake. The truth is I wrote that out of the same general impression that so many people seem to have. But I have now checked back through our files and agree with you that I cannot find the precise phrase 'a plan' in what Mr. Nixon said during 1968."

What Mr. Lewis did find, and what is most often cited as the basis for "secret plan," was this remark of Mr. Nixon's on March 5, 1968, in Nashua, N.H.: "And I pledge to you the new leadership will end the war and win the peace in the Pacific. . . ."

In late 1970, John B. Oakes, editor of the editorial page of The New York Times, responded to a new query on another use of the "plan" by citing the same quotation and asking: "How could he make such a pledge if he didn't have a plan?" The Times editor argued: "It seems obvious that Mr. Nixon implied that he had a plan when he gave his pledge. But, as I say, it was doubtless an error to put the words in quotes and if that is what you want me to admit, I am glad to do so, and to state that it won't appear that way in this context again." Nor did it—in The Times.

Not everyone was willing to stop using the phrase when its unreliability was pointed out. N.B.C.'s Edwin Newman replied: "When I spoke of a secret plan, I did not mean it as a quotation. It was shorthand, which is sometimes unavoidable, for a plan that the President said he had and the particulars of which he said he could not divulge without impairing the plan's chance of success."

Did Mr. Nixon ever say he had a "plan," secret or otherwise? He did not; nobody who has been challenged on the use of a direct quotation on this has ever come up with the citation of time or place. Mr. Nixon never said it; the use of quotation marks is inaccurate, unfair and misleading. But it continues, error feeding on error, as a myth becomes accepted as truth. The question then becomes—if he did not actually say it, did he imply that he had a secret plan? His remarks on March 5, 1968, in Nashua, N.H., were a pledge "to end the war and win the peace." He continued he had no "push-button technique" in mind, but would "mobilize our economic and diplomatic and political leadership."

Not surprisingly, both press and political opponents came back with the question "How?" Newsmen pressed for details, and when no plan was set forth, its absence was noted. The first use of the word "plan" that I could find was in the March 11, 1968, New York Times subhead: "Nixon Withholds His Peace Ideas/Says to Tell Details of Plan Would Sap His Bargaining Strength If He's

Elected." The Associated Press lead three days later added to the idea of a specific plan, necessarily cloaked in secrecy: "Richard M. Nixon says the reason he is not ready to spell out the details of his plan to end the war in Vietnam is because he is reserving his 'big guns' for use against President Johnson if he wins the Republican Presidential nomination."

In that A.P. story, Mr. Nixon stressed that he had "no magic formula, no gimmick. If I had a gimmick I would tell Lyndon Johnson." The furthest he would be drawn into a discussion of a "plan" was this: "But I do have some specific ideas on how to end the war. They are primarily in the diplomatic area."

That's as much as the clips I have seen show about the "plan." Would a fairminded person say they constitute the basis for an inference that the candidate possessed a detailed, and necesarily secret, panacea for the conflict? I think not—no more than one would infer that Senator McGovern has a "secret plan" to fulfill his pledge to bring back the prisoners in ninety days.

Throughout the campaign and on into the years ahead, we can expect to hear some orators and commentators use a little inflection around "secret plan" that makes it sound like a quotation. The quotation thereof is no dark media conspiracy, just an example of how some writers and cartoonists, too lazy to check source materials, casually pick up and perpetuate an error. A small but hardy band of newsmen, with no constituency but objectivity, will wince when they see the nonquote quoted.

TRIDENT CHANGES FOR THE THIRD TIME

Mr. PROXMIRE. Mr. President, the Pentagon has secretly approved plans for a major expansion and revision of the Navy's accelerated Trident submarine program. As a result of these plans, the Trident program will be significantly revised for the third time in less than a year.

The new plans should be publicly disclosed and explained now—before rather than after final congressional approval of a $1 billion downpayment on accelerated Trident production.

The new plans, approved by Deputy Secretary of Defense Rush in an August 30 program decision memorandum to the Navy, would increase from 10 to 16 the number of new Trident submarines which Congress would be asked to fund during the next 5 years. At the same time, these plans would scrap the proposed retrofit of Poseidon submarines with Trident 1 missiles previously planned for the late 1970's.

The net effect of the new plans is to kill a sound missile retrofit program which has attracted widespread congressional support and to expand further a dubious submarine construction effort which the Senate nearly rejected a month ago.

These plans would save a few dollars over the next several years, but they would cost us billions in the long run, by leading to the premature replacement of our Polaris-Poseidon fleet.

Not only are these plans financially unwise, they are also totally devoid of sound military logic.

If the Soviet threat to our Polaris submarines is of such low magnitude that there is no need for a relatively inexpensive missile retrofit program which would improve their survivability in the late 1970's, how can that same threat be used to justify the crash replacement of almost half our Polaris and Poseidon fleet by the early 1980's?

I have written to Deputy Secretary Rush to demand public release of his August 30 directive to the Navy. That directive is now under fire by some Pentagon insiders, but it has not even been mentioned to the Congress, which has been wrapping up its deliberations on a now outmoded Trident budget request.

The Rush directive is a slap in the face to those Members of Congress who have supported that request to date, on the assumption that it was tied to a well conceived, thoroughly planned program.

Nothing could be further from the truth.

The Rush directive constitutes the third distinct set of official Trident plans adopted by the Pentagon in the past year.

Both the Rush plans and those which immediately preceded them call for a commitment to accelerated production of the Trident in the years immediately ahead.

But the Navy has no blueprints as yet for the final submarine design.

It does not know how many submarines it ultimately wants, or whether they should really carry 24 missiles each in light of the recent SALT accords.

It has requested $14.3 million for a new Trident submarine base, but it does not know, or refuses to tell the Congress, where that base will be built.

The fact is that Trident is going somewhere fast these days, but nobody knows just where. Unless it is slowed down soon, it may be headed for the most devastating shipwreck in procurement history.

These are the four major changes in the Trident program called for in the Rush directive:

First. Previous plans called for a total of 10 Trident submarines, one of which would be funded in fiscal 1974 and three more in each of the next 3 fiscal years. These submarines were to serve as a source of bargaining strength during the next round of SALT negotiations and as a potential replacement for our 10 oldest Polaris submarines.

The new plans clearly refute the notion that Trident is just a bargaining chip or a potential replacement for a small fraction of our Polaris and Poseidon fleet. They call for continuing Trident production at a rate of at least two submarines per year after the first 10 ships have been ordered. They would raise to 16 the number of submarines for which procurement or advance procurement funds would be budgeted through fiscal 1978, the last year covered by the new 5-year defense plan. Under these new plans, we would be committed within 5 years to Trident replacements for almost half our Polaris and Poseidon fleet.

Second. Previous plans called for development of the 4,500-mile range Trident 1 missile on a schedule which would make it available in late 1977 to replace the 2,800-mile range Poseidon missiles in our late-model Polaris submarines.

Under the new plans, the Trident 1 would be developed more slowly, so that it would be available in late 1978 for initial deployment in the first new Trident submarine. The Trident 1 would no longer be earmarked, however, for a Poseidon retrofit program in the late 1970's.

Third. Previous plans called for the development of a 6,000-mile range Trident 2 missile for use in the 10 new Trident submarines sometime in the mid-1980's.

The new plans call for accelerated development of the Trident 2, so that it will be available for use on all Trident submarines deployed in 1982 or thereafter. The Trident 2 could also be retrofitted at that time in the previously deployed Trident submarines, an action which would free their Trident 1 missiles for possible transfer to some of our remaining Poseidon submarines, if such a transfer were then deemed necessary.

Fourth. Previous plans called for the development of a maneuvering reentry vehicle, or Marv, technology to improve the ability of the Trident I to penetrate a possible Soviet ABM defense.

Plans for Marv have now been dropped, a reasonable decision in light of the limitations on ABM defenses in the recent SALT accords.

But the other elements of the new plan are not reasonable.

They move us much closer to the premature replacement of a Polaris-Poseidon fleet which has many more years of useful life ahead.

The Senate still has time to avert this potential blunder. It can follow the lead of the House Appropriations Committee, whose decision to trim $135 million from fiscal 1973 Trident funding is at least a step in the right direction.

The Senate will have to cut deeper, however, and with clearer policy guidance, if it seriously hopes to provide time to readdress our basic options.

A sound blueprint for such action is provided in the amendment offered several weeks ago to the military procurement bill by the distinguished Senator from Texas (Mr. BENTSEN). That amendment was rejected by the Senate Armed Services Committee on an 8–8 tie vote, and on the Senate floor by almost as narrow a margin.

Surely the Rush directive—the latest in a long line of constantly changing Trident policy pronouncements—provides ample evidence of the need for returning Trident to the unaccelerated "plan before you buy"—or "sail before you sink"—schedule proposed by the Bentsen amendment.

Mr. President, after I had prepared the foregoing remarks, I learned in this morning's newspaper that Pentagon public affairs spokesman Jerry W. Friedheim apparently does not realize that the Rush directive is now our official policy statement for the Trident program.

According to the newspaper, it is Mr. Friedheim's belief that there are "many pieces of paper" on Trident "floating around," but that no final decision on a new Trident policy will be made until Secretary of Defense Laird and President Nixon submit the fiscal 1974 budget to the Congress in January.

I am sure that this is rather surprising news to Deputy Secretary Rush, who no doubt assumed that his August 30 program decision memorandum was more than a paper shuffling exercise. I am sure that it is news, too, to the Navy, which no doubt wonders now whether it is free to ignore Mr. Rush's directives on those Navy programs other than Trident covered in the Rush memorandum. And I am sure, moreover, that the Friedheim statement raises some eyebrows in the Trident program office: Are program managers supposed to slow down Trident 1 missile development in fiscal 1973 as directed by the memorandum, or are they to hold tight until submission of the fiscal 1974 budget to the Congress, at which time it would be impossible to realize the $60 million savings in fiscal 1973 Trident 1 R. & D. funds predicted by the memorandum?

I stand by my contention that the Rush memorandum is an authoritative policy statement. But even supposing it were nothing more than one of many "pieces of paper" on Trident "floating around" these days, a serious credibility problem would still exist. If the old plans for Trident are really firm, why are so many Pentagon employees spending their time at public expense authoring variations on those plans?

Now is the time to penetrate this latest Pentagon smokescreen. Only the immediate release of the Rush memorandum can clear the air and permit an informed vote on Trident funds in the Senate in the days ahead.

FREIGHT CAR SHORTAGES

Mr. HATFIELD. Mr. President, as Senators are aware, I have been very much interested in seeing that legislation is approved by this Congress to help resolve the recurring freight car shortages that plague many areas of the country. Under the leadership of the distinguished chairman of the Committeee on Commerce, Mr. MAGNUSON, the Senate recently approved a compromise version of S. 1729, legislation which I cosponsored.

To date, no real movement has occurred on this bill in the House. I believe all Senators from States where car shortages hurt our State economies believe our Senate bill is a good one. I think we all hope the House will act on the bill soon.

Mr. President, three Oregon newspapers commented in editorials about S. 1729, and I think their comments are worthy of our consideration and review. I ask unanimous consent that editorials from the Portland Oregonian of September 3, 1972, the Portland, Oreg., Journal of September 1, 1972, and the Salem, Oreg., Statesman of August 28, 1972, be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Sunday Oregonian, Sept. 3, 1972]

FEDERAL FREIGHT CARS?

The federal government, which already has taken over the intercity railroad passenger service, may get into the freight business, as well.

A bill passed by the Senate early last month provides that, if a serious freight car shortage still exists after three years, Congress may create a Rolling Stock Authority which at a cost of $1 billion would form a pool of 50,000 to 75,000 freight cars. These cars would be controlled by the authority for use where needed most. The authority also would attempt to develop better methods for car pooling and utilization of cars controlled by the railroads.

Sen. Mark O. Hatfield, R-Ore., co-sponsor of the bill, points out that the Rolling Stock Authority would differ from Amtrak, the passenger train operation. It would control only about 4 to 5 per cent of the total freight car fleet and would play a part in a profitable railroad operation rather than an unprofitable one such as the passenger service the railroads dropped.

Meanwhile, before such a major step was taken to correct the freight car shortage, the government would encourage a solution through increased car supply and better utilization of existing cars. The bill establishes a fund to insure up to $2 billion of new equipment obligations by the railroads. It also provides for a rolling stock information system, costing $35 million, which would pinpoint the location of cars and determine which empty cars could be sent most quickly to areas in need of more cars.

Sen. Hatfield reports that in sitting through many hearings on the bill he was amazed to learn how poor the utilization now is of freight cars. A car is loaded and moving only 7 per cent of the time. The average freight car moves loaded only 32 miles a day. The current car shortage of 130,000 cars, he says, represents about 9 per cent of the total fleet of 1.4 million cars. A 9 per cent increase in utilization would overcome this shortage and still would raise the "loaded and moving" percentage to only 7.63 per cent and the daily mileage to 34.9 miles.

The West, which ships out twice as much as it imports from other parts of the country, is particularly hard hit by the freight car shortage. Western railroads build cars continually, but frequently they keep rolling on eastern lines while lumbermen, farmers and others yell for cars in the West. Penalties and other incentives for return of the cars to their home lines, including Interstate Commerce Commission orders, have not solved the problem that has plagued this area since the turn of the century. Maybe the more direct government intervention provided in the Senate bill, which still must pass the House, won't do the job either, but it should be worth a try.

[From the Oregon Journal, Sept. 1, 1972]

THE BAFFLING BOXCAR BUSINESS

One of those problems that never seems to go away is the freight car shortage that expands to crisis proportions in the west every winter and every fall.

There have been demands, and studies, and legislation, but nothing really happens. The malady lingers on.

This year the Senate passed another bill, incorporating new ideas and holding forth new hopes. The bill was promoted by all western senators because experience has long since shown that western states suffer the shortages while eastern states accumulate the cars.

Sen. Mark Hatfield, co-sponsor of a bill which passed the Senate 81–0 in compromise form, explained some of the new ideas.

Two provisions involve money. One would bolster credit of the railroads by $2 billion to acquire new cars, because car ownership dropped by a third in the last 10 years, to 1.4 million freight cars. The other would fund an information system ($35 million) to keep track of cars and dispatch empty cars to areas of need.

This is the most important provision, because the most distressing—and unbelievable—element in the box car shortage is the poor utilization of existing cars.

Hatfield calls it a "scandalously low rate" and so it appears to be. A special Senate subcommittee learned that a freight car is loaded and moving only 7 per cent of the time, and when it does move, it only averages 32 miles a day. That rate of progress would be scorned by even the unluckiest of hitchhikers.

What's more, the current shortage, estimated at 130,000 cars, could be eliminated if a freight car's use could be increased just 1 per cent and its distance traveled extended only three miles.

For some reason that hasn't been possible in the past. The "national rolling stock information system" would be the new technique proposed in the bill to solve that problem. If that doesn't work in three years, Congress could be asked to create a "Rolling Stock Authority" which would operate as a public agency and control a relatively small pool of cars (50,000 to 75,000) independent of individual railroad managements. It could, in theory, operate more freely than a railroad, not hampered by proprietary interests and "home road" ownerships.

But that is in the future, and so is the bill itself, for that matter. The House Commerce Committee has held its car shortage hearings but produced no bill. Whether it might act on the Senate bill before Congress adjourns is a very good question indeed.

[From the Statesman, Aug. 28, 1972]

BOXCAR BILL ROLLS

The chronic railroad boxcar shortage is one of those crisis-oriented subjects most people think about only when Oregon's products are backed up on shipping docks.

Sen. Mark Hatfield, who as governor fully understood the implications of the boxcar shortage, has slowly been pushing a Freight Car Shortage Bill through the Senate this year. Earlier this month, a favorable Senate vote sent it over the hump and rolling down to the House where it hopefully will receive attention before the end of the session.

Sen. Hatfield is cosponsor of S. 1729, which is a moderate, compromise measure combining the carrot and the stick to encourage purchase of and more efficient use of boxcars by railroads.

The present sluggish system results from the fact that boxcars get scattered so far afield they are hard to keep track of efficiently; the penalty which railroads must pay for not using cars isn't high enough to compel the rialroads to use them more efficiently; many railroads are short of the capital needed to build sufficient cars.

S. 1729 contains these "carrots." It establishes a fund to insure up to $2 billion in railroad purchases of new equipment, along with bolstering the credit of the railroads.

It provides $35 million to establish a national rolling stock information system, computerized to not only show where cars are but how they can be most effectively used. A report to Congress is required within two years spelling out how better car utilization can be achieved.

As for the "stick", railroads are given three years to modify the rail car crisis under the provisions of this bill. If they do not, Congress threatens to establish a Rolling Stock Authority. This would create a government-controlled boxcar pool of between 50,000 and 75,000 cars (about 4 or 5 per cent of the U.S. total) to reinforce the boxcar supply where needed.

The railroads have been trying to avert such outright government interference.

The legislation represents a victory for Oregon, where the boxcar shortage hits hardest, because we are "at the end of the line." It now becomes important that the House Committee on Interstate and Foreign Commerce, headed by Rep. Harley Staggers (D-W. Va.)

act favorably on this bill within the next few weeks.

Even without an immediate crisis to prod interest, Oregon chambers of commerce and businesses should deluge Rep. Staggers with requests to keep the boxcar bill moving.

CONVICTED FELON DECRIES EASY AVAILABILITY OF HANDGUNS

Mr. BAYH. Mr. President, many of those who oppose restricting the availability of handguns claim that criminals favor gun controls, and that those who seek additional firearms legislation have not succeeded in taking guns out of the hands of criminals. I wish to bring to the attention of Congress a statement favoring handgun controls which was written by a man who served time in jail as a convicted felon. He believes along with many millions of Americans that gun controls do not support the criminal element in our society; rather, the lack of them tends to create new criminals.

Mr. President, I also wish to commend the House Judiciary Subcommittee for their swift action in reporting a handgun bill almost identical to the Senate-passed "Saturday night special" bill. I hope that our colleagues in the House will act quickly on this important matter so that these dangerous weapons will no longer be readily accessible to criminals and potential criminals.

We are all by now familiar with the warning that advises us to lock our cars in order to prevent young people who might not otherwise do so from becoming criminals. In the same manner, we should restrict the availability of weapons which turn amateur thieves into killers.

Mr. President, I wish to commend Roberty Doty, of Rochester, N.Y., for his willingness to share with us his experience with handguns. I ask unanimous consent that an essay by Mr. Doty, entitled "The Real Argument for Gun Legislation," be printed in the Record.

There being no objection, the essay was ordered to be printed in the Record, as follows:

The Real Argument for Gun Legislation

(By Robert Doty)

The victim stood frozen in fear, his hands raised, trembling, while his assailant wallowed in the glorious feeling of power which the snub-nosed revolver gave him. As the victim's fear grew he panicked and tried to grab for the gun. The thief lowered his arm and fired between his legs. This stopped the resistance and the robbery concluded with ease. The robber took the money and the man's car. Twenty minutes later he was apprehended at a road-block.

A few weeks later the gunman stood before a stern Judge and listened intently while the sentence was passed. "Five years to Life." It seemed a poor exchange for the few moments of that feeling of infinite power over the life of a fellow human being.

The impact of that sentence did not become evident until the sound of the cell door clanging shut had become an echo in my ears.

Yes, this is my story.

I finished the ordeal of my sentence eleven years ago but I am still making restitution. Jobs were hard to find. Friends were hard to keep. All because I am a convicted felon. And it all began when I purchased what is now known as a "Saturday Night Special." If there had been a law then, perhaps I wouldn't be sorry now.

Our legislation is vital to the safety of every law abiding citizen. Federal control of hand guns would reduce crime by a large percentage. It stands to reason that if the requirements to own a pistol are strict and enforced the availability of such guns to the criminal element would be greatly reduced. Such laws would not affect organized crime because of their unlimited arsenal supply, but these laws would prevent the amateur thief from launching on a career of crime and/or murder.

For it is these amateurs who are the greatest menace to society. A simple purchase of a pistol turns them into potentially violent men. I mentioned before the feeling of power that the possession of a gun gave me. Somehow I was fortunate that I did not decide to take my victim's life. It would have been equally as easy to have shot him. Thank God I did not.

But what of the others like me? The many factors which exist in the commission of a crime together determine life and death. Is the thief high on drugs? Drunk? Panicky scared? What of the victim? Does he feel heroic? Or frightened, as my victim was? Sometimes it comes down to a word or even a gesture.

The best thing to do is to remove the one item that is predominant in the hands of the would-be thief—his gun. Without it he must either find another method—or hopefully, give up the venture.

HOME HEATING OIL CRISIS

Mr. KENNEDY. Mr. President, once again, the President has devised a piecemeal and shortsighted solution to the continuing home heating oil crisis in New England. After every knowledgeable observer had warned for months of impending shortages, the President finally decided to approve a very slight increase in the oil that can be imported during the next 3 months.

The 5,000-barrel-a-day increase from 45,000 to 50,000 barrels, and the provision permitting a 10-percent borrowing from next year's quota hopefully will relieve the current shortage that this administration's policies have created. For the 10-percent decline in fuel oil stocks that exists today is a direct result of this administration's refusal to permit an adequate supply of fuel oil to be imported.

And it is not a new discovery for this administration that its current policies produce high prices and shortages.

Every year that President Nixon has been in office we have found ourselves threatened by a home heating oil shortage. And since he has been in office the refusal to permit an adequate supply of imported oil has meant high prices to New England homes, New England businesses, and New England hospitals.

Unfortunately, the President's action today still falls far short of a final answer to New England's fuel oil needs.

And the President has demonstrated his lack of understanding of the problem by virtually insuring that we will have the same crisis in the future.

First, he has decided that the increase in the amount of imports only will apply to 1972. Thus, next year, the same inadequate level of imports will be in existence.

Second, he has decided to permit a 10-percent borrowing from the 1973 quota. This "borrow-from-Peter-to-pay-Paul" policy exemplifies the administration's refusal to place the public interest of New England consumers over the private interests of the oil companies. For two-thirds of all fuel oil burned in New England in a heating season is burned after January 1, and it is during those last months of winter, January, February, and March, that the real shortages occur.

In January, a new President may find himself faced with a new fuel oil shortage as a result of the action taken today. It is time for the President to understand that adequate supply and lower prices require an adequate supply of imported fuel oil to New England. This means scrapping oil import quotas entirely or permitting in at least 100,000 barrels per day of home heating oil for New England—whether or not the major oil companies like it.

NO HIJACKING TREATY

Mr. PERCY. Mr. President, the Washington Post of September 16, 1972, reports the failure of a subcommittee of the International Civil Aviation Organization to agree on an antihijacking treaty. The group instead voted to refer the entire matter to the ICAO's Legal Committee for the drafting of a treaty and then the convening of an international conference to consider the proposal. But even the convening of the conference, much less ratification of any treaty that comes out of the conference, is at least a year away.

Mr. President, I find this lack of progress unacceptable. The problem of hijacking is so acute that we must devise an agreement that all nations can agree on that will once and for all end this problem. I strongly urge the U.S. Government to keep pressing other nations for a tough treaty to stop this problem. My preference is for a treaty that would ban all international air service to a nation that harbors hijackings or that refuses to sign such a treaty.

The irony of this latest indecision in this pressing problem is that while the ICAO was refusing to take action this past week, another airplane was being hijacked in Sweden.

We must insist upon action and have it soon.

Mr. President, I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Nations Fail To Agree on Treaty

(By Robert L. Samuelson)

A special international conference ended two weeks of meetings yesterday without agreeing to a tough anti-hijacking treaty.

The treaty, pushed strongly by the United States and Canada, would establish steps for taking joint action—such as the suspension of air service—against countries which aid hijackers or air saboteurs.

Negotiators for 15 nations, constituting a special legal subcommittee of the International Civil Aviation Organization, did develop a consensus on preliminary procedures for determining whether a country had aided a hijacker or saboteur. But the main issue of sanctions remained unsettled.

The group voted to refer the entire matter to ICAO's Legal Committee—a step which could lead to the drafting of a final treaty and the summoning of a full-fledged international conference to consider the proposal.

"It's an uphill fight all the way," Charles Brower, chief of the U.S. delegation, said at a press briefing yesterday. "In the two years (the U.S. first proposed the treaty in 1970), we got absolutely nowhere. In two weeks, we've finally got somewhere."

Neveretheless, he estimated that it would be at least a year before the diplomatic conference could be called. And then, even if the conference adopts the treaty, individual countries would have to ratify it before it could go into effect.

That could take another year, he said.

The Airline Pilots Association (ALPA) said that "some progress" had been made at the meetings, but was highly critical of the slow pace.

"Rather than demonstrating a firm commitment that the international community will not tolerate such (air) crimes, most of the delegates chose again to pass the buck," an ALPA statement said.

Both the Soviet Union and France strongly opposed the proposed treaty. The Soviet Union, for example, argued that collective action against any country should be taken Security Council—"where," as one U.S. official noted privately, "they have a veto."

France has also argued against the treaty on legal grounds, but many U.S. observers have attributed the resistance to France's close ties with many Arab nations, which have opposed the anti-hijacking treaty.

The conference forwarded a specific proposal, by a 9-to-4 vote, on sanctions to the full Legal Committee. Backed jointly by the United States, Canada, Great Britain and the Netherlands, the proposal calls for automatic suspension of a country's air "rights"—that is, its rights to fly into or over other countries.

The Soviet Union, Egypt, Chile and Tanzania voted against the proposal; France and Spain abstained.

However, the draft takes no position on a number of key issues. Specifically, it leaves open the question of whether stiffer sanctions—the suspension of all air service into a country—can be taken against countries that don't sign the treaty.

There are already treaties against air crimes that require signatory nations either to extradite or prosecute anyone connected with a hijacking or sabotage incident. However, the treaties don't provide for any penalties against countries which fail to meet the requirements.

In a related action, President Nixon yesterday sent the latest of these treaties—one approved last year in Montreal, which covers air saboteurs—to the Senate for ratification.

The U.S. campaign for approval of the new treaty has apparently caused widespread resentment among many nations. Earlier this week, for example, the United States suspended talks with France on establishing new French air routes to the United States, citing French opposition to the treaty as the reason.

In addition, a number of high State Department officials have been quoted anonymously in press reports as criticizing both Britain and France for not embracing the treaty enthusiastically. British officials have reacted strongly to the criticism—especially after Britain joined the United States and Canada earlier this week in drafting the new proposal on sanctions.

The latest U.S. proposal, the French official said yesterday, was "unrealistic," but, he added "we recognize that the U.S. government has to demonstrate that it is extremely gung-ho about hijacking for domestic political consumption."

TRIAL OF PERSONS CHARGED WITH GENOCIDE

Mr. PROXMIRE. Mr. President, one of the questions often asked concerning the Genocide Convention deals with the trial of persons who are charged with genocide. Article VI of the convention states that:

> Persons charged with genocide or any of the other acts enumerated in article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.

The report from the Committee on Foreign Relations clarified article VI and recommended a specific interpretation to the Senate. A portion of the committee's report follows:

> Executive branch and other testimony brought out that the negotiating history of the convention makes it clear that the courts of the country in which the accused has citizenship can likewise have jurisdiction over the crime. This theory of concurrent jurisdiction—jurisdiction based on the site of the alleged offense and jurisdiction based on the nationality of the offender—was thoroughly explored during the hearings. It was pointed out that a number of nations, particularly colonial powers, have consistently asserted the right to try their own nationals for crimes committed outside their territory. Even the United States in certain limited areas—counterfeiting, theft of Government property, treason, antitrust violations—has exercised jurisdiction over its citizens for acts committed abroad. This concept of concurrent jurisdiction no doubt will be closely examined during consideration of the implementing legislation. However, the U.S. Government should make it clear to the other contracting parties that it intends to construe article VI so as to permit it to try its own nationals for punishable genocidal acts whether committed at home or abroad.

Since there is presently no international penal tribunal the above statement should allay the fears that citizens convicted of the crime of genocide under the Genocide Convention could be sent outside the United States for trial.

Mr. President, the Senate should consider this most important treaty at once and ratify the convention without further delay.

McGOVERN REMAINS VIABLE

Mr. CHURCH. Mr. President, the Blackfoot, Idaho, News of August 29, 1972, contains an editorial which I believe puts in proper perspective the current presidential campaign between Richard Nixon and George McGovern.

Drury R. Brown, the publisher of the News, put the two main issues succinctly in his editorial: Vietnam and the control of American life by corporate business.

Despite the withdrawal of the bulk of American soldiers, Mr. Brown notes:

> Our continuing military presence in the skies above and the water surrounding Vietnam prevents a Vietnamese solution to the civil war that has been underway there since 1954.

As for corporate control of American life, Mr. Brown poses the issue with a question:

> Shall huge business corporations control the people of the United States, or shall the people control the corporations?

The editorial, in sum, is a plain-spoken treatment of the issues involved in 1972. I commend it to the Senate and ask unanimous consent that it be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

McGovern Remains Viable

It is not surprising that many of us whose hopes for the future of the country ride in 1972 with Sen. George McGovern are belatedly emerging from a state of temporary paralysis.

We have been embarrassed by the miscalculations and mistakes made by Sen. McGovern and his staff in putting together the second half of the Democratic national ticket. Correction of these mistakes has required weeks of fence mending that slowed the momentum with which the Democratic convention closed.

Meanwhile, the electronically computerized and superbly packaged Republican National Convention has blitzed the nation. Preference polls at the present time show the Nixon-Agnew ticket to be the overwhelming favorite of those American voters who were polled.

Perspective is becoming more clear as the national conventions recede into history. It is now apparent that McGovern's preoccupation with winning the nomination, which he considered he had won under preconvention's rules but could not be secure in until the convention's late hours, caused the difficulties in conection with selection of a running-mate.

The picture of the Democratic National Convention that returns is a picture of people participating in the selection of a party platform and a candidate. The picture of the Republican National Convention that remains is a picture of corporate management, decision making behind closed doors, and planned manipulation of the American electorate.

With regained perspective, supporters of Sen. McGovern should welcome a comparison of his intelligence, his ability, his personality and his integrity with that of his opposite number, Richard M. Nixon. If the American people can be given equal exposure to the two leaders, McGovern supporters should not fear the results.

The main issues that divided the nation before the convention remain. The first main issue is the war in Vietnam. Although most of the American foot soldiers have been removed, our continuing military presence in the skies above and the water surrounding Vietnam prevents a Vietnamese solution of the civil war that has been underway there since 1954. Indiscriminate killing of enemy units and hapless non-combatants in both North and South Vietnam by stepped up naval and air power is being pressed with every technical advantage at our command.

The second main issue is difficult to state but nevertheless very real to most American people. Perhaps it can best be put in the form of a question: Shall huge business corporations control the people of the United States, or shall the people control the corporations? It lends itself also to a second question: Should an American capitalistic surge through the world continue while the average American wage-earner shoulders the cost of protecting that surge with a military umbrella?

Modern risk capital now wishes to eliminate the factor of risk. One speaker at the

Republican National Convention pointed out that the United States, which occupies six per cent of the earth's surface and includes six per cent of the world's population, owns 52 per cent of the world's wealth. The speaker was pointing with pride. To many others the statement will give credence to the charge frequently heard that the present administration provides socialism for the rich but insists on private enterprise for the poor.

Some new issues are appearing.

Corporate America is providing dollars in unlimited amounts for the re-election of the President. Hundreds of thousands of them recently were secretly routed from Texas through Mexico to Washington for that purpose. President Nixon refuses to discuss the burglary of Democratic national headquarters by five paid henchmen of the Committee to Re-Elect the President. He refuses to comment on the $10 million dollar slush fund put at his disposal by fundraisers just before revelation of contributors to it became mandatory under the election laws of the land. That is one thousand times the amount of the fund put at his disposal in 1954 that prompted his defense, aimed at General Eisenhower, that featured his dog Checkers and Mrs. Nixon's good Republican cloth coat.

The average American voter today is much more intelligent and sophisticated than ever before. The election may prove that American men and women 18 years of age and older resent political manipulation. That can only occur, however, if McGovern supporters inside and outside the Democratic Party go to work again with the same zeal they showed in helping him win the nomination.

They should remember that Sen. McGovern confounded the pollsters and political pundits by achieving the Democratic nomination.

They should be reassured by the knowledge that two-thirds of the registered voters of the nation are Democrats or independent of either party.

Then they should go to work in two ways. A million or more of them should contribute from one to fifty dollars apiece to the McGovern Million-Member Club to provide funds that would permit exposure of him to the people of the nation. (Half of any such contribution can be deducted from the contributor's 1972 federal income tax.) Immediately thereafter they should go to work in support of the Democratic ticket by convincing their friends George McGovern is not the "radic-lib" pictured by the Republican high command, but a decent, intelligent and strong man who is a real alternative to Richard Nixon.

These are things that any of us who believe in George McGovern can do. If all of us who believe in him enlist in such a program he will win.

RETAIL BEEF PRICES

Mr. PERCY. Mr. President, the Cost of Living Council has notified food retailers that retail beef prices remain too high and that they must be reduced.

In a telegram to the largest retailers, Donald Rumsfeld, Director of the Cost of Living Council, said that:

> In many instances retail prices have remained unacceptably high, in spite of the fact that farm and carcass beef prices are currently at a 10-month low.

He continued:

> Preliminary data for the month of August, indicates that the gross margin between the carcass price of beef and the retail price is approximately 37¢ per pound. A year ago, in August 1971, the spread was 28.4¢ per pound. There is no precedent for the current gap between wholesale beef price levels and the prices being charged by much of the retail food industry.

Rumsfeld advised the retailers that he has directed the Internal Revenue Service to monitor approximately 100 of the largest food chains in the Nation so that the Cost of Living Council will be in a position to make the public aware of those firms which have reduced their prices.

In a related action, Rumsfeld asked the Price Commission to consider possible changes in existing regulations covering controls on retail beef prices.

I ask unanimous consent that the texts of the telegram and the memorandum to the Price Commission be printed in the RECORD.

There being no objection, the release was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, COST OF LIVING COUNCIL NEWS,

Washington, D.C.

Donald Rumsfeld, Director of the Cost of Living Council, sent the following telegram to Tier I and Tier II food retailers on September 6:

On August 4, a letter was sent to you as one of the large food retailers in the nation. At that time, I pointed out that the carcass price of beef had begun to decline during the week ending July 15, and that the Cost of Living Council expected to see a corresponding reduction in retail beef prices as soon as possible.

The best information available indicates that a few firms, notably Fisher Foods, Jewel Tea, Lucky Stores, and Safeway have complied with that request. Unfortunately, many firms have not.

Although preliminary evidence indicates that some retail beef prices have begun to decline, in many instances retail prices have remained unacceptably high, in spite of the fact that farm and carcass beef prices are currently at a 10-month low.

Preliminary data for the month of August, indicate that the gross margin between the carcass price of beef and the retail prices is approximately 37¢ per pound. A year ago, in August 1971, the spread was 28.4¢ per pound. There is no precedent for the current gap between wholesale beef price levels and the prices being charged by much of the retail food industry.

Retail beef prices must be reduced. I have directed Stabilization Officials of the Internal Revenue Service to monitor approximately 100 of the larger food chains in the nation so that the Cost of Living Council will be in a position to make the public aware of those firms which have reduced their prices.

Sincerely,

DONALD RUMSFELD,
Director, Cost of Living Council.

The following is the text of a memorandum from Donald Rumsfeld, Director of the Cost of Living Council, to C. Jackson Grayson, Chairman of the Price Commission, sent on September 6:

Memorandum for: C. Jackson Grayson, Chairman, Price Commission
From: Donald Rumsfeld, Director, Cost of Living Council
Subject: Controls on Retail Beef Prices

As you know, the Cost of Living Council has been monitoring retail beef prices closely. In mid-July, farm and carcass prices for beef began to decline and now have reached a ten month low.

During the first week in August, letters were sent to the 100 largest food chains encouraging them to move to reduce their prices correspondingly. They were informed that the Internal Revenue Service had been directed to undertake a nationwide survey, in twenty-five cities, of retail markups on beef.

Preliminary data indicate that some firms have begun to reduce retail beef prices. The decline in both wholesale and retail beef prices is welcome news. However, there are certain aspects of the situation which continue to concern me and which I believe merit attention.

Data currently available indicate that average retail prices across the nation continued at a high level longer than they should have once wholesale prices had begun to decline. The average carcass retail spread for early August was approximately 37¢ per pound. A year ago in August, 1971 the spread was only 28.4¢ per pound. Clearly, there is little justification for the gap between carcass prices and the prices charged by many retail food chains in the early part of August. Many firms have not yet made any substantial reductions.

The Internal Revenue Service survey indicated that some food chains may, in fact, have been in violation of existing Price Commission regulations. In those instances the IRS is collecting evidence and will refer the cases to the Justice Department for prosecution. In many instances, however, it appears that high markups could be justified under the current retail regulations.

The provision of the regulations that permits firms to select a markup from the freeze or from the twelve months of the fiscal year prior to the freeze apparently makes it possible for many firms to find at least one month during which their markup on beef was high. As a result, rather than having to reduce their prices as the wholesale price drops, they are able to maintain artificially high retail beef prices longer than would otherwise be the case.

Under the circumstances I believe you should consider possible changes in existing regulations. In considering the various options the Price Commission may want to keep in mind that a date in the past should be used so that food chains are not able or not motivated to try to take actions now that could place them in a better position if the regulations were changed. All options should also avoid penalizing firms which have cooperated in reducing prices as wholesale prices decline. It would be desirable to tie retail prices more closely to wholesale prices so that when wholesale prices do decline, as they recently have, retail prices would also decline shortly thereafter.

If retail beef prices move down sharply in the next few weeks, it may not be necessary to amend the regulations at this time. I would, however, appreciate it if the Price Commission would give consideration to the alternatives available so we may avoid, if possible, a similar situation in the future.

AUTHORSHIP OF COMMITTEE AMENDMENTS

Mr. HARRIS. Mr. President, recently the Committee on Government Operations reported S. 3970, the Consumer Protection Organization Act of 1972, and filed its report on the bill. In compliance with section 133(d) of the Legislative Reorganization Act, and rule 3(D) of the committee rules, the report disclosed the votes of the members on the seven rollcall votes on amendments taken by the committee. This is a worthwhile improvement in Senate procedures. Though the new rules do not require it, I believe the authorship of these amendments should also be shown.

Amendment No. 1, shown at page 72 of the report, to increase the authorization for the Agency, was sponsored by Senator METCALF. He also sponsored the second amendment, page 73, to increase the authorization for consumer protection grants.

Amendment No. 3, page 73, to strike the Agency's interrogatory authority was proposed by Senator GURNEY.

Amendment No. 4, page 73, to delete judicial review of the listing of complaints by the Agency was an amendment by Senator JAVITS to an amendment offered by Senator GURNEY. The original Gurney amendment would have provided for judicial review of the listing of complaints.

Amendment No. 5, page 74, to reduce the CPA's authority to obtain access to information in the files of other agencies, was offered by Senator ERVIN.

Amendment No. 6, page 74, to exempt the TVA from the provisions of the bill, was sponsored by Senator ALLEN.

And amendment No. 7, page 74, the amicus amendment, was proposed by Senators ALLEN, ERVIN, and GURNEY.

COVERING McGOVERN

Mr. CHURCH. Mr. President, Saturday's Washington Evening Star-Daily News contains an excellent editorial by Milton Viorst which describes his feeling on the problem with the press coverage of the McGovern campaign.

Coverage of the campaign of Senator McGOVERN has dwelt not upon the dramatic clash of issues between the Democratic nominee and the current administration but upon the squabbles in the McGovern campaign organization. As a result, Viorst points out, the substance of the McGovern campaign is going unnoticed.

The Viorst editorial certainly is food for thought for members of the press. He asks quite rightfully:

> What happened to the press critics when, for example, President Nixon said we support the Greek junta as part of our defense of Israel (the kind of thing both right-wing and Jewish voters are meant to hear)—and a Greek spokesman replied that its facilities would never be used against its Arab friends?

I commend Mr. Viorst's excellent analysis and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PRESS HIDING McGOVERN SUBSTANCE

(By Milton Viorst)

From reading the newspapers, one gets the impression that the McGovern campaign headquarters is an armed camp, in which everyone believes that the enemy sits at the next desk and not in the White House.

Last week's biggest news stories did not concern George McGovern's position on the major questions of the day, but the allegation that two major members of his staff had quit in a huff. As it happened, one did and one didn't.

To be sure, the way that daily journalism is conducted in America makes it inevitable that the pungent complaints of staff members against one another get prominent display. It's called "human interest"—and we all like to read it.

Meanwhile, the substance of the candidate's speech in Seattle or the response of his crowds in Dubuque gets buried in the back pages—as if what he says can be dismissed as rhetoric and what impact he has is only showbiz.

And, certainly, there is no sign that the press is correcting its monumental goof of the primary campaign: Overlooking the story on McGovern's grassroots network. Who is to say that this network will not again be a key factor in the returns?

Of course, McGovern has made important mistakes. He can scarcely be excused for his promise of "1,000 percent" support for Sen. Thomas Eagleton or for stumbling over his own statements in the Pierre Salinger incident.

But what happened to the press critics when, for example, President Nixon said we support the Greek junta as part of our defense of Israel (the kind of thing both right-wing and Jewish voters are meant to hear)—and a Greek government spokesman replied that its facilities would never be used against its Arab friends?

We've seen virtually nothing in the press about the troubles inside the Nixon campaign—although the National Journal, a respected weekly of news research, has reported intensive squabbling among the Republican National Committee, the Committee to Re-elect President Nixon and several state committees.

This report seemed to be sustained last week by the orders of Clark MacGregor, the President's campaign manager, that no staff member is to discuss internal dissension with anyone outside the Republican campaign apparatus.

MacGregor would be a happy man if the election were fought over the issue of McGovern's campaign techniques—and not over such issues as the Vietnam war, tax reform, inflation and government favoritism to business.

The fact is that the press is riding hard on the momentum generated by McGovern's earlier mistakes. These mistakes have created a kind of "on-going" story, like the major-league baseball season. Each game, however unimportant in itself, makes its own headline and helps keep the story alive.

It is true that there is a struggle within the McGovern organization. It can be traced to the bad start after the Miami convention, which became a serious drag to fund raising and depressed the candidate's standing in the polls.

The shortage of money has forced responsible campaign officials to fight for what they think they need—for voter registration or television commercials or field organizations or direct mailings. The contest has often been tough, and the losers not always gracious.

The polling figures, furthermore, have created tension. They have generated an organizational uncertainty, which is a poor way to begin a campaign. They have forced people into mistakes that they otherwise wouldn't make.

It probably is true, too, that McGovern, by temperament, favors a loose organizational structure, where power is scattered and more than one person thinks he's boss. The method is similar to Roosevelt's way of running the New Deal. Critics inside and out think there are better ways to run a campaign, but McGovern is committed to giving his way a try.

What I am saying is that although the troubles of the McGovern organization are real, they will, in a very large measure, be overcome by a hefty infusion of money and a ten-point rise in the polls. Maybe such happiness will come and maybe it won't.

Meanwhile, we ought to get our eyes back on what this campaign is about—conflicting philosophies of government. We'll find it in the record and the statements of the candidates. This conflict, and not the conflict of personalities at McGovern headquarters, is the campaign story for 1972.

INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS—DISTRICT 727

Mr. TUNNEY. Mr. President, on September 30, 1972, one of California's major units of organized labor will celebrate its 30th anniversary of service to trade union members and to the community. Headquartered in Burbank, District 727 of the International Association of Machinists and Aerospace Workers, AFL–CIO, earned its charter in 1942 when it gained the right to represent employees of fast-growing Lockheed Aircraft Co.

Answering the heavy demand in 1942 for military aircraft, workers came to Lockheed from every State and almost every strata of society. They made up the membership of the union, furnishing a vigor and leadership that made IAMAW District 727 an instant success in its field—that of bargaining for the hours, wages and conditions of employment of aircraft assembly line workers.

The vigor of this union's early years has carried forward uninterrupted to today where it stands as the largest IAMAW aerospace district in the Nation and the largest union of any trade in the million-population San Fernando and Antelope valleys.

IAMAW District 727 today counts 20,000 members who are protected by contracts not only at Lockheed but at a dozen other area plants, including Lockheed-California Co., Lockheed Electronics Co., Pacific Airmotive Corp., Weber Aircraft, Hydraulic Research & Mfg. Co., Menasco Manufacturing Co., Aerol Co., Inc., American Can Co., Bermite Powder Co., Lane & Co., T A Manufacturing Co., and Air Transport Mfg. Co.

Perhaps unique in labor annals is the leadership IAMAW District 727 has seen graduate from its ranks. The district union has not only furnished men and women to high places in the labor movement but former members, many of whose names are household words today, have moved to high places in State and local politics.

It has been 30 years of progress—of bringing a greater and greater measure of human dignity to the working men and women of the aerospace industry.

The 20,000 members of IAMAW District 727 and their president, James L. Quillin, are to be commended and congratulated for carrying forward the work and the ideals born when the union was chartered in September 1942.

THE SAWTOOTH NATIONAL RECREATION AREA

Mr. CHURCH. Mr. President, On September 1, the new Sawtooth National Recreation Area in central Idaho was dedicated to the people of Idaho and the Nation. I was honored to take part in the ceremony.

For me, the dedication represented the end of a 12-year effort to secure the needed legislation. In that effort, I owe a debt of gratitude to my colleague from Idaho (Mr. JORDAN), whose generous support and wise counsel helped immensely in the final success of our joint legislative program for the area.

But of greatest importance, the dedication of the Sawtooth National Recreation Area is a victory for the people. It is a victory of public interest over narrow, commercial interests which sought to despoil the magnificent Sawtooth, White Cloud, and Boulder Mountains, and to exploit the long and lovely valley that lies between.

Mr. President, I ask unanimous consent to have printed in the RECORD an account of the dedication ceremony, published in the Idaho Statesman, of Boise; several editorials representative of the news media of Idaho; a feature article on the NRA from the Post-Register of Idaho Falls, and an account of the legislative history of the efforts to preserve the area published in the Times-News of Twin Falls.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the Idaho Statesman, Boise, Idaho, Sept. 2, 1972]

SCENIC SAWTOOTH RECREATION AREA DEDICATED BY TOP IDAHO OFFICIALS

(By Richard P. Hronek)

STANLEY.—The Sawtooth National Recreation Area was dedicated to the people of Idaho and the United States Friday, only one week after the enabling legislation was signed by the President.

The dedicatory oratory from Idaho's five top government officials and the chief of the U.S. Forest Service flowed eloquently. But the speeches were only frosting on one of those warm, delightful late summer days in the Sawtooths, an area dedicated Friday to wise conservation and compatible multiple principles.

The bright sun and the beautiful alpine setting of Redfish Lake lent nature's magic to the bunting-draped speaker's platform as 754,000 acres of Southcentral Idaho's choicest scenery was set aside for the enjoyment of this and future generations.

The outdoor setting at the lake's visitor's center attracted about 375 persons for the ceremony. The forest service directed bus tour for visiting dignitaries and guests preceded the dedication.

It also was a day for bipartisan politics and good natured ribbing among Idaho's elected officialdom. But the consensus from the rostrum was that the NRA would not have been enacted had it not been for a real bipartisan effort from Idaho's governor, congressional delegation and the people of the state.

Rep. Orval Hansen told the gathering that "all who have an interest in this area have one thing in common, a deep abiding love for it. But even with the differing views, those people reached compromise and that is how the best legislation often comes about.

"If the NRA is a monument to anything, it is a monument to people willing to compromise," Hansen said.

Perhaps the proudest man on the platform was U.S. Sen. Frank Church, who had introduced legislation as far back as 1960 to create the NRA.

"Having been one of those privileged to be at the take-off, it is nice to be in on the landing (of the NRA)," Church said. "It has been a long flight." Church stated the legislation was enacted in the "nick of time, as witness to the kind of development going on here."

He said the legislation would make comprehensive planning possible including zoning.

Rep. James McClure said he belieeved that "ultimately we will adopt that compromise of park and recreation status, in which the alpine peak regions would become a national park. "But the ultimate answer is up to the people of Idaho," the First District representative said.

McClure added that an even greater challenge than the NRA legislation lies ahead in efforts to secure adequate financing from Congress to implement the legislation.

Retiring Sen. Len Jordan also was a picture of satisfaction as he said that "we in Washington were only the cutting edge. We tried to represent your thinking in this matter of the NRA.

"Today we can see with our own senses the beauty and grandeur of this area."

Jordan noted that the 1972 passage, after 12 years of congressional effort, was "an evolving kind of thing." It was not until the mid 1960s, Jordan said that the idea for an NRA really struck a note of response from Idahoans.

Gov. Cecil Andrus said the Sawtooth valley is a magnificent area, exceeded by none other in the United States. He complimented the U.S. Forest Service for an "aggressive start" in implementing the act. But, grinning, he said, "and to the National Park Service representatives here today, I can only say 'keep their (Forest Service) feet to the fire'."

The concluding speaker, John R. McGuire, chief of the U.S. Forest Service, complimented the Idaho congressional delegation for its bipartisan effort.

Two of the land management programs that will receive immediate attention, he said are (1) minerals management and (2) development and use of private lands.

McGuide said the Forest Service will inventory all existing unpatented mining claims and discoveries, determine the validity of each and challenge those found to be invalid. "The entire area is permanently withdrawn from further mineral entry."

The Forest Service chief said the first step is to prepare guidelines for private land development and use.

One objective will be to maintain as much land as possible in private ownership, particularly so as to maintain the western ranching environment of the valley areas. The bill limits forest service acquisition for private land through purchase to five per cent.

Vern Hamre, Ogden, Utah, intermountain region forester, said the "mood of most of us here today is that of jubilation" during his open remarks as master of ceremonies.

The crowd was welcomed by Ed Fournier, superintendent of the Sawtooth National Forest. Gray Reynolds, a native of Burley, is superintendent of the NRA, which has temporary headquarters three miles south of Ketchum.

Forest Service spokesmen said they were delighted with the strong NRA law that was enacted and expressed pleasure with the final bill.

As the crowd drifted out of the pine-surrounded amphitheater and the last busload of guests disappeared toward Ketchum, the highways began to fill with campers and trailers.

Idahoans were practicing over a long weekend what the speakers had been preaching—that the Sawtooths are a prime area for recreation.

[From the Idaho Statesman, Aug. 28, 1972]

THE SAWTOOTH VICTORY

Signing of the Sawtooth Recreation Area bill is a victory for Idahoans who would protect the state's highest quality areas. The possibility of destruction from mining existing claims remains, but the chances are diminished.

Until recently in Idaho the idea prevailed that nature always had to give way to resource extraction. Many felt, and still feel, that if a mineral is found it should be mined, no matter what the consequences to a scenic area.

The Sawtooth legislation recognizes that at least some areas are worth protecting, that some areas of the earth are better left as they are. Man does not, after all, live by bread alone and at least some of nature's treasures should claim at right to exist undisturbed.

Senators Frank Church and Len Jordan deserve much credit. The Senate was the first to pass Sawtooth legislation. This year, after the House passed a weak and unsatisfactory bill, that left the door open to more mining claims, the stronger Senate version they supported prevailed.

Rep. Orval Hansen recognized the values at stake. Rep. James McClure apparently recognized public sentiment, but held out for language favored by the mining industry. He finally capitulated after primary campaign opponents Glen Wegner and Robert Smylie made an issue of his stand.

The 1970 election removed a governor who considered recreation use of a splendid scenic area a "lock up." The 1972 primary election helped push McClure from his pro-mining position and strengthened the bill.

Numerous Idahoans lent their support. Former Parks Board Chairman Ernest Day was among the most persistent and eloquent spokesman. Hundreds testified at a Sun Valley hearing for Sawtooth protection. The Sawtooth Preservation Council worked hard to close pro-mining loopholes in the legislation.

The threat of mining has been eased over Idaho's splendid White Clouds mountains. The meadow below Castle Peak is in less danger of becoming a tailing pond. The salmon in the East Fork of the Salmon River face a lessened possibility of pollution in their spawning beds.

Those existing mining claims remain. But the Forest Service is armed with authority that goes beyond the antiquated 1872 mining laws. It should be able to impose conditions for mining that would make the cost of extracting low-grade ore too high. Any realistic conditions to provide even minimum protection of the area should do that.

The struggle isn't over. Mining spokesmen only a few months ago were still insisting upon rights to mine anywhere in the Sawtooth area.

Aside from the mining issue, the legislation should protect the Sawtooth valley from unsightly developments. It should assure permanent protection of the values that make this area a delight to Idahoans and to visitors.

Idahoans who value their outdoor heritage have gained an important victory. But the continued threat from the existing mining claims should not be forgotten.

[From the Idaho Falls Post-Register, July 31, 1972]

THE SAWTOOTH BILL

The Sawtooth National Recreation legislation, now on the threshold of formal passage, is a legacy of long dedication on the part of Sen. Frank Church and Sen. Len B. Jordan.

The Sawtooth's genesis actually started with Senator Church who first suggested a national park, which would be Idaho's first, and then, after an extended dialogue with Idahoans and several hearings, accepted a recreation area proposal for this incomparable land.

That first recreation area proposal, however, was flawed with too much suturing. A plan which was predominately a park plan, with environmental and conservation organizations over the state the principal standardbearers for the plan, then emerged.

Gov. Cecil D. Andrus, gave the park plan momentum with his approval—but it was not quite enough for the "park now" campaign.

The park-recreation area combination of that time did not have enough Idaho and Congress committee support, apparently. The Senate, which has approved both park-accented or recreation area-accented plans before, this time waited for the House, where the legislation died each time, to act first.

The House surfaced with some of the same flaws of former years but with decided improvement. However, it was noticeably weak in what it accepted in mining permissiveness in this fragile high country, in leaving doubtful whether federal or State would manage the game, and in installing a temporary instead of a permanent moratorium on mine development.

Senator Church, wearied by many years of debate but with no agreement on preserving this extraordinary land, quickly targeted the weaknesses of the House bill and declared his intent to remove them. He was joined by Senator Jordan, who with Senator Church, had successfully propelled every piece of Sawtooth legislation successfully through the Senate.

What emerged in the Senate version was, as this newspaper has said before, a clean, complete and final prescription. And this was the legislation which emerged virtually unscathed from the Senate-House conference committee.

Cong. James McClure, who in the past has worried more about the difficulties of removing mining prerogatives and possible court claims than in pushing this type of bill, apparently persuaded Cong. Wayne Aspinall, chairman of the House Interior Committee to abandon his reluctance to accept such things as a permanent mining moratorium. Election year pressure was also undoubtedly involved.

The only basic change coming out of the conference committee was the refinement in language in sustaining the state's control of game and in eliminating the so-called "reverse condemnation" feature whereby property owners of the area could force the government to buy their properties. Under the bill, the forest Service, which will operate this vast recreation area, has power to condemn up to five per cent of the total deeded or private in Sawtooth valley and Stanley Basin, and can insist on purchased scenic easements in zoning the private land to achieve the preservation objective of the legislation.

Once formally passed by Congress and signed, the Forest Service can proceed to hold hearings on zoning standards and management policies. One of its stickiest challenges will be to rescue non-conforming subdivisions and to prevent future ones from marring the area with this kind of transplanted suburbia.

The Sawtooth legislation, the final version as well as both the House and Senate proposals, sustains a Park Service study of the high country in the White Clouds, Boulders and Pioneers as well as the existing Sawtooth peaks area. What is mystifying some is the current Forest Service wilderness study of these same areas. The question may well become whether the lower recreation area should be managed by the Forest Service and the higher country by the Park Service. Or would it be just as compatible to install full wilderness status of this high country as well as the recreation area elsewhere under Forest Service management?

Conservation groups, which have fought hard for a clean Sawtooth formula, prefer the Park Service because of what they feel is a higher order of protection than the wilderness act accords the Forest Service currently. Wilderness areas outside of specific parks, can still be explored for mining, for example, at least until 1982—and this worries environmental groups.

There is something to be said, however, in the name of consistent management, where the authorities are not divided in management.

But the great strike of the current Sawtooth legislation is that it takes care of the immediate problems—mining threats in the recreation area and the rapid growth of nonconforming private developments on the deeded land—while leaving the wilderness decision on the back country for more leisurely and thorough research.

But to Senator Church particularly is this excellent Sawtooth prescription a deserving monument. This mountain-loving, generations-thinking Idaho senator especially deserves Idaho's heartfelt thanks. It has been a long, relentless and wearing battle for him to give Idahoans what they wanted all along.

[From the Post-Register, Aug. 27, 1972]

SAWTOOTH NATIONAL RECREATION AREA IDAHO'S NEW PLAYGROUND

(By Michael Parfit)

STANLEY.—The signs have been up since the beginning of July on the highways leading to this town: Entering the Sawtooth National Area. Each sign is qualified by a single, tacked-on word: Proposed.

Now that word can be removed. The scenic gem of central Idaho has become an official National Recreation Area (NRA).

The Sawtooth NRA is a big one—754,000 acres, about the size of Rhode Island. Its boundaries encompass a wealth of mountain peaks, lakes, rivers and forests, most in their raw, natural state. As one of the few Forest Service-administered NRAs in the country—the concept is little over a decade old—the Sawtooth region is one of the grandest.

Three mountain ranges dominate the area: The Sawtooths, of course, the White Clouds, and the Boulders. The highest mountain in the NRA, Ryan Peak which tops the mark at 11,900 feet, is a part of the lesser-known Boulder mountains.

CASTLE PEAK

Not that the other two ranges have anything to be ashamed of. Castle Peak in the White Clouds climbs into the thin and frigid air 11,820 feet while Thompson Peak in the Sawtooths lifts jagged rocks to 10,776 feet.

In the shadows of the mountains are the lakes, probably the most popular feature of any alpine country. There are more than 300 of them, speckled in the glacial scoops and smooth meadows below innumerable banks of permanent snow. Four major lakes with road access draw the bulk of summer traffic: Stanley, Alturas, Petit and Redfish, with the last the biggest, five miles long.

From the lakes trickle little creeks, and the creeks in turn form streams leading eventually to the river: The Salmon, a bold and boisterous flow that runs to the Snake River, the Columbia River and the sea. Every year the lure of wide, shallow riffles in the Salmon River's highest reaches draws thousands of Chinook salmon and steelhead 800 miles from the sea to spawn. The river's main fork, which rises within the NRA, and its Middle Fork, which flows nearby, are known for the thrills they give river runners, and for the occasional life lost to their turbulence.

FOLLOW RIVER

The pioneers who followed the river up to the sagebrush and grassland basin in the center of all this grandeur came first for gold, discovered here in 1863. Later, immigrants came to dig out other minerals, to chop and saw timber and to run sheep and cattle in the fields.

Mining is still a big issue—the molybdenum discovery made by American Smelting and Refining Co. in the White Clouds in the late 1960s raised a national fuss and accelerated the development of the recently-passed legislation. Logging and ranching also remain as industries within the NRA. But today the focus for this land is on recreation and recreation there is, gobs of it.

Last year an estimated 600,000 people passed through the area and this year the Forest Service figures that there have been an additional 10 to 12 per cent, all drawn by recreation.

OUTDOOR PURSUITS

Most of the opportunities for frolic are, naturally, outdoor pursuits, although the three bars in Stanley offer occasional indoor entertainment. Depending on your bent in pleasure, and the season, you can water ski fish, hunt, hike, rock climb, ride a tossing raft on foaming waters, leap snow ridges in a snowmobile, ski, (winter here runs from November through April), or sit under a tree and snooze. There are about 900 miles of trails in the back country, and the southwestern hunk of the NRA is a 216,000-acre wilderness area. Near the roads are 30 campgrounds with 1,020 family units.

History buffs can wander through the original Stanley Basin near town and find remnants of settlers' cabins and placer mines. Several miles east of town, adjacent to the NRA, is the Yankee Fork area, a region once heavily mined and now the site of two ghost towns.

The abundant forests of spruce, pine and fir in the NRA shelter a whole zoo of wildlife. In addition to deer, elk, bighorn sheep, mountain goats, cougar, coyotes, weasels, field mice, and all the other common beasts of the wood, the area contains several rare and endangered species. Among these are the osprey, the Greater Sandhill Crane, the Three-Toed Woodpecker, the fisher, the wolverine and the bald eagle. The Salmon river is home for a few river otters.

Also in the river, creeks and lakes are frivolous schools of trout: Cutthroat, brook, Dolly Varden, golden and rainbow. In Redfish lake there are, naturally, red fish—Kokance (landlocked) salmon.

The towns still thriving in the NRA are Sunbeam, Lower Stanley, Stanley and Obsidian. Here a visitor can find a variety of services—motels, hotels, restaurants, gas stations, grocery stores—enough to handle most needs. There is even a new medical clinic, staffed by a calm and competent nurse practitioner, who treats emergencies with the telephonic aid of two doctors 60 miles away.

The towns boom in the three months of summer, their dirt streets thronging with tourists, then slip into somnolence as the leaves change and heavy snows cover the ground. Although increasing snowmobile recreation enlivens some December weekends, most of the winter the Sawtooth National Recreation Area is an isolated place with a tiny population.

"You'd have to count a few dogs to get a hundred between Smiley Creek and Sunbeam," one resident says. Stanley, the largest town, has a winter population of 47.

[From the Times-News, Twin Falls, Idaho, Aug. 27, 1972]

LONG JOURNEY OVER FOR SAWTOOTH NRA BILL

(By Ann Daily)

SAWTOOTH VALLEY.—Turbulence and turmoil mark the 59-year legislative history of the national recreation area in Idaho's serene and aloof Sawtooths.

From the first attempt in 1913 to the final successful effort to pass a bill protecting Idaho's great forest this month, the Sawtooths have been the topic of debate on the floor of both houses of Congress, many committee meetings and several hearings both in Washington, D.C. and in Idaho.

Public interest has ranged from semicomatose in the 1950s to main-topic-of-conversation in the late 1960s.

A myriad of concepts were fused into the final bill which has created the Sawtooth National Recreation Area.

It all started in late May, 67 years ago.

The Sawtooth Forest Reserve was created from public domain by proclamation of President Theodore Roosevelt on May 29, 1905. The original area included 1.9 million acres.

The following year the area was increased to 3.3 million acres. The supervisor's headquarters was established at Boise in that year. In March, 1907, the name was changed to the Sawtooth National Forest.

This national forest was split into the Sawtooth National Forest (east) with supervisor's headquarters at Halley and at a much later date moved to Twin Falls, and the Sawtooth National Forest (west) with headquarters remaining at Boise.

On June 26, 1908, an executive order created the Challis National Forest with headquarters at Challis. A second executive order on July 1, 1908, created the Boise National Forest with headquarters at Boise.

First evidence of public interest in providing safeguards for Sawtooth range came in 1911 when a group of Idaho club women endorsed a plan for action to establish a national park.

The legislative history of the area began on April 7, 1913, in the House of Representatives during the 63rd Congress.

Rep. Burton L. French presented bill HR 1786 "reserving from the public lands in Idaho as a public park for the benefit of the people of the United States, and for the protection and preservation of the game, fish, timber and other natural objects therein, a tract of land herein described . . ."

According to the CONGRESSIONAL RECORD, the bill withdrew the land from settlement and occupancy or sale; placed the land in the custody of the secretary of the interior; closed the land to lumbering, but left it open to mining and "places of entertainment" such as hotels and restaurants.

The bill died a natural death as did the many bills for the same purpose until 1972.

Another bill was presented in 1916 to establish a national park and in the same year certain lands were withdrawn from entry to aid in park establishment.

In 1921 more lands in the Sawtooth area were withdrawn. The necessary action had not been taken to establish a park and in 1926 the lands withdrawn in 1916 and 1921 were restored.

The Civilian Conservation Corps began work in 1933 and continued for seven years in developing and protecting national forest resources. Camps were located at Ketchum, Big Smoky, Redfish Lake, Idaho City and Alexander Flat.

On Jan. 4, 1935, Sen. William E. Borah presented bill S2019 to the 73rd Congress "to establish the Boise National Mountain Park."

It was to be a public park and campground in Boise County, approximately a section and a half in size, 960 acres. It was subject to the provisions of an act entitled, "an Act to establish a National Park Service, and for other purposes," approved Aug. 25, 1916.

Sen. James P. Pope presented bill S3382 to the 74th Congress on July 29, 1935, to establish the Sawtooth National Park." Besides setting the land aside from settlement, occupancy or sale, it stated, "that the United States Reclamation Service may enter upon and utilize for flowage or other purposes any area within said park which may be necessary for the development and maintenance of a government reclamation project."

It affected no valid existing claim of homesteader or miner.

The secretary of the interior was given executive control, which included the right to execute leases for visitor accommodation.

The regulations were primarily aimed at the free use of the park for recreation purposes by the public and for the preservation of the natural conditions and scenic beauty.

The secretary could arrange for the removal of mature or dead or down timber as necessary for the protection and improvement of the park.

The regulations also included provisions for the use of automobiles within the park. No appropriation for the maintenance, supervision, or improvement of the park in excess of $10,000 annually would be made unless it was first expressly authorized by law.

A joint resolution was presented by Senator Pope on Feb. 8, 1937, to the 75th Congress, "to authorize an investigation of the proposed Sawtooth National Park." In S.J. Res. 9 the secretary of the interior was "authorized and directed to investigate and report on the economic and geographic feasibility of establishing a national park to be known as the Sawtooth National Park."

"If the secretary shall find the creation of a national park feasible and desirable within the above described area, he shall in his report describe the proposed boundaries of said park by metes and bounds."

Again nothing was done. On Oct. 12, 1937, the Sawtooth Primitive Area was established.

With the advent of World War II, public interest in the national park concept for the Sawtooth area dimmed. It was not until 1960 that a legislative proposal was introduced which did catch Congressional attention.

Sen. Frank Church introduced bill S3353 on April 7, 1960, to the 86th Congress. The bill was meant to "provide for a study and report to Congress on the advisability of establishing a national park in the Sawtooth Mountains."

Three years later, on Sept. 30, 1963, Sen. Church introduced S2188 creating a Sawtooth Wilderness National Park. He told the 88th Congress, "The site is convenient for that great number of summer travelers who attempt to get the most for their time and money by visiting several national parks during one vacation trip."

Sen. Church said the Sawtooths and the new park would "boost the economy of the state and region, insure the integrity of the upland wilderness, and give a designation of popular appeal to phenomena already held in awe by the people who have seen them."

It was not until August, 1965, that the recreation area concept was suggested for the Sawtooth area. At that time the Sawtooth Mountain Area Study was presented jointly by the U.S. Forest Service and the Park Service.

A year later, on April 28, 1966, Sen. Church introduced two bills in the Senate. The first, S3294, was a bill to establish the Sawtooth National Park. The second bill, S3295, was presented by Sen. Church and Sen. Len Jordan to establish the Sawtooth Recreation Area.

Hearings were held by a Senate subcommittee on June 13 and 14, 1966, to elicit testimony from area citizens on the two bills. The bills were not acted upon.

On March 14, 1967, Sen. Church and Sen. Jordan introduced bill S1267 to create a Sawtooth National Recreation Area. Hearings were held on Aug. 23, 1967, in Washington, D.C., on the bill.

This legislation passed the Senate during the 90th Congress but did not pass the House of Representatives and thus died at the expiration of that Congress.

Rep. Orval Hansen introduced bill HR5999 to establish the recreation area on Feb. 4, 1969. Also early in 1969, bill S853, which reintroduced the recreation area legislation in the Senate, was presented by Sen. Church and Sen. Jordan.

Open pit molybdenum mining at Castle Peak in the White Clouds area became public knowledge in the summer of 1969 and on July 2, 1969, Sen. Church and Sen. Jordan moved to amend S853 from the Senate floor. The amendment included the White Clouds in the recreation area and curtailed mining at Castle Peak. On that day the Senate passed the bill.

On July 10, 1969, hearings were held in Washington, D.C., on HR5999 and S853, by a Senate subcommittee.

On Aug. 11, 1970, four bills were introduced at the 91st Congress. Bill S4212 and companion bill HR18900 were to establish the Sawtooth Mountains National Park, and S4213 and companion bill HR18899 were to temporarily withdraw certain national forest land in the state of Idaho from the operation of the United States mining laws. The companion bills were introduced in the House of Representatives.

Hearings were held on Aug. 26, 1970, at Sun Valley by a House subcommittee on HR5999, HR18900 and S853. Testimony was again elicited from local citizens.

Early in 1971 bill HR 6957 was introduced to the House of Representatives. Hearings were held on this bill on June 7 and 8, 1971, at Washington, D.C. The bill created the Sawtooth Recreation Area and contained controls on mining.

A favorable report was made by the Committee on Interior and Insular Affairs on Dec. 18, 1971. The report accompanied HR 6957. Companion bills to accomplish the same objectives were co-sponsored by 22 other members of the House of Representatives. These bills were HR8834, HR8931 and HR8932.

In January, 1972, the House of Representatives passed HR6957. The Senate subcommittee held hearings in Washington, D.C., on two bills, S1407, and House-passed version HR6957. The Senate passed S1407 in May. Both houses had then passed two different bills which accomplished the same basic purpose, the Sawtooth National Recreation Area.

There were substantial differences in the two bills.

The matter was referred to a conference committee made up of designated members of each House. The committee agreed on a bill and the matter was referred back to both houses.

In early August the Senate approved the conference committee version which was then called HR6957. The House of Representatives passed this version in mid-August.

The President's signature marks the end of the recreation area's legislative journey.

QUESTIONS ABOUT THE BOMBING OF NORTH VIETNAM

Mr. KENNEDY. Mr. President, the history of this administration's conduct of the war in Indochina is marked by a series of coverups—from the tragic air war over Laos in 1969, which was kept secret from the American people and from Congress, for more than a year, to the rain of terror our bombers and gunships are delivering over North Vietnam today.

Again and again, this administration has whitewashed the grim facts of this war and of America's contribution to the human tragedy and bloodbath occurring throughout Indochina. It has repeatedly denied information to Congress on the truth about American military practices, especially the no-holds-barred air war—first over Laos and now over North Vietnam.

As chairman of the Judiciary Subcommittee on Refugees, over the years I have repeatedly attempted to obtain information from the Department of Defense on the impact of American military policies and practices on the civilian population of Indochina, including North Vietnam. This year I addressed letters of inquiry to Secretary of Defense Melvin Laird on May 3, June 26, and August 9—all of which have gone unanswered.

In the absence of any response to my letters, and in an effort to obtain this information—especially on North Vietnam—the subcommittee held hearings on

August 16 and 17—the 36th such hearings on war-related civilian problems in Indochina since 1965. The subcommittee heard testimony from recent American visitors to North Vietnam—including former Attorney General Ramsey Clark—all of whom related their observations on the impact of the escalated air war on civilian areas of North Vietnam.

On the basis of their testimony, and additional information made available to the subcommittee on August 19, I addressed another letter to Secretary Laird, requesting aerial photographs of civilian areas and dikes in North Vietnam allegedly hit by American air strikes, as well as other information on war-related civilian problems in North Vietnam. With my letter, I submitted for comment a communication to the subcommittee from Ramsey Clark, in which he elaborated on his testimony of August 16. In addition, the subcommittee invited representatives from the Departments of State and Defense to appear before the subcommittee on the troubling questions raised by the growing evidence of extensive damage to civilian populated areas in North Vietnam.

As of today, we have had no response to the latest letter to Secretary Laird—and the administration has been unwilling to agree on a date for its testimony to the subcommittee.

Mr. President, it distresses me that the administration finds it so easy to issue press statements critical of American visitors to North Vietnam, but avoids discussing the troubling issues raised by these visitors. It distresses me even more, that legitimate inquires about American military practices in Indochina—especially the President's no-holds-barred airwar over North Vietnam—can be ignored by the administration, as if the human tragedies of this senseless conflict, and the mounting billions of dollars being wastefully spent for bombs, are not the business of Congress and the American people.

This not only says something about the low priority our national leadership attaches to the human tragedy of this war—but it also says something about our leadership's casual attitude toward the Congress and the legitimate concerns of the American people, and about the closed character of the present administration.

On the issue of the bombing of North Vietnam and its impact on civilian areas, the Department of Defense cannot hide behind selected photos they release from time to time. The American people deserve better than that. And so the subcommittee will continue to press for additional photos, and a full response to our inquiries about American policies and practices in Southeast Asia.

I hope to announce public hearings with representatives from the Departments of Defense and State within the next several days.

I ask unanimous consent that the text of my August 19 letter to Secretary Laird and the communication from Mr. Ramsey Clark be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AUGUST 19, 1972.

Hon. MELVIN R. LAIRD,
Secretary of Defense, Department of Defense, Washington, D.C.

DEAR MR. SECRETARY: As you probably know, the Subcommittee on Refugees resumed last week its public inquiry into war-related civilian problems in Indochina, focusing its attention on conditions within North Vietnam.

In connection with the record of these hearings, and as a follow-up to my letters of May 3, June 26, and August 9, I would like to request the current rules of engagement governing air activities and naval gunfire in North Vietnam, and a series of aerial photographs of civilian populated areas allegedly subject to American air strikes. It would be helpful if these photographs could include shots of specific locations in or near these areas, both before and after the date they have been reportedly hit. It would also be helpful for the Department to identify what military targets were in, or near, these civilian populated areas. Hopefully, materials forwarded to the Subcommittee will include photographs of the sites listed in the testimony submitted to the Subcommittee by the Honorable Ramsey Clark, a copy of which I have attached to this letter, and of the following:

1. *Haiphong City*—photos taken prior and subsequent to the April 15–16, 1972, bombing raids on Haiphong, particularly the Ngo Ouygen district, the central market place (hit on July 31st), and the so-called Vietnamese-Czechoslovak Friendship Hospital. Western observers also report that a housing and school complex consisting of three four-story apartment buildings and one two-story senior high school, located 2½ kilometers east of the harbor area, was struck three times on April 16, 1972: at 2:15 a.m., 9:00 a.m., and 4:00 p.m. Is this information, submitted to the Subcommittee, correct, and what military targets were in the area?

2. *Nam Dinh*—photos prior to May 23rd and subsequent to June 23rd showing the central city area, specifically the hospital, and the Chung Dang Ling secondary school.

3. *Han Gai*—photos before and after June 7th–9th, showing the Ha Long quarter.

4. *Hanoi*—reports to the Subcommittee report heavy bomb damage since April 16th to such civilian installations as the Bach Mai hospital (hit on June 27th); the Truong Dinh workers housing apartments (hit on June 27th); and civilian housing on Ming Khai Street (hit on July 4th).

Your assistance in this matter is greatly appreciated.

Sincerely,

EDWARD M. KENNEDY,
Chairman, Subcommittee on Refugees.

RAMSEY CLARK,
Washington, D.C.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: As I testified before your Subcommittee on August 15, I visited North Vietnam between July 29 and August 11, 1972. During this period, I traveled over 1200 kilometers between cities and provinces and many more miles within those places. I visited six provinces, five major cities, and numerous villages, towns and dike sites.

Bomb damage to what appeared to be purely civilian targets was extensive. I personally observed schools, hospitals, churches, residential quarters of cities and whole villages, like sections and water control facilities which had been damaged or destroyed by bombing. I also visited children and old people in hospitals who stated they had been wounded by bombing, and talked with other civilians who described losing members of their families because of bombing raids.

The bombing of civilian targets in North Vietnam must be a subject of great concern to every American. It is intolerable that a rich, powerful, technologically advanced nation should bomb villages, hospitals and dikes, killing women and children in a poor, undeveloped country simply because it has the power. It is incredible that we should do so when we are withdrawing ground troops and say we are "winding down" the war. The implications for the future are ominous.

It is imperative that this controversy over whether we deliberately bomb civilians be resolved in a way which will give the American people the facts and let them judge for themselves.

For this reason, I am attaching a partial list of structures and areas which I personally observed to have been bombed. I include here but a few of the more striking examples of what I saw. Of course, the Department of Defense knows what targets it intends to hit and what targets it does hit. If the Department of Defense will disclose the facts as to these places I list, I can send a full list of what I observed in North Vietnam at a later date. Extensive aerial photo reconnaissance is made of North Vietnam and often planes on bombing missions photograph as they bomb. I hope you will be able to obtain aerial reconnaissance photographs from the Department of Defense of the bombed places listed here. Ideally, every existing photo of each target would be obtained. The most important are those taken on the day of the bombing, then the days before and finally the days after.

The disclosure of such aerial reconnaissance photographs to the American people is clearly an essential step to open, informed consideration of our bombing policy in Vietnam and its effects on the civilian population. Citizens of a free democratic society are entitled to such data. Indeed, our system cannot work without an informed public.

Of this list, the most critical set of targets are the dikes because they sustain the agriculture of the people and retain waters that could drown hundreds of thousands. I am therefore appending a list of dike sections which have reportedly been bombed, some of which I saw and some which I did not see.

In view of the world-wide controversy over the bombing of the dikes, Administration officials should produce aerial reconnaissance photographs of these specific dike sections, taken both before and after they were reportedly struck. Their failure to do so will imply to many a fear of the truth on their part. I include here a United States Army map to aid in identifying these dike sections more precisely.

You will recall I showed two small bombs to your Committee. The bomb I called a penetrating bomb was given to me by the Mayor of Haiphong. He said it was found after an attack on his City on June 26 in Lach Tray Street where much damage was done. The round bomb I described as an anti-personnel bomb was given to me by the Mayor of Hanoi. He said only that it was dropped on the southern part of his city on June 8, 1972. I would be interested in the legal justification by the Department of Defense for dropping such bombs outside of combat zones and military encampments if it concedes these bombs were dropped as described.

I hope you can secure an early response from the Department of Defense. If the American people and the Congress are to have a say in determining this country's policies, they must have the facts.

Thank you for your efforts on behalf of peace and humanity.

Sincerely,

RAMSEY CLARK.

[Letter to Senator Edward M. Kennedy from Ramsey Clark dated Aug. 22, 1972]

ATTACHMENT 1.—LISTED BELOW ARE SPECIFIC PLACES WHICH I SAW AFTER THEY WERE BOMBED AS TO WHICH SOME ADMISSION, DENIAL, OR EXPLANATION IS SOUGHT. I WOULD BE MOST ANXIOUS TO SEE AERIAL PHOTOGRAPHS OF THESE AREAS BECAUSE NO MILITARY TARGETS WERE VISIBLE AT THE TIME OF MY VISIT

Place and location	Date reportedly struck	Observations
I. City areas:		
(1) Ha Ly district, in Haiphong City.	July 31, 1972	Acres of destruction to residences, business area; hundreds allegedly killed.
(2) Truong Chinh, workers' quarters and secondary school, in Hanoi City.	May (?), 1972	Total destruction of large housing development and damage to nearby school.
II. Villages:		
(3) Phuc Loc, approximately 12 km. east-southeast of Haiphong City.	Apr. 16, 1972 (03:00).	Many bomb craters, much destruction in village.
(4) Thieu Hoa, approximately 25 km. from Thanh Hoa City.	Apr. 13, 1972 (02:45).	Total destruction of Xan Ai; damage to remainder of village; allegedly 23 killed, 33 wounded.
(5) Vu Van, approximately 20 km. southwest from Thai Binh.	July 31, 1972	Homes, school, dike, hit. 3 churches nearby badly damaged
III. Hospitals:		
(6) Thanh Hoa hospital, apapproximately 6 km. from Thanh Hoa City.	Apr. 27, 1972 (08:50).	6 buildings demolished; others extensively damaged. Facility out of operation.
(7) Vinh Phong, leprosarium, near Vu Van village.	July 31, 1972	Administration building and medical treatment facility destroyed; barracks-like housing for patients damaged.
(8) Bach Mai, on highway to Ninh Binh, 6 km. south of center of Hanoi City.	June 27, 1972, (09:00).	Large crater in a courtyard; destruction of 1 wing of hospital; damage to other wings and adjacent building.
IV. Dikes:		
(9) Lan Sluice and gates, approximately 25 km. east-southeast of Thai Binh City within several km. of sea.	May 19, 24, June 15, July 2, 8, 11, 12, August 4.	Extensive damage to adjacent diking concrete base, destruction of lifts hous'ng, gates, superstructure.
(10) Vu Dong dike, approximately 10 km. south of Thai Binh City.	July 20, 1972	Extensive damage to dike, bomb craters on and near dike, adjacent huts destroyed.
(11) Nam Sach dike, 40 km. east of Hanoi.	June (?), 1972	Extensive damage visible though largely repaired by Aug. 6. This is the dike location which the French newspaper reporter Jean Thoraval says he saw attacked.
V. Schools:		
(12) Haiphong (3) in Haiphong City.	July 12, 1972	Destroyed.
(13) Hanoi (1) in Hanoi City	May (?), 1972	2-story building, extensively damaged, unusable.
(14) Vu Van, secondary school (1).	July 31, 1972	6 classrooms destroyed; other classrooms damaged.
VI. Churches:		
(15) 3 churches near Vu Van, within 2 km. of Vu Van village in Thai Binh province.	July 31, 1972	All badly damaged from bombing.

ALEX HALEY AND BLACK FAMILY HISTORY

Mr. DOLE. Mr. President, the Washington Post of September 17 contained an article about a most interesting and dynamic individual who is pursuing a study into the roots of his family's history. This investigation, at first glance, might not seem extraordinary, but, when this family study is recognized as also being the first of its kind for an entire race, one begins to understand the importance and significance it holds.

Alex Haley and this generation of his family could be the subjects of a unique story of personal initiative and self-made success, but the history of the whole family, from today's author, architect, and attorney, back to preslavery tribal Africa, holds the promise of being one of the most intriguing and illuminating pieces of scholarship undertaken in recent times. Its special potential is that it may open the doors to a new type of black history and to a wider understanding of the contributions blacks have made to the lives of all Americans.

I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

A Determined Quest for Black Heritage

(By Dorothy Gilliam)

Walking tieless into a downtown restaurant, his Liberian shirt topped by a tailored jacket, Alex Haley earned a superior sniff from the black maitre d'.

But the man who wrote the bestselling "Autobiography of Malcolm X," as unpretentious as hominy grits, did not notice the silent chastisement directed at him because he wore no tie. For he was thinking of the lineage he shared with the man, and with a red-jacketed black waiter who now approached, delicately balancing a tray.

"All three of us have the same basic story," Haley said, his any-man's face emotionless, but his hand sweeping expansively.

"We all spoke one of those tongues. We all were captured from some African village. All our ancestors came over on some slave ship."

Haley, who has pursued his own family's history for eight years, is widening his search to uncover some specifics of the genealogy common to the maitre d', the waiter and all black Americans. For centuries, this information has been hidden beneath clouds of historical lies and mythologies of inferiority that are just now beginning to lift.

Haley has traced his own family tree back to his great-great-great-great-grandfather, from Gambia, West Africa, to America. It is probably the most extensive black family history ever documented, and will be published as a book, "Roots," by Doubleday next September. Columbia Pictures plans to base a film on it.

Six years into his search, something happened to him, Haley says.

"I began to feel the responsibility for having to tell through a single family what was a saga of a people, in a way that people would feel our common saga. I became more and more aware that there was so much lacking for us as black people which was possible for us to have. All of the 50 states have at least one library devoted to the genealogy of European heritages. We don't have one."

To remedy that, Haley and his two younger brothers, both Washingtonians—George is chief counsel of the U.S. Urban Mass Transportation Administration and Julius is a Navy Department architect—incorporated the Kinte Foundation.

Haley thinks of the Kinte Foundation as an extension of what his life has shown him: That the peoples on earth have the potentials of a far better life, a far better world; that every individual in his life journey is challenged to do the best, the most that he can.

"The Kinte Foundation hopes to be my form of response to that challenge. From the years of researching 'Roots,' I know better than most how much black people helped to build this country, and make it great. But our contribution has been so obscured that even today, next to none of us—not even we blacks—genuinely realize and respect the dimension of black contributions among those of the other cultures here."

The Foundation, named for the clan of his African forebears, has two goals: to collect, to preserve and to publicly present the African heritage and contributions in the making of America, and to offer innovative and creative solutions for America's racial division.

The foundation's library will gather the oral histories of black Americans who thought nobody cared because history always has been written by the winners. It will seek out centuries-old documents in courthouses and libraries from South to North—plantation slave lists, records of slaves sold, bought, hired out and run away. Also slave travel passes, wills giving away slaves as property, letters and personal diaries will be collected.

Black church records and papers from those whites who, as Haley puts it, have "black skeletons" in their closets will also be sought. The special wealth of records of the Daughters of the American Revolution, National Archives and Library of Congress will be used.

Because Alex Haley's life has been almost an Horatio Alger story from Coast Guard mess boy to successful author, a life that only a few blacks could hope to match, his is a positivist view. This is evidenced by the audience he hopes the foundation and the library will reach.

"Who? People," he answers. "Simply that. People! Whatever obstructions we races impose between each other, it remains inescapable that the biggest common denominator among us is that we are people."

Haley and his brothers are trying—with a lot of help from their friends— to achieve an adequate financial base, the foundation's first priority. Until now, Haley himself has largely financed it, and the several thousand dollars he has contributed has helped set the foundation up at 716 National Press Building in Washington. Following two articles he wrote, he received something under $1,000 in mail contributions.

Haley will divert much of the royalties from "Roots" to the foundation and the library. And he does, in fact, feel queasy even talking about soliciting contributions.

"I am just having to face the fact that what's envisioned for the foundation to accomplish involves costs beyond my present abilities," he says. "But I have faith it will come through."

His faith extends to seeking the help of his home town, Henning, Tenn., where Sister Will Ada Curry was known as the best prayer around. Recently he mailed off $100—just to get Sister Curry working on his side.

"And I have to tell you," he said, "I have a boyhood faith that Sister Curry's prayer is going to rend Heaven asunder in behalf of Kinte Foundation."

DISABLED MILITARY OFFICERS

Mr. PERCY. Mr. President, in recent days the disability retirement practices of the armed services have come into question.

The Senator from Wisconsin (Mr. PROXMIRE) has raised disturbing questions about a number of Air Force generals who have retired on tax-free retirement disability pay but who, prior to retirement, were qualified for flight pay.

Senator PROXMIRE has once again demonstrated his vigilance in trying to expose questionable practices in the Government. I urge the appropriate congressional committees to look into these allegations to see if abuses have occurred.

Mr. President, I ask unanimous consent that an editorial on this subject published in the Chicago Daily News of September 5, 1972, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THOSE DISABLED GENERALS

Sen. William Proxmire, the Wisconsin Democrat who likes to shoot at brass targets, may have scored a bull's-eye with his latest round. He had been looking at the retirement practices of the Air Force, and he discovered that an astounding number of generals were "disabled" when they retired.

Citing figures gathered by the General Accounting Office, Proxmire said that in the last five years 130 of the 327 Air Force generals who retired were found qualified for disability pay of 30 per cent or more. Yet 97 of the 130 rated disabled were able to fly planes and qualify for bonus flight pay in the year before they retired.

Another interesting fact comes into play: Retirement disability pay escapes taxes. With a 30-per cent or greater disability rating, 30 per cent or more of the generous pensions provided to generals are nontaxable.

The Air Force is conceding nothing at this point. It says that a general who has an ulcer or similar ailment could fly a plane and still qualify as partially disabled. But that isn't likely to satisfy civilian questioners. Even if it's all right for disabled generals to be flying those expensive planes around, why should an ulcer be worth 30 per cent off the top of the tax bill? Civilians may retire with an ulcer, or worse, but try telling the tax man that it's a "disability" deductible from the pension check.

There has to be a fair-sized suspicion that the generals are scratching each other's backs and finding disabilities at retirement age where none existed before. Maybe it's time to introduce the Air Force to the Internal Revenue Service, and see how the meeting comes out.

PAUL STRACHAN DIES—HE WAS A GREAT LEADER OF THE HANDICAPPED

Mr. RANDOLPH. Mr. President, the rain outside the Senate Chamber symbolizes the mourning for the passing of a giant and true friend of America's handicapped people. Paul A. Strachan, former president of the American Federation of the Physically Handicapped and pioneer in spearheading the movement for the President's Committee on Employment of the Handicapped, was a familiar figure on Capitol Hill for many years. The hard lines on Mr. Strachan's face illustrated that no one knew the problems involved by the physically handicapped more than did he. Although he was totally deaf and suffered many ailments that kept him hospitalized for more than 7 years, Paul's life's work was dedicated to helping others.

He fought unceasingly to assist the handicapped by means of constructive legislative in their behalf. I shall never forget House Joint Resolution 23 in 1945 calling for an annual observance of National Employ the Physically Handicapped Week. The joint resolution had passed the House, but on the last day of the session, the Senate had not acted. I remember clearly the words of Paul Strachan on that day:

> We knew that the Senate intended adjournment at about 5:30 or 6 p.m. and were fearful that our measure would get lost in the shuffle. If so, we would have the same dreary business of having it reintroduced; action by both House and Senate. We had already spent more than 5 years of hard work on it . . . so our anxiety was keen.

The joint resolution passed unanimously. Paul Strachan's uphill fight was won. President Truman signed the bill, and it became Public Law 79–176 on August 11, 1945. When the President's Committee on National Employ the Physically Handicapped was organized in 1947, Strachan was named assistant to the Chairman. He understood well the purpose of National Employ the Physically Handicapped Week, and he effectively conveyed that purpose as an effort to direct the attention of the Nation, and especially employers, to the true worth of the handicapped as valuable members of the U.S. work force. Paul Strachan knew the necessity of educating all of us, especially employers, public and private, to give disabled persons the opportunity to become productive citizens.

As a member of the President's Committee on Employment of the Handicapped, I know of the problems and difficulties in convincing people of the value of handicapped persons as constructive employees. But thanks to persons like Paul Strachan, our Nation is moving forward with programs of opportunity for the handicapped.

To his four sons, we extend our sympathy. They have lost a wonderful father. Our Nation has lost a courageous, persevering, and unselfish worker in the cause of the disadvantaged.

VICTIMS OF CRIME ACT OF 1972

The PRESIDENT pro tempore. Under the previous order, the Chair lays before the Senate S. 750, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 750) to provide for the compensation of persons injured by certain criminal acts, to make grants to States for the payment of such compensation, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Victims of Crime Act of 1972".

COMPENSATION FOR VICTIMS OF VIOLENT CRIME

DECLARATION OF PURPOSE

SEC. 101. It is the declared purpose of Congress in this Act to promote the public welfare by establishing a means of meeting the financial needs of the innocent victims of violent crime or their surviving dependents and intervenors acting to prevent the commission of crime or to assist in the apprehension of suspected criminals.

PART A—FEDERAL COMPENSATION PROGRAM

SEC. 102. The Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by—

(1) redesignating sections 451 through 455, respectively, as sections 421 through 425;

(2) redesignating sections 501 through 521, respectively, as sections 550 through 570;

(3) redesignating parts F, G, H, and I of title I, respectively, as parts I, J, K, and L of title I; and

(4) adding at the end of part E of title I, as amended by this Act, the following new part:

"PART F—FEDERAL COMPENSATION FOR VICTIMS OF VIOLENT CRIME

"DEFINITIONS

"SEC. 450. As used in this part—

"(1) 'Board' means the Violent Crimes Compensation Board established by this part;

"(2) 'Chairman' means the Chairman of the Violent Crimes Compensation Board established by this part;

"(3) 'child' includes a stepchild, an adopted child, and an illegitimate child;

"(4) 'claim' means a written request to the Board for compensation made by or on behalf of an intervenor, a victim, or the surviving dependent or dependents of either of them;

"(5) 'claimant' means an intervenor, victim, or the surviving dependent or dependents of either of them;

"(6) 'compensation' means payment by the Board for net losses or pecuniary losses to or on behalf of an intervenor, a victim, or the surviving dependent or dependents of either of them;

"(7) 'dependent' means—

"(A) a surviving spouse;

"(B) an individual who is a dependent of of the deceased victim or intervenor within the meaning of section 152 of the Internal Revenue Code of 1954 (26 U.S.C. 152); or

"(C) a posthumous child of the deceased intervenor or victim;

"(8) 'financial stress' means the undue financial strain experienced by a victim or his surviving dependent or dependents as the result of pecuniary loss from an act, omission, or possession giving rise to a claim under this part, disregarding ownership of—

"(A) a residence;

"(B) normal household items and personal effects;

"(C) an automobile;

"(D) such tools as are necessary to maintain gainful employment; and

"(E) all other liquid assets not in excess of one year's gross income or $10,000 in value, whichever is less;

"(9) 'gross losses' means all damages, including pain and suffering and including property losses, incurred by an intervenor or victim, or surviving dependent or dependents of either of them, for which the proximate cause is an act, omission, or possession enumerated in section 456 of this part, or set forth in paragraph (B) of subsection (18) of this section;

"(10) 'guardian' means a person who is entitled by common law or legal appointment to care for and manage the person or property, or both, of a minor or incompetent intervenor or victim, or surviving dependent or dependents of either of them;

"(11) 'intervenor' means a person who goes to the aid of another and is killed or injured while acting not recklessly to prevent the commission or reasonably suspected commission of a crime enumerated in section 456 of this part, or while acting not recklessly to apprehend a person reasonably suspected of having committed such a crime;

"(12) 'liquid assets' includes cash on hand, savings accounts, checking accounts, certificates of deposit, stocks, bonds, and all other personal property that may be readily converted into cash;

"(13) 'member' means a member of the Violent Crimes Compensation Board established by this part;

"(14) 'minor' means an unmarried person who is under eighteen years of age;

"(15) 'net losses' means gross losses, excluding pain and suffering, that are not otherwise recovered or recoverable—

"(A) under insurance programs mandated by law;

"(B) from the United States, a State, or unit of general local government for a personal injury or death otherwise compensable under this part;

"(C) under contract or insurance wherein the claimant is the insured or beneficiary; or

"(D) by other public or private means;

"(16) 'pecuniary losses' means net losses which cover—

"(A) for personal injury—

"(1) all appropriate and reasonable expenses necessarily incurred for medical, hospital, surgical, professional, nursing, dental, ambulance, and prosthetic services relating to physical or psychiatric care;

"(2) all appropriate and reasonable expenses necessarily incurred for physical and occupational therapy and rehabilitation;

"(3) actual loss of past earnings and anticipated loss of future earnings because of a disability resulting from the personal injury at a rate not to exceed $150 per week; and

"(4) all appropriate and reasonable expenses necessarily incurred for the care of minor children enabling a victim or his or her spouse, but not both of them, to continue gainful employment at a rate not to exceed $30 per child per week, up to a maximum of $75 per week for any number of children;

"(B) for death—

"(1) all appropriate and reasonable expenses necessarily incurred for funeral and burial expenses;

"(2) loss of support to a dependent or dependents of a victim, not otherwise compensated for as a pecuniary loss for personal injury, for such period of time as the dependency would have existed but for the death of the victim, at a rate not to exceed a total of $150 per week for all dependents; and

"(3) all appropriate and reasonable expenses, not otherwise compensated for as a pecuniary loss for personal injury, which are incurred for the care of minor children, enabling the surviving spouse of a victim to engage in gainful employment, at a rate not to exceed $30 per week per child, up to a maximum of $75 per week for any number of children;

"(17) 'personal injury' means actual bodily harm and includes pregnancy, mental distress, and nervous shock; and

"(18) 'victim' means a person who is killed or who suffers personal injury where the proximate cause of such death or personal injury is—

"(A) a crime enumerated in section 456 of this part; or

"(B) the not reckless actions of an intervenor in attempting to prevent the commission or reasonably suspected commission of a crime enumerated in section 456 of this part or in attempting to apprehend a person reasonably suspected of having committed such a crime.

"BOARD

"SEC. 451. (a) There is hereby established a Board within the Department of Justice to be known as the Violent Crimes Compensation Board. The Board shall be composed of three members, each of whom shall have been members of the bar of the highest court of State for at least eight years, to be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members of the Board to serve as Chairman.

"(b) No member of the Board shall engage in any other business, vocation, or employment.

"(c) The Board shall have an official seal.

"(d) The term of office of each member of the Board taking office after June 30, 1972, shall be eight years, except that (1) the terms of office of the members first taking office after June 30, 1972, shall expire as designated by the President at the time of appointment, one at the end of four years, one at the end of six years, and one at the end of eight years, after June 30, 1972; and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

"(e) Each member of the Board shall be eligible for reappointment.

"(f) Any member of the Board may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

"(g) The principal office of the Board shall be in or near the District of Columbia, but the Board or any duly authorized representative may exercise any or all of its powers in any place.

"ADMINISTRATION

"SEC. 452. The Board is authorized in carrying out its functions under this part to—

"(1) appoint and fix the compensation of an Executive Director and a General Counsel and such other personnel as the Board deems necessary in accordance with the provisions of title 5 of the United States Code;

"(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5 of the United States Code, but at rates not to exceed $100 a day for individuals;

"(3) promulgate such rules and regulations as may be required to carry out the provisions of this part;

"(4) designate representatives to serve or assist on such advisory committees as the Board may determine to be necessary to maintain effective liaison with Federal agencies and with State and local agencies developing or carrying out policies or programs related to the provisions of this part;

"(5) request and use the services, personnel, facilities, and information (including suggestions, estimates, and statistics) of Federal agencies and those of State and local public agencies and private institutions, with or without reimbursement therefor;

"(6) enter into and perform, without regard to section 529 of title 31 of the United States Code, such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its functions, with any public agency, or with any person, firm, association, corporation, or educational institution, and make grants to any public agency or private nonprofit organization;

"(7) request and use such information, data, and reports from any Federal agency as the Board may from time to time require and as may be produced consistent with other law;

"(8) arrange with the heads of other Federal agencies for the performance of any of its functions under this part with or without reimbursement and, with the approval of the President, delegate and authorize the redelegation of any of its powers under this part;

"(9) request each Federal agency to make its services, equipment, personnel, facilities, and information (including suggestions, estimates, and statistics) available to the greatest practicable extent to the Board in the performance of its functions;

"(10) pay all expenses of the Board, including all necessary travel and subsistence expenses of the Board outside the District of Columbia incurred by the members or employees of the Board under its orders on the presentation of itemized vouchers therefor approved by the Chairman or his designate; and

"(11) establish a program to assure extensive and continuing publicity for the provisions relating to compensation under this part, including information on the right to file a claim, the scope of coverage, and procedures to be utilized incident thereto.

"COMPENSATION

"SEC. 453. (a) The Board shall order the payment of compensation—

"(1) in the case of the personal injury of an intervenor or victim, to or on behalf of that person; or

"(2) in the case of the death of the intervenor or victim, to or on behalf of the surviving dependent or dependents of either of them.

"(b) The Board shall determine the amount of compensation under this part—

"(1) in the case of claim by an intervenor or his surviving dependent or dependents, by computing the net losses of the claimant; and

"(2) in the case of a claim by a victim or his surviving dependent or dependents, by computing the pecuniary losses of the claimant.

"(c) The Board may order the payment of compensation under this part to the extent it is based upon anticipated loss of future earnings or loss of support of the victim for ninety days or more, or child care payments, in the form of periodic payments during the protracted period of such loss of earnings, support or payments, or ten years, whichever is less.

"(d) The Board may order the payment of compensation under this part to a victim or his surving dependent or dependents held in abeyance until such time as the victim or his surviving dependent or dependents has exhausted his liquid assets.

"(e)(1) Whenever the Board determines, prior to taking final action upon a claim, that such claim is one with respect to which an order of compensation will probably be made, the Board may order emergency compensation not to exceed $1,500 pending final action on the claim.

"(2) The amount of any emergency compensation ordered under paragraph (1) of this subsection shall be deducted from the amount of any final order for compensation.

"(3) Where the amount of any emergency compensation ordered under paragraph (1) of this subsection exceeds the amount of the final order for compensation, or if there is no order for compensation made, the recipient of any such emergency compensation shall be liable for the repayment of such compensation. The Board may waive all or part of such repayment.

"(f) No order for compensation under this part shall be subject to execution or attachment.

"(g) The availability or payment of compensation under this part shall not affect the right of any person to recover damages from any other person by a civil action for the injury or death, subject to the limitations of this part—

"(1) in the event an intervenor, a victim, or the surviving dependent or dependents of either of them who has a right to file a claim under this part, should first recover damages from any other source based upon an act, omission, or possession giving rise to a claim under this part, such damages shall be first used to offset gross losses that do not qualify as net or pecuniary losses; and

"(2) in the event an intervenor, victim, or the surviving dependent or dependents of either of them receives compensation under this part and subsequently recovers damages from any other source based upon an act, omission, or possession that gave rise to compensation under this part, the Board shall be reimbursed for compensation previously paid to the same extent compensation would have been reduced had recovery preceded compensation under paragraph (1) of this subsection.

"(h) The Board may reconsider a claim at any time and modify or rescind previous orders for compensation based upon a change in circumstances of the claimant.

"LIMITATIONS

"SEC. 454. (a) No order for compensation under this part shall be allowed to or on behalf of a victim or his surviving dependent or dependents unless the Board finds that such a claimant will suffer financial stress from pecuniary losses for which the act, omission, or possession, giving rise to the claim was the proximate cause.

"(b) No order for compensation under this part shall be made unless the claim has been made within one year after the date of the act, omission, or possession resulting in the injury or death, unless the Board finds that the failure to file was justified by good cause.

"(c) No order for compensation under this part shall be made to or on behalf of an intervenor, victim, or the surviving dependent or dependents of either of them unless a minimum pecuniary or net loss of $100 or an amount equal to a week's earnings or support, whichever is less, has been incurred.

"(d) No order for compensation under this part shall be made unless the act, omission, or possession giving rise to a claim under this part, was reported to the law enforcement officials within seventy-two hours after its occurrence, unless the Board finds that the failure to report was justified by good cause.

"(e) No order for compensation under this part to or on behalf of a victim, his surviving dependent or dependents, as the result of any one act, omission, or possession, giving rise to a claim, shall be in excess of $50,000, including lump-sum and periodic payments.

"(f) The Board, upon finding that any claimant has not substantially cooperated with all law enforcement agencies incident to the act, omission, or possession that gave rise to the claim, may reduce, deny, or withdraw any order for compensation under this part.

"(g) The Board, in determining whether to order compensation or the amount of the compensation, shall consider the behavior of the claimant and whether, because of provocation or otherwise, he bears any share of responsibility for the act, omission, or possession that gave rise to the claim for compensation and—

"(1) the Board shall reduce the amount of compensation to the claimant in accordance with its assessment of the degree of such responsibility attributable to the claimant, or

"(2) in the event the claimant's behavior was a substantial contributing factor to the act, omission, or possession giving rise to a claim under this part, he shall be denied compensation.

"(h) No order for compensation under this part shall be made to or on behalf of a person engaging in the act, omission, or possession giving rise to the claim for compensation, to or on behalf of his accomplice, a member of the family or household of either of them, or to or on behalf of any person maintaining continuing unlawful sexual relations with either of them.

"PROCEDURES

"SEC. 455. (a) The Board is authorized to receive claims for compensation under this part filed by an intervenor, a victim, or the surviving dependent or dependents of either of them, or a guardian acting on behalf of such a person.

"(b) The Board—

"(1) may subpena and require production of documents in the manner of the Securities and Exchange Commission as provided in subsection (c) of section (18) of the Act of August 26, 1935, except that such subpena shall only be issued under the signature of the Chairman, and application to any court for aid in enforcing such subpena shall be made only by the Chairman, but a subpena may be served by any person designated by the Chairman;

"(2) may administer oaths, or affirmations to witnesses appearing before the Board, receive in evidence any statement, document, information, or matter that may, in the opinion of the Chairman, contribute to its functions under this part, whether or not such statement, document, information, or matter would be admissible in a court of law, provided it is relevant and not privileged;

"(3) shall, if hearings are held, conduct such hearings open to the public, unless in a particular case the Chairman determines that the hearing, or a portion thereof, should be held in private, having regard to the fact that a criminal suspect may not yet have been apprehended or convicted, or to the interest of the claimant; and

"(4) may, at the discretion of the Chairman, appoint an impartial licensed physician to examine any claimant under this part and order the payment of reasonable fees for such examination.

"(c) The Board shall be an 'agency of the United States' under subsection (1) of section 6001 of title 18 of the United States Code for the purpose of granting immunity to witnesses.

"(d) The provisions of chapter 5 of title 5 of the United States Code shall not apply to adjudicatory procedures to be utilized before the Board.

"(e)(1) A claim for compensation under this part may be acted upon by a member designated by the Chairman to act on behalf of the Board.

"(2) In the event the disposition by a member as authorized by paragraph (1) of this subsection is unsatisfactory to the claimant, the claimant shall be entitled to a denovo hearing of record on his claim by the full Board.

"(f)(1) Decisions of the full Board shall be in accord with the will of a majority of the members and shall be based upon a preponderance of the evidence.

"(2) All questions as to the relevancy or privileged nature of evidence at such times as the full Board shall sit shall be decided by the Chairman.

"(3) A claimant at such times as the full Board shall sit shall have the right to produce evidence and to cross-examine such witnesses as may appear.

"(g)(1) The Board shall publish regulations providing that an attorney may, at the conclusion of proceedings under this part, file with the Board an appropriate statement for a fee in connection with services rendered in such proceedings.

"(2) After the fee statement is filed by an attorney under paragraph (1) of this subsection, the Board shall award a fee to such attorney on substantially similar terms and conditions as is provided for the payment of representation under section 3006A of title 18 of the United States Code.

"(3) Any attorney who charges or collects for services rendered in connection with any proceedings under this part any fee in any amount in excess of that allowed under this subsection shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(h) The United States Court of Appeals for the District of Columbia shall have jurisdiction to review all final orders of the Board. No finding of fact supported by substantial evidence shall be set aside.

"CRIMES

"SEC. 456. (a) The Board is authorized to order compensation under this part in any case in which an intervenor, victim, or the surviving dependent or dependents of either of them files a claim when the act, omission, or possession giving rise to the claim for compensation occurs—

"(1) within the 'special maritime and territorial jurisdiction of the United States' within the meaning of section 7 of title 18 of the United States Code;

"(2) within the District of Columbia; or

"(3) within 'Indian country' within the meaning of section 1151 of title 18 of the United States Code. "(b) This part applies to the following acts, omissions, or possessions:

"(1) aggravated assault;
"(2) arson;
"(3) assault;
"(4) burglary;
"(5) forcible sodomy;
"(6) kidnaping;
"(7) manslaughter;
"(8) mayhem;
"(9) murder;
"(10) negligent homicide;
"(11) rape;
"(12) robbery;
"(13) riot;
"(14) unlawful sale or exchange of drugs;
"(15) unlawful use of explosives;
"(16) unlawful use of firearms;
"(17) any other crime, including poisoning, which poses a substantial threat of personal injury; or
"(18) attempts to commit any of the foregoing.

"(c) For the purposes of this part, the operation of a motor vehicle, boat, or aircraft that results in an injury or death shall not constitute a crime unless the injuries were intentionally inflicted through the use of such vehicle, boat, or aircraft or unless such vehicle, boat, or aircraft is an implement of a crime to which this part applies.

"(d) For the purposes of this part, a crime may be considered to have been committed notwithstanding that by reason of age, insanity, drunkeness, or otherwise, the person engaging in the act, omission, or possession was legally incapable of committing a crime.

"SUBROGATION

"SEC. 457. (a) Whenever an order for compensation under this part has been made for loss resulting from an act, omission, or possession of a person, the Attorney General may, within three years from the date on which the order for compensation was made, institute an action against such person for the recovery of the whole or any specified part of such compensation in the district court of the United States for any judicial district in which such person resides or is found. Such court shall have jurisdiction to hear, determine, and render judgment in any such action. Any amounts recovered under this subsection shall be deposited in the Criminal Victim Indemnity Fund established by section 458 of this part.

"(b) The Board shall provide to the Attorney General such information, data and reports as the Attorney General may require to prosecute actions in accordance with this section.

"INDEMNITY FUND

"SEC. 458. (a) There is hereby created on the books of the Treasury of the United States a fund known as the Criminal Victim Indemnity Fund (hereinafter referred to as the 'Fund'). Except as otherwise specifically provided, the Fund shall be the repository of (1) criminal fines paid in the various courts of the United States, (2) additional amounts that may be appropriated to the Fund as provided by law, and (3) such other sums as may be contributed to the Fund by public or private agencies, organizations, or persons.

"(b) The Fund shall be utilized only for the purposes of this part.

"ADVISORY COUNCIL

"SEC. 459. (a) There is hereby established an Advisory Council on the Victims of Crime (hereinafter referred to as the 'Council') consisting of the members of the Board and one representative from each of the various State crime victims compensation programs referred to in paragraph (10) of subsection (b) of section 301 of this title, each of whom shall serve without additional compensation.

"(b) The Chairman of the Board shall also serve as the Chairman of the Council.

"(c) The Council shall meet not less than once a year, or more frequently at the call of the Chairman, and shall review the administration of this part and programs under paragraph (10) of subsection (b) of section 301 of this title and advise the Administration on matters of policy relating to their activities thereunder.

"(d) The Council is authorized to appoint an advisory committee to carry out the provisions of this section.

"(e) Each member of the advisory committee, other than a member of the Board, appointed pursuant to subsection (d) of this section shall receive $100 a day, including traveltime, for each day he is engaged in the actual performance of his duties as a member of the committee. Each member of the Council or advisory committee shall also be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties.

"REPORTS

"SEC. 460. The Board shall transmit to the Congress an annual report of its activities under this part."

COMPENSATION OF BOARD MEMBERS

SEC. 103. (a) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(58) Chairman, Violent Crimes Compensation Board."

(b) Section 5315 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(95) Members, Violent Crimes Compensation Board."

CRIMINAL VICTIM INDEMNITY FUND FINES

SEC. 104. (a) Chapter 227 of title 18 of the United States Code is amended by adding at the end thereof the following new section:

"§ 3579. Fine imposed for Criminal Victim Indemnity Fund

"In any court of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, upon conviction of a person of an offense resulting in personal injury, property loss, or death, the court shall take into consideration the financial condition of such person, and may, in addition to any other penalty, order such person to pay a fine in an amount of not more than $10,000 and such fine shall be deposited into the Criminal Victim Indemnity Fund of the United States."

(b) The analysis of chapter 227 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"3579. Fine imposed for Criminal Victim Indemnity Fund."

PART B—FEDERAL GRANT PROGRAM

SEC. 105. Subsection (b) of section 301 of part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968, is amended by adding at the end thereof the following new paragraph:

"(10) The cost of administration and that portion of the costs of State programs, other than in the District of Columbia, to compensate victims of violent crime which are substantially comparable in coverage and limitations to part F of this title."

SEC. 106. Paragraph (a) of section 601 of part G (redesignated part K by this Act) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "and" the second time it appears, striking "or" the sixth time it appears, striking the period, and inserting the following: ", or programs for the compensation of victims of violent crimes."

SEC. 107. Section 501 of part F (redesignated as part I by this Act) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by inserting "(a)" immediately after "501" and adding at the end thereof the following new subsection:

"(b) In addition to the rules, regulations, and procedures under subsection (a) of this section, the Administration shall, after consultation with the Violent Crimes Compensation Board, establish by rule or regulation criteria to be applied under paragraph (10) of subsection (b) of section 301 of this title. In addition to other matters, such criteria shall include standards for—

"(1) the persons who shall be eligible for compensation;

"(2) the categories of crimes for which compensation may be ordered;

"(3) the losses for which compensation may be ordered; and

"(4) such other terms and conditions for the payment of such compensation as the Administration deems necessary and appropriate.

"PART C—MISCELLANEOUS PROVISIONS

"SEC. 108. Section 569 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended and as redesignated by this Act, is amended by inserting '(a)' immediately after '569' and by adding at the end thereof the following new subsection:

"'(b) There is authorized to be appropriated for the fiscal year ending June 30, 1973—

"'(1) $5,000,000 for the purposes of part F; and

"'(2) $10,000,000 for the purposes of paragraph (10) of subsection (b) of section 301 of part C.'

"SEC. 109. Until specific appropriations are made for carrying out the purposes of this Act, any appropriation made to the Department of Justice or the Law Enforcement invalid, the provisions of the other parts and their application shall, in the discretion of the Attorney General, be available for payments of obligations arising under this Act.

"SEC. 110. If the provisions of any part of this Act are found invalid or any amendments made thereby or the application thereof to any person or circumstances be held invalid, the provisions of the others parts and their application to other persons or circumstances shall not be affected thereby.

"SEC. 111. This Act shall become effective upon the date of enactment."

PRIVILEGE OF THE FLOOR

Mr. McCLELLAN. Mr. President, I ask unanimous consent that additional Judiciary Committee staff members G. Robert Blakey, Kenneth Lazarus, and Malcolm Hawk have the privilege of the floor during debate and votes on the following bills: S. 33, S. 750, H.R. 15883, and H.R. 8389, which are scheduled this morning.

Mr. MONDALE. Mr. President, I ask unanimous consent that Mr. Herb Jasper have the privilege of the floor during that period, excluding the voting.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, as the Senate proceeds with its consideration of S. 750, the "Victims of Crime Act of 1972," I take this opportunity to outline the background and development of this legislative proposal over the course of the 92d Congress.

At the outset, let me reiterate my belief that Congress must do all that is in its power to strengthen the peace forces within our society—the police, courts, and corrections.

But in our efforts to meet the needs of the criminal justice system, we must not forget that institutions of government exist for people. In our efforts to strengthen the means by which we identify, apprehend, and convict the criminal, we must not forget his innocent victim. For it is in his behalf ultimately that the criminal justice system must be operated.

Although the concept that society has an obligation to help meet the needs of crime victims has roots that run deep in legal tradition, modern law has sharply distinguished between criminal and civil proceedings.

The criminal is thought to owe a debt to society, which must be paid in the context of a criminal prosecution, in order to secure the safety of the people through the sentencing of offenders. In these public proceedings, the victim himself is a disinterested witness. The victim's personal remedy is supposed to be found in private action in tort.

Dissatisfaction with the practical effect of this modern dichotomy begins in recent years with the writings of the English penal reformer, Margery Fry. In 1954, she began to speak up for the innocent victims of violent crime, calling for the establishment of a more effective remedy for the victim than the traditional action in tort.

Her call for reform was answered in New Zealand in 1963. In that year, the New Zealand Parliament, under Conservative leadership, established the first Crime Compensation Tribunal, with discretionary power to award public compensation to the victim or his dependents where he had been injured or killed through the commission of certain specified offenses. Compensation was authorized for out-of-pocket expenses, loss of earnings, and other financial losses. The tribunal also empowered to order the offender to reimburse the indemnity fund from which the award was made.

In the following year, the Tory government in England announced a similar but nonstatutory program, proposed by the Home Secretary and put into operation with the consent of Parliament. Under the plan, a Criminal Injuries Compensation Board was established, with discretionary power to award compensation for personal injuries caused by violent crimes.

The first American jurisdiction to adopt the compensation principle was California. Its program was enacted in 1965 and was put into operation 2 years later. Since that time, similar or related programs have been authorized in New York in 1966; Hawaii, 1967; Massachusetts, 1967; Maryland, 1968; Nevada, 1967; New Jersey, 1971; Rhode Island, 1972, and most recently in Alaska in 1972.

Legislation has also been introduced and considered in Illinois, Ohio, Michigan, and other States as well as several of the Canadian Provinces. In Arkansas, Dr. Calvin R. Ledbetter, Jr., chairman of the political science department at the University of Arkansas at Little Rock, introduced house bill 175 in the 1971 regular session of the general assembly. The bill would have established a system of compensation for persons who sustain personal injury or death as a result of crime, or for their survivors.

The development and progress of S. 750 in the Senate during the current Congress may be summarized as follows:

First, on February 11, 1971, S. 750 was introduced by our distinguished majority leader (Mr. Mansfield).

Second, on June 17, 1971, and November 30, 1971, hearings were held on S. 750 and a number of related measures.

Third, on December 11, 1971, I introduced, on behalf of myself and a number of my colleagues, S. 2994 which in title I reflected the provisions of S. 750. Forty-three of my colleagues joined as cosponsors of S. 2994, and additional members cosponsored a similar measure, S. 2995: Senators Baker, Bayh, Beall, Bennett, Bible, Boggs, Burdick, Cannon, Case, Cook, Cranston, Eastland, Fannin, Gravel, Griffin, Gurney, Hansen, Hart, Harris, Hollings, Hruska, Hughes, Humphrey, Kennedy, Mansfield, Mathias, Metcalf, Miller, Mondale, Moss, Muskie, Nelson, Pell, Percy, Randolph, Ribicoff, Roth, Schweiker, Scott, Stafford, Stevens, Stevenson, Thurmond, Williams, and Young.

Fourth, on March 27, 1972, final hearings were held on S. 750, 2994, and all related measures.

Fifth, on July 19, 1972, S. 2994 cleared the Subcommittee on Criminal Laws and Procedures with an amendment in the nature of a substitute bill.

Sixth, on August 16, 1972, the Committee on the Judiciary divided S. 2994 into its component bills and ordered reported S. 16, "Civil Remedies for Victims of Racketeering Activity and Theft;" S. 2087, the "Public Safety Officers' Benefits Act of 1972;" and S. 33, "Group Life Insurance for Public Safety Officers." Thereafter, on September 5, 1972, S. 16 and S. 2087 passed the Senate. S. 33 yet awaits floor action.

Seventh, on September 8, 1972, S. 750, the final title of S. 2994, cleared the Senate Judiciary Committee with an amendment in the nature of a substitute bill, adopting the language of title I of S. 2994 as it cleared the Subcommittee on Criminal Laws and Procedures.

Although S. 750 was the subject of an amendment in the nature of a substitute bill, its underlying rationale was not disturbed.

This proposed legislation would on one level establish a direct Federal program to meet the financial needs of innocent victims of violent crime. Through the mechanism of an independent Federal Violent Crimes Compensation Board, it would provide compensation to two classes of people—"victims" and "intervenors"—or the surviving dependent or dependents of either of them, when the act giving rise to a claim occurs within the District of Columbia, Federal territorial or maritime jurisdiction or on an Indian reservation. A victim is a person who is killed or who suffers personal injury—but not property damage—where the proximate cause of such death or injury is a violent crime, while an intervenor is a person who goes to the aid of a policeman or victim to prevent a violent crime or to apprehend a suspect.

A victim is eligible for compensation covering his "pecuniary losses" and an intervenor may be compensated for his "net losses." Pecuniary losses generally include hospital and medical expenses and loss of earnings at a rate of $150 per week up to $50,000. Net losses are gross losses, excluding pain and suffering, that are not otherwise recovered or recoverable by public or private means.

Victims, as opposed to intervenors, must show some "financial stress" in order to qualify. "Financial stress" means undue financial strain as a result of the crime, but disregards ownership of a residence, normal household items and personal effects, an automobile, tools of trade, and liquid assets up to $10,000. This concept is introduced not to serve as a "means test," but to concentrate the Board's resources in the area of greatest need.

Other limitations include a requirement of reporting the offense within 72 hours, a duty to cooperate with law enforcement, and an exclusion of those who would be unjustly enriched by a payment, for example, an accomplice of the offender.

Payment of attorney's fees would also be authorized on terms and conditions paralleling those specified under the Criminal Justice Act of 1965 for the defense of the indigent accused.

A criminal conviction would not be a prerequisite for recovery, but if an award were made, the Board would become subrogated to the rights of the victim against the offender. In addition, if the offender was prosecuted, convicted and fined, the court would be authorized to direct that part of any fine paid be transferred to an indemnity fund to be administered by the Board.

On a second level, S. 750 would amend title I of the Omnibus Crime Control Act of 1968 and provide for a new grant program to be administered by the Law Enforcement Assistance Administration. States having victim-compensation programs could, upon filing appropriate plans, receive matching grants amounting to 75 percent of the costs of the State program for compensation of victims of crime.

Costs for this title, including the direct Federal program and the LEAA grant program, assuming eventual 100 percent participation, would scale from approximately $6 million in the first year of operation to a stabilized cost of approximately $30 million by fiscal year 1980.

For the benefit of my colleagues, I offer outlines of the various State crime compensation schemes and the proposed Federal statute, and I ask unanimous consent to have them printed in the Record at the conclusion of my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. McCLELLAN. Mr. President, compensation for the innocent victims of violent crime is an idea whose time has come.

I urge favorable action on this measure.

FEDERAL CRIME—COMPENSATION STATUTE, MAJOR FEATURES

1. GENERAL

Authority	Administration	Jurisdiction
Victims of Crime Act of 1972	Violent Crimes Compensation Board (Department of Justice)	Crimes or other acts giving rise to the claim must occur (1) within the maritime or territorial jurisdiction of the United States; (2) within the District of Columbia; or (3) within Indian Country.

2. SCOPE OF COMPENSATION

Claimants recognized	Losses recognized	Need requirement	Maximum compensation	3-party claimants
(1) Victim	(1) Net losses of intervenors	Victim must show "financial stress"	$50,000 as to victims. Not applicable to intervenors.	Payments, but not claims, are authorized.
(2) Intervenor or their surviving dependents.	(2) Pecuniary losses of victims	Not applicable to intervenors		

3 LIMITATIONS

Crimes covered	Period of limitations	Members of household	Deductible feature	Collateral recovery
List of crimes and "any other crime which poses a substantial threat of personal injury."	1 year. Extended upon showing of "good cause".	No claim if person is member of the family or household or maintaining continuing unlawful sexual relations with offender or accomplice.	Loss must be over $100 or 2-weeks earnings or support.	"Net losses" reduced by amounts recovered or recoverable from "public or private means." "Pecuniary losses" are derived from net losses. If suit gives rise to collateral recovery, amount is first deducted from "gross losses."

4. REQUIREMENTS

Duty to report	Duty to cooperate	Responsible claimant
Must be reported within 72 hours, but not necessarily by victim or claimant. Waived upon showing of "good cause."	May reduce, deny or withdraw compensation if claimant does not substantially cooperate with law enforcement incident to act giving rise to claim.	Compensation may be reduced in proportion to responsibility of claimant for act giving rise to claim, or deny compensation if claimant's behavior is substantial contributing factor.

5. PROCEDURES

Hearings	Burden of proof	Attorneys fees	Standards of review
Initially determined by 1 member. Hearing en banc (of record) is matter of right.	"Preponderance of the evidence" is burden to be met by claimants.	Authorized in accord with Criminal Justice Act. Do not diminish recovery and are not subject to ceiling.	"Substantial evidence" is standard for sustaining Board.

6. MISCELLANEOUS FEATURES

Emergency payments	Subrogation	Indemnity fund
Maximum of $1,500 which is subsequently deducted from final claim or repaid if claim is denied. Repayment may be waived.	Claim of victim against offender to extent of compensation may be pursued by the Attorney General for the United States.	Fund established which is the repository of (1) fines; (2) appropriated funds; (3) subrogation recovery; and (4) contributions.

STATE CRIME—COMPENSATION STATUTES, MAJOR FEATURES

GENERAL

States	Authority	Administration	Jurisdiction
Alaska	Violent Crimes Compensation Act of 1972	Violent Crimes Compensation Board within State Department of Health and Welfare.	Crime covered must be a crime against the State.
California	Victims of Crime Act of 1967	Board of Control (part of state welfare system)	Crimes which are committed in the State against a resident-claimant or an out-of-State crime against a domicilliary-claimant.
Hawaii	Criminal Injuries Compensation Act of 1967	Criminal Injuries Compensation Commission (independent).	Coextensive with jurisdication to prosecute crime giving rise to the claim.
Maryland	Criminal Injuries Compensation Act of 1968	Criminal Injuries Compensation Board (independent)	Situs of crime giving rise to the claim must be within the State.
Massachusetts	Compensation of Victims of Violent Crimes Act of 1967	District Courts of the Commonwealth	Situs of crime giving rise to the claim must be within the Commonwealth.
Nevada	Compensation for Victims of Crime Act of 1969	State Board of Examiners (workmens compensation)	Crime covered must be a crime against the State.
New Jersey	Criminal Injuries Compensation Act of 1971	Violent Crimes Compensation Board (independent)	Crime covered must be a crime against the State.
New York	Crime Victims Compensation Act of 1966	Crime Victims Compensation Board (independent)	Situs of crime giving rise to the claim must be within the State.
Rhode Island	Criminal Injuries Compensation Act of 1972 (effective 120 days following passage of Federal legislation entitled "The Victims of Crime Act of 1972").	State Superior Court sitting in special session at least once a year.	Situs of crime giving rise to claim must be within (1) physical confines of State; or (2) maritime jurisdiction of State.

SCOPE OF COMPENSATION

State	Claimants recognized	Losses recognized	Need requirement	Maximum compensation	3d party claimants
Alaska	Victims (including intervenors) —persons responsible for maintenance. —dependents.	(1) Expenses; (2) Loss of earning power; (3) Pecuniary losses of dependents; (4) Other reasonable losses.	A consideration but not a requirement.	$10,000	Claims and payments are authorized.
California	(1) Victim —family —dependent persons (2) "Private citizens" (intervenors) —widows —children	Pecuniary losses	Victim must show "need". Not applicable to "private citizen".	$5,000	Claims or payments not authorized.
Hawaii	(1) Victim —dependents —individual bearing loss (2) "Private citizens" (intervenors) —individual bearing loss.	(1) Pecuniary losses; (2) earning power; and (3) pain and suffering.	None	$10,000 plus any recovery from criminal.	Authorizes payments "to or on behalf of" the claimant.
Maryland	(1) Victim (2) "Good Samaritans" (intervenors) their spouses, children or dependents.	(1) Out of pocket expenses; (2) earnings; (3) support.	"Serious financial hardship" requirement.	In accordance with state workmen's compensation standards.	Claims or payments not authorized.
Massachusetts	(1) Victim —dependents	(1) Out of pocket expenses; (2) earnings; (3) support.	None	$10,000	Claims or payments not authorized.
Nevada	(1) Victim (means only intervenors) —dependents —person responsible for maintenance	All reasonable loses	"Need" is a consideration, but not a requirement.	$5,000	Authorizes payments "to or for the benefit of" the claimant.
New Jersey	(1) Victim —dependents —person responsible for maintenance	(1) Expenses; (2) loss of earning power; (3) reasonable pecuniary losses.	None	$10,000	Authorizes payments "to or for the benefit of" the claimant.
New York	(1) Victim —spouse —child —dependents	(1) Out of pocket expenses; (2) loss of earnings or; (3) support.	"Serious financial hardship" is a requirement.	$15,000 as to support or income. No ceiling on out of pocket expenses, including medical expenses.	Authorizes payments "to or on behalf of" the claimant.

SCOPE OF COMPENSATION—Continued

States	Authority	Administration		Jurisdiction	
Rhode Island	Victim —guardian —persons responsible for his maintenance —dependents —closest relative —legal representative	(1) Expenses; (2) pecuniary loses of dependents; (3) pain and suffering of victim; (4) any other reasonable pecuniary loss of victim.	None	$25,000	Authorizes payments "to or on behalf of" claimant.

LIMITATIONS

States	Crimes covered	Period of limitations	Members of household	Deductible feature	Collateral recovery
Alaska	Lists State crimes of violence	2 years	No claim allowed if person is member of the family or household or maintaining sexual relations with the offender.	None	Recovery from any private or public source reduces compensation.
California	State crime against resident or out of State crime against a domiciliary.	1 year for victims. No limitation on claim by "private citizens".	No restriction	None	Compensation reduced by "indemnification from any other source".
Hawaii	Lists State crimes of evidence	18 months	No claim allowed if person is relative or member of household of offender.	None	Compensation reduced by money received from offender or agency of State or Federal Government.
Maryland	State crimes. Motor vehicle crimes are covered only if intentional.	90 days	No claim allowed if person is a member of the family or household or maintaining sexual relations with the offender.	Loss must be over $100 or 2-weeks earnings or support.	Compensation reduced by "recovery from public or private sources."
Massachusetts	Crimes of force committed in the Commonwealth. Motor vehicle crimes are covered only if intentional.	1 year or 90 days after death, whichever is earlier.	No claim allowed if person is a member of the family or household or maintaining sexual relations with the offender.	Loss must be over $100 or 2-weeks earnings or support.	Compensation reduced by "insurance, amounts received from offender and other public funds".
Nevada	"A crime"	2 years	No claim allowed if person is a member of the family or household or maintaining sexual relations with the offender.	None	Compensation reduced by recovered expenses but not capital losses recovered elsewhere.
New Jersey	List of crimes plus catchall "other crimes of violence".	1 year	No claim allowed if person is a member of the family or household or maintaining sexual relations with the offender.	Loss must be over $100 or 2-weeks earnings or support.	Compensation "takes into account amounts received or receivable" from other sources.
New York	Crimes under State law. Motor vehicle crimes are covered if intentional.	90 days. Extended to 1 year upon showing of "good cause".	No claim allowed if person is a member of the family or household or maintaining sexual relations with the offender.	Loss must be over $100 or 2 weeks earnings or support.	Compensation reduced by collateral recovery.
Rhode Island	List of crimes plus catch-all "any other crime, excluding motor vehicle offenses, resulting in personal injury or death."	2 years	No compensation to spouse of offender or to other relative if benefit would indirectly inure to offender.	None	Recovery from public sources reduces compensation is such recovery and payments under act exceed total compensable losses.

REQUIREMENTS

States	Duty to report	Duty to cooperate	Responsible claimant
Alaska	Must be report of crime to police within 5 days of time when report could first have been reasonably made. No personal duty for claimant.	None	No compensation may be awarded if victim violated a penal law of State which violation caused or contributed to his injuries or death.
California	None	May deny compensation if claimant does not cooperate with police.	Not applicable to victims, but implicitly applicable to "private citizens".
Hawaii	Must be arrest or report of crime to trigger statute. No personal duty for claimant.	None	Compensation may be reduced or denied in proportion to responsibility of claimant for act giving rise to claim.
Maryland	Crime must be reported within 48 hours, but not necessarily by victim or claimant.	May reduce, deny or withdraw compensation if claimant does not cooperate with police.	Compensation may be reduced or denied in proportion to responsibility of claimant for act giving rise to claim.
Massachusetts	Crime must be reported within 48 hours, but not necessarily by victim or claimant.	None	Compensation may be reduced or denied in proportion to responsibility of claimant for act giving rise to claim.
Nevada	Report of crime is a "consideration" in deciding whether to award compensation.	Cooperation with police is a "consideration" in determination of compensation.	Merely a "consideration" in determining amount of compensation unless claimant is criminally responsible for act giving rise to claim in which event claim is denied.
New Jersey	Crime must be reported within 3 months, but not necessarily by victim or claimant.	None	Compensation may be reduced or denied in proportion to responsibility of claimant for act giving rise to claim.
New York	Crime must be reported within 48 hours, but not necessarily by victim or claimant. Waived upon showing of "good cause."	None	Compensation may be reduced or denied in proportion to responsibility of claimant for act giving rise to claim.
Rhode Island	None	None	Claimant's behavior is always a consideration in determining amount of award. No compensation allowable which would inure to benefit of offender.

PROCEDURES

States	Hearings	Burden of proof	Attorneys fees	Standards of review
Alaska	Hearing (not of record) is matter or right	None set forth in statute	Up to 15 percent of compensation and considered part of award.	None.
California	Automatic hearing (not of record) in which State Attorney General is a party.	"Preponderance of the evidence" is burden to be met by claimants.	Up to 10 percent of compensation which is not subject to maximum.	None.
Hawaii	Hearing (not of record) is matter of right	None set forth in statute	Up to 15 percent of award but subject to maximum.	None.
Maryland	Initially heard by one member Hearing en banc is matter of right.	None set forth in statute	Not authorized	None.
Massachusetts	Proceeds as civil action in which State Attorney General defends suit.	None set forth in statute	Up to 15 percent of award but subject to maximum.	None.
Nevada	Hearing of record by hearing officer with right to subsequent hearing en banc.	None set forth in statute	Up to 10 percent and considered part of award	None.

PROCEDURES—Continued

States	Hearings	Burden of proof	Attorneys fees	Standards of review
New Jersey	Hearing conducted if member of board so desires	None set forth in statute	Up to 15 percent over and above award	None.
New York	Hearing optional with disposition by individual member. Matter of right if claimant requests subsequent hearing en banc.	None set forth in statute	Not authorized	None.
Rhode Island	Proceeds as civil suit	Substantial evidence	Authorized in accordance with State minimum fee schedule over and above award.	Court decision is final. No review but may petition for reconsideration.

MISCELLANEOUS FEATURES

States	Emergency payments	Subrogation	Indemnity fund
Alaska	Maximum of $500 if "undue hardship" would otherwise result. Subsequently deducted from final award or repaid if claim is denied.	Claim of victim against offender may be pursued by the State if compensation is paid and any surplus recovered goes to claimant.	None authorized.
California	Not authorized	Claim of victim against offender may be pursued by the State if compensation is paid and recovery is to the State.	Fund established which is the repository of special authorized fines and appropriated funds.
Hawaii	Not authorized	Claim of victim against offender may be pursued by the State if compensation is paid and this is all paid to claimant.	None authorized.
Maryland	Maximum of $500 which is subsequently deducted from final award or repaid if claim is denied.	Claim of victim against offender may be pursued by the State if compensation is paid and recovery is to the State.	None authorized.
Massachusetts	Not authorized	Claim of victim against offender may be pursued by the State if compensation is paid and recovery is to the State.	None authorized.
Nevada	Not authorized	Claim of victim against offender may be pursued by the State if compensation is paid and recovery is to the State.	None authorized.
New Jersey	Not authorized	Claim of victim against offender may be pursued by the State if compensation is paid and any surplus recovered goes to claimant.	None authorized.
New York	Maximum of $500 which is subsequently deducted from final award or repaid if claim is denied.	Claim of victim against offender may be pursued by the State if compensation is paid and recovery is to the State.	None authorized.
Rhode Island	None	Claim of victim may be pursued against the offender by the State if compensation is based on criminal conviction.	Violent Crimes Indemnity Fund is repository of criminal fines.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the committee amendments in the nature of a substitute bill be agreed to en bloc and that the bill as amended be considered as original text for the purposes of amendment.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McCLELLAN. Now, Mr. President, how much time have I consumed?

The PRESIDENT pro tempore. Eight minutes.

Mr. MANSFIELD. Mr. President, will the Senator from Arkansas yield me 7 minutes?

Mr. McCLELLAN. I yield to the distinguished majority leader such time as he may desire.

Mr. MANSFIELD. Mr. President, S. 750 is designed to restore the rights of the criminal victim to their proper place in this Nation's system of criminal justice. It is charged that the institutions of justice have become more concerned with the protection of the rights of the criminal than with the need for stiffer action against lawbreakers. But to me the major liability with the present system of criminal justice is its utter failure to consider the innocent victim. This is the whole basis for urging today that the concept of victim compensation be revived. S. 750 at long last recognizes that the victim is entitled to just as much protection as is accorded the criminal under the Constitution. Until now, it was the criminal who got the guarantee while the victim most often went ignored.

May I say also that S. 750 is not the Mansfield bill. Rather, it represents the combined efforts of a number of Senators who have exhibited a strong and lasting interest in providing relief for the innocent victim of violent crime. Senator McCLELLAN embraced such a concept out of his deep compassion for those who are made to suffer at the hands of the criminal. It was the distinguished Senator from Minnesota (Mr. MONDALE) who provided his own strong leadership on this issue with S. 2817. I must say that many of the features of the Mondale bill, S. 2817, have been incorporated directly into S. 750 as it has been reported by the committee. In short, the record shows that providing recognition for the criminal victim has been the product of a joint effort, undertaken on a broad bipartisan basis, cutting across the entire philosophical front.

That is as it should be. The U.S. Government has paid out millions to foreign nationals injured by the criminal acts of Americans committed abroad.

Let me repeat that the U.S. Government has paid out millions to foreign nationals injured by the criminal acts of Americans committed abroad.

What S. 750 would achieve, therefore, would only give to our own citizens who suffer criminal injury the same consideration already provided by the United States to citizens of other nations.

And what about the concern this Congress exhibited for the victims of flood disaster? Within the last few weeks this Congress provided nearly $2 billion as I recall for those who suffered from recent flood damage. Should we be any less concerned for the victim of violent crime? It should be noted that the program here proposed for victims of crime would cost about 1 percent of that established to aid victims of flood disaster.

Indeed, as a matter of public policy, compensation programs are not revolutionary concepts by far. In fact there is much similarity in rationale and origin between notions of compensating workers, assuring them of a reasonably safe place in which to work, and compensating victims of crime, assuring them a reasonably safe society in which to live. Just as the worker was historically frustrated in his attempts to recover damages, so, too, has the victim of crime today been frustrated. In many cases the offender is not apprehended. When he is, he is often destitute. Further, present penal methods do not offer the offender an ability to make restitution because he cannot earn a gainful living.

Along with the worker compensation concept, other steps have been taken in the past 30 years or more which manifest society's abandonment of its laissez-faire attitudes when facing matters of collective community need. Social security and medicare; aid to dependent children; assistance for the handicapped, the aged, and the blind; notions of no-fault insurance and national health insurance—all reflect a recognition of collective responsibility.

Fulfilling this responsibility with regard to victims of crime is no easy task. Senate bill 750 attempts to face the problem. Adopting it at the Federal level by no means represents the first such step taken in modern times. Within the last 10 years, New Zealand, England, particular Provinces in Canada and Australia have all enacted governmental programs of compensation for innocent victims of violent crimes. In addition, the States of California, Hawaii, Nevada, Maryland, Massachusetts, New York, and most recently, New Jersey, Rhode Island, and Alaska—all have enacted some type of compensation program.

S. 750 provides the impetus at the national level and, in my opinion, Mr. President, it is about time.

The PRESIDING OFFICER (Mr. GAMBRELL). Who yields time?

Mr. HRUSKA. Mr. President, I yield the Senator from Kentucky 1 minute.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 1 minute.

Mr. COOPER. Mr. President, like the distinguished majority leader and others, we who support the bill do so because it is just. It will be just to those who work to control crime, our law enforcement officers, those who may die as a result of their efforts to control it. Their families cannot be compensated for their loss, but should be compensated as far as we do so, for the loss of support.

At the same time, I ask unanimous consent to have printed in the RECORD an article published in the September 17, 1972, Sunday Star-News entitled "McLean Gardens, Brentwood—Link Sought in Four Slayings."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LINK SOUGHT IN FOUR SLAYINGS

(By Mary Ann Kuhn)

District police are trying to determine whether there is a connection between the recent murder of a McLean Gardens woman and three unsolved slayings earlier this year in the Brentwood Village apartments in Northeast Washington.

Thomas Willis Whalen, 29, a janitor at McLean Gardens since March, has been charged with first-degree murder in the strangling of a woman tenant there, Rebecca Ann Rieser, 26, a marine biologist for the Fish and Wildlife Service of the Interior Department. Her body was found last Sunday on the floor of her room in a woman's residential dormitory at 40 Plattsburg Court NW.

Before working at McLean Gardens, Whalen worked at Brentwood Village apartments for 1½ months as a porter, doing such tasks as cleaning hallways, officials said. They said he worked at Brentwood Village from Nov. 15 to Dec. 30 and "left of his own accord."

On Jan. 20, the bodies of a 20-year-old District woman, her throat slashed, and her 2-year-old daughter were discovered in a partially filled bathtub in their apartment at Brentwood Village, according to police.

Police said at the time that Vera Pickett, and her daughter, Theresa, had been dead two days when they were found by police in their apartment in the 2500 block of 14th street.

About two months later, on March 10, the partially decomposed body of 18-year-old Joyce Pollen, who had been stabbed, was found at a vacant apartment in Brentwood Village, police said.

Although police refused to provide any details, it was learned that detectives are investigating a possible link between the Reiser slaying and the three Brentwood Village deaths.

Police listed Whalen's address as in the 200 block of Rhode Island Avenue NE, which is 10 or 12 blocks from Brentwood Village. He and his wife had lived there one week before he was arrested, according to court records. He was recently married, sources said.

Three months earlier, Whalen, a lifelong Washington resident, lived alone in the 200 block of S Street NE, according to court records. That residence is in the same general area as the Rhode Island Avenue address.

There have been conflicting reports on the death of Elizabeth Michaels, whose body was found hanging in her room at McLean Gardens on July 3. She lived at 3831 Porter St. NW in a dormitory adjacent to Miss Rieser's.

One source said a suicide note was found in Mrs. Michaels' death. However, Lt. Joseph O'Brien, head of the homicide squad, denied that. He said the case is listed as a suicide and has not been reopened. He declined to comment further.

Other sources said that even though the case is listed as a suicide, police still are seeking to find whether there is a connection between Mrs. Michaels' death and the Rieser slaying.

Miss Rieser's death was originally thought to be a suicide. Dr. James Luke, D.C. medical examiner, said an autopsy revealed that she had been manually strangled, although her body had been hanged in an apparent "masquerade" to make her death look like a suicide.

Authorities said a girl who was a friend of Miss Rieser and lives at McLean Gardens found the body shortly before noon last Sunday and called police. They said the friend and Miss Rieser were to go swimming. When Miss Rieser didn't show up, the friend went to her apartment.

Whalen has also been charged with rape and assault with a dangerous weapon, a knife, in an attack on a woman last Sunday night in the 2000 block of 3rd Street NE. Prosecutors are not pressing these charges at this time.

Whalen is being held without bond pending a court hearing Tuesday to determine whether his parole should be revoked. He has been on parole in a 1962 rape and robbery, according to court records.

In 1965 he was sentenced for rape and robbery to six to 18 years and was paroled on Sept. 10, 1971, through a community halfway house. The parole term was to expire in 1981. The parole board has issued a warrant for violation of parole.

Court records show that Whalen was a psychiatric patient at St. Elizabeths Hospital between 1956 and 1963 as a result of the hammer slaying of a 75-year-old woman when he was 13.

A preliminary hearing has been scheduled Thursday for Whalen on the first-degree murder charge relating to Miss Rieser's slaying.

Mr. COOPER. Mr. President, the article deals with the question of parole of individuals who have been convicted of a crime and then, in a short time after parole, they commit the same offense for which they were originally sent to prison.

The article speaks specifically of a man who had been convicted before of rape and robbery and then, after he was paroled, went out and committed the same crime plus murder.

I believe that there should be a tightening up of parole proceedings, particularly in the courts of the District of Columbia. The courts should be more intent upon justice not only for those who are charged with crime—and they deserve justice—but also justice for their victims in a more careful consideration of parole

Mr. ERVIN. Mr. President, I rise to perform the most futile task which a Member of Congress can perform at this particular moment, and that is to express misgivings concerning a legislative proposal under which money will be extracted by the legerdemain of deficit financing from an empty Federal Treasury in order to finance new programs.

To be sure, the pending bill proposes, for the time being at least, that compensation to victims of violent Federal crimes shall come out of fines collected in Federal criminal courts. But the pending bill also contains a provision under which direct appropriations will be made from an empty Federal Treasury to encourage the States to embark upon new programs which will require an outlay of vast sums of money on the part of the States.

A few days ago the Senate overwhelmingly approved a so-called revenue-sharing measure under which the Congress would give to the States, the cities, and the counties $33.5 billion which Congress does not have because Congress believes that the States do not have sufficient resources to perform obligations they have already assumed. This bill undertakes to encourage the States to embark upon new programs compensating the victims of violent State crimes, notwithstanding Congress is aware of the financial inability to do so.

Mr. President, I accept the doctrine that one should be just before he is generous. It is under this doctrine that men are forbidden to give away their property or assets before they pay their debts. If the United States were created to be an eleemosynary institution and if its Treasury was full of moneys instead of containing nothing except a hole $450 billion deep, a better case could be made for the proposition that the American taxpayers, who are innocent parties, ought to be compelled to assume the obligation of criminals and compensate the victims of their crimes.

Every journey to an unwise end starts with a single step. This bill is merely a first step. There is no more justification in principle for compensating victims of violent crimes than there is for compensating the victims of fraudulent crimes. A man who is defrauded of his property suffers a loss just as much as the man who is robbed of his property. There is no valid distinction between those losses.

I would like to exhibit a big heart, and I would like to be able to support conscientiously an effort to alleviate the misfortunes of all men. However, I owe a responsibility to my country, and that responsibility requires me to say that this is not the time to be taking money out of the Federal Treasury that is put there either by fines paid by criminals or by the legerdemain of deficit financing and using that money even for a laudable purpose. This is true because we are nearing the day when the United States will be confronted with the necessity of either confessing its total bankruptcy or imposing upon the people of this Nation confiscatory taxes.

It seems to me that in a day in which the United States is in the financial plight which confronts it at this time, the Congress of the United States ought to show some hesitation in adopting new programs which require expenditures from an impoverished Treasury to finance them. Oh, we are told, that this is just one little step. I know an old lawyer who once went to a physician because he suffered extreme nervousness. The doctor said that he should take one bromide tablet at a certain time each day. The old lawyer took the bromide tablet and it made him feel better. He said to himself, "If one bromide tablet makes me feel so much better, then two or three bromide tablets will make me feel even much better." And he began taking more and more bromide tablets until his last state became worse than his first.

I hope that my good friends do not consider the word conservative to be an epithet. I am constrained to say, however, that when my good friends who ordinarily support conservative financial measures, such as the Senator from Arkansas (Mr. McClellan) and the Senator from Montana (Mr. Mansfield), embark upon a campaign such as this, I fear for the future of my country. This is true because, although they do not intend to do so, they aid and abet other Congressmen who do not have any compunction about taking money out of the empty Federal Treasury and giving it away for any purpose that can be devised by the ingenuity and imagination of man.

I have expressed my conviction that this is an inopportune time to embark upon a new program, and that the United States ought to be just before it is generous. And I cannot take any satisfaction out of the fact that in a few days Congress will amend the hypocritical restraint upon Federal spending by increasing the national debt limit to the point when this new program and innumerable other programs can be financed legally by the legerdemain of deficit financing.

So, notwithstanding the fact that I know the warning is useless, I do wish to suggest to the Members of the Senate that the Government of the United States ought to be just before it is generous and that this proposal will open another Pandora's box which will serve to accelerate the day when the Federal Government will have to choose between imposing confiscatory taxes upon the American people or confess national bankruptcy.

I wish I were more optimistic about the future of my country as far as financial affairs are concerned. I cannot be very optimistic because we now have a President who got elected by promising the American people that he was going to restore fiscal sanity to the Federal Government and was going to stop deficit financing and was going to balance the budget. Yet, his performances are far inferior to his promises, because during the first 4 years of his occupancy of the White House, the national debt will be increased by a further deficit spending in the total amount of $110.1 billion.

Mr. HRUSKA. Mr. President, I yield myself 5 minutes.

I rise to share in the misgivings about the wisdom of proceeding to the approval of this bill at the present stage of proceedings and at the present time.

Many years ago, when I served in the other body, it became incumbent upon me to vote against a farm bill. My mail and my many telephone calls from constituents brought forth such great anguish, unhappiness, and indignation that it became my duty to try to explain my vote to those who were protesting that, coming from a farm State, coming from a State in which agriculture is the basic industry, and coming from a State which is basically oriented in that field, I should have done otherwise. I had to explain that I was in sympathy with the farmers; I wanted to do the best I could for them and provide such legislative measures as would be of the greatest benefit to them and their customers. However, the conclusion that I had with reference to the legislation was that not every farm bill is a good farm bill. And the same is true as to a bill to compensate victims of crime.

Not every bill for the benefit of victims of crime of violence is necessarily a good bill, nor is it necessarily timely. There are at least two major reasons why we ought to tread carefully in this regard. In the first place, this concept, as pointed out by the Senator from North Carolina, is a new one. There are several States that have it, but none of them have had it more than 6 years, according to my recollection. There has not been a sufficient seasoning of this concept, nor sufficient experience with it to indicate what the frailties or the limitations are. It is said the cost will be relatively small in amount and yet there is nothing to document that by way of experience because it is a new phenomenon on our legislative scene.

There is another proposition which ties hand in hand with this. I know of no program of this nature or any similar nature that started modestly that has not grown. There is much logic to the argument that this concept should not be limited to crimes of violence resulting in personal injury.

Suppose a person is ill of a malignant disease, for example, and he is robbed or defrauded of all funds he possesses in this world whereby he could purchase the type of treatment he is supposed to have. That is indirectly a type of personal violence that that victim of crime suffered which will not be included under the terms of S. 750.

How soon will it be before we have a measure that we will be debating proposing that the scope of the present bill be extended. That very idea is the first major reason that I would suggest that we refrain from action at this time. The second is this:

We had a big battle on the floor of the Senate on the matter of the appropriations process in the revenue sharing bill. In my opinion, that decision was a far-reaching one. It drove a breach into the text, the spirit, and letter of the Budgeting and Accounting Act of 1921, of which we may hear reverberation for a long time. It is a fundamental proposition in our system of government. We are committing that same transgression here—particularly with regard to the earmarking of funds—in a smaller degree, to be sure, but nevertheless we are committing it here.

There was testimony before the National Commission for Revision of the Criminal Code on this concept and on this idea. It is a subject which the Subcommittee on Criminal Laws and Procedures should discuss, not with reference to the relatively narrow areas embraced in this bill, in reviewing title 18, the Criminal Code, but rather on the concept of restitution whenever there is a victim of crime, and that is a broad subject.

It seems to me a measure which is not well seasoned and not well processed. We have no testimony here on the fashion in which this advisory board will function and how completely the provisions of the law are treated in the area of making claims and the payment thereof.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HRUSKA. I yield myself 3 additional minutes.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HRUSKA. My misgivings would be based on the proposition that there should be, notwithstanding the grievous plights of many victims of crime, seasoned consideration, and consideration on a broader scale than has been embodied in the hearings on this bill. Ultimately perhaps such a delay will be of great benefit. Certainly if this measure would prove to be so inadequate that its practice would be unfortunate and unhappy, the entire process would be soured in the legislative mind and in the public mind and that would be counterproductive to the aims of those who are so well motivated and who feel something should be done in this field; and it may prove to be an irreversible loss. That would be unfortunate, if in truth and in fact the concept is good and should be implemented.

Mr. President, it is for these reasons and not for lack of sympathy for the victims of these crimes that I would suggest we act a little more deliberately than by approving this bill at this time.

I reserve the remainder of my time.

Mr. MONDALE. Mr. President, will someone yield to me for 5 minutes?

Mr. McCLELLAN. I yield 5 minutes to the Senator from Minnesota.

Mr. MONDALE. Mr. President, I am pleased to support the pending proposal S. 750, the Victims of Crime Act which was introduced by the distinguished majority leader (Mr. Mansfield). This measure is long overdue.

During my years as attorney general of Minnesota, time and time again some of the most desperately needful cases that came before me were instances in which decent citizens and fine and courageous law enforcement officers, were victimized by violent crimes. Sometimes their lives were taken and other times they were seriously and permanently disabled. Then they and their families were left to spend a lifetime trying to deal with the permanent ravages of the acts of criminal violence. It never seemed to me that was just; it never seemed to me that society could in any sense of humanity permit a few decent people to bear the full burden of those who commit violent crimes. The instances were and are many.

I am sure we could spend days recounting examples of what this bill is trying to deal with. I recall an instance in which law enforcement officers were pursuing a fleeing criminal by car. The criminal's car went out of control and careened into a gas station, struck the gas station attendant, totally and permanently disabling him. There was no law in Minnesota, and to my knowledge there still is none, which provides any compensation for this man or his family. The injury took place, I think about 12 or 14 years ago, and this family has had to live with that devastation all these years.

In another instance, some very fine police officers in Minnesota were tracking down some crazed killers, and one of the officers was struck in the back with a bullet. This law enforcement officer was totally and permanently disabled, and we had a situation that is repeated in community after community where a law enforcement officer is struck down by a criminal and has to appeal to the general public to raise funds, almost like a welfare recipient, pleading for help to keep his family together.

Of course, a few months after the much-publicized crime had been committed, the public forgot about the crime and slowly forgot about the disastrous plight of that law enforcement officer. That incident likewise took place years ago and this valiant officer, condemned to life in a wheelchair, together with his family, has had to live all these years and face the years to come, paying the full cost of his victimization.

It is, I think, an intolerable situation, and this legislation, for the first time, tries to come to grips with that problem by providing compensation to victims of crime and by encouraging States, through a grant program, to adopt a similar and, I hope, fully adequate program of compensation.

I consider S. 750 to be one of the most important measures to come before the Senate in this Congress and I am pleased to have had an opportunity to contribute to the molding of this vitally needed legislation. Last November, I introduced my own proposal, S. 2817. As the majority leader stated, a number of the provisions in that bill have been included in the amendments of the Judiciary Committee to S. 750.

Compensation for victims of violence is not a new concept. It has been practiced since ancient times. Both the Mosaic Law and the Code of Hammurabi provided for public reparations to victims of criminal assaults under certain circumstances. Such compensation was generally awarded only when the criminal was not caught. It was a way of inducing the government to do everything possible to apprehend the criminal.

In modern times, however, the victim is the forgotten man in the criminal triangle. Criminal cases pit the State against the accused suspect with scarcely a mention of the victim. Yet the victim often lacks the means to gain justice.

We know that individuals without resources and without insurance are often the most exposed to criminal activity. Studies show that typical victims of violent crimes include the physically weak, the young, the aged, women and the handicapped. In addition, persons who are poor, nonwhite or immigrants are more vulnerable than others because the majority of crimes occur in the deprived areas in which they are forced to live.

But it is also clear that violent crime is a threat to all of us. The threat of being assaulted, mugged, robbed or raped has for many Americans ruled out the pleasure of a walk or other evening activity outside their homes. Others have added bars and extra locks to windows and doors in their homes. Bus drivers in major cities do not carry cash because incidents of robbery have been so frequent.

Figures available from the FBI Unifrom Crime Reports indicate that between 1960 and 1970, violent crime rose a frightening 156 percent. In 1970 alone, 731,402 acts of violence were reported to the police. One crime of violence occurred every 43 seconds.

What happened to the victims of these crimes? If they lived in New York or California, or in any of the other seven States which have enacted limited compensation laws, they may have received some assistance from the State government.

If they did not live in these States, victims could try to collect compensation from their insurance companies. But most policies do not include adequate compensation and often medical costs alone are beyond the ability of a victim to pay. We also know that 42 percent of families with incomes under $5,000 per year do not even have insurance.

So, as former Gov. Edmund Brown of California once pointed out, we spend millions of dollars to rehabilitate criminals in correctional institutions but we leave the victims of crime to fend for themselves.

It is a mockery of justice that an innocent victim should be forced to bear the experience of a crime and also the burden of paying for it. The maintenance of law and order and protection of the society is a primary function of the Government. Techniques such as civil suits and insurance have little meaning when the criminal is without assets or the victim too poor to pay premiums or hire a lawyer.

It is time to correct the situation. The Federal and State governments must attempt to find other means of providing compensation to the victims they have failed to protect.

The legislation before us today represents a major step toward recognition of the obligation of our society toward victims of crime. The idea has been supported by the National Association of Chiefs of Police and the President's Commission on Law Enforcement and Administration of Justice. Public opinion polls have also shown that the vast majority of the public favors a plan for compensating victims.

Other countries have preceded us in adopting this type of legislation. Among them are New Zealand, which has been paying victims of crimes since 1963 and Great Britain, which has been doing so since 1964.

This legislation authorizes awards of money for victims of assaults, robberies, arson, murder, attempted rape, kidnaping, and other violent crimes.

The bill also contains provisions designed to prevent abuses of the system. For example, it includes a provision included in my legislative proposal, which requires reporting of a crime within 72 hours of its occurrence. This requirement would discourage the reporting of injuries suffered in an accident as if they were the result of a crime. There would be ample opportunity for law enforcement officials to ascertain whether a crime had actually been committed.

Another provision authorizes criminal prosecution for fraudulent applications for compensation. The likelihood of false claims is also sharply reduced by excluding property damage from the act's coverage.

When a victim reports a crime, his claims would be thoroughly investigated. He, or the persons responsible for his care, would receive the compensation. In a case where the victim is deceased, compensation would be awarded to the dependents or closest relative.

Payments would cover expenses resulting from injury or death, loss of earning power and pecuniary loss to dependents of the victim. The Federal payment would be reduced to reflect compensation received by the victim from other sources.

Policemen, firemen, other public safety officers and their survivors would be eligible for all of the benefits authorized in the bill. But in addition, I think it is appropriate that we have already made special provision for such public servants who are killed by violence in the course of their duties. The Senate approved recently a bill to provide a special $50,000 compensation payment for dependents of personnel who die in such circumstances—a provision which was also included in my bill, S. 2817.

The bill before us today contains some significant improvements over previous legislative proposals. Thus, the $50,000 limit on total compensation to a victim and his dependents will cover the vast majority of cases. However, it will not always provide adequate assistance—for example, where a young head of a family suffers a permanent disability. That is why I had proposed a weekly limitation, instead of an overall ceiling, on compensation.

I am pleased that the bill seeks to make State programs substantially comparable to the new Federal program. This was the purpose of one of the amendments which I had proposed to S. 2994.

I also proposed in my bill that compensation be authorized for those injured as a result of the flight or pursuit of a criminal or suspect. I am pleased that the bill contains this provision.

Mr. President, the United States and foreign governments which have adopted a compensation plan find that it is achieving its purpose. Awards have been used to keep families together, to avert foreclosures and evictions and to pay bills and keep victims out of debt.

Their experience shows that this proposal is not only desirable, but workable. I hope that the "Victims of Crime Act" will be approved by the Senate and that it will also be speedily adopted by the House.

I strongly commend the distinguished majority leader and the distinguished Senator from Arkansas for their leadership in bringing this measure about.

Mr. President, I have two concerns about this measure. One is the adequacy of the overall limit of compensation under this title, a limit of $50,000. This is significantly higher than provided in some measures and I think will be sufficient in most cases. However, it will surely be inadequate to provide minimum compensation to the victims of violent crimes in a small number of cases. Principally, these would involve young heads of families who suffer long-term or permanent disability. Their assistance would be terminated, under the bill, after about 6 years.

Second, I am concerned about whether State programs assisted under this proposal will, in all instances, be established, or be established at levels which provide adequate assistance to the victims.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. MONDALE. Mr. President, I ask for 2 minutes.

Mr. McCLELLAN. Mr. President, I yield 2 minutes to the Senator.

Mr. MONDALE. The pending legislation says that the State programs must be substantially comparable in coverage and limitations to part F of this title. But out of deference to the States, the committee report interprets this in such a way that the measure does not require, in my opinion, that such a result be a necessary condition to Federal grant support. In any event, I think that the measure is an important step forward.

Having expressed that concern, I would like to propose an amendment which would require the board created under this measure to report in its third annual report—that is, 3 years from now—its findings and recommendations with respect to the operation of the overall limit on compensation under section 454(e) of part F of this title, and with respect to the adequacy of State programs assisted under section 105.

I have talked to the floor manager of this measure, the distinguished Senator from Arkansas. I would hope he would accept this amendment, requiring that report by the board.

Mr. McCLELLAN. Mr. President, may I suggest that the Senator send the amendment to the desk and let it be read.

Mr. MONDALE. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk read as follows:

On page 46, line 19, delete the quotation marks after the period.

On page 46, line 19, insert the following:

> In its third annual report, the Board shall include its findings and recommendations with respect to the operation of the overall limit on compensation under section 454(e) of Part F of this title and with respect to the adequacy of State programs assisted under section 105.

Mr. McCLELLAN. Mr. President, it seems to me that this amendment could be improved. It ought to require the Board to make a study. It could not very well make a report without some study of the situation. I think this is what the Senator had in mind.

Mr. MONDALE. The Senator is correct. I assumed when we required a report that it would make a study.

Mr. McCLELLAN. That may be implied, but I think it ought to be specified.

Mr. MONDALE. Mr. President, I would move to modify my amendment.

Mr. McCLELLAN. I would suggest that the Senator withdraw it and submit a corrected amendment.

Mr. MONDALE. Mr. President, I will withdraw the amendment and make that modification.

Mr. McCLELLAN. Let this time be taken from this side.

The PRESIDING OFFICER. The time will be taken from the time of the proponents.

The amendment is withdrawn.

Mr. ERVIN. Mr. President, the remarks of the eloquent and distinguished Senator from Minnesota make me fear that I do really possess prophetic powers to predict the future action of the Congress if this particular legislative proposal is enacted. Even before the legislative proposal becomes law and even before a single second of experience is obtained under it, the distinguished Senator from Minnesota voices the opinion that the limit of $50,000 set on the amount which can be used to compensate the victim of a single crime for which innocent taxpayers are not responsible legally or morally or financially is too low. He also convinces the Senator from North Carolina that there is a real danger that this legislation will be amended in the future so as to perpetrate what I call legislative coercion on the States. The legislation will be changed so as to require the States which desire to have legislation of this nature within their own borders to submit to dictation and domination by the Congress as to what kind of legislation they shall have in this area.

This is another entering wedge by which the Federal-State system of government, which the constitution was ordained to establish, will be ultimately destroyed.

For some strange reason, which the Senator from North Carolina is unable to comprehend, many Congressmen shortly after they arrive on the Potomac River succumb to Potomac fever. Those who suffer from Potomac fever are convinced that the people who sent them to the Congress do not have sufficient intelligence to manage their own affairs and that the Federal Government must tell them exactly what they must do. So I not only have misgivings about this legislation from the standpoint of the cost that it is ultimately going to inflict upon the taxpayers, who are just as innocent as the victims of crime, but also about its inevitable destructive effect upon the right of the American people in the communities in which they reside to have any voice in respect to the Government under which they live.

I thank the Senator for yielding.

Mr. McCLELLAN. Mr. President, I yield myself 2 minutes.

I, too, have some misgivings about the expenditures of this Government, the national debt and deficit spending, and have been concerned about these problems for a long time. However, I believe that the merits of this program justify the relatively minor expenditures which it authorizes. Similar programs have not proven expensive in those States where it has been tried.

I very frequently hear the word "justice" used here. Mr. President, I do not know that there is any moral or legal obligation on the part of innocent taxpayers to spend billions of dollars for relief each year due to economic reversals that may put people out of a job. The taxpayers are innocent. However, this Government is now spending a total of nearly $70 billion annually for income security, welfare, and related programs.

We are spending $10.335 billion for welfare alone. I do not know whether, by the strictest interpretation, there is any justice in taxing the innocent taxpayers to pay that money. However, it does seem to me that if an economic failure somewhere warrants the taxing of American taxpayers over $10 billion a year to take care of people who may be in some temporary economic distress by reason of being out of employment, there is also justice in compensating the victims of crime—crime that is committed against the peace and safety of our society—crime that it is the duty of our Government and law enforcement organizations to try to prevent.

I know this will marginally increase the burdens of our taxpayers, and this gives me some apprehension. However, the estimated cost of this program at its full operating level, in the 50 States and within areas of distinct Federal concern, is only $30 million for 1980, the anticipated year of stabilization. Surely, the needs of our citizens warrant this action.

The PRESIDENT pro tempore. The Senator's 2 minutes have expired.

Mr. McCLELLAN. I yield myself 1 minute. If this program does a fair measure of justice—and I think justice is the appropriate word in this instance—to people who are the victims of crime—who suffer death or injury from criminal attack—this bill is a step in the right direction.

I have no doubt that we can control escalating costs in the future. We are going to be just as practical in this matter as we have been in any other. I cannot see the proposal as something that is inconsistent with the obligations of government.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield myself 1 more minute, and yield to the Senator from Montana.

Mr. MANSFIELD. Mr. President, I think what the Senator has said indicates it will take a modest amount to take care of our own citizens, and it is far better to do that for $30 million than it is to spend $1.7 billion on foreign aid for the interests of citizens of other nations outside of this country.

Mr. McCLELLAN. The distinguished majority leader echoes my philosophy with regard to foreign aid. I have opposed such outlays for many years.

Mr. MANSFIELD. And furthermore, this Government does pay compensation to victims of crime in foreign countries where an American serviceman is involved. What is good enough for crime victims in foreign lands is certainly at least good enough for us. I think we ought to start looking after our own people, and, instead of talking about the constitutional rights of the criminal, alleged or otherwise—and in some cases we spend almost a million dollars protecting their rights—I think we ought to concern ourselves about the ones who have been assaulted.

Even in this vicinity, let alone throughout the Nation, eight or nine girls last week in the Capitol Hill area were robbed, and one of them raped. Persons in the employ of Senators are robbed in the Senators' offices.

The PRESIDENT pro tempore. The Senator's 1 minute is expired.

Mr. MANSFIELD. Crimes of aggravated assault and rape occur on, in, and around the Capitol grounds.

I am making no special plea for those people who work up here, but I am making a special plea for the people we never hear of who live in the 50 States of the Union, and who, I think, are entitled to this kind of consideration.

Do not forget, it was just about a week or so ago that the Senate passed a bill to provide for a $50,000 payment to the survivors of a policeman killed in the line of duty. It is about time we start thinking of the great mass of the American people, because I think we have been too coddling, too easy, too lenient with the criminals, alleged or otherwise, and what I say goes for the courts of this Nation as well.

Mr. ERVIN. Mr. President, will the Senator from Nebraska yield me time?

Mr. HRUSKA. On the amendment?

Mr. McCLELLAN. The amendment has been withdrawn.

Mr. HRUSKA. I yield the Senator 2 minutes.

Mr. ERVIN. Mr. President, I agree with the statement of the Senator from Montana in some respects. I take to heart the scriptual admonition that he who does not provide for those of his own house hath denied the faith and is worse than an infidel.

For that reason, I have been voting against foreign aid bills ever since I have been in the Senate.

I also agree with the Senator from Montana that something ought to be done with people who murder, rape, and rob. Yet we are asked to emulate the State of California and initiate a program of this nature. I have been doubtful of the wisdom of following California ever since its supreme court held some time ago that the constitution of California, which is phrased in virtually the same words as the Constitution of the United States on the point, denies its government the power to execute such miserable wretches as Charles Manson who rob many human beings of their lives.

I do not want to follow the example of California in respect to the initiation of a program of this nature at this particular time, or in the program initiated by its supreme court in adjudging capital punishment of those who murder and rape unconstitutional.

I am intrigued by the predictions as to the cost of this program. A wise man once said there are three kinds of liars, in this ascending order of mendacity: Plain and ordinary liars, damned liars, and statisticians. Every statistician who has ever made any prediction about the cost of any Federal program initiated during the 18 years I have been in the Senate has proved that if he was not a liar, he was totally incompetent to predict anything of a financial nature. Every new program we start begins like a little snowball on top of a hill, and grows and grows as it runs down into the Federal Treasury, in the form of deeper and deeper deficits.

I predict that that is exactly what is going to happen with respect to this program, because, as I remarked before there is no difference in principle between requiring taxpayers to compensate the victims of violent crimes and requiring taxpayers to compensate the victims of fraudulent crimes; there are as many fraudulent crimes in this land as there are violent crimes. What we need to do to stop some of the people from becoming victims of crime is to put on our courts judges who have hard heads as well as soft hearts.

The PRESIDENT pro tempore. The Senator's time has expired.

Who yields time?

Mr. HRUSKA. Mr. President, I have no further requests for time on this side.

Mr. MONDALE. Mr. President, will the Senator yield me 3 minutes?

Mr. McCLELLAN. The Senator has a right to offer an amendment on his own time.

Mr. MANSFIELD. Mr. President, will the Senator yield me 1 minute?

Mr. McCLELLAN. I yield.

ORDER FOR TIME FOR THE VOTE ON EXECUTIVE J, 92D CONGRESS, SECOND SESSION—PROTOCOL AMENDING THE SINGLE CONVENTION ON NARCOTIC DRUGS, 1961

Mr. MANSFIELD. Mr. President, after discussing the matter with the distinguished Senator from Arkansas and the distinguished Senator from Nebraska, and with their full approval, I ask unanimous consent that after the vote on the pending proposal now before the Senate, there immediately follow a vote on Executive J, 92d Congress, second session, a protocol amending the Single Convention on Narcotic Drugs, 1961.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

VICTIMS OF CRIME ACT OF 1972

The Senate continued with the consideration of the bill (S. 750) to provide for the compensation of persons injured by certain criminal acts, to make grants to States for the payment of such compensation, and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. MONDALE. Mr. President, will the Senator yield me 3 minutes?

Mr. McCLELLAN. The Senator has a right to offer an amendment on his own time.

Mr. MONDALE. Mr. President, I yield myself such time as I may require, and I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 46, line 19, after the period, delete the quotation marks.

On page 46, line 19, insert the following:

"In its third annual report, the Board upon investigation and study shall include its findings and recommendations with respect to the operation of the overall limit on compensation under section 454(e) of Part F of this title and with respect to the adequacy of state programs assisted under section 105."

Mr. MONDALE. Mr. President, I have modified the amendment that I previously sent to the desk, to add the phrase "upon investigation and study." That modification was made at the suggestion of the distinguished floor manager of the pending measure, the Senator from Arkansas.

I ask that the amendment be adopted.

Mr. McCLELLAN. Mr. President, I am willing to accept this amendment.

This amendment will not necessarily require a large expenditure of funds. A study will be made of related State laws to evaluate their operation.

The Senator from Minnesota apparently speaks for himself and not for all who may be supporting this measure when he expresses concern over whether or not the compensation authorized here is adequate. On this point, I can only comment that I do not think you could ever pay adequate compensation to someone who is seriously injured or emotionally scarred for life. Adequacy in this sense must be viewed in conjunction with the capacity, ability, and obligation that is involved. It ought not be approached in the sense of traditional tort theory. That is an unrealistic and unnecessary application of the notion of crime compensation.

In 3 years the Board may provide some helpful information to Congress that will be of assistance in evaluating the program.

For that reason, Mr. President, I am willing to accept the amendment, unless there is objection to it.

The PRESIDING OFFICER. Do Senators yield back their time on the amendment?

Mr. McCLELLAN. If no other Senator desires time, I yield back the remainder of my time.

Mr. MONDALE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I do not know of any further requests for time.

Mr. HRUSKA. I have no requests.

Mr. McCLELLAN. Mr. President, I yield back the remainder of my time on this measure.

Mr. HRUSKA. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. McCLELLAN. Mr. President, some Members are on their way here for the vote. In the meantime, to conserved time we might proceed to a third reading of the bill at this time.

The PRESIDING OFFICER. All time having been yielded back, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. BOGGS. Mr. President, it is my privilege to have joined with the distinguished majority leader as a cosponsor of S. 750 which would establish a new program to compensate victims of violent crimes under Federal law.

Two weeks ago, the Senate acted to provide compensation to public safety officers killed or seriously injured in the line of duty. I believe that by enacting this legislation today we will be fulfilling our obligation to another group that has been too long neglected in our war on crime—the innocent victims.

Under this legislation innocent victims of crime under Federal law, as well as good Samaritans who suffer injury or loss while trying to help them, would be eligible to receive up to $50,000 in compensation. Claims would be handled by an independent Violent Crimes Compensation Board in charge of administering the program. Compensation would be paid from a Criminal Victim Indemnity Fund financed by criminal fines paid in Federal courts and appropriated funds.

I am pleased that this bill would provide for a grant program to the States to encourage them to adopt similar compensation programs for victims of violent crimes against State laws. The Federal Government would pay 75 percent of the costs of State programs where they are substantially similar to the Federal counterpart.

Seven States currently have victims of crime compensation programs. I can readily understand the reluctance of States in the past to adopt this proposal on a wider scale. A proposal of this nature was debated in the Delaware Legislature several years ago and I know that while there was much sympathy for it, the lack of experience of other States in this area and the unknown cost factors involved were obstacles to enactment.

It is my hope that with the experience of a number of States with this type of program behind us and with the Federal grant assistance program which this legislation proposes. States will be encouraged to go ahead with programs of their own. I believe there is a need for them to do so.

Mr. PERCY. Mr. President, I am pleased to be able to cosponsor this very far-reaching and important legislation which has been offered by the distinguished majority leader (Mr. MANSFIELD). For the first time, the Congress is going on record as doing something positive for the victims of crime.

No longer will someone who has been robbed on the street have no way to recoup his losses. Under the plan envisioned by S. 750, the victim of crime would be able to apply to the Violent Crime Compensation Board, and be reimbursed for whatever losses he has incurred.

Money, of course, will not always be sufficient to heal the wounds of an attack, but it will pay the medical bills; it will help a family when a crime victim is unable to work for a few weeks.

An important aspect of this bill is that not only are provisions made for the victim of crime, but any "good samaritan" who is injured while trying to help stop a crime from being committed or who is injured while trying to apprehend a criminal from escaping will also be eligible for compensation.

Mr. President, it is way past the time when this type of legislation should have become law. In many countries and in several States, a similar type of plan has already been adopted. Citizens in these States are better off for it, and I know that as the Congress makes this bill law, all of our citizens will be the better for it also.

It is important to look at where the money for the criminal indemnity fund will come from. I am glad to note that the first source for the fund will be criminal fines paid in the Federal courts. This means that money used to benefit those persons who have suffered as a result of a crime will have come from those who have violated the law. This is only appropriate.

I have offered legislation which provides for employment training for prison inmates, S. 3922. This "Work Your Way Out of Prison Plan" would provide union-scale wages, paid by an employer from the private sector. Out of the inmate's wages would be deducted the cost of his room and board, taxes, and support payments for his family. But a very important aspect of my legislation would provide that up to 10 percent of the inmate's wages would be designated for a fund to benefit the victims of crime. I am very hopeful that this legislation will be dealt with soon by the Congress. At that time, the money set aside from the earnings of the inmates will be added to the criminal indemnity fund established in S. 750 to help pay for the losses suffered by crime victims.

Mr. President, the bill we are considering today dovetails with my bill, S. 3922. Both of them recognize the necessity of helping the crime victim recoup his losses, and both of them realize the propriety of having the funding for such a program come from those who have violated our laws.

I congratulate Senator MANSFIELD on a very fine piece of legislation and Senator McCLELLAN for very fine committee work. I am confident that this bill will soon be signed into law.

Mr. THURMOND. Mr. President, the pending legislation to provide compensation for victims of crimes involves a novel concept that runs counter to our legal traditions. I have concluded that this is an unwise bill for the following reasons:

First, our legal system traditionally has been divided into criminal and civil law with the criminal courts having the responsibility for bringing perpetrators of crime to justice and the civil courts handling claims for injury between private parties. This system has worked well and I believe this bill unnecessarily blurs this distinction.

Second, although the proponents of this measure seem to believe this would not be costly, and can be paid for in large measure out of criminal fines, I am confident that the financial burden of this legislation will very quickly come to rest on the already overburdened taxpayers.

Third, I believe this bill will create a large amount of new litigation. We should bear in mind the remarks of Chief Justice Burger in his speech before the annual American Bar Association Convention in San Francisco that any new legislation that will create a substantial amount of new litigation and work for the judicial system should include a study of the increased judicial workload.

Fourth, it should be pointed out that the administration believes this legislation could be premature and has asked the Congress to delay passage pending the final report of the National Commission on Reform of Federal Criminal Laws.

Mr. President, I recognize the concern of the Senate and indeed of all Americans for the great losses incurred by both society at large and by individuals because of criminal acts; however, for the foregoing reasons I believe this bill should be defeated.

Mr. ROTH. Mr. President, sometimes Washington, D.C. is referred to as Fun City South. Although the crime rate is on a downward swing in the Nation's Capital, Washington is like every other city in this country in the respect that crime has simply gotten out of hand, and further means are still necessary to insure that it is controlled. One should be able to walk down the street without having to run a gauntlet of murderers, rapists, muggers, and other miscreants.

Yet in Washington, D.C., this summer, I can recall the rape of a housewife, the fatal shooting of a Vietnam-bound naval officer and his son, the shooting and resulting injuries to a "Good Samaritan" cab driver trying to assist a young lady being robbed. I read about a gang sexual attack by 20 youths on a 15-year-old runaway and the beating, robbery, and attempted rape of a 78-year-old woman confined by arthritis to a wheelchair and a walker.

We cannot accept the premise that violent crime is rather like the weather; that everyone talks about it but nobody does anything about it.

Violence permeates the fabric of our society today. Murder, forcible rape, robbery, and aggravated assault are crimes of violence. For every crime of violence there is a victim. And for every victim there is personal loss. We must do something about this now.

I am supporting title I of S. 750 today because I believe that we as a society have an obligation to reduce the impact of crime on those victimized by its cruelty.

As Senator MANSFIELD has observed, if a citizen of any foreign land is the victim of assault, robbery, rape, or any other criminal injury by a military or civilian employee of the United States, he is promptly compensated at the American taxpayer's expense under the Foreign Claims Act.

Do we not care as much for the American taxpayer who is mugged, raped or otherwise victimized by a criminal in his own land? By what values do we operate? This compensation is consistently extended to foreign citizens under the law. Surely we owe the American citizen the same consideration.

Granted, the value of lives and limbs lost, earnings foregone, the cost of hospitalization, rehabilitation, and mental and physical anguish are difficult to assess.

Title I would establish a Federal program to meet the financial needs of the innocent victims of violent crime to the extent of personal losses. Property losses are not included in the realm of this proposal.

For some time now this unfair plight of the victim of crime has been of concern to me. I believe in the principle that violent crime is a three-party affair which includes the victim, the criminal, and the State. For a citizen is entitled to protection, and if such protection is not adequate or for some other reason, fails to afford him security, I believe that it would only strengthen the social fiber of our Nation to be ready in offering compassionate compensation. It was for this reason that I cosponsored S. 2994, the bill which has become title I under the Omnibus Victims of Crime Act now being considered.

It is a practical matter that the Government should assume the principal burden of assisting victims of violent crime because techniques such as civil suits or insurance have little usefulness where the criminal is without assets and the victim is too poor to pay insurance premiums or hire a lawyer to prosecute the suit. In real terms, this situation is most frequently the case. Individuals without resources and insurance are often the most exposed to criminal activity and suffer the most. Further, the existing methods of restitution and compensation are inadequate and ineffective.

Finally, I believe that this legislation could help in controlling crime by virtue of encouraging the citizen to report crime. When we have knowledge of all crime, and only then, will more dangerous criminals be apprehended.

The victim has been the forgotten man in the criminal triangle for too long. Let us vote today to afford him the means to gain a partial degree of justice.

The fear of violent crime is real. Worse yet must be the actual shock, the personal outrage at being mugged, or raped, or demeaned as a person. Today as we vote on this legislation, I hope that it will serve as a vehicle to ease some of the fear that accompanies a stroll down the block on which one lives.

Mr. TUNNEY. Mr. President, I strongly support the two very worthwhile and significant pieces of legislation, the Public Safety Officers' Group Insurance Act of 1972 and the Victims of Crime Act of 1972, which are before us today.

Control of crime is one of the most severe challenges confronting a free society such as ours. No society can be said to be truly free when its citizens are afraid to walk the streets at night or are unable to sleep for fear of criminal attacks. While we are engaged in a variety of programs at all levels to identify and combat the roots and causes of crime, we must also recognize that we face an immediate and pressing problem—that of protecting the physical safety of our citizens in their daily lives as we proceed with these long-term programs.

It is tempting to reach for the easy solution, a simple equation opposing force with greater force; but such a program ultimately constitutes a severe threat in itself to the rights and liberties of all citizens in a free society. The challenge which we face is to achieve maximum effectiveness in the struggle against crime while safeguarding the rights and freedoms of law-abiding citizens.

In this context, it is gratifying to see these two pieces of legislation presenting constructive and positive solutions to specific problems which have existed in the law enforcement area.

The first of these bills, the Public Safety Officers' Group Insurance Act, which I joined in sponsoring, would authorize the Law Enforcement Assistance Administration to administer a program of group life, accidental death, and dismemberment insurance for public safety officers. The subcommittee hearings on this bill indicated that such officers, and particularly those engaged in more hazardous lines of duty, have encountered serious difficulties in obtaining adequate life insurance.

Our public safety officers are constantly engaged in the performance of hazardous and exacting duties. It is important that their minds be free from any cloud created by the fear that their death would result in severe financial hardship to their surviving dependents. These men, who daily risk their lives in the protection of their fellow citizens, surely deserve benefits commensurate with those available to other segments of our society.

The second of these bills, the Victims of Crime Act, would establish a Violent Crime Compensation Board to meet the financial needs both of victims of violent crimes and of intervenors who are injured or killed in the course of attempting to aid such victims. This program will fill what has long been felt as a serious shortcoming of our system of criminal justice—its failure to respond to the needs of those who have been victimized by society's inability to fully control criminal activity. The innocent victims of crime have long been forced to bear almost all the costs of their involuntary victimization; it is past time for society as a whole to begin contributing to the recovery of those of its members who have suffered injuries at the hands of criminals.

I am proud to note that California pioneered similar legislation an a State level in 1965; State programs such as this will be continued under the present bill, with a portion of their expenses being met with Federal grants through the LEAA. However, it has become clear that the problem of compensation of victims is a national and pervasive one, to be met by remedies on a national level.

For these reasons, I join in voting for both of these bills today and I hope they will swiftly become law.

I join also in supporting Senator MANSFIELD's effort to speed enactment by including both bills as amendments to H.R. 8389.

Mr. BUCKLEY. Mr. President, it is with the greatest reluctance that I must vote against this bill. I fully endorse its objectives, and approve of the idea of providing compensation for the innocent victims of violent crime who are victimized within the territorial areas for which the Federal Government has direct responsibility. The bill authorizes authorizes $5 million for this purpose.

On the other hand, the bill would inaugurate still one more categorical grant program which would provide 75 percent of the cost incurred by any State which has enacted a comparable program. For this purpose, $10 million is to be authorized.

I feel that every State ought to provide its citizens with this kind of protection against the failure of government to protect them against crime. My own State has such a law as do a number of others. But what we in the Congress have got to learn is that we cannot perpetually intrude our jurisdiction into the concerns that are first and last those of State and local governments without further eroding the Federal system.

I voted in favor of the general revenue-sharing legislation precisely because I hoped it would add impetus to a critical review of existing grant-in-aid programs and would encourage a moratorium on new ones.

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STEVENSON). Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, as in executive session, I ask for the yeas and nays on Executive J (92d Congress, second session), the protocol amending the single convention on narcotic drugs, 1961, the vote on which will occur immediately following the vote on the pending legislation.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, I rise to pay tribute to the distinguished Senator from Minnesota for his efforts in behalf of the Victims of Crime Act of 1972. As a Senator and as the attorney general of his State before, WALTER MONDALE has provided strong leadership in the fight against crime and violence. Out of his deep concern for the victim of violent crime has arisen that same strong leadership. Indeed, the measure on which the Senate is about to vote represents to a great extent the results of that concern and the product of that leadership.

This measure proposes to compensate the victim of violent crime, the innocent victim of rape and robbery, citizens injured by riot or shot down as they walk the streets to their doorstep. May I say that the poor, innocent victim of crime has no greater friend and advocate than Senator Mondale. For his exemplary work on this proposal, for his many contributions not only with regard to the victim, but with regard to the underlying causes of crime and to crime prevention generally, the Senate is deeply grateful.

The PRESIDING OFFICER. The question is on agreeing to S. 750, as amended.

Mr. MANSFIELD. Mr. President, would the Chair kindly state what the legislation is by title.

The PRESIDING OFFICER. The title is a bill, S. 750, to provide for the compensation of persons injured by certain criminal acts, to make grants to States for the payment of such compensation, and for other purposes.

Mr. MANSFIELD. I thank the Chair.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the affirmative). On this vote I have a live pair with the Senator from Utah (Mr. Moss), who, had he been present, would have voted "yea." I would have voted "nay" after having voted in the affirmative. Therefore, I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Florida (Mr. Chiles), the Senator from Missouri (Mr. Eagleton), the Senator from Alaska Mr. Gravel), the Senator from Michigan (Mr. Hart), the Senator from Indiana (Mr. Hartke), the Senator from South Carolina (Mr. Hollings), the Senator from Minnesota (Mr. Humphrey), the Senator from Louisiana (Mr. Long), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), the Senator from Rhode Island (Mr. Pell), the Senator from Connecticut (Mr. Ribicoff), and the Senator from Alabama (Mr. Sparkman) are necessarily absent.

I also announce that the Senator from Wyoming (Mr. McGee is absent on official business.

I further announce that, if present and voting, the Senator from Florida (Mr. Chiles), the Senator from Alaska (Mr. Gravel), the Senator from Indiana (Mr. Hartke), the Senator from Connecticut (Mr. Ribicoff), the Senator from Minnesota (Mr. Humphrey), the Senator from New Hampshire (Mr. McIntyre), and the Senator from Nevada (Mr. Cannon) and the Senator from South Carolina (Mr. Hollings) would each vote "yea."

Mr. SCOTT. I announce that the Senators from Colorado (Mr. Allott and Mr. Dominick), the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bellmon), the Senator from New Hampshire (Mr. Cotton), the Senator from Nebraska (Mr. Curtis), the Senator from Michigan (Mr. Griffin), the Senator from Iowa (Mr. Miller), the Senator from Alaska (Mr. Stevens), the Senator from Ohio (Mr. Taft), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from New York (Mr. Javits) is absent, because of religious observance.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

If present and voting, the Senator from Colorado (Mr. Allott), the Senator from Michigan (Mr. Griffin), the Senator from New York (Mr. Javits), the Senator from Iowa (Mr. Miller), the Senator from Ohio (Mr. Taft) and the Senator from Texas (Mr. Tower) would each vote "yea."

On this vote, the Senator from Alaska (Mr. Stevens) is paired with the Senator from Nebraska (Mr. Curtis). If present and voting, the Senator from Alaska would vote "yea" and the Senator from Nebraska would vote "nay."

The result was announced—yeas 60, nays 8, as follows:

[No. 439 Leg.]

YEAS—60

Aiken
Allen
Anderson
Bayh
Beall
Bennett
Bentsen
Bible
Boggs
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Church
Cook
Cooper
Cranston
Dole
Eastland
Edwards
Fong
Fulbright
Gambrell
Gurney
Hansen
Harris
Hatfield
Hughes
Inouye
Jackson
Jordan, N.C.
Jordan, Idaho
Kennedy
Magnuson
Mathias
McClellan
Mondale
Montoya
Nelson
Packwood
Pastore
Pearson
Percy
Proxmire
Randolph
Roth
Saxbe
Schweiker
Scott
Smith
Spong
Stafford
Stennis
Stevenson
Symington
Tunney
Weicker
Williams
Young

NAYS—8

Brock
Buckley
Ervin
Fannin
Goldwater
Hruska
Talmadge
Thurmond

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, against

NOT VOTING—31

Allott
Baker
Bellmon
Cannon
Chiles
Cotton
Curtis
Dominick
Eagleton
Gravel
Griffin
Hart
Hartke
Hollings
Humphrey
Javits
Long
McGee
McGovern
McIntyre
Metcalf
Miller
Moss
Mundt
Muskie
Pell
Ribicoff
Sparkman
Stevens
Taft
Tower

So the bill (S. 750) was passed, as follows:

S. 750

An act to provide for the compensation of persons injured by certain criminal acts, to make grants to States for the payment of such compensation, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Victims of Crime Act of 1972".

COMPENSATION FOR VICTIMS OF VIOLENT CRIME

DECLARATION OF PURPOSE

Sec. 101. It is the declared purpose of Congress in this Act to promote the public welfare by establishing a means of meeting the financial needs of the innocent victims of violent crime or their surviving dependents and intervenors acting to prevent the commission of crime or to assist in the apprehension of suspected criminals.

PART A—FEDERAL COMPENSATION PROGRAM

Sec. 102. The Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by—

(1) redesignating sections 451 through 455, respectively, as sections 421 through 425;

(2) redesignating sections 501 through 521, respectively, as sections 550 through 570;

(3) redesignating parts F, G, H, and I of title I, respectively, as parts I, J, K, and L of title I; and

(4) adding at the end of part E of title I, as amended by this Act, the following new part:

"PART F—FEDERAL COMPENSATION FOR VICTIMS OF VIOLENT CRIME

"DEFINITIONS

"Sec. 450. As used in this part—

"(1) 'Board' means the Violent Crimes Compensation Board established by this part;

"(2) 'Chairman' means the Chairman of the Violent Crimes Compensation Board established by this part;

"(3) 'child' includes a stepchild, an adopted child, and an illegitimate child;

"(4) 'claim' means a written request to the Board for compensation made by or on behalf of an intervenor, a victim, or the surviving dependent or dependents of either of them;

"(5) 'claimant' means an intervenor, victim, or the surviving dependent or dependents of either of them;

"(6) 'compensation' means payment by the Board for net losses or pecuniary losses to or on behalf of an intervenor, a victim, or the surviving dependent or dependents of either of them;

"(7) 'dependent' means—

"(A) a surviving spouse;

"(B) an individual who is a dependent of the deceased victim or intervenor within the meaning of section 152 of the Internal Revenue Code of 1954 (26 U.S.C. 152); or

"(C) a posthumous child of the deceased intervenor or victim;

"(8) 'financial stress' means the undue financial strain experienced by a victim or his surviving dependent or dependents as the result of pecuniary loss from an act, omission, or possession giving rise to a claim under this part, disregarding ownership of—

"(A) a residence;

"(B) normal household items and personal effects;

"(C) an automobile;

"(D) such tools as are necessary to maintain gainful employment; and

"(E) all other liquid assets not in excess of one year's gross income or $10,000 in value, whichever is less;

"(9) 'gross losses' means all damages, including pain and suffering and including property losses, incurred by an intervenor or victim, or surviving dependent or dependents of either of them, for which the proximate cause is an act, omission, or possession enumerated in section 456 of this part, or set forth in paragraph (B) of subsection (18) of this section;

"(10) 'guardian' means a person who is entitled by common law or legal appointment to care for and manage the person or property, or both, of a minor or incompetent intervenor or victim, or surviving dependent or dependents of either of them;

"(11) 'intervenor' means a person who goes to the aid of another and is killed or injured while acting not recklessly to prevent the commission or reasonably suspected commission of a crime enumerated in section 456 of this part, or while acting not recklessly to apprehend a person reasonably suspected of having committed such a crime;

"(12) 'liquid assets' includes cash on hand, savings accounts, checking accounts, certificates of deposit, stocks, bonds, and all other personal property that may be readily converted into cash;

"(13) 'member' means a member of the Violent Crimes Compensation Board established by this part;

"(14) 'minor' means an unmarried person who is under eighteen years of age;

"(15) 'net losses' means gross losses, excluding pain and suffering, that are not otherwise recovered or recoverable—

"(A) under insurance programs mandated by law;

"(B) from the United States, a State, or unit of general local government for a personal injury or death otherwise compensable under this part;

"(C) under contract or insurance wherein the claimant is the insured or beneficiary; or

"(D) by other public or private means;

"(16) 'pecuniary losses' means net losses which cover—

"(A) for personal injury—

"(1) all appropriate and reasonable expenses necessarily incurred for medical, hospital, surgical, professional, nursing, dental, ambulance, and prosthetic services relating to physical or psychiatric care;

"(2) all appropriate and reasonable expenses necessarily incurred for physical and occupational therapy and rehabilitation;

"(3) actual loss of past earnings and anticipated loss of future earnings because of a disability resulting from the personal injury at a rate not to exceed $150 per week; and

"(4) all appropriate and reasonable expenses necessarily incurred for the care of minor children enabling a victim or his or her spouse, but not both of them, to continue gainful employment at a rate not to exceed $30 per child per week, up to a maximum of $75 per week for any number of children;

"(B) for death—

"(1) all appropriate and reasonable expenses necessarily incurred for funeral and burial expenses;

"(2) loss of support to a dependent or dependents of a victim, not otherwise compensated for as a pecuniary loss for personal injury, for such period of time as the dependency would have existed but for the death of the victim, as a rate not to exceed a total of $150 per week for all dependents; and

"(3) all appropriate and reasonable expenses, not otherwise compensated for as a pecuniary loss for personal injury, which are incurred for the care of minor children, enabling the surviving spouse of a victim to engage in gainful employment, at a rate not to exceed $30 per week per child, up to a maximum of $75 per week for any number of children;

"(17) 'personal injury' means actual bodily harm and includes pregnancy, mental distress, and nervous shock; and

"(18) 'victim' means a person who is killed or who suffers personal injury where the proximate cause of such death or personal injury is—

"(A) a crime enumerated in section 456 of this part; or

"(B) the not reckless actions of an intervenor in attempting to prevent the commission or reasonably suspected commission of a crime enumerated in section 456 of this part or in attempting to apprehend a person reasonably suspected of having committed such a crime.

"BOARD

"SEC. 451. (a) There is hereby established a Board within the Department of Justice to be known as the Violent Crimes Compensation Board. The Board shall be composed of three members, each of whom shall have been members of the bar of the highest court of State for at least eight years, to be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members of the Board to serve as Chairman.

"(b) No member of the Board shall engage in any other business, vocation, or employment.

"(c) The Board shall have an official seal.

"(d) The term of office of each member of the Board taking office after June 30, 1972, shall be eight years, except that (1) the terms of office of the members first taking office after June 30, 1972, shall expire as designated by the President at the time of appointment, one at the end of four years, one at the end of six years, and one at the end of eight years, after June 30, 1972; and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

"(e) Each member of the Board shall be eligible for reappointment.

"(f) Any member of the Board may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

"(g) The principal office of the Board shall be in or near the District of Columbia, but the Board or any duly authorized representative may exercise any or all of its powers in any place.

"ADMINISTRATION

"SEC. 452. The Board is authorized in carrying out its functions under this part to—

"(1) appoint and fix the compensation of an Executive Director and a General Counsel and such other personnel as the Board deems necessary in accordance with the provisions of title 5 of the United States Code;

"(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5 of the United States Code, but at rates not to exceed $100 a day for individuals;

"(3) promulgate such rules and regulations as may be required to carry out the provisions of this part;

"(4) designate representatives to serve or assist on such advisory committees as the Board may determine to be necessary to maintain effective liaison with Federal agencies and with State and local agencies developing or carrying out policies or programs related to the provisions of this part;

"(5) request and use the services, personnel, facilities, and information (including suggestions, estimates, and statistics) of Federal agencies and those of State and local public agencies and private institutions, with or without reimbursement therefor;

"(6) enter into and perform without regard to section 529 of title 31 of the United States Code, such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its functions with any public agency, or with any person, firm, association, corporation, or educational institution, and make grants to any public agency or private nonprofit organization;

"(7) request and use such information, data, and reports from any Federal agency as the Board may from time to time require and as may be produced consistent with other law;

"(8) arrange with the heads of other Federal agencies for the performance of any of its functions under this part with or without reimbursement and, with the approval of the President, delegate and authorize the redelegation of any of its powers under this part;

"(9) request each Federal agency to make its services, equipment, personnel, facilities, and information (including suggestions, estimates, and statistics) available to the greatest practicable extent to the Board in the performance of its functions;

"(10) pay all expenses of the Board, including all necessary travel and subsistence expenses of the Board outside the District of Columbia incurred by the members or employees of the Board under its orders on the presentation of itemized vouchers therefor approved by the Chairman or his designate; and

"(11) establish a program to assure extensive and continuing publicity for the provisions relating to compensation under this part, including information on the right to file a claim, the scope of coverage, and procedures to be utilized incident thereto.

"COMPENSATION

"SEC. 453. (a) The Board shall order the payment of compensation—

"(1) in the case of the personal injury of an intervenor or victim, to or on behalf of that person; or

"(2) in the case of the death of the intervenor or victim, to or on behalf of the surviving dependent or dependents of either of them.

"(b) The Board shall determine the amount of compensation under this part—

"(1) in the case of a claim by an intervenor or his surviving dependent or dependents, by computing the net losses of the claimant; and

"(2) in the case of a claim by a victim or his surviving dependent or dependents, by computing the pecuniary losses of the claimant.

"(c) The Board may order the payment of compensation under this part to the extent it is based upon anticipated loss of future earnings or loss of support of the victim for ninety days or more, or child care payments, in the form of periodic payments during the protracted period of such loss of earnings, support or payments, or ten years, whichever is less.

"(d) The Board may order the payment of compensation under this part to a victim or his surviving dependent or dependents held in abeyance until such time as the victim or his surviving dependent or dependents has exhausted his liquid assets.

"(e)(1) Whenever the Board determines, prior to taking final action upon a claim, that such claim is one with respect to which an order of compensation will probably be made, the Board may order emergency compensation not to exceed $1,500 pending final action on the claim.

"(2) The amount of any emergency compensation ordered under paragraph (1) of this subsection shall be deducted from the amount of any final order for compensation.

"(3) Where the amount of any emergency compensation ordered under paragraph (1) of this subsection exceeds the amount of the final order for compensation, or if there is no order for compensation made, the recipient of any such emergency compensation shall be liable for the repayment of such compensation. The Board may waive all or part of such repayment.

"(f) No order for compensation under this part shall be subject to execution or attachment.

"(g) The availability or payment of compensation under this part shall not affect the right of any person to recover damages from any other person by a civil action for the injury or death, subject to the limitations of this part—

"(1) in the event an intervenor, a victim, or the surviving dependent or dependents of either of them who has a right to file a claim under this part, should first recover damages from any other source based upon an act, omission, or possession giving rise to a claim under this part, such damages shall be first used to offset gross losses that do not qualify as net or pecuniary losses; and

"(2) in the event an intervenor, victim, or the surviving dependent or dependents of either of them receives compensation under this part and subsequently recovers damages from any other source based upon an act, omission, or possession that gave rise to compensation under this part, the Board shall be reimbursed for compensation previously paid to the same extent compensation would have been reduced had recovery preceded compensation under paragraph (1) of this subsection.

"(h) The Board may reconsider a claim at any time and modify or rescind previous orders for compensation based upon a change in circumstances of the claimant.

"LIMITATIONS

"SEC. 454. (a) No order for compensation under this part shall be allowed to or on behalf of a victim or his surviving dependent or dependents unless the Board finds that such a claimant will suffer financial stress from pecuniary losses for which the act, omission, or possession, giving rise to the claim was the proximate cause.

"(b) No order for compensation under this part shall be made unless the claim has been made within one year after the date of the act, omission, or possession resulting in the injury or death, unless the Board finds that the failure to file was justified by good cause.

"(c) No order for compensation under this part shall be made to or on behalf of an intervenor, victim, or the surviving dependent or dependents of either of them unless a minimum pecuniary or net loss of $100 or an amount equal to a week's earnings or support, whichever is less, has been incurred.

"(d) No order for compensation under this part shall be made unless the act, omission, or possession giving rise to a claim under this part, was reported to the law enforcement officials within seventy-two hours after its occurrence, unless the Board finds that the failure to report was justified by good cause.

"(e) No order for compensation under this part to or on behalf of a victim, his surviving dependent or dependents, as the result of any one act, omission, or possession, giving rise to a claim, shall be in excess of $50,000, including lump-sum and periodic payments.

"(f) The Board, upon finding that any claimant has not substantially cooperated with all law enforcement agencies incident to the act, omission, or possession that gave rise to the claim, may, reduce, deny, or withdraw any order for compensation under this part.

"(g) The Board, in determining whether to order compensation or the amount of the compensation, shall consider the behavior of the claimant and whether, because of provocation or otherwise, he bears any share of responsibility for the act, omission, or possession that gave rise to the claim for compensation and—

"(1) the Board shall reduce the amount of compensation to the claimant in accordance with its assessment of the degree of such responsibility attributable to the claimant, or

"(2) in the event the claimant's behavior was a substantial contributing factor to the act, omission, or possession giving rise to a claim under this part, he shall be denied compensation.

"(h) No order for compensation under this part shall be made to or on behalf of a person engaging in the act, omission, or possession giving rise to the claim for compensation, to or on behalf of his accomplice, a member of the family or household of either of them, or to or on behalf of any person maintaining continuing unlawful sexual relations with either of them.

"PROCEDURES

"SEC. 455. (a) The Board is authorized to receive claims for compensation under this part filed by an intervenor, a victim, or the surviving dependent or dependents of either of them, or a guardian acting on behalf of such a person.

"(b) The Board—

"(1) may subpena and require production of documents in the manner of the Securities and Exchange Commission as provided in subsection (c) of section (18) of the Act of August 26, 1935, except that such subpena shall only be issued under the signature of the Chairman, and application to any court for aid in enforcing such subpena shall be made only by the Chairman, but a subpena may be served by any person designated by the Chairman;

"(2) may administer oaths, or affirmations to witnesses appearing before the Board, receive in evidence any statement, document, information, or matter that may, in the opinion of the Chairman, contribute to its functions under this part, whether or not such statement, document, information, or matter would be admissible in a court of law, provided it is relevant and not privileged;

"(3) shall, if hearings are held, conduct such hearings open to the public, unless in a particular case the Chairman determines that the hearing, or a portion thereof, should be held in private, having regard to the fact that a criminal suspect may not yet have been apprehended or convicted, or to the interest of the claimant; and

"(4) may, at the discretion of the Chairman, appoint an impartial licensed physician to examine any claimant under this part and order the payment of reasonable fees for such examination.

"(c) The Board shall be an 'agency of the United States' under subsection (1) of section 6001 of title 18 of the United States Code for the purpose of granting immunity to witnesses.

"(d) The provisions of chapter 5 of title 5 of the United States Code shall not apply to adjudicatory procedures to be utilized before the Board.

"(e) (1) A claim for compensation under this part may be acted upon by a member designated by the Chairman to act on behalf of the Board.

"(2) In the event the disposition by a member as authorized by paragraph (1) of this subsection is unsatisfactory to the claimant, the claimant shall be entitled to a de novo hearing of record on his claim by the full Board.

"(f) (1) Decisions of the full Board shall be in accord with the will of a majority of the members and shall be based upon a preponderance of the evidence.

"(2) All questions as to the relevancy or privileged nature of evidence at such times as the full Board shall sit shall be decided by the Chairman.

"(3) A claimant at such times as the full Board shall sit shall have the right to produce evidence and to cross-examine such witnesses as may appear.

"(g) (1) The Board shall publish regulations providing that an attorney may, at the conclusion of proceedings under this part, file with the Board an appropriate statement for a fee in connection with services rendered in such proceedings.

"(2) After the fee statement is filed by an attorney under paragraph (1) of this subsection, the Board shall award a fee to such attorney on substantially similar terms and conditions as is provided for the payment of representation under section 3006A of title 18 of the United States Code.

"(3) Any attorney who charges or collects for services rendered in connection with any proceedings under this part any fee in any amount in excess of that allowed under this subsection shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(h) The United States Court of Appeals for the District of Columbia shall have jurisdiction to review all final orders of the Board. No finding of fact supported by substantial evidence shall be set aside.

"CRIMES

"SEC. 456. (a) The Board is authorized to order compensation under this part in any case in which an intervenor, victim, or the surviving dependent or dependents of either of them files a claim when the act, omission, or possession giving rise to the claim for compensation occurs—

"(1) within the 'special maritime and territorial jurisdiction of the United States' within the meaning of section 7 of title 18 of the United States Code;

"(2) within the District of Columbia; or

"(3) within 'Indian country' within the meaning of section 1151 of title 18 of the United States Code.

"(b) This part applies to the following acts, omissions, or possessions:

"(1) aggravated assault;
"(2) arson;
"(3) assault;
"(4) burglary;
"(5) forcible sodomy;
"(6) kidnaping;
"(7) manslaughter;
"(8) mayhem;
"(9) murder;
"(10) negligent homicide;
"(11) rape;
"(12) robbery;
"(13) riot;
"(14) unlawful sale or exchange of drugs;
"(15) unlawful use of explosives;
"(16) unlawful use of firearms;
"(17) any other crime, including poisoning, which poses a substantial threat of personal injury; or
"(18) attempts to commit any of the foregoing.

"(c) For the purposes of this part, the operation of a motor vehicle, boat, or aircraft that results in an injury or death shall not constitute a crime unless the injuries were intentionally inflicted through the use of such vehicle, boat, or aircraft or unless such vehicle, boat, or aircraft is an implement of a crime to which this part applies.

"(d) For the purposes of this part, a crime may be considered to have been committed notwithstanding that by reason of age, insanity, drunkness, or otherwise, the person engaging in the act, omission, or possession was legally incapable of committing a crime.

"SUBROGATION

"SEC. 457. (a) Whenever an order for compensation under this part has been made for loss resulting from an act, omission, or possession of a person, the Attorney General may, within three years from the date on which the order for compensation was made, institute an action against such person for the recovery of the whole or any specified part of such compensation in the district court of the United States for any judicial district in which such person resides or is found. Such court shall have jurisdiction to hear, determine, and render judgment in any such action. Any amounts recovered under this subsection shall be deposited in the Criminal Victim Indemnity Fund established by section 458 of this part.

"(b) The Board shall provide to the Attorney General such information, data, and reports as the Attorney General may require to prosecute actions in accordance with this section.

"INDEMNITY FUND

"SEC. 458. (a) There is hereby created on the books of the Treasury of the United States a fund known as the Criminal Victim Indemnity Fund (hereinafter referred to as the 'Fund'). Except as otherwise specifically provided, the Fund shall be the repository of (1) criminal fines paid in the various courts of the United States, (2) additional amounts that may be appropriated to the Fund as provided by law, and (3) such other sums as may be contributed to the Fund by public or private agencies, organizations, or persons.

"(b) The Fund shall be utilized only for the purposes of this part.

"ADVISORY COUNCIL

"Sec. 459. (a) There is hereby established an Advisory Council on the Victims of Crime (hereinafter referred to as the 'Council') consisting of the members of the Board and one representative from each of the various State crime victims compensation programs referred to in paragraph (10) of subsection (b) of section 301 of this title, each of whom shall serve without additional compensation.

"(b) The Chairman of the Board shall also serve as the Chairman of the Council.

"(c) The Council shall meet not less than once a year, or more frequently at the call of the Chairman, and shall review the administration of this part and programs under paragraph (10) of subsection (b) of section 301 of this title and advise the Administration on matters of policy relating to their activities thereunder.

"(d) The Council is authorized to appoint an advisory committee to carry out the provisions of this section.

"(e) Each member of the advisory committee, other than a member of the Board, appointed pursuant to subsection (d) of this section shall receive $100 a day, including traveltime, for each day he is engaged in the actual performance of his duties as a member of the committee. Each member of the Council or advisory committee shall also be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties.

"REPORTS

"Sec. 460. The Board shall transmit to the Congress an annual report of its activities under this part. In its third annual report, the Board upon investigation and study shall include its findings and recommendations with respect to the operation of the overall limit on compensation under section 454(e) of part I of this title and with respect to the adequacy of State programs assisted under section 105."

COMPENSATION OF BOARD MEMBERS

Sec. 103. (a) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(58) Chairman, Violent Crimes Compensation Board."

(b) Section 5315 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(95) Members, Violent Crimes Compensation Board."

CRIMINAL VICTIM INDEMNITY FUND FINES

Sec. 104. (a) Chapter 227 of title 18 of the United States Code is amended by adding at the end thereof the following new section:

"§ 3579. Fine imposed for Criminal Victim Indemnity Fund

"In any court of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, upon conviction of a person of an offense resulting in personal injury, property loss, or death, the court shall take into consideration the financial condition of such person, and may, in addition to any other penalty, order such person to pay a fine in an amount of not more than $10,000 and such fine shall be deposited into the Criminal Victim Indemnity Fund of the United States."

(b) The analysis of chapter 227 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"3579. Fine imposed for Criminal Victim Indemnity Fund.".

Part B—Federal Grant Program

Sec. 105. Subsection (b) of section 301 of part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968, is amended by adding at the end thereof the following new paragraph:

"(10) The cost of administration and that portion of the costs of State programs, other than in the District of Columbia, to compensate victims of violent crime which are substantially comparable in coverage and limitations to part F of this title."

Sec. 106. Paragraph (a) of section 601 of part G (redesignated part K by this Act) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "and" the second time it appears, striking "or" the sixth time it appears, striking the period, and inserting the following: ", or programs for the compensation of victims of violent crimes."

Sec. 107. Section 501 of part F (redesignated as part I by this Act) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by inserting "(a)" immediately after "501" and adding at the end thereof the following new subsection:

"(b) In addition to the rules, regulations, and procedures under subsection (a) of this section, the Administration shall, after consultation with the Violent Crimes Compensation Board, establish by rule or regulation criteria to be applied under paragraph (10) of subsection (b) of section 301 of this title. In addition to other matters, such criteria shall include standards for—

"(1) the persons who shall be eligible for compensation;

"(2) the categories of crimes for which compensation may be ordered;

"(3) the losses for which compensation may be ordered; and

"(4) such other terms and conditions for the payment of such compensation as the Administration deems necessary and appropriate."

Part C—Miscellaneous Provisions

Sec. 108. Section 569 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended and as redesignated by this Act, is amended by inserting "(a)" immediately after "569" and by adding at the end thereof the following new subsection:

"(b) There is authorized to be appropriated for the fiscal year ending June 30, 1973—

"(1) $5,000,000 for the purposes of part F; and

"(2) $10,000,000 for the purposes of paragraph (10) of subsection (b) of section 301 of part C."

Sec. 109. Until specific appropriations are made for carrying out the purposes of this Act, any appropriation made to the Department of Justice or the Law Enforcement invalid, the provisions of the other parts and their application shall, in the discretion of the Attorney General, be available for payments of obligations arising under this Act.

Sec. 110. If the provisions of any part of this Act are found invalid or any amendments made thereby or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

Sec. 111. This Act shall become effective upon the date of enactment.

ELIMINATION OF DRUG ABUSE

Mr. COOK. Mr. President, this administration has made the elimination of drug abuse a top priority item. The President's attack in this problem has been twofold, with first and primary emphasis on eliminating the major sources of supply for these narcotic drugs. As early as September of 1968, Richard Nixon realized that this sort of frontal attack would require the cooperation and support of countries throughout the world, and since that time he has worked constantly and persistently to formalize working relationships with these nations in order to end international drug traffic.

The Bureau of Narcotics and Dangerous Drugs within the U.S. Department of Justice and the Bureau of Customs within the Department of State have been the principal agents in the implementation of these efforts. In the last 2 years, the United States has signed treaty agreements with nations around the world outlining an international drug offensive: Mexico in March of 1970, France in February of 1971, Turkey in June of 1971, and Thailand in August of 1971. By the end of fiscal year 1972 the Bureau of Narcotics and Dangerous Drugs will have 123 agents stationed around the world, working with these countries to reduce the illegal traffic in narcotic drugs.

Our success has been limited, however. In 1971, the Bureau of Narcotics and Dangerous Drugs boasted the seizure of some 4,936 pounds of heroin, opium, and morphine which did not make it onto the streets of this country. But that was only a drop in the bucket compared to the vast supplies of narcotic drugs consumed by the 500,000 addicts in the United States last year. Even the most optimistic narcotics agents concede that 80 to 85 percent of the total volume of drugs targeted at this Nation succeed in evading our various law enforcement agencies. New sources of supply open daily, requiring new and lengthy efforts to enlist the assistance of other governments in our fight, governments poorly equipped to provide the authority and expertise needed to effectively control this situation. Only last week, testimony before the Senate Subcommittee of the Judiciary on Internal Security provided numerous examples of the extent and evasiveness of the international drug problem. As a member of that subcommittee and as ranking minority member of the Judiciary Subcommittee to Investigate Juvenile Delinquency, which handles much of the drug legislation in the Senate, I am deeply concerned with the current international drug situation.

Our efforts to date have been, in many respects, haphazard. We have focused on those sources of most immediate supply, making gradual progress in these areas while new sources of supply multiply in others. Our current offensive has made substantial headway in those countries which have traditionally been the major suppliers of drugs for the illegal international traffic. For example, in today's Washington Post, John E. Ingersoll, Director of BNDD, reported that the recent arrest of just one person, Wan Pen Pen, in Saigon, has driven the street price of just one vial of heroin up from $1 to $9, an indication of the organization and concentration of both power and supply in these well established areas. The newer sources for narcotic drugs are far less organized or concentrated, however, decreasing the effectiveness of arrests and shipment seizures by our international agents. The scope of the international drug problem has increased tremendously over the past few years and the United States can no longer afford to work independently with a few key countries in reducing world narcotic trade. The sources are too varied and the situation too complex for anything but a strong international offensive on this problem.

The amendments to the single convention on narcotic drugs were first presented to the United Nations and its Commission on Narcotic Drugs by John E. Ingersoll, the Director of BNDD, and our delegate to that Commission, in October of last year. The combined purpose of these various amendments is to strengthen that world body's ability to act effectively in regard to the international narcotic drug supply and traffic. These amendments would give specific quota setting and enforcement powers to the International Narcotics Control Board, transforming that body from a simple recommendation board to a strong regulatory agency. Since the signing of the single convention in 1961 the board's authority has been generally limited to monitoring the licit production of narcotic drugs and trying to deter leakage from such production into illegal channels. These amendments would specifically direct the board to take strong action in eliminating the growing international traffic in illegal narcotic drugs, reorganizing and enlarging the board and giving it access to a wider range of information and Government assistance in exercising its extended authority. These amendments also extend the legal basis for extradition of drug offenders to all parties of the single convention, an important step in effectively stopping those traffickers and suppliers who most directly affect the United States.

These amendments should greatly facilitate the U.S. efforts in regard to international drug traffic and open the way for further cooperation and assistance for all countries throughout the world. For this reason I strongly support the proposed amendments.

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order the Senate will now go into executive session to vote on Executive J, 92d Congress, second session.

Mr. ROBERT C. BYRD. Mr. President, we cannot hear the Chair.

The PRESIDING OFFICER. The Senate will now go into executive session to vote on Executive J, 92d Congress, second session.

PROTOCOL AMENDING THE SINGLE CONVENTION ON NARCOTIC DRUGS, 1961

The PRESIDING OFFICER. Under the previous order the Senate will proceed to vote on Executive J, second session, 92d Congress, the Protocol Amending the Single Convention on Narcotic Drugs, 1961.

The question is, Will the Senate advise and consent to the resolution of ratification? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I also announce that the Senator from Wyoming (Mr. MCGEE) is absent because of official business.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PELL), and the Senator from Connecticut (Mr. RIBICOFF) would each vote "yea."

Mr. SCOTT. I announce that the Senators from Colorado (Mr. ALLOTT and Mr. DOMINICK), the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Michigan (Mr. GRIFFIN), the Senator from Iowa (Mr. MILLER), the Senator from Alaska (Mr. STEVENS), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from New York (Mr. JAVITS) is absent because of religious observance.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Colorado (Mr. ALLOTT), the Senator from Nebraska (Mr. CURTIS), the Senator from Michigan (Mr. GRIFFIN), the Senator from New York (Mr. JAVITS), the Senator from Iowa (Mr. MILLER), the Senator from Alaska (Mr. STEVENS), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The yeas and nays resulted—yeas 69, nays 0, as follows:

[No. 440 Ex.]

YEAS—69

Aiken
Allen
Anderson
Bayh
Beall
Bennett
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Church
Cook
Cooper
Cranston
Dole
Eastland
Edwards
Ervin
Fannin
Fong
Fulbright
Gambrell
Goldwater
Gurney
Hansen
Harris
Hatfield
Hruska
Hughes
Inouye
Jackson
Jordan, N.C.
Jordan, Idaho
Kennedy
Magnuson
Mansfield
Mathias
McClellan
Mondale
Montoya
Nelson
Packwood
Pastore
Pearson
Percy
Proxmire
Randolph
Roth
Saxbe
Schweiker
Scott
Smith
Spong
Stafford
Stennis
Stevenson
Symington
Talmadge
Thurmond
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—31

Allott
Baker
Bellmon
Cannon
Chiles
Cotton
Curtis
Dominick
Eagleton
Gravel
Griffin
Hart
Hartke
Hollings
Humphrey
Javits
Long
McGee
McGovern
McIntyre
Metcalf
Miller
Moss
Mundt
Muskie
Pell
Ribicoff
Sparkman
Stevens
Taft
Tower

The PRESIDING OFFICER. Two-thirds of the Senators present having voted in the affirmative, the resolution of ratification is agreed to.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

LIMITATION OF TIME ON ROLLCALL VOTES

Mr. ROBERT C. BYRD. I ask unanimous consent that time on each rollcall vote for the remainder of this day be limited to 10 minutes, with the warning bell to be sounded after the first 2½ minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC SAFETY OFFICERS' GROUP LIFE INSURANCE ACT OF 1972

The PRESIDING OFFICER (Mr. STEVENSON). Under the previous order, the Chair lays before the Senate S. 33, which the clerk will state.

The legislative clerk read as follows:

> A bill (S. 33) to authorize the Attorney General to provide a group life insurance program for State and local government law enforcement officers.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Public Safety Officers' Group Life Insurance Act of 1972".

DECLARATION OF PURPOSE

SEC. 101. It is the declared purpose of Congress in this title to promote the public welfare by establishing a means of meeting the financial needs of public safety officers or their surviving dependents through group life, accidental death, and dismemberment insurance, and to assist State and local governments to provide such insurance.

INSURANCE PROGRAM AUTHORIZED

SEC. 102. The Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by—

(1) redesignating sections 451 through 455, respectively, as sections 421 through 425;

(2) redesignating sections 501 through 521, respectively, as sections 550 through 570;

(3) redesignating parts F, G, H, and I of title I, respectively, as parts I, J, K, and L of title I; and

(4) adding at the end of part F of title I, as amended by this Act, the following new part:

"PART G—PUBLIC SAFETY OFFICERS' GROUP LIFE INSURANCE

"DEFINITIONS

"SEC. 500. For the purposes of this part—

"(1) 'child' includes a stepchild, an adopted child, an illegitimate child, and a posthumous child;

"(2) 'month' means a month that runs from a given day in one month to a day of the corresponding number in the next or specified succeeding month, except when the last month has not so many days, in which event it expires on the last day of the month; and

"(3) 'public safety officer' means a person who is employed full time by a State or unit of general local government in—

"(A) the enforcement of the criminal laws, including highway patrol,

"(B) a correctional program, facility, or institution where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees,

"(C) a court having criminal or juvenile delinquent jurisdiction where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees, or

"(D) firefighting,

but does not include any person eligible to participate in the insurance program established by chapter 87 of title 5 of the United States Code, or any person participating in the program established by subchapter III of chapter 19 of title 38 of the United States Code.

"Subpart 1—Nationwide Program of Group Life Insurance for Public Safety Officers

"ELIGIBLE INSURANCE COMPANIES

"SEC. 501. (a) The Administration is authorized, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), to purchase from one or more life insurance companies a policy or policies of group life insurance to provide the benefits specified in this subpart. Each such life insurance company must (1) be licensed to issue life, accidental death, and dismemberment insurance in each of the fifty States of the United States and the District of Columbia, and (2) as of the most recent December 31 for which information is available to the Administration, have in effect at least 1 per centum of the total amount of group life insurance which all life insurance companies have in effect in the United States.

"(b) Any life insurance company issuing such a policy shall establish an administrative office at a place and under a name designated by the Administration.

"(c) The Administration may at any time discontinue any policy which it has purchased from any insurance company under this subpart.

"REINSURANCE

"SEC. 502. (a) The Administration shall arrange with each life insurance company issuing a policy under this subpart for the reinsurance, under conditions approved by the Administration, of portions of the total amount of insurance under the policy, determined under this section, with other life insurance companies which elect to participate in the reinsurance.

"(b) The Administration shall determine for and in advance of a policy year which companies are eligible to participate as reinsurers and the amount of insurance under a policy which is to be allocated to the issuing company and to reinsurers. The Administration shall make this determination at least every three years and when a participating company withdraws.

"(c) The Administration shall establish a formula under which the amount of insurance retained by an issuing company after ceding reinsurance, and the amount of reinsurance ceded to each reinsurer, is in proportion to the total amount of each company's group life insurance, excluding insurance purchased under this subpart, in force in the United States on the determination date, which is the most recent December 31 for which information is available to the Administration. In determining the proportions, the portion of a company's group life insurance in force on the determination date in excess of $100,000,000 shall be reduced by—

"(1) 25 per centum of the first $100,000,000 of the excess;

"(2) 50 per centum of the second $100,000,000 of the excess;

"(3) 75 per centum of the third $100,000,000 of the excess; and

"(4) 95 per centum of the remaining excess. However, the amount retained by or ceded to a company may not exceed 25 per centum of the amount of the company's total life insurance in force in the United States on the determination date.

"(d) The Administration may modify the computations under this section as necessary to carry out the intent of this section.

"PERSONS INSURED; AMOUNT

"SEC. 503. (a) Any policy of insurance purchased by the Administration under this subpart shall automatically insure any public safety officer employed on a full-time basis by a State or unit of general local government which has (1) applied to the Administration for participation in the insurance program under this subpart, and (2) agreed to deduct from such officer's pay the amount of such officer's contribution, if any, and forward such amount to the Administration or such other agency or office as is designated by the Administration as the collection agency or office for such contributions. The insurance provided under this subpart shall take effect from the first day agreed upon by the Administration and the responsible officials of the State or unit of general local government making application for participation in the program as to public safety officers then on the payroll, and as to public safety officers thereafter entering on full-time duty from the first day of such duty. The insurance provided by this subpart shall so insure all such public safety officers unless any such officer elects in writing not to be insured under this subpart. If any such officer elects not to be insured under this subpart he may thereafter, if eligible, be insured under this subpart upon written application, proof of good health, and compliance with such other terms and conditions as may be prescribed by the Administration.

"(b) A public safety officer eligible for insurance under this subpart is entitled to be insured for an amount of group life insurance, plus an equal amount of group accidental death and dismemberment insurance, in accordance with the following schedule:

"If annual pay is—		The amount of group insurance is—	
Greater than—	But not greater than—	Life	Accidental death and dismemberment
0	$8,000	$10,000	$10,000
$8,000	9,000	11,000	11,000
$9,000	10,000	12,000	12,000
$10,000	11,000	13,000	13,000
$11,000	12,000	14,000	14,000
$12,000	13,000	15,000	15,000
$13,000	14,000	16,000	16,000
$14,000	15,000	17,000	17,000
$15,000	16,000	18,000	18,000
$16,000	17,000	19,000	19,000
$17,000	18,000	20,000	20,000
$18,000	19,000	21,000	21,000
$19,000	20,000	22,000	22,000
$20,000	21,000	23,000	23,000
$21,000	22,000	24,000	24,000
$22,000	23,000	25,000	25,000
$23,000	24,000	26,000	26,000
$24,000	25,000	27,000	27,000
$25,000	26,000	28,000	28,000
$26,000	27,000	29,000	29,000
$27,000	28,000	30,000	30,000
$28,000	29,000	31,000	31,000
$29,000		32,000	32,000

The amount of such insurance shall automatically increase at any time the amount of increase in the annual basic rate of pay places any such officer in a new pay bracket of the schedule and any necessary adjustment is made in his contribution to the total premium.

"(c) Subject to conditions and limitations approved by the Administration which shall be included in any policy purchased by it, the group accidental death and dismemberment insurance shall provide for the following payments:

"Loss	*Amount payable*
For loss of life	Full amount shown in the schedule in subsection (b) of this section.
Loss of one hand or of one foot or loss of sight of one eye.	One-half of the amount shown in the schedule in subsection (b) of this section.
Loss of two or more such members	Full amount shown in the schedule in subsection (b) of this section.

The aggregate amount of group accidental death and dismemberment insurance that may be paid in the case of any insured as the result of any one accident may not exceed the amount shown in the schedule in subsection (b) of this section.

"(d) Any policy purchased under this subpart may provide for adjustments to prevent duplication of payments under any program of Federal gratuities for killed or injured public safety officers.

"(e) Group life insurance shall include provisions approved by the Administration for continuance of such life insurance without requirement of contribution payment during a period of disability of a public safety officer covered for such life insurance.

"(f) The Administration shall prescribe regulations providing for the conversion of other than annual rates of pay to annual rates of pay and shall specify the types of pay included in annual pay.

"TERMINATION OF COVERAGE

"Sec. 504. Each policy purchased under this subpart shall contain a provision, in terms approved by the Administration, to the effect that any insurance thereunder on any public safety officer shall cease two months after (1) his separation or release from full-time duty as such an officer or (2) discontinuance of his pay as such an officer, whichever is earlier: *Provided, however,* That coverage shall be continued during periods of leave or limited disciplinary suspension if such an officer authorizes or otherwise agrees to make or continue to make any required contribution for the insurance provided by this subpart.

"CONVERSION

"Sec. 505. Each policy purchased under this subpart shall contain a provision, in terms approved by the Administration, for the conversion of the group life insurance portion of the policy to an individual policy of life insurance effective the day following the date such insurance would cease as provided in section 504 of this subpart. During the period such insurance is in force, the insured, upon request to the Administration, shall be furnished a list of life insurance companies participating in the program established under this subpart and upon written application (within such period) to the participating company selected by the insured and payment of the required premiums, the insured shall be granted life insurance without a medical examination on a permanent plan then currently written by such company which does not provide for the payment of any sum less than the face value thereof. In addition to the life insurance companies participating in the program established under this subpart, such list shall include additional life insurance companies (not so participating) which meet qualifying criteria, terms, and conditions established by the Administration and agree to sell insurance to any eligible insured in accordance with the provisions of this section.

"WITHHOLDING OF PREMIUMS FROM PAY

"Sec. 506. During any period in which a public safety officer is insured under a policy of insurance purchased by the Administration under this subpart, his employer shall withhold each pay period from his basic or other pay until separation or release from full-time duty as a public safety officer an amount determined by the Administration to be such officer's share of the cost of his group life insurance and accidental death and dismemberment insurance. Any such amount not withheld from the basic or other pay of such officer insured under this subpart while on full-time duty as a public safety officer, if not otherwise paid, shall be deducted from the proceeds of any insurance thereafter payable. The initial amount determined by the Administration to be charged any public safety officer for each unit of insurance under this subpart may be continued from year to year, except that the Administration may redetermine such amount from time to time in accordance with experience.

"SHARING OF COST OF INSURANCE

"Sec. 507. For each month any public safety officer is insured under this subpart, the Administration shall bear not more than one-third of the cost of insurance for such officer, or such lesser amount as may from time to time be determined by the Administration to be a practicable and equitable obligation of the United States in assisting the States and units of general local government in recruiting and retaining their public safety officers.

"INVESTMENTS AND EXPENSES

"Sec. 508. (a) The amounts withheld from the basic or other pay of public safety officers as contributions to premiums for insurance under section 506 of this subpart, any sums contributed by the Administration under section 507 of this subpart, and any sums contributed for insurance under this subpart by States and units of general local government under section 515 of this part, together with the income derived from any dividends or premium rate readjustment from insurers, shall be deposited to the credit of a revolving fund established by section 517 of this part. All premium payments on any insurance policy or policies purchased under this subpart and the administrative costs to the Administration of the insurance program established by this subpart shall be paid from the revolving fund by the Administration.

"(b) The Administration is authorized to set aside out of the revolving fund such amounts as may be required to meet the administrative costs to the Administration of the program and all current premium payments on any policy purchased under this subpart. The Secretary of the Treasury is authorized to invest in and to sell and retire special interest-bearing obligations of the United States for the account of the revolving fund. Such obligations issued for this purpose shall have maturities fixed with due regard for the needs of the fund and shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligation shall be the multiple of one-eighth of 1 per centum nearest market yield. The interest on and the proceeds from the sale of these obligations, and the income derived from dividends or premium rate adjustments from insurers, shall become a part of the revolving fund.

"BENEFICIARIES; PAYMENT OF INSURANCE

"Sec. 509. (a) Any amount of insurance in force under this subpart on any public safety officer or former public safety officer on the date of his death shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date of his death, in the following order of precedence:

"(1) to the beneficiary or beneficiaries as the public safety officer or former public safety officer may have designated by a writing received in his employer's office prior to his death;

"(2) if there is no such beneficiary, to the surviving spouse of such officer or former officer;

"(3) if none of the above, to the child or children of such officer or former officer and to the descendants of deceased children by representation in equal shares.

"(4) if none of the above, to the parent or parents of such officer or former officer, in equal shares; or

"(5) if none of the above, to the duly appointed executor or administrator of the estate of such officer or former officer.

Provided, however, That if a claim has not been made by a person under this section within the period set forth in subsection (b) of this section, the amount payable shall escheat to the credit of the revolving fund established by section 517 of this part.

"(b) A claim for payment shall be made by a person entitled under the order of precedence set forth in subsection (a) of this section within two years from the date of death of a public safety officer or former public safety officer.

"(c) The public safety officer may elect settlement of insurance under this subpart either in a lump sum or in thirty-six equal monthly installments. If no such election is made by such officer, the beneficiary or other person entitled to payment under this section may elect settlement either in a lump sum or in thirty-six equal monthly installments. If any such officer has elected settlement in a lump sum, the beneficiary or other person entitled to payment under this section may elect settlement in thirty-six equal monthly installments.

"BASIC TABLES OF PREMIUMS; READJUSTMENT OF RATES

"Sec. 510. (a) Each policy or polices purchased under this subpart shall include for the first policy year a schedule of basic premium rates by age which the Administration shall have determined on a basis consistent with the lowest schedule of basic premium rates generally charged for new group life insurance policies issued to large employers, taking into account expense and risk charges and other rates based on the special characteristics of the group. This schedule of basic premium rates by age shall be applied, except as otherwise provided in this section, to the distribution by age of the amount of group life insurance and group accidental death and dismemberment insurance under the policy at its date of issue to determine an average basic premium per $1,000 of insurance, taking into account all savings based on the size of the group established by this subpart. Each policy so purchased shall also include provisions whereby the basic rates of premium determined for the first policy year shall be continued for subsequent policy years, except that they may be readjusted for any subsequent year, based on the experience under the policy, such readjustment to be made by the insurance company issuing the policy on a basis determined by the Administration in advance of such year to be consistent with the general practice of life insurance companies under policies of group life insurance and group accidental death and dismemberment issued to large employers.

"(b) Each policy so purchased shall include a provision that, in the event the Administration determines that ascertain-amounts of group life insurance in force at the date of issue of the policy or at the end of the first or any subsequent year of insurance thereunder would not be possible except at a disproportionately high expense, the Administration may approve the determination of a tentative average group of life premiums, for the first of any subsequent policy year, in lieu of using the actual age distribution. Such tentative average premium rate may be increased by the Administration during any policy year upon a showing by the insurance company issuing the policy that the assumptions made in determining the tentative average premium rate for that policy year were incorrect.

"(c) Each policy so purchased shall contain a provision stipulating the maximum expense and risk charges for the first policy year, which charges shall have been determined by the Administration on a basis consistent wtih the general level of such charges made by life insurance companies under policies of group life insurance and group accidental death and dismemberment insurance issued to large employers, taking into consideration peculiar characteristics of the group. Such maximum charges shall be continued from year to year, except that the Administration may redetermine such maximum charges for any year either by agreement with the insurance company or companies issuing the policy or upon written notice given by the Administration to such companies at least one year in advance of the beginning of the year for which such redetermined maximum charges will be effective.

"(d) Each such policy shall provide for

an accounting to the Administration not later than ninety days after the end of each policy year, which shall set forth, in a form approved by the Administration, (1) the amounts of premiums actually accrued under the policy from its date of issue to the end of such policy year, (2) the total of all mortality, dismemberment, and other claim charges incurred for that period, and (3) the amounts of the insurers' expense and risk charge for that period. Any excess of item (1) over the sum of items (2) and (3) shall be held by the insurance company issuing the policy as a special contingency reserve to be used by such insurance company for charges under such policy only, such reserve to bear interest at a rate to be determined in advance of such policy year by the insurance company issuing the policy, which rate shall be approved by the Administration as being consistent with the rates generally used by such company or companies for similar funds held under other group life insurance policies. If and when the Administration determines that such special contingency reserve has attained an amount estimated by the Administration to make satisfactory provision for adverse fluctuations in future charges under the policy, any further excess shall be deposited to the credit of the revolving fund established under this subpart. If and when such policy is discontinued, and if, after all charges have been made, there is any positive balance remaining in such special contingency reserve, such balance shall be deposited to the credit of the revolving fund, subject to the right of the insurance company issuing the policy to make such deposit in equal monthly installments over a period of not more than two years.

"BENEFIT CERTIFICATES

"SEC. 511. The Administration shall arrange to have each public safety officer insured under a policy purchased under this subpart receive a certificate setting forth the benefits to which such officer is entitled thereunder, to whom such benefit shall be payable, to whom claims should be submitted, and summarizing the provisions of the policy principally affecting the officer. Such certificate shall be in lieu of the certificate which the insurance company would otherwise be required to issue.

"Subpart 2—Assistance to States and localities for Public Safety Officers' Group Life Insurance Programs

"SEC. 512. (a) Any State or unit of general local government having an existing program of group life insurance for, or including as eligible, public safety officers during the first year after the effective date of this part, which desires to receive assistance under the provisions of this subpart shall—

"(1) inform the public safety officers of the benefits and allocation of premium costs under both the Federal program established by subpart 1 of this part and the existing State or unit of general local government program;

"(2) hold a referendum of the eligible public safety officers of the State or unit of general local government to determine whether such officers want to continue in the existing group life insurance program or applying for inclusion in the Federal program under the provisions of subpart 1 of this part; and

"(3) recognize the results of the referendum as finally binding on the State or unit of general local government for the purposes of this part.

"(b) Upon an affirmative vote of a majority of such officers to continue in such State or unit of general local government program, a State or unit of general local government may apply for assistance for such program of group life insurance and the Administration shall provide assistance in accordance with this subpart.

"(c) Assistance under this subpart shall not exceed one-third of the premiums attributable to the public safety officers enrolled in such State or unit of general local government program or such assistance as would be available to the public safety officers if they were enrolled under subpart 1 of this part, whichever is less, to the extent the amount of coverage under the State or unit of general local government program is comparable with the amount of coverage available under subpart 1 of this part.

"(d) Assistance under this subpart shall be used to reduce proportionately the contributions paid by the State or unit of general local government and by the appropriate public safety officers to the total premium under such program: *Provided, however,* That the State or unit of general local government and the insured public safety officers may by agreement change the contributions to premium costs paid by each, but not so that such officers must pay a higher fraction of the total premium than before the granting of assistance.

Subpart 3—General Provisions

"UTILIZATION OF OTHER AGENCIES

"SEC. 513. In administering the provisions of this part, the Administration is authorized to utilize the services and facilities of any agency of the Federal Government or a State or unit of general local government or a company from which insurance is purchased under this part, in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon.

"ADVISORY COUNCIL ON PUBLIC SAFETY OFFICERS' GROUP LIFE INSURANCE

"SEC. 514. There is hereby created an Advisory Council on Public Safety Officers' Group Life Insurance consisting of the Attorney General as Chairman, the Secretary of the Treasury, the Secretary of Health, Education, and Welfare, and the Director of the Office of Management and Budget, each of whom shall serve without additional compensation. The Council shall meet not less than once a year, at the call of the Chairman, and shall review the administration of this part and advise the Administration on matters of policy relating to its activity thereunder. In addition, the Administration may solicit advice and recommendations from any State or unit of general local government participating in a public safety officers' group life insurance program under this part, from any insurance company underwriting programs under this part, and from public safety officers participating in group life insurance programs under this part.

"PREMIUM PAYMENTS ON BEHALF OF PUBLIC SAFETY OFFICERS

"SEC. 515. Nothing in this part shall be construed to preclude any State or unit of general local government from making contributions on behalf of public safety officers to the premiums required to be paid by them for any group life insurance program receiving assistance under this part.

"WAIVER OF SOVEREIGN IMMUNITY

"SEC. 516. The Administration may sue or be sued on any cause of action arising under this part.

"PUBLIC SAFETY OFFICERS' GROUP INSURANCE REVOLVING FUND

"SEC. 17. There is hereby created on the books of the Treasury of the United States a fund known as the Public Safety Officers' Group Life Insurance Revolving Fund which may be utilized only for the purposes of subpart 1 of this part."

Subpart 4—Miscellaneous

SEC. 103. Section 569 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended and as redesignated by this Act, is amended by inserting "(a)" immediately after "569" and by adding at the end thereof the following new subsection:

"(b) There is authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1973, for the purposes of part G."

SEC. 104. Until specific appropriations are made for carrying out the purposes of this Act, any appropriation made to the Department of Justice or the Law Enforcement Assistance Administration for grants, activities, or contracts shall, in the discretion of the Attorney General, be available for payments of obligations arising under this Act.

SEC. 105. If the provisions of any part of this Act are found invalid or any amendments made thereby or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

SEC. 106. This Act shall become effective on date of enactment.

The **PRESIDING OFFICER**. Debate on the bill and amendments thereto is limited in accordance with the previous unanimous-consent agreement. Who yields time?

Mr. **McCLELLAN**. I yield myself 1 minute.

Mr. President, S. 33 was originally introduced by Senator KENNEDY on January 25, 1971. It was subsequently revised and incorporated as title II of S. 2994 as reported by the Subcommittee on Criminal Laws and Procedures to the full Committee on the Judiciary on July 19, 1972. It was also proposed by Senator KENNEDY as amendment No. 1402 in the nature of a substitute to S. 33 on August 7, 1972.

S. 2994 was called up in an executive meeting of the Committee on the Judiciary on August 16, 1972, and it was agreed to break the bill into individual bills by title. Thus, title II again became S. 33, which was ordered reported with an amendment in the nature of a substitute bill.

S. 33 proposes to amend the Omnibus Crime Control and Safe Streets Act of 1968 to establish under the Law Enforcement Assistance Administration a program of group life, accidental death, and dismemberment insurance for public safety officers. Our concern with the crime problems of our society should certainly embrace our obligation to help meet the special needs of our policemen, firemen, correctional officers, and others who daily feel the brunt of the violence that has become all too common in our lives today.

During our hearings on this subject it became clear that there is wide disparity in the fringe benefits available to our public safety officers from one jurisdiction to another. The present measure would establish an optional Federal group life insurance program underwritten by private carriers for public safety officers who are not presently covered by similar State or local programs and would provide a one-third Federal contribution to the premiums due. A like contribution would be available to State and local programs already in operation or established within the year following enactment.

The group life insurance program would be patterned after the present servicemen's group life insurance program and the Federal employees group life insurance program.

Each officer would be entitled to coverage in the amount of his annual salary plus $2,000, with a minimum coverage of $10,000 and a maximum of $32,000. Coverage would not be limited to in-the-line-of-duty death, and the policy would include a double indemnity clause for accidental death. Loss of limb or eyesight would also be covered.

Total annual costs under S. 33 are estimated to be $20,000.

I urge its adoption.

I ask unanimous consent that the committee amendment in the nature of a substitute be agreed to, and that the bill as thus amended be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr.' President, I yield such time as he may require to the distinguished Senator from Massachusetts (Mr. KENNEDY).

Mr. KENNEDY. Mr. President, I thank the distinguished chairman very much.

First of all, I wish to express my appreciation to the chairman of the Subcommittee on Criminal Laws and Procedures (Mr. McCLELLAN) for his help and assistance in the hearings that were held on this legislation, and for the support that he has given, not only in behalf of this legislation, but in the whole area of policemen's, firefighters', and correction officers' security. Whether it is the gratuity approach or the insurance approach, it has been through his efforts and energies that progress has been made, and hopefully today we will meet one area of deficiency, the area of insurance for those who are on the frontline of public safety, the police officers and firefighters in this country.

So, at the outset, I thank the distinguished Senator from Arkansas for his help and assistance in assuring that we in the Senate have an opportunity to consider this matter this year.

Five years ago the President's Crime Commission submitted its comprehensive report, which spoke of the need to provide our police with more adequate benefits such as group life insurance. In that year I first proposed a national program to make such coverage available to all State and local police officers. Since then the public has become more and more aware of the need for life insurance for policemen, as the rate of assaults on law enforcement officers has risen tragically. And as we have continued to work on legislation in this area, we have become familiar with the difficulties many officers encounter in getting enough insurance at regular rates and conditions, and with the low coverage for which many are forced to settle.

The Senate took action on this problem in 1970 when it passed, as part of the Omnibus Crime Control Act, a law enforcement officers' group life insurance program. Since the House was unfamiliar with the proposal, the House members of the conference committee asked that consideration of the proposal be delayed until this Congress. Early in 1971 I reintroduced the program as S. 33, and the corresponding House bill is being sponsored by Chairman EMANUEL CELLER of the House Judiciary Committee. There has now been ample consideration on both sides; there have been 3 days of Senate hearings and two in the House during this Congress. The Senate Criminal Laws Subcommittee, under the leadership of Senator McCLELLAN, has now reported a much improved and broadened bill along with other proposals to aid civilian and governmental victims of crime.

S. 33 in its reported form would establish a nationwide, federally subsidized program of group life, accidental death, and dismemberment insurance for State and local public safety officers, defined to include firefighters, correctional guards, and court officers in addition to police. The plan is patterned closely after the highly successful Federal employees' and servicemen's group life insurance programs, which are available to all Federal civilian employees and to members of our Armed Forces. The law enforcement assistance administration would buy a national group policy from a nationwide life insurance carrier, so that the underlying coverage would be provided—and much of the administrative work would be handled—by the private sector. The standard reinsurance formula, favoring small companies, would be used to spread the risk and the income beyond the principal carrier.

Any unit of State or general local government could apply to participate in the program. Officers in participating units could elect not to be covered; those remaining in the program would have their share of the premiums deducted from their wages. Coverage would be at a level of the officer's annual salary plus $2,000, starting from a floor of $10,000 coverage and rising to a maximum of $32,000. Accidental death and dismemberment insurance would be included with the usual double indemnity feature. LEAA would pay up to one-third of the total cost of the premiums, leaving the remainder to be covered by the insured officer or the employing agency.

Where existing State or local group life insurance plans provide coverage for public safety officers, or where it was desired to establish such a program within a year after the effective date of the bill, eligible officers would choose by ballot between the Federal and the State or local plans. If they chose the State or local program, it would be eligible for the same subsidy which would go to the Federal plan. In this way the bill respects existing insurance programs and allows governments and insurance companies a reasonable time to set up programs of their own if they want to, but it still protects the officers' interests by leaving the final decision in their hands. Yet, by also having available a single Federal program in which many officers would presumably participate, the bill insures the availabilty of coverage to all officers without regard to their particular employer's wealth or generosity and at minimum cost because of efficient large scale operation.

Totaling the four categories of public safety officers—police, firefighters, correctional guards, and court officers—the bill would make its benefits available to approximately 700,000 to 900,000 persons, depending on the administrative application of its definitions. LEAA's estimate of the total annual cost to the Federal Government, which must be regarded as the highest possible figure since it assumes the full one-third Federal subsidy and 100 percent officer participation, is under $22 million including all Federal administrative costs, which LEAA estimates at just over $1 million.

For this sum it is estimated that insurance could be provided to officers at a total rate of less than 70 cents per month per thousand dollars of coverage. After the Federal subsidy, the cost to the officer—even assuming no State or local government help—would be under 50 cents a month per thousand dollars, or under $60 per year for the basic $10,000 coverage. At a relatively low cost to the Government, in other words, we could make a decent amount of life insurance available at very reasonable rates to every full-time public safety officer in the country.

There are many reasons why this program is vitally needed. Most tragically and most prominently of all, the rate of crippling and killing assaults on officers is high and rising alarmingly fast. The number of police killed by criminal acts rose from 86 in 1969 to 100 in 1970 and 126 in 1971. Firefighters, too, are still subject to criminal assaults while on their job; from 1967 through 1969 injuries during civil disorders averaged over 200 per year, and in 1970 the rate remained almost the same at 195.

But this problem is only part of a much larger picture, and measures to deal with it alone will ignore much that should be done. For in their service to protect us all, public safety officers must run several other unusual risks of accident, injury, and death. Among police, those who are in situations of such extraordinary hazard include traffic patrolmen, motorcycle policemen, and police helicopter pilots. Firefighters are of course in constant danger of death or serious injury from flame, smoke, and collapsing buildings; in 1970, 115 died in the line of duty. Prison guards and court officers are endangered by riot, jailbreak, and violent suspects and defendants.

Because of these hazards, some public safety officers find regular life insurance coverage hard to come by, unusually expensive, or restrictive in the benefits offered. For example, in my own State of Massachusetts the State police helicopter pilots encountered reluctance to issue insurance at all and higher rates as well. The chief actuary of the Life Insurance Association of America told our Criminal Laws Subcommittee that rates for accidental death and dismemberment coverage for policemen could run up to 100 percent above ordinary rates. A major national life insurance company wrote the Criminal Laws Subcommittee that it normally charges a police or firefighters' group about 20 percent extra for group life insurance and up to 2½ times its regular rate for accidental death and dismemberment coverage.

Yet, if a public safety officer tries, even though he may run into such obstacles, to buy as much insurance as he needs for himself and his family, he is held back by the disgracefully low salaries we so often pay. As Quinn Tamm, executive director of the International Association of Chiefs of Police, told our subcommittee:

> Salary medians for police officers fall below the pay scales for those positions which we may refer to as nonprofessional semiskilled labor.

In a survey this year of 300 New York City police, 95 percent said they felt their salaries were too low for them to afford adequate life insurance. And for public safety officers other than policemen, the salary situation is even worse.

Further, employer-aided group plans to remedy the insurance problems of public safety officers differ widely in their coverage and are frequently not offered at all. Our data are most complete on police officers; for about 30 percent of them, employer-supported group coverage is simply not provided. For almost 40 percent more, coverage is in the very low zero-to-$5,000 range, meaning that almost 70 percent of our police have State or local group life insurance no higher than $5,000. S. 33 would make available a minimum of $10,000 coverage to 100 percent of our police; now, fewer than 4 percent are in State or local government programs which offer as much. To offer a concrete example, in Massachusetts the basic coverage is only $2,000 and we have had to establish an organization called the Hundred Club to help tide over widows of slain officers. When I testified in support of Chairman CELLER's counterpart bill on the House side, two subcommittee members over there mentioned similar organizations in their home communities. But there are not a great many such programs, and a public safety officer should not have to rely on uncertain private charity to assure his family of financial security in the event of his death.

So because of job hazards, low salaries, and employer inaction—all factors which are related to their public service jobs—many officers and their families are inadequately protected against death or disability on or off the job. This is one important problem that is too often overlooked—that public safety officers' work situations make it difficult or impossible for many of them to obtain adequate life insurance to cover them on or off duty. In other words, if we wish to respond adequately to the problems created by the risks of an officers' work, we have to enact legislation which will help them whether they are killed or injured on the job or not, whether by a criminal act or by accident or by natural causes.

That is precisely what S. 33 would accomplish, and I am confident that is a major reason why the bill has the enthusiastic support of the leading police and firefighters' organizations in the country, including the International Conference of Police Associations, the Fraternal Order of Police, the International Association of Chief's of Police, the National Sheriffs' Association, and the International Association of Fire Fighters.

To summarize the situation as we have seen it in our studies, a few public safety officers are offered quite good benefits at reasonable rates, but many more have little or no coverage, high cost, or unfavorable conditions. Many areas are unable or unwilling to provide group life insurance, which is important both to officers personally and to recruiting and keeping highly qualified personnel. The Federal Government has committed itself in legislation since 1968 to providing major financial aid to State and local law enforcement, in an effort to help all law enforcement agencies attain a 20th century level of performance. The basic rationale behind the Federal Government's assumption of this limited additional role, then, is like that underlying the law enforcement assistance program, which we created 4 years ago and have generously supported since. In fact, the small Federal administrative role under the S. 33 insurance program would be handled by the law enforcement assistance administration.

Given the problem as I have described it and the LEAA precedent, and in full recognition that public safety functions are and must remain a local responsibility, I suggest that the best role for the Federal Government is making available a reasonable minimum nationwide level of life insurance protection.

If it is felt that particularly outrageous situations demand additional compensation, as the Senate recognized with respect to killings of public safety officers when it passed the S. 2087 gratuity bill earlier this month, these proposals surely deserve serious consideration. If a locality or individuals want more coverage, obviously they should and would remain completely free to arrange for it. But the national floor concept of S. 33 would assure that no matter how much legislators might be diverted by officers' most headline-getting problems, and no matter how poor or miserly an officer's area in contrast to its neighbors which provide good coverage, no public safety officer in the country would have to face the risks of his job without being able to get a reasonable amount of full life insurance coverage at a reasonable rate. All of this could be accomplished at low cost to the Federal Government because the Federal share would not be 100 percent or anything like it, merely the one-third or less needed to keep rates within officers' reach. And there would be no Federal intrusion into the running of State or local public safety affairs. The dealings of the officers and their employers would be almost entirely with each other, and with the primary insurance carrier, which would be a private company. The Federal Government's role would consist mainly of a small administrative operation within LEAA and the forwarding of the Federal subsidy to the primary carrier. Finally, as part of the law enforcement assistance statute, the program would be governed by the law prohibiting all Federal departments and personnel from exercising "any direction, supervision or control" over any State or local law enforcement agency.

I mentioned earlier that there are some changes in this bill from the version that passed the Senate in 1970. The most important, of course, is the addition of firefighters, correctional guards, and court officers. In the course of our work we realized that the reasons why we were concerned about policemen's life insurance applied to some other public servants as well. The rationale on which we made our carefully limited expansion of eligible groups is that all perform a public protection function at unusual risk with inadequate provision available for death or disabling injury, and national pooling of risks can help here to reduce administrative costs. I call our extension a carefully limited one, because it does not even double the number of persons eligible, though it adds three important groups. The basis on which these groups' inclusion rests should dispel any fears of uncontrollable addition of other hazardous occupation categories.

There are many other changes which we think improve the bill substantially, though most of these individually are too minor and technical to discuss here. I do want to mention three of the most significant, however. First, the bill now includes the same reinsurance requirements as are written into the Federal employees' group life insurance statute. Reinsurance is a standard industry technique by which the business and the risks of a large policy are shared among insurers, and this statutory formula is drafted to favor small companies. Since we expect the program will raise both the number of insured persons and the average coverage level substantially, and since the bill also contains a standard conversion provision, many companies will enjoy business that no one would have gotten at all without the bill.

Second, the permission for State and local governments to set up net group life insurance programs of their own for public safety officers for a year after the bill takes effect, and still be eligible for Federal aid, is a new feature. Before, only preexisting State and local plans were eligible for a Federal subsidy; some such cutoff is essential for the viability of the nationwide program. But the cutoff was moved back a year, which is another example of the lengths of which the bill goes to respect the desires of local governments and officers to set up programs of their own if their particular needs will thereby be better served than under the Federal plan. The same balloting protection, to give each group of eligible officers a choice between the State or local plan and the Federal one, would apply to new State or local programs as to existing ones. Of course, any group which wanted to join the Federal program but keep or add a State or local plan without Federal subsidy would be free to do so.

Third, the subsidy available to State and local plans has been raised from 75 to 100 percent of the portion being given to the Federal program. Again, this was done to respect State and local programs by not tipping the balance against them. Of course, there would have to be some limitations on the Federal subsidy available to these plans. Consistently with the uniform national floor concept I mentioned, there would be a Federal subsidy only for amounts of coverage up to the level in the Federal plan. Similarly, the Federal subsidy would be limited to the amounts per unit of coverage available for the Federal program; it would make little sense for the Federal Government to subsidize the inefficiently expensive portion of a State or local plan if it were providing a less expensive program itself.

Finally, I should like to mention how this program relates to the S. 2087 gratuity bill which the Senate passed 2 weeks ago. That bill provides $50,000 to survivors of a public safety officer killed by a criminal act in the line of duty, and a lesser amount for dismemberment. Some of the two bills' relation has been covered in my remarks already. I do wish to emphasize again that officers' duty hazards make them bad general risks, which can create problems for them in getting insurance to cover them on or off duty. This fact means that to respond adequately to the problems which public safety officers' hazardous duties create for them, we cannot be satisfied with measures which only touch on-duty happenings.

I would hope, therefore, that S. 33 could be viewed as the basic vehicle for Federal benefits in this area; alone among the bills on this subject now before the Senate, it does not leave off where the problem continues. S. 2087 can be a valuable complement to the broader S. 33 insurance approach, but the gratuity plan does not even cover all the extra on-duty hazards of the public safety professions; for S. 2087 allows benefits only when death or dismemberment resulted from a criminal act, and we do not need statistics to know that public safety officers—police helicopter pilots and motorcycle patrolmen, for example, but above all firefighters—are unusually exposed to accidents which have nothing to do with criminal acts. Indeed, S. 2087 would do little for firefighters despite their inclusion in its eligible categories; although they are in danger from arson and attacks, the large majority of their deaths and injuries result from accidents and fires not started by criminal acts.

In conclusion, let me say that I regard this bill as one over which there should be no partisan division. I have supported—despite some reservations—all the other bills in the victims of crime package, some primarily democratic in origin and others primarily republican. S. 33 itself has attracted support from Republicans and Democrats, liberals and conservatives alike. It is also supported by the major public safety officers' organizations and by many insurance companies. It will help with morale and in recruiting and keeping good public safety officers, and hopefully it will thereby improve the protection we all receive. And it will go a long way toward alleviating a serious human problem on which the Federal Government is uniquely qualified to act. We owe these men and women no less, and the time for action is now.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. I yield myself 10 minutes.

Mr. President, I rise in opposition to the measure. As I pointed out in the additional views which were printed in the report, this opposition is not because of my lack of appreciation for the fine service rendered by law-enforcement officers or by firefighters or others embraced in the bill. It is not for a lack of understanding of the fine contribution they are making in the field of law enforcement and the critical situation we are witnessing now in the matter of law enforcement on the National, State, and local scene.

We have already approved in this body the $50,000 gratuity to police officers killed in the line of duty; and that, of course, is a recognition of the idea that they are making a contribution that is in the national interest and that such benefit should be paid.

To show my appreciation and understanding for the work and the position of law-enforcement officers, I mention the fact that that bill was introduced by this Senator. Hopefully, the other body will act on it soon.

Moreover, there are several reasons why this bill is not sound legislation. First of all, such life insurance protection as it seeks to set up under a very complicated and specific arrangement, is readily and acceptably available at the present time. Proof of this is to be found in the fact that 68 percent, approximately 316,000 police officers, now have life insurance coverage. Some of it is fully paid by the employer; the remainder is on a contributory basis, just as we have in the case of the bill before the Senate.

Second, the protection that would be afforded would be not only for line-of-duty deaths or line-of-duty dismemberment but also would cover off-duty hazards and natural events. If we are going into the business of the Federal Government affording blanket coverage, on a group insurance policy basis, for a particular class of public servants, what about the rest of the public servants who are on the payrolls, helping to administer the affairs of government at all levels? Should not these people be covered as to these off-duty and natural hazards as well? Not to do so would be discriminatory in that sense.

Another reason is this: Such insurance is for the State and local agencies to provide. Law enforcement is primarily a non-Federal responsibility. That is the way the Government has been set up. We know that and we recognize it. The chief responsibility for law enforcement rests with the State and local jurisdictions. It is not a Federal responsibility. That applies to recruitment, employment, supervision, assignment of duties, payment of salaries, retirement plans and other features of that kind.

The current and the modern approach of the goal of this particular type of bill is to be found in the rationale of the Law Enforcement Assistance Administration. There we have a system of block grants, where the money granted by the Federal Government to States and municipalities is paid to them and then they take charge.

We found approved in this body only last week a revenue-sharing bill going into multibillion-dollar appropriations each year for the next 5 years. That money will be paid into the broad category of public safety and other priorities which are spelled out in the legislation. The modern and the current trend and philosophy may be politically sound to create additional narrow categories but this bill would create an additional and a new category very specific and very narrow in its mission. So to that extent it is objectionable.

The idea of each State and agency undertaking its own plan has great merit from two standpoints: First, it avoids the tremendous expense of a national insurance administrative body and; second, there is a flexibility to be found in each State and agency to take care of its own needs. That is desirable. Certainly the needs in the various States are different in character and different in degree. What would be called sufficient in a Western State, or a Southwestern State, a small State, or a sparsely settled State, would not suffice in metropolitan areas or high-cost areas. That difference should be accommodated by each community and each unit speaking and providing for itself. Dollars will go further under this type of approach. They will do a better job of accommodating to the needs and requirements of the members of their law enforcement units.

It is for these reasons it is suggested notwithstanding the necessity of recognizing the important part that the law enforcement officer plays, that this is not a bill that should be approved because it is a non-Federal responsibility.

I refer again to the general proposition of the policy of the Congress which is to get away from specific categories of aid and assistance.

It is in the category now, it is in the policy now, to get into broad revenue sharing, into block grants, and then let the municipalities and the States and other agencies with law enforcement personnel make their own provisions.

It is for these reasons that I oppose approval of this measure. This statement constitutes a summary of my objections to S.33. I submitted a complete explanation of my opposition in the committee report on this bill. I ask unanimous consent that its complete text be printed at this point in the Record.

There being no objection, the report was ordered to be printed in the Record, as follows:

Additional Views of Senator Hruska

I am opposed to the enactment of S. 33.

This opposition does not stem from any lack of appreciation or understanding for the contributions made by public safety officers to all citizens of the nation. Indeed, this Senator was an original sponsor of S. 2087, the Public Safety Officers Benefits Act of 1972 which was approved by the Senate on September 5, 1972. This bill provided a $50,000 gratuity for public safety officers killed in the line of duty as a result of a crime and a commensurate gratuity for an officer suffering dismemberment under similar circumstances. To this Senator S. 2087 is an appropriate recognition by Congress of its responsibility to provide support for those of our citizens who are in the front line of our efforts to deter crime in this nation.

My opposition to S. 33 is, rather, based on my feeling that the provision of life insurance for public safety officers is not the responsibility of the federal government. Let me cite several factors which back up this statement.

First, contrary to the statements made by some of the sponsors of S. 33, life insurance is readily available to public safety officers from the same sources that provide insurance to the remainder of our citizens. The evidence contained in the Subcommittee's hearings on this bill document in instance after instance that private insurance companies in this country are ready, willing and able to supply insurance to law enforcement personnel. Most are already covered. Anyone interested in coverage has but to look around him to find numerous insurers looking for an opportunity to serve him.

Second, many of these insurers are prepared to offer coverage to public safety personnel under the same terms and at the same prices as it is offered to citizens in other types of endeavor. This, too, is documented in the hearings. Other companies which feel that there is a certain added hazard in insuring this type of occupation charge an additional fee amounting in most instances to a few pennies.

Third, with Senate approval of S. 2087 to provide protection against the extraordinary risks taken by these officers, all that the adoption of S. 33 would mean is that Congress is approving the purchase out of federal funds of ordinary life insurance to protect against off-duty mishaps and natural events that are not a function of these occupations. Having provided for protection against the risks that are a function of the public safety professions, why should these citizens be singled out for federal insurance against an automobile accident which occurs on the way to the grocery store or the movie, a fall sustained on a family picnic or even simply in bed? There are numerous other citizens, particularly other public service employees, who legitimately may feel that they are entitled to the same consideration.

Fourth, recent studies indicate that more than 310,000 police officers are already benefiting from life insurance programs in which at least a portion of the premiums are paid by the employer. This amounts to approximately 68 percent of the state and local police officers in the nation. Similar figures pertain in the other professions covered by S. 33. I do not maintain that in all cases these benefits are adequate or that we should be satisfied with a 68 percent figure. However, these statistics do bear out my contention that insurance is available and is already widely in effect. In addition, it is apparent that units of state and local government are recognizing their responsibilities to protect their personnel and are undertaking programs to meet this duty.

Fifth, as with so many other aspects of life in this country, federal assumption of responsibility is not the answer. Law enforcement has always been primarily a non-federal responsibility of function in the United States. It was so conceived at the time of the founding of the nation and it has remained so. This local responsibility for law enforcement has been an instrumental factor throughout our history in preserving justice and equality during periods of war and peace. Any effort to establish a national police force has always been strongly resisted by Congress and the great bulk of the citizenry. As recently as the establishment of the Law Enforcement Assistance Administration in 1968 and the numerous crime bills approved in 1970. Congress went on record as approving and adhering to the traditional allocation of law enforcement responsibility to state and local governments. This Senator does not contend that federal life insurance policies will *ipso facto* result in the creation of a national police force; such a simplistic analysis would be wide of the mark. However, we should be mindful of the maxim that "he who pays the piper calls the tune." A federal insurance program as envisioned by S. 33 is an additional step away from traditional policy of having local officials supported primarily by local funds and under local control.

Sixth, appropriate benefits for public safety officers will differ from one jurisdiction to another. Costs and expenses vary from region to region across the country and are appreciably different in rural and urban areas. Rather than a single national program of life insurance, separate ones molded to meet the specific and individual needs of the state or community would be far more equitable, workable and realistic. Other aspects of public safety employment—pay, working conditions, pension plans, types of hospitalization coverage—are allowed differing regulation from jurisdiction to jurisdiction. Why should life insurance be singled out for special national treatment?

Seventh, in addition to the obvious and substantial cost of providing the insurance specified in the bill, there are indications that large administrative and additional expenses would be involved. As public safety officers are now defined the one-third federal share of the premium for all public safety officers would be more than $20 million annually. However, this figure does not include the extra expense of collecting the premiums from state and local units of government or administrative costs. One estimate of this cost of collection and administration is one dollar ($1) per month for every public safety officer insured. This expense would have to be borne by the employing agency or the federal government and could amount to approximately $8 million annually for the more than 700,000 public safety officers who would be eligible for insurance under this bill. The appropriation necessary to carry out the purposes of S. 33 should be borne in mind as the Senate considers this bill. This is especially true in view of the fact that a revenue sharing proposal to assist state and local governments in areas including law enforcement support is under review by Congress at the present moment.

I believe that these seven factors are compelling arguments which require opposition to S. 33.

Mr. HRUSKA. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. TUNNEY). Who yields time?

Mr. SCHWEIKER. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the end of the bill add the following:

"(a) Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1116. Assaults on State law enforcement officers, firemen or judicial officers because of their official position

"(a) Whoever travels in interstate commerce or uses any instrumentality of, or facility for, interstate commerce, including, but not limited to the mail, telegraph, radio or television, in furtherance of—

"(1) a conspiracy, attempt or solicitation to assault, injure or kill any law enforcement officer, fireman or judicial officer because of his official position; or

"(2) a killing, injuring or assault upon any law enforcement officer, fireman or judicial officer because of his official position;

and who during the course of such travel or use or thereafter performs or attempts to perform any other overt act for any purpose specified in subparagraphs (1) or (2) of this paragraph; or

"Whoever assaults, injures, or kills or attempts to assault, injure or kill by means of any dangerous or deadly weapon which has been transported in interstate commerce, any law enforcement officer, fireman, or judicial officer because of his official position as a law enforcement officer, fireman, or judicial officer; or

"Whoever transports, causes to be transported, or aids or abets another in transporting, or receives, causes to be received, or aids or abets another in receiving, in interstate commerce or through the use of any instrumentality of or facility for interstate commerce any dangerous or deadly weapon with knowledge that it will be used or with intent that it be used to assault, injure, or kill any law enforcement officer, fireman, or judicial officer because of his official position as a law enforcement officer, fireman, or judicial officer—

"Shall be fined not more than $10,000, or imprisoned for not more than 10 years, or both; or if death results, shall be punished as provided under sections 1111 and 1112 of this title.

"(b) As used in this section, the term—

"(1) 'dangerous or deadly weapon' includes any object, item or device which, when used as a weapon, is capable of causing physical injury or death;

"(2) 'law enforcement officer' means any officer or employee of any State who is charged with the enforcement of any criminal laws of such State;

"(3) 'fireman' means any person serving as a member of a fire protective service organized and administered by a State or a volunteer fire protective service organized and administered under the laws of a State;

"(4) 'judicial officer' means any judge, officer or other employee of a court of any State;

"(5) 'interstate commerce' means commerce (A) between any State or the District of Columbia and any place outside thereof; (B) between points within any State or the District of Columbia, but through any place outside thereof; or (C) wholly within the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States; and

"(6) 'State' means any State of the United States, the Commonwealth of Puerto Rico, any political subdivision of any such State or Commonwealth, the District of Columbia, and any territory or possession of the United States."

"(c) Whenever a law enforcement officer, fireman, or judicial officer is willfully killed, injured or assaulted, while such law enforcement officer, firemen or judicial officer is engaged in his official duties, and no person alleged to have committed such offense has been apprehended and taken into custody within twenty-four hours after the commission of such offenses, it shall be presumed in the absence of proof to the contrary that the person who committed such offense has moved or traveled in interstate or foreign commerce to avoid prosecution or custody under the laws of the place at which the offense was committed.

"(d) This section shall not be construed to evidence an intent on the part of the Congress to prevent the exercise by any State of jurisdiction over any offense with respect to which such State would have had jurisdiction if this section had not been enacted by the Congress."

(b) The section analysis of chapter 51 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"1116. Assaults on State law enforcement officers, firemen, or judicial officers because of their official position."

Mr. SCHWEIKER. Mr. President, this amendment makes it a Federal crime to assault, injure, or kill any State or local law enforcement officer, fireman, or judicial officer because of his official position. Let me emphasize that this legislation is designed to apply to situations where an official is singled out and attacked as a symbol of the establishment because of his official position—for example, killing a policeman simply because he is a policeman.

Increasingly in recent years, we have witnessed brutal and often fatal attacks on State and local policemen by radical revolutionaries. These attacks have often been essentially politically oriented, conceived by the twisted minds of individuals bent on destroying law and order in our society. We must declare in no uncertain terms that such attacks are intolerable and that we intend to stand by and protect the loyal men and women who serve in these capacities in our government. Existing legislation covers Federal employees in these capacities, but no similiar provisions cover State and local officials.

Under my amendment, in any case where an individual has traveled in interstate commerce or used any instrumentality of, or facility for interstate commerce with the intent of assaulting or killing such officials, or where a dangerous or deadly weapon which has been transported in interstate commerce is used to commit the crime, Federal officials would be able to assist local authorities in investigating the crime and tracking down the criminals. The crime would be punishable under Federal statutes.

This amendment is similar to a bill I first introduced in the 91st Congress, S. 4348, and reintroduced in the 92d Congress as S. 120.

In addition, my amendment includes provisions covering conspiracies to kill or injure police officers, firemen, and judicial officers.

Furthermore, my amendment includes provisions similiar to the "Lindberg kidnapping law" which creates a presumption that the assailant has traveled in interstate commerce if he has not been captured within 24 hours after the crime was committed. This helps to assure that very little delay occurs between the commission of the crime and the involvement of the Federal law enforcement authorities.

Although the FBI can now enter such cases and assist State and local law enforcement personnel, my amendment makes such entry automatic and eliminates any possible confusion. This amendment has the strong support of the Fraternal Order of Police, the International Conference of Police Associations, the International Association of Firefighters, and the National Association of Attorneys General.

The number of police officers killed has been increasing at a startling rate in the past few years. In 1961, 37 were killed. In 1971, 125 were killed—about 3½ times the rate only 10 years ago. In 1970, 100 were killed; in 1969, 86. Twenty of the 1971 killings resulted from ambush-type attacks. So far, in 1972, 66 have been killed.

As you can see, Mr. President, the trend is clear. It is time for Congress to act.

During the 91st Congress, the Senate Internal Security Committee held hearings on a bill I introduced, as well as similar bills submitted by Senators Eastland, Williams, and Dodd. Witnesses then presented convincing evidence of the need for legislation. Regrettably, those hearings were held late in the 91st Congress, and there was not enough time to get a bill out of committee and passed.

We have that opportunity now. Just a few weeks ago, in fact, the Senate passed a similar amendment to S. 2507, which was offered by Senator Humphrey. However, the House Judiciary Committee has deleted that amendment from its version of that legislation. The problem remains. I urge my colleagues to support this amendment.

Mr. President, I should like to read two telegrams, one from Royce L. Givens, executive director, International Conference of Police Associations, which reads:

October 2, 1970.

Senator Richard S. Schweiker,
New Senate Office Building,
Washington, D.C.

The International Conference of Police Associations appreciates your introduction of S. 4348 a bill to prohibit assaults on State law enforcement officers and others. There are other bills pending that are similar to your bill. We are 100 percent behind such legislation. At our July conference we passed a resolution on this subject which you included in your remarks the day you introduced your bill. This resolution expresses our sentiments. This type of legislation must, we feel, be approved if there is any hope to bring back respect for the policeman that lays his life on the line each day. Just the other day officer John Burke, Atlantic City, N.J., was murdered when he stopped vehicle to question them about a traffic violation. He was murdered by the passenger with a shot gun. This must stop.

Mr. HRUSKA. Mr. President, a telegram from John J. Harrington, national president of the Fraternal Order of Police, reads:

Philadelphia, Pa., *October 2, 1970.*

Hon. Richard Schweiker,
New Senate Office Building,
Washington, D.C.

Police wholeheartedly support your Senate bill 4348.

John J. Harrington,
National President, Fraternal Order of Police.

Mr. KENNEDY. Mr. President, will the Senator from Arkansas yield me 3 minutes?

Mr. McCLELLAN. Mr. President, I yield 3 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, one of the points that has been made with respect to the Senator's amendment, as I understand it, is that most of the crimes committed against local policemen have been resolved within the local jurisdiction. As I understand the figures that were used at the time Mr. Hoover testified, he said the figure was 96 percent.

Is that the information of the Senator from Pennsylvania or does he have other information that shows that the kind of resources that would be available—the Federal Bureau of Investigation and other national resources—would be enormously helpful in helping to resolve crimes committed against police and firefighters? Would the Senator talk to that point on his own time? I have one or two other points that I would be interested in having comments on.

Mr. SCHWEIKER. Mr. President, the statistics that we have available indicate that for 1971, 125 policemen were killed. Of these 125 who were killed, exactly 20 were of the ambush-type of attack which was more or less premeditated and certainly did not relate to a crime being committed. So, we are talking probably about 15 or 17 percent of the police killings at which my amendment would be directed.

My thought behind this is that I am not covering all of the killings where the local police have responded in an important way to a crime. However, where we have a plot, where we have the singling out of a police officer, where a person says that he will shoot someone simply because he is a police officer, I feel that this is a problem for all of us. They are representing all of us. The killers regard them as enemies.

My measure would deal with the case where a person kills a policeman merely because he is a policeman and not because he is committing a crime. If we tell the people that we consider this to be that important, I think that the number of such killings will drop rather dramatically.

Mr. KENNEDY. Mr. President, am I correct in understanding that the Senator's amendment would apply to all crimes against policemen?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. Mr. President, will the Senator yield on his own time for a question?

Mr. SCHWEIKER. My amendment does not apply to all killings, only those where the officer was killed because he is a policeman.

Mr. KENNEDY. I merely have a summary of the amendment here. It appears from that that the amendment would apply to all of those who have been killed, firefighters and policemen. If I am wrong, I would like to be corrected just so that my understanding of the amendment is correct.

It is my impression from reading a summary of the amendment that it would apply to all officers. There may well be good reason to have it apply to all, given the kind of examples the Senator from Pennsylvania has mentioned and given the fact that perhaps in recent times it has become more and more complex and difficult to resolve murders against policemen and firefighters.

Mr. SCHWEIKER. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. SCHWEIKER. This language was prepared by legislative counsel with that very specific legislative point in mind. That was their interpretation. I am certainly open to any thoughts the Senator or members of the committee might have, so that it means what we believe it does mean. We think it means what I have said. However, if the Senator from Massachusetts can clarify the point he brings up, I am certainly open to suggestions.

Mr. KENNEDY. The Senator understands that anyone who is involved in a felony against a public safety officer and flees the State to avoid prosecution is covered under present Federal law. However, as I understand it, the Senator is trying to get at instances which may take place locally but are so involved in some kind of conspiracy—the Senator used the word "ambush" or "conspiracy"—that is committed solely because the public safety officer is wearing the uniform of a policeman or a firefighter or some other kind of public safety officer.

Mr. SCHWEIKER. The Senator is correct.

Mr. McCLELLAN. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 2 minutes.

Mr. McCLELLAN. Mr. President, the Senator from Pennsylvania has brought up a point which the Subcommittee on Criminal Laws and Procedures has had no opportunity to study.

I am not prepared to discuss its merits at length but would raise an inquiry. How are we going to prove that a homicide suspect killed a man "because he was a policeman"? This would appear to be a jurisdictional element that would have to be met by the prosecution beyond a reasonable doubt.

This seems to be a high burden to place on the prosecution.

Mr. President, I yield 3 minutes on the amendment to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 3 minutes.

Mr. ERVIN. Mr. President, I attribute the noblest of motives to the offerer of the amendment. Good motives do not suffice, however, for one adoption of any proposal. The motives behind proposals are good. Even those who burned heretics at the stake were activated by good motives. They wanted to save the souls of others from eternal damnation.

Under the Constitution the power of punishment for crimes of violence are reserved by the 10th amendment to the States except in cases where the Federal Constitution requires that the Federal Government prosecute crimes to protect some functions committed to it. The amendment invades an area reserved to the States.

This amendment undertakes to create a crime, which can never be proved, as the Senator from Arkansas has said, to convict a man of transporting a deadly weapon in interstate commerce with the knowledge that it will be used to kill another person, the prosecution will have to prove beyond a reasonable doubt that at the time he transported it in interstate commerce he was gifted with the prophetic power to know that the weapon would be used at some indefinite time in the future to kill a person because he was a law enforcement officer, a firearm, or a judicial officer of the State. Manifestly the facts available to establish this will never be available to the prosecution. Hence, the adoption of the amendment would not only invade an area reserved by the Constitution to the States, but would create a crime which can never be factually proved.

We have enough trouble with complicated laws already on our books without adding laws that are so complicated that the crimes they create can never be proved. In closing, I wish to emphasize the objection to an amendment which invades an area reserved to the States. There are two ways in which the Federal Government can hinder the States in the enforcement of their criminal laws: One is by interfering with State enforcement. The other is by relieving the States of their responsibility for enforcing their laws. I think this amendment, notwithstanding the good intentions of the Senator who offered it, is an unwise amendment that should be rejected by the Senate.

Mr. McCLELLAN. Mr. President, how much time remains for the opposition to the amendment?

The PRESIDING OFFICER. The opposition has 4 minutes remaining.

Mr. McCLELLAN. Mr. President, I yield all that time to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HRUSKA. Mr. President, this type amendment, this type statutory provision has been considered by the Committee on the Judiciary and Congress on several occasions in recent years. Many of the specific provisions contained in this amendment have been considered. They have been rejected. Some of the grounds have already been indicated. One is the difficulty of proof; it is a highly technical matter.

But there is another reason, Mr. President, why Congress has seen fit not to accept a proposal of this kind, and that is there is a lack of need for the taking on of Federal jurisdiction in these instances.

On November 1, 1970, the President issued a "directive" authorizing the Attorney General to use all departments and resources at his disposal to investigate police assaults and killings. The investigation was to be on the request of local authorities in each instance.

On June 3, 1971, during a White House meeting with the FBI Director and certain police chiefs, the President announced that he was instructing the FBI to conduct investigations of police killings upon the request of local authorities. This was the meeting that was the immediate origin of S. 2087, providing the $50,000 gratuity for police officers killed in the line of duty.

The fact is that with a combination of the efficiency and vigilance, local authorities, with the help of the Federal Bureau of Investigation, have brought about the result that approximately 96 percent of all those involved in police killings are arrested within 30 days of the crime—those arrests being by State and local authorities already charged with enforcement responsibilities for these offenses.

Law enforcement is a local and State responsibility in our system of government, absent any overriding national reasons and requirements otherwise. No such reasons and requirements are demonstrated here, nor are they demonstrable because 96 percent of all involved in police killings are arrested within 30 days.

In addition, the talent, capability, and manpower of the Federal Bureau of Investigation are available to local authorities upon request.

Similar amendments have been proposed from time to time and have been rejected. There is a further argument that this would put the FBI on a mandatory basis to intervene with resulting heavy burdens of time, funds, and manpower. This would be at the expense of its capabilities to pursue the more traditional and more truly Federal activities which are assigned to the FBI. It would be at the expense of possible conflict with officials of other law enforcement agencies where the FBI entry in the case is on a mandatory basis rather than optional or on an invitational basis.

For these reasons I hope the amendment is not agreed to. I reserve the remainder of my time, if any remains.

Mr. SCHWEIKER. Mr. President, I would like to reiterate the language of my amendment on this point. It seems to me there is a misunderstanding about the terms of who has the authority to go in in a crime against a police officer.

The wording of my amendment very specifically states, as drafted by legislative counsel:

> "A conspiracy, attempt or solicitation to assault, injure or kill any law enforcement officer, fireman or judicial officer because of his official position;"

Mr. President, that is the key word, the important word, and it is the word legislative counsel used in preparing this legislation, which indicates that these crimes are to be differentiated.

In response to the distinguished Senator, who is a member of the committee, who raised the question, "Why involve the Federal Government?" I think the reason is obvious.

The hearings brought out the fact there are national groups who conspire to either assault or kill enforcement officials. It could not be made much plainer than that. There are people planning to conspire as a matter of national planning to shoot policemen simply because they are policemen; not because the policeman is involved in the apprehension of burglars or bank robbers, but just because he is a policeman.

There is a national conspiracy, and, therefore, we need a national law involving a national priority, and a matter of national concern. That is the difference here.

As far as interfering with other jurisdictions, I would like to respond to one of the other questions raised. We have inserted a paragraph in the amendment that would make it very clear that we are not abridging the authority of local governments and State governments.

> This section shall not be construed to evidence an intention on the part of the Con-

gress to prevent the exercise by any State of jurisdiction over any offense with respect to which such State would have had jurisdiction if this section had not been enacted by Congress.

Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. SCHWEIKER. Mr. President, I feel this is something we have neglected for 2 years. I have had this bill before the committee for 2 years and I have the greatest respect for my good friend on the committee and I realize this particular subcommittee is not the subcommittee that it was before, but it was before the entire Committee on the Judiciary. This bill has been there for 2 years and during the course of time police killings have gone from 37 to 125. The national emergency could not be more clear. Any week that one picks up a newspaper he can see something that happened, a tragedy that occurred where an officer is not even performing his duty, but just because he is there representing us. This is a very serious problem and the handwriting could not be more clear. We have pussyfooted, we have delayed, we have explained, and we have excused, and still the police killings go up. This is a matter of national concern and a national emergency. My wording very specifically says, because he is a police official. That was the legislative counsel's draft and interpretation of what my intent was. I think it is abundantly clear. I think the time has come to act. Two years is long enough to take some action, and I am very hopeful the committee will consider this amendment, and I am hopeful the Senate will accept it.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, my time on the amendment has expired.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. It would not be in order except by unanimous consent.

Time is running equally against both sides.

Mr. McCLELLAN. Mr. President, the yeas and nays have been ordered.

Mr. PASTORE. Mr. President, in fairness to all parties, I ask unanimous consent that a quorum call for a short time be in order—not to exceed 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, let it be taken out of the time on the bill.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

The Senator from Pennsylvania has 2 minutes remaining. The Senator from Arkansas has no time left.

Mr. SCHWEIKER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back or has expired.

The question is on agreeing to the amendment of the Senator from Pennsylvania. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. Anderson), the Senator from Nevada (Mr. Cannon), the Senator from Missouri (Mr. Eagleton), the Senator from Alaska (Mr. Gravel), the Senator from Oklahoma (Mr. Harris), the Senator from Indiana (Mr. Hartke), the Senator from South Carolina (Mr. Hollings), the Senator from Minnesota (Mr. Humphrey), the Senator from Louisiana (Mr. Long), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana, (Mr. Metcalf), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), the Senator from Rhode Island (Mr. Pell), the Senator from Connecticut (Mr. Ribicoff), the Senator from Alabama (Mr. Sparkman), and the Senator from Virginia (Mr. Spong), are necessarily absent.

I also announce that the Senator from Wyoming (Mr. McGee), is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey), the Senator from Virginia (Mr. Spong), the Senator from New Hampshire (Mr. McIntyre), the Senator from Utah (Mr. Moss), and the Senator from Nevada (Mr. Cannon), would each vote "yea."

Mr. SCOTT. I announce that the Senators from Colorado (Mr. Allott and Mr. Dominick), the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bellmon), the Senator from New Hampshire (Mr. Cotton), the Senator from Nebraska (Mr. Curtis), the Senator from Michigan (Mr. Griffin), the Senator from Alaska (Mr. Stevens), the Senator from Ohio (Mr. Taft), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from New York (Mr. Javits) is absent because of religious observance.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

If present and voting, the Senator from New York (Mr. Javits) would vote "yea."

On this vote, the Senator from Texas (Mr. Tower) is paired with the Senator from Nebraska (Mr. Curtis). If present and voting, the Senator from Texas would vote "yea" and the Senator from Nebraska would vote "nay."

The result was announced—-yeas 46, nays 23, as follows:

[No. 441 Leg.]

YEAS—46

Aiken
Bayh
Beall
Bible
Boggs
Brooke
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Church
Cook
Edwards
Fong
Gambrell
Hatfield
Jackson
Jordan, N.C.
Jordan, Idaho
Magnuson
Mansfield
Mathias
Miller
Mondale
Montoya
Nelson
Packwood
Pastore
Pearson
Percy
Proxmire
Randolph
Roth
Saxbe
Schweiker
Scott
Smith
Stafford
Stevenson
Symington
Talmadge
Tunney
Weicker
Williams
Young

NAYS—23

Allen
Bennett
Bentsen
Brock
Buckley
Cooper
Cranston
Dole
Eastland
Ervin
Fannin
Fulbright
Goldwater
Gurney
Hansen
Hart
Hruska
Hughes
Inouye
Kennedy
McClellan
Stennis
Thurmond

NOT VOTING—31

Allott
Anderson
Baker
Bellmon
Cannon
Cotton
Curtis
Dominick
Eagleton
Gravel
Griffin
Harris
Hartke
Hollings
Humphrey
Javits
Long
McGee
McGovern
McIntyre
Metcalf
Moss
Mundt
Muskie
Pell
Ribicoff
Sparkman
Spong
Stevens
Taft
Tower

So Mr. Schweiker's amendment was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I have no further requests for time at the moment.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I yield back the remainder of my time. I know of no requests for time.

Mr. HRUSKA. Mr. President, I have no further requests for time. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. Tunney). All remaining time having been yielded back, the question is, Shall the bill as amended pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I seek recognition.

Mr. ROBERT C. BYRD. Mr. President, the Senator was on his feet before the clerk's response, requesting recognition.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the names of the Senator from West Virginia (Mr. Robert C. Byrd), the Senator from South Carolina (Mr. Thurmond), the Senator from Florida (Mr. Gurney), the Senator from California (Mr. Tunney), and the Senator from West Virginia (Mr. Randolph) be added as cosponsors of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is, Shall the bill pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FONG (when his name was called). Present.

Mr. MANSFIELD (after having voted in the affirmative). On this vote I have a live pair with the Senator from Utah (Mr. MOSS), who, had he been present, would have voted "yea." I would have voted "nay" after having voted in the affirmative. Therefore, I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Nevada (Mr. CANNON), the Senator from Missouri (Mr. EAGLETON), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Virginia (Mr. SPONG) are necessarily absent.

I also announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Utah (Mr. MOSS), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Virginia (Mr. SPONG), and the Senator from South Carolina (Mr. HOLLINGS) would each vote "yea."

Mr. SCOTT. I announce that the Senators from Colorado (Mr. ALLOTT and Mr. DOMINICK), the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Michigan (Mr. GRIFFIN), the Senator from Alaska (Mr. STEVENS), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from New York (Mr. JAVITS) is absent because of religious observance.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Kentucky (Mr. COOPER) is detained on official business.

If present and voting, the Senator from Michigan (Mr. GRIFFIN), the Senator from New York (Mr. JAVITS), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) would each vote "yea."

On this vote, the Senator from Colorado (Mr. ALLOTT) is paired with the Senator from Nebraska (Mr. CURTIS). If present and voting, the Senator from Colorado would vote "yea" and the Senator from Nebraska would vote "nay."

The result was announced—yeas 61, nays 6, as follows:

[No. 442 Leg.]

YEAS—61

Aiken
Allen
Anderson
Bayh
Beall
Bennett
Bentsen
Bible
Boggs
Brooke
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Church
Cook
Cranston
Eastland
Edwards
Ervin
Fulbright
Gambrell
Gurney
Hansen
Hart
Hatfield
Hughes
Inouye
Jackson
Jordan, N.C.
Jordan, Idaho
Kennedy
Magnuson
Mathias
McClellan
Miller
Mondale
Montoya
Nelson
Packwood
Pastore
Pearson
Percy
Proxmire
Randolph
Roth
Saxbe
Schweiker
Scott
Smith
Stafford
Stennis
Stevenson
Symington
Talmadge
Thurmond
Tunney
Weicker
Williams
Young

NAYS—6

Brock
Buckley
Dole
Fannin
Goldwater
Hruska

ANSWERED "PRESENT"—1

Fong

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, against.

NOT VOTING—31

Allott
Baker
Bellmon
Cannon
Cooper
Cotton
Curtis
Dominick
Eagleton
Gravel
Griffin
Harris
Hartke
Hollings
Humphrey
Javits
Long
McGee
McGovern
McIntyre
Metcalf
Moss
Mundt
Muskie
Pell
Ribicoff
Sparkman
Spong
Stevens
Taft
Tower

So the bill (S. 33), as amended, was passed, as follows:

S. 33

An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to authorize group insurance programs for public safety officers and to assist State and local governments to provide such insurance

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Public Safety Officers' Group Life Insurance Act of 1972".

DECLARATION OF PURPOSE

SEC. 101. It is the declared purpose of Congress in this title to promote the public welfare by establishing a means of meeting the financial needs of public safety officers or their surviving dependents through group life, accidental death, and dismemberment insurance, and to assist State and local governments to provide such insurance.

INSURANCE PROGRAM AUTHORIZED

SEC. 102. The Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by—

(1) redesignating sections 451 through 455, respectively, as sections 421 through 425;

(2) redesignating sections 501 through 521, respectively, as sections 550 through 570;

(3) redesignating parts F, G, H, and I of title I, respectively, as parts I, J, K, and L of title I; and

(4) adding at the end of part F of title I, as amended by this Act, the following new part:

"PART G—PUBLIC SAFETY OFFICERS' GROUP LIFE INSURANCE

"DEFINITIONS

"SEC. 500. For the purposes of this part—

"(1) 'child' includes a stepchild, an adopted child, an illegitimate child, and a posthumous child;

"(2) 'month' means a month that runs from a given day in one month to a day of the corresponding number in the next or specified succeeding month, except when the last month has not so many days, in which event it expires on the last day of the month; and

"(3) 'public safety officer' means a person who is employed full time by a State or unit of general local government in—

"(A) the enforcement of the criminal laws, including highway patrol,

"(B) a correctional program, facility, or institution where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees,

"(C) a court having criminal or juvenile delinquent jurisdiction where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees, or

"(D) firefighting,

but does not include any person eligible to participate in the insurance program established by chapter 87 of title 5 of the United States Code, or any person participating in the program established by subchapter III of chapter 19 of title 38 of the United States Code.

"Subpart 1—Nationwide Program of Group Life Insurance for Public Safety Officers

"ELIGIBLE INSURANCE COMPANIES

"SEC. 501. (a) The Administration is authorized, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), to purchase from one or more life insurance companies a policy or policies of group life insurance to provide the benefits specified in this subpart. Each such life insurance company must (1) be licensed to issue life, accidental death, and dismemberment insurance in each of the fifty States of the United States and the District of Columbia, and (2) as of the most recent December 31 for which information is available to the Administration have in effect at least 1 per centum of the total amount of group life insurance which all life insurance companies have in effect in the United States.

"(b) Any life insurance company issuing such a policy shall establish an administrative office at a place and under a name designated by the Administration.

"(c) The Administration may at any time discontinue any policy which it has purchased from any insurance company under this subpart.

"REINSURANCE

"SEC. 502. (a) The Administration shall arrange with each life insurance company issuing a policy under this subpart for the reinsurance, under conditions approved by the Administration, of portions of the total amount of insurance under the policy, determined under this section, with other life insurance companies which elect to participate in the reinsurance.

"(b) The Administration shall determine for and in advance of a policy year which companies are eligible to participate as reinsurers and the amount of insurance under a policy which is to be allocated to the issuing company and to reinsurers. The Administration shall make this determination at least every three years and when a participating company withdraws.

"(c) The Administration shall establish a formula under which the amount of insurance retained by an issuing company after ceding reinsurance, and the amount of reinsurance ceded to each reinsurer, is in proportion to the total amount of each company's group life insurance, excluding insurance purchased under this subpart, in force in the United States on the determination date, which is the most recent December 31 for which information is available to the Administration. In determining the proportions, the portion of a company's group life insurance in force on the determination date in excess of $100,000,000 shall be reduced by—

"(1) 25 per centum of the first $100,000,000 of the excess;

"(2) 50 percentum of the second $100,000,000 of the excess;

"(3) 75 per centum of the third $100,000,000 of the excess; and

"(4) 95 per centum of the remaining excess.

However, the amount retained by or ceded to a company may not exceed 25 per centum of the amount of the company's total life insurance in force in the United States on the determination date.

"(d) The Administration may modify the computations under this section as necessary to carry out the intent of this section.

"PERSONS INSURED; AMOUNT

"SEC. 503. (a) Any policy of insurance purchased by the Administration under this subpart shall automatically insure any public safety officer employed on a full-time basis by a State or unit of general local government which has (1) applied to the Administration for participation in the insurance program under this subpart, and (2) agreed to deduct from such officer's pay the amount of such officer's contribution, if any, and forward such amount to the Administration or such other agency or office as is designated by the Administration as the collection agency or office for such contributions. The insurance provided under this subpart shall take effect from the first day agreed upon by the Administration and the responsible officials of the State or unit of general local government making application for participation in the program as to public safety officers then on the payroll, and as to public safety officers thereafter entering on full-time duty from the first day of such duty. The insurance provided by this subpart shall so insure all such public safety officers unless any such officer elects in writing not to be insured under this subpart. If any such officer elects not to be insured under this subpart he may thereafter, if eligible, be insured under this subpart under written application, proof of good health, and compliance with such other terms and conditions as may be prescribed by the Administration.

"(b) A public safety officer eligible for insurance under this subpart is entitled to be insured for an amount of group life insurance, plus an equal amount of group accidental death and dismemberment insurance, in accordance with the following schedule:

"If annual pay is—		The amount of group insurance is—	
Greater than—	But not greater than—	Life	Accidental death and dismemberment
0	$8,000	$10,000	$10,000
$8,000	9,000	11,000	11,000
$9,000	10,000	12,000	12,000
$10,000	11,000	13,000	13,000
$11,000	12,000	14,000	14,000
$12,000	13,000	15,000	15,000
$13,000	14,000	16,000	16,000
$14,000	15,000	17,000	17,000
$15,000	16,000	18,000	18,000
$16,000	17,000	19,000	19,000
$17,000	18,000	20,000	20,000
$18,000	19,000	21,000	21,000
$19,000	20,000	22,000	22,000
$20,000	21,000	23,000	23,000
$21,000	22,000	24,000	24,000
$22,000	23,000	25,000	25,000
$23,000	24,000	26,000	26,000
$24,000	25,000	27,000	27,000
$25,000	26,000	28,000	28,000
$26,000	27,000	29,000	29,000
$27,000	28,000	30,000	30,000
$28,000	29,000	31,000	31,000
$29,000		32,000	32,000

The amount of such insurance shall automatically increase at any time the amount of increase in the annual basic rate of pay places any such officer in a new pay bracket of the schedule and any necessary adjustment is made in his contribution to the total premium.

"(c) Subject to conditions and limitations approved by the Administration which shall be included in any policy purchased by it, the group accidental death and dismemberment insurance shall provide for the following payments:

"LOSS	AMOUNT PAYABLE
For loss of life	Full amount shown in the schedule in subsection (b) of this section.
Loss of one hand or of one foot or loss of sight of one eye.	One-half of the amount shown in the schedule in subsection (b) of this section.
Loss of two or more such members	Full amount shown in the schedule in subsection (b) of this section.

The aggregate amount of group accidental death and dismemberment insurance that may be paid in the case of any insured as the result of any one accident may not exceed the amount shown in the schedule in subsection (b) of this section.

"(d) Any policy purchased under this subpart may provide for adjustments to prevent duplication of payments under any program of Federal gratuities for killed or injured public safety officers.

"(e) Group life insurance shall include provisions approved by the Administration for continuance of such life insurance without requirement of contribution payment during a period of disability of a public safety officer covered for such life insurance.

"(f) The Administration shall prescribe regulations providing for the conversion of other than annual rates of pay to annual rates of pay and shall specify the types of pay included in annual pay.

"TERMINATION OF COVERAGE

"SEC. 504. Each policy purchased under this subpart shall contain a provision, in terms approved by the Administration, to the effect that any insurance thereunder on any public safety officer shall cease two months after (1) his separation or release from full-time duty as such an officer or (2) discontinuance of his pay as such an officer, whichever is earlier: *Provided, however,* That coverage shall be continued during periods of leave or limited disciplinary suspension if such an officer authorizes or otherwise agrees to make or continue to make any required contribution for the insurance provided by this subpart.

"CONVERSION

"SEC. 505. Each policy purchased under this subpart shall contain a provision, in terms approved by the Administration, for the conversion of the group life insurance portion of the policy to an individual policy of life insurance effective the day following the date such insurance would cease as provided in section 504 of this subpart. During the period such insurance is in force, the insured, upon request to the Administration, shall be furnished a list of life insurance companies participating in the program established under this subpart and upon written application (within such period) to the participating company selected by the insured and payment of the required premiums, the insured shall be granted life insurance without a medical examination on a permanent plan then currently written by such company which does not provide for the payment of any sum less than the face value thereof. In addition to the life insurance companies participating in the program established under this subpart, such list shall include additional life insurance companies (not so participating) which meet qualifying criteria, terms, and conditions established by the Administration and agree to sell insurance to any eligible insured in accordance with the provisions of this section.

"WITHHOLDING OF PREMIUMS FROM PAY

"SEC. 506. During any period in which a public safety officer is insured under a policy of insurance purchased by the Administration under this subpart, his employer shall withhold each pay period from his basic or other pay until separation or release from full-time duty as a public safety officer an amount determined by the Administration to be such officer's share of the cost of his group life insurance and accidental death and dismemberment insurance. Any such amount not withheld from the basic or other pay of such officer insured under this subpart while on full-time duty as a public safety officer, if not otherwise paid, shall be deducted from the proceeds of any insurance thereafter payable. The initial amount determined by the Administration to be charged any public safety officer for each unit of insurance under this subpart may be continued from year to year, except that the Administration may redetermine such amount from time to time in accordance with experience.

"SHARING OF COST OF INSURANCE

"SEC. 507. For each month any public safety officer is insured under this subpart, the Administration shall bear not more than one-third of the cost of insurance for such officer, or such lesser amount as may from time to time be determined by the Administration to be a practicable and equitable obligation of the United States in assisting the States and units of general local government in recruiting and retaining their public safety officers.

"INVESTMENTS AND EXPENSES

"SEC. 508. (a) The amounts withheld from the basic or other pay of public safety officers as contributions to premiums for insurance under section 506 of this subpart, any sums contributed by the Administration under section 507 of this subpart, and any sums contributed for insurance under this subpart by States and units of general local government under section 515 of this part, together with the income derived from any dividends or premium rate readjustment from insurers, shall be deposited to the credit of a revolving fund established by section 517 of this part. All premium payments on any insurance policy or policies purchased under this subpart and the administrative costs to the Administration of the insurance program established by this subpart shall be paid from the revolving fund by the Administration.

"(b) The Administration is authorized to set aside out of the revolving fund such amounts as may be required to meet the administrative costs to the Administration of the program and all current premium payments on any policy purchased under this subpart. The Secretary of the Treasury is authorized to invest in and to sell and retire special interest-bearing obligations of the United States for the account of the revolving fund. Such obligations issued for this purpose shall have maturities fixed with due regard for the needs of the fund and shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligation shall be the multiple of one-eighth of 1 per centum nearest market yield. The interest on and the proceeds from the sale of these obligations, and the income derived from dividends or premium rate adjustments from insurers, shall become a part of the revolving fund.

"BENEFICIARIES; PAYMENT OF INSURANCE

"SEC. 509. (a) Any amount of insurance in force under this subpart on any public safety officer or former public safety officer on the date of his death shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date of his death, in the following order of precedence:

"(1) to the beneficiary or beneficiaries as the public safety officer or former public safety officer may have designated by a writing received in his employer's office prior to his death;

"(2) if there is no such beneficiary, to the surviving spouse of such officer or former officer;

"(3) if none of the above, to the child or children of such officer or former officer and to the descendants of deceased children by representation in equal shares;

"(4) if none of the above, to the parent or parents of such officer or former officer, in equal shares; or

"(5) if none of the above, to the duly appointed executor or administrator of the estate of such officer or former officer.

Provided, however, That if a claim has not been made by a person under this section within the period set forth in subsection (b) of this section, the amount payable shall escheat to the credit of the revolving fund established by section 517 of this part.

"(b) A claim for payment shall be made by a person entitled under the order of precedence set forth in subsection (a) of this section within two years from the date of death of a public safety officer or former public safety officer.

"(c) The public safety officer may elect settlement of insurance under this subpart either in a lump sum or in thirty-six equal monthly installments. If no such election is made by such officer, the beneficiary or other person entitled to payment under this section may elect settlement either in a lump sum or in thirty-six equal monthly installments. If any such officer has elected settlement in a lump sum, the beneficiary or other person entitled to payment under this section may elect settlement in thirty-six equal monthly installments.

"BASIC TABLES OF PREMIUMS; READJUSTMENT OF RATES

"SEC. 510. (a) Each policy or policies purchased under this subpart shall include for the first policy year a schedule of basic premium rates by age which the Administration shall have determined on a basis consistent with the lowest schedule of basic premium rates generally charged for new group life insurance policies issued to large employers, taking into account expense and risk charges and other rates based on the special characteristics of the group. This schedule of basic premium rates by age shall be applied, except as otherwise provided in this section, to the distribution by age of the amount of group life insurance and group accidental death and dismemberment insurance under the policy at its date of issue to determine an average basic premium per $1,000 of insurance, taking into account all savings based on the size of the group established by this subpart. Each policy so purchased shall also include provisions whereby, the basic rates of premium determined for the first policy year shall be continued for subsequent policy years, except that they may be readjusted for any subsequent year, based on the experience under the policy, such readjustment to be made by the insurance company issuing the policy on a basis determined by the Administration in advance of such year to be consistent with the general practice of life insurance companies under policies of group life insurance and group accidental death and dismemberment insurance issued to large employers.

"(b) Each policy so purchased shall include a provision that, in the event the Administration determines that ascertaining the actual age distribution of the amounts of group life insurance in force at the date of issue of the policy or at the end of the first or any subsequent year of insurance thereunder would not be posssible except at a disproportionately high expense, the Administration may approve the determination of a tentative average group life premium, for the first of any subsequent policy year, in lieu of using the actual age distribution. Such tentative average premium rate may be increased by the Administration during any policy year upon a showing by the insurance company issuing the policy that the assumptions made in determining the tentative average premium rate for that policy year were incorrect.

"(c) Each policy so purchased shall contain a provision stipulating the maximum expense and risk charges for the first policy year, which charges shall have been determined by the Administration on a basis consistent with the general level of such charges made by life insurance companies under policies of group life insurance and group accidental death and dismemberment insurance issued to large employers, taking into consideration peculiar characteristics of the group. Such maximum charges shall be continued from year to year, except that the Administration may redetermine such maximum charges for any year either by agreement with the insurance company or companies issuing the policy or upon written notice given by the Administration to such companies at least one year in advance of the beginning of the year for which such redetermined maximum charges will be effective.

"(d) Each such policy shall provide for an accounting to the Administration not later than ninety days after the end of each policy year, which shall set forth, in a form approved by the Administration, (1) the amounts of premiums actually accrued under the policy from its date of issue to the end of such policy year, (2) the total of all mortality, dismemberment, and other claim charges incurred for that period, and (3) the amounts of the insurers' expense and risk charge for that period. Any excess of item (1) over the sum of items (2) and (3) shall be held by the insurance company issuing the policy as a special contingency reserve to be used by such insurance company for charges under such policy only, such reserve to bear interest at a rate to be determined in advance of each policy year by the insurance company issuing the policy, which rate shall be approved by the Administration as being consistent with the rates generally used by such company or companies for similar funds held under other group life insurance policies. If and when the Administration determines that such special contingency reserve has attained an amount estimated by the Administration to make satisfactory provision for adverse fluctuations in future charges under the policy, any further excess shall be deposited to the credit of the revolving fund established under this subpart. If and when such policy is discontinued, and if, after all charges have been made, there is any positive balance remaining in such special contingency reserve, such balance shall be deposited to the credit of the revolving fund, subject to the right of the insurance company issuing the policy to make such deposit in equal monthly installments over a period of not more than two years.

"BENEFIT CERTIFICATES

"SEC. 511. The Administration shall arrange to have each public safety officer insured under a policy purchased under this subpart receive a certificate setting forth the benefits to which such officer is entitled thereunder, to whom such benefit shall be payable, to whom claims should be submitted, and summarizing the provisions of the policy principally affecting the officer. Such certificate shall be in lieu of the certificate which the insurance company would otherwise be required to issue.

"Subpart 2—Assistance to States and Localities for Public Safety Officers' Group Life Insurance Programs

"SEC. 512. (a) Any State or unit of general local government having an existing program of group life insurance for, or including as eligible, public safety officers during the first year after the effective date of this part, which desires to receive assistance under the provisions of this subpart shall—

"(1) inform the public safety officers of the benefits and allocation of premium costs under both the Federal program established by subpart 1 of this part and the existing State or unit of general local government program;

"(2) hold a referendum of the eligible public safety officers of the State or unit of general local government to determine whether such officers want to continue in the existing group life insurance program or apply for inclusion in the Federal program under the provisions of subpart 1 of this part; and

"(3) recognize the results of the referendum as finally binding on the State or unit of general local government for the purposes of this part.

"(b) Upon an affirmative vote of a majority of such officers to continue in such State or unit of general local government program, a State or unit of general local government may apply for assistance for such program of group life insurance and the Administration shall provide assistance in accordance with this subpart.

"(c) Assistance under this subpart shall not exceed one-third of the premiums attributable to the public safety officers enrolled in such State or unit of general local government program or such assistance as would be available to the public safety officers if they were enrolled under subpart 1 of this part, whichever is less, to the extent the amount of coverage under the State or unit of general local government program is comparable with the amount of coverage available under subpart 1 of this part.

"(d) Assistance under this subpart shall be used to reduce proportionately the contributions paid by the State or unit of general local government and by the appropriate public safety officers to the total premium under such program: *Provided, however,* That the State or unit of general local government and the insured public safety officers may by agreement change the contributions to premium costs paid by each, but not so that such officers must pay a higher fraction of the total premium than before the granting of assistance.

"Subpart 3—General Provisions

"UTILIZATION OF OTHER AGENCIES

"SEC. 513. In administering the provisions of this part, the Administration is authorized to utilize the services and facilities of any agency of the Federal Government or a State or unit of general local government or a company from which insurance is purchased under this part, in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon.

"ADVISORY COUNCIL ON PUBLIC SAFETY OFFICERS' GROUP LIFE INSURANCE

"SEC. 514. There is hereby created an Advisory Council on Public Safety Officers' Group Life Insurance consisting of the Attorney General as Chairman, the Secretary of the Treasury, the Secretary of Health, Education, and Welfare, and the Director of the Office of Management and Budget, each of whom shall serve without additional compensation. The Council shall meet not less than once a year, at the call of the Chairman, and shall review the administration of this part and advise the Administration on matters of policy relating to its activity thereunder. In addition, the Administration may solicit advice and recommendations from any State or unit of general local government participating in a public safety officers' group life insurance program under this part, from any insurance company underwriting programs under this part, and from public safety officers participating in group life insurance programs under this part.

"PREMIUM PAYMENTS ON BEHALF OF PUBLIC SAFETY OFFICERS

"SEC. 515. Nothing in this part shall be construed to preclude any State or unit of general local government from making contributions on behalf of public safety officers to the premiums required to be paid by them for any group life insurance programs receiving assistance under this part.

"WAIVER OF SOVEREIGN IMMUNITY

"SEC. 516. The Administration may sue or be sued on any cause of action arising under this part.

"PUBLIC SAFETY OFFICERS' GROUP INSURANCE REVOLVING FUND

"SEC. 17. There is hereby created on the books of the Treasury of the United States a fund known as the Public Safety Officers' Group Life Insurance Revolving Fund which may be utilized only for the purposes of subpart 1 of this part."

Subpart 4—Miscellaneous

SEC. 103. Section 569 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended and as redesignated by this Act, is amended by inserting "(a)" immediately after "569" and by adding at the end thereof the following new subsection:

"(b) There is authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1973, for the purposes of part G."

SEC. 104. Until specific appropriations are made for carrying out the purposes of this Act, any appropriation made to the Department of Justice or the Law Enforcement Assistance Administration for grants, activities, or contracts shall, in the discretion of the Attorney General, be available for payments of obligations arising under this Act.

SEC. 105. If the provisions of any part of this Act are found invalid or any amendments made thereby or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

SEC. 106. This Act shall become effective on date of enactment.

SEC. 107. (a) Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1116. Assaults on State law enforcement officers, firemen or judicial officers because of their official position

"(a) Whoever travels in interstate commerce or uses any instrumentality of, or facility for, interstate commerce, including, but not limited to the mail, telegraph, radio or television, in furtherance of—

"(1) a conspiracy, attempt or solicitation to assault, injure or kill any law enforcement officer, fireman or judicial officer because of his official position; or

"(2) a killing, injuring or assault upon any law enforcement officer, fireman or judicial officer because of his official position; and who during the course of such travel or use or thereafter performs or attempts to perform any other overt act for any purpose specified in subparagraphs (1) or (2) of this paragraph; or

"Whoever assaults, injures, or kills or attempts to assault, injure or kill by means of any dangerous or deadly weapon which has been transported in interstate commerce any law enforcement officer, fireman, or judicial officer because of his official position as a law enforcement officer, fireman, or judicial officer; or

"Whoever transports, causes to be transported, or aids or abets another in transporting, or receives, causes to be received, or aids or abets another in receiving, in interstate commerce or through the use of any instrumentality of or facility for interstate commerce any dangerous or deadly weapon with knowledge that it will be used or with intent that it be used to assault, injure, or kill any law enforcement officer, fireman, or judicial officer because of his official position as a law enforcement officer, fireman, or judicial officer—

"Shall be fined not more than $10,000, or imprisoned for not more than ten years, or both; or if death results, shall be punished under sections 1111 and 1112 of this title.

"(b) As used in this section, the term—

"(1) 'dangerous or deadly weapon' includes any object, item or device which, when used as a weapon, is capable of causing physical injury or death;

"(2) 'law enforcement officer' means any officer or employee of any State who is charged with the enforcement of any criminal laws of such State;

"(3) 'fireman' means any person serving as a member of a fire protective service organized and administered by a State or a volunteer fire protective service organized and administered under the laws of a State;

"(4) 'judicial officer' means any judge, officer or other employee of a court of any State;

"(5) 'interstate commerce' means commerce (A) between any State or the District of Columbia and any place outside thereof; (B) between points within any State or the District of Columbia, but through any place outside thereof; or (C) wholly within the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States; and

"(6) 'State' means any State of the United States, the Commonwealth of Puerto Rico, any political subdivision of any such State or Commonwealth, the District of Columbia, and any territory or possession of the United States.

"(c) Whenever a law enforcement officer, fireman, or judicial officer is willfully killed, injured or assaulted, while such law enforcement officer, fireman or judicial officer is engaged in his official duties, and no person alleged to have committed such offense has been apprehended and taken into custody within twenty-four hours after the commission of such offense, it shall be presumed in the absence of proof to the contrary that the person who committed such offense has moved or traveled in interstate or foreign commerce to avoid prosecution or custody under the laws of the place at which the offense was committed.

"(d) This section shall not be construed to evidence an intent on the part of the Congress to prevent the exercise by any State of jurisdiction over any offense with respect to which such State would have had jurisdiction if this section had not been enacted by the Congress."

(b) The section analysis of chapter 51 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"1116. Assaults on State law enforcement officers, firemen, or judicial officers because of their official position."

The title was amended so as to read: "A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to authorize group insurance programs for public safety officers and to assist State and local governments to provide such insurance."

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Geisler, one of his secretaries.

REPORT OF FEDERAL ACTIVITIES IN JUVENILE DELINQUENCY, YOUTH DEVELOPMENT, AND RELATED FIELDS—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. TUNNEY) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Labor and Public Welfare:

To the Congress of the United States:

I am pleased to submit herewith the annual report of Federal activities in juvenile delinquency, youth development, and related fields, as required by section 408 of the Juvenile Delinquency Prevention and Control Act of 1968 (Public Law 90–445).

The report covers the period from July 1, 1970, to June 30, 1971, and evaluates activities of the Youth Development and Delinquency Prevention Administration in the Department of Health, Education, and Welfare. It also includes a description of the activities of other Federal Agencies and Departments in the field of juvenile delinquency.

I commend this report to your careful attention.

RICHARD NIXON.

THE WHITE HOUSE, *September 18, 1972.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. TUNNEY) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

H.R. 7701. An act to amend the act of August 9, 1955, to authorize longer term leases of Indian lands located outside the boundaries of Indian reservations in New Mexico;

H.R. 10702. An act to declare that certain federally owned land is held by the United States in trust for the Fort Belknap Indian Community;

H.R. 13025. An act to amend the Act of May 19, 1948, with respect to the use of real property for wildlife conservation purposes; and

H.R. 15577. An act to give the consent of Congress to the construction of certain international bridges, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

PROTECTION OF FOREIGN OFFICIALS AND OFFICIAL GUESTS OF THE UNITED STATES

The PRESIDING OFFICER (Mr. TUNNEY). Under the previous order, the Chair lays before the Senate H.R. 15883, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 15883) to amend title 18, United States Code, to provide for expanded protection of foreign officials, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with amendments:

On page 1, line 4, after the word "Officials", insert "Official Guests of the United States";

On page 2, line 14, after the word "officials", insert "or official guests";

In line 16, after the word "official", insert "or official guest";

On page 3, after line 24, insert:

"(4) 'Official guest' means a citizen or national of a foreign country present in the United States as an official guest of the government of the United States pursuant to designation as such by the Secretary of State.

On page 4, after line 12, strike out:

"116. Murder or manslaughter of foreign officials.";

And insert:

"116. Murder or manslaughter of foreign officials or official guests.";

After line 12, strike out:

"(b) Whoever willfully intimidates, coerces, threatens, or harasses a foreign official, or willfully obstructs him in the performance of his duties, shall be fined not more than $500, or imprisoned not more than six months, or both.

And, in lieu thereof, insert:

"(b) Whoever willfully intimidates, coerces, threatens, harasses, or willfully obstructs a foreign official or an official guest shall be fined not more than $500, or imprisoned not more than six months, or both.

On page 7, line 15, after the word "government',", strike out "and";

In the same line, after the word "organization",' insert "and 'official guest' ";

After line 17, insert:

"(e) Nothing contained in this section shall be construed or applied so as to abridge the exercise of rights guaranteed under the first amendment to the Constitution of the United States."

After line 24, strike out

"112. Protection of foreign officials." and insert

"112. Protection of foreign officials and official guests.";

On page 8, line 13, after the word "organization", strike out the word "or";

In the same line, after the word "official", insert "or official guest,";

In line 17, after the word "government'," strike out the word "and";

In the same line, after the word "organization'," insert "and 'official guest';"

And at the top of page 9, insert a new title, as follows:

TITLE V—FOREIGN SERVICE GRIEVANCE PROCEDURE

SEC. 501. (a) Title VI of the Foreign Service Act of 1946 is amended by adding at the end thereof the following new part:

"PART J—FOREIGN SERVICE GRIEVANCES

"STATEMENT OF PURPOSE

"SEC. 691. It is the purpose of this part to provide officers and employees of the Service and their survivors, a grievance procedure to insure the fullest measure of due process, and to provide for the just consideration and resolution of grievances of such officers, employees, and survivors.

"REGULATIONS OF THE SECRETARY

"SEC. 692. The Secretary shall, consistent with the purposes stated in section 691 of this Act, implement this part by promulgating regulations, and revising those regulations when necessary, to provide for the consideration and resolution of grievances by a board. No such regulation promulgated by the Secretary shall in any manner alter or amend the provisions for due process established by this section for grievants. The regulations shall include, but not be limited to, the following:

"(1) Informal procedures for the resolution of grievances in accordance with the purposes of this part shall be established by agreement between the Secretary and the organization accorded recognition as the exclusive representative of the officers and employees of the Service. If a grievance is not resolved under such procedures within sixty days, a grievant shall be entitled to file a grievance with the board for its consideration and resolution. For the purposes of the regulations—

"(A) 'grievant' shall mean any officer or employee of the Service, or any such officer or employee separated from the Service, who is a citizen of the United States, or in the case of the death of the officer or employee, a surviving spouse or dependent family member of the officer or employee; and

"(B) 'grievance' shall mean a complaint against any claim of injustice or unfair treatment of such officer or employee arising from his employment or career status, or from any actions, documents, or records, which could result in career impairment or damage, monetary loss to the officer or employee, or deprivation of basic due process, and shall include, but not be limited to, actions in the nature of reprisals and discrimination, actions related to promotion or selection out, the contents of any efficiency report, related records, or security records, and actions in the nature of adverse personnel actions, including separation for cause, denial of a salary increase within a class, written reprimand placed in a personnel file, or denial of allowances.

"(2) (A) The board considering and resolving grievances shall be composed of independent, distinguished citizens of the United States well known for their integrity, who are not officers or employees of the Department, the Service, the Agency for International Development, or the United States Information Agency. The board shall consist of a panel of three members, one of whom shall be appointed by the Secretary, one of whom shall be appointed by the organization accorded recognition as the exclusive representative of the officers and employees of the Service, and one who shall be appointed by the other two members from a roster of twelve independent, distinguished citizens of the United States well known for their integrity who are not officers or employees of the Department, the Service, or either such agency, agreed to by the Secretary and such organization. Such roster shall be maintained and kept current at all times. If no organization is accorded such recognition at any time during which there is a position on the board to be filled by appointment by such organization or when there is no such roster since no such organization has been so recognized, the Secretary shall make any such appointment in agreement with organizations representing officers and employees of the Service. If members of the board (including members of additional panels, if any) find that additional panels of three members are necessary to consider and resolve expeditiously grievances filed with the board, the board shall determine the number of such additional panels necessary, and appointments to each such panel shall be made in the same manner as the original panel. Members shall (i) serve for two-year terms, and (ii) receive compensation, for each day they are performing their duties as members of the board (including traveltime), at the daily rate paid an individual at GS–18 of the General Schedule under section 5332 of title 5, United States Code. Whenever there are two or more panels, grievances shall be referred to the panels on a rotating basis. Except in the case of duties, powers, and responsibilities under this paragraph (2), each panel is authorized to exercise all duties, powers, and responsibilities of the board. The members of the board shall elect, by a majority of those members present and voting, a chairman from among the members for a term of two years.

"(B) In accordance with this part, the board may adopt regulations governing the organization of the board and such regulations as may be necessary to govern its proceedings. The board may obtain such facilities and supplies through the general administrative services of the Department, and appoint and fix the compensation of such officers and employees as the board considers necessary to carry out its functions. The officers and employees so appointed shall be responsible solely to the board. All expenses of the board shall be paid out of funds appropriated to the Department for obligation and expenditure by the board. The records of the board shall be maintained by the board and shall be separate from all other records of the Department.

"(3) A grievance under such regulations is forever barred, and the board shall not consider or resolve the grievance, unless the grievance is filed within a period of eight months after the occurrence or occurrences giving rise to the grievance, except that if the grievance arose prior to the date the regulations are first promulgated or placed into effect, the grievance shall be so barred, and not so considered and resolved, unless it is filed within a period of one year after the date of enactment of this part. There shall be excluded from the computation of any such period any time during which the grievant was unaware of the grounds which are the basis of the grievance and could not have discovered such grounds if he had exercised, as determined by the board, reasonable diligence.

"(4) The board shall conduct a hearing in any case filed with it. A hearing shall be open unless the board for good cause determines otherwise. The grievant and, as the grievant may determine, his representative or representatives are entitled to be present at the hearing. Testimony at a hearing shall be given by oath or affirmation, which any board member shall have authority to administer (and this paragraph so authorizes). Each party (A) shall be entitled to examine and cross-examine witnesses at the hearing or by deposition, and (B) shall be entitled to serve interrogatories upon another party and have such interrogatories answered by the other party unless the board finds such interrogatory irrelevant or immaterial. Upon request of the board or grievant, the Department shall promptly make available at the hearing or by deposition any witness under the control, supervision, or responsibility of the Department, except that if the board determines that the presence of such witness at the hearing would be of material importance, then the witness shall be made available at the hearing. If the witness is not made available in person or by deposition within a reasonable time as determined by the board, the facts at issue shall be construed in favor of the grievant. Depositions of witnesses (which are hereby authorized, and may be taken before any official of the United States authorized to administer an oath or affirmation, or, in the case of witnesses overseas, by deposition on notice before an American consular officer) and hearings shall be recorded and transcribed verbatim.

"(5) Any grievant filing a grievance, and any witness or other person involved in a proceeding before the board, shall be free from any restraint, interference, coercion, discrimination, or reprisal. The grievant has the right to a representative of his own choosing at every stage of the proceedings. The grievant and his representatives who are under the control, supervision, or responsibility of the Department shall be granted reasonable periods of administrative leave to prepare, to be present, and to present the grievance of such grievant. Any witness under the control, supervision, or responsibility of the Department shall be granted reasonable periods of administrative leave to appear and testify at any such proceeding.

"(6) In considering the validity of a grievance, the board shall have access to any document or information considered by the board to be relevant, including, but not limited to, the personnel and, under appropriate security measures, security records of such officer or employee, and of any rating or reviewing officer (if the subject matter of the grievance relates to that rating or reviewing officer). Any such document or information requested shall be provided promptly by the Department. A rating officer or reviewing officer shall be informed by the board if any report for which he is responsible is being examined.

"(7) The Department shall promptly furnish the grievant any such document or information (other than any security record or the personnel or security records of any other officer or employee of the Government) which the grievant requests to substantiate his grievance and which the board determines is relevant and material to the proceeding.

"(8) The Department shall expedite any security clearance whenever necessary to insure a fair and prompt investigation and hearing.

"(9) The board may consider any relevant evidence or information coming to its attention and which shall be made a part of the record of the proceeding.

"(10) If the board determines that (A) the Department is considering any action (including, but not limited to, separation or termination) which is related to, or may affect, a grievance pending before the board, and (B) the action should be suspended, the Department shall suspend such action until the board has ruled upon such grievance.

"(11) Upon completion of the proceedings, if the board resolves that the grievance is meritorious—

"(A) and determines that relief should be provided that does not directly relate to the promotion, assignment, or selection out of such officer or employee, it shall direct the Secretary to grant such relief as the board deems proper under the circumstances, and the resolution and relief granted by the board shall be final and binding upon all parties; or

"(B) and determines that relief should be granted that directly relates to any such promotion, assignment, or selection out, it shall certify such resolution to the Secretary, together with such recommendations for relief as it deems appropriate and the entire record of the board's proceedings, including the transcript of the hearing, if any. The board's recommendations are final and binding on all parties, except that the Secretary may reject any such recommendation only if he determines that the foreign policy or security of the United States will be adversely affected. Any such determination shall be fully documented with the reasons therefor and shall be signed personally by the Secretary, with a copy thereof furnished the grievant. After completing his review of the resolution, recommendation, and record of proceedings of the board, the Secretary shall return the entire record of the case to the board for its retention. No officer or employee of the Department participating in a proceeding on behalf of the Department shall, in any manner, prepare, assist in preparing, advise, inform, or otherwise participate in, any review or determination of the Secretary with respect to that proceeding.

"(12) The Board shall have authority to insure that no copy of the Secretary's determination to reject a board's recommendation, no notation of the failure of the board to find for the grievant, and no notation that a proceeding is pending or has been held, shall be entered in the personnel records of such officer or employee to whom the grievance relates or anywhere else in the records of the Department, other than in the records of the board.

"(13) A grievant whose grievance is found not to be meritorious by the board may obtain reconsideration by the board only upon presenting newly discovered relevant evidence not previously considered by the board and then only upon approval of the board.

"(14) The board shall promptly notify the Secretary, with recommendations for appropriate disciplinary action, of any contravention by any person of any of the rights, remedies, or procedures contained in this part or in regulations promulgated under this part.

"RELATIONSHIP TO OTHER REMEDIES

"SEC. 693. If a grievant files a grievance under this part, and if, prior to filing such grievance, he has not formally requested that the matter or matters which are the basis of the grievance be considered and resolved, and relief provided, under a provision of law, regulation, or order, other than under this part, then such matter or matters may only be considered and resolved, and relief provided, under this part. A grievant may not file a grievance under this part if he has formally requested, prior to filing a grievance, that the matter or matters which are the basis of the grievance be considered and resolved, and relief provided, under a provision of law, regulation, or order, other than under this part.

"JUDICIAL REVIEW

"SEC. 694. Notwithstanding any other provision of law, regulations promulgated by the Secretary under section 692 of this Act, revisions of such regulations, and actions of the Secretary or the board pursuant to such section, may be judicially reviewed in accordance with the provisions of chapter 7 of title 5, United States Code."

(b) The Secretary of State shall promulgate and place into effect the regulations provided by section 692 of the Foreign Service Act of 1946 (as added by subsection (a) of this section), and establish the board and appoint the member of the board which he is authorized to appoint under, as provided by such section 692, not later than 90 days after the date of enactment of this Act.

Mr. McCLELLAN. Mr. President, we all remain deeply shocked and saddened by the brutal slayings at the Olympic games in Munich. Many of my colleagues have already eloquently spoken of the significance of this tragedy. Keeping in mind our grief and indignation over these crimes, I today urge the adoption of a measure designed to prevent the commission of such an act of violence in the United States against foreign officials in our country.

Mr. President, more is involved here than a basic regard for human life or personal security. We act today under a special obligation of international law. As the Court in *Frend* v. *United States*, 100 F. 2d 691, 693 (D.C. Cir.), *cert. denied*, 306 U.S. 640 (1938) put it:

> As in war the bearers of flags of truce are sacred, or else wars would be interminable, so in peace, ambassadors, public ministers and consuls, charged with friendly national intercourse, are objects of especial respect and protection. . . . The law of nations, therefore, requires every government to take all reasonable precautions to prevent [unlawful acts directed against ambassadors or embassies]. . . . This responsibility includes the duty of protecting the residence of our ambassador or minister against invasion as well as against any other act tending to disturb the peace or dignity of the mission or of the member of the mission.

Mr. President, between January of 1971 and September 10 of this year, there have been 238 documented threats or incidents against foreign government personnel or exchange groups in the United States. Such acts create untold personal loss and fear. Such acts severely impair the process of conducting foreign relations. The incidents have included mugging, automobile theft, vandalism, bombings, assault, and rape. Such acts must not be allowed to continue.

Yet recent events have made it altogether too clear that we face continuing and often successful attempts on the part of violent extremist groups to deliver their special "message" to the world by mercilessly slaying innocent people, people who are chosen as victims only because of their nationality, race, religion, occupation, or simply their location at a particular moment.

Predictably, these targets will often be official representatives and employees of a foreign government. But under current law, the Federal Government has no jurisdiction, except in special circumstances, over crimes against these people. The primary responsibility to deal with such crimes must and should remain in the several States. This is a fundamental tenet of our federal system. But we cannot blind our eyes to what is happening all around us.

West Germany, too, operates within the framework of a police system characterized by federalism and strong local control. Its role in the recent police operation against Arab guerrillas in Munich can teach us a lesson. The actual operation was led by Munich's police commissioner. What happened is history. Local forces are not trained and experienced enough and lack the full range of resources to cope alone with crimes involving an international terrorist group and embracing aspects of international politics and diplomacy. This was plain for all to see when it was the German Chancellor, not the Bavarian Premier, let alone the Munich Commissioner, who telephoned Arab leaders in a frantic effort to secure the freedom of the Israeli hostages.

The winter Olympic games will be held next time in Colorado. Should another attack occur, it may well be planned outside our country. Overt acts implementing this conspiracy could occur throughout the world or in several of the States, culminating in violence in one of our States. Can we truly expect local law enforcement adequately to respond?

Mr. President, H.R. 15883 was introduced at the joint request of the Departments of State and Justice. It has been drafted to meet the challenge of international violence and to outline our Nation's responsibility to foreign representatives within our country. The bill, as amended, passed the House of Representatives on August 7, 1972, by a vote of 380–2. Briefly, the House-passed bill would do the following:

First, make murder or manslaughter of a foreign official or a member of his family, or conspiracy to murder such individual, a Federal offense punishable as a felony.

Second, make the kidnaping of a foreign official or a member of his family, or conspiracy to kidnap such an individual, a Federal felony if committed anywhere in the United States.

Third, make the assaulting, striking, wounding, imprisoning, or offering of violence to a foreign official a Federal offense punishable as a felony.

Fourth, make the intimidation, coercion, threatening, harassment or willful obstruction of performance of duties of a foreign official a Federal offense punishable as a misdemeanor.

Fifth, prohibit certain demonstrations within 100 feet of foreign government buildings for the purpose of intimidating, coercing, threatening or harassing any foreign official or obstructing him in the performance of his duties, and make this punishable as a misdemeanor.

Sixth, make the willful injury, damaging or destruction, or attempted injury, damaging or destruction, of real or personal property within the United States belonging to or used or occupied by a foreign government, foreign official or international organization a Federal offense punishable as a felony.

Seventh, make several changes in the Federal kidnaping law as it will apply generally. In this regard, the law is amended to make the thrust of the offense the kidnaping itself rather than the interstate transporting of the kidnaped person. This effort to clearly differentiate the question of what is criminal from the question of what criminal behavior falls within Federal jurisdiction not only makes the sanction more rational, but also has the practical effect of assuring that a kidnaping which occurs in a hijacking situation is an extraditable offense from a country which does not recognize an offense keyed to interstate transportation.

I urge its adoption.

Mr. President, I ask unanimous consent to have included in the RECORD at this point three exhibits as follows:

First, a chart of incidents against diplomatic and other personnel for the period January 1, 1972, through September 10, 1972, and a breakdown of incidents involving foreign personnel occurring in the first 6 months of 1971 which is illustrative of the acts which pose a threat to free diplomatic intercourse.

Second, an article from the Evening Star, Washington, D.C., September 6, 1972, page A9, column 5, noting a call for retaliatory assassinations.

Third, an excerpt from the U.S. News & World Report of September 18, 1972, entitled "The Grim Toll Taken by Arab Guerrillas."

There being no objection, the material was ordered to be printed in the RECORD as follows:

INCIDENTS AGAINST DIPLOMATIC, QUASI-DIPLOMATIC, AND CONSULAR ESTABLISHMENTS AND PERSONNEL, SEPTEMBER 11, 1972

Threats against public and foreign officials from January 1 through September 10, 1972

State Department Officials, 3.

Foreign Officials, 60.

Incidents for the Period January 1 through September 10, 1972

New York Area, 61.

Washington and Elsewhere, 86.

Incidents Against Cultural Exchange Groups for the period January 1 through September 10, 1972

Nationwide, 31; total 241.

Incidents affecting diplomatic consular and quasi-diplomatic establishment and personnel from January 1, 1971 through June 30, 1971

January 8, 1971—Explosion at the Soviet Commercial and Information Office, Washington, D.C.: minor damage.

January 8, 1971—Automobile of an Argentine Embassy employee was stolen.

January 12, 1971—Wife and daughter of the Korean Air Attache at Washington, D.C. were victims of an armed robbery at their residence.

January 14, 1971—Two bricks were thrown thru the window of the Aeroflot Office, New York City, causing minor damage.

January 17, 1971—A molotov cocktail was thrown thru the glass door of the UAR Mission at New York causing minor damage.

January 22, 1971—The Latvian Legation at Washington, D.C. was burglarized and equipment valued at $100 was stolen.

February 2, 1971—The tires on an automobile belonging to the Vice Consul of Kuwait, New York City, were slashed.

February 11, 1971—A member of the Iranian Embassy, Washington, D.C. was assaulted in the Embassy. Minor injury sustained.

February 17, 1971.—The residence of the Charge d'Affaires of Mauritania was burglarized and a color television was stolen.

February 19, 1971—Three automobiles belonging to Soviet Embassy personnel were fire-bombed. One vehicle sustained serious damage and the other two minor.

February 25, 1971—An employee of the Iranian Embassy, Washington, D.C. was assaulted, however, received no injuries.

February 25, 1971—Two vehicles belonging to Soviet Embassy personnel were broken into and the spare tires stolen.

February 26, 1971—Red paint was thrown on the steps of the Greek Consulate, New York City.

February 26, 1971—A Soviet diplomat's automobile was stolen at Washington, D.C.

March 2, 1971—The Chancery of Mexico was burglarized and approximately $600 worth of cash and jewelry stolen.

March 2, 1971—The Iraq Mission to the U.N. was fire-bombed causing minor damage.

March 14, 1971—An attempted burglary was thwarted at the Embassy of Kenya; however, the intruder escaped.

March 16, 1971—The residence of a German Embassy employee was burglarized and $2700 in cash and personal papers were stolen.

March 23, 1971—An automobile belonging to the Greek Consulate, New York City was stolen.

March 26, 1971—An automobile belonging to an employee of the Embassy of Chile was vandalized and burglarized.

March 29, 1971—The automobile of an Australian Embassy employee was broken into and a movie camera was stolen.

April 2, 1971—An automobile belonging to the Albanian Mission to the U.N. was stolen.

April 12, 1971—The South African Consulate General, New York City, was bombed, minor damage resulting.

April 12, 1971—An employee of the Embassy of New Zealand was assaulted and robbed.

April 12, 1971—The automobile belonging to the Counselor of the Yugoslav Mission, New York City was burglarized.

April 14, 1971—Three Soviet diplomats were subjected to harassment and reported physical violence at Washington, D.C.

April 14, 1971—An automobile belonging to the Embassy of Ghana was vandalized.

April 18, 1971—Several windows at the Mexican Chancery were broken by a group of juveniles.

April 19, 1971—A South African Tourist Office, New York was bombed causing moderate damage and slight injury to one person.

April 20, 1971—The automobile belonging to a Soviet diplomat at Washington was vandalized.

April 22, 1971—A bomb exploded at the Soviet Trade Office, New York City causing moderate damage.

April 23, 1971—The Viet Nam Embassy was subjected to vandalism causing minor damage.

April 26, 1971—The Chancery of Lesotho was burglarized of business equipment.

April 26, 1971—The Chancery of Peru was burglarized of business equipment.

April 26, 1971—Two automobiles belonging to the Soviet Mission to the U.N. were vandalized causing minor damage.

May 2, 1971—The wife and child of the Byelorussian Ambassador to the U.N. were subjected to harassment.

May 3, 1971—The Counselor of the Lesotho Mission to the U.N. thwarted a burglar in his apartment and fired three shots at them. No injuries sustained.

May 7, 1971—Two stench bombs were thrown inside the South Vietnamese Consulate General at San Francisco.

May 8, 1971—A Soviet diplomat was robbed of his wallet in Washington, D.C.

May 11, 1971—The residence of a Syrian U.N. diplomat was burglarized.

May 18, 1971—The Jordanian Embassy was burglarized and Metropolitan Police apprehended the culprit.

May 20, 1971—An automobile belonging to the Consulate General of Argentina was burglarized in Washington, D.C. and the culprit was arrested.

May 21, 1971—The automobile of an employee of the Embassy of Thailand was stolen at Washington, D.C.

May 27, 1971—The Peruvian Air Attache Office at Washington, D.C. was burglarized.

June 1, 1971—Three suits from the automobile of a Nicaraguan diplomat at Washington were stolen.

June 2, 1971—The Ambassador of the Netherlands at Washington thwarted an attempted theft of his automobile.

June 13, 1971—The Mexican Tourist Office at Los Angeles was bombed causing extensive damage.

June 22, 1971—A bomb containing 15 sticks of dynamite was found near the gate of the Soviet Mission residence, Glen Cove, New York.

June 23, 1971—Eleven alleged JDL members were arrested near the Soviet Mission in New York City and were charged with harassment and disorderly conduct.

June 24, 1971—A brick was thrown thru the window of the residence of a Soviet diplomat in Silver Spring, Md.

June 25, 1971—The swimming pool at the Minister of the Italian Embassy's residence was vandalized.

June 27, 1971—A heavy glass ashtray wrapped in JDL literature was thrown through the window of a Soviet diplomat's residence in Silver Spring, Maryland.

June 30, 1971—An Italian Embassy Officer was assaulted and robbed of $140 and sustained minor injuries.

[From the Washington Evening Star, Sept. 6, 1972]

JDL Chief Calls for Killing Arab Envoys in Retaliation

New York.—The head of the Jewish Defense League says retaliation for the killing of Israelis at the Olympic games by Arab terrorists "can only be done by the assassination of Arab diplomats all over the world."

The JDL, a militant group whose activities have been mostly aimed at the Soviet Union for its alleged mistreatment of Jews, said retaliation for the murder in Munich "must reach into the Arab ruling class."

The statement was issued by Betram Zweibon, national chairman of the JDL and its chief counsel.

Dr. M. T. Mehdi, secretary general of the Action Committee on American-Arab Relations, condemned the murders, but blamed them on Zionism.

"If the Zionists had not invaded Palestine and killed or expelled its people, there would have been no Palestinian terrorism and no invasion of an Israeli village," Mehdi said.

Hadassah, the Jewish women's organization, telegraphed President Nixon, demanding that he recall U.S. participants from the Olympic Games as a protest to the Arab terrorism.

Mrs. Max Natzkin, Hadassah president, said in the telegram that it represents 325,000 American Jewish women.

Mayor John V. Lindsay ordered increased police security at Israeli and Arab consulates. He called the killings a tragedy that had "cast a pall" on the Olympic Games.

"We can only pray that it will be relieved and ended without further bloodshed," the mayor said at a news conference.

Militant JDL pickets marched outside the Lebanese mission to the United Nations in New York.

Elsewhere, a continuous prayer service was held in a Cincinnati synagogue, and there was a protest rally in Madison, Wis.

Rabbi Albert Goldman in Cincinnati began a continuous prayer service at 11 p.m. last night after receiving a flood of calls from members of the Jewish community wanting to take part in a memorial service.

About 350 persons gathered at the University of Wisconsin Library mall in Madison last night for a 45-minute rally to protest the killings. "The terrorism of the past few years will not cease until it is made clear that no country will give refuge to these criminals," said Madison lawyer Chaim Golden, who helped organize the rally.

Wisconsin Gov. Patrick Lucey ordered flags on all state buildings flown at half staff today in tribute to the dead and called the killings a "brutal, wanton and senseless act."

The Most Rev. Humberto S. Madeiros, archbishop of Boston, said in a statement that the "murdering and taking of hostages in the limelight of the Olympics are actions that must be condemned."

[From U.S. News & World Report, Sept. 18, 1972]

The Grim Toll Taken By Arab Guerrillas

The massacre at the Olympic Games was one more in a growing list of terrorist acts by Arab guerrillas in just the past two years. Their bloody trail across Europe and the Mideast is traced in this list of major incidents:

September, 1970—Guerrillas from the Popular Front for the Liberation of Palestine (PFLP), in concerted operations, hijacked three airliners—U.S., British and Swiss—to a landing strip in the Jordanian desert. After being held captive for days, passengers and flight crews were released, and the guerrillas blew up the three huge planes. During the same period, another U.S. plane was hijacked to Cairo and blown up on the ground.

November, 1971—Guerrillas of the Black September group assassinated Premier Wasfi Tal of Jordan on the steps of a Cairo hotel.

February, 1972—PFLP brigands hijacked a West German airliner, forced it to land at Aden and held it until the West German Government paid a 5-million-dollar ransom.

May, 1972—Black September gunmen took over a Belgian airliner en route to Tel Aviv. Upon landing, they demanded release of Palestinian Arabs held in Israeli jails in return for safety of the passenger. Israeli troops stormed the plane and killed two hijackers. A passenger was fatally wounded.

May, 1972—Three Japanese terrorists hired by the PFLP took weapons out of suitcases and opened fire in the Tel Aviv airport, killing 26 persons and wounding 80. Two of the gunmen were slain by police.

August, 1972—A guerrilla plot to blow up an Israeli airliner failed. Two Arabs in Rome duped two British girls into taking aboard the Israel-bound plane a bomb secreted in luggage. The device exploded after takeoff, but the pilot brought the aircraft safely back to Rome.

Sept. 5, 1972—The day of horror at Munich ended with 17 dead—11 members of the Israeli Olympic delegation, five Black September terrorists and a West German policeman.

Mr. McCLELLAN. Mr. President, I yield to the Senator from Indiana for the purpose of offering an amendment.

The PRESIDING OFFICER (Mr. Hughes). The Chair is informed that the committee amendments are pending and amendments would not therefore be in order until the committee amendments are taken care of.

Mr. BAYH. This is a committee amendment, Mr. President.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. BAYH. Mr. President, as all colleagues know, on two previous occasions, the Senate, by an overwhelming vote, has passed a measure which has become known as the Foreign Service Grievance Act. The Senator from Kentucky and the Senator from Indiana were the principal sponsors of this particular measure, an effort to try to provide a grievance procedure for Foreign Service Officers which is now available for all other similar employees in other departments of the Government save the State Department. It is fair to say that we have been faced with unalterable opposition from the State Department. It seems to be the feeling down there that they do not believe it is anyone else's business what they do to their employees, even faced with some tragic consequences as a result of what I would call arbitrary and unappealable administrative decisions.

Mr. President, we are now debating H.R. 15883, a bill for the protection of foreign diplomats and official visitors. As every Member knows, the Judiciary Committee proposed several amendments to this bill as passed by the House. However, I want to take this opportunity to inform my colleagues that I do not plan to ask the Senate to vote on the part of the Judiciary Committee's amendments to the pending bill which provides badly needed protections and procedural due process for Foreign Service officers and their survivors.

The Senate has already gone on record in two separate rollcall votes this year, showing that it is overwhelmingly in favor of this legislation and that it believes that these vital guarantees of due process must be accorded as soon as possible to those who serve in the Foreign Service. However, to date action in the House has not been forthcoming. Last week when the Judiciary Committee was considering H.R. 15883 a report was carried in the press that the chairman of the House committee, Congressman Wayne Hays, had vowed not to let any such bill come out of his committee during this Congress. In addition, I had been advised that Congressman Hays would espouse the State Department position of longtime opposition to any meaningful due process for Foreign Service officers. Unfortunately, I did not have time to check out the accuracy of these reports personally with Congressman Hays before the conclusion of last Friday's Judiciary Committee meeting. I should have done so.

Faced with what I thought was the reality of certain defeat for the bill, I asked my colleagues on the Judiciary Committee the other day, when we were discussing the measure now before us, which has the strong support of the Secretary of State, if we could attach the Foreign Service grievance bill to it and, thus, convey to the House our determination to get action on this measure. It was adopted as a committee amendment by the Judiciary Committee by a unanimous vote and is now part of the bill.

As the committee stated in its report:

> Until the Congress acts, these dedicated foreign service officers will continue to be routinely and systematically deprived of one of their most basic rights—their right to procedural due process in the resolution of their employment grievances. The State Department has failed to act to provide the rights for 26 years—now it is time for Congressional action. For these reasons, the Committee adopted this amendment.

Normally, I am opposed to bypassing normal committee procedures unless such a step is absolutely necessary. Therefore, I met with Chairman Hays last week and we talked about the future of foreign service grievance legislation in his committee. He assured me that any reports that he was determined to kill grievance legislation were absolutely and categorically untrue. He gave me his personal word that he will make every effort to get a bill out before adjournment. We both recognize, however, that it might not be possible to get a bill out of subcommittee, through the full committee and through the House and conference before sine die adjournment, especially if there is no postelection session. However, Congressman HAYS suggested that if such should be the case, Foreign Service grievance legislation guaranteeing basic rights of due process to all grievants would be the first order of his committee's business in the new Congress and that no new hearings would be necessary.

Therefore, Mr. President, I see no reason for the Senate to pass this same grievance bill yet again. S. 3722, which is identical to the Judiciary Committee's amendment, was passed by a record vote of 56 to 27 on June 22, 1972. Chairman HAYS' committee is now holding hearings on and is planning to mark up that bill. Therefore, I do not wish to encumber or delay Senate passage of H.R. 15883. I do not plan to press for a vote on these amendments.

But while the Senate will not be voting on foreign service grievance legislation today I do want it clearly understood that this decision in no way alters the strength of my personal commitment to obtaining final enactment of this bill. Nor should it be taken as a dilution of the committee's interest, as expressed in the report, in getting prompt action. These Foreign Service officers have been waiting far too long. Since the Department refuses to act responsibly, the Congress has no choice but to act and to act now.

Unlike some who are not familiar with Congressman HAY's past efforts to secure justice and due process for aggrieved foreign service officers on an individual basis, I believe that Congressman HAYS shares the concern of all who desire to see the Americans who serve their country in the Foreign Service treated as first-class Americans. Despite subtle inferences from some in the higher levels of the State Department, I think Representative HAYS will be a leader in the effort to see that due process and justice are done. Because of this discussion, I ask unanimous consent that amendment No. 18, title V, beginning on page 9, which is the Foreign Service Grievance Act, as amended in the pending bill, be stricken therefrom.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

Who yields time?

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the committee amendments that remain in the bill be considered and agreed to en bloc, and that the bill as thus amended be considered as original text for purposes of amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. McCLELLAN. Mr. President, I support and have authored most of the amendments Nos. 1 to 17 to the bill which have just been adopted.

I should like to speak to them for just a minute.

Mr. President, H.R. 15833, as drafted by the House, recognizes that the United States as a host country has a particular responsibility to protect the person and property of foreign officials, including ambassadors, agents, employees, and their families, while they are present within the United States. However, the measure would not, without the adoption of the committee amendments, offer any expanded protection for foreign citizens, who might visit our shores as official guests of our country as members of an Olympic contingent. Thus, had the situs of the kidnaping and subsequent murder of the Israeli standard bearers been Milwaukee rather than Munich, our response would have been limited to State law enforcement resources. No Federal jurisdiction would exist even though our responsibilities would at least parallel those which exist vis-a-vis visiting diplomatic personnel.

It is still too early to judge the actions of West Germany in response to the Arab terroristic lunacy of Munich. However, it is at least clear that the state governments of West Germany now realize that their Federal Government cannot be limited to a mere consultative role with regard to such matters. State governments simply cannot cope alone with crimes involving international politics and diplomacy.

Hopefully, we will never again witness the political assassination of visiting athletes in any country. Nonetheless, our criminal laws must recognize such behavior as a violation of Federal as well as State law and authorize the use of Federal law enforcement resources in such cases.

The amendments now under discussion, sponsored in the committee by the distinguished Senator from Nebraska (Mr. HRUSKA) and myself and supported by the Justice Department and the State Department, would extend the umbrella of Federal protection to cover "official guests" of the United States as designated by the Secretary of State so as to include visiting athletes in international competition, and visiting academic, artistic, or scientific groups.

I am glad that the full Senate has now given its approval to them.

Mr. HRUSKA. Mr. President, this Senator is pleased to join with my colleague from Arkansas (Mr. McCLELLAN) in urging that the Senate approve H.R. 15883, as amended, as soon as possible.

Just over a year ago this Senator introduced a similar bill, S. 2436, on behalf of the Nixon administration. On August 7, 1972, the other body approved H.R. 15883 by a vote of 380 to 2. That bill was referred to the Senate Subcommittee on Criminal Laws and Procedures where it was under active consideration on September 5, 1972, the day of the kidnaping and killing of the Israeli athletes in Munich. In light of that tragedy a new urgency for approving this proposal was felt, especially as the United Nations General Assembly opens in New York tomorrow.

At the time of the original introduction of this measure, I commented that new authority permitting Federal jurisdiction in cases involving foreign officials was needed because:

> In the past the Government has had to rely on local authorities for redress of instances of this type with no guarantee that sufficient resources were available to discharge this responsibility appropriately. This has proved particularly embarrassing in view of our international obligations as a host nation.

During the committee discussion of this bill it was noted that in this Nation law enforcement has traditionally been a State and local responsibility. This is absolutely true, and I would have it no other way. This bill leaves that authority where it has always been.

What this bill would do is to promote the conduct of our foreign affairs by protecting the property and personnel of foreign governments while present in the United States. This responsibility is under the Constitution given to the Federal Government and all recognize it to be a matter outside the control of State and local officials. In pursuit of our responsibilities as a host nation to personnel representing foreign governments, this bill would grant concurrent jurisdiction to the individual States and to the Federal Government to prosecute and punish those involved in acts of violence directed at foreign officials, including murder, manslaughter, kidnapping, willful harassment, and willful destruction of property.

In no case will the several States be ousted from whatever jurisdiction they may now exercise over such offenses. Rather, as in cases of assassination or attempted assassination of presidential candidates, the investigative and prosecutorial resources of the Federal Government may be used whenever the Department of Justice, in consultation with the Department of State, thinks such action is in the national interest.

Following the death of the 11 athletes in Munich, Senator McCLELLAN and I felt that the bill as approved by the House was not sufficiently comprehensive to cover incidents involving foreigners who were not officials of another government but who were in the United States as our special guests. On September 7 we introduced an amendment to broaden the bill to include "official guests." At the same time, the Secretary of State on behalf of the administration was considering this problem. He subsequently wrote to our committee indicating his full support for this amendment. I ask unanimous consent that the text of his letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
September 7, 1972.

HON. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
Washington, D.C.

DEAR MR. CHAIRMAN: This is further to my telephone call yesterday concerning the urgency of the bill now before your Committee that would make it a federal offense to commit certain crimes against foreign officials in the United States. This bill, H.R. 15883, was recently passed by a vote of 380–2 in the House of Representatives. Assistant Secretary Abshire has written to you to request prompt action on it.

The recent tragedy at the Olympics in Munich underlines the need for additional urgent action by the United States Government. I understand that Senators McClellan and Hruska are considering an amendment to H.R. 15883 which would extend its coverage to official guests of the United States. This would accord protection to foreign nationals who visit the United States for such special reasons as to compete in international sports events.

I fully agree with that aim and hope the Senate will act on this matter with the highest sense of urgency. To facilitate your consideration of the matter, my staff and that of the Department of Justice have developed language that would extend protection to official guests. A copy of the proposed amendment is enclosed. The effect of the amendment would be to make it a federal crime to murder, kidnap, or assault an official guest who is in the United States. The term "official guest" will apply to foreign nationals or citizens who are in the United States but not permanent residents of the United States, and whom I have designated as official guests of the United States. This will allow me to designate individuals or groups of individuals who are here for important international sports or other events.

Sincerely,

William P. Rogers,
Secretary of State.

Mr. HRUSKA. Mr. President, the Judiciary Committee unanimously approved the amendment extending the coverage of H.R. 15883 to those foreign nationals designated by the Secretary of State to be "official guests" of the United States. In granting the Secretary this authority, I believe that we should make it clear that the designation is to be used sparingly and only in those cases in which a nonofficial is in this Nation on special business, such as the Olympics, and not simply as a tourist or businessman.

The bill deals at some length in subsection (b) of section 112 with the harassment of foreign officials. This Senator feels that it should be indicated that this provision in the bill should in no way be used to limit the constitutionally protected free speech guaranteed by the first amendment. A provision is contained in the District of Columbia Code, section 22–1115, which prohibits, among other things, the intimidation or harassment of representatives of foreign governments or intereference with their peaceful pursuit of their duties.

The courts have accepted that provision as it regards harassment of foreign officials for a number of years.

In *Frend* v. *United States,* 69 App. D.C. 281, 100 F. 2d 691 (1938), *cert. denied,* 306 U.S. 640, the court, in upholding the law, noted that its purpose "is to protect foreign diplomats in their Embassies and legations from harassment and annoyance." 100 F. 2d. 691 at 692. Judge Gallagher, in a concurring opinion of the D.C. Court of Appeals in *Zaimi* v. *United States,* 261 A. 2d. 233 (D.C. Ct. App. 1970), noted that it "would not comport with the rationale of this statute to require a showing of such factors as incitement to violence or threatened breach of the peace as required frequently in purely domestic free speech cases. To require things to come to such a stage prior to arrest under this statute would largely undo its clearly valid purpose of insulating foreign dignitaries from harassment and annoyance while in their residences." 261 A. 2d. 233 at 234. This case is presently on appeal to the U.S. Court of Appeals for the District of Columbia Circuit.)

In *United States* v. *Travers,* Chief Judge Harold Greene, citing Frend, noted that one purpose of the District of Columbia law was "to implement the obligation of the United States, under the Law of Nations, to protect foreign diplomatic personnel from harassment." D.C. Ct. Gen. Sess., Crim., No U.S. 42935–69, slip opinion, p. 5, April 2, 1970

I ask unanimous consent that the text of the Travers opinion be printed in the Record.

There being no objection, the text of the opinion was ordered to be printed in the Record, as follows:

[District of Columbia Court of General Sessions, Criminal Division, Criminal No. U.S. 42935–69 et al.]

United States of America
v.
John Michael Travers, *et al.*, Defendants

OPINION

This is a motion to dismiss nineteen informations charging violations of D.C. Code § 22–115,[1] on the ground that the statute violates the First and Fifth Amendments to the Constitution.[2] The Second clause of section 1115—which is the provision here involved [3]—prohibits anyone "to congregate within five hundred feet of (a building occupied by a foreign government for official purposes and to) refuse to disperse after having been ordered to do so by the police authorities . . . " The informations allege a violation of this provision by defendants on November 17, 1969, apparently in connection with a planned demonstration near the Japanese embassy concurrently with the visit of the Prime Minister of Japan to the United States.

I

The constitutionality of Section 1115 is largely determined by its scope. The United States urges upon the Court a broad construction which, it is suggtsted, is compelled by the language of the statute.[4] Defendants embrace the government's interpretation and go on to argue that, as so construed, the statute is unconstitutional. In my view, if the construction advanced by the United States Attorney is correct, the statute could not withstand constitutional scrutiny.

Read literally, the second clause of section 1115 constitutes a restraint on speech and assembly that is neither reasonable nor proper. As so read, the law is not concerned with the purpose of a meeting but solely with its geographical proximity to a foreign embassy. Its ban, on that view, includes assemblies that are non-political, that have no relationship to any foreign nation or its policies, and that are concerned with purely domestic American affairs.

Application of this law to activities in no way related to foreign missions is not a matter of speculation; those charged with its enforcement have so applied it on at least some occasions. Thus, on May 5, 1969, an individual who had been picketing the White House in protest against the Vietnam War was arested and prosecuted pursuant to section 1115 because his activities occurred within 500 feet of Blair House where the Prime Minister of Australia was then staying.[5]

More recently, on March 14, 1970, a group of demonstrators who were picketing the Gridiron Club banquet on account of its alleged discrimination against women were dispersed and one of them was arrested pursuant to section 1115, the theory apparently being that that demonstration was illegal because the site of the banquet (the Statler-Hilton Hotel) is located within 500 feet of the Soviet embassy.[6] If the construction advanced by the United States Attorney is correct as well as constitutional, meetings, for whatever purpose, may be held in a large portion of Northwest Washington only at the sufferance of the police; for most of the public and private meeting places in that area are within a 500-foot radius of some diplomatic mission.[7]

Notwithstanding the important purpose of protecting the emissaries of foreign nations (see *infra*), that is too broad a restriction on First Amendment rights to be constitutionally acceptable.[8]

To be sure, the Police Department is today largely acquiescing in the free use of this area by a failure to disperse meetings or to make arrests. But, as the experiences in front of the White House and in connection with the Gridiron dinner demonstrate, this attitude is subject to change in selected instances at the discretion of the Police Department or individual police officers. The Supreme Court has held many times that a legislative enactment which leaves the regulation of speech or assembly to the unfettered discretion of law enforcement officers cannot stand. *Cox* v. *Louisiana,* 379 U.S. 536, 552 (1965); *Shuttesworth* v. *Birmingham,* 382 U.S. 87 (1965); *Brown* v. *Louisiana,* 383 U.S. 131 (1966); *Wright* v. *Georgia,* 373 U.S. 284, 291 (1963); *Cleveland* v. *Baker,* 167 N.E. 2d 119 (Ohio 1960).[9] As this Court had occasion to observe in *United States* v. *Nicholson* (D.C. Gen. Sess., Crim. No. 20210–69A, Greene, Ch. J.) *affirmed,* — A. 2d — (D.C. App., March 13, 1970), "in a government of laws, the regulation of conduct—particularly conduct in the sensitive area covered by the First Amendment—must be predicated on a set of definite rules, not on the opinions of police officers" (slip opinion, p. 7).

II

Notwithstanding the agreement of the prosecution and the defense (though for different reasons) as to the meaning of the second clause of section 1115, it is neither necessary nor appropriate to adopt the literal construction they espouse.

Section 1115, as noted in *Frend,* was designed to implement the obligation of the United States, under the Law of Nations, to protect foreign diplomatic personnel from harassment, indignity, and annoyance.[10] Art. 1, Section 8, Cl. 10 of the Constitution. This governmental obligation includes the duty to protect foreign diplomats, heads of state and government, and other foreign representatives, from acts tending to disturb their peace and dignity and the peace and dignity of the foreign mission.[11] The importance of this duty, which is reciprocal, is even more clearly apparent today—in this age of demonstration and protest here and abroad, when American embassies in foreign countries are frequently subjected to a virtual siege—than it was in 1938 when section 1115 was enacted.

Yet, as noted, the broad, literal interpretation advocated by the parties goes far beyond the international obligations of the United States and the purposes of the statute. If effect is to be given, therefore to legislative history, to obvious congressional intention, and to the statutory scheme as a whole, the pertinent provision must be, and under law construction is particularly appropriate may be,[12] read somewhat more narrowly than the literal language would suggest. Such as when, as here, it is necessary to sustain constitutionality.[13]

Construed in accordance with these canons of construction, the second clause of sec-

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Footnotes at end of article.

tion 1115 prohibits those meetings,[14] held within five hundred feet of a building occupied by a foreign nation for official purposes, which have a direct relationship to that nation, including meetings which have as their purpose an expression of views concerning the government involved, its personnel, or its policies.[15]

This construction of section 1115 avoids both an overreach into unconstitutionality and a retreat into meaninglessness.[16] It establishes a moat around foreign embassies to protect them from public pressure; but it does not fashion a device for the control of what are otherwise protected domestic assembly and dissent.

As so restricted, section 1115 is constitutional. To be sure, as defendants point out, the statute represents a limitation on speech and assembly. But this limitation is slight. There is no restriction on assembling within five hundred feet of an embassy for any purpose other than for an activity having a direct relationship to the policies or personnel of the particular nation; and there is no restriction on discussing or demonstrating concerning those policies and that personnel anywhere else in the District of Columbia. In view of the interest of the United States in the protection of the security and tranquility of diplomats and official visitors, and the potential charm from demonstration against foreign dignitaries which become uncontrollable, the minimal restrictions imposed by section 1115 are reasonable and proper. Cf. *Adderly* v. *Florida,* 385 U.S. 39 (1966).

III

The motion to dismiss the informations will be denied. However, in order that the Court and the defendants may be advised whether the informations state offenses under the law as herein construed,[17] the United States shall within ten days file amended informations specifying (1) the nature of the premises and the foreign government which used or occupied it; (2) whether or not the assembly had a direct relationship to that foreign government or its personnel; (3) the place of the assembly and its approximate distance from the premises.

HAROLD H. GREENE,
Chief Judge.

APRIL 2, 1970

FOOTNOTES

[1] Section 1115 provides: "It shall be unlawful to display any flag, banner, placard, or device designed or adapted to intimidate, coerce, or bring into public odium any foreign government, party, or organization, or any officer or officers thereof, or to bring into public disrepute political, social, or economic acts, views, or purposes of any foreign government, party, or organization, or to intimidate, coerce, harass, or bring into public disrepute any officer or officers or diplomatic or consular representatives of any foreign government, or to interfere with the free and safe pursuit of the duties of any diplomatic or consular representatives of any foreign government, within five hundred feet of any building or premises within the District of Columbia used or occupied by any foreign government or its representative or representatives as an embassy, legation, consulate, or for other official purposes, except by, and in accordance with, a permit issued by the superintendent of police of the said District; or to congregate within five hundred feet of any such building or premises, and refuse to disperse after having been ordered so to do by the police authorities of the said District" (Feb. 15, 1938, 52 Stat. 30 Ch. 29, § 1.)

[2] It is also claimed that the informations fail to state facts sufficient to constitute offenses.

[3] The first clause of section 1115, with its more specific prohibitions, has been held to be, and clearly is, constitutional. *Frend* v. *United States,* 69 App. D.C. 281, 100 F. 2d 691 (1938).

[4] In the course of these proceedings, the government at various times urged upon the Court two different interpretations. On oral argument, evidently hoping thereby to preserve constitutionality, the United States Attorney suggested a very narrow construction. A memorandum filed after argument advocates the present broad and literal interpretation.

[5] *United States* v. *Flanagan* (D.C. Gen. Sess. Crim. No. 16283–69A, Kronheim, J.).

[6] The Sunday Star, March 15, 1970, page A–10.

[7] For example, the Dupont Circle area could be declared off limits to gatherings because of the proximity of the Saudi Arabian embassy; meetings could be prohibited in Constitution Hall because the Pan American Union is located across the street; and every use of the large meeting and banquet facilities of the Washington Hilton Hotel would be dependent upon the acquiescence of the police, because of the location, within 500 feet, of the missions of Malta, Burundi, Somalia, and Zambia.

[8] The United States Attorney argues that when international law imposes a duty on government "domestic considerations cannot operate to impede or interfere with the accomplishment of this duty" (Memorandum, p. 4). This far-reaching statement is incorrect. International obligations cannot override the prohibitions of the Bill of Rights. *Reid* v. *Covert,* 354 U.S. 16 (1957); *Geofray* v. *Riggs,* 133 U.S. 258 (1890); *Afroyim* v. *Rusk,* 387 U.S. 253 (1967). Were it otherwise, the President and two-thirds of the Senate could, by treaty, accomplish what otherwise would require a constitutional amendment. International obligations like any other legitimate considerations (cf. *Adderly* v. *Florida, infra*), may, of course, be taken into account in considering the reasonableness of restrictions.

[9] The Court of Appeals in *Frend* v. *United States* (see note 3, supra) likewise noted that the Constitution requires the grant or denial of a police permit (under the first clause of section 1115) to be governed by definite standards.

[10] Senator Pittman, sponsor of the bill which became section 1115 said during Senate debate that (81 Cong. Rec. 8589): ". . . under the Constitution, anyone has a right to express his or her opinion with regard to any ruler or with regard to any government, but I say that they have not the constitutional right—if prohibited by law—to make an offensive demonstration in front of an embassy or in front of a legislation, the residence of a diplomat, who is our guest here, who depends on us wholly for his protection not only against murder, not only against insult, but against any character of annoyance or interference that will bring the hatred of the people of his country against our people."

[11] See 4 Am. Jur. 2d, Ambassadors and Consuls § 4, pp. 89–90; Svarlien, The Law of Nations (1955) p. 239. Cf. *United States* v. *Arjona,* 120 U.S. 479, 484 (1887); Article 22 of the Vienna Convention on Diplomatic Relations, 1111 Cong. Rec. 23773, 23783 (1965).

[12] *Wilson* v. *United States,* 125 U.S. App. D.C. 153, 156, 369 F. 2d 198, 201 (1966); *Schmiedgen* v. *Celebrezze,* 245 F. Supp. 825 827 (D. D.C. 1965); *Markham* v. *Cabell,* 326 U.S. 404, 409 (1945).

[13] *Lynch* v. *Overholser,* 369 U.S. 705 (1962); *Rescue Army* v. *Municipal Court,* 331 U.S. 549, 568–575 (1947); *Bolton* v. *Harris,* ——— U.S. App. D.C. ———, 395 F. 2d 642 (1968).

[14] Meetings may still be held in the forbidden area for any purpose upon issuance of a police permit. As limited by the construction *supra,* the power vented in the police authorities is not so broad as to offend the rule of the *Nicholson* case (p. 5, *supra*).

[15] Unlike the first clause, the second is not restricted to intimidation, coercion, harassment, and similar acts.

[16] One interpretation that has been suggested would prohibit congregating within 500 feet of an embassy only if those in the group engaged in one of the acts prohibited by the first clause of section 1115. This construction would give no independent effect to the second clause and should be avoided for that reason. *United States* v. *Bramblett,* 348 U.S. 503 (1955).

[17] The informations describe neither the foreign country or government sought to be protected by these arrests and prosecutions, the nature of the premises (whether embassy, consulate, etc.), nor the place of the assembly. This is insufficient both in view of the construction of section 1115 adopted herein and Rule 7 of the Criminal Rules of this Court. See note 2, *supra.*

Mr. HRUSKA. Mr. President, H.R. 15883 provides the Federal Government with the means of avoiding the embarrassment and potentially dangerous repercussions which may arise from a foreign government's misunderstanding of our national Government's motivations in failing to respond appropriately to some future incident involving one of its officials.

Because the headquarters of the United Nations organization was located in New York at our request, this country plays host to an unusually large number of foreign diplomats to whom we owe a special duty of protection. This legislation is intended to benefit all of these guests, as well as those who are our official visitors. By approving this legislation, I hope we can in some measure prevent events such as the deaths in Munich. And, if they cannot be prevented, at least we will have the authority to pursue those who commit such acts and see that they are brought to justice.

I hope that this bill will be approved.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. ERVIN. Mr. President, will the Senator from Nebraska yield?

Mr. HRUSKA. I yield such time to the Senator from North Carolina as he may desire.

Mr. ERVIN. Mr. President, occupants of congressional seats tend to suffer from two great delusions. The first is that Congress can endlessly extract from an empty Federal Treasury, by the legerdemain of deficit financing, unlimited and unrepayable sums of money. The second is that every time something bad happens, they demand that Congress pass a new law. It makes no difference how many laws are already on the statute books, Congress must pass a new law.

The tragedy of Munich was one which certainly tugged at the heart strings of millions of human beings, including the heart strings of the Senator from North Carolina, but it ought not to inspire Congress to adopt a new law which is not only unnecessary, but is offensive to fundamental principles.

This bill is subject to several grave objections. In the first place, the Constitution was ordained to establish a government of laws, rather than a government of men. This bill contains a provision which is totally incompatible with that principle. It provides that whenever the Secretary of State designates any alien within our borders as an official guest of the United States, notwithstanding the fact that he is not here for any official purpose, the constitutional principle that only the States as a general proposition can enact and enforce criminal laws which prohibit violence shall be suspended.

To me, it is a monstrous notion that one man, the occupant of one office, out of 200 million Americans, by merely designating a particular alien who is within the borders of the United States as an official guest of the Federal Government, can change our entire legal system and extend to that individual alien protection which it denies to all American citizens.

The proposed law is wholly unnecessary because State laws extend to all aliens within our borders all the protections they extend to citizens in respect to crimes of violence, and these laws are sufficient to punish those who commit crimes of violence on aliens. The bill is subject to another grave objection.

It is not only incompatible with the purpose of the Constitution to establish a government of laws rather than a government of men, but this bill also contains provisions which under a multitude of decisions of the Supreme Court of the United States offend the first amendment. The Supreme Court has recognized, and rightly so, that the very existence of the United States as a free society is dependent upon the exercise of first amendment rights, and among these first amendment rights are freedom of speech and the right to assemble and protest and the right to assemble and petition for redress of grievances, real or imagined. Yet this bill has a provision in it which absolutely denies the right to exercise first amendment freedoms to Americans if their exercise disturbs the peace of mind of aliens, designated by the whim or caprice of the Secretary of State to be guests of the Federal Government.

It provides that no matter where one of these aliens who has been officially designated by the whim or caprice of the Secretary of the United States to be a guest of the Federal Government may be residing—whether in an embassy, a palace, a motel, even a tent—no American citizens can do anything within a hundred feet of his temporary habitation to exercise their first amendment freedoms, if the exercise of those first amendment freedoms has a tendency to harass him.

What does the word "harass" mean? I am sure that sometimes when I get up here on the floor of the Senate to express my honest views on public questions, some impatient Senators think I am harassing them.

The Supreme Court says that any law which infringes upon the exercise of first amendment freedoms and which does not specify within the very narrowest of limits what it condemns as a crime is unconstitutional.

The word "harass" means nothing except to annoy people, and the Supreme Court has declared in a number of cases that before one can infringe on the exercise of first amendment rights, one has to prohibit something which rises far above and beyond mere annoyance and which really imperils some overriding national or social interest.

Sometimes I am tempted to think that it would be nice if all Americans would abstain from anything which annoys anybody, but I know that if they always do that, they will never have any freedom. Ours would not be a free society. Our land would be inhabited by a pusillanimous population.

I cannot bring my conscience to the point—and it is pretty tough, I might say—where I can vote for legislation which would convert our Government even partially into a government of men, where the whims and caprices of public officials, rather than laws, rule the conduct of Americans. And this is particularly true if the legislation would deny American people the right to exercise first amendment freedoms on which our very existence as a free society depends.

The motives of those who advocate this bill are good. The motives of most all men are good.

As I remarked this morning in discussing another matter, the people who burned heretics at the stake were actuated by good motives, because they were afraid the heresies they preached were going to result in the sending of many souls to eternal damnation in hell. They were trying to save them from that.

The motives of the proponents of this bill are good, but I do not care how lofty their motives may be, they do not justify the enactment into law of a proposal which substitutes for a government of laws a government of men, or which denies American citizens the right to exercise their first amendment freedoms by saying they cannot engage in otherwise lawful activities within a hundred feet of the temporary residence of any officially proclaimed guest of the Government, who happens to be an alien so designated by the Secretary of State, if those activities harass him, that is, annoy him.

I thank the Senator for yielding his time.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. McCLELLAN. Mr. President, this is not a novel instance of legislation of this character. The District of Columbia currently has a similar law that establishes a harassment perimeter of 500 feet. This bill would establish a 100-feet rule outside the District of Columbia to prohibit certain hostile behavior, within 100 feet of premises belonging to or used by foreign government officials.

It is well established that first amendment freedoms are not absolute. The Government clearly has the right to control the presence of the public in certain areas.

This exact issue, I think, was settled by *Frend* v. *United States*, 100 F. 2d 691 (D.C. Cir.), *cert. denied*, 306 U.S. 640 (1938).

Frend dealt with section 22–1115 of the District of Columbia Code. Section 22–1115 is similar to subsection 112(c). There the court considered the question of whether there was a violation of first amendment rights and noted that anyone could continue to express an opinion with regard to any ruler or with regard to any government. Since the law only prohibited demonstrations in certain limited places, the court concluded that the District of Columbia Code's 500-foot rule was a reasonable and proper restriction. Note that subsection 112 (c) only prohibits demonstrations within 100 feet of specified areas, so it is narrower than the District of Columbia provision.

As Mr. Justice Douglas stated in his dissent in *Adderly* v. *Florida,* 385 U.S. 39 (1966) at page 54:

> There may be some public places which are so clearly committed to other purposes that their use for the airing of grievances is anomalous. There may be some instances in which assemblies and petitions for redress of grievances are not consistent with other necessary purposes of public property. A noisy meeting may be out of keeping with the serenity of the state house or the quiet of the courthouse. No one, for example, would suggest that the Senate Gallery is the proper place for a vociferous protest rally. And in other cases it may be necessary to adjust the right to petition for redress of grievances to the other interests inhering in the uses to which the public property is normally put. (See *Cox* v. *New Hampshire,* [312 U.S. 569]; *Ponlos* v. *New Hampshire,* 345 U.S. 395.)

This tenet of constitutional law is repeated in *Cox* v. *Louisiana,* 379 U.S. 559 (1967) at page 554:

> The rights of free speech and assembly, while fundamental in our democratic society, still do not mean that everyone with opinions or beliefs to express may address a group at any public place and at any time. The constitutional guarantee of liberty implies the existence of an organized society maintaining public order, without which liberty itself would be lost in the excesses of anarchy.

In *Cox* v. *New Hampshire,* 312 U.S. 569 (1941), the Supreme Court elaborates on the necessity of organization within society and its conclusion that certain types regulation by Government is a useful tool, not a denial of first amendment rights. A page 574 the Court states:

> Civil liberties, as guaranteed by the Constitution, imply the existence of an organized society maintaining public order without which liberty itself would be lost in the excesses of unrestrained abuses. The authority of a municipality to impose regulations in order to assure the safety and convenience of the people in the use of public highways has never been regarded as inconsistent with civil liberties but rather as one of the means of safeguarding the good order upon which they ultimately depend.

Cases in which convictions for demonstrating have been reversed were instances in which the statute employed was held to be unconstitutionally broad or was applied discriminately. *Cox, supra; Edwards* v. *South Carolina* 372 U.S. 229 (1963). The court in the Edwards case said, at p. 263:

> We do not review in this case criminal convictions resulting from the even handed application of a precise and narrowly drawn regulatory statute evincing a legislative judgment that certain specific conduct be limited or proscribed.

The present section does not establish an offense so generalized as to be not susceptible of exact definition. It clearly and narrowly defines the area, not excessive in which certain activities are prohibited. The language of the Court in Adderley, supra, at p. 42, is applicable here:

> The Florida trespass statute under which these petitioners were charged cannot be challenged on [vagueness ground]. It is aimed at conduct of one limited kind, that is, for one person to trespass upon the property of another with a malicious and mischievous intent. There is no lack of notice in this law, nothing to entrap or fool the unwary.

Section 112(c) is far more circumscribed than the general trespass statute upheld in the Adderley case.

Subsection 112(c) is designed to protect a valid and important Federal interest, that is, the Federal Government's vital function of conducting foreign relations. To deal with foreign nations, the Government must protect foreign officials from danger and allow such officials to work in peace. Repeated incidents of injury and harassment of foreign officials are proof that a problem exists and this prohibition is a reasonable measure to allow the Government to conduct its business.

Proposed subsection 112(b), in a similar fashion prohibits the willful intimidation, coercion, threatening or harassment of a foreign official or the willful obstruction of such an officer in the performance of his duty.

Any argument that such a provision violates the first amendment right of free speech is not consistent with legal precedent.

The Supreme Court has repeatedly emphasized that even pure speech may be reasonably restricted given a compelling social interest. *Feiner* v. *New York* 340 U.S. 315 (1951); *Chaplinsky* v. *New Hampshire,* 315 U.S. 568 (1942). The Chaplinsky case held that resort to personal abuse is not the communication of information which is safe guarded by the Constitution. Mr. Justice Holmes noted that:

> [t]he most stringent protection of free speech would not protect a man falsely shouting fire in a theatre . . ." *Schneck* v. *United States,* 249 U.S. 47, 52 (1919).

This would apply with even more force where conduct is mixed with the speech. As the Supreme Court recently restated:

> This Court has held that when "speech" and "nonspeech" elements are combined in the same court of conduct, a sufficiently important governmental interest can justify incidental limitations of first amendment freedoms. (*United States* v. *O'Brien,* 391 U.S. 367, 376 (1968). See also *Walker* v. *City of Birmingham,* 388 U.S. 307, 316 (1967).

The Government's interest in prohibiting the intimidation, coercion, threatening, or harassment of foreign government officials clearly outweighs the interest of an individual in making such an utterance.

The type of speech prohibited by section 112(b) can serve no legitimate function. To the contrary, it is disruptive and interferes with peaceful operation of Government business. There ought to be no objection to this measure.

I do not think this is an unconstitutional restriction. I do not believe it is unreasonable. The right to assemble for purposes of Government is a right which must be protected as well as the right for individuals to express their views.

If we are not going to protect our guests and officials of foreign countries in this country how can we expect them to protect our officials who are serving in their countries?

I think this is just a matter of reciprocity. It is something we owe them and we also owe it to ourselves to maintain law and order.

Mr. President, 100 feet is just about the width of this Chamber. Under this bill, a person could still stand more than 100 feet away and express his views. We have to have some balance expressed in this statute respecting these valid competing interests.

Mr. ERVIN. Mr. President, will someone yield to me for 3 minutes?

Mr. McCLELLAN. I yield to the Senator from North Carolina.

Mr. ERVIN. Mr. President, the distinction between the Frend case and the Cox case and other decisions mentioned by my good friend from Arkansas, and the legislative proposal now pending is as wide as the gulf which yawns between Lazarus in Abraham's bosom and Dives in hell.

The Frend case related to a demonstration near an embassy. Under the Constitution of the United States the Federal Government has the power, indeed, the duty, to receive ambassadors, and it has the obligation to see that reasonable protection is accorded foreign ambassadors whose officials duties require them to be here.

This legislation does not have reference to anything of that kind whatever. It undertakes to throw the kind of protection we have given ambassadors around any individual alien who happens to be in the United States, and who happens to have been designated by the whim or the caprice of the Secretary of State as an official guest of the United States, even though he is not here for any official purpose whatever, even though he is not here for the purpose of performing any governmental function whatever, and even though he is here merely for his own pleasure or for purpose of picking up a few American shekels by athletic activities or making lectures, or doing anything else.

I submit the authorities cited by my good friend from Arkansas, do not establish the constitutionality of this legislation.

Furthermore, it seems to me that it is unwise for the American Government to throw any such protections around an individual alien because the Attorney General may have falsely designated him as an official guest of the United States. The Constitution forbids Congress to put such protections around American citizens. I sincerely hope that the Senate will defeat this measure. I do not expect it to do so because, as I stated at the outset of my observations, whenever any tragedy happens or anything unfortunate occurs, we have a demand that Congress pass a law about it, notwithstanding the fact that that law may do violence to our system of Government and notwithstanding the fact that laws have already been piled on top of laws which to protect everyone within our borders against similar tragedies or unfortunate events. As a consequence of this demand for new laws which are not needed, Americans are rapidly becoming the most law-ridden people on earth. Multiplication of laws is absolutely inconsistent with the preservation of human liberty.

Mr. McCLELLAN. Mr. President, I have no further requests for time.

Mr. HRUSKA. I yield back the remainder of my time.

Mr. McCLELLAN. I yield back the remainder of my time.

Mr. TUNNEY. Mr. President, I wish to express my support for H.R. 15883, a bill for the protection of foreign officials and official guests of the United States. There is a need for this legislation. The recent tragic events in Munich are yet another example of rampant terrorism in the world today. No nation is free from this threat, and every nation must be prepared to deal with it swiftly and effectively.

With international anarchists abroad in the land, responsibility for the protection of foreign officials in the United States should not fall solely on local law enforcement agencies. There are complex diplomatic considerations which must be taken into account in dealing with any act of violence against foreign dignitaries. The Federal Government must assist localities in protecting them during their visits to our country.

I particularly welcome the amendment offered by Senators McCLELLAN and HRUSKA, incorporated into the bill as reported, which extends this protection to all official guests. The tragedy at the 20th Olympiad has demonstrated once again that the danger of attack by desperate terrorists is not limited to heads of state and ambassadors. We have an obligation as a host country to protect persons who have been invited by our Government to participate in international events taking place in the United States. It is most important that we act now to assume full responsibility for protecting our official guests.

This legislation may be only a first step, Mr. President. Hopefully, it will be effective in preventing any acts of terrorism in this country similar to that which occurred in West Germany. But we must be constantly vigilant, for if it proves less than totally effective, we must immediately act to strengthen it in any way necessary. All nations must apply available resources, both individually and collectively, to stem the tide of political assassinations which is sweeping the world. With H.R. 15883, the United States is demonstrating her determination to mount that effort.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 15883) was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the affirmative). On this vote, I have a pair with the distinguished Senator from Utah (Mr. Moss). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Missouri (Mr. Eagleton), the Senator from Arkansas (Mr. Fulbright), the Senator from Alaska (Mr. Gravel), the Senator from Oklahoma (Mr. Harris), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), the Senator from Louisiana (Mr. Long), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), the Senator from Rhode Island (Mr. Pell), the Senator from Connecticut (Mr. Ribicoff), and the Senator from Alabama (Mr. Sparkman) are necessarily absent.

I also announce that the Senator from Wyoming (Mr. McGee) is absent on official business.

I further announce that, if present and voting, the Senator from Nevada (Mr. Cannon), the Senator from Alaska (Mr. Gravel), the Senator from Minnesota (Mr. Humphrey), the Senator from New Hampshire (Mr. McIntyre), and the Senator from Connecticut (Mr. Ribicoff) would each vote "yea."

Mr. SCOTT. I announce that the Senators from Colorado (Mr. Allott and Mr. Dominick), the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bellmon), the Senator from Nebraska (Mr. Curtis), the Senator from Michigan (Mr. Griffin), the Senator from Alaska (Mr. Stevens), the Senator from Ohio (Mr. Taft), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from New York (Mr. Javits) is absent because of religious observance.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Arizona (Mr. Goldwater) is detained on official business.

If present and voting, the Senator from Colorado (Mr. Allott), the Senator from Nebraska (Mr. Curtis), the Senator from Michigan (Mr. Griffin), the Senator from New York (Mr. Javits), the Senator from Ohio (Mr. Taft), and the Senator from Texas (Mr. Tower) would each vote "yea."

The result was announced—yeas 68, nays 2, as follows:

[No. 443 Leg.]

YEAS—68

Aiken
Anderson
Bayh
Beall
Bennett
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Church
Cook
Cooper
Cotton
Cranston
Dole
Eastland
Edwards
Fannin
Fong
Gambrell
Gurney
Hansen
Hart
Hatfield
Hollings
Hruska
Hughes
Inouye
Jackson
Jordan, N.C.
Jordan, Idaho
Kennedy
Magnuson
Mathias
McClellan
Miller
Mondale
Montoya
Nelson
Packwood
Pastore
Pearson
Percy
Proxmire
Randolph
Roth
Saxbe
Schweiker
Scott
Smith
Spong
Stafford
Stennis
Stevenson
Symington
Talmadge
Thurmond
Tunney
Weicker
Williams
Young

NAYS—2

Allen
Ervin

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, against.

NOT VOTING—29

Allott
Baker
Bellmon
Cannon
Curtis
Dominick
Eagleton
Fulbright
Goldwater
Gravel
Griffin
Harris
Hartke
Humphrey
Javits
Long
McGee
McGovern
McIntyre
Metcalf
Moss
Mundt
Muskie
Pell
Ribicoff
Sparkman
Stevens
Taft
Tower

So the bill (H.R. 15883) was passed.

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (H.R. 15495) to authorize appropriations during the fiscal year 1973 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to authorize construction at certain installations in connection with the Safeguard antiballistic-missile system, and to prescribe the authorized personnel strength for each active-duty component and of the Selected Reserve of each Reserve component of the Armed Forces and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore.

WATER RESOURCES PLANNING ACT AMENDMENTS

PRIVILEGE OF THE FLOOR

Mr. JACKSON. Mr. President, I ask unanimous consent that during the debate on S. 632, the following staff members be permitted to be present in the Chamber: Jerry Verkler, Bill Van Ness, Steven Quarles, Suzanne Reed, and Dan Dreyfus.

The PRESIDING OFFICER (Mr. Hughes). Without objection, it is so ordered.

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate H.R. 8389, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 8389) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for the development and operation of treatment programs for certain drug abusers who are confined to or released from correctional institutions and facilities.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with amendments.

On page 2, line 4, after the word "probation", strike out "and" insert "or"; in line 5, after the word "incarcerated", strike out "and" and insert "or"; in line 9, after the word "the", strike out "Administrator" and insert "Administration"; and, in line 17, after "January 1,", strike out "1972" and insert "1973".

The PRESIDING OFFICER. Under the previous unanimous-consent agreement, debate on the bill and amendments thereto is limited. Who yields time?

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, and that the bill as thus amended be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, H.R. 8389 is entitled "Narcotic Treatment Programs in Correctional Institutions."

We are all too familiar with the ravages of drug addiction. Directly or indirectly it touches every American, taking a tragic toll in life and property. It spurs its victims on to victimize others.

Because drug addicts so often commit crimes in order to acquire more drugs, many of these sad but dangerous figures end up in jails and prisons across the land.

Few of these institutions have facilities for treating drug addiction; so, while the addict suffers, he may not be cured. By encouraging the development of drug-treatment facilities in correctional institutions, we would aid in the rehabilitation of these addicts and thereby reduce the number of crimes committed by men and women desperate to obtain more drugs at any cost to other members of society.

Mr. President, title I of the Omnibus Crime Control and Safe Streets Act of 1968—Public Law 90-351—established the Law Enforcement Assistance Administration—LEAA—which is charged with the responsibility of providing financial assistance to State and local governments to assist them in the control of crime and violence, and the improvement of the quality of criminal justice. The Omnibus Crime Control Act of 1970—Public Law 91-644—amended the 1968 act to establish a program for the improvement of State and local correctional facilities.

States which have created a comprehensive plan can make application for correctional facilities grants by adding an application for such a grant to the comprehensive plan. This application, under the 1970 amendments must contain a plan for the State's correctional institutions and facilities which meet certain minimum requirements.

H.R. 8389 adds a new requirement—that the States make necessary provision for the establishment and development of narcotic treatment programs in their correctional facilities and in their probationary and parole programs. Thus, in order to qualify for funding available from the Law Enforcement Assistance Administration for correctional institutions and facilities, States must submit evidence of their ability to provide treatment for narcotics addicts who enter their correctional system.

Mr. President, I urge immediate passage of this legislation.

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. Mr. President, I yield myself 3 minutes.

Mr. President, I support the enactment of H.R. 8389.

As the original sponsor of legislation in the 91st Congress which added new part E dealing with corrections to the 1968 Safe Streets Act, this Senator is pleased to see the additional language suggested in this bill added to section 453.

As all of us know, drugs and their abuse play a crucial role in much of the crime that is committed in this Nation today. It is estimated that the majority of those convicted of crimes in 1971 were drug addicts; the great bulk of the burglaries and robberies in this Nation have as their root cause a need for money to support a drug habit. Therefore, it is readily understandable that many of the inmates of our prisons are persons with a drug problem. In order for rehabilitative efforts for these people to be successful, the question of drug dependence must be addressed and that problem solved. H.R. 8389 would insure that is done.

I note with approval the individual views filed by the Senator from North Dakota (Mr. BURDICK) and endorse his suggestion that State correctional institutions address not only the problem of drug abuse but alcoholism among inmates as well.

H.R. 8389 would require that before part E grants are approved by the Law Enforcement Assistance Administration, the State submitting the plan must provide "necessary arrangements for the development and operation of narcotic treatment programs in correctional institutions and facilities and in connection with probation or other supervisory release programs for all persons, incarcerated or on parole, who are drug addicts or drug abusers."

This bill was previously approved by the House by a vote of 350 to 2. It does not authorize or call for the appropriation of any additional funds. It has the complete backing and support of the Department of Justice.

It is my hope, Mr. President, that H.R. 8389 will be approved.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. SPONG. Mr. President, I suggest the absence of a quorum, the time to be charged against such time as I may have after offering an amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time for the quorum call be charged equally against both sides on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HRUSKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HRUSKA. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

At the end of the bill, insert:

Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended as follows:

(a) Section 512 is amended by striking the word "five" and inserting in lieu thereof the word "six";

(b) Section 520 is amended by striking the word "and" in the first sentence thereof, substituting a comma for the period at the end of the sentence and adding the following thereafer: "and $1,750,000,000 for the fiscal year ending June 30, 1974."

Mr. HRUSKA. Mr. President, I yield myself 2 minutes.

The purpose of this amendment is to extend the authority of the Omnibus Crime Control and Safe Streets Act for 12 months following its expiration on June 30, 1973. There will have been, by the time we complete our deliberations today, Senate approval of at least five major, fundamental amendments to this act, as amended. In order to allow the agency time to adjust itself to a working basis, taking into consideration the several amendments that are involved, it is my judgment that it would be well to extend the authority for 1 year, so that they will have that assurance of continued existence. It is my hope that the chairman of the subcommittee, the manager of the bill, will concur in the amendment.

Mr. McCLELLAN. Mr. President, I am personally willing to accept this amendment. I do not know of anyone who wants LEAA's authorization to expire. As far as I know, the program is considered to be a positive measure, though it may need some modification and some amendment.

Mr. President, we know that early next year there will be a Presidential inauguration. Following that occasion, many other things will arise to take up the early days of the 93d Congress. I think it would be well to get this extension at this time, recognizing that it will shortly be our purpose in the Subcommittee on Criminal Laws and Procedures to start a study of a continuation of the provisions of the Omnibus Crime Control and Safe Street Act.

Mr. TUNNEY. Mr. President, will the Senator yield for a question?

Mr. McCLELLAN. I yield.

Mr. TUNNEY. It is my understanding that the LEAA expires on June 30 of next year. Could we not extend it for a year, if it is necessary, in February?

Mr. McCLELLAN. We are extending it for 1 year from the current expiration date.

Mr. TUNNEY. I understand that.

Mr. McCLELLAN. This will give us some 18 months after the beginning of the next session of Congress to take appropriate action and, in my opinion, that length of time is appropriate and realistic.

Mr. TUNNEY. The reason I ask this question is that for the past several months, in my trips to California, I have been meeting regularly with police chiefs and sheriffs and other law enforcement officials in various parts of the State. As a result of the many meetings I have had, involving probably in excess of 200 law enforcement officials, I have come to the conclusion that there is a very definite need, as perceived by local law enforcement agents and officials, to amend the law as it relates to the Law Enforcement Assistance Administration so that there can be a better ordering of priorities and so that they feel that there will be a greater impact at the local level than presently exists.

One thing I am somewhat concerned about is that if we extend the LEAA today by a year, it would mean that it would expire on June 30 of 1974. Would we be able next year to make some of the necessary changes which I think the Senator from Arkansas, the distinguished chairman of our subcommittee, would have no objection to whatever? As a matter of fact, I think he would find those changes to be necessary as the committee gets into the problem of oversight hearings.

Mr. McCLELLAN. I say to the distinguished Senator from California that this extension would not set to rest any objections to the act in its current form. As I said earlier, it will be the purpose of the Subcommittee on Criminal Laws and Procedures to begin early next year an immediate study of the changes that may be desirable.

Mr. TUNNEY. Would it not have the impact, if we extend it for 1 year, to put off this process of amending the law by an additional year? That is something of considerable interest to me, because I have had extensive, indepth meetings with law enforcement officials in my State; and I can assure the able chairman of the subcommittee that these law enforcement officials, with a degree of unanimity that is rarely found, recognize that there is a need for amendments—not that they all agree to what the amendments should be.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HRUSKA. I yield the Senator 3 additional minutes.

Mr. TUNNEY. They feel that there should be some changes in the present law.

I am concerned today, quite frankly, that these changes will be put off by at least a year if we extend the life of the LEAA 1 year today, because the law expires on June 30 of next year. If we were to extend it to June 30, 1974, it would seem to me that those necessary changes probably would not take place until January, Ferbrary, or March of 1974, rather than January, February, or March of 1973.

Mr. McCLELLAN. One of the purposes in seeking the extension is that we can have time to give consideration to the proposed amendments. It is my intention, if I remain on as chairman of this subcommittee—so far as I know, I will, if I am here—to process crime bills next year, just as we have done this year. Hopefully, we will not be crowded and can take up such amendments.

I said earlier today in my remarks on one of these bills or with respect to one of the various amendments that the LEAA is a measure that needs continuing study. That will be one of the programs of the subcommittee next year.

Mr. TUNNEY. It will be 9 months before the LEAA expires. I wonder whether the chairman or the distinguished Senator from Nebraska, who is offering the amendment, could expand on the reasons for the need to make this extension now—why we cannot wait until next year, as we come closer to the date of expiration.

Mr. HRUSKA. The reason stated by me is this: By the time we will finish our deliberations today, the Senate will have approved at least five, and perhaps six, very substantial and fundamental amendments to the Omnibus Crime Control and Safe Streets Act. They are very fundamental. They are extensive. If the agency will be required to adjust its entire program and the allocation of funds and the functioning of its agency to these amendments with any degree of assurance for the coming fiscal year, they ought to know now and have the assurance that there will be continued authority following midnight of June 30 next, when the authority of this act expires. Without that assurance, they will be operating in limbo, very likely, for the first few months of the next fiscal year.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. HRUSKA. I yield.

Mr. McCLELLAN. All the amendments we are adopting to the bill will expire with the act, and the LEAA will not have an opportunity to get them into operation.

Mr. HRUSKA. The Senator is correct. It is a matter of sound administration that the authority be extended, but the extension would in no way militate against the consideration by Congress next year of any type of amendment as to the substance of the act itself. It would simply allow the ordinary routine of the agency to continue, and it would allow the new appropriations for the fiscal year beginning July 1 of next year to attach as soon as they are perfected. This is the purpose of the amendment.

Mr. TUNNEY. I see. I appreciate the distinguished Senator's comments.

I certainly feel that we ought to extend the life of the LEAA when it expires next year, and I would not want to see the LEAA living in limbo.

However, I do believe strongly that certain amendments should be made to the basic authorization which would make the program much more effective at the local grassroots level. There is a crying need for this.

In my State, I have spoken to a couple of hundred law enforcement officials who have had to deal with this problem on a day-to-day basis. This has made me realize that there is an urgency for reform—not that all the law enforcement officials agree as to what the reform ought to be. I would not pretend to suggest that that is what I have learned. But I have learned that they feel that the program could be much more effective than it presently is.

I confess that I am concerned to see the basic authorization extended for another 12 months, which would put off, it would seem to me, by at least 8 months, the kind of reform that I think is needed and which I think the chairman of the subcommittee and the distinguished Senator from Nebraska would agree to in the way of amendments.

It is not a substantial departure from the normal procedures of our committee to bring something as important as an extension of the LEAA for 1 year to the floor without any discussion in our committee.

Mr. McCLELLAN. Does the distinguished Senator believe that all possible amendments to the safe streets bill can be processed and enacted before the authorization expires next June?

Mr. TUNNEY. Well, I would think——

Mr. McCLELLAN. Unless we act to extend it, we will at some future date have nothing to amend.

Mr. TUNNEY. It is clear that the LEAA should have a continued life. It would also seem to me that inasmuch as it expires June 30 next year, we would have a good, solid 6 months in which to extend it as simply as we are doing it here today, if it appeared that we would not be able to have the necessary oversight hearings and make the necessary recommendations for amendments prior to the expiration date, June 30.

Mr. McCLELLEN. I might point out to the Senator that another thing to consider is the press of appropriation measures that we will face. If the act has not been extended by June 30, there would not be any program to make appropriations for. I do not believe the amendment operates against the Senator's wishes. Indeed, it will likely serve his purpose.

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Massachusetts will state it.

Mr. KENNEDY. Who has charge of the time?

The PRESIDING OFFICER (Mr. ALLEN). All time allotted has expired——

Mr. KENNEDY. On the proposed amendment?

The PRESIDING OFFICER. The Chair asks, who would yield time? Ten minutes remain to the Senator from Nebraska and 9 minutes remain to the Senator from Arkansas on the amendment, but all the time that has been allotted, the last 4 minutes, to the Senator from California, has expired.

Mr. KENNEDY. Mr. President, I should like to know, who is handling the time?

The PRESIDING OFFICER. The Senator from Nebraska is handling time on his amendment and the Senator from Arkansas is controlling the other side.

Mr. KENNEDY. Would the Senator from Arkansas yield me 4 minutes?

Mr. McCLELLAN. If I have any time, I will be glad to yield it to the Senator.

The PRESIDING OFFICER. The Senator from Arkansas has 9 minutes remaining.

Mr. McCLELLAN. I yield 4 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 4 minutes.

Mr. KENNEDY. Mr. President, I share the concerns expressed by the Senator from California (Mr. TUNNEY). Here is an amendment coming up, concerning what is perhaps the most important weapon to meet the problems of law enforcement in this country, trying to provide some kind f help and assistance to the local communities in the States, and it is being considered here almost by a voice vote, on the question of extending it for 2 years. That was the initial amendment, as I understand it, of the Senator from Nebraska, for 2 years?

Mr. HRUSKA. Oh, no. One year. Twelve months.

Mr. KENNEDY. One year. It was not even considered in the committee. No one made any expression that it would be considered. We do not know what the particular figure will be as suggested by the Senator from Nebraska.

I, too, would share the concern of the Senator from California about those in my State and in the New England area who are very much concerned about the whole direction of the LEAA. This is not only said by those who are involved in the program. The GAO has made a report on the LEAA. It has raised all kinds of questions and problems about the financing of the program. The House Government Operations Committee has held hearings on it as well and has pointed out all kinds of problems connected with it.

I also share the concern as to whether we are fulfilling our responsibilities by deferring action for 1 year. I, for one, think that the best way to proceed is to hold hearings the early part of next year. If we get into the problem of extending the time there is adequate time that will come along and I will join the chairman so that we will be able to extend it and not interrupt the orderly workings of the agency.

All of us understand the importance of this legislation. LEAA has faced many problems since its earliest days, especially with the troika setup, in the war on crime in this country. Now, in the quiet of the afternoon, in almost routine fashion, we are considering extending it for another year. I join the concern of my colleague from California that we should find out about the whole country's crime needs and whether additional kinds of appropriations and authorizations will be needed. If they are, we should be prepared to go to the American people and make that request by justifying it in the Appropriations Committee. If not, that is another matter. But deferring this kind of action on it, I, for one, have the most serious kinds of reservations about it.

I am distressed by the fact that, as the Senator from California has pointed out, we had no idea that this would come up. Many members of the Committee on the Judiciary have spent long hours on the development of this legislation and I am sure that they would all be interested and concerned.

Mr. McCLELLAN. Would the Senator want to abolish the LEAA?

Mr. KENNEDY. No. The answer to that is in the negative.

Mr. McCLELLAN. If your goal is short of abolition, I point out that there is nothing to keep Senator from Massachusetts or any other concerned Senator from offering amendments or introducing a new bill now, early next year, or at any other future date. It was suggested that we would like it for 2 years. I said that was too long and that 1 year would be long enough, because that would give us the opportunity to consider legislation and amendments which would be offered, or other bills that might be brought up elsewhere. If the Senator does not want to do it now, then get ready to do it next year, or abolish it. It seems to me no one is trying to keep anything from anyone. This is a more orderly procedure to follow, and it gives us an opportunity to work on it.

Mr. KENNEDY. Obviously, I am committed to the program, but we should not renew without much longer consideration a program that sends huge sums out to the local communities when all kinds of questions have been raised about the program. The GAO has raised questions and problems about it, and so has the Government Operations Committee in the House. Rather than suddenly extending the time period now, I feel that this matter should be our subcommittee's first order of business early next year.

I do not think that any program in which the Federal Government aids States and localities is as important in helping and assisting local law enforcement and State law enforcement agencies through the LEAA.

I think that we have responsibility on that program to consider whether it represents the best judgment, and that 6 months, or the early part of next year, all the time that it takes to do it, should be put into it.

I think the Senator would agree with me that it appears, around this body—at least in the limited time I have been here. 10 years—that nothing really gets done until the legislation has already expired. I have seen half a dozen programs this year that were extended for 1 year even though they did not expire until the next year, but we cannot get support for them because they want to have additional studies, additional testing, and so forth. I feel that we have a responsibility here and I think that what we should do is be about that business the early part of next year.

As a member of the subcommittee, I give assurance to the chairman that I will consider offering amendments that will help and assist the chairman in this effort; but I cannot for the life of me see why we should consider extending it a year when so many serious and grievous questions have been raised about the funding and the administration of it, which have been raised by law enforcement personnel as well as by the GAO, let alone various questions of employment raised by civil rights leaders. So I would hope that rather than delaying the time, what the chairman should do, with all the various responsibilities he has, is to see that this will be the first order of business in the next session.

I want to indicate my reservations about this amendment. I would certainly hope that the Senator would withdraw it. After the hearings are over, and we are unable to get about the business of completing the legislation, I shall join as a cosponsor with the Senator from Nebraska and the Senator from Arkansas in extending it. If we are unable to do it, because of the complexity of the legislation, obviously, none of us wants to see it, but in the meantime we have a responsibility to see that we start early hearings on the most important Federal program we have to fight the problems of crime in this country.

Mr. McCLELLAN. I want to agree with my distinguished friend from Massachusetts that this is a very important program for law enforcement. But I do not know why the Senator objects to extending it a year. Senators can offer amendments at any time.

There is nothing wrong with this amendment. Certainly, there is no ulterior motive here in trying to get it adopted. If the Senator wants to cut it off, it is all right with me. I would not have to work as hard.

The point is that we are trying to get time so that we will have time in which to deliberate and offer proper amendments to the act.

I think the amendment should be agreed to.

Mr. HRUSKA. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 2 minutes.

Mr. HRUSKA. Mr. President, when this law establishing the LEAA, and the Crime Control and Safe Streets Act was enacted, it was referred to as one of the most important programs in the country today. I fully agree. I subscribe to that.

It is in the interest of emphasizing its importance and to make it highly applicable in the interest of sound administration that the amendment is proposed.

Mr. President, there is no harm done. On the contrary, a lot of benefit can result, because LEAA can go forward with the assurance that they can make tentative plans for the allocation of funds and can make plans for the following year. In the meantime, any effort to revise the program or amend it or extend it further or contract it so as to make it less extensive can certainly be made. We are not foreclosed from attempting that. We can go forward in any way we choose.

We do not have 6 months next year before the expiration of the authority of this bill. The usual procedure is not to introduce any bills in this body, as I remember it, until after the President has sent down his state of the Union message. I do not remember if that applies in inaugural years. However, normally we do not do so, and with the inaugural ceremonies and everything else, we can cut off the entire month of January. There are many other things we have to do in the remaining months.

We should not lay this aside. They can plan the administration of many of the programs, including the change we are proposing here. It would be well that we do this.

Mr. President, I reserve the remainder of my time, and ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nebraska has all time remaining. Does the Senator from Nebraska desire to yield back his time?

Mr. HRUSKA. Mr. President, I have no further request for time. I yield back the remainder of my time.

Mr. KENNEDY. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator has yielded back his time.

Mr. KENNEDY. Mr. President, I send to the desk an amendment in the nature of a substitute for the amendment of the Senator from Nebraska on behalf of the Senator from California (Mr. TUNNEY) and myself.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) offers on behalf of the Senator from California (Mr. TUNNEY) and himself an amendment in the nature of a substitute for the amendment of the Senator from Nebraska as follows:

In line 4, strike the word "six" and insert in lieu thereof the words "five and one-half".

In line 8, strike "$1,750,000,000" and insert in lieu thereof "$875,000,000".

In lines 8 and 9, strike "June 30, 1974" and insert in lieu thereof "December 31, 1973".

The PRESIDING OFFICER. It is not in order for the Senator from Massachusetts to propose his amendment in the nature of a substitute. It can be offered as a perfecting amendment.

Mr. KENNEDY. Mr. President, I offer my amendment as a perfecting amendment to the amendment of the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, in effect, this amendment would change the

1-year extension to a 6-months' time extension.

Mr. McCLELLAN. Mr. President, I have no objection to it if the sponsor of the amendment does not, though I think the 1 year would be more consistent with the fiscal year. The point I make is that I think we will need more time than we have. We have 5 months after inauguration in which to deal with these problems. And we will have appropriations bills coming up. I was trying to keep it on a fiscal year basis.

Mr. KENNEDY. Mr. President, I would hope that the Senator from Nebraska would consider this amendment. This would provide for an extension of a period of 6 months at the rate contained in the amendment of the Senator from Nebraska. It would give us a full year to consider the extension of the LEAA. The Senator can be assured that if, at the expiration of such time, the subcommittee wants to consider the various ramifications of the measure, certainly the Senator from California and I would urge that there be an extension.

Certainly from this point of view, 6 months, as the Senator from Arkansas has pointed out, is the time necessary to consider the various amendments. It would also fulfill our responsibility of being about the business of the prompt consideration of the most important single Federal program that assists State and local law enforcement.

Mr. McCLELLAN. I see only one objection to it, and that concerns the fiscal year. Other than that, I do not see any objection. I think that in a year's time we can get the amendments together and handle the matter. I do not think that we can do it in 5 months.

Mr. TUNNEY. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. TUNNEY. There certainly is no intention on my part to cripple the LEAA. As a matter of fact, I think basically the LEAA program is a good one, although it has administrative problems and some of the funding mechanisms have not been as successful as some of us would like to see.

I think that a program in which there is the funding of hundreds of millions of dollars with which to fight crime in this country deserves to be protected. And the way to guarantee that would be to have early hearings next year, as soon as possible, and work out a new authorization bill which would provide the changes that some of us feel are necessary. Obviously with any bill as complex as the LEAA, there will be differences of opinion as to what is and what is not needed. However, 1 year from the beginning of next year would seem to me to be adequate time to make the necessary changes in the law.

I appreciate the statement of the chairman of the subcommittee that he does not have any objection to the 6 months' period. I think 6 months' additional time would be December 3, 1973, and that time would be adequate time in which to hold hearings and hold executive sessions and markup so that we can get the kind of legislation that we all want.

Mr. HRUSKA. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Nebraska does not have time.

Mr. KENNEDY. Mr. President, I yield 5 or 7 minutes to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, I thank the Senator from Massachusetts. This would result in conditions that would be impracticable administratively. It would not work. The way the funds are disbursed is by getting the State plans approved by the LEAA. Then there is an allocation of funds pursuant to that allocation. The basic law is geared to that sort of thing. It is also geared to a given percentage, a statutorily fixed percentage of funds For instance, I think it is 20 percent with regard to part E relating to corrections. There is no provision for 6 months and no provision for dividing that up We would have to follow the basic law if we wanted to extend the authority of the act by half a year or by 5½ months or 7½ months, or whatever it is.

I suggest that we cannot proceed on that basis. Administratively it would not be possible. The clean-cut way to do it would be to give them the assurances of going forward in a basic way. If there are any amendments that should be considered Congress can still consider those. There is more than plenty of time to consider amendments of the act itself, I urge that the substitute amendment be rejected for those reasons.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Mr. President, may I have some time from the manager of the bill?

Mr. KENNEDY. I yield 5 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator has only 4 minutes remaining.

Mr. BAYH. The Senator just gave 5 or 7 minutes to the opposite side. Could we ask someone to compensate?

Mr. McCLELLAN. Mr. President, the Senator who has the amendment has control of the time.

The PRESIDING OFFICER. The Senator from Massachusetts has time.

Mr. McCLELLAN. Mr. President, I have been yielding to others. I yield to the Senator.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 10 minutes remaining.

Mr. McCLELLAN. How much time does the Senator desire?

Mr. BAYH. Five minutes.

Mr. McCLELLAN. I yield 5 minutes to the Senator from Indiana.

Mr. BAYH. Mr. President, I must say I am deeply alarmed not only by the substance of this proposal but also by the procedure being used here. I say to my friend from Nebraska, who always has been a stickler for first discussing matters before the committee in charge of the legislation, that the committee has met regularly. We have discussed all types of legislation in the crime area. Four such bills are presently before us; and here at the last minute, on the floor with no notice, we are presented with a crucially important 1-year extension of a major crime control act. Yet the full Committee on the Judicicary was not approached about this at all. The subject was never raised. I feel this should be brought to the attention of the Senate, at least. Perhaps the amendment of the Senator from Massachusetts is a compromise I would be willing to accept, although I would apply the same basic criticism to that as I do to the proposal of the Senator from Nebraska, which extends this for a whole year.

If the Senator from Arkansas feels he needs 6 months, I cannot quarrel with that. But I hope we address ourselves seriously as soon as possible to the effort to stop crime.

Mr. McCLELLAN. Mr. President, it is not that I need 6 months or that anybody needs it. I have no objection if they want to pass the whole matter over for a year. I said I have no objection to it and I do not. If there is serious objection to it, it makes no difference to me. I do not see how it is going to militate against those who want other matters in the bill. In fact, it gives more opportunity instead of less. I have no objection to the full committee considering it. I thought everybody would probably be agreeable for the act to be extended, but it does not make any difference to me if it is or not.

Mr. BAYH. In theory I agree, but we all know how difficult it is to get the Judiciary Committee and the Senate to act much before the statutory deadline, if then. It concerns me that there are certain programs in LEAA which have made a significant contribution to fighting crime and establishing better law and order, and that there are some programs that are self-defeating. We have to start thinking and planning to separate the one from the other.

As chairman of the Subcommittee on Juvenile Delinquency I believe no one can argue with the fact that we can do a more effective job with that juvenile by trying to treat him when that first crime is committed, or by trying to create a certain atmosphere in the home before any crime is committed; then, we are making an impact on crime. I think we should start focusing the attention of LEAA on these matters, rather than on hardware.

If we accept the full year extension of the Senator from Nebraska we are putting off for another year an effort to find a way in which these programs can be worked together. I know the Senator from Arkansas will be diligent, as usual, in trying to get action before then. But I for one just do not think it will happen.

Mr. McCLELLAN. Mr. President, the Senator can amend it now or in January, June, or in July. The bill can be amended if Congress agrees.

Mr. BAYH. The Senator from Arkansas has made a larger contribution to the fight against crime than anyone. But I think he, too, is aware of what the situation is.

Mr. McCLELLAN. They can consider amendments to LEAA. If the Senator wants to withdraw his amendment, it is all right with me. I was trying to do the best I could under the circumstances. My purpose is to try to help those who wanted it amended. I have some amendments to it, also. I do not think all of them can be considered in the 5 months we will have after inauguration next year. There will be other things to consider.

Another thing is that it takes annual appropriations. We will not have authority beyond June of next year. I think it should be extended at this time. However, personally, to me it makes no difference in the world. That is the way I feel about it.

Mr. BAYH. I appreciate the feeling of the Senator from Arkansas. It is almost unbelievable that neither he nor any of the rest of us who serve on the Judiciary Committee heard about this 1-year extension until it was proposed on the floor.

Mr. McCLELLAN. I have no objection to it.

Mr. HRUSKA. Mr. President, I yield myself 3 minutes on the bill.

Mr. President, this argument about being a stickler for germane or nongermane amendments amuses me. Last month we witnessed a scene in this Chamber when we took a whole day considering legislation dealing with the well-known Bicentennial Commission. Seven-eighths of that time was devoted to nongermane amendments, amendments alien to the bicentennial bill. That was the situation different from this one. With five or six amendments to the omnibus crime control bill which alter the administration, the degree and direction of their administration, and expands their activities a great deal, when the impact of that action came to my mind, I felt it should have an extension of 1 year's authority so they could adjust themselves, and accommodate themselves and the program to the input of these new amendments, and to do so on an annual basis, which they have to do under the basic law.

It is said this is the time to address ourselves to the whole concept. Sure enough; if it is that pressing, I have every confidence that those who feel there should be such a move will come here with their legislative capabilities and do it. They are not foreclosed by this extension of authority. It is that simple.

I think the amendment of the Senator from Massachusetts should be rejected and the main amendment for an extension of 1 year should be agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Mr. President, if I may have 1 minute more. I certainly do not want to infer anything personal, but I am sure as that commission bill was being argued the Senator from Nebraska was against all those nongermane amendments. Be that as it may, the Senator from Nebraska knows, having served with distinction on the Subcommittee on Juvenile Delinquency and on the full committee, there is a significant difference of opinion among the experts on LEAA as to how much emphasis should be given to dealing with youth problems and juvenile problems, and crime prevention problems, and how much attention should be given to hardware. I believe we can reconcile these differences better if everybody knows there is a limit and the bill is going to expire, than if we delay giving attention to some of these problems for still another year. If our study needed more time, we could always pass an extension when the need became clear.

We have to put more emphasis on crime prevention. If we really dealt with first offenders, we would have less of a problem with adult criminals. The situation would be helped also if we decided to do something about the 70-percent recidivism rate. Seventy percent of those whom we catch and incarcerate are right back on the street committing those crimes all over. I would like to give attention to the problem much earlier so we have some chance to rehabilitate them. That is why I am concerned about this effort to put off this debate for another year.

Mr. McCLELLAN. Mr. President, does the Senator wish to comment?

Mr. HRUSKA. I have no further comments.

Mr. McCLELLAN. Mr. President, I just want to make a further comment. I yield myself 1 minute on the bill, or such time as I may need.

I just want to make this observation. Nobody is being delayed from doing anything he wants to do about this bill. Nobody is being delayed 1 minute by extending the bill. We have today adopted one amendment after another. We are going to adopt one in a minute. There can be no delay or harm extending the act. We can still continue to amend it.

I am willing to suggest that the Senator from Nebraska withdraw his amendment, and that next year let those who oppose this get their own amendments adopted. I may point out that this is an argument without merit. There is no merit in the contention either way. All we are trying to do is to have an amendment adopted to accommodate a situation. We all say we are in favor of the bill. We do not like certain things in the bill. We are going to amend them. We are going to have to do it. But next year we are going to be faced with budget requests for financing the very proposals certain Senators are advancing today. Extending the act does not prevent anyone from proposing amendments.

It is all right with me to withdraw the amendment and then have to face the problem next year getting the act extended.

I do not think anybody wants to repeal the act. They do not want it to expire. All we want to do is extend it for 1 year. Senators can offer amendments now.

Mr. HRUSKA. Mr. President, I yield myself 1 minute.

If there are those in this Chamber who want to undertake the burden and the high potential jeopardy of obstructing and even delaying and impeding the program of the law enforcement agency by splitting the fiscal year, and visit that kind of result, that is their responsibility. This Senator is not going to do it.

Mr. KENNEDY. Mr. President, I yield myself 1 minute.

I think it is important to know there was a 5-year original authorization for the LEAA. For over 4 years now, the Senate has not had an opportunity to review this program. Next year was the year we were to have it.

Now, all of us want to provide sufficient time so that we will have an opportunity for full review. It does not seem to me to make a great deal of sense to extend it another year. It would be the only bill that I know of that would have had a 5-year authorization that was extended 1 year without full deliberation.

It seems to me that a matter of this importance, this significance, certainly should have the first priority. So I would hope that the 6 months substitute would meet the objections on both sides, to provide sufficient time for a hearing and also to provide early consideration by the Congress.

The PRESIDING OFFICER. Each side has 1 minute remaining on the amendment.

Mr. KENNEDY. I am prepared to yield back the balance of my time.

The PRESIDING OFFICER. Does the Senator from Arkansas desire to yield back his remaining 1 minute?

Mr. McCLELLAN. I yield it back.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

Mr. HRUSKA. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HRUSKA. Is this a vote on the substitute amendment of the Senator from Massachusetts?

The PRESIDING OFFICER. This is a vote on the perfecting amendment of the Senator from Massachusetts to the amendment of the Senator from Nebraska. The yeas and nays have not been ordered on the amendment to the amendment. They had been ordered on the amendment of the Senator from Nebraska.

Mr. HRUSKA. Mr. President, I ask for the yeas and nays on the amendment to the amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts to the amendment of the Senator from Nebraska. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alabama (Mr. SPARKMAN), and the Senator from North

Carolina (Mr. Ervin) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. McGee) is absent on official business.

Mr. SCOTT. I announce that the Senator from Colorado (Mr. Allott), the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bellmon), the Senator from Nebraska (Mr. Curtis), the Senator from Michigan (Mr. Griffin), the Senator from Alaska (Mr. Stevens), the Senator from Ohio (Mr. Taft), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from New York (Mr. Javits) is absent because of religious observance.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from New York (Mr. Buckley) and the Senator from Arizona (Mr. Goldwater) are detained on official business.

If present and voting, the Senator from Nebraska (Mr. Curtis), the Senator from New York (Mr. Javits), and the Senator from Texas (Mr. Tower) would each vote "nay."

The result was announced—yeas 28, nays 43, as follows:

[No. 444 Leg.]

YEAS—28

Anderson
Bayh
Beall
Bentsen
Brooke
Burdick
Case
Chiles
Church
Cranston
Fulbright
Hart
Hughes
Inouye
Kennedy
Mansfield
Mathias
Nelson
Percy
Proxmire
Saxbe
Schweiker
Scott
Stevenson
Symington
Tunney
Weicker
Williams

NAYS—43

Aiken
Allen
Bennett
Bible
Boggs
Brock
Byrd, Harry F., Jr.
Byrd, Robert C.
Cook
Cooper
Cotton
Dole
Dominick
Eastland
Edwards
Fannin
Fong
Gambrell
Gurney
Hansen
Hatfield
Hollings
Hruska
Jackson
Jordan, N.C.
Jordan, Idaho
Magnuson
McClellan
Miller
Mondale
Montoya
Packwood
Pastore
Pearson
Randolph
Roth
Smith
Spong
Stafford
Stennis
Talmadge
Thurmond
Young

NOT VOTING—29

Allott
Baker
Bellmon
Buckley
Cannon
Curtis
Eagleton
Ervin
Goldwater
Gravel
Griffin
Harris
Hartke
Humphrey
Javits
Long
McGee
McGovern
McIntyre
Metcalf
Moss
Mundt
Muskie
Pell
Ribicoff
Sparkman
Stevens
Taft
Tower

So Mr. Kennedy's amendment to Mr. Hruska's amendment was rejected.

The PRESIDING OFFICER (Mr. Brock). The question now recurs on agreeing to the amendment of the Senator from Nebraska (Mr. Hruska). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Missouri (Mr. Eagleton), the Senator from Alaska (Mr. Gravel), the Senator from Oklahoma (Mr. Harris), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), the Senator from Louisiana (Mr. Long), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Utah, (Mr. Moss), the Senator from Maine (Mr. Muskie), the Senator from Rhode Island (Mr. Pell), the Senator from Connecticut (Mr. Ribicoff), and the Senator from Alabama (Mr. Sparkman) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. McGee) is absent on official business.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. McIntyre) would vote "yea."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. Allott), the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bellmon), the Senator from Nebraska (Mr. Curtis), the Senator from Michigan (Mr. Griffin), the Senator from Alaska (Mr. Stevens), the Senator from Ohio (Mr. Taft), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from New York (Mr. Javits) is absent because of religious observance.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from New York (Mr. Buckley) and the Senator from Arizona (Mr. Goldwater) are detained on official business.

If present and voting, the Senator from Nebraska (Mr. Curtis), the Senator from New York (Mr. Javits), and the Senator from Texas (Mr. Tower) would each vote "yea."

The result was announced—yeas 63, nays 9, as follows:

[No. 445 Leg.]

YEAS—63

Aiken
Allen
Anderson
Beall
Bennett
Bentsen
Bible
Boggs
Brock
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
Church
Cooper
Cotton
Cranston
Dole
Dominick
Eastland
Edwards
Ervin
Fannin
Fong
Fulbright
Gambrell
Gurney
Hansen
Hatfield
Hollings
Hruska
Hughes
Inouye
Jackson
Jordan, N.C.
Jordan, Idaho
Magnuson
Mansfield
McClellan
Miller
Mondale
Montoya
Nelson
Packwood
Pastore
Pearson
Percy
Proxmire
Randolph
Roth
Saxbe
Smith
Spong
Stafford
Stennis
Stevenson
Symington
Talmadge
Thurmond
Tunney
Weicker
Williams
Young

NAYS—9

Bayh
Brooke
Case
Cook
Hart
Kennedy
Mathias
Schweiker
Scott

NOT VOTING—28

Allott
Baker
Bellmon
Buckley
Cannon
Curtis
Eagleton
Goldwater
Gravel
Griffin
Harris
Hartke
Humphrey
Javits
Long
McGee
McGovern
McIntyre
Metcalf
Moss
Mundt
Muskie
Pell
Ribicoff
Sparkman
Stevens
Taft
Tower

So Mr. Hruska's amendment was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, communicated to the Senate the intelligence of the death of Hon. William F. Ryan, late a Representative from the State of New York, and transmitted the resolutions of the House thereon.

The message announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 10243) to establish an Office of Technology Assessment for the Congress as an aid in the identification and consideration of existing and probable impacts of technological application to; amend the National Science Foundation Act of 1950; and for other purposes; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Miller of California, Mr. Davis of Georgia, Mr. Cabell, Mr. Mosher, and Mr. Esch were appointed managers on the part of the House at the conference.

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT

The Senate continued with the consideration of the bill (H.R. 8389) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for the development and operation of treatment programs for certain drug abusers who are confined to or released from correctional institutions and facilities.

AMENDMENT NO. 1539

Mr. TUNNEY. Mr. President, I call up my amendment No. 1539 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

On page 2, line 2, after the word "programs" insert a comma and the following: "including community-based programs,".

Mr. TUNNEY. Mr. President, this amendment is offered for purposes both of clarification and emphasis.

The bill requires a State applying for part E funds for correctional institutions to include in its comprehensive State plan a provision for the development and operation of drug treatment programs in correctional institutions and facilities and in connection with probation or other supervisory release programs for addicts and abusers either incarcerated or on parole.

My amendment, by adding the phrase "including community-based programs," would prevent any possible misinterpretation of the intent of the legislation and at the same time emphasize the desirability and encourage development of programs which have some base in the world outside the institution.

It is well recognized by authorities on addict rehabilitation that the crucial time in the process comes when the individual leaves whatever institution he has been receiving treatment at—whether prison, hospital, or some other form of structured program—and returns to his own community. It is there that he finds the same old set of values and stimuli which contribute to, or are the major cause of, his drug problem and his criminal propensities. As Norman Carlson, the Director of the Federal Bureau of Prisons, testified before a Senate committee last year.

> In the final analysis, only through successful reintegration into the community can the ex-offender avoid becoming a recidivist.

It is all very well to keep a guy motivated and on the mend while he is directly under your thumb, but certainly the purpose of this legislation and of all the drug abuse treatment legislation we have passed in recent years is the permanent rehabilitation of these people.

If the acid test is community re-entry, then I think we have to emphasize the desirability of treatment programs which pave the way for this. Any program which involves a relationship with the world outside the institution should be constructive in this regard. Additionally, there is probably far more likelihood of finding innovative approaches in community-based programs than in those which are strictly institutional. Use of such community-based programs will permit the involvement of a wide range of professional and paraprofessional talent which is necessary to successful efforts against drug abuse.

In addition, by emphasizing the development of community-based treatment programs, there can be greater assurance of continuity of care once the addict is released from prison. At the same time the rehabilitative process during incarceration is aided by the strong focus of community programs on the needs of the addict upon his release, particularly the need for a job. The great strength of existing programs where there is a strong partnership between the prison and a community treatment program is the increased attention and resources devoted to training and employment opportunities and the supportive measures necessary to help the addict make it.

As the language of the bill now stands, there would appear to be no question that it covers community-based programs outside the institution for persons on probation, parole, or some kind of short term supervisory release. However, it is not clear that such community-based programs could be used within the institution themselves. I fear that some State officials might read the provision as requiring operation of a program by the institution itself, to the exclusion of contracting with an outside agency to bring its expertise into the institution. Adoption of this amendment will preclude the possibility of such an interpretation and at the same time indicate the strong congressional interest in the use of available community resources where it is desirable. It is this latter concern which is paramount in my mind. We must do all we can to encourage the trend toward the development of community-based programs, and I believe this amendment will assist in that effort.

Mr. McCLELLAN. I yield myself 1 minute.

Mr. President, I have examined this amendment. So far as I can tell, it would do no harm to the bill and perhaps would improve it. I have not had an opportunity to give it that kind of thorough consideration but, at the moment, so far as I am concerned, I am willing to accept it and take it to conference.

Mr. TUNNEY. I want to thank my distinguished chairman——

Mr. McCLELLAN. I think it is all right, but I am perfectly willing, for the present, to take it to conference.

Mr. TUNNEY. If there is no objection, I am prepared to yield back my time.

Mr. McCLELLAN. I yield back my time.

The PRESIDING OFFICER (Mr. Brock). All time has now been yielded back.

The question is on agreeing to the amendment of the Senator from California.

The amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Illinois (Mr. Percy), I ask unanimous consent that Mr. Stuart Statler be permitted the privilege of the floor during the remainder of the consideration of this bill, and during the debate and vote on the next bill, the Land Use Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPONG. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated:

The legislative clerk read as follows:

> At the end of the bill add a new section as follows:
>
> That the last sentence of section 301(c) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking out "July 1, 1972" and inserting in lieu thereof "June 30, 1974."

Mr. SPONG. Mr. President, drug abuse is one of our most pressing domestic problems. As I travel throughout my State of Virginia, I hear concerns about drug abuse voiced again and again. Yet some of our most successful programs to combat crime and drug abuse are threatened. They are threatened by the new hard-match requirement which will become applicable to the action grants for the Law Enforcement Assistance Administration this year.

Where previously States have been able to provide equivalent goods and services in lieu of cash, the amended Safe Streets Act requires that effective this fiscal year, at least 40 percent of the non-Federal funding be in money. Despite the fact that the Virginia General Assembly added about $400,000 to the budget for matching purposes, Virginia still stands to lose about $1.5 million over the next 2 years which could be applied to the fight against drug abuse.

I believe this hard-match requirement should be delayed. And that is what my amendment would do. Shortly, the whole safe streets program will come under congressional review for reauthorization. That is the time to recommend changes in the program and not in the middle of the planning that has gone forth up to this point.

Mr. President, the problem my State is experiencing in meeting the matching fund requirements of the LEAA program is shared by many other States and local communities around the Nation. A recent survey taken by Mr. George W. Orr, executive director of the Iowa Crime Commission, indicates that fully 30 percent of the States surveyed were pessimistic about being able to continue their safe streets programs at present levels of participation, while another 8 percent could go either way.

States indicating that they would have trouble continuing present levels of participation in LEAA drug and crime programs were Kansas, Alabama, Arizona, California, Colorado, Connecticut, Delaware, Georgia, Indiana, Louisiana, New Mexico, North Dakota, Rhode Island, South Dakota, Utah, West Virginia, and Virginia.

For the record, it should be clear that States are probably more deeply concerned about the new, so-called "buy-in" provisions. My amendment would do nothing directly to ease that new requirement; but indirectly, by delaying the hard-match requirement for 1 year, it would make it easier for States to participate under the "buy-in" provisions in the Safe Streets Act.

Mr. President, there is nationwide support for this legislation not only on the part of States, but also by our cities. These cities are coming to recognize that they will suffer as a result of their State's being unable to come up with sufficient money to take full advantage of full Federal compliance.

They are the innocent pawns in this problem between the States and the Federal Government. Even if cities wish to make up the shortages in their States' contribution, they are not permitted to do so under present law.

As an indication of the support for relaxation of the new hard-match requirement, I ask unanimous consent that a section from the legislative program adopted by the National League of Cities at its recent meeting in Hawaii be printed in the Record at the conclusion of my remarks. This section, which deals with the Safe Streets Act specifically, endorses congressional action to remove the requirements for cash match before it takes effect this year.

The PRESIDING OFFICER (Mr. Brock). Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPONG. Mr. President, a recent survey was made of major cities to determine which of those would have difficulty meeting the matching fund requirement under the new hard-cash provision. I would like to quote from the conclusion of that study conducted by the National League of Cities, U.S. Conference of Mayors, and I ask that the complete study be printed in the Record following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. SPONG. Mr. President, the study concluded:

> In general, the participation of cities in LEAA programs that now require hard

> (cash) match is doubtful. Nine cities definitely say that their participation with LEAA will be reduced because of this requirement. Ten give no answer or are undecided, but when taken in conjunction with the other answers, their participation will also be likely to decline.
>
> In addition, there is a question as to the type and amount of participation of the states under the Buy-In requirements. Some cities commented that they still expect only in-kind contributions from the states; others expected the SPA's to go out of business if they are required to come up with cash.

Mr. President, the arguments against this amendment are largely fiscal in nature and I am not one who treats lightly the problem of Federal overspending. It is true that the Federal Government has funded too many programs and that its expenditures are far in excess of expected revenues. I believe these expenditures should be cut back, but I do not believe that we should begin these economies with the most vital domestic program we have. It was not many months ago that President Nixon in a major policy address identified efforts to combat drug abuses as our No. 1 domestic priority. He said:

> We must have no budget cuts in waging total war on drug abuse.

Some have argued that the revenue-sharing bill which recently cleared both Houses of Congress—although it is still pending in conference—will help States and cities in meeting the cash shortages. It is highly doubtful, however, that the revenue-sharing bill will assist in any way with the problem under discussion today. First, the legislation strictly prohibits the use of revenue-sharing funds to provide matching money for Federal grant programs. Second, the legislation contains strict language concerning maintenance of effort in other programs so that revenue sharing is not used to substitute for previously State and local funded projects.

My amendment does not ask increased spending for the safe streets programs. It does not ask for anything new. It merely provides that States and local communities which are currently engaged in drug education, drug prevention, drug rehabilitation programs can continue under the same ground rules which have been in effect since the program was established in 1968.

Again, I repeat that this program will soon be up for review and reauthorization. If at that time it is found that changes should be made in the program, fine. I will support them if they are justified. But let us not now tell the people and the communities and the States which have taken the war against drug abuse seriously and which have devoted their efforts and their money to this cause that we are now going to up the ante in the middle of the game. That means that States like my own State of Virginia are going to have to cut back on their programs.

Mr. Richard N. Harris, director of the Division of Justice and Crime Prevention for the State of Virginia, says:

> The situation in Virginia remains the same as indicated in my letter of May 1, 1972, specifically, that unless this relief is enacted by Congress, Virginia will lose a minimum of $1.5 million of Safe Streets Act action grant Part C funds for which we will otherwise be eligible. It is vital that Senator Spong's efforts to delay the hard match provision succeed, and we in Virginia urge that everything possible be done to assure that the bill is enacted.
>
> Since my letter of May 1 to you I have been contacted by a number of other SPA directors, and more recently by directors in New York and Missouri, all of whom have expressed their extreme concern, and have urged me to renew efforts for passage of the legislation. In turn, they have indicated that they would contact their own Senators and representatives, and I know that this has been done in the case of New York, Missouri, Arkansas, and others.

There is no item in our Federal budget or in our State budgets more important, in my judgment, than programs to deal with our growing drug problems.

The Virginia State Crime Commission recently reported that drug abuse in Virginia is becoming more prevalent at a younger and younger age reaching down to the high school, junior high school, and sometimes even the lower grades. What is even more alarming, the report went on, is the fact that the use of heroin is becoming more prevalent among the youth and many young people have been found to be involved in the selling of heroin.

Against this background, many organizations and community groups in my own State and other States of this Nation are organizing efforts on a volunteer basis to do something about drugs. This is very encouraging. I believe we need more of it if we are ever going to resolve the problem. But how can we tell these people at a time when they are moving ahead that the Federal Government is moving backward in its support of their efforts?

Mr. President, the official position of the LEAA is that it has no objection to this amendment. Unofficially, however, the position of LEAA appears to be somewhat more enthusiastic.

In a letter dated September 11, 1972, to the National League of Cities-U.S. Conference of Mayors, Mr. Leonard wrote:

> I might suggest to you parenthetically that you now begin consideration of a reversal of some of the 1970 amendments with respect particularly to the Buy-In and hard match requirements which are wreaking havoc with many of our national scope programs. Specifically endangered in addition to the activities that you are conducting, are work being done in the court reform and correctional reform areas. We intend to discuss this further with you, of course, in the near future.

Mr. President, it has been charged that there are abuses in the LEAA program—that some States are not doing all that they can to supplement Federal grant money in this area. That may be true, but I do not believe it is true in Virginia. In any event, that is a problem which can be dealt with administratively. If there are abuses in crediting goods and services toward local matching funds, then I think the LEAA is equipped with ample authority now to deal with those abuses. It is not necessary and I believe it is harmful for the Federal Government at this juncture to require the States and cities to put up more money than many States have to put up in order to participate in our most vital domestic program.

Mr. President, I believe that, having extended the authorization as we have, we would do well, in view of the concern being expressed even today by the President about drug abuse, to continue the law as it has existed since 1968. This means delaying the hard-match requirement which came into effect on June 30 of this year.

I reserve the remainder of my time.

EXHIBIT 1

7.006 THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACTS OF 1968 AND 1970

A. The Law Enforcement Assistance Administration (LEAA) of the U.S. Department of Justice, should set minimum levels of planning funds to be distributed to local governments with greatest need.

B. A major purpose of the Amendments of 1970 to the "Safe Streets Act" was to insure real and meaningful participation by local governments in state-wide planning. In many states, this has not happened. The federal government and LEAA should take steps to remedy this situation by creating appropriate guidelines for states and local governments, by refusing to accept plans from states using only "paper participation," and by refusing to grant state block funds for planning or action in all cases where states have not met their obligations in this area.

C. LEAA, most states and most local governments agree that the discretionary part of the "Safe Streets Act" has not been successful. In its place, the federal government should institute a program of direct block grants to cities. At least fifty percent of the appropriated funds under the Act should be directed for this program.

D. The experience of the "Safe Streets Act" thus far has been one of many layers of bureaucracy duplicating each other's tasks. As many as twelve reviews of each proposal have been common. To alleviate this situation, LEAA should encourage states to make block grants to those cities which operate large numbers of projects under this Act.

E. The Metropolitan Criminal Justice Centers (MCJC) project currently being considered by LEAA is, in its general outlines, consistent with the needs for direct block grants from LEAA to cities. However, if this program is to be successful, local staff capacities provided to MCJCs should take their direction from general local government, and the city selection criteria should be such that LEAA is willing to fund cities of great need, even where the city and its county have difficult relationships.

F. The "Safe Streets Act" is a particularly complicated piece of legislation, and it has a complicated legislative history and intergovernmental structure through which funds and information should flow. For a variety of reasons, both funds and information actually reaching local government have been grimly inadequate in far too many cases. Guidelines, policy regulations and all other pertinent information on all parts, of the Act must be issued on time and directly to cities with greatest need. To participate successfully in this important Act, cities must understand the guidelines under which their states operate.

G. Since its inception, LEAA has been enshrouded by a cloud of secrecy and suspicion which has prevented essential information from reaching local governments, despite the fact that seventy-five percent of the action funds can only be granted to local governments. Whatever organizational structure it chooses to operate under, LEAA must establish direct lines of communication to cities with greatest need.

H. The current budgetary crisis in the Nation's cities and states requires that the Congress remove the requirement for cash match from the legislation before it takes effect, that the Congress reduce the overall matching requirement for both cities and states to below ten percent and that under the state "buy-in" provision, if a state declines to buy into the LEAA program for its local governments, the block allocation for that state shall become available to that state's local governments in the form of local block grants.

I. LEAA has a surplus of unfunded proposals, while it has never sought its full appropriation. At the local level there has been a severe shortage of cash under the Act, caused by the procedures of many levels of bureaucracy. To combat all of these facts, LEAA should seek its full appropriation in Congress.

J. Many cities and counties continue to face major problems in working through largely rural multi-county regions in their states. That being the case, cities and counties should not be arbitrarily placed in multi-county regions by their states, without their express written permission. States should, when requested, deal directly with such cities and counties.

K. The Congress should amend the Safe Streets Act to remove the "variable pass through" provision (Section 303, paragraph 2) and continue the 75% pass through to local general government, recognizing that local governments have already over-burdened tax resources.

L. LEAA should refrain from making the block grant program a categorical grant program, and should, through guidelines and review of state plans, similarly discourage states from moving in this direction.

EXHIBIT 2

NATIONAL LEAGUE OF CITIES U.S. CONFERENCE OF MAYORS—CASH MATCH/STATE BUY-IN QUESTIONNAIRE

SUMMARY QUESTIONNAIRE SHEET

(This summary does not include all of the answers. This is due to the fact that some of the answers are impossible to summarize either because of length or because of incomplete answers.)

I. *Ability of city to meet cash match requirements:*

A. "In the past years, have you asked your city to provide cash match for criminal justice projects?" Yes, 12; no, 8.

A. 3. "Generally, how did your city council react?" 6 gave no comment. 14 gave the following comments: 1 enthusiastically; 9 favorably; 2 neutral; 1 unfavorably; 1 opposed.

The comments made ranged from "hold the line/scrutinize closely," to "they are totally opposed to cash match."

B. 3. "For FY '73, how much cash match have you asked your city council for?" 10 cities have not asked; 5 have asked, but have not been notified as to council's final decision; 5 have asked and received approval, but only 3 received the amount that they requested.

II. *Procedural issues in meeting the cash match requirement:*

A. 2. "Once your city budget is approved do you believe that you can successfully request special appropriations during the rest of the year for the purpose of matching LEAA programs?" Yes, 11; no, 6; doubtful, 3. (This category of answers included such possibilities as: only in emergency; depends on size; undecided.)

A. 3. "If you have not requested a specific appropriation for LEAA matching money, do you intend to use funds from the general fund for that purpose?" Yes, 9; no, 6; doubtful, 5. Again, this category includes such answers as: emergency only, depending on size; possible.)

A. 4. "Do you intend to meet the cash match requirement in another manner?" Yes, 7; no, 9; doubtful, 4. (Some of the ways to meet it that were suggested in this questionnaire are: only with surplus; reallocation of police funds; appropriated State Buy-in funds; sayings.)

B. 1. "Do you intend to have your city council appropriate money for hard match by:

"Taking each project before the council on an individual basis;

"Requesting the city council to appropriate a specific amount for several program areas;

"Asking the city council for a lump sum of cash;

"Other."

10 cities said that they will have to take each individual project before the city council.

None will use the several programs approach.

5 will use the lump sum approach.

3 will use their "other" category.

2 gave no answer.

B. 2. "Why have you chosen this particular strategy?"

8 cities responded that it was their city council's policy to scrutinize each proposal on an individual basis before awarding funds for it.

5 had no particular reason.

2 cities that chose the individual review approach said that it is easier for the city council and the Mayor.

4 cities gave answers which implied that they chose the lump sum approach either because their city required it, or because they lacked sufficient information from the state to adequately plan.

B. 3. "What effect do you believe the strategy you have chosen will have on the kinds of submissions the city makes for LEAA programs during the following year?"

9 cities stated that it will reduce participation.

10 cities were undecided.

1 city stated that it will enhance the effort.

C. "To the best of your knowledge, how much money do you expect the city to receive as a result of the state buy-in procedure; or, what do you think the effect of the state buy-in procedure will be on LEAA funding for your city in the coming year?"

10 cities have no idea about the amount of monies, nor the effect.

5 cities already know the amount they are to receive.

2 cities state that the SPA might go out of existence.

2 cities still expect in-kind contributions from the states.

1 city expects a great deal of resistance from the state.

D. "In general, just how tight do you believe your city's budget is for the coming year and, as a consequence, what is your best guess as to the ability of your city to cope with the hard match requirements of the Safe Streets Act in the coming year."

16 cities stated that they have very tight budgets and their ability to cope with hard match is very poor.

3 cities stated that they did not know; however, they felt that their city could meet the hard match.

1 city stated that their budget was in good shape and that it could cope with the hard match, taken in light of the general priorities.

CONCLUSION

In general, the participation of cities in LEAA programs that now require hard (cash) match is doubtful. 9 cities definitely say that their participation with LEAA will be reduced because of this requirement. 10 give no answer or are undecided, but when taken in conjunction with the other answers, their participation will also be likely to decline.

In addition, there is a question as to the type and amount of participation of the states under the Buy-In requirements. Some cities commented that they still expect only in-kind contributions from the states; others expected the SPA's to go out of business if they are required to come up with cash.

Mr. McCLELLAN. Mr. President, I have no objection to delaying it for 1 year. This idea can be considered along with other suggested revisions in the act in the conference.

Mr. SPONG. I thank the Senator from Arkansas. I am delighted——

Mr. McCLELLAN. At least we will take it to conference. I do not know what will happen there, but I am perfectly willing to take it to conference.

Mr. SPONG. I am confident that if the able Senator from Arkansas take it to conference, he will do everything he can to see that it stays in.

I do not, however, want to fly under any false colors——

Mr. McCLELLAN. I do not want to, either. I will say that we will take the amendment to conference. I cannot guarantee what will happen to it.

Mr. SPONG. I know the able Senator from Arkansas will do everything he can in conference. I simply wanted to point out that I modified my amendment to make it comply with the amendment offered by the Senator from Nebraska.

Mr. McCLELLAN. That is all right.

Mr. SPONG. I thank the Senator from Arkansas. Mr. President, I yield back the remainder of my time.

Mr. McCLELLAN. Mr. President, I yield to the distinguished Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HRUSKA. Mr. President, I am in agreement with the statement made by the Senator from Arkansas. This is a fundamental problem that is far reaching and will undergo very strenuous debate next year as to the several alternatives available in it. It would be the better part of wisdom to accept it at this time and go into the rest of the debate a year from now.

Mr. McCLELLAN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Virginia (Mr. SPONG).

The amendment was agreed to.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that no time be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHANGE OF TIME FOR CONSIDERATION OF UNFINISHED BUSINESS

Mr. MANSFIELD. Mr. President, under the unanimous-consent agreement we are supposed to proceed to the consideration of the unfinished business at 3:30 this afternoon. I ask unanimous consent that that time be extended until the pending business is disposed of.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT

The Senate continued with the consideration of the bill (H.R. 8389) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for the development and operation of treatment programs for certain drug abusers who are confined to or released from correctional institutions and facilities.

Mr. HUGHES. Mr. President, I send to the desk amendments on behalf of the Senator from North Dakota (Mr. BURDICK) and myself.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 2, line 2, after the word "narcotic" insert the words "and alcoholism".

On Page 2, line 6, delete the words "or drug abusers" and insert in lieu thereof a comma and the following: "drug abusers, alcoholics, or alcohol abusers".

On Page 2, line 11, after the word "drug" insert the words "and alcoholism".

Mr. HUGHES. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUGHES. Mr. President, I have offered this amendment on behalf of myself, the Senator from North Dakota (Mr. BURDICK), and the Senator from California (Mr. TUNNEY), I send the amendment to the desk and ask that it be stated.

Mr. President, as I understand it, H.R. 8389 would require that plans for narcotics programs for drug dependent persons in correctional facilities and for those on probation or parole be included in the comprehensive plans required of States applying for funds from the Law Enforcement Assistance Administration. Our amendment would simply include a similar requirement for those dependent upon alcohol.

I know of no reliable figures comparing the numbers in need of help for drug dependence among our jail and prison populations and those out on probation or parole. Indeed, we are now finding that drug and alcohol dependence in the same individual occurs frequently. The best current estimates are that in our total population there are some 9 million persons with alcohol problems and at least 560,000 persons dependent on heroin. While the heroin abuser is more likely to be involved in the thefts and street crimes which have become the focus of national concern, no one knows how many alcohol dependent persons have been convicted of crimes, such as burglary, assault with deadly weapons, or manslaughter when driving while intoxicated. Commonsense tells us, therefore, that there must be at least as many, and almost certainly many more, offenders in need of help for alcohol than for drug dependence problems. Both kinds of programs are urgently needed within our criminal justice systems.

Mr. President, I am convinced that this is one of the most important investments our Nation could make in the fight against crime. We have known for too long that for the offender who is dependent on alcohol or drugs, jail is a revolving door. He serves his time but emerges with his addiction intact. With little hope for honest employment and with no help for his addiction, he will quickly resort to further crime, at a tragic cost for himself and for society. It is time for all of us to come to grips with the futility of our failure to treat the addiction promptly and continuously.

Some of the States and local communities have already recognized the problem. They are working out ways to treat the addicted offender while he is incarcerated and as he moves into probation. Some cities are beginning to develop systems for diverting offenders, when appropriate, out of criminal justice systems and into treatment programs. These States and cities have made good use of LEAA funds for such efforts. Unfortunately, other States are wasting LEAA funds in elaborate law enforcement hardware, or even worse, in police state techniques for spying on their citizens by methods which are destructive of their personal liberties guaranteed by the Constitution.

I believe it would be far more effective, and certainly far more humane, to spend money to treat the addicted offender who, if untreated, is certain to return to a career of crime.

Every State should be required to plan for the treatment of both drug and alcohol dependent offenders. H.R. 8389, with this amendment, would accomplish that objective. I urge, therefore, that the amendment be adopted.

Mr. President, I do not see any reason to belabor the issue. In its simplest form, what the amendment does is add the words "alcoholics, or alcoholic abusers" in relation to drugs and drug abusers.

If the Senator in charge of the bill would see fit to accept the amendment, I would be pleased to yield back the remainder of my time. First, I yield to the Senator from North Dakota.

Mr. BURDICK. Mr. President, there are estimated to be between 500,000 and 600,000 narcotic addicts in the United States, in addition to thousands of other drug users. But there are more than 9 million alcoholics in the country, and alcoholism afflicts a far greater number of people. In many States the problems of alcoholism among convicted offenders is greater than the narcotic problem, in terms of numbers of people.

The relationship between crime and alcoholism is not as clear as the relationship between street crime and heroin. However, drugs and alcohol do afflict many of the same individuals, and there is growing evidence that many may pass back and forth between alcoholism and drug addiction.

States should have no difficulty complying with the requirements of this amendment. It will require planning, but alcoholism programs can be easily meshed with existing programs, if they are not already conducting alcoholism programs.

This amendment was not offered in committee because in itself it might have created a need for a conference with the House on the bill, H.R. 8389. Since other amendments have been offered, it is offered now as a meritorious amendment which should be considered and adopted.

Mr. McCLELLAN. Mr. President, I have no objection to the amendments. I am perfectly willing to take them to conference. I think they very well have a proper place in the bill.

Mr. HRUSKA. Mr. President, I have no objection to accepting the amendments and having a voice vote on the amendments.

Mr. HUGHES. Mr. President, I yield back the remainder of my time.

Mr. McCLELLAN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendments of the Senator from Iowa (Mr. HUGHES).

The amendments were agreed to.

Mr. McCLELLAN. Mr. President, I have no further requests for time on the bill. I do not know whether anyone has a request for time in opposition to the bill.

Mr. MANSFIELD. Mr. President, does the chairman know of any other amendment to be offered?

Mr. McCLELLAN. I know of none.

Mr. MANSFIELD. Mr. President, I seek recognition to offer a substitute on behalf of the Senator from Arkansas (Mr. McCLELLAN), the Senator from Massachusetts (Mr. KENNEDY), myself, and the following cosponsors:

Senators ALLEN, BAYH, BENTSEN, BIBLE, BURDICK, CANNON, CASE, CHILES, CHURCH, COOK, CRANSTON, EASTLAND.

Senators GRAVEL, GRIFFIN, GURNEY, HARRIS, HART, HARTKE, HOLLINGS, HUGHES, HUMPHREY, INOUYE, JACKSON, KENNEDY, MANSFIELD, MATHIAS, McCLELLAN, McGOVERN, McINTYRE, METCALF, MONDALE.

Senators MOSS, MUSKIE, NELSON, PELL, PERCY, RANDOLPH, RIBICOFF, ROTH, SCHWEIKER, STEVENSON, TUNNEY, WILLIAMS.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

That this Act may be cited as the "Victims of Crime Act of 1972".

STATEMENT OF FINDINGS AND PURPOSE

The Congress finds that: (1) there is an increase in crimes of violence, racketeering activity, theft and drugs; (2) the increase in such crimes increases the chances of a person becoming a victim of such a crime; (3) on an increasing basis crimes of violence are being directed at public safety officers; (4) the perpetrators of crimes of violence, when identified, apprehended, and convicted, are not financially responsible; (5) the victims of crimes of violence, or their surviving dependents, are often themselves unable to bear the consequent losses; (6) the victims of crimes of racketeering activity and theft could with strengthened civil remedies often help themselves to meet the financial consequences of such crimes; and (7) the victims of drug dependency could with treatment programs often help themselves to overcome their dependency.

It is, therefore, the purpose of this Act to commit the United States to meet its moral obligation to assist the innocent victims of violent crime or their surviving dependents within the area primarily of Federal responsibility to bear the consequential losses and to assist the States to aid those within the area primarily of State responsibility; to establish insurance, death, and dismemberment benefit programs for public safety officers or their surviving dependents; to strengthen the civil remedies available to victims of racketeering activity and theft; and to assist the States in establishing narcotic treatment programs in correctional institutions.

TITLE I—COMPENSATION FOR VICTIMS OF VIOLENT CRIME

DECLARATION OF PURPOSE

Sec. 101. It is the declared purpose of Congress in this title to promote the public welfare by establishing a means of meeting the financial needs of the innocent victims of violent crime or their surviving dependents and intervenors acting to prevent the commission of crime or to assist in the apprehension of suspected criminals.

Part A—Federal Compensation Program

Sec. 102. The Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by—

(1) redesignating sections 451 through 455, respectively, as sections 421 through 425;

(2) redesignating sections 501 through 521, respectively, as sections 550 through 570;

(3) redesignating parts F, G, H, and I of title I, respectively, as parts I, J, K, and L of title I; and

(4) adding at the end of part E of title I, as amended by this Act, the following new parts:

"Part F—Federal Compensation for Victims of Violent Crime

"DEFINITIONS

"Sec. 450. As used in this part—

"(1) 'Board' means the Violent Crimes Compensation Board established by this part;

"(2) 'Chairman' means the Chairman of the Violent Crimes Compensation Board established by this part;

"(3) 'child' includes a stepchild, an adopted child, and an illegitimate child;

"(4) 'claim' means a written request to the Board for compensation made by or on behalf of an intervenor, a victim, or the surviving dependent or dependents of either of them;

"(5) 'claimant' means an intervenor, victim, or the surviving dependent or dependents of either of them;

"(6) 'compensation' means payment by the Board for net losses or pecuniary losses to or on behalf of an intervenor, a victim, or the surviving dependent or dependents of either of them;

"(7) 'dependent' means—

"(A) a surviving spouse;

"(B) an individual who is a dependent of the deceased victim or intervenor within the meaning of section 152 of the Internal Revenue Code of 1954 (26 U.S.C. 152); or

"(C) a posthumous child of the deceased intervenor or victim;

"(8) 'financial stress' means the undue financial strain experienced by a victim or his surviving dependent or dependents as the result of pecuniary loss from an act, omission, or possession giving rise to a claim under this part, disregarding ownership of—

"(A) a residence;

"(B) normal household items and personal effects;

"(C) an automobile;

"(D) such tools as are necessary to maintain gainful employment; and

"(E) all other liquid assets not in excess of one year's gross income or $10,000 in value, which is less;

"(9) 'gross losses' means all damages, including pain and suffering and including property losses, incurred by an intervenor or victim, or surviving dependent or dependents of either of them, for which the proximate cause is an act, omission, or possession enumerated in section 456 of this part, or set forth in paragraph (B) of subsection (18) of this section;

"(10) 'guardian' means a person who is entitled by common law or legal appointment to care for and manage the person or property, or both, of a minor or incompetent intervenor or victim, or surviving dependent or dependents of either of them;

"(11) 'intervenor' means a person who goes to the aid of another and is killed or injured while acting not recklessly to prevent the commission or reasonably suspected commission of a crime enumerated in section 456 of this part, or while acting not recklessly to apprehend a person reasonably suspected of having committed such a crime;

"(12) 'liquid assets' includes cash on hand, savings accounts, checking accounts, certificates of deposit, stocks, bonds, and all other personal property that may be readily converted into cash;

"(13) 'member' means a member of the Violent Crimes Compensation Board established by this part;

"(14) 'minor' means an unmarried person who is under eight years of age;

"(15) 'net losses' means gross losses, excluding pain and suffering, that are not otherwise recovered or recoverable—

"(A) under insurance programs mandated by law;

"(B) from the United States, a State, or unit of general local government for a personal injury or death otherwise compensable under this part;

"(C) under contract or insurance wherein the claimant is the insured or beneficiary; or

"(D) by other public or private means;

"(16) 'pecuniary losses' means net losses which cover—

"(A) for personal injury—

"(1) all appropriate and reasonable expenses necessarily incurred for medical, hospital, surgical, professional, nursing, dental, ambulance, and prosthetic services relating to physical or psychiatric care;

"(2) all appropriate and reasonable expenses necessarily incurred for physical and occupational therapy and rehabilitation;

"(3) actual loss of past earnings and anticipated loss of future earnings because of a disability resulting from the personal injury at a rate not to exceed $150 per week; and

"(4) all appropriate and reasonable expenses necessarily incurred for the care of minor children enabling a victim or his or spouse, but not both of them, to continue gainful employment at a rate not to exceed $30 per child per week, up to a maximum of $75 per week for any number of children;

"(B) for death—

"(1) all appropriate and reasonable expenses necessarily incurred for funeral and burial expenses;

"(2) loss of support to a dependent or dependents of a victim, not otherwise compensated for as a pecuniary loss for personal injury, for such period of time as the dependency would have existed but for the death of the victim, at a rate not to exceed a total of $150 per week for all dependents; and

"(3) all appropriate and reasonable expenses, not otherwise compensated for as a pecuniary loss for personal injury, which are incurred for the care of minor children, enabling the surviving spouse of a victim to engage in gainful employment, at a rate not to exceed $30 per week per child, up to a maximum of $75 per week for any number of children;

"(17) 'personal injury' means actual bodily harm and includes pregnancy, mental distress, and nervous shock; and

"(18) 'victim' means a person who is killed or who suffers personal injury where the proximate cause of such death or personal injury is—

"(A) a crime enumerated in section 456 of this part; or

"(B) the not reckless actions of an intervenor in attempting to prevent the commission or reasonably suspected commission of a crime enumerated in section 456 of this part or in attempting to apprehend a person reasonably suspected of having committed such a crime.

"BOARD

"Sec. 451. (a) There is hereby established a Board within the Department of Justice to be known as the Violent Crimes Compensation Board. The Board shall be composed of three members, each of whom shall have been members of the bar of the highest court of a State for at least eight years, to be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members of the Board to serve as Chairman.

"(b) No member of the Board shall engage in any other business, vocation, or employment.

"(c) The Board shall have an official seal.

"(d) The term of office of each member of the Board taking office after June 30, 1972, shall be eight years, except that (1) the terms of office of the members first taking office after June 30, 1972, shall expire as designated by the President at the time of appointment, one at the end of four years, one at the end of six years, and one at the end of eight years, after June 30, 1972; and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

"(e) Each member of the Board shall be eligible for reappointment.

"(f) Any member of the Board may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

"(g) the principal office of the Board shall be in or near the District of Columbia, but the Board or any duly authorized representative may exercise any or all of its powers in any place.

"ADMINISTRATION

"Sec. 452. The Board is authorized in carrying out its functions under this part to—

"(1) appoint and fix the compensation of an Executive Director and a General Counsel and such other personnel as the Board deems necessary in accordance with the provisions of title 5 of the United States Code;

"(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5 of the United States Code, but at rates not to exceed $100 a day for individuals;

"(3) promulgate such rules and regulations as may be required to carry out the provisions of this part:

"(4) designate representatives to serve or assist on such advisory committees as the Board may determine to be necessary to maintain effective liaison with Federal agencies and with State and local agencies developing or carrying out policies or programs related to the provisions of this part;

"(5) request and use the services, personnel, facilities, and information (including suggestions, estimates, and statistics) of Federal agencies and those of State and local public agencies and private institutions, with or without reimbursement therefor;

"(6) enter into and perform, without regard to section 529 of title 31 of the United States Code, such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its functions, with any public agency, or with any person, firm, association, corporation, or educational institution, and make grants to any public agency or private nonprofit organization;

"(7) request and use such information, data, and reports from any Federal agency as the Board may from time to time require and as may be produced consistent with other law;

"(8) arrange with the heads of other Federal agencies for the performance of any of its functions under this part with or without reimbursement and, with the approval of the President, delegate and authorize the redelegation of any of its powers under this part;

"(9) request each Federal agency to make its services, equipment, personnel, facilities, and information (including suggestions, estimates, and statistics) available to the greatest practicable extent to the Board in the performance of its functions;

"(10) pay all expenses of the Board, including all necessary travel and subsistence expenses of the Board outside the District of Columbia incurred by the Members or employees of the Board under its orders on the presentation of itemized vouchers therefor approved by the Chairman or his designate; and

"(11) establish a program to assure extensive and continuing publicity for the provisions relating to compensation under this part, including information on the right to file a claim, the scope of coverage, and procedures to be utilized incident thereto.

"COMPENSATION

"SEC. 453. (a) The Board shall order the payment of compensation—

"(1) in the case of the personal injury of an intervenor or victim, to or on behalf of that person; or

"(2) in the case of the death of the intervenor or victim, to or on behalf of the surviving dependent or dependents of either of them.

"(b) The Board shall determine the amount of compensation under this part—

"(1) in the case of a claim by an intervenor or his surviving dependent or dependents, by computing the net losses of the claimant; and

"(2) in the case of a claim by a victim or his surviving dependent or dependents, by computing the pecuniary losses of the claimant.

"(c) The Board may order the payment of compensation under this part to the extent it is based upon anticipated loss of future earnings or loss of support of the victim for ninety days or more, or child care payments, in the form of periodic payments during the protracted period of such loss of earnings, support or payments, or ten years, whichever is less.

"(d) The Board may order the payment of compensation under this part to a victim or his surviving dependent or dependents held in abeyance until such time as the victim or his surviving dependent or dependents has exhausted his liquid assets.

"(e)(1) Whenever the Board determines, prior to taking final action upon a claim that such claim is one with respect to which an order of compensation will probably be made, the Board may order emergency compensation not to exceed $1,500 pending final action on the claim.

"(2) The amount of any emergency compensation ordered under paragraph (1) of this subsection shall be deducted from the amount of any final order for compensation.

"(3) Where the amount of any emergency compensation ordered under paragraph (1) of this subsection exceeds the amount of the final order for compensation, or if there is no order for compensation made, the recipient of any such emergency compensation shall be liable for the repayment of such compensation. The Board may waive all or part of such repayment.

"(f) No order for compensation under this part shall be subject to execution or attachment.

"(g) The availability or payment of compensation under this part shall not affect the right of any person to recover damages from any other person by a civil action for the injury or death, subject to the limitations of this part—

"(1) in the event an intervenor, a victim, or the surviving dependent or dependents of either of them who has a right to file a claim under this part, should first recover damages from any other source based upon an act, omission, or possession giving rise to a claim under this part, such damages shall be first used to offset gross losses that do not qualify as net or pecuniary losses; and

"(2) in the event an intervenor, victim, or the surviving dependent or dependents of either of them receives compensation under this part and subsequently recovers damages from any other sources based upon an act, omission, or possession that gave rise to compensation under this part, the Board shall be reimbursed for any compensation previously paid to the same extent compensation would have been reduced had recovery preceded compensation under paragraph (1) of this subsection.

"(h) The Board may reconsider a claim at any time and modify or rescind previous orders for compensation based upon a change in circumstances of the claimant.

"LIMITATIONS

"SEC. 454. (a) No order for compensation under this part shall be allowed to or on behalf of a victim or his surviving dependent or dependents unless the Board finds that such a claimant will suffer financial stress from pecuniary losses for which the act, omission, or possession, giving rise to the claim was the proximate cause.

"(b) No order for compensation under this part shall be made unless the claim has been made within one year after the date of the act, omission, or possession resulting in the injury or death, unless the Board finds that the failure to file was justified by good cause.

"(c) No order for compensation under this part shall be made to or on behalf of an intervenor, victim, or the surviving dependent or dependents of either of them unless a minimum pecuniary or net loss of $100 or an amount equal to a week's earnings or support, whichever is less, has been incurred.

"(d) No order for compensation under this part shall be made unless the act, omission, or possession giving rise to a claim under this part, was reported to the law enforcement officials within seventy-two hours after its occurrence, unless the Board finds that the failure to report was justified by good cause.

"(e) No order for compensation under this part to or on behalf of a victim, his surviving dependent or dependents, as the result of any one act, omission, or possession, giving rise to a claim, shall be in excess of $50,000, including lump-sum and periodic payments.

"(f) The Board, upon finding that any claimant has not substantially cooperated with all law enforcement agencies incident to the act, omission, or possession that gave rise to the claim, may reduce, deny, or withdraw any order for compensation under this part.

"(g) The Board, in determining whether to order compensation or the amount of the compensation, shall consider the behavior of the claimant and whether, because of provocation or otherwise, he bears any share of responsibility for the act, omission, or possession that gave rise to the claim for compensation and—

"(1) the Board shall reduce the amount of compensation to the claimant in accordance with its assessment of the degree of such responsibility attributable to the claimant, or

"(2) in the event the claimant's behavior was a substantial contributing factor to the act, omission, or possession giving rise to a claim under this part, he shall be denied compenstaion.

"(h) No order for compensation under this part shall be made to or on behalf of a person engaging in the act, omission, or possession giving rise to the claim for compensation, to or on behalf of his accomplice, a member of the family or household of either of them, or to or on behalf of any person maintaining continuing unlawful sexual relations with either of them.

"PROCEDURES

"SEC. 445. (a) The Board is authorized to receive claims for compensation under this part filed by an intervenor, a victim, or the surviving dependent or dependents of either of them, or a guardian acting on behalf of such a person.

"(b) The Board—

"(1) may subpena and require production of documents in the manner of the Securities and Exchange Commission as provided in subsection (c) of section (18) of the Act of August 26, 1935, except that such subpena shall only be issued under the signature of the Chairman, and application to any court for aid in enforcing such subpena shall be made only by the Chairman, but a subpena may be served by any person designated by the Chairman;

"(2) may administer oaths, or affirmations to witnesses appearing before the Board, receive in evidence any statement, document, information, or matter that may, in the opinion of the Chairman, contribute to its functions under this part, whether or not such statement, document, information, or matter would be admissible in a court of law, provided it is relevant and not privileged;

"(3) shall, if hearings are held, conduct such hearings open to the public, unless in a particular case the Chairman determines that the hearing, or a portion thereof, should be held in private, having regard to the fact that a criminal suspect may not yet have been apprehended or convicted, or to the interest of the claimant; and

"(4) may, at the discretion of the Chairman, appoint an impartial licensed physician to examine any claimant under this part and order the payment of reasonable fees for such examination.

"(c) The Board shall be an 'agency of the United States' under subsection (1) of section 6001 of title 18 of the United States Code for the purpose of granting immunity to witnesses.

"(d) The provisions of chapter 5 of title 5 of the United States Code shall not apply to adjudicatory procedures to be utilized before the Board.

"(e)(1) A claim for compensation under this part may be acted upon by a member designated by the Chairman to act on behalf of the Board.

"(2) In the event the disposition by a member as authorized by paragraph (1) of this subsection is unsatisfactory to the claimant, the claimant shall be entitled to a de novo hearing of record on his claim by the full Board.

"(f)(1) Decisions of the full Board shall be in accord with the will of a majority of the members and shall be based upon a preponderance of the evidence.

"(2) All questions as to the relevancy or privileged nature of evidence at such times as the full Board shall sit shall be decided by the Chairman.

"(3) A claimant at such times as the full Board shall sit shall have the right to produce evidence and to cross-examine such witnesses as may appear.

"(g)(1) The Board shall publish regulations providing that an attorney may, at the conclusion of proceedings under this part, file with the Board an appropriate statement for a fee in connection with services rendered in such proceedings.

"(2) After the fee statement is filed by an attorney under paragraph (1) of this subsection, the Board shall award a fee to such attorney on substantially similar terms and conditions as is provided for the payment of representation under section 3006A of title 18 of the United States Code.

"(3) Any attorney who charges or collects for services rendered in connection with any proceedings under this part any fee in any amount in excess of that allowed under this subsection shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(h) The United States Court of Appeals for the District of Columbia shall have jurisdiction to review all final orders of the Board. No finding of fact supported by substantial evidence shall be set aside.

"CRIMES

"SEC. 456. (a) The Board is authorized to order compensation under this part in any case in which an intervenor, victim, or the surviving dependent or dependents of either of them files a claim when the act, omission, or possession giving rise to the claim for compensation occurs—

"(1) within the 'special maritime and territorial jurisdiction of the United States' within the meaning of section 7 of title 18 of the United States Code;

"(2) within the District of Columbia; or

"(3) within 'Indian country' within the meaning of section 1151 of title 18 of the United States Code.

"(b) This part applies to the following acts, omissions, or possessions:

"(1) aggravated assault;

"(2) arson;

"(3) assault;

"(4) burglary

"(5) forcible sodomy;

"(6) kidnaping;

"(7) manslaughter;

"(8) mayhem;

"(9) murder;

"(10) negligent homicide;

"(11) rape;

"(12) robbery;

"(13) riot;

"(14) unlawful sale or exchange of drugs;

"(15) unlawful use of explosives;

"(16) unlawful use of firearms;

"(17) any other crime, including poisoning, which poses a substantial threat of personal injury; or

"(18) attempts to commit any of the foregoing.

"(c) For the purposes of this part, the operation of a motor vehicle, boat, or aircraft that results in an injury or death shall not constitute a crime unless the injuries were intentionally inflicted through the use of such vehicle, boat, or aircraft or unless such vehicle, boat, or aircraft is an implement of a crime to which this part applies.

"(d) For the purposes of this part, a crime may be considered to have been committed notwithstanding that by reason of age, insanity, drunkenness, or otherwise, the person engaging in the act, omission, or possession was legally incapable of committing a crime.

"SUBROGATION

"SEC. 457. (a) Whenever an order for compensation under this part has been made for loss resulting from an act, omission, or possession of a person, the Attorney General may, within three years from the date on which the order for compensation was made, institute an action against such person for the recovery of the whole or any specified part of such compensation in the district court of the United States for any judicial district in which such person resides or is found. Such court shall have jurisdiction to hear, determine, and render judgment in any such action. Any amounts recovered under this subsection shall be deposited in the Criminal Victim Indemnity Fund established by section 458 of this part.

"(b) The Board shall provide to the Attorney General such information, data, and reports as the Attorney General may require to prosecute actions in accordance with this section.

"INDEMNITY FUND

"SEC. 458. (a) There is hereby created on the books of the Treasury of the United States a fund known as the Criminal Victim Indemnity Fund (hereinafter referred to as the 'Fund'). Except as otherwise specifically provided, the Fund shall be the repository of (1) criminal fines paid in the various courts of the United States, (2) additional amounts that may be appropriated to the Fund as provided by law, and (3) such other sums as may be contributed to the Fund by public or private agencies, organizations, or persons.

"(b) The Fund shall be utilized only for the purposes of this part.

"ADVISORY COUNCIL

"SEC. 459. (a) There is hereby established an Advisory Council on the Victims of Crime (hereinafter referred to as the 'Council') consisting of the members of the Board and one representative from each of the various State crime victims compensation programs referred to in paragraph (10) of subsection (b) of section 301 of this title, each of whom shall serve without additional compensation.

"(b) The Chairman of the Board shall also serve as the Chairman of the Council.

"(c) The Council shall meet not less than once a year, or more frequently at the call of the Chairman, and shall review the administration of this part and programs under paragraph (10) of subsection (b) of section 301 of this title and advise the Administration on matters of policy relating to their activities thereunder.

"(d) The Council is authorized to appoint an advisory committee to carry out the provisions of this section.

"(e) Each member of the advisory committee, other than a member of the Board, appointed pursuant to subsection (d) of this section shall receive $100 a day, including travel time, for each day he is engaged in the actual performance of his duties as a member of the committee. Each member of the Council or advisory committee shall also be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties.

"REPORTS

"SEC. 460. The Board shall transmit to the Congress an annual report of its activities under this part. In its third annual report, the Board upon investigation and study, shall include its findings and recommendations with respect to the operation of the overall limit on compensation under section 454(e) of part F of this title and with respect the adequacy of State programs under section 105."

COMPENSATION OF BOARD MEMBERS

SEC. 103. (a) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(58) Chairman, Violent Crimes Compensation Board."

(b) Section 5315 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(95) Members, Violent Crimes Compensation Board."

CRIMINAL VICTIM INDEMNITY FUND FINES

SEC. 104. (a) Chapter 227 of title 18 of the United States Code is amended by adding at the end thereof the following new section:

"§ 3579. Fine imposed for Criminal Victim Idemnity Fund

"In any court of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, upon conviction of a person of an offense resulting in personal injury, property loss, or death, the court shall take into consideration the financial condition of such person, and may, in addition to any other penalty, order such person to pay a fine in an amount of not more than $10,000 and such fine shall be deposited into the Criminal Victim Indemnity Fund of the United States."

(b) The analysis of chapter 227 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"3579. Fine imposed for Criminal Victim Indemnity fund.".

PART B—FEDERAL GRANT PROGRAM

SEC. 105. Subsection (b) of section 301 of part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968, is amended by adding at the end thereof the following new paragraph:

"(10) The cost of administration and that portion of the costs of State programs, other than in the District of Columbia, to compensate victims of violent crime which are substantially comparable in coverage and limitations to part F of this title."

SEC. 106. Paragraph (a) of section 601 of part G (redesignated part K by this Act) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "and" the second time it appears, striking "or" the sixth time it appears, striking the period, and inserting the following: ", or programs for the compensation of victims of violent crimes."

SEC. 107. Section 501 of part F (redesignated as part I by this Act) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by inserting "(a)" immediately after "501" and adding at the end thereof the following new subsection:

"(b) In addition to the rules, regulations, and procedures under subsection (a) of this section, the Administration shall, after consultation with the Violent Crimes Compensation Board, establish by rule or regulation criteria to be applied under paragraph (10) of subsection (b) of section 301 of this title. In addition to other matters, such criteria shall include standards for—

"(1) the persons who shall be eligible for compensation;

"(2) the categories of crimes for which compensation may be ordered;

"(3) the losses for which compensation may be ordered; and

"(4) such other terms and conditions for the payment of such compensation as the Administration deems necessary and appropriate."

TITLE II—GROUP LIFE INSURANCE FOR PUBLIC SAFETY OFFICERS

DECLARATION OF PURPOSE

SEC. 201. It is the declared purpose of Congress in this title to promote the public welfare by establishing a means of meeting the financial needs of public safety officers or their surviving dependents through group life, accidental death, and dismemberment insurance, and to assist State and local governments to provide such insurance.

INSURANCE PROGRAM AUTHORIZED

SEC. 202. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is further amended by adding after part F the following part:

"PART G—PUBLIC SAFETY OFFICERS' GROUP LIFE INSURANCE

"DEFINITIONS

"SEC. 500. For the purposes of this part—

"(1) 'child' includes a stepchild, an adopted child, an illegitimate child, and a posthumous child;

"(2) 'month' means a month that runs from a given day in one month to a day of the corresponding number in the next or specified succeeding month, except when the last month has not so many days, in which event it expires on the last day of the month; and

"(3) 'public safety officer' means a person who is employed full time by a State or unit of general local government in—

"(A) the enforcement of the criminal laws, including highway patrol,

"(B) a correctional program, facility, or institution where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees.

"(C) a court having criminal or juvenile delinquent jurisdiction where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees, or

"(D) firefighting,

but does not include any person eligible to participate in the insurance program established by chapter 87 of title 5 of the United States Code, or any person participating in the program established by subchapter III of chapter 19 of title 38 of the United States Code.

"Subpart 1—Nationwide Prorgam of Group Life Insurance for Public Safety Officers

"ELIGIBLE INSURANCE COMPANIES

"SEC. 501. (a) The Administration is authorized, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), to purchase from one or more life insurance companies a policy or policies of group life insurance to provide the benefits specified in this subpart. Each such life insurance company must (1) be licensed to issue life, accidental death, and dismemberment insurance in each of the fifty States of the United States and the District of Columbia, and (2) as of the most recent December 31 for which information is available to the Administration, have in effect at least 1 per centum of the total amount of group life insurance which all life insurance companies have in effect in the United States.

"(b) Any life insurance company issuing such a policy shall establish an administrative office at a place and under a name designated by the Administration.

"(c) The Administration may at any time discontinue any policy which it has purchased from any insurance company under this subpart.

"REINSURANCE

"SEC. 502. (a) The Administration shall arrange with each life insurance company issuing a policy under this subpart for the reinsurance, under conditions approved by the Administration, of portions of the total amount of insurance under the policy, determined under this section, with other life insurance companies which elect to participate in the reinsurance.

"(b) The Administration shall determine for and in advance of a policy year which companies are eligible to participate as reinsurers and the amount of insurance under a policy which is to be allocated to the issuing company and to reinsurers. The Administration shall make this determination at least every three years and when a participating company withdraws.

"(c) The Administration shall establish a formula under which the amount of insurance retained by an issuing company after ceding reinsurance, and the amount of reinsurance ceded to each reinsurer, is in proportion to the total amount of each company's group life insurance, excluding insurance purchased under this subpart, in force in the United States on the determination date, which is the most recent December 31 for which information is available to the Administration. In determining the proportions, the portion of a company's group life insurance in force on the determination date in excess of $100,000,000 shall be reduced by—

"(1) 25 per centum of the first $100,000,000 of the excess;

"(2) 50 per centum of the second $100,000,000 of the excess;

"(3) 75 per centum of the third $100,000,000 of the excess; and

"(4) 95 per centum of the remaining excess.

However, the amount retained by or ceded to a company may not exceed 25 per centum of the amount of the company's total life insurance in force in the United States on the determination date.

"(d) The Administration may modify the computations under this section as necessary to carry out the intent of this section.

"PERSONS INSURED; AMOUNT

"SEC. 503. (a) Any policy of insurance purchased by the Administration under this subpart shall automatically insure any public safety officer employed on a full-time basis by a State or unit of general local government which has (1) applied to the Administration for participation in the insurance program under this subpart, and (2) agreed to deduct from such officer's pay the amount of such officer's contribution, if any, and forward such amount to the Administration or such other agency or office as is designated by the Administration as the collection agency or office for such contributions. The insurance provided under this subpart shall take effect from the first day agreed upon by the Administration and the responsible officials of the State or unit of general local government making application for participation in the program as to public safety officers then on the payroll, and as to public safety officers thereafter entering on full-time duty from the first day of such duty. The insurance provided by this subpart shall so insure all such public safety officers unless any such officer elects in writing not to be insured under this subpart. If any such officer elects not to be insured under this subpart he may thereafter, if eligible, be insured under this subpart upon written application, proof of good health, and compliance with such other terms and conditions as may be prescribed by the Administration.

"(b) A public safety officer eligible for insurance under this subpart is entitled to be insured for an amount of group life insurance, plus an equal amount of group accidental death and dismemberment insurance, in accordance with the following schedule:

"If annual pay is—		The amount of group insurance is—	
Greater than—	But not greater than—	Life	Accidental death and dismemberment
0	$8,000	$10,000	$10,000
$8,000	9,000	11,000	11,000
$9,000	10,000	12,000	12,000
$10,000	11,000	13,000	13,000
$11,000	12,000	14,000	14,000
$12,000	13,000	15,000	15,000
$13,000	14,000	16,000	16,000
$14,000	15,000	17,000	17,000
$15,000	16,000	18,000	18,000
$16,000	17,000	19,000	19,000
$17,000	18,000	20,000	20,000
$18,000	19,000	21,090	21,000
$19,000	20,000	22,000	22,000
$20,000	21,000	23,000	23,000
$21,000	22,000	24,000	24,000
$22,000	23,000	25,000	25,000
$23,000	24,000	26,000	26,000
$24,000	25,000	27,000	27,000
$25,000	26,000	28,000	28,000
$26,000	27,000	29,000	29,000
$27,000	28,000	30,000	30,000
$28,000	29,000	31,000	31,000
$29,000		32,000	32,000

The amount of such insurance shall automatically increase at any time the amount of increase in the annual basic rate of pay places any such officer in a new pay bracket of the schedule and any necessary adjustment is made in his contribution to the total premium.

"(c) Subject to conditions and limitations approved by the Administration which shall be included in any policy purchased by it, the group accidental death and dismemberment insurance shall provide for the following payments:

"Loss	Amount payable
For loss of life	Full amount shown in the schedule in subsection (b) of this section.
Loss of one hand or of one foot or loss of sight of one eye.	One-half of the amount shown in the schedule in subsection (b) of this section.
Loss of two or more such members	Full amount shown in the schedule in subsection (b) of this section.

The aggregate amount of group accidental death and dismemberment insurance that may be paid in the case of any insured as the result of any one accident may not exceed the amount shown in the schedule in subsection (b) of this section.

"(d) Any policy purchased under this subpart may provide for adjustments to prevent duplication of payments under any program of Federal gratuities for killed or injured public safety officers.

"(e) Group life insurance shall include provisions approved by the Administration for continuance of such life insurance without requirement of contribution payment during a period of disability of a public safety officer covered for such life insurance.

"(f) The Administration shall prescribe regulations providing for the conversion of other than annual rates of pay to annual rates of pay and shall specify the types of pay included in annual pay.

"TERMINATION OF COVERAGE

"SEC. 504. Each policy purchased under this subpart shall contain a provision, in terms approved by the Administration, to the effect that any insurance thereunder on any public safety officer shall cease two months after (1) his separation or release from full-time duty as such an officer or (2) discontinuance of his pay as such an officer, whichever is earlier: *Provided, however,* That coverage shall be continued during periods of leave or limited disciplinary suspension if such an officer authorizes or otherwise agrees to make or continue to make any required contribution for the insurance provided by this subpart.

"CONVERSION

"SEC. 505. Each policy purchased under this subpart shall contain a provision, in terms approved by the Administration, for the conversion of the group life insurance portion of the policy to an individual policy of life insurance effective the day following the date such insurance would cease as provided in section 504 of this subpart. During the period such insurance is in force, the insured, upon request to the Administration, shall be furnished a list of life insurance companies participating in the program established under this subpart and upon written application (within such period) to the participating company selected by the insured and payment of the required premiums, the insured shall be granted life insurance without a medical examination on a permanent plan then currently written by such company which does not provide for the payment of any sum less than the face value thereof. In addition to the life insurance companies participating in the program established under this subpart, such list shall include additional life insurance companies (not so participating) which meet qualifying criteria, terms, and conditions established by the Administration and agree to sell insurance to any eligible insured in accordance with the provisions of this section.

"WITHHOLDING OF PREMIUMS FROM PAY

"SEC. 506. During any period in which a public safety officer is insured under a policy of insurance purchased by the Administration under this subpart, his employer shall withhold each pay period from his basic or other pay until separation or release from full-time duty as a public safety officer an amount determined by the Administration to be such officer's share of the cost of his group life insurance and accidental death and dismemberment insurance. Any such amount not withheld from the basic or other pay of such officer insured under this subpart while on full-time duty as a public safety officer, if not otherwise paid, shall be deducted from the proceeds of any insurance thereafter payable. The initial amount determined by the Administration to be charged any public safety officer for each unit of insurance under this subpart may be continued from year to year, except that the Administration may redetermine such amount from time to time in accordance with experience.

"SHARING OF COST OF INSURANCE

"SEC. 507. For each month any public safety officer is insured under this subpart, the Administration shall bear not more than one-third of the cost of insurance for such officer, or such lesser amount as may from time to time be determined by the Administration to be a practicable and equitable obligation of the United States in assisting the States and units of general local government in recruiting and retaining their public safety officers.

"INVESTMENTS AND EXPENSES

"SEC. 508. (a) The amounts withheld from the basic or other pay of public safety officers as contributions to premiums for insurance under section 506 of this subpart, any sums contributed by the Administration under section 507 of this subpart, and any sums contributed for insurance under this subpart by States and units of general local government under section 515 of this part, together with the income derived from any dividends or premium rate readjustment from insurers, shall be deposited to the credit of a revolving fund established by section 517 of this part. All premium payments on any insurance policy or policies purchased under this subpart and the administrative costs to the Administration of the insurance program established by this subpart shall be paid from the revolving fund by the Administration.

"(b) The Administration is authorized to set aside out of the revolving fund such amounts as may be required to meet the administrative costs to the Administration of the program and all current premium payments on any policy purchased under this subpart. The Secretary of the Treasury is authorized to invest in and to sell and retire special interest-bearing obligations of the United States for the account of the revolving fund. Such obligations issued for this purpose shall have maturities fixed with due regard for the needs of the fund and shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligation shall be the multiple of one-eighth of 1 per centum nearest market yield. The interest on and the proceeds from the sale of these obligations, and the income derived from dividends or premium rate adjustments from insurers, shall become a part of the revolving fund.

"BENEFICIARIES; PAYMENT OF INSURANCE

"SEC. 509. (a) Any amount of insurance in force under this subpart on any public safety officer or former public safety officer on the date of his death shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date of his death, in the following order of precedence:

"(1) to the beneficiary or beneficiaries as the public safety officer or former public safety officer may have designated by a writing received in his employer's office prior to his death;

"(2) if there is no such beneficiary, to the surviving spouse of such officer or former officer;

"(3) if none of the above, to the child or children of such officer or former officer and to the descendants of deceased children by representation in equal shares;

"(4) if none of the above, to the parent or parents of such officer or former officer, in equal shares; or

"(5) if none of the above, to the duly appointed executor or administrator of the estate of such officer or former officer.

Provided, however, That if a claim has not been made by a person under this section within the period set forth in subsection (b) of this section, the amount payable shall escheat to the credit of the revolving fund established by section 517 of this part.

"(b) A claim for payment shall be made by a person entitled under the order of precedence set forth in subsection (a) of this section within two years from the date of death of a public safety officer or former public safety officer.

"(c) The public safety officer may elect settlement of insurance under this subpart either in a lump sum or in thirty-six equal monthly installments. If no such election is made by such officer, the beneficiary or other person entitled to payment under this section may elect settlement either in a lump sum or in thirty-six equal monthly installments. If any such officer has elected settlement in a lump sum, the beneficiary or other person entitled to payment under this section may elect settlement in thirty-six equal monthly installments.

"BASIC TABLES OF PREMIUMS; READJUSTMENT OF RATES

"SEC. 510. (a) Each policy or policies purchased under this subpart shall include for the first policy year a schedule of basic premium rates by age which the Administration shall have determined on a basis consistent with the lowest schedule of basic premium rates generally charged for new group life insurance policies issued to large employers, taking into account expense and risk charges and other rates based on the special characteristics of the group. This schedule of basic premium rates by age shall be applied, except as otherwise provided in this section, to the distribution by age of the amount of group life insurance and group accidental death and dismemberment insurance under the policy at its date of issue to determine an average basic premium per $1,000 of insurance, taking into account all savings based on the size of the group established by this subpart. Each policy so purchased shall also include provisions whereby the basic rates of premium determined for the first policy year shall be continued for subsequent policy years, except that they may be readjusted for any subsequent year, based on the experience under the policy, such readjustment to be made by the insurance company issuing the policy on a basis determined by the Administration in advance of such year to be consistent with the general practice of life insurance companies under policies of group life insurance and group accidental death and dismemberment insurance issued to large employers.

"(b) Each policy so purchased shall include a provision that, in the event the Administration determines that ascertaining the actual age distribution of the amounts of group life insurance in force at the date of issue of the policy or at the end of the first or any subsequent year of insurance thereunder would not be possible except at a disproportionately high expense, the Administration may approve the determination of a tentative average group life premium, for the first of any subsequent policy year, in lieu of using the actual age distribution. Such tentative average premium rate may be increased by the Administration during any policy year upon a showing by the insurance company issuing the policy that the assumptions made in determining the tentative average premium rate for that policy year were incorrect.

"(c) Each policy so purchased shall contain a provision stipulating the maximum expense and risk charges for the first policy year, which charges shall have been determined by the Administration on a basis consistent with the general level of such charges made by life insurance companies under policies of group life insurance and group accidental death and dismemberment insurance issued to large employers, taking into consideration peculiar characteristics of the group. Such maximum charges shall be continued from year to year, except that the Administration may redetermine such maximum charges for any year either by agreement with the insurance company or companies issuing the policy or upon written notice given by the Administration to such companies at least one year in advance of the beginning of the year for which such redetermined maximum charges will be effective.

"(d) Each such policy shall provide for an accounting to the Administration not later than ninety days after the end of each policy year, which shall set forth, in a form approved by the Administration, (1) the amounts of premiums actually accrued under the policy from its date of issue to the end of such policy year, (2) the total of all mortality, dismemberment, and other claim charges incurred for that period, and (3) the amounts of the insurers' expense and risk charge for that period. Any excess of item (1) over the sum of items (2) and (3) shall be held by the insurance company issuing the policy as a special contingency reserve to be used by such insurance company for charges under such policy only, such reserve to bear interest at a rate to be determined in advance of each policy year by the insurance company issuing the policy, which rate shall be approved by the Administration as being consistent with the rates generally used by such company or companies for similar funds held under other group life insurance policies. If and when the Administration determines that such special contingency reserve has attained an amount estimated by the Administration to make satisfactory provision for adverse fluctuations in future charges under the policy, any further excess shall be deposited to the credit of the revolving fund established under this subpart. If and when such policy is discontinued, and if, after all charges have been made, there is any positive balance remaining in such special contingency reserve, such balance shall be deposited to the credit of the revolving fund, subject to the right of the insurance company issuing the policy to make such deposit in equal monthly installments over a period of not more than two years.

"BENEFIT CERTIFICATES

"SEC. 511. The Administration shall arrange to have each public safety officer insured under a policy purchased under this subpart receive a certificate setting forth the benefits to which such officer is entitled thereunder, to whom such benefit shall be payable, to whom claims should be submitted, and summarizing the provisions of the policy principally affecting the officer. Such certificate shall be in lieu of the certificate which the insurance company would otherwise be required to issue.

"Subpart 2—Assistance to States and Localities for Public Safety Officers' Group Life Insurance Programs

"SEC. 512. (a) Any State or unit of general local government having an existing program of group life insurance for, or including as eligible, public safety officers during the first year after the effective date of this part, which desires to receive assistance under the provisions of this subpart shall—

"(1) inform the public safety officers of the benefits and allocation of premiums costs under both the Federal program established by subpart 1 of this part and the existing State or unit of general local government program;

"(2) hold a referendum of the eligible public safety officers of the State or unit of general local government to determine whether such officers want to continue in the existing group life insurance program or apply for inclusion in the Federal program under the provisions of subpart 1 of this part; and

"(3) recognize the results of the referendum as finally binding on the State or unit of general local government for the purposes of this part.

"(b) Upon an affirmative vote of a majority of such officers to continue in such State or unit of general local government program, a State or unit of general local government may apply for assistance for such program of group life insurance and the Administration shall provide assistance in accordance with this subpart.

"(c) Assistance under this subpart shall not exceed one-third of the premiums attributable to the public safety officers enrolled in such State or unit of general local government program or such assistance as would be available to the public safety officers if they were enrolled under subpart 1 of this part, whichever is less, to the extent the amount of coverage under the State or unit of general local government program is comparable with the amount of coverage available under subpart 1 of this part.

"(d) Assistance under this subpart shall be used to reduce proportionately the contributions paid by the State or unit of general local government and by the appropriate public safety officers to the total premium under such program: *Provided, however,* That the State or unit of general local government and the insured public safety officers may by agreement change the contributions to premium costs paid by each, but not so that such officers must pay a higher fraction of the total premium than before the granting of assistance.

"Subpart 3—General Provisions

"UTILIZATION OF OTHER AGENCIES

"SEC. 513. In administering the provisions of this part, the Administration is authorized to utilize the services and facilities of any agency of the Federal Government or a State or unit of general local government or a company from which insurance is purchased under this part, in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon.

"ADVISORY COUNCIL ON PUBLIC SAFETY OFFICERS' GROUP LIFE INSURANCE

"SEC. 514. There is hereby created an Advisory Council on Public Safety Officers' Group Life Insurance consisting of the Attorney General as Chairman, the Secretary of the Treasury, the Secretary of Health, Education, and Welfare, and the Director of the Office of Management and Budget, each of whom shall serve without additional compensation. The Council shall meet not less than once a year, at the call of the Chairman, and shall review the administration of this part and advise the Administration on matters of policy relating to its activity thereunder. In addition, the Administration may solicit advice and recommendations from any State or unit of general local government participating in a public safety officers' group life insurance program under this part, from any insurance company underwriting programs under this part, and from public safety officers participating in group life insurance programs under this part.

"PREMIUM PAYMENTS ON BEHALF OF PUBLIC SAFETY OFFICERS

"SEC. 515. Nothing in this part shall be construed to preclude any State or unit of general local government from making contributions on behalf of public safety officers to the premiums required to be paid by them for any group life insurance program receiving assistance under this part.

"WAIVER OF SOVEREIGN IMMUNITY

"SEC. 516. The Administration may sue or be sued on any cause of action arising under this part.

"PUBLIC SAFETY OFFICERS' GROUP INSURANCE REVOLVING FUND

"SEC. 517. There is hereby created on the books of the Treasury of the United States a fund known as the Public Safety Officers' Group Insurance Revolving Fund which may be utilized only for the purposes of subpart 1 of this part."

SEC. 203. (a) Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1116. Assaults on State law enforcement officers, firemen or judicial officers because of their official position

"(a) Whoever travels in interstate commerce or uses any instrumentality of, or facility for, interstate commerce, including, but not limited to the mail, telegraph, radio or television, in furtherance of—

"(1) a conspiracy, attempt or solicitation to assault, injure or kill any law enforcement officer, fireman or judicial officer because of his official position; or

"(2) a killing, injuring or assault upon any law enforcement officer, fireman or judicial officer because of his official position;

and who during the course of such travel or use or thereafter performs or attempts to perform any other overt act for any purpose specified in subparagraphs (1) or (2) of this paragraph; or

"Whoever assaults, injures, or kills or attempts to assault, injure or kill by means of any dangerous or deadly weapon which has been transported in interstate commerce, any law enforcement officer, fireman, or judicial officer because of his official position as a law enforcement officer, fireman, or judicial officer; or

"Whoever transports, causes to be transported, or aids or abets another in transporting, or receives, causes to be received, or aids or abets another in receiving, in interstate commerce or through the use of any instrumentality of or facility for interstate commerce any dangerous or deadly weapon with knowledge that it will be used or with intent that it be used to assault, injure, or kill any law enforcement officer, fireman, or judicial officer because of his official position as a law enforcement officer, fireman, or judicial officer—

"Shall be fined not more than $10,000, or imprisoned for not more than ten years, or both; or if death results, shall be punished as provided under sections 1111 and 1112 of this title.

"(b) As used in this section, the term—

"(1) 'dangerous or deadly weapon' includes any object, item or device which, when used as a weapon, is capable of causing physical injury or death;

"(2) 'law enforcement officer' means any officer or employee of any State who is charged with the enforcement of any criminal laws of such State;

"(3) 'fireman' means any person serving as a member of a fire protective service organized and administered by a State or a volunteer fire protective service organized and administered under the laws of a State;

"(4) 'judicial officer' means any judge, officer or other employee of a court of any State;

"(5) 'interstate commerce' means commerce (A) between any State or the District of Columbia and any place outside thereof: (B) between points within any State or the District of Columbia, but through any place outside thereof; or (C) wholly within the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States; and

"(6) 'State means any State of the United States, the Commonwealth of Puerto Rico, any political subdivision of any such State or Commonwealth, the District of Columbia, and any territory or possession of the United States."

"(c) Whenever a law enforcement officer, fireman, or judicial officer is willfully killed, injured or assaulted, while such law enforcement officer, fireman, or judicial officer is engaged in his official duties, and no person alleged to have committed such offense has been apprehended and taken into custody within twenty-four hours after the commission of such offense, it shall be presumed in the absence of proof to the contrary that the person who committed such offense has moved or traveled in interstate or foreign commerce to avoid prosecution or custody under the laws of the place at which the offense was committed.

"(d) This section shall not be construed to evidence an intent on the part of the Congress to prevent the exercise by any State of jurisdiction over any offense with respect to which such State would have had jurisdiction if this section had not been enacted by the Congress."

(b) The section analysis of chapter 51 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"1116. Assaults on State law enforcement officers, firemen, or judicial officers because of their official position."

TITLE III—DEATH AND DISMEMBERMENT BENEFITS FOR PUBLIC SAFETY OFFICERS

DECLARATION OF PURPOSE

SEC. 301. It is the purpose of this title to promote the public welfare by establishing a Federal minimum death and dismemberment benefit to public safety officers or their surviving dependents.

SEC. 302. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is further amended by adding after part G the following new part:

"PART H—DEATH AND DISMEMBERMENT BENEFITS FOR PUBLIC SAFETY OFFICERS

"DEFINITIONS

"SEC. 525. As used in this part—

"(1) 'child' includes a stepchild, an adopted child, an illegitimate child, and a posthumous child;

"(2) 'criminal act' means any crime, including an act, omission, or possession under the laws of the United States or a State or unit of general local government which poses a substantial threat of personal injury, notwithstanding that by reason of age, insanity, intoxication or otherwise the person engaging in the act, omission, or possession was legally incapable of committing a crime;

"(3) 'dependent' means a person who was wholly or substantially reliant for support upon the income of a deceased public safety officer;

"(4) 'dismemberment' means the loss of all or a substantial portion of one foot or one hand or legal blindness in one eye;

"(5) 'intoxication' means a disturbance of mental or physical faculties resulting from the introduction of alcohol, drugs or other substances into the body;

"(6) 'line of duty' means within the scope of employment or service; and

"(7) 'public safety officer' means a person serving the United States or a State or unit of general local government, with or without compensation, in any activitiy pertaining to—

"(A) the enforcement of the criminal laws, including highway patrol, or the maintenance of civil peace by the national guard or the Armed Forces,

"(B) a correctional program, facility, or institution where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, parolees,

"(C) a court having criminal or juvenile delinquent jurisdiction where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees, or

"(D) firefighting.

"AWARDS

"SEC. 526. (a) Upon a finding made in accordance with section 529, the Administration shall provide the following benefits:

"Loss	Benefit payable
Death or multiple dismemberment	$50,000
Single dismemberment	25,000

"(b)(1) Whenever the Administration determines, prior to taking final action, that a death or dismemberment of a public safety officer is one with respect to which a benefit will probably be paid, the Administration may make an interim benefit payment not exceeding $5,000 to the public safety officer, dependent, or dependents entitled to receive a benefit under section 527 of this part.

"(2) The amount of any interim benefit paid under paragraph (1) of this subsection shall be deducted from the amount of any final benefit paid to such public safety officer, dependent, or dependents.

"(3) Where there is no final benefit paid, the recipient of any interim benefit paid under paragraph (1) of this subsection shall be liable for repayment of such amount. The Administration may waive all or part of such repayment.

"(c) The benefit payable under this part shall be in addition to any other benefits that may be due from any other source, but shall be reduced by—

"(1) payments authorized by section 12(k) of the Act of September 1, 1916, as amended (4–531(1) of the District of Columbia Code);

"(2) gratuitous lump-sum death or dismemberment benefits authorized by the United States, a State, or unit of general local government without contribution by the public safety officer, but not including insurance or workmens compensation benefits;

"(3) compensation made pursuant to part F of this title; and

"(4) compensation under a State program funded in whole or in part under paragraph (10) of section 301 of part C of this title.

"(d) No benefit paid under this part shall be subject to execution or attachment.

"RECIPIENTS

"SEC. 527. Upon receipt of a certification under the Attorney General, the Governor or the highest executive officer of a State that a public safety officer has been killed or has suffered dismemberment in the line of duty and the proximate cause of such death or dismemberment was a criminal act or an apparent criminal act, the Administration shall pay a benefit as provided in section 526 of this part as follows:

"(1) If the public safety officer suffered dismemberment, to the public safety officer.

"(2) If the public safety officer was killed—

"(A) to the dependent person or persons specifically designated in the public safety officer's duly executed authorization to receive the benefit provided for in this part;

"(B) if there is no such surviving designated person or persons and no surviving dependent child of such officer, to the surviving dependent spouse of such officer;

"(C) if there is a surviving dependent child or children and a surviving dependent spouse of such officer, one-half to the surviving dependent child or two-thirds to the surviving dependent children of such officer in equal shares, with the remainder to the surviving dependent spouse of such officer;

"(D) if there is no such surviving dependent spouse, to the dependent child or children of such officer, in equal shares;

"(E) if none of the above, to the dependent parent or parents of such officer, in equal shares; or

"(F) if none of the above, to the other dependent next of kin of such officer under the laws of domicile of such State of such officer at the time of his death, in equal shares.

"LIMITATIONS

"SEC. 528. No benefit shall be paid under this part—

"(1) if the death or dismemberment was caused by the intentional misconduct of the public safety officer or by such officer's intention to bring about his death or dismemberment;

"(2) if voluntary intoxication of the public safety officer was the proximate cause of such officer's death or dismemberment;

"(3) in the event the public safety officer was killed, to any person who would otherwise be entitled to a benefit under this part, if such person's actions were a substantial contributing factor to the death of the public safety officer; or

"(4) if a notification of death or dismemberment has not been filed by or on behalf of a public safety officer under this part with the Attorney General or the Governor or highest executive officer of a State within one year after the date of death or dismemberment, unless the Administration finds that the failure to file was justified by good cause.

"PROCEDURE

"SEC. 529. (a) Awards under this part shall be made as follows—

"(1) in the event the death or dismemberment of a public safety officer serving a State or unit of general local government, the notification of such death or dismemberment shall be filed with the Governor or the highest executive officer of the State of service; or

"(2) in the event the death or dismemberment of a public safety officer serving the United States, the notification of such death or dismemberment shall be filed with the Attorney General or his designate.

"(b) The Governor, the highest executive officer of a State, or the Attorney General upon receipt of notification of the death or dismemberment of a public safety officer shall promptly notify the Administration of the pendency of a certification, and, after due investigation, shall certify to the Administration all facts relevant to the death or dismemberment upon which the benefit will be paid.

"(c) The Administration, upon receipt of certification by a Governor or the highest executive officer of a State, or the Attorney General, indicating that a benefit is due under this part, shall pay such benefit.

"(d) The adjudicatory provisions of chapter 5 of title 5 of the United States Code are not applicable to the procedures authorized under this part."

TITLE IV—CIVIL REMEDIES FOR VICTIMS OF RACKETEERING ACTIVITY AND THEFT

PURPOSE

SEC. 401. It is the purpose of this title to promote the general welfare by strengthening the civil remedies available to the victim of racketeering activity and theft.

RACKETEER CIVIL REMEDIES

SEC. 402. (a) Section 1964 of title 18 of the United States Code is amended by—

(1) inserting in subsection (a) ", without regard to the amount in controversy," immediately after "jurisdiction".

(2) inserting in subsection (b) "subsection (a) of" after "under" each time it appears;

(3) striking the word "action" in subsection (b) and inserting in lieu thereof "proceedings"; and

(4) striking subsections (c) and (d) of such section and inserting in lieu thereof the following:

"(c) Any person may institute proceedings under subsection (a) of this section. In any proceeding brought by any person under subsection (a) of this section, relief shall be granted in conformity with the principles which govern the granting of injunctive relief from threatened loss or damage in other cases. Upon the execution of proper bond against damages for an injunction improvidently granted and showing of immediate danger of irreparable loss or damage, a temporary restraining order and a preliminary injunction may be issued in any action before a final determination thereof upon its merits.

"(d) Whenever the United States is injured in its business or property by reason of any violation of section 1962 of this chapter, the Attorney General may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover the actual damages sustained by it, and the cost of the action.

"(e) Any person who is injured in his business or property by reason of any violation of section 1962 of this chapter may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover threefold the actual damages sustained by him, and the cost of the action, including a reasonable attorney's fee.

"(f) The United States may upon timely application intervene in any civil action or proceeding brought under this chapter, if the Attorney General certifies that in his opinion the case is of general public importance. In such action or proceeding, the United States shall be entitled to the same relief as if it had instituted the action or proceeding.

"(g) A final judgment or decree rendered in favor of the United States in any criminal or civil action or proceeding under this chapter shall estop the defendant in any subsequent civil proceeding as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto.

"(h) Except as hereinafter provided, any civil action under this section shall be barred unless it is commenced within five years after the cause of action accrued. Whenever any civil or criminal action or proceeding, other than an action under subsection (d) of this section, is brought or intervened in by the United States to prevent, restrain, or punish any violation of section 1962 of this chapter the running of the period of limitations prescribed by this subsection with respect to any cause of action arising under subsections (c) and (e) of this section, which is based in whole or in part on any matter complained of in such action or proceeding by the United States, shall be suspended during the pendency of such action or proceeding by the United States and for two years thereafter.".

(b) Section 1965 of title 18 of the United States Code is amended by—

(1) striking out in subsection (b) "action under section 1964 of" and inserting in lieu thereof "civil action or proceeding under";

(2) striking out in subsection (c) "instituted by the United States"; and

(3) inserting in subsection (d) "civil or criminal" immediately before "action".

(c) Section 1966 of title 18 of the United States Code is amended by striking "any civil action instituted under this chapter by the United States" in the first sentence and inserting in lieu thereof "any civil action or proceeding under this chapter in which the United States is a party".

(d) Section 1967 of title 18 of the United States Code is amended by striking "instituted by the United States", and inserting in lieu thereof "or proceeding".

(e) Section 1968 of title 18 of the United States Code is amended by—

(1) striking out "prior to the institution of a civil or criminal proceeding" in the first sentence of subsection (a) and inserting in lieu thereof "before he institutes or intervenes in a civil or criminal action or proceeding";

(2) striking out "case" the first time it appears and inserting in lieu thereof "civil or criminal action" in paragraph (4) of subsection (f) and striking out "case" each time it appears thereafter and inserting in lieu thereof "action";

(3) striking out "case" each time it appears in paragraph (5) of subsection (f) and inserting in lieu thereof "action"; and

(4) striking out "case" and inserting in lieu thereof "action" in paragraph (6) of subsection (f).

THEFT CIVIL REMEDIES

SEC. 403. (a) Section 659 of title 18 of the United States is amended to read as follows:

"§ 659. Interstate or foreign shipments by carrier; State prosecutions; civil remedies for victims of theft

"(a) It shall be unlawful for any person to embezzle, steal, or unlawfully take, carry away, or conceal, or by fraud or deception obtain, with intent to convert to his own use, any money, baggage, goods, chattels, or other property which is moving as, or which is a part of, or which constitute an interstate or foreign shipment from any pipeline system, railroad car, wagon, motortruck, or other vehicle, or from any tank or storage facility, station, station house, platform, or depot, or from any steamboat, vessel, or wharf, or from any aircraft, air terminal, airport, aircraft terminal, or air navigation facility, or to buy, receive, or have in his possession any such money, baggage, goods, chattels, or other property, knowing, or having reason to know, that it has been embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained.

"(b) It shall be unlawful for any person to embezzle, steal, or unlawfully take, carry away, or conceal, or by fraud or deception obtain, with intent to convert to his own use, any money, baggage, goods, chattels, or other property, which shall have come into the possession of any common carrier for transportation in interstate or foreign commerce, or to break into, embezzle, steal, unlawfully take, carry away, or conceal, or by fraud or deception obtain, with intent to convert to his own use, any of the contents of such baggage, goods, chattels, or other property, or to buy, receive, or have in his possession any such money, baggage, goods, chattels, or other property, knowing or having reason to know that it has been embezzled or stolen or otherwise unlawfully taken, carried away, concealed, or obtained.

"(c) It shall be unlawful for any person to embezzle, steal, or unlawfully take, carry away, conceal, or by fraud or deception obtain, with intent to convert to his own use, any money, baggage, goods, chattels, or other property from any railroad car, bus, vehicle, steamboat, vessel, or aircraft operated by any common carrier moving in interstate or foreign commerce, or from any passenger thereon, or to buy, receive, or have in his possession any such money, baggage, goods, chattels, or other property, knowing or having reason to know that it has been embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained.

"(d) Whoever violates any provision of subsection (a), (b), or (c) of this section shall in each case be fined not more than $5,000 or imprisoned not more than ten years, or both; but if the amount or value of such money, baggage, goods, chattels, or other property does not exceed $100, he shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(e) The district courts of the United States shall have jurisdiction, without regard to the amount in controversy, to prevent and restrain violations of this section by issuing appropriate orders, including, but not limited to: ordering any person to divest himself of any interest, direct or indirect, in any enterprise; imposing reasonable restrictions on the future activities or investments of any person, including, but not limited to, prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in, the activities of which affect interstate or foreign commerce; or ordering dissolution or reorganization of any enterprise, making due provision for the rights of innocent persons.

"(f) The Attorney General may institute proceedings under subsection (e) of this section. In any proceedings brought by the United States under subsection (e) of this section, the court shall proceed as soon as practicable to the hearing and determination thereof. Pending final determination thereof, the court may at any time enter such restraining orders or prohibitions, or take such other actions as it shall deem proper.

"(g) Any person may institute proceedings under subsection (e) of this section. In any proceeding brought by any person under subsection (e) of this section, relief shall be granted in conformity with the principles which govern the granting of injunctive relief from threatened loss or damage in other cases. Upon the execution of proper bond against damages for an injunction improvidently granted and a showing of immediate danger of irreparable loss or damage, a temporary restraining order and preliminary injunction may be issued in any action before a final determination thereof upon its merits.

"(h) Whenever the United States is injured in its business or property by reason of any violation of this section, the Attorney General may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover the actual damages sustained by the United States, and the cost of the action.

"(i) Any person who is injured in his business or property by reason of any violation of this section may bring a civil action in a district court of the United States, without regard to the amount in controversy, and shall recover three-fold the actual damages sustained by him, and the cost of the action, including a reasonable attorney's fee.

"(j) Any civil action or proceeding under this section against any person may be instituted in the district court of the United States for any district in which such person resides, is found, has an agent, or transacts his affairs.

"(k) In any civil action or proceeding under this section in any district court of the United States in which it is shown that the ends of justice require that any other party residing in any other district be brought before the court, the court may cause such party to be summoned, and process for that purpose may be served in any judicial district of the United States by the marshal thereof.

"(l) In any civil or criminal action or proceeding under this section in the district court of the United States for any judicial district, subpenas issued by such court to compel the attendance of witnesses may be served in any other judicial district, except that in any civil action or proceeding no such subpena shall be issued for service upon any individual who resides in another district at a place more than one hundred miles from the place at which such court is held without approval given by a judge of such court upon a showing of good cause.

"(m) All other process in any civil or criminal action or proceeding under this section may be served on any person in any judicial district in which such person resides, is found, has an agent, or transacts his affairs.

"(n) The United States may, upon timely application, intervene in any civil action or proceeding brought under this section if the Attorney General certifies that in his opinion the case is of general public importance. In such action or proceeding, the United States shall be entitled to the same relief as if he had instituted the action or proceeding.

"(o) A final judgment or decree rendered in favor of the United States in any criminal action or proceeding under this section shall estop the defendant in any subsequent civil proceeding as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto.

"(p) Except as hereinafter provided, any civil action or proceeding under this section shall be barred unless it is commenced within five years after the cause of action accrued. Whenever any civil or criminal action or proceeding, other than an action under subsection (h) of this section, is brought or intervened in by the United States to prevent, restrain, or punish any violation of this section, the running of the period of limitations prescribed by this subsection with respect to any cause of action arising under subsection (g) or (i) of this section, which is based in whole or in part on any matter complained of in such action or proceeding by the United States, shall be suspended during the pendency of such action or proceeding by the United States and for two years thereafter.

"(q) A violation of this section shall be deemed to have been committed not only in the district where the violation first occurred, but also in any district in which the defendant may have taken or been in possession of the said money, baggage, goods, chattels, or other property.

"(r) The carrying or transporting of any such money, baggage, goods, chattels, or other property in interstate or foreign commerce, knowing, or having reason to know, it had been embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained, shall constitute a separate violation and subject the violator to criminal penalties and a civil cause of action under this section and the violation shall be deemed to have been committed in any district into which such money, baggage, goods, chattels, or other property, shall have been removed or into which it shall have been brought by such violator.

"(s) To establish the interstate or foreign commerce character of any shipment in any criminal or civil action or proceeding under this section the waybill or other shipping document of such shipment shall be prima facie evidence of the place from which and to which such shipment was made. The removal of property from a pipeline system which extends interstate shall be prima facie evidence of the interstate character of the shipment of the property. Proof that a person was found in unexplained possession of any money, baggage, goods, chattels, or other property, recently embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained by fraud or deception in violation of this section, shall be prima facie evidence that such person knew that such property was, or that such person had, embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained by fraud or deception such money, baggage, goods, chattels, or other property in violation of this section. Proof that a person bought or received for a consideration substantially below its fair market value money, baggage, goods, chattels, or other property embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained by fraud or deception in violation of this section shall be prima facie evidence that such person knew that such property was embezzled, stolen, or otherwise unlawfully taken, carried away, concealed, or obtained by fraud or deception in violation of this section.

"(t) A judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any criminal prosecution under this section for the same act or acts. Nothing contained in this section shall be construed as indicating an intent on the part of Congress to occupy the field in which provisions of this section operate to the exclusion of State laws on the same subject matter, nor shall any provision of this section be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this section or any provision thereof."

(b) The analysis at the beginning of chapter 31 of title 18 of the United States Code, for section 659, is amended to read:

"659. Interstate or foreign shipment by carrier; State prosecutions; civil remedies for victims of theft.".

TITLE V—NARCOTIC TREATMENT PROGRAMS IN CORRECTIONAL INSTITUTIONS

SEC. 501. (a) Section 453 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by redesignating paragraph (9) as paragraph (10), by striking out "and" at the end of paragraph (8), and by inserting immediately after paragraph (8) the following new paragraph:

"(9) provides necessary arrangements for the development and operation of narcotic treatment programs, including community-based programs, in correctional institutions and facilities and in connection with probation or other supervisory release programs for all persons, incarcerated or on parole, who are drug addicts and alcoholics or drug abusers and alcohol abusers; and".

(b) Section 454 of title I of such Act is amended by adding at the end thereof the following new paragraph:

"In addition, the Administration shall issue such regulations as may be necessary concerning the standards that shall be met by drug treatment programs in State and local prisons and those to which persons on parole are assigned."

TITLE VI—LAW ENFORCEMENT ASSISTANCE ADMINISTRATION AUTHORIZATION AND MATCHING REQUIREMENTS

SEC. 601. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended as follows:

(a) Section 512 is amended by striking the word "five" and inserting in lieu thereof the word "six".

(b) Section 520 is amended by striking the word "and" in the first sentence thereof, substituting a comma for the period at the end of the sentence and adding the following thereafter: "and $1,750,000,000 for the fiscal year ending June 30, 1974."

SEC. 602. The last sentence of section 301 (c) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking out "July 1, 1972" and inserting in lieu thereof "June 30, 1974".

TITLE VII—MISCELLANEOUS PROVISIONS

AUTHORIZATIONS

SEC. 701. Section 569 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended and as redesignated by this Act, is amended by inserting "(a)" immediately after "569" and by adding at the end thereof the following new subsections:

"(b) There is authorized to be appropriated for the fiscal year ending June 30, 1973—

"(1) $5,000,000 for the purposes of part F; and

"(2) $10,000,000 for the purposes of paragraph (10) of subsection (b) of section 301 of part C.

"(c) There is authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1973, for the purposes of part G.

"(d) There is authorized to be appropriated $40,000,000 for the fiscal year ending June 30, 1973, for the purposes of part H."

USE OF APPROPRIATIONS

SEC. 702. Until specific appropriations are made for carrying out the purposes of this Act, any appropriation made to the Department of Justice or the Law Enforcement Assistance Administration for grants, activities, or contracts shall, in the discretion of the Attorney General, be available for payments of obligations arising under this Act.

SEVERABILITY

SEC. 703. If the provisions of any part of this Act are found invalid or any amendments made thereby or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATES

SEC. 704. (a) Titles I, II, IV, and VI of this Act shall become effective on the date of enactment of this Act.

(b) Title III of this Act shall become effective on the date of enactment of this Act and the benefits thereunder shall be retroactive with respect to any dismemberment or death of a public safety officer as defined in part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by this Act, which occurred on or after January 1, 1967.

(c) *Title V shall take effect with respect to the comprehensive State plans filed with the Administration on and after January 1, 1973.*

Amend the title so as to read: "An act to provide for the compensation of innocent victims of violent crime in need; to make grants to the States for the payment of such compensation; to authorize an insurance program and death and dismemberment benefits for public safety officers; to provide civil remedies for victims of racketeering activity and theft; to provide for treatment programs for certain drug abusers; and for other purposes."

Mr. MANSFIELD. Mr. President, this amendment would include the Victims of Crime Act of 1972 in the pending measure. Its major thrust is to provide an omnibus program in behalf of victims of crime. This is a single amendment, a complete substitute and in no way represents a Christmas tree. Its provisions encompass four measures already approved by the Senate: The compensation program for the criminal victim; the group insurance program for public safety officers—a proposal sponsored chiefly by Senator KENNEDY; the death and disability benefit program for public safety officers, a proposal of Senator McCLELLAN's passed earlier this month; and the victims of racketeering program, also authored by Senator McCLELLAN and passed by the Senate earlier this month.

Let me read from the statement of findings and purposes of the act:

The Congress finds that (1) there is an increase of crimes of violence not only in urban, but also in suburban and rural areas; (2) the increase in crimes of violence is disproportionate to the increase in population; (3) the increase in crimes of violence increases the chances of a person becoming a victim of crime; (4) on an increasing basis crimes of violence are being directed at public safety officers, including policemen, firemen, and correctional guards; (5) law enforcement identification, apprehension, and conviction of perpetrators of crimes of violence is decreasing; (6) the perpetrators of crimes of violence, when identified, apprehended, and convicted are often not financially responsible; and (7) the victims of crimes of violence, their families and dependents, are often themselves unable to bear the consequent pecuniary losses without undue hardship.

It is, therefore, the purpose of this Act to commit the United States to meet its moral obligation to assist the innocent victims of violent crime, their families and dependents in financial need, by direct aid to those within the area primarily of Federal responsibility, by assistance to the States to aid those within the area primarily of State responsibility, by the establishment of insurance and benefit programs for public safety officers and their families and dependents, and by the strengthening of the civil remedies available to victims of racketeering activity.

This Victims of Crime Act substitute would modify the Law Enforcement Assistance Act as would the pending measure. The Victims of Crime Act substitute is designed to improve the quality of criminal justice as is the pending measure. In short, the pending proposal, designed to provide needed impetus in the rehabilitation of the criminal drug user serves as a most appropriate vehicle for the establishment of a program that provides for the innocent victim of the drug user's crime.

Mr. President, the Senate has acted affirmatively with respect to each feature of this proposal.

Its passage in this fashion provides the only prospect for the enactment of an overall program in behalf of the criminal victim during this Congress.

I hope the Senate will not now turn its back on the criminal victim, the policeman, killed or wounded in the line of duty, or the innocent citizen bilked at the hands of the criminal racketeer.

To repeat: The amendment under consideration would combine four separate bills which have already received Senate approval. It would put back together S. 2994, the Victims of Crime Act of 1972.

S. 2994 has as cosponsors 44 Senators: McCLELLAN, BAKER, BAYH, BEALL, BENNETT, BIBLE, BOGGS, BURDICK, CANNON, CASE, COOK, CRANSTON, EASTLAND, FANNIN, GRAVEL, GRIFFIN, GURNEY, HANSEN, HARRIS, HOLLINGS, HRUSKA, HUGHES, HUMPHREY, MANSFIELD, MATHIAS, METCALF, MILLER, MONDALE, MOSS, MUSKIE, NELson, Pell, Percy, Randolph, Ribicoff, Roth, Schweiker, Scott, Stafford, Stevens, Stevenson, Thurmond, Williams, and Young.

This represents a true cross section of the Senate.

As S. 2994 was considered by the committee on the Judiciary, the decision was made to separate its four titles into four separate bills. Since then, the Senate has given its approval to S. 750, providing for the compensation of the financial losses suffered by the innocent victims of violent crime; S. 33, establishing a contributing group life, accidental death and dismemberment program for public safety officers; S. 2087, authorizing a noncontributing death and dismemberment benefit for public safety officers in those situations where the death or dismemberment occurs in the line of duty as the result of a crime; and S. 16, providing expanded civil remedies for the victims of certain types of organized crime, or theft activity.

The 92d Congress will soon become a matter of history. If we are to hold any reasonable expectation of final congressional action responding to the various needs of criminal victimization, this step is essential.

Adoption of the amendment under consideration followed by passage of H.R. 8389 will allow this program of legislation to be considered in conference. I understand the House Judiciary Committee would be willing to consider this program as a whole. I do believe that it would be a positive step to take in the interest of all who fall prey to criminal behavior.

I urge its adoption on behalf of all who suffer the ravages of crime and violence.

Mr. McCLELLAN. Mr. President, will the Senator yield for purposes of clarification?

Mr. MANSFIELD. Yes, indeed.

Mr. McCLELLAN. I understand the amendment of the distinguished Senator would add to this bill the provisions of S. 750, Victims of Crime Act of 1972 that we passed earlier today.

Mr. MANSFIELD. Our substitute would do that. I say "our substitute" because we are cosponsors of the substitute.

Mr. McCLELLAN. It would also include the gratuity program for public safety officer—S. 2087.

Mr. MANSFIELD. The Senator is correct.

Mr. McCLELLAN. Would it also include the group life insurance program for public safety officer—S. 33?

Mr. MANSFIELD. The Senator is correct.

Mr. McCLELLAN. Might I ask if it would also incorporate the civil remedies provision of S. 16?

Mr. MANSFIELD. The Senator is correct.

Mr. McCLELLAN. Those bills would be added here as part of this bill, and they would go to the House.

Mr. MANSFIELD. The Senator is correct.

Mr. McCLELLAN. The House would have the opportunity of either taking all of them in this bill or acting on them independently.

Mr. MANSFIELD. The Senator is correct.

Mr. McCLELLAN. But they will all go to conference on this bill.

Mr. MANSFIELD. Absolutely.

Mr. McCLELLAN. So we will have an opportunity to get them enacted into law in this session.

Mr. MANSFIELD. This is the only chance to have that done in this fashion.

Mr. McCLELLAN. I wanted everyone to realize that that was the purpose—to try to get the will of the Senate and the Congress enacted into law in this session.

Mr. MANSFIELD. The Senator is correct.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. KENNEDY. Mr. President, I join in commending the recommendation of the distinguished majority leader.

I feel all the programs we are considering today, the ones we passed earlier, on policemen and firefighters, all refer to the very central concern about victims of crime. This approach is consistent with the central theme of the bills that have been passed and they offer us the best opportunity to meet our responsibility to those needs. I commend the distinguished majority leader for the initiative he has provided in this area. As one extremely interested in two particular parts of this package and in general support of the others, I think this is a commendable step and I hope the Senate will support the majority leader in this approach. I think it is the best way to provide relief for those who are the victims of crime.

Mr. MANSFIELD. I thank the distinguished Senator and I call to his attention that he, too, is a cosponsor of the substitute.

Mr. President, I yield back the remainder of my time.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, I rise in opposition to the substitute bill and I do so very reluctantly.

There is a mix here of a number of aspects of legislation that Congress is considering in the field of law enforcement and criminal statutes. There is a wide mix with some new innovative ideas, while some are extension of things we now have. It has been suggested it was not a Christmas tree; it is not a Christmas tree but it is a Christmas tree. The substitute includes several bills that have been considered in this body and that have been debated and on which there have been hearings. That is not true as to the other body. In all fairness to the other body there should be opportunity for it to consider the several bills severally and not jointly. This is true not only in fairness to the House but also in fairness to the President because there is considerable impairment and there is dilution of his veto power when we get an omnibus Christmas tree bill of this kind. It would certainly be a miscarriage of legislative purposes here if it were found on balance that it was not possible for the Chief Executive to go with the entire bill, and that he would be compelled, if that were his final decision, to turn down the whole package because one portion was unacceptable. What we are doing may be perfectly legal, but it is not wise.

We witnessed an example of that technique on the extension of the debt ceiling, when there was adopted a measure for a 20-percent increase in social security benefits. It deprives those who wanted to vote one way or another of their right to choose, and the President was not able to exercise his veto power if he chose to do so. I do not know that he would have, but it impaired his veto power.

There is sufficient difference on each of these separate titles to the bill for a consideration of each one of them on its own merits by the other body, and not on the basis of a power play, and I say that in a kindly way, not in a way that would indicate that there is anything improper about it parliamentarily. There is not, but the impact of it is bad, Mr. President, and it seems to me that in all fairness to the other body we should go to them with these bills on a several basis, a several and separate basis, and give them a chance to take part in this process of selection.

It is for that reason, and not because of the merits or the demerits of the individual basic bills, that I do suggest that the substitute bill not be accepted, but that H.R. 8389, as amended up to this time, be accepted and enacted and approved by this body.

The PRESIDING OFFICER. Does the Senator from Arkansas desire further time or does he yield back the time?

Mr. McCLELLAN. I yield back the time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment in the nature of a substitute by the Senator from Montana.

Mr. HRUSKA. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Missouri, Mr. Eagleton), the Senator from Alaska (Mr. Gravel), the Senator from Oklahoma (Mr. Harris), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), the Senator from Louisiana (Mr. Long), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Utah (Mr. Moss), the Senator from Rhode Island (Mr. Pell), the Senator from Connecticut (Mr. Ribicoff), and the Senator from Alabama (Mr. Sparkman) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. McGee), is absent on official business.

I further announce that, if present and voting, the Senator from Nevada. (Mr. Cannon), the Senator from Alaska (Mr. Gravel), the Senator from Minnesota (Mr. Humphrey), the Senator from New Hampshire (Mr. McIntyre), the Senator from Connecticut (Mr. Ribicoff), the Senator from Oklahoma (Mr. Harris), the Senator from South Dakota (Mr. McGovern), the Senator from Montana (Mr. Metcalf), the Senator from Utah (Mr. Moss), and the Senator from Indiana (Mr. Hartke) would each vote "yea."

MANSFIELD SUBSTITUTE NO. 446

Mr. SCOTT. I announce that the Senator from Colorado (Mr. Allott), the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bellmon), the Senator from Nebraska (Mr. Curtis), the Senator from Michigan (Mr. Griffin), the Senator from Alaska (Mr. Stevens), the Senator from Ohio (Mr. Taft), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from New York (Mr. Javits) is absent because of religious observance.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Arizona (Mr. Goldwater) is detained on official business.

If present and voting, the Senator from New York (Mr. Javits) would vote "yea."

On this vote, the Senator from Texas (Mr. Tower) is paired with the Senator from Nebraska (Mr. Curtis). If present and voting, the Senator from Texas would vote "yea" and the Senator from Nebraska would vote "nay."

The result was announced—yeas 70, nays 4, as follows:

[No. 446 Leg.]

YEAS—70

Aiken
Allen
Anderson
Bayh
Beall
Bennett
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Church
Cook
Cooper
Cotton
Cranston
Dole
Dominick
Eastland
Edwards
Fannin
Fulbright
Gambrell
Gurney
Hansen
Hart
Hatfield
Hollings
Hughes
Inouye
Jackson
Jordan, N.C.
Jordan, Idaho
Kennedy
Magnuson
Mansfield
Mathias
McClellan
Miller
Mondale
Montoya
Muskie
Nelson
Packwood
Pastore
Pearson
Percy
Proxmire
Randolph
Roth
Schweiker
Scott
Smith
Spong
Stafford
Stennis
Stevenson
Symington
Talmadge
Thurmond
Tunney
Weicker
Williams
Young

NAYS—4

Ervin
Fong
Hruska
Saxbe

NOT VOTING—26

Allott
Baker
Bellmon
Cannon
Curtis
Eagleton
Goldwater
Gravel
Griffin
Harris
Hartke
Humphrey
Javits
Long
McGee
McGovern
McIntyre
Metcalf
Moss
Mundt
Pell
Ribicoff
Sparkman
Stevens
Taft
Tower

So Mr. Mansfield's amendment, in the nature of a substitute, was agreed to.

Mr. HOLLINGS. Mr. President, due to eye surgery which I underwent in Charleston this morning, I was unable to have my votes recorded on final passage of S. 750, the victims of crime compensation bill, and S. 33, a bill to authorize the Attorney General to provide a group life insurance program for State and local government law enforcement officers. I ask unanimous consent that I be announced as favoring enactment of these bills at the appropriate place in the Record, and I wish to note that I have in fact voted for these by voting for the Mansfield amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill (H.R. 8389) was read the third time.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. McCLELLAN. I yield back the remainder of my time.

Mr. HRUSKA. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. Brock). All remaining time having been yielded back, the question is, Shall the bill pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Missouri (Mr. Eagleton), the Senator from Alaska (Mr. Gravel), the Senator from Oklahoma (Mr. Harris), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), the Senator from Louisiana (Mr. Long), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Rhode Island (Mr. Pell), the Senator from Connecticut (Mr. Ribicoff), the Senator from Alabama (Mr. Sparkman), and the Senator from Utah (Mr. Moss) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. McGee), is absent on official business.

I further announce that, if present and voting, the Senator from Nevada (Mr. Cannon), the Senator from Alaska (Mr. Gravel), the Senator from Oklahoma (Mr. Harris), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Utah (Mr. Moss), and the Senator from Connecticut (Mr. Ribicoff), would each vote "yea."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. Allott), the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bellmon), the Senator from Nebraska (Mr. Curtis), the Senator from Michigan (Mr. Griffin), the Senator from Alaska (Mr. Stevens), the Senator from Ohio (Mr. Taft), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from New York (Mr. Javits) is absent because of religious observance.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Arizona (Mr. Goldwater) is detained on official business.

If present and voting, the Senator from Nebraska (Mr. Curtis), the Senator from Michigan (Mr. Griffin), the Senator from New York (Mr. Javits), the Senator from Ohio (Mr. Taft), and the Senator from Texas (Mr. Tower) would each vote "yea."

The result was announced—yeas 74, nays 0, as follows:

[No. 447 Leg.]

YEAS—74

Aiken
Allen
Anderson
Bayh
Beall
Bennett
Bentsen
Bible
Boggs
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Church
Cook
Cooper
Cotton
Cranston
Dole
Dominick
Eastland
Edwards
Ervin
Fannin
Fong
Fulbright
Gambrell
Gurney
Hansen
Hart
Hatfield
Hollings
Hruska
Hughes
Inouye
Jackson
Jordan, N.C.
Jordan, Idaho
Kennedy
Magnuson
Mansfield
Mathias
McClellan
Miller
Mondale
Montoya
Muskie
Nelson
Packwood
Pastore
Pearson
Percy
Proxmire
Randolph
Roth
Saxbe
Schweiker
Scott
Smith
Spong
Stafford
Stennis
Stevenson
Symington
Talmadge
Thurmond
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—26

Allott
Baker
Bellmon
Cannon
Curtis
Eagleton
Goldwater
Gravel
Griffin
Harris
Hartke
Humphrey
Javits
Long
McGee
McGovern
McIntyre
Metcalf
Moss
Mundt
Pell
Ribicoff
Sparkman
Stevens
Taft
Tower

So the bill (H.R. 8389) was passed.

Mr. McCLELLAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the Secretary of the Senate be permitted to make such technical and conforming changes as may be necessary in the engrossment of the substitute as passed by the Senate for the original bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO SENATOR McCLELLAN AND OTHER SENATORS ON PASSAGE OF CRIME RELATED MEASURES

Mr. MANSFIELD. Mr. President, it is with the greatest respect and admiration that I commend at this time the distinguished Senator from Arkansas (Mr. McClellan). His magnificent record against crime and violence, as proven today beyond question, can be equaled only by his efforts in behalf of those charged with the responsibility for apprehending criminals—the public safety officer—and those who suffer at the hands of the criminal—the innocent victim.

It was Senator McClellan's outstanding advocacy that made possible today's successful action on the victim aspect of crime. It was Senator McCLELLAN's leadership that has provided the impetus for legislative remedies across the entire front of the crime issue. In short, JOHN McCLELLAN deserves the deepest thanks of a grateful Senate. For his achievements in this field he has not been surpassed. For his steadfast devotion, he is unexcelled. His already abundant record has once again been enhanced and the American people are once more in his debt.

I wish to thank also Senator HRUSKA. As the ranking minority member of the committee he and many others joined to assure the swift and efficient disposition of all of these highly important measures. The Senate as a whole may be truly proud.

DEATH OF REPRESENTATIVE WILLIAM F. RYAN OF NEW YORK

Mr. BUCKLEY. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Resolution 1119.

The Chair laid before the Senate House Resolution 1119, which was read as follows:

H. RES. 1119

Resolved, That the House has heard with profound sorrow of the death of the Honorable William F. Ryan, a Representative from the State of New York.

Resolved, That a committee of 18 Members of the House, with such Members of the Senate as may be joined, be appointed to attend the funeral.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolution and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect the House do now adjourn.

Mr. BUCKLEY. Mr. President, I send to the desk a resolution on behalf of myself and the senior Senator from New York and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The resolution (S. Res. 365) was read, as follows:

S. RES. 365

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Hon. William F. Ryan, late a Representative from the State of New York.

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Representative.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it adjourn as a further mark of respect to the memory of the deceased Representative.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BUCKLEY. The death of Representative WILLIAM FITTS RYAN reminds us of the fact that there are human considerations that often transcend the political imperatives that play such an important part in our lives. I can think of no man in Congress with whom I shared fewer political beliefs than BILL RYAN; I can think of few whose qualities as a human being has commended such wide affection.

It is difficult, at times, to remember, in the heat of partisan controversy that an opponent is not an ideological abstraction but a flesh and blood creature, subject to the same passions and often the same prejudices as ourselves. Anyone who knew BILL RYAN knew that he was a man who was deeply devoted to his political principles, but who never let his ideological zeal for one moment interfere with his essentially and irrevocably decent approach to others. It is a measure of the respect he engendered in all who knew him, especially those with whom he disagreed, that he is deeply and genuinely mourned in Congress today.

My condolences go to the family of Representative RYAN. I think I speak for all of those who knew him when I say that he will be remembered as one who combined a fierce belief in his principles with an engaging, amiable personal quality that will long be remembered.

The senior Senator from New York regrets that he cannot be here to express his sentiments. He is detained because of the Jewish holidays which are being celebrated today.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. BUCKLEY. I am glad to yield.

Mr. KENNEDY. Mr. President, I join in the sentiments expressed by the Senator from New York in connection with the loss of Representative RYAN. I knew Representative RYAN, and I want to express sympathy on this sad occasion. Both on behalf of myself and for members of my family.

We are grateful for all of the assistance that Congressman RYAN gave to my brothers. To President Kennedy, Congressman RYAN was a dedicated and faithful advocate for causes of justice, humanity, and equality.

To Robert Kennedy, BILL RYAN was always a friend and close adviser. I remember the many hours they spent campaigning together in 1964. And later, BILL gave my brother some of the strongest support he had in the 1968 campaign.

All of the time that I knew him, BILL RYAN blazed trails for other men to follow. Last year in Congress, he showed the courage he always had by standing firm against the antibusing tide on the floor of the House, thereby setting a magnificent example for all of us in the Senate.

We know his brilliant record on all the leading issues. Title VI of the Civil Rights Act of 1964—the school desegregation title—is a tribute to the work of BILL RYAN in Congress. More than any other single person, he helped to rally the conscience of American against the brutal killings in Philadelphia, Miss., and to lay the groundwork for the most successful Civil Rights Act of them all.

He led the fight in 1962 against the House un-American Activities Committee and its repressive tactics. He led the challenge in 1965 to the seating of the Mississippi delegation in the House.

He led the fight for prison reform and his life was interrupted as he fought vigorously for better health care.

He and I worked closely together in our long and successful fight for decent legislation to end the blight of lead-paint poisoning, and thereby protect the lives and health of thousands of children in countless cities throughout the Nation.

Above all, BILL RYAN was there at the beginning in 1965, when the earliest voices of protest were beginning to be heard in America against our deepening involvement in Vietnam. That is where BILL has always been, leading the fight for principles and the things that are right—seeing the issues, as they really are long before they are clear to others.

> If a man does not keep pace with his companions, perhaps it is because he hears a different drummer. Let him step to music which he hears, however distant or far away.

Throughout his public career, BILL RYAN has followed that wise advice, and again and again the causes he has championed have been vindicated by the history of events.

The west side is strong today because you have able men like BILL to lead the way. He is the sort of Congressman every district needs. He knows the importance of government at the local level, and he knows the issues that really matter to the people. It is a pleasure to serve with him in Congress, and I wish we had more like him.

He was an extremely committed Congressman. He left his stamp on a host of major legislation. He was in the forefront of many of the great social battles in the House of Representatives many of which I shared his views.

He was a man of great capacity and great integrity and compassion for the people he represented.

I join the Senators from New York in expressing a very deep sense of loss to the members of Representative RYAN's family and to the people he served so well. All of us have lost an outstanding Member of Congress.

Mr. BUCKLEY. I thank the Senator.

BILL RYAN—A DEDICATED PUBLIC SERVANT

Mr. SCHWEIKER. Mr. President, I was most grieved to learn this past weekend of the untimely death of Representative BILL RYAN, of the 20th District of New York.

BILL RYAN and I came to Congress together in 1960, and it was an honor for me to serve with him during my four terms in the House of Representatives, and to continue to work closely with him on issues vital to our urban areas after I was elected to the Senate.

During the last two sessions, Congress has made significant progress in enacting measures to detect and treat lead-paint poisoning in children, a dread disease that strikes primarly in low-income and ghetto areas. Representative RYAN was one of the first to recognize the serious problem of lead poisoning from paint chips, and has been an important leader in getting Congress to act to provide treatment for children afflicted with the disease, and eliminate conditions in which lead-paint poisoning occurs.

Representative Ryan was a strong advocate for our cities. He understood the impact of technological progress on the people who live in increasingly crowded urban areas. He dedicated his public life to making cities more livable, and to solving the complex problems of modern life that threaten to strangle our cities.

A man of conscience, a man of conviction, and a dedicated Congressman, Bill Ryan will be missed by all of us.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was unanimously agreed to.

The Chair appoints the Senators from New York (Mr. Javits and Mr. Buckley) to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Representative.

SENATOR SPONG'S ACCOMPLISHMENTS ON DRUG ABUSE LEGISLATION

Mr. MANSFIELD. Mr. President, earlier today the Senate completed action on two measures designed to combat drug abuse: It agreed to the protocol to amend and strengthen the Single Convention on Narcotic Drugs, the basic international agreement to control narcotics, and it adopted an amendment to facilitate State participation in certain drug control and crime prevention programs authorized under the Safe Streets Act.

I wish to pay tribute to the junior Senator from Virginia (Mr. Spong), whose strong leadership was indispensible to the success of both items. As the only first-term Democrat member of the Foreign Relations Committee, he presided over the hearings on the protocol with the greatest distinction, later presenting it for ratification to the Senate. In turn, the Senate's advice and consent were assured because of Bill Spong's effective advocacy. Senator Spong's second achievement today in the war against drug abuse was as the author of the amendment to delay the hard-match requirement under the law enforcement administration's action grant program. It, too, was greeted with success.

In all, Senator Spong's efforts today reflect his deep and longstanding concern over the problems of drug abuse; consistent efforts put forth with broad understanding of the need to curtail the use of narcotics and other dangerous drugs.

I ask unanimous consent that a chronology listing Senator Spong's actions to combat drug abuse be printed in the Record.

There being no objection, the chronology was ordered to be printed in the Record, as follows:

Chronology of Actions by U.S. Senator William B. Spong, Jr., on Drug Abuse

May 8, 1967—Voted on ratify U.S. accession to Single Convention on Narcotic Drugs, the basic multilateral agreement for control of narcotic drugs.

May 23, 1968—Voted for Omnibus Crime Control and Safe Streets Act of 1968. Funds authorized have been used for law enforcement activities related to drug control.

June 17, 1968—Speech to the Virginia Pharmaceutical Association urging its members to take an active part in publicizing the dangers of habitual and indiscriminate use of drugs such as amphetamines and barbiturates.

March 25–26; April 9–10–11, 1969—Participated, as member of Senate District of Columbia Committee in investigation of drug problems in Washington-Baltimore area.

June 17, 1969—Chaired hearing on crime in the District of Columbia schools, which included consideration of drug problems.

July 30, 1969—Met with metropolitan area police, prosecutors and Federal narcotics officials to discuss cooperative measures to curb narcotics traffic in region.

Jan. 21, 1970—Reported the findings of the Young Lawyers Section of the Virginia State Bar Association to the Senate. Figures showed spread of illegal drug use in the state coupled with an increase in drug-abuse prosecutions. Also introduced into the *Congressional Record* was information developed by the Virginia Beach City Public Schools on how to recognize symptoms of drug abuse.

Oct. 7, 1970—Voted for Comprehensive Drug Abuse Prevention and Control Act of 1970, which provided for expanded programs of rehabilitation, treatment and education. The Act also stiffened penalties for drug pushers, but reduced penalties for first offenders possessing or using marijuana.

Oct. 8, 1970—Offered, and the Senate adopted, an amendment to delay for one year (July 1971 to July 1972) the hard-match requirement (matching federal funds with money rather than goods and services) for states under the Omnibus Crime Control and Safe Streets Act. This meant that additional funds could be made available to the states for law enforcement activities, a number of which involve drug control programs. Sen. Spong then voted for passage of bill extending Omnibus Crime Control and Safe Streets Act, which authorized programs operated by the Law Enforcement Assistance Administration (LHAA).

Nov. 17, 1970—Voted for the drug abuse education bill.

March 19, 1971—Called on Sen. Thomas Eagleton, chairman of the Senate District of Columbia Committee, to hold early hearings on the growing abuse of the methadone program. He expressed concern about the availability of the drug to Northern Virginia residents from sources in the District of Columbia.

April 7, 1971—Speaking to the District of Columbia City Council hearing on methadone treatment program, commended the Council and the District of Columbia Medical Society for actions taken to deal with methadone abuse and urged their further efforts along these lines. (See previous entry)

May 1971—Report to constituents including a letter from Mr. Robert A. Ward, Dean of Amherst College, in which the tragedy of the drug culture is told in terms of wasted human lives.

June 9, 1971—Voted for amendments to authorize a program for identifying and treating drug and alcohol dependent persons in the Armed Forces and to require the President to submit to Congress periodic reports on measures being taken in concert with foreign governments to control and eliminate the production, processing or trafficking in heroin and other narcotic drugs.

June 23, 1971—Statement before the Senate District of Columbia Committee calling for a regional methadone treatment program involving Northern Virginia communities, suburban Maryland jurisdictions and the District of Columbia to coordinate activities of methadone treatment and supervise more closely the dispensing of methadone (see April 7, 1971, entry).

June 25, 1971—Letter to Dr. Charles C. Edwards, Commissioner of the Food and Drug Administration, urging the FDA to require physicians to be associated with some comprehensive drug treatment program in order to dispense methadone.

July 1971—In his newsletter to constituents pledged full support of programs to rehabilitate American GI's who become addicted to drugs while serving in Vietnam. He called for a cutoff of foreign aid to countries which refuse to cooperate in efforts to control the illegal drug traffic.

July 1, 1971—Testimony before the Senate Foreign Relations Committee, supporting as an ultimate sanction, the termination of foreign aid to nations which refuse to cooperate in international drug control efforts. Proposal included in the foreign aid bill which passed.

July 7, 1971—In a news release on statement before the Senate Foreign Relations Committee, expressed the need for research to develop alternatives to methadone, extensive educational programs, and vigorous action to shut off smuggling of illegal drugs into this country.

Aug. 14, 1971—Speech to the Virginia Commonwealth Attorneys' Association, calling for a single federal agency to be responsible for coordinating all programs in this field, for basic medical research into the causes and cure of narcotics addiction, for attention to rehabilitation as well as detoxification of American GI's, and for stronger federal efforts to curb the international drug traffic.

Nov. 24, 1971—Voted for the Senate measure to create a national institute to deal with drug abuse problems and to act as an aid to state and local agencies.

Jan. 17, 1972—Speech to the Hopewell Jaycees, calling for new and intensified efforts to combat the illegal international traffic in narcotics and dangerous drugs and presented supporting figures and examples of where action was needed.

Feb. 14, 1972—Speech to Rotary Clubs of Clifton Forge, Covington Bath and Alleghany declaring that reducing funding for drug control requirement of the Law Enforcement Assistance Administration (LEAA) for a hard-match for federal funds, scheduled to become effective in July, as placing a greater financial burden on the state which could previously put up its share in equivalent value goods and services. (See October 8, 1970 entry).

March 17, 1972—Voted for conference report on bill to create a Special Action Office for Drug Abuse Prevention in the Executive Office to coordinate federal drug activities.

March 21, 1972—Letter to President Nixon, requesting the President's attention to the possible negative effects of the Law Enforcement Assistance Administration's new requirements on matching funds, which were scheduled to become effective July 1. (See February 14, 1972, entry).

March 22, 1972—Speech at Westminster Presbyterian Church, Alexandria, calling in the fight against drug abuse. He said that we must guarantee that in opening trade and commerce with Mainland China we do not open the way for an increased flow of opium from that part of the world.

March 28, 1972—Senate floor statement calling for action on his bill which would delay for one year (July 1972–July 1973) the new matching requirements for the Law Enforcement Assistance Administration's federal action grants, which enable many states to operate drug control programs. (See February 14 and March 21, 1972).

April 3, 1972—Speech in Hampton expressing concern about the vast wasteland being created in our nation by drug abuse . . . the deterioration of our cities, increased robberies, destroyed lives. He called for an attack on the research level, the educational level, the crime level, and the rehabilitation level to help overcome drug problems.

April 14, 1972—Letter to Sen. John McClellan, chairman of the Criminal Laws and Procedures Subcommittee, which has jurisdiction over LEAA requesting early attention to Spong bill to delay the hard-match requirement for states. (See March 28, 1972).

April 25, 1972—Senate floor statement detailing the need to delay matching requirements for LEAA programs. (See April 14, 1972).

April 27, 1972—Cosponsored legislation to help stem the illegal barbiturate traffic which is expanding.

May 24, 1972—Senate floor speech in support of authorization of $42.5 million for international narcotics control programs, as recommended by the Foreign Relations Committee.

May 26, 1972—Letter to Frank Shakespeare of the U.S. Information Agency suggesting use of USIA facilities to educate those in poppy-producing countries to dangers of drug abuse and to reasons for U.S. efforts to restrict illegal trade.

May 27, 1972—Speech to the Virginia Federation of Business and Professional Women, Sen. Spong urging additional efforts to combat illicit drug use.

June 26, 1972—Called for an all-out attack on drug abuse and announced that he would undertake a 10-day drug study tour to Germany, France, Turkey and Iran for the Senate Foreign Relations Committee, on which he serves.

June 27, 1972—Chaired hearings before Senate Foreign Relations Committee on Protocol to amend and strengthen the Single Convention on Narcotic Drugs, 1961, the basic international agreement for narcotics control.

June 29, 1972—Letter to Sen. McClellan, Sen. Spong requesting that bill to delay the hard-match requirement be attached to H.R. 8389, which had passed the House and was scheduled for consideration by McClellan's Subcommittee. (See April 14, 1972).

June 30–July 11, 1972—Undertook, on behalf of the Senate Foreign Relations Committee, a drug study tour in Heidelberg, Germany; Marseilles, France; Ankara and Afyon, Turkey; Tehran, Iran; and London, England. Accompanied by John Ritch of the Senate Foreign Relations Committee and Lieutenant Lewis Hurst, head of the narcotics squad of the Norfolk Police Force.

July 8, 1972—In Ankara, Turkey, commended the Turks for the ban on poppy growing and their efforts to prevent the current crop from moving into illicit channels.

July 18, 1972—Statement submitted to the Virginia Crime Commission summarizing the general findings of his tour and urging increased attention to the law enforcement aspects of drug control. Copy of statement also included in Congressional Record.

August 7, 1972—Speech to Virginia State Sheriff's Association calling for delay of hard-match requirement. (See June 29, 1972).

September 14, 1972—Statement in U.S. Senate presenting Protocol to amend the Single Convention on Narcotic Drugs. (See June 27, 1972).

September 18, 1972—Voted for Protocol to amend and strengthen Single Convention on Narcotic Drugs. (See September 14, 1972).

September 18, 1972—Offered in Senate amendment to delay hard-match requirement under LEAA. Amendment adopted. (See August 7, 1972).

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. On behalf of the Vice President, pursuant to Senate Resolution 304, the Chair appoints the following Senators to be members of the Special Committee on the Termination of the National Emergency: Senators CHURCH, HART, PELL, STEVENSON, MATHIAS, HANSEN, PEARSON, and CASE.

LAND-USE POLICY AND PLANNING ASSISTANCE ACT OF 1972

The PRESIDING OFFICER (Mr. BROCK). Under the previous order, the Chair lays before the Senate S. 632, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 632) to amend the Water Resources Planning Act (79 Stat. 244) to include provision for a national land use policy by broadening the authority of the Water Resources Council and river basin commissions and by providing financial assistance for statewide land use planning.

The Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Land Use Policy and Planning Assistant Act of 1972".

TITLE I—FINDINGS, POLICY, AND PURPOSE

FINDINGS

SEC. 101. (a) The Congress hereby finds that there is a national interest in a more efficient system of land use planning and decisionmaking and that the rapid and continued growth of the Nation's population, expanding urban development, proliferating transportation systems, large-scale industrial and economic growth, conflicts in patterns of land use, fragmentation of governmental entities exercising land use planning powers, and the increased size, scale, and impact of private actions, have created a situation in which land use management decisions of wide public concern often are being made on the basis of expediency, tradition, short-term economic considerations, and other factors which too frequently are unrelated or contradictory to the real concerns of a sound national land use policy.

(b) The Congress finds that the task of land use planning and management is made more difficult by the lack of understanding of, and the failure to assess, the land use impact of Federal, regional, State, and local programs and private endeavors which do not possess or are not subject to readily discernible land management goals or guidelines; and that a national land use policy is needed to develop a national awareness of, and ability to measure, the land use impacts inherent in most public and private programs and activities.

(c) The Congress finds that adequate data and information on land use and systematic methods of collection, classification, and utilization thereof are either lacking or not readily available to public and private land use decisionmakers; and that a national land use policy must place a high priority on the procurement and dissemination of useful land use data.

(d) The Congress finds that a failure to conduct competent land use planning has, on occasion, resulted in delay, litigation, and cancellation of proposed significant development, including but not limited to facilities for the development, generation, and transmission of energy, because of unresolved land use questions, thereby too often wasting human and economic resources, creating a threat to public services, and invoking decisions to local activities in areas of least public and political resistance, but without regard to sound environmental, economic, and social land use considerations.

(e) The Congress finds that many Federal agencies conduct or assist activities which have a substantial impact on the use of land, location of population and economic growth, and the quality of the environment, and which, because of the lack of a consistent land use policy, often result in needless, undesirable, and costly conflicts between the Federal agencies and between Federal, State, and local governments, and thereby subsidize undesirable and costly patterns of development; and that a concerted effort is necessary to coordinate existing and future Federal policies and programs and public and private decisionmaking in accordance with a national land use policy.

(f) The Congress finds that while the primary responsibility and constitutional authority for land use planning and management of non-Federal lands rests with State and local government, the manner in which this responsibility is exercised has a tremendous influence upon the utility, the value, and the future of the public domain, the national parks, forests, seashores, lakeshores, recreation and wilderness areas, wildlife refuges, and other Federal lands; and that the failure to plan or, in some cases, the existence of poor or ineffective planning at the State and local levels poses serious problems of broad national or regional concern and often results in irreparable damage to commonly owned assets of great national importance.

(g) The Congress finds that, because the land use decisions of the Federal Government, including those concerning the Federal lands, often have a significant impact upon statewide and local environments and patterns of development, a national land use policy ought to take into consideration the needs and interests, and invite the participation of, State and local governments and members of the public.

(h) The Congress finds that Federal, regional, State and local decisions and programs which establish or influence the location of land uses often determine whether people of all income levels and races have or are denied access to decent shelter, to adequate employment, and to quality schools, health facilities, police and fire protection, mass transportation, and other public services; and that such decisions and programs should seek to provide the maximum freedom and opportunity, consistent with sound and equitable land use planning and management standards, for all citizens to live and conduct their activities in locations of convenience and personal choice.

DECLARATION OF POLICY

SEC. 102. (a) To promote the general welfare and to provide full and wise application of the resources of the Federal Government, in strengthening the environmental, recreational, economic, and social well-being of the people of the United States, the Congress declares that it is a continuing responsibility of the Federal Government, consistent with the responsibility of State and local government for land use planning and management, to undertake the development and implementation of a national land use policy, which shall incorporate environmental, esthetic, economic, social, and other appropriate factors. Such policy shall serve as a guide for national decisionmaking in Federal and federally assisted programs which have land use impacts and in programs which affect the pattern of uses on the Federal lands, and shall provide a framework for the development of State and local land use policies.

(b) The Congress further declares that it is the national policy to—

(1) favor patterns of land use planning, management, and development which are in accord with sound environmental, economic, and social values and which encourage the wise and balanced use of the Nation's land resources;

(2) assist State governments to develop and implement land use programs for non-Federal lands which will incorporate environmental, esthetic, economic, social, and other appropriate factors, and to develop a framework for the formulation, coordination,

and implementation of State and local land use policies;

(3) assist the State and local governments to improve upon their present land use planning and management efforts with respect to areas of critical environmental concern, key facilites, development and land use of regional benefit, and large scale development;

(4) facilitate increased coordination in the administration of Federal programs and in the planning and management of Federal lands and adjacent non-Federal lands so as to encourage sound land use planning and management; and

(5) promote the development of systematic methods, for the exchange of land use, environmental, economic, and social data and information among all levels of government.

(c) The Congress further declares that intelligent land use planning and management can and should be a singularly important process for preserving and ehancing the environment, encouraging beneficial economic development, and maintaining conditions capable of improving the quality of life.

PURPOSE

SEC. 103. It is the purpose of this Act—

(a) to establish a national policy to encourage and assist the several States to more effectively exercise their constitutional responsibilities for the planning and management of their land base through the development and implementation of State land use programs designed to achieve economically and environmentally sound uses of the Nation's land resources;

(b) establish a grant-in-aid program to assist State and local governments and agencies to hire and train the personnel, and establish the procedures, necessary to develop and implement State land use programs;

(c) establish reasonable and flexible Federal requirements to give individual States guidance in, and to condition the distribution of certain Federal funds on, the establishment and implementation of adequate State land use programs;

(d) establish the authority and responsibility of the Secretary of the Interior to administer the grant-in-aid program, to review statewide land use processes and State land use programs for conformity to the provisions of this Act, and to assist the coordination of activities of Federal agencies with State land use programs;

(e) develop and maintain a national policy with respect to federally conducted and federally assisted projects having land use implications; and

(f) coordinate planning and management of Federal lands and planning and management of adjacent non-Federal lands.

TITLE II—ADMINISTRATION OF LAND USE POLICY

OFFICE OF LAND USE POLICY ADMINISTRATION

SEC. 201. (a) There is hereby established in the Department of the Interior the Office of Land Use Policy Administration (hereinafter referred to as the "Office").

(b) The Office shall have a Director who shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at the rate provided for level V of the Executive Schedule Pay Rates (5 U.S.C. 5315), and such other officers and employees as may be required. The Director shall have such duties and responsibilities as the Secretary of the Interior (hereinafter referred to as the "Secretary") may assign.

SEC. 202. The Secretary, acting through the Office, shall—

(a) maintain a continuing study of the land resources of the United States and their use;

(b) cooperate with the States in the development of standard methods and classifications for the collection of land use data and in the establishment of effective procedures for the exchange and dissemination of land use data;

(c) develop and maintain a Federal Land Use Information and Data Center, with such regional branches as the Secretary may deem appropriate, which has on file—

(1) plans for federally initiated and federally assisted activities which directly and significantly affect or have an impact upon land use patterns;

(2) to the extent practicable and appropriate, the plans and programs of State and local governments and private enterprises which have more than local significance for land use planning and management;

(3) statistical data and information on past, present, and projected land use patterns which are of more than local significance;

(4) studies pertaining to techniques and methods for the procurement, analysis, and evaluation of data and information relating to land use planning and management; and

(5) such other information pertaining to land use planning and management as the Director deems appropriate;

(d) make the information maintained at the Data Center available to Federal, regional, State, and local agencies conducting or concerned with land use planning and management and to the public;

(e) consult with other officials of the Federal Government responsible for the administration of Federal land use planning assistance programs to States, local governments, and other eligible agencies in order to coordinate such programs;

(f) administer the grant-in-aid program established under the provisions of this Act; and

(g) provide administrative support for the National Advisory Board on Land Use Policy established under section 203 of this Act.

NATIONAL ADVISORY BOARD ON LAND USE POLICY

SEC. 203. (a) The Secretary is authorized and directed to establish a National Advisory Board on Land Use Policy (hereinafter referred to as the "Board").

(b) The Board shall be composed of:

(1) the Director of the Office of Land Use Policy Administration (hereinafter referred to as the "Director") who shall serve as Chairman;

(2) representatives of the Departments of Agriculture; Commerce; Defense; Health, Education, and Welfare; Housing and Urban Development; and Transportation; the Atomic Energy Commission; and the Environmental Protection Agency, appointed by the respective heads thereof;

(3) observers from the Council on Environmental Quality, the Federal Power Commission, and the Office of Management and Budget, appointed by the respective heads thereof; and

(4) representatives of such other Federal agencies, appointed by the respective heads thereof, as the Secretary may request to participate when matters affecting their responsibilities are under consideration.

(c) The Board shall meet regularly at such times as the Chairman may direct and shall—

(1) provide the Secretary with information and advice concerning the relationship of policies, programs, and activities established or performed pursuant to this Act to the programs of the agencies represented on the Board;

(2) render advice to the Secretary and the agency designated pursuant to section 502 concerning proposed guidelines, rules, and regulations for the implementation of the provisions of this Act;

(3) assist the Secretary and the agencies represented on the Board in the coordination of the review of statewide land use planning processes and State land use programs;

(4) provide advice on such land use policy matters as the Secretary may refer to the Board for its consideration; and

(5) provide reports to the Secretary on land use policy matters which may be referred to the Board by the heads of Federal agencies through their respective representatives on the Board.

(d) Each agency representative on the Board shall have a career position within his agency of not lower than GS–15 and shall not be assigned any duties which are unrelated to the administration of land use planning and policy, except temporary housekeeping or training duties. Each representative shall—

(1) represent his agency on the Board;

(2) assist in the coordination and preparation within his agency of comments on (i) guidelines, rules, and regulations proposed for promulgation pursuant to section 502, and (ii) statewide land use planning processes and State land use programs reviewed pursuant to title III of this Act;

(3) assist in the dissemination of policy information and in the implementation within his agency of policies and procedures developed pursuant to this Act; and

(4) perform such other duties regarding the administration of land use planning and policy as the head of his agency may direct.

INTERSTATE COORDINATION

SEC. 204. (a) The States are authorized to coordinate land use planning and programs with appropriate interstate entities, and a reasonable portion of the funds made available to such States under the provisions of this Act may be used therefor: *Provided, however,* That an opportunity for participation in the coordination process by Federal and local governments and agencies as well as members of the public engaged in activities which affect or are affected by State land use planning and programs is assured: *And provided further,* That nothing in this subsection shall be construed to affect the allotment of funds as provided in section 507 of this Act.

(b) Subject to the approval of Congress by the adoption of an appropriate Act, Congress hereby authorizes such States which possess coherent geographic, environmental, demographic, or economic characteristics which would serve as reasonable bases upon which to coordinate land use planning and programs to negotiate interstate compacts for the purpose of such coordination, with such terms and conditions as to them seem reasonable and appropriate: *Provided, however,* That such compacts shall provide for an opportunity for participation in the coordination process by Federal and local governments and agencies as well as members of the public engaged in activities which affect or are affected by land use planning and programs: *And provided further,* That nothing in this subsection shall be construed to affect the allotment of funds as provided in Section 507 of this Act.

(c) The Secretary shall conduct a review of federally established or authorized interstate agencies, including but not limited to river basin commissions, regional development agencies, and interstate compact commissions, and prepare recommendations for revision of organizational structures and improvement of procedures for the purpose of coordinating land use planning and programs in interstate areas. The Secretary shall report to the Congress the results of his review conducted under this subsection, together with his recommendations, not later than two years after the date of enactment of this Act. Such recommendations may include proposals for either the establishment of new entities or the use of existing agencies of two or more States and the Federal Government to coordinate land use planning and programs in interstate areas: *Provided, however,* That such entities or agencies and the procedures thereof, so recommended, provide for an opportunity for participation in the coordination process by Federal, State, and local governments and agencies as well as members of the public engaged in activities which affect or are affected by land use planning and programs.

TITLE III—PROGRAM OF ASSISTANCE TO THE STATES

SEC. 301. (a) The Secretary is authorized to make annual grants to each State to assist each State in developing and administering a State land use program meeting the requirements set forth in this title.

(b) Prior to making the first grant to each State during the three complete fiscal year period following the enactment of this Act, the Secretary shall be satisfied that such grant will be used in a manner to meet satisfactorily the requirements for a statewide land use planning processes set forth in section 302. Prior to making any further grant during such period, the Secretary shall be satisfied that the State is adequately and expeditiously proceeding to meet the requirements of section 302.

(c) Prior to making any further grants after the three complete fiscal year period following the enactment of this Act and before the end of the five complete fiscal year period following the enactment of this Act, the Secretary shall be satisfied that the State has met and continues to meet the requirements of section 302 and is adequately and expeditiously proceeding to develop a State land use program to meet the requirements of sections 303 and 304.

(d) Prior to making any further grants after the five complete fiscal year period following the enactment of this Act, the Secretary shall be satisfied that the State has met and continues to meet the requirements of sections 303 and 304.

(e) States receiving grants pursuant to this Act during the five complete fiscal year period following enactment of this Act shall submit for review not later than one year after the date of award of each grant, a report on work completed and scheduled toward the development of a State land use program to the Secretary for determination of State eligibility or ineligibility for grants pursuant to this Act in accordance with the procedures provided in section 305. For grants made after such period, the State shall submit its State land use program not later than one year after the date of each award to the Secretary for determination of State eligibility or ineligibility for grants pursuant to this Act in accordance with the procedures provided in section 305: *Provided*, That if no grant is requested by or active in any State after five fiscal years from the date of enactment of this Act, such State shall submit its land use program within ninety days thereafter to the Secretary for determination of State eligibility or ineligibility for grants pursuant to this Act in accordance with the procedures provided in section 305: *And provided further*, That, should no grant be requested by or active in any State during any two complete fiscal year period after five fiscal years from the date of enactment of this Act, such State shall submit its land use program within ninety days from completion of such period to the Secretary for determination of State eligibility or ineligibility for grants pursuant to this Act in accordance with the procedures provided in section 305.

STATEWIDE LAND USE PLANNING PROCESSES

SEC. 302. (a) As a condition of continued State grant eligibility after the three complete fiscal year period following the enactment of this Act, the Secretary shall have determined that the State has developed an adequate statewide land use planning process, which process shall include—

(1) the preparation and continuing revision of a statewide inventory of the State's land and natural resources;

(2) the compilation and continuing revision of data, on a statewide basis, related to population densities and trends, economic characteristics and projections, environmental conditions and trends, and directions and extent of urban and rural growth;

(3) projections of the nature and quantity of land needed and suitable for recreation and esthetic appreciation; agriculture, mineral development, and forestry; industry and commerce, including the development, generation, and transmission of energy; transportation; urban development, including the revitalization of existing communities, the development of new towns, and the economic diversification of existing communities which possess a narrow economic base; rural development, taking into consideration future demands for and limitations upon products of the land; and health, educational, and other State and local governmental services;

(4) the preparation and continuing revision of an inventory of environmental, geological, and physical conditions (including soil types) which influence the desirability of various types of land use;

(5) the preparation and continuing revision of an inventory of State, local government, and private needs and requirements concerning Federal lands within the State;

(6) the preparation and continuing revision of an inventory of governmental organization and financial resources available for land use planning and management within the State and of State and local programs and activities which have a land use impact of more than local concern;

(7) the establishment of a method for identifying large-scale development and development and land use of regional benefit;

(8) the establishment of a method for inventorying and designating areas of critical environmental concern and areas which are, or may be, impacted by key facilities;

(9) the provision, where appropriate, of technical assistance for, and training programs for State and local agency personnel concerned with the development and implementation of State and local land use programs;

(10) the establishments of arrangements for the exchange of land use planning information and data among State agencies and local governments, and with the Federal Government, among the several States and interstate agencies, and with members of the public;

(11) the establishment of a method for coordinating the programs and services of all State and local agencies significantly affecting land use;

(12) the conducting of public hearings, preparation of reports, and soliciting of comments on reports concerning the State land use planning process or aspects thereof;

(13) the provision, and continuation thereof, of opportunities for participation by the public and the appropriate officials or representatives of local governments in the planning process and in the formulation of guidelines, rules, and regulations for the administration of the planning process; and

(14) the consideration of the interstate aspects of land use issues which involve two or more States.

(b) In the determination of an adequate statewide land use process, the Secretary shall confirm that the State has an eligible State land use planning agency established by the Governor of such State or by law, which agency shall—

(1) have primary authority and responsibility for the development and administration of a State land use program provided for in sections 303 and 304;

(2) have a competent and adequate interdisciplinary professional and technical staff and, whenever appropriate, the services of special consultants;

(3) give priority to the development of an adequate data base for a statewide land use planning process using data available from existing sources wherever feasible;

(4) coordinate its activities with the planning activities of all State agencies undertaking federally financed or assisted planning programs insofar as such programs relate to land use; the regulatory activities of all State agencies enforcing air, water, noise, or other pollution standards; all other relevant planning activities of State agencies; the planning activities of areawide agencies designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Deevlopment Act of 1966 (80 Stat. 1255, 1262–3), as amended; the planning activities of local governments; and the planning activities of Federal agencies;

(5) have authority to conduct public hearings, with adequate public notice, allowing full public participation in the development of the State land use program; and

(6) have authority to make available to the public promptly upon request land use data and information, studies, reports, and records of hearings.

STATE LAND USE PROGRAMS

SEC. 303. As a condition of continued State grant eligibility after the five complete fiscal year periods following the enactment of this Act, the Secretary shall have determined that the State has developed an adequate State land use program, which shall include—

(a) an adequate statewide land use planning process as provided for in section 302 of this Act; and

(b)(1) methods of implementation for—

(A) exercising determinative State authority over the use and development of land in areas of critical environmental concern within the State;

(B) exercising determinative State authority over the use of land in areas within the State which are or may be impacted by key facilities, including a method for exercising determinative State authority over the site location and the location of major improvement and major access features of key facilities;

(C) assuring that local regulations do not unreasonably restrict or exclude development and land use of regional benefit;

(D) exercising determinative State authority over proposed large-scale development within the State of more than local significance in its impact upon the environment;

(E) assuring that any source of air, water, noise, or other pollution in the areas or from the uses or activities listed in this clause (1) shall not be located where it would result in a violation of any applicable air, water, noise, or other pollution standard or implementation plan;

(F) regulating large-scale subdivisions to insure the planned maximum beneficial use of land:

(G) periodically revising and updating the State land use program to meet changing conditions; and

(H) assuring dissemination of information to appropriate officials or representatives of local governments and members of the public and their participation in the development of and subsequent revisions in the State land use program and in the formulation of State guidelines, rules, and regulations for the development and administration of the program.

(2) The methods of implementation of clause (1) of this subsection (b) shall include either one or a combination of the two following general techniques—

(A) direct State land use planning and regulation, and

(B) State administrative review of land use plans, regulations, and implementation thereof of local governments with full powers to approve or disapprove.

Such techniques or any combination thereof shall include the State's authority to prohibit, under State police powers, the use of any land in a manner inconsistent with any provision or portion of the State land use program.

SEC. 304. As a further condition of continued State grant eligibility after the five complete fiscal year period following the enactment of this Act, the Secretary shall review the State land use program and determine that—

(a) in designating areas of critical environmental concern, the State has not excluded any substantial areas of critical environmental concern which are of major national significance and require special planning and management;

(b) the State is demonstrating good faith efforts to implement, and, in the case of successive grants, the State is continuing to demonstrate good faith efforts to implement, the purposes, policies, and requirements of its land use program. For the purposes of this subsection, the inability of a State to take any State action the purpose of which is to implement the State land use program, or any portion thereof, and which is enjoined by the issuance of an injunction by any court of competent jurisdiction shall not be construed as failure by the State to demonstrate good faith efforts to implement the purposes, policies, and requirements of its land use program;

(c) State laws, regulations, and criteria affecting the State land use program and the areas and uses and activities over which the State exercises authority as required in section 303 are in accordance with the requirements of this title;

(d) the State land use program has been received and approved by the Governor;

(e) the State has coordinated its land use program with the planning activities and programs of its State agencies, the Federal Government, and local governments as provided for in this title, and with the planning processes and land use programs of other States and local governments therein with respect to lands and waters in interstate areas; and provided for the participation of, and dissemination of information to, appropriate officials or representatives of local governments and members of the public as provided for in this title; and

(f) the State utilizes, for the purpose of furnishing advice to the Federal Government as to whether Federal and federally assisted projects are consistent with the State land use program, procedures established pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (80 Stat. 1255, 1262–3), as amended, and title IV of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1098 1103–4), and is participating in the programs provided for pursuant to section 701 of the Housing Act of 1954 (68 Stat. 590, 640), as amended.

FEDERAL REVIEW AND DETERMINATION OF GREAT ELIGIBILITY

SEC. 305. (a) During the five complete fiscal year period following the enactment of this Act, the Secretary, before making a grant pursuant to this Act, shall consult with the heads of all Federal agencies listed in subsection (d) of this section and all other Federal agencies which conduct or participate in construction, development, assistance, or regulatory programs significant affecting land use in the State, and with the National Advisory Board on Land Use Policy pursuant to subsection (c) of section 203 of this Act, and shall consider their views and recommendations.

(b) After the five complete fiscal year period following the enactment of this Act—

(1) the Secretary, before making a State land use program grant pursuant to this Act, shall submit the State land use program of such State to the heads of all Federal agencies listed in subsection (d) of this section and all other Federal agencies which conduct or participate in construction, development, assistance, or regulatory programs significantly affecting land use in the State, and to the National Advisory Board on Land Use Policy pursuant to subsection (c) of section 203 of this Act. The Secretary shall take into consideration the views of each agency head which are submitted to him by such agency head no later than thirty days after submission of the State land use program to such agency head by the Secretary; and

(2) the Secretary shall not make a grant pursuant to this Act until he has ascertained that the Secretary of Housing and Urban Development is satisfied that those aspects of the State's land use program concerning large-scale development, development and land use of regional benefit, and large-scale subdivisions pursuant to clause (F) of subsection 303(b)(1) meet the requirements of this title. The Secretary of Housing and Urban Development shall be deemed to be satisfied if he does not communicate his views to the Secretary within sixty days of submission of the State land use program to him by the Secretary.

(c) The Secretary shall determine a State eligible or ineligible for a grant pursuant to this Act not later than six months following receipt for review of the State's application for its first grant, a State's report on its previous grant, or the State's land use program pursuant to section 301.

(d) Pursuant to subsections (a) and (b) of this section, the Secretary shall consider the views of the heads of the following Federal agencies—

(1) the Department of Agriculture;

(2) the Department of Commerce;

(3) the Department of Defense;

(4) the Department of Health, Education, and Welfare;

(5) the Department of Housing and Urban Development;

(6) the Department of Transportation;

(7) the Atomic Energy Commission;

(8) the Federal Power Commission; and

(9) the Environmental Protection Agency.

(e) A State may at any time revise its State land use program: *Provided*, That such revision does not render the State land use program inconsistent with the requirements of this title: *And provided further*, That any significant revision is reported to the Secretary. The Secretary shall determine whether such revision would render the State land use program inadequate for purposes of complying with the requirements of this title, and shall inform the State of his determination.

(f)(1) In the event the Secretary determines that a State is ineligible for grants pursuant to this Act or, having found a State eligible for such grants, subsequently determines that grounds exist for withdrawal of such eligibility, he shall notify the President, who shall order the establishment of an ad hoc hearing board (hereinafter referred to as "hearing board"), the membership of which shall consist of:

(A) the Governor of a State other than the State the grant eligibility of which is in question, whose State does not have a particular interest in whether State grant eligibility or ineligibility is determined, selected by the President within thirty days after notification by the Secretary, or, within ten days thereafter, such alternate person as the Governor selected by the President may designate;

(B) one knowledgeable, impartial Federal official, selected by the President within thirty days after notification by the Secretary, who is not an official of an agency listed in clauses (1) through (3) of subsection (b) of section 203; and

(C) one knowledgeable, impartial private citizen, selected by the other two members: *Provided*, That if the other two members cannot agree upon a third member within twenty days after the appointment of the second member to be appointed, the third member shall be selected by the President within twenty days thereafter.

(2) The Secretary shall specify in detail, in writing, to the hearing board his reasons for considering a State ineligible, or for withdrawing a State's eligibility, for grants pursuant to this title. The hearing board shall hold such hearings and receive such evidence as it deems necessary. The hearing board shall then determine whether a finding of ineligibility or withdrawal of eligibility would be reasonable, and set forth in detail, in writing, the reasons for its determination. If the hearing board determines that ineligibility would be unreasonable, the Secretary shall find the State eligible for grants pursuant to this Act. If the hearing board concurs in the finding of ineligibility or withdrawal of eligibility, the Secretary shall find the State ineligible for grants pursuant to this Act. Ineligibility shall be deemed to have been determined by the hearing board if no determination in writing is made by it within ninety days of its appointment.

(3) Members of hearing boards who are not regular full-time officers or employees of the United States shall, while carrying out their duties as members, be entitled to receive compensation at a rate fixed by the President, but not exceeding $150 per diem, including traveltime, and, while away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence as authorized by law for persons intermittently employed in Government service. Expenses shall be charged to the account of the Executive Office of the President.

(4) Administrative support for hearing boards shall be provided by the Executive Office of the President.

(5) The President may issue such regulations as may be necessary to carry out the provisions of this subsection.

CONSISTENCY OF FEDERAL ACTIONS WITH STATE LAND USE PROGRAMS

SEC. 306. (a) Federal projects and activities significantly affecting land use, including but not limited to grant, loan, or guarantee programs, such as mortgage and rent subsidy programs and water and sewer facility construction programs, shall be consistent with State land use programs which conform to the provisions of sections 303 and 304 of this Act, except in cases of overriding national interest, as determined by the President. Procedures provided for in regulations issued by the Secretary pursuant to the criteria specified in section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (80 Stat. 1255, 1263–3), as amended, and title IV of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1098, 1103–4), together with such additional procedures as the Secretary may determine are necessary and appropriate to carry out the purposes of this Act, shall be utilized in the determination of whether Federal projects and activities are consistent with State land use programs funded under this Act.

(b) State and local governments submitting applications for Federal assistance for activities having significant land use implications in an area subject to a State land use program in a State found eligible for grants pursuant to this Act shall indicate the views of the State land use planning agency and/or the Governor as to the consistency of such activities with the program. Prior to indicating such views, the agency and/or the Governor shall consult with officials or representatives of the appropriate local governments. Federal agencies shall not approve proposed projects that are inconsistent with the program, as determined pursuant to subsection (a) of this section: ***Provided***, That, if a local government certifies that a plan or description of an activity for which application is made by the local government has lain before the State land use planning agency and/or the Governor for a period of sixty days without indication of the views of the land use planning agency and/or the Governor, the application need not be accompanied by such views and the relevant Federal agency shall make an independent appraisal of the consistency of the activity with the State land use program.

(c) Federal agencies conducting or assisting public works activities in areas not subject to a State land use program in a State found eligible for grants pursuant to this Act, shall, to the extent practicable, conduct such activities in such a manner as to minimize any adverse impact on the environment resulting from decisions concerning land use.

FEDERAL ACTIONS IN THE ABSENCE OF STATE ELIGIBILITY

SEC. 307. (a) The Secretary shall have authority to terminate any financial assistance extended to a State under this Act and withdraw his determination of grant eligibility whenever the Secretary finds, and the hearing board concurs, that the statewide land use planning process or the State land use program does not meet the requirements of this Act.

(b) Where any major Federal action significantly affecting the use of non-Federal lands is proposed after five fiscal years from the date of enactment of this Act, in a State which has not been found eligible for grants pursuant to this Act, the responsible Federal agency shall hold a public hearing in such State at least one hundred eighty days in advance of the proposed action concerning the effect of the action on land use taking into account the relevant considerations set out in sections 302, 303, and 304 of this Act, and shall make findings which shall be submitted for review and comment by the Secretary, and where appropriate, by the Secretary of Housing and Urban Development. Such findings of the responsible Federal agency and comments of the Secretary and, where appropriate, the Secretary of Housing and Urban Development shall be made part of the detailed statement required by section 102(2)(C) of the National Environmental Policy Act (83 Stat. 852, 853). This section shall be subject to exception where the President determines that the interests of the United States so require.

(c) Section 15 of the Airport and Airway Development Act (84 Stat. 219, 225) is amended by adding the following new subsection:

"(d) Any State which has not been found eligible for a grant under the Land Use Policy and Planning Assistance Act of 1972 after five fiscal years from the date of enactment of that Act shall suffer a withholding of 7 per centum of its entitlement to Federal funds apportioned for airport development pursuant to paragraphs (A) and (B) of subsection (a)(1) and paragraphs (A) and (B) of subsection (a)(2) of this section in the following fiscal year. If such State has not been found eligible by six fiscal years from the date of enactment of that Act, it shall suffer a withholding of 14 per centum in the following fiscal year, and, if not found eligible by seven fiscal years from the date of enactment of that Act, shall suffer a withholding of 21 per centum in the following fiscal year. Funds so withheld shall be held in the Department of the Treasury until the State is determined to be eligible for a grant pursuant to the Land Use Policy and Planning Assistance Act of 1972. Upon such determination, the Department of the Treasury shall disburse to the State the funds so withhold."

(d)(1) Section 104, title 23 of the United States Code, is amended by adding the following subsection:

"(2) Any State which has not been found eligible for a grant under the Land Use Policy and Planning Assistance Act of 1972 after five fiscal years from the date of enactment of that Act shall suffer a withholding of 7 per centum of its entitlement to Federal-aid highway funds, other than funds authorized to be appropriated under subsection (b) of section 108 of the Federal Aid Highway Act of 1956, as amended, or funds for planning and research, which would otherwise be apportioned to such State in the following fiscal year. If such State has not been found eligible by six fiscal years from the date of enactment of that Act, it shall suffer a withholding of 14 per centum in the following fiscal year, and, if not found eligible by seven fiscal years from the date of enactment of that Act, shall suffer a withholding of 21 per centum in the following fiscal year. Funds so withheld shall be held in the Department of the Treasury until the State is determined eligible for a grant pursuant to the Land Use Policy and Planning Assistance Act of 1972. Upon such determination, the Department of the Treasury shall disburse to the State the funds so withheld."

(2) Subsection (f) of section 109, title 23 of the United States Code, is amended by deleting "or control of" in the first sentence.

(e) Subsection (b) of section 5 of the Land and Water Conservation Act of 1965 (78 Stat. 897, 900), as amended, is amended by adding after the second paragraph the following paragraph:

"Any State which has not been found eligible for a grant under the Land Use Policy and Planning Assistance Act of 1972 after five fiscal years from the date of enactment of that Act shall suffer a withholding of 7 per centum of its entitlement under paragraphs (1) and (2) of this subsection in the fiscal year. If such State has not been found eligible by six fiscal years from the date of enactment of that Act, it shall suffer a withholding of 14 per centum in the following fiscal year, and, if not found eligible by seven fiscal years from the date of enactment of that Act, shall suffer a withholding of 21 per centum in the following fiscal year. Funds so withheld shall be held in the Department of the Treasury until the State is determined to be eligible for a grant pursuant to the Land Use Policy and Planning Assistance Act of 1972. Upon such determination, the Department of the Treasury shall disburse to the State the funds so withheld."

TITLE IV

FEDERAL-STATE COORDINATION AND COOPERATION IN THE PLANNING AND MANAGEMENT OF FEDERAL AND ADJACENT NON-FEDERAL LANDS

SEC. 401. (a) All agencies of the Federal Government charged with responsibility for the management of Federal lands shall consider State land use programs prepared pursuant to this Act and State, local government, and private needs and requirements as related to the Federal lands; and shall coordinate the land use inventory, planning and management activities on or for Federal lands with State and local land use inventory, planning, and management activities on or for adjacent non-Federal lands to the extent such coordination is practicable and not inconsistent with paramount national policies, programs, and interests.

(b) For the purposes of this section, any agency proposing any new program, policy, rule, or regulation relating to the Federal lands shall publish a statement concerning the consistency of the program, policy, rule, or regulation with State and local land use planning and management, and, where inconsistent, the reasons for such inconsistency thirty days prior to the establishment of such program or policy or the promulgation of such rule or regulation, and, except where otherwise provided by law, shall conduct a public hearing, with adequate public notice, on such program, policy, rule, or regulation at least seven days prior to the publication of such statement.

SEC. 402. (a) As a condition of continued State eligibility for grants pursuant to this Act, after the five complete fiscal year period following the enactment of this Act, the Secretary shall have determined that—

(1) the State land use program developed pursuant to sections 303 and 304 of this Act includes methods for insuring that Federal lands within the State, including but not limited to units of the national park system, wilderness areas, and game and wildlife refuges, are not damaged or degraded as a result of inconsistent land use patterns in the same immediate geographical region; and

(2) the State has demonstrated good faith efforts to implement such methods in accordance with subsection (b) of section 304.

(b) The procedures for determination of grant eligibility provided for in section 305 shall apply to this section.

AD HOC FEDERAL-STATE JOINT COMMITTEES

SEC. 403. (a) The Secretary, at his discretion or upon the request of the Governor of any State involved, shall establish an Ad Hoc Federal-State Joint Committee or Committees (hereinafter referred to as "joint committee" or "committees") to review and make recommendations concerning general and specific problems relating to jurisdictional conflicts and inconsistencies resulting from the various policies and legal requirements governing the planning and management of Federal lands and of adjacent non-Federal lands. Each joint committee shall include representatives of the Federal agencies having jurisdiction over the Federal lands involved, representatives of affected user groups, including recreation and conservation interests, and officials of affected State agencies and units of local government. Prior to appointing representatives of user groups and officials of local governments, the Secretary shall consult with the Governor or Governors of the State or States involved and with other appropriate officials of the State or States and local governments involved. The Governor of each State involved shall appoint the officials of the affected agencies of his State.

(b) Each joint committee shall terminate at the end of two years from the date of establishment.

(c) Joint committee members may each be compensated at the rate of $100 for each day each member is engaged in the actual performance of duties vested in the joint committee. Each member shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently: *Provided, however*, That no compensation except travel and expenses in addition to regular salary shall be paid to any full-time Federal or State official.

(d) Each joint committee shall have available to it the services of an executive secretary, professional staff, and such clerical assistance as the Secretary determines is necessary. The executive secretary shall serve as staff to the joint committee or committees and shall be responsible for carrying out the administrative work of the joint committee or committees.

(e) The specific duties of any joint committee shall be assigned by the Secretary and may include:

(1) conducting a study of and making recommendations to the Secretary concerning methods for resolving, general problems with and conflicts between land use inventory, planning, and management activities on or for Federal lands and State and local land use inventory, planning, and management activities on or for adjacent non-Federal lands, including, where relevant, the State land

use programs developed pursuant to sections 303 and 304 of this Act;

(2) investigating specific conflicts between the planning and management of Federal lands and of adjacent non-Federal lands and making recommendations to the Secretary concerning their resolution;

(3) assisting the States and the Office of Land Use Policy Administration in the development of systematic and uniform methods among the States and between the States and the Federal Government for collecting, compiling, exchanging, and utilizing land use data and information; and

(4) advising the Secretary, during his review of State land use programs, of opportunities for reducing potential conflicts and improving coordination in the planning and management of Federal lands and of adjacent non-Federal lands.

(f) Upon receipt of the recommendations of a joint committee upon a conflict pursuant to subsection (e) of this section, the Secretary shall:

(1) where he has legal authority, take any appropriate and necessary action to minimize such conflict;

(2) where he does not have jurisdiction over or authority concerning the Federal lands which are involved in the conflict, work with the appropriate Federal agency or agencies to develop a proposal designed to minimize the conflict and to enhance cooperation and coordination between the planning and management of Federal lands and of adjacent non-Federal lands; and

(3) if he determines that the legal authority to resolve general or specific land use planning and management conflicts between the Federal Government and State and local governments is lacking in the Executive Branch, recommend enactment of appropriate legislation to the Congress.

(g) In taking or recommending action pursuant to the recommendations of a joint committee, the Secretary shall give careful consideration to the purposes of this Act and not resolve any conflict between the planning and management of Federal lands and of adjacent non-Federal lands in a manner which would impair the national purpose or objective for which the Federal lands involved are being managed.

BIENNIAL REPORT ON FEDERAL-STATE COORDINATION

SEC. 404. The Secretary shall report biennially to the President and the Congress concerning—

(a) problems in and methods for coordination of planning and management of Federal lands and planning and management of adjacent of Federal lands, together with recommendations to improve such coordination;

(b) the resolution of specific conflicts between the planning and management of Federal lands and of adjacent non-Federal lands; and

(c) at the request of the Governor of any State involved, any unresolved conflict between the planning and management of Federal lands and of adjacent non-Federal lands, together with any recommendations the Secretary and the Governor or Governors may have for resolution of such conflict.

SEC. 405. (a) Prior to the making of recommendations on any conflict pursuant to subsection (e) of section 403, each joint committee shall, when the public interest warrants, conduct a public hearing in the State on such conflict, with adequate public notice, allowing full participation of representatives of Federal, State, and local governments and members of the public. Should no hearing be warranted, the joint committee shall solicit the views of all affected parties and submit a summary of such views, together with its recommendations, to the Secretary.

(b) Prior to the making of recommendations or the taking of actions pusuant to subsection (f) of section 403, the Secretary shall review in full the relevant hearing record or, where none exists, the summary of views of affected parties prepared pursuant to subsection (a) of this section, and may, in his discretion, hold further public hearings.

SEC. 406. Upon request of a joint committee, the head of any Federal department or agency or federally established or authorized interstate agency is authorized: (a) to furnish to the joint committee, to the extent permitted by law and within the limits of available funds, such information as may be necessary for carrying out its functions and as may be available to or procurable by such department, agency, or interstate agency; and (b) to detail to temporary duty with the joint committee, on a reimbursable basis, such personnel within his administrative jurisdiction as it may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

TITLE V—GENERAL

DEFINITIONS

SEC. 501. For the purposes of this Act—

(a) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(b) The term '"local government" means any general purpose county or municipal government, or any regional combination thereof, or, where appropriate, any other public agency which has land use planning authority.

(c) The term "Federal lands" means any land owned by the United States without regard to how the United States acquired ownership of the land and without regard to the agency having responsibility for management thereof, except lands held in trust for the benefit of Indians, Aleuts, and Eskimos.

(d) The term "non-Federal lands" means all lands which are not "Federal lands" as defined in subsection (c) of this section and are not held by the Federal Government in trust for the benefit of Indians, Aleuts, and Eskimos.

(e) The term "areas of critical environmental concern" means areas as designated by the State on non-Federal lands where uncontrolled development could result in irreversible damage to important historic, cultural, or esthetic values, or natural systems or processes which are of more than local significance, or could unreasonably endanger life and property as a result of natural hazards of more than local significance. Such areas shall include—

(1) coastal wetlands, marshes, and other lands inundated by the tides;

(2) beaches and dunes;

(3) significant estuaries, shorelands, and flood plains of rivers, lakes, and streams;

(4) areas of unstable soils and high seismic activity;

(5) rare or valuable ecosystems;

(6) significant undeveloped agricultural, grazing, and watershed lands;

(7) forests and related land which require long stability for continuing renewal;

(8) scenic or historic areas; and

(9) such additional areas as a State determines to be of critical environmental concern.

(f) The term "key facilities" means:

(1) public facilities on non-Federal lands which tend to induce development and urbanization of more than local impact and including:

(A) any airport that is designed to serve for regular, scheduled air passenger service, and other airports of greater than local significance;

(B) interchanges between the Interstate Highway Systems and frontage access streets or highways, major interchanges between other limited access highways and frontage access streets or highways;

(C) frontage access streets and highways of State concern; and

(D) major recreational lands and facilities;

(2) major facilities on non-Federal lands for the development, generation, and transmission of energy.

(g) The term "development and land use of regional benefit" means land use and private development on non-Federal lands for which there is demonstrable need affecting the interests of constituents of more than one local government which outweighs the benefits of any applicable restrictive or exclusionary local regulations.

(h) The term "large scale development" means private development on non-Federal lands which, because of its magnitude or the magnitude of its effect on the surrounding environment, is likely to present issues of more than local significance in the judgment of the State. In determining what constitutes "large scale development" the State should consider, among other things, the amount of pedestrian or vehicular traffic likely to be generated; the number of persons likely to be present; the potential for creating environmental problems such as air, water, or noise pollution; the size of the site to be occupied; and the likelihood that additional or subsidiary development will be generated.

GUIDELINES, RULES, AND REGULATIONS

SEC. 502. (a) The President is authorized to designate an agency or agencies to issue guidelines to the Federal agencies to assist them in carrying out the requirements of this Act. Such agency or agencies shall submit proposed guidelines to the Secretary, the Board, and the heads of agencies represented on the Board, and shall consider their comments prior to formal issuance of such guidelines.

(b) The Secretary, after appropriate consultation with representatives of the States and, where appropriate, officials or representatives of local governments, and upon the advice of the Board and the heads of Federal agencies represented on the Board, shall promulgate rules and regulations to implement the guidelines formulated pursuant to subsection (a) of this section and to administer this Act, except with respect to subsection (f) of section 305 of this Act.

BIENNIAL REPORT

SEC. 503. The Secretary, with the assistance of the Office and the Board, shall report biennially to the President and the Congress on land resources, uses of land, and current and emerging problems of land use.

UTILIZATION OF PERSONNEL

SEC. 504. Upon request of the Secretary, the head of any Federal agency is authorized: (a) to furnish to the Office such information as may be necessary for carrying out the functions of the Office and as may be available to or procurable by such agency, and (b) to detail to temporary duty with the Office, on a reimbursable basis, such personnel within his administrative jurisdiction as the Office may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

TECHNICAL ASSISTANCE

SEC. 505. The Office may provide, directly or through contracts, grants, or other arrangements, technical assistance to any State found eligible for grants pursuant to this Act to assist such State in the performance of its function under this Act.

HEARINGS AND RECORDS

SEC. 506. (a) For the purpose of carrying out the provisions of this Act, the Director, with the concurrence of the Secretary, may hold such hearings, take such testimony, receive such evidence, and print or otherwise reproduce and distribute so much of the proceedings and reports thereon as he deems advisable.

(b) The Director is authorized to administer oaths when he determines that testimony shall be taken or evidence received under oath.

(c) To the extent permitted by law, all appropriate records and papers of the Office shall be made available for public inspection during ordinary office hours.

ALLOTMENTS

SEC. 507. (a) From the sum appropriated pursuant to section 510, the Secretary is authorized to make grants provided for in this Act to States found eligible for financial assistance pursuant to this Act, the proposals of which are approved, in any amount not to exceed ninety per centum of the estimated cost of developing the State land use programs for the five complete fiscal year period following the enactment of this Act. Thereafter, grants may be made in an amount not to exceed two-thirds of the estimated cost of administering the State land use programs.

(b) Grants pursuant to this Act shall be allocated to the States on the basis of regulations of the Secretary, which regulations shall take into account the amount and nature of each State's land resource base, population, pressures resulting from growth, financial need, and other relevant factors.

(c) Any grant made for the purpose of this Act shall increase, and not replace, State funds presently available for State land use planning activities. Any grant made pursuant to this Act shall be in addition to, and may be used jointly with, grants or other funds available for land use planning surveys or investigations under other federally assisted programs.

(d) No funds granted pursuant to this Act may be expended for the acquisition of any interest in real property.

PAYMENTS

SEC. 508. The method of computing and paying amounts pursuant to this Act shall be as follows:

(a) The Secretary shall, prior to the beginning of each calendar quarter or other period prescribed by him, estimate the amounts to be paid to each State under the provisions of this Act for such period, such estimate to be based on such records of the State and information furnished by it, and such other investigation as the Secretary may find necessary.

(b) The Secretary shall pay to the State, from the allotments available therefor, the amounts so estimated by him for any period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which he finds that his estimate of the amount to be paid such State for any prior period under this Act was greater or less than the amount which should have been paid to such State for such prior period under this Act. Such payments shall be made through the disbursing facilities of the Department of the Treasury, at such times and in such installments as the Secretary may determine.

FINANCIAL RECORDS

SEC. 509. (a) Each recipient of a grant pursuant to this Act shall make reports and evaluations in such form, at such times, and containing such information concerning the status, disposition, and application of Federal funds and the operation of the statewide land use planning process or State land use program as the Secretary may require by regulations published in the Federal Register, and shall keep and make available such records as may be required by the Secretary for the verification of such reports and evaluations.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of a recipient of a grant pursuant to this Act which are pertinent to the determination that funds granted are used in accordance with this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 510. For each of the eight full fiscal years following the enactment of this Act, there are authorized to be appropriated to the Secretary for grants to the States not more than $100,000,000 annually to carry out the purposes of this Act.

SEC. 511. For each of the five full fiscal years following enactment of this Act, there are authorized to be appropriated $10,000,000 annually to the Secretary of the Interior to be used exclusively for the administration of this Act. After the end of the fourth fiscal year after the enactment of this Act, the Secretary shall review the programs established by this Act and shall submit to Congress his analysis and such recommendations for amendments to the Act as he deems proper and appropriate.

EFFECT ON EXISTING LAWS

SEC. 512. Nothing in this Act shall be construed—

(a) to expand or diminish Federal, interstate or State jurisdiction, responsibility, or rights in the field of land and water resources planning, development, or control; to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States, or of two or more States, a State, or a region and the Federal Government; or to limit the authority of Congress to authorize and fund projects;

(b) to change or otherwise affect the authority or responsibility of any Federal official in the discharge of the duties of his office except as required to carry out the provisions of this Act;

(c) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of land and water resources or to exercise licensing or regulatory functions in relation thereto, except as required to carry out the provisions of this Act; or to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board and the United States operating entity or entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961, or the International Boundary and Water Commission, United States and Mexico.

Mr. JACKSON. Mr. President, I ask unanimous consent that I may yield for unanimous-consent requests to the Senator from Idaho, the Senator from Massachusetts, and the Senator from Maine, without the time being charged to either side on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. First, I yield to the Senator from Idaho.

PRIVILEGE OF THE FLOOR

Mr. JORDAN of Idaho. Mr. President, I ask unanimous consent that Charles Cook, Ray McGuire, and Ed Webster have the privilege of the floor during the consideration of this bill and during the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. I yield to the distinguished Senator from Maine.

Mr. MUSKIE. Mr. President, I ask unanimous consent that Leon Billings and Don Alexander, of the subcommittee staff, be permitted on the floor during the course of the debate on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I yield to the senior Senator from Massachusetts.

COMMUNICABLE DISEASE CONTROL AMENDMENTS OF 1972—CONFERENCE REPORT

Mr. KENNEDY. Mr. President, I submit a report of the committee of conference on S. 3442, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. BROCK). The report will be stated by title.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3442) to amend the Public Health Service Act to extend the authorizatiton for grants for communicable disease control and vaccination assistance, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is their objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD, volume 118, part 22, pages 29566–29568.

Mr. KENNEDY. Mr. President, I am delighted to bring to the Senate today the conference report on an extremely important piece of health legislation, the Communicable Disease Control Act of 1972. The Senate Health Subcommittee held extensive hearings on the extension of this legislative authority last April. At that time, all of the expert witnesses who testified before the committee recommended that S. 3442 be enacted into law as rapidly as possible. These groups included spokesmen for the American Public Health Association, the American Academy of Pediatrics, the American Social Health Association, the New York City Department of Health, the Action Committee for Childhood Immunization, the Tuberculosis Association, and the State health officers.

The administration, Mr. President, testified against the enactment of this vital piece of health legislation. The Senate Health Subcommittee, the Senate, the House Subcommittee on Public Health and Environment, the House of Representatives, and the conference committee reject that notion. Communicable diseases do not respect political jurisdictions. Accordingly, they are not amenable to control through hit and miss State and local programs. In a society as mobile as ours, the only way to effectively control communicable diseases is through a coordinated national effort.

The impact of communicable disease control on our Nation's history is perhaps nowhere better defined than in the conquest of poliomyelitis. A generation of young Americans now exist to which the term "infantile paralysis" is essentially meaningless; yet less than two decades ago the annual arrival of summer brought to America's parents a sombre fear of the predictable epidemics of polio about to begin.

Only slightly less dramatic have been the changes wrought by controlling tuberculosis, diphtheria, and measles, by preventing the devastating late sequelae or syphilis.

As a result of communicable disease control activities, communicable diseases have long since given way to chronic degenerative diseases as major causes of death in the United States. However, the efforts to control communicable diseases in this country have also brought with them repeated lessons in the harsh reality that without persisting vigilance, communicable disease control is a sometime thing. In the late 1950's following curtailment of assistance provided under the Poliomyelitis Vaccination Assistance Act of 1955—extended through 1957—epidemics appeared in Providence, Chicago, and Detroit, taking a needless toll among the urban poor. A special appropriation of $1 million in May 1960 was necessary to provide oral polio vaccine for purposes of controlling epidemics.

The apparent need to continue support for polio prevention led to passage of the Vaccination Assistance Act of 1962 which provided funds to combat poliomyelitis, whooping cough, diphtheria, tetanus, and when an effective vaccine became available, measles. The subsequent years constituted a "Golden Age" of gains against diseases preventable by immunization. But on June 30, 1968, the Vaccination Assistance Act expired and funds appropriated under that legislation were exhausted in 1969. The incidence of measles resurged briskly in 1969 and 1970, and in 1971 reached the highest level of incidence recorded since widespread use of measles vaccine began. Significant increases were also seen in the incidence of diphtheria and poliomyelitis. The epidemiological pattern of resurgence in all these diseases was remarkably similar to the earlier experience with poliomyelitis, to wit, the occurrence of outbreaks among the urban and rural poor who had not been afforded the protection of vaccination.

The history of syphilis control activities confirms the need for viewing communicable disease control as a long term commitment. Following World War II syphilis incidence fell sharply under the combined influences of the introduction of penicillin, and the availability of Federal budget support for State and local VD control projects. With syphilis at an all time low level, close to elimination, Federal support was sharply reduced from 1952 to 1955. In 1957, syphilis began briskly to resurge and increased steadily until 1965. Increased Federal support for syphilis control activities, following the report of the surgeon general's task force on the eradication of syphilis in 1961, stimulated an intensified commitment against syphilis and again the incidence of the disease fell. However, with a stable budget during the early mid-1960's, accompanied by increasing inflation, the available effective resources declined and syphilis is again increasing. The other major venereal disease, gonorrhea, until recently was never the target of a nationwide control program. Gonorrhea has dramatically increased and now constitutes a nationwide epidemic of immense proportions. Over 2½ million cases are estimated to have occurred last year in the United States.

In tuberculosis control, under the influence of Federal project support, beginning in 1965 the incidence of new active cases fell at an increasingly rapid rate. More significantly, evidence of new infections among our Nation's children, reached a nearly irreducible minimum. However, the termination of Federal tuberculosis control project support in 1971 has already forced major reductions in preventive services for tuberculosis in many areas. The recent sharp decline in tuberculosis case rates is expected to be slowed if not reversed. Already there is evidence that tuberculosis infections are increasing in incidence in certain groups of the urban poor, especially nonwhite males.

A further lesson learned in the history of disease control in the United States, is the national scope of the threat posed by these diseases. By their very transmissible nature, communicable diseases know no geographic boundaries. Local control efforts are futile in the absence of a nationally coordinated effort. The natural tendency for communicable diseases to spread, particularly among major population conglomerations, has intensified greatly as our citizens have become more mobile in search of personal and occupational satisfaction. There can be no reasonable argument now against continuing Federal responsibility in response to communicable disease control.

Mr. President, the essential elements of the Senate bill are retained in the conference report now pending before the Senate. The conference report authorizes over the next 3 years a total of $33 million for tuberculosis control programs, $18 million to combat measles, $15 million to authorize the secretary of HEW to control any epidemics which may break out, $187.5 million to combat venereal disease, and $69 million to combat other communicable diseases, such as polio, DPT, RH disease, and mumps.

Finally, Mr. President the conference report, like the Senate passed bill, prohibits the use of other authorities contained within the Public Health Service Act, such as section 314(e) for the support of communicable disease control programs. The conferees agreed that this restrictive provision was essential given the actions taken by the administration in respect to the funding of communicable disease control programs since those programs were last authorized by the Congress in 1970.

Mr. President, this legislation has already been overwhelmingly approved, on a bipartisan basis, by both Houses of the Congress. Last week, the House agreed to the conference report. Today, with the approval of the conference report in the Senate, this legislation will go to the White House for the President's approval.

I urge my colleagues to vote in favor of the conference report on S. 3442.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

LAND USE POLICY AND PLANNING ASSISTANCE ACT OF 1972

The Senate continued with the consideration of the bill (S. 632) to amend the Water Resources Planning Act (79 Stat. 244) to include provision for a national land use policy by broadening the authority of the Water Resources Council and river basin commissions and by providing financial assistance for statewide land use planning.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. BROCK). The Senator from Washington will state it.

Mr. JACKSON. Do I correctly understand that the time on this bill is 1 hour, to be equally divided between myself as chairman of the committee and the Republican Member on the Republican side?

The PRESIDING OFFICER. Yes; that would be the Senator from Colorado (Mr. ALLOTT).

Mr. JACKSON. But in his absence——

The PRESIDING OFFICER. The Senator from Idaho (Mr. JORDAN).

Mr. JACKSON. I thank the Chair.

Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Washington is recognized for 5 minutes.

Mr. JACKSON. Mr. President, S. 632, the Land Use Policy and Planning Assistance Act of 1972, embodies a recognition that our country is experiencing a land use crisis which has been caused by increasingly competitive economic, social, and environmental demands upon a very finite land resource. S. 632 would provide the States with financial and technical assistance to exercise States rights and to develop, in full partnership with local governments, a land use planning process and a State land use program.

This matter has been before the Senate in the previous Congress. It has been on the calendar for 2 months and I believe that we should now move expeditiously.

The State land use planning process and program would not displace land use planning functions that have traditionally been made by local government. It would strengthen local government while, at the same time, assisting the States to develop the capacity to make decisions concerning critical areas and uses that are regional in character or of more than local concern. The States must, and can with the assistance of this act, assist localities in rendering land use decisions which have an impact way beyond the jurisdictions of those localities.

Mr. President, this legislation has been under active consideration in the Senate for over 2½ years. Late in the 91st Congress, S. 632's forerunner was reported to the Senate but not formally considered. After 4 days of hearings in this Congress—8 days of hearings in the past 2½ years—numerous executive sessions and consultations with representatives of the administration, the Governors' Conference, the League of Cities, representatives of industry and environmental groups, S. 632 was again ordered reported on June 5. It has now been on the Senate calendar for nearly 2 months. The time for action on S. 632 is now.

Mr. President, the Land Use Policy and Planning Assistance Act is a realistic and widely favored proposal. It is supported by the Governors' Conference, by nearly 30 individual Governors, by representatives of county and city government, by all the major conservation and environmental groups, and by many users of the land—industry, forest products representatives, farm groups and water resource associations. The need for land use policy legislation has been identified by the Douglas Commission, the Kerner Commission, the Kaiser Committee, and the Advisory Commission on Intergovernmental Relations. Congress recognizes and must respond to this need.

The Land Use Policy and Planning Assistance Act of 1972 is of critical importance if this Nation is to meet the increasing pressures of industrialization, technological advances, population growth, and rapid urbanization, and to attain our economic, social, and environmental goals. As land use increasingly becomes the focal point for conflicts over national, State, and regional goals, public officials and private citizens alike view with dismay the chaotic, ad hoc, short-term, crisis-by-crisis, case-by-case land use decisionmaking employed all too frequently today.

Sobering statistics suggest that, unless our land use decisionmaking processes are vastly improved at all levels of government—local, State, and Federal—the United States will be unable to meet the emerging land use crisis. Over the next 30 years, the pressures upon our finite land resource will result in the dedication of an additional 18 million acres or 28,000 square miles of undeveloped land to urban use. Urban sprawl will consume an area of land approximately equal to all the urbanized land now within the 228 standard metropolitan statistical areas—the equivalent of the total area of the States of New Hampshire, Vermont, Massachusetts, and Rhode Island. Each decade, new urban growth will absorb an area greater than the entire State of New Jersey. The equivalent of 2½ times the Oakland-San Francisco metropolitan region must be built each year to meet the Nation's housing goals. In the next two decades, one industry alone—the energy industry—will require vast areas of land: New high-voltage transmission lines will consume 3 million acres of new rights-of way, while 225 new major generating stations will require some 140,000 acres of prime industrial sites.

In short, between now and the year 2000, we must build again all that we have built before. We must build as many homes, schools, and hospitals in the next three decades as we built in the previous three centuries. In the past, many land use decisions were the exclusive province of those whose interests were selfish, short-term and private. In the future—in the face of immense pressures on our limited land resource—these land use decisions must be long-term and public.

It is the view of the Committee on Interior and Insular Affairs that to avoid a national land use crisis—to advance a design calculated to meet, without dictating, national goals, values, and requirements—there is a major need for early enactment of legislation to assist State and local government to improve their land use planning and management capability. This view is shared by the administration, by the National Governors Conference and many individual Governors, and by almost all of the witnesses who appeared before the committee in the last 2½ years.

Russell Train, chairman of the Council on Environmental Quality, stated:

> It is a matter of urgency that we develop more effective nationwide land use policies and regulations . . . Land use is the single most important element affecting the quality of our environment which remains substantially unaddressed as a matter of national policy. Land is our most valuable resource. There will never be any more of it.

Not only is land finite, but unlike air, water, and many minerals and materials, land too often cannot be "recycled." Mountains carved by strip mines, wetlands dredged and filled, or streams channelized frequently cannot be returned to their former use or beauty. Land, once committed to a use today, be it social, economic, or environmental, may be unable to support uses which our children will find preferable in the future. As President Nixon noted in a recent letter to me:

> As a Nation we have taken our land resources for granted too long. We have allowed ill-planned or unwise development practices to destroy the beauty and productivity of our American earth. . . . The country needs this [legislation] urgently.

Future land use planning, however, should serve more than environmental values alone. It should not be viewed as mission-oriented either in the narrow sense of fostering a specific set of activities or in the larger sense of pursuing exclusively the goal of environmental protection or the goal of improving social services. Rather, it must balance competing environmental, economic, and social requirements and values to avoid the costly mistakes of both thoughtless, precipitate development and unwarranted, dilatory opposition to beneficial development.

Many of the most crucial problems and conflicts facing all levels of government in the areas of protection of environmental quality, siting of energy facilities and industrial plants, design of transportation systems, provision of recreational opportunities, and development of natural resources are the direct result of past failures to anticipate public requirements for land and to plan for its use. The economic loss, the delays, the resource misallocations, and the social and environmental costs which this failure to plan has cost the Nation are in large measure unnecessary expenses which could have been avoided had appropriate planning been undertaken earlier. It is the committee's view that adoption of this act and a good faith effort by the States to exercise responsibility for the planning and management of land use activities which are of more than local concern will greatly reduce needless conflicts, will avoid misallocations of scarce resources, will save public and private funds, will insure that public facilities and utilities—powerplants, highways, airports and recreational areas—are available when needed, and will improve State-Federal relations in all areas of mutual concern.

S. 632, as reported, contains the best features of the previous land use policy bill as introduced, of the administration's proposal (S. 992), of the proposals of Senators ALLOTT, JORDAN, and MATHIAS (S. 3175, S. 3177, S. 2554), and of the many recommendations received during the 2½ years of committee deliberations. The central purpose of the proposal is to provide Federal technical and financial assistance to the States to encourage them to exercise States' rights and improve their knowledge, institutions, procedures and methods for land use planning and management. The measure also provides important new authority designed to improve coordination between the planning efforts of the Federal Government and State governments.

S. 632's grant-in-aid program would provide the States with $100 million a year for 8 years. The grant funds would cover up to 90 percent of the cost of developing the State land use programs for the first 5 years and 66⅔ percent of the cost of administering the programs for the last 3 years.

The State is required to develop a State planning process within 3 years. The process must include a data and information base, adequate funding, competent staff, and an appropriate agency to cordinate planning at the State level.

The State is then required to develop, within 5 years of enactment, a land-use program which focuses on four categories of critical areas and uses of more than local concern. These areas and uses are considered to be of State interest because decisions concerning them have impacts on citizens, the environment, and the economy totally out of proportion to the jurisdiction and the interests of the local zoning body or land-use regulatory entity. These four categories of areas and uses of more than local concern are: First, areas of critical environmental concern—for example, beaches, flood plains, wetlands, historic areas; second, key facilities—major airports, highway interchanges and frontage access highways, recreational lands and facilities, and facilities for the development, generation and transmission of energy; third, development and land use of regional benefit; and fourth, large-scale development—for example, major subdivisions or industrial parks.

I wish to make clear that the act does not contemplate sweeping changes in the traditional responsibility of local government for land-use management. Decisions of local concern will continue to be made by local government. However, for land-use decisions which would have significant impact beyond the jurisdiction of the local public or private decisionmakers, the act provides for wider public participation and review by the State, as representative of the large constituency affected by those decisions.

The procedures for, and the nature of, State involvement in land-use decisions are left largely to the determination of the individual States. A State may either plan directly for the areas or uses subject to the State land-use program or it may reassert the authority and responsibility of appropriate levels of local and regional governments to plan and control these areas and uses and simply provide oversight through a set of State guidelines and an appeals process. Certainly, most States have demonstrated a decided preference for the latter procedure.

Another point which should be emphasized is that the Federal review of State land use programs focuses not on the substance of those programs, but on whether each State has authority to develop and implement its program and whether it is making good faith efforts to do so. This is in keeping with the act's purpose to encourage better and effective land use decisionmaking at the State and local levels, and not to provide substantial new land use decisionmaking authority on the Federal level.

To administer the grant-in-aid program, the act establishes a new Office of Land Use Policy Administration in the Department of the Interior, separate from any mission-oriented bureau.

To encourage State government to assume responsibility for the major land use activities occurring within its boundaries, in addition to the grant-in-aid incentive, the act provides for two sanctions. Neither sanction may be invoked without an express secretarial finding of a lack of good faith compliance, an opportunity for appeal and review by a disinterested panel, and Presidential action. The first sanction is the withholding of grant-in-aid money authorized under the act. The second sanction, proposed by the administration and amended by the committee, is a phased withholding over 3 fiscal years, beginning at 7 percent, going to 14 percent and ending at 21 percent, of funds under three other Federal programs—airport development funds, primary and secondary Federal-aid highway funds, and land and water conservation fund moneys. This sanction may be invoked only after 5 fiscal years and, when the State land use program again meets the requirements of the act, any funds withheld must be disbursed to the State. The three programs for which funds would be withheld are deemed to have the most significant long-range and irreversible impacts upon land use patterns because of the exceptional influence they have over public and private development.

Certainly, the land use impacts of Federal and federally assisted programs exert the most profound influences upon local, State and national land use patterns. Yet these programs either have conflicting land use implications or the Federal officials administering them are not fully cognizant of their land use impacts. S. 632 requires the Federal Government to "put its own house in order" at the same time that it asks the States to do likewise. The Secretary of the Interior is directed to consult with heads of other agencies and to form a National Advisory Board on Land Use Policy to provide interagency communciation concerning the land use impacts of and policies in Federal and federally assisted programs.

The act also encourages coordinated planning and management of Federal lands and adjacent non-Federal lands. Both the Federal Government and the State and local governments are required to provide for compatible land uses on adjoining lands under their respective jurisdictions. In addition, short term ad hoc joint Federal-State committees, composed of representatives of affected Federal agencies, State agencies, local governments, and user groups, may be established by the Secretary of the Interior to study general or specific conflicts between uses of Federal lands and uses of adjacent non-Federal lands. The Secretary is directed to resolve such conflicts or, where he lacks the requisite authority, to recommend legislative solutions to Congress.

Mr. President, the chaotic land use decisionmaking of today will insure an unsightly, unproductive, and unrewarding land resource for future generations of Americans. To avoid this unfortunate tomorrow, we must improve our land use policy, procedures, and institutions. I commend the Land Use Policy and Planning Assistance Act of 1972 to the Senate as the best vehicle to achieve this improvement.

Mr. President, I feel strongly that this particular piece of legislation is long overdue and I hope that the Senate will act expeditiously this afternoon and this evening to see that it is approved, finally, in this session of Congress.

Mr. President, I reserve the remainder of my time.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that Mr. John Hussey of our Subcommittee's staff on Oceans and Atmosphere be extended the privilege of the floor during debate on the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, on that same point, because other committees are involved, I ask unanimous consent that Carl Coan and Robert Malakoff of the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing and Urban Affairs be permitted the privilege of the floor during consideration of the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JORDAN of Idaho. Mr. President, I yield myself 5 minutes on the bill.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 5 minutes.

Mr. JORDAN of Idaho. Mr. President, I speak in support of S. 632, the Land Use Policy and Planning Assistance Act of 1972.

The language of the bill was refined and improved in a bipartisan effort in the Interior Committee under the able leadership of Mr. JACKSON and Mr. ALLOTT. It is one of the most important pieces of legislation to emerge from the Senate Interior Committee this session.

I am sorry that Senator ALLOTT could not be present today for this floor action on S. 632. Always an able and discerning legislator, he has taken a leading role in perfecting this legislation and helping bring it to the floor under circumstances which forecast Senate approval.

Mr. President, I ask unanimous consent to have printed in the RECORD the statement which Senator ALLOTT prepared in support of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR ALLOTT

I rise in support of S. 632, a bill commonly referred to as the "Land Use Planning Bill".

Like most legislative landmarks, this measure has undergone substantial evolution prior to arriving at this point in the legislative process. It is, I believe, a fair statement to say that the bill has been totally rewritten several times. It is an understatement to say that land use is a thorny problem, Senators are aware of the many bitter battles over zoning decisions at the local level, and while I believe this is a good bill, it is not a panacea. Land use decisions in the future are likely to be hotly contested, but it is the intent of this measure to insure that the planners and the contestants are more fully informed as to the consequences of a given decision.

It may well be that deficiencies in the measure will manifest themselves in the future, and in order to insure that the Congress would be required to review the administration of this measure, the Committee adopted my amendment to terminate the appropriation authorization for the Secretary to administer the program at the end of five years and to terminate the appropriation authorization for grants to the states at the end of eight years. The termination of these appropriation authorizations provides an action forcing mechanism requiring the Congress to renew and extend them. At such time as the appropriation authorization is renewed, it would be appropriate, proper, and anticipated, that Congress would make a complete review and hold extensive hearings on the measure and how it was working.

The purpose of S. 632, is not to impose land use decisions on the states from the national level, to cloak such decisions in a mantle of emanating from a superior wisdom, and to entomb those decisions in the bureaucratic graveyard never to be exhumed and examined. Rather, it is intended to be a legislative device designed to establish a mechanism whereby and through which balanced and relevant land use decisions may be made, reviewed, and appropriately modified when the need arises and discretion dictates. Frequently, in hindsight, we tend to point to the "mistakes of the past" and express our determination to do better and avoid such mistakes. The danger is that we could cloud our vision and believe that decisions can be made now concerning land use that will always be "right" decisions. Those decisions are then "set in concrete", and are considered sacrosanct, never to be reviewed. Land classification or uses should be periodically reviewed to determine whether they are still relevant to the needs of our citizens and to the circumstances of the present and foreseeable future. Only by so doing can we insure that "right" decisions are indeed "right", and that the "right" decisions of yesterday are still "right" today. S. 632 provides for several review procedures and the automatic updating of planning programs. Such review and updating will help to insure that land use programs are current and in keeping with the needs of our citizens.

Colorado has been a leader in the field of land use planning. It has enacted organic legislation creating the Colorado Land Use Commission under the able leadership of Governor John Love, and the Commission is vigorously carrying out its mandate from the Legislature. I have been informally advised that Colorado's land use program and control structure would qualify under the provisions of S. 632 as it is now constituted.

The President has indicated that enactment of land use planning legislation is one of his highest priorities. While the Administration does not endorse in every detail S. 632, the bill does incorporate the basic principles of the Administration's proposal for land use legislation and the Administration has urged prompt consideration and action on the measure.

Mr. President, I am sure that many Senators will agree that in the past land use decisions have had grave undesirable results, often not anticipated at the time of the decision-making. The reason for such erroneous decisions has frequently been an inadequacy of reliable data upon which to base a decision. S. 632 would address itself to this deficiency and would assist states to develop land use planning data and information so essential to intelligent decision-making. It is hoped that this legislation will help us to bring order out of the present chaotic land use conditions without unnecessarily impinging upon the rights of the individual citizen to enjoy fully his private property rights.

Mr. JORDAN of Idaho. Mr. President, I wish to echo the statement that has been made many times that a National Land Use Policy Act is an idea whose time is come. In fact, it is long overdue.

We have built a great Nation in this country and we are proud of it. We have put the forces of nature to work to do so. Unfortunately, we did not always exercise the maximum foresight or planning, particularly with respect to the use of the land—our basic natural resource. As the population grows land use conflicts will increase. So, having successfully faced the challenge of acquiring and developing what was originally a wilderness, we now face perhaps a more difficult challenge. That challenge is to repair the damage we have already inflicted and to find ways to meet our evergrowing needs without creating more problems and conflicts in the use of our land resources.

S. 632 addresses this challenge from what I consider the only perspective. It addresses it as essentially a State problem. It offers Federal assistance, financial and technical, to States which are willing to set up land use planning programs. It does not attempt to encourage or even allow the Federal Government to tell the States how to use their land resources.

This was a central feature of President Nixon's proposed National Land Use Policy Act, the essential elements of which we reflected in S. 632 as reported by the committee.

Later I will offer some amendments to the bill on behalf of the administration, myself, and my colleagues. At this point I merely want to voice my support for the bill, and to state that although the administration feels strongly that the bill could be improved, it has also stated in a letter to the committee chairman that S. 632 now conforms in large part to the administration proposal. I hereby ask unanimous consent to have printed at this point in the RECORD, letters from the Department of the Interior and the Council on Environmental Quality bearing on this legislation.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., August 2, 1972.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter of July 31, 1972, requesting this Department's comments on S. 632 as reported.

S. 632 as reported would establish a national land use program administered by the individual States. It is similar to the Administration's proposal on this subject in many respects and conforms in large part to the objectives of the Administration's proposal. There are, however, some areas which we feel should be amended, as was indicated in Chairman Train's letter to you on this subject dated August 1, 1972, with which we concur.

You have asked whether this bill would affect this Department's ability to administer laws and programs under its jurisdiction. We have previously and continue to note our objection to much of title II of the bill on the ground that it would unnecessarily restrict this Department's ability to administer the land use program established by S. 632 by creating an unnecessarily cumbersome, inflexible, and expensive organizational structure, including a National Advisory Board on land use policy. We are prepared to furnish language to remove these provisions.

You also ask whether adequate provision is made for this Department to participate in the review of State land use programs. We feel that adequate provision has been made.

We urge Congress to move promptly to enact this important piece of legislation.

Sincerely yours,
JOHN W. LARSON,
Assistant Secretary of the Interior.

EXECUTIVE OFFICE OF THE PRESIDENT, COUNCIL ON ENVIRONMENTAL QUALITY,
Washington, D.C., August 1, 1972.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: You have requested in your recent letter the Council's comment on S. 632, the Land Use Policy and Planning Assistance Act of 1972, particularly with respect to its consistency with other environmental legislation and the Administration's proposals in the environmental area.

As you know, S. 632 incorporates the basic principles of the Administration's proposals for land use legislation announced in the President's Environment Messages last year and this year. This is extremely important legislation on which the Congress should act now. As you know, the Administration has worked closely with you and Senator Allott and other members of the Committee to arrive at a satisfactory land use bill. Although S. 632 in large part now conforms to the Administration's proposal, there are still some parts of the bill to which we will urge amendments, for example:

1. *The Planning Process.* The explicit requirements of S. 632 that the States prepare a complete inventory of their resources, compile extensive data and make projections of land needs, etc., within three years appears to conflict with the Administration's position that the States need not prepare a complete plan but instead simply have a *method* for carrying out a comprehensive planning process.

2. *Sanctions.* We are pleased that your Committee adopted the Administration's recommendations for a graduated reduction of funds from the Federal Highway, Airport, and Land and Water Conservation Funds for States without adequate land use programs. However, we would recommend deleting the "ad hoc hearing board," and also providing imposition of the sanctions after three instead of five years.

3. *Funding.* While adequate funding is necessary, we feel that the $100 million authorization is far in excess of what is reasonably needed. We recommend that the authorization be set at $40 million annually for the first two years on the basis of a two-thirds Federal share and $30 million annually for the next three years on the basis of a one-half Federal share.

The Administration will be furnishing you and Senator Allott promptly the language of the specific amendments to the bill.

However, despite the above changes to the bill which we consider highly desirable, I wish to reemphasize that your Committee has made great progress in reporting out this important legislation. In no way do we view S. 632 as conflicting with existing air or water quality legislation or the goals of other environmental legislation. On the contrary, it is fully consistent with and supports them, and I am informed that the Environmental Protection Agency concurs in these views.

Sincerely yours,
RUSSELL E. TRAIN,
Chairman.

Mr. JORDAN of Idaho. Mr. President, I do not contend that this legislation is the answer to the manifold and complex problems facing us in land use planning, but it is a start.

Fortunately, in this, as in many other problem areas which come before the Congress, the States have voluntarily taken the leadership. A number of States already have enacted land use planning laws. This diverse State legislation will help those farsighted States get off to a fast start in implementing the Federal program proposed here today, and their efforts to solve land use problems on the State level will help other States devise the best means of achieving the goals sought in this legislation. This exploration and testing on the State level is the genius of our republican form of government, and I hope the Congress will continue to cherish and nurture it in such State-oriented legislation as this offered today.

Mr. President, I reserve the remainder of my time.

Mr. HOLLINGS. Mr. President, I appreciate the opportunity afforded by the distinguished chairman of the Committee on Interior and Insular Affairs to comment on the proposed land use management legislation now before the Senate. I have great respect for the chairman and I recognize the diligent work he has done on this problem of national land use management.

My reason for joining this debate today is to discuss with the Senator from Washington and the members of his committee our standing agreement on the compatibility of the national land use bill and S. 3507, the Magnuson National Coastal Zone Management Act of

1972. This bill passed the Senate 68 to 0 on April 25, 1972, and was adopted 376 to 6 by the House of Representatives on August 2, 1972. This bill is now before a committee on conference which expects to report out a final version before this Congress adjourns.

The coastal zone bill has been before the Congress more than 2 years, following a major recommendation by the National Commission on Marine Science, Engineering and Resources in its report, "Our Nation and the Sea." The Committee on Commerce and its Subcommittee on Oceans and Atmosphere, which I am privileged to chair, has conducted exhaustive studies and numerous public hearings to amass a staggering record of support for coastal zone management. This record is consistent with the findings of the Committee on Interior and Insular Affairs about the condition of national land use management.

Members of the Committee on Commerce recognized, however, that the supporters of land use legislation had some genuine concern about the scope of the proposed Coastal Zone Management bill and any conflicts it might pose once a national land use program is achieved. In an attempt to accommodate our bill S. 632, we worked out a series of changes in S. 3507 proposed by Interior Committee members in exchange for an understanding that these two programs can work together, side-by-side, with full and complete communication and coordination on the part of the agencies and States involved. Through our negotiations, the definition of what actually constitutes the "coastal zone" is limited to those lands whose use has a direct, significant and adverse impact upon the coastal waters. The effect of our bill is to protect the waters of the coastal zone—the beaches, salt marshes, sounds, harbors, bays, and lagoons—from the uses of the adjacent land. The intent of the legislation is not to infringe upon or take jurisdiction over any national program of land use management, or any Federal parks, Federal lands or lands under jurisdiction of the Federal Government. Moreover, should the States adopt a land use program, there is absolutely no reason to believe that such a program could not be fully consonant with a coastal zone program. The two could actually be operated by the same State agency. Such plans could be approved by the Secretary of the Interior and the Secretary of Commerce—the administrators of the respective programs—through some congressionally approved consultation and coordination formula, such as a board or commission in the Executive Office of the President.

S. 3507 sets up such a Board for the purpose of providing "for the effective coordination between programs of the Federal agencies within the coastal zone . . ." and, Mr. President, "in the case of serious disagreement between any Federal agency and a coastal State in the development of the program, the Board shall seek to mediate the difference." Finally, this Board can provide a forum for appeals by any areawide planning entity or unit of local government from any decision or action of the Secretary or the management agency of the State and local area.

Personally, I recognize that our national goals must include care to protect all of our lands and waters. But environmentalists and scientists have long recognized the special unique nature of the coastal zones. Today, there is a crisis at hand in our coastlines. S. 3507 will provide the means to avoid this crisis by creating a Federal program to grant financial assistance to the States to protect the coastal waters and shorelines. Many States have already begun to act even without Federal aid. The problem is so critical that these courageous States have committed tax revenues from hard-pressed budgets in their determination to protect this irreplaceable natural asset. S. 3507 recognizes this need and will come to the assistance of the States to help them tackle this immensely important job.

Mr. President, S. 3507 is aimed at providing orderly, sound growth in a narrow strip of land so as to protect the water of our coastal States, Great Lakes States and our territories. The management program authority may extend inland only so far as is necessary to protect those waters, and the bill specifically restricts it to land which, as I have said, has a "direct, significant and adverse impact upon coastal waters." So one can readily see, S. 3507 is not intended to encroach upon national land use planning. By the same token, we believe that the needs of the coastal zone are sufficiently different to demand a separate management regime. The critical and special nature of these needs and the authority of the coastal zone management program created in S. 3507 must be respected by those who eventually administer S. 632. This was the agreement between the Committee on Commerce and the Committee on Interior and Insular Affairs when S. 3507 passed the Senate. I am proud of this coastal zone legislation, proud because it is among the most important pieces of environmental legislation ever adopted by Congress. It will help us preserve the natural beauty and assets of a nation much blessed by nature. And I am doubly proud that the Senate continues to provide the leadership this Nation needs to sort out and solve our environmental problems now, before it is too late. Thank you.

Mr. JACKSON. Mr. President, I would like to take this opportunity to compliment the Senator from South Carolina (Mr. HOLLINGS) on the statement on S. 632 and S. 3507.

The Senator's discussion of the agreement between the Commerce Committee and the Interior and Insular Affairs Committee concerning these two major environmental bills is accurate, and it is appropriate that this agreement be reflected in the legislative history of S. 632.

Let me further say that I have always found the Senator from South Carolina to be reasonable, fair, and gracious in our negotiations on the difficult questions presented by these two measures. It is my judgment that the two bills are compatible and that if enacted into public law they can be administered without conflict, without unnecessary expense, and without placing duplicative requirements upon State and local governments.

Mr. President, I yield 10 minutes to the distinguished junior Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized for 10 minutes.

Mr. MUSKIE. Mr. President, the Land Use Policy and Planning Assistance Act which we consider today has significant implications—perhaps greater than any domestic legislation we have yet considered in this session of Congress.

It mandates that States closely supervise or control land use decisions which have long been the province of local government; it requires States to coordinate all State and local services which significantly affect land use; it establishes the Federal Government as supervisor of these newly centralized State responsibilities; and it proposes policies for land use and resource conservation which appear to be oriented towards development and may conflict with environmental legislation we have enacted.

These proposals will have significant ramifications on the financial structure and sovereignty of State and local government, on the relationship of the Federal Government and States in the federal system, and upon the future of Federal and State laws to protect the environment.

This bill creates an outline for national land use policy with no substance; declares a national policy but concedes to the several States responsibility to determine what that policy should be, subject only to procedural review by the Department of Interior.

Federal legislation of this magnitude, with far-reaching impact on many Federal programs—at least 112 by the Interior Committee's count—must provide some Federal policy guidance. This legislation provides none. It is my intent to offer amendments to assure that the bold steps taken in the Clean Air Act and the Federal Water Pollution Control Act are not set back by seeming conflict and inconsistency with the legislation which we consider today. I would also hope there would be little controversy as to an amendment to assure that States and localities continue to be permitted to adopt strict controls on development without dilution by the policy provisions of this legislation.

Mr. President, beyond the impact on environmental laws, there are three issues raised by S. 632 I would like to discuss. I discussed these issues in a Senate floor speech on August 16. I tried to identify the deficiencies which I felt were inherent in the reported bill.

I discussed these issues on the Senate floor in a speech on August 16. I ask unanimous consent that the text of that speech be printed at this point in the RECORD.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

SPEECH BY SENATOR MUSKIE

Mr. President: The Land Use Policy and Planning Assistance Act which we are about to consider has significant implications—perhaps greater than any domestic legislation we have yet considered in this session of Congress.

It mandates that states closely supervise or control land use decisions which have long been the province of local government;

It requires states to coordinate all state and local services which significantly affect land use;

It establishes the Federal government as supervisor of these newly centralized state responsibilities; and

It proposes policies for land use and resource conservation which appear to be oriented towards development and may conflict with environmental legislation we have enacted.

These proposals will have significant ramifications on the financial structure and sovereignty of state and local government, on the relationship of the Federal government and states in the Federal system, and upon the future of Federal and state laws to protect the environment. Yet, despite this potential impact, this legislation was subject to only four days of public hearings during this session of Congress during which little attention was given to the key issues relating to our Federal system.

This bill creates an outline for national land use policy with no substance; declares a national policy but concedes to the several states responsibility to determine what that policy should be, subject only to procedural review by the Department of Interior.

Federal legislation of this magnitude, with far-reaching impact on many Federal programs—at least 112 by the Interior Committee's count—must provide some Federal policy guidance. This legislation provides none.

In an effort to meet some of these dificiencies and highlight this area of concern, I will introduce amendments to S. 632 to set such policy goals. These policy positions, if enacted, would provide valuable public benefits.

I propose these indices or criteria as a possible direction for national land use policy. I urge discussion and amendment of my proposal so that our national land use program includes a true national policy—a clear statement of statutory indices to establish the basic elements of good land use.

Congress has already authorized land use control in the air and water pollution control acts which are necessary to implement the control standards they set. Consequently, it is absolutely essential in any and all legislation affecting national land use patterns to incorporate as a first element the requirements and land use controls of the Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended. My amendment would do this.

In reviewing, with the benefit of hindsight, the causation of land use development, it is possible to discern patterns where human choice is completely eliminated as a factor. Consider, for instance, a stylized description of water resource and related land use development. Early development generally occurred on flood plains for easy accessibility to water.

Upstream mismanagement exacerbated natural flooding and society responded with publicly-supported food control measures, generally expensive dams, to protect private property. This stimulated further development of flood plains with further need for flood protection and so the cycle runs. Land use development such as this cannot continue.

Flood plains are highly productive lands dependent on flood for replenishment and, to the extent possible, they should not be urbanized or industrialized. National land use legislation should firmly establish this as policy.

One of the most unfortunate national land use patterns we have experienced in the last several years is the loss of high quality agricultural land to suburban and urban sprawl. Any analysis of the future reveals that we can simply not tolerate the loss of food production such practices cause. Therefore, another important element in land use legislation should be the preservation of the remaining good agricultural land in the country. The amendments I propose so provide, with the reservation that development may occur when a Governor deems it essential to health and welfare or where it is necessary to provide low income housing.

Current patterns of land use development operate generally without reference to ecological systems, or even to technical substitutes for certain ecological systems essential for industrial and urbanized communities; namely water supply, energy supply, and solid and water waste disposal and recycling. Development must be in phase with such technological systems and such technological systems must in turn be compatible with the environment in which they are located. Technological systems cannot be overloaded nor can they overload the environment, and land use policy must incorporate necessary controls.

Wetlands like flood plains are extremely valuable ecological systems. They represent the most highly productive biological systems on earth, essential to the entire ocean ecosystem. Clearly, national land use policy must provide for the protection of remaining wetlands.

One of the most damaging policies controlling our present land use, arrived at, I would submit, more unconsciously than consciously, is a premise that land use should be developed around the private, four-passenger, internal combustion automobile. The practices and patterns that have evolved from this presumption appear absurd. For instance, many municipal building codes provide that in the construction of buildings so many square feet of parking space must be provided. And yet we do not require a certain amount of open space or recreational opportunity for the individuals working or living in such buildings. What we provide for the automobile we do not provide for people.

The presumption of an automobile-based society must not be allowed to thwart the objectives of national land use legislation. Perhaps the most important criteria that can be written into any national land use policy is the reversal of the premise of automobile dependency that has held us since World War II.

A present land use practice that tends to intensify environmental degradation is the failure to use existing rights of way for multiple purposes. The landscape is literally crisscrossed with rights of way for highways, for one or another utility service, and for gas and oil pipelines. We cannot continue to spend massive amounts of money and set aside land for new rights of way. We must intensively develop existing rights of way, including the median strips on the Interstate Highway System, so that most essential services can be located on such rights of way in or on the ground and thereby enhance the landscape of our communities.

One of the paramount factors causing the blight and the ugliness that prevails in our urban and rural areas is the practice of suspending utility and communication services overhead on poles along highways and roadsides. This practice simply does not offer the quality of the environment that we in this country should have if we are to preserve amenities necessary for a quality of life. As a national policy we should discourage such practices. With the impending expansion of community antenna TV we must act to avoid the perpetuation of this ugliness and seek the elimination of the suspended wires that have accumulated over so many years.

One of the growing problems with municipal waste sewage treatment systems is the inability to process storm water overflow. Consequently, during storms, raw sewage in great quantities is discharged into the natural waterways. In part, this problem is caused by the increasing practice of making impermeable to water ever larger portions of our landscape—highways, airports, parking lots, roof tops—all exacerbate run off water problems. It is a clear example of shifting private costs to the public sector and should be revised. We must require, as an element of land use, that those responsible for making impermeable a portion of the earth's landscape must prevent the storm water from running rapidly into the public sewer system causing storm water overflow and into natural waterways causing flooding.

Related to the problem of runoff water from paved or other sealed landscape is the deterioration of upland watersheds through poor agricultural management and suburban spread. Upland watersheds must be restored and maintained to perform their ecological function of tempering the rate of water flow in the hydrologic cycle. Consequently, as an element of national land use policy we must establish a policy of preservation of the ecological characteristics of upland watersheds and control development accordingly.

These are some of the criteria for good national land use policy which I intend to propose as an amendment. My proposals are intended to fill the void of S. 632 as reported. I would hope, after discussion of this amendment, that the Senate could approve a responsible set of criteria to serve as a policy guide.

But lack of policy direction while it purports to set Federal policy is only one of my concerns with S. 632.

The legislation before us would require, in a short time, great strides in coordination and consolidation of land use planning efforts, but it entirely ignores the other side of the coin—the excessive dependence of cities and counties on property taxes which has led to the haphazard and confused land use patterns of today. This cannot be ignored. You cannot seriously consider land use planning reform without property tax reform, for they are inextricably tied together in a complex series of relationships dating back to the early days of the Republic.

Mandating major reform of land use planning authority, as S. 632 does, without also addressing the local property tax dependence issue, can further strangle many of our major cities that are already on the verge of bankruptcy.

Today 66% of all locally generated revenues come from the property tax—$38 billion.

Today about 40 states set maximum limits on the property tax rates cities may charge and set limits on local borrowing which relate to the property tax base.

When a city reaches the limits imposed by state law—as some cities such as Detroit and Cleveland have—its only recourse is to somehow influence use of land for greater tax productivity. If this fails, municipal services—police, fire protection, sanitation, etc.—must be cut back.

S. 632 would require states to strip cities of this essential revenue raising option—an option which has created well recognized problems—but S. 632 suggests absolutely nothing be substituted to assure that local revenues will be there to support local services if control of the property tax base is lost or its expansion is restricted. Further, this bill grants supervisory authority for program implementation to the Interior Department which has no experience in cities, no experience in state and local finance, and no experience in comprehensive planning.

I submit we cannot act so casually and after so little consideration on an issue of such vital impact to our grassroots of government at the local level.

Let me emphasize that in taking this position, I am in no way justifying the present property tax system which is often regressive, haphazard and unfair. Nor am I downplaying the need for more sensible land use planning. I am only stating that we cannot have reform of one without reform of the other.

Last year my Subcommittee on Intergovernmental Relations published a study entitled "Property Taxation: Effects of Land Use and Local Government Revenues". This study clearly identified the close identity of property tax and land use. It stated:

"The low taxaton of land based on present-use value also facilitates speculative holding of land in the path of urban development for large capital gains. An added incentive for withholding land from the market for large price rises comes from the favorable capital gains treatment of land investment profits under the Federal income tax laws. Another Federal income tax feature, the allowance of business building depreciation, creates local pressures to allocate more value to building improvements and less to nondepreciable land. A focus on building improvements in assessments for local property taxation inhibits rehabilitation of older residential properties.

"Large acreages of vacant close-in suburban land as well as rebuildable central city sites are withheld from the market for large price rises under the present property tax system. That occurs as land is taxed at low effective rates, in relation to realistic market value, and building improvements are subject to a relatively greater tax burden. Consequently land prices are high in urbanizing areas and builders "leapfrog" further out to cheaper lands for residential development. Less than optimum size communities are created, entailing high per-unit costs of services, increased daily commutation, and an extension of urban sprawl."

The deadening impact of property taxes on land use in central cities has been starkly illustrated by Mayor Kenneth Gibson of Newark, New Jersey, who stated:

"We must rely upon our local property tax for 65% of our revenues. In a city where we already have one of the highest and most confiscatory rates in the country, we were forced to raise the rate of taxation this year by almost 10%. This increase means that an owner of a $20,000 home will pay about $1,850 in annual property taxes. We have reached a point where our property tax has only hastened the flight of industry, commerce, and the remaining middle class homeowners out of Newark. The excessive rates we are forced to impose have actually been the cause of abandonment, deterioration, and a decline in our tax base. The stark reality finds buildings being abandoned at the clip of one a day."

I shall propose amendments to face the property tax issue as part of this land use reform package if it is to be adopted.

Beyond my general concern that major land use reform without property tax reform may be ineffective while doing severe harm to local fiscal structures, I have several very specific questions about the impact of this legislation which, I believe, must be answered before it is enacted:

(1) Will the state assumption of land use control required in this bill shift liability for damages from incompatible land uses—such as airport noise—from local governments to the states? This is no small matter. It will mean shifting up to $10 billion in damage claims from Los Angeles to the State of California. As states are specifically required to assume "determinative" authority over land use around airports, it would appear they also might be liable for allowing continuation of incompatible uses.

(2) Will the uncertainties of impending state controls compromise the capacity of municipalities to borrow money? The borrowing capacity of municipalities is closely tied to property values and property tax income. Changes in zoning designations from agricultural to commercial or from low density to high density residential, for example, can mean thousands of dollars of revenue and hundreds of thousands or even millions of dollars in increased tax base on which to borrow. Any federally required state actions or potential actions which might restrict use designations to less valuable uses could compromise capacity of some localities to sell bonds and if the more restrictive use designations were imposed could make some bond sales based on the higher assessed valuations actually illegal.

(3) If a state assumes major responsibility for land use control, what concurrent responsibility does it assume to pay the cost of local services, particularly in those communities whose levels of service are restricted by a low property tax base? Already in three major cases, *Serrano vs. Priest*, *Van Dusartz vs. Hatfield* and *Rodriguez vs. Edgar*, courts have held that disparities in the level of educational services caused by differing property tax bases are a violation of the equal protection clause of the Fourteenth Amendment. The Supreme Court will consider the issue this fall. It would appear that assumption of a major state role in determining local property values would invite similar rulings relating to other local services—police, fire, sanitation, transportation. Certainly the courts would not permit states to keep levels of local services permanently low in some communities by prohibiting higher value land uses. The potential impact of this radical reform in the way we pay for local services must be seriously contemplated as we examine the ramifications of the bill before us.

(4) What is intended by the requirement that states set up a method for coordinating programs and services of "all State and local agencies significantly affecting land use"? Just what agencies are intended, and what degree of coordination? Almost every major state or local function has a "significant" effect on land use—police and fire protection, welfare, trash disposal, sewage treatment, parks and recreation, schools, transportation. Are all of these activities to be coordinated at the state level? This broad based mandate for coordination in section 302 is typical of the many general phases of potentially severe impact which are unexplained in the legislative development of this bill.

(5) Is this legislation, by setting policy for equal consideration of environment and economics and for "balanced" land use and by requiring states to override local laws designed to restrict development intended in any way to conflict with non-degradation policies and air and water quality improvement mandates of other Federal laws or with state laws intended to restrict development? What will be the impact of these new Federal policy positions on court cases involving those other laws?

(6) Will any state constitutional changes be required by this legislation, and if so, does it give states time enough to consider and act? It would appear that the major redirection of responsibility S. 632 requires will necessitate some constitutional changes, particularly in those states that have strong local home rule laws.

Further, all states which act responsibly and undertake property tax reform and land use reform together will probably have to adopt constitutional changes. But they may not have time. Eighteen states require that constitutional changes be adopted by two sessions of the legislature and then be approved by the electorate. This would be a three to seven year process at best, more if adequate consideration of these vast reforms is to be allowed. In three states where two-session approval is required—Nevada, Tennessee and Vermont—the legislature only meets biannually, and if major reform was not approved in their 1973 session, which might be difficult, final approval would not be possible until at least 1977 and probably 1980.

Just what is intended by this legislation, and what the ramifications of that intent are must be examined in much greater detail before this bill is approved.

Mr. MUSKIE. Mr. President, in that speech I tried to identify some of the key issues of this legislation.

Today I will be more precise. Today I have prepared and have translated into legislative language amendments which address those three critical areas. I think the failure to adopt these amendments will result in confusion, lack of guidance, lack of leadership, lack of effective management of land use and, without question, subrogation of a myriad of national policies to the judgment of the Interior Department and the States.

Mr. President, S. 632 as reported from committee requires that Federal programs which affect land use conform to State land use plans. But S. 632 does not provide any mechanism to permit a Federal substantive involvement in the nature of those land use plans nor does the legislation as reported provide any guidance as to what is and what is not good land use planning.

A State is permitted to establish land use policy which may frustrate national policy. This authority could be devastating in a creative and cooperative federal system. I do not think that States can operate without guidance from the Federal Government and without substantive involvement from the Federal Government. There are obviously too many national interests involved to require Federal conformity to plans in which the Federal Government has only a procedural involvement.

As a practical matter, of course, Federal policy guidance may quickly develop. The lack of Federal policy guidance in S. 632 will present an opening for those in the Federal bureaucracy to impose their individual views of what is best upon the States. Stating a national policy in the law will assure that States are not subjected to these bureaucratic whims and assure a true national policy.

Land use policy is but one of the considerations which must be identified in making public policy. There is no question but that land use decisions will affect transportation, energy, and the environment. And yet we have or should have a national policy for each. To impose one on top of the other without consideration of their relative impact would be irresponsible.

Land use control does not by itself protect the public health even though public health may be adversely affected by air and water pollution associated with a given land use. But existing law provides for that. The Interior Committee does not argue that S. 632 is public health legislation. Certainly, no one would suggest that air and water pollution laws designed to protect public health and welfare should be subrogated to land use decisions which may only relate to economic development. Therefore, it is essential that we not only have guidance as to land use but also have the capacity for the Federal Government to become sufficiently involved in the development of land use plans to assure that other equally or more important national policies will not be upset in pursuit of land use decisions.

I do not doubt that the initial steps anticipated by this legislation will lead to a substantive Federal presence in State land use decisions in any event, whether or not the sponsors of this legislation so intend. I simply intend in my amendments to clarify that role, to establish the necessary guidance and to assure a substantive response.

Repeatedly, statements which have been made about this bill argue that the Federal Government only procedurally becomes involved in land use. But I would point out to my colleagues that under the guise of procedural involvement with the penalty provisions established in the legislation, there is an indirect Federal involvement in the State land use plans which is as great as that which I would propose, without the guidance of the Congress as to what the nature and extent of that involvement should be. Any Federal program which is initiated on the presumption that failure to adequately perform can result in reduction of Government funds must necessarily leave to the administrators of that program the determination of adequacy of performance. Such a determination without policy guidance simply means an ad hoc judgment, in this case by the Secretary of the Interior, as to whether or not he likes a land use plan developed by a State.

There are other vital areas of concern. No land use policy can be effective in this country without attention to and reform of the property based tax system. The degree of reliance of local governments on the property tax base is such that no meaningful land use decisions can be made without first focusing on what the property tax will permit. This matter is not addressed anywhere in S. 632 and yet it is integral to S. 632.

There is no reason to believe that the policies developed under this legislation and imposed on local government will take into account the need for tax reform unless the Congress insists that tax reform be an integral part of land use policy. To do less would be irresponsible. To encourage and, in fact, require the States to take over local land use decisionmaking responsibility without requiring that States assure continued availability of local services and fulfillment of all local government financial obligations, regardless of losses associated with changes in value of property rezoned to meet State plans, is ridiculous.

Mr. President, we have today an outstanding example of how foolish it would be to permit land use reform without tax reform. The Subcommittee on Air and Water Pollution recently held a hearing on pollution of the Lake Tahoe Basin.

My colleagues know that the Tahoe basin is a unique national resource. Its ecology is fragile and it is being destroyed. If current development plans for that basin were permitted to proceed unchecked Lake Tahoe could be written off now. In recognition of this, the States of California, Nevada, and the Congress enacted an interstate compact with the power to make determinations as to how best to use the land in that area in order to protect that fragile environment.

The Tahoe Regional Planning Agency has developed a land use plan and, as should have been expected, has changed entirely the property tax base for the political subdivisions which operate in that area. Land formerly valued at speculative rates because of anticipated development has been devalued because the fragility of the land surface will not permit any development whatsoever. And yet, the political subdivisions within that basin, anticipating development and responding to the needs created by that development, have invested heavily in improvements such as water, sewer, waste treatment plant, so on, to meet the needs of anticipated growth.

Today those communities are desperate. Debt service must be retired or the communities in question will face severe fiscal crisis. But there are no funds. There has been no reform. There is no mechanism to compensate those communities for the loss associated with rezoning requirements which have been determined essential for the preservation of that basin.

Mr. President, this example alone should serve as warning to the Senate of the need to mandate, as a part of this legislation, an absolute requirement that property tax reform accompany, if not precede, any land use policy decisions at the State level. Today, I shall propose amendments to assure consideration of these matters as part of the land use program.

Mr. President, the Land Use Policy and Planning Assistance Act would rest responsibility for procedural review of State land use plans in an Office of Land Use in the Department of the Interior. I question this viability and the wisdom of this provision. The Interior Department has a long and distinguished history of involvement in development of public land, wilderness areas, and national parks.

Unfortunately, the Interior Department has no broadbased planning responsibility as would be established under S. 632. The Interior Department has no awareness of issues relating to State and local tax patterns. The Interior Department has had no involvement or experience in the Nation's urban areas where 70 percent of the population lives and where the major, critical land use planning problems exist. Because of the Interior Department's limited experience in these areas, I am concerned that solution to urban-based land use problems, at worse, may be misjudged and at least delayed or complicated. Sound evaluation of public policy requirements argue that an Interior Department traditionally oriented toward public lands and rural areas will not comprehend other issues, including the host of problems which confront urban areas in 50 States.

An argument can be made for charging several Federal agencies with the lead agency role in land use planning. But any fair evaluation of the Federal structure demands the conclusion that no single agency has either the ability or the breadth to do the job. The Department of Housing and Urban Development, for example, has experience in comprehensive planning in urban areas but has limited understanding in such matters as watersheds, irrigation rights, wilderness needs, and mineral exploration which affect many important land use decisions outside of urban areas.

The Environmental Protection Agency, with knowledge of environmental issues, has but little involvement with the social and fiscal implications which affect land use planning in urban areas or the land management issues which must be recognized in nonurban areas.

For this reason, it is essential that, should the Federal Government assume the role in guiding development of State land use planning programs assigned by S. 632, coordinating it must occur through an agency with the breadth to recognize all of the broad issues, with capacity to bring together all of the experience of Federal agencies relating to the land use planning which does not exist in the narrow line agencies. Only the Executive Office of the President has the overall capability to coordinate this responsibility.

My amendment would vest responsibility for implementation of this legislation in the Executive Office of the President. I admit that this is an imperfect solution, but land use is so complex—land use involves so many facets of public activity—land use involves the programs of so many Federal agencies—that land use must be within the responsibility of a Federal office which has the capability to bring to bear all of the resources of the Federal Government.

Under my amendment, the President would have to establish an Office of Land Use Planning in the White House. That office should be able to draw immediately the best talent available from the Departments of the Interior, Housing and Urban Development, Transportation, and Agriculture as well as EPA, independent agencies, the academic community, and the private sector. I do not expect this office to be political. Like the Office of Management and Budget, it should be an agency composed of civil servants dedicated to a specific responsibility.

And, the White House which has ultimate responsibility of implementation and coordination of those national policies to which I have referred is the only logical location for the responsibilities proposed by this bill and the amendments thereto.

So, Mr. President, I shall offer an amendment to change jurisdiction over this land-use program from the Department of the Interior to the Executive Office of the White House itself.

The **PRESIDING OFFICER.** Who yields time?

Mr. JACKSON. Mr. President, I ask unanimous consent that Elwin L. Skiles, Jr., minority counsel of the Subcommittee on Banking, Housing, and Urban Affairs, and Thomas Nelson, assistant minority counsel of the Committee on Interior and Insular Affairs, be permitted to be on the floor during the consideration of the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I yield 3 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. HANSEN. Mr. President, I am sure none of us disagrees with the objectives that are sought to be achieved by this legislation before us. I think a great many of us have some very serious misgivings as to the ability of the bill to deliver these goals and to do it in a fashion that is acceptable to the kind of government we have had. I want to say that initially one of the principles we have had great regard for is embedded in the Constitution and has been incorporated in most of the laws that have been passed from time to time—the ownership of private property.

This bill as it appears before us now, unamended, threatens an invasion of the right to the ownership and the management of private property. I do not deny at all that a great many things have taken place in our country by owners of private property which obviously have not redounded to the public good. Yet I think the whole network of laws regarding condemnation, eminent domain, and public appropriation have been passed recognizing that government should have the ability to step in when necessary and to exercise its sovereign right. But inherent in this philosophy is the right of a person to his day in court. A citizen shall have a right to present his point of view, and that if his rights are minimized or diluted, or diminished in any way in his right to full exercise of private property, that he shall be recompensed for whatever diminution may result from abridgment of those rights.

As I read this bill as it is presently drafted no provision is made for this sort of consideration. I think it would be an unfortunate thing if in the interest of trying to advance the public good we were to invade this very greatly cherished landmark in our Government and say it is perfectly all right if most people feel that a landowner should not do something with his land and then not provide the landowner the right to go to court.

Mr. President, it was not too long ago that America changed from a rural to an urban-oriented community. City life brought with it a rash of new social and economic problems.

To meet the influx of undesirable spinoffs of an urban society, the courts recognized a new concept which had been hidden under the umbrella of the legal repository of state police power. This concept was zoning. Zoning has been used time and time again during the last hundred years in an attempt to relieve the socio-economic pressures of this country.

The problems which face virtually every urban center in our Nation today bear simple witness to the success of zoning meeting the ills of urban expansion.

There is no doubt that zoning in certain local instances has led to a more ordered and proper evolution of communities resulting in improvement of the environment, health, safety, comfort, and welfare of its citizens. But there is little doubt that the record attests to the fact that zoning has proven not to be a sure remedy of urban plight.

As time has passed and local zoning has apparently proven unable to do its job of solving and expanding society's problems, the solution has seemingly been to isolate the planning decisions further and further from the local community—to rely on some higher governmental entity to resolve local problems.

I would remind Senators that only last week we were discussing trying to return government to the people. The whole concept behind revenue sharing was that local people, understanding local conditions, with full understanding of local problems, know better than does the Federal Government what should be done. Local decisions should we made at the local level.

This legislation, on the other hand, seeks to turn that concept around and say that the overall omnipotence of the Federal Government should be exercised so as to say to the States, "If you do not come up with a plan acceptable to us we will impose the Federal will on you."

To that extent I am sure that I must take exception.

The PRESIDING OFFICER. Who yields time?

Mr. FANNIN. Mr. President, will the Senator yield to me for 3 minutes?

Mr. JACKSON. I yield 3 minutes to the Senator from Arizona.

Mr. FANNIN. Mr. President, the distinguished floor manager of the bill (Mr. JACKSON) and the ranking member today on the committee, the Senator from Idaho (Mr. JORDAN) worked diligently on the Public Land Law Review Commission Report. I am also a member of that group and worked for a number of years—I did not serve on the Commission for the full time of its life—to bring about a program that would result in the orderly development of the land of our States and communities. This was a very difficult situation whereby we could coordinate to have a program in which there would be complete coordination between the Federal Government and the States to accomplish this objective.

Mr. President, I agree with what President Nixon stated in regard to the subject:

> Our ultimate purposes are many: To restore to the States their proper rights and roles in the Federal system with a new emphasis on and help for local responsiveness; to provide both encouragement and the necessary resources for local and State officials to exercise leadership in solving their own problems; to narrow the distance between people and the government agencies dealing with their problems; to restore strength and vigor to local and State governments; to shift the balance of political power away from Washington and back to the country and the people.

My capable colleague from Wyoming has brought out this desire, and the intent we had, as the committee was working on the bill, when we were seeking this goal, but when we talk about this under the reported bill, the loss of State control may not be readily apparent upon its enactment; but it has happened so often as to almost be an established rule that once a State is placed under a Federal program involving approval of State plans by an official in Washington, upon penalty of the loss of Federal funds, the autonomy of the State has been compromised. After that, the "natural" course of events seems to be more and more direction from the Federal bureaucracy and less and less input by State and local officials until virtually 100-percent Federal control evolves.

This is my great concern—that we have, in writing this bill, brought about a circumstance which makes it very hard to give the authority to the States——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FANNIN. May I have 2 minutes?

Mr. JORDAN of Idaho. I yield 2 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 2 minutes.

Mr. FANNIN (continuing). Authority to the States whereby they can cooperate with the Federal Government in having orderly development of its lands, and in accordance with that, to have also the development of Federal lands compatible with this intent.

The bill which has been reported contains punitive provisions for those States which do not submit acceptable land use plans for those areas and covering those uses which are agreeable to the Secretary of the Interior.

So this is a demand upon the Federal Government to the States that I do not think carries out the intent of the work of the Public Land Law Review Commission.

Congress finds that the primary responsibility and the constitutional authority for land use planning on non-Federal lands rests with State and local governments.

That is stated in one section of the report. Then it states later that the responsibility and authority for land use planning within a State is the prerogative of States which should not be usurped by the Federal Government.

It goes on to say that if Congress enacts a law which only gives lip service to this principle and then turns around and forces the States to submit to what the Federal Government may decide is best for them, then we sincerely believe that one of the last remaining vestiges of State police power will have been usurped.

So when we see the basis upon which the incentives will be allowed, the grants would provide a large amount of money——

The PRESIDING OFFICER. The time of the Senator has again expired.

Mr. FANNIN. May I have 1 more minute?

Mr. JORDAN of Idaho. I yield 1 minute to the Senator.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 1 additional minute.

Mr. FANNIN. The grant program would provide $100 million annually for 8 years, but still there is not a definite basis upon which the States and communities can depend, because with this vast amount of money being available from the Federal Government and without any certain policy or certain formula whereby the States know exactly what they could expect or what would be proper and fair, I think this would lead to a great deal of difficulty.

That is my concern, and I hope that we can, while this bill is being considered, adopt amendments that will correct this inequity.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENSON. Mr. President, will the distinguished Senator from Washington yield me 2 minutes for a question?

Mr. JACKSON. I am happy to yield to the Senator from Illinois.

Mr. STEVENSON. Section 202 directs the Secretary, acting through the newly created Land Use Policy Administration to maintain a continuing study of land resources of the United States and their use. I was hoping such a continuing study would include information on the ownership of land by the type of organization—corporate, partnership, or public body, and the like—similar to the information which is now provided by the Census Bureau for agricultural land. This kind of information would be helpful in projecting future land uses. Would this, in the Senator's opinion, be envisioned by this bill?

Mr. JACKSON. I can say to the Senator from Illinois that it is indeed the intention of this provision that information such as he suggests be included in the study. Rational land use planning would be impossible without knowledge of patterns of land ownership within a given area.

Mr. STEVENSON. I am very grateful to the Senator for yielding and for giving me that assurance. I also want to commend him for recognizing the importance of rational land use planning in the country and for helping to bring this bill to the floor.

Mr. President, I also ask unanimous consent that a member of my staff, Mr. Harold Wolman, be permitted to remain on the floor during the debate of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NO. 1535

Who yields time?

Mr. JACKSON. Mr. President, I call up my amendments No. 1535 and ask for their immediate consideration.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk read as follows:

(1) On page 68, between lines 3 and 4, insert a new subsection (e) as follows:

"(e) The Board shall have as advisory members two representatives each from State governments and local governments, and one representative each from regional interstate and intrastate entities which have land use planning and management responsibilities. Such advisory members shall be selected by a majority vote of the Board and shall each serve for a two-year period."

(2) On page 69, line 7, strike "Secretary" and insert in lieu thereof the "Advisory Commission on Intergovernmental Relations".

(3) On page 69, line 14, strike "Secretary" and insert in lieu thereof "Advisory Commission".

(4) On page 75, line 23, after "agencies;" and before "the" insert "flood plain zoning plans approved by the Secretary of the Army pursuant to the Flood Control Act of 1960, as amended;".

(5) On page 81, between lines 20 and 21, insert a new clause (2), as follows:

"(2) the Secretary shall not make a grant pursuant to this Act until he has ascertained that the Administrator of the Environmental Protection Agency is satisfied that the State's land use program is in compliance with the goals of the Federal Water Pollution Control Act, the Clean Air Act, and other Federal laws controlling pollution which fall within the jurisdiction of the Administrator, and that those portions of the land use program which will effect any change in land use within the next annual review period are in compliance with the standards, criteria, emission or effluent limitations, monitoring requirements, or implementation plans required by such laws. The Administrator shall be deemed to be satisfied if he does not communicate his views to the Secretary within sixty days of submission of the State land use program to him by the Secretary."

(6) On page 87, line 23 through page 91, line 9, strike subsections (b), (c), (d), and (e) of section 307 and insert in lieu thereof a new subsection (b), as follows:

"(b) (1) After five fiscal years from the date of enactment of this Act, no Federal department or agency shall, except with respect to Federal lands, propose or undertake any new action, financially support any new State-administered action, or approve any loan or loan guarantee which might have a substantial adverse environmental impact or which would significantly affect land use in any State which has not been found eligible for grants pursuant to this Act. Such actions shall be designated in the guidelines promulgated pursuant to section 502 of this Act.

"(2) Upon application by the Governor of the State or head of the Federal department or agency concerned, the President may temporarily suspend the operation of paragraph (1) of this subsection with respect to any particular action, if he deems such suspension necessary for the public health, safety, or welfare: *Provided*, That no such suspension shall be granted unless the State concerned submits a schedule, acceptable to the Secretary, for meeting the requirements for eligibility for grants pursuant to this Act: *And provided further*, That no subsequent suspension shall be granted unless the State concerned has exercised good faith efforts to comply with the terms of such schedule."

(7) On page 100 lines 6 through 22, strike subsection (f) of section 501 and insert in lieu thereof a new subsection (f), as follows:

"(f) The term 'key facilities' means public facilities on non-Federal lands which tend to induce development and urbanization of more than local impact and major facilities on non-Federal lands for the development, generation, and transmission of energy."

Mr. JACKSON. Mr. President, I ask unanimous consent that the amendments be considered en bloc and, if agreed to, treated as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, amendment No. 1535 consisting of seven amendments, is the product of 2 years of consultations between the staffs of the Public Works Committee and the Interior Committee. The Senator from West Virginia and chairman of the Public Works Committee joins with me in endorsing these amendments.

The first amendment would effect a major change in the sanction provisions—subsections (b) through (e) of section 307—of the act. No longer would the airport and airway development program, the primary and secondary Federal-aid highway programs, and the Land and Water Conservation Fund program be selected out and identified as the only programs to which the sanction—a phased withholding over a period of 3 years of a portion of each program's funds—would apply.

The concept of a phased withholding of funds from certain programs, first included in the original measure (S. 3354) which I introduced in the 91st Congress, was subsequently dropped by the Interior Committee when it reported the measure in December 1970, and was received with the administration's amendment to its land use policy bill (S. 992), introduced early this year.

Although less severe, the problems, first identified by the Interior Committee in the 91st Congress, with a sanction which proposes phased withholding of funds for other programs pertain as well to the sanction now contained in S. 632. First, there exists the jurisdictional problem of specifically identifying programs under the aegis of committees other than the Interior Committee and of departments other than the Interior Department. Secondly, there remains the question of why single out these specific three programs. The selection is reasonable—the two developmental programs, of all Federal programs, have the greatest potential impact upon land use patterns and the environmental program insures that a balance of interests will work for S. 632 success. However, there are numerous programs not subject to the sanction which seriously affect land use patterns. It can be said that too great an onus is placed on the three programs identified for the sanction. Finally, there remains the difficult task of insuring that funds needed for health and safety purposes are not affected by the sanction. The administration assured us the 21-percent ceiling on withholding would not lower the funding level for airport development and primary and secondary highway work sufficiently to impede any project the primary purpose of which is safety or health. However, even if these withholding levels have been carefully selected with public health and safety in mind, the mix between safety projects and developmental projects could shift. And such a shift might make the ceiling restrictive enough to interfere with safety projects.

The sanction now proposed by me and endorsed by the chairman of the Public Works Committee is similar to the one contained in S. 3354, as reported in the last Congress, and in S. 632 as introduced. The new sanction would provide for a freeze on all new Federal actions, federally supported State-administered actions, and Federal loans and loan guarantees which might have a substantial adverse environmental impact or which would significantly affect land use. The sanction would apply after 5 fiscal years to a State which has not been found eligible for S. 632 grants. This freeze would be lifted for any project which is necessary for the public health, safety, or welfare upon request to the President from the Governor of the State or the head of a relevant agency.

This new sanction avoids the three problems of the old sanctions: jurisdictional disputes would be mitigated as no specific program is identified and as the Executive Office of the President, not the Department of the Interior, is the final arbiter; the sanction applies equitably to all programs that have major land use impacts and thus no programs are singled out for special onus; and a special procedure for releasing all safety and health projects from the sanction is provided.

The second amendment agreed to between the chairman of the Public Works Committee and myself would remove identification of specific public projects from the definition of key facilities. Identified were such projects as airports, Interstate Highway System interchanges and frontage access highways, and major recreational facilities. This change is in the spirit of the act. S. 632 is written so as to allow the States to identify the specific land uses which are of distinctly more than local concern and are most troublesome. For one highly urbanized State, highways may be such a use; for another State blessed with valuable scenic beauty, recreational facilities may be critical; and for another State, yet another set of public facilities may be of more than local concern. The States must undertake the task of identifying the key facilities; this amendment will insure that they will do so.

Two more amendments simply substitute the Advisory Commission on Intergovernmental Relations in place of the Secretary of the Interior as the party responsible for conducting the 2 year study of interstate coordination of land use policies and decisionmaking. These are particularly good amendments in that: First, they avoid the jurisdictional problems of having the Secretary of the Interior study interstate entities which participate in other Federal departments' programs; and second, the Commission has already proven its ability and expertise in this field with its recently released report on interstate entities, entitled "Multistate Regionalism."

A fifth amendment specifically identifies flood plain zoning plans prepared pursuant to the Flood Control Act of 1960, as amended, among the plans and programs with which the State land use planning agency must coordinate its activities.

A sixth amendment adds advisory members from State and local governments, and interstate and intrastate regional bodies to the National Advisory Board on Land Use Policy.

The seventh and most important amendment concerns the relationship of the air and water quality and other environmental laws with S. 632. The chairman of the Public Works Committee and I are agreed that S. 632 should not interfere with the effectiveness of those laws. I have assured the chairman that this measure would in no way adversely affect those laws, rather it would strengthen them. The Chairman of the Council on Environmental Quality gave strong endorsement to this view in his letter to me of August 1, 1972. I quote Mr. Train:

> In no way do we view S. 632 as conflicting with existing air or water quality legislation or the goals of other environmental legisla tion. On the contrary, it is fully consistent with and supports them, and I am informed that the Environmental Protection Agency concurs in these views.

Specifically, S. 632 as reported gives preeminence to air and water quality and other environmental laws over S. 632 and the land-use programs prepared pursuant to it. Clause (E) on page 77 and clause (4) on page 75 accomplish this.

However, the chairman of the Public Works Committee and I have agreed to an amendment which will leave no doubt that the air and water laws and other environmental measures shall in no way be altered by this legislation and that, instead, an important purpose of S. 632 is to lend support to those laws. The amendment states that the Secretary of the Interior shall make no grant to a State after 5 years if that State's land-use program, first, is not in compliance with the goals of the Federal Water Pollution Control Act, the Clean Air Act, and other Federal laws controlling pollution, or, second, would, during the next annual review period, not be in compliance with the standards, criteria, emission, or effluent limitations, monitoring requirements, or implementation plans required by those laws. The determination of compliance or lack of compliance rests not with the Secretary but with the Administrator of the Environmental Protection Agency.

This amendment, stronger than S. 632's language and much stronger than the Public Works Committee's amendments to the other major land-use bill already passed by the Senate—the Magnuson Coastal Zone Management Act—will insure that S. 632 will reinforce all other environmental laws.

These seven amendments, submitted en bloc, jointly supported by the chairmen of the Public Works and Interior Committees, do strengthen S. 632. I commend them to my colleagues.

Mr. HANSEN and Mr. COOPER addressed the Chair.

Mr. JACKSON. I yield first to the Senator from Kentucky for a unanimous-consent request.

Mr. COOPER. Mr. President, as cosponsor of some of the amendments being considered, I ask unanimous consent that Richard Hellman from the Public Works Committee staff be permitted to be present in the Chamber during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. HANSEN. Mr. President, I ask the distinguished floor manager of the bill what effect this amendment would have on my Amendment No. 1520, introduced on behalf of the Senator from Idaho (Mr. JORDAN), the Senator from Arizona (Mr. FANNIN), the Senator from Kentucky Mr. COOPER) and myself.

Mr. JACKSON. It will not affect the Senator's amendment. I shall be offering an amendment, or Senator MAGNUSON may offer the amendment, in behalf of the Senator from Nevada (Mr. CANNON), which will be pertinent to the amendment being offered by the Senator from Wyoming, and that will be offered at the end of the series of amendments. I shall be glad to remind the Senator when that amendment will be coming up if he wants to offer a substitute.

Mr. HANSEN. If the Senator will yield further, I have one further question. Does this amendment offered by the distinguished Senator from Washington imply that a State failing to come up with a land use plan acceptable to the Secretary of the Interior be denied funds, for airport expansion, highway extension, or almost anything?

Mr. JACKSON. No, that is not involved. We specifically changed that provision in this amendment.

Mr. HANSEN. How does the Senator's amendment change it?

Mr. JACKSON. This relates entirely to programs which would affect the environment or land use patterns. This does not deal with the general sanctions. We are also dealing here with the question of air and water pollution, statutes and their relation to this measure.

Mr. HANSEN. I thank my colleague.

Mr. BIBLE. Mr. President, will the Senator yield for a question at that point?

Mr. JACKSON. I yield.

Mr. BIBLE. Would the Senator mind detailing the various programs against which the sanctions would run? I understood him to say they would run only against air and water pollution. Is that correct?

Mr. JACKSON. I shall be offering another amendment concerning the sanctions, or Senator MAGNUSON will offer it. This amendment will run to those programs which will have a substantial environmental impact on other activities. Instead of singling out three programs as subject to the sanctions as we did in the reported measure, we have now confined the sanction to those programs which would have a substantial or significant environmental impact or significantly affect land use. I suppose that very clearly that would include the building of certain facilities of a certain kind that would have a substantial impact on land. It is now required, of course, as the Senator knows, under the National Environmental Policy Act, that there be an environmental impact statement filed in those cases.

Mr. BIBLE. I am just trying to see the extent of the breadth to which the amendment the Senator is offering would reach, and I hoped he would list the programs involved. That is all.

Mr. JACKSON. I think it would affect large construction programs. Such undertakings, in the future, would significantly affect land use.

Mr. BIBLE. Would that include a highway program, for example, the building of an interstate highway across the Senator's State or mine?

Mr. JACKSON. The interstate highway programs are deleted from the sanction by this amendment, as the Senator may recall.

Mr. BIBLE. I understand that.

Mr. JACKSON. This is because of the

unfairness that could result from one State complying and another State adjoining not complying and the lack of compliance of the latter State could prevent the interstate highway from coming into the former State.

Mr. BIBLE. Would this apply, then, to the primary highway system, which is not interstate, or the secondary road system?

Mr. JACKSON. It could apply to primary and secondary roads which would, in fact, have a substantial environmental impact as they would affect the land.

Mr. BIBLE. Well, would it apply to the construction of a large airport?

Mr. JACKSON. Yes.

Mr. HANSEN. Mr. President, will the Senator yield at that point?

Mr. JACKSON. I yield.

Mr. HANSEN. I meant to ask, and I thought I did ask, the question just posed by the Senator from Nevada; and I thought the chairman's response was that it would not apply to airport expansions and highways. Do I now understand that it does?

Mr. JACKSON. I was referring to the amendment that will be offered in behalf of the Senator from Nevada (Mr. CANNON) by Senator MAGNUSON. He is offering an amendment which would exempt airports, as I recall.

Mr. HANSEN. I was wondering, if the Senator will yield further—maybe I am interrupting here——

Mr. BIBLE. It is perfectly all right. I interrupted the Senator; turnabout is fair play. Go right ahead.

Mr. HANSEN. I am sure we had the same purpose in mind, Mr. President, and that is to understand clearly what the amendment proposes to do. We are talking about amendment 1535. Is that correct?

Mr. JACKSON. That is correct.

This key language is on page 3, beginning on line 6:

> After five fiscal years from the date of enactment of this Act, no Federal department or agency shall, except with respect to Federal lands, propose or undertake any new action, financially support any new State-administered action, or approve any loan or loan guarantee which might have a substantial adverse environmental impact or which would significantly affect land use in any State which has not been found eligible for grants pursuant to this Act.

Mr. HANSEN. If the Senator will yield further, it is my understanding, on the basis of past experience, that almost any activity that one can think of has been construed by some and has been supported by the courts to have an environmental impact. We are talking about expanding the airport in Jackson, Wyoming, approximately 1,700 feet.

Mr. JACKSON. I think the courts very clearly are not going to place within the purview of the language I have referred to, "substantial adverse environmental impact"——

The PRESIDING OFFICER. The time of the Senator from Washington on the amendment has expired.

Mr. JORDAN of Idaho. I yield 2 minutes to the Senator.

Mr. JACKSON. It would have to be a large project. It is one that would have a substantial impact on the land, the use of the land. It does not apply to smaller projects. Although these things cannot be described by metes and bounds or in terms of dollars, we are talking about very large projects.

Mr. HANSEN. The Park Service, I think, is laboring under the illusion, in Grand Teton, that this does have a major environmental impact. Is the Senator saying that it does not?

Mr. JACKSON. It would not apply at all if the State complies with the provisions of the act and is eligible.

Mr. HANSEN. Assuming that it does not.

Mr. JACKSON. Assuming that it does not, I do not see how it would apply to a small airport, unless it was in, shall we say, a pristine area, which obviously could have a serious environmental impact.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JORDAN of Idaho. I yield 1 additional minute to the Senator.

Mr. HANSEN. I should like a definition.

Mr. JACKSON. The way the Senator describes it, I do not see how it would.

Mr. HANSEN. The Park Service feels it is of critical environmental concern.

Mr. JACKSON. Is this going to be in a park?

Mr. HANSEN. It is in a park.

Mr. JACKSON. In which park?

Mr. HANSEN. Grand Teton.

Mr. JACKSON. Under existing policy, I do not know that there can be an airport in a national park. I defer to the Senator from Nevada.

Mr. BIBLE. My memory is that we normally do not, but I think we passed special legislation—and a couple of dollars to go with the legislation—to put an airport there.

Mr. HANSEN. It is already there.

Mr. BIBLE. I think it is an exception.

Mr. JACKSON. Based on what I now find, that it is in the Grand Teton, I would say that it is Federal land, and that, therefore, this bill does not apply. The pending measure does not apply to Federal land. We have a provision about joint coordination between the Federal Government and the State government to bring about a more compatible adjoining use, but the requirements of the act relate specifically to non-Federal lands.

Mr. BIBLE. May I ask the Senator one more question?

Mr. JACKSON. Yes.

Mr. BIBLE. This has been suggested to me by Elmo DiRico. I think the Senator from Washington knows him. He is director of our department of conservation and natural resources. He wants to know what, if any, effect the sanction provision—I am calling it that for want of a better name—has upon land and water conservation funds. Does it have any effect whatever? If the State does not come into complete conformity within the periods prescribed, do you hold back on the land and water conservation funds?

Mr. JACKSON. It would be my judgment that it would not apply to the land and water conservation fund. That was in the previous bill. It has been taken out now. In light of that legislative history, it would not apply.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JORDAN of Idaho. I yield 2 additional minutes to the Senator.

Mr. BIBLE. Would that apply in cases where, under the Land and Water Conservation Fund, there might be some adverse effect on the environment?

Mr. JACKSON. I do not know what kind of situation that would be, because the moneys of the Land and Water Conservation Fund are used to enhance the environment for park and recreational purposes. I suppose the environmental impact statement requirement under existing law, the National Environmental Policy Act, would apply, in any event.

Mr. BIBLE. I just want to clear that up, so that I can answer the Director properly.

Mr. JACKSON. I think the Senator has raised a very proper question. It would be my judgment, as the author of this amendment, that it would not apply.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. JORDAN of Idaho. I yield 2 minutes to the Senator.

The PRESIDING OFFICER. The Senator from Idaho has 10 minutes remaining. The Senator from Washington has no remaining time.

Mr. MUSKIE. As I understand it, the penalty provision of this bill is designed to put teeth into it after 5 years. That is, if a State does not come up with an adequate land use program after 5 years, then funds in these various programs can be withdrawn or withheld, up to a certain maximum.

My concern about the penalty provision written into the pending bill is that, in effect, it gives the administrative agency, the Secretary of the Interior, the authority to impose his own judgment about what is an adequate land use program; and if his personal judgment is not agreed to by the State, he can implement that personal judgment by withholding program funds.

As I understand the amendment that has been offered, the penalty would be broadened to include not just those programs included in the bill—that is, the highway programs, the airport programs, and the park programs—but also any one of the 112 Federal programs which are covered and which involve grants or potential grants to the States. Am I correct in that?

Mr. JACKSON. My understanding is that before the Secretary could act, there has to be a hearing before the ad hoc board set up by the President. In addition, the head of EPA and the Secretary would have to join in the findings and recommendations of the ad hoc board which would be appointed by the President.

Mr. MUSKIE. But the penalty provision is to be broadened to include any one of these 112 programs which involve grants to States. Any one of these can be cut back for failure of the State to conform to the land-use policy requirement in the proposed legislation?

Mr. JACKSON. If such programs have

a substantial adverse environmental impact and therefore would significantly affect land use. Of course, there is an exception: It is provided that health and safety matters are exempt from this sanction.

Mr. MUSKIE. I may be confused on this, and I want clarification because it would be of interest to the Senate.

As I understand the penalty provision of the act, this sanction could be applied, under the pending bill and under this amendment, if a State failed to produce an adequate land-use program, period. This sanction could be held up as a threat to a State to force it to adopt what the Secretary, and whatever other agency is involved, consider an adequate land-use program. Am I in error on that?

Mr. JACKSON. The whole question is whether or not, as the Senator knows, on land use, a plan has to go through the stated procedures in the act. There is an appeal from that. There is adequate opportunity for States to be heard. Before any sanctions can be imposed, there has to be the ad hoc hearing committee set up in which the head of the EPA and the Secretary of the Interior will have an opportunity to participate. It does not deny all Federal programs. It only applies where such programs, no matter what they are, other than those affecting public health and safety or welfare, where the Governor of the State intervenes and asks for a suspension on that ground. It has to be of a substantial adverse type of environmental impact.

Mr. MUSKIE. Here is another clause. Let me read it from the amendment—part 6 on page 2 if I am referring to the same page. It has to do with this particular language we are discussing—page 2, halfway down is No. 6 on page 87——

Mr. JACKSON. The key language starts on page 3, line 6, of the pending amendment No. 1535 that we are using.

Mr. MUSKIE. Let me refer to the printed amendment, then, which contains the same language. Page 3, lines 11 and 12—the Senator has said that the program funds can be withheld in the event the project would have a substantial and adverse environmental impact, but I refer the Senator to the next line, "or which would significantly affect land use in any State." Almost any one of the 112 programs would affect land use. This language does not suggest that the effect must be deleterious or harmful. It simply says if it affects.

Mr. JACKSON. Significantly affects.

Mr. MUSKIE. If a State has not adopted a satisfactory land-use program, as I read line 12 of the Senator's printed amendment, or there is failure to deal with such programs, it would give the administrator the authority, whether he would exercise it or not, to withhold the funds.

Mr. JACKSON. It has to have a significant effect. It is just not any effect. Its use is disjunctive.

Mr. MUSKIE. It might affect the programs involved for the Airport and Airway Development Act, the Appalachian Regional Development Act, the Atomic Energy Act, the Consolidated Farmers Home Administration Act, the Demonstration Cities and Metropolitan Development Act, the Elementary and Secondary Education Act, the Federal Aid Highway Act, the Federal Power Act, and so forth. Every one of these programs has a significant land use impact, intentionally if not in fact, in every project.

Mr. President, I ask unanimous consent to proceed for another 15 minutes to continue discussion on this issue which, in my judgment, in many ways is one of the key elements in this legislation. The time will be under the control of the Senator from Washington and the Senator from Idaho, of course.

The PRESIDING OFFICER (Mr. KENNEDY). Is that 15 minutes total or on each side?

Mr. MUSKIE. Fifteen minutes total because the discussion should involve both.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I have about 3 minutes in total in which I should like to propound a question to the Senator from Washington. It might take a minute and a half for the question and another minute and a half for the answer. Could I be permitted to get that total of 3 minutes within the 15-minute period?

Mr. MUSKIE. I have no objection. We are flexible enough here, to get additional time.

Mr. JACKSON. Yes, I would be happy to yield.

Mr. NELSON. The total would be about 3 minutes. I thank the Senator.

Mr. MUSKIE. My concern with the penalty provisions is not so much that there are penalties—they seem to concern other Senators—but the fact that the penalties would give the Secretary of the Interior a substantive impact on land use programs developed by the State without any guidelines written into the law. Those penalty provisions give him some clout, in my opinion on an ad hoc basis, to tell the States what they should do with land use policy. Because of my concern with that, which I will raise later in an amendment, I wonder whether I am ready to agree at this point in effect to increase the penalties. That is what I would do. As I understand it, there are 112 Federal programs which can be affected by implementation of this legislation. I have already referred to a number. I ask unanimous consent that a list of some of the major ones which I began to read from be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

> Some of the major programs whose planning and funding processes or licensing practices will be significantly affected by S. 632—the land-use bill—are:
>
> Airport and Airway Development Act.
> Appalachian Regional Development Act.
> Atomic Energy Act.
> Consolidated Farmers Home Administration Act.
> Demonstration Cities and Metropolitan Development Act.
> Elementary and Secondary Education Act.
> Federal Aid Highway Act.
> Federal Power Act.
> Federal Water Pollution Control Act.
> Flood Control Act.
> Higher Education Act.
> Housing Act.
> Hill-Burton Act (hospital construction).
> Land and Water Conservation Fund Act.
> National Housing Act.
> Public Works and Economic Development Act.
> River and Harbor Act.
> Rural Electrification Act.
> Public Land Sale Act.
> Urban Mass Transportation Act.
> Chapter 12 of Title 23, U.S. Code (Reclamation and Irrigation of Lands by the Federal Government).

Mr. MUSKIE. Mr. President, if there is a penalty provision and it should be broad enough to include all programs which have a significant land-use impact, then I would not have any differences with it, but until the question of whether the legislation itself has guidelines for the establishment of land use policy is settled, I am not ready to agree to an increase in the penalties. That is what is troubling me. I feel that the cart is before the horse here, because of my concerns in debate on this legislation. So the one question I want to have answered relates to line 12 because, as I read it in the Senator's printed amendment, on page 3, what it says is that if the State fails to produce overall land use programs satisfactory to the Secretary of the Interior and whatever agencies or boards advise him, grants under all the programs can be withheld from the offending State until it produces an overall land use program that is satisfactory to him.

Mr. JACKSON. Could I clarify one point here which I think is the main point the Senator is making. First of all, no sanctions can be invoked by the Secretary of the Interior. Rather, the ad hoc hearing board, which is appointed by the President, made up of a neutral head of a Federal agency, and a representative of one of the States appointed by a neutral Governor, and an unbiased prominent citizen—three members—make the decision. So it is not a case of the Secretary of the Interior's trying to dominate other departments.

I would point out that on page 83 of the bill, beginning on page 83 line 11 it states:

> In the event the Secretary determines that a State is ineligible for grants pursuant to this Act or, having found a State eligible for such grants, subsequently determines that grounds exist for withdrawal of such eligibility, he shall notify the President, who shall order the establishment of an ad hoc hearing board (hereinafter referred to as "hearing board"), the membership of which shall consist of:
>
> (A) the Governor of a State other than the State the grant eligibility of which is in question, whose States does not have a particular interest in whether State grant eligibility or ineligibility is determined, selected by the President within thirty days after notification by the Secretary, or, within ten days thereafter, such alternate person as the Governor selected by the President may designate—

Then the next part—

> one knowledgeable, impartial Federal official, selected by the President within thirty days after notification by the Secretary, who is not an official of an agency listed in clauses (1) through (3) of subsection (b) of section 203; and
>
> (C) one knowledgeable, impartial private citizen, selected by the other two members: *Provided*, That if the other two members can-

not agree upon a third member within twenty days after the appointment of the second member to be appointed, the third member shall be selected by the President within twenty days thereafter.

(2) The Secretary shall specify in detail, in writing, to the hearing board his reasons for considering a State ineligible, or for withdrawing a State's eligibility, for grants pursuant to this title. The hearing board shall hold such hearings and receive such evidence as it deems necessary. The hearing board shall then determine whether a finding of ineligibility or withdrawal of eligibility would be reasonable, and set forth in detail, in writing, the reasons for its determination. If the hearing board determines that ineligibility would be unreasonable, the Secretary shall find the State eligible for grants pursuant to this Act. If the hearing board concurs in the finding of ineligibility or withdrawal of eligibility the Secretary shall find the State ineligible for grants pursuant to this Act.

Mr. MUSKIE. Mr. President, my point is that the Senator refers to the language of the bill which provides for a repeal or a review and the Secretary determining that a State is ineligible for a grant.

The first point I want to establish is whether the eligibility for grant applies to all 112 programs and whether or not it depends upon a State's being within the land use program within the meaning of the pending legislation.

If the answer to my question on those two points is in the affirmative, then I gather that the language that the Senator is reading from on page 83 of the legislation, in that respect says yes, that if the Secretary determines that a State is ineligible for grants, he makes that determination after the board it established and set up.

So the State must then defend itself against a finding by the Secretary of ineligibility for a grant under 112 programs, after the board sustains the Secretary. And if it does so within the four corners of this legislation and within the four corners of the policy laid down by this legislation, then a State is ineligible for 112 programs.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JACKSON. Mr. President, I ask unanimous consent that we may have an additional 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, may I say to my good friend that he seems to be saying that only the Secretary of the Interior could do this.

Mr. MUSKIE. No, I am not. I am trying to focus not on that aspect. However, the Senator only referred to that language. I am trying to get two questions answered.

The first is whether a State's eligibility for grants under 112 programs depends upon the broad language of the program which meets the requirements of the legislation.

Mr. JACKSON. The answer to that specific question is no. It is a selective program.

Mr. MUSKIE. Then, I would like to know the meaning of the language on page 3, line 12, and if eligibility is dependent upon these words, "which would significantly affect land use in any State."

In my judgment, at least, the 20 to 21 major programs which I have listed before all significantly affect land use in any State if grants are made to such State under such a program, and all of the States—and there are 21 of them—would have a significant effect upon land use in any State.

I take it that would be across the board if the State is declared ineligible by the Secretary. After review by the Land-Use Board, in all of the respects which the Senator referred to, a State would be ineligible for grants across the board in 112 programs.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JACKSON. Mr. President, I yield the Senator an additional 2 minutes.

The PRESIDING OFFICER. The Senator is recognized for an additional 2 minutes.

Mr. JACKSON. Mr. President, the answer to that, of course, is no. The administering Federal agency, as provided in the amendment, will make a determination which is a condition precedent to the ad hoc board being set up and everything else. It will have to determine whether or not the project in question might have a substantial adverse environmental affect or would significantly affect the use of the land.

This applies, of course, to the agencies in question. As the Senator knows, the question of ineligibility must be established first by the heads of the agencies involved, who are not only the Secretary of the Interior, but also the Secretary of Housing and Urban Development and the Administrator of the EPA. And these are conditions precedent to the setting up of the ad hoc board which I referred to earlier and which the President appoints and which makes the final decision.

Mr. President, let me point out that when we adopted the Land and Water Conservation Fund Act back in 1965, I believe it was, we stipulated that as a condition precedent to getting procurement grant-in-aid funds, a State had to establish a statewide park and recreation plan. A good number of States did not like this planning requirement. However, this is something that all the States should have done over the years, but did not do. And, they have since complied with that act.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JACKSON. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Washington is recognized for 2 minutes.

Mr. JACKSON. There would be no need for this legislation had the States seen fit to go ahead with the kind of land use planning which would have resolved the great conflicts over land use, whether they relate to saving land for park and recreation use or other conservation purposes or to using land for development purposes—or whether it is the proper location for a plant or whether or not a powerplant ought to be located. In most cases, the States have not been able to accomplish this. This bill would encourage the States to do so.

We are trying here very simply to set up a forum in which we can deal with the critical problems that face us resolving environmental, social, and developmental issues as they relate to the land.

There is no such forum today where one can go and get a land use matter considered and have a resolution of these adverse interests. What happens? Land that ought to be destroyed is being preserved, and land that should be utilized for development, for power, and for various economic purposes is not being put to those purposes. We have blackouts; we have brownouts; we have picketing, we have litigation, we have—to put it simply—confusion. All of this stems from the fact that we have 80,000 governmental entities in the United States involved in land use planning.

This is why the Governors' Conference unanimously endorses the pending measure. The Governors need help in trying to get the States that they represent to recognize the need to use their police power and engage in the kind of sensible land use planning that will achieve both goals: Economic development and the conservation of our resources.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MUSKIE. Mr. President, would the Senator yield for one observation?

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. Mr. President, I yield the Senator 1 minute.

The PRESIDING OFFICER. Without objection, the Senator from Maine is recognized for 1 minute.

Mr. MUSKIE. Mr. President, I regret that time is so restricted on this legislation. However, I am not satisfied with the interpretation of the penalty provisions as I understand them, having read the pending bill and the amendment. They do not have the effect that I have suggested. And I think that ambiguity exists.

I cannot support the pending amendments. They are being considered en bloc. Other amendments are included which I have no difficulty with. However, until this matter is clarified, I cannot support the pending amendments in that respect.

I hope that other Senators will indicate their position on the matter if they think my interpretation is wrong. However, I have read them carefully and as I understand it, what this would do is give the Secretary authority, subject to hearings, to eliminate the grants right across the board in as many as 112 programs if he feels that they have failed to produce land use programs satisfactory to the Secretary of the Interior—without guidelines in the bill to protect a State undertaking in good faith to do its job.

Mr. NELSON. Mr. President, I wish to propound a question to the distinguished Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington has no time remaining.

Mr. JACKSON. Mr. President, I ask unanimous consent to proceed for 3 minutes in order to answer the Senator's question.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, in 1968, the Senate Small Business Subcommittee on Monopoly held hearings on the movement of corporations into farming. In 1969, the full committee issued a report, Senate Report No. 91-628, summarizing the hearings and the principal recommendations received from witnesses. One of the problems that was noted was the shortage of reliable information on corporate ownership and control of agricultural land. In the list of remedial proposals, recommendation No. 8, on page 24 of the report, read as follows:

> 8. Require farm and ranch ownership registration (owner's name and address, property size and location, acquisition date and type of ownership) with farm companies required, in addition, to list stockholders with more than a 5-percent interest and report any ties to farm supply, processing or marketing firms.

As I read section 202 of S. 632, as reported, it would seem to me that the new Office of Land Use Policy Administration will have authority to carry out that recommendation in full. In fact, it would seem to me virtually impossible for that office to carry out its assigned functions, its mandatory functions, under the section, unless it developed, in cooperation with the States, standard methods of obtaining and classifying information on the ownership of land, including but not limited to agricultural land. Would the distinguished chairman of the Committee on Interior and Insular Affairs agree with that interpretation of the scope and unavoidable effect of section 202?

Mr. JACKSON. The Senator's interpretation is correct. The Senator from Illinois (Mr. STEVENSON) asked a similar question, and I answered that question the same way. It will be the duty of the Office of Land Use Policy Administration to develop and make available to governments at all levels, and the public, "statistical data and information on past, present, and projected land use patterns, which are of more than local significance." The office will also be required to develop and maintain files on "the plans and programs of State and local governments and private enterprises which have more than local significance for land use planning and management." It would obviously be impossible to develop and maintain and make public files of information on "plans and programs of—private enterprises which have more than local significance for land use planning and management" without identifying the private enterprises that own or control the land and make the plans and programs. It seems not only probable, but inevitable that, among the many other benefits of this legislation, the country may expect to obtain fairly soon a system of identifying and classifying the ownership and control of land, wherever the amount and use of the land in question is of more than local significance.

Mr. NELSON. I thank the distinguished Senator.

Mr. AIKEN. Mr. President, I wonder if I might ask a question.

Mr. JORDAN of Idaho. Mr. President, I yield 1 minute to the Senator.

Mr. AIKEN. Mr. President, on page 3 of the amendment, paragraph (b)(1), it states that no agency shall approve any loan or guarantee which might have an adverse environmental impact or which would significantly affect land use in any State which has not been found eligible for grants pursuant to the act.

Would that not put the Small Business Administration pretty much under the Secretary of the Interior or whatever agency is decided upon to run this program, because that agency would determine the eligibility of loans from the Farmers Home Administration or the Small Business Administration, as provided for in the Rural Development Act, which has just become law.

Mr. JACKSON. No. I see what the point the Senator is making. If the Senator will go back to line 7 on page 3 it states:

> No Federal agency shall undertake any new action. . . . Which might have a substantial adverse environmental impact or which would significantly affect land use. . . .

The initial decision as to whether a State land use program complies with the act is shared by the Secretaries of the Interior and HUD and Administrator of the EPA; and the ultimate decision of eligibility rests with the ad hoc hearing board, which I referred to earlier, which would be appointed by the President. The ad hoc hearing board would be made up of a three-man board consisting of a representative from one of the Federal agencies, a Governor, and the third selected by the first two, and if not, selected by the President.

Mr. AIKEN. I wonder if the administering agency would make the final decision and could overrule the Farmers Home Administration.

Mr. JACKSON. The final decision, if it is an appeal from an initial decision of ineligibility, would be made by the ad hoc hearing board. They have to be found ineligible—first by the Secretaries of the Interior or HUD or the Administrator of EPA. The final decision would be made by the ad hoc hearing board appointed by the President.

Mr. AIKEN. I want to make sure the Farmers Home Administration and the Small Business Administration and the rural development program are not subordinated to this super agency being set up under this bill.

Mr. JACKSON. They would not be. As the author of it I can assure you of that.

Mr. AIKEN. The Senator does not intend that they would?

Mr. JACKSON. I do not intend that by this amendment.

Mr. COOPER. Mr. President, will the Senator from Idaho yield?

Mr. JORDAN of Idaho. I yield.

Mr. COOPER. I have read the language on page 87, section 307. It seems to me the Secretary does have the final authority. In every case where a question is raised and it is not objected to by the board within a certain number of days, the ad hoc board hears the question and then the Secretary has to make final determination. It is well that we know that.

I know the objectives of the bill are fine, but I think the Senator has to recognize he is placing in the hands of one man perhaps the largest grant of power ever given to any man in the world.

Mr. JACKSON. On page 87, line 16.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JORDAN of Idaho. I yield 2 additional minutes.

Mr. JACKSON. On line 16, page 87 of the bill before us it states:

> The Secretary shall have authority to terminate any financial assistance extended to a State under this act and withdraw his determination of grant eligibility whenever the Secretary finds, and the hearing board concurs, . . .

The hearing board is the one, as I mentioned, the ad hoc hearing board appointed by the President of the United States. There would be one member from the Federal agency, one from one of the Governors, and the third to be appointed by the first two, and if they cannot agree, the President will select a distinguished citizen, so the Secretary does not have any such authority.

That section applies only to the $100 million of grant funds provided by the act. The Senator was reading from the one that applies to the grant-in-aid program, which is $100 million a year is for 8 years.

Mr. HANSEN. Does the Senator anticipate the hearing board would reverse the finding of the Secretary?

Mr. JACKSON. I cannot, of course, make such a judgment. I would point out that the elements of impartiality are there. First, the States are represented on the hearing board, and second, the representative of a neutral Federal agency would sit on the board. It would have to be a neutral Federal agency that had no interest in the problem——

Mr. AIKEN. Are Presidents always neutral?

Mr. JACKSON. We do have the problem of the administering of our laws by the executive branch of the Government.

Mr. FANNIN. I yield myself 1 minute to ask a question of the distinguished manager of the bill. On page 2 of the amendment on lines 15 and 16, the Senator refers to the goals of the Federal Water Pollution Control Act, the Clean Air Act, and other Federal laws controlling pollution, and then it goes on.

For purposes of clarification, what does the Senator mean by the goals? What is intended by the goals? How could we determine what is intended by that language?

Mr. JACKSON. I think the intent of it is to establish that there is a good faith showing of intention to comply with the provisions of the act.

Mr. FANNIN. Well, I just ask the distinguished Senator who would make that interpretation? Who would make this determination?

Mr. JACKSON. In this case, in the area of pollution, it would involve a determination by the head of EPA. That would be a condition precedent. Of course, in each case an ad hoc committee would be established, which would have to take the final action, as I outlined earlier.

Mr. FANNIN. I would just say that the Secretary is given this authority, according to the reading here, starting on page 12. Is the Director of the Environmental Protection Agency then going to overrule the Secretary, or how would they make that determination?

Mr. JACKSON. No. I covered that earlier by saying that a State cannot be ruled ineligible, except after approval has been given by the ad hoc committee appointed by the President of the United States. No agency can do it.

Mr. FANNIN. I remind the Senator that when he says the goals, that is an interpretation.

Mr. JACKSON. That is a good faith bit of language and it involves the question whether there is a good faith compliance.

Mr. FANNIN. I think it could be a very troublesome matter if we are going to say it is good faith and do not tie it down to a formula.

Mr. JACKSON. Words are very difficult at best to provide for that kind of inclusion. We have to couch the language in rather broad terms in order to achieve what we have in mind here and so that there will not be a manifest abuse of discretion or an arbitrary or capricious act upon the part of the——

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. There is no time left on the amendment.

Mr. JACKSON. One minute?

Mr. HARRY F. BYRD, JR. I do not think I can ask the question in 1 minute on a bill of this magnitude.

Mr. JACKSON. I ask unanimous consent, despite the previous unanimous consent agreement—how much time does the Senator want?

Mr. HARRY F. BYRD, JR. I do not know how long it is going to take. I want to try to get an understanding.

Mr. JACKSON. Mr. President, I ask unanimous consent that the Senator from Virginia may proceed for 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HARRY. F. BYRD, JR. I would like to go back to the question raised by the distinguished Senator from Maine. I am not clear as to the Senator from Washington's response. As I recollect; the Senator from Maine raised the question whether, if a State did not have what a Washington board would consider an adequate land use program, the board in Washington could withhold grants from any one or all of a multitude of programs. Would that be correct?

Mr. JACKSON. The requirement basically centers upon a plan that the States must submit.

Mr. HARRY F. BYRD, JR. Suppose they do not submit it?

Mr. JACKSON. There is the right of appeal, I will say to the Senator. It deals with the critical areas, and I outlined them in my opening statement. There are areas of critical environmental concern which they must plan for, such as flood plains, wetlands, beaches and dunes, shorelands. flood plains, and scenic or historic areas.

Mr. HARRY F. BYRD, JR. Suppose they do that, but in doing that do not satisfy the individual or individuals here in Washington who must subsequently pass on it. If they do not satisfy the individuals in Washington, can they then lose or stand to lose all the entitlements of the various programs involved?

Mr. JACKSON. I will make it very, very clear. This is not a subjective thing where the Federal Government can intercede and substitute its subjective judgment for the State's judgment.

As long as the plan covers the four principal areas that I have mentioned, then the Federal Government is required to accept it. They do not have to go into all the details, but they have to deal with the substantive issues that I have mentioned and that can be found in the bill. I will give the Senator the citation in just a moment.

Secondly, let me point out the safeguards here. Number one is the one I just mentioned, that the States do not have to satisfy the Federal Government in every detail, but they have to wrestle with these four areas I have mentioned. They have to show they have made a good faith effort with a plan to deal with those principal environmental problems that do have a very wide range of impact.

Then if there is a dispute on this and the agencies say that it does not comply, the President appoints——

Mr. HARRY F. BYRD, JR. Regardless of who appoints, it still rests with the board in Washington, does it not?

Mr. JACKSON. The board in Washington, though, is made up of three individuals. One is from the Federal department, one is a Governor, and the third one would be selected by the first two; so the States also would be involved in this.

I thought that was very necessary, and if the first two cannot agree on the third one, then the President can appoint a third person, who is an impartial, disinterested citizen, who cannot be out of the Federal bureaucracy. So the States are involved, as I mentioned, in this board.

Mr. HARRY F. BYRD, JR. But if that board is not satisfied, then under the proposed amendment that particular State which is involved could lose——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JACKSON. I yield 1 minute to the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Could lose funds that otherwise they would be entitled to in a multitude of programs having nothing to do with land use; is that correct?

Mr. JACKSON. Oh, no. The point is we do not want to be granting funds for programs that will have an adverse effect on the land. The programs that would be affected would only be those programs that significantly affect land use in any State. Look on page 3 of the amendment. Does the Senator have that?

Mr. HARRY F. BYRD, JR. Yes. I have the amendment.

Mr. JACKSON. If the Senator will look down on line 12, it reads "which would significantly affect land use in any State", that is the key language. For example, we run into the classic case of providing grant-in-aid funds for a park to a State then finding that they are going to undo the park by using adjacent land for some other purpose involving the Federal grant of funds.

We have the case of the Everglades in Florida, where we were going to build a commercial airport adjacent to the Everglades National Park that we are also supporting; we also had a Federal engineering project that would take water away from the Everglades, all of this involving Federal funds. This is what we want to avoid.

Mr. HARRY F. BYRD, JR. But is it not correct, as the Senator from Maine brought out, that there are 112 programs that could be affected——

Mr. JACKSON. One hundred twelve Federal agencies could be affected, only where those agencies have large projects, substantial projects, that have a substantial adverse environmental impact—that is on line 11—or which would significantly affect land use in any State.

It seems that we have to decide here if we are going to have the kind of coordinated Federal help that will not go one way in one program and an adverse way in another.

Mr. HARRY F. BYRD, JR. That is not the——

The PRESIDING OFFICER. All time on the amendment has expired. There is no time remaining.

Mr. HARRY F. BYRD, JR. Mr. President, I think this is important. I ask unanimous consent that we proceed on this amendment for another 6 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield to the Senator from Maine.

The PRESIDING OFFICER. Who is in control of the time?

Mr. JACKSON. I will yield to the Senator.

Mr. MUSKIE. Mr. President, I refer to section 307(a) of the bill, on page 87, line 16. That language would be left in the bill if the amendment were agreed to. It reads as follows:

> The Secretary shall have authority to terminate any financial assistance extended to a State under this Act and withdraw his determination of grant eligibility whenever the Secretary finds, and the hearing board concurs, that the statewide land use planning process or the State land use program does not meet the requirements of this Act.

The Senator must have that language in mind in order to understand the language on page 3 of the en bloc amendment of the Senator from Washington.

Mr. HARRY F. BYRD, JR. If the Senator from Maine will yield, what the language actually says is that the Secretary shall have the authority to terminate any financial assistance.

Mr. MUSKIE. Yes. We can debate the meaning of the section, but the section applies to States which do not meet the requirements of this act in terms of land use planning policies. It is those States, and no others.

Mr. JACKSON. Mr. President, if the Senator will yield this section 307 applies only to the grant-in-aid programs to the States, which involve $100 million a year.

Mr. MUSKIE. Oh, but if the Senator will yield, on page 3 of the Senator's pending amendment——

Mr. JACKSON. Section 307(a), we are talking about.

Mr. MUSKIE. On page 3 of the pending amendment, the language we have been discussing now for some time——

Mr. JACKSON. That is entirely different.

Mr. MUSKIE. Wait a minute. That section applies to "any State which has not been found eligible for grants pursuant to this Act."

I agree that section 307 terminates eligibility for grants under this act, but the Senator's pending amendment, by having left that reference in, applies these sanctions, these broad sanctions, to States which are denied eligibility under this act.

Mr. JACKSON. But in addition, though, I want to point out to the Senator—and we have gone through this until it is getting repetitious—that in connection with section 307(a) and in connection with section 307(b)—and I request the attention of the Senator from Virginia on this point—both of these provisions require the concurrence of the hearing board. That is the board that I referred to earlier, which is appointed by the President, which is made up of a representative of one of the Governors or the Governor and the head of a Federal agency, and a distinguished third citizen, whomever they choose to agree upon. So the States are tied into this. No one agency can do anything to detract from it.

Mr. HARRY F. BYRD, JR. It appears to me to be quite broad. What I am trying to do is get a better understanding than I have of it.

As I understand the Senator's amendment, it would eliminate from the bill subsections (b), (c), (d), and (e) of section 307 of the bill.

In doing that, the Senator would eliminate public hearings. What is the purpose of eliminating public hearings, which are provided for as a part of the bill which was submitted by the committee to the Senate?

Mr. JACKSON. I must say the public hearings provision remains. That is not eliminated.

Mr. HARRY F. BYRD, JR. As I read the amendment, on page 3, it says:

> On page 87 lines 23 through page 91, line 9, strike subsections (b), (c), (d), and (e) of section 307.

It is subsection (b), on page 88, that provides for the public hearings. The amendment offered by the Senator from Washington does not appear to provide for public hearings, unless I missed something there.

Mr. JACKSON. There is a public hearing provision elsewhere. I will state the section.

Sections 302 and 303 cover that, and the language was changed simply to make it conform with the other provisions in the act. The right of a hearing still applies; that has not been taken away.

In addition, I might say that——

The PRESIDING OFFICER. All time has expired.

Mr. HARRY F. BYRD, JR. I ask unanimous consent for 5 additional minutes.

Mr. PASTORE. Mr. President, we have been here since 10 o'clock this morning. We have been walking back and forth all day from our offices over here. I would like to know from the leadership how long we are going to be here tonight. This bill came up an hour and a half ago, and we have not completed work on one amendment. It strikes me that anyone who has a case to state can state it in 15 or 20 minutes. This is no reflection on anyone.

The PRESIDING OFFICER. Is there objection?

Mr. MANSFIELD. Mr. President, reserving the right to object, and I do so only because the Senator from Rhode Island raised the question, I thought we had reached a unanimous-consent agreement all the way around last week that we would spend 1 hour on the bill and one-half hour on amendments. I did hope there would be no further extensions on the bill, that if Senators wanted to speak, they would offer amendments in good faith, and in that way help the bill along, because, as the Senator from Rhode Island has indicated, we have been in session since 9 o'clock, it has been a long day, and we have a lot of long days ahead of us, and I would hope the Senate would take this statement in good faith and pay some heed.

I shall not, at this time, object to the request of the Senator from Virginia.

Mr. PASTORE. Neither will I.

Mr. MUSKIE. Mr. President, reserving the right to object, as a party to the time limitation agreement on this legislation, I would like to indicate the reservations I had about a time agreement. I have been concerned about this legislation, its complexity, and its difficulty for some weeks. I agreed to a time limitation agreement because I was aware of the leadership's desire to expedite the work of the Senate. I was willing to be cooperative, but it was understood that because the time on this particular legislation was restrictive there would be flexibility on the giving of additional time. I do not want to abuse that, and I have not, except in one instance, asked for additional time, not for my purposes, but for the purpose of undertaking to explain a matter to a Senator who has not had an opportunity to study this legislation, in response to a serious question he had.

I think if we are going to have unanimous consent agreements, there must be some flexibility with respect to Senators who do not study particular legislation as closely as others. This, as I said in the beginning, is one of the most complicated pieces of domestic legislation the Senate will consider this session. I do not intend to filibuster it, stall it, or delay it, but the Senator from Virginia is deeply concerned about a particular question, and ought to have the right to pursue it.

Mr. JACKSON. Mr. President, it might help to expedite matters here——

The PRESIDING OFFICER. Is there objection? Without objection, the request of the Senator from Virginia for 5 additional minutes is agreed to.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield.

Mr. JACKSON. In the interest of trying to expedite action on the pending amendment, I ask unanimous consent to delete from my amendment—which, by the way, I worked out with the chairman of the Committee on Public Works (Mr. RANDOLPH)—that language, starting on page 3, line 3, which is the area in controversy. Does the Senator have that?

Mr. HARRY F. BYRD, JR. Yes, I have it.

Mr. JACKSON. On page 3, line 3, strike all the language to the bottom of the page—that is, subsection 6—to and including line 2 on page 4. That matter can be dealt with at another time.

The PRESIDING OFFICER. Is there objection?

Mr. HANSEN. Mr. President, will the Senator repeat that?

Mr. JACKSON. On page 3, line 3, of the pending amendment, strike all the language through line 25 and lines 1 and 2 on page 4.

Mr. MUSKIE. Mr. President, may I ask the Senator a question?

Mr. JACKSON. Yes.

Mr. MUSKIE. Is it the Senator's intention to offer that part of his amendment later in the discussion?

Mr. JACKSON. I may. I want to reserve judgment on that. But in the interest of expediting the matter—I think this goes to the heart of the question the Senator raised and other Senators have raised—I ask unanimous consent that this request be granted.

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object—and I shall not object—I want to say that this is a very far-reaching piece of legislation; 50 pages are involved. It deals with a subject of importance to every citizen of our Nation.

The Senator from Kentucky has just called my attention to some very important points in this bill that I do not have an answer to, and I do not think the Senator from Kentucky does, and perhaps many other Senators do not. I think we ought to devote an adequate amount of time to understanding just how far-reaching this legislation is.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. JACKSON. I yield whatever time I have remaining.

Mr. BAYH. Mr. President, I have listened to the colloquy—I just came to the Chamber after attending to some committee business—and I am concerned about the matter raised by the Senator from Virginia with respect to hearings. At an appropriate time, I have an amendment to offer, which I understand the Senator from Washington is prepared to accept, so far as the whole matter of public hearing is concerned.

Mr. JACKSON. That is correct. I am prepared to accept the Senator's amendment. I am aware of it.

Mr. President, I ask for a vote on the amendment as modified. I yield back the remainder of my time.

Mr. JORDAN of Idaho. I yield back the remainder of my time.

Mr. HANSEN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington, as modified. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Nevada (Mr. Cannon), the Senator from Missouri (Mr. Eagleton), the Senator from Arkansas (Mr. Fulbright), the Senator from Alaska (Mr. Gravel), the Senator from Oklahoma (Mr. Harris), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), the Senator from Louisiana (Mr. Long), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Utah (Mr. Moss), the Senator from Rhode Island (Mr. Pell), the Senator from Connecticut (Mr. Ribicoff), and the Senator from Alabama (Mr. Sparkman) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. McGee) is absent on official business.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. McIntyre) would vote "yea."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. Allott), the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bellmon), the Senator from Nebraska (Mr. Curtis), the Senator from Michigan (Mr. Griffin), the Senator from Alaska (Mr. Stevens), the Senator from Ohio (Mr. Taft), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from New York (Mr Javits) is absent because of religious observance.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

Also, the Senator from Tennessee (Mr. Brock) and the Senator from Arizona (Mr. Goldwater) are necessarily absent.

If present and voting, the Senator from Texas (Mr. Tower) would vote "yea."

The result was announced—yeas 71, nays 0, as follows:

[No. 448 Leg.]

YEAS—71

Aiken
Allen
Anderson
Bayh
Beall
Bennett
Bible
Boggs
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Church
Cook
Cooper
Cotton
Cranston
Dole
Dominick
Eastland
Edwards
Ervin
Fannin
Fong
Gambrell
Gurney
Hansen
Hart
Hatfield
Hollings
Hruska
Hughes
Inouye
Jackson
Jordan, N.C.
Jordan, Idaho
Kennedy
Magnuson
Mansfield
Mathias
McClellan
Miller
Mondale
Montoya
Muskie
Nelson
Packwood
Pastore
Pearson
Percy
Proxmire
Randolph
Roth
Saxbe
Schweiker
Scott
Smith
Spong
Stafford
Stennis
Stevenson
Symington
Talmadge
Thurmond
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—29

Allott
Baker
Bellmon
Bentsen
Brock
Cannon
Curtis
Eagleton
Fulbright
Goldwater
Gravel
Griffin
Harris
Hartke
Humphrey
Javits
Long
McGee
McGovern
McIntyre
Metcalf
Moss
Mundt
Pell
Ribicoff
Sparkman
Stevens
Taft
Tower

So Mr. Jackson's amendment, as modified, was agreed to.

AMENDMENT NO. 1544

Mr. BAYH. Mr. President, I call up my amendment No. 1544 and ask that it be stated.

The PRESIDING OFFICER (Mr. Hart). The amendment will be stated.

The assistant legislative clerk read as follows:

On page 97, line 12, strike "when the public interest warrants,".

On page 97, line 13, after "hearing" add the following: "or provide an opportunity for such a hearing;".

On page 97, line 16, strike the word "warranted" and insert in lieu thereof the word "held".

Mr. FANNIN. Mr. President, I ask unanimous consent that Mr. Fred Kraft be permitted the privilege of the floor during the debate on this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I ask unanimous consent that Mr. Michael Helfer also be permitted the privilege of the floor during debate on this legislation.

THE PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I call up this amendment now because of the colloquy and discussion among the Senator from Virginia, the Senator from Washington, and the Senator from Maine relative to the matter of public hearings.

The Senator from Indiana has discussed this measure with the Senator from Washington and the Senator from Maine and I understand that there is general agreement on it.

I do not desire to ask for a rollcall vote. I believe the Senator from Washington will accept it.

For the sake of saving time, let me briefly describe what the amendment will do.

Mr. President, the purpose of this amendment is very simple: It is intended to assure that the members of the public have an opportunity to express their views on issues arising out of a conflict between uses of Federal and related non-Federal land. Resolution of such issues is a matter of vital public concern. S. 632 recognizes this by providing for the establishment of:

> Ad Hoc Federal-State Joint Committees to review and make recommendations concerning general and specific problems relating to jurisdictional conflicts and inconsistencies resulting from the various policies and legal requirements governing the planning and management of federal lands and of adjacent non-federal lands.

But the bill presently does not guarantee that interested, concerned, affected members of the public will have an opportunity to make their views known to the joint committee at an open hearing. For under section 405, the joint committee must hold a hearing only when it determines—apparently in its own discretion—that "the public interest warrants" one. My amendment would require the joint committee to hold a hearing or provide an opportunity for such a hearing before making its recommendations in any situation.

There are several reasons why this amendment will improve the bill, while being wholly consistent with its purpose. First, joint committees will come into existence, according to the report which accompanies the pending bill, only in unusually difficult or important situations. Let me quote the report:

> It is expected that most conflicts over the uses of Federal lands and adjacent non-Federal lands are not of sufficient magnitude or difficulty to warrant the establishment of these committees and the undertaking of procedures—established for them.

It is precisely in these difficult and important cases that public participation is most important.

Second, experience shows that concerned citizens and citizens groups often can make meaningful contributions to resolving environmental disputes and assuring compliance with environmental protection laws. Their expertise should be presented to the joint committees. Third, experience also shows that public participation, or at least the opportunity for public participation, increases public confidence in the governmental decisionmaking process, with little or no additional burden on those charged with the responsibility to make the decisions. This is why so many of our environmental protection laws—and the very bill before us in other sections—see, that is, page 88, 1.2; page 92, 1.8—require an opportunty for public hearings in similiar situations. Indeed, the report accompanying this bill states that one of the committee's findings was that:

> All those affected by land use decisions should be afforded an opportunity to participate in the decisionmaking.

Finally, I fear that the present section 405 would lead to unnecessary and time-consuming litigation over the question whether the joint committee's decision not to hold a hearing was arbitrary and capricious or not. Surely no purpose would be served by such litigation—and the easiest way to avoid it is to require the joint committee to provide an opportunity for a public hearing.

For these reasons, Mr. President, I hope the distinguished manager of the bill (Mr. Jackson) and the rest of my colleagues will join me in supporting this amendment.

Let us not leave anything to chance. Let us just state that there will be an opportunity for public hearings.

Mr. JACKSON. Mr. President, I am very pleased to accept the amendment of the distinguished Senator from Indiana. What he is doing is making mandatory the need for hearings in public situations. What he has done—and that was the original intent of the committee—is to provide for public participation in land use decisionmaking.

I commend the Senator. I think it is very helpful. I am delighted to accept it.

Mr. BAYH. I appreciate the remarks of the distinguished Senator from Washington.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. HARRY F. BYRD, JR. Mr. President, I commend the Senator from Indiana for the introduction of his amendment. That was one point which concerned me about the previous amendment before it was changed by the Senator from Washington. It appeared to cut out the public hearings which were contained on page 88 of the bill.

I ask the Senator from Indiana where his amendment is placed in the bill or is it all inclusive.

Mr. BAYH. On page 97, line 12, we strike out "the public interest warrants." The question is: When does the public interest warrant it? We think there ought to be public hearings and not let the board determine in what instance the public interest warrants it.

Mr. HARRY F. BYRD, JR. I think that is a very fine improvement in the bill. I commend the Senator from Indiana.

Mr. BAYH. It applies specifically to Federal-State land, I might say to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I ask the Senator from Washington (Mr. JACKSON) whether the amendment applies only to one section of the bill or to all sections of the bill.

Mr. JACKSON. Mr. President, this section of the bill, section 405, found on page 97 of the bill, applies only to the situation involving a conflict between Federal land and non-Federal land.

Mr. BAYH. Mr. President, is it not fair to say—if the Senator from Washington will permit me to interject one thought—that it was the impression of the Senator from Indiana that the measure covered all other aspects of the bill as far as public hearings were concerned. I quoted in my statement the references to public hearings. However, it was in this one place where we felt that it had been inadvertently omitted. And it was confined to that portion alone for that reason.

Mr. JACKSON. Mr. President, the Senator is correct. Another section provides for all hearings on other aspects of the bill. That is why the Senator's amendment only ran to the particular problem where Federal land is adjacent to non-Federal land.

Mr. HARRY F. BYRD, JR. Mr. President, it is only section 405 on page 97 that uses the phrase "when the public interest warrants." It was not mentioned in the other areas of the bill.

Mr. JACKSON. The Senator is correct.

Mr. HARRY F. BYRD, JR. Mr. President, I thank the Senator.

Mr. BAYH. Mr. President, I yield back the remainder of my time.

Mr. JACKSON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Indiana.

The amendment was agreed to.

AMENDMENT NO. 1440

Mr. BOGGS. Mr. President, I call up amendment No. 1440 which I submitted on August 15 on behalf of myself and Senators COOPER, MUSKIE, and TUNNEY.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 72, line 24, insert the following: Before the word "agriculture," insert "conservation and preservation of natural resources;".

Mr. BOGGS. Mr. President, the purpose and content of this amendment is very simple and direct. It is intended to assure the States that they can and should consider the establishment of a portion of their lands for the purpose of preserving and conserving natural resources for the future.

Title III of S. 632 authorizes the Federal Government to make annual grants to assist the States in developing and administering a State land-use program.

Section 301 lays out the basis for determining if a State is in a position to initiate such a program.

Section 302 establishes conditions for evaluating the process under which a State develops its land-use plan.

If a State is to receive continued Federal support for land-use planning after 3 full fiscal years following enactment of this bill, the conditions of section 302 must be met.

The Federal Government's determination of the adequacy of the State's planning process is made on a number of points, the third of which, beginning on page 72, line 22, of the bill, reads as follows:

> "(3) projections of the nature and quantity of land needed and suitable for recreation and esthetic appreciation; agriculture, mineral development, and forestry; industry and commerce, including the development, generation, and transmission of energy; transportation; urban development, including the revitalization of existing communities, the development of new towns, and the economic diversification of existing communities which possess a narrow economic base; rural development, taking into consideration future demands for and limitations upon products of the land; and health, educational, and other State and local government services;"

The amendment I am offering on behalf of myself and my colleagues would insert an additional phrase in that list. After the word, "appreciation," which ends on page 72, line 24, of the bill, the amendment would insert the phrase "conservation and preservation of natural resources."

The subsection requires that the statewide land-use process include projections on the natural and quantity of land needed and suitable for a variety of purposes. We believe it is necessary to add language that will assure the consideration of the "conservation and preservation of natural resources" in making such projections.

As reported, paragraph (3) of section 302(a), relating to preparation of statewide projections of the nature and quality of land, seems to be limited to present or future uses of land for development for purposes such as recreation, transportation, or urbanization. An inventory and evaluation that fails to include consideration of conservation and preservation—land set aside for no development—would be inadequate, we believe.

It is our view that the conservation and preservation of natural resources must be weighed in any such evaluation of land-use policy.

I believe this option is vital to assure a proper balance that will allow growth while protecting our environment for future generations. As paragraph 3 of section 302(a) is now proposed, it appears to me that a no-use classification could not be considered as an alternative by the State. This amendment would make clear that point that States may establish such "no-use" classifications, if the State wishes.

The intent of the entire bill is to create a reasonable standard for future national growth. I urge adoption of this amendment, which seeks to assure such a balancing test.

I believe that the distinguished floor manager of the bill, the Senator from Washington (Mr. JACKSON), may see fit to accept the amendment.

Mr. JACKSON. Mr. President, I am pleased to accept the amendment of the Senator from Delaware. The amendment is in accord with the intent of the act and with the intent of section 302 (a)(3).

It was the committee's view that the language in section 302(a)(3) concerning recreation and esthetic appreciation covered the concerns the Senator has expressed. Adoption of the clarifying language the Senator proposes will, however, make the intent clear.

I commend and approve the amendment of the Senator from Delaware.

Mr. BOGGS. Mr. President, I thank the distinguished Senator from Washington.

Mr. JACKSON. Mr. President, I yield back the remainder of my time.

Mr. BOGGS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Delaware.

The amendment was agreed to.

AMENDMENT NO. 1439

Mr. JORDAN of Idaho. Mr. President, I call up my amendment No. 1439.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to state the amendment.

Mr. JORDAN of Idaho. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> Any person having a legal interest in land, of which the State has prohibited or restricted the full use and enjoyment thereof, may petition a court of competent jurisdiction to determine whether the prohibition

diminishes the use of the property so as to require compensation for the loss and the amount of compensation to be awarded therefor.

Mr. JORDAN of Idaho. Mr. President, this is a very simple amendment. The purpose of this amendment is to make abundantly clear that in implementing a land-use plan, a State cannot deprive an individual of his property without due process and, if warranted, compensation.

The situation may arise where a land-use plan will impose limitations or prohibitions upon the use of private property, short of condemnation. For example, a State in endeavoring to comply with the provisions of this measure could make a determination that a particular tract of land was in an area of critical environmental concern within the State. That would have the effect of severely limiting and prohibiting the use to be made of that land which could in turn cause economic hardship of the landowner.

A limitation of the use of land should be compensable even though such limitations do not amount to outright confiscation. The amendment provides the landowner with the right to go to court and have a determination made as to whether there has been a diminution in the use of his property and the amount of compensation to be awarded therefor.

Mr. President, I hope Senators and the distinguished chairman and manager of the bill will accept the amendment.

Mr. JACKSON. Mr. President, here again the amendment that is offered would strengthen and clarify the bill. I am in full accord with the intent of the amendment.

It is my position and the position of the committee that S. 632 in no way diminishes any person's right to go to court and to receive compensation if the use and enjoyment of his property has been so restricted as to constitute a taking.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. MUSKIE. I address my question to the Senator. As I read the language it is to reflect the right of any citizen under existing law to compensation where his land is taken for public purposes and it is not to substantially add to present law. It should be clear in the RECORD that this measure does not endorse payments for speculative land values, that may be lost because of rezoning or because of land use limitations of any kind.

Mr. JORDAN of Idaho. Mr. President, I think the Senator has offered a clarification I would accept.

Mr. JACKSON. As I understand it, and the author of the amendment agrees, it does not add to nor detract in any way from any law that now applies, as it pertains to private property.

Mr. HANSEN. Mr. President, will the Senator yield for a question?

Mr. JORDAN of Idaho. I yield.

Mr. HANSEN. I understood it was the intent of the Senator to recognize that zoning could, indeed, adversely affect the property owner.

I live in an area that is largely in Federal ownership. My county of Teton is 97 percent in Federal ownership. Presently there are some remaining cattle ranches in the area. If it became impossible to continue a livestock operation there or economically infeasible to continue, and a landowner chose to make some other use of his property, it would be sold to land developers and it would then be subdivided.

My question is: According to the clarification by the Senator from Maine, would this amendment of the Senator from Idaho imply that if the zoning board or Land Use Planning Board said there could be no further subdivisions in an area, that that would be it and the owner of the land would not be entitled to any relief?

Mr. JACKSON. It would be up to the court to decide.

Mr. HANSEN. I ask the Senator from Washington because he cited the illustration of a zoning board action which affected the landowner because of a zoning ordinance.

Mr. JACKSON. I do not want to get into a complicated discussion as to what the law is. Zoning is a very confused area. The courts have held that the States in subdivisions have the police power to zone land. The courts have held this is not a taking of property. We are not trying to undo the law. Counsel says I am correct, and I think I am.

To rezone retroactively gets into serious constitutional questions of taking property without due process of law. But when they zone——

Mr. HANSEN. What does the Senator mean by "zoning retroactively"?

Mr. JACKSON. Exactly that. I am talking here, however, about a zoning ordinance that goes into effect prospectively.

Mr. HANSEN. Then, let me cite an example. Let us assume that within this area there may be some large apple orchards. As I read the bill, on page 99, section 501, subsection (e) provides:

> (e) The term "areas of critical environmental concern" means areas as designated by the State on non-Federal lands where uncontrolled development could result in irreversible damage to important historic, cultural, or esthetic values, or natural systems or processes which are of more than local significance, or could unreasonably endanger life and property as a result of natural hazards of more than local significance. Such areas shall include significant undeveloped agricultural, grazing, and watershed lands.

I wish to ask the distinguished Senator if it could not very well be that through imposition of a zoning ordinance that that land, those apple orchards could be declared areas of critical environmental concern, and that it might be determined there should be no subdividing, no developmental efforts undertaken to do any building, or anything.

Mr. JACKSON. Under the provisions of this bill—and I am violently opposed to any Federal zoning—this is up to the local jurisdiction.

What the amendment does is to provide that the bill does not in any manner, shape, or form change any existing law, add to it or detract from it; it maintains the status quo, whatever it is.

There are lawyers who practice zoning law exclusively. I would not pretend to know the law on property rights under a given set of facts. I can only say that we are not telling them what to do by Federal zoning. This is up to the local entity which would have jurisdiction of property under the law in Wyoming.

Mr. HANSEN. I do not argue that. What concerns me is what results if the State authority, acting in conformance with this legislation, works up a State plan wherein certain uses and developmental activities may be precisely prohibited, and in the course of events it becomes economically unsound further to continue a dairy operation or an apple orchard.

Then, obviously, I can see where a landowner could be put at a very distinct disadvantage for reasons entirely beyond his control. Maybe the property goes into an estate. It may be that he would want to make other use of it.

I thought the purpose of the amendment of the Senator from Idaho was to recognize the inequity that would otherwise result from that situation and afford relief to the property owner to go into court and say, "I cannot continue to operate my apple orchard. I could sell this land for x dollars, but that use has been denied me by action of the State in its land plan, so I must think of other uses."

That would involve the difference in value from the use on the one hand that would yield the greatest economic return and the use on the other hand which would be countenanced by State land planning action would be so much less. I assume the purpose of the amendment was to say to that landowner that either the Federal Government or State would recognize that landowner's right to seek relief. Is that not correct?

Mr. JACKSON. May I answer the question?

Mr. HANSEN. I would be happy for the Senator to answer the question.

Mr. JACKSON. Let me make it very clear. This is up to the State of Wyoming.

Mr. HANSEN. I fully agree. I do not argue that point. I am not saying who has the authority.

Mr. JACKSON. Wait a minute. Look, I can give the Senator some cases.

Mr. HANSEN. I just want a simple answer to a very simple question.

Mr. JACKSON. Give me the question.

Mr. HANSEN. All right. I thought I did, but let me state it again.

Mr. JACKSON. All right.

Mr. HANSEN. Suppose I live in Virginia and I have a thousand-acre apple orchard.

Mr. JACKSON. Yes, right, and it has been zoned only for agricultural purposes and the persons involved, the people who own it, want to get a better price, and they want to subdivide it, and they subdivide it. This bill does not change anything. I submit that is the case over and over again that is going on in America. It is a very difficult situation. Farmlands are being gobbled up for subdividing and the question is, can the State, through its local subdivision, make a determination that that land shall be for agricultural purposes only?

Mr. TALMADGE. Will the Senator yield on that point?

Mr. JACKSON. Yes. I shall be happy to yield.

Mr. TALMADGE. It is my understanding each State must submit to the Secretary of the Interior a land use plan. Is that not correct?

Mr. JACKSON. This is correct.

Mr. TALMADGE. Suppose the State submits a land use program.

Mr. JACKSON. It is the program as a whole.

Mr. TALMADGE. And has broken down various areas within the State, and particular area should be restricted for agricultural purposes only; does the bill authorize that?

Mr. JACKSON. If the State makes the determination that certain areas should be assigned for agricultural purposes only, they would be conforming to the plan authorized by this bill.

Mr. TALMADGE. And then how could that be changed? Suppose it was an area of tremendous growth, taxes have shot up so high until it was confiscatory to continue for agricultural purposes, people want to come in there and buy land to build homes, and things of that nature. How would that plan then be changed from agricultural purposes to some other higher use value?

Mr. JACKSON. It is a continuous process of changing the plan. Under this bill the State, as it can do now, would not be affected in any manner, shape, or form. It could change it and say this area now is within a large metropolitan area and this land can be subdivided and, of course, in most States, the taxes skyrocket.

Mr. TALMADGE. Will the Senator yield on that point?

Mr. JACKSON. Yes. I want to emphasize to the Senator, this is a completely flexible plan. It is not a static matter. It is an ever-changing situation.

Mr. TALMADGE. Would the State make that determination or the local zoning authority do it under existing law?

Mr. JACKSON. That would be entirely up to the States, and if the States permitted local zoning authorities to do it, they could do it.

Mr. TALMADGE. What I am trying to get at ——

Mr. JACKSON. It is left to the States entirely.

Mr. TALMADGE. So far as I know, under existing law virtually all zoning authority is regulated by zoning boards within specific subdivisions of government.

Now we are introducing a new area, to-wit, the States, and the States must submit plans to the Secretary of the Interior, so we have two new layers of authority over the local zoning authority. We have the State authority and finally the Secretary of the Interior. We have pyramided two more zoning authorities over local zoning authorities, so how is that going to affect the local zoning authorities in the future in making a decision as to whether a filling station could be located here or a schoolhouse can be located here or a hospital can be located here or some other section that has been traditionally a local decision by local people?

Mr. JACKSON. Let me say, to get back to the basic authority, that is, that the authority to set out these plans resides within the police power of the respective States. I think the Senator will agree with me. The States, of course, will vary on this point.

What we are really wrestling with, I will say to my good friend from Georgia, is what the Governors complained about—that in the 50 States today we have some 80,000 governmental entities within the States that are involved in land use planning, and there is overlap, there is conflict, so that the decisionmaking process is breaking down.

What we are trying to do here is to assist the States in bringing about a more orderly procedure.

I know that the State of Georgia controls the zoning over certain critical areas. That is what we are referring to here, where the States are involved, such as coastal marshland, and I think there are certain other proposals under consideration now.

In other words, in all States—not in all States, but in the States that are moving forward on this problem—they identify critical areas that need attention by the State government, that go beyond the purely local problem that the Senator has been talking about, and I do not want to see any interference with that.

The problem is to deal with these very large regional decisions, that can have an impact on the local communities without their being able to participate in it, which can, indeed, have an adverse effect on the State.

Mr. HANSEN. Will the Senator yield?

Mr. JACKSON. Yes.

Mr. HANSEN. Mr. President, I think we need to keep in mind the basic issue here. I do not argue with the police powers of a State to exercise authority in the areas of zoning, but what this bill does is to use both a carrot and a stick approach. It can withhold up to 21 percent of the funds that are available to airports. It can withhold up to 21 percent of the money that would be available for the expansion of primary highways and secondary highways. That could be a vital importance in every city, and to every citizen in this country. It can withhold up to 21 percent of the Land and Water Conservation Fund. Then the bill turns around and tells the States they do not have the choice of deciding whether they want to do those things, whether they intend of their own volition to exercise their police powers; but it says in effect to the States they have to do it, and that is why I think the question by the Senator from Georgia is very relevant to this question.

If the Federal Government is going to go that far, if it is going to go that far in saying the States have to do these things, then it seems entirely appropriate to me that the bill ought to recognize the injustice that can be done to a private landowner.

This is precisely the question that concerns people in the State of Wyoming; the fact that taxes escalate, land values rise, boards of county commissioners and equalization boards raise the property values, taxes can increase until old uses no longer can yield any return and the land has to be disposed of.

I thought what the amendment by the Senator from Idaho proposed was that realistically and fairly this is something we have to consider. It gives a landowner the right to go into court and petition the court to make a determination if he has been hurt, and if he has been hurt, then I suspect it would give him some relief. I do not see anything wrong with that. I am amazed we would say this has no place in the bill.

The PRESIDING OFFICER. The time remaining to the Senator from Washington has expired. Twelve minutes remain to the author of the amendment.

Mr. JORDAN of Idaho. I yield 1 minute to the Senator.

Mr. JACKSON. I think I can answer—I hope I can answer—the Senator from Wyoming. I gather the Senator is asking whether the Federal Government can interfere in these local zoning problems and say, "You cannot do this."

Mr. HANSEN. No, just to give them the right.

Mr. JACKSON. The right?

Mr. HANSEN. The landowner the right?

Mr. JACKSON. Well, the landowner has all the rights he had before.

Mr. HANSEN. If the Senator can cite one example where so far a landowner has been able to go into a court and petition that he has been adversely affected and has been entitled to a judgment on account of a zoning ordinance, I would be interested.

The PRESIDING OFFICER. The minute has expired.

Mr. JACKSON. Look, we are not involved in that.

Mr. HANSEN. As a landowner, I am involved in it.

Mr. JACKSON. I understand.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. JACKSON. Yes.

Mr. PASTORE. If this denial is given by State law, then it is a question of State law. It is a State edict.

Mr. JACKSON. Right.

Mr. PASTORE. It is not Federal.

Mr. HANSEN. But this bill emphasizes the responsibility of the States to make these edicts.

Mr. PASTORE. That is not so. As a matter of fact, they will lose 21 percent of the highway funds, 21 percent of airport expansion funds. That is the way I read it.

Look at page 99 of the bill.

Mr. PASTORE. Mr. President, will the Senator yield? As I understand it, there is a fundamental difference between the Senator from Washington and the Senator from Maine, in the fact that the Senator from Washington retains State jurisdiction. Am I right or wrong?

Mr. JACKSON. The Senator is correct.

Several Senators addressed the Chair.

Mr. JACKSON. Mr. President, may I just respond first to the Senator from Wyoming? This bill does not require State zoning. It simply requires that the

States come in with an overall program. The States may delegate it all locally to the cities or the counties subject only to review under State guidelines. And, as the Senator from Rhode Island pointed out, if people have been deprived, in their judgment, of their property by zoning—and as we all know, the law books are full of questions on the point of whether you have taken property by zoning—then that is a matter that the States have accomplished, and nothing else.

For example, take the farm situation. Some States have said, "You can only use this land for agricultural purposes. It is zoned." The facts are that if you could subdivide it, it would be worth five times as much. So you go into court and say, "I want to subdivide it." Well, the local judge will tell you, and the courts have so ruled, "That's too bad, you are zoned." We all know there have been some terrible scandals in this country——

Mr. HANSEN. Indeed there have; I would agree.

Mr. JACKSON (continuing). About changes in zoning in order to enhance the value of property. But is all at the local level. For the most part we are not changing local zoning, adding to it or detracting from it.

I cannot solve the Senator's problems concerning the environment dealing strictly with local situations and problems by this bill. I would not attempt to, Mr. President.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JACKSON. This is a matter of getting the States to exercise States' rights.

Mr. MUSKIE. Mr. President, will the Senator from Wyoming yield?

Mr. HANSEN. Yes, I am happy to yield as much time as the Senator desires.

The PRESIDING OFFICER. Who yields time?

Mr. JORDAN of Idaho. How much time does the Senator want?

Mr. MUSKIE. Does the Senator from Wyoming have time on his amendment?

The PRESIDING OFFICER. The Senator from Wyoming has 9 minutes.

Mr. HANSEN. I yield the Senator 2 minutes.

Mr. MUSKIE. The amendment of the Senator from Idaho has provoked discussion along the whole broad range of issues related to this bill. I would like to put a question in relation to his amendment.

Does the Senator, in offering this amendment, intend to create a cause of action which does not now exist under present law? As I understand, the Senator from Washington, in his reply to me, stated his belief that the Senator's amendment does not create a cause of action. Is it the Senator's intent, as one of the authors, to create a cause of action which does not now exist under current zoning law?

Mr. HANSEN. In responding to the Senator from Maine, let me observe that credit must first be given to the Senator from Idaho. I am a cosponsor of the amendment; I endorsed it, and I think it has great merit. Certainly the Senator from Idaho may speak more knowledgeably than I can, but it is my understanding that what this amendment proposes to do is to recognize that under the Federal coercion that this bill imposes upon State governments, situations may arise where a landowner would be adversely affected, and this amendment would provide him with the only possible redress.

I am not a lawyer, but if that does help clarify the Senator's understanding as to my intentions, I am delighted.

Mr. MUSKIE. May I say, as one who was once a lawyer—it has been a long time, but I have been involved in that profession—as I read the Senator's language, it does not do what he thinks it does. I think that is what has projected this disagreement. The Senator may disagree with me, but as I read this language it does not create a cause of action, but simply recognizes that whatever causes of action exist under current law will continue to exist without any diminution under this bill. That is what I wanted reassurance about from the manager of the bill. I gather that the Senator from Wyoming understands this language to do something it does not do.

Mr. HANSEN. Well, I suspect we must leave it to the courts to determine what was intended by Congress. I assume that the Senator from Maine endorses the concept of the amendment as he interprets it; am I right about that?

Mr. MUSKIE. The Senator is correct. I had questions about the meaning of the language.

Mr. HANSEN. Then I take it he will support it.

Mr. MUSKIE. But as far as the language is concerned, the interpretation which I take to be that of the manager of the bill is the interpretation I support.

Mr. JORDAN of Idaho. Mr. President, we have had a very interesting discussion about the language of the bill generally, but I think we had better read the language of the amendment as stated:

> Any person having a legal interest in land, of which the State has prohibited or restricted the full use and enjoyment thereof, may petition a court of competent jurisdiction to determine whether the prohibition diminishes the uses of the property so as to require compensation for the loss and the amount of compensation to be awarded therefor.

As an example that I did not previously state, but I will state now, of how an individual might suffer an economic hardship: A State, on its own or under the direction of the Secretary might designate a mountain area, a lake area, or a beach area, as an area of critical environmental concern. Unfortunately for Mr. X, a man nearing retirement age who has purchased land in one of these areas intending to construct a retirement home for himself, construction of residences is now prohibited under the management plan for such area.

Mr. X has made a substantial investment in a building site, but he can no longer build, and as land within an area of critical environmental concern, his land has lesser value. He has suffered an economic hardship, and is entitled to redress from the courts.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. JORDAN of Idaho. I yield.

Mr. PASTORE. As a very distinguished former Governor of his State, the Senator certainly would not tolerate denying an individual that right. From what the Senator has read, it is very clear that this is what the State is doing.

Mr. JORDAN of Idaho. That is exactly right.

Mr. PASTORE. That is the point I am making: Why do we fault the Federal Government? We should not fault the Federal Government, because that is the doing of the State, and any Governor who tolerates that is not worth his salt.

Mr. COOK. Mr. President, will the Senator yield? It is not a matter of whether or not that particular Governor may be worth his salt, may I say, because I think what he is doing, and I am inclined to want to extend the colloquy, if we could, relative to the proposition submitted by the Senator from Maine, because I think we are setting in a second level between the right of a property owner to use his property as he desires and the right of eminent domain, and between there, we now see that we are not going to exercise this right to acquire, but we are going to exercise the right to determine that something is in a serious environmental area, that we are not going to acquire it, yet we are going to compensate if in fact there is a decision made that a loss has resulted.

So I think in fact we have established something. If the Senator does not think so, I am rather amazed, because I think we do have this problem, and I think this amendment may cure the problem, but I worry about the phrase "a court of competent jurisdiction." I worry about questions such as we have in many environmental bills, as to whether one has a right to bring this action either in a State court or a Federal court, or whether or not this is clear in the amendment and the ramifications thereof, and I think it does present a problem.

Mr. TUNNEY. Mr. President, will the Senator yield for a question?

Mr. JORDAN of Idaho. I yield to the Senator from California.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. COOK. Mr. President, I ask unanimous consent that the colloquy may continue for another 10 minutes.

Several Senators addressed the chair.

Mr. ROBERT C. BYRD. Mr. President, I object. I ask unanimous consent that time may be yielded from the bill by those in charge of the time on the bill to any Senator on any amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. TUNNEY. Will the Senator from Washington yield me 2 minutes on the bill?

Mr. JACKSON. If I have it.

Mr. TUNNEY. On the bill.

Mr. JACKSON. Mr. President, do I have 2 minutes on the bill?

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

Mr. COOK. Then I will object to that, Mr. President.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The objection was untimely; unanimous consent had been granted.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. How much time do I have on the bill?

The PRESIDING OFFICER. The Senator has 6 minutes.

Mr. JACKSON. I will yield 2 minutes to the Senator from California, and then I will yield to the Senator from Kentucky.

I did not have any time on the amendment.

Mr. COOK. I can only say to the Senator that if there are real problems on this bill and we cannot debate them and are going to be kept within a time limit, there is only one thing to do: We have to make up our minds to vote for or against on final passage.

Mr. JACKSON. I yield to the Senator from California.

Mr. TUNNEY. I should like to ask the able Senator from Idaho if it is his intention to create a new cause of action. That was the question that was posed by the Senator from Maine, and it was my understanding that the understanding of the Senator from Washington was that if this amendment were accepted, it would not create a new cause of action.

Is it the understanding of the Senator from Idaho that it would create a new cause of action that does not presently exist by State law?

Mr. JORDAN of Idaho. My understanding of this amendment is that it only asserts what should be a litigant's right in the first place. If he is damaged by some State action that has prohibited or restricted for full use and enjoyment of his property, he should be entitled to go to court.

Mr. TUNNEY. But it would not create a new cause of action. Under existing State law, a claimant would have the right to go to court if he felt that he were injured; but it would not create a new cause of action as a result of the passage of this legislation if this amendment is included therein.

Mr. JORDAN of Idaho. No rights are taken away.

Mr. TUNNEY. It is not a question of taking away rights. It is a question of giving a new right that does not exist.

As I read the amendment, my interpretation is that it would not create a new cause of action. But I am curious to know whether the sponsor of the amendment feels that it would create an additional cause of action that would exist in addition to those causes of action that presently exist under State law where there is a taking by zoning.

The PRESIDING OFFICER. The 2 minutes have expired.

The question is on agreeing to the amendment.

Mr. HANSEN. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho (Mr. Jordan). On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Nevada (Mr. Cannon), the Senator from Missouri (Mr. Eagleton), the Senator from Alaska (Mr. Gravel), the Senator from Oklahoma (Mr. Harris), the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), the Senator from Louisiana (Mr. Long), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Utah (Mr. Moss), the Senator from Rhode Island (Mr. Pell), the Senator from Connecticut (Mr. Ribicoff), and the Senator from Alabama (Mr. Sparkman), are necessarily absent.

I also announce that the Senator from Wyoming (Mr. McGee) is absent on official business.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. McIntyre), would vote "yea."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. Allott), the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bellmon), the Senator from Nebraska (Mr. Curtis), the Senator from Michigan (Mr. Griffin), the Senator from Alaska (Mr. Stevens), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from New York (Mr. Javits) is absent because of religious observance.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

Also, the Senator from Utah (Mr. Bennett), the Senator from Tennessee (Mr. Brock), and the Senator from Arizona (Mr. Goldwater) are necessarily absent.

If present and voting, the Senator from Utah (Mr. Bennett) and the Senator from Texas (Mr. Tower) would each vote "yea."

The result was announced—yeas 58, nays 14, as follows:

[No. 449 Leg.]

YEAS—58

Aiken
Allen
Anderson
Beall
Bible
Boggs
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Church
Cook
Cooper
Cotton
Dole
Dominick
Eastland
Edwards
Ervin
Fannin
Fong
Fulbright
Gambrell
Gurney
Hansen
Hatfield
Hollings
Hruska
Inouye
Jackson
Jordan, N.C.
Jordan, Idaho
Magnuson
Mathias
McClellan
Miller
Montoya
Packwood
Pastore
Pearson
Percy
Randolph
Roth
Saxbe
Schweiker
Scott
Smith
Spong
Stafford
Stennis
Symington
Taft
Talmadge
Thurmond
Weicker
Young

NAYS—14

Bayh
Chiles
Cranston
Hart
Hughes
Kennedy
Mansfield
Mondale
Muskie
Nelson
Proxmire
Stevenson
Tunney
Williams

NOT VOTING—28

Allott
Baker
Bellmon
Bennett
Bentsen
Brock
Cannon
Curtis
Eagleton
Goldwater
Gravel
Griffin
Harris
Hartke
Humphrey
Javits
Long
McGee
McGovern
McIntyre
Metcalf
Moss
Mundt
Pell
Ribicoff
Sparkman
Stevens
Tower

So the amendment of Mr. Jordan of Idaho was agreed to.

Mr. JORDAN of Idaho. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1520

Mr. HANSEN. Mr. President, I call up my amendment No. 1520 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 62, strike lines 11 through 15. On line 16, change "(d)" to "(c)". On line 22, change "(e)" to "(d)". On line 25, change "(f)" to "(e)".

On page 87, strike out all of section 307 and add the following new section:

"FEDERAL ACTIONS IN THE ABSENCE OF STATE ELIGIBILITY

"Sec. 307. Where any major Federal action significantly affecting the use of non-Federal lands is proposed after five fiscal years from the date of enactment of this Act, in a State which has not been found eligible for grants pursuant to this Act, the responsible Federal agency shall hold a public hearing in such State at least one hundred and eighty days in advance of the proposed action concerning the effect of the action on land use taking into account the relevant considerations set out in sections 302, 303, and 304 of this Act, and shall make findings which shall be submitted for review and comment by the Secretary, and where appropriate, by the Secretary of Housing and Urban Development. Such findings of the responsible Federal agency and comments of the Secretary and, where appropriate, the Secretary of Housing and Urban Development, shall be made part of the detailed statement required by section 102(2)(C) of the National Environmental Policy Act (83 Stat. 852, 853). This section shall be subject to exception where the President determines that the interests of the United States so require."

Mr. HANSEN. Mr. President, very simply my amendment would alter section 307 of the pending legislation so as to delete those portions of the section dealing with economic sanctions.

As now proposed, section 307 contains the "stick" provision of the mythical "carrot-stick" approach encompassed in S. 632 as reported by the Interior Committee. The section provides that upon the determination of the Secretary or a hearing board established under this act, a State's land use plan can be deemed unacceptable. Consequently, a State could lose up to 21 percent of its Airport and Airway Development Act funds, Land and Water Conservation Act funds, and certain Federal Aid Highway Act project funds. My amendment would delete these economic sanctions.

Mr. President, this is not a bill which would encourage land use planning—this bill requires land use planning by the imposition of certain punitive provisions for those States which do not submit acceptable land use plans for those areas and covering those uses which are agreeable to the Secretary of the Interior.

Mr. President, I do not deny that there are a growing number of land use problems being created coincidental to the expansion of our population. If the States need help in meeting these problems, under my amendment, the Federal Government could still play a proper role in assisting with these difficulties by making funds available to the States.

Land use regulation and zoning are tools which have long been used to meet local expansion problems. The plight of the urban sprawl which characterizes so much of America today testified that zoning has not proven to be the answer to all of our domestic problems.

As time has passed and local zoning has not been able to meet with all the problems, there has been a trend to migrate to some higher level of government for assistance.

This bill forces this trend to the State and Federal level. This bill not only takes zoning out of the realm of local determination, it puts at the Federal level what areas will be zoned or planned.

The pending land use legislation provides a cumbersome superstructure whose authority lies with the Secretary of the Interior to determine those private lands which must be the subject of land use planning. According to the bill, the States must submit a plan for use of designated areas of "critical environmental concern" to include:

First, coastal wetlands, marshes, and other lands inundated by the tides;

Second, beaches and dunes;

Third, significant estuaries, shorelands, and flood plains of rivers, lakes, and streams;

Fourth, areas of unstable soils and high seismic activity; that could be areas around Denver, Colo. They had seismic activity down there. It could also include much of Alaska.

Fifth, rare or valuable ecosystems; I would defy almost anyone to point out an ecosystem that is not considered by someone or another to be either rare or valuable.

Sixth, significant undeveloped agricultural, grazing, and watershed lands; I think that cuts across the interests of every single Member of this body. There is not a single State that does not have significant areas of undeveloped agricultural, grazing, and watershed lands.

Seventh, forest and related land which require long stability for continuing renewal;

Eighth, scenic or historic areas; and

Ninth, such additional areas as a State determines to be of critical environmental concern.

In other words, Madam President, what this bill demands of the States is that they shall come up with a plan which satisfied not the people in the State government, not the State legislature, not the Governor, not the county commissioners, not the city, not the school board, but the Secretary of the Interior, because he is all wise, all knowing, and knows best. It is up to the States to satisfy him.

Failing that, 21 percent of the funds available for airport extension and safety, land and water conservation funds, and Federal aid to highway funds, which includes the primary and secondary highway systems so essential to the cities, all can be withheld.

Under this definition, there is little doubt that the Secretary of the Interior could determine that any private land within any State is of critical environmental concern and necessarily a part of a State land use plan.

One of the aspects of the bill that should be of special interest to many of my colleagues from the more urban States is that while the definition of areas of critical environmental concern is apparently oriented to the more rural environment of our country, the penalty provisions would penalize the cities. The extension of urban transportation systems, airport development and service, as well as important urban recreational facilities, would be cut if the State did not submit an acceptable plan. It is the State that would submit the land use plan, but it is the cities that would be largely affected.

Mr. President, if my amendment is accepted, the States would still be encouraged to submit an acceptable land use plan. However, if the State determines that the problems do not warrant statewide planning, or if the determination is made that land planning matters are better left to the local people, my amendment would honor this decision.

Briefly, my amendment allows the flexibility for a State to use Federal assistance if it determined the need for such help. The amendment would delete those provisions of the bill that would penalize the cities for failure by the States to submit a plan acceptable to the Secretary of Interior.

I urge its favorable consideration.

Madam President, I hope that this amendment will be agreed to because it is in the interest of trying to return government to the people, the whole idea back of revenue sharing.

Mr. JACKSON. Madam President, will the Senator from Wyoming yield?

Mr. HANSEN. I yield.

Mr. JACKSON. I would hope, in view of the lateness of the hour, that the pending amendment would go over and be the pending business tomorrow and that, in the meantime, we may be able to work out an alternative solution by the time we take up the matter tomorrow.

I would hope that my colleague would join with me.

Mr. JORDAN of Idaho. Madam President, we have been imposing on the good nature of a lot of Senators this afternoon. I think this matter is of profound importance and requires more attention. We should take a fresh start and consider it further tomorrow.

Mr. HANSEN. Madam President, how much time does the distinguished manager of the bill propose be given to this amendment on tomorrow?

Mr. JACKSON. Madam President, I ask unanimous consent that this colloquy not be taken out of the time on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Madam President, I am happy to yield back my time and vote right now.

Mr. MUSKIE. Madam President, let us do that.

Mr. JACKSON. Madam President, I would hope that in the interest of working out the best possible solution, we go over it thoroughly tomorrow. The able manager on the minority side concurs in that. And I think this would be in the best interests of the Senate. It has been a long day. We have had 12 rollcall votes. And I believe that we will all be better off if we defer the matter until the morning. We do not need to take a vote on it at this moment.

Mr. HANSEN. Madam President, I am happy to yield to my good friends, the chairman of the committee and the ranking minority member in whatever they wish. However, as far as I am concerned, I would be happy to vote now.

Mr. MAGNUSON. Madam President, will the Senator yield?

Mr. HANSEN. I yield.

Mr. MAGNUSON. Madam President, I have an amendment that I propose to offer to the bill which would touch at least one facet of what the Senator is talking about. It would make it clear that funds from the airway and airport trust funds shall not be withheld in case a State does not meet the standards on land use under this legislation. Do I understand that would be included in the Senator's amendment?

Mr. HANSEN. Madam President, I must ask the forgiveness of my good friend, the Senator from Washington, I did not hear his full statement.

Mr. MAGNUSON. Madam President, at least one facet of my bill deals solely with airways and airport trust fund.

Mr. HANSEN. Madam President, I say to my good friend, the Senator from Washington, that, if this amendment is approved, as I earnestly hope it might be, there will be a continued expansion of airports in this country.

I want to see a continued output of the products made in the city of Seattle throughout our land.

Mr. MAGNUSON. Madam President, I think the Senator's amendment covers what I was doing under the airways and airport trust fund. However, I would like to take a look at it.

Mr. HANSEN. It does. I fully appreciate what the distinguished Senator says. I think it is equally important that we recognize that the way the bill is written now it would deny highway funds which are so essential to the cities of the country.

Mr. MAGNUSON. Mr. President, the Senator has talked about the airways and airport transport fund. I think it is included.

Mr. HANSEN. It is included.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. HANSEN. I yield.

Mr. AIKEN. Mr. President, what happens if an airport is in one State, but the business is across the border of another State and that State does meet the requirements. They will get cut off because the State in which the airport is located failed to comply with the requirements.

Mr. ROBERT C. BYRD. Madam President, in view of the statement by the manager of the bill, concurred in by the very distinguished ranking minority member of the committee who is helping to manage the bill, I am constrained to say that there will be no more rollcall votes and no more action on the bill today.

Mr. TALMADGE. Madam President, will the Senator yield?

Mr. ROBERT C. BYRD. Madam President, I yield to the Senator from Georgia and other Senators provided I may retain my right to the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

AMENDMENT NO. 1549

Mr. TALMADGE. Madam President, I send to the desk an amendment and ask that it be printed and lay over until tomorrow. The purpose of the amendment is to make it absolutely certain that nothing in this act will deny existing State and local authority to zone land in accordance with existing law.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

Does the Senator from West Virginia wish that his time not be charged against the pending amendment?

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that no time be charged against either side on the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, I have received a considerable amount of mail from my constituents concerning S. 632, the land use bill. Leading conservation and citizen groups, especially, have strongly supported the bill as reported, arguing that despite some weaknesses, it offers a needed first opportunity to protect our land from exploitation and to assure orderly growth.

However, before any legislation is enacted, no matter how noble in intent, it is essential to consider its likely impact on work which Congress has already undertaken. In order to assure adequate examination of certain provisions of this bill, I signed a letter with my colleagues on the Public Works Committee to insist that certain basic issue be thoroughly debated. After participating in the committee's examination of the legislation, I have concluded that certain provisions have far-reaching implications which were scarcely considered in the official record.

I am most pleased with the Interior Committee's acceptance of an amendment I had planned to introduce to S. 632 which would give the Administrator of the Environmental Protection Agency direct and specific authority to review and certify State land use plans to assure consistency with Federal environmental laws. However, I am further concerned with the appropriateness of the Interior Department to adequately handle the many facets of land use planning by itself. Because of the inherent intimacy between issues respecting land use, environment, housing, and so forth, I feel that it would be more appropriate for the Executive Office of the President to have the responsibility for the land use program. This would assure that all aspects of land use, by they acquisition, environment, or housing, are considered. This is the reason why I have cosponsored amendment 1521 which would shift responsibility for the program from the Interior Department to the Executive Office of the President.

I am concerned, also, that the "determinative State authority" provision in section 303, might have the unexpected and unwelcome effect of allowing a State land use planning agency to override the decisions of State pollution control agencies established pursuant to Federal law. As written the bill seems to leave open the possibility that air, water, and solid waste pollution control regulations could be reversed or modified almost at will by the statewide land use planning "superboard." As amended by Senator MUSKIE, the "determinative State authority" provision will be replaced by a requirement that environmental control regulations be consistent with the State-established land use policy. This will produce the desired result without jeopardizing administration of our environmental protection laws.

Each of the other amendments which the distinguished Senator from Maine (Mr. MUSKIE) has offered approaches similar potential problems with the hope of preserving both the principles of the Land Use Policy and Planning Assistance Act, and the progress being made under Federal environmental legislation. They have my full support. With these amendments I am confident that we can produce legislation that will deal effectively with the problems of land use planning and at the same time protect the progress we have already made in environmental areas.

Mr. CHURCH. Mr. President, as chairman of the Senate Subcommittee on Public Lands and as a cosponsor of the legislation, I want to add my endorsement of S. 632.

There is no doubt that this legislation is needed. The haphazard patchwork of land use, which may have answered the needs of our expanding frontiers and population, is no longer acceptable in a society suddenly aware of the limitations of its environment.

Following 2½ years of study and hearings, our Senate Committee on Interior and Insular Affairs has come up with what I consider a good bill to assist State and local governments to improve on land use planning and management.

The measure provides a grant-in-aid program to assist the States to accomplish two major objectives: First, develop a statewide land use planning process within 3 years, and second within 5 years establish and administer a State land use program. I believe this is ample time in which to get the job done, and I believe this legislation will be welcomed by nearly all of our States.

Under provisions of the bill, $100 million annually would be provided for 8 years. In the first 5 years, funds would be disbursed to the States at 90 percent of the cost of developing these land use programs. And then for 3 years, 66⅔ percent of the cost of implementing and administering the programs would be received by the State.

This is not simple legislation, but it is constructive and dramatic when you consider the problems that it attacks, and the great strides it will take toward intelligent, planning for future land use.

I will not attempt further detail. The committee report, No. 92-869, on the Land Use Policy and Planning Assistance Act of 1972 is a good one, and I recommend it as an excellent explanation of this proposed legislation.

There is an urgency in our acting on this bill, and moving it for House consideration, and I hope we can pass it today.

Mr. MATHIAS. Mr. President, my interest in land use reform legislation goes back to 1961 when I introduced, as a Member of the other body, H.R. 6702, a bill to foster the creation of tax supported public recreation parks and related facilities. Again in 1963 I offered a bill to amend the Soil Conservation and Domestic Allotment Act in order to achieve a more balanced land use policy within our urban areas. In 1963 I offered for consideration by the House of Representatives a bill, H.R. 553, which had as its objective the preservation and acquisition of open spaces throughout our Nation. My interest in systematic land use development and management was reflected most recently in the introduction of Senate bill 2554 on September 21, 1971. Although modeled after S. 632 as originally introduced, it did in my mind contain many new and practical amendments, which I am told were finally adopted by the Interior Committee in their reported committee bill which we are today considering. Due to the popularity of this bill, its limited supply, and the numerous requests which I have received for it, I now ask unanimous consent that the full text of the bill appear in the RECORD at this time.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2554

A bill to establish a systematic and comprehensive national land-use policy

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, That this Act may be cited as the "National Land-Use Policy Act of 1971".

TITLE I—A NATIONAL LAND-USE POLICY AND PROGRAM OF ASSISTANCE TO THE STATES

PART 1—FINDINGS, POLICY, AND PURPOSE

FINDINGS

SEC. 101. (a) The Congress hereby finds that there is a national interest in a more efficient and comprehensive system of national, regional, statewide, and local land-use planning and decisionmaking and that the rapid and continued growth of the Nation's population, expanding urban development, proliferating transportation systems, large-scale industrial and economic growth, conflicts in emerging patterns of land use, the fragmentation of governmental entities exercising land-use planning powers, and the increased size, scale, and impact of private actions have created a situation in which land-use management decisions of national, regional, and statewide concern are often being made on the basis of expediency, tradition, short-term economic considerations, and other factors which are often unrelated to the real concerns of a sound national land-use policy.

(b) The Congress further finds that a failure to conduct competent, ecologically sound land-use planning has, on occasion, required public and private enterprise to delay, litigate, and cancel proposed public utility and industrial and commercial developments because of unresolved land-use questions, thereby causing an unnecessary waste of human and economic resources and a threat to public services and often resulting in decisions to locate utilities and industrial and commercial activities in the area of least public and political resistance, but without regard to relevant ecological and environmental land-use considerations.

(c) The Congress further finds that many Federal agencies are deeply involved in national, regional, State, and local land-use planning and management activities which because of the lack of a consistent policy often result in needless, undesirable, and costly conflicts between agencies of Federal, State, and local government; that existing Federal land-use planning programs have a significant effect upon the location of population, economic growth, and on the character of industrial, urban, and rural development; that the purposes of such programs are frequently in conflict, thereby subsidizing undesirable and costly patterns of land-use development; and that a concerted effort is necessary to interrelate and coordinate existing and future Federal, State, local, and private decisionmaking within a system of planned development and established priorities that is in accordance with a national land-use policy.

(d) The Congress further finds that while the primary responsibility and constitutional authority for land-use planning and management of non-Federal lands rests with State and local government under our system of government, it is increasingly evident that the manner in which this responsibility is exercised has a tremendous influence upon the utility, the value, and the future of the public domain, the national parks, forests, seashores, lakeshores, recreation, and wilderness areas and other Federal lands; that the interest of the public in State and local decisions affecting these areas extends to the citizens of all States; and that the failure to plan and, in some cases, poor land-use planning at the State and local level, pose serious problems of broad national, regional, and public concern and often result in irreparable damage to commonly owned assets of great national importance such as estuaries, ocean beaches, and other areas in public ownership.

(e) The Congress further finds that the land-use decisions of the Federal Government often have a tremendous impact upon the ecology, the environment, and the patterns of development in local communities; that the substance and the nature of a national land-use policy ought to take into consideration the needs and interests of State, regional, and local government as well as those of the Federal Government, private groups and individuals; and that Federal land-use decisions require greater participation by State and local government to insure that they are in accord with the highest and best standards of land-use management and the desires and aspirations of State and local government.

(f) The Congress further finds that there is a national interest in encouraging the States to exercise their full authority over the planning and regulation of non-Federal lands by assisting the States, in cooperation with local governments, in developing land-use plans including unified authorities, policies, criteria, standards, methods, and processes for dealing with land-use decisions of more than local significance.

(g) The Congress further finds that decisions about the use of land significantly influence the quality of the environment and that present State and local institutional arrangements for planning and regulating land use of more than local impact are inadequate, with the result that the implementation of standards for the control of air, water, noise, and other pollution is impeded.

DECLARATION OF POLICY

SEC. 102. (a) In order to promote the general welfare and to provide full and wise application of the resources of the Federal Government in strengthening the environmental, recreational, economic, and social well-being of the people of the United States, the Congress declares that it is a continuing responsibility of the Federal Government, consistent with the responsibility of State and local government for land-use planning and management, to undertake the development of a national policy, to be known as the national land-use policy, which shall incorporate ecological, environmental, esthetic, economic, social, and other appropriate factors. Such policy shall serve as a guide in making specific decisions at the national level which affect the pattern of environmental, recreational, and industrial growth and development on the Federal lands, and shall provide a framework for development of regional, State, and local land-use policy.

(b) The Congress further declares that it is the national land-use policy to—

(1) favor patterns of land-use planning, management, and development which are in accord with sound ecological principles and which encourage the wise and balanced use of the Nation's land and water resources;

(2) foster beneficial economic activity and development in all States and regions of the United States;

(3) favorably influence patterns of population distribution in a manner such that a wide range of scenic, environmental, and cultural amenities are available to the American people;

(4) contribute to the revitalization of existing rural communities and encourage, where appropriate, new communities;

(5) assist State government to assume land-use planning responsibility for activities within their boundaries;

(6) facilitate increased coordination in the administration of Federal programs so as to encourage desirable patterns of land-use planning; and

(7) systematize methods for the exchange of land use, environmental, and ecological information in order to assist all levels of government in the development and implementation of the national land-use policy.

(c) The Congress further declares that intelligent land-use planning and management provides the single most important institutional device for preserving and enhancing the environment, for ecologically sound development, and for maintaining conditions capable of supporting a quality life and providing the material means necessary to improve the national standard of living.

PURPOSE

SEC. 103. It is the purpose of this title—

(a) to establish a national policy to encourage and assist the several States to more effectively exercise their constitutional responsibilities for the planning, management, and administration of the Nation's land resources through the development and implementation of comprehensive statewide land-use plans and management programs designed to achieve an ecologically and environmentally sound use of the Nation's land resources;

(b) to establish a grant-in-aid program to assist State and local governments to hire and train the personnel and establish the procedure necessary to develop, implement, and administer a statewide land-use plan which meets Federal guidelines and which will be responsive and effective in dealing with the growing pressure of conflicting demands on a finite land resource base;

(c) to establish reasonable and flexible Federal guidelines and requirements to give individual States guidance in the development of statewide land-use plans and to condition the distribution of certain Federal funds on the establishment of an adequate statewide land-use plan;

(d) establish the authority and responsibility of the Secretry of the Interior (hereinafter referred to as the "Secretary") to administer the Federal grand-in-aid program, to review the statewide land-use plans for conformity to the provisions of this title, and to assist in the coordination of Federal agency activities with statewide land-use plans;

(e) to develop and maintain a national policy with respect to federally conducted and federally supported projects having land-use implications; and

(f) to coordinate planning and management relating to Federal lands with planning and management relating to non-Federal lands.

PART 2—STATEWIDE AND INTERSTATE LAND USE PLANNING GRANTS

SEC. 104. (a) In order to carry out purposes of this title, the Secretary is authorized to make land use planning grants to an appropriate single State agency, designated by the Governor of the State or established by law, which has statewide land use planning responsibilities and which meets the guidelines and requirements set out in section 105 of this title; and

(b) The Secretary is authorized to make land use planning grants in accordance with the provisions of this title to assist and enable eligible State and interstate regional agencies—

(1) to prepare an inventory of the State's or region's land and related resources;

(2) to compile and analyze information and data related to—

(A) population densities and trends;

(B) economic and characteristic and projections;

(C) directions and extent of urban and rural growth and changes;

(D) public works, public capital improvements, land acquisitions, and economic development programs, projects, and associated activities;

(E) ecological, environmental, geological, and physical conditions which are of relevance to decisions concerning the location of new communities, commercial development, heavy industries, transportation and utility facilities, and other land uses;

(F) the projected land-use requirements within the State or region for agriculture, recreation, urban growth, commerce, transportation, the generation and transmission of energy, and other important uses for at least fifty years in advance;

(G) governmental organization and financial resources available for land-use planning and management within the State and the political subdivisions thereof or within the region; and

(H) other information necessary to conduct statewide land-use planning in accord with the provisions of this title;

(3) to provide technical assistance and training programs for appropriate interstate, State, and local agency personnel on the development, implementation, and management of statewide land-use planning programs;

(4) to arrange with Federal agencies for the cooperative planning of Federal lands located within and near the State's or region's boundaries;

(5) to develop, use, and encourage common information and data bases for Fed-

eral, regional, State, and local land-use planning;

(6) to establish arrangements for the exchange of land-use planning information among State agencies; and among the various governments within each State and their agencies; between the governments and agencies of different States; and among States and interstate compact agencies and regional commissions;

(7) to establish arrangements for the exchange of information with the Federal Government for use by the Secretary and the State and interstate agencies in discharging their responsibilities under this Act;

(8) to conduct hearings, prepare reports, and solicit comments on reports concerning specific portions of the plans and the plans in their entirety; and

(9) to conduct such other related planning and coordination functions as may be approved by the Secretary.

FEDERAL GUIDELINES AND REQUIREMENTS FOR STATEWIDE LAND-USE PLANS

SEC. 105. (a) A State agency specified in section 104(a) must meet or give assurances that it will meet the following requirements in the development of a statewide land-use plan described in subsection (b) of this section to be eligible for statewide land-use planning grants under this title—

(1) a single State agency, designated by the Governor or established by law, shall have primary authority and responsibility for the development and administration of the statewide land-use plan;

(2) a competent and adequate interdisciplinary professional and technical staff as, well as special consultants, will be available to the State agency to develop the statewide land-use plan;

(3) to the maximum extent feasible, pertinent local, State, and Federal plans, studies, information, and data on land-use planning already available shall be utilized in order to avoid unnecessary repetition of effort and expense.

(b) During the five complete fiscal year period following the initial publication of regulations by the Secretary implementing the provisions of this title, the State agency must, as a condition of continued grant eligibility, develop a statewide land-use plan which—

(1) identifies the portions of the State subject to enforcement of the statewide land-use plan, which shall include all lands within the boundaries of the State except—

(A) lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents; and

(B) at the discretion of the State agency, lands located within the boundaries of any incorporated city having a population in excess of two hundred and fifty thousand or in excess of 20 per centum of the State's total population, which has land-use planning and regulation authority;

(2) identifies those areas (within the State, except where otherwise indicated)—

(A) where ecological, environmental, geological and physical conditions dictate that certain types of land-use activities are undesirable;

(B) where the highest and best use, based upon projected local, State, and National needs, on the Statewide Outdoor Recreation Plan required under the Land and Water Conservation Fund Act, and upon other studies, is recreational-oriented use;

(C) which are best suited for agricultural, mineral, industrial, and commercial development;

(D) where transportation and utility facilities are or it appears should, in the future, be located;

(E) which furnish the amenities and the basic essentials to the development of new towns and the revitalization of existing communities;

(F) which, notwithstanding Federal ownership or jurisdiction, are important to the State for industrial, commercial, mineral, agricultural, recreational, ecological, or other purposes; and

(G) which although located outside the State, have substantial actual or potential impact upon land-use patterns within the State; and

(H) which are of unusual national significance and value.

(3) includes appropriate provisions designed to insure that projected requirements for material goods, natural resources, energy, housing, recreation, and environmental amenities have been given consideration;

(4) includes provisions designed to insure that the plan is consistent with applicable local, State, regional, and Federal standards relating to the maintenance and enhancement of the quality of the environment and the conservation of public resources;

(5) provides for assuring orderly patterns of land use and development;

(6) includes provisions to insure that transportation and utility facilities do not interfere with congressional policies relating to the status and use of Federal lands, and are established in compliance with regional and State needs, State policies, and policies and goals set forth in other Federal legislation;

(7) provides for measures such as buffer zones, scenic easements, prohibitions against nonconforming uses, and other means of assuring the preservation of esthetic qualities, to insure that federally designated, financed, and owned areas, including but not limited to elements of the national park system, wilderness areas, and game and wildlife refuges are not damaged or degraded as a result of inconsistent or incompatible land-use patterns in the same immediate geographical region;

(8) provides for flood plain identification and management;

(9) provides for other appropriate factors having significant land-use implications;

(10) provides a method for assuring that local regulations do not restrict or exclude development and land use of regional benefit;

(11) includes a policy for influencing the location of new communities and a method for assuring appropriate controls over the use of land around new communities;

(12) provides a method for controlling proposed, large-scale development of more than local significance in its impact upon the environment; and

(13 includes a system of controls and regulations pertaining to areas and developmental activities previously listed in this subsection which are designed to assure that any source of air, water, noise, or other pollution will not be located where it would result in a violation of any applicable air, water, noise, or other pollution standard or implementation plan.

(c) To retain eligibility for statewide land-use planning grants after the end of five complete fiscal years from the beginning of the first fiscal year after the initial publication of regulations by the Secretary implementing the provisions of this title, the statewide land-use plan developed in accordance with subsection (b) of this section and the State land-use planning agency must meet the following Federal guidelines and requirements—

(1) the statewide land-use plan must be approved by the Secretary in accordance with section 106;

(2) the agency must have authority to implement the approved plan and enforce its provisions;

(3) the agency's authority may include the power to acquire interests in real property;

(4) the agency's authority must include the power to prohibit, under State police powers, the use of any lands in a manner which is inconsistent with the provisions of the plan;

(5) the agency must have authority to conduct public hearings, allowing full public participation and granting the right of appeal to aggrieved parties, in connection with the dedication of any area of the State as an area subject to restricted or special use under the statewide land-use plan; and

(6) the agency must have established reasonable procedures for periodic review of the plan for purposes of granting variances from and making modifications of the plan, including public notice and hearings, in order to meet changed future conditions and requirements.

(7) the statewide land-use plan shall be coordinated with metropolitanwide plans developed by an areawide agency designed pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 and existing on January 1 of the year in which the State land-use plan is submitted to the Secretary;

(8) the statewide land-use plan shall be coordinated with appropriate neighboring States with respect to lands and waters in interstate areas;

(9) in the development of such statewide land-use plan, there shall be taken into account the plans and programs of other State agencies and of Federal and local governments; and

(10) the State shall utilize, for the purpose of furnishing advice to the Federal Government as to whether Federal and federally assisted projects are consistent with the statewide land-use plan, procedures established pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, and title IV of the Intergovernmental Cooperation Act of 1968.

(d) Nothing in this section shall be deemed to preclude a State from planning for land use or from implementing a statewide land-use plan in stages, with respect to either (1) particular geographical areas including but not limited to coastal zones, or (2) particular kinds of uses, as long as the other requirements of this Act are met.

(e) Nothing in this Act shall be deemed to preclude the delegation by the State agency to local governmental entities of authority to plan for land use and enforce land-use restrictions adopted pursuant to the statewide land-use plan, including the assignment of funds authorized by this Act, to the extent available, except that—

(1) the State agency shall have ultimate responsibility for approval and coordination of local plans and enforcement procedures;

(2) only the plan submitted by the State agency will be considered by the Secretary;

(3) the statewide land-use plan submitted by the State agency must be consistent with the guidelines established by this Act; and

(4) the State agency shall be responsible to the Secretary for the management and control of any Federal funds assigned or delegated to any agency of local government within the State concerned.

REVIEW OF STATEWIDE LAND-USE PLANS

SEC. 106. (a) Upon completion of each statewide land-use plan—

(1) The State agency responsible for the development of the plan shall submit it to the Secretary.

(2) The Secretary shall submit the plan for review and comments to those Federal agencies the Secretary considers to have significant interest in or impact upon land use within the State concerned. A period of ninety days shall be provided for the review.

(3) Upon completion of the review period established by paragraph (2) of this subsection, the Secretary shall review the plan

along with the agency comments and approve the plan if it—

(A) conforms with the policy, guidelines, and requirements declared in this title;

(B) is compatible with the plans and proposed plans of other States, so that regional and national land-use considerations are accommodated; and

(C) does not conflict with the objectives of Federal programs authorized by the Congress.

(4) Notwithstanding the provisions of paragraph (3) of this subsection, the Secretary shall not approve such plan unless he has first ascertained that the Secretary of Housing and Urban Development is satisfied that those aspects of the plan dealing with large-scale development, key facilities, development and land use of regional benefit, and new communities meet the requirements of clause (E) of paragraph (2) of subsection (b) of section 105, paragraphs (10), (11), (12), and (13) of subsection (b) of section 105, and paragraph (6) of subsection (C) of section 105, of this Act.

(5) After December 31, 1974, or the date the Secretary approves a grant under this Act, whichever is earlier, Federal agencies submitting statements required by section 102(2)(C) of the National Environmental Policy Act shall include a detailed statement by the responsible official on the relationship of proposed actions to any applicable State land-use plan which has been found eligible for a grant under this Act.

(b) A State may at any time make modifications of or grant variances from its statewide land-use plan: *Provided,* That such modification or variance does not render the statewide land-use plan inconsistent with the policies, guidelines, and requirements declared in this Act: *And provided further,* That such modification or variance is reported to the Secretary on or before its effective date. The Secretary shall approve the modification or variance unless it causes the plan to no longer meet the criteria set forth in subsection (a).

(c)(1) In the event the Secretary determines that grounds exist for disapproval of a statewide land-use plan or, having approved such a plan, subsequently determines that grounds exist for withdrawal of such approval pursuant to section 114, he shall notify the President, who shall order the establishment of an ad hoc hearing board, the membership of which shall consist of:

(A) The Governor of a State other than that which submitted the plan, whose State does not have a particular interest in the approval or disapproval of the plan, selected by the President, or such alternate person as the Governor selected by the President may designate;

(B) One knowledgeable, impartial Federal official, selected by the President;

(C) One knowledgeable, impartial private citizen, selected by the other two members: *Provided,* That if the other two members cannot agree upon a third member within twenty days after the appointment of the second member to be appointed, the third member shall be selected by the President.

(2) The hearing board shall meet as soon as practicable after all three members have been appointed. The Secretary shall specify in detail to the hearing board its reasons for considering disapproval or withdrawal of approval of the plan. The hearing board shall hold such hearings and receive such evidence as it deems necessary. The hearing board shall then determine whether disapproval or withdrawal of approval would be reasonable, and set forth in detail the reasons for its determination. If the hearing board determines that disapproval would be unreasonable, the Secretary shall approve the plan.

(3) Members of hearing boards who are not regular full-time officers or employees of the United States shall, while carrying out their duties as members, be entitled to receive compensation at a rate fixed by the President, but not exceeding $150 per diem, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence as authorized by law for persons in Government service employed intermittently. Expenses shall be charged to the account of the Executive Office of the President.

(4) Administrative support for hearing boards shall be provided by the Executive Office of the President.

(5) The President may issue such regulations as may be necessary to carry out the provisions of this subsection.

COORDINATION OF FEDERAL PROGRAMS

SEC. 107. (a) All Federal agencies conducting or supporting activities involving land use in an area subject to an approved statewide land-use plan shall operate in accordance with the plan. In the event that a departure from the plan appears necessary in the national interest, the agency shall submit the matter to the Secretary. The Secretary may approve a federally conducted or supported project a portion or portions of which may be inconsistent with the plan if he finds that (1) the project is essential to the national interest and (2) there is no reasonable and prudent alternative which would not be inconsistent with an approved statewide land-use plan. In the event that the Secretary fails to approve the project, the project may be undertaken only upon the express approval of the President. The President may approve projects inconsistent with a statewide land-use plan only when overriding considerations of national policy require such approval.

(b) State and local governments submitting applications for Federal assistance for activities having significant land-use implications in an area subject to an approved statewide land-use plan shall indicate the views of the State land-use planning agency as to the consistency of such activities with the plan. Federal agencies shall not approve proposed projects that are inconsistent with the plan.

(c) All Federal agencies responsible for administering grant, loan, or guarantee programs for activities that have a tendency to influence patterns of land use and development, including but not limited to home mortgage and interest subsidy programs and water and sewer facility construction programs, shall take cognizance of approved statewide land-use plans and shall administer such programs so as to enable them to support controlled development, rather than administering them so as merely to respond to uncontrolled growth and change.

(d) Federal agencies conducting or supporting public works activities in areas not subject to an approved statewide land-use plan shall, to the extent practicable, conduct those activities in such a manner as to minimize any adverse impact on the environment resulting from decisions concerning land use.

(e) Officials of the Federal Government charged with responsibility for the management of federally owned lands shall take cognizance of the planning efforts of State land-use planning agencies of States within which and near the boundaries of which such Federal lands are located, and shall coordinate Federal land use planning for those lands with State land use planning to the extent such coordination is practicable and not inconsistent with paramount national policies, programs, and interests.

PART 3—ADMINISTRATION OF LAND USE PLANNING GRANTS

ALLOTMENTS

SEC. 110. (a) From the sum appropriated pursuant to section 201 the Secretary is authorized to make State land use planning grants to agencies the proposals of which are approved in any amount not to exceed ninety per centum of the estimated cost of the planning for the five full fiscal years after the initial publication by the Secretary of regulations implementing the provisions of this title. Thereafter, grants may be made in an amount not to exceed two-thirds of the State agency's planning and operating costs.

(b) Land use planning grants shall be allocated to the States with approved programs based on regulations of the Secretary, which shall take into account the amount and nature of the State's land resource base, population, pressures resulting from growth, financial need, and other relevant factors.

(c) Any land use planning grant made for the purpose of this title shall increase, and not replace State funds presently available for State land use planning activities. Any grant made pursuant to this title shall be in addition to, and may be used jointly with, grants or other funds available for land use planning surveys, or investigations under other federally assisted programs.

(d) Not more than 5 per centum of any funds granted pursuant to any State plan under this Act may be expended for the acquisition of any interest in real property.

PAYMENTS

SEC. 111. The method of computing and paying amounts pursuant to this title shall be as follows:

(1) The Secretary shall, prior to the beginning of each calendar quarter or other period prescribed by him, estimate the amounts to be paid to each State under the provisions of this title for such period, such estimate to be based on such records of the State and information furnished by it, and such other investigation, as the Secretary may find necessary.

(2) The Secretary shall pay to the State, from the allotments available therefor, the amounts so estimated by him for any period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which he finds that his estimate of the amount to be paid such State for any prior period under this title was greater or less than the amount which should have been paid to such State for such prior period under this title. Such payments shall be made through the disbursing facilities of the Treasury Department, at such times and in such installments as the Secretary may determine.

FINANCIAL RECORDS

SEC. 112. (a) Each recipient of a grant under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant, and the total cost of the project or undertaking in connection with which the grant was made and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) Such other records shall be kept and made available and such reports and evaluations shall be made as the Secretary may require regarding the status and application of Federal funds made available under the provisions of this title.

(c) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of the grant that are pertinent to the determination that funds granted are used in accordance with this Act.

SANCTIONS FOR NONCOMPLIANCE

SEC. 113. The Secretary shall have authority to terminate any financial assistance extended to a State agency for land use planning under this title and withdraw his approval of a statewide land use plan, whenever, after the State concerned has been given notice of a proposed termination and an opportunity for hearing, the Secretary finds that—

(1) the designated State land use planning agency has failed to adhere to the guidelines and requirements of this title in the development of the land use plan;

(2) the State has not enacted legislation which allows the State agency to meet the requirements of subsection (c) of section 105; or

(3) the plan submitted by such State and approved under section 106 has been so changed or so administered that it no longer complies with a requirement of such section.

SEC. 114. (a) After the end of five fiscal years from the beginning of the first fiscal year after the initial issuance of regulations by the Secretary implementing the provisions of this title, no Federal agency shall, except with respect to Federal lands, propose or undertake any new action or financially support any new State-administered action which may have a substantial adverse environmental impact or which would or would tend to irreversibly or irretrievably commit substantial land in any State which has not prepared and submitted a statewide land use plan in accordance with this Act.

(b) Upon application by the Governor of the State or head of the Federal agency concerned, the President may temporarily suspend the operation of paragraph (a) with respect to any particular action, if he deems such suspension necessary for the public health, safety, or welfare: *Provided*, That no such suspension shall be granted unless the State concerned submits a schedule, acceptable to the Secretary, for submission of a statewide land-use plan: *And provided further*, That no subsequent suspension shall be granted unless the State concerned has exercised due diligence to comply with the terms of that schedule.

TITLE II—GENERAL

MISCELLANEOUS

SEC. 201. There are hereby authorized to be appropriated not to exceed $20,000,000 for each fiscal year, 1972 through 1976, and for each fiscal year thereafter, such amount as the Congress may hereafter provide, for grants authorized by this Act, such funds to be available until expended.

SEC. 202. (a) The Secretary of the Interior shall—

(1) prepare an inventory and maintain a continuing study of the land resources of the United States, and report biennially to the President and the Congress on land resources and uses, projections of development and uses of land, and analyses of current and emerging problems of land use;

(2) maintain a continuing study of the adequacy of administrative and statutory means of the coordination of Federal programs which have an impact upon land use and of the compatibility of such programs with State and local land-use planning and management activities; it shall appraise the adequacy of existing and proposed Federal policies and programs which affect land use; and it shall make recommendations to the President with respect to such policies and programs; and

(3) The Secretary shall develop and maintain an information and data center, with such regional branches as he may deem appropriate, which has on file—

(a) copies of all approved statewide land-use plans, including approved modifications and variances;

(b) copies of all federally initiated and federally assisted plans for activities which directly affect or involve land use;

(c) to the extent practicable and appropriate, the plans of local government and private enterprise which have more than local significance for land-use planning;

(d) statistical data and information on past, present, and projected land-use patterns which are of national significance;

(e) studies pertaining to techniques and methods for the procurement, analysis, and evaluation of information relating to land-use planning and management;

(f) such other information pertaining to land-use planning and management as the Secretary deems appropriate.

SEC. 203. (1) All Federal agencies are required, as a part of their planning procedures on projects involving a major land-use activity, to consult with the Secretary for the purpose of determining whether the proposed activity would conflict in any way with the plans of other Federal, State, or local agencies. In the event a conflict is discovered, the matter shall be reported to the Secretary. If the conflict is not resolved by the agencies involved within a reasonable period of time, the Secretary shall investigate the conflict and report his findings, along with his recommendation concerning the proper resolution of the issue, to the Congress, the President, the State agency or agencies responsible for land-use planning and enforcement of any approved statewide land-use plan in the State concerned, and any other State or local agency involved.

(2) The Secretary shall make the information maintained at the center available to Federal, State, and local agencies involved in land-use planning and to members of the public, to the extent practicable. The Secretary may charge reasonable fees to defray the expenses incident to making such information available.

FEDERAL ACTION IN THE ABSENCE OF STATE LAND-USE PROGRAMS

SEC. 204. Where any major Federal action significantly affecting the use of non-Federal lands is proposed after December 31, 1974, in a State which has not been found eligible for a land planning grant pursuant to this Act, the responsible Federal agency shall hold a public hearing in that State at least one hundred and eighty days in advance of the proposed action concerning the effect of the action on land use taking into account the relevant considerations set out in section 105 of this Act, and shall make findings which shall be submitted for review and comment by the Secretary, and where appropriate, by the Secretary of Housing and Urban Development. Such findings of the responsible Federal agency and comments of the Secretary or the Secretary of Housing and Urban Development shall be part of the detailed statement required by section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4321 et seq.). This section shall be subject to exception where the President determines that the interests of the United States so require.

AVAILABILITY OF FEDERAL EXPERTISE

SEC. 205. (a) Federal agencies with data or expertise relative to land use and conservation shall take appropriate measures to make such data or expertise available to States for use in preparation, implementation, and revision of State land plans approved under this Act.

(b) The Secretary may provide technical assistance to any eligible State or interstate agency to assist it in the performance of its functions under this Act.

GUIDELINES

SEC. 206. The Domestic Council (established in the Executive Office of the President pursuant to Reorganization Plan Numbered 2 of 1970) is authorized to issue guidelines to Federal agencies to assist them in carrying out the requirements of this Act.

REPORTS AND EVALUATIONS

SEC. 207. Any State receiving a grant under this Act, the agency designated by the Governor to administer such grant, and State agencies allocated a portion of such grant, shall make reports and evaluations in such form, at such times, and containing such information concerning the status and application of Federal funds and the operation of the approved land-use plan as the Secretary may require, and shall keep and make available such records as may be required by the Secretary for the verification of such reports and evaluations.

MISCELLANEOUS

SEC. 208. (a) Nothing in this Act shall be interpreted to extend the territorial jurisdiction of any State.

(b) Nothing in this Act shall be construed to imply Federal consent to or approval of any State or local actions which may be required or prohibited by other Federal statutes or regulations.

STUDIES

SEC. 209. The Secretary may, by contract or otherwise, make studies and publish information on subjects related to State, regional, and national land-use planning.

RULES AND REGULATIONS

SEC. 210. The Secretary, except with respect to subsection (c) of section 106—

(1) shall promulgate rules and regulations for the administration of title I, including the detailed terms and conditions under which grants may be made;

(2) with the approval of the President, shall prescribe such rules, establish such procedures, and make such arrangements and provisions relating to the performance of his functions under title I and the use of funds available therefor, as may be necessary in order to assure (A) coordination of the program authorized by this Act with related Federal planning assistance programs, including the program authorized under section 701 of the Housing Act of 1954 and (B) appropriate utilization of other Federal agencies administering programs which may contribute to achieving the purposes of this Act; and

(3) shall make such other rules and regulations as it may deem necessary or appropriate for carrying out his duties and responsibilities under the provisions of this Act.

EFFECT ON EXISTING LAWS

SEC. 211. Nothing in this Act shall be construed—

(1) to expand or diminish either Federal or State jurisdiction, responsibility, or rights in the field of land planning, development, or control; nor to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States, or of two or more States and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

(2) to change or otherwise affect the authority or responsibility of any Federal official in the discharge of the duties of his office except as required to carry out the provisions of this Act; and

(3) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of land resources or to exercise licensing or regulatory functions in relation thereto, except as required to carry out the provisions of this Act; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board, and the United States operating entity or entities established pursuant to the Columbia River Basin Treaty, signed at Washington January 17, 1961, or the International Boundary and Water Commission, United States and Mexico.

DEFINITIONS

SEC. 212. For the purposes of this Act—

(1) the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States;

(2) the term "interstate agency" means any interstate compact agency established in accordance with Federal law;

(3) the term "new action", as used in section 114, means any action which has not been previously authorized by the Congress;

(4) the term "key facilities" means public facilities which tend to induce development and urbanization of more than local impact and includes (A) any major airport that is used or designed to be used for instrument landing; (B) interchanges between the Interstate Highway System and frontage access streets or highways; major interchanges between other limited access highways and frontage access streets or highways; and (C) major recreational lands and facilities; and

(5) the term "development and land use of regional benefit" includes land use and private development for which there is a demonstrable need affecting the interests of constituents of more than one local government which outweighs the benefits of any applicable restrictive or exclusionary local regulation.

Mr. MATHIAS. Mr. President, I have held hearings throughout the State, conducted workshops and had many discussions calling to the attention of the citizens of Maryland the essential need for sound land reform and land management. Most recently I sponsored a land use conference in Columbia, Md., on March 16, 1972, attended by land use planners, citizens, and elected officials from those counties making up the Frederick-Baltimore-Washington corridor. Mrs. Connie Finney of Howard County volunteered her services to summarize the thousands of pages of testimony and findings of the conference. Her efforts are most appreciated. It should be noted that the recommendations contained in the workshops coincide with the legislative recommendations which we are now considering. At the heart of the conference's recommendations is the cry for the respect for our land. One specific recommendation of one workshop is the creation of a national land-use policy, of the type which we are today considering. It is for these reasons that I support Senate bill 632 and I pledge my support to see that it be enacted into law.

I ask unanimous consent that the entire summary as prepared by Mrs. Finney appear in the RECORD at this time.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SENATOR MATHIAS' CONFERENCE ON PRESERVING OPEN SPACE AND NATURAL RESOURCES IN THE DEVELOPING AREAS

On March 16, 1972, a group of professional people and concerned citizens representing the seven Maryland counties undergoing the most rapid urbanization in the State—the counties of Howard, Montgomery, Prince George's, Baltimore, Ann Arundel, Frederick and Carroll—met at the Urban Life Center in Columbia, Maryland, for the purpose of frank discussion on ways to preserve the natural resources and open spaces within their geographical boundaries.

After registration, the conference was convened by Mr. Howard Crist of the Howard County Farm Bureau. Welcoming addresses were given by the Howard County Executive, Omar J. Jones and Senator Charles McC. Mathias, Jr. The group then adjourned into the five working workshops for the morning and part of the afternoon sessions.

Before adjournment to the workshops, Maryland State Comptroller, Louis M. Goldstein was called upon for some remarks in which he urged the group to work objectively to establish sound land use management.

What the workshops hoped to accomplish at this initial meeting or at any future gatherings can best be summarized in these remarks made by Senator Charles McC. Mathias in his opening address to the conference.

. . . We meet to discuss the growing problems that are related to land, and the problem of our diminishing open space.

. . . There was a time when cities like Ellicott City, Maryland, were built on rock because developers, citizens, and governments wanted to preserve the rich valleys and farm land for agricultural production. Today I'm afraid we tend to save the rocks and bulldoze our best soil. We've lost respect for the farmer and for his contribution to America. We've prostituted our land—sold it to the highest bidder without regard to its limited supply. We've dug up the rich minerals and hunted the wild life as if generations to come have an unlimited supply.

I think we must begin to listen to each other. Although some problems can be corrected by formal governmental actions, others can still be solved merely by understanding the difficulties that we have in common with our neighbors.

States and counties can no longer build and develop without regard to their neighbors. We've so often seen high density development along the borderline of neighboring counties—bad land use planning which might have been avoided merely by communication or by an interest in the welfare of our neighbor.

I think that today, with the ownership of land comes responsibilities as well as rights. There's a right to develop only if the development is met. There is a right to destroy only if what is destroyed does not destroy the environment for others.

Time is very short. We have only a day to do the work that generations demand of us.

A short summary of the workshop recommendations follows:

WORKSHOP 1

Preserving water resources and stream valleys plus storm water managements, Chairman James Shay.

RECOMMENDATIONS

1. Counties should encourage planning on a water shed level, using a systems approach and incorporating this approach into county master plans.

2. The Maryland Department of Water Resources should make their resources available to local governments for the development of their respective master plans.

DISCUSSION

Each of the counties represented had an established soil control program as well as engaged in varying degrees of storm water management, channel control and flood plain management. There was overall agreement that preservation of stream valleys can be most successful when it depends on criteria established by the coordinated efforts of planners, developers, soil conservationists and political leaders. Once basic and general criteria is established, it should then be the responsibility of the counties to set and implement programs suited to their individual needs.

It was agreed that the most careful attention should be given to the economic feasibility of any stream valley plan in its initial stages, so as not to be hampered subsequently by a lack of support. Systematic planning was emphasized throughout the workshop's discussions.

Activities of the Surface Water Management Division of the Maryland Department of Natural Resources it was reported consist of issuing permits for the construction of dams and related water-ways, assisting local subdivisions in dealing with flood plain management, and sediment control programs. The Department is asking for new legislation this year to better define their responsibilities in the area of flood plain management. The workshop members support such legislative efforts and would further recommend better criteria in sediment control practices. The members of the workshop also look forward to a departmental progress report on a research program on developing criteria for handling storm water. It was noted that the Maryland National Capital Park and Planning Commission is researching what can be done in terms of altering the scheme land use within in a master plan for that land which effects storm water run-off; the workshop members were most anxious to see the product of this research.

Workshop 2—Preservation of wildlife, forests and natural areas. Chairmen—James Coulter and Spencer Ellis.

RECOMMENDATIONS

1. The development of a comprehensive land use development policy and operative philosophy that should be nationwide, statewide and countywide.

2. The development of an inventory of land including its present uses and best possible uses for each parcel.

3. A set of reasonable priorities should be established to control the use of land in the future. These priorities should benefit the maximum number of people and the welfare of the community.

DISCUSSION

The major objectives brought to the attention of the workshop in this area are: preserving wildlife, forest and natural areas, decreasing pressures upon the land from urbanization, facilitating the passing of restraining legislation and regulations and the creation of conservation oriented guidelines for developers. It was noted that ten percent of the forest land in Maryland is in public ownership; the rest is privately owned.

Incentives, assessments, tax credits, easements and deeding of lands were some of the means of implementing a land use policy that were discussed. It was generally agreed that the vitality of the urban areas was essential to restore in order to establish and maintain a balanced scheme of land allocation and planning.

Citizen involvement and meaningful participation was deemed essential toward sound and realistic land use development and planning.

Workshop 3. Preserving agricultural land. Chairman—Herbert Rice

RECOMMENDATIONS

1. The planning and zoning laws need to be reevaluated in order to best suit their original objective.

2. The tax laws as they relate to property and inheritance taxes, need a complete overhaul in order to make them more equitable, fair and conducive to good land management.

3. The farmer's economic investment must be carefully considered in any governmental policy, for, it is the farmer who has toiled the land, and preserved it and most often with little economic benefits.

DISCUSSION

This workshop was unable to come up with a means of permanently protecting or preserving agricultural land particularly as it relates to land that will be engulfed by urbanization. It was recommended that a small task force be established to study and propose legislation that would have as its objective the preservation of the agricultural economy within a growing urban state. The farmer must always be involved in the plans and legislative proposals in their area, for it was agreed without considering him these proposals would be denying a voice and vote to an important segment of the community and thus make any remedy void of reality.

WORKSHOP 4

Preservation of future parks and recreation areas. Chairman—John P. Hewitt

RECOMMENDATIONS

1. That all political subdivisions of the State prepare and adopt a Master Plan of Parks, Recreation and Open Space that would be integrated with related state and federal Master Plans of Parks, Recreation and Open Space. The master plan should indicate the acquisition, development, maintenance and operation of such parcels and clearly spell out their method of funding.

2. A continuing committee on preservation of open space and natural resources in developing areas should be established and hosted by the State Department of Natural Resources, which would meet quarterly to review and consider further recommendations to implement preservation policies.

3. The requirement for matching funds under the Maryland State Open Space Program should be eliminated. In lieu of the matching fund requirement we recommend that grants from the Open Space Program fund be direct grants to foster the preservation of parks, recreation and open space for the political subdivisions in the State of Maryland.

DISCUSSION

It was remarked that with regard to park development, the quideline of 35 acres of parkland per 1,000 population is as good a standard as is today possible. Some of the needed parkland is acquired through developers but the majority of it comes from public funds, thus it was felt that the general public should be kept informed and sensitized to all stages of parkland acquisition. It was agreed that the rate of park acquisition should now be accelerated due to spiraling land prices and urban sprawl.

WORKSHOP 5

Preservation of aesthetics and historic sites. Chairman—Mrs. Connie Finney

RECOMMENDATIONS

1. Article 66B of the Maryland Code should be amended to state that it is the policy of the State of Maryland to allow zoning for aesthetic purposes.

2. Each county should continuously review the criteria set forth by The Department of Public Works with regard to design and planning, for often its guidelines are out of step with contemporary practices.

3. All counties should consider creating the necessary legislation to enable them to have a Historic District Zone.

DISCUSSION

Sound land use policies on national, state and local levels must be given immediate attention. There should be a complete reevaluation of the priorities we now have, based on the growing information the environmental movement has provided for us. Preservation and beauty should be considered as important as economics in subdivision regulations, zoning, planning critera and public agency regulations.

There was agreement that political leadership was vital to aesthetic preservation and that input from local citizens must be increased. There was discussion on recommending citizen review panels for the capital improvement programs in the counties. Perhaps even more important it was felt, is the existence of local environmental groups to act as overseers to county and related governmental action.

It was considered necessary to communicate ideas and actions on an inter-county basis. for it was generally agreed that the whole field of aesthetic preservation is new and undeveloped.

The National Registry Act has allowed parcels to be included on a National Registry in order to be preserved for historical significance. As this can be a lengthy process, it was recommended that there be local groups pushing and guiding the registration. Some discussion centered on the idea of having a Maryland Registry that would be supplemental to the functions of the National Registry. In any historic preservation attempt, the means of implementing the actual site restoration and preservation is unclear and uncommunicated. For instance, who pays is always a problem? A Maryland Registry it was thought might remedy some of the present inadequacies.

It was unanimously agreed that the first step in historic preservation of sites should always be the inclusion and identification of such on a county master plan.

Enacting local ordinances such as sign control bills was considered a necessary step in controlling development through aesthetics.

* * * * *

A highlight of the conference was the luncheon speaker Ian McHarg, Professor, Graduate School of Fine Arts University of Pennsylvania, author and landscape architect.

Following the afternoon sessions, Senator William Philip Goodman was introduced to give a brief synopsis of his bill on development rights. He described the plan contained in the bill as one akin to treating the master plan of an area as a corporation that allows property owners within the land to own shares in the development rights of that land. Thus, when the master plan is adopted, stock (the development rights) is issued. In order to develop the type of activity that has been designated for the area, development rights would have to be bought, transferred, sold, etc. -

The government could receive at no cost, open space for use by the Public.

After the workshop chairmen reported briefly on the day's findings and recommendations, Mr. Dale Maisel of the Howard County Farm Bureau, chairman of the steering committee for the conference, was introduced. Bringing the conference to a close, he asked for a show of hands from those who felt the day had been a success and worth repeating. The response was unanimous in favor of another conference. The meeting was adjourned.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the full list of those invited to the conferences be printed in the RECORD at this time. I am deeply indebted to Mr. Dale Maisel of Howard County who acted as the chairman of the steering committee that organized the conference. Without his efforts it would not have been the success it was.

There being no objection, the list of names was ordered to be printed in the RECORD, as follows:

MONTGOMERY COUNTY

Mr. Richard H. Wieland, 9517 Georgia Avenue, Silver Spring, Maryland 20910.

Elisha C. Freedman, Chief Administrative Officer, County Office Building, Rockville, Maryland 20850.

Mr. David G. Sobers, Office of Program Coordination, County Office Building, Rockville, Maryland 20850.

Mr. Donald L. McCathran, Chief, Division of Design, 2351 Shady Grove Road, Rockville, Maryland 20850.

Mr. Richard Tustian, Assoc. Director of Planning, Maryland-National Capital Park & Planning Commission, 8787 Georgia Avenue, Silver Spring, Maryland 20907.

Mr. James Geigerich, Environmental Planner, Maryland-National Capital Park & Planning Commission, 8787 Georgia Avenue, Silver Spring, Maryland 20907.

Mr. Gordon B. Lamb, Maryland-National Capital Park & Planning Commission, 8787 Georgia Avenue, Silver Spring, Maryland 20907.

Mr. Robert C. McDonell, Staff Director, Montgomery County Council, County Office Building, Rockville, Maryland 20850.

Mrs. Idamae Garrott, Montgomery County Council, County Office Building, Rockville, Maryland 20850.

Mr. David C. Smith, President, Suburban Maryland Homebuilders, 9517 Georgia Avenue, Silver Spring, Maryland 20910.

Mr. William H. Hussmann, Deputy Chief Administrative Officer, County Office Building, Rockville, Maryland 20850.

Mr. Richard J. Lynch, Director of Public Works, 2351 Shady Grove Road, Rockville, Maryland 20850.

Mr. H. Clay Ervine, Chief, Division of Environmental Health Services, Montgomery County Government, County Office Building, Rockville, Maryland 20850.

Mr. John A. Conway, Chief of General Plan, Maryland-National Capital Park & Planning Commission, 8787 Georgia Avenue, Silver Spring, Maryland 20907.

Mr. Cameron Wiegand, Environmental Planner, Maryland-National Capital Park & Planning Commission, 8787 Georgia Avenue, Silver Spring, Maryland 20907.

Mr. Thomas M. Anderson, Maryland-National Capital Park & Planning Commission, 8787 Georgia Avenue, Silver Spring, Maryland 20907.

Mrs. Frances L. Abrams, Planning Policy Coordinator, Montgomery County Council, County Office Building, Rockville, Maryland 20850.

Mr. Sidney Kramer, Montgomery County Council, County Office Building, Rockville, Maryland 20850.

Mr. James P. Gleason, Montgomery County Executive, County Office Building, Rockville, Maryland 20850.

Mr. John A. Hansman, Assistant Director, Office of Program Coordination, County Office Building, Rockville, Maryland 20850.

Mr. James Sayre, Chief, Bureau of Engineering, 2351 Shady Grove Road, Rockville, Maryland 20850.

Mr. John P. Hewitt, Executive Director, Maryland-National Capital Park & Planning Commission, 8787 Georgia Avenue, Silver Spring, Md. 20907.

Mr. John J. Broda, Development Coordinator, Maryland-National Capital Park & Planning Commission, 8787 Georgia Avenue, Silver Spring, Maryland 20907.

Mr. Robert E. Brennan, Maryland-National Capital Park & Planning Commission, 8787 Georgia Avenue, Silver Spring, Maryland 20907.

Esther P. Gelman, Maryland-National Capital Park & Planning Commission, 8787 Georgia Avenue, Silver Spring, Maryland 20907.

Mr. Dickran Y. Hovsepian, Montgomery County Council, County Office Building, Rockville, Maryland 20850.

Mr. Neal Potter, Montgomery County Council, County Office Building, Rockville, Maryland 20850.

Mrs. Elizageth L. Scull, Montgomery County Council, County Office Building, Rockville, Maryland 20850.

Mr. Achilles M. Tuchtan, Mayor, City of Rockville, County Office Building, Rockville, Maryland 20850.

Mr. Sanford W. Daily, City Manager of Gaithersburg, City Hall, Gaithersburg, Maryland 20760.

Mr. Grover K. Walker, 6 Rolling Knoll Court, Gaithersburg, Maryland 20760.

Mr. William Sher, Montgomery County

Council, County Office Building, Rockville, Maryland 20850.

Mr. C. Richard Foote, City Manager of Rockville, County Office Building, Rockville, Maryland 20850.

Mr. Lewis H. Williams, Montgomery Soil Conservation, District, 600 S. Frederick Avenue, Gaithersburg, Maryland 20760.

Mr. Chester M. Leishear, Monrovia, Maryland 21770.

Mr. William H. Willcox, Montgomery County Council, County Office Building, Rockville, Maryland 20850.

Mr. Harold C. Morris, Mayor, City of Gaithersburg, 26 N. Summit Avenue, Gaithersburg, Maryland 20760.

Mr. Wiley G. Griffith, 6010 Olney-Laytonsville Road, Gaithersburg, Maryland, 20760.

HOWARD COUNTY

Mr. Paul R. Farragut, 5417 Hildebrand Court, Columbia, Maryland 21043.

Dr. Alston Specht, Jennings Chapel Road, Brookeville, Maryland 20729.

Mr. F. Leonard Dunn, 10522 Green Mountain Circle, Columbia, Maryland 21043.

Mr. Charles E. Wehland, 6451 Lawyers Hill Road, Elkridge, Maryland 21227.

Mr. James R. Moxley, Jr., Route 144, West Friendship, Maryland 21794.

Mr. Robert S. Norton, Jr., Driver Road, Marriottsville, Maryland 21104.

Mr. Robert E. Stansfield, 10122 Century Drive, Ellicott City, Maryland 21043.

Mr. Gerald W. VonMayer, 10384 Barcan Circle, Columbia, Maryland 21043.

Mr. Omar J. Jones, County Executive, 4075 Columbia Road, Ellicott City, Maryland 21043.

Mr. Lewis S. Nippard, Route 144, West Friendship, Maryland 21794.

Dr. Aelred D. Geis, Trotter Road, Clarksville, Maryland 21029.

Mr. William P. Brendel, Union Chapel Road, Woodbine, Maryland 21797.

Mr. Robert E. Watson, Summer Hill Farm, Glenelg, Maryland 21737.

Mr. William Jefferson, 10944 Rock Coast Road, Columbia, Maryland 21043.

Mr. John Shallcross, 11362 Homewood Road, Ellicott City, Maryland 21043.

Mrs. Doris Thompson, The Times, Columbia Mall, Columbia, Maryland 21043.

Dr. M. Thomas Goedeke, 2637 Turf Valley Road, Ellicott City, Maryland 21043.

Mr. Edgar C. Kilbourne, 6713 Carlinda Avenue, Ellicott City, Maryland 21043.

Mr. Michael Visconti, Community Development, The Rouse Company, Columbia Maryland 21043.

Mr. Michael D. Spear, 10381 Barcan Circle, Columbia, Maryland 21043.

Dr. John Sundstrom, Route 32, Clarksville, Maryland 21029.

Mr. Albert Diehl, Regional Planning Office, 701 St. Paul Street, Baltimore, Maryland 21202.

Mr. Roger Holtman, 306 N. Charles Street, Baltimore, Maryland 21201.

Mrs. Helen Ruther, 5001 Green Mountain Circle, Columbia, Maryland 21043.

Mr. Ridgely Jones, Old Frederick Road, Sykesville, Maryland 21784.

Mr. Jack Helm, 4321 Hartwick Road, College Park, Maryland 20740.

Mr. Frederick K. Schoenbrodt, 3702 Ligon Road, Ellicott City, Maryland 21043.

Mrs. Cynthia Croce, The Columbia Flier, 9033C Red Branch Road, Columbia, Maryland 21043.

Mr. J. Gordon Warfield, Marriottsville, Maryland 21104.

Mr. F. Grove Miller, Route 1, North East, Maryland 21901.

Mr. Jesse Smith, Slayton House, Columbia, Maryland 21043.

Mr. Robert Dorenberger, Contee Sand & Gravel, P.O. Box 460, Laurel, Maryland, 20810.

Mr. Wallace L. Hall, Route 1, Box 277, Hughesville, Maryland 20637.

Mr. David Carroll, Richard P. Browne Associates, American City Building, 6th Fl., Columbia, Maryland 21043.

Mr. Lloyd G. Knowles, 9522 Pepple Drive, Ellicott City, Maryland 21043.

Mr. William A. Altman, 9710 Gwynn Park Drive, Ellicott City, Maryland 21043.

Mr. Melvin E. Schiedt, Highland, Maryland 20777.

Mr. T. Allan Stradley, Chestertown, Maryland 21620.

Mr. N. Thomas Whittington, Jr., Marion Station, Maryland 21838.

Mr. William R. Russell, Jr., Vice-President, First National Bank of Maryland, Light & Redwood Streets, Baltimore, Maryland 21203.

Mr. Jack Anderson, Regional Planning Council, 701 St. Paul Street, Baltimore, Maryland 21202.

Mrs. Ridgely Jones, Old Frederick Road, Sykesville, Maryland 21784.

Mr. John H. Gibson, USDA Soil Conservation Service, 4321 Hartwick Road, College Park, Maryland 20740.

Mr. John Mathias, Richard P. Browne Associates, American City Building, 6th Fl., Columbia, Maryland 21043.

Mr. Claude Kruhm, Route 32, Clarksville, Maryland 21029.

Mr. Richard P. Browne, Richard P. Browne Associates, American City Building, 6th Fl., Columbia, Maryland 21043.

Mr. George Lechlider, 23200 Laytonsville Road, Gaithersburg, Maryland 20760.

Honorable Frederick C. Malkus, Cambridge, Maryland 21613.

Mr. Dale Z. Maisel, 12789 Folly Quarter Road, Ellicott City, Maryland 21043.

Mr. Lawrence Nelson, Frederick County Planning, Winchester Hall, East Church Street, Frederick, Maryland 21701.

Mr. Charles Osbourn, III, 436 W. Bel Air Avenue, Aberdeen, Maryland 21001.

Mr. James Rouse, 10354 Windstream Drive, Columbia, Maryland 21043.

Mr. David Shaw, Westminster, Maryland 21157.

Dr. Frank L. Bentz, University of Maryland, College Park, Maryland 20742.

Honorable James Clark, Route 108, Ellicott City, Maryland 21043.

Mr. Henry Fostell, Richard P. Browne Associates, American City Building, 6th Fl., Columbia, Maryland 21043.

Mr. E. Rankin Lusby, Maryland Farm Bureau, Inc., Box 337, Randallstown, Maryland 21133.

Mrs. Marion McCoy, Director of Planning, Anne Arundel County Office Bldg., Annapolis, Maryland 21404.

Mr. Keith Myers, Sharpsburg, Maryland 21782.

Mr. J. Hugh Nichols, 6117 Sebring Drive, Ellicott City, Maryland 21043.

Carolyn D. Price, Frederick County Planning Com., Winchester Hall, East Church Street, Frederick, Maryland 21701.

Mr. Wilmer Sanner, 3109 Edgewood Road, Ellicott City, Maryland 21043.

Mr. David Shaw, 5972 Turnabout Lane, Columbia, Maryland 21043.

Mr. Hugh Burgess, 3999 College Avenue, Ellicott City, Maryland 21043.

Dr. Edward Cochran, Pindell School Road, Clarksville, Maryland 21029.

Mr. Robert T. Haas, 8901 Old Frederick Road, Ellicott City, Maryland 21043.

Mr. E. Marcum Lynch, 9036 Dunloggin Road, Ellicott City, Maryland 21043.

Mr. Clifford McIntyre, Director of Natural Resources, American Farm Bureau, 425 13th Street NW., Washington, D.C. 20004.

Mr. Charles E. Miller, Gray Rock Farm, Frederick Road, Ellicott City, Maryland 21043.

Mr. G. Willard Oakley, Route 5, Salisbury, Maryland 21801.

Honorable George A. Price, Phoenix, Maryland 21131.

Mr. John Schillinger, New Cut Road, Severn, Maryland 21144.

Dr. Theodore Sidor, 242E Administration Building, Office of the Secretary, U.S. Department of Agriculture, Washington, D.C. 20250.

Dr. Gordon Cairns, 8528 Pineway Drive, Laurel, Maryland 20810.

Mr. Edward H. Covell, Easton, Maryland 21601.

Mr. Howard Crist, Jr., Burnt Woods Road, Glenelg, Maryland 21737.

Mr. W. Scott Ditch, 10985 Swansfield Road, Columbia, Maryland 21043.

Mr. Wilber Dove, Woodbine, Maryland 21797.

Mr. Thomas C. Duley, Box 246, Upper Marlboro, Maryland 20870.

Mrs. James Filipczak, 9190 Wintercorn Lane, Columbia, Maryland 21043.

Mrs. Connie Finney, 3409 Pierce Drive, Ellicott City, Maryland 21043.

Mr. George E. Gavrelis, Baltimore County Planning, 301 Jefferson Building, Towson, Maryland 21204.

Honorable William J. Goodman, 3811 Riverdale Road, Riverdale, Maryland 20840.

Mr. William Hanna, St. Johns Lane, Ellicott City, Maryland 21043.

Honorable John Hargreaves, Federalsburg, Maryland 21632.

Mr. Thomas G. Harris, 10513 William Tell Lane, Columbia, Maryland 21043.

Mrs. Charles Higgins, 3788 Church Road, Ellicott City, Maryland 21043.

Mr. James Holway, 6215 Lawyers Hill Road, Elkridge, Maryland 21227.

Mr. Young D. Hance, Prince Frederick, Maryland 20678.

Mrs. Ernie A. Honig, Bethesda, Maryland 20034.

Mr. Lawrence Johnson, Director, Frederick County Planning, Winchester Hall, East Church Street, Frederick, Maryland 21701.

Mr. John Jones, Underwood Road, Sykesville, Maryland 21784.

Dr. James Carpenter, 3906 McAlpine Road, Ellicott City, Maryland 21043.

Dr. Robert Waller, 5467 Hildebrand Court, Columbia, Maryland 21043.

Mr. Frank Cockrell, Route 108, Clarksville, Maryland 21029.

Dr. Erik Rifkin, 5306 Slipper Court, Columbia, Maryland 21043.

Mr. Lee McFarlane, 5645 Montgomery Road, Ellicott City, Maryland 21043.

Dr. Bernard Nebel, 10407 May Wind Court, Columbia, Maryland 21043.

Mrs. Ruth Keeton, 10989 Swansfield Road, Columbia, Maryland 21403.

Mr. Richard Talkin, Suite 117, Teachers Bldg., Columbia, Maryland 21043.

Mrs. Anita Iribe, Mink Hollow Road, Highland, Maryland 20777.

Mr. Robert Malloy, Allview Inn, Route 108, Ellicott City, Maryland 21043.

Mr. Norman Winkler, 1017 Pasturegate Lane, Columbia, Maryland 21043.

Mr. John E. Cooper, 8896 Town and Country Blvd., Ellicott City, Maryland 21043.

Gini Edwards, 10662 Green Mountain Circle, Columbia, Maryland 21403.

Mr. Palmer Wine, County Health Department, County Office Building, 3450 Court House Drive, Ellicott City, Maryland 21043.

Mr. John Antenucci, 9397 Indian Camp Road, Columbia, Maryland 21043.

Mr. Tom Brizynski, Bryant Woods School, Columbia, Maryland 21043.

Mr. Russell Sadler, 9893 Postwick Road, Ellicott City, Maryland 21043.

Mr. Stanley Boyd, Human Ecology Center, Suite 400, Wilde Lake Village Green, Columbia, Maryland 21043.

Mrs. John Ennis, 9410 Crosby Road, Silver Spring, Maryland.

CARROLL COUNTY

Mr. Herbert G. Rice, Board of County Commissioners, County Office Building, Westminster, Maryland 21157.

Mr. Celius L. Brown, Chairman, Planning and Zoning Commission, c/o Sykesville State Bank, Sykesville, Maryland 21784.

Mr. C. Rogers Hall, Attorney, Court Street, Westminster, Maryland 21157.

Mr. J. Norman Graham, Board of County Commissioners, County Office Building, Westminster, Maryland 21157.

Mr. Charles Shaffer, Director, Carroll County-Westminster Chamber of Commerce, Box 871, Westminster, Maryland 21157.

Mr. James Shriver, Jr., Route 1, Westminster, Maryland 21157.

Mr. George A. Grier, Administrative Assistant, Board of County Commissioners, County Office Building, Westminster, Maryland 21157.

Dr. James P. Earp, Director, Economic Development Commission, County Office Building, Westminster, Maryland 21157.

Mr. Francis Staley, Route 3, Westminster, Maryland 21157.

Mr. George Wachter, Home Builders Assn. of Maryland, 762 Fairmount Avenue, Baltimore, Maryland 21204.

Mr. John Sanders, Soil Conservation Service, Post Office Building, Box 166, Westminster, Maryland 21157.

Mr. Robert L. Jones, County Extension Agent, County Office Building, Westminster, Maryland 21157.

Mr. James D. Norvell, Planner, County Office Building, Westminster, Maryland 21157.

Mr. Frederick Klein, c/o The Homestead, Route 2, Union Mills, Westminster, Maryland 21157.

Mr. Wayne Kurtz, District Soil Conservation Assistant, County Office Building, Westminster, Maryland 21157.

Mr. Edmund R. Cueman, Planning Director, County Office Building, Westminster, Maryland 21157.

Mr. Carl H. Wishart, Zoning Administrator, County Office Building, Westminster, Maryland 21157.

Dr. George Thomas, Superintendent of Schools, County Office Building, Westminster, Maryland 21157.

Mr. Robert Bair, Parks and Recreation, County Office Building, Westminster, Maryland 21157.

Mr. Walter Bockmiller, Director, Department of Recreation and Parks, Westminster, Maryland 21157.

Mr. James Schwartz, Manager, C and P Telephone Company, East Main Street, Westminster, Maryland 21157.

FREDERICK COUNTY

Mr. Henry L. Lakin, Chairman, Catoctin Soil Conservation District, Jefferson, Maryland 21755.

Mr. Ken Willett, State Forester, 1199 East Street, Frederick, Maryland 21701.

Mr. Robert Klein, Chairman, Frederick County Parks and Recreation Commission, Rose Hill Manor, N. Market St., Frederick, Maryland 21701.

Mrs. Charles Sanner, 22 Kline Boulevard, Frederick, Maryland 21701.

Mr. Richard Grossnickle, Route 1, Union Bridge, Maryland 21701.

Mr. Paul Edwards, Soil Conservation Service, 1199 East Street, Frederick, Maryland 21701.

Mr. Edward F. Holter, Chairman, Frederick County Planning Com., Winchester Hall, Frederick, Maryland 21701.

Mr. Alan R. Musselman, Municipal Planning Consultant, Frederick County Planning Com., Winchester Hall, Frederick, Maryland 21701.

Mr. John A. Derr, President, Frederick County Commissioners, Winchester Hall, Frederick, Maryland 21701.

Mrs. Nellie Roby, 9 North Third Avenue, Brunswick, Maryland 21716.

Mr. James H. Gilford, Delegate to the C & O Canal Park Planning Committee, 1199 East Street, Frederick, Maryland 21701.

Mr. Daniel E. Wight, Frederick County Planning Com., Winchester Hall, Frederick, Maryland 21701.

Mr. Charles F. Bowers, Chairman, Frederick Historic District Committee, 121 North Court Street, Frederick, Maryland 21701.

Mr. Donald L. Lewis, Frederick County Commissioners, Winchester Hall, Frederick Maryland 21701.

Mr. Herbert D. Morrison, 106 North Court Street, Frederick, Maryland 21701.

Mr. Lawrence A. Dorsey, Frederick County Commissioners, Winchester Hall, Frederick, Maryland 21701.

Mrs. Karl Larsen, President, League of Women Voters, Route 1, Frederick, Maryland 21701.

Mr. Raymond Keilholtz, Route 2, Emmitsburg, Maryland 21727.

Mr. Louis J. Brosius, Linganore Corporation, P.O. Box 651, Frederick, Maryland 21701.

PRINCE GEORGES COUNTY

Mr. John Lancaster, Jr., Extension Service, 15209 Main Street, Upper Marlboro, Maryland 20870.

Councilman Francis White, Court House, Upper Marlboro, Maryland 20870.

Mr. Ken Collins, Planner, Office of Chief Administrative Officer, Court House, Upper Marlboro, Maryland 20870.

Mrs. Johanna S. Norris, Washington Suburban Sanitary Commission, 4017 Hamilton Street, Hyattsville, Maryland 20781.

Mr. George Valladares, Park and Planning, Court House, Upper Marlboro, Maryland 20870.

Mr. Warren Kershaw, Park and Planning, Court House, Upper Marlboro, Maryland 20870.

Mr. James K. --------, Extension Service, 15209 Main Street, Upper Marlboro, Maryland 20870.

Mr. Ken Duncan, County Council, Court House, Upper Marlboro, Maryland 20870.

Mr. Edward W. Chen, Office of Chief Administrative Officer, Court House, Upper Marlboro, Maryland 20870.

Mr. Huffman, Washington Suburban Sanitary Com., 4017 Hamilton Street, Hyattsville, Maryland 20781.

Mr. John F. Downs, Jr., Park & Planning, Court House, Upper Marlboro, Maryland 20870.

Mr. Lester Smith, Chamber of Commerce, Upper Marlboro, Maryland 20870.

Mr. Mike Davis, Planner, Office of Chief Administrative Officer, Court House, Upper Marlboro, Maryland 20870.

Mr. Robert A. Edwards, Office of Chief Administrative Officer, Court House, Upper Marlboro, Maryland 20870.

Mrs. Helen H. O'Leary, 10110 Livingston Road, Oxen Hill, Maryland 20022.

Mr. Robert Arciprete, Park & Planning, Court House, Upper Marlboro, Maryland 20870.

BALTIMORE COUNTY

Dr. John W. Foerster, Professor, Department of Biological Sciences, Goucher College, Towson, Maryland 21204.

Mr. Harry Coulter, Baltimore County Department of Recreation and Parks, 301 Washington Avenue, Towson, Maryland 21204.

Mr. Paul Helm, Baltimore County Department of Public Works, County Office Building, Towson, Maryland 21204.

Mr. Paul Solomon, Baltimore County Office of Plan., Room 301, Jefferson Building, Towson, Maryland 21204.

Mr. William J. Tierney, Director, Baltimore County Department of Recreation and Parks, 301 Washington Avenue, Towson, Maryland 21204.

Mrs. Leila Kaufman, Chairman, Cockeysville Recreation Council, 226 Warren Road, Cockeysville, Maryland 21030.

Mr. Mark H. Beck, Architect, 202 Washington Avenue, Towson, Maryland 21204.

Honorable Francis C. Barrett, Baltimore, County Council, County Office Building, Towson, Maryland 21204.

Mr. Albert B. Kaltenbach, Department of Public Works, County Office Building, Towson, Maryland 21204.

Mr. Lisl Dutterer, Citizens Planning and Housing, 600 E. Joppa Road, Towson, Maryland 21204.

Mr. Steve Collins, Baltimore County of Public Works, County Office Building, Towson, Maryland 21204.

Mr. Otto Koelling, Maryland Department of Forests and Parks, Baltimore Agricultural Bldg., Cockeysville, Maryland 21030.

Mrs. Solmon Rogers, 7800 Seven Mile Lane, Baltimore, Maryland 21208.

Mrs. Elizabeth Hartline, Long Green Community Council, Baldwin, Maryland 21013.

Mr. Charles B. Allen, Chairman, Recreation and Parks Board, 412–A Jefferson Building, Towson, Maryland 21204.

Mr. Walter Kratzmeier, Baltimore County Planning Office, Room 301, Jefferson Building, Towson, Maryland 21204.

Mr. William Trimble, Sr., Oakdene, Valley Road, Brooklandville, Maryland 21022.

Honorable G. Walter Tyrie, Baltimore County Council, County Office Building, Towson, Maryland 21204.

Mr. George Pryor, Baltimore County Planning Office, County Office Building, Towson, Maryland 21204.

Mr. Manley Gately, Home Builders Association, 762 Fairmount Avenue, Towson, Maryland 21204.

Mr. Stoney Fraley, Open Space Planner, Baltimore County Office of Planning, 301 Jefferson Bldg., Towson, Maryland 21204.

Mr. Paul F. McKean, Caves Road, Route 2, Owings Mills, Maryland 21217.

Mr. Wallace Knight, County Agricultural Building, Cockeysville, Maryland 21030.

Mr. Richard A. Price, Stockton Farm, Phoenix, Maryland 21131.

Mr. Hubert I. Snyder, 343 Old Trail, Baltimore, Maryland 21212.

Mrs. Judy Baer, CPHA Planning Committee, Box 246, Jarrettsville Pike, Monkton, Maryland 21111.

Honorable Dale Anderson, Baltimore County Executive, County Office Building, Towson, Maryland 21204.

Honorable C. A. Porter Hopkins, Falls Road, Glyndon, Maryland 21071.

Mr. William C. McDonnell, The Valleys Planning Council, 212 Washington Avenue, Towson, Maryland 21204.

Mr. George A. Wills, President, Maryland Environmental Trust, 8 E. Mulberry Street, Baltimore, Maryland 21202.

Mr. Thomas Devlin, Director, Baltimore County Health Dept., Jefferson Building, 105 W. Chesapeake Avenue, Towson, Maryland 21204.

Mr. James Keelty, Developer, 61 E. Padonia Road, Timonium, Maryland 21093.

Mr. Richard Moore, Gaylord Brooks, Inc., Glen Arm Road near Manor Road, Glen Arm, Maryland 21057.

ANNE ARUNDEL COUNTY

Mr. Daniel Tsamouras, Assistant Chief Engineer, Department of Public Works, County Office Building, Annapolis, Maryland 21404.

Mrs. Florence Beck Kurdle, Office of Planning & Zoning, County Office Building, Annapolis, Maryland 21404.

Mr. John Makell, Director, Anne Arundel County Department of Recreation and Parks, County Office Building, Annapolis, Maryland 21404.

Mr. Sergio Rodriguez, Office of Planning & Zoning, County Office Building, Annapolis, Maryland 21404.

Mr. L. Marshall Dowling, Pres., Severn River Association, c/o Mrs. Marion McCoy, County Office Building, Annapolis, Maryland 21404.

Mr. Charles Hancock, Anne Arundel Soil

Conservation District, County Office Building, Annapolis, Maryland 21404.

Mr. Joseph E. Elbrich, Jr., Office of Planning & Zoning, County Office Building, Annapolis, Maryland 21404.

Mr. William P. Doepkens, Anne Arundel County Forest Conservancy Board, County Office Building, Annapolis, Maryland 21404.

Mr. Richard N. Gauch, Office of Planning & Zoning, County Office Building, Annapolis, Maryland 21404.

Mr. Arthur M. Love, Architect, c/o Mrs. Marion McCoy, County Office Building, Annapolis, Maryland 21404.

SUPPLEMENTAL LIST

Mr. James B. Coulter, Secretary of Natural Resources, State Office Building, Annapolis, Maryland 21401.

The Honorable Louis L. Goldstein, Comptroller of the Treasury, State of Maryland, Annapolis, Maryland 21404.

Mr. Spencer Ellis, Assistant Secretary, State Department of Natural Resources, State Office Building, Annapolis, Maryland 21401.

Mr. Richard Pelski, Mayor of Greenbelt, 106 Rosewood Drive, Greenbelt, Maryland 20770.

Mr. Ralph Chare, 1129 N. Calvert Street, Baltimore, Maryland 21202.

Mr. Richard Steiner, School of Social Work and Community Planning, University of Maryland, 525 W. Redwood Street, Baltimore, Maryland 21201.

Mr. Ray Borom, School of Social Work and Community Planning, University of Maryland, 525 W. Redwood Street, Baltimore, Maryland 21201.

Mr. Richard Alpher, President, Springhill Lake Civic Assoc., 6208 Breezewood Drive, Greenbelt, Maryland 20770.

Mr. Jack L. Folkins, Deputy Supervisor of Assessments, Court House, Upper Marlboro, Maryland 20870.

Dr. Fred Miller, Agronomy Department, College of Agriculture, University of Maryland, College Park, Maryland 20740.

Mr. Neil Solomon, Secretary, Department of Health and Mental Hygiene, 301 W. Preston Street, Baltimore, Maryland 21201.

Mr. Carville Akehurst, Chairman, Regional Planning Council, 701 St. Paul Street, Baltimore, Maryland 21202.

Jeanne Greene, Regional Planning Council, 701 St. Paul Street, Baltimore, Maryland 21202.

Mr. Stanley Knock, Chairman, Community Housing & Development, 410 S. Monroe Street, Baltimore, Maryland 21223.

Mr. Herman Steingraph, School of Social Work and Community Planning, University of Maryland, 525 W. Redwood Street, Baltimore, Maryland 21201.

Gloria Lewis, School of Social Work and Community Planning, University of Maryland, 525 W. Redwood Street, Baltimore, Maryland 21201.

Mrs. Ruth Mathes, Central Atlantic Environmental Service, 1717 Massachusetts Ave., N.W., Washington, D.C. 20036.

Mr. John Meyer, Board of County Commissioners, County Office Building, Westminster, Maryland 21157.

Mr. Vladamir Wahbe, Secretary, State Department of Planning, 301 W. Preston Street, Baltimore, Maryland 21201.

Mr. Jacob Kaminsky, Reginal Planning Council, 701 St. Paul Street, Baltimore, Maryland 21202.

Mr. James Giese, City Manager of Greenbelt, Greenbelt, Maryland 20770.

Mr. George Laurent, Baltimore Neighborhoods, Inc., 25 W. 25th Street, Baltimore, Maryland 21218.

Mr. Leonard Simmons, Chairman, Community Orgaization Dept., University of Maryland, Baltimore Campus, 525 W. Redwood Street, Baltimore, Maryland 21201.

Barbara O'Banian, HUD Regional Office, State Office Building, 301 W. Preston Street, Baltimore, Maryland 21201.

Mr. Harrison Weymouth, Economic Development Dept. Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782.

Mr. Edmond M. Presen, Planner, Planning Coordination, Court House, Upper Marlboro, Maryland 20870.

Mr. Winfield M. Kelly, Jr., Chairman—County Council, Court House, Upper Marlboro, Md. 20870.

Mr. Charles E. Callow, County Council, Court House, Upper Marlboro, Md. 20870.

Mr. John J. Garrity, County Council, Court House, Upper Marlboro, Md. 20870.

Mr. Ronald R. Reeder, County Council, Court House, Upper Marlboro, Md. 20870.

Mr. Jack Jones, Piper-Marbury, First National Bank Building, Light and Redwood Street, Baltimore, Md. 21203.

Mr. James L. Fisher, President, Towson State College, Towson, Md. 21204.

Mr. Richard L. Hillman, Hillman and Hillman, Attorneys at Law, Annapolis, Md. 21404.

Mr. John Burcham, Vice Chairman—County Council, Court House, Upper Marlboro, Md. 20870.

Mr. Francis B. Francois, County Council, Court House, Upper Marlboro, Md. 20870.

Mr. Royal Hart, County Council, Court House, Upper Marlboro, Md. 20870.

Mr. Jones Dickinson, Sherwood Feed Mills, 500 President Street, Baltimore, Md. 21202.

Mr. Alfred S. Bassler, 4994 Sheppards Lane, Ellicott City, Maryland 21043.

Mr. William A. Arnold, Charles H. Steffey, Inc., 18 E. Lexington Street, Baltimore, Maryland 21202.

Mr. Kent Mullikin, 79 Market Street, Annapolis, Maryland 21401.

Mr. Samuel Bogley, County Council, Court House, Upper Marlboro, Md. 20870.

Gladys Noon Spellman, County Council, Court House, Upper Marlboro, Md. 20870.

Lucille B. Potts, County Council, Court House, Upper Marlboro, Md. 20870.

Mr. Kingdon Gould, 1725 De Sales Street, N.W. Washington, D.C. 20036.

Mr. James Shea, 104 Spring Street, Gaithersburg, Md. 20760.

Dr. Robert McCan, President, Dag Hammarskjold College, 432 DuPont Circle Building Washington, D.C. 20036.

Mr. John W. Steffey, Charles H. Steffey, Inc., 18 E. Lexington Street, Baltimore, Maryland 21202.

Mr. Jack Anderson, Regional Planning Council, 701 St. Paul Street, Baltimore, Maryland 21202.

Mrs. Ridgely Jones, Old Frederick Road, Sykesville, Maryland 21784.

Mr. John H. Gibson, Acting State Conservationist, USDA Soil Conservation Service, 4321 Hartwick Road, College Park, Maryland 20740.

Mr. John Mathias, Richard P. Browne Associates, American City, Bldg., 6th Fl., Columbia, Maryland 21043.

Mr. Henry Fostell, Richard P. Browne Associates, American City Bldg., 6th Fl., Colum- Maryland 21043.

Mr. Albert Diehl, Regional Planning Council, 701 St. Paul Street, Baltimore, Maryland 21202.

Mr. Roger Holtman, 306 N. Charles Street, Baltimore, Maryland 21202.

Mrs. Helen Ruther, 5001 Green Mountain Circle, Columbia, Maryland 21043.

Mr. Robert Tannenbaum, Richard P. Browne Associates, American City Bldg., 6th Fl., Columbia, Maryland 21043.

Mr. Robert Dorenberger, Contee Sand & Gravel, P.O. Box No. 460, Laurel, Maryland 20810.

Mr. Wallace L. Hall, Route No. 1, Box No. 277, Hughesville, Maryland 20637.

Mr. David Carroll, Richard P. Browne Associates, American City Building, 6th Fl., Columbia, Maryland 21043.

Mr. Richard P. Browne Associates, American City Bldg., 6th Fl., Columbia, Maryland 21043.

Mr. MATHIAS. Mr. President, there was a time when cities were built on rock because developers, citizens and governments wanted to preserve the rich valleys and farmland for agricultural production. Today I am afraid we tend to save the rocks and bulldoze our best soil. We have lost respect for the farmer and his contribution to America. We have prostituted our land and sold it to the highest bidder without regard to its limited supply. We have dug up the rich minerals and hunted the wildlife as if generations to come have an unlimited supply.

The bill which we are today considering will do a great deal in helping these problems, but it will not solve them all. We must begin to encourage our governments to listen to one another and talk to one another so they may be able to coordinate the development of land which affects citizens of their respective political jurisdictions. We simply cannot afford to have one jurisdiction designing and building without regard to the effects upon its neighbors. How often have we seen high density development along the borderline of neighboring counties—such bad land-use planning could have been corrected and prevented by mere communication and a spirit of understanding. It could be prevented by an interest in the welfare of all people, not just those within their narrow jurisdiction.

And this is really what this bill does today. The bill has as its objective the creation of certain land-use policies which are to be applicable throughout the entire Nation. It does not prohibit each city, or each county from building what is in its best interest and in the interest of its constituents, but it does say to these counties and cities that when you do develop and build, you should consider national land-use policies and directives. It also encourages each State to approach the development of land within its borders on a systematic level. No longer should land be developed without regard to the consequences of its development or subsequent development which might affect its original purpose.

The Federal Government also shares the blame for the present state of poor land-use management. How many times do we see Federal buildings, Federal projects which are built in contravention of some local land-use policy or some other Federal policy? Consider the building and development of the Everglades National Park in Dade County, Fla. Here the Congress made a decision to preserve thousands of historic and beautiful open lands for the generations to come only to be followed by another Federal decision to construct a jet airport which threatened the life of the park. That was simply bad land-use planning on the part of the Federal Government—an error which wasted thousands of dollars of the taxpayers' money. We simply cannot afford many of these mistakes. We simply do not have enough land for these kinds of errors.

With the ownership of land today, come responsibilities as well as rights. There is a right to build and develop only if the responsibility to consider the affects of the development on others is met; there is the right to destroy, only if what is destroyed does not destroy the environment for others. We need cooperation when it comes to land development. We need understanding. We need preservation. With our increasing population and our fixed supply of land we must learn to cooperate with others to preserve that which is common and essential to us all. I am confident that with the passage of this bill, a greater understanding will prevail across this Nation. I hope that I have been able to make a contribution to this legislative proposal.

Mr. BUCKLEY. Mr. President, I am in complete agreement with those who argue that there is an acute and urgent need for more thoughtful, judicious consideration of the impact of private and governmental decisions affecting land use on our natural resources and on environmental values. I fear, however, that this legislation will intrude the Federal presence far beyond the line which ought to divide Federal areas or responsibility and those in State and local governments.

The argument is made that unless legislation is enacted this year, too much time will be lost in getting States to accept their responsibilities for land use decisions having greater than local impact. I would counter that in view of existing or pending Federal legislation designed to protect watersheds and wetlands, and to control powerplant siting, the most pressing needs will be met while we take the minimum time required that we emerge with legislation which makes the proper balance between national and local interests. Furthermore, I think that we tend to underestimate the extent of the public government for more effective land use planning at all levels of government. I believe we are witnessing a rapid development of the public consciousness to the need for a far less haphazard approach to land usage. This consciousness will cause more and more State legislatures to enact appropriate measures for the inventory of such lands and for the exercise of their police powers over the uses of those lands in the comprehensive manner envisaged by this legislation. This growing interest is reflected in the National Symposium on State Environmental Legislation, sponsored by the Council of State governments, which was held in March of this year and which developed reports and model legislative language for State land use planning.

There is no question, Mr. President, but that there are a number of areas where there is a legitimate Federal concern in the use to which private and State-owned lands is put. I fear, however, that the legislation under consideration will take us far beyond the line which ought to divide State and Federal responsibilities. Furthermore, it will bring pressures to bear, backed by economic sanctions, which may erode to an undesirable degree the lines which now divide State and local responsibilities.

Finally, we come to the question as to who is to make the ultimate judgment as to whether the State land use programs submitted to the Secretary of the Interior will in fact meet the objectives of this legislation. The committee staff tried to be reassuring on this point in the memorandum prepared for the members of the committee describing the bill. The memorandum stated that "* * * the (Federal) review would be for the purpose of determining whether the (State) program will be effective, not whether it is 'good' or 'bad'." I am not convinced that this would in fact be the result in practice. Is it really reasonable to expect that a Secretary would not find some procedural reason for disapproving a program which he in fact believed to be bad? Based on all experience to date with respect to other legislation, I fear that it is not. Perhaps my concerns will be put to rest during the course of the balances of this debate and my amendments to be adopted.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that the Senate may proceed with a brief period for the transaction of routine morning business, with a 3-minute limitation on statements therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT TO 8:30 A.M.

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 8:30 a.m. tomorrow.

Mr. HANSEN. Madam President, reserving the right to object, let me inform the distinguished majority whip what my problems are. We have scheduled a hearing on the Polecat Bench project tomorrow morning.

Mr. ROBERT C. BYRD. Madam President, I think the Senator is overly concerned when there is no need for it. The Senate will come in at 8:30 tomorrow morning. Six Senators want to speak for 15 minutes each. That will require 1½ hours. There will then be a period for the transaction of routine morning business. That will take us beyond 10 o'clock.

Mr. HANSEN. That is precisely why I am concerned, I say to my friend, the distinguished Senator from West Virginia. The fact is that we have scheduled a hearing at 10 o'clock tomorrow morning on the Polecat Bench. It will be the intention of the Senator from Wyoming to be in attendance at that hearing. This project is very important to my State. I must be present there. That is another reason that I would hope that we might have action on my amendment the first thing in the morning. I am very sorry that we could not do it this evening. However, I am sure that all Senators will demonstrate the fairness characteristic of them and will recognize my plight in wanting to be here during the debate on my amendment, and yet having to be present at the committee hearings.

Mr. JACKSON. Madam President, would the Senator yield?

Mr. HANSEN. I yield.

Mr. JACKSON. Madam President, I would be delighted, and I am sure that the Senator from Idaho representing the minority side will be delighted, to accommodate the Senator. We can all work together on this matter. We could set aside the Senator's amendment until the hearing is over, because I do not think we will be able to finish the other amendments in the meantime. And when the hearing is over, we will then take up the Senator's amendment.

Mr. HANSEN. Madam President, how much time will the hearing require?

Mr. JACKSON. It will require until 12 o'clock.

Mr. HANSEN. I think that would be fine.

Mr. JACKSON. Madam President, I will be delighted and the Senator from Idaho will be delighted to work out an accommodation with the Senator from Wyoming.

Mr. HANSEN. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMINICK. Madam President, will the Senator yield for a unanimous-consent request?

Mr. ROBERT C. BYRD. Madam President, are we operating under morning business?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Madam President, I yield to the Senator from Colorado.

LEAVE OF ABSENCE

Mr. DOMINICK. Madam President, I ask unanimous consent that the distinguished Senator from Mississippi (Mr. STENNIS), the distinguished Senator from Iowa (Mr. HUGHES), and I be excused from tomorrow's session because of official business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. HARRY F. BYRD, JR. Madam President, I ask unanimous consent that during the consideration of the land use bill, Mr. John I. Brooks, of my staff, be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

The PRESIDING OFFICER. Is there further morning business?

ORDERS FOR RECOGNITION OF SENATORS CHURCH, CRANSTON, TUNNEY, MONDALE, RIBICOFF, AND SCOTT ON TOMORROW

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that following the recognition of the two leaders tomorrow under the standing order, the following Senators be recognized, each for not to exceed 15 minutes and in the order stated: Senators CHURCH, CRANSTON, TUNNEY, MONDALE, RIBICOFF, and SCOTT.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that at the conclusion of the orders for the recognition of Senators on tomorrow, there be a period for the transaction of routine morning business for not to exceed 15 minutes with the usual 3-minute limitation on statements therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF LAND USE BILL (S. 632) ON TOMORROW

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that at the conclusion of routine morning business on tomorrow, the Senate turn to the consideration of S. 632, the land use bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF HIGHWAY BILL (S. 3939) ON TOMORROW

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that on the disposition of the land use bill (S. 632), the Senate return to the consideration of the highway bill, S. 3939.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Madam President, the program for tomorrow is as follows:

The Senate will convene at 8:30 a.m. The following Senators will be recognized, each for not to exceed 15 minutes, and in the order stated: Senator CHURCH, Senator CRANSTON, Senator TUNNEY, Senator MONDALE, Senator RIBICOFF, and Senator SCOTT.

There will then be routine morning business for not to exceed 15 minutes, with the usual 3-minute limitation on statements therein.

Following morning business, the Senate will resume the consideration of S. 632, the Land Use Policy and Planning Assistance Act of 1972. There will be votes on amendments and passage of the bill.

Upon disposition of that bill, the Senate will resume consideration of the highway bill, S. 3939.

Only three amendments are in order on S. 3939, an amendment by Senator WEICKER, an amendment by Senator KENNEDY, and an amendment by Senator COOPER. These amendments are under time limitations. Yea-and-nay votes will occur on amendments and final passage of the highway bill.

Mr. CASE. What is the request?

Mr. ROBERT C. BYRD. There is no request. I was stating the program.

Mr. CASE. And no amendments are in order.

Mr. COOK. There was no statement by the Senator as to any time limitation on rollcall votes tomorrow?

Mr. ROBERT C. BYRD. There is a time limitation on amendments to the land use bill of 30 minutes. There is a time limitation on the Cooper amendment to the highway bill of 2 hours. There is a time limitation on the amendment by Mr. KENNEDY of 1 hour and a time limitation on the amendment of Mr. WEICKER of one-half hour.

Mr. COOK. Is there a time limitation on the Weicker amendment?

Mr. ROBERT C. BYRD. Yes, there is. I secured it. I will ask the Chair.

The PRESIDING OFFICER. That is correct.

Mr. CASE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. CASE. Are the amendments the Senator listed to the highway bill subject themselves to amendment?

Mr. ROBERT C. BYRD. Yes.

Mr. CASE. Is there a time limitation on such amendments?

Mr. ROBERT C. BYRD. Yes, 30 minutes.

Mr. CASE. The rule of germaneness is applicable?

Mr. ROBERT C. BYRD. There is no rule requiring germaneness of amendments in the Senate. The consent agreement on the highway bill made no reference to germaneness.

Mr. CASE. Does the unanimous-consent agreement provide that amendments to the amendments must be germane?

Mr. ROBERT C. BYRD. The request does not so provide.

Mr. CASE. That is something that already has been agreed to?

Mr. ROBERT C. BYRD. The unanimous-consent agreement was entered into last week.

ADJOURNMENT TO 8:30 A.M.

Mr. ROBERT C. BYRD. Madam President, if there be no further business to come before the Senate, I move, pursuant to the provisions of Senate Resolution 365, as a further mark of respect to the memory of the deceased Hon. WILLIAM F. RYAN, late a Representative from the State of New York, and in accordance with the previous order, that the Senate stand in adjournment until 8:30 a.m. tomorrow.

The motion was agreed to; and at 7:26 p.m. the Senate adjourned until tomorrow, Tuesday, September 19, 1972, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 18, 1972:

DIPLOMATIC AND FOREIGN SERVICE

C. Robert Moore, of Washington, a Foreign Service Officer of the Class of Career Minister now serving as Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Republic of Cameroon, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Equatorial Guinea.

INTERNATIONAL MONETARY FUND, INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT, INTER-AMERICAN DEVELOPMENT BANK, AND ASIAN DEVELOPMENT BANK

John N. Irwin II, of New York, to be United States Alternate Governor of the International Monetary Fund for a term of five years and United States Alternate Governor of the International Bank for Reconstruction and Development for a term of five years; United States Alternate Governor of the Inter-American Development Bank for a term of five years and until his successor has been appointed; and United States Alternate Governor of the Asian Development Bank, vice Nathaniel Samuels.

U.S. NAVY

Vice Admiral Walter H. Baumberger, U.S. Navy, for appointment to the grade of vice admiral, when retired, pursuant to the provisions of Title 10, United States Code, Section 5233.

I nominate the following named officers of the United States Navy for temporary promotion to the grade of captain in the line subject to qualification therefor as provided by law:

Adair, Frederick S.
Adams, Billy J.
Addams, John F.
Ailes, John W., IV
Allen, James A.
Allen, John B.
Allen, Winfred P.
Altmeyer, John M.
Ammerman, Clell N.
Anaston, Tommy K., Jr.
Anderson, Alden B.
Armel, Lyle O., II
Aston, William J.
Austin, Robert C.
Bademan, Harold W.
Balderston, Buele G.
Ball, Courtland D., III
Banks, Sidney M.
Barnes, James P.
Bath, Alan H.
Bathurst, Robert B.
Bayne, John P.
Bekkedahl, Clifford L.
Bender, Albert F., Jr.
Benero, Manuel A., Jr.
Bergesen, Andrew J.
Berry, Joel H., Jr.
Best, Eddie F.
Bird, Charles F.
Blackadar, Paul F.
Blackwood, Jack D.
Blackwood, Robert G.
Blandine, Robert E.
Blanding, Robert L.
Bodensteiner, Wayne D.
Booth, Roger G.
Bowers, Henry H.
Boyd, John H., Jr.
Brown, Jacob C.
Brown, Robert M.
Brownley, John H.
Bruce, George W., Jr.
Bruning, Richard A.
Burdon, Eugene R.
Bush, James T.
Butcher, Paul D.
Cameron, Kenneth R.
Cameron, Norman A.
Campbell, James B.
Canon, George A., III
Cantacuzene, Rodion
Carelli, Francis L.
Carter, Powell F., Jr.
Cassidy, Thomas J., Jr.
Chesser, Samuel L.
Clemont, William J., Jr.
Cloughley, William D.
Coakley, Walter J., Jr.
Cobern, Ernest L.
Cockell, William A., Jr.
Coleman, James O.
Colligan, Thomas R.
Collins, Philip K.
Connors, Eugene T.
Cooper, Tommy G.
Coskey, Kenneth L.
Coston, Stanford W., Jr.
Cotten, Thomas R., Jr.
Cromwell, John P., Jr.
Curran, Robert W.
Daniels, Verlyne W.
Dapogny, Robert J.
Davis, George W., Jr.
Davis, Russell E.
Delgiudice, David
Denbigh, Robert S., Jr.
Denton, David N.
Dewispelaere, Earl L.
Dick, Joseph L.
Dimon, Charles G., Jr.
Donaldson, Robert S.
Donovan, James F.
Dowse, Herbert B., Jr.
Dudley, Paul L., Jr.

Dyer, George T., Jr.
Edwards, William R., Jr.
Eggert, Lowell F.
Easter, James M.
Emerson, Jesse R., III
Englander, Owen
Englehart, Harry J.
Farnham, Charles G.
Feeks, Edmond M.
Fenn, Dan E.
Ferguson, Andrew C.
Fernandes, James E.
Finney, Jack L.
Fleeson, Richard J.
Fong, Chong S.
Fraser, Robert E.
Freeman, Robert W.
Frick, Joseph F.
Friese, George A.
Frost, John F., III
Gauthier, John O.
Gavazzi, Robert R.
Geronime, Eugene L.
Giovanetti, William C.
Glaves, Robert H.
Golde, Morton
Good, Ronald P.
Gooden, Richard O.
Graffam, Earl H.
Gray, Harvey, Jr.
Green, William C.
Greiwe, William H.
Grich, Richard J.
Groder, Robert E.
Grosshuesch, David K.
Hamel, James K.
Hamilton, Leroy A.
Hannegan, Frank N.
Harns, John H.
Harp, Robert M.
Helms, Ronald L.
Henry, Albert L., Jr.
Herring, Edwin L.
Hipple, William J.
Hoffman, Robert B.
Hogan, Edward J., Jr.
Holmberg, Lennart G.
Hoskovec, William B.
Howard, Albert W., Jr.
Howe, Richard B.
Hubbard, Samuel W., Jr.
Hull, Fred A.
Humber, Marcel B.
Hyde, Robert A.
Isaacks, Marion H.
Jasper, Charles R.
Johnson, Frederick C.
Johnson, George M.
Johnson, Philip E.
Jones, Donald S.
Jones, Richard H.
Jones, Robert C.
Kehoe, James W., Jr.
Kellogg, Edward S., III
Kelly, James F.
Kosmela, Walter T.
Kraft, Frederick W.
Kugler, Kenneth D.
Lage, Robert L.
Lamm, William A.
Latham, William B.
Latta, Robert L.
Leblanc, Georges E., Jr.
Leedom, Clair E., Jr.
Lenahan, Robert P.
Leverone, Robert M.
Lewis, Robert
Limerick, Christopher J., Jr.
Locke, Walter M.
Loggan, Wilfred J.
Lumsden, Richard E.
Lyon, Peter W.
Lyons, Thomas W., Jr.
Mains, Homer O., Jr.
Mallory, John S.
Maloney, Peter M.
Mann, Horace D., Jr.
Marshall, Robert M.
Martin, Alan F.
Martini, Richard A.
Mau, George W., Jr.
McCardell, James E., Jr.
McCoy, Roy E.
McCrimmon, Douglas R.
McCune, Joe D.
McDonald, Raymond T.
McGathy, Charles L., Jr.
McGrath, William D.
McLuckie, James D.
McMurtray, Robert A., Jr.
McPadden, Donald F. X.
Metzler, Donald M.
Meyer, William F.
Miller, Richard J.
Mitchell, Joseph S.
Montgomery, Stephen C.
Moody, Thomas J.
Moran, Clifford D.
Moredock, William J.
Morford, Dean R.
Morgan, Leroy W., Jr.
Morgan, Houston M.
Morris, Henry C., Jr.
Mullane, Thomas F.
Muncy, William E.
Murray, Joseph E., Jr.
Mustin, Henry C.
Nielson, Donald E.
Nordtvedt, Ernest R.
Norton, Richard J.
Numbers, Earl W.
O'Brien, Austin C., Jr.
O'Connell, John F.
O'Connor, John E.
O'Connor, Joseph E.
Oldham, Albert W.
Orell, Quinlan R.
Ortega, Joseph J.
Osborne, Arthur M.
Paddock, Charles O.
Parcher, Stuart M.
Parker, John T., Jr.
Parkhurst, David C.
Passantino, Sebastian
Pattee, Arthur W.
Paul, John E.
Payne, Douglas W.
Peebles, Edward M.
Peelle, Morris A.
Perry, Lowell E.
Pohli, Richard R.
Polatty, Donald B.
Poling, William E.
Pope, Daniel K., IV
Pressly, George B.
Priddy, Clarence L., Jr.
Prosser, Walter R.
Raithel, Albert L., Jr.
Randolph, Joseph L.
Reeg, Frederick J.
Rhodes, Randolph L.
Ricardo, Benny J.
Rich, Richard
Rilling, Alexander W.
Robinson, Kirby L.
Rodgers, Thomas A.
Rogers, Robert B.
Rorie, Conrad J.
Rose, William R.
Runyon, Richard E.
Sanders, Ben T.
Sayer, William D.
Schaub, John R., Jr.
Schrader, Harry C., Jr.
Scott, Austin B., Jr.
Self, David L.
Semple, William C., III
Sesow, Anthony D.
Sewell, Robert L.
Shaw, John H.
Sheehy, Eugene E.
Sheets, Roger E.
Shelton, Donald C.
Shine, Maurice J.
Simons, Donald W.
Sim, Gelzer L., Jr.
Slawson, Ralph L.
Smevog, Herbert W.
Smith, David G.
Smith, John V.
Smith, Richard C.
Snyder, Fred D.
Snyder, James M.
Snyder, Ned C.
Spencer, Robert W.
Sperling, David J.
Stanley, Thomas A.
Stein, Norman F.
Stevens, Jack D.
Stewart, Douglas A.
Story, Warren L.
Sudduth, Roger M.
Sullivan, Walter F.
Sullivan, William W.
Sweet, William J.
Tallet, Arthur J.
Tetreault, Paul J.
Tmompson, Arthur R., Jr.
Thompson, Clifford E.
Tolg, Robert G., Jr.
Turk, Herman L.
Turner, Sherman W.
Veach, Clarence E.
Wages, Clarence J., Jr.
Walker, William B.
Wallace, Cedric S.
Ward, Conley R.
Warren, Tommy H., Jr.
Warthen, Donald
Wasson, John E.
Webber, Gene D.
Weeks, Alan L.
Weeks, Robert H.
Weishar, Charles F.
Westphal, Lloyd M., Jr.
Whitaker, Robert M.
Whitley, Clyde T.
Wight, Roy R.
Wilder, William E.
Wiley, Kenneth R.
Wilhelmi, Quentin E.
Williams, Douglas A.
Williams, James G., III
Williams, Louis A.
Williamson, Robert L.
Williard, Bobbie D.
Wilson, Donald K.
Wilson, Edward W.
Wilson, Samuel B.
Wolff, William M., Jr.
Wyatt, William C., III
Wynn, Carl E., Jr.
Yoder, Dwane F.

Commander Frederick R. Ellis, United States Naval Reserve, for temporary promotion to the grade of captain, subject to qualification therefor as provided by law.

Commanders Celia L. Barteau and Mary E. Donnelly, United States Navy, for permanent promotion to the grade of captain, subject to qualification therefor as provided by law.

EXTENSIONS OF REMARKS

POSTMASTER GENERAL REVIEWS GOALS AND PERFORMANCE OF THE POSTAL SERVICE

HON. J. CALEB BOGGS

OF DELAWARE

IN THE SENATE OF THE UNITED STATES

Monday, September 18, 1972

Mr. BOGGS. Mr. President, Postmaster General Elmer T. Klassen recently addressed the Sixth Annual Postal Forum on the performance of the Postal Service in the 14 months since it was created, its goals for the future, and its determination to provide efficient service. I believe his remarks are of general interest. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF POSTMASTER GENERAL E. T. KLASSEN

The U.S. Postal Service began operations on July 1, 1971, as an independent agency of the Federal government.

The 14 months since then have represented the first phase of a new responsibility for the Board of Governors and the Postmaster General.

This new way of postal life is set forth in the Postal Regorganization Act of 1970.

This stewardship requires the mails to be operated in accordance with a law which holds that the mail service should be paid for by the users of the mail and not by the taxpayers.

This is a little like a new pair of shoes. Because they are new, they occasionally pinch, and cries of protest and distress are clearly heard from many quarters. The truth is that we are passing through a period of necessary—if sometimes uncomfortable—adjustment to the Act's specific goals and requirements.

Nevertheless, the task of Postal Service management is clear. Our lawful duty is to honor the binding provisions of the Act and to pursue the valid objectives and procedures set forth in the Act.

This historic legislation, supported by two Presidents and adopted by both Houses of Congress on a bipartisan basis, is a fair law and fully merits the support of us all—postal management, postal employees, postal unions, postal customers and citizens everywhere.

The more you are familiar with the Act's key provisions, the more you can accurately relate our current programs and policies to the requirements of the law. Remember, these requirements are clear, specific and real. They are binding on all of us.

Here are some of the things we are authorized and required to do:

1. We shall have as our basic function the obligation to provide postal service to bind the nation together.

2. We shall provide prompt, reliable and efficient service to customers in all areas and shall render postal service to all communities.

3. We shall achieve and maintain compensation for our officers and employees comparable to the rates and types of compensation paid in the private sector.

4. We shall put particular emphasis upon opportunities for career advancement of all employees.

5. We shall provide compensation, working conditions and career opportunities that will assure the attraction and retention of qualified and capable supervisory and other managerial personnel, and establish and maintain a program for all such personnel that reflects the essential importance of a well-trained and well-motivated force to improve the effectiveness of postal operations.

6. We shall give the highest consideration to the requirements for the most expeditious collection, transportation and delivery of important letter mail.

There is no question in *my* mind that the Postal Reorganization Act gives full and careful protection to the legitimate interests of all concerned.

But to carry out these provisions is not easy, and we are constantly encountering new obstacles.

Nonetheless the objectives of the Act are clearly stated and together we must meet them.

Under no circumstances we can stand passively aside or blink at the requirements of the law, and let this opportunity to serve America better—be destroyed by those who would have us retreat into an entagling web of politics, bureaucracy and waste.

As Postmaster General, I intend to put together the best management team we can assemble, and we pledge to work diligently to give you and all other mail users the kind of good, efficient mail service that you are entitled to have.

This is being done—and at the same time we are eliminating waste and unnecessary manpower costs, as part of our national commitment to learn to live within our income.

I would like to have you go away from this Forum with accurate information on a few key examples.

These fall under four principal headings:

Better service for postal customers

Better employment conditions for postal people

Better facilities and equipment

Better control over postage costs and rates

BETTER SERVICE FOR POSTAL CUSTOMERS

The name of the postal game is service—not lip-service, but actual performance that can be measured and improved as we go along. We can never forget that service is *all* we have to sell.

We are now operating under a clear-cut service standard for local first-class mail. We have some soft spots—but we know where they are—and we will fix them. Right now, in most locations, we are delivering 95% of local mail, addressed to local destinations, on a next-day basis. This service standard is binding on postal people throughout the country and performance must be improved.

The same goes for *air mail*. We have in operation a service standard that calls for next-day delivery to designated cities within 600 miles, and in some instances for much greater distances, if the air mail is in our hands by 4:00 p.m. For other points our target is delivery no later than second-day.

Our experience shows that we are capable of achieving a 95% reliability rate, when all of our employees give all air mail the right kind of attention. We expect them to do exactly that. And another thing:—our test mailing system is now not tamper-proof and will be revised and carried out much more expertly, because I am not going to take any chance that any postal manager or employee will get away with misleading us by giving our test letters faster handling than is given to customers' mail.

Our arrangements for better service for bulk mail and parcels are beginning to show tangible results. Short-term improvements such as fast all-mail trains and new truck-train feeder networks have cut one to two days off the previous transit time. Looking further ahead, you know we have firm construction plans underway that will equip us with a nation-wide system of bulk mail facilities which I will come back to a little later.

We are giving particular attention to parcel post, right now. We have taken a real beating here—as is evident from the fact that we have lost half this business. We intend to be competitive and we are going to do everything we can to get it back.

Special delivery mail service has been highly unreliable for a long time—really a disgrace. So for six months, we have been testing a self-identifying plastic "speedy bag" that keeps specials from losing their way among millions of other pieces of mail. This test program has shown a reliability rate in the high 90's.

We'll have it in use all over the country in October. We do need help, though, to encourage public understanding that specials to distant cities move faster if they are sent air mail. Many seem to think specials automatically go by air—but that's true only if air mail is paid.

We're now working on another promising service improvement program—to make stamp buying easier. It's called "Stamps by Mail" and will permit small purchases to be made with payment by check, and delivery of the stamps by mail. Our tests indicate this concept to be of real value to the elderly, the handicapped and many others.

From these examples, you can see that we view our operation as *your* Postal Service. We are responsive to customers' needs. We are pledged to provide courtesy, care and reliability.

Above all, we want your ideas, your suggestions, your good advice—even your complaints, where we need to do better or do things differently. To paraphrase the Army: The Postal Service wants to join you—for progress, for improvement, for our mutual ability to make new things happen. Speak up—and we will listen.

BETTER CONDITIONS FOR EMPLOYEES

By any impartial standard of measurement, the new Postal Service has brought dramatic improvements to postal managers and employees at all levels.

Our pioneer collective bargaining agreement with postal unions is a model in this field. It includes a fast-action grievance procedure and provision for binding arbitration of unsettled cases. An equally advanced grievance procedure for managerial personnel is also in the final stages of development.

Pay-wise, all levels of postal employees are being given improvements that bring them into line with the private sector.

Postmasters, rural carriers, and all other appointments and promotions are now made on a strict merit basis. More than 6,200 postmasters have been appointed strictly on the basis of merit. Consequently, thousands of other career people have been moved up.

As we go about the tasks laid out for us in the Reorganization Act, we would welcome your help and support in off-setting the wild and unfounded claims made by some people that the mail service is being threatened or impaired.

In general, all the problems we might experience as we go along can be licked, with integrity, and with a willingness by everyone—from top to bottom—to recognize that our mail customers expect the best possible service at the lowest possible costs. This is a responsibility of every postal employee.

BETTER FACILITIES AND EQUIPMENT

The Reorganization Act mandates us to balance revenues with operating costs.

But, at the same time, it gives us help on equipping ourselves with improved machinery and facilities, through access to the money market.

We project $6 billion in capital funds to be spent in this way during the next five years. This outlay will mean better service, more efficient service. It will permit us to gain better control over costs.

Our bulk mail network is one example. We will spend roughly a billion dollars to complete it by 1975.

We are planning a parallel preferential mail facility expansion program costing four billion dollars over a six-year period.

We will upgrade the work environment in existing facilities at a cost of four hundred million dollars, by 1975. More than 10,000 facilities will be upgraded, and at least 2,000 will be replaced with new ones.

Our whole thrust in this equipment and facilities area is to provide better tools and buildings to work with—to support trained and willing hands with the best management help and technological help that our country can provide.

BETTER CONTROL OVER POSTAGE COSTS AND RATES

As I mentioned earlier, the Reorganization Act includes the commitment that the Postal Service should learn to live within its income—to balance annual costs against annual revenues.

Annual revenues must come from postage.

Our success in living within our income means relatively stable postal rates.

Escalating costs can only be balanced by rate increases—or from taxpayers' pockets.

We don't want to lose further revenues and more postal jobs by permitting costs and rates to rise uncontrollably. We don't want postal customers like yourselves to turn elsewhere—to competitors—for the services we provide.

We also want to keep our commitment, under the Act, to provide you with competent, economical service. We are determined to comply with the provisions of the Act requiring us to become self-supporting.

Therefore, five months ago, I placed a ban on new hiring, to gain control of our largest cost item: manpower.

Our labor agreement prohibits the layoff of any employee. We have faithfully observed this pledge. We have relied only on attrition, retirements and the like to help reach a better utilization of manpower.

Along with this manpower control program, we asked postal managers everywhere to look for other ways to control annual overhead. Labor and benefits costs us 85 cents of every dollar we spend. That other 15 cents is overhead and we are determined to remove the fat there also.

The hiring freeze and other cost control programs have been carried out with a determination to live up to the requirement that we shall become self-supporting and at the same time provide quality service to our customers.

Prior to the corrective steps we took, our cost estimates and budgets required us to ask for a $450 million postage rate increase to become effective next January.

Today, the Postal Service is able to bring good news to mail users everywhere.

We will not need to ask the Postal Rate Commission to provide us with that $450 million.

We can do without it and still do a good job of delivering the mail.

We believe this achievement is historic. It demonstrates that the goals established by the Reorganization Act are reasonable—that they are feasible.

They can be met.

They are being met.

They will continue to be met if we can count upon the determined support and cooperation of all postal people and the cooperation of postal customers, large and small.

To do this is more than a challenge. It is a national obligation.

Let's move forward together—and get it done.

SOVIET JEWRY

HON. SAM STEIGER

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1972

Mr. STEIGER of Arizona. Mr. Speaker, the Soviet Union cannot expect the United States to pursue a policy of Soviet-American trade expansion while Soviet Jews are being subjected to official harassment, the most recent being the visa fee policy. We must not engage in trade which is financed, in part, with the ransom of educated Jews and I sincerely hope that each of our colleagues will take every opportunity to impress upon the Soviets our sense of indignation and determination to avoid any act that could be construed as compliance with their outrageous visa fee policy.

"THE $1,000 FOR ALL" IS STILL AN ISSUE

HON. WILLIAM L. SPRINGER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1972

Mr. SPRINGER. Mr. Speaker, I remember last spring when candidate GEORGE MCGOVERN was seeking the Democratic nomination. He had proposed a $1,000 for everybody plan.

In recent weeks, I was under the impression from reading the various news accounts that Senator MCGOVERN had relinquished thoughts of $1,000 for everybody and was submitting a new plan.

Richard Wilson, columnist for the Washington-Star, in an article of Thursday, September 13, says that Sargent Shriver attempted to deny that GEORGE MCGOVERN ever proposed a $1,000 for everybody plan. According to Shriver, it was just a figure used in a "study paper." Wilson has done a good job of bird dogging and says that Shriver apparently does not believe the literature of his own campaign. The McGovern for President Committee's voluminous summary of "McGovern on the Issues" contains an outline of an "income distribution plan" with an annual payment "that might be as much as $1,000 per person or $4,000 for a family of four."

Mr. Speaker, I append the article of Mr. Richard Wilson of September 13, which I am sure many of my colleagues will want to read:

SHRIVER ERRS IN HIS DENIALS OF $1,000 FOR ALL

(By Richard Wilson)

Vice presidential candidate Sargent Shriver denies that George S. McGovern ever proposed his $1,000-for-everybody plan, it was just a figure used in a "study paper," according to Shriver.

McGovern's running mate evidently does not believe the literature of his own campaign. The McGovern for President Committee's voluminous summary of "McGovern on the Issues" contains an outline of an "income distribution plan" with an annual payment "that might be as much as $1,000 per person or $4,000 for a family of four." Shriver's denial thus takes on the same plausibility as his charge that President Nixon "blew" a chance to settle the Vietnam War.

McGovern speaks no more of the controversial $1,000 idea, leading to the perhaps erroneous conclusion that he has dropped it. He has not, however, dropped his references to President Nixon's "secret plan" to end the Vietnam war although it is amply proved that Nixon never said he had a "secret plan," in fact had none, and did not pretend to have one.

The only "secret plan" was in the imagination of those who wished to decide Nixon's commitment to end the war, and is now being repeated endlessly in campaign orations, newspaper advertisements and television broadcasts.

William Safire, a presidential speechwriter and tireless researcher of political lore, has exploded the myth of the Nixon "secret plan" in an analysis which defies challenge. Confronted by the analysis, various perpetrators of the myth have admitted their error, but not McGovern.

The source of the "secret plan" myth was apparently Nixon's speech in the presidential primary campaign of 1968 at Nashau, N.H.:

"And I pledge to you the new leadership (evidently a Republican administration) will end the war and win the peace in the Pacific . . . ." This statement was translated by reporters and politicians into the idea that a plan existed, although Nixon said he had "no magic formula, no gimmick" and if he did would tell Lyndon Johnson.

He said he had some specific ideas on how to end a war, and "they are primarily in the diplomatic area." That, in the beginning, was the area in which Nixon moved and he sent his representative, Henry Cabot Lodge, to Paris with a new diplomatic initiative that failed.

In September of that year I lunched alone with Cabot Lodge in his suite at the Crillon Hotel in Paris. Lodge said then, and I take the liberty of repeating now, that Nixon's confidence in new diplomatic moves had been unrealistic. Nixon had learned there would have to be much more than that.

The "plan," if it can be called that, which then developed was the unilateral withdrawal of American ground combat forces from Vietnam, at first experimental, and soon becoming irreversible policy.

There is nothing secret about anything Nixon did thereafter. He undertook a combination of military and diplomatic pressures to force Hanoi to a settlement accepting an independent South Vietnam. Military pressure was applied in Cambodia and Laos, through air support of South Vietnamese ground operations, heavy bombing of the North and mining Hanoi's harbors. Diplomatic pressure was applied in Moscow and Peking in direct personal contact with the leaders of Hanoi's main supporters.

Little of that could have been planned in advance. Prince Sihanouk's ouster in Cambodia had not yet created the opportunity for an allied incursion. Hanoi had not yet begun its outright invasion of the South which created the opportunity and justification for heavy bombing and mining the harbors. Chou En-lai and Leonid Brezhnev had not yet agreed to receive Nixon.

On the evidence, the "secret plan" idea falls on its face, joining there on the floor Sargent Shriver's pretense that McGovern never proposed $1,000-for-everybody.

In point of fact, McGovern has not repudiated $1,000-for-everybody. This is another journalistic construction on his opening campaign speech in New York but the speech itself can be examined in vain for a direct repudiation.

The idea is still there but obscured now by proposals increasing taxes on the long-term gains of investors in stocks and real property, and of primary concern to at least 30 million such investors.

"Secret plan" there was not, a plan for income redistribution there certainly is. And so the campaign rocks along with somewhat more than its share of hyperbolic nonsense.

ADDRESS BY ACTING FBI DIRECTOR L. PATRICK GRAY III

HON. ROY A. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1972

Mr. TAYLOR. Mr. Speaker, it was my privilege last Friday morning to attend the graduation exercises of the 90th session of the FBI National Academy. The occasion also featured the dedication of the academy's new educational facilities at Quantico, Va., to "the service of the people of our Nation."

The fact that William M. Nail, Jr. of the Asheville, N.C., Police Department, a constituent of mine, who was among the 200 graduates, emphasized to me the great service rendered by the FBI by providing intensive training to enable officers to serve more effectively in their home cities, towns, and communities. Studies have shown that public respect for law enforcement personnel rises in accordance with their training and education.

The zeal of J. Edgar Hoover during 48 years as Director of the FBI for professionalism at all levels of law enforcement has improved police procedures throughout the country.

The main address at the graduation exercises, delivered by Acting FBI Director L. Patrick Gray III, was a challenge to better law enforcement through dedication and service. I recommend this address to my colleagues in Congress:

ADDRESS BY FBI DIRECTOR L. PATRICK GRAY III

Mr. Attorney General, General Keller, Dr. Shannon, Captain Jones, distinguished guests, members of the 90th Session, ladies and gentlemen:

This morning we have the honor to dedicate a national educational institution and to celebrate the graduation of the 90th Session of the FBI National Academy.

This class is unique. While it is the 90th Session to be graduated from the FBI National Academy, it is the first class to enjoy the advantages—as well as the disadvantages—of pioneers in these new facilities.

Almost forty years ago, John Edgar Hoover blazed a pioneer trail when he took the first steps to establish the FBI National Academy.

One man and his staff looked to the future and they believed in a concept—the concept that study and training in the police sciences would enhance the professionalism of our law enforcement officers and enable them to serve their communities more effectively.

The student police officers who were members of the First Session could not have been expected to foresee a day when two hundred law enforcement officers from the United States and foreign countries would be graduating from the FBI National Academy.

Nor could they envision the graduates of the 90th Session receiving college credit from one of the Nation's great universities—The University of Virginia—for their studies in the field of law enforcement.

Very few—if any—students at these early Sessions could have visualized the development of educational facilities of this nature or of this magnitude to train law enforcement officers.

Plant, property, and equipment are sufficient to create a magnificent educational institution. Words alone, however, will not suffice to dedicate this Academy to the service of the people of our Nation. To dedicate such an institution, more is required.

Over the years, the staff and the graduates of the FBI National Academy have . . . through their own personal dedication and service . . . breathed life and spirit into the concept advanced so long ago by Mr. Hoover.

The trust and the responsibility were placed in their hands. Throughout the years, the staff and the graduates have poured much of themselves into the work of this great institution. By their conduct in the performance of their duties, they have more than justified the vision and foresight of Mr. Hoover.

In a very real sense, each member of the staff and each graduate has contributed heavily to our presence here this morning. They have raised the FBI National Academy to a place of honor in our society.

In his "Reflections on the French Revolution," that great English statesman, Edmund Burke, wrote:

"I do not hesitate to say that the road to eminence and power, from obscure condition, ought not to be made too easy, nor a thing too much of course. If rare merit be the rarest of all rare things, it ought to pass through some sort of probation. The temple of honor ought to be seated on an eminence."

Ours is a challenging and a continuous experiment in self-government. One cannot read that superb collection of essays recommending the adoption of the Constitution—"The Federalist Papers"—without knowing that the Founding Fathers saw the great blueprint for self-government as a continuous test of the honor and self-control and capability of an entire people.

That challenging thought is implicit in the very first paragraph of the first essay:

"It has been frequently remarked that it seems to have been reserved to the people of this country by their conduct and example to decide the important question whether societies of men are really capable or not of establishing good government from reflection and choice, or whether they are forever destined to depend, for their political constitutions, on accident and force."

In effect, the Creators of the Constitution were saying to the American people:

"You have built a temple of honor. If you prove you can rule yourselves, you will raise that temple to an eminence which will attract all the peoples of the world."

The whole world, indeed, saw the adoption of the Constitution as a test of man's capacity to rule himself. Many viewed it optimistically. Some did not. As much as 68 years after its adoption, Lord Macaulay set forth his conviction that purely democratic institutions must ". . . sooner or later, destroy liberty or civilization, or both."

In a letter to an American friend detailing all of his many reasons why he felt this was so, he said:

"There is nothing to stop you. Your Constitution is all sail and no anchor."

He forgot the challenge of honor.

Our entire system of government is founded on a moral basis that predates the Constitution. It is founded on the ideals of virtue, self-control, and honor on the part of individual citizens. It is founded on a respect for the law . . . the law, with roots reaching deep into English history.

It is not the Constitution—the written document—that has held the American people together. The American people have held the Constitution together. True, as Macaulay observed, the Constitution laid down the rules for self-government, but it offered nothing to prevent us from indulging in the worst kind of excesses. What has always prevented excesses and has kept us on the road to reach for the stars has not been found inside a document, but inside ourselves.

The field of law enforcement is a microcosm of that which the Creators of the Constitution envisaged.

Is not everything that is required of the American citizen demanded, in an intensified version, of the peace officer? Certainly, Burke's belief that ". . . the road to eminence and power, from obscure condition, ought not to be made too easy" spells out the route which the law enforcement officer must follow as a matter of course.

None of you, I feel sure, reached your present station in life without effort.

Society expects you to be a philosopher, a sociologist, a criminologist and possessing the nicest sort or sensibilities; yet at the same time you are expected to have the courage and toughness of a lion and deal fairly but firmly with brutes, sadists, and felons of the worst sort who prey upon humanity. This is a rather broad and demanding expectation, yet very real.

Unquestionably, the path of the law enforcement officer is not made too easy. Any person today who does not know that the integrity of the officer—to say nothing of his life—is at risk day after day after day is living in a vacuum.

The peace officer is the visible symbol of the law. It is in his person that the average citizen first encounters governmental authority. It is in such encounters that the law enforcement officer gives credibility to his own profession and to the idea on which this government was founded.

And the American peace officer measures up to his trust . . . not just because it is required of him by the law, but because he is imbued with honor, integrity, and a sense of duty that transcend the law.

I offer my warm congratulations to the members of the 90th Session on completing this training course. During the brief period in which I have served our Nation as Acting Director of the Federal Bureau of Investigation, I have met many peace officers. I have been deeply impressed by their professionalism. I have been even more deeply impressed by the personal qualities, which, almost without exception, they exhibit.

The graduates of the FBI National Academy, in particular, have impressed me as being remarkably dedicated men. I find them imbued with an exemplary sense of duty.

Duty and honor.

They are simple words, but they speak volumes.

No man had a greater sense of duty than the founder of this Academy. John Edgar Hoover looked upon the law enforcement profession as a temple of honor—and he raised that temple until it was, in truth, in Burke's words, ". . . seated on an eminence."

As we dedicate the FBI National Academy today, we honor the memory of John Edgar Hoover whose tireless effort, superb leadership, and incredible vision are largely responsible for its very existence.

CONGRESSMAN FRANK ANNUNZIO ANNOUNCES RESULTS OF CONGRESSIONAL QUESTIONNAIRE

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1972

Mr. ANNUNZIO. Mr. Speaker, I submit by unanimous consent as official business the results of a poll which I conducted recently to obtain the opinions of citizens residing in selected areas of Chicago, including the 11th Congressional District of Illinois, on issues of national significance under consideration by the Congress of the United States.

We know that the strength of our Government is dependent upon the exchange of views between Government officials and the citizens of America. The congressional questionnaire is one way in which to involve our citizens in the decisionmaking process and I would like to express my sincere appreciation to all who replied.

Twelve questions were asked relating to both domestic and foreign policy issues. These issues covered the economy, health insurance, the Vietnam war, busing, social security benefits, the Israeli-Arab dispute, the tax structure, environmental pollution, revenue sharing, law enforcement, and similar matters.

The volume of response to my questionnaire has been most gratifying. Slightly more than 21 percent of those polled not only replied, but many attached to the questionnaire detailed letters to explain the positions they took on issues and problems. Others placed cogent and concise remarks on the margin of the questionnaire, and some, I am very pleased to report, took the time to analyze a major pending tax reform bill and let me know specifically, section by section, the weaknesses and strengths of this bill.

All of the questionaires which have been returned have been tabulated by computer, and the consensus of opinion I have received has been of invaluable aid to me in formulating my position in the legislative considerations confronting us during the 92d Congress.

Before listing a numerical summary of the responses to the questions that I posed, I want to point out some significant reactions to several important issues.

Inflation was listed as the No. 1 problem confronting our Nation, with the Vietnam war listed second in importance, and the law enforcement problem listed in third place.

A total of 81 percent felt that improvement was needed in the President's wage and price control program in order to make it more effective and more equitable. I share this view, and as a member of the House Banking and Currency Committee, which has jurisdiction over this area of law, I have led the fight to hold oversight hearings on the entire issue with the objective of enacting legislation that would insure that prices are held in line—particularly the cost of rent, food, transportation—and the other essentials which the wage earner must meet despite a paycheck that is relatively frozen.

Seventy-seven percent, or more than three-fourths of those who responded, wanted an end to the Vietnam war, with 48 percent favoring total withdrawal by a fixed date, and 29 percent favoring gradual withdrawal with continued air and sea support for South Vietnam. I have personally supported the proposal for total withdrawal by a fixed date contingent on release of all American prisoners of war by the North Vietnamese. There is nothing to be gained by loss of more American lives in a tragic and futile conflict, and I shall continue to do all that I can in the Congress to help bring about our total disengagement from this war and the safe return of our POW's.

In recent months, the issue of forced busing of schoolchildren out of their neighborhoods to achieve racial balance has been of great concern. Fully 86 percent of those who responded to my questionnaire were opposed to forced busing of schoolchildren. My own position has been against forced busing. During the second session of the 92d Congress, four recorded votes on major bills, five recorded votes on amendments, and 20 unrecorded votes on the busing issue were taken in the House of Representatives. Each time, I voted consistently against forced busing. My position has been reinforced by the responses I have received and, therefore, I shall continue to oppose forced busing whenever legislation relating to this issue receives the consideration of the House of Representatives.

Over and over again, in notes and letters I received, along with responses on the questionnaires, a total dissatisfaction was expressed with our current tax laws. The Ways and Means Committee, which drafts tax legislation, has indicated that broad and extensive hearings will be held early in the 93d Congress on this issue in order that present inequities in the tax structure may be eliminated.

It is my firm conviction that action is long overdue on plugging tax loopholes, such as the oil depletion allowance, and other "special interest" tax breaks which permit high-income individuals and large companies to escape their fair share of taxation. The increased Federal revenues derived from plugging tax loopholes could then be used for more effective pollution abatement, for meeting the educational needs of our country, and for reducing property and income taxes of the overburdened middle-income wage earners. I shall continue my vigorous support of bills in the Congress to correct inequities and abuses in our tax laws.

An overwhelming 88 percent favored automatic adjustment of social security benefits to reflect changes in the cost-of-living index. I supported this proposal when a vote was taken on H.R. 1 on the House floor last year. The Senate is expected to take action on this measure soon. In the meantime, because I felt that there was too much delay on the part of the Senate on passing a much needed increase in social security benefits for our senior citizens, who, too often, are treated as forgotten citizens. I supported a 20-percent increase in social security benefits in order to close the gap caused by the steadily rising cost of living that has taken place since the last social security benefits increase almost 2 years ago. This 20-percent increase has now become public law and will be included in social security benefit checks delivered in October 1972.

As I mentioned earlier, those who returned my questionnaire rated law enforcement as the third most urgent problem facing our country today. They were not concerned with enactment of new laws aimed at reducing crime, but were primarily interested in seeing that the courts strictly followed the laws that have already been enacted. They felt that by so doing, crime would be substantially reduced, because repeat offenders would be taken off the streets and law enforcement procedures would thereby also become more effective. In the days ahead, as I have done in the past, I shall continue to support proposals and programs aimed at achieving these objectives.

Finally, Mr. Speaker, a plurality of the citizens who responded felt that the Federal Government was not moving fast enough in pollution control for Lake Michigan and its tributaries including the Chicago River. Seventy-eight percent of the respondents felt that more should be done, and reflecting this view, the House of Representatives recently passed the Water Pollution Control Act Amendments of 1972, a comprehensive water pollution abatement bill which is far more stringent than any other passed to date by the House. I was glad to support this bill, and presently, I am actively engaged in trying to secure congressional approval for special authority and funds to insure cleanup of the Chicago River at regular intervals.

It is also of interest to note that of those who returned the questionnaire, 57 percent were men, 36 percent were women, and 6 percent gave no indication of sex. As far as age groups are concerned, the greatest number—46 percent—were in the 45- to 64-age category, and the lowest number—1 percent—were in the 18 to 21 category.

Mr. Speaker, the following is the completed questionnaire tabulation according to percentages:

QUESTIONNAIRE TABULATION

How do you feel about Phase II of the President's wage and price control program?

42 percent support stricter and fairer price controls.

13 percent support stricter and fairer wage controls.

26 percent support both stricter and fairer price and wage controls.

6 percent support the elimination of wage and price controls.

5 percent feel the program is working well.

Do you oppose busing of children out of their neighborhoods to achieve racial balance?

86 percent oppose forced busing.

10 percent do not oppose forced busing.

3 percent are undecided.

Should social security benefits be adjusted automatically according to changes in the cost of living index?

88 percent support the automatic adjustment of social security benefits.

7 percent do not feel social security benefits should be adjusted automatically.

4 percent are undecided.

Would you favor using money set aside under the highway trust fund to improve mass transit systems?

64 percent would favor using this money for mass transit systems.

25 percent would oppose using this money for mass transit systems.

8 percent are undecided.

Which of the following indicates your position on health care?

45 percent support a federal system to provide care for all Americans.

34 percent support a federal system to provide care for major illness or long-term treatment only.

15 percent feel the present system is adequate.

Which of the following best indicates your position toward the Vietnam War?

48 percent support total withdrawal of all U.S. forces by a fixed date.

21 percent support gradual withdrawal of troops with continued air and sea support for the Thieu Regime.

18 percent support continued bombing of North Vietnam and an attempt at military victory.

What policy should the United States take in regard to the Israeli-Arab dispute in the Middle East?

51 percent favor a hands off policy.

35 percent feel we should sell arms to Israel.

5 percent feel we should be more friendly to Arab nations.

2 percent favor active military support of Israel.

Many taxpayers have expressed dissatisfaction with our current tax structure. Which of the following tax reform proposals do you favor?

59 percent support taxing commercial property owned by religious organizations.

36 percent support reducing the oil depletion allowance.

31 percent support taxing interest income from state and municipal bonds.

25 percent support taxing capital gains as ordinary income.

7 percent support the adoption of a national sales (value added) tax.

Do you believe the State and Federal governments are moving fast enough in pollution control for Lake Michigan and its tributaries including the Chicago River?

78 percent do not feel the governments are moving fast enough.

18 percent feel the governments are moving about right.

2 percent feel the governments are moving too fast.

Do you favor an all-volunteer armed force?

57 percent favor an all-volunteer armed force.

28 percent do not favor an all-volunteer armed force.

12 percent are undecided.

Do you favor returning a percentage of Federal tax money to state and local governments for use as they see fit (Federal revenue sharing)?

56 percent favor Federal revenue sharing.

28 percent oppose Federal revenue sharing.

13 percent are undecided.

Which of the following would you rate as 1st, 2nd, and 3rd biggest problems facing our country today (write 1, 2, and 3 indicating choice)?

	Percent		
	1st	2d	3d
Inflation	22	16	11
Vietnam	17	8	7
Law enforcement	13	12	11
Unemployment	7	11	9
Pollution abatement	6	9	11
Reduce military spending	6	7	6
Health care	5	7	9
Drug abuse	4	8	9
Consumer protection	4	4	7
Education	3	5	6
Other	2	1	2

Sex: 57 percent male; 36 percent female; and 6 percent did not answer.

Age 46 percent are 45–64; 21 percent are 30–44; 18 percent are 65 and over; 11 percent are 21–29; 1 percent is 18–21; and 3 percent did not answer.

THE NEW POLITICS—AN HISTORIC FIRST

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1972

Mr. RARICK. Mr. Speaker, manipulating international politics for votes here at home can produce bizarre effects.

Last week at the United Nations, the U.S. Ambassador, George Bush, cast our Nation's second veto in the history of that body to kill a resolution which supposedly called for the immediate cessation of all military operations in the Middle East. This week at a religious rally in Washington, D.C. our U.N. Ambassador denounced a Soviet law that imposes immigration fees on Soviet citizens seeking to flee from Russia.

At about the same time the administration, through our Secretary of Agriculture, is praising itself for credit sales of grain to the Soviet Union to feed the people of that country. All of this, while we mine the approaches to the Haiphong harbor to prevent the entry of Soviet weapons and food to feed the North Vietnamese military machine which is killing American boys and the sons of our South Vietnamese and South Korean allies.

Yet in Baltimore last week the Soviet frigate *Tovarisch* was made welcome to participate in the anniversary of the American ship *Constellation*. This we are told is but the beginning of the welcome extended to all ships of the Soviet navy and fleet at our various U.S. ports. In fact, to make the Soviet Captain and his crew especially welcome, President Nixon sent his daughter, Mrs. Julie Eisenhower, to participate in the festivities.

All of this we are led to believe is necessary in the name of peace. The American people are told to ignore the constant "hammer and sickle" rattling by the Soviets who claim that we are the aggressors all over the world. At the same time acts of counterterrorism go uncondemned as justifiable revenge or retailation.

The new politics of people control creates strange situations, but as usual, the American people continue to come last.

I insert several related news articles. The articles follow:

[From the Washington Post, Sept. 11, 1972]

United States Blocks U.N. Anti-Israel Move

BUSH CASTS AMERICA'S SECOND VETO

United Nations, N.Y., September 10.—Ambassador George Bush tonight cast the second American veto in United Nations history.

Bush vetoed a resolution that would have called for the immediate cessation of "all military operations" in the Middle East without relating the Israeli attacks of the last four days to the terrorist attack that took 11 Israeli lives in Munich.

The packed gallery in the Security Council chamber gave a gasp and then broken into muffled applause as Bush cast his vote. The first U.S. veto came on a Rhodesian resolution in 1970.

"By adopting this resolution," Bush explained afterward, "the council would have ignored reality, would have spoken to one form of violence but not another, would have looked to effect but not to cause."

Israeli Ambassador Yosef Tekoah praised the U.S. veto which blocked the adoption of what he called an "inequitable draft."

He said the U.S. action would be "applauded by the people of Israel and peoples who desire to see the end of violence and the attainment of peace in the Middle East."

Tekoah, who issued a statement to the press after declining to participate in the council debate because of the Jewish New Year holiday, said Israel was determined to halt "the barbaric warfare" initiated by the Arab states and waged by Arab terror organizations.

In an earlier round of voting, the Soviet Union and China vetoed a series of amendments proposed by Britain, Belgium, France and Italy.

The four western countries had sought to broaden the resolution before the council to deplore all acts of terrorism and violence in the Middle East.

Like the United States, China had exercised its veto power only once before. Russia, however, ran its string of vetoes to 109.

Referring to the complaint by Syria and Lebanon about Israeli reprisal attacks Friday and yesterday, which the council met to consider this morning, Bush warned that "the fabric of violence in the Middle East is inextricably interwoven with the massacre in Munich.

"By our silence on the terror in Munich are we indeed inviting more Munichs?" Bush asked.

The resolution had been submitted by Somalia, Guinea and Yugoslavia. After voting on it, the Security Council adjourned without setting a date for its next meeting. But no imminent council action was considered likely unless Israel resumed its attack on its Arab neighbors.

Bush, supported by four European delegations, two Latin Americans and Japan, had fought to avoid the veto with a compromise resolution that would have called on all parties concerned "to take all measures for the immediate cessation and prevention of all military operations and terrorist activities . . ."

But the drive fell one vote short of the necessary majority of nine on the 15-nation council, and would have come up against the stone wall of Chinese and Soviet vetoes in any case.

Syrian ambassador Haissam Kelani, the first speaker called by council President Huang Hua of China, charged that the Israeli air strikes on "several areas" in Syria were "without provocation or justification." He said that "many peaceful civilians were killed and wounded."

The Lebanese ambassador, Edouard Ghorra, said that 15 civilians, including 10 children, had been killed in Israeli raids on three Lebanese villages on Friday. He called the attacks "unprovoked by any action from our side in Lebanon."

But reports from U.N. military observers who had toured the three sites indicated that "non-regular forces" had been occupants of a hospital in the village of Rachaiya and a house in Rafid.

Bush denounced Syria for failing to condemn the Munich attack and for continuing to "harbor and give aid and encouragement to terrorist organizations which openly champion such acts."

Bush charged that certain other governments in the area "cannot be absolved of responsibility for the cycle of violence" because of their words or deeds or their silent acquiescence.

It was the first time the United States had gone so far in defending the Israeli position at the United Nations and this was attributed by diplomats to the wide gulf between East and West in their reactions to the Munich disaster, and to American election-year politics.

The final vote on the draft resolution was 13 to one (the Unuited States) with one abstention, Panama. The main Western amendments to insert two references to terrorism into the resolution, each obtained eight votes. One amendment received four negative votes and three abstentions, and the other, seven negative votes.

[From the Washington Post, Sept. 18, 1972]

"Ransom" of Jews Decried—Mrs. Shriver, Bush Score Soviet Law

(By Alice Bonner)

Eunice Kennedy Shriver, wife of the Democratic vice presidential nominee, and George Bush, U.S. ambassador to the U.N., denounced at a rally yesterday a recent Soviet law that imposes heavy emigration fees on Soviet Jews.

The rally, held on the Ellipse, preceded the celebration of Yom Kippur, the Jewish Day of Atonement, which began at sundown yesterday. Park police estimated the size of the crowd at 3,000.

Bush, introduced as official spokesman for the Nixon administration for the rally, said the plight of Soviet Jews "must not be made a partisan issue."

"Your government cares and it acts," he said. The administration has demonstrated its "commitment to the elimination of discrimination against minorities everywhere," through increased Voice of America broadcasts, more economic aid for resettlement of Jews in America and in many other ways, Bush said.

The ambassador did not acknowledge or respond to the frequent shouts of "Stop Soviet trade!" from the audience during his 30-minute speech. Loud applause answered his concluding statement, "All people should have the fundamental right to emigrate, to go home."

Mrs. Shriver, there to replace her husband, said he was confined to bed with an ear infection. She spoke briefly of the need for "love, wisdom and compassion," regardless of religious faith.

"What an individual has learned belongs to him, not to his government," she said in protest of the Soviet Union's Aug. 3 adoption of a law requiring Jews who wish to leave the country to reimburse the government for their education.

"This persecution must stop," she said. She ended with a prayer in Hebrew "for forgiveness of sins we have committed by being silent on this."

Charlotte Jacobson, president of the American Section of the World Zionists Organization said, "Never again will Jews and those who support us be silent." She deplored the Soviet Union's indifference to the lives of people" and "the selling of Jews in the market place."

The Jewish Community Council of Greater Washington organized the demonstration to protest what it called the "ransom" and "blackmail" of Soviet Jews who want to leave the country permanently.

Moscow announced last month that Jews wishing to emigrate would have to reimburse the Soviet government for their education. A $1,080 fee for an exit visa would be increased in amounts up to $25,000 according to the extent and discipline of individual training, it was announced.

Dr. Isaac Franck, the council's executive vice president, called on the demonstrators to bombard the President, their congressmen and senators with telegrams, letters and resolutions of protest.

The Kremlin is "not impervious to the moral, political and intellectual pressures of the world," he said and urged them to send cables of protest to Leonid Brezhnev, Soviet Communist Party chairman.

The crowd stood in the 85-degree heat for over an hour to hear the speakers, then staged an orderly march around the White House and dispersed.

"Jews are not for sale," "Soviet trade not kosher," and "Freedom should be free" were among the slogans on the numerous placards they carried.

Dr. David Korn, Soviet Jewry chairman of the Jewish Community Council said in a telephone interview that he had called Jewish activists in Moscow immediately after the rally.

He said they told him their requests to hold similar outdoor observances for Yom Kippur had been denied, and that four of the leaders had been ordered to appear before the KGB, the Soviet secret police.

[From the Evening Sun, Baltimore, Sept. 6, 1972]

In Capitalist Baltimore—Russ Sailors Spread Goodwill

(By Thomas Hasler)

Armed only with picture postcards of Moscow and their ship's photo, the men of the Russian training ship Tovarisch yesterday ventured forth to spread goodwill in capitalist Baltimore.

A burly truck driver stopping for a red light alongside the Russians' tour bus on East Monument street was all smiles and curiosity when out of the blue he received his little photograph of the vessel, docked out in full rigging.

But totally flustered was Richard Sweiter, a worker at the Pepsi-Cola plant on Falls road, who couldn't recall his address when Chief Mate Valentia Lichansky asked a few questions.

QUERIES ON LIFE STYLE

The Russian officer had broken away from the tour group to find out how much Mr. Sweiter earns, what sort of housing he has, and how many hours he works.

Earlier, at official welcoming ceremonies on Constellation Dock, the Russians used a more varied arsenal of goodwill.

As the top officers were introduced, they clapped back at the 1,000 onlookers, a Russian custom Mayor Schaefer said he particularly liked.

And after the speeches, when the gifts were being exchanged, the crowd particularly appreciated the gift of a bottle of Russian vodka—complete with Maryland tax seals—in exchange for a bottle of bourbon.

MUSICAL PROGRAM

After the welcoming ceremony the cadets brought on a musical ensemble which wooed the audience with songs of love, the sea, and wide open spaces.

When the old international favorite "Kalinka Kalinka" was played, a few people in the audience really got into the spirit, clapping to its strong beat.

But otherwise the audience seemed restrained in its welcome.

SOME SHAKE HANDS

After the ceremonies were over a few people went up to the Russians to shake hands, to get the Tovarisch pictures autographed and exchange lapel buttons.

The only actual opposition to the visit came from about 100 pickets led by Dr. Carl McIntire, president of the International Council of Christian Churches, a fundamentalist organization.

Dr. McIntire had brought a bus load of elderly protesters from Cape May, N.J., to join local dissenters in opposing the government's "hyprocisy" in allowing a Soviet visit while at the same time blockading Haiphong harbor.

[From Sea Power, July/Aug. 1972]

AN IN-DEPTH INTERVIEW WITH SECRETARY WARNER

(By Heather David)

Twenty years ago, John William Warner pledged to himself to give seven years of his life to paying back a debt to the Navy and Marine Corps. The new Secretary of the Navy is now three and a half years into realization of his promise, with three and a half to go.

* * * * *

In two two-hour interviews with SEA POWER, his first such sessions with the press since taking the conn as Secretary, Warner made these things clear:

As a staunch advocate of President Nixon's Era of Negotiations, Warner will continue to work with Soviet naval leaders on subjects of mutual interest. He says he has hopes for a future agreement to exchange port visits by Soviet and American warships.

He believes that the U.S. Navy must be kept strong and that the United States must be able to negotiate from strength. But as an official involved in continuing discussions with the Soviets related to the Incidents at Sea Agreement he will not be heard making potentially disruptive statements about the Soviets.

* * * * *

Heather David, former Pentagon correspondent for Fairchild Publications, is currently freelancing, based in Washington. She is the author of several books including Operation Rescue—the story of the attempt to free POWs in the Viet Nam War. She is currently working on a book on China.

HOBOKEN, N.J., IS ON THE MOVE—BOOM SEEN BY REALTORS IN THE "MILE SQUARE CITY"

HON. DOMINICK V. DANIELS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1972

Mr. DANIELS of New Jersey. Mr. Speaker, Hoboken, N.J., is one of the oldest cities in the United States. Like many older cities, it has problems—serious problems. Many professional purveyors of gloom and doom have predicted a dire future for the city on the Hudson which we in northern New Jersey know as the "mile square city."

Contrary to these predictions, Hoboken is on the move and, in fact, is enjoying a building boom as investors are learning that Hoboken with its location on one of the Nation's great rivers across from Manhattan has great potential.

Mr. Speaker, on September 13, 1972, the Hudson Dispatch, a leading editorial voice in New Jersey, published an excellent article describing the boom in Hoboken. Because I wish to bring this fact to the attention of all Members of the House and Senate as well as decisionmakers throughout the Nation, I insert the article from the Hudson Dispatch immediately following my remarks:

BOOM SEEN BY REALTORS IN HOBOKEN

The climate for real estate transactions is improving and should get better in the coming year, says Louis M. Tamarin, president of the Hoboken Board of Realtors.

Tamarin said he and other realtors have great faith in the future of Hoboken. He pointed out that a real boom could result if the John J. Grogan Marine View Plaza would become a reality.

"Regardless," Tamarin said, "the last year has been a very active one. This is evidenced by 90 transactions from one office. And this is an excellent sign for the future."

Tamarin emphasized that optimism among realtors is high because of the construction of the World Trade Center in New York City. He pointed out that the center's completion could mean a great deal to Hoboken which is close to it.

Tamarin said, "Everything is pointing to an upsurge in the real estate field. Realtors are looking forward to the future with anticipation and believe the city is on the move."

The board persident pointed to another factor, Washington St., the shopping area as a plus for the future.

FEW VACANCIES

"There is only a two per cent vacancy of stores on Washington St., and that's great. The percentage was a great deal higher a few years ago. And this is an excellent indicator of what the future holds," Tamarin said.

The city, according to Tamarin is awaiting federal funds totaling $22 million for the rehabilitation of buildings. He added that this program should do a great deal to revitalize Hoboken.

"Another sign is the sale of Todd Shipyards to an oil company. This transaction should bring the city's waterfront alive. And that's what we're talking about—a Hoboken that once again will be vibrant," Tamarin said.

Tamarin also points out that this has been the best time for cooperation from local banks on mortgages and home improvements. He added that in the past these banks did not serve the needs of the community.

"Sales of homes have been extremely active. Most people are buying to build equity for the future. So you can see that these indicators are pointing to a bright future and possibly a new Hoboken," Tamarin said.

THE LATE LT. GEN. GEORGE B. SIMLER

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1972

Mr. FISHER. Mr. Speaker, the recent death of Lt. Gen. George B. Simler was a tragedy of major proportions. He was rated as one of the most valuable and most capable men in the entire Air Force. Replacements for men like General Simler are not easy to come by.

To Mrs. Simler and other members of the family I extend my deepest sympathy in their bereavement.

Under leave to extend my remarks I include an editorial which appeared in the September 12 issue of the San Antonio Light. It follows:

LIEUTENANT GENERAL SIMLER

The Air Force Academy at Colorado Springs was the setting for today's final rites in memory of Lt. Gen. George B. Simler, whose brilliant career ended in a jet trainer crash at Randolph AFB.

The commander of the Air Training Command and his aide, Capt. Gil L. Gillespie of San Antonio, were to be buried in the Academy cemetery.

At 51, Gen. Simler not only had a remarkable service record but was about to be promoted to full general at the head of the Military Aircraft Command.

He had served two tours of combat flying in Europe in World War II, and had escaped after being shot down.

As director of operations of the Seventh Air Force, he flew combat missions in Vietnam in every type of tactical strike aircraft assigned there.

An equally important aspect of Gen. Simler's career—one for which many a young airman is grateful today—was his successful campaign to improve conditions and human relations in the Air Force.

His "Accent on Youth" program resulted in an extraordinary increase in reenlistments because his sweeping, factual investigation had revealed weaknesses that needed prompt corrections.

Before coming to Randolph, Gen. Simler had served as director of operations at Headquarters, U.S. Air Force, and as vice commander-in-chief, U.S. Air Force in Europe.

His career also included three years as athletic director at the Air Force Academy.

The Light salutes this outstanding officer and patriot, and offers respectful sympathy to his family.

NOW IS THE ACCEPTED TIME

HON. BILL D. BURLISON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1972

Mr. BURLISON of Missouri. Mr. Speaker, public education is becoming more and more important in American life. Dr. George S. Reuter, Jr., superintendent of schools of New Madrid County R–I Enlarged School District, addressed his teachers on August 24 and used as his topic, "Now is the Accepted Time." The article was later carried by the Portageville Missourian. I would like to bring Dr. Reuter's remarks to the attention of the Members:

NOW IS THE ACCEPTED TIME

(By Dr. George S. Reuter, Jr.)

INTRODUCTION

As a new school year begins, we must reflect on the past and look ahead to the future. A topic of continuing debate these days is whether the quality of life is improving or deteriorating. A vast range of issues now confronting us bears on the matter, from ecology to crime, from the youth culture to the war.

We live in an age that has been characterized by many titles. It has been called the Atomic Age—the Jet Age—the Space Age—the Computer Age. Each of those titles symbolizes a giant step in science and technology. That is the common characteristic of all those names: they revolve around things, rather than people. Gadgetry is important, but the basic purpose which gadgets must serve is man.

J. Robert Oppenheimer, father of the atomic bomb, once compared the danger of nuclear stalemate between America and Russia to that of two scorpions in a narrow bottle. Each one is wary that the other might strike first unexpectedly and is waiting for a chance to eliminate the dangerous situation.

Treaties to ban the testing of nuclear weapons have been a subject of widespread interest since the middle 1950's. A comprehensive test ban would be a major step toward terminating the strategic-arms race. The largest earthquakes have a body-wave magnitude slightly in excess of 7 and a surface-wave magnitude slightly in excess of 8.5. On the average, there are one or two such earthquakes a year. Underground explosions in the megaton range can have a body-wave magnitude of 6.5 to 7.

One of the great paradoxes of our times is that as the danger of major international wars recedes and the standard of living rises, the level of domestic violence and crime increases at a frightening rate.

People scoffed at the Kerner Commission's prediction in 1968 that we were becoming a divided nation—one black and poor, the other white and wealthy. All the evidence in the intervening four years has only shown this warning to be true.

A FEW MAJOR CONCERNS

One of the most felicitous developments in recent years has been the Green Revolution. The work of the plant breeders is producing new productive varieties and the use of fertilizers and pesticides have yielded exceptional increases in the production of cereal grains. The Green Revolution sometimes encounters second generation problems. Problems such as susceptibility to new plant diseases requiring new measures to control them and new research to develop resistant varieties.

Having been concerned with ecology for a long time, I should be exceedingly pleased by the sudden rush of interest in the environment. In a way I am, but I am also rather perturbed. I see an enormous amount of busyness and an enormous amount of headlines and an enormous amount of rhetoric, but the only things I don't see are results.

Three critical concerns should be emphasized—early childhood education, education of diverse disadvantaged groups, and programs for career development. In the first area, Israel recently made kindergarten free and compulsory for all five-year-olds. We still have only about three-quarters of our children in America in kindergarten. In the second area of concern, Israel has an especially fine program, too. She has attracted an influx of immigrants from underdeveloped neighboring and distant regions, people whose traditional cultures have placed them at a disadvantage in contributing and competing in a modern technological land. Finally, Israel has done well in the third area. All of their vocational-technical secondary schools are actually comprehensive high schools.

As good citizens and educators, we are also interested in higher education, because quality education is attained only when the input is superior at all levels.

The conclusion of the Jellerna Report, studying the financial status of private institutions of higher learning and sponsored by the Association of American Colleges, has become almost too well-known: "Private colleges and universities are apprehensive and they have reason to be . . . Taken collectively, they will not long be able to serve higher education and the Nation with strength unless significant aid is soon forthcoming."

Of course, we expect great things from dedicated educators like you are. This is the "high road," and not the "low road" as reflected by Keynes. One recalls Keynes's description of Lloyd George: ". . . rooted in nothing; he is void and without content; he lives and feeds on his immediate surroundings; he is an instrument and a player at the same time which plays on the company and is played on them too; . . . with six or seven senses not available to ordinary men, judging character, motive, and subconscious impulse, perceiving what each was thinking and even what each was going to say next, and compounding with telepathic instinct the argument or appeal best suited to the vanity, weakness, or self-interest of his immediate auditor."

CONCLUSIONS

Most of us are eager to give to our students the best quality of education possible. Two ideas come to my mind at this point.

First, only if we can restore a fervent allegiance to the ethic of the Constitution of the United States is there hope that we might repair the deep divisions, disapprovals, and distrust which have been sown throughout the land by the "if you are not for me you are against our country" rhetoric. Second, in dealing with critics, I think all would do well to keep in mind the words of Justice Oliver Wendell Holmes, a master of judicial summation. "We must sail sometimes with the wind, sometimes against it," he said, "but we must sail and not drift or lie at anchor."

Finally, according to the Executive Secretary of the California School Boards Association, man is a verb, not a noun. This kind of thinking is going into the making of the new school. Think about it. Man is a verb, not a noun. Then, I stop with this sentence—"Great men," wrote Emerson, "exist that there may be greater men."

THE CASE AGAINST EXEMPTION OF SMALL BUSINESSES FROM OSHA

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1972

Mr. STEIGER of Wisconsin. Mr. Speaker, I have carefully reviewed all the testimony of the hearings before the House Small Business Subcommittee in June as well as the hearings now going on before the House Select Labor Subcommittee on occupational safety and health legislation. I would like to point out to my colleagues that the preponderance of testimony from Members of Congress, small businessmen themselves, as well as that of the larger employers, does not support an exemption for smaller firms based upon the number of employees.

The case against the Findley amendment to the Labor-HEW appropriations bill, exempting firms of 25 or fewer employees, is a strong one. I will be addressing this issue in greater detail tomorrow during the floor debate, but I did want to share with the House some excerpts of the testimony on behalf of small businessmen:

EXCERPTS OF THE TESTIMONY

THE HONORABLE WILLIAM L. HUNGATE OF MISSOURI, CHAIRMAN, SUBCOMMITTEE ON ENVIRONMENTAL PROBLEMS AFFECTING SMALL BUSINESS

"It is interesting to note, too, that nearly all of the witnesses testifying before the subcommittee were of the opinion that small businesses should not be categorically exempted from the Act. Everyone agreed that all businesses, both large and small, should provide a safe place for their employees, even those industries with as few as five employees where risk to safety and health is high."

THE HONORABLE JOHN B. ANDERSON OF ILLINOIS

"Safety should be irrelevant to size, and as statistics show, 90% of America's employers employ less than 25 employees, who comprise 30% of the 60-million workers covered under this Act."

THE HONORABLE ORVAL HANSEN OF IDAHO

"As you know, Mr. Chairman, the cut-off level as accepted by the Senate-House Conferees was for businesses with fewer than 15 employees. Although the bill was vetoed, there will be an effort to attach a similar exemption to the Labor-HEW appropriation bill, to be considered in the next few days.

The letters which I have received concerning OSHA show that this amendment is very popular in Idaho. On the other hand, most of those who have written me do seem to agree with the primary purpose of OSHA, which is obviously to protect the lives and safety of all of America's 80 million workers. Since many deaths and injuries occur to workers who are employed by small firms with less than 15 employees, to exclude small businesses would defeat one of the major objectives of the Act.

". . . I believe that the proposal to totally exempt such firms is undesirable. The criteria of 15 employees is arbitrary, and if implemented will serve to frustrate the purpose of protecting the lives and safety of American workers. Instead, I believe that we should more objectively and selectively correct the deficiencies in the Act."

MR. STANLEY WARANCH, PRESIDENT OF THE NATIONAL ASSOCIATION OF HOME BUILDERS

"We are, without reservation, in complete agreement with the objectives of occupational safety and health legislation. We believe every reasonable step should be taken, to assure that the working environment of employees in all industries is as free and clear as possible from hazards to employee's health and safety. We recognize that the Occupational Safety and Health Act should, and does in fact, apply to us, as well as to all other businesses in this country. We do not seek, nor have we ever sought, to exempt light residential construction from the application of the Act. What we do seek is the development and application of standards that properly reflect the hazards and work conditions in our industry."

THE HONORABLE BOB BERGLAND OF MINNESOTA

"A second and equally pragmatic reason for amending the law, is the almost certain resurrection of the Findley Amendment on the Floor of the House when the Labor-HEW Appropriations Bill comes up for a vote. I have talked with a number of our Colleagues on this subject, and it is my opinion that the Findley Amendment will be unnecessary or defeated, provided some kind of relief is granted to small businesses and farmers.

I am opposed to the Findley Amendment in principle. So are most small businessmen and farmers. Everyone agrees that employees should have a safe and healthy place to work—even small shops with only three or four employees, where there is possible high risk, should be covered by the law.

"Categorical exemption will be disastrous for the small business community as well as for the employee safety."

MR. CHARLES A. HAGBERG, ADMINISTRATOR, INDUSTRIAL SAFETY AND BUILDINGS, WISCONSIN DEPARTMENT OF INDUSTRY, LABOR, AND HUMAN RELATIONS

It is wrong, by any means, whether by budget or amendment to the law to exclude any class of worker. All workers should be covered. A study in Wisconsin of how many industries employ 15 or fewer employees indicates that 80% of our workers would not be covered if such an exemption were to be made. If in the budegt such an exemption were made for even one year at the federal level to allow small employers to get their house in order it *should not* be forced upon states that have good coverage and good programs. Federal funds for state programs should not be limited for use where there are more than 15 employees."

THE HONORABLE TENO RONCALIO OF WYOMING

"I want to repeat I will not support an amendment exempting an employer of any number because the philosophy of this law was all employers shall have a safe premises for their employees and none can quarrel with that."

MR. VERNIE G. LINDSTROM, JR., CHAIRMAN, NATIONAL SAFETY COMMITTEE OF THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA

". . . I would like to state that the AGC is opposed to the Findley appropriation bill amendment. This bill, as you know, would exclude employers with less than 25 employees from OSHA. Most general contractors have more than 25 employees and would naturally have been enforcing safety as we have for years as I stated in the beginning.

"We do see serious problems, though, with the subcontractor who has less than 25 employees who would not be required under this amendment to enforce safety on the same job where the general contractor would be required to do so.

". . . I think that is one of the most hazardous aspects that we have incurred—that you can exempt people because the general contractor on the job is responsible for the general construction on that project, and he has to coordinate all the employees."

MR. BARRY BROWN, PRESIDENT, INTERNATIONAL ASSOCIATION OF GOVERNMENTAL LABOR OFFICIALS

"Using the cost argument principally, there are those who have appeared before you who have contended that because of their small size or because of their previously unregulated industry, they ought to be excluded from the coverage of OSHA. I do not feel that they can justify their request for exclusion. For example, a modular or preassembled home—one which is produced in a kind of industrial assembly line setting—will clearly be under the scope of the occupational safety and health law. Thus it would seem unfair to allow a competitor who builds a house in a different way in a different location to escape the provisions of the law.

"Secondly, if a manufacturer which employs 25 employees is caused to guard his machines or to handle his product in a certain way that adds to the cost, it is clearly unfair when a slightly smaller competing employer down the road is not subject to the regulations. I think that whatever is adopted as a federal level of exemption, many of the states will continue to develop and enforce standards that will apply to all employers within their boundaries, regardless of the employer's size or industrial classification."

MR. JEFFERSON D. KEITH, MANAGING DIRECTOR, AMERICAN METAL STAMPING ASSOCIATION

"Another justifiable concern of this industry's managers is the effect the safety law will have upon their ability to compete. This is a highly competitive industry. The difference between a successful quote and a losing quote often boils down to fractions of a cent. As a result, unequal or dissimilar enforcement of this law makes competing even more difficult. This is one of the reasons we cannot support the exemption being proposed for smaller firms.

"Nor can we support the recent Findley amendment, although this gives indications of an awareness of a problem. For that reason we are pleased with it. But I also should point out that many companies in this industry employing over 24 people—up to several thousand in some cases—compete directly with some companies employing less than 25."

MR. JAMES R. TARR, BILLINGS, MONTANA CONTRACTORS COUNCIL

"In our industry we could very easily become a 25 employee or less firm by just pieceworking more segments of the projects, and we would not have to comply merely by subcontracting more elements if we so desire.

"And I can assure you that if we have to hire a group of noncomplier to work with us on the same project, it is going to be awfully difficult to have another group that has to comply. It is going to create confusion as to responsibility. Who is going to pay or provide for the handrail or the guardrail or whatever safety device is required? Somebody may be liable—when we get a sum total, maybe there are 150 people on the one project site, and they deserve the protection of the standards."

MR. ELMER A. FIKE, PRESIDENT OF FIKE CHEMICALS, INC.

"A study made in the chemical industry by Gorbell . . . showed that small plants with less than 200 employees have accident frequency rates ten times higher than operations having 5,000 employees. There are many reasons some of which are given. The small operation does not have adequate financial or personnel resources. The nature of the small business often requires short runs and frequent changes which makes job hazard analysis and correction difficult if not impossible.

In spite of the difficulties that the small business is experiencing, we think it would be a mistake to exclude them from coverage."

I would also like to add to my remarks the following excerpts of a letter from Mr. George F. Hutter of Hutter Construction Company of Fond du Lac, Wisconsin, which I received on August 7, 1972, concerning exemption of small business from OSHA.

"This is very definitely discriminating against large employers and your comments are very apropos that safety and health standards are most important for every employer and every employee, regardless of size, and in an accident or death caused in a small shop due to exemption from these requirements is not in keeping with the overall intent, I believe, that the Congress had in passing this law. If this is put into effect, it would exert an extreme hardship on us as a General Contractor due to the fact that in some cases we will have subcontractors working on our projects who employ less than twenty-five or less than fifteen employees, and it would not be clear to me as to whose responsibility this would be for these employers complying with OSHA requirements. We as general contractors would surely not have to be liable or responsible for the smaller subcontractors of ours who would be exempt by this change in the law.

"I sincerely believe that this exemption which some of the Congressmen are supporting has many more far-reaching consequences than they are aware in several possible hardship cases that may have been brought to their attention. I think that the consequences are most severe and that this particular change in exempting some employees is, as I said before, discriminating and most of all putting the employees of these smaller employers in the same boat as they were before OSHA became law, with minimum or no standards requiring safe places for them to work."

SOVIET JEWRY

HON. MARTHA W. GRIFFITHS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1972

Mrs. GRIFFITHS. Mr. Speaker, I wish to join with many of my colleagues in the House to protest the restrictive policies against Jews in the Soviet Union who wish to go to Israel. In addition to the usual fee of $1,000 for emigration permits, the Soviet Union is demanding from $5,000 to $37,000 for each Jewish person with a higher education who desires to emigrate to Israel. On September 19, the Supreme Soviet is scheduled to meet to ratify this schedule of fees.

Supposedly, the high fees have been instituted to prevent a "brain drain", but in reality they serve as still another form of prosecution against Russian Jews. The "brain drain" argument can be nothing but an absolute lie when individuals in high positions requesting permission to leave Russia not only are denied this permission but thereafter forced out of their jobs. It is always of interest while Communist countries continue to proclaim their desirability, so many of their people seek to leave. We all know why the Berlin Wall was built. It stands today as one of the greatest monuments in the world to the desire for human freedom.

The right of any person to emigrate should be an inalienable right. This policy by Russia, involving persecution of a people who have borne untold suffering, does little to foster human understanding and only serves to deter progress in the world.

ANTILIFE MOVEMENT

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1972

Mr. SCHMITZ. Mr. Speaker, as a Member of this House I have often spoken out against what I have described as the antilife movement in our country today, most obviously evident in the legislation and rapid increase in the number of abortions, more subtly and perhaps in the long run even more dangerously manifested in the continuing propaganda about a "population explosion" in the United States which Government is supposed to take action to stop.

The more closely this antilife movement is examined, the more frequently the investigator encounters the name, the money, the influence, and in general the "long arm" of what is probably the wealthiest of all American families, perhaps the wealthiest family in the history of the world.

It is, to say the least, disturbing that such a family should be expending so considerable a portion of its energies and almost unlimited financial resources in denying the right to life and in challenging the right of other families to grow.

When a member of this family, who is Governor of the State of New York, vetoed the bill passed by both Houses of the New York State Legislature which would have saved the lives of tens of thousands of unborn babies, Father Albert J. Nevins explained the background in his column published in Our Sunday Visitor. I present his column to you for your most serious and thoughtful consideration.

Wealth is power, and power is wealth. Their misuse has darkened the whole history of mankind.

The article follows:

ODDS AND ENDS

(By Father Albert J. Nevins)

Latest proof. Some weeks ago we wrote a column called "The New Malthusians." In it we documented the closeness of the Rockefeller family to the Planned Parenthood Association, the major contributions made for population control by the Rockefeller Brothers Fund and the Rockefeller Foundation. We showed how President Nixon's Commission on Population Growth and the American Future was headed by John D. Rockefeller III, who is a pro-abortionist, winner of the Margaret Sanger Award and the Lasker Award of the Planned-Parenthood Federation of America.

The Rockefellers are a strange family. They do nothing by accident. They have hired the best brains in the country to control the poor in the interests of the wealthy.

Examine some of the things that they have done. Nelson, who has been elected and reelected at the cost of more millions than many state budgets, is the political power; his monstrous New York State Mall dwarfs anything the Egyptians could have thought of. David is the money supplier (at interest, of course) as head of the Chase Manhattan Bank; Lawrence plays at conservation, but his beautification (Puerto Rico, the Virgin Islands, Hawaii, etc.), always winds up with luxurious hotels which the Rockefellers hold until the tax write off ends.

Nelson has long had interests in Venezuela and Brazil—partly due to Creole Petroleum Co., and also due to to the opportunity to make more money. He bought the 8,000-acre Hacienda Bolivar and the 20,000-acre Agua Blanca. He began to raise cattle and vegetables, opened a milk company, built the luxurious Avila Hotel (later sold for $800,000), founded a grocery chain that developed supermarkets all over the country. VBEC (Venezuela Basic Economy Corporation) aims "to monopolize food and its distribution in Venezuela . . . to become dictator of the market," said *El Nacional*, largest Caracas daily. "Why," asked *El Universal*, "does he (Rockefeller) come down here to destroy the small corner grocery?"

Romulo Betancourt, called the best of modern Venezulan presidents, had this to say about Nelson. "After looking over his vast oil properties in the West and in the East he will return to his office atop Rockefeller Center, to the warm shelter of his home, to resume his responsibilities as a philanthropist and Art Maecenas.

"Behind him will remain Venezuela producing 180 million barrels of oil for the Rockefellers . . . Behind him will remain Venezuela with its half million children without schools, its workers without adequate diets . . . its 20,000 mostly living in houses that the Department of Development states should better be called 'overgrown matchboxes'; Venezuela, with its three million pauper inhabitants, victims of frightful epidemics. Such is the meaning of Rockefeller's exploiting our country with his specious hypocritical maxim."

Besides Standard Oil and Rockefeller Center, the commonly known Rockefeller interests, the brothers have or had (they always know when to get out) interests in North American Aviation, Eastern Air Lines, Socony-Vacuum Oil Co., McDonnell Aircraft, Piasecki Helicopter, N.Y. Airways, Glen P. Martin Co., Island Packers (Fiji), African textiles, housing in El Salvador, Colonial Williamsburg, Phelps Manor, and more subcompanies than this paper has room to print.

The Rockefellers learned their hard lesson in Colorado's Ludlow Mine Massacre. Ever since then they have been public relations-conscious, hiring the best firms to present a philanthropic image to the public.

How come the family will spend millions upon millions of dollars to get Nelson elected governor of the State of New York at an annual salary of $50,000? Philanthrophy? The desire of being useful to the people? Who is kidding whom? We have no evidence of how the New York State bond issues are financed, particularly for the billion-dollar-gulping Mall, but it would be interesting to find out.

Now Nelson Rockefeller shows his love of the poor again and his fearless defense of human life by vetoing the abortion reform law which would have ended New York as the abortion capital of America. The State Legislature, both Senate and Representatives repealed the law that had been adopted in 1970. Cardinal Cooke hailed the Legislature's act: "It was encouraging to see the Legislature recognizing that a government's responsibility is to protect life, not to allow its destruction." But, alas, for the good Cardinal's optimism. The Rockefellers true to form acted through brother Nelson and vetoed the bill. The governor had tried a last minute ploy by saying he would sign the amendment by changing the time of abortions from 24 to 18 weeks. But murder is murder even at one week and the legislature called his bluff. The tragedy is that the governor was not bluffing and he killed the amendment. So New York remains the world's abortion capital, thanks to Nelson A. Rockefeller.

OBSERVES 30TH ANNIVERSARY OF DEATH MARCH

HON. HAROLD R. COLLIER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1972

Mr. COLLIER. Mr. Speaker, I include the following:

OBSERVES 30TH ANNIVERSARY OF DEATH MARCH

(By Congressman HAROLD R. COLLIER)

Mr. COLLIER. Mr. Speaker, on Sunday, September 10, the residents of my congressional district observed the 30th anniversary of the Bataan death march. Thousands of residents lined the route of a mammoth parade in which scores of service, veterans, and civic organizations participated. Included among those taken prisoner were 98 men from Maywood and surrounding suburbs of Chicago.

The harsh and bitter memories of Bataan are doubtless indelibly impressed upon the minds of those who have survived, but for most of their contemporaries recollections of the fall of Bataan have been crowded out by a never-ending series of other episodes, and for the 90-some millions of Americans who have been born since 1942, Bataan may have little meaning. That is why, as your Representative in the Congress of the United States, I have again introduced a measure that would help keep green the memory of the gallant men who gave their lives in the defense of Bataan, as well as express our appreciation of the heroism of those who fought and bled with them.

My resolution calls on the President of the United States to proclaim the second Sunday in September of each year as Bataan Day in memory of the courageous defenders of the Bataan Peninsula and the fortress of Corregidor during the early days of World War II. I am hopeful that it will soon be adopted by both the House of Representatives and the Senate.

I want to narrate the story of Bataan and Corregidor, as well as the events that preceded and followed. To those who lived through those stirring days, this will be a mere rereading of an old chapter from your book of memories, but perhaps it will inspire the young people who will be hearing it for the first time.

America was unable to defend the Philippines, as the treacherous Japanese attack on Pearl Harbor on December 7, 1941, had immobilized her Pacific Fleet and made it impossible for her to get reinforcements and supplies to the 7,000 American and 75,000 Filipino troops that were commanded by Gen. Douglas MacArthur. These forces were concentrated chiefly on the island of Luzon, which was the keystone of the Commonwealth's defense system.

Because of its devastating attack on Pearl Harbor and its highly successful raids on our airfields in the Philippines, Japan had air and naval supremacy. She was all but immune from naval or aerial attack as her troops invaded the Filipino Archipelago. While MacArthur's army could not win and could only postpone the day of inevitable surrender, such delay would help America and her allies by slowing down Japan's advance elsewhere.

The Japanese landed on Luzon on December 10, 1941. Two of their armies which drove toward Manila had as their objective the encirclement of MacArthur's greatly outnumbered units. He avoided the trap by evacuating Manila and withdrawing his forces to Bataan Peninsula. The fall of the Philippine capital took place on January 2, 1942.

The defense of Bataan's rugged terrain began on the following day. Despite the fact that they were outnumbered by 5 to 1, the Americans and their Filipino comrades were in an excellent position for a prolonged defense of the peninsula.

MacArthur skillfully parried an attack on his right flank on January 11 and the Japanese suffered heavy losses. Eight days later he crushed another attempt to break through his lines. On the 29th, fierce artillery fire broke up headlong Japanese infantry assaults against both flanks simultaneously. On February 2, an invading force which assembled opposite Corregidor was smashed by a sudden bombardment from the fortifications, and the following day small American motor torpedo boats attacked a warship and torpedoed Japanese transports.

MacArthur's lines held from throughout February and March, but the enemy continued to send reinforcements into the region of Bataan. The defenders of the peninsula had suffered heavy casualties, their remaining equipment consisted of a few tanks and cannon, and the men were exhausted by almost 3 months of constant fighting without air support. A few patched up pursuit planes constituted their air force. Even if they had been able to obtain aerial reinforcements, there were no airfields in the Bataan sector, neither were supplies of gasoline, bombs, or other ammunition available. Supplies could not be brought in from outside, as the American fleet was still out of commission as a result of the attack on Pearl Harbor.

General MacArthur was ordered to Australia and Gen. Jonathan M. Wainwright succeeded him. Late in March Gen. Tomoyuki Yamashita demanded that Wainwright surrender. The demand was refused and the Battle of Bataan continued.

The Japanese general began the effort to dislodge the defenders on March 28 with a heavy bombardment of the American lines. On the 31st, enemy infantry units, who were protected by a barrage shellfire from offshore warships, forced a breach in the Bataan lines. The gap was widened by tanks, while enemy aircraft harried Wainwright's rear lines and disrupted communications. In the fircest attack of the campaign, on April 8, waves of enemy shock troops poured through the crumbling defense lines. Wainwright's eastern flank collapsed and on the 9th the Japanese overran the entire Bataan sector.

Of Wainwright's entire force of 43,000, some 36,000 were captured, killed, or wounded in this battle. The general himself, leading a force of 7,000 soldiers, marines, and sailors, along with 3,000 civilian refugees, escaped to Corregidor, which was less than 5 miles away. Gen. Masaharu Homma's 80,000 troops held Manila and the entire rim of Manila Bay.

In a 10-mile triangle left to Gen. Edward P. King, Jr., now in command on Bataan, were 12,500 American officers and enlisted men, mostly army; 66,500 Philipine army men; 6,000 Filipino civilians, employees of the army; and about 20,000 refugees, many of them women and children. Hospitals and aid stations had 24,000 patients and disease was spreading, aided by bad diet and bad water. Food was almost gone. Bataan's defenders had eaten the peninsula's 600 water buffaloes, as well as the 250 horses and 48 mules of the cavalry.

"We have no further means of organized resistance," General King told his officers. He had orders not to surrender, but the alternative was slaughter. The general refused to accept the alternative and 12,500 Americans and 66,500 Filipinos were surrendered to the Japanese.

General Wainwright was determined to hold out as long as possible on the island of Corregidor, but the position of the fortress was hopeless. It was surrounded by a huge force which was supported by a heavy concentration of air power. There was no hope of reinforcement in men, guns, ammunition, food, or medicine. The exhausted garrison was subjected to daily bombardments. The Japanese attack on the fort began early in May. Corregidor's beach defenses were destroyed by a terrific bombardment from heavy guns emplaced in the mountains on Bataan Peninsula. Enemy landing parties which stormed the fortress captured it in an all-out assault on May 6. After having held out for 26 days, the sick and starving garrison capitulated.

Let us listen to the eloquent words of Gen. Douglas MacArthur:

"Corregidor needs no comment from me. It has sounded its own story at the mouth of its guns. It has scrolled its own epitaph on enemy tablets, but through the bloody haze of its last reverberating shots, I shall always seem to see the vision of its grim, gaunt, and ghostly men, still unafraid."

After the fall of Bataan, nearly 200,000 people were herded together on the lower end of the peninsula—the advancing Japanese army, the defeated American-Filipino army, and thousands of civilians. General Homma, whose bag of prisoners was twice the size he had anticipated, had barely sufficient food, medicine, and transport for his own army and was unprepared for the thousands in the hospitals, for other thousands hardly able to walk, and for thousands who had no food. The Japanese general wanted Bataan Peninsula cleared of his enemies and took care not to ask how it was accomplished.

The first of the survivors began to walk out of Bataan on the morning of April 9. Although they did not know it at the time, they were destined for Camp O'Donnell, which was 65 miles to the north. After the marchers had covered 31 agonizing miles on foot, they traveled 25 miles by rail, and then marched the final 9 miles to their prison.

Many of them failed to make it. Anyone who was caught with Japanese money in his possession was assumed to have taken it from a Japanese he had killed and was himself killed. At one point, nearly 400 Filipino soldiers were marched into the woods, tied together, and beheaded with sabers. The conditions under which the emaciated, hungry, and ill men marched are almost too horrible to relate.

General King estimated that 9,300 Americans had reached Camp O'Donnell by the end of May and that between 600 and 650 Americans had died on the march. Probably 10,000 Filipinos also died, while 6,000 escaped.

Throughout the pages of our history, brave men have written their names in blood so that their descendants could read about their heroic deeds and be inspired to emulate them. Valley Forge, Lake Erie, Chapultepec, Gettysburg, San Juan Hill, the many battles of the two World Wars, and the wars in Korea and Vietnam, are all accounts of brave men who fought to obtain, preserve, and extend freedom. Let us reserve one of the brightest pages for those who fell in the defense of Bataan and Corregidor and thus paid with their lives for the precious time that enabled other brave men to keep the enemy from extending his conquests.

Let us pause on one Sunday afternoon in each and every year to pay reverent tribute to these fallen heroes and to salute those who survived the sieges of Bataan and Corregidor and the infamous death march. How grateful we are that many of them have assembled here today, 30 years after they experienced a living hell. Let us hope that they will have many happy and useful years ahead of them and that the Nation for which they did so much will never forget them.

WASHINGTON REPORT

HON. WILLIAM E. MINSHALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1972

Mr. MINSHALL. Mr. Speaker, I insert in the RECORD my September newsletter:

WASHINGTON REPORT

(By Congressman WILLIAM E. MINSHALL)

SEPTEMBER, 1972.

Capitol Hill issues are boiling, heavily spiced with politics, as Election Day draws closer—the economy, tax reform, general revenue sharing, health insurance, welfare reform, school busing, school financing, child development, Social Security and Medicare amendments, housing, mass transit, urban development, crime, gun control, consumer protection, environmental problems, defense spending, arms limitation, amnesty. Final decisions are not expected on all or even many of these issues this year, but Congress will keep them hot on the front burner as the session runs into October.

$5 billion cut from 1973 defense budget by my Defense Appropriations Subcommittee continues our crusade against waste and over-funding. This latest reduction brings to a total of $22.6 billion the amount my subcommittee has eliminated from military budgets over the last six years . . . Many billions more will be saved in future, too, because of our insistence that the Pentagon follow the "Fly Before You Buy" concept of procurement that I have long urged. Design, development and competitive testing of major new weaponry will take place before committing our tax dollars to any equipment. No more gambling billions of dollars on unproven drawing-board sketches that resulted in such costly fiascos of the McNamara years as the F–111, the Main Battle Tank and the C–5A.

Having peeled my share of G.I. potatoes, I can sympathize with those who wanted to turn over "Kitchen Police" duties in the Armed Forces to civilians, but not at a cost of nearly $300 million a year in salaries! I voted to strike these funds from the budget. A little K.P. for our servicemen might at least have the merit of preparing them for the matrimonial front some day, as well as saving taxpayers' money.

Crime and crime again . . . Law enforcement officers at all levels of government are doing an heroic job, yet crime rates continue to rise. There are limits to what even the most efficient, well-funded law enforcement agencies can accomplish when continually frustrated by permissive courts that turn criminals back on the streets. I strongly feel a thorough review of our system of criminal justice must be a first order of Congressional business. Such a review should cover possible revision of laws governing appointment and tenure of judges, modernization of federal and state rules of criminal procedures and laws of appellate review of criminal convictions, parole regulations, and penal reform, including rehabilitation programs . . . The Senate is due to consider a bill to provide compensation, up to $10,000, in cases where crimes involve injury or death of innocent victims. Similar legislation is pending in the House Judiciary Committee. Seven states already have such laws on their books.

School busing—Although the long struggle over this issue is not finally resolved by the Equal Educational Opportunity Act, it does seek to bring some order out of court-created chaos. The bill stipulates that no busing can be ordered beyond the school closest or next closest to the student's home, and it would permit re-opening of school busing suits in which decisions already have been filed. I voted for this measure when it passed the House 282–102 in August. It now awaits Senate floor action. At this time it seems unlikely Congress will consider a constitutional amendment to prohibit busing, of which I am an original sponsor, but this may be the ultimate legislative route we will have to take.

Looking at loopholes—"Closing tax loopholes" has much appeal until you examine the bill, now pending in the Ways and Means Committee and endorsed by the McGovern Platform. Here are some of the loopholes this bill would close: the right to deduct interest paid on a home mortgage . . . deductions of state and local taxes unless you can prove them business expenses . . . exclusion of sick pay as a deduction . . . special retirement credits for people over 65 including their right to exclude from taxes the amount they receive if they must sell their homes . . . deductions for child care for working mothers . . . personal exemptions for the blind and aged . . . medical deductions for everyone . . . deductions for losses suffered from fire, accident, flood or other reasons . . . deductions for moving expenses. On the commercial and business level, the so-called "loophole" bill would terminate many of the complex tax provisions that encourage small and big businessmen alike to expand with new stores, new factories, new equipment—all the incentives that build a strong economy and encourage high employment . . . Certainly a review and revision of the Tax Code is overdue, aimed at greater equity for all and including lower property taxes. The meat-axe approach of the "loophole" bill would severely penalize middle-income citizens and would not be good for them—or the nation.

IS THE POSTAL SERVICE WORTH FREE ADVERTISING?

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1972

Mr. ALEXANDER. Mr. Speaker, previously I shared with you a typical letter from a constituent complaining about the Postal Service. She said she did not receive her newspapers until "the flies were in them." The newspaper also receive these complaints from their mail subscribers. A friend of mine, Miss Margaret Woolfolk, editor of the West Memphis Evening Times, got her chance to show the Postal Service that she for one did not think they were doing a good enough job to warrant the free public service advertising in her paper.

Miss Woolfolk's correspondence regarding the Postal Service follows:

Crittenden Publishing Co.,
West Memphis, Ark., August 18, 1972.

Dear Bill: Despite our postal service getting worse and our newspaper subscribers complaining, we are called upon to *give* advertising to the Postal Service.

While the attached letter doesn't say it's wanted FREE, we are not stupid enough to expect payment. However, just for the fun of it, I've written a letter to Mr. Schorr—copy attached.

Mats and slicks were provided us. We wonder if the Postal Service paid for these or if they were donated, too. If they paid for this material, which will go in the File 13, why can't they pay the newspaper? We give lots of free space to public agencies, but this is too much.

Just wanted to let you know what's going on. Hope to see you soon.

Sincerely,
(Miss) Margaret Woolfolk.

P.S. And—if they don't have funds budgeted for advertising, why do they have a "director of advertising"?

Office of the Postmaster General,
Washington, D.C., August 15, 1972.
Director of Public Affairs.

Dear Sir: The Postal Service will soon begin its 1972 Zip Code campaign. Your help is vital in presenting this material to the American public.

Each year the need for Zip Code increases with the volume of mail we process. This year we anticipate handling more than 90 billion pieces of mail. Each piece that is not Zip Coded requires special handling. As a result, the costs of processing mail are increased, and the entire mail system is slowed down. Your assistance in support of this campaign can help to reduce these costs and smooth the flow of mail throughout your community.

Enclosed for your use are reproduction materials and proofs of Zip Code advertisements in three sizes:

1000 lines—5 columns × 200 lines
600 lines—4 columns × 150 lines
399 lines—3 columns × 133 lines

We hope you will use this material frequently and feel free to call upon us for assistance or additional information at any time. Please consider these ads as a replacement for any Zip Code material you may have retained from earlier campaigns.

Thank you for your help and that of your newspaper. It is greatly needed and appreciated.

Sincerely,
James L. Schorr,
Director of Advertising.

Crittenden Publishing Co.,
West Memphis, Ark., August 18, 1972.
Mr. James L. Schorr,
Director of Advertising, Office of the Postmaster General, Washington, D.C.

Dear Sir: We are in receipt of the three Zip Code advertisements relative to the 1972 campaign.

The advertising rate in our newspaper is 11c per line. This would make your 1,000-line space cost $110.00 per insertion; the 600-line ad, $66.00 per insertion, and the 399-line ad, $43.89 per insertion.

Please advise the insertion dates you would like and to whom billing should be made.

Yours truly,
Margaret Woolfork.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1972

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,757 American prisoners of war and their families.

How long?

SCRAMBLING FROM McGOVERN

HON. WILLIAM L. SPRINGER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1972

Mr. SPRINGER. Mr. Speaker, perhaps it is a good time to take a look around at what is happening in the various States on the presidential election front.

Helen Dewar, Washington Post staff writer, has written an excellent article titled, "Scrambling From McGovern," with reference to what is going on in Virginia. According to her report, one reputable poll shows President Nixon leading McGovern by 3 to 1.

In Virginia, the desertions from the Democratic Party have been more formidable than in most States. Former Democratic Governor, Mills E. Godwin, has recruited more than 1,200 members to an advisory committee for the reelection of the President. The most surprising of this was the joining by Sidney S. Kellam, a former Democratic national committeeman who headed up the 1964 reelection committee of President Johnson.

What is surprising is the intensity of the feeling of Democrats in the State for Nixon. A recent poll in the Richmond area indicated even stronger than the 3 to 1 margin for Mr. Nixon as stated above. Some of this has been due to the controversial busing situation existing in and around Richmond.

I attach herewith also an article by Mr. R. W. Apple, Jr., special correspondent of the New York Times of Sunday, September 17, titled, "Even His 'Best State' Wavers on McGovern." It had been anticipated that George McGovern would have no trouble carrying Massachusetts. In past elections, Mr. Nixon has not done too well in Massachusetts. Polls taken for Gerry Studds, the Democratic candidate for the House of Representatives in the Cape Cod area reportedly show Mr. McGovern behind. In the western part of the state, A. A. Michelson, the political editor of the Berkshire Eagle reported "no sense of bouyancy at all" in the McGovern campaign.

The articles follow:

Scrambling From McGovern

(By Helen Dewar)

Even the late Harry Flood Byrd Sr. would have marveled at the way his hallowed old policy of "golden silence" has thrived under George McGovern's presidential campaign in Virginia.

Embellishing upon the silent treatment that Sen. Byrd gave his party's presidential candidates, Democratic regulars—including some prominent party moderates who always used to support their national ticket—are bolting in record numbers.

The situation in Virginia, where at least one reputable private poll shows President Nixon leading McGovern by nearly 3 to 1, is probably more extreme than it is in most other states.

But it is symptomatic of the Democratic nominee's nationwide plight as he struggles to recover the momentum that helped him win the nomination but has since been lost in the Eagleton affair, the nose-diving polls and internal campaign difficulties.

In Virginia, so far, only one statewide elected official has announced his support for the McGovern-Shriver ticket and he is both independent and liberal: Lt. Gov. Henry E. Howell.

U.S. Sen. William B. Spong (D-Va.), who faces a potentially tough race for re-election this fall, claimed fundamental differences of opinion with McGovern on key issues and said he will run his campaign independently of the national ticket.

None of the state's four incumbent Democratic congressmen, three of whom are seeking re-election, has publicly associated himself with the presidential slate.

Four of the 10 Democratic congressional candidates, including Northern Virginia suburban candidates Robert F. Horan in the Eighth District and Harold O. Miller in the 10th, have endorsed the ticket, but only Miller is actively campaigning for McGovern.

Two independents, William R. Durland in the Eighth and Roy White in the Sixth, are campaigning for McGovern but they are considered to have little chance of winning.

With the governorship held by Republican Linwood Holton, the top Democratic state official is Attorney General Andrew P. Miller, and he too has expressed reservations about McGovern.

That leaves U.S. Sen. Harry F. Byrd Jr. (Ind.-Va.), who is upholding the family tradition of silence.

The Democratic presidential candidate's 1972 campaign in Virginia can be broken down into two periods: the preconvention push for McGovern by many Democratic liberals; and the postconvention flight from McGovern by many party moderates and conservatives.

Although the phenomenon is shared by other states, the peculiarities of politics in Virginia, including intraparty convulsions that have forced temporary realignment of the Democratic and Republican parties, have produced one of the strangest political scenarios of a strange political year.

McGovern was able to capture a solid majority of Virginia's 53 votes at the Democratic National Convention both because of the enthusiasm, hard work and organizing abilities of his own backers and because anti-McGovern forces were unable or reluctant to join behind any other candidate.

People turned out for local delegate-selection meetings in April who had never been seen before at Democratic gatherings. Many of them were recently enfranchised young people. In meeting after meeting, they routed the party regulars and took control.

The McGovern people benefitted from another drive—that of the Virginia Democratic Party's liberal wing to capture control of the party apparatus from the moderate-to-conservative coalition that had held the reins of Democratic power since the demiss of the arch-conservative Byrd Organization some years ago.

Together they triumphed. Liberals took control of the party and McGovernites took control of the state's delegation to the Democratic National Convention, giving the South Dakotan two-thirds of Virginia's vote in Miami Beach.

But the delegation was hardly home before the rumbles started. While it was gone, former Democratic Gov. Mills E. Goodwin, a Nixon convert, was busily recruiting more than 1,200 members to an advisory committee to the statewide Committee to Re-elect the president in Virginia. Many members were prominent Democrats.

Since the delegation returned, at least 20 of the 105 Democratic members of the General Assembly are openly supporting the Nixon-Agnew ticket. A poll of Democratic legislators showed that more than half of them plan to vote for the President's re-election this fall.

Symbolic of the depth of the defections is Sidney S. Kellam, a former Democratic National Committeeman and "boss" of Virginia Beach. Although a key lieutenant of the elder Byrd, Kellman sometimes opposed Byrd's wishes through his loyalty to the Democratic ticket.

But now Kellam has joined Godwin's group and is a member of the national Democrats-for-Nixon Committee, headed by former Treasury Secretary John Connally.

Unlike Kellam, many of Godwin's Democratic recruits have covertly supported the GOP standardbearer during the past five elections, four of which were won by the Republicans in Virginia (the exception being the Johnson landslide in 1964).

But if the extent of open defections is unprecedented, it is "just the tip of a great big iceberg," said one prominent Democratic legislator who, for the first time, is adopting "golden silence" for himself.

Why the massive dive for cover? Politicians cite many reasons—McGovern's stands on defense cuts, the Vietnam war, busing, welfare reform and other issues, as well as anger on the part of party regulars at the liberal takeover of the party. "It's a cumulative thing," said one Democrat, "it was just too much to swallow all at one sitting."

A leading Democrat from the traditionally Democratic First Congressional District (Hampton, Newport News, Williamsburg and many rural counties to the north, plus the Eastern Shore) described McGovern's problems in his area this way:

"We've got an industry that employs 26,000 people (the Newport News Shipbuilding and Drydock Co.), and Sen. McGovern wants to cut out the aircraft carriers. That's jobs.

"We're the headquarters for the nation for the Tactical Air Force, and he advocates cutting out nine tactical wings. That's jobs.

"In addition to that, we've got a NASA laboratory and he wants to cut out the space program. More jobs.

"Look across Hampton Roads and you've got the same thing, only it's the Navy over there."

During the 1960 campaign, he said, word got out that John Kennedy favored the Brooklyn Navy Yard over Newport News for construction of ships. "Just like that, he lost the First District."

McGovern strategists in the state say they can counter such talk with plans for conversion of defense-related facilities to peacetime uses, just as they did in his successful California primary campaign.

The First District Democrat is skeptical. "How do you convert the largest private shipyard in the country? They've been trying to diversify for 50 years, but shipyards are unique things. The only things they can convert to are giant turbines for dams, and how many dams do we need?"

As of now, McGovern's Virginia organizers, including Harley Daniels, who is on leave from the congressional staff of D.C. Del. Walter Fauntroy to coordinate the campaign in the state, concede that McGovern began the campaign trailing the President by about 2 to 1.

Discounting the defections, they say they're getting a good initial response from campaign volunteers and anticipate a successful voter registration effort.

"It's been far more successful than I would have anticipated," said Daniels as he said in the statewide McGovern headquarters in Richmond, a maze of rooms atop a small Chinese restaurant.

Daniels drew encouragment from the fact that the Democratic State Central Committee, bucking a long tradition of presidential-year neutrality, endorsed the ticket. Outside of Kellam, he said, the defections haven't hurt. Local chairmen have been chosen in almost all the state's 134 counties and cities—not just names but "good caliber workers," said Daniels.

"Virginia is not a state where the campaign will be made or broken," he added, "but it is a state where a serious effort will be made."

State Democratic Chairman Joseph T. Fitzpatrick puts heavy emphasis on the voter registration drive, which is being conducted by Jessie Rattley, a black city councilwoman from Newport News. "I felt all along that in any given election the basic Democratic vote is at least 31 per cent," he said. "If our registration efforts are successful, we've got a chance."

Former Del. Edgar Bacon of Southwestern Virginia, the only party moderate in the McGovern high command, said it is "difficult to get the broad-based support that we need" but he says he has found fewer defections among moderates than he originally expected.

If there are any jitters at Nixon headquarters, they are not apparent. But they are aiming not just for victory, but a smashing one. "Anything short of 65 per cent," said a Nixon strategist, "will be an organizational disaster."

[From the New York Times, Sept. 17, 1972]

EVEN HIS "BEST STATE" WAVERS ON MCGOVERN

(By R. W. Apple, Jr.)

BOSTON, September 16.—By all odds, Massachusetts should be Senator George McGovern's best state in the November election—or at least one of his best.

It is perhaps the most liberal state in the country, with both Republican and Democratic parties oriented to the left. It is a militantly antiwar state. It is the home state of the Kennedy's of whose political tradition Senator McGovern partakes.

And it is a state whose voters and public officials—including the Republican Governor, Francis W. Sargent—have never had much use for President Nixon. Mr. Nixon got only a third of the vote here in 1968, and party registration is still running two-to-one Democratic at the moment.

So a visitor is somewhat startled when he is told by Republican and Democratic politicians alike that if the election were held Tuesday—when, in fact, Massachusetts will hold its local primaries—Richard Nixon would probably win.

Nearly everyone, conditioned by Mr. McGovern's smashing Presidential primary victory here last April, expects the Senator to rally sufficiently to win Massachusetts in November. But the fact that even here he is faced with turning a bad situation around provides an insight into the problems the South Dakotan faces nationally.

Representative Michael Harrington of Beverly said today that no single issue had caused Mr. McGovern's predicament. Instead, he argued, Massachusetts voters need to be convinced anew that Mr. McGovern "really knows his mind—that he is competent to run the national government."

Mr. Harrington, a liberal Democrat, detects no passion for the President in his North Shore district. Mr. McGovern is no better than even with Mr. Nixon in his polls, the Congressman said, "because McGovern's campaign has been so confused and contradictory the people who are looking for just one reason to vote for him aren't getting it."

Senator McGovern's local campaign manager, John McKean, does not disagree.

"People's fears have been played upon," he said, "and the candidate has not done a good job of dispelling them. He's got to come in here and change the way people see him—change it back to the McGovern they saw this spring, as the man who would end the war and help them with economic problems, instead of as a man who makes mistakes and can't make up his mind any more."

Mr. McGovern has promised to spend two days here in October—a sign that his staff knows there is work to be done. He will probably emphasize economic issues, which should count for something in a state with

8.3 per cent unemployment and in a city with a property tax that has just been increased by $22—to $195 per $1,000.

The problems are not localized, as far as spot check could determine. Polls taken for Gerry Studds, the Democratic candidate for the House of Representatives in the Cape Cod-New Bedford area reportedly show Mr. McGovern behind. In the western part of the state, A. A. Michaelson, the canny political editor of The Berkshire Eagle, reported "no sense of buoyancy at all."

In Dorchester, an Irish working-class area where interviews in April showed surprising McGovern strength, random canvassing Friday turned up six of 15 McGovern voters who said they now favored the President.

There have been some organizational problems, despite an impressive unity breakfast of Democratic leaders two weeks ago Monday.

Jerome Grossman, a leading contributor to antiwar candidates and a strong McGovern backer, has been eased out of the campaign and shows some bitterness. Some McGovern supporters are irritated by the absence of Mayor Kevin White of Boston, who is traveling in Europe with Team Canada—the all-star National Hockey League squad.

Some ethnic politicians are unhappy that Massachusetts' four national committee members now include three Jews and one black.

But such difficulties amount to little, it would seem. Mr. McKean speaks for many when he says, "It's not a question of organization, it's a question of the candidate himself turning this around."

If Mr. McGovern can do so, a Boston Globe poll showing young people here favoring him, 63 per cent to 27, suggests that he has not alienated the big college population. Fund-raising has gone well, including he will have substantial assets, $2,500 a week from selling campaign buttons. And Senator Edward M. Kennedy has promised to do all that he possibly can.

CONGRESS SHOULD EXPRESS REVULSION AT SOVIET ACTION TOWARD JEWS

HON. LIONEL VAN DEERLIN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1972

Mr. VAN DEERLIN. Mr. Speaker, today being Yom Kippur, it is fitting to note that tomorrow the ruling body of the Soviet Union meets to ratify a schedule of fees which, in effect, holds to ransom every Soviet Jew who wishes to emigrate.

With a cynical disregard for world opinion, and an even more callous disregard for the welfare and wishes of vast numbers of its own citizens, the rulers of Russia demand that every Jew who wishes to leave the country pay an exorbitant exit fee.

The Soviets, who have denied to their Jewish citizens a cultural and religious life, who have made it all but impossible for most of them to obtain an education and a decent living, who have made it abundantly clear that they have no use for Jews within their borders, paradoxically are now making it almost impossible for the vast majority of Jews to leave the country in which they have become virtual prisoners.

I feel most strongly that this Congress should express its revulsion at the Soviet action, and should express its views explicitly to the Soviets. The Congress should make it clear to the Soviet rulers that the brutal and restrictive policy about to be made official will cause Congress to examine closely our relations with a country which follows such a policy. The Soviets should be made aware of the fact that their desires for preferential trade treatment by this country and their hopes for extension of commercial credits may well be jeopardized if this unforgivable harassment of helpless Russian Jews continues. It is my hope that the Congress will express this sentiment in the strongest possible terms.

THE IMPROVED ORDER OF RED MEN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1972

Mr. ANDERSON of California. Mr. Speaker, as we reflect on the events of the past few months, all of us express concern for the future of our country and, indeed, the world.

Will warfare plague mankind as it has in the past?

Will our children surmount the problems which we have failed to eliminate?

As I look to the future, I am optimistic, as I recall those fraternal and civic organizations which have added so much to our society, to our moral fabric, and to our standing in the community of nations.

THE IMPROVED ORDER OF RED MEN

One such organization, Mr. Speaker, is the Improved Order of Red Men—a fraternity that I am proud to have been a member of for most of my adult life.

The Red Men and its sister sorority, the Degree of Pocahontas, make up the American origin. These two groups, along with the two junior organizations—the Degree of Hiawatha for the oldest patriotic fraternity of purely boys, and the Degree of Anona for the girls—comprise one fraternal organization called the Improved Order of Red Men.

HISTORY

The history of the Improved Order of Red Men is so linked and interwoven with that of the United States of America that one is hardly complete without the other. Our fraternity can claim to have had a major part in building this, the greatest republic the world has ever known.

In the years that preceded the Revolutionary War, patriots found it necessary to conceal their identity and work "underground" to keep their plans and preparations secret in order to establish freedom and liberty for all people living in the Colonies.

Early in 1765, there came into existence, in and around Boston, a number of secret societies known as Red Men, Sons of Liberty, and Sons of Saint Tamani. These patriotic groups met secretly, and often, they would disguise themselves as red men of the Great Confederation of the Iroquois.

By adopting Indian names as further disguise, these patriotic Americans were able to outmaneuver the authorities of the English crown and lay plans for the forthcoming revolution.

Since our colonial forefathers had firsthand knowledge of the Iroquois League, its mode of government, democratic principles and institutions, they turned to these people for guidance as they organized their secret societies. Thus, it is from this early federation of Indian tribes that the order has derived, not only its customs, but also its ritual, ceremonies, sign language, mannerisms, and tribal government as well.

At the outbreak of the Revolutionary War, the members of these secret societies took up their muskets, and joined the Continental Army to wage an 8-year war for freedom.

Upon the conclusion of the war, the patriotic societies were reestablished, not only in New England but throughout the several States. Then, in 1813, representatives of the various societies met at Old Fort Mifflin on the Delaware River and consolidated all groups under the name of "Red Men."

On March 14, 1835, the Maryland Legislature granted a charter to Tribe No. 1 of the Improved Order of Red Men at Baltimore, Md. This tribe was a forerunner of the order as it is known today. In 1847, under a charter granted by the Commonwealth of Pennsylvania, the first session of the Great Council of the United States was held.

Today, the Improved Order of Red Men, one of the few organizations to attain such an honor, operates under a charter granted by a special act of Congress of the United States. This charter was approved on April 15, 1906, and bears the signature of President Theodore Roosevelt.

THE DEGREE OF POCAHONTAS

In September 1885, at Elmira, N.Y., the Great Council of the United States adopted legislation that permitted the establishment of councils of the Degree of Pocahontas, the sister sorority of the Red Men. The Degree of Pocahontas, through its many charitable and civic activities, has brought great pride to the fraternity and brought well-deserved honor and recognition to the membership.

PURPOSES OF THE IMPROVED ORDER OF RED MEN

The fraternity is designed with the specific purpose to preserve our Nation, that had its beginning with the patriotic Red Men of colonial days, by defending and upholding the principles of free government so that these principles may be handed down to those who follow the American way of life which has come as a heritage from the past.

In addition, the order perpetuates the beautiful legends and traditions of a vanishing race and keeps alive those customs, ceremonies, philosophies, and beliefs.

Through the Improved Order of Red Men, the members establish and build permanent friendships at regular meetings and at a variety of other fraternal and sociable events.

A prime purpose, also, is to aid and assist fellow members in times of need and to give support to recognized national and local charitable causes.

ACTIVITIES

The Improved Order of Red Men is an active member of the All American Conference. The purpose of the conference is to strengthen American democracy and thereby demonstrate its moral, spiritual, and economic superiority over any totalitarian regime, whether it be Communist or fascist.

The Freedom's Foundation at Valley Forge, Pa., made a study of various fraternal organizations and approached the order to participate in the construction of the Hall of Patriots Chapel. Recognizing that such a building would honor our patriotic forefathers and knowing, also, that such a structure would reflect the patriotic spirit and dedication of the order, the members contributed generously to this project. On April 29, 1967, the Chapel of the Faith of Our Fathers and Hall of Patriots—magnificently simple in design and construction—was dedicated on Freedom's Foundation's 100-acre American Freedom Center campus on the western edge of Valley Forge State Park. It is a living memorial to American patriots and serves as a symbolic recognition of the order's contribution to the promotion of American ideals and for the preservation of the American way of life.

An annual national pilgrimage is made to the "Faith of Our Fathers Chapel" in the spring each year with services at the large memorial marker.

In addition to the patriotic activities, the membership distributes bumper stickers for automobiles, posters in attractive colors, and eye-catching mottoes to place in public places, all stressing highway safety.

Since the turn of the century, the Improved Order of Red Men has also successfully demonstrated the foresight of caring for orphans without an institution, finding homes for parentless children, as well as retaining a real home life for the children. Brother Theodore Roosevelt, President of the United States, recommended to Congress the Red Men's plan for caring for orphans.

Many of the Red Men of the 50 States have as their foremost charity project, the raising of funds for retarded children, mainly for the financing in the field of research. Plans are underway to make this a national charity work for the Improved Order of Red Men. The name of St. Tamina—or Tammany—chief of the Delawares and patron saint of the early patriots, has been written in the Red Men calendar as May 12, St. Tammany Day. On this date each year, funds are raised for the retarded children program.

CONSTRUCTION

The League of the Iroquois is considered by some authorities to have been the finest example of a true democracy that the world has ever known. The structure of the Improved Order of Red Men is that of its predecessor in redmanship. A local unit is a tribe.

A State organization is a State Great Council, the membership of which is composed of past Sachems. The national organization is the Great Council of the United States, the membership of which is confined to past Great Sachems of the State Great Councils.

Great chiefs of State Great Councils and the Great Council of the United States are elected by the accredited representatives of those Great Councils and all are raised to their stumps according to the ancient rites and ceremonies of the "People of the Five Nations." The executive head of the Great Council of the United States is the Great Incohonee, a title derived from two Iroquoian words "Ongue Honwe," signifying "superior to all others."

ORGANIZATION OF LOCAL TRIBES

Tribal chiefs are elected by the membership. The elective leadership of a tribe are: Sachem, senior sagamore, junior sagamore, prophet, chief of records, collector of wampum, and keeper of wampum.

The appointed leadership are: Two sannaps, four warriors, four braves, and two guards.

MEMBERSHIP

An applicant for admission must be a citizen of the United States; not under 18 years of age; a believer in a Supreme Being or Great Spirit; of good moral character; sound in mind and body; and have a reputable means of support.

Freedom of thought and action is a cornerstone of the Improved Order of Red Men. It makes no distinction as to creeds, racial heritage, or political philosophies. "As you enter the wigwam, so you depart—a free man." Its membership is drawn from all walks of life. Upon its rolls are names of tillers of the soil, artisans, men of the professions, judges, Congressmen, Governors, and Presidents. The names of Theodore Roosevelt, Warren G. Harding, and Franklin Delano Roosevelt are inscribed thereon.

CONCLUSION

Mr. Speaker, though my duties as a Member of Congress have confined my participation in the Centinella Tribe, I am proud of my membership, and I am proud of the many civic and charitable activities of my brethren in the Improved Order of Red Men.

It is through such fraternal organizations as this that we can look to the future with hope, and with optimism for a better tomorrow.

LABOR DAY

HON. JOHN H. DENT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1972

Mr. DENT. Mr. Speaker, Labor Day is a very special day in this country, a time for pronouncing the policy, aims, and goals which are all a part of the labor movement. They are all of great importance to the Members of Congress and also to the people of the United States.

It has given me great pleasure to insert into the RECORD at this time the text of a very fine address made by president George Meany over CBS on this past Labor Day:

LABOR DAY

(Following is the text of a special Labor Day radio broadcast by AFL–CIO president George Meany over the Columbia Broadcasting System at 9:15 p.m. (EDT) Monday, September 4, 1972:)

This is Labor Day, 1972.

It is a day we have been celebrating for three-quarters of a century—since 1894.

For the trade union movement, this is not only a well-deserved holiday for working people and their families—it is also a time to take stock.

What is the labor movement, really? What's it all about? What are its purposes and goals? How far have we come, and how far have we yet to go, in meeting these goals?

First of all, let me tell you what the labor movement is *not*.

It is not a political party—although to hear some politicians talk, you'd think we were. We are not the property of any political party, and we are not the proprietor of any political party.

So, while we are not tied to any party, we want to see men in office who care about the needs and problems of working people—and who do something about them.

Nor does the labor movement represent *everybody*. We do not represent bankers, corporation executives, Wall Street brokers, or coupon-clippers. We represent those who earn their livelihood by selling their labor—whether it's muscle power or brainpower—to others.

But this does not mean we represent only a small self-interest group. Wage earners and their families make up the great bulk of our population. And the record will show that the achievements of the labor movement have benefitted our entire society—not just union members.

And, finally, the trade union movement was not created by a handful of leaders with a bright idea. It is profoundly rooted in the conditions of modern society. Wherever some men must sell their labor to other men, they have of necessity organized into unions of one kind or another. This is a universal rule, which applies to all workers everywhere—except where they are physically prevented from organizing by brutal government repression, as under Communist and facist regimes.

This is the reason why workers and their unions have always been the staunchest enemies of all forms of totalitarianism—whether of the left or the right. For the first victim of such regimes has always been the trade union movement.

But we do not believe that only Americans are worthy of free institutions and democratic government—while dictatorship and backwardness should be the lot of the rest of mankind. We think that Asians and Africans and Latin Americans and Europeans are all worthy of free institutions and democratic government.

And so, for us in the labor movement, the triumph of totalitarianism anywhere is a setback for labor everywhere—and, indeed, a setback for the whole human family.

There are great differences among nations and among the various labor movements of the world. Yet the impulse toward unionism is universal.

There is a great difference between life in America today and life in America back in 1894, when Labor Day was established. Yet the need for unions has endured. Why?

Because the principle upon which the labor movement is based is dynamic. It does not go out of operation when we reach a certain hourly wage rate, or a work week of so many hours, or a given set of fringe benefits.

Today the average wage earner bears far more than his fair share of the tax burden—while corporations and wealthy families bear far less than theirs.

His wages are tightly controlled while prices and profits are allowed to skyrocket.

Millions of workers are unable to find work—at a time when there is so much work that needs to be done to make life better for all of our people.

Meanwhile, workers are being told today that their wages must be sacrificed to fight inflation, that their factories have to be shut down to fight pollution, and that their jobs have to be exported to low-wage countries so that consumers may purchase supposedly cheaper imported goods.

In short, workers feel that they are getting a bad deal. And in this election year, they're going to see to it that Congress knows the way they feel.

We are going to do everything that we can between now and November to elect a Congress that will redress these grievances of working people—no matter who is in the White House.

First, we want tax justice. We want a system that is not rigged against wages in favor of unearned income.

Today the average American supporting a family of four on wages of $10,000 will pay $905 in federal income taxes. But if he received the same $10,000 as interest on state or local bonds he would pay no income tax at all.

This is not fair. And obviously, there's something wrong with a tax system which last year let U.S. Steel get away without paying a single penny in federal income tax—even though they did $5 billion worth of business—while the steel worker had his taxes deducted from his paycheck.

Along with tax justice, America needs jobs—more jobs at decent wages for all Americans able and willing to work.

America needs 25 million new housing units. We need schools and hospitals, parks and recreation areas. We need mass transit systems in nearly every major city. We need a vast expansion of health services. We need new environmental and anti-pollution projects, and public service programs of all kinds.

These needs are reaching crisis proportions—and yet we have over five million people who can't find jobs. What a waste of manpower.

We've got to get moving. But most of the job cannot be done by private industry or private investors. The real answer is public investment, on a massive scale.

This isn't "wasteful government spending." This is an investment in America—in her future and in her people. This would strenghen the economy, increase purchasing power, improve the standard of living for all Americans.

When we talk about putting our people back to work, we mean at decent wages. So we will continue our fight against substandard wages and for a realistic minimum wage for everyone who works for a living, without any exceptions. Full employment at decent wages is still the best weapon to fight poverty.

We want action from the new Congress to stop the export of American jobs to low-wage countries and to halt the erosion of the nation's industrial base.

We've got to bring our trade policies into line with modern economic realities. While we go on repeating cliches about "free trade," other countries have set up barriers against American-made goods. At the same time, they offer subsidies, tax benefits, and other inducements to attract American capital and technology.

Hundreds of thousands of job opportunities have been lost to American workers because of our outmoded 19th Century trade policies. We in the AFL–CIO are not isolationists. We favor more foreign trade. But we insist that it be fair trade. So we are urging Congress to pass the Burke-Hartke bill, which would go far toward achieving that objective.

We also expect the next Congress to take steps to restore the American maritime industry, which has been all but destroyed by short-sighted policies.

American cargoes—certainly all government-financed cargoes—should be carried in American ships, built in American yards with American-made materials and manned by American seamen. Congress must stop making it more profitable to American shipowners to evade U.S. safety and labor standards by registering under foreign flags.

The next Congress must also face up to the unfairness of the present one-sided system of wage and price controls.

We do not demand special treatment for workers. As long ago as 1966, before any other group spoke out, the AFL–CIO agreed to accept wage controls—provided that there was across the board control of all prices, profits, interest rates, dividends, and every other form of income, as well as wages.

But what happened? Every worker and every housewife knows. Wages were held down, but prices and profits were allowed to go up.

So we are asking Congress to end this double standard. Our message is very simple: Either control prices and profits—just as wages are controlled—or scrap the whole control system. We think that's only fair.

And workers expect the next Congress to protect the right and gains won in previous sessions—rights and gains that are now under attack.

Congress must reject all efforts to undermine free collective bargaining and to impose compulsory arbitration.

It must also reject efforts to erode voting rights, civil rights and civil liberties. It must put teeth in the Equal Housing Act.

Congress must go to extend education opportunities on a free, equal and integrated basis for both children and adults.

There must be action to protect consumers—action on no-fault insurance, on product safety, on fair consumer credit, on truth in advertising and labeling.

There must be action to combat air and water pollution; to create a new national land-use policy and a national energy policy.

There must be action on welfare reform to ensure justice both for those in need and for the taxpayers who pay the cost.

These are some of the issues that American workers will have in mind when they go to the polls next November 7.

They are by no means labor issues alone. They are issues of overriding importance to all the American people, for there is nothing narrow or self-serving about labor's legislative goals.

We are very proud of the title labor has earned as "the people's lobby." We have fought for every single major piece of social legislation passed by Congress in the 20th Century, and we intend to keep on doing just that.

So in this election year, as always, we in the AFL–CIO intend to do everything in our power to help elect Senators and Congressmen who share our goals of justice, equality and progress for all Americans.

We intend to do everything in our power to defeat those who seek greater privilege for the few—and greater burdens, lower incomes and fewer opportunities for the many.

Union members are well aware that America and its institutions are not perfect. The history of the trade union movement is the history of a continuing struggle to improve conditions, to make government more responsive to the needs of the American people.

We will continue that effort to the best of our ability. But we will not join in destroying America or its institutions of government. We will not abandon our commitment to the cause of freedom for all men and all nations—or our commitment to national security.

In the final analysis, each union member will base his or her decision on a personal judgment. No union member's vote is in anybody's pocket. It never will be.

That's why the AFL–CIO urges all union members, their families and their friends to register to vote, to study the issues and the voting records and platforms—and to vote on Election Day.

We have complete confidence in the judgments working people will make in the voting booth. They have never yet shortchanged America. And they are not about to now.

OCCUPATIONAL SAFETY AND HEALTH

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1972

Mr. ANDERSON of Illinois. Mr. Speaker, this morning I was privileged to appear before the Select Labor Subcommittee of the House Education and Labor Committee to testify on the Occupational Safety and Health Act. I was greatly aided in the preparation of this testimony by the results of an informal survey of interested parties in my congressional district. In response to my invitation, employers and employees alike wrote to me offering their specific comments, suggestions, and experiences with OSHA. I am most grateful to these respondents for their full cooperation and most useful and informative comments. If I were to generalize from these comments, I would have to say that the vast majority are in full agreement with the goal of the act to provide a safe and healthful working environment for all employees, but at the same time, there is strong feeling that a little more commonsense and flexibility should be applied in the implementation of the act. On the basis of these comments and suggestions, I have today made four specific proposals to change the act relating to construction industry regulations, consultation, alternative means of compliance, and court costs for appeals.

At this point in the RECORD, Mr. Speaker, I include the full text of my testimony:

STATEMENT OF THE HONORABLE JOHN B. ANDERSON BEFORE THE SELECT SUBCOMMITTEE ON LABOR, HOUSE COMMITTEE ON EDUCATION AND LABOR, SEPTEMBER 13, 1972

Mr. Chairman and Members of this Subcommittee, I am most grateful to you for this opportunity to appear before you today to testify on the Occupational Safety and Health Act of 1970, and I especially want to commend you on holding these hearings during this session of Congress. I am sure your own mail, like mine, reflects the great concern many of our constituents have about the implementation of the Act, and this is further reflected in the scores of bills which have been introduced to amend the Act. So, your willingness to hold these oversight hearings this late in the session is a most encouraging development and a clear indication of your conscientious efforts to exercise your oversight responsibilities and respond to this growing concern.

When I learned of your intention to hold these hearings, I sent letters out to various interested parties in my Congressional District requesting their specific comments, suggestions and experiences with OSHA. As a result of this informal survey, I do not feel a majority of the respondents believe the Act should be changed so as to defeat its original intent of providing a safer working place for *all* employees. However, the consensus of those responding was that the implementation of the Act has ignored the spirit of the law. Perhaps as the many letters from employees and employers alike indicate, all that is really needed is a little common sense.

More specifically, though, I am making four proposals on the basis of these letters in an attempt to make OSHA a more responsive and effective program.

First, I think OSHA regulations should make a distinction between light and heavy construction industries as originally proposed by Congressman Thone in a bill which I have cosponsored.

Secondly, employers should be permitted to request that OSHA officials come into their facilities to advise and consult with them concerning any changes required by OSHA. This I believe would clear up much of the ambiguity and frustration surrounding the Act by allowing employers to obtain advance warning about potential violations of health and safety standards in their plants. It is my understanding that Congressman William Steiger has introduced an amendment along these lines (H.R. 16508) which would apply to firms having 50 or less employees.

Third, employers should be allowed to file for a variance, that is, alternative means of compliance, immediately. As it stands under the present Act, an employer must first pay the penalty for a cited violation and then file for the variance. Allowing a variance initially should encourage greater flexibility in the application of OSHA regulations.

And finally, OSHA should be required to pay the court costs and reasonable legal fees should an employer appeal and win. This would protect particularly those small businessmen for whom the appeals process can be a prohibitory expense.

Now I would like to elaborate briefly on each of these four suggestions, beginning with the proposed distinction in regulations between light and heavy construction. Obviously, there is a need for safe standards for the entire construction industry, yet it is equally obvious that the engineering and safety requirements are considerably different for a two and a twenty story building, just as the equipment used in light and heavy construction is considerably different. For these reasons I have cosponsored Congressman Thone's bill (H.R. 12296) which would require such a distinction be made in the regulations. Since I am sure Congressman Thone will have much to say about this, I will not take anymore of the Subcommittee's time in discussing it; suffice it to say that I fully back this bill and urge favorable action on it.

In connection with this, however, there are also distinctions between small and large businesses which I feel should be given greater consideration in implementing the Act. As an example, a machinist in Rockford, Illinois, employing two fulltime employees, was forced to lay both of them off in order to avoid the impact of OSHA, which, as you know, only applies to firms employing at least one person. Prior to the enactment of OSHA, this machinist had purchased two reconditioned machines for $60,000 and had mortgaged his home and business at $1,000 a month to pay for them. Both machines have open running shafts prohibited by OSHA, and the price of compliance would have meant bankruptcy. The price for the nation, and Rockford, was two unemployed machinists. I might add that the owner is looking into a loan under Section 28 of the Act which authorizes SBA assistance in such cases, but in the meantime he was left with no alternative but to fire his employees.

Similarly, OSHA comes down hard on small businesses which have machinery that may be in violation of the Act's standards, yet which they use only once or twice a year. One letter I received from Rochelle, Illinois, cites the example of manlifts or ladders in some older grain elevators which do not meet stringent OSHA requirements. These are used once or twice a year to lubricate and service the drive units on grain handling legs. The letter goes on to explain that many small businesses are locked into long term leases, and thus are forced to improve and alter buildings they do not even own. OSHA also states that *any* spray painting requires a ventilated room. No doubt this is appropriate in most cases, but it essentially prohibits a small business, which only infrequently spray paints, from doing so.

Another letter which I received was from the W. E. Kautenberg Company in Freeport, Illinois, which employs 60 persons to manufacture sponge mops, spring level mop sticks, brooms, etc.—work which involves stamping metal parts. In October, 1971, as part of a modernization process, the company purchased a newer building and planned to move their present operation there by June of this year. However, they have postponed their move at least a year because of OSHA. It seems that under Section 1910.217(a), concerning "Mechanical Power Presses," all new installations are required to immediately comply with these regulations while existing installations have until August 31, 1974, to comply. However, OSHA directive #100-6, issued March 23, 1972, defines new installations as "any existing machine installation moved to a new plant. . . ." In this particular instance, the regulations have served to slow down modernization which would have substantially improved the overall safety program of that company.

The above is not cited with the thought in mind that exemptions should be made for specific business sizes or activities. The issue is not as defined as it is, in say, the construction industry. Nevertheless, I think it is obvious that, more often than not, it is the cost of compliance, not the penalty, which is the true burden which is borne by small businesses. Safety should be irrelevant to size, and as statistics show 90% of America's employers employ less than 25 employees, who comprise 30% of the 60-million workers covered under this Act. Yet, as the plight of the above businesses vividly demonstrates, flexibility and discretion are necessary when applying like standards to US Steel and a local machine shop. And, as you will note from the examples I have cited, the cost of compliance may be prohibitive in terms of necessary renovation and modernization—something which surely was not intended by the authors of this Act.

I would like to move on now to the matter of consultation, the second proposal which I have made. It seems to me that providing for onsite consultations would further an explicit intention of OSHA as expressed in Section 21(c)(2), that is, "to consult with and advise employers and employees as to effective means of preventing occupational injuries and illnesses." Such consultation could help to break down a major barrier to the effective implementation of the Act thus far, and that is a lack of communication and information flow. As one businessman wrote me:

"We can (only) call the Regional Office and talk to a technical advisor as I have done. Results are very poor and most confusing. I asked seven pointed questions with full explanation of conditions. I received two straight answers and five answers that 'this office *believes* you can do this, but an inspector may not and still give you citations.' "

Another executive wrote that, "In many cases, these standards require companies to interpret requirements, causing many unneeded cash outlays because of errors committed in good faith. This situation is understandable to a certain extent when considering the nature and scope of the Act, but onsite consultations would essentially provide an interpretation of these rules. Furthermore, onsite advice would foster the voluntary compliance basic to the program's success. Consultation would be strictly a privilege and option of an employer. Once officially inspected, the terms should remain as they are today—citations and a period of abatement with daily penalties following if the employer has not complied.

No doubt, it would also be reasonable to make fines a little stiffer at the official inspection if the employer had had onsite consultation about the problem. Thus, the incentive would be retained which would otherwise be lost if, for example, employers were given a period of grace to correct the violation and avoid the fine. This would only lead employers to wait until inspections to act and consequently destroy the overall objectives of uniformity, voluntary compliance and equal competition under safe working conditions.

Now, I would like to discuss my third proposal on variance. An additional means of increasing flexibility and reducing resistance to the Act would be to allow a reasonable variance as an alternative to abatement of a cited violation. Assuming the goal of OSHA is to develop better health and safety practices and not rote obedience to a digest of regulations, it seems to me it is impractical to require an employer to first come into compliance by abating the violation and then appeal on the basis of another method of achieving the same end. Moreover, I would like to see a little more administrative flexibility on the variance Section (6) of the Act.

According to the *President's Report on Occupational Safety and Health*, as of the end of 1971, the Department of Labor had received 108 applications for variances but had rejected all but two on either substantive or procedural grounds. Applications have apparently continued to increase this year, but, as of yet, the Department has not been particularly liberal regarding the "other man's way of doing things." By allowing immediate variance appeals, the process might become a little more complicated, yet it would also be proportionately more responsive to individual situations.

Finally, I am recommending that the Occupational Safety and Health Administration should pay court costs and reasonable legal fees if the government loses on an appeal of a cited violation. Albeit somewhat contrary to the prevailing legal system in the country, this would help minimize some of the risk and expense of the appellate process which could easily have a chilling effect on a small business. If the government prevails on an appeal, the burden would remain on the employer, thus discouraging frivolous appeals but, by the same token, my proposals would make the employer's right of appeal more realistic.

In conclusion, Mr. Chairman, I would like to add that OSHA is a new program and an improving one. George Guenther, the Assistant Secretary for OSHA, is to be commended, I think, for his administration of this new program and for already taking the initiative in modifying some of the more frivolous requirements, including the now notorious split toilet provision and ice water ban. I applaud his flexibility and believe that with the changes I have specified today, OSHA can become an effective and beneficial program.

INTERNATIONAL WRITING PROGRAM

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1972

Mr. SCHWENGEL. Mr. Speaker, sometime ago I commented on the work and talent of a constituent of mine, a man of letters, author, distinguished citizen, and founder, director, and solicitor of funds for the University of Iowa's International Writing Program, Paul Engle.

Recently, Wayne Rindels of the University News Service prepared an article which more fully describes the work and contribution of this great Iowan, this great American, and this great scholar.

Included is an article by Genevieve Stuttaford of the San Francisco Sunday Examiner, entitled "Renaissance Man in Conference."

I hope that my colleagues and all who read the RECORD will take note and read, as I have, with avid interest this display of talent and dedication.

The article follows:

ENGLE HITS $1 MILLION MARK IN WRITERS AID PROJECT

(By Wayne Rindels)

Pretty exciting stuff. Picking up and passing out a million dollars to the best writers in the world, buying sanctuary for them, a chance to produce without pressure.

"You gotta be a tough old goat—which I am—or you get very discouraged. You begin to think the world doesn't love you—for sure the world's money," said Paul Engle, poet, Rhodes scholar, founder of the Writers Workshop at the University of Iowa, and most recently founder, director and solicitor-of-funds for UI's International Writing Program (IWP).

A recent Ford Foundation grant of $100,000 to IWP marked one million dollars' worth of "cajoling, pleading, threatening and playing my violin."

All of the money has gone into the hands of American and foreign writers.

Life was a bit less astronomical when he began raising money for the workshop 12 years ago; he averaged about $45,000 a year.

"Which went to American writers who became very distinguished—James Tate, William Stafford, W. D. Snodgrass—to name just three. I picked up a recent issue of Esquire and found seven contributors who have been in the workshop. That's a lifetime investment—and it's been a good one."

But this new baby—the International Writing Program—is a big eater. About $160,000 a year.

When Engle, 63, retired from the Workshop five years ago, he intended to teach a little and write a lot, but he believed too strongly in an international writing program to slow down.

So he speeded up.

Including the current school year, he has made Iowa a creative sanctuary for 116 writers from almost 50 countries, predominantly in Asia, Latin America and East Europe.

"I wanted to make the whole thing a cooperative international program, where we'd pay part of the cost and the sponsoring country paid part. I figured oil companies in the Near East, for example, would be delighted to sponsor writers. Turns out oil companies are bored with writers.

"I went to see Volkswagen in Germany and Olivetti in Italy—each of them ought to send a writer here."

But the only way Engle's been able to spread his brand of international good will is by pounding on a lot of doors, most of them in the Unnited States.

"Many of them, surprisingly, are corporations," Engle said. "John Deere gives us a generous regular amount with no strings attached. Maytag contributes, so does Sears-Roebuck, Northern Natural Gas and Meredith in Des Moines.

"U.S. Steel agreed to contribute the same week President Kennedy said 'no' to their price raising—I can tell you their thoughts were not on poetry just then.

"If you wax your floors, use Johnson's; if you're in the market for road equipment, I recommend Iowa Manufacturing. There are a lot more restrictions I could put on your shopping list."

Contributors, past and present, number 50. The largest gift was made by a retired woman in California, about $175,000. The Hill Foundation has given $125,000 and the State Department gives about $75,000 annually.

And Paul Engle pays for his own travel.

"Much of our money goes for writers' transportation expenses. Round-trip travel from Tokyo costs about $1,350—which doesn't include the writer's family. We give each writer $500 a month to live on here. In short, about $6,000 per writer per year.

"That means we need about $160,000 annually to keep going, and since UI has no funds available for foreign writers, I have to drum up all of it."

Writers don't usually catch the fancy of money people, Engle said.

"It's so much easier for a foundation to give money for urban problems. I fail about 90 per cent of the time. Man, do I fail. On a majestic scale, I once sent out 80 requests to a list of organizations who contribute to fine arts; 65 said no and the rest didn't answer.

"I spent four years courting a foundation rich enough to support the entire program—and their stated purpose is to advance international study. Not a penny."

But pessimism has never been Engle's bag.

"Last year was very good, Hector Libertella of Argentina finished a novel here that won the largest literary prize in Latin America. Gozo Yoshimasu of Japan was a similar award in his country for work done here. Artur Miedzyrzcki won the annual P.E.N. translation prize in Poland.

"John Batki, a Hungarian, won first prize in the O. Henry Short Story Contest this month. Hua-ling Nieh, of Taiwan, now associate director of IWP, will have a book written here published in New York. Affonso Romeo de Sant'anna won the biggest literary prize in Brazil for a book he wrote here."

Engle said members of IWP were not unpublished young, aspiring writers.

"I have nothing against them, mind you—I probably helped more young writers than anyone in this country. But on an international scale, it's just too expensive. We have to be sure our people are writers.

"The most important reason they're here is that for the first, maybe only, time in their lives, they have uninterrupted leisure to write.

"We do meet every week where each member will talk once about some aspect of writing in his country—what it means to be an African writer, for example. And a few people take classes—but the focus is on writing.

"Another reason the IWP is important is to give articulate people a look at America, and a part of it—Iowa—which is largely passed over by foreign visitors. They get to see a university distinguished in fine arts. Artists have a very respectable position at UI."

"I don't know of another university that supports artists, financially and morally, like this one.

"And third, they gain from knowing each other. Many of their countries don't have diplomatic relations with each other. If someone from East Europe wants to meet someone from Taiwan, he comes to Iowa City.

"Even if the political barriers weren't there, most writers can not afford to travel. And surprising friendships are made—a Korean and a Japanese for, example—that's unheard of!"

[From the San Francisco Sunday Examiner Chronicle, July 18, 1971]

RENAISSANCE MAN IN CONFERENCE

(By Genevieve Stuttaford)

The poet Paul Engle may not be the only non-Jewish Jewish mama in the world, but with him it probably works better. As director of the internationally famous University of Iowa Writers' Workshop, over the years he has helped nurture the talents of Tennessee Williams, Flannery O'Connor, R. V. Cassil, Wallace Stegner and Philip Roth among others.

Last week, Engle's alchemy was in full throttle at the University of Santa Clara Writers' Conference held at Asilomar. "He was a touch of divinity," is how one of the participants, a toughened, cynical former bush pilot turned poet, described him. "He's a renaissance man," another student added.

It would have helped to have at least a pair of skates to keep up with Engle at this conference. At 63, he's still accelerating as swiftly as a ten-speed bicycle, scattering love and knishes, concern, peanuts, olives and radishes in all directions, along with gentle tough criticisms of his students' manuscripts.

"You've got to put in an honest day's work around here," Engle laughed as he sat on the floor of his room hosting a picnic with his beautiful wife of one month, Hau-Ling Nieh. "Have another sandwich," he urged, "you're not eating enough," and was already slicing into a crusty loaf of French bread before anybody had a chance to refuse.

"People who come to these writers' conferences want so much, need so much," he explained. "And there's so little time, just these few days with these strangers to try to persuade them not to be too tender about their work.

LINE BY LINE

"I take a practical view of teaching. It shouldn't be just talk and theory. What it comes down to is the individual work on the page, line by line criticism. I'm always concrete and I'm always honest. No point in my kidding these students."

That talent is rare, even at creative writing conferences, doesn't particularly trouble Engle. There are, he feels, other spin-off benefits for writers who discover they aren't talented. It gives them the chance to come to a clear confrontation with their difficulties to decide they can be "happy just planting a garden, or just to produce a good child is better than to write a bad poem."

"But the principal value of a conference like this," Engle continued, "is that potential writers suddenly realize that there are others with the same problems, that we're all stumbling over the same stones. Most of these people have been working in isolation. Now they get to see that the nature of their problems is not all that intimate or personal."

Aside from working with the participants here in private conferences, Engle read aloud and rewrote their manuscripts in seminars. Such public encounter, he noted, has a point. "It's very healthy, you know. You become forever slightly more aware after that elbow in the eye!"

SELF-CRITICISM

"The most difficult attribute for beginning writers to acquire is self-criticism. They must learn to commit a critical act on their own work, develop that sense of the difference between "interesting material' and creative art. Too often writers feel that the subject is enough. But it's what happens to the material when an imaginative intelligence works with it that's important. The focused eye of the talent. Writers must learn that art is something made, not revealed."

He calls that "Engle's first law," and has devoted 35 years hammering it into potential writers, years that have cut drastically into his own writing time. He teaches writing, he said, because of a sense of "owing," the need to give back some of the things given him as a young poet by writers such as Archibald MacLeish and Stephen Vincent Benet and the English poet Edmund Blunden, his tutor at Oxford when Engle studied there as a Rhodes Scholar.

"When I returned to this country after that experience, I was so excited at the idea that writers ought to be teaching writers that I went back to my own school, the University of Iowa, and started a program," Engle explained. "Not just a creative writing course, but a 'total' program.

"For instance, we did the seminar on Proust that the French department wasn't doing. And we studied Tang poetry. It all ties together, this continuity of imagination. As a matter of fact, I think all teaching of literature ought to begin with creative writing. Students should learn all they can about writing. Then move on to literature."

WORLD WRITERS

Through the years Engle has built the program's reputation to such a degree that writers from around the world consider it an honor to be invited to study and teach there. About six years ago he began to develop the notion of expanding a separate International Writing Program which now gets most of his enthusiasm and time.

To date writers from Ghana, Hong Kong, Roumania, Hungary, Yugoslavia, Mexico, Poland, Sweden and Japan have come to the University for a year's study.

Unlike the regular program the foreign one is concerned only with published writers. "We bring them too far not to know beforehand whether or not they have talent," Engle said. Because of the language difficulties—even though those invited are required to have at least some knowledge of English—Engle has to rely on the recommendations and judgment of foreign friends.

The red-tape involved, especially with the Eastern European countries, is extraordinary, and that brings the State Department into the picture. "We need them. At first it was difficult, but now the Government has become much more sympathetic. I guess we had to prove ourselves first. I'm not a propagandist for any political party, but now it has become easier for us. But always we retain the right to choose whomever we want."

The foreign writers invited are provided with round-trip transportation for themselves and their families, as well as some extra U. S. travel and $500 a month for living expenses.

It all, of course, adds up to a great deal of money. The estimate for the coming year's program is $160,000. And that's where another facet of the Engle mystique surfaces.

The poet-financier takes glee in explaining how he has managed to raise $1 million for the International Writing Program so far: "This is done by flattering tycoons, cajoling the Department of State, threatening old ladies, playing my violin to corporations (who are astonishingly sympathetic)."

"That's the charming and revolting thing about this new effort.

"However," he reminisced, "it is curious for me to look back and see what an intense effort, commitment, I have made all my life, so much time for my own books, and yet I feel lucky that, unlike so many people, my life was spent doing something which seemed to me important to the culture of the time and to this country, which at the moment is taking more of a beating than it should."

CAMOUFLAGING RACISM WITH CODE WORDS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1972

Mr. STOKES. Mr. Speaker, it seems that this is the year of code words. First we had "law and order"; then there was "busing." Now we have "quotas." Different as they may appear at first glance, these code words are identical in meaning and intent. They all provide official justification for efforts to curtail the basic constitutional rights of minority American citizens. The attempt to hide behind the facade of "quotas" is the most recent and, certainly, the most flagrant of the three.

Last month, Mr. Philip E. Hoffman, president of the American Jewish Committee, informed both presidential candidates of his view that quotas in Federal programs must be eliminated. President Nixon replied to Hoffman's letter:

> I do not believe these are appropriate means of achieving equal employment opportunity.

The President, as was to be expected from a man who has not always been candid with the American people, went on to stress his support of the concept of equal opportunity.

Later in August the President instructed his Cabinet on the discontinuation of all quota guidelines in Federal hiring. And then, on September 3, it was learned that the Philadelphia plan was in jeopardy. I am sure my colleagues will remember that this important plan, inaugurated in 1969, said that construction firms, carrying out Federal contracts, were to hire minority employees in proportion to that group's percentage of the population in the area where the construction was being carried out.

As an interesting sidelight, we learned on September 7 that the proportional guidelines would, in all probability, still be used; but instead of measuring a group's percentage of the population of the immediate surrounding area, the area would be expanded. Since much Federal construction occurs in large metropolitan areas, where large numbers of blacks are concentrated, the percentage of blacks will be severely lowered if the Philadelphia plan is modified in this manner. But—and this is extremely important—quotas will still be in use. This says to me that the problem, in the President's mind, is not with quotas at all, but rather with the number of blacks in a particular field. The problem is racial.

In my research on the subject of quotas, I found that the percentage of blacks in Federal jobs has never exceeded the 11 percent that we count for in the population—except in service and clerical jobs. Black employees comprise 25.4 percent of the Government employees who earn less than $5,000 a year; among employees earning $30,000 and over, 1.6 percent are black and 97.5 percent are white. I learned that as of May 31, 1971, all minority groups taken together represented only 2.7 percent of the Federal employees at the GS–16–17 level: 3.9 percent of the GS–14–15's; 5 percent of the GS–12–13's; and 8.6 percent of the GS–9–11's.

While this controversy was growing, an 8-month-old report by the Department of Labor came to light. That report contained conclusive proof that black employees are underutilized in the Department; that they are concentrated in the lowest civil service grades, regardless of educational attainment, length of service and the desire to advance; that little effort is made to encourage overqualified minority employees to advance to challenging positions. For example, the Department's EEO Task Force, which compiled the report, learned that, "Three departmental upward mobility programs have affected only 45 out of 3,500 nonprofessional employees over the past 5 years."

The report's authors concluded, after presenting elaborate statistical data to support their findings, that quotas were not only an acceptable means of making equal employment opportunity a reality, they were absolutely essential. They went so far as to recommend specific percentages as acceptable: 12 percent for blacks, 8 percent for nonblack minorities and 31 percent for women—on all levels of the departmental bureaucracy.

Thus, while President Nixon maintains that quotas are unnecessary and unfair, at least one Federal agency admits to having a poor record and offers concrete suggestions about how to improve that record.

Columnist Carl T. Rowan, who never fails to add insight and compassion to national events, has written an outstanding column about quotas. He called his article, " 'Lucky' Blacks and Job Quotas." It appeared in the Cleveland Plain Dealer on September 6, 1972. His first sentence sums up the compounded irony of the entire situation:

> It is going to come as a wry shock to millions of hungry, miserable black Americans that they have been getting so many of the goodies of American life that the white majority feels discriminated against.

Mr. Speaker, I urge my colleagues in this Chamber to read Mr. Rowan's important column. I further urge them to abandon code-words and hypocrisy, in an honest effort to solve the terrible problems that confront minority, poor, and disadvantaged Americans.

The article follows:

"LUCKY" BLACKS AND JOB QUOTAS

(By Carl T. Rowan)

WASHINGTON.—It is going to come as a wry shock to millions of hungry, miserable black Americans that they have been getting so many of the goodies of American life that the white majority feels discriminated against.

But that is exactly what President Nixon is telling us as he prohibits job "quotas" in federal employment.

This is a political year, and the President knows that all sorts of whites (including those in the American Jewish Committee, to this reporter's dismay) are yelling about quotas. So I understand the political wisdom of Mr. Nixon's gambit, even while deploring it as abysmal leadership.

The problem is that millions of white Americans who do not remotely consider themselves racists know of some instance where a black got something they think their child or a friend was entitled to. So they have swallowed the notion that "the government is giving everything to blacks." Or they utter with bitter relish the cliche that "the thing to be today is black—and a woman."

One of my columning colleagues put it succinctly recently when he deplored racial quotas by saying: "It has reached the point in many instances where a black of inferior qualifications is preferred to a white with superior ones. A black with a modest academic record can frequently take his choice of half a dozen prestigious colleges; a white with the same or better grades often will have to settle for a state university."

Since whites usually decide who is inferior and who is superior, that is an easy allegation for a white man to make, although he can scarcely tell you who the inferior black is who took a job from which superior white person.

The Civil Service Commission, which is to enforce Mr. Nixon's ban on quotas, has put out a report on minority employment in government that the President ought to read. So should my columning friend. It shows that of all government jobs paying more than $20,000 a year, blacks hold a mere 2%. Of those paid less than $5,000, blacks hold 25.4%.

Is that discrimination against whites? The only effective "quota" for blacks is in the messenger, janitorial, menial categories.

All the minorities in the nation—blacks, Orientals, Spanish-surnamed, etc., which make up about 20% of the population—hold a mere 2.7% of the top-level (GS 16–18) jobs in government.

That report proves that it is a blooming outrage for people who ought to know better to feed white paranoia with this malarkey suggesting that minorities are getting jobs that whites are entitled to.

You read, or listen to, this nonsense about "quotas" and all you can think of is that one black American in three lives in poverty; that blacks are unemployed at twice the rate of whites; that the normal black family must make do on 60% of the income of the normal white family. You wonder how long you can preach responsible struggling within the system in the face of such cruel, cynical, dumb talk about "quotas."

Honest officials have simply noted that the bureaucracy does not respond to general orders to end discrimination. You have to spell out a "goal." Only then will personnel departments cut out the nonsense where a black college graduate is adjudged scarcely capable of cleaning spittoons.

FOREIGN AID: AN INTERNATIONALIST INSTRUMENT TO DESTROY PROGRESS

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1972

Mr. RARICK. Mr. Speaker, the foreign aid bill is tentatively scheduled for floor consideration toward the end of this week.

At that time we can expect to be bombarded by letters from people with good intentions who support foreign aid because they feel either that this is the only way poor countries can defeat poverty or stagnation, or that foreign aid is necessary to prevent an ever-widening gap between per capita incomes of the countries of the world.

These arguments simply do not hold water, according to P. T. Bauer, professor of economics at the University of London. His book, "Dissent on Development," points up the fallacies in the argument for foreign aid and shows that it is not a requisite for economic development of a backward country and may, in fact, be harmful to the country's development by imposing a "managed economy" on its society.

Professor Bauer argues:

> Economic achievement and progress depend largely on human aptitudes and attitudes, on social and political institutions . . . and to a lesser extent on external contacts, market opportunities and natural resources. If these factors favorable to material progress are present, societies will not stagnate.

Professor Bauer goes on to say:

> If the mainsprings of development are present, material progress will occur even without foreign aid. If they are absent, it will not occur even with aid.

Why, then, we may ask, do we have foreign aid? Professor Bauer's comments are incisive:

> The pursuit of certain unacknowledged political objectives seem to be present in much of the development literature. . . . *What appears superficially to be conflict between developed and underdeveloped countries is more nearly one aspect of a campaign against the west: there are many people in the west who for various reasons have come so to dislike major institutions of western society, especially the market economy and its corollaries such as private property, that they regard the radical weakening of these institutions as a major objective of policy. Many of these people, influential in the universities, the mass media and the international organizations, consider the underdeveloped countries as allies, or rather as instruments, in the promotion of their aims.* (Emphasis mine.)

I include in the RECORD a related editorial from Barron's, September 18, 1972, following my remarks, along with a related newsstory:

[From Barron's, Sept. 18, 1972]

DISSENT ON DEVELOPMENT—A BRITISH SCHOLAR DESTROYS THE CASE FOR FOREIGN AID

(By David A. Loehwing)

Washington, even with the candidates out on the hustings, won't lack for spectacle next week. Envoys from 123 countries will gather there for a meeting of the International Monetary Fund, hoping to make a start on patching together some kind of world monetary order to replace the Bretton Woods Agreement, shaken a year ago last August when the U.S. went off gold. The outlook, admittedly, isn't too bright. For one thing, the U.S. still is dragging its feet, insisting that accord on tariffs and other trade barriers be part and parcel of any monetary pact. Equally disconcerting will be the din set up by the have-not, or "developing," nations, whose representatives outnumber those of the "affluent" countries by almost five-to-one. Their shtick is that they want any new monetary system to give them permanent aid. Indeed, they demand theirs right off the top. SDRs, replacing gold in the world monetary system, would not be issued by the IMF on the basis of each nation's subscription, as is now the case, because that way they would simply go into the same old affluent-nation coffers. And that's a bore. Instead, they would be channeled to the developing nations, presumably the largest sums ticketed for the most poverty-stricken. The lucky recipients could swap the SDRs for real, honest-to-goodness merchandise from the rich.

Advocated by a Belgian economist at last spring's UN Conference on Trade and Development in Santiago, Chile (where else?), the foregoing proposal had to be watered down before adoption, because some have-nots feared it would be used by the well-to-do as an excuse to cut back, rather than step up, foreign aid. The widespread support it received, nevertheless, illustrates the attitude of the developing nations toward help from the "developed" countries. Simply put, the beneficiaries insist it's a permanent arrangement; it's theirs by right; it's not enough. Nor is it surprising that they should grab for the handouts so ungraciously when they are constantly being assured by economists and other self-styled experts from the industrialized nations that aid is, in effect, permanent, rightfully theirs and too parsimonious. This view amounts to a consensus in the tight little circle of jet-set economists, anthropologists, diplomats and civil servants who administer relief on a global scale. Somehow they have won acquiescence from otherwise rational statesmen. Nothing in public life, however, is as suspect as a consensus, and fortunately an able iconoclast has emerged to challenge this one. He is P. T. Bauer, professor of economics at the University of London, who sets forth his unorthodox views in a book entitled "Dissent on Development."

Over the past quarter-century, according to former Treasury Secretary John B. Connally Jr., the U.S. has paid out about $150 billion in foreign aid, outlays which to some extent are responsible for the balance of payments deficits that wrecked the international monetary system. Most of the other industrialized countries now are caught up in the same fruitless philanthropy, to such an extent that the flow of financial resources to the developing countries—about 65% of which is in the form of grants, the rest loans—amounts to $18 billion annually, up from $9 billion a decade ago. Far from contributing to world peace and harmony, this vast outpouring tends further to divide the world. Witness last week's holdup of a U.S. loan to Uganda after the president of that country, in a letter to the UN, lauded the Nazi slaughter of six million Jews. Indeed, the very concept of development, as propagated by the foreign aid specialists, is belligerent. It holds that the poverty of the poor countries has been caused by the wealthy ones; foreign aid, therefore is merely a form of compensation for past exploitation. Moreover, were it cut off, the poor would rise up and overwhelm the rich. By subjecting such axioms to critical examinations, Professor Bauer destroys the argument for foreign aid.

The foundations on which the case for development grants and loans rests, Professor Bauer says, are two hypotheses which experts have stated so often and so positively they are taken for granted. One is that the poor countries are caught in a vicious circle of poverty and stagnation; they cannot generate the capital necessary to pull themselves out of their predicament, because doing so would mean cutting consumption below the subsistence level. In other words, as one oft-quoted scholar puts it, "a country is poor because it is poor." The other key postulate is that of the ever-widening gap. It holds that, because the poor countries can't advance, they will inevitably lag or retrogress, while the wealthy ones will forge ahead; the disparity between per capita incomes therefore will grow. Logically, if these two statements are true, the only way out is continuing large-scale financial support of the poor by the rich nations. Professor Bauer, however, marshals persuasive evidence to the contrary on both scores.

The theory of the vicious circle, he notes, runs counter to the facts. All wealthy nations once were poor; if poverty prevents capital accumulation, how did they make the grade? The Pilgrims, to be sure, got some technical assistance from the Indians, who told them to plant fishheads under the corn stalks, but otherwise the U.S. started from scratch. Its success, moreover, is being emulated in many parts of the world. The economies of Mexico and Brazil are growing faster than that of the U.S. Nigeria's exports, mainly of ground nuts and cocoa, increased 100-fold in the first half of this century, although foreign capital input was practically nil. Hong Kong, a barren rock with no appreciable resources other than its people, has become a manufacturing center so competitive that western countries have put up trade barriers to protect their domestic industries. "Economic achievement and progress," says Professor Bauer, "depend largely on human aptitudes and attitudes, on social and political institutions . . . and to a lesser extent on external contacts, market opportunities and natural resources. If these factors favorable to material progress are present, societies will not stagnate. . . ." As for the thesis of the widening gap, it is largely based on statistical aberration. If the average income in Ethiopia is really $40 per year, how do Ethiopians not only survive, but multiply? Actually, per capita incomes in many parts of the Third World are increasing as rapidly as those in industrial countries, but the gains are obscured by lumping them together with the slow growth rates of India and Indonesia. The latter's problems, obviously, have little in common with those of Peru or Nigeria.

The English economist contends that foreign aid is not a requisite for economic development of a backward country. "If the mainsprings of development are present, material progress will occur even without foreign aid," he says. "If they are absent, it will not occur even wtih aid." Sometimes foreign aid is detrimental, especially when its administration saddles a poor country with a "managed economy." On that score he points to the government export monopolies in West Africa, which drain off peasants' profits from cocoa and coffee plantations to support dubious social schemes, and to the once-prosperous Indian province of Kerala, now impoverished by inflation. Frequently, too, foreign aid induces governments to launch grandiose and ill-conceived industrialization schemes while neglecting agriculture, normally the best hope for raising living standards in a developing country. Unaccountably, financial help from abroad also seems to foster xenophobia. Hostility toward "expatriates," as foreign managers and employes are called, has been a factor in the decline of tea plantations in India and Ceylon; Burma's rice economy nose-dived after the forced departure of Indian landlords; Uganda's economy certainly will suffer from expulsion of people of Asian descent. India, of course, is guilty of the worst misuse of foreign aid—the military buildup for its attack on Pakistan.

If foreign aid is not needed and in some cases actually is harmful, why is its perpetuation advocated by so many economists of international repute? Says Professor Bauer: "The pursuit of certain unacknowledged political objectives seems to be present in much of the development literature. . . . What appears superficially to be a conflict between developed and underdeveloped countries is more nearly one aspect of a campaign against the west: there are many people in the west who for various reasons have come so to dislike major institutions of western society, especially the market economy and its corollaries such as private property, that they regard the radical weakening of these institutions as a major objective of policy. Many of these people, influential in the universities, the mass media and the international organizations, consider the underdeveloped countries as allies, or rather as instruments, in the promotion of their aims."

Is anyone at the IMF listening?

[From the Evening Star and Daily News, Sept. 18, 1972]

POPULATION GROWTH KEEPING POVERTY UP, WORLD BANK SAYS

(By Leo M. Cohn)

Poverty is increasing in underdeveloped countries despite their gains in total production and income, partly because their populations are growing too fast, according to the World Bank.

Total output and income in these countries have advanced by more than 5.5 percent annually during the last 10 years, and the pace has accelerated recently, the bank said in its annual report yesterday.

It estimated a production increase of 6.9 percent in the underdeveloped countries last year, compared with 4 percent in the industrial nations.

While the total gains in the underdeveloped world have been "impressive," the report said, aggregates and averages hide "the grim realities of how life at the lower end of the scale is lived by the poorest among nations and the poorest within nations."

For example, it said, the totals are raised by especially sharp advances in a small number of countries, including the oil producers, while other countries are making little headway.

"As a generality, it is probably true that the world's burden of poverty is increasing rather than declining," the bank said, blaming the backsliding partly on "the continued rapid rate of population growth, which dilutes the benefits of development."

The 117-nation bank makes loans to assist development in underdeveloped countries, and provides economic and technical assistance. It issued the report in advance of its annual joint meeting with the International Monetary Fund here starting Sept. 25.

The bank and its affiliates for the first time approved loans and investments exceeding $3 billion in the fiscal year that ended June 30, the report said.

This total included $1.97 billion in loans by the bank, up from $1.92 billion the year before; $1 billion in credits by the International Development Association, which makes loans on "soft" terms, up from $584 million; and $116 million in investments by the International Finance Corp., up from $101 million.

INDUSTRY AND POWER

Because the United States again deferred confirmation of its scheduled three-year contribution of $960 million to the IDA, that bank affiliate had to rely last year on voluntary advance contributions of $448 million from 15 countries to finance its operations.

The bank raised funds by borrowing $1.74 billion last year, an increase of 21 percent over the year before which raised its total debt outstanding to $6.95 billion.

In another report anticipating the annual meeting of the bank and IMF, the Atlantic Council yesterday recommended a program for reform of the international monetary system and for interim measures to hold the system together during the reform negotiations.

FOWLER REPORT

The council is an organization of leading Americans in industry finance and diplomacy. Its monetary committee, which issued the report, is headed by Henry H. Fowler, who was Secretary of the Treasury in the Johnson administration.

Prompt, small and if necessary frequent changes of currency values should be required to adjust balance-of-payments surpluses and deficits, the report said. It recommended the lodging of authority in the IMF to propose these changes.

Countries persistently refusing to make necessary devaluations or revaluations could be subjected to penalties, such as denial of credit to deficit nations and trade restrictions against surplus nations, the report said.

When the new monetary system is established, the report recommended, countries with excessive holdings of dollars should be allowed to turn them in to the IMF in exchange for "currency deposit credits," which would be used as reserves. The IMF would invest these dollars in U.S. Treasury debt securities.

REDEEMED BY UNITED STATES

Dollars accumulated abroad after this initial exchange would be redeemed directly by the United States through payments of gold and other reserves.

Special drawing rights—reserves created by the IMF—gradually should become the basic international monetary reserve although gold would retain a diminishing reserve role, and dollars and other currencies still would be used in market operations, the council recommended.

NIXON LANDSLIDE BUILDING—SAMUEL LUBELL

HON. WILLIAM L. SPRINGER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1972

Mr. SPRINGER. Mr. Speaker, perhaps it is time to take a look at another of the public opinion researchers, Samuel Lubell. Samuel Lubell has had remarkably accurate predictions and analyses of election patterns and returns since 1952 and there is no reason to believe at this point that Mr. Lubell is less accurate than he has been in the past. The important findings of Mr. Lubell indicate that his interviews in 19 States of former supporters of HUMPHREY and Wallace many of the voters are shifting to Nixon.

The surprising two points found out by Mr. Lubell are that the voters are reinforced by two rather strong beliefs; one, to halt Government pressure on behalf of blacks and second, to assert a new competitive sense of individualism that would press the voter's self-interest to the limit.

As most of us know, this would virtually overcome the New Deal's basic philosophy that active use of Government in behalf of all people often benefited to repress racial antagonism.

The final conclusion that Mr. Lubell comes to is that the Nixon landslide is building up across the country because of a remarkable feat of psychological warfare on the part of the President. I herewith append the findings of Samuel Lubell as printed in the Sunday, September 17, 1972, issues of the Washington Star-News:

NIXON TURNS VOTER WRATH AGAINST FOE

(By Samuel Lubell)

Churning away behind the Nixon landslide building up across the country is at least one remarkable feat of psychological warfare.

None of the presidential elections I have covered since 1952 has generated such intense voter resentments, and over so total a range of discontents—from the war and rising prices, to welfare, taxes, school busing, job and retirement fears.

However, Nixon, instead of becoming the target for these wraths—as usually befalls a president in office—has managed to turn these angers against the Democrats with crushing political effect.

In doing so the President may actually be on his way to establishing a "new Republican majority," but it will hardly be the quiet, contented majority that was seen on TV at the Miami convention.

My interviews in 19 states with former supporters of Hubert Humphrey and George Wallace indicate that many of the voters who are shifting to Nixon will be bringing with them at least two fierce drives:

To halt government pressures on behalf of blacks, even to the extent of pushing some racial issues such as busing and job preferences out of effective national politics.

To assert a new competitive sense of individualism that would press one's self-interest to the limit.

How he can tame these two drives will be the constant problem confronting Nixon in a second term.

Actually, these drives were linked politically by Nixon more than by that master mechanic of discontent, George Wallace.

When Wallace entered this year's Democratic primaries, he did what seemed like a simple thing: he wired together into one explosive circuit the school busing issue with sticks of T.N.T. labelled "tax relief."

The result, wherever he campaigned, was virtually to blow up the New Deal's basic philosophy.

The Roosevelt coalition had been built on a belief in the active use of government in behalf of all people, the benefits often serving to repress racial antagonisms.

Since every use of government is paid for in taxes, Wallace's clamor for tax relief discredited all government.

In the past the argument that "the government has its hands in too many things" has usually been advanced to justify a freer hand for business. Had this message come directly from Nixon, one doubts whether it would have been received so warmly by workers complaining that "Nixon is the tool of business' or "he froze our wages but not prices." Wallace, however, has always been seen as the "real voice of the working man."

George McGovern and other Democrats apparently did not appreciate how antigovernment in its thrust Wallace's "populism" was, not that such a credo could stimulate racial resentment.

Currently one of McGovern's tougher handicaps is that he still comes through to many voters as a champion of further black pressures by the government at a time when many are reassessing the "work ethic" in envisioning society for the future.

A typical reaction was expressed by a salesman and his wife in a Jewish neighborhood in Queens, N.Y. They had never voted for a Republican president before but were shifting to Nixon.

"Minorities are getting everything now and they're squeezing out the middle class," he complained. "We were poor but worked our way up and never asked for help. They want everything for nothing and won't work for it."

His wife added, "I'm sorry, but I'm tired of it. I don't want to hear about their problems any more."

That McGovern faces a complete shut-out in the south is not surprising. The forging of racial angers with an antigovernment philosophy has been developing in the south since the Supreme Court's 1952 desegregation decision.

In one worker neighborhood in Richmond, Va., where Wallace drew 40 percent of the vote in 1968, every white person interviewed was going for Nixon. The prevailing sentiment, voiced by the wife of a casket salesman, was, "The only issue I follow is busing."

To her that issue was "the government wants to tell us what to do with our children. I'll raise them the way I want to."

So intense was this antigovernment antagonism that many parents balked at proposals that federal funds be given to private segregated schools, or even that tuition grants be made directly to parents.

Typical comments ran:

"I wouldn't be obligated to the government for anything."

"The government just wants a toehold on us to do what they want with us. I don't trust 'em."

On economic issues, outside the south, the antigovernment philosophy still has not gained general acceptance. My interviews do show, however, that the squeeze of continued inflation, mounting war and welfare costs and rising taxes have spurred an every-man-for-himself scramble to protect or advance his own self-interest.

Some surprises emerge. When one isolates the interviews of those who voice the strongest attacks on government, these voters generally are doing better economically than a year ago. They also are the shifters to Nixon. Those who are most hardpressed tend to stick with McGovern.

Nor is there any evidence as yet that economic recovery appeases the "I want more" urge.

Some workers are clearly fighting to be able to spend more of their higher earnings. Near Baltimore, a 21-year-old electronics technician pointed to a new car and motorcycle that he had bought during the past three months. He argued against social security taxes, saying, "we shouldn't have to pay it if we don't want to. The government doesn't use it all for people on social security."

He paused and added, "to be honest, I don't know where the money goes. I just resent them taking it away from me."

With older workers, inflation is the dread insecurity. Among the complaints recorded in my interview notes are:

"You save over the years and then see your money dropping in value all the time. . . ."

"When the man of the house retires he shouldn't have to pay property taxes. . . ."

"Social security should be dropped to 60 years of age. . . ."

"A $650 deduction for a dependent isn't enough. . . ."

"You shouldn't have to work at the same place for 40 years to get a decent pension. . . ."

Almost no one seems to feel at ease, that he or she has enough.

"As far as I'm concerned these taxes are pure stealing," protested a Michigan truck driver. "I work 15 hours a day and make $400 a week, but I pay $100 a week in taxes."

Still, he argued strongly for an increase in defense spending and accused McGovern of "cowardice" in wanting to pull out of Vietnam.

To sum up, with inflation still out of control it probably is unavoidable that every individual should be driven to push any rise in any of his costs onto someone else.

Still, after four New Deal decades, it seems clear that a real surge of aggressive individualism would come to us as a new form of government. It might become easier to shed excesses and abuses; it could also serve as an excuse for shrugging off unwanted or unmanageable social burdens.

Individualism also appears to generate its own, want-more dynamics and psychology, which are not necessarily self-correcting. In fact, curious changes in policy can be forced as has happened with Nixon's family welfare plan, once his No. 1 priority and now apparently shelved.

ABOLITION OF THE DEATH PENALTY

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1972

Mr. CLAY. Mr. Speaker, several months ago, the Supreme Court, in an historic decision, abolished regular use of the death penalty, on the grounds that it is a cruel and unusual punishment, to be used only in connection with the most heinous crimes.

Many people have commented on this decision, and the potential effect it will have on our system of justice. All seem to agree that it is a momentous one, and one that deserves great examination by lawmakers and private citizens as well.

In St. Louis, a local radio station, KMOX radio, broadcast an editorial opposing the Court's decision, and requesting comment from qualified community representatives. Mr. Eugene Bruder of the American Civil Liberties Union of Eastern Missouri took that opportunity to express the position of that organization of the subject of capital punishment.

Mr. Bruder particularly emphasizes the discriminatory application of this form of punishment against black and poor people convicted of serious crimes. I believe his arguments reflect a true situation, one that exists not only in the South, but all across the Nation.

Mr. Speaker, the comments by Mr. Bruder, bear relevance for all who are concerned with the protection of the constitutional guarantee of justice. Therefore, I commend this article to my colleagues, and include it in the RECORD of today's procedings:

KMOXRAD O1120—EDITORIAL REPLY

Subject: All the Help we Can Get.
Spokesman: Mr. Eugene H. Buder.
Broadcast: Aug. 3, 1972, 8:50 A.M., 5:20 p.m.

(Recently, KMOX Radio broadcast an editorial criticizing the recent Supreme Court decision on the death penalty. The following is a statement opposing the station's editorial stand by Eugene H. Buder. Mr. Buder is an attorney and member of the Legal Panel for the American Civil Liberties Union of Eastern Missouri.)

We of the American Civil Liberties Union of Eastern Missouri applaud the recent decision of the Supreme Court abolishing the death penalty for murder and rape, and tightly constricting its future use, if any, to specially selected heinous crimes. We think that Congress and the states should follow through by abolishing capital punishment altogether.

Two of the Supreme Court Justices voted for total abolition, on the grounds that capital punishment causes great physical pain and suffering, and denies human dignity, that it is arbitrary and capricious, in no way limited to the worst offenses; that it has in actual fact been rejected by the American people; and that it is not demonstrably necessary in order to deter crime.

Three other Justices voted, only that as now imposed, capital punishment is unconstitutional because it hits in an arbitrary, capricious, freakish and irrational way, is rarely invoked, but tends to discriminate against blacks, males and the poor, the ignorant and the underprivileged. We submit that all five majority Justices are right as far as they go.

KMOX does not discuss rape, but cases of the death sentence for rape are extraordinarily rare, and are mostly cases in the South in which blacks have been singled out for raping white women. Some would approve of this discrimination, but it is profoundly unjust.

KMOX complains mainly of the convicted murderers who are and will be turned loose on society. But of all criminals, murderers are the least likely to repeat. True, parole can be granted very early in a prisoner's term, but not until the parole board is satisfied that it is in the best interest of society. As for the mass murderers, they are generally insane, and hence not subject to the death penalty anyway.

KMOX says that the Supreme Court decision is a lawyer's delight, but instead it should be called the lawyer's relief. There have been no executions since 1967, and the public actually demands that every legal avenue open to a condemned man be explored. When a lawyer gets such a case he has to drop everything else, and work and worry, usually without any fee. Such business we lawyers are glad to lose, and to that extent KMOX is right.

THE MINIMUM WAGE AND CITY GOVERNMENTS

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1972

Mr. ERLENBORN. Mr. Speaker, this morning's mail brought a letter from the National League of Cities in which are detailed the problems city governments will face if Congress adopts certain provisions of the Senate-passed minimum wage bill, H.R. 7130:

First. Extending the minimum wage and overtime provisions of the Fair Labor Standards Act to municipal employees, as the Senate version proposes, would mean that Congress would be imposing decisions—decisions that should be made at the bargaining table—upon elected local government officials.

Second. The adoption of those provisions of S. 1861 which relate to firemen's hours and overtime pay would completely disrupt all existing labor contracts and could force local governments to choose from several options, all of which are unsatisfactory.

Third. If cities must pay students $2 or more an hour, as would be the case in the Senate bill, the league estimates a loss of approximately 1 million summer jobs—in city governments alone—for minority young people.

The complete text of this letter follows, and I commend it to my colleagues' attention.

NATIONAL LEAGUE OF CITIES,
Washington, D.C., September 15, 1972.

Hon. JOHN N. ERLENBORN,
Education and Labor Committee, Cannon House Office Building, Washington, D.C.

DEAR CONGRESSMAN ERLENBORN: It is our understanding that some time in the next few days either the subject of conferees on the minimum wage bill will again be before the House of Representatives or some compromise will be worked out between opposing viewpoints in the House. We'd like to take this opportunity to call to your attention to some of the problems city governments will face if coverage by the Fair Labor Standards Act is extended to municipal employees as provided in the Senate-passed bill.

First and foremost, the National League of Cities Policy, which is reviewed and revised annually by city officials representing 15,000 municipalities, quite clearly opposes any extension of the provisions of this Act to cover municipal employees. This objection is based on the principle that elected local government officials should not have these types of decisions forced upon them by elected federal officials. The wages, hours and conditions of employment of local government employees should be settled at the bargaining table and not in the United States Congress. We therefore have advised and urged our members to support the Erlenborn substitute.

However, if the concept of full coverage of the Fair Labor Standards Act is absolutely non-negotiable, may we suggest some specific provisions of the Senate-passed bill that might lend themselves to compromise. Our most overriding concern is extension of the overtime provisions to certain categories of municipal employees, as for example, firemen, police and part/time or seasonal employees such as students and summer recreation personnel.

The traditional terms of employment for firemen provide for a 56-hour week, (often 24 hours on duty, 24 hours off duty), an arrangement which firemen have always preferred to a straight 40-hour week utilized for most other municipal employees. By accepted standards, fire department personnel spend a relatively small percentage of their on-duty time in response to fire calls and a far greater part of their time in non-productive activities such as eating, sleeping and recreation. The adoption of those provisions of S. 1861 which relate to firemen's hours and overtime pay would completely disrupt all existing labor contracts and could force local governments to choose one of several options, all of which are unsatisfactory:

(1) increase tremendously the property tax burden or find some other source of revenue;

(2) reduce the level of service provided by fire departments by simply reducing manpower on duty and/or equipment and fire station houses; this, of course, would drastically increase fire insurance rates for the public;

(3) revert paid fire departments to volunteer fire departments with just enough paid firemen to drive the trucks to the fire; and

(4) reduce the level of service in some other function of municipal government to make funds available for increased personnel costs in the fire department.

Extension of the Fair Labor Standards Act to firemen will cause additional problems in terms of policemen. Most cities have attempted to maintain, at the very least, a degree of parity between police and fire personnel salaries. Coverage of firemen under the Act would in most instances mean a salary increase in excess of 14%. Even if law enforcement personnel were specifically excluded, they would hardly expect less. But, more importantly, extending the overtime provisions to police could seriously jeopardize public safety since many cities lack the financial capacity to call law enforcement officers back on duty in crisis situations if they are required to pay time and a half.

In addition to the effects on fire and police services and costs, passage of the Senate bill would undoubtedly put an end to the efforts of our cities to employ a larger number of local young people needing earning power and a constructive job experience during the summer months. If the provision including summer or student help is retained, the result will be a substantial reduction and in many cases a total abolition of student hiring. There is no city in our experience that would be willing, much less able to afford, paying $2.00 or better an hour for a towel boy at the swimming pool. We estimate a loss of approximately 1 million summer jobs for minority young people.

We urge you to oppose those provisions of S. 1861 which extend coverage to municipal employees; but if this is not possible, we strongly urge you to seek an amendment to exclude firemen from coverage or to modify the formula so as to recognize the traditional 56-hour work week. We further urge you to give serious consideration to eliminating inclusion of part/time or temporary student personnel. It makes little sense from our perspective for the federal government to urge youth employment through such programs as NYC on the one hand and to make implementation of local initiatives in this direction impossible on the other.

Sincerely,

ALLEN E. PRITCHARD, Jr.,
Executive Vice President.

HUD'S LOW-INCOME HOUSING PROGRAM

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1972

Mr. ASPIN. Mr. Speaker, HUD's $235 million program purchasing existing housing for occupancy by low-income people is a gigantic flop. These huge expenditures of public funds have done nothing to alleviate the Nation's housing shortage or reduce the number of people living in substandard housing.

In addition, the Government sometimes pays too much for some private housing that it purchases according to a General Accounting Office report released last week.

The Federal Government has assisted local housing authorities in the purchase of more than 16,000 housing units in multiple-unit complexes which do not need repairs and are intended for low-income families and the elderly. This program is distinct from sections 235 and 236 housing programs which build new homes and rehabilitate other dwellings.

Mr. Speaker, this $235 million has not built or rehabilitated any new housing at a time when we need millions of new homes. It costs approximately the same —$18,000—to build a new, low-income unit or purchase an existing housing unit. But rather than build new housing or rehabilitate old housing, HUD seems more interested in permitting big, private owners to unload apartment buildings that are probably low-profit operations.

Mr. Speaker, I am asking the General Accounting Office to investigate further the purchase of private apartment buildings with Federal funds to determine whether or not these purchases were in fact nothing more than bailouts for big property owners who were losing money on these buildings.

In New York City, for example, 30 percent of the people living in housing purchased through HUD were ineligible because of excessive income. In addition, 32 of 152 families, permitted to move into the housing projects, were ineligible for occupancy.

The GAO concludes:

> It seems inappropriate for the LHA (the Local Housing Authority) to have admitted 152 ineligible families when so many eligible families were waiting for housing.

Mr. Speaker, more than 135,000 eligible low-income families are on a waiting list in New York City for low-rent units.

As a result of either bureaucratic bungling or some form of political shenanigans, these ineligible people are getting public housing units.

The same situation exists in Washington where 30 percent of the residents of one project purchased with Federal funds are ineligible for low-income housing. In Cleveland, HUD has permitted a local housing authority to pay 10 percent—over $70,000—more than "fair market value" for an apartment building.

Overall, the GAO concludes that HUD's program has "not resulted in substantially reducing the number of families or persons living in substandard housing."

Mr. Speaker, this HUD program also robs local communities of millions of dollars in property taxes. The GAO found that in 10 projects studies, more than $310,000 of property tax revenues were lost as the result of the transfer of property from private ownership to public housing authorities.

One possible solution to this tax loss would be a program of leasing property from private owners for use as low-income housing, which would keep these units on the tax rolls and alleviate the already crushing burden of property taxes on the average homeowner.

JOSEPH GEORGE, JR.

HON. CHARLES S. GUBSER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1972

Mr. GUBSER. Mr. Speaker, in each of our lives we learn to know persons who are very special. To me one of these men was Joseph George, Jr., an unselfish benefactor of mankind, who did much for me as he did for thousands of others. Recently, Mr. George passed away and I have the honor of placing certain biographical material concerning him in the CONGRESSIONAL RECORD. As a very exceptional man, he deserves this special tribute.

The biographical material that follows was prepared by his friend and my friend, George H. Burchill:

JOSEPH GEORGE, JR.

In the past thirty-five years many men have come to San Jose and dramatically affected the lives of thousands of individuals with their kindness, thoughtfulness, humanitarian and other civic causes. But no one has been more helpful to individuals, big and small, than Joseph George, Jr. Close to 1,000 saddened individuals attended the services when the Reverend Dr. Philip Barrett and the Rabbi Joseph Gitin, D.D. spoke to his memory on Saturday July 1, 1972.

Because of his concern for his fellow man regardless of his faith, his work, and kind deeds he will always be remembered as one of our most remarkable figures.

His greatest concern was for his wife, Edith, whom he married in 1929, his son, Glenn, who is following in his footsteps, his daughter-in-law Bobbe, and the three grandchildren Kevin, Mindy and Bert ages 14, 12 and 11 respectively.

But here his story begins:

Born July 7, 1890 in Valdosta, Georgia, one of four children. His father was Joseph George, Sr. and his mother Sarah George.

His early education was received in Valdosta, Georgia. It was interrupted when he enlisted in World War I at the age of 17. He served his country in chemical warfare in Hawaii. After receiving his Honorable Discharge in San Francisco, he became a salesman for Glaser Brothers Candy and Tobacco Distributors. During the depression he moved to San Jose, where he opened a branch for their company.

In 1940, he took his big step by buying Koerber Distributing Company which employed 25 people. The business, with its ups and downs, grew and prospered. In 1946 he incorporated, changing the name to Joseph George Distributors. They now have 250 employees. The thing that gladdened his heart was his relationship with his employees. He took pride in the fact that they were his friends, as well as faithful coworkers. Their problems and those of their families became his problems, and he was never too busy to listen and help.

He, like Abraham Lincoln, did not belong to any specific church. His church was in the marketplace of life. All the men of the cloth were his friends. Back in 1954, a Methodist Minister was hospitalized with a heart attack and no medical insurance. A citizens' group got up a green back bouquet. When Joe heard of it, he immediately sent his check, which was well into three figures, with a special request to have the Minister's wife send all of her household bills to him for payment for the duration of the illness.

During his 39 years of community service, he earned the respect and admiration of thousands of his fellow citizens, and his many efforts will be forever remembered. He served as President of San Jose Rotary—made Man of the Year by San Jose Kiwanis Club—a 32 Degree Mason—Member of the Board of Regents Santa Clara University—Foreman Santa Clara Grand Jury—honored for his record of service in the cause of Brotherhood by the National Conference of Christians and Jews and by Temple Emanuel, because he was the exemplar of brotherhood—Member of Santa Clara County Board of Parole Commissioners—received the Distinguished Citizens Award—President of the old Community Chest, the Alum Rock School District names an Elementary School in his honor.

Members of City, County, State, and National Government, the Judicial, Professional. Bankers, Educational-Businessmen, and Men of the Cloth felt that they lost a dear and loyal friend whose advice and inspiration will be missed. Listen to these testimentals from some of the thousands whose lives have been affected by this outstanding individual.

Fred J. Oehler, retired Vice President, Wells Fargo Bank said: "He was a man of high integrity, generous with a concern for the well-being of his fellow man."

A. P. (Dutch) Hamann, Vice President of the University of Santa Clara and former manager of the City of San Jose said: "He was the most charitable and most honorable man I have ever known."

Ray Blackmore, former San Jose Chief of Police said: "Many times Joe asked me to take money for someone needing assistance or a person that needed help to erase his difficulties. He was always ready and willing to share a problem."

Rabbi Joseph Gitin, of Temple Emanuel, said: "Joe was a man of stellar character. His word was his bond and integrity was the hallmark of his life. He liked people and looked for their essential goodness. They liked him for what he was, a man who cared and was concerned."

"Father Walter E. Schmidt, San Jose Senior Vice President of the University of Santa Clara and founder of the Santa Clara Youth Center said: "Joe was one of my first board members. Through his efforts the first $15,000 was obtained for our new youth building where youngsters profited greatly from his kindness and generosity."

Reverend Philip W. Barrett, D.D., Pastor of Foothill Community Presbyterian Church, said: "We will always be grateful to Almighty God for his generosity in putting Joe in this area, where he touched so many lives and made them much better.

"Marshall Hall, Presiding Judge, Superior, Court said: "His efforts built a monument which will live forever as an example for others to follow."

Mae Drew, widow of Fred Drew, former President of U.S. Products Corporation said: "Joe married the right girl, he and Edith had something rare and intimate between them, a blend of fidelity, pride and humor, but, more than that, a deep concern for the other person with a problem."

Joe Levitt, President, KXRX Broadcasting Company said:—"In this world of give and take, Joe gave much more than he took, his advice, assistance and guidance was an inspiration to the hundreds of us who were blessed by knowing him."

Henry J. Down, Sr. President Keystone Company said:—"While a group of us gathered after the Memorial Service, Paul Davies (retired Chairman of the Board of Food Machinery Corporation) said:—"We lost one of our most generous members of our society." . . . to which we all agreed."

Victor Corsiglia, President, Garden City Disposal Company said this:—"Joe was a great person who did not know the word No."

Oliver M. Johnson, Industrialist, said: "We worked together as Rotarians for many years. His fine co-operation and spirit will live with us forever."

Finally, to again quote our famous Rabbi:—"may the 43 years Joe shared with his loving wife Edith, his loyal son Glenn, and his loved ones, become cherished memories that will comfort and strengthen them in the many years to come. In the words of the poet "to live in the hearts of those we leave behind is not to die "in those in whom he blessed, he lives again, and shall live through the years of eternal life and grow each day more beautiful."

DRUG ABUSE AND YOUR CHILD

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1972

Mr. HELSTOSKI. Mr. Speaker, over the past few years, there has been a growing interest at all levels of society in the expanded use of drug products among our citizens.

To provide a better understanding of dangerous drugs and the problems related to their use, I would like to bring to the attention of my constituents and colleageus informational material prepared by the Proprietary Association.

It is interesting to note that a very

knowledgeable consultant on this mateial was Dr. Nathan Kline of Teaneck, a constituent of mine.

It is my hope that with the distribution of this material, we can educate as many people as possible to the nature and consequences of the use, abuse, and misuse of drugs, especially concentrating upon the prerisk group of youth of elementary and secondary age; that we can inhibit, reduce or eliminate drug abuse within the community; and that we can safeguard the community against further incidence.

Mr. Speaker, I insert in the RECORD at this point the very informative material, "Drug Abuse and Your Child." The material follows:

Drug Abuse and Your Child

". . . she gave me a little red candy type thing and told me to go home, take it and listen to some groovy music. . . . I've been feeling great all afternoon, feeling like living again. I've washed my hair and cleaned my room and ironed and done all the things that Mom has been nagging me to do for days. The only problem is that now it's night and I can't seem to turn the energy off . . . I guess I'll just have to waste one of my good sleeping pills to stop it. That's life."—Diary of a fifteen-year-old.*

"All I heard was how I had to make it . . . make grades, make a team, make a good impression, make this . . . make that . . . (but) none of it was for me. It was all for my parents. (Finally) I escaped through drugs."—A twenty-year-old.**

You're a parent. You have school-age children. There seem to be illegal drugs everywhere. You're deeply concerned. What can you do?

We of the Proprietary Association (manufacturers of non-prescription medicines) share that concern. But we believe that some positive steps can be taken to reduce the spread of drug abuse among our young. One of the most important of these is early education in the proper and improper uses of drugs.

And we believe that the *best* drug education effort is a calm, informed discussion between parent and child.

We urge you to take ten minutes of your time to read the following advice on the subject. It represents the thinking of many doctors, psychologists, and experts on drug-abuse education. It's important reading for every parent.

DO NOT DUCK THE ISSUE

First, you should face up to the fact that that every child in America is probably going to have at least one friend who is experimenting with drugs, and who may attempt to influence him.

A parent makes a dangerous mistake if he says, "My child? Never!"

START DRUG EDUCATION YOUNG

Take time to reach your children about the use of medicines at a young age, as clearly as two or three. This can establish healthy attitudes toward all drugs that will help when they are older and confronted with illegal drugs.

Set a good example yourself. Whenever you take medicine, or give any to your children, stress why you are doing it, and how carefully you follow the label instructions. Impress upon them the importance of never swallowing anything if they don't know what's in it or where it came from!

Put all medicines and dangerous substances out of reach of small children, on a high shelf, or in a locked cabinet. Then take a moment to tell them why you are doing it.

Explain that it's the same as not wanting them to cross the street without you. There are hidden dangers in both situations that you must guard them against.

Explain about the different uses of drugs. Proper drug use is when prescription medicine is taken strictly according to your family Proper drug use is when prescription medicine taken when needed, exactly as directed on the label or as recommended by your doctor, is also proper drug use. Proper use of drugs can benefit you and your family by relieving pain, discomfort, or other symptoms of illness.

Improper drug use often starts with drugs obtained illegally. Improper drug use can also be the use of legally available medicines in ways that differ from doctor's instructions or label directions. Discuss with your young child the dangers of using *any* product, drug or otherwise, in ways that differ from the label directions.

INVOLVE YOURSELF WITH YOUR CHILDREN

". . . (my) mom is such a devoted club and civic-minded woman that the whole town would probably fall flat on its face if she took an evening off to listen to her daughter. Mom's the 'pillar of society' in this town. . . . She holds up everybody and everything but me, and, man, have I been let down."—A sixteen-year-old.*

The parent who involves himself with his children (and this *doesn't* mean just sitting and watching TV together) will have less trouble discussing drug abuse.

This kind of real involvement has to include an attempt to understand their view of the world. It means a lot of time spent together. And a lot of that time has to be spent really listening.

Try to find out their problems. Then try to help them understand the different ways to cope with them. Discuss how various people react to stress, so that they can better understand their own feelings.

Your discussion of drug abuse should start naturally in the course of talking about other important things. Eight or nine is not too early an age to begin.

DO NOT IMAGINE SYMPTOMS THAT AREN'T THERE

You should know the symptoms of drug abuse. But you should remember that many of these symptoms will also be found in a teenager suffering through an adolescent romance, or having problems in school.

If you should notice a sudden mood change, or see some bad school grades and falsely accuse your teenager of drug abuse, you could do great harm. Keep in mind, too, that long hair and sloppy dress don't necessarily have anything to do with drug use.

"Last night was the bitter end. Mom and Dad flowed tears and flowers about how much they love me and how worried they've been about my attitude. . . . They hate my hair . . . and they talked and talked and talked, but never once did they even hear one thing I was trying to say to them."—A fifteen-year-old.*

BE SURE OF YOUR FACTS

Don't assume that your children are using illegal drugs. But assume that they know something about them.

So don't start to talk to your children unless you know the names of most drugs (including the slang names), their categories, and a little about the effects of each one. You probably shouldn't try to use the slang terms, but you should know what they are.

To many parents, all illegal drugs are equally evil. So they often make the error of referring to drugs which are as different as marijuana and heroin, in the same terms. This kind of mistake is a sure way to destroy a child's confidence in your knowledge of the subject.

AVOID THE TWO EXTREMES

There are two extremes that probably should be avoided when discussing drugs with your children. One is the "I'm your pal" approach, which has led some parents to go so far as to smoke marijuana with their children to show them they're not completely "out of it." A parent loses standing with his children, when he tries to act their age and breaks the law in their presence. The other extreme is when you become strict and inflexible, based upon your superior age and knowledge. This can foster resentment and rebellion.

Understanding grows when you give your children credit for having the ability to reason and figure out things for themselves. Then you must show them that you have the same ability. Concentrate on major things and let little ones alone.

No matter how much you disagree, listen seriously to what they have to say. Remember that, when you were that age, you didn't want to be exactly like your parents in all your beliefs and behavior.

It is not necessary that you always stay "cool, calm and collected." Emotional maturity means feeling some things deeply, having a range of moods, but always remaining in control of yourself. The child who sees and understands this range in you is helped to learn to cope with his own emotions.

BE FRANK ABOUT YOUR OWN DRUG USE

If the point is raised that your own record or that of your friends is not too good in the use of alcohol, admit that this may be a problem. Don't try to avoid the subject. If you state that you are against the abuse of alcohol or drugs by anyone, including yourself, you may open the door to a new kind of respect.

MARIJUANA, THE TOUGH SUBJECT

The specific dangers of heroin, LSD, "speed," and most other drugs are fairly easy to point out. However, marijuana is the tough subject, because few facts are known about it. Most important, very few scientific conclusions have been drawn about long-term effects.

Some researchers claim that repeated marijuana use destroys motivation and judgment. Others dispute this.

If you stress too many *unproved* dangers of marijuana, your children may come to feel that they have been lied to, especially if they or a friend should try it once or twice and find the experience fairly tame. They may then draw the conclusion that they have been lied to about the risks of *all* drugs, and make the dangerous mistake of trying to find out the facts about other drugs for themselves, by experimentation with them.

The best answer is perhaps to say that, until conflicting reports are resolved, its use is as risky as the taking of any drug which has not been scientifically checked out over a period of time.

Another point that should be raised is that the child who "turns on" whenever he has a problem is denied the basic learning experience of coping with reality.

Most young people condemn "copping out." If they can come to see that most drug abuse is just that, then you will have reached an important understanding.

Your children may use the common argument that marijuana use is no worse than alcohol. One answer to that is that alcohol abuse is an equally serious problem. And *its* use by the young is prohibited by law. You wouldn't want them drinking whenever they have a problem, either.

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* From the Book "Go Ask Alice," by Anonymous. Copyright 1971 by Prentice-Hall, Inc. Englewood Cliffs, N.J. Reprinted with permission.

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There are three other facts that many young people forget:

At times and unpredictably, marijuana distorts time and depth perception. Therefore, its use by the driver of any vehicle could endanger all those in or near it.

Secondly, since the original source of marijuana is always an illegal one, the child has no protection against contaminated marijuana even if *he* gets it from a friend.

Finally, marijuana is illegal. A criminal record is a hard thing for anyone to carry throughout his life. And some states still have severe penalties for simple possession. Many other countries have even stricter laws which include long-term jail sentences.

If you should find out that your child has experimented with marijuana once or twice, don't panic. Above all, don't let him assume that he's now a "hardened drug user" and must go and try everything.

Experimentation in even a healthy child is not something to get unduly upset about. However, a well-informed and well-counseled child who continues to experiment may be giving evidence of some other more deep-seated problem.

WHAT TO DO IF YOUR CHILD HAS A DRUG PROBLEM

There is always the possibility that you may discover that one of your children is in serious trouble due to the use of drugs. He may be psychologically dependent on them or even physically addicted.

The chances are, he will be relieved at the opportunity to talk to somebody about it.

Assume he's scared. He got into the thing himself. But now he's in over his head. Don't let your anger and distress over what the child has *done* move you to condemn the *child*. Recriminations or accusations at this point are useless. Remember, what he needs most is your love, support and help.

WHERE DO YOU TURN?

Different communities have different kinds of agencies that offer help with drug problems. But perhaps your best source of that help is your family doctor. He can usually be counted on to give medically-sound advice in the confidence of a patient-physician relationship. Do not be upset if your child would rather talk to a doctor than you. And don't press for all the details.

ASSUME YOUR RESPONSIBILITY

In the last analysis, however, the responsibility is yours. We urge you to remember these simple guidelines:

Teach your young children the proper uses of all medicines. Start early, when they are two or three.

With your older children, eight or nine is not too early to start some very simple discussion of illegal drugs. Don't assume that the job will be done by their school or church, or well-meaning friends. *You* must do it. And that's a crucially important task for all parents today.

With teenagers, the key thing is to be calm. Don't panic. Show your children where you stand. They want to know. They will respect honestly, and firm, loving guidance.

This parent-child dialogue can be the most effective drug-education effort.

SOME DRUGS OF ABUSE

DRUG NAME, SLANG NAME, HOW USED, AND EFFECTS AND DANGERS*

Cannabis

Marijuana: Pot, Tea, Grass, Mary Jane, Weed, Smoke, Boo; smoked in "joints," "sticks," "reefers," pipes, eaten in food; euphoria, increased pulse rate. High doses may lead to reduced motivation, impulsive behavior, anxiety, bring on psychotic reaction.

Hashish: Hash; smoked, eaten; like marijuana, but about six times as strong. Tendency to hallucinate after high doses.

Hallucinogens

LSD, Mescaline, Psilocybin: Acid, Sunshine. Peyote, Mesc.; swallowed (capsules, liquid, sugar cubes), injected; hallucination, dilated pupils, unusual hilarity, intense anxiety, paranoid reaction, impairment of normal motivation, some prolonged psychotic reactions. Occasional recurrence of hallucinations with no new drug taken.

Stimulants

Amphetamines, Methamphetamines: Speed, Bennies, Dex, Hearts, Greenies, Pep Pills, Crystal; swallowed (tablets), sniffed as crystal, injected; Abnormal alertness and aggressiveness, loss of appetite, paranoid activities, acute depression as dose wears off ("crashing"), rapid tolerance build-up.

Cocaine: Coke, C., Dust, Snow, Speedballs (when mixed with heroin); sniffed or injected, hyperactivity, paranoid activities, possible convulsions.

Depressants

Barbiturates: Reds, Yellows, Blue Heavens, Barbs, Downs; swallowed (tablets or capsules), injected; sluggishness, faulty judgment. Physically addictive. Danger of death from overdose, especially in combination with alcohol or from unsupervised withdrawal.

Alcohol: Booze; swallowed (liquid); possible acute and chronic intoxication, cirrhosis, physical dependence and addiction, with serious withdrawal symptoms, including convulsions and delirium.

Tranquilizers: Quieters, Downers; swallowed (capsules); drowsiness, nausea. Possible physical dependence from use of excessive doses over long periods of time, with withdrawal symptoms, including convulsions.

Narcotics

Opium: Poppy, Black Stuff, Tar; smoked; euphoria, then drowsiness.

Heroin, (opium derivative): H, Horse, Skag, Junk, Stuff; sniffed, injected just under the skin ("skin popping") or inte vein ("mainlining"); euphoria, then drowsiness. Likelihood of physical addiction with painful withdrawal or death from overdose.

Morphine (opium derivative): M, White Stuff, Dreamer; same as heroin; same as heroin. Slower-acting, longer-lasting.

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*The effect of any drug depends on the amount used, manner and frequency of use, and the strength of the drug.

ADMINISTRATION COVERUP OF RED CHINESE HEROIN CONTINUES

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1972

Mr. SCHMITZ. Mr. Speaker, Gen. Lewis Walt, U.S. Marine Corps, retired, testifying before the Senate Internal Security Subcommittee August 14, 1972, on the sources of heroin in Asia, said:

> All of this just doesn't make sense from the standpoint of criminal economics. It does make sense, however, if the operation was political in origin, because then it would only be natural for the organizers to want to hook as many G.I.'s as possible, as hard as possible, and as fast as possible—and to hook them, moreover, on a habit so expensive that they would have to engage in far more crime than the ordinary addict to feed the habit once they returned home. The Communists had so much to gain from such an operation—

Special report No. 112 "China and Drugs," prepared by the Strategic Intelligence Office of the Bureau of Narcotics and Dangerous Drugs (BNDD), says:

> In each case the (opium) traffickers were people engaged in criminal activity for the usual profit motive.

There could not be a more complete contradiction than in these two statements, one by a Marine General of unquestioned integrity and long service in the Far East, the other by bureaucrats of an administration which has staked its prestige on trade and friendly relations with an avowed enemy, Red China. Most Americans will find it hard to disbelieve General Walt on a matter of this importance, especially when it can be shown that BNDD has not told the truth in its special report.

Evidently alarmed by the rapidly accumulating evidence of massive Red Chinese involvement in the heroin traffic—see my newsletters 72–17, 72–19 and 72–21—and stung by the persistence of those who will not keep quiet about it, the Nixon administration has now gone so far as to deny officially that any significant amount of the killer heroin that is blasting the lives of 600,000 Americans today comes from the poppy fields of Red China. This almost incredible statement has to be branded for what it is: an outright lie. Reasonable men may differ as to the percentage of the heroin sold to drug addicts which comes out of Red China, but in view of the fact that this percentage is reliably estimated as high as 80, to say that there is no significant amount cannot possibly be true.

The BNDD special report states unequivocally that:

> Not one investigation into heroin traffic in the area [Southeast Asia] during the past two years indicates Chinese Communist involvement.

In almost the next sentence the cover-up begins with this statement:

> The origin of the raw opium can also be traced to the producing area of the Golden Triangle, little of which is under Communist control.

This statement is also a lie. The "Golden Triangle" refers to that part of Southeast Asia where Laos, Thailand and Burma come together. The readily ascertainable facts show that most of this area is under Communist control. In Laos virtually the entire region where opium poppies are, or easily can be grown, has been taken over by the North Vietnamese and Chinese Communists, as two men who are probably more thoroughly and personally acquainted with this area than any other Americans—Dr. Charles L. Weldon and Edgar "Pop" Buell—have both testified this year before the House Internal Security Committee. If there is dope coming from there, it is Communist dope and BNDD knows it.

In Burma, the BNDD line is that the poppy producers are simply tribes that cannot be controlled by the Burmese Government. What they do not say is that, according to the area handbook of

Burma published by the U.S. Government last year, the rebellious tribes in the opium-growing parts of Burma—primarily upper Shan state—are Communist-led, and armed and equipped by Red China. A refugee from Red China, whom my staff and I have personally questioned, reports that those Burmese rebels are paying for their weapons by sending their opium crop to Red China for refining. She also reports that she personally saw Red Chinese Army units harvesting opium in the southernmost province of China, Yunnan. The late Francis E. Walter, former chairman of the House Committee on Un-American Activities, pointed out on September 21, 1961, that it was in Yunnan Province many years ago that Mao Tse-tung, then head of only a small band of conspirators, "conceived the Chinese Communist policy of narcotics peddling or 'soul poison.' "

On July 27 President Nixon asked for $135 million more to fight drug abuse, including funds for a major new office of national narcotics intelligence to be headed by William C. Sullivan. The late FBI Director J. Edgar Hoover dismissed this man from a top FBI position after he made speeches all over the country denying that organized Communist activity presents a significant danger to the internal security of the United States. Apparently this is regarded as good background and preparation for the work of this new office. It reminds me of a statement I once heard Tom Anderson make:

> They have just invented a new deodorant called "Stereo." The smell is the same, but you can't tell where it's coming from.

SHRIVER DISTORTS FACTS

HON. WILLIAM E. MINSHALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1972

Mr. MINSHALL. Mr. Speaker, the following "Letter to the Editor" from the Sunday, September 3, 1972, Plain Dealer, speaks for itself:

PEACE CORPS EX-AIDE SAYS: "SHRIVER DISTORTS FACTS"

As one who served in the Peace Corps, I have had high esteem for Sargent Shriver because of the many wise policies and traditions he established as its first director. Among these was the "apolitical" concept of Peace Corps, keeping it free from partisan politics and developing bipartisan support in Congress for its programs.

To witness Shriver now using the Peace Corps as a political issue is disappointing. Furthermore, his statement that the Peace Corps has failed to prosper under the Nixon administration implies a neglect by Nixon. Shriver should know better than most people that President Nixon saved the Peace Corps. This past spring he transferred badly needed funds to it by executive authority after the Democratic-controlled Congress failed to appropriate sufficient money to keep Peace Corps a viable agency.

If President Nixon had not taken this extraordinary action using executive authority to provide more money to Peace Corps, it would have been necessary to bring home prematurely over 2,300 volunteers who were serving in about 45 countries. This would have abrogated commitments made in good faith to those idealistic Americans who were prepared to give two years of service in Peace Corps, as well as to the developing countries that were being helped by the personal efforts of these Americans.

Shriver has badly tarnished his own image with those of us who believe the Peace Corps can and should be apolitical. Additionally, his willingness to distort the facts for a political expediency makes us more skeptical of other issues he is raising.

KEVIN O'DONNELL,
Former Associate Director of Action for International Operations (Head of the Peace Corps)

THE EXPORT OF U.S. JOBS

HON. JOHN H. DENT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1972

Mr. DENT. Mr. Speaker, I present at this time two statements by the executive council of the AFL-CIO. One deals with the export of U.S. jobs, the other with Workman's Compensation. I call attention to these reports because of their timeliness. With the election of a President and Congress a few short weeks away, it is very important for all of us to realize that the issues being discussed in the press and other media by the candidates are not striking at some of the very serious root causes of this Nation's problems. The exportation of jobs has been the subject matter of many discussions by myself and others on the floor of the House. We have attempted to awaken the Congress and the people to the serious threat to our economy in the area of job opportunities. In answer to the problem, apparently the only thing being done is a coverup of spectacular maneuvers and red herring, high level meetings here and abroad.

Recently the President journeyed to Hawaii and, like the mountain, he labored hard and brought forth a mouse. He met with the new Japanese Premier who graciously agreed to purchase a billion dollars worth of American goods and products in order to cover up this administration's very sad record of the exportation of jobs through the importation of Japanese products.

Usually, the freetraders have some answer which is based upon an outdated philosophy which overlooks the dangers of unlimited imports into our consumer market. However, I find it hard to get satisfaction out of any of the answers that they give when I look at the serious facts which have developed in the last 10 years. Imports into the United States moved from $16,500,000,000 to an annual rate of $53,800,000,000 in 1972. Automobiles are up from $433 million to $6 billion, iron and steel up 379 percent, computer and office machines up 790 percent, radios and TV sets up 927 percent, footwear up 574 percent, clothing up 354 percent, machinery up 740 percent and last but not least one of the greatest job-killing products that is imported is transportation equipment—buses and trucks—up 1,284 percent from $719,000,000 to $10,000,000,000. The source of this information is the U.S. Department of Commerce. Some of us have predicted that the increase during this 10-year period has been destructive to the American economy, but I know of no person who dared to estimate that the growth would be anywhere near this tremendous volume in these and other products which are now pouring into the American marketplace. Therefore, Mr. Speaker, the timely action of the AFL-CIO in this regard certainly should be given more consideration by the Congress.

Closer to home, right here in Washington, D.C., the new Metro system, which will cost approximately $1 billion before it is completed, keeps right on buying and contracting for foreign-made products. In a recent bid for an earth tunnel on the Carrollton route, the bid form was written in such a way that options gave the bidder the choice of American products or foreign products. Apparently, the successful bidder is buying cast iron lining for the tunnel that is no longer made in the United States in any form and, therefore, the entire project will be supplied by Great Britain.

In that way American taxpayers' money is flowing directly out of the country and taking with it hundreds of man-hours of work. As a result, American workmen will continue to beat their paths to the welfare offices to get their handouts.

The Metro tried to put in the Buy American provision, but were ordered by the administration to repeal the resolution. This would have guaranteed that the work and millions of dollars of other work the Metro will do would have remained here for domestic labor. Attached, Mr. Speaker, are the two resolutions. The first one covers the matter of the export of U.S. jobs and the second one deals with the great necessity of Federal action on workmen's compensation laws. I am sure they will be helpful to the Members.

The resolutions follow:

STATEMENT BY THE AFL-CIO EXECUTIVE COUNCIL ON THE EXPORT OF U.S. JOBS, CHICAGO, ILL., AUGUST 28, 1972

The AFL-CIO has repeatedly called for the U.S. Government to regulate and curb the accelerating U.S. export of jobs, production, technology and capital to subsidiaries and other affiliates abroad.

One clear example is the Mexican situation. Today there are about 350 assembly operation plants under the Border Industry Program in Mexico, employing more than 46,000 workers at wages of 20 to 58 cents hourly. An increase of 1,000 new jobs per month has been reported in the last six months in these industries. Total employment in the Border Program is expected to reach 50,000 by 1973.

But the so-called "Border Program" has been extended to a "Mexican Industry Program" with plants operating throughout Mexico. Some of these plants have multinational connections around the world. Japanese companies are already firmly entrenched in Mexico, assembling components used in their U.S. production facilities in California, where the labor force is largely Mexican nationals.

The security of American workers and their families is clearly adversely affected by Mexican workers who commute to the U.S. to work, returning to Mexico at night.

Mexico remains a non-consumer based

economy, highly managed by government direction and closed to imports that it determines are not necessary for Mexican development. U.S. and foreign firms have invested billions of dollars in subsidiaries and other affiliates to produce in Mexico, largely for export back to the United States, causing a widespread loss of job opportunities in this country.

Haiti, too, is rapidly becoming a haven for U.S. businessmen seeking low wage labor. Some 15,000 jobs have been created in hundreds of light manufacturing and assembly plants in Haiti, mostly American-owned. The products are returned principally to the U.S. market. Wages in Haiti are 70 cents per day.

Similar business interests now propose making Costa Rica another haven for runaway firms.

The AFL–CIO opposes the practice by U.S. Embassy officials of brokering cheap labor markets and poor working conditions in Mexico, Haiti and elsewhere at the expense of American taxpayer, worker and consumer.

Adoption of the Burke-Hartke bill is a necessity to stop the special tax advantages and import privileges of American companies operating abroad. The time has come for the U.S. Government to end the disastrous conditions it is creating in the American economy through the award of undeserved tariff and tax privileges for runaway capital and technology. Should these disastrous practices not be halted immediately by the U.S. Government, a crisis of tragic proportions can develop in this country.

The AFL–CIO again urges the Congress to pass the Burke-Hartke bill in the interest of national economic security and the jobs of American workers.

STATEMENT BY THE AFL–CIO EXECUTIVE COUNCIL ON WORKMEN'S COMPENSATION, CHICAGO, ILL., AUGUST 29, 1972

The National Commission on State Workmen's Compensation Laws, established by Congress to undertake a comprehensive study and evaluation of state workmen's compensation laws in order to determine if such laws provided a prompt, adequate, and equitable system of workmen's compensation for American workers and their families, recently reported to the President and the Congress.

The Commission report states:

The inescapable conclusion is that state workmen's compensation laws in general are inadequate and inequitable.

This emphatic conclusion was unanimous, without a single member of the Commission—18 individuals representing every major interest group concerned with workmen's compensation issues—expressing a dissenting view.

The Commission report reinforces in almost every instance the AFL–CIO position of the need for sweeping changes to modernize the present system of compensating the victims of work injury and disease.

The Commission report, in general, found that coverage, weekly benefit amounts, medical benefits anad rehabilitation benefits were inadequate. In many instances these same elements of workmen's compensation were also found to be inequitable. The report was critical of the failure of state administration of workmen's compensation, and the lack of interest in the program by state legislators. The Commission was appalled at the existing low level of wage replacement benefits provided by state programs. It was also critical of the failure of the state programs to cover all occupational injury and diseases, the failure of many states to permit injured workers to select their own doctor for treatment, and the imposition of arbitrary and unrealistic limits on benefits and medical care. The Commission report included numerous recommendations for improving the existing program and the enactment of federal mandates in 1975 if the states failed to establish programs conforming to their recommendations.

Major recommendations outlined in the Commission report include:

WORKMEN'S COMPENSATION

"Compulsory coverage of all wage and salary workers without numerical or occupational exemptions—agricultural workers, domestic workers, and public employees should be extended the full protection of workmen's compensation in the same manner as other workers in the labor force,

"Complete coverage of all work related injuries and diseases,

"Full medical care and rehabilitation services without limit as to time or dollar amounts,

"Weekly benefit amounts should be at least 80 percent of the worker's spendable weekly earnings,

"The benefit structure of the entire workmen's compensation program should be substantially improved by increasing the maximum weekly benefit to 200 percent of the state average weekly wage,

The 200 percent maximum benefit level to be reached in periodic increases between July, 1973 and July, 1981,

"Free choice of physician by injured worker,

"Injured worker should be given a choice and permitted to file a claim in the state of injury, state of hire, or state where employment is principally located,

"Workers receiving benefits based on former wage levels—those injured years ago—should have their benefits adjusted to current wage levels through establishment of a special fund for this purpose."

The AFL–CIO has been urging the states to make improvements similar to the Commission's recommendations for many years. Our experience demonstrates that the states are unwilling or unable to modernize workmen's compensation programs. Federal legislation is needed now to achieve this goal.

The Commission recognized this need, but recommended a delay of three years before federal action is taken.

The AFL–CIO cannot support this recommendation of the Commission. We urge the Congress to make enactment of Federal workmen's compensation standards a matter of the highest priority in 1973.

OUR ENVIRONMENT

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1972

Mr. ANNUNZIO. Mr. Speaker, we, as legislators, as well as all the people of the United States, face a problem which no other society in the history of the world has had to face. We are running out of clean land, clean air, clean water.

Look at Lake Erie with its slimy shores and wasted waters, supporting ever fewer forms of life. Stand on a hill overlooking one of our major cities and watch the mustard-colored haze drifting everywhere. In my own Chicago area, Lake Michigan is being threatened with extinction and its tributaries are being clogged with waste materials. These are not isolated examples, but reflect widespread conditions across America.

Our Nation, as the industrial leader and example to the world, must take the initiative in finding ways to heal these ravages on our environment. We, as individual citizens, must bring to manageable terms the waste materials of our daily lives.

In the last few years, many pollution abatement bills have been enacted into law, and as a result, we are beginning to witness tangible results in the struggle to protect our environment. I have actively supported every piece of effective environmental legislation brought before the Congress, including the Water Quality Improvement Act, the Environmental Policy Act, the Clean Air Act, the Environmental Pesticide Control Act, the Clean Water Restoration Act, the Water Pollution Control Act, the Wildlife Protection Act, the Resource Recovery Act which provides for solid waste disposal, and other landmark legislation.

Additionally, the Noise Control Act recently was passed by the House of Representatives, and hopefully, before the conclusion of the 92d Congress, it will also be passed by the Senate and signed into law. This bill, which I supported, would coordinate Federal noise control and research activities as well as establish noise emission standards for new products and streamline enforcement of noise abatement laws. The provisions of this bill will go a long way toward helping to alleviate the noise problem in the areas surrounding airports such as O'Hare International Airport in Chicago.

I am glad to report that Federal funds authorized by this Congress are now being utilized to clean up the north branch of the Chicago River. The Corps of Army Engineers is expected to complete removal of debris from the north branch by December and in order to keep this waterway clean thereafter, I have sponsored legislation to provide for maintenance on an annual basis—so the north branch may stay clean and may be utilized, as it once was, for recreational purposes by the residents of the northwest side of Chicago.

I have also introduced legislation to establish a Joint Committee on the Environment. No single committee presently exists in the House of Representatives or in the Senate for the sole purpose of anticipating and planning for the many changes taking place in the total ecological system. It is of paramount importance that we develop the ability to plan ahead and maintain conditions under which man and nature can exist in harmony. Establishment of the joint committee which I have proposed would go a long way toward achieving this objective.

We have made substantial advances in the field of water quality by establishing nationwide standards for pure water and providing money to local areas to help them achieve these standards. Liability has been established for cleanup costs of oil spills and controls have been specified on acid mine drainage. Since most of our air pollution is caused by automobiles, strict standards have been set by the Congress. Industrial pollution is being reduce, and certain dangerous pesticides have been banned. We have made considerable progress, but much remains to be done.

In our democratic society, we are committed to development of policies which insure maximum individual freedom and human development. These worthy objectives cannot be achieved in a decaying and overburdened environment. We must devise policies that take full account of the impact of technological development on the environment and we must continue to provide the programs and the funds necessary to eliminate environmental pollution. As I have done in the past, I shall continue to work for the enactment of the strongest possible environmental laws and shall continue to support full funding for our existing programs.

NIXON HAS STRONG EDGE AMONG CATHOLICS

HON. WILLIAM L. SPRINGER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1972

Mr. SPRINGER. Mr. Speaker, as Members of Congress, we generally are not interested in religion as a factor in politics. However, the amount of space that has been given to it this fall certainly indicates that among some Catholics, there has been a decided shift at the Presidential level.

A recent poll of the New York Times-Yankelovich survey of voters shows that the President has a 24-point lead over Mr. McGovern among Roman Catholics nationally.

The surprising part of the Times-Yankelovich survey is that Mr. Nixon has a lead over Mr. McGovern of 35 points in New York, Connecticut, and New Jersey. This represents an 11-point stronger lead for the President among Catholics in those three States than nationally.

Former Mayor Robert F. Wagner, who is serving as chairman of McGovern's New York State campaign, frankly admitted it in an interview and attributes it to the Nixon stand on abortion and aid to parochial schools. I attach herewith the article by Mr. William E. Farrell in the New York Times Sunday, September 17, titled "Nixon Has Strong Edge Among Catholics in Area."

The article follows:

[From the New York Times, Sept. 17, 1972]

Nixon Has Strong Edge Among Catholics in Area

(By William E. Farrell)

President Nixon's edge over Senator George McGovern in their race for President is greater among Roman Catholics in New York, Connecticut and New Jersey than among Roman Catholics nationally.

That is among the findings of a recent New York Times-Yankelovich survey of voters, which showed the President with a 24-point lead over Mr. McGovern among Roman Catholics nationally. In the tristate area, Mr. Nixon's lead over the Senator from South Dakota was 35 points.

Persons associated with Mr. McGovern's campaign are aware of Mr. Nixon's popularity with tristate Catholic voters, and they explain it in various ways.

A basic clue to the different figures in the poll was that a larger proportion of tristate Catholics identified themselves as Republicans than did in. the national sampling, while fewer of them said they were independent.

"What lies beneath all this is suburbanization of the Catholics in the last 20 years," said Richard C. Wade, a City University urban-affairs professor and former chairman of Mr. McGovern's campaign organization in New York State. "That differential looks like a suburban differential."

BLOC TREND CUT

A major migration in the last decade, Mr. Wade said, has been the movement of Catholics, mainly Irish and Italian, from the cities to the suburbs.

Once these Democratic urban enclaves are broken up, the long-time pattern of bloc voting is diminished.

Once scattered through the suburbs, "they vote less like a bloc and tend to take on the dominant views of the community in which they live," Mr. Wade said.

Former Mayor Robert F. Wagner, who is serving as chairman of Mr. McGovern's state election campaign, said in an interview: "Frankly, at this stage it's Nixon getting into the abortion battle—Nixon's speeches on aid to parochial schools."

This was a reference to the President's unusual action last May, when he enunciated his support in a letter to Cardinal Cooke of a campaign to repeal the state's liberalized abortion law.

The letter was made public at about the time the Legislature was considering repeal of the controversial liberalized law. Both houses voted to repeal the measure, but Governor Rockefeller vetoed the repeal bill.

Similarly, the President has committed himself to extending Federal aid to Roman Catholic schools and the issue of governmental aid to parochial schools has been enmeshed in tristate politics in recent years, particularly in New York.

Mr. Wagner and others said that Mr. McGovern's views on these and other issues close to Catholics were not well-enough known.

Mr. McGovern has said that the Federal Government should not be involved in legislation regarding abortion and that it is up to individual states to decide the issue.

Like Mr. Nixon, he feels that a constitutional means can be found to provide funds for financially strapped parochial-school students.

"BECOME CONSERVATIVE"

Like Mr. Wade, Mr. Wagner said that the growth of the suburbs, which are predominantly Republican, was a major factor for the Catholic sentiment for the President.

"They become more prosperous and tend to become a little more conservative," Mr. Wagner said. "At this stage a lot of them don't know McGovern."

As Catholic voters—mainly of Italian and Irish extraction—moved from the cities they tended to lose their identification with the Democratic party, said Paul O'Dwyer, a leading reform Democrat, and "they've become very conservative."

Mrs. Jean Westwood, the new national Democratic chairman, said that the reason for the large Catholic margin for Mr. Nixon was that "George McGovern hasn't been in there [the state] much."

"As George McGovern appears in the state," Mrs. Westwood said, and makes his "true position" known, the margin will shrink.

"It's a volatile vote this year," she said.

REVENUE SHARING—WHAT REVENUE?

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1972

Mr. RARICK. Mr. Speaker, as the President reports to the people that he will not seek tax increases, he asks Congress to increase the debt ceiling by $15 billion to a historic new first of $465 billion, and Congress prepares for the up-coming national election by enactment of a revenue-sharing bill.

The American people should simply ask: If our Nation is further in debt than ever before, and if the President is not going to increase taxes, what revenue will be shared?

Many informed working people have now learned that the Government has no money that it does not deduct from their individual paychecks. Revenue sharing comes only as deductions from paychecks.

Several newspaper clippings follow:

[From the Evening Star and the Daily News, Sept. 18, 1972]

Sharing What Revenue?

The federal budget is running so far in the red that, at present tax rates, it will be along about 1977 before the federal government has some disposable money to start new programs.

For all that, the Congress is well on its way to passing a revenue-sharing bill, one that will pass along more than $30 billion to state and local governments over the next five years. The money obviously will represent deficit spending, and it will increase the pressure for new federal taxes.

We won't belabor the point too much, for it looks as if nothing at this point can stop the revenue-sharing bill. It has the inevitability of a glacier on the move. President Nixon long ago gave it his support, which he is not about to change in the middle of an election year. The House passed the bill in June. The Senate, by a vote of 63–20, passed a similar measure last week. How could they dare not to? With great expectations, governors, mayors and county commissioners have been waiting for the money so long they had begun to count the cash as already theirs. Some of them even had budgeted it for the current fiscal year.

Since the two versions of the bill differed on several important points, the opportunity was there for the House-Senate conference committee to make the legislation more palatable. On balance, the conferees fumbled the opportunity.

The Senate, moving to halt a run-away program for welfare-related social services, had attached the program to revenue sharing and had stipulated a $1 billion ceiling. Something like that was essential, for without it, the federal government would have been obligated to spend on social services alone nearly $5 billion this year. It also promised to ease the task of redrafting the big HEW-Labor appropriations bill, which President Nixon recently vetoed as too expensive, largely because it included the unchecked social-services subsidies. Conferees from the House, which did not address the problem in its own revenue-sharing measure, did go along with the Senate, as they should have. But then the conferees casually raised the subsidy limit from $1 billion to $2.5 billion, more than twice the amount the administration considers fiscally defensible.

On a second point of major difference, the Senate had changed the House-approved formula for distributing revenue-sharing money to favor rural states over large, industrialized states and, within the states, to favor central cities over suburbs. It was a tricky combination but on the whole a backward step. The conferees should have adopted the House formula but instead took a middle course between the two bills.

Revenue sharing is certain to become a fixed part of government operations. But it remains a question as to where Uncle Sam will get the revenues to share with the states and cities.

[From the Evening Star and Daily News, Sept. 15, 1972]

$15 Billion U.S. Debt Rise Asked

The Nixon administration is asking Congress to raise the federal debt ceiling by $15 billion to $465 billion.

Treasury Secretary George P. Shultz, who made the request in a letter to the House Ways and Means Committee yesterday, will argue the case at a hearing before the committee.

The decision to ask for a $15 billion increase is based on revised estimates of the budget deficit for fiscal 1973, the year ending next June 30. The most recent official estimate by the administration, in June, projected a $27 billion deficit, but independent analysts expect a deficit of $30 billion to $35 billion.

President Nixon's demand for a rigid limit holding federal spending to $250 billion probably will overshadow the debt ceiling issue. The administration wants the spending limit included in the debt legislation.

Congress must act on the debt ceiling by Oct. 31, because otherwise the present limit of $450 billion would drop automatically to $400 billion. The debt subject to the statutory ceiling is about $437 billion and rising.

McGOVERN CREDIBILITY

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 18, 1972

Mr. ANDERSON of Illinois. Mr. Speaker, Richard Wilson writing in last Friday's edition of the Evening Star discusses some popular myths which most people believe to be factual. One is the well-known attribution to President Nixon of a claim to have a "secret plan" to end the war. As Mr. Wilson points out, William Safire has carefully researched the subject and has been able to find neither any documentation of this claim nor any person who believes that Mr. Nixon made the claim who can document it. Yet Senator McGovern continues to perpetuate the myth, and to deride the President for failing to reveal the nature of this "secret plan" which never existed. I challenge the distinguished Senator to point out the occasion on which the President made such a claim, and if he cannot do so it would seem to me to be appropriate for the Senator to discontinue this libel.

Mr. Speaker, Mr. Wilson continues along the same lines to point out that, contrary to popular belief, Senator McGovern has never specifically withdrawn his pledge to institute a $1,000 grant for everybody in spite of the fact that the impracticality of this scheme has been amply demonstrated, not least by the detailed study performed by the staff of the House Republican conference. And in checking on Mr. Wilson, I find that he is quite correct, that at least in his speech before the New York Society of Security Analysts, there is no specific mention of a withdrawal of that proposal.

Therefore, Mr. Speaker, I challenge Senator McGovern to inject some honesty into his treatment of the voters. Does he, too, finally recognize the impracticality, and if so is the $1,000 Democrat grant on which he conducted his entire primary campaign now to be considered officially withdrawn?

At this point in the Record, Mr. Speaker, I include the Wilson column from the September 15 Evening Star, and the Safire letter to the editor from the September 12 New York Times:

[From the Evening Star, Sept. 15, 1972]

Shriver Errs in His Denials of $1,000 for All

(By Richard Wilson)

Vice presidential candidate Sargent Shriver denies that George S. McGovern ever proposed his $1,000-for-everybody plan. It was just a figure used in a "study paper," according to Shriver.

McGovern's running mate evidently does not believe the literature of his own campaign. The McGovern for President Committee's voluminous summary of "McGovern on the Issues" contains an outline of an "income distribution plan" with an annual payment "that might be as much as $1,000 per person or $4,000 for a family of four." Shriver's denial thus takes on the same plausibility as his charge that President Nixon "blew" a chance to settle the Vietnam War.

McGovern speaks no more of the controversial $1,000 idea, leading to the perhaps erroneous conclusion that he has dropped it. He has not, however, dropped his references to President Nixon's "secret plan" to end the Vietnam war although it is amply proved that Nixon never said he had a "secret plan," in fact had none, and did not pretend to have one.

The only "secret plan" was in the imagination of those who wished to deride Nixon's commitment to end the war, and is now being repeated endlessly in campaign orations, newspaper advertisements and television broadcasts.

William Safire, a presidential speechwriter and tireless researcher of political lore, has exploded the myth of the Nixon "secret plan" in an analysis which defies challenge. Confronted by the analysis, various perpetrators of the myth have admitted their error, but not McGovern.

The source of the "secret plan" myth was apparently Nixon's speech in the presidential primary campaign of 1968 at Nashau, N.H.: "And I pledge to you the new leadership (evidently a Republican administration) will end the war and win the peace in the Pacific . . ." This statement was translated by reporters and politicians into the idea that a plan existed, although Nixon said he had "no magic formula, no gimmick" and if he did would tell Lyndon Johnson.

He said he had some specific ideas on how to end the war, and "they are primarily in the diplomatic area." That, in the beginning, was the area in which Nixon moved and he sent his representative Henry Cabot Lodge, to Paris with a new diplomatic initiative that failed.

In September of that year I lunched alone with Cabot Lodge in his suite at the Crillon Hotel in Paris. Lodge said then, and I take the liberty of repeating now, that Nixon's confidence in new diplomatic moves had been unrealistic. Nixon had learned there would have to be much more than that.

The "plan," if it can be called that, which then developed was the unilateral withdrawal of American ground combat forces from Vietnam, at first experimental, and soon becoming irreversible policy.

There is nothing secret about anything Nixon did thereafter. He undertook a combination of military and diplomatic pressures to force Hanoi to a settlement accepting an independent South Vietnam. Military pressure was applied in Cambodia and Laos, through air support of South Vietnamese ground operations, heavy bombing of the North and mining Hanoi's harbors. Diplomatic pressure was applied in Moscow and Peking in direct personal contact with the leaders of Hanoi's main supporters.

Little of that could have been planned in advance. Prince Sihanouk's ouster in Cambodia had not yet created the opportunity for an allied incursion. Hanoi had not yet begun its outright invasion of the South which created the opportunity and justification for heavy bombing and mining the harbors. Chou En-lai and Leonid Brezhnev had not yet agreed to receive Nixon.

On the evidence, the "secret plan" idea falls on its face, joining there on the floor Sargent Shriver's pretense that McGovern never proposed $1,000-for-everybody.

In point of fact, McGovern has not repudiated $1,000-for-everybody. This is another journalistic construction on his opening campaign speech in New York but the speech itself can be examined in vain for a direct repudiation.

The idea is still there but obscured now by proposals increasing taxes on the long-term gains of investors in stocks and real property, and of primary concern to at least 30 million such investors.

"Secret plan" there was not, a plan for income redistribution there certainly is. And so the campaign rocks along with somewhat more than its share of hyperbolic nonsense.

[From the New York Times, Sept. 12, 1972]

The Secret of Mr. Nixon's "Secret Plan"

(By William Safire)

Washington.—"The Old Guard dies, but never surrenders." Those ringing words were supposed to have been said by Gen. Pierre Etienne de Cambronne, commanding Napoleon's Imperial Guard at Waterloo, when called upon to surrender.

He never said it. A reporter named Rougemont invented the remark some time after the battle, and General de Cambronne went to his grave firmly denying he was the author of the famous phrase.

Could that happen in modern times? With tape recorders, press conferences, attributed quotations, microfilm records—is it still possible to invent and then perpetuate a quotation?

Consider this one: "I have a secret plan to end the war."

Who said it? Why, Richard Nixon of course. When? On March 5, 1968, in Nashua, N.H. Or did he?

Everybody says he did, carefully using quotation marks to show the "secret plan" was right out of the 1968 candidate's mouth.

As George McGovern put it in 1971: "Three years ago, Richard Nixon campaigned on the pledge that he had a 'secret plan to end the war.' . . ." McGovern returned to the theme in his acceptance speech: "I have no 'secret plan.' . . ."

John Lofton, editor of the Republican National Committee's weekly publication, "Monday," has made a hobby of writing a polite query to everybody who quotes Richard Nixon directly as having used the words "secret plan." Once in a while he gets a reply.

The most forthright of these came from Anthony Lewis of The New York Times, who wrote in October 1969: "I think you have caught me in a mistake. The truth is I wrote that out of the same general impression that so many people seem to have. But I have now checked back through our files and agree with you that I cannot find the precise phrase 'a plan' in what Mr. Nixon said during 1968."

What Mr. Lewis did find, and what is most often cited as the basis for "secret plan," was this remark of Mr. Nixon's on March 5, 1968, in Nashua, N.H.: "And I pledge to you the new leadership will end the war and win the peace in the Pacific. . . ."

In late 1970, John B. Oakes, editor of the editorial page of The New York Times, responded to a new query on another use of the "plan" by citing the same quotation and asking: "How could he make such a pledge if he didn't have a plan?" The Times editor argued: "It seems obvious that Mr. Nixon implied that he had a plan when he gave his pledge. But, as I say, it was doubtless an error to put the words in quotes and if that is what you want me to admit, I am glad to do so, and to state that it won't appear that way in this context again." Nor did it—in The Times.

Not everyone was willing to stop using the phrase when its unreliability was pointed out. N.B.C.'s Edwin Newman replied: "When I spoke of a secret plan, I did not mean it as a quotation. It was shorthand, which is sometimes unavoidable, for a plan that the President said he had and the particulars sometimes unavoidable, *for a plan that the President said he had* and the particulars of which he said he could not divulge without impairing the plan's chance of success." (Italics mine.)

Did Mr. Nixon ever say he had a "plan," secret or otherwise? He did not; nobody who has been challenged on the use of a direct quotation on this has ever come up with the citation of time or place. Mr. Nixon never said it; the use of quotation marks is inaccurate, unfair and misleading. But it continues, error feeding on error, as a myth becomes accepted as truth. The question then becomes—if he did not actually say it, did he imply that he had a secret plan? His remarks on March 5, 1968, in Nashua, N.H., were a pledge "to end the war and win the peace." He continued he had no "pushbutton technique" in mind, but would "mobilize our economic and diplomatic and political leadership."

Not surprisingly, both press and political opponents came back with the question "How?" Newsmen pressed for details, and when no plan was set forth, its absence was noted. The first use of the word "plan" that I could find was in the March 11, 1968, New York Times subhead: "Nixon Withholds His Peace Ideas. Says to Tell Details of Plan Would Sap His Bargaining Strength If He's Elected." The Associated Press lead three days later added to the idea of a specific plan, necssarily cloaked in secrecy: "Richard M. Nixon says the reason he is not ready to spell out the details of his plan to end the war in Vietnam is because he is reserving his 'big guns' for use against President Johnson if he wins the Republican Presidential nomination."

In that A.P. story, Mr. Nixon stressed that he had "no magic formula, no gimmick. If I had a gimmick I would tell Lyndon Johnson." The furthest he would be drawn into a discussion of a "plan" was this: "But I do have some specific ideas on how to end the war. They are primarily in the diplomatic area."

That's as much as the clips I have seen shown about the "plan." Would a fairminded person say they constitute the basis for an inference that the candidate possessed a detailed, and necessarily secret, panacea for the conflict? I think not—no more than one would infer that Senator McGovern has a "secret plan" to fulfill his pledge to bring back the prisoners in ninety days.

Throughout the campaign and on into the years ahead, we can expect to hear some orators and commentators use a little inflection around "secret plan" that makes it sound like a quotation. The quotation thereof is no dark media conspiracy, just an example of how some writers and cartoonists, too lazy to check source materials, casually pick up and perpetuate an error. A small but hardy band of newsmen, with no constituency but objectivity, will wince when they see the nonquote quoted.

TRIBUTE TO THE HON. DURWARD G. HALL

HON. DOMINICK V. DANIELS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1972

Mr. DANIELS of New Jersey. Mr. Speaker, I would like to add my voice to those who have paid tribute to my good friend from Missouri, Dr. HALL, on his 62d birthday, the last which he will enjoy as a Member of this House. Very rarely have the good doctor and I agreed on legislative matters, but we have shared a common love for this country and a common desire to make America a better place. Our only differences have come on the means to arrive at these goals.

For many years, Dr. HALL has carefully scrutinized legislation and caused all of us who advocate a larger role for the Federal Government to make sure that all our "i's" are dotted and our "t's" crossed, because if we fall short in this area we are sure to hear about it from Dr. HALL and my good friend from Iowa, the other half of the Hall-Gross team. But in this role the gentleman from Missouri like the gentleman from Iowa, has made a significant contribution to the legislative process.

Mr. Speaker, I for one will miss Dr. HALL and I know I speak for all of my colleagues on this side of the aisle and I wish him all the best in the years ahead. He is a very great American and this House and this Nation are better for having him come this way.

SENATE—*Tuesday, September 19, 1972*

The Senate met at 8:30 a.m. and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Our Father God, we thank Thee for the freshness of the morning, for the promise of the new day, and for the hope of high accomplishment in so many areas of need. In the heat and burden of these anxious days, which drain our strength and demand our best, we remember Thy Word, "in quietness and confidence shall be our strength." While we work for the things which must be done now, keep ever before us the vision of Thy eternal kingdom. With the benediction of the morning prayer upon us may we face the toil of the day with zeal for the truth, with honor held bright, with hatred of all deceit and hypocrisy, and with the knowledge that all great and noble service is based on magnanimity, patience, and self-giving. Thus may we have a part in bringing a redeemed world into the fullness of Thy kingdom.

We pray in His name who went about doing good. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 19, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, September 18, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the calendar.

There being no objection, the Senate proceeded to consider executive business.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

The ACTING PRESIDENT pro tempore. The clerk will please state the first nomination on the Executive Calendar.

The second assistant legislative clerk read the nomination of Antonin Scalia, of Virginia, to be Chairman of the Administrative Conference of the United States.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK — IN THE COAST GUARD

The second assistant legislative clerk read as follows:

Routine nominations placed on the Secretary's desk, in the Coast Guard.

The ACTING PRESIDENT pro tempore. Without objection, the nominations will be considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I request that the President be immediately notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, the President will be so notified.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

(The remarks Mr. MANSFIELD made at this point when he introduced S. 4001 are printed in the routine morning business section of the RECORD under Statements on Introduced Bills and Joint Resolutions.)

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Chair recognizes the distinguished Senator from Idaho (Mr. CHURCH) for not to exceed 15 minutes.

Mr. CRANSTON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. CHURCH. I yield.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Pamela Duffy may be on the floor to assist me during the time through the morning hour.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, what was the request?

The ACTING PRESIDENT pro tempore. That a person named by the Senator from California be allowed to stay on the floor during the morning hour.

Mr. ROBERT C. BYRD. The Chair means through the period for the transaction of morning business?

The ACTING PRESIDENT pro tempore. Through morning business.

Mr. ROBERT C. BYRD. I have no objection.

MISLEADING THE PUBLIC ABOUT SOCIAL SECURITY

Mr. CHURCH. Mr. President, an administration should be criticized whenever it attempts to mislead the public.

And, when it plans to use public funds for such a purpose, it should be prevented from doing so.

Today I intend to offer a resolution dealing with just such a situation.

The resolution is prompted by the Nixon administration's intentions to cloud the facts surrounding the enactment of a 20-percent social security increase this summer.

Social security checks now scheduled for delivery on October 3 will incorporate that 20-percent increase.

But, along with the checks, the social security beneficiaries will receive a printed notice which will say:

> HIGHER SOCIAL SECURITY PAYMENTS
>
> Your social security payment has been increased by 20 percent, starting with this month's check, by a new statute enacted by the Congress and signed into law by President Richard Nixon on July 1, 1972.
>
> The President also signed into law a provision which will allow your social security benefits to increase automatically if the cost of living goes up. Automatic benefit increases will be added to your check in future years according to the condition set out in that law.

This message is a shameless attempt to create the impression that somehow the 20-percent increase is the result of Presidential leadership.

Actually, the 20-percent increase was enacted over vigorous and persistent administration opposition.

I see no reason at all why social security recipients should be misled and I urge the Senate to prevent this deception upon the 28 million social security beneficiaries who will receive the announcement.

Throughout 1972 the Nixon administration persisted in attempts to keep a lid of 5 percent on social security increases, despite growing congressional sentiment for a raise that would deal more adequately with the rising cost of living.

The resistance of the administration hardly came as a surpise. It was in complete harmony with the administration's record on social security. Instead of pursuring realistic goals for adequate retirement income, the administration has consistently tried to prevent sensible social security increases from being passed.

In 1969, his very first year, President Nixon threatened to veto the 15-percent boost in social security which Congress enacted. He was willing, at first, to settle for only 7 percent.

In 1971 Congress was again concerned about the widening gap between social security and the cost of living. Its members voted for a 10-percent increase, even though the Nixon administration insisted that 5 percent was enough.

And so the stage was set for 1972. Would the Nixon administration finally acknowledge the following facts:

That one out of every four older Americans live in poverty?

That the cost of living has gone up by more than 17 percent during the last 3½ years?

That among the worst increases in living costs are goods and services vitally needed by the elderly? Medical care, for example, has gone up by 21 percent since 1969, and medicare now covers only 42 percent of all health care costs. And property taxes—which hit so hard at the incomes of those 70 percent of the elderly who own their own homes—have gone up by 32 percent.

That the number of elderly living in poverty actually increased by 100,000 during the first 2 years of the Nixon administration?

No, the Nixon administration shut its eyes on such harsh realities. It kept insisting that a mere 5-percent increase would be enough.

But in Congress, a different evaluation of the situation was developing.

We knew that in 1971 an Advisory Council on Social Security had looked closely into the funding of our social security system. That council, incidentally, was chaired by Arthur Flemming, now special adviser on aging to President Nixon.

The council took a fresh look at the actuarial assumptions upon which the payment system was based and they saw that those assumptions were outdated.

It soon became evident that an increase of at least 20 percent could be enacted without a major increase in the payroll tax and with no ill-effects upon the soundness of the social security trust fund.

With that information in hand—and with the vigorous support of national organizations concerned about the Nation's elderly—I introduced legislation calling for the 20-percent increase. Senators of both parties joined me in this effort. In all, 17 Republican Senators and 43 Democrats cosponsored an amendment of mine originally meant to be added to H.R. 1.

When it became evident, however, that action on H.R. 1 would be delayed or even deferred beyond 1972, I decided to offer the 20-percent increase as an amendment to the debt ceiling bill, considered by the Senate late in June. Here again, Republicans joined the effort. The final vote of 82 to 4 included 34 Republican votes. The House vote was 302 to 35.

In the face of such congressional response, what was the administration's role? Outright opposition and misleading arguments. The administration tried almost to the moment of passage, to defeat the amendment.

That emissary was Clark McGregor, then director of congressional liaison. He now heads up the committee to reelect the President.

Even after passage, the President apparently could not accept the fact that Congress had acted to make social security more adequate. He even went so far as to charge that the money for the 20-percent increase would have to be taken from other Government programs. He ignored the fact that Congress had displayed sound fiscal responsibility in enacting my proposal. The amendment contained not only the 20-percent increase, but also the necessary adjustments in social security taxes to pay for that increase.

Why, then, did he pretend that Congress had acted irresponsible? And if he so disapproved our action, why does he now attempt to claim credit for it—

through 28 million announcements now ready for mailing?

In fairness, I would point out that the practice of enclosing a Presidential notice with raised social security checks began in 1968, during the Johnson administration. Perhaps, objection should have been voiced then.

But there was neither deception nor hypocrisy involved in President Johnson's case, for he had requested the increase covered by the notice. Unlike President Nixon, Lyndon Johnson was not attempting to claim credit for a raise he opposed.

Still, no one benefits—least of all the elderly—when the social security mailing process is used for narrow, partisan advantage. And this practice should stop immediately to prevent social security from becoming a political football.

President Nixon has no entitlement whatever to try and grab the credit for increases in social security benefits approved by Congress. The truth is that nearly 1.5 million older Americans would have added to the poverty rolls if the Nixon policies on social security had prevailed over the past 3½ years.

Mr. President, the following resolution speaks for itself. It offers a means for dealing with the present deception, while preventing similar hypocrisy in the future. The resolution reads:

S. Res. 367

Whereas the Social Security system now protects workers and their families from loss of earnings because of retirement, death, or disability;

Whereas 28 million individuals receive Social Security benefits, including 18 million individuals age 65 or older;

Whereas the Social Security system helps 10 million Americans, who would otherwise live in poverty, to live above the poverty threshold;

Whereas 19 out of 20 Social Security beneficiaries would be unable to achieve a moderate standard of living without their Social Security payments;

Whereas 94 million workers are engaged in employment that is covered under the Social Security system;

Whereas 28 million Social Security beneficiaries will receive a 20 percent increase in their cash benefits payable under the Social Security Act as a result of the enactment of Public Law 92-336, which was enacted on July 1, 1972;

Whereas a notice of such increase in monthly cash benefits will be included with the October 3, 1972 payment;

Whereas the inclusion in the notice of the name of any candidate for public elective office is likely to inject partisan politics into the Social Security system;

Whereas the incumbent president strongly opposed the passage of the 20 percent Social Security cash benefit increase;

Whereas any notice of such increase that makes mention of the incumbent president, who is a candidate for public office, will result in an erroneous impression that he supported the enactment of such increase; Now, therefore, be it

Resolved, That it is the sense of the Senate that: Whenever any official notice is given to any Social Security beneficiary which announces or explains any increase in the amount of cash benefits payable under the Social Security Act as the result of enactment of Public Law 92-336, or any subsequent law, such notice shall not contain the name of, or refer to—

(1) any individual who is a candidate for public elective office at the time such notice is given;

(2) any individual who holds a public elective office at the time such notice is given; or

(3) any public elective office.

Mr. President, I send the resolution to the desk.

The ACTING PRESIDENT pro tempore. The resolution will be received.

Mr. CHURCH. Mr. President, I ask unanimous consent that a statement by the Senator from Texas (Mr. Bentsen), in support of the resolution, be printed in the Record.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Statement by Senator Bentsen

I am pleased that we are having this discussion this morning to set the record straight on Social Security.

The Social Security checks to be mailed in October will reflect a 20% increased voted overwhelmingly by the Congress. Attached to these checks the Administration plans to have a message, signed by the President, revealing to the recipients that Richard M. Nixon signed that increase into law, as well as the earlier 15% increase also voted overwhelmingly by the Congress. The implication is that the President, through forceful advocacy, has succeeded in channeling a more adequate retirement income into the pockets of millions of Americans.

The Republicans hope that message will be translated into millions of votes for their party in November.

What are the facts? Has the Republican Party been the champion of the elderly in their efforts to achieve a standard of living which at least approaches the poverty line? The answer must be a resounding "No."

The Administration record on Social Security, as on a myriad of issues confronting the elderly, has been to oppose, oppose, oppose, and then to take credit when the Congress acts.

On June 25, 1971, President Nixon declared that "the generation over 65 is a very special group which faces very special problems—it deserves very special attention. That is why we have been moving to insure that our older citizens get that special attention that they deserve."

Mr. Nixon's leadership in providing "special attention" led him to oppose a 15% increase in Social Security in the last Congress. In fact, he threatened to veto the increase, suggested only 7%, and then signed the bill into law only because the Congress made it a part of the Tax Reform bill, which he badly wanted.

When over 60 members of the Senate joined as co-sponsors of a 20% increase in benefits this year, Mr. Nixon promptly labeled it "irresponsible." Was that the "special attention" he referred to in 1971?

Now, of course, the President is trying to sell the idea that he was behind the 20% increase, but the American people are not going to buy that kind of showmanship.

Getting adequate Social Security increases from Mr. Nixon is like pulling teeth; he kicks and screams during the operation and then after it's over, he brags how good he feels.

And of course, Social Security is not the only field affecting the elderly which has received the Administration's hand of "special attention."

It took three years for the President to send Congress his message on the aging.

It took three years for the Administration to end its opposition to major funding increases needed for the Administration on Aging.

It took two years for the Administration to drop its opposition to nutrition for the elderly legislation.

And the Administration opposes to this day my bill outlawing discrimination in Government employment despite an 86–0 vote for it in the Senate.

Indeed, Mr. President, the advances we have made over the last several years for elderly Americans have been achieved largely through constant prodding from the Congress with the Administration supplying the rhetoric and then stepping in to claim credit for measures it has originally opposed.

Older Americans are too intelligent to be deceived by maneuvers like these.

They want to see action, and they are seeing it from the Congress—from men like Senator Church and Senator Eagleton and Senator Williams—men who have not been satisfied to reply with words but who have produced meaningful legislation.

And no amount of Madison Avenue press agentry can obscure that fact.

The Congress enacted a 20% hike in Social Security benefits because we recognized some hard facts.

We recognized that benefits, even with the 10% rise enacted in March 1971, continued to fall some $300 below the poverty threshold for a single aged person.

We recognized that 25% of the 20 million older Americans are living in poverty.

We recognized that the ravages of inflation had fallen most severely on people over 65 living on fixed incomes.

Furthermore, we knew that the 20% increase would not be substantially inflationary. In fact, the actuarial assumptions behind the increase had the unanimous support of the 1971 Social Security Advisory Council, including Dr. Arthur Flemming (Chairman of the Social Security Advisory Council and the President's Special Consultant on Aging).

No, Mr. President, the 92nd Congress owes no apology to older Americans for its persistent efforts to improve the lives of our elderly citizens.

But this Administration owes 20 million Americans an explanation as to why it has been so tardy to embrace initiatives by the Democratic Party to give our elderly a decent standard of living.

Mr. CHURCH. Mr. President, I ask unanimous consent to have a statement by Sargent Shriver on the same subject printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Shriver Statement on Social Security

For more than 18 million older Americans, October 3 is going to be an important day. It is going to be a day of hope.

For 18 million older Americans, October 3 is the day they will receive their monthly Social Security checks. It is going to be the day their benefits will contain 20 percent more than the month before. It is going to mean $161 a month for the average retired worker who received only $100 a month in 1969. It is going to mean $270 a month for the typical retired couple who received only $170 in 1969. And it is going to mean that almost 1½ million persons over the age of 65 will be lifted out of poverty.

Unfortunately, October 3 Social Security checks will also contain very misleading message; that message has been printed and is now being inserted for mailing.

"Your Social Security payment has been increased by 20 percent, starting with this month's check, by a new statute enacted by the Congress and signed into law by President Richard Nixon on July 1, 1972.

"The President also signed into law a provision which will allow your Social Security benefits to increase automatically if the cost of living goes up. Automatic benefit increases will be added to your check in future years according to the conditions set out in that law."

With this single piece of paper, Richard Nixon is trying to make millions of the nation's elderly think that he is responsible for bringing them the income security which they have needed for so long. He is claiming credit for hard-fought Congressional battles on which he has consistently been on the other side.

This message, paid for by the taxpayers, is nothing more than one more misleading piece of Republican campaign literature.

Let's look at the record.

When Richard Nixon took office he had an unparalleled opportunity to review landmark legislation for the elderly which a responsive Congress had enacted over the years, to improve on what had already been done, and to strike out in new directions.

He had the chance to give a powerful push to the kind of new actions needed not only to assure a secure old age but a satisfying old age for 20 million Americans now 65 years and older—and many millions more to come.

Instead, Richard Nixon missed the boat. In fact, it looks as if he wanted to sink it.

In 1969 he proposed a 7 percent increase in Social Security. The Democratic Congress enacted a 15 percent increase over Richard Nixon's vigorous opposition and threatened veto.

In 1971 the Administration again proposed only a 5 percent increase while Congress voted 10 percent.

For 1972 he proposed a 5 percent increase in Social Security. The Democratic Congress enacted a 20 percent increase. And Richard Nixon reluctantly signed the bill calling it "fiscally irresponsible" and "inflationary." Mr. Nixon falsely implied that the rise in benefits would necessarily draw funds from other programs. The fact, of course, is that Congress provided for adequate funding with a modest increase in payroll taxes and new accounting techniques.

At the same time, Richard Nixon pointed out that Social Security benefits have gone up a total of 51 percent since he took office. That is true when all the increases are compounded together. But if Richard Nixon had his way the compounded total would have been only 18 percent. The cost of living has also gone up 18 percent under Richard Nixon.

If Richard Nixon had gotten his way there would have no increase in real retirement income for the elderly at all.

The Social Security increases enacted by the Congress have meant $400 more per year for the average retired worker than Richard Nixon wanted him to have.

Yet now Richard Nixon has sent a message to every Social Security beneficiary trying to take the lion's share of the credit for the 20 percent increase. It certainly is strange that the message doesn't list Senator Church's name, or Senator Long's, or Congressman Mills', or the name of any other Senator or Congressman who labored so long for this landmark bill!

Older Americans should not—must not—be used as a political device. The elderly in America resent that attitude.

They know that it was the Congress which fought for their dignity and self-respect.

The Congress has consistently stood ready to backup its promises with performance while the White House refused to meet its responsibilities.

Partisan politics has found its place in everyone's Social Security envelope this month.

It does not belong there.

Mr. CHURCH. Mr. President, I reserve the remainder of my time.

Mr. RIBICOFF. Mr. President, will the Senator yield for a few questions?

Mr. CHURCH. I yield.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the time be taken from the 15 minutes allocated to me.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. RIBICOFF. Do I correctly understand the distinguished Senator from Idaho that some 28 million social security beneficiaries will be receiving notices this October crediting President Nixon with this 20-percent increase?

Mr. CHURCH. The Senator is correct. The clear inference is that the increase not only was signed but also approved by the President, when the facts are to the contrary.

Mr. RIBICOFF. I wonder whether I could ask a series of questions of the Senator from Idaho. Is it not true that in 1968 the President, who was then a candidate, promised to give priority to the problems of poverty among the aging and to generate solutions which are thoughtful, workable, and effective? Does the Senator recall him making that statement?

Mr. CHURCH. I recall the statement very well. It figured very prominently in the campaign.

Mr. President, in order that the resolution be not referred to committee at this time, I ask unanimous consent for its immediate consideration.

Mr. SAXBE. Mr. President, I object.

The ACTING PRESIDENT pro tempore. The clerk will report the resolution.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 367) to prohibit any notice of an increase in Social Security payments from referring to any individual who is a candidate for public elective office.

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the resolution?

Mr. SAXBE. I object.

The ACTING PRESIDENT pro tempore. Objection is heard. The resolution will go over under the rule.

Mr. RIBICOFF. Is it not true that in 1970 the Democrats in Congress sponsored a 15-percent social security increase?

Mr. CHURCH. That is true.

Mr. RIBICOFF. Is it not true that the administration opposed this increase, arguing instead for a 7-percent increase?

Mr. CHURCH. That is also true.

Mr. RIBICOFF. And later agreed to raise it to 10 percent, which would have been outstripped by rising prices at that time because of inflationary pressures?

Mr. CHURCH. That is an accurate statement of what happened.

Mr. RIBICOFF. Is it not true that the President threatened to veto, but later, even in spite of the threat, signed the bill for a 15-percent increase in 1970?

Mr. CHURCH. Yes. It was something of a shotgun wedding.

Mr. RIBICOFF. Is it not correct that in 1971 the Nixon administration urged Congress not to upset the delicate balance by approving a social security increase exceeding 5 percent?

Mr. CHURCH. The Senator is correct.

Mr. RIBICOFF. And did Congress again reject the President's suggestion?

Mr. CHURCH. Yes. Congress ultimately enacted an increase of 20 percent.

Mr. RIBICOFF. But in 1971 it was a 10-percent increase.

Mr. CHURCH. Yes, in 1971.

Mr. RIBICOFF. In 1972 we had the same situation prevailing, with the President recommending a 5-percent increase and Congress recommending and actually passing a 20-percent increase. Is that not correct?

Mr. CHURCH. That is also an accurate statement.

Mr. RIBICOFF. Is it not correct that the President then labeled the action of Congress highly inflationary and fiscally irresponsible?

Mr. CHURCH. Yes. He made that statement at the time he signed the bill, clearly indicating that he still opposed it, even as he signed it. Yet, he signed it anyway, while castigating Congress for taking action that he complained was inflationary and fiscally irresponsible. I found it hard to follow the President's reasoning in labeling the measure fiscally irresponsible, because it contained adjustments in the social security tax that paid for the increase. So it contributed in no way to enlarging the Federal deficit and amounted to scrupulous fiscal responsibility, as that term has always been used in the past, and therefore the President's statement made no sense to me.

Mr. RIBICOFF. If the President's position had prevailed, is it not true that an additional 1.5 million older Americans would now be on the poverty rolls in this country?

Mr. CHURCH. Yes. The Senator states the proposition correctly. If, during the last 3½ years, since President Nixon became the Chief Executive, Congress had followed his lead on social security, the effect of the continuing inflation would have enlarged the number of elderly people living beneath the poverty line by 1.5 million persons.

Mr. RIBICOFF. In other words, because of the Democratic leadership in this Congress, the average social security beneficiary will receive $400 more per year to buy food, medicine, and other necessities. Is not that figure correct?

Mr. CHURCH. That figure is correct. We actually have been able to improve the relative financial status of the elderly by a modest amount, by virtue of the refusal of the Democratic Congress to follow the President's lead on social security.

Mr. RIBICOFF. So the purpose of the resolution offered by the distinguished Senator from Idaho and joined in by many others, including myself, is to make it clear that a President who does everything that he possibly can to keep social security payments down, who actually opposed the increased social security payments authored by the Democratic Congress, should not be entitled to take credit for that increase.

Mr. CHURCH. That is the purpose of the resolution. I think the Nixon case is particularly flagrant. It may have been a bad practice in the past for any President to enclose a notice of this kind. It did not really become objectionable, however, until a President did so who actually opposed the increase and therefore lacked any entitlement whatever to the credit he seeks to grab.

I think the element of hypocrisy here is so shameless that it calls out for a resolution of this kind to stop the practice, not only for the incumbent President, but for future Presidents as well.

Mr. RIBICOFF. I commend the distinguished Senator from Idaho, who has always been in the forefront of congressional efforts to aid the elderly. It would seem to me that the senior citizens in this country, some 28 million social security beneficiaries, owe a debt of gratitude and appreciation to the Senator from Idaho for his continued leadership, understanding, and compassion for the problems of the elderly of America. As one Senator, I pay tribute to the Senator and thank him for all he has done over the years.

Mr. CHURCH. I thank the Senator from Connecticut for his kindness. He joins as a cosponsor of the resolution. He, of course, has been consistent in his support for more adequate social security payments through the years.

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Chair recognizes the distinguished senior Senator from California (Mr. CRANSTON) for not to exceed 15 minutes.

Mr. CRANSTON. Mr. President, as an original cosponsor of the 20-percent social security increase passed by Congress in June, I should like to add my support to the comments and actions taken today by the distinguished Senator from Idaho; and I should like to join the distinguished Senator from Connecticut in praising the Senator from Idaho for the leadership he has provided over so long a period of time on this and related issues.

Evidence of the duplicity of the administration is seen by Members of Congress every day and its effects are increasingly felt by the American people. How many times have we been told by representatives of the Nixon administration that the President will not support this employment program, or that poverty bill, or that legal assistance agency—only to pick up the paper the next day and read fallacious rhetoric about what the President allegedly has done for unemployed Americans, for poverty-stricken Americans, and for law and order in America.

The statement to be mailed to social security beneficiaries, in which the President seeks to take credit for something which, in fact, he opposed, is the latest and perhaps most transparent example.

It is evident that Mr. Nixon's America is one in which only the needs of the favored few are represented. There seems to be no place in Mr. Nixon's America for the poor, the aged, the ill, the lonely, and the hungry.

Men and women who are eager to work and well qualified to work but who cannot find work, because of an inflated, jobless economy; people who cannot break out of the recurring cycle of poverty, because of the distorted priorities of this administration; the aged who have given their productive lives to the Nation's economy—all these people seem not to exist in Mr. Nixon's America.

This administration is very responsive to ITT and corporate finance, but not to the needs of ordinary people.

Congress has tried again and again to convince the present administration to be responsive to the needs of Americans—all Americans—and again and again Nixon has refused to act.

It is incredible that the present administration, which called this 20 percent social security increase "inflationary" and said that it would endanger the "integrity of the trust fund" should now try to dupe the public into believing that this increase is the result of the President's efforts. In point of fact, this increase had to be pressed upon him by Congress.

Two and a half months ago, while Senator CHURCH was arduously pursuing the 20 percent increase in benefits, administration representatives were walking the Halls of Congress telling Members that the President would not support more than a cost of living increase of 5 percent. When we pointed out that property taxes alone have risen 14.3 percent in the last year, food prices and medical care have risen nearly 6 percent and 4.7 million elderly persons live in poverty with a median income of about $37 a week, the President nonetheless said he would oppose anything over 5 percent because, he said, it would be inflationary. Now he wants to claim credit for a 20 percent increase. The American people will not be fooled by this administration sleight-of-hand.

It is fortunate for social security recipients that this increase was enacted by Congress before the election. Otherwise, it might well have been still another item on the long list of positive, responsible, legislation enacted by Congress which was vetoed by President Nixon.

This same administration indifference to the interests of the elderly is reflected in other capital cities, notably in Sacramento. Only after hundreds of elderly citizens threatened to march to the very doors of the Executive Office did the Governor of California begrudingly sign legislation—enacted by a Democratic State legislature—to pass along $12 of this social security increase to recipients of old age pensions. The Governor's representative in Washington has informed Senator TUNNEY and me that under no circumstances would the Governor support either of the bills we have offered to ensure that social security beneficiaries receive the increase intended for them by the Congress.

As chairman of the Subcommittee on Railroad Retirement, I filed on September 14 the report of the Committee on Labor and Public Welfare recommending a similar 20 percent increase in railroad retirement benefits—an increase which will undoubtedly be enacted by Congress. Based on his behavior in the case of social security, I suspect that the President may well try to take credit for this increase as well.

I would like to clear the record now.

At no time, as railroad retirement bill proceeded through Congress, did the Nixon administration lend any support whatever to the 20 percent increase in annuities for railroad retirees. In fact, in an August 9 letter to the committee while we were considering a 20-percent increase, the Executive Office of Management and Budget stated.

> We would recommend: that the Congress provide a 5 percent cost of living increase.

The same position the administration took on social security.

Mr. President, I urge my colleagues in the Senate to join with me in support of the resolution offered by Senator CHURCH which would prohibit partisan misrepresentation in social security announcements.

Mr. HART. Mr. President, will the distinguished Senator from California yield to me?

Mr. CRANSTON. I am delighted to yield to the Senator from Michigan.

TRUTH IN SOCIAL SECURITY

Mr. HART. Mr. President, on October 3 more than 27 million persons will receive social security checks reflecting a 20-percent increase in payments.

They may well receive in the same envelope a notice reporting that President Nixon signed the law granting this increase.

The notice probably will not reflect the fact that the administration opposed the 20-percent increase, just as it had opposed other increases in the past 3½ years.

For the record, let us compare the administration's positions and congressional action on social security.

In 1969, the President asked for a 7-percent increase and threatened to veto, but did not, the 15-percent increase voted by Congress.

In 1971, the administration, ignoring the sharp increase in the cost of living, advocated only a 7-percent raise in social security. The Congress voted a 15-percent increase.

And in 1972, the President pressed to limit the increase to 5 percent and then, in signing the bill, charged that the 20-percent increase was "fiscally irresponsible."

Of course, no such warning will be included in the notice accompanying the October social security checks, and for good reason. Congress made the necessary changes in social security taxes to cover the added costs.

If the President's positions over the past 3 years had prevailed, almost 1.5 million older persons would have been added to the welfare rolls.

The unhappy fact is that as of this year, one out of four older Americans live in poverty.

The unhappy fact is that while the cost of living has risen 17 percent in the past 3½ years, the costs of food, medical care, and property taxes, items which hit older citizens particularly hard, have risen even faster.

It is the unhappy fact that the number of older citizens living in poverty increased by 100,000 in the first 2 years of the present administration.

No wonder the administration is not anxious to publicize those figures and its record on social security.

But that record and what the administration may try to indicate in the notice to accompany the October social security checks should remind all of us of the advice from a former high official of this administration:

> One would be better informed, if instead of listening to what we say, watch what we do.

That is turning out to be better advice than anyone feared.

Mr. CRANSTON. Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. At this time the distinguished Senator from California (Mr. TUNNEY) is to be recognized.

Mr. MONDALE. Mr. President, I ask unanimous consent that I be recognized out of order.

The ACTING PRESIDENT pro tempore. What disposition will be made of the time of the Senator from California (Mr. TUNNEY)?

Mr. MONDALE. That the Senator from California follow me.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

The Chair recognizes the distinguished Senator from Minnesota (Mr. MONDALE) for not to exceed 15 minutes.

Mr. MONDALE. Mr. President, I ask unanimous consent that the distinguished Senator from New Mexico (Mr. MONTOYA) be added as a cosponsor of the pending resolution.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MONDALE. Mr. President, I am pleased to join the distinguished Senator from Idaho (Mr. CHURCH) and other Senators in supporting the Senate resolution to keep narrow partisan politics out of the social security program. I have long served on the Subcommittee on Aging under the chairmanship of the Senator from Idaho (Mr. CHURCH). It is typical of his leadership that he successfully guided the 20-percent social security increase through Congress and secured its adoption on June 29, 1972. I was privileged to be a cosponsor of that much-needed social security increase. Without this long overdue increase, elderly Americans would continue to see their standard of living decline in the face of inflation.

Unfortunately, the President is using public funds to create the misleading impression that this 20-percent increase is the result of his leadership.

For when the first social security checks containing this increase are delivered to 28 million beneficiaries on October 3, 1972, they will be accompanied by the following printed notice:

> Your Social Security payment has been increased by 20 percent, starting with this month's check, by a new statute enacted by the Congress and signed into law by President Richard Nixon on July 1, 1972.
>
> The President also signed into law a provision which will allow your Social Security benefits to increase automatically if the cost of living goes up. Automatic benefit increases will be added to your check in future years according to the conditions set out in that law.

Mr. President, if we had a Federal Political Commission as we have a Federal Trade Commission, it would be forced to issue a restraining order on this statement because it is false and misleading: The President not only had nothing to do with the 20-percent increase but, in fact, opposed it. He supported an increase so much lower that it would hardly have been enough to cover the inflation which had eroded the incomes of senior citizens since the previous social security increase in 1971.

No one political leader should claim credit for the 20-percent increase. It was strongly supported by a bipartisan coalition of 82 Senators and 302 Representatives. But even more important, it is extremely misleading for the same President who vigorously opposed this vital legislation to claim credit for its enactment now.

The record is clear. President Nixon fought against a 20-percent increase, holding out until the end for a mere 5 percent; in doing so, he opposed his own White House Council on the Aging.

When he reluctantly signed this legislation on July 1, 1972, he described the 20-percent increase as "inflationary" and "fiscally irresponsible"—despite congressional provision for adequate funding with only a modest increase in payroll taxes.

That is consistent with his economics. His idea is that a dollar spent for health, for education, for adequate social security, or for legal services for the poor, is always inflationary, but a dollar spent in Vietnam or on a space shuttle or on an unneeded aircraft carrier or on a completely and wholly inexcusable tax loophole for the rich is sound and fiscally responsible. And I think the people of this country will see that as this campaign goes on.

In 1969, the President proposed only a 7-percent social security increase and strongly opposed the 15-percent increase enacted by Congress.

In 1971 the administration proposed only a 5-percent increase while Congress approved a 10-percent increase. It has been the consistent view of this administration that it is somehow "fiscally irresponsible" to make life decent and bearable for millions of elderly Americans.

In light of this record, there is no justification for President Nixon claiming credit for the increase they will find in their social security envelopes in October. I hope, therefore, that the Senate will support Senator CHURCH's resolution. In doing so, it will show that it finds misleading partisanship unacceptable in connection with the social security program.

Mr. President, there are other aspects of this social security matter which need clearing up at this time. The way the social security increase is working the Congress is voting an increase for social security recipients who are desperately in need, but the money is being taken away from them at the local level. This is happening particularly in public housing and much of the responsibility for what is happening lies at the doorstep of the President.

As the Senators know, there is a ceiling on the amount which public housing authorities can charge public housing tenants: It is 25 percent of their income.

When the increase in social security was adopted, social security recipients throughout the country, who are public housing tenants, assumed they would get the full 20 percent as an addition to their incomes. This is what Congress intended. Instead, public housing tenants started to receive notices within a few weeks from housing authorities saying that their rents would go up, taking as much as 25 percent of the increase.

Mr. Nixon is largely responsible for the public housing authorities raising rents in this manner. This is so because Congress has appropriated $130 million to help the local public housing authorities reduce the cost of operating their housing projects. But Mr. Nixon refuses to spend that money. Instead of spending the money, he encourages the local public housing authorities to take 25 percent of the increase. These moneys have been appropriated by Congress, and he has refused to spend them.

This is an inexcusable strategy which gives social security recipients money with one hand and takes it away with the other.

Another problem is that in most States, those who receive old age assistance will lose dollar for dollar any increase they receive in their social security benefits. For example, a widow getting $100 a month from social security and $60 a month in old age assistance benefits will get no benefit from this increase. Since the 20-percent increase in social security will add $20 to her social security income, her old-age assistance in these States will be reduced by the full $20.

For others, the social security increase will mean that they are no longer eligible for old-age assistance. Losing this eligibility is critical, because it will mean that these senior citizens will also lose all or part of their medicaid and food stamp benefits.

In Minnesota, the terrible problems I have just described are not limited to a few. Sixty percent of the 23,000 elderly citizens who receive old-age assistance—about 14,000 senior citizens—will be in danger of losing all of their social security increase. These are the poorest of the poor—living in small apartments, often alone, faced by soaring inflation which hits them much harder than it does other people.

Another 2,000 elderly Minnesotans will lose all entitlement to old-age assistance as a result of the 20-percent social security increase—and will thereby lose all or part of their medicaid and food stamp benefits.

As I have said, rolling back increases in public housing rents the President can do himself by simply using the money which Congress has appropriated. But Congress itself must act to make it mandatory for the States to pass through the 20-percent social security increase by preventing cuts in old-age assistance, medicaid, and food stamp programs.

Mr. President, two recent articles by Robert T. Smith, of the Minneapolis Tribune, point out the poignant human side of the problem I have just been discussing.

Mr. Smith describes what happened a year ago when the last social security increase was passed. A man in Minneapolis received a $9 per month increase—only to see his rent for public housing go up $6, his medicare jump $1.40, and his old-age assistance decrease by $5 a month. Thus, he actually lost

$2.40 instead of receiving any social security increase.

Both the Congress and the President must act now to insure that this 20-percent increase will not be illusory for millions of Americans.

Mr. President, I ask unanimous consent that two articles by Mr. Robert T. Smith appearing in the Minneapolis Tribune on September 8, 1972, and September 15, 1972, be inserted at this point in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

EDITORIALS

(By Robert T. Smith)

You say you live in a high-rise apartment for the elderly operated by the Minneapolis housing and Redevelopment Authority.

You say that you and the others in the apartment house were all excited over the 20-percent rise in Social Security benefits that is to begin with your Oct. 3 check.

You say that the other day you went to your mailbox and found a note from the Housing and Redevelopment Authority announcing your rent will be raised—Oct. 3.

You say you watched the faces turn to gloom as others came for their mail and their little anouncement.

You say you now are going to have to pay 5 percent more for the same apartment and you add: "What kind of a deal is it when they give you a raise and then take part of it back?"

Well, lady, that's just the kind of deal it is.

The Housing Authority people are surprised that you are surprised. They feel you should have known this all along. But after trying to get the information from the local Social Security people and the Housing Authority folks, I understand why you might not have known. I called the Department of Housing and Urban Development (HUD), a federal agency, and nobody answered the phone.

The buck-passing is wondrous. "I know, but you'll have to call Charlie," was the usual response. And Charlie is out of town.

I contacted the Social Security headquarters in Baltimore, Md., and was told that there is no rent raise involved with the new law increasing your money. "That's a local option," the spokesman said.

A man with the local Housing Authority, who said he wasn't supposed to talk, said it is mandatory that you and the others in public housing pay 25 percent of your income for rent. Thus if you get a raise in Social Security your rent is automatically raised.

The agency that made this rule is HUD, he said, and the local Housing Authority has nothing to say about it.

Of course, the reason you're in public housing is that you didn't have much money. And therefore you need a raise more than most. Along with the other increases in the cost of living, you will find the 20-percent Social Security raise may disappear quickly.

But, what the heck, that winter coat with the hole in it ought to last another year.

An elderly Minneapolis man received a $9 a month raise in Social Security benefits about a year ago. And then:

Because he lives in public housing his rent went up $6 a month.

His Medicare cost rose $1.40 a month.

The Old Age Assistance people gave him $5 less a month. They would have eaten the whole $9 but for the "pass-through" law that prevented them from taking the first $4 of the raise.

It didn't prevent the other from taking it, however.

Thus John Stenen, 82, of 1920 4th Ave. S., ended up paying $2.40 more than the $9 raise for the same benefits. And this doesn't count three years of the rising cost of living.

So don't talk to Senen about a raise in Social security. And that goes for many, many of the elderly in this area, the ones classified as "disadvantaged." That includes an estimated 80 percent of the aged.

This year's 20-percent raise in Social Security will cost Stenen again. He will get $6.40 more a month, and because the "pass-through" law no longer applies. Old Age Assistance will give him $6.40 less a month.

Since he will have no gain in income his rent will not rise, but there's that cost-of-living increase for another year to cope with.

"It's a cruel hoax for our senior citizens who are the most disadvantaged," said Daphne Krause, executive director of the Minneapolis Age and Opportunity Center. She urges that something be done to awaken public indignation. Amen.

Sen. Walter Mondale this week sent a letter to President Nixon urging the federal government to quit taking back "with one hand what we have given with the other." Specifically, Mondale called for release of $130 million authorized by Congress to meet the operating costs of public housing. The delay in releasing such funds has forced local public housing agencies to raise the rent of housing for the elderly.

But the biggest problem is lack of coordination among the agencies that are nibbling away at the elderly. Medicare, Old Age Assistance, the Minneapolis Housing Authority, the U.S. Department of Housing and Urban Development, state medical assistance, all are more or less operating as if the others didn't exist.

It's a terribly complicated mess, and there's no wonder that the elderly are confused and disappointed when they see their raises eaten up before they can buy an extra can of soup.

Mr. MONDALE. Mr. President, These two impressive articles from the Minneapolis Tribune by Mr. Smith, describe what it is like to be a recipient of public housing and social security benefits and who sees his long awaited increase taken away. I think this whole problem could be expressed most honestly by the President if the letter he sends recipients reads as follows:

Dear Recipient: Your social security has been increased 20 percent over my dead body. However, a good deal of it will be taken away from you anyway by the local housing authority because I have refused to spend the money which has been appropriated for Congress.

I wish you a Merry Christmas.

Mr. CHURCH. Mr. President, I ask unanimous consent that the distinguished assistant majority leader's name (Mr. Robert C. Byrd) be added to the list of cosponsors of the resolution I submitted today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Under the previous order, the Chair recognizes the distinguished junior Senator from California (Mr. Tunney) for not to exceed 15 minutes.

Mr. TUNNEY. Mr. President, I could not help but listen with amusement to my very distinguished colleague as he was talking about the message that would be in the envelopes of the social security recipients. If it were not so tragic, it would be clearly hilarious. However, it is tragic. And one of the most tragic aspects of all is the ability of the administration to twist reality. The theory of relativity in science suggests that time bends through space. Our theory of relativity in the current administration suggests that truth bends through time.

It is unbelievable to me that truth could be so blatantly distorted. I think it is increasingly apparent that the administration twists the truth in order to alter reality.

First we had the situation in Vietnam in which they describe as a realinement of forces the pulling out of our troops. When the South Vietnamese at various times have proved themselves incapable of handling the battle in the field and are forced to retreat, press releases emanating from Saigon follow saying that this was a realinement of forces.

When there is a bombing attack against North Vietnam, it becomes protective reaction strikes. Apparently when the United States sent drones in against North Vietnam which were thereafter the object of attack on these drones, we would move in and bomb whatever targets were originally planned to be bombed. Apparently this was a protective reaction.

The Commander in Chief's secret plan for ending the war becomes, instead, a plan for escalating it.

A former Attorney General denies knowledge of the ITT $400,000 pledge to the Republicans. However, according to the Republican Lieutenant Governor of California, he did know about it. The Justice Department whitewashed a U.S. attorney for failing to report a bribe offer.

Then the Watergate bugging affair broke in the news. The Republicans denied any knowledge of this, even though two former White House aides are under indictment.

Now we have another example of the administration's blatant double-think. And that is the remarkable attempt by the administration to take credit for the 20-percent social security increase that it, in fact, opposed.

Once again, the administration is attempting to mislead the American people.

And it is attempting to do so in the most cynical and provocative way.

It is trying to capitalize on the expectation of our senior citizens for an increase in their social security benefits.

The increase becomes effective with the checks that will be mailed to 18 million social security recipients on October 3. Incredibly enough, inserted in those envelopes is a misleading message about how the social security increase was signed into law by the President.

Inferentially, he tries to take credit for the increase. It appears to the reader that if it had not been for the President of the United States, the increase would not have been forthcoming.

The fact is that the President did everything within his considerable power to kill the increase.

He opposed the legislation as it went through Congress every step of the way.

Even in signing the legislation, the President attacked it as "fiscally irresponsible" and "inflationary."

The distinguished Senator from Idaho (Mr. Church) was working on that legislation and fighting for that increase. He knows how he had to battle every inch of the way to get the legislation approved by the Senate.

But there is a far more significant problem here than partisan attempts to claim credit for the recent social security increases. For the fact is that many of our elderly are not going to get this 20-percent increase unless Congress and the President take further action.

As an aside, I wonder how much it will cost the taxpayers to put that little message from the President in with each of the 18 million social security checks. I do not suppose it is very much. I would not blame the President for sending such a message if he had supported the social security increase. But to call the measure fiscally irresponsible and then to use more taxpayer dollars to trumpet inferentially his own support of the increase is, in my mind, more unbelievable than we would have reason to suspect even from this most unbelievable administration.

The President proposed only a 5-percent increase for social security for 1972. In 1969, he proposed a 7-percent increase crease. In 1971, he suggested a 5-percent increase and Congress voted a 10-percent increase.

In total, the increases he has proposed since taking office would not even offset the 18-percent increase in the cost of living since 1968.

Under his policies our senior citizens would have been spared the opportunity to have an increase commensurate with the cost of living. In fact, they would have been speared on his policies if Congress had not taken bold incentives to increase it substantially above what the President requested.

I am amazed to see a man run for reelection as a fiscal conservative and at the same time, be responsible for approximately 20 percent of the total debt that this country has. Since President Nixon has been in office, our debt has gone up almost $100 billion, which is approximately 20 percent of the total debt we have. And yet, he is running as a fiscal conservative.

As I have indicated, we have suffered an 18-percent depreciation in the value of the dollar since he has gone into office. Based upon this record, if the President's policies had been followed by other administrations since World War II, we would probably have a debt of a couple of trillion dollars hanging around our necks, and the value of the dollar would probably be worth 3 or 4 cents compared to what it was in 1940.

Thank the Lord we had administrations, both Republican and Democrat, that did not follow these irresponsible fiscal policies. I just do not know how we are going to be able to take another 4 years of the same. The people who are going to suffer the most are the senior citizens.

It was fortunate we did have a surplus in our social security trust fund so that we were able to give the 20-percent increase this year, and it was fiscally responsible to do so. However, if we continue with the kind of inflation that this administration has allowed to be perpetrated on the American people, it is possible that we will not have the surplus in the social security fund in another 2 or 3 years to enable us to give the kind of increases necessary for senior citizens to live on.

I am deeply concerned about this state of affairs. It should be of considerable concern to senior citizens who are looking toward the November election to determine who they are going to vote for.

Just since the last increase was voted in 1971, prices have increased agonizingly. The cost of medical care has gone up 5.7 percent. In part, that means that for fiscal 1971 the elderly paid almost as much in average, out-of-pocket expenses for medical care—$225—as they had in the year before the medicare program went into effect—$234.

Food prices increase 5.9 percent for the year.

For those senior citizens who owned their homes, property taxes increased an average of 14 percent.

Presently one out of every four older Americans lives in poverty. Is that not a great thing for this rich Nation of ours to be able to say at this point in our development.

I have toured a number of California nursing homes housing senior citizens. I have not been proud of what I have seen. I realized as I visited those homes that life is a movable feast, and every single one of us, if we are not hit by a car or die of a heart attack, will, in all probability, end up in some form of nursing home. I hope the citizens of our country, the executive officials and legislators, will have a sense of charity in future years that extends beyond what is now extant by the time I end up in a nursing home because, frankly, conditions there are pretty terrible.

We have a President who is making an appeal to senior citizens. Yet, if he just took a tour of nursing homes in his own State of California, he would realize how desperate their need is, not only for this 20-percent increase—which, thank the Lord, Congress mercifully enacted—but for a whole panoply of necessary services.

If he had had an opportunity to take that tour I cannot see how he could have opposed this 20-percent increase.

If the President's opposition had prevailed, senior citizens who live in little walk-up apartments would have had to reduce their diets further—maybe one hot meal a day. Fortunately, the President did not prevail; Congress did when it increased social security 20 percent.

In so many ways this administration has been as progressive as a dinosaur. It has stood as a barrier to needed assistance to our senior citizens.

The present administration has never taken the lead to improve social security, housing, medical care, and other initiatives clearly imperative for older Americans. The incentive invariably has been with Congress. The Senate particularly has been the crucible of concern for the problems of the elderly. It has spurred a wide range of actions.

Personally, I have sensed the abiding commitment in the Senate, and I have been very pleased to join the distinguished Senator from Idaho (Mr. CHURCH), the Senator from Minnesota (Mr. MONDALE), and others who have introduced legislation to improve the lot of senior citizens. Their courageous leadership, I think, has been an example to us all of what can be done. Certainly there are millions of senior citizens who go to bed at night deeply appreciative of the leadership they have shown. But why is it necessary for the leadership to occur in the Congress? Why cannot this same leadership be demonstrated by the Executive branch?

I personally find it very difficult to believe that in this day and age the American people are going to be gullible enough to swallow double-think of the 1984 variety in 1972. I sit in front of my television set; I read my newspaper, baffled at the campaign style of the administration. The idea apparently is not to go out to the hustings; to sit in Washington, to send administration officials out for speechmaking. This is done, apparently, because the administration does not want to have to answer the very tough questions that Americans, not only senior Americans but all Americans, should be asking and will be asking.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

At this time the distinguished senior Senator from Pennsylvania (Mr. SCOTT), will be recognized for 15 minutes.

Mr. MANSFIELD. Mr. President, due to the fact that the distinguished Republican leader is not here because of a leadership meeting at the White House, I ask unanimous consent that the acting minority leader be recognized at this time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Chair recognizes the distinguished Senator from Ohio (Mr. SAXBE).

Mr. SAXBE. Mr. President, some time ago in this body a group of Senators, of which I was one, working with cooperative leadership on both sides of the aisle, dissatisfied with some of the proceedings on the floor, pushed, for the consideration of the body, certain changes which had to do with the utilization of our time. It resulted in allotting 15 minutes to be reserved for speeches at the beginning of the session, so that it would not interfere with the business of the day; permitting, however, at the end of the day unlimited time for those who wished to talk.

In hearing the speeches this morning, I cannot but reflect on how sensible we were to do this, because in the final days of a political campaign I can see—and this is my first time to be here during the final days of a national political campaign—where we would have Senators from both sides of the aisle trying out their campaign speeches on the floor of the Senate.

Regardless of the merits of the speeches from either side, I can see also how this would take up most of the time of the Senate, which was trying to complete its business, and receive, I would assume, the attention from the press that would be allotted to any other campaign speech.

So this morning in hearing these statements—and I am sure that there are ready replies to all of these that will be given at an appropriate time in political meetings where they belong—I see how wise we were in setting these rules, because these political speeches can be introduced in the RECORD as the various Senators wish them to, without unduly interfering with the work of this Senate.

I yield back the balance of my time.

Mr. BIBLE. Mr. President, I commend the distinguished Senator from Idaho for submitting his resolution.

I supported the 20-percent increase in social security benefits and am pleased to associate myself with the remarks he has made here this morning.

The only thing consistent about this administration's approach to social security benefits has been its consistent resistance to improving the lot of the millions of our senior citizens who depend on their social checks for the bare necessities of life.

I think it entirely appropriate that President Nixon's sorry record on this score be kept absolutely clear.

I was particularly interested to note the administration's plan to include a printed notice with each of the increased benefit checks scheduled to go out October 3.

Such a reminder that the President signed the legislation providing the benefit increase could surely create the impression that the President supported the increase—and would be grossly misleading.

The President opposed the Congress on the measure with all the resources at his command. And the social security recipients should not have to suffer this kind of electioneering at Government expense.

The administration's plan recalls an experience I had recently with the Social Security Administration over this matter of "check stuffing."

Earlier this year the fraud detail of the Reno, Nev., Police Department called my attention to a serious fraud being perpetrated against some of our senior citizens by persons posing as bank examiners.

As reported to me, this bunco scheme usually follows a pattern. The intended victim receives a phone call from someone representing himself to be a bank examiner or a police officer.

The caller states that examiners have found bank account irregularities and asks the victim to read over the phone the correct balance in his bank account.

The con man then tells the person he will check the records and call back.

In the second phone call the victim is told that someone is stealing from his account, and the person is asked to cooperate with the authorities in apprehending the thief.

If the unsuspecting citizen agrees, he is asked to make a withdrawal of funds and to turn them over to a bank examiner who calls at his home.

Secrecy is stressed. And the end result is that a bogus bank examiner or bogus police officer takes and absconds with the money.

The indication is that older people—many of whom are on social security—are prime targets and likely to be easy prey for this kind of fraud.

I was informed that not too long ago in Reno four such victims—all over 66 years of age—were bilked for more than $46,000.

Such phony schemes can rob their victims of a lifetime of savings.

In an effort to combat this sort of thing—and at the suggestion of the Reno police—I contacted the Social Security Administration to explore the possibility of having warning notices included periodically with social security checks. An effective way, I think, to alert our senior citizens to the hazards.

By way of response, the Social Security Commissioner deplored such frauds. But he cited a number of administrative problems—including stringent staff limitations and the increased workload such a "check-stuffing" operation would entail.

In fairness to the Commissioner, he did indicate that other means are available for publishing such fraud warnings.

But the suggestion that printed warnings accompany the social security checks was clearly resisted—and went for naught.

Now, Mr. President, how does the administration justify stuffing the recipients' checks with the kind of notice now being planned. A notice that is likely to create a completely erroneous impression concerning the President's real attitude of opposition to the recent increase in benefits?

Have they suddenly found new staff?

How have they overcome the administrative and workload problems?

Or is this a conscious effort to make it appear to many of our senior citizens—in this election year—that the President supported the benefit increase?

I submit, Mr. President, that if notices are to accompany social security checks the taxpayers' money would be better spent by warning our senior citizens of the hazards of the kind of bunco scheme and con men I have just described. If they are a problem in Reno, Nev., I daresay they are a problem all across the Nation.

This resolution serves a highly worthwhile purpose, and I am pleased to give it my support.

NIXON ATTEMPTS TO DEFEAT DRUGS UNDER MEDICARE BILL

Mr. MONTOYA. Mr. President, much has been said here today about the Nixon performance versus the Nixon rhetoric as it relates to social security and the aged.

Just last week, Mr. President, I was informed of a communication from the Nixon administration to the members of the Finance Committee requesting that several new social security benefits now included in the Welfare Reform Bill (H.R. 1) be dropped. Specifically, the administration requested the dropping of the amendment which I introduced, and which was modified by the committee, to medicare provisions to cover outpatient drugs.

As the Members of this Body well know, this proposal has been in the mill since 1965 and has been studied and restudied. In 1969, the administration suggested yet another study, so Secretary Finch of HEW appointed a task force on prescription drugs, the so-called Dunlop committee.

Mr. President, every single recommendation made by this task force was included in the proposal which I introduced and which became S. 936.

To further appease the administration, the Finance Committee modified my proposal by limiting the coverage to "maintenance drugs," or those drugs used in the treatment of chronic conditions.

This modification has resulted in the cost of the proposal being reduced to $700 million, thus eliminating the administration's main argument that the cost was too high.

It seems clear, Mr. President, that this latest effort of the Nixon administration to torpedo this outpatient drugs proposal is but another example of how Nixon rhetoric is not matched by Nixon performance. The concern which he expresses for the plight of our country's aged is not matched by efforts or performances aimed at alleviating the many economic problems faced by the elderly who, more than anyone else, feel the brunt of rising cost-of-living figures.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Do all Senators reserving time yield back their time? All reserved time is yielded back.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. In accordance with the previous order, there will be a period of not to exceed 15 minutes for the transaction of routine morning business, with speeches by Senators limited to 3 minutes each.

Is there morning business to be transacted at this time?

ORDER FOR ADJOURNMENT TODAY, WEDNESDAY, THURSDAY, AND FRIDAY

Mr. ROBERT C. BYRD. Mr. President, with the approval of the distinguished majority leader, I ask unanimous consent that when the Senate completes its business today, and Wednesday, Thursday, and Friday, it stand in adjournment until 9 a.m. on tomorrow, and Thursday, Friday, and Saturday, respectively.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services; the Subcommittee on Small Business of the Committee on Banking, Housing and Urban Affairs; the Committee on Foreign Relations; the Subcommittee on Water and Power Resources of the Committee on Interior and Insular Affairs; the Subcommittee on Labor of the Committee on Labor and Public Welfare; the Committee on Finance; the Committee on Government Operations; the Subcommittee on Aging of the Committee on Labor and Public Welfare; the Committee on Public Works; the Ad Hoc Subcommittee of the Committee on the Judiciary; and the Subcommittee on the Judiciary may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDERS FOR RECOGNITION OF SENATORS BENTSEN, HUMPHREY, MONTOYA, EAGLETON, AND SCOTT TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, in the following order, after the leadership has been recognized, the Senators whose names I will mention be recognized for 15 minutes each under the rules of the Senate tomorrow:

The distinguished Senator from Texas (Mr. BENTSEN).

The distinguished Senator from Minnesota (Mr. HUMPHREY).

The distinguished Senator from New Mexico (Mr. MONTOYA).

The distinguished Senator from Missouri (Mr. EAGLETON).

I also ask unanimous consent that the distinguished Republican leader, the Senator from Pennsylvania (Mr. SCOTT), be recognized tomorrow for not to exceed 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

QUORUM CALL

The ACTING PRESIDENT pro tempore. Is there further morning business?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will please call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT EXTENDING TIME FOR DEBATE ON S. 632

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be 1 additional hour allotted to the time for debate on S. 632, a bill to amend the Water Resources Planning Act, with the time to be equally divided and controlled as under the previous order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will please call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 1072 and 1073.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LAND HELD IN TRUST FOR THE LAC DU FLAMBEAU BAND OF LAKE SUPERIOR CHIPPEWA INDIANS

The bill (H.R. 2185) to declare that certain federally owned land is held by the United States in trust for the Lac du Flambeau Band of Lake Superior Chippewa Indians was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–1129), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of H.R. 2185 is to convey to the Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin the beneficial interest in 40 acres of Federal land. The land was purchased by the United States in 1932 for $500, and it has a present value of $2,100. Although the conveyance will be made without the payment of a consideration, the value of the land will be considered for setoff purposes in any future claim allowed by the Indian Claims Commission.

The land is located within the reservation, is no longer needed by the Department of the Interior in connection with the administration of Indian affairs, and is desired by the band for use in connection with its forest management plan and its recreational development plan.

COST

The enactment of the bill will require no Federal appropriation, but will require the conveyance of Federal property worth $2,100, subject to possible recoupment in future claims litigation.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs in executive session on September 6, 1972, unanimously recommended enactment of H.R. 2185.

PROVISION WITH RESPECT TO INHERITANCE OF INTERESTS WITHIN THE NEZ PERCE INDIAN RESERVATION

The bill (H.R. 10436) to provide with respect to the inheritance of interests in restricted or trust land within the Nez Perce Indian Reservation, and for other purposes was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–1130), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

H.R. 10436 limits the right to receive by devise or inheritance any interest in other trust or restricted property on the Nez Perce Reservations to persons who are enrolled members of the tribe with one-fourth degree or more blood of the tribe. The limitation will not apply, however, unless the person who is precluded from inheriting is paid by the tribe the fair market value of the interest in the land.

NEED

The bill is an exact parallel of the statute enacted by the 91st Congress for the Yakima Reservation (act of December 31, 1970; 84 Stat. 1874). The purpose in both cases is to keep as much of the reservation as possible in the ownership of tribal members, and to preclude the transfer of reservation lands by devise or descent to nonmembers of the tribe. As a matter of fairness, however, if an heir or device is precluded from taking an interest in reservation land he must be paid for its fair market value. If he is not paid he may inherit. In other words, the nonmember is entitled either to the land or its value in money, and the choice rests with the tribe.

The enactment of H.R. 10436 is also needed to correct an inequity by the Yakima statute. Many members of the Yakima and Nez Perce Tribes are intermarried and have property on both reservations. A Yakima member may inherit land on the Nez Perce Reservation, but a Nez Perce member may not inherit land on the Yakima Reservation. H.R. 10436 will make the same rule of law apply to both groups.

The amendments recommended by the Department of the Interior were not adopted because the committee felt that they were not necessary, and because the language in H.R. 10436 should be kept the same as the language in the statute for Yakima. The Secretary of the Interior may by regulation fix the time for making appraisals, identify the life estate inherited by a surviving spouse, and provide for recording the trust title created by section 1 of the bill.

COST

Enactment of the bill will involve no additional Federal expenditure.

COMMITTEE RECOMMENDATIONS

Open hearings were held by the Subcommittee on Indian Affairs on S. 2449, the Senate companion measure sponsored by Senators Church and Jordan of Idaho, and H.R. 10436 on July 28, 1972, and the Committee on Interior and Insular Affairs in executive session on September 6, 1972, unanimously recommended the enactment of H.R. 10436.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 1081 and succeeding items on the Calendar in sequence.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

FEDERAL SHIP FINANCING ACT OF 1972

The Senate proceeded to consider the bill (H.R. 9756) to amend the Merchant Marine Act, 1936, as amended, which had been reported from the Committee on Commerce with amendments;

On page 2, line 15, after the word "instruction", insert "or pollution treatment, abatement or control";

On page 3, line 7, after the word "paid", insert "by or for the account of the obligor";

At the beginning of line 9, strike out "obligated to be paid" and insert "which the obligor is then obligated to pay";

On page 7, at the beginning of line 6, strike out "trade;" and insert "trade as defined in section 905 of this Act for purpose of title V of this Act;";

On page 9, line 12, after the word "repaid,", strike out "and is to be carried on a vessel,".

And, on page 24, after line 4, insert a new section, as follows:

SEC. 8. This Act may be cited as the "Federal Ship Financing Act of 1972".

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–1137), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to amend Title XI of the Merchant Marine Act, 1936, as amended (the "Act") relating to vessel mortgage guarantees to expedite procedures, simplify paperwork, and better meet the current needs for investment capital necessary to revitalize the American Merchant Marine.

BACKGROUND AND NEED FOR LEGISLATION

Title XI authorizes the insurance by the Secretary of Commerce of mortgages and loans made to finance the construction, reconstruction and reconditioning of vessels. Before Title XI became an effective method of financing and because of the historical uncertainty and inherent risks involved in investments in shipping, the Government was granting aid to ship construction in the form of direct mortgages. This program was effectively abandoned in 1954 and Title XI substantially amended to replace direct Government financing with private financing, backed by Government insurance.

The Maritime Administration program of financing ship construction under Title XI has grown steadily. Total outstanding obligations under this program as of December 31, 1971 were in excess of $1,280 billion on 1316 vessels, including 820 barges to be carried aboard ship. Applications were being processed, as of December 31, 1971, with respect to the construction of 1168 vessels, including 955 barges to be carried aboard ship, including an additional $702 million. During calendar year 1971, the total of insured construction loans and ship mortgages increased by $280 million. Total outstanding obligations administered by the National Marine Fisheries Service as of December 31, 1971 were in excess of $17.4 million and involved approximately 171 fishing vessels.

In response to the anticipated increased financing requirements associated with new vessel construction under the current 10-year maritime program, Congress included in the 1970 amendments to the Act an increase from $1 billion to $3 billion in the aggregate amount authorized to be insured under Title XI. This authorization is not increased by the bill.

By way of background, it should be noted that before the Title XI program could realize the degree of success indicated by the above figures, several additions to the original statute of 1938 were necessary in order to make it workable. In the course of this gradual evolution of Title XI many of the restrictions and limitations which in practice proved unrelated to the Government's security or the needs of the industry remained in the statute. It has long been recognized by persons in Government, the shipping industry, and financial community that revision and updating of the law was desirable but it was the unusually high interest rates in the recent past and the limitations on refinancing in the present statute which brought into focus the need for changes in the statute to provide more flexibility in the program.

Simplification of the Title XI program has also become an increasingly desirable objective. The form of the present Title XI statute requires the purchaser of ship financing bonds, or his trustee, party to a number of security arrangements, such as the mortgage, in which he has no business interest since the mortgage is assigned to the Government upon default by the borrower. Purchasers of Title XI obligations rely on the government insurance and look to the insurance in event of default by shipowner. However, because of the present statute they must become mortgagees of the ship with the resultant complexity and paper work which being a party to the ship mortgage involves. This discourages many potential purchasers and makes the development of a secondary market for such bonds difficult. The lack of an effective secondary market further discourages primary investment in ship mortgage bonds. Simplification of Title XI transactions from the standpoint of purchasers of these obligations is necessary in order to attract, on the best possible terms, the capital needed to revitalize the American Merchant Marine as is contemplated by the current 10-year maritime program.

GENERAL EXPLANATION

The proposed legislation is a technical statute to amend Title XI of the Merchant Marine Act, 1936, as amended (the "Act"), to improve its responsiveness and flexibility. It would also simplify the mechanics of issuing and marketing obligations under Title XI to improve their reception in the financial community. The proposed legislation would not increase the aggregate unpaid principal amount of the mortgages and loans insured under Title XI and outstanding at any one time above the currently authorized amount of $3 billion. It contains no obligational authority or authorization for appropriations.

CHANGE FROM GOVERNMENT INSURANCE OF A LOAN OR MORTGAGE TO GOVERNMENT GUARANTEE OF THE OBLIGATION ITSELF

One of the primary changes the bill would make is in the Government's role in the financing transaction. Whereas existing law provides that the Government insures a loan or mortgage, which, by their nature, require many complicated documents involving the borrower, the lender, the trustee, and the Government, the bill provides that the United States will guarantee the payment of the principal of and interest on the obligation itself. All security, including any mortgage, would be held by the Government as security for its guarantee. The lender's primary concern in the transaction would be with the terms of the bond or other financial instrument which is the case with most bonds or debentures available on the market. The terms of the security arrangements would be left primarily to the borrower and United States, represented by the Secretary of Commerce. The security arrangements between the borrower and the Secretary will incorporate provisions for the protection of the interests of the Government similar to those which are contained in the present contract of insurance. This eliminates the requirement under the existing statute for the purchaser of merchant marine bonds or his agent to be a party to the ship mortgage. Under present procedure the managing underwriters, their counsel, all members of the underwriting syndicate, and frequently the purchasers themselves, are weighed down with legal documents often running into hundreds of pages. This complexity discourages investors, and underwriters who must undertake the explanation of such a transaction to prospective customers. This same reluctance to become involved in the mortgage transaction also evidences itself in secondary market transactions, thereby reinforcing the burdensome effect of documentation on the primary sale. The bill will substantially reduce these impediments and should broaden and deepen the market for ship financing bonds.

BROADENING THE TIME LIMITS UPON FINANCING UNDER THE PROGRAM

H.R. 9756 makes an important change in the existing program by broadening the time limits on the use of Government assisted financing. Presently a mortgage can only be insured: (1) to finance the construction, reconstruction or reconditioning of the vessel being mortgaged if the mortgage is placed on the vessel either upon completion of the construction, reconstruction or reconditioning or within one year thereafter; (2) to finance the construction of another vessel if a commitment has been obtained prior to laying the keel of the vessel which will be mortgaged. The bill retains the first provision mentioned above, but with respect to the mortgaging of a vessel to provide funds for additional vessel construction or other marine purposes it eliminates the requirement that a commitment be obtained prior to laying the keel of the vessel which will be mortgaged and expands the uses to which proceeds of mortgages may be devoted. Thus, under the bill the proceeds of obligations guaranteed under section 1104(a)(1) of the Act, as amended by the bill, shall be used to (1) finance construction, reconstruction, or reconditioning of vessels, including reimbursement to the owner, either during construction, reconstruction or reconditioning, or within one year thereafter; (2) to finance the construction, reconstruction or reconditioning of vessels with the proceeds of obligations relating to existing vessels; or (3) to finance the construction, reconstruction or reconditioning of facilities or equipment pertaining to marine operations with the proceeds of obligations relating to existing vessels. The proceeds could not be used as working capital. Examples of permissible uses covered by (3) above would be cranes, containers, chassis or other cargo handling equipment, or facilities or equipment pertaining to commercial fishing operations. Uses which are permissible under present law are retained. Every loan under the amended program must pass the test of economic soundness as under present law.

REFINANCING EXISTING OBLIGATIONS

Section 1106 of the present statute requires that an insured mortgage for the purpose of refunding a previously insured mortgage shall not bear interest at a rate higher than the original interest rate. This has been an impediment to flexibility in financing, particularly to the use of short term financing coupled with refinancing at a time when more favorable long term rates may be available. If, during the term of the original mortgage, interest rates rise instead of fall, Title XI financing is not available when the interim financing must be paid. The proposed legislation would authorize refinancing of obligations at any time of amounts outstanding on existing obligations subject to the requirement that the interest rate shall not exceed such rate as the Secretary of Commerce determines to be reasonable.

This refinancing authority would be extended to include amounts outstanding on obligations not previously insured or guaranteed, to the extent that they had been issued for a purpose or purposes contained in Title XI. Previously uninsured construction loans could be refinanced under Title XI, but generally not uninsured mortgages.

In many segments of the industry, particularly domestic shipping many vessels have been financed with bank loans repayable over as little as seven or eight years, despite the fact that the related vessels have a useful life of 18 to 25 years. In addition, many of these loans were contracted for during tight money markets and consequently bear high interest rates. By enabling these vessel operators to convert to Title XI financing, with longer maturities and frequently lower interest rates, additional resources would be made available for the modernization and expansion of the domestic fleet.

OTHER SIGNIFICANT PROVISIONS

The proposed legislation would permit financing of certain vessels, including barges and similar vessels of at least 25 gross tons. Previously, these vessels could be financed only if they were 200 gross tons or over. The design of some barges and barge carrying ships is presently limited by the necessity to design around barges of 200 gross tons or more, if Government assisted financing is to be used. All barges financed under this new provision will be documented under the laws of the United States and subject to ship mortgages under the Ship Mortgage Act, 1920.

The present statute provides that any contract of insurance or commitment to insure entered by the Secretary of Commerce shall be incontestable "except for fraud, duress, or mutual mistake of fact." This language has caused difficulties in the past because investors and their counsel are unsure of its meaning and its effects upon the Government insurance. While the Committee expects that these exceptions would never have been effective against an innocent holder of a Title XI insured obligation, this language of the present statute obviously affects the marketability of merchant marine bonds. The bill would delete this language, as was done in the case of similar language with respect to the financing of new communities by the Housing and Urban Development Act of 1970. The Government would retain the rights under renumbered Section 1106 (Section 1108 of the current statute) to take action against the parties involved in the fraud as provided therein. Title XI securities should bear language as to the incontestability of guarantees that is as certain and unequivocal as the language of Government guaranteed obligations of other agencies.

The bill changes the Government guarantee language from "the faith of the United States is solemnly pledged" to "the full faith and credit of the United States is pledged". Your Committee understands that the language of the bill is more commonly accepted and understood by investors than the present language. No substantive change in the nature of the Government's obligation is intended by this provision.

The proposed legislation would empower the Secretary of Commerce to determine the useful life of the vessel, subject to the present maximum of 25 years, except where vessels have been reconstructed or reconditioned so as to extend their useful lives. The arbitrary maximum of 20 years for liquid bulk carriers contained in the present statute would be eliminated for Title XI purposes and the determination left to the discretion of the Secretary. This is advisable in view of technological improvements in the ability of such vessels to withstand corrosion and similar effects.

EXPLANATION OF AMENDMENTS

The committee adopted seven amendments to the legislation, most of which are technical, clarifying or conforming in nature. For example, the first committee amendment merely clarifies that pollution abatement or control vessels are "vessels" for purposes of the Act and qualify for assistance under Title XI if they meet other applicable requirements.

Two committee amendments to section 1 of the bill clarify that only amounts paid or to be paid by or for the account of the obligor for construction, reconstruction or reconditioning of a vessel are included in the definition of "actual cost" contained in section 1101(f) of the Act, as revised by the bill. This conforms to the present statute and makes clear that, for example, amounts paid for construction-differential subsidy by the Government are not included in "actual cost". Maritime Administration policy with respect to including in actual cost and tracing payments made by or for the account of an obligor's predecessor in interest would also be continued.

A committee amendment to revised section 1104(a) (1) clarifies that the words "foreign trade" are used in the more expansive sense of the section 905 definition with respect to title V relating to construction-differential subsidy. Thus, any vessel engaged in a foreign trade eligible for construction-differential subsidy under title V would also be eligible for financing guarantees under title XI.

A substantive amendment was made by the committee to revised section 1104(b) (2) with respect to barges. As passed by the House of Representatives, the bill would have authorized title XI guarantee of up to 87.5% of the actual cost or depreciated actual cost of barges to be carried on a vessel, but only 75% of the actual cost or depreciated actual cost of other barges. The committee could find no persuasive reason in policy for this distinction. Further, representatives of inland waterway operators argued that such a distinction would result in a competitive disadvantage for inland waterway barges in instances where they are in competition with barges carried on vessels. The committee therefore amended the bill to eliminate the distinction and to put all such barges on an equal footing at the 87.5 percent level. The Maritime Administration estimated that 850 to 1,000 barges are built per year and that less than one-half of these would be built under the title XI program. Total capital investment as of 1972 in barges was estimated at $230 million. The committee amendment would not increase the number of barges eligible for title XI financing, but would permit guarantees of obligations with respect to a higher percentage of the actual cost or depreciated actual cost of a barge i.e. 87.5 percent, as in the case of barges carried on a vessel. The amendment would not increase the aggregate amount authorized to be guaranteed under the Title XI program.

The final committee amendment is a new section 8 providing the Act may be cited as the "Federal Ship Financing Act of 1972".

CACHE NATIONAL FOREST

The bill (S. 2762) to authorize and direct the Secretary of Agriculture to acquire certain lands and interests therein within the boundaries of the Cache National Forest in the State of Utah, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, to promote in a timely and adequate manner the protection of the culinary and municipal water supply of Ogden city and other Weber County areas, the control of floods, the minimizing of soil erosion and stream pollution through the maintenance of adequate vegetative cover, and the conservation of the scenic beauty, wildlife habitat, and natural environment of certain non-federally-owned lands within the Cache National Forest in the State of Utah, and to provide for their management, protection, and public use and enjoyment as national forest lands under the provisions of the Multiple-Use Sustained-Yield Act of 1960 (74 Stat. 215), the Secretary of Agriculture is authorized and directed to acquire, at not to exceed the fair market value, as of the time of such acquisition, as determined by him after appraisal, much of the non-federally-owned land, not to exceed in the aggregate 23,000 acres, in the area described in section 2 of this Act as he finds suitable to accomplish the purposes of this Act.

SEC. 2. This Act shall be applicable to lands within the boundary of the Cache National Forest in the watershed of the Middle Fork of the Ogden River, being portions of townships 6, 7, and 8 north, ranges 2 and 3 east, Salt Lake base and meridian.

SEC. 3. There is hereby authorized to be appropriated for the purposes of this Act not to exceed $3,450,000, to remain available until expended.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-1138), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

S. 2762 would authorize the Secretary of Agriculture to acquire certain lands in the watershed of the Middle Fork of the Ogden River in Utah. The acquisition would be made to maintain and conserve the water quality, scenic beauty, wildlife habitat, and other natural environmental values of the area through multiple-use management. The Secretary of Agriculture would be authorized and directed to acquire by purchase, condemnation, or other lawful means at not to exceed fair market value such nonfederally owned land, not to exceed 23,000 acres.

BACKGROUND

Recent concern about the Middle Fork watershed originated when plans were proposed to subdivide and develop privately owned watershed lands for residential use. Subdivision development was seen as adversely affecting the capability of the watershed to produce water of acceptable quality for Ogden City and the Weber County areas as well as being detrimental to other environmental values.

COST

The bill authorizes that a maximum of $3,450,000 be appropriated for the purposes of this act.

COMMITTEE RECOMMENDATIONS

The Committee on Interior and Insular Affairs in executive session unanimously recommended enactment of S. 2762.

WASATCH NATIONAL FOREST

The Senate proceeded to consider the bill (S. 1144) to authorize and direct the acquisition of certain lands within the boundaries of the Wasatch National Forest in the State of Utah by the Secretary of Agriculture, which had been reported from the Committee on Interior and Insular Affairs with an amendment. On page 2, line 12, after the word "exceed", insert "$2,000,000"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That to promote in a timely and adequate manner control of floods, the reduction of soil erosion and stream pollution through the maintenance of adequate vegetative cover, and the conversion of their scenic beauty and the natural environment, and to provide for their management, protection, and public use as national forest lands under programs of multiple use, the Secretary of Agriculture is authorized and directed to acquire, at not to exceed the fair market value as determined by him, such of the nonfederally owned land, not to exceed three thousand acres, in the area described in section 2 hereof as he finds suitable to accomplish the purposes of this Act.

SEC. 2. This Act shall be applicable to lands within the boundary of the Wasatch National Forest in the watersheds of Mill Creek, Big Cottonwood Creek, and Little Cottonwood Creek, being portions of townships 1, 2, and 3 south, ranges 1, 2, and 3 east, Salt Lake base and meridian.

SEC. 2. There is hereby authorized to be appropriated for the purposes of this Act not to exceed $2,000,000, to remain available until expended.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-1139), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

S. 1144, as amended, would authorize and direct the Secretary of Agriculture to acquire non-federally owned land, not to exceed 3,000 acres, located within the boundary of the Wasatch National Forest in the watersheds of Mill Creek, Big Cottonwood Creek, and Little Cottonwood Creek. The Secretary of Agriculture would acquire the lands in order to protect their watershed and other environmental values under a program of multiple-use management.

BACKGROUND

This bill is directed at efforts, which were first made in 1966, toward development of year-round residential subdivisions on private lands in Little Cottonwood Canyon, within the Wasatch National Forest. The development proposals have resulted in a continuing public concern over the management of private lands in the three drainages since the developments would directly affect the water supply of Metropolitan Salt Lake City.

The Department of Agriculture now has adequate authority to purchase the lands involved in this legislation. From 1967 to 1971, the Forest Service acquired about 2,000 acres of recreation tracts for about $2 million in Big Cottonwood and Little Cottonwood Canyons on the Wasatch National Forest with funds available from the land and water conservation fund.

AMENDMENT

The committee amended S. 1144 to limit the cost of land acquisition to $2 million.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs in executive session unanimously recommended enactment of S. 1144.

AUTHORIZATION FOR STUDY OF A SEGMENT OF COLORADO FOR POSSIBLE INCLUSION IN THE WILD RIVERS SYSTEM

The Senate proceeded to consider the bill (S. 2901) to amend the Wild and Scenic Rivers Act by designating a segment of the Colorado River in the State of Utah as a component of the national wild and scenic rivers system, which had been reported from the Committee on Interior and Insular Affairs with amendments;

On page 1, at the beginning of line 5, strike out "(9)" and insert "(28)";

In the same line, after the word "The", strike out "thirteen and one half miles" and insert "thirty-six mile";

In line 7, after the word "point", where it appears the first time, strike out "1052½" and insert "1063";

In the same line, after the word "point", where it appears the second time, strike out "1039" and insert "1027";

In line 8, after the word "begins", strike out "approximately six miles from" and insert "at";

On page 2, line 1, after the word "westward", insert "to the junction of the Delores River with the Colorado River";

In line 2, after the word "of", strike out "Utah); to be administered by the Secretary of the Interior."."; and insert "Utah).";

And, after line 3, strike out:

SEC. 2. The Secretary of the Interior shall, within one year following the date of the enactment of this Act, take, with respect to the segment included as a component of the national wild and scenic rivers system by this Act, such action as is provided for under section 3(b) of the Wild and Scenic Rivers Act; except that, the reference in such subsection to the "date of this Act" shall be construed to refer to this Act.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(a) of the Wild and Scenic Rivers Act is amended by adding at the end thereof the following:

"(28) COLORADO RIVER, UTAH.—The thirty-six mile segment which flows from mile point 1063 to mile point 1027 (such segment being the segment which begins at the boundary between the State of Utah and Colorado and runs westward to the junction of the Delores River with the Colorado River in the State of Utah)."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-1140), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

S. 2901, as amended, would designate for study for possible inclusion in the national wild and scenic rivers system a 36-mile segment of the Colorado River in the State of Utah. The segment flows from mile point 1063 to mile point 1027, or from the Utah-Colorado border downstream to the junction of the Delores River with the Colorado River in Utah. The study would be authorized by amending section 5(a) of Public Law 90-542, the Wild and Scenic Rivers Act.

AMENDMENTS

Originally, S. 2901 called for a 13½-mile segment of the Colorado River (from mile point 1052½, downstream to mile point 1039) to be designated as part of the wild and scenic rivers system. This was changed to provide for a study of the longer 36-mile segment as a potential addition to the system, conforming to a suggestion from the administration.

DESCRIPTION

Of this reach of the river, the segment called Granite Canyon is most widely known. This is 13½ miles of exciting water. The canyon has rapids with such colorful names as Sock-It-To-Me, Wildhorse, Marble Canyon, Funnel Falls, Skull, and Last Chance. Scenic side canyons are numerous. Many people visit and boat this white water stretch each year. Wildlife includes deer, cougar, snowy egrets, Canadian geese, beaver, blue herons, and golden eagles. Massive red sandstone cliffs rise along the river. There is black rock of schist and gneiss, intruded by granite, and capped by red and purple shales.

COST

Enactment of the bill will involve no Federal expenditure.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended, so as to read: "A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Colorado River in the State of Utah for study as a potential component of the national wild and scenic rivers system."

BRIDGEPORT INDIAN COLONY

The Senate proceeded to consider the bill (S. 3113) to declare that the United States holds in trust for the Bridgeport Indian Colony certain lands in Mono County, Calif., which had been reported from the Committee on Interior and Insular Affairs with amendments.

On page 1, line 3, after the word "United", strike out "States" and insert "States, except all minerals including oil and gas which are hereby withdrawn from appropriation under the public land laws including the mining and mineral leasing laws,";

And in line 9, after the word "the" where it appears the first time, insert "Indians of the"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all of the right, title, and interest of the United States, except all minerals including oil and gas which are hereby withdrawn from appropriation under the public land laws including the mining and mineral leasing laws, in the following described public domain land located in Mono County, California, are hereby declared to be held by the United States in trust for the Indians of the Bridgeport Indian Colony:

The south half of the southeast quarter of the northeast quarter of section 28, township 5 north, range 25 east, Mount Diablo base and meridian, Mono County, California, containing twenty acres more or less.

Provided further, That said parcel shall be subject to the easement to the Bridgeport Public Utility District for a sewer main.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–1141), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of S. 3113 is to declare that 20 acres of public domain in Mono County, Calif., are held in trust for the Bridgeport Indian Colony, subject to an easement to the Bridgeport Public Utility District for a sewer main.

BACKGROUND

The Bridgeport Indian Colony, a group of approximately 65 Indian people from 20 families, living near the town of Bridgeport, Calif., is not a federally recognized Indian entity. However, the colony members are descendants of Indian groups which originally occupied the Bridgeport Valley.

Although these Indians do not constitute a federally recognized tribe, band, or group, there are a few who meet the qualifications set forth in section 19 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as Indians eligible to receive benefits under that act.

On September 4, 1969, the colony members adopted Articles of Association of the Bridgeport Indian Colony to lend organizational support to the members' efforts to improve their social and economic advancement. The purposes of the association as stated in article I of the articles are set forth as follows:

ARTICLES OF ASSOCIATION OF THE BRIDGEPORT INDIAN COLONY

ARTICLE I—PURPOSES AND POWERS

1. The primary purposes of the Association are to obtain and hold land and housing in order to provide each family in the Association with adequate housing. These purposes include the obtaining of benefits incidental to housing: water, electricity, sanitation and other utilities.

2. Other purposes of the Association are to promote the education, health, economic advancement, recreation and general welfare of the Association members.

The complete Articles of Association of the Bridgeport Indian Colony have been made a part of this report.

NEED

The colony members live in several substandard dwellings on approximately 5 acres of a 160-acre privately owned tract. This tract was patented to a non-Indian in 1914, as a desert land entry. Over the years, the patent owners have threatened to evict the Indians many times. The heads of the Indian families are concerned over the ever-present threat of being evicted from their homes. However, their financial conditions are such that they cannot purchase building sites and construct new homes for their families.

In the event that the 20-acre tract of public domain is made available for the use and occupancy of the colony as proposed, the Owens Valley Indians who have formed a housing authority have offered to extend the assistance of their agency to the trust lands of the Bridgeport community.

On March 5, 1972, the members of the colony adopted a resolution requesting that the 20-acres described in S. 3113 be acquired as the site of a permanent home for the colony.

COST

No additional expenditure of Federal funds will result from the enactment of S. 3113.

AMENDMENTS

The committee amended S. 3113 on page 1, line 6, by inserting the words "the Indians of the" after the word "for". This amendment was adopted to make clear the intent of the committee that the conveyance of land provided for in this bill would be only for the benefit of the Indians of the Bridgeport Indian Colony. The Committee also amended the bill to reserve minerals to the United States and to withdraw them from appropriation under the public land laws including the mining and mineral leasing laws.

Committee recommendations

The Committee on Interior and Insular Affairs in executive session on September 6, 1972, unanimously recommended that S. 3113, as amended, be enacted.

LONE PEAK WILDERNESS AREA, UTAH

The Senate proceeded to consider the bill (S. 3466) to establish the Lone Peak Wilderness Area in the State of Utah which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert:

That (a) the Secretary of Agriculture, in accordance with the provisions of subsection 3(d) of the Wilderness Act of September 3, 1964 (78 Stat. 892), relating to public notice, public hearings, and review by State and other agencies, shall review, as to its suitability or nonsuitability for preservation as wilderness, the area (or any portion thereof) located partially in Wasatch National Forest and partially in Uinta National Forest, containing approximately twenty thousand acres, lying generally southwest of Salt Lake City, Utah, and commonly referred to as the Lone Peak Area, and shall report his findings to the President on or before the expiration of the two-year period following the date of the enactment of this Act. The President shall advise the United States Senate and House of Representatives of his recommendations with respect to the designation of such area or portion thereof as "wilderness", together with maps and a definition of boundaries. Any recommendation of the President to the effect that such area or portion thereof should be designated as "wilderness" shall become effective only if so provided by an Act of Congress.

(b) During the review period provided by this Act and for a period of three years after his recommendations are submitted, the Secretary shall manage and protect the resources of the Lone Peaks study area in such a manner as to assure that the suitability of all or any part of the area now suitable for potential wilderness designation is not impaired.

(c) The review required by this Act, including any reports and recommendations with respect thereto, shall, except to the extent otherwise provided in this Act, be conducted in accordance with the applicable provisions of the Wilderness Act.

SEC. 2. There is hereby authorized to be appropriated such amount as may be necessary to carry out the provisions of this Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–1142), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

This bill, S. 3466, as amended, would provide for a study of 20,000 acres in the Wasatch and Uinta National Forests in Utah as a possible addition to the national wilderness preservation system.

AMENDMENTS

In its original form, S. 3466 would have established 13,000 acres in these two forests as the Lone Peak Wilderness Area. The amendments authorize, instead, a study of 20,000 acres, similar to that applicable to national forest primitive areas, and as recommended by the Department of Agriculture. The review would be completed and findings made to the President within a 2-year period.

The Secretary of Agriculture would be required to manage the area during the review period and for 3 years after his recommendations in a manner to assure that its potential as wilderness would not be impaired.

DESCRIPTION

The area is within a few minutes drive of Salt Lake City and the boundaries would include the land surrounding Lone Peak in the rugged Wasatch range of mountains. It is a beautiful wild area and is adjacent to the heavily populated towns and cities of the Wasatch front where 70 percent of Utah's population resides. The area is timbered with evergreens, and marked by rushing, clear water streams. At hearings in Salt Lake City in July of this year, many witnesses testified in favor of a Lone Peak Wilderness.

COMMITTEE RECOMMENDATIONS

The Committee on Interior and Insular Affairs in executive session unanimously recommended enactment of S. 3466.

The title was amended, so as to read: "A bill to authorize the Secretary of Agriculture to review as to its suitability for preservation as wilderness the area commonly known as the Lone Peak Area in the State of Utah."

CASS COUNTY, N. DAK.

The Senate proceeded to consider the bill (S. 3483) for the relief of Cass County, N. Dak., which had been reported from the Committee on the Judiciary with an amendment on page 1, line 4, after the word "pay", strike out "out of any money in the Treasury not otherwise appropriated," and insert "under the provisions of section 125 of title 23, United States Code"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Treasury is authorized and directed to pay, under the provisions of section 125 of title 23, United States Code to Cass County, North Dakota, the sum of $85,000 for expenses incurred by the Cass County, North Dakota, in reconstructing the Wild Rice Bridge across the Red River between Clay County, Minnesota, and Cass County, North Dakota, such amount representing the difference between the amount paid by the United States as emergency disaster relief and the amount the United States would have paid for the reconstruction of such bridge after it was destroyed by a flood in April 1969, if the access road from Stanley Township in Cass County had been designated a Federal aid secondary road at the time such flood destroyed such bridge.

(b) No part of the amount appropriated in this Act shall be paid or delivered by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this subsection shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any amount not in excess of $1,000.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–1143), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF AMENDMENT

As explained in the letter from the Department of Transportation, the amendment clarifies the funds from which the claim is to be paid since the bridge in question has been integrated into the Federal Aid Secondary Road System.

PURPOSE OF LEGISLATION

The purpose of the proposed legislation is to authorize and direct the Secretary of Transportation to pay, out of money in the Highway Emergency Relief Fund, to Cass County, N. Dak., the sum of $85,000 for expenses incurred in reconstructing the Wild Rice Bridge across the Red River between Clay County, Minnesota, and Cass County, N. Dak.

STATEMENT

In its report to the committee, the Department of Transportation stated that they had no objection to enactment of this legislation as amended.

The Wild Rice Bridge spans the Red River between Clay County, Minn., and Cass County, N. Dak. The bridge was destroyed in April 1969, as a result of heavy flooding. The cost of reconstructing the bridge is estimated at $332,000, to be shared equally by each county.

At the time of the flood, the Minnesota half of the bridge was a part of the Federal aid system. As a result, Clay County will be reimbursed for its entire cost of rebuilding the structure. This money comes from the emergency relief funds provided by the Federal Highway Administration.

As a part of its aid to disaster areas, and in accordance with Public Law 91–79, the Office of Emergency Preparedness is financing one-half of Cass County's share of the reconstruction. This leaves 25% of the total cost, or $85,000, to be paid by Cass County.

In September 1971, the North Dakota portion of the bridge was designated a part of Federal Aid Secondary Route 639. Had this been the case prior to the flood Cass County would have been reimbursed by the Federal government for the entire cost of its share of rebuilding the bridge. Now, however, Cass County is in the anomalous situation of having to use its own funds to reconstruct a bridge that is a part of the Federal Aid Secondary Road System.

In view of the inequities created by this situation, and the fact that the Department of Transportation has no objection to the relief proposed, the committee feels that Cass County should be reimbursed for the remaining 25% of the cost of rebuilding the bridge.

The committee believes that the bill is meritorious and recommends it favorably.

JUROR QUALIFICATION FORMS

The bill (H.R. 2589) to amend section 1869 of title 28, United States Code, with respect to the information required by a juror qualification form, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–1144), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

STATEMENT

H.R. 2589 proposes to amend the Federal Jury Selection Act of 1968 so information as to the race and occupation of prospective jurors is readily available for use in enforcing the nondiscriminatory policy of that act. The purpose of that legislation was to ensure trial by a jury selected from a fair cross section of citizens and to eliminate racial or other discrimination in the selection of jurors for Federal courts.

Under current law, an individual is not required to indicate his race when filling out a juror qualification form (28 U.S.C. Sec. 1869(h)). Although this information is requested, studies show that it is omitted by up to 30 percent of the respondents. The result is that there is little reliable information that can be used to determine if discrimination exists.

H.R. 2589 will require prospective jurors to whom juror qualification forms are sent to respond to questions as to their race and occupation. Under existing law this information is requested but not required to be given. Questions as to race and occupation appear on the forms with a notice that they need not be answered by a person who "finds it objectionable to do so."

Stating it to be "the policy of the United States that all litigants in Federal courts entitled to trial by jury shall have the right to grand and petit juries selected at random from a fair cross section of the community in the district or division wherein the court convenes" and that "all citizens shall have the opportunity to be considered for service on grand and petit juries in the district courts of the United States." Congress enacted the Jury Selection and Service Act of 1968, consisting of section 1861 through 1874 of title 28, United States Code. In doing so, it prescribed that "No citizen shall be excluded from service as a grand or petit juror in the district courts of the United States on account of race, color, religion, sex, national origin, or economic status." (28 U.S.C. 1862).

The act establishes a procedure for the selection of Federal jurors. In pertinent part, the procedure entails the execution by prospective jurors of a juror qualification form. Some of the questions on the form must be answered; others may, but need not, be answered. Questions as to race and occupation fall in the latter category.

H.R. 2589 has the support of the Judicial Conference of the United States, the Department of Justice, and the Civil Rights Commission. All of the witnesses agreed that unless prospective jurors were required to respond to questions as to race, it was impossible effectively to monitor and enforce nondiscrimination in the selection of Federal jurors. This view was fully supported by a unique systems analysis conducted by the American University under the direction of Dr. Alan D. Morris. Similarly, surveys in the Fourth and Fifth Judicial Circuits, to which committee attention was called, indicated that from 10 to 30 percent of the recipients of juror qualification forms failed to respond to the question as to race. With this number failing to respond, it is virtually impossible to detect discriminatory practices under the existing law. One cannot accurately determine whether litigants in the Federal courts are having their matters considered by jurors who represent a "fair cross section of the community" as required by the Jury Selection Act.

In addition to requiring prospective jurors to indicate their race and occupation on the juror qualification form, H.R. 2589 would add an explanation on the form that the information is needed to enforce nondiscrimination and has no bearing on any individual's qualifications for jury duty.

There appears to be no constitutional objection to the requiring of racial identification if the purpose is valid. In *Hamm* v. *Virginia State Board of Elections*, 230 F. Supp. 156, 158 (E.D. Va.), aff'd per curiam, 379 U.S. 19 (1964), the district court held invalid Virginia statutes that established separate lists of white and Negro names on tax and voting records. The court, however, upheld a statute that required racial designation on divorce forms on the grounds that such information served the State's interest in keeping vital statistics. In its opinion, the court said:

"* * * the designation of race, just as sex or religious denomination, may in certain records serve a useful purpose, and the procurement and compilation of such information by State authorities cannot be outlawed per se. For example, the securing and chronicling of racial data for identification or statistical use violates no constitutional privilege. If the purpose is legitimate, the reason justifiable, then no infringement results."

The clear purpose of H.R. 2589 is to end discrimination and to provide a method of enforcing the objectives of the Federal Jury Selection Act. This bill seeks to guarantee racial neutrality in the jury selection process.

The recent Supreme Court decision in *Alexander* v. *Louisiana*, 405 U.S. 625 (1972), is not in conflict with this bill. There the Court found prima facie evidence of discrimination in jury selection. A panel of jury commissioners in Louisiana selected 400 potential jurors from more than 7,000 questionnaires, each of which noted the race of the respondent. The proportion of Negroes in the pool was decreased from 14 to 7 percent after the panel's supposedly random selection, and the Court cited statistical evidence to show that the probability of this occurring was 1 in 20,000.

Although racial identification on jury questionnaires may have contributed to the discrimination found in *Alexander*, the fact that such information was available enabled the selection panel's actions to be challenged. It is to insure the random selection process that the requirements of H.R. 2589 need to be imposed. The sole object of such identification is to fulfill the policy objectives of the Federal Jury Selection Act.

LISTING JURORS OCCUPATION

All witnesses before the House Judiciary Committee also recommended that the present law be changed so that the submission of information as to occupation be mandatory rather than optional. Attention was called to the facts that certain occupational groups, such as military personnel on active duty, police and firemen, and certain public officials, are exempt from jury duty while other classes of persons may be exempted (28 U.S.C. 1863(b)(6)). Still others may be excused from service (28 U.S.C. 1863(b)(5)). To assure the expeditious determination of whether a prospective juror falls in an exempt or excusable category, it is essential that he be required to respond as to his occupation.

COSTS

The only costs to the United States as a result of the enactment of H.R. 2589 would be those incidental to the revision of the existing supply of juror qualification forms. These are estimated by the Administrative Office of the U.S. Courts to be approximately $3,000 to $5,000 in the first year, and to be nonrecurring.

BILL PASSED OVER

The bill (S. 3943) to amend the Public Buildings Act of 1959, as amended, to provide for the construction of a civic center in the District of Columbia, and for other purposes, was announced as next in order.

Mr. MANSFIELD. I ask that the bill go over.

The ACTING PRESIDENT pro tempore. The bill will be passed over.

COMPENSATION OF THE FEDERAL REPRESENTATIVES ON THE SOUTHERN AND WESTERN INTERSTATE NUCLEAR BOARDS

The bill (H.R. 14974) to amend certain provisions of law relating to the compensation of the Federal representatives on the Southern and Western Interstate Nuclear Boards, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92–1146), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE

The purpose of H.R. 14974 is to equalize the provisions for compensating the Federal representatives on the Southern Interstate Nuclear Board and on the Western Interstate Nuclear Board, respectively, and to impose new and identical upper limits on their compensation.

STATEMENT

In its favorable report on the bill, the Committee on the Judiciary of the House of Representatives said:

"By Public Law 87–563, approved July 31, 1962, Congress gave consent to the Southern Interstate Nuclear Compact. Section 3 of Public Law 87–563 provided that there should be a nonvoting Federal representative on the Southern Interstate Nuclear Board, to be appointed by the President, with compensation (if not otherwise an employee of the United States) such as the President shall specify but not in excess of $100 per day or $15,000 per calendar year.

"By Public Law 91–461, approved October 16, 1970, Congress gave consent to the Western Interstate Nuclear Compact. Section 3 of Public Law 91–461 provides that there shall be a nonvoting Federal representative on the Western Interstate Nuclear Board, to be appointed by the President, with compensation (if not otherwise an employee of the United States) such as the President shall specify. Public Law 91–461 omits the limitations to $100 per day and $15,000 per calendar year found in Public Law 87–563.

"The committee is advised that notwithstanding this disparity in statutory authorizations both Federal representatives are being paid at the $100 per day rate which is the upper limit authorized by Public Law 87–563 for compensating the Federal representative on the Southern Board. Neither representative has in any year reached the $15,000 per annum limitation prescribed for the Southern representative. The most earned by either representative in 1 year was $12,543, which, the committee is advised, was paid to the Southern representative for 1970. The largest total payment for a single year occurred in 1971 when the representative on the Southern Board received $9,737.50 and the representative on the Western Board received $6,625.

"H.R. 14974 as introduced would repeal the present limitations on compensation payable to the Southern representative, both as to rate and as to maximum amount payable in any year, and would provide a new rate identically applicable to both representatives who would be compensated for every day of service at the daily equivalent of the maximum rate for grades GS–18. At present this amounts to $138.40.

The committee's amendments to H.R. 14974 would retain the proposed new rate as a maximum but permit the President to specify a lesser rate if he sees fit.

"COMMITTEE VIEWS

"The committee believes that enactment of H.R. 14974 as herein proposed to be amended is warranted for two reasons. First, there seems to be no rational basis for the existing disparity between the compensation provisions affecting the two Federal representatives. Both are presidential appointments; both serve the United States in identical connection with interstate boards approved by Congress to cooperate in dealing with atomic energy. What is more, although free of any restraint with respect to the compensation of the representative on the Western Board, the President has specified identical compensation for both representatives. There is really no reason why the compensation provisions for the two jobs should differ.

"Second, the committee believes it appropriate to recognize the lag implicit in the $100 per day compensation now being paid these Federal representatives. In this connection the committee adopts an observation made by the Atomic Energy Commission in reporting on a predecessor bill (H.R. 7705) which dealt with the present problem. H.R. 7705 would simply have repealed the limitations on compensation found in Public Law 87–563, bringing its provisions in line with Public Law 91–461, and leaving the President without any limitation or guide in specifying the rate of compensation for either Federal representative. The Atomic Energy Commission said in part:

"'At the time of approval of the Southern Interstate Nuclear Compact, the amount which the Government was paying its highest level of special employee was within the $100 rate, and that amount was deemed to be adequate to attract personnel to suitable caliber. The Government wage and salary structure has since advanced substantially, and to the extent that it continues to advance, rates fixed in one year are likely to become inadequate in another year to attract appropriate personnel."

"In its report, the Atomic Energy Commission recommended that both Public Law 87–563 and Public Law 91–461 should be amended to provide the daily equivalent of the GS–18 rate for both representatives. The committee is advised that the Atomic Energy Commission, itself, is paying its qualified consultants at the GS–18 rate, while continuing to compensate both Federal representatives at the lesser $100 daily rate.

"The committee is of the opinion that the GS–18 rate should be adopted as a maximum and that the annual limit of $15,000 should be repealed. It sees no reason, however, for preventing the President from fixing a lower rate of compensation if he sees fit. The committee amendments would permit him to do so.

"COST

"It is too late for enactment of H.R. 14974 to entail any cost in fiscal year 1972. For each of the 5 fiscal years following, the bill provides a potential maximum increase in daily compensation amounting to $38.40 for each of the two Federal representatives. The committee estimates that the cost of the measure in each of these years will be in the neighborhood of $10,000. This estimate is based on the following assumptions:

"(1) That in each year both Federal representatives will work 125 days,

"(2) That the President will fix their compensation at the maximum daily equivalent of GS–18, and

"(3) That this rate will continue to pay $138.40 per day.

"On these assumptions each of the two representatives would be paid $17,300 in each year, as compared to $12,500 under existing arrangements, a difference of $4,800 for each in each year."

DANIEL H. ROBBINS

The bill (S. 2501) for the relief of Daniel H. Robbins was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 151 of title 35, United States Code, or any other provision of law, the Commissioner of Patents is authorized and directed to accept delayed payment of the final fee (prescribed in section 41(a) of title 35, United States Code) in the application for United States Letters Patent of Daniel H. Robbins of Rochester, New York, serial number 475,638, filed July 29, 1965, and allowed July 24, 1968, for a Graphic Printer, assigned to Itek Corporation, Lexington, Massachusetts, as though no abandonment or lapse had ever occurred, if such final fee is paid within three months after the date of enactment of this Act. Upon payment of such fee, the Commissioner is authorized to issue to the said Daniel H. Robbins the patent for which application was so made. No patent granted on said application shall be held invalid on the ground that the final fee was not paid within the period specified in title 35, United States Code.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92–1147), explaining the purposes of the measure.

There being no objection. the excerpt was ordered to be printed in the Record, as follows:

PURPOSE

The purpose of the proposed legislation is to authorize and direct the Commissioner of Patents to accept late payment of the final issue fee in the application for U.S. Letters Patent of Daniel H. Robbins, serial No. 475,638, filed July 29, 1965, and allowed July 24, 1968, for a graphic printer, as though no abandonment or lapse had occurred, and to authorize the Commissioner to issue the patent if such fee is paid within 3 months from the date of this legislation is enacted.

STATEMENT

S. 2501 is identical to S. 3168 of the 91st Congress. That bill was passed by the Senate on December 8, 1970, but no further action was taken by the House of Representatives due to the adjournment of the 91st Congress.

Information submitted to the committee indicates that on July 29, 1965, Daniel H. Robbins filed a patent application relating to a graphic printer. The application was assigned to the Itek Corp. On June 18, 1968, the Patent Office mailed a "Notice of Allowability" and on July 24, 1968, a formal "Notice of Allowance" was mailed.

Information furnished to the committee further indicates that on December 20, 1968, there was received in the Patent Office a letter from the Itek Corp. inquiring as to the status of the application. The Patent Office failed to make any reply to this communication. On March 4, 1969, the Patent Office mailed to Itek a notice that the application had become abandoned for failure to pay the issue fee. The Itek Patent Department, without referring to the March 4 notice, again inquired about the status of the patent application in correspondence received by the Patent Office on June 27, 1969. The Patent Office replied on July 29 that the application was abandoned.

On August 4, 1969, Itek filed a petition to revive the abandoned application. The petition was denied by the Patent Office because of the limited authority of the Patent Office to accept late payment of the issue fee. The only statutory authorization for the acceptance of such a late payment is contained in section 151 of title 35 which permits the Commissioner to accept a late payment of the fee only if it is submitted within 6 months from the Notice of Allowance.

Itek's first inquiry concerning the status of the application, to which the Patent Office did not reply, was received slightly less than 5 months after the formal Notice of Allowance was mailed. The committee is satisfied that the Itek Corp. had proper procedures for the processing of mail relating to patent applications and that apparently the Itek Corp. did not receive either the Notice of Allowance or the Notice of Abandonment.

The Department of Commerce has advised the committee that "the abandonment appears to have resulted from a series of unfortunate and regrettable circumstances." The committee has been further advised that as to those circumstances "for which the Patent Office was responsible, appropriate procedures have been instituted to prevent reoccurrence."

As a general rule the committee is opposed to special legislation providing for private relief from the general revisions of the patent law. However, this committee and the Congress have approved such relief when unusual circumstances have been established, such as Private Law 90-211 for the relief of Jack L. Good. In that instance the Congress approved a private bill to authorize the Commissioner of Patents to accept late payment of the issue fee because of the presence of extraordinary circumstances. Likewise, the committee feels that the information submitted in connection with this legislation justifies a special exception to the time limit established by 35 U.S.C. 151.

The Department of Commerce in its report on this legislation states that it has no objection to its enactment.

BILL PASSED OVER

The bill (H.R. 6204) for the relief of John S. Attinello was announced as next in order.

Mr. MANSFIELD. I ask that the bill go over.

The ACTING PRESIDENT pro tempore. The bill will be passed over.

AMENDMENT OF THE TRADEMARK ACT OF 1946

The Senate proceeded to consider the bill (S. 3452) to amend the Trademark Act to extend the time for filing oppositions, to eliminate the requirement for filing reasons of appeal in the Patents Office, and to provide for awarding attorney fees, which had been reported from the Committee on the Judiciary with an amendment on page 2, after line 6, strike out:

"(2) When an appeal is taken to the United States Court of Customs and Patent Appeals, the appellant shall notify the Commissioner in writing within sixty days or such longer time as the Commissioner appoints.

And, in lieu thereof, insert:

"(2) Such an appeal to the United States Court of Customs and Patent Appeals shall be taken by filing a notice of appeal with the Commissioner, within sixty days after the date of the decision appealed from or such longer time after said date as the Commissioner appoints. The notice of such appeal shall specify the party or parties taking the appeal shall designate the decision or part thereof appealed from, and shall state that the appeal is taken to said court.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 13 of the Trademark Act of 1946 (60 Stat. 427), as amended, is amended by deleting the second sentence and substituting therefor: "Upon written request prior to the expiration of the thirty-day period, the time for filing opposition shall be extended for an additional thirty days, and further extension of time for filing opposition may be granted by the Commissioner for good cause. The Commissioner shall notify the applicant of each extension of the time for filing opposition."

SEC. 2. Section 21 of the Trademark Act of 1946 (60 Stat. 427), as amended, is amended by deleting subsections (2), (3), and (4) from paragraph (a) and substituting therefor:

"(2) Such an appeal to the United States Court of Customs and Patent Appeals shall be taken by filing a notice of appeal with the Commissioner, within sixty days after the date of the decision appealed from or such longer time after said date as the Commissioner appoints. The notice of such appeal shall specify the party or parties taking the appeal, shall designate the decision or part thereof appealed from, and shall state that the appeal is taken to said court.

"(3) The court shall, before hearing such appeal, give notice of the time and place of the hearing to the Commissioner and the parties thereto. The Commissioner shall transmit to the court certified copies of all the necessary original papers and evidence in the case specified by the appellant and any additional papers and evidence specified by the appellee, and in an ex parte case the Commissioner shall furnish the court with a brief explaining the grounds of the decision of the Patent Office, touching all the points involved in the appeal.

"(4) The court shall decide such appeal on the evidence produced before the Patent Office. The court shall return to the Commissioner a certificate of its proceedings and decision, which shall be entered of record in the Patent Office and govern further proceedings in the case."

SEC. 3. Section 35 of the Trademark Act of 1946 (60 Stat. 427), as amended, is amended by adding the following sentence at the end thereof: "The court in exceptional cases may award reasonable attorney fees to the prevailing party."

SEC. 4. This Act shall become effective upon enactment but shall not affect any suit, proceeding, or appeal then pending.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BILLS PASSED OVER

The bills (S. 3598) to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans; (S. 2373) to authorize the merger of two or more professional basketball leagues, and for other purposes, were announced in sequence as next in order.

Mr. MANSFIELD. Mr. President, I ask that these two bills go over.

The ACTING PRESIDENT pro tempore. The bills will be passed over.

UNIFORM MOTOR CARRIER STANDARDS ACT

The Senate proceeded to consider the bill (S. 1911) to amend the Interstate Commerce Act to expedite the making of amendments to the uniform standards for evidencing the lawfulness of interstate operations of motor carriers which had been reported from the Committee on Commerce with an amendment on page 2, line 9, after the word "time,", insert "subsequent to promulgation by the Commission,"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Uniform Motor Carrier Standards Act".

SEC. 2. Paragraph (2) of subsection (b) of section 202 of the Interstate Commerce Act, as amended (49 U.S.C. 302(b)(2)), is hereby further amended by striking the period at the end of the second sentence and inserting in lieu thereof the following: ": *Provided,* That any amendments of the standards determined by the national organization of the State commissions and promulgated by the Commission prior to the initial effective date of such standards shall become effective on such initial effective date: *And provided* further, That after the standards become effective initially any amendments thereof subsequently determined by the national organization of the State commissions shall become effective at the time, subsequent to promulgation by the Commission, of promulgation or at such other time as may be determined by such organization.".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-1152), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

BACKGROUND

Public Law 89-170, approved September 6, 1965, amended section 202(b) of the Interstate Commerce Act (49 U.S.C. 302(b)(2)) to authorize the National Association of Regulatory Utility Commissioners (NARUC)[1] to determine standards, and amendments thereto, evidencing the lawfulness of interstate operations of motor carriers, and to require the Interstate Commerce Commission to promulgate same into law to become effective 5 years from the date of promulgation. Any State laws not in accord with the standards are deemed to be an undue burden on interstate commerce.

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[1] The NARUC is a quasi-governmental nonprofit organization founded in 1889. Within its membership are the governmental bodies of the 50 States and of the District of Columbia, Puerto Rico, and the Virgin Islands engaged in the regulation of carriers and utilities.

The NARUC on November 17, 1966, adopted a resolution determining such standards, and the ICC promulgated them into law on December 14, 1966.[2] Accordingly, the standards became effective on December 14, 1971.

The basic purpose of these uniform standards is to assist the States in detecting and prosecuting illegal operations by interstate motor carriers.

PURPOSE AND EXPLANATION OF THE BILL AS PREPARED

S. 1911 was introduced at the request of the NARUC for the purpose of amending Public Law 89-170. S. 1911 is similar to S. 1923 introduced in the 91st Congress at the request of the NARUC.

The NARUC points out that the 5-year delay between adoption and effectiveness applies to both the initial standards and any amendments thereto. It analogizes this with a Federal agency having to wait 5 years before it can amend its regulations.

The NARUC believes that the existing national regulatory program established by the standards cannot function efficiently if the NARUC and the ICC cannot expeditiously make needed amendments to the standards.

S. 1911 proposes to amend Public Law 89-170 to provide that the amendments of the standards which were adopted during the initial 5-year period (December 1966 to December 1971) shall become effective at the end of such period, and that amendments thereafter adopted shall become effective at the time of promulgation or at such other time as may be determined by the NARUC.

Since S. 1911 is merely intended to cure a technical problem in the amendment process authorized by Public Law 89-170, the committee by letter of July 31, 1972, requested the Secretary of Transportation and the ICC to furnish it with any comments they may have on S. 1911 by August 14, 1972.

The ICC, in its comments, pointed out that S. 1911 would provide that amendments to the standards promulgated subsequent to the effective date of the standards themselves would become effective at the time of their promulgation "or such other time as may be determined by such organization" (that is, by NARUC). It is conceivable that this provision could be read as allowing the NARUC to set an effective date prior to the publication of an amendment by the commission, and we suggest that the language just quoted be modified to read "or at such other time, subsequent to promulgation by the Commission, as may be determined by such organization."

With this minor modification, the ICC endorsed S. 1911 and recommended prompt approval by the committee. The NARUC supports the modification. Accordingly the committee adopted the ICC amendment.

The Secretary of Transportation did not respond to the committee's request for comments and accordingly the committee assumes he has no objection to S. 1911.

The motor carrier industry recommends approval of S. 1911.

COSTS

The enactment of this legislation will result in no cost to the Federal Government.

Mr. MANSFIELD. Mr. President, that concludes the call of the calendar up to this time.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIBLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXTENSION OF TIME FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The time for the transaction of routine morning business has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time for routine morning business be extended for an additional 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HRUSKA, from the Committee on the Judiciary, without amendment:

S.J. Res. 236. Joint resolution to authorize and request the President to proclaim the week beginning October 15, 1972, as "National Drug Abuse Prevention Week" (Rept. No. 92-1176);

H.R. 9135. An act to amend the act of August 19, 1964, to remove the limitation on the maximum number of members of the board of trustees of the Pacific Tropical Botanical Gardens (Rept. No. 92-1178);

H.J. Res. 135. Joint resolution to authorize the President to issue a proclamation designating the week in November of 1972 which includes Thanksgiving Day as "National Family Week" (Rept. No. 92-1179);

H.J. Res. 1193. Joint resolution to provide for the designation of the week which begins on September 24, 1972, as "National Microfilm Week" (Rept. No. 92-1180);

H.J. Res. 1232. Joint resolution designating, and authorizing the President to proclaim, February 11, 1973, as "National Inventors' Day" (Rept. No. 92-1181); and

S. Con. Res. 90. Concurrent resolution commemorating the 200th anniversary of Dickinson College (Rept. No. 92-1177).

By Mr. HRUSKA, from the Committee on the Judiciary, with amendments:

H.J. Res. 1263. A joint resolution authorizing the President to proclaim October 30, 1972, as "National Sokol U.S.A. Day." (Rept. No. 92-1184).

By Mr. FULBRIGHT, from the Committee on Foreign Relations, with an amendment:

H.R. 16029. An act to amend the Foreign Assistance Act of 1961, and for other purposes (Rept. No. 92-1182).

Mr. MAGNUSON, from the Committee on Commerce, with additional amendments:

S. 2567. A bill to facilitate prosecutions for certain crimes and offenses committed aboard aircraft, and for other purposes (Rept. No. 92-1183).

By Mr. MANSFIELD (for Mr. Long), from the Committee on Commerce, without amendment:

H.R. 10486. An act to make the basic pay of the Master Chief Petty Officer of the Coast Guard comparable to the basic pay of the senior enlisted advisers of the other Armed Forces, and for other purposes (Rept. No. 92-1185); and

H.R. 13697. An act to amend the provisions of title 14, United States Code, relating to the flag officer structure of the Coast Guard, and for other purposes (Rept. No. 92-1186).

By Mr. MANSFIELD (for Mr. Long) from the Committee on Commerce, with amendments:

H.R. 14891. An act to amend title 14, United States Code, to authorize involuntary active duty for Coast Guard reservists for emergency augmentation of regular forces (Rept. No. 92-1187).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations:

Marion H. Smoak, of South Carolina, Acting Chief of Protocol for the White House, for the rank of Ambassador; and

Christopher Van Hollen, of Virginia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to the Republic of Sri Lanka, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary to the Republic of Maldives.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. MANSFIELD (for himself, Mr. Aiken, Mr. Saxbe, Mr. Church, Mr. Robert C. Byrd, Mr. Cranston, Mr. Jackson, Mr. Metcalf, Mr. Hart, Mr. Ribicoff, Mr. Schweiker, Mr. Tunney, Mr. Bayh, Mr. Randolph, Mr. Inouye, Mr. Montoya, Mr. Cook, Mr. Pastore, Mr. Muskie, Mr. Magnuson, Mr. Spong, Mr. Brooke, Mr. Case, Mr. Pearson, Mr. Bible, Mr. Mathias, Mr. Hatfield, Mr. Williams, Mr. Nelson, Mr. Chiles, Mr. Eastland, Mr. Bentsen, Mr. Anderson, Mr. Griffin, Mr. Stafford, Mr. Stevens, Mr. Weicker, Mr. Eagleton, Mr. Mondale, Mr. Stevenson, Mr. Gambrell, Mr. Proxmire, Mr. Humphrey, Mr. Symington, Mr. Kennedy, Mr. Gurney, Mr. McIntyre, Mr. McGovern, Mr. Beall, Mr. Harris, Mr. Percy, Mr. Burdick, Mr. Hartke, Mr. Hollings, Mr. Jordan of North Carolina, Mr. Scott, Mr. Boggs, Mr. Tower, Mr. Thurmond, Mr. Baker, Mr. Roth, Mr. Pell, Mr. Javits, Mr. Packwood, Mr. Cannon, Mr. Moss, Mr. Hughes, Mr. Gravel, and Mr. McGee):

S. 4001. A bill to amend title II of the Social Security Act to provide for the liberalization and automatic adjustment (in accordance with rising wage levels) of the earnings test, thereunder, which provides for deductions in monthly benefits on account of excess earnings. Referred to the Committee on Finance.

By Mr. JACKSON (for himself and Mr. Allott) (by request):

S. 4002. A bill to establish the Pennsylvania Avenue Development Corporation, to provide for the preparation and carrying out of a development plan for certain areas between the White House and the Capitol, to further purposes for which the Pennsylvania Avenue National Historic Site was designated, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. PROXMIRE:

S. 4003. A bill for the relief of the estate of James J. Caldwell. Referred to the Committee on the Judiciary.

By Mr. HARTKE (for himself and Mr. Scott):

S. 4004. A bill to prohibit the transportation or shipment within the United States of gas cylinders not inspected in the United States. Referred to the Committee on Commerce.

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[2] Federal Register, Dec. 28, 1966, pp. 16567-16575; 49 C.F.R., secs. 1023.1, et seq. The standards have been amended on three occasions: Federal Register: Dec. 25, 1968, p. 19250; Feb. 4, 1970, p. 2524; and Feb. 24, 1971, pp. 3417-3418.

By Mr. INOUYE:

S. 4005. A bill to designate the Federal office building to be constructed in Albany, N.Y., as the "Leo W. O'Brien Federal Building." Referred to the Committee on Public Works.

By Mr. HARTKE (for himself and Mr. THURMOND):

S. 4006. A bill to amend title 38 of the United States Code increasing income limitations relating to payment of disability and death pension, and dependency and indemnity compensation. Referred to the Committee on Veterans' Affairs.

By Mr. GRIFFIN:

S. 4007. A bill to amend the act providing an exemption from the antitrust laws with respect to agreements between persons engaging in certain professional sports for the purpose of certain television contracts in order to terminate such exemption for television blackouts of games within the home territory of a club on a day when such club is playing a game at home. Referred to the Committee on the Judiciary.

S. 4008. A bill to amend the Internal Revenue Code of 1954 to provide that in the case of certain corporations net losses from farming shall not be deductible. Referred to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MANSFIELD (for himself, Mr. AIKEN, Mr. SAXBE, Mr. CHURCH, Mr. ROBERT C. BYRD, Mr. CRANSTON, Mr. JACKSON, Mr. METCALF, Mr. HART, Mr. RIBICOFF, Mr. SCHWEIKER, Mr. TUNNEY, Mr. BAYH, Mr. RANDOLPH, Mr. INOUYE, Mr. MONTOYA, Mr. COOK, Mr. PASTORE, Mr. MUSKIE, Mr. MAGNUSON, Mr. SPONG, Mr. BROOKE, Mr. CASE, Mr. PEARSON, Mr. BIBLE, Mr. MATHIAS, Mr. HATFIELD, Mr. WILLIAMS, Mr. NELSON, Mr. CHILES, Mr. EASTLAND, Mr. BENTSEN, Mr. ANDERSON, Mr. GRIFFIN, Mr. STAFFORD, Mr. STEVENS, Mr. WEICKER, Mr. EAGLETON, Mr. MONDALE, Mr. STEVENSON, Mr. GAMBRELL, Mr. PROXMIRE, Mr. HUMPHREY, Mr. SYMINGTON, Mr. KENNEDY, Mr. GURNEY, Mr. MCINTYRE, Mr. MCGOVERN, Mr. BEALL, Mr. HARRIS, Mr. PERCY, Mr. BURDICK, Mr. HOLLINGS, Mr. JORDAN of North Carolina, Mr. HARTKE, Mr. COOPER, Mr. DOLE, Mr. YOUNG, Mr. SCOTT, Mr. BOGGS, Mr. TOWER, Mr. THURMOND, Mr. BAKER, Mr. ROTH, Mr. PELL, Mr. JAVITS, Mr. PACKWOOD, Mr. CANNON, Mr. MOSS, Mr. HUGHES, Mr. GRAVEL, and Mr. MCGEE):

S. 4001. A bill to amend title II of the Social Security Act to provide for the liberalization and automatic adjustment in accordance with rising wage levels—of the earnings test thereunder, which provides for deductions in monthly benefits on account of excess earnings. Referred to the Committee on Finance.

Mr. MANSFIELD. Mr. President, for some time the distinguished senior Senator from Vermont, the ranking Member in this body, and I have discussed at breakfast the plight of our older citizens on social security. As a result of these conversations, and on behalf of the distinguished senior Senator from Vermont (Mr. AIKEN) and myself, we introduce a bill that seeks to provide greater equity for older Americans whose subsistence is tied primarily to social security.

It does so in two major ways: First, it increases from $1,680 to $3,000 the outside income a social security pensioner is entitled to receive without penalty.

The second main feature would reduce the amount by which the pensioner would be penalized should his outside earnings exceed the exemption.

The total effect of this bill, Mr. President, is to bring greater relief to senior citizens—or at least to those of them who happen to be subject to the social security laws. It is in line with past efforts of the Congress to grant more equitable treatment to older Americans.

In this regard, the Senate will recall that it was the Congress, on its own initiative, that granted a full 20-percent increase in benefits to social security pensioners this year.

We therefore offer the bill in keeping with this outstanding record. All options will be reserved with respect to this matter in seeking to assure, if possible, that it becomes law before this Congress adjourns.

Mr. AIKEN. The proposal just made by the Senator from Montana, the majority leader, is long overdue. It is not right to keep people living at the poverty level or less, simply because they are entitled to social security.

I am more than glad to be a cosponsor of this proposal.

Mr. MANSFIELD. I thank the distinguished Senator from Vermont.

The ACTING PRESIDENT pro tempore. Does the distinguished acting Republican minority leader desire recognition?

Mr. SAXBE. At this time, Mr. President, I just would like to comment upon this effort, because it is one that is well taken at this time. It points up the grinding effect of inflation upon these people who presumed and thought they received a promise that they were buying an insurance policy. It was never intended that social security would be considered as Government support or welfare.

It was contemplated in the past, in the 1930's, that this was an actuarial system whereby they would buy protection in the form of an insurance policy. As we have advanced through the increases in the percentage of deduction of payrolls, we have reached the point, I believe, at 10 percent, where it is impractical, even impossible, to take from a workingman's salary more than 10 percent of his pay to support something which he will get in maybe 40 years, and which may be worthless, as the 1930 plan is today.

Therefore, I hope we can get away from this fiction that social security payments are actuarial and realize it is an obligation of our Government to support those people who have contributed through their lifetime to a working economy.

I think that it is long overdue, and I believe that in time it will extend to railroad retirement and to all other railroad retirement programs that are being wrecked by runaway inflation.

Mr. MANSFIELD. Will the Senator yield?

Mr. SAXBE. Yes.

Mr. MANSFIELD. The Senator has made a point which I believe cannot be emphasized too much; that is, these people have contributed to their retirement, so they have earned their way into retirement, but their dollars become of less value with the passage of time. That is a natural thing, regardless of the administration in power, and they are well under, most of them, if not all of them, the so-called poverty level as far as income is concerned.

This is one way in which a rectification can be achieved, and I am delighted that the distinguished Senator from Ohio has joined the distinguished Senator from Vermont and me in giving support to this proposal.

Mr. SAXBE. If I would be permitted, Mr. President, I would like to be a cosponsor of this bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, I want to commend the senior Senator from Vermont and the Senator from Ohio for their sponsorship of the bill introduced by the Senator from Montana.

I ask unanimous consent that I may be joined as a cosponsor of the measure.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished assistant majority leader (Mr. ROBERT C. BYRD) also be listed as a cosponsor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. Cranston also.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I also ask unanimous consent that the distinguished Senator from Connecticut (Mr. RIBICOFF) be added as a cosponsor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I am pleased to join with the distinguished majority leader (Mr. MANSFIELD) and the distinguished senior Senator from Vermont (Mr. AIKEN) in cosponsoring a bill that would make more realistic the limitations placed on outside income received by social security recipients.

At present, a social security pensioner can have an outside income of $1,680—anything more than that will result in a proportionate reduction of his social security benefits. The bill that is being introduced today raises to $3,000 the amount of outside income a pensioner can have before he or she is penalized by a reduction in benefits. It would also reduce the penalties for persons whose outside incomes exceed the $3,000 limit.

Congress is acutely aware of the burden that social security pensioners have had to bear over the past several years. Inflation has hit hardest at these fixed-income citizens, making their social security benefits less than subsistence-level in many cases and driving many of our older citizens below the poverty line. Earlier this year, Congress expressed its awareness in a positive manner by granting an across-the-board 20-percent increase in social security benefits.

The bill will complement the earlier benefit increase. It is a further step toward providing equity for older Americans, granting them greater independence to supplement their retirement incomes and better enabling them to fight the spiraling inflation.

I am hopeful that Congress will continue its outstanding accord with regard to our Nation's social security recipients, and will take steps to assure that this bill is enacted into law before adjournment.

By Mr. JACKSON (for himself and Mr. ALLOTT) (by request):

S. 4002. A bill to establish the Pennsylvania Avenue Development Corporation, to provide for the preparation and carrying out of a development plan for certain areas between the White House and the Capitol, to further purposes for which the Pennsylvania Avenue National Historic Site was designated, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, on behalf of the ranking minority member of the Committee on Interior and Insular Affairs (Mr. ALLOTT) and myself, I send to the desk for appropriate reference a bill to establish the Pennsylvania Avenue Development Corporation, to provide for the preparation and carrying out of a development plan for certain areas between the White House and the Capitol, to further the purposes for which the Pennsylvania Avenue National Historic Site was designated, and for other purposes.

This legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the executive communication accompanying the draft proposal be printed in the RECORD at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., September 18, 1972.
Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: As a cosponsor of S. 715, the initial Administration proposal to establish a Federal City Bicentennial Development Corporation, you are no doubt aware that a similar bill, H.R. 10751, has been ordered reported by the House Committee on Interior and Insular Affairs and that a Senate hearing has been scheduled by Chairman Bible for September 21.

While the House bill is similar to S. 715 and incorporates language subsequently recommended by the Administration, it contains a few provisions which should be strengthened. Accordingly, there is enclosed a clean draft bill which represents the Administration position in every particular, and we request that it be introduced prior to the hearing this week.

Your assistance will facilitate Senate consideration of a bill which need not be amended and would thus enhance the prospect of favorable action by this Congress. Please do not hesitate to advise if we can be of service to you in this matter.

Sincerely yours,
DOUGLAS P. WHEELER,
Assistant Legislative Counsel.

By Mr. HARTKE (for himself and Mr. SCOTT):

S. 4004. A bill to prohibit the transportation or shipment within the United States of gas cylinders not inspected in the United States. Referred to the Committee on Commerce.

Mr. HARTKE. Mr. President, for myself and the Senator from Pennsylvania (Mr. SCOTT), I introduce a bill to amend chapter 26 of title 49 of the United States Code. This legislation is designed to prohibit the Secretary of Transportation from promulgating any regulations which would permit the transportation of compressed gas cylinders within the United States which have not been inspected within the United States.

The regulations of the Department of Transportation presently provide that compressed gas cylinders may not be offered for transportation in domestic traffic unless they have been made in accordance with the applicable DOT specification and unless the tests required by such specification were made in this country. Compressed gas cylinders are used to transport and store various gases such as carbon dioxide, helium, oxygen, argon, and nitrogen for industrial and medical purposes.

The cylinders are for the most part quite large and the gases they hold are oftentimes highly flammable, explosive, toxic, or corrosive. Due to the nature of the cylinder contents and the extremely high pressures under which the gases are stored and transported in the cylinders—sometimes exceeding 2,600 pounds per square inch—exceptionally high quality standards are necessary to assure safety.

On January 19, 1971, the Hazardous Materials Regulations Board of the Department of Transportation, in a notice published in the Federal Register, stated that it was considering whether it was necessary to continue to require that the tests be performed in the United States. The Board made clear that the motivation for this possible change in safety requirements was not safety but "the desire to import foreign-made cylinders for industrial and medical gas service and the future difficulties which will evolve from passive restraint systems being incorporated into foreign manufactured automobiles."

I do not believe that the suggested changes should be made. On the contrary I believe that unless a positive showing can be made that the safety of American workers and consumers will not be endangered by the suggested changes in the regulations, the Department of Transportation must continue to require that these tests be performed within the United States. My review of the record before the Hazardous Materials Regulations Board convinces me that there has been no showing that safety will be enhanced or even preserved by this action. Rather, the proposed action would be a step away from safety and would create risks to which the American worker and consumer should not be exposed.

Accordingly, it is my hope that hearings on this legislation will be held as soon as possible. At such hearings DOT representatives would have the opportunity to present evidence which would establish that safety will not be diminished if the regulations are changed as suggested. I would also hope that DOT would stay any action on the proposal until the hearings are completed and a report is submitted.

The American cylinder manufacturing industry has established an unequaled safety record, but this record could be jeopardized if the proposals of DOT on this subject are adopted. There can be no doubt that the proposals do not enhance safety. In fact, there is a serious possibility that, if adopted, they would have exactly the opposite effect.

In this period of our history where concern is being expressed by the Congress for workers' health and safety and for consumer protection, it seems strange and very inconsistent for DOT to propose action, not on the basis of safety which is its only jurisdictional basis for action in this area, but on the basis of trade considerations.

Accordingly, I will call for hearings on this legislation as soon as possible.

Mr. President, I ask unanimous consent that the text of my bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 4004

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That chapter 26, title 49 of the United States Code is amended by inserting the following new section:

"SEC. 1736. (a) As used in this section, the terms—

(1) "person" shall mean an individual, corporation, partnership, association, joint stock company, business trust, or unincorporated organization.

(2) "compressed gas cylinders" shall mean any cointainer holding any gas under a pressure greater than 100 pounds per square inch at 130 degrees Fahrenheit.

(b) In promulgating rules regulating the safe transportation within the United States of compressed gas cylinders, the Secretary shall not permit any person engaged in interstate commerce to receive for transportation or shipment, or to transport or ship within the United States any such cylinders which have not been inspected within the United States.

(c) Any person who knowingly transports or ships, or causes to be transported or shipped a container for compressed gas in violation of this section and the regulations promulgated thereunder shall be subject to a fine of not more than $1,000 and/or imprisonment for not more than one year.

By Mr. INOUYE:

S. 4005. A bill to designate the Federal office building to be constructed in Albany, N.Y., as the "Leo W. O'Brien Federal Building." Referred to the Committee on Public Works.

Mr. INOUYE. Mr. President, I have today introduced a bill to designate the Federal office building to be constructed in Albany, N.Y., as the "Leo W. O'Brien Federal Building."

There may be those who wonder why a Senator from the State of Hawaii would introduce such a measure applicable only to the State of New York and I want to explain that matter. Leo W. O'Brien is not only a personal friend but he is a friend of Hawaii. As a Member of the House of Representatives from 1952 to 1967 he served as chairman of the Territorial and Insular Affairs Subcommittee of the House Interior and Insular Affairs Committee. In that capacity he managed the Hawaii Statehood Act. He also managed the Alaska statehood provision and was, I believe, the only Member to manage two statehood acts.

As a result we in Hawaii owe him a great debt of gratitude. Our statehood is a monument to his service in the Congress. Even without statehood, we in Hawaii knew that as long as we had Leo W. O'Brien as the chairman of that subcommittee our pleas would be heard.

It is because of that relationship, which was further strengthened when I was elected as the first Member of Congress from the new State of Hawaii, that I rise today to introduce this measure. Naming this new Federal building in honor of Leo W. O'Brien is a most deserved tribute to a man who served the people of that region of New York, as well as the people of my State, most ably and effectively for so many years. I hope that my colleagues will give this measure their support.

By Mr. HARTKE (for himself and Mr. Thurmond):

S. 4006. A bill to amend title 38 of the United States Code increasing income limitations relating to payment of disability and death pension, and dependency and indemnity compensation. Referred to the Committee on Veterans' Affairs.

VETERANS' PENSIONS

Mr. HARTKE. Mr. President, today I introduce legislation to protect and increase veterans' pensions. I am happy to be joined in this bipartisan effort by the ranking minority member of the committee, the distinguished senior Senator from South Carolina (Mr. Thurmond). This bill provides for a $400 increase in maximum annual income limitations. Enactment of this legislation together with the new formula system adopted by the Committee on Veterans' Affairs and enacted into Public Law 92–198 last December will mean, according to figures supplied by the Veterans' Administration, that almost no persons will go off the pension rolls solely because of the recent 20-percent increase in social security benefits. Those continuing to receive pensions will enjoy the major fruits of those social security increases as well as suffer no loss in aggregate income. Hearings before the Subcommittee on Compensation and Pensions on September 12 established, I believe, the need to act promptly to protect the pensions of our Nation's veterans. If we do not act, 1.5 million pensioners will be faced with reductions in their pensions. Another 20,000 are scheduled to drop from the pension rolls altogether. Thus, in line with the recommendations made by the Veterans of World War I who testified 1 week ago today, the maximum annual income limitations have been increased by $400. This means that a single pensioner may have up to $3,000 outside "countable" yearly income and still receive a pension. A pensioner with a dependent may receive up to $4,200 annually. Of course, in determining "countable" annual income, current pension law now contains approximately 18 exclusions including 10 percent of all social security or other retirement or annuity payments, expenditures for usual medical expenses and unearned income of a wife of a veteran of up to $1,200 annually.

Individuals receiving old law pensions under section 9(b) of the Veterans' Pension Act of 1959 will also be protected with identical $400 increase in the maximum annual income limitations.

Under the formula system adopted last year a maximum monthly rate of pension is specified for each group of beneficiaries within designated annual income categories. An individual's particular rate is computed by reducing the maximum by a specified number of cents for each dollar for which the maximum annual income limitations for the particular group is exceeded.

The bill will also provide for an identical $400 increase in the maximum annual income limitations for the nearly 70,000 dependent parents who because of their low income are entitled to receive disability indemnity compensation.

This bill would take effect on January 1, 1973, the date on which a veteran's annual income is determined and his pension is subject to recalculation. It is on this date that the recent 20-percent increase in social security benefits would affect a veteran's pension. Enactment of this bill will significantly lessen the impact.

Mr. President, I ask unanimous consent that the text of the bill be inserted in the Record at this point.

There being no objection the bill was ordered printed, as follows:

S. 4006

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (b) of section 521 of title 38, United States Code, is amended to read as follows:

"(b) If the veteran is unmarried (or married but not living with and not reasonably contributing to the support of his spouse) and has no child, pension shall be paid according to the following formula: If annual income is $700 or less, the monthly rate of pension shall be $130. For each $1 of annual income in excess of $700 up to and including $1,100, the monthly rate shall be reduced 3 cents; for each $1 of annual income in excess of $1,100 up to and including $1,600, the monthly rate shall be reduced 4 cents; for each $1 of annual income in excess of $1,600 up to and including $2,000, the monthly rate shall be reduced 5 cents; for each $1 of annual income in excess of $2,000 up to and including $2,500, the monthly rate shall be reduced 6 cents; and for each $1 of annual income in excess of $2,500 up to and including $3,000, the monthly rate shall be reduced 7 cents. No pension shall be paid if annual income exceeds $3,000."

(b) Subsection (c) of such section 521 is amended to read as follows:

"(c) If the veteran is married and living with or reasonably contributing to the support of his spouse, or has a child or children, pension shall be paid according to the following formula: If annual income is $900 or less, the monthly rate of pension shall be $140 for a veteran and one dependent, $145 for a veteran and two dependents, and $150 for three or more dependents. For each $1 of annual income in excess of $900 up to and including $1,300, the particular monthly rate shall be reduced 2 cents; for each $1 of annual income in excess of $1,300 up to and including $3,400, the monthly rate shall be reduced 3 cents; and for each $1 of annual income in excess of $3,400 up to and including $4,200, the monthly rate shall be reduced 5 cents. No pension shall be paid if annual income exceeds $4,200."

(c) Subsection (b) of section 541 of title 38, United States Code, is amended to read as follows:

"(b) If there is no child, pension shall be paid according to the following formula: If annual income is $700 or less, the monthly rate of pension shall be $87. For each $1 of annual income in excess of $700 up to and including $1,000, the monthly rate shall be reduced 1 cent; for each $1 of annual income in excess of $1,000 up to and including $2,100, the monthly rate shall be reduced 3 cents; and for each $1 of annual income in excess of $2,100 up to and including $3,000, the monthly rate shall be reduced 4 cents. No pension shall be paid if annual income exceeds $3,000."

(d) Subsection (c) of such section 541 is amended to read as follows:

"(c) If there is a widow and one child, pension shall be paid according to the following formula: If annual income is $600 or less, the monthly rate of pension shall be $104. For each $1 of annual income in excess of $600 up to and including $2,000, the monthly rate shall be reduced 1 cent; for each $1 of annual income in excess of $2,000 up to and including $3,400, the monthly rate shall be reduced 2 cents; and for each $1 of annual income in excess of $3,400 up to and including $4,200, the monthly rate shall be reduced 3 cents. Whenever the monthly rate payable to the widow under the foregoing formula is less than the amount which would be payable to the child under section 542 of this title if the widow were not entitled, the widow will be paid at the child's rate. No pension shall be paid if the annual income exceeds $4,200."

Sec. 2. Section 4 of Public Law 90–275 (82 Stat. 68) is amended to read as follows:

"Sec. 4. The annual income limitations governing payment of pension under the first sentence of section 9(b) of the Veterans' Pension Act of 1959 hereafter shall be $2,600 and $3,000 respectively."

Sec. 3. (a) Subsection (b) of section 415 of title 38, United States Code, is amended to read as follows:

"(b)(1) Except as provided in paragraph (2) of this subsection, if there is only one parent, dependency and indemnity compensation shall be paid to him according to the following formula: If annual income is $1,200 or less the monthly rate of dependency and indemnity compensation shall be $100. For each $1 of annual income in excess of $1,200 up to and including $1,700, the monthly rate shall be reduced 3 cents; for each $1 of annual income in excess of $1,700 up to and including $2,200, the monthly rate shall be reduced 5 cents; for each $1 of annual income in excess of $2,200 up to and including $2,600, the monthly rate shall be reduced 6 cents; for each $1 of annual income in excess of $2,600 up to and including $3,000, the monthly rate shall be reduced 7 cents. No dependency and indemnity compensation shall be paid if annual income exceeds $3,000.

"(2) If there is only one parent and he has remarried and is living with his spouse, dependency and indemnity compensation shall be paid to him under either the formula of paragraph (1) of this subsection or under the formula in subsection (d), whichever is the greater. In such a case of remarriage the total combined annual income of the parent and his spouse shall be counted in determining the monthly rate of dependency and indemnity compensation under the appropriate formula."

(b) Subsection (c) of such section 415 is amended to read as follows:

"(c) Except as provided in subsection (d), if there are two parents, but they are not living together, dependency and indemnity compensation shall be paid to each according to the following formula: If the annual income of each parent is $1,200 or less, the monthly rate of dependency and indemnity payable to each shall be $70. For each $1 of annual income in excess of $1,200 up to and including $1,700, the monthly rate shall be reduced 2 cents; for each $1 of annual income in excess of $1,700 up to and including $2,400, the monthly rate shall be reduced 3 cents; and for each $1 of annual income in excess of $2,400 up to and including $3,000, the monthly rate shall be reduced 4 cents. No dependency and indemnity compensation shall be paid to a parent whose annual income exceeds $3,000."

(c) Subsection (d) of such section 415 is amended to read as follows:

"(d) If there are two parents who are living together, or if a parent has remarried and is living with his spouse, dependency and indemnity compensation shall be paid to each such parent according to the following formula: If the total combined annual income is $1,400 or less, the monthly rate of dependency and indemnity compensation payable to each parent shall be $67. For each $1 of annual income in excess of $1,400 up to and including $2,100, the monthly rate shall be reduced 1 cent; for each $1 of annual income in excess of $2,100 up to and including $3,600, the monthly rate shall be reduced 2 cents; and for each $1 of annual income in excess of $3,600 up to and including $4,200, the monthly rate shall be reduced 3 cents. No dependency and indemnity compensation shall be paid to either parent if the total combined annual income exceeds $4,200."

Sec. 4. This Act shall take effect on January 1, 1973.

By Mr. GRIFFIN:

S. 4007. A bill to amend the act providing an exemption from the antitrust laws with respect to agreements between persons engaging in certain professional sports for the purpose of certain television contracts in order to terminate such exemption for television blackouts of games within the home territory of a club on the day when such club is playing a game at home. Referred to the Committee on the Judiciary.

TV BLACKOUTS OF PROFESSIONAL FOOTBALL GAMES

Mr. GRIFFIN. Mr. President, today I am introducing a bill to repeal the antitrust exemption which now makes it possible for the professional football leagues to impose a TV blackout on home football games, even in situations when all tickets to such a game are already sold in advance.

The legislation would apply also to professional baseball, hockey, and basketball, although TV blackouts are not as serious a problem in those sports.

There is no longer any justification for granting blanket immunity from the antitrust laws so that professional football may prohibit the local telecasting of all home games. In 1953, a Federal district court ruled that home game blackouts of professional football games did not violate the antitrust laws, *United States* v. *National Football League*, 116 F. Supp. 319 (1953). Subsequently, in 1961 Congress provided by law that TV blackouts of both outside and home games broadcast into the home territory of a team would be exempt from antitrust action.

The argument expressed in the 1953 decision that certain TV blackouts were absolutely essential to the survival of the National Football League has no substance today. Since 1961 attendance in the NFL has doubled and most regular season games as well as exhibition games are sellouts or near sellouts.

In 1971 total season ticket sales for all clubs in the American Football Conference accounted for 66 percent of total stadium capacity and in the National Football Conference for 74 percent of total stadium capacity. Thus, there is not only an assured market for the owners but at the same time there is little opportunity for the average fan to purchase tickets for individual games.

The situation in professional football is somewhat different than it is in other sports. Not only is fan interest in pro football widespread but the limited number of regular season games places a premium on both tickets and the availability of home viewing. Football is the only professional sport to receive regional and nationwide telecasting for practically all games, including exhibition and postseason contests. This demand coupled with the scarity of tickets in most league cities underscores the urgency for review of congressional policy toward television blackouts.

In Washington, D.C., for instance, all exhibition and home games of the Washington Redskins are sold out to season ticketholders and there is a long waiting list for these tickets. Thus in Washington, home viewing is the only way that most fans will ever get an opportunity to see a local Redskins game.

In other professional sports such as basketball and baseball the problem with television blackouts is not nearly so acute. In both of these sports there is a much greater opportunity for fans to attend home games. Many of the games are not televised at all.

In professional hockey where there perhaps is even a higher number of sellouts than in pro football and large numbers of season ticketholders, the National Hockey League and individual club owners have shown some flexibility toward the televising of home games. For instance the Boston Bruins televise a substantial number of home games in the Boston area. In recent years a number of the nationally televised NHL games have not been blacked out in the home territory of one of the teams involved, particularly where fan interest in that city is very high. Also, most of the Stanley Cup playoff games are not blacked out locally.

Mr. President, the absence of blackouts for such major sports events such as the World Series, the Rose Bowl, the Kentucky Derby has not lessened the interest of avid fans in attending these sports events. Unfortunately, this public interest policy has yet to be extended to the Super Bowl—a decision which has roused substantial opposition in cities such as Miami, New Orleans, and Los Angeles.

Mr. President, it is very clear to me that the inflexibility of the National Football League on the question of television blackouts should no longer be encouraged through the congressional grant of antitrust immunity. By taking away this legislative immunity, as I am proposing, TV blackouts will not automatically be eliminated. It does mean that the National Football League will no longer have the freedom to determine unilaterally when and over what area blackouts will be imposed. Individual clubs would still be able to control televising their home games if such controls are reasonable and in the public interest.

Removal of the antitrust exemption should open the door to close scrutiny of the longstanding league rules that the home territory of a team is defined as a 75-mile radius from the exterior limits of the home city. This rule has been in existence for over 20 years and its widesweeping scope may not be justified in many cities today.

Furthermore, the 75-mile rule has the effect of prohibiting home viewing of games even beyond the 75-mile radius. The televising of home games by stations beyond the 75-mile radius whose signals can be received within that radius is also prohibited. In the case of the Detroit Lions, for instance, not only are there three local Detroit stations which are blacked out when the Lions are playing at home, there are also six network stations outside Detroit which do not carry the games because of the blackout rule. There are two stations in Lansing; three in Toledo, and one in Flint.

Mr. President, I believe the legislation I am proposing is reasonable and does not endanger the financial security of the National Football League or its individual clubs. Passing my legislation would encourage the National Football League to experiment as the National Hockey League has done. Perhaps a few home games could be televised locally or the definition of home territory could be narrowed.

It should be pointed out that in instances where the National Football League has modified its policy toward blackouts the result has not been disasterous. The antitrust exemption enacted in 1961 authorized the blackout not only of home games but also of outside games broadcast into the home territory of a team playing at home. In 1966 the NFL voluntarily removed the ban on the broadcasting of outside games, and in lieu of the fact that in 1971 over 95 percent of all seats in the NFL were sold, it is apparent that no harm has been done.

Mr. President, it is my hope that prompt consideration will be given this proposal by Congress so that millions of football fans will get a better shake.

By Mr. GRIFFIN:

S. 4008. A bill to amend the Internal Revenue Code of 1954 to provide that in the case of certain corporations net losses from farming shall not be deductible. Referred to the Committee on Finance.

CLOSING A TAX LOOPHOLE THAT THREATENS SMALL FARMERS

Mr. GRIFFIN. Mr. President, today I am introducing a bill (S. 4008) to close a tax loophole that now gives some large corporations an unfair advantage over small family farmers.

At present, most business losses are deductible for Federal income tax purposes. Some of the corporate conglomerates capitalize on this by operating agricultural businesses at a loss in order to offset income from other profitable nonagricultural activities. This "tax-loss farming" by some corporations means unfair competition for the family farmer and it means a loss of revenue for our Government.

Farming activity represents the sole source of income for most small farmers. It is their very means of survival. The risks are great. Adverse weather conditions, crop disease, and market conditions are just a few of many factors that can spell financial disaster for the small family farmer.

Losses from farming activities do not, however, necessarily have a serious impact on conglomerates. These large corporations can use farm losses to reduce their Federal income tax liability by offsetting them against profits from other profitmaking activities.

Use of the consolidated return makes this possible. Profits and losses from various operations are combined on a single balance sheet.

Since it is advantageous at times for a corporation to have offsetting losses, there could be an incentive for a corporation to undersell the market with respect to its farming operations. Sales at a loss disrupt the market and create unfair competition for legitimate farmers. Such disruptive price competition could eventually eliminate the small family farmer. This trend would, of course result in a greater concentration of corporations in the farm industry.

Under the legislation I am introducing, a corporation would not be allowed to offset a farming loss except to the extent that income is actually derived from farming activity.

In recent years, a number of family-operated farms have elected the corporate form for their business operations. Family farms would still have that option under my legislation. The bill would simply preclude corporations from using farming activities as a tax dodge to reduce Federal taxes due on the profits from other nonfarming activities. Farm corporations that do not have nonfarm income would not be affected by the legislation.

According to the most recent Internal Revenue Service figures, 8,696 of the 20,468 corporations engaged in farming in 1969 reported deficits on their farming operations. These corporations claimed losses of $221,987,000 for 1969.

We must close this glaring tax loophole and eliminate the unfair competition resulting from tax-loss farming by large corporations.

Mr. President, I urge the Senate to take prompt and favorable action on this important legislation.

I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 4008

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part IX of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items not deductible) is amended by adding at the end thereof the following section:

"SEC. 280. LIMITATIONS ON DEDUCTIONS ATTRIBUTABLE TO FARMING BY CERTAIN CORPORATIONS.

"(a) GENERAL RULE.—In the case of any corporation engaged in the business of farming, the deductions attributable to such business which, but for this section, would be allowable under this chapter for the taxable year shall be allowed only to the extent of the amount of gross income derived from the business of farming for the taxable year.

"(c) ALLOCATION OF INCOME AND DEDUCTIONS.—The Secretary or his delegate may prescribe such regulations for the distribution, apportionment, or allocation of income and deductions between the business of farming and any other trade or business carried on by a corporation as may be necessary to carry out the purposes of this section.

"(d) SUBCHAPTER S CORPORATIONS.—Nothing in this section shall apply to any electing small business corporation (within the meaning of section 1371(b)).

"(e) BUSINESS OF FARMING.—As used in this section, the term 'business of farming' has the same meaning as when used in section 182."

(b) The table of sections of part IX of subchapter B of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 280. Limitation on deductions attributable to farming by certain corporations."

SEC. 2. Section 172(1) of the Internal Revenue Code of 1954 (relating to cross reference with respect to net operating loss deduction) is amended by adding at the end thereof the following new paragraph:

"(3) For limitation on deductions attributable to farming by certain corporations, see section 280."

SEC. 3. The amendments made by this Act shall apply only to taxable years beginning after the date of the enactment of this Act.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 718

At the request of Mr. ROTH, the Senator from Connecticut (Mr. RIBICOFF), the Senator from Florida (Mr. GURNEY), and the Senator from Minnesota (Mr. HUMPHREY) were added as cosponsors of S. 718, a bill to create a catalog of Federal assistance programs.

S. 1947

At the request of Mr. MUSKIE, the Senator from Idaho (Mr. CHURCH) was added as a cosponsor of S. 1947, a bill to prohibit trading in Irish potato futures on commodity exchanges.

S. 3785

At the request of Mr. MATHIAS, the Senator from Alaska (Mr. GRAVEL) and the Senator from New York (Mr. JAVITS) were added as cosponsors of S. 3785, a bill to promote the development of American arts and handcrafts.

S. 3885 AND S. 3886

At the request of Mr. ROBERT C. BYRD (for Mr. BURDICK) the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 3885, a bill to amend section 345(a) of title 5, United States Code, to provide guaranteed annuity benefits equal to the minimum primary insurance amount authorized under section 3215(a) of the Social Security Act, as amended; and S. 3886, a bill to provide increases in certain civil service retirement annuities.

S. 3958

At the request of Mr. ROBERT C. BYRD (for Mr. JACKSON) the Senator from Idaho (Mr. CHURCH) was added as a cosponsor of S. 3958, a bill to amend the Wild and Scenic Rivers Act.

S.J. RES. 265

At the request of Mr. HUMPHREY, the Senator from Florida (Mr. CHILES), the Senator from Oregon (Mr. HATFIELD), and the Senator from Arkansas (Mr. FULBRIGHT) were added as cosponsors of Senate Joint Resolution 265, a joint resolution to provide grants for ALLEN J. ELLENDER fellowships to disadvantaged secondary school students and their teachers to participate in a Washington public affairs program.

SENATE CONCURRENT RESOLUTION 97—SUBMISSION OF A CONCURRENT RESOLUTION IN BEHALF OF PRISONERS OF WAR AND MISSING IN ACTION

(Referred to the Committee on Foreign Relations.)

Mr. THURMOND submitted the following concurrent resolution:

S. CON. RES. 97

Whereas the purpose of the Geneva Convention of August 12, 1949, was to prescribe rules for the humane treatment of prisoners of war;

Whereas the Government of North Vietnam, having adhered to that convention on June 28, 1957, is one of the one hundred and thirty-one parties to that convention;

Whereas the Government of North Vietnam has failed to honor its commitment as a signatory nation of the Geneva Convention;

Whereas the Geneva Convention states, contrary to the view of the Government of North Vietnam, that the convention applies to "any other armed conflict which may arise between two or more of the high contracting parties, even if the state of war is not recognized by one of them";

Whereas the International Conference of the Red Cross adopted without dissent and with the support of one hundred and fourteen nations, a resolution calling upon the parties of the Vietnam conflict to abide by the Geneva Convention with respect to the humane treatment of prisoners of war;

Whereas prisoners taken by the United States in Vietnam are identified and accorded humane treatment, including adequate shelter, clothing, food, exercise, and medical care, and released if sick or wounded, all of which actions have been verified by international inspections;

Whereas the Geneva Convention requires the Government of North Vietnam to:

(1) identify all prisoners of war;

(2) exercise humanitarian treatment;

(3) release sick and wounded prisoners;

(4) protect prisoners from public abuse;

(5) permit inspection of prisoners and quarters by a neutral party;

(6) allow the flow of letters and packages;

Whereas the United States is complying with the above provisions of the Geneva Convention: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is hereby declared to be the sense of the Congress that all parties to the Geneva Convention should join with the United States in exercising every appropriate action to cause the Government of North Vietnam to abide by the provisions of the Geneva Convention, and to agree to an arrangement for the rapid exchange of all prisoners of war.

SEC. 2. The Congress requests and urges the President to transmit a copy of this resolution to the heads of governments of all signatory nations of the Geneva Convention and to the Secretary General of the United Nations.

SOCIAL SECURITY AMENDMENTS OF 1972—AMENDMENT

AMENDMENT NO. 1550

(Ordered to be printed and referred to the Committee on Finance.)

Mr. HARTKE submitted an amendment intended to be proposed by him to the bill (H.R. 1) to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State public assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes.

PRESERVATION AND PROMOTION OF RESOURCES OF THE CONNECTICUT RIVER VALLEY—AMENDMENT

AMENDMENT NO. 1551

(Ordered to be printed and referred to the Committee on Interior and Insular Affairs.)

Mr. KENNEDY. Mr. President, I am submitting today amendments to the legislation I introduced on June 18, 1971, to establish the Mount Holyoke unit of the Connecticut Historic Riverway. These amendments reflect changes suggested by the National Park Service and approved by the Citizens Advisory Committee. There is no citizen group which has worked harder, more diligently, or more effectively than this Citizens Advisory Committee. It has been a long and difficult time for them pursuing the goals to protect and preserve this beautiful area. They have traveled to Washington to meet with representatives of the Department of Interior and the National Park Service. They have worked closely with the congressional staffs. They have had meetings, discussions, field trips—all in an effort to write the best possible legislation to protect this unique area. These amendments I offer today are the product of this effort. Congressman EDWARD BOLAND is offering identical amendments in the House. Senator EDWARD W. BROOKE is a cosponsor of the legislation which not only has wide support from elected officials, but broad-based citizen support as well.

Legislation introduced by Senator ABRAHAM RIBICOFF to protect the Gateway unit of the Connecticut Historic Riverway has passed the Senate and awaits action in the House. I am hopeful that the Senate will have an opportunity to act on the Mount Holyoke unit located in Massachusetts early next Congress.

This legislation is designed to leave untouched the most valuable farmlands which have been worked for over 300 years; to develop for recreational purposes those areas with the greatest potential for camping, fishing, hunting, boating, swimming, and hiking; and to preserve and restore the great natural wonders of the river, the land, the forests, and the fresh air.

The Mount Holyoke unit comprises approximately 12,000 acres on the east side of the Connecticut River, north of Springfield. The river flows between the Mount Holyoke Range and the Mount Tom Range. This unit of the historic riverway embraces the bulk of the Mount Holyoke Range. For 2 years field teams, planning agencies, local officials, and private citizens collected data and worked together on the New England heritage report. Since publication of that report, another 2 years have gone into study and refining the specific proposals put before the local communities.

The Mount Holyoke unit would include three classifications of land areas:

First, public use and development zone—land may be acquired by donation, purchase, transfer, or condemnation, but in no event can more than 1,500 acres be acquired by condemnation;

Second, preservation and conservation zone—which will be maintained in its natural state with only the development of trails; and

Third, private use and development zone—land within this zone shall be limited to noncommercial, residential development except for business already in existence.

Mr. President, I ask unanimous consent that an article depicting the history of this area and the development of this legislation be printed in the RECORD.

It is clear that the citizens have done their work. And the pressures of time and development require that the Congress act soon to assist these residents. The Park Service is to be congratulated not only for the fine work they have done on the planning for the area, but their spirit of cooperation in fostering real participation in the planning process by the citizens of western Massachusetts. It is my hope that with these final refining amendments the proposal will be acted on favorably by the Senate.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CONNECTICUT RIVER, MOUNT HOLYOKE UNIT

With the realization that the United States no longer has frontiers to explore and exploit, has come a change in emphasis in the National Park System. No longer are parks sought solely in remote western areas of the public domain. The Smoky Mountain National Park in the 1930s was a prelude to the new trend. There, developed farm lands were incorporated into a preservation of the 19th and early 20th Century American scene, as anyone who has visited Cades Cove will remember. The pressures of population in the 1970s make more urgent a present attempt to incorporate into a national park a unique segment of New England, portions of the Connecticut River Valley. Four hundred miles long, this greatest river of the northeast meanders through areas of unusual scenic, ecological, scientific and historic value for citizens of today and for future generations.

U.S. Senate Bill 318, Amendment 199 introduced on 18 June 1971 by Senator Edward M. Kennedy of Massachusetts and H.R. 9273 by Rep. Edward P. Boland on 21 June 1971 propose that ultimately the borders of the entire Connecticut River become a long green belt, including the first tier of towns on either bank. But more specifically and immediately, the people of Massachusetts now have the opportunity to support the establishment of the 12,400-acre Mount Holyoke Unit of the Connecticut River Historic Riverway. It will attempt to preserve for posterity the essential qualities of the New England heritage in this section of the Valley where the ten-mile-long Mount Holyoke Range meets the Connecticut River. Beyond the river to the west lies the Mount Tom Range, a state reservation, and the Ox Bow of the river which borders Arcadia Sanctuary of Massachusetts Audubon.

The Mount Tom-Mount Holyoke Range runs from east to west and then turns south. Rising from the flood plain of the river this range offers some of the most spectacular views to be found in the Comomnwealth. The Connecticut River meanders below and has created a fertile agricultural region. The river has cut and abandoned many channels which now stand out as ox-bow lakes, varying the scenery and providing opportunities for water-based recreation.

The east-west orientation of the range is unusual and has interesting effects on the vegetative cover. The southern slopes are more exposed to the sun and support a forest which is adapted to dry, hot conditions, while the north facing slopes receive less sunshine and support a conspicuously different forest which is more characteristic of Canada.

In the fall southward migrating hawks encounter this range and ride the updrafts which the hills create. The hawks soar to the west and south funneling closer and closer into groups called 'kettles'. Spectacular aggregations of hawks attract hundreds of viewers to the range in the middle of September.

The rugged terrain has kept the intrusion of man to a minimum, maintaining a large block of wild land on which turkeys could be found until the middle of the last century. Bobcats roam the range and the copperhead and timber rattlesnakes still live in more remote areas. Barred owl calls echo from the cliffs and raccoons have age-old dens among the fallen boulders.

The view from the range is one of the more varied and satisfying to be found in New England, reflecting historical and natural influences on man's habitation. The drumlins of Amherst are covered with orchards and the great Lawrence Swamp has been protected as a town conservation area. Hadley's rich flood plain agricultural area produces onions, asparagus and truck crops. The Meadows of Northampton display a quiltwork that follows the contours of former river channels. South Hadley is the location of Mount Holyoke College rising from its lush suburban setting and Granby fits the pattern of the typical New England town.

On clear days vistas stretch away to Mount Wachusett in the east, Mount Monadnock in the northeast, Mount Greylock in the northwest and the Meriden Hills to the south.

How this new park proposal came about is a story in itself. About a year ago a public hearing was held in the high school at South Hadley, Mass. Before the people of the area was the proposal for the Mount Holyoke Unit of the Connecticut River National Recreation Area, with a visitor impact of 16,000 people per day per 100 days of summer. Extensive camp sites on the mountain range and an inner circular road at the base of the mountain had been drawn up, and numerous picnic areas and riverfront activities were included. It was clear from the legislation at that time that the Secretary of the Interior could acquire by land-taking up to the 12,000 acres, or the entire proposed park. The response of the citizens of the four affected towns was fully acknowledged by the public officials present at the hearing. The Park Service was chastized for an over-ambitious plan. The senators presiding (Alan Bible, D.-Nevada Chairman of Parks and Insular Affairs Subcommittee of the Senate Interior Committee; Abraham Ribicoff, D.-Conn.; Edward M. Kennedy, D.-Mass.) saw that the citizens could not be budged from the position that conservation and not recreation would prevail, and that scenic easements (restrictions from development of land) but not outright land taking procedures must be the rule for this proposed park.

Great credit is due the National Park Service for its subsequent efforts in cooperating to the fullest extent with the local Citizen's Advisory Committee which has represented the local affected towns, citizens and interest groups concerned with the disposition of the Holyoke Range. Chaired by State Representative John W. Olver, this committee has labored into many nights to hammer out both Federal legislation and input to a Master Plan of the National Park Service to recognize the specific concerns of every individual who has expressed himself in a reasonable and constructive manner.

The results of these voluntary efforts on the part of the committee in cooperation with representatives of the Park Service and Senator Kennedy's office have been a unique example of local participation in government at the Federal level. What has emerged is a bill (S. 318, Amend. 199) written in part by the citizens with the help of a local attorney. which conveys an unprecedented degree of protection of their rights. Tied to this bill in an inseparable way is the Master Plan for the Mounting Holyoke Unit which seeks to preserve the present use of the land. The plan allows for certain degrees of freedom for the land owner and would acquire outright only 1,100 acres of the 12,400 acres of land in the proposed park.

The park will be divided into three zones which were established by the consensus of the Citizen's Advisory Committee and the National Park Service.

ZONE 1: THE PUBLIC USE AND DEVELOPMENT ZONE

This zone would consist of about 1,100 acres and would be purchased outright by the Department of the Interior. Most of this would be a buffer area surrounding the facilities located on about 300 of these acres.

The facilities which will become available to the public include a visitor center with interpretive exhibits and lectures, and an ecology center for nature study with overnight facilities for authorized groups such as school classes, teachers' conferences and Boy or Girl Scouts. Associated with this visitor center will be a restoration in modern terms of the historic Mount Holyoke Cable Railway car. This tram system will replace the present auto road and will carry visitors to the always spectacular view from the summit as well as to interpretive information about the Connecticut River, its past and future, and a modest restaurant. Picnic sites and trail heads will lead out from this area. Four aditional ten-to-twelve-table picnic sites and trail heads will be placed around the base of the mountain range, and an equestrian center will be featured near the east end. The river will be the site of three boat-in camp sites. These will include two islands and one beach, all of which are now used for unregulated camping by the public. The facilities planned reduce the visitor load to 3,400 per day for summer use, which is in line with the conservation emphasis sought by the local townspeople.

A low key daytime winter sports facility on the north side of the Range primarily for family usage would emphasize limited skiing, tobogganing, sledding and skating. On the east end of the Range a nature center with a limited group camping facility would be developed as part of a natural history education program. Here also would be an equestrian center. A series of small sites around the park boundary would each have a few picnic tables and serve as taking-off points for those interested in serious hiking. Hunting and fishing essentially would remain as it is today, subject to state and federal regulations. The effects of pollution control measures are expected to make river swimming safe and pleasant by the time the unit is fully operable, in about five years.

Sanitation facilities would meet the highest standards, local, state or federal, and costs would be paid by the federal government. Police and fire protection within the unit boundary would be on a cooperative basis. The costs of protection on the federally-owned lands would be borne by the federal government. The major flow of traffic to the unit would be by Routes 91 and 9.

ZONE 2: THE PRESERVATION AND CONSERVATION ZONE

The great bulk of the unit, about 10,700 acres, would be in Zone 2, the main purpose of which is to maintain the land as it is. Landowners either could keep their lands secured against future development by a legal easement appended to their deed titles, or they could require that the government buy all or part of the land outright at fair market value. Land secured against development by easement together with existing structures and usages, could continue to be used as today, could be sold in the open market, or willed to heirs, etc.

Large areas which are now used for private and public water supply exist in this zone and these are specifically protected in the legislation which states that "within this zone the Secretary shall agree to protect the integrity of all water supply areas, public and private."

The only developments foreseen in this zone are the continuation and extension of trails for hiking, riding, bicycling, cross-country skiing, etc.

ZONE 3: THE PRIVATE USE AND DEVELOPMENT ZONE

Land in Zone 3 would consist of about 600 acres and include three locally-developed areas in the Ox Bow, Hockanum Village and Harris Road, Granby. Within this zone, future single-family housing development could occur, provided a minimum 20,000-square-foot lot size is adhered to. Existing business within this zone could continue, but future commercial development would be prohibited. Land owners in this zone could, at their request, transfer their land to the Preservation and Conservation Zone; no other zone interchanges could occur.

The Ox Bow area of Northampton and lands adjacent to the Massachusetts Audubon Society's Arcadia Wildlife Sanctuary would be included in the park. The status of the Audubon property would remain unchanged because it already fulfills a public function in accord with the aims of the National Park.

Current development in Northhampton and Amherst makes it imperative that this National Park become fact before the land is carved into building lots, shopping malls and recreational hodge-podges which are popping up overnight as demand for river-oriented recreation increases.

Mr. BROOKE. Mr. President, I am pleased to join today in introducing, with the senior Senator from Massachusetts (Mr. KENNEDY) a set of amendments to S. 318, a bill to preserve and promote the resources of the Connecticut River Valley.

In 1966, the Congress passed a bill authorizing a study of the Connecticut River from the Canadian border to Long Island Sound. The study was conducted by the Department of the Interior, which found the 400-mile stretch of river valley to be of priceless natural beauty, a rich historic heritage, and a wealth of recreational opportunities.

The Department also developed a proposal for preserving three units of the river valley: the Coos unit in New Hampshire and Vermont, the Mount Holyoke unit in Massachusetts, and the Gateway unit in Connecticut.

A bill to preserve the Gateway unit has already passed the Senate. But the bill covering the Mount Holyoke unit has been held up in committee for several years.

Now, at last, the many outstanding issues appear to have been resolved. The amendments which Senator KENNEDY and I are introducing today have been carefully worked out in consultation with citizens groups in Massachusetts. The National Park Service has been particularly helpful in advising on proposed changes, and the amendments have their support.

I am hopeful that the revised bill to preserve and promote the resources of the Connecticut River Valley in Massachusetts will receive the prompt and favorable consideration of the Congress. For prompt action is needed if this region is to be protected for posterity.

ANTIHIJACKING ACT OF 1972—AMENDMENTS

AMENDMENT NO. 1552

(Ordered to be printed and to lie on the table.)

Mr. MANSFIELD (for Mr. MOSS, Mr. PERCY, Mr. CHURCH, Mr. TUNNEY, and Mr. FONG) submitted an amendment intended to be proposed by them jointly to the bill (S. 2280) to amend sections 101 and 902 of the Federal Aviation Act of 1958, as amended, to implement the Convention of Aircraft, and for other purposes.

AMENDMENT NO. 1554

(Ordered to be printed and to lie on the table.)

Mr. GRIFFIN submitted an amendment intended to be proposed by him to the bill (S. 2280), supra.

VETERANS' PENSIONS—AMENDMENT

AMENDMENT NO. 1553

(Ordered to be printed and referred to the Committee on Veterans' Affairs.)

Mr. HARTKE (for himself and Mr.

THURMOND) submitted an amendment intended to be proposed by them jointly to the bill (S. 3070) to amend chapter 15 of title 38, United States Code, to provide for the payment of pensions to World War I veterans and their widows, subject to $3,000 and $4,200 annual income limitations; to provide for such veterans a certain priority in entitlement to hospitalization and medical care; and for other purposes.

NOTICE OF HEARINGS ON CONVENTIONS

Mr. FULBRIGHT. Mr. President, I wish to announce that the Committee on Foreign Relations has scheduled a hearing on the following conventions on Friday, September 22, 1972:

First, Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (Ex. T, 92–2).

Second, Agreement with Brazil Concerning Shrimp (Ex. P, 92–2).

Third, Protocol to the International Convention for the Northwest Atlantic Fisheries Relating to Amendments to the Convention (Ex. C, 92–1).

The hearing will be held in room 4221 of the New Senate Office Building, beginning at 10 a.m. Persons wishing to testify should communicate with the chief clerk of the committee without delay.

ADDITIONAL STATEMENTS

TROUBLED CAMBODIANS MISS THE MONARCHY

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Troubled Cambodians Miss the Monarchy," written from Pnompenh by Malcolm W. Browne, and published in the New York Times of Tuesday, September 19, 1972.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TROUBLED CAMBODIANS MISS THE MONARCHY

(By Malcolm W. Browne)

PNOMPENH, CAMBODIA, Sept. 10.—With Cambodia's military, economic and political situation sliding into deeper trouble daily, many of her people are expressing a nostalgia for the "good old days" two years ago when this land was a well fed, peaceful kingdom and not a threadbare and war-torn republic.

The reminders of monarchy are still much in evidence despite the best efforts of the new Government.

Words relating to royalty and kings have been painted over or chipped away from Cambodian street signs, hotels, airliners, stores and public buildings.

But the outlines of the words and royal crests are often still faintly visible. And, in the words of one foreign diplomat: "Whatever its merits, this Government is drab. Prince Norodom Sihanouk was a very tough act to follow."

SIHANOUK MEMORY VIVID

The memory of Prince Sihanouk, Cambodia's absolute ruler until his ouster in a military coup d'etat on March 18, 1970, remains vivid here.

Considered by his enemies to be a clown and a Communist and by his friends as an Asian cross between Henry VIII and Metternich, Prince Sihanouk rarely inspired anything less than extreme feeling among his subjects.

His people were reminded of the 49-year-old Prince again two weeks ago with reports from Peking that he expected soon to return to Cambodia from his exile in the Chinese capital. He made it known through diplomats to reporters that he understood that the United States was prepared to abandon the Government of Marshall Lon Nol and permit the return of the Prince.

The news was received with extreme skepticism here, and there was certainly no rejoicing. Prince Sihanouk was feared and disliked by much of his country's civil service, army and economic upper classes.

WAS POPULAR WITH PEASANTS

Despite his royal blood and great wealth, his real popularity was with Cambodia's peasantry. The nation's farmers still apparently think well of their former sovereign, judging from analyses of recent rural elections.

But even for opponents of the former Sihanouk government, comparisons between life before his ouster and now are difficult to avoid.

Ending a line of royal dynasties stretching into antiquity, the new republican Government designed a new national flag, created a Parliament and Constitution, told people to vote and renounced the neutralist foreign policies of Prince Sihanouk in favor of active alliance with the United States.

In a matter of months, Cambodia, which had been peaceful, was plunged up to her neck in the Indochina war. Opposing Vietnamese armies came crashing over the borders, Communist troops occupied some two-thirds of her territory, and the roar of American B–52 bombers was heard overhead.

SHORTAGE OF RICE

Now, powerful Communist forces are throttling the supply of rice from the Western province of Battambang by blocking Route 5 to the capital. Thus the capital of one of the most rice-rich nations in the world has been plagued by rice riots with the doubling in price of the grain in three weeks.

Other Communist forces moving toward Pnompenh along Route 1, the road from Saigon, reportedly wiped out eight Cambodian Army positions, seized the provincial capital of Kompong, Trabek and apparently captured an entire battalion of 350 Cambodian soldiers within two days.

As the nation appears to flounder, many officials are wondering whether Cambodia can go on much longer under the leadership of President Lon Nol, whose activity was drastically reduced by a massive stroke last year.

Educated exponents of political modernism—and many Americans—feel things might run more smoothly if a free hand were given to Lieut. Gen. Sisowath Sirak Matak, special counselor to the President.

General Sirak Matak, who is 58, has held high posts in Cambodian government since the end of World War II and is known for his energy and clear thinking.

Student groups have staged demonstrations against General Sirak Matak, and his overall popularity is questionable. But apart from his reputed organizational talents, he has an attribute of great importance in Cambodia—he is the descendant of an ancient line of kings.

Royalty in Cambodia is not mere ceremony. Under Prince Sihanouk, who technically renounced the throne in 1955 but remained de facto monarch, Cambodia was governed by a benevolent despot.

Recent conversations with Cambodians indicate that the people of the countryside have not forgotten the days when Prince Sihanouk's helicopter might land without notice in the middle of a rice field.

The Prince, always talking fast in a high voice, would accept gifts of fruit and then listen to anyone who wanted to complain about anything or about anyone, including local and national officials.

He would adjudicate any kind of disagreement, fixing land boundaries, freeing prisoners, dressing down officials of all ranks and usually handing out money to everyone around.

Few political observers, Cambodian or foreign, question Prince Sihanouk's immense popularity in the countryside of a nation made up mostly of rice farmers and fishermen.

PRINCE RESTORES ANGKOR

Most Cambodians felt deep pride in the way Prince Sihanouk refurbished and literally spotlighted the great 12th-century palace ruins at Angkor. The knowledge that Angkor is now damaged by shellfire and is in use as a military base by the Communists has saddened Cambodians.

Cambodian farmers also appreciated the way Prince Sihanouk appeared to be taking them into his personal confidence.

Few who were here at the time have forgotten a 1963 broadcast the Prince made to the nation, warning mothers of the realm to keep their daughters locked up if they should hear that one of the Prince's playboy sons was anywhere around.

In the same year, Prince Sihanouk forced another of his sons to marry a 15-year-old commoner when he discovered the son had been having an affair with her. The angry Prince announced his son's engagement to the girl, a book store clerk, in a broadcast speech.

The palace from which Prince Sihanouk reigned is a museum now. Its spectacular gold-tiled buildings, with elephants still tethered in old gardens, are well cared for by the new Government.

The center of Cambodia's royal house now is Queen Kossamak Nearireath, the 70-year-old mother of Prince Sihanouk. The Queen, guarded by soldiers stationed outside the small villa assigned her, is not permitted to leave Cambodia, nor are the nine of the Prince's children who are still here. The spokesman for the ailing Queen and the rest of the family living here is Prince Sisowath Monireth, the brother of the Queen.

NOT VERY DIFFERENT

He and the rest of the family are often accused by officials of the Lon Nol Government of scheming for the return of the royal government.

Prince Monireth merely smiles when asked if he thinks his nephew Prince Sihanouk will return.

"My friend, I am very sorry, but we cannot discuss politics or say anything," he told a correspondent last week. "We are in a very delicate position. Now I must get to a meeting."

In terms of their major objectives, Prince Sihanouk and the present Cambodian Government appear to be in nearly complete agreement, despite the invective they hurl at each other from a distance.

Both the Prince and the Lon Nol Government want Cambodia freed of foreign occupation and interference by any power, including the North and South Vietnamese, the Thais and the Americans.

Both the Prince and the Lon Nol Government accept the future existence of a legal Cambodian Communist party, which could participate in affairs of state at some point.

Both royalists and republicans would like to see Cambodia effectively neutralized and made secure by internationally guaranteed treaty from future incursions by foreign troops of any nationality.

RETURN DEEMED UNLIKELY

Despite the optimism Prince Sihanouk has shown visitors in Peking, few knowledgeable officials or observers here feel there is more than a very remote chance of his return.

In the event of Communist victory throughout Indochina, Prince Sihanouk might well be returned to his palace in Pnompenh. He is still recognized by China and North Vietnam as Cambodia's chief of state despite the statements he makes even from his Peking exile renouncing Communism as a political philosophy for Cambodia.

The Prince himself seems unsure what role he would play if the Communists return him to power.

A junior official who has served in both the Sihanouk Government and its successor said:

"Many people, especially the peasants, would like to see him back. But the realities of the day are such that it will never happen. Whether there is hope for Cambodia or she is doomed, you can't turn back the clock now. You can't bring back Sihanouk. One does miss those good old days only two years ago, though."

ANNIVERSARY OF "THE STAR-SPANGLED BANNER"

Mr. **MATHIAS**. Mr. President, the strength and well-being of a nation is determined as much by its spirit and sense of identity as by its force of arms. Anyone who has been in battle, or has even traveled abroad, knows the surge of pride and confidence that is felt when he or she sees our Nation's flag or hears our national anthem. Our flag, "The Star-Spangled Banner," symbolizes the greatness of our Nation, and our people. Its spirit was captured in verse in a remarkable episode. And the story of the national anthem, "The Star-Spangled Banner"—written by a young Marylander during a critical battle in a war that severely tested the spirit and unity of our young Nation—is one of which all Americans should be justly proud.

We were therefore, particularly thankful on September 14, the 158th anniversary of the writing of the national anthem "The Star-Spangled Banner" that the Post, published in Frederick, Md., had compiled a full account of the family of Francis Scott Key and the circumstances surrounding the writing of our national anthem. Frederick County was the home of the Key family, and I can remember as a child the pride that all of us in Frederick felt that such a great American had strong family ties to our town. My pride has increased over the years as I realize the great difficulties that the citizens of our Nation experienced in the early days of our Republic and in that early war with larger and more powerful foreign nations. The United States would probably not have survived those difficult times without the spirit and sense of purpose that Francis Scott Key so eloquently captured in the words every schoolchild knows by heart. And so, perhaps, we all need to pause today and ponder about the state of our national spirit, and to reflect for a moment on the roots of our national heritage. In that regard, I think the Post has made a real contribution by giving us the benefit of the article entitled "Maryland Celebrates Star-Spangled Banner's 158th Anniversary," which was written by Judge Edward S. Delaplaine.

I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

MARYLAND CELEBRATES "STAR-SPANGLED BANNER'S" 158TH ANNIVERSARY

(By Judge Edward S. Delaplaine)

Today is the 158th Anniversary of "The Star-Spangled Banner."

Eight years ago the Sesquicentennial of the National Anthem was celebrated actively in Maryland, especially in Baltimore and in Frederick.

In Frederick on September 13, 1964, Judge Sarah T. Hughes, the jurist who administered the Presidential oath to Lyndon B. Johnson in Dallas after the death of President John F. Kennedy, presented on behalf of the City of Baltimore the first 15-star flag ever to fly over the grave of Francis Scott Key in Mount Olivet Cemetery.

On the following day the Frederick Chapter, Daughters of the American Revolution, and the Francis Scott Key Memorial Foundation unveiled a bronze plaque marking the graves of Judge John Ross Key and his wife, Anne Charlton Key, Francis Scott Key's father and mother.

Governor J. Millard Tawes, who always gave a helping hand to patriotic movements, had issued a Proclamation setting September 14, 1963—a year before the Sesquicentennial—as National Anthem Day; and the Daughters of the American Revolution looked with favor on a suggestion that the Governor in every State should be required to proclaim National Anthem Day annually in September.

In 1964 the Maryland Legislature passed a resolution recommending "That the 14th day of September of the year 1964 and every year thereafter be proclaimed National Anthem Day."

In the last eight years, however, National Anthem Day has not received much public attention. On the contrary, unfortunately, there have been some individuals who have criticized "The Star-Spangled Banner" and have urged that it should be replaced by an anthem easier to sing.

Today on the 158th Anniversary of "The Star-Spangled Banner" it is gratifying to find how deeply one of America's great institutions of learning—Columbia University in New York—reveres our National Anthem and its author.

Columbia University's judgment was disclosed recently when its president, Dr. William J. McGill, announced that the original letter written by Francis Scott Key to his father in September, 1814, before setting out on his mission to the British fleet, had been presented to the University, President McGill declared that he considered Key's letter one of the Library's most interesting and valuable resources.

In thanking the donors of the letter, Mr. and Mrs. Alfred C. Berol, of New York, President McGill announced that it would be difficult "to conceive a further single contribution that stands out so magnificently in our manuscript collections for its historical significance."

In 1814 Key was living in Georgetown. He had left Frederick with his wife and their two small children near the end of the year 1805.

The Georgetown home, located on the south side of Bridge Street (later named M Street), commanded a beautiful view of the Potomac. It stood near the old Aqueduct Bridge (near the present Francis Scott Key Memorial Bridge).

It was a Georgian brick mansion. It had two main stories and a basement, and a gable roof with dormer windows. The front door opened into a wide hallway, to the right of which were two large parlors. In the basement were the dining room and kitchen and a cold storage pantry.

Back of the mansion was a sun porch that looked upon a terraced flower garden, which sloped all the way down to the north bank of the Potomac River. Near the rear of the property were a coach house and a smoke house.

To the right of the mansion was a little one-story brick office building which was the Key's law office.

In August, 1814, when the British invaders captured Washington and burned the Capitol and the President's House, Key was so unnerved that he was unable to attend to any legal practice. The terrible events also gave great anxiety to his father and mother at Terra Rubra and also to his sister Anne and her husband, Roger B. Taney, who was a Frederick lawyer.

The relatives in Frederick County thought "Frank" and "Polly" ought to leave their home and take refuge in Frederick or at Terra Rubra. The children—there were now three girls and three boys—had been taken up to Terra Rubra to be with their grandparents away from the danger zone. The oldest child was a girl not yet eleven. The youngest was a boy not yet one year old. Key's wife, however, stubbornly refused to leave him.

The following explanation of the situation was given by Taney:

"It was rumored, and believed in Frederick, that a marauding attack of the same character would be made on Washington and Georgetown, before the ships left the river. Mr. Key's family were still in Georgetown. He would not, and indeed could not, with honor, leave the place, while it was threatened by the enemy; for he was a volunteer in the Light Artillery, commanded by Major Peter, which was composed of citizens of the District of Columbia, who had uniformed themselves, and offered their services to the government, and who had been employed in active service from the time the British fleet appeared in the Patuxent preparatory to the movement upon Washington. And Mrs. Key refused to leave home, while Mr. Key was thus daily exposed to danger.

"Believing, as we did, that an attack would probably be made on Georgetown, we became very anxious about the situation of his family. For if the attack was made, Mr. Key would be with the troops engaged in the defense; and as it was impossible to foresee what would be the issue of the conflict, his family, by remaining in Georgetown, might be placed in great and useless peril.

"When I speak of *we*, I mean Mr. Key's father and mother, and Mrs. Taney and myself.

"But it was agreed among us, that I should go to Georgetown, and try to persuade Mrs. Key to come away with their children, and stay with me or with Mr. Key's father, until the danger was over. When I reached Georgetown, I found the English ships still at Alexandria, and a body of militia encamped in Washington, which had been assembled to defend the city."

About the time Taney arrived, the six children were sent up to Frederick, but Mrs. Key was reluctant to leave her husband. Two or three days after Taney arrived, the British squadron was seen moving down the Potomac. The terrified inhabitants of Alexandria, having seen the fires in Washington, in humble submission had asked for terms of capitulation, and had given a ransom of flour and tobacco worth a hundred thousand dollars in addition to ships loaded with cargoes in the harbor. It was believed that the enemy squadron was on the way to join the main fleet for an attack on Baltimore.

In view of the departure of the invaders. Taney was about to return to Frederick without Mrs. Key when an unexpected visitor arrived. The visitor was Richard W. West of Upper Marlboro. Mr. West had come to ask Key to try to rescue Dr. William Beanes, who had been taken prisoner by the British. Key pictured the old doctor in chains, surrounded by enemy soldiers on one of His Majesty's warships. He agreed at once to go to the fleet and plead for his release.

Early in the morning of the 2nd of September the young lawyer—he was only a month over 35—was on his way to confer with the President of the United States. Mr. Madison, who had been hiding with Dolley in a place of refuge in Virginia, had returned and had established a temporary home in the Capital. The prim little President had been nearly prostrate from fright.

The lawyer hurriedly explained his mission. He wanted the cooperation of the United States Government. Mr. Madison had no objection to the plan of visiting the British fleet under a flag of truce. He advised the lawyer to request the Commissary General of Prisoners to write a letter to the commander of the British Army.

Key hastened to the office of the Commissary General of Prisoners. There he related the facts to General John Mason. The General penned a letter to John S. Skinner, the Government's flag of truce officer for the exchange of prisoners, directing him to embark with Key at Baltimore in a flag of truce boat and proceed in search of the British fleet.

"I pray your utmost zeal and earnestness," General Mason said in his letter to Skinner, "in endeavoring to withdraw the worthy Dr. Beanes."

General Mason also penned a strong letter to Major General Robert Ross, the British Commander, telling him that "John S. Skinner agent and Flag officer for this office and Francis S. Key Esqr. a citizen of the highest respectability have been authorized to wait upon you and to express to you the views and expectations of the Government."

With these important letters, Key returned to his home in Georgetown to prepare to leave for Baltimore in the morning. There was no time to lose. And he realized that it would be at least a week or ten days before he could get back. Therefore, in view of the change in circumstances, Taney had no problem in persuading his wife now to leave home to take refuge with him in Frederick or with her parents at Terra Rubra.

Before retiring to his bed for the night, Key dashed off two letters, one to his father, one to his mother.

This is the letter he wrote to his father, Judge John Ross Key.

GEO TOWN—
2. Sep. 1814.

My Dr. Father.—

It was with great pleasure we heard from you that you were all well—it had been so long since we had any news of you.—Polly goes up in the morning with Mr. Taney—I cannot go yet, as I have to make a journey to the Fleet to try to get Dr. Beanes released from the Enemy—I hope I may succeed but I think it very doubtful. When I return I shall get to Fredk as soon as possible.—

I fear it will be quite impossible to get a loan as you mention from the Banks. Neither the Banks here, nor in Fredk (as I understand) make and discounts.—I owe more money in Bank here now than I ought—& in these distressing times I really know not what I shall do to provide for the necessities of my family.—I think you had better sell something even at a Sacrifice to raise what you want, & then avoid incurring, on any account, any new debt.—Your wheat I would certainly advise you to sell, if you can get anything, even 75 cents for it. It cannot be more saleable—There is no hope of peace—and as the war lasts that & every thing else will be getting worse.—In about a fortnight I trust I shall see you—sooner if I can.—

Farewell my Dr Father—
Yr most affectn
F. S. KEY

The Enemy have left Alexa to-day.—Tell the children I would write to them but have not time.

The letter written by Key to his mother was cherished by her for fourteen years. Mother Key, a widow for nine years, died in 1830. After her death the letter was saved by her daughter, Anne Taney.

Mrs. Taney cherished the letter for twenty five years. Then, after her death in 1855, the letter was preserved by Chief Justice Taney's daughter Anne, the wife of a Baltimore lawyer, James Mason Campbell.

The last member of the family to keep the letter was a daughter of Mr. and Mrs. Campbell, Alice, the wife of Colonel Frank M. Etting of Philadelphia.

One hundred years ago the people of America were busy making plans for the celebration of the 100th Anniversary of the Declaration of Independence. The greatest activity was in Philadelphia because Philadelphia had been selected as the site of the Centennial Exposition of 1876.

Colonel Etting was not only an army officer but a lawyer and a scholar. Several years before the opening of the Centennial Exposition he was one of the public spirited citizens of Philadelphia who was helping in a movement to establish a museum in Independence Hall. His wife, a granddaughter of the late Chief Justice Taney, thrilled by the patriotic feeling of the time, offered to share in the arrangements by donating to the Independence Hall Museum the original letter that Francis Scott Key had written on September 2, 1814, to her ancestor, Mrs. John Ross Key. And so the letter was deposited in Independence Hall in the year 1873.

For upwards of a century the letter was preserved in Independence Hall. Then in 1960 the National Park Service curator at Independence Hall, while cataloguing manuscripts there, happened to see the letter. The curator was David H. Wallace. Thinking it would be more appropriate for Fort McHenry, he sent it there. And so the letter is now preserved at Fort McHenry.

Mr. Wallace now resides with his wife and three children at 9 West Third Street in Frederick. He is with the National Park Service at Harper's Ferry.

This is the letter Francis Scott Key wrote to his mother on the night before he left on his mission to the British fleet:

GEO TOWN,
2 Sep: 1814

My Dr Mother—

You have made allowances, I hope for our confusion & anxiety here, & have therefore excused my not writing sooner. Indeed for two or three days after our disgrace I had neither time or mind to do anything.—And since then I have been much engaged.—I had however a promise from Mr. Munro that he would write to Taney often & soon, so that you might know I was well.—You have since no doubt heard how mercifully we have all been spared here, the Enemy not even entering our Town, which I am sure they would have done, had they not gone off with such unnecessary precipation (sic).—They have today left Alexandria, & I trust we shall see no more of them.—I hope we shall be grateful to God for this deliverance, & remember how much more light our chastisement has been than we expected or deserved.—

I am going in the morning to Balte to proceed in a flag-vessel to Genl Ross. Old Dr Beanes of Marlbro' is taken prisoner by the Enemy, who threaten to carry him off—Some of his friends have urged me to apply for a flag & go & try to procure his release.

I hope to return in about 8 or 10 days, though is uncertain, as I do not know where to find the fleet.—as soon as I get back I hope I shall be able to set out for Fredk—

The Children will be delighted to see their mother.—Give my love to them & to Papa—

God bles you my Dr Mother
Ever yr most affece Son
F. S. KEY

With the farewell letters written to his father and mother, Key drove off for Baltimore on the morning of the 3rd of September, Taney left with Mrs. Key for Frederick.

On Sunday, September 4, Key and Skinner made final preparations for their voyage, and on Monday morning they were off in the flag of truce boat. They caught sight of the first British ships shortly after noon on the 6th. They boarded the *Royal Oak*, but found it was only a troop convoy. The main part of the British fleet was further south. Continuing south on the morning of the 7th, they finally sighted the *Tonnant*, which they boarded about 2 o'clock in time to dine with General Ross and Admiral Alexander Cochrane.

Ross and Cochrane finally agreed to release Dr. Beanes, but Cochrane explained regretfully that he was unable to keep the three Americans on the *Tonnant* during their stay, as there was no room for them. He asked them to move to the frigate *Surprize*, and he remarked that he felt sure they would be comfortable there.

On the 9th of September the fleet stopped off the Patuxent River for the night, and at daylight on the 10th they were on their way again.

The countryside was in an uproar. The people of Annapolis, fearing they might be bombed, were rushing frantically from their homes. But the invaders, instead of stopping at Annapolis, continued up the Bay.

Then came the bombardment of Fort McHenry on the night of the 13th and the morning of the 14th. It was in the dawn's early light that morning when Francis Scott Key saw the mammoth flag that had been made by Mary Young Pickersgill, the industrious young widow who lived near the harbor of Baltimore.

Mrs. Pickersgill was born in 1776 in Philadelphia, the city in which Betsy Ross, the legendary maker of the first Stars and Stripes, was born. Mary Young was the daughter of William and Rebecca Flower Young, who fled from Philadelphia in 1777 to escape from the advancing British troops. She was a niece of Colonel Benjamin Flower, Commissary General of Military Stores for Washington's Army, who kept the stores from being captured by the British and who hid the Liberty Bell.

Mary was married at nineteen to John Pickersgill in Old St. Paul's Church in Baltimore. The Pickersgill had four children, but only one, Caroline, survived.

Ten years after the wedding, Pickersgill died in London. Two years later Mary and her widowed mother and little Caroline moved to Baltimore and lived in the house on the corner of Queen (now Pratt) and Albemarle Streets.

Mary Pickersgill was 37 years old at the time, she was working on the flag ordered for Fort McHenry. She used 400 yards of bunting to make it. She made 8 red stripes and 7 white stripes, each 2 feet wide. There were 15 stars, each measuring 2 feet from point to point.

Mary got some help from her little daughter Caroline in stitching the flag together on the floor of a nearby brewery. "Night after night through the hot weather the widow and her daughter Caroline crawled over the big flag, and stitched the colored pieces together. Just a widow and her little daughter crawling at night on the floor of a brewery—but helping to write an anthem destined to be enshrined forever in the hearts of the American people."

When the flag was completed in August, 1813, it was 30 feet wide and 42 feet long. It was the largest battle flag in the world.

The huge flag became a proud possession of George Armistead, who was brevetted from Major to Colonel for his gallant command of Fort McHenry. When he left Fort McHenry he took the flag with him.

Colonel Armistead bequeathed the flag to his daughter Georgiana, wife of Eben Appleton, of New York.

Mrs. Appleton bequeathed it to her son, Eben Appleton, Jr. For many years Eben, Jr., kept it in a safe deposit vault. He bequeathed it to the Government of the United States in 1912.

For more than a half a century the flag

was kept in a crowded glass case in the Arts and Industries Building of the Smithsonian Institution. It had lost eight feet of its stripes to souvenir collectors during the many years it had been privately owned.

When the Smithsonian's Museum of History and Technology on Constitution Avenue, between 12th and 14th Streets, N.W., was completed in 1964, the lost portion was reproduced with material similar to that used by Mrs. Pickersgill. The new portion was hung below and behind the original.

The home of Mrs. Pickersgill, the flag maker, is beautifully preserved by the Star-Spangled Banner Flag House Association, Inc. And the flag she made is assured of permanent preservation in a 50-foot display in the National Museum. Special incandescent light is provided to guard against fading, and a gentle current of air flows over it to keep off the dust.

Many years ago Key's manuscript of "The Star-Spangled Banner" came into the possession of Henry Walters, the famous art collector of Baltimore. Mr. Walters died in 1931, leaving his art gallery to the City of Baltimore. But the manuscript was a part of his personal estate. Accordingly, on January 5, 1934, the manuscript was offered for sale at an auction in New York, and it was bought by the trustees of the Walters Art Gallery for $24,000 in order to keep it in Baltimore.

In 1953, by generous arrangement with the trustees of the Art Gallery, it was purchased by the Maryland Historical Society for $26,400.

The cost of the manuscript and the niche in which it is preserved, lined with marble and suitably inscribed, was donated by Mrs. Thomas C. Jenkins as a memorial to her late husband's mother, Catherine Kay Jenkins, a cousin of Francis Scott Key.

Unfortunately, however, the home in Georgetown in which Key and his wife and children lived at the time of the writing of "The Star-Spangled Banner" has not been presented.

Before the close of the Nineteenth Century, commercial establishments were beginning to encroach into the residential area of Georgetown along the Potomac River. It was apparent that the Key mansion was in danger. As early as 1907 a group of prominent citizens were planning a campaign to save the historic home. The Francis Scott Key Memorial Association was formed to make an appeal for members and contributions. Among the officers of the association were two heroes of the Spanish American War, Admiral George Dewey, hero of Manila Bay, and Admiral Winfield Scott Schley, hero of Santiago.

But even with the backing of a number of distinguished Americans, the effort failed. In those days, it was difficult, if not impossible to get help from the Government for the preservation of historic shrines.

In the years between 1912 and 1915, the Key mansion was damaged severely by alterations made for the use of business establishments.

About a decade later plans were being made for a new bridge to span the Potomac to take the place of the old Aqueduct Bridge. It has been estimated that the bridge cost at least $2,500,000. Upon its completion in 1924 it was dedicated as the Francis Scott Key Memorial Bridge in honor of the author of the National Anthem.

Several more years went by. Each year the building which was once Key's home became more and more dilapidated, and by the year 1930 it was almost completely gutted.

In 1931 Mrs. Julian C. Lane, of Statesboro, Georgia, genealogist of the Key and Allied Families, told a nostalgic story of "Charley" Burkitt, who looked sorrowfully upon the scene as the demolition workers were reducing the old home to ruins. "Charley" Burkitt was a humble but sentimental resident of Georgetown who served as a police guard at the Aqueduct Bridge for twenty years.

This is Mrs. Lane's story of "Charley" Burkitt:

"As he watched the workmen wreck the house, it seemed to awaken within his soul the memories told of the great and good Francis Scott Key, and from the piles of beam, board, sill and slab he saved a huge beam of great thickness, and 33 feet long. Its age was attested by marks of broad axes which had been hewn from white oak. He chained part of the beam to the bridge and often told of its history to those who passed. After several years Burkitt was transferred to another post. Wishing the historical timber preserved, he presented it to the members of the Boat Club whose intentions are to have it polished, varnished and appropriately marked, 'A relic of the Old Key Mansion.' "

"Charley" Burkitt was not the only one who salvaged relics from the Old Key Mansion. Several years ago it was reported in Washington that the original rear door of the Key house was found in the town of Haverford, Montgomery County, Pennsylvania.

The brass name plate, measuring 7 by 3½ inches, engraved with the name of "Key" is preserved in the Flag House in Baltimore. The Flag House is also preserving a beam from the mansion.

But these were only a few of the parts of the building that were saved. Some of the historically minded citizens of Washington salvaged bricks and pieces of woodwork and stored them with the hope that a replica of the mansion could be constructed. Photographs had been taken of the building before it was demolished and careful measurements had been made of it.

In 1935 a campaign to raise a fund for the restoration of the building was inaugurated. At that time it was estimated that the cost of restoration would be at least $55,000. No further action was ever taken.

In recent years we have begun to appreciate the value of historic buildings because they remind us of great Americans, our patriots and poets, especially those who illuminate the crucial periods of American History.

Ordinary buildings should never impede progress. But buildings of historical importance and irreplaceable national treasures that teach the meaning of America.

H.R. 8389—THE VICTIMS OF CRIME ACT OF 1972

Mr. McCLELLAN. Mr. President, I am gratified that the Senate has reconstituted the Victims of Crime Act of 1972 in the form of H.R. 8389.

This legislation, which will do much to ameliorate the oftentimes tragic financial consequences of crime, has been the result of a joint effort which included contributions by a number of Senators.

I take this opportunity to extend my warm personal thanks for the leadership of Senators Mansfield, Mondale, Kennedy, Schweiker, Bible, Tunney, Hughes, Spong, Ervin, and Hruska, and also for the numerous other Senators who spoke on or who cosponsored these vital measures.

We have not always agreed on all aspects of this legislation, but we have seen that the measure ran a full democratic course in the highest traditions of the Senate.

Our work here yesterday is something that we may all be proud of.

I hope the House will now join us in seeking to lay this important legislation on the President's desk without undue delay.

CAB TO SEPARATE SMOKERS ON AIRLINES

Mr. SCHWEIKER. Mr. President, I was pleased to note that the Civil Aeronautics Board has proposed requiring all airlines to segregate smokers from nonsmokers.

On February 28, 1972, I introduced S. 3249, a bill to require the setting aside of special seating areas for smokers on airlines, buses, and trains. I introduced the bill partly because in early 1972 the Surgeon General found that nonsmokers are significantly affected by the smoke generated by smokers. Thus, the problem has gone far beyond being a matter of inconvenience or irritation to nonsmokers and has become a matter of health.

Earlier this year, the Interstate Commerce Commission proposed separate seating for smokers and nonsmokers on interstate buses.

Now the CAB has issued its proposed rule to do the same thing on airlines. It should be noted that most of the major airlines already segregate smokers. However, the CAB has pointed out that in general the supplemental airlines and the local service lines do not do this.

I strongly support this action by the CAB. In fact, it should have been done long ago, particularly since it has been shown that breathing smoke affects the health of nonsmokers.

Mr. President, I ask unanimous consent that an article from the Washington Post of September 19 and the CAB Notice of Proposed Rulemaking, published in the Federal Register, be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

CAB Would Separate Smokers on Airliners

(By Vern Haugland)

The Civil Aeronautics Board yesterday proposed requiring all the airlines to segregate smokers from other passengers.

The CAB said that this could be done by designating a smoking area in the rear of each compartment of an airliner and prohibiting smoking in other areas.

The board noted that most of the trunk airlines already segregate smokers. In general, however, the supplemental airlines and the local-service lines do not, the board said.

The board said it would accept comment on the proposed rule until Nov. 3, before making a final rule.

In December, 1969, consumer advocate Ralph Nader asked the Federal Aviation Administration to ban smoking on planes as a fire hazard. Another petition asked the FAA to require segregation of smokers to protect the health of other passengers.

In March, 1970, the FAA ruled that smoking did not represent a flight safety hazard. The FAA referred the health issues to a joint study with the Department of Health, Education and Welfare to measure tobacco smoke contaminants in transport aircraft.

The CAB said the completed joint study shows, in general, that the low levels of contaminants in a passenger plane do not represent a health hazard to nonsmokers. But, the study found that more than 60 percent of the nonsmokers were bothered by tobacco smoke.

The CAB said an outright ban on smoking on commercial flights would be a drastic remedy and inconvenience travelers who wish to smoke.

[From the Federal Register, Sept. 19, 1972]

SPECIFICALLY DESIGNATED "SMOKING" AREAS ABOARD COMMERCIAL AIRCRAFT

(Notice of Proposed Rule Making, September 13, 1972)

Notice is hereby given that the Civil Aeronautics Board has under consideration the enactment of a new part to require certificated air carriers (both route and supplemental carriers) to establish procedures designed to segregate passengers who desire to be seated in designated "smoking" areas and to prohibit smoking in all areas not so designated on commercial flights.

The background and principal features of the proposed part are described and discussed in the attached explanatory statement and the proposal is set forth in the proposed rule. The part is proposed under the authority of sections 204(a), 404(a), and 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 760, 766 (as amended); 49 U.S.C. 1324, 1374, 1377.

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Individual members of the general public who, as prospective passengers, could be affected by the outcome of this proceeding, may participate in the proposed rule making through submission of comments in letter form to the Docket Section at the above-indicated address, without the necessity of filing additional copies thereof. All relevant material received on or before November 3, 1972, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 712, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof.

By the Civil Aeronautics Board.

HARRY J. ZINK,
Secretary.

EXPLANATORY STATEMENT

In December 1969 Mr. Ralph Nader in his individual capacity filed with the Board and with the Federal Aviation Administration (FAA) petitions for rule making to ban the smoking of cigars, cigarettes, and pipes on all passenger-carrying air flights. At about the same time he filed with the FAA a petition to require the segregation of passengers who wish to smoke from those who do not wish to smoke aboard commercial aircraft. These petitions raise three principal issues: (a) Whether smoking on commercial aircraft creates a fire hazard; (b) whether tobacco smoke is injurious to the health of all passengers subjected to it; and (c) whether tobacco smoke causes annoyance and discomfort to the passengers.

On March 19, 1970, the FAA issued an advance notice of rule making entitled "smoking on aircraft operated by air carriers, air travel clubs, and commercial operators."[1] In the explanatory statement portion of the rule, the FAA dismissed the petitions insofar as they pertained to issue (c), above, and partially denied the petitions insofar as they pertained to issue (a), above. Thus, the scope of the petitions pending before the FAA was, according to the notice, to be limited to the issue of whether exposure to tobacco smoke aboard aircraft creates a health hazard to passengers. The notice referred to a joint study by the FAA and the Department of Health, Education, and Welfare (HEW) "to measure the amounts of tobacco smoke contaminants in air transport aircraft, using flights carrying military personnel and dependents as a 'test bed' for the study."

For its part, the Board deferred regulatory action with respect to issue (c), pending the results of the joint study.

The joint study referred to in the FAA advance notice has now been completed. In general, the study concludes that the low levels of contaminants measured do not represent a health hazard to the nonsmoking passengers. On the other hand, the study found that a significant portion of the nonsmokers (over 60 percent) stated that they were bothered by tobacco smoke, suggesting that corrective action should be taken, such as a ban on smoking or the segregation of smokers from nonsmokers on commercial flights. Thus, although the FAA has not yet taken final action on the basis of the study, it now seems that there is no longer any reason for the Board to defer institution of rule making proceedings on issue (c) above, namely, whether the extent to which tobacco smoke causes annoyance and discomfort to passengers warrants remedial action, and, if so, what form of action that should take.

As indicated above, the Nader petition filed with the Board asks for a ban on the smoking of cigars, cigarettes, and pipes on all passenger-carrying flights. An outright prohibition of smoking on commercial flights is an extremely drastic remedy since it would inconvenience a substantial segment of the public which travels on airplanes and desires to smoke. Such a remedy should not be proposed if a less drastic one is available which would provide an adequate solution to the problem at hand. We believe that the provision of smoking and nonsmoking areas on aircraft is such a solution and the one which we now propose.

Recently, the Board's Bureau of Enforcement conducted a survey of the certificated carriers to ascertain their practices with respect to certain in-flight amenities, including the provision of separate compartments for those who wish to smoke and those who do not wish to smoke. From this survey it appears that, as a general rule, the trunkline carriers already segregate smokers from nonsmokers;[2] while, on the other hand, as a general rule smokers are not segregated from nonsmokers by local service carriers,[3] supplemental air carriers,[4] and the Alaskan and Hawaiian carriers.[5]

The rule we propose would require all carriers to provide specially designated "smoking" areas, and prohibit smoking in all other areas. It would include the following minimum requirements: (1) The carriers would be required to set aside at the rear[6] of each compartment of an aircraft a section to be designated as a "smoking" area and prohibit smoking in the remaining seats in such compartment; (2) the number of seats set aside as a "nonsmoking" area must be sufficient so that all persons who prefer not to be seated in proximity to a smoking passenger can be accommodated; and (3) the carriers would be required to enforce their rules prohibiting smoking in nonsmoking areas. Under the proposed rule, carriers will not be required to provide such segregated seating in compartments of three rows or less.

Further, the proposed rule would also require carriers to provide a manual for their employees which shall set forth the company rules with respect to smoking by passengers aboard commercial aircraft. A copy of the manual would be required to be filed with the Board within 30 days after the effective date of the part. The Board may also direct an air carrier to modify any provision in the manual which it finds does not comply with the rules set forth in this part.

PROPOSED RULE

It is proposed to adopt a new part (Part 252) of the economic regulations as follows:

PART 252—SEGREGATION OF PASSENGERS WHO DESIRE TO BE SEATED IN SPECIFICALLY DESIGNATED "SMOKING" AREAS ABOARD COMMERCIAL AIRCRAFT OPERATED BY CERTIFIED AIR CARRIERS

§ 252.1 Applicability.

This part establishes the rules for the provision of specially designated areas for smoking cigarettes, cigars, and pipes in each compartment of an aircraft (hereinafter "smoking" areas). This part shall apply to each direct air carrier which holds a certificate of public convenience and necessity issued pursuant to section 401 of the Act authorizing the transportation of persons.

§ 252.2 Carriers required to provide specially designated "smoking" areas; smoking prohibited outside of such areas.

Carriers subject to this part shall provide "smoking" areas in the rear of each compartment of the aircraft and no smoking shall be permitted in the remaining seats of such compartment; *Provided, however,* That this requirement shall not apply if the compartment contains three rows or less. Each carrier shall adopt procedures, pursuant to this section, which shall insure that a sufficient number of seats in the "nonsmoking" areas of the aircraft are available to accommodate all persons who do not wish to be seated in proximity to persons who smoke.

§ 252.3 Carrier to enforce its rules for the segregation of passengers in smoking and nonsmoking areas.

Each carrier shall take such action as is necessary to enforce its rules with respect to the segregation of the seating of passengers in smoking and nonsmoking areas.

§ 252.4 Manual containing company rules for smoking by passengers aboard commercial aircraft.

Each air carrier subject to this part shall maintain an employee manual containing company rules for smoking by passengers aboard commercial aircraft. One copy of such manual shall be filed with the Board within thirty (30) days after the effective date of this part, and revisions and amendments shall be filed within fifteen (15) days following adoption by the company.

§ 252.5 Board may modify manual rules to conform them to the provisions of this part.

If the Board finds that one or more company rules set forth in the manual is at variance with any provision of this part, the Board may by order modify such company rule to the extent necessary to conform the rules to the provisions of the part.

[FR Doc. 72-15916 Filed 9-18-72; 8:49 am]

FOOTNOTES

[1] Dockets Nos. 11012, 10033, notice 70-14, 35 F.R. 5045, dated Mar. 25, 1970.

[2] The exceptions are: Braniff and National do not provide separate areas except on 747 aircraft or in certain limited markets; Eastern does not segregate on air shuttle flights; Pan American does not segregate in the first-class section of 727 aircraft (eight seats); and Northwest does not designate separate areas for smokers and nonsmokers.

[3] The exceptions are that Air West designates sections for smokers and nonsmokers on all flights; and Texas International segregates on DC-9 flights.

[4] The exceptions are ONA and Trans International which designate separate areas for smokers and nonsmokers.

[5] A chart showing the results of this letter survey is attached to this explanatory statement as an appendix, filed as part of the original document.

[6] Smoke drifts to the rear of an aircraft. For this reason it is the practice among carriers which segregate smokers from nonsmokers aboard commercial aircraft to place the smoking areas in the rear of each compartment. See also the recent ICC decision prohibiting smoking on interstate passenger buses except in a limited area located in the rear. Smoking by Passengers and Operating Personnel on Interstate Buses, 114 M.C.C. 256 (November 17, 1971).

ARKANSAS LEADS NATION IN BROILER PRODUCTION

Mr. FULBRIGHT. Mr. President, recent statistics indicate that Arkansas is now the leading State in the Nation in broiler production, having moved ahead of Georgia in this field.

According to figures released by the Cooperative Extension Service of the University of Arkansas Division of Agriculture, total broiler production in Arkansas in 1971 was 476,143,000, which was an increase of 6 percent over 1970.

Earlier figures made available by the Arkansas Poultry Federation indicate that the poultry industry is Arkansas' largest farm business and that broilers produced the most dollars for Arkansans in the poultry field.

Mr. President, I am pleased to be able to report that Arkansas has attained the No. 1 ranking in broiler production. I ask unanimous consent to have printed in the Record two recent articles from the Nashville News which provide details on Arkansas poultry production.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Arkansas Is First in Chickens

After a decade of ranking second to Georgia in broiler production, Arkansas moved into the top spot in 1971, according to figures released by the Cooperative Extension Service of the University of Arkansas Division of Agriculture.

Howard County was third in the state in total broiler production with 32,031,000 broilers produced locally during the year. Arkansas' total broiler production was 476,143,000 which was an increase of six per cent over 1970.

Washington County was the leading producer in Arkansas with 94,887,000 broilers in 1971. Arkansas' production increase ran against the grain of the national trend which saw one per-cent decrease in broilers. Farm value increased one percent, though, while Arkansas experienced an even healthier gain of ten percent.

The state dropped to fifth place in egg production nationally during 1971 supplying 3,476,000 eggs for the market. Turkey production increased to 7,840,000 which is nearly a 600,000 gain over 1971 and ranks sixth nationally.

From 1970 to 1971 U.S. per capita consumption of "total poultry" (or broilers, other types of chickens, eggs and turkeys) decreased slightly (0.1 pounds) but the long-run trends from 1960–71 show "total poultry" consumption increased by 44 percent. During the same period U.S. consumption of "total red meat" (beef, veal, and pork) increased only 20 percent.

Poultry prices have made it more competitive, especially since housewives seem to be more penny conscious than ever. The average retail price of ready-to-cook broilers in 1971 was 41.0 cents per pound which contrasts vividly with the $1.04 per pound cost of choice cuts of beef. Average pork prices were 70.3 cents per pound.

Total farm value of U.S. poultry and egg production in 1971 was $3,958,948,000 which was nine percent less than 1970. Total farm value of poultry and eggs produced in Arkansas increased by four percent in 1971 again running counter to the national trend.

[From the Nashville News, April 11, 1972]

253,400 Arkansans Depend On Poultry for Livelihood

Poultry is "big business" in Arkansas.

In fact, it is Arkansas' biggest farm business. The total of all poultry products in 1970 amounted to $344,678,000 (farm value) which exceeded the value of second place soybeans as $281,425,000.

Cattle and calves produced $153,881,000.

According to the Arkansas Poultry Federation's figures, broilers produced the most dollars for Arkansans in the poultry field.

The values of broilers, eggs, turkeys and farm chickens were listed in 1970 as follows:

Item	*Value*
Broilers	$200, 086, 000
Eggs	$102, 139, 000
Turkeys	$33, 910, 000
Farm chickens	$8, 543, 000

In production numbers, these were the figures on the different phases of the poultry business:

Item	*Numbers*
Broilers	452, 684, 000
Eggs	290, 167, 999 dozen
Turkeys	7, 320, 000
Farm chix	16, 946, 000

Processing the poultry products added greatly in value. According to the 1970 report, the value added by processing amounted to $156,018,000.

An estimated 63,350 persons are employed in the poultry industry, with an annual payroll of $367,263,000, and a plant investment of $407,409,000.

The number of employees in the various segments of the industry include:

Segment	*Employees*
Poultry production	42, 120
Poultry processors	7, 680
Egg processors	5, 730
Feed mills	6, 440
Hatcheries	1, 380
Total	63, 350

Assuming an average of four persons to the family and with 63,350 employed in the industry, it is estimated that 253,400 people in Arkansas depend upon the poultry industry for their livelihood.

A CHERISHED FREEDOM

Mr. SCOTT. Mr. President, the Arizona Republic carried an interesting advertisement by a local businessman. It is entitled "A Cherished Freedom." I ask unanimous consent that it be printed in the Record.

There being no objection, the advertisement was ordered to be printed in the Record, as follows:

"Freedoms" Contest by Pruitt's Home Furnishings—The Theme Will be "A Cherished Freedom"

As Americans we are blessed with many personal freedoms, some that we are constantly aware of, others we take for granted in our busy everyday life; many that we have just simply forgotten.

We are aware that we cannot enjoy any of our freedoms singularly, as all of our freedoms work jointly, each giving support to the other. However, some of us have a particular freedom that has had or will have an important effect on our individual lives.

Without deleting any of our precious freedoms, select the one that is important to you, and in 100 words or less, tell why it is to you . . . "A Cherished Freedom."

My personal choice is the freedom given me by our great free enterprise system. Through this gift I was able to exercise my abilities to develop my hopes and dreams. Starting very small, working with the freedom afforded me by our free enterprise system, I was fortunate to grow to become one of the largest home furnishings stores in the Southwest, and ultimately to be the recipient of two national awards in the retailing and merchandising field. Because this great freedom made it possible for me to see my dreams become a reality . . . the freedom of free enterprise is to me . . . "A Cherished Freedom."

M. D. Pruitt.

GENOCIDE A FACT IN THE 20TH CENTURY

Mr. PROXMIRE. Mr. President, the U.S. Senate will soon begin its often repeated debate on the U.N. Genocide Convention of December 6, 1949.

Many people do not feel that it is possible to carry out genocide in a supposedly civilized world. Yet in the 20th century we have witnessed some of the most atrocious acts of genocide in the history of the world.

During the years 1915–21 2 million Armenians were the first victims of genocide in the 20th century. One and a half million Armenians were massacred by the Ottoman Turkish Government in 1915. Although these mass murders were later termed by the Allies as "Crimes of Turkey against humanity," nothing was done. As a result, the Armenians not only lost more than half of their people, but nine-tenths of their homeland.

The mass murder of 6 million Jews in World War II has been followed by the occurrence of genocide in Biafra, Bengladesh, and Burundi. Presently, the danger of genocide may be perpetrated upon the Brasilian Amazon Indian tribes.

To prevent future genocides, the U.S. Senate should consider its duty to endorse the Genocide Convention and join the 75 other nations which have already done so. I call for immediate ratification of this important treaty before the end of the second session of the 92d Congress.

ABC'S COVERAGE OF THE OLYMPIC GAMES

Mr. STEVENS. Mr. President, over a period of 18 days the drama of the XX Olympic Games at Munich, Germany, was delivered to the living rooms of more Americans with more impact than any event in history. ABC–TV conducted the magnum opus of sports with its effective coverage of this greatest of all sporting events.

All viewers were able to experience the thrill of victory; with Mark Spitz as he closed in on one gold medal after another until he reached the historical seventh one; with Melissa Belote and her angelic backstroke; with the endurance of marathon runner Frank Shorter and the flight of Randy Williams' long jump. We bobbed and weaved with Ray Seales to help him find the mark on his opponent, and we enjoyed the opportunity to be partisan for each and every one of our American entrants into the Olympic games. Respecting excellence as we do, our hearts went out to athletes from other countries too who displayed superiority and fairness in their competition.

But ABC–TV also showed us the other side of the games where we experienced the agony of defeat; defeat made more agonizing by administrative interventions than by a failing effort by our athletes. We were deeply disappointed when our sprinters Ray Robinson and Eddie Hart were given the wrong starting times and missed the qualifying race. We were perturbed when our pole vaulters' poles were outlawed. We were stunned when our proven champion Jim Ryun collided with another runner and could not qualify. We were hurt when swimmer Rick Demont's gold medal was rescinded for spurious medical reasons. Worst of all we were outraged at the great Olympic basketball robbery when our team fell prey to a highly questionable timing decision by a Bulgarian official.

We saw it all in our living room through the miracle of modern television. Just as my generation may recall superb radio reporting in another era "from the rooftops of London," today's generation will recall superb TV reporting from "the stadia in Munich." from the transatlantic cable days of the London reports we have entered the era of satellite communications.

The picture ABC delivered to our living room was the distillation of efforts by 250 ABC technicians and reporters utilizing 16 color cameras to supplement 100 German network cameras, 18 video tape machines, and 80 monitors. Our picture was routed from a TV control room in Munich to a video converter at a ground station in Raistag, Germany, up to Comsat's Earlybird satellite, down to a receiving station in Maine, via land lines to ABC in New York and via ABC–TV network across the country.

One must consider as Herculean, ABC's task of presenting to the American audience a portrayal of 195 events in 22 different sports involving 6,500 athletes from 122 countries. ABC performed the task, not only adequately, but with style and interest. Evident was their preparatory work which included vignettes of Olympic athletes at their homes all around the world. How much deeper our understanding of the Japanese women's volleyball team after we saw the film of their demanding training process, and of Mark Spitz when we saw him as he is at home in California asking, "Judge me for what I am."

The assemblage of ABC sports personnel at the Olympics was as star studded as the field of participating athletes and included many former contestants. They, engineers and technicians included in their number, deserve gold medal praise themselves. ABC acquired the insightful reporting of at least one prior games champion for each sport. Knowledgeable commentary from decathlon champion Billy Toomey, runner Marty Liquori, swimmers Murray Rose and Donna deVarona, Bill Russell on basketball, and many other athletes helped relay the thrills and agonies of great competition. The names of ABC's inhouse staff are household words to all Wide World of Sports viewers and were much in evidence at the games. Where would a boxing fan rather be than at ringside with Howard Cosell. Play by play narrative by Jim McKay, Frank Gifford, Bill Flemming, Keith Jackson, Bob Beattie and other ABC regulars provided the continuity to help keep an eager American audience informed.

Certainly, by the time ABC completed its near 65 hours of Olympic games coverage, the face, voice and friendly manner of anchorman Chris Schenkel were familiar to all. He provided the transition between events. His explanations and comments guided many of us through rapid paced occurrences. I felt sure that if I was to knock on one of the doors on my street I would find that Chris Schenkel lived there. He has that quality of neighborliness that brought the Olympic spirit home. It was for this effort and the accompanying effort of crews of reporters, cameramen, and production people that President Nixon telephoned Munich to congratulate ABC's staff for its own superb performance.

The true mark of journalistic expertise is the way in which the unforeseen event is handled. Midway in the games—Olympic glory gave way to an ignominious blot on history perpetrated by Arab terrorists against a valiant Israeli team. Thrust suddenly into the middle of an international incident ABC's coverage geared down for hard reporting of the grim facts.

At some risk to their own lives cameraman-producer John Wilcox dug into position with his camera 50 feet from the Arabs, and Correspondent Peter Jennings became the focal point for passing reports to the anchor desk. ABC's people stayed on the job. Through the terror-filled night and the tragic day that followed, ABC's improvised team, led by Jennings and Wilcox, provided the watching world's only on-the-scene coverage.

Mr. President, the journalism profession is its own best critic. It already appears that ABC will be acclaimed by its own profession.

I look to the Variety of September 6, 1972, for the journalism profession's reaction to ABC's work at the Olympics.

I move and ask unanimous consent to have the Variety article of that date, entitled "ABC–TV Wins a Gold Medal," printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ABC–TV WINS A GOLD MEDAL—OLYMPICS BOOST WEB'S STATURE

(By Les Brown)

Easily the video hit of the summer are the Olympic Games from Munich—before the political drama and tragedy cast a pall over them—which ABC has been covering so superbly. The achievement carries a special significance in the world of American telecasting, as another milestone in the emergence of a full-fledged third network force.

ABC–TV seems to be coming into flower. Its claim to rating parity with the other networks last year in both daytime and primetime may have been premature—and has been disputed properly, perhaps on the basis of its shorter daytime schedule and nighttime numbers that failed to sustain over the full year. But the network is making a strong bid for supremacy in two conspicuous areas—movies and sports—and in one less conspicuous area, engineering.

The heroes of the hour, while the Olympics are still fresh in mind, are ABC Sports prexy Roone Arledge and ABC v.p. of engineering Julie Barnathan, who together have made these Olympics a talked-up subject everywhere, not only with male sports buffs, but apparently with women and children as well. It's not as though the Olympic Games have never been covered before, or that they've never been exciting before; it's that they've never been covered as well.

Absent has been the lethargy that marked most previous Olympic telecasts, the passivity that seemed to leave it all to the limitations of the camera. If this year's event—this "Super Wide World of Sports"—has spirit and a high quotient of human drama on top of the built-in melodrama, it is because the coverage is more aggressive, more probing, more inventive, more perceptive and finally more passionate than any before it.

A NEW STANDARD

It's a pro job that will put the other networks to their mettle hereinafter, a standard against which all future Olympic coverage or anything like it will be measured, and it establishes beyond question (1) ABC's credibility in the field of sports, if not its preeminence, and (2) ABC's stature in the handling of intricate live remotes against the logistics of satellite relay. Barnathan has an army of cameramen and technicians working along with the international pool, and the complex feed involves live coverage, with instant replay and slow-motion, interwoven with video tape coverage on delay. The beauty of it is that it goes so smoothly few at home are aware of the technical miracle performed night after night.

PRICED TOO LOW

At ABC, the sole regret is that the network priced the minutes too low—but of course much of the selling was done during the business recession last year, and besides, no one foresaw the kind of rating response the Olympics have been getting. In the overnights, the ABC spectacular has gone through the roof and appears to be giving the advertisers a huge bargain.

It's ironic, therefore, that ABC is putting forth such a great effort in a venture that was not fated to make a profit. Devaluation last year in the fluctuating world money market effectively drove up ABC's commitment for the rights by $2,000,000, and the company wrote that off in 1971 as an extraordinary loss. Then when the FCC denied the network a primetime waiver to allow the games to fall into station primetime, it cost the network, by its own estimates, just over $1,000,000 additionally.

On the original deal for the rights, with what then seemed a reasonable price for the participating spots (around $48,000 a minute), ABC envisioned break-even or perhaps a small profit on the Games. Aside from the devaluation, it now stands to lose on the venture what one official described as "a bit of money, not a lot." Reportedly, ABC's total investment, for rights and production, comes to about $13,500,000.

In the long pull, however, and in the intangible areas that don't show up in the annual report, these Olympics should prove immensely profitable to ABC. The company has done extensive research with viewers to learn what areas of programming it is most trusted for, and repeatedly the response has been strongest in movies and sports. Those, incidentally, are areas that have traditionally been NBC's long suits.

BUILT ON MARGINALS

What is remarkable about ABC's movie image is that to a large extent it's been built on non-theatrical features, the 90-minute made-for-tv pix that have been so successful on Tuesday nights. Equally remarkable is that the network's sports image has been achieved without benefit of any of the six major sporting events—the World Series, the All Star Game, the Super Bowl, the Kentucky Derby, the Rose Bowl and Master's Golf. Rather it has been built on lesser sports and particularly on that anthology of marginal events, "Wide World of Sports," with latterly a large boost from primetime professional football.

The network's movie image will surely be reinforced this fall when it unloads a succession on powerhouse Sunday night titles from "Goldfinger" to "Patton" to "Lawrence of Arabia." And its sports image is already in the process of strengthening with the Olympics, the apotheosis of "Wild World of Sports."

The profit margin may be on the short side with the big features, and the Olympics will finish in the red, but both are making a terriffic contribution to ABC's standing with the viewership. The public is coming to trust ABC to provide—and provide dependably—and that is bound eventually to carry a tangible payoff.

SENSELESS HARASSMENT OF SOVIET JEWS

Mr. CRANSTON. Mr. President, today is the day when the Supreme Soviet of the U.S.S.R. will rubberstamp an outrageous policy. That policy forces Soviet Jews who wish to emigrate to pay an exorbitant ransom fee. This money is supposed to represent the cost of education bestowed upon them by the Soviet Government.

Mr. President, I have long drawn attention to the repression of Jews and other minorities in the Soviet Union. This so-called "educational tax" is a giant step backward. Emigrating from one country to another is a basic human right. No one would dare to suggest that a resident of California who decided to move to England, for example, should be forced to pay thousands of dollars to cover the cost of his or her education at UCLA.

The Supreme Soviet's ratification of this new form of harassment follows by only 24 hours the Jewish day of atonement, Yom Kippur. Those responsible for elevating this ransom into law would do better to atone themselves.

PRESIDENT NIXON COMMENDED FOR VISIT TO FLOOD-DAMAGED AREA OF WILKES-BARRE

Mr. SCOTT. Mr. President, a Scranton Times editorial of September 11 commends President Nixon for his recent visit to the flood-damaged area of Wilkes-Barre, terming its net impact as having a good "psychological effect." I join in this commendation. President Nixon's visit could not have been more timely or more necessary. It will have very positive and lasting results.

In addition, Frank J. Blewitt, general manager of the Scranton Times, reiterates the sentiments expressed in the editorial in a letter to President Nixon, stating, in part:

> The warm reception you received leaves no doubt whatsoever as to how happy the people were to see you and to know that you cared enough to come in person . . .

I ask unanimous consent that the editorial and the letter to the President be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

PRESIDENT NIXON'S TRIP WAS WELCOME

We're pleased that President Nixon was able—finally—to make a visit on Saturday to the flood-ravaged sections of the Wyoming Valley.

The spur of the moment decision to fly by helicopter to Wilkes-Barre from Camp David, Md., was the answer to an appeal made by many voices—including this newspaper. We said in urging a visit on Aug. 24: "The psychological boost that the people would receive would be worth the effort, regardless of how busy he may be with other matters."

We also stated in our appeal to the President: "Recognizing that Tropical Storm Agnes was the worst natural disaster in the history of the nation, as far as property damage is concerned, we don't think it's asking too much of the President to view the area and visit the people where it struck its hardest blow."

With no advance word, President Nixon did come to the area to see for himself the awful damage that was caused by the June storm. We can only hope that what he saw will make the federal government ever more willing to aid the flood victims to fight their way back to normalcy.

Immediately after the storm caused flooding in a wide area along the Atlantic coastline, President Nixon made a visit to Harrisburg. But that ceremonial stop came at a time when it was not generally realized that it was Wilkes-Barre that took the hardest blow of all. The Wyoming Valley was so crippled that only the federal government could perform the job of coping with its massive damage.

The visit by the President was advocated by us and many others to boost the morale of the flooded areas. In addition, we also had the selfish view that if the President saw the terrible damage himself, he might speed up and expand the flood relief program. We hope that all those results are achieved.

We believe that it was the moral duty of Mr. Nixon to visit the flooded area and we commend him for doing it.

The PRESIDENT,
The White House:

Thanks, Mr. President—

Your trip to Wilkes-Barre, even though hastily arranged and catching many of us unprepared, was most welcome and appreciated, particularly by the thousands and thousands of victims in the flood ravaged areas of Wyoming Valley. The warm reception you received leaves no doubt whatsoever as to how happy the people were to see you and to know that you cared enough to come in person and reassure them that the Federal government is doing all it can and hopes to do much more to help them in their time of need and to relieve the depression brought on by this terrible and crippling disaster.

I am enclosing tear sheets containing our editorial comment on your visit and also pages from our Sunday edition showing photographs and stories on your tour of the devastated Wilkes-Barre area.

Thanks again, Mr. President. Your visit not only served to reassure the flood victims but it was also appreciated by all the people of Northeastern Pennsylvania who are most grateful for your deep concern for their destitute neighbors of Wyoming Valley.

We also want to add that your man, Frank Carlucci, is doing a commendable job and we concur with everything you said about this outstanding gentleman.

Respectfully yours,
FRANK J. BLEWITT,
General Manager.

RESOLUTIONS BY LIEUTENANT GOVERNOR HOWELL TO IMPROVE CONSUMER PROTECTION

Mr. HUMPHREY. Mr. President, during the National Lieutenant Governors' Conference, held near Tulsa, Okla., on August 9–13, 1972, two important resolutions submitted by Lt. Gov. Henry E. Howell, Jr., of Virginia, were adopted. These resolutions constitute significant initiatives to protect the rights of the American consumer at the State level.

One resolution by Lieutenant Governor Howell related to the elimination of arbitrary underwriting and renewal policies governing the issuance of automobile insurance, and the other resolution called for the establishment of an adequately staffed Office of Consumer Protection in each of the 50 States, and focused primarily on the need to assure a fair hearing in the determination of public services and utilities charges and regulatory matters.

The adoption of these resolutions provides encouraging evidence of new directions within our States on behalf of the citizen as consumer. Such actions would receive further support under the Consumer Protection Organization Act of 1972, S. 3970, currently awaiting Senate floor action. This bill includes provision for planning and action grants to assist State and local governments to plan and establish more effective consumer protection programs, and it would authorize a newly established Consumer Protection Agency to intervene and participate, by invitation, in State and local agency and court proceedings.

Lieutenant Governor Howell has established a remarkable record of achievement in service to the public and is well known as a man of integrity and commitment in meeting the vital needs of people.

I ask unanimous consent, that resolutions VIII and IX, submitted by Lieutenant Governor Howell and adopted by the National Conference of Lieutenant Governors, be printed in the RECORD.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

RESOLUTIONS

VII. STATE OFFICES OF CONSUMER PROTECTION

The National Conference of Lieutenant Governors recognized that the determination of fair profits and policies as applied to electrical, telephone, gas, water and other utilities, as well as the fixing of automobile insurance rates, is a complicated and technical procedure.

In many States there is a need for the establishment and funding of a competently staffed Officer of Consumer Protection so that the interests of the public may be fairly represented in rate and regulatory matters concerning those companies which come before the state regulatory bodies. For this reason, and to guarantee a fair hearing to both the banker and the brick mason, the power company and the public; the National Conference of Lieutenant Governors urges that every state legislature enact such legislation as is necessary to create for the public an effective and well funded Office of Consumer Protection.

IX. POLICIES FOR AUTOMOBILE INSURANCE

The necessity for automobile insurance having become essential to the millions upon millions of our citizens, it is necessary that laws be passed which will prohibit the application of any arbitrary standards in the issuance of automobile insurance policies or the renewal of the same.

Accordingly, the National Conference of Lieutenant Governors urges every State in this nation, through their respective legislatures to enact, where necessary, laws that will require that automobile insurance be issued, without discrimination or the employment of arbitrary underwriting or renewal standards or criteria, to all citizens who apply therefor and who pay the necessary premium and who have safe driving records as defined by statute.

COMMENTS BY SENATOR KENNEDY ON DEVELOPMENTS IN UGANDA

Mr. KENNEDY. Mr. President, press reports continue to tell of a deteriorating situation in Uganda and East Africa. As the war of words and bullets gains momentum, a rising number of innocent people are suffering needless personal tragedy.

Of growing concern to the outside world is the plight of foreign nationals in Uganda. Among them are several hundred Americans, including missionaries, journalists, travelers, Peace Corps volunteers, and diplomatic and AID personnel. Reports suggest, among other things, that several Americans have been arrested by the Ugandan Government, some of whom are being held incommunicado. A spokesman for the Department of State has indicated that our Government has expressed "strong concern" to Uganda authorities over the treatment of Americans. And we can only hope that our Government and others will actively consider every appropriate step—including a halt in foreign aid—to help insure the humane treatment and protection of Americans, and all foreign nationals in Uganda.

But in a rising concern over the plight of our fellow Americans in Uganda, let us not forget the plight of the people in Uganda, especially the tens of thousands of Asians currently being expelled by the Government. As chairman of the Judiciary Subcommittee on Refugees, over the past several weeks I have also followed developments relating to this latest link in the chain of human tragedy over recent years.

In light of what appears to be another case of international apathy toward international people problems—and in view of the growing difficulties regarding the movement and resettlement of the Asians, and possibly others—on September 8, I wrote to the Secretary of State to inquire about America's policy and views toward this latest refugee problem, and to express the hope that our Government is concerning itself on at least three fronts.

First, I suggested that our Government, in concert with others, should seek in every appropriate way to express a concern to the Ugandan Government over its policies toward Asians.

Second, I suggested that our Government should actively support international initiatives to cope with the movement and resettlement of Asians who find it necessary to leave Uganda, including initiatives to involve the United Nations High Commissioner for Refugees—UNHCR—and the Intergovernmental Committee for European Migration—ICEM. I especially feel that the expert counsel and services of ICEM can contribute significantly toward the humane movement of refugees from Uganda and their settlement in ICEM member countries and elsewhere.

And finally, I recommended that our Government declare a refugee problem existing in Uganda, and that the Attorney General invoke section 212(d)(5) of the Immigration and Nationality Act, as amended, to parole a reasonable number of Asians from Uganda into the United States. Although our immigration laws do not expressly contain a comprehensive asylum policy for homeless persons throughout the world, in practice our country has always been generous in providing resettlement opportunities to refugees. Solely for humanitarian reasons, I share the view of many Americans over the importance of continuing this tradition, and strongly feel it should cover a reasonable number of Asians who are currently leaving Uganda under duress.

A similar communication, Mr. President, was sent to the Attorney General, because of his authority under the immigration laws. Hopefully, my recommendations, which are supported by many Americans, are being given every consideration by the executive branch.

Mr. President, in conclusion let me say that world events these days seem to be laced with a rapidly growing thread of personal tragedy for tens of thousands and even millions of people. Perhaps those who deplore this trend cannot ban war and terror and oppression, but we have a responsibility to make the effort and to respond to human tragedy, when it occurs, in the most civilized and humane way possible—in Uganda and Indochina, and throughout the world.

WILLIAM D. RUCKELSHAUS, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY

Mr. SCOTT. Mr. President, Bill Ruckelshaus, the Administrator of the Environmental Protection Agency, has proven to be a most able and effective leader in protecting and improving our Nation's environment. He is an outstanding individual in every way—one of the best men in the Nixon administration. In a recent column, Nick Thimmesch of Newsday discusses Bill Ruckelshaus and his job as Administrator of EPA. I ask unanimous consent that his article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, Aug. 20, 1972]

RUCKELSHAUS PUTS SQUEEZE ON FIRMS

(By Nick Thimmesch)

WASHINGTON.—One of President Nixon's best men is William D. Ruckelshaus, administrator of the Environmental Protection Agency (EPA), the "enforcer" on environmental problems. He's good because while he's not a fanatic, he keeps pushing, preaches realism, and owns a good-natured personality which won't wear out.

He needs that durable personality, especially in an election year. Businessmen complain that he's "the best friend of American industry since Karl Marx." Environmentalists carp, even yell that he caves in to the White House. The Democratic platform screams nonsensical charges. And then there are dissenters in the administration over how EPA sets standards, and there are those with messages from businessmen.

Ruckelshaus responds to the barrage by telling environmentalists there is no conspiracy against them; businessmen to get going for their own sake; and those who charge that he caves in, that he runs his own shops, thank you.

MEANING OF SACRIFICE

Everybody must be reminded by Ruckelshaus that playing out the real roles in cleaning up the environment, so fetchingly pitched in all those lovely color TV commercials, means sacrifice. "The price tag is going to be heavy," he says, "in money, privileges, attitudes, and habits long sanctioned as the American way of life." This could mean the federal government spending $105 billion in the five years ending in 1975. It also means smaller profits, higher prices, and unemployment.

Private industry might have to spend $26 billion by 1980 to meet EPA standards. One study shows the rate of growth of the gross national product could slip, due to the environmental campaign, enough in the next five years to force unemployment up slightly.

Utilities will spend about $11 billion in the period to curb thermal and air pollution and that means consumers' bills going up as much as 7 per cent. Materials for the average house will cost an extra $100 because of environmental standards in cement, copper and other industries. Auto sales will level off, due to higher prices [from $400 to $425 per car] on cars because of new emission devices.

Business knows the score because it keeps books. Environmentalists are painfully learning that they can't have their cake and eat it. And Ruckelshaus develops a nice sense of irony. During the recent smog alert in Washington, motorists were begged to take the bus or ride in car pools to cut the suffocating pollution. According to traffic controllers here, there was even more traffic, probably because many people drove their air-conditioned cars instead of taking the bus as usual.

But wow, comes the first electric failure in a heat wave, due to overload, and the squawks are even louder. Same way with people who holler about solid waste pollution but buy beverages in no-deposit, no-return bottles. Fighting pollution still remains an individual act of decency.

Business has been hit by Ruckelshaus' EPA. Some 606 water enforcement actions were initiated between December, 1970, and June 30, 1972, more than the sum total of all previous decades. And "big guys" got hit. The city governments of Atlanta, Detroit, Cleveland, and smaller towns along mill streams.

Why doesn't EPA brag about its suits against big business, thus stilling Democratic criticism? "I don't go around yelling about how many big firms we've sued," Ruckelshaus says. "I'd rather keep prodding them."

THE BIGGEST RULING

The biggest one was Ruckelshaus' ruling in May against an auto industry plea to extend compliance with the Clean Air Act one year until 1976. Later, when Ford Motor Co. was cited for not properly testing emission controls on its 1973 cars, Henry Ford II himself, according to Ruckelshaus, phoned for an appointment. Ruckelshaus says he told Ford's counsel that he had to "keep an arm's length" from any company. So Ford's 1973 cars can be shipped to dealers, but not sold until the matter is settled, and this could mean late customer delivery.

Good signs? The nation's air is much cleaner, according to the Council on Environmental Quality, and will improve until 1990. Water will be appreciably cleaner by 1975. And the long-range effort showed a visible evidence when Ruckelshaus dedicated a National Environmental Research Center in Cincinnati in June.

THE RUSSIAN WHEAT DEAL

Mr. FULBRIGHT. Mr. President, in an editorial on September 17, the Washington Post pointed out that—

> The more the Agriculture Department explains about the Russian wheat deal, the deeper and more disquietening the questions become.

Apparently the cost of the administration's favoritism in this case will have to be borne by American farmers, consumers, and taxpayers who were exploited at the expense of big grain interests, and who will pick up the tab for the special export subsidies under which a number of trading companies have reaped windfall profits.

Moreover, Mr. President, it appears that industries which have important ties to the grain markets will suffer as a result of the Nixon administration's questionable policies in this matter. In my own State, the poultry industry, which leads the Nation in production of broilers and is vital to the well-being of Arkansas' economy is already feeling the inflationary repercussions of the Agriculture Department's price fixing fiasco.

In a letter which I will include in the RECORD, Mr. Don Tyson, chief executive officer of Tyson's Food, Inc., a leading poultry producer which relies on the grain markets for feed, notes that the recent exporting of huge volumes of corn and wheat has caused the price of both to skyrocket. Mr. Tyson states that—

> Since higher feed costs mean higher poultry and meat prices, this has got to ultimately cost the American consumer whether it be included in the price of a pound of meat or in the price of a loaf of bread.

Mr. Michael Malloy has written an excellent article which explains how special favors and special interests were involved in the biggest commercial grain sale in history, I ask unanimous consent that the article, published in the National Observer for the week of September 23; editorials concerning the grain sale, published in the New York Times and Washington Post of September 16; and finally, Mr. Tyson's letter of September 12 be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the National Observer, Sept. 23, 1972]

UNITED STATES-SOVIET WHEAT DEAL CALLED A "SCANDAL" AS FARMERS FUME

(By Michael T. Malloy)

President Nixon announced this summer the biggest commercial grain sale in history to Russian buyers who have since bought so much American wheat that its price has shot up about 30 per cent in two months. So wheat farmers like Paul Whitmer ought to be singing the President's praises all the way to the bank. Right?

Wrong.

"I feel cheated," says the 60-year-old Whitmer. Instead of a bonanza, he says, the wheat deal is a financial blow that will cost him the money he had counted on to pay this year's taxes on his 800 acres near Wilson, Kan.

Whitmer is not alone. Sen. George McGovern has seized on the "apparent Russian wheat scandal" as a potentially hot farm issue. The National Farmers Union, the National Farmers Organization, the Consumers Union, and a clutch of congressmen have attacked aspects of the grain sale. Some contend the Government kept the full implications of the $1 billion deal from the farmers, slipped inside information to the big grain companies, and so allowed these companies to buy grain cheap and reap most of the profits.

SMALL CONSOLATION

The accusation is "wild unsubstantiated, and inaccurate," according to Agriculture Secretary Earl L. Butz, who negotiated the grain deal. He says his department had no secret information to give the grain companies, and makes a strong case that the companies knew more about the Russians' intentions than the department did. But the Government's protestations of ignorance are small consolation to farmers who sold their wheat at $1.30 or less per bushel in July, and saw the price mount to $1.75 or more in September.

"I know a dozen farmers who are as mad as can be," says Harold Boller, who grows wheat with his brother near Junction City, Kans. "I just feel like this thing was shielded from us until the harvest was over. It was a dirty trick on the farmer."

The grain deal was announced by President Nixon on July 8 just two hours after it was signed by Butz and a team of Soviet negotiators in Washington. The Russians promised to buy $750,000,000 worth of grain over a three-year period. The United States offered to lend the Russians up to $500,000,000 in short-term loans to help pay for it.

Few critics oppose this agreement in principle. It will ultimately earn $1 billion or more for American agriculture, help the national balance of payments, and create thousands of new jobs just to ship the grain to American ports. Complaints spring instead from suspicion by some that the Nixon Administration misled the farmers so the grain companies could make more money.

ANOTHER DELEGATION

The impression that Secretary Butz gave at the time was that the Russians wanted to buy a variety of grains to feed to cattle. He noted that they were having a bad wheat harvest in the Soviet Union, but said "they have plenty of wheat for now." He did not believe the sales to the Soviets would put "undue pressure" on grain prices. That would probably have been true if the Russians had stuck to their pledge of buying $200,000,000 worth of mixed grains during the first year of the agreement.

But more than a week before Butz in Washington signed the agreement providing U.S. credit for the sales, another delegation of Russians arrived in New York City to dicker for wheat with the big American grain companies. One shipload of 13,500 tons was already booked from Great Lakes ports by July 3. By early September, the Russians had ordered an estimated 400,000,000 bushels of wheat—fully one-fourth of the American crop. It now looks as though the first year's agricultural purchases by the Russians will be $1 billion instead of $200,000,000.

These enormous purchases did drive up the price of wheat, and may even lead to slightly higher bread prices at the supermarket. The American Bakers Association asked the Price Commission for a special increase this summer that would have led to a 2-cent rise in the cost of a loaf of bread. The association was turned down on the special request, but it says individual companies will be back to seek price increases through the commission's regular procedures.

Farmers should have gained much more than consumers might lose from the Russian spending splurge. But because they were unaware that Russian wheat orders would vastly exceed Butz's expectations, many of them sold their July harvest at ordinary prices. Whitmer says he sold his 9,000 bushels at $1.32 each on July 20, and then saw the price mount to $1.79 in eight weeks. Boller says some of his neighbors sold for as little as $1.25. He held on to his crop on a "lucky guess" and later sold for as much as $1.75.

That's the luck of the poker game that farmers play each summer with the grain companies, holding or selling their wheat on the gamble of catching the season's highest price. "Farmers didn't lose money because of early sales," Butz insisted last week. "They just didn't make the additional money they might have made."

But part of the farmers' income includes Government subsidies, and on these they lost real cash instead of paper profits. The subsidy covers about half the wheat crop, and amounts to the difference between the average price of wheat and a "parity" price of $3.03 per bushel. So when Whitmer sold his wheat for $1.32 he had reason to expect another $1.71 from the Government on half of it. He got an initial Government payment of $1.28 per bushel, with the balance due in December. "I was counting on getting about 40 cents like it has been for the last five years," he says.

But the subsidy is calculated on the average price of wheat during the harvest months of July through November. As the Russian purchases drove up the price, they also drove up the average. If the average reaches $1.75, as it may, the subsidy will drop to $1.28 and wipe out Whitmer's December payment. "We will have nothing coming," he says. "We might even owe them something. That's what I was counting on to pay my taxes."

So the cry from the farmers isn't from thwarted speculators, but from men who lost a piece of income they regularly count on. "What's happening hasn't seeped back into the countryside yet," says an official of the Texas Farmers Union. "But in about two weeks the farmers are going to be mad as hornets." The president of the National Farmers Union estimates that the wheat deal will cost $100,000,000 to farmers in early-harvest states from Texas to South Dakota.

"It's money these guys should have had. It's gone into the pockets of Continental, Cargill, and Bunge," says Boller, referring to some of the biggest grain companies involved in the Russian sales.

If the companies buy wheat cheap and sell it for a higher price, that is normally considered the luck of the annual poker game. But this year the companies' main customer was the Russians, and the Russians were brought to the poker table by the U.S. Government. So Presidential candidate McGovern and other critics suspect the companies got a peek at the Russians' cards that was denied to the farmers.

HARVEST REPORT

"The companies had advance knowledge of this information before the farmers did," says a spokesman for the National Farmers Organization. "It was not until early August when prices began rising sharply that it was generally known they were going to buy one-fourth of our crop. This gave the companies an opportunity to buy large quantities of wheat at a cheap price."

Part of the accusation of what McGovern calls a "conspiracy of silence" involves an August Agriculture Department report of the worsening Russian wheat harvest. Unlike a July report, it was not circulated outside the Government. Butz said last week that this was because several of his experts did not agree with the report, which drew mostly on information from the U.S. agricultural attache in Moscow. "We don't put out reports based on one man's opinion," Butz said.

More serious is the charge of conflict of interest against two former Department of Agriculture officials, Clarence Palmby and

Clifford G. Pulvermacher. Both men accompanied Butz to Moscow in April to begin negotiations on the credit arrangements. Palmby resigned as assistant Secretary of Agriculture June 6 to become a vice president of Continental Grain Co. Pulvermacher retired as the department's chief foreign salesman on June 28, and was hired in July as Washington representative of the Bunge Corp. Implied in the accusations is that they brought their new employers inside information on the intentions of the Russian delegation that arrived in the United States on June 28 to complete the credit negotiations.

Butz stands behind both men's denials of any wrongdoing. They all insist that the Russians kept the Department of Agriculture in the dark about their buying plans, and that the companies knew—and still know—more about the Russian purchases than does the Government.

STILL IN THE DARK

This is because there were two Russian delegations. One of them negotiated exclusively about the credit agreement in Washington and the other dickered with the grain companies in New York City. Butz says he did not even know the New York team was in the country. The transactions were carried out in such secrecy that the department says it still does not know how much grain the companies have sold to the Russians, nor the prices they have charged.

The grain companies support Butz's explanation. Cargill, Inc., said in a statement that no Government agency told it about the Russian interest in wheat. "We learned it from the Soviet buyers themselves," the company said. Instead of windfall profits, Cargill said, it will probably keep less than 1 per cent of the sale price of what it sold to the Russians.

If any companies did have inside information from the Russians or the Government, it gave them an opportunity to speculate against the American taxpayer for still another subsidy. This other subsidy is supposed to make high-priced American wheat competitive in the world market. The way it worked this summer, the Government paid grain companies the difference between the American price and the lower world price of the wheat they sold abroad. When the Russians arrived on June 28, the world price was supposed to be $1.63 and the wholesale price in the United States was $1.64, so the exporters got 1 cent per bushel.

The Russian purchases drove up the price of U.S. wheat, so the companies' export subsidy grew while the subsidy to the farmers shrank. By late August the export subsidy reached 38 cents per bushel. By this time the Agriculture Department was afraid the ballooning subsidy was itself helping to drive up prices, so it called a halt. It said it would lower these subsidies and stop supporting the world price at $1.63. It also offered the exporters a five-day grace period in which they could get 47 cents for each bushel they had sold but for which they had not yet sought a subsidy.

That series of transactions led critics to raise two questions. The first concerns the "world" price of $1.63. Nobody knows whether the companies were selling to the Russians at that price. If they were selling for a higher price, they didn't really need the subsidy.

The second question concerns the Government's policy of letting the companies apply for their subsidy at any time after they make a sale. A company that sold wheat to the Russians when the subsidy was only 1 cent would have been wise to delay its application if it had inside information that prices would continue to rise. By late August, it would get 47 cents for the same transaction.

The department's decision to let the companies clear their books at 47 cents per bushel at the end of August protected such speculators. The companies applied for $128,000,000 in subsidies during that five-day grace period; they applied for only $65,000,000 in all of last year.

HEARINGS IN HOUSE

Butz sought to refute this argument last week by pointing out that the companies also applied for subsidies on large quantities of wheat in July, when subsidies averaged only 22 cents. He said this showed they had no advance word that prices and subsidies would continue to rise.

Butz's figures lumped all the companies together, however, so the question remained whether individual companies with inside information did speculate in this way. The department has so far refused to give a company-by-company breakdown of the subsidies it paid, but Democratic Rep. Graham Purcell of Texas ordered that the breakdown be provided this week to hearings by his subcommittee of the House Agriculture Committee. He said he understood that fully three-fourths of the Russian business had fallen to Palmby's Continental Grain Co.

Purcell's hearings may answer many of the questions about the grain deal. Palmby has volunteered to testify. The congressman has demanded the text of the Soviet credit agreement, which the Government has sought to keep secret.

In the meantime, there is a lot of political hay to be made. Democratic Rep. Benjamin Rosenthal of New York has asked Congress' General Accounting Office to find out whether the big grain companies made contributions to Nixon's re-election campaign. Others have pointed to the "cozy" manner in which grain company executives trade jobs with their counterparts in Butz's department. The man who replaced Palmby used to work for a big grain company. The assistant to Pulvermacher's replacement used to hold Pulvermacher's new position with Bunge. A high White House foreign-trade official made a similar jump from the grain industry last winter. A pleased McGovern noted last week that he had hit "a real sore point" in the Nixon Administration.

[From the New York Times, Sept. 17, 1972]

GRAIN DEAL—AFTER THE HARVEST, WINDFALL PROFITS?

WASHINGTON.—It was first heard in mid-August, the charge that some large grain exporters—Cargill, Continental, Bunge, Cook, Drewfus, Garnack—had made windfall profits from the $750-million U.S.-Soviet grain deal announced by President Nixon on July 8.

At first the charge didn't make much more stir here than a breeze riffling a ripening wheat field. It came into Washington from the early-harvest states of Texas, Oklahoma and Kansas, from farmers who had sold their winter wheat in July at about $1.32 a bushel and suddenly discovered in mid-August that their brothers farther north, or neighbors who had not sold early-harvest wheat, were getting considerably more.

Those who had sold early complained that the Department of Agriculture had let them down by not informing them of the probable size of the Soviet wheat purchase (it quickly mounted to 400 million bushels), with its inevitable upward pressure on wheat prices.

The charge took on a new force and dimension in the first week of September when it was learned that between Aug. 25 and Sept. 1, under an unprecedented arrangement by the department, the exporters had been granted a special export subsidy of 47 cents a bushel on 280 million bushels. The total came to $131.6 million, and critics charged that most of it was a windfall which would come out of the taxpayer's pocket.

Moreover, questions were raised about possible violation of the conflict of interest law which forbids any former Government employee to represent anyone other than the United States in connection with a matter in which the United States is a party and in which the employe had participated "personally and substantially" for the Government. The basis for these questions was the fact that Clarence D. Palmby, former Assistant Secretary for International Affairs, and Clifford G. Pulvermacher, head of the Export Marketing Service, had accompanied Secretary of Agriculture Earl L. Butz to Moscow in April for the initial negotiations on credit terms for the wheat sales, and then had resigned in June—Mr. Palmby to become vice president of Continental, and Mr. Pulvermacher to become Washington representative of Bunge.

Last week, the House Subcommitee on Livestock and Grains held hearings on the grain deal, with particular emphasis on the question of early sales and the special subsidy and with Mr. Butz a key witness.

EARLY SALES

Mr. Butz readily conceded that some farmers had sold in July at $1.32. He said he was sympathetic about any losses as a result, but insisted that the department was not to blame. It, also, had been astounded by the magnitude of the Soviet purchases. The farmers, he said, had known as much as the department or the exporters. "We gave the public notice after notice after notice that the grain deal was down the road," he said.

This did not convince Representative Graham Purcell, Democrat of Texas. Mr. Purcell cited a Wall Street Journal article last Thursday which said that the department had suppressed in mid-August a report by its economic research service which revised sharply downward an earlier estimate on Soviet wheat production and sharply upward estimates of their import requirements. Mr. Butz explained this suppression by saying the report was based on a cable from the agriculture attaché in Moscow, and it was decided to withhold the report until a "consensus of opinion" developed.

SPECIAL SUBSIDY

To make United States wheat competitive in world markets, the department is authorized to pay an export subsidy—called an "equalization payment" to exporters amounting to the difference between the price they pay to American farmers from whom they purchase the wheat, and the usually lower world market price at which they set it. The last three years, the department has been trying, by its subsidy, to maintain a world price of $1.63 to $1.65 a bushel. It had promised the exporters in the Soviet deal a subsidy based on $1.63.

But by mid-August, the huge Soviet purchases had driven up the world price for wheat proportionately even more than they had driven up the American price. In other words, a smaller subsidy than previously would have been sufficient to equalize the two prices. And the department decided that it would, in fact, adjust the subsidy to the actual difference between the two prices, rather than continue to base it on the now unrealistic $1.63.

Thus on Aug. 25, the exporters were notified that they would be given a week—until Sept. 1—to register completed sales agreements up to the close of business on Aug. 24 for a subsidy of 47 cents representing the difference between the $1.63 base and the then domestic price of $2.10. The department's justification for this special subsidy was the assumption that the exporters would have to pay $2.10 a bushel to cover their commitments and would lose money—having agreed to sell to the Russians at $1.63—if they got only a subsidy representing the difference on Aug. 24 between the world and domestic price, which was only 38 cents.

But the critics last week attacked this arrangement, and explanation, on two grounds. One was the contention that such solicitude for the exporters was completely unwarranted since they had certainly covered most of their sales commitments by buying wheat in July at $1.32 a bushel, and thus the special subsidy was an additional windfall.

The second point of attack was a thunderbolt dropped by Representative John Melcher, Democrat of Montana. He asked Mr. Butz whether Charles W. Pence, an official in the Export Marketing Service, had called the exporters some hours before the close of business on Aug. 24 to tell them that the change of policy was imminent. In other words, gave them time to rush through sales agreements before the close of business that day.

Mr. Butz initially denied that any call had been made. Subsequently, the department acknowledged that there was such a call on Aug. 24, but it contended that the exporters could not have benefitted from it because they were told "that the new policy would be effective retroactively to the close of business of the previous day, Aug. 23."

This was not, however, what Mr. Pence had told three reporters, including The New York Times, and Mr. Melcher was quick to point that out. The subcommittee ordered Mr. Butz to produce Mr. Pence for questioning tomorrow.

[From the Washington Post, Sept. 17, 1972]

WHEAT, DOLLARS, AND A FEW FAVORS

The more the Agriculture Department explains about the Russian wheat sale, the deeper and more disquieting the questions become. Secretary Butz's evangelistic enthusiasm for the wheat deal is not contagious. This massive transaction now raises several different kinds of issues. First there is the pecuniary scandal, in which a few trading companies made large profits through inside information furnished to them alone by the department. Next there is the failure of American trade negotiating strategy, in which our government was misled and exploited by the Russians. They have taken us on a gigantic hayride that will cost the American public some hundreds of millions of dollars in subsidies and higher domestic prices. Finally, as a matter of foreign policy, we have given the Russians commercial advantages that we do not apparently offer to anyone else. It is a gratuitous affront to our regular and reliable trading partners.

In the scandal, a new element has now come to light. On Aug. 24, the department decided that the export subsidy was finally getting too high and it prepared to abandon its policy of matching price rises with subsidy rises. Someone at the top level of the department told a lower official to call half a dozen major traders and passed on the message before the market closed that day. Those whom the department neglected to call were, of course, the others who deal on the same market: domestic businesses like the millers and bakers, the grain cooperatives, the farmers and, if Mr. Butz will pardon the expression, the general public.

The generally accepted way for a government agency to announce a change of policy is to tell the news services, and the generally accepted time is after the close of the market. The department ignored both of those rules.

Wheat is bought and sold on a speculative and wildly competitive market where inside information is readily convertible into cash. The public will doubtless hear more about the content of these phone calls when Congressman Purcell of Texas continues his hearings on Monday. But it is already established that the department was feeding valuable information to a few selected middlemen, to the obvious disadvantage of both domestic buyers and the wheat farmers.

More broadly, the wheat deal calls into question the competence of the American negotiators who produced this bargain for the Russian government. The Russians needed to buy the wheat a great deal more than we needed to sell it, but they induced us to shell out well over $100 million in subsidies to entice them. This aspect of the fiasco deserves particular attention, since the administration is now embarking upon further trade agreements with the Russians. In the case of the grain sale, it appears that the people at the top of the department did not fully grasp the meaning of the reports of crop failure from our embassy in Moscow, and the data from the weather satellites. They were persuaded that the Russians mainly wanted to buy feed grain. Instead, Russia went first for wheat and bought one-fourth of the American crop at the low subsidized price.

The Agriculture Department attempts to defend the subsidies by arguing that they are essential to keep our wheat competitive with the world price. As we have said before, the world price this summer was the American selling price. No other nation had wheat for sale in any substantial quantity. This truth is confirmed by the recent announcement of the sale of American wheat to China. The Chinese did not come to the United States to buy it. They went to a French trading company, which came to the United States only after it was unable to buy elsewhere. Our sale to China is also subsidized. China, incidentally, does not suffer a food shortage. It imports wheat because, evidently, it wishes to export its own rice, which it sells at a higher price to earn foreign exchange.

As foreign policy, in the broad sense, the wheat sales are characteristic of the Nixon administration. It has frequently been noted that Mr. Nixon has been much more solicitous, and much more successful, in his dealings with our former adversaries, the Russians and the Chinese, than with our traditional friends and allies. In grain exports, the contrast in our treatment of the Russians and the Japanese is striking.

Congressman Neal Smith of Iowa has pointed out that, in our feed grain sales to Russia late last year, the United States gave the Russians better terms than it was giving the Japanese at that time. In the wheat deal this summer, all buyers presumably got the same price. But the Agriculture Department discriminated in another manner. It held the price low and stable while the Russians were buying. Now that they have bought all they want, the department is letting the price rise. Those who buy steadily, year in and year out, must now pay more. It is an odd way to treat the Japanese at a time when we are berating them for not buying more American products.

Secretary Butz keeps suggesting that this summer's wheat sale opens a vast new market for American grain. Russia is, in fact, a very erratic customer. Russia grows its wheat very far north, where the weather is fierce and the crop fluctuations are extreme. In a bad year like this one, Russia must buy heavily abroad. In a normal year, they buy much less. In a very good year, they put wheat on the world market to compete with ours. Japan, on the other hand, buys American wheat at a constant rate and is, in any normal year, by far our biggest customer for it. Yet it is to the benefit of the Russians that we bend the structure of our subsidies.

TYSON'S FOODS, INC.,
Springdale, Ark., September 12, 1972.

Hon. J. WILLIAM FULBRIGHT,
U.S. Senator,
Senate Office Building,
Washington, D.C.

DEAR BILL: With reference to our conversation concerning the recent exporting of corn and wheat and the impact that this has had on the poultry business in Arkansas, I would like to submit the following comments.

As you know, Arkansas is the nation's leading poultry producing state, and the well being of the industry is vital to the state's economy. The industry has historically operated on a very narrow margin. Since feed costs account for over sixty percent of the cost of producing a pound of poultry meat, any increase in the cost of grain becomes significant. In late June and early July, the December corn futures were trading in the low $1.20–$1.23 per bushel range. Based on crop reports, carryover estimates, etc., we would normally expect the futures to trade in a fairly narrow range until harvest time approaches, then we would expect the December option to drift lower, depending on the condition of the crop.

The recent exporting of huge volumes of corn and wheat has caused the price of both wheat and corn to skyrocket. December corn futures are now trading in the $1.37 per bushel range. This has got to ultimately cost the American consumer, whether it be included in the price of a pound of meat or in the price of a loaf of bread. A ten cent rise in the price of a bushel of corn results in a 2.75% rise in the cost of feed for poultry. The increase would be greater for beef or pork, since chickens are more efficient convertors of feed to meat than either cattle or hogs.

Our best estimates now are that corn will cost our Company fifteen cents per bushel more in 1973 than it cost in 1972 because of the exporting of our feed grains. This fifteen cent increase in the cost of grain alone represents a rise in our feed cost of $2.25 million dollars. We can't afford these kind of cost increases and continue to remain a viable, growing company unless the American consumer pays more for the finished product at the market place.

Sincerely,

DON TYSON,
Chief Executive Officer.

ANOTHER INSTANCE OF THE HARD SELLING OF THE PENTAGON

Mr. FULBRIGHT. Mr. President, we have at hand another instance of hard selling of the Pentagon. A film called "Only the Strong"—purporting to show that the U.S. defenses are in a sorry state—is being shown now on a number of television stations.

I am trying to ascertain to what extent the Pentagon supports this film venture. Although the Pentagon claims no involvement in the film, two active-duty generals are featured with their claims that U.S. defenses are declining as the Soviet Union becomes more menacing.

As the film takes almost no notice of the SALT treaty and agreement signed in Moscow, it is basically unrelated to current realities. Of course, the demonstrated ability of the Soviet Union and the United States to agree on arms limitations would not support the purpose of this film—the stirring-up of citizens to seek more defense spending.

The film—a tremendously one-sided affair—shows, I am informed, Soviet weapon after weapon, and is filled with explosions, ominous music, and stentorian commentary. Footage that would show American military strength is not included. The film well may disturb many who are not well-versed in arms affairs. Undoubtedly, it would be possible for some clever filmmaker to produce a film about American military strength that would scare Russian citizens. At this very difficult juncture in

East-West relations, however, with both sides overly armed as it is, there seems no value in scaring citizens on either side.

The theme of the film is a need for U.S. superiority, not the sufficiency or equality that is stated national policy. If we are to be subjected to propaganda for spending to achieve so-called superiority, it seems to me extremely important that the other side of these issues be made available.

Adm. Gene R. LaRocque, retired, of the Center for Defense Information, and William C. Foster, formerly Director of the Arms Control and Disarmament Agency, have written television stations pointing out their obligation under the fairness doctrine to give opposing viewpoints. At the same time, Admiral LaRocque and Mr. Foster have been pertinent rebuttal to some of the issues raised in the film. I ask unanimous consent to have printed at this point in the RECORD their letter to the stations and a letter being distributed widely by retired Gen. Bruce Holloway in support of the film. General Holloway participated in an interview in the film while still on duty as Commander of the Strategic Air Command.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

THE ARMS CONTROL ASSOCIATION,
CENTER FOR DEFENSE INFORMATION,
August 28, 1972.

DEAR STATION MANAGER: This letter concerns the Fairness Doctrine.

It has come to our attention that the Institute for American Strategy has recently offered to television stations throughout the country, for prime time showing, a 27-minute color film entitled "Only the Strong." The film already has been broadcast in a number of cities.

The film deals with a highly controversial issue of major public importance: the balance of power between the United States and the Soviet Union, and the related question of whether the balance is maintained through arms limitations or more military spending as the proper route to national security. This issue is particularly controversial at this time, when the SALT agreement is still under Congressional consideration and new SALT negotiations are about to begin.

The Arms Control Association is a nonpartisan, nongovernmental national membership organization dedicated to promoting public understanding of effective policies and programs in arms control and disarmament. Its Board of Directors includes many of the nation's principal authorities on arms control and national security, many of whom have served in high positions in the Departments of State and of Defense, the C.I.A., and the Arms Control and Disarmament Agency. Its chairman, William C. Foster, former Deputy Secretary of Defense, was the first director of the United States Arms Control and Disarmament Agency, which is the government agency charged with formulating and negotiating United States arms control policies.

The Center for Defense Information works to increase informed public opinion on national defense and foreign commitments. Its director is Rear Admiral Gene R. La Rocque (USN, Retired), and its staff includes former defense and intelligence experts on military budgeting, weapons systems, operations analysis, and planning of military force structures. The two organizations represent a breadth and a depth of expertise in military and arms control policy almost without parallel outside the government.

It is our opinion that the film "Only the Strong," provides a biased, one-sided view of the international security situation which grossly exaggerates the military capabilities and intentions of the Soviet Union and wrongly depicts the United States in a position of military weakness and decreasing security.

Among the controversial issues of public importance on which this film presents only one point of view are:

1. The film suggests that only through more armaments can security be attained; no case is made for arms control as a viable alternative.

2. The film purports to show the balance of forces between the Soviet Union and the United States. However, it shows virtually nothing of the military strength of the United States. There are almost no counterpart scenes of U.S. military power to match the many clips of Soviet weapons, and none showing the modernization and extensive qualitative improvement of U.S. forces of recent years. The only point made—an erroneous one—about U.S. military strength is that it is "standing still," and that it once was strong enough to allow the U.S. to impose its will on the Soviet Union.

3. The case for "superiority" is the only one made. There is no recognition that mutual deterrence is a stable situation, and that the quest for superiority has proven to be fruitless, leading only to a continuing arms race at increasingly greater cost, and with perpetually decreasing security for everyone.

4. The film implies that the United States is at a disadvantage because the Soviet Union has certain kinds of weapons and the United States does not. Clearly we made conscious decisions to develop some weapons and not to develop others; the generals and other former government officials shown in the film should be asked why we did not imitate the Russians in developing an SS–9, or building landmobile missiles, or huge air defense systems. They would no doubt be able to provide good reasons why we chose not to emulate the Soviets' mistakes, and developed other weapons instead.

5. The general might also have been asked about Soviet weaknesses; for example, can the United States bombers get through Soviet air defenses? Can the U.S. missiles get through Soviet ABM's? The answer to both would undoubtedly be yes.

In addition to presenting only one side of a number of controversial issues of public importance, in a number of instances the film is seriously misleading. For example:

1. The film suggests that the United States has been standing still in its weapons programs while the Soviet Union has been forging ahead. It completely ignores the United States' qualitative improvements to existing weapons systems, whereby the U.S. is steadily increasing its lead over the Soviet Union in deliverable nuclear warheads, the most significant measure of relative nuclear weapons strength. The term MIRV—the multiple, independently targetable reeentry vehicle—is not even mentioned, although this weapon, which the United States has in abundance, and which the Soviet Union has not even tested, is the single most important (and potentially most destabilizing) new weapons development of the past decade.

2. Against a voice-over narration describing modern Soviet weapons of great power and sophistication, the film shows some obsolete Soviet weapons, ascribes characteristics to others that they do not remotely possess, and shows some objects that are not weapons at all. While the narrator is describing Soviet nuclear missile-launching submarines, for instance, the film is showing diesel-powered attack submarines. While the narrator describes Soviet air and missile defenses, the film shows an imposing-looking space-tracking radar; while he discusses the Soviet "nuclear advantage," the film is showing a "Vostok" manned space capsule (like the U.S. Apollo); when he describes the "Foxbat" MIG–23 "interceptor," the film depicts a "Flogger" experimental plane, instead. (The MIG–23 is a reconnaissance plane. The U.S. SR–71 is its counterpart.) A plane identified as "Backfire" is equated to the projected U.S. B–1 bomber, when in fact it more nearly resembles the already operational U.S. FB–111. The Backfire is at this stage purely experimental.

A narrator describes the awesome power of the Soviet Navy's surface-to-surface missiles, while on-screen small surface-to-air missiles are shown firing. The firing sequence is followed by a huge geyser of water, suggesting that a surface-to-surface missile has just hit its target.

3. The narration repeatedly includes misleading numerical comparisons. For example, the narrator declares that the Soviet Union possesses 840 medium and heavy bombers to the United States' 470 medium and heavy bombers; in fact, the Soviet Union has only 140 heavy bombers capable of reaching the United States, compared to a U.S. fleet of 457 heavy bombers, 475 Europe-based fighter-bombers and 144 carrier-based naval fighter-bombers, all capable of delivering nuclear weapons on Soviet targets.

4. A U.S. Air Force general decries the reduction in U.S. air defense capabilities but fails to note that this reduction has been intentionally brought about because in the missile/nuclear age bomber defense is not much use.

5. Nowhere in the film is there a discussion of overkill (though the term is applied erroneously to the concept of deterrence). In fact, the primary lesson of the arms race and the dominant fact of the present situation is not that the U.S. or the Soviet Union are "ahead" or "behind" but rather that both possess so much nuclear firepower *beyond* any rational need for deterrence that numerical comparisons are meaningless. The lesson of this overweight is not to try to "catch up" but rather to slow down, and that arms control and negotiated reductions are the road to more security. Further arms racing is the road away from it.

6. Although the film in no way purports to represent the views of the United States government, there is clearly sufficient involvement to raise serious questions about the independence of the views and judgments expressed. Two active duty Air Force generals are interviewed in the film to support its thesis. (A recent letter promoting the film and signed by now retired General Holloway, who appears in the film while on active duty, makes clear that his appearance was "with Department of Defense approval, of course.") The film credits indicate that the Air Force provided some, if not all, of the Soviet footage.

On each of the foregoing issues there are a number of contrasting viewpoints which deserve to be heard. The Federal Communications Commission Fairness Doctrine requires balanced programming. We therefore urge that you carefully scrutinize the film before you decide to show it.

If thereafter you plan to show it or if you have already done so, we think you should indicate to us your willingness to present an opposing point of view. We stand ready to provide you with data, information, and persons to present an informed and responsible alternative position. We are willing to present these views immediately following the showing of "Only the Strong," preferably in the same time segment, or at a reasonable time thereafter.

We look forward to your reply.

Sincerely,

William C. Foster,
Chairman, The Arms Control Association.
Gene La Rocque,
Rear Admiral, USN (Ret) Director, Center for Defense Information.

Washington, D.C.,
August 19, 1972.

Dear ———: Several friends have suggested that I write you about a remarkable educational project now underway to warn all Americans about the growing Soviet military threat.

As Commander-in-Chief of the Strategic Air Command from 1968 until I retired four months ago, I saw the tremendous momentum of the Soviet build-up in nuclear weapons. For this reason, I was dismayed that the TV networks did not report on the detailed Statement by seven members of the President's Blue Ribbon Defense Panel concerning the alarming shift in the balance of military power.

This deeply concerns me because I believe that the Soviet military build-up poses the most serious threat the United States has ever faced! The gravity of this should be self-evident to all Americans if they have the facts presented in a way they could clearly understand.

The American people especially need the facts right now because as voters they must decide whether Presidential Candidate McGovern is right in his plan to cut sharply the defense budget.

The only way to reach all the American people in a short time is by television. This is why I am writing to you about ONLY THE STRONG, an outstanding documentary film produced for TV by the Institute for American Strategy.

ONLY THE STRONG features color footage comparing Russian and American nuclear weapons in action. In 27 minutes it does a remarkably good job of holding the viewer's attention and explaining the facts about the shifting balance of military power. You will note in the enclosed brochure that I participated in the film while I was at SAC (with Department of Defense approval, of course).

I recently asked why ONLY THE STRONG had not been shown on network TV, and found that the Institute has tried to buy a half-hour of network prime time from each of the three networks. While the networks said that the documentary was well produced, they declined to sell the time.

So, the Institute is instead making a big effort to reach all Americans through local TV stations.

The goal is to show ONLY THE STRONG five times in every TV market! This would cost over $600,000 if the Institute had to buy all the time. But, the cost will be less because the program is so good that many major TV stations in cities such as New York, Norfolk, and Detroit are showing it as a public service—mostly on prime time. In some cases, companies sponsor it—e.g. two newspapers are sponsoring and promoting it in their cities.

In St. Louis, three different TV stations have shown it on prime time paid for by contributions from Missourians.

This, however, is only a start which proves that it can be done. To complete this project, the Institute needs your help by:

1. Contributing money for both air time and promotion.
2. Urging TV stations, advertisers, and ad agencies to show ONLY THE STRONG several times.
3. Renting or buying the film to show to clubs, employees, schools and churches.

A good friend has just promised a contribution of $100,000 toward getting ONLY THE STRONG on the air if you and I and others will match it. This means that each dollar we contribute will be worth two; and it is fully deductible.

I know of no more worthwhile contribution you could make for the well-being of the United States of America.

Sincerely,

Bruce K. Holloway,
General, USAF (Ret.).

P.S. I've enclosed a reply card and envelope for your convenience in making a contribution to get this program on the air.

Here's what a half-hour of prime time TV costs in the Los Angeles market: KNBC, $4000; KABC, $3200; KNXT, $3150; KCOP, $2000; KTLA, $1900; KHJ, $1800; KTTV, $1800.

General Bruce K. Holloway, 1101 17th Street N.W., Washington, D.C. 20036

Dear General Holloway: I am responding to your most urgent letter asking me to help get ONLY THE STRONG on TV nationally with my deductible contribution of $------.

(Please make check payable to The Institute for American Strategy, a publically supported tax-exempt educational institution.)

Name --------------------------------
Address -----------------------------
City ----------- State -------- Zip -----

☐I'd like to rent only the strong at the contributor discount price of $20.00 (reg. price $42.00) for one day's showing. I will need it on —— (date). Please ask the Institute to bill me for the rental.

☐I'd like to buy only the strong at the contributor discount price of $198.75 (reg. price $265.00). Ask the Institute to bill me. I understand I can send the film back without paying if I don't agree with you that it is *great*.

☐Yes, I'll encourage the local TV stations, ad agencies, and/or possible sponsors to show the film.

Note.—Contributors of $100 or more will be prominently listed on the "Roll Call of Sponsors" in the Institute's main office.

Contributors of $500 or $1,000 or more will be listed on a plaque as "Patrons" and will be mentioned in the newsletter (unless they'd prefer not to appear in the newsletter).

All contributors of $15 or more will receive the Institute's monthly newsletter to keep them up to date ($3.00 of each contribution covers the annual subscription).

Only The Strong

It is now ominously clear that there has been a significant shift in the balance of military power in the world. After a decade of expansion and modernization of its strategic forces, the Soviet Union has not only caught up to the United States but has passed us. Moreover, the Russians show no signs of slowing their arms build-up.

In the opinion of many thoughtful Americans, this constitutes the most serious threat in our history—and makes our national defense the overriding issue of today. Many other Americans—including a few outspoken leaders in Congress disagree. They discount the threat, and are pushing for further reductions in our defense budget.

Every citizen of the United States is entitled to his own opinion. He also has a right to the facts—and that's the objective of this new 27-minute motion picture: to let the American People know exactly where we stand today.

"Only the Strong" documents and graphically compares the various weapon systems of the two superpowers. Dramatic film footage shot inside the Soviet Union by Soviet camera crews shows Russia's strategic might. Experts like famed physicist Dr. Edward Teller, SAC Chief General Bruce Holloway, and others give their views in interviews filmed exclusively for "Only the Strong."

This is a film every American should see and think about. It is our hope that public-minded television stations and groups across the country will help give it the widest possible circulation. Only an informed America can make the kind of decisions that will be called for in the years ahead.

Mr. FULBRIGHT. Mr. President, Mr. Richard J. Levine, of the Wall Street Journal, has written a comprehensive article on the producer of this film, the Institute for American Strategy and its brother organization, the American Security Council. I ask unanimous consent that Mr. Levine's article be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Cold-War Warriors

(By Richard J. Levine)

Culpeper, Va.—The Kremlin is keeping a wary eye on this small, quiet town in the Virginia farm and horse-breeding country.

In the eyes of Pravda, the Communist Party newspaper, nothing less sinister than "the sixth wing of the Pentagon" lurks here on quiet North Main Street, sandwiched between a savings and loan and a clothing store. It's the storefront headquarters of the American Security Council, a hawkish, fervently anti-Communist organization dedicated to U.S. "victory" in the cold war and to strengthening the nation's military defenses.

Pravda's displeasure is just fine with the council, which has parlayed its anticommunism into a thriving operation. Founded in 1955 as a small, business-financed research and education organization concerned primarily with the "internal Communist threat," it has mushroomed into a formidable national pressure group.

Today, the council claims 135,000 individual contributors and 1,500 corporate members (most of which, it says, don't build weapons). It estimates its annual income at $1.4 million. It maintains close ties to certain congressional committees, and three retired chairmen of the Joint Chiefs of Staff—Generals Nathan Twining, Lyman Lemnitzer and Earle Wheeler—serve as cochairmen of its national strategy committee.

OUTGUNNED BY MOSCOW?

Now, even as President Nixon reaches for detente with Moscow and Peking, the council is pursuing its most ambitious public-relations campaign yet. It aims to convince Americans that the U.S. has fallen dangerously behind the Soviet Union in nuclear weaponry. Convinced that peace is assured only if the U.S. regains—and then retains—"clear military superiority," the council's president, 50-year-old John M. Fisher, asserts:

"We no longer have the capacity to put a gun on them (the Soviets) because we find they have two guns on us."

While the council hailed the President's decision to mine North Vietnam's ports as "courageous," it takes a dark view of the strategic arms limitation agreement he brought back from the Moscow summit.

The council's national strategy committee is still making a formal, detailed analysis of the arms-control pact, but Mr. Fisher has already made up his mind. He sees the agreement as an "enormous victory for the McGoverns" in Congress, and he feels it freezes the U.S. in a position of nuclear inferiority.

Recently the council president wrote his members urging them, by implication, to work for the defeat of the agreement in the Senate through a letter-writing campaign. He calls the accord a triumph for "the powerful antidefense lobby" and warns that

"America is in danger." As a realist, however, Mr. Fisher sees little prospect that the Senate will follow his advice; he would be satisfied if it would simply register "reservations" about the arms accord.

A THREE-PRONGED CAMPAIGN

To beam its controversial views to the public, the council works closely with an outfit called the Institute for American Strategy. The institute, also headed by Mr. Fisher, shares office space, mail facilities and many contributors with the council. On an isolated estate near here, the institute has started building a "Cold War College" to train leaders for the battle against communism. The three-pronged campaign of the council and the institute consists of:

Production of a slickly professional, 27-minute television film that focuses on the Soviet strategic weapons buildup. Entitled "Only the Strong," the color film was written and directed by Harry Treleaven, President Nixon's TV adviser during the 1968 campaign. It is built around chilling footage of Russian weapons, and though the institute hasn't been able to get national network time to show it, the film has made about 30 local television appearances, including airings in Indianapolis and St. Louis. The institute hopes for five showings in each of 211 local television markets.

Compilation of a national security voting index, rating all 535 members of Congress according to their stands on defense issues. The council bills itself as "nonpartisan," but it knows whom it doesn't like—mostly liberal Democrats. In a letter soliciting money to prepare and publicize the index, Mr. Fisher says: "Many voters aren't aware of how some Senators such as Kennedy, Muskie, Humphrey and McGovern and others have taken positions on national security matters which weaken America's defense against communism." Over three million of these letters have already gone into the mail, and the council plans to send out a million more. Thus far, well over $500,000 has been collected, they say.

Mail distribution of up to seven million brochures reprinting a statement by seven of 14 members of President Nixon's civilian blue-ribbon panel appointed to review national defense. The statement warns that the nuclear balance of power is "shifting . . . against the U.S. and in favor of the Soviet Union," declaring: "Among the great nations, only the strong survive." Recipients are also asked for donations.

GENERALS TO JANITORS

The council started using direct-mail campaigns in 1969, when it distributed one million pieces of literature stating the case for building the antiballistic missile defense system, and also soliciting money. Today it uses an array of mailing lists to identify likely targets for its broadsides (the lists include Standard & Poor's register of directors, Epilepsy Foundation contributors, Fortune magazine subscribers and members of leading country and yachting clubs). Then it sends out the tracts to everyone from military officers to janitors and housewives from an automated mailroom that can churn out 200,000 pieces a day.

The mail campaigns supplement the council's regular channels of communication. It publishes a twice-monthly Washington Report Newsletter (circulation 75,000) that analyzes national security issues; a recent copy warned that the President's China trip lengthened "the odds against the ultimate survival of free societies." It also produces a daily 3½-minute radio program carried by 350 stations in such diverse cities as Window Rock, Ariz., and Washington, D.C., as well as a daily Spanish-language radio program that reaches as far as Ecuador, Uruguay, Bolivia and Argentina.

All this activity upsets more than the Kremlin. It also riles many liberal organizations working to reduce military spending.

Sandford Persons, executive director of the Members of Congress for Peace Through Law, a group of 132 Democratic and Republican legislators that has been attacked by the council, views the council as a "holdover form the cold war." And Sanford Gottlieb, executive director of SANE, the antiwar group, believes the council represents the "institutionalized establishment hawks with very close ties to the military-industrial complex."

Recently, an article in The Nation, a liberal magazine of political comment, declared that if the American Security Council "doesn't constitute the heart of the military-industrial complex, it is unquestionably the soul."

"We're not warmongers," responds a council spokesman, accustomed to such criticism. "Our objective is to insure an adequate defense. We just don't want to get behind the Soviets." Mr. Fisher denies that the council is a front for the military-industrial complex. In fact, he wishes more defense contractors were members; as it is, he says, only $29,000 of the council's $1.4 million income comes from corporations involved in defense work.

(A partial list of active corporate members, supplied by Mr. Fisher, includes Lumbermens Mutual Casualty Co., McDonnell Douglas Corp., General Electric Co., Motorola, Inc., Joseph E. Seagram & Sons Inc. and Southern California Edison Co.)

Mr. Fisher, the driving force and dominant personality in both the council and the institute, is keenly aware that both organizations could be badly damaged if they were labeled as "right-wing" or "extremist." To avoid this, both carefully refrain from engaging in personal attacks on public officials or impugning their patriotism and loyalty.

Mr. Fisher says he personally doesn't "support or endorse" the John Birch Society—which has questioned the loyalty of such public officials as the late President Eisenhower. Though he says he isn't aware of any John Birch members who belong to the council, he won't attack the society. "They're not the enemy," he says.

RESPONDING IN A REASONABLE WAY

Liberal legislators concerned about the rapid growth of the Pentagon budget disagree heartily with the council's positions, but few attack the organization itself.

"The council isn't really what you'd classically call extremist because they purport to have reasons for what they believe," says Rep. Robert Leggett, a liberal California Democrat who sits on the Armed Services Committee. "They have to be responded to in a reasonable way. The danger is that the material generated by organizations such as the council is used in our war colleges."

Sen. William Proxmire, the Wisconsin Democrat who is one of the Pentagon's sharpest critics, charges that the council's information campaigns on the strategic balance are "very misleading." The council, he says, has an "automatic blind spot that those who are critical of the Pentagon are in favor of enfeebling the nation." While declining to pin a "right or left" label on the council, Mr. Proxmire sees it as a "scare-hell-out-of-'em-the-Russians-are-coming" organization.

Officials say the image that both the Council and the institute seek is that of a "progressive bank"—"moderate, rational, respectable." So it helps that the council can point to kind words from President Nixon (who thanked it for its "important work" in the 1969 legislative fight over the ABM) and President Eisenhower ("Your work will keep the lights of freedom burning brightly"). And in 1966 the institute was commended by President Johnson for its commitment to "defending freedom and promoting peace."

Respectability was a big criterion when Mr. Fisher went shopping for a site for the Cold War College and the eventual headquarters for both the institute and the council. He found the perfect location in 1966—an estate of hundreds of acres, complete with 24-room English style manor house, nine miles west of here. Now Mr. Fisher proudly shows visitors through the elegant mansion, with its wood-paneled library, leather chairs and chess sets on display.

Mr. Fisher, a soft-spoken Ohioan who frequently punctuates his attacks on communism with bursts of good-natured laughter, has devoted 17 years to council work. An ex-FBI agent, he went to work for Sears, Roebuck & Co. in 1953. In 1955, Sears assigned him the task of finding financial support from companies to acquire a private library on communism that had become available.

The result was formation that same year of the Mid-American Research Library Inc., later renamed the American Security Council, with the backing of such companies as Sears, Motorola Inc. and Stewart-Warner Corp. (Today, Robert Galvin, chairman of Motorola, is chairman of the council's senior advisory board.)

It was anticipated that the library would be used to publish papers on communism. But it also had a more controversial use, a place for companies to check the personal histories of speakers or employees who might need security clearances. Council officials vigorously deny, however, that the library was ever used to compile blacklists. The personnel checks "never amounted to much in the way of volume," Mr. Fisher insists, and now have been phased out entirely.

"If we didn't have the library, we'd be accused of just shooting from the hip" in making statements about communism, Mr. Fisher complains. "If we have a library, we're blacklisters."

Over the years, the council has maintained close ties with the hawkish House Armed Services Committee and the House Committee on Internal Security, formerly known as the House Committee on Un-American Activities.

NOT WITHOUT PROBLEMS

At the request of the House Armed Services panel, the council prepared studies on "the changing strategic military balance" in 1967 and on the balance of naval power in 1968. The chairman of the Internal Security Committee, Democratic Rep. Richard Ichord of Missouri, is the legislative editor of the radio program and is heard on the air.

Mr. Fisher isn't without his problems. Plans for the $12 million college are behind schedule because of insufficient funds. And the council's radio program is struggling to recover from a 1969 tailspin after Eversharp Inc. stopped footing the monthly $20,000 bill for production and distribution. The number of stations carrying the program dropped to 300 from 1,100 but has since climbed back to 350.

But Mr. Fisher has big plans. He wants to put the radio show on a commercial basis (300 of the 350 stations now get it free) and envisions a nonaccredited college that could enroll about 400 students at a time. The idea is that after about a year of course work, many graduates (who would receive no degree) would become leaders in the network of "local security councils" Mr. Fisher wants to set up around the country. Among other things, the councils would promote area broadcasts of the TV film, "Only the Strong."

But for all his activity, Mr. Fisher insists that what he desires most is to work himself out of this $27,500-a-year job. "I don't think anyone connected with the council is interested in the continuation of the cold war," he says. "In most cases we could make more doing something else."

Mr. FULBRIGHT. Mr. President, I have no quibble with sensible spending for military purposes. I do object, however, to attempt to plunge the United States into more ruinous defense spending through distorted appeals to emotions, rather than to reason. The Nation cannot afford at this point to take illogical steps in national defense. We have before us the prospect of eventually stopping the nuclear arms race and hopefully moving away from the strategic arms approaches that have plagued us since World War II. But we can only do this through approaches based on honest appraisal and reason.

ADOPTION OF CONFERENCE REPORT ON S. 3442

Mr. JAVITS. Mr. President, I am gratified that the Senate yesterday passed the conference report on the "Communicable Diseases Control Amendments Act of 1971" (S. 3442), and wish personally to comment on title II of the bill which deals with the establishment of venereal disease prevention and control programs.

I was the author of the "National Venereal Disease Prevention and Control Act" (S. 3187) which had the bipartisan support of 40 Senators, and I am pleased to commend to their attention, and to the attention of all my colleagues, that, in essence, this bill has been incorporated by the managers on the part of the House and Senate as title II of the legislation. I am very grateful to all the conferees for adopting as the conference substitute my provision for a separate program of assistance for veneral disease.

Venereal disease has reached epidemic proportions—witnesses estimated that there were 2,500,000 cases of gonorrhea and 100,000 cases of infectious syphilis in the United States during 1971—and no level of society is immune. The sad statistics are that VD strikes our affluent suburbs as well as our inner cities.

To allow us to be effective in combating this tragic disease, title II of the bill authorizes $7,500,000 for project grants for the conduct of research, demonstrations, and training with respect to the prevention and control of venereal disease; $25,000,000 for formula grants to States for establishing and maintaining public health programs for the diagnosis and treatment of venereal disease; and $30,000,000 for project grants to States and political subdivisions for the conduct of defined, comprehensive venereal disease prevention and control programs.

The grant funds authorized by this title of the bill, a total of $62,500,000, will provide the Federal commitment and resources to enable States and communities to once again start down the road toward the eradication of syphilis.

THE INTERNATIONAL NARCOTIC DRUG PROBLEM

Mr. COOK. Mr. President, I would like to reemphasize today the importance of international cooperation in the area of drug abuse. Yesterday the Senate unanimously approved the U.S. ratification of the Protocol Amending the Single Convention on Narcotic Drugs of 1961. This protocol, under the auspices of the United Nations Commission on Narcotic Drugs, would give the International Narcotics Control Board sufficient authority to organize a truly international offensive against the growing illegal traffic in narcotic drugs. Yesterday I rose in support of those amendments and their importance to this administration's continuing efforts to stem the tide of illegal narcotic drugs entering this country from abroad.

At the same time yesterday President Nixon, delivering his opening remarks to the 3-day International Narcotics Control Conference sponsored by the State Department, reaffirmed his intention to withhold both economic and military assistance from any country which he determined had willfully contributed to this Nation's narcotics problem by not taking adequate measures to prevent illegal drugs from entering the United States or from being supplied to her citizens. I applaud this stance. Authority to take such a position was specifically granted the President in a special provision attached to the foreign aid authorization passed last year. I am convinced that a strong, coordinated effort on the international front is our only possible hope in eliminating the illegal drug traffic which grows more diffuse each day, and I am proud of President Nixon's two-pronged effort to enlist both the strength of an international organization to coordinate this fight and the cooperation of individual governments whose assistance is absolutely essential to control efforts along this line.

BILL OF RIGHTS FOR THE MENTALLY RETARDED

Mr. JAVITS. Mr. President, as the author of the bill of rights for the mentally retarded (S. 3759), legislation which would for the first time establish strict standards to protect the human rights of the mentally retarded and stimulate alternative programs of community care, I commend to the attention of Senators an article entitled "Congress Awakens to MR Needs; First 'Bill of Rights' Proposed," written by Marjory Scarlet and published in the September issue of APA Monitor, published by the American Psychological Association.

The tragic circumstances of the mentally retarded throughout history—ancient civilizations even slaughtered retarded infants—have improved substantially since the indifference of the 1930's and 1940's. Federal courts this year affirmed the civil rights of the mentally retarded. But Congress now must understand and accept the realities of dealing with the unresolved plight of the mentally retarded and move forward with respect to responsible, humane legislation. The bill of rights for the mentally retarded, which I introduced with the Senator from New Jersey (Mr. Williams), now has more than 25 cosponsors, and the Senator from Texas (Mr. Tower), one of the bill's cosponsors, spoke eloquently on the Senate floor urging the passage of the legislation.

I believe that Congress has an obligation to move forward with this legislation, and I am today asking the Senator from West Virginia (Mr. Randolph), chairman of the Subcommittee on Handicapped of the Labor and Public Welfare Committee, and a cosponsor of the bill, urging him to initiate hearings on the bill. I recognize the difficulty of scheduling hearings at this late date but I believe we have a responsibility to begin hearings on the issue so that we can continue to focus the public's attention on the plight of the mentally retarded, and in this way, we will be able to expedite the consideration of this problem in the next Congress.

I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Congress Awakens to MR Need; First "Bill of Rights" Proposed

(By Marjory Scarlet)

"Almost all mentally retarded individuals can develop and learn something, only it takes them longer and puts greater demands upon the environment than it does with non-retarded persons. We must not only understand these realities, but accept them and be willing to act on them if we truly want to effect responsible humane legislation for the mentally retarded."—Sen. Jacob Javits (R-N.Y.) statement to the Senate, June 30, 1972.

Ancient civilizations left retarded infants to perish on mountainsides or be thrown into rivers. Later cultures sent retarded children out to beg and built up superstitions around them.

The first scientific and humane attempt to assist the mentally retarded did not occur until the turn of the 18th century.

By the 1840's, European physicians were beginning to study, care for, and treat the mentally retarded and asylums were being established in the U.S.

During the 1870's, custodial institutions to protect the mentally retarded from society were established. But, at the turn of the 20th century, there was a reversal of public opinion and society tried to protect itself from the institutionalized.

The 1930's and 1940's were a time of general indifference while the 1950's ushered in a new era of concern. And in 1961, President Kennedy appointed a panel to report to him on a comprehensive national plan for mental retardation.

MR RIGHTS AFFIRMED

This spring, an Alabama federal court ordered implementation of precedent-setting standards for institutional care of the mentally ill and the mentally retarded. The civil rights of the institutionalized were affirmed.

Now, Congress has awakened to the problems and needs of the mentally retarded.

Prior to the national political conventions, Sen. Jacob Javits (R-N.Y.) and Rep. James Hastings (R-N.Y.) introduced bills to establish, for the first time, strict standards to protect the human rights of the mentally retarded.

On the Senate side, the bill, S. 3759, already has over 20 sponsors, and on the House side, H.R. 15729, has over 50.

"Almost all mentally retarded individuals can develop and learn something, only it takes them longer and puts greater demands upon the environment than it does with non-retarded persons. We must not only understand these realities, but accept them and be willing to act on them if we truly want to effect responsible humane legislation for the mentally retarded," Javits urged the Senate.

BILLS ASK PROTECTION

The bills call for the humane care, treatment, habilitation, and protection of the mentally retarded in residential facilities through the establishment of strict quality operation and control standards and the support of the implementation of such standards by federal assistance.

If passed, the bills would:

Establish standards with which a residential facility for the mentally retarded must comply in order to qualify for assistance under the Act, and eventually, for assistance and funds under any federal program;

Establish a 15-member National Advisory Council on Standards for Residential Facilities for the Mentally Retarded composed of essentially the same people from the professional groups serving the mentally retarded which prepared the standards;

Initiate Congressional investigations regarding the mentally retarded in the U.S.;

Authorize $15 million over three years to assist the states in conducting comprehensive surveys and analyses of the cost of bringing existing residential facilities into compliance with the standards established;

Authorize $15 million over three years to assist states by demonstration grants to improve the services provided by existing residential facilities for the mentally retarded;

Authorize necessary funds to assist nonprofit institutions to develop, improve, extend, or expand community resources and community living situations for the mentally retarded as alternative programs of care other than living in residential facilities;

Authorize necessary funds through grants to states to help meet direct and indirect expenses for bringing residential facilities into conformance with the standards established under the Act;

Provide that five years after enactment, a residential facility that does not comply with the standards will not be eligible to receive any direct or indirect payments under any federal law on behalf of an individual resident.

The standards to be used—"Standards for Residential Facilities for the Mentally Retarded"—were developed by the Accreditation Council for Facilities for the Mentally Retarded of the Joint Commission on Accreditation of Hospitals.

ENVIRONMENTAL QUALITY

Mr. MUSKIE. Mr. President, the Congressional Action Fund has prepared a detailed issues paper on environmental quality which, as a result of diligent research, presents in one place a factual discussion of many issues relating to the environment. This factual discussion is particularly interesting in light of recent revelations that air pollution is responsible for a much higher incidence of lung cancer in urban areas. It is relevant because of the current discussions surrounding the need for an effective well-funded program to control water pollution.

It is relevant because, as revealed in recent hearings of my Subcommittee on Air and Water Pollution, the administration is ignoring the direction of the Resource Recovery Act that Federal policies be shifted from emphasis on disposal and use of raw materials to emphasis on recovery and recycling of materials to preserve resources for future needs.

It is relevant because of continuing important discussions about the economics of environmental controls and the energy crisis.

Mr. President, I ask unanimous consent that a discussion paper on environmental quality be printed in the Record.

There being no objection, the paper was ordered to be printed in the Record, as follows:

ENVIRONMENTAL QUALITY

AIR POLLUTION

According to the Council on Environmental Quality, air quality on a nationwide basis improved between 1969 and 1970 (most recent data). Three of the five pollution sources stayed the same or grew worse (sulphur oxides and hydrocarbons were constant, nitrogen dioxide increased) while two improved (carbon monoxide and particulates).

In a survey of 82 sites nationally, there was improvement in every category. However, the least improvement between 1969 and 1970 was recorded in cities with populations from 100,000 to 400,000—where most Americans live. Furthermore, improvements in severe air pollution proceeded at a much slower rate in all of the test areas between 1969 and 1970 than between 1968 and 1969. For example, the percent improvement in medium-sized cities (pop. 100,000 to 400,000) was 18.5% from 1969–70, while in preceding year percent improvement was more than double (38%).

The data used by CEQ in its annual report is itself a subject of controversy. Variations in the location of monitoring stations and in the size of the region being monitored are often considerable. A complete presentation of current air pollution data will be found in the fact sheet which follows this introduction.

Under present law, the states have primary responsibility for air pollution abatement, as defined in their air pollution control plans—which are reviewed by the federal government. The first drafts of these plans were submitted this spring to the Environmental Protection Agency.

Federal standards, which have been set for the five pollutants mentioned above, are to be achieved by 1973 or by 1975 at the latest. To achieve the standards, the states must develop abatement strategies for both stationary sources and mobile sources.

A leading controversy during Congressional consideration of the Clean Air Act was the impact of the new federal standards on the automobile manufacturers. Thus, many environmentalists were when the Environmental Protection Agency ruled earlier this year that the auto industry would not be entitled to the one-year extension provided in the law. The catch is that the issue may be taken up again after January 1, 1973, when, assuming President Nixon is reelected, there will be few political risks in reversing the EPA decision.

Another issue which is expected to cause political turmoil is the role of traffic restrictions to control air pollution in urban areas. EPA now insists that the states incorporate traffic reduction strategies in their air pollution plans and has hired consultants to prepare local officials for the outcry which is feared from motorists and the highway lobby.

Air pollution fact sheet

Composition of air pollution particles and gases

Carbon monoxide: 151.4 million tons (53.8% of total pollution) arising from incomplete combustion were emitted in 1969 (Stat. Abstract 1971).

Hydrocarbons: 37.4 million tons (13.3% of total pollution) were released into the air in 1969 (Stat. Abstract 1971).

Particulates: 35.2 million tons (12.5% of total pollution) including fly ash from coal and lead from gasoline were emitted into the atmosphere in 1969 (Stat. Abstract 1971).

Sulfur oxides: 33.4 million tons (11.9% of total pollution) coming largely from burning of coal and oil were emitted in 1969 (Stat. Abstract 1971).

Nitrogen oxides: 23.8 million tons (8.5% of total air pollution) were emitted in 1969 (Stat. Abstract 1971).

Carbon dioxide: This gas is not usually measured as an air pollutant since it has no adverse health effects. Nevertheless, excessive CO_2 may result in destructive changes in the climate.

Sources of air pollution

Transportation almost exclusively contributes more motor vehicle pollution (144.4 million tons in 1969, 51.3% of the total) than all other sources combined; it produces 73.7% of all carbon monoxide pollution, 52.9% of hydrocarbons, and 47.1% of nitrogen oxides (Stat. Abstract 1971). Pollution from this source declined 1% from 1968 to 1969 (Stat. Abstract 1971).

There are 90 million motor vehicles in the U.S. and this number is expected to quadruple by the year 2000. (EHP, 1970).

Even if the strict new 1975 limits on auto emissions can be met by the auto industry, the expected increase in auto traffic will reverse the decline in pollution and begin increasing total auto emissions again by 1985. (CEQ 1970).

Fuel combustion in stationary sources such as home heating and power production produce only 15.8% of total pollution by weight (44.3 million tons), but 73.0% of sulfur oxides, 42.0% of nitrogen oxides, and 20.4% of particulates. About 50% of the sulfur oxides come from electric power production. (Stat. Abstract 1971).

Industrial processes such as chemical manufacturing produce 14.1% of total pollution by weight (39.6 million tons) but 40.9% of the particulates and 22.5% of the sulfur oxides. (Stat. Abstract 1971).

Solid waste disposal (incineration) results in 4.2% of total pollution (Stat. Abstract 1971); in 1965 75% of all municipal incinerators were without pollution control devices.

Miscellaneous sources such as forest fires product 14.6% of total pollution. (Stat. Abstract 1971).

Scientific evidence of air pollution's impact on human health

In the 1948 smog attack in Donora, Pa., an industrial town in western Pennsylvania, half of the 14,000 residents and 20 died. (CEQ 1970).

In London, 4,000 persons died during a 4-day smog in 1952 arising from high rates of coal burning; only 2,400 would have normally died during this same time period. (CEQ 1970).

Studies show that exposure to 10 parts per million (ppm) of carbon monoxide for 8 hours may dull mental preformance. Such levels are commonly found in cities throughout the world, and in heavy traffic frequently rise to 70 to 100 ppm. (CEQ 1970).

Sulfur oxides pollution becomes a serious threat of respiratory disease when it exceeds .04 ppm annual mean concentration; in 1968 Chicago's rate was .12 and Philadelphia's .08. (CEQ 1970).

Emphysema has doubled every 5 years since World War II. (CEQ 1970).

The cost of air pollution

In Los Angeles, every year 10,000 persons are advised by their doctors to move out of the city because the smog may injure their health. (Ehrlich).

Damage to materials and vegetation is about $4.9 billion each year. (CEQ 1971).

Commercial laundry, cleaning and dying of fabrics soiled by air pollution costs about $800 million annually. (CEQ 1970).

The annual toll of air pollution on health, vegetation, material and property values has been estimated by EPA at more than $16 billion annually—over $320 for each family of four in the U.S. (CEQ 1971).

In one recent year low visibility from air pollution was the expected cause of 20 plane crashes. (CEQ 1970).

Smog in the Los Angeles basin is harming the citrus groves south of the city and killing trees in the San Bernardino National Forest 50 miles away. (CEQ 1970).

The cost of air pollution in human mortality is about $6 billion annually. (CEQ 1971).

Air pollution increases

In 1969 air pollution increased 3.2% (to 281.2 million tons) by weight over 1968 (CEQ 1971).

Particulates, such as lead, asbestos, rubber particles, dust and ash increased 10% in one year (1969). (CEQ 1971).

The National Oceanographic and Atmospheric Agency (NOAA) reports that the rate of increase of carbon dioxide in the air has doubled, from a yearly increase of .7 ppm in 1968 to a rate of 1.35 ppm each year in 1969 and 1970; increases in the atmosphere's carbon dioxide may trap the sun's heat and produce enough warming to melt the polar ice-caps, raising sea level 400 feet (CEQ 1971).

A 1968 UNESCO conference concluded that man had only 20 more years before the planet started to become uninhabitable because of air pollution. (Ehrlich).

A 1971 EPA study shows that lead levels in the air have increased 2 to 64% over the past 7 years in Cincinnati, L.A., and Philadelphia; the Council on Environmental Quality states that "atmospheric levels of lead may be reaching the point at which widespread adverse health effects are likely." (CEQ 1971).

WATER POLLUTION

A brief history

Prior to the Water Quality Act of 1965, federal policy toward water pollution was fragmented and ineffective. Availability of water for recreation or for natural populations of fish and wildlife was permitted only in so far as it did not interfere with profitable economic benefit. According to experts with the Environmental Policy Division, Library of Congress: "This 'no policy' policy resulted in the degradation of the waters of the United States to a degree that it now may be impossible to reclaim them to an 'unpolluted' status in more than a few places."

Passage of the Water Quality Act of 1965 institutionalized the comprehensive federal policy for abatement of water pollution. The water quality standards program demanded that all waters would be examined in order to determine the beneficial uses to which they could reasonably be put. Specific uses were identified: public water supplies, propagation of fish and wildlife, recreation, agriculture, and industrial water supply. Each segment of the Nation's interstate and boundary waters and their tributaries was zoned for one or more of these specific uses by a process of public hearings and State determinations.

This legislation proved ineffective in arresting or even slowing water pollution. As the statistics in the attached water pollution fact sheet demonstrate, water quality is still deteriorating. In 1971 29% of the U.S. stream and shoreline miles were polluted, whereas 27% were polluted in 1970.

Bureaucratic inefficiency had much to do with the failure of the Water Quality Act (see Water Wasteland by David Zwick, et al) but reluctance on the part of the Nixon Administration to fully fund the programs was also instrumental. During his first year in office, President Nixon requested only $241 million for construction of sewage treatment plants, less than one-fourth the legal authorization. The House Appropriations Public Works Subcommittee raised the amount to $450 million and the full Committee recommended $600 million. The Senate voted the full $1 billion authorized under law and the conferees agreed on $800 million.

In 1970, the President announced a new innovation in the federal water pollution abatement effort. In a speech December 23, 1970, he announced regulations (which took effect July 1, 1971) to require that from 40,000 to 100,000 manufacturing plants apply for permits to continue discharging wastes, as prescribed in the Refuge Act of 1899. Non-compliance with the permit program would, Mr. Nixon promised, result in penalties for industrial leaders including fines up to $2500 and jail terms up to one year.

This program, too, was a failure. According to David Hudich, a consultant hired by the White House to evaluate this permit program, "the program has very little chance of success." Only 17,000 of the companies required to file pollution reports did so and no legal action was taken to enforce the new regulations: either against those who reported their pollution or against those who refused.

Amendments to the Water Pollution Control Act: 1971–72

Debate over water pollution abatement at the federal level currently focuses on the amendments to the Water Pollution Control Act, or the Muskie Water Bill. The bill, which passed the Senate 86 to 0 on November 2, 1971, is now in a Senate-House conference committee awaiting action. The House-passed bill was considerably weaker than the original Senate-passed legislation, which included the following new policies:

1. The discharge of pollutants into navigable waters is to be eliminated by 1985;
2. Wherever attainable, an interim goal of water quality is to be met which provides for the protection and propagation of fish, shellfish and wildlife and provides for recreation in and on the water by 1981;
3. The discharge of toxic pollutants in toxic amounts is prohibited;
4. Federal financial assistance is to be provided to communities for the construction of waste treatment facilities;
5. Regional waste treatment management programs are to be developed and implemented to assure adequate control of all sources of water pollutants in each State; and,
6. Major research and demonstration efforts are to be initiated to develop the technology needed to eliminate the discharge of pollutants into navigable waters, waters of the contiguous zone, and the oceans.

These policies are to be implemented and the goals achieved by increasing Federal monies for construction and research, streamlining enforcement procedures, and broadening the areas of Federal jurisdiction. However, the states will retain their primary responsibility for water pollution abatement and the primary right of implementing the new National abatement goals. Whereas, under the original act, water use (including pollution) was to be controlled and regulated; under the Water Bill, use of waters for pollution will not be tolerated after 1985.

Several important amendments were brought during debate in the Senate including a proposal for effluent charges by Senator William Proxmire (D-Wis.), a proposal to increase assistance to affected small businesses by Senator Gaylord Nelson (D-Wis.), and a proposal to institute state-imposed user fees by Senator Howard Baker (R-Tenn.). The Proxmire amendment, defeated on a voice vote, would have called for a system of effluent charges to be levied on all discharges, other than municipal, which degrade the quality of receiving waters. The revenue realized from these charges would be applied toward assisting the water pollution control programs of states and interstate agencies.

The Nelson amendment, which passed unanimously, provides for loans to small businesses through the Small Business Administration to make additions or alterations in equipment, facilities or methods of operation which would be necessary to meet the requirements of the Water Pollution Act.

The Baker amendment, which was rejected 38–50, sought to make the State share of construction monies recoverable by user fees. Opponents of the amendment, including Senator Muskie, argued:

"If we make loans equally eligible for increased Federal support, why should not States with grant programs wipe out the grant programs, substitute loan programs, and get the increased Federal support? That would impose a penalty upon the municipalities, which would then have to put up that extra 10 percent, and relieve the States of an obligation which they had willingly assumed."

Water pollution fact sheet

1. 29% of the U.S. stream and shoreline miles are now (1971 data) polluted. This is an increase over 1970 water pollution, when 27% of the shoreline miles were polluted (CEQ 1972).
2. One-half the nation's drinking supply systems do not meet federal standards. Eight million Americans (5%) served by community water systems drink water with a bacteria content higher than U.S. Public Health Service limits. (CEQ 1972).
3. 40,000 cases of water-borne illness occur every year in the United States.
4. As of 1968, only 55% of the urban population was receiving adequate waste treatment services (i.e., primary and secondary treatment).
5. 41 million fish were killed by water pollution in 1969 or seven times the number in 1960. (CEQ 1970).
6. Over one-fifth of the nation's shellfish beds have been closed because of pollution (CEQ 1971).
7. The annual commercial harvest of shrimp from coastal areas dropped from over 6.3 million pounds before 1936 to only 10,000 pounds in 1965. (CEQ 1971).
8. 90% of the oil spilled into the earth's waters is not spilled but comes from routine activities or oil tankers, refineries, and gasoline filling stations. (CEQ 1971).
9. Soil erosion is the largest single cause of water pollution, exceeding sewage by 500 to 1,000 times.
10. A 1970 Public Health Service report found that 30% of the nation's drinking water contains potentially hazardous amounts of chemicals.
11. Over 90% of U.S. watershed are more than moderately polluted. (CEQ 1971).
12. 34% of the nation's sewage goes untreated and over half of the existing water treatment plants are overloaded.
13. According to a survey taken by the National League of Cities, U.S. Conference of Mayors, between $33 and $37 billion must be spent from 1970 to 1976 in order to meet the minimum needs for water pollution control (an average of $5–$6 billion per annum).
14. For fiscal years, 1972 through 1974, the administration has proposed spending only $12 billion: $6 billion from federal sources and $6 billion from the cities themselves.
15. During fiscal years 1970 and 1971, the administration only requested half the amounts authorized by Congress for water pollution ($1.2 billion as compared with the $2.2 billion authorized).

SOLID WASTE DISPOSAL

Solid waste disposal, as a political issue, was thought to be completely lifeless three years ago. But, after the national publicity surrounding Earth Day (1970), it took on a popular, grassroots character—due largely to the public's interest in recycling. The following pages, taken from one of the chapters withheld from the CEQ Annual Report and later released, describes in detail the progress of recycling since 1970. The table below summarizes the savings which would result if recycling were implemented on a large scale, and lists the major components of solid waste by material.

POTENTIAL VALUE OF MIXED SOLID WASTE COMPONENTS

Waste component	Estimated quantity in mixed waste (million tons)	Potential value at source (ton)	Potential total value (million)
MATERIALS			
Metals:			
Ferous metals	14.0	$12	$168
Copper	.03	640	19
Aluminum	.9	200	180
Glass	10.0	10	100
Rubber (tires)	3.0	8	24
Paper:			
Newspaper	6.8	18	122
Corrugated	9.5	23	219
Mixed	24.0	5	120
Total			952

Paper

In 1970, the nation consumed 59 million tons of paper products, in more than 100,000 end uses. Waste paper accounted for 10.5 million tons or about 17.8 percent by weight, the remainder being derived almost exclusively from virgin timber sources. Wastes from paper production processes, called mill broke, are generated and reused within the same paper mill. In this study, mill broke is excluded from the recycled category because it never really becomes a waste, nor is there any potential for a change in these circumstances. Recycled paper fibers are primarily conversion wastes which are generated within the paper production or fabrication process but sold to other manufacturers rather than being used internally. The few post-consumer wastes that are recycled generally are recovered not from mixed wastes but from homogenous waste sources such as department and office buildings where they are presorted prior to collection and reuse.

Both the consumption and production of paper have increased rapidly in the last two decades, but recycling as a percentage of total production has been decreasing (see Figure 3). The peak recycling rate was reached in 1944 when 35 percent of paper production came from waste paper. The ratio has declined steadily since then to its present level of about 19 percent.

In the last 15 years the number of products made of virgin fiber has increased about three times as fast as the number of products made of secondary fiber, in part because paper producers have decided to upgrade their products in appearance and purity by using more and more virgin materials. Table 2 summarizes the relative uses wastepaper in the three basic grades of paper products: paper (writing bond, tissue, etc.), paperboard (cardboard and other packaging), and construction paper (wallboard, etc.).

TABLE 2.—RELATIVE USE OF WASTEPAPER

Raw material	Paper		Paperboard		Construction		Total	
	Tons	Percent	Tons	Percent	Tons	Percent	Tons	Percent
Wood pulp	19,136	92.5	15,944	66.5	1,920	59.0	37,000	77
Waste paper	1,354	6.5	8,000	33.4	728	22.4	10,082	21
Other fibers	198	1.0	33	.1	605	18.6	886	1
Total	20,688	100.0	23,977	100.0	3,253	100.0	47,918	100

Source: Midwest Research Institute

The predominant use of waste paper is for production of paperboard, accounting for 80 percent of such use. But in paperboard, market trends indicate a growing shift to virgin pulp use. Table 3 shows the change in market share of paperboard made from waste paper and paperboard made from wood pulp. As the table shows, virgin fiber use became dominant in the 1959 to 1970 period. The output of paperboard using waste barely increased while the output of virgin paperboard more than doubled.

TABLE 3.—USE OF WASTE VERSUS VIRGIN FIBER

	Total paper-board		Paper-board made from waste use		Paperboard made from virgin	
	Tons	Percent	Tons	Percent	Tons	Percent
1959	16.0	100	7.0	44	9.0	56
1969	26.4	100	7.3	28	19.11	72
Percent increased 1959–69	65		5		112	

Source: Midwest Research Institute.

Use of waste paper for paper production accounts for 13 percent and construction accounts for 7 percent of total waste paper use. Neither of these categories hold much potential for increased post-consumer waste use. Construction paper can use large quantities of waste, but it is a small and relatively stagnant market. Paper is a large volume item but only small quantities of waste can typically be used and much of it must be of a higher quality than that which can be derived from post-consumer sources.

These trends will continue as the industry continues to construct vertically integrated paper mills, i.e., located near and exclusively dependent on virgin timber. Because these plants are located in or near forests, transportation costs make waste paper from urban areas uncommercial to use. Waste paper is used predominantly in older, nonintegrated paperboard mills whose economic viability has suffered in recent years and which, ironically, may be most heavily impacted by stringent water pollution regulations.

Hence, the prognosis for use of post-consumer paper wastes is not good. Higher quality and less contaminated wastes increasingly will get first preference by paper mills due to less contamination. Conversion wastes, which now account for 40 percent of total waste paper use, will be preferred increasingly over post-consumer wastes. This suggests that if trends continue or accelerate and if less waste is required, post-consumer waste paper will be most severely affected, and a demand for post-consumer wastes from mixed sources may never develop.

Ferrous metals recovery

The level of waste used in steel production is higher than in paper production. In 1969, the last year for which data is available, 28 million tons of scrap steel (excluding scrap generated in the mill) were consumed in the steel industry and 9 million tons were shipped abroad, for a total of 37 million tons, compared with total U.S. steel production in 1970 of 90 million tons. Of the 37 million tons used, industrial process wastes accounted for 13 million tons and post-consumer scrap, chiefly from automobile bulks and construction steel, for 24 million tons. Almost all post-consumer scrap goes to electric steel furnaces and exports as well as foundries while the basic oxygen furnaces and open hearth furnace rely largely on their own wastes and industrial scrap.

Historically, the steel industry has used a stable level of scrap—about 50 percent of total production. Recent changes in the technology of the industry will affect scrap use patterns. The Basic Oxygen Furnace (BOF) replaced the open hearth furnace, and electric furnaces have become more important.

As the BOF replaced the open hearth, the demand for ferrous scrap decreased because the BOF itself generates most of the scrap it uses while using less scrap in total at the same time. As scrap prices fell, electric furnaces, which use post-consumer scrap almost exclusively became economical. The prices of scrap have since returned to higher levels and the industry is back again in equilibrium. The steel production and scrap use patterns for three primary production processes are shown in Table 5.

TABLE 5.—CHANGES IN STEEL PRODUCTION MIX

Furnace type	Percent of steel production, 1960	Percent of steel production, 1969	Percent of scrap in process
Electric	8.4	14.2	98
BOF	13.3	42.6	29
Open hearth	87.0	42.2	44

Source: Midwest Research Institute.

In total, however, the use of industrial scrap has increased in relation to other scrap sources. In fact, post-consumer scrap as a percentage of total 1 scrap decreased from 29 percent in the 1948–53 period to 24 percent in the 1964–69 period.

Greatly expanding markets for post-consumer scrap probably will not occur in other sectors of the industry either. Although the foundry industry uses 11 million tons of industrial and post-consumer scrap, this segment of the industry is not expanding. There has also been a limited use of steel cans in copper precipitation at copper mines, but this is a very limited market as well.

As in the case of paper, the outlook for increased use of mixed post-consumer waste is not encouraging. The major markets are for high quality scrap that is near transportation and available in large quantities. These criteria favor industrial scrap first and then auto hulks, and demolition debris.

Steel scrap from mixed municipal wastes seldom has any of the above three desirable characteristics. Usually in low concentrations, it must be segregated from garbage, paper, nonferrous metals, plastics, and rubber. Post-consumer scrap usually is low in density and contains many impurities. These impurities can damage the steel furnace and adversely affect the quality of the product.

The future prognosis for all post-consumer steel scrap use is poor. The basic production trends are towards more steel making from furnaces which use less post-consumer steel scrap. If these trends continue, high quality industrial scrap will make up a larger and larger percentage of total scrap use.

Glass recovery

In 1970, the United States consumer 3.0 billion glass containers or about 11.2 million tons of glass. This contrasts with 22.3 billion units or about 6.5 million tons in 1960. The increased uses of the nonreturnable beverage container has been the principal cause of this substantial increase

All segments of the glass manufacturing industry use waste glass known as "cullet" usually derived from internal plant operations. Only about 5 percent of raw materials consumption is waste which is now generated outside the manufacturing plant, and virtually all of this is industrial waste from breakage at bottling plants, not post-consumer wastes.

Although purchased cullet is a highly desirable raw material, it has declined because predictable supplies at prices competitive with raw materials—sand, limestone, and soda ash—have all but disappeared. The few surviving cullet dealers face rising costs and dwindling supplies. The glass industry recently has made a substantial effort to recover containers from post-consumers waste through consumer collection centers such as those operated by aluminum and steel producers. This collection technique holds very little promise, however, to recover a major share of waste glass in the long term because it is unlikely that significant percentages of total solid waste can be collected at these centers.

Rubber recovery

Rubber consumption in 1969 was about 3.2 million tons per year, contrasted with 1.7 million tons in 1960. Tires accounted for about two-thirds of these amounts. During this period, reclaimed rubber production remained steady at about 300,000 tons annually. Hence, rubber reclamation has declined from about 19 percent of consumption in 1958 to about 9 percent of consumption in 1969. Natural and synthetic rubber have greatly reduced the importance of secondary sources of supply.

Plastics recovery

Plastics output has showed spectacular growth in the 1960's, from 3.1 million tons in 1960 to 9.3 million tons in 1970. Consumer products and packaging account for a large share of the increase.

Although there is extensive in-plant recovery of fabrication scrap among the new plastics such as polyethelene and polystyrene, once a produce leave the fabrication plant, there is literally no recovery.

As the plastic industry grew from infancy in the 1950's, there was speculation that a scrap trade would flourish. However, due to the numerous formulations of plastics, there are no generally acceptable methods to economically sort and reuse the waste. Only for a few high value plastics or those which do not need to meet quality control specifications, is recycling currently conducted.

Textiles recovery

The use of textiles increased from 3.9 million tons in 1960 to 5.7 million tons in 1968, during which time synthetic fibers virtually took over the market. About a quarter of a million tons of waste, 4.3 percent of consumption were recovered, usually for other applications, such as high quality paper, wiping rags and stuffings for furniture, etc.

Secondary uses of textiles have declined steadily as synthetic fibers have increased in proportion to wool and cotton. In general, domestic uses for cotton and wool are declining, and export markets have remained static in recent years. Small amounts of textiles are recovered for wool reweaving, but reweaving is declining as synthetics have gained consumer acceptance.

Non-ferrous metals recovery

Aluminum is the principal nonferrous metal found in mixed wastes. The other nonferrous metals—copper, brass, zinc, and lead—occur in minute quantities. Total aluminum shipments in 1969 were 5.4 million tons compared to 2.4 million tons in 1960. Shipments of aluminum containers and packaging increased from 160 thousand tons in 1960 to 600 thousand tons in 1969.

Scrap aluminum has remained about 19 to 23 percent of total aluminum consumption since the 1960's. However, the use of scrap from fabricating operations has increased from 15 percent to 19 percent, while the use of post-consumer scrap has declined from nearly 6 percent to less than 4 percent. Despite the success of consumer waste collection centers, they can recover only a small portion of the rapidly increasing post-consumer waste.

Like most other industries based on virgin raw material use, the aluminum industry is using an ever greater percentage of raw materials derived from ore and internal scrap and these trends are likely to continue.

Summary of trends

The preceding trend analyses indicate that current recycling from post-consumer wastes is limited, and in most cases declining compared to the use of virgin raw materials. Moreover, most of the post-consumer waste that is recovered is from homogeneous waste sources rather than from mixed or contaminated sources. Current trends for the major material components of mixed municipal waste do not indicate any likelihood of significantly increased demand for recovery of post-consumer wastes. In fact, trends in industrial processes and plant locations will probably decrease the economic desirability of post-consumer waste reuse. Unless these trends are reversed or modified, the demand for waste materials will be the limiting factor in recycling of municipal wastes.

Solid waste fact sheet

1. Over 25% (190 million tons) of all residential, commercial and institutional wastes go uncollected. (CEQ 1970).

2. The U.S. consumes 578 pounds of packaging material per person every year. (CEQ 1971)

3. Of the 4.3 billion tons of waste produced in 1969, 2.3 billion was from agriculture, 1.7 billion from mineral activities, .1 billion from industrial activities, and .3 billion (6%) from residential, commercial or institutional sources.

4. 94% of existing land disposal operations and 75% of incinerator facilities are substandard. (HEW and Bureau of Solid Waste Management estimates; CEQ 1970 at 106)

5. 70% of the U.S.'s 500 central incinerators are without adequate air and water pollution control devices.

6. 1.4 million automobiles are abandoned on the nation's roads every year.

50,000 cars are abandoned on the streets of New York City alone every year.

7. In 1969, there were an estimated 4.3 billion tons of solid wastes, 92% of which were from mining and agriculture.

8. The collection and disposal of the approximately 200 million tons of municipal wastes now handled annually was estimated to cost $4.4 billion in 1970. Half of that was paid directly by the municipalities, half by the private sector which passed on the costs to the city or the consumers.

9. If the current annual 4% (by weight) increase in municipal wastes continues as it has for many years, municipal wastes will increase to 810 million tons by 2000—an increase of 225%. Note: municipal wastes increase by 4% while population grows by only 1%/year.

10. Collection=75% of total municipal solid waste management costs.

11. Currently, 90% of municipal solid wastes are disposed in landfills. Of that amount, 90% are disposed of in open dumps where environmental and health problems may occur.

12. Disposal typically costs about 50 cents/tons in these sites. Upgrading an open dump to a sanitary landfill can increase disposal costs to between $1.50 and $3 per ton.

13. 10% of municipal solid wastes are incinerated with the residues disposed of in a dump or landfill. A good incinerator will reduce solid waste volume by up to 90%.

14. Composition of Municipal Waste: (% by weight)

Paper, 36%; Yard Waste, 20%; Food Waste, 18.8%; Glass, 8.5%; Ferrous Metals, 7.6%; Other, ——.

15. The total energy value of typical municipal waste, with excess moisture removed, is approximately 9.1 million Btu's/ton or about 40% of the heat value of an equivalent amount of coal.

16. With respect to recycling of tires, the number of retreads increased from 29.9 million tires in 1958 to 36.5 million in 1969 or about 2.1% annual growth. However, because new tire consumption rose by 68% annually during the same period, tire retreading as a % of total new tire consumption decreased from 27.3% in 1958 to 18.5% in 1969.

17. Less than 20% of the 60 million tons of paper and fiberboard we consume in this country is recycled, although industry has the technical know-how to recycle 40%. This inefficiency is particularly expensive since almost 50% of the cost of solid waste treatment in major urban areas is accounted for by paper. (William L. Ruckelshaus, EPA Administrator).

18. The U.S. annually consumes about 190 million tons of major metals, paper, glass, rubber and textiles. Of this consumption, 143 million tons come from virgin resources; the remaining 48 million tons—about a quarter of the total—are obtained from resource recovery operations. (Ruckelshaus)

19. According to a National Survey of Community Solid Waste Practices published in 1968, only 6% of the Nation's land disposal sites met accepted minimum requirements for sanitary landfill. Some 14,000 communities relied on open dumps, a majority of which were, by design or by accident, open burning.

20. Underfunding of the Resource Recovery Act of 1970 has hampered progress in solid waste disposal. Of the $409 million authorized by Congress over a 3 year period, the government expects to spend only $69 million. Some $220 million of the total was allocated to R & D for improved disposal facilities. But, only $15 million of this amount has been requested by EPA (for FY 72) and none has been budgeted for the current fiscal year.

ENERGY AND ELECTRICITY

What is causing our "energy crisis"? Why, all of a sudden, are we faced with shortages in fuel resources—such as natural gas and petroleum—and with brownouts in our major cities? Is it true that the American consumer is to blame, or are the industrial users causing our escalating demand for energy? Most of these questions have been answered in the energy chapter of the CEQ annual report (1972) which was withheld and later released. It is printed, in part, below:

"Dramatic increases in energy utilization have been experienced in recent years, largely because of even greater increases in industrial productivity. For example, the American mining industry employed 628,000 workers in 1969 as compared to 792,000 in 1955—a decline of 21%. During the same period mineral production rose 42%. This represents a 78% increase in labor productivity in just 15 years, primarily as a result of new mining techniques which rely heavily on the extensive use of energy-intensive mining equipment. Similarly, the manufacturing production index rose from 75 in 1950 to 166 in 1968, while the number of man-hours worked only increased from 23,717 million to 28,287 million—a worker productivity increase of 85%. In agriculture as well, energy consuming machines such as tractors and combines have replaced the horse and scythe causing agricultural productivity to spiral.

This increasing industrial productivity through automation is likely to continue. Capital and energy intensive processes have replaced human labor, partly because energy has been inexpensive compared with wages.

Although industry is the largest consumer of energy, the average person sees energy consumption in the context of his daily living. Changing patterns of energy use in homes has had a direct effect on the growing importance of this sector. In the 1960's annual residential electricity consumption rose by 125% from 200 to 450 billion kilowatt-hours.

Americans heat and cool their ever larger homes with vast amounts of energy, today accounting for a substantial percent of all energy consumption. Not only is residential use increasing, but its form is changing, as more residential users (as well as other sectors) switch to greater electricity consumption. New electric appliances are being continually added to our homes. Only a few years ago, the refrigerators was a luxury to be found in less than 50 percent of American homes. Today, virtually all homes have this necessity and the list of other energy dependent appliances includes washers, dryers, dishwashers, toasters, vacuum cleaners, and lawn mowers, as well as frost-free refrigerators and freezers. The trend is shown below.

TABLE I.—MARKET SATURATION PERCENT OF HOMES WITH APPLIANCE

Type	1960	1970
Electric range	37.3	55.5
Water heater	18.9	31.6
Freezer	23.4	31.2
Air Conditioner	15.1	40.6
Washer	85.4	92.1
Dryer	19.6	44.6
Vacuum cleaner	74.3	92.0
Dish washer	7.1	26.5
Waste disposal	10.5	25.5
Television	89.4	141.2

Source: Statistical Issues of Merchandising Week, EEI.

Continued growth in residential energy demand is virtually assured as the percentage of homes with these appliances continues to rise. Not only can we expect increased utilization of these appliances, perhaps exceeding one in every home for many of today's luxuries, but the size of these appliances is likely to increase and additional energy-intensive components may be added. The 12 cu. ft. refrigerator of the past has now been replaced by 14 cu. ft. and larger frost-free refrigerator-freezers that may consume over 2.5 times more energy than a standard refrigerator. Central air conditioning is superseding single window units. While there may be certain energy economies of scale, the cumulative effect is one of growing energy demands.

As in the case of industrial decisions to use more energy, residential consumer decisions to use more power are certainly influenced by the fact that increased convenience from electric or other energy intensive devices is not very costly.

These trends in the residential sector are, indeed, being exceeded in the commercial sector, where increased use of electricity for all types of appliances is growing without any near term limit in sight. Indoor heated garages, escalators and temperature controlled sports stadiums are all physical indicators of increased energy use in the commercial sector.

Our transportation system, too, has come to rely increasingly on energy. Twenty-five percent of all energy consumed in the Nation is used to transport people and materials. Of this total, 55 percent is consumed by automobiles, and an additional 21 percent is consumed by trucks, while aircraft and railroads consume 8 and 3 percent respectively. The remainder is used by barges, pipelines and miscellaneous equipment.

We are continually demanding greater speed and convenience in transportation systems. As indicated in the table below, energy consumption per passenger-mile traveled rises markedly with increasing speed.

TABLE II—ENERGY PER UNIT OF SERVICE

System	*(Btu/Passenger-mile)*
Bicycle	200
Walking	300
Buses	1,200
Railroads	1,700
Automobile	4,500
Airplanes	9,700

Source: Energy Consumption for Transportation in U.S., Hirst, ORNL, March 1972.

The increasing rates of energy use reflect the change to more convenient modes of transportation, but speed is clearly the cause of much greater energy use.

TABLE III

Type of aircraft	Year	Speed	Energy use (B.t.u.'s per passenger-seat mile
DC–3	1040's	150	2,630
DC–6	1950's	270	3,130
DC–8	1960's	525	4,000
SST	Proposed	1,200	6,250

Source: Hirst, ORNL, March 1972.

In the case of aircraft, the rate of increase in energy use per passenger-mile has been less than the increase in speed. This has been accomplished by enlarging the airplane and achieving economies of scale. A Boeing 747, for example, while 50 mph faster than a DC–8 utilizes only 2000 BTU's per seat-mile as contrasted with 4000 for the DC–8. Nonetheless, we have generally been willing to increase the rate of energy use to reduce travel time.

In every area of transportation there is a growing demand for more energy, and this trend unless counter-efforts are undertaken is likely to continue at an increasing rate. There is no more than one automobile for every two people. The two car family is a way of life for many people, and three and four car families are increasingly common.

The overall trend toward increased per capita consumption of energy occurs in all major economic sectors. While the causes for increased energy demand tend to differ between sectors—and by use within each sector—it is apparent that there are strong forces within our economy that suggest it will continue. Increasing concentration of population in expanding urban areas, increased speed and convenience of travel for people and merchandise, as well as increased use of labor saving devices by all sectors leave little doubt as to future trends in energy use. In large part this growth is fostered by the convenience of electric power, which is likely to become the dominant form of energy use by the Twenty-first Century.

Both total energy use and the increasing dependence on electricity are largely due to electricity's low cost. Because increased convenience or efficiency through the use of more energy is not expensive, homeowners and industry are increasing their consumption. Even with greater energy efficiency and conservation, energy growth will almost certainly increase in the future. Hence, the task of policymakers is to plan for energy supply systems that cause least damage to the environment.

Environmental effects of energy consumption

The following fact sheet describes how the existing systems for extraction, transportation, and combustion of fuel resources intrudes on the total environment. As you will see, energy is perhaps the greatest single cause of environmental degradation in the U.S. today. Data is from CEQ annual report for 1972.

1. The nation now consumes seventy million billion (70 x 10^{15}) BTU's of energy each year.

2. Energy consumption accounts for over 72% of the total air pollution by weight. Transportation emissions from the combustion of fossil fuel derivatives, diesel oil and gasoline, constitute the largest source of pollutants. Next largest are emissions from stationary sources used to heat residential, commercial, and industrial facilities.

3. For sulfur oxides and nitrogen oxides, energy consumption accounts for 76% and 89% of total emissions respectively.

4. While industrial processes rather than energy production account for the major share of BOD (Biological oxygen demand) and other physical and chemical forms of water pollution, the major source of thermal discharges is from electric powerplants.

5. Of the 50 trillion gallons of cooling water used by all industry in the U.S. in 1969, almost 41 trillion gallons, or 81% was used by electric powerplants.

6. Fossil fuel transportation is responsible for over 1,000 oil spills in 1969 alone. Extraction of fuels and ores has polluted about 18,000 miles of streams and 145,000 acres of lakes according to the Department of Interior.

7. Extraction of minerals by surface mining has already affected over three million acres of land, about two-thirds of which needs treatment to restore it to a stable condition. Energy is responsible for 41% of this total.

8. Another nine million acres of land have been undermined by deep coal mines, of which two million acres have subsided. By the year 2000, over 30 million acres may have been adversely affected by mining.

9. Electric utilities now operate 300,000 miles of overhead transmission lines, which use 4 million acres of right-of-way and are projected to require 4.5 million acres of additional land by the year 2000.

10. In 1970, electric power generation from nuclear plants produced about 100,000 gallons of high level radioactive wastes. One million cubic feet of low level radioactive wastes were buried in 1970 and this quantity will triple by 1980.

Economic impact of abatement

The most damaging popular misconception about environmental quality is that it is incompatible with economic prosperity. The following speech, presented by EPA Administrator William L. Ruckelshaus in March, 1972 gives a persuasive refutation of this myth.

At first glance, pollution control looks like a prohibitively expensive proposition. For example, the annual EPA report to Congress on the economics of clean air forecasts expenditures of around 42 billion in the period fiscal 1973–77 just to control air pollution alone. The Council on Environmental Quality estimated that the combined cost to industry and government of air and water clean-up plus better management of solid wastes would amount to around $105 billion between 1970–75. In other words, about one percent of the cumulative gross national product in those years.

As a check on these estimates, a task force of impartial consultants was commissioned by EPA and CEQ to estimate the long-term costs of a major environmental renovation. The panel analyzed eleven major industry groups and found that current pollution control requirements will compel the closing of 200 to 300 plants by the end of 1976. However, none of the eleven will be hurt severely as a whole.

Most of the 12,000 plants now operating will stay in business and be profitable, except for 800 that are expected to close down due to obsolescence or other reasons not connected with the environment. The task force estimates that the overwhelming majority of plants that will close to avoid installation of expensive pollution control equipment would fold up anyway in the period 1976–1980 because they are outmoded and unprofitable.

With regard to employment, 50,000 to 125,000 jobs may be wiped out, many of them in smaller communities where the economic impact will be substantial. However, that amounts to only one to four percent of the workers in the 11 industries—in other terms, about 0.05% (five hundreths of one percent) of the U.S. labor force in 1970.

EPA is now cooperating with the Labor Department to ensure that those who lose their jobs will be retained or relocated if they wish. Federal development loans will be offered to the communities affected.

What about other industries? Will their experience be different? We think not. The task force reached similar conclusions in a broader study of 25 industries representing 80–90% of our national factory output. Existing and anticipated pollution controls would reduce the average annual GNP about 0.6% (sixth tenths of one percent) between 1972 and 1980. Unemployment overall would rise one tenth of one percent, which amounts to 80 to 100,000 jobs.

However, it is possible under optional conditions that the pollution control industry will provide more jobs than are lost in premature shut-downs.

Naturally the foregoing calculations are tentative. Not all industries will be affected in the same way. The magnitude of control expenses depends to a large degree upon the nature of production technique, abatement processes, volume of pollutants, feasibility of waste by-product recovery and the size and location of a given plant.

Some companies have discovered that there is great wealth in what we throw out, burn up and pour down the drain—possibly enough in certain cases to pay for a substantial part of control equipment. The very act of redesigning factory processes to incorporate clean technology opens up opportunities for higher productivity, expanded profits, rising real wages, better products and growing tax revenues.

Dow Chemical's experience offers encouraging evidence that well-managed companies can save money right now by controlling or recovering various effluents. At Midland, Michigan the company is building 28 cooling towers at a cost of $7.2 million to reduce the thermal load on the Tittabawassee River. The towers will more than pay for themselves by reducing corrosion and cutting daily water intake by 100 million gallons.

Indeed, anti-pollution efforts at Midland have saved chemicals worth more than $6 million over the past 3 years. At a Dow plant in Texas, $900,000 put into controls saves $265,000 worth of chemicals every year. Not every anti-polution project results in net savings, but in a highly-competitive industry, Dow's profit margin of 24.5 percent is well above the industry average of 18.7 percent.

It should be noted that companies which find the initial control expenditures too burdensome can often finance their equipment with tax-exempt industrial development revenue bonds.

Finally, in calculating outlays we must not overlook the social and personal savings that will accrue once our air and water are reasonably pure. Air contamination alone may cost this country $16 billion a year in damages to human health, materials, crops and urban vegetation and may rise to $25 billion per annum by 1977. These figures are only approximate. But the AMA estimates that disease induced by the environment as a whole costs $38 billion each year.

The overwhelming majority of the American people, as attested by the polls, believes that a cleaner environment is worth a little inconvenience and temporary expense. I'll admit this sentiment has not really been put to the test. We haven't held the ultimate consumer's feet to the fire long enough. But EPA is betting that the new public awareness is not for sale.

I think the average man and woman will look forward to a world free of smog, roadside litter, and putrid waterways, a world liberated from noise, ugliness, stench and urban decay. And that expectation ought to become outright enthusiasm when they realize that the cash savings alone may total $200 per year per family by 1980.

Considering the total evidence, therefore, I think all this talk about environmentalism ruining the economy is just nonsense. We are going to get back much more than we pay out. Far from retarding progress an ecological sensibility, carried to its logical conclusion, will guarantee the good life indefinitely.

WHY WE NEED A $240 BILLION CEILING NOW

Mr. PROXMIRE. Mr. President, can we bring Federal spending under control? Mr. President, that is a very serious question. In my view spending has gotten out of control when our Federal spending, even if we hold it at the President's proposed ceiling this year, will exceed revenues at full employment levels by a whopping and highly inflationary $10 billion. The deficit will probably be $30 billion or more, and it is a shame. But the full-employment deficit is an economic crime.

This is why I intend to introduce an amendment to the debt-limit bill to limit spending to $240 billion. Even that sum is far too high in my judgment, but it will represent an effort by the Congress to hold the level of spending to a less inflationary level, and it will require the administration as well as the Congress to exert some discipline in cutting down the immense new expenditures that the administration has asked for and that this Congress has provided.

Today's Wall Street Journal carries an excellent article by one of the Nation's most distinguished economists, Dr. Paul McCracken, a man who served the Nixon administration as Chairman of the Council of Economic Advisers until a few months ago and served with great distinction.

Dr. McCracken calls attention to the dismal performance of the Federal Government in the past 8 years. He shows that the failure to hold Government spending under control has become international, that Germany and Japan have also been plagued with an inability to use their fiscal policy to secure price stability and economic growth. Our performance has probably been the worst and Dr. McCracken's analysis and his suggestions are well worth congressional consideration.

For these reasons I ask unanimous consent that the article by Dr. McCracken, who is now the Edmund Ezra Day University professor of business administration at the University of Michigan, be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CAN FISCAL POLICY BE CONTROLLED?

(By Paul W. McCracken)

Is it possible that modern governments cannot manage fiscal policy? Only a few years ago to raise such a question would be to mark one as a troglodyte, a hair shirt who had not yet discovered that the thing to do with budgets was not necessarily to balance them but to manage them in ways that would produce the right economic conditions. That might call for a surplus, or a balance or a deficit. It would all depend.

Why the new skepticism?

It is not all home grown. Part of it grows out of international experience. In the early part of last year, for example, Germany was concerned about inflationary pressures on her economy. The concern was understandable. The German price level was rising at the rate of over 6% per year. This was about our rate at its worst in 1969, and it was particularly unacceptable to an inflation-conscious country like Germany. The fiscal prescription for this problem was obviously to limit spending and run a good strong budget surplus. The fiscal program that actually unfolded involved deficits and expenditures which rose 12% in 1971. Fiscal restraint, never popular politically, apparently looked particularly unattractive to the government with its thin parliamentary majority. A tough monetary policy was, therefore, deployed, but this drove interest rates above world levels and attracted a flow of funds into the country which aggravated the international monetary problems of that period.

It might be assumed that modern fiscal policy could at least be worked in the expansionist direction. Yet Japan has had its problems putting in place a sufficiently easy fiscal policy. Their sluggish domestic economy has had more slack than ours. This has, of course, produced sluggish imports, a large trade surplus, and emergent pressure for another upward revaluation of the yen (something which they very much want to avoid). Moreover, Japan needs to spend more on social facilities to bring them more into line with those needed by an advanced and high-income nation. Yet the required degree of fiscal expansion never really has been put in place.

A look over the world economy during recent years, in short, produces a picture of economic conditions which called for fiscal policies that the political process did not, and presumably could not, provide.

It is when we examine our fiscal problems at home, however, that doubts about how maneuverable fiscal policy really is have begun to emerge. Before we dismiss Japan's difficulty in achieving a sufficiently expansive fiscal policy as a special case, we should recall our own major excursion into tax reduction almost a decade ago. President Kennedy recommended tax reduction in January 1963, and indicated earlier that he would do so, but the actual tax reduction could not be achieved until March 1964.

RISING PUBLIC OUTLAYS

The real problem for modern fiscal policy, however, is the relentless rise in public outlays. The magnitudes are impressive. In 1965 the economy regained reasonably full employment. Yet from 1965 to 1968 the rise in federal, state, and local outlays (on a national accounts basis) was equal to almost 57% of the rise in national income, and the figure for the period 1968 to 1972 (first quarter) was almost 48%. With roughly half of the increase in national income absorbed by rising government outlays, the groundswell of public concern about taxes becomes understandable. Somehow our expenditure decision-making process has been giving us a larger rise in outlays than people are ready to pay for. The result is a trend that will carry expenditures for this fiscal year at least $10 billion beyond revenues that the tax system would produce at reasonably full employment.

Part of the problem is that to a growing extent federal outlays reflect permanent programs with yearly increases built in. They are thus uncontrollable in the literal sense unless legislation is changed. Social Security, agriculture, welfare—these are programs whose aggregate outlays will be determined by specified benefit levels and the number of eligible recipients. We thus have outlays on a path that is rising more rapidly than the increment of revenues that on-going economic growth will provide from any given tax system. The fiscal dividend of the 1960s has been replaced by the fiscal mortgage of the 1970s. If outlays continue to rise this rapidly, periodic increases in tax rates or new taxes will be required, something that the political process will not find it easy to deliver.

The problem has many roots, but a major one is the "new" fiscal policy itself. In retrospect it seems clear that the "new" fiscal policy threw a baby out with bath water—namely, the idea of fiscal discipline. The old always-balanced budget philosophy did seem at times to call for perverse actions, such as increased taxes or slashed spending in recessions, but it did impose a discipline. It, in principle, required that governments couple with the delectabilities of spending the distasteful task of raising taxes. Thereby a rough cost-benefit equilibrium was achieved.

It was achieved intellectually, and it worked surprisingly well practically. Up to the Great Depression the budget had a surplus in two nonwar years out of three, while in the postwar period there have been deficits in two out of three years. "Marriage is popular," observed George Bernard Shaw, "because it combines the maximum of temptation with the maximum of opportunity." Something like this seems to have characterized the actual workings of modern fiscal policy. Having been told that there are times when the budget ought not to be balanced, the political process finds it tempting to assume that "now" is one of those times. And the always-balanced principle has metamorphosed into a never-balanced budget.

If modern fiscal policy is ever to live up to its potential, the concept of fiscal discipline must regain a central position in budget policy.

The President put forward a helpful concept with the idea that outlays should not exceed the revenues the tax system would generate at reasonably full employment. This would enable the budget to be expansive during a period of sluggish economic conditions, but it would assure that the budget would come back into equilibrium, with revenues covering outlays, when no further economic stimulus was needed.

CONGRESS IS THE KEY

The key to regaining a greater sense of fiscal discipline is in the Congress. Present congressional procedures do a reasonably effective job of screening the merits of individual requests for money. In that sense the budget problem is not waste and foolish spending. What one person considers "waste" or "unessential spending" is, of course, another's high-priority program. The problem is that the aggregate of individually meritorious programs will always exceed any viable total. In that important sense the federal government's budget problem *is* similar to that of a family or a business. There are other respects in which it is different, but economists have been so preoccupied with the differences that this important parallel has been overlooked.

Good budgetry, therefore, requires a procedure for deciding not only whether each proposed outlay is good but whether it is good enough to be included within some viable limit or total. This is the missing element in the congressional process. Without it the whole process has a bias toward larger spending than the citizenry will want—want in the only meaningful sense of what it is willing to forego in the way of private spending for these public programs.

The Appropriations Committees have made a small beginning by initial hearings on the budget as a whole. This is a good start. It should develop further into some meaningful actions about each year's budget as a whole.

What is essential is some procedure by which the Congress itself will decide what total outlays should be, and by which Congress also explicitly accepts responsibility for the aggregate expenditures which are the result of their individual program decisions. The initial congressional overview of the whole budget might be extended to include a total within which individual program decisions would have to fit (though early postwar attempts along this line were quickly dropped). Individual appropriations bills could be held until all are passed in order to see what the results would be for total outlays, with perhaps an amendatory bill to keep the total within a viable limit.

Whether modern fiscal policy can yet become a powerful tool for economic adjustment, or whether it must remain a theoretical idea with little substance in reality and largely immobilized by a relentlessly rising outlay trend, is going to depend heavily on whether a greater degree of fiscal discipline can be injected into the budgetary process. Because fiscal policy has substantial potential for domestic economic management and for harmonizing divergent national objectives in the world economy, it is important that the budgetary process be subjected to this greater sense of discipline.

On this both the "new" fiscalists and the "old" budget balancers have common ground.

RAILROAD LAND HOLDINGS

Mr. HARRIS. Mr. President, on August 30, 12 other Members of Congress joined with me in a request to the Secretary of the Interior that he report to Congress immediately concerning nineteenth century grants of Federal lands to certain railroad companies.

The action comes as a result of an administrative complaint filed with the Interior Department by the National Coalition for Land Reform and the California Coalition of Migrant and Seasonal Farmworkers.

We wrote to Interior Secretary Rogers Morton:

> As we understand it, the administrative complaint alleges that a number of western railroads have a continuing obligation to comply with certain conditions imposed upon them by the terms of statutes granting land to the railroads to finance construction of new lines and there is evidence that the railroads are violating some of these conditions.

Together with Representative Robert Kastenmeier, Democrat, Wisconsin, and me, the group included Democratic Senators Gaylord Nelson, Wisconsin, and Edward Kennedy, Massachusetts, and Democratic Congressmen James Abourezk, South Dakota, Phillip Burton, Ronald Dellums, Don Edwards, and Jerome Waldie, California, Bob Eckhardt, Texas, William F. Ryan, New York, John F. Seiberling, Ohio, and Republican Congressman Paul McCloskey of California.

The U.S. Government granted approximately 8 percent of its total land area to the railroads to finance rail construction in the West during the 19th century. The original grants provided that the railroads could obtain title to land extending 20 miles on either side of the proposed tracks. Once 20 miles of tracks were completed, the railroad could sell or mortgage the land to finance further construction.

Under the terms of the contracts, the land was to be sold at $2.50 per acre as an aid in transferring public lands to settlers. If the railroads failed to build a proposed line, the land was to be sold in 160-acre homesteads after 3 years.

We know that the railroads still hold title to a great deal of land which they received under the original grants. The Southern Pacific Railroad alone holds 2.4 million acres in California.

We are concerned that the Secretary of the Interior fulfill his duty in making sure that the original conditions under which the lands were granted have been met.

Among the questions asked of Secretary Morton were that he provide maps of each land grant or successor railroad showing the land-grant land presently held and specifying for each the amount of land being used for agricultural purposes, the harvesting of timber and the extracting of minerals, and the yearly income derived from all of those industries on land-grant land.

Mr. President, I ask unanimous consent that a copy of our letter and questions to Secretary Morton, as well as a copy of the administrative complaint filed by the National Coalition for Land Reform, and the California Coalition of Migrant and Seasonal Farmworkers, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., August 30, 1972.

Hon. Rogers C. B. Morton,
Secretary of the Interior,
U.S. Department of the Interior,
Washington, D.C.

Dear Mr. Secretary: An administrative complaint filed with you by the National Coalition for Land Reform and the California Coalition of Migrant and Seasonal Farmworkers has come to our attention. As we understand it, the complaint alleges that a number of western railroads have a continuing obligation to comply with certain conditions imposed upon them by the terms of statutes granting land to the railroads to finance construction of new lines, that there is evidence that the railroads are violating some of those conditions, and that the Secretary of the Interior has a duty to, among other things, report to Congress concerning compliance with those conditions by the railroads or their successors.

To assist us in determining Congress's responsibilities with regard to lands granted railroads and subject to conditions, we would appreciate your supplying the information requested below. It should be noted that our inquiry is directed solely to lands granted to finance construction and that we are not seeking responses with respect to right-of-way grants.

In many cases, one of the various predecessor agencies of the Department of the Interior may have had duties and performed functions in respect of railroad land grants. Similarly, many of the railroads named as grantees in the granting statutes have been merged into or acquired by presently existing railroad companies. For clarity, we have used the Department of the Interior to represent all of the relevant predecessors and successors and we ask that the attached list of questions be read and answered accordingly.

We recognize that some of the questions are susceptible of being answered more promptly than others. We would ask, however, that you not withhold your response until you are prepared to answer all questions fully, but rather that you respond immediately to those which do not require substantial and time-consuming factual research and respond to others as quickly as is feasible.

We all regard this as a matter of considerable significance and urgently and look forward to receiving your responses as quickly as possible.

Very truly yours,
Fred R. Harris,
Edward M. Kennedy,
Gaylord Nelson,
U.S. Senators.
Robert W. Kastenmeier,
James Abourezk,
Phillip Burton,
Ronald V. Dellums,
Bob Eckhardt,
Don Edwards,
Paul N. McCloskey, Jr.,
William F. Ryan,
John F. Seiberling,
Jerome R. Waldie,
Members of Congress.

RE RAILROAD LAND GRANTS

(Requested Information From: Hon. Rogers C. B. Morton, Secretary of the Interior and U.S. Department of the Interior)

1. For each land grant railroad or its successor, enumerate all federal statutes, Congressional Resolutions and other Acts of Congress, including the granting statutes themselves, which have any bearing, direct or indirect, upon the disposition or use of land so granted or upon the obligation of any grantee railroad or its successor in interest to comply with conditions specified in any granting statutes.

2. For each land grant railroad or its successor, set forth the following:

(a) The total acreage of land withdrawn;

(b) The total acreage of any and all adjustments (selection of "in lieu" lands) made with respect to withdrawn lands;

(c) The total acreage covered by any and all patents issued to railroads;

(d) The total acreage of any and all forfeitures of lands and the reasons for such forfeitures;

(e) The total acreage of patented lands presently held; and

(f) Any land grant conditions, the performance of which were excused by statutes, regulations, agreements, understandings, opinions or otherwise.

3. Provide a map of each land grant railroad and/or its successor showing the land grant land presently held by each, and for each such railroad specify:

(a) Grant lands presently being used for agricultural purposes or potentially usable for such purposes;

(b) Grant lands as to which the United States has reserved mineral rights;

(c) Grant lands on which railroads are harvesting timber and the yearly income derived therefrom;

(d) Grant lands from which the railroads are presently extracting minerals and the yearly income derived therefrom.

4. Enumerate all sales of land grant land by grantee railroads or their successors since 1920, indicating with respect to each railroad:

(a) The price per acre received by the railroad;

(b) The size of each parcel sold;

(c) The purchaser;

(d) The character of the land sold (agricultural, timber, commercial, industrial, residential, non-arable, etc.); and

(e) Whether mineral or other surface or subsurface extraction or harvesting rights were retained and reserved by the selling railroad and, if so, the yearly income derived from such retained or reserved rights by the railroad.

5. State the opinion of the Department of the Interior as to whether grantee railroads or their successors have a present and continuing duty to comply with conditions in land grant statutes and set forth in detail the reasons for your opinion.

6. With respect to the Transportation Act of 1940, indicate:

(a) Whether, in the opinion of the Department, the Act had any effect upon the obligations of grantee railroads or their successors to comply with grant conditions, and, if so, what that effect was.

(b) The specific claims relinquished by grantee railroads pursuant to the Act.

(c) The present status of land, claims to which were relinquished by the railroads pursuant to the Act.

(d) Any unpatented lands still held by the railroads.

7. What effect did the Transportation Act of 1945 have upon the obligation of land grant railroads or their successors to comply with land grant conditions?

8. If there are any Acts of Congress subsequent to 1945 which have been interpreted to affect obligations to comply with land grant conditions, enumerate those Acts and describe their effect.

9. State whether, in the Department's view, grantee railroads or their successors may harvest timber or extract minerals from patented or unpatented lands, mineral or other rights to which were reserved to the United States in the granting statutes.

10. Set forth or attach copies of all correspondence, agreements or memoranda between the Department or its predecessors and any grantee or its successor which had an impact upon any grantee's obligation to comply with grant conditions.

11. Specify any and all procedures employed by the Department of the Interior for monitoring the status of railroad land grant lands.

12. Enumerate and attach copies of all reports made by the Department or its predecessors to Congress or any agency of the United States Government annually or otherwise with respect to railroad land grants generally or compliance with land grant conditions specifically.

13. For any year after 1916 for which no such report has been made to Congress regarding the status of railroad land grants generally or grant conditions specifically, state the reasons why such report(s) has (have) not been made.

14. Enumerate and attach copies of all reports made from 1950 to date to the Department of the Interior and any other federal agencies by any railroads regarding or touching upon disposition and use of railroad grant lands.

15. Enumerate any studies by Commissions, organizations, or agencies other than the Department of the Interior which bear upon the obligations of the railroads with regard to compliance upon land grant conditions.

16. Set forth the duties of the Department of the Interior and its procedures with respect to railroad land grants, indicating, among other relevant facts, specifically how it has in the past and presently discharges its duty to:

(a) ". . . adjust, in accordance with decisions of the United States Supreme Court, each of the railroad land grants made by Congress to aid in the construction of the railroads and heretofore unadjusted," 43 U.S.C. 894;

(b) Supervise the administration of public lands and the sale and issuance of patents for such lands, 43 U.S.C. 2; and

(c) Seek return of railroad grant lands that have been erroneously certified or patented, 43 U.S.C. 895.

17. Set forth, or attach copies of the following documents bearing upon the discharge by the Department of its duties and responsibilities with respect to railroad land grants.

(a) All Department Solicitor's opinions;

(b) All interpretations; and

(c) All internal guidelines.

U.S. DEPARTMENT OF THE INTERIOR—ADMINISTRATIVE COMPLAINT

NATIONAL COALITION FOR LAND REFORM, CALIFORNIA COALITION OF SEASONAL AND MIGRANT FARM WORKERS, V. ROGERS C. B. MORTON, INDIVIDUALLY AND AS SECRETARY OF THE INTERIOR, AND THE UNITED STATES DEPARTMENT OF THE INTERIOR

I. INTRODUCTION: BACKGROUND OF THE COMPLAINT

During the third quarter of the 19th century, the Congress of the United States gave the American railroads an empire of approximately 150 million acres of public land, almost eight percent of the total land area of the United States. The purpose of this land grant scheme was two-fold: first, to finance construction of new lines, and second, to encourage purchase and settlement of the granted lands by small farmers. To implement these goals many grants of public land were subject to forfeiture if the line was not completed within a specified period. Others contained a further condition obligating the railroads to sell off the land in family farm size parcels at no more than $2.50 per acre. The granting statutes thus adopted a carrot-and-stick approach. The carrot was the land, which the grantee railroads were free to sell or mortgage in accordance with maximum size and price limitations such as those described above. The stick was the threat of forfeiture of the granted lands if the railroads failed to build the new lines.

The first objective of the railroad land grants, construction of a transcontinental rail network, was largely fulfilled. The second objective—small farmer settlement—has not been fully accomplished, particularly in the far western states, for the Pacific railroads continue to hold millions of acres in fertile farm and forest land, as well as land on which mineral rights are now being exploited commercially. From their initial investigation Petitioners feel some or all of these lands may be held and exploited in violation of the original grant conditions.

Late in the Nineteenth Century, Congressional investigations uncovered numerous instances of non-compliance with grant conditions, claims to lands in excess of those granted and claims for patents based on false affidavits that railroad rights of way had been constructed. As a result Congress took back 28 million acres of railroad lands and imposed upon the Secretary of the Interior a duty to investigate the railroad land grants and to report to Congress the extent to which railroads may be in default of the forfeiture and sale requirements. 43 U.S.C.A. §§ 2, 894, 895.

The law continues to impose that duty on the Secretary of the Interior, and Petitioners seek to require the Secretary of the Interior to perform that duty. To properly discharge that duty he should ascertain the extent of nonconformity with original grant conditions and report to Congress so that it or the Attorney General might take action to:

(1) impose a trust on the land to assure its use in conformity with the original grant conditions,

(2) return the land to the public domain,

(3) seek an accounting for profits derived from use of the land in a manner violative of the terms of such grant conditions, or

(4) forgive the defaults.

II. PETITIONERS

Petitioners are organizations and coalitions of organizations concerned about the effects that large, corporate, land holding patterns are having on the farm worker and small farmer in rural areas. Time and again they have observed the lessons of Walter Goldschmidt's 1946 study, *Small Business and the Community,* known as the Arvin-Dinuba study. The report showed that rural areas dominated by large corporations have large welfare rolls, poor schools, and all manner of social and econmoic problems, while rural areas characterized by small farmer operations have strong civic organizations, have better schools, are better maintained, and have less unemployment.

The National Coalition for Land Reform is a nonprofit corporation with membership consisting of citizens and organizations from all sections of the country, who recognize the need for a more equitable distribution of land in rural America. The Coalition disseminates information on the need for land reform, is studying the effects of large land holding patterns on the vitality of rural life, and advocates legislation which it feels will benefit small farmers or farm workers who wish to become farmers.

The California Coalition of Seasonal and Migrant Farm Workers is an organization of groups trying to meet the needs of farm workers in todays changing agricultural industry. In addition to running a number of educational programs for farm workers, these organizations place a high priority on projects which will directly improve the economic position of the rural poor. A number of the groups are assisting farm workers who want to organize themselves into agricultural cooperatives.

III. HISTORY OF THE LAND-GRANT SCHEME

A. The land grant procedure

Beginning in about 1860, transcontinental railroad promoters began a vigorous lobbying effort to generate some form of public financing for railroad construction. Out of this came one of the most ambitious private commercial ventures ever to be financed with public treasure: the construction of railroads linking the Eastern seaboard with the Pacific coast. Relatively little in the way of federal public money was injected directly. Instead, an elaborate scheme of land grants was authorized through a series of statutes.

Two grant procedures were employed. By the first, thirty-seven million acres of public lands were granted to states which in turn sold lands to settlers to finance railroad construction costs.

The second procedure, by far the most prevalent, and the one which Petitioners believe demands the closest possible scrutiny, resulted in the granting of over one hundred twenty million acres of public land directly to the railroads. Under this procedure once the grantee railroad had charted its route, it then reserved alternate sections[1] in a checkerboard pattern along the entire planned right of way. In the event that for some reason one or more sections abutting the right of way was unavailable (i.e., it was already occupied), the roalroad could choose another section in lieu of the occupied one, within twenty miles of either side of the right of way. When construction of a specified portion of the line was completed, the United States Public Land Office, at the request of the railroad, would issue a patent to the selected sections. The railroad would then either sell or mortgage those patented lands to finance further construction.

B. Grant conditions

Many of the grants were subject to a critical condition: in the event that the railroad line for which the grant was made was not completed all lands granted to finance its construction were to be forfeited to the United States. In addition, many of the largest grants contained a further critical condition requiring that patented lands be sold to settlers at a price not to exceed, in some cases, $1.25 per acre and, in other cases, $2.50 per acre. Three of the largest grants, in the most unequivocal terms, set forth the sale requirement as follows:

"*all such lands so granted* by this section, which shall *not be sold or disposed of* by said company *within three years after the entire road shall be completed, shall be subject to settlement and preemption,* like other lands, *at a price not exceeding one dollar and twenty-five cents per acre, to be paid to said company.*" (emphasis added) [12 Stat. 489, § 3 (Union and Central Pacific); 16 Stat. 47, § 1 (Oregon nad California subsidiary of the Central Pacific); 16 Stat. 573, § 9 (Texas Pacific).]

What the granting acts contemplated was a scheme that would both encourage construction of the railroads and prevent those same railroads from holding in perpetuity land area equal in size to the states of Florida and California combined.

The limited nature of the railroads' interest in the land was best stated by the United States Supreme Court in its landmark opinion in *Oregon and California R. Co. v. U.S.,* 243 U.S. 549 (1917). The Court said that once the railroad lines were completed *"the interest that the granting acts conferred upon the railroad was $2.50 per acre,"* and the rights to sell at that price were nothing more than "aides to the *duty of transmitting the land to settlers.*" (emphasis added) (243 U.S. at 559–560).

C. *The turn of the century: Multiple instances of intentional noncompliance*

In the late Nineteenth and early Twentieth Centuries, innumerable frauds, mistakes and violations of the terms of the land grant covenants by the railroads were disclosed by periodic inquiries and investigations.

Before 1890, Congress had adopted 15 special forfeiture acts causing over 25 million acres to revert to the public domain because railroads failed to complete rights of way or in some cases even to begin them. Nevertheless, government studies disclosed that the special forfeiture acts returned at best only one half the public land which could have reverted to the public due to railroad defaults. (Report of the Commissioner of the General Land Office, 1885).

In 1890, Congress declared a general forfeiture of all lands granted for the construction of lines which were not yet completed and in violation of their completion date. [21 Stat. 496]. Under the act the lands were to be restored to the public domain. [21 Stat. 496 § 1].

Several of the most flagrant instances of fraudulent patenting of public lands by railroads are memorialized in reports of lawsuits commenced by the Justice Department against the railroads to nullify the patents and recoup the land.

Perhaps the most extensive litigation was the *Oregon and California* case, supra, which found its way to the Supreme Court not once but twice. The litigation centered on over two million acres of land granted to a subsidiary of the Southern Pacific Railroad. The Court found that some of that land had been disposed of by the railroad in parcels larger than the 160 acre parcels authorized in the grant and at a price substantially in excess of the $1.25 mandated by the grant. In the first *Oregon and California* case, (238 U.S. 393 (1915) the Court forthrightly stated the purpose of the grant scheme was to restrict the sale of the granted lands to actual settlers. (238 U S. 561). Finding that the railroad had violated the grant terms, the Court states:

"By the conduct of the railroad company, the policy of the granting acts [to encourage small holder settlement] have become impractical of performance . . . inviting more to speculation than to settlement." (243 U.S. at 560).

The railroad also maintained that since it had the power to mortgage the land, that same land could be sold on foreclosure free of maximum size and price grant conditions. The implication of this argument was that financing arrangements could be engineered to "wash" the grant lands of restrictions imposed by the grants. The Supreme Court in a statement obviously intended to apply generally to the railroads' conduct in respect of these grants, rejected that suggestion, stating that its effect would be:

"To declare that covenants violated are the same as covenants performed, wrongs done the same as rights exercised and, by confounding these essential distinctions give to the transgression of the law what its observances alone are entitled to." (243 U.S. at 562).

Most significant, perhaps, for the present day is the Court's declaration that the railroad had no right to harvest timber or extract minerals from grant lands but rather held such lands solely "for the purpose of transmission of actual settlers" at the price established in the granting statutes. (243 U.S. at 561).

In another case, concerning these timber and mineral rights, the Southern Pacific Railroad obtained patents to known oil lands although the grant to it has expressly prohibited it from receiving mineral lands. Evidence at the trial established that the Southern Pacific's land agent was aware of the oil bearing potential of the land but had been advised by his superior to file false affidavits claiming that the land was strictly agricultural and disclaiming mineral values. The Supreme Court found that the lands had been fraudulently obtained and cancelled the patents. *U.S. v. Southern Pacific R. Co.,* 251 U.S. 1 (1919). A similar result was reached in *U.S. v. Central Pacific R. Co.,* 84 Fed. 218 (D.C.N.D. Cal. (1898). The facts here were almost identical with the 1919 Southern Pacific case, except that here the Court held that purchasers of the mineral lands from the railroad has constructive notice of the invalidity of the railroad's patent and thus had no better title than the railroad. In still another case, the resale by a railroad of grant lands subject to acreage and sale price limitations to speculators through an intermediary was invalid and all subsequent purchasers were charged with knowledge of the conditions of the grant. *Southern Oregon R. Co. v. U.S.,* 241 Fed. 16 (9th Cir. 1917)).

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[1] A section is a surveying unit of land. It consists of 640 acres or one square mile.

D. *A more recent attempt by Congress to recoup railroad lands*

Notwithstanding the General Forfeiture Act and court cases, in 1939, having sold or forfeited approximately 90% of the 131 million acres granted, the Pacific Railroads still held an estimated 15 million acres. By that time Congress recognized the need for a more comprehensive scheme of regulation, and enacted the Transportation Act of 1940, in which the government gave up its right to reduced rates, and the railroads, in return, relinquished claims to grant lands. (54 Stat. 898 at 954 § 321 and 326.)

The legislative history of the Transportation Act of 1940 indicates that the United States agreed to pay "full applicable commercial rates" to railroads relinquishing a preferential rate except for military transport.[2] In return, the railroads released:

"... claims against the United States to lands, interests in lands, compensation or reimbursements on account of lands, or interests in lands which had been granted, or which it was claimed should have been granted to such carrier, under any grant from the United States." (House Committee Miscellaneous Reports II, April 26, 1940, Conference Report Accompanying § 2009, 76 Cong. 3rd Sess. HR Report H2016 at 87.)

Similarly, the committee hearings on the bill confirm the purpose of the section to obtain the return to the public domain of the remaining unpatented or undisputed acreage held by the railroads.[3]

Although Congress again attempted to recover some of the railroad grant lands, the results were less than Congress intended.

IV. EVIDENCE OF POSSIBLE CURRENT BREACHES OF LAND GRANT CONDITIONS

Notwithstanding the terms of the original grants and the language of the General Forfeiture Act of 1890, and court cases and the 1940 Transportation Act, several Pacific Railroads continue to hold and use vast tracts of land in possible excess of their rights.

Prior to the 1940 Transportation Act the railroads held at least 15 million acres under the land grants. According to the Interior Department, the implementation of the reversion provision returned 8 million acres to the public domain. Yet land statistics indicate that in fact the railroads, at least the largest landowner, the Southern Pacific, possibly never returned a large block of the land. In 1939, prior to the Transportation Act, the Southern Pacific had 3,895,000 patented acres. By 1941 the Southern Pacific claimed to have 8 million patented acres. In 1971 after the ostensible reversion to the United States of the remaining land grants, the Southern Pacific still had 3,845,000 acres, much of which still appeared to be subject to the sale requirements of the land grant. It can be concluded from these comparative data that some of the unpatented land claimed by the Southern Pacific was not recouped by the United States, although the 1940 Transportation Act required the reversion of unpatented land. Analysis of more exact data in Interior Department records should cast further light on this question. The following facts about some of that land raise questions of sufficient magnitude to warrant an investigation by the Department of the Interior of all grant lands presently held by railroads.

(1) The Central and Western Pacific Companies, subsidiaries of the Southern Pacific Companies, hold lands between San Francisco and Tahoe in California pursuant to a federal Pacific Railroad land grant. [12 Stat. 489, § 9; 13 Stat. 504 § 2.] The land held is explicity subject to the size and price limitation of the granting legislation. [12 Stat. 489, § 9.] Those conditions require that:

"... All such lands so granted by this section, which shall not be sold or disposed of by said company within three years after the entire road shall have been completed, shall be subject to settlement and preemption, like other lands, at a price not exceeding one dollar and twenty-five cents per acre, to be paid to said company." 12 Stat. 489 § 3.

The rail line referred to in the condition was completed before 1900. Therefore, in light of the land management condition of the grant, the remaining land should have been, but was not, made available for homestead purposes.

(2) In 1970, the Southern Pacific earned 24 million dollars from timber and agricultural leases on some of its 3,845,000 acres of real estate holdings, as well as from mineral rights reservations on an additional 1.3 million acres. In *Oregon and California, supra*, the Supreme Court specifically rejected the railroad's claims that it could legally exploit the land commercially. 243 U.S. at 561 (1917). The following chart, reprinted from the statistical supplement to the 1970 Southern Pacific Company, in summarizing its land operations, suggest that this Supreme Court holding is currently being violated.

Acres of outlying lands owned and managed for continued income and other land not used for railroad or related purposes:

California	2,042,651.96
Nevada	1,582,303.46
Oregon	21,516.60
Texas	7,216.83
Utah	180,943.90
Other states	11,336.18
Total	3,845,968.93

Acres in which rights to oil, gas, and other minerals have been reserved in lands previously sold:

California	58,960.16
Nevada	1,053,788.55
Oregon	3,265.09
Texas	126,741.84
Utah	83,690.32
Other states	8,295.24
Total	1,334.741.20

Gross income from natural resources and rentals of land and structures for industrial and other commercial purposes; and such income from real estate held for operating and related purposes:

Oil and gas leases	$2,780,382
Agricultural leases	2,624,747
Grazing leases	155,030
Timber stumpage sales	2,557,873
Mining leases	408,143
Miscellaneous	213,198
Gross income from natural resources	8,739,373
Industrial and other commercial rentals	15,418,151
Total	$24,157,524
Receipts during the year—outlying lands, cash sales of land	$3,174,083

Annual Report, 1970, Southern Pacific Co., p. 6.

Current operations include development and construction of industrial and commercial parks, land packaging and sales and the creation of mobile home communities. Plans are also under way to develop the geothermal fields under Southern Pacific lands in the Imperial Valley as well.

The above examples suggest that railroads are currently holding grant lands which their original grants required them to sell to the public subject to maximum size and price limitations or forbid them to exploit commercially as they now appear to be doing. Such illegal uses support nullification of patents and return of the land to the public domain, as well as a careful investigation of the propriety of demanding an accounting for profits which rightfully belong to the United States.

V. THE PASSAGE OF TIME DOES NOT EXCUSE LAND GRANT VIOLATIONS

Nowhere in the statutory or case authority is there any support for the argument that the federal government intended to forgive breaches of grant conditions merely because of the passage of time. The *Oregon and California* case, *supra*, was unmistakably clear on this issue. The lawsuit, filed originally in 1908, challenged patents issued as early as 1871 on the grounds, among other things, that the railroad had refused to sell the land to settlers in amounts of 160 acres or less for no more than $2.50 per acre. The Court rejected claims that the passage of 37 years affected the rights of the railroad, holding that:

"... the acts of Congress are laws as well as grants, and have the constancy of laws as well as their command, and are operative and obligatory until repealed. This comment applies to and answers all other contentions of the railroad company based on waiver, acquiescence, and estoppel, and even to the defenses of laches and the statute of limitations." 238 U.S. at 427.

For other suits denying the statute of limitations or laches as a bar to forfeiture proceedings, see also *U.S. v. Whited & Wheless*, 246 U.S. 552 (1918); *U.S. v. Southern Pacific*, 251 U.S. 1 (1919); *U.S. v. Northern Pacific R. Co.*, 311 U.S. 317, 358 (1940); *Southern Oregon Co. v. U.S.*, 241 Fed. 16 (9th Cir. (1917)).

VI. THE DUTY OF THE SECRETARY OF THE INTERIOR

The Secretary of the Interior, or the officer who exercised his functions with respect to land grants prior to the creation of the Department of the Interior, has since 1875 been obligated to review railroad land grant compliance. 43 U.S.C. Section 2. Section 894 of Title 43 U.S.C. requires the Secretary to make adjustments of railroad grant lands in conformity with Supreme Court decisions. Section 895 of Title 43 U.S.C. requires the Secretary to cancel patents to lands issued erroneously.

The Secretary of the Interior did in fact regularly investigate violations of the Pacific Railroad land grants until the disposition in 1916 of the previously mentioned *Oregon and California Railroad* case. Subsequent investigations were made sporadically by the Department of the Interior at the request of Congress and/or other agencies until 1925.

After a period of inaction the Secretary of the Interior reported in his Annual Report for June 30, 1941 that investigation resulted in the release of all claims by the railroads and the "restoration to Federal ownership of approximately 8,000,000 acres of land . . ." Although Petitioners can find no subsequent reports of land grant investigations, the Pacific Railroads continue to hold millions of acres, some or all of which are still subject to the review of the Secretary of the Interior.

Subsequent executive reorganization has left the Secretary's duties intact. In 1946, and again in 1950, Congress shifted responsibilities for land management but made no change in the obligation of the Secretary of the Interior to report to Congress on the status of grant lands. In 1946, the General Land Office was abolished but the responsibilities of that agency were transferred to the

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[2] The preferential rate for military transport was eliminated in 1945. Nothing in this amendment eliminated the original land grant conditions. Act of December 12, 1945, 49 Stat. 606, Chapter 573, Section 1.

[3] While the exact acreage is not available to the Petitioners one Congressional source asserted that it was 15.8 million acres.

Bureau of Land Management, an agency of the Department of the Interior. Act of May 16, 1946, 79th Cong. 2d Sess. Plan No. 3, 60 Stat. 1099, 1100, Section 401. In 1950, the powers and duties of the Interior Department were vested in the Secretary of the Interior. 1950 Reorganization Plan No. 3 Sections 1 and 2, May 24, 1950, 15 FR 3174, 64 Stat. 1962, 87 Cong. 2nd Sess. March 13, 1950.

VII. CONCLUSION

Petitioners therefore request the Department of the Interior to initiate an immediate and detailed investigation into the status of the railroad land grants and the disposition of the railroad lands to ascertain the extent of noncompliance with land grant conditions applicable to original land grantees and their successors in interest.

Petitioners believe that such a detailed investigation will demonstrate the propriety of some or all of the following remedial actions:

(1) An administrative or court order requiring the railroads to make available to petitioners and other similarly situated a reasonable amount of arable land at prices not to exceed $2.50 an acre;

(2) Forfeiture by said railroads to the federal government of lands held in violation of law. Such land would then enter the public domain and be opened to settlement under the Homestead and related acts, or retained for national forests, wildlife refuges, open spaces, and other uses in the public interest;

(3) An accounting for, and reimbursement to the general treasury by said railroads of all profits made from uses of such lands prohibited by the land grant laws.

Respectfully submitted,

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Dated June 21, 1972.

TRADING WITH MOSCOW: A QUESTION OF VALUES

Mr. RIBICOFF. Mr. President, last Saturday both the New York Times and the Washington Post editorial pages carried strong condemnations of the Soviet headtax on exit visa applicants.

In his article, James Michener forthrightly describes the Soviet decree as "extraordinary blackmail" and calls for "everyone interested in education, in the intellectual life, in science, in art and in industry to voice his protest now."

In its lead editorial, "Trading With Moscow: A Question of Values," the Washington Post describes the tax as "a gross violation of human rights" and notes that in terms of the human rights "the Soviet Union has probably gone backwards over the last 10 years." The editorial concludes that political pressure to link American trade concessions with the question of persecution of Soviet Jewry is justified in this instance.

I am certain that as more Senators speak out on this subject, our Government will realize that trade arrangements now being negotiated with the Soviet Union might well face defeat in Congress if this unconscionable headtax is not removed. Given the relatively greater need by the Soviet Union for a trade agreement at this time, it is not too much for our negotiators to insist that this be a precondition for the conclusion of an agreement. As the Post stated:

> Better relations with the Soviet Government do not imply and cannot require a sacrifice of American values.

I ask unanimous consent that the article by James Michener and the Washington Post editorial be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 16, 1972]

SOVIET JEWRY: 'WE WANT MORAL OUTCRY'

(By James A. Michener)

Even in normal times, for a Soviet Jew to apply for an exit visa is an act of courage. As soon as his intention becomes known he suffers reprisals. First, he usually loses his job. Next, his movements are checked by the police. Then, impediments of every kind are placed in his way. Finally, he must sell his belongings at a fearful loss in order to pay $480 for his visa and $600 for permission to renounce Soviet citizenship, a requirement of Soviet law.

Last month the Council of Ministers of the Supreme Soviet quietly passed a resolution calling for additional taxes on any educated Jews wishing to emigrate. The fact that most families cannot assemble the money required for their "ransom," and are thus condemned to a life of harassment, has led well-meaning people in the rest of the world to consider the possibility of collecting some $200 million to effect the ransom of thousands of leading Jewish intellectuals. But distinguished Russians scientists of Jewish origin have told Western friends, "Don't pay this robbery."

There is one escape. The law establishing the systematic blackmail has not yet been officially promulgated. It is scheduled to be ratified by the Supreme Soviet on Tuesday. If, before that date, a general worldwide protest can be mobilized, the Soviet Government may reconsider. It therefore behooves everyone interested in education, in the intellectual life, in science, in art and in industry to voice his protest now.

In an age when international blackmail threatens all organized societies, we must protest vigorously this blackmail of educated people. It is the duty of any society to educate its young and then to let them apply that education wherever it will prove most productive. Education is not a boon which society confers upon a few, holding them up to prescribed standards of repayment later on. It is a vote of confidence in the future, an expression of faith that these young will make their contribution in unforeseen ways. The Soviet assessment of taxes for a high school education is a total perversion.

Two reasons have been advanced as to why the Soviets have introduced this extraordinary blackmail. The first argues that Russia suffers from an acute shortage of educated personnel, that it has a heavy financial investment in its educated Jews, and that it cannot afford to see this investment converted into an asset for Israel. This argument falls when Russia fires its Jews who wish to emigrate and refuses to allow them to exercise their skills.

The second argument is ugly. Today Russia suffers from an acknowledged shortage of food. Wheat must be imported from the United States, but hard currency to pay for it is difficult to find. What better way to get the wheat free than by luring American Jews to raise ransom money which could then be handed out to American grain dealers to pay for the wheat?

Why do I concern myself? For one thing, I like Soviet Russia. I have traveled widely there and have been courteously received. I have friends in Russia and try to keep abreast of what they are accomplishing. I have written favorably of Russia and will probably do so again in the future.

But some years ago, when I wrote a novel depicting Jewish values through some nine millennia, Jews in Russia got hold of a copy and even though they were forbidden to do so, they translated it, printed it secretly and circulated copies through Jewish communities. They took this considerable risk because they wanted to know why their culture had persisted. Some who read the book in secret ultimately joined the 100,000 Jews who had the courage to apply for exit visas, knowing the impediments that awaited them.

Prof. Mikhail Zand, who was fortunate enough to get out before the new taxes, has summarized the reasoning of many intellectuals: "I had a good life. I had privileges . . . the small house in the country . . . the books. But I could not live as a Jew. I could never attain a top position . . . nor travel abroad. And I could not consent to being a privileged slave."

Even though Soviet authorities have since 1970 allowed some like Zand to emigrate, the escape of one Jew infuriates them, because they interpret his departure as a vote against the system. It is for this reason that they now charge distinguished men like Roman Rutman and Benjamin Levich some $35,000 each for permission to go.

We must say no. Every American writer, scientist, artist with a voice must protest this inhuman blackmail. As Rutman says, "We do not want ransom money. We want moral outcry."

TRADING WITH MOSCOW: A QUESTION OF VALUES

Reports of new progress in trade negotiations with Russia and China sharpen the question of whether the United States should put human rights issues, such as the harsh new Soviet "education tax" on would-be emigrants to Israel, on the table, too. Senator Ribicoff, a leader in earlier congressional efforts to end tariff discrimination against Communist countries, now says that such discrimination should not be ended and other trading "concessions" should not be granted until the education tax is taken off. "If it is appropriate to link trade issues with political objectives," he says, "it is certainly just as appropriate to establish a linkage (with) the overriding moral issues raised here."

We find the question real and difficult. It is easy only to establish its extremes. On one side, trade plainly cannot evolve in a vacuum, either political or moral. But neither can trade be linked to attaining satisfaction on every political and moral issue. The differences in Soviet and American interests and values are so many and significant that to await satisfaction would preclude any trade at all.

In setting appropriate limits, two standards ought to be applied; a third will be applied, regardless. First, is the Soviet action a gross violation of human rights? All too many Soviet practices—trampling on cultural nationalism in Lithuania and the Ukraine, abusing writers, for instance—qualify under this standard. Second, is the offending action within the reach of remedy by the United States or private Americans or other foreign parties? Third—and this is the standard that will be applied in any event—how much effective leverage can be brought to bear?

Unquestionably, in our judgment, the new education tax constitutes a gross violation of human rights, and it is a matter on which Kremlin decision could be affected by outside pressure. Moreover, political leverage, the thrust of it emanating from the American Jewish community, is being put on it. It is precisely because the cause is just and because there is some reason to believe the

Soviets are vulnerable on it that we believe the application of political pressure to be justified in this instance.

We realize that this does not dispose of the broad issue of improving ties with a government many of whose values and ways are alien to those of most Americans. The issue did not have to be faced while Soviet-American (and Chinese-American) relations were tense and limited; it will have to be faced now. Given the overarching American interest in the conventional, political and economic benefits of detente, the case for slowing down the process for the sake of one or another human rights issue will always tend to be an uphill one to make. It would be nice if, by virtue of increased contacts with the United States or internal evolution, the Soviet Union were to "mellow." But there is little evidence on which to expect such a transformation. On the contrary, in terms of human rights, the Soviet Union has probably gone backwards over the last 10 years. Khrushchev's successors have not followed his example and loosened controls; they have tightened them.

It remains the fact that, however compelling the elements of conventional national interest, conscience and decency assert an irrefutable claim for an influence on official policy. Just how that claim will be defined and expressed will—must—be debated. But it cannot be denied. Better relations with the Soviet government do not imply and cannot require a sacrifice of American values.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The time allotted for the transaction of routine morning business has expired. Morning business is closed.

LAND USE POLICY AND PLANNING ASSISTANCE ACT OF 1972

The ACTING PRESIDENT pro tempore. In accordance with the previous order, the Chair lays before the Senate S. 632, which the clerk will please report.

The assistant legislative clerk read as follows:

A bill (S. 632) to amend the Water Resources Planning Act (79 Stat. 244) to include provision for a national land use policy by broadening the authority of the Water Resources Council and river basin commissions and by providing financial assistance for statewide land use planning.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged to either side.

The ACTING PRESIDENT pro tempore. The pending question is amendment No. 1520 by the Senator from Wyoming (Mr. HANSEN). Time is under control.

Without objection, the time for the quorum call will not be charged to either side.

The clerk will please call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STEVENSON). Without objection, it is so ordered.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Washington will state it.

Mr. JACKSON. Do I understand correctly that the pending question is on the amendment offered by the Senator from Wyoming (Mr. HANSEN)?

The PRESIDING OFFICER. No. 1520—that is correct.

Mr. JACKSON. Mr. President, the Senator from Wyoming, the mover of the amendment, is tied up in a committee meeting this morning and will be until 12 noon. We had an understanding yesterday that his amendment would be temporarily laid aside until he had completed the morning hearing.

So, Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside until the Senator from Wyoming arrives and is able to offer his amendment, in any event, no later than 12:30 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I yield myself 10 minutes on the general debate.

The PRESIDING OFFICER. The Senator from Washington is recognized for 10 minutes.

Mr. JACKSON. Mr. President, for the purpose of assisting Members of the Senate who have not followed the committee's deliberations over the past 3 years on the pending measure, S. 632, the Land Use Policy and Planning Assistance Act of 1972, I would like to review the purpose of the bill, its background, and how it operates.

This review will, I believe, clarify a number of questions individual Members have about land-use planning in general and the pending measure in particular.

Factual clarification in and of itself will not, of course, resolve all of the important issues posed by the bill and the pending amendments. It will, however, enhance understanding of the real issues presented and enable individual Members to take a knowledgeable position on the bill and on the amendments.

Mr. President, the remainder of my statement is divided into three sections:

1. A brief review of the history of government involvement in land use planning and an outline of the basic legal authority involved;

2. A discussion of what the bill *does not* do and a discussion of what the bill *does* do; and

3. A summary review of the respective roles of State and Federal government in the administration of the Land Use Policy Assistance Act of 1972.

A. HISTORY

1. The police power of the respective States is an inherent power of government to take such actions as are necessary and Constitutionally permissible to protect public health, safety and welfare.

2. The power to plan for and to regulate land use derives from the police powers of the individual States.

3. The Federal government has no police power to regulate lands within a State which are privately owned or owned by the State. Only the State has Constitutional authority to control and regulate these lands.

4. The Federal government does have police power authority as well as express Constitutional authority to regulate the use of the public lands.

5. The States have exercised land use controls for hundreds of years in one form or another. It was only in the early part of the 20th Century, however, that the States began to do so in a broad and general way. This came with the adoption of model State laws which generally delegated zoning powers—to units of local government. The purpose of these delegations of police power autority to counties, cities and other units of local government was to enable them to develop master plans, to zone for permissible uses, and to establish local planning bodies.

6. The development of land use planning and local zoning was in response to very real problems that were costly, wasteful, and unfair to the public;

Dirty industrial developments would take place in the middle of residential communities;

Unsightly and aesthetically offensive developments—slaughterhouses, tanneries, etc.—would drive down the value of adjacent business and residential property;

Business activities thought by many to be undesirable if not closely regulated—taverns, movie theatres, dance halls, nightclubs—would be located near schools, churches or in quiet residential areas.

Land use planning and the exercise of zoning authority were designed to deal with these and other problems of a purely local nature.

7. Prior to the development of a statutory framework for land use planning at the State level the only remedies available to injured parties were litigation in the courts based upon the inadequate common law doctrines of "nuisance" and "trespass."

8. Today, the growing litigation over land use questions at all levels of government—power plant siting, location of heavy industry, projects such as the trans-Alaska pipeline, etc.—indicate land use problems are no longer entirely local in scope and that the planning concepts of the 1920's are no longer adequate to the changing public values and increasingly complex problems of the 1970's.

9. Today, after a half of a century of experience, many public officials and citizens feel that traditional zoning concepts and practices leave a great deal of room for improvement. The Committee recognizes this, but in S. 632 "does not require . . . radical or sweeping changes in the traditional relationship and responsibility of local government for land use management." (Report p. 22) S. 632 does not propose Federal zoning as it is both unconstitutional and unwise. Nor does it propose "statewide zoning" or "comprehensive master planning" which would only produce costly, dilatory, duplicative and often inflexible regulation of the vast majority of land use problems that are of concern, interest and knowledge only to the local units of government.

10. Instead, S. 632 encourages a continual "process of planning" wherein the right of local government to exercise land use powers is reasserted on all land use decisions and the State government is asked to join in partnership with local government on land use decisions of more than local concern, both governments acting in response to the decisions of state and local legislative bodies on substantive issues and with full citizen participation.

11. In S. 632, the State governments are encouraged to assist localities with guidelines for local planning or through cooperative planning only on those land use questions which are of *more than local concern* which go beyond the boundaries of only one locality and have an impact upon a number of local units of government and which determine the shape of the future environment—decisions concerning highways, airports, and mass transit systems; major power plants and transmission corridors, areas to be preserved or closely regulated (environmental areas, flood plains) and areas for intense development (housing complexes or industrial parks).

12. The trend in most States today is to reverse the process begun in the 1920's of delegating *all* land use planning authority

to units of local government. Increasingly States are selectively assuming an important role with respect to land use problems which are of more than local concern such as power plant siting, location of industrial parks, and the protection of park, beach, coastal or estuarine areas. Over 40 States now have laws regulating one or more critical *areas* of more than local concern. S. 632 encourages this trend toward active State responsibility and the elevation of land use decisions of more than local concern to the level of government—county, regional or State—most appropriately suited to decide the question in view of all legitimate values and interests.

B. WHAT S. 632 DOES AND DOES NOT DO

S. 632 does *not* do any of the following:

1. *Does not mandate, require, or allow "Federal planning" or "Federal Zoning."* The zoning power is based on the State's police power and the Federal government does not have authority to zone State or privately owned lands (with the exception of the District of Columbia which is a special and unique case).

2. *Does not substitute Federal authority or review of State and local decisions on the use of State and local lands.* S. 632 is an "enabling act" which encourages the States to exercise "States' rights" and develop land use programs. Consistent with the enabling act concept, the Federal government is granted very little authority to review the substance of State land use programs.

3. *Does not provide inflexible Federal standards which require strict State compliance.* Specific Federal substantive requirements are ill-advised because they do not reflect the rich diversity of the States; they are invariably the lowest common denominator; States and local governments know best their own land use problems and their possible solutions; and the Federal zoning which such standards would create is plainly undesirable.

4. *Does not require comprehensive State planning over all its land.* The State land use program is definitely not to be a comprehensive statewide program which preempts the myriad of local decisions, but rather one focused on four critical areas and uses of more than local concern.

5. *Does not mandate State zoning, rather reasserts local zoning powers.* The States are encouraged to develop their programs not by zoning or by producing a master plan, but by reasserting the whole range of local governments, land use authority, and providing guidelines for the exercise of that authority. For example, a State would not, could not, make a basic zoning decision such as on which corner shall the gas station be, but it would have a duty to provide guidelines for local decisionmaking to insure, for example, that one community does not site a massive industrial park directly adjacent to another community's recreational park or wildlife refuge.

6. *Not only does not impinge upon or alter the traditional land use responsibilities of urban government, but also does not focus on urban lands.* S. 632 encourages a balanced and rational planning process for the opportunity areas—those areas where mistakes have not already been made or irreversible actions already taken—i.e., the rural areas and areas on the urban periphery.

7. *Does not tell a State how much or what specific land must be included in the State program.* The extent of and type of land use to be included in the four critical areas and uses is dependent upon on how the States defines those four areas or uses. e.g., is a shoreline 100 feet wide or a mile? Does large scale development include a subdivision of 20 units or 200?

8. *Does not alter any landowner's rights to seek judicial redress for what he regards as a "taking."* The provisions of S. 632 do not change the body of law—Federal and State constitutions, statutes and judicial decisions—regarding the police powers and eminent domain. Any State or local restriction of property rights sufficient enough to constitute a "taking" still would require fair compensation.

S. 632 does do the following:

1. *Does contain a strong penalty provision to* encourage good faith compliance on the part of all States with the reasonable requirements of the bill.

2. *Does require States to exercise "State's rights" and State responsibility* over those land use planning decisions which are of "more than local concern" and which provide the framework that determines the shape of the future.

3. *Does require State governments to develop a process of planning and a State land use program that is "balanced"*; that is, a program which protects the environment and assures recreational opportunity, but at the same time provides for necessary social services and essential economic activities—for highways, for reliable energy systems, for housing, and residential development.

4. *Does contain provisions which insure its compatibility with the HUD 701 planning program, with the Air and Water Quality Acts, with other Federal legislation, and with the Senate-passed Coastal Zone Management Act.*

5. *Does provide State government with funds—$100 million a year*—to develop State land use planning inventories, to improve the size and competence of professional staff, and to establish an appropriate State planning agency.

6. *Does provide the States with wide latitude in determining the method of implementing the Act*—reassertion of all local land USE POWERS WITH State administrative review under State guidelines such as in most State coastal zone, wetlands, flood plain and power plant siting laws, or the rare instance of direct State planning, as in Hawaii or the unincorporated areas of Alaska. The intent of the Committee is embodied in the amendment endorsed by the League of Cities which adds the provision that "selection of methods of implementation shall be made so as to encourage the employment of land use controls by local governments."

7. *Does endorse the concept that local land use decisions should be MADE BY LOCAL GOVERNMENT:* "The Act does not require or contemplate radical or sweeping changes in the traditional relationship and responsibility of local government for land use management. Decisions of local concern will continue to be made by local government." (page 22, Comm. Rept. No. 92–869).

8. *Does provide new authority to State government and encourages coordinated State-Federal planning for Federal lands within a State's boundaries.*

C. THE ROLE OF THE STATE AND LOCAL GOVERNMENT AND THE FEDERAL GOVERNMENT

Under S. 632 the States are asked to undertake two tasks:

(i) develop a *statewide land use planning process within three years*

(ii) develop a *land use program* within five years and administer it thereafter.

1. *Statewide Land Use Planning Process:*

Each State is asked to conduct a statewide land use planning process to insure that the State possesses a sound knowledge of and data on the State's social, economic, and environmental requirements; well-trained professionals; and the necessary authority to develop and administer the program.

(a) *content and administration.* The major components of the Process Are (1) the inventorying of State land use requirements; (2) the establishment of primary authority in a single State agency to develop and administer the state land use program; (3) development of adequate professional expertise; and (4) formulation of methods to identify those activities and portions of the State subject to the land use program.

(b) *federal review.* As no state planning would be undertaken, the Federal review would focus *only* on whether the planning process is being developed and would not include any oversight of state planning or substitution of Federal judgment.

2. *State Land Use Program:*

The States are asked to develop a state land use program within *five* years of date of enactment. This program does not call for statewide planning or control.

(a) *Content.* The State program would involve four critical areas or uses which are of significant interest to or would have an impact upon inhabitants of an area far beyond the local jurisdiction which possesses the zoning power. These four critical areas and uses are: (1) *critical areas of environmental concern* (wetlands, beaches, flood plains, historic areas, etc., (2) *key facilities* (major airports, electrical power plants, highway interchanges, etc.) (3) *uses and development of regional benefit*, (recreational facilities, mass transit corridors, sewage treatment facilities; and (4) *large scale development* (major subdivisions, industrial parks, etc.) No other uses or areas would be included in the program and the State is given great flexibility in defining those four selected areas and uses.

(b) *Administrative implementation.* The State need not, and is not necessarily expected to, directly plan for these areas and uses. Two alternative methods of implementation would be required by the Act. Both "encourage the employment of land use controls by local government." The first is State review of selected aspects of local planning. The second is direct State planning for selected aspects of land use.

(c) *Federal review.* In the Federal review process to determine continued grant eligibility, the review would not focus on the "substance" of the State land use program. Rather, the review would be *limited* to determining whether the State has: (1) the ability to implement the program; and (2) provides adequate procedural safeguards for the participation of industry, citizens, and local governments in the development and administration of the program. In short, the review would be for the purpose of determining whether the program will be *effective*, not whether it is "good" or "bad."

THE FEDERAL ROLE

The Federal government would be asked to undertake two principal tasks:

(i) administration of a grant-in-aid program, and

(ii) interagency coordination of Federal programs which have a land use impact.

1. *Federal-State Relations: The Grant-in-Aid Program:*

The Federal role in relation to the States would be largely that normally assigned to the grantor in a grant-in-aid program; dispersal of money and review. The funds are $100 million per year at 90/10 cost sharing for five years and ⅔ Federal and ⅓ State thereafter. The States complying with the Act would be given new authority over the Federal Government in that Federal activities which have a land use impact must be in compliance with approved State programs. The Federal government would be given authority over the States in that: (1) *if* no land use program is submitted, the grant-in-aid program is temporarily suspended, and (2) if the program is not approved, there is a phased reduction in the developmental (not research, planning, or safety) portions of three grant-in-aid programs (airways, highways, Land and Water Conservation Fund).

2. *Interagency Coordination:*

While the States are developing the land use programs with Federal assistance, the Federal government is asked to put its "own house in order" by encouraging interagency coordination of programs with land use impacts.

3. *Organization:*

(a) *Grant-in-Aid Program:* The Secretary of the Interior would administer the grant program and, with consultation and the advice of other agencies, would review the State efforts which the program would finance.

(b) *Interagency coordination* would be assisted through the creation, within the Department of the Interior, of a National Land Use Policy Advisory Board consisting of representatives from the principal Federal agencies which have programs affecting the uses of land.

Mr. President, I reserve the remainder of my time.

AMENDMENT NO. 1549

Mr. TALMADGE. Mr. President, I call up my amendment No. 1549 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

At the end of page 107, add a new subsection as follows:

(d) granting to the Federal Government any of the constitutional or statutory authority now possessed by State and local governments to zone non-Federal lands.

Mr. TALMADGE. Mr. President, I modify my amendment by adding the word "as" between the letter "(d)" and the word "granting" on line 1.

That is section 512 on page 106 of the bill.

The amendment would read:

Nothing in this Act shall be construed . . .
(d) as granting to the Federal Government any of the constitutional statutory authority now possessed by State and local governments to zone non-Federal lands.

The PRESIDING OFFICER. The amendment is accordingly modified.

Mr. TALMADGE. I have listened with much interest to the discussion of my distinguished friend, the Senator from Washington (Mr. JACKSON), the floor manager of the bill. I agree with him implicitly. There is no inherent power in the Federal Government in the zoning of land. That is traditionally State power under State law which has been delegated in most instances to local boards.

This bill is very broad. It is very complex. It is more than 100 pages in length. It delegates to the Federal Government broad new power that has not heretofore been delegated.

It would vest in the Secretary of the Interior the authority to receive the land use programs from the Governors of the respective States setting out their proposals for utilizing land within their jurisdictions.

Mr. President, it would also authorize the Secretary of the Interior under certain conditions and in his discretion to cut off funds previously authorized under Federal law to the States. In other words, it gives the Secretary of the Interior a punitive power, because he would determine whether the States could receive funds under existing Federal law.

In my amendment, I want to make it implicitly clear, Mr. President, that this legislation makes no such delegation of power to any Federal authorities whatever and gives them no right to go to a State and its political subdivisions and dictate how they can zone land for use within their respective jurisdictions. There is nothing that is more peculiarly local than the authority to determine whether a man can build a dairy, a poultry house, a home, a filling station, or how he can use property that he owns in fee simple and pays taxes on year after year.

Virtually every local county government in the Nation now has a zoning authority. The zoning authority determines the best use of land within its particular jurisdiction. The local government officials elected by the people normally appoint that zoning authority. Appointments and zoning decisions are usually matters of controversy. People who live in a residential neighborhood, for instance, may not want a filling station located on the corner. However, under existing law, that is determined by the local officials elected at the local level who are responsible to local people for the decision they make which affects local property.

I think we ought to keep it that way. That is what this amendment is designed to do. I have discussed it with the distinguished floor manager of the bill. And from his comments, I understand there is nothing in the bill that would prohibit this. However, I want to make it implicitly clear, and he wants to make it implicitly clear, that the zoning decisions would remain with the local people, at the local level.

Mr. BIBLE. Mr. President, will the Senator yield?

Mr. TALMADGE. Mr. President, I am delighted to yield to the Senator from Nevada.

Mr. BIBLE. Mr. President, I compliment the Senator from Georgia for this amendment. I know that he has worked on allied problems over the years. I would hope that the chairman would accept the amendment, as I think he is inclined to do. However, has the Senator not found over his years in Congress that more and more and more the tendency has been to move the government from whatever county it might be in Georgia or from whatever county it might be in the State of Nevada to the halls of the mighty in Washington, D.C.? Has not the Senator found that to be true constantly in incident after incident and in area after area?

Mr. TALMADGE. Not only have I found it to be true in incident after incident, but I have also found that if we give the Federal bureaucracy an inch, it will take 2 miles.

Mr. BIBLE. Does the Senator think this might broaden that?

Mr. TALMADGE. The bureaucrats will say that this bill gives them authority to tell State and local officials how they will utilize their land. If the local people do not do it the way the bureaucrats want it done, the Federal Establishment will then cut out money for highway construction, for airport construction, and for various other Federal programs.

Mr. BIBLE. For land and water conservation?

Mr. TALMADGE. For land and water conservation and other programs where there are contributions from the Federal Government.

Mr. BIBLE. I am in complete agreement with the Senator. I hope the chairman accepts the amendment. I think it is a good safeguard, because the Senator is correct that once you give them a little authority and open the door a crack they will drive a Mack truck through it.

Mr. TALMADGE. I thank the Senator. I hope the Senator from Washington will accept the amendment.

Mr. President, I reserve the remainder of my time.

Mr. MUSKIE. Mr. President, I wish to ask the Senator from Georgia a question.

The authors of this legislation argued that what it does is to simply set up a procedure or process designed to prod the States and communities into making wiser land use decisions. As I interpret the legislation it is more than a procedure or process, because in the statement of national policy objectives at the outset, it lays down some criteria that ought to be followed by whatever governmental entities are involved. Somebody has to decide whether or not the State and local governments have met that criteria. In my judgment, that is the Secretary of the Interior.

I am not sure what the effect of the Senator's amendment would be on the legislation with regard to that point.

I turn to the statement of policy in the legislation. For example it says on page 60, line 15, if the Senator will turn to it:

(b) The Congress further declares that it is the national policy to—

(1) favor patterns of land use planning, management, and development which are in accord with sound environmental, economic, and social values and which encourage the wise and balanced use of the Nation's land resources;

Certainly, I do not quarrel with that objective. But on page 61, line 17, it states:

(c) The Congress further declares that intelligent land use planning and management can and should be a singularly important process for preserving and enhancing the environment, encouraging beneficial economic development, and maintaining conditions capable of improving the quality of life.

If that, indeed, becomes national policy upon the enactment of this legislation, then it seems to me inevitable that the Secretary of Interior, using whatever authority the legislation gives him, must prod State and local governments to make their land use decisions in accordance with his interpretation of what these policies require.

So I ask the Senator this question. It seems to me that even though his amendment is adopted, this authority, if it exists, and I think it does, would mandate the Secretary of Interior to require of local government the kind of land use decision it would make even though he cannot directly zone local lands.

Mr. TALMADGE. That is what I was apprehensive about. Such a broad delegation of policymaking authority to a national official is exactly what this amendment prohibits.

The Senator from Georgia wanted to make certain that this legislation would not take from the States and their political subdivisions their inherent police power in the use of their land. That is all the amendment is designed to achieve.

The Senator from Washington may desire to explain his position further, because I am not the author of the bill; I am merely the author of the amendment.

Mr. MUSKIE. I wish to make one observation. I thank the Senator, and I shall disagree on an amendment I am going to offer later. But it has been my view that if this kind of authority is granted to the Secretary, the legislation itself should spell out the parameters within which he will exercise the authority. Without that kind of guidance in the legislation itself, that authority could be exercised arbitrarily.

I shall support the Senator's amendment.

Mr. TALMADGE. I thank the Senator.

Mr. MUSKIE. But I do not think it gets to the question I will raise later with my amendment. I wanted to make that clear.

Mr. TALMADGE. I will consider the Senator's amendment when it is offered.

I want to make it clear that no Federal official can sit here in Washington and determine how every acre of land in the United States will be used.

Mr. JACKSON. Mr. President, maybe I can be helpful. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. JACKSON. In further response to the question by the Senator from Maine to the Senator from Georgia, may we turn to page 61 of the pending bill, starting on line 23 where the purpose is set out in section 103(a):

> It is the purpose of this Act—
>
> (a) to establish a national policy to encourage and assist the several States to more effectively exercise their constitutional responsibilities for the planning and management of their land base through the development and implementation of State land use programs designed to achieve economically and environmentally sound uses of the Nation's land resources;

Mr. President, I submit that the amendment of the Senator from Georgia is in keeping with the stated purpose of the bill as found on page 61 which I have just read. So, Mr. President, I support the amendment by the Senator from Georgia. I think it helps to make very clear the intent of Congress in connection with this matter. It is in keeping with the philosophy of the bill, which is to add to the capacity, if one wishes to put it that way, of State and local government to exercise responsibility for land use planning and not to expand the Federal Government authority to control land use.

Mr. President, I just want to say that section 103, which I have just read into the RECORD, is corroborated once again in the report. I wish to read from the report, which states:

> It is the view of the Committee that the Federal government is not sufficiently wise nor prepared to lay down a series of national policies on land use to which strict adherence by the States and localities should be required. Rather, the national policy should be that the Federal government will render financial and technical assistance to the States to enable them to develop their own land use policies. The Federal review of the individual States' performances should focus on whether they have methods for, and are making good faith efforts toward, implementation of their policies and not on what is the substance of those policies (p. 25).
>
> This [limited Federal review] is in keeping with the Act's purpose to encourage better land use decisionmaking at the State and local levels, and not to provide substantial new land use decisionmaking authority on the Federal level (p. 22).
>
> The Act does not require or contemplate radical or sweeping changes in the traditional relationship and responsibility of local government for land use mangement. Decisions of local concern will continue to be made by local government. It does, however, require that the States play an active role in major land use planning and management decisions which are of regional, State or national concern (p. 22).
>
> The State need not, and indeed in most cases is not expected to, directly plan for the areas and uses within its land use program. Two alternative but not mutually exclusive methods of implementation would be required by the Act: (1) direct State planning; and (2) State establishment of guidelines for, and administrative review of, local land use planning, zoning, and regulating. In the latter case, the State would reaffirm the authority of local governments to continue to exercise all their land use powers and, through guidelines, criteria and an appeals process, would exercise guidance and oversight over the local efforts. In most of the recent innovative State land use legislation, this local government—State partnership approach has been chosen over the less flexible and less "local" approach of direct State planning (pp. 27–28).

Mr. President, it completely corroborates the efforts of the Senator from Georgia to see to it that the constitutional and statutory responsibilities of the several States and their subdivisions to zone for or otherwise regulate land use under the police power are not invaded.

I want to conclude by saying that the amendment reinforces both the provisions contained in section 103(a) and the provisions of the report to be found on page 25 to which I have just referred. So I hope that the amendment would be adopted.

I yield such time as he may require to the Senator from Idaho.

Mr. JORDAN of Idaho. I thank the Senator.

Mr. President, I think the amendment offered by the distinguished Senator from Georgia is entirely consonant with the purposes of this act. I think it defines and clarifies certain relationships between the States and the Federal Government that need clarification. He has done a good job of clarification of that relationship. I urge its adoption.

Mr. TALMADGE. Mr. President, I suggest the absence of a quorum and desire that the aides notify Senators in the proximity of the Chamber that we need two more Members on the floor in order to request the yeas and nays. I anticipate that we will vote immediately thereafter.

The PRESIDING OFFICER. The Senator does not have enough time to suggest the absence of a quorum.

Mr. TALMADGE. Mr. President, I yield back the remainder of my time.

Mr. JACKSON. Mr. President, I yield back the remainder of my time.

Mr. TALMADGE. Mr. President, I suggest the absence of a quorum. I suggest that the aides notify absent Senators that we need a sufficient number of Senators to order the yeas and nays and that there will be a vote immediately thereafter.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the order for a quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TALMADGE. Mr. President, I ask for the yeas and the nays on the amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PELL), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Mississippi (Mr. STENNIS), the Senator from Wyoming (Mr. MCGEE), and the Senator from Iowa (Mr. HUGHES) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Oklahoma (Mr. BELLMON), the Senator from Delaware (Mr. BOGGS), the Senator from Massachusetts (Mr. BROOKE), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senators from New York (Mr. BUCKLEY and Mr. JAVITS) and the Senator from Arizona (Mr. GOLDWATER) are absent on official business.

The Senator from Colorado (Mr. DOMINICK) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Delaware (Mr. BOGGS), the Senator from Texas (Mr. TOWER), and the Senator from Massachusetts (Mr. BROOKE) would each vote "yea."

The result was announced—yeas 75, nays 0, as follows:

[No. 450 Leg.]

YEAS—75

Aiken
Allen
Anderson
Bayh
Beall
Bennett
Bentsen
Bible
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.

Case
Chiles
Church
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Eastland
Edwards
Ervin
Fannin
Fong
Fulbright
Gambrell
Griffin
Gurney
Hansen
Hart
Hartke
Hatfield
Hollings
Hruska
Inouye
Jackson
Jordan, N.C.
Jordan, Idaho
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McIntyre
Miller
Mondale
Montoya
Muskie
Nelson
Packwood
Pastore
Pearson
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott
Smith
Spong
Stafford
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—25

Allott
Baker
Bellmon
Boggs
Brock
Brooke
Buckley
Cannon
Dominick
Eagleton
Goldwater
Gravel
Harris
Hughes
Humphrey
Javits
McGee
McGovern
Metcalf
Moss
Mundt
Pell
Sparkman
Stennis
Tower

So Mr. TALMADGE's amendment was agreed to.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JACKSON. I move to lay that motion on the table.

The motion was agreed to.

Mr. JACKSON. Mr. President, I ask unanimous consent that Marilyn Kester of Senator HANSEN's staff and Barbara Holliday of Senator PACKWOOD's staff may have the privilege of the floor during consideration of the pending measure, excluding rollcall votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Ellis Mottur have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MILLER. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

On page 74, line 21, delete all after the word "by".

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MILLER. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on each remaining rollcall vote today there be a time limitation of 10 minutes, with the warning bell to be sounded after the first two and a half minutes.

Mr. COOK. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MILLER. Mr. President, I yield myself such time as I may require.

I have coordinated this amendment with both the manager of the bill, the distinguished Senator from Washington, and the manager of the bill on this side of the aisle, the distinguished Senator from Idaho (Mr. JORDAN).

This amendment would merely strike out the words "the public and the." The reason for doing so is that in the previous paragraph, item 12, on page 74, the conducting of public hearings concerning State land use planning process or aspect thereof, the language is broad enough to cover the matter referred to in the next paragraph, item 13. So that item 13 would now read: "the provision, and continuation thereof, of opportunities for participation by appropriate officials or representatives of local governments in the planning process and in the formulation of guidelines, rules, and regulations for the administration of the planning process."

If we do not delete the four words to which I have referred, I suggest that there will be some ambivalence and confusion as to what is intended. By deleting them and using the conducting of public hearings in item 12, I think there will be no confusion, and it will be clear-cut that public hearings are going to be involved in the planning process and in all aspects thereof.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. MILLER. I yield.

Mr. JACKSON. Mr. President, the distinguished ranking minority member of the committee and I have reviewed this amendment, and I think it would help to clarify the matter. It is a purely technical amendment. I am pleased to accept it.

Mr. MILLER. I thank the Senator from Washington.

Mr. JACKSON. Mr. President, I am supporting the amendment of the Senator from Iowa because I view it as a technical amendment designed to avoid redundancy.

The intent of S. 632 is to encourage public participation at all stages of the State planning process. I endorse this concept.

I do not view or understand the amendment of the Senator from Iowa as in any way being contrary to this concept.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. MILLER. I yield to the Senator from Maine.

Mr. MUSKIE. Mr. President, I say to the Senator that I am concerned that the effect of his amendment may be to narrow the role that nongovernmental citizens may play in this planning process.

Subsection 12, which precedes, refers to public hearings. Those, I take it, would usually take place somewhere down the road in the planning process.

I found it useful in my own community to get the public involved before you get to the stage of public hearings—in committees and the actual development of propositions and policies.

It seems to me that the effect of the Senator's amendment would be to foreclose that possibility. If the participation of the public has to do only with formal hearings at some stage after the input of ideas has been made, after tentative policies have been framed, that may be a little late, I say to the Senator. I would support his motion of eliminating the redundancy, but I do not really think this is a redundancy in the place it is found in the bill. I did not write the bill.

Mr. MILLER. The Senator is correct that this is not purely a redundant thing. The point I am making is that the conducting of public hearings concerning the State land use planning process or aspects thereof—as the Senator can understand, there are many aspects thereof—is very broad. If we go beyond that, I do not know what kind of thicket we are going to get into.

What I would hope the Senator from Maine would like to see is something not unlike what we have at the Federal level now, where, in connection with a proposed regulation, for example, there is public notice, opportunity for people who feel aggrieved to come in for a hearing. I think that this type of procedure at the State level would be helpful. I think item 12 will cover that.

But I think that to require that a State plan be open to participation by the public in other than public hearings is a pretty far-reaching and rather dangerous approach, because this could admit of all kinds of public action or actions by the public apart from a public hearing. The public hearing is where the public really has a chance to manifest its views. If item 12 permits the public to participate in all aspects, I do not know what more we need.

Mr. MUSKIE. The language on line 21 to which the Senator takes objection reads: "the provision of opportunities for participation."

It does not specify what form those opportunities ought to take or at what place in the process they ought to be provided. I do not consider that far reaching.

When we wrote the first zoning law in my community, it was not left to the city fathers to write it. They invited several members of the public, including myself, including other lawyers, including other citizens, to sit down and to participate in the development of the policies which ultimately were submitted to the governmental institutions. But the public was invited to participate. That was opportunity for participation. The Senator assumes that such opportunities will be inappropriate.

Mr. MILLER. No, no—now wait. May I say to my friend from Maine that he does not presume anything of the sort. The Senator assumes that what the Senator has been talking about, which he refers to in his own State of Maine, could be desirable under certain circumstances, but to write that in as a requirement is what I think is dangerous and far reaching. If we have the public hearings written in, we have a good guarantee and I think that is sufficient.

Mr. MUSKIE. Let me suggest another one foreclosed by the Senator's amendment. In my city, when we had urban renewal and the requirement of local zoning laws, we went to the people with a referendum and if we had not done that, the chances were we would never have had it worked out the way the people wanted it. A referendum of that kind would be foreclosed by the Senator's amendment and all sorts of opportunities for public participation which would be perfectly appropriate. What the Senator's amendment would do would be to foreclose both appropriate and inappropriate occasions for public participation.

Mr. MILLER. No, the Senator is misinterpreting the amendment I am offering. It does not foreclose it at all. I just said that I can understand how the procedure the Senator referred to in Maine could be desirable, but I do not want to have it written in as an absolute requirement. With public hearings as an absolute requirement, we are amply protected.

Mr. MUSKIE. I do not regard the language as establishing an absolute requirement of anything specific. All it says is "opportunities for participation."

By making the kind of legislative history we would be making, if we adopted the Senator's amendment, by positively striking out that language, the effect, in my judgment, would be to limit public participation to public hearings, unless there is some other language in the bill which broadens it. I want no part of that legislative history. I think it is too restrictive.

Mr. MILLER. Let me point out to the Senator from Maine, on page 72, the precise language on line 13 is, "which process shall include." It does not say "may" include, it says "shall" include.

Mr. MUSKIE. Appropriate opportunities for participation.

Mr. MILLER. Then, reading down here, "opportunities for participation."

Mr. MUSKIE. It does not specify what the opportunities shall be.

Mr. MILLER. No.

Mr. MUSKIE. What the Senator is saying is that he does not want public participation in any way except in informal public hearings.

Mr. MILLER. I wish the Senator would not try to put words in my mouth. I do not try to do that to him. I hope that he will do me the same courtesy. Apparently the Senator from Maine did not know what I was saying——

Mr. MUSKIE. Yes, I did.

Mr. MILLER. That I think it would be desirable to do such things as he indicated had been done in Maine, but it should not be placed in the bill as a matter of an absolute requirement, when we already have public hearings provided for in item 12.

Mr. MUSKIE. The kind of things I have mentioned are not public hearings by any definition——

Mr. MILLER. I so understood.

Mr. MUSKIE. There is no language in the bill other than the language "public hearings." I am saying that the effect of the Senator's amendment would be to limit participation by the public to limited public hearings.

Mr. MILLER, No, no. The effect is to make clear that a State plan does not necessarily have to do what the Senator found helpful up in Maine. If Maine wants to do it that way, let them do it. There is nothing to prevent them from doing that.

Mr. MUSKIE. All I am trying to say——

Mr. MILLER. Item 12 says all aspects of the planning process, so that I do not believe we should write in an absolute requirement binding each and every State plan to do what the Senator found to be a good procedure in Maine.

Mr. MUSKIE. What the Senator is saying is, if we leave this to the instincts of government, it will be to involve the public, that we should let that instinct have its way. I will say that the instinct has been directly contrary to that. One of the reasons for the great unrest we are experiencing politically is the failure of institutions to open up to public participation. It seems to me that if we object to such innocuous language as the Senator would seek to strike, that is "opportunities for participation," all we would be doing would be to evidence the reluctance of this institution to create opportunities for participation by the public. I do not have any confidence that that instinct exists or that it exists broadly or that it will result in meaningful public participation. Thus, I would oppose the Senator's amendment.

Mr. MILLER. May I say that I am sorry the Senator from Maine feels that way about it. He knows legislative history as well as any Member of the Senate, and he knows that the colloquy we have had already will make it clear there is nothing by way of what has been said that would indicate the Senate intends to discourage, in appropriate situations, a State from doing something such as the Senator found helpful in Maine. All that is intended by this amendment is to make clear that a State does not have to do this in order to have a State plan that would qualify. That is all.

Mr. MUSKIE. The Senator has stated my interpretation of the bill very well. What it means is that the administrator cannot encourage the State or local government to include public participation, cannot play a negative role, but also cannot play a positive role if the Senator's amendment is adopted.

Mr. MILLER. I think the Senator from Maine and I are pretty well at issue on this. We both understand and recognize that in certain situations it may be helpful to do what the Senator alluded to had been done in Maine. At the same time, he says he wants to write it in as an absolute requirement. I say that I do not think we should do so, particularly in view of the requirement—and it is an absolute requirement, as the Senator from Maine knows very well—that the public hearings will be a part of the State plan, in item 12, covering all aspects. I think that is what is pretty much at issue here.

Mr. MUSKIE. I think we should have a rollcall vote on this amendment. I think it is very important. I have many questions about the bill, but one of the provisions in the bill on which I was relying, in spite of its shortcomings, so that it will be in the public interest, is the very one the Senator proposes to strike. I think the record is clear.

Therefore, Mr. President, I ask for the yeas and nays on the amendment of the Senator from Iowa.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. GAMBRELL). Who yields time?

Mr. MILLER. Mr. President, I yield back the remainder of my time.

Mr. JACKSON. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on this amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from Iowa. On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nebraska (Mr. CANNON, the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. McGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PELL), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Mississippi (Mr. STENNIS), the Senator from Wyoming (Mr. McGEE), and the Senator from Iowa (Mr. HUGHES) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Oklahoma (Mr. BELLMON), the Senator from Delaware (Mr. BOGGS), the Senator from Massachusetts (Mr. BROOKE), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senators from New York (Mr. BUCKLEY and Mr. JAVITS) and the Senator from Arizona (Mr. GOLDWATER) are absent on official business.

The Senator from Colorado (Mr. DOMINICK) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Massachusetts (Mr. BROOKE) would vote "nay."

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from Delaware (Mr. BOGGS). If present and voting, the Senator from Texas would vote "yea" and the Senator from Delaware would vote "nay."

The result was announced—yeas 35, nays 41, as follows:

[No. 451 Leg.]

YEAS—35

Allen
Anderson
Beall
Bennett
Bible
Byrd,
Harry F., Jr.
Byrd, Robert C.
Church
Cotton
Curtis
Dole
Eastland
Edwards
Ervin
Fannin
Fong
Gambrell
Hansen
Hatfield
Hruska
Jackson
Jordan, N.C.
Jordan, Idaho
Long
Magnuson
McClellan
Miller
Pastore
Pearson
Percy
Saxbe
Scott
Smith
Talmadge
Young

NAYS—41

Aiken
Bayh
Bentsen
Burdick
Case
Chiles
Cook
Cooper
Cranston
Fulbright
Griffin
Gurney
Harris
Hart
Hartke
Hollings
Inouye
Kennedy
Mansfield
Mathias
McIntyre
Mondale
Montoya
Muskie
Nelson
Packwood
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Spong
Stafford
Stevens
Stevenson
Symington
Taft
Thurmond
Tunney
Weicker
Williams

NOT VOTING—24

Allott
Baker
Bellmon
Boggs
Brock
Brooke
Buckley
Cannon
Dominick
Eagleton
Goldwater
Gravel
Hughes
Humphrey
Javits
McGee
McGovern
Metcalf
Moss
Mundt
Pell
Sparkman
Stennis
Tower

So Mr. MILLER's amendment was rejected.

Mr. JACKSON. Mr. President, I yield to the Senator from Kentucky for a unanimous-consent request.

Mr. COOPER. Mr. President, I ask unanimous consent that Mr. Richard Hellman, minority counsel from the staff of the Committee on Public Works, be permitted to be on the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. Joel Abramson and Mr. Fred Craft may be granted the privilege of the floor during further consideration of the bill today.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries.

REPORT ON THE FOREIGN ASSISTANCE PROGRAM—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. TUNNEY) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Foreign Relations:

To the Congress of the United States:

The fiscal 1971 Annual Report on the Foreign Assistance Program, which I transmit herewith, contains much hopeful news.

—The continuing success of the Green Revolution was evident in record corps of food grains, moving such countries as India, Pakistan, Turkey, and Indonesia steadily closer to a goal of self-sufficiency in basic foodstuffs and giving hope to others that this goal, considered inconceivable a few short years ago, can now be attained.

—Modern technologies in education are being explored with a view toward reducing the heavy cost of education, expanding its availability and improving its quality.

—Pilot projects for improving the delivery of health services in remote rural areas offer great promise.

—Support provided by the Agency for International Development for population-related efforts rose to a record $95.9 million, as developing countries, recognizing the heavy burden of high population growth rates, intensified their programs to achieve effective family planning.

—Developing nations showed increasing awareness of the environmental impact of proposed projects in their national planning process.

During the past fiscal year, the United States Government provided $3.4 billion in economic assistance to the less developed world. This aid took a variety of forms—technical assistance, development loans, financial grants, concessional sales of agricultural products, emergency relief, and contributions to international lending institutions as well as to the United Nations Development Program, and other UN-related activities. Just over half the total—$1.9 billion—was authorized by the Foreign Assistance Act and administered by the Agency for International Development. This report is essentially concerned with these programs.

Viewed in the perspective of the past decade, the less developed nations have made excellent progress. Their annual rate of economic expansion—averaging about 5.6 percent—exceeded even the 5 percent target projected by the United Nations for the Decade of Development that ended in 1970, reaching a level of more than 6 percent per year in the last years of the decade. This pace is more rapid than the growth rate of the United States at comparable stages of its development.

A major factor contributing to this record growth has been the increasing availability to lower income countries of external assistance from many sources. The United States can take pride in its role as an innovator and sustainer of this pattern of cooperation.

During the same 10 years, the lower income countries also amassed a variety of other important resources for growth. Their technical and managerial experts have grown in number and experience, acquiring greater confidence in their ability to perceive national needs and to design and execute national development strategy. As the lower income nations have gained greater perspective and greater understanding of their own problems, they have been formulating more of their own development plans and organizing more of their own resources.

Other developments that must be taken into account in planning United States aid programs include the growth of new centers of economic and political power, the rapid pace of social and political change, and the increasing emphasis on man's relationship with his environment. Perhaps most significantly, there has been a substantial increase in the aid contributions of other nations and in the role of international lending institutions. Whereas a decade or so ago the United States was the predominant source of development resources and guidance, other industrialized nations and international lending institutions have since expanded both their contributions and their administrative capabilities. Today the United States is the foremost of donor nations in absolute terms, but the other industrialized nations have increased their participation to the extent that in many cases they are contributing a greater percentage of their total resources to development assistance than is the United States.

We have been working to adjust our aid programs to all these new conditions. A number of important reforms were embodied in two pieces of draft legislation submitted to the Congress in April 1971. We hope that those proposals will provide a basis for a discussion with the Congress of ways in which we can structure our programs to increase their effectiveness.

While the Congress has been considering these proposed reforms, the Agency for International Development has moved ahead with steps to increase the effectiveness and efficiency of its operations within the constraints of existing legislation. These initiatives have included:

—Separation of economic supporting assistance activities from development programs within the AID structure;

—Reduction of AID's American staff by an additional six percent, reflecting a total reduction of nearly one-quarter over the past three years and bringing total AID personnel to the lowest level in the Agency's history;

—Substantial simplification of AID procurement policies and procedures;

—Substantial progress in concentrating technical assistance programs in priority sectors of agriculture, education, population, and health;

—Steps toward centralizing overseas lending operations in Washington.

While we look back with satisfaction at our accomplishments in the past and while we plan for further changes to help meet new challenges, we remain aware that the problems of development are stubbornly complex and that the solutions to some of them are still beyond our grasp. Yet each year's experience gives us new insights and firmer hope. And each year's experience also confirms two fundamental facts of development: (1) what the recipient country does to stimulate and accelerate its own growth is ultimately of greater value than anything we do or are able to do; and (2) a measure of help from the United States can be the vital factor in assuring steady progress toward development.

I believe most earnestly that the developed nations of the world cannot long prosper in a world dominated by poverty and that improvement in the quality of life for all peoples enhances the prospects of peace for all people.

RICHARD NIXON.

THE WHITE HOUSE, *September 19, 1972.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. TUNNEY) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of Senate proceedings.)

TECHNOLOGY ASSESSMENT ACT OF 1972

Mr. JORDAN of North Carolina. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 10243.

The PRESIDING OFFICER (Mr. STEVENSON) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 10243) to establish an Office of Technology Assessment for the Congress as an aid in the identification and consideration of existing and probable impacts of technological application; to amend the National Science Foundation Act of 1950; and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. JORDAN of North Carolina. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. Stevenson) appointed Mr. Cannon, Mr. Robert C. Byrd, and Mr. Cook conferees on the part of the Senate.

LAND USE POLICY AND PLANNING ASSISTANCE ACT OF 1972

The Senate continued with the consideration of the bill (S. 632) to amend the Water Resources Planning Act (79 Stat. 244) to include provision for a national land use policy by broadening the authority of the Water Resources Council and river basin commissions and by providing financial assistance for statewide land use planning.

AMENDMENT NO. 1536, AS MODIFIED

Mr. JACKSON. Mr. President, I call up amendment No. 1536, as modified, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. JACKSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment, ordered to be printed in the Record, is as follows:

(1) On page 66, lines 18 and 19, strike "agency designated pursuant to section 502" and insert in lieu thereof "Executive Office of the President".

(2) On page 80, line 15, after "participating" and before "in" insert "on its own behalf".

(3) On page 81, strike lines 6 and 7 and insert in lieu thereof "the enactment of this Act, the Secretary, before making a State land use".

(4) On page 81, line 20, strike "; and" and insert in lieu thereof a period.

(5) On page 81, line 21, through page 82, line 7, strike clause 2 of subsection 305(b).

(6) On page 82, between lines 7 and 8, insert a new subsection (c) as follows:

"(c) The Secreatry shall not make any grant pursuant to this Act unless he has been informed by the Secretary of Housing and Urban Development that he is satisfied that the statewide land use planning process or State land use program with respect to which the grant is to be made (1) conforms to the objectives of section 701 of the Housing Act of 1954, and to the relevant planning assisted under that section, including the provisions related to functional plans, and housing, public facilities, and other growth and development objectives, and (2) meets the requirements of this Act insofar as they pertain to large-scale development, development of regional benefit, large-scale subdivisions, and the urban development of lands impacted by key facilities. The Secretary of Housing and Urban Development shall be deemed to be satisfied if he does not communicate his views to the Secretary within sixty days after the statewide land use planning process or State land use program has been submitted to him by the Secretary.

(7) On page 82, line 8, strike "(c)" and insert in lieu thereof "(d)".

(8) On page, line 13, strike "(d)" and insert in lieu thereof "(e)".

(9) On page 83, line 2, strike "(e)" and insert in lieu thereof "(f)".

(10) On page 83, line 11, strike "(f)" and insert in lieu thereof "(g)".

(11) On page 101 strike lines 17 and 18 and insert in lieu thereof

"Sec. 502. (a) The Executive Office of the President shall issue guidelines to the Federal".

(12) On page 101, line 20, strike "Such agency or agencies" and insert in lieu thereof "The Executive Office".

Mr. JACKSON. Mr. President, I ask unanimous consent that the amendments be considered en bloc, and if adopted be treated as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, the purpose of my amendment No. 1536 is to make clear that the land use planning process and program authorized by S. 632 is consistent with planning programs under the jurisdiction of the Banking, Housing and Urban Affairs Committee. This amendment is based on extensive discussions with the chairman of the Banking Committee, other members of the committee and between the professional staff of the Banking Committee and the Interior Committee.

In briefest form this amendment would clarify both the Interior Committee's and the administration's intent that guidelines for the act be promulgated through an "interagency" process with the principal duties of formulating those guidelines going to the Executive office of the President. This will insure that Interior Department will be limited to program administration, not policy formation, duties.

In addition, the amendment would strengthen the review authority of the Secretary of Housing and Urban Affairs. He would be required to indicate that the statewide land use planning process or State land use program: First, has been coordinated with relevant comprehensive planning assisted under 701 of the Housing Act of 1954 including the provision related to functional plans, and housing, public facilities and other growth and development objectives; and second, meets the requirements of S. 632 for large-scale development, development of regional benefit, large-scale subdivisions, and the urban development of lands impacted by key facilities.

All of the amendments developed through joint staff efforts between the Banking and Interior Committees strengthen the role of local governments in the land use decisionmaking encouraged by S. 632.

Mr. President, I commend this amendment to my colleagues.

In the amendment I call up today, a minor change has been made in the printed text at the suggestion of the junior Senator from Massachusetts (Mr. Brooke).

At page 2 of the printed amendment, all of lines 12 and 13 are deleted, and the words "conforms to the objectives of section 701 of the Housing Act of 1954, and to the relevant planning assisted under that section," are inserted.

This change clarifies the amendment's intent, which is to strengthen the review authority of the Secretary of HUD over those aspects of State land use programs which fall within his area of expertise.

I have cleared this matter with the minority side, the Senator from Idaho (Mr. Jordan), and we are in agreement, as a result of previous consultations with the chairman of the committee (Mr. Sparkman) and the staff of the Banking, Housing and Urban Affairs Committee.

I hope the Senate will adopt the amendment.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield for a question?

Mr. JACKSON. I yield.

Mr. HARRY F. BYRD, JR. The Senator, in his remarks, said that would strengthen the review authority of the Department of Housing and Urban Development. As I read it, it would give a veto power to the Department of Housing and Urban Development. Would it not?

Mr. JACKSON. No, it would not give a veto. It is a matter of consultation. The problem here is, as the Senator knows, that under the 701 program HUD is involved, of course, in some very large projects involving land use. The concern of the Senator from Alabama (Mr. Sparkman) was that the bill as we reported it might cause some problem in the administration of the program that had been adopted back in 1954, and which has been amended since then.

Mr. HARRY F. BYRD, JR. If the Senator will yield further, the language of the amendment upon which the Senate is called to vote now says that "The Secretary shall not make any grant pursuant to this Act unless he has been informed by the Secretary of Housing and Urban Development that he"—the Secretary—"is satisfied," and so on. For me that is a veto. Is it not?

Mr. JACKSON. I do not think it is a veto. What we are talking about is full consultation.

Mr. HARRY F. BYRD, JR. Why can we not have the language conform to what the Senator from Washington wants?

Mr. JACKSON. I think that under all the circumstances this is a reasonable solution to the problem that exists here in connection with the administration of the section 701 program, and I undertook, after weeks of negotiations with the Senator from Alabama (Mr. Sparkman)——

Mr. HARRY F. BYRD, JR. I am not concerned about that point. All I am suggesting is that the language of the Senator's amendment says that "The Secretary shall not make any grant" unless the Secretary of HUD is satisfied. That is a veto, it seems to me. Perhaps he wants to have a veto; I do not know.

Mr. JACKSON. It comes close to a veto, but I do not construe it as an absolute veto.

Mr. HARRY F. BYRD, JR. It says he cannot make any grant unless he has the approval of the Secretary of HUD.

Mr. JACKSON. As I interpret this amendment, I do not believe the Secretary of HUD could act in a purely arbitrary and capricious manner. He has to be satisfied, which, of course, is a subjective condition, but he cannot, in my judgment, under this provision, just arbitrarily and capriciously turn down the program, because he feels there is a conflict with the 701 program. That would be my interpretation of it.

Mr. HARRY F. BYRD, JR. The language says if he is not satisfied, then no grant shall be made. Certainly it would appear to me that a veto is given to the Secretary of HUD. Maybe that is the Senator's desire. I shall not argue that point.

Mr. JACKSON. It is not intended to give him an absolute veto.

Mr. COOK. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. COOK. It does not say he will. It says he must make a report that he is satisfied. I will say to the Senator from Virginia that what bothers me is that it gives him a veto in two forms. In one of them he can transmit to the Secretary of the Interior that he is not satisfied, which means that that is a veto; and second, he may not transmit anything to him at all, and if he makes no transmission, then that is not a notification that he is satisfied.

Mr. HARRY F. BYRD, JR. The Senator from Kentucky is quite correct. He has expressed it much better than did the Senator from Virginia.

Mr. COOK. It seems to me that language should be put in that provision, I will say to the Senator from Virginia, that there is an appropriate time by which the Secretary of HUD has an opportunity to review it and express his concern to the Secretary of the Interior, but I do not see how one could otherwise interpret the phrase "the Secretary shall not" until the Secretatry of HUD is satisfied. I am not quite sure how one could have more of an effective veto than to be restricted from allowing a grant until an individual in another department is satisfied that this program is pursuant to the regulations of HUD.

Mr. HARRY F. BYRD, JR. That is the way it appears to the Senator from Virginia, and that is why I raised the point with the Senator from Washington.

Mr. COOK. I am just wondering whether there is any way in which we might be able to work out some kind of language, frankly, because, for the life of me, I do not see how one could say this does not constitute a veto. If it does not, how would one interpret this language and how would he interpret its applicability as it applies to the Secretary of the Interior—a responsibility that he shall impose on himself until the Secretary of HUD is satisfied? If any Senator can discuss that matter to indicate how this does not constitute a veto, then we would be far more enlightened than we are now.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. Mr. President, I just wanted to emphasize—and I think there may be some confusion—that, of course, this amendment runs only to the 701 program.

Mr. COOK. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. COOK. I wonder if the Senator might change the word "shall" to "may," so that it would read "The Secretary may not make any grant," and then it would be in the nature of a discretion, and it would not be mandatory. Would that in anywise satisfy——

Mr. JACKSON. I am conferring with the staff of the Banking, Housing and Urban Affairs Committee, if the Senator will defer for just one moment.

Mr. COOK. Certainly.

Mr. JACKSON. Mr. President, I have conferred with the staff of the Banking, Housing and Urban Affairs Committee.

Does the Senator wish to offer that as a perfecting amendment?

Mr. COOK. I am wondering whether that would satisfy the problem that the Senator from Virginia has.

Mr. HARRY F. BYRD, JR. Yes; I think it is an improvement. I thank the Senator from Kentucky.

Mr. COOK. Mr. President, I would suggest that, rather than have me prepare the amendment—it is the Senator's amendment—the Senator might do so.

Mr. JACKSON. Mr. President, I ask unanimous consent that the suggestion of the Senator from Kentucky and the Senator from Virginia, that on line 7, page 2, the word "shall" be stricken and the word "may" be inserted, be made as a modification of my amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection, and the amendment is so modified.

Mr. JACKSON. Mr. President, I ask for a vote on the amendment.

The PRESIDING OFFICER. Does the Senator ask for a rollcall vote?

Mr. JACKSON. No.

I am prepared to yield back the remainder of my time.

Mr. MANSFIELD. Mr. President, unless a Senator wants time—I understand the time in opposition is in my hands, and I am not opposed to it—I yield back my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Washington, as modified.

The amendment, as modified, was agreed to.

Mr. STEVENS. Mr. President, I do not know who is controlling the time, but I would like to address some questions to the chairman of the Committee on Interior and Insular Affairs, if I may, concerning a possible amendment.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. How much time do I have on the bill?

The PRESIDING OFFICER. The Senator from Washington has 27 minutes. The Senator from Idaho has 47 minutes.

Mr. JORDAN of Idaho. Mr. President, I yield 2 minutes to the Senator from Alaska on the bill.

Mr. STEVENS. I thank the Senator from Idaho.

Before I ask the chairman of the committee a question, I would like to preface the question by saying we in Alaska are indebted to him and the Senator from Nevada for the work they did on the Alaska Native Claims Act, which created the Federal-State Land Use Planning Commission.

That Commission is working well. It has ironed out many problems between the Federal Government and the State of Alaska.

My question to the chairman of the committee is whether the Joint Federal-State Land Use Planning Commission under the Alaska Native Land Claims Act is in any way affected by the bill before us, which, as I understand it, requires the establishment of a State land planning commission and authorizes joint Federal-State commissions.

Mr. JACKSON. Mr. President, I can assure the Senator that the Joint Use Planning Commission which was set up pursuant to the Alaska Native Claims Act is not in any manner affected by S. 632. I point out further that the Joint Planning Commission runs, I believe, for 5 years.

Mr. STEVENS. Yes.

Mr. JACKSON. And I would add that it is the State of Alaska, not the joint commission, which would be eligible for grants. The Joint Commission which the Senator has referred to is entirely separate, and will function separate and apart from the grant-in-aid program under S. 632.

Mr. STEVENS. Is my understanding correct, then, that there is no intent in this bill in any way to modify the terms of the Alaska Native Claims authorization for that joint Federal-State Land Use Planning Commission, which has, as the Senator will recall, specific provisions pertaining to land claims in Alaska only? Is it correct that there is no intent to modify that arrangement?

Mr. JACKSON. The Senator is correct.

Mr. COOK. Mr. President, will the Senator from Idaho yield me 1 minute?

Mr. JORDAN of Idaho. I yield the Senator from Kentucky 1 minute.

Mr. COOK. I would like to be sure that what the Senator is saying is true, but I am not sure that it is, because on page 76 of the bill, under State land use programs, the State must file its land use program with the Department of the Interior, and as of this stage the State exercises determinative authority as to what shall and shall not be done. On page 78 we find the language:

> State administrative review of land use plans, regulations, and implementation thereof of local governments with full powers to approve or disapprove.

Then, as to everything which is of such magnitude that it changes the land-use program, we then go over to page 83, where it provides that if it is this big a change, it then is referred to the Secretary of the Interior, and if the Secretary of the Interior does not like the plan as it has been changed, he can make a determination on his own how that plan should work, and so state to the respective States.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. COOK. Mr. President, if I may have 30 seconds more——

Mr. JORDAN of Idaho. I yield the Senator 1 more minute.

Mr. COOK. I am not sure that one can authoritatively say that a land-use commission that has been set up under another act within the framework of a State can function without the authority of this bill imposes on the State to submit to the Department of the Interior a full land-use plan for its entire State.

Mr. JACKSON. Mr. President, may I say on this question that the language referred to by my good friend from Kentucky on page 76 will be subject to a clarifying amendment which I shall offer later, but I want to make it very clear that there is nothing intended in this bill—and when we add this other amendment I do not think there can be any question about it—to in any manner change the provisions of the Alaska Native Claims Act as to the Joint Planning Commission. The Commission serves in a purely advisory capacity as the Senator from Alaska knows.

Mr. STEVENS. That is correct.

Mr. JACKSON. I want to assure the Senator of that fact, and I think the record will be completely clarified when the clarifying amendment has been offered. I speak as the author of S. 632 and the Alaska Native Claims Act, and want to make the legislative intent very clear.

Mr. STEVENS. I thank the Senator very much.

TIME LIMITATION ON YEA-AND-NAY VOTES

Mr. ROBERT C. BYRD. Mr. President, I renew my unanimous-consent request for a limitation of time on rollcall votes for the remainder of the day.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

AMENDMENT NO. 1521

Mr. MUSKIE. Mr. President, I call up my amendment No. 1521, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. MUSKIE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE's amendment is as follows:

On page 62, line 17, strike "Secretary of the Interior" and insert in lieu thereof "President".

On page 63, strike lines 6, 7, and 8 and insert in lieu thereof:

"SEC. 201. (a) The President may perform his responsibilities under this Act through the Office of Land Use Policy Administration established pursuant to this section.

"(b) There is hereby established in the Executive Office of the President the Office of Land Use Policy Administration (hereinafter referred to as the 'Office').".

On page 63, line 9, strike "(b)" and insert in lieu thereof "(c)".

On page 63, beginning at line 15 strike "Secretary of the Interior (hereinafter referred to as the 'Secretary')" and insert in lieu thereof "President".

On page 63, line 17, and at each place where it appears thereafter in the bill, strike "Secretary" and insert in lieu thereof "President" in those places where "Secretary" is intended to refer to the Secretary of the Interior.

On page 65, line 23, insert "Interior;" immediately following "Development;".

On page 66, beginning on line 18, strike "and the agency designated pursuant to section 502".

On page 82, between lines 22 and 23 insert the following:

"(6) the Department of the Interior;"

On page 82, beginning at line 23, and continuing to page 83, line 1, redesignate "(6)", "(7)", "(8)", and "(9)" as "(7)", "(8)", "(9)", and "(10)", respectively.

On page 83, line 15, strike "notify the President, who shall".

On page 83, lines 22 and 23, strike "after notification by the Secretary".

On page 84, lines 2 and 3, strike "after notification by the Secretary".

On page 95, strike lines 21 through 25 and insert in lieu thereof the following:

"(1) take any appropriate and necessary action to minimize such conflict;.

"(2) work with the appropriate Federal agency"

On page 96, line 20, strike "President and the".

On page 101, strike lines 17 through 23 and insert in lieu thereof the following:

"SEC. 502. (a) The President is authorized to issue guidelines to the Federal agencies to assist them in carrying out the requirements of this Act. He shall submit proposed guidelines to the heads of agencies represented on the Board, and shall consider their comments prior to formal issuance of such guidelines."

On page 102, lines 9 and 10, strike "President and the".

On page 106, line 10, strike "Secretary" and insert in lieu thereof "Executive Office of the President".

On page 106, line 15, strike "Secretary of the Interior" and insert in lieu thereof "Executive Office of the President".

On page 108, strike "Secretary of the Interior" and insert in lieu thereof "President".

On page 108, strike "Department of the Interior" and insert in lieu thereof "Executive Office of the President".

Mr. MUSKIE. Mr. President, the purpose of this amendment, which I shall state very briefly and explain my reasons for it, is to substitute the Executive Office of the President for the Secretary of the Interior as the administrative agency at the Federal level.

Mr. President, the legislation before us would rest responsibility for "procedural" review of State land-use plans in an Office of Land Use in the Department of Interior. I question the viability and the wisdom of this provision. The Interior Department has a long and distinguished history of involvement in development of public land, wilderness areas, and national parks.

Unfortunately, the Interior Department has no broad-based planning responsibility as would be established under S. 632. The Interior Department has no awareness of issues relating to State and local tax patterns. The Interior Department has had no involvement or experience in the Nation's urban areas where 70 percent of the population lives and where the major, critical land-use planning problems exist. Because of the Interior Department's limited experience in these areas, I am concerned that solution to urban-based land-use problems, at worst, may be misjudged and at least delayed or complicated. Sound evaluation of public policy requirements argues that an Interior Department traditionally oriented toward public lands and rural areas will not comprehend other issues, including the host of problems which confront urban areas in 50 States.

An argument can be made for charging several Federal agencies with the lead agency role in land-use planning. But any fair evaluation of the Federal structure demands the conclusion that no single agency has either the ability or the breadth to do the job. The Department of Housing and Urban Development, for example, has experience in comprehensive planning in urban areas but has limited understanding in such matters as watersheds, irrigation rights, wilderness needs, and mineral exploration which affect many important land use decisions outside of urban areas.

The Environmental Protection Agency, with knowledge of environmental issues, has but little involvement with the social and fiscal implications which affect land-use planning in urban areas or the land management issues which must be recognized in nonurban areas.

For this reason, it is essential that, should the Federal Government assume the role in guiding development of State land-use planning program assigned by S. 632, coordinating it must occur through an agency with the breadth to recognize all of the broad issues, with capacity to bring together all of the experience of Federal agencies relating to the land-use planning which does not exist in the narrow line agencies. Only the Executive Office of the President has the overall capability to coordinate this responsibility.

My amendment would vest responsibility for implementation of this legislation in the Executive Office of the President. I admit that this is an imperfect solution, but land use is so complex—land use involves so many facets of public activity—land use involves the programs of so many Federal agencies—that land use must be within the responsibility of a Federal office which has the capability to bring to bear all of the resources of the Federal Government.

Under my amendment, the President would have to establish an Office of Land Use Planning in the White House. That office should be able to draw immediately the best talent available from the Departments of Interior, Housing and Urban Development, Transportation, and Agriculture as well as EPA, independent agencies, the academic community, and the private sector. I do not expect this office to be political. Like the Office of Management and Budget, it should be an agency composed of civil servants dedicated to a specific responsibility.

The White House, which has ultimate

responsibility for implementaton and coordination of those national policies to which I have referred, is the only logical location for the responsibilities proposed by this bill and the amendments thereto.

Mr. President, as an indication of the breadth of Federal programs that are involved and that would be subject to this planning process, I ask unanimous consent to have printed in the RECORD a table found in the committee report, listing the 112 programs which would be involved in this planning process, the vast majority of which have nothing to do with the Department of the Interior.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

[Thousands of dollars]

State	Highway	Airports	L. & W.C.F.	Total	7 percent
Alabama	25,006	1,601	4,133	30,740	2,152
Alaska	51,104	8,253	2,154	16,511	4,305
Arizona	18,151	2,038	3,297	23,486	1,644
Arkansas	17,386	1,228	3,019	48,633	3,404
California	99,955	7,263	17,848	125,066	8,755
Colorado	21,926	2,013	3,578	27,517	1,926
Connecticut	15,081	844	4,299	20,224	1,416
Delaware	5,926	172	2,418	8,516	596
Florida	35,355	2,563	6,674	44,592	3,121
Georgia	31,321	1,984	4,778	38,083	21,666
Hawaii	6,546	288	2,609	9,443	661
Idaho	11,651	1,345	2,358	15,354	1,075
Illinois	60,982	3,617	10,205	74,804	5,236
Indiana	31,038	1,823	5,427	38,288	2,680
Iowa	26,172	1,500	3,547	31,219	2,185
Kansas	25,150	1,717	3,307	30,174	2,112
Kentucky	21,454	1,379	3,819	26,652	1,866
Louisiana	22,202	1,613	4,299	28,114	1,968
Maine	8,397	732	2,502	11,631	814
Maryland	18,937	1,165	4,991	25,093	1,757
Massachusetts	25,411	1,567	6,338	33,316	2,332
Michigan	49,023	3,594	8,422	16,039	4,273
Minnesota	32,384	2,166	4,437	38,987	2,729
Mississippi	18,691	1,235	3,044	22,970	1,608
Missouri	35,533	2,156	5,134	42,823	2,998
Montana	18,523	2,227	2,376	23,126	1,619
Nebraska	19,763	1,452	2,877	24,092	1,686
Nevada	12,055	1,665	2,402	16,122	1,129
New Hampshire	5,794	317	2,404	8,515	596
New Jersey	31,815	1,926	7,201	40,942	2,866
New Mexico	16,388	1,954	2,555	20,897	1,463
New York	86,519	5,347	15,928	107,794	7,546
North Carolina	31,613	2,021	4,790	38,424	2,690
North Dakota	13,294	1,142	2,301	16,737	1,172
Ohio	55,268	3,318	9,749	68,325	4,783
Oklahoma	24,046	1,624	3,568	29,238	2,047
Oregon	19,232	1,884	3,392	24,508	1,716
Pennsylvania	59,107	3,628	10,667	73,402	5,138
Rhode Island	7,345	258	2,755	10,358	725
South Carolina	16,734	1,092	3,462	21,288	1,490
South Dakota	14,032	1,243	2,329	17,604	1,232
Tennessee	26,946	1,585	4,360	32,891	2,302
Texas	83,190	6,566	9,929	99,685	6.978
Urah	12,546	1,452	2,799	16,797	1,176
Vermont	4,979	247	2,208	7,434	520
Virginia	28,656	1,769	5,056	35,481	2,484
Washington	22,907	1,849	4,322	29,078	2,035
West Virginia	11,933	780	2,938	15,651	1,096
Wisconsin	31,215	2,040	4,830	38,085	2,666
Wyoming	11,154	1,450	2,162	14,766	1,034
District of Columbia	6,591	192	927	7,710	539
Total	1,386,427	102,884	243,000	1,756,775	123,007

Mr. MUSKIE. Mr. President, I ask unanimous consent to have printed in the RECORD a letter I have received from the National League of Cities and the U.S. Conference of Mayors, dated September 11, 1972, which bears on this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL LEAGUE OF CITIES AND
THE U.S. CONFERENCE OF MAYORS,
September 11, 1972.

Hon. EDMUND S. MUSKIE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MUSKIE: Your speech of August 16th, before the U.S. Senate, discussing S. 632, the Land Use Policy and Planning Assistance Act of 1972, raised several issues that have been of particular concern to the National League of Cities and the U.S. Conference of Mayors. We share your concerns, and join with you in your desire for full consideration of these issues as the Senate considers S. 632.

During our testimony before the Senate Committee on Interior and Insular Affairs on S. 632 and S. 992, the predecessors to the bill now before the Senate, on June 7, 1971, the National League of Cities and the U.S. Conference of Mayors supported Federal assistance and guidance for developing a land use planning partnership between Federal, state, and local governments. However, our testimony stated that in facing the issue of protecting our environment "there is a very real challenge, and that is to establish such a protective mechanism without depriving local governments of control over community development decisionmaking which they must maintain to be responsive and viable entities in the overall Federal system."

We identified three fundamental difficulties with the legislation then before the Comittee: first, the role of local governments in the land use planning and management process; second, the impact of state and Federal land use controls on local revenues and the ability of local governments to carry out those governmental functions so dependent upon the property tax base; and third, whether the Department of the Interior would be the proper agency to establish and administer national and state land use policies and programs.

Since our testimony, the land use bill has been subject to numerous revisions. We have worked closely with the Interior Committee to assure that local governments will be fully involved in the planning for land uses of statewide and national concern, and that the primary responsibility for local land use decisions will continue to be placed in the hands of elected local officials.

Still remaining are the issues of the financial impact of the Federal land use legislation and the proper agency to administer the Federal program. The property tax issue may not be resolved, but it goes to the heart of the effects that the legislation will have. In addition, many of the specific questions asked in your speech can only be answered in the context of a full discussion of the financial impact of land use controls. Revenue sharing, which you have so strongly supported, will reduce cities' dependence on the property tax to some degree. However, only fundamental reform of the property tax system can make land use reforms truly effective. S. 632 may or may not be the appropriate vehicle for such reform. We do agree very strongly that the issues must be raised during the Senate debate on S. 632.

The National League of Cities and the U.S. Conference of Mayors also testified during last year's hearings that Federal responsibility for land use should be vested in an agency within the Executive Office of the President, such as the Domestic Council. We have sought responsibility in an agency which would have overall involvement in making domestic policy and would be able to take a comprehensive view of the issues in the context of a national growth policy. We feel that the Department of the Interior, as proposed in S. 632, or any other particular department or agency with particular mission orientations would be too narrow in its perspective. In addition, the lack of experience of such functional agencies with land use planning in general, and with urban land use planning in particular, would make implementation of land use policies and coordination with existig federal programs very difficult. The National League of Cities and the U.S. Conference of Mayors therefore, support an amendment to S. 632 to place responsibility for the program in the Executive Office of the President.

The Land Use Policy and Planning Assistance Act, S. 632, holds the potential for being one of the most significant bills ever considered by the Senate. It has potential for governing the relationships of the Federal, state, and local governments and for controlling all private and governmental activities. Virtually all public and private activities impact on land usage and could be governed by this bill. Such major legislation merits full discussion and broad consideration of all the elements and impacts it may have. The National League of Cities and the U.S. Conference of Mayors hope these serious concerns that we share with you, as well as the numerous other issues raised by S. 632, will be fully discussed and, hopefully, resolved. We applaud your initiatives in raising these issues, and shall work toward their resolution.

Sincerely,

ALLEN E. PRITCHARD, Jr.,
Executive Vice President
National League of Cities.
JOHN J. GUNTHER,
Executive Director,
U.S. Conference of Mayors.

Mr. MUSKIE. I read a paragraph from the letter:

The National League of Cities and the U.S. Conference of Mayors also testified during last year's hearings that Federal responsibility for land use should be vested in an agency within the Executive Office of the President, such as the Domestic Council. We have sought responsibility in an agency which would have overall involvement in making domestic policy and would be able to take a comprehensive view of the issues in the context of a national growth policy. We feel that the Department of the Interior, as proposed in S. 632, or any other particular department or agency with particular mission orientations would be too narrow in its perspective. In addition, the lack of experience of such functional agencies with land use planning in general, and with urban land use planning in particular, would make implementation of land use policies and coordination with existing federal programs very difficult. The National League of Cities and the U.S. Conference of Mayors therefore support an amendment to S. 632 to place responsibility for the program in the Executive Office of the President.

Thus speaks the voice of the urban areas of this country on this issue.

Mr. President, I should like to refer to another communication, which is found in the committee report, from the one agency at the Federal level which concerns itself with the relationship between the Federal, State, and local levels of government. That is the Advisory Commission on Intergovernmental Relations. I ask unanimous consent to have the letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ADVISORY COMMISSION ON
INTERGOVERNMENTAL RELATIONS,
Washington, D.C., April 12, 1971.

Senator HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR SENATOR JACKSON: This is in response to your request for the Advisory Commission on Intergovernmental Relations' views on S. 632, the Land and Water Resources Act of 1971. While the ACIR has not taken a specific position on all the issues raised in S. 632, it has adopted several policy positions having a bearing on the bill.

Urban Growth and Planning.—In its 1968 report on *Urban and Rural America: Policies for Future Growth*, the ACIR recommended "* * * the development of a national policy incorporating social, economic, and other considerations to guide specific decisions at the national level which affect the patterns of urban growth." In an earlier report, *Fiscal Balance in the American Federal System*, the Commission stressed the importance of a strong well-staffed State planning program directly under the Governor. The Commission concluded that the planning function should include formulation for the consideration by the Governor and legislature of comprehensive policies and long-range plans for the effective and orderly development of human and material resources of the State. More specifically, the Commission in its *Urban and Rural America* report recommended "* * * the development of State policy incorporating social, economic and other considerations to guide specific decisions at the State level which affect patterns of urban growth." The States were urged to "* * * give consideration both to the national policy and to the views of local governments in the formulation of State plans and policy dealing with urban growth."

Grant Consolidation.—The Advisory Commission in its 1967 report *Fiscal Balance in the American Federal System*, recommended "* * * that the Congress and the President strive toward a drastic decrease in the number of separate authorizations for Federal grants * * *" In the same report, the Advisory Commission further recommended "* * * consolidating in so far as possible into a single Congressional enactment a set of planning requirements both functional and comprehensive to be applicable to Federal grant and aid programs, both present and future * * *"

The following comments are those of the staff only, although some of the discussion relates to those general policy positions of the Commission stated above:

"The purposes of the bill are not inconsistent with the ACIR's basic position on the need for a national urbanization policy.

"Yet, it might be appropriate to consider this legislation within the broader context of such a national policy, which in the long run will probably emerge as a consequence of piecemeal consideration of measures such as this. Legislation introduced in the last session of Congress (H.R. 13217 and S. 3228, 'Balanced Urbanization Policy and Planning Act of 1969") implemented ACID recommendations concerning comprehensive and functional planning assistance grants. Title III of these bills sought to develop an intergovernmental system of planning and coordination that buttresses the development of a national urbanization policy. The following principles set forth in Title III are pertinent to S. 632 as land use is basic to other kinds of planning:

"(a) comprehensive planning assistance is confined generally to general purpose units of government and one set of areawide multijurisdictional agencies within a State is used (unless no overall State assistance program is established);

"(b) comprehensive planning must be consistent with that of the next larger jurisdiction (which complements the thrust of Title IV of the 'Intergovernmental Cooperation Act of 1968');

"(c) functional plans must be consistent with comprehensive planning and not inconsistent with the functional plans of the next larger jurisdiction;

"(d) emphasis is placed upon the States if they choose to take up the challenge laid down by this Title, but bypassing is permitted to localities and areawide jurisdictions if this responsibility is rejected;

"(e) an attempt is made to place the allocation of funds on a formula basis, rather than on an across-the-board project basis; and

"(f) finally, immediate responsibility for administering the program is assigned to the Department of Housing and Urban Development, but operating within broad guidelines to be established by the Executive Office of the President.

"Enactment of this broad comprehensive and functional planning grant program admittedly is a difficult assignment. Extensive institutional arrangements would have to be made in both the executive and legislative branches of the Federal government.

"We are concerned that possible conflict, overlap, or duplication may occur between the categorical program activities proposed by the bill and those now being carried out in the Department of Housing and Urban Development's comprehensive planning assistance (701) program. A substantial amount of the funds granted under the 701 program have gone to States and local governments for land use planning and related activities. The provisions of the existing 701 program already authorize grants which would accomplish much of what is sought by S. 632 in encouraging land use planning. Consideration then might be given to increasing the funding level of 701; to assure that an adequate amount is reserved for land use planning, Congress could specify that 40 to 50 percent of 701 funds be earmarked for grants to States, river basin commissions, and interstate agencies. Alternatively, 701 might be folded into S. 632.

"We feel it is essential that the land use planning component of urban growth policy, as proposed by S. 632, be integrated with the broader comprehensive planning process encompassing the full spectrum of physical, social, human and economic issues. To accomplish this objective, we feel that HUD should be assigned with the responsibility for disbursement of grant funds for land use planning.

"However, in evolving the organization and procedures for carrying out the broad purposes of S. 632, Congress ought to consider assigning to an identifiable unit of the Domestic Council those policy responsibilities set forth in Title I. Moreover, the importance of relating national land use policy with the development of a national urban growth policy as called for in Title VII, Part A, of the 'Housing and Urban Development Act of 1970' should be underscored. Therefore, we would urge that the Land and Water Resources Council not be established as an independent unit, charged with policy and program functions, apart from those responsibilities that Congress has already called for in the development of a national urban growth policy. At the very least, S. 632 should be amended to make clear that its purposes provide an institutional framework to implement Title VII of the 'Housing and Urban Development Act of 1970.'"

"To ensure coordination of Federal agency activities with statewide land use plans, we feel that responsibilities for this function must rest with the Office of Management and Budget in the Executive Office of the President. In short, we are suggesting that the policy, coordination, and grant disbursement responsibilities under the Act should rest with the Domestic Council, OMB, and HUD, respectively.

"Finally, the far-reaching effects of S. 632 and similar bills emphasize the necessity for Congress to provide within its standing committee structure a means to assure continuing systematic review and study of the progress toward a national urban growth policy. While the ACIR does not presume to say whether this responsibility should be exercised by select or special committees, we do feel that a decision must be made for effective oversight of the kind of new responsibilities envisaged by S. 632."

You and your committee are to be complimented for developing and deliberating on this wide-ranging omnibus legislation. We appreciate the opportunity to comment on this bill.

Sincerely,
WILLIAM R. MACDOUGALL,
Executive Director.

Mr. MUSKIE. I read a brief excerpt from the letter:

> To ensure coordination of Federal agency activities with statewide land use plans, we feel that responsibilities for this function must rest with the Office of Management and Budget in the Executive Office of the President. In short, we are suggesting that the policy, coordination, and grant disbursement responsibilities under the Act should rest with the Domestic Council, OMB, and HUD, respectively.

Mr. President, I think it only makes sense that if we adopt this kind of far-reaching legislation, going all across the board, involving 112 different Federal agencies and programs, involving all 50 States, involving up to 90,000 local units of government, overall supervision of this process ought to rest at the very top level of government where all the Federal programs can be coordinated, under the supervision of the President, the Executive Office itself. Without that kind of provision, I would find it very difficult to support this legislation—charging an agency which has had primary responsibility with public lands with the supervision of a public policy that relates only to nonpublic lands. We are talking about a department which now seeks to extend its jurisdiction beyond the public lands which have been its traditional jurisdiction to nonpublic lands which have never been its traditional jurisdiction.

So, Mr. President, I urge the adoption of my amendment by the Senate.

I reserve the remainder of my time.

Mr. JACKSON. Mr. President, I oppose the amendment of the junior Senator from Maine (Mr. MUSKIE) to transfer the administration of the Land Use Policy and Planning Assistance Act of 1972 from the Secretary of the Interior to the Executive Office of the President.

There are some duties which for compelling reasons must be located in the Executive Office, chiefly those which involve policy development and which require intimate and continuing contact with the President and his immediate aides.

I find no such compelling reasons in regard to the duties created by the proposed legislation.

These duties are primarily administrative and technical in nature. They will involve a sizable staff competent to review planning activities in the States and the necessary clerical force required to administer a significant grant program. Although the impact of the program proposed in this measure will, I believe, be of tremendous significance to the Nation's future, the day-to-day decisions which will be made by its administrators will seldom require or command the personal attention of the President and his immediate staff. There are adequate existing means, through the Cabinet and existing advisory groups, to bring issues regarding this or any other program to the President's attention when the need arises.

I surmise that the purpose of the amendment being proposed is to avoid the conflicts of jurisdiction among agencies. The bill as reported assigns responsibility for program administration to the Interior Department, and fully recognizes that many other departments and agencies have an interest in the program. The answer to dealing with shared jurisdiction is not, however, to locate this program in the White House.

The bill reported by the committee deals with this question by establishing within the Office of Land Use Policy Administration a National Advisory Board on Land Use Policy—section 203—which is composed of representatives of all concerned departments and agencies. In addition, the Executive Office of the President is required to formulate all guidelines. All Federal review functions of State processes and programs are done through an interagency procedure with special review responsibilities for the Secretary of HUD and the Administrator of EPA. Finally, no State program can be declared ineligible until a special ad hoc hearing board appointed by the President declares it so.

Mr. President, the Executive Office is not a good location for agencies which should be accessible to the public and to non-Federal governments. Executive Office Agencies, by their nature, are primarily concerned with the President's priorities and needs. They are prestigious, but they are ill-equipped for field work.

The program which is being proposed here is primarily a State grant-in-aid program. The Federal agency which administers it must remain accessible and sensitive to the States, local governments, and the general public which are carrying out the planning effort and being affected by it.

We should resist the temptation to resort to the Executive Office as an easy answer to coordination and jurisdictional problems. If we do not, we will soon erode the value of that location both for our new activities and for those which already reside there. Furthermore, we will destroy the viability of the most important organizational entity in the executive branch.

My bill, which is before the Senate at this time, has been supported by all the conservation groups. The bill includes the Interior Department as the agency to administer the grant-in-aid program and the conservation groups have all gone down the line 100 percent in favor of such an approach: the National Audubon Society, the Sierra Club, the National Wildlife Federation, the Wilderness Society, the Environmental Policy Center, the Friends of Earth, the National Recreation Association, the Sports Fishing Institute, and so forth. I mention these organizations because they have been of great assistance to us as we have carefully worked out this measure over a period of 2½ years.

I must say that the Interior Department is the logical place to administer the program. To turn it over to the White House and, in effect, have a Cabinet officer in the White House, will do violence to the whole concept of administering executive programs.

I trust and I hope that the amendment will be voted down.

Mr. CHURCH. Mr. President will the Senator from Washington yield?

Mr. JACKSON. I yield.

Mr. CHURCH. Do I correctly understand that the pending amendment would, in effect, transfer the administration of the program envisioned by the bill from the Interior Department to the White House?

Mr. JACKSON. The Senator is correct. This is something unprecedented. There is absolutely no precedent for setting up, in effect, a Cabinet office within the confines of the White House. That is what we are talking about here. That is why the conservation groups and all the others are concerned and support this measure which places administrative responsibility in the Department of the Interior.

What are they going to do? Bring in all the expertise from the other departments? They will have to set up a bureaucracy in the White House, which will be unprecedented.

Mr. CHURCH. That was going to be my next question. The administration of the bill is highly technical in character, is it not, and will require considerable expertise? That is true, is it not?

Mr. JACKSON. The Senator is correct. It would require a very large personnel buildup within the White House.

Mr. CHURCH. Is it not also true that the one place this expertise does exist now, and in considerable measure, is at the Department of the Interior?

Mr. JACKSON. The Senator is correct. In the area of land use, the list is long. The Interior Department has numerous environmental programs which involve our parks and the use of public lands and collection of land resource data through the Geological Survey. That is why the conservation groups have strongly supported the Interior Department concept.

Mr. MUSKIE. The Senator has referred to functions which have to do with public lands. Why does the bill exclude public lands if the expertise exists with respect to it? The Senator is talking about precedents. There is no precedent for the Interior Department's having jurisdiction over nonpublic lands.

Mr. JACKSON. Mr. President, we have a separate bill on the calender—S. 2401—dealing specifically with public lands, the administration of public domain lands.

Mr. MUSKIE. Mr. President, I have listened with a great deal of interest to this argument, that there is no precedent for putting these functions in the Executive Office of the President in the White House, and that there is no expertise there for dealing with it.

Well, Mr. President, Congress created the Office of Science and Technology, not in NASA but in the White House.

Congress created the Council of Environmental Quality, not in the Department of the Interior, or in any other Department, but in the Office of the White House.

A classic example is the Office of Emergency Preparedness, which is in the Office of the White House. Why? All of these are located in the White House because of the perceived need for the coordination of these activities.

Let me read some of the programs involved in this process, none of which are in the Department of the Interior:

LIST OF PROGRAMS

Airport and Airway Development Act.
Appalachian Regional Development Act.
Atomic Energy Act.
Consolidated Farmers Home Administration Act.
Demonstration Cities and Metropolitan Development Act.
Elementary and Secondary Education Act.
Federal Aid Highway Act.
Federal Power Act.
Federal Water Pollution Control Act.
Flood Control Act.
Higher Education Act.
Housing Act.
Hill-Burton Act (hospital construction).
Land and Water Conservation Fund Act.
National Housing Act.
Public Works and Economic Development Act.
Rivers and Harbors Act.
Rural Electrification Act.
Public Land Sale Act.
Urban Mass Transportation Act.

These programs, Mr. President, are not in the Department of the Interior.

Let me refer to some planning processes now existing, which are not in the Interior Department.

Broad-based land use and related plans already called for, under section 701 of the Housing Act. That is not in the Interior Department.

Section 204 of the Model Cities Act. That is not in the Interior Department.

Sections 109 and 134 of the Highway Act. That is not in the Interior Department.

Title IV of the Intergovernmental Cooperation Act. That is not in the Interior Department.

The Clean Air Act. That is not in the Interior Department. And so forth.

All of these would continue without modification under S. 632, with the new land use planning bureaucracy merely being added on the top but in a parallel agency, not in an oversight agency, after establishment of the process. That is all that S. 632 requires, without any goal or principles to begin with. There is no assurance that anything would be accomplished through the new planning activities unless there is effected coordination of existing Federal planning processes in existing Federal programs.

Mr. President, the Senator from Washington speaks about lack of precedent. This whole legislation is without precedent. There is no precedent for it anywhere in American history for 200 years. There is no precedent to guide us with respect to such legislation. I submit there is at least this much, that the history of Congress in legislating indicates when any new Federal function is adopted which requires the coordination of existing programs, departments, and agencies, the place to put that role and that function is in the Executive Office at the White House. If that is not the proper place for it, then we should transfer NASA, the Council of Environmental Quality, the Office of Emergency Preparedness, and all the others away.

What we are talking about is a new program and a new policy that affects not just 112 Federal programs but all the 50 States and over 90,000 local units of government.

We are putting all of that into one department of Government, the Department of Interior, which has no experience, none whatsoever, with respect to nonpublic lands? We are urged to consider precedents in making that determination?

Mr. President and my colleagues in the Senate, precedent indicates that is the last place it should be located in.

Thus, I urge adoption of the amendment.

Mr. JORDAN of Idaho. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER (Mr. TUNNEY). The Senator from Idaho is recognized for 2 minutes.

Mr. JORDAN of Idaho. Mr. President, I see no real purpose in setting up an overlapping bureaucracy in the White House to supervise the land use and planning program. The expertise in this field is largely concentrated in the Department of the Interior which has jurisdiction over 450 million acres of public lands now. That is where the expertise is and where this kind of land use planning is concentrated.

I see no use establishing an overlapping bureaucracy at the White House, as the same thing can be done by each agency in the Department of the Interior.

Thus, I shall resist—and I hope other Senators will, as well—the amendment of the Senator from Maine (Mr. MUSKIE).

Mr. JACKSON. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER (Mr. TUNNEY). The Senator from Washington is recognized for 1 minute.

Mr. JACKSON. Mr. President, the distinguished Senator from Maine has cited the precedent of OST and OEP. It is quite apparent that we are talking about two different things. There are a total of 15 professionals running the Office of Science and Technology. And in OEP there may be 35.

Do we want to set up a huge bureaucracy that would be unparalleled? I am talking about a Cabinet-sized operation to administer grant-in-aid programs. We have never administered grant-in-aid programs from the White House. We would be going down the wrong road. It would be a mass of confusion. It would be a waste of the taxpayers' funds.

I urge that the amendment be rejected.

Mr. President, I yield back the remainder of my time.

Mr. JORDAN of Idaho. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Maine.

Mr. JACKSON. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PELL), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Mississippi (Mr. STENNIS), the Senator from Wyoming (Mr. MCGEE), and the Senator from Iowa (Mr. HUGHES) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from Delaware (Mr. BOGGS), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senators from New York (Mr. BUCKLEY and Mr. JAVITS) and the Senator from Arizona (Mr. GOLDWATER) are absent on official business.

The Senator from Colorado (Mr. DOMINICK) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from North Dakota (Mr. YOUNG) is detained on official business.

If present and voting, the Senator from Texas (Mr. TOWER) would vote "yea."

On this vote, the Senator from Delaware (Mr. BOGGS) is paired with the Senator from South Carolina (Mr. THURMOND). If present and voting, the Senator from Delaware would vote "yea" and the Senator from South Carolina would vote "nay."

The result was announced—yeas 19, nays 56, as follows:

[No. 452 Leg.]

YEAS—19

Aiken
Bayh
Bentsen
Case
Chiles
Cooper
Harris
Kennedy
Mansfield
Mondale
Muskie
Percy
Proxmire
Ribicoff
Roth
Stafford
Stevenson
Tunney
Williams

NAYS—56

Allen
Anderson
Bennett
Bible
Brooke
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Church
Cook
Cotton
Cranston
Curtis
Dole
Eastland
Edwards
Ervin
Fannin
Fong
Fulbright
Gambrell
Griffin
Gurney
Hansen
Hart
Hartke
Hatfield
Hollings
Hruska
Humphrey
Inouye
Jackson
Jordan, N.C.
Jordan, Idaho
Long
Magnuson
Mathias
McClellan
McIntyre
Miller
Montoya
Nelson
Packwood
Pastore
Pearson
Randolph
Saxbe
Schweiker
Scott
Smith
Spong
Stevens
Symington
Taft
Talmadge
Weicker

NOT VOTING—25

Allott
Baker
Beall
Bellmon
Boggs
Brock
Buckley
Cannon
Dominick
Eagleton
Goldwater
Gravel
Hughes
Javits
McGee
McGovern
Metcalf
Moss
Mundt
Pell
Sparkman
Stennis
Thurmond
Tower
Young

So Mr. MUSKIE's amendment (No. 1521) was rejected.

The PRESIDING OFFICER. Does the Senator from Wyoming seek recognition?

Mr. HANSEN. Yes.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. HANSEN. Mr. President, with the approval of my cosponsors, I would like to offer a substitute for the amendment I had before the Senate last night, and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 88, line 17, strike all through page 91, line 9.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. HANSEN. If I may just try to explain what the amendment proposes to do, I will be happy to yield to the Senator from Maine after yielding first to the Senator from Virginia who asked to be yielded to. Does the Senator have a question?

Mr. MUSKIE. No. I wanted to express the hope that before the Senator brought up his amendment the Senate would dispose of my next amendment, since the reaction depends on what happens to the next amendment I will call up.

Mr. HANSEN. I think I should go ahead with the explanation I would like to make.

Mr. President, this amendment would delete that part of section 307 which could permit the Secretary of the Interior to deny up to 21 percent of the funds, the Land and Water Conservation Act funds, and certain Federal Aid Highway Act funds.

My amendment would delete these economic sanctions. The amendment, if agreed to, would still permit the States to be encouraged to submit acceptable land use plans. The grants in aid to the States would not be deleted. It would simply remove the economic sanctions that I feel should be deleted.

I have discussed the amendment with the distinguished Senator from Washington, the chairman of the Committee on Interior and Insular Affairs, who is the manager of the bill. He can speak for himself.

Mr. President, I yield to the distinguished Senator from Virginia (HARRY F. BYRD, Jr.).

Mr. HARRY F. BYRD, JR. Mr. President, I rise to support the amendment offered by the distinguished Senator from Wyoming.

It seems to me that his amendment is most appropriate. The bill as it now stands without the amendment offered by the Senator from Wyoming would impose up to a 21 percent reduction in highway funds for a State and airport funds for a State which did not meet land use standards established here in the city of Washington. It seems to me that is pretty raw and going too far. Why would those two funds be singled out over all other funds, assuming economic sanctions were to be applied. I think it important that this section, beginning on page 88, line 20, through page 91, line 9, be eliminated from the bill. This matter of Washington saying that some agency or bureau here in Washington knows more about all the problems of this Nation than do the States and localities, and, therefore, "If you do not do what we tell you to do we are going to withhold 20 percent of your highway funds, and 21 percent of the airport funds," I think is an injustice and improper, and I strongly support the amendment offered by the able Senator from Wyoming.

Mr. HANSEN. I thank my colleague from Virginia. I would like to recognize the Senator from Idaho.

Mr. JORDAN of Idaho. Mr. President, as a cosponsor of the original version of amendment No. 1520, I support the modified version as proposed by the distinguished Senator from Wyoming.

Some people may feel that the sanctions should be retained in this legislation, but to those individuals I would point out that there will be other Congresses which can deal with the subject of sanctions, if and when it becomes evident that sanctions are indeed needed. No one, at this point in time, can say with any degree of certainty that the States will not comply voluntarily, as indeed several States already have, even prior to the enactment of this measure.

The withholding of the grants should be an adequate sanction for State participation. It has been in innumerable other Federal grant-in-aid programs. If it is not, there will be opportunity for Congress to determine whether other sanctions are needed at the two mandatory reviews of the program—the one at the end of 5 years and the one at the end of 8 years.

Mr. President, I feel it behooves the Congress to act on the basis that the States will proceed in good faith. I believe they will. I urge the adoption of the amendment as modified.

Mr. HANSEN. I thank my distinguished colleague.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. HANSEN. I yield.

Mr. COOPER. I direct my question to the Senator from Washington.

With this amendment accepted and approved, as I hope it will be, is there any other provision in the bill that provides similar sanctions against grants?

Mr. JACKSON. No.

Mr. COOPER. I was a sponsor with the Senator from Wyoming and the Senator from Idaho, and it is a proper amendment. I think this is the problem: This is a very complex bill, as the Senator from Washington knows very well, and as has been developed by debate on the amendments offered by the Senator from Maine (Mr. MUSKIE).

As the bill came to us, it would require 5 years of adoption by the States of the plans actually finally approved and as may be directed by the Federal Government. I think that is too far reaching. I think planning and encouragement of planning for the next 5 years is satisfactory. As the Senator from Idaho stated, some States are ahead now, and many others will come in voluntarily. Then will be time to discuss whether or not sanctions should be imposed.

I shall support the amendment.

Mr. HANSEN. I thank the Senator.

Mr. JACKSON. Mr. President, the pending measure as reported by the committee had two penalty provisions: first, that funds available under S. 632 could be held up if a State failed to make an effort at good-faith compliance; second, a small percentage of funds for three Federal programs could be put in escrow until the State became eligible for grants under the act.

I personally favor strong sanctions to insure compliance with the act. My fear is that the State legislatures are not going to comply with the provisions of this act if the only sanction will be, as is provided in this amendment, the denial of planning grant funds, $100 million a year, as authorized.

However, in view of all the concerns that have been expressed by many Members of the Senate, I plan to reluctantly support the amendment of the Senator from Wyoming, and I hope that at least this will help to expedite action on the bill. But I want to reiterate my deep concern about compliance. I would not be for any sanctions if we could get full compliance, but the question is, Can we get compliance?

I shall reluctantly, as I have said, go along with the amendment, and I hope we will proceed expeditiously so we can complete action on this bill.

I am prepared to yield back the remainder of my time.

Mr. HANSEN. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back——

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. JACKSON. Mr. President, will the Chair reserve making that decision?

I yield to the Senator from Maine. How much does the Senator want?

Mr. MUSKIE. Will the Senator yield me 2 or 3 minutes?

Mr. JACKSON. I yield 3 minutes to the Senator from Maine.

Mr. MUSKIE. Mr. President, my concern about the amendment of the distinguished Senator from Washington is that it comes before I could get to the issue with the amendment I will offer of what guidelines there ought to be in the legislation on the development of land use policy. Before those guidelines were included, I was disposed to vote against the sanctions. If there were adequate guidelines, it seems to me sanctions would be essential if they are to mean anything, but I think it would be useful to make reference at this point to certain language in the bill which is ambiguous on the question of whether or not, and to what extent, sanctions are involved. That is language that appears on page 87, lines 9 to 14, and I read them:

> (c) Federal agencies conducting or assisting public works activities in areas not subject to a State land use program in a State found eligible for grants pursuant to this Act shall, to the extent practicable, conduct such activities in such a manner as to minimize any adverse impact on the environment resulting from decisions concerning land use.

That seems to say—I do not know whether that is its intent; it is not language covered by the Hansen amendment—that the Federal agencies in these 112 programs that are involved can themselves make a decision—make a finding—without guidelines as to whether or not a project for which application for Federal funds is made under some current Federal program carries environmental implications that are adverse.

So I take it that such an agency which made such a determination could, on its own motion, withhold Federal funds under those programs. I suggest that as a possibility, and a possibility that is not touched by the Hansen amendment.

I repeat, however, that if I were satisfied that this legislation contained adequate guidelines to govern Federal judgments and decisions on State land use policies, I would want legislation then that had teeth in it. This legislation does not yet have those guidelines, and in its present form I would support the Hansen amendment or a similar amendment in order to eliminate teeth from an ambiguous and vague piece of legislation; but under the present legislative situation, I would have no objection to the amendment.

Mr. JACKSON. Mr. President, I yield back the remainder of my time.

Mr. HANSEN. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 1523

Mr. MUSKIE. Mr. President, I call up my amendment No. 1523 and ask that it be stated.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk read the amendment, as follows: The Senator from Maine (Mr. MUSKIE) proposes Amendment No. 1523.

Amendment No. 1523 is as follows:

On page 78, between lines 17 and 18, insert a new subsection as follows:

"(c) a process to assure that:

"(1) no public or private development will be permitted unless, in the process of development, and in the completed project, the development will conform with the requirements of the Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended, as determined by the Administrator of the Environmental Protection Agency;

"(2) no industrial, residential, or commercial development shall occur on agricultural land of high productivity, as determined by the Secretary of Agriculture, unless specifically approved by the Governor as necessary to the public health and welfare or to provide adequate housing, that would otherwise be unavailable;

"(3) no industrial, residential, or commercial development shall occur that would exceed the capacity of existing systems for power and water supply, waste water treatment and collection, solid waste disposal and resource recovery, or transportation unless such systems are planned for expansion and have financial support adequate to support operation and expansion as necessary to meet the demands of the new development;

"(4) redevelopment and improvement of existing communities and other developed areas are favored over industrial, commercial, or residential development which will utilize existing agricultural lands, wild areas, woodlands, and other undeveloped areas, and that development contrary to these principles shall be allowed only where it will provide significant and permanent jobs, housing, and educational opportunities for low- and middle-income families;

"(5) as determined by the appropriate Federal agencies to the extent possible, no development shall occur on water-saturated lands such as marshlands, swamps, bogs, estuaries, salt marshes, and other wetlands without replacement of the ecological values provided by such lands;

"(6) except where no alternative exists, there shall be no further commercial, residential, or industrial development of flood plains of the navigable waterways in the State;

"(7) those responsible for making less permeable or impermeable any portion of the landscape will be required to hold or store runoff water or otherwise control runoff from such lands so that it does not reach natural waterways during storm conditions or times of snowmelt;

"(8) to the extent possible, upland watersheds will be maintained for maximum natural water retention; and

"(9) all private and public forest lands which are leased for timber cutting under compliance with existing statutes shall be harvested in such a way as to avoid any loss in productivity of site, including nutrient and water holding capacities of the site, and take all available precautions to protect the air, water, and soil, of the site and surrounding regions, apart from removal of timber itself."

Mr. MUSKIE. Mr. President, before I get to the substance of this amendment, I think it is appropriate to make a prefatory remark.

First of all, it has been my feeling that this legislation, touching as it does so many Federal programs and the jurisdictions of so many Senate committees, should have been given careful review and hearings by all committees that are involved—not out of any sensitivity to their prerogatives as committees, but because such committees have the expertise and the background in so many policy areas involving land use that they should have been given an adequate opportunity to make an input into this bill. No part of this bill is more relevant and important than the part to which this amendment makes reference.

This amendment is inadequate in the sense that it represents the input of just one Senate committee, the Committee on Public Works, and specifically the Subcommittee on Air and Water Pollution. The guidelines and criteria that this amendment contains come out of the expertise of that committee. Other committees, such as the Committee on Banking and Currency, the Committee on Agriculture, the Committee on Armed Services, and a lot of other committees should have made inputs to the shaping of the guidelines which are to govern the Federal supervision of land-use policy, if we want to make sure that the Federal decisions are not arbitrary and are sensitive to local requirements.

Other committees had no such chance to conduct hearings, to bring in people, and to apply their expertise, and we have got to try to do it on the floor. I made the commitment to the leadership that I would try to do it on the floor. But with respect to no amendment do I feel the effort more inadequate than with respect to this one.

On this subject, let me read what I think is the most perceptive commentary on this aspect of the bill. It is contained in a letter written to the editor of the New York Times on August 23 by an able young man who was once minority counsel to the Senate Committee on Public Works and is now Director of Environmental Studies at Williams College. He is an able young lawyer by the name of Thomas C. Jorling, and was of inestimable value to our committee. I commend to the Senate the following excerpts from that letter.

The letter was written because the New York Times, on August 15, had published an editorial urging immediate passage of the pending legislation. This is what Mr. Jorling had to say:

In its Aug. 15 editorial on the National Land Use legislation presently pending in the U.S. Senate. The Times has fallen victim to the attractive notion that any legislation is better than no legislation. Such a notion, especially applied to environmental legislation, is a cop-out. For several reasons your superficial support of the bill S. 632 is misguided.

¶—The bill purports to establish national land use policy; yet nowhere in the bill is such a policy stated, only the empty buzz words, "sound environmental, economic, and social values and which encourage the wise and balanced use of the nation's land resources" and the like appear.

Such is not policy, it is empty rhetoric. If this nation is to develop land use controls, by definition it means regulation, and effective regulation must be supported by a clear statement of the elements of land use that Congress considers good, or alternatively that Congress considers bad. One searches in vain to find any such statement in the bill.

¶—The bill would establish a bureaucratic maze unequaled in the history of the Federal Government; all of this to implement a policy which, in fact, is nonexistent. In such a situation—which represents an unparalleled and perhaps unconstitutional delegation of legislative authority to the executive branch—the gnomes of Federal bureaucracy will, in fact, establish the regulatory land use program.

Without a measure of performance established in the authorizing legislation, this bureaucratic effort will lead to anything but good land use (or due process protection, for that matter). And yet, because it will be in law and a great bureaucracy will have been set in motion, repair will be nearly impossible and the nation will have embarked on a course leading to no one knows where. It is infinitely preferable to have Congress say what it intends rather than simplistically assume a Federal bureaucracy can somehow translate nothing into something.

Your editorial quotes Russell Train as supporting the present bill. Perhaps Mr. Train believes that the development of flood plains is poor land use, that loss of agricultural land to sprawl is poor land use, that rapid loss of wetlands is poor land use. Perhaps Mr. Train feels that open space per capita must be increased. But unless Congress establishes these as policy, the Federal bureaucracy will be helpless in the face of competing economic forces that are deeply rooted in our social fabric.

I find nothing in the bill to justify your conclusion that it will "safeguard a growing nation's rapidly diminishing land resources."

A bill simply entitled "National Land Use Policy" does not insure coming to grips with the issues of directing the destiny of the nation.

Mr. President, that letter states the nature of my concern about this bill better than any other language that I could propose.

The only national policy included in S. 632 is the policy that the States should establish land-use programs and override local authority in many areas. The amendment proposes specific national land-use planning criteria to give guidance to the States in developing their land-use programs.

As I indicated in my opening remarks yesterday, I believe these policy criteria are vital to protect both Federal and State efforts which are affected by the national land-use program.

Without specific policy criteria, the many Federal programs which are required to subject themselves to the State land-use programs under section 306 could have Federal policy objectives compromised by the differing requirements of 50 State plans. Without policy criteria, it will be an easy matter for administrators in the Interior Department to impose their will upon the States as to what is best.

Congress, Mr. President, not program administrators, must give policy guidance in this vital area. Otherwise, State programs may be confused by changing signals at the Federal level.

I have said the legislation provides no policy guidelines, and it does not. As a practical matter, of course, as Mr. Jorling's letter suggests, Federal policy guidance may quickly develop because the lack of policy guidelines in the bill will present an opening for those in the Federal bureaucracy to impose their individual views of what is best upon the States. Stating a national policy in the law will assure that States are not subjected to these bureaucratic whims, and assure a true national policy.

Land-use policy is but one of the considerations which must be identified in making public policy. There is no question but that land-use decisions will affect transportation, energy, and the environment; and yet we have or should have a national policy for each. To impose one on top of the other without consideration of their relative impact would, Mr. President, be irresponsible. Land-use control does not by itself protect the public health, even though public health may be adversely affected by air and water pollution associated with a given land use. But existing law, Mr. President, provides for that. The Interior Committee does not argue that S. 632 is public health legislation. Certainly, no one would suggest that air and water pollution laws designed to protect public health and welfare should be subrogated to land-use decisions which may relate only to economic development. Therefore, it is essential that we not only have guidance as to land-use but also have the capacity for the Federal Government to become sufficiently involved in the development of land-use plans to assure that other equally or more important national policies will not be upset in pursuit of land-use decisions.

Mr. President, I will be frank to say that I feel so deeply on this point that unless the Senate and Congress adopt policy guidelines, whether they are those contained in my amendment or other and better ones, I would find it impossible to support the proposed legislation, because I would disagree with the New York Times editorial. In that event, it would be my judgment that no legislation would be better than any legislation.

I had hoped that in the course of this year, working on my committee with Senators on other committees which have had background in land use legislation, we could work together to frame policy guidelines that would make it possible for us to enact meaningful, wise, and long-range Federal legislation in this field. I regret that we reach this point in the consideration of this bill with that issue inadequately treated. No one could regret it more.

I reserve the remainder of my time.

Mr. JACKSON. I yield myself 5 minutes.

Mr. President, I believe the Senator from Maine said that other committees should have been allowed to hold hearings on S. 632. The Senator, in my judgment, is mistaken if he feels that this did not occur. Just to make the record clear, let me point out what happened.

We invited all committees to hold hearings on the pending measure, and both the Committee on Banking, Housing, and Urban Affairs—July 12, 13, and 14, 1971—and the Committee on Commerce—May 5, 6, and 11, 1971—did hold hearings on S. 632.

Further, my good friend, the Senator from Maine, is mistaken if he feels that no input was made by other committees. The Committee on Banking, Housing and Urban Affairs and the Committee on Commerce suggested excellent language, subsequently included in the bill.

Furthermore, the chairman of the Senator's committee, the Committee on Public Works, suggested the language of amendment No. 1535, which I endorsed, and which, as the Senate knows, I accepted.

I state that only to make the record clear, because this bill has been pending on the calendar since June 19. There has been all the time in the world. The chairmen of the three main committees have been in agreement on this. So, let us set the record straight.

Mr. President, I must oppose the pending amendment. The amendment proposes to add to the bill a number of specific and detailed requirements which would greatly extend Federal influence over State planning efforts.

For example, the second subsection, page 2, line 4, would assign a priority to agricultural uses over other social concerns. It would make a Federal zoning judgment, as a matter of law, that agricultural lands of high productivity, as determined by the Secretary of Agriculture, would be preserved unless exceptions in each instance are made by the Governor. The sheer difficulty of achieving individual consideration of each development, however limited, on agricultural land is forbidding.

Furthermore, the whole substance of the pending measure is to achieve a balanced program for the future of a State. Agriculture must have important consideration but not exclusive priority.

Another example is found in subsection (4) of the Senator's amendment. This subsection provides that redevelopment and improvement of previously developed areas is to be favored over developmental activities of any kind on lands which have not been previously developed. The concept proposed is one that most people would agree upon as a planning goal.

To set it forth as a Federal guideline or requirement is, however, in my view not workable. It would create mischief, in that Federal officials would be called upon to look at and perhaps even to approve every developmental activity taking place on previously undeveloped lands. This is not in accord with the basic philosophy of the land use bill. The basic philosophy of the bill is to build upon State competence and responsibility.

The same comment is applicable to subparagraph 5 and other subsections of the Senator's amendment. The specific requirements proposed would have the effect of a Federal zoning act for large parts of the Nation. This, in my view, is not workable. The land use patterns and requirements of the Nation are too diverse and their needs too varied to meet the very requirements the Senator proposes.

Mr. President, I urge that the amendment be rejected.

I reserve the remainder of my time, and I now yield 3 minutes to the Senator from Georgia.

Mr. TALMADGE. Mr. President, I concur with the distinguished floor manager of the bill with reference to this amendment. I find some provisions in it virtually incredible.

For example, I read from section 2, line 4, on page 2:

> no industrial, residential, or commercial development shall occur on agricultural land of high productivity, as determined by the Secretary of Agriculture, unless specifically approved by the Governor as necessary . . .

It seems utterly incredible to me that the Secretary of Agriculture, in Washington, would determine the use of land in all 50 States of the Union, and the only appeal from the Secretary of Agriculture's decision would be to the Governors of the respective States. In my opinion, that would limit the value of all agricultural land in the United States, because it would restrict its purpose purely for agricultural purposes. That is at a time when we are paying billions in diversion, at the present time, to take agricultural land out of production. To my mind, that seems incredible and a denial of the constitutional rights of every citizen in America who owns agricultural land.

Let us go to section 3, page 2:

> no industrial, residential, or commercial development shall occur that would exceed the capacity of existing systems for power and water supply, waste water treatment . . .

Mr. President, we have in many areas of our country, including my State of Georgia, many humble people. They do not even live at a water supply system. They do not even live at a sewage system. But they try to improve their homes. This provision would prevent some of them from building a modest home and digging a well in the front yard to establish a septic tank there, because it would be a denial of the right to do so, because the home would not be at a sewage system and would not be at a power system.

This amendment would deny someone who owns some land in a remote area of our country, who wanted to build a summer camp that did not have a power system, the right to go out and build that little cottage and use an old-fashioned kerosene lamp, which was all I ever had until I was an adult. Not all of them can have sewage systems and power systems at their humble cottages. But this is what the amendment would require. Otherwise, they could not utilize the land.

Let us go to paragraph (4), line 20, on page 2:

> "(4) redevelopment and improvement of existing communities and other developed areas are favored over industrial, commercial, or residential development which will utilize existing agricultural lands, wild areas, woodlands, and other undeveloped areas.

We have seen the trend in recent years where large corporations in the United States, particularly in the city of New York, are trying to flee their environment, going out to the quiet countryside, moving into Connecticut and establishing their location there, to get into an area which is relatively free of crime, where people can live together in peace, comfort, and harmony, and free of pollution.

This amendment of the Senator from Maine would absolutely prohibit that.

Just recently, the Senate passed the rural development bill by a vote of 77 to 0. One of the reasons the Senate passed that bill was that over 70 percent of the people of the United States live on 2 percent of the land. Yet the Senator's amendment wants to keep those people hemmed in by this congestion, where 70 percent of the population live on that same 2 percent of the land. His amendment would prohibit them from spreading out. It would prohibit new industries from being established in areas of high unemployment, where we could attract jobs to the rural areas of America—just exactly the opposite of what the Senate decided by a vote of 77 to 0 only a short time ago.

As the able floor manager of the bill pointed out, this amendment, in the final analysis, would have Federal control of the lands of the United States. It would have Federal control of our farmland by the Secretary of Agriculture. It would also have Federal control of our urban lands, because it would say that the urban areas would be favored for industrial development over the less densely populated areas.

To my mind, this amendment should be rejected and I hope that it will be rejected by an overwhelming majority of the Senate.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. CHILES). The Senator has 2 minutes remaining.

Mr. MUSKIE. Mr. President, I ask unanimous consent that debate on this amendment proceed for another 20 minutes, to be equally divided——

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, and I shall not object, because I think we can find another way. There is time on the bill. I wonder whether the Senator would withhold his request for time as it can be yielded to him on the bill.

Mr. MUSKIE. I would like to go for 10 minutes at this point.

Mr. JACKSON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Washington has 5 minutes on the amendment and 27 minutes on the bill.

Mr. JACKSON. Let us try—I can yield the Senator time on the bill—let us see if we cannot move along now and I will yield time to the Senator as he needs it.

Mr. MANSFIELD. Does the Senator want 10 minutes now?

Mr. MUSKIE. Yes. I asked for 10 minutes.

Mr. JACKSON. I am happy to yield 10 minutes on the bill to the Senator from Maine (Mr. MUSKIE).

The PRESIDING OFFICER. The Senator from Maine is recognized for 10 minutes.

Mr. JACKSON. Mr. President, I ask that the time be equally divided between the Senator from Idaho (Mr. JORDAN) and the Senator from Maine (Mr. MUSKIE). That is, 5 minutes out of my time and 5 minutes out of the time of the Senator from Idaho (Mr. JORDAN).

The PRESIDING OFFICER. That is all right.

Mr. MUSKIE. Mr. President, there are several points to which I should like to respond.

May I say to the distinguished Senator from Georgia (Mr. TALMADGE) that his disagreement with me, when he focuses on the bill, has nothing to do with whether he and I agree on what national land use policy should be. We are agreed that we should not set in motion the land use policymaking machinery without giving guidelines for its administration in the legislation. That is what is at issue here. Because if the Senator believes—and I do not believe that he does—that the kinds of policies with which he takes issue in my amendment will not be suggested by some Federal buraucracy under the ambiguous and general grant of authority in S. 632, he is sadly mistaken. If the Senator from Washington believes that the kinds of considerations or judgments involved, on page 2 of the amendment, will not take place, with what he is advocating, then he is mistaken.

There is no way of setting up a process of land use policy administered by a Federal bureaucracy that does not get that bureaucracy involved in making judgments about what the policy will be.

The question raised by this issue is whether we establish the guidelines for that bureaucracy in the legislation, or whether we leave it to an ad hoc process.

The Senator from Washington referred to the hearings. The only hearings before us, unless I am mistaken, are the record of 4 days in this Congress, in the Committee on Interior and Insular Affairs. There were another 4 days in 1970—and I do not know whether that was on this legislation. I do not have a record of the hearings before the Committee on Banking, Housing and Urban Affairs, or the Committee on Agriculture and Forestry, or other committees involved. There is no hearing record, they tell us. I was not aware of any, either. There was none in the Committee on Public Works. In July, the Committee on Public Works considered this and approached the Senator from Washington with respect to holding Public Works Committee hearings on the bill. We were told no, that the bill was on the calendar. The Senator from Washington pressed for Senate consideration of the bill in late July and all through August until the recess. There was no time for a hearing. We were discouraged from holding hearings in July and August. The bill came to the floor, when? In June? There was a National Democratic Convention in the interim. There were no hearings. There was no opportunity for hearings. Rather, there was pressure to bring the bill to the floor of the Senate. There was no adequate opportunity for other committees to make an input to the legislation. If there were other hearings, I should like to know where they were, where is the record, and what do they say.

Now let me say to the distinguished Senator from Georgia (Mr. TALMADGE) that this legislation provides, on page 60 of the bill, beginning on line 15:

> (b) The Congress further declares that it is the national policy to—
>
> (1) favor patterns of land use planning, management, and development which are in accord with sound environmental, economic, and social values and which encourage the wise and balanced use of the Nation's land resources;

I ask the Senator from Georgia rhetorically, who will make the judgment as to whether a given land use policy adopted by a community in his State meets that standard?

There is another provision in the bill, on page 86, line 22,

> Federal agencies shall not approve proposed projects that are inconsistent with the program . . .

Who will decide whether they are inconsistent, and will the decision relate to whether they are inconsistent with the language on page 60, which I just read?

Let me refer to other language, on page 76 of the bill:

> (a) an adequate statewide land use planning process as provided for in section 302 of this Act; and
>
> (b) (1) methods of implementation for—

For doing what? For—

> exercising determinative State authority over the use and development of land in areas of critical environmental concern within the State;

Does the Senator believe that that would not involve considerations such as are raised by my amendment?

Look over on page 77 of the bill, line 4:

> (C) assuring that local regulations do not unreasonably restrict or exclude development and land use of regional benefit;

Who will decide that?

Then on line 7, on page 77,

> exercising determinative State authority—

"Determinative"—what does that mean to the Senator?

Continuing reading:

> exercising determinative State authority over proposed large scale development within the State of more than local significance in its impact upon the environment.

Who is going to make that decision when the Secretary of the Interior determines how State planning agencies set up those determinative State authorities if he feels that they are not adequate? What is the Senator's guess as to whether the Secretary will or will not try to reshape those State plans as they relate to these points.

The Senator is as familiar with bureaucracy at the Federal level as I am. I ask him to consider whether it is wise to give the bureaucracy some guidelines, whether of the Senator's choosing, or mine, or someone else's. They ought to be the guidelines that the Senate has considered and adopted as a whole.

If the Senator takes this exception to my amendment, how about all of the unseen, unspoken decisions for land use that will filter into the land use process under this bill? We will not have a chance to evaluate or judge whether they are arbitrary or not. We will not have a chance to rewrite the law. It is difficult to change a law once its gets started.

That is the sort of thing that the Senate ought to be considering.

Mr. President, I reserve the remainder of my time.

Mr. JACKSON. Mr. President, I yield myself one-half minute.

Mr. President, hearings were held by the Committee on Banking, Housing, and Urban Affairs on July 12, 13, and 14, 1971 and by the Committee on Commerce on May 5, 6, and 11, 1971. I will say that those documents will be available here shortly.

I am amazed that the Senator from Maine would raise the question that hearings were not held. I ask unanimous consent that citations to those hearing records be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

Page reference to testimony directed to S. 632 and S. 992 in the printed record of hearings to consider: "land-use, planning, and management" before Subcommittee on Housing and Urban Affairs of Committee on Banking, Housing and Urban Affairs to consider S.J. Res. 52 and title II of S. 1618, July 12, 13, and 14, 1971, 92d Cong. 1st Sess.

1. Memorandum from Chairman John Sparkman—page 2.

2. Under Secretary of HUD, Richard C. Van Dusen, pp. 39–44, 46–47, 59–60.

3. Boyd Gibbons, Secretary of CEQ, pp. 61–70.

4. Thomas Bradley, Councilman, City of Los Angeles, representing National Service to Regional Councils, pp. 114–115, 123–124.

5. James G. Martin, vice president, National Service to Regional Councils, pp. 153–154, 156–157.

6. Stanley Waranch, First Vice President, National Association of Homebuilders, pp. 172–175, 177–178.

7. George Raymond, past president, American Society of Consulting Planners, pp. 182–183, 190–196.

8. Max O. Urbhan, president-elect, the American Institute of Planners, pp. 214–215, 217, 219–221.

9. Frederick Harris, on behalf of Edward J. Logue, president and chief executive officer, New York Urban Development Corp., page 223.

Examples of discussion to S. 632 in hearings before the Senate Committee on Commerce May 5, 6, and 11, 1971.

42–112, bill text of 632.

119–140, discussion by Administration witnesses of relation among the bills including 632 and 992.

P. 171, comments of President of Carolina Power & Light.

Page 178, comments of Clair Guess Carolina Water Resources Commission.

Page 192, comments of V.P. American Land Development Assoc.

Page 270, Asst. Conservation Director, Sierra Club.

Page 325, American Institute of Architects letter.

Note: The balance of the Record (about 350–807) is made of State codes etc. relating to land use.

Mr. JACKSON. Mr. President, I yield 5 minutes to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 5 minutes.

Mr. HATFIELD. Mr. President, I thank the distinguished chairman of the Senate Committee on Interior and Insular Affairs. As a cosponsor of S. 632, I rise to associate myself with the comments made by the Senator from Washington (Mr. Jackson) and I would like more specifically to address myself to part 9 of the amendment of the Senator from Maine.

Mr. President, one of the subjects considered by the Subcommittee on Public Lands during field hearings last year was that of nutrient recycling on harvested forest areas. The evidence presented was conflicting, some witnesses saying that timber harvesting depletes the soil of its nutrients and others saying that the nutrient depletion arguments were based on inadequate or nonexistent scientific data. Everyone agreed that additional research into the nutrient problem was desirable.

Part 9 of amendment No. 1523 to the National Land Use Policy Act (S. 632) is addressed to the forest soil nutrient question. I doubt that we know any more about the question today than we did when the question came up before the Public Lands Subcommittee last spring. There is nothing to indicate the language in the amendment is appropriate to the problem, if indeed there is a problem.

What many people do not understand is that any time a plant is harvested, be it in the forest or on the farm, nutrient losses can occur and the water holding capacity of the soil will be effective. This has been observed to be the case in general agriculture as well as in the forest. But never before has this phenomenom been viewed with the alarm that the amendment's proponents have raised.

An additional consideration is that manipulation of the forest cover is frequently used to influence water yields, especially in the Western States. This amendment would prohibit using timber removal to increase water yields.

Rather than focusing on cutting timber, which yields useful products for human needs, we should direct our focus to getting prompt reforestation of harvested areas.

Should this amendment be approved as it is now written, it would be possible for a well-meaning but misled preservationist to stop any timber harvesting operation by any method.

Considering the vagueness of the language in part 9 of amendment No. 1523, the fact that it might be addressing itself to a problem that does not exist and the fact that it might be used as a tool to obstruct orderly management of the Nation's forest resources, I call for the defeat of the amendment.

I would like to point out also that the vagueness of part 9 could easily put the State into a managing role of Federal forest lands and the Federal Government in control of private lands.

I think it is a very unwise amendment. I hope that it will be soundly rejected.

The PRESIDING OFICER. Who yields time?

Mr. JORDAN of Idaho. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JORDAN of Idaho. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. MUSKIE. Mr. President, I have nothing further to say on the amendment.

Mr. JACKSON. Mr. President, I am prepared to yield back the remainder of my time.

Mr. MUSKIE. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Arkansas (Mr. Fulbright), the Senator from Alaska (Mr. Gravel), the Senator from Indiana (Mr. Hartke), the Senator from South Dakota (Mr. McGovern), the Senator from Montana (Mr. Metcalf), the Senator from Utah (Mr. Moss), the Senator from Rhode Island (Mr. Pell), and the Senator from Alabama (Mr. Sparkman) are necessarily absent.

I further announce that the Senator from Mississippi (Mr. Stennis), the Senator from Iowa (Mr. Hughes), and the Senator from Wyoming (Mr. McGee) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. Allott), the Senators from Tennessee (Mr. Baker and Mr. Brock), the Senator from Maryland (Mr. Beall), the Senator from Oklahoma (Mr. Bellmon), the Senator from Delaware (Mr. Boggs), the Senator from South Carolina (Mr. Thurmond), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senators from New York (Mr. Buckley and Mr. Javits) and the Senator from Arizona (Mr. Goldwater) are absent on official business.

The Senator from Colorado (Mr. Dominick) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

If present and voting, the Senator from Texas (Mr. Tower) would vote "nay."

On this vote, the Senator from Delaware (Mr. Boggs) is paired with the Senator from South Carolina (Mr. Thurmond). If present and voting, the Senator from Delaware would vote "yea" and the Senator from South Carolina would vote "nay."

The result was announced—yeas 14, nays 61, as follows:

[No. 453 Leg.]

YEAS—14

Case
Cooper
Eagleton
Harris
Hart
Kennedy
Muskie
Nelson
Proxmire
Ribicoff
Roth
Stevenson
Tunney
Williams

NAYS—61

Aiken
Allen
Anderson
Bayh
Bennett
Bentsen
Bible
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.

Chiles
Church
Cook
Cotton
Cranston
Curtis
Dole
Eastland
Edwards
Ervin
Fannin
Fong
Gambrell
Griffin
Gurney
Hansen
Hatfield
Hollings
Hruska
Humphrey
Inouye
Jackson
Jordan, N.C.
Jordan, Idaho
Long
Magnuson
Mansfield
Mathias
McClellan
McIntyre
Miller
Mondale
Montoya
Packwood
Pastore
Pearson
Percy
Randolph
Saxbe
Schweiker
Scott
Smith
Spong
Stafford
Stevens
Symington
Taft
Talmadge
Weicker
Young

NOT VOTING—25

Allott
Baker
Beall
Bellmon
Boggs
Brock
Buckley
Cannon
Dominick
Fulbright
Goldwater
Gravel
Hartke
Hughes
Javits
McGee
McGovern
Metcalf
Moss
Mundt
Pell
Sparkman
Stennis
Thurmond
Tower

So Mr. MUSKIE's amendment (No. 1523) was rejected.

AMENDMENT NO. 1524

Mr. MUSKIE. Mr. President, I have one more amendment to offer, and I will not ask for a rollcall vote. I offer the amendment because I indicated in my opening statement I would do so.

Mr. President, I send to the desk an amendment which is a revision of amendment No. 1524.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. MUSKIE. Mr. President, I ask unanimous consent that further reading of the amendment may be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 74, line 25, strike "and"

On page 75, between lines 2 and 3, insert the following new paragraphs:

"(15) the preparation and continuing revision, in cooperation with local governments, of a statewide system of valuation and assessment of property values and a program for assuring that property or other land use related taxation by the state and local governments is consistent with the state land use program; and

"(16) the preparation and continuing revision, in cooperation with local governments, of an inventory of the adequacy and uniformity of availability of state and local services supported by property tax or other land use related tax revenues and the impact upon availability of these revenues and services of decisions resulting from the statewide land use planning process.

On page 82, between lines 7 and 8, insert a new paragraph as follows:

(3) The President shall not make a grant pursuant to this Act until he has determined that the State and its local governments are maintaining a system of property and other land use related taxation which is consistent with and supportive of the state land use program and that the State is prepared to assume in whole or in part, as may be necessary, the present obligations and costs for maintaining existing levels of services of any local government that has its tax base reduced in value or its revenue sources reduced in yield as a result of state action.

Mr. MUSKIE. Mr. President, it is obvious that the majority of the Senate does not agree with me as to the weaknesses in this bill, so I see no point in pressing it; but I am going to offer this one amendment simply to document my concerns about another weakness in the bill.

I indicated yesterday that land use inevitably affects property tax revenue, land values, and the flexibility that local governments need to finance local public service. I cited the Lake Tahoe situation yesterday.

Zoning, as Senators know, pulls the plug on speculative values of land. A great many people own land for that reason. When one pulls the plug on speculative values, he pulls the plug on local tax revenues. It is as simple as that.

Perhaps I can explain this amendment best by reading it. This amendment would require, for land use planning, the preparation and continuing revision, in cooperation with local governments of a statewide system of valuation and assessment of property values and a program for assuring that property or other land use related taxation by the State and local governments is consistent with the State land use program; and

The preparation and continuing revision, in cooperation with local governments, of an inventory of the adequacy and uniformity of availability of State and local services supported by property tax or other land use related tax revenues and the impact upon availability of these revenues and services of decisions resulting from the statewide land use planning process.

Finally, the President shall not make a grant pursuant to this act until he has determined that the State and its local governments are maintaining a system of property and other land use related taxation which is consistent with and supportive of the State land use program and that the State is prepared to assume in whole or in part, as may be necessary, the present obligations and costs for maintaining existing levels of services of any local government that has its tax base reduced in value or its revenue sources reduced in yield as a result of State action.

In other words, all this amendment requires is that the State take into account the impact on its State land use policies on the local taxable property, on local property tax revenue, before it mandates changes in land use that affect those two items.

It seems to me irresponsible not to consider the impact on local government revenues of a national land use policy. We have just enacted revenue sharing to send back to communities a share of Federal revenues to help them bear the cost of local government. Here at the next breath we adopt a land use policy that gives no consideration whatsoever to its impact upon land values and property tax revenue. It makes absolutely no sense.

I have tried without success to impress this point on the sponsors of the legislation. I have not succeeded. Since I have not succeeded, either, with respect to the other two issues I have raised, I see no point in pressing this one. I see no indication of the kind of concern I have with this legislation.

It may be wrong, but in any case, I offer this amendment. I do not ask for a rollcall vote, and I will offer no other amendment. The amendments already rejected lead me to the conclusion that I cannot support the bill. No further amendments that I could offer would so improve it as to overcome the objections I now have to it. One of the objections I have to it is this failure to consider the impact on property tax revenue of land use decisions.

I reserve the remainder of my time.

Mr. JACKSON. I certainly support the goals and the objectives of the Senator from Maine, but certainly it would be an unconstitutional exercise, in my judgment, of congressional power, to attempt to dictate payment of compensation for losses incurred by the local government . . . to legislate away a portion of the State police power.

We do not have any such rider on the air and water quality legislation, to my knowledge. I would assume the Senator from Maine would not want to attach that kind of rider to those statutes.

In my judgment, it is simply not a workable proposal. In any event, I do not think we have the constitutional authority to lay down such a requirement.

I hope the Senate will reject the amendment.

I am prepared to yield back the remainder of my time.

Mr. MUSKIE. Mr. President, as I understand it, the Senator's position is this. It is constitutional and proper that the Federal Government can enact national legislation which diminishes or could diminish the local tax base of communities across this country, but it is unconstitutional to do something about offsetting that loss of local tax revenue.

If the Federal Government does not have the power or the authority to offset that unfavorable impact upon local government, then it ought not to exercise the power that it has, if it has it, to diminish local revenue.

I find that an incomprehensible point of view and one to which I do not subscribe.

Mr. JACKSON. Mr. President, let me just ask, Is it the business of Congress to tell the States that they have to compensate local governments in the case of loss of tax revenue? This is what we are trying to avoid here, Federal intervention in a matter that is purely State and local. It is up to the States. If they wish to limit their police power to provide a way to compensate local governments for loss of tax base. But, should the Federal Government dictate to the States—tell the States that the States have to provide that compensation to the local government? That is what State legislatures are for.

Mr. MUSKIE. I find the Senator's indignation rather narrowly focused. Here he is writing legislation that permits the Federal Government to tell the States that they must impose on State and local governments land use policies which will have the effect of shrinking their revenues. Yet, somehow, it is not a proper subject for legislation that has this purpose to also tell the States that they ought to be concerned with offsetting those losses in State and local revenues, and to say that this is unconstitutional.

I find the double standard incomprehensible.

Mr. JACKSON. I wonder if the Senator would attach such an amendment to the air and water quality statutes.

Mr. MUSKIE. If the Senator will suggest to me the ways in which that legislation is comparable to this act, I will be glad to consider them. The water act does not restrict development. That is what we are talking about here. Meaningful land use which is sensitive to environmental values is going to restrict development. It is going to restrict speculative values that restrict the local tax base. The water bill does not do that.

Mr. JACKSON. Will the Senator yield, on my time?

Mr. MUSKIE. I yield.

Mr. JACKSON. In my hometown two pulp mills are closing due to the pollution legislation. If the Senator does not think that is a loss of the tax base, I would like to find a better example of it. There is a substantial loss of tax revenues to my hometown of Everett, Wash.

Why does not the Senator run his amendment to that kind of situation?

Mr. MUSKIE. May I say to the Senator that we are now considering in committee legislation to deal with the problem of economic dislocation as related to environmental pollution.

The Senator is arguing that we ought to repeal the environmental pollution laws. That is his prerogative. But what I am saying is that we can consider that problem in connection with tax relief, tax incentive, economic relocation. We have, in the last 14 years in Congress, enacted the Appalachian Regional Development Act, to do what? To offset the cost of economic dislocation. We have enacted economic development legislation, area redevelopment legislation, and all of that is a perfectly appropriate exercise.

But that is not applicable here. This legislation is not applicable to those programs at all, because there is no specific result on which you can focus attention. You cannot prove the negative as to what economic opportunities were lost that never existed in the first place.

I favor land use legislation. My disagreement with the Senator from Washington is that I think we ought to say in this legislation what it is we are trying to do, especially when it means the potential of limiting of local tax revenue. If you are not ready to bite the whole bullet, you ought not to try to swallow any part of it.

Mr. JACKSON. Mr. President, I shall be brief, and then conclude.

If the Senator from Maine is concerned about this, he knew or should have known that in the establishment of air and water quality standards, plants would have to close and there would be loss of tax base. Nevertheless, I supported the air and water quality bills. I gave the Senator the most concrete example I could imagine, the closing of two pulpmills in my home State, throwing hundreds of people out of work. If he wanted to insist on that kind of legislation, he knew, or should have known, when he brought in the bills on air and water quality and we passed them here, that some plants were going to close. And when plants close, you lose tax base as well as jobs. To come in here and insist, where we are leaving it to the States to say what their land use policies shall be, that the State governments shall be required to do so and so, I believe, is contrary to the whole spirit of this legislation, which is to make it possible for the States to enforce States rights. I hope the amendment will be rejected.

Mr. MUSKIE. Mr. President, let me add my observations on the Senator's comments.

In the first place, in our Subcommittee on Air and Water Pollution, we have considered the problems of economic dislocation, and have written into the pending water pollution law programs to assist local industries to meet the responsibilities which we impose on them with that legislation, and to minimize the process of economic dislocation.

We considered the problem and dealt with it; and in addition, in committee, are considering legislation to deal with economic dislocation generally—not just that caused by environmental legislation, but that caused by trade legislation, or simply the movement of private economic forces.

What we are talking about here is a piece of legislation that pretends that no such problem exists, that has not considered it as far as I know. There is no reference to it in the committee report and no provision for it in the bill.

The water bill does not restrict development nor the tax base if the development is consistent with water quality requirements and effluent limits. There is no analogy between that and the basic land planning which the States and localities are required to assume under this bill.

May I say, finally, that even if clean air and water pollution control did restrict development, they do so expressly in order to protect public health, a reasonable basis for restriction; in this bill there is not a single policy justification nor anticipation of the controls that would be imposed by State and local governments.

The PRESIDING OFFICER. Is there further discussion? If not, the question is on agreeing to the amendment of the Senator from Maine. Is all time yielded back?

Mr. MUSKIE. Mr. President, I withdraw the amendment, as I indicated earlier I would. There is no point in pressing the Senate to votes on amendments which the majority of the Senate appears to disapprove.

The PRESIDING OFFICER. The amendment is withdrawn. The bill is open to further amendment.

AMENDMENT NO. 1519

Mr. HANSEN. Mr. President, I call up my amendment No. 1519 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 78, line 25, strike the semicolon and add the following: "*Provided,* That, at the request of the Governor of any State, the Secretary shall submit to any such State a description of all areas of critical environmental concern within such State which he considers to be of national significance pursuant to this subsection (a) no later than three fiscal years from date of enactment of this Act. If a request is made by a Governor to the Secretary for a description of such areas after such three-year period, the Secretary shall have sixty days to comply with such request."

Mr. HANSEN. Mr. President, I shall not delay the Senate unnecessarily. We have discussed this amendment with the distinguished manager of the bill, and I would say simply that what this is intended to do is call upon the Secretary of the Interior ahead of time to require him to identify areas of significant national concern in order that the States will not be deprived of the opportunity afforded under the terms of the bill to participate in Federal grants, looking toward the development of a State plan.

This will enable the States to know ahead of time what, in the opinion of the Secretary of the Interior, are those areas of critical environmental concern which are of major national significance, and require special planning and management.

I think the amendment makes good sense. I yield to the distinguished manager of the bill.

Mr. JACKSON. Mr. President, I am pleased to accept the amendment of the Senator from Wyoming. The Senator's amendment puts in statutory language what has always been the intent of the committee. This intent is clearly stated in the section-by-section analysis of S. 632 at the bottom of page 52 of the report. Subsection 304(a), concerning nationally significant areas of critical environmental concern, is the only significant requirement which would allow Federal review of the substance of the State land use program. The amendment would provide the States with an exact statement of the Federal position well in advance—2 years to be exact—of the date upon which the Federal review would be undertaken.

The ranking minority member, the Senator from Idaho (Mr. JORDAN) and I are pleased to accept the amendment.

Mr. HANSEN. I thank the Senator.

The PRESIDING OFFICER (Mr CHILES). Do Senators yield back thei time? Is all remaining time yielded back

Mr. HANSEN. I yield back the remainder of my time.

Mr. JACKSON. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back the question is on agreeing to the amendment of the Senator from Wyoming.

The amendment was agreed to.

The PRESIDING OFFICER. The bi is open to further amendment.

Mr. COOK. Mr. President, I send t the desk an amendment and ask for it immediate consideration.

The PRESIDING OFFICER. Th amendment will be stated.

Mr. AIKEN. Mr. President, may I as a question of some Senator with refe ence to the bill?

Mr. JACKSON. Just as soon as the lay the amendment down.

Mr. AIKEN. I did not realize we ha gone to another amendment. The legis lative clerk proceeded to read the amendment.

Mr. COOK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and I will explain it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. Cook's amendment is as follows:

On page 76, line 19, strike out all through line 16 on page 78 and insert in lieu thereof the following:

"(b) (1) methods of implementation for—

"(A) assuring that the use and development of land in areas of critical environmental concern within the State is not inconsistent with the State land use program;

"(B) assuring that the use of land in areas within the State which are or may be impacted by key facilities including the site location and the location of major improvement and major access features of key facilities is not inconsistent with the State land use program;

"(C) assuring that any large-scale subdivisions and other proposed large-scale development of and subsequent revisions in the local significance in its impact upon the environment is not inconsistent with the State land use program;

"(D) assuring that any source of air, water, noise, or other pollution in the areas or from the uses or activities listed in this clause (1) shall not be located where it would result in a violation of any applicable air, water, noise, or other pollution standard or implementation plan;"

"(E) periodically revising and updating the State land use program to meet changing conditions; and

"(F) assuring dissemination of information to appropriate officials or representatives of local governments and members of the public and their participation in the development of and subsequent revisions in the State land use program and in the formulation of State guidelines, rules, and regulations for the development and administration of the program.

Mr. COOK. I yield to the Senator from Vermont.

Mr. AIKEN. Mr. President, I simply have one question to ask, probably of the Senator from Washington or the Senator from Idaho: Is there anything in this bill which would require a State which has reasonably strong land use programs or plans at the present time to weaken those programs, or in any way to alter the strong State program in order to qualify for Federal funds?

Mr. JACKSON. State programs on land use planning?

Mr. AIKEN. Yes.

Mr. JACKSON. No. The whole purpose of the bill is to provide the old carrot and stick approach. We do not have much left of the stick; we have a lot of carrot. We provide for grants-in-aid up to 90 percent to assist the States in land use planning, and it is to fund the efforts that are being made by all the States. Some States are way ahead. This, of course, will not denigrate what those States are already undertaking. It will help to assist them further in what they are doing.

Mr. AIKEN. And there is nothing at all in the bill, to the best of the Senator's knowledge, that would require my State of Vermont to weaken its present policies as to land use?

Mr. JACKSON. No. On the contrary, it would encourage the State of Vermont and all other States to improve the ability to deal with the land use program.

Mr. AIKEN. I am not sure how much further we can go with that improvement, but that is up to the Vermont Legislature.

Mr. JACKSON. I do not know. Am I correct in stating that Vermont has a statewide program?

Mr. AIKEN. Yes.

Mr. JACKSON. Well, Vermont sets a good example for the country, as I understand it.

Mr. AIKEN. This proposed legislation does not preempt the field, then?

Mr. JACKSON. No.

Mr. COOK. Mr. President, I almost offer the amendment with apology to the distinguished Senator from Maine (Mr. Muskie), because I intended to have a colloquy with him on his amendment No. 1522. When I found that he was not going to offer it, I took the liberty—and I apologize to him—of offering basically that amendment, with one change, and that is in regard to the language that appears in his amendment No. 1522 on page 2, item (d), the language which commences on page 11.

The reason for this amendment is that the language of the bill, starting on page 76, uses the words "exercising determinative State authority." I am not sure what that means. It also says that States can usurp, in essence, the authority of local planning commissions. It says, for example, that a State has the authority over the use of land in areas in the State which are or may be impacted by key facilities.

Further, the language provides that States can regulate large-scale subdivisions once a subdivision has been approved on a local level; and, more serious than anything else, it provides for State administrative review of land-use plans, regulations, and implementation thereof, of local governments, with full powers to approve or disapprove.

Mr. President, I can give the example of two major communities in my State. The Louisville and Jefferson County Planning Commission probably has three times the number of people and qualified staff working for them than does the State Planning Commission. The example I could give, that could be overturned by allowing the language presently in the bill to stay there, would be for the local planning commission in our community or the city of Lexington to authorize the expenditure of 1, 2, or 3 million dollars to a total indepth plan over a period of 2 or 3 years and come up with all the public hearings, all the meetings, all the discussion, all the expertise, to rearrange, to plan, to recommend zoning in a given area.

Then the State can say, "We're not going to accept it, because under this bill we have the power to approve or disapprove."

This would be nice if in fact the State had that potential. But I suggest that many States in the Union do not have that potential.

As a matter of fact, the bill uses the words "and implementation thereof, of a land use plan," which means that if, in fact, there was a recommendation at the local level on zoning which would be an implementation to change a land use plan, and if they expended time, energy, money, hearings, and everything else and the State was not satisfied with that, the State could ignore everything that had been done on the local level and just take it over and decide to do it for itself.

Let us take the riverfront in my community, which has been the subject of urban renewal, the subject of untold hours and weeks, and a public commitment on the part of the local government of many millions of dollars—not a dime from State government. Under the language of section (B) on page 76, "exercising determinative State authority over the use of land in areas within the State which are or may be impacted by key facilities," the State could take that whole program and disapprove it.

Under the terms of this bill, apparently the only recourse would be that if it carried enough land use change, it would then come under item (e) on page 83, where it would have to be submitted directly to the Secretary of the Interior; and, as I understand it, the Secretary of the Interior would make his determination to State government and say, "We like it" or, "We don't like it."

Therefore, the language that has been suggested is that, rather than use the phrase "determinative State authority," the language "not inconsistent with the State land use program" be used. I think this language was agreed to.

The only suggestion I had to the Senator from Maine was with respect to his language under (d), which said "assuring standards under the Federal Water Pol- standards under the Federal water Pollution Control Act and the Clean Air

I was concerned about that language, Act." because, if the Senator will read the preamble to section 303, that was a determination that was to be made by the Secretary, which meant that, in essence, we were doubling up with EPA and that, in essence, we may have been subverting EPA's authority to actually administer the Federal Water Pollution Control Act and the Clean Air Act; and I do not think it was the intention of the Senator from Maine to give the Secretary the authority over and above the authority that presently rests in EPA to make this determination.

Therefore, it was this Senator's intention to agree with the amendment of the Senator from Maine, with the exception of item (d) in amendment No. 1522, and to reinsert the language I have now reinserted in my amendment, which is the language in subsection (E) of section 303, on page 77.

Mr. MUSKIE. Mr. President, I think there was an agreement as to that language. I would still feel that that language would be an improvement in the bill, so I support the Senator's amendment. I did not offer it myself, because, after the disposition of my first three amendments, I found it impossible to support the bill, anyway, and did not want to mislead the Senate by trying to amend it further.

If the bill is enacted, I think it would be better to have the language of the

Senator's amendment in the bill than out of the bill, so I would support it, if the floor manager continues to support it.

Mr. COOK. I thank the Senator. Again, I owe him an apology. I was prepared to amend his amendment, because I felt that his language was acceptable. Otherwise, we would have worked out some kind of language with our own staff to accomplish the same thing the Senator from Maine wished to accomplish.

Mr. MUSKIE. I thank the Senator for raising the matter. I certainly support the amendment.

Mr. JACKSON. Mr. President, I am very pleased to accept the amendment offered by the Senator from Kentucky. As I understand the amendment, it is compatible with an amendment I will offer very shortly which deals with the concerns expressed, as the Senator knows, by the League of Cities and the National Conference of Mayors. I am pleased to accept the amendment in behalf of the ranking minority member, the Senator from Idaho (Mr. JORDAN).

I yield back the remainder of my time.

Mr. COOK. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 1525

Mr. MUSKIE. Mr. President, one other amendment falls in the category of the one just considered, and I call up amendment No. 1525.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 107, lines 10 and 11, strike "except as required to carry out the provisions of this Act".
>
> On page 107, lines 17 and 18, strike "except as required to carry out the provisions of this Act".
>
> On page 107, following line 25, insert the following new subsections:
>
> "(d) to delay or otherwise limit the adoption and vigorous enforcement, by the State, of standards, criteria, emission or effluent limitations, monitoring requirements, or implementation plans which are no less stringent than the standards, criteria, emission or effluent limitations, monitoring requirements, or implementation plans required by the Federal Water Pollution Control Act, the Clean Air Act, or other Federal laws controlling pollution; and
>
> "(e) to adopt any Federal policy or requirement which would prohibit or delay States or local governments from adopting or enforcing any law or regulation which results in prohibition or strict control of land use development in any area over which the State or local government exercises jurisdiction.".

Mr. MUSKIE. Mr. President, the Senator from Washington (Mr. JACKSON) and I have reached agreement on this amendment with some slight modifications in the printed amendment. I have not attempted to call it up for reasons already stated. Several Senators have urged me to bring it up. So I do so, and support it fully, if it continues to have the support of the floor manager of the bill.

The PRESIDING OFFICER (Mr. CHILES). Does the Senator modify his amendment?

Mr. MUSKIE. Yes. I send the amendment to the desk with the modifications.

The PRESIDING OFFICER. The amendment will be so modified.

Mr. JACKSON. Mr. President, as I understand it, the Senator is modifying his amendment, beginning on line 1, page 1 of the amendment, to strike out the words "required to carry out" and insert in lieu thereof "new authority or responsibilities have been added by"; and then striking out on page 2, line 11, the word "strict" and then inserting after the word "control," "to a degree greater than required by this Act." Is that right?

Mr. MUSKIE. Yes.

Mr. JACKSON. I am very pleased to accept the amendment offered by the Senator from Maine to section 512 of the act.

Mr. MUSKIE. I might at this point explain the amendment for the RECORD. Everyone is involved—the two Senators from Vermont and a number of other Senators, and they all know what it is, but it might be useful for the RECORD if I state the purposes of the amendment.

This amendment has three purposes, all designed to protect Federal, State, and local environmental controls:

First, assure that provisions of other Federal laws and Federal policies are not superseded by this act. That potential is raised by provisions in subsection (b) and (c) of section 512 which imply that other Federal laws are repealed where inconsistent with this law. My amendment removes these provisions;

Second, assure that State efforts to implement the standards, criteria, emission or effluent limitations, monitoring requirements or implementation plans required by the Clean Air Act, the Federal Water Pollution Control Act, or other Federal laws, are not compromised or otherwise made less stringent by this act.

Finally and this may be what the two Senators from Vermont are particularly interested in, it protects the option of any State or local government to adopt more restrictive controls on land use development, if they so desire, regardless of any of the policies set forth in this act.

Mr. STAFFORD. Mr. President, will the Senator from Maine yield?

Mr. MUSKIE. I yield.

Mr. STAFFORD. I want to express my appreciation, as one of the two Senators from Vermont interested in this matter, to the distinguished Senator from Maine for bringing up this amendment. I am glad he has done so. It is a good amendment to the pending legislation.

Representing Vermont, we feel that it will protect the forward-looking efforts we have made in our State.

I thank the Senator for offering his amendment and I fully support it.

Mr. JACKSON. I yield back my time.

Mr. MUSKIE. I yield back my time.

The PRESIDING OFFICER. All time on this amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Maine (Mr. MUSKIE), No. 1525, as modified.

The amendment, as modified, was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. COOK. Mr. President, I have an amendment which I send to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment as follows:

> On page 69, line 7, delete subsection C, and insert in lieu thereof: (c) The Secretary shall conduct a review of federally established or authorized interstate agencies including but not limited to river basin commissions, regional development agencies, and interstate compact comissions for the purpose of coordinating land use planning and programs in interstate areas. The Secretary shall report to the Congress the results of his review conducted under this subsection not later than 2 years after the date of enactment of this Act.

Mr. COOK. Mr. President, I should like to explain the amendment.

There is a section in the bill on page 69 of the bill which bothers me very much. It states:

> The Secretary shall conduct a review of federally established or authorized interstate agencies, including but not limited to river basin commissions, regional development agencies, and interstate compact commissions, and prepare recommendations for revision of organizational structures and improvement of procedures for the purpose of coordinating land use planning and programs in interstate areas. The Secretary shall report to the Congress the results of his review conducted under this subsection, together with his recommendations, not later than two years after the date of enactment of this Act.

Then it goes on:

> Such recommendations may include proposals for either the establishment of new entities or the use of existing agencies of two or more States and the Federal Government to coordinate land use planning and programs in interstate areas:

Mr. President, I was a county judge in my community when we established the Ohio River Metropolitan Planning Commission. It took a great deal of time and effort to get the people on each side of the river and each of the respective counties and cities together, under Federal law, to establish this Ohio River Metropolitan Planning Commission.

Now we see, under this bill, that the Secretary is going to recommend all the changes, and the Secretary will say what new entities should be created.

Mr. President, I want to tell you that all of the people that we got to volunteer, the members of the county commissions, and the members of city boards, will throw up their hands and say, "Let us forget it," because the first thing they will do, if they give them the new guidelines, they will hold everything up, they will ask them to review everything, they will ask them to look into everything, they will give them new guidelines, they will give them new forms to fill out and the local agencies will just give up in disgust, when we try to do something on an interstate basis this way.

The only thing I have taken out of here is the language that says "prepare recommendations." I have taken out the language "together with the recommendations" and I have merely said:

> The Secretary shall conduct a review of federally established or authorized interstate agencies including but not limited to river basin commissions, regional development agencies, and interstate compact commissions for the purpose of coordinating land use planning and programs in interstate areas. The Secretary shall report to the Congress the results of his review conducted under this subsection not later than 2 years after the date of enactment of this act.

Mr. President, let us take a look at it. Let us decide whether we should have new guidelines, whether we should establish new procedures, or whether we should authorize the Secretary to do this, because if we authorize him to make these recommendations, the first thing they will do will be to hold up any grants, and they will hold up all the programs that are ongoing programs for the 2-year period. They will ask them to change the regulations so that it will frustrate everything that has been done on the local level.

We were told a year or so ago in our community that we had to establish a 22-county planning commission. We are finally on the road to doing it. Under this, the Secretary could say, "That is all wrong. You should not have a 22-county planning commission. You should do something else."

All of these things are now within the framework of the law. All of these things are based on ongoing programs, so that I think Senators here will agree with me that if we authorize the Secretary to say that all of the changes that now have to take place, that all of these things have to be changed, that all the guidelines have to be changed, all the local people who have been so enthusiastic about the interstate compact and in the multicounty organizations, will throw up their hands and quit.

Mr. JACKSON. Mr. President, I would say that I am prepared to accept the amendment if the Senator would modify it to strike out the word "Secretary" and insert in lieu thereof "Advisory Commission on Intergovernmental Relations." Previously in another amendment we gave that authority to the Advisory Commission on Intergovernmental Relations and this would achieve the same objective the Senator has in mind.

Mr. COOK. Mr. President, I would be delighted to modify my amendment accordingly, and I ask unanimous consent that I may do so.

The PRESIDING OFFICER. The Senator has a right to modify his amendment. It is so modified. Will the Senator please send the modification to the desk.

Mr. COOK. Mr. President, I ask unanimous consent that the words "Advisory Commission on Intergovernmental Relations" appear where the word "Secretary" appears on the first line of the amendment and on the fifth line of the amendment.

The PRESIDING OFFICER. The amendment is so modified.

Mr. JACKSON. With that understanding I am pleased to accept the amendment, and yield back my time.

Mr. COOK. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on this amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Kentucky (Mr. COOK) as modified.

The amendment, as modified, was agreed to.

The text of the amendment as modified is as follows:

On page 69, line 7, delete subsection C, and insert in lieu thereof:

(c) The Advisory Commission on Intergovernmental Relations shall conduct a review of federally established or authorized interstate agencies including but not limited to river basin commissions, regional development agencies, and interstate compact commissions for the purpose of coordinating land use planning and programs in interstate areas. The Advisory Commission on Intergovernmental Relations shall report to the Congress the results of its review conducted under this subsection not later than 2 years after the date of enactment of this Act.

AMENDMENT NO. 1537

Mr. JACKSON. Mr. President, I call up my amendment No. 1537 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

(1) On page 76, line 7, strike "and".

(2) On page 76, line 10, strike the period and insert in lieu thereof "; and ".

(3) On page 76, between lines 10 and 11, insert a new clause (7), as follows:

"(7) be advised by an advisory council which shall be composed of chief elected officials of local governments in urban and nonurban areas. The Governor shall appoint a chairman from among the members. The term of service of each member shall be two years. The advisory council shall, among other things, comment on all State guidelines, rules, and regulations to be promulgated pursuant to this Act, participate in the development of the statewide land use process and State land use program and make formal comments on annual reports which the agency shall prepare and submit to it, which reports shall detail all activities within the State conducted by the State government and local governments pursuant to or in conformity with this Act."

(4) On page 78, strike out lines 3 through 16, and insert in lieu thereof the following:

"(2) (A) Selection of methods of implementation of clause (1) of this subsection (b) shall be made so as to encourage the employment of land use controls by local governments.

"(B) The methods of implementation of clause (1) of this subsection (b) shall include either one or a combination of the two following general techniques—

"(i) implementation by local governments pursuant to criteria and standards established by the State, such implementation to be subject to State administrative review with State authority to disapprove such implementation wherever it fails to meet such criteria and guidelines; and

"(ii) direct State land use planning and regulation.

"(C) Any method of implementation employed by the State shall include, where necessary, the State's authority to prohibit, under State police powers, the use of land within areas which, under the State land use program, have been identified as areas of critical environmental concern or designated for key facilities, development and land use of regional benefit, large-scale development, or large-scale subdivisions, which use is inconsistent with the requirements of the State land use program as they pertain to areas of critical environmental concern, key facilities, development and land use of regional benefit, large-scale development, and large-scale subdivisions.

"(D) Any method of implementation employed by the State shall include an administrative appeal procedure for the resolution of, among other matters, conflicts over any decision or action of a local government for any area or use under the State land use program and over any decision or action by the Governor or State land use planning agency in the development of, or pursuant to, the State land use program. Such procedure shall include representation on the appeals body of, among others the aggrieved party of interest and the local government or the State government responsible for the decision or action which is the subject of the appeal."

"(5) On page 86, line 3, strike "Secretary" and insert in lieu thereof "Office of Management and Budget".

(6) On page 86, line 8, strike "Secretary" and insert in lieu thereof "Office of Management and Budget".

(7) On page 86, lines 13 through 25; page 87, lines 1 through 8, strike subsection (b) and insert a new subsection (b), as follows:

"(b) (1) Any State or local government submitting an application for Federal assistance for any activity having significant land use implications in an area or for a use subject to a State land use program in a State found eligible for grants pursuant to this Act shall transmit to the relevant Federal agency the views of the State land use planning agency and/or the Governor and, in the case of an application of a local government, the views of such local government and the relevant areawide planning agency designated pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 and/or title IV of the Intergovernmental Cooperation Act of 1968, as to the consistency of such activity with the porgram: *Provided*, That, if a local government certifies that a plan or description of an activity for which application is made by the local government has lain before the State land use planning agency and/or the Governor for a period of sixty days without indication of the views of the land use planning agency and/or the Governor, the application need not be accompanied by such views.

"(2) The relevant Federal agency shall, pursuant to subsections (a) and (b)(1) of this section, determine, in writing, whether the proposed activity is consistent or inconsistent with the State land use program.

"(3) No Federal agency shall approve any proposed activity which it determines to be inconsistent with a State land use program in a State found eligible for grants pursuant to this Act."

Mr. JACKSON. Mr. President, I ask unanimous consent that the amendments be considered en bloc; and, if adopted, be treated as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, will my colleague yield for a question?

Mr. JACKSON. I yield.

Mr. MAGNUSON. Mr. President, as the Senator knows, the Senator from Nevada (Mr. CANNON) and I were going to propose an amendment on behalf of the Commerce Committee which would eliminate the airport and airway development program from the sanction provisions. I understand now that the Senate has eliminated the penalty provisions and that, therefore, the so-called Cannon-Magnuson amendment would not be necessary.

Mr. JACKSON. The Senate has adopted the Hansen amendment which makes it no longer necessary to offer the amendment which we had agreed earlier to accept.

Let the legislative history show that the Senator's amendment which was to be offered would not need to be offered now. It has already been taken care of by the amendment already agreed to.

Mr. President, the purpose of this amendment—amendment No. 1537—is to clarify and strengthen the role of local governments in the land-use planning process required by S. 632. The amendment was prepared in response to questions raised by the League of Cities and the Conference of Mayors following committee action on the bill and has been endorsed by those two organizations.

The principal purposes of the amendment are to:

First, provide an advisory body to each State planning agency composed of chief elected officials of local government and charged with significant duties in the development of the State land-use programs.

Second, insure that cities have an equal voice with the States in advising Federal agencies as to the consistence of their federally assisted activities with the State land programs.

Third, encourage the employment of local land-use planning and management skills and authority. In the more innovative, recent State land-use laws the authority of local governments—the level of government closest to the people—to employ their land-use controls is reasserted. State administrative review is provided only in accordance with State guidelines relating only to those decisions on areas and uses which are indeed of more than local concern. The amendment gives a clear statement of the committee's preference for the local implementation alternative, not to direct State planning.

Fourth, provide an administrative appeals procedure to insure that local governments or citizens can appeal any decision made under the State land-use program by the State. This type of procedure is already embodied in the many State laws concerning wetlands, coastal zones, flood plains, and powerplant siting.

Mr. President, I ask unanimous consent that a letter of August 22, 1972, to me from the League of Cities and Conference of Mayors endorsing those amendments be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AUGUST 22, 1972.

Hon. HENRY M. JACKSON,
Chairman, Senate Committee on Interior and Insular Affairs, Washington, D.C.

DEAR SENATOR JACKSON: The major concern of the National League of Cities and the U.S. Conference of Mayors throughout the development of S. 632, the Land Use Policy and Planning Assistance Act of 1972, has been the relationship of cities to the State land use planning process and program elements of S. 632. A continuing and productive dialogue has taken place between our respective staff members concerning the most effective way to build upon the strengths of local government to initiate and implement local land use plans and, at the same time, to develop and improve upon the capacity and institutional capability of State, regional and local government to initiate and implement cooperatively a land use planning process and program for matters which are of more than local significance. We understand that it is the Committee's intent, as stated in the Committee Report, that purely "local decisions should remain within the exclusive province of local officials and local citizens" and, in terms of our concerns, the important role of local government in the planning process contemplated by S. 632 has not been at issue.

It is our view that the inclusion of amendments in S. 632, as reported, which were recommended in our June 7, 1971 testimony before the Committee on this measure, together with the adoption of some amendments we have discussed in recent weeks will assure that local government will be fully involved in the planning for land uses of Statewide concern. With the adoption of these amendments, S. 632 will be a more effective tool for coordinating State and local land use activities affecting interests of more than local concern. At the same time, the primary responsibility for local land use decisions would continue to be placed in the hands of elected local officials at the level of government closest to the people.

The National League of Cities and the U.S. Conference of Mayors wish to express our appreciation to you for your leadership and cooperation in seeking a positive approach to the many complex issues involved in land use planning. We hope that this close relationship will be continued in the future on other matters of mutual interest and concern.

Sincerely,

JOHN J. GUNTHER,
Executive Director,
U.S. Conference of Mayors.

Mr. JACKSON. Mr. President, this is a completely noncontroversial amendment, and I ask the Senate to support the amendment.

Mr. JORDAN of Idaho. Mr. President, it is a noncontroversial amendment. I shall support it.

Mr. JACKSON. Mr. President, I thank my colleague. I am prepared to yield back my time.

Mr. HARRY F. BYRD, JR. Mr. President, would the Senator from Washington yield for a question?

Mr. JACKSON. I yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. On page 5 of amendment No. 1537, it says:

> The relevant Federal agency shall . . . determine . . . whether the proposed activity is consistent or inconsistent with the State land use program.

My question is, Why should the Federal agency make that determination rather than a State agency, because it is a State land program that is involved?

Mr. JACKSON. Mr. President, if the Senator would turn to page 4 beginning on line 13, (b)(1), there has to be a submission of the application for Federal assistance before the local community would be eligible and on that application the State renders a determination as to consistency. This follows, on line 22 of page 4, the existing operating procedures that are found in section 204 of the Demonstration Cities and the Metropolitan Development Act of 1960 and/or title 4 of the Intergovernmental Cooperation Act of 1968.

Nothing new is being added. We use the existing procedures that are now available.

This amendment has the unanimous support, as I indicated earlier, of the League of Cities and Conference of Mayors. It is their amendment at their request, so that there can be greater local participation by them throughout the operation of this bill.

Mr. HARRY F. BYRD, JR. The point I am talking about has nothing to do with local participation. It says this:

> The relevant Federal agency shall . . . determine, in writing, whether the proposed activity is consistent or inconsistent with the State land use program.

It has nothing to do with the local law.

Mr. JACKSON. Mr. President, may I just say that, as a similar procedure, developed by OMB, is applied to other Federal grants, particularly those which provide funds for planning purposes. It is similar to the OMB procedure at the present time. It must go through the agencies indicated. That is why we have the language that the Senator refers to. Otherwise, we would be making a departure instead of providing that the relevant Federal agency shall determine, in writing, whether the proposed activity is consistent or inconsistent with the State land use program.

That involves the question of whether the Federal agencies are doing something in the State that would, in effect, have an adverse effect upon a matter that has been considered in the development of the State land use program.

Mr. HARRY F. BYRD, JR. That is my point. That is exactly my point. Why would not a State agency make the determination as to whether it is complying with the State program?

Mr. JACKSON. Mr. President, the State agency does make the initial determination. Then it forwards the application to the relevant agency. That is the procedure laid down by OMB at the present time. There is no change.

Mr. HARRY F. BYRD, JR. This is a proviso for an approval of the site.

Mr. JACKSON. All we are saying is that the relevant Federal agency shall pursuant to subsections (a) and (b)(1) determine in writing whether the proposed activities are consistent or inconsistent.

This gets into the problem, may I say, where, for example, the city has asked for State approval and the State is sitting on it and will not act. There is a recourse here, to go to the Federal agency.

This is what the local communities are complaining about. The local cities feel that there ought to be more direct access in that kind of a situation involving no particular problem.

Mr. HARRY F. BYRD, JR. Does the Senator mean that the cities are requesting that the Federal Government make the determination rather than the State making the determination?

Mr. JACKSON. No. As I understand

it, it has to be submitted to the State agency. But if the State sits on it, then they can get an independent determination. There is nothing new here. Similar procedures are involved in other programs—model cities, HUD 701 grants. There is no change in the law in that respect. It is not anything new or any specific change in the law.

Mr. HARRY F. BYRD, JR. I thank the Senator.

Mr. JACKSON. Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. Does anyone wish time in opposition?

Mr. JORDAN of Idaho. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendments, en bloc, of the Senator from Washington.

The amendments were agreed to en bloc.

Mr. COOK. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

> On page 83, line 3, after the word "program" delete all through line 17 on page 85 and insert the following, "consistent with this Act."

Mr. COOK. Mr. President, this is the last amendment that I will propose. The reason I propose this amendment is, first of all, that section (e) on page 83 states that:

> (e) A State may at any time revise its State land use program: *Provided*, That such revision does not render the State land use program inconsistent with the requirements of this title: *And provided further*, That any significant revision is reported to the Secretary. The Secretary shall determine whether such revision would render the State land use program inadequate for purposes of complying with the requirements of this title, and shall inform the State of his determination.

Mr. President, in essence, this provides that if a local agency or its planning and zoning commission reevaluates a large segment of its land use plan and spends the time, energy, and funds to make a basic determination, and the State agrees with this, and it is such a change in the land use program that it is sent to the Secretary of Interior and the Secretary of Interior disagrees with it, then we are saying that a planning and zoning decision is going to be left up to the Secretary of Interior.

By the farthest stretch of my imagination I cannot possibly believe this was the intention of the committee; it was not the intention of any hearings that were held.

Further, and I find this very difficult to believe, if a State is ineligible—and obviously we have programs in our States which become ineligible every day and we ask them to refile, and we have meetings and we meet with the agency—under this bill, if it is determined by the Secretary that a particular jurisdiction is ineligible, it does not call for a refiling, and it does not call for a meeting of the minds. For the first time that this Senator can remember it calls for the Secretary of Interior to, of all things, notify the President of the United States, who appoints an ad hoc committee to determine the eligibility or ineligibility of that State.

Who is on the ad hoc committee if the State of Alaska does not comply and they are ineligible, or if the State of Kentucky does not comply and they are ineligible? They appoint a Governor from another State to sit in judgment of land use programs in the State of Washington, or the State of Idaho, or the State of Kentucky, or the State of Alaska. Along with that, they call for the appointment of a Federal official. That Federal official is going to be put in the position of either agreeing or disagreeing with the Cabinet member, because he is going to either agree or disagree with the Secretary of Interior.

The third official is picked from the two. If they cannot agree on anyone within 60 days the President of the United States picks the third. We have the President of the United States getting himself involved in the eligibility and the ineligibility of a respective State.

I might say to the distinguished Senator from Washington, the manager of the bill, and it is my understanding he is going to oppose this amendment, that he should not oppose the amendment. I will tell the Senator why. He absolutely opposed the amendment of the Senator from Maine. I voted with him that this agency should not be in the White House or under the control of the President, and it should not be an agency in the White House.

Now, we are saying in this section, once we have it in the Department of Interior, that the Department of the Interior is going to be subject to informing the President if a State is ineligible and the President is going to appoint an ad hoc committee.

My language would merely provide that a State may at any time revise the stand land use program, consistent with this act, because it is subject to review at every level, it is subject to review in relation to eligibility, and it is subject to review by HUD, the Department of Commerce, the Department of Agriculture, Defense, HEW, Transportation, Atomic Energy, the Federal Power Commission, and EPA. If that is not enough people to review eligibility or ineligibility of a State, are we saying once they have expended their energy on determination of a State land use plan that then they have to advise the President the State is ineligible and then ask the Governor of another State to stand in judgment of the Governor of your State, along with the other Federal official? I cannot conceivably imagine that this is the way to determine eligibility or ineligibility.

Mr. President, I reserve the remainder of my time.

Mr. JACKSON. Mr. President, I regret I must oppose the amendment of the Senator from Kentucky. It would delete the ad hoc hearing boards established by the President to review questions of grant-in-aid eligibility. Under S. 632, as reported, no State program can be declared ineligible and no sanctions applied unless the ad hoc hearing board concurs in the judgment of the Secretaries of the Interior and HUD and the Administrator of the EPA. This provides a good check against any arbitrary action by Federal officials.

This hearing board mechanism insures fair treatment for the States and avoids the situation where penalties would be applied to the States by one or another mission-oriented agency simply because its mission is not adequately reflected in the States' programs.

The grant-in-aid program should, of course, be administered by a line agency. But, in such a major program as this, I believe an objective hearing board will insure fair treatment if it ever becomes necessary to withhold grant-in-aid funds. The Senator's amendment would deny the opportunity for objective review.

Thus, I regret that I am constrained to oppose the amendment. I do not think we should leave it all in the Department of Interior, but when we get into the dispute as to whether or not the State is in compliance, I think the ad hoc committee approach makes sense. The President would appoint a three-member commission. The President would appoint someone from one of the Federal agencies. Then from a State that has no interest in it, representing the Governor of that State, and the third——

Mr. COOK. Mr. President, will the Senator yield?

Mr. JACKSON. If the Senator will permit me to finish my statement, I will be glad to yield to him.

The first two designees would submit a third impartial individual, a distinguished person. Then, if the two cannot agree on the third person, the President would name on his own a distinguished individual not connected with Government.

Mr. COOK. Did I understand the manager of the bill to say there are other programs where this is done?

Mr. JACKSON. No, I did not say that.

Mr. COOK. I thank the Senator.

Mr. JACKSON. No, sir. We are dealing with a very difficult problem. I want to provide the kind of objectivity which I think is necessary.

Mr. BIBLE. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. BIBLE. Mr. President, I am wondering what the total Federal cost of this program will be. I do not have in mind making the grants to the States, the assistance to the States, but how much will it enlarge the Department of Interior, both in manpower and in money?

Mr. JACKSON. We, on page 44 of the report—and I am directing my remarks now to the Department of the Interior, the Federal Government——

Mr. BIBLE. That is what I am interested in. I am wondering how much this will cost.

Mr. JACKSON. The Senator is correct. On page 44 of the report, we have an estimate here of the cost, and I will read it:

> In accordance with subsection (a) of section 252 of the Legislative Reorganization Act—

and so on—

> 1. $800 million, at $100 million annually—

That is the grant-in-aid program—

> In Federal appropriations over an 8 full fiscal year period following enactment for grants to the States.
>
> 2. An additional $50 million, at $10 million annually, in Federal appropriations over a 5 full fiscal year period following enactment for administration by the Secretary of the Interior of programs under the Act.

They are rough estimates. Of course, the Senator from Nevada, as chairman of the subcommittee, knows these are rough estimates. Hopefully, we can use the existing personnel wherever possible, but there is an office set up to administer this program because it is complex. So, roughly speaking, it is $110 million with the grants.

Mr. BIBLE. One hundred ten million dollars a year with the grants.

I know these programs are also given funds with a representation that they can do this with the present staff, but it never works out that way, as the Senator very well knows. They will first have an assistant secretary. Then he will need a secretary. Then he will need a deputy assistant secretary. Then he will need a program analyst. Then he will need an economic adviser.

I am wondering what the scope of this program will be when it will come before the Interior Appropriation Subcommittee. Does the Senator have any idea of the range of add-ons to the Interior Department as it is constituted now?

Mr. JACKSON. If the Senator will refer now to page 21 of the report, subsection (d), first, at the higher level, as I understand it, there will be no new secretaries. Assistant Secretary Larson will be in charge of this program. On a regional basis, they will be using existing regional authority that has already been established. The regional officers will be responsible for field duties. But, reading from the report, on page 21, subsection (d):

> The Act would be administered by the Secretary of the Interior, through a newly created Office of Land Use Policy Administration. He would be assisted in the review of State land use programs by the heads of other Federal agencies which have programs with significant land use impacts and by the Secretary of Housing and Urban Development, in particular. A National Advisory Board on Land Use Policy.

And so forth, would be appointed.

I understand, according to the total number we have been given, that 25 to 50 professional staff members would be involved in the program.

Mr. BIBLE. Does that include the ad hoc committee? The President appoints the representative from the public. How much does that ad hoc member get?

Mr. JACKSON. It would be very small. It would be just exactly that——

Mr. BIBLE. When actually employed.

Mr. JACKSON. I assume that would be on a per diem basis.

Mr. BIBLE. One hundred dollars per day, or something like that? I think that is the standard.

Mr. JACKSON. It is $150 a day, I believe.

Mr. BIBLE. I am just trying to find the range of this program. The Senator from Washington has been here far longer than I have. He knows these programs have a habit of mushrooming year after year after year. But the Senator's considered judgment is that, as far as the Department of the Interior is concerned, there will be only a $10 million annual increase in its budget?

Mr. JACKSON. I would hope they would stick to that. There is no reason in the world why they cannot, because with the personnel they have, some of them can do a little extra work. They are trained. They are there. I would hope—and I would like this legislative history to show—that they would not exceed that figure of $10 million.

Mr. BIBLE. We are making this legislative history. I share that same hope, but I find that it never works out that way. As chairman of the District of Columbia Subcommittee—and I see present my distinguished friend from Hawaii, who understands how these programs mushroom—first we put in a provision providing for automobiles, and then the chauffeurs have to go with the automobiles, and then we provide patrol boats, and captains have to go with the patrol boats. I do not want to see this kind of mushrooming in this legislation. I am wondering about the range of this proposal.

To recapitulate, it is the hope of the Senator—and I share that hope—that it will not exceed $10 million annually. That is what my understanding is of the Senator's statement.

Mr. JACKSON. The Senator is correct.

Mr. BIBLE. And that includes money for the ad hoc committee?

Mr. JACKSON. Yes. Although the expenses of the ad hoc hearing boards are to be paid by the Executive Office of the President, I would think the total administrative expenses under S. 362 would not exceed $10 million, knowing, of course, that the ad hoc hearing board would not likely come into being until after a lapse of 5 years. That is when the program really gets underway. This is 5 years we are talking about in connection with the ad hoc hearing board.

I have great faith in the ability of the Senator from Nevada, who has been chairman of the Appropriations Subcommittee for some time, and who is the ranking member of the Interior Committee, to deal very effectively with this matter, and I hope he does.

Mr. BIBLE. I hope the Senator's hopes are right. If the Senator will lend his aid and comfort and come in as one of the star witnesses at the time we have the first hearing, I would appreciate that. If they exceed that amount, I will feel at liberty to call on him, if they go beyond the bounds—and the very careful bounds—he has gone into here.

Mr. JACKSON. I will cooperate as far as possible.

Mr. COOK. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 8 minutes.

Mr. COOK. I yield myself such time as I may need.

I listened to the explanation of the chairman of the committee on the ad hoc committee. I would like to give Members of the Senate an example of how ridiculous this is. Let us assume the Secretary of the Interior makes a determination that Governor Shapp, of Pennsylvania, is ineligible to receive planning funds under this bill. He reports to the President of the United States that Pennsylvania is ineligible, so the President decides that he will designate an ad hoc committee. So the first thing he does is pick Governor Reagan of California as a member of the ad hoc committee. Then, he has just taken George Romney over into the White House from HUD to be one of his assistants. So he picks George Romney to be the second Federal official. They cannot get together to decide who the third member of the ad hoc committee should be, and the President has to pick the third one. So he picks Mayor Rizzo of Philadelphia.

How long do Senators think Pennsylvania is going to be ineligible to get funds under the decision of the ad hoc committee that is going to stand in judgment?

I never heard anything as ridiculous as this. As a matter of fact, if this is sustained by the Senate, then we ought to amend the OEO bill, we ought to amend the HEW bill, we ought to amend every Government program that requires extension of funds to the States to have an ad hoc committee so that when a Secretary decides that a State is ineligible, we ought to see to it that the Governor of another State stands in judgment of the Governor of the State that is ineligible and the ad hoc committee will stand in judgment of the Cabinet member who makes the decision that the State is ineligible. And then there is a disinterested third party.

What in the world are we really coming to? For the life of me, I cannot understand the logic of this language. If somebody could really explain it to me, I would like to know why it is necessary in this bill and why, if it is necessary in this bill, it is not therefore necessary in every other bill in which we make a determination that a State program is either eligible or ineligible. This Senator would certainly be enlightened then, but I must state that when we say to the respective 50 Governors, or 49, that another Governor of a State is going to stand in judgment over another Governor, I want to see what situation we will have the first time the Governor of a State looks at that program and says, "Well, that Governor sure as hell does not know what he is talking about." That is going to start a row on that ad hoc committee.

This amendment is intended to do exactly what I said—to get rid of a Government ad hoc committee that is going to stand in judgment of a Cabinet committee, that is going to stand in judgment of another Governor, and then have a third individual who may or may not be agreed on by the original two, and, if he is not agreed on, then he also will be selected by the President of the United States.

Mr. JACKSON. Madam President, will the Senator yield?

Mr. COOK. I yield.

Mr. JACKSON. I have great admiration for the Senator from Kentucky, as he knows. He made a point here that I think ought to be responded to, and that is that among the protective provisions we have in our bill is one that deals with the situation in which one agency of the Federal Government could take arbitrary and capricious action.

I would point out to my good friend that the Governors Conference——

Mr. COOK. Arbitrary and capricious action is the result of lawsuits by States against Federal agencies every day, where that determination can be made.

Mr. JACKSON. But what I am trying to say is that my provision in the bill is one which the Conference of Governors supports.

Mr. COOK. But may I say to the Senator——

Mr. JACKSON. I put it there to protect the States so that no one agency can take arbitrary action.

Mr. COOK. The Senator may think that is all right, because the Governors approve of it, but let me tell the Senator where the Governors are going to get their land use plans, because none of them have land use commissions like the respective localities at the State level. The State of Massachusetts does not have a planning commission that is as good as the planning commission of the city of Boston. They are going to get their land use plans from the submissions of the respective cities in the respective States. That is the program they are going to use. The State of Kentucky does not have the money to provide a full use program to the city of Lexington, the city of Louisville, or the city of Jeffersonville. They are going to ask those cities to submit their plans to them, and that is the plan that will stand in judgment under the Senator's bill.

Mr. JACKSON. Does not the Senator think there at least is some deterrent in connection with action that would be taken by a single agency, which could be adverse to a State, when the head of that agency knows if he makes an adverse move there is a right of appeal which exists here, and the President can appoint a three-man board?

Mr. COOK. I can only say to the Senator that that ought to apply in every agency we have that is an independent agency or an independent department, that makes in fact a grant to a given State or a given locality. That now is left to the subjective judgment of that agency, and that agency alone.

Mr. JACKSON. Maybe this is a good beginning. So I would hope the Senator would withdraw his amendment.

Mr. COOK. I would only say to the Senator from Washington that if that is what he is saying, it is a good beginning, that our grants are now held up long enough, and if he provides this ad hoc committee, our grants will be held up twice as long.

Mr. JACKSON. Madam President (Mrs. EDWARDS), all I want to say is that I am trying to help the Governors and the 50 States, so that there can be at least a partial review, and the Secretary of the Interior will know that there will be an option, and the States can make an appeal and ask the President to appoint a three-man ad hoc commission to make the final decision.

Mr. COOK. I doubt seriously that the Senator would be helping the Governor of Pennsylvania one iota if the Governor of California and the Governor of Washington were to stand in judgment on his plans.

Mr. JACKSON. Madam President, I am prepared to yield back the remainder of my time.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield for a question?

Mr. JACKSON. I yield.

Mr. HARRY F. BYRD, JR. In page 93, the bill says:

> Each joint committee shall include representatives of the Federal agencies having jurisdiction over the Federal lands involved, representatives of affected user groups, including recreation and conservation interests, and officials of affected State agencies and units of local government.

What size committee does the Senator from Washington envision?

Mr. JACKSON. May I say to the Senator from Virginia that this is an entirely different matter. This relates to the problem where you have, as especially in the West, very large Federal landholdings, and you have in effect here a special arrangement in which the burden of our effort is to try to get the States not to undertake a land use program that will be adverse to the existing Federal program, and we want the Federal Government to avoid undertaking programs that would be adverse to the States. This refers to the ad hoc Federal-State joint committees which would feature only in that area where we have very large Federal landholdings, which can result in a use that would be incompatible with that of the States, and vice versa.

Mr. HARRY F. BYRD, JR. One other question. On page 94——

Mr. JACKSON. The amendment of the Senator from Kentucky, of course, does not affect this at all.

Mr. HARRY F. BYRD, JR. Well, on page 94 it cites compensation at a rate of $100 a day for the joint committee members, and then on page 85 it cites a rate of $150 a day for members of hearing boards. Why would they not be at the same rate, and is it not true that $100 is the normal rate?

Mr. JACKSON. The $150 a day per diem, I am advised, pertains to the standard fee in an arbitration situation, and the $100 per day is for persons serving in an advisory capacity. We have been following the standard——

Mr. HARRY F. BYRD, JR. The $150 a day does not set a precedent, then?

Mr. JACKSON. No. The statute conforms to existing precedents: $150 where arbitrators are involved and $100 for advisers.

The PRESIDING OFFICER (Mrs. EDWARDS). All time on the amendment is expired.

Mr. COOK. Madam President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from Kentucky (Mr. COOK). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PELL), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Mississippi (Mr. STENNIS), the Senator from Wyoming (Mr. MCGEE), and the Senator from Iowa (Mr. HUGHES) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Oklahoma (Mr. BELLMON), the Senator from Delaware (Mr. BOGGS), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senators from New York (Mr. BUCKLEY and Mr. JAVITS) and the Senator from Arizona (Mr. GOLDWATER) are absent on official business.

The Senator from Colorado (Mr. DOMINICK) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Delaware (Mr. BOGGS) would vote "yea."

On this vote, the Senator from South Carolina (Mr. THURMOND) is paired with the Senator from Texas (Mr. TOWER). If present and voting, the Senator from South Carolina would vote "yea" and the Senator from Texas would vote "nay."

The result was announced—yeas 24, nays 54, as follows:

[No. 454 Leg.]

YEAS—24

Allen
Bennett
Brooke
Byrd,
  Harry F., Jr.
Cook
Cooper
Cotton
Curtis
Dole
Eastland
Ervin
Griffin
Gurney
Hruska
Jordan, N.C.
Pearson
Percy
Roth
Schweiker
Scott
Smith
Spong
Taft
Talmadge

NAYS—54

Aiken
Anderson
Bayh
Beall
Bentsen
Bible
Burdick
Byrd, Robert C.
Case
Chiles
Church
Cranston
Eagleton
Edwards
Fannin
Fong
Fulbright
Gambrell
Hansen
Harris
Hart
Hartke
Hatfield
Hollings
Humphrey
Inouye
Jackson
Jordan, Idaho
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McIntyre
Miller
Mondale
Montoya
Muskie
Nelson
Packwood
Pastore
Proxmire
Randolph
Ribicoff
Saxbe
Stafford
Stevens
Stevenson
Symington
Tunney
Weicker
Williams
Young

NOT VOTING—22

Allott
Baker
Bellmon
Boggs
Brock
Buckley
Cannon
Dominick
Goldwater
Gravel
Hughes
Javits
McGee
McGovern
Metcalf
Moss
Mundt
Pell
Sparkman
Stennis
Thurmond
Tower

So Mr. COOK's amendment was rejected.

AMENDMENT NO. 1532

Mr. JORDAN of Idaho. Madam President, I call up my amendment 1532.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. JORDAN of Idaho. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

(a) Page 103, line 21, strike "ninety" and insert in lieu "sixty-six and two-thirds".

(b) Page 103, line 23, strike "five" and insert in lieu "two".

(c) Page 104, line 1, strike "two-thirds" and insert in lieu "one-half".

(d) Page 104, line 2, after "programs" insert "for the next three fiscal years".

(e) Page 106, line 8, strike "eight" and insert in lieu "five".

(f) Page 106, line 11, strike "$100,000,000 annually" and insert in lieu "$40,000,000 for each of the first two fiscal years and $30,000,000 for each of the next three fiscal years".

Mr. JORDAN of Idaho. Madam President, for the benefit of Senators who are still in the vicinity, I intend to use only about 4 minutes.

I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. JORDAN of Idaho. Madam President, this amendment would reduce authorized funding from $100 million annually for 8 years to $40 million annually for the first 2 years and $30 million annually for the next 3 years. The amendment also would reduce the Federal share of the total costs from 90 percent during the first 5 years and 66⅔ percent thereafter to 66⅔ percent during the first 2 years and 50 percent thereafter.

Important as the goal of land use planning is, it is realistic to ask "How much Federal money can be absorbed meaningfully at this time?" and "What level of expenditure can the States be asked to contribute?"

We have had too many painful examples of new programs which, for political reasons, were funded beyond their ability to produce real results.

There is in my view a real danger that an overfunded land use planning program could simply generate more mountains of meaningless data of no real relevance to any practical problems. We already have reams of beautiful comprehensive plans for this city and that city which are simply gathering dust in a library because there is no mechanism available through which they can be implemented.

The problems of accommodating in a single comprehensive land use plan the needs and desires of a large heterogeneous population both today and 50 years or more down the road is obviously enormous. And for the most part, we are groping in the dark for ways of solving it.

Therefore we should be cautious about taking big steps in unchartered directions. I feel that the lower level of funding proposed by the administration—and this is an administration proposal—is more appropriate. It is based, I am told, on their survey of current State planning efforts.

In view of the recent Senate action approving revenue sharing with the States, I feel that these proposal allowances are adequate and deserve the support of this body.

Moreover, Madam President, it seems to me that we do not have to anticipate 8 years in advance what the cost of the program might be. Although I shall not be here, I assume that Congress will meet annually.

I yield the floor and reserve the remainder of my time.

Mr. JACKSON. Madam President, I am opposed to the amendment. I regret to oppose any amendment offered by the distinguished Senator from Idaho (Mr. JORDAN).

I want to take this opportunity to express my appreciation to him for the wonderful role he has played and the help he has rendered in steering this bill through the Senate yesterday and today. I am most appreciative.

Madam President, first, the amendment would reduce the authorization under the bill from 8 years to 5 years. As a result, the grant program would terminate before the States could even begin to implement their programs.

The very purpose of this act is to encourage the States to implement and not just develop State land use programs.

Second, the amendment would reduce Federal sharing from 90 percent to 66 percent at the beginning and, later, reduce it to 50 percent.

Madam President, I believe that if we can provide 90 percent of funding for single purpose highway planning, we can provide a similar share to stimulate balanced planning.

Finally, the amendment would reduce Federal grant money to the States from $100 million to $40 million.

Madam President, I hope that the amendment will be rejected.

Mr. JORDAN of Idaho. Madam President, I yield back the remainder of my time.

Mr. JACKSON. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. FANNIN). All time on this amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from Idaho (No. 1532).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PELL), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Mississippi (Mr. STENNIS), the Senator from Iowa (Mr. HUGHES), and the Senator from Wyoming (Mr. MCGEE) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Oklahoma (Mr. BELLMON), the Senator from Delaware (Mr. BOGGS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senators from New York (Mr. BUCKLEY and Mr. JAVITS) and the Senator from Arizona (Mr. GOLDWATER) are absent on official business.

The Senator from Colorado (Mr. DOMINICK) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Delaware (Mr. BOGGS) and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 44, nays 35, as follows:

[No. 455 Leg.]

YEAS—44

Aiken
Allen
Anderson
Beall
Bennett
Bible
Byrd, Harry F., Jr.
Chiles
Cook
Cooper
Cotton
Curtis
Dole
Eagleton
Ervin
Fannin
Fong
Gambrell
Griffin
Gurney
Hansen
Harris
Hatfield
Hruska
Jordan, N.C.
Jordan, Idaho
McClellan
McIntyre
Miller
Muskie
Pearson
Percy
Proxmire
Roth
Saxbe
Scott
Smith
Spong
Stafford
Taft
Talmadge
Thurmond
Weicker
Young

NAYS—35

Bayh
Bentsen
Brooke
Burdick
Byrd, Robert C.
Case
Church
Cranston
Eastland
Edwards
Fulbright
Hart
Hartke
Hollings
Humphrey
Inouye
Jackson
Kennedy
Long
Magnuson
Mansfield
Mathias
Mondale
Montoya
Nelson
Packwood
Pastore
Randolph
Ribicoff
Schweiker
Stevens
Stevenson
Symington
Tunney
Williams

NOT VOTING—21

Allott
Baker
Bellmon
Boggs
Brock
Buckley
Cannon
Dominick
Goldwater
Gravel
Hughes
Javits
McGee
McGovern
Metcalf
Moss
Mundt
Pell
Sparkman
Stennis
Tower

So the amendment of Mr. JORDAN of Idaho was agreed to.

Mr. JORDAN of Idaho. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COTTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TUNNEY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> On page 77, line 20, strike the word "and";
>
> On page 78; line 2, strike the period and insert in lieu thereof a semicolon and the word "and";
>
> On page 78, between lines 2 and 3, insert the following:
>
> "(I) conducting a coordinated management program for the land and water resources of any coastal zone within the state in accordance with existing or then applicable federal or state law."

Mr. TUNNEY. Mr. President, this amendment would assure that State land use programs include provision for conducting of a management program for land and water resources of any coastal zone.

As many Members of the Senate know, the California's coastline is perhaps its single most valuable natural resource. The bulk of the State's population is concentrated within a few miles of the sea and its impact upon the way of life of California citizens is tremendous.

Many other States are in similar situations—the Atlantic coast, the gulf coast, the Great Lakes and the State of Alaska—all have a major part of their future linked with the preservation and rational management of coastal zones.

But in California and elsewhere, the coastline is shrinking rapidly as demand for its values increases and as public access to attractive frontage decreases. Undeveloped shoreline can no longer be regarded as ordinary real estate subject to residential or commercial-industrial development.

In California and other States, the coastal and seaward areas must be protected for present and future generations. This amendment would assure that States include within their land use planning processes provision for the development and coordinated implementation of a management program for the land and water resources of any coastal zone.

The Senate has already acted favorably on legislation to encourage development of such management programs. This amendment would strengthen our efforts to preserve coastal zones by adding a provision in the section setting for the criteria for State land use programs to require a coastal zone management program pursuant to the legislation presently in conference, the Magnuson Coastal Zone Management Act, S. 3507.

The criteria for such management programs are set forth in section 305(b) of that bill.

Mr. President, I cannot overemphasize the importance of including such management programs in land use programs carried out in States such as California.

Recently the Institute of Governmental Studies at the University of California at Berkeley published a book entitled "California's Disappearing Coast: A Legislative Challenge" by Gilbert E. Bailey and Paul S. Thayer.

The book summarizes the condition of California's coastline as follows:

> Today—a quarter of the 1,000 mile coastline—from the Mexican border to Santa Barbara—is already largely occupied by cities, suburbs, industries, military bases, power plants, sewage discharge pipes, tract homes and high-rise blockades of buildings interposed between the coast and the people. From Monterey to coastal areas north of San Francisco the story is much the same. Beaches are posted because of contamination and fish catches are seized because of mercury and DDT poisoning.
>
> Some reaches of the coast, from Morro Bay north to Monterery and Marin County to the Oregon border, are still relatively untouched. . . .
>
> But much of this is private ranchland, and at the moment there is absolutely no assurance it will escape the fate of other private ranchland that, for example, could be found in the Santa Clara Valley 25 years ago.

By adding this provision, we can assure that the program we have already voted to create by passing S. 3507 occupies the position of importance which is required in States such as my home State of California. I think it would be most unfortunate if we enact this bill without including the kind of coordinating language which I am proposing.

The programs to be administered by the Secretary of Commerce under the coastal zone bill are of utmost importance in any land use program in California and they are clearly not in conflict with any part of the bill before us today.

Nothing contained in this amendment is intended to restrict in any way the jurisdiction of the Secretary of Commerce to administer the programs envisioned by S. 3507. It simply provides a mechanism for assuring that coastal States deal with the problems of preserving coastal zones.

Mr. HOLLINGS. Mr. President, the distinguished Senator from California has been a leader in the development of coastal zones. I have discussed the amendment with him. It is complementary to S. 3507 which has previously passed the Senate. I understand that the manager of the bill will go along with the amendment.

Mr. President, I support this amendment to the land-use bill. It firmly establishes the will of the Senate that should land-use management take effect, the States, in order to continue to qualify for eligibility, must also have control zone management programs.

In the case of coastal States, this means that these States must establish programs under the Magnuson National Coastal Zone Management Act of 1972, S. 3507, when that bill becomes law. This bill presently is in conference between the House and Senate, and approval of a final version is anticipated before adjournment of the 92d Congress.

Mr. President, the Magnuson Coastal Zone Management Act creates a separate program for the coastal zones of the United States, apart from the national land-use program. The coastal zone program will be administered by the Secretary of Commerce through the National Oceanic and Atmospheric Administration—NOAA. NOAA is this Nation's leading agency containing the scientific expertise and experience to protect, preserve and enhance the waters of the coastal zone.

I am pleased that this program will be able to effectively help the States protect the valuable resources of the coastal zones. Moreover, I believe it is important that in creating statewide management programs the States not ignore their coastal zones. At the same time, I believe it is important to reinforce at this time the will of the Senate that the Secretary of the Interior coordinate and communicate with the States and the Secretary of Commerce in overall land-use programs. I am sure the Secretary of Commerce will be anxious to work with the Secretary of the Interior to make certain that their respective programs, coastal zone management and land-use management, do not overlap or cause duplication. Cooperation between these agencies is essential to achieve the overall goal of protecting all land in this Nation, as well as the vital living organisms of our coastal waters. There has been much talk that we do not need two separate programs in the field of land-use management. Just the opposite is true. The needs of the coastal zone are far more sensitive and unique, and, as such, deserve special treatment and attention. NOAA, within the Department of Commerce, is the agency to do the job on this matter, and I am pleased that my colleagues in the Senate are in full agreement.

Mr. JACKSON. Mr. PPresident, I support the amendment. As I understand it, the amendment does involve the Coastal Zone Management Act which the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Washington (Mr. MAGNUSON) authored, and they are in agreement with the language of the Senator's amendment.

In light of that statement I am pleased to accept the amendment.

I yield back the remainder of my time.

Mr. TUNNEY. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JACKSON. Mr. President, I offer my technical and conforming amendment, which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. JACKSON. Mr. President, I ask unanimous consent that further reading of the amendment may be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

> viz: On page 57, line 20, after "including" and before "but' 'insert a comma ".".
>
> 2. On page 57, line 20, after "to" and before "facilities" insert a comma",".
>
> 3. On page 57, lines 21 and 22, strike "because of unresolved land use questions,".

4. On page 58, line 8, strike "between" and insert in lieu thereof "among".

5. On page 58, line 9, strike "between" and insert in lieu thereof "among."

6. On page 58, line 10, strike "and thereby subsidize" and insert in lieu thereof "thereby subsidized".

7. On page 60, line 7, strike the comma ",".

8. On page 61, line 19, strike "enchancing" and insert in lieu thereof "enhancing".

9. On page 62, line 24, strike "an" and insert in lieu thereof "and".

10. On page 66, line 15, strike "prsuant" and insert in lieu thereof "pursuant".

11. On page 66, line 18, after "advice" and before "to" insert ", pursuant to section 502,".

12. On page 68, lines 18 and 19, strike "such States which possess" and insert in lieu thereof "States possessing".

13. On page 68, line 22, after "programs" and before "to" insert "in interstate areas".

14. On page 69, line 8, after "including" and before "but" insert a comma ",".

15. On page 69, line 9, after "to" and before "river" insert a comma ",".

16. On page 69, lines 12 and 13, strike "for the purpose of coordinating" and insert in lieu thereof "to coordinate".

17. On page 71, line 8, strike "for review" and insert in lieu thereof a comma ",".

18. On page 74, line 7, after "with" and before "the", insert a comma ",".

19. On page 74, line 9, strike "establishments" and insert in lieu thereof "establishment".

20. On page 74, line 11, after "governments" and before "with" strike "and".

21. On page 74, lines 15 and 16, strike "the programs and services of all State and local agencies significantly affecting land use" and insert in lieu thereof "all State and local agency programs and services which significantly affect land use".

22. On page 74, line 19, strike "State" and insert in lieu thereof "statewide".

23. On page 76, line 17, strike "proc-" and insert in lieu thereof "pro-".

24. On page 76, line 18, strike "ess" and insert in lieu thereof "cess".

25. On page 78, lines 10 and 11, strike "to approve or disapprove" and insert in lieu thereof "of approval or disapproval".

26. On page 80, line 13, strike "–3".

27. On page 80; line 15, strike "–4".

28. On page 80, line 24, after "and" and before "all" insert "of".

29. On page 81, line 11, after "and" and before "all" insert "of".

30. On page 82, line 13, strike "Pudsuant" and insert in lieu thereof "Pursuant".

31. On page 83, line 5, strike "title" and insert in lieu thereof "Act."

32. On page 83, line 9, strike "title" and insert in lieu thereof "Act".

33. On page 84, line 15, strike "title" and insert in lieu thereof "Act".

34. On page 86, line 1, strike "exception" and insert in lieu thereof "except in".

35. On page 88, line 5, after "use" and before "taking" insert a comma ",".

36. On page 89, line 16, strike "2" and insert in lieu thereof "g".

37. On page 91, line 18, strike the semicolon ";" and insert in lieu thereof a comma ",".

38. On page 94, line 19, after "of" and before "and" insert a comma ",".

39. On page 100, line 9, strike "and" and insert in lieu thereof a comma ",".

Mr. JACKSON. Mr. President, this is a technical and conforming amendment. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JACKSON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections and conforming changes in any technical amendment and elsewhere in the engrossment of the bill to reflect the amendments adopted during the last 2 days.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I should like to recognize the solid support of the Senator from Maryland (Mr. MATHIAS) on this legislation. The Senator from Maryland introduced his own national land use policy bill—S. 2554. Many of the provisions of S. 632 as reported are similar to those found in S. 2554. I particularly appreciated his strong belief in the need for full participation by local governments in the programs funded under this act.

Mr. GAMBRELL. Mr. President, with all due respect to the distinguished Senator from Washington (Mr. JACKSON), the manager of this bill, and acknowledging the high and meritorious purpose which I am sure he has in mind in sponsoring this legislation, and acknowledging that a number of the objections which I had to the bill have been cured by amendments which have been added on the floor, I must vote against it.

The adoption of the amendment of the Senator from Idaho (Mr. JORDAN), seducing the authorized spending under the bill is recognition that many members of this body have serious misgivings concerning the desirability of a program in this form.

In my judgment, the bill in the form finally presented for passage is still one of the most pervasive delegations of governmental authority in the history of this country, which can only result in a field day for bureaucratic meddling and arrogance.

Beyond that, the enactment of this bill will be an open invitation to widespread speculation and boondoggling affecting every square inch of land in all 50 States plus the District of Columbia and all Federal territories and jurisdictions. Even with the so-called safeguard built into the legislation, it is nothing more nor less than a national planning and zoning program, without any real experience, and without any legislative guidelines to give it direction and a degree of certainty of result.

As far as I can recall, nearly every candidate for city council, alderman, county commissioner, or other local office with planning and zoning authority, in communities in which I have lived, has campaigned on a plank to "take the politics out of zoning." This has never been done as a matter of practice, and in fact, planning and zoning becomes more "political" all the time, with a history of bribery, influence peddling, speculation, and scandal of various sorts.

To give a few examples of the problems which I contemplate, I will cite section 305b(2), and section 305f(1)(a), wherein the Secretary of Housing and Urban Development, and "an ad hoc hearing board" are given review authority over the Secretary of the Interior in determining compliance with the act. These arrangements merely compound the encroachment upon local authority, and the opportunities for abuse, arrogance, and muddled policymaking. What is needed is not a political review of the governing authority's decisions, but statutory guidelines for him to follow.

In order that my purpose in opposing this legislation will not be misunderstood, may I state that I strongly support a system of national planning sensitive to the considerations contemplated by the legislation. I am happy to report that, according to my understanding, my own State of Georgia has the most advanced system of State and local planning of any State in the Union. Georgia is more widely covered by area planning and development commissions than is any other State, and the Governor of Georgia, who is a former president of the State planning association, has implemented a State planning department which is second to none in the country. These State and local agencies are operating in near perfect harmony with the many Federal agencies concerned with planning and conservation. In our State, we have an intensive program of environmental protection, and I doubt if there is any other State which exceeds Georgia in the number and importance of our "areas of critical environmental concern." We have an abundance of clean air, open space, protected water and wildlife resources, as well as an enormous potential for commercial, industrial, recreational and environmental development. All of this is the heritage of Georgia's people, which we are willing to share with others. We are willing to accept Federal assistance in developing these resources, and, no doubt to accept Federal guidelines and standards so long as we are made aware of them in advance. However, with all due respect, we are far enough down the road in this area that our people are not interested in Federal bureaucratic meddling, at least until that bureaucracy recognizes our achievements and goals, and catches up with us in terms of implementation.

I would be inclined to support Federal legislation which furnished Federal financial assistance for the development of State and local planning agencies, with standards and guidelines as to the mechanics to be employed. In this same connection, I would support the creation of a Federal agency with authority to designate areas of national environmental concern, areas of regional developmental concern, and to promulgate national guidelines and standards for the development of such areas as well as for the development of "large scale subdivisions," "land use of regional benefit," and major governmental and commercial facilities.

The experience and product of such an agency, working in cooperation with State and local planning and development agencies, would surely produce many of the beneficial objectives which the present legislation seeks to achieve. And ultimately, the product of this agency, and its experience, might result in guidelines and regulations which could be made mandatory by Federal law. However, I am alarmed by legislation which would both create such an extensive bureaucracy, and also empower it to develop guidelines and regulations through on-the-job training.

Mr. President, as an expression of concern for our national shortcomings in the area of local, regional, and national planning, and of alarm over the misuse and abuse which we have inflicted upon our natural and environmental heritage, I would support this bill. But as an ill-considered proposal to be enacted in the law, I must oppose it.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PELL), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Iowa (Mr. HUGHES), the Senator from Wyoming (Mr. MCGEE), and the Senator from Mississippi (Mr. STENNIS) are absent on official business.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON) and the Senator from Rhode Island (Mr. PELL) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Oklahoma (Mr. BELLMON), the Senator from Delaware (Mr. BOGGS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senators from New York (Mr. BUCKLEY and Mr. JAVITS) and the Senator from Arizona (Mr. GOLDWATER) are absent on official business.

The Senator from Colorado (Mr. DOMINICK) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Delaware (Mr. ROTH) is detained on official business.

If present and voting, the Senator from Delaware (Mr. BOGGS), the Senator from Colorado (Mr. DOMINICK), and the Senator from Delaware (Mr. ROTH) would each vote "yea."

On this vote, the Senator from Colorado (Mr. ALLOTT) is paired with the Senator from Texas (Mr. TOWER). If present and voting, the Senator from Colorado would vote "yea" and the Senator from Texas would vote "nay."

The result was announced—yeas 60, nays 18, as follows:

[No. 456 Leg.]

YEAS—60

Aiken
Anderson
Bayh
Beall
Bennett
Bentsen
Bible
Brooke
Burdick
Byrd, Robert C.
Case
Church
Cook
Cooper
Cranston
Chiles
Curtis
Dole
Fannin
Fong
Fulbright
Griffin
Gurney
Hansen
Hart
Hartke
Hatfield
Hollings
Hruska
Humphrey
Inouye
Jackson
Jordan, Idaho
Kennedy
Magnuson
Mansfield
Mathias
McClellan
McIntyre
Miller
Mondale
Montoya
Nelson
Packwood
Pastore
Pearson
Percy
Randolph
Ribicoff
Schweiker
Scott
Smith
Stafford
Stevens
Stevenson
Symington
Taft
Tunney
Williams
Young

NAYS—18

Allen
Byrd,
Harry F., Jr.
Cotton
Eagleton
Eastland
Edwards
Ervin
Gambrell
Harris
Jordan, N.C.
Long
Muskie
Proxmire
Saxbe
Spong
Talmadge
Thurmond
Weicker

NOT VOTING—22

Allott
Baker
Bellmon
Boggs
Brock
Buckley
Cannon
Dominick
Goldwater
Gravel
Hughes
Javits
McGee
McGovern
Metcalf
Moss
Mundt
Pell
Roth
Sparkman
Stennis
Tower

So the bill (S. 632) was passed, as follows:

S. 632

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Land Use Policy and Planning Assistance Act of 1972".

TITLE I—FINDINGS, POLICY, AND PURPOSE

FINDINGS

SEC. 101. (a) The Congress hereby finds that there is a national interest in a more efficient system of land use planning and decisionmaking and that the rapid and continued growth of the Nation's population, expanding urban development, proliferating transportation systems, large-scale industrial and economic growth, conflicts in patterns of land use, fragmentation of governmental entities exercising land use planning powers, and the increased size, scale, and impact of private actions, have created a situation in which land use management decisions of wide public concern often are being made on the basis of expediency, tradition, short-term economic considerations, and other factors which too frequently are unrelated or contradictory to the real concerns of a sound national land use policy.

(b) The Congress finds that the task of land use planning and management is made more difficult by the lack of understanding of, and the failure to assess, the land use impact of Federal, regional, State, and local programs and private endeavors which do not possess or are not subject to readily discernible land management goals or guidelines; and that a national land use policy is needed to develop a national awareness of, and ability to measure, the land use impacts inherent in most public and private programs and activities.

(c) The Congress finds that adequate data and information on land use and systematic methods of collection, classification, and utilization thereof are either lacking or not readily available to public and private land use decisionmakers; and that a national land use policy must place a high priority on the procurement and dissemination of useful land use data.

(d) The Congress finds that a failure to conduct competent land use planning has, on occasion, resulted in delay, litigation, and cancellation of proposed significant development, including, but not limited to, facilities for the development, generation, and transmission of energy, thereby too often wasting human and economic resources, creating a threat to public services, and invoking decisions to locate activities in areas of least public and political resistance, but without regard to sound environmental, economic, and social land use considerations.

(e) The Congress finds that many Federal agencies conduct or assist activities which have a substantial impact on the use of land, location of population and economic growth, and the quality of the environment, and which, because of the lack of a consistent land use policy, often result in needless, undesirable, and costly conflicts among the Federal agencies and among Federal, State, and local governments, thereby subsidizing undesirable and costly patterns of development; and that a concerted effort is necessary to coordinate existing and future Federal policies and programs and public and private decisionmaking in accordance with a national land use policy.

(f) The Congress finds that while the primary responsibility and constitutional authority for land use planning and management of non-Federal lands rests with State and local government, the manner in which this resposibility is exercised has a tremendous influence upon the utility, the value, and the future of the public domain, the national parks, forests, seashores, lakeshores, recreation and wilderness areas, wildlife refuges, and other Federal lands; and that the failure to plan or, in some cases, the existence of poor or ineffective planning at the State and local levels poses serious problems of broad national or regional concern and often results in irreparable damage to commonly owned assets of great national importance.

(g) The Congress finds that, because the land use decisions of the Federal Government, including those concerning the Federal lands, often have a significant impact upon statewide and local environments and patterns of development, a national land use policy ought to take into consideration the needs and interests, and invite the participation of, State and local governments and members of the public.

(h) The Congress finds that Federal, regional, State and local decisions and programs which establish or influence the location of land uses often determine whether people of all income levels and races have or are denied access to decent shelter, to adequate employment, and to quality schools, health facilities, police and fire protection, mass transportation, and other public services; and that such decisions and programs should seek to provide the maximum freedom and opportunity, consistent with sound and equitable land use planning and management standards, for all citizens to live and conduct their activities in locations of convenience and personal choice.

DECLARATION OF POLICY

SEC. 102. (a) To promote the general welfare and to provide full and wise application of the resources of the Federal Government in strengthening the environmental, recreational, economic, and social well-being of the people of the United States, the Congress declares that it is a continuing responsibility of the Federal Government, consistent with the responsibility of State and local government for land use planning and management, to undertake the development and implementation of a national land use policy which shall incorporate environmental, esthetic, economic, social, and other appropriate factors. Such policy shall serve as a guide for national decisionmaking in Federal and federally assisted programs which have land use impacts and in programs which affect the pattern of uses on the Federal lands, and shall provide a framework for the development of State and local land use policies.

(b) The Congress further declares that it is the national policy to—

(1) favor patterns of land use planning, management, and development which are in accord with sound environmental, economic, and social values and which encourage the wise and balanced use of the Nation's land resources;

(2) assist State governments to develop and implement land use programs for non-Federal lands which will incorporate environmental, esthetic, economic, social, and other appropriate factors, and to develop a framework for the formulation, coordination, and implementation of State and local land use policies;

(3) assist the State and local governments to improve upon their present land use planning and management efforts with respect to areas of critical environmental concern, key facilities, development and land use of regional benefits, and large scale development;

(4) facilitate increased coordination in the administration of Federal programs and in the planning and management of Federal lands and adjacent non-Federal lands so as to encourage sound land use planning and management; and

(5) promote the development of systematic methods for the exchange of land use, environmental, economic, and social data and information among all levels of government.

(c) The Congress further declares that intelligent land use planning and management can and should be a singularly important process for preserving and enhancing the environment, encouraging beneficial economic development, and maintaining conditions capable of improving the quality of life.

PURPOSE

SEC. 103. It is the purpose of this Act—

(a) to establish a national policy to encourage and assist the several States to more effectively exercise their constitutional responsibilities for the planning and management of their land base through the development and implementation of State land use programs designed to achieve economically and environmentally sound uses of the Nation's land resources;

(b) establish a grant-in-aid program to assist State and local governments and agencies to hire and train the personnel, and establish the procedures, necessary to develop and implement State land use programs;

(c) establish reasonable and flexible Federal requirements to give individual States guidance in, and to condition the distribution of certain Federal funds on, the establishment and implementation of adequate State land use programs;

(d) establish the authority and responsibility of the Secretary of the Interior to administer the grant-in-aid program, to review statewide land use processes and State land use programs for conformity to the provisions of this Act, and to assist the coordination of activities of Federal agencies with State land use programs;

(e) develop and maintain a national policy with respect to federally conducted and federally assisted projects having land use implications; and

(f) coordinate planning and management of Federal lands and planning and management of adjacent non-Federal lands.

TITLE II—ADMINISTRATION OF LAND USE POLICY

OFFICE OF LAND USE POLICY ADMINISTRATION

SEC. 201. (a) There is hereby established in the Department of the Interior the Office of Land Use Policy Administration (hereinafter referred to as the "Office").

(b) The Office shall have a Director who shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at the rate provided for level V of the Executive Schedule Pay Rates (5 U.S.C. 5315), and such other officers and employees as may be required. The Director shall have such duties and responsibilities as the Secretary of the Interior (hereinafter referred to as the "Secretary") may assign.

SEC. 202. The Secretary, acting through the Office, shall—

(a) maintain a continuing study of the land resources of the United States and their use;

(b) cooperate with the States in the development of standard methods and classifications for the collection of land use data and in the establishment of effective procedures for the exchange and dissemination of land use data;

(c) develop and maintain a Federal Land Use Information and Data Center, with such regional branches as the Secretary may deem appropriate, which has on file—

(1) plans for federally initiated and federally assisted activities which directly and significantly affect or have an impact upon land use patterns;

(2) to the extent practicable and appropriate, the plans and programs of State and local governments and private enterprises which have more than local significance for land use planning and management;

(3) statistical data and information on past, present, and projected land use patterns which are of more than local significance;

(4) studies pertaining to techniques and methods for the procurement, analysis, and evaluation of data and information relating to land use planning and management; and

(5) such other information pertaining to land use planning and management as the Director deems appropriate;

(d) make the information maintained at the Data Center available to Federal, regional, State, and local agencies conducting or concerned with land use planning and management and to the public;

(e) consult with other officials of the Federal Government responsible for the administration of Federal land use planning assistance programs to States, local governments, and other eligible agencies in order to coordinate such programs;

(f) administer the grant-in-aid program established under the provisions of this Act; and

(g) provide administrative support for the National Advisory Board on Land Use Policy established under section 203 of this Act.

NATIONAL ADVISORY BOARD ON LAND USE POLICY

SEC. 203. (a) The Secretary is authorized and directed to establish a National Advisory Board on Land Use Policy (hereinafter referred to as the "Board").

(b) The Board shall be composed of:

(1) the Director of the Office of Land Use Policy Administration (hereinafter referred to as the "Director") who shall serve as Chairman;

(2) representatives of the Departments of Agriculture; Commerce; Defense; Health, Education, and Welfare; Housing and Urban Development; and Transportation; the Atomic Energy Commission; and the Environmental Protection Agency, appointed by the respective heads thereof;

(3) observers from the Council on Environmental Quality, the Federal Power Commission, and the Office of Management and Budget, appointed by the respective heads thereof; and

(4) representatives of such other Federal agencies, appointed by the respective heads thereof, as the Secretary may request to participate when matters affecting their responsibilities are under consideration.

(c) The Board shall meet regularly at such times as the Chairman may direct and shall—

(1) provide the Secretary with information and advice concerning the relationship of policies, programs, and activities established or performed pursuant to this Act to the programs of the agencies represented on the Board;

(2) render advice, pursuant to section 502, to the Secretary and the Executive Office of the President concerning proposed guidelines, rules, and regulations for the implementation of the provisions of this Act;

(3) assist the Secretary and the agencies represented on the Board in the coordination of the review of statewide land use planning processes and State land use programs;

(4) provide advice on such land use policy matters as the Secretary may refer to the Board for its consideration; and

(5) provide reports to the Secretary on land use policy matters which may be referred to the Board by the heads of Federal agencies through their respective representatives on the Board.

(d) Each agency representative on the Board shall have a career position within his agency of not lower than GS-15 and shall not be assigned any duties which are unrelated to the administration of land use planning and policy, except temporary housekeeping or training duties. Each representative shall—

(1) represent his agency on the Board;

(2) assist in the coordination and preparation within his agency of comments on (i) guidelines, rules, and regulations proposed for promulgation pursuant to section 502, and (ii) statewide land use planning processes and State land use programs reviewed pursuant to title III of this Act;

(3) assist in the dissemination of policy information and in the implementation within his agency of policies and procedures developed pursuant to this Act; and

(4) perform such other duties regarding the administration of land use planning and policy as the head of his agency may direct.

(e) The Board shall have as advisory members two representatives each from State governments and local governments, and one representative each from regional interstate and intrastate entities which have land use planning and management responsibilities. Such advisory members shall be selected by a majority vote of the Board and shall each serve for a two-year period.

INTERSTATE COORDINATION

SEC. 204. (a) The States are authorized to coordinate land use planning and programs with appropriate interstate entities, and a reasonable portion of the funds made available to such States under the provisions of this Act may be used therefore: *Provided, however,* That an opportunity for participation in the coordination process by Federal and local governments and agencies as well as members of the public engaged in activities which affect or are affected by State land use planning and programs is assured: *And provided further,* That nothing in this subsection shall be construed to affect the allotment of funds as provided in section 507 of this Act.

(b) Subject to the approval of Congress by the adoption of an appropriate Act, Congress hereby authorizes States possessing coherent geographic, environmental, demographic, or economic characteristics which would serve as reasonable bases upon which to coordinate land use planning and programs in interstate areas to negotiate interstate compacts for the purpose of such coordination, with such terms and conditions as to them seem reasonable and appropriate: *Provided, however,* That such compacts shall provide for an opportunity for participation in the coordination process by Federal and local governments and agencies as well as members of the public engaged in activities which affect or are affected by land use planning and programs: *And provided further,* That nothing in this subsection shall be construed to affect the allotment of funds as provided in section 507 of this Act.

(c) The Advisory Commission on Intergovernmental Relations shall conduct a review of federally established or authorized interstate agencies, including, but not limited to, river basin commissions, regional development agencies, and interstate compact commissions, for the purpose of coordinating land use planning and programs in interstate areas. The Advisory Commission on Intergovernmental Relations shall report to the Congress the results of his review conducted under this subsection not later than two years after the date of enactment of this Act.

TITLE III—PROGRAM OF ASSISTANCE TO THE STATES

SEC. 301. (a) The Secretary is authorized to make annual grants to each State to assist each State in developing and administering a State land use program meeting the requirements set forth in this title.

(b) Prior to making the first grant to each State during the three complete fiscal year period following the enactment of this Act, the Secretary shall be satisfied that such grant will be used in a manner to meet satisfactorily the requirements for a statewide land use planning process set forth in section 302. Prior to making any further grants during such period, the Secretary shall be satisfied that the State is adequately and expeditiously proceeding to meet the requirements of section 302.

(c) Prior to making any further grants after the three complete fiscal year period following the enactment of this Act and before the end of the five complete fiscal year period following the enactment of this Act, the Secretary shall be satisfied that the State has met and continues to meet the requirements of section 302 and is adequately and expeditiously proceeding to develop a State land use program to meet the requirements of sections 303 and 304.

(d) Prior to making any further grants after the five complete fiscal year period following the enactment of this Act, the Secretary shall be satisfied that the State has met and continues to meet the requirements of sections 303 and 304.

(e) States receiving grants pursuant to this Act during the five complete fiscal year period following enactment of this Act shall submit, not later than one year after the date of award of each grant, a report on work completed and scheduled toward the development of a State land use program to the Secretary for determination of State eligibility or ineligibility for grants pursuant to this Act in accordance with the procedures provided in section 305. For grants made after such period, the State shall submit its State land use program not later than one year after the date of each award to the Secretary for determination of State eligibility or ineligibility for grants pursuant to this Act in accordance with the procedures provided in section 305: *Provided,* That if no grant is requested by or active in any State after five fiscal years from the date of enactment of this Act, such State shall submit its land use program within ninety days thereafter to the Secretary for determination of State eligibility or ineligibility for grants pursuant to this Act in accordance with the procedures provided in section 305: *And provided further,* That, should no grant be requested by or active in any State during any two complete fiscal year period after five fiscal years from the date of enactment of this Act, such State shall submit its land use program within ninety days from completion of such period to the Secretary for determination of State eligibility or ineligibility for grants pursuant to this Act in accordance with the procedures provided in section 305.

STATEWIDE LAND USE PLANNING PROCESSES

SEC. 302. (a) As a condition of continued State grant eligibility after the three complete fiscal year period following the enactment of this Act, the Secretary shall have determined that the State has developed an adequate statewide land use planning process, which process shall include—

(1) the preparation and continuing revision of a statewide inventory of the State's land and natural resources;

(2) the compilation and continuing revision of data, on a statewide basis, related to population densities and trends, economic characteristics and projections, environmental conditions and trends, and directions and extent of urban and rural growth;

(3) projections of the nature and quantity of land needed and suitable for recreation and esthetic appreciation; conservation and preservation of natural resources; agriculture, mineral development, and forestry; industry and commerce, including the development, generation, and transmission of energy; transportation; urban development, including the revitalization of existing communities, the development of new towns, and the economic diversification of existing communities which possess a narrow economic base; rural development, taking into consideration future demands for and limitations upon products of the land; and health, educational, and other State and local governmental services;

(4) the preparation and continuing revision of an inventory of environmental, geological, and physical conditions (including soil types) which influence the desirability of various types of land use;

(5) the preparation and continuing revision of an inventory of State, local government, and private needs and requirements concerning Federal lands within the State;

(6) the preparation and continuing revision of an inventory of governmental organization and financial resources available for land use planning and management within the State and of State and local programs and activities which have a land use impact of more than local concern;

(7) the establishment of a method for identifying large-scale development and development and land use of regional benefit;

(8) the establishment of a method for inventorying and designating areas of critical environmental concern and areas which are, or may be, impacted by key facilities;

(9) the provision, where appropriate, of technical assistance for, and training programs for State and local agency personnel concerned with, the development and implementation of State and local land use programs;

(10) the establishment of arrangements for the exchange of land use planning information and data among State agencies and local governments, with the Federal Government, among the several States and interstate agencies, and with members of the public;

(11) the establishment of a method for coordinating all State and local agency programs and services which significantly affect land use;

(12) the conducting of public hearings, preparation of reports, and soliciting of comments on reports concerning the statewide land use planning process or aspects thereof;

(13) the provision, and continuation thereof, of opportunities for participation by the public and the appropriate officials or representatives of local governments in the planning process and in the formulation of guidelines, rules, and regulations for the administration of the planning process; and

(14) the consideration of the interstate aspects of land use issues which involve two or more States.

(b) In the determination of an adequate statewide land use process, the Secretary shall confirm that the State has an eligible State land use planning agency established by the Governor of such State or by law, which agency shall—

(1) have primary authority and responsibility for the development and administration of a State land use program provided for in sections 303 and 304;

(2) have a competent and adequate interdisciplinary professional and technical staff and, whenever appropriate, the services of special consultants;

(3) give priority to the development of an adequate data base for a statewide land use planning process using data available from existing sources wherever feasible;

(4) coordinate its activities with the planning activities of all State agencies undertaking federally financed or assisted planning programs insofar as such programs relate to land use; the regulatory activities of all State agencies enforcing air, water, noise, or other pollution standards; all other relevant planning activities of State agencies; flood plain zoning plans approved by the Secretary of the Army pursuant to the Flood Control Act of 1960, as amended; the planning activities of areawide agencies designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (80 Stat. 1255, 1262–3), as amended; the planning activities of local governments; and the planning activities of Federal agencies;

(5) have authority to conduct public hearings, with adequate public notice, allowing full public participation in the development of the State land use program;

(6) have authority to make available to the public promptly upon request land use data and information, studies, reports, and records of hearings; and

(7) be advised by an advisory council which shall be composed of chief elected officials of local governments in urban and nonurban areas. The Governor shall appoint a chairman from among the members. The term of service of each member shall be two years. The advisory council shall, among other things, comment on all State guidelines, rules, and regulations to be promulgated pursuant to this Act, participate in the development of the statewide land use process and State land use program and make formal comments on annual reports which the agency shall prepare and submit to it, which reports shall detail all activities within the State conducted by the State government and local governments pursuant to or in conformity with this Act.

STATE LAND USE PROGRAMS

SEC. 303. As a condition of continued State grant eligiblity after the five complete fiscal year period following the enactment of this Act, the Secretary shall have determined that the State has developed an adequate State land use program, which shall include—

(a) an adequate statewide land use planning process as provided for in section 302 of this Act; and

(b) (1) methods of implementation for—

(A) assuring that the use and development of land in areas of critical environmental concern within the State is not inconsistent with the State land use program;

(B) assuring that the use of land in areas within the State which are or may be impacted by key facilities including the site location and the location of major improvement and major access features of key facilities is not inconsistent with the State land use program;

(C) assuring that any large-scale subdivisions and other proposed large-scale development within the State of more than local significance in its impact upon environment is not inconsistent with the State land use program;

(D) assuring that any source of air, water, noise, or other pollution in the areas or from the uses or activities listed in this clause (1) shall not be located where it would result in a violation of any applicable air, water, noise, or other pollution standard or implementation plan;

(E) periodically revising and updating the State land use program to meet changing conditions;

(F) assuring dissemination of information to appropriate officials or representatives of local governments and members of the public and their participation in the development of and subsequent revisions in the State land use program and in the formulation of State guidelines, rules, and regulations for the development and administration of the program; and

"(G) conducting a coordinated management program for the land and water resources of any coastal zone within the State in accordance with existing or then applicable Federal or State law.

(2)(A) Selection of methods of implementation of clause (1) of this subsection (b) shall be made so as to encourage the employment of land use controls by local governments.

(B) The methods of implementation of clause (1) of this subsection (b) shall include either one or a combination of the two following general techniques—

(i) implementation by local governments pursuant to criteria and standards established by the State, such implementation to be subject to State administrative review with State authority to disapprove such implementation wherever it fails to meet such criteria and guidelines; and

(ii) direct State land use planning and regulation.

(C) Any method of implementation employed by the State shall include, where necessary, the State's authority to prohibit, under State police powers, the use of land within areas which, under the State land use program, have been identified as areas of critical environmental concern or designated for key facilities, development and land use of regional benefit, large-scale development, or large-scale subdivisions, which use is inconsistent with the requirements of the State land use program as they pertain to areas of critical environmental concern, key facilities, development and land use of regional benefit, large-scale development, and large-scale subdivisions.

(D) Any method of implementation employed by the State shall include an administrative appeal procedure for the resolution of, among other matters, conflicts over any decision or action of a local government for any area or use under the State land use program and over any decision or action by the Government or State land use planning agency in the development of, or pursuant to, the State land use program. Such procedure shall include representation on the appeals body of, among others, the aggrieved party of interest and the local government or the State government responsible for the decision or action which is the subject of the appeal.

(E) Any person having a legal interest in land, of which the State has prohibited or restricted the full use and enjoyment thereof, may petition a court of competent jurisdiction to determine whether the prohibition diminishes the use of the property so as to require compensation for the loss and the amount of compensation to be awarded therefor.

SEC. 304. As a further condition of continued State grant eligibility after the five complete fiscal year period following the enactment of this Act, the Secretary shall review the State land use program and determine that—

(a) in designating areas of critical environmental concern, the State has not excluded any substantial areas of critical environmental concern which are of major national significance and require special planning and management: *Provided*, That, at the request of the Governor of any State, the Secretary shall submit to any such State a description of all areas of critical environmental concern within such State which he considers to be of national significance pursuant to this subsection (a) no later than three fiscal years from date of enactment of this Act. If a request is made by a Governor to the Secretary for a description of such areas after such three-year period, the Secretary shall have sixty days to comply with such request.

(b) the State is demonstrating good faith efforts to implement, and, in the case of successive grants, the State is continuing to demonstrate good faith efforts to implement, the purposes, policies, and requirements of its land use program. For the purposes of this subsection, the inability of a State to take any State action the purpose of which is to implement the State land use program, or any portion thereof, and which is enjoined by the issuance of an injunction by any court of competent jurisdiction shall not be construed as failure by the State to demonstrate good faith efforts to implement the purposes, policies, and requirements of its land use program;

(c) State laws, regulations, and criteria affecting the State land use program and the areas and uses and activities over which the State exercises authority as required in section 303 are in accordance with the requirements of this title;

(d) the State land use program has been reviewed and approved by the Governor;

(e) the State has coordinated its land use program with the planning activities and programs of its State agencies, the Federal Government, and local governments as provided for in this title, and with the planning processes and land use programs of other States and local governments therein with respect to lands and waters in interstate areas; and provided for the participation of, and dissemination of information to, appropriate officials or representatives of local governments and members of the public as provided for in this title; and

(f) the State utilizes, for the purpose of furnishing advice to the Federal Government as to whether Federal and federally assisted projects are consistent with the State land use program, procedures established pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (80 Stat. 1255, 1262), as amended, and title IV of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1098, 1103), and is participating on its own behalf in the programs provided for pursuant to section 701 of the Housing Act of 1954 (68 Stat. 590, 640), as amended.

FEDERAL REVIEW AND DETERMINATION OF GRANT ELIGIBILITY

SEC. 305. (a) During the five complete fiscal year period following the enactment of this Act, the Secretary, before making a grant pursuant to this Act, shall consult with the heads of all Federal agencies listed in subsection (d) of this section and of all other Federal agencies which conduct or participate in construction, development, assistance, or regulatory programs significantly affecting land use in the State, and with the National Advisory Board on Land Use Policy pursuant to subsection (c) of section 203 of this Act, and shall consider their views and recommendations.

(b) After the five complete fiscal year period following the enactment of this Act—

(1) the Secretary, before making a State land use program grant pursuant to this Act, shall submit the State land use program of such State to the heads of all Federal agencies listed in subsection (d) of this section and of all other Federal agencies which conduct or participate in construction, development, assistance, or regulatory programs significantly affecting land use in the State, and to the National Advisory Board on Land Use Policy pursuant to subsection (c) of section 203 of this Act. The Secretary shall take into consideration the views of each agency head which are submitted to him by such agency head no later than thirty days after submission of the State land use program to such agency head by the Secretary; and

(2) the Secretary shall not make a grant pursuant to this Act until he has ascertained that the Administrator of the Environmental Protection Agency is satisfied that the State's land use program is in compliance with the goals of the Federal Water Pollution Control Act, the Clean Air Act, and other Federal laws controlling pollution which fall within the jurisdiction of the Administrator, and that those portions of the land use program which will effect any change in land use within the next annual review period are in compliance with the standards, criteria, emission or effluent limitations, monitoring requirements, or implementation plans required by such laws. The Administration shall be deemed to be satisfied if he does not communicate his views to the Secretary within sixty days of submission of the State land use program to him by the Secretary.

(c) The Secretary may not make any grant pursuant to this Act unless he has been informed by the Secretary of Housing and Urban Development that he is satisfied that the statewide land use planning process or State land use program with respect to which the grant is to be made (1) conforms to the objectives of section 701 of the Housing Act of 1954, and to the relevant planning assisted under that section, including the provisions related to functional plans, and housing, public facilities, and other growth and development objectives, and (2) meets the requirements of this Act insofar as they pertain to large-scale development, development of regional benefit, large-scale subdivisions, and the urban development of lands impacted by key facilities. The Secretary of Housing and Urban Development shall be deemed to be satisfied if he does not communicate his views to the Secretary within sixty days after the statewide land use planning process or State land use program has been submitted to him by the Secretary.

(d) The Secretary shall determine a State eligible or ineligible for a grant pursuant to this Act not later than six months following receipt for review of the State's application for its first grant, a State's report on its previous grant, or the State's land use program pursuant to section 301.

(e) Pursuant to subsections (a) and (b) of this section, the Secretary shall consider the views of the heads of the following Federal agencies—

(1) the Department of Agriculture;

(2) the Department of Commmerce;

(3) the Department of Defense;

(4) the Department of Health, Education, and Welfare;

(5) the Department of Housing and Urban Development;

(6) the Department of Transportation;

(7) the Atomic Energy Commission;

(8) the Federal Power Commission; and

(9) the Environmental Protection Agency.

(f) A State may at any time revise its State land use program: Provided, That such revision does not render the State land use program inconsistent with the requirements of this Act: And provided further, That any significant revision is reported to the Secretary. The Secretary shall determine whether such revision would render the State land use program inadequate for purposes of complying with the requirements of this act, and shall inform the State of his determination.

(g)(1) In the event the Secretary determines that a State is ineligible for grants pursuant to this Act or, having found a State eligible for such grants, subsequently determines that grounds exist for withdrawal of such eligibility, he shall notify the President, who shall order the establishment of an ad hoc hearing board (hereinafter referred to as "hearing board"), the membership of which shall consist of:

(A) the Governor of a State other than the State the grant eligibility of which is in question, whose State does not have a particular interest in whether State grant eligibility or ineligibility is determined, selected by the President within thirty days after notification by the Secretary, or within ten days thereafter, such alternate person as the Governor selected by the President may designate;

(B) one knowledgeable, impartial Federal official, selected by the President within thirty days after notification by the Secretary, who is not an official of an agency listed in clauses (1) through (3) of subsection (b) of section 203; and

(C) one knowledgeable, impartial private citizen, selected by the other two members: Provided, That if the other two members cannot agree upon a third member within twenty days after the appointment of the second member to be appointed, the third member shall be selected by the President within twenty days thereafter.

(2) The Secretary shall specify in detail, in writing, to the hearing board his reasons for considering a State ineligible, or for withdrawing a State's eligibility, for grants pursuant to this Act. The hearing board shall hold such hearings and receive such evidence as it deems necessary. The hearing board shall then determine whether a finding of ineligibility or withdrawal of eligibility would be reasonable, and set forth in detail, in writing, the reasons for its determination. If the hearing board determines that ineligibility would be unreasonable, the Secretary shall find the State eligible for grants pursuant to this Act. If the hearing board concurs in the finding of ineligibility or withdrawal of eligibility, the Secretary shall find the State ineligible for grants pursuant to this Act. Ineligibility shall be deemed to have been determined by the hearing board if no determination in writing is made by it within ninety days of its appointment.

(3) Members of hearing boards who are not regular full-time officers or employees of the United States shall, while carrying out their duties as members, be entitled to receive compensation at a rate fixed by the President, but not exceeding $150 per diem, including traveltime, and, while away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence as authorized by law for persons intermittently employed in Government service. Expenses shall be charged to the account of the Executive Office of the President.

(4) Administrative support for hearing boards shall be provided by the Executive Office of the President.

(5) The President may issue such regulations as may be necessary to carry out the provisions of this subsection.

CONSISTENTCY OF FEDERAL ACTIONS WITH STATE LAND USE PROGRAMS

SEC. 306. (a) Federal projects and activities significantly affecting land use, including but not limited to grant, loan, or guarantee programs, such as mortgage and rent subsidy programs and water and sewer facility construction programs, shall be consistent with State land use programs which conform to the provisions of sections 303 and 304 of this Act, except in cases of overriding national interest, as determined by the President. Procedures provided for in regulations issued by the Office of Management and Budget pursuant to the criteria specified in section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (80 Stat. 1255, 1262–3), as amended, and title IV of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1098, 1103–4), together with such additional procedures as the Office of Management and Budget may determine are necessary and appropriate to carry out the purposes of this Act, shall be utilized in the determination of whether Federal projects and activities are consistent with State land use programs funded under this Act.

(b)(1) Any State or local government submitting an application for Federal assistance for any activity having significant land use implications in an area or for a use subject to a State land use program in a State found eligible for grants pursuant to this Act shall transmit to the relevant Federal agency the views of the State land use planning agency and/or the Governor and, in the case of an application of a local government, the views of such local government and the relevant areawide planning agency designated pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 and/or title IV of the Intergovernmental Cooperation Act of 1968, as to the consistency of such activity with the program: *Provided*, That, if a local government certifies that a plan or description of an activity for which application is made by the local government has lain before the State land use planning agency and/or the Governor for a period of sixty days without indication of the views of the land use planning agency and/or the Governor, the application need not be accompanied by such views.

(2) The relevant Federal agency shall, pursuant to subsections (a) and (b)(1) of this section, determine, in writing, whether the proposed activity is consistent or inconsistent with the State land use program.

(3) No Federal agency shall approve any proposed activity which it determines to be inconsistent with a State land use program in a State found eligible for grants pursuant to this Act.

(c) Federal agencies conducting or assisting public works activities in areas not subject to a State land use program in a State found eligible for grants pursuant to this Act shall, to the extent practicable, conduct such activities in such a manner as to minimize any adverse impact on the environment resulting from decisions concerning land use.

FEDERAL ACTIONS IN THE ABSENCE OF STATE ELIGIBILITY

SEC. 307. (a) The Secretary shall have authority to terminate any financial assistance extended to a State under this Act and withdraw his determination of grant eligibility whenever the Secretary finds, and the hearing board concurs, that the statewide land use planning process or the State land use program does not meet the requirements of this Act.

(b) Where any major Federal action significantly affecting the use of non-Federal lands is proposed after five fiscal years from the date of enactment of this Act, in a State which has not been found eligible for grants pursuant to this Act, the responsible Federal agency shall hold a public hearing in such State at least one hundred eighty days in advance of the proposed action concerning the effect of the action on land use, taking into account the relevant considerations set out in sections 302, 303, and 304 of this Act, and shall make findings which shall be submitted for review and comment by the Secretary, and where appropriate, by the Secretary of Housing and Urban Development. Such findings of the responsible Federal agency and comments of the Secretary and, where appropriate, the Secretary of Housing and Urban Development shall be made part of the detailed statement required by section 102(2)(C) of the National Environmental Policy Act (83 Stat. 852, 853). This section shall be subject to exception where the President determines that the interests of the United States so require.

TITLE IV

FEDERAL-STATE COORDINATION AND COOPERATION IN THE PLANNING AND MANAGEMENT OF FEDERAL AND ADJACENT NON-FEDERAL LANDS

SEC. 401. (a) All agencies of the Federal Government charged with responsibility for the management of Federal lands shall consider State land use programs prepared pursuant to this Act and State, local government, and private needs and requirements as related to the Federal lands, and shall coordinate the land use inventory, planning and management activities on or for Federal lands with State and local use inventory, planning, and management activities on or for adjacent non-Federal lands to the extent such coordination is practicable and not inconsistent with paramount national policies, programs, and interests.

(b) For the purposes of this section, any agency proposing any new program, policy, rule, or regulation relating to the Federal lands shall publish a statement concerning the consistency of the program, policy, rule, or regulation with State and local land use planning and management, and, where inconsistent, the reasons for such inconsistency, thirty days prior to the establisment of such program or policy or the promulgation of such rule or regulation, and, except where otherwise provided by law, shall conduct a public hearing, with adequate public notice, on such program, policy, rule, or regulation at least seven days prior to the publication of such statement.

SEC. 402. (a) As a condition of continued State eligibility for grants pursuant to this Act, after the five complete fiscal year period following the enactment of this Act, the Secretary shall have determined that—

(1) the State land use program developed pursuant to sections 303 and 304 of this Act includes methods for insuring that Federal lands within the State, including but not limited to units of the national park system, wilderness areas, and game and wildlife refuges, are not damaged or degraded as a result of inconsistent land use patterns in the same immediate geographical region; and

(2) the State has demonstrated good faith efforts to implement such methods in accordance with subsection (b) of section 304.

(b) The procedures for determination of grant eligibility provided for in section 305 shall apply to this section.

AD HOC FEDERAL-STATE JOINT COMMITTEES

SEC. 403. (a) The Secretary, at his discretion or upon the request of the Governor of any State involved, shall establish an Ad

Hoc Federal-State Joint Committee or Committees (hereinafter referred to as "joint committee" or "committees") to review and make recommendations concerning general and specific problems relating to jurisdictional conflicts and inconsistencies resulting from the various policies and legal requirements governing the planning and management of Federal lands and of adjacent non-Federal lands. Each joint committee shall include representatives of the Federal agencies having jurisdiction over the Federal lands involved, representatives of affected user groups, including recreation and conservation interests, and officials of affected State agencies and units of local government. Prior to appointing representatives of user groups and officials of local governments, the Secretary shall consult with the Governor or Governors of the State or States involved and with other appropriate officials of the State or States and local governments involved. The Governor of each State involved shall appoint the officials of the affected agencies of his State.

(b) Each joint committee shall terminate at the end of two years from the date of establishment.

(c) Joint committee members may each be compensated at the rate of $100 for each day each member is engaged in the actual performance of duties vested in the joint committee. Each member shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently: *Provided, however,* That no compensation except travel and expenses in addition to regular salary shall be paid to any full-time Federal or State official.

(d) Each joint committee shall have available to it the services of an executive secretary, professional staff, and such clerical assistance as the Secretary determines is necessary. The executive secretary shall serve as staff to the joint committee or committees and shall be responsible for carrying out the administrative work of the joint committee or committees.

(e) The specific duties of any joint committee shall be assigned by the Secretary and may include:

(1) conducting a study of, and making recommendations to the Secretary concerning methods for resolving, general problems with and conflicts between land use inventory, planning, and management activities on or for Federal lands and State and local land use inventory, planning, and management activities on or for adjacent non-Federal lands, including, where relevant, the State land use programs developed pursuant to sections 303 and 304 of this Act;

(2) investigating specific conflicts between the planning and management of Federal lands and of adjacent non-Federal lands and making recommendations to the Secretary concerning their resolution;

(3) assisting the States and the Office of Land Use Policy Administration in the development of systematic and uniform methods among the States and between the States and the Federal Government for collecting, compiling, exchanging, and utilizing land use data and information; and

(4) advising the Secretary, during his review of State land use programs, of opportunities for reducing potential conflicts and improving coordination in the planning and management of Federal lands and of adjacent non-Federal lands.

(f) Upon receipt of the recommendations of a joint committee upon a conflict pursuant to subsection (e) of this section, the Secretary shall:

(1) where he has legal authority, take any appropriate and necessary action to minimize such conflict;

(2) where he does not have jurisdiction over or authority concerning the Federal lands which are involved in the conflict, work with the appropriate Federal agency or agencies to develop a proposal designed to minimize the conflict and to enhance cooperation and coordination between the planning and management of Federal lands and of adjacent non-Federal lands; and

(3) if he determines that the legal authority to resolve general or specific land use planning and management conflicts between the Federal Government and State and local governments is lacking in the Executive Branch, recommend enactment of appropriate legislation to the Congress.

(g) In taking or recommending action pursuant to the recommendations of a joint committee, the Secretary shall give careful consideration to the purposes of this Act and not resolve any conflict between the planning and management of Federal lands and of adjacent non-Federal lands in a manner which would impair the national purpose or objective for which the Federal lands involved are being managed.

BIENNIAL REPORT ON FEDERAL-STATE COORDINATION

SEC. 404. The Secretary shall report biennially to the President and the Congress concerning—

(a) problems in and methods for coordination of planning and management of Federal lands and planning and management of adjacent non-Federal lands, together with recommendations to improve such coordination;

(b) the resolution of specific conflicts between the planning and management of Federal lands and of adjacent non-Federal lands; and

(c) at the request of the Governor of any State involved, any unresolved conflict between the planning and management of Federal lands and of adjacent non-Federal lands, together with any recommendations the Secretary and the Governor or Governors may have for resolution of such conflict.

SEC. 405. (a) Prior to the making of recommendations on any conflict pursuant to subsection (e) of section 403, each joint committee shall conduct a public hearing or provide an opportunity for such a hearing in the State on such conflict, with adequate public notice, allowing full participation of representatives of Federal, State, and local governments and members of the public. Should no hearing he held, the joint committee shall solicit the views of all affected parties and submit a summary of such views, together with its recommendations, to the Secretary.

(b) Prior to the making of recommendations or the taking of actions pursuant to subsection (f) of section 403, the Secretary shall review in full the relevant hearing record or, where none exists, the summary of views of affected parties prepared pursuant to subsection (a) of this section, and may, in his discretion, hold further public hearings.

SEC. 406. Upon request of a joint committee, the head of any Federal department or agency or federally established or authorized interstate agency is authorized: (a) to furnish to the joint committee, to the extent permitted by law and within the limits of available funds, such information as may be necessary for carrying out its functions and as may be available to or procurable by such department, agency, or interstate agency; and (b) to detail to temporary duty with the joint committee, on a reimbursable basis, such personnel within his administrative jurisdiction as it may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

TITLE V—GENERAL

DEFINITIONS

SEC. 501. For the purposes of this Act—

(a) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(b) The term "local government" means any general purpose county or municipal government, or any regional combination thereof, or, where appropriate, any other public agency which has land use planning authority.

(c) The term "Federal lands" means any land owned by the United States without regard to how the United States acquired ownership of the land and without regard to the agency having responsibility for management thereof, except lands held in trust for the benefit of Indians, Aleuts, and Eskimos.

(d) The term "non-Federal lands" means all lands which are not "Federal lands" as defined in subsection (c) of this section and are not held by the Federal Government in trust for the benefit of Indians, Aleuts and Eskimos.

(e) The term "areas of critical environmental concern" means areas as designated by the State on non-Federal lands where uncontrolled development could result in irreversible damage to important historic, cultural, or esthetic values, or natural systems or processes which are of more than local significance, or could unreasonably endanger life and property as a result of natural hazards of more than local significance. Such areas shall include—

(1) coastal wetlands, marshes, and other lands inundated by the tides;

(2) beaches and dunes;

(3) significant estuaries, shorelands, and flood plains of rivers, lakes, and streams;

(4) areas of unstable soils and high seismic activity;

(5) rare or valuable ecosystems;

(6) significant undeveloped agricultural, grazing, and watershed lands;

(7) forests and related land which require long stability for continuing renewal;

(8) scenic or historic areas; and

(9) such additional areas as a State determines to be of critical environmental concern.

(f) The term "key facilities" means public facilities on non-Federal lands which tend to induce development and urbanization of more than load impact and major facilities on non-Federal lands for the development, generation, and transmission of energy.

(g) The term "development and land use of regional benefit" means land use and private development on non-Federal lands for which there is demonstrable need affecting the interests of constituents of more than one local government which outweighs the benefits of any applicable restrictive or exclusionary local regulations.

(h) The term "large scale development" means private development on non-Federal lands which, because of its magnitude or the magnitude of its effect on the surrounding environment, is likely to present issues of more than local significance in the judgment of the State. In determining what constitutes "large scale development" the State should consider, among other things, the amount of pedestrian or vehicular traffic likely to be generated; the number of persons likely to be present; the potential for creating environmental problems such as air, water, or noise pollution; the size of the site to be occupied; and the likelihood that additional or subsidiary development will be generated.

GUIDELINES, RULES, AND REGULATIONS

SEC. 502. (a) The Executive Office of the President shall issue guidelines to the Federal agencies to assist them in carrying out the requirements of this Act. The Executive

Office shall submit proposed guidelines to the Secretary, the Board, and the heads of agencies represented on the Board, and shall consider their comments prior to formal issuance of such guidelines.

(b) The Secretary, after appropriate consultation with representatives of the States and, where appropriate, officials or representatives of local governments, and upon the advice of the Board and the heads of Federal agencies represented on the Board, shall promulgate rules and regulations to implement the guidelines formulated pursuant to subsection (a) of this section and to administer this Act, except with respect to subsection (f) of section 305 of this Act.

BIENNIAL REPORT

SEC. 503. The Secretary, with the assistance of the Office and the Board, shall report biennially to the President and the Congress on land resources, uses of land, and current and emerging problems of land use.

UTILIZATION OF PERSONNEL

SEC. 504. Upon request of the Secretary, the head of any Federal agency is authorized: (a) to furnish to the Office such information as may be necessary for carrying out the functions of the Office and as may be available to or procurable by such agency, and (b) to detail to temporary duty with the Office, on a reimbursable basis, such personnel within his administrative jurisdiction as the Office may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

TECHNICAL ASSISTANCE

SEC. 505. The Office may provide, directly or through contracts, grants, or other arrangements, technical assistance to any State found eligible for grants pursuant to this Act to assist such State in the performance of its functions under this Act.

HEARINGS AND RECORDS

SEC. 506. (a) For the purpose of carrying out the provisions of this Act, the Director, with the concurrence of the Secretary, may hold such hearings, take such testimony, receive such evidence, and print or otherwise reproduce and distribute so much of the proceedings and reports thereon as he deems advisable.

(b) The Director is authorized to administer oaths when he determines that testimony shall be taken or evidence received under oath.

(c) To the extent permitted by law, all appropriate records and papers of the Office shall be made available for public inspection during ordinary office hours.

ALLOTMENTS

SEC. 507. (a) From the sum appropriated pursuant to section 510, the Secretary is authorized to make grants provided for in this Act to States found eligible for financial assistance pursuant to this Act, the proposals of which are approved, in any amount not to exceed 66⅔ per centum of the estimated cost of developing the State land use programs for the two complete fiscal year period following the enactment of this Act. Thereafter, grants may be made in an amount not to exceed one-half of the estimated cost of administering the State land use programs for the next three fiscal years.

(b) Grants pursuant to this Act shall be allocated to the States on the basis of regulations of the Secretary, which regulations shall take into account the amount and nature of each State's land resource base, population, pressures resulting from growth, financial need, and other relevant factors.

(c) Any grant made for the purpose of this Act shall increase, and not replace, State funds presently available for State land use planning activities. Any grant made pursuant to this Act shall be in addition to, and may be used jointly with, grants or other funds available for land use planning surveys or investigations under other federally assisted programs.

(d) No funds granted pursuant to this Act may be expended for the acquisition of any interest in real property.

PAYMENTS

SEC. 508. The method of computing and paying amounts pursuant to this Act shall be as follows:

(a) The Secretary shall, prior to the beginning of each calendar quarter or other period prescribed by him, estimate the amounts to be paid to each State under the provisions of this Act for such period, such estimate to be based on such records of the State and information furnished by it, and such other investigation as the Secretary may find necessary.

(b) The Secretary shall pay to the State, from the allotments available therefor, the amounts so estimated by him for any period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which he finds that his estimate of the amount to be paid such State for any prior period under this Act was greater or less than the amount which should have been paid to such State for such prior period under this Act. Such payments shall be made through the disbursing facilities of the Departments of the Treasury, at such times and in such installments as the Secretary may determine.

FINANCIAL RECORDS

SEC. 509. (a) Each recipient of a grant pursuant to this Act shall make reports and evaluations in such form, at such times, and containing such information concerning the status, disposition, and application of Federal funds and the operation of the statewide land use planning process or State land use program as the Secretary may require by regulations published in the Federal Register, and shall keep and make available such records as may be required by the Secretary for the verification of such reports and evaluations.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of a recipient of a grant pursuant to this Act which are pertinent to the determination that funds granted are used in accordance with this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 510. For each of the five full fiscal years following the enactment of this Act, there are authorized to be appropriated to the Secretary for grants to the States not more than $40,000,000 for each of the first two fiscal years and $30,000,000 for each of the next three fiscal years to carry out the purposes of this Act.

SEC. 511. For each of the five full fiscal years following enactment of this Act, there are authorized to be appropriated $10,000,000 annually to the Secretary of the Interior to be used exclusively for the administration of this Act. After the end of the fourth fiscal year after the enactment of this Act, the Secretary shall review the programs established by this Act and shall submit to Congress his analysis and such recommendations for amendments to the Act as he deems proper and appropriate.

EFFECT ON EXISTING LAWS

SEC. 512. Nothing in this Act shall be construed—

(a) to expand or diminish Federal, interstate or State jurisdiction, responsibility, or rights in the field of land and water resources planning, development or control; to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States, or of two or more States, a State, or a region and the Federal Government; to to limit the authority of Congress to authorize and fund projects;

(b) to change or otherwise affect the authority or responsibility of any Federal official in the discharge of the duties of his office except as new authority or responsibilities have been added by the provisons of this Act;

(c) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of land and water resources or to exercise licensing or regulatory functions in relation thereto; or to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board and the United States operating entity or entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961, or the International Boundary and Water Commission, United States and Mexico.

(d) as granting to the Federal Government any of the constitutional or statutory authority now possessed by State and local governments to zone non-Federal lands.

(e) to delay or otherwise limit the adoption and vigorous enforcement, by State, of standards, criteria, emission or effluent limitations, monitoring requirements, or implementation plans which are no less stringent than the standards, criteria, emission or effluent limitations, monitoring requirements, or implementation plans required by the Federal Water Pollution Control Act, the Clean Air Act, or other Federal laws controlling pollution; and

(f) to adopt any Federal policy or requirement which would prohibit or delay States or local governments from adopting or enforcing any law or regulation which results in prohibition or control to a degree greater than required by this Act of land use development in any area over which the State or local government exercises jurisdiction.

The title was amended, so as to read: "An Act to establish a national land use policy; to authorize the Secretary of the Interior to make grants to assist the States to develop and implement State land use programs; to coordinate Federal programs and policies which have a land use impact; to coordinate planning and management of Federal lands and planning and management of adjacent non-Federal lands; and to establish an Office of Land Use Policy Administration in the Department of the Interior, and for other purposes."

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the Senate passed the bill.

Mr. INOUYE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (S. 3442) to amend the Public Health Service Act to extend and revise the program of assistance under that act for the control and prevention of communicable diseases.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. ALLEN).

The message further announced that the House had passed, without amendment, the following bills of the Senate:

S. 1031. An act to credit certain service rendered by District of Columbia substitute teachers for purposes of civil service retirement;

S. 2478. An act to provide for the disposition of funds to pay a judgment in favor of the Shoshone-Bannock Tribes of Indians of the Fort Hall Reservation, Idaho, as representatives of the Lemhi Tribe, in Indian Claims Commission docket numbered 326-I, and for other purposes; and

S. 2575. An act for the relief of William John West.

The message also announced that the House had agreed to the amendments of the Senate to the concurrent resolution (H. Con. Res. 550) providing for for the protection of the Capitol complex.

ENROLLED BILL PRESENTED

Later, the Secretary of the Senate reported that today, September 19, 1972, he had presented to the President of the United States the enrolled bill (S. 3442) to amend the Public Health Service Act to extend and revise the program of assistance under this Act for the control and prevention of communicable diseases.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. FANNIN). The Chair, on behalf of the Vice President, appoints the following Senators as advisors to attend the 1972 Annual Meetings of the Board of Governors of the International Bank for Reconstruction and Development and the International Monetary Fund, Washington, D.C., September 25–29, 1972: Senators MCCLELLAN, FULBRIGHT, SPARKMAN, AIKEN, FONG, and TOWER; and the following Senators as observers to attend the same meetings: Senators **HARRY F. BYRD, JR., and JAVITS.**

RELIEF OF WILLIAM PHILLIPS

Mr. INOUYE. Mr. President, I submit a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 368), to refer the bill (S. 1418) entitled "A bill for the relief of William Phillips" to the Chief Commissioner of the United States Court of Claims for a report thereon.

Is there objection to the present consideration of the bill?

There being no objection, the resolution was considered and agreed to, as follows:

S. RES. 368

Resolved, That the bill (S. 1418) entitled "A bill for the relief of William Phillips", now pending in the Senate, together with all accompanying papers, is referred to the Chief Commissioner of the United States Court of Claims. The Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States, or a gratuity, and the amount, if any, legally or equitably due from the United States to the claimant.

FEDERAL-AID HIGHWAY ACT OF 1972

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate S. 3939, which the clerk will state by title.

The legislative clerk read the bill by title, as follows:

A bill (S. 3939) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. RANDOLPH. Mr. President, I yield to the Senator from Pennsylvania (Mr. SCOTT).

RECORD NUMBER OF YEA-AND-NAY VOTES

Mr. SCOTT. If the Senator would yield to me 1 minute, I would observe that the last vote cast was the 425th vote this session, and the previous record, if we can call it that, for the number of votes cast in the Senate in a single year session was last year 423 and the year previous 421; so the Senate is busy and is engaged in a great deal of activity.

I thought that the passing of this record ought to be noted at this time. I couple it with a plea that we avoid, if possible, unnecessary rollcalls on uncontested matters wherever possible, so that we may get on with the work of the Senate.

FEDERAL ADVISORY COMMITTEE STANDARDS ACT—CONFERENCE REPORT

Mr. MUSKIE. Mr. President, on behalf of the junior Senator from Montana (Mr. METCALF), I submit a report of the committee of conference on H.R. 4383, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4383) to authorize the establishment of a system governing the creation and operation of advisory committees in the executive branch of the Federal Government, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of September 18, 1972, at pp. 30952–30954.)

(Mr. MUSKIE. Mr. President, this conference report is a balanced compromise between the Senate and House that will develop a workable and effective system for the creation and operation of Federal advisory committees.

It is the culmination of extensive hearings, investigations, and legislative consideration by members of the Government Operations Committees of both Houses.

On the Senate side, the legislation was handled by the distinguished Senator from Montana (Mr. METCALF), who did an outstanding job in conducting the hearings of the Subcommittee on Intergovernmental Relations and in guiding the legislation (S. 3529) through the committees and the Senate.

Senator METCALF has been strong and persistent in his effort to halt the proliferation of advisory committees, and to establish requirements for public access to committee meetings and records. The Senator's concern is best expressed in his own words at the subcommittee hearings:

> What we are dealing with here, goes to the bedrock of government decisionmaking. Information is an important commodity in this capital.
>
> Those who get information to policymakers, or get information for them, can benefit their causes, whatever it may be. Outsiders can be adversely and unknowingly affected. And decisionmakers who get information from special interest groups who are not subject to rebuttal because opposing interests do not know about the meetings—and could not get in the door if they did—may not make tempered judgments.

Mr. President, however, the effort to develop a Senate bill on advisory committees was bipartisan. We are indeed grateful for the able assistance provided by the senior Senator from Illinois (Mr. PERCY), the junior Senator from Delaware (Mr. ROTH), and the junior Senator from Tennessee (Mr. BROCK), each of whom played a major part in drafting the legislation and obtaining Senate approval.

On the House side, we are indebted to the very able Congressman from Connecticut (Mr. MONAGAN) for his leadership both in conducting an in-depth investigation of the advisory committee problem, and in sponsoring the legislation which received overwhelming House approval.

The conferees did their work well.

Although the Senate members were not able to convince their House colleagues on all points, they were able to reach agreement on a workable bill. Among other things, the legislation would:

(1) require Congress to make a continuing review of existing advisory committees to determine which should be abolished, merged or revised, and to follow certain guidelines in the creation of any new committees.

(2) require the OMB to institute a comprehensive review of advisory committees and recommend reorganization or abolishment of such committee to the President; to prescribe administrative guidelines and management controls; and to report annually to Congress on the activities, status, and costs of such committees.

(3) authorize the President to assign responsibility for evaluation and action on recommendations of Presidential advisory committees, and to report on the disposition of such recommendations.

(4) provide for uniform procedures in the establishment and conduct of advisory committees. These include the

filing of a committee charter, requirements of notice and public access to meetings and records, subject to certain exceptions, and the monitoring of such meetings by a Government employee.

(5) provide for the opportunity for advisory committee meetings to be closed where they deal with matters exempted from disclosure under the Freedom of Information Act; and

(6) provide for the termination of advisory committees after 2-year periods, subject to formal renewal under certain procedures.

On June 5, 1972, after the House had passed H.R. 4383, and after the Subcommittee on Intergovernmental Relations unanimously reported S. 3529, the President proclaimed new Executive Order 11671. This order contained to some degree concepts incorporated in the two pieces of legislation. I think it is most important to note that the Conferees considered the provisions of the Executive order in arriving at their agreement, and in fact included in the conference report some of its key provisions.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield.

Mr. PERCY. Mr. President, I believe this conference report represents a fair balance between the House and Senate bills. The major area of compromise is section 10, setting forth requirements for opening up advisory committees to the public, and extending public access to their documents. The Senate bill provided guarantees that if meetings were closed because they dealt with matters of national security, business confidentiality, or other matters provided for in the exemptions section of the Freedom of Information Act—section 552(b) of title V of the United States Code, transcripts must be taken. The House bill did not contain such provisions. The conference report accepts the principle that advisory committee meetings should be open, and that documents associated with advisory committees should be available to the public on request. Under the conference version, however, meetings can be closed to the public, and documents can be withheld, under the exemptions in the Freedom of Information Act. In cases where meetings are closed, the President or agency head who closes them must say why. Another requirement is that detailed minutes be kept of each meeting, but these are not available to the public in cases where meetings are required to be closed.

Otherwise, the bill continues to contain provisions regulating the cost, establishment, and termination of the over 1,000 Federal advisory committees that are now estimated to exist at a cost of over $70 million. It is an innovative, important bill that will create order out of the chaotic situation that now exists. I wholeheartedly recommend adoption of the conference report.

Mr. President, I have only one point upon which I would very much appreciate a clarification by the distinguished manager of the bill.

I would like to say I think this is the Government Operations Committee at its best. We have an oversight responsibility, where 1,800 of these advisory commissions and committees are in existence, at a cost of $75 million. I think, by putting them under control, we have a strong management bill before us.

I ask the distinguished Senator from Maine this question: I note that the only standard contained in the bill regarding membership of advisory committees is the provision in section 5 (b) (2) requiring the Congress, in creating new advisory committees, to insure that the membership of such committees be "fairly balanced in terms of the points of view represented and the function to be performed by the advisory committee." As I understand it, there is no limitation on those who may be appointed to be members, including the executives of associations of businessmen or other groups. Indeed, I would infer that the purpose of section 5(c) is to further insure that all advisory committees, whether created by statute, by the President, or by an agency head, are broadly representative.

I would ask the distinguished chairman of the Subcommittee on Intergovernmental Relations (Mr. MUSKIE): Is there anything in the bill that might be construed to limit executives of trade associations from participation in or membership on Federal advisory committees regulated by this act?

Mr. MUSKIE. No; I know of nothing in this bill to that effect. I would hope, of course, that they would not be given a disproportionate influence or role in these committees, but I know of no restriction.

Mr. PERCY. I very much appreciate this observation by the distinguished Senator. This point is of interest to the Senator from Tennessee (Mr. BROCK), who regrets that he could not be here today.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

ORDER OF BUSINESS

Mr. RANDOLPH. Mr. President, I yield to the distinguished Senator from Montana.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate may proceed to the immediate consideration of Calendar Nos. 1070, 1075, and 1092.

THE PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT OF THE RAILROAD RETIREMENT ACT OF 1937

The Senate proceeded to consider the bill (H.R. 15927) to amend the Railroad Retirement Act of 1937 to provide a temporary 20 per centum increase in annuities, and for other purposes which had been reported from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert:

That (a) section 3(a) of the Railroad Retirement Act of 1937 is amended by inserting at the end thereof the following new paragraph:

"(5) The individual's annuity computed under the preceding provisions of this subsection and that part of subsection (e) of this section which precedes the first proviso shall be increased by 20 per centum.".

(b) Section 2(e) of such Act is amended—

(1) by striking out "section 3(a) (3) or (4) of this Act" and inserting in lieu thereof "section 3(a) (3), (4), or (5) of this Act";

(2) by striking out the second sentence of the last paragraph; and

(3) by adding at the end thereof the following new paragraph:

"The spouse's annuity computed under the other provisions of this section shall (before any reduction on account of age) be increased by 20 per centum. The preceding sentence and the other provisions of this subsection shall not operate to increase the spouse's annuity (before any reduction on account of age) to an amount in excess of the maximum amount of a spouse's annuity as provided in the first sentence of this subsection. This paragraph shall be disregarded in the application of the preceding two paragraphs."

(c) Section 2(i) of such Act is amended by striking out "the last two paragraphs" and inserting in lieu thereof "the last paragraph plus the two preceding paragraphs".

(d) Section 3(e) of such Act is amended—

(1) by striking out the word "and" after clause (iv) in the second paragraph thereof and inserting after the semicolon in clause (v) in such second paragraph the following new clauses:

"(vi) individuals not entitled to an annuity under section 2 or 5 of this Act shall not be included in the computation under such first proviso except a spouse who could qualify for an annuity under section 2(e) or (h) of this Act if the employee from whom the spouse's annuity under this Act would derive had attained age sixty-five, and such employee's children who meet the definition as such contained in section 216(e) of the Social Security Act; (vii) after an annuity has been certified for payment and such first proviso was inapplicable after allowing for any waiting period under section 223 (c) (2) of the Social Security Act, and after having considered the inclusion of all persons who were then eligible for inclusion in the computation under such first proviso, or was then applicable but later became inapplicable, any recertification in such annuity under such first proviso shall not take into account individuals not entitled to an annuity under section 2 or 5 of this Act except a spouse who could qualify for an annuity under section 2(h) of this Act when she attains age sixty-two if the employee from whom the spouse's annuity would derive had attained age sixty-five, and who was married to such employee at the time he applied for the employee annuity; (viii) in computing the amount to be paid under such first proviso, the only benefits under title II of the Social Security Act which shall be considered shall be those to which the individuals included in the computation are entitled; (ix) the average monthly wage for an employee during his lifetime shall include (A) only his wages and self-employment income creditable under the Social Security Act through the later of December 31, 1971, or December 31 of the year preceding the year in which his annuity began to accrue, and (B) his compensation up to the date his annuity began to accrue; and (x) in computing the average monthly wage in clause (ix) above, section 215(b) (2) (C) (ii) of the Social Security Act shall, solely for the purpose of including compensation up to the date the employee's annuity began to accrue, he deemed to read as follows: 'the year succeeding the year in which he died or retired'; and

(2) by striking out in the third paragraph thereof ", or on application, would be".

(e) Section 5(l) (1) of such Act is amended by striking out from the first sentence thereof "and (g)" and inserting in lieu thereof "(g), and (k)".

(f) Section 5 of such Act is further amended by inserting at the end thereof the following new subsection:

"(p) A survivor's annuity computed under the preceding provisions of this section (except an annuity in the amount determined under the proviso in subsection (a) or (b) shall (before any reduction on account of age) be increased by 20 per centum."

SEC. 2. (a) All pensions under section 6 of the Railroad Retirement Act of 1937, all annuities under the Railroad Retirement Act of 1935, and all survivor annuities deriving from joint and survivor annuities under the Railroad Retirement Act of 1937 shall be increased by 20 per centum.

(b) All such widows' and widowers' insurance annuities which are payable in the amount of the spouse's annuity to which the widow or widower was entitled, shall, in cases where the employee died prior to October 1, 1972, be increased by 20 per centum.

(c) All such joint and survivor annuities shall be computed under section 3(a) of the Railroad Retirement Act of 1937 and shall be reduced by the percentage determined in accordance with the election of such annuity.

SEC. 3. All recertifications required by reason of the amendments made by this Act shall be made by the Railroad Retirement Board without application therefor.

SEC. 4. For the purposes of approximating the offsets in railroad retirement benefits for increases in social security benefits by reason of amendments prior to the Social Security Amendments of 1971, the Railroad Retirement Board is authorized to prescribe adjustments in the percentages in the Railroad Retirement Act of 1937 and laws pertaining thereto in order that these percentages, when applied against current social security benefits not in excess of the primary insurance amount applicable for an average monthly wage of $650, will produce approximately the same amounts as those computed under the law in effect, except for changes in the wage base, before the Social Security Amendments of 1971 were enacted.

SEC. 5. (a) The amendments made by this Act, except for subsections (d) and (e) of section 1, shall be effective with respect to annuities accruing for months after August, 1972 and with respect to pensions due in calendar months after September, 1972. The provisions of clauses (vi) through (x), which are added by section 1(d) (1) of this Act, and the provisions of section 1(d) (2) of this Act, shall be effective as follows: clause (vi) shall be effective with respect to annuities awarded after the enactment of this Act; clauses (vii) and (viii), and the provisions of section (1) (d) (2), shall be effective with respect to annuities awarded or recertified after the enactment of this Act; and clauses (ix) and (x) shall be effective with respect to calendar years after 1971.

(b) The first three sections of this Act, except for subsections (d) and (e) of section 1, and the amendments made by such sections, shall cease to apply as of the close of June 30, 1973. Annuities accruing for months after June 30, 1973, and pensions due in calendar months after June 30, 1973, shall be computed as if the first three sections of this Act, except for subsections (b) and (e) of section 1, and the amendments made by such sections, had not been enacted.

SEC. 6. It is the policy of the Congress of the United States that the 20-percent increase in annuities of Railroad Retirement beneficiaries provided by this Act, as well as the 10-percent and 15-percent increases provided by Public Law 92-46 and Public Law 91-377, respectively, all of which will expire by the terms of such Acts on June 30, 1973, can be made permanent only if at the same time a method is adopted to insure the receipt of sufficient revenues by the Railroad Retirement Account to make such Account financially solvent based on sound actuarial projections. Accordingly, representatives of employees and retirees and representatives of carriers shall, no later than March 1, 1973, submit to the Senate Committee on Labor and Public Welfare and the House of Representatives Committee on Interstate and Foreign Commerce a report containing the mutual recommendations of such representatives based upon their negotiations and taking into account the report and specific recommendations of the Commission on Railroad Retirement designed to insure such solvency. A copy of the report of such representatives shall also be submitted to the Railroad Retirement Board, which, no later than April 1, 1973, shall submit to such committees of the Congress a report containing its views and specific recommendations, and those of the administration, with reference to the report submitted by such representatives.

Mr. CRANSTON. Mr. President, as chairman of the Subcommittee on Railroad Retirement of the Labor and Public Welfare Committee, it is a great pleasure to urge Senators to support this measure in the same unanimous spirit that has characterized its consideration in subcommittee and full committee. For the benefit of my colleagues I would like to explain the bill, H.R. 15927 as reported, which amends the Railroad Retirement Act to provide a 20-percent increase in annuities. The bill as amended in subcommittee, was unanimously reported to the full committee, and the Committee on Labor and Public Welfare has unanimously reported it, as amended, to the Senate with the recommendation that it pass.

The bill as reported would provide a temporary 20-percent increase in railroad retirement benefits—matching the amount of the increase in social security benefits enacted in Public Law 92-336—as I proposed in S. 3852; make certain technical changes in the present law to facilitate administration; and direct the representatives of employees and retirees and representatives of carriers to report to the Senate Committee on Labor and Public Welfare and the House Committee on Interstate and Foreign Commerce, no later than March 1, 1973, their mutual recommendations designed to insure the solvency of the Railroad Retirement Account, and directs the Railroad Retirement Board to comment on that report by April 1, 1973.

BENEFIT INCREASE

In recent years, benefit increases in social security and railroad retirement have been linked, with a comparable railroad retirement increase following closely behind each social security increase. The 20-percent increase contained in H.R. 15927 is necessary and desirable in order to keep pace with the recent 20-percent increase in social security benefits contained in Public Law 92-336.

The Railroad Retirement system is a vital income maintenance program to the 984,000 current beneficiaries, and to the approximately 611,000 active railroad men and women who are now contributing to the system and are relying on its stability at the time they qualify for benefits.

In my own State of California, there are some 75,000 railroad pensioners, and approximately 40,000 active railroad employees.

In my capacity as ranking majority member of the Subcommittee on Aging of the Labor and Public Welfare Committee, I have had ample opportunity to observe the plight of our retired citizens—who have already contributed their productive lives to the economic strength of this Nation—who should be entitled to live with dignity and reasonable assurance of an adequate retirement income in their later years.

The 20-percent increase in the benefits of railroad retirees contained in the committee bill is necessary to meet the spiraling cost of living. The effects of an inflated economy are felt by all Americans, but none so drastic—nor so unjust—as the effect on citizens living on fixed incomes. Congress has already recognized the compelling needs of social security beneficiaries, and equitable treatment requires a commensurate increase for railroad retirees. The following chart reflects the impact of this increase, and the 20-percent social security increase in Public Law 92-336, on railroad retirement beneficiaries:

NUMBER OF CASES AFFECTED BY PUBLIC LAW 92-336 (1972 SOCIAL SECURITY AMENDMENTS) AND H.R. 15927 20-PERCENT RAILROAD RETIREMENT ACT AMENDMENT [1]

	Total	Public Law 92-336	H.R. [1] 15927	Average increase
Total	[2] 1,024,000	282,000	742,000	$34
Employees	450,000	28,000	422,000	44
Spouses	[2] 239,000	[2] 36,000	[2] 203,000	22
Aged widows	283,000	171,000	112,000	17
Other survivors	52,000	47,000	5,000	16

[1] A 20-percent increase with no offset.

[2] Includes duplication of 26,000 spouses affected by both laws

COMMITTEE AMENDMENTS

The need to increase railroad retirement benefits to keep pace with the rising cost of living is great, but such increases place a dangerous strain on a retirement system already facing very serious fiscal problems. Perhaps the major cause of the problem has been the declining level of employment in the railroad industry—resulting in a substantial decrease in contributors to the pension fund. The railroad industry has declined from 1,680,000 employees in 1945, to about 611,000 employees in 1970.

The findings of the Commission on Railroad Retirement indicate in its report, received September 7, 1972, that the actuarial sufficiency of the railroad retirement account is in serious decline. The Commission report further estimates that by the year 1985 the account will be bankrupt—and by 2000 could be operating at a deficit in excess of $23 billion—if a more adequate method of financing the account is not implemented.

Railroad employees are now contributing 9.95 percent on the first $750 of each month's pay to the retirement program, and the tax rate will increase to 10.25 percent, with a wage base increase to $900, in January of 1973. Each employee's contribution is then matched by his employee. It is clear, I think, that this source of revenue for the fund is already severely strained.

Because of the serious nature of these problems and the ramifications they have for over 984,000 annuitants and 611,000 active workers—certainly the most important factor in our deliberations—I offered an amendment to H.R. 15927, accepted unanimously by the committee, which would establish a congressional policy that the temporary increase in the committee bill, along with the 10- and 15-percent increases, all due to expire on June 30, 1973, would be made permanent only if at the same time changes are made in the railroad retirement system to insure the receipt of sufficient revenues to make the railroad retirement account actuarially sound in the foreseeable future.

This amendment thus directs, as I stated previously, labor and management representatives to submit their recommendations, formed with consideration of the recommendations of the Railroad Retirement Commission, designed to insure the solvency of the account if these increases are made permanent. Additionally, the amendment mandates that a copy of these recommendations be directed to the Railroad Retirement Board, and further directs the Railroad Retirement Board to submit to the House and Senate committees its comments and those of the administration on that report. This amendment is supported by the railway clerks and is generally acceptable to the rest of railway labor and to industry.

Mr. President, I wish to point out that the full report of the Commission on Railroad Retirement was received by the Labor and Public Welfare Committee on September 7, 1972, and should be available to the public from the Government Printing Office this week. We will be carefully studying this report as we await the recommendations of labor and management in the March 1, 1973, report.

Also included in the bill as an amendment are the technical provisions incorporated in H.R. 15922, which has been passed by the House and adoption of which was recommended by each witness at the hearings I chaired on this measure on August 10, 1972.

Mr. President, we have tried to move expeditiously on this measure, and I wish to express my personal thanks to the members of the Railroad Retirement Subcommittee, especially the ranking minority member, the Senator from Pennsylvania (Mr. SCHWEIKER), for their excellent cooperation and assistance on this bill. The members of the Committee on Labor and Public Welfare, so ably lead by the distinguished Senator from New Jersey (Mr. WILLIAMS), are also due praise for their thoughtful consideration and prompt action on H.R. 15927. I would like to extend my appreciation for the efforts of the ranking majority member of the committee, the Senator from West Virginia (Mr. RANDOLPH); and to the leadership of the Senate for taking such prompt action on this important bill.

Finally, I wish to recognize the effective staff work on this bill and to thank Jon Steinberg, subcommittee counsel, Gene Mittelman, minority counsel, and Bob Nagle, general counsel of the full Labor Committee, and the general counsel's office of the Railroad Retirement Board for technical help in preparing the bill for reporting.

CONCLUSION

Mr. President, in closing I wish to urge Senators to join with me in unanimous support of this measure today, which reflects a very real responsiveness by Congress to the very real needs of hundreds of thousands of elderly Americans—while stressing the continued solvency of the account in order to meet the future needs of railroad retirees. It is important to note that I have discussed the Senate amendments with the distinguished chairman of the House Committee on Interstate and Foreign Commerce, (Mr. STAGGERS) who has assured me that he will do all he can to see that the other body accepts the Senate version and sends it to the President.

Mr. President, I ask unanimous consent that relevant excerpts from the Senate report—No. 92-1127—on H.R. 15927 as amended, be printed in the RECORD at this point.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

SUMMARY OF COMMITTEE SUBSTITUTE

The Committee substitute has three purposes:

1. To provide a 20 percent temporary increase in railroad retirement annuities, with respect to annuities accruing after August, 1972, and scheduled to expire on June 30, 1973;

2. To declare a Congressional policy regarding the need to devise an actuarially sound method of financing in order to make permanent the three temporary increases, including the one made by the Committee substitute, totalling—based upon their compounding on one another—51.6 percent over the rate in 1970—all of which will expire on June 30, 1973; and to direct that representatives of employees and retirees and representatives of carriers report to the Congress (with a copy to the Railroad Retirement Board) no later than March 1, 1973, on this question of financing and that the Board submit comments on such report no later than April 1, 1973; and

3. To make technical amendments to the Railroad Retirement Act of 1937 to simplify the computation of benefits in so far as the consideration of Social Security Act provisions is concerned.

DISCUSSION

I. TWENTY PERCENT TEMPORARY INCREASE

The Committee substitute provides a temporary 20 percent increase in railroad retirement benefits effective with respect to annuities accruing after August, 1972, with a scheduled termination date of June 30, 1973. The increases contained in this legislation are temporary because the cost of a permanent 20 percent increase when added to the costs of the temporary 15 percent increase enacted in 1970 and the temporary 10 percent increase enacted in 1971 (both of which are also scheduled to terminate as of June 30, 1973) would create such a serious actuarial deficiency (estimated by the Railroad Retirement Board at $129 million a year or 2.18 per cent of future payroll) in the railroad retirement system that Congress must give further consideration to the financing of the system before providing benefit increases on a permament basis. By providing the benefit increases on a temporary basis, the creation of such an actuarial deficiency is avoided.

Precedents for the temporary increase

In recent years, increases in social security and railroad retirement benefits have been linked, with a comparable railroad retirement increase following closely behind each social security increase. This was the case in 1966, 1968, 1970, and again in 1971.

At the time that consideration was being given to a railroad retirement benefit increase in 1970, however, serious questions were raised as to the actuarial soundness of the railroad retirement system. In view of these questions and the lack of adequate information on which to base long-term solutions, Congress established a Commission on Railroad Retirement to study the system and its financing for the purpose of making recommendations as to the measures necessary to provide adequate levels of benefits on an actuarially sound basis (Public Law 91-377). At the same time in 1970, Congress responded to the need to provide an increase in railroad retirement benefits to match the 15 percent social security increase it had provided by enacting a temporary 15 percent increase. This temporary increase was originally scheduled to terminate as of June 30, 1972—one year after the date on which the Commission was to submit its report.

In 1971, during testimony on a bill to provide a 10 per cent temporary increase in railroad retirement benefits to keep pace with a similar increase in social security benefits, it was established that the Commission could not complete its study and report by June 30, 1971. Accordingly, the due date of the report and the expiration date of the 15 per cent increase were both extended one year by Public Law 92-46, to June 30, 1972, and June 30, 1973, respectively. That same public law provided an additional temporary 10 per cent increase in railroad retirement benefits, which was also scheduled to terminate as of June 30, 1973.

While the Committee was considering this legislation, the Commission on Railroad Retirement was in the process of issuing its report which was due on June 30, 1972 and received on September 7, 1972. A full evaluation of this report, however, will undoubtedly be a time-consuming process, and in the meantime there is a need to raise the benefits payable to retired railroad workers and their dependents to enable them to cope with the continued rise in the cost of living. This inflation has made it increasingly difficult for retired persons living on fixed incomes to meet the expenses with which they are faced. The interim solution proposed by the Committee substitute is to provide a temporary benefit increase expiring June 30, 1973, which will give Congress adequate time to consider the Commission's report before the proposed increase and the previously enacted 15 percent and 10 percent increases expire.

Relationship to 20-percent social security increase

The need to increase railroad retirement benefits at this time is obvious in view of continuing inflation in the United States. Congress recognized the compelling need to provide retired persons substantial relief from inflationary pressures when it recently enacted Public Law 92-336, providing a 20-percent increase in social security benefits effective with respect to benefits accruing for months after August, 1972. The Committee believes that equitable treatment requires, and the Committee substitute therefore provides, a temporary 20-percent increase in railroad retirement benefits effective on the same date. By reason of the enactment of the 20-percent increase for social security benefits in Public Law 92-336, all annuities under the Railroad Retirement Act which were computed under the overall minimum provisions of the Act will be increased automatically by 20 percent. Such annuitants comprise approximately three-tenths of the present approximately 1,000,000 railroad retirement beneficiaries. However, no increase can be made in the annuities of the remaining almost 700,000 beneficiaries without the enactment of additional legislation.

The temporary 20 percent increase in the Committee substitute would apply to all railroad retirement annuities and pensions except those already increased because of an increase in the spouse maximum provision of the Act or by operation of the so-called social security guaranty provision. The spouse maximum provision specifies that the maximum annuity payable under the Railroad Retirement Act to a spouse cannot exceed 110 percent of the maximum possible wife's insurance benefit payable to any wife under the Social Security Act. The social security guaranty provision assures that monthly benefits to a retired railroad employee, and those deriving benefits from him, will not be less than 110 percent of the amount to which they would have been entitled if they had been covered under the social security system. Annuities payable under the social security guaranty or under the spouse maximum provisions are automatically increased whenever social security benefits are increased. Thus, the recent social security increases provided by Public Law 92–336 had the effect of raising the benefits payable to approximately 28 percent of the current railroad retirement beneficiaries. The remaining 72 percent of such beneficiaries who await the enactment of this legislation for comparable treatment are generally those whose entitlement is based upon longer career service in the railroad industry.

Enactment of Public Law 92–336 had a substantial impact on the financial condition of the railroad retirement program as well as providing benefit increases to roughly 28 percent of the beneficiaries covered thereunder. Prior to the enactment of that public law, the railroad retirement program was operating at an actuarial deficiency estimated by the Board at $18.2 million a year (assuming that the 15 percent increase of 1970 and the 10 percent increase of 1971 would expire on June 30, 1973). The financial effect of that public law, however, would—by virtue of the excess of additional railroad retirement tax collection generated by a statutory increase in the maximum taxable wage base plus additional gains due to the financial interchange (based on the additional benefits which would have been paid to the railroad retiremetn beneficiaries under the Social Security Act were railroad rctirement employment not excluded from coverage under that Act) over the amount of the additional expenditures for the railroad retirement benefits under the Social Security guaranty and spouse maximum provision—convert this deficiency into an estimated actuarial surplus of about $99.1 million a year. If the 20 percent increase provided in this bill is payable only for the 10 month period from September 1, 1972, through June 30, 1973, the additional benefit outlay for the railroad retirement program would be about $250 million, and if that 20 percent increase, as well as the temporary 15 percent and 10 percent increases, are not extended beyond June 30, 1973, the program will be operating with an actuarial surplus of about $87.5 million a year. The following table sets forth the effects of Public Law 92–336 and of the Committee substitute on the actuarial condition of the railroad retirement program.

ACTUARIAL EFFECTS OF PUBLIC LAW 92-336 AND S. 2852

	Level annual amounts in millions if 15-, 10-, and 20-percent increases are—	
	Temporary	Permanent
Actuarial deficiency as of Dec. 21, 1970	[1] $16.6	[1] $219.5
Actuarial deficiency adjusted to Dec. 31, 1972	[1] 18.2	[1] 230.4
Effects of Public Law 92–336:		
Additional railroad tax collections [2]	210.4	210.4
Additional railroad benefit payments [3]	216.5	217.1
Effects of Public Law 92–336—Con.		
Additional gains from financial interchange	123.4	123.4
Net reduction in actuarial deficiency	117.3	116.7
Actuarial deficiency or surplus after Public Law 92–336	[4] 99.1	[1] 113.7
Additional benefits due to 20-percent increase in committee substitute	11.6	283.8
Actuarial deficiency or surplus after both Public Law 92–336 and committee substitute	[4] 87.5	[1] 397.5

[1] Deficiency.

[2] Under sec. 3201, 3211, and 3221 of the Internal Revenue Code, the maximum monthly earnings subject to taxation for railroad retirement purposes is equal to 1/12 of the maximum annual wages subject to taxes for social security purposes. Therefore, the enactment of Public Law 92–336 caused the amount of monthly earnings taxable for railroad retirement purposes to be increased from $750 to $900 beginning Jan. 1, 1973, and to $1,000 beginning Jan. 1, 1974.

[3] Railroad retirement annuities payable under the social security guaranty provision were automatically increased as a result of the social security increases provided by Public Law 92–336.

[4] Surplus.

Note: The outlay for the 10-month period from Sept. 1, 1972, through June 30, 1973, will be $250,000,000, and the figure in the table is the interest which the account will lose because this money will have been paid.

In summary, if the 20 percent benefit increase in the Committee substitute is provided on a temporary basis, the railroad retirement system will still be operating with an actuarial surplus because of the financial effects of Public Law 92–336. If, however, the two previous temporary benefit increases and the present 20 percent temporary increase, which are to terminate on June 30, 1973, were to be extended indefinitely, the system would be operating at a serious actuarial deficiency which, the Board estimates, would result in the exhaustion of its funds within a relatively short period of time unless measures are also taken to adequately finance the cost of any such permanent benefit increases.

II. JOINT LABOR/MANAGEMENT RECOMMENDATION ON FUTURE SOLVENCY OF RAILROAD RETIREMENT ACCOUNT

In this regard, in testimony before the Subcommittee on Railroad Retirement, the Chairman of the Commission stated that, based upon the dynamic actuarial model created by the Commission, if the three temporary increases are made permanent—totalling 51.8 per cent cumulatively in three years—and no additional means of raising revenue for the Railroad Retirement Account is adopted, the "account will go broke in the year 1985 and by the year 2000 will run up a debt of $23 billion." Both the Subcommittee and the full Committee were extremely concerned about the Commissions finding in that regard (one member of the Commission dissented from this projection; the four others concurred). However, since the full report of the Commission was not received by the Committee until September 7, 1972, the Committee has been unable to study and evaluate fully the report, recommendations and voluminous tables, charts and explanatory materials included in the Commission's submission.

Accordingly, the Committee felt it could deal effectively both with the need of railroad retirement beneficiaries for an equitable annuity increase and with the financial situation confronting the Account by adopting an amendment (section 6 of the Committee substitute) which declares a Congressional policy that these temporary increases, including the 20 percent increase in the Committee substitute, would be made permanent only if at the same time changes are made in the railroad retirement system to ensure the receipt of sufficient revenues to make the Railroad Retirement Account actuarially sound for the foreseeable future. This section also directs that representatives of employers and retirees and representatives of carriers shall report to this Committee and the House Commerce Committee no later than March 1, 1973, their mutual recommendations designed to ensure such solvency for the Railroad Retirement Account, taking into account the report and specific recommendations of the Commission on Railroad Retirement. Finally, the section provides that a copy of such representatives' report be directed to the Railroad Retirement Board and directs the Board to submit to the two Committees of the Congress its report expressing its views, and specific recommendations, along with those of the administration, on the report of the representatives.

III. TECHNICAL RECOMPUTATION AMENDMENTS

History

Section 3 of the Railroad Retirement Act provides what is generally referred to as the social security minimum guaranty. This provision originated in section 3(e) of Public Law 75–162 (June 24, 1937), which provided as follows:

> * * * In no case shall the value of the annuity be less than the value of the additional old-age benefit he would receive under title II of the Social Security Act if his service as an employee after December 31, 1936, were included in the term 'employment' as defined therein.

Section 8 of Public Law 82–234 (October 30, 1951), provided, in pertinent part, as follows:

> * * * *Provided, however,* That if for any entire month in which an annuity accrues and is payable under this Act the annuity to which an employee is entitled under this Act * * * is less than the amount, or the additional amount, which would have been payable to all persons for such month under the Social Security Act * * * shall be increased proportionately to a total of *such amount or such additional amount.* (Emphasis supplied.)

Section 2(c) of Public Law 86–28 (May 19, 1959) amended the last-quoted provision by striking out "such amount or such additional amount" and inserting in lieu thereof "110 per centum of such amount or 110 per centum of such additional amount".

Principal purpose of the technical amendments

Among the provisions for coordinating the Railroad Retirement Act with the Social Security Act is one which guarantees that the combined amounts for which an individual and a dependent deriving benefits from him are eligible under the Railroad Retirement Act and the Social Security Act (based on the individual's earnings record) would be no less than 110 percent of the amount which would have been payable to that family under the Social Security Act on the basis of the individual's combined railroad and nonrailroad earnings if his railroad earnings had been covered under that Act since January 1, 1937. The implementation of this provision has become more and more difficult with each amendment to the Social Security Act since 1965. The principal purpose of these technical provisions of the Committee substitute (d)(1) and (2), (e) and the second sentence of section 5) is to simplify the implementation of this provision. These provisions were requested by the Railroad Retirement Board and are supported by railroad management (Association of American Railroads), railroad labor (the Congress of Railway Unions and Railway Labor Executives' Association), and the Commission on Railroad Retirement.

These provisions of the Committee substitute would not significantly affect the cost of administering benefits under the Railroad Retirement Act. Through the simplification and improvement of operations, the cost of administering the system would be slightly lowered. The cost of some of the provisions would be more than offset by the savings from others.

Explanation

A detailed explanation of these provisions of the Committee substitute is set forth under "SECTION-BY-SECTION ANALYSIS OF THE COMMITTEE SUBSTITUTE". These provisions of the Committee substitute would make four changes in administrative operations under existing law:

(1) Under present law, the Board is required to determine whether total benefits to an individual and his family would be greater if computed under the special formula (provided in section 3(e) of the Act) than under the regular formula. The special formula assures that the combined amounts for which an individual and those deriving benefits from him are eligible under the Railroad Retirement Act and the Social Security Act—based on the individual's earnings record—would be no less than 110 per cent of the amount which would have been payable to that family under the Social Security Act on the basis of the individual's combined railroad and nonrailroad earnings if his railroad earnings had been covered under that Act since January 1, 1937. This special formula is used only if it produces a greater amount than the regular formula. (Hereafter in this report, an annuity awarded under the special formula will be referred to as a "special annuity", and an annuity computed under the regular formula will be referred to as a "regular annuity".)

For purposes of comparing the amount of a regular annuity with the amount of a special annuity, the Board must now take into account the annuitant's wife and children and all other individuals in the annuitant's family who would be entitled to benefits under the Social Security Act on the basis of his service, even though many of such other individuals would not qualify for benefits under the Railroad Retirement Act. The Committee substitute would reduce the burden upon the Board in this respect by requiring it to take into account only those of such other individuals who would qualify for annuities under the Railroad Retirement Act. (Sec. 1(a), new clause (vi).)

(2) After an amendment to the Social Security Act, the Board must now make inquiries whether the family of an individual to whom a regular annuity was awarded, was increased or otherwise changed, so that his annuity would have to be recomputed under the special formula. The Committee substitute would relieve the Board of this burden by requiring it to disregard new additions to the family of a retired employee, except a newly acquired wife who qualifies for a spouse's annuity. (Sec. 1(a), new clause (vii).)

(3) Under present law, when computing the special annuity, the Board must take into account not only benefits to which the individual, or any of his family, is entitled under the Social Security Act, but also benefits to which they would be entitled had such individuals applied for them. These potential benefits often preclude entitlement to the special annuity. The committee substitute would, therefore, direct the Board to take into account only the benefits to which the individuals are actually entitled. (Sec. 1(a), new clause (viii).)

(4) Under present law, the Board must take into account an employee's earnings in and after the year of retirement when computing the special annuity. This requires additional recomputations when the record of such earnings becomes available. The Committee substitute would require the Board to make only one computation and disregard earnings after retirement. (Sec. 1(a), new clauses (ix) and (x).)

CONCLUSION

The Committee has provided for a 20 percent increase in railroad retirement benefits on a temporary basis. However, any action to provide benefit increases on a permanent basis should be deferred until Congress has had an opportunity to study and evaluate fully the report of the Commission on Railroad Retirement and the joint Labor/Management report and the Board comments thereon required by section 6 of the Committee Substitute, after which such legislation as is necessary may be enacted to provide permanent benefit levels on an actuarially sound basis. And in order to simplify the administrative work necessary to give effect to the social security minimum guaranty provision contained in section 3(e) of the Railroad Retirement Act, the Committee has adopted the technical amendments recommended by the Board.

COST ESTIMATE PURSUANT TO SECTION 252 OF THE LEGISLATIVE REORGANIZATION ACT OF 1970

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-510), the Committee estimates that there would be no costs occasioned from appropriated funds by the enactment of the Committee substitute. The financial situation regarding the Railroad Retirement Account if the Committee substitute is enacted is set forth above under "Discussion."

SECTION-BY-SECTION ANALYSIS OF COMMITTEE SUBSTITUTE

Section 1. Subsection (a). Adds a new paragraph (5) to section 3(a) of the Railroad Retirement Act of 1937 which would increase the amount of each regular employee annuity computed under the Act by 20 percent.

Subsection (b). Paragraph (3). Adds a new paragraph to section 2(e) of the Act which would increase spouses' annuities by 20 per cent. In no case, however, would a spouse's annuity be increased to an amount in excess of the maximum amount of the spouse's annuity provided in the first sentence of section 2(e) of the Act. By virtue of the increase in the employee's annuity provided by the new paragraph (5) of section 3(a) of the Act (added by subsection (a) of section 1 of the Committee Subcommittee), the spouse's annuity would be increased before the increase provided by the new paragraph of section 2(e) unless a specific provision precluding the result is included. To avoid this duplication of increases in spouses' annuities paragraph (1) of this subsection of the Committee substitute provides that spouses' annuities would not be increased through the raise this bill would effect in employees' annuities.

Subsection (c). Amends section 2(i) of the Act to insure that the amount of the spouse's annuity against which offsets are applied as to the 1966 and 1968 benefit increases, because of corresponding social security benefit increases in 1965 and 1968, is the amount of the spouse's annuity before it is increased under provisions of the new paragraph (5) added to section 2(c) of the Act by subsection (b) of this section of the Committee substitute.

Subsection (d). Makes changes in the special formula for computing an annuity under the Railroad Retirement Act (provided for in section 3(e) of the Act). This formula assures that the combined amounts for which an individual and those deriving from him are eligible under the Railroad Retirement Act and the Social Security Act on the basis of the individual's earnings record would be no less than 110 per cent of the amount which would have been payable to that family under the Social Security Act on the basis of the individual's combined railroad and nonrailroad earnings if his railroad earnings had been covered under that Act since January 1, 1937. This special formula is used only if it produces a higher amount than the regular formula.

Clause 1. Adds new clauses (vi) through (x) to section 3(e) of the Act as follows:

New clause (vi). For the purpose of determining the amount of a special annuity, the Board is now required to take into account all individuals who would be entitled to benefits under the Social Security Act had railroad service been creditable under that Act. Many of these individuals (such as divorced wives, or divorced or remarried widows) are not entitled to annuities under the Railroad Retirement Act. Consequently, the Board has no information about them, or of their whereabouts, and the effort to secure such information entails many administrative problems. To afford relief in this respect, the new clause (vi) added to section 3(e) by the Committee substitute provides that, for the purpose of determining eligibility for, and the amount of, the special annuity, the Board need take into account only those individuals in the annuitants' families who could qualify for annuities under the Railroad Retirement Act, or who are the annuitants' wives or children.

New Clause VII.—In cases being paid as regular annuities, problems arise when social security benefits are increased. In such cases, the Board is required to ascertain whether the social security increase would result in a transfer of the annuity from the regular formula to the special one. To do this, the Board must determine if the annuitant has qualified dependents (such as minor, disabled or student children) who are not entitled to benefits under the Railroad Retirement Act while the annuitant is alive but who could be included in the computation of the special annuity. This requires the Board to send out questionnaires to get information about the annuitant's family composition at the time of each amendment to the Social Security Act. It is estimated that of about 300,000 such questionnaires which would have to be sent out to regular annuitants, only a small number (less than 2,000) would have such dependents. To relieve the Board of the necessity of sending out questionnaires, the new clause (vii) added to section 3(e) by the Committee substitute authorizes the Board to include only members of the family on the Board's benefit rolls, or those included in the special annuity at the time of such social security increase, for the purpose of determining eligibility for, and the amount of, a special annuity because of the increase. This new provision would be used only in cases where the special annuity could have applied but it had previously been determined that the regular annuity produced a higher benefit. This would not preclude the transfer of a regular annuity to a special one in cases where, for example, the annuitant marries and the sum of his and his wife's annuities is less than required by the special formula; or where the annuitant, who is awarded a reduced regular annuity, attains age 62; or where a disability annuity is awarded under the regular formula solely because the six-month waiting period required by the Social Security Act for eligibility for disability benefits under the Act had not yet expired at the time the annuity was awarded. In the case last described, the regular annuity would be changed to a special one upon the expiration of the waiting period (which would be reduced by section 122 of H.R. 1 (92d Congress, 1st session), if enacted, from six months to five).

New clause (viii). In computing a special annuity under present law, the Board is required to take into account not only social security benefits, if any, to which an individual is entitled, but also potential social security benefits to which the individual would have been entitled had he applied for them. In the vast majority of cases, however, involving a potential social security benefit, the individual did not file for such benefit either because he did not know he was entitled to it, or because he preferred to wait until he attained age 65 when he would qualify for an unreduced benefit instead of a reduced benefit between the ages of 62 and 65. Under present law, however, the individual is charged with receiving a benefit for which he did not even apply. The inevitable result of this is that very few individuals who are potentially entitled to social security benefits qualify for the special annuity. The new clause (vii) added to section 3(e) by the committee substitute would relieve the Board of computing social security benefits that would have been paid under the Social Security Act if the beneficiary had applied for them; it provides that, in determining the applicability of the special formula for computing an annuity, the Board should take into account only such social security benefits to which an individual is actually entitled.

New clauses (ix) and (x). Presently, when computing the average monthly wage for the special annuity formula, the Board is required under the Social Security Act provisions to include only wages and compensation up to the year the employee retires in the initial computation. Any wages he may have earned in the year he retires and his compensation in that year cannot be used until later in a second computation. Any resulting increase is effective in January of the following year. This is so because, generally, the records of current wages are not immediately available. Since the employee's compensation in the year he retired is available when the annuity is finally certified, the Board could include this compensation in the original computation of the special annuity but is prevented from doing this because of the provision in the Social Security Act. Also, for the purpose of the second computation, the Board obtains the current wage record from the Social Security Administration after they have been posted to their tape records. The added social security earnings generally result in no increase. It is a rare case when taking the latest social security earnings into account will permit the transfer of the regular annuity to a special one. To meet this problem the new clauses (ix) and (x) added to section 3(e) by the committee substitute provide for the inclusion, in new award cases, of an individual's wages and self-employment income only through the year before his annuity began to accrue, and all creditable railroad compensation up to the date the employee's annuity began. The effect of these two clauses would be to reduce the number of computations from two to one. For annuitants on the rolls, social security wages and self-employment income would be used through the end of 1971. In both situations, the average monthly wage and the resulting primary insurance amount would remain fixed, eliminating the need to obtain earnings from the Social Security Administration after the employee retired. The primary insurance amount would, of course, be increased by any cost-of-living or other increases provided by social security amendments. In survivor cases, there would be no change—the primary insurance amount would continue to be based on wages and compensation through the year of death.

Clause 1. Amends the third paragraph of section 3(c) of the Act by deleting the language ", or on application, would be". This amendment, with respect to the computation of certain widows' and widowers' annuities, is complementary to the amendment made by the new clause (viii), discussed above. The effect of both amendments is to eliminate the requirement that individuals be charged with benefits under the Social Security Act to which they are not entitled, thereby eliminating the need for reference to a hypothetical application for social security benefits.

Subsection (e). Amends the first sentence of section 5(l) (1) of the Act to add a reference to subsection (k), as well as subsections (c), (e) and (g) of section 216 of the Social Security Act, for the purpose of computing certain survivor annuities under the Railroad Retirement Act. Section 216(k) was added to the Social Security Act by the 1967 amendments to waive the requirement that a marriage must have existed for nine months in order for a widow, widower, or stepchild to qualify for social security benefits in cases where the wage earner's death was accidental or occurred in the line of duty while he was a member of the armed forces. The amendment to section 5(l)(1) of the Railroad Retirement Act made by the Committee substitute would make clear that the nine-month requirement is also to be waived in such cases in determining eligibility for railroad retirement benefits.

Subsection (f). Adds a new subsection (p) to section 5 of the Act to increase survivor annuities by 20 per cent.

Section 2. Provides for a 20 per cent increase in annuities awarded under the Railroad Retirement Act of 1935 (as continued under section 6 of the Railroad Retirement Act of 1937), in pensions, in survivors' annuities deriving from joint and survivor annuities, and in certain widows' and widowers' annuities payable in an amount to which they were previously entitled as spouses.

Section 3. Authorizes the Board to make any adjustments necessitated by enactment of the bill without application being made by annuitants. Such adjustments would be made even without express authorization; however, specific inclusion of this paragraph conforms to past practice in amendments provides for increased railroad retirement benefits.

Section 4. The Railroad Retirement Act provides that where individuals are entitled to social security benefits in addition to railroad retirement annuities, the annuity increases which were provided by the 1966, 1968, and 1970 railroad amendments are reduced by the approximate amount of the increases which these individuals received in their social security benefits as a result of the social security amendments of 1965, 1967, and 1969. At the present time, section 4 of the Social Security Amendments of 1971 (P.L. 92-46) gives the Railroad Retirement Board the authority to determine the percentages to be applied to social security benefits at their present level (without undertaking the time-consuming and expensive process of calculating, in each particular case, what an individual's social security benefit would have been prior to social security increases occurring after the 1969 social security amendments) in order to obtain the proper dollar amount for these reductions. While this authority is needed, and will continue to be needed, in order to avoid an unnecessary administrative burden, section 4 of Public Law 92-46 will, in accordance with section 8(b) of that Act, cease to be applicable after June 30, 1973. Section 4 of the Committee substitute is virtually identical to section 4 of Public Law 92-46 and would, therefore, insure that the Board's authority in this regard would continue after June 30, 1973.

Section 5. Subsection (a). Provides the effective dates for the 20 per cent increases in annuities and pensions—with respect to annuities, those accruing for months after August, 1971, and with respect to pensions, those due after September, 1972—as well as for the technical provisions in the Committee substitute.

Subsection (b). Provides that the benefit increases contained in the Committee substitute shall terminate as of June 30, 1973.

Section 6. Declares it to be the policy of the Congress that the temporary benefit increase provided by the Committee substitute as well as the 15 and 10 percent temporary increases provided in 1970 and 1971, respectively, would be made permanent only if at the same time changes are made in the railroad retirement system to ensure the receipt of sufficient revenues to make the Railroad Retirement account actuarially sound for the foreseeable future. This section also directs that representatives of employers and retirees and representatives of carriers shall report to this Committee and the House Commerce Committee no later than March 1, 1973, their mutual recommendations designed to ensure such solvency for the Railroad Retirement Account taking into account the report and specific recommendations of the Commission on Railroad Retirement. Finally, the section provides that a copy of such representatives' report be directed to the Railroad Retirement Board, and directs the Board to submit to the two Committees of the Congress its report expressing its views and specific recommendations along with those of the administration on the report of the representatives.

Title amendment. Amends the title to reflect the inclusion in the Committee substitute of the technical amendments.

Mr. ROBERT C. BYRD. Mr. President, a temporary increase in railroad retirement benefits is sorely needed and can be easily justified. Annuities for retired railroad workers have always paralleled the benefits provided for older Americans under the Social Security System.

Congress, as we all are aware, passed a 20-percent increase in social security benefits earlier this year. In order to assure our retired railroad workers equitable treatment, a 20-percent increase in their annuities should be passed. The increase proposed under this bill would apply to all railroad retirement annuities, save for those already raised by the increase in the spouse maximum provision of the act or by operation of the social security guaranty provision.

This latter provision assures that monthly benefits to a retired railroad worker will not fall below 110 percent of the amount to which he would have been entitled if he had been covered under the Social Security System.

The increase called for in this bill is temporary only insofar as no permanent increases can be passed until the Commission on Railroad Retirement presents its report on the actuarial soundness of the railroad retirement program to Congress. It will take considerable time to properly evaluate this report.

In the meantime, the needs of the retired railroad workers must be met. Steps must be taken to assure that their pensions are not completely eaten away by inflation.

This bill will go a long way toward meeting those needs, if only on an interim basis. I hope Congress will pass this badly needed increase to keep railroad retirement benefits on a par with social security benefits. It did so in 1966, 1968, 1970, and again last year—each time enabling the pensions of railroad workers to keep pace with the rising cost of living. It is time once again for Congress to act in a positive manner on behalf of the retired railroad workers.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended, so as to read: "An act to amend the Railroad Retirement Act of 1937 to provide a temporary 20 per centum increase in annuities, to simplify administration of the act, and for other purposes."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-112), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

BACKGROUND

The Subcommittee on Railroad Retirement on August 10, 1972, held a hearing on S. 3852 and H.R. 15927, identical bills to provide a 20 percent temporary increase in Railroad Retirement benefits, and the administration request for technical amendments, passed by House of Representatives on August 14, 1972, in H.R. 15922. The Committee received testimony from the employee and carrier representative members and the chairman-designate of the Railroad Retirement Board; the Chairman, the labor member and the executive director of the Commission on Railroad Retirement; several representatives of employees; and a representative of carriers, and received statements for the record. On August 15, 1972, the Subcommittee met in executive session and unanimously reported to the full Committee H.R. 15922 and H.R. 15927, with an amendment adding a Section 6, and on September 7, 1972, the Committee on Labor and Public Welfare unanimously ordered favorably reported the provisions of both bills and the amendment reported from the Subcommittee (with minor modifications) consolidated into a Committee substitute and a title amendment.

SUMMARY OF COMMITTEE SUBSTITUTE

The Committee substitute has three purposes:

1. To provide a 20 percent temporary increase in railroad retirement annuities, with respect to annuities accruing after August, 1972, and scheduled to expire on June 30, 1973;

2. To declare a Congressional policy regarding the need to devise an actuarially sound method of financing in order to make permanent the three temporary increases, including the one made by the Committee substitute, totalling—based upon their compounding on one another—51.6 percent over the rate in 1970—all of which will expire on June 30, 1973; and to direct that representatives of employees and retirees and representatives of carriers report to the Congress (with a copy to the Railroad Retirement Board) no later than March 1, 1973, on this question of financing and that the Board submit comments on such report no later than April 1, 1973; and

3. To make technical amendments to the Railroad Retirement Act of 1937 to simplify the computation of benefits in so far as the consideration of Social Security Act provisions is concerned.

DISCUSSION

1. Twenty percent temporary increase

The Committee substitute provides a temporary 20 percent increase in railroad retirement benefits effective with respect to annuities accruing after August, 1972, with a scheduled termination date of June 30, 1973. The increases contained in this legislation are temporary because the cost of a permanent 20 percent increase when added to the costs of the temporary 15 percent increase enacted in 1970 and the temporary 10 percent increase enacted in 1971 (both of which are also scheduled to terminate as of June 30, 1973) would create such a serious actuarial deficiency (estimated by the Railroad Retirement Board at $129 million a year or 2.18 per cent of future payroll) in the railroad retirement system that Congress must give further consideration to the financing of the system before providing benefit increases on a permanent basis. By providing the benefit increases on a temporary basis, the creation of such an actuarial deficiency is avoided.

Precedents for the Temporary Increase

In recent years, increases in social security and railroad retirement benefits have been linked, with a comparable railroad retirement increase following closely behind each social security increase. This was the case in 1966, 1968, 1970, and again in 1971.

At the time that consideration was being given to a railroad retirement benefit increase in 1970, however, serious questions were raised as to the actuarial soundness of the railroad retirement system. In view of these questions and the lack of adequate information on which to base long-term solutions, Congress established a Commission on Railroad Retirement to study the system and its financing for the purpose of making recommendations as to the measures necessary to provide adequate levels of benefits on an actuarially sound basis (Public Law 91-377). At the same time in 1970, Congress responded to the need to provide an increase in railroad retirement benefits to match the 15 percent social security increase it had provided by enacting a temporary 15 per cent increase. This temporary increase was originally scheduled to terminate as of June 30, 1972—one year after the date on which the Commission was to submit its report.

In 1971, during testimony on a bill to provide a 10 per cent temporary increase in railroad retirement benefits to keep pace with a similar increase in social security benefits, it was established that the Commission could not complete its study and report by June 30, 1971. Accordingly, the due date of the report and the expiration date of the 15 per cent increase were both extended one year by Public Law 92-46, to June 30, 1972, and June 30, 1973, respectively. That same public law provided an additional temporary 10 per cent increase in railroad retirement benefits, which was also scheduled to terminate as of June 30, 1973.

While the Committee was considering this legislation, the Commission on Railroad Retirement was in the process of issuing its report which was due on June 30, 1972 and received on September 7, 1972. A full evaluation of this report, however, will undoubtedly be a time-consuming process, and in the meantime there is a need to raise the benefits payable to retired railroad workers and their dependents to enable them to cope with the continued rise in the cost of living. This inflation has made it increasingly difficult for retired persons living on fixed incomes to meet the expenses with which they are faced. The interim solution proposed by the Committee substitute is to provide temporary benefit increase expiring June 30, 1973, which will give Congress adequate time to consider the Commission's report before the proposed increase and the previously enacted 15 percent and 10 per cent increases expire.

Relationship to 20 Percent Social Security Increase

The need to increase railroad retirement benefits at this time is obvious in view of continuing inflation in the United States. Congress recognized the compelling need to provide retired persons substantial relief from inflationary pressures when it recently enacted Public Law 92-336, providing a 20 percent increase in social security benefits effective with respect to benefits accruing for months after August, 1972. The Committee believes that equitable treatment requires, and the Committee substitute therefore provides, a temporary 20 percent increase in railroad retirement benefits effective on the same date. By reason of the enactment of the 20 percent increase for social security benefits in Public Law 92-336, all annuities under the Railroad Retirement Act which were computed under the overall minimum provisions of the Act will be increased automatically by 20 percent. Such annuitants comprise approximately three-tenths of the present approximately 1,000,000 railroad retirement beneficiaries. However, no increase can be made in the annuities of the remaining almost 700,000 beneficiaries without the enactment of additional legislation.

The temporary 20 percent increase in the Committee substitute would apply to all railroad retirement annuities and pensions except those already increased because of an increase in the spouse maximum provision of the Act or by operation of the so-called social security guaranty provision. The spouse maximum provision specifies that the maximum annuity payable under the Railroad Retirement Act to a spouse cannot exceed 110 percent of the maximum possible wife's insurance benefit payable to any wife under the Social Security Act. The social security guaranty provision assures that monthly benefits to a retired railroad employee, and those deriving benefits from him, will not be less than 110 percent of the amount to which they would have been entitled if they had been covered under the social security system. Annuities payable under the social security guaranty or under the spouse maximum provisions are automatically increased whenever social security benefits are increased. Thus, the recent social security increases provided by Public Law 92-336 had the effect of raising the benefits payable to approximately 28 percent of the current railroad retirement beneficiaries. The remaining 72 percent of such beneficiaries who await the enactment of this legislation for comparable treatment are generally those whose entitlement is based upon longer career service in the railroad industry.

Enactment of Public Law 92-336 had a substantial impact on the financial condition of the railroad retirement program as well as providing benefit increases to roughly 28 percent of the beneficiaries covered thereunder. Prior to the enactment of that public law, the railroad retirement program was operating at an actuarial deficiency estimated by the Board at $18.2 million a year (assuming that the 15 percent increase of 1970 and the 10 percent increase of 1971 would expire on June 30, 1973). The financial effect of that public law, however, would—by virtue of the excess of additional railroad retirement tax collection generated by a statutory increase in the maximum taxable wage base plus additional gains due to the financial interchange (based on the additional benefits which would have been paid to the railroad retirement beneficiaries under the Social Security Act were railroad retirement employment not excluded from coverage under that Act) over the amount of the additional expenditures for the railroad retirement benefits under the Social Security guaranty and spouse maximum provision—convert this deficiency into an estimated actuarial surplus of about $99.1 million a year. If the 20 percent increase provided in this bill is payable only for the 10 month period from September 1, 1972, through June 30, 1973, the additional benefit outlay for the railroad retirement program would be about $250 million, and if that 20 percent increase, as well as the temporary 15 percent and 10 percent increases, are not extended beyond June 30, 1973, the program will be operating with an actuarial surplus of about $87.5 million a year. The following table sets forth the effects of Public Law 92-336 and of the Committee substitute on the actuarial condition of the railroad retirement program.

ACTUARIAL EFFECTS OF PUBLIC LAW 92-336 AND S. 3852

	Level annual amounts in millions if 15-, 10-, and 20- percent increases are—	
	Temporary	Permanent
Actuarial deficiency as of Dec. 21, 1970	[1] $16.6	[1] $219.5
Actuarial deficiency adjusted to Dec. 31, 1972	[1] 18.2	[1] 230.4
Effects of Public Law 92-336:		
Additional railroad tax collections [2]	210.4	210.4
Additional railroad benefit payments [3]	216.5	217.1
Additional gains from financial interchange	123.4	123.4
Net reduction actuarial deficiency	117.3	116.7
Actuarial deficiency or surplus after Public Law 92-336	[4] 99.1	[1] 113.7
Additional benefits due to 20-percent increase in committee substitute	11.6	283.8
Actuarial deficiency or surplus after both Public Law 92-336 and committee substitute	[4] 87.5	[1] 397.5

[1] Deficiency.

[2] Under sec. 3201, 3211, and 3221 of the Internal Revenue Code, the maximum monthly earnings subject to taxation for railroad retirement purposes is equal to 1/12 of the maximum annual wages subject to taxes for social security purposes, Therefore, the enactment of Public Law 92-336 caused the amount of monthly earnings taxable for railroad retirement purposes to be increased from $750 to $900 beginning Jan. 1, 1973, and to $1,000 beginning Jan. 1, 1974.

[3] Railroad retirement annuities payable under the social security guaranty provision were automatically increased as a result of the social security increases provided by Public Law 92-336.

[4] Surplus.

Note: The outlay for the 10-month period from Sept. 1, 1972, through June 30, 1973, will be $250,000,000, and the figure in the table is the interest which the account will lose because this money will have been paid.

In summary, if the 20 percent benefit increase in the Committee substitute is provided on a temporary basis, the railroad retirement system will still be operating with an actuarial surplus because of the financial effects of Public Law 92-336. If, however, the two previous temporary benefit increases and the present 20 percent temporary increase, which are to terminate on June 30, 1973, were to be extended indefinitely, the system would be operating at a serious actuarial deficiency which, the Board estimates, would result in the exhaustion of its funds within a relatively short period of time unless measures are also taken to adequately finance the cost of any such permanent benefit increases.

II. Joint labor/management recommendation on future solvency of railroad retirement account

In this regard, in testimony before the Subcommittee on Railroad Retirement, the Chairman of the Commission stated that, based upon the dynamic actuarial model created by the Commission, if the three temporary increases are made permanent—totalling 51.8 per cent cumulatively in three years—and no additional means of raising revenue for the Railroad Retirement Account is adopted, the "account will go broke in the year 1985 and by the year 2000 will run up a debt of $23 billion." Both the Subcommittee and the full Committee were extremely concerned about the Commission's finding in that regard (one member of the Commission dissented from this projection; the four others concurred). However, since the full report of the Commission was not received by the Committee until September 7, 1972, the Committee has been unable fully to study and evaluate fully the report, recommendations and voluminous tables, charts and explanatory materials included in the Commission's submission.

Accordingly, the Committee felt it could deal effectively both with the need of railroad retirement beneficiaries for an equitable annuity increase and with the financial situation confronting the Account by adopting an amendment (section 6 of the Committee substitute) which declares a Congressional policy that these temporary increases, including the 20 percent increase in the Committee substitute, would be made permanent only if at the same time changes are made in the railroad retirement system to ensure the receipt of sufficient revenues to make the Railroad Retirement Account actuarially sound for the foreseeable future. This section also directs that representatives of employers and retirees and representatives of carriers shall report to this Committee and the House Commerce Committee no later than March 1, 1973, their mutual recommendations designed to ensure such solvency for the Railroad Retirement Account, taking into account the report and specific recommendations of the Commission on Railroad Retirement. Finally, the section provides that a copy of such representatives' report be directed to the Railroad Retirement Board and directs the Board to submit to the two Committees of the Congress its report expressing its views and specific recommendations, along with those of the administration, on the report of the representatives.

DESIGNATION OF THE ALDO LEOPOLD WILDERNESS, GILA NATIONAL FOREST, N. MEX.

The Senate proceeded to consider the bill (S. 3256) to designate the Aldo Leopold Wilderness, Gila National Forest, N. Mex., which had been reported from the Committee on Interior and Insular Affairs with amendments.

On page 1, line 5, after the word "the", strike out "Aldo Leopold Primitive Area," and insert "Black Range Primitive area,";

In line 8, after the word "Wilderness"," insert "and dated September 1972,";

And, on page 2, line 20 after the word "the", where it appears the second time, strike out "Aldo Leopold Primitive Area" and insert "Black Range Primitive Area"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with subsection 3(b) of the Wilderness Act (78 Stat. 891; 16 U.S.C. 1132 (b)), the area classified as the Black Range Primitive Area, with the proposed additions thereto and deletions therefrom, as generally depicted on a map entitled "Proposed Aldo Leopold Wilderness", and dated September 1972, which is on file and available for public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture, is hereby designated as the Aldo Leopold Wilderness within and as part of the Gila National Forest, comprising an area of approximately one hundred eighty-eight thousand and ninety-five acres.

SEC. 2. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and a legal description of the Aldo Leopold Wilderness with the Interior and Insular Affairs Committees of the United States Senate and House of Representatives, and such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made.

SEC. 3. The Aldo Leopold Wilderness shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 4. The previous classification of the Black Range Primitive Area is hereby abolished.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-1132), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

S. 3256, as amended, would designate approximately 189,000 acres of the Gila National Forest, N. Mex., as the Aldo Leopold Wilderness. The wilderness so established would be administered by the Secretary of the Department of Agriculture in accordance with applicable provisions of the Wilderness Act of September 3, 1964 (78 Stat. 891; 16 U.S.C. 1132).

DESCRIPTION OF THE AREA

The proposed wilderness is located astride the crest of the Black Range of southwestern New Mexico. The area is located 35 miles northeast of Silver City, N. Mex., and 50 miles west of Truth or Consequences.

Rising from hot dry desert and semidesert the Black Range stands as a prominent land feature from nearly all directions. The proposed Aldo Leopold Wilderness contains the most rugged, wild portions of this mountain range. Over a wide range in elevation, a network of deep canyons, ridges, timbered benches, and many high vista points offer the visitor expansive views and opportunities for solitude. The area is characterized by the superlative beauty of its wild and undisturbed landscape.

Water is an important resource of the proposed wilderness. The area supplies a stable amount of high quality water for use by downstream farmers, ranchers, and the general public. Forage values are significant over most of the area for both wildlife and domestic livestock. About 1,000 head of cattle are permitted to use the area. Domestic livestock grazing will be continued. The area provides habitat for mule deer, whitetailed deer, elk, turkey, mountain lion, bear, bobcat, and coyote. A great variety of smaller game, mammals, and birds live within the area. Gila trout, an endangered species of fish, live in the headwaters of Diamond Creek at the northern end of the area.

Commercial timber stands occupy 58 percent of the area. The other portions of the area contain pinyon-juniper-oak woodland, brush areas, scattered patches of aspen at higher elevations, and small patches of chaparral at lower elevations. Classification of the area as wilderness will have only a minor effect on national forest timber harvest because under current primitive area classification the commercial timber stands have been withheld from inclusion in the forests' timber-producing base.

The U.S. Geological Survey and U.S. Bureau of Mines have examined the proposed wilderness to determine mineral values. They found no minable mineral deposits in the primitive area although minable mineral deposits do occur in nearby areas. It is considered unlikely that fossil fuels exist in the primitive area.

COST

Enactment of the bill will involve no Federal expenditure.

AMENDMENT

The committee accepted the recommendations of the Secretary of Agriculture for those areas to be included in the wilderness, with but one exception. In the commitee's view, exclusion 6, containing 894 acres along Morgan Creek, is suitable for addition to the National Wilderness Preservation System. This is a scenic area which includes a waterfall, and its inclusion will not only add to the beauty of the wilderness, but provide an improved and more logical boundary line. The evidence of the past timber-harvesting activities occurred in the late 19th century, and was accomplished with horses and oxen. As a result, disturbances are virtually unnoticeable today.

In such instances as this, where time is rapidly erasing man's handiwork and the disturbance is slight, the committee believes Congress should designate the area if it otherwise meets wilderness criteria.

The committee accordingly amended the map reference of S. 3256 so as to include exclusion 6. As pointed out, the committee agreed with the Forest Service as to its other exclusions or addictions. The reasons for determining whether or not the various areas were acceptable are recounted in the testimony of J. W. Deinema, Associate Deputy Chief of the U.S. Forest Service, included in this report under "Administration Views."

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs in executive session unanimously recommended the enactment of S. 3256.

JOHN S. ATTINELLO

The bill (H.R. 6204) for the relief of John S. Attinello was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–1148), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to pay John S. Attinello of Alexandria, Va., $100,000, in full satisfaction of his claims against the United States as recommended by the Chief Commissioner of the U.S. Court of Claims in a congressional reference case, for the loss of patent rights in Great Britain for a highlift circulation system for aircraft.

STATEMENT

The committee adopts the substance of House Report No. 92–1134 on this legislation.

The Department of the Navy in its report to the committee on the bill indicated it would not object to legislation providing equitable compensation to Mr. Attinello for the loss of his foreign patent rights.

The bill, H.R. 6204, was referred to the Chief Commissioner of the Court of Claims by the House of Representatives in accordance with the provisions of House Resolution 401, which passed the House on June 1, 1971. The matter was designated as Congressional Reference Case No. 1–71, *John S. Attinello* v. *the United States*. The opinion in that case was filed March 13, 1972, and transmitted to the Speaker of the House of Representatives on that date. The opinion and the findings of fact in that case is set out and made a part of this report. The opinion outlines the facts of the case. The patent rights which are referred to in the bill concern a highlift supercirculation system for jet powered aircraft.

The opinion and the findings of fact go into considerable detail concerning the invention and its purpose. In general it is intended to provide a system or means to reduce the landing and takeoff speed of supersonic aircraft and involves a means for increasing the lift at reduced speeds by injecting high speed air over the trailing edge of the wings. The facts outlined by the Chief Commissioner indicate that in December 1952, Mr. Attinello disclosed his invention, entitled "High Lift Supercirculation System Using Supersonic Blowing," to the Patent Division of the Department of the Navy. Shortly thereafter, and before a U.S. patent application had been prepared or filed on his invention, claimant was asked by the British Ministry of Supply to disclose his invention at a confidential conference to be held in England. With the approval of the Chief of Naval Operations, claimant did disclose his invention at the April 24, 1953, Boundary Layer Control Conference at Farnborough, England. The presentation which claimant made at the conference was embodied in a classified British record of the conference that was printed in July of 1953. The presentation was also reproduced in this country as a classified Navy document in May 1953. In November 1953, claimant and the Department of the Navy entered into an agreement which recognized that title to the invention and to any patents belonged to claimant, but at the same time claimant agreed that the United States was to have a nonexclusive, irrevocable, royalty-free license under any patents that might issue. In addition, the agreement gave defendant an irrevocable and exclusive right to transact all Patent Office business having to do with claimant's U.S. application.

Since claimant was an employee of the Navy at the time he made his invention, the Government Patents Board was called upon to determine if the defendant was entitled to all rights, title, and interest to the invention. The Board found, on January 11, 1955, that defendant's contribution to the making of the invention was insufficient to entitle it to an assignment of the entire right, title, and interest in and to the invention. Instead, the Board concluded that title to the invention should be left with the claimant subject to a nonexclusive, irrevocable, royalty-free license being granted to defendant.

Because claimant's invention related to classified subject matter, the patent application was filed on February 10, 1954, by the Navy as a security classified document. On April 7, 1954, a secrecy order under the provisions of 35 U.S.C. sections 181–188 was issued by the Commissioner of Patents. As a result, claimant was ordered to keep the details of his invention secret unless he first obtained the written consent of the Commissioner of Patents to disclose the same.

In June of 1954, the Department of the Navy disclosed the basic features of claimant's invention in an unclassified publication, entitled "Naval Aviation News." In addition, public disclosure of claimant's invention, in the form of detailed magazine articles, also occurred in England on November 12, 1954, and December 3, 1954. All of the public disclosures were made without authority or approval of claimant.

While claimant willingly granted defendant a nonexclusive, irrevocable, royalty-free license for Government use of his invention, he intended to retain all rights to commercial use of his invention in the United States. Also, the license granted to defendant has been interpreted in the past so as not to give the U.S. authority to license foreign governments to produce or utilize an invention abroad, except where the equipment is manufactured in the United States pursuant to defendant's license. The Commissioner also observed that indeed, claimant was interested in protecting his rights to foreign patents. He was particularly interested in obtaining British and Canadian patents to prevent commercial or governmental use of his invention in either of those countries without just compensation.

Therefore, on June 30, 1954, on the basis of his prior disclosure at the April 24, 1953, confidential conference at Farnborough, England, and the classified documents based thereon, claimant requested the Navy to petition the Patent Office for modification of its secrecy order. At that time he only sought permission to file a British patent application which would correspond to his then-pending U.S. application.

The request was not made by the Navy Department. Accordingly, in January 1955, claimant again requested that Navy patent counsel petition the Patent Office to file a patent application in Great Britain. By this time, of course, the details of Mr. Attinello's invention had been publicly disclosed in both this country and in England. The Department of the Navy did petition the U.S. Patent Office on January 21, 1955, for a modification of its outstanding secrecy order. Permission to file in Great Britain was mailed to the Office of Naval Research on February 2, 1955.

Relevant English law prevents an applicant from filing for a patent after the details of his investigation have been publicly disclosed. However, since both the United States and England are members of the International Patent Convention, Mr. Attinello could, notwithstanding any public disclosure which occurred after the filing date of his U.S. application, file for a British patent if such application were made within 1 year of the filing date of his U.S. application. In essence, Mr. Attinello's British patent application would be given the benefit of his earlier U.S. filing date to thus avoid the debarring effects of the publications which occurred in June 1954, in this country and in November and December of 1954, in England.

It, accordingly, was imperative that Mr. Attinello file his British application before February 10, 1955. However, because of the delay by the Navy in petitioning the Patent Office for modification of its outstanding secrecy order, it was impossible for Mr. Attinello to file a British application within the time demanded by the provisions of the International Patent Convention.

The Commissioner pointed out that since the Department of the Navy knew that the classified material incorporated in claimant's invention had been disclosed to British authorities at the confidential conference in 1953, and since the Navy itself published an unclassified description of the basic invention in June 1954, the long delay by the Navy in petitioning the Patent Office for modifications to the secrecy order with respect to Great Britain is found to be unjustified and inexcusable. The Commissioner concluded that the failure of the Department of the Navy to expedite claimant's June 1954 request for modification of the secrecy order did prejudice Mr. Attinello's right to obtain a British patent.

On the basis outlined above and more fully set forth in the opinion of the Commissioner and the Findings of Fact, the Commissioner found that Mr. Attinello was equitably entitled to a payment of $100,000. It is recommended that the bill providing for payment of that amount be favorably considered.

[Before the Chief Commissioner of the United States Court of Claims, In Congressional Reference Case No. 1–71 (Filed Mar. 13, 1972)]

JOHN S. ATTINELLO v. THE UNITED STATES

(Report to the United States House of Representatives)

Irvin A. Lavine, attorney of record for plaintiff.

Charles L. Whitham, with whom was *Assistant Attorney General L. Patrick Gray, III,* for defendant.

Before Davis, *Presiding Commissioner of the Review Panel,* White and Stone, *Commissioners.*

OPINION

By the Review Panel: Upon referral of the bill (H.R. 6204, 92d Cong., 1st Sess.) "for the relief of John S. Attinello" to the Chief Commissioner of the Court of Claims by the House of Representatives, and the subsequent filing of a petition by the claimant, the Chief Commissioner referred the case to Trial Commissioner Joseph V. Colaianni for the conduct of further proceedings in accordance with the Rules of the Chief Commissioner. On February 14, 1972, Commissioner Colaianni reported his decision, based on facts stipulated by the parties. On February 18, 1972, the parties by joint motion requested that the Review Panel "adopt the report of Commissioner Colaianni * * * [thereby] waiving review of such report on the part of the panel." Accordingly, the Review Panel adopts Commissioner Calaianni's report and agrees with his conclusion that claimant "has no legal claim against the United States" but does have "an equitable claim against the United States in the sum of $100,000." The Review Panel recommends to Congress that such claim be paid.

This determination is submitted to the Chief Commissioner for transmittal to the U.S. House of Representatives.

OPINION OF THE TRIAL COMMISSIONER

Colaianni, *Commissioner:* Pursuant to 28 U.S.C. §§ 1492 and 2509, the House, on June 1, 1971, referred H.R. 6204, 92d Cong., 1st Sess., to the Chief Commissioner of the Court of Claims.

The bill involved in this referral, H.R. 6204, is entitled "A bill for the relief of John S. Attinello." The bill proposes that the Congress enact legislation authorizing and directing the Secretary of the Treasury to pay:

"* * * the sum of $100,000, in full satisfaction of all claims of the said John S. Attinello against the United States for loss of patent rights in Great Britain and Canada on a highlift supercirculation system for aircraft which was developed and patented in the United States by him (United States Patent Numbered 2,868,480), but which was not patented in such countries as a result of the failure of the Department of Defense to forward to the appropriate American embassies applications filed with such Department by the said John S. Attinello."

The reference of H.R. 6204 to the Chief Commissioner of the Court of Claims was accomplished by means of H. Res. 401, 92d Cong., 1st Sess. The resolution indicated that the reference was made pursuant to 28 U.S.C. §§ 1492 and 2509 for "* * * further proceedings in accordance with applicable law."

The petition of Mr. Attinello was filed with the Clerk of the Court of Claims on August 24, 1971, and defendant's answer was filed on October 21, 1971. The parties, in lieu of trial, submitted an extensive stipulation of all of the relevant facts. The stipulation of facts, along with documents referred to in the stipulation, was admitted into the record.

On the basis of facts established by the evidence in the record, as summarized in this opinion and set forth more fully in the findings of fact, I conclude that:

(1) Claimant has no legal claim against the United States, but

(2) He does have a claim, founded on equity and justice within the meaning of *Burkhardt* v. *United States,* 113 Ct. Cl. 658, 84 F. Supp. 553 (1949), and there is equitably due claimant, from the United States, the sum of $100,000.

Claimant, John S. Attinello, is an American citizen who for many years was employed by the Department of the Navy. During the early 1950's, he was the Head of the Supersonic Section, Applied Mathematics Branch, Research Division, Bureau of Aeronautics, Department of the Navy. While so employed, he became aware of the serious landing and takeoff problems that were plaguing jet-powered aircraft. The matter was of particular concern to the Navy because its jet fighters were landing at speeds which made them unsafe for aircraft carrier use.

Considerable research had been directed to conceiving a structure or system for reducing the landing and take-off speeds of supersonic fighters. By and large, the research programs of that period were directed at efforts to somehow favorably affect the flow of air over the aircraft's wings, or, in other words, to materially affect the circulation of air about an airfoil through boundary layer control. The majority of aeronautical engineers in the early 1950's felt that stabilizing or removal of the boundary layer would permit an aircraft to fly at lower speeds with increased lift.

Mr. Attinello felt that efforts to solve the problem by reducing or stabilizing the boundary layer would be unsuccessful. To the contrary, he felt that increased lift at reduced speeds could best be accomplished by injecting high speed air into the air already flowing over the trailing edges of the wings. By the use of Mr. Attinello's invention, which is described and disclosed in detail in his United States Patent No. 2,868,480 and Reissue Patent No. 24,917, it was found that the boundary layer of air did not separate to the same extent as before from the wing skin at slow or near stalling speeds. By substantially reducing the separation of air flow over the wings at slower speeds, the lifting capacity of the wings was found to be greatly increased. In turn, this enabled jet fighters to land at lower and safer speeds.

In December 1952, Mr. Attinello disclosed his invention, entitled "High Lift Supercirculation System Using Supersonic Blowing," to the Patent Division of the Department of the Navy. Shortly thereafter, and before a United States patent application had been prepared or filed on his invention, claimant was asked by the British Ministry of Supply to disclose his invention at a confidential conference to be held in England. With the approval of the Chief of Naval Operations, claimant did disclose his invention at the April 24, 1953, Boundary Layer Control Conference at Farnborough, England. The presentation which claimant made at the conference was embodied in a classified British record of the conference that was printed in July of 1953. The presentation was also reproduced in this country as a classified Navy document in May 1953. In November 1953, claimant and the Department of the Navy entered into an agreement which recognized that title to the invention and to any patents belonged to claimant, but at the same time claimant agreed that the United States was to have a nonexclusive, irrevocable, royalty-free license under any patents that might issue. In addition, the agreement gave defendant an irrevocable and exclusive right to transact all Patent Office business having to do with claimant's United States application.

Since claimant was an employee of the Navy at the time he made his invention, the Government Patents Board was called upon to determine if the defendant was entitled to all rights, title and interest to the invention. The Board found, on January 11, 1955, that defendant's contribution to the making of the invention was insufficient to entitle it to an assignment of the entire right, title and interest in and to the invention. Instead, the Board concluded that title to the invention should be left with the claimant subject to a nonexclusive, irrevocable, royalty-free license being granted to defendant.

Because claimant's invention related to classified subject matter, the patent application was filed on February 10, 1954, by the Navy as a security classified document. On April 7, 1954, a secrecy order under the provisions of 35 U.S.C. §§ 181–188 was issued by the Commissioner of Patents. As a result, claimant was ordered to keep the details of his invention secret unless he first obtained the written consent of the Commissioner of Patents to disclose the same.

In June of 1954 the Department of the Navy disclosed the basic features of claimant's invention in an unclassified publication, entitled Naval Aviation News. In addition, public disclosure of claimant's invention, in the form of detailed magazine articles, also occurred in England on November 12, 1954, and December 3, 1954. All of the public disclosures were made without authority or approval of claimant.

While claimant willingly granted defendant a nonexclusive, irrevocable, royalty-free license for Government use of his invention, he intended to retain all rights to commercial use of his invention in the United States. Also, the license granted to defendant has been interpreted in the past so as not to give the United States authority to license foreign governments to produce or utilize an invention abroad, except where the equipment is manufactured in the United States pursuant to defendant's license. Indeed, claimant was interested in protecting his rights to foreign patents. He was particularly interested in obtaining British and Canadian patents to prevent commercial or governmental use of his invention in either of those countries without just compensation.

Therefore, on June 30, 1954, on the basis of his prior disclosure at the April 24, 1953, confidential conference at Farnborough, England, and the classified documents based thereon, claimant requested the Navy to petition the Patent Office for modification of its secrecy order. At that time he only sought permission to file a British patent application which would correspond to his then-pending United States application. The request was not made by the Navy Department. Accordingly, in January 1955, claimant again requested that Navy patent counsel petition the Patent Office to file a patent application in Great Britain. By this time, of course, the details of Mr. Attinello's invention had been publicly disclosed in both this country and in England. The Department of the Navy did petition the United States Patent Office on January 21, 1955, for a modification of its outstanding secrecy order. Permission to file in Great Britain was mailed to the Office of Naval Research on February 2, 1955.

Relevant English law prevents an applicant from filing for a patent after the details of his invention have been publicly disclosed. However, since both the United States and England are members of the International Patent Convention, Mr. Attinello could, not withstanding any public disclosure which occurred after the filing date of his U.S. application, file for a British patent if such application were made within one year of the filing date of his U.S. application. In essence, Mr. Attinello's British patent application would be given the benefit of his earlier U.S. filing date to thus avoid the debarring effects of the publications which occurred in June 1954 in this country and in November and December of 1954 in England.

In addition, the parties are in agreement that there is no judicial precedent to indicate that Mr. Attinello's confidential disclosure in Great Britain in April of 1953 would have acted as a bar to the granting of a British patent on his invention.

It, accordingly, was imperative that Mr. Attinello file his British application before February 10, 1955. However, because of the delay by the Navy in petitioning the Patent Office for modification of its outstanding secrecy order, it was impossible for Mr.

Attinello to file a British application within the time demanded by the provisions of the International Patent Convention.

Since the Department of the Navy knew that the classified material incorporated in claimant's invention had been disclosed to British authorities at the confidential conference in 1953, and since the Navy itself published an unclassified description of the basic invention in June 1954, the long delay by the Navy in petitioning the Patent Office for modifications to the secrecy order with respect to Great Britain is found to be unjustified and inexcusable. The failure of the Department of the Navy to expedite claimant's June 1954 request for modification of the secrecy order did prejudice Mr. Attinello's right to obtain a British patent.

Claimant's only recognition for his technologically significant invention, which defendant admits to using to the present day on substantially all supersonic fighters, was a citation for Meritorious Civilian Service and a limited ingrade raise in salary.

Because of the significant contribution which claimant's invention has made to aircraft technology, defendant has indicated that it does not object to legislation which would acknowledge this contribution by providing equitable compensation for the loss of claimant's British patent rights. The damage to claimant caused by failure to obtain a British patent is directly related to the number of aircraft produced in England, which, when flown, would constitute a Crown use of his patent.

The parties have stipulated that the British Government has utilized claimant's invention on some 261 supersonic aircraft. Accordingly, since it costs approximately $20,000 to install claimant's system on each aircraft, and since a similarly situated patentee would be entitled to a royalty of between 2 and 3 percent of the total-dollar procurement, claimant's recovery, had he obtained a British patent, would be in the order of $104,400 to $156,600. By way of compromise, the parties are in agreement that claimant is equitably entitled to $100,000 as compensation for the loss of any British patent.

I, accordingly, conclude that claimant has no legal claim against the United States, but that under the standards of *Burkhardt* v. *United States*, *supra*, claimant does have an equitable claim against the United States in the amount of $100,000.

FINDINGS OF FACT

1. (a) Pursuant to H. Res. 401, 92d Cong., 1st Sess., H.R. 6204 was referred to the Chief Commissioner of the U.S. Court of Claims.

(b) The text of H. Res. 401 reads as follows:

"*Resolved*, That H.R. 6204 entitled "A bill for the relief of John S. Attinello", together with all accompanying papers, is hereby referred to the Chief Commissioner of the Court of Claims pursuant to sections 1492 and 2509 of title 28, United States Code, for further proceedings in accordance with applicable law."

2. (a) H.R. 6204, 92d Cong., 1st Sess., is entitled "A BILL for the relief of John S. Attinello."

(b) The text of H.R. 6204 reads as follows:

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to John S. Attinello of Alexandria, Virginia, the sum of $100,000 in full satisfaction of all claims of the said John S. Attinello against the United States for loss of patent rights in Great Britain and Canada on a high lift supercirculation system for aircraft which was developed and patented in the United States by him (United States Patent Numbered 2,868,480), but which was not patented in such countries as a result of the failure of the Department of Defense to forward to the appropriate American embassies applications filed with such Department by the said John S. Attinello.

"SEC. 2. No part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

3. (a) As a result of its consideration of H. Res. 401, House Report No. 92–172, 92d Cong., 1st Sess., was prepared by the Committee on the Judiciary.

(b) The report indicates that the subject matter of the bill (H.R. 6204) had been previously considered at a July 31, 1969, hearing by a subcommittee of the full Committee on the Judiciary, pursuant to a bill pending before the 91st Congress. In addition, reports were submitted on the bill being considered by the 91st Congress by the Department of the Navy on August 8, 1969, and by the Department of Commerce on July 31, 1969.

(c) The report also indicates that certain patent aspects of the case were felt to be of sufficient importance to both the Government and its employees that a full investigation was warranted. The Committee felt that only after a full investigation had been made could the claim be evaluated "* * * to determine whether it is a proper subject for legislative relief."

4. (a) In accordance with the Rules of the Chief Commissioner, claimant's petition was filed on August 24, 1971. Defendant's answer was filed on October 21, 1971.

(b) The parties, on December 28, 1971, submitted a stipulation of facts, along with supporting Joint Exhibits 1 through 19, inclusive. The stipulation and exhibits were intended by the parties to embody all of the records and material essential to a determination of the facts. Proof was, therefore, closed on December 28, 1971.

(c) The stipulation provided that the parties did not desire to submit requested findings of fact or briefs as permitted by Rules 134(d) and (e) of the court.

(d) The findings of fact which follow are based primarily upon the stipulation of the parties, as supplemented by Joint Exhibits 1–19, inclusive, and, as well, by the July 31, 1969, hearings by the subcommittee of the full Committee on the Judiciary and the reports of the Department of the Navy and Commerce.

5. (a) John S. Attinello is a citizen of the United States, residing in Alexandria, Va.

(b) In 1952, Mr. Attinello was employed by the Department of the Navy as Head of the Supersonic Section Applied Mathematics Branch Research Division Bureau of Aeronautics.

6. (a) With the advent of jet power in the late 1940's or early 1950's pilots found it necessary to take off and land their planes at speeds significantly higher than had been the case with propeller driven aircraft. Runways at existing airports and on aircraft carriers were found to be too short to safely accommodate the higher landing speed of jet aircraft. The problem was particularly acute for the Navy since aircraft carriers provided a minimum of runway space for both the take-off and landing of supersonic planes. By and large, the aerodynamists of the early 1950's were in substantial agreement that the design of supersonic aircraft had to be modified to achieve higher lift at lower speeds. However, the means for achieving high lift at lower speed eluded their best efforts.

(b) The majority of aeronautical engineers in the early 1950's apparently felt that stabilizing or removal of the circulation of air about the airfoils of an aircraft would enable the aircraft to generate greater lift at lower speeds. Therefore, the research programs of that period were broadly concentrated on the following categories: (i) boundary layer control devices which relied either on suction or low-speed blowing, and/or (ii) wing camber and wing area increasing means. Mr. Attinello did not agree. To the contrary, he felt that increased lift at reduced speeds could best be accomplished by injecting high-speed air into the air already flowing over the trailing edges of the wings. Claimant's concept proved to be correct for it was found that as a result of using his system, the separation of the air or boundary layer, flowing over the wings as the aircraft approached stall or near stalling speeds, was substantially reduced. It was also found that, by use of Mr. Attinello's concept, an aircraft could land at significantly lower speeds, since the lifting capacity of the wings was greatly increased. Claimant's invention, as described and disclosed in United States Letters Patent No. 2,868,490 and Reissue Patent No. 24,917, has been used continuously to date on substantially all American supersonic fighters.

(c) In December 1952, Mr. Attinello disclosed his invention to the patent division of the Department of the Navy. The invention, entitled "High Lift Supercirculation System Using Supersonic Blowing," ultimately proved to supply the long-sought-after solution that enables supersonic jets to take off and land at moderate speeds.

7. (a) After Mr. Attinello disclosed his invention to the Navy Department, but before a patent application had been prepared for filing with the United States Patent Office, a request was made by the British Ministry of Supply that he disclose his invention at a confidential conference which was to be held in England on April 24, 1953. As a result of the British Ministry of Supply's request, and with the approval of the Chief of Naval Operations, Mr. Attinello did disclose his invention at the April 24, 1953, Boundary Layer Control Conference at Farnborough, England. The confidential conference was attended by 132 British subjects who represented, in addition to various British governmental agencies, 18 aircraft firms, four engine firms, five universities, and two airway corporations.

(b) The discussions and presentations at the conference are embodied in the July 1953 Royal Aircraft Establishment, Technical Memo No. Aero. 367, "Record of the Symposium Held at R.A.E. on Friday, 24th April 1953, on Boundary Layer Control By Suction." The record of the conference was classified "Confidential-Discrete" under the British Official Secrets Act.

(c) Included among the papers contained in the record of the symposium is the speech presented by Mr. Attinello, entitled "Suction and Blowing at a Flap Gap." The paper disclosed the details of Mr. Attinello's invention.

(d) In May of 1953 the technical paper delivered by Mr. Attinello at the Boundary Layer Control Conference in Farnborough, England, was duplicated as a Bureau of Aeronautics, Research Division, report and issued as classified NAVAER Report No. DR–1533, entitled "Augmenting Life by Means of a Supersonic Jet Directed Over Flaps."

8. (a) The Department of the Navy in due course prepared a patent application based on Mr. Attinello's December 1952 invention disclosure. However, prior to the filing of the application with the Patent Office, Mr. Attinello and the Department of the Navy, on November 19, 1953, entered into a license and agreement.

(b) The agreement acknowledges that Mr. Attinello had concurrently executed an oath, power of attorney and petition for a patent application, entitled "High Lift Supercirculation System Using Supersonic Blowing." The agreement granted the United States a nonexclusive, irrevocable, royalty-free license to Mr. Attinello's invention and under any patent that issued thereon. In addition, the agreement provided that Navy Department attorneys would have full charge over prosecution of Mr. Attinello's application through the Patent Office.

(c) Mr. Attinello's application was filed with the United States Patent Office on February 10, 1954. Because the application covered classified subject matter, the patent application was filed by the Department of the Navy as a security classified document.

(d) Subsequently, and particularly on April 7, 1954, a secrecy order under the provisions of 35 U.S.C. §§ 181–188, was issued by the Patent Office.

(e) The secrecy order provided, in pertinent part:

You are hereby notified that your application * * * has been found to contain subject matter, the unauthorized disclosure of which might be detrimental to the national security, and you are ordered in nowise to publish or disclose the invention or any material information with respect thereto, including hitherto unpublished details of the subject matter of said application, in any way to any person not cognizant of the invention prior to the date of the order, including any employee of the principals, but to keep the same secret except by written consent first obtained of the Commissioner of Patents, under the penalties of 35 U.S.C. (1952) 182, 186.

9. (a) On the theory that the subject matter of his patent had already been disclosed at the April 24, 1953, confidential conference at Farnborough, England, claimant, on June 30, 1954, requested the Navy Department to petition the Patent Office for modification of its secrecy order to permit him to file a patent application, which would correspond to his pending United States application, in Great Britain. In further support of his request, Mr. Attinello called attention to the confidential NAVAER report of May 1953 which also described his invention.

(b) At approximately the same time, but unknown to Mr. Attinello at the time of his request, the June 1954 issue of *Naval Aviation News,* an unclassified publication, disclosed the basic features of Mr. Attinello's invention in an article entitled "Boundary Layer Control."

(c) In addition, public disclosure of Mr. Attinello's invention was also made by the following unclassified British publications:

(i) *Flight*, November 12, 1954, and

(ii) *The Aeroplane*, December 3, 1954.

10. (a) In January of 1955, almost seven months after his original June 30, 1954, request, Mr. Attinello again asked Navy patent counsel to petition the Patent Office for permission to file in Great Britain a patent application corresponding to his pending United States application. In response to this second request, patent counsel for the Department of the Navy did petition the United States Patent Office on January 21, 1955, for such permission. On February 2, 1955, the United States Patent Office mailed a permit to the Office of Naval Research.

(b) The procedure usually followed by the Department of the Navy in handling mail from the Patent Office called for the Patent Records Branch, which received such mail, to send it to the "field patent branch" that was prosecuting the patent application. The mail could be sent to the "field branch" by way of appropriate Bureau Patent Counsel or the mail could be sent directly to the "field patent branch" with an information copy being forwarded to the appropriate Bureau Patent Counsel. The applicant-inventor would then be notified of the Patent Office's action by either the "field patent branch" or, in some instances, by the Bureau Patent Counsel. In any case, claimant did not receive notice of the Patent Office's modification of its secrecy order until some days after February 2, 1955.

11. (a) Under British law, broadly speaking, an application for a patent cannot be validly filed after public disclosure of the inventive subject matter in Great Britain.

(b) The question of whether Mr. Attinello's invention had been publicly disclosed in England was of prime importance in this case, since it was known that he had disclosed the details of his invention to British authorities in April of 1953, and, as well, since the *Naval Aviation News* carried an unclassified description of the basic invention in June of 1954.

(c) However, the provisions of the International Patent Convention, to which both Great Britain and the United States are parties, permit the filing of a patent application in Great Britain even after a public disclosure in England has occurred, if a British application is filed within 12 months from the date of a previously filed foreign application. Accordingly, in this instance, Mr. Attinello would not have to concern himself with the public disclosure of his invention if he filed a Brtish application for a patent, corresponding to his United States application, within one year of his United States applicaiton. In addition, the effect of claimant's confidential disclosure in 1953 on his right to obtain a British patent is not clear. The Navy's investigation of this matter apparently was far from conclusive. In the words of the stipulation:

* * * the situation was unusual and, having no judicial precedent which directly applied, British patent experts consulted by the Navy declined to give an opinion concerning the legal affect [sic] of the 1953 confidential disclosure.

It was, therefore, imperative that Mr. Attinello's United Kingdom application be filed in Great Britain on or before February 10, 1955.

(d) Thus, under these circumstances, the delay by the Navy until January of 1955 to petition the Patent Office for modification of its secrecy order to permit Mr. Attinello to file an application in Great Britain is found to be unduly long.

(e) Even under the best of conditions, Mr. Attinello could not have filed a United States patent application in the few days which remained between the time he received notice of the Patent Office's February 2, 1955, permit for filing and the February 10, 1955, one-year anniversary date of his United States patent application. Moreover, further aggravating the plight of Mr. Attinello, was the requirement in the Patent Office's February 2, 1955, permit that:

"* * * the papers for the foreign application[s] and its [their] prosecution shall be transmitted in a manner approved for information classified as above to the Initiating Agency [Bureau of Aeronautics, Department of the Navy] for forwarding * * *."

12. Mr. Attinello apparently encountered additional difficulties in determining the appropriate Department of the Navy security channels for filing his patent application in Britain. It was not until August 9, 1955, that he submitted papers, as required by the Patent Office's February 2, 1955, permit, for filing a British application to offices within the Bureau of Aeronautics for transmittal to Great Britain. The files of the Navy Patent Organization indicate that the papers were not forwarded to England for processing but no explanation or reason is given for this failure.

13. (a) Inasmuch as Mr. Attinello had not filed a United Kingdom patent application in Great Britain by February 10, 1955, the first anniversary date of his United States filing, he was correctly informed by his British patent agent that he was barred from obtaining corresponding valid British and Canadian patents. Particularly, Mr. Attinello was advised by his British patent agent that the unclassified publications occurring after his February 10, 1954, United States application, but before February 10, 1955, would bar his present attempts to patent his invention in Great Britain and Canada.

(b) Since Mr. Attinello was debarred from obtaining a British patent after February 10, 1955, the failure of the Navy to transmit the paper which he filed with the Bureau of Aeronautics on August 9, 1955, to Great Britain is of no legal consequence.

14. Mr. Attinello's right to obtain a patent in Great Britain was prejudiced by the failure of the Department of the Navy to expedite and process his original June 30, 1954, request for Patent Office permission to file an application, corresponding to his United States filed application, in Britain. Particularly, since Mr. Attinello's April 1953 confidential disclosure in England was done with the knowledge and approval of the Chief of Naval Operations, and, also, since Mr. Attinello's invention was disclosed in as unclassified Navy publication, his June 30, 1954, request that the Navy petition the Patent Office for modification of its secrecy order was reasonable and should have been promptly expedited by the Navy Patent Organization.

15. On June 29, 1955, Mr. Attinello requested that the Navy Patent Organization petition the Patent Office for modification of its April 1954 secrecy order and permit the filing of a corresponding application in Canada. The petition to the Patent Office was made on September 9, 1955, and the permit was allowed and mailed by the Patent Office on September 22, 1955. However, since both Mr. Attinello's request and the Patent Office's permission were some months after the first anniversary filing date of his United States application, he was barred, because of the prior public disclosure of his invention, from obtaining a Canadian patent.

16. (a) The right of Mr. Attinello to retain the full title to his invention was established by the Government Patents Board on January 11, 1955.

(b) The Government Patents Board was apparently supplied with a report which outlined the factual setting in which Mr. Attinello's invention was made. Based on the information presented, Mr. Archie M. Palmer, Chairman of the Government Patents Board, concluded:

"Upon the basis of the information submitted on this case, it appears that the contribution of the Government to the making of the invention is insufficient equitably to entitle the Government to assignment of the entire right, title and interest in and to the invention.

Therefore, pursuant to paragraph 1 of Executive Order 10096, the Chairman of the Government Patents Board concurs in the determination of the Department of the Navy that title to the invention be left in the inventor, subject to the license granted to the Government by the inventor."

17. (a) Mr. Attinello's original and reissue patents state that:

"The invention described herein may be manufactured and used by or for the Government of the United States of America for governmental purposes without the payment of any royalties thereon or therefor."

(b) Mr. Attinello's invention is primarily directed to aircraft operating at supersonic speeds. Thus, it has not, to date, been used commercially in the United States. Indeed, the only use in the United States for Mr. Attinello's invention has been on military aircraft operating at supersonic speeds.

(c) For his invention, Mr. Attinello was presented the Meritorious Civilian Service Award by the Department of the Navy. The citation acknowledged and recognized that:

"Mr. Attinello's contribution towards solving this acute problem is considered an especially significant technological advancement in naval aviation."

(d) Aside from a small in-grade raise in his Government salary for some 14 months, Mr. Attinello received no monetary award from the Government for his invention.

(e) Mr. Attinello's license to the United States was limited to his United States patent application. Under the agreement, Mr. Attinello retained the rights to obtain foreign patents to protect his invention from use by foreign countries or foreign business establishments for aircraft made and/or used outside of the United States. It was in furtherance of these rights that Mr. Attinello timely moved for permission to file a corresponding patent application in Great Britain.

18. (a) On July 15, 1966, having left the employ of the Government, Mr. Attinello presented a claim to the Navy for compensation. Mr. Attinello's claim was directed to aircraft, which incorporated his invention, that were built in this country for use by the British and other allied countries.

(b) Mr. Attinello's claim was denied by the Department of the Navy on September 29, 1966, for the reason that procurement in the United States under Navy contracts was covered by his grant of the license to the Government, regardless of the ultimate disposition of the procured aircraft. The Navy also based its denial on the grounds that Mr. Attinello was a Government employee at the time his invention was made and that his duties were such that 22 U.S.C. § 2356 or 28 U.S.C. § 1498 precluded his bringing a suit against the United States.

19. However, Mr. Attinello's license to the United States does not authorize or permit foreign governments to produce or utilize his invention abroad, unless the invention was manufactured in the United States pursuant to said license. Therefore, the damages to Mr. Attinello, had he not been prevented from filing for a United Kingdom patent, and had he thereafter been successful in obtaining a corresponding British patent, would be directly proportional to the number of aircraft produced in Great Britain for the Crown.

20. Since the claimant's invention was a significant contribution to aircraft technology, defendant does not object to legislation which would acknowledge Mr. Attinello's contribution by providing equitable compensation to him for the loss of his British patent rights.

21. The parties have stipulated that:

(a) *Jane's, All the World's Aircraft*, is an authoritative reference sourcebook;

(b) *Jane's*, for 1960–1961, states that the British Government had obtained Scimitar aircraft employing supersonic blowing over the upper surfaces of the flaps;

(c) *Jane's*, for 1970–1971, states that the British Government had obtained Buccaneer aircraft employing "supercirculation" boundary layer control with aid outlet slots forward of the flaps; and

(d) The British Research and Development Staff of the British Defense Staff, Washington, D.C., was requested by the Department of the Navy to verify the number of military planes of British manufacture which utilized the invention. Mr. F. R. Robinson, then Assistant Director of Patents, replied that the invention had been used in 73 Scimitars and 186 Buccaneers.

22. The cost of installing a system to permit the use of claimant's invention is approximately $20,000 per aircraft. Further, the parties agree that a similarly situated patentee could expect to receive for the use of his invention a royalty of between 2 and 3 percent of the total-dollar procurement, or between $104,400 and $156,600 (2 or 3 percent of $5,220,000 ($20,000 x 261)). Accordingly, the parties are in agreement that:

"It would thus appear that compensation in the amount of $100,000, as provided in H.R. 6204 entitled 'A bill for the Relief of John S. Attinello', would be equitable.

CONCLUSION

1. Claimant has no legal claim against the United States.

2. Under the standards of *Burkhardt* v. *United States, supra*, claimant does have an equitable claim against the United States in the sum of $100,000.

[Certified, a true and correct copy, this 13th day of March 1972, at Washington, D.C.]

MARION T. BENNETT,
Chief Commissioner, U.S. Court of Claims.

TRIBUTE TO SENATOR RANDOLPH

Mr. MANSFIELD. Mr. President, I am delighted that I could call up this legislation and am happy that the Senate has approved it unanimously. I wish to thank the distinguished chairman of the Committee on Public Works (Mr. RANDOLPH) and to note for the record that he has been the foremost exponent and leader in the field of railroad retirement benefits. This is another indication of the great work and initiative which he has taken.

Mr. RANDOLPH. I thank the distinguished majority leader.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

FEDERAL-AID HIGHWAY ACT OF 1972

A KANSAS CITY TO CHICAGO INTERSTATE HIGHWAY

Mr. SYMINGTON. Mr. President, I ask in my amendment that there be added to the routes to be studied a route from Kansas City, Mo., or its vicinity to Chicago, Ill., or its vicinity, so alined as to cross the Mississippi River in the vicinity of Hannibal, Mo., and Quincy, Ill.

This amendment, for which I have obtained the approval of the chairman of the committee, would simply be one more route to be added on page 60 to the routes already decided on.

Mr. RANDOLPH. Mr. President, I want to comment that in the pending legislation there are five other studies. This would be in the same category, and the Senator from Kentucky (Mr. COOPER) and I would be delighted to take the amendment.

Mr. SYMINGTON. I thank the Senator very much.

The PRESIDING OFFICER. Will the Senator send his amendment to the desk?

The amendment will be stated.

The legislative clerk read as follows:

On page 60, between lines 20 and 21, insert the following:

(e) A route from Kansas City, Missouri, or its vicinity, to Chicago, Illinois, or its vicinity, so alined to cross the Mississippi River in the vicinity of Hannibal, Missouri, and Quincy, Illinois.

Mr. SYMINGTON. Mr. President, quite simply, this amendment would provide for a feasibility study of a direct interstate highway between Kansas City, Mo., and Chicago, Ill.

I have offered the amendment for myself and on behalf of my distinguished colleague (Senator EAGLETON), and for our colleagues representing the neighboring State of Illinois (Senator PERCY and Senator STEVENSON).

They are cosponsoring the amendment.

For more than a decade, the States of Missouri and Illinois have worked together toward the establishment of an interstate highway between the two great metropolitan areas of Kansas City and Chicago.

The Federal Aid Highway Act of 1972 offers the Congress an opportunity to provide for a study of the need for such a highway. After many years of discussion, this route still offers better freight and passenger connections by air and rail than it does for highway users. Three airlines and 10 railroads provide a direct link between these two cities, but interstate highway users must travel either through Des Moines or St. Louis.

Former Kansas City Mayor Ilus W. "Ike" Davis, chairman of the Greater Kansas City Chamber of Commerce which is working for a Kansas City-Chicago interstate route, has observed that this corridor is one of the most heavily traveled freight routes in the United States, noting that a direct interstate highway would be 145 miles shorter than through Des Moines and 125 miles shorter than traveling through St. Louis.

The Kansas City Department of Transportation has received estimates that such a direct route would soon be carrying 10,000 vehicles a day, and the Chamber of Commerce has among its studies a projection that the estimated 10-year savings for passenger cars would be $63 million, and for trucks, $277 million in mileage alone, not counting time saved.

Businesses, civil organizations, and government officials in Kansas City and Missouri have long supported establishment of a direct interstate link between Kansas City and Chicago. The City Council of Kansas City this spring passed a resolution which described the importance of such a highway link to the north-central United States.

In light of the great interest in our State and in Illinois in this direct interstate link between these two great cities, I ask that the Federal Aid Highway Act of 1972 be amended to authorize the Secretary of Transportation to report to the Congress by January 1, 1974, on the feasibility of constructing a Kansas City to Chicago interstate route.

Mr. PERCY. Mr. President, I am most pleased to cosponsor the amendment of the Senator from Missouri (Mr. SYMINGTON) calling for a feasibility study of a Chicago-Kansas City interstate highway crossing the Mississippi River between Quincy and Hannibal.

This would be a much more direct route between Kansas City and Chicago saving motorists considerable time and money. Currently motorists must go through St. Louis or Des Moines in a roundabout route to get from Chicago to Kansas City.

The State of Illinois' interest in such an interstate highway can be seen from the fact that the State has just appropriated $90,000 for a feasibility study of a bridge across the Mississippi River between Quincy and Hannibal which would be the link between the Illinois and Missouri segments of the highway.

I am hopeful that the Federal Government will pursue the feasibility study of this route as such a route is an economic necessity for the growth and expansion of west central Illinois.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Mr. Mark Schneider of my staff be accorded the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, I ask unanimous consent that Patty MacMillan of my staff be accorded the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. BAYH. I ask unanimous consent that Mr. Michael Helfer of my staff be accorded the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. Leon Billings be accorded the privilege of the floor during the debate on the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that Mr. Robert Malakoff of the Committee on Banking, Housing and Urban Affairs be accorded the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. I also ask unanimous consent that Mr. Elwin Styles, minority counsel of the Subcommittee on Banking, Housing and Urban Affairs, may have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill is open to further amendment.

Mr. WEICKER. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. WEICKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER's amendment is as follows:

On page 21, line 5, strike out the words "made available by the State to" and insert in lieu thereof "divided equally between the State and."

On page 21, after line 24, insert the following new section and renumber subsequent sections accordingly:

"SEC. 115. (a) Section 105(a) is amended by deleting the words 'State highway department' in the first sentence and inserting in lieu thereof 'Governor' and by adding at the end thereof the following new sentence: "The Secretary shall not approve any project except that which is in accordance with the planning process required pursuant to section 134 of this title.'.

"(b) Section 105(b) is amended by striking out the words 'except in States where all public roads and highways are under the control and supervision of the State highway department, that such project be selected by the State highway department' and inserting in lieu thereof the following: 'that such project be selected by the State Governor,'.

"(c) Section 105(g) is amended by striking out the words 'State highway departments' and inserting in lieu thereof 'Governors'.".

On page 15, line 6, strike out the words "the State highway department" and insert in lieu thereof "the Governor of each State".

On page 29, after line 16 and insert the following:

"(b) It is declared to be in the national interest to encourage and promote the development of transportation systems, embracing various modes of transport in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective the Secretary shall cooperate with the States, as authorized in this title, in the development of long-range, comprehensive public transportation plans and programs which are properly coordinated, which include plans for the development of all modes of transportation, which take into consideration the plans of adjacent States, which are formulated with due consideration of their probable effect on the future development of each State, and which fully consider alternative modes of transportation and routes for each project included. The Secretary shall not approve under this title any program for projects in any State unless he finds (1) that such projects are in accordance with a continuing comprehensive public transportation planning process carried on cooperatively by States and local communities in conformance with the objectives of this section, (2) that all reasonable measures to permit, encourage, and assist public participation in such continuing planning process have been taken, and (3) that all social, economic, and environmental aspects of such program and its alternatives have been fully considered in the comprehensive planning process. The Secretary, in cooperation with the States, shall develop and publish regulations specifying minimum guidelines for public participation in such process, which shall include hearings, held at least annually, at which there shall be a review of the transportation planning process, plans, and programs, and opportunity provided for the consideration of alternative modes of transportation. No project may be constructed in a State unless the responsible local officials of the area in which the project is located have been consulted and their views considered with respect to the corridor, the location and the design of the project."

Mr. WEICKER. Mr. President, I yield myself such time as I may use.

Mr. President, this amendment is very simple. It says that any highway construction project funded with Federal money must be part of an overall transportation plan rather than simply a highway plan. It also says that the Governor has ultimate responsibility for such planning and not just State highway officials.

This amendment is important because it recognizes that highways, while a vitally important part of any balanced transportation system, should not be planned in isolation from mass, intercity rail or air transportation facilities. All should tie in with each other. All should recognize the varying environmental, social, and economic impact of alternate modes of transportation in all areas—rural as well as urban.

I recall one day in February 1969, the incredible picture of Kennedy International Airport completely cut off from the outside world by a snowstorm. Runways and highways were covered with snow and ice and with no rail link to the city, thousands of passengers were literally stranded in the midst of the world's most modern transportation hub. With comprehensive planning, this never would have been permitted.

There are airports which serve every major city in the country yet in only one case—Cleveland, Ohio—is there a rail link between the terminal and the central city.

On the other side of the coin, there are rail lines ending in major downtown terminals in most of our cities but the suburban station linking rails to newer highways is far too rare.

Both of these situations can and must be eliminated. We have got to wipe away the planning mentality which allows the creation of uncoordinated transportation happenings at the expense of an overall system.

Amendment No. 1503 would not authorize the spending of more money. Section 104(g) of the basic act as amended by S. 3939 already allocates one-half of 1 percent of the highway trust fund for planning. This amendment would simply mandate the pass through of one-half of these funds to urban areas while the remaining funds would remain with State transportation planning agencies.

Neither would this amendment impair metropolitan-areawide planning or the creation of local planning agencies which S. 3939 would require. Local officials would definitely be consulted by State planners and local plans, created locally would be carefully plugged into broader State programs.

The kind of coordination this amendment requires is absolutely essential, and I would hope that other Senators would support it.

Mr. RANDOLPH. Mr. President, will the Senator from Connecticut yield?

Mr. WEICKER. I yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, if it is agreeable to the Senator, perhaps we could shorten the comment on his very helpful amendment.

The Senator from Kentucky (Mr. COOPER) presumably will want to speak in his own right. I have studied the amendment, however, and I believe there is need for statewide planning programs in this area.

What was the sum of money involved under the authorization?

Mr. WEICKER. There are no additional funds allocated for this. It merely relates to the method of allocating the funds. No additional funds are involved in this amendment whatsoever.

Mr. RANDOLPH. I just wanted to clarify that point.

As for myself, as chairman of the committee, I would be very glad to accept the amendment.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. COOPER. Mr. President, I understand the purpose of the amendment, and I agree with the Senator from West Virginia that planning for all the complexities of modern traffic, which is moving on an ever larger scale, on a local level is no longer adequate. I am happy to join the Senator from West Virginia in accepting the amendment.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. WEICKER. Mr. President, I express my appreciation to the Senator from West Virginia for accepting the amendment and bringing in the concept of statewide planning. I cannot express my thanks clearly enough for his accepting this amendment.

Mr. KENNEDY. Mr. President, I just want to commend the Senator from Connecticut for bringing up this amendment, and thank the chairman of the committee for accepting it. I think it is extremely useful and helpful, and strengthens the whole program. I, too, am delighted that it has been accepted by the committee.

Mr. WEICKER. I thank the Senator from Massachusetts.

Mr. President, I am prepared to yield back the remainder of my time.

Mr. RANDOLPH. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Connecticut.

The amendment was agreed to.

AMENDMENT NO. 1482

Mr. KENNEDY. Mr. President, I call up my amendment No. 1482, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. KENNEDY. Mr. President, this is an amendment on behalf of the Senator from Connecticut (Mr. WEICKER) and myself. I ask unanimous consent that further reading of the amendment be dispensed with, as I will make an explanation of it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY's amendment (No. 1482) is as follows:

On page 33, beginning on line 12 strike out all through line 4 on page 34 and insert in lieu thereof the following:

(a) To encourage the development, improvement, and use of public mass transportation systems within urban areas and in such rural areas as may be designated by the State and approved by the Secretary on the basis of local transportation need, so as to increase the traffic capacity of the Federal-aid systems, sums apportioned in accordance with paragraphs (1), (2), (3), (5), (6), and (7) of subsection (b) of section 104 of this title shall be available to finance the Federal share of the costs of projects within their respective systems, for the acquisition and construction of rail facilities, exclusive or preferential bus lanes, traffic control devices, passenger loading areas and facilities, including shelters, fringe and transportation corridor parking facilities to serve bus and other public mass transportation passengers, and for the purchase of equipment including rolling stock, except that funds allocated in accordance with such paragraph 5 shall not be available for the acquisition or construction of rail facilities or the purchase of rail rolling stock.

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. As I understand, there is a time limitation of 1 hour. Is that correct?

The PRESIDING OFFICER. The time limitation is 1 hour.

Mr. KENNEDY. One-half hour to each side?

The PRESIDING OFFICER. To be equally divided.

Mr. KENNEDY. I yield myself 10 minutes.

At the outset, let me commend the chairman of the Public Works Committee for some of the steps which the committee already has taken. I believe that this bill moves further in the direction of achieving a sound transportation policy than any previous highway-aid bill presented to this body.

Two elements of the bill deserve special mention: First, the decision to permit metropolitan planning agencies to be formed and to permit funds to be passed directly to them.

Second, the committee also moved to provide relief in those urban areas which have rejected and blocked interstate routes that they believe are detrimental to their communities.

Both of these provisions were urged by both Senator WEICKER and me in S. 3825 which we submitted earlier this session.

However, while the committee and its distinguished chairman should be commended for these and other provisions which merit our full support, the bill still falls short of addressing the transportation crisis that faces this Nation.

A satellite photo of the United States traces narrow black ribbons that crisscross over mountains, around valleys, and through cities. The neat lines seem to represent a carefully designed orderly arrangement attesting to human intelligence and ingenuity.

Unfortunately, up close the rationality of the photo is distorted. For up close, we are aware that our transportation system is in crisis, we are aware that 55,000 homes are displaced by freeways each year. We are aware that two-thirds of our urban land area has been given over to the auto and its alleys, highways, and parking lots.

I would recall for the Senate the statement made in the national transportation policy statement of the Department of Transportation a year ago. Its report was not pollyannish in the remotest sense. For it found, and I quote the Secretary:

> On the whole, the transportation system which has evolved, both consciously and unconsciously, represents an uneven fabric ill suited to today's needs, and is, itself, a major contributor to the problems facing transportation today.

The DOT analysis found a nonsystem distinguished by these byproducts: too many cars and trucks in urban areas, severe deterioration of local public passenger service, hazards to safety, decay of the environment, and financial distress in key segments of the transport industry.

This analysis and a host of other expert studies have confirmed that the critical flaw in our transportation system is that each mode of travel is linked to separate Federal and State construction programs, each demanding separate planning and each receiving funds from separate sources.

And each program has its own host of special interests hovering about like a swarm of jealous bees. The auto manufacturers, the trucking interests, the contractors, and the oil interests which comprise the highway lobby all have made it clear that they consider the highway trust fund their personal feed trough.

And the result of their success is that no city, no State, no region is able to select the mix of road, rail, and air services to fit its special circumstances and needs.

They find Federal aid available for highways and for little else. And so they build highways.

And the cities suffer most. For urban residents pay more than their fair share of the cost of the highway trust fund; yet they receive substantially less in return.

They pay more than half of all taxes paid into the trust fund yet the vast majority of trust fund moneys have been spent outside the urban areas.

And the cities pay most of the indirect costs of the highway program as well. They receive most of the pollution, most of the congestion and most of the neighborhood destruction which rides along with the highway program.

For all of these reasons, I introduced in 1970 a single transportation trust fund to permit comprehensive and integrated planning and funding for all transportation programs.

It was the same desire to promote more flexible use of Federal funds for the solution to both urban and rural transportation problems that prompted Senator WEICKER and me to introduce S. 3825.

And it is the same desire that prompts us today to offer this amendment.

For the amendment we now offer has as its goal increased flexibility for States and localities to devise their own solutions to their own transportation problems.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. KENNEDY. I would like to make my statement, and then I will be glad to yield.

Mr. RANDOLPH. I will be glad to yield when I am speaking, and I thought we might have questions as we went along.

Mr. KENNEDY. I would like to make my presentation and then engage in a colloquy with the chairman.

Let us examine what the amendment does: It does authorize cities and States to use noninterstate funds, specifically the primary system allocation, the secondary system allocation, the urban system allocation, for the acquisition and construction of rail facilities and equipment in addition to the other uses authorized by the committee. This would open some $2.3 billion of the trust fund for this purpose if States so desire.

Thus, it would permit States and localities to find their own answers to the transportation puzzle in their communities and to develop a transportation plan to meet those problems, free from the lure of easy trust fund dollars if they pick highways.

In some States, there may not be a dollar spent differently next year, even if this amendment is adopted, because rail mass transit may have low priority.

But in other States, particularly the large urban industrialized areas where some 80 percent of our population resides, many elected officials will for the first time be able to place highway trust fund allocations in the area of their greatest need, in public mass transportation.

Not all will choose subways. Some may decide that other mass transit systems are the answer.

But for the first time, they will have this option.

And it is about time. Highways have been funded from an almost unlimited account that has been pumping more than $3 billion a year into concrete for the past 6 years and more than $53 billion for the past 16 years.

Yet the Nation's cities have been unable to obtain even one-tenth as much for urban mass transit. Mass transit expenditures averaged less than $200 million between 1965 and 1970.

Even with the passage of the Urban Mass Transportation Assistance Act in which $3.1 billion was authorized over 5 years, the administration has hamstrung the program by impounding appropriations.

We have a $4 billion backlog in requests for urban mass transit assistance from the Nation's cities.

Yet, the administration still has refused to release some $300 million.

And it is important to recognize that the desire for flexibility in using highway trust funds does not stop with urban States alone.

At the Governor's Conference a year ago, support was voiced for a single national transportation trust fund to provide discretion in the use of trust fund moneys.

Governors of our Western and Midwestern States recognize that changes are taking place in the country.

Many of the 67 cities which have to reduce auto traffic to meet Clean Air Act standards are not east coast or west coast cities. They are from the heartland of the Nation.

Mr. President, I ask unanimous consent to have the list of cities printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

AIR QUALITY CONTROL REGIONS WHERE THE ESTIMATED AIR QUALITY IS SIGNIFICANTLY BELOW THE LEVEL NECESSARY TO PROTECT PUBLIC HEALTH DUE TO ONE OR MORE AUTO-RELATED POLLUTANTS (NITROGEN OXIDES, CARBON MONOXIDES, OR HYDROCARBONS)

ALABAMA

1. Metropolitan Birmingham.
2. Mobile.

ARIZONA

3. Phoenix and Tucson.

ARKANSAS

4. Metropolitan Memphis.

CALIFORNIA

5. San Francisco Bay Area (Rail in Progress).
6. Monterey-Santa Cruz.
7. Metropolitan Los Angeles (Rail Planned).
8. Sacramento Valley.
9. San Joaquin Valley.
10. Southeast Desert (Riverside-San Bernardino).
11. San Diego.

COLORADO

12. Metropolitan Denver.

CONNECTICUT

13. Hartford-New Haven.

DISTRICT OF COLUMBIA

14. National Capital Region (Rail in Progress).

FLORIDA

15. Panama City-Pensacola.
16. Jacksonville.
17. Miami.

GEORGIA

18. Metropolitan Atlanta (Rail in Progress).

ILLINOIS

19. Metropolitan Chicago (Rail in Operation).

INDIANA

20. Metropolitan Indianapolis.

IOWA

21. Des Moines.

KANSAS

22. Wichita.

KENTUCKY

23. Louisville.

LOUISIANA

24. New Orleans (Rail in Operation).

MARYLAND

25. Metropolitan Baltimore (Rail Planned).

MASSACHUSETTS

26. Metropolitan Boston (Rail in Operation).
27. Springfield.

MICHIGAN

28. Metropolitan Detroit (Rail Planned).

MINNESOTA

29. Minneapolis-St. Paul.

MISSOURI

30. Kansas City.
31. St. Louis (Rail Planned).

NEBRASKA

32. Omaha.

NEVADA

33. Las Vegas.

NEW MEXICO

34. Albuquerque.

NEW YORK

35. Niagara Frontier (Buffalo) (Rail Planned).
36. Central New York Region.
37. Genesee-Finger Lakes Region.
38. Metropolitan New York (Rail in Operation).

NORTH CAROLINA

39. Metropolitan Charlotte.

OHIO

40. Metropolitan Cleveland (Rail in Operation).
41. Metropolitan Cincinnati.
42. Metropolitan Columbus.
43. Metropolitan Dayton.
44. Metropolitan Toledo.

OKLAHOMA

45. Oklahoma City.
46. Tulsa.

OREGON

47. Portland.

PENNSYLVANIA

48. Metropolitan Philadelphia (Rail in Operation).
49. Northeast Pennsylvania.
50. South Central Pennsylvania.
51. Central Pennsylvania.
52. Pittsburgh (Rail in Operation).

RHODE ISLAND

53. Providence

TENNESSEE

54. Nashville.
55. Chattanooga.
56. Memphis.

TEXAS

57. Austin-Waco.
58. Corpus Christi-Victoria.
59. Metropolitan Houston-Galveston.
60. Metropolitan Dallas-Ft. Worth.
61. Metropolitan San Antonio.
62. El Paso.

UTAH

63. Salt Lake City.

VIRGINIA

64. Richmond.
65. Norfolk Region.

WASHINGTON

66. Seattle Region (Rail Planned).

WISCONSIN

67. Milwaukee.

Mr. KENNEDY. It is not just the traditional Boston to Washington corridor cutting across 12 States where there is a need for upgraded rail passenger service.

There are other urban corridors developing, many in rural States, corridors where governors and mayors are beginning to think about mass rail transit as part of the answer to their transportation needs.

These are Philadelphia-Pittsburgh, Miami-Jacksonville, Chicago-Indianapolis-Cincinnati, Detroit-Chicago, Chicago-St. Louis, St. Louis-Kansas City, Milwaukee-Minneapolis, Seattle-Portland, Oklahoma City-Dallas-Houston, Memphis-New Orleans, San Diego-Los Angeles, and Oakland-Sacramento.

Governors may well decide that transportation needs in these corridors demand priority and that the best answer is not further highways but mass rail transit.

The critical issue to be decided is whether we will give them the option to make those choices.

Whether urban metropolis or rural America, I believe local and State officials have the best understanding of the transportation priorities of their regions. And they must have the capability to blend together highways and mass transit in a balanced transportation system if we are to meet the Nation's transportation requirements. This amendment would permit them to achieve that balance.

Now let us examine what this amendment does not do:

First, it does not touch the authorization within the bill reported by the Public Works Committee for the expenditure of $3.25 billion a year for the completion of the Interstate System.

Second, it does not change a dollar of the allocation to any State provided under the present formula. No State would receive less and no State would receive more if this amendment were adopted.

Third, it does not mandate a single dollar to urban rail mass transit. It merely offers that option to mayors and governors.

Finally, it does not diminish in any way funding under the Urban Mass Transit Assistance Act of 1970.

The amendment we propose merely seeks to offer to States and cities an option in resolving their transportation problems that they do not now have.

If we hope to avoid the continual decay of our central cities and the distortion in our transportation system that the Department of Transportation itself acknowledges to exist, then we must end the bias in favor of building highways and permit the development of an integrated comprehensive transportation system.

Our highways can only serve the purpose for which they were built, to carry people and things from city to city, if they are not clogged and congested.

New subways have meant that some 15 percent of the passengers switched from private autos to mass transit. The result was to ease the traffic on the highways, to reduce the pollution from the auto and to help achieve the goals of carrying people and things where they want to go efficiently and effectively.

And that ultimately must be our goal. It is time to provide modern transportation options to our cities and States to permit them to cope with modern transportation problems. I urge the adoption of this amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. Mr. President. I would like to yield to the Senator from Connecticut at this time, and then, hopefully, we will be able to enter into a dialog.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield to the Senator from Connecticut such time as he desires.

Mr. WEICKER. Mr. President, I thank the Senator from Massachusetts. I support wholeheartedly his efforts to bring balance to our transportation system. It is a fight in which he has been prominent, and it is one that is justified in Connecticut, in Massachusetts, in all of New England, and, indeed, in the entire United States.

Mr. President, it took the man on the street a long time to associate the soot in his eye with the word "pollution."

It never occurred to him to relate the murkiness of his rivers and streams to the word "environment."

Until recently he had never tied the word "ecology" to such abominations as smog, litter, heat inversions, oil spills, wildlife slaughter, and shattering noises.

But how times have changed, because today the environment is everything.

For too long I had hoped to see a similar awakening with respect to the Nation's transportation problems. Sad to say it has not happened. Why?

Because it has been creeping rather than instantaneous catastrophe.

Transportation is a city that has lost a park to an expressway.

Transportation is the elderly dying of respiratory disease because the air is gunked up.

Transportation is our children who become statistics—55,000 fatalities on our highways each year.

Transportation is the couple who owned the corner newsstore before it was torn down for another expressway.

Transportation is the poor without cars to get to work.

So, when we realize what transportation is, we understand that the fight for an intelligent, balanced transportation policy is a fight for all about life.

Admittedly transportation is an issue which ranks low in the polls. I had occasion to see such a poll in my State of Connecticut, which certainly is in the midst of this crisis; and, as I recall, only 3 percent of the State's people thought this was an important issue. Yet I am sure that if they had been asked any one of the individual questions, of which I have just given examples, they would have ranked about at the top of the list. So perhaps those of us fighting the battle have been remiss in not coining a real grabber of a descriptive phrase.

But the time has come, now, for action on the floor of the Senate. So public support is not so important as it is for each one of the Senators in this body to live up to the trust imposed on him, rather than the highway trust fund.

Senator KENNEDY and myself, and in another amendment, Senators COOPER and MUSKIE, have offered amendments that would permit highway trust fund moneys to be used for mass transit systems in addition to highways.

Neither of these amendments are antihighway. The pending amendment would not force the cities or the States to build mass transit systems. Rather, for the first time, transportation decisions would be made by humans living in 1972, rather than a highway trust fund created in 1956.

As I stated before, the Committee on Banking, Housing, and Urban Affairs, in the hearings on this bill, someone turned on the automatic pilot in 1956. The problem is that no one has turned it off in 1972. Even though times have changed, we are still guided by this legal artificiality rather than the realities around us and the decisions made by flesh and blood.

Both amendments state that in diversity rather than in sameness lies the answer to mobility in the United States.

Why this concern from Senators representing such diverse States as Maine, Massachusetts, Connecticut, and Kentucky?

Item: 55,000 men, women, and children will be killed on our highways this year.

Item: 2 million more will be disabled; $14.3 billion will be lost as a direct result of traffic accidents.

Item: 60,000 people are displaced from their homes and businesses each year because of highway construction.

Item: 44.3 percent of all air pollution comes from motor vehicles and causes $8 billion in damage annually.

Item: 70 percent of the national transportation budget for 1973 will be spent on highways while 5 percent will be spent for mass transit.

What is clear is that highways alone, or in overwhelming proportions, are a mobility, environmental, and safety disaster. In fact, we have become a nation of automotive lemmings.

The time for the public to speak is in an election year when Congress has rabbit ears.

The choice, as I see it, is between moving America on for 2 more years—since this is a biennial review—or getting killed by fumes, or cars, or just waiting.

I am reminded of the parable of how not to "cook a frog." If we were to boil a pot of water and drop the frog in, his reflexes would cause him to jump out of the pot, thus saving him from being cooked. On the other hand, put him in a pot of cold water, heat it slowly, and he would eventually be cooked.

In terms of transportation in this Nation, we are the frog—and we had better jump.

Mr. RANDOLPH. Mr. President, as I did last week, I regret that we had to wait to come to grips with this subject again. I told Members of the Senate that the able Senator from Indiana (Mr. BAYH) had conducted a very detailed and thorough hearing on the Highway Act of 1972. Since then he has been assigned to the Appropriations Committee. He is here today, and I would like for him to speak on this subject, and I yield 5 minutes to him for that purpose.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 5 minutes.

Mr. BAYH. Mr. President, the Senator from Indiana, for a brief time, served as the chairman of the Roads Subcommittee. I served at the time this measure was being considered. We heard from some 74 or 75 different witnesses.

I find myself now in the uncomfortable position of opposing my good friend from Massachusetts and my good friend from Connecticut. My position is uncomfortable because we are all trying to accomplish the same goals. Perhaps it is an inappropriate pun to use but whether one wants to go by rail or by highway what we want to do is to find ways adequately to finance a comprehensive transportation system.

The Senator from Indiana salutes both his friends who are the authors of this amendment for the goals they are pursuing, but he has grave reservations about the means which they use. The Senator from Massachusetts was accurate in pointing out what his amendment would do and what it would not do. I think the Senator was very accurate in describing it.

But let me briefly, if I may, ask my former chairman, inasmuch as I am no longer a member of the Public Works Committee, if I may deal with the reasons why I am inclined to oppose the amendment which seeks to reach a salutary goal.

First of all, since my first tenure in the State legislature, I have come head-on with a number of various kinds of new taxes. Every State has them. It just so happens that part of the gasoline tax is a dedicated Federal fund. When anyone buys a tank full of gasoline he has a commitment written into the 1956 Highway Act that a certain portion of that highway tax money would be spent to build highways. It is a user tax. We might say it is out of date. Some people might argue we should not build any more highways but I will not accept that argument.

Mr. President, I think a grave legal question can be raised as long as we presently have that Federal highway commitment under the Revenue Act of 1956 as to whether we can suddenly take funds that are paid in gasoline taxes pursuant to the 1956 act—to be used for programs related to highways—and use it in the rail system that the Senators would make possible under their amendment.

The second concern I have is very closely related to the first, and that is that I share the view of my two friends and colleagues that there is a great need for mass transit. It is going to cost us about $50 billion between now and 1990, according to the reports I have seen.

I am concerned that there are some—and I do not put either of my colleagues in this category—who would like nothing better than to go into the highway trust funds and get all the funds there for mass transit. There are some, I fear, who want to say, "OK. We are giving you some of the highway trust funds. We do not need to give you as many dollars. We must back off." But we will never meet the mass transit needs if we do back off.

The majority of the Congress have not been willing to stand up and be counted as being willing to commit additional funds from the general funds to build this type of needed mass transit.

The Senator from Indiana and the Committee on Public Works thought that the approach which we used was a step in the right direction to get around the legal concern which we had about moving into the highway trust fund and invading the highway trust fund for which dedicated funds had been paid by gasoline purchasers.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. RANDOLPH. Mr. President, I yield the Senator from Indiana an additional 5 minutes.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 5 minutes.

Mr. BAYH. Mr. President, for the first time we provided $800 million in the urban fund. We increased that fund eight times, from $100 million to $800 million. And we give authority to the States and local communities to use that money for mass transit related to highway use. Primarily that would be bus use. We already permit parking lots and bus lanes, but we went further and permitted the purchase of buses. Between now and 1990, I remind the Senate, $13 billion would be required for just bus transportation.

If we can take this money out of the highway trust fund, which we can do in good conscience and legally, it frees that much money from the urban mass transit program—taken from the general fund—which can go into the type of rail system which the two Senators are desirous of funding out of the highway fund.

In addition, Mr. President, I would like to point out that the Public Works Committee permitted for the first time $50 million for rural mass transit.

I think it is important for us to recognize that there are very few cities in America that do not have a need for a bus system. There are very few rural areas where we can get a lot of the unfortunate and underprivileged people to the markets, to the theaters, to the recreation areas and back. We made available for the first time out of the highway trust fund money for this kind of transportation. This has never been done before. I think it can stand the test of legality. And I think there is a real need for the service.

I would also like to point out that we still have significant highway needs. The Senator from Massachusetts in his speech very eloquently talked about these black ribbons, and he described the amount of concrete that has been dedicated for highways and parking lots.

I have not checked the figures. However, I think that we have gone a long way and we have gotten ourselves into some very controversial fixes as far as this is concerned. The Senator was kind enough to point out that we alleviated some of these situations in the bill. However, we still think that we have a commitment to finish the highway system. We have done this in a way which will not force an interstate highway to be driven through a city if the city does not want it. And we have provided funds to go into all types of highway-related public transit.

And this is a significant contribution in that direction. However, any one who has followed the thrust of highway building over the last 20 years knows that it has been interstate oriented. Anyone knows that they can get 9 Federal dollars for each State dollar. Because of that, a number of primary, secondary, and rural roads have been ignored.

I think the time has come when we should provide in the bill a significant increase for primary and secondary roads and urban extensions—for roads that have not been attended to because all of the money has been spent to build this big Interstate System.

Mr. President, I hope that the Senate will give emphasis to changing these roads that have become antiquated.

Mr. President, there is one last point that I would like to mention at the risk of being considered to be a bit proud. I refer to the highway safety sections, which the Senator from West Virginia (Mr. Randolph), the Senator from Kentucky (Mr. Cooper), the Senator from Indiana, and others were responsible for. These sections show that the pending highway bill is one which goes beyond mere concrete.

Mr. President, I would like to read to the Senate the first paragraph, if I might, from an editorial published in yesterday morning's Washington Post. It tells the message better than anything I have seen. It reads as follows:

> It comes as a surprise to many people, but the crime that kills and injures more people and destroys more property than all street crimes combined is drunken driving. Almost half the 55,000 road deaths in the United States last year were due at least in part to alcohol; and it has been shown in previous years that twice as many innocent bystanders are killed by drunken drivers as are killed by robbers, rapists, arsonists and thieves combined. The property damage from accidents attributable to drinking drivers runs at about six times that of the property stolen in all the robberies, larcenies, and burglaries in the country.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. RANDOLPH. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from West Virginia has 19 minutes remaining.

Mr. RANDOLPH. Mr. President, I yield 3 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 3 minutes.

Mr. BAYH. Mr. President, I thank the Senator from West Virginia.

The editorial points out that, although we are concerned about criminals, about muggers, robbers, and rapers, the big killer in America today is not that criminal with a gun that sticks up the corner grocery store. It is that unconscionable fellow that gets behind the wheel of a car and starts driving when he has alcohol in his own tank.

Mr. President, we make a great contribution in the bill to the matter of alcoholism and to meeting a number of other important safety factors.

We authorized $700 million for safety. That means that more than 10 percent of the entire amount is devoted not to building an interstate system, not to building highways, but to try to make the highways we now have safer. Drug addicts, alcoholics, railroad crossings, bridge abutments and other high hazard areas are other topics covered by the bill.

For the first time we have provided the opportunity for studying and surveying a very badly needed program of providing ambulance services. People die on the highways because they get no attention at all. They die before the ambulance gets there or they get the wrong kind of attention when some amateur gets there in an ambulance and gives them the wrong kind of treatment and they die on the way to the hospital. We have plowed back more funds into safety than we ever did before to correct these problems.

I would like to suggest that, although this bill is not perfect, I think we have gone as far as we can to meet legitimate highway needs.

The bill was considered by the Committee on Public Works and by the Banking, Housing, and Urban Affairs Committee. We have made a new major commitment to the very type of rail transit that the Senator from Massachusetts wants. And I, for one, although I oppose his amendment, will march to the very jaws of hell with him to get the kind of money we need from the general fund to develop the kind of mass transit systems he feels is needed and that I feel is needed.

I appreciate the Senator's courtesy. I did not intend to take as much of the Senator's time as I have.

Mr. RANDOLPH. Mr. President, I yield 5 minutes to the able Senator from

Kentucky (Mr. Cooper), the ranking minority member of the subcommittee and the full committee.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. COOPER. Mr. President, I thank the chairman and manager of the bill.

I rise in opposition to the amendment which has been offered by the distinguished Senator from Massachusetts (Mr. Kennedy) and the distinguished Senator from Connecticut (Mr. Weicker).

In doing so I want to say that I know that our objectives are the same, that is, to achieve a more balanced system of transportation, and to move toward curing the awful traffic congestion we find in some areas in most of our States.

I realize that because the Senator from Maine and I have an amendment pending, it might seem that I am thinking only of my own amendment; but I do not think so, aside from the usual amount of pride that all of us have.

Mr. President, I oppose this amendment for the following reasons. I believe we should limit the highway trust funds available for rail mass transit to those funds which are allocated to the urban system as defined in the Highway Act that is, to systems in areas of 50,000 or more population.

To distinguish between the two amendments, the amendment offered by the Senator from Massachusetts and the Senator from Connecticut would permit the use of a total of $2.3 billion annually—$950 million in primary road funds, $500 million in secondary road funds, $50 million in small urban system funds, and $800 million in urban system funds—for rail transit.

The amount which the Senator from Maine and I propose would be $800 million for each of 2 years, each year, that is, only those funds apportioned to the metropolitan areas for the urban system.

It seems to me that is fair, and if it is determined later by the Congress that more funds are needed, more funds could be allocated to the urban system.

Not so much in my own area of Kentucky because we have an on-going system of roads, but in the Southwest and West they have great distances which are almost inaccessible. I recall for example the majority leader, Mr. Mansfield, saying some time ago that Montana would stretch almost from Boston to Washington.

I think that most people throughout the country would recognize that these great areas still need their primary and secondary roads. We need to provide accommodations for rural residents and farmers, the people in small towns and in those areas where there is little need for rail transportation. But we cannot escape the need to begin to help the city.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. RANDOLPH. I yield 2 minutes to the Senator from Kentucky.

Mr. COOPER. Mr. President, great advances have been made in this bill by the Committee on Public Works, under the leadership of Senator Randolph, as I point out in my views in the committee reports. Urban system funds are increased eightfold; the funds are earmarked for each urbanized area according to its population; local officials select the routes on the urban system. The committee bill also provides authority to purchase buses, with the increase in urban funds if the metropolitan areas wish to do so. I believe the amendment is consistent with the committee action; it simply removes the restriction against rail, in use of the urban system funds for public transportation.

There is no conflict between the pending amendment and authorization and commitment of funds for urban mass transportation, because Secretary Volpe went before the Committee on Banking and recommended further authorizations of $1 billion a year for 3 years and that assurance has been incorporated in title III of the bill.

In the Committee on Public Works this amendment was approved by a vote of 8 to 7, and then was later reversed 7 to 8. The bill was referred to the Committee on Banking, Housing and Urban Affairs. There, after further hearings, that committee recommended the Cooper-Muskie measure by a vote of 10 to 0.

Secretary Volpe has written a letter, which is now on the desks of Senators, which strongly supports the use of the $800 million urban fund for rail transit but does not support the pending amendment.

Second, there is still a need in rural areas, particularly in the great West, for primary and secondary roads.

Third, Mr. President, we cannot escape the problems of the city. We cannot ignore the mass transit need.

I live in a relatively small community. It would not have any funds under this amendment, but the metropolitan centers cannot be ignored. Our effort is one to begin to assist these urban areas.

I recognize the purposes of the sponsors of this measure, but I think their proposal goes much too far. I oppose the adoption of the Kennedy-Weicker amendment.

Mr. RANDOLPH. Mr. President, what is the time situation of the opponents and proponents?

The PRESIDING OFFICER. The proponents have 13 minutes remaining and the opponents have 9 minutes remaining.

Mr. KENNEDY. I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 2 minutes.

Mr. KENNEDY. Mr. President, I appreciate the comments of the Senator from Kentucky in recognizing the need in the urban areas of this country. If we are not successful in this effort I intend to support his amendment. It would provide $800 million to the States with the same flexibiilty to allow them to choose whether to spend those funds for highways or mass transit. Ours is for $2.3 billion.

Those who understand the tremendous problems we are facing in our cities recognize they can use these funds overnight for mass transit. And many of those cities are in the heartland of this country, as well as on the east coast.

It is interesting to me to wait for the response of those who oppose the amendment. Why should we not permit the Governors to make the decision on transportation needs in their communities?

There is a concern here that rural areas will not be served. The governors understand the transportation needs best. Rather than having a strict formula, and being dictated to by Congress. I am waiting to hear why the governors are not better equipped to make the decision on the make-up of their State's transportation system.

It is interesting to hear those who feel there is a moral responsibility to those riding the highways and paying into the highway trust fund to assure that it is not used for mass transit.

This bill has already met that issue by making provision for buses. It provides for certain purchases of buses. It provides as well for bicycle pathways. So we are beyond the hurdle of whether these funds should be directed only to highway construction.

If we have such a strong commitment to those urban areas, why do we not have a commitment to assure that the tax resources raised in urban areas are spent in urban areas.

There has been no hesitancy about taking the funds or moneys that are paid by urban residents and use them in the rural communities. There is no hesitancy about that whatsoever. I think what we ought to do is keep our minds on the target, which is serving people, not just modes of transportation. By providing the alternatives in our amendment, we will be serving those who use the highways, because there will be more people riding buses and mass rail transportation and there will be less congestion on the highways. We will thereby be serving the people who use the highways in a more efficient and effective way.

I yield to the Senator from Connecticut.

Mr. WEICKER. Mr. President, I have a great deal of admiration and respect for the Senator from Indiana and know of his interest in mass transit, but I think it is important to comment, in reference to the statement by the Senator from Massachusetts, that this business that those of us who buy our gasoline and pay our taxes are expecting a commitment through highways is a fiction. We want to be able to move. That is what I pay my taxes for when I buy gasoline or pay any of the other money that goes into the highway trust fund. I want to be able to move. At times when I am in my automobile, I want to be able to move, and I cannot do it. At times when I am in an airplane I cannot move, and I want to be able to move. Rail? Almost totally nonexistent. So I think we might as well put that fiction to bed.

In effect, what is being stated here today is that the policy engineered by this Congress in 1956 is binding on all Americans in the year 1972. That is not the way we run the United States of America. We still like to be able to choose, and it is only when choice is taken away and logic does not have to prevail that we get into trouble. That is what in effect the highway trust fund people are arguing for—no more logic. We do not have to have logic to justify our spending. We point to this entity, the vehicle we created in 1956, and say that is logic enough. That is bunk. That is fiction.

A recent article in the Hartford Courant, for September 10, 1972, discusses the mass transit situation in the Hartford area. It reads in part:

> The only significant public reaction to all this impending highway construction has been vehement opposition. Yet there is every indication that the highways will be built, the public's opposition causing only delay and inconvenience in doing the inevitable.
>
> Weicker is hardly alone in his assessment of I-291, but the issue is not—and seemingly never has been—whether to build the highway.
>
> The public has never been given the choice of spending billions to create efficient mass transit rather than building highways. Actually, in most instances, the public cannot even choose whether to build a highway.
>
> Almost inevitably, the public clamor has not been for, but vehemently against, more highways in Connecticut.
>
> Yet the 1972 Connecticut Master Transportation Plan prepared by the State Department of Transportation projects that 92 per cent of the $6.4 billion to be spent on transportation in Connecticut by 1990 will go into highways.
>
> Less than 2½ per cent of the total transportation expenditure is allocated to bus equipment in the plan and less than 1½ per cent is allocated to actual mass transit services.
>
> The people of Connecticut do not want some $5 billion worth of new highway construction in the state by 1990. In many cases they don't even want the new highways now being built.

This is just a case history that can be applied nationally. We are not arguing for the elimination of highways. I understand there are great areas in this country that need them as their primary mode of transportation, but I do not think that the people of Connecticut have to have a Montana solution for a Connecticut problem, any more than the people of Montana have to have a Connecticut solution rammed down their throats.

The Senator from Indiana mentions that 10 percent is going to safety and, somehow, this gives dignity to the legislation. It does not give dignity. It is skirting the issue entirely. It is another 10-percent subsidy by the people of the United States to the individual mode of transportation—to the automobile—because, let me assure the Senate that if we had a decent mass transportation system, with almost no deaths for the number of people traveling over that system, we would not need to spend 10 percent of our money on a safety program.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. WEICKER. I yield.

Mr. BAYH. The Senator has been very kind. I do not want to take much of his time, but I want to point out that much of these additional funds for highway safety is coming 100 percent from the highway trust fund for the first time, so that those who use the highways are paid for their own safety. Prior to this time, as the Senator from Connecticut knows, a significant chunk of it has been coming from the general funds.

I thank the Senator for yielding.

Mr. WEICKER. I thank the Senator from Indiana. The fact is that we are apparently paying this substantial amount of money to save us from ourselves.

I think the point is quite clear. There is no choice right now available to the American public. They are locked in to policies of 1956, even though the circumstances have altered radically.

How well I remember standing on the floor of the Senate several months ago, when the distinguished Senator from Louisiana (Mr. LONG) made the comment, in urging additional highway building, that people who work here in the Capital were having a great deal of difficulty coming into Washington from suburban Maryland and Virginia on the interstate highways, because they were bumper to bumper in traffic jams. That is the whole situation which is before us. Those highways were not meant for commuting into Washington, D.C. They were meant to be interstate highways, but they are being used as commuting arteries, because there is no mass transportation system. So, in fact, the failure to provide for mass transit has itself hurt the effectiveness of the interstate system. The problem is balanced transportation.

It is in fact true that over the years we have been able to move long distances in faster times, and yet when we reach our destinations——

The PRESIDING OFFICER. The time of the Senator is expired.

Mr. WEICKER. May I have 1 more minute?

Mr. KENNEDY. I yield 1 minute to the Senator.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. WEICKER. And we reach our destination and are subject to short and intermediate travel, there the time has actually increased over the years, so the net result is a longer time on the trip.

I would hope that for all the reasons I have cited—life and limb, environment, mobility—we will bring about a balance to our transportation spending here in this country.

The PRESIDING OFFICER. Who yields time?

Mr. RANDOLPH. Mr. President, again may I inquire what the time situation is?

The PRESIDING OFFICER. The Senator from West Virginia has 9 additional minutes.

Mr. RANDOLPH. What do the proponents have?

The PRESIDING OFFICER. The proponents have 3 additional minutes.

Mr. RANDOLPH. Mr. President, perhaps it is the proper time to read into the RECORD of this debate the words of the Secretary of Transportation in a letter addressed to me, a like letter being addressed to the Senator from Kentucky (Mr. COOPER). I read only the part of that communication that is pertinent to the pending amendment. The following words were written by Secretary John A. Volpe:

> The Kennedy-Weicker proposal would make every noninterstate highway program, primary and secondary as well as urban, eligible for financing rail rapid transit. Such a step could in some States lead to the diversion of primary-secondary highway funds into subway construction in our major cities, a step not conducive to a balanced transportation approach.

Mr. President, I value, of course, the counsel of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Connecticut (Mr. WEICKER) in connection with their amendment. I think it is important to say that we have in this bill brought to the Senate an approximate balance of 50-50 in connection with the allocation of highway funds to urban areas of the country, and to the more rural areas of the country.

We have thought in terms of a balanced program. I think it is also necessary to say that there are today in this country millions and millions of persons who are moving, in any 24-hour period, by means of motor vehicles of one type or another.

Some of the remarks—and I say this in all good humor—would seem to indicate that there is a stoppage of transportation in this country, that the buses, the trucks, and the cars are not moving; they are just standing without any mobility.

Of course, that is in error. There are hundreds of thousands of children who are moving from their homes to their schools through bus transportation every day in this Nation. There are, of course, the products of the farms and the fields—hundreds of trucks in Connecticut, thousands of trucks throughout the country, bringing to the market, to the consumer, the necessary foodstuffs that are a part of our very existence.

There are the products of manufacturing firms throughout all of America, moving constantly by highway transportation in this country.

I recognize, of course, what the able Senator from Connecticut has said: There are times of frustration. There are times, very frankly, when the Senator from Connecticut would be frustrated in using the rail transportation from the New or Old Senate Office Building to this building, because there are certain times when more persons are traveling than at other times.

Actually, the time of congestion is but a small part of a 24-hour day. Remember, the products of the farms are moving to the cities during the night. Remember, the products of manufacturing firms are moving to the cities during the night. Remember that those roads are being used 24 hours a day.

I say once again that we have made very real advances in this legislation, working, as the Senator from Kentucky (Mr. COOPER) has said, to meet transportation needs on a balanced basis.

Mr. President, the Federal Aid Highway Act of 1972, makes important changes in our national highway program. It reinforces the belief of the committee that the highway program and public transportation are inseparable. The involvement of the Federal aid program in providing public transportation systems is greatly expanded by this bill by permitting expenditure of urban system funds for a variety of public transportation purposes, including the purchase of buses.

The amendment exceeds the bounds of what is either feasible or right in committing highway revenues to public mass transit activities. It would make funds apportioned to all highway systems, except the Interstate System, available for public transportation purposes, including fixed rail.

The committee rejected a plan to commit highway funds to fixed rail. Such action was taken on a proposal even more modest than that contained in the amendment now before us.

There is also considerable doubt as to our authority to take such sweeping steps in this legislation. The highway trust fund was created by the Highway Revenue Act of 1956. Section 209(i) of that act explicitly designates these funds to be used only for Federal aid highways. This limitation was written into the act by the House Ways and Means Committee and the Senate Finance Committee, which developed that legislation.

The committee believes that its proposals relative to public transportation are consistent with the requirements of the Highway Revenue Act, in that we authorize expenditure of highway funds only for public transportation that is related to highways and the highway program.

It is questionable that we spend highway trust fund revenues on fixed rail transit without appropriate modification of the Highway Revenue Act.

Urban mass transit falls within the jurisdiction of the Senate Committee on Banking, Housing and Urban Affairs. That committee has considered portions of S. 3939 relating to public transportation and has amended that bill to authorize an increase of $3 billion in authorizations for the capital grants program of the Urban Mass Transit Administration.

We provided funds for improved bus transit because this is the way in which urban areas can most quickly alleviate their mass transit problems. I remind the Members of the Senate that 67 major metropolitan areas have included the curtailment of motor vehicle traffic in their plans to reduce air pollution in the next few years. Public transportation obviously must be expanded if this curtailment is to be effective. The only way that public transportation can be expanded within these time constraints is by buses; and S. 3939 as reported provides the means to place these buses on the streets.

I am also concerned that many people apparently are under the delusion that opening the highway trust fund to rail rapid transit would permit rail systems to come into being virtually overnight. This, of course, is not the case. Rail systems require long leadtimes for planning and construction. The resources of the highway trust fund are not infinite. We must remember that even if we could use these funds for rail transit, this country still has substantial needs for highways that must be met.

This amendment, I remind Senators, would open funds for all categories of highways, except the Interstate System, to mass transit construction. This means that funds authorized for rural highways conceivably could be used for subways. The basic fairness of such an approach obviously must be questioned. Equity demands that, if this approach is taken, subway funds should also be made available for rural highways.

A major thrust of S. 3939 is to bring authorizations for rural and urban highway transportation into balance. We must also attempt to achieve a balance between the various modes that comprise the total transportation system on which we rely.

Funding for the urban mass transit program is now approximately $1 billion per year. Recommendations of Secretary Volpe that were adopted by the Banking Committee would add $1 billion to the existing annual level. The Federal Aid Highway Act of 1972 authorizes $800 million a year for urban highways and permits the use of any or all of this money for public transportation purposes. Therefore, existing mass transit law and the provisions of S. 3939 could result in as much as $2.8 billion being available each year for public transportation. This is in addition to any operating subsidies that might be provided.

Mr. President, it is important to remember that the issue we face in providing a balance transportation system is not one of highways or mass transit. We must have both. Mass transit needs in urban areas are substantial. We acknowledge that and we are acting to provide the needed facilities. At the same time, urban highway needs also are great and we must retain the available resources also to provide these roadways so that they, too, may serve as part of the public transportation system.

Mr. President, the adoption of this amendment would not be in the best interests of either the mass transit or the highway programs. I urge Members of the Senate to look at the broad picture as they vote on this proposal and that they vote "no."

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. We have 3 minutes left, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. I yield a minute and a half to the Senator from Connecticut.

Mr. WEICKER. Mr. President, I just require 30 seconds to be taken from the time for a question of the distinguished chairman, the Senator from West Virginia (Mr. RANDOLPH), as to whether or not it is his intention to follow the admonitions of the Secretary of Transportation, John Volpe, all the admonitions, contained in the letter he has read. The Senator has read an admonition against the Kennedy-Weicker proposal, which is fair enough, but I believe there are other admonitions; would it be the intention of the distinguished Senator from West Virginia to go along with the other admonitions contained in that letter?

Mr. RANDOLPH. I shall discuss those, of course, if and when such proposals are before the Senate. I do not know that they will even be before the Senate. But I shall read the pertinent portion at that time.

Mr. KENNEDY. Mr. President, all of us are clear that the farm products of West Virginia, of Montana, or of Arizona travel across the roads. Let the people in those States make the decision. But in Massachusetts, if our Governor decides, or the Department of Transportation decides, that in order to develop a balanced transportation system we need to add more rail transportation, why should that be prohibited? This amendment would eliminate that prohibition.

All the money could be spent in the urban areas today on urban highways, if the Governor decided to do it. He will be subjected to the same pressures with this amendment as he is at the present time.

As we have pointed out, the amendment does not affect the formula allocating the amount of money that will go to any of the States. All it does is permit the Governors of those States to respond to the need for a balanced transportation system. That is what is needed in many parts of the country, and I for the life of me cannot see why we should not give that option to the Governors of the States, who understand the transportation needs of their States much better than a formula developed here 16 years ago.

Mr. CHURCH. Mr. President, will the Senator yield for a question?

Mr. KENNEDY. I yield.

Mr. CHURCH. Can the Senator assure me that under his amendment the amount of money presently allocated to the State of Idaho under the existing formula would not be reduced?

Mr. KENNEDY. The Senator is exactly correct. It would not be altered or changed in any respect.

Mr. CHURCH. All States would get fully as much, but it would be left to the States to decide how it was to be used?

Mr. KENNEDY. The Senator is correct.

Mr. CHURCH. I thank the Senator.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. RANDOLPH. Mr. President, I have time remaining.

The PRESIDING OFFICER. Yes, the Senator has time.

Mr. KENNEDY. Mr. President, I ask unanimous consent that a letter from the Deputy Comptroller General be printed in the RECORD at the conclusion of my remarks. This letter specifies the legitimacy of my amendment to permit funds to be used for mass transit by amending the Federal Highway Aid Act, without the necessity of amending any other legislation.

There being no objection, the letter

was ordered to be printed in thte RECORD, as follows:

WASHINGTON, D.C.,
September 19, 1972.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: You have informally requested our opinion as to whether your Amendment No. 1482, dated September 6, 1972, intended to be proposed by you and Senator Weicker to S. 3939, which, if enacted, would be cited as the "Federal-Aid Highway Act of 1972," would authorize the use of the Highway Trust Fund for the acquisition and construction of rail facilities.

It is our opinion that Amendment No. 1482, if enacted, would authorize, except with respect to the Interstate System, the appropriation of Highway Trust Fund monies for the acquisition and construction of rail facilities.

Sincerely yours,

ROBERT F. KELLER,
Deputy Comptroller General of the United States.

The PRESIDING OFFICER. The time of the Senator from Massachusetts has expired.

Mr. RANDOLPH. Mr. President, how much time have I?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. RANDOLPH. Mr. President, the able Senator from Massachusetts should remember that, in the Commonwealth which he ably represents, the Bay Area Transportation Authority has drawn up a careful funding plan assigning about 75 percent to highway needs—this is Boston, remember, not some remote rural area of Massachusetts—and 25 percent to rails, the rail funds, of course, coming under the urban mass transit program.

I remind the Senator from Massachusetts, and Senators from any State, that we need every dollar in the highway trust fund now and to be collected in the future to complete the highway system which was begun in the United States of America by the passage of the 1956 act.

Mr. President, if we bring this amendment into being and it is taken to conference with the House of Representatives, we will absolutely forfeit all of the progress made by the Committee on Public Works in the Senate, which has moved now, as it did 2 years ago and 4 years ago, to meet the balanced transportation needs of this country.

Mr. MATHIAS. Mr. President, we are an urban nation. Nearly three-fourths of our population—73.5 percent, according to the latest census—lives in urban areas. And it is in these urban areas where our most vexing surface transportation problems exist.

More than 150 years ago, the English poet Shelly wrote of his nation's capital, "Hell is a city much like London—a populous and smoky city." Were he alive today, what would Shelley say of conditions in some of our cities?

We may not have the thousands of wood and soft coal fires burning day and night which characterized Shelly's London; we choke instead on the traffic and fumes of the internal combustion engine.

Traffic problems may not be new. Nearly 50 years ago Thomas Mann wrote of "funeral processions, their dignity curtailed by present-day traffic conditions."

But in volume, in severity and in sprawl, the problems of urban traffic and the air pollution produced by it reach new levels of magnitude each year. As the committee notes in its report, at least 67 of our metropolitan areas—in well over two-thirds of the States—must curtail motor traffic as part of an overall strategy to reduce the dangers of air pollution to public health.

How many of us, whether here in Washington or in the population centers of our home States, are all to familiar with the experience of taking twice as long to drive a particular route in the rush hour as it takes at an off-peak time? We can no longer tolerate the wasted time, wasted resources and air pollution which traffic congestion has created, particularly in our largest cities. We must provide attractive alternatives in fast, clean and efficient public transportation. In some cities this will be best accomplished by improving existing bus operations through the purchase of new equipment, the refurbishment of old equipment, the construction of special bus lanes and the like. In many of our largest cities, engineers and local officials have determined that rail rapid transit, augmented by an efficient bus feeder system, will form the most efficient public transportation system.

Seventeen such systems, combining rail rapid transit and bus service, are either in existence or in planning. Two of these systems are in my State of Maryland, where nearly 80 percent of the population lives in the Baltimore-Washington metropolitan area. Others, old and new, are scattered across the country from Boston to San Francisco.

The Public Works Committee, under the chairmanship of the distinguished senator from West Virginia, has brought forth important new legislation in this area. In 1970, the committee recommended and the Congress enacted legislation creating the Federal-aid urban highway system. The committee also recommended and the Congress enacted legislation authorizing the use of specified highway funds for the construction of such transit-oriented facilities as exclusive or preferential bus lanes, passenger loading facilities, and fringe or corridor parking areas.

In the bill before us today, the committee has recommended expanding the availability of Federal-aid funds to include the purchase of passenger equipment for bus service at 100 percent Federal cost. This is a much-needed provision and will be most welcome to our small and middle-sized cities in their struggle to maintain and improve their bus lines. However, by denying our largest cities the discretion to use these funds for rail rapid transit facilities, we discriminate against the areas where the traffic problems are worst.

Baltimore, the Nation's seventh largest city is, like other cities of comparable size, choking to death on its traffic jams. The people who have to use streets, whether in private cars or commercial vehicles, are suffering serious delays. The people who would use fast public transit if it were available have no alternative.

Maryland's State Department of Transportation is ready to embark on construction and equipping of the first phase of a rapid transit master plan for Metropolitan Baltimore. This first route, running from the historic Inner Habor commercial area to the city's northwestern border, will cost more than $400 million. Extensions of this route and construction of additional routes will cost hundreds of millions of dollars more.

The people of America's urban areas are not divided neatly into road users and transit users with entirely separate interests. Many motorists and their families have occasion to use mass transit and might well use it more if we had better transit systems. If they do not use mass transit, motorists at least benefit from the traffic relief that mass transit affords them. Transit users, in their turn, help to support roads—if not directly through a gasoline tax, then indirectly through the added expenditures which accompany heavy traffic and the additional taxes that must be raised when urban expressways take millions of dollars of assessable properties off the tax rolls and displace businesses, jobs, and other taxpayers.

We live in a complex society in which each of us has a stake in the development of efficient means of moving goods and people, whether on rubber tires or flanged wheels. We must recognize this by allowing our urbanized States and our great metropolitan areas flexibility in use of these funds.

We cannot allow policy decisions which may have been valid in the past to keep us, literally, locked in concrete as we face the transportation problems of today.

Our cities, particularly our great metropolises such as Washington and Baltimore, must have truly balanced transportation modes if we are to improve the quality of life therein. Buses, rapid transit, commuter railroads, and any of dozens of innovative ideas now just coming off the drawing boards may have a part in the transit system of the future. Let us loosen the restrictions on these funds so that local decisions on transportation modes will be made on the basis of sound engineering and public policy considerations, not on the basis of restricted access to Federal aid.

The integrity of the highway trust fund is not an issue here. By earmarking authorizations for specific Federal-aid systems, the legislation before us assures that States needing to build or improve their primary and secondary highway systems will continue to receive their fair share of available funds. What we must do, however, is give the State and local officials who must cope with transportation planning in our major cities the maximum flexibility in meeting the public's needs, both now and in the future.

Mr. BIBLE. Mr. President, I rise in opposition to this amendment.

I am also deeply concerned over—and opposed to—those features of the committee bill that would not only permit extremely heavy inroads into the highway trust fund for mass transit and transit-related purposes but would also mandate the expenditure of highway dollars for transit-related purposes irrespective of local priorities.

I want to make it very clear that I am not insensitive to the problems and needs of mass transportation in our urban areas. On the contrary, I recognize that urban transit systems—bus or rail—are no longer able to meet their capital investment requirements, in most places, from the fare box.

I favor, and have favored, the Congress acting in the public interest, making Federal funds available to help relieve this problem and enable the public to enjoy the convenience of modern public transportation which is so badly needed in our urban centers. My interest in and support for the Urban Mass Transportation Act, and the part I played in formulating the rail transit program for the National Capital Area demonstrate my concern for mass transit. My position is that money for urban transit should not come from the highway trust fund.

The interstate construction program is already far behind its originally targeted completion date—1972—and many thousands of miles of our other highways require badly needed modernization.

In my judgment, it is highly unwise to authorize major diversions of highway trust funds for nonhighway purposes when the urgent job of completing the Interstate System and bringing our other roads up to modern standards is only partly done.

Despite numerous misleading reports, there is no huge surplus in the highway trust fund. There are periodic balances of receipts over expenditures, but there is no surplus.

The so-called Cooper-Muskie amendment would allow urban areas to divert up to $800 million away from the trust fund for mass transit projects.

The so-called Kennedy-Weicker amendment would broaden the bill to allow $2.3 billion in noninterstate highway funds to be used for mass transit.

The committee bill itself would permit diversions of a minimum of $350 million—and possibly more than $850 million in each of the next fiscal periods—for the purchase of buses and bus transit facilities.

Mr. President, entirely aside from the fact that such proposals are contrary to the Congress' original and continuing dedication of trust fund dollars to highway purposes, this would be robbing Peter to pay Paul.

I say again—there is no huge surplus in the trust fund. And what there is is vitally needed for the essential national highway program.

The rail rapid transit program for the National Capital region alone now bears a price tag of well over $2 billion.

Transit development programs elsewhere will be similarly expensive.

I do not question the need for such improvements. I do question the capacity of the highway trust fund to bear the financial burden.

The task of the Congress is to respect the original commitment of the trust fund to highway purposes. If we do not, if we approve the massive diversions of funds being sought now, we run the risk of seriously impairing the highway program without achieving any significant gains in high-capacity rail rapid transit.

The further task before the Congress is to identify and cultivate new sources of financial assistance for mass transit.

The administration's commitment to a continuing, separate urban mass transit fund by requesting $3 billion in additional grant authority for the Urban Mass Transportation Administration is a step in the right direction.

The Congress should continue to develop new revenue sources for transit. We should not divert the highway trust fund.

If we do, if we open the door to the massive diversions now being proposed, we will run the further risk of creating a condition where the Urban Mass Transportation Administration may itself become dependent on the highway fund.

We will run the risk of tempering the effort that should be made to generate alternative revenue sources to meet those requirements.

To permit this kind of diversion to take place would be a disservice not only to our national highway needs but to our urban transit needs as well.

I urge that the amendment be rejected.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from Massachusetts (Mr. KENNEDY). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BEALL (when his name was called). On this vote I have a pair with the Senator from Texas (Mr. TOWER). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. MANSFIELD (after having voted in the negative). On this vote I have a pair with the distinguished Senator from Rhode Island (Mr. PELL). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from North Carolina (Mr. JORDAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PELL), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Mississippi (Mr. STENNIS), the Senator from Iowa (Mr. HUGHES), and the Senator from Wyoming (Mr. MCGEE) are absent on official business.

On this vote, the Senator from Iowa (Mr. HUGHES) is paired with the Senator from Mississippi (Mr. STENNIS).

If present and voting, the Senator from Iowa would vote "yea" and the Senator from Mississippi would vote "nay."

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Oklahoma (Mr. BELLMON), the Senator from Delaware (Mr. BOGGS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The Senator from Colorado (Mr. DOMINICK) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Colorado (Mr. ALLOTT) and the Senator from Delaware (Mr. BOGGS) would each vote "nay."

The pair of the Senator from Texas (Mr. TOWER) has been previously announced.

The result was announced—yeas 18, nays 60, as follows:

[No. 457 Leg.]

YEAS—18

Brooke
Case
Church
Cranston
Harris
Hart
Inouye
Javits
Kennedy
Long
Mathias
Nelson
Packwood
Proxmire
Ribicoff
Scott
Tunney
Weicker

NAYS—60

Aiken
Allen
Anderson
Bayh
Bennett
Bentsen
Bible
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
Cook
Cooper
Cotton
Curtis
Dole
Eagleton
Eastland
Edwards
Ervin
Fannin
Fong
Fulbright
Gambrell
Griffin
Gurney
Hansen
Hartke
Hatfield
Hollings
Hruska
Humphrey
Jackson
Jordan, Idaho
Magnuson
McClellan
McIntyre
Miller
Mondale
Montoya
Muskie
Pastore
Pearson
Percy
Randolph
Roth
Saxbe
Schweiker
Smith
Spong
Stafford
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Williams
Young

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Beall, for
Mansfield, against

NOT VOTING—20

Allott
Baker
Bellmon
Boggs
Brock
Cannon
Dominick
Goldwater
Gravel
Hughes
Jordan, N.C.
McGee
McGovern
Metcalf
Moss
Mundt
Pell
Sparkman
Stennis
Tower

So the Kennedy-Weicker amendment (No. 1482) was rejected.

BICYCLES: A VIABLE MEANS OF TRANSPORTATION

Mr. BROOKE. Mr. President, one of the hopeful developments in the transportation field has been the increasing recognition and use of bicycles. Today, there are more than 50 million bicycles in use, and each day thousands of Americans are discovering the benefits of bicycle riding.

The bicycle is not a new vehicle. It was invented early in the 19th century and was used as an alternative form of transportation through the "horse and buggy" era. Today its increasing use is of no surprise to the millions of children who have long found it a convenient means of transportation to school or recreation after school.

As our city arteries become clogged with automobiles, and as mass public transportation is, in most cases, unable to fill the demand, more Americans are turning to bicycles for daily transportation.

Bicycles have many advantages over automobiles. They are cheaper to purchase and maintain. They provide a highly beneficial form of exercise. They take up little space. And in city traffic, they can often move quicker than automobiles.

What is probably more significant, they contribute absolutely no air or noise pollution. At a time when 60 percent of the air pollution by volume in America is emitted by automobiles, the bicycle stands as an important means of resolving our environmental problems. This is particularly true in the cities, where the percentage of pollution that is caused by automobiles is as high as 80 percent.

Therefore, I believe that all levels of government must encourage expanded use of bicycles through an accelerated construction of bicycle facilities and a clarification of the rights and responsibilities of bicyclists.

To their credit, the Departments of Transportation and the Interior last year initiated a concerted effort to promote bicycling, both from the recreation and the transportation perspectives. Transportation Secretary John Volpe has ordered the Federal Highway Administration to explore the feasibility of establishing bicycle commuter routes in metropolitan areas. In addition, Federal agencies have stepped up efforts to provide bicycle racks at Federal buildings, bike parking in transportation terminals, and research into vandalproof racks.

To me, the most important development in bicycling is contained in S. 3939, the Federal-Aid Highway Act of 1972, now before the Senate. I enthusiastically support the provisions of this measure which makes available Highway Trust Fund moneys to help finance the construction of separate or preferential bicycle lanes or paths, bicycle shelters and parking facilities, and the installation of bicycle traffic control devices.

This exciting new dimension in our highway program offers new hope that we shall not be wedded to old modes of transportation when new alternatives are available.

To stimulate State initiatives, S. 3939 authorizes $10 million for each of the fiscal years 1974 and 1975 to be apportioned to the States on a formula basis to fund bicycle projects. I am confident my fellow Senators will support these essential steps in establishing a national program to accommodate tens of millions of American bicyclists. I am hopeful similar legislation will be approved by the House of Representatives.

While the momentum for transportation balance through bicycling picks up, much more still needs to be done.

On the local and State level, for example, there needs to be a better-defined and more unified program for registering, licensing, and insuring bicycles and their users. If we are committed to the development of bicycling as an integral part of our balanced transportation system, then we must provide for orderly legal protection of bicyclists.

Greater attention must also be paid to bicycle safety. According to the National Safety Council in 1971, there were 850 bicycle deaths in traffic accidents and an additional 40,000 injuries. This is in addition to hundreds of thousands of injuries which children suffer each year in bicycle-related accidents.

A large part of the answer to the safety program in bicycling, as is true with all vehicles, lies in better education of the bicyclist. Every rider should be thoroughly familiar with ordinary rules of the highway before riding a bicycle. The danger to a neophyte bicyclist traveling down a heavily used thoroughfare obviously cannot be overstated.

Also, bicyclists should pay regular attention to the maintenance and safety of their vehicles. Pedals, brakes, and gears should be regularly inspected. Tires should be inflated to proper level. The seat should be comfortable. Persons who use their bicycls after dark should make sure they have adequate lights and reflectors so that they can both see and be seen. Perhaps it may be necessary to extend State licensing procedures to all bicyclists using the highway system.

The Federal Government should also encourage research and development of safer bicycles and safer conditions for their operations. Regrettably, there has been only sparse research on the potential role bicycles can play in our transportation network. Despite the fact that the bicycle is over a century old, little real progress has been made in expanding the use of the bicycle in our industrial society. By contrast it is interesting to note that many of the highly populated Asian and European countries have long used bicycles to full advantage. In many countries they are, in fact, the primary means of private transportation.

I hope that in the next Congress we shall expand on recent initiatives to develop safer and exclusive bicycle lanes in urban areas, and to encourage greater development of bicycle trails in rural areas on our offshore islands and in our national parks. Our on-going reorientation of our national transportation policy must certainly include an active role for bicycles.

If we do truly believe in balanced transportation and the goal of enabling people to move about freely and without undue burdens, then it is clear that the bicycle offers untapped opportunities for easing the present commuting crisis in many communities. I pledge my own commitment to an acclerated national bicycle program, and urge that we proceed "four-speed" ahead.

Mr. SCHWEIKER. Mr. President, section 125 of the pending bill, S. 3939, broadens the provisions of section 137, title 23 United States Code to permit the Federal support of parking facilities which impose parking fees for use of the facility which would include the amortization of the cost of construction of the facility borne by the non-Federal share of the project. Only fees to finance the cost of operation and maintenance are now authorized. Is the intent of section 125 of the pending bill to encompass the entire range of Federal aid for parking facilities under the Federal-Aid Highway Act? For example, would this provision apply to a project under the Federal-aid TOPICS program—traffic operation program to improve capacity and safety—which seeks to alleviate vehicular congestion on the streets and highways of a community located within the Standard Metropolitan Statistical Area of Philadelphia, Pa.?

Mr. RANDOLPH. Under the bill, fringe and corridor parking facilities would be able to use parking fees to also finance liquidation of financial obligations of the local share of construction as well as maintenance and operations of the facilities. Although TOPICS will be included within the urban Federal-aid highway construction program as provided by the bill rather than continue as a separate program, section 125 changes Federal aid requirements for parking facilities and it would be applicable in the example you outlined. The committee feels by virtue of this change that as a matter of public policy local efforts to recover capital expenditures for public parking facilities in an urban system through the charging of user fees will not preclude Federal support of such projects.

Mr. BEALL. Section 118 of the bill amends section 122 of title 23 of the United States Code to provide, in the case of the Interstate System, for repayment to the States of an amount equal to the principal and interest of bonds issued by the State, the proceeds of which were used to construct projects on the Interstate System. Where this authorization now permits the repayment of interest, is it to have retroactive application and if so, to what extent?

Mr. RANDOLPH. Yes, the newly permitted interest repayment provision is to have retroactive application to the extent of current projects which may have begun before this bill became enacted. "Current projects" means specifically projects on the Interstate System with regard to which payments are still being made. Where, in fact, construction may have ended but debt service on the bond is still going on, the project shall be considered a current project.

Mr. BEALL. Section 111 of the bill contains language at line 7 of page 17 which we believe implies an unintended limitation on the potential location of a substituted essential connection of the Interstate System. The use of "the" preceding "essential connection" on that line seems to imply that a substituted route would have to connect the same points as the withdrawn route was to connect. This would raise the practical problem of having to build a route parallel and adjacent to, if not nearly identical with, a route which was withdrawn for presumably real and practical reasons. We believe that the creation of such a potentially impossible situation was not intended.

Mr. RANDOLPH. We believe your point is a valid one. It was not intended that a substitute essential connection of the Interstate System be limited in this way. The substituted route must merely be found to constitute an essential connection. We believe there should be a technical change in the bill to delete "the" as pointed out and insert "an".

Mr. BAYH. Mr. President, I am pleased to rise to support the proposed Federal

Aid Highway Act of 1972, S. 3939. This is a sound and a progressive piece of legislation, which is responsive to the highway transportation needs of the entire Nation, urban, small urban, and rural areas alike. The basic framework of the bill was developed in the Roads Subcommittee while I was privileged to serve as subcommittee chairman. The subcommittee's suggestions were largely accepted and in some instances perfected by the full Public Works Committee, under the distinguished leadership of Senator RANDOLPH, whose experience and wisdom in these matters is respected by all.

As chairman of the Subcommittee on Roads, I presided over 8 days of hearings, during which we heard from 75 witnesses on the future of the highway program. We heard a wide variety of opinions, on every possible side of the issue. Our job was to resolve the competing views and produce a highway bill which best served the interests of all of our citizens. I believe that is what the committee has done.

I would like to touch briefly on what I believe are the highlights of the bill we are now considering:

Interstate System: The bill contains a recommitment to the completion of the Interstate System which, since 1956, has been the principal highway activity of the United States. The time for the completion of the system has been extended in recognition of the fact that our original goal of 1972 cannot be reached. Annual appropriations of $3.2 billion are authorized for this system through fiscal year 1979, as recommended in the 1972 National Highway Needs Report to Congress. If this and future administrations will obligate the full amount authorized, and release funds previously impounded, it is the committee's expectation that final interstate obligations will be made in 1980 and construction completed by 1982.

The bill contains a mechanism for resolving the disputes over the construction of interstate highways in a number of urban areas. Many of these disputes involve location problems or environmental considerations. To facilitate the resolution of these disputes and the completion of an interconnected Interstate System, the bill would allow States to substitute alternative segments with the consent of local governments concerned, subject to the approval of the Secretary. In designating alternative segments, dollar-for-dollar substitution of interstate mileage rather than mile-for-mile substitution would be permitted for each project. If no alternative segment would be necessary to assure a connected system, or if the cost of the alternative segment would be less than the cost of the original segment, the funds for the original segment, or the difference in funds between the original segment was withdrawn to carry out projects on the urban system, including highway-related public transportation purposes. This section of the bill helps speed completion of the Interstate System as originally envisioned, so that other highway needs can be funded, and equally important it will help solve the environmental and transportation problems many urban areas face.

Highway public transportation: In urban areas across the country—in Indiana as well as New York, in Alabama as well as California—local government officials believe that in many instances their highway transportation needs could better be met, consistent with protection of the environment, by public transportation instead of building of new roads. To deal with this problem, I suggested to my colleagues on the subcommittee, and they agreed unanimously, that urban areas should be permitted to use money apportioned to them—a total of $800 million across the Nation—for traditional highway purposes or for highway public transportation.

Highway public transportation includes the construction of exclusive or preferential bus lanes, passenger loading facilities, and fringe or corridor parking lots, as now permitted, with certain restrictions, under existing law; and it also includes, for the first time, authority for the purchase of buses, for which the Federal share will be 100 percent. To recognize the need for highway public transportation in rural areas, the bill permits funds in the secondary system—$500 million—to be used for these purposes, where needed. Of course, nothing in the bill would force any community to use its highway dollars for highway public transportation; but, if such a need exists, this bill makes funds available to meet it. However, Federal money from the Highway Trust Fund will not be available to purchase subway or other fixed rail systems or for passenger equipment for these systems.

I wholeheartedly support this provision of the pending bill for several reasons. First, there is an urgent need for bus transportation in large and small urban areas—and some rural areas—across the country. While few cities are large enough to support fixed rail systems, virtually all cities have a need for highway public transportation. In my own State, for example, Richmond, Fort Wayne, and Lafayette, among other cities, have pending applications for assistance in purchasing bases. Second, permitting urban areas to use their Highway Trust Fund money in this way is fully consistent with the origin and purpose of the Trust Fund. Under law, disbursements from the Trust Fund can be made only for expenses "which are attributable to Federal-aid highways." Highway public transportation expenses certainly meet this requirement, for buses and bus lanes and the like will significantly increase the capacity of the Federal-aid highway system.

Thus, this provision is of direct benefit to the highway users whose tax contributions make up the Highway Trust Fund, for highway users will be able to travel in their own cars faster and safer—or use a bus, if they prefer. Third, the use of Trust Fund money for highway public transportation purposes will have an immediate and positive impact on the environment, and it will assist many cities in meeting the requirements of the Clean Air Act. Fourth, the assistance provided for highway public transportation will be a valuable supplement to the assistance provided for bus and rail systems by the Urban Mass Transit Administration, which is funded by general revenues. I emphasize that these funds are supplementary—the needs are so great that highway funds cannot and should not be a substitute for UMTA funds. Finally, the use of this money for highway public transportation will help the young, the poor, and the handicapped who have special transportation problems.

Highway safety: I am pleased to report that the pending bill contains, almost intact, the proposal I made for increasing and expanding our highway safety programs. Every year more than 55,000 persons lose their lives, about 2 million are injured, and more than $13 billion of property damage suffered on our highways. And, despite our efforts, the statistics received so far indicate that 1972 may be the worst year in history. To combat this carnage, the bill markedly increases the funding of State safety programs, the first and best line of attack on the problem. The bill also authorizes complete funding of the safety section out of the Highway Trust Fund—for what could be more highway related than highway safety? And the bill places priority on the intoxicated drive, the "single most important highway safety issue" we face, by requiring States to comply with existing Federal standards in this area and by authorizing new standards relating to enforcement and punishment or treatment of intoxicated drivers. The bill also directs the Department of Transportation to do research into the relationship between highway safety and drug use, and to investigate and report on the possible use of administrative adjudication to replace traffic courts. And, finally, the bill established two new, important programs: one to eliminate existing highway dangers, such as high hazard locations and railroad grade crossings; and the other to provide emergency medical care to victims of highway accidents.

According to Howard Pyle, president of the National Safety Council, automobile accidents "remain the largest violent threat to life in the United States." This bill takes a giant step toward making that not so.

Alternative procedures: Because of the leadership of the chairman of the committee, Senator RANDOLPH, the pending bill contains provisions for alternative Federal-aid highway procedures. These provisions will increase the authority of qualified States to handle their own highway programs without project-by-project Federal review. These procedures will eliminate the frustrating redtape which in the past has delayed completion of many important and needed highway projects. And these new procedures will prevent the impounding of highway funds which has also delayed completion of many important and needed highway projects. And these new procedures will prevent the impounding of highway funds which has also delayed completion of many projects. At the same time, it should be emphasized, this section of the bill in no way affects the responsibility of the Secretary of Transportation under such crucial national legislation as the National Environmental Policy Act, the Civil Rights Act, and other public laws. And this section of the bill creates a new procedure by which interested members of the public can obtain adjudication of complaints about highways before the Secretary of Transportation—a procedure which has never been available before.

Mr. President, there are many, many other important provisions in the pending bill, all of which are worthy of our support. The bill recognizes that there are tremendous highway needs off the Interstate System, and authorizes increased funding for rural primary and secondary roads. The bill also recognizes that the small urban areas in this country, those with populations between 5,000 and 50,000—and there are many in my State—have particular problems which existing programs do not deal with sufficiently. So a new small urban system of highways is created, with flexibility for these areas to use the money apportioned for them for highways or highway public transportation. And the bill recognizes that a few urban areas of the country have particular highway needs which are not now met, by establishing a Special Urban High Density Traffic Impact program. This program will be available only when certain very specific conditions, designed to protect the environment and to prohibit imposing on residential and recreational areas, are met. I hope that this program will provide a means for completing the Cline Avenue Expressway in Lake County, Ind., thereby relieving an extremely serious commuter and industrial bottleneck. Finally, the bill contains important new provisions for bicycle lanes and for increased public participation in highway decisions.

As amended on the floor, the bill also contains provisions, recommended by the Committee on Banking, Housing, and Urban Affairs, which increase the Federal share of urban mass transportation grants to 90 percent, authorize $800 million for grants and loans for operating expenses, and provide an additional $3 billion in contract authority to continue the program through fiscal year 1977. All the money in this program comes from general funds. I have enthusiastically supported these provisions for some time, and I am glad the Senate has attached them to this bill.

Mr. President, this bill, taken as a whole, is perhaps the most progressive and responsive highway bill this body has ever considered. In the words of Alan Altshuler, Secretary of Transportation of Massachusetts and a recognized authority:

> The bill approved by the full Committee is a landmark of reform in the Nation's highway building program.

I agree, and I am happy to support it.

AMENDMENT NO. 1512

Mr. COOPER. Mr. President, I call up my amendment No. 1512 and ask that it be stated.

The PRESIDING OFFICER (Mr. HANSEN). The amendment will be stated.

The legislative clerk read as follows:

On page 33, beginning on line 8, strike out all through line 6 on page 36 and insert in lieu thereof the following:

PUBLIC TRANSPORTATION

SEC. 128. (a) Section 142 of title 23, United States Code, is amended to read as follows:

"§ 142. Public transportation

"(a) To encourage the development, improvement, and use of public mass transportation systems for the transportation of passengers within urbanized areas, so as to increase the efficiency of the Federal-aid system, sums apportioned in accordance with paragraph (6) of subsection (b) of section 104 of this title shall be available to finance the Federal share of the cost of construction of and acqusition of facilities and equipment for public mass transportation projects. For purposes of this section the term 'public mass transportation' means ground transportation which provides general or special service (excluding schoolbus, charter, or sightseeing service) to the public on a regular and continuing basis, and includes activities designed to coordinate such service with other transportation. Projects which may be financed under this subsection shall include, but not be limited to, exclusive or preferential bus lanes, highway traffic control devices, passenger loading areas and facilities, including shelter, fringe and transportation corridor parking facilities to serve bus, rail, and other public mass transportation passengers, construction of fixed rail facilities, and for the purchase of passenger equipment, including rolling stock for fixed rail.

"(b) To encourage the development, improvement, and use of public transportation systems for the transportation of passengers in such urban areas and rural areas as may be designated by the State and approved by the Secretary on the basis of local transportation need, so as to increase the traffic capacity of the Federal-aid systems, sums apportioned in accordance with paragraphs (1), (2), (5), and (7) of subsection (b) of section 104 of this title shall be available to finance the Federal share of the costs of projects within their respective systems, for the construction of exclusive or preferential bus lanes, highway traffic control devices, passenger loading areas and facilities, including shelters, fringe and transportation corridor parking facilities to serve bus and other public transportation passengers, and for the purchase of passenger equipment other than rolling stock for fixed rail.

"(c) The establishment of routes and schedules of such public mass transportation systems in urbanized areas shall be based upon a continuing comprehensive transportation planning process carried on in accordance with section 134 of title 23, United States Code.

"(d) For all purposes of this title, a project authorized by subsections (a) and (b) of this section shall be deemed to be a highway project, and the Federal share payable on account of such project shall be that provided in section 120 of this title.

"(e) No project authorized by this section shall be approved unless the Secretary of Transportation is satisfied that public mass transportation systems will have adequate capability to utilize fully the proposed project and to maintain and operate properly any equipment acquired under this section.

"(f) No equipment which is acquired with financial assistance provided by this section shall be available for use in charter, leased, sightseeing, or other service in any area other than the area for which it was acquired.

"(g) In the acquisition of equipment pursuant to subsections (a) and (b) of this section, the Secretary shall require that such equipment meet the standards prescribed by the Administrator of the Environmental Protection Agency under section 202 of the Clean Air Act, as amended, and shall authorize, wherever practicable, that such equipment meet the special criteria for low-emission vehicles set forth in section 212 of the Clean Air Act, as amended.

"(h) The Secretary shall assure that the provisions of subsection (a) of section 16 of the Urban Mass Transportation Act of 1964, as amended, relating to planning and design of mass transportation facilities to meet special needs of the elderly and the handicapped (as defined in subsection (d) thereof) shall apply in carrying out the provisions of this section.

"(i) Funds available for expenditure to carry out the purposes of this section shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964, as amended.

"(j) The provisions of chapters 1, 3, and 5 of title 23 of the United States Code shall apply in carrying out the provisions of this section except with respect to projects within urban areas as to which the Secretary determines the provisions of the Urban Mass Transportation Act of 1964, as amended, are more appropriately applicable."

(b) The table of contents of chapter 1 of title 23 of the United States Code is amended by striking

"142. Urban highway public transportation."

and inserting in lieu thereof:

"142. Public transportation."

Mr. COOPER. Mr. President, this amendment is offered by myself, and Senators MUSKIE, BROOKE, BUCKLEY, CRANSTON, EAGLETON, GAMBRELL, PACKWOOD, ROTH, STEVENSON, TAFT, TUNNEY, and WILLIAMS.

I yield now to the distinguished Senator from Maine (Mr. MUSKIE) for such time as he may need.

The PRESIDING OFFICER (Mr. FANNIN). The Senator from Maine is recognized for 5 minutes.

Mr. MUSKIE. Mr. President, I am privileged to join the distinguished Senator from Kentucky (Mr. COOPER) in sponsoring this amendment. Some of the issues on this matter have already been covered by debate on the Kennedy-Weicker amendment. I shall try not to be repetitive. However, I think the bare outline of the argument should be made at this point.

Mr. President, the Federal Aid Highway Act of 1972, which we consider today, makes great strides forward from past practice in the highway program. For the first time a highway bill recognizes and attempts to deal with the realities of transportation development in urban areas by improving the funding, degree of control, and options available to local officials for development of transportation systems most appropriate to their own urban areas.

This bill improves the degree of citizen involvement in transportation system decisionmaking by assuring that the public is involved in the early stages of development of highway programs. It also attempts to cut the redtape and funding delays which have affected the highway program in the past without at the same time compromising essential protections built into the highway program through the National Environmental Policy Act, the Department of Transportation Act, the Civil Rights Act, the Uniform Relocation Act, and other Federal laws affecting the Highway Act.

I compliment the chairman of the Committee on Public Works (Mr. RANDOLPH) for his diligent efforts in developing this comprehensive piece of legislation and for the free and open discussion of it which he encouraged during the many executive sessions held to consider this important bill. Credit is also due to the former chairman of the Subcommittee on Roads (Mr. BAYH) who spent much time and energy working on this bill before he assumed his present duties on the Committee on Appropriations.

Mr. President, the legislation which we consider today will have an impact on the Federal highway system and related transportation activities well into the 1980's and the 1990's. Roads constructed with funds made available in the next 2 or 3 fiscal years will be used in 1990 and afterwards. For that reason, we must assure that the options available and the programs which can be supported under the legislation we consider today will be relevant to the transportation needs and priorities which this Nation will face in the decades ahead.

The committee report, discussing the changes in direction included in S. 3939 notes:

> The advantage of personalized motor transportation continues to be desirable to the overwhelming proportion of the American population, but there are signs that the excessive expansion of motor vehicle use is neither practical nor desirable. Congestion on highways and in cities, concern for air pollution, and the necessity to conserve natural resources, require a re-evaluation of the position the highway program occupies in the American way of life and in the establishment of national priorities.

This makes the case for broadened support for bus transportation, and, to my mind, makes an equally strong case for allowing use of highway trust funds for support of rail transportation facilities and equipment in those communities which deem the rail-oriented approach the most appropriate local transportation option.

Mr. President, in 1970 and again this year, I proposed to broaden the use of the trust fund for mass transportation including rail systems. I ask unanimous consent that the language of the amendment and my views on the 1970 act be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. GAMBRELL). Without objection, it is so ordered.

(See exhibit 1.)

Mr. RANDOLPH. Mr. President, a point of order.

The PRESIDING OFFICER (Mr. GAMBRELL). The Senator from West Virginia will state it.

Mr. RANDOLPH. The Senate is not in order. My colleague, a member of the Public Works Committee, is presenting an important statement on a vital amendment and I would hope that we might accommodate not only the Senator from Maine but other Senators who are listening to him.

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order.

The Senator from Maine may proceed.

Mr. MUSKIE. I thank the distinguished Senator from West Virginia.

Mr. President, the case for redirection of the Federal highway program toward support for a greater range of locally developed transportation alternatives—including rail rapid transit—is more urgent today because of several factors:

First, proliferating suburban sprawl, recreational land developments, and other questionable land uses are encouraged by the existing highway program;

Second, the high—and steadily increasing—costs of owning cars in an automobile-oriented society is making transportation have-nots of the urban and rural poor, the handicapped, and others without ready access to automobiles;

Third, the looming energy crisis may severely curtail private auto use, perhaps before some of the roads authorized in present legislation will be opened;

Fourth, auto-related air pollution and lead from auto exhausts is increasingly perceived as an unacceptable hazard to health;

Fifth, personal transportation and delivery of needed goods and services is hindered severely by excessive urban congestion.

All of these points are of major and growing significance as our roads become more crowded. All of these demand that the reevaluation of the position of the highway program in the American way of life, which the committee report discusses, include the broadest range of options.

The legislation before us responds to these concerns by making available an $800 million urban system fund in the context of a $7 billion highway expansion and development program for alternative transportation systems. At least $300 million of this must be used for highway-related public transportation, but none can be spent for rail transit. The highway-related public transportation option is also available for other highway programs, but the domination of these other programs by State highway departments reduces the likelihood that the public transportation option will be exercised.

This response is not sufficient to meet our transportation crises and assure proper evaluation of an all-options to the present highway program. Each local community must be able to develop the transportation system most appropriate to its own needs and conditions. S. 3939 must be amended to allow use of the urban system fund for any transportation option including the purchase of rail transit facilities and equipment.

Mr. President, today the Federal highway program, supported by the highway trust fund, is the subject of widespread citizen dissatisfaction in all areas—urban, suburban, and rural—where Federal funds are used to build highways. Trust fund moneys are readily available for highway-oriented solutions to transportation problems and are often provided with a requirement that only a minimal amount of State or local matching funds be put up to secure Federal assistance. On the other hand, Federal support for alternative approaches to solve transportation problems, such as mass transit, is limited and requires a substantial matching contribution from the State or local government.

Federal highway funds are available to States and localities at rates of up to $9 for each $1 of local funds. For mass transit, Federal support is limited to a maximum of $2 for each $1 of local funds.

It is easy to see which will be the more appetizing carrot to those who have the responsibility for stretching local budget funds.

The realities of today's transportation needs can no longer allow Federal support to be provided on a discriminating basis. Many factors argue for major reform of the Federal highway program but discriminatory matching programs which tend to assure selection of the cheapest rather than best alternative are the most outstanding.

Right now in America there are approximately 65 million persons under 16 years of age who are too young to have a driver's license. Millions more cannot drive or do not own a car because of age, infirmity, or poverty. Over half of all households with incomes under $3,000 and about half of all households whose heads are 65 years and older have no car. Tragically, it is this same group—the poor, the handicapped, the old and the very young—who need mobility the most to gain access to adequate education, health care, job opportunities, and other necessities of life which we Americans with access to cars take for granted.

Continuing overemphasis on the private automobile in transportation system planning will only increase the plight of the disadvantaged. Stricter licensing and motor vehicle inspection requirements and the unavailability or high cost of auto insurance and repairs are making it increasingly difficult and costly for the disadvantaged to own cars, which when they are purchased often only perpetuate the circle of poverty.

Though they often have no cars, the poor are directly and adversely affected by overemphasis on the auto. A disproportionately large number of those displaced by highway construction are poor or otherwise disadvantaged, and small businessmen and farmers who face often insurmountable difficulties in starting anew once they have been uprooted by a highway.

Between October 1968 and December 1970, the Federal highway program alone displaced 137,639 people, 630 farms, and 7,573 businesses. That is the equivalent of tearing down and paving over an entire city larger than Springfield, Mo., or Las Vegas, Nev., and only slightly smaller than Kansas City, Kans. This is social dislocation on a massive scale.

The urban poor tend to live in or near those areas with highest traffic concentrations. They are subjected to the greatest health and safety risks from traffic including lead and carbon monoxide concentrations two to four times higher than considered safe for public health in the air they breathe. Their neighborhoods are broken up by freeways, and their local streets become free parking lots to serve commuting suburbanites. For the rural poor, to be without a car is to be shut off from the world.

Concern about air pollution—which is the particular responsibility of the Public Works Committee—has become a particular focus for change in society's perception of automobiles and highways. The Clean Air Amendments passed by Congress in 1970 require establishment of air quality standards including transportation controls where necessary. As the committee report indicates, 67 metropolitan areas have air quality significantly below the level necessary to protect public health due to one or more auto-related air pollutants. In some metropolitan areas, curtailment of auto traffic will be required to achieve air quality standards. For these areas, more highways and devices to make traffic run more efficiently are not relevant. Alternative transportation modes must be found to move high volumes of people in the central city if the city is to survive.

Sixteen of the 67 metropolitan areas have rail systems in operation or planned. Others might consider such systems if trust fund moneys were available to support them. I understand that the argument is made that support for rail systems is impractical because they cannot be constructed in time to meet air pollution requirements when essential elements now exist. However, this argument assumes that an entirely new system of rights-of-way must be built for a rail system to function. I do not agree with that premise.

As a study of the Washington Metropolitan Area done several years ago by the Committee on Public Works demonstrates, an adequate rail system could be developed using existing rail rights of way. I assume similar rail conditions would prevail in other urban areas. All that would be required then is the purchase of adequate rolling stock for those areas that wanted to implement a short term rail option. But more important, my concern is not just with 1975 or 1980. Congestion, noise safety and energy requirements demand provision of alternate central city transportation systems in the next decade.

This option must be available, and the amendment we propose would make it available. It would force no one to build a rail system, but for those who wanted to use funds for rail support—who had adequate foresight—it would provide them.

In 1972, the Federal, State, and local governments will spend approximately $4.3 billion in general tax revenues to subsidize the highway program. The major portion of this highway subsidy, approximately $3.2 billion, will come from local governments—cities and counties—which already face a severe crisis in providing essential services from limited general revenue. In addition, local governments have lost vast amounts of valuable taxable property to highways, in effect further subsidizing highways by tax losses from land taken for highways. The capital requirements of nonhighway transportation systems make it very difficult for local governments, even the largest cities—to plan and fund alternative transportation systems without outside help. Today that outside help is, in effect, biased in favor of building highways. We would propose to end that bias.

A major beneficiary of a redirection of the use of urban highway funds would be such urban highway users as truckers, taxi fleets, and others who must deliver goods and services and for whom public mass transportation is not an adequate substitute. By diverting commuters and other marginal users from the highway system to improved public transportation systems, congestion will be reduced and those who rely on highways for delivery of goods and services will do so with greater facility and economy.

Motor vehicles currently account for 40 percent of all oil consumed in the United States. This factor, combined with escalating demands for energy, the United States' heavy dependence on oil and the limited amount of oil reserves in North America, is cause for increasing concern about fuel supplies and national security. One study estimates that 40 percent of the Nation's oil will come from imports by 1980. Another, by the National Petroleum Council, states that in 1985, 57 percent of U.S. oil will come from abroad.

Because of heavy domestic demands for oil and rapidly expanding demands abroad, it is unwise to place heavy reliance on the individual passenger cars for personal transportation. The use of motor vehicles to carry, on the average, one person to and from residence to office is wasteful of invaluable and nonrenewable resources. The energy demands of our society, present and prospective, will not permit this luxury.

Automobiles effectively utilize only 5 percent of the potential energy from the fuel they burn. The rest is wasted. In light of a growing energy supply problem, this waste is wholly unacceptable. Reduction in oil consumption by motor vehicles through a restructuring of domestic transportation alternatives toward more efficient transportation methods are an obvious and essential way to preserve energy reserves.

We recommend the establishment of a national policy today which will conserve fuel resources for the future. Because if we are wasting our fuel resources in this decade to commute on an inefficient basis, we may have no fuel resources in the decades ahead for future needs.

Despite all of these concerns which cry out for broader uses of highway funds, the highway trust fund revenues remain dedicated to highway purposes alone. Trust fund highway programs do not have to compete for scarce general treasury funds. Mass transit must compete with other essential domestic needs such as crime control, health, education, and other needs. Because funding for highways is assured, there is little pressure to provide projects in terms of the most up to date needs and priorities. The bigger the trust fund, the more roads that can be built; the more roads, the greater the user tax revenues; the more user revenues, the bigger the trust fund. This spiral must be controlled if we are to develop a rational and balanced approach to ground transportation in America. This amendment would allow support for rail systems, will encourage this more rational development and will assure balanced evaluation of available alternatives.

As specified in S. 3939 and as intended in the amendment, grants under the Urban Mass Transportation Act would continue unaffected. While the proceeds from the highway trust fund could provide the long-term and predictable levels of funding needed to develop transportation systems, the Urban Mass Transportation Act must be relied upon for short term input of substantial funding which many localities require to initiate or improve public transportation systems in order to make available realistic transportation alternatives within the community.

Transportation systems to a great extent determine the economic and social structure of a community. The Federal Government should thus avoid imposing any particular transportation system on a community. I have always believed that people at the local level most often know what is best for themselves. The program we propose will allow local citizens to decide for themselves what transportation system is best for their communities and their future.

Mr. President, it is for that reason that I was privileged and proud to cosponsor this amendment in the Public Works Committee with the Senator from Kentucky. As the Senator has indicated, we won that vote 8 to 7 the first time around and lost it 7 to 8 the second time around. The amendment then went to the Senate Committee on Banking, Housing and Urban Affairs, where it received public hearings. That committee voted 10 to 0 to support this amendment. It has broad, bipartisan support. It applies only to the urban system aspect of the highway program that is before us. It involves only $800 million as against several times that figure which would still be available for highway construction.

This is a reasonable step in the direction of using urban funds for nonhighway transportation objects.

I urge my colleagues to support it. If they do so, they will make a significant contribution to a redirection of our transportation priorities in the next decade and in a direction related to public interest, the need of the disadvantaged, the need of the poor, the need for public health, and the need for cities struggling under the impact of problems, so many of which are related to the automobile and automobile related factors.

EXHIBIT 1

INDIVIDUAL VIEWS OF SENATOR EDMUND S. MUSKIE

During this session of Congress, the Senate Public Works Committee held extensive hearings on the Nation's air pollution control efforts and the implementation of the Clean Air Act. It was clear from those hearings that air pollution is becoming worse, that it presents a serious threat to the public health and that the automobile is the greatest single source of at least three major pollutants (carbon monoxide, hydrocarbons, and nitrogen oxides). On the basis of the hearings, the Public Works Committee unanimously recommended to the Senate the approval of the National Air Quality Standards Act of 1970 (S. 4358). The Senate passed that bill on September 22 by a vote of 73 to 0.

The National Air Quality Standards Act would require that national ambient air quality standards for at least 10 major pollutants—including carbon monoxide, hydrocarbons, and nitrogen oxides—be met in all parts of the country within 14½ years or less. These standards would be set at levels which would protect the health of persons in all areas of the Nation.

In order to achieve and maintain these standards—especially for those contaminants emitted from automobiles, drastic measures will be required in many major metropolitan areas. In Chicago, for instance, the 8-hour average concentration of carbon monoxide in the ambient air is 44 parts per million; a likely national ambient air quality standard for carbon monoxide is 8 to 10 parts per million. The report on S. 4358, signed by all members of the Public Works Committee, clearly stated the kinds of steps which the committee expected would be necessary in many areas:

"In addition to direct emission controls, other potential parts of an implementation plan includes land use and air and surface transportation controls. These should insure that any existing or future stationary source of air pollution will be located, designed, constructed, equipped, and operated, and that moving sources will be located and operated so as not to interefere with the implemention, maintenance, and enforcement of any applicable air quality standard or goal.

* * * * *

"The committee recognizes that during the next several years, the attainment of required ambient air quality in many of the metropolitan regions of this country will be impossible if the control of pollution from moving sources depends solely on emission controls. The committee does not intend that these areas be exempt from meeting the standards. Some regions may have to establish new transportation programs and systems combined with traffic control regulations and restrictions in order to achieve ambient air quality standards for pollution agents associated with moving sources."

"The committee realizes that changes or restrictions in transportation systems may impose severe hardship on municipalities and States, and it urges that agencies of the Federal Government make available any relevant program assistance to the States and regions to meet these obligations. The highway program, various housing and urban development programs, and other sources of assistance should be examined in this connection."

These measures and their ramifications were discussed thoroughly by the committee when S. 4358 was considered. It was especially clear that alternative transportation systems would be needed immediately in many cities if restrictions on the individual use of automobiles are applied.

This committee recognizes that the National Air Quality Standards Act would require fundamental changes in major areas of public policy, but it believed a tough law giving rise to such changes was necessary to protect the health of our citizens. As I said on the floor of the Senate when this bill was being considered:

" * * * clean air will not come cheap and it will not come easy.

"The legislation would require new kinds of decisions with respect to transportation and land-use policies. It would require new disciplines of our desire for luxury and convenience. And it would require a new perspective on our world, a recognition that nothing is more valuable or essential to us than the quality of our air."

During the Public Works Committee hearings on highway legislation, the relationship between freeways and air pollution in urban areas was clarified. A study which I quoted in the August 25 hearing concluded:

"While it is true that automobiles traveling at high speeds emit less carbon monoxide and hydrocarbons per mile than vehicles traveling at lower speeds, emissions of nitrogen and lead increase with higher speeds."

"Furthermore, a high-speed corridor tends to generate entirely new automobile traffic entering the city, making up for some reductions in per-car emissions with more cars. Even if a new road merely transfers existing traffic from other routes, air pollution effects are serious. The outputs of certain pollutants from a freeway may be less than the total accumulation of outputs from a large number of arterial streets; but, the freeway, as a single line source of concentrated pollutants, exceeds the emissions from the arterial streets. The implications for surrounding land use are clear; it is particularly alarming for joint and multiple-use projects which are located over, under and immediately adjacent to the freeway."

The hearings record also indicates that some segments of the Interstate System planned for urban areas will never be completed, and that there is significant public opposition to the completion of other segments. Governors and mayors are growing vocal in their opinions that highways are complicating rather than solving many of the transportation needs of their States and cities. Furthermore, it has been reported to the committee that a surplus of $2.8 billion is expected in the highway trust fund in fiscal year 1971.

In light of these considerations, it seemed to me that the highway program should be flexible enough to permit States not only to build highways with proceeds from the trust fund, but also to build other forms of transportation which may serve their transportation needs more effectively and more wisely. I felt that the committee had a responsibility to recommend changes in the highway program which would be consistent with the requirements of the National Air Quality Standards Act, unanimously approved by the committee only a week earlier.

Therefore, I proposed to the committee the following amendments:

I. SECTION

No funds appropriated under this title shall be available for expenditure for construction of any highway in any air quality control region designated pursuant to the Clean Air Act, as amended, unless such highway construction is consistent with any approved plan for the implementation of any ambient air quality standard for such region.

II. SECTION

(a) Notwithstanding any other provisions of this title, the Governor of a State may utilize any funds apportioned to that State for any fiscal year under this title for construction of interstate highways within a standard metropolitan statistical area in such State to construct alternative public transportation systems to serve such area, if the Governor determines that such alternative public transportation systems are necessary to implement any applicable air quality standards for such area or other public purposes. Federal participation in the cost of constructing such alternative public transportation systems shall not exceed the Federal pro rata share applicable to the construction of interstate highways.

(b) Funds shall not be expended for such alternative public transportation systems—

(1) if after public hearing the Governor receives the negative recommendation of any mayor or city council, county board, or other equivalent duly constituted authority with jurisdiction over such area, or

(2) unless the alternative public transportation system is consistent with any applicable comprehensive transportation plan for the area.

(c) Funds made available under this section for alternative public transportation systems may be expended for acquisition of land or rights-of-way, construction or acquisition of track, buildings or other facilities, and acquisition of rolling stock, vehicles, or other equipment for publicly owned systems.

(d) The provisions of this title (including sections dealing with planning, prevailing rate of wage and advance acquisition of right of way) shall apply to the construction of alternative public transportation systems to the same extent as to the construction of interstate highways.

The first amendment, requiring that the construction of highways under this act be consistent with the implementation of the Clean Air Act as amended, was adopted in principle by the committee in section 9 of the bill.

The second amendment was not accepted. It would have required that the Governor of any State be given the opportunity to divert funds available for the construction of interstate highways in urban areas to the construction of alternative public transportation systems in that area. The funds could have been used for the acquisition of land or rights-of-way, for the construction of facilities, or for the purchase of operating equipment. The local government in the urban area would have had the authority to vote the Governor's decision to divert highway funds.

At the present time, many States and cities are confronted with a harsh either-or choice—between the freeways that can be purchased with the highway trust funds on the one hand, or no transportation system on the other. This choice is inconsistent with efforts to alleviate the transportation housing and employment problems of our urban areas. This choice complicates the urban crisis and threatens continued deterioration in the quality of life in our cities. And this choice makes achievement and maintenance of ambient air quality standards more difficult than necessary. For those reasons, I felt that some gubernatorial flexibility in the diversion of highway funds was justified and urgently needed.

It has been argued that funds from the gasoline tax, the primary revenue source for the highway trust fund, should not be used for the construction of alternative transportation systems. In my view, this is a narrowminded perspective. I do not agree that taxes derived from the operation of the automobile should be used to perpetuate the automobile as the only available form of transportation policies and begin to provide States and cities with the ability to offer the kinds of transportation systems that their citizens need, we will never achieve a livable urban/suburban environment.

I regret that the committee did not adopt the alternative public transportation systems amendment. During the first session of the 93d Congress, I shall propose major revisions in the Federal highway program—intended to make the program more responsive to the transportation needs of all Americans. I hope other members of the Senate will offer similar suggestions, and that the committee will consider ways of making the highway program more consistent with efforts to insure a livable environment.

EDMUND S. MUSKIE.

Mr. CHURCH. Mr. President, would the Senator yield?

Mr. MUSKIE. I yield.

Mr. CHURCH. Mr. President, this is a parochial question. I sympathize with the objectives of the Senator. A few moments ago I cast my vote for the amendment of the Senator from Connecticut (Mr. WEICKER) and the Senator from Massachusetts (Mr. KENNEDY) on the assurance of those responsible for that measure, that it would not result in a diminution of the amount of money that would otherwise be allotted to the State of Idaho.

I would ask the Senator from Maine the same question. Would the adoption of his amendment result in a reduction of the money that would otherwise be allotted to Idaho?

Mr. MUSKIE. The answer is that it would not. That concerns my State as well. The option is entirely up to the State as to whether these funds would be used for highway or non-highway-oriented purposes.

Mr. CHURCH. Mr. President, with that statement I am certainly free to support the Senators' amendment, and I will be glad to do so.

Mr. JAVITS. Mr. President, would the Senator yield?

Mr. COOPER. Mr. President, I yield 2 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 2 minutes.

Mr. JAVITS. Mr. President, I think what the Senator from Maine (Mr. Muskie) and the Senator from Kentucky (Mr. Cooper) are trying to do is elemental justice and a recognition of the adulthood of the States which have major urban problems.

We have heard a great deal about that, and we have heard also of the grave problems which we have encountered in doing something about it, as we did in the revenue sharing bill which we fought so bitterly here.

When the opportunity comes along to give a State an option and let it engage in self-determination, it should be done.

The colloquy of the Senator from Maine has made this crystal clear. There is a real inducement, at least in this way, to give the urbanized States at least an opportunity to choose how they should spend the money made available to them in the best interests of their people.

I feel deeply grateful to the Senators who are from great populated urbanized States for this initiative.

I shall certainly support the amendment.

Mr. TUNNEY. Mr. President, will the Senator yield?

Mr. COOPER. How much time does the Senator desire?

Mr. TUNNEY. Will the Senator yield me 4 minutes?

Mr. COOPER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 40 minutes remaining.

Mr. COOPER. I yield to the Senator from California.

Mr. TUNNEY. Mr. President, I rise to speak in favor of the Cooper-Muskie amendment to the Federal-Aid Highway Act of 1972, S. 3939, which I supported in the Public Works Committee. Over the next decade the great metropolitan areas of California will experience increasing demand for public systems of mass transportation catered to their particular transport needs and priorities. The proposed amendment would give each metropolitan area the option of choosing the technological solution most suited to its requirements, and of doing so without financing constrictions which arbitrarily favor one mode over another. This amendment would permit the use of urban system funds—up to $800 million—for rail transportation as well as other public transportation systems.

For too long now we have shackled ourselves to a policy which permits little or no flexibility in attacking transportation problems. In the Los Angeles area alone there are 600,000 more cars than there were in 1965. Since 1965, well over $1 billion has been spent building freeways in the Los Angeles area. That works out to nearly $2,000 per additional car that has been squeezed onto the Los Angeles freeways. It is estimated that the Riverside area freeways will be so crowded by 1990 they will have to be widened or access to them from local streets will need to be controlled.

In addition to the congestion, continued overuse of automobiles has also detrimentally affected the quality of our environment. Air pollution from automobile exhaust presents a serious hazard to our health.

Riverside, Calif., has the distinct dishonor of being the area of the Nation that has the worst smog problem. To the credit of the city fathers it has recently brought suit against the Environmental Protection Agency—EPA—to prepare a plan for meeting Federal air quality standards in the south coast air basin by 1975.

The diverse needs of the great metropolitan areas of California underscore the importance of a Federal policy which treats all modes equally in terms of funding. In spite of an inconsistent, and often irrational Federal policy, California has shown leadership in each of three major mass transportation fields:

First. In the field of urban rail technology, I need not remind you that the great Bay Area Rapid Transit system has opened in the past week. Its accomplishments are particularly significant to our decisions here today, given that the local citizens courageously chose to tax themselves in the face of an inadequate Federal funding program in order to bring about a radical change in local transportation policy. The regional rail system of BART, coupled with the dramatic revitalization of the light rail MUNI system, has placed the bay area in the forefront of the world in terms of advanced rail technology.

Second. Concerning the development of applied bus technology, California has long taken the lead in the field of highway mass transportation. Indeed, the first major application of the express bus system occurred in Los Angeles, where today the first major exclusive busway authorized under section 142 is under construction as part of the San Bernardino freeway project.

Third. And, finally, California notes with pride that from its earliest conception, the field of automated guideway transportation, operating small, directly-routed automated transit vehicles, was pioneered by the great research and development institutions of California. Similarly, we note that the leadership in the production of operating prototypical systems has occurred largely through the private sponsorship of California's diversifying aerospace industries.

Because California has taken national leadership in all categories of urban transportation, we are particularly concerned with Federal legislative programs which will allow our metropolitan areas a rational choice between alternative technological solutions.

In California we are ready. In California we have reformed our funding mechanisms to allow local areas to decide for themselves how their transport dollars are to be allocated. Today we have the opportunity to provide this critical flexibility for Federal allocations as well. As the Senator from Maine (Mr. Muskie) and I noted in our supplemental views to the committee report on S. 3939:

> Today the Federal highway program, supported by the highway trust fund, is the subject of widespread citizen dissatisfaction in all areas—urban, suburban and rural—where Federal funds are used to build highways. . . . the realities of today's transportation needs should no longer allow Federal support to be provided in this discriminating fashion.

Mr. President, I ask unanimous consent to have printed in the Record an editorial which was published in the Washington Post Monday.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Roads and Rails for the Cities

The Senate this week has an excellent opportunity to get the highway trust fund on the right track in the cities. The two-year, $14-billion federal-aid highway bill reported by the Public Works Committee already contains significant provisions granting state and local officials some flexibility to cancel controversial urban freeway plans and redirect federal highway funds to less disruptive roads or to bus systems. The bill would also expand the present urban transportation fund eight-fold to $800 million per year, and authorize direct federal grants to metropolitan transportation agencies.

Following such efforts to shelve old, seemingly endless freeway fights and to lure people from private cars into buses, the next logical move would be to get more people off the roads entirely and onto rail transit systems, thus relieving both the congestion on existing arteries and the pressures for still more lanes. The most feasible legislative vehicle for such policy shift is the Cooper-Muskie amendment, which would grant cities the option to use their shares of that $800-million urban transportation fund for rail transit as well as buses, bus lands, fringe parking areas and roads.

The amendment to be offered on the Senate floor this week, enjoys impressively broad, bipartisan support. Senators Cooper and Muskie in fact missed gaining a majority within the Public Works Committee only by one vacillating vote, the amendment was first adopted by that panel, 8–7, then rejected 8–7 the next day when Sen. Robert T. Stafford (R-Vt.) changed his mind with the explanation that "I come from a rural state." The Senate Banking Committee, which handles mass transit bills, endorsed the Cooper-Muskie measure, 10–0, as a supplement to the present program of aid for urban transit systems. The amendment is also blessed with administration backing, primarily as a result of Transportation Secretary John A. Volpe's vigorous—and undaunted—advocacy of unified transportation planning and funding for metropolitan areas. With a flexibility which is refreshing, compared with the our-bill-or-nothing approach taken too often by administration officials, Secretary Volpe has recognized that his "single urban fund" approach has not won congressional favor, and has swung his enthusiasm behind the Cooper-Muskie move.

Measured against the massive transportation snarls of urban areas and the mammoth pro-highway bias of past federal policies, the Cooper-Muskie amendment is a very modest advance. Permitting cities to use the highway trust fund to build a rail as well as roads is not an improper diversion of that fund, much less a perversion of any sacred trust. To the contrary, truly balanced transportation systems benefit highway users as much as bus riders and subway strap-hangers. Indeed, those who must use the roads—those who, for instance, have no other way to transport goods—have an especially direct interest in curbing highway congestion by offering people other ways to get from place to place. Ideally, each metropolitan region should be able to design and fund whatever mix of roads and rails—and bike paths and pedestrian ways—will meet its particular needs in the most efficient, healthy and humane way. The Cooper-Muskie amendment, while limited, is an important and attainable beginning toward that end.

Mr. RANDOLPH. Mr. President, I yield such time as he may require to the able Senator from Kentucky (Mr. Cook).

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. COOK. Mr. President, with all deference, I hope we can develop a good colloquy with my distinguished senior colleague and the Senator from Maine.

The Senator from New York talked about elemental justice if this were done. Here is my problem. In reading the trust itself under chapter 32, item 3, it states that facilities that now include local transit companies, and including rails that use fuels, these companies, these facilities, these transportation facilities which are not utilizing the highways but which do utilize fuels, receive a refund for the fuels they use on their buses, for lubrication, and everything, because under the act as originally passed they do not utilize the highways.

I have asked for an interpretation of the section, because up to 1964, a person who had an outboard motor and bought fuels would pay a tax on it and at the end of the year he would apply for and receive a refund for that tax, because he did not utilize the highways. The fund said the moneys in the trust fund were for construction of highways. In 1964, that was changed, because you came up with a program by which you utilized that fund for the benefit of docks and ramps, so that a person was really receiving something for which he paid a tax.

As I read the amendment of my senior colleague and the Senator from Maine (Mr. Muskie), even if this amendment is agreed to and the amount is extracted from the trust, the people that will utilize a mass transit system, and not utilize the highways within the interpretation of section 32, will still not pay a tax on those fuels although they will be receiving refunds from the trust. I am wondering if in some way some language could be put in this amendment that when they avail themselves of these funds, that they then must assume the burden of the tax which is the subject of the discussion. This is the very thing that bothers me.

Mr. COOPER. Mr. President, if the Senator will yield to me on my own time, this matter was discussed in committee. The Senator from Tennessee (Mr. Baker) raised a question about it, but did not offer an amendment. He thought it a matter which could, perhaps, be worked out between the Committee on Public Works and the Committee on Finance.

With all due regard to my colleague, I must say that I have served on the Committee on Public Works for about 16 years. I serve also on the Committee on Rules and Administration, and the question the Senator raises is a Finance Committee question. A question may be raised as to whether it is just for a person to ride on a tram car or subway, which is supported, in part, by highway trust funds, if he has not contributed something to the trust fund during that ride. But this is a technical matter which has been raised before. What the Senator from Maine (Mr. Muskie) and I have tried to address ourselves to is the provision of better transportation, of whatever mode, for the people who live in the cities and travel in the cities.

My colleague lives in the largest city in the State of Kentucky. He knows more about the needs of the people of the cities than I do. My hometown has a population of about 15,000.

This amendment fixes the amount from the trust fund which may be used for rail at $800 million—the sum authorized for the urban system.

As far as I am concerned, I am willing to let the Senate work its will. If the Finance Committee objects then that is a matter for the Finance Committee. If there are some differences between the House and Senate on the issue, we will deal with them in conference. Our purpose here is much broader than the issue to which my colleague is addressing himself.

Mr. President, I ask unanimous consent that there be included in the Record at this point the views of Senator Baker, as contained in our committee report.

There being no objection, the statement was ordered to be printed in the Record, as follows:

INDIVIDUAL AND SUPPLEMENTAL VIEWS OF MR. BAKER

I would like to add a brief comment in supplement to the views of Senator John Cooper regarding mass transportation.

There seems to be little debate regarding the need for mass transit systems in the major metropolitan areas of the nation. But there is no shortage of conflicting views and opinions with regard to the method and means for financing these costly ventures. The Administration has proposed the use of Highway Trust Funds directed to projects in urban areas for modes of transportation other than highways. This is the purpose of the amendment urged by the Senior Senator from Kentucky, and I support this move away from single thrust transportation development.

The Highway Trust Fund is founded upon the proposition that those using the highway system by special use taxes pay for the improvement of the system. While I do not believe that the pay-as-you-go concept must tie our hands in applying the Fund to the development of badly needed alternate modes of transportation. I do not believe either that we can afford to scrap the concept so basic to the funding method. I strongly feel that we must establish a method whereby transit systems supported by funds from the Highway Trust Fund will contribute to the fund in turn. I would urge the establishment of a tax based upon the energy consumption of these systems much like the gasoline tax for our highway users.

I realize that at the outset the contributions of these systems could nowhere approach the levels needed from the Fund. But I can foresee the day when mass transportation in our metropolitan areas, if efficiently administered, will enjoy such wide use as to be capable of making a substantial contribution.

With that comment, I join Senator Cooper in his views regarding mass transportation.

HOWARD BAKER.

Mr. COOK. Let me say that that may be true, but in order to get at the broad issues, one has to solve the narrower issues first. We have been discussing the matter of rapid transit. We have discussed the utilization of the Southern Railroad for that purpose between Fort Knox and Louisville, and the utilization of the Monon between Louisville and Indianapolis. None of this will be a reality, but if it were, they would be utilizing diesel fuels. They would be paying the tax. They would be filing for a refund. They would be receiving a refund out of the trust, because they would not be utilizing the highways and would not be taking funds out of the highway trust fund.

If the Finance Committee has dealt with it, that may be so. To talk more of the broader issue than of the narrower one may be correct, but there is such a thing as equity. If in fact we utilize it for this purpose, and if in fact it is used in fields for which the tax is imposed, they should not receive a refund when in fact the money is being withdrawn from the trust fund for the use of that facility. That is the point I raised, and I think it is a serious one.

I only bring this question up in passing, because I am quite sure a great many of the facilities we are talking about will try to be utilized on existing rail facilities of one kind and another.

I would suggest to Members of the Senate that so far this session the Senate has passed S. 2362, which is a surface transportation bill, for which we provided an authorization of $3 billion. We also have already passed S. 1729, which is a so-called railroad freight car bill, for which we have made available to the industry another $2 billion. Here we are saying that, within the framework of this trust fund, we ask for the sum of $800 million. I am not sure that I know of a particular industry that is not assuming its responsibility, that has not come up with a solution to its transportation problems.

As a matter of fact, I think, without any question—I think the Senator from New York will agree with me—they started out methodically, years ago, with the poorest service they could give, in order to get rid of their lines. Yet we have said to this particular industry, one session of Congress is willing to commit, in credits, guarantees, or loans, $5.8 billion. I must say this is a rather surprising thing.

I wish again that some language could have been found that would have said that if, in fact, one is to participate in the creation of a trust, everybody who buys a gallon of gasoline, has to pay into the trust for the purpose of facilitating a highway program for him.

I might also say to the manager of the bill that I would like to put in the RECORD a letter from the Governor of the Commonwealth, who raises problems outside of this question. They are not concerned with this particular amendment, but they are concerned with other problems. I have questions which at a later time I will ask the Senator from West Virginia (Mr. RANDOLPH) relative to the inquiries the Governor has made.

I do not see how, out of $800 million, with the problems we are faced with in the United States, there are many States in this Union that will get very much of the $800 million for the purpose of effectuating a solution of their transportation problem. I think it is going to cost far more than that. If we are looking to the establishment of a fund, and we come back in the next Congress and say, "We have just scratched the surface. The only thing we can do is solve the problem between New York and Boston, or between New York and Philadelphia" with the $800 million—and we cannot even do that; it is only a pittance—where do we go for more money? Do we continue to take it out of the trust, or do we continue to pay it and take it out for that purpose? If we are going to face this problem, let us face it in a more logical and equitable way. Let us say that the tax shall be in fact exacted from those who use the facility. Then I think I would be far happier with the basic concept of this matter than I am in its present form. I say that with all due deference to my friend.

Mr. WILLIAMS. Mr. President, will the Senator yield?

Mr. COOPER. I yield to the Senator.

Mr. WILLIAMS. Mr. President, I appreciate the time granted to me by the Senator from Kentucky.

Mr. President, over the past 15 years the highway trust fund has built for our Nation an interstate highway system which is the finest in the world.

The $52 billion which highway users have paid into the fund has built 42,500 miles of interstate and defense highways.

But in today's dynamic, highly urbanized society, a different type of transportation is of the utmost necessity—urban mass transportation.

With more than 70 percent of our Nation's citizens now living in urban areas, the need to get people to and from work has become one of our Nation's top priorities.

Unfortunately, however, we have not fully met this goal.

And more and more people have been forced to turn to private automobiles to meet their basic transportation needs.

The results have been both predictable and inevitable—our air is fouled with fumes; automobile traffic accidents take more than 55,000 lives a year; in areas where land is at a premium it is devoured by streets, garages, and parking lots.

Today almost 66 percent of the land in urban areas belongs to the car, and as far as the lives of many city dwellers are concerned our highway system has been a complete and utter failure.

While there is nothing better than our interstate highway system for cross-country travel, when the highway meets the city line forward motion stops and traffic congestion begins—traffic congestion which not only adversely affects commuters who travel by bus and car but truckers and manufacturers as well.

The cost which urban industry pays in overtime due to traffic delay, gasoline, and replacement equipment makes it a prime beneficiary of improved urban mass transportation.

Of equal importance is the fact that new highways in many highly urbanized areas may no longer be necessary.

Many cities such as New York, Los Angeles, Chicago, and San Francisco, if given a clear choice, would certainly rather have efficient urban mass transit.

And yet these and other cities throughout our Nation are forced by virtue of the provisions of the Federal-Aid Highway Act to either use trust fund money for low priority highways or receive no funds at all.

In other words, use it or lose it.

Such a restriction may have been most meritorious 15 years ago when this legislation was originally enacted.

But today it unduly penalizes our larger cities by coercing them to build low priority highways rather than efficient, socially worthwhile mass transit systems.

And even with the $3.1 billion authorized for urban mass transit grants under the Urban Mass Transit Assistance Act of 1970, we are still spending approximately $5 for highways for every $1 we spend for mass transit.

Clearly, changes in the operation of the highway trust fund are long overdue

Therefore, the Committee on Banking, Housing and Urban Affairs by a 10-to-0 vote recommended in its report on the Federal Aid Highway Act of 1972 that for the first time highway trust fund money be made available for the purchase of both bus and rail transit facilities and equipment.

This approach, the Cooper-Muskie amendment of which I am a sponsor, would allow the utilization of Federal Aid highway funds apportioned to a State for use within urban areas—the $800 million urban systems fund—to be made available for whatever urban transportation capital grant projects the State deems necessary to meet the needs of its communities.

Under this approach, some communities might choose to use their entire allotment for mass transportation, others for highway construction and some others for both mass transit and highway programs.

The decision, however, would rest at the local level where the problems and their solutions are best known.

This is not a new or radical approach.

For the past 2 years, Federal highway funds have been apportioned to States for use within urban areas for public transportation projects including exclusive bus lanes, traffic control devices and passenger loading areas.

And just this year the Commitee on Public Works recommended that section 142 of the act be amended to provide for $350 million for the purchase of buses in both urban and rural areas.

Therefore, our committee in recommending the Cooper-Muskie amendment is merely extending the concept originated by the distinguished senior Senator from West Virginia, Senator RANDOLPH, chairman of the Committee on Public Works, to include the discretionary purchase of rail transit facilities and equipment with urban systems funds.

It is only in this manner that our Nation's cities will be able to further broaden their transit objectives and assure viable and meaningful alternative methods of transportation for the need of their communities.

In using highway trust fund moneys to fund its public transportation, it makes sense to include all forms of urban mass transportation and not only buses.

In that way, we will give metropolitan areas maximum flexibility.

However, as a sponsor of this amendment, I understand and agree that the highway trust fund is not large enough to include the extensive needs of all rail systems.

This problem can only be dealt with by increasing the contract authority under the Urban Mass Transportation Assistance Act.

Title III of the Federal-Aid Highway Act of 1972 meets the problem head on by increasing the amount of contract authority funds available by $3 billion.

Our proposed amendment does not touch the money earmarked by the highway trust fund for primary highway systems, secondary highways systems, or small urban systems as did the Kennedy-Weicker amendment.

Under their proposal, all highway funds would be made available at the discretion of State governments for urban mass transit purposes.

Our committee rejected this approach because, in my opinion, it has little practical benefit.

All highway funds other than the $800 million earmarked for urban systems are committed for years in advance by State highway departments for road construction.

Amending the Highway Act to include such funds for mass transit purposes would, therefore, be an exercise in futility.

No additional money would in reality be made available for urban transit.

And in that way it has, in my opinion, diverted attention from the Banking Committee's recommendation which would for the first time provide mass transit funding from the highway trust fund.

I would like to stress the fact that in using the urban systems fund for mass transit we are not taking away money already earmarked for highway construction.

The urban systems is a new program initiated only 2 short years ago.

It already allows for highway money to be used for bus lanes and traffic control devices.

Extending it to rail and bus projects is a logical move which does not detract from previously committed highway moneys.

For these reasons the Cooper-Muskie amendment is supported by the League of Cities Conference of Mayors, the American Transit Association, the Institute for Rapid Transit, and the Railway Progress Institute all of whom over the years have been in the forefront of the fight for better urban mass transportation.

The $800 million for urban mass transit under the Cooper-Muskie amendment is intended to supplement funds contained in the Urban Mass Transportation Assistance Act.

This money will be added to the $1 billion which the Congress has already appropriated for urban mass transit for fiscal 1973.

With almost $4 billion in pending applications for urban mass transportation grants and only $1 billion available under the Urban Mass Transportation Act, this money is urgently needed and will be utilized.

Secretary of Transportation Volpe has assured our committee on behalf of the administration that this will be the case when he stated at our September 7 hearings that:

> I did not start this fight until I was given assurance that every dollar that the Congress authorized and appropriated would be spent, because the needs are there, and I have that assurance.

The only question which remains is, Why should automobile and truck owners pay for mass transportation?

Many of these people feel that their money should go for highways, not buses and trains.

The answer to that is simple: we are all in the same traffic jam together and what helps the urban commuter also helps the trucker and the car owner.

Therefore, if we are willing to move forward and adopt the Cooper-Muskie amendment, we can replace our present traffic jams with efficient urban mass transportation systems which will make travel easier and more pleasant and which will help all of our Nation's citizens.

The PRESIDING OFFICER. The Senator from West Virginia has 49 minutes remaining. The Senator from Kentucky has 31 minutes.

Mr. RANDOLPH. Mr. President, I hope that this will not be regarded as a pleasantry. I attempt to accommodate all Members of the Senate. I am ready to stay until 9 o'clock, 10 o'clock, or whatever time is necessary.

I only wish to say that there are many Members of the Senate and will have to leave, who want to vote on this measure. They are going to Rome for the Parliamentary Conference.

Mr. BAYH. Mr. President, I will vote against the pending Cooper-Muskie amendment. In my view, the Federal-Aid Highway Act of 1972 as it is presently structured is properly responsive to the ground transportation needs of the whole Nation—urban and rural areas alike. Though I have the greatest respect for the sponsors of the amendment, I believe that the end they seek is already met in this bill and that the method they would have us use is inconsistent with the origin and purpose of the highway trust fund.

In the pending legislation, we have taken very significant steps to meet the needs of urban areas for public transportation of all sorts. Let there be no doubts these needs exist, and I am in favor of allocating the funds we need to meet them—as the bill before us does.

The bill permits—but, of course, does not require—urban areas to use money apportioned to them from the highway trust fund—a total of $800 million across the country—for highway public transportation. Highway public transportation includes the construction of exclusive or preferential bus lanes, passenger loading facilities and fringe or corridor parking lots—as now permitted, but with certain restrictions, under existing law—and it also includes, for the first time, authority for the purchase of buses—or other vehicles which operate on highways—for which the Federal share will be 100 percent.

Under this provision, money from the highway trust fund could not be used to purchase subway or other fixed rail systems or for passenger equipment for these systems.

But this is not to say that the rail needs of the country—the needs, that is, of those relatively few very large urban areas which can support a fixed rail system—are overlooked by this bill. For the Senate has approved an amendment proposed by the Committee on Banking, Housing, and Urban Affairs which provides new and substantial support for our urban mass transportation program, out of general revenues. I fully supported that amendment, which will provide an additional $3 billion in contract authority for the UMTA program through fiscal year 1977; raise the Federal share of UMTA capital grants to 90 percent; and provide $800 million in grants and loans for operating expenses of transit companies. As I said, this money comes from general revenues, not the highway trust fund. Since the highway trust fund will be picking up some of the costs of buses and highway related transportation, more of the UMTA money will be available to meet the costs of rail transportation than has been true in the past.

Thus the bill as a whole—drawing on the highway trust fund for highway related public transportation and general revenues for other public transportation—provides the money we need to meet both the bus and rail needs we face.

The needs of our great cities for fixed rail mass transportation can and should be met through the UMTA program. But a vast number of cities of all sizes need buses and related equipment and facilities. In my own State many cities, including Vincennes, Richmond, Fort Wayne and Lafayette, need assistance to purchase buses—and this bill presently provides that assistance. In these cities and others, the inflow of money for highway public transportation will have an immediate, positive and lasting impact on reducing congestion, providing more low-cost public transportation, and controlling air pollution, as required by the Clean Air Act.

Finally, I will oppose this amendment because it is inconsistent with the origin and purpose of the highway trust fund. Under law, disbursements from the trust fund can be made only for expenses "which are attributable to Federal-aid highways." Highway public transportation expenses certainly meet this requirement, for buses and bus lanes and the like will significantly increase the capacity of the Federal-aid highway system. Given the fact that we have an earmarked trust fund made up of user taxes, and devoted by law to the benefit of those who contribute to it, the present bill is a proper, fair, and adequate way to finance needed public mass transit.

Mr. COOK. Would the Senator from West Virginia mind my asking him some questions at the request of the State highway department of my State?

Mr. RANDOLPH. Yes; I yield.

Mr. COOK. It will not take long.

Mr. RANDOLPH. I yield myself such time as may be necessary.

Mr. COOK. While the approval of S. 3939 will assist the individual States in their interstate programs by authorizing the Federal Government to pay for 90 percent of the upgrading costs of those turnpikes which have become a part of the free Interstate System, there are no additional funds authorized for this purpose. While I agree that the States should have this assistance, I question if it can be done. By this act we are requiring the States to place these turnpikes in competition with other interstate mileage of high priority for what is now a reduced amount of funds. It would seem to me that the results could be a significant upgrading of an existing system at the cost of much needed new construction. My questions are these: Are we losing sight of the purpose of the bill? Can we still meet our goal of completion by 1982 and not provide the funds required?

Mr. RANDOLPH. Mr. President, I respond to the question of my able colleague from Kentucky by saying that the toll roads to which he refers are part of the Interstate System. They are not being given extra money in addition to that allocated to the interstate network. Upgrading these toll roads to interstate standards could even save money by eliminating the need to build entirely new roads in the same corridor. As for completing the total Interstate System, all of the highway trust funds will be needed for that purpose.

Mr. COOK. Directly related to this is the authority which will raise the Federal share of the primary system from 50 percent to 70 percent of the total funds available. If we maintain the funds available at a constant figure and use 70 percent of this figure for single projects, then there will be fewer projects available for construction. It would seem to me that here again we are threatening the final goal. Can we meet our goal with the funds authorized?

Mr. RANDOLPH. Yes, we can meet the goals if there are no diversions of funds.

Mr. COOK. The last question, which also relates to this matter, concerns the increase in categories contained in the bill. I am speaking primarily of the introduction of a small urban—5,000–50,000—category and new safety measures with specific emphasis on grade crossings. These are necessary features, but I again raise the question concerning adequate funding to prevent the delay or increased cost of the final completion of our interstate system. Does the Senator feel we can meet this requirement, and meet the new demands, within the framework of the funds presently being considered?

Mr. RANDOLPH. The measure reported by the Public Works Committee was intended to meet the needs of which the Senator from Kentucky speaks, and the revenues would be sufficient.

Mr. COOK. Mr. President, I have always been concerned when as a policy funds are expended for any use other than for those which the funds were specifically authorized. I suggest to my colleagues that we watch this matter very carefully. The goal of the highway bill is to complete the construction of an interstate system by 1982. We have already extended this date. If we intend to do so again and if we are going to have to authorize additional funds to provide this system along with desirable safety features as well as adequate mass transportation, then I say to the Congress, let us face up to the problem and enact honest meaningful legislation.

I ask unanimous consent that a letter from the Governor of Kentucky be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE GOVERNOR,
Frankfort, Ky., September 15, 1972.

Hon. MARLOW W. COOK,
Senate Office Building,
Washington, D.C.

DEAR SENATOR COOK: Passage of the best possible federal aid authorization bill for highways is vital. The Federal Aid Highway Act of 1972 (S3939) is acceptable, but I do not believe it attacks the greatest problem we face, which is the need to do some things immediately.

As proposed, the act would authorize an increase in federal aid. However, other portions of the act tend to nullify the increase by scattering priorities. In fact, the appropriation for the Interstate System apparently will fall to less than $4 billion, a figure our engineers feel to be the minimum if the system is to be completed before many segments are deficient.

As you know, in Kentucky we have a real need to improve the Kentucky Turnpike, which is part of Interstate 65. State government simply does not have funds available to bring the turnpike to Interstate standards. This act would let the federal government pay for 90 percent of the upgrading costs by making the turnpike eligible under the Interstate program. We believe this to be only right, since the federal government to date has spent nothing on the 36-mile section of interstate. However, since no additional funds are made available—and in fact are cut in this proposal—we are not helped with our biggest need—immediate improvement. As now proposed, this bill will only put the Kentucky Turnpike in competition with other Interstate mileage of high priority for a reduced amount of funds.

We are aware that the reduction in Interstate funds is reflected and offset by a huge increase in urban highway funds. This is desirable. However, the authorization is decreased in a program on which the state relies heavily for major traffic corridors of a state system in order to increase a program over which state control is virtually eliminated. For years, our state highway planners have been working with urban areas to plan an urban system which fits into, and complements, the state system. Under this act, the state will retain responsibility for the state system with less money, while the urban governments will not be required to assume any state system responsibility with their greatly increased authorizations.

We also are concerned that the increased federal participation in the primary system is not backed up with increased funding. Increasing the federal share to 70 percent of the current spending level will relieve some state dollars for expenditure elsewhere, and we can use it. However, the difference between 30 percent and 50 percent of our current level of primary system spending is only $3.6 million per year, which will not build many miles of road. That same amount left in the primary program and matched with 70 percent federal funds would produce more than $10 million to continue to make badly needed improvements on our primary system.

In summary, we are concerned with the great number of categorical grants, which can only weaken each program as funds are thinly spread. We are concerned about the reduction of the state's role in the greatly increased urban programs. We are concerned about reductions in the Interstate program funds. We are concerned about what amounts to holding the line in spending on a deteriorating primary system.

It is true that many of these categorical increases and changes can be helped. But, what concerns us most is exemplified by the situation surrounding the Kentucky Turnpike and the Jefferson Freeway. These are projects which motorist safety and increasing traffic congestion factors demand be completed immediately. Under this bill, we cannot begin construction before 1980!

I appreciate the opportunity to comment and I respectfully request your careful consideration.

Sincerely,

WENDELL.

Mr. RANDOLPH. Mr. President, the amendment before the Senate has as its principal sponsors two members of the Committee on Public Works. This proposal was placed before the committee during its consideration of S. 3939 by Senator COOPER, and strongly supported by Senator MUSKIE.

Both of these members of our committee have wide experience with transportation legislation, and both are articulate advocates of an improved, total transportation system in our country. They have made many worthwhile contributions to our highway legislation during the time they have served as members of the committee.

It is, therefore, with some regret that I must oppose them on amendment 1512, just as I opposed the substance of this amendment when it was offered to the committee in executive session.

Earlier today, there was extensive discussion of the amendment proposed by Senators KENNEDY and WEICKER. At that time I explained why we should not permit highway funds to be used for the construction of rail rapid transit systems. Although the amendment now before us is considerably narrower in scope than the one on which we voted earlier, it contains the same defects.

The needs for highways and highway-related public transportation are just too great at this time to permit the dissipation of highway funds by attempting to use them for rail transit construction. As advocates of a unified approach to meeting our transportation requirements, I am sure that my colleagues who offer this amendment are aware of the important function played by feeder bus routes in the operation of subways and other rail transit facilities. The language of S. 3939 as reported is geared to helping communities provide improved and expanded bus systems not only to supplement rail networks, but to provide the basic services in those communities where rail systems are not feasible answers to the community's transportation needs. The Federal-Aid Highway Act authorizes $800 million for urban highways during each of the next 2 years and provides that all of this money could be used for public transportation purposes, including the purchase of buses, if the States and communities to which it is allocated see fit.

This is a substantial amount of money and I emphasize that it is money that will supplement urban mass transit activities authorized by other legislation. It is not a substitute for these programs, but will help to make the total mass transit effort more responsive to our communities.

The Urban Mass Transit Administration estimates that in the next 20 years our country will need to invest $6.4 billion in the purchase of buses alone. This is considerably more than S. 3939 proposes to be spent from the highway trust fund for this purpose, and shows clearly that the program we are authorizing here is badly needed.

The highway program's involvement with public transportation was started a few years ago when we authorized experimental programs in development of preferential or exclusive bus lanes and such related facilities as fringe parking areas. These and others have become permanent parts of the highway program and their success is evidenced here in the Washington area primarily on the Shirley Highway where a demonstration program has become a permanent and integral part of the Washington area's transportation system. The mass movement of people in urban areas by buses is increasingly recognized as a key factor in solving the urban transportation crisis. More than 250 American communities have been left without any public transportation as the result of bus system closures in recent years. It is important that these and other communities receive support in providing this essential service.

The provisions of the Cooper-Muskie amendment would, if adopted, dilute our ability to tailor the highway program to respond to the transit needs of the great majority of American communities.

Mr. President, the sincerity of my colleagues who sponsor this amendment is above question. On this occasion, however, I fear that they are overresponding to one need with an answer that may compromise our ability to cope with the total problem of public mass transit. This proposal was discussed at great length in the Committee on Public Works, whose members declined to include it as a part of the Federal-Aid Highway Act of 1972. I hope that the Members of the Senate will follow this lead by taking the same action.

Mr. President, I shall take just 3 or 4 minutes to make a little statement from the standpoint of the viewpoint of the committee vote on the subject of this amendment, which was close.

Mr. President, I would be willing—I would be willing, I repeat—to accept the amendment but for the fact that the law by which highway trust funds are collected will not allow it.

I would accept the decision of the House Ways and Means Committee, and of course that of the Senate Finance Committee, to permit the broader use of these funds. As to what the law provides, I quote from the Highway Revenue Act of 1956, section 209(f) (1):

> Amounts in the trust fund shall be available for making expenditures which are attributable to Federal-aid highways.

This is the exact language in the law, Mr. President. We want to do what is possible within the framework of the law, and within that framework we have brought from our Committee on Public Works the advances proposed 4 years ago, 2 years ago, and again today.

The validity of this legal requirement was recognized when the administration submitted its legislative proposal early this year. It included a bill—I must remind Senators—to amend the Highway Revenue Act, as the Senator from Kentucky (Mr. Cook) could agree, so that the trust funds could be used for rail transit.

I have been very frank about this, hoping that it would help us as we come to a vote on this measure. I shall ask unanimous consent to have printed in the Record a letter dated today from Wilbur D. Mills, the chairman of the House Ways and Means Committee, addressed to the Honorable John A. Blatnik, chairman of the House Committee on Public Works, in which he said:

> I agree completely with the observations—

Those made by Chairman Blatnik—

> which you made concerning the fact that diversion of money from the highway trust fund for mass transit purposes as indicated in the amendment set forth in your letter would clearly be a violation of the provisions of section 209 of the Highway Revenue Act of 1956, as amended. I agree with you completely, and I am sure, if I understand the feeling of the Members of the Committee on Ways and Means, that the majority of the committee members would agree with me that this is clearly a matter within the jurisdiction of the Committee on Ways and Means and formal action would have to be taken by our committee before any such diversion could be accomplished.

I ask unanimous consent that the letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record as follows:

> Committee on Ways and Means,
> *Washington, D.C., September 19, 1972.*
> Hon. John A. Blatnik,
> *Chairman, Committee on Public Works,*
> *U.S. House of Representatives,*
> *Washington, D.C.*
>
> Dear Mr. Chairman: I have just received your hand-delivered letter of September 19, 1972, concerning the proposal to divert money from the Highway Trust Fund for use in mass transit.
>
> I agree completely with the observations which you made concerning the fact that diversion of money from the Highway Trust Fund for mass transit purposes as indicated in the amendment set forth in your letter would clearly be a violation of the provisions of section 209 of the Highway Revenue Act of 1956, as amended. I agree with you completely, and I am sure, if I understand the feeling of the Members of the Committee on Ways and Means, that the majority of the Committee Members would agree with me that this is clearly a matter within the jurisdiction of the Committee on Ways and Means and formal action would have to be taken by our Committee before any such diversion could be accomplished.
>
> Sincerely yours,
> Wilbur D. Mills, *Chairman.*

Mr. RANDOLPH. Mr. President, I hope that, in what I think would be its right judgment, the Senate will reject the proposed amendment. In saying that, I add something that I wish the Record to include: That I have very genuine respect for the Senator from Kentucky as not only a personal friend, but a valued Member of the Senate, and particularly of the Committee on Public Works. I have an equal amount of respect for the able Senator from Maine, who has given such close attention and has worked so closely in alliance with the Senator from Kentucky (Mr. Cooper) on this amendment.

I repeat again that within the framework of the law, it would be wrong for us to accept such an amendment.

Mr. MUSKIE. Mr. President, will the Senator yield me 5 minutes?

Mr. COOPER. I yield.

Mr. MUSKIE. Mr. President, since the point has been raised by the Senator from Kentucky (Mr. Cooper) and by the distinguished chairman of the committee, I think I should make some observations of my own.

First, let me say that we must distinguish between the question of committee jurisdiction with reference to changing the highway trust fund and the authority of Congress to change the law.

On the question of committee jurisdiction, action the Senate took earlier on the land use bill indicates that the Senate is not restrained or inhibited by a committee's assertion of jurisdiction in the enactment of legislation. The land use bill cut across the jurisdiction of at least a half dozen committees, and that did not inhibit the Senate from adopting legislation which was not referred to those committees. So committee jurisdiction is one point.

Now let us get to the question of whether or not it is for Congress to change the law, which is really what is involved: Is it legal for Congress to change the law?

First of all, with respect to the bill in the form in which it was reported from the committee: In that bill, we are in effect amending section 142 (a) of title 23 of the United States Code, which, under the committee bill, would permit portions of the funds to be spent for the purchases of buses and passenger-loading areas and bus lanes. That is in the bill. Thus, we are merely adding with our amendment another purchase, which is just as much in keeping with the overall intent of the proposed legislation.

In addition, Mr. President, the committee's proposed section 142 (c) states that the purposes authorized under (a) of section 142 shall be considered as "highway projects." That clearly would obviate any need to amend any other legislation. All we need to do is to label this a "highway project."

In fact, we have discussed this matter informally with the GAO, and it is their view, after examining the legislation, that there would be no difficulty in expending funds from the trust fund for this purpose—the Cooper-Muskie amendment purpose—were the amendment to be adopted. They state that the congressional action of adopting this amendment to the Highway Act, along with the existence of subsection (c), clearly would be sufficient to authorize funds to be expended from the trust fund.

Mr. President, in connection with the Kennedy-Weicker amendment considered earlier today by the Senate, the Comptroller General of the United States addressed a letter dated September 19, 1972, to Senator Kennedy, and I ask unanimous consent that the letter be printed at this point in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

> Comptroller General
> of the United States,
> *Washington, D.C., September 19, 1972.*
> Hon. Edward M. Kennedy,
> *U.S. Senate.*
>
> Dear Senator Kennedy: You have informally requested our opinion as to whether your Amendment No. 1482, dated September 6, 1972, intended to be proposed by you and Senator Weicker to S. 3939, which, if enacted, would be cited as the "Federal-Aid Highway Act of 1972," would authorize the use of the Highway Trust Fund for the acquisition and construction of rail facilities.
>
> It is our opinion that Amendment No. 1482, if enacted, would authorize, except with respect to the Interstate System, the appropriation of Highway Trust Fund monies for the acquisition and construction of rail facilities.
>
> Sincerely yours,
> R. F. Keller,
> *Deputy Comptroller General of the United States.*

Mr. MUSKIE. This is the concluding paragraph:

> It is our opinion that Amendment No. 1482, if enacted, would authorize, except with respect to the Interstate System, the appropriation of highway trust fund monies for the acquisition and construction of rail facilities.

Mr. President, having covered the question of the law, let me get to the question of what is a highway purpose.

The Washington Post editorial which was inserted in the Record earlier by Senator Tunney had this to say:

> Permitting cities to use the highway trust fund to build rails as well as roads is not an improper diversion of that fund, much less a perversion of any sacred trust. To the contrary, truly balanced transportation systems benefit highway users as much as bus riders and subway strap-hangers. Indeed, those who *must* use the roads—those who, for instance, have no other way to transport goods—have an especially direct interest in curbing highway congestion by offering people other ways to get from place to place.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MUSKIE. Will the Senator yield me 4 additional minutes?

Mr. COOPER. I yield.

Mr. MUSKIE. In my judgment, a major beneficiary of a redirection of the use of urban highway funds would be such urban highway users as truckers, taxi fleets, and others who must deliver goods and services and for whom public mass transportation is not an adequate substitute. By diverting commuters and other marginal users from the highway system to improve public transportation systems, congestion will be reduced, and those who rely on highways for delivery of goods and services will do so with greater facility and economy.

Mr. President, the point is that there is a connection between congestion and other problems related to the automobile and action of this kind designed to relieve that congestion for the benefit of highway users.

I raise one other point. Automobiles get this sacred trust fund money in the form of highways. Does that sacred trust fund pick up some of the costs generated by these highways? Has anyone ever suggested that the highway trust fund should be used to deal with the problem of urban sprawl created by the automobile? In the writing of air pollution legislation, have we tapped the trust fund to deal with the air pollution problem—created by what? The automobile.

We can go down the whole list of social problems and city problems created by the automobile. No effort has been made to tap the highway trust fund to deal with those problems.

Those who regard the fund as sacred want it both ways. They want the trust fund to be used to build more highways, to stimulate the manufacture of more automobiles, to generate more problems, and then leave the problems to the beleaguered general fund treasuries of the Federal Government, the States, and the cities, which, in addition, are urged upon us as the source of money for rail transportation. That makes no sense at all.

I say to the Senator from Kentucky, to the manager of the bill, and to the Senate that if we, the Congress of the United States, decide that relieving congestion on the highways and thereby relieving the problems of the cities is a legitimate highway purpose, that will be sufficient to legitimatize the use of the highway trust fund for that purpose.

Mr. COOK. Mr. President, will the Senator yield me 3 minutes?

Mr. RANDOLPH. I yield.

Mr. COOK. I say to the Senator from Maine that I agree with just about everything he has said, and I am delighted to agree with him, with one exception, and that exception is that if he wants to tap this trust fund for pollution, tap it. If he wants to do this on that basis and therefore can show that connection, which is obvious, then do so.

But it bothers me when it is said, in fact—even the fact that the bill said it in its original form, as it came here, and I am not on the Committee on Public Works—that bus lanes and facilities will be built so that one can get on and off buses, and then say in the previous law that transit systems are exempt from the tax, is to say something which is wrong.

If the Senator asks me, "If we pass this amendment, have we in fact changed the law?" I say we certainly have changed it, and it is just as good as it can be. There may be someone on the House side who will say that we have not changed the law. But obviously we have. That is our responsibility as legislators. But to say that one will do this and one will expand the funds and then to say to those who will be the recipients of the funds, "You need not contribute to the fund," then it is in reverse to say, "Because there is pollution in the air, you will not need to pay money out of the funds to solve the pollution problem." So I might say it is rather a degree of redundancy on the part of the Senator from Maine when he says that maybe the funds should be tapped by the users.

I do not consider it sacrosanct. I do not consider it sacred. I only consider that if we change the law and make it broader or make its utilization wider, then you impose the obligation on those you include within the framework so that they, too, can contribute to the fund. Then they are entitled to an equitable distribution which comes out of the fund. Therefore, if one wants to come into equity, let him come with clean hands but not file his application for a refund after he has utilized the fuels, paid the tax, and then asked the Federal Government to pay him back at the end of the year.

That is the only point I make, and I think it is a valid one.

Mr. WEICKER. Mr. President, will the Senator from Kentucky yield?

Mr. COOPER. I will yield in a moment.

Mr. President, I say with all deference to my chairman, that this question was not considered at any great length in the committee, as I recall. The Senator from Tennessee (Mr. BAKER) raised the question of assessing some kind of tax on users, but it was not examined as closely as some other issues.

I have heard, Mr. President, many eloquent, rational and logical speeches in the Senate. But I believe the reply of the Senator from Maine (Mr. MUSKIE) was equal to any that I have heard. His answer is founded upon the question of law, upon the question of the power of Congress to amend the law, upon the question of jurisdiction of the committee, and upon his judgment that the need for rail systems, monorail systems, and trams certainly are related to highways to a great degree in our present life. We know this. Finally, he appeals for better transportation for those who do not have cars, those who must have ways to get to work, and those who are poor. I think that his argument is one which should convince us all.

I should like also to pay my tribute to the distinguished Senator from New Jersey (Mr. WILLIAMS). I know of his leadership in the past on the urban mass transit fund. We appreciate very much his strong support.

Mr. President, I ask unanimous consent to have printed in the RECORD, the letter I received from Secretary Volpe and a letter and explanation of the Cooper-Muskie amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., September 18, 1972.
Hon. JOHN S. COOPER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR COOPER: The purpose of this letter is to respond to your letter requesting the Department's views on the amendments to the 1972 Highway Act which will be debated on the Senate floor this week. The first of these amendments is the one proposed by you and Senator Muskie, the passage of which we consider to be of utmost importance.

The 1972 Highway Act that the Senate has already debated goes a long way to strike a balance between the rural and urban programs. The bill currently incorporates an eight-fold increase in funding for the Federal Aid Urban System—from $100 million per year to $800 million per year—and makes these funds available directly to the local jurisdictions in our major urban areas. Furthermore, the Senate bill would allow buses to be purchased out of the Highway Trust Fund at the discretion of the recipient of these funds. The Cooper-Muskie amendment would take this one step further and would permit local units of government to use these urban transportation funds for any mass transit capital investment as well as for highway construction. It should be remembered that there will continue to be a separate mass transit capital grants program currently running at a $1 billion annual level.

While providing urban flexibility, the Cooper-Muskie amendment would not jeopardize our primary and secondary highway programs. It leaves unchanged from the Senate bill the purpose to which these primary and secondary funds can be put and continues these programs largely unchanged. This is important in the context of maintaining our critical intercity and rural highway network.

The other important amendment that will be coming up for a vote is the Kennedy-Weicker proposal which in some respects is similar to the Cooper-Muskie amendment. However, there is one major difference that is of sufficient consequence that the Administration quite frankly cannot support the Kennedy-Weicker proposal. The difference is that the Kennedy-Weicker proposal would make *every* non-Interstate highway program, primary and secondary as well as urban, eligible for financing rail rapid transit. Such a step could in some States lead to the diversion of primary and secondary highway funds into subway construction in our major cities—a step not conducive to a balanced transportation approach.

We think that it is essential that we strike a balance between our urban transportation needs and our rural transportation needs. It is our considered opinion that the Cooper-Muskie amendment would strike this balance. It would provide the flexibility so sorely needed in our major urban centers while at the same time insuring the continuation of our very important and very necessary primary and secondary highway programs.

In closing, let me raise one additional issue which has been a matter of concern to representatives of some predominantly rural States. I would stress that under the Cooper-Muskie amendment no State will receive less than it would have otherwise received, and that a State may still use all these funds for highway construction if it chooses.

I hope that this brief explanation of our position on these two important amendments provides you with the information you requested.

Sincerely,

JOHN A. VOLPE.

WASHINGTON, D.C.,
September 13, 1972.

DEAR SENATOR: The Committee on Public Works, on which we serve, has reported the

Federal-Aid Highway Act of 1972, S. 3939, which was then referred to the Committee on Banking, Housing and Urban Affairs. That Committee has now made its recommendations to the Senate, and the bill could be taken up in the Senate late this week or early next week.

The highway bill contains important new provisions for meeting the transportation needs of metropolitan areas, while maintaining a fair and balanced highway program for rural and smaller urban areas. For example, it authorizes an eight-fold increase—to $800 million annually—in funds for the Urban System established by the 1970 Highway Act. The 1970 Act also authorized use of the highway Trust Fund for highway public transportation including the construction of bus lines; the Committee bill extends this public transportation authority to include the purchase of buses. However, existing Section 142 of title 23 U.S.C., and the Committee bill, restrict use of the trust funds to public mass transportation systems "other than on rails."

In the Committee on Public Works, we offered an amendment with respect to the Urban System to remove that restriction excluding rail mass transit—so as to allow city officials and metropolitan transportation agencies to use their portions of the $800 million Urban System funds for such transportation modes as they determine necessary to meet the needs of their people.

The decision of the Public Works Committee was very close. The "Cooper-Muskie" amendment was first adopted by a vote of 8–7, later reversed. We announced our intention to offer the amendment in the Senate.

When the bill was referred to the Banking Committee—which held a hearing September 7 on the provisions of the bill relating to urban mass transportation—the "Cooper-Muskie" amendment received the full support of the Administration through the testimony of the Secretary of Transportation, Mr. Volpe, who strongly urged its adoption. We are glad that the testimony of other groups heard by that Committee also supported the amendment. The Senate Banking Committee, by a vote of 10–0, has now recommended to the Senate adoption of the "Cooper-Muskie" amendment.

We consider it appropriate and necessary for the Congress to say that highway trust funds allocated to urban areas may now be used to supplement mass transportation funds—and that providing such flexibility is perhaps the best hope for reducing traffic congestion and maintaining the usefulness of urban highway systems. We believe the time has come to resolve this issue, and to enable cities to better manage their capital expenditures for these closely related transportation modes.

We emphasize that our amendment is directed solely to the Urban System funds, and would not change the effect of the Committee bill with respect to primary, secondary and Interstate funds—which would continue to be available for highways as under the Committee bill (including public highway transportation such as the construction of bus lanes and purchase of buses). The amendment would not permit the diversion of rural road or inter-city highway funds for subways. We believe it would protect the continued use of the trust fund for these purposes by helping to meet the legitimate needs of metropolitan areas—which if not met could lead to demands to abolish the Highway Trust Fund.

The purpose of this letter is to invite your support of the amendment we will offer in the Senate—numbered 1512. Our views are contained in Senate Report No. 92–1081 between pages 53–63. The report of the Committee on Banking, Housing and Urban Affairs, No. 92–1103, also discusses the amendment as a recommendation of that Committee, beginning on page 5.

If you would like additional information, you may wish to have your staff be in touch with Mr. Guard, ext. 5–7854, or Mr. Billings, ext. 5–7859, of our respective staffs.

With kind regards, we are,

Sincerely yours,

JOHN SHERMAN COOPER.
EDMUND S. MUSKIE.

EXPLANATION: COOPER-MUSKIE AMENDMENT NO. 1512 TO S. 3939, FEDERAL-AID HIGHWAY ACT OF 1972

Listed below are the highway systems and programs for which Highway Trust Fund authorization is provided in the Federal-Aid Highway Act of 1972.

The Cooper-Muskie amendment would not divert any of the following Highway Trust Fund authorizations. Their purpose and use would be maintained as under existing law and the Committee bill.

[In millions of dollars]

	Fiscal year 1974	*1975*
Interstate	3, 250	3, 250
Primary	950	950
Secondary	500	500
Small urban system	50	100
Urban high-density	100	100
Forest highways	50	50
Public land highways	25	25
Parkways	75	100
Scenic enhancement	15	15
Highway beautification	65	65
Economic growth centers	50	100
Alaska assistance	20	20
Bicycle transportation	10	10
Highway safety:		
402 programs	300	300
403 programs	125	125
Bridge replacement	250	250
Pavement marking	10	10
Emergency medical	5	25
Total	5, 851	6, 020

Only one system would be affected by the Cooper-Muskie amendment—the Urban System in metropolitan areas of 50,000 population and over.

Urban system:	
Fiscal year 1974	$800
1975	800

S. 3939 as reported by the Committee on Public Works provides that the above Urban System funds may be used for public mass transportation *other than rail* (existing law)—including the *purchase of buses* (new). The Cooper-Muskie amendment would remove the restriction against rail.

The Cooper-Muskie amendment was first approved 8–7 in the Committee on Public Works, later reversed by 7–8 vote.

The Committee on Banking, Housing, and Urban Affairs has recommended adoption of the Cooper-Muskie amendment by a vote of 10–0. (Report 1103).

The Cooper-Muskie amendment is strongly supported by Secretary Volpe of the Department of Transportation, on behalf of the Administration.

Mr. MUSKIE. Mr. President, will the distinguished Senator from Kentucky yield?

Mr. COOPER. I yield.

Mr. MUSKIE. I do not want to prolong this discussion needlessly. I think we have covered the issues. I rise as a point of personal privilege to pay tribute to the distinguished Senator from Kentucky (Mr. COOPER) not just for his work on this amendment but also for his work on the Committee on Public Works generally.

The distinguished Senator from Kentucky is leaving the Senate at the end of this session, so that I will never have occasion, perhaps, in connection with any legislation that comes out of that committee, to pay my tribute to him.

We will miss him on that committee. He has adopted a broad, objective, and statesmanlike approach to so many problems.

Take this one. His State is not an urban State in the sense that others are. Yet he is concerned. At a time when many Senators, having made the decision not to run for reelection, would be coasting for the remainder of their term, the distinguished Senator from Kentucky has not done that. He has plunged into this difficult and controversial area. He has done it constructively, and I just want him to know that I have enjoyed my association with him, and I shall miss him.

Mr. WEICKER. Mr. President, will the Senator from Kentucky yield me 12 minutes?

Mr. COOPER. Start at 5 minutes and see how it works out as we go along.

The PRESIDING OFFICER (Mr. MONTOYA). The Senator from Connecticut is recognized.

Mr. WEICKER. I thank the Senator from Kentucky.

Mr. President, I want to commend the Senator from Kentucky and the Senator from Maine for their amendment, an amendment which I believe should be adopted on behalf of the people of this country.

I think it is important to point out that neither the Senator from Maine nor the Senator from Kentucky represents a State brimming over with people. In fact, I would imagine it will probably be a lot easier for the Senator from Kentucky and the Senator from Maine to sit here and go along with business as usual, transportation-wise—which in effect, means the building of more highways.

Thus, I want to express the appreciation of a Senator from a State which clearly has urban problems and problems of population to both my colleagues from Kentucky and Maine for being willing to stand up and speak out for a balanced transportation system.

The help and the initiative comes from a rather unusual quarter in a forum where usually we represent only our own interests.

Earlier, the Senator from Massachusetts (Mr. KENNEDY) and I were confronted with a letter from the Secretary of Transportation which was used by the distinguished Senator from West Virginia (Mr. RANDOLPH) to beat down the amendment of the Senators from Massachusetts and Connecticut.

Specifically the Senator referred to that section of the letter critical of the Kennedy-Weicker amendment.

I asked at the time whether, since he was using the Secretary of Transportation as support for his position it would be appropriate to also include the rest of the admonitions contained in the letter. He said he would at such time as the issue came before the Senate. It is now before the Senate. In that letter, the

Secretary of Transportation states as follows:

> The purpose of this letter is to respond to your letter requesting the Department's views on the amendments to the 1972 Highway Act which will be debated on the Senate floor this week. The first of these amendments is the one proposed by you and Senator Muskie, the passage of which we consider to be of utmost importance.
>
> The 1972 Highway Act that the Senate has already debated goes a long way to strike a balance between the rural and urban programs. The bill currently incorporates an eight-fold increase in funding for the Federal-Aid Urban System—from $100 million per year to $800 million per year—and makes these funds available directly to the local jurisdictions in our major urban areas. Furthermore, the Senate bill would allow buses to be purchased out of the Highway Trust Fund at the discretion of the recipient of these funds. The Cooper-Muskie amendment would take this one step further and would permit local units of government to use these urban transportation funds for any mass transit capital investment as well as for highway construction. It should be remembered that there will continue to be a separate mass transit capital grants program currently running at a $1 billion annual level.
>
> While providing urban flexibility, the Cooper-Muskie amendment would not jeopardize our primary and secondary highway programs. It leaves unchanged from the Senate bill the purpose to which these primary and secondary funds can be put and continues these programs largely unchanged. This is important in the context of maintaining our critical intercity and rural highway network.

Then he goes on to criticize the Kennedy-Weicker amendment.

Finally he says:

> We think that it is essential that we strike a balance between our urban transportation needs and our rural transportation needs. It is our considered opinion that the Cooper-Muskie amendment would strike this balance. It would provide the flexibility so sorely needed in our major urban centers while at the same time insuring the continuation of our very important and very necessary primary and secondary highway programs.

Then he raises additional points at the end of the letter. So, if we are to follow the advice of the Secretary of Transportation, which advice was so instrumental in the clobbering of the Kennedy-Weicker amendment, we should now overwhelmingly pass the amendment of the Senators from Kentucky and Maine.

Now, Mr. President, the issue is raised as to the trust fund, "tapping the trust fund."

There is only one trust that I recognize. Each one of us on the floor should recognize that that is the legislative trust that was imposed on each of us in our election to this body. Otherwise why not create a range of trust funds—a trust fund for the military, a trust fund for pollution, a trust fund for agriculture, and on down the line—so that we never have to use either our imagination or creativity nor be held responsible for the consequences of our inaction.

To my way of thinking, there is no question as to what trust is important today. It is that legislative trust which is thrust upon each one of us. Yet the Congress of the United States, both the House and Senate, has managed to avoid fulfilling that trust so far as transportation is concerned by differing its power of creativity to the supposed proprieties of an artificiality known as the highway trust fund.

So I am asking that this Senate of live and warm bodies—rather than create a legal artificiality, create the transportation policies of our country. That means tackling the mobility, environmental, and safety crises of the 1970's rather than rehashing the highway shortages of 1956.

Mobility is achieved differently in different places. In 1972, for example, a new interstate highway from the center of Hartford, Conn., to its suburbs of West Hartford, Avon, Farmington, and Bloomfield makes as much sense—and I say this in all due deference to the Senator from Montana—as a subway from Billings to Kalispell, Mont. Yet that is what cities all over the United States are forced to do by virtue of the Federal Government failing to review its legislative trust in transportation for almost 20 years. Now there is a breakdown or a tapping or an erosion of a trust worthy of dismay.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. COOPER. Mr. President, I yield 3 additional minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 3 additional minutes.

Mr. WEICKER. Mr. President, it is certainly much more so than the self-serving howls of the lobby guarding the highway trust fund.

Mr. President, a short time after the vote on the Kennedy-Weicker amendment, one of the members of my staff was going back to the Senate Office Building. The highway people traveling in the subway were gleeful over the fact that they had won so overwhelmingly. But these are the last of the highway lobbyists. No longer does the highway trust fund have all of its members. Only recently some of them said, "Let us end the highway trust fund." Henry Ford said, "Let us use the money from the highway trust fund for mass transit." The Mobil Oil Co., in a series of advertisements in the New York Times, says: "Open up the fund. We need balance, coordination, sanity."

Slowly but surely everyone in the country is moving ahead but the U.S. Senate. We have been clinging to the highway trust fund. Today the Senate can change the emphasis toward mass transportation.

Personally, I do not know why there is such stubbornness here in the matter of paying these moneys. I never grieve when good fortune is broadened in this country, only when it remains static or diminishes. As highways were needed in 1956, so they are needed today and probably will continue to be in the future, although probably not in the same form, as secondary roads take priority over the interstate system. However, they will be needed.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. COOPER. Mr. President, I yield 2 additional minutes to the Senator from Kentucky.

Mr. WEICKER. Mr. President, what is clear now, however, is that highways alone or in overwhelming proportions are a mobility, environmental and safety disaster. We are well aware on the basis of our own experiences, not from some advertisement, that though long distance travel has improved in this Nation, intermediate and short distance travel has become a nightmare of waiting and that today's traffic jams are no longer restricted to 1 and 2 days, but are expanded to 3 and 4 days.

The United States does not answer the questions, regardlesss of the legalities raised by the Members of this House. How do we answer the heat inversions caused by auto pollution that occur in increasing numbers? How do we answer the fact that businesses are being displaced every day in increasing numbers?

How do we answer the fact that the landscape is being paved over with concrete, all in the name of the God of Mobility, but still no mobility is achieved?

I think it is important that this body maintain our fiscal integrity and maintain the integrity of this program. However, much more important, I think, is that we fulfill our objectives and our objectives and loyalty are not to this highway trust fund. Our loyalties are to the people of this country and their mobility and to the fact that they can live, to the fact that they can breathe, and to the fact that they can move.

That is what I am here for, not to defend a fiction.

Mr. COOPER. Mr. President, does the Senator from Maine desire to speak again?

Mr. MUSKIE. Mr. President, I have said all I want to say on this matter. In fact, I have said about all I want to say for 1 day anyway.

Mr. RANDOLPH. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. RANDOLPH. Mr. President, I hope that we will be able to vote in 2 or 3 minutes on the amendment.

Had the Senator from Connecticut been in the Chamber, he would have known that I answered the second part of his earlier question during the debate. I only want to repeat that I said I would be willing to accept the amendment but for the fact that the law by which these funds are collected will not permit it.

I want the Senator from Connecticut to know that the efforts of the Public Works Committee of the Senate, and not some other committee of this body, are responsible for the administration's recommending an increased authorization of $3 billion for urban mass transit in this country, in addition to the $3.1 billion with which we now work.

It is absolutely wrong for any Member of this body to stand in the Chamber and indicate some concrete or asphalt attitude on the part of the Committee on Public Works.

As the Senator from Kentucky well knows, and as other Members of the Senate are well aware, when we speak of creativity, that is something that has come from the Public Works Committee.

On the subject of pollution, yes. But I say to my friend, the Senator from Maine, also on the subject of economic development in this country and certainly on a dozen subjects across the board, this committee has shown the resourcefulness and the ability to move to meet the problems which we face.

My belief in the importance of all transportation has stimulated my personal involvement in support for these activities. For primary roads, yes; for interstates, yes; for farm-to-market roads, yes; and for all types of roads in between so that this Nation could move forward as it has done. For airports, yes, and that would be airports like Kennedy International to handle transportation to the faraway nations of the earth; airports in a Wyoming county, and a little strip of 2,200 feet to help the people move from the narrow valleys of an area of West Virginia. There is not a form of transportation that I have not attached my mind and my heart to in my service in the House and in the Senate.

Mr. President, I am prepared to vote, of course. I close in good humor, but also in good purpose.

Mr. SPONG. Mr. President, I have reservations about this amendment, but intend to vote for it because of the flexibility it offers for improving transportation in northern Virginia.

As I understand it, the amendment would give the States and urban localities the option of using urban highway funds for mass transit. The proposal would be applicable only to the $800 million authorization for the urban system and not to interstate funds. It would not apply to authorizations in the bill for other highway systems.

Mr. President, many rural communities in Virginia are in urgent need of highway improvements. On several occasions I have requested the administration to release impounded highway trust fund money in order to expedite road construction projects in rural Virginia. For that reason I would oppose any proposal which would divert rural highway construction funds into mass transit programs.

I shall vote for the amendment with the clear understanding that its adoption would in no way reduce the level of funding for highway construction in rural areas, and with the understanding that its provisions with respect to mass transit in urban areas are purely discretionary.

Mr. KENNEDY. Mr. President, I rise in support of the Cooper-Muskie amendment to the Federal Highway Aid Act.

The amendment which we now consider represents a more limited attempt than the Kennedy-Weicker amendment to provide flexibility in the use of the highway trust fund but it does mark a beginning.

At least this amendment would permit urban areas to make the choice between highways and rail transit.

When the current backlog from cities for urban mass transit assistance is $4 billion and when some 17 cities currently are planning to go forward with full-scale transit systems, a Federal financing mechanism that forces them to accept money for highways they do not need—cannot be in the national interest.

Yet that has been the policy that has produced a warped transportation system in this Nation. We send 343,000 cars into downtown San Francisco daily. We send 160,000 cars into downtown Boston. We send 700,000 cars into New York City every day. And then we wonder why our marvelous new cars belching pollution in spite of the devices and our marvelous new highways no longer perform the elementary function of carrying us where we want to go when we want to go.

Instead, we find bumper-to-bumper traffic stacking cars from suburb to central city and we find pollution in the inner city at unacceptably high levels.

Now the cities are rebelling. They are rebelling because the character of life in urban areas no longer is improving. They are rebelling because more highways for more cars means more urban misery.

The evidence is strong that many cities will use their trust fund allocations both for building new roads and for building effective mass transit systems. It is not a case of either/or, it is a question of whether they are able to develop a balanced transportation system.

Today, cities have one option if they want to receive their portion from the highway trust fund, a fund which urban residents have largely paid for. They can accept their allocations and build highways or they receive nothing.

And so most cities find themselves in the awkward position of having to tilt their transportation planning toward more autos and more highways, knowing full well that they are merely putting off the day of reckoning.

Before that time arrives, hopefully we can succeed in providing our urban areas with some flexibility in Federal funding to enable them to meet all of their transportation needs.

The amendment now before the Senate seeks to further this goal. It does not affect all noninterstate funds, nor does it affect all moneys bound for the urban areas. Thus, it does not affect any of the urban extension funds within the primary and secondary systems. Nor does it affect the small urban system funds. It reaches only to the $800 million allotted to the urban system dealing with large urban areas.

It is a measured effort to provide some semblance of rationality to a transportation funding process that has fallen out of step with reality.

Senators Cooper and Muskie both should be commended for their efforts to see that the current bill reflects current reality. Their amendment simply repeats their almost successful action within the Public Works Committee to permit these same funds to be used for the construction and acquisition of rail facilities and equipment. At that time, the committee split virtually in half on the issue, one vote adopting the amendment and a second vote rejecting the amendment. Thus, a substantial number of Senators on the Public Works Committee as well as every member of the Banking and Urban Affairs Committee have voted already in favor of this amendment.

I would hope that it would be adopted because it moves in the direction that all observers of the transportation scene desire, in the direction of a balanced and integrated transportation system.

Mr. CRANSTON. Mr. President, I support amendment No. 1512, the Muskie-Cooper amendment, which I am pleased to cosponsor. This amendment would open up the use of urban highway system funds for public transportation including rail transit.

The highway trust fund, created in 1956, has poured billions of dollars into the Nation's Interstate Highway System, now 80 percent completed. In comparison, funding for the Nation's public transportation systems has been pitifully small. The present congressional authorization of $3.1 billion, expiring in fiscal 1975, falls far short of the $32 billion that the Urban Mass Transportation Administration estimates is required over the next decade. By freeing highway trust fund moneys for public transportation within urban areas, Congress will supplement the inadequate urban mass transportation authorization; it should in no way supplant that authorization or diminish it.

For too long, communities have had little Federal aid for developing alternatives to our reliance on the automobile. Those who make the daily commute, the elderly, the handicapped, our young people, the poor who cannot get to jobs and recreation, and all of us who suffer from the congestion and smog—we all need relief. As S. 3939 now reads, localities can buy buses for use on exclusive or preferential bus lanes with highway trust fund moneys. In some areas, this system has been very successful; it is not, however, adaptable to all areas. The addition of funds for rail transit to S. 3939 will give communities the needed flexibility in developing transportation plans best suited to them.

Mr. President, the Senate Banking Committee voted 10 to 0 to support the Muskie-Cooper amendment. Secretary Volpe has stated that he considered passage to be "of utmost importance." I urge my colleagues to join in supporting this critically important amendment.

I would also like to say that I am delighted that S. 3939 contains what is essentially the bill I introduced on August 5, 1971: S. 2440, the Bicycle Transportation Act of 1971. This new language provides that all funds apportioned for Federal aid to highways would be available to finance the Federal share of construction costs for separate or preferential bicycle lanes or paths, pedestrian walkways, and equestrian trails projects could be located on or in conjunction with Federal-aid highway rights-of-way in both urban and rural areas.

In addition, this new bicycle facility authorization provision guarantees at least $10 million annually from the trust fund for carrying out this provision, with each State eligible for a minimum of $100,000. These funds could be used for bicycle projects in connection with either new or completed Federal-aid highway projects.

This is great news for the Nation's 80 million bicycle riders—7 million in California alone. The bicycle boom, which has flourished more in California than in most States, has many positive aspects. Besides its recreational value, bicycling is improving the health, environment, and transportation problems of the Nation.

The urgent need for more and safer bikeways is underscored by the nearly 1,000 bike-related deaths which the National Transportation Safety Board estimates will occur this year. My own State of California reported a 117-percent increase in bicycle fatalities between 1967 and 1970.

In Davis, Calif., where a farsighted city council began developing an extensive bikeway system in 1965, there have been no bicycle traffic fatalities since separate bike lanes were established. And Davis has almost as many bicycles as it has people.

Under the bicycle provisions incorporated into S. 3939, municipalities interested in encouraging bicycle transportation will be able to make application for Federal aid. A survey I conducted earlier this year revealed that at least 153 cities and 22 counties in California are interested in Federal bicycle aid. And from the many letters, postcards, and telephone calls I have received from across the Nation, it seems evident that this interest is shared by municipalities in every State in the Union.

Mr. TUNNEY. Mr. President, I favor the Cooper-Muskie amendment to the Federal-Aid Highway Act of 1972, S. 3939, an amendment, which I supported in the Public Works Committee. Over the next decade the great metropolitan areas of California will experience increasing demand for public systems of mass transportation catered to their particular transport needs and priorities. The proposed amendment would give each metropolitan area the option of choosing the technological solution most suited to its requirements, and of doing so without financing constrictions which arbitrarily favor one mode over another. This amendment would permit the use of urban system funds—up to $800 million—for rail transportation as well as other public transportation systems.

For too long now we have shackled ourselves to a policy which permits little or no flexibility in attacking transportation problems. In the Los Angeles area alone there are 600,000 more cars than there were in 1965. Since 1965, well over a billion dollars has been spent building freeways in the Los Angeles area. That works out to nearly $2,000 per additional car that has been squeezed onto the Los Angeles freeways. It is estimated that the Riverside area freeways will be so crowded by 1990 they will have to be widened or access to them from local streets will need to be controlled.

In addition to the congestion, continued overuse of automobiles has also detrimentally affected the quality of our environment. Air pollution from automobile exhaust presents a serious hazard to our health. Riverside has the worst smog problem in the Nation and has recently brought suit against the Environmental Protection Agency to force EPA to prepare a plan for meeting Federal air quality standards in the south coast air basin by 1975.

The diverse needs of the great metropolitan areas of California underscore the importance of a Federal policy which treats all modes equally in terms of funding. In spite of an inconsistent, and often irrational Federal policy, California has shown leadership in each of three major mass transportation fields:

First, in the field of urban rail technology, I need not remind Senators that the great Bay Area Rapid Transit System has opened in the past week. Its accomplishments are particularly significant to our decisions here today, given that the local citizens courageously chose to tax themselves in the face of an inadequate Federal funding program in order to bring about a radical change in local transportation policy. The regional rail system of BART, coupled with the dramatic revitalization of the light rail MUNI system, has placed the bay area in the forefront of the world in terms of advanced rail technology.

Second, concerning the development of applied bus technology, California has long taken the lead in the field of highway mass transportation. Indeed, the first major application of the express bus system occurred in Los Angeles, where today the first major exclusive busway authorized under section 142 is under construction as part of the San Bernardino freeway project.

Third, and finally, California notes with pride that from its earliest conception, the field of automated guideway transportation, operating small, directly-routed automated transit vehicles, was pioneered by the great research and development institutions of California. Similarly, we note that the leadership in the production of operating prototypical systems has occurred largely through the private sponsorship of California's diversifying aerospace industries.

Because California has taken national leadership in all categories of urban transportation, we are particularly concerned with Federal legislative programs which will allow our metropolitan areas a rational choice between alternative technological solutions.

In California we are ready. In California we have reformed our funding mechanisms to allow local areas to decide themselves how their transport dollars are to be allocated. Today we have the opportunity to provide this critical flexibility for Federal allocations as well. As Senator Muskie and I noted in our supplemental views to the committee report on S. 3939:

> Today the Federal highway program, supported by the highway trust fund, is the subject of widespread citizen dissatisfaction in all areas—urban, suburban and rural—where Federal funds are used to build highways. . . . The realities of today's transportation needs should no longer allow Federal support to be provided in this discriminating fashion."

I ask unanimous consent to have printed in the Record an article entitled "Roads and Rails for the Cities," published in the Transportation News Digest of the Washington Post.

There being no objection, the article was ordered to be printed in the Record, as follows:

Roads and Rails for the Cities

The Senate this week has an excellent opportunity to get the highway trust fund on the right track in the cities. The two-year, $14-billion federal-aid highway bill reported by the Public Works Committee already contains significant provisions granting state and local officials some flexibility to cancel controversial urban freeway plans and redirect federal highway funds to less disruptive roads or to bus systems. The bill would also expand the present urban transportation fund eight-fold, to $800 million per year, and authorize direct federal grants to metropolitan transportation agencies.

Following such efforts to shelve old, seemingly endless freeway fights and to lure people from private cars into buses, the next logical move would be to get more people off the roads entirely and into rail transit systems, thus relieving both the congestion on existing arteries and the pressures for still more lanes. The most feasible legislative vehicle for such a policy shift is the Cooper-Muskie amendment, which would grant cities the option to use their shares of that $800-million urban transportation fund for rail transit as well as buses, bus lands, fringe parking areas and roads.

The amendment, to be offered on the Senate floor this week, enjoys impressively broad, bipartisan support. Senators Cooper and Muskie in fact missed gaining a majority within the Public Works Committee only by one vacillating vote: the amendment was first adopted by that panel, 8–7, then rejected 8–7 the next day when Sen. Robert T. Stafford (R-Vt.) changed his mind with the explanation that "I come from a rural state." The Senate Banking Committee, which handles mass transit bills, endorsed the Cooper-Muskie measure, 10–0, as a supplement to the present program of aid for urban transit systems. The amendment is also blessed with administration backing, primarily as a result of Transportation Secretary John A. Volpe's vigorous—and undaunted—advocacy of unified transportation planning and funding for metropolitan areas. With a flexibility which is refreshing, compared with the our-bill-or-nothing approach taken too often by administration officials, Secretary Volpe has recognized that his "single urban fund" approach has not won congressional favor, and has swung his enthusiasm behind the Cooper-Muskie move.

Measured against the massive transportation snarls of urban areas and the mammoth pro-highway bias of past federal policies, the Cooper-Muskie amendment is a very modest advance. Permitting cities to use the highway trust fund to build rails as well as roads is not an improper diversion of that fund, much less a perversion of any sacred trust. To the contrary, truly balanced transportation systems benefit highway users as much as bus riders and subway strap-hangers. Indeed, those who *must* use the roads—those who, for instance, have no other way to transport goods—have an especially direct interest in curbing highway congestion by offering people other ways to get from place to place. Ideally, each metropolitan region should be able to design and fund whatever mix of roads and rails—and bike paths and pedestrian ways—will meet its particular needs in the most efficient, healthy and humane way. The Cooper-Muskie amendment, while limited, is an important and attainable beginning toward that end.

Mr. TAFT. Mr. President, when we argue about the merits of using highway trust fund money for all forms of mass transit, we sometimes overlook the environmental factor.

Building highways throughout the countryside between cities has environmental problems, but miniscule compared with those of streets and roads in the urban center. Cars are forced to bunch up in great numbers spewing noxious fumes into the already fouled air. Adding more roads has not alleviated and will not alleviate the problem, but then commuters have no other way to get to and from work. They do not have fast, clean, economical public transportation.

This is not a problem in which time is not a limiting factor. Time is running out on us to the point where drastic measures may have to be taken. We do not want to get to that point of no return. We have the opportunity now to start turning the situation around by funding mass transit of all types.

We have done a lot with buses and other road vehicles. We have not done enough with rapid rail equipment. In some areas of this country, rapid rail systems may be the sole solution. And would not that be ironic because at the turn of the century rapid rail was the sole means of public transportation in many areas?

I highly commend the efforts of Senators John Sherman Cooper and Edmund Muskie to amend the proposed Federal-Aid Highway Act of 1972 to permit highway trust fund money to be allocated for mass transit capital grants. I urge my fellow lawmakers to support this effort.

Mr. BOGGS. Mr. President, I wish to express my support for this amendment offered by the distinguished senior Senator from Kentucky (Mr. Cooper) and the distinguished junior Senator from Maine (Mr. Muskie). This amendment is intended to give urban areas the flexibility they need to most effectively meet their transportation problems. The committee bill, of course, gives the States and urban areas the flexibility to devote a portion of their noninterstate funds to improving mass transit related to buses.

The Cooper-Muskie amendment would increase that flexibility, allowing an urban area, in coordination with the State Highway Department, to spend a portion of its apportioned urban system funds for a variety of mass transit purposes, if the area wishes to do so. It is a permissive mandate, one designed to weigh all the alternatives to achieve the best solution.

Frankly, I cannot see a strong likelihood that the Cooper-Muskie amendment will have a strong impact in my own State. A community the size of Wilmington, Del., will almost necessarily be dependent on buses for its mass transit needs for long into the foreseeable future.

But I do not wish to impose Delaware's situation on my neighbors. If urban areas in another State can expand the efficiency of their highway networks through justified improvements relating to rail mass transit, I believe those urban areas should have that flexibility.

The distinguished chairman of our Public Works Committee (Mr. Randolph) has eloquently expressed an alternative viewpoint. I can certainly understand and appreciate it. I would certainly agree that we should not destroy the user-related concept of the highway trust fund. But I would argue that, within the concept of the expanded urban system, there are many opportunities to improve the efficiency of our Federal-aid highway system by developing mass transit alternatives.

Mr. HUMPHREY. Mr. President, I support the Muskie-Cooper amendment to the Federal-Aid Highway Act of 1972. This amendment would begin to move this Nation toward what I consider a necessity in the transportation field—flexibility of State and local governments to mix modes of transportation.

Mr. President, I have been a strong and consistent supporter of the Interstate Highway System. I supported it when the program began in 1956 and I have supported its renewal since then. And, I will vote for its renewal now. This legislation has had a tremendous impact on the United States. It has altered population patterns. It has given our country what is undoubtedly the greatest transportation highway system in the world.

But, Mr. President, just as the times in 1956 demanded an interstate highway commitment, so do the times now demand a second focus for a national transportation commitment. We must begin to solve the crisis in mass transportation facing our urban areas. And, the amendments offered today are a step in that direction.

Last March 15, I introduced the Transportation Systems Improvement Act of 1972. This legislation would permit the use of moneys from the highway trust fund for the construction of mass transit facilities; the preparation of locally approved comprehensive transportation plans; the operation and maintenance of community streets; and subsidies for presently existing transportation systems.

At the time I introduced that bill, I noted that the United States had three primary transportation problems: the lack of transportation balance, the lack of transportation integration, and the lack of adequate financing for mass transportation.

The legislation I proposed then provided a method for beginning to solve these problems. A ground transportation systems improvement program would be established that would set up a program of grant-in-aids to help State and local government maintain and operate highways and related transportation services. Funds from this program would be distributed to localities along a formula basis, and localities would have to present comprehensive transportation plans with local public hearings and participation in order to receive these funds.

I am indeed gratified that the Senate Public Works Committee has examined the legislation I introduced and incorporated parts of that legislation into the bill before us. I am also gratified that the planning sections I advocated in my bill are before the Senate in the form of an amendment.

Mr. President, the Muskie-Cooper amendment would allow more than $800 million from the urban systems transportation program to be used for rail as well as bus transportation and highway construction. This amendment would not divert any of the interstate, primary, or secondary road programs financed by the highway trust fund.

The Muskie-Cooper amendment is a reasonable amendment. It is a needed step toward meeting the transportation crisis of our cities. It is a step that is supported by the Nixon administration, the Senate Committee on Banking, Housing, and Urban Affairs, and by the Conference of Mayors and League of Cities.

Mr. President, this amendment would allow States and localities to use allocations from the highway trust fund to meet all types of transportation needs, including highways. This amendment would add some flexibility to the choices facing local municipalities. It would preserve some element of local choice and local decisionmaking. It is, in a sense, returning some of the Government at the Federal level to the people at the local level. It has long been a tenet of mine that local officials and local citizens have a much more realistic perspective on how to spend money for their needs—rather than having the detail and direction of this money spending dictated from Washington. The Muskie-Cooper amendment is consistent with that viewpoint.

Mr. President, it is my view that we should move quickly to commit the resources to finish the Interstate Highway System and provide for its continuous maintenance and operation. However, I do not believe that the choice facing the Senate or the American people must necessarily be one of highways or mass transit. It is my view that these modes of transportation are complimentary. And, it is with that perspective that we need to develop a workable national transportation policy—a policy for urban areas, suburban areas, and the rural heartland.

Only by taking a broad view of the transportation problems facing this country can we build the necessary compliment to the Interstate Highway System.

Mr. President, this amendment moves us in the direction of taking a broad view of transportation in the United States. I am pleased to add my voice and support to them.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. COOPER. Mr. President, does the Senator from Maine wish to speak?

Mr. MUSKIE. No, I think I have covered everything.

Mr. COOPER. Mr. President, I do not wish to prolong the debate. I think we are ready to vote.

In statements I made this evening on the amendment offered by the Senator from Massachusetts (Mr. Kennedy), and the Senator from Connecticut (Mr. Weicker), and on the amendment I have offered with the Senator from Maine (Mr. Muskie), I have tried to address the problems to which the amendments are directed. I do not know of any personal feeling that I have had about it.

I have served with the Senator from West Virginia for many years. It is true that he has been a champion in the cause of mass transportation, as I indicated in my views on page 61 of the committee report. Not only in urban transportation has he given leadership in an attempt to develop the economic strength and maintain the social strength of this country. There are also the Appalachian Development Act, in which we joined as cosponsors, the Economic Development Act, the Highway Safety and Beautification Acts, the air pollution and water pollution control and other environmental measures, and many, many others. I pay him that tribute. Senator RANDOLPH is always fair, always just. He is a strong leader; a fine and courteous gentleman. He is a great Senator and great American, and I count him as my friend.

But now we must come to a vote on this amendment. I wish to emphasize again that this amendment will not deprive any State of $1. The amendment simply allows local officials of metropolitan areas to determine how the funds allocated to urbanized areas by this bill should be spent. They may choose to spend it all on roads, if they wish. But it would leave to the people most directly concerned the decision of how to best serve the needs of the people in the cities.

Mr. President, I yield back the remainder of my time.

Mr. RANDOLPH. I yield back the remainder of my time.

Mr. PASTORE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. INOUYE (when his name was called). On this vote I have a live pair with the Senator from Rhode Island (Mr. PELL). If he were here and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore I withhold my vote.

Mr. FANNIN (after having voted in the affirmative). On this vote I have a live pair with the Senator from Texas (Mr. TOWER). If present and voting, he would vote "nay." If I were at liberty, I would vote "yea." I withdraw my vote.

Mr. YOUNG (after having voted in the negative). On this vote I have a live pair with the junior Senator from Ohio (Mr. TAFT). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from North Carolina (Mr. JORDAN), the Senator from South Dakota (Mr. McGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PELL), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Iowa (Mr. HUGHES), the Senator from Mississippi (Mr. STENNIS), and the Senator from Wyoming (Mr. McGEE) are absent on official business.

On this vote, the Senator from Iowa (Mr. HUGHES) is paired with the Senator from Mississippi (Mr. STENNIS).

If present and voting, the Senator from Iowa would vote "yea" and the Senator from Mississippi would vote "nay."

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Oklahoma (Mr. BELLMON), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The Senator from Colorado (Mr. DOMINICK) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Ohio (Mr. SAXBE), the Senator from Vermont (Mr. STAFFORD), and the Senator from Ohio (Mr. TAFT) are absent on official business to attend meetings of the Interparliamentary Union.

The respective pairs of the Senator from Ohio (Mr. TAFT) and that of the Senator from Texas (Mr. TOWER) have been previously announced.

On this vote, the Senator from Colorado (Mr. ALLOTT) is paired with the Senator from Vermont (Mr. STAFFORD). If present and voting, the Senator from Colorado would vote "yea" and the Senator from Vermont would vote "nay."

The result was announced—yeas 48, nays 26, as follows:

[No. 458 Leg.]

YEAS—48

Aiken
Beall
Bennett
Boggs
Brooke
Buckley
Byrd, Harry F., Jr.
Case
Chiles
Church
Cooper
Cranston
Eagleton
Fong
Gambrell
Griffin
Gurney
Harris
Hart
Hatfield
Hruska
Humphrey
Jackson
Javits
Kennedy
Magnuson
Mathias
McIntyre
Miller
Mondale
Muskie
Nelson
Packwood
Pastore
Pearson
Percy
Proxmire
Ribicoff
Roth
Schweiker
Scott
Smith
Spong
Stevenson
Symington
Tunney
Weicker
Williams

NAYS—26

Allen
Anderson
Bayh
Bentsen
Bible
Burdick
Byrd, Robert C.
Cook
Cotton
Curtis
Dole
Eastland
Edwards
Ervin
Fulbright
Hansen
Hollings
Jordan, Idaho
Long
Mansfield
McClellan
Montoya
Randolph
Stevens
Talmadge
Thurmond

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—3

Fannin, for.
Inouye, against.
Young, against.

NOT VOTING—23

Allott
Baker
Bellmon
Brock
Cannon
Dominick
Goldwater
Gravel
Hartke
Hughes
Jordan, N.C.
McGee
McGovern
Metcalf
Moss
Mundt
Pell
Saxbe
Sparkman
Stafford
Stennis
Taft
Tower

So the Cooper-Muskie amendment was agreed to.

Mr. COOPER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PASTORE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. BOGGS. Mr. President, during the floor debate on S. 3939 last week, I was pleased to express my strong support for this important bill. I would now like to amplify briefly on some of the views I expressed then, and to make a few additional comments.

In my earlier remarks, I pointed out my strong support of section 130 of the bill. This is the section that creates a new section 145 in chapter 1 of title 23 of the United States Code, authorizing the construction of bicycle, pedestrian, and equestrian trails.

While this may appear to be a minor provision to many persons, I think this new section offers many benefits to the Nation.

First, the section directs the States to consider the construction of such paths as a part of any highway construction financed with apportioned highway funds. While existing authority may already permit States to construct such paths, certainly within highway rights-of-way, this new language would clarify the situation.

More importantly, subsection (c) of this new section 145 in the code sets aside a special $10 million fund to be used exclusively for construction of such paths. Each State would be guaranteed a minimum of 1 percent of that fund.

Let me explain why I believe this is important. My colleagues recognize the danger that exists when bicyclists and pedestrians use our highways. Their competition with motor vehicles for highway space is simply a very dangerous one.

The National Transportation Safety Board estimates that nearly 1,000 bike-related deaths will occur on our highways this year. Most such accidents will occur because a bicyclist is riding on a highway or street designed to carry motorists, not bicyclists. And he is riding there because he has no alternative route.

This situation can only worsen without prompt action. Bicycle sales are rising sharply in this Nation. Bicycle sales this year are estimated to total 10,500,000, more than double the sales during 1965.

Mr. President, I ask unanimous consent that a chart, showing bicycle sales through 1971, be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BOGGS. Mr. President, if this action could provide alternative, inexpensive bicycle routes, attracting bicyclists off our main highways, I am convinced that we could reduce that bicycle death rate to practically zero.

By moving cyclists and pedestrians off the highways onto safe, separate trails, we will augment the efficiency and safety of the Federal-aid highway system.

With a program for the construction

of bicycle and pedestrian trails, we can obtain a number of important benefits.

Mr. President, I have received a number of letters on this subject. While I do not wish to place all of them in the Record, I would ask unanimous consent that one letter, from the Delaware Safety Council, be printed in the Congressional Record at the conclusion of my remarks. I believe this letter clearly states the need for this program.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. BOGGS. In closing, Mr. President, I wish to express my sense of commendation to both the chairman of the Committee on Public Works, Mr. Randolph, and the ranking Republican member, Mr. Cooper, for their dedicated work on this important legislation.

I have had the opportunity, during my service in the Congress, to work with a number of chairmen and ranking members. None have surpassed the chairman of the Public Works Committee, Mr. Randolph, and the senior Senator from Kentucky, Mr. Cooper, in their dedication to the public interest and their thoughtful consideration of the views expressed by their fellow committee members.

Further, I would add a word about the former chairman of the Roads Subcommittee, Mr. Bayh. He spent many long hours on this legislation before changing committee assignments. In the process, he did a fine job.

Finally, I want to commend the staff of the committee for their work, which, as always, is of the highest standard. In particular, I would like to single out M. Barry Meyer, the committee's chief counsel and chief clerk; Bailey Guard, the committee's minority clerk; and Clark Norton and Katherine Y. Cudlipp, members of the committee's professional staff. Their hard work has been essential to the development of this legislation.

EXHIBIT 1

ANNUAL SALES IN MILLIONS: U.S. MANUFACTURERS AND IMPORTS

Year	Domestic sales	Import sales	Total United States and imports	Bikes in use	Estimated users
1960	2.6	1.1	3.7	23.5	35.2
1965	4.6	1.0	5.6	32.9	49.3
1968	6.0	1.5	7.5	42.3	63.4
1969	5.1	2.0	7.1	47.7	71.5
1970	5.0	1.9	6.9	50.0	75.3
1971	6.6	2.3	8.9	53.1	79.6

EXHIBIT 2

DELAWARE SAFETY COUNCIL, INC.,
Wilmington, Del., August 1, 1972.

Hon. J. Caleb Boggs,
U.S. Senate,
Washington, D.C.

Dear Cale: Let me congratulate you on your foresight in developing the safety legislation on the separation of bicycle and pedestrian traffic from motor vehicle traffic. The Delaware Safety Council supports this legislation and feels it is an area we have long overlooked in our accident prevention programs.

It is virtually impossible to have bicycles and pedestrians utilize the roadway surface in safety. With the increased number of bicycles it would be extremely important to develop a bike-path system that could be utilized by this type of traffic.

In addition to the safety aspects of this legislation, if we could get more people riding bicycles, it would decrease the number of automobiles in the downtown area thereby reducing pollution and parking problems.

After reviewing this legislation, we feel all users of the highway would benefit from its passage. Many thanks for forwarding this legislation for our thoughts.

Sincerely,

F. J. Jamison, *Manager.*

ALTERNATIVE FEDERAL-AID HIGHWAY PROCEDURES

Mr. BENNETT. Section 133 of the committee bill proposes to add a new chapter 1–A to title 23, United States Code, providing an alternative Federal-aid highway procedure for all Federal-aid highway systems except the Interstate System. The stated purpose of this new chapter is to provide State and local governments the maximum degree of flexibility while still insuring that highway projects are consistent with the social, environmental, and economic objectives of the applicable Federal laws. This would be accomplished by establishing an alternative procedure whereby the Department of Transportation would certify and approve the procedures that a State adopts to implement its program. The Department would then monitor those procedures after the fact to insure compliance.

The administration finds this chapter unacceptable. It would not only eliminate the ability of the executive branch to effectively establish program priorities and overall funding levels, but would also disrupt the cooperative Federal-State relationship that has existed for better than 50 years in the highway program. Beyond this, the new procedures would result in the proliferation of redtape and delays far in excess of anything that is now experienced in administering the Federal-aid highway program.

I firmly support the administration position in opposition to this new chapter. Its effect upon the Federal-aid highway program, I believe, will be most unfortunate. And, in the broader scope of managing Federal expenditures, there is no question that it would attempt to deny to the executive branch the authority to withhold funding, even in the face of economic crisis where such withholding would be the most prudent way to proceed.

I believe that any President should have sufficient management flexibility to determine program funding levels within the overall constraints of fiscal responsibility. As the distinguished senior Senator from Kentucky states last week in his discussion of this section of the bill—

> If a President were required to spend all of the money that Congress authorizes and appropriates, we would be in a worst fiscal situation than we are.

The inclusion of these alternative Federal-aid highway procedures would attempt to eliminate this flexibility. It also raises serious constitutional questions and I would suggest that we not attempt to solve these questions in conjunction with this highway legislation.

In addition to this fundamental problem, I oppose the alternative procedures generally on the grounds that they will hurt, rather than help, the administration of the Federal-aid highway program. This is a program which has been a remarkably well managed effort—thanks to the fine cooperation between the Federal and State agencies. Any changes in this administrative mechanism should be approached with great caution. The proposed alternative procedures, which would limit the Department of Transportation's ability to supervise highway projects and would permit the exposure of improper actions only after the fact, invites the risk of a decline in the high standards under which the program now operates.

Furthermore, under these proposed alternative procedures, the States may find that their own "redtape" may increase, rather than be dimished. I believe the existing procedures within the present cooperative, Federal-State relationship, offers a much more desirable mechanism for reducing redtape while maintaining the safeguards needed for consideration of social, economic, and environmental impacts in the planning and execution of highway projects.

For all of these reasons, I support the administration's position that this new chapter 1–A should be deleted prior to enactment of the final Federal-Aid Highway Act of 1972.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. RANDOLPH. Mr. President, on final passage, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Alaska (Mr. Gravel), the Senator from Indiana (Mr. Hartke), the Senator from South Dakota (Mr. McGovern), the Senator from Montana (Mr. Metcalf), the Senator from Utah (Mr. Moss), the Senator from Rhode Island (Mr. Pell), the Senator from Alabama (Mr. Sparkman), and the Senator from North Carolina (Mr. Jordan) are necessarily absent.

I further announce that the Senator from Mississippi (Mr. Stennis), the Senator from Wyoming (Mr. McGee), and the Senator from Iowa (Mr. Hughes) are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pell), the Senator from Nevada (Mr. Cannon), and the Senator from Alaska (Mr. Gravel) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. Allott), the Senators from Tennessee (Mr. Baker and Mr. Brock), the Senator from Oklahoma (Mr. Bellmon), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from Arizona (Mr. Goldwater) is absent on official business.

The Senator from Colorado (Mr. Dominick) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Ohio (Mr. Saxbe), the Senator from Vermont (Mr. Staf-

FORD), and the Senator from Ohio (Mr. TAFT) are absent on official business to attend meetings of the Interparliamentary Union.

If present and voting, the Senator from Colorado (Mr. ALLOTT), the Senator from Vermont (Mr. STAFFORD), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 77, nays 0, as follows:

[No. 459 Leg.]

YEAS—77

Aiken
Allen
Anderson
Bayh
Beall
Bennett
Bentsen
Bible
Boggs
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Church
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Eagleton
Eastland
Edwards
Ervin
Fannin
Fong
Fulbright
Gambrell
Griffin
Gurney
Hansen
Harris
Hart
Hatfield
Hollings
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McIntyre
Miller
Mondale
Montoya
Muskie
Nelson
Packwood
Pastore
Pearson
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott
Smith
Spong
Stevens
Stevenson
Symington
Talmadge
Thurmond
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—23

Allott
Baker
Bellmon
Brock
Cannon
Dominick
Goldwater
Gravel
Hartke
Hughes
Jordan, N.C.
McGee
McGovern
Metcalf
Moss
Mundt
Pell
Saxbe
Sparkman
Stafford
Stennis
Taft
Tower

So the bill (S. 3939) was passed, as follows:

S. 3939

An act to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

TITLE I

SHORT TITLE

SEC. 101. This title may be cited as the "Federal-Aid Highway Act of 1972".

REVISION OF AUTHORIZATION OF APPROPRIATIONS FOR INTERSTATE SYSTEM

SEC. 102. Subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, is amended by striking out "the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1974, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1975, and the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1976." And inserting in lieu thereof the following: "the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1974, the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1975, the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1976, the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1977, the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1978, the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1979, and the additional sum of $257,000,000 for the fiscal year ending June 30, 1980."

AUTHORIZATION OF USE OF COST ESTIMATE FOR APPORTIONMENT OF INTERSTATE FUNDS

SEC. 103. The Secretary of Transportation is authorized to make the apportionment for fiscal years 1974 and 1975 of the sums authorized to be appropriated for such years for expenditure on the National System of Interstate and Defense Highways, using the apportionment factors contained in table 5, House Committee Print Numbered 92-29.

EXTENSION OF TIME FOR COMPLETION OF SYSTEM

SEC. 104. (a) The second paragraph of section 101(b) of title 23, United States Code, is amended by striking out "twenty years" and inserting in lieu thereof "twenty-four years" and by striking out "June 30, 1976" and inserting in lieu thereof "June 30, 1980".

(b)(1) The introductory phrase and the second and third sentences of section 104 (b)(5) of title 23, United States Code, are amended by striking out "1976" each place it appears and inserting in lieu thereof at each such place "1980".

(2) Section 104(b)(5) is further amended by striking out the sentence preceding the last sentence and inserting in lieu thereof the following: "Upon the approval by the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for fiscal years 1976 and 1977. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1976. Upon the approval by the Congress the Secretary shall use the Federal share of such approved estimate in making apportionments for fiscal years 1978 and 1979. The Secretary shall make a final revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1978. Upon the approval by the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for fiscal year 1980."

AUTHORIZATIONS

SEC. 105. (a) For the purpose of carrying out the provisions of title 23, United States Code, the following sums are hereby authorized to be appropriated:

(1) For the Federal-aid primary system including urban extensions out of the highway trust fund, $950,000,000 for the fiscal year ending June 30, 1974, and $950,000,000 for the fiscal year ending June 30, 1975: *Provided,* That at least $300 million of such funds for each of the fiscal years ending June 30, 1974 and June 30, 1975 shall be expended for carrying out the provisions of section 148 of title 23, United States Code, relating to the elimination of roadway dangers with emphasis on the elimination or improvement of railroad-highway grade crossings.

(2) For the Federal-aid secondary system including urban extensions out of the Highway Trust Fund, $500,000,000 for the fiscal year ending June 30, 1974, and $500,000,000 for the fiscal year ending June 30, 1975, of which at least $50,000,000 for each of the fiscal years ending June 30, 1974, and June 30, 1975, shall be expended exclusively for carrying out provisions of section 142, title 23, United States Code, relating to highway public transportation in rural areas.

(3) For the Federal-aid urban system, out of the Highway Trust Fund, $800,000,000 for the fiscal year ending June 30, 1974, and $800,000,000 for the fiscal year ending June 30, 1975.

(4) For the Federal-aid small urban system, out of the Highway Trust Fund, $50,000,000 for the fiscal year ending June 30, 1974, and $100,000,000 for the fiscal year ending June 30, 1975.

(5) For forest highways, out of the Highway Trust Fund, $50,000,000 for the fiscal year ending June 30, 1974, and $50,000,000 for the fiscal year ending June 30, 1975.

(6) For public lands highways, out of the Highway Trust Fund, $25,000,000 for the fiscal year ending June 30, 1974, and $25,000,000 for the fiscal year ending June 30, 1975.

(7) For forest development roads and trails, $170,000,000 for the fiscal year ending June 30, 1974, and $170,000,000 for the fiscal year ending June 30, 1975.

(8) For public lands development roads and trails, $20,000,000 for the fiscal year ending June 30, 1974, and $20,000,000 for the fiscal year ending June 30, 1975.

(9) For park roads and trails, $50,000,000 for the fiscal year ending June 30, 1974, and $50,000,000 for the fiscal year ending June 30, 1975.

(10) For parkways, out of the Highway Trust Fund, $75,000,000 for the fiscal year ending June 30, 1974, and $100,000,000 for the fiscal year ending June 30, 1975.

(11) For Indian reservation roads and bridges, $75,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 out of the General Fund of the Treasury and $25,000,000 out of the Highway Trust Fund for the fiscal year ending June 30, 1975.

(12) For carrying out section 319(b) of title 23, United States Code (relating to landscaping and scenic enhancement), out of the highway trust fund, $15,000,000 for the fiscal year ending June 30, 1974, and $15,000,000 for the fiscal year ending June 30, 1975.

(13) For necessary administrative expenses in carrying out section 131, section 136 and section 319(b) of title 23, United States Code, $1,500,000 for the fiscal year ending June 30, 1974, and $1,500,000 for the fiscal year ending June 30, 1975.

(14) For carrying out section 215(a) of title 23, United States Code (relating to territorial highway development program), out of the sums in the Treasury not otherwise appropriated:

(A) for the Virgin Islands not to exceed $2,500,000 for the fiscal year ending June 30, 1974, and not to exceed $2,500,000 for the fiscal year ending June 30, 1975;

(B) for Guam not to exceed $2,000,000 for the fiscal year ending June 30, 1974, and not to exceed $2,000,000 for the fiscal year ending June 30, 1975; and

(C) for American Samoa not to exceed $500,000 for the fiscal year ending June 30, 1974, and not to exceed $500,000 for the fiscal year ending June 30, 1975.

(b) For each of the fiscal years 1974 and 1975, no State shall receive less than one-half of 1 per centum of the total apportionment for the Interstate System under paragraph (5) of subsection (b) of section 104 of title 23, United States Code. Whenever such amounts made available for the Interstate System in any State exceed the cost of completing that State's portion of the Interstate System, the excess amount shall be transferred to and added to the amounts apportioned to such State under paragraphs (1), (2), (3), (6), and (7) of subsection (b) of section 104 of title 23, United States Code, in the ratio which these respective amounts bear to each other in that State.

(c) For each of the fiscal years 1974 and 1975, no State shall receive less than one-half of 1 per centum of the total apportionment for the Federal-aid urban system and for the Federal-aid small urban system, under paragraphs (6) and (7), respectively, of subsection (b) of section 104 of title 23, United States Code. Any State not having a designated urbanized area, may designate routes on the Federal-aid urban system for its largest population center, based upon a continuing planning process developed cooperatively by State and local officials and the Secretary.

DEFINITIONS

SEC. 106. (a) The definition of "construction" in subsection (a) of section 101 of title 23, United States Code, is amended to read:

"The term 'construction' means the supervising, inspecting, actual building, and all expenses incidental to the construction or reconstruction of a highway, including locating, surveying, and mapping (including the establishment of temporary and permanent geodetic markers in accordance with specifications of the National Oceanic and Atmospheric Administration in the Department of Commerce), acquisition of rights-of-way, relocation assistance, elimination of hazards of railway grade crossings, acquisition of replacement housing sites, acquisition and rehabilitation, relocation, and construction of replacement housing, and improvements which directly facilitate and control traffic flow, such as grade separation of intersections, widening of lanes, channelization of traffic, traffic control systems, and passenger loading and unloading areas."

(b) The definition of "Indian reservation roads and bridges" in subsection (a) of section 101 of title 23, United States Code, is amended to read:

"The term 'Indian reservation roads and bridges' means roads and bridges that are located within or provide access to an Indian reservation or Indian trust land or restricted Indian land which is not subject to fee title alienation without the approval of the Federal Government on which Indians reside, or Indian and Alaska native villages, groups or communities in which Indians and Alaskan natives reside, whom the Secretary of the Interior has determined are eligible for services generally available to Indians under Federal laws specifically applicable to Indians."

(c) The definition of "urbanized area" in subsection (a) of section 101 of title 23, United States Code, is amended to read:

"The term 'urbanized area' means an area so designated by the Bureau of the Census, within boundaries to be fixed by the Secretary in cooperation with responsible State and local officials."

FEDERAL-AID SMALL URBAN SYSTEM

SEC. 107. (a) Subsection (a) of section 101 of title 23, United States Code, is amended as follows:

(1) After the definition of the term "Federal-aid urban system" add the following new paragraph:

"The term 'Federal-aid small urban system' means the Federal-aid highway system described in subsection (h) of section 103 of this title."

(2) After the definition of the term "urban area" add the following new paragraph:

"The term 'small urban area' means an area including and adjacent to a municipality or other urban place having a population of five thousand to fifty thousand, not within urbanized areas, as determined by the latest available Federal census, within boundaries to be fixed by the State after consultation with local officials and subject to the approval of the Secretary."

(b) Section 103 of title 23, United States Code, is amended by adding immediately after subsection (g) a new subsection (h):

"(h) The Federal-aid small urban system may be established in each urban area of five thousand to fifty thousand population at the request of local officials. The system shall consist of arterial and collector routes, exclusive of urban extensions of the Federal-aid primary and secondary systems, selected by responsible local officials in cooperation with the State highway department based upon anticipated functional usage for the year 1980. Each route of the system shall connect with another route on a Federal-aid system. At his discretion, the Secretary may delegate to any State highway department the authority to approve designation of the Federal-aid small urban system. The provisions of chapters 1, 3, and 5 of this title applicable to Federal-aid primary highways shall apply to the Federal-aid small urban system except as determined by the Secretary to be inconsistent with this subsection. By March 30, 1973, the Secretary shall issue necessary guidelines for carrying out this section and related provisions of Federal law.

(c) Subsection (b) of section 104 of title 23, United States Code, is amended by adding at the end thereof the following new paragraph:

"(7) For the Federal-aid small urban system:

"In the ratio which the population in small urban areas, or parts thereof, in each State bears to the total population in such small urban areas, or parts thereof, in all the States as shown by the latest available Federal census."

(d) Subsection (a) of section 120 of title 23, United States Code, is amended by striking out "the Federal-aid secondary system, and the Federal-aid urban system," and inserting in lieu thereof the following: "the Federal-aid secondary system, the Federal-aid urban system, and the Federal-aid small urban system."

DECLARATION OF POLICY

SEC. 108. Subsection (b) of section 101 of title 23, United States Code, is amended by adding at the end thereof the following new paragraph:

"It is further declared to be in the national interest and to be the intent of Congress that in the administration of the Federal-aid highway program the Secretary shall carry out the program in such a manner as to give the highest priority in all instances, to highway safety and the saving of human lives."

FEDERAL-AID SYSTEMS REALIGNMENT

SEC. 109. (a) Section 103(b) of title 23, United States Code, is renumbered as section 103(b)(1) and a new section 103(b)(2) is added to read as follows:

"(b)(2) After June 30, 1975, the Federal-aid primary system shall provide an adequate system of connected main roads important to interstate, statewide, and regional travel, consisting of rural arterial routes and their extensions into or through urban areas. The Federal-aid primary system shall be designated by each State and where appropriate, shall be in accordance with the planning process pursuant to section 134 of this title, subject to the approval of the Secretary as provided by subsection (f) of this section."

(b) Section 103(c) of title 23, United States Code, is renumbered as section 103(c)(1) and a new subsection 103(c)(2) is added to read as follows:

"(c)(2) After June 30, 1975, the Federal-aid secondary system shall consist of rural major collector routes. The Federal-aid secondary system shall be designated by each State through its State highway department and appropriate local officials in cooperation with each other, subject to the approval of the Secretary as provided in subsection (f) of this section."

(c) Section 103(d) of title 23, United States Code, is renumbered as section 103(d)(1) and a new subsection 103(d)(2) is added to read as follows:

"(d)(2) After June 30, 1975, the Federal-aid urban system shall be located in urbanized areas and shall consist of arterial routes and collector routes, exclusive of urban extensions of Federal-aid primary system. The routes on the Federal-aid urban system shall be designated by appropriate local officials, subject to the approval of the Secretary as provided in subsection (f) of this section, and shall be in accordance with the planning process required pursuant to the provisions of section 134 of this title."

(d) Federal-aid systems realignment shall be based upon anticipated functional usage in the year 1980.

FEDERAL-AID URBAN SYSTEM

SEC. 110. (a) Subsection (d)(1) of section 103 of title 23, United States Code, is amended by striking the second, third, fourth, and fifth sentences and inserting in lieu thereof the following:

"The system shall be so located as to serve the major centers of activity, and shall include high traffic volume arterial and collector routes. It shall be selected so as to serve the goals and objectives of the community as determined by the responsible local officials of such urbanized area in accordance with the planning process required pursuant to the provisions of section 134 of this title. No route on the Federal-aid urban system shall also be a route on any other Federal-aid system. Each route of the system shall connect with another route on a Federal-aid system. Routes on the Federal-aid urban system shall be selected by the appropriate local officials or by area-wide councils of government or other appropriate metropolitan organizations established by law, after consultation with the State highway departments and in accordance with the planning process under section 134 of this title. Designation of the Federal-aid urban system shall be subject to the approval of the Secretary as provided in subsection (f) of this section."

(b) Subsection (d) of section 105 of title 23, United States Code, is amended to read as follows:

"(d) In approving programs for projects on the Federal-aid urban system, the Secretary shall require that such projects be selected by the appropriate local officials after consultation with the Governor of each State and in accordance with the planning process required pursuant to section 134 of this title."

TRANSFER OF INTERSTATE SYSTEM MILEAGE WITHIN A STATE

SEC. 111. (a) The fourth sentence of subsection (e)(2) of section 103 of title 23, United States Code, is amended to read:

"The provisions of this title applicable to the Interstate System shall apply to all mileage designated under the third sentence of this paragraph, except that the cost to the United States of the aggregate of all mileage designated in any State under the third sentence of this paragraph shall not exceed the cost to the United States of the mileage approval for which is withdrawn under the second sentence of this paragraph; such costs shall be that as of the date of the withdrawal."

(b) Paragraph (2) of subsection (e) of section 103 of title 23 of the United States Code is amended by adding at the end thereof the following:

"The authority granted by this paragraph shall expire on the date of enactment of the Federal-Aid Highway Act of 1972. However, the amendment contained in section 111(a) of the Federal-Aid Highway Act of 1972 shall be retroactive."

(c) Subsection (e) of title 23, United States Code, is amended by adding the following:

"(4) In addition to the mileage authorized by the first sentence of paragraph (1) of this subsection, there is hereby authorized additional mileage for the Interstate System to be used in making modifications or revisions in the Interstate System as provided in this paragraph. Upon the joint request of a State Governor and the local governments concerned, the Secretary may withdraw his approval of any route or portion thereof on the Interstate System within that State selected and approved in accordance with this title prior to the enactment of this paragraph, if he determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System (including urban routes necessary for metropolitan transportation) or will no longer be essential by reason of the application of this paragraph and will not be constructed as a part of the Interstate System, and if he receives assurances that the State does not intend to construct a toll road in the traffic corridor which would be served by such route or portion thereof. After the Secretary has withdrawn his approval of any such route or portion thereof the mileage of such route or portion thereof and the additional mileage authorized by the first sentence of this paragraph shall be available for the designation of such interstate route or portions thereof within that State as provided in this subsection necessary to provide the essential connection of the Interstate System in such State in lieu of the route or portions thereof which were withdrawn. The provisions of this title applicable to the Interstate System shall apply to all mileage designated under the third sentence of this paragraph, except that the cost to the United States of the aggregate of all mileage designated in any State under the third sentence of this paragraph shall not exceed the cost to the United States of the mileage approval for which is withdrawn under the second sentence of this paragraph. Such costs shall be that as of the date of the withdrawal. Whenever the Secretary determines that such routes or portions thereof are not essential or whenever the amounts necessary for the completion of the substitute essential routes or portions thereof are less than the cost of the withdrawn route or portions thereof, the amounts remaining or the difference shall be transferred to and added to the amounts apportioned to such State under paragraph 6 of subsection (b) of section 104 of title 23, United States Code, for the account of the urbanized area from which the withdrawal of the routes or portions thereof was made in such urbanized areas. In considering routes or portions thereof to be added to the Interstate System under the second and third sentences of this paragraph, the Secretary shall, in consultation with the States and local governments concerned, assure (A) that such routes or portions thereof will provide a unified and connected Interstate System (including urban routes necessary for metropolitan transportation), and (B) the extension of routes which terminate within municipalities served by a single interstate route, so as to provide traffic service entirely through such municipalities. Any mileage from a route or portion thereof which is withdrawn under the second sentence of this paragraph and not replaced by a substitute essential route or portion thereof may be redesignated as part of the Interstate System by the Secretary in accordance with paragraph (1) of this subsection."

REMOVAL OF DESIGNATED SEGMENTS OF THE INTERSTATE SYSTEM

SEC. 112. Section 103(g) of title 23, United States Code, is amended to read as follows:

"(g) The Secretary, on July 1, 1973, shall remove from designation as a part of the Interstate System each segment of such system for which a State has not notified the Secretary that such State intends to construct such segment, and which the Secretary finds is not necessary for continuity of traffic oflws between cities. Nothing shall prohibit the consideration for substitution prior to July 1, 1974, of alternative segments of the Interstate System which will meet the requirements of this title. Any segment of the Interstate System, with respect to which a State has not submitted by July 1, 1974, a schedule for the expenditure of funds for completion of construction of such segment or alternative segment within the period of availability of funds authorized to be appropriated for completion of the Interstate System, and with respect to which the State has not provided the Secretary with assurances satisfactory to him that such schedule will be met, shall be removed from designation as a part of the Interstate System. No segment of the Interstate System removed under the authority of the preceding sentence shall thereafter be designated as a part of the Interstate System except as the Secretary finds necessary in the interest of national defense or for other reasons of national interest. The application of all of the provisions of this subsection shall be deferred for one year with respect to routes added to the Interstate System after December 1, 1968."

METHOD OF APPORTIONMENT

SEC. 113. (a) Paragraphs (1) and (2) of subsection (b) of section 104 of title 23, United States Code, is amended by striking the words "star routes" each time they appear and inserting in lieu thereof "intercity mail routes where service is performed by motor vehicles.".

(b) Paragraph (3) of subsection (b) of section 104 of title 23, United States Code, is amended to read:

"(3) For extensions of the Federal-aid primary system and the Federal-aid secondary system within urban areas:

"In accordance with the needs for such extensions as determined by each State from funds apportioned to it under paragraphs (1) and (2) of this subsection."

APPORTIONMENT OF PLANNING FUNDS

SEC. 114. Section 104 of title 23, United States Code, is amended by adding at the end thereof a new subsection (g):

"(g) On or before January 1 next preceding the commencement of each fiscal year, the Secretary, after making the deduction authorized by subsection (a) of this section, shall set aside not to exceed one-half per centum of the remaining funds authorized to be appropriated for expenditure upon the Federal-aid systems, for the purpose of carrying out the requirements of section 134 of this title.

"(1) These funds shall be apportioned to the States in the ratio which the population in urbanized areas or parts thereof, in each State bears to the total population in such urbanized areas in all the States as shown by the latest available census, except that no State shall receive less than one-half per centum of the amount apportioned.

"(2) The funds apportioned to any State under paragraph (1) of this subsection shall be divided equally between the State and the areawide metropolitan transportation agencies established under section 135 of this title only for the purposes of carrying out the provisions of section 134 of this title. Pending the establishment of these agencies as defined in section 135 of this title, these planning funds shall be made available to the metropolitan planning organizations designated by the State as being responsible for carrying out the provisions of section 134 of this title. These funds shall be matched in accordance with section 120 of this title unless the Secretary determines that the interests of the Federal-aid highway program would be best served without such matching.

"(3) The distribution within any State of the planning funds made available to the areawide agencies under paragraph (2) of this subsection shall be in accordance with a formula developed by each State and approved by the Secretary which shall consider but not necessarily be limited to, population, status of planning, and metropolitan area transportation needs."

SEC. 115. (a) Section 105(a) is amended by deleting the words "State highway department" in the first sentence and inserting in lieu thereof "Governor" and by adding at the end thereof the following new sentence: "The Secretary shall not approve any project except that which is in accordance with the planning process required pursuant to section 134 of this title."

(b) Section 105(b) is amended by striking out the words "except in States where all public roads and highways are under the control and supervision of the State highway department, that such project be selected by the State highway department" and inserting in lieu thereof the following: "that such project be selected by the State Governor,".

(c) Section 105(g) is amended by striking out the words "State highway department" and inserting in lieu thereof "Governors".

ADVANCE ACQUISITION

SEC. 116. (a) Section 108(a) of title 23, United States Code, is amended by striking out "seven years" in the last sentence and inserting in lieu thereof "ten years".

(b) Section 108(c)(3) of title 23, United States Code, is amended by striking out "seven years" in the first sentence and inserting in lieu thereof "ten years".

STANDARDS

SEC. 117. (a) Subsection (i) of section 109 of title 23, United States Code, is amended by striking out "July 1, 1972" and inserting in lieu thereof "January 1, 1973".

(b) Subsection (j) of section 109 of title 23, United States Code, is amended by inserting (1) after (j) and adding a new paragraph (2) as follows:

"(2) After June 30, 1973, no highway program of project submitted to the Secretary in accordance with this title shall be approved by the Secretary unless it is in conformity with guidelines established by the Secretary under this subsection."

SIGNS ON PROJECT SITE

SEC. 118. Subsection (a) of section 114 of title 23, United States Code, is amended by striking out the last sentence thereof and inserting in lieu thereof the following:

"After October 31, 1972, the State highway department shall not erect on any project where actual construction is in progress and visible to highway users, any informational signs other than official traffic control devices conforming with standards developed by the Secretary of Transportation."

PAYMENT TO STATES FOR BOND RETIREMENT

SEC. 119. The first sentence of section 122, title 23, United States Code, is amended by inserting the following after "maturity": "and in the case of the Interstate System principal and interest of such bods,".

PUBLIC HEARINGS

SEC. 120. Subsection (a) of section 128 of title 23, United States Code, is amended by adding the following at the end thereof:

"The Secretary shall also require with the submission of plans for a Federal-aid project an assurance from the State highway department that it has taken all steps required pursuant to guidelines issued by the Secretary to ensure and foster public participation in the development of such project before and after the public hearings required by this subsection."

TOLL ROADS, BRIDGES, TUNNELS, AND FERRIES

SEC. 121. (a) After the second sentence of section 129(b) of title 23, United States Code, insert the following:

"When any such toll road which the Secretary has approved as a part of the Interstate System on or before June 30, 1968, is made a toll-free facility prior to July 1, 1976, Federal-aid highway funds apportioned under section 104(b)(5) of this title may be expended for the construction, reconstruction, or improvement of that road to meet the standards adopted for the improvement of projects located on the Interstate System."

(b) Section 129 of title 23, United States Code, is amended by adding at the end thereof a new subsection (h) as follows:

"(h) Funds for the Interstate System shall be available for expenditure on Interstate projects, approaching any toll road on the Interstate System, requiring reconstruction where three or more Interstate routes (including loops, branches, or spurs), interchange or connect with such toll road, and improvements to such toll road have resulted in the serious impairment of the capacity of the interchange and Interstate routes."

CONTROL OF OUTDOOR ADVERTISING

SEC. 122. (a) Subsection (b) of section 131 of title 23, United States Code, is amended by inserting the following between the first and second sentences: "Federal-aid highway funds apportioned on or after January 1, 1973, or after the expiration of the next regular session of the State legislature, whichever is later, to any State which the Secretary determines has not made provision for effective control of the erection and maintenance along the Interstate System and the primary system of those additional outdoor advertising signs, displays, and devices which are more than six hundred and sixty feet off the nearest edge of the right of way, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way shall be reduced by amounts equal to 10 per centum of the amounts which would otherwise be apportioned to such State under section 104 of this title, until such time as such State shall provide for such effective control."

(b) Subsection (c) of section 131 of title 23, United States Code, is amended to read as follows:

"(c) Effective control means that such signs, displays or devices after January 1, 1968, if located within six hundred and sixty feet of the right of way and on or after July 1, 1973, or after the expiration of the next regular session of the State legislature, whichever is later, if located beyond six hundred and sixty feet of the right of way be limited to (1) directional and other official signs and notices, which signs and notices shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historical attractions, which are required or authorized by law, which shall conform to national standards hereby authorized to be promulgated by the Secretary hereunder, which standards shall contain provisions concerning lighting, size, number, and spacing of signs, and such other requirements as may be appropriate to implement this section, (2) signs, displays, and devices advertising the sale or lease of property upon which they are located, and (3) signs, displays, and devices advertising activities conducted on the property on which they are located."

(c) Subsection (4) of section 131 of title 23, United States Code, is amended by striking out the first sentence thereof and inserting the following in lieu thereof:

"In order to promote the reasonable, orderly and effective display of outdoor advertising while remaining consistent with the purposes of this section, signs, displays, and devices whose size, lighting and spacing, consistent with customary use is to be determined by agreement between the several States and the Secretary, may be erected and maintained within areas adjacent to the Interstate and primary systems which are zoned industrial or commercial under authority of State law, or in unzoned commercial or industrial areas as may be determined by agreement between the several States and the Secretary."

(d) Subsection (e) of section 131 of title 23, United States Code, is amended to read as follows:

"(e) Any nonconforming sign under State law enacted to comply with this section shall be removed no later than the end of the fifth year after it becomes nonconforming except as determined by the Secretary."

(e) Subsection (f) of section 131 of title 23, United States Code, is amended by inserting the following after the first sentence:

"The Secretary may also, in consultation with the States, provide within the rights-of-way of other roads on the Federal-aid highway system for areas in which signs, displays, and devices giving specific information in the interest of the traveling public may be erected and maintained."

(f) Subsection (g) of section 131 of title 23, United State Code, is amended by striking out the first sentence and inserting the following in lieu thereof:

"Just compensation shall be paid upon the removal of any outdoor advertising sign, display, or device lawfully erected under State law prior to the date of enactment of the Federal-Aid Highway Act of 1972."

(g) Subsection (m) of section 131 of title 23, United States Code, is amended to read as follows:

"(m) There is authorized to be apportioned to carry out the provisions of this section, out of any money in the Treasury not otherwise appropriated, not to exceed $20,000,000 for each of the fiscal years 1966 and 1967, not to exceed $2,000,000 for the fiscal year 1970, not to exceed $27,000,000 for the fiscal year 1971, not to exceed $20,500,000 for the fiscal year 1972 and not to exceed $50,000,000 for the fiscal year ending June 30, 1973, and, out of the Highway Trust Fund, $50,000,000 for the fiscal year ending June 30, 1974, and $50,000,000 for the fiscal year ending June 30, 1975. The provisions of this chapter relating to the obligation, period of availability, and expenditure of Federal-aid primary highway funds shall apply to the funds authorized to be appropriated to carry out this section after June 30, 1967."

(h) Section 131 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(o) No directional sign, display, or device lawfuly in existence on June 1, 1972, giving specific information in the interest of the traveling public shall be required by the Secretary to be removed until December 31, 1974, or until the State in which the sign, display, or device is located certifies that the directional information about the service or activity advertised on such sign, display, or device may reasonably be available to motorists by some other method or methods, wihchever shall occur first: *Provided*, That a State may not refuse to purchase and remove any directional sign, display, or device voluntarily offered to the State for removal by a sign owner if funds are available in the Department of Transportation."

TRANSPORTATION PLANNING IN CERTAIN URBAN AREAS

SEC. 123. Subsection (a) of section 134, of title 23, United States Code, is amended by striking the next to the last sentence and inserting in lieu thereof the following:

"The Secretary shall not approve under section 105 of this title any program for projects in any urban area of more than fifty thousand population unless he finds (1) that such projects are in accordance with a continuing comprehensive transportation planning process carried on cooperatively by the State and local communities in conformance with the objectives stated in this section, and (2) that all reasonable measures to permit, encourage, and assist public participation in such continuing comprehensive transportation planing process have been taken. The Secretary, in cooepartion with the States, shall develop and publish regulations specifying minimum guidelines for public participation in such processes, which shall include hearings, held at least annually, at which there would be a review of the transportation planning process, plans and programs, and opportunity provided for the consideration of alternative modes of transportation.

"(b) It is declared to be in the national interest to encourage and promote the development of transportation systems, embracing various modes of transport in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective the Secretary shall cooperate with the States, as authorized in this title, in the development of long-range, comprehensive public transportation plans and programs which are properly coordinated which include plans for the development of all modes of transportation, which take into consideration the plans of adjacent States, which are formulated with due consideration of their probable effect on the future development of each State, and which fully consider alternative modes of transportation and routes for each project included. The Secretary shall not approve under this title any program for projects in any State unless he finds (1) that such projects are in accordance with a continuing comprehensive public transportation planning process carried on cooperatively by States and local communities in conformance with the objectives of this section, (2) that all reasonable measures to permit, encourage, and assist public participation in such continuing planning process have been taken, and (3) that all social, economic, and environmental aspects of such program and its alternatives have been fully considered in the comprehensive planning process. The Secretary, in cooperation with the States, shall develop and publish regulations specifying minimum guidelines for public participation in such process, which shall include hearings, held at least annually, at which there shall be a review of the transportation planning process, plans, and programs, and opportunity provided for the consideration of alternative modes of transportation. No project may be constructed in a State unless the responsible local officials of the area in which the project is located have been consulted and their views considered with respect to the corridor, the location and the design of the project."

AVAILABILITY OF URBAN SYSTEM FUNDS

SEC. 124. (a) Section 135 of title 23, United States Code, is amended to read as follows:

"§ 135. Availability of urban system funds

"(a) Funds apportioned to any State under paragraph (6) of subsection (b) of section 104 of this title shall be allocated among the urbanized areas within any such State in the ratio that the population within any such urbanized area bears to the population of all urbanized areas within such State.

"(b) Funds allocated in accordance with subsection (a) of this section shall be available for expenditure within any such urbanized area for projects on the urban system, including those authorized by section 142 of this title, which shall be planned in accordance with the planning process required by section 134 of this title.

"(c) Funds allocated to any urbanized area under subsection (a) of this section shall be available for expenditure in another urbanized area within such State only where the responsible public officials in both such urbanized areas agree to such availability.

"(d)(1) Where the units of general purpose local government in any urbanized area shall combine together under State law to create a metropolitan transportation agency, or where the State shall create a metropolitan transportation agency, with sufficient authority to develop and implement a plan for expenditure of funds allocated to such urbanized area pursuant to this section, funds allocated under subsection (a) of this section shall be available to such metropolitan transportation agency for projects on the urban system, including those authorized by section 142 of this title, which shall be planned in accordance with the planning process required by section 134 of this title.

"(2) A metropolitan transportation agency shall be considered to exist when (A) an agency for the purposes of transportation planning has been created by the State or by the unit or units of general purpose local governments within any urbanized area which represent at least 75 per centum of the total population of such area and includes the largest city, and (B) such agency has adequate powers and is suitably equipped and organized to carry out projects on the urban system: *Provided*, That such projects may be implemented by the metropolitan transportation agency through delegation of authority for implementation to the participating local governments."

(b) The analysis of chapter 1 of title 23 of the United States Code is amended by striking

"135. Urban area traffic operations improvement programs."

and inserting in lieu thereof:

"135. Availability of urban system funds.".

CONTROL OF JUNKYARDS

SEC. 125. (a) Subsection (j) of section 136 of title 23, United States Code, is amended by striking out the first sentence and inserting in lieu thereof the following:

"(j) Just compensation shall be paid the owner for the relocation, removal, or disposal of junkyards lawfully in existence at the effective date of State legislation enacted to comply with this section."

(b) Subsection (m) of section 136 of title 23, United States Code, is amended to read as follows:

"(m) There is authorized to be appropriated to carry out this section out of any money in the Treasury not otherwise appropriated not to exceed $20,000,000 for each of the fiscal years 1966 and 1967, not to exceed $3,000,000 for each of fiscal years 1970, 1971, and 1972, not to exceed $5,000,000 for the fiscal year ending June 30, 1973, and, out of the Highway Trust Fund, not to exceed $15,000,000 for the fiscal year ending June 30, 1974, and $15,000,000 for the fiscal year ending June 30, 1975. The provisions of this chapter relating to the obligation, period of availability, and expenditure of Federal-aid primary highway funds shall apply to the funds authorized to be appropriated to carry out this section after June 30, 1967."

FRINGE AND CORRIDOR PARKING FACILITIES

SEC. 126. Subsection (a) of section 137 of title 23, United States Code, is amended by striking the period at the end of the first paragraph, inserting a comma in lieu thereof, and adding the following: "and liquidation of bonds or other obligations incurred in financing the local share of such facilities".

PRESERVATION OF PARKLANDS

SEC. 127. Section 138 of title 23, United States Code, is amended (1) by striking out "lands" in the first sentence and inserting in lieu thereof "areas (including water)", and (2) by striking out "lands" and "land" wherever thereafter appearing therein and inserting in lieu thereof "areas" and "area", respectively.

TRAINING PROGRAMS

SEC. 128. Subsection (b) of section 140 of title 23, United States Code, is amended by striking out in the second sentence "and 1973," and inserting in lieu thereof ", 1973, 1974, and 1975".

PUBLIC TRANSPORTATION

SEC. 129. (a) Section 142 of title 23, United States Code, is amended to read as follows:

§ 142. Public transportation

"(a) To encourage the development, improvement, and use of public mass transportation systems for the transportation of passengers within urbanized areas, so as to increase the efficiency of the Federal-aid system, sums apportioned in accordance with paragraph (6) of subsection (b) of section 104 of this title shall be available to finance the Federal share of the cost of construction of and acquisition of facilities and equipment for public mass transportation projects. For purposes of this section the term 'public mass transportation' means ground transportation which provides general or special service (excluding schoolbus, charter, or sightseeing service) to the public on a regular and continuing basis, and includes activities designed to coordinate such service with other transportation. Projects which may be financed under this subsection shall include, but not be limited to, exclusive or preferential bus lanes, highway traffic control devices, passenger loading areas and facilities, including shelters, fringe and transportation corridor parking facilities to serve bus, rail, and other public mass transportation passengers, construction of fixed rail facilities, and for the purchase of passenger equipment, including rolling stock for fixed rail.

"(b) To encourage the development, improvement, and use of public transportation systems for the transportation of passengers in such urban areas and rural areas as may be designated by the State and approved by the Secretary on the basis of local transportation need, so as to increase the traffic capacity of the Federal-aid systems, sums apportioned in accordance with paragraphs (1), (2), (5), and (7) of subsection (b) of section 104 of this title shall be available to finance the Federal share of the costs of projects within their respective systems, for the construction of exclusive or preferential bus lanes, highway traffic control devices, passenger loading areas and facilities, including shelters, fringe and transportation corridor parking facilities to serve bus and other public transportation passengers, and for the purchase of passenger equipment other than rolling stock for fixed rail.

"(c) The establishment of routes and schedules of such public mass transportation systems in urbanized areas shall be based upon a continuing comprehensive transportation planning process carried on in accordance with section 134 of title 23, United States Code.

"(d) For all purposes of this title, a project authorized by subsections (a) and (b) of this section shall be deemed to be a highway project, and the Federal share payable on account of such project shall be that provided in section 120 of this title.

"(e) No project authorized by this section shall be approved unless the Secretary of Transportation is satisfied that public mass transportation systems will have adequate project and to maintain and operate properly any equipment acquired under this section.

"(f) No equipment which is acquired with financial assistance provided by this section shall be available for use in charter, leased, sightseeing, or other service in any area other than the area for which it was acquired.

"(g) In the acquisition of equipment pursuant to subsections (a) and (b) of this section, the Secretary shall require that such equipment meet the standards prescribed by the Administrator of the Environmental Protection Agency under section 202 of the Clean Air Act, as amended, and shall authorize, wherever practicable, that such equipment meet the special criteria for low-emission vehicles set forth in section 212 of the Clean Air Act, as amended.

"(h) The Secretary shall assure that the provisions of subsection (a) of section 16 of the Urban Mass Transportation Act of 1964, as amended, relating to planning and design of mass transportation facilities to meet special needs of the elderly and the handicapped (as defined in subsection (d) thereof) shall apply in carrying out the provisions of this section.

"(i) Funds available for expenditure to carry out the purposes of this section shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964, as amended.

"(j) The provisions of chapters 1, 3, and 5 of title 23 of the United States Code shall apply in carrying out the provisions of this section except with respect to projects within urban areas as to which the Secretary determines the provisions of the Urban Mass Transportation Act of 1964, as amended, are more appropriately applicable."

(b) The analysis of chapter 1 of title 23 of the United States Code is amended by striking

"142. Urban highway public transportation."

and inserting in lieu thereof:

"142. Public transportation."

ECONOMIC GROWTH CENTER DEVELOPMENT HIGHWAYS

SEC. 130. (a) Section 143 of title 23, United States Code, is amended by striking "Federal-aid primary system" wherever appearing therein and inserting in lieu thereof "Federal-aid primary and secondary systems".

(b) Subsection (e) of section 143 of title 23, United States Code, is amended by striking "not to exceed an additional 20 per centum" and inserting in lieu thereof "not to exceed an additional 10 per centum."

(c) Subsection (g) of section 143 of title 23, United States Code, is amended by striking the following: "and not to exceed $50,000,000 for the fiscal year ending June 30, 1973." and inserting in lieu thereof ", not to exceed $50,000,000 for the fiscal year ending June 30, 1973, not to exceed $50,000,000 for the fiscal year ending June 30, 1974, and not to exceed $100,000,000 for the fiscal year ending June 30, 1975."

BICYCLE TRANSPORTATION, PEDESTRIAN WALKWAYS, AND EQUESTRIAN TRAILS

SEC. 131. (a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 145. Bicycle transportation, pedestrian walkways, and equestrian trails

"(a) To encourage the development, improvement, and use of bicycle transportation on or in conjunction with highway rights-of-way for the transportation of persons so as to increase the traffic capacity of the Federal-aid systems, and to permit the development and improvement of pedestrian walkways and equestrian trails on or in conjunction with highway rights-of-way, the Secretary shall require that projects carried out with sums apportioned in accordance with subsection (b) of section 104 of this title shall to the extent practicable, suitable, and feasible include the construction of separate or preferential bicycle lanes or paths, bicycle traffic control devices, shelters and parking facilities to serve bicycles and persons using bicycles, pedestrian, walkways, and equestrian trails in conjunction or connection with Federal-aid highways. Projects authorized under this section shall be located and designed pursuant to an overall plan which will provide due consideration for safety and contiguous routes.

"(b) For all purposes of this title, a project authorized by subsection (a) of this section shall be deemed to be a highway project, and the Federal share payable on account of such project shall be that provided in section 120 of this title.

"(c) In addition to projects carried out pursuant to subsection (a), there is hereby authorized to carry out projects for the construction of bicycle trails on or in conjunction with highway rights-of-way for the transportation of persons so as to increase the traffic capacity of the Federal-aid systems, and to permit development and improvement of pedestrian walkways and equestrian trails on or in conjunction with highway rights-of-way, $10,000,000 out of the Highway Trust Fund for each of the fiscal years 1974 and 1975 which shall be avaliable, at the discretion of the Department subsection (b) of section 104 of this title, except that no State shall receive less than 1 per centum of sums apportioned under this section.

"(d) Funds authorized and appropriated for forest highways, forest development roads and trails, public lands development roads and trails, park roads and trails, parkways, Indian reservation roads, and public lands highways shall be apportioned in accordance with paragraph (1) of charged with the administration of such funds, for the construction of bicycle and pedestrian routes in conjunction with such trails, roads, highways, and parkways.

"(e) No motorized vehicles shall be permitted on trails and walkways authorized under this section except for maintenance purposes."

(b) The analysis of chapter 1 of title 23 of the United States Code is amended by inserting at the end thereof the following:

"145. Bicycle transportation, pedestrian walkways, and equestrian trails."

TOLL ROAD REIMBURSEMENT PROGRAM

SEC. 132. (a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 146. Toll road reimbursement program

"(a) Whenever a State has received its final apportionment of sums authorized to be appropriated for expenditure on the Interstate System, the Secretary may permit, notwithstanding the provisions of subsection (b) of section 129 of this title, reimbursement of the Federal share of the actual cost of construction of new toll highways or improvements to existing toll highways, construction of which highways or improvement is begun after July 1, 1972, but not including the cost of toll collection and service facilities, on the same basis and in the same manner as in the construction of free highways under this chapter upon compliance with the conditions contained in this section.

"(b) The Secretary may permit reimbursement of the Federal share of the costs of construction as applicable to a project under section 120(a) of this title from funds apportioned to such State pursuant to paragraph (1) subsection (b) of section 104 of this title whenever the State enters into an agreement with the Secretary whereby it undertakes performance of the following obligations:

"(1) to provide for the construction of such highway in accordance with standards approved by the Secretary;

"(2) all tolls received from the operation of such highway, less the actual cost of such operation and maintenance, shall be applied by the State to the repayment of the actual costs of construction, except for an amount equal to the Federal share payable of such actual costs of a project; and

"(3) no tolls shall be charged for the use of such highway after the Federal share has been paid and the highway shall be maintained and operated as a free highway.

Such agreements may be entered into between the Secretary and a State upon enactment of this section. Reimbursements shall not be made until after the State receives its final apportionment of sums authorized to be appropriated for expenditure on the Interstate System.

"(c) When such highway becomes toll-free in accordance with the aforementioned agreement, such highway shall become a part of the primary system notwithstanding the mileage limitations in subsection (b) of section 103 of this title.

"(d) The Federal share payable of such actual cost of the project shall be made in not more than fifteen equal annual installments, from the funds apportioned to the State pursuant to paragraph (1) of subsection (b) of section 104 of this title, with the first installment being made one year after the project agreement has been entered into between the Secretary and the State highway departments or one year after the State receives its final apportionment of sums authorized to be appropriated for expenditure on the Interstate System, whichever is last to occur. Such payment shall be applied against the outstanding obligations of the project."

(b) The analysis of chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following:

"146. Toll road reimbursement program."

SPECIAL URBAN HIGH DENSITY TRAFFIC PROGRAM

SEC. 133. (a) Chapter 1 of title 23 of the United States Code is amended by adding at the end thereof the following new section:

"§ 147. Special urban high density traffic program

"(a) There is hereby authorized to be appropriated out of the Highway Trust Fund, $100,000,000 for the fiscal year ending June 30, 1974, and $100,000,000 for the fiscal year ending June 30, 1975, for the construction of highways connected to the Interstate System in portions of urbanized areas with high traffic density. The Secretary shall develop guidelines and standards for the designation of routes and the allocation of funds for this purpose which include the following criteria:

"(1) Routes designated by the Secretary shall not be longer than ten miles.

"(2) Routes designated shall serve areas of concentrated population and heavy traffic congestion.

"(3) Routes designated shall serve the urgent needs of commercial, industrial, or national defense installations.

"(4) Any routes shall connect with existing routes on the Interstate System.

"(5) Routes designated under this section shall have been approved through the planning process required under section 134 of this title and determined to be essential by responsible local officials.

"(6) A route shall be designated under this section only where the Secretary determines that no feasible or practicable alternative mode of transportation which could meet the needs of the area to be served is now available or could become available in the foreseeable future.

"(7) The designation of routes under this section shall comply with section 138 of this title, and no route shall be designated which substantially damages or infringes upon any residential area.

"(8) Routes shall be designated by the Secretary on the recommendation of the State and responsible local officials.

"(9) No more than one route in any one State shall be designated by the Secretary.

"(b) The Federal share payable on account of any project authorized pursuant to this section shall not exceed 90 per centum of the cost of construction of such project."

(b) The analysis of chapter 1 of title 23 of the United States Code is amended by adding at the end thereof the following:

"147. Special urban high denisty traffic program."

ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS ON FEDERAL LAKES

SEC. 134. (a) Chapter 1 of title 23 of the United States Code is further amended by adding at the end thereof the following new section:

"§ 148. Access highways to public recreation areas on Federal lakes

"(a) There is hereby authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated $15,000,000 for the fiscal year ending June 30, 1974, and $15,000,000 for the fiscal year ending June 30, 1975, for the construction or reconstruction of access highways to public recreation areas on Federal lakes in order to accommodate present and future high traffic density. The Secretary shall develop guidelines and standards for the designation of routes and the allocation of funds for the purpose of this section which shall include the following criteria:

"(1) Routes designated by the Secretary shall not extend beyond 20 miles from the recreation area.

"(2) Such routes shall connect with a highway in the Federal aid system.

"(3) The designation of routes under this section shall comply with section 138 of this title.

"(4) Routes shall be designated by the Secretary on the recommendation of the State and responsible local officials.

"(b) The Federal share payable on account of any project authorized pursuant to this section shall not exceed 70 per centum of the cost of construction or reconstruction of such project.

"(c) Any highway not part of the Federal-aid system when constructed or reconstructed pursuant to this section shall thereafter be part of the Federal-aid secondary system except as otherwise provided pursuant to this section.

"(d) For the purpose of this section the term 'Federal lake' means a lake constructed by the Corps of Engineers, Department of the Army, or the Tennessee Valley Authority, or the Bureau of Reclamation, Department of the Interior, or a multipurpose lake constructed with the assistance of the Soil Conservation Service, Department of Agriculture."

(b) The analysis of chapter 1 of title 23 of the United States Code is amended by adding at the end thereof the following:

"148. Access highways to public recreation areas on Federal lakes."

ALTERNATIVE FEDERAL-AID HIGHWAY PROCEDURES

SEC. 135. Title 23, United States Code, is amended by inserting the following new chapter 1–A at the end of chapter 1:

"CHAPTER 1–A ALTERNATIVE FEDERAL-AID HIGHWAY PROCEDURES

"Sec.

"171. Policy declarations.

"172. Applicability and certification.

"173. Assistance for States desiring to comply with this chapter.

"174. Master agreement.

"175. Rights of aggrieved parties.

"176. Applicability of other chapters.

"§ 171. Policy declaration

"The Congress hereby finds that—

"(a) the public interest requires an alternative procedure to the procedures otherwise provided in title 23 for processing Federal-aid highway projects to promote and facilitate the continued construction of the Federal-aid systems covered by this chapter and to provide the States and local governments according to their own priorities and problems with a maximum degree of flexibility and choice.

"(b) the alternative procedure provided by this chapter shall emphasize the development and utilization of State administrative processes for constructing Federal-aid highway projects which will insure their construction in harmony with the social, environmental and economic objectives of all applicable Federal laws and requirments.

"(c) the Federal-aid highway program as administered under this chapter shall continue to be a cooperative program between the States and the Federal Government. The primary Federal role shall be to require an integrated system of highways, consistent with local determinations and needs, which will be designed, developed and constructed in accordance with guidelines promulgated by the Secretary to effectuate national policies determined by the Congress. The authorization and appropriation of Federal funds or their availability for expenditure for construction or improvement shall in no way be deemed to infringe upon the rights of the States to determine which projects or improvements shall be financed under this chapter.

"(d) the requirements of this title are contract conditions and any State which avails itself of the procedures in this chapter is obliged to meet the requirements which it sets forth in its application for certification.

"§ 172. Applicability and certification

"(a) The provisions of this chapter shall be applicable to all Federal-aid systems except the National System of Interstate and Defense Highways.

"(b) Any State may submit to the Secretary for his approval and certification a comprehensive procedure for the construction of Federal-aid highway projects, setting forth the process by which such State proposes to carry out its Federal-aid highway construction responsibilities. The State procedure shall set forth the process by which goals, objectives, and priorities for carrying out its Federal-aid program shall be established and shall take into account and be in accord with the requirements of this title and other provisions of Federal law. The Secretary shall establish guidelines which shall describe the essential elements of a comprehensive State highway program. The State shall certify to the Secretary that its procedure will be administered by a State agency with adequate powers, suitably staffed, equipped and organized to comply with all applicable State and Federal laws, guidelines, regulations and directives, and that its administrative processes will result in compliance with State and Federal laws, guidelines, regulations and directives.

"(c) The Secretary shall within ninety days after receipt of a State request for certification review the comprehensive procedures of such State pursuant to the guidelines promulgated by the Secretary in accordance with subsection (b) of this section. In reviewing a State request for certification, the Secretary is authorized to conduct audits and physical inspections to determine the ability of the State to carry out its comprehensive procedure.

"(d) The Secretary shall approve the request of any State for certification unless he finds that State laws, guidelines, regulations, and directives will not result in the accomplishment of the social, environmental, and economic objectives of all applicable Federal laws and requirements or are not in compliance with the requirements of subsection (b) of this section.

"(e) In the event the Secretary does not approve a request of a State for certification, the State may appeal such decision to the United States Circuit Court of Appeals for the District of Columbia which shall have jurisdiction to affirm the determination of the Secretary or to set it aside in whole or in part. The Secretary's disapproval of a request by a State for certification shall not deprive such State of any of the benefits nor relieve it of any of the requirements of the other chapters of this title with respect to Federal-aid highway projects in such States.

"(f) Approval by the Secretary of a comprehensive procedure of any State for constructing Federal-aid highway projects shall be in effect for two years from the date of such approval and shall discharge his responsibility under title 23 with respect to individual project approvals as required in chapter 1 of this title, except that the Secretary may find at any time, based upon his continuous review and audit of a comprehensive procedure of such State projects being executed pursuant thereto or other information, that it is not in compliance in whole or in part with the provisions of this chapter. In such event, the Secretary, after appropriate notice and opportunity for correction of non-compliance, shall declare the master agreement or any part thereof provided for in section 174 of this chapter breached and withdraw his approval. Any failure of the State to comply with the appropriate provisions of title 23 shall be deemed a breach of the master agreement provided for in section 174 of this chapter. Nothing in this chapter shall affect or discharge any responsibility or obligation of the Secretary under any Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Department of Transportation Act provision for the preservation of natural beauty (49 U.S.C. 1653(f)), and the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.), other than title 23, United States Code.

"(g) The guidelines, regulations, and other criteria to be applied by the Secretary in determining whether to approve the request of any State for certification, shall be developed in consultation with appropriate State and Federal officials and shall be promulgated not later than June 30, 1973. An opportunity to submit written data or comments for a period of not less than ninety days after publication shall be afforded to all interested persons. The initial approval of the comprehensive procedures of any State shall take effect no earlier than July 1, 1974.

"§ 173. Assistance for States desiring to comply with this chapter

"Any State, prior to submitting its request to the Secretary for certification, may make application to the Secretary for professional and technical assistance in developing comprehensive procedures which will comply with the provisions of this chapter. In providing Federal assistance, the Secretary may utilize the sums authorized in section 104(a) of title 23 to be deducted for administering the provisions of law to be financed from appropriations for the Federal-aid systems.

"§ 174. Master agreement

"(a) Approval by the Secretary of a request by a State for certification shall constitute a formal agreement with the State. The agreement shall apply to all Federal-aid projects to be constructed by the State pursuant to the comprehensive procedures for the biennial period of the agreement.

"(b) The Secretary may rely upon representations made by the State with respect to the arrangements or agreements made by the State and appropriate local officials where a part of a project is to be constructed at the expense of, or in cooperation with, political subdivisions of the State.

"(c) Approval by the Secretary shall be deemed a contractual obligation of the Federal Government for the payment of its proportional contribution to all projects covered by the agreement. Following approval of an agreement by a State for certification, funds apportioned to a State pursuant to section 104 shall be available for obligation by the State under the State's comprehensive procedure without restriction, except that nothing in this section shall affect the power of the Secretary to restrict, or of any court to enjoin, the obligation or expenditure of such funds for failure to comply with applicable laws or requirements or for failure of the State to comply with its comprehensive procedure.

"(d) The State shall submit with its request for certification a list of projects to be covered by the agreement. The State may add, withdraw and substitute other projects during the period of the agreement with notice to the Secretary. The Secretary may disapprove such addition, withdrawal, or substitution within ninety days. However, in no event may a controversial project be withdrawn and another project substituted therefor for the purpose of avoiding compliance with applicable laws.

"§ 175. Rights of aggrieved parties

"(a) The Secretary shall provide in accordance with section 5 of the Administrative Procedures Act (section 554 of title 5, United States Code), an administrative hearing for alleged failure of a State to comply with its approved comprehensive procedure or any applicable State or Federal law. The Secretary's decision shall be based upon the record in such hearing, and his investigation and review of the State and Federal project records shall constitute part of the administrative record. The decision of the Secretary may be reviewed in accord with section 706 of title 5, United States Code.

"(b) The procedure set forth in subsection (a) shall be the exclusive procedure for suing the Secretary or any of his delegees and designees for the failure of a State to comply with its comprehensive procedures.

"§ 176. Applicablity of other chapters

"All of the provisions of title 23, United States Code, shall be applicable to projects processed pursuant to the provisions of this chapter except where the Secretary determines that said provisions of law conflict or are inconsistent with the provisions of this chapter."

PUBLIC TRANSPORTATION IN NATIONAL FORESTS AND PARKS

SEC. 136. (a) Subsection (f) of section 204 of title 23, United States Code, is amended to read as follows:

"(f) Funds available for forest highways shall be available for adjacent vehicular parking areas, for sanitary, water, and fire control facilities, and for passenger loading areas and facilities and the purchase of buses to provide interpretive or shuttle transportation services as an alternative means of transportation."

(b) Section 206 of title 23, United States Code, is amended by adding the following new subsection:

"(c) Funds available for park roads and trails shall be available for adjacent vehicular parking areas and for passenger loading areas and facilities and the purchase of buses to provide interpretive or shuttle transportation services as an alternative means of transportation."

PARKWAYS

SEC. 137. (a) Subsection (a) of section 207 of title 23, United States Code, is amended to read as follows:

"(a) Funds available for parkways shall be used to pay for the cost of construction and improvement thereof, including the acquisition of rights-of-way and related scenic easements."

(b) Section 207 of title 23, United States Code, is further amended by adding the following subsections.

"(d) After December 31, 1972, parkways contracted under the authority of this section shall be deemed to be on the Federal-aid secondary system.

"(e) The provisions of section 106(a) of this title, relating to the obligation of funds, shall apply to funds available for parkways."

HIGHLAND SCENIC HIGHWAY

SEC. 138. (a). The Secretary of the Interior, in cooperation with the Secretary of Agriculture (acting through the Forest Service), is authorized to develop and construct as a parkway the Highland Scenic Highway from West Virginia State Route 39 to U.S. 250 near Barton Knob.

(b) The route from Richwood, West Virginia, to U.S. 250 near Barton Knob, via West Virginia State Route 39 and the parkway authorized by subsection (a) of this section, shall be designated as the Highland Scenic Highway.

(c) Such Secretaries are authorized to acquire rights-of-way, lands containing such rights-of-way, and interests in land, including scenic easements, necessary to carry out the purpose of a scenic highway.

(d) Funds available for parkways shall be available for signs on Interstate highways, Appalachian Highways and other appropriate highways at natural points of access to such geographic area, indicating the direction and distance to the Highland Scenic Highway and to Richwood as "Gateway to the Highland Scenic Highway."

(e) Funds available for parkways shall be available for upgrading that portion of West Virginia State Route 39 designated as the Highland Scenic Highway to appropriate standards for a scenic and recreational highway, including the construction of vistas and other scenic improvements.

(f) Upon construction of the Highland Scenic Highway as authorized by subsection (a) of this section, such road and all associated lands and rights-of-way shall be transferred to the Forest Service and managed as part of the Monongahela National Forest, solely for scenic and recreational use and passenger car travel.

(g) Any parkway authorized in the future to proceed southward in such area shall begin in the immediate vicinity of Richwood, West Virginia.

CUMBERLAND GAP NATIONAL HISTORICAL PARK

SEC. 139. (a) Notwithstanding the definition of parkways in subsection (a) of section 101, funds available for parkways shall be available to finance the cost of reconstruction and relocation of Route 25E through the Cumberland Gap National Historical Park, including construction of a tunnel and the approaches thereto, so as to permit restoration of the Gap and provide adequate traffic capacity.

(b) Upon construction, such highway and tunnel and all associated lands and rights-of-way shall be transferred to the National Park Service and managed as part of the Cumberland Gap National Historical Park.

ALASKA HIGHWAY

SEC. 140. (a) (1) Chapter 2 of title 23 of the United States Code is amended by inserting at the end thereof a new section as follows:

"§ 217. ALASKA HIGHWAY

"(a) Recognizing the benefits that will accrue to the State of Alaska and to the United States from the reconstruction of the Alaska Highway from the Alaskan border to Haines Junction in Canada and the Haines Cutoff Highway from Haines Junction in Canada to the south Alaskan border, the Secretary is authorized out of the funds appropriated for the purpose of this section to provide for necessary reconstruction of such highway. Such appropriations shall remain available until expended. No expenditures shall be made for the construction of such highways until an agreement has been reached by the Government of Canada and the Government of the United States which shall provide, in part, that the Canadian Government—

"(1) will provide, without participation of funds authorized under this title all necessary right-of-way for the reconstruction of such highways, which right-of-way shall forever be held inviolate as a part of such highways for public use;

"(2) will not impose any highway toll, or permit any such toll to be charged for the use of such highways by vehicles or persons;

"(3) will not levy or assess, directly or indirectly, any fee, tax, or other charge for the use of such highways by vehicles or persons from the United States that does not apply equally to vehicles or persons of Canada;

"(4) will continue to grant reciprocal recognition of vehicle registration and drivers' licenses in accordance with agreements between the United States and Canada; and

"(5) will maintain such highways after their completion in proper condition adequately to serve the needs of present and future traffic.

"(b) The survey and construction work undertaken pursuant to this section shall be under the general supervision of the Secretary."

(2) The analysis of chapter 2 of title 23 of the United States Code is amended by adding at the end thereof the following:

"217. Alaska Highway."

(b) For the purpose of completing necessary reconstruction of the Alaska Highway from the Alaskan border to Haines Junction in Canada and the Haines Cutoff Highway from Haines Junction in Canada to the south Alaskan border there is authorized to be appropriated the sum of $58,670,000 to be expended in accordance with the provisions of section 217 of title 23 of the United States Code.

RESEARCH AND PLANNING

SEC. 141. Subsection (c) (1) of section 307 of title 23, United States Code, is amended to read as follows:

"(c) (1) Not to exceed 1½ per centum of the sums apportioned for each fiscal year prior to the fiscal year 1964 to any State under section 104 of this title shall be available for expenditure upon request of the State highway department, with the approval of the Secretary, with or without State funds, for engineering and economic surveys and investigations; for the planning of future highway programs and local public bus transportation systems and for the financing thereof; for studies of the economy, safety, and convenience of highway usage and the desirable regulation and equitable taxation thereof; and for research and development, necessary in connection with the planning, design, construction, and maintenance of highways and highway systems, and the regulation and taxation of their use."

BRIDGES ON FEDERAL DAMS

SEC. 142. (a) Subsection (d) of section 320 of title 23, United States Code, is amended by striking out "$16,761,000" and inserting in lieu thereof "$25,261,000."

(b) All sums appropriated under authority of the increased authorization of $8,500,000 established by the amendment made by subsection (a) of this section shall be available for expenditure only in connection with the construction of a bridge across lock and dam numbered thirteen on the Arkansas River near Fort Smith, Arkansas, in the amount of $2,100,000 and in connection with the reconstruction of a bridge across Chickamauga Dam on the Tennessee River near Chattanooga, Tennessee, in the amount of $6,400,000. No such sums shall be appropriated until all applicable requirements of section 320 of title 23 of the United States Code have been complied with by the appropriate Federal agency, the Secretary of Transportation, and the State of Arkansas for the Fort Smith project and the State of Tennessee for the Chattanooga project.

TECHNICAL AMENDMENTS

SEC. 143. Title 23, United States Code, is amended as follows:

(a) Section 101(a) is amended by striking out "Secretary of Commerce" and inserting in lieu thereof "Secretary of Transportation".

(b) Section 109(g) is amended by striking out "Ret" and inserting in lieu thereof "Act".

(c) Sections 126(a), and 310 are amended by striking out "Commerce" each place it appears and inserting in lieu thereof "Transportation".

(d) The heading of section 303 is amended to read: "Administration organization."

(e) Sections 308(b), 312, and 314 are amended by striking out "Bureau of Public Roads" each place it appears and inserting in lieu thereof "Federal Highway Administration".

(f) Section 309 is amended by striking out "Bureau of Public Roads" and inserting in lieu thereof "Department of Transportation".

(g) Sections 312 and 314 are amended by striking out "Commerce" each place it appears and inserting in lieu thereof "Transportation".

ALASKAN ASSISTANCE

SEC. 144. Subsection (b) of section 7 of the Federal-Aid Highway Act of 1966 is amended by striking at the end of the last sentence "June 30, 1972 and June 30, 1973." and substituting "June 30, 1972, June 30, 1973, June 30, 1974 and June 30, 1975."

INCREASED FEDERAL SHARE—EFFECTIVE DATE

SEC. 145. Subsection (b) of section 108 of the Federal-Aid Highway Act of 1970 is amended to read as follows:

"(b) The amendments made by subsection (a) of this section shall take effect with respect to all obligations incurred after June 30, 1973, except for projects on which Federal funds were obligated on or before that date."

HIGHWAY BEAUTIFICATION COMMISSION

SEC. 146. (a) Subsection (l) of section 123 of the Federal-Aid Highway Act of 1970 is amended by striking out the first sentence and inserting the following in lieu thereof:

"(l) The Commission shall not later than December 31, 1973, submit to the President and the Congress its final report."

(b) Subsection (n) of section 123 of the Federal-Aid Highway Act of 1970 is amended to read as follows:

"(n) There are hereby authorized to be appropriated such sums, but not more than $450,000, as may be necessary to carry out the provisions of this section and such moneys as may be appropriated shall be available to the Commission until expended."

FEASIBILITY STUDIES

SEC. 147. The Secretary shall report to Congress by January 1, 1974, on the feasibility and necessity for constructing to appropriate standards proposed highways along the following routes for the purpose of including such highways in the National System of Interstate and Defense Highways:

(a) A route from Brunswick, Georgia, or its vicinity, to Kansas City, Missouri, or its vicinity, so aligned to serve the following intermediate locations, or vicinities thereof: Columbus, Georgia; Birmingham, Alabama; Tupelo, Mississippi; Memphis, Tennessee; Batesville or Jonesbore, Arkansas; and Springfield, Missouri.

(b) Extension of Interstate Highway 70 from Cove Fort, Utah, or its vicinity, in a westerly direction, so aligned to serve the intermediate locations of Ely and Carson City, Nevada, or their vicinities.

(c) A route from Amarillo, Texas, or its vicinity, to Las Cruces, New Mexico, or its vicinity, so aligned to serve the following intermediate locations, or vicinities thereof: Herford, Texas; Clovis, New Mexico; Portales, New Mexico; Roswell, New Mexico; Ruidoso, New Mexico; Tularosa, New Mexico; and Alamagordo, New Mexico.

(d) A route from Kansas City, Missouri, or its vicinity, to Baton Rouge, Louisiana, or its vicinity, so alined to serve one or both of the following intermediate locations or vicinities thereof: Fayetteville, Fort Smith, and Texarkana, Arkansas; or Little Rock, Arkansas or any other route through the State of Arkansas determined feasible by such State and the Secretary.

(e) A route from Interstate Highway 380 from Waterloo, Iowa, via Dubuque, Iowa, to Interstate Highway 90 at Rockford, Illinois; and an extension of Interstate Highway 74 from the Davenport, Iowa-Moline, Illinois, area through Dubuque, Iowa, to Interstate 90 at LaCrosse, Wisconsin.

(f) A route from Kansas City, Missouri, or its vicinity, to Chicago, Illinois, or its vicinity, so alined to cross the Mississippi River in the vicinity of Hannibal, Missouri, and Quincy, Illinois.

STUDY OF TOLL BRIDGE AUTHORITY

SEC. 148. The Secretary of Transportation is authorized and directed to undertake a full and complete investigation and study of existing Federal statutes and regulations governing toll bridges over the navigable waters of the United States for the purpose of determining what action can and should be taken to assure just and reasonable tolls nationwide. The Secretary shall submit a report of the findings of such study and investigation to the Congress not later than July 1, 1973, together with his recommendations for modifications or additions to existing laws, regulations, and policies as well achieve a uniform system of tolls and best serve the public interest.

TERMINATION OF FEDERAL-AID RELATIONSHIP

SEC. 149. (a) Notwithstanding any other provisions of Federal law or any court decision to the contrary, the contractual relationship between the Federal and State governments shall be ended with respect to all portions of the San Antonio North Expressway between Interstate Highway 35 and Interstate Loop 410, and the expressway shall cease to be a Federal aid project.

(b) The amount of all Federal aid highway funds paid on account of sections of the San Antonio North Expressway in Bexar County, Texas (Federal aid projects numbered U 244(7), U 244(10), UG 244(9), U 244(8), and U 244(11)), shall be repaid to the Treasurer of the United States and the amount so repaid shall be deposited to the credit of the appropriation for "Federal Aid Highways (Trust Fund)". At the time of such repayment the Federal aid projects with respect to which funds have been repaid and any other Federal aid projects located on such expressway and programed for expenditure on such project, if any, shall be canceled and withdrawn from the Federal Aid Highway program. Any amount so repaid, together with the unpaid balance of any amount programed for expenditure on any such project shall be credited to the unprogramed balance of Federal-aid highway funds of the same class last apportioned to the States, respectively. The amount so credited shall be available for expenditure in accordance with the provisions of title 23, United States Code, as amended.

RAILROAD RELOCATION DEMONSTRATIONS

SEC. 150. (a) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out demonstration projects in Lincoln, Nebraska, and Elko, Nevada, for the relocation of railroad lines from the central area of the cities in conformance with the methodology developed under proposals submitted to the Secretary by the respective cities. The cities shall (1) have a local agency with legal authority to relocate railroad facilities, levy taxes for such purpose, and a record of prior accomplishment; and (2) have a current relocation plan for such lines which has a favorable benefit-cost ratio involving and having the unanimous approval of three or more class 1 railroads in Lincoln, Nebraska, and the two class 1 railroads in Elko, Nevada, and multicivic, local, and State agencies, and which provides for the elimination of a substantial number of the existing railway-road conflict points within the city.

(b) Federal grants or payments for the purpose of this section shall cover 70 per centum of the costs involved.

(c) The Secretary shall make annual reports and a final report to the President and the Congress with respect to his activities pursuant to this section.

(d) There is authorized to be appropriated not to exceed $1,000,000 in the case of Lincoln, Nebraska, and $1,400,000 in the case of Elko, Nevada, from the Highway Trust Fund, and not to exceed $2,000,000 in the case of Lincoln, Nebraska, and $2,800,000 in the case of Elko, Nevada, from money in the Treasury not otherwise appropriated, for carrying out the provisions of this section.

TITLE II

SHORT TITLE

SEC. 201. This title may be cited as the "Highway Safety Act of 1972."

PLANNING, ADMINISTRATION, AND EVALUATION OF STATE PROGRAMS

SEC. 202. (a) The fifth sentence of subsection (a) of section 402 of title 23, United States Code, is amended by inserting immediately after "such standards shall include, but not be limited to, provisions for" the following: "planning, administration, and evaluation of the State program,".

(b) Subsection (b)(1) of section 402 of title 23, United States Code, is amended by deleting paragraph (E) and substituting in lieu thereof the following:

"(E) provide for planning, administration, and evaluation of the State program, including (i) identification of the State's highway safety problems, the solutions thereto, and the capability of the State for effecting the solutions; (ii) formulation of objectives for achieving program goals; (iii) development of plans for allocation of resources and specification of steps to achieve objectives; (iv) evaluation of achievements; and (v) revision of the program as necessary to insure the accomplishment of the purposes of this section."

PENALTIES FOR DRIVING WHILE INTOXICATED

SEC. 203. Subsection (a) of section 402 of title 23 of the United States Code is amended by inserting after the fifth sentence the following: "Effective as soon as practicable after the date of enactment of the Highway Safety Act of 1972 such standards shall also include provisions requiring (1) laws prohibiting persons from operating motor vehicles while under the influence of intoxicating liquors or any narcotic or drug which impairs their ability to operate a motor vehicle properly and safely, (2) procedures for effective enforcement of such laws, (3) penalties for violation of such laws which provide a meaningful deterrent to their violation, and, where appropriate, adequate medical treatment for persons violating such laws who are in need of treatment.".

MANPOWER TRAINING AND DEMONSTRATION PROGRAMS

SEC. 204. (a) The first sentence of subsection (c) of section 402 of title 23, United States Code, is amended by inserting immediately after "approved in accordance with subsection (a)," the following: "including the development and implementation of manpower training programs, and of demonstration programs that the Secretary determines will contribute directly to the reduction of accidents, and deaths and injuries resulting therefrom such funds."

PUBLIC ROAD MILEAGE

SEC. 205. Subsection (c) of section 402 of title 23, United States Code, is amended by inserting immediately after the third sentence the following: "Public road mileage as used in this subsection shall be determined as of the end of the calendar year preceding the year in which the funds are apportioned and shall be certified to by the Governor of the State and subject to approval by the Secretary."

COMPLIANCE WITH ALCOHOL SAFETY STANDARD

SEC. 206. (a) Subsection (c) of section 402 of title 23 of the United States Code is amended by inserting before the period at the end of the next to the last sentence thereof a comma and the following: "*Provided, however*, That the provisions of this sentence shall not apply in the case of any State which has not prior to July 1, 1974, properly implemented the Secretary's highway safety programs standard numbered 8 (relating to alcohol in relation to highway safety) or any modification or addition to such standard prior to such date.".

(b) Such subsection is further amended by adding immediately after the next to the last sentence thereof the following: "Whenever the Secretary suspends the application of the seventh sentence of this subsection, he shall report within ten days the reasons for such suspension and the period of such suspension to the Committee of the Senate and House of Representatives on Public Works, Commerce and Interstate and Foreign Commerce, and shall publish such report in the Federal Register, and shall notify the State or States involved of such suspension, the reasons therefor and the period thereof, and warn them of the penalty involved."

MINIMUM APPORTIONMENT

SEC. 207. Subsection (c) of section 402 is amended by striking "one-third of 1 per centum" in the fifth sentence thereof as amended, and inserting "one-half of 1 per centum."

INCENTIVES FOR COMPLIANCE WITH HIGHWAY SAFETY STANDARDS

SEC. 208. Section 402 of title 23 of the United States Code is amended by adding a new subsection (i), as follows:

"(i)(1) The Secretary shall award, in addition to other grants pursuant to this section, $10,000,000 in grants in each fiscal year to States which he determines, in accordance with criteria which he shall establish and publish, to have attained above average results in carrying out and achieving the purposes of this chapter. Such grants shall be used by recipient States only to further the purposes of this chapter. The amount appropriated in each fiscal year for the purpose of carrying out this paragraph shall be apportioned among the States eligible for grants pursuant to this paragraph in the ratio which the total apportionments to each State pursuant to section 104(b) (1) and (2) for such year bears to the total such apportionments to all such eligible States for such year.

"(2) The Secretary may also award, in addition to other grants pursuant to this section, $10,000,000 in grants in each fiscal year to States which he determines, in accordance with criteria which he shall establish and publish, to have made the most significant improvements in carrying out and achieving the purposes of this chapter. Such grants shall be used by recipient States only to further the purposes of this chapter. No State shall receive in excess of $500,000 in any fiscal year pursuant to the provisions of this paragraph.".

HIGHWAY SAFETY ON INDIAN RESERVATIONS

SEC. 209. (a) Section 402 of title 23 of the United States Code is amended by adding a new subsection (j), as follows:

"(j) For the purpose of the application of this section on Indian reservations, 'State' and 'Governor of a State' includes the Secretary of the Interior and 'political subdivision of a State' includes an Indian tribe: *Provided*, That, notwithstanding the provisions of subparagraph (C) of subsection (b)(1) hereof, 95 per centum of the funds apportioned to the Secretary of the Interior shall be expended by Indian tribes to carry out highway safety programs within their jurisdictions: *And provided further*, That the provisions of subparagraph (E) of subsection (b)(1) hereof shall be applicable except in those tribal jurisdictions in which the Secretary determines such programs would not be practicable."

(b) Subsection (d) of section 402 of title 23, United States Code, is amended by inserting at the end of the first sentence thereof the following: ", and except that, in the case of a local highway safety program carried out by an Indian tribe, if the Secretary is satisfied that an Indian tribe does not have sufficient funds available to meet the non-Federal share of the cost of such program, he may increase the Federal share of the cost thereof payable under this Act to the extent necessary."

DRUG USE AND HIGHWAY SAFETY

SEC. 210. Section 403 of title 23 of the United States Code is amended by inserting "(a)" immediately before the first sentence thereof, and by adding at the end thereof the following new subsections:

"(b) In addition to the research authorized by subsection (a) of this section, the Secretary, in consultation with such other government and private agencies as may be necessary, is authorized to carry out safety research on the relationship between the consumption and use of drugs and their effect upon highway safety and drivers of motor vehicles. As soon as practicable, the Secretary shall promulgate a highway safety program standard with respect to drug use in relation to highway safety. The research authorized by this subsection may be conducted by the Secretary through grants and contracts with public and private agencies, institutions, and individuals.

"(c) In addition to the research authorized by subsections (a) and (b) of this section, the Secretary is authorized either independently or in cooperation with other Federal departments or agencies, to conduct research into, and to make grants to or contracts with State or local agencies, institutions, and individuals for demonstration projects for programs of administrative adjudication of traffic infractions. Such administrative adjudication programs shall be designed to improve highway safety by providing fair, efficient, and effective adjudication of traffic infractions, and by utilizing appropriate punishment, training, and rehabilitative measures for traffic law offenders. The Secretary shall report to Congress by July 1, 1974, on the research and demonstration projects authorized by this subsection, and shall include in such report a comparison of the fairness, efficiency, and effectiveness of administrative adjudication of traffic infractions with other methods of handling such infractions."

HIGHWAY SAFETY RESEARCH AND DEVELOPMENT

SEC. 211. The second sentence of subsection (a) of section 403 of title 23, United States Code, is amended to read as follows: "In addition, the Secretary may use the funds appropriated to carry out this subsection, either independently or in cooperation with other Federal departments or agencies, for making grants to or contracting with State or local agencies, institutions, and individuals for (1) training or education of highway safety personnel, (2) research fellowships in highway safety, (3) development of improved accident investigation procedures, (4) emergency service plans, (5) demonstration projects, and (6) related activities which are deemed by the Secretary to be necessary to carry out the purposes of this section. The Secretary shall assure that no fees are charged for any meetings or services attendant thereto or other activities relating to training and education of highway safety personnel."

TRANSFER OF DEMONSTRATION PROJECT EQUIPMENT

SEC. 212. Section 403 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) The Secretary may, where he deems it to be in furtherance of the purposes of section 402 of this title, vest in State or local agencies, on such terms and conditions as he deems appropriate, title to equipment purchased for demonstration projects with funds authorized by this section."

NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE

SEC. 213. Subsection (a)(1) of section 404 of title 23, United States Code, is amended by inserting immediately after "Federal Highway Administrator," the following: "the National Highway Traffic Safety Administrator,".

DATE OF ANNUAL REPORT

SEC. 214. The first sentence of subsection (a) of section 202 of the Highway Safety Act of 1966 (80 Stat. 736) is amended by deleting "March 1" and substituting in lieu thereof the following: "July 1".

EMERGENCY MEDICAL CARE FOR VICTIMS OF HIGHWAY ACCIDENTS

SEC. 215. (a) Chapter 4 of title 23 of the United States Code is amended by inserting at the end thereof a new section as follows:

"§ 405. Assistance for emergency medical care for victims of highway accidents

"(a) The Secretary is authorized to make grants to the States to assist in developing comprehensive plans for providing improved emergency medical care of victims of highway accidents. Such grants shall cover 70 per centum of the cost of developing such plans, except that no State shall receive in excess of a total of $100,000 pursuant to this section.

"(b) The Secretary is authorized to approve State plans submitted to him and to make grants to the States for the implementation of approved plans for improved emergency medical care for victims of highway accidents. Such grants shall cover 70 per centum of the cost of implementing such approved plans to the extent such cost exceeds the average amount spent by the State on provision of emergency medical care to victims of highway accidents in the three years preceding the enactment of this bill, as determined in accordance with regulations issued by the Secretary. Funds authorized to be appropriated for the purpose of carrying out the provisions of this section shall be apportioned to the States in the same manner as is provided in subsection (b)(2) of section 104 of this title.

"(c) The Secretary shall not approve such plan under this section which does not:

"(1) comply with highway safety program standards numbered 11 (relating to emergency medical services); and

"(2) comply with regulations established by the Secretary with respect to (A) the availability of necessary equipment (including, but not limited to ambulances and, where appropriate, helicopters), (B) the training of medical, paramedical, and other personnel, (C) the utilization to the maximum extent feasible of existing emergency medical care equipment which meets the standards and regulations the Secretary establishes, and (D) such other regulations as he deems necessary to assure that adequate medical care is available to victims of highway accidents throughout the State."

(b) The analysis of chapter 4 of title 23 of the United States Code is amended by adding at the end thereof the following:

"405. Assistance for emergency medical care for victims of highway accidents.".

ELIMINATION OF ROADWAY DANGERS

SEC. 216. (a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 148. Elimination of roadway dangers

"(a) Funds apportioned pursuant to paragraphs (1), (2), (6), and (7) of subsection (b) of section 104 of this title shall be available to eliminate or reduce the hazards at specific locations or sections of highways and at railroad-highway grade crossings which have high accident experiences or high accident potentials.

"(b) In approving projects under this section, the Secretary shall approve those projects recommended by a State that involve hazards at specific locations or sections of highways and at railroad-highway grade crossings which have been determined, on a statewide basis to be the most hazardous and the elimination of which would result in the greatest increase in highway safety."

(b) The analysis of chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following:

"148. Elimination of roadway dangers."

PAVEMENT-MARKING RESEARCH AND DEMONSTRATION PROGRAM

SEC. 217. (a) In addition to the research authorized by section 307(a) of title 23, United States Code, the Secretary of Transportation is authorized to conduct research and demonstration programs with respect to the effectiveness of various types of pavement markings under inclement weather and nighttime conditions.

(b) There is authorized to be appropriated from the Highway Trust Fund to carry out this section by the Federal Highway Administration, for each of the fiscal years ending June 30, 1974, and June 30, 1975, the sum of $10,000,000, to be available until expended.

AUTHORIZATIONS

SEC. 218. There is authorized to be appropriated out of the Highway Trust Fund—

(a) $225,000,000 for the fiscal year ending June 30, 1974, and $250,000,000 for the fiscal year ending June 30, 1975, for carrying out section 402 of title 23 of the United States Code (relating to highway safety programs) by the National Highway Traffic Safety Administration, of which $10,000,000 in each such year shall be for the purposes of section 402(1)(1), and $10,000,000 for section 402 (1)(2).

(b) $75,000,000 for the fiscal year ending June 30, 1974, and $50,000,000 for the fiscal year ending June 30, 1975, for carrying out such section 402 by the Federal Highway Administration, of which $25,000,000 for the fiscal year ending June 30, 1974 shall be exclusively available for the purchase of equipment for pavement marking.

(c) $100,000,000 for the fiscal year ending June 30, 1974 and $100,000,000 for the fiscal year ending June 30, 1975, for carrying out section 403 of such title (relating to highway safety research and development) by the National Highway Traffic Safety Administration.

(d) $25,000,000 for the fiscal year ending June 30, 1974, and $25,000,000 for the fiscal year ending June 30, 1975, for carrying out such section 403 by the Federal Highway Administration.

(e) $5,000,000 for the fiscal year ending June 30, 1974, for carrying out section 405 (a) of title 23 of the United States Code (relating to emergency medical care), to remain available until expended and $25,000,000 for the fiscal year ending June 30, 1975, for carrying out section 405(b) of such title.

(f) $250,000,000 for the fiscal year ending June 30, 1974, and $250,000,000 for the fiscal year ending June 30, 1975, for carrying out section 144 of title 23 of the United States Code (relating to the special bridge replacement program).

TITLE III

URBAN MASS TRANSPORTATION ACT OF 1964

SEC. 301. (a) The Urban Mass Transportation Act of 1964 is amended—

(1) by striking out "two-thirds" in the fifth sentence of section 4(a) and inserting in lieu thereof "90 per centum";

(2) by striking out "one-sixth" in the proviso to the second sentence of section 5 and inserting in lieu thereof "40 per centum"; and

(3) by striking out "two-thirds" in the last sentence of section 9 and inserting in lieu thereof "90 per centum".

(b)(1) Section 3 of such Act is amended—

(A) by striking out "No" in the fifth sentence of subsection (a) and inserting in lieu thereof "Except as provided in subsection (f), no"; and

(B) by adding at the end thereof a new subsection as follows:

"(f) The Secretary is also authorized, on such terms and conditions as he may prescribe, to make grants or loans to any State or local public body to enable it to assist any mass transportation system which maintains mass transportation service in an urban area to pay operating expenses incurred as a result of providing such service. No financial assistance shall be provided under this subsection unless (1) the Secretary determines that the mass transportation services provided by the system involved are needed to carry out a program referred to in section 4(a), and (2) the applicant State or public body has submitted to the Secretary a comprehensive mass transportation service improvement plan which is approved by him and which sets forth a program, meeting criteria established by the Secretary, for capital or service improvements to be undertaken for the purpose of providing more efficient, economical, and convenient mass transportation service in an urban area, and for placing the mass transportation operations of such system on a sound financial basis. The amount of any grant under this subsection to a State or local public body to enable it to assist any mass transportation system to pay operating expenses shall not exceed twice the amount of financial assistance provided from State or local sources for that purpose. The Secretary shall issue such regulations as he deems necessary to administer this subsection in an equitable manner. Such regulations shall include appropriate definitions of (A) operating expenses, and (B) the sources or types of State or local financial assistance which may be considered in computing the maximum allowable Federal grant."

(2) The fourth sentence of section 4(a) of such Act is amended by striking out "'section 3" and inserting in lieu thereof "section 3 (other than subsection (f))".

(3) Section 12(c) is amended—

(A) by striking out "and" at the end of paragraph (4);

(B) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and";

(C) by adding after paragraph (5) a new paragraph as follows:

"(6) the term 'mass transportation system' means any private company or public authority or agency providing mass transportation service."

(c) Section 4(c) of such Act is amended—

(1) by inserting "(1)" after "(c)";

(2) by striking out "sections 3, 7(b), and 9" and inserting in lieu thereof "section 3 except subsection (f)), and sections 7(b) and 9";

(3) by striking out "this subsection" wherever it appears and inserting in lieu thereof "this paragraph"; and

(4) by adding at the end thereof a new paragraph as follows:

"(2) To finance grants and loans under section 3(f) of this Act, the Secretary is authorized to incur obligations on behalf of the United States in the form of grant agreements or otherwise in amounts aggregating not to exceed $800,000,000. This amount shall become available for obligation upon the date of enactment of this paragraph and shall remain available until obligated. There are authorized to be appropriated for liquidation of the obligations incurred under this paragraph not to exceed $400,000,000 prior to July 1, 1973, which amount may be increased to not to exceed an aggregate of $800,000,000 prior to July 1, 1974. Sums so appropriated shall remain available until expended."

(d) Section 4(c) of such Act is amended by striking out $3,100,000,000" in the first and third sentences and inserting in lieu thereof "$6,100,000,000".

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, for not to exceed 15 minutes, with statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 8:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 8:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND FOR CONSIDERATION OF S. 3716 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the orders for the recognition of Senators on tomorrow morning, there be a period for the transaction of routine morning business, for not to exceed 15 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Chair lay before the Senate S. 3716.

The PRESIDING OFFICER. Without objection, it is so ordered.

DWIGHT D. EISENHOWER MEMORIAL BICENTENNIAL CIVIC CENTER ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 1089, S. 3943.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3943) to amend the Public Buildings Act of 1959, as amended, to provide for the construction of a civic center in the District of Columbia, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Public Works with amendments on page 6, after line 16, insert:

"(4) No purchase contract for the construction of such civic center shall be entered into, pursuant to the authority of this section, until thirty legislative days following submittal to the Senate and House Committees for the District of Columbia, and the Senate and House Committees on Appropriations, of the design, plans, and specifications, including detailed cost estimates, of such civic center.

On page 7, after line 22 insert:

"(g) In any case in which a public utility company is required to relocated, adjust, replace, remove, or abandon any of its major facilities by reason of the construction of such civic center, such utility shall, in addition to any compensation received by it pursuant to subsection (c) of this section, be reimbursed—

"(1) for costs incurred by any such utility which are associated with the dismantling of any such facility, as well as the removal of salvageable equipment therefrom;

"(2) for costs incurred by any such utility, which are associated with the relocation and reinstallation of salvageable equipment removed in accordance with paragraph (1);

"(3) for costs incurred by any such utility, which are associated with relocating, rerouting, or restoring the utility service load, excepting those relocation costs directly associated with street closings; and

"(4) in an amount sufficient to enable such utility to attain an allowable rate of return on its increased plant investment due to the necessity, by reason of the construction of such civic center, of constructing replacement facilities in advance of a scheduled construction program planned for calendar year 1978."

On page 99, line 3, after "$14,000,000", insert "for a contribution to the District of Columbia as the Federal share of carrying out the purposes of this act,";

After line 6, insert a new section, as follows:

SEC. 5. The post office and Federal office building at the corner of Lincoln and Central Streets, Essex Junction, Vermont, shall hereafter be known and designated as the "Winston Prouty Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Winston Prouty Federal Building".

After line 13, insert a new section, as follows:

SEC. 6. The Department of Health, Education, and Welfare South Building located at 330 C Street Southwest, Washington, District of Columbia, is hereby designated, and shall be known, as the "Mary Switzer Memorial Building". Any law, rule, regulation, document, map, or record of the United States in which reference is made to the Health, Education, and Welfare South Building referred to in the first sentence shall be held and considered to be a reference to the "Mary Switzer Memorial Building".

After line 22, insert a new section, as follows:

SEC. 7. The Federal office building to be constructed in Fitchburg, Massachusetts, on the site bounded by Maine and Academy Streets on the Marrman Parkway, is hereby designated and shall be known as the "Philip J. Philbin Federal Office Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Philip J. Philbin Federal Office Building".

On page 10, after line 5, insert a new section, as follows:

SEC. 8. The post office and Federal office building to be constructed in the block bounded by Grinage Street, Verret Street, Lafayette Street, and High Street in Houma, Louisiana, is hereby designated as the "Allen J. Ellender Post Office Building", in memory of the late Allen J. Ellender. Any reference to such building in any law, regulation, document, map, or other paper of the United States shall be deemed a reference to such building as the "Allen J. Ellender Post Office and Federal Office Building".

After line 14, insert a new section, as follows:

SEC. 9. The Federal office building and United States courthouse to be constructed in the southwest portion of that block bounded by Mitchell Street, Pryor Street, Central Avenue, and Trinity Avenue in Atlanta, Georgia, is hereby designated as the

"Richard B. Russell Federal Building", in memory of the late Richard Brevard Russell, a distinguished Member of the United States Senate from 1933 to 1971, and any reference to such building in any law, regulation, document, map, or other paper of the United States shall be deemed a reference to such building as the "Richard B. Russell Federal Building".

At the top of page 11, insert a new section, as follows:

SEC. 10. The Federal building being constructed in the block bounded by Ninth Street Northwest, Tenth Street Northwest, E Street Northwest, and Pennsylvania Avenue Northwest, in the District of Columbia shall hereafter be known and designated as the "J. Edgar Hoover F.B.I. Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such Federal building shall be held to be a reference to the "J. Edgar Hoover F.B.I. Building".

After line 9, insert a new section, as follows:

SEC. 11. The Federal office building now under construction in the Capital Plaza area of Frankfort, Kentucky, is hereby designated as the "John C. Watts Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "John C. Watts Building".

And after line 15, insert a new section, as follows:

SEC. 12. The effective period for each provision relating to the Speaker of the House of Representatives in the Ninety-first Congress which is contained in H. Res. 1238, Ninety-first Congress, as enacted into permanent law by chapter VIII of the Supplemental Appropriations Act, 1971 (84 Stat. 1989), is hereby extended for an additional one Congress from the date on which (but for this section) such provision would expire.

So as to make the bill read:

S. 3943

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Dwight D. Eisenhower Memorial Bicentennial Civic Center Act".

SEC. 2. The Congress hereby finds and declares that—

(1) it is essential to the social and economic development of the District of Columbia to establish major centers for commercial and economic activity within the city;

(2) such a center of activity would result from the development of a civic center located in the downtown area of the District of Columbia;

(3) a civic center would (A) attract large numbers of visitors to the downtown area and result in increased business activity in the area surrounding the center; (B) enable national organizations to hold their conventions and other meetings in the District of Columbia and thereby encourage citizens from the entire Nation to visit their Capital City; (C) provide a new source of revenue for the District of Columbia as a consequence of its operations and the expanded commercial activities resulting therefrom; and (D) provide expanded employment opportunities for residents of the District of Columbia.

(4) it is fitting that said civic center be established as a memorial to the late President, Dwight D. Eisenhower;

(5) the prompt provision of major convention facilities in the District of Columbia will significantly contribute to the commemoration of the Nation's bicentennial year; and

(6) the powers conferred by this Act are for public uses and purposes for which public powers may be employed, public funds may be expended, and the power of eminent domain and the police power may be exercised, and the granting of such powers is necessary in the public interest.

SEC. 3. The Public Buildings Act of 1959 (73 Stat. 479) as amended (40 U.S.C. 601 et seq.), is amended by adding at the end thereof the following new section:

"SEC. 17. (a) In order to provide for the District of Columbia facilities for the holding of conventions, exhibitions, meetings, and other social, cultural, and business activities, the Commissioner of the District of Columbia (hereinafter, "Commissioner") is authorized to provide for the development, construction, operation, and maintenance of the civic center to be designated as the Dwight D. Eisenhower Memorial Bicentennial Civic Center on a site in the Northwest section of the District of Columbia within an area bounded by Eighth Street, H Street, Tenth Street, New York Avenue, and K Street.

"(b)(1) Such civic center shall be in accordance with a plan, indicating the design and estimated costs, approved by the Commissioner and the District of Columbia Council, and approved by the National Capital Planning Commission pursuant to section 5 of the National Capital Planning Act of 1952 (D.C. Code, sec 1–1005) and section 16 of the Act approved June 20, 1938 (D.C. Code, sec. 5–428), and reviewed by the Commission of Fine Arts to the extent required by section 1 of the Act approved May 16, 1930 (D.C. Code, sec. 5–410).

"(2) Notwithstanding the provisions of section 12 of the District of Columbia Redevelopment Act of 1945, as amended (D.C. Code, sec. 5–711), the urban renewal plan, approved pursuant to section 6(b)(2) of such Act (D.C. Code, sec. 5–705(b)(2)), for an urban renewal area in which the civic center is located shall be deemed to be modified by the plan approved pursuant to this subsection and the National Capital Planning Commission shall certify such urban renewal plan, as modified, to the District of Columbia Redevelopment Land Agency.

"(3) In the development of the civic center in accordance with the plan approved pursuant to this subsection, the Commissioner, notwithstanding any other provision of law, may open, extend, widen, or close any street, road, highway, or alley, or part thereof, by the filing of a plat or plats in the Office of the Surveyor of the District of Columbia showing such opening, extension, widening or closing.

"(c) The Commissioner shall acquire, by purchase, gift, condemnation, or otherwise, all real property necessary to provide for the civic center.

"(d)(1) The Commissioner is authorized to enter into purchase contracts including negotiated contracts, for the financing, design, construction, and maintenance of the civic center. The Commissioner is further authorized to lease the site described in subsection (a) at a nominal rental for a period of not more than thirty-five years. The payment term of said purchase contracts shall not be more than thirty years from the date of acceptance of the civic center and such purchase contracts shall provide that title to the civic center shall vest in the District of Columbia at or before the expiration of the contract term and upon fulfillment of the terms and conditions stipulated in the purchase contracts. Such terms and conditions shall include provision for the application to the purchase price agreed upon therein of installment payments made thereunder.

"(2) Such purchase contracts shall include such provisions as the Commissioner, in his discretion, shall deem to be in the best interest of the District of Columbia and appropriate to secure the performance of the obligations imposed upon the party or parties that shall enter into such agreement with the Commissioner. The purchase contracts shall provide for payments to be made to—

"(A) amortize the cost of site acquisition, including relocation payments required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and such other moneys as may be advanced by the contracts to the District of Columbia;

"(B) amortize the cost of construction of improvements to be constructed;

"(C) provide a reasonable rate of interest on the outstanding principal as determined under subparagraphs (A) and (B) above; and

"(D) reimburse the contractors for the cost of any other obligations required of them under the contract, including (but not limited to) payment of taxes, costs of carrying appropriate insurance, and costs of repair and maintenance if so required of the contractors.

"(3) For the purpose of the purchase contracts provided by this subsection for the erection of the civic center, the Commission is authorized to enter into agreements with any person, copartnership, corporation, or other public or private entity, to effectuate any of the purposes of this subsection.

"(4) No purchase contract for the construction of such civic center shall be entered into, pursuant to the authority of this section, until thirty legislative days following submittal to the Senate and House Committees for the District of Columbia, and the Senate and House Commitees on Appropriations, of the design, plans, and specifications, including detailed cost estimates, of such civic center.

"(e) The full faith and credit of the government of the District of Columbia is hereby committed to guarantee, upon such terms and conditions as may be prescribed by the Commissioner, the fulfillment of all obligations imposed by the provisions of this section.

"(f)(1) The Commissioner is authorized to accept and administer gifts, personal services, securities, or other property of whatever character to aid in carrying out the purposes of this section.

"(2) The Commissioner is further authorized to provide for the operation of any or all aspects of the civic center by any department or agency of the government of the District of Columbia, or may provide for the performance of such operations, including the use or rental of the civic center or its equipment, motor vehicle parking facilities, concessions, and other activities, by contract entered into with any person, copartnership, corporation, or other public or private entity, upon such terms and conditions as may be stipulated in the agreements; and for such purposes may utilize or employ the services of personnel of any agency or instrumentality of the United States or the District of Columbia, with the consent of such agency or instrumentality, upon a reimbursable or nonreimbursable basis, and may utilize voluntary or uncompensated personnel.

"(g) In any case in which a public utility company is required to relocate, adjust, replace, remove, or abandon any of its major facilities by reason of the construction of such civic center, such utility shall, in addition to any compensation received by it pursuant to subsection (c) of this section, be reimbursed—

"(1) for costs incurred by any such utility, which are associated with the dismantling of any such facility, as well as the removal of salvageable equipment therefrom;

"(2) for costs incurred by any such utility, which are associated with the relocation and reinstallation of salvageable equipment removed in accordance with paragraph (1);

"(3) for costs incurred by any such utility, which are associated with relocating, rerouting, or restoring the utility service load, excepting those "relocation costs directly associated with street closings; and

"(4) in an amount sufficient to enable such utility to attain an allowable rate of return on its increased plant investment due to the necessity, by reason of the construction of such civic center, of constructing replacement facilities in advance of a scheduled construction program planned for calendar year 1978."

Sec. 4. (a) There is authorized to be appropriated out of the revenues of the District of Columbia such sums as may be necessary to carry out the purposes of this Act. Such sums shall remain available for obligation until expended.

(b) There is authorized to be appropriated, without fiscal year limitation, and out of any money in the Treasury not otherwise appropriated, not to exceed $14,000,000 for a contribution to the District of Columbia as the Federal share of carrying out the purposes of this Act, to remain available until expended.

Sec. 5. The post office and Federal office building at the corner of Lincoln and Central Streets, Essex Junction, Vermont, shall hereafter be known and designated as the "Winston Prouty Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Winston Prouty Federal Building".

Sec. 6. The Department of Health, Education, and Welfare South Building located at 330 C Street Southwest, Washington, District of Columbia, is hereby designated, and shall be known, as the "Mary Switzer Memorial Building". Any law, rule, regulation, document, map, or record of the United States in which reference is made to the Health, Education, and Welfare South Building referred to in the first sentence shall be held and considered to be a reference to the "Mary Switzer Memorial Building".

Sec. 7. The Federal office building to be constructed in Fitchburg, Massachusetts, on the site bounded by Maine and Academy Streets on Marrman Parkway, is hereby designated and shall be known as the "Philip J. Philbin Federal Office Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Philip J. Philbin Federal Office Building".

Sec. 8. The post office and Federal office building to be constructed in the block bounded by Grinage Street, Verret Street, Lafayette Street, and High Street in Houma, Louisiana, is hereby designated as the "Allen J. Ellender Post Office Building", in memory of the late Allen J. Ellender. Any reference to such building in any law, regulation, document, map, or other paper of the United States shall be deemed a reference to such building as the "Allen J. Ellender Post Office and Federal Office Building".

Sec. 9. The Federal office building and United States courthouse to be constructed in the southwest portion of that block bounded by Mitchell Street, Pryor Street, Central Avenue, and Trinity Avenue in Atlanta, Georgia, is hereby designated as the "Richard B. Russell Federal Building", in memory of the late Richard Brevard Russell, a distinguished Member of the United States Senate from 1933 to 1971, and any reference to such building in any law, regulation, document, map, or other paper of the United States shall be deemed a reference to such building as the "Richard B. Russell Federal Building".

Sec. 10. The Federal building being constructed in the block bounded by Ninth Street Northwest, Tenth Street Northwest, E Street Northwest, and Pennsylvania Avenue Northwest, in the District of Columbia shall hereafter be known and designated as the "J. Edgar Hoover F.B.I. Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such Federal building shall be held to be a reference to the "J. Edgar Hoover F.B.I. Building".

Sec. 11. The Federal office building now under construction in the Capital Plaza area of Frankfort, Kentucky, is hereby designated as the "John C. Watts Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "John C. Watts Building".

Sec. 12. The effective period for each provisions relating to the Speaker of the House of Representatives in the Ninety-first Congress which is contained in H. Res. 1238, Ninety-first Congress, as enacted into permanent law by chapter VIII of the Supplemental Appropriations Act, 1971 (84 Stat. 1989), is hereby extended for an additional one Congress from the date on which (but for this section) such provision would expire.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92–1145), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record as follows:

COMMITTEE AMENDMENTS

The Committee has recently expressed desire that Congress retain some involvement in the planning and execution of Federal building projects. By this means, the Committee hopes to avoid the necessity for subsequent legislation when projects have reached an advanced stage of construction or are completed. Consequently, an amendment is included in this bill giving the Senate and House Committees on the District of Columbia, and Appropriations, 30 days to review plans, specifications, and cost estimates of the civic center before construction contracts are awarded.

The area in which the civic center is proposed to be constructed contains a major electric utility substation which serves a number of government buildings, including the White House. This facility contains sophisticated equipment and will have to be relocated. The Committee believes that customers of the electric utility should not have to pay for this relocation and includes in this bill an amendment to provide the cost of such relocation.

In addition, S. 3943, provides for the naming of certain Federal buildings. A committee amendment also authorizes the House of Representatives to continue providing office space for the former Speaker of the House during the 93rd Congress.

SUMMARY OF LEGISLATION

S. 3943, as reported, amends the Public Buildings Act of 1959 (73 Stat. 479), as amended (40 U.S.C. 601 et seq), to:

(1) Authorize the construction of a civic center in the District of Columbia, to be designated the Dwight D. Eisenhower Memorial Bicentennial Civic Center;

(2) Authorize the Commissioner of the District of Columbia to acquire, by purchase, gift, condemnation, or otherwise, all real property necessary to provide for the civic center;

(3) Authorize the Commissioner to enter into purchase contracts including negotiated contracts for the financing, design, construction, operation, and maintenance of the civic center;

(4) Authorize appropriation of a sum, not to exceed $14,000,000 for a contribution to the District of Columbia, as the Federal share of carrying out the purposes of this Act, to remain available until expended;

(5) Authorize that Federal buildings in seven U.S. cities be designated, respectively, as the Winston Prouty Federal Building, Mary Switzer Memorial Building, Philip J. Philbin Federal Office Building, Allen J. Ellender Post Office and Federal Office Building, Richard B. Russell Federal Building, J. Edgar Hoover F.B.I. Building, and John C. Watts Building; and

(6) Authorize that the effective period for each provision relating to the Speaker of the House of Representatives in the Ninety-first Congress, which is contained in H. Res. 1238, Ninety-first Congress, be extended for an additional period of one Congress from the date on which such provision would otherwise expire.

GENERAL STATEMENT

The Washington Metropolitan Area, with a population of 2.9 million, is the Nation's seventh largest and fastest growing major metropolis, The main industry in the District of Columbia, after Federal government activities, is tourism, but the City of Washington currently lacks a modern convention center. As a result, large conventions, exhibitions, and trade shows of American industry, commerce, education, and religion cannot be held in the Nation's Capital. The proposed center would remedy this deficiency and would be a source for new jobs and a stimulus for other businesses in the city, such as hotels and restaurant operations. In addition, it will be a key element in the revitalization of the downtown area.

The purchase-contract method of financing the facility, as provided in S. 3943, is comparable to recently enacted amendments to the Public Buildings Act of 1959, as amended, and now set forth in Public Law 92–313.

The authorization of $14,000,000 as a contribution to the District of Columbia, representing the Federal share of carrying out the purposes of this Act, is essential to ease the city's financial burden during the first few years of the center's operation. It is anticipated that four or five years will be necessary for the Center to reach full operations after it is completed. Once these are underway, operating costs are expected to slightly exceed revenues.

In addition to authorizing the Commissioner to condemn property within the proposed site, special provision is made to reimburse the Potomac Electric Company for the costs associated with the removal of its "Sinclair" substation from the proposed site area. This substation supplies electricity to various Federal buildings including the White House and contains special equipment which must be moved in order to maintain the type and quality of services needed. The Committee feels that the costs associated with the relocation should be borne by this project rather than being transferred to the general public through the usual rate increase proceeding.

HEARINGS

Hearings were conducted jointly by the Subcommittees on Public Buildings and Grounds of the Senate and House, Committees on Public Works, on August 9, 1972, subsequent to previous hearings, conducted by the House Subcommittee in February, 1971. In addition, during Executive Sessions of the Senate and House Subcommittees, testimony was submitted by the Mayor and Chairman of the City Council of the District of Columbia, representatives of the National Capital Planning Commission, the Redevelopment Land Agency, and other responsible officials, whose active participation in development of this facility is essential.

COMMITTEE VIEWS

The Committee believes that passage of this legislation will provide a strong stimulus to the economy and image of the downtown section, and that the benefits to the community of a convention facility extend beyond those directly associated with delegate expenditures. The Commercial activity generated by conventions will help to support the community facilities that are of direct benefit to non-convention-related businesses, and to residents and visitors. Such facilities include hotels, restaurants, and intra- and inter-city transportation. A successful convention is an excellent promotional device for the community in general and enhances the community's image, thus encouraging the movement of new commercial and industrial activities into the area. Equally, if not more important than broadening the economic base of the area, is the social and psychological benefits that derive from redevelopment in this downtown section, and which will vastly improve its environmental conditions, public safety, and image.

The Committee further feels that the civic center will provide a suitable monument to the memory of the late President Dwight D. Eisenhower and that the building should be named, appropriately, in his honor and recommends passage of the bill.

COST OF LEGISLATION

The total cost of the proposed facility is estimated at approximately $65,000,000, including site acquisition and relocation expenses. This bill authorizes a $14,000,000 contribution to the District of Columbia as the Federal share of carrying out the purposes of this Act, which will help sustain the project during the first few years of operations, or until it becomes reasonably self-supporting. All other necessary capital will be provided from private sources and the District Government's monetary outlay would be limited to the 30 annual installments necessary to repay the initial expenditure, and provide an adequate rate of return for the investors. This will necessitate the District Government entering into a purchase agreement, but with payments not to begin until the facility has been accepted. This method of financing is comparable with that provided for in the recently enacted Public Law 92–313.

SECTION-BY-SECTION ANALYSIS

SEC. 2. This section declares the center to be essential to the social and economic development of the District of Columbia, and would result in increased business activity in the vicinity. Also, that it would enable national organizations to hold conventions, and other meetings in the District, encouraging citizens from the entire Nation to visit the Capital. Further, it stresses that new sources of income would be provided through expanding employment opportunities and increased tax revenues. This section also notes the appropriateness of establishing the civic center as a memorial to the late President, Dwight D. Eisenhower, states that it will significantly contribute to the commemoration of the Nation's Bicentennial Year, and designate that powers conferred by this Act are for public uses and purposes.

SEC. 3. This section amends the Public Buildings Act of 1959, as amended, by adding at the end a new Section 17, which authorizes the Commissioner of the District of Columbia to provide for the development, construction, operation and maintenance, of the civic center, and designates boundaries of the site on which it is to be constructed. It authorizes the Commissioner to acquire, by purchase, gift, condemnation, or otherwise, all property necessary to provide for the construction of the civic center. It further authorizes the Commissioner to enter into purchase contracts, including negotiated contracts, for the financing, design, construction and maintenance of the civic center.

The Commissioner is further authorized to lease the site, at a nominal rental, for a period of not more than 35 years. The payment terms of said purchase contract shall not be more than 30 years, and such purchase contracts shall provide the title to the civic center, which shall vest in the District of Columbia at or before expiration. Such purchase contract shall include such provisions as the Commissioner shall deem to be in the best interest of the District of Columbia. The Commissioner is further authorized to provide for the operation of any or all aspects of the civic center by any department or agency of the government of the District of Columbia, or may provide for the performance of such operations by contract entered into with any public or private entity, and for such purpose may utilize or employ the services of personnel of any agency upon a reimbursable, nonreimbursable, voluntary, or uncompensated basis.

SEC. 4. This section authorizes, to be appropriated, a sum not to exceed $14 million for a contribution to the District of Columbia, as the Federal share of carrying out the purposes of this Act, to remain available until expended.

SEC. 5. This section designates the Federal Building in Essex Junction, Vermont, as the "Winston Prouty Federal Building".

SEC. 6. This section designates the building in Washington, D.C. as the "Mary Switzer Memorial Building".

SEC. 7. This section designates a building in the City of Fitchburg, Massachusetts as the "Philip J. Philbin Federal Office Building".

SEC. 8. This section designates a building in the city of Houma, Louisiana as the "Allen J. Ellender Post Office and Federal Office Building".

SEC. 9. This section designates a building in Atlanta, Georgia as the "Richard B. Russell Federal Building".

SEC. 10. This section designates a building in Washington, D.C. as the "J. Edgar Hoover F.B.I. Building".

SEC. 11. This section designates a building in Frankfort, Kentucky as the "John C. Watts Building".

SEC. 12. This section authorizes that the effective period for each provision relating to the Speaker of the House of Representatives in the Ninety-first Congress, which is contained in H. Res. 1238, Ninety-first Congress, be extended for an additional period of one Congress from the date on which such provision would otherwise expire.

CHANGES IN EXISTING LAW

Subsection (4) of Rule XXIX of the Standing Rules of the Senate requires inclusion in the report of any bill, the changes that such bill would make in existing law. It is the opinion of the Committee that the requirements of subsection (4) of Rule XXIX can be dispensed with in order to expedite the business of the Senate.

SERVICE CONTRACT ACT AMENDMENT OF 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1074, H.R. 15376.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 15376) to amend the Service Contract Act of 1965 to revise the method of computing wage rates under such Act, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare with amendments.

On page 1, line 8, after the word "including", strike out ", if the Secretary so elects,";

On page 2, line 7, after the word "including", strike out ", if the Secretary so elects,";

In line 14, after the word "employees", strike out "of" and insert "if";

On page 3, after line 2, strike out:

"(c) No contractor or subcontractor under a contract, which succeeds a contract subject to this Act and under which substantially the same services are furnished, shall pay any service employee under such contract less than the wages and fringe benefits, including accrued wages and fringe benefits, and, if the Secretary so elects, any prospective increases in wages and fringe benefits provided for in a collective bargaining agreement as a result of arm's length negotiations, to which such service employee would have been entitled if he were employed under the predecessor contract.

And, in lieu thereof, insert:

"(c) No contractor or subcontractor under a contract, which succeeds a contract subject to this Act and under which substantially the same services are furnished, shall pay any service employee under such contract less than the wages and fringe benefits, including accrued wages and fringe benefits, and any prospective increases in wages and fringe benefits provided for in a collective-bargaining agreement as a result of arm's-length negotiations, to which such service employees would have been entitled if they were employed under the predecessor contract: *Provided,* That in any of the foregoing circumstances such obligations shall not apply if the Secretary finds after a hearing in accordance with regulations adopted by the Secretary that such wages and fringe benefits are substantially at variance with those which prevail for services of a character similar in the locality.

On page 4, line 18, after the word "than", strike out "thirty" and insert "ninety";

On page 5, line 22, after "1977," insert "and for each fiscal year thereafter,";

On page 6, line 1, after the word "employed.", insert a quotation mark;

And, after line 2, strike out:

"(6) For the fiscal year ending June 30, 1978, and for each fiscal year thereafter, all contracts subject to this Act."

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. GRIFFIN. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Florida (Mr. GURNEY).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR GURNEY

With the passage today of H.R. 15376, to revise the method of computing wage rates under the Service Contract Act of 1965, the Senate has joined with the House of Representatives in establishing some much needed and long overdue protections for individuals all over this country who are employed under service contracts with the Federal Government. This piece of legislation other than some committee changes, is identical to S. 3827, which I introduced with the distinguished Senator from New Jersey (Mr. WILLIAMS). I was also especially pleased to have as a co-sponsor of the legislation my esteemed colleague from Alaska (Mr. STEVENS).

Mr. President, there is no question that this legislation was needed. Despite the present existence of the Service Contract Act of 1965, a cloud of professional and economic uncertainty hovers over the heads of one million service contract workers fulfilling 25 thousand service contracts. Experiences at Cape Kennedy in my own State of Florida clearly indicate that regardless of how loyal or how hard working or how skilled an employee is, regardless of how long he has been working under one of these service contracts, he faces the possibility every year or so, that a new company will come in and successfully underbid his employer.

When this happens, he finds himself possibly out of work, definitely reduced in income, fringe benefits, seniority and stripped of pension rights. This occurred at the Kennedy Space Center and nearly repeated itself at Patrick Air Force Base.

It has occurred in other service contract situations. This legislation confronted the Congress with the decision as to whether or not it is moral to trade men's wages and careers for the sake of expediency. And Congress has today decided in the negative.

In these service contracts, the major factor up for bid is wages. Since that is the only factor that really amounts to anything, it is very tempting to get in a low bid, by bidding down wages. It seems to me that Congress has acted wisely with this legislation to insist that an unconscionable cutthroat bidding does not sacrifice the lives of individuals who have worked so hard, so long, and so loyally for Federal programs.

Mr. President, the economic aspects of this cutthroat activity I am talking about is not limited to the employees involved and their families, the repercussions are community wide.

Banks find themselves in the position of having to foreclose on houses which then become a glut on the market. Property values decline sharply. Automobiles and other personal property are foreclosed. Merchants are hit hard because people cannot afford to purchase goods. The entire economy of an area which depends on Government operations is quite literally blown apart.

This bill is a simple one. It merely requires that a successful bidder on a service contract cannot pay employees less than they were receiving from their former employer unless his wages are out of line. These provisions are long overdue. They should have been incorporated in the Service Contract Act when it was passed in 1965.

Many of us thought with the passage of that legislation that the problem confronting these service contract employees was solved. However, we have seen situations where the Department of Labor refused to make any wage study as provided under the act at all, choosing to totally abandon these employees.

And when, as occurred last year at Patrick Air Force Base, through active congressional intervention on the part of myself and others, we were able to force the Department of Labor to make a wage survey, the criteria selected was such that the employees were still forced to take drastic cuts in wages. Thus, it became clear that the one possible saving grace of the whole bill, namely the possibility of wage surveys to establish levels of wages fringe benefits, did not function in an adequate manner.

For example, in that Patrick situation, a wage survey was conducted over a multi-county area, much of which was rural with a lower economic base. Thus, the wage study, while an improvement over what might have occured had one not been conducted, still was not an adequate safeguard against the kind of unfair practices that I am concerned about.

To force lower wages and reduce benefits for a man of 40 plus years of age who has worked hard all his life to build up some financial security and seniority—to literally pull the rug out from under him—is not only unjust but unconscionable.

Extensive oversight hearings by the special subcommittee on Labor of the House Education and Labor Committee produced findings which support my personal experience. Among the findings of the committee were these:

(1) The Department of Labor has failed to make wage and benefit determinations for almost two-thirds of those contracts subject to the act. (Indeed, as I have pointed out in the case of Patrick Air Force Base, Florida, only the firmest of congressional pressure was able to penetrate the department's bureaucratic inertia and to get a study undertaken.)

(2) A section of the act giving the Secretary of Labor discretion in administering the act has been stretched far beyond what the Congress intended.

(3) The practice of rebidding contracts, either without wage and fringe determinations, or with unrealistically low determinations, is creating chaos for reputable contractors and great hardships for employees.

The legislation we have passed today will end these problems. It will ensure that wages and fringe benefits are not cut to ribbons in the process of contract bidding. It will help establish some equality between these service contract employees and those performing the same jobs for a Federal agency under title 5, United States Code.

I should like to make one final point. In all of these service contract situations, the ultimate employer is in fact the Federal Government. It is the Federal Government who decides if an installation is going to be placed in a particular area. It is the Federal Government who decides the work to be done on that installation. It is the Federal Government who puts out the bids for the service contract which employ the people that we are concerned with protecting. The Federal Government, therefore, has a very, very strong responsibility to these people and to their communities. It does not meet these responsibilities by sitting back and through inaction, or inappropriate action, permitting the economic lives of individuals and the economic lives of communities to be placed on the auction block and sacrificed.

I would submit to you that this legislation is long overdue. Much damage has been done. Fortunately, the Senate has finally acted in this matter to avoid the further repetition of past mistakes.

RETIREMENT INCOME SECURITY FOR EMPLOYEES ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 3598 be referred to the Committee on Finance, with the understanding that it be reported back within 1 week. I do this at the request of the distinguished Senator from Louisiana (Mr. LONG), with the concurrence of the distinguished Senator from New Jersey (Mr. WILLIAMS), and at the direction of the distinguished majority leader.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object, I am the ranking Republican member of that committee. I would like to know what that bill is.

Mr. ROBERT C. BYRD. Mr. President, temporarily I withhold the request.

Mr. JAVITS subsequently said: Mr. President, may I say to the Senator, with respect to the matter of referring the pension bill to the Committee on Finance, that I am ascertaining now what that is all about, as I was not here yesterday because of religious reasons.

It may be perfectly all right. I hope he will not adjourn the Senate until I can get the matter concluded, as I have no desire to appear discourteous.

Senator WILLIAMS and I are the authors of this bill. I am the original author of it—some years back. It is a bill of very great importance, and it is a matter of great pride to me that it has been brought to this stage. So, if the Senator will give me an opportunity, I do not want what I have said to appear invidious to the Committee on Finance.

Mr. ROBERT C. BYRD. Not at all.

Mr. JAVITS. It may very well have been agreed to by Senator WILLIAMS, and I may be in agreement, but it caught me by surprise.

Mr. ROBERT C. BYRD. I appreciate what the Senator has said; but, for the record, may I say that the distinguished chairman of the Committee on Finance, the Senator from Louisiana (Mr. LONG), addressed a letter to the distinguished majority leader requesting that this bill, S. 3598, be referred to the Committee on Finance. I later went to Mr. LONG, at the request of the majority leader, and to Mr. WILLIAMS, and Mr. LONG and Mr. WILLIAMS agreed that 1 week would be fine. Mr. WILLIAMS had no objection.

Mr. President, I withhold the request for the moment, so as to accommodate the distinguished Senator from New York (Mr. JAVITS).

Mr. JAVITS. I thank the Senator. I wish to accommodate him and the Senate, but I do want to find out what it is all about.

Mr. ROBERT C. BYRD. Yes.

CONSULAR CONVENTION BETWEEN THE UNITED STATES AND THE POLISH PEOPLE'S REPUBLIC; CONSULAR CONVENTION BETWEEN THE UNITED STATES AND THE SOCIALIST REPUBLIC OF ROMANIA; CONSULAR CONVENTION BETWEEN THE UNITED STATES AND THE HUNGARIAN PEOPLE'S REPUBLIC

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Consular Convention between the United States and the Polish People's Republic, with Protocols (Executive U, 92d Cong., second sess.); the Consular Convention between the United States and the Socialist Republic of Rumania (Executive V, 92d Cong., second sess.); and the Consular Convention between the United States and the Hungarian People's Republic (Executive W, 92d Cong., second sess.); all transmitted to the Senate today by the President of the United States.

I ask unanimous consent that the three conventions with accompanying papers be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The messages from the President are as follows:

To the Senate of the United States:

I am pleased to transmit for the Senate's advice and consent to ratification the Consular Convention between the Government of the United States of

America and the Government of the Polish People's Republic, with Protocols, signed at Warsaw on May 31, 1972, on the occasion of my recent visit there. The Convention was accompanied by two related exchanges of notes, which are transmitted for the information of the Senate.

The signing of this treaty is a significant step in the gradual process of improving and broadening the relationship between the United States and Poland. Consular relations between the two countries have not previously been subject to formal agreement. This Convention will establish firm obligations on such important matters as free communication between a citizen and his consul, notification to consular offices of the arrest and detention of their citizens, and permission for visits by consuls to citizens who are under detention.

The people of the United States and Poland enjoy a long tradition of friendship. I welcome the opportunity through this Consular Convention to strengthen the ties between our two nations. I urge the Senate to give the Convention its prompt and favorable consideration.

RICHARD NIXON.

THE WHITE HOUSE, *September 19, 1972.*

To the Senate of the United States:

I transmit herewith, for Senate advice and consent to ratification, the Consular Convention between the United States of America and the Socialist Republic of Romania, signed at Bucharest on July 5, 1972.

The Convention was signed by Secretary of State William P. Rogers, who was paying an official visit to Romania, and by Foreign Minister Corneliu Manescu. It is evidence of the continued improvement and expansion of United States-Romanian relations.

This new Convention, replacing one concluded in 1881, will make possible improved consular services in both countries. It will ensure unhindered communication between a citizen and his consul and prompt visit by consuls to citizens who are detained. Under the Convention, American citizens in Romania will have a fuller degree of consular assistance and protection than ever before.

I hope that the Senate will act favorably on the Consular Convention with Romania at an early date.

RICHARD NIXON.

THE WHITE HOUSE, *September 19, 1972.*

To the Senate of the United States:

I am transmitting for the Senate's advice and consent to ratification the Consular Convention between the United States of America and the Hungarian People's Republic, signed at Budapest on July 7, 1972.

Secretary of State William P. Rogers signed the Convention for the United States during his official visit to Hungary. It is the first bilateral treaty concluded between the Governments of the United States and Hungary since World War II and reflects the increasingly warm contacts developing between Americans and Hungarians as well as between their Governments.

The Consular Convention, like others recently negotiated with Poland and Romania, will make possible improved consular services, including guaranteed communication between a citizen and his consul and prompt notification in case of detention.

I believe that this Convention will provide a cornerstone for the development and maintenance of friendly relations with Hungary, and I recommend that the Senate advise and consent to its ratification.

RICHARD NIXON.

THE WHITE HOUSE, *September 19, 1972.*

RESCISSION OF THE ORDER FOR THE RECOGNITION OF SENATOR MONTOYA TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the recognition of the distinguished Senator from New Mexico (Mr. MONTOYA) on tomorrow, for not to exceed 15 minutes, be vacated.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC HEALTH SERVICE ACT—UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, with the approval of the distinguished assistant Republican leader, and at the direction of the distinguished majority leader, I ask unanimous consent that the following agreement be entered into in the usual form:

That on S. 3716 there be a time limitation of 30 minutes, to be equally divided between the manager of the bill and the distinguished Republican leader or his designee; that time on any amendment thereto be limited to 20 minutes, to be equally divided between the mover of such and the manager of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object, this, again, is a bill out of the Committee on Labor and Public Welfare, on health. There will be amendments to the bill. I have not yet noted what the amendments will be. I note that the limitation of time on an amendment is 20 minutes.

May I ask the Senator who cleared that bill on this side? I never heard of it.

Mr. ROBERT C. BYRD. Would the Chair indulge me?

Mr. JAVITS. Mr. President, I would suggest to the Senator from West Virginia that the time on amendments is all right as he says it, but that there be time on amendments to the amendment, and also that the time on any amendment dealing with the so-called Hill-Burton formula, which is a matter of great interest to his colleague from West Virginia, be limited to 1 hour, with amendments to such amendment being limited to 20 minutes, 10 minutes on a side.

Mr. ROBERT C. BYRD. With respect to amendments to amendments, these are taken care of in the request I have presented. However, with respect to the suggestion by the distinguished Senator from New York that there be 1 hour on any amendment which may be proposed conforming with the identity which he has suggested, fine. We would include that in the request.

Mr. JAVITS. Then, amendments to that amendment will be limited to 20 minutes automatically?

Mr. ROBERT C. BYRD. That is correct.

Mr. JAVITS. All right.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object, would the distinguished majority whip modify his request so that the time on this side would be in the control of the ranking member?

Mr. ROBERT C. BYRD. Yes, indeed. I do that, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEATH OF REPRESENTATIVE WILLIAM F. RYAN

Mr. JAVITS. Mr. President, on the day of the most important religious holiday for my faith, yesterday, we heard in the Senate, and the country heard, of the passing of a colleague of mine from New York, affectionately known as Bill Ryan, who was a Member of the House of Representatives.

Bill Ryan was the Representative from the district which I had the honor to represent in the other body from 1947 to 1954, inclusive. Some years after I came to the Senate, Bill Ryan became Representative for that district.

I have worked with him closely on many matters, especially those which can best be described as dealing with the rights of man in terms of human decency, human compassion, and justice. I have never met a better motivated man.

Generally speaking, many of the things which he felt deeply about and undertook, I was in accord with him and deeply sympathetic towards. Where we differed, it was never in the heart, but always, in my judgment, as to what was the need for working out the problems of many interested people, in order to effect a result which Representative Ryan himself proposed to effect.

He undertook many unpopular causes. I know that district very well. He was not a bit afraid to do what some in the district might superficially have considered to be unpopular and then come back and convince them that he was right. I have done the same thing in that district in my day on some very difficult causes, including voting against bills which many people in the district thought they could never forgive a Congressman for voting against, mainly involving civil liberties—in other days, when that subject was a hot one.

So I know the gratification which comes from convincing the people in such a district, made up of such a diverse population—diverse in my day and more so today; and the tremendous tribute to Congressman Ryan who represented that district as he did over a number of terms in Congress. He had the conviction, the conscience, and the political courage to lead as he did.

He was a tremendous benefactor to his people, many of whom were poor and in grave difficulties in that district, economically and socially, including many problems which afflict our time and afflict them monumentally.

Mr. President, I am stricken with deep sadness over his passing. My wife and I extend our most profound condolences to his family.

THE FEDERAL AID HIGHWAY ACT

Mr. MUSKIE. Mr. President, this afternoon we concluded consideration of the Federal-Aid Highway Act of 1972. The vote on final passage, a unanimous vote, is the best tribute to the distinguished chairman of the committee, the Senator from West Virginia (Mr. RANDOLPH).

We happened to disagree on one amendment today. In the vigor of that debate, I may not have adequately indicated my appreciation for the valuable work he has done on this legislation and also over the years. But this year, especially, he devoted long hours and days to the effort of redirecting a highway policy which would be in the direction of today's needs. So he is responsible, in a very personal way, for many improvements in that legislation. I wanted to make sure that the record indicated my appreciation for his great contribution. The fact that we disagreed about one amendment today does not in any way diminish my appreciation of his efforts.

I have come to know his work in the Committee on Public Works over a period of 14 years. We have served for that length of time together on that committee. We have not always agreed, of course, but we have agreed on so many occasions in dealing with innovative and creative legislation, that I could not let this occasion pass without making this reference to him.

Mr. RANDOLPH. Mr. President, I am especially grateful at this late hour in the evening, after the unanimous roll call vote on passage of the Federal-Aid Highway Act of 1972 has been taken, that the distinguished Senator from Maine (Mr. MUSKIE) would speak the very generous words that he has just uttered.

I hold for the distinguished Senator from Maine the very fondest affection possible, one person for another. Perhaps more completely, I hold for him the admiration of one man for another. When, in my case, I believe that with the very highest purpose and in good conscience and with deep conviction, the Senator from Maine joined the distinguished Senator from Kentucky (Mr. COOPER) in sponsoring the amendment which is now part of the Senate-passed bill, I shall always be especially mindful of this postscript to today's rather energetic and vigorous activities.

Our differences, as he indicated were on this one amendment, of course, although it was at the time a matter of importance to both of us in light of what we both want to do in the "tomorrows"; that is, to work together, as we will, for the advancement of transportation in many forms and concepts in this country, as an advancement of the equality of life for which the distinguished Senator from Maine has stood so stanchly. All of these must be continuing commitments that we will move forward and work toward in the years, I hope, that we will serve together in the Senate.

Mr. MUSKIE. I thank the distinguished Senator from West Virginia. I am sure that I do not need to assure him of my continued friendship. I look forward to a close and continuing association with him.

Mr. RANDOLPH. I thank the distinguished Senator.

Mr. ROBERT C. BYRD. Mr. President, I wish to add my compliments to those which have been expressed by the distinguished Senator from Maine (Mr. MUSKIE) with regard to the work done by my distinguished senior colleague from West Virginia (Mr. RANDOLPH), who is the chairman of the Committee on Public Works.

I think that every Senator is well aware of the deep dedication with which my colleague approaches his committee work. I commend him for the service he has performed, not only for the State of West Virginia but also for the people of the Nation, over a period of many years as chairman of this very important committee.

There is no State in the Union, no people anywhere in the Union, who have not been well served by this committee under the chairmanship of my senior colleague, Mr. RANDOLPH.

The Senate owes him a debt. The people of this Nation are in his debt. I know that I express the sentiments of my colleagues on both sides of the aisle when I say that Senator RANDOLPH has at all times given unstintingly of his time, his energy, and his great talents to the work of that committee.

I commend him on his floor managership of this bill. I also commend him on the marvelous knowledge which he always brings to bear on every piece of legislation that he manages on the floor of the Senate. That would involve countless measures which have been passed over the years.

Mr. RANDOLPH. Mr. President, will my good friend and colleague yield to me?

Mr. ROBERT C. BYRD. I yield.

Mr. RANDOLPH. Again I indicate my appreciation to my colleague (Mr. ROBERT C. BYRD), as I did to the distinguished Senator from Maine (Mr. MUSKIE). We, I think, in passing the bill unanimously this evening, once again impress on the people of this country the determination of the Senate to move forward in transportation programs to meet the needs of all people. That is what we want to do.

My contributions, I hope, are constructive. I know that what the Senator has said is beyond what I deserve, but I shall never forget his expressions at this hour this evening.

Mr. ROBERT C. BYRD. I also want to apologize on the part of the leadership for the inconvenience which may have been caused my colleague, the chairman of the Committee on Public Works, by virtue of the relatively late hour that the Senate was able to return to the consideration of the highway bill.

I say to the Senate that my colleague is always most, most cooperative, courteous, and understanding to the leadership with respect to measures which he has the responsibility of handling on the floor. And he is always most understanding. I just thank him on the part of the majority leader and myself.

He certainly helps to lighten our burdens, although at times like today it may have increased his own.

QUORUM CALL

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRIFFIN). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RETIREMENT INCOME SECURITY FOR EMPLOYEES ACT

Mr. ROBERT C. BYRD. Mr. President, I now renew my unanimous-consent request with respect to the referral of S. 3598 to the Committee on Finance with the understanding that the bill be reported back 1 week from today.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. JAVITS. Mr. President, that is agreeable to me. The Senator from West Virginia has consulted with the Senator from New Jersey (Mr. WILLIAMS), although we did not actually have a chance to talk to each other. I accept that as the determination. It is agreeable to me.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator.

The PRESIDING OFFICER. Without objection, the bill is so referred.

Mr. JAVITS. Mr. President, may we know when that measure is reported, the time limit on the bill? May we have the unanimous-consent agreement provide that the bill shall be deemed referred back to the Senate by the Finance Committee at the end of that week for whatever it desires to do about it?

Mr. ROBERT C. BYRD. And returned to its place on the calendar.

Mr. JAVITS. That is very important because otherwise we would leave it up in the air.

Mr. ROBERT C. BYRD. Mr. President, may we specifically say that the date would be September 26?

Mr. JAVITS. That is agreeable. On that date it shall be deemed reported back to the Senate and take its place on the calendar.

ORDER FOR PRINTING OF H.R. 8389

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 8389 be printed as it passed the Senate yesterday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS COOK AND HANSEN TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the remarks of the distinguished minority leader on tomorrow under the order previously entered, the distinguished Senator from Kentucky (Mr. Cook) be recognized for not to exceed 15 minutes, and that he be followed by the Senator from Wyoming (Mr. Hansen) for not to exceed 15 minutes.

The PRESIDING OFFICER (Mr. Griffin). Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 8:30 a.m. After the two leaders have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes, and in the order stated: Senators Bentsen, Humphrey, Eagleton, Scott, Cook, and Hansen.

Routine morning business will then occur for not to exceed 15 minutes with the usual limitations on statements therein of 3 minutes.

Following the routine morning business, the Senate will turn to the consideration of S. 3716. There is a time limitation on that bill of 30 minutes, with a limitation on any amendment thereto of 20 minutes and a limitation on any amendment dealing with the Hill-Burton formula of 1 hour.

Mr. President, I would expect a yea-and-nay vote on the passage of the bill. There would be yea-and-nay votes on the amendments thereto.

On the disposition of S. 3716, any of the following bills may come up at any time tomorrow and during the course of the week and beyond. The order in which they are listed is not necessarily the order in which they will be called up. The leadership will have to exercise flexibility and will also have to exercise judgment based on the circumstances as to what measure or measures will be programed daily.

They are:

S. 2818, the diethylstilbestrol bill.

S. 630, the surface mining bill.

S. 3327, the public health bill.

S. 2280, the unlawful seizure of aircraft. The leadership expects to call up this bill on Thursday, there being a time limitation thereon.

S. 3970, the Council of Consumer Advisers bill.

In addition, there are the following appropriations bills: HEW, Defense, foreign aid, military construction, and supplemental.

There is the welfare bill, H.R. 1, which as I understand it, will be reported this week and will be ready for action by the Senate beginning on Monday of next week, should the leadership desire to program it at that time.

There is the extension and revision of the debt limitation bill.

There are conference reports, of which there are many and sundry, which may be called up at any time and may possibly necessitate rollcall votes.

The antibusing bill will also be called up at the discretion of the majority leader at some point.

The foregoing measures do not constitute all of the bills which will be considered before adjournment. Other measures on the calender will be called up when convenient. The list is only intended to indicate legislation that lies somewhere up ahead.

Senators may expect yea-and-nay votes daily. Senators may expect lengthy sessions, beginning at 9 a.m. daily or earlier from here on out.

Senators will understand that there is a logjam of bills and that this may be necessary if the Senate is to adjourn sine die in the relatively near future.

I am sure that the majority leader would want me to state that the leadership cannot hold back bills to accommodate Senators who are out of town and who may have amendments to offer.

The leadership must face up to its responsibility of calling up bills when convenient in an effort to complete the work of the Senate before sine die adjournment.

ADJOURNMENT TO 8:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 8:30 a.m. tomorrow.

The motion was agreed to; and at 7:18 p.m. the Senate adjourned until tomorrow, Wednesday, September 20, 1972, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 19, 1972:

Diplomatic and Foreign Service

The following-named Foreign Service officer for promotion from class 3 to class 2:

Karl E. Sommerlatte, of Florida.

For appointment as a Foreign Service officer of class 2, a consular officer, and a Secretary in the diplomatic service of the United States of America:

E. Avery Adams, Jr., of Connecticut.

For promotion from a Foreign Service officer of class 4 to class 3 and to be also a consular officer of the United States of America:

Kiyonao Okami, of Maryland.

For reappointment in the Foreign Service as Foreign Service officers of class 3, consular officers, and secretaries in the diplomatic service of the United States of America:

Richard B. Andrews, of Illinois.
Miss Elizabeth N. Landeau, of New York.
Miss Cherry Clovis Stubbs, of Minnesota.

For appointment as Foreign Service officers of class 3, consular officers, and secretaries in the diplomatic service of the United States of America:

Charles R. Bakey, Jr., of Pennsylvania.
Andrew Stephenson Coe, of Texas.
John J. Eddy, of New York.
Francis J. Hazard, of Tennessee.
Daniel M. Holliday, of West Virginia.
Walter M. Hummel, of North Dakota.
Sheldon Jack Krys, of Maryland.
Miss Mary E. Murphy, of New Jersey.
Rudolph Soldan, of Texas.
Wayne A. Swedenburg, of Virginia.

For appointment as Foreign Service information officers of class three, consular officers, and secretaries in the diplomatic service of the United States of America:

Thomas W. Ayers, of Florida.
Phillips Brooks, of Vermont.
Everet Bumgardner, of Virginia.
Edwin P. Kennedy, Jr., of Maryland.
George Edwin Wishon, of the District of Columbia.

For appointment as a Foreign Service information officer of class four, a consular officer, and a secretary in the diplomatic service of the United States of America:

Frazier Draper, of Florida.

For reappointment in the Foreign Service as Foreign Service officer of class four, consular officers, and secretaries in the Diplomatic Service of the United States of America:

Frederick Oakley Beattie III, of Virginia.
David J. Carpenter, of Maryland.
G. Ryder Forbes, of Maryland.
Donald C. Lautz, of Illinois.

For appointment as Foreign Service officers of class four, consular officers, and secretaries in the diplomatic service of the United States of America:

Roy L. Anderson, of Texas.
Anthony J. Babin, Jr., of Texas.
Lenard R. Clarke, of California.
Miss Margaret M. Cooney, of Rhode Island.
Lawrence Dolgoff, of California.
Miss Myrtle J. Eckblom, of Washington.
Paul L. Engle, of California.
Miss Virginia M. Fitzpatrick, of the District of Columbia.
Marvin D. Green, of Wisconsin.
Ernest C. Grigg III, of New York.
Oliver R. Hall, of California.
Charles R. Hare, of Virginia.
Lyle R. Hewitt, of Washington.
Alfred L. Jazynka, of Florida.
Grafton Harry Jenkins, of the District of Columbia.
George E. Knight, of Pennsylvania.
Miss Nancy S. Koch, of Florida.
James M. Murray, of Illinois.
Clyde A. Plunkett, of Tennessee.
George F. Twohie, of Florida.
James A. Weiner, of California.
Miss Irene R. Welsh, of South Dakota.

For appointment as Foreign Service information officers of class four, consular officers, and secretaries in the diplomatic service of the United States of America:

Robert R. Cohoes, of Nebraska.
William J. Dieterich, of Ohio.
Andrew J. Schwartz, of New York.

For reappointment in the Foreign Service as a Foreign Service information officer of class five, a consular officer, and a secretary in the dilomatic service of the United States of America:

Miss Caroline Dunlop Millett, of California.

For appointment as Foreign Service Officers of class five, consular officers, and secretaries in the diplomatic service of the United States of America:

Theodore L. Austin, Jr., of Maryland.
Miss Barbara J. Blume, of California.
Miss Marylu Carnes, of the District of Columbia.
J. Hall Diggs, of Michigan.
Miss M. June Dohse, of Ohio.
Thomas R. Flesher, of California.
Doyle E. Gentry, of Arkansas.
Miss Kathryn J. Groot, of Maryland.
Mrs. Marianne B. Hewitt, of Washington.
James S. Huffman, of California.
Gregory L. Johnson, of Washington.
Franklin Jones, of Maryland.
Donald R. Knight, of Iowa.
Richard J. Marroquin, of California.

William J. Medlin, of Florida.
E. Parks Olmon, of Texas.
Edward T. Paukert, of Minnesota.
Robert E. Prosser, of Pennsylvania.
Herbert Rathner, of Virginia.
George F. Rodman, of North Carolina.
James Joseph Romano, of Virginia.
L. Benjamin Sargent, Jr., of Washington.
Michael M. Sherman, of California.
Miss Lois I. Shipp, of Florida.
Miss Sylvia G. Stanfield, of Texas.
Paul A. Terry, of California.
Roy O. Young, of California.

For appointment as Foreign Service Information Officers of Class five, Consular Officers, and Secretaries in the Diplomatic Service of the United States of America:

Peter P. Cecere, of the District of Columbia.
Paul L. Good, of California.
Miss Anne J. Gurvin, of California.
Jerry W. Scott, of Oregon.
John J. Shippe, of Connecticut.

For promotion for Foreign Service Officers of Class seven to Class six:

L. Stuart Allan, of Mississippi.
Robert S. Ayling, of Virginia.
Mr. Robert M. Beecroft, of Pennsylvania.
Miss Elizabeth B. Bollmann, of Missouri.
George T. Boutin, of California.
Ray L. Caldwell, of the Canal Zone.
Thomas C. Dawson II, of Maryland.
Dean Dizikes, of California.
Gilbert J. Donahue, of Maryland.
Craig G. Dunkerley, of Massachusetts.
Miss Joan E. Garner, of Virginia.
Jack L. Gosnell, Jr., of South Carolina.
Lawrence Marshall Grossman, of Nebraska.
Mark G. Hambley, of Illinois.
William C. Kelly, Jr., of New Jersey.
Ms. Melinda L. Kimble, of Arizona.
John H. King, of New Jersey.
Robert J. Kott, of New York.
Russell August LaMantia, Jr., of Illinois.
Anthony Leggio, of New York.
Michael K. Lyons, of New York.
Walter H. Manger, of Pennsylvania.
Edward J. Marcott, of Massachusetts.
Frederick C. McEldowney, of Michigan.
Joseph G. McLean, of Montana.
Robert A. Millspaugh, of New York.
Malachy T. Minnies, of Virginia.
Stanley T. Myles, of Georgia.
Philip Dudley Oliver, of Alabama.
Terrell R. Otis, of Maryland.
David J. Peashock, of Pennsylvania.
John A. Purnell, of Arkansas.
Donald A. Roberts, of Minnesota.
Eric E. Svendsen, of Connecticut.
John Hurd Willett, of New York.
Edward L. Williams, of New Jersey.

For promotion from Foreign Service information officers of class seven to class six:

John F. Coppola, of New Jersey.
Albert W. Dalgliesh, Jr., of Michigan.
Miss Lucille R. Di Palma, of New York.
Miss Emily J. Drake, of Massachusetts.
Bernard M. Hensgen, of the District of Columbia.
William P. Kiehl, of Pennsylvania.
Paul D. Panaccione, of New Hampshire.
Roy M. Payne, of Oklahoma.
William T. Peters, of Michigan.
Miss Mary K. Reeber, of California.
Stephan Strain, of New York.

For appointment as Foreign Service officers of class six, consular officers, and secretaries in the diplomatic service of the United States of America:

Miss R. Maryetta Ackenbom, of the District of Columbia.
Miss Elizabeth M. Arnold, of Ohio.
Charles R. Baquet III, of Louisiana.
Robert J. Bel, of California.
Miss Ella M. Borough, of Michigan.
Miss Aurelia E. Brazeal, of Georgia.
Thomas F. Calhoun, of California.
William M. Campbell, of Oregon.
David L. Cardwell, of Pennsylvania.
Robert H. Cayer, of Massachusetts.
John M. Cooper, of the District of Columbia.
Guy J. Davis, of Texas.
Miss Olympia N. Di Lallo, of California.
Miss Diane Dillard, of Texas.
Pasquale L. DiTanna, of New Jersey.
Richard C. Dunbar, of Washington.
William W. Gonz, of Missouri.
Theodore S. Green, of Pennsylvania.
Manuel R. Guerra, of Texas.
Miss Theresa A. Hunt, of New York.
Miss Charmaine V. Keyes, of the District of Columbia.
Miss Mary E. Kincaid, of Maryland.
John J. Leech, of Connecticut.
Robert A. Lewis, of Louisiana.
Walter F. Loomer, of New York.
Richard H. Luchesa, of Pennsylvania.
Mrs. Jean E. Mackey, of Virginia.
Mrs. Dorothy L. Magee, of Florida.
Richard S. Mann, of California.
Robert H. Marston, of Missouri.
Edward E. Martinez, of Texas.
Richard E. Masters, of Texas.
Carl W. McCollum, of Illinois.
Miss Janet C. McCrory, of Missouri.
John H. Miller, of New York.
Herbert B. Moller, Jr., of Florida.
Emile F. Morin, of the District of Columbia.
Murrow B. Morris, of Georgia.
Jeremy Nice, of the District of Columbia.
F. Coleman Parrott, of Alabama.
Clarence E. Pegues, Jr., of Alabama.
Rudolph Lawrence Rivera, of California.
Frederick I. Rossi, of New York.
Miss Gwendolyn L. Quarterman, of Illinois.
Eugene L. Scassa, of Pennsylvania.
Miss Judith Ann Schmidt, of Illinois.
Charles H. Sisk, of Florida.
Charles L. Stephan III, of Illinois.
William S. Tilney, of California.
Miss Mary M. Welch, of Kentucky.
Howard F. Williams, of Georgia.
Raymond Alexander Yuhasz, of New Jersey.

For promotion from Foreign Service Officers of class eight to class seven:

Leslie M. Alexander, of New York.
Russell Barbour, of Pennsylvania.
John Thomas Basek, of New York.
Peter P. Carrico, of Washington.
Gale N. Grable, of California.
David Ellis Henderson, of Illinois.
Michael J. Hogan, of Utah.
J. Aubrey Hooks, of North Carolina.
Michael S. Lucy, of Massachusetts.
Brian Michael Patrick McNamara, of Connecticut.
Peter Robert Reams, of Nevada.

For promotion from Foreign Service information officers of class eight to class seven:

George P. Bonjoc, of California.
Theodore A. Boyd, of Ohio.
Miss Sarah S. Bush, of Washington.
Arthur E. Green, of New York.
Paul J. Saxton, of New York.
Cornelius C. Walsh, of Connecticut.

For appointment as Foreign Service officers of class seven, consular officers, and secretaries in the diplomatic service of the United States of America:

Randolph M. Bell, of Arkansas.
Miss Peggy Blackford, of New Jersey.
Edward Brynn, of California.
Marshall L. Casse, III, of Georgia.
Harry E. Cole, Jr., of Pennsylvania.
William Harrison Courtney, of West Virginia.
Miss Ann E. Darbyshire, of Hawaii.
Leslie Alson Doak, of California.
John R. Dobrin, of Tennessee.
Shaun Edward Donnelly, of Indiana.
Richard M. Dotson, of Michigan.
Mrs. Judith M. Heimann, of Connecticut.
Walter J. Henderson, Jr., of Pennsylvania.
John F. Hoog, of Missouri.
Jan H. Kalicki, of California.
Theodore H. Kattouf, of Pennsylvania.
Donald Willis Keyser, of the District of Columbia.
Richard K. Landers, of California.
J. Richard Mason, of Colorado.
Eugene Michael McCarthy, of Virginia.
Thomas J. Perich, of Texas.
Robert D. Persiko, of New Jersey.
Mrs. Lauralee M. Peters, of Minnesota.
David A. Roberts, of Pennsylvania.
Danny B. Root, of California.
Kenneth M. Scott, Jr., of Pennsylvania.
Dale L. Shaffer, Jr., of Nebraska.
William Henry Skok, of New Jersey.
James R. Smith, of West Virginia.
Philip Bates Taylor III, of Texas.
Miss Kaarn Jayne Weaver, of Ohio.

For appointment as Foreign Service officers of class eight, consular officers, and secretaries in the diplomatic service of the United States of America:

Marshall P. Adair, of Vermont.
Eric J. Boswell, of California.
Frederick Bishop Cook, of Florida.
Miss Laurel M. Cooper, of California.
M. Michael Einik, of Virginia.
Michael Daniel Foley, of California.
Miss Bonnie Ann Frank, of Oklahoma.
James L. Hogan, of New Jersey.
John Victor Lubar, of New York.
Mark Robert Parris, of Virginia.
Miss Annette L. Veler, of Wisconsin.
Miss B. Sue Wood, of Mississippi.

Foreign Service reserve officers to be consular officers of the United States of America:

James M. Fernald, of New Jersey.
David Y. C. Lee, of Virginia.
Arthur M. Niner, Jr., of New Jersey.

Foreign Service reserve officers to be consular officers and secretaries in the diplomatic service of the United States of America:

Marion C. Allison, of California.
Clayton Y. Amemiya, of Hawaii.
Albert J. Amori, of the District of Columbia.
Carl R. Anderson, of Virginia.
Clyde M. Benford, of Illinois.
Mark Brossman, of Virginia.
Glenn O. Brown, of Maryland.
Daniel F. Cameron, of Maryland.
Harold E. Chipman, of Virginia.
Lowell Citron, of Virginia.
John P. Coyne, of Arizona.
William J. Devine, Jr., of the District of Columbia.
William H. Eckstein, of Maryland.
Carl E. Gebhardt, of Virginia.
Randolph B. Hinkle, of Virginia.
Patrick T. Hodai, of Washington.
Lance G. Hopkins, of California.
Walter M. Hughey, of Virginia.
David C. Joyce, of Pennsylvania.
Harry G. Kamberis, of Virginia.
John K. Knaus, of Florida.
Wilfred D. Koplowitz, of Connecticut.
Myron B. Kratzer, of Maryland.
Dale M. Krumviede, of Virginia.
Merron L. Latta, of Maryland.
James N. Lawler, of Minnesota.
Douglas Kim Lutz, of Michigan.
Francis C. MacDonald, of Virginia.
Joseph J. Marques, of Virginia.
Miss Nancy A. McKee, of Oklahoma.
David H. McMahon, of Ohio.
Charles A. Melton, of Oklahoma.
Robert M. Mills, of Maryland.
Murat Natirboff, of Florida.
Peter J. Obenauer, of New York.
Michael H. Olejarz, Jr., of Virginia.
Richard E. Plues, of Virginia.

Timothy M. Randall, of Illinois.
Charles W. Redick, of Virginia.
Samuel H. Rickard III, of Maryland.
Clark Rumrill, of New York.
Robert M. Sargent, of Maryland.
David W. Schorer, of Virginia.
Gary C. Schroen, of Illinois.
Miss Karyl M. Seljak, of Montana.
Gerald T. Sloane, of Maryland.
Arthur H. Stimson, of Maryland.
Clifton R. Strathern, of Massachusetts.
Miss Mary Elizabeth Swope, of Virginia.
Robert L. Taylor, of New York.
George T. Walsh, of Massachusetts.
Richard T. Whistler, of Maryland.
Thomas A. Witecki, of Michigan.

Foreign Service reserve officers to be secretaries in the diplomatic service of the United States of America:

Henry W. Brandt, of Florida.
Stacy B. Hulse, Jr., of Massachusetts.

Foreign Service staff officers to be consular officers of the United States of America:

Miss Irene M. Barbeau, of Maryland.
Robert N. Barkman, of Texas.
Paul C. Bofinger, of New York.
Ariel S. Cardoso, of Texas.
Miss Diana E. Henshaw, of Michigan.
Miss Kathleen J. Mullen, of Pennsylvania.
David T. Paton, of New Jersey.
Edward F. Reddick, of Missouri.
William W. Ryan, of Pennsylvania.
Lewis V. Sevier, of Maryland.
Paul B. Sullivan, Jr., of Alabama.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 19, 1972:

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Antonin Scalia, of Virginia, to be Chairman of the Administrative Conference of the United States for a term of 5 years

IN THE COAST GUARD

Coast Guard nominations beginning Claude W. Brock, to be lieutenant, and ending David W. Young, to be lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 8, 1972.

HOUSE OF REPRESENTATIVES—*Tuesday, September 19, 1972*

The House met at 12 o'clock noon.

Rev. Robert F. Kirchgessner, Trinity Episcopal Church, Paterson, N.J., offered the following prayer:

Let us join with the Psalmist and say: *This is the day the Lord hath made, we will rejoice and be glad in it.*—Psalms 118: 24.

Eternal Father, our everlasting benefactor, Thou hast created and endowed us with the ability to achieve and accomplish good works for ourselves and all mankind. This new day may fill us, we pray, with rejoicing as we contemplate the opportunity it affords us of service to Thee, this Nation, and mankind.

We cannot escape history, nor can we evade responsibility. By Thy Holy Spirit awaken us to the needs and concerns of our people. Grant our leaders the highest motives and courage in assuring rights without neglecting responsibilities, lest we do the right things for the wrong reasons.

Bless the President, the Speaker, the Congress that by their words and work they may prayerfully promote peace and plenty for all mankind.

In Thy holy name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and a joint resolution of the House of the following titles:

On September 16, 1972:

H.R. 9323. An act to amend the Narcotic Addict Rehabilitation Act of 1966, and for other purposes.

On September 18, 1972:

H.R. 13089. An act to provide for acceleration of programs for the planting of trees on national forest lands in need of reforestation, and for other purposes; and

H.J. Res. 55. Joint resolution proposing the erection of a memorial on public grounds in the District of Columbia, or its environs, in honor and commemoration of the Seabees of the U.S. Navy.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed a resolution, as follows:

S. RES. 365

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Hon. William F. Ryan, late a Representative from the State of New York.

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Rperesentative.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it adjourn as a further mark of respect to the memory of the deceased Representative.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 14267. An act to provide for the disposition of funds appropriated to pay a judgment in favor of the Delaware Tribe of Indians in Indian Claims Commission Docket No. 298, and the Absentee Delaware Tribe of Western Oklahoma, and others, in Indian Claims Commission Docket No. 72, and for other purposes; and

H.R. 15883. An act to amend title 18, United States Code, to provide for expanded protection of foreign officials, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3442) entitled "An act to amend the Public Health Service Act to extend the authorization for grants for communicable disease control and vaccination assistance, and for other purposes."

The message also announced that the Senate insists upon its amendment to the bill (H.R. 10243) entitled "An act to establish an Office of Technology Assessment for the Congress as an aid in the identification and consideration of existing and probable impacts of technological application; to amend the National Science Foundation Act of 1950; and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CANNON, Mr. ROBERT C. BYRD, and Mr. COOK to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 33. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to authorize group insurance programs for public safety officers and to assist State and local governments to provide such insurance; and

S. 2318. An act to amend the Longshoremen's and Harbor Workers' Compensation Act, and for other purposes.

CONSENT CALENDAR

The SPEAKER. This is the day for the call of the Consent Calendar. The Clerk will call the first bill on the calendar.

WAIVER OF LIFE INSURANCE DEDUCTION FOR FEDERAL EMPLOYEES

The Clerk called the bill (H.R. 11563) to amend chapter 87 of title 5, United States Code, to waive employee deductions for Federal employees' group life insurance purposes during a period of erroneous removal or suspension.

There being no objection, the Clerk read the bill as follows:

H.R. 11563

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8706 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) If the insurance of an employee stops because of separation from the service or suspension without pay, and the separation or suspension is thereafter officially found to have been erroneous, the employee is deemed to have been insured during the period of erroneous separation or suspension. Deductions otherwise required by section 8707 of this chapter shall not be withheld from any backpay awarded for the period of separation or suspension unless death or accidental dismemberment of the employee occurs during such period."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

INSURANCE COVERAGE FOR U.S. NATIONALS EMPLOYED BY FEDERAL GOVERNMENT

The Clerk called the bill (H.R. 15659) to extend Civil Service Federal employees group life insurance and Federal employees health benefits coverage to U.S. nationals employed by the Federal Government.

There being no objection, the Clerk read the bill as follows:

H.R. 15659

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8701(a)(B) of title 5, United States Code, is amended to read as follows:

"(B) an employee who is not a citizen or national of the United States and whose permanent duty station is outside the United States and the Panama Canal Zone; or"

(b) Section 8901(1)(ii) of title 5, United States Code, is amended to read as follows:

"(ii) an employee who is not a citizen or national of the United States and whose permanent duty station is outside the United States and the Panama Canal Zone;".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CIVIL SERVICE RETIREMENT CREDIT FOR SERVICE AS DISTRICT OF COLUMBIA SUBSTITUTE TEACHERS

The Clerk called the bill (S. 1031) to credit certain service rendered by District of Columbia substitute teachers for purposes of civil service retirement.

There being no objection, the Clerk read the bill as follows:

S. 1031

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8332(b) of title 5, United States Code, is amended by—

(1) striking out the word "and" at the end of paragraph (7);

(2) striking out the period at the end of paragraph (8) and inserting in lieu thereof a semicolon and the word "and"; and

(3) inserting after paragraph (8) the following new paragraph:

"(9) subject to sections 8334(c) and 8339(h) of this title, service as a substitute teacher for the government of the District of Columbia after July 1, 1965, if such service is not credited for benefits under any other retirement system established by a law of the United States."

SEC. 2. An annuity or survivor annuity based on the service of an employee or annuitant who performed service described in section 1 of this Act shall, upon application to the Civil Service Commission, be recomputed, effective on the first day of the first month following the date of enactment of this Act, in accordance with section 1 of this Act.

SEC. 3. Section 22 of Public Law 243, 84th Congress, enacted August 5, 1955 (69 Stat. 530), is repealed.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MORATORIUM ON THE KILLING OF POLAR BEARS

The Clerk called the joint resolution (H.J. Res. 1268) calling for an immediate and appropriate moratorium on the killing of polar bears.

There being no objection, the Clerk read the joint resolution as follows:

H.J. RES. 1268

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President shall seek a treaty or other appropriate arrangement with the Union of Soviet Socialist Republics, Canada, Denmark, Norway, and any other interested nations calling for an immediate and appropriate moratorium on the killing of polar bears, and shall give due consideration to the recommendations of the International Union for the Conservation of Nature and Natural Resources.

Mr. FRASER. Mr. Speaker, House Joint Resolution 1268 was reported by the Committee on Foreign Affairs in recognition of the need for more effective protection of the polar bear—the world's largest carnivorous animal—whose stocks have been dwindling in recent years at the hands of trophy hunters.

About 1,300 bears are taken each year by hunters out of a world population of between 10,000 and 20,000. In the face of continued use of highly mechanized methods of hunting such as shooting from spotter aircraft, conservationists and some hunters have reached the conclusion that unless more effective measures are taken to protect the polar bear, this majestic creature may be in danger of extinction.

A group of scientists, recognized internationally as the most expert on the polar bear, has found that present polar bear numbers in most parts of the arctic region are below optimum level, that "the species is under threat of disappearance" and "that the polar bear requires additional protection if the resource is to be conserved and populations permitted to build up to optimum levels." Therefore, this group called for an international moratorium on high seas killing "which would cover 90% of all killing" and protection by national governments of denning and feeding areas within their territories. House Joint Resolution 1268 seeks to accomplish the objectives of these recommendations by the five nations on whose territory polar bears live.

Mr. Speaker, our distinguished colleague from Alaska (Mr. BEGICH) has had a deep interest in this matter. He appeared before our subcommittee and was able to give important assistance to the committee in preparing this legislation. To further clarify the intent of the legislation he asked that I respond to certain questions which are set forth below together with the answers:

Mr. BEGICH. Regarding the exact nature of the moratorium called for in H.J. Res. 1268, since it is clear that treaties can significantly affect state game laws, I would like to know whether this resolution seeks more than a high seas moratorium on the killing of polar bears. The State of Alaska is and has been taking measures on its own initiative to protect the polar bear in denning and feeding areas on land and within three miles along the coast. Of particular importance is the new prohibition on hunting from spotter aircraft. These and other measures are ample proof of Alaska's competence in this area and I would hope that an international treaty on polar bears would not prevent the state from continuing to exercise management authority within its territory.

Mr. FRASER. As I understand it from expert witnesses at the hearing my subcommittee held on this subject, the State of Alaska is indeed taking effective steps to protect the polar bear within its territory. Testimony by officials of the Council on Environmental Quality, Department of Interior and the State of Alaska stated a preference for a high seas moratorium with Alaska continuing to exercise management authority within three miles of its coast. A high seas moratorium would greatly reduce the number of bears killed each year and, together with a continuing program of conservation by the State of Alaska within U.S. territory, it is expected that polar bear stocks will be able to build up again. The recommendations of the International Union for Conservation of Nature and Natural Resources, to which H.J. Res. 1268 refers, are entirely consistent with the concerns of the gentleman from Alaska by calling on nations to prohibit hunting on the high seas and to protect the polar bear denning and feeding areas within national territories. In recommending passage of this resolution, the committee in no way intends that a treaty should stand in the way of U.S. federal and state conservation measures within national territory.

Mr. BEGICH. Under Alaska's management program, Indians and Eskimos can continue subsistence hunting of polar bears on the high seas. What is the committee's intention in this regard?

Mr. FRASER. The committee accepts the recommendations of the International Union for Conservation of Nature and Natural Resources that the prohibition against hunting not apply to that which is "carried out as a continuation of the traditional rights of local people who depend on this resource."

Mr. BEGICH. The resolution is unclear as to the duration of a moratorium. How many years does the committee feel would be necessary for a moratorium?

Mr. FRASER. The Committee chose to leave the question of duration to our negotiators. The Council on Environmental Quality and the Department of the Interior indicated in testimony that they intend to give due consideration to the work of the Polar Bear Specialty Group of the International Union for the Conservation of Nature and Natural Resources. This group of scientists is recognized as the world's most authoritative on the subject of polar bears. It continues to hold meetings and appears to be in the best position to determine how long a moratorium will be needed to re-build polar bear stocks. It would seem likely that the group will indeed recommend some time limit for the moratorium.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRASER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks with respect to this joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

AUTHORIZING USE OF HEALTH MAINTENANCE ORGANIZATIONS

The Clerk called the bill (H.R. 14546) to amend title 10, United States Code, to authorize the use of health maintenance organizations in providing health care.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. HALL. Mr. Speaker, reserving the right to object on Consent Calendar No. 182 (H.R. 14546), as I testified before the subcommittee and the full committee, it would appear on mature judgment and delayed consideration that this is, in fact, a premature bill in that it allows the beneficiaries of CHAMPUS, an acronym for the civilian health care of dependents of active (and some retired) Department of Defense armed services personnel in programs to participate in and to utilize the new pilot program Health Maintenance Organizations (HMO's). This is at considerable expense to the Department of Defense, and the prematurity lies in the fact that only pilot programs have thus far been authorized by the Department of Health, Education, and Welfare. Therefore, I would request this bill be put over without prejudice, at least until proved as to participation. Then, there is also the unsolved question of whether or not the Federal Government should pre-empt or override the 36 States of the Union now having laws versus prepaid contract health insurance.

So, Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

AUTHORIZING SALE AND EXCHANGE OF CERTAIN LANDS ON THE COEUR D'ALENE INDIAN RESERVATION

The Clerk called the bill (H.R. 2327) to authorize the sale and exchange of certain lands on the Coeur d'Alene Indian Reservation, and for other purposes.

There being no objection, the Clerk read the bill as follows:

H.R. 2327

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of effecting consolidations of land situated within the Coeur d'Alene Indian Reservation in the State of Idaho into the ownership of the Coeur d'Alene Tribe and its individual members and for the purpose of attaining and preserving an economic land base for Indian use, alleviating problems of Indian heirship and assisting in the productive leasing, disposition, and other use of tribal and individually allotted lands on the Coeur d'Alene Reservation, the Secretary of the Interior is authorized in his discretion to:

(1) Sell or approve sales of any tribal trust lands, any interest therein, or improvements thereon.

(2) Exchange any tribal trust lands, including interests therein or improvements thereon, for any lands or interests in lands situated within such reservation.

SEC. 2. The acquisition, sale, and exchange of lands for the Coeur d'Alene Tribe pursuant to this Act shall be upon request of the business council of the Coeur d'Alene Tribe, evidenced by a resolution adopted in accordance with the constitution and bylaws of the tribe, and shall be in accordance with a consolidation plan approved by the Secretary of the Interior.

SEC. 3. Any moneys or credit received by the Coeur d'Alene Tribe in the sale of lands shall be used for the purchase of other lands, or for such other purpose as may be consistent with the land consolidation program, approved by the Secretary of the Interior.

SEC. 4. The Secretary of the Interior is authorized to sell and exchange individual Indian trust lands or interests therein on the Coeur d'Alene Reservation held in multiple ownership to the Coeur d'Alene Tribe, to any member thereof, or to any other Indian having an interest in the land involved, if the sale or exchange is authorized in writing by owners of at least a majority of the trust interests in such lands; except that no greater percentage of approval of such trust interests shall be required under this Act than in any other statute of general application approved by Congress.

SEC. 5. Title to any lands, or any interests therein, acquired pursuant to this Act shall be taken in the name of the United States of America in trust for the Coeur d'Alene Tribe or individual Indians and shall be subject to the same laws relating to other Indian trust lands on the Coeur d'Alene Reservation.

SEC. 6. The business council of the Coeur d'Alene Tribe may encumber any tribal land by a mortgage or deed of trust, with the approval of the Secretary of the Interior, and such land shall be subject to foreclosure or sale pursuant to the terms of such a mortgage or deed of trust in accordance with the laws of the State of Idaho. The United States shall be an indispensable party to any such proceedings with the right of removal of the cause to the United States district court for the district in which the land is located, following the procedure in section 1446 of title 28, United States Code: *Provided,* That the United States shall have the right to appeal from any order of remand in the case.

SEC. 7. The second sentence of section 1 of the Act of August 9, 1955 (69 Stat. 539), as amended (25 U.S.C. 415), is further amended by inserting immediately after "the Fort Mojave Reservation," the words "the Coeur d'Alene Indian Reservation,".

With the following committee amendment:

Page 2, line 8, strike out "acquisition, sale," and insert in lieu thereof "sale".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. HALEY. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill (S. 345) to authorize the sale and exchange of certain lands on the Coeur d'Alene Indian Reservation, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There being no objection, the Clerk read the Senate bill, as follows:

S. 345

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of effecting consolidations of land situated within the Coeur d'Alene Indian Reservation in the State of Idaho into the ownership of the Coeur d'Alene Tribe and its individual members and for the purpose of attaining and preserving an economic land use for Indian use, alleviating problems of Indian heirship and assisting in the productive leasing, disposition, and other use of tribal and individually allotted lands on the Coeur d'Alene Reservation, the Secretary of the Interior is authorized in his discretion to:

(1) Sell or approve sales of any tribal trust lands, any interest therein, or improvements thereon.

(2) Exchange any tribal trust lands, including interests therein or improvements thereon, for any lands or interests in lands situated within such reservation.

SEC. 2. The acquisition, sale, and exchange of lands for the Coeur d'Alene Tribe pursuant to this Act shall be upon request of the business council of the Coeur d'Alene Tribe, evidenced by a resolution adopted in accordance with the constitution and bylaws of the tribe, and shall be in accordance with a consolidation plan approved by the Secretary of the Interior.

SEC. 3. Any moneys or credits received by the Coeur d'Alene Tribe in the sale of lands shall be used for the purchase of other lands, or for such other purpose as may be consistent with the land consolidation program, approved by the Secretary of the Interior.

SEC. 4. The Secretary of the Interior is authorized to sell and exchange individual Indian trust lands or interests therein on the Coeur d'Alene Reservation held in multiple ownership to the Coeur d'Alene Tribe, to any member thereof, or to any other Indian having an interest in the land involved, if the sale or exchange is authorized in writing by owners of at least a majority of the trust interests in such lands; except that no greater percentage of approval of such trust interests shall be required under this Act than in any other statute of general application approved by Congress.

SEC. 5. Title to any lands, or any interests therein, acquired pursuant to this Act shall be taken in the name of the United States of America in trust for the Coeur d'Alene Tribe or individual Indians and shall be subject to the same laws relating to other Indian trust lands on the Coeur d'Alene Reservation.

SEC. 6. The business council of the Coeur d'Alene Tribe may encumber any tribal land by a mortgage or deed of trust, with the approval of the Secretary of the Interior, and such land shall be subject to foreclosure or sale pursuant to the terms of such a mortgage or deed or trust in accordance with the laws of the State of Idaho. The United States shall be an indispensable party to any such proceedings with the right of removal of the cause to the United States district court for the district in which the land is located, following the procedure in section 1446 of title 28, United States Code: *Provided,* That the United States shall have the right to appeal from any order of remand in the case.

SEC. 7. The second sentence of section 1 of the Act of August 9, 1955 (69 Stat. 539), as amended (25 U.S.C. 415), is further amended by inserting immediately after "the Fort Mojave Reservation," the words "the Coeur d'Alene Indian Reservation,".

AMENDMENT OFFERED BY MR. HALEY

Mr. HALEY. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HALEY: Strike out all after the enacting clause of S. 345 and insert in lieu thereof the provisions of H.R. 2327, as passed.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 2327) was laid on the table.

DISPOSITION OF FUNDS APPROPRIATED TO PAY JUDGMENT IN FAVOR OF THE MISSISSIPPI SIOUX INDIANS

The Clerk called the bill (H.R. 6067) to provide for the disposition of funds appropriated to pay judgment in favor of the Mississippi Sioux Indians in Indian Claims Commission dockets numbered 359, 360, 361, 362, and 363, and for other purposes.

Mr. ALEXANDER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

DECLARING CERTAIN FEDERALLY OWNED LANDS HELD BY THE UNITED STATES IN TRUST FOR THE BURNS INDIAN COLONY, OREGON

The Clerk called the bill (H.R. 6318) to declare that certain federally owned lands shall be held by the United States in trust for the Burns Indian Colony, Oregon, and for other purposes.

There being no objection, the Clerk read the bill as follows:

H.R. 6318

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to valid existing rights, all of the right, title, and interest of the United States in the lands, and in improvements thereon, that were acquired under title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115), and section 55 of the Act of August 24, 1935 (49 Stat. 750, 781), containing approximately seven hundred and sixty acres, and that are now administered by the Secretary of the Interior for the benefit of the Burns Indian Colony, Oregon, are hereby declared to be held by the United States in trust for said colony.

SEC. 2. There shall also be held in trust for such Burns Indian Colony, subject to valid existing rights, that certain parcel of land consisting of ten acres, described as the northwest quarter northwest quarter northwest quarter, section 13, township 23 south, range 30 east, Willamette meridian, Harney County, Oregon, which as conveyed on March 2, 1928, by warranty deed from the Egan Land Company, an Oregon corporation, to the United States of America, and which property has been used and occupied since purchase as a permanent camp or place of residence for the Burns Indian Colony of Harney County.

SEC. 3. The property subject to this act shall be administered in accordance with the laws and regulations applicable to Indian tribal property, and membership in and government of the colony shall be subject to regulations of the Secretary of the Interior.

SEC. 4. The Indian Claims Commission is directed to determine in accordance with the provisions of section 2 of the Act of August 13, 1946 (60 Stat. 1050), the extent to which the value of the beneficial interest conveyed by this Act should or should not be set off against any claim against the United States determined by the Commission.

With the following committee amendments:

Page 1, lines 4 and 5, strike out "the lands, and the improvements thereon," and insert "approximately seven hundred and sixty-two acres of land, and the improvements thereon, located in sections 1 and 12, township 23 south, range 30 east, Willamette meridian, Oregon,".

Page 1, lines 2 and 3, strike out "containing approximately seven hundred and sixty acres,".

Page 2, line 7, strike out "colony." and insert "Colony, and to be an Indian reservation for the use and benefit of said Colony."

Page 2, lines 9 and 10, strike out "There shall also be held in trust for such Burns Indian Colony, subject to valid existing rights," and insert "Subject to valid existing rights, there shall also be held in trust for such Burns Indian Colony and added to the reservation established by section 1 of this Act,".

Page 2, line 17, strike out "as" and insert "was".

Page 2, line 24, and page 3, lines 1, and 2, strike out "property, and membership in and government of the colony shall be subject to regulations of the Secretary of the Interior." and insert "property.".

Page 3, following line 3, insert a new Section 4 as follows, and renumber the succeeding section accordingly:

SEC. 4. Section 1 of the Act of August 9, 1955 (69 Stat. 539), as amended, is hereby further amended by inserting after "the Fort Mojave Reservation," the words "the Burns Paiute Reservation,".

The committee amendments were agreed to.

Mr. HALEY. Mr. Speaker, H.R. 6318 transfers to the Burns Indian Colony in Oregon a trust title to 762 acres of land. The land is in three tracts. One tract contains 156 acres and it was purchased for subsistence homestead purposes under the National Industrial Recovery Act. The second tract contains 605 acres. It was also purchased under the NIRA, but the purpose was to retire submarginal land from production. The third tract contains 10 acres and it was acquired by donation in 1925 for the use of the Burns Indian people.

The purchase price of the land was $14,620. The subsistence homestead tract contains 24 Indian homes. The submarginal land is unimproved, but is used for grazing purposes in conjunction with the homestead tract. The donated tract contains 11 dwellings occupied by eight families. The present market value of the three tracts is $106,100.

The Burns Indian Colony contains 250 members and a resident population of 150. The Indians want to improve the property, but are unable to do so as long as they have only temporary assignments. The land has been administered for the benefit of the Indians ever since its acquisition, and a grant to the Indians of a trust title will enable them to make a more effective use of the land.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING THE SECRETARY OF THE INTERIOR TO CONVEY TRUST TITLE OF U.S. GOVERNMENT LAND WITHIN THE DEVILS LAKE SIOUX RESERVATION TO THE DEVILS LAKE SIOUX TRIBE

The Clerk called the bill (H.R. 9294) to authorize the Secretary of the Interior to convey trust title of U.S. Government land within the Devils Lake Sioux Reservation to the Devils Lake Sioux Tribe.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. HALL. Mr. Speaker, reserving the right to object, I fail to understand the reason why we should pay from the taxpayers' general funds for the building on the free land already donated by the Federal Government, and then pay $55,000 a year for the leaseback of the building. Therefore, Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PROVIDING FOR THE DISTRIBUTION OF JUDGMENT FUNDS TO THE CHEYENNE RIVER SIOUX TRIBE

The Clerk called the bill (H.R. 10330) to provide for the distribution of judgment funds to the Cheyenne River Sioux Tribe.

There being no objection, the Clerk read the bill as follows:

H.R. 10330

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the funds appropriated by the Act of December 26, 1969, Public Law 91–166 (83 Stat. 447), to pay a judgment to the Sioux Tribe of Indians of the Cheyenne River Reservation, South Dakota, in Indian Claims Commission docket numbered 114 and all the interest earned thereon, after payment of attorney's fees, litigation expenses incurred by attorneys under contract and by the Cheyenne River Sioux Tribe, and the costs of carrying out the provisions of this Act, shall be distributed as hereinafter provided.

SEC. 2. The Secretary of the Interior is hereby authorized and directed to distribute such funds, share and share alike, to each member of the said tribe who was duly enrolled on the official tribal rolls of said tribe, or eligible to be so enrolled, and alive, as of the effective date of this Act. The Secretary's determination of eligibility shall be final.

SEC. 3. Each such enrollee whose age is eighteen years or more, as of the effective date of this Act, shall be paid his or her share directly in one payment except as provided in the following subsections of this section:

(a) Each share payable to an enrollee whose death occurred after the effective date of this Act, shall be distributed to his or her heirs at law or to his or her legatees, as the case may be, upon filing of proof of death and inheritance satisfactory to the Secretary of the Interior or his authorized representative, whose findings and determinations upon such proof shall be final.

(b) If the share or a portion thereof a deceased enrollee, as provided in subparagraph (a) of this section, is payable to an heir or legatee who is under eighteen years of age or under legal disability, the same shall be paid to the parent or parents or guardian having custody of such persons or may, in the discretion of the Secretary of the Interior, be credited to individual Indian money account for disbursement under applicable regulations.

Sec. 4. Each such share of an enrollee who is under the age of eighteen as of the effective date of this Act, shall be paid to the parent or parents or guardian having custody of such persons or may, in the discretion of the Secretary of the Interior, be credited to individual Indian money account for distribution under applicable regulations.

Sec. 5. All shares of enrollees who are deemed non compos mentis shall be credited to his or her individual Indian money account and disbursed under regulations of the Bureau of Indian Affairs.

Sec. 6. Persons born on or prior to and living on the effective date of this Act, who meet the requirements for enrollment specified in Article II of the tribal constitution but who are not enrolled, may file with the Superintendent of the Cheyenne River Agency, Eagle Butte, South Dakota, an application for enrollment which must be postmarked within 180 days after approval of this Act.

(a) All unclaimed shares, including interest income therefrom, remaining one year after the date of distribution of the money, shall revert to the said tribe and may be expended by authorization of the Cheyenne River Sioux Tribal Council, or the then governing body of said tribe.

Sec. 7. No part of the judgment funds distributed under the provisions of this Act shall be subject to Federal or State income taxes.

Sec. 8. The Secretary of the Interior is authorized to prescribe such rules and regulations necessary to carry out the provisions of this Act.

With the following committee amendments:

Page 1, lines 8 to 10, strike out "fees, litigation expenses incurred by attorneys under contract and by the Cheyenne River Sioux Tribe," and insert in lieu thereof "fees and other litigation expenses".

Page 2, line 3, through page 4, strike all of sections 2, 3, 4, 5, 6, and 7, and insert in lieu thereof the following text, and renumber the succeeding section accordingly:

"Sec. 2. Except as provided in section 4 herein, the Secretary of the Interior is authorized and directed to distribute such funds to all persons who were born on or prior to and are living on the date of this Act and who are enrolled on the official tribal roll of said tribe or who are eligible to be so enrolled. A roll as of the date of this Act shall be prepared by the Secretary with the cooperation of the tribal governing body. Applications for enrollment must be filed with the Cheyenne River Agency at Eagle Butte, South Dakota, and must be postmarked within 180 days from the date of this Act. The determination of the Secretary of the Interior regarding the eligibility of an applicant shall be final.

"Sec. 3. Any share or interest therein payable to persons under 18 years of age or under legal disability shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary determines will appropriately protect the best interests of such persons.

"Sec. 4. The interest accrued on the principal sum of the judgment in docket No. 114 and all shares, including any interest thereon, remaining unclaimed for one year from the date of distribution of the judgment funds, may be utilized for any purposes authorized by the tribal governing body and approved by the Secretary of the Interior.

"Sec. 5. None of the funds that are distributed under the provisions of this Act shall be subject to Federal or State income taxes."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "An Act to provide for the distribution of funds appropriated to pay a judgment in favor of the Cheyenne River Sioux Tribe in Indian Claims Commission docket No. 114, and for other purposes".

A motion to reconsider was laid on the table.

(Mr. HALEY asked and was given permission to extend his remarks at this point in the Record.)

Mr. HALEY. Mr. Speaker, H.R. 10330 provides for the distribution of a judgment recovered by the Sioux Tribe of the Cheyenne River Reservation. The net amount of the judgment, amounting to $1,170,000 will be distributed per capita among some 6,300 members of the tribe. Each per capita will amount to about $185.

The interest that has accumulated on the judgment amounts to about $150,000. The interest will be retained by the tribal government and used for reservation purposes.

The amendments adopted by the subcommittee are those recommended by the Department of the Interior and agreed to by the tribe.

DISPOSITION OF JUDGMENT FUNDS IN FAVOR OF THE SHOSHONE-BANNOCK TRIBES OF INDIANS OF THE FORT HALL RESERVATION, IDAHO, AS REPRESENTATIVES OF THE LEMHI TRIBE

The Clerk called the bill (H.R. 10489) to provide for the disposition of funds to pay a judgment in favor of the Shoshone-Bannock Tribes of Indians of the Fort Hall Reservation, Idaho, as representatives of the Lemhi Tribe, in Indian Claims Commission docket No. 326–I, and for other purposes.

Mr. HALEY. Mr. Speaker, I ask unanimous consent that a similar Senate bill (S. 2478) be considered in lieu of the House bill.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There being no objection, the Clerk read the Senate bill as follows:

S. 2478

An act to provide for the disposition of funds to pay a judgment in favor of the Shoshone-Bannock Tribes of Indians of the Fort Hall Reservation, Idaho, as representatives of the Lemhi Tribe, in Indian Claims Commission docket numbered 326–I, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the funds on deposit in the United States Treasury to the credit of the Lemhi Tribe represented by the Shoshone-Bannock Tribes of Indians of the Fort Hall Reservation, Idaho, appropriated by the Act of May 25, 1971 (Public Law 92–18), to pay a judgment of $4,500,000 entered by the Indian Claims Commission in docket numbered 326–I, and interest thereon less attorneys' fees and expenses shall be credited to the Shoshone-Bannock Tribes of the Fort Hall Reservation for the claims of said tribes enumerated in docket numbered 326–I.

Sec. 2. The funds credited to the Shoshone-Bannock Tribes of the Fort Hall Reservation pursuant to section 1, may be advanced, deposited, expended, invested, or reinvested for any purposes that are authorized by the tribal governing body and approved by the Secretary of the Interior.

Sec. 3. None of the funds distributed per capita to members of the tribes under the provisions of this Act shall be subject to Federal or State income taxes. A share or interest payable to enrollees less than eighteen years of age or under legal disability shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary determines appropriate to protect the best interest of such persons.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 10489) was laid on the table.

PROVIDING THAT THE UNITED STATES DISCLAIMS ANY INTEREST IN A CERTAIN TRACT OF LAND

The Clerk called the bill (H.R. 11449) to provide that the United States disclaims any interest in a certain tract of land.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. HALL. Mr. Speaker, in view of the fact, as presently understood and after careful perusal of the bill and the report, that this does not meet the criteria for the Consent Calendar, as agreed upon at the beginning of the 92d Congress, therefore, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

AUTHORIZING EXCHANGE OF CERTAIN NATIONAL FOREST LANDS WITHIN THE CARSON AND SANTA FE NATIONAL FORESTS, N. MEX., FOR CERTAIN PRIVATE LANDS WITHIN THE PIEDRA LUMBRE GRANT, NEW MEXICO

The Clerk called the bill (H.R. 10857) to authorize the Secretary of Agriculture to exchange certain national forest lands within the Carson and Santa Fe National Forests in the State of New Mexico for certain private lands within the Piedra Lumbre Grant, in the State of New Mexico, and for other purposes.

There being no objection, the Clerk read the bill as follows:

H.R. 10857

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture is authorized to convey by quitclaim deed certain national forest lands within the Carson and Santa Fe

National Forests, in the State of New Mexico, of approximately one thousand and sixty acres, described and designated on a map on file in the Office of the Chief, Forest Service, Washington, District of Columbia, in exchange for approximately three hundred and ten acres of private land and the improvements thereon, of substantially equal value, within the Piedra Lumbre Grant, in the State of New Mexico, described and designated on a map on file in the Office of the Chief, Forest Service, Washington, District of Columbia.

SEC. 2. The Secretary of Agriculture may accept title to the private lands described in section 1 of the Act subject to such outstanding rights and reservations as he determines will not interfere with the purposes for which the land is being acquired.

SEC. 3. The Secretary of Agriculture may reserve such rights and interests in the national forest lands described in section 1 of the Act as he deems appropriate.

SEC. 4. The lands acquired by the United States as described in section 1 of this Act are hereby added to the Carson National Forest, and shall be administered in accordance with the laws, rules, and regulations applicable thereto and shall have the same status as lands withdrawn from the public domain for national forest purposes.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MODIFYING THE BOUNDARIES OF THE SANTA FE, GILA, CIBOLA, AND CARSON NATIONAL FORESTS IN THE STATE OF NEW MEXICO

The Clerk called the bill (H.R. 9018) to modify the boundaries of the Santa Fe, Gila, Cibola, and Carson National Forests in the State of New Mexico, and for other purposes.

There being no objection, the Clerk read the bill as follows:

H.R. 9018

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the exterior boundaries of the Santa Fe, Gila, Cibola, and Carson National Forests, in New Mexico, respectively, are modified to include the following described lands;

SANTA FE NATIONAL FOREST, NEW MEXICO PRINCIPAL MERIDIAN

1. The Canon de San Diego Grant, situated in townships 16, 17, 18, and 19 north, ranges 1, 2, and 3 east, and known in the Office of the United States Surveyor General as Report numbered 36, confirmed by Congress of the United States of America on the 21st day of June 1861, and patented by the United States of America in accordance with said Act of Confirmation of the 21st day of October 1881.

2. Township 18 north, range 1 east.

Section 6, lots 1 through 4, inclusive, west half north east quarter, and east half northwest quarter.

Township 18 north, range 1 west.

Section 1, lots 1 through 4, inclusive, west half northeast quarter, and east half northwest quarter.

3. Township 17 north, range 2 east.

Section 25, lot 1.

Section 36, lots 1, 2, and 4.

Township 17 north, range 3 east.

Section 19, lots 1 and 2 in accordance with G.L.O. plat approved April 28, 1919.

Section 30, lots 1 through 4, inclusive.

Section 31, lots 1 through 3, inclusive and lots 5 to 9, inclusive.

Section 32, lots 1 through 4, inclusive.

Township 16 north, range 3 east.

Sections 5, 6, 7, and 8.

4. Township 15 north, range 12 east.

Section 29, lots 3, 4, and 5, southwest quarter southeast quarter.

Section 33, lots 1, 2, 3, and 4, southwest quarter southwest quarter.

5. Township 15 north, range 12 east.

Section 12, east half southwest quarter, southeast quarter.

Township 15 north, range 13 east.

Section 5, all.

Section 6, all

Section 7, all.

Section 8, all.

Section 9, west half southwest quarter.

Section 16, west half west half.

Section 17, east half east half.

Section 20, east half northeast quarter.

Section 21, west half west half.

Section 28, west half.

Section 32, all.

Section 33, all.

6. A tract or parcel of land situated in the counties of Sandoval and Santa Fe in the State of New Mexico, known as the Caja del Rio Grant, as shown upon the plat of said grant on file in the United States Public Survey Office in Santa Fe, New Mexico, which plat was approved by the United States Surveyor General of New Mexico on November 23, 1894, and approved by the Court of Private Land Claims, through its Deputy Clerk Irene L. Chavez, on April 15, 1895, and representing a survey of said grant as made by Sherrard Coleman, United States Deputy Surveyor, May 8 to 18, 1894, under Contract Numbered 280, dated March 26, 1894, which tract of land is intended to include all that portion of the said grant extending westward to the Rio Grande, but exclusive of the conflict with the Cochiti Pueblo Grant and which was more particularly described in a deed from the General American Life Insurance Company to the United States of America dated November 13, 1935, and recorded in Sandoval County in book 4, DR, pages 503–515, on December 20, 1935.

7. A tract or parcel of land situated in the counties of Sandoval and Santa Fe in the State of New Mexico, known as the La Majada Grant, as shown upon the plat of the grant on file in the United States Public Survey Office in Santa Fe, New Mexico, which plat was approved by the United States Surveyor General of New Mexico on January 23, 1896, and approved by the Court of Private Land Claims, through its Deputy Clerk Irene L. Chavez, on March 25, 1896, and representing a survey of said Grant as made by Albert F. Easley, United States Deputy Surveyor, June 28 through July 7, 1895, under Contract numbered 292, April 29, 1895, which tract of land is intended to include all of that portion of the said grant exclusive of the conflicts with the Cochiti Pueblo Grant, the Mesita de Juana Lopez Grant, and the Caja del Rio Grant, and a portion of the said La Majad Grant lying south of the Corps of Engineers' Road Numbered 90, more particularly described as a line beginning at a point on the south boundary of the Cochiti Pueblo Grant which lies south 89 degrees 54 minutes west 18.35 chains from the half mile corner; thence south 44 degrees 15 minutes west 125.65 chains; thence south 51 degrees 50 minutes east 14.59 chains; thence south 43 degrees 50 minutes east 101.91 chains; thence south 49 degrees 35 minutes east 24.35 chains to a point on the south boundary of the La Majada Grant which lies north 73 degrees 48 minutes west 18.18 chains from the 4½-mile corner on the south boundary of the said grant.

8. Township 14 north range 13 east.

Section 35, north half.

9. Township 16 north range 14 east.

Section 5, all.

Section 8, all.

Section 27, lot 5, east half southeast quarter.

Section 34, east half east half.

GILA NATIONAL FOREST, NEW MEXICO PRINCIPAL MERIDIAN

A tract or parcel of land situated in Grant County, New Mexico, in township 17 south, ranges 12 and 13 west, as shown in the office of the United States Surveyor General on Supplemental Plat of Retracements and Resurveys, approved by the Surveyor General on July 7, 1908, excepting that portion of the said military reservation lying south of a line described as follows: Beginning at a point which is the intersection of the north right-of-way line for State Highway 180 with the east boundary of the reservation; thence southwesterly along the highway right-of-way to the south line of section 25; thence westerly along the section line between sections 25 and 36 to a point lying 735 feet west of the quarter corner between said sections; thence north 47 degrees 03 minutes east 585 feet; thence north 18 degrees 18 minutes west 2,380 feet; thence west 4,110.34 feet; thence south 01 degree 43 minutes east 2,661.24 feet to the quarter corner between sections 26 and 35; thence westerly along the section line to the west boundary of the said military reservation.

CARSON NATIONAL FOREST, NEW MEXICO PRINCIPAL MERIDIAN

1. Township 25 north, range 13 east.

Section 28, lots 4 and 12.

CIBOLA NATIONAL FOREST, NEW MEXICO PRINCIPAL MERIDIAN

1. Township 10 north, range 11 west.

Sections 1 through 3, inclusive.

Sections 10 through 15, inclusive.

Township 11 north, range 11 west.

Sections 1 through 3, inclusive.

Sections 10 through 15, inclusive.

Sections 22 through 27, inclusive.

Sections 34 through 36, inclusive.

Township 12 north, range 11 west.

Sections 31 through 36, inclusive.

2. A tract of land in township 14 north range 16 west which was originally a portion of the Fort Wingate Military Reservation as established by Executive order of February 18, 1870, more particularly described as: Beginning at a point which is a quarter corner common to section 2 of township 14 north range 16 west and section 35, township 15 north range 16 west; thence southerly along the Cibola National Forest boundary approximately 3 miles to the quarter corner common to sections 14 and 23 in unsurveyed township 14 north range 16 west; thence westerly along the Cibola National Forest boundary approximately 4½ miles to a point on the east boundary of Fort Wingate Ordnance Depot, designated 361+00 south and 20+00 east Wingate Ordnance Depot coordinating system; thence northerly along the Wingate Ordnance Depot east fence approximately 10,285 feet to a point designated 258+15 south and 20+00 each Wingate Depot coordinating system; thence in a random northeasterly direction along the Wingate Depot fence system approximately 8,500 feet to a brass cap set in concrete which is the northwest corner of the Navajo Indian School tract; thence due south 6,293.84 feet to a brass cap set in concrete which is the southwest corner of the school tract; thence due east, 7,728.15 feet to a 3-inch pipe which is the southeast corner of the school tract; thence due north 6,716.00 feet to a brass cap set in concrete which is the northeast corner of the school tract; thence easterly approximately 1⅜ miles to the point of beginning, containing 6,810 acres, more or less.

SEC. 2. The exterior boundaries of the Carson National Forest in New Mexico are modified to exclude section 16, township 24 north, range 11 east, New Mexico principal meridian.

SEC. 3. The lands proposed to be added to the Gila National Forest, in section 1 above of this Act, will not be subject to appropriation under any of the public land laws including the mining laws unless specifically authorized by the Secretaries of Agriculture and Interior.

SEC. 4. Subject to valid claims so long as these are maintained, all lands owned by the United States in the areas described in section 1 of this Act are hereby added to the national forests as listed in that said section, and shall be administered in accordance with the laws, rules, and regulations applicable thereto, except as provided in section 3 of this Act with respect to appropriation under the public land laws.

SEC. 5. Funds appropriated and available for acquisition of lands, waters, and interests therein, in the National Forest System pursuant to section 6 of the Act of September 3, 1964 (78 Stat. 903), shall be available for the acquisition of any lands, waters, and interests therein, within the area described in section 1 of this Act.

With the following committee amendments:

Page 2, line 7, after the word "through", strike the remainder of the line and all of line 8 and insert in lieu thereof "8 inclusive."

Page 3, line 6, after "southwest quarter" insert a comma.

Page 6, line 24, strike "2" and insert in lieu thereof "25".

Page 8, lines 20 through 24, strike all of section 3 and renumber the succeeding sections accordingly.

Page 8, line 25, strike out "claims so long as these are maintained," and insert in lieu thereof "existing rights,".

Page 9, lines 5 and 6, strike out "thereto, except as provided in section 3 of this Act with respect to appropriation under the public land laws." and insert in lieu thereof "thereto."

Page 9, lines 8 through 13, strike out the present text and insert in lieu thereof the following:

"SEC. 4. For the purposes of Section 6 of the Act of September 3, 1964 (78 Stat. 903), the boundaries of the Santa Fe, Gila, Cibola and Carson National Forests, as modified by Section 1 of this Act, shall be treated as if they were the boundaries of those forests on January 1, 1965."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. HALEY. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill (S. 447) to modify the boundaries of the Santa Fe, Gila, Cibola, and Carson National Forests in the State of New Mexico, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the Senate bill as follows:

S. 447

An act to modify the boundaries of the Santa Fe, Gila, Cibola, and Carson National Forests in the State of New Mexico, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the exterior boundaries of the Santa Fe, Gila, Cibola, and Carson National Forests, in New Mexico, respectively, are modified to include the following described lands:

SANTA FE NATIONAL FOREST, NEW MEXICO
PRINCIPAL MERIDIAN

1. The Sandon de San Diego Grant, situated in townships 16, 17, 18, and 19 north, ranges 1, 2, and 3 east, and known in the Office of the United States Surveyor General as Report numbered 36, confirmed by Congress of the United States of America on the 21st day of June 1861, and patented by the United States of America in accordance with said Act of Confirmation of the 21st day of October 1881.

2. Township 18 north, range 1 east.

Section 6, lots 1 through 8, inclusive.

Township 18 north, range 1 west.

Section 1, lots 1 through 4, inclusive, west half northeast quarter, and east half northwest quarter.

3. Township 17 north, range 2 east.

Section 25, lot 1.

Section 36, lots 1, 2, and 4.

Township 17, north, range 3 east.

Section 19, lots 1 and 2 in accordance with G.L.O. plat approved April 28, 1919.

Section 30, lots 1 through 4, inclusive.

Section 31, lots 1 through 3, inclusive and lots 5 to 9, inclusive.

Section 32, lots 1 through 4, inclusive.

Township 16 north, range 3 east.

Sections 5, 6, 7, and 8.

4. Township 15 north, range 12 east.

Section 29, lots 3, 4, and 5, southwest quarter southeast quarter.

Section 33, lots 1, 2, 3, and 4, southwest quarter southwest quarter.

5. Township 15 north, range 12 east.

Section 12 east half southwest quarter, southeast quarter.

Township 15 north, range 13 east.

Section 5, all.

Section 6, all.

Section 7, all.

Section 8, all.

Section 9, west half southwest quarter.

Section 16, west half west half.

Section 17, east half east half.

Section 20, east half northeast quarter.

Section 21, west half west half.

Section 28, west half.

Section 32, all.

Section 33, all.

6. A tract or parcel of land situated in the counties of Sandoval and Santa Fe in the State of New Mexico, known as the Caja del Rio Grant, as shown upon the plat of said grant on file in the United States Public Survey Office in Santa Fe, New Mexico, which plat was approved by the United States Surveyor General of New Mexico on November 23, 1894, and approved by the Court of Private Land Claims, through its Deputy Clerk Irene L. Chavez, on April 15, 1895, and representing a survey of said grant as made by Sherrard Coleman, United States Deputy Surveyor, May 8 to 18, 1894, under Contract Numbered 280, dated March 26, 1894, which tract of land is intended to include all that portion of the said grant extending westward to the Rio Grande, but exclusive of the conflict with the Cochiti Pueblo Grant and which was more particularly described in a deed from the General American Life Insurance Company to the United States of America dated November 13, 1935, and recorded in Sandoval County in book 4, DR, pages 503–515, on December 20, 1935.

7. A tract or parcel of land situated in the Counties of Sandoval and Santa Fe in the State of New Mexico, known as the La Majada Grant, as shown upon the plat of the grant on file in the United States Public Survey Office in Santa Fe, New Mexico, which plat was approved by the United States Surveyor General of New Mexico on January 23, 1896, and approved by the Court of Private Land Claims, through its Deputy Clerk Irene L. Chavez, on March 25, 1896, and representing a survey of said Grant as made by Albert F. Easley, United States Deputy Surveyor, June 28 through July 7, 1895, under Contract numbered 292, April 29, 1895, which tract of land is intended to include all of that portion of the said grant exclusive of the conflicts with the Cochiti Pueblo Grant, the Mesita de Juana Lopez Grant, and the Caja del Rio Grant, and a portion of the said La Majada Grant lying south of the Corps of Engineers' Road numbered 90, more particularly described as a line beginning at a point on the south boundary of the Cochiti Pueblo Grant which lies south 89 degrees 54 minutes west 18.35 chains from the half mile corner; thence south 44 degree 15 minutes west 125.65 chains; thence south 51 degrees 50 minutes east 14.59 chains; thence south 43 degrees 50 minutes east 101.91 chains; thence south 49 degrees 35 minutes east 24.35 chains to a point on the south boundary of the La Majada Grant which lies north 73 degrees 48 minutes west 18.18 chains from the 4½-mile corner on the south boundary of the said grant.

8. Township 14 north range 13 east.

Section 35, north half.

9. Township 16 north range 14 east.

Section 5, all.

Section 8, all.

Section 27, lot 5, east half southeast quarter.

Section 34, east half east half.

GILA NATIONAL FOREST, NEW MEXICO
PRINCIPAL MERIDIAN

A tract or parcel of land situated in Grant County, New Mexico, in township 17 south, ranges 12 and 13 west, as shown in the office of the United States Surveyor General on Supplemental Plat of Retracements and Resurveys, approved by the Surveyor General on July 7, 1908, excepting that portion of the said military reservation lying south of a line described as follows: Beginning at a point which is the intersection of the north right-of-way line for State Highway 180 with the east boundary of the reservation; thence southwesterly along the highway right-of-way to the south line of section 25; thence westerly along the section line between sections 25 and 36 to a point lying 735 feet west of the quarter corner between said sections; thence north 47 degrees 03 minutes east 585 feet; thence north 18 degrees 18 minutes west 2,380 feet; thence west 4,110.34 feet; thence south 01 degree 43 minutes east 2,661.24 feet to the quarter corner between sections 26 and 35; thence westerly along the section line to the west boundary of the said military reservation.

CARSON NATIONAL FOREST, NEW MEXICO
PRINCIPAL MERIDIAN

1. Township 25 north, range 13 east.

Section 28, lots 4 and 12.

CIBOLA NATIONAL FOREST, NEW MEXICO
PRINCIPAL MERIDIAN

1. Township 10 north, range 11 west.

Sections 1 through 3, inclusive.

Sections 10 through 15, inclusive.

Township 11 north, range 11 west.

Sections 1 through 3, inclusive.

Sections 10 through 15, inclusive.

Sections 22 through 27, inclusive.

Sections 34 through 36, inclusive.

Township 12 north, range 11 west.

Sections 31 through 36, inclusive.

2. A tract of land in township 14 north range 16 west which was originally a portion of the Fort Wingate Military Reservation as established by Executive order of February 18, 1870, more particularly described as: Beginning at a point which is the quarter corner common to section 2 of township 14 north range 16 west and section 35, township 15 north range 16 west; thence southerly along the Cibola National Forest boundary approximately 3 miles to the quarter corner common to sections 14 and 23 in unsurveyed township 14 north range 16 west; thence westerly along the Cibola National Forest boundary approximately 4½ miles to a point on the east boundary of the Fort Wingate Ordnance Depot, designated 361+00 and south and 20+00 east Wingate Ordnance Depot coordinating system; thence northerly along the Wingate Ordnance Depot east fence approximately 10,285 feet to a point designated 258+15 south and 20+00 east Wingate Depot coordinating system; thence in a random north-

easterly direction along the Wingate Depot fence system approximately 8,500 feet to a brass cap set in concrete which is the northwest corner of the Navajo Indian School tract; thence due south 6,293.84 feet to a brass cap set in concrete which is the southwest corner of the school tract; thence due east 7,728.15 feet to a 3-inch pipe which is the southeast corner of the school tract; thence due north 6,716.00 feet to a brass cap set in concrete which is the northeast corner of the school tract; thence easterly approximately 1⅜ miles to the point of being, containing 6,810 acres, more or less.

SEC. 2. The exterior boundaries of the Carson National Forest in New Mexico are modified to exclude section 16, township 24 north, range 11 east, New Mexico principal meridan.

SEC. 3. The lands proposed to be added to the Gila National Forest, in section 1 above of this Act, will not be subject to appropriation under any of the public land laws including the mining laws unless specifically authorized by the Secretaries of Agriculture and Interior.

SEC. 4. Subject to valid claims so long as these are maintained, all lands owned by the United States in the areas described in section 1 of this Act are hereby added to the national forests as listed in that said section, and shall be administered in accordance with the laws, rules, and regulations applicable thereto, except as provided in section 3 of this Act with respect to appropriation under the public land laws.

SEC. 5. Funds appropriated and available for acquisition of lands, waters, and interests therein, in the National Forest System pursuant to section 6 of the Act of September 3, 1964 (78 Stat. 903), shall be available for the acquisition of any lands, waters, and interests therein, within the area described in section 1 of this Act.

AMENDMENT OFFERED BY MR. HALEY

Mr. HALEY. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HALEY: Strike out all after the enacting clause of S. 447 and insert in lieu thereof the provisions of H.R. 9018, as passed, as follows:

That the exterior boundaries of the Santa Fe, Gila, Cibola, and Carson National Forests, in New Mexico, respectively, are modified to include the following described lands:

SANTA FE NATIONAL FOREST, NEW MEXICO PRINCIPAL MERIDIAN

1. The Canon de San Diego Grant, situated in townships 16, 17, 18, and 19 north, ranges 1, 2, and 3 east, and known in the Office of the United States Surveyor General as Report numbered 36, confirmed by Congress of the United States of America on the 21st day of June 1861, and patented by the United States of America in accordance with said Act of Confirmation of the 21st day of October 1881.

2. Township 18 north, range 1 east.

Section 6, lots 1 through 8 inclusive.

Township 18 north, range 1 west.

Section 1, lots 1 through 4, inclusive, west half northeast quarter, and east half northwest quarter.

3. Township 17 north, range 2 east.

Section 25, lot 1.

Section 36, lots 1, 2, and 4.

Township 17 north, range 3 east.

Section 19, lots 1 and 2 in accordance with G.L.O. plat approved April 28, 1919.

Section 309, lots 1 through 4, inclusive.

Section 31, lots 1 through 3, inclusive and lots 5 to 9, inclusive.

Section 32, lots 1 through 4, inclusive.

Township 16 north, range 3 east.

Section 5, 6, 7, and 8.

4. Township 15 north, range 12 east.

Section 29, lots 3, 4, and 5, southwest quarter southeast quarter.

Section 33, lots 1, 2, 3, and 4, southwest quarter southwest quarter.

5. Township 15 north, range 12 east.

Section 12, east half southwest quarter, southeast quarter.

Township 15 north, range 13 east.

Section 5, all.

Section 6, all.

Section 7, all.

Section 8, all.

Section 9, west half southwest quarter.

Section 16, west half west half.

Section 17, east half east half.

Section 20, east half northeast quarter.

Section 21, west half west half.

Section 28, west half.

Section 32, all.

Section 33, all.

6. A tract or parcel of land situated in the counties of Sandoval and Santa Fe in the State of New Mexico, known as the Caja del Rio Grant, as shown upon the plat of said grant on file in the United States Public Survey Office in Santa Fe, New Mexico, which plat was approved by the United States Surveyor General of New Mexico on November 23, 1894, and approved by the Court of Private Land Claims, through its Deputy Clerk Irene L. Chavez, on April 15, 1895, and representing a survey of said grant as made by Sherrard Coleman, United States Deputy Surveyor, May 8 to 18, 1894, under Contract Numbered 280, dated March 26, 1894, which tract of land is intended to include all that portion of the said grant extending westward to the Rio Grande, but exclusive of the conflict with the Cochiti Pueblo Grant and which was more particularly described in a deed from the General American Life Insurance Company to the United States of America dated November 13, 1935, and recorded in Sandoval County in book 4, DR, pages 503–515, on December 20, 1935.

7. A tract or parcel of land situated in the counties of Sandoval and Santa Fe in the State of New Mexico, known as the La Majada Grant, as shown upon the plat of the grant on file in the United States Public Survey Office in Santa Fe, New Mexico, which plat was approved by the United States Surveyor General of New Mexico on January 23, 1896, and approved by the Court of Private Land Claims, through its Deputy Clerk Irene L. Chavez, on March 25, 1896, and representing a survey of said Grant as made by Albert F. Easley, United States Deputy Surveyor, June 28 through July 7, 1895, under Contract Numbered 292, April 29, 1895, which tract of land is intended to include all of that portion of the said grant exclusive of the conflicts with the Cochiti Pueblo Grant, the Mesita de Juana Lopez Grant, and the Caja del Rio Grant, and a portion of the said La Majad Grant lying south of the Corps of Engineers' Road Numbered 90, more particularly described as a line beginning at a point on the south boundary of the Cochiti Pueblo Grant which lies south 89 degrees 54 minutes west 18.35 chains from the half mile corner; thence south 44 degrees 15 minutes west 125.65 claims; thence south 51 degrees 50 minutes east 14.59 chains; thence south 43 degrees 50 minutes east 101.91 chains; thence south 49 degrees 35 minutes east 24.35 chains to a point on the south boundary of the La Majada Grant which lies north 73 degrees 48 minutes west 18.18 chains from the 4½-mile corner on the south boundary of the said grant.

8. Township 14 north range 13 east.

Section 35, north half.

9. Township 16 north range 14 east.

Section 5, all.

Section 8, all.

Section 27, lot 5, east half southeast quarter.

Section 34, east half east half.

GILA NATIONAL FOREST, NEW MEXICO PRINCIPAL MERIDIAN

A tract or parcel of land situated in Grant County, New Mexico, in township 17 south, ranges 12 and 13 west, as shown in the office of the United States Surveyor General on Supplemental Plat of Retracements and Resurveys, approved by the Surveyor General on July 7, 1908, excepting that portion of the said military reservation lying south of a line described as follows: Beginning at a point which is the intersection of the north right-of-way line for State Highway 180 with the east boundary of the reservation; thence southwesterly along the highway right-of-way to the south line of section 25; thence westerly along the section line between sections 25 and 36 to a point lying 735 feet west of the quarter corner between said sections; thence north 47 degrees 03 minutes east 585 feet; thence north 18 degrees 18 minutes west 2,380 feet; thence west 4,110.34 feet; thence south 01 degree 43 minutes east 2,661.24 feet to the quarter corner between sections 26 and 35; thence westerly along the section line to the west boundary of the said military reservation.

CARSON NATIONAL FOREST, NEW MEXICO PRINCIPAL MERIDIAN

1. Township 25 north, range 13 east.

Section 28, lots 4 and 12.

CIBOLA NATIONAL FOREST, NEW MEXICO PRINCIPAL MERIDIAN

1. Township 10 north, range 11 west.

Sections 1 through 3, inclusive.

Sections 10 through 15, inclusive.

Township 11 north, range 11 west.

Sections 1 through 3, inclusive.

Sections 10 through 15, inclusive.

Sections 22 through 27, inclusive.

Sections 34 through 36, inclusive.

Township 12 north, range 11 west.

Sections 31 through 36, inclusive.

2. A tract of land in township 14 north range 16 west which was originally a portion of the Fort Wingate Military Reservation as established by Executive order of February 18, 1870, more particularly described as: Beginning at a point which is the quarter corner common to section 2 of township 14 north range 16 west and section 35, township 15 north range 16 west; thence southerly along the Cibola National Forest boundary approximately 3 miles to the quarter corner common to sections 14 and 23 in unsurveyed township 14 north range 16 west; thence westerly along the Cibola National Forest boundary approximately 4½ miles to a point on the east boundary of the Fort Wingate Ordnance Depot, designated 361+00 south and 20+00 east Wingate Ordnance Depot coordinating system; thence northerly along the Wingate Ordnance Depot east fence approximately 10,285 feet to a point designated 258+15 south and 20+00 east Wingate Depot coordinating system; thence in a random northeasterly direction along the Wingate Depot fence system approximately 8,500 feet to a brass cap set in concrete which is the northwest corner of the Navajo Indian School tract; thence due south 6,293.84 feet to a brass cap set in concrete which is the southwest corner of the school tract; thence due east 7,728.15 feet to a 3-inch pipe which is the southeast corner of the school tract; thence due north 6,716.00 feet to a brass cap set in concrete which is the northeast corner of the school tract; thence easterly approximately 1⅜ miles to the point of beginning, containing 6,810 acres, more or less.

SEC. 2. The exterior boundaries of the Carson National Forest in New Mexico are modified to exclude section 16, township 24 north, range 11 east, New Mexico principal meridian.

SEC. 3. Subject to valid existing rights, all lands owned by the United States in the areas described in section 1 of this Act are hereby added to the national forests as listed in that said section, and shall be administered in accordance with the laws, rules, and regulations applicable thereto.

SEC. 4. For the purposes of section 6 of the Act of September 3, 1964 (78 Stat. 903), the boundaries of the Santa Fe, Gila, Cibola, and

Carson National Forests, as modified by section 1 of this Act, shall be treated as if they were the boundaries of those forests on January 1, 1965.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 9018) was laid on the table.

DESIGNATING THE MEDAL OF HONOR AWARDED FOR MILITARY HEROISM AS THE "CONGRESSIONAL MEDAL OF HONOR"

The Clerk called the bill (H.R. 11035) to amend title 10 of the United States Code to designate the Medal of Honor awarded for military heroism as the "Congressional Medal of Honor."

There being no objection, the Clerk read the bill as follows:

H.R. 11035

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) sections 3741, 3744, 3745, 3747, 3748, 3752, 6241, 6248, 6253, 6254, 8741, 8744, 8745, 8747, and 8752 of title 10, United States Code, are each amended by inserting "Congressional" immediately before "medal of honor" and "medals of honor" each place they appear therein.

(b) The side headings for sections 3741, 3744, 3745, 3747, 3748, 6241, 8741, 8744, 8745, and 8747 of such title are each amended by inserting "Congressional" immediately before "Medal of Honor".

(c) In the analyses of chapters 357, 567, and 857 of such title, the side headings listed therein for sections 3741, 3744, 3745, 3747, 3748, 6241, 8741, 8744, 8745, and 8747 are each amended by inserting "Congressional" immediately before "Medal of Honor".

With the following committee amendment:

Strike all after the enacting clause and insert in lieu thereof the following:

That (a) section 3741, 3742, 3744, 3745, 3746, 3747, 3748, 3752, 4342, 6241, 6242, 6244, 6247, 6248, 6253, 6254, 6954, 8741, 8742, 8744, 8745, 8746, 8747, 8748, 8752, and 9342 of title 10, United States Code, are each amended by inserting the word "Congressional" immediately before the words "Medal of Honor" or "Medals of Honor" each place they appear therein.

(b) the section headings of sections 3741, 3744, 3745, 3747, 3748, 6241, 8741, 8744, 8745, 8747, and 8748 of such title are each amended by inserting the word "Congressional" immediately before the words "Medal of honor" each place they appear therein.

(c) the Chapter analyses of Chapters 357, 567, and 857 of such title are each amended by inserting the word "Congressional" before the words "Medal of Honor" each place they appear therein.

The committee amendment was agreed to.

Mr. BYRNE of Pennsylvania. Mr. Speaker, the purpose of H.R. 11035 is to remove some of the longstanding confusion which surrounds the Nation's highest military award for valor, the Medal of Honor. The bill would designate the Medal of Honor as the Congressional Medal of Honor.

Testimony revealed that through the 110-odd years since this award was created by the Congress various State and local governments, private industry, and associations have created medals of honor of their own—the very existence of which tends to dilute the honor and prestige which has traditionally accompanied the Medal of Honor awarded for military heroism. It is generally acknowledged—even by the Department of Defense which opposes this bill—that there is widespread confusion as to the official title of this award.

This confusion has its roots in statute—primarily from the phrase which appears in the act of 1862 which provided that the Medal of Honor be presented by the President "in the name of Congress." Innumerable laws making reference to this award refer to it by both names, the Medal of Honor and the Congressional Medal of Honor.

In addition, several Presidents who have presented the award have referred to it as the Congressional Medal of Honor.

Testimony was received from the Congressional Medal of Honor Society, an organization chartered by the Congress and encompassing all living Medal of Honor recipients. At the society's biennial meeting in the fall of last year, a resolution was unanimously adopted petitioning the Congress to change the name of the award to the Congressional Medal of Honor. The committee placed great weight on this resolution since it expressed the desires of the Medal of Honor recipients.

The Department of Defense, in opposition to the bill, presented insufficient justification for its position—at least as far as the committee was concerned. Contrary to the Department's argument, there appears to be no need for any change in the design of the medals, and, therefore, no significant cost is associated with the bill.

The Department's position that it was "unable to readily estimate the cost if the bill is enacted" is apparently due to the fact that the cost would be negligible.

Your Armed Services Committee unanimously recommends approval of H.R. 11035 with an amendment. The amendment is in the nature of a technical amendment since all it does is include portions of title 10 which were omitted from the bill and revise the language to conform to the legislative style of the United States Code.

Mr. Speaker, I recommend that the bill be approved as amended.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BYRNE of Pennsylvania. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

CONSENT TO MARYLAND-VIRGINIA SEAWARD BOUNDARY AGREEMENTS

The Clerk called the joint resolution (H.J. Res. 733) granting the consent of Congress to certain boundary agreements between the States of Maryland and Virginia.

The SPEAKER. Is there objection to the present consideration of the joint resolution?

Mr. GROSS. Mr. Speaker, reserving the right to object, I should like to have someone who is knowledgeable about this joint resolution explain to me why there should be any cost to the Federal Government.

Mr. KASTENMEIER. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I will be glad to yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. There is an estimated cost to the Federal Government of $130,000, and that is the cost for surveying boundaries. This cost is necessitated by the fact that the Department of Commerce has undertaken to actually survey the agreed upon boundary, including the seaward boundary.

Mr. GROSS. But the bill is for the benefit of Maryland and Virginia; is it not?

Mr. KASTENMEIER. The bill is for the benefit of Maryland and Virginia in particular. As far as designating and surveying the boundaries, there is a benefit to the United States in insuring when you have seaward boundaries that they are uniform and in conformity with the standards imposed by the Department of Commerce and by the Government. We have an Ocean Survey Agency designed for this purpose. The States, very candidly, are not in a position to the satisfaction of the Department of Commerce to survey and mark seaward boundaries.

Mr. GROSS. Mr. Speaker, I am not going to object to this measure or ask that it be put over, but I would hope that in the future costs of this kind be assessed to those who benefit from the services rather than to the Federal Government.

The bill that follows this also has a cost, as I understand it, to the Federal Government for much the same purpose. I repeat, that in the future I hope that the costs are assessed to the States that benefit and not to the Federal Government.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Clerk read the joint resolution, as follows:

H.J. RES. 733

Whereas, by virtue of chapter 357 of the Maryland Laws of 1969, and of chapter 198 of the Acts of Assembly of 1968 of the General Assembly of Virginia, the Maryland Geological Survey and the Marine Resources Commission of Virginia were authorized to establish, mark, and identify the seven-mile portion of the Maryland-Virginia boundary line in Upper Pocomoke Sound in an acceptable engineering manner; and

Whereas, pursuant to said acts the Maryland Geological Survey and the Marine Resources Commission of Virginia did agree upon a mutually acceptable boundary line; and

Whereas, by virtue of chapter 210 of the Maryland Laws of 1970, and of chapter 315 of the Acts of Assembly of 1970 of the General Assembly of Virginia, said agreement has been ratified and confirmed by the legislatures of the States of Maryland and Virginia, respectively, both of said acts having established and described said boundary line as follows:

Beginning at a point which is corner D defined by latitude 37 degrees 56 minutes 28.00 seconds and longitude 75 degrees 45 minutes 43.56 seconds; which is the last point on the Maryland-Virginia Line that was defined by the "Joint Report of Engineers on Relocating and Remarking Maryland-Virginia Boundary Line Across Tangier and Pocomoke Sounds December 1916";

thence running north 73 degrees 34 minutes 31.9 seconds east about 17,125.11 feet to corner H a point defined by latitude 37 degrees 57 minutes 15.82 seconds and longitude 75 degrees 42 minutes 18.48 seconds;

thence running north 85 degrees 39 minutes 33.9 seconds east about 3,785.82 feet to corner J a point defined by latitude 37 degrees 57 minutes 18.65 seconds and longitude 75 degrees 41 minutes 31.35 seconds;

thence running south 74 degrees 16 minutes 00.8 seconds east about 7,278.41 feet to corner K a point defined by latitude 37 degrees 56 minutes 59.13 seconds and longitude 75 degrees 40 minutes 03.89 seconds;

thence running south 61 degrees 57 minutes 55.7 seconds east about 3,664.73 feet to corner L a point defined by latitude 37 degrees 56 minutes 42.10 seconds and longitude 75 degrees 39 minutes 23.51 seconds;

thence running north 76 degrees 15 minutes 24.5 seconds east about 2,363.49 feet to corner M a point defined by latitude 37 degrees 56 minutes 47.65 seconds and longitude 75 degrees 38 minutes 54.85 seconds;

thence running 00 degrees 49 minutes 51.5 seconds west about 7,178.56 feet to corner N a point defined by latitude 37 degrees 57 minutes 58.61 seconds and longitude 75 degrees 38 minutes 56.15 seconds;

thence northeasterly about 3½ miles following the middle thread of the meandering Pocomoke River to corner P a point defined by latitude 37 degrees 59 minutes 39.37 seconds and longitude 75 degrees 37 minutes 26.52 seconds, which is at or near the point of intersection with the "Scarborough and Calvert Boundary Line of May 28, 1668"; corners N and P are connected by a line running north 35 degrees 08 minutes 33.5 seconds east about 12,465.32 feet;

thence north 83 degrees 45 minutes 59.9 seconds east about 24,156.95 feet to the boundary monument near triangulation station Davis on the "Scarborough and Calvert Boundary Line of May 28, 1668". Geographic positions are based on 1927 datum; and

Whereas, by virtue of chapter 220 of the Maryland Laws of 1970, and of chapter 342 of the Acts of Assembly of 1970 of the General Assembly of Virginia, the States of Maryland and Virginia have also agreed to their mutual boundary eastward from Assateague Island, both of said acts having established said boundary line as follows:

Beginning at a point on the Maryland-Virginia Line located on Assateague Island designated as station "Pope Island Life Saving Station (1907)" defined by latitude 38°-01′36.93″ and longitude 75°14′47.105″; thence running North 84°05′43.5″ East (true)—1,100.00 feet to station "Atlantic"; thence due east (true) to the Maryland-Virginia Jurisdictional Limit:

Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent and approval of the Congress of the United States be, and hereby is, given to said boundary agreements, and to each and every part thereof.

SEC. 2. The right to alter, amend, or repeal this Act is expressly reserved.

With the following committee amendments:

On page 3, in the first line of the second paragraph, after "thence running" insert "north".

On page 4, in the first paragraph, after "1,100.00" insert "feet".

On page 4, line 5, change the period to a comma and insert thereafter the following: subject to the understanding that within the agreements the "boundary monument near triangulation station Davis" is the boundary monument which is about 210 feet north of triangulation station Nelson, 1932; that "1927 datum" means "North American Datum of 1927"; that "station 'Pope Island Life Saving Station (1907)'" is "triangulation station 'Boundary Monument, Pope Island Life Saving Station (Md. Va.), 1907'"; that "36.93″" is "36.930″"; that "station 'Atlantic'" is an unmonumented point, mutually agreed upon; and that "due east (true)" means "on a line of constant latitude."

On page 5, line 3, redesignate "SEC. 2" as "SEC. 3", and insert immediately after the first section the following:

"SEC. 2. The Secretary of Commerce is hereby authorized, empowered, and instructed to survey and properly mark by suitable monuments the seaward boundary between the States of Maryland and Virginia, and so much of the interior boundary as is considered necessary for this purpose by the Secretary, and the necessary appropriations for this work are hereby authorized."

The committee amendments were agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CONSENT TO NORTH CAROLINA-VIRGINIA SEAWARD BOUNDARY AGREEMENT

The Clerk called the joint resolution (H.J. Res. 912) granting the consent of Congress to an agreement between the States of North Carolina and Virginia establishing their lateral seaward boundary.

The SPEAKER. Is there objection to the present consideration of the joint resolution?

Mr. HALL. Mr. Speaker, reserving the right to object, following the line of question of my friend, the gentleman from Iowa, I should like to inquire of the gentleman handling this legislation on the Consent Calendar; why, with the ambiguities interpreted and the substitutes by amendments suggested by the downtown departments, all made in order in the joint resolution, and with no objection on the part of the Department of the Interior or the Office of Management and Budget, it cost just roughly half as much to make this seaward survey by the U.S. Government between Virginia and North Carolina as it did to make the seaward and other surveys between Virginia and Maryland. Why there must be an explanation, but it would seem to amount to the same amount of equipment and the same type of survey?

I wonder if the gentleman or his committee has that information.

I yield for that answer.

Mr. KASTENMEIER. Mr. Speaker, if the gentleman will yield, the subcommittee was informed that the second measure involves a shorter boundary line. The Department of Commerce very carefully computed the amount of year man-hours to conduct the boundary surveys and establish the seaward and other monuments in both instances and found that the joint resolution just passed would involve 6½ man-years of work while the instant measure is somewhat less, something on the order of 3½ man-years, and as a result the cost imputed to this particular survey was less.

Mr. HALL. In other words Mr. Speaker, it is an exact determination. I appreciate the gentleman's explanation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Clerk read the joint resolution, as follows:

H. J. RES. 912

Whereas, by virtue of the provisions of chapter 452 of the Acts of Assembly of 1971 of the General Assembly of North Carolina, amending chapter 141 of the General Statutes of North Carolina by adding thereto a new section designated as G.S. 141–8, and by virtue of the provisions of chapter 343 of the Acts of Assembly of 1970 of the General Assembly of Virginia, amending title 7.1 of the Code of Virginia by adding thereto a new section designated as 7.1—4.1, the States of North Carolina and Virginia have agreed to their mutual lateral seaward boundary; and

Whereas, by the aforesaid Acts, the Legislatures of North Carolina and Virginia both established and described said boundary in substance as follows: Beginning at the intersection of the low water mark of the Atlantic and the existing North Carolina-Virginia boundary line; thence due east on a true ninety-degree bearing to the seaward jurisdictional limits of North Carolina and Virginia, respectively; such boundary line to be extended on the true ninety-degree bearing as far as a need for further delimitation may arise: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of the Congress is hereby granted to said boundary agreement, and to each and every part thereof, and the aforesaid Acts of the States of North Carolina and Virginia are hereby approved.

SEC. 2. The Secretary of Commerce is hereby authorized, empowered, and instructed to survey and properly mark by suitable monuments the seaward boundary between the States of North Carolina and Virginia, and so much of the interior boundary as is considered necessary for this purpose by the two States and the necessary appropriations for this work are hereby authorized.

SEC. 3. The right to alter, amend, or repeal this Act is expressly reserved.

With the following committee amendments:

On page 2, line 6, change the period to a comma and insert thereafter the following: "subject to the understanding that within the agreement the phrase 'true ninety-degree bearing' means 'line of constant latitude.'"

On page 3, line 1, delete "the two States" and insert in lieu thereof "the Secretary".

The committee amendments were agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the bills on the Consent Calendar that were eligible on yesterday.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The clerk will call the first individual bill on the Private Calendar.

MRS. ROSE THOMAS

The clerk called the bill (H.R. 2067) for the relief of Mrs. Rose Thomas.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

MARIA LUIGIA DI GIORGIO

The clerk called the bill (H.R. 2070) for the relief of Maria Luigia Di Giorgio.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

MRS. ANNA MARIA BALDINI DELA ROSA

The Clerk called the bill (H.R. 3713) for the relief of Mrs. Anna Maria Baldini Dela Rosa.

Mr. BROWN of Michigan. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

CHARLES COLBATH

The Clerk called the bill (H.R. 4310) for the relief of Charles Colbath.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

MRS. CARMEN PRADO

The Clerk called the bill (H.R. 6108) for the relief of Mrs. Carmen Prado.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

RENE PAULO ROHDEN-SOBRINHO

The Clerk called the bill (H.R. 5181) for the relief of Rene Paulo Rohden-Sobrinho.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

CATHERINE E. SPELL

The Clerk called the bill (H.R. 7312) for the relief of Catherine E. Spell.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

DONALD L. BULMER

The Clerk called the bill (H.R. 1994) for the relief of Donald L. Bulmer.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

MRS. MARINA MUNOZ DE WYSS (NEE LOPEZ)

The Clerk called the bill (H.R. 5579) for the relief of Mrs. Marina Munoz de Wyss (nee Lopez).

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

CARMEN MARIA PENA-GARCANO

The Clerk called the bill (H.R. 6342) for the relief of Carmen Maria Pena-Garcano.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

WILLIAM H. NICKERSON

The Clerk called the bill (H.R. 4064) for the relief of William H. Nickerson.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

MARGARIDA ALDORA CORREIA DOS REIS

The Clerk called the bill (H.R. 6504) for the relief of Margarida Aldora Correia dos Reis.

Mr. BROWN of Michigan. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

EMILIA RUFFOLO

The Clerk called the bill (H.R. 10142) for the relief of Emilia Ruffolo.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

DONALD P. LARIVIERE

The Clerk called the bill (H.R. 8952) for the relief of Donald P. Lariviere.

Mr. BROWN of Michigan. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

MR. AND MRS. JOHN F. FUENTES

The Clerk called the bill (H.R. 11045) for the relief of Mr. and Mrs. John F. Fuentes.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

ARLINE LOADER AND MAURICE LOADER

The Clerk called the bill (S. 341) for the relief of Arline Loader and Maurice Loader.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

FREDI ROBERT DREILICH

The Clerk called the bill (H.R. 2725) for the relief of Fredi Robert Dreilich.

Mr. BROWN of Michigan. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

DENNIS YIANTOS

The Clerk called the bill (S. 65) for the relief of Dennis Yiantos.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

WILLIAM JOHN WEST

The Clerk called the bill (S. 2575) for the relief of William John West.

There being no objection, the Clerk read the bill as follows:

S. 2575

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of section 101(b)(1) of the Immigration and Nationality Act, William John West shall be deemed to be the natural-born alien child of Staff Sergeant William R. West, a citizen of the United States.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MRS. GAVINA A. PALACAY

The Clerk called the bill (H.R. 4646) for the relief of Mrs. Gavina A. Palacay.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

ANKA KOSANOVIC

The Clerk called the bill (H.R. 1777) for the relief of Anka Kosanovic.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

CAPT. RONALD W. GROUT, U.S. AIR FORCE

The Clerk called the bill (H.R. 5668) for the relief of Capt. Ronald W. Grout, U.S. Air Force.

There being no objection, the Clerk read the bill as follows:

H.R. 5668

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Captain Ronald W. Grout, USAF, D.C., of San Angelo, Texas, the sum of $695.35 in full satisfaction of his claims against the United States for reimbursement for the amounts paid by him for packing and preliminary storage of his household goods and personal effects incident to moving to his first duty station upon being ordered to active duty with the United States Air Force in 1969.

SEC. 2. No part of the amount appropriated in the first section of this Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed $1,000.

With the following committee amendment:

Page 1, line 6: Strike "$695.35" and insert in lieu thereof "$644.40".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RESCUE MISSION ALLIANCE OF SYRACUSE

The Clerk called the bill (H.R. 10552) for the relief of the Rescue Mission Alliance of Syracuse.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

1ST LT. THOMAS J. TREMBA

The Clerk called the bill (H.R. 11749) for the relief of 1st Lt. Thomas J. Tremba.

Mr. BROWN of Michigan. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

ANNUAL REPORT ON THE FOREIGN ASSISTANCE PROGRAM, 1971—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 92-347)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Foreign Affairs and ordered to be printed with illustrations:

To the Congress of the United States:

The fiscal year 1971 Annual Report on the Foreign Assistance Program, which I transmit herewith, contains much hopeful news.

—The continuing success of the Green Revolution was evident in record crops of food grains, moving such countries as India, Pakistan, Turkey, and Indonesia steadily closer to a goal of self-sufficiency in basic foodstuffs and giving hope to others that this goal, considered inconceivable a few short years ago, can now be attained.

—Modern technologies in education are being explored with a view toward reducing the heavy cost of education, expanding its availability and improving its quality.

—Pilot projects for improving the delivery of health services in remote rural areas offer great promise.

—Support provided by the Agency for International Development for population-related efforts rose to a record $95.9 million, as developing countries, recognizing the heavy burden of high population growth rates, intensified their programs to achieve effective family planning.

—Developing nations showed increasing awareness of the environmental impact of proposed projects in their national planning process.

During the past fiscal year, the United States Government provided $3.4 billion in economic assistance to the less developed world. This aid took a variety of forms—technical assistance, development loans, financial grants, concessional sales of agricultural products, emergency relief, and contributions to international lending institutions as well as to the United Nations Development Program, and other UN-related activities. Just over half the total—$1.9 billion—was authorized by the Foreign Assistance Act and administered by the Agency for International Development. This report is essentially concerned with these programs.

Viewed in the perspective of the past decade, the less developed nations have made excellent progress. Their annual rate of economic expansion—averaging about 5.6 percent—exceeded even the five percent target projected by the United Nations for the Decade of Development that ended in 1970, reaching a level of more than six percent per year in the last years of the decade. This pace is more rapid than the growth rate of the United States at comparable stages of its development.

A major factor contributing to this record growth has been the increasing availability to lower income countries of external assistance from many sources. The United States can take pride in its role as an innovator and sustainer of this pattern of cooperation.

During the same ten years, the lower income countries also amassed a variety of other important resources for growth. Their technical and managerial experts have grown in number and experience, acquiring greater confidence in their ability to perceive national needs and to design and execute national development strategy. As the lower income nations have gained greater perspective and greater understanding of their own problems, they have been formulating more of their own development plans and organizing more of their own resources.

Other developments that must be taken into account in planning United States aid programs include the growth of new centers of economic and political power, the rapid pace of social and political change, and the increasing emphasis on man's relationship with his environment. Perhaps most significantly, there has been a substantial increase in the aid contributions of other nations and in the role of international lending institutions. Whereas a decade or so ago the United States was the predominant source of development resources and guidance, other industrialized nations and international lending institutions have since expanded both their contributions and their administrative capabilities. Today the United States is the foremost of donor nations in absolute terms, but the other industrialized nations have increased their participation to the extent that in many cases they are contributing a greater percentage of their total resources to development assistance than is the United States.

We have been working to adjust our aid programs to all these new conditions. A number of important reforms were embodied in two pieces of draft legislation submitted to the Congress in April 1971. We hope that those proposals will provide a basis for a discussion with the Congress of ways in which we can structure our programs to increase their effectiveness.

While the Congress has been considering these proposed reforms, the Agency for International Development has moved ahead with steps to increase the effectiveness and efficiency of its operations within the constraints of existing legislation. These initiatives have included:

—Separation of economic supporting assistance activities from development programs within the AID structure;

—Reduction of AID's American staff by an additional six percent, reflecting a total reduction of nearly one-quarter over the past three years and bringing total AID personnel to the lowest level in the Agency's history;

—Substantial simplification of AID procurement policies and procedures;

—Substantial progress in concentrating technical assistance programs in priority sectors of agriculture, education, population, and health;

—Steps toward centralizing overseas lending operations in Washington.

While we look back with satisfaction at our accomplishments in the past and while we plan for further changes to help meet new challenges, we remain aware that the problems of development are stubbornly complex and that the solutions to some of them are still beyond our grasp. Yet each year's experience gives us new insights and firmer hope. And each year's experience also confirms two fundamental facts of development: (1) what the recipient country does to stimulate and accelerate its own growth is ultimately of greater value than anything we do or are able to do; and (2) a measure of help from the United States can be the vital factor in assuring steady progress toward development.

I believe most earnestly that the developed nations of the world cannot long prosper in a world dominated by poverty and that improvement in the quality of life for all peoples enhances the prospects of peace for all people.

RICHARD NIXON.

THE WHITE HOUSE, *September 19, 1972.*

CHANGE OF LEGISLATIVE PROGRAM

(Mr. BOGGS asked and was given permission to address the House for 1 minute.)

Mr. BOGGS. Mr. Speaker, I take this time to announce that the motion to go to conference on H.R. 7130, the Fair Labor Standards Act amendments, will be made on Thursday, following the foreign assistance appropriation bill, and not on Wednesday as previously announced.

REENLISTMENT AND ENLISTMENT BONUSES

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, I am quite alarmed that the National Guard and Reserve strength is 50,000 below the congressional mandate of 972,674. I sincerely believe levels in the Reserves will continue to fall off unless the Congress enacts incentives such as reenlistment and enlistment bonuses.

I have previously introduced a package of incentive bills and only one, the full coverage insurance for reservists, has passed the House and lies dormant in the Senate.

As we approach the all volunteer concept, it is absolutely necessary that the manpower in the Reserves be maintained. I have written today the Secretary of Defense and chairman of the House Armed Services Committee urging that before this Congress adjourns, incentive legislation must be passed to keep the Reserve a viable force.

TAX CREDIT TO AID NONPUBLIC SECONDARY SCHOOLS

(Mr. ROSTENKOWSKI asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ROSTENKOWSKI. Mr. Speaker, in a statement today in Chicago, Ill., Senator GEORGE MCGOVERN came out in full support of the concept of a tax credit to aid nonpublic secondary schools in this country—schools that are presently facing an acute financial crisis. This legislation, which I have sponsored, is presently the subject of public hearings in my Committee on Ways and Means. It would indeed have a substantial impact on those parents now facing the double burden of financing their children's education and, at the same time, supporting the public schools in their communities.

As the Senator from South Dakota pointed out in his speech at Gordon Technical High School, which is located in my congressional district, two out of every five children in the 20 largest cities of this Nation, are enrolled in nonpublic schools. Therefore, when we talk of the educational situation in this country, and the financial problems presently confronting so many school systems, we cannot overlook the contributions and the similar financial problems of our religious-oriented nonpublic schools. As a Member of Congress who is very concerned about the increasing difficulties involved in providing adequate educational opportunites for all Americans, I was very pleased to see the Senator's strong and unequivocal support for this legislation. I am hopeful that our committee will be able to soon send it to the House for consideration.

SOCIAL SECURITY LAW

(Mr. ROUSH asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ROUSH. Mr. Speaker, I am today introducing a bill that I believe will make a significant clarification in the present social security law and the regulations by which it is implemented. This is of particular importance to self-employed persons who retire.

Under present law there is an income limitation of $1,680 for a 12-month taxable year. This means that a retired person who earns more than $1,680 a year will lose social security benefits proportionately.

H.R. 1, which has passed the House but not the Senate, increases the earnings limitation to $2,000 and provides that only $1 in benefits will be withheld for each $2 of earnings above the $2,000 regardless of how high the earnings might be.

I think this provision an important improvement. However, there is another issue that needs legislative action and to this my bill is addressed.

Under present law a recipient of social security benefits who is self-employed may continue to receive social security benefits up to the full maximum and continue to work or perform services as long as he or she is essentially retired, that is as long as this retired person does not perform "substantial services."

The term "substantial services" is not defined in the law, however. By regulation implementing the law, more than 45 hours of services in a month is usually considered substantial. However, the regulations stipulate certain exceptions and conditions under which services of 45 hours or less may be considered substantial.

Individuals falling under these exceptions and conditions find their social security benefits reduced. The results are therefore confusing and often inequitable.

Therefore, the amendment I introduce today would simply amend section 203 (f) (4) (A) of the Social Security Act by inserting before the period at the end thereof the following: "; except that, in any case, an individual who devotes 45 hours or less to all trades and businesses during a calendar month shall not be considered to have rendered substantial services with respect to any trade or business in such month."

I cannot anticipate any opposition to this simplifying amendment and I hope the Congress will give it attention before the final social security bill is passed in this session.

U.S. POSTAL SERVICE

(Mr. LANDRUM asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. LANDRUM. Mr. Speaker, although the U.S. Postal Service is only little more than a year old under its newly reorganized structure, we have heard criticism almost from the start that it is not working and that we should go back to the old patronage-ridden Post Office Department.

Many of these complaints obviously have been the result of a prejudgment. However, constant criticism has made the past year of transition to a more businesslike post office even more difficult.

Fortunately, in the present Postmaster General E. T. Klassen, the Service has made the firm leadership needed to see it through much of this trying period. The Service has moved ahead toward a goal of sound finances and good service in the face of many difficulties.

This is not to say that perfection has been achieved. The Postmaster General has been among the first to acknowledge this. He told the recent Postal Forum VI that the new way of life in the post office is like wearing a new pair of shoes. There are occasional pinches and cries of protest.

However, he has promised to overcome these transitory problems and provide "prompt, reliable, and efficient service" for all.

We can be confident that he will meet this goal. He has demonstrated by his avoidance of $450 million in new postage increase that he is a man who usually succeeds in doing what he says.

THE DECLINING ROLE OF CORPORATE TAXATION

(Mr. VANIK asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. VANIK. Mr. Speaker, according to the latest information submitted by the Office of Tax Analysis of the Treasury Department, individual tax receipts are currently estimated at $99 billion, 3.5 percent above June 1972 estimates of $95.5 billion and considerably above the January budget estimate of $93.9 billion.

At the same time, corporation tax receipts are estimated at $35.5 billion—0.5 percent less than the June 1972 estimate and $200 million below the January 1972 estimate.

With corporation taxes down, pretax corporate profits have risen 8.5 percent from first quarter 1971 to first quarter 1972, while the 1972 second quarter pretax corporate profits have risen 10.3 percent over the same 1971 period.

It appears, therefore, that corporate contributions to the cost of supporting the Federal Government are plunging lower—while the individual taxpayers are compelled to assume an increasingly larger share of the burden. This is the principal effect of the new economic policy which reduced corporation taxes by almost $10 billion per year.

CALL OF THE HOUSE

Mr. PETTIS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 369]

Abourezk
Adams
Annunzio
Aspinall
Badillo
Baring
Belcher
Bevill
Blanton
Bow
Broyhill, Va.
Caffery
Celler
Clark
Clay
Curlin
Daniels, N.J.
Delaney
Diggs
Dowdy
Dwyer
Edmondson
Erlenborn
Findley
Flowers
Flynt
Foley
Fraser
Galifianakis
Gallagher
Goldwater
Hagan
Halpern
Hanna
Hansen, Idaho
Hastings
Hébert
Hicks, Wash.
Hillis
Jacobs
Keith
Kyl
Lent
Link
Lloyd
McCormack
McDade
McDonald, Mich.
McKay
McMillan
Macdonald, Mass.
Matsunaga
Mayne
Meeds
Melcher
Metcalfe
Nichols
Nix
O'Neill
Pepper
Pike
Pryor, Ark.
Pucinski
Purcell
Reid
Roncalio
Rooney, N.Y.
Rooney, Pa.
Ruppe
Saylor
Scheuer
Schmitz
Scott
Skubitz
Springer
Steed
Stuckey
Udall
Wiggins

The SPEAKER. On this rollcall 351 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

REQUEST FOR PERMISSION TO FILE REPORT ON H.R. 14465

Mr. GRAY. Mr. Speaker, I ask unanimous consent that the Committee on Public Works may have until midnight tonight to file a report on H.R. 14465.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. GROSS. Mr. Speaker, reserving the right to object, what is the nature of this bill?

Mr. GRAY. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Illinois.

Mr. GRAY. I am delighted to tell the gentleman that this is a bill reported out of the House Committee on Public Works by a vote of 23 to 4, to name certain Federal buildings after deceased and former Members of Congress and also to authorize the District of Columbia government to construct the Eisenhower Bicentennial Civic Center.

Mr. GROSS. Is this the bill which provides an initial outlay of $14 million on the part of the Federal taxpayers?

Mr. GRAY. Not an initial outlay; no. It has a provision whereby if the District of Columbia government cannot meet its obligations several years from now it could draw on the $14 million which the President of the United States has requested as our contribution to the bicentennial. It is only a contingency, not an immediate outlay. In the meantime, hundreds of millions of new revenues will be generated.

Mr. GROSS. The gentleman stated the purpose of the bill was to provide names for certain Federal buildings, that evidently being his interpretation of the primary purpose to name certain Federal buildings for certain Members of the Congress.

I suggest the gentleman reorder the real purpose of the bill to say it is a bill to construct a convention center in the District of Columbia and the secondary purpose is to name certain buildings for Members of the Congress.

Mr. Speaker, I object.

Mr. GRAY. If the gentleman will yield further, I would advise my friend that the 29 Members named in the bill have given over 600 years of total service to this Congress and to this country and to me that overshadows any one President or any one civic center, and I am in no way playing down their importance either.

The SPEAKER. Objection is heard.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. COLMER. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

INSTALLATION OF SECURITY APPARATUS FOR THE PROTECTION OF THE CAPITOL COMPLEX

Mr. GRAY. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the concurrent resolution (H. Con. Res. 550) providing for the installation of security apparatus for the protection of the Capitol complex, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the concurrent resolution.

The Clerk read the Senate amendments, as follows:

Page 1, line 5, strike out "directed" and insert: "directed, without regard to section 3709 of the Revised Statutes of the United States, as amended (41 U.S.C. 5),".

Page 2, lines 2 and 3, strike out "the contingent fund of the House of Representatives." and insert "funds hereafter provided to the Architect of the Capitol under the appropriation 'Capitol Buildings', for that purpose.".

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. GROSS. Mr. Speaker, reserving the right to object, what is the nature of this proposal? What will this do?

Mr. GRAY. Mr. Speaker, will the gentleman from Iowa yield?

Mr. GROSS. I yield to the gentleman from Illinois.

Mr. GRAY. I am delighted to explain that the House passed House Concurrent Resolution 550 to authorize the Architect of the Capitol to install certain security measures at the Capitol. The other body passed the resolution in almost identical form. The only difference is that the Senate amendments would require the Appropriations Committee to fund the improvements. The House bill called for taking the funds out of the contingency fund of the House. All we seek to do is to agree to the Senate amendments, to allow the Appropriations Committee to fund the improvements made by the Architect of the Capitol.

Mr. GROSS. The amendments are germane?

Mr. GRAY. The amendments are germane.

Mr. GROSS. This does not provide any funds to pay for the so-called facelifting in the Speaker's lounge by way of rugs, furniture, and chandeliers?

Mr. GRAY. I will say to my friend from Iowa, it does not.

Mr. GROSS. Mr. Speaker, I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES APPROPRIATIONS, 1973

Mr. FLOOD. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 16654) making appropriations for the Department of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1973, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to 1½ hours, the time to be equally divided and controlled by the gentleman from Illinois (Mr. MICHEL) and myself.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 16654, with Mr. HOLIFIELD in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Pennsylvania (Mr. FLOOD) will be recognized for 45 minutes, and the gentleman from Illinois (Mr. MICHEL) will be recognized for 45 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. FLOOD).

Mr. FLOOD. Mr. Chairman, you can well imagine I am not going to take a lot of time discussing the merits of the many, many programs for which appropriations are made in this new Labor-Health, Education, and Welfare appropriations bill. This was discussed, as you will recall, in considerable detail when we acted on the first bill. We all realize that these are very, very meritorious programs, and that we will never, never be able to appropriate 100 percent of the money that could be used to advantage in the fields of manpower training, health, education, and welfare.

The issue before us now is to arrive at a bill that the majority of the Members can support, even if grudgingly, and a bill that the President can sign, even if grudgingly. It is not only important that we do this, but it is also important that we do it as expeditiously as possible. At the very best, there is going to be one fourth of this fiscal year that has passed before these funds we are now talking about become available. Now, think of that.

Now, we are all acquainted with the President's veto message. In this message he stated:

> I also urge that the Congress, in drawing up a new measure, provide that the line items in the bill should not, in the aggregate, exceed my budget request. This could be accomplished either by revising the recommendations for each of the items, or by including a general provision in the bill which would limit spending to this overall aggregate amount.

For further emphasis, he also said:

> I know the usual practice is to repass such a bill with a slight reduction and assume that the second bill will have to be signed. Such action would obviously not satisfy the objections to this measure I have set forth here.

In addition to his veto message, the President has frequently spoken of his intention to avoid a tax increase by holding down Federal expenditures. Thus, it appears rather certain that the President would veto a second Labor-HEW bill if we do not make very substantial reductions below the level of the vetoed bill. Some will argue that this is just partisan politics on the part of the President. Others will maintain that it is prompted by a sincere, objective interest on his part in doing what is best for the overall welfare of the Nation. In the current situation with regard to this bill we are not passing on motives, we are dealing with plain facts of life. It was with this attitude that we approached the task of constructing a new Labor-HEW appropriation bill.

In reviewing the vetoed bill at its various stages, it will be noted that the bill as reported to the House by the House Committee on Appropriations exceeded the President's budget by $912 million. The bill was increased still further when it was considered by the House. Further substantial increases were added by the Senate Committee on Appropriations. Still further increases were added when the bill was before the Senate.

Now, there you are. One, two, three, four. That is the way it was.

It was the subcommittee's opinion that even the bill as reported by the House Committee on Appropriations would be too high to meet the criteria for Presidential signature set forth in the veto message. However, that bill as reported was the result of months of hearings and many hours of subsequent deliberation by the subcommittee and the full committee. We feel that it was a well-balanced bill, but, of course, with the drawback, under the present circumstances, of being over $900 million in excess of the budget. We, therefore, took the bill as reported to the House as a base for preparing the new bill. We then took out of it 12½ percent of the four largest increases over the budget which it contained, except for aid to schools in federally affected areas. The 12½-percent reduction was applied to the appropriation for mental health, for which the original bill as reported to the House included an increase over the budget of $130 million. The second reduction was 12½ percent of the $132 million by which the appropriation for health services planning and development exceeded the President's budget. The third reduction was 12½ percent of the $143 million by which the appropriation for the research institutes and divisions of the National Institutes of Health exceeded the President's budget. The fourth and only other reduction was to take out 12½ percent of the $205 million by which the appropriation for health manpower exceeded the President's budget.

I want to emphasize that these reductions were only from the increases over the budget. Therefore, there still remain substantial increases, over the President's budget, for each of these four items in the bill that is before you today. Do not worry about that.

The next and only other step in arriving at the new bill was to add items that were considered by the Senate but not considered by the House because of lack of a budget request at the time the House acted, or because of lack of authorization at the time the House acted.

These items are as follows:

First. $455,133,000 for "work incentives" of which $250,000,000 was contained in a budget amendment which was sent to the Senate, and decreases of $39,000,000 in the budget request for "manpower training services," $20,000,000 in the request for "limitation on grants to States for unemployment insurance and employment services," and $25,000,000 in the request for "grants to States for public assistance," all of which were proposed in the same budget amendment.

Second. $35,465,000 for "grants for the developmentally disabled" for programs authorized by the Developmental Disabilities Services and Facilities Construction Act and the Public Health Service Act. These programs were presented in the budget as part of a much larger appropriation item, most of which lacks authorization, and so were not considered by the House.

Third. $968,721,000 for "special benefits for disabled coal miners." This is the amount of a budget amendment which was sent to the Senate after the House acted on the bill.

Fourth. $45,000,000 for the corporation for public broadcasting, which lacked authorization when the House acted on the bill.

Now, with these adjustments, the bill which is before you totals $29,603,448,500, which is $835,815,000 more than the President's budget and—and $935,471,000 less than the vetoed bill. I will not go into detail with regard to all the comparisons between the new bill, and the vetoed bill, and the original House bill, the original Senate bill, and so on. There is a marvelous set of tables in the report that will do all of that for you, and more. They are excellent.

Now, Mr. Chairman, I obviously am in no position to guarantee that the President will sign this bill if it is passed in this form by the Congress. It is still substantially over the President's budget. On the other hand, the House voted by a substantial majority, although not a two-thirds majority, of 203 votes "aye" to 171 "nays" to override the veto. It therefore appears reasonable that the President should be willing to accept a compromise between his position and that of a majority of the Congress, who are also elected representatives of the people. This bill is such a compromise.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. Mr. Chairman, I appreciate the work that the subcommittee and particularly the gentleman from Pennsylvania (Mr. FLOOD) has done on this bill.

My question involves an amount that may seem miniscule, only $20 million. But in the black lung amendments authorized in May of this year, $10 million was authorized for 3 years for fixed site and mobile clinic facilities for the analysis, examination and treatment of respiratory and pulmonary impairments in coal miners and an additional $10 million for research in respiratory and pulmonary diseases among miners.

Mr. FLOOD. Yes, I know that. I know it very well, indeed.

Mr. HECHLER of West Virginia. I would strongly urge the gentleman from Pennsylvania that in the event this amount should come up in conference, it would receive support from this body. I would certainly hope that this amount, which is a very small amount in an area which the gentleman from Pennsylvania is the recognized leader, can be included in this legislation.

I would ask the gentleman from Pennsylvania if he feels there are any possibilities in the future of including this very vital amount.

Mr. FLOOD. As the gentleman from West Virginia is aware, I was a cosponsor of the original bill on black lung. I am from the hard coal area—and he is from the soft coal area—I am from the anthracite coal fields and he is from the bituminous coal fields.

I know he is aware of my concern. I join with the gentleman. I cannot speak for those Members who may be appointed as House conferees, and of course I do not know what the other body will do. However, I can assure the gentlemen I am in his corner.

Mr. GROSS. Mr. Chairman, will the gentleman from Pennsylvania yield briefly?

Mr. FLOOD. To my friend, the gentleman from Iowa, of course.

Mr. GROSS. I thank the gentleman for yielding.

Mr. Chairman, when this bill was originally before the House, if I remember correctly the gentleman said there was some $4,900,000,000 that was not included in that measure, but which would be forthcoming in a supplemental appropriation bill.

Is that $4,900,000,000 now included in this bill?

Mr. FLOOD. No, no—it is not.

As a matter of fact, we are going to start hearings on Thursday on that group of items.

Mr. GROSS. Also at that time, the gentleman said that the original bill, in all its ramifications including social security trust funds and the supplementals, would total $100 billion or approximately that amount.

Mr. FLOOD. As usual, the gentleman's memory is excellent.

I also want to say, dramatically, as I often do, for the first time in history, the whole Labor-HEW package will be bigger than the bill for the Department of Defense, believe it or not.

Mr. GROSS. Yes, the gentleman made some such statement at the time the bill was originally considered. Now is the bill below or still at the $100 billion level?

Mr. FLOOD. When the trust funds are included I am inclined to think that the total, also including the supplemental appropriations on which we will start hearings day after tomorrow, will slightly exceed $100 billion.

Mr. GROSS. I thank the gentleman.

Mr. MICHEL. Mr. Chairman, in talking about this new bill, I think we need to remember that the bill that was sent to the President was proportionally more over the budget than the total figures show. A $1.8 billion overage on a $29 billion budget comes out to a little more than 6 percent, but when you strip away the uncontrollables and the Labor Department—which was actually under the budget, you wind up with an actual budget base of about $8 billion, to which Congress added the $1.8 billion. This comes out in the neighborhood of 22 percent over the budget request.

And, when you take it on an item-by-item basis counting only those specific budget items which Congress increased, you get an actual base of about $6.8 billion, of which an additional $1.8 billion is more than 26 percent.

The bill we are bringing you this afternoon is still well over the budget recommendations—more than $835 million.

The chairman has already told you how we arrived at that figure, so I am just going to hit the high points of what that $835 million includes.

This bill provides $113,750,000 above the President's recommended budget level for mental health.

This increase includes the bulk of the psychiatric residency training funds originally restored by your subcommittee. It also includes substantial increases over the budget for community mental health center staffing and construction, and for the mental health of children, as well as for alcoholism grants.

Health services planning and development includes $115,400,000 over the budget, going primarily to regional medical programs and Hill-Burton medical facilities construction.

Health services delivery is at the budget figure, which is some 13 percent over the 1972 level. This includes a substantial increase in family planning services as well as increases in grants for maternal and child health and comprehensive health services.

Preventive health services is more than $14 million over the comparable 1972 level. This includes increases for the disease control programs as well as the lead-based paint program.

The budgets of the NIH Research Institutes would be increased by about $125 million, as you can see from the report. And, the administration's request for the Institutes was itself more than $100 million over the 1972 level.

Health manpower is more than $179 million over the budget, bringing the total NIH increase to more than $304 million.

The biggest increase over the budget in education is in impact aid, and our figure here is about $30 million over the 1972 level.

The $12.5 million increase for education for the handicapped goes into the State grant programs, and the $50 million increase for vocational and adult education is also targeted for basic grants to the States.

Library resources receive an increase of more than $26 million over the budget, and educational renewal some $3.7 million over, including increases for bilingual education.

Including the four other budgeted items, then—work incentives, grants for the developmentally disabled, the black lung benefits and the Corporation for Public Broadcasting—we have a bill totaling $29,603,448,500, which is $835,815,000 over the budget and $935,471,000 less than the vetoed bill.

In conclusion I might say I am not very happy with this new version of our Labor-HEW appropriation bill. Having suffered a veto of our original bill and having it sustained, it was my feeling we ought to begin our deliberations in our subcommittee at a level something in the neighborhood of $600 million over the budget feeling that could be very well justified and conceivably we could escape a second veto. I would have held to the 1973 budget figures except for restoring the cuts made in 1972 items and added $50 million for impacted aid.

There was not exactly a great deal of support in the subcommittee for that kind of proposal, and the majority of the subcommittee felt that notwithstanding this big figure, if it should be vetoed the second time, there are sufficient votes in the House to override. My concern is this whopping big increase of $835 million over the budget. If just another $150 million is added in the other body, which he had the proclivity in the past for raising our bills by a half billion to a billion, we will be talking about a bill that will still be a billion dollars over the President's budget.

I do not care how laudable the program, how good its merits are, talking about them as individual items, the President really in effect has the whip hand, and he can easily go to the American people and say, "Here is a bill that is a billion dollars over the budget." I think he can make it stick a second time if he is inclined to do so.

So I am not making any really big,

grandiose plea here for an overwhelming vote of confidence for this bill that is $835 million over the budget. I have got to support it because I supported the original bill at a level of $912 million. I think my credibility would be tarnished if I did not, but I also served notice on the committee that if it is raised 1 cent on this floor or in conference, then I reserve the right to be opposed to it and to sustain a second Presidential veto if there is one. I just want to raise the caution flag here today. If anybody has any ideas about adding any money on this floor today, we are running the real risk definitely of a second veto. The chairman and the majority of the members of the subcommittee have gone as far as they possibly could to try to meet the tremendous pressures we feel from the different special interest groups around the country. I would certainly hope that in this climate, whatever it might be, Members would see fit to sustain this committee today at this level and not prejudice the case against the entire bill by offering amendments to increase any item in it.

Now, Mr. Chairman, I shall be happy to yield for questions.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to a valued member of our subcommittee with whom we have a few differences now and then but one who certainly has a great deal to offer in the deliberations of our subcommittee, the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Chairman, I thank the gentleman from Illinois for a very fine statement. Even though I do not agree with all he has stated here today.

There was a colloquy between the gentleman from West Virginia and the chairman of the subcommittee with regard to black lung disease and the suggestion was made that there should be $20 million-plus for research. However, at the insistence of the gentleman from Pennsylvania, the chairman, and under his great leadership, there is more than a billion and a half dollars for black lung disease in this bill. I hope this will not be increased in the other body or in conference.

Mr. MICHEL. I would certainly sustain the gentleman's point of view. As I recall there is $1,526,000,000 in this bill for black lung disease benefits. I think everybody has enough to crow about with that figure without adding another $10 million or $20 million for that purpose.

Mr. COLLIER. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Illinois.

Mr. COLLIER. Mr. Chairman, I think it would be appropriate at this time to remind the Members of this House that presently the House Ways and Means Committee is considering legislation to increase the national debt or the national debt ceiling to $465 billion. The Congress has already busted the President's budget to the extent of $6.2 billion, and with work on appropriation bills yet to come. It is going to be interesting to see how many of those who have participated in the budget-busting activity and their position on this bill will vote when we get around to the debt ceiling bill. If the past is prologue there will be a great deal of demagoguery on this floor.

Mr. MICHEL. I am very happy the gentleman brought that up at this point because it is something that ought to be discussed. Those who feel so inclined to raise the President's budget figures ought to, as the gentleman suggests, be willing to go along with an increase in the debt ceiling.

Mr. FLOOD. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Texas, the chairman of the House Committee on Appropriations.

CONGRESSIONAL ACTION ON THE BUDGET

Mr. MAHON. Mr. Chairman, some reference has been made to the effect of congressional actions on the budget.

In every year that I can recall, the Congress has made changes in the recommendations of the executive branch. It has cut the budget in places. It has increased the budget in places. Congress always makes many changes in the budget.

This year is no exception in that respect. If I may so state it, changing many of the budget recommendations of the President—every President—is standard congressional procedure. I expect it will always be so.

As to the present session, relating to the current fiscal year 1973, it now appears beyond all reasonable doubt that the Congress, in the traditional annual appropriation bills which are processed through the Committee on Appropriations, will in the aggregate, appropriate less than the total requested by the President and considered in connection with those bills. Some bills will be above the budget requests and other bills will be below the budget requests as Congress works its will on the various spending programs. I would say the appropriation bill grand total will be within the President's grand total request handled in the appropriation bills even if we were to count in the vetoed Labor-HEW appropriation.

But taking the new Labor-HEW bill pending before us today, I would hazard the prediction that the annual appropriation bills, for fiscal 1973 at this session, will total perhaps $2 to $3 billion less than the related appropriation requests, in sharp contrast to the $6 billion excess mentioned by a distinguished friend, the gentleman from Illinois (Mr. COLLIER). In any event, to repeat, the appropriation bills will not in total exceed the related budget requests of the President.

Now, Mr. Chairman, it is true that in a number of nonappropriation bills handled through the legislative committees—some of which have been enacted into law and some of which are not yet finally enacted—the Congress has already breached the President's spending recommendations or seems poised to do so. Let me cite the major bills.

In the bill raising social security benefits, which came out to the Committee on Ways and Means, and of which the gentleman from Illinois (Mr. COLLIER) is an able member, Congress raised the benefits 20 percent as against the President's 5 percent recommendation, and this is estimated to exceed the President's budget spending estimate for fiscal year 1973 by about $2.1 billion. The President signed the bill, but in relation to his budget, it is $2.1 billion above it.

The so-called black lung benefits bill, out of the Committee on Education and Labor, in its enacted form mandates spending in fiscal year 1973 of some $968 million above the President's budget spending estimate. The President signed the bill, but in relation to his budget, it is about a billion dollars above it.

Then there is the so-called clean water bill out of the Committee on Public Works. It is, I believe, now pending in conference. It carries $18 billion in backdoor contract authority for waste treatment construction grants spread over a 3-year period, fiscal years 1972–75. For fiscal year 1973, the House version provides $5 billion above the President's request for fiscal year 1973. Those figures refer to new spending authority, not actual expenditures. I do not have a firm expenditure figure at my fingertips but here again, it may perhaps exceed the President's budget spending estimate. We do not, of course, know whether the President will sign that bill if and when it reaches his desk.

There are a number of other nonappropriation bills that mandate spending in fiscal year 1973 above the budget, several relating to veterans' programs, which the President has signed. Some are still pending final enactment.

THE PENDING LABOR-HEW BILL

As I have just pointed out, Congress is making perhaps a fair record of exhibiting restraint in the annual appropriation bills. In my judgment, we did go overboard on the vetoed HEW appropriations bill, in the name of humanity perhaps, but nevertheless we did.

The President vetoed the bill. Now, I make the plea that the House not go above the figures in the present bill.

APPROPRIATION BILLS OF THE SESSION

Now, let me recite that there are nine regular appropriation bills for fiscal 1973 which have been signed into law plus the disaster relief appropriation bill, making 10 of the bills for fiscal 1973. This does not count the vetoed HEW bill.

The Congress at this moment in bills signed into law is above the President's budget in these appropriation bills in the sum of $322 million. So we are above the President's budget, not by $6 billion, but by about $322 million at this moment.

If we add the sums of money by which we are over the budget in the pending Labor-HEW bill; namely, $835 million, we run over the budget $1,157 million. So, we would be over the President's budget, if this bill were to be enacted into law as it reads today in the sum which I have just stated.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. FLOOD. Mr. Chairman, I yield 5 additional minutes to the gentleman from Texas.

Mr. MAHON. But, what bills remain? The House has already passed the defense appropriation bill which is $4.3 billion below the budget. That wipes out, insofar as the House is concerned, appropriations approved over the budget. But the Senate has not acted on the bill and we do not know what amount finally may be enacted into law.

We have approved in the Appropriations Committee the foreign aid bill and it is scheduled for House action this week. The committee cut is $967 million.

In the military construction bill I estimate there will be no increase over the budget; probably a decrease below the budget.

I would say that with respect to budgeted and unbudgeted funds, the final supplemental bill will probably be about a draw, but we cannot be precise as to what that situation may be.

I have been speaking only of annual appropriation bills applicable to the 1973 budget.

We cut the appropriation bills for fiscal year 1972 budget which were before us this session by some $400 million, but we are not taking that into account at the moment.

NONAPPROPRIATION BILLS MANDATING SPENDING

In order to understand the total impact of the Congress on the spending budget, one must take into consideration the actions of the Congress in nonappropriation bills which mandate spending. In this regard there have been several significant actions at this session to which I have made some reference.

To repeat somewhat, Members will recall that Congress enacted and the President signed into law the social security bill which will produce a budget-busting expenditure of about $2.1 billion this year, and which I agree is needed. My concern was that the bill did not provide safeguards for the social security trust fund so vital to the welfare of those who depend upon social security assistance.

Another is the black lung bill to which reference has been made, and another is the so-called clean water bill.

There are various other bills which I will not undertake to enumerate, including bills involving veterans, which have not been finalized. They are all accounted for in the budget scorekeeping reports of the Joint Committee on Reduction of Federal Expenditures.

So, in summary, Mr. Chairman, although it is too early to give a precise number it is now evident that when the Congress has completed its work at this session, the annual appropriation bills of the Congress—not of the House or of the Senate but of the Congress—will be very considerably below the President's budget. However, appropriations reductions may very well be more than offset by various actions in nonappropriation bills.

It is important, as I see it, in dealing with the pending Labor-HEW bill, that we bear firmly in mind the necessity of practicing restraint because we are in a very serious situation from the standpoint of maintaining the fiscal integrity of this country. If we do not maintain the fiscal integrity of this country everybody will lose, the rich and the poor, the young and the old.

Mr. COLLIER. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I am pleased to yield to my distinguished friend from Illinois.

Mr. COLLIER. Yes. I am trying at this point to clarify the reference which the distinguished gentleman from Texas made previously with respect to the Ways and Means Committee.

We are all well aware that the Ways and Means Committee did not report a bill with a 20-percent increase in social security. In fact, that was a creation of the Finance Committee in the other body, attached as a rider, as we know, to the debt ceiling bill, and brought before the House in a manner where it was possible only to have one effort to reduce. The record clearly shows who voted to reduce and who did not.

I believe the significant thing is that this comes, as we know, out of the trust fund. I know we talk in terms of a unified budget and not an administrative budget, but there is indeed an adequate amount, based on the projected income to the social security trust fund, to take care even of the 20-percent increase.

So I believe that the gentleman, in charging the Ways and Means Committee, did overlook the procedure by which the increase measure was jammed through by the other body.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

Mr. FLOOD. Mr. Chairman, I yield the gentleman an additional 5 minutes.

Mr. MAHON. With respect to the 20-percent increase in social security benefits, there were those who voted against the proposal, not because they felt the increase in social security benefits was not needed—I believe it was needed myself—but because proper provision was not made to safeguard the integrity of the trust fund.

Of course, I realize that is a controversial issue. Some members of the Committee on Ways and Means said these additional benefits could be provided without jeopardizing the integrity of the trust fund. I hope that is correct, but I am among those who have some concern about that matter.

Mr. COLLIER. Will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Illinois.

Mr. COLLIER. I merely felt the record in light of the gentleman's statement—and I know the distinguished gentleman did not mean to leave any impression that the Committee on Ways and Means in alluding, as he did, to the 20-percent increase in social security rendered some kind of fiscal irresponsibility on the part of the committee.

I repeat, H.R. 1, which is the original social security bill, did not provide for a 20-percent increase, but it sought to correct a lot of other inequities in the social security law, and that has been laying in the other body for over 15 months, so I do not think it can be laid at the doorstep of the Committee on Ways and Means in the light of what actually happened in terms of the process of this particular bill.

Mr. MAHON. I thank the gentleman. I believe this colloquy will create a better understanding of the fiscal problems which confront us.

The CHAIRMAN. The gentleman has consumed 13 minutes.

Mr. MICHEL. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas (Mr. SHRIVER).

Mr. SHRIVER. Mr. Chairman, it is now more than 3 months since the House first considered our committee's recommendations for fiscal 1973 funding for the programs administered by the Departments of Labor and Health, Education, and Welfare. We all remember the history of that bill—how it was increased substantially on the floor of the House with a "package" amendment; how the other body added still more hundreds of millions over the President's budget requests; and how the President reacted.

Most of us remember that the House was warned by our distinguished chairman and ranking minority member of the subcommittee on June 15 that the addition of these funds would inevitably bring a veto and the subsequent delay in final action. Their predictions were based on recent history, and they proved to be very accurate.

Now our subcommittee has reported out a new bill in the hope that the compromise figures recommended will be acceptable both to Congress and to the President.

Our school administrators and health research and delivery personnel have waited patiently for almost 3 months into this fiscal year to find out how much they are supposed to be spending, so prompt action on this bill is imperative.

It is not easy to cut back on human resources appropriations which have once been enacted by the Congress. Interest groups in behalf of many of these programs have contacted the members of our subcommittee urging that cutbacks not be made in their specialties, and in most cases their arguments have merit.

However, the President made it very clear in his veto message that he would again veto any bill which contained only token cuts below the amounts in the rejected bill. Our subcommittee is therefore recommending an appropriation of $29.6 billion in this bill. This is $935 million below the total in the vetoed bill.

We realize that this represents a substantial reduction below the amount Congress has indicated it would like to spend for these programs, but it is still $836 million above the budget requests.

We have attempted to direct these increases over the budget into the areas of greatest need. More than one-half billion dollars of the increase is for health research and delivery programs. Three hundred million dollars of the increase is for education. Full funding is again recommended for the emergency employment program.

Just as the case in the original recommendations by our subcommittee last June, this bill includes significant increases in selected areas over the fiscal 1972 appropriations. The $728 million in this bill for mental health programs is

$116 million higher than last year. Twenty-nine million dollars of this increase is for the community mental health centers.

The $485 million in this bill for the National Cancer Institute represents an increase of $106 million over last year. The National Heart and Lung Institute will receive an increase of $62 million, or 27 percent more than last year. Nearly $40 million more is recommended for health manpower programs.

The new bill includes $641 million for the impacted area aid program for elementary and secondary education, an increase of $30 million over fiscal 1972, and $210 million over the budget request for this popular program. If our subcommittee had accepted the budget figures for this program, my own State of Kansas would have lost $2.7 million in badly needed education assistance. We have one school district in my home county which would have had to double its property taxes to compensate for this loss.

Mr. Chairman, it is regrettable that here we are in the latter part of September making a somewhat hasty attempt to put together an acceptable bill to fund programs which should have been funded long ago. We know that this is not the idea appropriating procedure. The members of our subcommittee do not like to use a set percentage like this 12½ percent cutback in the largest increases as the basis for arriving at these figures. We held months of hearings and heard 7,500 pages of testimony on all of these programs, and we know that a more selective procedure would be preferable.

But it is late September, and we still must wait for the other body to act on this bill. I hope they do not load it up again like a Christmas tree, or I am afraid we will still be around here at Christmastime trying to write an acceptable bill.

I strongly urge that this bill be passed as reported.

Mr. FLOOD. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from West Virginia (Mr. HECHLER).

Mr. HECHLER of West Virginia. Mr. Chairman, with reference to the statement made, I believe by the gentleman from Massachusetts (Mr. CONTE) and the gentleman from Illinois (Mr. MICHEL) concerning including about $1 billion of payments to disabled coal miners for black lung disease, this is profligate spending for past neglect. We are spending $1 billion for past neglect by both the coal industry, the medical profession, and the Nation.

What we must do in this Congress is to take action that will prevent black lung disease developing in the future so that we can save billions of dollars. If we can afford to spend $1 billion to pay for past neglect, then certainly this Congress ought to be able to afford $10 million for the necessary pulmonary clinics, $10 million for the necessary pulmonary research that will serve to prevent black lung disease and save us the billions of dollars that otherwise would have to be spent in paying out for the neglect of those who work and have toiled underground in the coal mines.

I would certainly urge that more attention be paid to the funds that were authorized by a vote of over 2 to 1 on the 10th of May of this year which were included by both the House and the Senate in their votes in June on this bill.

Congress in the 1969 Federal Coal Mine Health and Safety Act declared that the first priority and concern of all the coal mining industry must be the health and safety of its most precious resource—the miner. The 1972 Black Lung Amendments authorized $10 million a year for 3 years for fixed-site and mobile clinical facilities for the analysis, examination, and treatment of respiratory and pulmonary impairments in coal miners. It also authorized funds for research into this field. The House on June 15 and the Senate on June 27 in the HEW-Labor appropriations bill voted for the $10 million for clinics and $10 million for respiratory and pulmonary research.

This bill we are considering today has a glaring omission—it provides no funds for these urgently needed clinics and for this vital research. There is a tremendous need for diagnostic clinics and labs to evaluate the disabling effects of black lung. Much more needs to be known about a method of detecting early the signs of function impairment among coal miners. The law provides that if a miner shows signs of black lung, he can be moved to another place in the mine where the dust level is lower. However, why can we not prevent a miner from becoming disabled from this disease? Much more research needs to be done on early detection.

In southern West Virginia the only adequate facility doing diagnostic studies is the Beckley Appalachian Regional Hospital. Twenty-five percent of the coal miners in this country live in West Virginia, 25 percent in Pennsylvania, and 25 percent in Kentucky. Eighty-five percent of the coal miners live in Appalachia. In Pennsylvania where the State law and better medical facilities produce better records and information, the rate of approvals on black lung claims is much higher. But Pennsylvania would not deny the need for these clinics and the need for research. Why should miners from other States be penalized because there are not adequate medical facilities and enough knowledgeable doctors.

The black lung amendments authorized the money needed for research through the National Institute for Occupational Safety and Health to devise simple, effective tests to measure, detect and treat coal miners' pulmonary and respiratory impairments. It is estimated by the National Institute of Occupational Safety and Health that up to 20 new mobile and fixed site pulmonary function clinics would be funded to the extent of $9.2 million, with the other $800,000 for training of local personnel and administrative costs. Also it is estimated that possibly as many as 40 existing clinics could be refurbished to serve as pulmonary function clinics; $10 million for each additional year for the next 2 fiscal years would be necessary for operating costs. The Appalachian Regional Commission already has $1.3 million which it would use in close cooperation with the National Institute for Occupational Safety and Health in developing these clinics and other medical programs.

The Senate Appropriation Committee report states that:

> This action will allow the National Institute for Occupational Safety and Health to assist, to the maximum extent possible, those presently suffering from black lung disease and to insure that no miner will be denied his deserved black lung benefits because of inconclusive diagnostic procedures.

It is my belief that these funds will provide an important step forward in the development of health standards and programs to benefit coal miners.

The committee report to accompany H.R. 16664, the bill before us now, states:

> It . . . seemed reasonable to the Committee to report out a new bill that would . . . still retain some of the increases that a majority of the Members consider to be very important and worthwhile.

On May 10 of this year by a vote of 275 to 122 this House showed that a majority of the Members consider these clinics and this research to be "very important and worthwhile." I strongly urge that the necessary funds for these programs be restored.

I think that this is a very minor amount compared to the billions of dollars in this bill. This is an investment and will help the budget, and for that reason it is fully as important as the billions that we are spending in justified payments to the miners.

The CHAIRMAN. The time of the gentleman from West Virginia has expired.

Mr. MICHEL. Mr. Chairman, I yield 2 additional minutes to the gentleman from West Virginia (Mr. HECHLER).

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, what I tried to do was to point out to the gentleman from Illinois that there is $1,526,000,000 because of the leadership of the gentleman from Pennsylvania in this budget for black lung disease. I voted against the authorizing legislation. However, I am with the gentleman from West Virginia in the well in trying to correct the situation in the mines 100 percent. I voted against the black lung legislation not because I was against the program, but because I felt that it discriminates against the millions and millions of Americans who are on social security. Every week when I go home I have people hobbling into my office complaining because they cannot receive disability payments under social security because they have to prove that they are totally disabled. And I thought when we amended this law we should have amended it for each and every one across the board. The only thing I tried to point out is that that there is $1,526,000,000 in here for only one small segment of our society, thanks to the leadership of the gentleman from Pennsylvania.

Mr. HECHLER of West Virginia. I thank the gentleman from Massachusetts. I say let us move ahead and do the things the gentleman from Massachusetts suggests across the board, but let us also engage in a little more investment in prevention so that we do not have to spend billions of dollars in the future to pay for past neglect.

Mr. FLOOD. Mr. Chairman, I have no further requests for time.

Mr. MICHEL. Mr. Chairman, I have a request for time from the gentleman from Massachusetts (Mr. CONTE) who would like to be heard for 5 minutes, and I, therefore, yield 5 minutes to the gentleman for that purpose.

Mr. CONTE. Mr. Chairman, it is most unfortunate that, in the third month of fiscal year 1973, we still do not have an appropriations bill for the Departments of Labor, and Health, Education, and Welfare. Literally hundreds of programs are hamstrung because of uncertainties as to their funding level for this fiscal year.

The situation is particularly acute with respect to the education programs covered in this bill. It is essential that the Nation's educators have an accurate indication well in advance of the next school year of the sums that will be forthcoming from the Office of Education. This permits them to provide for proper planning and intelligent execution of these important programs.

It is distressingly obvious that they have not had this opportunity this year. Consequently, to delay any further would be calamitous.

Well aware of how crucial this timing factor is, the members of the Labor-HEW Subcommittee have made a conscientious attempt to report out a bill that should be acceptable to this Chamber and must be quickly approved.

As most of you can readily appreciate, the subcommittee was under intense pressure from forces with conflicting interests. On the one hand, the administration is concerned that we respect the request levels which it submitted to the Congress.

On the other hand, groups from throughout the country with a legitimate interest in the educational, health, and safety needs of all our citizens pleaded with the Members to hold the line on Congress' original recommendations.

Under these circumstances, we had some difficult decisions to make, but I believe we have produced a satisfactory compromise and I urge my colleagues to endorse it.

Admittedly our bill is almost $836 million above the administration's request. Yet the $29.6 billion price tag in the bill comes to less than 40 percent of the amount we approved for the defense appropriations bill last Thursday, which was nearly $75 billion. And the $836 million increase is more than offset by the $4.3 billion decrease which the Appropriations Committee recommended for the Defense bill.

No one can deny the need for a strong national defense. But at the same time, we cannot ignore our compelling responsibility to improve the health, education, and working conditions of our people. This bill, which represents a $2.2 billion increase over last year's measure, is a conscientious attempt to fulfill that commitment.

Mr. Chairman, before closing, I want to say a few words in regards to the Library Services and Construction Act, and title II of the Elementary and Secondary Education Act.

Mr. Chairman, library resources are a tremendous asset to our Nation. This is why we must support them with such programs as the Library Services and Construction Act and title II of the Elementary and Secondary Education Act. I was pleased our subcommittee recommended the same funding level for these programs that it recommended last June. H.R. 16654 will not force our library programs to take a cut in funding from the 1972 fiscal year level.

Mr. Chairman, last month the Massachusetts Bureau of Library Extension prepared a report on special projects that have been undertaken in Massachusetts under the Library Services and Construction Act. The Forbes Library in Northampton, for example, has initiated an audio program to reach and serve those members of the Northampton and Hampshire County community who have not been able to use or have been unaware of the library or its services. The library, in cooperation with various community agencies, has designed audio facilities to serve the following groups: the preschool child; the functionally illiterate; the educationally disadvantaged; the elderly; and physically handicapped, including both the mentally retarded and the environmentally retarded child. The South Hadley Library system provides special library services for children with learning disabilities with the help of a small grant from LSCA. Similar programs are underway all over the State of Massachusetts. Such activities cannot be continued if LSCA and ESEA II funds are reduced below the fiscal year 1972 level. For this reason, I am pleased that the subcommittee has recommended no cuts for these programs. I only regret that it has not been possible to provide a substantial increase so that important programs of this kind can be expanded. All our citizens benefit from the Nation's public and school library systems.

Mr. MICHEL. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa (Mr. SCHERLE).

Mr. SCHERLE. Mr. Chairman, I thank the gentleman for yielding. I am concerned that funds for construction under the Health Manpower Act have been cut. Last year, Iowa State University received Federal funds under this act for Phase I construction of its new school of veterinary medicine. ISU now awaits approval of an additional grant for phase II.

According to William Whitman, director of the physical plant department at ISU, estimated construction costs for the new facility will not rise if the money is received before April 1, 1973. If, however, the funds are not released until after that date, the total cost of the project will increase about 20 percent, or $1,889,461, due to inflation and the loss of expected savings from working both contracts at once. Furthermore, if the money is delayed until after November 1, 1973, an additional surcharge will bring the total increment to $3,023,138. In addition to saving money for the Federal taxpayer, speedy action will also aid Iowans who are providing up to $3 million in matching funds.

It therefore makes good economic sense for HEW to use some of the money earmarked in this bill for construction of new veterinary schools before April 1 of next year to complete the new ISU College of Veterinary Medicine. With permission, I will insert in the RECORD a chart prepared by Mr. Whitman showing the incremental costs of delay in ISU's case:

IOWA STATE UNIVERSITY, NEW COLLEGE OF VETERINARY MEDICINE

If both contracts awarded by—	Phase 1	Phase 2	Total	Increase per year	Total increase
Apr. 1, 1973	$541, 394	$8, 905, 913	$9, 447, 307	0	0
Nov. 1, 1973	694, 672	10, 687, 096	11, 336, 768	$1, 889, 461	$1, 889, 461
Nov. 1, 1974	714, 639	11, 755, 806	12, 470, 445	1, 133, 677	3, 023. 138

Mr. MICHEL. Mr. Chairman, I might say in response to the gentlman from Iowa who has talked to members of the subcommittee on several occasions with respect to his interest in the School of Veterinary Medicine at Iowa State University that, having proceeded with phase I, I am sure the Federal Government is not going to be defaulting on its obligation to proceed with the other phases of the project at that great institution.

I think the point he makes with respect to spiraling costs in construction, the sooner we get it done, the better off we are. I think we ought to use this colloquy, to try to spur HEW and the Office of Budget Management to not withhold the funds where we have already made a commitment to proceed on such a laudable project as this one.

Mr. SCHERLE. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman.

Mr. SCHERLE. Mr. Chairman, I thank my colleague for his generous remarks and his support for the School of Veterinary Medicine at Iowa State.

Mr. MICHEL. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. ESCH).

Mr. ESCH. Mr. Chairman, the action of the Appropriations Committee for HEW, Labor, and other agencies in eliminating all funds for title III of the National Defense and Education Act and title VI of the Higher Education Act is unfortunate.

These are two program that have regularly enjoyed wide support among teachers and school administrators, and with reason. For over the years they have been efficiently administered and extremely effective in improving the quality of education in our elementary and secondary schools and in colleges.

Recent polls among school administrators have shown title III to be the second most popular of all Federal educational assistance programs, second only to title II of the Elementary and Secondary Education Act.

Both programs are 50–50 matching, and each fills a specific need. This need is not decreasing; on the contrary, growing demands on our school systems and small community colleges make these programs more vital than ever.

It is difficult to understand how the Appropriations Committee can completely disregard the importance which we on the Education and Labor Committee have regularly placed upon these programs. The Congress has each year authorized funds substantially in excess of appropriated amounts, because of testimony from all parts of the country indicating that these programs are important for the quality education of our children.

Relatively small amounts of money are involved, in fact, it can be said that title VI has been held back practically to pilot program levels. But this has not prevented both programs from doing an excellent job in an area where there is no overlapping with other programs.

In 1958 there were only 46 language laboratories in the country; today there are more than 10,000 because of title III of NDEA. Teaching institutes provided under 1964 amendments to this title have provided training for more than 90,000 teachers, school librarians, and media specialists, thereby improving the quality of education for more than 12 million students annually.

Reductions in the programs from last year's cutback levels of $50 million for title III and $12.5 million for title VI would result in considerable damage. Their complete elimination, as proposed by the Appropriations Committee, would cause irreparable harm to our schools.

It is estimated that more than 45 percent of the elementary schools in the country still possess no central book or teaching aid collections at all, while 70 percent of those libraries that do exist cannot meet minimum standards of the American Library Association. Language and other reference materials are frequent nonexistent.

This is not the time to slash going programs which have proved their effectiveness.

Mr. MICHEL. Mr. Chairman, I yield to the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Chairman, I wonder if I could direct a question to the gentleman from Illinois who has been most considerate in answering questions from all of us, both informally and formally, here on the floor?

It is my understanding that the impact aid funds in this bill, for the B category, is at a level of 73 percent.

Is that percentage figure accurate?

Mr. MICHEL. Yes, that is true. That would be the same as last year's allocation.

Mr. DON H. CLAUSEN. This is consistent with last year's level of funding then?

Mr. MICHEL. Although we have $30 million more in the bill this year than we had last year to compensate for this increase that would be required to sustain that same kind of percentage.

Mr. DON H. CLAUSEN. Mr. Chairman, I do want to thank the gentleman and the other members of the committee and the staff who have considered and approved our request to up the amount because this is of general concern, I am sure, to many of us who have congressional districts wherein the matter of Public Law 874 Federal impact aid funds is a matter of great concern to the school districts involved.

Mr. MICHEL. I thank the gentleman. Of course, you recognize this is one of the biggest increases over the budget in the entire bill for impacted aid, and I think of all of the Members who have that particular problem in their area have no reason whatsoever to question this figure because it more than adequately takes care of them.

Mr. FRENZEL. Mr. Chairman, I intend to vote for H.R. 16654, the HEW appropriation which has been presented as a substitute for the previously vetoed version. The vetoed bill was nearly $2 billion over the budget. This one is about $800 million over the budget, but that seems to me as close as we can come, based on the previous bill.

However, if this bill is increased substantially in conference, I will not hesitate to sustain a veto. The Congress cannot allow our fiscal deficits to mount forever.

The Fisher amendment—similar to the Findley amendment of the vetoed bill—deserves support. It is really not a proper remedy, but it is the only remedy available.

I fully support the Steiger consultation bill, but the Fisher amendment is a bird in the hand while the Steiger bill is one in the bush. The DOL has not taken the Congress seriously in our many complaints against OSHA. I hope this amendment attracts DOL attention. The goals of OSHA are too desirable to allow it to fall into disrepute because of poor administration.

Mr. MICHEL. Mr. Chairman, I have no further requests for time.

Mr. FLOOD. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk proceeded to read the bill.

Mr. FLOOD (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, and be subject to points of order and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there any points of order to be made against this bill?

Are there any amendments to be proposed?

AMENDMENT OFFERED BY MR. FISHER

Mr. FISHER. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $69,207,000.

The Clerk read as follows:

Amendment offered by Mr. FISHER: On page 6, after line 24, add the following: "None of the funds appropriated by this Act shall be expended to pay the salaries of any employees of the Federal Government who inspect firms employing 15 persons or less for compliance with the Occupational Safety and Health Act of 1970."

Mr. FISHER. Mr. Chairman, this amendment is identical with the one which was offered by the gentleman from Illinois (Mr. FINDLEY) when the HEW appropriation bill was being debated last June, except that the number of employees referred to is 15.

This amendment simply provides that none of the funds shall be used to pay salaries of any inspectors of firms employing 15 or less for compliance with the Occupation Safety and Health Act of 1970.

You will recall that last June 15 the Findley amendment was approved by a majority of 213 to 154. The other body reduced the number of employees to 15, and the conferees accepted the Senate version. That is why I have used that figure in my amendment.

Both the House and Senate having decisively approved the amendment, one would expect that the Appropriations Committee in rewriting the HEW bill would have honored the will of the Congress and have included the same OSHA amendment as was approved and contained in the bill that was vetoed. But that was not done, and that explains why we must go through this same procedure again.

Certainly the situation which prompted 213 Members to vote for the Findley amendment in June has not improved in September. In fact, according to reports from over the country the problem which calls for this amendment is getting worse all the time.

Mr. Chairman, we are all for safety, but the manner in which OSHA is being enforced is calculated to penalize employers rather than assist them in promoting a safe and healthy environment for their employees. Members of Congress simply could not have envisioned what would happen to employers when the law was enacted.

The act itself has proven to be a monstrosity and the manner in which it is being implemented and enforced is even worse. Safety and health standards promulgated by the Secretary of Labor, thus becoming the "law of the land," were hurriedly passed, with little concern about the effect on employers. The Secretary incorporated nearly 100,000 safety standards from over 300 "consensus" standards with no adequate investigation into their complexity.

As a result, under present regulations the lighting of almost every building in the country will have to be rewired, even though in full compliance with local electric codes.

Nearly every stairwell will have to be modified.

All piping will have to be color-coded and new heating and ventilating systems will have to be installed, or run the risk of heavy penalties.

New bathrooms will have to be constructed to comply with the act's requirement to provide "men's" and "ladies" bathrooms, even though they are not needed by the "moms" and "pops" who are the only employees of an establishment and who manage to get along just fine with one bathroom at home.

Now, under new law enacted by OSHA's regulations, you have to have split toilet seats rather than round toilet seats.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. FISHER was allowed to proceed for 2 additional minutes.)

Mr. FISHER. Mr. Chairman, then there is the matter of standards relating to types of building construction and construction materials. Total compliance costs will inevitably run into the billions. Many, many small businesses will have to spend $1,000, $2,000, or perhaps $5,000 in order to bring themselves into compliance. Some will be forced to shut down. And many of these standards are simply absurd. Many apply to big business as well as the farm or small business with only a few employees.

Now, big business can live with these things. Big business can absorb the added cost. Big business has lawyers on retainer and they have full-time safety engineers. But what about the little guy? He simply cannot afford to spend $500 or a thousand dollars on lawyer fees. And many of them cannot afford to make structural changes to comply with new notions about stairways, bathroom walls, floors, and what have you.

The pending amendment will, if finally enacted, provide some relief. It will exempt the small firms where relatively few accidents occur. Moreover, many of the States now have their own health and safety laws which would continue to apply to the small operators we would by this amendment release from the clutches of Federal bureaucracy.

There is an obvious and imperative need for a new look, a new examination, of this the fastest growing bureaucracy in America today. Let us apply some brakes before too much damage is done to too many people who cannot afford and do not deserve this kind of treatment from their Federal Government.

Mr. FLOOD. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I did not know my distinguished friend, the gentleman from Texas, was going to offer this amendment. If anybody is more concerned about the small businessman than I am, I have not heard of him. The Members know the country I come from where the small businessman has become so important since the coal fields have practically disappeared. In 1945 I had 64,000 men working underground in my coal mines. There were 64,000. Do Members know how many I have today? I have 1,600. It is the small businessmen who brought back my district from 19.5 percent unemployment, back to the national average. Tragically Hurricane Agnes put us back considerably, but we will overcome that, too.

Most of the things that have been said just now are about 2 years late.

I agree that the original regulations that were established by the Department of Labor were, in some respects, silly and ridiculous. There is just no question about that. Even the Department of Labor agrees. We had them before the committee; the Secretary, the Under Secretary, the assistant to the assistant, a whole litany of saints down there, and we chewed them out, beginning with me, about the way this program has been administered.

It was a mess, but it is not now. Let us be fair about this. The trouble was that in their eagerness to get this program started they took some shortcuts. One of them was to borrow standards that had already been established under other programs and consolidate them into a set of standards for this program. This had the advantage of making it possible to publish the initial standards just 1 month after the authorizing act became effective, but it resulted in some standards that might fit a restaurant operation being made applicable to construction projects just because no one had enough time to analyze and make adjustments in these borrowed standards to make them reasonable for the new program.

The Department recognized this and has done a good job of correcting it. Even back in April, when we had hearings with the Department officials regarding this program, they had gone a long ways toward straightening out this problem. So let us not try to justify cuts and limitations on the current program by citing silly mistakes that were made a year or two ago and have since been corrected.

Mr. Chairman, let us look at the other side of the coin. What this amendment seeks to do is to deprive millions of workers of protection under the Occupational Safety and Health Act. Is this because they do not need protection? Heavens no. The accident rate is much higher in small plants than it is in large plants.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. FLOOD. Mr. Chairman, I ask unanimous consent that I may be permitted to proceed an additional minute.

This amendment would single out workers who most need the protection that the act rightfully guarantees them and would say to them: "Sorry Mac, we've changed our minds. You don't get any protection under the Act unless you quit your job with that small employer and go get a job in a big plant where you probably don't need the act's protection anyway."

Mr. Chairman, I think that is a completely unreasonable position, and I certainly hope the amendment will be defeated.

Mr. CONTE. Mr. Chairman, I too rise in opposition to this irresponsible attempt to hamper the Occupational Safety and Health Administration in dealing with the serious problem of industrial accidents in America.

The sad facts are these: There are a reported 14,500 deaths and 2½ million lost-time accidents a year. And HEW's National Center for Health Statistics indicates that injuries among male blue-collar workers may be 10 times the reported rate. Consider these sobering figures:

Each year 32 injured workers per 100 in the manufacturing industries require medical attention or are restricted in their activities because of injuries;

More than half the work force in western cities, where small businesses predominate, is injured in the course of a year;

Fifty percent of the manufacturing labor force suffers from chronic conditions associated with some 56 million bed-disability days.

In the face of these cruel statistics, we are now being asked to adopt an amendment which would eliminate from the coverage of the act some 25 to 35 percent of all nonfarmworkers in the country. To make matters worse, many of these workers are employed in industries deemed by the Department of Labor to be particularly hazardous: Longshoring, roofing, meatcutting, mobile home construction, and logging.

Let me cite one example of the harsh impact the adoption of this amendment would have. The logging industry has a disabling injury rate of about three times that of all manufacturing employees. And 96 percent of the more than 16,000 logging camps in this country have 20 or fewer workers. To exclude them from OSHA inspections would be grossly irresponsible and unjust.

Last June the Small Business Committee held 5 days of extensive hearings on problems that have been associated with the act. Nearly 2 million businesses throughout the country were represented by 48 trade organizations during the hearings and we considered the testimony of 83 witnesses.

It is interesting to note that, almost to a man, none favored the categorical exemption of small businesses from the provisions of the act.

The committee did uncover undeniable deficiencies. These include the need for easily comprehensible standards and on-site inspections without risk of penalty. Several recommendations were made to the Department of Labor regarding improvements in the act's administration that can and should be made. I and the other members of the committee intend to pay close attention to the Department's responses to these recommendations.

The committee also urged that the appropriate legislative committees favorably consider legislation which would permit on-site consultation inspections when requested by small businesses and that such inspections be performed without issuing citations or penalties unless an imminent danger exists.

I understand that an education and labor subcommittee is now holding hearings on this and other corrective legislation that may be needed. Clearly this is the rational approach to take in solving any problems created by the act.

To adopt the amendment that we are now considering would be a ludicrous example of throwing the baby out with the bathwater. It has no place in an appropriations bill and I urge my colleagues to defeat it.

Thank you, Mr. Chairman.

Mr. DELLENBACK. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to my good friend from Oregon.

Mr. DELLENBACK. I should like to commend the gentleman in the well for his stand on this particular matter. Those of us who are on the committee which has jurisdiction over this basic legislation are aware of the great need for this particular OSHA legislation. We are aware of the fact that there are drawbacks in the legislation as it exists, but the committee is engaging in oversight hearings on this particular matter. The type of correction which should be made should not be on the basis of this type of amendment, where we make an arbitrary drawing of a line and on the basis of numbers make a distinction.

I commend the gentleman in the well, and I rise with him in opposition to this amendment.

Mr. CONTE. I thank the gentleman.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the pressure is now on the Department to exercise better judgment in the implementation of this act. The pressure has been upon the Department for several months, and very heavily. This amendment would relieve the pressure on the Department to do what it ought to do. The amendment would eliminate most of the opposition for 9 months. In terms of numbers, 84 percent of the employers employ under 15, so it would reduce pressure from most of the opposition, but not help accomplish the changes needed. In the Small Business Committee upon which we both serve, we had 5 days of hearings, as the gentleman from Massachusetts (Mr. CONTE) has indicated, employer group after employer group said, "Do not pass an exemption because that is not the way to solve this problem. What is needed is better administration of the act. Do what needs to be done over legislatively and administratively and not just get rid of some of the opposition for a few months so there will be less pressure on the Department.

The Labor Department itself needs to clean up the way they have been administering it. I think they have made some progress belatedly. In my opinion, they misinterpreted the act, the meaning of the act, and it was somewhat ambiguous.

The Labor Committee is now holding hearings, and I think they will come out with some constructive recommendations, but this amendment would relieve the pressure to pass the needed legislation. I think this is the wrong thing to do at this time.

Mr. CONTE. Will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman.

Mr. CONTE. I thank the gentleman from Iowa for yielding.

Is it not so that some of the ludicrous things they did adopt, such as the split toilet seat and the coathanger on the door and that you could not serve ice in water, were the result of the codification of safety codes that had those ludicrous regulations in them, and that they have eliminated some of these regulations.

Mr. SMITH of Iowa. They incorporated by reference a lot of industry codes which were obsolete and had not been recently used. They just incorporated them instead of holding hearings and developing reasonable and enforceable rules and regulations.

The Department is also failing to provide information to employers on what they are required to do. I think it has now been made clear that we expect them to provide pamphlets, and copies of the regulations so employers will know what they are supposed to do.

Mr. CONTE. Will the gentleman yield further?

Mr. SMITH of Iowa. I yield to the gentleman from Massachusetts.

Mr. CONTE. Did you not get the feeling that what the small businessman was really interested in was to be able to call OSOA and say, "Come up here and tell me what is needed, and give me a certain number of days to correct the situation"?

Mr. SMITH of Iowa. That is exactly right, and we think the law does permit that to be done at the present time.

Most of the employers want to do whatever is right with regard to health and safety. Most of them just want to know for sure what they need to do and they want the Department to use the rule of reason.

Mr. NELSEN. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. NELSEN. Mr. Chairman, I want to make the observation that the arbitrary Government attitude which seems always to prevail is one that is disturbing. In desperation many of us sought the only remedy available to us due to inaction by the committee responsible for considering our proposed permanent changes in OSHA law, and we adopted the 1-year exemption as part of the legislation subsequently vetoed by President Nixon for other, unrelated reasons.

I want to express another consideration that I think enters into it. We passed what was known as the clean meat bill. It was inappropriately applied to some small firms in the small towns in my district.

One of the grocery men came to me with deep concern. He was a man with a little grocery store in a little town, where and in conjunction with his grocery operation, he had a little slaughtering plant where farmers could bring their animals to be slaughtered and have the meat frozen and put in lockers.

He told me that the Federal meat inspector had been there picking away and picking away at this and that. Finally, in desperation, the grocery man said:

> You get out of here and do not ever come back.

Well, that is what the inspector did. But he also ordered, as he left, "You are closed up as of now."

That has happened all over our State to the degree that most of these little plants, no matter how clean or essential to the community, have been closed without proper justification.

Most of us who have been living on the farm have slaughtered meat on our own farms, but some people simply have no place to take meat for processing now.

I will say in the case of most of these plants that have been closed, I see no reasonable justification for the action taken. So in connection with the present matter, I think, the point is we fear what an inspector will do with a little muscle and a little authority. We think it will be abused.

I am pleased to learn that some guidelines are about to be proposed that will require some restraint by these inspectors. We must insist that our small businessmen, tradesmen, and farmers receive a fair hearing and a chance to express their concerns. Unreasonable inspections and punitive fines issued without a hearing or without opportunity to make necessary corrections cannot be tolerated by Congress.

Mr. SCHERLE. Mr. Chairman, I rise in support of the amendment.

(Mr. SCHERLE asked and was given permission to revise and extend his remarks.)

Mr. SCHERLE. Mr. Chairman, our distinguished chairman of the subcommittee, the gentleman from Pennsylvania (Mr. FLOOD), said that the arguments presented here this afternoon should have been presented 2 years ago.

Well, let me tell you this: I, for one, had no idea that the childish, infantile, ridiculous, abusive regulations as approved under this legislation, the height of simplicity, would be administered to the small business people of this country in the way they are being administered today.

I do not believe that I have ever seen a piece of legislation designed to help small business, deliberately designed to put small business out of business, as this particular piece of legislation. This legislation legalizes harassment and is a Federal license to abuse small businessmen.

There has to be a difference as far as safety regulations are concerned. How in the world we can compare General Motors with a blacksmith shop in Henderson, Iowa, I have no idea whatsoever. There is no comparison. He does not have the money and he does not have the personnel and he certainly does not have the reason. Not that he is not safety minded; he certainly is. But to put him in the same category as General Motors and the major suppliers of industry in our country is utterly incomprehensible.

One thing you want to remember is we did pass legislation advocating 25 employees in the House. The other body accepted a 15 employee exemption. The conference committee agreed to an employer with 15 employees or less. This is not new. It has already passed the House and it has passed the other body with overwhelming support. It is legislation that is necessary. It is legislation that should be approved again.

Why anyone would imagine that an employer would deliberately create a hazard as far as his employees are concerned is a little ridiculous to me. He does not want to pay out workmen's compensation; he does not want lost time on his hands; he wants to make sure that the employees have an efficient, safe, and secure place to work, just like anyone else. Grant those small employers an opportunity to survive, because if you do not, I can assure you they are going to go out of business fast and furious. Remember, employers create employment when there are no employers, there will not be any employees.

Mr. PRICE of Texas. Mr. Chairman, will the gentleman yield?

Mr. SCHERLE. I yield to the gentleman from Texas.

Mr. PRICE of Texas. Mr. Chairman, I rise in support of the amendment by the gentleman from Texas (Mr. FISHER) to prohibit the expenditure of funds under the Occupational Safety and Health Act of 1970 for enforcement of the provisions of the act against firms employing 15 or less employees.

While it ought to be the concern of every person that American working men and women are able to work in safe and healthful surroundings, the Occupational Safety and Health Act of 1970 has because of its all pervasive provisions caused severe problems to small businessmen who are mandated to obey the same specifications set for large corporations. Instances have already been reported according to one Labor Department official where requirements for clothes hangers for each employee have been enforced, for example.

It is imperative that this law be amended to offer some relief to the small businessman who is bearing the financial burden of the act. OSHA ought not to be a sledge hammer applied to every business, good or bad, but ought to be designed to meet the need where it exists. To exempt small firms with fewer than 16 employees from the law would be a step dictated by common sense and would be a much needed step in the right direction. If we fail to act positively on this amendment, the Congress will have to accept the blame for the serious damage it will inflict upon the small businesses of America. There are those who oppose "big business"; but unless they support this amendment they will only contribute to the further depletion of small business ranks.

Mr. STEIGER of Wisconsin. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I suspect there are no Members of the House who have to deal with this more than the gentleman from Wisconsin, but I would hope that the Members of this House would be willing fully to recognize the impact of an exemption based on size.

The issue with which you are dealing here is very simple—will the House today approve something which in effect says, those who are employed in a small foundry or a small chemical company or a small machine shop, or any one of a number of small operations, will be less safe or subject to less than those who are employed in shops that have 16 or 18 or 21 or 25 or 50 or 100 employees.

I really do not think that this committee this afternoon is in the position of being willing to try and place that kind of limitation upon the safety and health of employees in the United States. The adoption of the amendment offered by the gentleman from Texas (Mr. FISHER), just as the adoption of the Findley amendment, is a step backward, but it does recognize that there are problems with occupational safety and health, and if we may borrow from the Governor of Alabama, it sent a message across this country and to the Labor Department that they are going to have to begin to take some steps to correct errors, which is most appropriate, and I think it has succeeded in accomplishing that purpose. It has created an additional awareness of the small employer's problem.

It does seek a recognition on the difficulty with which employers are faced in terms of dealing with it, but it does not respond to what I find in the Sixth District of Wisconsin, and what I think most Members of this House find in their own districts, which is the small employer who says, "Do not exempt me, I am not asking for an exemption, but I am asking assistance. I am attempting to try to find out what I can do to deal with occupational safety and health laws." And the only response to that is to effectively and affirmatively provide that in this House in this year.

And I am authorized by the chairman of the Select Subcommittee on Labor, the gentleman from New Jersey (Mr. DANIELS), who regrettably is not here because of the death of two friends of his, and also the gentleman from Kentucky (Mr. PERKINS), the chairman of the Committee on Education and Labor, who I think will confirm this, that there will be a vote in the House of Representatives in 1972 on an amendment to provide consultation, so that those Members who are concerned with responding to the problems of the small businessmen would have an opportunity to say, "Yes, we did respond, we did amend the Occupational Safety and Health Act by providing that the Labor Department would be authorized to consult on the plantsite with the small employer."

It seems to me that that is the kind of response that this House ought legitimately to give to recognize full well the difficulty with which small employers are faced in dealing with the Federal Register and try to help them to be able to comply with the occupational safety and health law. So let us vote down the Fisher amendment because it does not represent an effective response to the problems of the small employer, and it clearly does not recognize the difficulties with which the employees of small employers are faced in terms of the kinds of hazards with which they deal, but let us admit and recognize that we can correct the act effectively by amending it to provide for consultation.

Mr. CONOVER. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from Pennsylvania.

Mr. CONOVER. Mr. Chairman, I would like to associate myself with the comments of the gentleman from Wisconsin. I was one of those who voted in behalf of the Findley amendment. I think the message has been given. I appreciate the comment that the committee is going to have a look at this, and I for one am going to change my vote because the message has been given, and I think AFL workers should be protected without undue hardships on small businesses.

Mr. STEIGER of Wisconsin. I appreciate very much the comments of the gentleman from Pennsylvania.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. If the gentleman from Iowa will let me proceed for 1 moment, then I would be delighted to yield to the gentleman.

Mr. Chairman, the Secretary of Labor has written to the distinguished minority leader, the gentleman from Michigan (Mr. GERALD R. FORD) and the letter is as follows:

Hon. GERALD R. FORD,
House of Representatives,
Washington, D.C.

DEAR JERRY: During the consideration of the Labor-HEW Appropriation Bill by the House on Tuesday, September 19, it is expected an amendment will be offered to exempt small businesses based on the number of employees from the Williams-Steiger Occupational Safety and Health Act of 1970.

It is the position of the Administration that this is not a wise approach to the problems raised by small employers who claim they are finding it difficult to comply with the Act. In actual effect, such an amendment would exempt more than 86% of all establishments now covered under the Act and 25% of all employees covered thereunder.

A more constructive approach, and one which the Administration is prepared to support, would be an amendment to the Occupational Safety and Health Act which would permit the Department of Labor to provide on-site consultation to small employers, thereby easing the burden of compliance on small businesses while maintaining the basic integrity of the Act. Such an amendment has recently been proposed by Congressman William Steiger in the form of H.R. 16508.

The Administration therefore opposes any exemption from coverage under the Act and favors, instead, new legislation which would permit on-site consultation for small employers.

Sincerely yours,
JAMES D. HODGSON,
Secretary of Labor.

Mr. GERALD R. FORD. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I am delighted to yield to the distinguished minority leader (Mr. GERALD R. FORD).

Mr. GERALD R. FORD. Mr. Chairman, I am grateful to the gentleman from Wisconsin for yielding. I appreciate the fact that he read this letter addressed to me from the Secretary of Labor.

As the gentleman recalls, I discussed the situation with him this morning. Has there been any development as far as affirmative action is concerned or commitment for action on this legislation during this session?

Mr. STEIGER of Wisconsin. There has been both by the chairman of the subcommittee, the gentleman from New Jersey (Mr. DANIELS) and the chairman of the full committee, the gentleman from Kentucky (Mr. PERKINS) and myself and the gentleman from Minnesota (Mr. QUIE).

The answer is that the House will act this year on a consultation bill and I think, frankly, there is an exceedingly good chance the Senate would also take action, but obviously no one can commit the other body.

Mr. GERALD R. FORD. Mr. Chairman, I do not at the moment see the gentlemen whose names you mentioned. I wonder if at some time during the consideration of this amendment, we could have one or both of them reaffirm that which I am sure the gentleman from Wisconsin in good faith has indicated as to affirmative action on this amendment.

Mr. STEIGER of Wisconsin. The gentleman from New Jersey (Mr. DANIELS) is in New Jersey as the result of two funerals and, therefore will not be here. The gentleman from Kentucky is here and is prepared to confirm that.

Mr. GERALD R. FORD. Second, I would like to ask the gentleman from Wisconsin what he means by "onsite consultation." Is onsite consultation before the fact to permit an individual or the owner of a plant to get advice as to how to run his plant so that he is not in violation? Or is consultation after the fact, subsequent to an alleged violation?

Mr. STEIGER of Wisconsin. In response, may I say to the gentleman from Michigan, it can be both, but it is designed to allow the employer under the bill I have introduced with 50 or fewer employees to request onsite consultation to have the Labor Department come to the plant and deal with the kinds of standards that are applicable to his operation without penalty.

It could also be available to somebody who was inspected and who wanted consultation in how to comply with what was found during the inspection. But, essentially, it is designed to deal with the employer who says, "I would like to comply, but I do not know how—please help me."

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from Iowa.

Mr. GROSS. With reference to the gentleman's statement about getting the message out to the people and subsequent colloquy about onsite consultation, I am reminded of a condemned man on the gallows or facing the electric chair who is asked if he has anything to say.

I am not at all impressed with the argument which the gentleman makes about the consultation which the harassed plant owner may be able to have at some future time with some bureaucrat.

Let us pass this amendment now and repeal it if effective legislation is approved at some time in the future.

Mr. STEIGER of Wisconsin. I regret I do not agree with the gentleman.

Mr. HEINZ. Will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from Pennsylvania.

Mr. HEINZ. As you know, I voted for the Findley amendment when we last considered this appropriation.

I would like to clarify one thing about the bill sponsored by the gentleman from Wisconsin which would provide onsite inspection for smaller employers, and which you said earlier was favored by the Department of Labor. Is the Department of Labor restricted when providing onsite counseling as to the nature or extent of the OSHA counseling? Specifically, would this legislation require the employer to list in advance every specific of the counseling he seeks or may he request occupational health and safety law counseling of a more general nature or on specifics he failed to list in advance?

Mr. STEIGER of Wisconsin. In the language of the bill, H.R. 16508—and I must say I do not know whose bill will be reported, if it is mine or somebody else's; I do not care—the consultation concept is one which is widely supported by people interested in this matter. Subparagraph (A)—

> Such visit may be conducted only upon a valid request of an employer—

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent and at the request of Mr. HEINZ, Mr. STEIGER of Wisconsin was allowed to proceed for 1 additional minute.)

Mr. STEIGER of Wisconsin. Subparagraph (B) on page 2 of bill says:

> shall be limited to the matters specified in the request affecting conditions, structures, machine, apparatus, devices, equipment, or materials.

Mr. HEINZ. Then it would be correct to say that it is the intent of the change in the legislation which you propose, and which the Department of Labor also supports, that consultation would be available onsite, and that it would be of a flexible nature, that is, if the employer requests it onsite, and when the Department was there, he might obtain counsel?

Mr. STEIGER of Wisconsin. That is correct. Recognizing that an officer who is a consultant under this bill is responding to a specific request and may not be in a position to cover all areas.

Mr. HEINZ. I thank the gentleman from Wisconsin for his helpful explanation. I think what he proposes is a very important addition to our health and safety laws and will make it faster and easier for smaller employers to comply and safeguard the many millions of employees covered under this legislation.

Mr. STEIGER of Wisconsin. I appreciate the gentleman's comment. I urge the defeat of the Fisher amendment. I would ask one other thing, Mr. Chairman. On page E7948 in the section called Extension of Remarks, my colleagues will find some material placed in the Extension of Remarks yesterday dealing with those who oppose this kind of exemption.

Mr. RANDALL. Mr. Chairman, I move to strike the last word. I rise in support of the amendment. First I wish to commend the gentleman from Texas for offering his amendment. For some reason the gentleman from Illinois (Mr. FINDLEY), is not present today. We were all scurrying around here a while ago wondering whether an amendment would be ready or whether an amendment had been prepared.

Next, let me set to rest quickly and finally the charge that those of us who support this amendment here are against all occupational safety. Of course, we are not. We voted for the principle of occupational health and safety when we passed this act back in 1970. Of course we had no way to visualize some of the ridiculous and almost unbelievable things that have happened in the administration of this act.

We were all thinking back in 1970 about big industry, the steel mills, the car assembly plants, the mines, and the others where men can be hurt and hurt badly and not about the little places where a man might receive a scratch or a very minor hurt.

Mr. Chairman, in this debate the point has been raised whether the vote of June 15 by this House by a count of 213 to 154 to cut off funds to go into plants of less than 25 employees sent a message to the Department of Labor. I ask you to send them another message by your vote today.

Someone said we should put pressure on the Department of Labor. The best way to do that is to pass this amendment today. Then there will be no doubt but that they will receive our message. A member of the subcommittee on Health, Education, and Welfare appropriations said a moment ago "We are only talking about 9 months." He is right; we are only talking about 9 months, but let us be certain that in those 9 months our little businessmen are not subjected to further harassment. It is suggested the Education and Labor Committee is going to act on some kind of an amendment. Has anyone here looked at the calendar lately? Do they know what date this is? There is some talk in the other body that they are going to adjourn at the end of the month. We hope they do. There are some on our side who say we are going to be out on the 6th of October. It just does not make any sense to say there is going to be action on this kind of thing this year. Let us adopt this amendment. As I said earlier, if we do we can be certain the bureaucrats down at the Department of Labor will get the message that the Congress wants them to stop the constant harassment of small businessmen.

I yield back the remainder of my time.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in the 12 years I have been here I have heard some fairy tales in this body before, but to stand up and allege that the bureaucrats have gotten the message, to my way of thinking, certainly is the ultimate in trying to deceive ourselves.

I know the gentleman from Wisconsin has the best motives. I certainly respect him as a legislator and an able colleague on our committee, but I want to say frankly I do not think bureaucrats have gotten the message for 30 years, and for us here to legislate on the basis that they understand the situation and will do something about it, to my way of thinking, is ridiculous.

We sent the message one time on minority quotas on jobs to the Department of Labor. They started out little-by-little inching toward quotas, regardless of what the Congress said, and they embraced the Philadelphia plan. Sooner or later we ended up buying it. They did not get the message; they convinced us. We did not convince them. It is exactly the same thing on busing. We have time and time spoken against busing in this body. Behind the scenes the bureaucrats go ahead and bus anyway.

Sooner or later they get the message to us. We do not get it to them. We have talked about exactly the same thing on protecting American jobs. They seem to give American jobs away. We had a buy American message we sent them once. They did not hear. We are concerned about exactly the same thing on this particular amendment before us. They have not gotten the message. The only thing we can do, the only way we can honestly and effectively get the message to them is to resoundingly pass this amendment, adopt it as we did before, with a greater margin, and then they will have the message. But to act at this time on the theory that the bureaucrats have received a message from us to my way of thinking is self-delusion at its very worst.

Mr. PERKINS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time for the purpose of yielding to the gentleman from Wisconsin (Mr. Steiger).

Mr. STEIGER of Wisconsin. Mr. Chairman, I appreciate the gentleman yielding. When the majority leader before asked a question, I responded by saying the commitment had been made by the gentleman from New Jersey (Mr. Daniels) to report a bill so the House might have the opportunity to act on a consultation bill in this session.

Mr. PERKINS. Mr. Chairman, it is my information that the gentleman from New Jersey (Mr. Daniels) does intend to get a bill through his subcommittee in the near future, and I certainly intend to see that the bill is considered by the full Committee on Education and Labor.

Mr. GERALD R. FORD. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the distinguished minority leader.

Mr. GERALD R. FORD. Mr. Chairman, we are hopefully getting close to the adjournment of this Congress, and on that assumption that we are getting close to the adjournment, time gets to be of some essence in affirmative action in any legislative area. This legislation is the kind of legislation which I think has to be acted on before adjournment. Can the gentleman give us some kind of timetable or schedule for this affirmative action?

Mr. PERKINS. It is my judgment that affirmative action can easily be taken within the next 2 weeks, assuming that the gentleman from New Jersey (Mr. Daniels) reports the bill next week. The full committee will report it the next week or the following week.

Mr. GERALD R. FORD. As I understand it the gentleman from Kentucky is saying the gentleman from New Jersey (Mr. Daniels) anticipates reporting the Steiger bill or some comparable bill next week. If that is true, the full committee of the Committee on Education and Labor will meet and report the bill out the following week. Is that correct?

Mr. PERKINS. That is correct.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Will the gentleman tell us where that puts us on the calendar? The gentleman from Kentucky has never knowingly misled this House. I do not think he wants to tell us at this point the bill has a chance of being enacted into law. If we have it reported out of the full committee in 2 weeks we still have a scheduling problem. What makes anyone think the Senate will do likewise. Does the gentleman from Kentucky honestly want to leave the impression this consultation amendment can be enacted into law in this session?

Mr. PERKINS. In my judgment, if the gentleman from New Jersey (Mr. Daniels) reports the bill this week, then the Committee on Education and Labor can report the bill the next week. I do not know when the House will adjourn, but I assume we will be here 2 or 3 weeks.

Mr. ASHBROOK. Is it not general knowledge in this Chamber that the Rules Committee will have a guillotine cut on any new rules as of next Monday night? At least, that is the word.

Mr. PERKINS. I would think a consultation bill of this type could go under suspension.

Mr. ASHBROOK. I would merely say to my friend, the gentleman from Kentucky, this reminds me of the story about the gentleman who said if he only had some bacon he would have bacon and eggs. That is, if he had some eggs, too. We are suggesting the enactment of a bill when we have 2 weeks left in the session. It is obvious we will not have enough time to pass the consultation amendment into law.

Mr. GERALD R. FORD. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Michigan.

Mr. GERALD R. FORD. Mr. Chairman, I was glad to hear the gentleman in his opinion state if the Committee on Education and Labor reported out the bill he would recommend to the Speaker that it go on suspension.

Mr. PERKINS. That is correct.

Mr. PRICE of Texas. Mr. Chairman, I would like to go on record as being in favor of this amendment offered by the gentleman from Texas (Mr. Fisher). I think certainly the gentlemen know that Mr. Steiger of Wisconsin and his associates have brought a bill to the floor which they think is very commendable. However, it might be in the areas which they represent, but I wish to go on record at this time as saying that my area is overwhelmingly opposed to this legislation which causes the Occupational Health and Safety Act to drastically and adversely affect the small businesses in our area as well as in the United States.

The problem, which has been one of the major sources of complaints which I have received is the Gestapo tactics employed by some OSHA inspectors who have been coming into the offices of businessmen demanding the right to go through them with no consideration at all for the owner; threatening that they will shut the businessmen down if they do not comply.

I, for one, do not want to risk the opportunity or chance that we may or we may not pass legislation in the next 2 weeks. While all of our farmers and ranchers would have to come under this as well as small businessmen, I think it would be a mistake for us to not pass and support this amendment.

I yield to the sponsor, Mr. Fisher.

Mr. FISHER. Mr. Chairman, to me this sudden uprising of a panacea for the solution of all the problems relating to OSHA that has been bandied about here this afternoon is one big, gigantic joke. They say we are going to have onsite consultations. So what? You are not proposing to do anything to help the people who are victims of this law. If you enact it, get the committee to report it, do all these things in the next week or two, go through all this rigmarole and put it on the Suspension Calendar, emergency, big thing, what have they done? All they propose is to write into the law a provision that will allow the man who is about to be struck by inspectors to be warned just before it happens. They actually offer nothing in the way of substantive improvements. The chairman (Mr. Perkins) says the proposed innocuous bill will be taken up on suspension, which means no meaningful amendment can be offered during debates.

I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. I thank the gentleman for yielding.

For those of you who may not be aware, my interest in this matter is not only as objective as is the gentleman from Texas (Mr. Fisher), as well as the gentleman from Texas (Mr. Price), and all those who support this amendment. My name happens to be Steiger also, and if you do not think I have to bear the full brunt of the rage of the people abused by this bill, I shall make it perfectly clear, implementation of

OSHA has led to concern, which is the mildest word I can place upon it, among people. I should like the RECORD at this time to reflect my strong support of the gentleman's amendment. For those of you whose name is Steiger, I can assure you that there is a great deal of concern for this measure.

Mr. FISHER. Mr. Chairman, I think it should be pointed out that there is an assumption going around that if these 15 people or under, the firms having those are exempted; they will be completely out of any kind of control or inspection. The fact of the matter is, many States, including the State of Texas, have very strong State occupational safety and health acts. Do not be worried about those 15; they will be well inspected and obey the laws of those States, but we want to get them out from under the cruel force and power of this Federal bureaucracy that has been giving them so much trouble in recent months.

Mr. STEIGER of Arizona. Mr. Chairman, the gentleman is certainly correct on that. To assume that small businessmen are not just as concerned about the safety of their employees is not justified. They have one of the best safety records in existence, and I wish to commend the gentleman for introducing this legislation. I hope he will call for a vote on it.

Mr. Chairman, I yield the balance of my time.

Mr. McCLURE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of this amendment. I am only sorry that this House is backing away from the position it took when we voted last week to exempt this employer with fewer than 25 employees and accept the standard which our conferees so eagerly embraced as offered in the other body of 15 or less.

However, I do support this as a case of strong and affirmative action that we can take to get the message through that unless there are some changes made in not only the basic law, but in the administration of the act, there will be no Occupational and Safety Health Act.

I have served notice to the people of my State and to the appropriate committees of this Congress that unless changes are made I shall urge in the strongest possible way the outright, complete repeal of the act.

Certainly there are those of us who do not want to back away from the necessity of having safe premises for the men and women of the labor force of this country, but certainly, too, we do not want to have the kinds of tactics employed that have been employed here. I believe that is why we are here.

I heard comment made earlier that these are arguments which should have been made 2 years ago, but 2 years ago we did not know what kind of administration we would have of this act. That has only occurred within this year, that the arbitrary and inflexible attitude of the inspectors has been made known to the workingmen and their employers across this land.

I was for this amendment. I testified for it before the Select Committee on Small Business. I was one of those referred to as saying we want changes in the law, not outright repeal.

I say that again, but how will we get changes if we back away now?

They say a message has been sent to the Secretary of Labor that we want some changes made. What is his response? It is opposition to the amendment. What kind of response is that?

They tell us they are going to have some kind of prior consultation, but they have not yet said as a result of that consultation there will be any different kind of administration of the act, an administration which time after time after time has been documented before this Congress and its committees of the arbitrary and inflexible attitude of the inspectors, using this as a weapon against employers and not as an effort to assist them in making premises safer.

We must pass this amendment if we are going to keep the pressure on to get some action. This chimera, this facade, this act we are going through today, saying there will be some kind of amendment before the end of this Congress, is a falsehood, and I believe even the proponents know that cannot happen.

Mr. HUNGATE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the subcommittee of the Select Committee on Small Business held hearings on this matter. At that time some 90 bills had been introduced. There are more than that now, with many cosponsors. Hearings were held for some 5 days, with some 83 witnesses. There was dissatisfaction with the act and with its administration, and a dispute as to whether or not the Department of Labor has discretion. We heard from various witnesses.

The Assistant Secretary of Labor did testify that he intends to exempt small businesses with fewer than eight employees from the recordkeeping requirements. I would ask if anyone knows if that has been done. Has he done that?

The testimony was surprising to me, as our colleague the gentleman from Iowa (Mr. SMITH) mentioned earlier, that businessman after businessman sought no exemption from the law, really. They sought a sensible administration of it.

The testimony was that one might have a place with 40 or 50 employees, a perfectly safe place with a very low accident rate, or might have a place with as few as three or five employees in a very dangerous condition with a great number of accidents around where they work.

What I am concerned about is getting the relief through for the small businessman.

I have heard the distinguished chairman of the Committee on Education and Labor. I have attended the hearings of the subcommittee on this subject. I have no doubt about their sincerity and good faith as to redirecting various phases of this act.

I do share a considerable concern as to whether or not within the time allotted they will be able to accomplish the purpose.

If I may have the attention of the distinguished chairman of the Committee on Education and Labor, Mr. PERKINS, my question would be that I understand and accept the good faith of the committee in wishing to report a bill, but suppose the subcommittee does not report the bill next week. Would it be the idea that the full committee would call the bill up anyway? I am on the judiciary. Those things can happen.

Mr. PERKINS. It is difficult for me, Mr. Chairman, to visualize a situation where the subcommittee will not act. I assume it would. I certainly will call the full committee together myself to consider a bill, and I think we can report it out.

Mr. HUNGATE. In line with that, as I understood from the gentleman earlier, is there a commitment on behalf of the Rules Committee to grant us a rule on this measure?

Mr. PERKINS. The bill is of such a nature that I think myself you can pass it under suspension.

Mr. HUNGATE. I appreciate the gentleman's statement.

Mr. ASHBROOK. Will the gentleman yield?

Mr. HUNGATE. I yield to the gentleman from Ohio.

Mr. ASHBROOK. The gentleman has raised a very valid point. Is it not logical at this time to inquire whether or not the same opposition which has brought the House version from 25 down to 15 might also manifest itself and prevent the passage of this bill. There is great opposition to changing this act. There are many people in the other body who believe it is not stringent enough.

I think we are making a mistake in following the assumption that the consultation amendment can pass and I must commend the gentleman who brought this issue before us.

Mr. HUNGATE. I am not certain I follow the gentleman's argument, but I do share the concern of what might happen to the prospects of getting it through the other body and through the House. This is not the way to amend this law. This is operating on the kitchen table with a butcher knife. I would be concerned if I could not get to the hospital, and then I might have to get on the kitchen table and let you use the butcher knife.

It is a great mistake to think we can solve this problem by simply lowering the numbers exempted. It is clear that you have got one situation that can be dangerous where you have only three or four employees however, you can have a safe situation with 40 to 50 employees. It depends on the nature of the business more than on the number employed.

But I certainly express the concern that the legislation will in turn be handled by the appropriate legislative committee this year and it is much more correct if we do it in that way, and imperative to act at once.

I reiterate my concern with what might happen in the meantime if nothing is done by both the House and the other body.

Mr. RANDALL. Will the gentleman yield?

Mr. HUNGATE. I yield to the gentleman from Missouri.

Mr. RANDALL. The gentleman in the well has been very modest. He has never mentioned that he served as chairman of the Subcommittee on Small Business that held hearings on the Occupational Health and Safety Act.

May I inquire of the gentleman whether it his thought the Secretary of Labor has the authority or the power to order that the act not apply to places of business employing not over eight persons? What is the conclusion of your committee or your staff on this point?

Mr. HUNGATE. If the gentleman will yield, I will answer.

Mr. RANDALL. Of course.

Mr. HUNGATE. I did not perhaps state myself clearly. The Secretary did not dispute his own power to set it down, to permit the rule keeping at less than eight employees, although I have not been able to find it has been done yet. The hearings were in June.

What I did dispute and what the committee disputed back and forth with him is whether he had the discretion for educational investigations, whether he had the power to send someone out and say, "Here is what is wrong with your plan" without imposing a fine. We sought an attempt at education with intimidation and permitted only as a last resort.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SEBELIUS. Mr. Chairman, I rise in support of the amendment of the gentleman from Texas (Mr. FISHER).

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I rise in support of the amendment by the gentleman from Texas (Mr. FISHER), which would provide an exemption for employers of 15 workers or less from the OSHA rules and regulations, and allow a more reasonable approach to compliance. The reasons I do so are as follows:

First, the State of California, and for that matter almost all other States, has sound and sufficient health and safety laws to protect workers. In my opinion, it is unreasonable for the Federal Government to either duplicate or preempt the compliance effort that is being carried on by the States. Workers in small businesses are adequately protected by laws already on the books and do not need legions of Federal inspectors to see that similar laws are applied.

Second, OSHA regulation enforcement has, in many instances, imposed costly demands on employers and hampered production capability of employees. Both employers and employees have been unduly harassed by examiners and inspectors from the office of OSHA who, in their attempt to carry out the law, have, in some cases, gone far beyond what was intended by the Congress of the United States. Smaller employers find it extremely difficult to deal with these inspectors on a reasonable basis. Therefore, this exemption is badly needed.

Third, an employer in the small business category keeps a very close contact with his employees and workers, and realizes that one of the most important resources in his business activity is the health and safety of his employees. Becaue of this close employer-employee relationship, and his interest in productivity, the small business employer has an obvious incentive to see that those who work for him do not work under conditions that would be adverse to their health and safety.

Fourth, as a result of the Occupational Safety and Health Act of 1970, we have now seen mountains of paper work required by OSHA. The small business operator just does not have the staff and personnel to spend such a great amount of time meeting the compliance requirements of filling out reams of forms. It is an undue burden to place this kind of responsibility on the small employer. The burden should be on the administrators of OSHA to learn to be more reasonable in applying the law. U.S. News & World Report reviewed some of the problems created by the bureaucratic jungle of regulations which have been imposed by OSHA and I submit it or the serious consideration of my colleagues:

Growing Furor Over Safety Rules for Workers

Congress is about to take a close look at a year-old law that is starting to stir up a storm.

The law is a controversial health and safety measure that affects three of every four workers.

Its name is the Occupational Safety and Health Act of 1970, called OSHA for short.

In simple terms, it requires employers to provide safe places to work, free of health hazards.

In operation, it has proved far more complex. Critics say it's not the law itself, but the massive set of regulations stemming from it that have caused most of the trouble.

These regulations involve everything from the height of toilet partitions to requirements for safety shoes or goggles.

Two things have provoked much of the furor.

First, employers must obey detailed and often complicated rules, enforced by federal inspectors. Many businessmen say they don't understand these rules or believe them necessary.

Second, the Act extends federal controls over working conditions into vast new areas. Now covered, for example, are hired hands on farms and part-time employes in the smallest of businesses.

WIDE COVERAGE

Almost every business—even if it has only one employe—is subject to the law. This involves about 5 million firms and 60 million workers.

Small businessmen, particularly, claim strict application of the law may force them to close.

Unions charge the Government with "half-hearted enforcement."

One independent study group assesses blame in almost equal doses to industry, Government and organized labor.

A nationwide survey by "U.S. News & World Report" found the law getting a mixed reception. For example—

"Employers want to comply," says a spokesman for the Georgia Business and Industry Association in Atlanta, "if they only knew how."

Niel Heard of the National Federation of Independent Business, based in San Mateo, Calif., comments: "They've drawn up the regulations so it would take a Philadelphia lawyer to figure them out."

From Steven J. Kennedy, director of safety for Avondale Shipyards, Inc., New Orleans:

"The law is a good one, but compliance is costing us a great deal. I believe, however, that the initial cost will be offset in the long run by a reduction in accidents and compensation expenses."

Some plant managers for large corporations say they are "scared to death" to talk about inspections of their facilities for fear of Government retaliation.

"We're still feeling our way around under the law," says an executive of a farm-equipment firm in Chicago.

In Washington, members of the Senate and House who, in late 1970, overwhelmingly approved the measure find themselves swamped with mail and besieged by constituents over its workings.

Says Representative Daniel J. Flood (Dem.), of Pennsylvania, chairman of a House subcommittee, "It is murder when we go home to our district."

A sign of congressional anger over the act came on June 15 when the House of Representatives suddenly amended the Labor Department's 1973 budget to bar payments to OSHA inspectors who enter plants of 25 or fewer employes.

Starting June 20, the House Subcommittee on Small Business will begin four days of hearings into the law. Senate and House labor committees also plan full reviews soon.

NEED UNQUESTIONED

With on-the job accidents accounting for 14,000 deaths and 2.2 million disabling injuries a year, there has been little argument with the objectives of the law. But almost every phase of its implementation has provoked controversy.

"This Act," says Representative Mark Andrews (Rep.), of North Dakota, "is an outstanding example of what happens to a piece of legislation when the bureaucrats get it."

Labor Department officials readily admit to problems, but "we have knocked ourselves out to avoid harassing," says George C. Guenther, a former businessman who became Assistant Secretary of Labor for Occupational Safety and Health. His boss, Secretary of Labor James D. Hodgson, says:

"The purposes of the Act have been imperfectly accepted by a great many. They still believe that somehow the requirements of the Act really shouldn't apply to them."

Complaints, Mr. Hodgson says, often take the form of "you are asking me to do something I didn't know anything about, or to do something about something I don't think I should have to do, or to do something that shouldn't be in the law at all."

Staff members of "U.S. News & World Report" who checked businesses around the country came up with the findings that follow.

Harry G. Austin, executive vice-president of Brown & Root, Inc., a worldwide construction firm based in Houston, says one of the biggest obstacles in compliance is changing work habits of experienced employes.

"A man gets used to doing his job one way most of his life and it's difficult to get him to change his habits overnight," Mr. Austin observes. "Take safety glasses. Many construction workers don't like to wear them because perspiration gets in their eyes, but they have to wear them now under the law."

Walter E. Stanfield, a home-remodeling contractor in Houston, doesn't like the law. "It seems to me," he says, "that is was purposely written to get rid of small, independent businessmen like myself. It's hard to find people with the necessary safety equipment—safety shoes, eye goggles and hard hats—and I can't afford to buy them because most of my helpers are hired on a short-term basis. When you do find someone with the right equipment, you have to pay him more than you would otherwise."

A VOTE IN FAVOR

OSHA inspections won praise from a union official in Belvidere, Ill.

"After seeing these people inspect, I'm for 'em 100 per cent," says Jack Waldeck, vice president of a United Auto Workers local at a Chrysler plant in Belvidere. "We've had State inspectors out here before, but their inspections were a joke. These federal inspectors have my respect now."

A spokesman for Armour & Company division of Greyhound Corporation comments on the inspection of 26 of its 130 food plants across the country: "We feel the inspectors were fair, and their findings valid—the only difficulty we've had in correcting these violations is time, and we've gotten extensions of time where necessary."

After three visits by OSHA, J. Paul Seider, president of Radiant Industries, Inc., of North Hollywood, Calif., says:

"The inspections at the time were pretty irritating. Some of the things we had to do were a real pain. But looking back on what the OSHA man wanted I guess I'm glad it was done. It wasn't all that big an expense."

A California electronics company, fined $60 after an OSHA visit, estimates that contact with the agency extended over 45 days, took more than 200 hours of management time and cost the company $1,000 for new equipment and modifications to meet the standards.

George Nummy, manager of corporate safety for Boise Cascade Corporation, Boise, Ida., says:

"The specifications at times are not quite rational to the application. They are not easy to understand. I find it better to make frequent trips to Washington to spell out with top labor people how to interpret regulations. Unfortunately, once you get an agreement with the man in charge of the standard, the problem still exists because how do you get his man in the field to understand?"

David Spinniken, a Lake Leelanau, Mich., cherry grower, says OSHA means a lot more bookwork for him. But he believes the record keeping may eventually save him money on insurance, since he has had no serious work accidents in 25 years.

"We are presumably a high-risk occupation," he says. "With facts and figures to go on, the insurance companies might give us a better rate."

The law took effect April 28, 1971. It was a month later before standards were announced. Then, overnight, came a 248-page book touching on such things as the sizes of ladders, protective screening against atomic radiation, and safety nets for bridge-builders.

OSHA took the standards from consensus agreements developed through the industry-sponsored National Fire Protection Association, the American National Standards Institute and the American Council of Government Industrial Hygienists. One problem: Many of the standards are in highly technical language, and they haven't been simplified for business use.

Mr. Guenther also says that, in the rush to put standards into effect, some slipped by that he wishes he hadn't had to live with. Most of those, he says, will be dropped or modified by the end of the year. Among them:

A requirement that when ice is used to cool drinking water, the ice cannot come into contact with the water. This, says Mr. Guenther, was left over from the days when natural ice was chopped from rivers, and will be eliminated. So will rules on the height of toilet partitions, requiring coat hangers in portable toilets, split seats on all toilets and separate "retiring rooms" for female employes.

MORE TO COME

Despite the massive book, not all phases of safety and health are covered by standards as yet. Most of the rules deal with safety. Health standards are being developed more slowly, mainly, officials say, because of a scarcity of reliable information on the causes of occupational illnesses.

OSHA enforces the law by inspecting establishments and citing employers for violations. In the 10 months from July through April, 23,662 establishments were inspected and 75,864 violations were detected. Roughly 3 of every 4 employers were cited for one or more infractions. Mr. Guenther estimated that only about 2 per cent of the violations were serious.

Five industries, all with injury rates well above the national average, were picked as targets for intensive enforcement in what OSHA calls a "worst first" approach. They are longshoring, lumber and wood products, meat and meat products, roofing and sheet metal and miscellaneous transportation equipment, which is mainly mobile homes and snowmobiles. About 40 per cent of all inspections have been in these areas.

Inspections of very small firms so far have been quite limited, Mr. Guenther says. "The smoke is a great deal greater than the fire," he adds, referring to complaints from small business. "Mainly it's a fear that when we do make an inspection we're going to make it really rough. I can tell you that isn't true. We hope to minimize the burdens on the tiny businesses, the real small ones."

Violations are of three types—nonserious, serious and "imminent danger."

PATTERN OF FINES

A serious violation is one where a "substantial probability" exists that death or serious physical harm could result. It carries an automatic fine of up to $1,000. Nonserious violations allow for optional fines of up to $1,000.

The "imminent danger" category is defined as one "which could reasonably be expected to cause death or serious physical harm immediately, or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this Act."

Fines so far total 1.7 million dollars.

For all types of violations, employers are given a deadline by which corrections must be made. For each day they exceed the deadline they can be fined $1,000. Mr. Guenther says the biggest proposed penalty so far—$36,000 against a construction firm in Lincoln, Nebr.—includes $31,744 "for failure to abate" violations within the time provided.

Appeals from OSHA penalties are handled through an independent agency—the Occupational Safety and Health Review Commission, with three members appointed by the President.

If an employer wants to contest a citation, he notifies the Review Commission which provides a hearing examiner. Appeals from Commission decisions can be taken to a federal court of appeals.

The Commission says that in the first year of OSHA about 5 per cent of the citations have been contested. Only one decision has been appealed in court.

A LABOR VIEWPOINT

While business often complains that the Government is trying to do too much too fast, organized labor takes the opposite view. Peter Bommarito, president of the United Rubber Workers, had this comment on the first anniversary of OSHA:

"We have made a little progress in the past year. We would have made much more if the Department of Labor had applied the legislative intent of the Congress to its enforcement of this law. Unfortunately, a year's experience reveals that the Department of Labor seems smugly content with halfhearted enforcement policies, which fall far short of what is needed to give workers the kind of health and safety protection spelled out in the law."

The law provides for the eventual shifting of enforcement to the States, with the Federal Government paying half of the cost, provided that the States come up with regulations that will be at least as effective as the standards of the Federal Government.

CURTIS AMENDMENTS

OSHA officials are sure to be questioned during the small-business hearings about the package of 13 amendments offered by Senator Carl Curtis (Rep.), of Nebraska. These include proposals to exempt all employers with 25 or fewer workers, to delay compliance with the law for one year for employers with 100 workers or less and to provide technical help to firms with fewer than 100 employes to help them comply with the rules.

Secretary Hodgson said recently: "My own view is that the law should not be tampered with now, but should be given a chance to work."

Despite the critics in business, labor and Congress, Mr. Hodgson maintains, "We are proceeding in a even-handed way, in a fair way." And he adds:

"My own feeling is that as we do an informational job, and as we start making this program felt in terms of reduced injuries and a more healthy work place, it will become increasingly accepted."

Mr. SEBELIUS. Mr. Chairman, I guess I should be thankful to the authors of the OSHA bill, because when I got Ralph Nadar's questionnaire asking me, "What are the three biggest accomplishments that you have made since you have been in Congress?" That made me stop and think a while.

I thought perhaps in the discussions I had with the Department of Labor I had helped to get rid of the two toilet seats in the momma and pappa and small businesses, and that would be my biggest accomplishment. The second item was the open toilet seat that was cancelled after my discussion with the Department of Labor, and the third accomplishment was that they decided not to make two farmers who exchange help subject to a employer-employee relationship.

I know this field is very vital to many people.

Mr. Chairman, I appreciate the opportunity to comment regarding the amendment offered by my colleague, Congressman O. C. Fisher. I strongly support this amendment. It states that none of the appropriated funds for the Department of Labor can be used to pay the salaries for any Federal employees to inspect firms employing 15 persons or less for compliance with the Occupational Safety and Health Act of 1970.

The primary intent of the 1970 OSHA Act was to study the American workingman's working conditions and to provide reasonable and responsible safety regulations and requirements to correct conditions that result some 14,200 tragic fatalities and 2.5 million disabling injuries in industrial-related accidents each year.

No one questions the purpose of this act. No one questions the need for commonsense safety regulations and requirements for the American workingman. The businessmen and farmers in my district in Kansas do no question the necessity of employers providing employment and a place of employment that are free from recognized and proven safety hazards.

However, as we have seen many times in the past, while the purpose of such a regulatory act may be good, the actual effect may be something different. I submit to my colleagues who are interpreting this act with this view that it is simply a matter of insuring job safety for the American workingman, that they are not familiar with the facts.

I have had more legitimate complaints on the part of workingmen, small businessmen, and farmers from my congressional district and home State of Kansas against the provisions of the Occupational Safety and Health Act of 1970—and the manner in which it is being administered—than any piece of legislation I have seen since coming to Congress.

We hear a lot about the problems of big government today and how government must be more responsive to the indivdiual citizen. I want my colleagues to know that in my district OSHA has become a virtual synonym for bureaucratic "big brother" government at its worst.

We in this body take great pride in the concept that we represent the people and that we are the one government institution close to the grassroots political feeling in our Nation. I can tell you the grassroots feeling regarding this act—in the eyes of the farmer and the small businessman. No action on the part of the Federal Government in recent years, has threatened his concept of free enterprise or individual freedom or prompted more anxiety and outright animosity than the administration of the OSHA Act.

I have received, as I am sure my colleagues have, the prepared material from organized labor and the prepared material from organized business groups putting this issue into a very narrow perspective. The fact I am interested in is that every morning businessmen and farmers get together in small communities throughout the 57 counties in my district and equate OSHA and our Federal Government with some totalitarian police state as opposed to finding answers to job safety problems.

Despite our efforts to inform the public that the now-infamous "toilet seat regulation" has been rescinded, many citizens in my district fully expect a Federal inspector to show up some morning, inspect their premises, charge the owner with violations of unheard of regulations, levy a fine, and march off in a flurry of government redtape. One of the regulations was that each business, no matter how small, must have separate toilet facilities and a facility with an open-end toilet seat.

While this particular illustration is no longer factual, it does pose a legitimate question. Are we going to increase the job safety of the American workingman through arbitrary interpretation and enforcement of unreasonable and in some cases, downright ridiculous rules and regulations? Can we save lives and prevent accidents by forcing our citizens to comply with rules and regulations that do not make sense when applied to our local communities?

Blanket application of all consensus standards to all segments of business and industry will not achieve job safety. Consensus standards have been imposed without public hearings, without consideration to the unique occupational safety and health hazards of individual businesses and industries, and most important, without consideration of the human element, the most important factor in occupational safety and health.

I want to stress to my colleagues the Select Committee on Small Business has held hearings and made substantive recommendations for amendments and changes necessary to carry out the provisions of OSHA and to satisfy the long-range objectives of employee safety and health. The House Education and Labor Committee is presently holding hearings on proposed amendments to the act, most of which involve relief for the small businessman and the farmer who have been saddled with across-the-board requirements and regulations designed for industry and big business.

It would not be fair to continue with inspections and enforcement of these very costly and many times unnecessary requirements when changes affecting the small business employer seem imminent. The costly and many times indefensible requirements of current regulations threaten the very existence of many small business interests. Needless to say, the American working man cannot have job safety without a job.

In addition, I feel quite strongly that through our action today and this vote on the amendment originally offered by my good friend and colleague, Congressman PAUL FINDLEY, we can prove to our citizens that our Government can respond to the legitimate need of the individual in such a way that it will not be at someone else's expense. To reject this amendment, it seems to me, would be to embrace the callous attitude that government is not responsive and that we are not capable of amending the job safety legislation that will work.

Mr. DENT. Mr. Chairman, I move to strike the requisite number of words.

I do not intend to take my full 5 minutes, but I would say that I can remember a great, great number of years occupied in the matter of legislating in the field of safety. I have not heard too many different arguments about it. Time has passed, but the arguments have never changed.

I remember when we first introduced a bill saying that they had to wear hard-nosed shoes in the steel mills. Well, that was going to close down every mill in the State of Pennsylvania.

I remember when we put a law through in the State of Pennsylvania where you had to provide gloves for certain hazardous work where heat was a dangerous element. That was going to close all of the glass plants in Pennsylvania.

I remember when we passed a mine safety bill in this country where we said that the small mines had to be exempt, because otherwise they would go out of business, and they were not in the dangerous areas, anyway, and inspectors could and would harass them out of business.

All of these arguments have come up. However, history has shown that when we exempted the small coal mines, up until Congress put them under the act a few years ago, the majority of the accidents and a greater number of the injuries and a greater number of the fatalities occurred in the small mines in this country of ours and not in the major and larger mines. Since this Congress had the wisdom to include small mines, the incidence of accidents, especially fatal accidents, has been reduced to its lowest point in history in the coal mining industry.

It is not the size of the plant that determines the intensity of the accidents. The smaller the plant is, sometimes a little incident of negligence occurs which is negligence on the part of a foreman or an owner in an owner-employer direct relationship, and it is something that can be corrected. The problem you have to cure raises the problem mentioned by the gentleman from Ohio (Mr. ASHBROOK) which is whether or not the bureaucrats downtown will take the law and interpret it in the spirit of the intent of the Congress.

Congress did not intend that they go out to harass people or go into a place and make it impossible for a person to comply with the law. It has happened in the last coal mine safety bill. Nothing has been worse than the attitude in some areas—some areas, I say—where the inspector practically made it impossible for a mine operator to comply with the law.

They find all kinds of reasons to get around the logic and intent of the Congress. For instance, in one particular case I can mention an inspector just happened to be there when a man went into a mine and he happened to go over to the man trip car after everybody got out of it and reached down and there was an unlit cigarette he came up with at the bottom of that car, and he called out the whole shift because of that. Three weeks later, in the same mine, in the same shift and in the same car he found another unlit cigarette. What was the purpose of that? That closed the whole mine down.

In another place they accused them of not cleaning the working face of the coal as the law required, which could lead to a greater incidence of explosion. However, he had the whole mine pulled because of that one shift. Right alongside of them, less than 10 feet away, was the man whose duty it was to clean the face. He did not have time to get in there because the working face was just then left vacant for him.

Mr. DENNIS. Will the gentleman yield?

Mr. DENT. In just 1 minute.

These are the incidents. You cannot legislate in this area or tell an inspector that he must read not only the law as it is written, but the intent. The intent is to make it safer for a workman in his place of employment; it is not to harass the employer or to give somebody a vacation with pay for a period of time simply because they have something to attend to that day.

Mr. DENNIS. Will the gentleman yield?

Mr. DENT. I now yield to Mr. DENNIS.

Mr. DENNIS. Mr. Chairman, I thank the gentleman for yielding. I just want to make one comment, and that is that it seems to me the gentleman from Pennsylvania, in a most eloquent manner, is pointing out the problem with all of these regulatory acts that we pass, and the reason for making an exemption for a smaller businessman is because he cannot compete with these Federal bureaucracies as the larger businessman can do.

Mr. DENT. I thank the gentleman for that observation, but I am telling you now that it is the little fellow that works for the man who is a small employer whose life is at stake, and where an injury is just as apt to occur as with a larger businessman. We are talking about safety, and not the economic size of an employer.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Ohio if I have time.

Mr. ASHBROOK. Mr. Chairman, I appreciate what the gentleman has said, and while we might come to different conclusions upon this amendment, I think we can both agree, having worked on the same subcommittees time after time on one thing, and that is the difficulty in getting responsible action by the Department of Labor, and that is whether you are talking about manpower, or whether you are talking about safety. And I think what the gentleman has said, and I would certainly underscore it, it does not seem to me to be in the spirit of the law to come into a plant the first time in a plant and fine a man $1,000 on the spot because some employee could have mislaid something such as a fire extinguisher. That is the kind of irresponsive action we are talking about.

Mr. DENT. And that is in every regulatory act, in any State, in any municipality, and in the Federal Government itself. There is nothing that we can do legislatively except to put it into the place of tying it down specifically. And we have done that in the last half of the mine safety bill, but I am going to tell this House that they are not interpreting it as we intended them to interpret it.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Massachusetts if I have the time.

Mr. CONTE. What I want to point out is that there has been a red herring dragged over the issue, the issue of consultation is a good issue, and we are going to take a look at it when we can get to it. But the fact is this: That if you take the logging industry, there are 16,000 logging companies in the United States, and 96 percent of the logging camps hire 20 or less employees, and logging is one of the most hazardous industries in the United States; 14,500 people lost their lives last year in industrial accidents. Two and one-half million employees throughout the country were idled because of injuries caused by industrial accidents.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. DELLENBACK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am not going to take the full 5 minutes, but I think everyone of us who has heard this debate will sympathize with our colleague, SAM STEIGER, the gentleman from Arizona. Every one in this Chamber I am sure in their own home districts has had a problem with this legislation, raised by employers and employees. But, Mr. Chairman, there are at least three serious errors concerned with this amendment.

First, the amendment does not go about changing the basic law. It leaves intact the obligation of the Government bureaucracies to continue as they are, but it says that they cannot use money to do what they need to do to carry out the very law that many Members here today voted in favor of.

Second, the errors which have been pointed out in the administration of this law, which have been pointed out by speaker after speaker, are not going to be corrected by this particular amendment. The various things we have complained about, every one of us, that are in the law, are not going to be changed merely by saying that the dollars cannot be used to carry out certain duties.

And, third, if we look at the law as it now exists and what this amendment would do, all it does is create a disparity in some areas where there are working men and women who are in greatest need of help, and who are in the greatest hazards, and we say no, this law will not apply to them.

Let us not hide our heads under the mattress, and say that this does not really change the protection for the small working man, or for the man who is working for a small business. It does. It will radically injure working men and women in some of the most hazardous industries in this country.

I come from a State where the forest products industry is a key industry, and this was one of the primary, particular target industries which has been zeroed in on since this law went into effect. Certainly ther have been harassments which ought to be changed—but there has also been greater protection for the men and women who work in this particular field. I do not want a disparity set up so that one man who works for a large company will find he gets some protection and then that same man, or the brother of that man, rather, who is working for a small company but doing exactly the same thing, will not get the protection of this law. Change the basic law, but do not go at it in this half-baked fashion.

Mr. WYMAN. Mr. Chairman, will the gentleman yield?

Mr. DELLENBACK. I yield to the gentleman.

Mr. WYMAN. The provision covered by the pending amendment was in the bill in the form in which it went to the White House and in the vetoed bill. It reflected the will of the Congress. Can the gentleman tell us why it is not in the bill as it has come from the committee today?

Mr. DELLENBACK. I cannot tell you why. All I can tell you is that this amendment, amending an appropriation bill, ignores the basic law and creates an inconsistency.

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. DELLENBACK. I yield to the gentleman.

Mr. STEIGER of Wisconsin. There is one other point to make about the difficulty with this kind of numerical exemption. Let us take the construction industry. What it would do would be to create an intolerable situation between a general contractor who employs 15 or more and a subcontractor who employs less than 15.

The letters I have received from the American General Contractors Association and contractors within my own district indicated deep concern about the impact that this kind of 15 or less employee amendment has and they are opposed to it.

It seems to me that is but one more reason why we ought not to take this approach.

Mr. DELLENBACK. I agree with the gentleman.

Mr. McCLURE. Mr. Chairman, will the gentleman yield?

Mr. DELLENBACK. I yield to the gentleman.

Mr. McCLURE. Mr. Chairman, I could not help but notice the gentleman from Wisconsin states that this would create an intolerable condition. I would point out to him and to the House that this amendment will correct a much larger and much more serious intolerable condition.

Mr. DELLENBACK. I must respectfully disagree completely with my very good friend.

Mr. LANDGREBE. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I speak with some experience as an employer of a limited number of people over some 30 years.

I believe a small shop can be safer and in most cases is safer than a large shop. The employer is normally a resident owner. He works with his people. I know from my own experience, over a number of years. However, I will not stand here and brag about our safety record even though it is an enviable one. However, as has been mentioned the State of Indiana has laws, we have insurance regulations and, of course, in my case we have some very strict employer rules. However, we cannot legislate on human nature and human frailties.

There will always be people using alcohol, there are going to be people coming to work suffering from lack of sleep, and there are going to be people who have had burned toast for breakfast, they are going to come to work in a belligerent mood. Therefore, there will always be accidents that will happen in the shops of this country.

One of my main reasons for coming to Congress was to reduce the harassment of businessmen in our country. Again, I know from experience the repetitious number of forms and inspectors that our businessmen must deal with. In fact, even before beginning my service in Congress, I oftentimes found it difficult to serve my customers, because of the endless numbers of Government agents both State and Federal.

From the very beginning, I opposed OSHA, because I recognize this as more bureaucracy, another group of Federal regs to comply with. Smaller employers simply do not have the clerical help, do not have the legal help, and do not have the financial resources to deal with so many of these endless requirements as do the bigger firms, generally speaking.

I am pleased to have this opportunity to cast a vote in favor of the freedom of the employers of 15 or less employees. It is my deep regret that this amendment does not repeal OSHA. I would be pleased to stand up and vote for that.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. LANDGREBE. I will yield to the gentleman from California if we have time.

Mr. ROUSSELOT. I appreciate the statements of the gentleman from Indiana, and especially because he is speaking on the basis of his own experience. First, the gentleman is introducing a point that has not been touched upon too thoroughly in the debate today—that is the mountain of paperwork that is generated for a small businessman by this law. Much of this paperwork is imposed by a bureaucracy that is supposed to be interested in health and safety but does not seem to be interested in the health of the small employer who has to spend all the extra time and effort in a mound of paper forms and does not have large accounting firms and others to provide this kind of staff support. It is an unfair and undue burden upon the small businessman.

Second, as the gentleman has already pointed out—and it is also true in California—there are substantial State laws that deal in the field of health and safety. As the gentleman from Pennsylvania pointed out, it is true that sometimes the State bureaucracy can be just as bad. But the point is in many cases the State legislators have already moved to deal with that problem. We do not need a duplication of bureaucratic inspectors. I think we are trying to deal here today with a mistake that we made in turning over so much power to the Federal bureaucracy, and I compliment the gentleman for his efforts.

Mr. LANDGREBE. That is exactly right. OSHA is powerful, and if there is one thing that businessmen across my district fear, it is OSHA inspectors coming around.

Mr. ROUSSELOT. I compliment the gentleman as a former employer for bringing up some of the problems that we tend to forget the small businessmen face.

Mr. LANDGREBE. I thank the gentleman from California.

Mr. FISHER. Mr. Chairman, will the gentleman yield?

Mr. LANDGREBE. I yield to the gentleman from Texas.

Mr. FISHER. Mr. Chairman, I think it should be pointed out again that on June 15 this identical problem was dealt with, except it provided for 25 employees instead of 15. It was debated extensively here, and it was voted on and carried a majority by 213 to 154.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RONCALIO. Mr. Chairman, I move to strike the requisite number of words.

Mr. FLOOD. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto end in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. RONCALIO. Mr. Chairman, I object.

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Chairman, I move that all debate on this amendment and all amendments thereto end in 6 minutes.

The CHAIRMAN. The question is on the motion offered by the gentleman from Pennsylvania.

The motion was agreed to.

Mr. RONCALIO. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Wyoming is recognized.

Mr. RONCALIO. Mr. Chairman, the amount of time—these 2 minutes—given to us to debate reminds me of about the amount of time we will use to amend the substantive law that has put us in the mess we are in today. We were called before a hearing several months ago to air our problems with OSHA, but nothing came in the way of an opportunity to amend the substantive law. The Assistant Secretary of Labor came out to Wyoming and appeared on television with Senator CLIFFORD HANSEN of this administration. No invitation was offered to the only Congressman the State has—that is me—and on television they went.

The Assistant Secretary of Labor said, in effect:

> It is really a good law. We will correct the troubles. You folks are over-reacting here in Wyoming and over-emoting in the West.

He said this on television before my constituents on a program to which I was not invited.

There are in the CONGRESSIONAL RECORD over 25 cases of abuse by the Department of Labor examiners. One was an overexaggeration. He stressed the exaggeration for all of my constituents, but he did not bother to respond to the merits of the remaining 24 OSHA complaints from Wyoming businessmen.

I do not like to have to use this type of amendment either to bring justice, but there are times when you have to do harsh things to bring justice. The essence of this things is that no one should be exempt from maintaining safe premises—no one—whether they employ 15, or five, or two, or one. But, how do we bring some semblance of reason and justice into the administration of the law? This is our problem today.

It is going to be really interesting to see how many people change their vote today from what it was last June, and they will change; and in the spring when we go to amending the substantive law, they will change again. This amendment, here and now, is the only relief available, here and now, to bring justice into the OSHA program. I support it, still, and that is all I have to say.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri (Mr. BURLISON).

Mr. BURLISON of Missouri. Mr. Chairman, on June 15 of this year, when the House originally took up this appropriations bill, I voted against this amendment. That vote should not have been interpreted as my opposition to limiting application of the occupational safety and health law to employers of over 25 workers. This should be apparent from the fact that I was an early cosponsor of such legislation which, of course, was referred to the appropriate authorizing committee. The reason for my vote in June was that I did not feel that an appropriations bill was the proper vehicle by which to legislate a matter of this import. It becomes obvious now, however, at this late date, just prior to the end of this Congress, that the authorizing legislation will never see the light of day from the Education and Labor Committee. At the very best, there is not time to enact this legislation this session.

Though I am in accord with the goals and purposes of the Occupational Safety and Health Act and supported it when enacted a couple of years or so ago, I feel it works an inordinate and unjustifiable hardship on our small businessmen and farmers when administered as it has been. Thus I cast my vote for the amendment, which in essence exempts business and farmers employing less than 15 workers.

Mr. MONTGOMERY. Mr. Chairman, I rise in support of the Fisher amendment and urge my colleagues to adopt this amendment.

On my last trip home touring my district the biggest complaint I was hearing from the people was the harassment by inspectors of the Safety and Health Act.

This amendment will exempt the small businesses of 15 employees or less from the Labor Department inspectors enforcing the Safety and Health Act.

It is hard enough to make a profit now in business but when the Government comes in and harasses you, it has the effect of closing up businesses and puts people out of work instead of giving the employee protection.

This is a good amendment and should be adopted.

Mr. HANLEY. Mr. Chairman, I cannot support the amendment pending in the Committee on the Whole which would provide exemptions to coverage under the Occupational Health and Safety Act.

In 1970, the Congress passed the Occupational Safety and Health Act which was designed to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources. Since the act became effective some 18 months ago, it has become the subject of controversy which has led to oversight hearings by the Select Committee on Labor chaired by Hon. Dominick V. Daniels.

Every effort should be made to see to it that the desired impact of the act is achieved. Specifically, there should be no amendments which would limit the effects of the act to only certain businesses based on criteria such as size, number of employees, et cetera. Such actions only serve to betray the stated purposes of the bill.

I have, however, closely observed the progress of the Select Committee on Labor hearings on the bill and have sought suggestions from my constituents as to how the bill might be improved. From what I have learned from each of these sources, I believe that there are at least three main areas of concern which deserve immediate attention. They are the need, first, to differentiate between light residential and heavy construction industries; second, to increase employee responsibility under the act; and third, to temper the punitive nature of the act which requires the issuance of fines for all violations of the act discovered during the first inspection.

Since the present legislation does not differentiate between light residential and heavy construction industries, it has not resulted in the development and application of standards that properly reflect the hazards and working conditions of the light residential construction industry. It is fairly obvious that the engineering and safety requirements are considerably different for a two- and a 20-story building, just as the equipment used in light residential and heavy construction is considerably different.

The need to provide a fire extinguisher for each 3,000 square feet or major fraction thereof being protected is an example of a requirement within the safety regulations that is overstated as concerns home building. In multistory buildings, an extinguisher must be provided on each floor located adjacent to the stairway. A 55-gallon drum of water with two fire pails, or a ½-inch hose on a reel may be substituted for the extinguisher. The hose affords little relief in a light residential structure, since water service is not available for much of the construction period and there is no hose bib to which it may be fastened on the second floor. The 55-gallon drum is subject to freezing, is too heavy to move about, would interfere with work activities as it would take up too much room in the typical two-story house, and would surely create a mess on the wooden floors. The fire extinguishers themselves would require a considerable investment in the typical subdivision and would be difficult to protect from theft and vandalism. There is no clearly stated point of construction at which the extinguishers must be put in place, nor is it clear just when they are no longer required. It is interesting to note that this requirement to protect a home under construction is far in excess of building code or occupancy requirements once a family moves in and sleeps in the house.

There is a question as to whether the Labor Department has the authority to rectify this and similar situations brought about by the differences between light residential and heavy construction industries.

It is a fact, however, that the Labor Department has failed to take any action toward solving the problem. Therefore, the Congress should make it clear that since difference between light residential and heavy construction industries do exist, differentiation between light residential and heavy construction industries by the Occupational Safety and Health Administration should also exist.

The present law fails to place much responsibility on the employee for his own safety. As a result, compliance by the employer to the provisions of the act still may not result in a safe working environment. The most common example of this failure is the issuance of safety helmets by the employer to his workers who refuse to wear them. Efforts should be made to educate the employee in safety standards which apply to him according to OSHA.

Employers should be permitted to request that OSHA officials come into their facilities to advise and consult with them concerning any changes required by OSHA. This could clear up much of the ambiguity surrounding the act by allowing employers to obtain advance warning about potential violations of health and safety standards in their plants. The effect would be the removal of some of the nuisance features of the act by providing a greater opportunity to differentiate between willful and nonwillful noncompliance. It would also encourage employers to seek ways in which they could comply with the provisions of the act rather than avoid compliance for fear of punishment.

An example of a means by which small employers could be provided assistance in complying with the act is the bill, H.R. 16508, introduced by the Hon. William A. Steiger of Wisconsin. This amendment, which would allow for onsite consultation without inspection for employers of 50 or fewer employees, would alleviate the many complaints of small businessmen stemming from their inability to interpret the technical language of the standards while at the same time not sacrificing the safety and health of the employees of small employers.

This is a much more responsible way to respond to the need for special consideration for small businesses.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Fisher).

TELLER VOTE WITH CLERKS

Mr. FISHER. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. FISHER. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. Fisher, Conte, Flood, and Scherle.

The Committee divided, and the tellers reported that there were—ayes 191, noes 182, not voting 57, as follows:

[Roll No. 370]

[Recorded Teller Vote]

AYES—191

Abbitt
Abernethy
Abourezk
Alexander
Andrews, Ala.
Andrews, N. Dak.
Archer
Arends
Ashbrook
Baker
Baring
Bennett
Betts
Blackburn
Bray
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Byrnes, Wis.
Byron
Cabell
Camp
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins, Tex.
Colmer
Coughlin
Crane
Daniel, Va.
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Denholm
Dennis
Derwinski
Devine
Dickinson
Dorn
Downing
Duncan
Edwards, Ala.
Eshleman
Evins, Tenn.
Fisher
Flowers
Fountain
Frenzel
Frey
Fuqua
Gettys
Goodling
Griffin
Gross
Grover
Gubser
Haley
Hall
Hamilton
Hammerschmidt
Harsha
Harvey
Hastings
Henderson
Hogan
Hosmer
Hull
Hunt
Hutchinson
Ichord
Jarman
Johnson, Pa.
Jonas
Jones, N.C.
Jones, Tenn.
Kazen
Kemp
King
Landgrebe
Landrum
Latta
Lennon
Long, La.
McClory
McClure
McCollister
McCulloch
McEwen
McKevitt
Mahon
Mallary
Mann
Martin
Mathias, Calif.
Mathis, Ga.
Mayne
Miller, Ohio
Mills, Md.
Minshall
Mizell
Monagan
Montgomery
Myers
Nelsen
O'Konski
Passman
Patman
Pickle
Pike
Pirnie
Poage
Powell
Preyer, N.C.
Price, Tex.
Purcell
Quillen
Randall
Rarick
Rhodes
Roberts
Robinson, Va.
Robison, N.Y.
Rogers
Roncalio
Roush
Rousselot
Roy
Ruth
Sandman
Satterfield
Scherle
Schneebeli
Schwengel
Sebelius
Shipley
Shoup
Shriver
Sikes
Smith, Calif.
Snyder
Spence
Steiger, Ariz.
Stephens
Stubblefield
Stuckey
Talcott
Taylor
Teague, Tex.
Terry
Thompson, Ga.
Thomson, Wis.
Thone
Ullman
Vander Jagt
Veysey
Waggonner
Wampler
Ware
Whalley
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wright
Wylie
Wyman
Young, Fla.
Young, Tex.
Zion
Zwach

NOES—182

Abzug
Addabbo
Anderson, Calif.
Anderson, Ill.
Anderson, Tenn.
Annunzio
Ashley
Aspin
Badillo
Barrett
Begich
Bell
Bergland
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Bolling
Brademas
Brasco
Burke, Mass.
Burton
Byrne, Pa.
Carey, N.Y.
Carlson
Carney
Celler
Chisholm
Clark
Clay
Conable
Conover
Conte
Conyers
Corman
Cotter
Culver
Danielson
Dellenback
Dellums
Dent
Diggs
Dingell
Donohue
Dow
Drinan
Dulski
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Erlenborn
Esch
Evans, Colo.
Fascell
Fish
Flood
Foley
Ford, Gerald R.

Ford, William D.
Forsythe
Fraser
Frelinghuysen
Fulton
Garmatz
Gaydos
Gibbons
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Gude
Hanley
Hanna
Hansen, Wash.
Harrington
Hathaway
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks, Mass.
Holifield
Horton
Howard
Hungate
Jacobs
Johnson, Calif.
Jones, Ala.
Karth
Kastenmeier
Keating
Keith
Kluczynski
Koch
Leggett
Long, Md.
Lujan
McCloskey
McFall
McKay
McKinney
Macdonald, Mass.
Madden
Mailliard
Mazzoli
Metcalfe
Michel
Miller, Calif.
Mills, Ark.
Minish
Mink
Mitchell
Moorhead
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Obey
O'Hara
Patten
Pelly
Pepper
Perkins
Pettis
Peyser
Podell
Price, Ill.
Pryor, Ark.
Quie
Railsback
Rangel
Rees
Reuss
Rodino
Roe
Rooney, Pa.
Rosenthal
Rostenkowski
Runnels
Ruppe
St Germain
Sarbanes
Scheuer
Seiberling
Sisk
Slack
Smith, Iowa
Smith, N.Y.
Springer
Stanton, J. William
Stanton, James V.
Steed
Steele
Steiger, Wis.
Stratton
Sullivan
Symington
Teague, Calif.
Thompson, N.J.
Tiernan
Van Deerlin
Vanik
Vigorito
Waldie
Whalen
Wilson, Charles H.
Wolff
Wyatt
Wydler
Yates
Yatron
Zablocki

NOT VOTING—57

Adams
Aspinall
Belcher
Bevill
Blanton
Bow
Caffery
Collins, Ill.
Curlin
Daniels, N.J.
Delaney
Dowdy
Dwyer
Edmondson
Findley
Flynt
Galifianakis
Gallagher
Giaimo
Goldwater
Hagan
Halpern
Hansen, Idaho
Hébert
Hicks, Wash.
Hillis
Kee
Kuykendall
Kyl
Kyros
Lent
Link
Lloyd
McCormack
McDade
McDonald, Mich.
McMillan
Matsunaga
Meeds
Melcher
Mikva
Mollohan
Nichols
Nix
O'Neill
Pucinski
Reid
Riegle
Rooney, N.Y.
Roybal
Saylor
Schmitz
Scott
Skubitz
Staggers
Stokes
Udall

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. O'HARA

Mr. O'HARA. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

OFFICE OF EDUCATION

ELEMENTARY AND SECONDARY EDUCATION

For carrying out, to the extent not otherwise provided, title I ($1,597,500,000), title III ($146,393,000), and title V, Parts A and C ($43,000,000), of the Elementary and Secondary Education Act, $1,786,893,000: *Provided*, That grants to States on behalf of local education agencies under said title I–A shall not be less than grants made to such agencies in the fiscal year 1972.

The Clerk read as follows:

Amendment offered by Mr. O'HARA: Page 19, line 10, strike out the proviso beginning on line 10 continuing down through line 13 on page 19.

Mr. O'HARA. Mr. Chairman, I offer a second amendment dealing with the same subject and with the same principle, and I ask unanimous consent that the second amendment also be read, and that the two amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The portion of the bill to which the amendment relates is as follows:

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, section 102(b) ($20,000,000), parts B and C ($444,682,000), D, F ($25,625,-000), G ($19,500,000), H ($6,000,000), and I of the Vocational Education Act of 1963, as amended (20 U.S.C. 1241–1391), and the Adult Education Act of 1966 (20 U.S.C. ch. 30) ($51,300,000), $592,127,000, including $16,000,000 for exemplary programs under part D of said 1963 Act of which 50 per centum shall remain available until expended and 50 per centum shall remain available through June 30, 1974, and not to exceed $18,000,000 for research and training under part C of said 1963 Act: *Provided*, That grants to each State under the Adult Education Act shall not be less than grants made to such State agencies in fiscal year 1971: *Provided further*, That grants to each State under the Vocational Education Act shall not be less than grants made to such States in fiscal year 1972.

The Clerk read as follows:

Amendment offered by Mr. O'HARA: Page 21, line 3, strike out the provisos beginning on line three and continuing down through line 8 on page 21.

The CHAIRMAN. The gentleman is recognized for 5 minutes in favor of his amendments.

Mr. O'HARA. Mr. Chairman, my amendment would remove the provisos found on page 19, line 10, and page 21, lines 3 and 5.

Now, what these provisos are intended to do, the proviso that I would delete from the bill, they are intended to ignore the formula changes that have taken place over the last few years.

They affect three programs: In title I, the Elementary and Secondary Education Act, the State's allocation depends on the number of educationally disadvantaged children within the State, and the average cost of education per child.

Second, it deals with grants under the Adult Education Act, in which a State's allotment is determined by the number of persons within the State who do not have a high school education.

The third proviso deals with vocational education. Under the Vocational Education Act the amount per State is determined on the basis of the number of people in each State, under the 1970 census.

With respect to title I of ESEA the amount States spend per pupil has changed. Some States have gone up and some States have gone down. Accordingly their allotments should have gone up or down. The number of children eligible has gone up in some places and has gone down in others.

However, the committee says forget that, base their allocation on what their need was 4 or 5 years ago.

The same is true with vocational education, where we now have the 1970 census. The committee said forget the 1970 census; do not determine a State's allocation on the basis of its current needs; ignore that.

Mr. Chairman, the formula grant programs in education try to allocate to the States the amount each needs based upon the number of people requiring the service that the particular program is supposed to provide.

If we go along with the method of the Committee on Appropriations, ignoring the changes that take place in the population, in the number of children needing particular services, and in the average cost of education, these programs becom meaningless pork barrel.

I ask the committee to support my amendment, which would strike out the Appropriations Committee provisos and allocate the funds as the legislative act intended, according to the need State by State.

Mr. FLOOD. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I had better have some attention on this. You are all in on this. Every State is affected by this amendment.

If you do what this amendment calls for, somebody is going to get hurt; some State is going to get hurt. Who? Which one? I do not know. It might be you, you, you, you, or you. I do not know. But somebody is going to get hurt. Yes, sir.

This bill calls for $1,597,500,000 for title I of ESEA. That is the same as the amount appropriated for fiscal year 1972. Now watch. If you strike that language out as proposed by the gentleman's amendment, because of the very operation of the formula in the authorizing legislation—and you are going to get letters on this—some States will receive less than they did in the year 1972. That could be you. Would that not be nice?

Now, the same thing applies to the second amendment which is made a part of this package. Our bill provides—and hear this—that no State—no State—gets less under the Vocational Education Act than it did last year. If this amendment is adopted, some States will be hurt—and one of them may be yours.

Look out. You had better knock this one down.

Mr. PERKINS. Will the distinguished gentleman yield?

Mr. FLOOD. Of course I yield to the gentleman from Kentucky.

Mr. PERKINS. Let me state that in 1965, when we enacted the ESEA, the figures were not available until about 1964. The last time I requested the information from the Department the 1973 income figures were not available on the 1970 census. So we have good reason to oppose the amendment, and I want to compliment the gentleman.

Mr. FLOOD. I could not imagine anyone could say it better than I could, but you did.

Mr. QUIE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendments.

Mr. Chairman, I support this amendment and I did when we had the same fight when the bill went through the House before. Then we dropped those provisions.

When the chairman of the subcommittee says somebody is going to get hurt, that is true, somebody is going to get hurt if you leave the bill the way it is.

Now, why should you let each State receive the same amount of money they received before if they have fewer children to be benefited from these programs?

We have a very poor formula as it is, in the way they count the children based on an ancient census, using 1959 income. The Committee bill perpetrates this. At least we have a little bit of give in the formula, OE may consider the need that exists now by counting those on welfare. Something has happened in these last 5 or 6 years that caused the difference in the amount of people on welfare. For instance, some plants were closed down when this administration reduced the war effort. Some plants as a result of that did not have Federal contracts so some people did not have jobs, therefore more kids are counted under the formula in those areas. Why should you not count the kids instead of protecting States? That is what the amendment offered by the gentleman from Michigan (Mr. O'HARA) will do, in the 1972 school year you will count the kids who qualify. And you know, if a State that does not qualify with as many children in this year, they should not get the money they did in the year before because that takes some money away from those children who should be counted in other States. States that happen to have an increase in their poverty levels or in unemployment in their areas need the help.

We wrote this formula so that it would have some flexibility to meet the needs where the disadvantaged children existed at that time. It is not a perfect formula. It has to be made into a better formula, and we will have to write a better formula and we are going to do it in the Committee on Education and Labor next year.

Of course I know that all the States have financial problems, and we certainly do, too. We have severe financial problems, as you know by the fact that this bill is back here again. The President had to veto the previous bill. He has to set a limitation on funds. So with that limitation let us let the money go where the kids are in each of the States.

That is what will happen if we adopt this amendment, so I urge you to adopt the amendment.

Mr. WILLIAM D. FORD. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendments.

Mr. Chairman and Members of the Committee, in supporting this amendment I mean no offense to our distinguished colleague, the gentleman from Pennsylvania (Mr. FLOOD) who has worked so very hard in the interest of education as he has, and on all of the appropriation bills of a like nature that have come before us. It is true that either way you vote, someone is going to get hurt. As the gentleman from Minnesota (Mr. QUIE) has just pointed out, the effect of leaving the language in the bill that the amendment offered by the gentleman from Michigan (Mr. O'HARA) would seek to strike would be to continue to distribute the money on the basis of where the children were 12 or 13 years ago. To be more precise, you would count the children on the basis of where they were 12 years ago, and on what their family income was, and other employment data was 13 years ago. On the other hand, if the amendment offered by Mr. O'HARA is adopted you would distribute these funds on the basis of where the children were found in the 1970 census which in some instances might hurt some States. But we cannot, as the gentleman from Minnesota has said, justify continuing for more than 13 years a distribution system that has already been involved in the distribution of funds on a formula that does not find the children where they are now in the many school districts that now have the duty to educate them. We should not distribute funds on the basis of figures that bear no relationship to what the true facts are.

It cannot be emphasized too much that if you legislate on the truth of where the heaviest unemployment exists, in States that have had increases in unemployment and increases in people on welfare, that other States will be hurt. Nationally in the last 3½ years the number of welfare recipients in this country has grown from 7.9 million to over 15 million people.

Take a look at which States have the highest unemployment, and the highest increase in welfare, and you will know who is going to be hurt the most if you support the committee position. It is these States that would receive relief if you use the up-to-date data. We should be relying upon the facts of life as they really are today, not on the facts of life as they existed 2 or 3 years ago when the census was taken.

The easiest way to vote so that the neediest districts get hurt, would be to vote for the position of the Appropriations Committee. That is because they do not propose to follow the formula that this House has adopted by an overwhelming majority of both political parties when we passed the bill authorizing these programs.

Last year, the last time the bill came through the House, the gentleman from Michigan (Mr. O'HARA) knocked out this proviso on a point of order. An amendment was offered with the language changed, and we voted it down on the floor. The House supported the proposition of using up-to-date data. Not one school district lost a penny as a result of this action because the Senate put enough money in the bill to hold harmless all of the school districts that would have lost money by the action that the House took.

I do not think that the gentleman from Pennsylvania would realistically say that if the Senate did that in this case it would not stay in the bill in the conference committee.

I urge you to follow the suggestion the gentleman from Minnesota has given, and that is to amend the formula so that we recognize a realistic basis for finding the pupils in this country, and minimize the hardship that is done to school districts that need help the most.

And you cannot justify to the school people you represent or to your own conscience your vote for a proviso that seeks to provide money for phantom children in school districts where they have not attended school for as much as 15 years while the school districts that are most hard pressed will not receive the money that they need to stay open, even on a minimal basis for the balance of this year.

And that is what the effect of a "no" vote on this amendment would be.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I wonder sometimes when some people will ever learn.

You know it was 3 years ago that we had two bills vetoed, and we finally came back here in March with the school year almost over and passed a bill that gave the schools less money than the committee had originally recommended the previous June. When this bill was here in June, we warned that adoption of that big amendment would again result in a veto and many of us who actually favor more aid to education opposed that amendment because we knew what would happen. We proved to be the true friends of education.

What are you trying to do, set us up for the same thing again? I voted against Nixon, just like most of the Members of this House did. But he won—whether we like it or not, he won the election. He has the right of veto—that goes with the presidency. He vetoed the predecessor to this bill. We are coming back here with a bill that kept intact all of the money for education that was in the original committee bill. The committee took $90 million out of health but kept the education funds intact and now some Members come along with an amendment which would obviously result in the Senate increasing the education portion by $100 million. The Senate would have one of two alternatives—either take an equal amount away from health or some other education items increase the amount and we all know that the bill will be vetoed again. They would not want to leave some districts with less money than last year when they budgeted on that basis and the year will be partly over.

Now it is just this simple. Are Members really going to do something for education? Do Members want the school districts to get their money or do they want to play education politics from now until next spring? That is what is at stake here. Let us pass a bill which either will not be vetoed or that we can pass over a veto and get the money out to the school districts that they should have had several weeks ago.

Mr. O'HARA. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman.

Mr. O'HARA. I want to make clear that my amendment does not propose to add 5 cents to the overall appropriation in this bill.

Mr. SMITH of Iowa. I know.

Mr. O'HARA. It strikes out this proviso and does not give any funds to a different item.

Mr. SMITH of Iowa. There is not

enough money in here so they can give all the money to these school districts that are entitled to under the formula and still not cut other districts.

They are not going to get that kind of money this year. As the extra money is available, it will go to those school districts which would be entitled to more under the formula.

This amendment would surely cause the Senate to add $100 million because some school districts already are in the school year and expect to get at least what they got last year. That is just setting the bill up for another veto. I think the amendment should be defeated.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Michigan (Mr. O'HARA).

The amendments were rejected.

AMENDMENT OFFERED BY MR. M'CLURE

Mr. McCLURE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLURE: Page 6, line 24, immediately before the period insert the following: "*Provided*, That none of these funds shall be used to pay for expenses of inspection in connection with any employer who has submitted to the Secretary of Labor a plan for compliance with the Occupational Safety and Health Act of 1970 and such plan has been approved by the Secretary."

Mr. CONTE. Mr. Chairman, I reserve a point of order.

Mr. McCLURE. Mr. Chairman, this amendment intends to do something for the employers who have 15 or more employees in terms of reducing the harassment to which they are subjected at the present time. I have drawn the language from some of our experience in water pollution control abatement, in which we permit those corporations and businesses to file a plan for the abatement of pollution, and then they are permitted to follow that plan to achieve the end which we all seek. I think this is a legitimate way to solve some of the problems that confront some of our businesses in this country in the field of safety by allowing them to file a plan for compliance with OSHA regulations and give them the time in which to meet the requirements that are set down by the regulations and the Secretary of Labor.

This goes a little bit further than the present laws go with respect to variances which are permitted under the present statute, but one of the problems they have had as a matter of practice under the existing law is not being able to predict or to know what would be required of them. This amendment which I am now offering would allow them to have some certainty and some continuity in their plan as they struggle to do what we all wish them to do, and that is provide safe premises for their employees.

I would hope that the committee would not feel it necessary to raise a point of order against this amendment. I would hope that they would see that this does not really do any kind of violence to the intent or the purpose or the implementation of this bill. It still gives the Secretary complete authority over the kind of plan, but it would allow them to have the opportunity to present the plan for conformity to the Secretary.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. McCLURE. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, if no one can go to the plant to make an inspection, how would the Secretary know, first of all whether he should approve the plan; and, second, whether the plan had been complied with?

Mr. McCLURE. The Secretary under the regulations adopted under the act can determine whether or not the plan will comply with the recommendations and regulations under the OSHA Act. Of course, this is one of the great difficulties they have under the present law.

I thank the Chairman.

I yield back the remainder of my time.

The CHAIRMAN. Does the gentleman from Massachusetts wish to press the point of order?

Mr. CONTE. Yes, Mr. Chairman.

Mr. Chairman, I raise the point of order that this gives the Secretary additional burdens and duties to ascertain whether a plan is acceptable or not. Further, I believe it is nongermane. It is not related to the organic law at all. As I understand the OSHA law, it does not require a plan to be submitted to the Secretary of Labor. Therefore, it is completely nongermane to the legislation. Therefore, I feel a point of order lies against the amendment.

The CHAIRMAN. Does the gentleman from Idaho wish to respond to the point of order?

Mr. McCLURE. Yes, Mr. Chairman. I thank the Chairman. I recognize the argument that has been made by the gentleman concerning the fact that it imposes a duty, but the duty is already imposed by the OSHA Act to require the Secretary to do certain things with respect to safety regulations. This changes the method by which that action is complied with but does not impose an additional duty.

The CHAIRMAN (Mr. HOLIFIELD). The Chair is ready to rule. The Chair has listened carefully to the arguments for and against the point of order. The Chair believes that this is a limitation of funds and it is restricted to the funds contained in the pending bill. It is a limitation on using those funds for inspection of certain employers who have submitted plans for compliance with the Occupational Safety and Health Act where those plans have been approved. The amendment is negative and imposes no new duties on Federal officials. Therefore the Chair holds the amendment in order and overrules the point of order.

Mr. FLOOD. Mr. Chairman, I rise in opposition to the amendment.

This the Members would not believe unless they were here. This was handed to me just a few minutes ago. Very few Members have even seen this yet and have not the faintest idea what it involves. Certainly, I am not sure what all the implications might be. It says:

None of these funds shall be used to pay for expenses of inspection in connection with any employer who has submitted to the Secretary of Labor a plan for compliance with the Occupational Safety and Health Act of 1970 and such plan has been approved by the Secretary.

Now, I did not know that the law provides for an employer to submit a plan. But, all right, suppose he submits a plan and then suppose the Secretary approves the plan. As I read this amendment, that employer can then do whatever he wants to do, including throwing the plan out the window, and the Department cannot even send out inspectors to inspect the plant.

How do you Members like that? You would not believe this unless you were here. Members cannot possibly vote for such a thing.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Idaho (Mr. McCLURE).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 23, noes 85.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. BADILLO

Mr. BADILLO. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

EDUCATIONAL RENEWAL

For carrying out, to the extent not otherwise provided, titles VII and VIII of the Elementary and Secondary Education Act, part B–1 of the Education Professions Development Act, section 309 of the Adult Education Act, as amended, part IV of title III of the Communications Act of 1934, the Cooperative Research Act (except section 4), the Drug Abuse Education Act of 1970, the Environmental Education Act, and sections 402 and 412 of the General Education Provisions Act, $219,190,000, of which $13,000,000 shall be for educational broadcasting facilities and shall remain available until expended.

The Clerk read as follows:

Amendment offered by Mr. BADILLO: On page 22, line 2, strike out "$219,190,000" and insert "$234,190,000" and before the period in line 4 insert the following: "and of which $60,000,000 shall be for carrying out Title VII of the Elementary and Secondary Education Act."

Mr. BADILLO. Mr. Chairman, I believe that ample and detailed proof exists that foreign-language speaking children have been educationally shortchanged and are being seriously neglected by standard American teaching methods and attitudes. For far too long youngsters who speak a language other than English as their mother tongue are in many instances being treated as disadvantaged, handicapped and, in some cases, as retarded. Often they are physically or psychologically punished for speaking their native language and are forced to conform to an alien culture. They are encouraged to reject their particular ethnic culture.

However, the Bilingual Education Act, enacted some 5 years ago, held out hope to these children. The Congress supposedly assured these boys and girls that they would be afforded full and equal educational opportunities. Regrettably, the Congress' actions have fallen far short of its words as bilingual education programs have historically been seriously underfunded. Because of the woefully inadequate budget, little has been done to give meaningful encouragement to the development and expansion of bilingual/bicultural education.

Although the Congress authorized an expenditure of $135 million for bilingual education programs in fiscal year 1973, the administration only requested $41,130,000. Fortunately, the Appropriations Committee originally raised this figure to $45 million—which it has done again in the second Labor-HEW appropriations bill. However, this amount is simply not sufficient as only 55 to 60 new programs, involving an estimtaed 35,000 additional children, can be implemented at this level. Consider this number of students with the estimated 5 million children who are considered to be in desperate need of special bilingual education. It is particularly inadequate when you recall that the Senate had the foresight to raise the total appropriation by $15 million to a level of $60 million and that this was the figure which was agreed upon in the final legislation. Last June I offered an amendment to add this $15 million and I again offer such an amendment today.

Although a total appropriation of $60 million is still less than half of the total authorization, it will at least enable the Office of Education to implement an estimated 110 new projects serving some 90,000 additional children—almost double the present number now being reached. Also, by increasing the appropriation to even this modest level we will be able to renew our commitment to providing essential bilingual education to those requiring it and providing the Office of Education with the resources to expand programs to those locations denied such assistance and with only a limited number of projects.

Mr. Chairman, on countless occasions in the past a number of my colleagues and I have commented and presented statistics on the crying need for increased and expanded bilingual/bicultural programs throughout the country. It has been reported, for example, that there are some 290,000 Spanish-speaking students in New York City's schools, of which 135,000 are severely limited in their ability to speak English. An additional 18,000 children of Chinese, Italian, French, and other backgrounds also cannot speak English, according to a New York State investigative commission. It is almost criminal that of these students only 4,000 are reached by bilingual education programs.

Studies have shown conclusively that children who are participating in bilingual/bicultural education programs are learning faster and reading better than their peers who are not given this opportunity. Bilingual education has made learning meaningful to Spanish-speaking Americans and other minorities whose drop-out rates—over 85 percent for the Puerto Rican community in New York City—far exceed the national average.

When we considered the original Labor-HEW appropriation bills in June I observed that one-third of the House Members have constituents who are presently participating in one of the 213 bilingual education programs funded under title VII of the Elementary and Secondary Education Act. We have an obligation to these foreign-language speaking constituents and others to insure that they reap the full benefits of citizenship and overcome their language handicaps. They must be afforded equal educational opportunities and afforded the chance to participate on an equal basis with other Americans. We must not be intimidated by the President's very ill-conceived and callous veto of the original appropriations legislation and should take affirmative action to restore the $15 million which was stricken by the committee. Certainly this rather modest sum will not in any way contribute to any real or imagined budgetary pressures and if savings are to be had, there are numerous other areas of dubious need and at significantly higher sums which can be reduced. We must move to end the present inequity in the allocation of already restricted title VII funds and take steps to guarantee the best possible education to our foreign-language speaking students.

Mr. Chairman and Members of the Committee, this amendment would add $15 million to the funds for bilingual education to bring the total up to $60 million. The authorization is $135 million.

When this bill was before the House, I made the same amendment, and it was defeated in the House. Subsequently, however, the Senate agreed to the amendment and the amount agreed to in the conference was $60 million. What we seek to do here is to provide those funds that were agreed to in the conference report.

The reason it becomes important to add this amount is that in the past year we have found that additional areas of the country want to take advantage of bilingual educational programs. Originally, the amounts of money that were available went to the Southwest in the Spanish-speaking communities and was applied to the Mexicans.

However, in the past few years we have begun to get funds for New York City, for Pennsylvania, New Jersey, Connecticut and other eastern States. We find that the appropriations do not enable us to provide for bilingual education for the children in those areas. We find, in fact, that the total amount of appropriations today only provides for bilingual education for 3 percent of the Spanish-speaking children in the country. That certainly is inadequate. But, we find something else. There are other groups who are not Spanish speaking; Italians, Greeks, Chinese, and others who would like to get the benefits of bilingual educational programs, because it has been found that where these programs are put into effect, it is possible to advance the educational achievement of the children in English as well as in Spanish.

The bilingual educational program does not mean that kids are not going to learn English. As a matter of fact, what it means is that they are able to learn to speak the language faster, and they are able to move into the mainstream of the society a bit faster. This is what Spanish-speaking children as well as the other children who do not speak English would like to get.

We know, of course, that there have been many groups who have come to this country from Europe and from other parts of the world without being able to speak the language, and that they have been able to become part of our total society, but what we also know is that it has taken them three, four, five generations to accomplish this. It seems to me that one of the things we should do is learn from the experience of others and see to it that those who learn to speak the English language through a billingual education program are able to move into the rest of the society in one or two generations. This is what the amendment seeks to do.

I urge its support to make sure that the $60 million which the Senate approved and that the conference approved is available.

Mr. FLOOD. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, again I must oppose this kind of amendment. I can speak from some experience about the needs for bilingual education. I have to speak Lithuanian, Polish, Italian, Ukrainian, and Irish and everything else out of self-defense in my district—out of pure self-defense.

Now, Mr. Chairman, the committee has provided $45 million for bilingual educational programs authorized by title VII of the Elementary and Secondary Education Act. Let me tell you, this represents a $10 million increase; almost 30 percent expansion over the 1972 level. What about that? That is a pretty darn good rate of growth for any program. This would take care of all continuation costs for the 200 existing projects, and, in addition, it will provide the money for 50 more brandnew projects.

Do not forget why we are here today. We are doing a juggling act here. This bill has been vetoed. Let us be sensible about this thing.

I do not want to break down and cry about these projects. I am for them. You know it. The real concern I have is that we get the funds for the programs, and all the programs contained in this bill, have them appropriated and released to the States and local agencies so that they can proceed with their plans for their activities for this current fiscal year. Four months are gone. We have to get this money out there.

If you persist in adding money for this program, for that program, or the other program—worthy as they may be, Lord knows—your good intentions will very likely result in further delay in the money being appropriated.

We have already had one veto. For heaven's sake, let us not invite another one. Rememer why we are here. We did not ask to come back today. Remember why we are here. Let us not open ourselves up to more trouble.

This is a good program. There is $45 million in it, $10 million more than last year, a 30-percent raise. What do you want? Diamonds, at a time like this? Mr. Chairman, let us defeat this amendment.

Mr. YATES. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the gentleman from Pennsylvania is right, that this is an increase of 30 percent, but it is comparable to an increase from nothing, because the bilingual program has been drastically underfunded ever since it was passed. No group in this country has been more discriminated against than the Spanish-speaking families.

The money which has been appropriated over the past few years has gone primarily to three States. It has gone to California. It has gone to Texas. It has gone to New York. States such as Illinois, States that have other groups of Spanish-speaking families thronging into them, have not received their share of the funds at all.

What has been the results? In my home city of Chicago, for example, we are starving for bilingual funds. The children from Spanish-speaking families are unable to absorb an education which is taught to them in English. As a result, a study which has been made by the regional director of HEW shows that over 50 percent of the children from Spanish-speaking families are dropouts before their high school educations are completed. They just cannot absorb an education in English.

It is as though our children were being taught in Chinese. The comparison is that.

Therefore, Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from New York. I believe this is a vitally essential program, and I urge adoption of the amendment.

Mr. ROYBAL. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from California.

Mr. ROYBAL. I should like to associate myself with the remarks made by the gentleman from Illinois.

Mr. Chairman, as one of the original authors of the Bilingual Education Act, I support this amendment to restore the $60 million appropriations for bilingual education approved earlier by both Houses of Congress.

When Congress acted on this legislation some 4 years ago we declared it our national policy that non-English speaking children would no longer be deprived of equal educational opportunities. In approving this measure we hoped to meet the pressing educational needs of millions of children who are handicapped by severely limited English speaking ability and who come from environments where the dominant language is not English.

Unfortunately, however, the goals which we envisioned at that time have been thwarted by totally inadequate funding. This year the administration came to us with a request to appropriate just barely 30 percent of the amount previously authorized, that is, $41.1 million. At this level only an estimated 123,000 children would have been reached by bilingual education as compared with the estimated 5 million children who are in need of this assistance.

Such a request clearly displayed a lack of substantive commitment to effectively deal with the problem. In reply Congress acted quickly to provide additional funds to expand this program, funding 110 new projects and assisting 90,000 more children.

The amendment is really rather modest. By restoring the $60 million appropriations earlier approved by Congress, we will be able to initiate some very needed new programs and help many more children participating in bilingual projects. Furthermore, Congress will have the opportunity to reaffirm its commitment to the principles established in the Bilingual Education Act.

The need for this program has been well documented in the past and most recently in a comprehensive study conducted by the U.S. Commission on Civil Rights on the education of Mexican Americans in the southwest and of mainland Puerto Ricans in the northeast. The findings reveal that Spanish-speaking students suffer under the weight of school-imposed ethnic isolation, educational failure and cultural strangulation.

The Commission reported that in the five southwestern States' studies, Mexican Americans have been programed for failure under our school systems. They achieve at a lower rate, drop out of school at an earlier age, have poorer reading skills, and tend to repeat more grades than their Anglo peers. Within my own district, it is estimated that in the Spanish-speaking barrios of East Los Angeles three out of four drop out of high school.

The causes of this educational tragedy can be found in the failure of our school systems to respond positively to the rich cultural heritage and language of the various Spanish speaking and other non-English-speaking groups in this country. Our schools have failed to tailor educational skills and fundamentals, particularly reading and math, to the background and culture of the student.

Even today in many schools the use of the Spanish language is discouraged and forbidden. There are well documented instances where these children are assigned to classes for the mentally retarded because they lack English-speaking skills and have a cultural background too often viewed as conflicting with that of the dominant group.

Mr. Chairman, it is time that we recognize the unique contribution other cultures and languages have made to American life, and the need for our children to learn other languages and to gain a deeper cultural and racial understanding of our country. The bilingual program provides us with this opportunity as well as assist students with severely limited English-speaking ability.

I urge your support of this amendment.

Mrs. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentlewoman from New York.

Mrs. ABZUG. Mr. Chairman, I wish to associate myself with the remarks of the gentleman from Illinois and the gentleman from New York.

The pending amendment would appropriate an additional $15 million for the bilingual education program authorized under title VII of the Elementary and Secondary Education Act. The original Labor-HEW appropriations bill, which was passed back in June, contained only $45 million of the authorized $135 million for this crucial program; although the final version of the bill increased that figure to $60 million, the President's cruel and callous veto left us pretty much back where we started.

At the present time, only about 2 percent of the young children eligible for bilingual educational assistance are actually receiving any benefits under this legislation. The proposed appropriation would increase that amount to something under 3 percent.

The funds which this amendment would provide will hardly break a nation which has sufficient spare cash around to spend $75 billion per year on defense, but they will represent an effort on our part to begin to make the promise of education a reality for all children without regard to whether English is their primary or secondary tongue. The Chicanos, Puerto Ricans, Chinese, American Indians, and other linguistic minorities are as much Americans as anyone else, and we must give them a direct commitment to equal educational opportunity—and equal social opportunity—throughout this Nation.

I urge the adoption of this amendment.

Mr. COLMER. Mr. Chairman, I move to strike out the requisite number of words.

(By unanimous consent, Mr. COLMER was allowed to speak out of order.)

LEGISLATIVE PROCEDURE BEFORE SINE DIE ADJOURNMENT

Mr. COLMER. Mr. Chairman, I take this time to make what I think is an important announcement to the membership and particularly to the chairmen of the legislative committees.

As the House is aware, for the past several years the Committee on Rules at appropriate times, in order to expedite the closing of the Congress and enactment of the necessary "must" bills, including, of course, the money bills, has set a date after which it will not receive and act upon requests for new legislative proposals.

This has worked fairly well in the past, but not always, of course, completely.

But to get to the point and in order to assist the leadership and the membership in the common goal to bring about a sine die adjournment of the Congress, your Committee on Rules today has set that date to which I have just referred beyond which it will not receive requests for rules as of September 25, 1972, which is next Monday.

Now, the only exception that will be made to that is in matters of emergency—and I want to emphasize that—emergency and not arm-twisting for some pet projects that Members may have that they desire to have enacted. The only other exception, of course, will be in matters of procedure such as conference reports, et cetera.

Mr. Chairman, in pursuance of this goal, I have, by the unanimous direction of the Commitee on Rules, addressed the following letter, which was hand delivered, to the chairman and ranking minority members of the legislative committees of the House:

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON RULES,
Washington, D.C., September 19, 1972.

MY DEAR MR. CHAIRMAN: As an effective method of expediting adjournment, you will recall that for the past several years it has been the policy of the Rules Committee, after consultation with the Leadership, to fix an expiration date after which this Committee would not consider further applications for rules.

The Committee on Rules, in a desire to accommodate the Leadership and the Members, has today authorized me to advise you and the other chairmen and ranking minority members of the legislative committees of the House that all requests for rules making bills in order for the floor consideration must be received, together with the reports thereon, prior to midnight, September 25. The only exception will be in cases of a procedural or a real emergency nature. This decision was reached after full and appropriate consulation, and I can assure you that it is the firm decision of the Rules Committee.

Assuring you of the Committee's appreciation of your usual splendid spirit of cooperation in this, as in all other matters, I am,

Respectfully yours,
WILLIAM M. COLMER,
Chairman.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. COLMER. I yield to the distinguished gentleman from Iowa.

Mr. GROSS. The only criticism I have of the gentleman's announcement is that he did not make the cutoff date today.

Mr. COLMER. Well, I appreciate the gentleman's remarks and thank him for his splendid contribution. I am sure that if the gentleman and I had our way, we would have cut it off some weeks ago.

Mr. GROSS. You could save some money by cutting it off today.

Mr. COLMER. I think the best thing that could happen for the membership of the Congress, and above and more important than that, for the interest of this country, would be for this Congress in this election year to adjourn. If we have the cooperation of all concerned, there is no reason why the target date for sine die adjournment of October 14 should not be met.

Mr. DU PONT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, if I could focus the attention of the membership of the House once again on the very fine amendment of the gentleman from New York (Mr. BADILLO), I would like to rise in very strong support of that amendment.

It is hard to believe, but it is a fact, that a desperately needed program that is supposed to serve and should serve over 3 million children in the United States is funded at a level that barely serves 100,000.

We have heard eloquent remarks from the gentleman from Illinois concerning the programs of his district and some remarks on the other side from the distinguished chairman of the committee from Pennsylvania, but I have a special problem. I represent one of the smallest States in the Union, the next to the smallest State in the Union.

We do not get any bilingual education money; none whatsoever, and we have a substantial Spanish population there. I have a Spanish-speaking member on my staff, and I put out a newsletter in Spanish, and I have considerable contact with the Spanish community, but there is not a single program in the State of Delaware that is funded by the Federal Government for bilingual education.

This is partly due to problems we have in the State of Delaware, but it is also due to the fact that this program is woefully underfunded.

As the gentleman from New York (Mr. BADILLO) has pointed out the Congress authorized spending of over twice as much money as we are appropriating for bilingual education. It seems to me it is very much worthwhile that we increase this budget by a very small amount, $15 million only, to serve this very worthwhile cause.

Children who cannot speak the language that their schoolteachers speak have a very difficult problem. They cannot learn what they are supposed to because they cannot carry on the basic conversation that you and I find so easy to carry on.

Mr. YATES. Will the gentleman yield?

Mr. DU PONT. I yield to the gentleman.

Mr. YATES. The gentleman makes a very valid point. As a matter of fact, in some areas some of the children are placed in retarded schools. The only reason why they have not been able to absorb the knowledge of their other schoolmates is the fact they cannot comprehend the lessons taught in English.

Mr. DU PONT. I thank the gentleman. He is entirely correct.

We have adults in Delaware unable to speak English because they have come from Spanish-speaking countries.

But also, it seems to me, as well as having an obligation to do something about that, we have a stronger obligation to do something to see that this trend does not continue and the young people living in our society have an opportunity to get an education and learn to speak the English language.

Mr. DELLUMS. Mr. Chairman, I rise in support of the amendment by my colleague from New York.

Because I come from a district where a substantial number of children come from families where English is not the sole language spoken in the home, I am extremely familiar with problems caused by lack of bilingual educational programs. Thus, I am aware that benefits of a comprehensive bilingual education program are manifold.

Non-English speaking students are placed at the start of their formal education in classrooms where teachers also speak their native tongue; textbooks are in their native language. Therefore, these children are learning necessary academic subjects, and also a new foriegn language. English is introduced to students slowly, and hopefully by sixth grade, students will be fluent enough in English so that they may function in a predominantly English-speaking society. Such an approach is preferable to forcing English upon the student who is unprepared, thus creating hostile and resentful feelings toward a mainstream culture.

Obviously, native language and culture is preserved. No longer would stigma be placed upon non-English speaking students. Self-esteem will naturally be greater because there is recognition of importance of another language.

This type program has proved successful in Canada and Switzerland. With the great diversity of heritages in the United States—Chicanos, blacks, Indians, Asian-Americans, and Puerto Ricans—we have a unique opportunity if we preserve these cultures.

I support this important amendment.

Mr. MICHEL. Mr. Chairman, I rise in opposition to the amendment.

Very briefly let me say to the gentleman from Delaware, if he has a problem of funding bilingual education programs in his State, there is an opportunity under title I and title III of the ESEA which will fund these programs.

As a matter of fact, countrywide this is not the only item of bilingual education that is funded. We have $40 million in titles I and III throughout the country going specifically for bilingual education. If a State is not taking advantage of that opportunity, then that is their particular problem.

Mr. YATES. Will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman.

Mr. YATES. The point that the gentleman overlooks in connection with title I is they have to meet certain poverty standards and many of the Spanish-speaking people are above that and therefore they cannot qualify.

Mr. MICHEL. I would like to say further the gentleman said our own State of Illinois has been short-changed. I agree with him, but we have made some progress. There were times when this program was concentrated solely in the States of California and probably New York and Texas, as the gentleman implied.

I note also the up-to-date figures showing we are spending nearly $1 million in Colorado and in Florida and half a million in Louisiana, $800,000 in Massachusetts, $870,000 in New Jersey, $610,000 in Pennsylvania, and $1.4 million in New Mexico.

So the criticisms originally leveled at the problem being so geographically concentrated in one area are being met. It is being modified and rectified, but it takes a bit of time.

One last word of admonishment of our subcommittee chairman. We are here today for one reason. The bill got vetoed, and it was because there were so many individual people adding their little pet projects to this that it came to $1,762 million over the budget. We made a plea in our general debate to hold the line with the figures we have that are now a total of $835 million over the budget and get this bill disposed of and over to the other body before we adjourn, or you might be faced with a type of pocket veto. The sooner we get through with it and get it over to the other body and to conference the better off we are going to be.

I plead with the gentlemen here to enact this bill as we have brought it to the floor.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BADILLO).

The question was taken; and on a division (demanded by Mr. BADILLO) there were—ayes 46, noes 65.

TELLER VOTE WITH CLERKS

Mr. YATES. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. YATES. Mr. Chairman, I demand tellers with clerks.

Tellers with Clerks were ordered; and the Chairman appointed as tellers Messrs. BADILLO, MICHEL, FLOOD and DU PONT.

The Committee divided, and the tellers reported that there were—ayes 162, noes 207, not voting 61, as follows:

[Roll No. 371]

[Recorded Teller Vote]

AYES—162

Abourezk
Abzug
Addabbo
Anderson, Calif.
Annunzio
Archer
Ashley
Aspin
Badillo
Barrett
Begich
Bell
Bergland
Biaggi
Bingham
Blatnik
Boggs
Boland
Bolling
Brademas
Brasco
Broomfield
Brotzman
Burke, Mass.
Burton
Byrne, Pa.
Carey, N.Y.
Carney
Chisholm
Clausen, Don H.
Clay
Collins, Ill.
Collins, Tex.
Conyers
Corman
Cotter
Culver
Danielson
de la Garza
Dellums
Derwinski
Diggs
Dingell
Donohue
Dow
Drinan
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Esch
Evans, Colo.
Fascell
Foley
Ford, William D.
Fraser
Frey
Garmatz
Gaydos
Gonzalez
Grasso
Green, Oreg.
Green, Pa.
Griffiths
Gubser
Gude
Hamilton
Hanna
Hansen, Wash.
Harrington
Harvey
Hathaway
Hawkins
Hechler, W. Va.
Helstoski
Hicks, Mass.
Holifield
Horton
Hosmer
Howard
Hungate
Hunt
Jacobs
Johnson, Calif.
Karth
Kazen
Keith
Kluczynski
Koch
Leggett
Long, La.
Lujan
McClory
McCloskey
McFall
McKevitt
Madden
Mailliard
Melcher
Metcalfe
Minish
Mink
Minshall
Mitchell
Mollohan
Moorhead
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Nedzi
Obey
O'Hara
O'Konski
Patten
Pepper
Perkins
Pettis
Pickle
Podell
Price, Ill.
Pryor, Ark.
Railsback
Rangel
Rees
Reid
Reuss
Rhodes
Robison, N.Y.
Rodino
Roe
Roncalio
Rosenthal
Rostenkowski
Roybal
Runnels
St Germain
Sarbanes
Scheuer
Seiberling
Sisk
Staggers
Stanton, James V.
Steele
Symington
Talcott
Teague, Calif.
Thompson, N.J.
Tiernan
Ullman
Van Deerlin
Vanik
Veysey
Waldie
White
Widnall
Wilson, Bob
Wolff
Wydler
Yates
Zablocki

NOES—207

Abbitt
Abernethy
Alexander
Anderson, Ill.
Anderson, Tenn.
Andrews, Ala.
Andrews, N. Dak.
Arends
Ashbrook
Baker
Baring
Bennett
Biester
Blackburn
Bow
Bray
Brinkley
Brooks
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Byron
Cabell
Camp
Carlson
Carter
Casey, Tex.
Cederberg
Celler
Chamberlain
Chappell
Clancy
Clark
Clawson, Del
Cleveland
Collier
Colmer
Conable
Conover
Conte
Coughlin
Crane
Daniel, Va.
Davis, Ga.
Davis, S.C.
Davis, Wis.
Dellenback
Denholm
Dennis
Dent
Devine
Dickinson
Dorn
Downing
Dulski
Duncan
Edwards, Ala.
Erlenborn
Eshleman
Evins, Tenn.
Fisher
Flood
Flowers
Ford, Gerald R.
Forsythe
Fountain
Frelinghuysen
Frenzel
Fulton
Fuqua
Gettys
Giaimo
Gibbons
Goodling
Gray
Griffin
Gross
Grover
Haley
Hall
Hammerschmidt
Hanley
Harsha
Hastings
Hays
Heinz
Henderson
Hogan
Hull
Hutchinson
Ichord
Johnson, Pa.
Jonas
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Keating
Kemp
King
Kuykendall
Landgrebe
Latta
Lennon
Long, Md.
McClure
McCollister
McEwen
McKay
Macdonald, Mass.
Mahon
Mallary
Mann
Martin
Mathias, Calif.
Mathis, Ga.
Mayne
Mazzoli
Michel
Miller, Calif.
Miller, Ohio
Mills, Ark.
Mills, Md.
Mizell
Monagan
Montgomery
Myers
Natcher
Nelsen
Passman
Patman
Pelly
Pike
Pirnie
Poage
Powell
Preyer, N.C.
Price, Tex.
Purcell
Quie
Quillen
Randall
Rarick
Roberts
Robinson, Va.
Rogers
Rooney, Pa.
Roush
Rousselot
Roy
Ruppe
Ruth
Sandman
Satterfield
Scherle
Schneebeli
Schwengel
Scott
Sebelius
Shipley
Shoup
Shriver
Sikes
Slack
Smith, Calif.
Smith, Iowa
Snyder
Spence
Springer
Stanton, J. William
Steed
Steiger, Wis.
Stephens
Stratton
Stubblefield
Stuckey
Sullivan
Taylor
Terry
Thompson, Ga.
Thomson, Wis.
Thone
Vander Jagt
Vigorito
Waggonner
Wampler
Ware
Whalen
Whalley
Whitehurst
Whitten
Wiggins
Williams
Winn
Wyatt
Wylie
Wyman
Yatron
Young, Fla.
Young, Tex.
Zion
Zwach

NOT VOTING—61

Adams
Aspinall
Belcher
Betts
Bevill
Blanton
Byrnes, Wis.
Caffery
Curlin
Daniels, N.J.
Delaney
Dowdy
Dwyer
Edmondson
Findley
Fish
Flynt
Galifianakis
Gallagher
Goldwater
Hagan
Halpern
Hansen, Idaho
Hébert
Heckler, Mass.
Hicks, Wash.
Hillis
Jarman
Kee
Kyl
Kyros
Landrum
Lent
Link
Lloyd
McCormack
McCulloch
McDade
McDonald, Mich.
McKinney
McMillan
Matsunaga
Meeds
Mikva
Nichols
Nix
O'Neill
Peyser
Pucinski
Riegle
Rooney, N.Y.
Saylor
Schmitz
Skubitz
Smith, N.Y.
Steiger, Ariz.
Stokes
Teague, Tex.
Udall
Wilson, Charles H.
Wright

So the amendment was rejected.

AMENDMENT OFFERED BY MR. HEINZ

Mr. HEINZ. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

For carrying out title I of the Act of September 30, 1950, as amended (20 U.S.C., ch. 13), and the Act of September 23, 1950, as amended (20 U.S.C., ch. 19), $641,405,000, of which $615,495,000, including $41,450,000 for amounts payable under section 6 shall be for the maintenance and operation of schools as authorized by said title I of the Act of September 30, 1950, as amended, and $25,910,000, which shall remain available until expended, shall be only for providing school facilities as authorized by section 5 and subsections 14(a) and 14(b) of said Act of September 23, 1950: *Provided*, That none of the funds contained herein shall be available to pay any local educational agency in excess of 73 per centum of the amounts to which such agency would otherwise be entitled pursuant to section 3(b) of title I: *Provided further*, That none of the funds contained herein shall be available to pay any local educational agency in excess of 90 per centum of the amounts to which such agency would otherwise be entitled pursuant to section 3(a) of said title I if the number of children in average daily attendance in schools of that agency eligible under said section 3 (a) is less than 25 per centum of the total number of children in such schools.

The Clerk read as follows:

Amendment offered by Mr. HEINZ: On page 19, line 19, after the phrase "under section 6" insert the following:

"and $20,000,000 for complying with section 403(1)(c)"

Mr. HEINZ. Mr. Chairman, my amendment reserves $20 million of the $641 million proposed for aid to federally impacted areas for what we know as part C of Federal impact aid. Part C is for school districts with large concentrations of children whose parents live in public housing.

I offer this amendment not because I am a strong supporter of Federal impact aid but because, if we are going to have this kind of aid, it is a matter of equity that school districts, in similar circumstances be treated, as a matter of fairness, alike and in the same way. Whether a family lives on Federal property, or in public housing, as in the case with category C, neither group of families nor the "landlords" of those families, pay any school property taxes. Schools with children from military housing and public housing have to operate and educate each and every child, regardless of where the child's parents may live.

Yet, at the present time, we aid only those school districts with families who live or work on Federal property. We fail to aid those school districts with children whose families live in public housing. This is an unfair and unjustifiable practice, and I would like to provide a case in point. In my 18th Congressional District, in Pennsylvania, the school district known as the Stowe-Rox School District, nearly one-third of the students in that school district come from public housing. That means that neither their parents, nor the Housing Agency which operates this housing pay one penny of the school property tax which finances the most important part of the educational budget in the school district. The burden placed on the school district is heavy, and falls upon all the homeowners and property owners in the district. These same people are also Federal income taxpayers. They pay for part of the Federal impact aid in this bill, yet this bill turns its back on them.

I would like to make one point especially clear, which is this. The amendment I have proposed does not add 1 cent to the appropriation we are considering. What it does do is reserve exactly $20 million of the $640 million proposed in impact aid for public housing for school districts affected with substantial public housing. Thus let me reemphasize there will be no increase in this appropriation because of this amendment.

I might also point out that I have chosen the amount of $20 million as a compromise between the $10 million put in the budget for impact aid by this House when it first considered this appropriation and the $30 million that was finally submitted as a conference report to the White House.

One final point: The President recommended to this House that $431 million in Federal impact aid be appropriated. In this bill we are appropriating $641 million, $210 million above the President's request, an increase of nearly 50 percent more than what was originally proposed.

In all equity and in all fairness, I really do not see how you or I can go back to our districts having voted an increase in impact aid of 50 percent, and at the same time not provide any of it for the children and the parents and the taxpayers living in school districts that are affected by public housing.

I urge my colleagues to support the amendment.

Mr. FLOOD. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, all of you are parties of special interest. Almost all of you are concerned with what is going to happen to you. My friend from Pennsylvania—my friend from Pennsylvania wants to scatter your money about like ketchup—your money.

Now, listen. In this amendment he is earmarking $20 million for category C. He is adding no money to the bill. Very laudatory effort, but do you know what happens? It all comes out of the A's and it all comes out of the B's. The amount available for the A's and B's will be reduced to provide $20 million for the C's. That is what is going to happen.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. HEINZ).

The amendment was rejected.

AMENDMENT OFFERED BY MR. PICKLE

Mr. PICKLE. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

HEALTH SERVICES DELIVERY

For carrying out, except as otherwise provided, sections 301, 310, 311, 314(d), 314(e), 317, 321, 322, 324, 326, 328, 329, 331, 332, 502, 504, title X of the Public Health Service Act, the Act of August 8, 1946 (5 U.S.C. 7901), section 1010 of the Act of July 1, 1944 (33 U.S.C. 763c), section 1 of the Act of July 19, 1963 (42 U.S.C. 253a), and title V of the Social Security Act, $751,295,000, of which $1,200,000 shall be available only for payments to the State of Hawaii for care and treatment of persons afflicted with leprosy: *Provided*, That any allotment to a State pursuant to section 503(2) or 504(2) of the Social Security Act shall not be included in computing for the purposes of subsections (a) and (b) of section 506 of such Act an amount expended or estimated to be expended by the State: *Provided further*, That when the Health Services and Mental Health Administration operates an employee health program for any Federal department or agency, payment for the estimated cost shall be made by way of reimbursement or in advance to this appropriation: *Provided further*, That in addition, $4,719,000 may be transferred to this appropriation as authorized by section 201(g)(1) of the Social Security Act, from any one or all the trust funds referred to therein: *Provided further*, That amounts received for services rendered under section 329 of such Act shall be credited to this appropriation.

The Clerk read as follows:

Amendment offered by Mr. PICKLE: Page 10, line 1, strike out "$751,295,000." and insert "$754,295,000."

Mr. PICKLE. Mr. Chairman, my amendment would add $3 million to this entire bill, a very modest request for a program that I think is very, very important. I hope that the Members will hear me out for just a moment. I would add $3 million for the migrant workers' programs in the United States.

When this bill was before the House, the authorized level requested was $30 million. The Appropriations Committee had in it only $23.7 million. I had a colloquy with the gentleman from Pennsylvania at the time the bill was before us. He sympathized but said that we just could not break the line, and we could not put in any extra funds. The bill went over to the other body, and they did push the funds up to the $30 million for the migrant workers program. In conference, they settled on the sum of $26.3 million.

That was the amount that was finally agreed on, in the bill that was vetoed.

My amendment would restore the $3 million, which leaves it exactly at the level that the conference had agreed to. This is the reason for the request. There are over 1 million migrant workers in the United States. In my State alone, we have some 280,000 migrant workers.

There are two of these migrant headquarters in my district, so I am mindful of this problem. I have visited them, and I believe I understand the good accomplished by the program.

We should keep in mind that of the 1 million migrant workers, most migrants, because they have had no education, just do not know what services are available and do not know where to go. Consequently they do not take full advantage of the program.

We need these programs. They are vitally important. The U.S. Public Health Service indicated they were going to phase out or eliminate hospitalization for the migrant workers program if they do not have adequate funding. It is not right for us, just in the interest of holding the line, not to put in a little bit of money here. Just a little addition here will not hurt this great big bill.

I hope the Members will listen to these facts, for if they do they may mean something.

The average life expectancy of a migrant worker is 20 years shorter than that of the average citizen. His infant and maternal mortality rate is 125 percent higher than the national average, while his death rate from influenza and pneumonia is 200 percent higher than the national rate. He and his family are 17 times more likely to suffer from tuberculosis and 35 times more likely to have worms. If he survives infancy and does not die 20 years before his time, then he has a better chance than the average citizen still of suffering from high blood pressure, diabetes, anemia, rickets, and a dozen other major diseases.

If these funds are not provided these people will not get the health services they need. The very people who need them the worst are the ones who will not get them.

The per capita expenditure for the migrant worker is $9 nationally, compared to a national average of $250 per person.

Those figures ought to be staggering. I would hope they would be impressive to the committee.

I do not believe any Member of the Appropriations Committee does not want to see the program fully funded. I am mindful of the fact that if the full bill goes back and balloons up to where it was previously we might suffer another veto. but I am asking only $3 million.

I would ask for a lesser sum than that, but I do not believe the gentleman from Pennsylvania will want to put a "nickel for pickle," for migrant workers, in this bill, if it increases the total figure.

I do not believe holding the line is that important. When we pass this bill, it will have to go to the other body. We will have a conference.

Since the Senate did put in $6 million additional this summer, the conference agreed to the $3 million, and all I am asking is for the House to put in the same amount that was agreed to in the conference, $3 million for the migrant worker program.

I believe that is a reasonable request, and I hope the Members will support it.

Mr. FLOOD. Mr. Chairman, I rise in opposition to the amendment.

I do not intend to take the full 5 minutes. I think the House has used sound judgment in rejecting all the amendments which have been offered up to now to add money to this bill.

There are 446 line items in this bill. If we had 447 requests just to add itsy-bitsy couples of millions, we would be, as my friend from Texas said, putting this back to where it was in conference, and we will put it back to where it was vetoed. That is why it was vetoed; because we added a few million here, and a few million there, until we were $1.8 billion over the budget request. We are going to be in trouble if we start doing that again, so I trust that the amendment will be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. PICKLE).

The amendment was rejected.

Mr. FLOOD. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with an amendment, with the recommendation that the amendment be agreed to and that the bill as amended do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. HOLIFIELD. Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 16654) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1973, and for other purposes, had directed him to report the bill back to the House with an amendment, with the recommendation that the amendment be agreed to and that the bill as amended do pass.

Mr. FLOOD. Mr. Speaker, I move the previous question on the bill and the amendment thereto to final passage.

The previous question was ordered.

The SPEAKER. The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. BOW

Mr. BOW. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. BOW. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Bow moves to recommit the bill (H.R. 16654) to the Committee on Appropriations.

Mr. FLOOD. Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. FLOOD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 324, nays 51, not voting 55, as follows:

[Roll No. 372]

YEAS—324

Abernethy
Abourezk
Abzug
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Anderson, Tenn.
Andrews, Ala.
Andrews, N. Dak.
Annunzio
Badillo
Baker
Baring
Barrett
Begich
Bell
Bennett
Bergland
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Bolling
Brademas
Brasco
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Byrne, Pa.
Byron
Cabell
Carey, N.Y.
Carney
Carter
Casey, Tex.
Cederberg
Celler
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clausen, Don H.
Clay
Cleveland
Collier
Collins, Ill.
Colmer
Conable
Conte
Conyers
Corman
Cotter
Coughlin
Culver
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Dellenback
Dellums
Denholm
Dent
Derwinski
Diggs
Dingell
Donohue
Dorn
Dow
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Fisher
Flood
Flowers
Foley
Ford, William D.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fulton
Fuqua
Garmatz
Gaydos
Gettys
Giaimo
Gibbons
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Gubser
Gude
Hagan
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Wash.
Harrington
Harsha
Harvey
Hastings
Hathaway
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks, Mass.
Hogan
Holifield
Horton
Hosmer
Howard
Hull
Hungate
Hunt
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Keating
Keith
Kemp
King
Kluczynski
Kuykendall
Landrum
Leggett
Lennon
Long, La.
Long, Md.
McClory
McCloskey
McClure
McCollister
McCulloch
McEwen
McFall
McKay
McKevitt
Macdonald, Mass.
Madden
Mahon
Mailliard
Mallary
Mann
Mathias, Calif.
Matsunaga
Mazzoli
Melcher
Metcalfe
Michel
Miller, Calif.
Miller, Ohio
Mills, Ark.
Mills, Md.
Minish
Mink
Minshall
Mitchell
Mollohan
Monagan
Montgomery
Moorhead
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Obey
O'Hara
O'Konski
Passman
Patman
Patten
Pelly
Pepper
Perkins
Pettis
Pickle
Pike
Pirnie
Poage
Podell
Preyer, N.C.
Price, Ill.
Price, Tex.
Pryor, Ark.
Purcell
Quie
Quillen
Railsback
Randall
Rangel
Rees
Reid
Reuss
Rhodes
Roberts
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ruppe
St Germain
Sarbanes
Scheuer
Schwengel
Sebelius
Seiberling
Shipley
Shoup
Shriver
Sikes
Sisk
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Springer
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steele
Stephens
Stratton
Stubblefield
Stuckey
Sullivan
Symington
Talcott
Taylor
Teague, Calif.
Thompson, N.J.
Thomson, Wis.
Thone
Tiernan
Ullmán
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waggonner
Wampler
Ware
Whalen
Whalley
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zwach

NAYS—51

Abbitt
Archer
Arends
Ashbrook
Blackburn
Bow
Bray
Camp
Carlson
Clawson, Del
Collins, Tex.
Conover
Crane
Daniel, Va.
Davis, Wis.
Dennis
Devine
Dickinson
Edwards, Ala.
Fish
Ford, Gerald R.
Frelinghuysen
Goodling
Griffin
Gross
Grover
Hall
Jonas
Landgrebe
Latta
Lujan
Martin
Mathis, Ga.
Mayne
Mizell
Powell
Rarick
Robinson, Va.
Rousselot
Ruth
Sandman
Satterfield
Scherle
Schneebeli
Scott
Smith, Calif.
Steiger, Wis.
Teague, Tex.
Terry
Thompson, Ga.
Zion

NOT VOTING—55

Adams
Ashley
Aspin
Aspinall
Belcher
Betts
Bevill
Blanton
Byrnes, Wis.
Caffery
Curlin
Daniels, N.J.
Delaney
Dowdy
Dwyer
Edmondson
Findley
Flynt
Galifianakis
Gallagher
Goldwater
Halpern
Hansen, Idaho
Hébert
Hicks, Wash.
Hillis
Kee
Koch
Kyl
Kyros
Lent
Link
Lloyd
McCormack
McDade
McDonald, Mich.
McKinney
McMillan
Meeds
Mikva
Nichols
Nix
O'Neill
Peyser
Pucinski
Riegle
Rooney, N.Y.
Roy
Saylor
Schmitz
Skubitz
Steiger, Ariz.
Stokes
Udall
Waldie

So the bill was passed.

The Clerk announced the following pairs:

Mr. O'Neill with Mr. McKinney.
Mr. Rooney of New York with Mr. Lent.
Mr. Koch with Mr. Stokes.
Mr. Hébert with Mr. Saylor.
Mr. Adams with Mr. Riegle.
Mr. Daniels of New Jersey with Mrs. Dwyer.
Mr. Delaney with Mr. Peyser.
Mr. Roy with Mr. Skubitz.
Mr. Waldie wtih Mr. Goldwater.
Mr. Blanton with Mr. Belcher.
Mr. McCormack with Mr. Byrnes of Wisconsin.
Mr. Mikva with Mr. Halpern.
Mr. Nix with Mr. Pucinski.
Mr. Udall with Mr. Steiger of Arizona.
Mr. Ashley with Mr. Hillis.
Mr. Curlin with Mr. Schmitz.
Mr. Nichols with Mr. Betts.
Mr. Meeds with Mr. McDonald of Michigan.
Mr. Hicks of Washington with Mr. McDade.
Mr. Bevill with Mr. Lloyd.
Mr. Caffery with Mr. Hansen of Idaho.
Mr. Kyros with Mr. Kyl.
Mr. Kee with Mr. Findley.
Mr. Aspin with Mr. McMillan.
Mr. Edmondson with Mr. Galifianakis.
Mr. Flynt with Mr. Dowdy.
Mr. Aspinall with Mr. Link.

Mr. BAKER changed his vote from "nay"to "yea."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FLOOD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, and to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

THE LATE HONORABLE WILLIAM FITTS RYAN

Mr. STRATTON. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to appoint 14 additional Members to the. committee to attend the funeral of our late colleague, the Honorable William F. Ryan.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER. The Chair appoints as additional Members to the committee to attend the funeral of our late colleague, the Honorable William F. Ryan, the following: Messrs. KASTENMEIER, ROSENTHAL, EDWARDS of California, FRASER, BURTON, CONYERS, HELSTOSKI, PODELL, BIAGGI, Mrs. CHISHOLM, Messrs. FISH, KOCH, Mrs. ABZUG, and Mr. DRINAN.

HON. WILLIAM F. RYAN

(Mr. SEIBERLING asked and was given permission to address the House for 1 minute, to revise and extend his remarks).

Mr. SEIBERLING. Mr. Speaker, I feel a particular affinity to our late and beloved colleague, William Fitts Ryan. He happens to have been a classmate of mine at Columbia Law School. During this Congress, I sat next to him and worked closely with him in the Subcommittee No. 1 of the Judiciary Committee.

Bill Ryan, as we all know, was a valiant fighter for peace, for a people-oriented government, for justice; and against dishonesty and corruption in government.

He is a man who has left his mark on Congress, a man who was ahead of his time, and a man who lived to see many of his goals fulfilled in legislation and in our national institutions.

We shall all miss him. We all loved him. I simply wish to add my own personal remarks to a beloved friend and a great and noble colleague.

REQUEST FOR APPOINTMENT OF CONFEREES ON S. 976

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Speaker be permitted to appoint two conferees on the bill S. 976.

Mr. BAKER. Mr. Speaker, reserving the right to object, to what point is this bill addressed?

Mr. STAGGERS. This is the head tax bill on the airlines. I have asked for one Republican and one Democrat to go off the committee.

Mr. BAKER. Mr. Speaker, I respectfully object.

The SPEAKER. Objection is heard.

PERSONAL ANNOUNCEMENT

Mr. ROY. Mr. Speaker, I was unavoidably detained on rollcall No. 372. If I had been present I would have voted "yea."

WILLIAM F. RYAN

(Mrs. ABZUG asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. ABZUG. Mr. Speaker, I rise to pay tribute to an outstanding leader in the cause of peace and social reform, Congressman William F. Ryan. His premature death is a great loss to the Congress, to the people in his district and to the people of New York City.

Bill Ryan was a courageous idealist who represented a constituency that, like him, was far ahead of the rest of the Nation in opposing our tragic involvement in Indochina. The fact that his early appeals for peace fell on deaf ears never weakened his determination to end that terrible war. He lived to see a majority of the American people share his views and favor U.S. withdrawal from Indochina. In this House, he was among the first to vote against the war. He lived to see the antiwar strength here grow to almost 200 times that number.

I think it is significant that the last vote he cast in this body was a vote against continuation of the war. The fact that he left a hospital bed to journey here to do so was a measure of the strength of his feelings and conviction that this war must be ended. I know he would feel that the greatest tribute this House could pay to him would be to act decisively at last to cut off financial support for a war that has besmirched the honor of our country and caused inconceivable suffering.

As the first Congressman elected from the New York reform Democratic movement, Bill was a dedicated and consistent spokesman for civil liberties, democratic rights, and social justice. Early in his first year in office, he was one of only six Members to vote against appropriations for the House Un-American Activities Committee. He sponsored an amendment to the Voting Rights Act of 1964 which enfranchised the Puerto Rican citizens of New York State, and his long fight against the dangers of lead-based paint led to enactment of the Lead-Based Paint Poisoning Prevention Act in 1971. Here again I think that the greatest tribute this body could pay to what Bill Ryan stood for would be to insist that the administration release the impounded funds that we appropriated for an effective program to combat lead poisoning among young children, most of whom live in slums.

As a member of the House Interior Committee, Bill Ryan proposed and saw, almost to completion, the New York Gateway proposal. I join with my colleagues in asking that the Gateway be finally approved and named in memory of Congressman William Fitts Ryan.

I was proud to serve with him and to work with him for peace and a better life for all Americans. He was a man of great personal courage and kindness, and we shall not forget him.

WAR AGAINST DRUGS

(Mr. WOLFF asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. WOLFF. Mr. Speaker, I applaud the President's statement of yesterday when he warned that he would suspend all economic and military assistance to regimes failing to cooperate with efforts by the United States to end once and for all this monstrous evil. But the fact is the administration has not chosen to use the power Congress gave them for that purpose.

That is why I introduced my amendment in order to force the administration to end all aid to Thailand, making it a congressional mandate.

The administration can under my amendment resume aid, but first it must prove to the Congress that Thailand has indeed taken all necessary measures to end this deadly traffic—no such proof now exists.

I have said repeatedly that the Thai regime has engaged in nothing more than a cosmetic operation in stopping the heroin traffic, contrary to administration protestations that a serious effort is underway to halt this infamous business.

I make that charge again and ask the administration to move now to end aid to the Thais.

The matter of heroin and Thailand is not a new problem. It was not discovered yesterday, although some administration officials act as if it was. Nelson Gross of the State Department testified at one of our hearings on June 9 that—

> We have no evidence that there is any present heroin refinery working in either Laos or Thailand in the northern area or in the area of Bangkok in the south.

Three days later the State Department issued a report detailing the seizure of such refineries in the very areas where Gross said none existed. The problem has been there and no one will benefit by trying to cover it up.

Cabinet level task force report which says:

> The most basic problem, and the one that unfortunately appears least likely of any early solution, is the corruption, collusion and indifference at some places in some governments, particularly Thailand and South Vietnam, that precludes more effective suppression of traffic by the governments on whose territory it takes place.

The President said yesterday he "considers keeping dangerous drugs out of the United States just as important as keeping armed enemy forces from landing in the United States." I agree and that is why I want him to do more than just issue statements as to what he may do if his warnings go unheeded.

This Nation has no more important business then ending the drug traffic and it is time this desperate issue was taken out of the political arena and made a matter of national commitment.

It is more important to save the lives of young Americans here at home then it is to prop up corrupt Asian regimes who refuse to aid us in the war against drugs.

CONSTITUTION WEEK

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of Ohio. Mr. Speaker, September 17 marks the 185th anniversary of the signing of the Constitution of the United States of America and, appropriately, the week of September 17 to 23 has been designated by the Congress and proclaimed by the President as "Constitution Week."

During the period September 17 to 23, 1787, the Constitution was written in Philadelphia. It was ratified on June 21, 1788. It went into effect on March 4, 1789. The first President of the United States, George Washington, presided over the historic Constitutional Convention. James Madison was the principal architect of the document while Benjamin Franklin lent his wisdom to the creation of what has become one of our most cherished symbols of freedom and democracy.

I want to take this occasion—the beginning of Constitution Week, 1972—to urge all Americans to give thoughtful consideration to the ideals of democracy contained in this document.

"We the people" it begins. In essence, those three words found in the Preamble of the Constitution tell the story of the American way as it has thrived for nearly 200 years. The courageous Americans who authorized this document 185 years ago first established the foundation of a system of government which would work to the best interests of every citizen—a government of, by and for the people. It is most fitting this week to renew our pledge of allegiance to that ideal and to express—as Members of the body charged with writing the laws of this land—our united support for the principles of freedom and democracy exemplified in the Constitution.

Credit must be given to the organization responsible for this national observance—the National Society, Daughters of the American Revolution—DAR. The DAR was founded on October 11, 1890, and was incorporated by an Act of Congress in 1896. The national headquarters of the organization is in Washington, D.C.

The president general and 11 executive officers, elected for 3-year terms, direct the business affairs of the society.

The annual meeting of the National Society is the Continental Congress, which convenes in Washington during the week of April 19—anniversary of the Battle of Lexington—and is attended by approximately 4,000 officers and delegates.

DAR membership as of February 1, 1972 is 194,364 in 2,939 chapteres in the 50 States, the District of Columbia, and overseas units in England, France, and Mexico.

The society functions through 24 national and a number of special and standing committees, under the direction of the executive committee, to further its threefold objectives: historic preservation, promotion of education, and patriotic endeavor.

In 1955, at the 64th annual continental congress of the national society, Daughters of the American Revolution, the following resolution was adopted:

> Resolved: That the National Society, Daughters of the American Revolution, in every locality study and publicize the Constitution during its 168th Anniversary Week of September 17-23, 1955; request their Mayors and Governors to proclaim Constitution Week; and sponsor Chapter, school and public programs on the Constitution, especially emphasizing the primary purposes of good government as set forth in the Preamble to the Constitution and the duty of citizens in our Republic to protect the Constitution and the freedoms as set forth in its Bill of Rights, so that it may continue to protect us and our posterity in "This Nation under God."

The society's efforts to commemorate Constitution Week resulted in proclamations by Governors of 45 States and the District of Columbia, Hawaii and the Canal Zone. The observance of Constitution Week in 1955 by the Daughters of the American Revolution was so outstanding that in February 1956 the national society received one of the five top special Awards from Freedoms Foundation at Valley Forge: "For meritorious dedication to American constitutional freedom and liberty, particularly for the 1955 program on the significance of Constitution Day."

At their Continental Congress in 1956, the Daughters of the American Revolution resolved to "petition the President of the United States to proclaim this week—Constitution Week, from September 17 to 23—annually and that the society ask the Congress of the United States to designate September 17 as Constitution Day."

On February 29, 1952, the Congress of the United States approved a joint resolution setting aside the 17th day of September of each year as Citizenship Day in commemoration of the signing of the Constitution of the United States on September 17, 1787, and in recognition of all who, by coming of age or by naturalization, had attained citizenship during the year. On August 2, 1956, the Congress approved a second joint resolution, requesting the President to designate the week beginning September 17 of each year as Constitution Week.

On August 5, 1972, the President of the United States, by Proclamation, directed "the appropriate Government officials to display the flag of the United States on all Government buildings on Citizenship Day, September 17, 1972" and also designated "the period beginning September 17 and ending September 23, 1972, as Constitution Week."

Personally, Mr. Speaker, I consider it an honor to take this opportunity to underscore the advantages guaranteed to us by the Constitution—the guarantee of religious freedom, of free speech, of free press and the right to peaceful assembly. The Constitution established a responsive government—a government giving every citizen a voice in the conduct of his government through elected officials.

It is our obligation—as ones who have inherited the responsibility to uphold the Constitution—to see to it that the rights provided by this document are safeguarded now, and for years to come.

CORPORATE SURTAX EXEMPTION BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. STEIGER) is recognized for 10 minutes.

Mr. STEIGER of Wisconsin. Mr. Speaker, it is appropriate that during this session of Congress much has been said concerning the small business community. I have recently introduced legislation in the field of occupational safety whose sole purpose is designed to aid this all-important sector of our economy.

Small business, the historical backbone of our economic system, still accounts for more than 98 percent of all business-reporting units in the country. In my own State of Wisconsin, we have a total of 76,813 reporting business units—excluding the self-employed; 75,164 of these reporting units employ 50 or fewer people. This ratio is true not only in Wisconsin but throughout the country as well.

While comprising the aggregate majority, small businesses find themselves to be individual minorities in the marketplace. They are unable to benefit from operating economies of scale available to their larger competitors. Likewise, they are often unable to take advantage of tax incentives now on the books due to their intricate nature and the need for sophisticated interpretation.

There is an area, however, which requires no great deal of expertise in interpretation and utilization, Mr. Speaker, and that area is found in the simple computation of normal tax and surtax rates. For this reason I am introducing legislation which will increase the present surtax exemption from $25,000 to $100,000. The original amount was established in 1938 and in today's market is worth only $8,400. This then is no creation of yet another tax loophole, but merely a matter of equity. Maximum savings under this bill would come to $19,500 per business if it had an annual taxable income of $100,000 or more.

A great amount of time and effort has been put into small business tax proposals by many groups throughout the country. I know that most of us are aware of the effort being made by the National Small Business Association and its National Committee for Small Business Tax Reform. I compliment the association and the committee for their work in this area, and at this point would like to insert a portion of their legislative policy recommendations which deal with the subject of the bill I am introducing today:

TAX

> To remain competitive with big business in this period of rapidly advancing technology, small business must keep current. Small business must find the capital for investment either through money withheld in the form of profits or by borrowing. For all practical purposes, the credit now available to small business is either too little or too expensive. Sources of funds for small business modernization or expansion—except for money generated by the business itself—have just about dried up.
>
> As a matter of tax equity and long-range social and economic policy. NSB believes that Congress must make it possible for small business to generate sufficient capital from income to be able to continue to make investments in new plant and equipment.
>
> Senator Alan Bible (D-Nev.), Chairman of the Senate Small Business Committee, spelled out the basic issue most clearly in a recent speech on the Senate floor. He said:
>
> ". . . small business can be the safety valve of the young, the innovative, the creative, the ambitious, and the economically frustrated. It is also a constructive vehicle by which less advantaged people, including minority groups of all races and national

origins, can work their way into the mainstreams of American life—that is, if the Federal Government gives them a reasonable and realistic chance.

"During the past year it seems to me that the policies and actions of the Federal Government have had just the reverse effect. The screws have been tightened on existing and prospective small business entrepreneurs. Profits have fallen. Life has been made harsher instead of easier for small businessmen. The frustration of these energetic elements of society have been increased by talking much and doing less than nothing, that is by actually undermining small business profitability and prospects for success."

Small business in this time of economic readjustment must be given incentives for economic growth, efficiency, and modernization.

Therefore, NBS recommends that Congress consider as one of its top priorities the stimulation of the small business sector of the economy through adjustments to our tax system.

NSB URGES THAT THE CORPORATE SURTAX EXEMPTION BE INCREASED FROM $25,000 TO $100,000

The concept of permitting small business to retain a larger proportion of its income to be reinvested for growth is neither new nor a subsidy to small business.

The concept of a "normal" corporation income tax on profits of $25,000 or less, with a surtax on corporate profits of over $25,000, goes back to the "Thirties."

Congress in increasing the corporate surtax exemption from $25,000 to $100,000 would tend to restore the balance originally intended by the $25,000 exemption when it was first set in 1938. The subsequent erosions of inflation have reduced its worth to only about $9,500 in 1938 dollars. However, today's technology requires proportionately larger investments by small business in plant and equipment.

The depreciation of the value of money coupled with the added capital requirements of small business makes clear why the surtax should not apply until the $100,000 level is reached.

The following table reveals that 101,040 corporations with taxable income of $100,000 or less would be affected by the adjustment in the surtax schedule with $19,500 the maximum tax savings available to any of these corporations. Available for growth in the small business community would be approximately $600 million. Unaffected by the adjustment in the corporate surtax would be approximately 545,000 corporations whose taxable income is $25,000 and under.

Size of corporate taxable income	Number of corporations in size groupings	Maximum savings (dollars) per corporation	Total (dollars) stimulation of economy
$26,000 to $30,000	19,733	$1,300	$11,750,180
$30,000 to $35,000	15,910	2,600	28,246,920
$35,000 to $40,000	12,603	3,900	58,095,180
$40,000 to $45,000	9,842	5,200	56,913,480
$45,000 to $50,000	8,041	6,500	45,903,260
$50,000 to $60,000	11,464	9,100	86,740,420
$60,000 to $70,000	8,538	11,700	86,856,900
$70,000 to $80,000	6,044	14,300	77,270,440
$80,000 to $90,000	4,995	16,900	77,025,260
$90,000 to $100,000 [1]	3,870	19,500	69,580,680
	101,040		598,382,720

[1] Approximately 39,857 corporations with taxable income of $100,000 or more would also each realize a saving of $19,500.

Source: Data in first 2 columns from Department of the Treasury, Internal Revenue Service, Statistics of Income: 1965 Corporation Income Tax (1969), table 20, p. 195, "Active Corporation Returns Other Than Form 1120-S." Calculations in last column were prepared by National Small Business Association, based on figures available in the above-referred-to Department of the Treasury report.

THE LATE JOHN F. GRIFFIN

The SPEAKER. Under a previous order of the House, the gentleman from New Jersey (Mr. DANIELS) is recognized for 5 minutes.

Mr. DANIELS of New Jersey. Mr. Speaker, I rise today in this House with a profound sense of sorrow to announce the death, Friday, September 16, 1972, of John F. Griffin, a member of my staff in New Jersey for the past 14 years.

John Griffin was the perfect staff assistant: Thoughtful, loyal, honest, and his passing leaves a void which I can never fill. Only rarely do we meet someone like John Griffin, whose whole life was spent helping people. Before joining my staff, John was a teacher in the Jersey City school system and at St. Michael's High School and St. Peter's Preparatory School in Jersey City.

A distinguished athlete at Seton Hall University, John was widely known in athletic circles in Hudson County and throughout the State of New Jersey. For a quarter century he coached basketball teams at St. Michael's High School and on five occasions his teams won the State championship.

John Griffin was one of the best known personalities in the 14th District and generations of Hudson County residents knew him simply as "Big John."

Mr. Speaker, John Griffin was a giant of a man in a physical, mental, and moral way. I do not expect that I shall see his like again.

PANAMA CANAL—HEART OF AMERICAN SECURITY

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 10 minutes.

Mr. FLOOD. Mr. Speaker, during recent years there has been a spate of books and magazine articles concerning interoceanic canal questions, but few of them have dealt in a realistic manner with the crucial issues involved. At last, on July 10, 1972, there was published by Robert Speller and Sons, 10 East 23d St., New York, N.Y., a highly informative book by Jon P. Speller, under the title of "The Panama Canal: Heart of America's Security."

So far as is known, this is the first recent volume that really comes to grips with the decisive problems in the canal situation—sovereignty and modernization. In addition, it offers a solution to these problems in the way of a plan of action for the Congress.

What is required in the present situation at Panama is an act of sovereignty. That act would be authorization of completion of the authorized 1939 third lock project for the Panama Canal as modified in pending legislation, introduced by Senator THURMOND and myself. Such action would serve notice on the world that the United States intends to meet its treaty obligations at Panama. Moreover, it would provide much employment for Panamanians and be in the best interests of the users of the canal.

Recently there appeared in the Hartford, Conn., Courant, a most interesting book review of the Speller volume by Cmdr. Eugene E. Wilson, U.S. Navy, retired, distinguished naval officer, aircraft industrialist, author, and student of world strategy. His knowledge of the Panama Canal gained through his studies for U.S. Fleet exercises in 1929 off Panama and experience as a navigator enable him to speak with considerable authority.

As the indicated review should be of interest to all Members of the Congress concerned with the canal problem, I quote it as part of my remarks and invite attention to the sources upon which the book reviewed is based:

[From the Hartford (Conn.) Courant, Aug. 13, 1972]

HOPE OF OUR SURVIVAL

While all American eyes remain centered on Southeast Asia, to the virtual exclusion of the Gulf of Panama, the fact still remains that the latter is the bottleneck of United States' communications and transportation and hence its hope for survival.

For, just as the wily Muscovite has pulled the strings in the Gulf of Suez for lo these many years, so does he seek to manipulate his pawns in the Gulf of Panama.

Indeed, while the chess game going on in Iceland between Bobby Fischer and his opponent Spassky may appear favorable to the United States, that being played in Panama takes on some of the character of Russian Roulette.

By infiltrating key positions of decisive strength in both the Eastern and Western Hemispheres, the wily Muscovite acquires strangle holds and headlocks upon critical areas of maritime communications and transportation, the lifeblood of western survival.

Jon P. Speller's meaty little book capsulizes the major issues connected with the Panama Canal during the 1970s. It covers all the moot points regarding the current political battle between advocates of major modernization of the present canal and proponents of the multi-billion dollar boondoggle plan for a new sea-level canal. It covers the question of our treaty relationship with Panama, and the absolute necessity for continued U.S. sovereignty over the Panama Canal Zone, without pulling punches.

Shortsighted men in high places have been trying to give away U.S. sovereignty over the Panama Canal for many years. Such as they have been responsible for many U.S. defeats around the globe, and this book puts a compelling fingers on the culprits.

As one of the original founders of the United States Carrier Task Force Doctrine of 1928 which was conceived during aircraft carrier exercises over the Panama Canal, this reviewer is constrained to recommend it highly to all American readers.

DEALING WITH THE INTERNATIONAL DRUG TRAFFIC

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. FUQUA) is recognized for 10 minutes.

Mr. FUQUA. Mr. Speaker, I was pleased to learn that President Nixon has decided to answer the call put out by the Congress in this year's amendments to the Foreign Assistance Act to bring to an end the death-dealing international drug flow. The termination of all American aid to countries which are unwilling to clamp down on illegal drug traffic is an appropriate expression of U.S. policy regarding this atrocious trade.

The House Foreign Affairs Committee and the House membership in general is to be commended for providing the President with this congressional mandate that international drug traffic must be met with all of the available diplomatic and political measures available.

We can pass all of the drug abuse education bills and drug treatment bills we like but we will never be able to adequately eliminate the threat of narcotic addiction until measures are taken to keep dangerous drugs from entering this country. For years we have seen that it is virtually impossible to control our borders to the extent necessary to stop this trade, and we must now go to the producers and transporters of drugs who enjoy the protection of apathetic governments.

It is the height of arrogance for members of the international community to accept American aid and at the same time allow persons in their countries to produce and transport drugs into our country to wreak havoc on our citizens.

The International Drug Conference which is being held presently at the Department of State is an important forum for dealing with this dramatic problem. I am most hopeful that the participants at the conference will take the President's message back to their governments and express the firm resolve of the Congress as well as the American people to eliminate dangerous drugs from our society.

AMERICAN RICE DESERVES FAIR TREATMENT FROM THE EUROPEAN ECONOMIC COMMUNITY

The SPEAKER. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 20 minutes.

Mr. ALEXANDER. Mr. Speaker, since my election to the Congress I have worked with Arkansas producers in efforts to improve the domestic and international markets for U.S. agricultural products. Without a healthy, growing and vigorous farming industry our Nation would not have attained the greatness she has nor can we maintain it.

The problems of American agriculture—particularly of Arkansas' rice farmers—were very much on my mind when I visited Brussels, Belgium, this spring at the invitation of officials of the European Economic Community. I accepted the invitation because I wanted to learn, first hand, more about the operations of the EEC and because I wanted to urge that it take a more open attitude toward importation of agricultural products from the United States.

Of special concern to me was the treatment which has been given to the products of the rice farmers of Arkansas. In connection with this problem, I conferred with Ambassador J. Robert Schaetzel, the U.S. representative to the EEC, and with Common Market Commissioners Albert Borschette and Albert Coppe. The Commissioners assured me that the EEC is willing to make rice a subject for discussion during trade negotiations which are scheduled this fall.

As a result, I wrote to Secretary of State William P. Rogers on June 9 requesting that he actively work to insure that rice is included on the agenda for discussion and renegotiation of trade restrictions during the forthcoming bilateral United States-European Economic Community trade discussion, and the global trade negotiations scheduled for 1973 under the GATT.

In addition I asked that he instruct the U.S. delegation to the GATT Agriculture Committee Working Group meeting in Geneva to focus its attention on the problems of the U.S. rice producers.

As a result, the State Department has assured me that the United States will be seeking a liberalization of the European Community attitude toward imports of rice from the United States.

Because I believe that this rice problem will be of significant interest to many of our colleagues, I would like to place into the RECORD at this time my correspondence with the Department of State on this matter. American rice deserves fair treatment from the European Economic Community.

The letter follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 9, 1972.

Hon. WILLIAM P. ROGERS,
Secretary, Department of State,
Washington, D.C.

DEAR MR. SECRETARY: During a recent trip to Europe, I met with Ambassador J. Robert Schaetzel, U.S. Representative to the European Economic Community, and with E.E.C. Commissioners Albert Borschette and Albert Coppe, concerning the erosion, particularly since 1969, of the United States position in rice exports to the European Common Market.

Since the formation of the E.E.C., the duties on U.S. rice have increased substantially. The latest import duties for different types of long grain rice published on May 5, 1972 were as follows:

	Per Cwt.
Rough rice	$4.67
Brown rice	5.83
Semimilled rice	9.11
Fully milled rice	9.77
Broken rice	2.09

These duties represent as much as 75% of the delivered price of U.S. rice. The variable levies represent the highest import duties applied to rice anywhere in the world. By comparison, United States import duties for rice are as follows:

	Per Cwt.
Rough rice	$1.50
Milled rice	2.50
Broken rice	0.32
Brown rice	1.50

The long-range effect of the high E.E.C. duties is that they have virtually eliminated sales of U.S. middle grain and short grain rices to that market. However, sales of long grain rice, a type which is not produced by any of the E.E.C. member countries, have not as yet been affected.

Compounding the difficulties created by the high levies is the extremely high export subsidy which the E.E.C. provides for rice produced by member countries. That subsidy is as much as three times higher than the subsidies granted by the United States to U.S. rice exports. The E.E.C. subsidy averages approximately $6 per cwt. while United States export subsidies range from $1.95 on medium and short grain rice to $2.95 on long grain rice.

It is my feeling that the E.E.C. export subsidy weakens the world market for rice, forcing competitive countries to lower prices and requiring some less-developed countries, such as Uruguay and Argentina, to suspend production of middle grain and short grain rices that are produced within the European Common Market.

Another factor that has placed United States rice producers in a difficult position arises from the fact that the E.E.C. does not impose acreage controls or other restrictions on rice producers. As a consequence, and with the stimulus of the high import duties and export subsidies, the E.E.C. has greatly expanded its rice production in the past few years. I am advised that export supplies from the E.E.C. have more than doubled during the past three years and now total about 500,000 tons annually.

In brief, it seems to me that the United States, with its fixed import duty, restricted export subsidy and strict acreage allotment controls, is not receiving fair treatment for its rice producers and exporters from the E.E.C. This must be remedied.

Accordingly, I request that you direct the United States Delegation to the G.A.T.T. Agriculture Committee Working Group, which is meeting presently in Geneva, to focus its attention on the problems of United States rice producers.

Moreover, I ask that you do all you can to include rice on the agenda for discussion and renegotiation of trade restrictions both in the forthcoming bilateral U.S.–E.E.C. trade discussions, and in the new round of global trade negotiations which are expected to begin next year under G.A.T.T. auspices.

With best wishes, I am
Sincerely yours,
BILL ALEXANDER,
Congressman from Arkansas, First District.

SOCIAL SECURITY INCREASE SHOULD NOT LIMIT OR DISQUALIFY RECIPIENTS' PARTICIPATION IN OTHER PROGRAMS

The SPEAKER. Under a previous order of the House the gentlewoman from New York (Mrs. ABZUG) is recognized for 10 minutes.

Mrs. ABZUG. Mr. Speaker, the social security checks for October will reflect the 20-percent increase in benefits recently enacted by Congress. This increase is primarily intended to cover increases in the cost of living, and as such is long overdue, but ironically, it will end up hurting some social security recipients unless additional legislation is enacted. The reason for this paradox is the fact that such programs as food stamps and medicaid have a fixed eligibility level; anyone whose income rises above that level loses his or her eligibility for the program. In addition, old age assistance benefits are reduced by a dollar for every additional dollar of social security benefits received.

An example of what this can mean in terms of individuals is as follows: in New York, $2,190 is the income limit for the medicaid program; an individual receiving a present social security benefit of $1,860—about $35 per week—will rise above the medicaid ceiling and lose his eligibility for the full program. He would still qualify for the coinsurance portion of the program, under which he must pay 20 percent of his medical bills, but what that means is that if he sustains medical expenses of $1,000 in a year—not uncommon for elderly people—he will be hit for $200 of his $372 Social Security increase—which, you must keep in mind, is supposed to reflect cost-of-living increases which have already occurred.

A similar situation exists with regard to food stamps, where an eligible individual gets more than $1 worth of food for each $1 spent on stamps. While it is unlikely that the modest premium in this program will leave anyone worse off when his 20 percent lifts him above the maximum income level for food stamps, it will cut into that 20 percent—which is intended to reflect cost-of-living increases.

The situation with regard to old age assistance is slightly different, as there is no premium factor here. However, an individual receiving old age assistance who gets a $20 a month social security increase will immediately lose the equivalent amount from his old age assistance.

The inequity of this situation is obvious, and on August 17, I introduced legislation, H.R. 16442, which would prevent State and local officials from reducing or cutting off benefits under such programs as food stamps, Medicaid, and old age assistance due to the 20 percent social security increase. Simple justice requires that it be enacted before the effective date of the social security increase—October 1—and I have been pleased to learn that the Committee on Ways and Means is considering either acting on this legislation or asking the Department of Health, Education, and Welfare to act administratively to correct this unfortunate oversight.

The text of my bill follows:

H.R. 16442

A bill to amend the Social Security Act to make certain that recipients of aid or assistance under the various Federal-State public assistance and medicaid programs (and recipients of assistance under the food stamp and surplus commodity programs) will not have the amount of such aid or assistance reduced because of increases in monthly social security benefits

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2(a)(10)(A) of the Social Security Act is amended by inserting "(I)" immediately after "(i)", by striking out "(ii)" and inserting in lieu thereof "(II)", and by inserting immediately before the semicolon at the end thereof the following: ", and (ii) the State agency shall, in the case of any individual who is entitled to monthly benefits under the insurance program established under title II, disregard any part of such benefits which results from (and would not be payable but for) the general increase in benefits under such program provided by section 201 of Public Law 92–336 or any subsequent cost-of-living increase in such benefits occurring pursuant to section 215 of this Act".

(b) Section 402(a)(8)(A) of such Act is amended by striking out "and" at the end of clause (i), by striking out "; and" at the end of clause (ii) and inserting in lieu thereof ", and", and by adding after clause (ii) the following new clause:

"(iii) in the case of any individual who is entitled to monthly benefits under the insurance program established under title II, any part of such benefits which results from (and would not be payable but for) the general increase in benefits under such program provided by section 201 of Public Law 92–336 or any subsequent cost-of-living increase in such benefits occurring pursuant to section 215 of this Act; and".

(c) Section 1002(a)(8) of such Act is amended by striking out "and" at the end of clause (B), and by inserting immediately before the semicolon at the end thereof the following: ", and (D) shall, in the case of any individual who is entitled to monthly benefits under the insurance program established under title II, disregard any part of such benefits which results from (and would not be payable but for) the general increase in benefits under such program provided by section 201 of Public Law 92–336 or any subsequent cost-of-living increase in such benefits occurring pursuant to section 215 of this Act".

(d) Section 1402(a)(8) of such Act is amended by striking out "and" at the end of clause (B), and by inserting immediately before the semicolon at the end thereof the following: "; and (D) the State agency shall, in the case of any individual who is entitled to monthly benefits under the insurance program established under title II, disregard any part of such benefits which results from (and would not be payable but for) the general increase in benefits under such program provided by section 201 of Public Law 92–336 or any subsequent cost-of-living increase in such benefits occurring pursuant to section 215 of this Act".

(e) Section 1602(a)(14) of such Act is amended by striking out "and" at the end of subparagraph (C), by striking out the semicolon at the end of subparagraph (D) and inserting in lieu thereof "; and", and by adding at the end thereof the following new subparagraph:

"(E) the State agency shall, in the case of any individual who is entitled to monthly benefits under the insurance program established under title II, disregard any part of such benefits which results from (and would not be payable but for) the general increase in benefits under such program provided by section 201 of Public Law 92–336 or any subsequent cost-of-living increase in such benefits occurring pursuant to section 215 of this Act;".

SEC. 2. Notwithstanding any other provision of law, in the case of any individual who is entitled for any month after August 1972 to a monthly benefit under the insurance program established by title II of the Social Security Act, any part of such benefit which results from (and would not be payable but for) the general increase in benefits under such program provided by section 201 of Public Law 92–336, or which results from (and would not be payable but for) any cost-of-living increase in such benefits subsequently occurring pursuant to section 215(i) of the Social Security Act—

(1) shall not be considered as income or resources for purposes of determining the eligibility of such individual or the household in which he or she lives for participation in the food stamp program under the Food Stamp Act of 1964; and

(2) shall not be taken into account in determining the eligibility of such individual or his or her family for surplus agricultural commodities under any Federal program providing for the donation or distribution of such commodities to low-income persons.

SEC. 3. The amendments made by the first section of this Act shall be effective with respect to calendar quarters ending on or after September 30, 1972. The amendments made by section 2 of this Act shall be effective with respect to items furnished after August 1972.

DISTRICT OF COLUMBIA DRUG TESTING

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. ASPIN) is recognized for 10 minutes.

Mr. ASPIN. Mr. Speaker, I am publicly releasing today a memorandum written by District of Columbia Corrections Commission Kenneth Hardy, charging that for at least the past 3 months Dr. Robert DuPont, Narcotics Treatment Administrator, has made "no positive response to improve" the "deplorable state" of the city's drug testing program.

Apparently Dr. DuPont has been dragging his feet for 3 months by not making much needed improvements in the drug testing program. Mr. Hardy, chief of District of Columbia Corrections told Joseph Yeldell, Director of the District of Columbia Department of Human Resources, that the basis of the problem is the poor performance of a local firm—Washington Reference Laboratory—which analyzes the urinalysis tests. Washington Reference Laboratory's record of performance is nothing less than deplorable.

This company holds contracts not only with the District of Columbia but with the Army and the National Institute of Mental Health.

According to Mr. Hardy, Washington Reference takes 2 to 5 weeks to analyze urine tests and commits "many errors or omissions." Test results to determine whether a prison inmate at Lorton Prison is using heroin or not are needed in hours instead of 2 to 5 weeks.

It is also important to note, Mr. Speaker, that Washington Reference Laboratory's record on military drug testing is equally miserable. According to the most recent statistics provided to me by the Department of Defense, Washington Reference Laboratory is correctly identifying only 79 percent of the samples tested as part of the quality control program.

The Pentagon requires 90 percent accuracy and despite Washington Reference Laboratory's poor performance, the Army has given the company a new contract at a higher price. In effect, the Army is rewarding Washington Refererence Laboratory for its totally inadequate performance of earlier contracts. This contract award to Washington Reference Laboratory is being protested by other contractors at the present time before the General Accounting Office.

Mr. Speaker, I am calling today upon Dr. DuPont and Mr. Yeldell to publicly explain why nothing has been done to improve the drug testing program. In July apparently an agreement was made to dump Washington Reference Laboratory but no action has yet been taken.

Mr. Speaker, I am highly suspicious that for some unexplained political reason Washington Reference is winning a new contract worth hundreds of thousands of dollars from the Army and has not been replaced by NTA in Washington.

I am also publicly calling upon Mr. Yeldell to publicly release a staff report which is highly critical of Washington Reference Laboratory.

Mr. Speaker it is my intention to continue to investigate why a firm with such a pathetic record like Washington Reference Laboratory continues to win hundreds of thousands of dollars of Government work.

The memo to Mr. Yeldell follows:

SEPTEMBER 11, 1972.

Memorandum to: Mr. Joseph P. Yeldell, Director, Department of Human Resources.

Subject: Urine Surveillance Program.

For the past few months, we have approached Dr. Robert DuPont, Administrator, Narcotics Treatment Administration, concerning the deplorable state of the Urine

Surveillance Program for the Department. As of this date, there has been no positive response to improve the Program.

The basis of the problem stems around the performance of the Washington Reference Laboratory in that the reporting procedure and handling process are in such a poor state they cannot be relied upon. These factors have been brought to the attention of the NTA Staff on numerous occasions; and in a July meeting with NTA and DCDC Staff Representatives, it was decided that the Washington Reference Laboratory could not meet the Department's needs. It was recommended that the Urine Analysis Program be transferred to the B&W Statistical Laboratory. So far, nothing has happened; even though the requirements for the use of B&W Laboratory would be an extension of the current contract agreement with NTA. NTA continues to send our samples to the Washington Reference Laboratory which has not sent a urine analysis report to the Department in the last two months. Previous reports from the Washington Reference Laboratory were always 2-5 weeks late with many errors or omissions. For the most part, reconciliation was virtually impossible.

We ask that the Department Urine Analysis Program be changed to the B&W Statistical Laboratory to gain assurance in promptness and accuracy. Staff members at NTA agree that this laboratory can capably serve our needs.

We further ask that immediate action be taken to effect this change due to the Department's urgent need for a creditable Urine Surveillance Program.

KENNETH L. HARDY, *Director*.

STRAINED RELATIONS BETWEEN LEBANON AND ISRAEL

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. KAZEN), is recognized for 10 minutes.

Mr. KAZEN. Mr. Speaker, I rise because I share the deep concern over the current strained relations between Lebanon and Israel, and to urge that the times demand cool, somber thinking on the problems there.

Last week our former colleague, the U.S. Ambassador to the United Nations, George Bush, used the veto to halt a United Nations resolution calling for an end to military operations in the Middle East. I am much disturbed that he said the proposal was one sided against Israel and would encourage terrorists to believe they can escape world censure.

Let me point out that Lebanon is a tiny nation of 4,000 square miles. Of all our States, only Rhode Island and Delaware are smaller than Lebanon. Its population is less than 3 million—about the same as Iowa or Oklahoma, or the city of Los Angeles. Indeed, there is a reasonable parallel with Connecticut, which has 5,000 square miles and 3 million people.

Lebanon stands as one of our few true friends in its part of the world. It has always demonstrated its friendship for the United States, and is one of the few nations in the Middle East that has never broken diplomatic relations with us.

Yet, Lebanon has over 300,000 Palestinian refugees that have settled there because it is a relatively weak nation, because its people are peaceful, because its government is democratic. These, I suggest, are commendable qualities in the scale of human values, but they make Lebanon vulnerable to militant refugee groups and their activist leaders in and out of the country.

We have all seen and been angered by the terrorist activities of these militants. Certainly the machinegunning of innocents at the Lod Airport and the tragic events at the Olympic games in Munich are inhuman acts—so inhuman as to support the analysis that they are the actions of desperate, fanatic, and irresponsible people, and whose condemnation should be joined in by the entire world. However, I believe it is not right for Israel or any other country to accuse Lebanon of condoning such acts of violence.

We have seen violence much closer to home—the bombing of this Capitol, the blasting and ransacking of public buildings, the burning of homes and stores in street riots, all acts of little groups of fanatics. We have also known, to our sorrow, the gunning down of national leaders by killers who showed no regard for men or laws. Certainly we would resent any charge that our Government condoned such actions. I do not believe we should make equally unsupportable charges against Lebanon.

I contend, after careful study of the situation, that Lebanon is doing all it can to contain and discourage the militants that it cannot force to leave its borders. In the first place, where would Lebanon get the force to expel the refugees? And second, what good would expulsion do? As long as the refugees have no hope of having their problems settled, they will be cancers on Mideast harmony wherever they may settle.

But I am saddened and must protest that innocent men, women, and children are being killed in quiet Lebanon villages with equipment furnished by the United States. Certainly our purpose in sending planes and munitions was to maintain peace, and I believe that we have a vested interest in maintaining that peace.

Our Government has again renewed its official position recognizing the importance of fair and impartial treatment for all peoples of the Middle East and our insistence on the territorial integrity of their nations. This is a start toward peace in this troubled region, but peace can only be achieved if the refugee problem is solved. I know it has been a problem so large, so diverse that the nations of that area and indeed the world powers have been reluctant to demand and reach solution. But I also believe that the United States should now take the lead in seeking that solution.

Terror begets terror, and its stain spreads widely. Men can have no finer hour than if they can help bring peace to that part of the world.

PROBLEMS IN THE MIDDLE EAST

Mr. ABOUREZK. Mr. Speaker, will the gentleman yield?

Mr. KAZEN. I will be glad to yield to the gentleman from South Dakota.

Mr. ABOUREZK. Mr. Speaker, I rise to associate myself with the gentleman's remarks.

Mr. Speaker, I speak to you on a matter of great concern and urgency. The tragic events of Munich, Germany, are fresh in our minds, but even more recently the tragic events of the situation in the Middle East are before us once again.

The world and all rational individuals are grief-stricken over the death of 11 Israeli athletes in Munich, Germany. However, these events must be placed in perspective and cannot be used as justification for other tragic events justified on the basis of retaliation. To equate the actions of a few frustrated fanatical individuals to the actions of any country of the Middle East is not only without logic, but it is unjust and unfair. All of us must condemn in the strongest possible terms actions of individual terrorists. This is not to say, however, that we can condone the reaction of the state of Israel in the events of this power against the country of Lebanon. To encourage any escalation of the conflict in the Middle East invites disaster.

Sadly, members of both major political parties have escalated their rhetoric in an effort to blame nations not responsible for the Munich massacre. We have all worked so hard to bring to a conclusion the war in Vietnam and, gentlemen, I am concerned that unless the United States takes an even-handed policy for all countries in the Middle East, we may be bringing the troops home from Vietnam only to send them to the Middle East. I know this is not the desire of any of us and I urge that all action be taken to bring about peace in this troubled area of the world. Lebanon has always been a true ally and a democratic country in the Middle East. The problems of the Middle East are complex but it appears to me that before peace and stability can be brought to this part of the world that the basic problem of the Palestinian refugee must be resolved.

I urge we do everything possible as soon as we can to provide a just settlement of the refugee question. By doing so, one of the root problems of the Middle East will be resolved, bringing some semblance of peace and stability to this vital area of the world. U.S. interests in the Middle East demand that the United States not condone any violation of the territorial integrity of all nations of the Middle East, whether it be Israel or Lebanon. Innocent civilians in either country become the victims of whatever escalation takes place. It cannot continue because of the danger of drawing the United States into such an escalation.

THE FORT WORTH FIVE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. TIERNAN) is recognized for 10 minutes.

Mr. TIERNAN. Thank you, Mr. Speaker.

Just a few minutes ago on the wire appeared a story relating the fact that the U.S. district judge Leo Brewster, today set bail of $100,000 for each of the five New York Irishmen jailed in Texas without bail.

These men have been held in a county jail in Texas since mid-June of this year without bail. Only last Thursday Justice Douglas ordered that bail be set.

These men are very common working Americans who live in the city of New York. The bail has been set at $100,000. It seems to me that this is no bail at all, because it is impossible for these men to raise this kind of money.

I quote the judge when he says:

> I want the bail to make it well worthwhile to be here rather than somewhere else.

Let me tell you, today that these men were requested to appear in Texas at a grand jury investigation. They went there voluntarily and testified before that grand jury and refused to answer questions on certain grounds. They returned to New York and were summoned back to Texas to be charged with contempt of court. They voluntarily returned to that court, and the judge found them in contempt of the grand jury and sentenced them to jail without bail.

These are five American citizens, and I do not think this is the kind of justice we expect our Federal courts to grant.

I also say that this action was taken by the Department of Justice at the insistence of the British Government. They are using the provisions of the Safe Streets Act which we had put into it, but it was certainly not the intent of Congress to take American citizens down to Texas away from their families.

Mr. Speaker, today I received a letter dated September 17 from one of these men, which I will read:

> DEAR CONGRESSMAN TIERNAN: We, the Fort Worth Five, wish again to thank you sincerely for all of your efforts on our behalf. On Thursday Justice Douglas ordered that we be granted bail. We hope to be out on Monday. We feel your letters and personal interest was very helpful.

I say to you, we cannot allow this to happen to our own citizens.

Mr. BIAGGI. Will the gentleman yield?

Mr. TIERNAN. I yield to the gentleman.

Mr. BIAGGI. Mr. Speaker, I rise to commend the gentleman from Rhode Island for requesting this special order and wish to associate myself with his remarks.

I would like for a moment to place myself in the position of those people, the families of those who are incarcerated at Fort Worth, Tex., in terms of their reactions.

Their husbands and fathers have been incarcerated under the organized crime section, which had never had this intent frankly. Finally, after much effort on our part as the entire community, Justice Douglas ruled that bail should be granted. It would seem to be in light of that ruling that Federal Judge Brewster should recognize full well that $100,000 a person bail is a denial of rights and a refutation of Justice Douglas' ruling, because the requirement of $100,000 is no bail at all.

Over the weekend I joined my colleagues and sent a wire to Judge Brewster asking him to consider in his deliberations on the setting of bail, rather than setting a sum of money, to parole the five men in Fort Worth to our custody. That is not an extraordinary request; it has been made countless numbers of times in the New York State courts. People who committed heinous crimes have been granted this particular privilege.

Let us look at what we are doing. We are getting five men who are average American working men, who went, as Mr. TIERNAN said, voluntarily to Texas and removed them from a site which is their home in New York, a site which could well serve the same purpose of the Department of Justice and the ends of justice.

We had hoped that justice was to rule, and come into full bloom, but instead they were taken to Texas, a State that neither of these five men had ever been in in their lives. They were taken far away from their families and friends. They were not put into a Federal institution where there were some accommodations for personal comfort, they were put into a local county jail which is substandard and that we would not even tolerate incarcerating the perpetrator of a murder in the State of New York at least.

And now we come to this stage where we talk in terms of law and order, due process, full justice, and a Supreme Court ruling, which is a representation of law and order being denied by a Federal judge.

Mr. TIERNAN. I want to thank my colleague from New York, and I want to point out to him that the judge said that he also wanted the bail to be large enough so as to discourage these men from jumping bail, and yet you know, as I know, that in my State—and I am sure also in New York State, that a man charged with murder would not have bail set at $100,000.

Mr. BIAGGI. That is correct.

Mr. TIERNAN. It is just unconscionable to me to have to go to the Supreme Court and have Justice Douglas say, "Set bail," and then have this district court judge say that bail would be $100,000 for one man, who is a bus driver. There is no way he can get bail, and it is, in fact, not bail at all.

I now yield to my colleague, the gentleman from New York (Mr. WOLFF).

Mr. WOLFF. Mr. Speaker, I want to thank the gentleman for yielding, and to congratulate the gentleman for taking this special order.

I would like to also add two facts to those the gentleman has already given us. It so happens that Justice Douglas made this decision over a week ago, the mails took at least 3 or 4 days to arrive in Washington. Judge Brewster was unavailable since because he was dove hunting, and, therefore, these men had to languish in jail more than a week to even await the setting of bail—such as it was. So excessive as to really be prohibitive.

Actually, these men are being held as hostages. They have had no charges leveled against them whatsoever.

It was difficult for all of us who have been attempting to secure justice for these men to get bail set for them; even for Justice to consider it. You will recall that the judge said he would not set bail for them. He said that they should sit in jail until they answered the grand jury questions which could mean 18 months.

We must also consider the fact that the immunity that was offered to them did not extend beyond the continental United States. It could have, in fact, opened them up to extradition to Britain.

Did Judge Brewster simply act out of pique because he had to give up dove hunting? Who is violating the law and in whose name?

As I understand it, the judge also said something about—I think that perhaps the gentleman has his quotation there—that this group seems to be well financed.

Tom Laffey, who is my constituent, is a real estate salesman. His wife has been living off contributions people have made to her in order to pay her mortgage and to see to it that their three children have something to eat.

That hardly sounds like, being well financed.

How long can the Justice Department be permitted to use grand jury proceedings as a means of holding political hostages in jurisdictions of their own choosing before judges of their own persuasion?

I shall ask Chairman CELLER of the House Judiciary Committee tomorrow to investigate this entire matter for it pleads for an impartial review.

Mr. TIERNAN. I thank my colleague, the gentleman from New York (Mr. WOLFF) for his addition to these remarks. I certainly know that he is not going to drop his fight in behalf of his constituent and these other gentlemen who are involved from New York.

I now yield to the gentleman from Massachusetts (Mr. BURKE).

Mr. BURKE of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. TIERNAN. I yield to my colleague, the gentleman from Massachusetts.

Mr. BURKE of Massachusetts. Mr. Speaker, I wish to associate myself with the remarks of my colleague, the gentleman from Rhode Island, my colleague from New York (Mr. BIAGGI) and the gentleman from New York (Mr. WOLFF). You gentlemen have brought the attention of this House to one of the most unconscionable acts in the history of this country. It is shocking when you stop and realize what this Federal judge has done—to place a bail of $100,000 on men who have not been charged.

We are all concerned about the problems of Northern Ireland. It seems to me that this country of ours—this great Government of ours could do something over there to try to stop the bloodshed that is taking place there. But this is no way to do it. The British Government has already taken people in Northern Ireland and placed them in jail or internment and have not charged them. This is a throwback of over 200 years—something that is unheard of today. With the advances we have made and that we claim in this country—to think for one moment that a Federal judge would place bail of $100,000—something that is unattainable. This is a cruel act on his part and the Department of Justice has a responsibility of going before that Federal judge and asking that the bail be reduced to a reasonable sum.

Mr. TIERNAN. Mr. Speaker, I thank my colleague from Massachusetts.

The SPEAKER pro tempore (Mr. Mazzoli). The time of the gentleman from Rhode Island (Mr. Tiernan) has expired.

Mr. SCHEUER. Mr. Speaker, I ask unanimous consent that the gentleman may proceed for another additional 5 minutes.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

Mr. SCHEUER. Mr. Speaker, will the gentleman yield?

Mr. TIERNAN. I yield to the gentleman.

Mr. SCHEUER. Mr. Speaker, I want to thank my colleague not only for yielding but for having taken this great leadership as he has. I want to join my colleague, the gentleman from Massachusetts (Mr. Burke), the gentleman from New York (Mr. Wolff), and the gentleman from New York (Mr. Biaggi) for their remarks.

I was in Ireland last January and was shocked as all of us on the floor of this House have been shocked by the British policy of internment without trial. The Members of this House have spoken out time and again with shock and horror and bitter resentment at the British to whom we all look for the civilized standards of life and whom we have admired for so many years and who have been the fountainhead of our Anglo-Saxon system of justice for the basic standards of equity and fairplay and dignity of the individual that we have lived with for centuries. We have been shocked at this British example of despotism, pure and simple.

Here we have a Federal court judge of the United States of America, in effect, adopting the policy in this country, our own beloved United States of internment without trial. There is very little substantive difference with the horrifying policy of the British Government.

Mr. TIERNAN. I appreciate the remarks of the gentleman.

Mr. BURKE of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. TIERNAN. I yield to the gentleman.

Mr. BURKE of Massachusetts. Mr. Speaker, the gentleman from New York (Mr. Wolff) has in his possession here a missile that is used in Northern Ireland to break up disturbances. It has cost the lives of mothers, old people, and little children. I would like him to present it here today just to show it to you, to show you what is going on in this world and what is going on here in the United States as well.

Mr. WOLFF. This is a rubber bullet that is being used now in Northern Ireland by the British.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. TIERNAN. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Speaker, I would make one comment in connection with Judge Brewster's evaluation of the conduct of these five men on whom he placed $100,000 bail in order to make certain that they will return or remain on the premises.

The fact of the matter is that I, and several other colleagues, have offered to take these five men and be charged with the responsibility for them. Our appraisal of them is far more accurate than Judge Brewster. His appraisal is a highly insensible and arbitrary position.

Mr. TIERNAN. Mr. Speaker, I thank my colleague, the gentleman from New York, for his remarks.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. TIERNAN. I yield to the gentleman.

Mr. GONZALEZ. Mr. Speaker, I thank the distinguished gentleman and wish to add my voice in expression of agreement with and joining with him in the sentiments he has already expressed as well as those of our other colleagues.

I think this whole proceeding in Texas resulted from an interpretation of the Safe Streets Act, so-called antiorganized crime bill, and particularly that section having to do with special grand juries. Am I not correct in that statement?

Mr. TIERNAN. That is correct—this was a special grand jury convened in Texas.

Mr. GONZALEZ. That is right.

Now at the time we debated that, some of us got up in the well of this House and protested and anticipated that this very thing would happen.

I would like to bring to the attention of the Members of the House that this is not the only case. In fact, in my congressional district which is a part of the southern judicial district—and the gentleman from Rhode Island is speaking of another section, the northern district—in the southern district there has been going on now for about 10 days a purely political star chamber procedure—all within the sanction of this provision which was so smugly passed by the Congress despite the warnings and despite the protests that we were really initiating a new period in Anglo-American jurisprudence.

I think it is a shame. I think it is so violative of the basic principles of freedom, and it is so tragic that these five men are being literally sacrificed in this assertion of improper and un-American conduct that I am just wondering if we should not also have in mind not only trying to do something to relieve these five men but doing something to rectify the obvious error by the Congress in the passage of this type of legislation.

Mr. TIERNAN. I join my colleague in his observations. I think we have to do one of two things. I think probably here in the House the easiest method would be to clearly pass an amendment to the language of the Safe Streets Act. My colleague has clearly pointed out this was not intended for political investigations or investigations of the nature of which you spoke in your own judicial district—also the investigation which involved the Fort Worth Five, which apparently was instigated at the suggestion of the British Government. The State Department requested that the Justice Department investigate an alleged conspiracy to run guns to Northern Ireland, and to take these five gentleman from New York and have them go to a Grand Jury in Texas where the political climate was conducive.

The SPEAKER pro tempore. The time of the gentleman has expired.

(On request of Mrs. Abzug, and by unanimous consent, Mr. Tiernan was allowed to proceed for 1 additional minute.)

Mrs. ABZUG. Mr. Speaker, will the gentleman yield?

Mr. TIERNAN. I yield to my colleague, the gentlewoman from New York.

Mrs. ABZUG. Mr. Speaker, I want to commend the gentleman for bringing on this special order. It is very clear that this bail is one of the further steps in a case which is clearly a political case on the part of the U.S. Government and on the part of the Department of Justice that brought this case in a venue so many thousands of miles away, only because there was a judge that was favorable there, and an attorney. I think that the whole question of the immunity statutes should also be reviewed. I think the incarceration of these men, poor men taken away from their families for these many months, without any charges having been filed, violates the very essence of democracy. I think it reflects a serious violation of the eighth amendment of cruel and inhuman punishment, and I think we ought to bring this matter before the Congress.

Mr. TIERNAN. I thank the gentlewoman for her kind remarks.

REPAIR AND PROTECT OUR NATURAL ENVIRONMENT

(Mr. MONAGAN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MONAGAN. Mr. Speaker, as our Nation developed our economic capabilities, we did not sufficiently recognize that man has environmental rights, just as he has social and economic rights. These include, but are not limited to: The right to breathe uncontaminated air; the right to have clean, healthy water for consumption and recreation; and the right to insist upon a state of nature conducive to the continued existence of all forms of plant and animal life.

While disregarding these rights in the guise of progress, we have become a nation of consumers, polluting our waters, contaminating the air, depleting our natural resources, and littering our countryside with the byproducts of economic growth.

Although general recognition of the threat to our environment is relatively recent, our activities in preserving our natural resources are not of recent origin. I have been especially concerned with water quality, primarily because of its danger to human health. In 1963, I chaired hearings of the Natural Resources and Power Subcommittee of the House Government Operations Committee which pioneered studies on the pollution of our national water supply. Included in the study were the Connecticut River Basin, the Delaware River Basin, lower Lake Michigan, and various other water supplies in the Southwest and Midwest.

The hearings produced startling evidence of a deteriorating water supply which heightened the awareness of the problem on the part of Government officials and served as a mandate for pollution control legislation. Recognizing this potential threat to our health, I proposed an amendment to the Federal Water Pollution Control Act of 1963 to substantially increase grants for the construction of municipal sewage treatment works. This amendment was approved in 1965 but it was clear that it would not alone solve the problems of degenerating water quality.

In 1965, I recommended that existing grant limitations for sewage treatment works of $600,000 and $2.4 million for single and combined sewage projects be doubled.

Although the building of more and better sewage treatment plants with Federal funds is an area where we can well afford sizable appropriations, I feel that it is only a corrective measure and we should spend more time and money developing preventive measures. Our waterways would not be facing the "now or never" situation of the 1970's had we been able to control polluters 10 years ago.

For this reason, I introduced legislation in 1964 to amend the Refuse Act of 1899 to provide penalties against boat owners in instances of negligence substantially endangering desirable marine life of navigable waters. Since occurrences of environmental tragedies have increased at an alarming rate, by bill, by setting forth clear and precise terms of liability for causing an environmental disaster, would insure that wrongdoers pay for their negligence.

I have always felt that large business and industry must share the responsibilities of pollution abatement. Our Government should not allow private corporations to ignore the public's right to clean and healthy water by freely discharging wastes. To encourage the construction and installation of water and air pollution control equipment by industry, I introduced legislation in 1965 to provide tax write-offs to cooperating businesses.

Congress has begun to realize that its failure to adequately support suggestions for pollution control in the past has produced waters that are unsafe for swimming, boating, and fishing, let alone drinking, so we are attempting to restore these waters to the quality the public has a right to. In the first session of the 91st Congress, I supported the full funding for programs under the Clean Water Restoration Act, an amount substantially above the figure which the Nixon administration requested.

One of the most comprehensive pieces of legislation to date, the Federal Water Pollution Control Act, provides movement toward a national goal of eliminating discharges of pollutants into the waters of the United States and insuring the quality of our water. The Federal Water Pollution Act Amendments of 1972 establish the goal of water quality to insure the protection and propagation of aquatic life and recreation in and and on the water.

This bill received my strong support, as well as that of many Members of the House. It was referred to a conference committee to reconcile differing provisions between the House and Senate versions and the conferees have completed that task. Action is expected in the immediate future.

In the bill substantial funding is provided to carry out the stated national goals of achieving quality water through increased research, grants for construction of treatment works, the reduction of redtape in the administration of water pollution control programs, and better standards and enforcement.

An essential section of the bill provides for loans to small business concerns for water pollution control facilities to assist them in meeting water pollution requirements established by law and to insure that they will not suffer substantial economic injury.

Assistance is also provided to the States and local municipalities to increase their participation in attaining our national goals.

Unfortunately, the Federal Pollution Control Act lacks provisions for standards for the quality of drinking water. The quality of the Nation's drinking water supply has not received the attention from environmentalists it demands. Public assumption that our drinking water will always remain clean and healthy has proved unfounded. An official of the Environmental Protection Agency recently reported to the Senate Subcommittee on the Environment that—

> Eight million people are served water that is potentially dangerous in that it fails to meet the mandatory standards set by the Federal Government. These 8 million people receive unsafe water from an estimated 5,000 of the Nation's community water supply systems.

To remedy this alarming situation, I have cosponsored the Safe Drinking Water Act to establish national water quality standards under the administration of the Environmental Protection Agency. Hearings have been held on this subject in both the House and Senate, and I am hopeful that a national water quality program will soon become law.

Recently incorporated into this bill is a measure I proposed to insure the safety of a product which is the direct result of our deteriorating municipal water supplies—bottled drinking water. The eroding public confidence in the Nation's drinking water has caused bottled water sales to soar, with each new pollution report, increasing the demand. Bottled water is no longer just a health cure or luxury item and consumers deserve the protection of minimum health and safety standards.

Another threat to our water resources has materialized with the confirmation of substantial offshore oil reserves along the Atlantic coastline. An oil spill similar to that which occurred off Santa Barbara, Calif., would be a devastating environmental and economic blow to the eastern half of our Nation. To minimize such a possibility, I submitted a bill in December 1971 to establish a moratorium on all oceanic drilling until the Secretary of the Interior, in conjunction with the Council of Environmental Quality, determines the requirements of our Nation's resources. Our sources of energy have not been sufficiently studied and compared, and the environmental impact of drilling has not been adequately determined. This bill also provides for the establishment of marine sanctuaries in the Atlantic, permanently free from the threat of drilling.

Environmental tragedies and their adverse effects on human health have caused Congress to legislate to combat pollution in other areas, such as air, noise, strip mining, and pesticides. Although I have sponsored or supported legislation in all of these areas, as with the legislation dealing with water pollution, there are two flaws in the course of action we are pursuing.

The Nation's pollution control efforts have all too often consisted of programs which divide the environment into separate components of air, water, land, and others which are geared to specific environmental crises. While programs dealing with these components were good starts in reversing the threat to our ecosystem, we must develop programs which approach the environment as one integrated unit. Why create forest preserves or clean lakes for recreation, if our daily living environment impairs our health to the extent that we cannot enjoy them.

Second, we can no longer limit environmental legislation to crisis-oriented programs. We must develop an anticipatory capability to prevent environmental tragedies before they get started and to effectively treat a pollution hazard before it develops into a pollution disaster.

I have introduced legislation to develop a more comprehensive program for the environment so that our Nation's resources will be adequate for the tremendous demands to be made in the future.

In 1969 I introduced H.R. 13826, a bill to provide for the creation of a Council on Environmental Quality. I was pleased that the substance of this bill was included in the bill to provide for the establishment of a permanent Presidential Council on the Environment, which passed the House with my support, and was signed into law on January 1, 1970. Upon introducing H.R. 13826 I stated that just as in the case of social and economic rights, duties flow from the assertion of environmental rights. It is to insure that citizens and the Nation fulfill their duties to each other and to the land that I will continue to initiate and support all necessary antipollution legislation. Our antipollution laws must be as stringent as the extent to which our environment is ravaged.

In October 1964 I had the honor to give the keynote address at the Fourth Annual Bioenvironmental Engineering Symposium at the U.S. Air Force School of Aerospace Medicine, Brooks Air Force Base, Tex., and at that time I insisted that everyone has the responsibility to deal with the problem of pollution. I stated that while we are conducting research on pollution control, we must always keep aware that endeavors to halt pollution cannot wait upon the development of all the answers. We must proceed to implement solutions with what we have.

While I was gratified that a Presidential Council on the Environment as recommended by my bill has now been established, there are other sections of my bill designed to achieve an anticipatory capability that I still hope will be the subject of future legislation.

I have proposed that the Secretary of the Interior be authorized to conduct studies of natural environmental systems to document and define changes in the systems, and to develop and maintain an inventory of natural resource development projects which may make significant modifications in the natural environment. Further, I recommended that the Secretary of the Interior be directed to establish a clearinghouse for information on ecological problems and to disseminate information about programs related to those problems. Also, I recommended that the Secretary of Health, Education, and Welfare be authorized to establish a comprehensive solid waste management program which would coordinate all such research now being done under a number of different Federal programs. Another recommendation of mine directed the Secretary of HEW to compile a national inventory of solid waste management technology, and establish a clearinghouse for information on all aspects of air, water, and soil pollution, and solid waste disposal. This information would be made available to business, industry, municipalities, and the general public. All of these are the kind of provisions which would help to develop an anticipatory capability.

I also cosponsored House Joint Resolution 3, which passed the House July 20, 1971. This bill was to establish a Joint Congressional Committee on the Environment which would constantly study and review the type and extent of environmental changes which occur, and observe the effect of these changes upon population, communities, and industry.

A thorough analysis of the environment is essential to an adequate understanding of the problems and necessary to take measures to cure the ills that exist around us. It is time for us to not only realize and cope with the problems that exist, but also to anticipate and prevent their occurrence.

If we are to begin to protect our environment through anticipatory legislation, we should act now to prevent an environmental tragedy caused by misuse of toxic substances. Unless constructive action is taken to reduce the environmental contamination, a very large percentage of the world's remaining plant and animal life faces extinction during the next 20 years, and human life may be endangered as well. Each year hundreds of new chemical substances are made available to the general public without having been adequately tested for their impact upon human health or the environment. It is chilling to realize that certain chemical residues which we ingest may kill, cause cancer, create fetal deformities in animal life and also be hazardous to humans. I have criticized the Department of Agriculture for consistently ignoring the potential health hazards in freely allowing the use of pesticide compounds dangerous to human health. I have recommended that the Secretary of HEW be given the legal authority to ban or limit the use of pesticides wherever the use of such substances is hazardous to public health. I also recommended that the Secretary of the Interior be given greater statutory authority to participate in decisions regarding danger to fish and wildlife and contamination of the environment.

To protect the public from exposure to hazardous products, I introduced the Toxic Substances Control Act on September 30, 1971. This legislation would subject all new organic and inorganic chemical substances to pretesting and registration before they are placed on the market. The highest priority in the registration of pesticide compounds should be the potential hazard to human life and the environment, rather than the Department of Agriculture's priority on the benefit to food and fiber.

Another threat to our environment that deserves more planning is population growth. On December 10, 1969, I cosponsored a bill to establish a Commission on Population Growth and the American Future. The Commission has conducted studies and research, and made recommendations to all levels of government in the United States regarding a broad range of problems associated with population growth and their implications for America's future. Besides dealing with the population explosion, we must begin to consider the effects on our environment of two other population problems, implosion, the increasing movement from rural to urban areas, and displosition, the increasing complexity and specialization of social, economic, and political organizations which parallel population increases, and may lead to the mismanagement of our resources.

The recent agreement on cooperation in the field of environmental protection between the United States and the Soviet Union indicates a realization that this problem transcends politics; it is neither capitalist nor Communist, and recognizes no political boundaries. I consider this agreement a step toward developing the anticipatory capability which will become increasingly important as cooperation between our nations continues to expand.

While I still believe that environmental pollution can be controlled through legislative activity, increased citizen participation through the judicial system would help to resolve environmental problems. But, at the present time, private citizens lack the power to initiate court action in the name of the public interest. We should recognize the public's right to a decent environment, enforceable by law by opening up the courts to the public.

I support a bill introduced by Senators Hart and McGovern and Representative Udall, modeled after a Michigan law, which allows citizens to plead environmental grievances. The bill purposely does not define pollution, environmental quality, or the public interest, so that a wide range of future problems which are uncertain today, can be considered under this act. The bill is not an attempt to supplant the legislative process or the power of administrative regulation, but to allow for the necessary review that our system of checks and balances calls for.

Conquering environmental pollution is an immense task and we should not expect overnight miracles or anything more than a gradual turn in the right direction. The costs will be formidable, and we must consider what effects on our industries this abnormal expense would have on their viability and their capacity to provide jobs and pay taxes. We are just beginning to comprehend that the physical well-being of our people is inextricably related to the ecological integrity of the Nation and that if we are to break the cycle of depletion, consumption, and pollution we must choose some delicate balance between consumption and environmentalism that will produce a healthy, happy society that can endure the elements of time.

I stand ready to support all necessary and proper legislation which will repair and protect the natural environment for the present population and for all generations to come.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

Mr. Derwinski (at the request of Mr. Gerald R. Ford), for the remainder of this week and next week, on account of official business as U.S. delegate to Interparliamentary Conference.

Mr. Kyros, for September 19, 1972, on account of official business.

Mr. McDade (at the request of Mr. Gerald R. Ford), for today through September 21, 1972, on account of official business.

Mr. McClory (at the request of Mr. Gerald R. Ford), for the remainder of this week and next, on account of official business as U.S. delegate to Interparliamentary Conference.

Mr. Pucinski (at the request of Mr. Boggs), for today and Wednesday, September 20, on account of serious illness in family.

Mr. Saylor (at the request of Mr. Gerald R. Ford), for balance of week, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Baker) and to revise and extend their remarks and include extraneous matter:)

Mr. Gubser, for 1 hour, on September 20.

Mr. Miller of Ohio, for 5 minutes, today.

Mr. Steiger of Wisconsin, for 10 minutes, today.

Mr. Quie, for 30 minutes, on September 20.

(The following Members (at the request of Mr. Mazzoli) to revise and extend their remarks and include extraneous material:)

Mr. DANIELS of New Jersey, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. FLOOD, for 10 minutes, today.

Mr. FUQUA, for 10 minutes, today.

Mr. ALEXANDER, for 20 minutes, today.

Mrs. ABZUG, for 10 minutes, today.

Mr. ASPIN, for 10 minutes, today.

Mr. KAZEN, for 10 minutes, today.

Mr. TIERNAN, for 5 minutes, today.

Mr. CELLER, for 60 minutes, September 20.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. HOLIFIELD.

Mr. COLMER to revise and extend remarks made earlier today.

Mr. HECHLER of West Virginia to revise and extend his remarks in connection with the bill just passed.

Mr. REID to include an article from the National Review entitled "Is It True What They Say About the New York Times," notwithstanding the fact that it exceeds 3 pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $552.50.

(The following Members (at the request of Mr. BAKER) and to include extraneous material:)

Mr. SPRINGER in two instances.

Mr. ESCH.

Mr. DERWINSKI in three instances.

Mr. WYMAN in two instances.

Mr. ANDERSON of Illinois.

Mr. STEIGER of Wisconsin in two instances.

Mr. FRELINGHUYSEN.

Mr. SCHERLE.

Mr. KING in two instances.

Mr. RAILSBACK.

Mr. FREY.

Mr. CRANE in five instances.

Mr. PEYSER in five instances.

Mr. KEITH.

Mr. WILLIAMS in two instances.

Mr. CLANCY.

Mr. BROYHILL of Virginia.

Mr. COLLINS of Texas.

(The following Members (at the request of Mr. MAZZOLI) and to include extraneous material:)

Mr. ROY.

Mr. PEPPER.

Mr. CONYERS in 10 instances.

Mr. STOKES.

Mr. ANNUNZIO in three instances.

Mr. GONZALEZ in three instances.

Mr. RARICK in three instances.

Mr. PATTEN in three instances.

Mr. WALDIE.

Mr. BURKE of Massachusetts.

Mrs. GRIFFITHS in two instances.

Mr. ROSTENKOWSKI.

Mr. HANNA in two instances.

Mr. ASPIN in 10 instances.

Mr. ROE.

Mr. MIKVA in eight instances.

Mr. ANDERSON of California in three instances.

Mr. HELSTOSKI in five instances.

Mr. GALLAGHER.

Mr. BRASCO in two instances.

Mr. HANLEY.

Mr. ROGERS.

Mr. CULVER.

Mr. GAYDOS.

Mr. REID.

Mr. SMITH of Iowa.

Mr. HAGAN in five instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 33. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to authorize group insurance programs for public safety officers and to assist State and local governments to provide such insurance; to the Committee on Judiciary.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 3442. An act to amend the Public Health Service Act to extend and revise the program of assistance under that act for the control and prevention of communicable diseases.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on September 18, 1972 present to the President, for his approval, bills of the House of the following titles:

H.R. 10702. An act to declare that certain federally owned land is held by the United States in trust for the Fort Belknap Indian Community;

H.R. 13025. An act to amend the act of May 19, 1948, with respect to the use of real property and wildlife conservation purposes;

H.R. 15495. An act to authorize appropriations during the fiscal year 1973 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to authorize construction at certain installations in connection with the Safeguard antiballistic-missile system and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes; and

H.R. 15577. An act to give the consent of Congress to the construction of certain international bridges, and for other purposes.

ADJOURNMENT

Mr. TIERNAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 17 minutes p.m.), the House adjourned until tomorrow, Wednesday, September 20, 1972, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2349. A letter from the Secretary of Transportation, transmitting the fifth annual report on activities carried out under the High Speed Ground Transportation Act of 1965, as amended, pursuant to 49 U.S.C. 1640(a); to the Committee on Interstate and Foreign Commerce.

RECEIVED FROM THE COMPTROLLER GENERAL

2350. A letter from the Acting Comptroller General of the United States transmitting a report on military assistance and commitments in the Philippines administered by the Department of State and Defense; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. EVINS of Tennessee: Select Committee on Small Business. Report on concentration by competing raw fuel industries in the energy market and its impact on small business, volume 3—National Gas Survey and Synthetic Fuel Development; with amendment (Rept. No. 92–1404). Referred to the Committee of the Whole House on the State of the Union.

Mr. TAYLOR: Committee on Interior and Insular Affairs. H.R. 9859. A bill to establish the Cumberland Island National Seashore in the State of Georgia, and for other purposes; with amendment (Rept. No. 92–1405) Referred to the Committee of the Whole House on the State of the Union.

Mr. SISK: Committee on Rules. House Resolution 1121. Resolution providing for the consideration of H.R. 9128. A bill to confer exclusive jurisdiction on the Federal Maritime Commission over certain movements of merchandise by barge in foreign commerce (Rept. No. 92–1407). Referred to the House Calendar.

Mr. O'NEILL: Committee on Rules. House Resolution 1122. Resolution waiving all points of order against H.R. 16705. A bill making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1973, and for other purposes (Rept. No. 92–1408). Referred to the House Calendar.

Mr. PATMAN: Committee on Banking and Currency. House Joint Resolution 1301. Joint resolution to extend the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages under the National Housing Act (Rept. No. 92–14099). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLATNIK: Committee on Public Works. H.R. 16645. A bill to amend the Public Buildings Act of 1959, as amended, to provide for the construction of a civic center in the District of Columbia, and for other purposes; with amendment (Rept. No. 92–1410). Referred to the Committee of the Whole House on the State of the Union.

Mr. COLMER: Committee on Rules. House Resolution 1123. Resolution to amend the Rules of the House of Representatives to provide for the use of electronic equipment, and for other purposes (Rept. No. 92–1411). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. RODINO: Committee on the Judiciary. H.R. 14128. A bill for the relief of Jorge Ortuzar-Varas and Maria Pabla de Ortuzar (Rept. No. 92–1406). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANNUNZIO:

H.R. 16706. A bill to amend title XVIII of the Social Security Act to require that Public Health Service hospitals, Veterans' Administration hospitals, and hospitals receiving assistance under the Hill-Burton Act make available to persons entitled to benefits under the medicare program, at cost, prescription drugs not covered under that program, eyeglasses, and hearing aids; to the Committee on Ways and Means.

By Mr. ASHLEY:

H.R. 16707. A bill to amend the Social Security Act to make certain that recipients of aid or assistance under the various Federal-State public assistance and medicaid programs (and recipients of assistance under the veterans' pension and compensation programs or any other Federal or federally assisted program) will not have the amount of such aid or assistance reduced because of increases in monthly social security benefits; to the Committee on Ways and Means.

By Mr. BOLAND:

H.R. 16708. A bill to preserve and promote the resources of the Connecticut River Valley, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mrs. GRASSO:

H.R. 16709. A bill to amend title 38, United States Code, in order to permit certain veterans up to 15 months of educational assistance for the purpose of pursuing retraining or refresher courses; to the Committee on Veterans' Affairs.

By Mr. HÉBERT:

H.R. 16710. A bill to provide for the conveyance of certain real property of the United States to the State of Louisiana; to the Committee on Armed Services.

By Mr. HOLIFIELD:

H.R. 16711. A bill to prevent aircraft piracy by requiring the use of metal detection devices to inspect all passengers and baggage boarding commercial aircraft in the United States; to the Committee on Interstate and Foreign Commerce.

By Mr. KASTENMEIER:

H.R. 16712. A bill to amend title 35 of the United States Code to provide a remedy for postal interruptions in patent and trademark cases; to the Committee on the Judiciary.

By Mr. KUYKENDALL:

H.R. 16713. A bill to assure the free flow of information to the public; to the Committee on the Judiciary.

By Mr. O'HARA:

H.R. 16714. A bill to amend title 5 of the United States Code with respect to the observance of Veterans Day; to the Committee on the Judiciary.

By Mr. ROUSH:

H.R. 16715. A bill to amend section 203 of the Social Security Act to provide that an individual who devotes 45 hours or less a month to his or her trade or business shall not be considered to have rendered substantial services in self-employment for purposes of the retirement test; to the Committee on Ways and Means.

By Mr. RUNNELS:

H.R. 16716. A bill to require States to disregard the amount of any increase in social security cash benefits in determining eligibility of social security beneficiaries for medicaid; to the Committee on Ways and Means.

By Mr. SEIBERLING:

H.R. 16717. A bill to amend the Social Security Act to make certain that recipients of aid or assistance under the various Federal-State public assistance and medicaid programs (and recipients of assistance under the veterans' pension and compensation programs or any other Federal or federally assisted program) will not have the amount of such aid or assistance reduced because of increases in monthly social security benefits; to the Committee on Ways and Means.

By Mr. TERRY:

H.R. 16718. A bill to amend title 5 of the National Housing Act to extend the definition of veteran to include persons who serve in the military forces of the United States during the Vietnam era to enable any such veteran to receive financial assistance for rural housing on a preferred basis, and for other purposes; to the Committee on Banking and Currency.

By Mr. YOUNG of Florida:

H.R. 16719. A bill to make displaying the flag of certain hostile countries treasonable; to the Committee on the Judiciary.

H.R. 16720. A bill to amend section 700 of title 18, United States Code, relating to desecration of the flag of the United States; to the Committee on the Judiciary.

By Mrs. ABZUG:

H.R. 16721. A bill to amend the National School Lunch Act; to the Committee on Education and Labor.

By Mr. BERGLAND:

H.R. 16722. A bill to amend the Federal Trade Commission Act (15 U.S.C. 41) to provide that under certain circumstances exclusive territoral arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

H.R. 16723. A bill to amend the Social Security Act to make certain that recipients of aid for assistance under the various Federal-State public assistance and medicaid programs (and recipients of assistance under the veterans' pension and compensation programs or any other Federal or federally assisted program) will not have the amount of such aid or assistance reduced because of increases in monthly social security benefits; to the Committee on Ways and Means.

By Mr. CABELL (for himself and Mr. Broyhill of Virginia):

H.R. 16724. A bill to provide for acquisition by the Washington Metropolitan Area Transit Authority of the mass transit bus systems engaged in scheduled regular route operations in the National Capital area, and for other purposes; to the Committee on the District of Columbia.

By Mr. ESCH (for himself, Mr. Steiger of Wisconsin, Mr. Quie, Mr. Bell, Mr. Dellenback, Mr. Forsythe, Mr. Kemp, Mr. Peyser, and Mr. Carlson):

H.R. 16725. A bill Longshoremen's and Harbor Workers' Compensation Act Amendments of 1972; to the Committee on Education and Labor.

By Mr. FRASER:

H.R. 16726. A bill to amend title 39, United States Code, to establish the eligiblity of neighborhood improvement organizations and parent-teacher associations for special third-class bulk mail rates, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. GIAIMO:

H.R. 16727. A bill to amend the Social Security Act to assure that whenever there is a general increase in social security benefits there will be a corresponding increase in the standard of need used to determine eligibility for aid or assistance under State plans approved under titles I, X, XIV, XVI, and XIX of such act; to the Committee on Ways and Means.

By Mrs. GREEN of Oregon (for herself, Mr. McMillan, Mr. Broyhill of Virginia, Mr. Abernethy, Mr. Thomson of Wisconsin, Mr. Cabell, Mr. Stuckey, Mr. Harsha, Mr. Springer, Mr. O'Konski, Mr. Hagan, Mr. Hays, and Mr. Scherle):

H.R. 16728. A bill to provide home rule to inhabitants of the District of Columbia by retroceding a portion of the District of Columbia to the State of Maryland, and for other purposes; to the Committee on the District of Columbia.

By Mr. LEGGETT:

H.R. 16729. A bill to amend title 5, United States Code, to remove the prohibition on the concurrent payment of compensation for disability on account of a civilian work injury and of retired pay for a different disability incurred in service with the U.S. Armed Forces, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. RONCALIO:

H.R. 16730. A bill to provide payments to States for public elementary and secondary education and to allow a credit against the individual income tax for tuition paid for the elementary or secondary education of dependents; to the Committee on Ways and Means.

By Mr. STEIGER of Wisconsin:

H.R. 16731. A bill relating to the corporate surtax exemption; to the Committee on Ways and Means.

By Mr. STEPHENS (for himself and Mr. J. William Stanton):

H.R. 16732. A bill to amend the Small Business Investment Act of 1958, and for other purposes; to the Committee on Banking and Currency.

By Mr. TIERNAN:

H.R. 16733. A bill to provide for the humane care, treatment, habilitation, and protection of the mentally retarded in residential facilities through the establishment of strict quality operation and control standards and the support of the implementation of such standards by Federal assistance, to establish State plans which require a survey of need for assistance to residential facilities to enable them to be in compliance with such standards, seek to minimize inappropriate admissions to residential facilities and develop strategies which stimulate the development of regional and community programs for the mentally retarded which include the integration of such residential facilities, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. RONCALIO:

H.J. Res. 1302. Joint resolution to provide for a monument to the dead of the 1st Infantry Division, U.S. forces, in Vietnam; to the Committee on House Administration.

By Mr. SEIBERLING:

H.J. Res. 1303. Joint resolution to authorize and request the President to proclaim the period November 5, 1972, through November 12, 1972, as Myasthenia Gravis Week; to the Committee on the Judiciary.

By Mr. WIGGINS:

H.J. Res. 1304. Joint resolution authorizing the President to proclaim October 1, 1972, as National Heritage Day; to the Committee on the Judiciary.

By Mr. FRELINGHUYSEN:

H. Con. Res. 707. Concurrent resolution to provide a flood control study of the Green Brook Basin in New Jersey; to the Committee on Public Works.

By Mr. Colmer (for himself, Mr. Madden, Mr. Delaney, Mr. Bolling, Mr. O'Neill, Mr. Sisk, Mr. Young of Texas, Mr. Pepper, Mr. Matsunaga, Mr. Anderson of Tennessee, Mr. Smith of California, Mr. Anderson of Illinois, Mr. Martin, Mr. Quillen, and Mr. Latta):

H. Res. 1123. A resolution to amend the Rules of the House of Representatives to provide for the use of electronic equipment, and for other purposes.

By Mr. PERKINS (for himself and Mr. QUIE):

H. Res. 1124. Resolution to authorize additional investigative authority to the Committee on Education and Labor; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. HOSMER:

H.R. 16734. A bill for the relief of Kendall Gordon Parker; to the Committee on the Judiciary.

By Mr. RONCALIO:

H.R. 16735. A bill for the relief of William Allen, and Marie Allen, his wife, Rock Springs, Wyo.; to the Committee on the Judiciary.

By Mr. STUBBLEFIELD:

H.R. 16736. A bill for the relief of Robert M. Owings; to the Committee on the Judiciary.

By Mr. WRIGHT:

H.R. 16737. A bill for the relief of Ramakrishna Rao Palepu; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

284. The SPEAKER presented a petition of the city council, Oak Park, Mich., relative to murder at the Olympic games; to the Committee on Foreign Affairs.

EXTENSIONS OF REMARKS

OUR SENIOR CITIZENS

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. ANNUNZIO. Mr. Speaker, our Nation has yet to face up to the challenge of our older Americans. Too many live out their later years in poverty—helpless and alone—feeling that they are a burden on their children and society. Surely a nation as great as ours can meet this challenge.

What are the basic needs of our senior citizens? Adequate income, adequate transportation, the best possible nursing home care, and expert medical attention.

Adequate income must be provided through both adequate employment opportunities for our senior citizens and through adequate social security and retirement benefits. Recently, I supported the 20 percent social security benefits increase, and during 8 years in the Congress, I have supported all of the measures which have come before the House of Representatives to increase social security benefits, as well as the proposal to adjust social security benefits automatically according to changes in the cost-of-living index. This proposal is part of H.R. 1, which passed the House of Representatives, and is presently awaiting action in the Senate. Additionally, I supported a 20-percent increase in railroad retirement benefits, effective September 1—the date that the newly enacted 20 percent social security boost became effective.

As a member of the Banking and Currency Committee, I have consistently supported urban mass transit subsidies which will help our local authorities improve our transportation services and make it feasible for them to authorize reduced fares for elderly individuals. Just last week in the Banking Committee I was successful in adding an amendment to the 1972 housing bill which provides that elderly and handicapped persons riding on a public transportation system, such as the Chicago Transit Authority, pay only half fare during nonpeak hours. The 1972 housing bill, with my half-fare amendment for senior citizens, is expected to pass the House this week.

As the general chairman for the Villa Scalabrini Development Fund, I was one of those in the Chicago community responsible for establishing Villa Scalabrini, the old people's home in Melrose Park, Ill. I know firsthand what can be accomplished with a little thought, effort, and imagination in the area of nursing home care. Villa Scalabrini stands today as an outstanding example of a modern facility which provides compassionate care for its residents. It has provided not only physical care, but spiritual comfort and a refuge of peace and happiness for elderly persons. Last Sunday, I was at the old people's home in Melrose Park and participated in the 20th anniversary celebration of its establishment.

It was a moment of pride for me to see so many old people well cared for and happy in their surroundings. With the application of uniform standards, this can be accomplished in nursing homes across our Nation.

In 1954, there were only 6,539 nursing homes in the United States—today, that number has jumped to 24,000. Through medicare and medicaid programs, the Federal Government annually pays approximately 40 percent of the cost of operating this industry. Sadly enough, although the industry has grown, standards and regulations for nursing homes have not kept up with this growth. It is essential that we provide rewards to those nursing homes offering exemplary care, that we encourage better training and better pay for nursing home personnel, and that we provide Federal inspectors if State inspectors cannot adequately do the job.

Mr. Speaker, I have proposed establishment of a Select Committee on Aging which would provide the permanent, full-time, day-to-day compassionate interest and concern which more than 20 million older Americans—one-tenth of our population—fully deserve.

The Older Americans Act, which I sponsored and supported, established an Administration on Aging within the Department of Health, Education, and Welfare to deal specifically with problems of the aged and aging.

I am also one of those who supported legislation to establish a National Institute of Aging within the National Institutes of Health. The National Institute of Aging will conduct and support research on the aging process and on the prevention, treatment, and cures for special health problems of the aged.

Medicare became a reality during the first year that I served in the Congress—1965—and I was one of the stanch supporters of this landmark program. It provided—for the first time in the history of our country—health and medical care for our senior citizens.

During the 92d Congress, I introduced legislation to provide outpatient prescription drug coverage for certain specific illnesses under medicare. This proposal has already been approved by the House of Representatives and is now part of H.R. 1, which is receiving the consideration of the Senate.

All of this is not enough, however, as many of our senior citizens are still unable to provide adequate health care for themselves or to meet the high cost of prescription drugs on the meager incomes which they now receive.

Although H.R. 1 does include my proposal to provide outpatient prescription drug coverage under medicare for certain specific illnesses, such as arthritis, cancer, chronic cardiovascular disease, chronic respiratory disease, rheumatism, thyroid disease, diabetes, and tuberculosis, I do feel this should be supplemented by permitting medicare participants to purchase from the Public Health Service, Veterans' Administration, and Hill-Burton assisted hospitals and clinics, at wholesale prices, all prescription drugs not already covered by medicare, as well as hearing aids and eyeglasses.

I therefore introduce in the Congress a bill which will go a long way toward helping our senior citizens bear the financial cost of illness which so often accompanies advancing age. My bill provides that all prescription drugs not covered by medicare be made available at cost to persons on either part A or part B of medicare. In addition, it provides that hearing aids and eyeglasses be made available on the same wholesale basis by hospital dispensaries. Finally, the bill provides that drugs for medicare patients be prescribed on a generic rather than brand name basis. Making these drugs, hearing aids, and eyeglasses available to senior citizens at wholesale cost and at generic medicine cost rather than brand name medicine cost will help substantially to reduce the total cost of drugs for the elderly.

Mr. Speaker, the number of senior American citizens over age 65 is expected to exceed 25 million by 1985. In my own city of Chicago over the past decade the percentage of elderly persons in the 60-and-over category has grown from 15 percent in 1960 to 15.3 percent in 1970. Today almost 10 percent of our population is elderly, and there are 20 million Americans in the senior citizen category. Of these, 17 million have no private protection whatsoever as far as prescription drugs are concerned.

Our senior citizens now spend 20 cents of their health care dollar on prescription medications. This amounts to about $1 billion a year or 25 percent of our Nation's total outlay for prescription drugs. When we consider that many of our older people are living on minimal fixed incomes and that fully 25 percent of them are living at or below the poverty level, then we cannot help but realize the terrible strain which high cost drugs, hearing aids and eyeglasses must place on their limited financial resources.

In my judgment, there is no question about the need for making high cost drugs, hearing aids and eyeglasses available at wholesale cost to our senior citizens. I am hopeful that the Congress will take early action on my bill in order that it may supplement the provision already contained in H.R. 1. Truly, our senior citizens are among our most forgotten Americans and we cannot ask them to wait any longer for solutions to their special problems. This legislation would help to solve one of these special problems.

THE AMERICAN FLAG—SACRED SYMBOL OF OUR NATION

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. YOUNG of Florida. Mr. Speaker, for almost two centuries, the American flag has served as the sacred emblem of our great Nation. In the words of the brilliant Henry Ward Beecher:

> A thoughtful mind when it sees a nation's flag sees not the flag, but the nation itself. And whatever may be its symbol, its insignia, he reads chiefly in the flag, the government, the principles, the truths, the history that belongs to the nation that sets it forth.

With our great American heritage in mind, it is very shocking for me to view the utter disregard which some Americans have recently displayed for the flag of their Nation. In demonstration after demonstration protesters have shown a flagrant disdain for the flag.

During the infamous May Day demonstrations which seized Washington last spring, I witnessed many disturbing acts committed against our country. Some of the most alarming of these were young revolutionaries climbing flagpoles and tearing down the American flag, stomping on it and then replacing it with the flags of enemy countries, countries which are holding American prisoners of war.

In Miami at the Republican National Convention last month, demonstrators were actually wearing pieces of the American flag as parts of their clothing. There were also many incidents of flag burning and desecration as a further act of protest.

I personally view actions of this nature with disbelief. It is shocking to see such overt acts taking place openly. Do we as a Nation lack the will to stop this vicious onslaught? Our apathetic nature has caused this small group of revolutionaries who actively advocate the overthrow of our country, to believe we are an easy target for their acts aimed at demoralizing the American people.

I do not feel that our Government or our citizens should have to put up with this display of disdain for our Nation, the principles it stands for, and the men who have sacrificed their lives defending it.

For these reasons I am introducing two bills today: one which will make it a Federal offense for anyone to display the flag of any country which holds American prisoners of war, or any revolutionary group which advocates the overthrow of our Government; the second will expand the criminal sanctions for the desecration of the flag. I feel that passage of these bills is essential if we are to preserve the respect which the vast majority of Americans have for the flag of their Nation. For, in the words of Woodrow Wilson:

> The flag has no other character than that which we give it from generation to generation. The choices are ours.

THE TRAGIC PROBLEMS OF OUR NATION'S SENIOR CITIZENS

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. BURKE of Massachusetts. Mr. Speaker, I have here a letter which I feel should be read by every Member of the House. It is a compelling letter which eloquently addresses itself to the tragic problems of our Nation's senior citizens. It is a forceful letter, but it is also a typical letter. Typical in that it expresses the same concern which I find in the hundreds of other letters which I receive on this subject each month. The problems cited here are not the problems of one man, but of millions of our elderly citizens throughout the country. I hope that every Member will give this letter careful and serious consideration.

Stoughton, Mass.,
August 14, 1972.

Hon. James A. Burke,
Congress of the United States, House of Representatives, Washington, D.C.

Dear Sir: Thank you for your letter of July 20, it was welcome and appreciated. Its contents and the accompanying material were very informative; which I enjoyed reading very much.

Your reference to our past communications about social security, verified our intense interest, which for you is to vote for improvements and for me that will be the recipient of such.

Therefore I concur with you very strongly about the inadequacy of social security, and I wish you success in educating your colleagues to work hand in hand with you to improve social security.

I am tormented by cynicism to have discovered that in this advanced day and age, that "civic and religious leaders; who from the 8th to the 11th century, learned how often difficulties resolve themselves by the intervention of human mortality," that such an ironical act of fate is that of history repeating itself so forcefully in this 20th century.

I am also apprehensive about the mood of hesitancy and obstinacy by Congress to treat social security realistically, on the premise, that it took thirteen years to awaken and nullify the shame and sham of prohibition; "So now I ask, how many more years must pass before our law makers awaken to the need to nullify the oppressive and irresponsible segments of social security?"

I also feel unjustly imposed upon, not only by the curtailment of my working and earning capabilities but my being denied a mortgage insurance plan on my new home, because of my being seventy-one years old. I do hope something can and will be done about this added pre-posthumous punishment. I hope and pray that the day is not too far distant when the elderly will be given more of what is needed than that they are denied.

You may if you wish read all or any part of this letter to your colleagues. You have my permission and blessing to do so.

I should appreciate your informing me if anything is being considered by Congress to improve social security at the present time.

Also what if any features of social security are embodied in the Democratic Platform in this years' Presidential campaign.

Thanking you for whatever courtesy you might extend to me; with every good wish to you as always, I am

Sincerely.

Matthew Ruggiero.

SEEDS OF JOBLESSNESS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. GAYDOS. Mr. Speaker, television watchers have been subjected in recent weeks to the sight of performer Steve Allen or nature photographer Ansel Adams emerging from a woodland scene to urge auto purchase prospects to "test drive a Datsun" and by doing so enable the U.S. Forest Service to plant a tree.

Promising as may be this campaign to the betterment of the national environment in the future, the fact remains that, in far too many instances, our Government is continuing to play the patsy role to foreign competitors. Rather than planting a tree, the TV pitch could have us planting the seeds of further American joblessness.

Datsun cars are the product of Japan's Nissan Motor Co. Ltd. Each one sold in this country, therefore, adds to our international trade deficit and represents one less American car produced and sold. Of special significance to western Pennsylvanians, each Datsun sale here means almost a ton of U.S. steel production lost.

That the U.S. Forest Service is lending itself to a program of promoting Japanese sales in our markets is something which needs the attention of administration officials. The agency is part of a government which professes to be concerned about the trade deficit, the rising tide of import products, and the urgent need of more American jobs. Could not U.S. firms be enlisted in the promotion of tree planting? If the Forest Service is so desperate for funds, why does it not come to Congress?

Representative MARTHA GRIFFITHS, of Michigan, is quoted by the Wall Street Journal as saying:

> Whatever the benefits to America, we can't afford to have any of our agencies helping send money out of the country.

Representative GRIFFITHS is well aware of the effect of this kind of arrangement on Michigan's auto industry. We are equally aware of its effects on the steel industry of our district, a chief supplier of automobile steel and steel bodies. It is another of those situations in which the American manufacturer and worker have been maneuvered into an unfavorable position by the supertolerance of our Government in its trade relations with other nations, many of which maintain severe restrictions on their imports of U.S. products.

Imagine Japan permitting General Motors, Ford, or Chrysler to use one of its government agencies to promote the sale of their automobiles in the Japanese domestic market. Booming Japan does not play the trade game that way. Only we do.

INTRODUCTION OF AMENDMENT TO THE NATIONAL SCHOOL LUNCH ACT

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mrs. ABZUG. Mr. Speaker, the National School Lunch Act, as amended by Public Law 90–302, defines "service institutions"—section 13(a)—to mean "private, nonprofit institutions or public institutions such as day care or other child care centers, settlement houses or recreation centers which provide day care or other child care when children are not maintained in residence for children from areas in which poor economic conditions exist, and from areas in which there are high concentrations of working mothers, and including public and private nonprofit institution providing day care service for handicapped children."

The problem with this section is that it excludes resident camps. The legislative history on how the provision excluding resident institutions came into the bill is somewhat unclear. Representative CHARLES VANIK introduced the bill, and it was not in his original version. However, it was a part of the bill when it came to the floor.

In dealing with the Camping Services of Community Council of Greater New York, I have learned that a tremendous need exists to extend these funds to nonprofit residential camps. The vast majority of the children who are served by these nonprofit camps are urban children from lower income groups. Most of them would be eligible for the lunches were they attending a day camp rather than a residential camp.

To extend the school lunch program to nonprofit resident camps would give more children the opportunity to attend camp by lowering the costs to the camps. Camp is an invaluable experience for children, especially urban children who have had little chance to leave the city, and I believe that the program should be extended to resident camps.

For this reason, I am today introducing a bill which would amend the School Lunch Act to include "resident camps" under the definition of "service institutions." I include a copy of the bill at the conclusion of my remarks:

H.R. 16721

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, that section 13(a)(1) of the National School Lunch Act (42 U.S.C. 1761(a)(1)), as amended, is amended by adding at the end thereof a new sentence, to read as follows: "The term 'service institution' shall also include nonprofit residential camps for children."

NATIONAL SMALL BUSINESS STATEMENT ON OCCUPATIONAL SAFETY AND HEALTH

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. STEIGER of Wisconsin. Mr. Speaker, today the House considers the Labor-HEW appropriations bill. Thus, I feel it is an appropriate time to share with my colleagues excerpts of the testimony of Mr. Carl A. Beck, chairman, Legislative Action and Policy Committee of the National Small Business Association before the Senate Labor Subcommittee. It is one of the finest examples of constructive approaches to the concerns of the small businessman as he tries to comply with the Occupational Safety and Health Act that I have seen yet.

In the testimony he sets forth the results of an investigation undertaken by the Small Business Association of the actual inspections and reports by OSHA by region III in Philadelphia. Their independent investigation concludes that:

> . . . the business community has fallen victim to a great many rumors and scare-stories which appear to have little foundation in fact.

The recommendations of his statement are constructive and worthy of consideration by the House at this time.

The statement follows:

TESTIMONY OF CARL A. BECK

Mr. Chairman and members of the Committee, my name is Carl A. Beck. I am Chairman of National Small Business Association's Legislative Action and Policy Committee and President of the Charles Beck Machine Corporation of King of Prussia, Pennsylvania. This statement is presented on behalf of National Small Business Association representing 40,000 firms doing business in over five hundred different industry categories. We appreciate the Committee's giving us an opportunity to comment on the effect of the Occupational Safety and Health Act.

Our statement is based on almost five years of exposure through legislative consideration of OSHA, forms review on the Business Advisory Council on Federal Reports, and personal exposure to compliance in my own small machinery manufacturing business.

In order that our statement today not be circumscribed by only personal experience and judgment, we have broadened our investigation into the business impact of OSHA by studying a representative sample of actual Inspection Reports. In addition to the usual "horror stories" we have all heard, we have also heard many complaints from our members, and from the business community in general, about OSHA, that factories are being shut down, small firms are being fined into bankruptcy, etc.

In order to check the validity of these fears and reports, we went to the Philadelphia Area and Regional offices of OSHA and conducted our own investigation into how the OSHA laws were being administered.

This study focussed only on correspondence files and inspection reports of Region 3, which are kept at the Philadelphia offices. (There is no centralization of information from the 50 OSHA offices.)

We talked with OSHA inspectors and administrators, reviewed a random selection of cases handled by the Philadelphia office during the last six months, and examined various procedures employed by OSHA. Throughout our investigation, Department of Labor employees were informative and co-operative, giving us whatever information we requested, except that prohibited by regulations. It appears that the results of this study generally reflect the situation across the country.

We believe our study shows that the business community has fallen victim to a great many rumors and scare-stories which appear to have little foundation in fact. A businessman is probably unduly terrorized by the prospect of an OSHA inspection because he does not understand the OSHA laws, and is being preyed upon by hordes of people who hope to profit from his lack of information.

We could not find any substantiation for any of the many stories circulating about firms being forced out of business as a result of OSHA inspections. What we did find out was that the small businessman is confronted by an unmanageable mass of regulations with which he is told he must comply, or suffer being fined. After taking a look at all the rules, standards, guidelines, etc., it is no wonder that he will believe almost anything.

Out of the roughly 3,000 cases that were indexed in the Philadelphia files, we found only two firms that had received fines totalling over $1,000 ($1,070 and $1,200), and in both cases there had been an employee fatality. Similarly, the largest fine for a *single* violation was $600, and in every case this fine was levied it was related to a fatality. Fines for all violations cited against a company generally ranged in the $150–$250 bracket, with fines totalling over $350 being rather uncommon. An examination of the 18 small firms in our random sampling shows that these firms averaged total fines of roughly $100, with $210 being the highest, excluding one firm that was inspected and fined because of a fatal accident.

The real expense to these small firms, as expected, comes not from fines but from the cost of modifying or replacing equipment in order to comply with OSHA regulations, An additional expense is incurred when the small businessman must bring in consultants to advise him on compliance.

Every business man we spoke to told us that he was able to understand the basic language as set forth in the *Federal Register*. However, they all noted that most points didn't apply to them anyway, and that the complexity of working their way through the entire body of referenced standards was a Herculean task.

The biggest problem, we found, is with the "referenced in" standards that are included as part of the OSHA law. To procure all these would cost over $300. They must be obtained from a number of different sources, and combine to form a stack of paper several feet high. Both investigators and legal personnel in the Philadelphia office readily conceded that some of these standards were written in specialized fields, and are not readily intelligible to the layman.

The basic document itself, the *Federal Register*, went out of stock several times during the past year because of demand. When this basic document is not available from OSHA field offices, it must be ordered from the Government Printing Office, and we all know how long that can take.

The various referenced standards also are frequently sold out when ordered. We know of delays of up to three months in obtaining some of these.

The Philadelphia office of OSHA seemed to be very co-operative in replying to questions received. In January of this year, however, a businessman faced a month's delay before his question was answered, and today the average reply period is six to eight weeks.

After a delay in receiving the *Federal Register*, a small businessman wades through it and finds some referenced standards that he suspects may apply to his firm. After another delay of some months these standards arrive, at different times from different sources. He writes to OSHA with a question about a technical aspect of one of the standards, and waits two months for a reply. As much as six months may have elapsed from the time he first sought information to the time his specific question was answered. And during this time that he is diligently trying to effect compliance with the law, an inspector may show up and fine him for non-compliance.

A major problem, however, is the fact that an OSHA inspector cannot enter a businessman's property except to conduct an official inspection. A common problem is illustrated by the case of the small construction firm owner in Pennsylvania who wrote to OSHA, asking if an inspector could come look over his site "and tell me what must be done to insure that I comply with all facets of this law". In accordance with the law, the Regional Administrator had to reply: "I must inform you that you may receive a monetary penalty for any or all of the violations noted on such an inspection".

Many firms are turning to the use of consultants, out of desperation. They are being forced to pay to find out what the law requires of them. And there appear to be plenty of people who are anxious to give him advice—for a price. Self-styled "OSHA consultants" have sprung up during the last year like mushrooms after the rain. And they are not cheap, by any means.

A businessman who doesn't want to wait six months to be certain that he is in complete compliance with all federal laws concerning his employees' safety and health is constantly being subjected to high-pressure, scare tactics sales pitches from people who are taking advantage of his plight. The owners of one construction firm in West Virginia with whom we spoke told us that they currently receive about six letters a month from consulting firms telling them how badly their services are needed in order to be sure they will not be hurt by an OSHA inspection. The owners tell us this is just a trickle compared to the flood of solicitations they received a year ago. Each letter, of course, pointed out how serious the threat of an OSHA inspection was, and how severe could be the penalties for not being in total compliance.

Businessmen are also bombarded with high-pressure sales efforts for "Code Conversion Kits" and other devices that their manufacturers claim are essential for compliance with federal laws. Other firms have been observed advertising products as being "OSHA approved" or "meets all OSHA standards". Since OSHA steadfastly refuses to endorse any product and says that no item can be deemed to be in full compliance until it is considered in reference to the specific place and conditions in which it will be used, many of these ads seem to be using objectionable sales methods. More importantly, they are adding to businessmen's fears about complying with OSHA.

Another question we looked at was that of how many investigations actually turned up violations. We had seen figures issued by the Department of Labor, indicating that 23% of the OSHA investigations turned up no violations whatsoever. This figure was cited as proof that their regulations are easily understood and implemented by many employers.

This claim was *not* borne out by our study! The evidence in the Philadelphia office indicates that less than 1% of all initial investigations reported no violations. Less than 5% of the investigations resulted in no fines being levied.

The only way a figure anywhere close to 23% could be obtained would be by including figures for follow-up visits, where inspectors check to see if previously cited violations have been corrected. This kind of number-juggling strikes us as being less than desirable!

As a result of our study of operations and reports of the Philadelphia Area and Region 3 offices, as well as interviews, discussions, and personal experiences from the small business community, we would like to offer three specific recommendations:

1. There needs to be an organization of regulations and standards into a format where they can be indexed and subdivided so that *applicable* sections for a business or industry can be assimilated.

2. Consultative, non-punitive visits should be permitted and encouraged, to enhance compliance, rather than encourage avoidance. The development of a "self-inspection manual", keyed to industries or SIC groups, would ameliorate the man-hour needs of OSHA inspectors, and make their vists more productive.

3. OSHA personnel have done much to "spread the word" about OSHA to the business community, but the time has come where business, particularly the small businessman, needs *industry-oriented* advice and *consultation*, not lectures. Other federal departments and administrations should be utilized also for such a program of education. There is a great need for simple yet specific educational pamphlets and materials, which could be made available to trade associations and industry groups as well as through government channels.

A reorganization of the regulations, an opportunity to encourage their use and adoption, and an educational campaign directed to specific needs—these three aspects of implementation will go a long way toward solving small business' problems of compliance with OSHA regulations.

We appreciate this opportunity to present our views and recommendations.

FREELY TRAVELING ABROAD

HON. LAWRENCE G. WILLIAMS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. WILLIAMS. Mr. Speaker, the ugly spectre of human bondage has again been raised by one of the world's supposedly civilized nations. One of the rights we take for granted—that of freely traveling abroad, or leaving our country, has routinely been denied the citizens of totalitarian states.

We freely accept the concept that an individual who does not like our system, or feels that he can do better elsewhere, is free to leave. The Soviet Union does not grant that right to their citizens, as we all know. The Iron Curtain has always served better to keep their people in, than to keep other people out.

In the past weeks, however, the Soviets have risen to new heights in their attempts to hold Soviet Jews against their will. The Soviet Government has announced a new "tax" required of all emigrants educated in the Soviet Union. This tactic is, of course, aimed primarily at the Soviet Jews who desire to leave Russia for Israel.

This so-called "tax" is, in truth, no more than a ransom which must be paid to free human beings who are being held against their will.

The Soviets publicly indicated that this tax is designed to repay the Soviet state for the educational expenditures that emigrants had benefited from the tax ranges all the way up to $24,000 for a person holding a doctorate. The Soviets have clearly indicated the fact that this is a ransom, however, by passing a 35-percent surcharge on all funds sent to the Soviet Union to pay this "tax." If all the Soviets were doing was attempting to recoup the educational expense there would be no reason for this surcharge. In fact, the Soviets have established what they consider to be a market value on human beings.

The Soviets were already charging an exit fee of nearly $1,000. Now, on top of that, a Soviet Jew holding a doctorate whose "tax" is paid by funds from outside the Soviet Union would be required to pay a total of nearly $35,000 for the so-called privilege of leaving the "workers paradise."

Mr. Speaker, this is the type of action that separates the decent and indecent governments of this world. At a time when the Soviet Union is hoping for new trade agreements with the United States, I hope all Members of the Congress keep this flagrant violation of human rights in mind when we are asked to vote to approve those trade agreements. Mr. Speaker, I find dealing in commodities with the country which also deals in human lives to be unconscionable and I urge my colleagues to join me in condemning the current practice of the Soviet Union.

RETURN TO RESPONSIBLE GOVERNMENT SPENDING POLICY

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. ROGERS. Mr. Speaker, over the last few decades and particularly in the last 4 years, the U.S. Government has been committed to the idea of increased taxation and increased spending. Unfortunately during several periods this has resulted in massive deficit spending as Government spending continued at high levels during periods of low Government revenue production. Just a few short years ago the already overburdened American taxpayer was appalled by the $10 billion annual interest rate on the national debt. He is no doubt mortified by the present $22 billion annual price tag for interest on the national debt.

Mr. Speaker, it is time that the Congress adopted a responsible Government spending plan. I have introduced legislation which is supported by the President that would place a $250 billion spending ceiling on Federal expenditures during fiscal year 1973. At this point I would like to insert in the Record an article by Harvey A. Call of the Fort Lauderdale News which takes an interesting look at the whole issue of Government spending. The article follows:

Sound Financial Course Will Be Most Important in Next Administration

We are embarked upon an election campaign that can, and should, be more important to the United States than any held in its nearly two centuries of being.

While a great deal of attention will be focused on the more emotional issues, the greater meaning of the November election will be the direction the nation takes in meeting its financial problems.

Foremost, of course, will be whether our course is to pursue the path of taxing and taxing and spending and spending—a route that has been followed for most of the past four decades.

Then, too, the nation continues to run up monthly deficits in trade and balance of payments. These must be stabilized to maintain a healthy economy. That is important not only to employment and business in this country, but it is equally important to all major nations of the world which, in a measure, ride on the coattails of America. It is a case of what hurts America hurts them.

In a large measure, the next President may not be able to determine these issues so much as Congress.

Mr. Nixon has had his problems over the past three and a half years as Congress expanded upon his programs and added to their costs. This has been due largely to the fact he has not had a Congress responsive to his leadership.

That is not to deny that he has had the support of many opposition party members who choose to break away from their leadership and pursue policies they considered more vital to the nation's interest.

However, as a second term President, in the event he is re-elected, Mr. Nixon would normally face greater difficulties. This is so because members of Congress would be aware of the fact that his political power comes to an end in January, 1977 and that his favor is not as important to them as the favor of a President who is still in his first term.

Some time ago, Mr. Nixon urged that a ceiling be placed upon federal spending. He proposed $250 billion, a figure that seemingly embraces ample expansion above the present levels.

Certainly a ceiling on annual spending makes sense. It makes sense if we are to continue the current fiction of a ceiling of the national debt.

Congressman Paul G. Rogers, although not a member of the President's party, is in accord with the spending limit.

This is not a Johnny-come-lately stance for Mr. Rogers. Years ago he was fighting to implement the economies in government recommended by the earlier Hoover Commissions.

And, at other times, he fought unsuccessfully to force upon the government a program of paying off, in good times, a proportion of the federal debt.

Deficit spending has become a way of life for the government. It might be said to be an easy way of life.

It is fairly evident that deficits at times, when the economy is lagging, help to pick up the slack and keep workers in jobs.

However, the constant accumulation of debt means ever higher annual interest payments.

It was just a few years ago that taxpayers were appalled at paying $9 or $10 billion annually as interest on the national debt. Today, the price tag for borrowing is up around $22 billion.

This is a fixed expense. It is money which has to be extracted from the taxpayers before anything else in the way of governmental operations can be considered.

The Democratic nominee, Sen. George S. McGovern, has proposed programs which have been estimated as adding $144 billion to federal spending.

Mr. Nixon, in last week's acceptance speech, said this would add 50 per cent to what our taxpayers are now pouring into the federal treasury.

The fact is that combined federal, state and local taxes currently amount to more than one-third of the personal income of our people.

Further drastic increases in taxes can have only one of two effects. The people would be severely strapped and unable to enjoy the way of life we now know, or the government would face bankruptcy while the world faced chaos.

It is imperative that a ceiling be placed on governmental spending. It is imperative, too, that in prosperous years we turn some of our affluence toward reducing the national debt and thereby reducing the built-in requirements for massive interest payments.

To do that, we are going to have to seek out this fall candidates who are concerned about taxing and spending.

If we don't, it is no one's fault but our own.

U.S. DYNAMICS—NEW DEVELOPMENTS IN COLOR MICROFICHE

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. PEYSER. Mr. Speaker, small business and industrial organizations today are being inundated by the growing mounds of paperwork brought about by necessary and mandatory recordkeeping. Many small offices are finding out that paper files and the storage of records are literally forcing them out of house and home.

This problem of massive paper files and records even confronts many of our governmental agencies.

The awesome challenge of reducing such files into pertinent processed information was undertaken by U.S. Dynamics, Inc., in 1968. Their subsidiary organization, Milli File, Inc., is devoted to the development of microfilm information retention systems. This company, based in Elmsford, N.Y., has developed microfilm and microfiche systems which today enable businessmen, small offices, even our governmental agencies, to store information more efficiently and at a lower cost than in maintaining numerous and voluminous paper files.

Such companies as American Cynamid and Olin Co., medical institutions like the Long Beach, N.Y., Memorial Hospital, law firms and others have already acquired the Milli File system which U.S. Dynamics has developed and have converted their paper records into "milli fiche."

U.S. Dynamics, Inc. now reports that Milli File has developed a unique color microfiche system which is available at a "penny an image" and is completely compatible with the standard black-and-white Milli File microfiche system used in offices and other locations where low-cost business machines are utilized.

The cost for this Milli File microfilm and microfiche system is very low.

U.S. Dynamics, Inc., and the men and women of Milli File merit the highest praise for bringing to bear their imagination, resourcefulness, skill, and determination in creating a system which I believe is an important asset to small business and industry.

WHICH CANDIDATE IS RIGHT ON THE JEWISH PROBLEM?

HON. WILLIAM L. SPRINGER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. SPRINGER. Mr. Speaker, in past years, the Jewish vote in the big cities has been pretty much Democratic. But this is not a usual year.

The Herald Tribune, published with the New York Times and Washington Post, has not been exactly a backer of President Nixon. In fact, all three publications have taken some rather nifty jabs at the President all of the way around.

It was a pleasant surprise that the Herald Tribune on Friday, September 1, found them in the President's corner on our relations with Israel. I do not think it is any revelation on the part of the Tribune, Times, and Post that Nixon has been doing a good job in handling Israeli-American relations.

As the Herald Tribune finds in its editorial, titled, "The Opening Campaign" McGovern has repeatedly overcommitted himself because of votes he has made in the Senate which indicate that he was only tepid in his support of Israel. As the editorial so well points out, McGovern's sincerity is not being disputed, they are just questioning his "statesmanship." The editorial also states that "the President has worked for a reasonable settlement in the Middle East" and further "that policy is the sane and sound one for the United States, for Israel, for the whole Middle East." As the editorial further suggests, "Mr. McGovern's efforts are wholly unrealistic in the context of the world as it exists today." I insert the article from the Herald Tribune which I am sure many of my colleagues will want to read.

The article follows:

Since both Sen. McGovern and President Nixon have been campaigning in their own ways for a long time, it is hardly correct to refer to current developments as the opening of the presidential contest. Yet for Mr. McGovern, at least, it is the beginning of a serious effort to attract the numerous following he must win if he is not to be simply only the top man in Democratic primaries at a Democratic convention.

For one thing, the South Dakota senator has disposed of the suggestion he once put forward of an annual gratuity of $1,000 to every American, a naive notion that had a strong resemblance to Caesár Augustus handing out four gold pieces each to the Roman citizenry at large. He has put forward to a skeptical group of security analysts a program for tax changes that is certainly open to question, but which cannot simply be laughed away.

And Mr. McGovern has turned to what he has called his "Jewish problem." This has been in part created by President Nixon's friendly relations with Israel, and by such indiscretions as Gov. Nelson Rockefeller's remarks to the effect that Mr. Nixon was responsible for the release of Soviet Jews to emigrate to Israel. It also stems from the inevitable confusions arising from the McGovern slogan: "Come Home, America." The senator is very anxious to explain that this does not mean come home from everywhere, under all circumstances, but only from Southeast Asia and other areas of which the senator disapproves. He was especially interested in explaining to New York City Jews that he was more concerned with Israel than the President: that his concern stemmed from a moral commitment, not power politics, and that as President, he would have been public and foreceful in his denunciation of Soviet restrictions on Jewish immigration.

One need not dispute the senator's sincerity in all of this. But it is possible to question his statesmanship. He was, to be sure, not wholly incautious in his commitment to Israel. He just said he had not done such things as delay the dispatch of American planes to Israel and vote against that state in the Security Council. But the inescapable conclusion from his negatives was that he would have given Israel all the planes it wanted, when it wanted them, and backed it to the hilt before the United Nations.

This is one point of view about Israeli-American relations: the Arab states would argue that is just what Mr. Nixon has done. But the fact is that the President has worked for a reasonable settlement in the Middle East; he has urged concessions on Israel and he has not opened American aircraft factories for the Israelis to purchase planes to the limit of their wishes and capabilities. And that policy is the sane and sound one for the United States, for Israel, for the whole Middle East. Mr. McGovern's efforts may be regarded as political realism in the narrow sense; they are wholly unrealistic in the context of the world as it exists today.

HONORING OUR CONSTITUTION

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. PATTEN. Mr. Speaker, this week, September 17 through 23, is a most meaningful one for our Nation. It is the week that has been set aside for us to pay special tribute to our beloved Constitution.

This document written by our ancestors has crossed many generations to remain today our best protection as individuals in a free land. It is most fitting that we should set aside this time when all Americans can pay special attention to our Constitution.

I was delighted recently to hear from a wonderful friend of mine, Mrs. Gladys Peck Johnson. Mrs. Johnson and I were classmates years ago in Perth Amboy, N.J., where I still reside. Mrs. Johnson is now of High Point, N.C. Knowing of my activities as a Member of the House of Representatives, she wanted to share with me her joy at being the chairman for Constitution Week for her chapter of the DAR. One article that Mrs. Johnson sent me states my own feelings particularly well. Our Constitution must truly remain alive for every American to be protected by it. Each generation in our Nation must embrace it anew if we are to continue to enjoy our freedom and independence.

The article has been used in the past by the DAR to convey to its members the meaning behind Constitution Week. I would like to take this opportunity to insert it in the RECORD for the benefit of my colleagues who might not have seen it. The article is as follows:

CONSTITUTION WEEK, SEPTEMBER 17–23

This week commemorates the signing of the Constitution of the United States of America—the oldest constitution still in active use, and the greatest document for human liberty in two thousand years of recorded history. It was so designated by Congress and signed into public law August 2, 1956. By proclamation, President Nixon has once more set aside this week, Sept. 17–23, in order that all citizens may honor that document which preserves their freedoms as well as outlines their responsibilities.

The Constitution was devised after the American Revolution had ended. By this time, near chaos existed. Each state had its own laws and tariffs. There was no common monetary system. It was not believed possible in Europe that America could create a democracy in such a large area for thirteen states each so different in size, ideas and way of life.

The Constitution became the compromise, each state giving up something dear to it for the common good. It has been called by William Gladstone, a British prime minister, "the most wonderful work ever struck off at a given time by the brain and purpose of man".

The Constitution together with its 26 amendments, is the protector and guide of every citizen of the United States. But each generation, in time, must work for and claim it, otherwise through carelessness or indifference, the rights and liberties we have enjoyed may vanish. The price of keeping them is eternal vigilance.

The Daughters of the American Revolution urge all citizens to fly the American flag this week and read again that document by whose laws their lives and homes are protected.

ALEC KERR

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. DERWINSKI. Mr. Speaker, I was saddened last week at the passing of a very good friend, Alec Kerr, editor of the Star-Tribune publications serving Harvey, South Holland, and Markham. Alec was not only a great newspaperman, but also a great, great individual, and his many friends will long remember him.

I insert into the RECORD at this point the editorial eulogy for Alec carried in the September 14 Star-Tribune, a publication he had developed and served with for so many years. Alec was a dedicated newspaperman but, more important, he was dedicated to the communities he served and to its residents. He was also a compassionate man. This was reflected in the stories and policies of the publication. The editorial, however, speaks for itself:

ALEC C. KERR GUIDED PAPER TO EXCELLENCE

Alec C. Kerr died Tuesday and an entire profession mourns his death. Alec was a pioneer editor of a new style of journalism long before anyone realized that suburban community newspapers were the wave of the future. He knew, years before anyone else noticed, that residents of the suburbs required the same information services as those living in big cities and he knew, perhaps better than anyone else, just how this new media should be directed.

There is no one single monument to his leadership in this community; but literally thousands. A YMCA that serves thousands of young people and adults from the south suburban area got the backing it needed to exist from Alec Kerr. Grade schools, high schools and other public buildings were championed by him in editorial campaigns that stirred public support. Countless public servants will testify that Alec Kerr encouraged them to seek election and few ever betrayed the trust he gave to them.

Months and years before the Chicago media became interested in water pollution, the Harvey Tribune was running series of articles on the condition of Lake Michigan and the streams in south Cook county.

Other causes through the years found the Harvey Tribune and Alec C. Kerr, editor, at the front; always presenting an objective viewpoint with strong editorial campaigns as well. Under his leadership, the Tribune was recognized on the state and national levels as one of the best community newspapers published today.

His leadership and excellence in his profession was recognized by his peers when he was selected "Illinois Editor of the Year" in 1967. His newspaper finally received the acclaim he felt it deserved every year when the Illinois Press association selected the Harvey Tribune as the "outstanding weekly or semi-weekly newspaper" in Illinois in 1971.

To those close friends and associates who knew Alec, they knew that the top newspaper award was the one he cherished most above all of the personal awards he received in his 38 years as a journalist and there were many personal awards. Alec Kerr lived almost all of his life to make the Harvey Tribune the best newspaper in Illinois. He succeeded.

It is the best newspaper in Illinois because it had the best editor in the state. All of us will miss him, because he was more than an editor—he was a father to this newspaper and to all of us.

We share his loss with his devoted family and his legion of friends and re-dedicate ourselves to continuing in his tradition—a tradition of excellence.

PLAYING POLITICS WITH PRISONERS OF WAR

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. CRANE. Mr. Speaker, perhaps nothing on our current political scene is more heartless than the playing of politics with the lives of American prisoners of war.

These brave men accepted their duty and responsibility to defend freedom and to combat aggression when their country called upon them. They have suffered greatly, and all Americans who value their own freedom should be grateful that young Americans recognize that sacrifices are continually necessary if that fredom is to be preserved for future generations.

How ironic that men and women who condemn our commitment in Vietnam, men and women who have urged draft evasion and avoidance, who have called for amnesty for deserters, now proclaim their own interest and concern for the plight of these prisoners.

The most extreme example of such political game-playing with the fate of American prisoners has come from former Attorney General Ramsey Clark, a man who was an official in the very administration which initially sent those young men to Vietnam.

Mr. Clark declared that American prisoners of war were well treated in North Vietnam. This pronouncement is in accordance with the statements of the North Vietnamese themselves, but not with the real evidence.

Douglas Hegdahl, who was released by the North Vietnamese in 1969 after more than 2 years in captivity, declared that:

> I have to smile at his gullibility. He obviously was given the typical 25-cent tour.

Mr. Hegdahl, a former Navy seaman, has personal experience with showcase prisoners of war tours. Writing in the Chicago Tribune, Stephen Crews notes that:

> For a number of months he lived in a show case prison building that was specially equipped by the North Vietnamese for visits by foreigners. While staying in this building, Hegdahl was visited by such anti-war leaders as David Dellinger, Rennie Davis, Tom Hayden . . .

Prisoners, Hegdahl pointed out, were always brought to that single building. He stated that:

> Every delegation was shown the same model prisoners and although they've changed the cast since I left, I imagine the same is going on now.

Why did Ramsey Clark not ask why the North Vietnamese have refused to release the names of the prisoners they hold? Mr. Hegdahl notes that:

> I knew people who are not on their official list, and since that's true, I believe there are probably many, many more.

In his important article, Mr. Crews has interviewed a number of relatives of men held captive in North Vietnam. The father of one prisoner, Dr. Gordon Perisho, declared that:

> He (Clark) has no business doing what he did . . . The prisoners he talked to were the same group shown to others . . . No one was permitted to see all the POW camps, or to permit the International Red Cross to inspect the camps as provided by the Geneva Convention.

It is time that politicians stop seeking partisan gains at the expense of these brave and long-suffering young Americans.

I wish to share with my colleagues the article by Stephen Crews which appeared in the Chicago Tribune of August 17, 1972, entitled "Clark Given Phony Viet Tour." The article follows:

TELLS OF SHOWCASE JAIL—CLARK GIVEN PHONY VIET TOUR: EX-POW

(By Stephen Crews)

Former U.S. Atty. Gen. Ramsey Clark's pronouncement that American prisoners of war are well treated in North Viet Nam was contradicted last night by a man who had been a prisoner there.

"I have to smile at his gullibility," said Douglas Hegdahl, 27, who was released by the North Vietnamese in 1969 after more than two years in captivity. "He obviously was given the typical 25-cent tour."

Hegdahl, a former Navy seaman who was captured in April, 1967, after falling off a ship in the Gulf of Tonkin, has personal experience with showcase POW tours. For a number of months he lived in a showcase prison building that was specially equipped by the North Vietnamese for visits by foreigners.

While staying in this building, Hegdahl was visited by such antiwar leaders as David Dellinger, Rennie Davis, Tom Hayden, members of the Woman's Strike for Peace, and foreign film crews.

"They always brought them to this one building, and most prisoners were never even seen," Hegdahl said.

Hegdahl, who now works as an instructor in the Navy Survival School near San Diego, was one of many former POWs and relatives of present POWs interviewed for their reactions to Clark's recent statements about his visit to North Viet Nam.

"Every delegation was shown the same model prisoners and altho they've changed the cast since I left, I imagine the same thing is going on now," Hegdahl said, in a telephone interview.

He said that before he was placed in the showcase building, he spent 13 months in a solitary cell that lacked even a window.

PUNISHED FOR TALKING

Altho never tortured, Hegdahl said he was often punished, "most often for trying to talk to other prisoners."

The typical punishment, he said, was being forced to assume "stress positions" such as "kneeling with your hands over your head."

When visitors were coming, the guards would bring in new grass mats, along with a table and even a magazine or two, Hegdahl said. When the delegation passed on, these luxuries were removed.

"They even took us outside sometimes so we'd be suntanned," he said.

Hegdahl said he prays that the controversy over treatment of prisoners is forcing the North Vietnamese to improve conditions. "All I know is that everything they ever did for me had propaganda behind it," he said. "Why, one time, just before being released, they brought me 18 bananas to eat so I'd put on some weight. It was a regular fattening up process."

Hegdahl said he does not question Clark's right to say what he believes, "but I do question why he allows himself to be so used."

"North Viet Nam never lets anyone in who does not already feel favorably towards them—unbiased teams are not allowed.

"Clark should have asked why the North Vietnamese have refused to release the names of all the prisoners they hold. I knew people who are not on their official list, and since that's true, I believe there are probably many, many more," he said.

CANNOT ACCEPT WITHDRAWAL

Hegdahl said he cannot accept any method of ending the war which smacks of mere unilateral withdrawal.

"When the prisoners finally come back, they're going to want to know why they spent all that time in prison. It wouldn't do much for their recovery if they discover it was all for nothing."

The parents of POWS still in North Vietnamese prisons also had some things to say about Clark's visit and his comments.

In the Mississippi River community of Quincy, Dr. Gordon Perisho listened to Clark's statements and thought about his son, Gordon Samuel, 31, who has been missing in action since New Year's Eve, 1967.

"I think he [Clark] has absolutely no business falling into the propaganda boil of North Viet Nam," Dr. Perisho said. "They [The North Vietnamese] no doubt showed him around where they wanted to show. They showed him some fattened up prisoners, but he didn't see the rest.

RED CROSS BARRED

"He has no business doing what he did. I didn't see any thing new in what Ramsey Clark said. The prisoners he talked to were the same group shown to others who visited North Viet Nam. No one was permitted to see all the POW camps, or to permit the International Red Cross to inspect the camps as provided by the Geneva Convention."

Summing up his feelings, the physician said, "I think the analysis of [John] Mitchell and [Melvin] Laird that he was duped was the correct one."

POW FOR 6 YEARS

In South suburban Riverdale, Mrs. Myrna Borling, wife of John Borling an Air Force pilot who has been in a North Vietnamese POW camp for six years said she has paid little attention to Clark's statements.

"I try to put things like that out of my mind," she explained. "After so many times of building up hopes and then having them dashed, I no longer allow myself to build up my hopes."

However, she also added she feels her husband will be coming home "sometime soon."

PILOT SHOT DOWN

In Appleton, Wis., Virginia Flom, 30, the wife of Fred Flom, a pilot shot down over North Viet Nam Aug. 8, 1966, is like other relatives of missing soldiers in her reluctance to allow herself to build up hopes.

"I sort of steel myself against forming any opinion," she said. "Over the last six years it's just gone up and down so many times that I can't put my faith in anything. I feel that we should be out of there and that the bombing should be stopped regardless of what happens to the men. The bombing is only prolonging the war."

Another Wisconsin resident, Mrs. Myrtle Metzger of Wisconsin Rapids, said her son, William Metzger, Jr., has been a POW for five years and that she had mixed feelings about Clark's mission.

"I don't approve of bombing and I agree that it should stop. But, perhaps some of Mr. Clark's statements were a litle severe in criticism of the bombing."

Mrs. Metzger's daughter-in-law, Bonnie Metzger, 29, is assistant national coordinator of the National League of Families of American Prisoners and Missing in Southeast Asia. Speaking from her home in Annendale, Va., Bonnie Metzger said she thought Clark's remarks have been taken out of context. She added, "I think that anyone who has the opportunity to go to Hanoi should definitely go."

PICO RIVERA, CALIF., AND SAN LUIS POTOSI, MEXICO, SISTER CITY

HON. CHET HOLIFIELD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. HOLIFIELD. Mr. Speaker, over the years this body has voted millions of dollars and many programs to assure our friendship with other countries. I would like to call your attention to the efforts of one of the cities in my district, Pico Rivera, and the remarkable results they have achieved in furthering the goal of close friendship with our neighboring state of Mexico.

In the interest of international good will and for the purpose of fostering and implementing a sister city program for the people of Pico Rivera, a Sister City Committee was organized and incorporated in November of 1965. The Sister City Committee has 15 board members and several subcommittees. Each of the subcommittees acting in a particular area develops programs and projects for the furtherance of understanding toward Pico Rivera's sister city, San Luis Potosi, Mexico. As an example, the Student Exchange Subcommittee cosponsored a visit for a group of 30 university students from San Luis' mayor in the purchase of educational and training toys for deprived children in Mexico. Throughout the 7 year relationship there have been many visits both official and unofficial, by citizens of both cities to each others' city. In 1971 delegates from San Luis Potosi visited Pico Rivera with the purpose of obtaining technological and managerial knowledge with which to improve the industries in San Luis.

Perhaps the most innovative program to be initiated by the Sister City Committee is that of Project Firetruck. In 1970 a formal request was made by the city of San Luis Potosi; that Pico Rivera keep a watchful eye out for the purchase of a good firetruck.

Upon receipt of this request the Sister City Committee asked if they would be allowed to donate a firetruck to San Luis. After receiving confirmation from San Luis Potosi the Pico Rivera Committee started Project Firetruck. The project evolved into a communitywide involvement program with additional help from outside the community. Contributions were taken up and the Sister City Committee purchased a surplus firetruck from Los Angeles County—then the real work began.

In a heartwarming show of cooperation the following people, and industries worked together in refurbishing the firetruck:

Ford Motor Co., supplied power train; Hadley Equipment, equipment usage; Mechanical Finishing Co., paint job; Norwalk Radiator Co., radiator; A-1 Louis Rental, welder; off-duty firemen, mechanical work; Engs Motor, paint job; Los Angeles County Fire Department Station 103, complete set of fire clothes; and over 750 hours of labor in refurbishing the firetruck were donated by off-duty firemen working in Pico Rivera.

The Charro Association of Pico Rivera held a Mexican Rodeo on June 18, 1972, and on April 23, the Optimist Club drove the fire truck to surrounding shopping centers. Both groups donated their time and energy to raising funds to defray the cost of transporting the firetruck to San Luis Potosi.

Last June, I had the opportunity to inspect the firetruck while it was awaiting transportation to Mexico. It was stored at station 103 in the city of Pico Rivera and I was given a guided tour of the firetruck by the station personnel. It was a wonderous sight to behold. In gleaming red and chrome it appeared as if it had just rolled out of the factory. Even the firefighting tools had been chrome plated and shined. The foresight of the committee was noted in the details of the work that they did. Over each of the labels which identified the controls was written the name of the control in Spanish.

In mid-August this year the firetruck was driven to San Luis Potosi by Joe Proo, the vice chairman of the Sister City Committee, and Howard Schroyer, the city manager of Pico Rivera. Other members of the city council and the committee flew to San Luis Potosi to be on hand for the arrival of the firetruck. Upon their arrival the town secretary of San Luis Potosi issued the following declaration:

SISTER CITY GREETINGS

To the Mayor of Pico Rivera, City Council Members and Members of the Sister City Committee.

LADIES AND GENTLEMEN: Since its inception, this interesting and constructive international Program of Sister Cities has attained perfect response in the cordial relations between the City of Pico Rivera, Calif. and its sister city San Luis Potosi.

On this day, we greet you with open arms and upon declaring you honored guests, the town of San Luis Potosi, presided over by Don Antonio Acebo Delgado, does affirm the permanent wish of all its citizens that this interchange of such positive results, due to your labor which is neither lucrative nor compensated but signifies efforts toward the benefit of the community and country.

We share your ideals as we know that you serve with loyalty and devotion in the union of our cities to bring about peace and friendship between your fellow men.

Welcome, Our home is your home
Lic. Marun KURY GARZA,
Town Secretary.

Mr. Speaker, this effort on the part of the citizens of Pico Rivera has been a valuable aid to our foreign policy. I commend their activities to the rest of our citizens and congratulate them. If all peoples would do as much to establish good relations throughout the world, we would soon see the advent of the age of the brotherhood of man.

HALT THE FLOW OF NARCOTICS

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. ROSENTHAL. Mr. Speaker, I would like to associate myself with the remarks of my colleague from New York and to commend him for the efforts which he has made to focus the attention of the Congress and the American people on the increased traffic in drugs which reach our shores from Southeast Asia.

Mr. Speaker, several congressional study missions have returned to the Congress with reports that Thailand serves as the major conduit for drug traffic in the Far East. Even an NBC camera crew was able to photograph an opium caravan several months ago.

While seizures and arrests have increased in Thailand, much more needs to be done to halt the continuing flow of narcotics. Therefore, I was pleased to join with the gentleman from New York (Mr. WOLFF) back in March when he first introduced a suspension of aid resolution and I supported the amendment to suspend aid to Thailand both in the Foreign Affairs Committee and on the floor.

I share the belief that we can no longer merely threaten to cut off aid; the time has come to suspend all economical and military assistance now and resume it when some significant, effective action to interdict the heroin flow is taken. We cannot permit the President to speak one way and act another.

GUY KITE NAMED OUTSTANDING POLICEMAN OF THE YEAR FOR THE U.S. CAPITOL

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. BROYHILL of Virginia. Mr. Speaker, it is always a great honor to be selected for an award by your contemporaries and peers. Guy Kite was recently selected by the U.S. House of Representatives Doormen's Society as the Policeman of the Year. Guy joined the U.S. Capitol Police Force in June 1968. Guy's energetic enthusiasm and devotion toward his job has won him the respect of his associates.

Aside from his police duties, Guy is very active in civic affairs.

SOCIAL ACTIVITIES

1. Member of Washington Street Methodist Church and served on the official board 1963 through 1965 (3,000 members).
2. Member of Alexandria Washington Masonic Lodge No. 22.
3. Member of Mt. Vernon Royal Arch Chapter No. 14.
4. Member of Old Dominion Commandery No. 11 Knights Templar.
5. Member of Kena Temple Shrine and former Captain of the Provost Unit.
6. Past Guardian Treasurer of the Jobs Daughters Bethel No. 4 (1966 through 1967).
7. Past President of the Lambskin Masonic Club Year 1966.
8. Has participated in about 20 parades with the Shrine and 5 half time shows at football games. Have served as Chairman on 3 different dance committees which have drawn over 1,000 people.

Help maintain Provost headquarters at Shrine conventions and work with police on any trouble and emergencies that might occur.

9. Member of Northern Virginia Dog Training Association. Train own dog to become a champion in both breed and obedience.

10. Capitol Hill Shrine Club.

I take pride in reporting to my colleagues on the accomplishments of Guy Kite. And I congratulate Guy on his outstanding work in the House of Representatives and on the Capitol Police Force.

UNSUBSIDIZED HOUSING PROGRAMS

HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. HANNA. Mr. Speaker, on September 6, I raised the question of the future of our national housing program and the possibility of separating the unsubsidized housing programs from the Department of Housing and Urban Development. The jury is still out on this question, and I am convinced that this is one of the most important questions for Members of the House to consider. I am, therefore, including in the RECORD an editorial comment from the August, 1972, issue of the Mortgage Banker:

CAN FHA BE REPLACED?

(By Oliver H. Jones)

During the first five months of this year, applications for FHA insurance on home mortgages have declined steadily, falling nearly 30 percent below the same period in 1971. FHA lenders indicate that the decline in FHA activity has not stopped with the latest published statistics.

Contrasting these conditions with increases in housing starts, permits, and conventional lending by savings and loan associations, some market watchers are ready to conclude that the Federal Housing Administration is in the final throes of its death agony. Some feel that FHA has done its job and it is time it retired from the field; that private mortgage insurers and the 95 percent conventional loan can take over. Still others compare the expansive tactics of the Federal Home Loan Bank Board with the restrictive tactics of the Department of Housing and Urban Development and speculate on the Administration's objectives. They wonder whether the decline in FHA's market-oriented program is by design or by random error.

It is not unusual for market observers to hold different views, or to jump recklessly to conclusions about the future course of events. One's memory does not have to be very long to recall the forecasts of pending doom for thrift institutions during the credit crises of the second half of the sixties. But look at the savings growth at thrift institutions now!

Admittedly, FHA's withering share of the market in a period of record growth is not directly analogous to the predicament thrift institutions faced in 1966. It is not the result of economic derangement as much as overloading FHA with welfare-oriented programs and management's reaction to the problems these programs created.

No one can deny that the failure to recognize and then to deal with the problem-creating potential of the welfare programs created in the 1968 legislation cries out for correction, or that the corrective actions taken have unnecessarily and unduly hamstrung FHA's market-oriented programs. This observer finds it difficult to make the jump from these operational failures to the conclusion that FHA is no longer needed. FHA's demise would be a great loss, perhaps mourned less in passing than in its absence.

The nation's social objectives demand welfare-oriented programs that work. The nation's economic objectives demand market-oriented programs that keep the nationwide market viable. To these ends the Mortgage Bankers Association of America has (1) exhorted HUD and Congress to provide adequate counseling for low-income families, (2) supported consideration of other means of housing the poor, including the housing allowance program, (3) made recommendations to speed up processing, reduce paperwork, and place the control where it is needed, and (4) aggressively investigated the pros and cons of the thesis that the welfare—and—market-oriented programs mix as poorly as oil and water and must, therefore, be separated.

Why all this effort, when others have already discounted FHA's future? Is it because mortgage bankers have originated more than 60 percent of all outstanding FHA loans? Yes, self-interest is involved; but so is the broader interest of maintaining the nationwide market and its contribution to housing as well as the economy. After all, mortgage bankers originated conventional home loans long before FHA was created. Many continued to originate conventional home loans in the forties and fifties. When there are active buyers of conventional mortgages, mortgage bankers are active originators. Today, many mortgage bankers are meeting the changed condition of the market by originating conventional home loans and selling them to savings and loan associations and to the Federal National Mortgage Association. The adjustment will be difficult, but it is being made, and it is evidence that the mortgage banker's interest in revitalizing FHA is not solely a matter of self-interest.

Nor is the mortgage banker's continued loyalty to the market-oriented FHA program a blind failure to recognize that the conventional market and the savings and loan associations have been the major source of home mortgage loans for decades, or that private insurance has contributed materially to the successful development of the low-downpayment, conventional loan. The mortgage banker also realizes that FNMA's new authority can provide a needed backstop for originating conventional mortgages for sale to private investors, if it is used as aggressively as the Federal Home Loan Mortgage Corporation uses its new authority.

This Association (MBA) firmly and sincerely believes that those who would throw in the towel have not read their economic history carefully. Consider the view that the savings and loan industry can satisfy all market-oriented demands for home mortgages at all times in the future. Of course, the continued heavy volume of savings flowing into these institutions now encourages this view. One can even make the case that the saver's disenchantment with the stock market as a certain hedge against inflation will support continued deposit growth for some time. Even so, can anyone assure us that yield spreads between interest rates paid depositors and short- and intermediate-term Treasury and federal agency issues will never again reach the point where these equally safe havens for funds become more attractive to savers than insured deposits? Can anyone assure us that monetary policy will never reach the point where tight credit is again a plague on the economic landscape? Can anyone assure us that conventional lenders will never again find their ability to maintain savings rates limited by yesterday's mortgage loans and today's usury ceilings? We doubt it.

We realize that FHA mortgages suffer some of the same agonies as conventional mortgages when monetary policy is restrictive. On the other hand, we know that FHA mortgages have provided an important source of mortgage credit in tight as well as easy money periods. It has been, and can again be, the mainstay of middle-income families. It has been, and can again be, the principal vehicle for moving funds from surplus to deficit areas. We insist, therefore, that FHA cannot be replaced by conventional lenders.

Consider also the view that private mortgage insurance can replace FHA. Private insurance has widened local markets by providing short-distance lenders a means of reducing the risk of low-downpayment conventional loans. With all of its contributions, it has not provided the assurances required by long-distance lenders. Moreover, many long-distance lenders (i.e., mutual savings banks and life insurance companies) are not permitted to invest in low-downpayment conventional home mortgages, nor are they permitted to invest in conventional mortgages out-of-state, with or without private insurance. We see no evidence that private insurance can maintain the nationwide market.

Yet, the nation needs the involvement of long-distance lenders, made possible since 1934 by FHA insurance and later by the VA guarantee. These vehicles make it possible for financial institutions in capital surplus areas to pay interest rates and encourage savings in those areas because they can reach beyond their local areas for higher yielding mortgages. The saver benefits, as does the economy.

At the same time, by sending their funds to distant areas where savings are in short supply, the long-distance lender competes with local lenders for mortgage investments, thereby reducing mortgage interest rates in those distant localities. The borrower benefits, as does the economy. The borrower benefits whether he uses a conventional or an FHA mortgage because it is the average interest rate that is affected by the influx of out-of-state funds.

In short, if FHA's market programs are permitted to disappear or are driven into retirement, the greatest loss will be to the nation's savers and home buyers.

Those who would encourage FHA's early retirement from the market for economically sound mortgages should also consider the impact of such a change on FNMA. Can FNMA be expected to fill its portfolio with welfare-oriented mortgages and still maintain its private status and its ability to borrow on the capital markets? At best, it would pay more for funds to house low-income families than the Treasury would pay if it borrowed directly. At worst, FNMA would again become a government-owned and government-financed agency, again subject to budget restrictions and unable to play a significant role in helping the market over periods of tight credit. Surely, this huge financial institution should continue to serve the market it has served so well for over three decades—the market-oriented FHA programs.

Some will claim that FNMA can overcome these objections by holding conventional home loans. FNMA can, and should, do its best to moderate the effect of credit cycles on the conventional market as well as on the FHA and VA markets. On the other hand, a predominance of conventional mortgages in its portfolio will surely raise its borrowing costs, reduce the leverage the security buyer will accept, and limit its ability to perform its backstop function.

Finally, those who would turn over the entire home mortgage market solely to savings and loan associations should ask the S&Ls if they really want it. The Hunt Commission's recommendation that thrift institutions be granted wider lending powers is being given serious consideration and has long been a major legislative objective of these institutions. Much widening of these lending powers has already taken place, particularly through the growing service corporation. These developments hardly describe financial institutions that want to remain restricted to mortgage lending.

This is not the time to throw in the towel. It is a time to roll up our sleeves and go to work on revitalizing FHA's market-oriented role. It is a time to rededicate ourselves to the market system.

HAWTHORNE CABALLEROS REGAIN WORLD CHAMPIONSHIP, AGAIN BRINGING HONOR TO THE STATE OF NEW JERSEY AND AMERICA

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. ROE. Mr. Speaker, in competition with the finest drum and bugle corps throughout the world, the Hawthorne Caballeros Senior Drum and Bugle Corps, with their musical excellence, marching proficiency, and sparkling exemplary performance, restored the most coveted world championship title to the borough of Hawthorne, my Eighth Congressional District, the State of New Jersey, and the United States of America.

The world champion Hawthorne Caballeros were officially organized on March 20, 1946, with 22 former members of the St. George Cadets of Paterson, N.J., and displayed their first organized effort at a parade in Bayonne, N.J., in the annual celebration of Memorial Day 1946, as representatives of American Legion Post 199 of Hawthorne, N.J. Their many years of preparation, training, personal effort, teamwork, and quality of excellence have achieved a measure of greatness unattained by any other drum and bugle corps, for which we can, indeed, be most proud.

They first won the world championship title in 1970 in Rochester, N.Y., and are the only senior unit in the United States and Canada whose record has been unmatched in the two countries. They have won nearly three times as many American Legion national championships as any other corps in history. They have traveled over a half-million miles and won over 300 first-place victories.

Their professionalism and sportsmanship have served as a shining example for others to follow and the excellence of their musicianship and showmanship has won the sport new followers each year. Approximately 10,000 cheering, enthusiastic drum corps fans unanimously applauded their world championship winning performance at the Roosevelt Stadium, Jersey City, in the 1972 senior world championship competition on Sunday, September 3, 1972.

Mr. Speaker, all of us know that this first place worldwide goal could not have been achieved without the strong team effort of every member of this corps throughout its history but we also know that it sometimes takes the inspiration, sterling character, and quality of leadership of one man to serve as a motivating force behind this team effort. For the lifetime of dedication and devotion to the true American ideals of sportsmanship and fairplay and the fulfillment of the American dream leading to this pinnacle of international fame, I ask you to join with me in applauding Jim Costello, the director and drill instructor of the Caballeros, and one of the founders of the corps, who, incidentally, inherited his love of drums and bugles from his father, James Costello, Sr., who was a drummer with three area corps before his retirement. It is interesting to note that his brother, Bob Costello, and brother-in-law, John McAuliffe, were also among the original founders of the Hawthorne Caballeros.

May I ask my colleagues to join with me in national recognition and the heartiest congratulations to the members of the world champion Hawthorne Caballeros for their untiring efforts in achieving superiority and perfection as an American Legion drum and bugle corps. Following is a list of the current members of the corps:

Justo Aleman, Frank Amalino, Doug Axman, Lou Axman.

Charles Baldwin, Erwin Barre, Victor Benfatti, Frank Bentivenga, John Bolland, Arthur Boovier, Edward G. Bullock, Richard A. Bullock.

James Campbell, Joseph Campos, Charles Caruso, Blaise Castaldo, Bob Collins, Henry Conklin, Charles Cook, James Costello, Joseph Cowin, Bernie Crogan.

Roger A. Day, Dan Dayman, Tom DeMarco, Donald R. De Poto, James Dockery, Phil Dumond, Gene Dunne, William Durborow, Mike Durning, Paul F. Durning, Jr.

Martin Ericson, Raymond Facundo, Anthony Famelio, Tom Fantry, Tony Ferrazzano, Tim Fogg, James Ford, Paul N. Fostvedt.

Ronald Gamella, Ed Gaspatrich, John Grada, James R. Graham, Charles Guess.

Bob Hayes, Denis Hayes, Ted Heumann, Jay Hogan, Al Hopper, Mike Hull, John Hughes.

Bill Iwanyk, Fabian Izsa.

Frank T. Jankech, Eddie Jankowski, Edward Januszeski.

Tony Kaplon, Dennis Karol, William Kennedy, Larry Kirchner, Robert Knapp, Frank Koch, Steve Kriskewic, Frank Kubinak, John Kunie.

Robert Lehmann, Mike Lia, Paul W. Lott, George Lucas.

James Mallen, Silvano Matera, Fred Matthews, Mike Melvin, Robert M. McCarthy, Jerry McCrea, Joe Montenegro, Richard Muchen, Tom Munier, Robert Murray, Nick Muscara.

Tom Nagle, Cipriano Newball, Allan Nichols.

Robert O'Brien, Joe Oliveri.

John Panico, Wayne Paulson, Charles Phillips, Frank Pisillo, Bob Pivinski, Kevin Paulsen, Jack Pratt.

Steve Raclowski, John Rattina, Larry Rudesyle, James Russo.

Dave Saccente, Dennis Saccente, Natal Scangorella, Bob Schultz, Henry Shuil, Chris Sortino, Alan Specia, Gary A. Stooke, Lou Storck.

Peter Tateo, Doug Taylor, Jerry Tennenberg, Dave Tintle, George Tuthill.

Ralph Venezia, Gregory Verheeck, Roger Vreeland.

John Wagner, Robert Wagner, Bill Warrick, Bob Wilkes, Steve Williams.

Robert Zutterman.

The Caballeros have engendered deep admiration and respect from all of the residents of my congressional district and the State of New Jersey and are a continuing source of pride and honor to the members of the Hawthorne community having among their most stanch supporters, the mayor of Hawthorne, Hon. Louis Bay II, and all of the members of the governing body of the borough of Hawthorne.

Deepest appreciation is also extended to the families, supporters, and friends of the Caballeros for their encouragement and confidence over these many years.

May I also take this opportunity to express to the American Legion Post Commander Lasalle Olsen our grateful appreciation to all of the members of the American Legion Memorial Post 199 of Hawthorne for their many years of undaunted devotion and wholehearted support of the Caballeros whose outstanding contribution to our cultural enrichment is applauded by all of us.

GATEWAY NATIONAL RECREATION BILL

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. PATTEN. Mr. Speaker, H.R. 1121, the gateway national recreation bill, is of great interest to the people of New Jersey and the surrounding metropolitan area.

Recreational areas are always in demand, particularly in geographical regions of large and concentrated population. The Atlantic shoreline is a popular vacation spot, and certainly the development of this area would enhance the natural assets of the Jersey shore.

I am sure that the editor of the Home News in my congressional district will be pleased to know that H.R. 1121 has been reported to the House, pending action on this floor. I include an editorial published in the Home News on this very subject:

GATEWAY BILL NEEDS SUPPORT

Almost everybody is in favor of the Gateway National Recreation Bill which would provide for a national recreation area in New York Bay, including parts of Brooklyn, Staten Island and Sandy Hook.

But the fact that the legislation is widely favored does not mean that it is sure to pass.

The House Interior Committee hasn't decided on its plans to bring the bill to the floor for a vote. It may take the bill to the Rules Committee and have it scheduled for a vote, or it may move directly to the floor for a vote if suspension of the rules can be obtained by a two-thirds vote.

Supporters of Gateway, including the prestigious Regional Plan Association, do not care which method is used, but they warn that Congress is thinking about a pre-election recess beginning as early as Oct. 6. House passage will not settle the matter, for a Senate-House conference committee will have to iron out differences, and take the bill back to both houses.

Meanwhile the Congress is busy with a host of important issues, and members are also looking towards election day in November.

Members of Congress from New Jersey and New York should push for prompt passage of this legislation.

YOUNGSTERS SUFFER MOST

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. DERWINSKI. Mr. Speaker, there are still some isolated but persistent strikes affecting our public schools across the country and indications are that, in the years to come, schools will be beset by further problems stemming from teacher strikes.

A very timely and, I believe, absolutely sound commentary was made in an editorial by the editor of the Star-Sentinel Newspapers, Paul D. Coffman, in the September 14 issue. The point that is so effectively made in this column is that it is the youngsters in school who suffer the most when a strike closes down any school.

The editorial follows:

STUDENTS ARE THE LOSERS

(By Paul D. Coffman)

It has always been my understanding that the prime purpose of our public school system is to give the youngsters who attend these institutions the best opportunity possible to get a good education.

We elect school board members to supervise the affairs of the schools, we hire superintendents and related personnel to administer the affairs of the school and we attempt to get the best teaching personnel available to offer instruction to our youngsters.

The parents of the students and the taxpayers are the ones who must supply the money, through taxes, to carry on the school program and the program can only be as good as the school finances, supervisors and personnel make it.

During the past few years, the teachers, through their unions, have taken the strike vote as a means to get that to which they feel they are entitled and many of the parents who are not satisfied with the actions of the school board or supervisory personnel have used the boycott as a means of showing their disdain for the actions of such individuals.

I cannot see why any citizen would want to be a member of a school board since the board member who is donating so much of his or her time must, in many communities, undergo a constant attack from the citizenry no matter how good or how poor the individual's performance might be. Since many do accept these responsibilities, they must like what they are doing; otherwise there wouldn't be any candidates available at election time.

I do not wish to take sides in the hiring, firing or demotion of teaching or supervisory personnel, such as has recently happened at the Washington School in Maywood, but I do feel that the superintendent of schools and the school board should be the best judges of what type of personnel they feel will best carry out their wishes in the education of our youngsters.

If parents become disenchanted with members of a school board or the superintendent of a school system, they have one recourse that we all share under our American system. They can vote the school board members out of office at the next election and put men or women into office who will hire a superintendent more to their liking.

In my opinion there is no place for strikes and boycotts in our public school systems since the ones that really suffer under such conditions are the youngsters who are deprived of the educational opportunities to which they are entitled.

ROADS AND RAILS FOR THE CITIES

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. ANDERSON of California. Mr. Speaker, since 1967, the United States has been a petroleum-deficit nation and this gap between domestic supply and demand continues to widen. Even with domestic oil production running at close to capacity, we now import over one-fourth of our total oil needs.

How do we meet the threatening energy crisis which confronts us?

Today, between 80 and 90 percent of the air pollution in our urban areas is caused by automobile emissions.

How do we solve this national problem?

Traffic congestion in our cities is unbearable, and even our freeways are becoming the world's longest parking lots during rush hour.

How do we eliminate this vexing problem?

An answer to these three problems is rapid mass transportation.

By allowing our State and local officials the flexibility to meet their local transportation needs, we can provide a partial solution to the waste of energy resources, the waste of time, and the waste of our environment.

Mr. Speaker, we must provide our State and local officials with the means to establish a safe, efficient, and convenient method of getting people to their job, to school, to hospitals, and to Aunt Mable's. This could mean added highways, or it could mean bus or rail public transportation, or it could be a combination of both highways and mass transit.

For these reasons, I am supporting amendments to the Federal Highway Act.

In this regard, Mr. Speaker, I place in the RECORD an article that appeared in the Washington Post on September 17:

ROADS AND RAILS FOR THE CITIES

The Senate this week has an excellent opportunity to get the highway trust fund on the right track in the cities. The two-year, 14-billion federal-aid highway bill reported by the Public Works Committee already contains significant provisions granting state and local officials some flexibility to cancel controversial urban freeway plans and redirect federal highway funds to less disruptive roads or to bus systems. The bill would also expand the present urban transportation fund eightfold, to $800 million per year, and authorize direct federal grants to metropolitan transportation agencies.

Following such efforts to shelve old, seemingly endless freeway fights and to lure people from private cars into buses, the next logical move would be to get more people off the roads entirely and onto rail transit systems, thus relieving both the congestion on existing arteries and the pressures for still more lanes. The most feasible legislative vehicle for such a policy shift is the Cooper-Muskie amendment, which would grant cities the option to use their shares of that $800-million urban transportation fund for rail transit as well as buses, bus lands, fringe parking areas and roads.

The amendment, to be offered on the Senate floor this week, enjoys impressively broad, bipartisan support. Senators Cooper and Muskie in fact missed gaining a majority within the Public Works Committee only by one vacillating vote: the amendment was first adopted by that panel, 8–7, then rejected 8–7 the next day when Sen. Robert T. Stafford (R-Vt.) changed his mind with the explanation that "I come from a rural state." The Senate Banking Committee, which handles mass transit bills, endorsed the Cooper-Muskie measure, 10–0, as a supplement to the present program of aid for urban transit systems. The amendment is also blessed with administration backing, primarily as a result of Transportation Secretary John A. Volpe's vigorous—and undaunted—advocacy of unified transportation planning and funding for metropolitan areas. With a flexibility which is refreshing, compared with the our-bill-or-nothing approach taken too often by administration officials, Secretary Volpe has recognized that his "single urban fund" approach has not won congressional favor, and has swung his enthusiasm behind the Cooper-Muskie move.

Measured against the massive transportation snarls of urban areas and the mammoth pro-highway bias of past federal policies, the Cooper-Muskie amendment is a very modest advance. Permitting cities to use the highway trust fund to build rails as well as roads is not an improper diversion of that fund, much less a perversion of any sacred trust. To the contrary, truly balanced transportation systems benefit highway users as much as bus riders and subway straphangers. Indeed, those who must use the roads—those who, for instance, have no other way to transport goods—have an especially direct interest in curbing highway congestion by offering people other ways to get from place to place. Ideally, each metropolitan region should be able to design and fund whatever mix of roads and rails—and bike paths and pedestrian ways—will meet its particular needs in the most efficient, healthy and humane way. The Cooper-Muskie amendment, while limited, is an important and attainable beginning toward that end.

KIRKWOOD COMMUNITY COLLEGE—LEADERSHIP IN ENVIRONMENTAL DECISIONMAKING

HON. JOHN C. CULVER

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. CULVER. Mr. Speaker, Kirkwood Community College in Cedar Rapids has been making an outstanding record in the environmental education field. Kirkwood's latest effort in this vital area was the organization and management of a "decisionmakers" wastewater treatment workshop.

The workshop, held in Annapolis, Md., during August 29 to September 1 of this year, was attended by representatives from all 50 States. They included mayors, city managers, State attorneys general, and others involved in the decisionmaking needed to clean up America's waters and keep them clean.

Mr. Speaker, I am extremely proud of Kirkwood's record and national reputation in the environmental education field. I think that Project Director Daryle Holbrook, his staff, and everyone from Kirkwood involved in this important national conference deserve our sincere appreciation.

Through this workshop, they have brought clearly to State and local jurisdictions throughout the Nation that the nearly $20 billion in water pollution funds the Congress plans to expend over the next 4 years is not the only ingredient necessary to clean up our waters. More money will be almost meaningless, without the necessary local planning and leadership to make America's water-pollution programs a continuing success—a success that will see our lakes, rivers, and streams running clear and clean.

Mr. Speaker, I insert immediately following my remarks the public news release concerning the Kirkwood workshop.

Kirkwood Community college helped put itself on the national map and boosted the cause of better water pollution control recently at Annapolis, Md.

Kirkwood used a grant from the Federal Environmental Protection Agency to conduct a workshop at the U.S. Naval Academy, August 29–September 1.

Invited participants from all 50 states attended. The list included mayors, city managers, state attorneys general and others with decisionmaking powers in the field of wastewater treatment.

Mike Crawford, director of Grants and Services at Kirkwood, said that about 15 of the states represented at Annapolis agreed to sponsor their own workshops during the coming year to promote better wastewater treatment.

Federal wastewater officials view the future with an attitude paralleling the good news-bad news genre of jokes.

The good news is that massive amounts of federal funds probably will become available soon to municipalities needing to improve their treatment plants. The minority counsel to the Senate Public Works Committee, Richard Hellman, told a Kirkwood workshop banquet audience that pending federal legislation will provide $18.1 billion for such uses in the 1973–76 period.

The bad news is that many state and local governments do not appear prepared for all that money.

Many states do not yet require certification of treatment plant operators to assure proper plant operation. Iowa, is among the states with mandatory operator certification.

Speakers at the Kirkwood workshop were also chided about poor planning practices. They said that many multi-million dollar facilities are being designed without regard for future budget needs for trained personnel.

Workshop participants viewed a new EPA multi-media program which pictured badly deteriorated sewage treatment facilities less than 10 years old. The government says some of these incidents are due to poor maintenance and operating practices.

Project Director for the workshop was Daryle Holbrook of Kirkwood. Holbrook will complete his task by encouraging state and local workshops dealing with federal laws, regulations and funding sources for wastewater treatment projects.

THE McGOVERN CREDIBILITY GAP

HON. CARLETON J. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. KING. Mr. Speaker, in a recent appearance before the Associated Press New York Broadcasters Association, Mr. Herbert G. Klein, director of communications for the executive branch, mentioned a few of the credibility gaps which are now surfacing in the McGovern presidential campaign. Under leave to extend my remarks in the Record, I would like to call Mr. Klein's remarks to the attention of my colleagues.

It is obvious that Mr. Klein could have mentioned many other credibility gaps attributed to Senator McGovern. He could have mentioned the fact that Senator McGovern is one of the alltime big spenders in Congress. That his spending philosophy helped bring on the inflation that President Nixon has been trying to bring under control for the past 4 years.

Mr. Klein was being kind to Senator McGovern when he didn't mention the Senator's proposal to lop off $32 billion from the present national defense budget, no matter how many people it would throw out of work; to say nothing of reducing our country's ability to defend itself.

In his long list of credibility gaps, Mr. Klein was being generous when he didn't mention Senator McGovern's far-out income redistribution plan where he proposed to give every man, woman, and child in America $1,000.

Mr. Speaker, promises are an important part of any presidential campaign. They tell the voters what the candidate plans to do if elected; they are a yardstick for measuring his performance in office. I firmly believe that President Nixon has fulfilled the great majority of the campaign promises he made in 1968. He would have fulfilled many more with a Republican Congress. I believe that with the help of millions of Americans who place country before party, he will be reelected overwhelmingly for another 4 years.

Mr. Klein's comments follow:

EXCERPTS OF REMARKS BY HERBERT G. KLEIN

We are witnessing in this campaign year an event of historical significance . . . a candidate for the presidency has established a credibility gap months *before* Election Day. Never in modern history has a presidential candidate's credibility diminished so rapidly.

A one-thousand percent stand has become a national joke.

The biggest question of the campaign is where does McGovern stand.

One can only conclude that Senator McGovern doesn't know where he is going, or that he believes the average voter is incredibly naive. The lack of McGovern credibility is showing up strongest among the young people who grow more disillusioned by the day. On the other side, the youth movement toward President Nixon is growing like a landslide. Credibility for the President and the lack of credibity for Senator McGovern is the key factor.

You veteran observers of national politics must be as surprised as I am at the extent to which Senator George McGovern daily stretches his credibility and our incredulity.

I believe I know how the voters will answer this McGovern desire to dance around the process of decision; to take a verbal step forward to two back on most of what he says. I think, in fact, that you newsmen could legitimately call his waffling "the McGovern waltz."

During a period in our nation's life in which a president must take dozens of hard decisions daily, and then have the courage to stand behind them, the McGovern waltz is more of a hesitation step. For the man who must occupy the Oval Office of the White House, a waltz of this kind is out of step in any age when there is no time for such nonsense.

With another two months before election, we can no doubt anticipate seeing Senator McGovern change steps and direction by the day. But just to refresh your memory, let me review some of the waffling that he has already appeared on the McGovern dance program:

1. Senator McGovern sent a personal emissary, Pierre Salinger, (who spoke to you earlier) to North Vietnam to bargain for the release of American prisoners of war. When confronted with the action, he strongly denied that he knew anything about it and then later made a full acknowledgement. Mr. Salinger is loyal, but for him and the public that incident had to be incredible.

2. In regard to Rick Stearns, a staff member known to have signed an anti-Zionist tract as a student, Senator McGovern informed some disgruntled Democrats that the staffer would definitely be out of the California campaign. At the same point in time, he told others on his staff that the matter would be left strictly to the conscience of the Western States Coordinator himself. He is on the McGovern staff.

3. In announcing to the American Federation of Teachers that "teachers belong in school—or on a picket line" George McGovern publicly endorsed illegal strikes. It is also interesting to note that shortly thereafter, his campaign received a "donation" of a quarter-million dollars from the AFT. New Yorkers have seen the disastrous effects of teacher-strikes. Such a stand must be incredulous.

4. George McGovern made another incredible remark by claiming that Former President Lyndon Johnson "inherited" the Vietnam war and could do very little or nothing about it. In 1967, Senator McGovern was quoted as saying "The President is a tortured and confused man *literally tortured by the mess he has gotten into in Vietnam . . .*", whereas this August, McGovern stated ". . . he (LBJ) inherited that (the war), he didn't start it." What does the Senator really believe?

5. In May Senator McGovern said that he has "supported every legislative effort to give military and economic assistance to Israel since coming to the Congress some 14 years ago." In truth, George McGovern has often been part of a small minority in the U.S. Senate which usually votes against Iran, Turkey, Greece, and above all, Israel. In 1957, McGovern was one of only 61 members of Congress to vote against a military/economic program to help counteract communism in the Mideast. Three times in the crucial year of 1967, he voted to make it much harder for Israel to buy arms on credit. On the final roll call, a pro-Israel vote from the Senator would have changed the outcome. In 1970, he said, "Israel can't be given a 'blank check' on the U.S. Treasury." No one is offering a blank check, but it is credible to keep a balance of power in the Middle East.

6. George McGovern's condoning of the "South Carolina lie", in which TV and news reporters at the Democratic convention were actually lied to so that the McGovern cause would be furthered, is additional evidence of a looming credibility gap. That represents the politics of the machine-dominated past. The fact that this team approves of prevarication if it will serve its purposes can only lead one to believe such occurrences will happen regularly, whenever this group feels it would benefit them not to let the public know the truth. That's called the right to lie. I don't agree with this and I suspect neither would Pierre Salinger today. In explaining the official and unofficial reason behind the South Carolina sell-out, press secretary Dick Dougherty quipped, "you can just say we lied."

7. Senator McGovern's bobbing and bowing on capital gains cause more reason for doubt. In a full page ad of the *Wall Street Journal* on May 22 of this year, George McGovern said, "I *have not* suggested the elimination

of capital gain limitations existing in the present code." On August 29, he waveringly said, "We must phase out the tax preference or loophole for capital gains . . ."

8. And, of course, the first and foremost gap that George McGovern began with, but will certainly not finish with, was his statement that he was 1000% behind his vice presidential candidate—right up to the point at which the grand caller cried, "Change partners!"

George McGovern says he has changed his position on issues probably less than any presidential candidate in recent times (AP-Aug. 31). That, alone, is incredible. His fancy footwork speaks for itself. Even as we watch Senator McGovern maneuver some quick turns to avoid head-on collisions among staff advisors, or do double-time steps to keep up with his own welfare and tax programs, it is apparent that no choreographer—no matter how talented—could budge George McGovern from his basic one step forward and two steps back.

CLOSING SCHOOLS WHICH EDUCATE THE POOR

HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. BRASCO. Mr. Speaker, periodically, society poses a question to its members which none of them seem to be able to find an answer for. One such question involves the closing of a growing number of private or parochial schools.

Everyone in the country reading the papers is at least vaguely aware that across the land such schools, both elementary and secondary, are closing down with steady regularity. To many Americans, this is a peripheral problem. Some even seem to be pleased that this phenomenon is gathering force.

A time has come for all of us to realize just what is happening and why it will inevitably affect almost every American.

These schools educate millions of youngsters who otherwise would be clogging our already grievously overburdened public school systems. Their parents pay double school taxes in the form of support for public schools and tuition payments for private education.

That burden has become too much for hundreds of thousands of families. As a result, one after another of these schools is closing its doors, and dumping its enrollment into the lap of various public school systems across the Nation.

But who, in all truth, are these students? Are they children of suburban families? Are they offspring of the comfortable and well-to-do? Hardly.

Rather, they are almost always inner city youngsters. Children of the poor vastly predominate among ranks of those whose parochial schools close their doors. It is the parents of such young people who simply cannot afford to bear the burden imposed by double taxation. These will continue to be the schools which will close. For no matter how hard a given family may work to afford their children a decent education, it may be in vain if the diocese simply cannot afford to subsidize that private school in their neighborhood.

More often than not, public schools in these neighborhoods are educationally far below minimum standards. We all at least are aware of the scandal of America's inner city school facilities. Of course, there are a few show schools, where an inordinate quantity of funds has been poured in and special task forces of teachers have been mobilized. These are very much the ghetto exception rather than the rule. Parents in such neighborhoods making a decision to send children to parochial schools do so at enormous personal sacrifice. They willingly take on double burdens, often working extra jobs in order to pay tuition. Think of the hardship worked upon them when a diocese must close such facilities because of the larger financial picture confronting it as a whole.

Children of this type are forced to attend slum schools which destroy much of what their parents have labored so desperately and so hard to create and preserve. In many cases, where such instances occur, and a child is levered into a public facility, it is a virtual death sentence to any hope which may have been carefully nurtured for a better life and a higher education.

We must come to grips with this worsening situation. If we continue to refuse some sort of basic aid to these facilities, we are compounding what everyone admits is the Nation's worst problems. How hypocritical for us to bewail the fate of those in our slums and ghettos, and then to sanctimoniously refuse a smidgin of assistance to these people and schools their youngsters attend.

"The wall of separation between church and state" is a very fine phrase. It smacks of the Constitution, our Founding Fathers, and the colonial era. But is it fair to utilize it as a weapon in this situation? Is it fair to interpose it as a barrier between ghetto children and a chance to attend a decent school?

I believe there is a need and place for both public and parochial schools in America. Each serves a purpose. One does not need or seek to supplant the other. America must recognize and adapt to the truth of this statement.

A solution is available which would avoid any direct aid to private schools of the Nation. It is, like all such solutions, relatively simple. A tax credit for the amount of tuition paid by parents is a legitimate, constitutionally valid alternative. Such tax relief would be made available under terms of a measure I have joined in sponsoring with my distinguished colleague, the gentleman from New York (Mr. Rooney).

Parents would still have both choice and chance to educate their children as they see fit. Schools in question would have a fighting chance to survive, rather than close one after the other, as is the case today, and their fate in the future.

Mr. Speaker, I realize this subject rouses significant passions on both sides of the aisle and on all levels of society. Nevertheless, we cannot evade responsibility any longer. A new school season is again upon us. It is inevitable that without some form of alleviation, cumulative pressures will result in the closing of many more such private educational facilities. It is estimated now that they are closing their doors at the rate of one a day across the United States.

If we do not act, then we surely throw these poor children to the wolves. It is an act of simple self-preservation as well as of compassion to allow some form of tax relief.

NAM COMMENTS ON "TAX REFORM"

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. STEIGER of Wisconsin. Mr. Speaker, one of the most important issues in this year's political campaign is the state of the economy. We are all concerned about and interested in the economic reforms advocated by the presidential candidates. President Nixon's record is clear and evident on this matter. Senator McGovern has presented a variety of proposals, including his recent tax reform plan to a Wall Street audience.

George Hagedorn, chief economist for the National Association of Manufacturers, has written a succinct commentary on what is wrong with the McGovern proposal. His main objection is the heavy-handed manner in which McGovern would tax capital gains, the lifeblood of investment and economic growth. There is no quicker way to promote economic stagnation than to discourage economic investment which is exactly what the McGovern proposal would do. Mr. Hagedorn's article follows:

ECONOMIC ANEMIA

(By George Hagedorn)

Senator McGovern, in his appearance before the New York Security Analysts, has at last presented the economic analyst with something he can begin to analyze, although many details are still missing.

It turns out that Senator McGovern's tax reform program is intended, not primarily to correct alleged inequities, but to raise substantial additional revenues—$22 billion a year. Practically no one would pay less in taxes but would pay a great deal more. And the heart of the program is a proposed new treatment for capital gains, which will be depended on for $12 billion—more than half of the total. Without that $12 billion of new revenue, the whole fiscal program fell apart.

Realized capital gains are to be taxed as ordinary income. This is justified on the ground that "Money made by money should be taxed at the same rate as money made by man."

Unrealized capital gains are to be taxed at the death of the asset holder. This is explained on the principle that: ". . . the inevitability of death should not assure the avoidability of taxes."

It is not at all clear how Senator McGovern arrives at his figure of $12 billion as the revenue gain from these two proposals. Revenues from capital gains taxation depend not only on the way they are taxed but also on the amount of capital gains the economy generates. High rates of taxation on zero capital gains yield zero revenues.

Inflation, of course, tends to create nominal capital gains. If the general price level trends upward, the price of at least some investment assets may trend upward with it. But to regard capital gains resulting from inflation as income, in the same sense as current compensation for current services, is to mistake a fiction for a fact. By receiving a larger sum of dollars for an asset than he had previously paid for it, the investor simply gets back his real purchasing power. If he doesn't get more than he paid, in an inflationary period, he has suffered a loss. Capital gains reflecting inflation are not truly a gain to their recipients, and to tax them as such is a form of confiscation.

Capital gains do not necessarily arise from inflation. There can be genuine capital gains, resulting from the dynamic growth of the economy and a healthy state of capital markets. It is questionable whether these conditions could be met under the fiscal program of Senator McGovern, which would impose harsh penalties on business operations, business expansion, and the flow of funds for investment.

Where does that leave us? We must conclude that, if the expected revenue increase is to be derived from a tax on genuine (noninflationary) capital gains, the $12 billion is a grossly overstated estimate. It is questionable whether there would be any genuine capital gains to be taxed. If the revenue increase is to come from capital gains that merely reflect inflation, it would be taxing a purely fictitious element of income.

Shifting the focus of attention from the affected taxpayer to the economy at large, we reach even more disturbing conclusions. The simplistic idea that capital gains can be regarded the same as "any other kind of income" is a fundamental mistake in economic interpretation. Capital gains are not income at all in any general economic sense. In compiling the national income accounts, the Department of Commerce does not include capital gains as part of the total. Scholars universally agree with that procedure. National income is created by the production of new goods and services, not by the transfer of existing properties.

Consider the case where A sells to B an existing asset for $100,000. No new item of national wealth has come into existence—the asset is the same as it was before. There has been no net addition to funds available for new capital formation—the same $100,000 previously in B's hands is now in A's. All this is true regardless of whether A made a capital gain on the transaction.

But suppose some part of the $100,000 is taxed away as a capital gain. In that case there has been a net reduction in funds that can be used to provide capital for expansion. The $12 billion that Senator McGovern wants to raise annually by additional taxes on capital gains would be a direct drain, dollar for dollar, of the capital supply—the very life blood of any nation's economy.

It is inescapable that any form of taxation will reduce resources available for other purposes. But capital gains taxation is a direct tap on the artery that supplies capital for growth.

Twelve billion a year is a lot of bloodletting. Senator McGovern has hit on the quickest way imaginable of producing economic anemia.

FACTORY WORKERS TURNING TO NIXON

HON. WILLIAM L. SPRINGER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. SPRINGER. Mr. Speaker, first-time voters—perhaps 25 million of them—may make the difference in this year's presidential election. A series of articles is being written by the Washington Star-News staff writer, Duncan Spencer, about the "new voter."

Many of my colleagues are wondering what this new voter has in mind.

According to Mr. Spencer's report from Hamtramck, Mich., where the production line of Dodge Main is located, he indicates that the factory workers at this time favor the President over Mr. McGovern. There are many reasons for the great shift of new laborites who ordinarily vote the straight Democratic ticket—and especially is this true of the new voter. The new voter who works on the assembly line is not exactly the happiest person in the world. I speak from experience because I worked on the assembly line of the Buick Motor Co., in Flint, Mich., in the summer of 1929. Working on the assembly line is not the most interesting job in the world and in some ways it is a rather strenuous job because on the assembly line you have to keep up with production. In addition, you are doing the same routine thing day after day which is not exactly attractive to young people. Mr. Spencer finds that "whatever you want to call the young men of Dodge Main, ethnics, anti-intellectuals, or bigots, their anger and frustration is turning into votes for Richard Nixon."

I attach herewith the article by Mr. Spencer which I am sure many of my colleagues will want to read:

Factory Workers Turning to Nixon

(By Duncan Spencer)

Hamtramck, Mich.—The men from the production line at Dodge Main start to skip out a little before the lunch break really begins at 11:30 a.m. and it's usually the younger ones first, because they hate the place the most.

There are at least 2,000 workers of the 9,000 men and women who assemble cars at Dodge Main who have never voted before. This is their year, but their conversation would bring tears to the eyes of either presidential candidate, or to anyone who thinks blue collar youth is ripe for the plucking Nov. 7.

The plant has tried, in its own way, to change things. The walls were painted in psychedelic colors recently, there are experiments with groups of workers on the line to make the jobs less boring and mechanical. But when the men talk about themselves, they talk about "factory rats," and it's not a term of endearment, not to the 20-year-old who said "you're walking into hell when you go into that body shop."

Whatever you want to call the young men of Dodge Main, ethnics, anti-intellectuals, or bigots, their anger and frustration is turning into votes for Richard Nixon. In their world, you drink as many beers as you can at 11:30 to kill the afternoon, and in politics, you look for someone to blame. The other day in Hamtramck, George McGovern was filling the bill.

"That goddam $1,000," said Jim Nils, 23, of Port Huron, Mich. "Everybody is fed up with giving their money to other people." It was easy to find agreement with the comment in the noisy bar across from the plant where many men come for lunch. The older men sit in silence, eating slabs of bread and sausage from their paper bags, and the young are often inarticulate. "McGovern," said Ron Aettraino, a 30-year-old parts inspector, doesn't show them nothing. I think he's too much for the freaky college jerks."

But Nils didn't elaborate his complaint. The subject seemed settled—he went back to Hamtramck's eternal verity, the life of the plant and the line, where the shiny new Dodge Demons, Dusters and Darts roll off at a rate of over 1,000 per day. "There was $800 in the check pool today," he said, "and I was 10 numbers off."

The check pool is a weekly numbers game that ends on payday, and the winner is the worker whose computer-printed paycheck number is closest to the numbers on scraps of paper pulled from a hat.

"I don't play that," said Aettraino, his large hand elegantly wrapped around a glass. "We still got some scruples—which sounds pretty bad for a Dago at Dodge Main."

It seems easy for a man to put himself down in Hamtramck—the grimy city-suburb of Detroit dominated by two buildings: St. Florian's Catholic Church and Dodge Main, where thousands of Poles, blacks and Armenian-Americans work in an atmosphere not much given to hope or optimism.

You can hardly tell what season it is from looking. Railroad cars creep across the overpass to the plant which cannot disguise the fact it is one of the oldest in Detroit. Cars parked by the workers cover every bit of space near Joseph Campau Avenue. On the side streets, though, the frame houses are freshly painted, the gardens kept like golf greens.

Hamtramck is pure ethnic country where every other block has a Polish bar, or a sausage shop, where it is an article of faith to paint and paint again in futile defiance of the soot and dust falling from the skies.

But it's also located within a prime battleground for both parties: The state of Michigan, where there are 21 electoral votes to be won.

In Detroit, the Republicans are making a strong effort to register voters in areas which have historically had a high percentage of ticket-splitting. But their computer list, which is based on past voter performance in Michigan, does not include Hamtramck. It is considered to be too strongly Democratic to be worth the time and money. Over 600,000 telephone calls are planned before the October registration deadline, but none of them will go to the area around Dodge Main.

The Detroit metropolitan area represents 47 percent of the state's population. In Detroit, as one McGovern worker put it last week, the United Auto Workers in many ways is the ballgame for Michigan politics. A block and a half down the avenue from Dodge Main at UAW Local 3, John Smith, local president and a black man (65 percent of the local is black), was explaining a few things.

"This plant is the oldest in the city," he said, "But it's a young plant. There are over 1,000 18-year-olds in our membership and about 2,000 are in their early 20s. In a plant like that, we have a lot of absentees."

The main problem facing the union is that young men don't like to work. They don't like this work because it is repetitious, boring, hard, dirty and long. The men drink to pass the time. They are frustrated and angry, but not angry enough, Smith pointed out, to want to quit or to feel the whole system needs an overhaul.

"I put it this way," he said. "If you got $100 and I got nothing, you're not worried about me, you're worried about how to hang onto your 100 bucks."

Smith says the union is registered 75–85 percent Democratic but the younger men say that doesn't mean they will vote that way.

It was noon and men all over the restaurant got up as if by signal to join the stream of workers moving back toward the link fence and the factory gate after the half-hour lunch break. The day was not as cheerful as usual last week because production was up. That meant the line would run all day Saturday and even at time-and-a-half, the extra pay wasn't enough to make the young ones like the compulsory work.

The hands at Dodge Main leave the plant in the afternoon with blank faces. The city they live in is depressed and worn out, polluted and dirty. Many of their friends were sent to Vietnam. Some were killed. Unemployment in Detroit is almost 10 percent and further automation in the plant will cut some men out of jobs almost certainly in the next five years.

The neighborhoods around the plant are plain and segregated into small blocks of blacks and whites. And there is the line staring them in the face until they are 58 years old.

But for all these things, they feel neither party has anything to offer this November. In interviews, the young workers repeat that whenever programs are started by the federal government, they are aimed at someone else in the case of Detroit—at the blacks, or the unemployed. For them, they say, there are no scholarships at Harvard.

Yet in spite of that and the fact that their union—the union of Walter Reuther and the bloody battle of the overpass, now the union of Leonard Woodcock—has straight-forwardly endorsed George McGovern, they say they are going to vote for Richard Nixon and they say that many of their friends, white and black, will do the same.

The workers at McGovern headquarters, stationed in a former interior decorator's shop near the center of the spread-out city, are fully aware of the problem.

The blue collar areas, normally heavily Democratic, are one of McGovern's main problems, said Mike Barone, the Detroit "issues specialist" for McGovern.

"The way we hope to win is in three areas," he said. "A good Democratic vote in the upstate areas where busing is not such a big issue, a big vote among the blacks and students in Detroit (there are between 150,000 and 200,000 college students state-wide, Barone estimates), and a turnaround in the Detroit suburbs on the issues of economics, the war and the credibility of the candidate."

But one of the disappointments with the campaign so far, as Barone sees it, has been a failure by McGovern to really fight hard on the more mundane issues like the Watergate break-in.

"It's an old theory of mine," Barone said sadly, "for a scandal issue to click, people have to be pretty well against someone anyway. The liberals seem to just want to play by the rules."

"We talked to the young people in the plants," said Sandy McClure, another McGovern worker, "and it was a case of a pox on everybody's house."

That was pretty much what Nils and his fellow "factory rat" Ken Jurewicz were saying at Jax Bar the other night. They were among a group of about half a dozen young men from Dodge Main, watching the Detroit Tigers get whacked on television, not really paying attention.

They talked about their jobs and about the coming election in the same tone, as if things would go on the same way whatever they did; there was agreement on that. As one of them put it, talking about the Watergate investigation: "People don't think the Watergate thing is too scandalous. It's just a part of politics. People don't trust the government anyway."

And Nils said the same thing about the union. "We laugh at the union," he said. "A bunch of old guys. But you've got no choice; if it was optional, that union would be broke."

Jurewicz, a tall and muscular young man of 27, the third generation of a Polish Hamtramck family, was more voluble than the others. He expressed many of the views of the first-time-voters, but put them in the perspective of one who had voted for President before. A Democrat, he voted for Humphrey in 1968, but he is for Nixon this year.

"Look," he said, "I would say people have gotten kind of comfortable with Nixon. They're working steady. There's plenty of overtime and he's made some moves to stop inflation.

"But with McGovern, I just say no, he's an opportunist, ambitious you know, and as far as I can see, not really capable. I don't really know what he's done in the Senate. But I do know he jumps on all these things, what I'd call fads. When he started campaigning about a year and a half ago, the war was the big issue. Now it's not. The war is dead. Marijuana is dead, too.

"McGovern talks about jobs for blacks. Well, around here, it's easier to get a job if you're black. If you want a job at Dodge Main, just don't fill in the box that says Caucasian. Fill the box that says black or other."

Jurewicz also made clear the hostility many working youths, black and white, feel to their college-educated peers. Because there is so much absenteeism on Mondays and Fridays, the company has hired part-time workers to fill-in on the line. They are usually college students.

The young workers inevitably link the college students in the plant with McGovern. The college kids stick by themselves. They've got a kind of a clique, Jurewicz said. "They're better than you and you're nobody, that's pretty plain. But these guys go to college because they don't know what to do with themselves or their father pays their way. They don't know what to do. What do they do? Nothing. The young college kids are on a fad thing and McGovern is their fad."

Another theme in the conversation in the bar was the gulf between the younger workers and the men in their 50's and 60's, some of whom refused to retire when their time came, even with a pension of $500 per month.

"It's pathetic, that's what," one of the men said. "Do you know how much I make? $125 take home. They could retire with that. I tell them they're working free, but they won't quit, they say they'd lose their pay."

The work ethic, he indicated, didn't make much sense to him. "To get through the day's work you either have to be high or dead. You see cars on the line coming through with bottles in them. It didn't make sense to try to do a good job because you do the same thing over and over."

The big question is whether the "factory rats" will vote at all. And that, according to Penn Kemble, 30, chairman of Frontlash, the union-backed organization which is trying to register the new non-college voter, can be a matter of habit.

"Remember this," he said in a recent interview. "There are more elections in unions than there are in any university or any church; the young guys in the auto plants are pi—ed off at the liberals; the first-time voters in Michigan will be reflective of what's happening."

Young factory workers, he said, "Don't know where their place is, or who is for them. There was a real social class thing in that damn convention and they're aware of it. They are the kids stuck between the country club and the board room, and the more affluent and educated new class of kids. The new politics thing, that doesn't seem to appeal to them either."

"Why in the world would 48 percent of them say they're going to vote for Nixon?" he asked, quoting a poll of non-college youth. "How is it Humphrey wins in Pennsylvania and Wallace wins in Michigan? These guys are today's forgotten men."

MARKETS GO UP—GO DOWN

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. SCHERLE. Mr. Speaker, the hue and cry raised over the short-lived increase in beef prices predictably was not matched by equal attention from the news media when the wholesale cost of cattle declined. The true facts of the situation, which has so far received only one-sided treatment by the press, are plainly set forth in the following column by C. W. McManamy. Mr. McManamy, writing here for the August 21 issue of the Council Bluffs, Iowa, Nonpareil, speaks from direct practical knowledge of the beef industry. His observations are well worth the attention of my colleagues and all who would understand the fluctuations of the meat market.

The article follows:

Markets Go Up—Go Down

(By C. W. McManamy)

On Wednesday, July 5, of this year a shipper had fed steers on the Omaha market. They sold for $38.65 per hundredweight.

The previous week fed steer prices in Omaha hit a $40 top. That top and the upturn in cattle prices which had brought it about made news.

Press, TV and radio, mostly in the East, made considerable moment of the advance in cattle prices and the impact on the price of meat in the counters.

On Tuesday, Aug. 14, just this past week, that same shipper had another shipment of cattle on the market. This second load came from the same string of feeders, they were fed in the same lot with the first load. They received the same ration as the first. Except for the extra 40 days feed, they were as near identical with the first load as cattle can be.

That load last Tuesday brought $35.65 per hundredweight. Market top in Omaha that day was $37.

It is easy to see that this man received $3 per hundredweight less for his second load than he did for his first. It is also easy to see that his experience was shared generally by cattle feeders since there was $3 per hundredweight decline in the general market.

This $3 decline in cattle prices in a little over a month carries some rather important connotations.

In spite of this I have not seen, or heard, as of this writing, any stories or comments relative to this sharp decline.

Why is this? When cattle prices go up three bucks, for instance, does it sets up a clamour that can be heard from coast to coast. Those same prices can go down by three bucks yet it causes scarcely a ripple of public interest anywhere.

What about a $3 decline in fat cattle prices? This means, first of all, that the feeders profit margin has shriveled up by that amount. A $3 per hundredweight decline means that a 1,000 pound steer will return $30 less to the producer.

So it would be that if the owners profit on that steer in July had been $30 then his August shipment was merely breakeven operation. Should his July profit have been only $25 then his August transaction would have resulted in a $5 loss per head.

I have no idea what the profit margin per head might have been on that July sale, but it is quite obvious that the $30 decline on the August sale will wipe out a goodly portion of the July gain.

This is one of the reasons it is so ill-advised to stir up a fuss when livestock prices go up. The producer long ago discovered that it will take all his expanded profits from the higher times, and more to offset the diminished returns of the low times.

There might be some who would say that this is a problem for the feeder.—And so it is. There is more to it than that, however, and people in this neck of the woods had jolly well better realize this.

A $30 per head decline in the value of 300 steers a feeder has ready for market means $9,000 less profit he will have to spend. Multiply this by 10 feeders, just to keep the picture small and in focus: $90,000 less to be spent.

It should be readily apparent to many folks, removed from the feeder's lot but involved in associated or related businesses, that their own welfare is subject to change without notice when cattle or hog prices suffer these sharp drops.

FEDERAL EMPLOYEE LEGISLATION—PAST AND FUTURE

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. WALDIE. Mr. Speaker, during this Congress it has been my pleasure to serve as chairman of the Subcommittee on Retirement, Insurance, and Health Benefits, of the House Committee on Post Office and Civil Service.

During these busy months I have often had the distinct honor of addressing meetings of Federal employees during which I have had the opportunity to report on legislative matters of vital interest to them.

Because of the profound interest of these employees in these issues, I now insert in the RECORD a short resume of legislation pending bills and a prognosis of how Federal employee legislation may fare in the near future.

I regret, Mr. Speaker, that most of the successes of our subcommittee have occurred over the objections and opposition of both the Civil Service and the administration.

In too few instances has the President or his appointees to the Civil Service Commission indicated any real or concrete desire to better the plight of the Federal worker.

I cite, for example, the extraordinary occurrence of August 1971, in which the President singled out the Federal employee for special "sacrifice" as a part of his "phase I" program of wage and price control.

Mr. Speaker, as you may recall, immediately after the President's announcement that he was postponing the pay raises for Federal employees, I introduced a resolution prohibiting this punitive action.

And I was delighted when the Congress saw fit to uphold the Federal employee and prevailed upon the President to give those workers a 5.5 percent increase they did in fact deserve and need.

At this time, Mr. Speaker, the President again is seeking to penalize the Federal employee by postponing the regular October increase 3 months. I wholeheartedly agree with Chairman THADDEUS DULSKI of the House Post Office and Civil Service Committee that the President does not have the authority to postpone the pay raises which are designed to bring the Federal employee pay up to a level comparable with the private sector.

HEALTH BENEFITS

My subcommittee has, during the past 2 years, held extensive hearings on the Federal employees health benefits program.

As a result of these hearings, I am convinced that the Civil Service Commission is not diligently representing the employee's interests in negotiating contracts with such insurance industry giants as Blue Cross/Blue Shield and Aetna.

The mammoth error by the Blues and by the Commission in overestimating the premiums for 1972 has already cost every policyholder dollars that he can ill-afford to lose.

The Blue Cross/Blue Shield associations have also deliberately circumvented the policyholder in cutting back on previously approved benefits without notifying the enrollee of these cutbacks and without notifying the Civil Service Commission of such action.

The Blues, our subcommittee found out, have been spending expense money on a lavish scale without worrying in the least about the auditors from the Civil Service Commission.

Why? Because the Commission has been woefully deficient in overseeing the performance of the insurance companies.

I think the subcommittee's hard questions and continuing surveillance of the performance of the Commission and the insurance industry will in the long run have additional cash benefits for all Federal employees and retirees.

For example, I fully expect the Commission to hold fast and not allow any sizable premium increases for Blue Cross/Blue Shield or Aetna. As these are the carriers that cover more than 80 percent of all Federal employees, this would be a major step in the right direction.

Our subcommittee has also worked diligently on legislation increasing the Federal Government's share of premiums for the Federal employees health program.

The bill reported out by the House, H.R. 12202, which would increase the Government's share of health insurance premiums to 75 percent, has been momentarily blocked by the Senate which wants to cut the percentage down to 50 percent and exclude postal workers from sharing in the increased benefits.

It is my firm belief that the Congress intended by enactment of the postal reorganization bill to have the postal workers bargain from the same base as other Federal workers. I believe the testimony of those who negotiated with the Postal Service that that belief was shared by the administration. Now the Postal Service is saying that they never shared that understanding—I do not concur with the Postal Service manager's statement.

If, however, we do not prevail in our efforts to keep the postal workers within the coverage of H.R. 12202, I will make every effort to see that the Postal Service keeps their word and bargains fairly with their workers and gives them at least the same health benefits as those given to other Federal workers.

RETIREMENT

At the time of this writing, the Rules Committee of the House is deliberating as to when my bill, H.R. 11255, the 80-point retirement bill, will be considered.

The Post Office and Civil Service Committee reported the bill out by a wide margin and I am hopeful that the Rules Committee will soon clear the bill for action on the floor of the House of Representatives.

There is no question but that this is one of the most significant retirement bills to come before the Congress in many years and I am eager to debate the issue of fair and equitable retirement for Federal employees on the floor of the House.

The debate will be bitter, I am sure, because of the administration's strong opposition to the 80-percent retirement proposal.

Our subcommittee is also actively at work in attempting to secure passage of meaningful legislation granting increases in annuities to Federal retirees and their survivors.

We have held extensive hearings on annuity increase bills including my bill, H.R. 7805.

I believe that the fairness of a retirement annuity increase has been amply demonstrated—especially in light of the President's approval of a 20-precent across-the-board increase for social security recipients.

In closing, I want to assure all Federal employees that the subcommittee will continue to work hard to implement those progressive bills and to investigate the programs that appear to be working against his best interest.

Mr. Speaker, too rarely do we in the Congress hear from our Federal employees, a large group of hard-working Americans whose political activities are curtailed by the Hatch Act and whose pay and working conditions directly depend upon those they vote in office. If that seems to be paradoxical, Mr. Speaker, it is.

I am hopeful that those who read these remarks will respond by telling me of their specific problems and of the type of legislation they need to better perform their jobs and serve their country.

IS IT TRUE WHAT THEY SAY ABOUT THE NEW YORK TIMES?

HON. OGDEN R. REID

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. REID. Mr. Speaker, I commend to the attention of all Members substantial excerpts from an article which appeared in the National Review entitled "Is It True What They Say About the New York Times?" by John C. Ottinger and Patrick D. Maines.

This piece is a thoughtful analysis of New York Times news coverage on five major case histories. These cover the senatorial race of JAMES BUCKLEY in 1970, the 1969 debate on the ABM in the Senate, the Haynsworth case of 1969, Vice President AGNEW and the networks in 1969, and the President's recent decision to mine the ports of North Vietnam.

The analysis by Mr. Ottinger and Mr. Maines carefully notes the placement of stories on page 1 or on other pages, the number of words in the several stories, and the balance in the headlines. The article on the whole shows a sensitivity for news standards on the one hand and news importance on the other.

In summation the piece points out that:

> The Times' news performance in terms of balance between right and left may not be flawless but it must be rated very high.

While the New York Times, like other newspapers, strives for fairness, none of the top New York Times executives would deny that they sometimes err, the article reports. The National Review concludes by noting:

> That the Times discharges its stewardship with the degree of fairness which this study suggests is a challenge to all media that aspire to responsible journalism. Conservatives—and all other Americans—could be far more confident if other major media measured up to the same standard.

The article follows:

Is It True What They Say About the New York Times?

(By John C. Ottinger and Patrick D. Maines)

Conservatives have long dismissed the *New York Times* as a hopeless hotbed of liberalism, biased beyond redemption and therefore not to be taken too seriously. The Vice President, of course, has classified it as only slightly less left-leaning than the television networks. Late in 1969, he charged it with blatant news bias because its early edition—the one he reads in Washington—didn't consider "fit to print" an account of a letter endorsing the Nixon Vietnam policy signed by no less than 59 senators and three hundred representatives. (The *Times* did cover the story in its Late City Edition, as it later informed the Vice President. But the impression was there, and he had relayed it to the country.)

Other conservative leaders have been equally vocal in *The Conscience of a Majority* Barry Goldwater accused the *Times* of publishing a "100 per cent false" story during the 1964 campaign, springing from a famed but discredited CBS telecast imputing connections between Goldwater and neo-Nazi groups in Germany. In a speech early this year, L. Patrick Gray III, now Acting FBI Director, suggested that "subtle bias may have been at work" when the *Times* ran a photo of then Assistant Attorney General Robert C. Mardian, shown conferring with Attorney General John Mitchell, and identified Mardian as ITT's Washington vice president, William R. Merriam. This "made it appear that the Justice Department and ITT were in cahoots with each other." As recently as May, Kenneth W. Clawson, Deputy Director of Communications for the White House, attacked the *Times* as "a conduit of enemy propaganda to the American people," in connection with the later-contradicted report that the North Vietnamese had swept Haiphong harbor clean of American mines.

National Review itself has raised a questioning eyebrow at the *Times*' "objectivity" at least three times in the past two and a half years. In May 1970, *NR* pointed out, the *Times* described Kent State University, pre-shootings, as a relative enclave of tranquility—disregarding enough SDS-inspired riots and breakings and enterings in 1969 to fill 167 pages of a House Internal Security Committee report. In October 1971, *NR* reported, a *Times* head showed that "A Survey of Youth Puts Lindsay in Front of Nixon," relegating to the body of the story the figures which put Senators Muskie and Kennedy far ahead of Lindsay. And in February of this year, *NR* caught the *Times* "managing the news" by suppressing a wire from the North Vietnamese government again refusing to negotiate the release of American prisoners until it learned of the CIA's release of the text of what the *Times* had received but not printed. Managing Editor A. M. Rosenthal later explained the omission to *NR*'s satisfaction; but again the impression of *Times* bias had been created—and spread.

To what extent is this negative impression soundly based? If it isn't true that the *Times* leans to the left, why are so many presumably perceptive people certain that it does? It is not in the conservative interest to perpetuate that assumption if it is false, because however freely one may question various aspects of the *Times* performance, its power is undeniable.

The *Times*, however, wields its power in various ways. In some cultural fields, it approaches near-omnipotence. A blast from the *Times*' theater critic, especially since the end of the *Herald Tribune*, can doom a Broadway play. It was written of Orville Prescott, the weekday book critic until 1965, that he was "the terror of the book industry, an arbiter whose every approving nod could sell a thousand books," and there is no indication that his successors are any less potent. And the Sunday *New York Times Book Review*, with its far greater space and much larger circulation, is probably even more influential.

The editorial page and the Op Ed output of the columnist—Messrs. Reston, Wicker, Lewis, Sulzberger et al.—are influential but it is an influence that political activists often exaggerate. Politicians, even Presidents, pay far more attention to editorials than do average readers, millions of whom simply don't read them. The *Times*' own advertising director, according to Gay Talese, once soothed an angry advertiser by assuring him that, after all, nobody reads the editorials.

The real power of the *Times* comes from its editors' command of the most massive flow of news generated by any single medium, print or electronic, in the world. As Frederick T. Birchall, long-time managing editor, said nearly sixty years ago, "Let me control the headlines and I shall not care who controls the editorials." It is in this area—the administration of the news—that our analysis is concerned, for this is the real power center.

BUCKLEY FOR SENATOR, 1970

(Oct. 1–Nov. 2)

	Featuring Buckley	Featuring Goodell	Featuring Ottinger	Featuring 2 or 3
Number of news-stories	39	30	21	35
Approximate words	23,800	25,750	11,600	34,950
Newsstories—p. 1	5	6	1	4
Approximate words	6,500	8,300	650	5,250
Pictures	16	13	12	
Pictures on p. 1	3	3	3	

Though the *Times* prints some seventy million words a year, selectivity is the sine qua non of its news editors' function. Events not rated newsworthy may not be covered or, if covered, not published. Qualitatively, there is position: A top head or three-column picture on page one is light-years ahead of similar space on page 45 in terms of readership and impact. There are the rhetorical subtleties: A turn of phrase can make a difference; an intriguing head v. a bland or negative one can make even more of a difference.

In this study we have picked five developing news stories in which there was a distinct right-left line: Buckley for Senator, 1970; the ABM debate and vote, 1969; the Haynsworth nomination, 1969; Agnew and the media, 1969; and the President's decision to resume the bombing of North Vietnam and to mine Haiphong harbor in May of 1972.

I: BUCKLEY FOR SENATOR, 1970

Five years after William F. Buckley Jr.'s race for mayor of New York, the dramatis personae were different, but the *Times*' editorial stance was strictly déja vu—violently negative. How then did Senator-to-be James L. Buckley fare with the arbiters of the news?

From the start the *Times* editorially backed the incumbent liberal Republican, Charles E. Goodell, but the formal endorsement indicated that the *Times* thought so much of Democratic Representative Richard L. Ottinger that it wished it could somehow support him too. The best it could accord James Buckley was that "the Conservative candidate has many engaging qualities, but . . ."

As the campaign peaked, most of the pejorative editorial fire was concentrated on Vice President Agnew's alleged perfidy in reading Goodell out of the party, but there was plenty left for Buckley. On election eve came the final editorial bomb, "An Appeal to Fear":

> . . . for Mr. Buckley, until a week ago a temperate and engaging candidate, has at no time produced anything that could be described even charitably as a program.
>
> Our conviction remains strong that New Yorkers recognize both the emptiness of the Buckley programs and the regressive nature of the policies he symbolizes.

But in news coverage, it was not Buckley who received short shrift; but Ottinger. This the quantitative scoreboard dramatically shows. For reasons which newsmen could not ignore, Buckley and Goodell simply generated bigger volumes of news: Goodell because he was the target of the Agnew "purge" and Buckley, at least in part, because he was its beneficiary. As an early October story head put it, "One of Goodell's Opponents Is Named Agnew"—and the involvement of both Washington and Albany in the Goodell-Buckley competition spawned much more copy than the Ottinger campaign did.

The newsmen—in contrast to the editorial writers—were positively cordial to Buckley. On October 1, the only campaign picture printed was a three-column one of Buckley on a walking tour, with a story politely reporting his "sharp but restrained attack on his Democratic opponent and gentle though qualified praise for his Republican opponent." Two days later, they found Buckley "at home amid cabdrivers," later stories were equally free of the dire negatives in the editorials: "Buckley Shopping for Votes on Long Island," "Buckley Stresses a U.S. Drug Role," "Buckley Focuses on Domestic Ills," "Rent Stamps for Poor Proposed by Buckley," "Long Island Gives Buckley Exuberant Greeting." When the Sierra Club and Friends of the Earth joined to accuse him of connection with an oil company said to be imperiling the Florida environment, no scare head captioned it; merely a one-line "shirt-tail" following another election story deep inside the paper, with no more than four hundred words on a subject that didn't surface again.

In stories covering a day's activities for all three, Buckley more than once got the most prominent mention.

There followed three more Buckley paragraphs, including the report of a "tumultuous ovation from more than three thousand supporters" at a rally, before any further mention of his two rivals.

An early October "Week in Review" roundup observed that "Mr. Buckley . . . has run a professional campaign that is winning him friends and voters all over the state." At mid-month, his campaign apparatus won a news accolade unequaled by either other camp: "Conservative Campaigners Demonstrate a Polished Expertise," ran a six column streamer over a column-and-a-half story, with five photos of campaign manager F. Clifton White and his chief aides.

As election day neared, *Times* headlines helped notably to reflect and enhance the rising Conservative optimism: "Buckley Predicts a Triumph for Silent Majority," "Buckley Is Optimistic," "Buckley Supported by . . . Principals and Others in City Schools," "Buckley Buoyed by Westchester." And on the morning of election day, the *Times'* lead story declared that Buckley might win by a 300,000 to 400,000 vote margin over Ottinger, with Goodell a weak third.

Our comparative analysis ends there. Clearly, in the 1970 campaign, *Times'* news coverage did no visible disservice to the Conservative cause.

II. ABM AND THE SENATE, 1969

When it comes to appraising news treatment of issues rather than candidates, analysis becomes more complex. Fewer stories, as a rule, can be clearly put on one side or the other, and the nuances are sometimes difficult to pinpoint. But this was not the case when we analyzed coverage of the final fifteen days of the battle in the Senate over the Administration's plan for the Safeguard antiballistic missile system in midsummer of 1969. The *Times'* editorial position was strongly in opposition. Such, in this case, was the thrust of the news too.

ABM AND THE SENATE, 1969

[July 24 to Aug. 6]

	Emphasis anti-ABM	Emphasis pro-ABM	Emphasis approximately even
Number of news stories	7	0	6
Approximate words	8, 650	0	4, 600
News stories—page 1	4	0	2
Approximate words	5, 450	0	2, 050
Pictures	4	0	2
Pictures on page 1	2	0	0

On July 24, page one headlined, impartially enough, "ABM Fight Taken to Senate Floor," but from then on through the crucial two weeks, the opposition dominated the news, despite the fact that the sides could hardly have been more evenly matched. On July 30 a three-column photo of Senator Jacob K. Javits and Representatives Ogden Reid and Jonathan Bingham, opponents all. Next day, a long story recounted the Foreign Relations Committee's sympathetic viewing of a "top-secret" General Electric film reportedly confirming the "ineffectiveness" of the proposed system.

On August 6, the opposition got bigger headlines than ever with "A Complete Ban on ABM Sought by Senator [Margaret Chase] Smith," with a four-column photo of three more senatorial ABM foes.

On that day came the Senate vote, duly reported next morning: "Nixon Missile Plan Wins in Senate by a 51 to 50 Vote," ending that phase of the battle. The news editors this time show themselves to be sharply one-sided, even making due allowance for the fact that the offensive in any situation generally makes more noise and generates more news than the defensive.

III: THE HAYNSWORTH CASE, 1969

Another case in which the opposition had a built-in newsmaking advantage was the Senate fight over the confirmation for the Supreme Court of Judge Clement F. Haynsworth. For this analysis, we covered the five weeks leading up to the final vote in November, as reasonably representative of the *Times'* coverage of the whole affair.

On October 19, the Sunday "Week in Review" summed up the case with relative evenhandedness:

"What was not anticipated was the steadily unfolding list of discoveries that Mr. Haynsworth, as a judge of the United States Court of Appeals, had heard and ruled on several cases in which he appeared to have a personal financial interest."

"Some of the charges hastily leveled . . . by headstrong Democrats turned out to be shoddy, unsubstantial or just plain wrong . . . but not all of them did."

Two days later, a page one story, followed inside by his news conference transcript ("Nixon Vows Help for Haynsworth till Senate Vote"), relayed the President's defense of his beleaguered appointee. But inside, under a six-column head came "The Case against Judge Haynsworth," maintaining that "almost all the senators with these objections are focusing their statements on the ethical matters, side-stepping the troublesome question of whether the Senate has a right to disapprove a presidential nominee just because it disagrees with his political philosophy."

On October 25 came a rare news break in Haynsworth's favor albeit back on page twenty, as he won an endorsement from sixteen past presidents of the American Bar Association, and was endorsed the second time by the ABA's Committee on the Federal Judiciary (but, the *Times* noted, this time not unanimously).

From then on, almost every Haynsworth headline signaled more ammunition for the opposition. November 1 brought a forecast of a losing battle, as page one displayed a *Times* poll of prospective Senate votes (only 34 for Haynsworth). The story of the debate, when it finally opened, was more in balance.

But for the most part, the negatives continued: "Idahoan [Senator Len B. Jordan] Opposes Haynsworth," "Two Senators Split on Haynsworth," "Harvard Law Professors Oppose Haynsworth in Poll," "Three More Senators Oppose Haynsworth."

So it went up to the day of the final losing decision. Seemingly, one side of the issue was deemed substantially more newsworthy. But allowance must be made for the fact that the opposition, in the nature of things, was creating a substantially larger number of news breaks.

IV: AGNEW AND THE NETWORKS, 1969

With the Haynsworth drama still on stage, November 1969 brought another and sterner test of journalistic balance: Vice President Agnew's indictment of the television networks and the storm that followed. As the Vice President well knew, he was invading sensitive territory: No one, not even a politician, is more thin-skinned in the face of criticism than a journalist. The *Times* editorial was quite predictable:

"In his far-reaching attack on the national television networks, Vice President Agnew has exacerbated the division among the people of this country over the Administration's Vietnam policies and at the same time has undermined the basic principle of freedom of speech on the airwaves. . . ."

But in the news columns, as the argument with the networks was joined, the picture was by no means one-sided. The day after the Agnew text was printed, there was more *Times* news emphasis in its favor than against it. Elements of concurrence were reported from even Walter Cronkite "I have found myself in agreement with Vice President Agnew on some points. First is the tremendous power concentration in a few media hands in New York . . . .") and Howard K. Smith ("I think Mr. Agnew had some good points, but I disagree with him about intent"). Cronkite and Smith, of course, both denied that the networks were irresponsible.

On the second day, the page one emphasis still inclined toward Agnew. Clark Mollenhoff affirmed that the Vice President had reflected the President's views, though both Herbert Klein and Ronald Ziegler said the speech itself was entirely Agnew's. That day's negatives were all in an inside-page story which itself carried many pros.

The following Sunday's "Week in Review" took the editorial-page line. But Jack Gould, the *Times'* eminent television critic, put the argument into calmer perspective by pointing out that, irrespective of the current brouhaha, "rules for covering news" do "differ from radio and TV" and that because of their federally licensed status, broadcasters cannot enjoy the same degree of freedom guaranteed to the print media by the First Amendment. And columnist Reston helped to contribute a respite:

". . . he ought to be included in the catalog of good news. He isn't going to intimidate the press; even Lyndon Johnson couldn't do that, and he was an expert. At least the Vice President says something and gives the commentators something to write about. Maybe the networks should relax and be grateful."

Next day's front page expanded the Agnew theme as it quoted Herbert Klein's call (on CBS' *Face the Nation*) to all media to reexamine both "format" and "approaches to the news."

THE HAYNSWORTH CASE, 1969

[Oct. 21 to Nov. 21]

	Emphasis pro-Haynsworth	Emphasis anti-Haynsworth	Emphasis neutral or mixed
Number of news stories	6	11	7
Approximate words	8, 650	10, 050	6, 600
News stories—page 1	2	2	1
Approximate words	2, 750	2, 850	1, 300
Pictures	2	4	0

The day after, Ziegler made page one with a disavowal that the Administration had any "desire to censor the news." So did FCC Commissioner Nicholas Johnson, who simultaneously castigated Agnew for having "frightened network executives and newsmen in ways that may cause serious harm to independent journalism" and praised him for bringing the tactics of TV news coverage to the public's attention.

The anti-Agnew viewpoint got another airing ("Editor Says Nixon Seeks To Muzzle News Media") in an outburst from the *Louisville Courier-Journal's* Norman Isaacs, President of the American Society of Newspaper Editors. But Isaacs also conceded a "germ of truth" in the charge that Washington and New York dominate the news and that there are "arrogant" publishers who "shrug away protests about errors and misstatements."

Herb Klein stayed in the news as the *Times* gave full treatment to his New York speech to the International Radio and Television Society, expressing hope that when "the passion" died down, the questions would be "looked at coolly."

Clearly, whatever the stated biases of the editorial page during the first wordy week of Agnew *v.* the Networks, they were by no means echoed in the emphasis of the *Times'* news columns. In fact, in purely quantitative terms they seem to have favored the Vice President's point of view by more than three to one.

V: THE MINING OF THE PORTS, 1972

There are few more striking opportunities to compare *Times* editorial opinion and *Times* news coverage than that provided by the President's decision on May 8 to mine the ports and bomb the railroads of North Vietnam.

The editorial page reached high frenzy, assailing "Mr. Nixon's Brinkmanship" as "rash and precipitate action" which "only the gravest threat to the security of the United States could justify," and calling on Congress for immediate counteraction to "save the President from himself and the nation from disaster." But on the Op Ed page, James Reston took the calmer view:

> Maybe, at this solemn hour, it may be more useful to concentrate on his peace terms rather than on his war plans. He has been more specific this time than ever before.
>
> President Nixon . . . tough as he sounded, gave Hanoi, Moscow and Peking a more realistic basis for compromise than ever before, and at least his new peace proposals

should be tested before his risky military maneuvers create a world crisis.

Except for the rarely used eight-column, three-line banner the first day and the gargantuan quantity of copy given the story, the *Times'* news editors faced the crisis with even more equanimity. At no time in the first week, even in the initial excitement, did they fall into the technical error of calling the action a blockade, except in quotation marks. The instant reflexes from the Democratic presidential hopefuls and other liberals were balanced with approval from such senators as Griffin, Goldwater, Buckley and even Democrat Gale McGee ("under the conditions there was no alternative").

The second day's main head struck an upbeat "Nixon Hopes His Vietnam Move Won't Prevent Trip to Moscow," captioning three stories: Kissinger's elaboration of the President's stand, the day's military action in North Vietnam, and the playback from the Hanoi delegation in Paris. The outcries from the Senate Democratic caucus were relayed at length, too—but back on page nineteen. The story reported "cries for the impeachment of the President" from New York Representatives Bella Abzug and William F. Ryan—but in the 25th paragraph of a 26-paragraph item. Farther back still was the roundup of European criticism, but tempered by the British Foreign Office statement that "countermeasures by the United States were, in the circumstances, inevitable."

In his "news analysis" of the day, Max Frankel even voiced guarded optimism:

"Mr. Nixon is switching attention from a war he was losing to a confrontation in which he feels himself more evenly matched. And, thus far at least, he hopes to manage that confrontation by indirect means, with a relatively low level of military risk, so as to gain time for diplomatic maneuver."

"While the United States implants its delayed-action mines in Haiphong harbor and while the Russians try to circumvent or even to disarm the mines, there will be ample time for Soviet-American consultation. . . ."

AGNEW AND THE NETWORKS, 1969

[Nov. 14 to 20]

	Emphasis pro-Agnew	Emphasis anti-Agnew	Emphasis approximately even
Number of news stories	10	5	8
Approximate words	15, 150	4, 450	10, 450
News stories—page 1	5	1	0
Approximate words	7, 300	900	0

But Frankel realistically warned—much as did NATIONAL REVIEW in its next issue (May 26)—that "neither the American carrot nor the Soviet stick seems likely to suffice to persuade Hanoi to entrust its fate to the major powers. Having felt betrayed by the Russians and Chinese, as well as Americans, after the 1954 partition of Vietnam, the survivors of that experience will not lightly agree to a new partition along altered lines."

Next day, Thursday, was the only day that week when the antiwar protests made page one. But with no sensationalism: a low-key story and picture tucked in the lower left corner. The main stories were on Secretary Laird's laconic elaboration ("We will take those actions that are necessary to stop the supplies . . ."), and on the Vietcong's rejection of the peace proposal. The news from all the protests combined occupied less than two columns, most of the space on inside pages.

On Friday, the main page one head flashed the ritual Soviet demand that the "blockade" (carefully in quotes) be lifted, along with Trade Minister Patolichev's display of bonhommie at the White House. Protests were spreading from coast to coast, and the *Times* published a layout of four pictures and two column-long stories. But all this again was downplayed—on page twenty-one.

The weekend found the big multi-column heads—and indeed the issue itself—gone from page one, except for a small story from Paris: "Tho Spurns Nixon Plan, But Would Resume Talks." The rest of the related front-page news was spot material on air raids northeast of Hanoi, on the evacuation of civilians from the capital, and on the continuing deadlock at Anloc Protest news worth printing boiled down to a single short item from Wisconsin: "Madison Mood: Calm and Fear Mixed."

By Tuesday, the issue had disappeared entirely from page one, and back inside the news of Secretary Rogers' counterattack on "Democrats who had criticized the mine-laying as an act of brinkmanship" got twice the space given an account of five antiwar demonstrations.

But on Thursday, the story was back on page one. "Communists Report Mines at Haiphong Swept, Ships Sailing," said the head. The byline was that of Anthony Lewis, doubler-in-brass as both columnist and London bureau chief, who had been filing from Hanoi since Monday. True—the story began: "The North Vietnamese say that . . ." and the dateline was Haiphong. But the second paragraph noted that "independent sources [never identified] give support to that claim." And the Pentagon's flat and unequivocal denial that anything of the kind had happened was confined to a bracketed third-paragraph insert and an inconspicuous shirt-tail at the end of Lewis' column-long dispatch.

The White House reaction was predictable. Kenneth Clawson, Deputy Director of Communications, as mentioned above, accused the *Times* of "being a conduit of enemy propaganda to the American people"—leading Management Editor Abe Rosenthal to retort that the Administration was "challenging the right of the American public to be informed about what the North Vietnamese are saying." Clawson's contention that the story should have been withheld for "a day or so" while "they did some more investigating on their own" obviously flew in the face of every news medium's compulsion to get hot news to the public as fast as possible. But the *Time's* position was questionable. The Pentagon's version might well have been given comparable prominence, for example, in a companion story adjacent to the Haiphong dispatch. Or two stories might have been combined under a head saying something like "Hanoi Says Mines Swept, Ships Sailing; Pentagon Denies It."

In this one case, to a degree at least, the *Times* had been a "conduit of enemy propaganda," but it is hardly credible that its lack of evenhandedness was deliberate. The likelihood is rather that it occurred under the exigencies of deadline pressure, and that the news desk was influenced by the prestigious Lewis byline coming from hitherto almost unreachable Hanoi. No confirmation of the Lewis story followed, nor did identification of his "independent sources." Clearly, Haiphong harbor had not been swept nor had ships been sailing, as a later page one story from Hanoi was to concede.

MINING OF THE PORTS, 1972

[May 9 to 22]

	Emphasis—			
	Pro-policy	Anti-policy in United States	Anti-policy abroad	Neutral or mixed
Number of news stories	34	32	30	23
Approximate words	40, 600	23, 500	24, 550	22, 450
News stories—page 1	11	4	9	9
Approximate words	13, 800	2, 950	9, 150	9, 500

With this one major exception, once again the news editors of the *Times* had performed with singular balance and almost total freedom from the towering bias registered by the editorial page in its jeremiad on "Mr. Nixon's Brinkmanship."

On the evidence of our five case histories, the *Times'* news performance in terms of balance between Right and Left may not be flawless, but it must be rated very high. Neither Abe Rosenthal nor any other responsible *Times* news executive would think of claiming infallibility. They clearly strive for fairness, and do not deny that they sometimes err.

In the case of Agnew and the networks, where every journalist's natural reflex tended toward strong anti-Agnew bias, the news coverage of the issue was as evenhanded as the Vice President himself could have asked.

In the ABM case the news did appear to be weighted in favor of the opposition, as it did to a slightly lesser degree in the reporting of the Haynsworth fight in the Senate. Much of the apparent weighting, however, should be attributed to the fact that attackers always can—and almost always do—generate more news than defenders, whatever the issue. Almost every switch of a senator away from Haynsworth produced another story, and there were many more of these than shifts to him.

In the Buckley campaign for the Senate, the Conservative side can hardly fault the *Times'* in the news, despite the editorial page's opposition.

Finally, in the most recent and perhaps most controversial story of the five, the decision on the mining of the ports, the *Times'* news administration was so evenhanded that it must have been deeply dismaying to the liberal opposition.

It is important indeed that conservatives recognize the true role of the *Times* in conveying their viewpoint with relative freedom from bias, not only to its two million-plus readers, but to the news media of the world. For the *Times* represents a standard of news coverage with which the press of the U.S. and the world constantly compares itself, and to which the electronic media also turn, admittedly or not, for much of their news content and many of their judgments on news emphasis. Editors from coast to coast check the *Times* front page every day as a reference-point. If not as a guide, for their own news judgments. The *New York Times Index* stands alone in the world's libraries as a guide to history itself. And rare is the member of Congress, the ambassador or the head of government anywhere who is not a *Times* reader.

That the *Times* discharges its stewardship with the degree of fairness which this study suggests is a challenge to all media that aspire to responsible journalism. Conservatives—and all other Americans—could be far more confident if other major media measured up to the same standard. Yet, to date, the news magazines are regrettably far short of it, and the networks, their legal obligations notwithstanding, do not even approach it. Were the news standard of the *Times* more broadly emulated, the nation would be far better informed and more honorably served.

JETS FOR RED CHINA—BUT NO ENGINES FOR FRANCE

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. RARICK. Mr. Speaker, the new alinement of world powers creates unusual results.

On one day 10 707 jet airliners are sold to Red China. On another day General Electric is denied an export license to sell engines to France for a new B-1 bomber.

It appears that our decisionmakers are turning their backs on our oldtime European allies and, instead, are courting new Communist friends.

I include several newsclippings:

[From the Star and News, Sept. 18, 1972]

UNITED STATES SET TO BLOCK GE, FRENCH DEAL ON ENGINE FOR B-1

(By Carole Foryst)

General Electric Corp., which has been trying to put through a joint venture with the French for more than a year, is about to be told by the government there can be no deal.

GE will be given word any day its request to export to France the technology used in the engine for the B1 bomber has been denied by President Nixon after nearly four months of consideration by various levels and departments of government, reliable sources say.

The decision to deny the export license threatens to topple the deal between GE and France's government-owned aircraft engine manufacturer Societe Nationale d'Etude et de construction de Moteurs d'Aviation.

WIDE USE EXPECTED

The French were willing to put up about $220 million and get another $100 million or so from other European companies to develop a new aircraft engine of a type the aviation industry says will be the dominant engine for the next 15 years.

GE's end of the agreement was to supply some money and the compressor from the B1 engine—this country's highest piece of compression technology developed for the yet-to-be-built B1 bomber.

The decision to tell GE "no" was a long time in coming out of the White House. Normally, an export license request of this type is handled by the Office of Munitions Control in the State Department. In July 1971, the office turned GE down and GE began a campaign around various government departments to get the decision reversed on a higher level. With the exception of the Transportation Department, every department and agency involved came out against granting the export license.

ECONOMIC FACTOR

Among the reasons for this near unanimity, it was recognized that by giving France this technology we would be handing her possibly half a market estimated in the billions. Without it, at best, she would come into the market late. (Pratt & Whitney and Allison division of General Motors are proposing to develop such an engine for the Air Force.)

Furthermore, in a year when the United States continues to face serious trade problems, the prospect of exporting the engine for the upcoming air buses and short take-off and landing planes is a prime consideration. This is to say nothing of jobs and the precedent a green light would set for other high technology companies to export their knowhow for scarce research and development funds.

Finally, sophisticated defense technology would leave the country before it went on the B1 bomber for which it was developed for $389 million.

While the departments were coming up with vetoes on economic and security grounds, President Georges Pompidou sent a letter to President Nixon suggesting the French had tentatively approved the project. He urged, in effect, "Let's get on with it."

Other French government officials in the United States offered trade-offs, cajoled U.S. officials with a "Let's cooperate and be friends" approach and finally threatened to leave GE in the lurch and join up with another company or consortium.

Evidently, to President Nixon, the economic considerations far outweighed any political benefits.

OTHERS WOULD FOLLOW BOEING CHINA DEAL

(By Stephen M. Aug)

Months of patient effort and weeks of hard negotiating have won the Boeing Co. not only an unusual cash purchase for $125 million worth of its planes, but a stretch-out of its 707 production, continued employment for hundreds of workers and more than a foot in the door to greater trade with the Peoples Republic of China.

The deal, completed Saturday, is the largest transaction to date since trade barriers have been eased between the United States and mainland China.

An examination of records at the Commerce Department, however, indicates that a number of other companies—some of them unidentified—are looking toward further deals with the Chinese.

Among them:

Pratt & Whitney Division of United Aircraft Corp. received last Thursday a Commerce Department license to export $12,112,000 worth of aircraft engines and parts for installation on U.S. planes. These would be replacements for the engines to be placed on the 10 Boeing 707s the Chinese have ordered. A Pratt & Whitney spokesman said a company delegation leaves for China today to negotiate the deal.

An export license was issued Aug. 2 to an unidentified company to demonstrate and resell $6,713 worth of outboard motors.

On July 25 the department issued a temporary license for a demonstration of $6,000 worth of data processing equipment. This, however, is not to be sold, but is to be returned to the United States. The department did not identify who received the license.

The department's quarterly report for the three months ended June 30 says export licenses for sales of more than $150 million were approved for the Peoples Republic of China. Commercial aircraft for civil airline operations accounted for all but a few thousand dollars.

Virtually all of this was accounted for by the Boeing license which was granted June 30. In mid-July, the government granted McDonnell-Douglas Corp. a $21 million temporary license authorizing a demonstration flight of an airplane to China.

But Douglas officials never went to China, nor did their plane. They weren't invited, and business with the Chinese at this point is by invitation only.

LOCKHEED LESSON

Sometimes, of course, even invitations haven't resulted in sales, as Lockheed Aircraft Corp. learned.

A five-member team headed by Lockheed international vice president Robert I. Mitchell visited China from May 28 to June 14 in an effort to sell airplanes—the jumbo L1011 Tristar, L100 Hercules and the Jetstar, an executive jet plane. Although there has been a continuing exchange of correspondence since the visit, no sales have resulted.

Commerce Department records indicate a number of sales to the Chinese of photographic film—some direct, and some of it U.S. products re-shipped from Hong Kong.

The only significant export to China since the trade barriers began coming down last year—and prior to Boeing—was the sale of about $6.6 million worth of communications satellite equipment by RCA Corp. The company's first sale was made in connection with President Nixon's February visit to China.

STEADY IMPORT FLOW

There continues, however, to be a steady flow of imports from China. During the first seven months of this year, $16.8 million worth of Chinese goods have been imported.

George Driscoll of the China desk at the Commerce Department, said the first direct transactions between U.S. and Chinese firms after the RCA deal were made in connection with the Chinese Export Commodities Fair at Kwangchow from April 15 to May 15. After $6 million worth of business was transacted—although none of it was export business from American firms.

Among the importers is Seabrook Foods Inc. of Great Neck, N.Y. Murray P. Berger, president, was among those who attended the fair. His company has ordered about $200,000 worth of frozen vegetables—including some 9-inch green beans—and frozen shrimp. Compared with the $75 million in sales Seabrook Corp., Leviant International, Boeing, RCA, May Lee Import-Export Corp., Bloomingdale's Sobin Chemicals, Envirotech Corp., and Alexander's Department Store. Trade associations also appeared from Minneapolis, Chicago, San Francisco and Hawaii. The China Trade Association of Washington also was represented.

The Chinese, these businessmen must have found out, are tough negotiators. Boeing's chief negotiator on the 707 transaction, Byron H. Miller, international sales director, said his sales team had "a quite arduous time . . . it was by far the most rigorous negotiations I've ever been involved in."

"VERY ARDUOUS"

At a news conference yesterday, Miller said they were "very, very protracted and detailed negotiations." The result, he said, was a 125-page contract, and "we went through that thing 10 times . . . it was very arduous."

Although most sessions began at 9 a.m. and ended at 5 or 6 p.m. with a two or three-hour mid-day recess, loggerheads that developed resulted in no meetings at all for two or three days at a time.

Miller traced the progress of the deal starting perhaps two years ago when Boeing received several "always somewhat mysterious" inquiries about its aircraft. The source was eventually traced to mainland China, but several indirect attempts by Boeing to obtain authorization to send a delegation to China were unsuccessful.

SIGNING SEPTEMBER 9

Then, last March 7, the company applied directly to the China National Machinery Import & Export Corp., which negotiates such deals. A cable to Boeing three weeks later invited a delegation to the April–May trade fair. Negotiations began April 15 and trade documents were signed Sept. 9. Nine different Boeing officials took part at one time or another.

Miller said the Chinese want details of the contract kept confidential. But he said the deal is for cash—almost unheard of in airplane sales—with a 30 percent down payment and full payment in U.S. dollars through the Bank of China and an unidentified bank in an unidentified country when the planes are delivered.

The contract includes training for Chinese pilots on the ground and in simulators at Boeing headquarters in Seattle, plus flight training in China. The planes will have Pratt & Whitney engines, and these account for about 15 percent of the $125 million price for the 10 aircraft.

The planes will be used on both domestic and international routes, Miller said, speculating that they would likely reach such Western nations as Japan, Canada and France.

INDIANA MARKS "CECIL M. HARDEN DAY"

HON. WILLIAM G. BRAY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. BRAY. Mr. Speaker, by proclamation of Hon. Edgar Whitcomb, Governor of the State of Indiana, August 23, 1972, was proclaimed "Cecil M. Harden Day" in honor and tribute to a beloved, respected, and honored public servant.

I know many Members in the House will remember her with affection and feel a deep sense of regret that she is no longer among us.

I knew Cecil Harden years before either of us came to the Congress. I have always valued her as a longtime friend, and have benefited greatly over the years from her wise advice and counsel.

It is with great pleasure I insert the Governor's proclamation in the CONGRESSIONAL RECORD at this time:

STATE OF INDIANA—PROCLAMATION

To all to whom these presents may come, greeting:

Whereas, Mrs. Cecil Murray Harden is in fact one of the greatest Republican women that our country has witnessed; and

Whereas, through her tireless devotion and loyalty, Mrs. Harden has risen through the political ranks from precinct committeewoman to the distinct honor of being Indiana's national committeewoman; and

Whereas, Mrs. Harden seconded the nomination for President Richard M. Nixon when he ran successfully as Vice-President in 1952; and

Whereas, the description of dedication, integrity, sincerity and love vividly portray the fine character of Indiana's most famous national committeewoman:

Now, therefore, I, Edgar D. Whitcomb, Governor of the State of Indiana, do hereby proclaim August 23, 1972, as

CECIL M. HARDEN DAY

and urge fellow Hoosiers to join with me in paying a special tribute to a very special person who has served her country and the great State of Indiana with highest sense of duty.

In testimony whereof, I have hereunto set my hand and caused to be affixed the great seal of the State of Indiana, at the Capitol, in the city of Indianapolis, this 23rd day of August, 1972.

EDGAR D. WHITCOMB,
Governor of Indiana.

THE NATIONAL LAND POLICY, PLANNING AND MANAGEMENT ACT OF 1972

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mrs. ABZUG. Mr. Speaker, I rise today to speak about H.R. 7211 the National Land Policy, Planning and Management Act of 1972. If passed, this act could have devastating effects on attempts to achieve an ecologically sound environment. It is vital, therefore, to realize the full implications of H.R. 7211. Although the bill seems designed to preserve ecological balance, it has several serious defects. Well-known environmental groups such as the Sierra Club, National Audubon Society, Wilderness Society, and Friends of the Earth, have spoken against this bill because its faults far outweigh its redeeming qualities.

The Land Policy, Planning, and Management Act is a poor compromise between two badly needed proposals, a National Land Use Policy Act and a Natural Resources Land Management Act. Through combination and compromise, the bill, as currently written, is unacceptable.

I commend the National Wildlife Federation's conservation report of June 30, 1972, to your attention:

CONSERVATION REPORT OF THE NATIONAL WILDLIFE FEDERATION

Loss of Protection: H.R. 7211 is seriously deficient in that it leaves public lands unprotected from mining and logging. By repealing the authority to create national monuments contained in the Antiquities Act of 1906 and other withdrawal authority, executive agency heads could not preserve scenic, historic, and archaelogical areas (Sec. 502(e)).

Mining: H.R. 7211 is seriously deficient in that it leaves the antiquated Mining Act of 1872 intact. In short, mining companies or individuals can locate mining claims and carry them to patent, getting title, while executive agencies could protect lands with high public values only by going to the Congress!

Interior Committee Veto of Classification: The bill provides that certain land classification involving more than 25,000 acres may be subject to "veto" by either the Senate or House Committee on Interior and Insular Affairs. Thus, a Committee could defeat a proposal developed with full public participation and intergovernmental coordination.

Advisory Groups: Title III sets up a bewildering system of advisory boards and councils which will constitute special-interest pressure groups. Views of the public can be obtained better through public hearings!

Resource Giveaways: Sec. 401(a)(8) says that the U.S. shall receive fair market value for the use of public lands (including forests, parks and refuges as well as public domain) and their resources "except that monetary payment need not represent fair market value where Congress has identified public benefits . . . that offset the need to return fair market value" . . . This opens the door to widespread giveaways of grazing privileges, lumber, mineral resources, etc. Further, if a use is terminated or interrupted (Sec. 401(a)(9)), the user would be compensated, thereby expanding what now is a privilege into a vested right in public lands!

Land Disposals: Public lands (defined as almost all lands owned by the U.S. Government, including units of the National Park, National Forest, and National Wildlife Refuge Systems as well as Public Domain) could be disposed of if, as a result of land use planning procedures, it is determined that disposal "will achieve a greater benefit for the general public than the retention thereof" (Sec. 401(a)(1)). Lands not previously designated for a specific use and land classifications then would be reviewed for the type of use that would provide the maximum public benefit (Sec. 401(a)(2)). Thus, an agency head could designate lands for disposal under a land use plan if he determines it "is best suited for the use or the production of resources under non-Federal ownership" (Sec. 403(d)(1)(C)). This process could result in widespread disposals of lands, perhaps open parks to mining or other activities if an administrator decided the general public benefit would result. Local advisory councils could exert great pressures for land use plans which include disposal (Sec. 307(f))!

In short, passage of this bill could lead to disposal of valuable public domain; expose more public lands to mining, logging and grazing; stimulate giveaway of lumber, mineral, and other resources; and create many superfluous and costly committees. I urge you to defeat this legislation when it comes to a vote.

In addition to the National Land Policy, Planning and Management Act there is other proposed legislation which pose serious threats to environmental preservation.

The National Forest Wild Areas Act of 1972 proposes to create a system whereby eastern areas of the United States could be preserved under the designation of "wild areas." Theoretically this sounds ideal. In actuality, the concept of "wild areas" would allow the U.S. Forest Service to skirt the Wilderness Act of 1964 as it applies to the "wilderness" classification east of the Rocky Mountains. The two designating systems, "wilderness" and "wild areas," would compete and be confused with one another. Inevitably, no lands in the East would ever be designated as "wilderness."

The Forest Service currently maintains that there are no areas in the eastern national forests that quality as wilderness. In light of the fact that the eastern and southern regions of the Forest Service include 50 national forests covering an area of 22.9 million acres, it seems incredulous to me that no wilderness exists.

It seems particularly unlikely when one considers the fact that over one-third of the 193,000 acres in Shenandoah, a national park, have been proposed for wilderness under park wilderness classification. Yet supposedly the 1.7 million acres of George Washington and Jefferson National Forests, only a short distance away, have no areas which would qualify as wilderness. The Forest Service claims that no eastern area can qualify as wilderness and concomitantly it has never proposed any area to Congress for such consideration.

It is recognized that a tremendous need does exist for alternative land classification to create areas for research and recreation. Such areas certainly should be established in national forests. But with the Forest Service already unwilling to use the wilderness classification mechanism, available to it, now is not the time to discuss creation of an alternative categorization system. This alternative to wilderness proposal would certainly threaten the authority of the Wilderness Act of 1964, a major step in preserving our environment.

CINCINNATI ATHLETES' CONTRIBUTION TO U.S. OLYMPICS SUCCESS

HON. DONALD D. CLANCY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. CLANCY. Mr. Speaker, there were streaks of sunshine, gold, pride, and happiness coming out of the recently completed 20th Olympiad which was clouded by terrible tragedy, international politics, and suspicious judgments. I am extremely proud to report that five Cincinnati athletes participating in the Olympics contributed to the light instead of the gloom.

America won 33 gold medals in all. Certainly, no athlete did more for his country's prestige than Mark Spitz, the Californian who won seven. His performance alone shattered all records and was a grand consolation for the sorry happenings in other sectors of the Munich arena.

Perhaps no future athlete will surpass Mark Spitz' marks but we in Cincinnati are no less proud of the Cincinnati athletes who participated and those who won two gold medals, more than 6 percent of America's total. Jenny Kemp of Regina High School and daughter of Mr. and Mrs. Clifford Kemp, was a member of the golden, 400-meter, free-style relay swim team and she has already returned to the training lanes to better her collection of medals in 1976 at Montreal.

Deena Deardurff is only 15 and has an equally good opportunity to return to the next Olympics. She is a student at Wyoming High School and the daughter of Mr. and Mrs. Andrew Deardurff. She won a gold medal swimming the butterfly leg for the 400-meter medley relay team.

Roland Muhlen of Cheviot, Ohio, did himself and his countrymen proud by coming in sixth in the two-man canoe event. This contest is typically won by the European and Communist-bloc countries where contestants are trained and coached full time the year around. Cheviot friends and neighbors contributed money to a fund so Roland's wife, Kip, could accompany him.

Marine Sgt. Ray Russell is 32 and probably participated for the last time as a light heavyweight boxer in the Olympics but he was in contention down to the finals and was praised as a veteran athlete, setting a good example for youthful participants who can come back to compete another day. The sergeant's mother, Mrs. Beoda Savage, lives at Winton Terrace in Cincinnati.

Maureen Bechdolt of Loveland has become a reputable archer at 20 years of age and has remained in Europe to take part in the international field archery trials at Venice, Italy. She finished 28th in women's archery, and, with her husband Robert's encouragement, can be expected to return for another shot at Olympic targets.

In all, these fine Cincinnati area athletes gave a grand accounting of themselves. Greater Cincinnati, the State of Ohio, and America are proud of them for their accomplishments, poise, and behavior in an atmosphere of supreme tension.

MEDICAL UNIT IN LAKES AREA PROVIDES POST-AGNES AID

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. DULSKI. Mr. Speaker, the story still is being told of the devastation, the suffering, and the heroism associated with tropical storm Agnes last June.

History likely will record Agnes as our Nation's greatest catastrophe.

Fortunately, my own district escaped major damage and inconvenience. But our people, our technicians, our businesses, and our organizations mustered manpower, supplies, and services for the widespread stricken area.

One example which I feel merits recognition is the work of the Lakes Area Regional Medical Program, Inc., headquartered in Buffalo, N.Y.

This organization has a telephone communications system extending throughout the western part of New York State and in two counties of Pennsylvania on which it conducts administrative business and provides education in health care. In particular, it provides professional assistance.

This communication network is a closed system, independent of the normal domestic telephone systems serving this large area.

LECTURE NETWORK UTILIZED

When the normal domestic service began deteriorating on Wednesday, June 21, as a result of the heavy rains and flooding that accompanied tropical storm Agnes, the Lakes Area Regional Medical Program Telephone Lecture Network was pressed into special service.

During the first 24 hours of the disaster, when all of the lines were out, the lecture network remained in service between hospitals in Wellsville, Hornell, Bath, and Corning, mainly through the persistent efforts of the Long Lines Division of the American Telephone & Telegraph Co. with headquarters in Buffalo. Finally, even this service was interrupted to the Wellsville and Corning hospitals as the waters continued to rise.

Following the flooding in the Bath area, only three lines were available to serve the entire community. Use was restricted to emergency calls. This situation lasted until Thursday, June 29, when the Federal Telephone System (FTS) was restored to operation.

This communication limitation seriously hampered recovery operations at the Veterans' Administration hospital in Bath. Once again, the Lakes Area Regional Medical Program Telephone Lecture Network was pressed into service and was virtually the only line of communication to the outside world for the Bath VA Hospital.

VETERANS' ADMINISTRATION HOSPITAL IS AIDED

Messages from the Bath VA Hospital were relayed over the network through the special conferencing arrangement at the Lakes Area Regional Medical Program headquarters for connection to other VA locations as far away as Washington, D.C.

The VA hospital in Canandaigua, N.Y., was assigned the task of handling certain administrative functions for the Bath hospital, and frequently was conferenced on matters including damage reports, ordering of drugs and supplies, transfer of patients, notification of next of kin, and so forth.

The lecture network has proven it is a valuable tool in expanding medical service throughout western New York. Regular conferences are conducted and consultations are held on unusual medical problems. But the role of the network during the crisis resulting from Agnes was a new function.

Since communications have been restored to most of the area, the network has resumed its normal operation. Recently it was utilized and is credited with having saved one life. The drug information service, provided through the network, obtained the rare and necessary medication for a moribund patient in this area.

EXAMPLE OF COOPERATION

Mr. Speaker, this is but one example of the cooperation which developed among peoples throughout a wide geographic area as a result of tropical storm Agnes.

It permits me an opportunity, at the same time, to cite and commend the continuing work of the lakes area regional medical program, a federally funded and community controlled activity which is providing urgently needed medical help and guidance.

The program has as its motto: Communications, cooperation, and scientific service. It would seem that all elements of this motto were integral in the program's role in the aftermath of the visit of Agnes.

Studies show that the Federal contribution to this program represents only 30 percent. The bulk of the contribution comes through the very essential time and effort provided at the local level.

CONCERN FOR BASIC HEALTH CARE

Coronary and respiratory care are two of the principal concerns. There is planning for basic health care throughout seven counties of western New York State and two adjacent counties in Pennsylvania.

The aim is to encourage better utilization of available physicians, nurses, and other medical personnel and to cooperate in locating and tending to patients in real need of assistance.

This summer, the organization obtained a mobile health-care unit which is specially designed to aid in educating volunteers in sparsely populated Allegany County. This function ties in with better utilization of professionals by encouraging volunteers to learn health care basics. The unit is operated by Alfred University's School of Nursing in cooperation with the Allegany County Public Health Nursing Service.

LEE HAMILTON'S WASHINGTON REPORT TO INDIANA'S NINTH CONGRESSIONAL DISTRICT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. HAMILTON. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include my recent Washington Report to Indiana's Ninth Congressional District concerning the issues facing America's public schools:

CONGRESSMAN LEE HAMILTON'S WASHINGTON REPORT

(EDITOR'S NOTE: This is the first of a series of Washington Reports of the issues facing our public schools)

One of the most difficult problems facing government of all levels—federal, state and local—is to ensure equal access to education for all our children. Concern about equal educational opportunity has arisen for two principal reasons: (1) the existence of gross inequities in the system of funding public schools, and (2) the need to upgrade the quality of education, especially for the minority groups and the disadvantaged.

Public dissatisfaction is growing as education costs increase, as disparties grow in school funding methods and as courts are ordering mandatory changes in the funding system.

Inequities in School Funding. The costs of education vary greatly in different parts of the country and within individual states, because of cost-of-living differentials, the size and composition of the student body, transportation needs, and many other factors. While more money does not necessarily mean better education, the disparities in financial resources are so great there can be no doubt that students in poorer districts are at an educational disadvantage.

These disparities show up in a variety of statistical indicators: (1) the school district's financial ability (usually measured in terms of property valuation per pupil), (2) school revenue per pupil, and (3) school expenditures per pupil. In a single state, the range between the wealthiest and poorest school district is as high as 85-to-1 in financial ability, 3.9-to-1 in revenue per pupil, and 24-to-1 in expenditures per pupil. The ratios between the wealthiest and poorest districts in Indiana are 17-to-1 in financial ability, 3.8-to-1 in revenue per pupil, and 2.2-to-1 in expenditures per pupil.

The principal cause of these differences is our reliance on the local property tax as the major source of school revenue. In 1971–72, 52 percent of all school revenues across the country came from local sources, and 80 per cent of all local school revenues came from the property tax.

Since property wealth bears no relationship to school population or educational need from school district to school district, there are great inequities in the amount of revenue that districts can raise, and in tax burdens in district residents. A $20,000 home in a wealthy school district would not be taxed nearly so severely as the same home in a poor school district in order to support the school system in each area.

Increased Educational Costs. Total educational expenditures have grown faster than the gross national product (GNP) in recent years. The average annual rate of growth of school expenditures since 1962 has been 10.5 percent, while the average rise in the GNP has been 7.3 percent. Expenditures will continue to increase, mainly because of increased salaries, and despite an expected decline in enrollment after 1975. A Presidential study commission recently estimated the country's education costs at $86 billion for 1980–81, nearly double the amount spent in 1970–71.

The influx of low-income residents in the inner city and the demand for quality education has brought higher educational costs and tax rates. As costs increase, taxpayers revolt. To add to the discontent, the property tax is regressive and falls heavily on the poor and elderly. The impact is felt particularly in the rural areas and in the inner cities, which have been caught between increasing educational costs and declining tax bases.

Court Decisions. A California Supreme Court ruling last August set the precedent for several state and district federal courts by ruling that school financing based on the wealth of individual school districts violates the individual citizen's right to equal protection of the laws under the 14th Amendment of the U.S. Constitution. While these cases have not gone beyond the federal level, the U.S. Supreme Court has agreed to review a Texas school financing case, and its decision could establish a rule affecting all states.

The courts, however, have not prescribed remedies, or even invalidated any kind of tax, including the property tax. The courts have indicated that state legislatures should reform financial systems to insure that revenues are not a function of local wealth.

PERSONAL ANNOUNCEMENT

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. MIKVA. Mr. Speaker, I regret that I was unable to be present when the House voted on several matters last week. Had I been present, I would have voted as follows:

"No" on rollcall No. 357, motion to recommit H.R. 15550, a bill to transfer waterfront property to the city of Alexandria.

"No" on rollcall No. 359, motion to recommit H.R. 16118, amending the Immigration and Naturalization Act.

"No" on rollcall No. 360, adoption of the rule waiving points of order on the conference report accompanying H.R. 15495, military procurement authorization bill.

"No" on rollcall No. 361, adoption of the conference report accompanying H.R. 15495, military procurement authorization bill.

"Yes" on rollcall No. 362, adoption of conference report accompanying H.R. 14896, child nutrition bill.

"No" on rollcall No. 363, adoption of a rule waiving points of order on H.R. 16593, Department of Defense appropriations bill for fiscal year 1973.

"Yes" on rollcall No. 365, adoption of an amendment to the defense appropriations bill restoring funds for the civilianization of KP.

"Yes" on rollcall No. 366, adoption of an amendment to the defense appropriations bill cutting off all funds for the war in Southeast Asia in 4 months, conditioned on release of POW's and accounting for MIA's.

"Yes" on rollcall No. 367, adoption of an amendment to the defense appropriations bill cutting overall appropriations by 5 percent.

In connection with the conference report on the military procurement authorization bill, I join with those of my colleagues who have denounced the cynical effort of promilitary forces to use the legitimate defense needs of the State of Israel as a hostage to coerce antiwar Congressmen into voting for the bloated Pentagon budget authorized by the bill. The bill which came out of conference was a distinct improvement over the bill I voted against on June 17 when H.R. 15495 was passed by the House. The conferees deleted funding for an anti-ballistic-missile site in the Washington area and eliminated a $20 million authorization for the Air Force ABRES program for improved reentry vehicle. Furthermore, the conferees added a provision extending the President's authorization to give military assistance to Israel from September 30, 1972, to December 31, 1973. This provision does not belong in this bill, and it would unquestionably be passed in separate legislation if Congress were to refuse to approve this oversized authorization bill.

My vote against this bill can in no way be considered a retreat from support from the legitimate defense needs of Israel. Rather, it is a protest against continued funding for the war in Southeast Asia and against military waste in programs funded by the bill such as the B–1 bomber, the Trident submarine, and the submarine-launched cruise missile system.

ETHICS IN GOVERNMENT

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. STOKES. Mr. Speaker, the Washington Post of September 18, 1972, carried three editorial articles that should be considered together. All three dealt, in different ways, with the ethics of the present administration.

The American people have been apprised of the facts about ITT, milk price supports, Watergate, and campaign fund disclosures. It is true that the waters are muddied by charges and countercharges, but a pattern has emerged nonetheless. The pattern is built around the fact that money means something to this administration. The people who govern the most powerful country in the world are impressed by the flash of a few dollar bills.

It is a tragic phenomenon, and one which is bound to have severe repercussions. After all, while ITT can pay out about $200,000 to prevent the dissolution of its empire, there are more than 25 million Americans who cannot pay the rent and who are unable to feed their families.

That means that those 25 million American people do not have anything to offer the President in return for services and good government. In fact, there are very few Americans who can afford the big payoff.

That is what William Raspberry was saying in his column, "Nixon Ignores Blacks." Poverty does not impress Mr. Nixon; in fact, one is forced to concede that he does not seem to know it exists. Mr. Raspberry looks around and sees growing hopelessness among minority, poor, and disadvantaged Americans. Government for the rich—whose only ethic is the phony "work ethic," whose model citizen is Horatio Alger—cuts 99 percent of the American people out of the system. It is no wonder that Mr. Raspberry sees hope dimming. But President Nixon and his immoral and insensitive Cabinet are too isolated to notice—or to care.

That was the feeling I got when reading Garry Wills' excellent article, "Nixon Deserves Watergate Affair." He paints a convincing picture of a bunch of shady gangsters who never quite make it. As Wills sees it:

> There is something cheap and mean in Mr. Nixon that attracts to him ideological hoodlums and sharpies. Even now that he is po-

diumed behind the presidential seal, he looks no more than a very competent chiseler, the kind who hangs out with not-so-competent sharpies and con men.

It is a convincing portrait of mediocrity in Government.

Columnist Nicholas von Hoffman went a step beyond Wills. He moves from talking about the immoral people with whom the administration has actually been linked, to envisioning a Cabinet made up not of gangsters who cannot hack it, but of ones who can. Like all good satire, von Hoffman's Poster has the ring of probability.

I bring these three articles to my colleagues' attention for a reason. The American people have seen scandal in Government since before Aaron Burr became involved in an illegal land deal in the western territories. We have always survived scandals in Government by ousting the offenders. But if the American people go to the polls in November and consciously opt for unethical Government—for 4 more years of Government for the rich—then I despair for our future. I really do.

The three articles follow:

[From the Washington Post, Sept. 18, 1972]

NIXON IGNORES BLACKS

(By William Raspberry)

It is a happy time for black folk, the young man was explaining, and he had the logic to prove it.

"Nazism was the forerunner of Zionism," he said. "Without Hitler, the Jews would never have gotten themselves together into a cohesive unit. Well, in just that same way, Nixonism could be the forerunner of pan-Africanism.

"He isn't the ideal catalyst for the purpose, of course. We hoped for Wallace. We prayed for Agnew. The best we could do was Nixon."

It's an interesting notion. It may also be of some interest to note that the young man whose notion it is won't be around to deal with the Great Catalyst. He's living in East Africa, having given up on America.

But, brother, is he into revolution! He can keep you spellbound for hours with his biting irony, his hilarious impersonations and his supertight logic on just how the revolution will go down. You smile, nod your head and maybe even clap your hands after a particularly telling point. Boy, is that Nixon in for a surprise. If only he knew how he's bringing us together.

Then you go home and you realize that there's not going to be any revolution, if by that you mean the overthrow of the American government. There won't even be anything worthy of being called rebellion, a revolution that fails. What you'll get is some outraged, frustrated, dehumanized people lashing out and getting knocked off.

You'll understand what makes them do it, even though you'll know it won't do any good.

All the beautiful brother's beautiful logic on the revolution is just about as meaningful as the old exhortations to unleash Chiang Kai-shek.

A real Nazi-like move on the part of Richard Nixon could force black Americans to coalesce, although by then, as was the case in Nazi Europe, it would be too late to matter.

But Nixon won't move that way. He isn't about the business of eliminating black people. He's about the business of *ignoring* them, leaving them to their natural enemies.

No genocide, just the end of another hopeful era in the history of the American black. It happened in the post-Reconstruction days and in the period after both world wars. It seems to happen every time there's reason to believe that things are getting permanently better.

In spite of the statistics that show black people to be better educated, better housed and better paid than ever before, I believe that it's happening again. And I believe that it's happening as a direct result of Richard Nixon's appeal to the baser instincts of people who see black progress as inimical to their own interests.

I don't pretend to foresee a quick return to the days of night riders and lynchings. Those days may be gone for good. But, then, lynching never did threaten the decimation of black folk; it merely symbolized the hopelessness and helplessness of their plight.

The hopeful periods—including the most recent one that reached its zenith on the Monument Grounds in August, 1963—were marked not so much by concrete attainment but by the feeling even among the jobless poor, that things were getting better and the government cared.

That feeling is growing dim, and another four years of Richard Nixon may eradicate it completely.

That's very hard to say without leaving the impression of pro-Democrat partisanship. But I honestly believe it's gone beyond considerations of party.

But I'm not waiting for revolution. For every black who is seriously talking revolution, there is another who is urging his people to vote Republican for the salvation of Sammy Davis Jr. and the two-party system.

And there is a third who may be more dangerous than either of the others. He's the one whose litany is: "Don't bother, man. It don't make no difference."

[From the Washington Post, Sept. 18, 1972]

NIXON DESERVES WATERGATE AFFAIR

(By Garry Wills)

Untangling the Watergate raid will require time and patience. Unless Larry O'Brien is being very tough on his evidence, he has taken some chancy steps to help out his own desperate candidate.

But let's say the misdoings go no higher than those caught in the raid itself, or some other adventures murkily motivated. Grant, that is, there will be no legal guilt provable in Mr. Nixon's immediate vicinity. Then, even granting all this, the Watergate will still be an appropriate symbol of this administration.

This is granting a lot. If the Nixon people were all clean, why did they resist an independent and bipartisan investigation? Justice Department spokesmen have claimed this is the most thorough probe since the Kennedy assassination. Well, that figures. But are they investigating only what they can find out, or also trying to decide what others might find out, given the chance? The Warren Commission was both extra-political (in part), and bipartisan. Not only its findings but its processes were opened to the public. The findings of this Justice Department, whatever they turn out to be, will be forever tainted.

That is the first reason why this administration so richly deserves the Watergate affair. It is an administration that came in on a special promise to shake up Justice and get tough on the evaders of the law. It put this shaking up in the hands of men like Will Wilson and John Mitchell. It raised up a Kleindienst, the apologist for unconstitutional proceedings during May Day, and then rewarded Kleindiensts' lawyer with the vacated post dishonored by J. Edgar Hoover.

In the name of law, this Justice Department twisted the grand jury process, grumbled that the courts kept calling their illegal wiretaps illegal, revivified the spying sectors of the department, and humored the last cruel whims of the FBI's fading despot.

While themselves crying out about the right of privacy against investigators like Jack Anderson and Dan Ellsberg, the administration used bishops to help spy on priests and intimidate nuns.

Why, then, should even free-lance adventures doubt that shabby tricks would be acceptable to our present rulers? Even if the authorities did not think up the tricks themselves, their whole style and record would encourage shady dealers to expect a welcome in any campaign run by John Mitchell.

Bobby Kennedy at least had the grace to entertain misgivings about the department's bugging and wiretapping. Who can picture John Mitchell as anything but gleeful over it? Imagine the difficulty you would have trying to introduce Mr. Mitchell into the presence of anything so unaccustomed as a Misgiving. If Agnew, serene amid imagined persecutions, ever had a Misgiving, it would cripple him the rest of his smug life.

There is something cheap and mean in Mr. Nixon that attracts to him ideological hoodlums and sharpies. Even now that he is podiumed behind the presidential seal, he looks no more than a very competent chisler, the kind who hangs out with not-so-competent sharpies and con men. Behind that podium, down in the shadows, swarm the Will Wilsons, the Murray Chotiners, the Charles Colsons. And now, perhaps, the Maurice Stanses.

It is all too apt, not only the bugging, but also the bungling. Trying to do it on the cheap. Slick operators in frayed cuffs and collars who will "Tell ya what I'm goin' ta do." It is like an old 40s movie of the bookish slum kid who wanted to have a big white-walled DeSoto and wide-shouldered new suit like the neighborhood "operators," and then in later years couldn't keep these questionable characters from popping up to embarrass him.

Too apt, that those who could not make their wild charges of guilt stick to others, cannot establish their own innocence in this case, even if they are, indeed, innocent. Mr. Nixon and the Watergate Gang, whatever their other connection, will always be linked by this fact, that they serve each other.

[From the Washington Post, Sept. 18, 1972]

FIRST ALL-OUT FELONY CABINET

(By Nicholas von Hoffman)

They write about McGovern's staff problems, but what about Nixon's. It's true the McGovern people spend an undignified amount of time elbowing each other over who's going to get what job if their boy makes it, but they don't have anybody in their entourage who can begin to compare with Steve King.

Mr. King is Mr. Nixon's campaign security director, the very same thuggish fellow who, Martha Mitchell says, ripped the phone off the wall while she was talking to Helen Thomas of the UPI, threw her down, kicked her and, the next day, held her down while a doctor injected a sedative.

Nice guy to have on your staff, that Mr. King. He fits in well at the White House where Charles Colson, special counsel to the President, sends out memos to his staff saying that to get Nixon re-elected, "I'd walk over my grandmother if necessary." When you see what happened to Martha, you know that's no figure of speech, and they wonder why so many old ladies swear to God they're Republicans.

You don't have to be a plug-ugly to gain entree to the White House. A bribery conviction will do just as well. That's all William L. Taub, Jimmy Hoffa's representative had going for him to get an appointment to see Dr. Kissinger. It was Mr. Taub, who has frequently been accused, although never convicted, of trying to sell things that didn't belong to him, who arranged for all the high clearances necessary for Mr. Hoffa's mission to Hanoi where he was to do a diplomatic loaves and fishes act and free our POWs.

We shouldn't be too hard on Mr. Nixon about this. He did promise us that he would leave no stone unturned in his efforts to seek the release of our airmen. So he turned over one stone and there was Jimmy Hoffa wiggling and white from five years of jail for jury-tampering and mail fraud. Once in the sunlight, sending over one of our better known felons as an unofficial ambassador plenipotentiary didn't look so good. Whereupon Kissinger, Kleindienst and Rogers all expressed horror and said they had nothing to do with it. Well somebody at a high level had something to do with this most unusual of diplomatic initiatives, otherwise how did Mr. Hoffa get all those signed and sealed documents permitting him to go? And they talk about lies in the McGovern campaign.

The Hoffa episode could represent a change in Nixon's law and order policies, a switch from punishment to rehabilitation. Give an ex-con a break, make him an ambassador.

There does seem to be grounds for believing the White House has developed a new sensitivity toward the lawbreaker's feelings. It may be that the staff has been reading an interview given out by one Bernard L. Barker, the ex-CIA agent, who apparently was on Nixon's campaign payroll the night he was so unlucky to be arrested in the offices of the Democratic National Committee. Mr. Barker, in a glorious melange of old-fashioned Republicanism and new-fashion felony is quoted as saying: "I was caught in the National Democratic Headquarters at 2:30 in the morning, I can't deny that . . . nobody owes nobody nothing . . . you go out and work for it . . . I never looked at myself as a burglar . . . it is very repulsive to me when I read (about myself) as the 'alleged burglar' this gripes me. I think more as a cop and not as a burglar."

A Nixon administration cop, perhaps, but that should give all kinds of interesting people renewed hope. Take Meyer Lansky, the figure with the worldwide gangster reputation, who the United States has been trying to extradite from Israel where he has been nesting. We thought the Justice Department wanted him back to go before a grand jury, but the truth may be they want him to come home so they can make him Secretary of the Treasury. He's supposed to know a great deal more about finance than John Connally.

And speaking of Connally, since he's at work bringing his old Democratic gang over to Nixon, maybe he'll bring over all the old gang, including Bobby Baker. Baker's a clever boy for numbers and he could help the slightly pathetic Maurice Stans, Nixon's campaign finance chairman. Stans keeps losing sight of large blocks of campaign money and being at a loss when it's rediscovered in the bank accounts of some of our better known second-story men. Bobby always knew where the money was.

Bobby may find his role as a Nixon campaign staffer a little unsettling at first. Under the Democrats he operated in the deepest and darkest background so he may discover the open, brassiness of the Nixon campaign a bit of a change, but the high noon, broad daylight policy, while perhaps a trifle arrogant, does have the virtue of candor if not honesty.

It's anybody's guess as to who else may find a place in either the campaign or the Cabinet. Earl Butz, the Secretary of Agriculture, who screams libel like a Pavlovian dog when asked why his former subordinates are cleaning up on the Russian grain deal, could make use of the services of Billy Sol Estes. Billy Sol could teach Earl how to do it and be smooth. Melvin Laird could be replaced by Charlie Manson. There's a boy who knows how to wind down a war for you. And to complete the first all-out felony cabinet, James Earl Ray should be put in somewhere to deal with anybody caught paying quotas.

But the Nixon campaign staff needs help now. They're having the deuce of a time getting all that money across the Mexican border quietly. For that they don't need help from Chuck Colson's grandmother—if she's still alive. What they need are experienced dope smugglers. Put them on the payroll and call it penal reform. If they get caught and there's a big public outcry, why just say it was unauthorized and keep on truckin' down to election day.

PART III—CONGRESSIONAL ACTION FUND DEFENSE REPORT

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. ASPIN. Mr. Speaker, last week I introduced an analysis by the congressional action fund of three major defense budget proposals. Table 2, which appeared on page E7887 of the September 13 Congressional Record, indicated that Senator McGovern would terminate the Poseidon submarine and Minuteman II procurement programs and would slow development of the Trident submarine. In the first two cases, it should be made clear that weapons and submarines already in production would be completed and put into service. In the last instance, Senator McGovern would investigate alternatives to the controversial Trident design while slowing its development.

I am introducing into the Record today an additional section which examines the problem of excessive military spending:

Defense Spending Fact Sheet

THE GLOBAL PERSPECTIVE

1. More than half the world's military budget is expended by the United States. Estimates by the Stockholm International Peace Research Institute for 1969 showed that of the $159.3 billion spent for military purposes by the world's industrialized countries, the U.S. spent $79.3 billion, the Soviet Union $39.9 billion and Communist China (very approximately) $7 billion.

2. The American-Russian arms race continued apace over the past year as the U.S. increased its number of nuclear warheads by 24% and Russia by 25%. Today America has an arsenal of 5,700 one-megaton warheads compared with Russia's 2,500 warheads. (Source: Official estimates by the Secretary of Defense.)

3. In 1968, Secretary of Defense McNamara estimated that a force of from 200 to 400 one-megaton nuclear warheads would be "an adequate nuclear deterrent for the United States." Such a nuclear force would be capable of destroying from 52 to 74 million Soviet people (21% to 30% of the population) and from 72% to 76% of Soviet industrial capacity. The U.S. can today destroy the Soviet Union at least fourteen times over.

DEFENSE BUDGET OVERVIEW

1. The U.S. has spent over $1 trillion—one thousand billion dollars—on the military since World War II. Over the past ten years, America has spent $662 billion on defense. During the same period total income taxes collected by the federal government was $662 billion.

2. The fiscal year 1973 defense budget represents 42% of the total federal budget. If the cost of past wars is added in (6% of the federal budget which goes to veterans' benefits and 12% devoted to interest on the national debt, most of which is war-incurred), military-related expenditures add up to 60% of the total federal budget. (Source: Office of Management and Budget official figures as recalculated by the Library of Congress, Legislative Reference Service).

3. In other words, the federal government in this fiscal year will spend $1,301 on military affairs for every man, woman, and child in the U.S. The federal government will, by contrast, spend $130 per capita for education, and nonpower programs, $65 per capita for community development and housing, and $22 per capita for natural resources and environmental programs.

4. In the past two years, non-Vietnam obligations have risen from $63.3 billion (in fiscal year 1971) to an estimated $80 billion in the current budget. That is an increase of 25% or about $17 billion over two years. This increase averages out to $90 per capita; that is, the rise in the defense budget will cost every man, woman and child in the U.S. $90 this year.

FAT IN THE MILITARY

1. The United States requires 18,000 men to field 324 tanks while Russia utilizes only 9,000 men to field 300 tanks. The U.S. Air Force maintains 132 men per aircraft while the Israeli Air Force, with similar equipment and a fine combat record, has only 23. (The New York Times Magazine, July 30, 1972.)

2. Comparing today's military establishment with the one maintained by the U.S. at the end of World War II (June 30, 1945) we find that it now takes 36% more high ranking officers (190 generals and admirals of three, four, and five star rank) to command almost 80% fewer men—some 2.7 million in mid-1971. (Selected Manpower Statistics, Department of Defense).

3. Between mid-1968 and mid-1971 the nation's total military manpower declined 23% while the number of three, four, and five star officers increased by 7%. (Idem.)

4. According to Congressman Otis G. Pike (D-N.Y.), chairman of the special subcommittee on manpower utilization, the top-heavy arrangement of manpower is costing the U.S. $2.7 billion per year. In other words, if we took today's military personnel and spread them according to the grade structure which existed in 1946, it would cost the government $2.7 billion less per year, using today's pay scales.

5. Twenty-five years ago (mid-1946), the Army had seven recruits for every Sergeant E–5. Today the Army has eight recruits for every ten Sergeant E–5's. In other words, it takes five Sergeants to command four buck privates in today's Army.

6. In the Navy the ratio between E–5 petty officers and E–1 seamen recruits has changed from 1 to 1 in 1946 to 8 to 1 today. In the Marine Corps, the ratio between E–5 Sergeants and E–1 privates has changed from 1 to 8 in 1946 to 1 to 1 today.

7. During the year ending June 30, 1972, the Army employed nine men in uniform to sustain every combat soldier. Eight years ago the ratio was eight to one. This additional one support troop per combat troop costs the Army $1 billion per year.

8. The Army currently spends $240,000 for every combat soldier it maintains and about $1.8 million per active Army division. Compared with 1964, this represents an increase of 125% over eight years in the cost per combat troop and an increase of 140% per division (now somewhat larger).

COST OVERRUNS

1. In 1971, the General Accounting Office reported that 61 major weapons systems then under development experienced, on average, an increase of 26% or $24 billion in their expected total cost. In 1972 the comparable figure for 77 major weapons systems then under development was 19% or $21 billion.

2. According to Senator William Proxmire, cost overruns on 45 selected major weapons systems increased by $1.3 billion between June 30, 1971 and March 31, 1972. Today those systems are costing the government $36.5 billion over the original planning estimates.

3. The following chart was inserted in the *Congressional Record* August 3, 1972, by Senator Proxmire. It appears in full on page 26674. Figures are in millions of dollars.

	Number of systems	Planning estimate	Current estimate
Army	8	$10,892.7	$16,067.3
Navy	20	29,731.3	42,195.0
Air Force	10	33,273.6	47,179.4
Total	38	73,897.6	105,441.7
Army (8):			
Cheyenne[1]		125.9	331.2
Safeguard[2]		4,185.0	7,975.0
Dragon		382.2	485.1
Sam-D[3]		4,916.8	5,240.5
Lance		586.7	774.2
Tow		410.4	651.9
M-60A2		162.1	403.5
Tacfire		123.6	205.9
Total		10,892.7	16,067.3
Navy (20):			
SSN-688		1,658.0	7,075.1
DLGN-38[4]		769.2	820.4
S-3A		1,763.8	3,151.8
F-14		6,166.0	5,271.6
EA-6B		689.7	1,219.2
P-3C		1,294.2	2,289.5
A-7E		1,465.6	2,150.4
Vast 247		241.1	443.6
Phoenix		370.8	1,251.4
Condor		356.3	380.5
Poseidon[2]		4,568.7	4,751.0
Sparrow E[5]		1,215.8	331.6
Sparrow F[6]		151.5	1,226.3
Mark 48[7]		720.5	1,933.0
LHA		1,380.3	970.0
CVAN-68/69		946.5	1,316.2
DE-1052		1,285.1	1,430.6
SSN-637[2]		2,515.8	2,944.0
DD-963		1,784.4	2,754.5
Aegis		388.0	484.3
Total		29,731.3	42,195.0
Air Force (10):			
B-1		$8,954.5	$11,112.6
F-15		6,039.1	7,810.7
C-5A		3,423.0	4,526.4
F-111		4,686.6	6,994.6
A-7D		1,379.1	1,348.7
AWACS		2,656.7	2,661.3
Maverick		257.9	385.3
SRAM		167.1	1,331.9
Minuteman II		3,014.1	4,906.4
Minuteman III		2,695.5	6,110.5
Total		33,273.6	47,179.4

[1] The Cheyenne costs represent research and development costs only. These estimates do not include termination costs related to the canceled production contract.

[2] For the programs where the SAR's have shown only a development or a planning estimate, we have made both estimates the same to prevent distortion between the totals of these columns.

[3] The development estimate of $4,031,000,000 formerly reported, dated March 1967, was changed to $5,240,500,000 in March 1972 to reflect the entry into engineering development.

[4] Although no development estimate was shown on the June 30, 1971, SAR, our last report included the same cost for the planning and development estimates in order to prevent distortion between the totals of these 2 estimates. With the award of the production contract, the Navy established a development estimate in the Dec. 31, 1971, SAR and is reflected in this schedule.

[5] Cost estimates for the Air Force portion of this program were deleted from the SAR in December 1971.

[6] Cost estimates include Air Force estimates for its portion of the Sparrow F program.

[7] The development estimate was revised based on the award of the production contract in July 1971.

4. According to Forbes Mann, President of LTV Aerospace Corporation, "Every time a new A-7 attack aircraft flies over the fence at the end of LTV's facility in Grand Prairie, Texas, 23% of its cost is in the paper that goes along with it." Based on current cost figures, this means that the Department of Defense has spent $750 million on paper work alone for the A-7 attack aircraft. That is more than the federal government spent to assist state and local governments in fighting crime over the past three years.

THE MILITARY ESTABLISHMENT

1. Recent studies of military bases and similar activities show that for every 100 civilians employed on a military base, there are about 258 persons outside the base dependent on those jobs. There are some 3 million persons employed in this capacity; thus, almost 7.75 million people depend on these civilian workers.

2. The armed forces itself employs 2.7 million persons in uniform and 1.2 million civilians. Estimates of defense-related employment in the private sector run around 7 or 8 million. Defense related employment can be found in every state in the U.S. in 5,200 communities where the plants of 22,000 major contractors and 100,000 subcontractors are located.

3. Between 1971 and 1968, when the defense cut-backs began, some 380,000 workers lost their jobs in the aerospace industry alone. 60,000 of these workers were engineers with advanced degrees.

4. A survey conducted in 1970 by the Senate subcommittee on executive reorganization concluded that "private industry is not interested in initiating any major attempts at meeting critical public needs (i.e. converting from defense activities to housing, pollution, mass transit, and other domestic needs)." The survey respondents—executives from 69 industrial firms, five mayors, and two union leaders—"all indicated an unwillingness to initiate such actions without a firm commitment from the Government that their efforts will quickly reap the financial rewards to which they are accustomed."

DEFENSE SPENDING AND NATIONAL PRIORITIES

1. The following list of alternative defense and non-defense expenditures was prepared by Citizens' Organization for a SANE World:

Defense item	Cost	Nondefense item
Nuclear aircraft carrier with support equipment.	$2,980,000,000	Construction of District of Columbia Metro System.
1 Huey helicopter—type used in Vietnam.	$1,000,000,000	66 2-bedroom houses (low cost).
Cost overruns for 45 selected weapons systems (see above).	$36,500,000,000	Estimated cost of water pollution abatement, 1970–75.
1 destroyer	$90,000,000	5 high schools of type found in Midwest.
1 main battle tank	$600,000	Full-time therapy for 171 drug addicts for a year in New York City.
B-1 bomber fleet (construction)	$11,400,000,000	Cost of bringing the 25,500,000 people in United States out of poverty.
C-5A program (including cost overruns).	$4,000,000,000 to $5,000,000,000.	Cost of eliminating hunger in the United States.
5 Air Force F-15's	$42,000,000	Gary, Ind., school budget for 1971–72.
105 helicopters: the number destroyed in 1971 Laos campaign.	$52,500,000	Health facilities for treatment of 700,000 patients per year.

2. Between **1946** and **1967** the United States spent over **$1.58 trillion on federal programs.** Of this amount, **over $904** billion or 57.3% of the total, has gone for military power. By contrast, less than $96 billion, or 6.08%, was spend on social functions including education, health, labor and welfare programs, housing and community development.

CONSERVATIONIST'S NEW ASSIGNMENT

HON. HASTINGS KEITH

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. KEITH. Mr. Speaker, since March 1969, Mr. Charles G. Carothers III, one of my constituents from Duxbury, Mass., nationally recognized in the field of waterfowl conservation, has been serving the environmental field in the Department of the Interior. Now he is leaving Federal service for a new challenge in the nongovernmental area of conservation of natural resources. He is joining the promotional and publishing division of Ducks Unlimited, Inc. DU is the nonprofit, nonpolitical membership corporation organized to perpetuate wild waterfowl in North America.

Under two Secretaries of the Interior in President Nixon's administration, Mr. Carothers has been Special Assistant to the Assistant Secretary for Fish and Wildlife and Parks. Before he was persuaded to join the Interior Department, he had been a business executive and active in my State as an officer of Massachusetts Conservation, Inc., and its predecessor organization since 1953, a former director of the Massachusetts Wildlife Federation, Inc., and for years as a member or officer of DU.

Private citizens willing to contribute their special expertise and do a tour of duty in public agencies make a badly needed contribution to Government. But of course the nongovernmental environmental organizations are indispensable in the unending campaign to preserve our precious natural resources. Good campaigners are needed inside and outside of Government and Mr. Carothers' efforts will continue to benefit the public at large.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,757 American prisoners of war and their families.

How long?

CONGRESS FIDDLES WHILE PUBLIC BURNS

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. YOUNG of Florida. Mr. Speaker, on February 22, 1971, I introduced the Nonsmokers Relief Act (H.R. 4776), a bill aimed at protecting the rights of millions of nonsmoking Americans by providing separate seating for smokers and nonsmokers aboard planes, trains, and buses.

The response was overwhelming. Mail from throughout the Nation, and even abroad, flooded into my office in support of this legislation. Health groups and passenger associations were enthusiastic, and since then many of the Nation's major air carriers voluntarily adopted the provisions of the Nonsmokers Relief Act on their own.

Just about everyone has responded, it seems, except the Congress. Despite the overwhelming evidence of support and need for this bill, the Congress has failed to act. Since the Nonsmokers Relief Act was introduced nearly 19 months ago, the Congress has done nothing: The Interstate and Foreign Commerce Committee, to which it was assigned, has not even begun to consider it, and no hearings are planned at this time.

While the Congress does nothing, millions of nonsmoking travelers must continue to undergo the distress of being forced to inhale the noxious fumes from cigars, pipes, and cigarettes smoked by others.

Nonsmokers now outnumber those who do, yet this majority is being forced to accept discomfort and risk to health when traveling in interstate commerce. The U.S. Surgeon General has reported that the health of a nonsmoker could be adversely affected if he is forced to inhale tobacco fumes, particularly in a confined area. H.R. 4776 would protect the rights and health of the nonsmoker—without placing any burden on those who chose to smoke.

The Nonsmokers Relief Act would not infringe on the rights of the smoker; it would, however, serve to protect the rights of the nonsmoker.

Last year, after my bill was introduced, California adopted a law requiring land and air passenger carriers with trips originating in the State to set aside space for nonsmoking passengers. Amtrak, the national rail passenger network, has instituted smoking and nonsmoking sections as a courtesy to its passengers.

The Interstate Commerce Commission last November ruled that "secondhand smoke is an extreme irritant to humans within its range" and ordered separate seating on buses in interstate commerce. The ruling, however, has been held up in the courts.

While the airlines who have chosen to provide seating sections for nonsmokers are to be commended, there are still many passenger carriers who are not doing so.

A hopeful sign that this may change comes with a story in the Washington Post today that the Civil Aeronautics Board is considering a requirement that all airlines separate smokers from other passengers. This proposal deserves the unqualified support of the Members of Congress. The article follows:

CAB WOULD SEPARATE SMOKERS ON AIRLINERS

(By Vern Haugland)

The Civil Aeronautics Board yesterday proposed requiring all the airlines to segregate smokers from other passengers.

The CAB said that this could be done by designating a smoking area in the rear of each compartment of an airliner and prohibiting smoking in other areas.

The board noted that most of the trunk airlines already segregate smokers. In general, however, the supplemental airlines and the local-service lines do not, the board said.

The board said it would accept comment on the proposed rule until Nov. 3, before making a final rule.

In December, 1969, consumer advocate Ralph Nader asked the Federal Aviation Administration to ban smoking on planes as a fire hazard. Another petition asked the FAA to require segregation of smokers to protect the health of other passengers.

In March, 1970, the FAA ruled that smoking did not represent a flight safety hazard. The FAA referred the health issues to a joint study with the Department of Health, Education and Welfare to measure tobacco smoke contaminants in transport aircraft.

The CAB said the completed joint study shows, in general, that the low levels of contaminants in a passenger plane do not represent a health hazard to nonsmokers. But, the study found that more than 60 per cent of the nonsmokers were bothered by tobacco smoke.

The CAB said an outright ban on smoking on commercial flights would be a drastic remedy and inconvenience travelers who wish to smoke.

TAX-FREE FOREIGN AID TO NORTH VIETNAM

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. RARICK. Mr. Speaker, while our international grain dealers and administration sell the historic foreign-aid deals to Russia and Red China, India announces she is ready to ship to North Vietnam seeds from the so-called "miracle rice" which was developed and research-financed by American tax-free foundations.

It pays to be anti-American?

I include a related news clipping:

[From the Evening Star, July 21, 1972]

HANOI TO GET RICE SEEDS FROM INDIA

NEW DELHI.—India is ready to ship to North Vietnam high-yield rice seeds—so-called "miracle rice"—developed from seedlings and research financed by American philanthropic foundations.

A spokesman for the Foreign Trade Ministry said yesterday the project, which would include Indian scientists to advise the North Vietnamese, had gone no further than obtaining necessary clearances from the Foreign Ministry.

"Even if we wanted to send the seeds now, how are we to send them?" the spokesman asked, saying the shipment would be kept out by American mines in North Vietnamese harbors.

No decision has been made as to the amount of seeds to be supplied, he said.

A Foreign Ministry official said a request for the rice came to New Delhi through the Indian diplomatic mission in Hanoi. It was followed by a note from Hanoi's mission in New Delhi.

"We have responded," he said.

If the shipment is made, the varieties supplied will have been developed in India by government scientists.

FREE THE FORT WORTH FIVE

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mrs. ABZUG. Mr. Speaker, as I noted in a lengthy statement a few days ago—and it appears at page 30554 of the September 13 RECORD—the Fort Worth Five are a group of Irish-surnamed American citizens who have been dragged 1,400 miles from their homes and families to the hostile and unfamiliar atmosphere of Fort Worth, Tex., to face a grand jury investigation. Despite the fact that they are accused of no crime, and have only tried to find out their rights and assert those rights, they have been held in prison, without bail, for several months.

The eighth amendment to the Constitution provides that—

> Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Under this amendment, which constitutes an integral part of our great Bill of Rights, even an individual accused of the most heinous crime is entitled to be admitted to a reasonable bail.

After a long and difficult court battle—not for their ultimate vindication, but merely for the right to remain free men while their rights in this matter are determined by the courts—Justice William O. Douglas ordered last weekend that the five be admitted to bail. When the case was remanded to the district court for the actual setting of the bail amount, the district judge ordered bail of $100,000 for each of the men.

It is most revealing to note that in these days of law and order, a Federal judge has seen fit to flout the law, as duly determined by his judicial superior, by setting a bail which is so steep that it is in effect no bail at all. Supposedly, we have a coequal and independent judiciary, but the district judge who acted in this case seems to be more of an appendage of the Justice Department than an independent giver of the law.

The Fort Worth Five must be set free on a reasonable amount of bail or on their own recognizance until the complex and novel legal issues in their case are finally decided by the courts. They are family men wtih strong ties to their local communities, and not one shred of evidence has been produced to indicate that any of them is likely to fail to appear in court when required. In addition, legislation such as my bill H.R. 16056, providing for change of venue in grand jury proceedings where the interests of justice so require, should be enacted as soon as possible.

CONSUMER PRODUCT SAFETY

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. PATTEN. Mr. Speaker, consumer protection and consumer product safety are certainly not recent concerns of this membership. During the past years the principle of protecting the consumer from advertising deception and harmful products has been a major legislative interest of this body.

We have made inroads in the area of consumerism including "truth in lending" and "truth in advertising" laws. However, the battle is certainly not yet won. Too many people are still falling victim to hazardous products. The people of this country are not kept fully informed on new products and their effectiveness, as well as their drawbacks.

There exist hundreds of consumer-interest organizations across the country which have worked to educate the consumer. These groups attempt to stimulate intelligent selection of products, and an awareness of what legal channels are available to them in bringing action against violators of consumer laws. These consumer-interest groups are doing a commendable job; however, they are widely dispersed over the country, and this tends to limit their general effectiveness.

H.R. 15003, the Consumer Product Safety Act, if approved and enacted, will finally make available to the people of this Nation a consolidated organization—an independent regulatory commission—to protect consumers "against unreasonable product hazards." This regulatory commission will have the authority to set safety standards and even remove dangerous products from the market. As a result, the products would not be available to the unsuspecting customer, and thus, possibly avoiding the threat of personal injury.

Most importantly, we would be able to protect the thousands of consumers from minor and serious injury, and even death, that too often occurs from use of a faulty and hazardous product.

Too many people have needlessly suffered injury.

We have witnessed the need for such controls and for the education of the consumer. Children's toys have already been screened to a large extent; and, as in the period prior to Christmas of 1970 when the FDA removed 39 different toys from the market, such toys could have made that holiday season an unhappy one.

We, as representatives of the people, must guarantee the consumer safe products in the marketplace.

ATTICA AND REALITY

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. PEPPER. Mr. Speaker, The McKay Commission report on the Attica prison uprising, with the recommendations that the blue ribbon panel makes must receive the widest possible dissemination. It states what the public needs to know about prison conditions and prison reform.

Prison bars hold men and women for so many months and years. Rehabilitation and innovative work release programs which reintroduce a convicted prisoner to society hold promise of reducing the 75-percent rate of return to our large institutions. This will cost money, but it will be money well spent.

The Select Committee on Crime will study the McKay report, and soon will release a report of our own based upon our observations and examinations of Attica and other prisons which led to our hearings last year. We hope we can move the Federal Government to make available the necessary funds to carry out the recommendations of the McKay Commission and our own.

An excellent column written by Tom Wicker of the New York Times, entitled "Attica and Reality" appeared September 14. I submit it for review of those who read the CONGRESSIONAL RECORD:

ATTICA AND REALITY

(By Tom Wicker)

The McKay Commission has concluded that Governor Nelson Rockefeller should have gone to Attica before permitting the armed assault that recaptured the prison last September. But the commission also observed that this question "has tended to overshadow all other issues as a subject of public debate," and that is both true and too bad.

Had the Governor gone to Attica, the deaths of 39 persons killed in the assault might, or might not, have been avoided; no one will ever know. As the commission stated, at least Mr. Rockefeller's presence might have acted as a restraint on the attackers; as some of the special observers' committee believed at the time, personal exposure to the lethal atmosphere of tension and hatered prevailing at Attica just before the attack might have altered his view on how to proceed.

All that is speculation. What is certain is that the failure at Attica was not a failure of Nelson Rockefeller alone. It was not a failure of Commissioner Russell Oswald alone, or of the miserably misnamed "corrections" department he heads, or of the observer committee, or of the prisoner leaders—not even of the state troopers and corrections officers who made the clumsy attack, and the officials who were supposed to restrain and discipline them. They all failed in one way or another to prevent the prisoner uprising and its bloody aftermath; but the essential failure was more general, even national—an inhumane and ineffective penal system as part of an inhumane and ineffective criminal justice system that springs from a society indifferent to the inhumanity and ignorant of the ineffectiveness.

This is not said as a retreat into meaningless generality, for which no blame can be fixed. Those troopers who fired wantonly and indiscriminately into the mass of prisoners should not be granted by inaction the amnesty the state refused to extend to the prisoners. Neither should those who failed to stop such violence, or the corrections officers who violated orders by firing their own weapons, or those who later carried out brutal reprisals. The prisoners who slashed three others to death and participated in the beating of a guard who later died, if they can be identified, should be held responsible for their acts. So should anyone else, prisoner or observer or official, from the Governor on down, who can be shown to have specific responsibility for a specific crime.

On the other hand, the assertion of a general public culpability is not intended as a sort of fatuous do-goodism, a view that there are no criminals or that social conditions excuse every hostile act. It is not merely what Spiro Agnew has called "agoniz[ing] over the root causes of conditions that are constantly used as an excuse for some people to commit crime."

But it would be all too easy for some to conclude that had Governor Rockefeller only gone to Attica, all would have been well. It would be just as easy for others to conclude that had Mr. Oswald ordered the prison recaptured by force on the first day of the uprising, there would have been no problem. It would be all too easy to conclude that nothing was really wrong at Attica but a few individual failures, and to ignore the real problems that came to bloody fruition there.

One of these real problems is the practice of incarcerating men like animals in their cages, in fortress-like prisons closed to the public eye and located for the most part far off the beaten path, with these prisons manned by untrained, underpaid, often frightened civil servants, mostly whites, placed in total control (so long as they can maintain it) of prisoners, mostly blacks and other minorities, separated abruptly from home, community, jobs, sex, amenity and hope.

Another real problem is that many of these prisoners know themselves to have been unfairly or capriciously or callously treated by police anxious for arrests, prosecutors hungry for convictions, defense counsel of inadequate skills and preparation, courts too often incapable of speedy trial and reasonably certain justice, arbitrary parole boards, and bureaucratic and inflexible procedures throughout a criminal justice system that can neither protect the innocent adequately, punish the guilty surely, nor effectively distinguish between the two.

The real problem, finally, is that prisoners, by and large, do come from the lowest and most hopeless economic classes and the worst social conditions, do suffer dehumanizing and degrading conditions that offer little physical security, less comfort, the most limited legal rights, virtually no training—much less motivation—for the future, and few opportunities for self-improvement.

For all these reasons, prisons make men worse rather than better, cause crime rather than prevent it, endanger society rather than serve it. For all these reasons, and whatever the specific guilt of individuals, those who administer criminal justice in America, as well as the public and the politicians who tolerate its inhumanity and ineffectiveness, are stained with the blood of Attica.

LIBRARY DEDICATION

HON. LAWRENCE G. WILLIAMS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. WILLIAMS. Mr. Speaker, last night I was privileged to attend the dedication of a new $600,000 library at the Holy Cross R.C. Church which is located in my district. This was a most important event to me because it was the culmination of a great number of important achievements by Msgr. Louis J. Meyer during his priesthood.

It was only 2 or 3 months after I was sworn in to my first elected position as Springfield Township Commissioner that Father Meyer approached the board with the original plans for the Holy Cross School to be built on what was formerly farmland at Springfield and Bishop Roads. After the school was constructed, the combination auditorium and gymnasium was used for church service.

The school was then enlarged and the construction of the church was started. Through the efforts of Monsignor Meyer and his parish, Holy Cross has developed into one of the most beautiful churches in the world.

The church, itself, contains an upper and a lower sanctuary with a combined seating capacity of almost 2,300. Mass can be conducted simultaneously at each of the sanctuaries, and each sanctuary has a ground-level entrance. The lower sanctuary has an entrance at the front while the upper sanctuary has a ground level entrance in the rear.

The Holy Cross Church is a tribute to the outstanding dedication, drive, and initiative of Monsignor Meyer. It is difficult for me to realize that he has accomplished all of this in only 20 years.

The great impact which Holy Cross School has had on the tens of thousands of children is readily apparent.

The efforts of Monsignor Meyer will never be forgotten by his parishioners and the people of Delaware County who know of his efforts.

THE RESPONSIBILITY AND AUTHORITY OF THE STATE DEPARTMENT REGARDING TRAVEL RESTRICTIONS

HON. LOUIS FREY, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. FREY. Mr. Speaker, since 1967 there has been an escalating number of American citizens traveling to restricted countries and engaging in activities in those countries which undercut the foreign policy objectives of the United States. The most recent and perhaps most flagrant episode involved the visits of Jane Fonda and Ramsey Clark to North Vietnam.

It was assumed prior to 1969 that the Department of State had authority to refuse to issue or to revoke U.S. passports because of unauthorized travel to restricted countries or areas and to require assurances from the traveler that he would not use his passport for travel to the area and would not travel to the area. However, the Court of Appeals held in Lynd versus Rusk (1967) that although the Department could restrict the validity and use of a U.S. passport for travel to certain foreign countries or areas, it was without statutory authority to restrict the travel of U.S. citizens to such countries or areas.

Shortly thereafter, Stokely Carmichael took advantage of this decision and traveled to Cuba and North Vietnam to condemn U.S. aggression against North Vietnam and call for total revolution against the imperialist, capitalist, and racialist structure of the United States.

In August 1969, an American delegation comprised of SDS leaders, black antiwar leaders, and other militants toured North Vietnam and held a mass rally on August 4, 1969, during which they condemned the United States, praised the North Vietnamese, and called for solidarity between the antiwar factions in the United States and North Vietnam. In September 1969, Eldridge Cleaver and a delegation of Black Panthers appeared at the World Conference of Journalists Against U.S. Imperialism in Pyongyang, North Korea, and said in part:

> U.S. imperialism seeks to turn the entire world into a huge prison under its bloody thumb and under the boots of the troops and puppets. The people of the world must unite and stage a massive, universal prison break against U.S. imperialism.

Perhaps the largest contingent to leave our shores to assist our adversaries occurred in early 1970—600 young radicals joined the "Venceremos Brigade" to cut cane for Castro at the very time when our embargo on trade with Cuba was beginning to have its desired effect. Actually, the real purpose of this SDS-sponsored expedition was not to cut cane, but to make Cuban propaganda hay. It furnished considerable propaganda ammunition to Cuba and Latin American Communists.

The recent activities of Jane Fonda and Ramsey Clark in North Vietnam further illustrates the need to control such unauthorized trips.

Jane Fonda made several broadcasts over Radio Hanoi in which she attempted to demoralize American servicemen and get them to disobey orders. Similarly, Ramsey Clark representing an organization called the International Commission for Inquiries into the U.S. war crimes in Indochina over Hanoi Radio referred to the "cruel and terrible slaughter in North Vietnam."

Both Miss Fonda and Mr. Clark condemn our action against North Vietnam, yet ignore the fact that it was the North Vietnamese who entered into South Vietnam as the aggressors. Moreover, who can recall Miss Fonda or Mr. Clark ever condemning the North Vietnamese aggressors for the vicious atrocities, deaths and casualties they have caused the people of South Vietnam over a 10 year period, and for their refusal to comply with the Geneva Convention on POW's?

The effect of the many unauthorized trips by American citizens to restricted countries since 1967 has been to: first, misrepresent American opinion to our adversaries; second, provide misinformation to the American public; third, provide propaganda ammunition and actual economic assistance to our adversaries; and fourth, to make the attainment of peace more difficult by interfering with private negotiations and other foreign policy activities.

I am of the opinion that one of the most important reasons for the intransigence of the North Vietnamese in the Paris negotiations is the blurred picture of the American electorate which has been painted by the fringe minority who have traveled to Hanoi in deliberate violation of the restrictions imposed by the Secretary of State.

A case in point is the recent trip of Ramsey Clark. Clark, while in Hanoi, stated that he expected a big McGovern victory and if McGovern were elected, the war would end on the day he came into office. He also inferred that McGovern would accept Hanoi's "seven points," and Nixon would not.

H.R. 16488 which I introduced on August 8 of this year would control such flagrant intervention in the conduct of American foreign policy. This bill would give the Secretary of State the satisfactory authority, which the Court of Appeals said he presently does not have to impose and enforce area restrictions on travel. In other words, it formally gives the Secretary the authority which he exercised prior to the court decision in 1967.

Under this legislation, the Secretary could restrict travel to a country that we are at war with, where armed hostilities are underway, or when such travel would seriously impair the conduct of U.S. foreign policy. After reviewing an application to travel to a country classified as restricted, the Secretary could, however, grant permission to visit that country. Minimal penalties are provided for travel to designated countries or areas without specific authorization by the Secretary.

The Department of State and Department of Justice support this legislation and I am hopeful that the House Judiciary Committee will act on it soon to prevent future unauthorized trips by the Jane Fonda's and Ramsey Clark's. Our country must speak with one voice. We can no longer tolerate interference by private American citizens with our diplomatic negotiations and the rise of American citizens as propaganda conduits.

RESULTS OF 17TH CONGRESSIONAL DISTRICT QUESTIONNAIRE

HON. MARTHA W. GRIFFITHS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mrs. GRIFFITHS. Mr. Speaker, at this time, I wish to insert in the Record the results of a questionnaire which I recently sent to all the residents of Michigan's new 17th Congressional District. At completion of this tally, I have received a total of 8,989 returns out of approximately 138,000 questionnaires mailed. My special thanks are extended to the individuals who responded with interest, many with detailed and thoughtful comments on these major issues facing Congress and the Nation. The results of the questionnaire follow for everyone to read:

RESULTS OF 17TH CONGRESSIONAL DISTRICT QUESTIONNAIRE

1. Do you support President Nixon's policies in Vietnam?

Yes, 66.6%.

No, 33.4%.

2. Which do you think is the best solution to the Vietnam war:

(a) Continue military operations at present level while pursuing further negotiations?, 28.6%.

(b) Immediate withdrawal?, 14.5%.

(c) Withdrawal contingent upon release of POW's?, 34.7%.

(d) Phased withdrawal of U.S. troops?, 22.2%.

3. Should unconditional amnesty be granted those individuals who have avoided meeting their military obligation by leaving the country or deserting from the armed services?

Yes, 18.3%.
No, 81.7%.

4. Do you favor the busing of school children to achieve racial balance?

Yes, 8.6%.
No, 91.4%.

5. Do you favor federal regulation of private pension plans to protect pension rights of employees?

Yes, 79.2%.
No, 20.8%.

6. Do you feel any of these can be effective in controlling crime:

(a) Increasing federal aid to states and localities for crime control programs?

Yes, 67.4%.
No, 32.6%.

(b) Enactment of stronger gun control laws?

Yes, 72.1%.
No, 27.9%.

(c) Building more correctional institutions and improving rehabilitation?

Yes, 77.9%.
No, 22.1%.

7. Do you support efforts to widen diplomatic and trade relations with China?

Yes, 82.0%.
No, 18.0%.

8. Do you feel the present wage-price-rent control program has been successful in combating inflation?

Yes, 34.2%.
No, 65.8%.

9. With the constitutionality of the property tax questioned as a means of financing public education, would you favor:

(a) Greater federal expenditures for schools?

Yes, 53.4%.
No, 46.6%.

(b) State assumption of responsibility for public education with a new system of financing?

Yes, 72.4%.
No, 27.6%.

(c) A national sales tax (value-added tax) for school revenues?

Yes, 47.7%.
No, 52.3%.

10. Health care costs are placing medical care out of the reach of millions of Americans. Would you favor:

(a) National health insurance for everyone financed by employer-employee contributions matched by the federal government under social security?

Yes, 67.2%.
No, 32.8%.

(b) Tax credits to purchase private insurance?

Yes, 46.8%.
No, 53.2%.

(c) Expansion of medicare and medicaid?

Yes, 61.6%.
No, 38.4%.

(d) A federal program to help pay catastrophic medical costs only?

Yes, 55.0%.
No, 45.0%.

11. Do you feel that greater federal efforts are necessary to reduce unemployment?

Yes, 67.6%.
No, 32.4%.

12. What do you believe are the principal problems facing our nation today? (The following are the problems most frequently cited and the percentage of response.)

Crime, 20.6%.
Vietnam, 11.9%.
Inflation, 10.4%.
Busing, 9.8%.
Unemployment, 8.8%.
Drugs, 7.0%.
Taxes, 6.2%.
Welfare, 5.5%.
Pollution, 2.7%.

MODERN MOMS ARE INDEPENDENT

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 19, 1972

Mr. DERWINSKI. Mr. Speaker, the Suburban Life Newspaper has a very interesting editorial page in which individual staff members give their viewpoints on any subject of special interest to them. Mrs. Sharon Windle, writing in the Suburban Life of September 14, discusses the attitude of a modern mother in what I believe is a very practical and sound fashion.

The editorial follows:

MODERN MOMS ARE INDEPENDENT

(By Sharon Windle)

Kids are like a pair of shoes. They're much more comfortable to have around after they've put on a little mileage.

I suppose after a preface like the above I needn't add that I'm not what you would call a Dr. Spock version of motherhood. To the impenetrable eye of the old-fashioned mother or the super-sensitive grandma. I, and others of my pattern, may appear at times, unconcerned, immobile, impatient and too strict. It is only because we are all of the above.

We are also honest. Many of us did a very inadequate job of role playing with our dollies as kids. Many of us as adults washed diapers only out of sanitary necessity; made formula because our offspring weren't born with a super set of molars to chop up a steak and walked through the park with a baby carriage because it was good for mommy and an airing for baby was an advantage too.

The biggest difference of opinion in the old way of child rearing and the new appears to be that the modern method places more value on the child himself as a human being with an individual personality. The old method treats kids as a possession to be disciplined and molded into a junior model of mom or dad.

The old method popularizes parental ego-expansion or ego-enforcement by using the child as a vehicle. How often have we heard, "She'll have all the opportunity I never had, or he'll get all the material things I could never afford as a kid." Wish for these unfilled childhood dreams of parents often cause them to demand regimented behavior from their offspring which is based on biases and misconceptions. Sadly, the end result is often alienation of the child.

It seems to me, and others who share my thinking, that the biggest responsibility of a parent is to recognize his or her shortcomings, prejudices and limitations and teach the child from that basic understanding.

It is necessary to realize that being a parent does not make you "right" and parenthood has less value when wielded as a bayonet than as a gesture of goodwill.

Too often the old-fashioned mommy is more concerned with the physical duties of mothering by which she judges herself and her peers judging the success of her role fulfillment than she is with the object of those efforts, the child himself.

Modern mothers don't seem to be so concerned with what others think of them as they are of the effects of their actions and the end results on the child himself.

There are among my peers some of the most powdered, pampered, fed-on-time, bedded-by-8 p.m.-promptly kids in the world, with the hungriest egos and weariest personalities.

I am less concerned with being a "good" mother than I am with mothering a "good" child. A child who will grow up into a world which, as I see it, could use some good kids to help straighten it out.

HOUSE OF REPRESENTATIVES—*Wednesday, September 20, 1972*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Thus saith the Lord God; in returning and rest shall you be saved; in quietness and in confidence shall be your strength.—Isaiah 30: 15.

O God, who art the Creator and Sustainer of life, whose spirit keeps the planets in their courses and yet whose ear is ever attentive to the quiet whispers of our human hearts, we pause in silence before Thee praying for wisdom, strength, and patience as we endeavor to meet the needs of our beloved America and to lead our Nation in right and good paths.

O Lord, guide our people in choosing wisely her leaders. May our citizens grow in mature responsibility and together join hands with kindred spirits across the seas in daring to be pioneers in brotherhood, sustaining the principles of those who seek to end strife, and to usher in a new day of enduring peace to the glory of Thy holy name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

RECOMMITTAL OF S. 1316, AMENDING FEDERAL MEAT INSPECTION ACT, TO COMMITTEE ON AGRICULTURE

Mr. ABBITT. Mr. Speaker, I ask unanimous consent that the bill (S. 1316) to amend section 301 of the Federal Meat Inspection Act, as amended, and section 5 of the Poultry Products Inspection Act, as amended, so as to increase from 50 to 80 percent the amount that may be paid as the Federal Government's share of the costs of any cooperative meat or poultry inspection program carried out by any State under such sections, be recommitted to the Committee on Agriculture.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

APPOINTMENT AS MEMBERS OF COMMISSION ON THE ORGANIZATION OF THE GOVERNMENT FOR THE CONDUCT OF FOREIGN POLICY

The SPEAKER. Pursuant to the provisions of section 602(b), Public Law 92-352, the Chair appoints as members of the Commission on the Organization of the Government for the Conduct of Foreign Policy the following members on the part of the House: Mr. ZABLOCKI, of Wisconsin; and Mr. MAILLIARD, of California and the following members from private life: Dr. Stanley P. Wagner, of Oklahoma; and Dr. Arend D. Lubbers, of Michigan.

PRINTING OF COMMITTEE PRINT ENTITLED "COURT PROCEEDINGS AND ACTIONS OF VITAL INTEREST TO THE CONGRESS"

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 92-1412) on the resolution (H. Res. 1087) to provide for the printing of a committee print entitled "Court Proceedings and Actions of Vital Interest to the Congress," and ask for immediate consideration of the resolution.

The Clerk read the resolution, as follows:

H. RES. 1087

Resolved, That there shall be printed one thousand copies of a committee print entitled "Court Proceedings and Actions of Vital Interest to the Congress" for the use of the Joint Committee on Congressional Operations.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PRINTING FOR USE OF COMMITTEE ON VETERANS' AFFAIRS

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 92-1413) on the resolution (H. Res. 1113) to provide for certain printing for use of the Committee on Veterans' Affairs of the House of Representatives, and ask for immediate consideration of the resolution.

The Clerk read the resolution, as follows:

H. RES. 1113

Resolved, That there shall be printed concurrently with the original press run thirty-four thousand one hundred copies of an information sheet entitled "Summary of Benefits for Vietnam Veterans" for use of the Committee on Veterans' Affairs of the House of Representatives.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PRINTING FOR THE COMMITTEE ON VETERANS' AFFAIRS

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the concurrent resolution (H. Con. Res. 553) authorizing certain printing for the Committee on Veterans' Affairs, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the concurrent resolution.

The Clerk read the Senate amendment, as follows:

Page 1, after line 9, insert:

"SEC. 2. After the conclusion of the second session of the Ninety-second Congress there shall be printed for the use of the Committee on Veterans' Affairs of the United States Senate twenty thousand copies of a publication similar to that authorized by the first section of this concurrent resolution, but with emphasis upon matters relating to veterans' affairs considered by the Senate or by the Committee on Veterans' Affairs of the Senate."

Amend the title so as to read: "Concurrent resolution authorizing certain printing for the Committees on Veterans' Affairs."

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

PRINTING OF ADDITIONAL COPIES OF REPORT OF COMMISSION ON ORGANIZATION OF GOVERNMENT OF THE DISTRICT OF COLUMBIA

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 92-1414) on the concurrent resolution (H. Con. Res. 679) to provide for the printing of additional copies of the report of the Commission on the Organization of the Government of the District of Columbia, and ask for immediate consideration of the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 679

Resolved by the House of Representatives (the Senate concurring), That there shall be printed in addition to the original press run two thousand and five hundred copies each of volume I, and one thousand five hundred copies each of volumes II and III of the House document containing the report of the Commission on the Organization of the Government of the District of Columbia, for the use of the House Committee on the District of Columbia.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PRINTING OF ADDITIONAL HEARINGS ENTITLED "CORRECTIONS", PARTS I THROUGH VI

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. 92-1415) on the concurrent resolution (H. Con. Res. 681) to provide for the printing of 1,000 additional hearings entitled "Corrections" parts I through VI, and ask for immediate consideration of the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 681

Resolved by the House of Representatives (the Senate concurring), That there shall be printed one thousand copies each of parts I through VI of serial 15 hearings entitled "Corrections", Ninety-second Congress, for use of the House Committee on the Judiciary.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PRINTING OF ADDITIONAL COPIES OF HEARINGS ENTITLED "DISCRIMINATION AGAINST WOMEN"

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. 92-1416) on the concurrent resolution (H. Con. Res. 687) providing for the printing of additional copies of parts I and II of hearings entitled "Discrimination Against Women," and ask for immediate consideration of the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 687

Resolved by the House of Representatives (the Senate concurring), That two thousand additional copies of parts I and II of the hearings before the Special Subcommittee on Education of the Committee on Education and Labor of the House of Representatives, Ninety-first Congress, second session, on section 805 of H.R. 16098, entitled "Discrimination Against Women", be printed for the use of the Ad Hoc Subcommittee on Discrimination Against Women of the Committee on Education and Labor.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PREPARATION OF A HISTORY OF PUBLIC WORKS IN THE UNITED STATES

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 92-1417) on the Senate joint resolution (S.J. Res. 204) to authorize the preparation of a history of public works in the United States, and ask for immediate consideration of the Senate joint resolution.

The Clerk read the title of the Senate joint resolution.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 204

Whereas the President of the United States and bicentennial organizations have encouraged associations and other groups to undertake meaningful activities to commemorate the two hundredth anniversary of our independence; and

Whereas the American Public Works Association is a nonprofit, public service organization comprised of top-ranking officials engaged in various phases of the broad field of public works at the local, State, and Federal levels of government and this highly respected nonpartisan organization has a long history of fostering the improvement of public works practices and the enhancement of public support for needed community facilities and services as exemplified by its sponsorship and support of the Graduate Center for Public Works Engineering and Administration of the University of Pittsburgh, the annual observance of National Public Works Week, which is designed to increase the citizen's understanding of public works, inspire excellence and loyal dedicated public service, and encourage and assist talented young persons to prepare for careers in public works, and other important programs; and

Whereas the board of directors, house of delegates, and advisory council of the American Public Works Association at a special ceremonial meeting held at Congress Hall in Philadelphia on Saturday, September 11, 1971, unanimously adopted a bicentennial resolution calling for the association to undertake as its official bicentennial project the preparation and publication of the "History of Public Works in the United States From 1776 to 1976", so that future generations may benefit from a comprehensive review of public works in perspective—the project to be conducted over the next five years from the association's Washington office, located appropriately at 1776 Massachusetts Avenue Northwest; and

Whereas there is a need for such a publication as the development of public works is of vital importance to the growth and development of the United States and the quality of life of its citizens; and

Whereas the American Public Works Association intends to draw on the resources of other interested and responsible groups in carrying out this important project; and

Whereas it is to be conducted by a competent staff with an editorial review board to assure its accuracy and appropriateness, on a nonprofit basis, resulting in no monetary benefit to the American Public Works Association or to any individual, but undertaken strictly as a public service to develop a meaningful and accurate history which would be available to the young people of our country, educational institutions, and others: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That all public works oriented agencies of the Federal Government, the Library of Congress, and the appropriate congressional committees be requested to cooperate in carrying this important project forward.

With the following committee amendment:

On page 3, lines 5 and 6, strike out "provide such assistance as may be required" and insert in lieu thereof the word "cooperate."

The committee amendment was agreed to.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PRINTING OF "FEDERAL AND STATE STUDENT AID PROGRAMS, 1971" AS A SENATE DOCUMENT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate concurrent resolution (S. Con. Res. 31) authorizing the printing of the compilation entitled "Federal and State Student Aid Programs, 1971" as a Senate document, with a Senate amendment to the House amendment thereto, and concur in the Senate amendment to the House amendment.

The Clerk read the title of the Senate concurrent resolution.

The Clerk read the Senate amendment to the House amendment, as follows:

Page 1, line 3, of the Senate engrossed resolution, strike out "1971", and insert "1972",".

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Senate amendment to the House amendment was concurred in.

A motion to reconsider was laid on the table.

PROGRAM FOR DEVELOPMENT OF TUNA AND OTHER LATENT FISHERIES RESOURCES IN CENTRAL AND WESTERN PACIFIC OCEAN

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 12207) to authorize a program for the development of tuna and other latent fisheries resources in the central and western Pacific Ocean, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 3, strike out "Central and" and insert: "Central,".

Page 1, line 3, after "Western" insert: ", and South".

Page 1, line 9, strike out "Central and" and insert: "Central,".

Page 1, line 9, after "Western" insert: ", and South".

Page 2, line 13, strike out "1975" and insert: "1976".

Page 2, line 23, strike out "Central and" and insert: "Central,".

Page 2, line 24, after "ern" insert: ", and South".

Page 3, line 2, strike out "410" and insert: "130".

Page 3, line 4, strike out "1972" and insert: "1973".

Page 3, line 4, strike out "1975" and insert: "1976".

Amend the title so as to read: "An Act to authorize a program for the development of tuna and other latent fisheries resources in the Central, Western, and South Pacific Ocean."

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. GERALD R. FORD. Mr. Speaker, reserving the right to object, would the gentleman from Michigan explain the changes and also indicate the attitude of the conferees on our side of the aisle, on this side of the Capitol?

Mr. DINGELL. The senior members of the committee which has jurisdiction over it have concurred in the Senate changes.

H.R. 12207 would authorize the Secretary of Commerce to institute a 3-year program for the development of tuna and other latent fisheries resources in the central and western Pacific Ocean.

In accomplishing this purpose, the bill would authorize to be appropriated the sum of $3 million.

Briefly explained, the Senate amendments to the bill, other than technical amendments, are as follows:

First. The east longitude boundary of the area to be covered by the legislation was extended 10 degrees from "140 degrees west" to "130 degrees west"—in order to make sure that all potential areas off the islands of American Samoa and Hawaii were included.

Second. The 3-year program authorized to be carried out under the bill was adjusted to begin July 1, 1973—instead of July 1, 1972, as provided by the House version of the bill.

Third. The reporting deadline of the Department of Commerce to the President and the Congress was extended 1 year—to June 30, 1976—to conform with the beginning period of the program.

Mr. GERALD R. FORD. Are all the amendments germane to the bill as passed by the House?

Mr. DINGELL. I am satisfied they are germane; yes.

Mr. GERALD R. FORD. Mr. Speaker, I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 15003, CONSUMER PRODUCT SAFETY ACT

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1116 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1116

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 15003) to protect consumers against unreasonable product hazards. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 15003, the Committee on Interstate and Foreign Commerce shall be discharged from the further consideration of the bill S. 3419, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 15003 as passed by the House.

The SPEAKER. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. SMITH) pending which I yield myself such time as I may consume.

Mr. Speaker, this is an open rule making in order the consideration of the committee substitute as an original bill and providing for the use of the Senate number at the conclusion of the matter.

The committee handling the bill appeared before the Committee on Rules. There was no opposition to the rule.

The committee asked for 1 hour of general debate. The Committee on Rules decided to provide 2 hours because it understood that there was considerable controversy over the matter, and thus we provided an open rule and 2 hours of general debate.

The Committee on Rules then proceeded to vote the rule by a vote, I believe, of 10 to 4, so obviously there was some opposition in the Committee on Rules to the granting of a rule. However, I am not aware of any major effort to defeat this rule, and I consequently reserve the balance to my time.

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the distinguished gentleman from Missouri (Mr. BOLLING) has explained the rule in accordance with my understanding, and I concur in his statements relative to the rule and the action taken in the Committee on Rules.

As he mentioned, there is some controversy on this particular bill, and I happen to be one who is opposed to this particular measure, and that is why I intend to take a little time here today to set forth my reasoning, because probably the statement will be made, as the indication was made before the Committee on Rules, that anybody who votes against this bill is against motherhood and in favor of sin.

Everybody is for product safety, everybody is for consumer safety, and everybody is for employee safety. I do not think there is any question about that. All the Members are for that, and I am just as much in favor of that as is any other Member of this House of Representatives.

I spent a good many years in plant protection, having to do with safety and protection of employees, and although we passed many regulations in the various industrial facilities, we always had problems because some employees were careless and failed to abide by the safety provisions we put in.

In any event, Mr. Speaker, the alleged purpose of this bill is to establish a new independent regulatory commission. It is to be called the Consumer Product Safety Commission. This Commission is to protect consumers from unreasonably hazardous products.

The bill covers consumer products very broadly. It includes any article produced or distributed for sale to or for the use of a consumer. Therefore, it is not necessary that a product actually be sold to a consumer in order to be covered by the act but only that the product be produced or distributed for consumer use.

Some items which are specifically excluded from the coverage of the bill are industrial products and foods and exports and products already regulated under safety laws.

This new Consumer Product Safety Commission will consist of five members selected on a bipartisan basis who will serve for a period of 7 years. In order to make the Commission independent of the executive, it is provided that the members of the Commission may be removed only for neglect of duty or malfeasance in office.

They will have four different duties; namely, the collecting of and making public of information on consumer product related injuries; setting safety standards to prevent unlawful product hazards and, where such standards are not feasible, banning products from the market; protecting the public from products which pose an imminent danger to health and safety by seeking equitable relief in the courts and for administratively ordering the remedy of products which fail to comply with the Commission's safety rules.

Enforcement: It can be enforced by the use of civil and criminal penalties, injunctive enforcement, and seizure; private suits for damages and consumer suits to compel compliance with safety standards. Some functions of existing agencies will be transferred to the new commission. Some of those have to do with the Federal Hazardous Substances Act and the Poison Prevention Packaging Act and the Flammable Fabrics Act.

The estimated cost is $55 million for fiscal year 1973, $59 million for fiscal year 1974, and $64 million for fiscal year 1975.

Mr. Speaker, the report contains letters from five Governmental agencies as well as from the President. While the administration, of course, favors product safety legislation, it would prefer a consumer agency under the direction of the Department of HEW rather than a new independent regulatory commission such as will be established by this bill.

Minority views have been filed by Members DEVINE, NELSEN, HARVEY, BROWN of Ohio, HASTINGS, SCHMITZ, and COLLINS of Texas.

They maintain a consumer agency should be established as a part of the Food and Drug Administration under HEW rather than as an independent agency. These gentlemen point out that while a bipartisan independent agency is theoretically more neutral in its decisions, in fact it tends to be more indecisive, and, in addition to that, being part of a department represented at the Cabinet level it means the agency is in a stronger position to obtain funds. Moreover, the Food and Drug Administration has the personnel and organization already in existence so that that agency can begin to work sooner and at less cost than would be required under a new agency.

As I mentioned at the beginning, Mr. Speaker, I do not think if anybody opposes this bill, he can be accused of being against motherhood and in favor of sin. We know there are millions of accidents that occur in the home. Possibly there are up to 20 million a year that occur in the home, but if you are going to try to regulate some of them, we may get into some problems. How many people, for example, are injured or killed while falling in the bathtub? What are you going to do about it? Are you going to have certain regulations in connection with bathtubs or soaps? You have many accidents that occur in the use of firearms, especially in the case of teenagers and boys and others who have a BB gun and it accidentally explodes, putting out the eye of a friend or killing a friend.

The bill theoretically exempts firearms from control, but if we start a commission like this—and we have a bill pending now dealing with the control of the so-called Saturday night revolvers—then I think this bill could come back to haunt us at some time where they could put a rule or regulation into effect taking guns and ammunition out of the home.

Now, people fall out of trees and people cut their hands. How are you going to control that?

Would the distinguished gentleman from Missouri let me comment on our discussion the other day, Wednesday, in the Committee on Rules?

We heard this bill on Tuesday and put it off because one of the Members was away, but the following day, on Wednesday, the gentleman from Missouri had his thumb bandaged up. I asked him what had happened, and he said that he was cutting some meat off of beef bones to feed the dog and the knife slipped and he took a divot out of his thumb. Very honestly, in his usual fashion, he stated it was not the knife's fault or the beef's fault or the bone's fault, but it was "my fault." It was a consumer error rather than the fault of the safety of the product.

These are the types of things we have to have a little concern about. They are difficult to avoid, and this commission could not do much about them.

We had a discussion yesterday in connection with the Occupational Health and Safety Act—OHSA—and the possibility that they may have been harassing some small businesses.

I would think that with the tremendous power this proposed new commission would have that they could harass manufacturers, other people, businesses and the like, and could cause some products to be abandoned and cause some businesses to go broke.

I do not think we need another new commission. Why do we not act under the existing departments whereby we might have some control?

If you look at pages 106 and 107, section 26, in my opinion this bill will preempt all local laws unless they are identical with Federal standards or have higher standards than the Federal law.

There are various areas of this country that have their own problems that are peculiar to them alone. For example, I remember in the Watts area in California that there were for a long period of time many unvented heaters. They are against the local laws of California, so some way had to be found to vent these heaters. But by the same token, this new commission could go so far as to cause them all to be removed, and require a different type of heating in all of those homes, which would have been absolutely prohibitive to the people living in that area at the time. So we had to make a special exemption for them which, in my opinion, could not have been done if this commission had been in existence at the time, and had decided otherwise.

I think the proposed commission is given too much power. The courts have been objecting, and I have received some objections from them—I forget who the telegram was from, but we pass many laws—we are overburdening the Federal courts to the point where we will have to have many more judges because they cannot handle the business they now have, and it seems to me that this bill could possibly overcrowd them even more.

I think we should have a little more study of this.

I would like to make the record straight on one thing, and that is on the discussion I had with the distinguished chairman of this committee. You will recall that we are now in the process of going to conference on the minimum-wage bill.

It is my understanding, although I have not studied the bill in detail, that the bill that was passed by the other body on this particular subject, which we will be committed to substitute our language for the Senate bill, S. 3419, if this rule is adopted, I understand that that is a very, very bad bill, and in discussing this with the chairman of the committee, the gentleman from West Virginia (Mr. STAGGERS) he stated that he would do everything he possibly could, or they would in the conference, to sustain the position of the House-passed bill, if this bill passes.

May I ask the gentleman from West Virginia (Mr. STAGGERS) if that is a correct statement of the position you would maintain in the conference upon the passage of this bill, so that we will not get into another problem that we might get to in conference because of the bad Senate bill?

Mr. STAGGERS. Mr. Speaker, if the gentleman will yield, as I understand the gentleman's statement with reference to the statement I made, that I will try to uphold each portion of this bill in conference, and I would ask if that is what the gentleman means?

Mr. SMITH of California. That is correct.

Mr. STAGGERS. The gentleman is correct in his statement.

Mr. SMITH of California. I appreciate the gentleman's statement.

Mr. Speaker, I personally am opposed to the bill. I am not opposed to the rule.

Mr. Speaker, I think we should study this problem further, and come out with a better bill, and one that does not come back to haunt us in a few years from now by giving these tremendous powers to this brandnew commission.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. SMITH of California. I yield to the gentleman.

Mr. GROSS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to say to my friend from California I am very much impressed by the statements he has made in opposition to this so-called consumer product safety bill which the rule makes in order.

I am sure that the gentleman is aware of the fact that the House is awaiting from the Senate, so that it may go to conference, a bill which provides for a thorough study of the number of boards, bureaus, commissions, and councils already in the Federal Government in the hope that some of these 3,000 boards, bureaus, commissions, councils and what-have-you may be eliminated.

This bill creates still another commission in the Federal Government. I do not understand why the present regulatory agencies are incompetent to handle the duties that would be imposed upon this new National Federal Commission. I do not understand why the present regulatory agencies are incompetent to carry out whatever responsibilities may have to be discharged in pursuit of consumer safety.

Mr. SMITH of California. I do not understand it either and that is one position that I attempted to make.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CHANGING NAME OF DEPARTMENT OF COMMERCE LABORATORIES IN BOULDER, COLO., TO DWIGHT DAVID EISENHOWER LABORATORIES

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 11682) to change the name of the Department of Commerce Laboratories in Boulder, Colo., to the Dwight David Eisenhower Laboratories, which was unanimously reported by our committee.

Mr. BROTZMAN. Mr. Speaker, I would like to thank the distinguished chairman, the gentleman from West Virginia (Mr. STAGGERS), and the distinguished ranking Republican, the gentleman from Illinois (Mr. SPRINGER), of the Interstate and Foreign Commerce Committee for bringing H.R. 11682 to the floor of the House in an expeditious fashion.

This legislation, which I introduced, would change the name of the Department of Commerce Laboratories in Boulder, Colo., to the Dwight David Eisenhower Laboratories. The laboratories, located at the foot of the Rocky Mountains, were opened during the autumn of 1954, early in the first administration of President Eisenhower. Although the facilities originally housed the radio section of the National Bureau of Standards, they have since grown to include segments of the National Oceanic and Atmospheric Administration, and numerous other Department of Commerce laboratories. The Department has expressed its support for the bill.

The commitment of President Eisenhower to the peaceful uses of scientific advancement was well known. The Boulder laboratories, like the atoms-for-peace plan and the space program, evidenced his interest. As a matter of fact, it was President Eisenhower who formerly dedicated the original Boulder laboratories on September 14, 1954.

The Boulder facility was first initiated in 1950 when Congress authorized an expanded radio section for the National Bureau of Standards. A Site Selection Committee chose Boulder when the citizens of the city gave the Government 217 acres of land for the facility.

In addition to President Eisenhower's interest in science, there was also his interest in Colorado. His wife is from Denver, and Ike often vacationed in the State. Thus, it is altogether fitting that the Government he served in war and peace permanently honor his memory at one of its many fine scientific facilities located in the State of Colorado.

I urge a favorable vote on H.R. 11682.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the bill as follows:

H.R. 11682

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the laboratories maintained by the Department of Commerce in Boulder, Colorado, and authorized by Public Law 81–366 (63 Stat. 886), shall hereafter be known as the Dwight David Eisenhower Laboratories, and any law, regulation, document, map, or record of the United States referring to such buildings shall be held and considered to refer to such buildings under and by the name of the Dwight David Eisenhower Laboratories.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CONSUMER PRODUCT SAFETY ACT

Mr. STAGGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 15003) to protect consumers against unreasonable product hazards.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 15003 with Mr. BOLLING in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

Mr. ROUSSELOT. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 373]

Abernethy
Abourezk
Abzug
Adams
Addabbo
Anderson, Tenn.
Annunzio
Ashbrook
Ashley
Aspinall
Badillo
Baring
Betts
Bevill
Biaggi
Biester
Bingham
Blanton
Blatnik
Brasco
Burton
Byrne, Pa.
Byrnes, Wis.
Byron
Cabell
Caffery
Carey, N.Y.
Cederberg
Celler
Chisholm
Clark
Clay
Collins, Ill.
Conyers
Curlin
Daniels, N.J.
Dellums
Derwinski
Diggs
Dow
Dowdy
Drinan
Dwyer
Edmondson
Edwards, Calif.
Esch
Fascell
Findley
Flynt
Ford, William D.
Fraser
Galifianakis
Gallagher
Gettys
Goldwater
Gray
Griffiths
Halpern
Hanley
Hansen, Idaho
Hawkins
Hébert
Helstoski
Hillis
Howard
Hungate
Jones, Ala.
Jones, N.C.
Kastenmeier
Keating
Kemp
Koch
Lennon
Link
McClory
McCormack
McDade
McDonald, Mich.
McEwen
McKinney
McMillan
Macdonald, Mass.
Melcher
Michel
Mikva
Minshall
Morgan
Murphy, N.Y.
Patten
Pepper
Peyser
Pirnie
Powell
Pucinski
Rangel
Rees
Reid
Robison, N.Y.
Rooney, N.Y.
Rosenthal
Saylor
Scheuer
Schmitz
Scott
Skubitz
Smith, N.Y.
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Teague, Calif.
Teague, Tex.
Terry
Ullman
Wydler
Zablocki

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BOLLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 15003, and finding itself without a quorum, he had directed the roll to be called, when 312 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. Under the rule, the gentleman from West Virginia (Mr. STAGGERS) will be recognized for 1 hour, and the gentleman from Illinois (Mr. SPRINGER) will be recognized for 1 hour.

The Chair now recognizes the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 15003, the Consumer Product Safety Act. This bill proposes to establish an independent regulatory commission with broadly assigned powers to protect the public from hazardous consumer products. This legislation will have an effect in every American household and is important to the safety of every member of our constituency, including our wives, sons, daughters, and grandchildren. Its enactment will be one of the most significant laws written in this Congress.

As most Members will recall, in the 90th Congress we established a National Commission on Product Safety to conduct a comprehensive study of the adequacy of existing laws to protect consumers against unreasonable risks of injury associated with hazardous household products. The seven-member bipartisan commission was appointed in March of 1968. Its final report was submitted to the Congress in June of 1970. This report forms the basis for the legislative proposal which I bring before the committee today.

Most existing Federal safety legislation has been enacted on a piecemeal basis in response to individual tragedies. Thus, the Flammable Fabrics Act was adopted to deal with flame hazards from textile products after several children were killed or disfigured from accidents involving brushed rayon "torch" sweaters. Motor vehicles were subjected to regulation in 1966 after deaths on our highways soared to over 55,000 per year.

In the course of its study, the National Commission listed a large number of products which it found to present unreasonable hazards to consumers. These included "unvented" gas heaters, hot water vaporizers, and infant furniture. Rather than propose individual legislation designed to deal with each of these products, however, the National Commission recommended that we abandon our traditional case-by-case approach and consolidate in a single agency authority sufficient to regulate the full spectrum of products which are sold to or used by consumers.

Toward that end, the National Commission submitted with its final report legislative proposals which recommended the creation of an independent regulatory commission with comprehensive authority to regulate hazardous products. Also, drawing upon the National Commission's report, in the beginning of this Congress the administration proposed legislation which recommended the establishment of omnibus product safety authority in the Federal Government. The administration's bill, however, proposed to vest this authority in the Department of Health, Education, and Welfare rather than create a new agency.

These two proposals formed the focus of 13 days of hearings which extended over a 4-month period. The committee's Subcommittee on Commerce and Finance met eight times in executive session on these proposals. In the end the subcommittee unanimously reported a clean bill representing an accommodation between the legislative recommendations of the National Commission and those of the administration. This bill, H.R. 15003, with certain amendments, was ordered favorably reported on voice vote of the full committee. Seven members of the committee, while not dissenting from the bill, have filed minority views believing that the authority contained in this legislation should be exercised by HEW and not an independent regulatory commission as recommended by the committee.

This bill would authorize spending of $178 million over the first 3 years. These amounts are based upon estimates supplied by HEW. This is, of course, a substantial amount of money. The dimensions of the problem are also substantial, however.

The National Center for Health Statistics estimates that each year 20 million Americans are injured in and around the home. Of this total, 110,000 injuries result in permanent disability and 30,000 in death. The annual dollar cost to the economy of product-related injuries totals over $5 billion. Moreover, home accidents account for more deaths among children under the age of 15 than cancer and heart disease combined.

These statistics have convinced the committee and virtually every witness who testified in the committee's hearings of the substantial need for this legislation.

Many of the major industries in the land have come to me and said they are for this bill, that they think it is needed. There are two points that they say should be changed, and I am going to offer amendments to change those.

The first is to change the manufacturer's date that is required in the bill be placed on each appliance or product that is made so that the consumer might know it. We put it in the bill, but I am going to offer an amendment that it may be done in code. But there are a lot of products put on the market that do not change from year to year, as an automobile does, that has a special model, and so forth. Many people, when they see the date, say that it is an old model because it was manufactured at a certain date, and they do not buy it. A lot of the major retail companies objected to this, and as I say, I think they are rightfully objecting to this, and perhaps it should be changed.

Every precaution, I think, has been taken in this bill to give industry due recognition and a part in making the standards—and this is really unprecedented.

Any industry cannot be convicted, of even a civil penalty or a criminal penalty, if it is shown that they did not knowingly violate the act.

We think it is a good bill and one that has been needed for a long period of years. I know that the gentleman from California said—well, it would be like voting against motherhood to vote against the bill. But I believe it is a bill that is very meritorious and a bill that has been carefully drawn with the precautions taken that not only consumers be protected, but industries of the land be protected as well.

As I have said, I have in my files several letters from large industries saying that they are for the bill, with two changes that I intend to offer.

So I recommend this bill to this House wholeheartedly as one that has been needed for years and one that will prevent a lot of injuries that occur in homes and across the Nation, injuries that are needless.

Mr. LATTA. Mr. Chairman, will the gentleman yield for a question.

Mr. STAGGERS. I yield to the gentleman.

Mr. LATTA. I would like to ask the gentleman a question about the statement he made that industry would be invited to make recommendations as to standards and so forth.

Mr. STAGGERS. That is right.

Mr. LATTA. I would like to have the gentleman refresh my memory as to whether or not the Senate bill contained an amendment which would preclude them from doing this?

Mr. STAGGERS. The Senate does have the so-called Nelson amendment which precludes them from coming in. We definitely put language in our bill that they would have a part in developing standards.

Mr. LATTA. That is your position?

Mr. STAGGERS. That is my position and that is the position of the committee.

Mr. LATTA. I thank the gentleman.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. (SPRINGER).

Mr. SPRINGER. Mr. Chairman, I yield myself such time as I may consume.

The idea of creating and enforcing safety standards for consumer products which logically and sensibly lend themselves to such treatment is probably accepted by most consumers and also by most businesses engaged in manufacturing and distributing such items. Considering the complexity of the problem and the issues and technical details which must be resolved to accomplish this purpose it is a wonder that so much agreement exists. There is, however, considerable difference of opinion as to the proper way to administer such an effort.

As reported the bill calls for the creation of yet another independent regulatory agency. I personally doubt that this is either wise or necessary. Past dealings with such commissions indicate serious weaknesses in their operations. Many commissions are fraught with internal bickering which works against the accomplishments expected from the legislation. Most commissions do not have the clout necessary to contend with the budget process nor the access to the White House. It could also be argued that unlike the overall regulation of transportation or communications, safety standard setting is not the kind of activity which lends itself to the regulatory pattern.

Organizing a new administrative entity from scratch is a lengthy affair. Although a skeleton of an organization appears promptly, the real business of the commission cannot be carried out for many moons. What I am saying here as to the disadvantages of a new commission has been said previously in the minority views filed with the committee report. I would commend those remarks to the Members of the House when considering their votes on an amendment to eliminate the commission from the bill and leave the safety standard setting activity in the Food and Drug Administration where it has been for some time now and where it has received high level attention and concern. As pointed out, there will be considerable research and staffing needed in the field. These already exist in FDA but since they do other things as well as safety standards it is not a mere matter of transferring facilities and people to a new entity. If it is the real wish of Congress to see early accomplishments in assuring the safety of consumer products it should opt for leaving the activity where it now rests.

In saying that most people applaud the general idea of standard setting we have grossly oversimplified the problem. There are many features of this bill which seemed correct to the committee which might or might not strike all Members the same. For example, the bill invites and encourages private industry to participate in the creation of safety standards for products which they handle or manufacture. This is traditional. It is also sensible. Maybe it is even necessary. No one knows the processes or the end product characteristics better than those who make the product for public consumption. Now it can be argued that these people have selfish interests and cannot be trusted to have any part in the proceedings except to defend themselves. This, of course, completely overlooks the fact that what expertise exists is in industry, not in government and not in consumer groups. Thousands of standards have been worked out over a long period of years, standards which were aimed at the betterment of consumer products. Most of this was done without any government prodding or assistance. I am not saying that it is improper for government to interject itself—I am only saying that it would be improper to exclude industry as the major resource.

Now and again a consumer product will show up in the market place which presents a clear and imminent hazard to the public. Some toys have fit this category and prompt removal from the shelves was not easy. This bill tries to improve the situation by recognizing that at times fast action is imperative and the full rights of the manufacturer or distributor can only be protected subsequently. This is done by allowing for quick court action rather than peremptory seizure without proceedings of any kind. We should be able to trust the courts to give a realistic interpretation to the term "imminently hazardous consumer product."

Gathering information on injuries arising from use of consumer products and dissemination of such material should work in the best interests of buyers and users of products.

The individual consumer has many courses of action open to him under this bill. He may ask that a standard be promulgated for particular products. This does not force the Government to act but it does give the individual citizen direct access to the machinery. That citizen may also sue directly for damages he may suffer due to failure to meet safety standards. As fair as this may be, it is also very possible for a manufacturer to do everything in his power to turn out a proper item and not do so. The design may be good and the manufacturing process well set up and well supervised and yet a lone defective item can result. If a defendant business can successfully show that all these things obtained it will be considered a defense against losses by reason of the product failure.

Aside from pursuing remedies in court, the consumer is further protected by requirements that discovered defects in a manufacturing run be followed by notification to purchasers and arrangements made for repair or replacement.

Except for the disputed question as to the administrative agency to carry out this program the bill represents a workable system for preventing safety defects in consumer products and a sensible system for redress when they do nonetheless occur.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman from West Virginia, the chairman of the committee.

Mr. STAGGERS. Mr. Chairman, I would like to point out that under the civil penalty there can be a compromise by the Commission if there are extenuating circumstances which they can take into consideration.

Mr. SPRINGER. I am glad the chairman explained that. If those extenuating circumstances are sufficient, they can waive the civil penalty.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, one thing I find, aside from the problem of creating a new regulatory Commission that can set standards for business is something which always personally gives me pause and gives me concern. In this bill there is the provision in section 13 which gives the Commission authority to require the manufacturers of the new consumer product to furnish a notice and a description of the product to the consumer before its distribution in commerce. It seems to me, and I do not think this has been commented on, it is a pretty far-sweeping proposal in a free enterprise economy to say that before a man can manufacture a new product he has got to give notice and a detailed description to some Government bureau before he can even start to sell it.

Mr. SPRINGER. All right. May I say we already in effect have jurisdiction of many products now being produced. Now the question arose as to whether or not if they are going to introduce a new product, we should give certain jurisdiction. In that case we felt it was fair that anybody who introduces a new product on the market ought to give this kind of certification that it falls within this act.

Mr. DENNIS. I can only say to the gentleman it seems to me it would be much more normal to let this Commission do its job and if they find something wrong with a product to call it to their attention rather than having to get a prepermission before they can go into business.

Mr. SPRINGER. Let me say this. I think if the gentleman will talk to his business people who are producing things in his district, he would find they would rather have a submission of an article in substance under this section than they would like to have it come after they have produced the article and put it on the market and then be put out of business. Is it not more reasonable to have certification in the beginning that it is not dangerous? Just as an example, and it is not covered in this act, take automobiles. Maybe 100,000 automobiles have to be recalled by the factory because something is wrong. We do not cover automobiles in this act but I give that as an example of what has been happening. Would it not be far better if we were producing a product to have a precertification rather than put 100,000 on the market around Christmas for example and then have somebody say we cannot sell it?

Mr. DENNIS. Under our system I always thought a man had a certain amount of liberty to take a chance. If we adopt the philosophy that the Government is going to run everything, maybe we should do this. Maybe it would be safe. But I think if I want to put a product on the market I ought to be able to think about it and make up my own mind without running down here and asking some bureau.

I think the gentleman has made a point, but I think this point here is the safety of the product. I repeat, it would be better to do it this way.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. SPRINGER. I yield to the chairman.

Mr. STAGGERS. I should like to answer the gentleman and say that all a manufacturer would be required to do is just give a description and describe the intended use of the article, and it can be put on the market. If you read the report on page 39, it says it does not have to be cleared.

Let me read the bill:

> For purposes of this section, the term "new consumer product" means a consumer product which incorporates a design, material, or form of energy exchange which (1) has not previously been used substantially in consumer products . . .

Then, all they have to do is notify the Commission of the description of what they are going to do, and that is about all. As it says here—

> The Commission may, by rule, prescribe procedures for the purpose of insuring that the manufacturer of any new consumer product furnish notice and a description of such product to the Commission before its distribution in commerce.

That is all he has to do. Then, they take a risk as they do every place else.

Mr. DENNIS. Will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman from Indiana.

Mr. DENNIS. I understand, Mr. Chairman, that you do not have this to the place where a man has to have permission before he can sell; you have not gone that far. You have only taken the first step. He has got to give notice before he sells. I expect that maybe in a year or two from now we will be back here with a bill which makes a precondition. That is what I am worried about, the first step forward.

Mr. BROYHILL of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman from North Carolina.

Mr. BROYHILL of North Carolina. Mr. Chairman, all I wish to do is agree with what the chairman of the committee has said is the intent of this section. All this section does is provide a means for the Commission to keep informed about what is going on in the area of new products. That is all.

Mr. SPRINGER. I thank the gentleman.

Mr. LLOYD. Mr. Chairman, will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman from Utah.

Mr. LLOYD. Mr. Chairman, did the gentleman support the creation of the independent Commission?

Mr. SPRINGER. No, I did not. I felt it ought to be in HEW from the beginning, but you understand that in these kinds of cases, you often find that the minority does not get out on the floor the exact bill it wants. I see by the seven minority Members who wrote the minority report on this, that this was one of the reasons that they wrote the minority report. They did not agree with the independent Commission idea. I think I have leaned over as far as I can go in this bill in going along with the bill as it is written. I said that I will not go along with anything which changes this bill very much.

Mr. LLOYD. May I ask one question of the gentleman?

Do I understand the provisions of the bill provide that if a manufacturer of a product covered under this act should unknowingly place it on the market without first giving notice to this Commission, he would be subject to a fine of $2,000 and upward?

Mr. SPRINGER. I will have to turn to the chairman. I do not think it does.

Mr. STAGGERS. The bill, I think very clearly, says "knowingly" or "having knowledge of" without due care and so forth; that he has to know what he is doing and so forth.

Mr. LLOYD. Even though he does not know of this new provision requiring that notice be given to the Commission, he will be subject to a civil fine?

Mr. STAGGERS. If he can prove that, I am sure he would not be subjected to the fine, but certainly any man who manufactures products, I think knows the law of the land, what it might be, but if they can prove differently before the Commission or even before the judge, that would be different.

Mr. MOSS. Mr. Chairman, will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman from California.

Mr. MOSS. If you will look under page 101 under Criminal Penalties, section 21(a)—

> Any person who knowingly and willfully violates——

Mr. LLOYD. I was not referring to the criminal penalties.

Mr. MOSS. Then under Civil Penalties it is also "knowingly." I will give you the precise page. It is on page 99:

> Any person who knowingly violates—

Under section 20(a) at page 99 of the bill dealing with civil penalties, so he must knowingly violate.

I thank the gentleman for yielding.

Mr. LLOYD. One of the great problems facing small business in the country today is this continual problem of applying the law and the various regulations that are being passed by this body and the State regulatory bodies. It is becoming very onerous and in many cases almost impossible for small businessmen to remain in business. I believe that is one of the real problems we have to consider.

Mr. SPRINGER. May I say I agree with the gentleman. However, everyone was for a bill. The administration was for a bill and strongly supported a bill.

The question arises as to what the character of the legislation shall be, how far it shall go, who shall determine the standards and enforcement, and how the enforcement shall take place. This is where the great disagreement in the committee arose, over these five particular problems. This was something that was ultimately compromised, as to how this would be done.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding.

Would it be correct to say that this bill is in the nature of an indictment of the present regulatory agencies which deal with the subject matter here being considered?

Mr. SPRINGER. No. I would say it is not an indictment. Actually, we do not have any agency presently covering the matters contained in this bill.

Mr. GROSS. What about the FDA to mention just one?

Mr. SPRINGER. The FDA has some safety jurisdiction, but not this. For instance, the FDA handles many things having to do with food products, cosmetics, and those types of things. Generally speaking, on the enforcement of that kind, for safety, it has been in the FDA.

The reason why I felt this should be placed there was because I thought this dealt with a product. If we are going to change the character of it, why not leave it in FDA, because these people have had experience in this field? This is why I felt that ought to be done.

They do not cover most of the matters covered in here, but they do cover other products for safety. Those are the others I read, which are not covered; food, drugs, cosmetics, medical devices. Tobacco is covered in FDA. Some of these others are covered in other legislation.

Principally in the past FDA has handled safety or food and drug products, for the most part.

Mr. GROSS. This bill provides, as I understand it, for a Commission of five members?

Mr. SPRINGER. That is right.

Mr. GROSS. How many members?

Mr. SPRINGER. Five.

Mr. GROSS. And an advisory board?

Mr. SPRINGER. A council of 15 members.

Mr. GROSS. An advisory council of 15 members. Does not the gentleman believe this is laying still another layer of fat on top of the present regulatory agencies. If the existing agencies have not been doing the job they should in this field, why did the committee not bring out legislation to compel them to assume their responsibilities rather than creating still another Commission and another advisory council in the Federal Government?

Mr. SPRINGER. May I say that the

gentleman, having been in the committee process himself, knows that in the minority we do not always get what we want. I believe this was supported very largely by those in the minority.

I am not saying this was partisan. I am saying that there were not sufficient votes to sustain that position we originally wanted. The gentleman is right. Because we come here with another commission, rather than putting it in FDA, a question arises in my mind, "Should I conscientiously oppose this if it is in the public interest merely because I did not get my way in putting it in FDA?"

Mr. GROSS. Will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman.

Mr. GROSS. I was not directing my remarks personally to the gentleman. Those remarks were directed to the majority in the House of Representatives, and since this bill is a House bill and is before the House today, I hope that before this day is over someone on that side of the aisle will tell us why they in the majority brought out this kind of a bill.

Mr. STAGGERS. Will the gentleman yield?

Mr. SPRINGER. Yes; I will yield to the chairman of the committee.

Mr. STAGGERS. I have in my hand here some of the samples of those things that are not covered at all in any regulations that contain unreasonable hazards: Architectural glass, color television sets, floor furnaces, high-rise bicycles, hot water vaporizes, infant furniture, ladders, power tools, protective headgear, rotary lawnmowers and on and on, products that are not under any regulation at all today, products that are hazards around the house.

Now, these have not been covered. In this new agency we cover all of these, and we take the Federal Hazardous Substances Act, the Poison Prevention Packaging Act, and the Flammable Fabrics Act. and place all of them in this agency.

I should point out that this was bipartisan, because both parties did, as I say, cosponsor it.

And may I say this further: This advisory committee is made up of five men from Government, five from industry, and five from the consumers, so that they will know and be able to advise the Commission. We tried to make it as bipartisan and as free as we could, so that industry would have the benefit and the consumers would have the benefit, too.

Mr. SPRINGER. May I ask the Chairman, how much remaining time do I have?

The CHAIRMAN. The gentleman from Illinois has consumed 25 minutes.

Mr. SPRINGER. Mr. Chairman, I cannot yield any further time, since I have at least one Member who wants to speak.

Mr. STAGGERS. I yield 5 minutes to the gentleman from California (Mr. Moss), the subcommittee chairman.

Mr. MOSS. Mr. Chairman, I think the committee is fully aware of the time and effort that has gone into this legislation. Before setting forth the details of that effort, I want to pay my compliments to every member of the subcommittee for the diligence with which they followed this legislation.

Mr. Chairman, the Consumer Product Safety Act is legislation of major importance to every American. It was carefully structured to promote the safety of consumer products, reduce unnecessary deaths and injuries and strengthen consumer confidence in our economic system.

It is cosponsored by every member of the subcommittee, which spent over 5 months in hearings and executive sessions on the bill.

The need for this legislation is documented in literally thousands of pages of testimony before the House and Senate Commerce Committee's and the National Commission on Product Safety. You will recall the National Commission on Product Safety was established by Congress in 1967. It conducted an extensive 2-year investigation of the safety of consumer products. It was a bipartisan commission. Its report was unanimous on all major recommendations. This legislation is based upon that report.

Twenty million Americans are injured every year in accidents associated with consumer products; 110,000 of them permanently; and 30,000 are killed. While not all of these deaths and injuries are caused by consumer products, testimony before the Subcommittee on Commerce and Finance, established that a significant number can be eliminated if proper attention is paid by both Government and industry to accident prevention.

In this connection the National Commission concluded in its report:

> The exposure of consumers to unreasonable consumer product hazards is excessive by any standard of measurements.

Of course, it is easy to talk about statistics, but the real meaning of this legislation lies in the pain and suffering of individual Americans who are unnecessarily maimed by products that can be designed better. For example:

Glass doors and windows that are not made of safety glazing cause 150,000 accidents a year; gas floor furnaces which are not adequately insulated develop temperatures of up to 350° and burn 30,000 a year; unvented gas space heaters which are inadequately designed result in between 350 and 1,000 deaths annually; and rotary power lawnmowers which are not adequately designed result in 140,000 injuries annually.

Should any member think that the list of hazards compiled by the Commission was a final and exhaustive list, I would recommend that he carefully read the hearings of the subcommittee on this legislation. Very serious questions were raised concerning the safety of many products not investigated by the commission, such as children's minibikes, aluminum home wiring and synthetic football turf.

With a little effort by Government and industry and with the assistance of consumers and consumer organizations, these products can be improved and the annual cost of injuries, which may exceed $5 billion, can be reduced.

It should be obvious to anyone familiar with the background of this legislation that the need is clear and present. Every day of delay means more unnecessary injuries. During the month of July alone, the emergency rooms of the 16 California hospitals reporting to the Department of Health, Education, and Welfare treated 2,798 persons for injuries associated with consumer products. And, remember, there are 479 other emergency room facilities in the State which are not in the reporting system.

Now let me briefly describe the manner in which the law will operate.

The bill authorizes the collection of injury statistics and the conduct of medical and engineering studies to assist in determining the causation of accidents. It authorizes the dissemination of educational information to consumers to help them avoid accidents. It provides for the development of safety standards where an unreasonable product hazard is found. These minimum Federal safety standards might relate to the performance, labeling or packaging of a consumer product. They could be promulgated only after fully adequate hearings and judicial review.

The subcommittee and the committee were especially careful to design the act to take into account the legitimate problems of industry. Rarely have I seen legislation drafted with more awareness of its effect on the industries that will be subject to it. For example:

First, producers and private standards groups are given the opportunity to develop proposed product safety standards for the Commission. So are consumer groups. The Commission may agree to contribute to the developer's costs. I am aware of no comparable provision for industry and consumer participation in the development of other Federal regulations.

Second, product safety standards may be issued only after a hearing pursuant to the Administrative Procedure Act. In addition to the requirements of section 553 of that act the bill requires the agency to afford interested parties an opportunity for oral presentation of arguments and that a transcript of the proceedings be kept for purposes of court review.

Third, under this bill court review of product safety standards will be pursuant to the "substantial evidence" rule rather than the usual standard which sustains an agency's rulemaking action if it is not arbitrary. This is a departure from the normal standard of review in recognition of the importance of commission decisions to the public health and safety, as well as to the industries involved.

Fourth, the agency may proceed against "imminent hazards" solely by court action for injunctive relief. The Federal Hazardous Substances Act, which is already law, allows for an administrative ban of imminently hazardous products.

Fifth, finally, the bill contains careful provisions protecting against the unnecessary disclosure of trade secrets and other confidential business information.

It should be clear, from this description, that the Consumer Product Safety Act is a legislation that will be fair to business—and indispensable to American consumers.

Mr. Chairman, we have heard much discussion about the fact that this legislation creates an independent consumer product safety commission to consolidate existing Federal safety programs and to regulate the many unregulated products that will be subject to it.

I can assure the Members that the subcommittee and the committee weighed carefully the need for a new agency. The original recommendation for the creation of an independent commisison came from the National Commission on Product Safety and it was unanimous.

The Commission stated:

> Statutory regulatory programs buried in agencies with broad and diverse missions have, with few exception, rarely fulfilled their missions . . . the high visibility of a vigorous independent commission would be a constant reminder of Federal presence and would itself stimulate voluntary improvement of safety practices.

The committee was also of the opinion that a bipartisan independent commission would tend to insulate safety decisions from political pressure, speed up the budget process, permit more effective communication with the public and industry, consolidate presently fragmented safety programs and avoid further burdening the already overburdened department of Health, Education, and Welfare.

The subcommittee had 13 days of hearings, spent 8 days in markup, and then took it to the full committee where the work of the subcommittee was reviewed.

At no time in the course of the consideration of this bill was it considered on a partisan basis in the subcommittee. It represents a part of the thinking of each member of the subcommittee. There is not a member who cannot point to something in this legislation and say, "That is my amendment. It is there because that is what I proposed."

I think it is a fine example of the legislative process working most effectively.

But before the legislation ever reached the subcommittee, the Committee on Interstate and Foreign Commerce directed the creation of the National Commission on Product Safety, and that Commission worked for 2½ years at a cost of about $2 million. It had held many hearings, examining into the nature of complaints against products on the American market. The Commission then filed a report. The bill before you represents a significant degree the consensus of the members of that National Commission on Product Safety.

Certainly with respect to the assignment of duties of administration of this act to an independent agency, that was a unanimous recommendation of the special Commission. That Commission reflected rather broadly the commercial interests of this Nation.

I think the success of the legislation offered to you today by the Committee on Interstate and Foreign Commerce in meeting the needs of both industry and business is best brought into focus by looking at some of those who have come forward and said, "We support the House bill."

Sears, Roebuck—the largest merchandising firm not only in this Nation but in the world; the Association of Home Appliance Manufacturers. They are not afraid of the House bill at all; they endorse it. The Consumer Federation of America, the Consumers Union, the American Academy of Pediatrics. There are others, but those are important groups, groups concerned with the problem, as I know every Member of this Congress is.

So we have offered you here good legislation which meets the need for consumer safety that was so amply illustrated in the hearings of the committee and the report made available to every Member of the House as a result of the work of the National Commission on Product Safety.

Mr. Chairman, we are all aware that this legislation affects substantial economic interests. Some of them have not hesitated to remind us of that fact. But I would remind my colleagues consumer safety legislation also affects the public interest. It is an effort to protect the health and safety of all Americans. Most of them still have a deep and abiding confidence in this democracy. The enactment of this legislation will not lessen that confidence.

Mr. HOLIFIELD. Will the gentleman yield?

Mr. MOSS. I am very happy to yield to the gentleman.

Mr. HOLIFIELD. The gentleman knows of my concern for protection of consumers in bringing before the House a bill which was passed by a vote of 300 to 44 on this subject.

The gentleman sees nothing in this bill that would conflict with the establishment of a consumer agency, does he?

Mr. MOSS. I do not. I see nothing at all in here to that effect.

Mr. HOLIFIELD. I have studied this bill, and I think it is a fine piece of legislation. I want to compliment the gentleman from California, the chairman of the subcommittee, and the members of his subcommittee as well as the chairman of the full committee.

This committee, in my opinion, does its work and does it well. It does it carefully and brings to the floor well thought out legislation. Where there are differences among the members of the committee they are logically presented. It is a great comfort to me as a Member of the House to have been able to follow this committee and support it in most of its legislation if not all of it.

I want to compliment the gentleman, the subcommittee chairman, the chairman of the full committee, and all of the members, including the fine members on the minority side, for bringing this bill before the House.

Mr. MOSS. I thank the gentleman.

Mr. STAGGERS. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. ECKHARDT) a member of the subcommittee.

Mr. ECKHARDT. Mr. Chairman, I want to use my time to answer the question that the gentleman from Iowa raised, and I hope it will be to his satisfaction, because many of these same arguments were raised on the subcommittee and ultimately we came out with a unanimous opinion with respect to the independent agency.

It will be noted that the minority report is not signed by any Republican member of the subcommittee.

Let me point out what we were trying to do. Instead of proliferating agencies, we were trying, No. 1, to bring all of the areas of consumer protection against unsafe products under a single agency. For instance, flammable fabrics was controlled by Commerce in establishing standards, by HEW in investigations, and by FTC in enforcement. If you can show me a better model of inefficient administration and of imposing undue loads on the manufacturer by subjecting him to three separate agencies in three different areas, I would like to know it. Hazardous substances, it is true, was under HEW, and the poisonous product packaging was in HEW.

What we felt we ought to do since we were dealing here with an agency that had largely judicial or quasi-judicial powers was to place it in a single agency, a single agency under the surveillance of Congress and not related to any political party.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. STAGGERS. Mr. Chairman, I yield 1 additional minute to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, we wanted to remove it from the departments of Government that move and change with the movement of administration. We have activities here that are essentially judicial in function so we provided 7-year overlapping terms that would run outside the terms of administrations. I think we afforded the most effective way of not proliferating agencies, but consolidating in a single agency a quasi-judicial function and of creating an agency that would be most congenial to the due process afforded in this bill.

I know, in the presentation of this bill and in the answers to some of the amendments, you will ultimately see that we have been more sensitive to judicial process than any other drafters of a piece of legislation affecting administrative agencies.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

Mr. STAGGERS. Mr. Chairman, I yield 2 additional minutes to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I will not take the full 2 additional minutes, because I feel that if there ever was a subcommittee that worked carefully across the aisle on points like these it was our subcommittee.

The question was brought up just a minute ago by the distinguished gentleman from California (Mr. HOLIFIELD) concerning the question of a Consumers' Advocate.

Now, from the other side of the aisle we received the suggestion that the Consumers' Advocate under the other bill should be sufficient, and that we would be proliferating interference with agencies if we created another special Consumers' Advocate. So we gave that up. They convinced us. We on the other hand convinced them, I believe, and I would invite responses from some of the members of that subcommittee, that since this was essentially a quasi-judicial body it was far better to have it appointed over a long period of time, with long terms, and independent of one of the departments of Government which are really not set up for judicial or quasi-judicial determinations.

Now, essentially that is what we did, and I think it was a fine example of exchange not on the basis of what is in the administration's bill, or what is in somebody else's bill, but what will work.

For instance, we took from the administration bill directly the control of imminent hazards instead of giving the agency any power for an immediate ban. We make them go to court, just as in the administration's bill.

So we have a fine mixture, and I think a very workable total package.

Mr. SPRINGER. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. DEVINE).

Mr. DEVINE. Mr. Chairman, we have legislation here today that carries the title "Consumer Product Safety Act." Now who in the world can be opposed to consumer product safety? You know there are those in this Chamber who shudder, shake, and shiver when they think Mr. Nader may take offense at what they do, especially the violation of his code and vote against some title like this. Nader, as you know, is the self-appointed guardian of the people of this country, as well as an "expert" on all subjects.

Now let us take a look at what it does. Let us take a look at this committee report stating the purpose of the legislation.

The bill would create a new independent regulatory commission with comprehensive authority. Now that is all we need in government—another new comprehensive regulatory agency—we do not seem to have enough.

This bill would vest in the consumer product safety commission the authority to collect and to disseminate information on consumer products related injuries; establish mandatory safety standards or to ban a product from the marketplace; obtain equitable relief in the courts and so on.

It provides a system of product certification to compel inclusion of certain safety related information on product labels and so forth.

There are seven of us who attached our signatures to the minority views, in addition to the gentleman currently in the well, the gentleman from Minnesota (Mr. NELSEN), the gentleman from Michigan (Mr. HARVEY), the gentleman from Ohio (Mr. BROWN), the gentleman from New York (Mr. HASTINGS), the gentleman from California (Mr. SCHMITZ), and the gentleman from Texas (Mr. COLLINS).

I will not attempt to go into all the minority views except to point out to you that we deplore the creation of another independent regulatory agency, another commissioner and a five member board with a fifteen member advisory board.

We point this out and I am making reference to the last paragraph on page 69 of the minority views which says the following:

> To create a new commission will guarantee that not much of anything will happen in the field of product safety for two or three years. It will take that much time to work out the details, get space and hire the kinds of people needed. Even the commissioners themselves, however competent they may be, will need considerable time to learn to work together.

It goes on further and says:

> There is also every reason to believe from a fiscal point of view that the creation of a new commission will cost the taxpayers far more than leaving the product safety effort in an already organized and operating department of government. A new effort will require new forces and new research facilities. HEW has these already.

That is why those of us who attached our signatures to the minority views, feel that this should be handled by the existing regulatory agency, the Food and Drug Administration within the Department of Health, Education, and Welfare.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The gentleman yields back 2 minutes.

Mr. SPRINGER. Mr. Chairman, I yield 5 minutes to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL of North Carolina. Mr. Chairman, that the public is entitled to purchase products without subjecting themselves to the possible risk of injury or death in the operation of these products would appear to be self-evident. And yet, today consumers are not able to confidently rely on the safety of the products they use and should enjoy.

The National Center for Health Statistics estimates that each year 20 million Americans are injured in and around the home. Of this total, 110,000 injuries result in permanent disability and 30,000 in death. The annual cost to the Nation of product-related injuries may exceed $5.5 billion. It is important to note that these figures do not include injuries resulting from automobile accidents, which have been widely reported to total 4 million injuries, 55,000 deaths, and an economic cost of more than $16 billion annually.

And yet, for all these statistics and the assumption that the Federal Government exercises broad authority in the interest of consumer safety, existing Federal authority to curb hazards in a majority of consumer products is virtually nonexistent.

The Congress has attempted to respond to this need by passing a series of acts designed to deal with specific hazards in a piecemeal approach. These acts include the National Traffic and Motor Vehicle Safety Act of 1966, the Gas Pipeline Safety Act of 1968, the Flammable Fabrics Amendments of 1967, the Radiation Control for Health and Safety Act of 1968, the Child Prevention and Toy Safety Act of 1969, and the Poison Prevention Packaging Act of 1970.

In recognition of the problems and the comprehensiveness of the issues involved, the Congress created in 1967 the National Commission on Product Safety with a directive to "conduct a comprehensive study and investigation of the scope and adequacy of measures now employed to protect consumers against unreasonable risks of injuries which may be caused by household products." The Commission, in issuing its report in 1970, recommended two fundamental changes in the Federal Government's approach to product safety. First, it recommended that a single independent agency be given the basic responsibility within the Federal Government for regulation designed to promote the safety of consumer products. Second, the Commission recommended that the new product safety agency have authority over the safety consumer products. The legislation we consider today incorporates these two fundamental changes into the most comprehensive consumer protection legislation ever considered.

It may be asked, "Is new product safety legislation needed?" Consumer spokesmen acknowledge that technological progress, growing affluence, and advances in product distribution have brought great benefits to American consumers over the past half-century. These include widespread availability of electrical appliances, power tools, household chemicals, medicines and countless other products. But accompanying these advances are the new risks to the safety and health of the American public.

There are those who believe that safety begins in the home with behavioral patterns of the family, such as storing chemicals out of the reach of children and providing for steady ladder. Others contend that safety begins with the home itself, the environment where hazardous products find their uses. And still others believe that safety begins in the factory and includes design, construction and hazard analysis, as well as quality control. All three concepts clearly contribute to the overall safety picture. The National Commission attempted to find the weak link in this chain, that area where remedies could best be applied with the assurance of some degree of success. The Commission determined that the greatest promise for reducing risk resides in "energizing the manufacturer's ingenuity." Government stimulation, coupled with this technological know-how could achieve the needed safety controls.

The Congress, in responding to the National Commission on Product Safety, began to study the problems involved in assuring product safety for all consumers. The House Subcommittee on Commerce and Finance of the Interstate and Foreign Commerce Committee held public hearings on a number of national product safety proposals, including the recommendations included in the National Safety Commission's Report and those recommendations contained in the President's consumer message.

As reported from the committee, the legislation we are considering today would vest in an independent regulatory Commission authority to collect and disseminate information on consumer product related injuries; establish mandatory safety standards where necessary to prevent or reduce unreasonable product hazards, or where such standards are not feasible, to ban the product from the marketplace; obtain equitable relief in the courts to protect the public from products which pose imminent hazards to health and safety and administratively order the notification and remedy of products which fail to comply with Commission safety rules or which contain safety-related defects.

The bill also contains a system of product certification and permits the Commission to compel inclusion of certain safety-related information in product labeling. The Commission would be given broad inspection and recordkeeping powers. Enforcement of the provisions contained in this legislation would be obtained through court injunctive process or through imposition by the court of criminal and civil penalties. Private suits for damages are allowed to be brought in Federal courts and consumer suits are permitted to compel compliance with safety rules and certain Commission orders.

All witnesses who testified before the committee including virtually all segments of the manufacturing industry, supported the proposition that the Federal Government should assume a major role in assuring the safety of consumer products. Disagreement among witnesses primarily centered upon the organizational structure for regulating product hazards and the procedures to be employed in the exercise of governmental authority.

The National Commission on Product Safety had recommended that a new independent Federal agency be established; the administration had asked that this authority be given to the Department of Health, Education, and Welfare. The administration planned to build on the activities, personnel, and existing facilities of the Food and Drug Administration and to reorganize the FDA for the purpose of assuming the additional responsibilities of this legislation.

The decision of the committee to create an independent regulatory agency along the lines of the recommendations of the National Commission on Product Safety reflects the committee's belief that an independent agency can better carry out the legislative and judicial functions contained in this bill with the needed neutrality that the public has the right to expect of regulatory agencies formed for its protection. This independent status, bipartisan commissioners with staggered and fixed terms, would form insulation from the political and economic pressures such as exist in the executive branch.

An independent agency can give more objective, single-minded attention to consumer safety. An independent agency has undivided responsibility for product safety and can be more easily held responsible for any failures that occur. Competition for funding has grown more intense and all too frequently funding for needed programs goes unnoticed in the cumbersome budget requests of the superagencies. The authority to publicize budget requests and legislative recommendations by an independent agency without censorship or competition within an agency will enable the product safety function to compete more effectively for money, manpower, and authority. Independent status will help confer greater prestige on the regulation of product safety and make it more visable to the public. This public awareness, it has been argued, is one of the most important factors in stimulating an agency to exercise its full powers in the public interest. Public attention will stimulate consumer viewpoints as well as industry viewpoints.

And significantly, an independent agency would combine existing fragmented programs which are currently dispersed through approximately 30 different Federal organizations. Consolidation would lead to more effective, better coordinated attacks on consumer safety hazards.

Studies have shown the weaknesses and failings of the Food and Drug Administration are unlikely to be remedied from within the overwhelming structure of HEW. Morale problems, inadequate planning and communications problems of long duration have plagued the FDA, as well as insufficient use of its authority in protecting the consumer. The FDA has been dependent on private industry for much of the technical information and expert opinion about the safety of products. Accordingly, this prevents swift action by the FDA where there is controversy and industry opposition.

In addition to the need to establish a comprehensive and effective regulation over the safety of unreasonably hazardous consumer products, there exists the need to insure that procedures relating to consumer products are fair to both industry and consumers. The committee heard witnesses from industry documenting some of the potential difficulties that might be encountered in complying with the proposed regulations.

I believe that the committee has formulated legislation which for the first time affords industry and consumer groups the opportunity to directly participate in the development of safety standards. In other words, it is truly balanced in its approach to solving these important problems of consumer protection without penalizing the manufacturer.

Manufacturers and other interested parties are given the opportunity to develop proposed product safety standards. The Commission may, where appropriate, agree to contribute to the developers' costs. We are aware of no comparable provision for industry participation in the standard-development process in any other safety statute.

In addition, all final product safety standards or proposed bans must be issued after hearings pursuant to section 553 of title 5. The bill further requires the Commission to afford interested parties with an opportunity for oral presentation of arguments, requires that a transcript be kept, and that it be filed as a part of the record upon court review.

In a major departure from normal standards of court review of regulatory actions, this bill would provide court review of any product safety standard or ban, pursuant to the "substantial evidence" rule rather than the usual rule which sustains the agency's action if it is neither arbitrary nor capricious. Procedures under this legislation against "imminent hazards" would be by court action. The Federal Hazardous Substances Act, applicable to many consumer products, provides for administrative banning of imminently hazardous products.

Notification of the public of products presenting "substantial hazards" or products failing to comply with safety standards must be preceded by a hearing pursuant to the Administrative Procedures Act. Any recall order must be preceded by a formal hearing in accordance with section 554 of title 5. Repair, replacement, or refund is at the election of the manufacturer. Refund must be less reasonable allowance for use by the consumer.

This legislation prohibits the public disclosure of trade secrets or other sensitive material. It requires the Commission to notify each manufacturer of its intent to release any information at least 30 days prior to disclosure and offer an opportunity for comment. This provision is not found in any other safety legislation.

Civil penalties for violations of the act apply only where the violation was committed knowingly. Criminal penalties apply only where the violation was committed knowingly and willfully. Other product safety statutes provide for civil penalties regardless of intent.

Current State and local safety standards would be preempted by those included in this act. Exemptions could be obtained only by application to the Commission establishing they are required by compelling local conditions, would not unduly burden interstate commerce, and impose higher levels of performance than Federal standards.

An advisory council would be established, including representatives of industry and the small business community.

An injury information clearinghouse would be established to collect and analyze product-related accident statistics. This function is presently performed to a large extent by industry at its own expense. Such statistical information will better enable the Commission to determine the effectiveness of its programs and determine those areas where further study is needed.

The small retailer would be protected by permitting reliance upon the manufacturer's certification of compliance with a product safety standard or on the manufacturer's representation that the product is not subject to a safety standard.

This legislation clearly creates an atmosphere in which business can operate effectively within the consumer movement. As a lawmaker, my strongest concern is to make sure that when consumer legislation is clearly needed, such legislation provides an environment in which business can flourish under the free enterprise system while providing consumers the protection and information which is their right. This legislation provides that environment and that protection.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL of North Carolina. I yield to the gentleman from Indiana.

Mr. DENNIS. I am wondering how much that environment is consistent with the provisions of section 16 which provides that this Commission can require the keeping of whatever records practically that it may desire, and can require admission of the Commission's agents to inspect those records, and when we then turn over to section 20 and section 19, if they have not kept the records the Commission laid down, or they have not let the Commission's agents in to see the records they said they must keep, the businessman can be fined $2,000 to $5,000 for a civil penalty. This is hard lines, and especially for a small business.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SPRINGER. Mr. Chairman, I yield to the gentleman 2 additional minutes.

Mr. BROYHILL of North Carolina. Mr. Chairman, I do not think that anyone who is in business, who has a product safety standard applicable to them, is going to be reluctant to cooperate with this agency. I do not think anyone is going to want to slam the door or bar the door in order to keep one of the agents of this Commission away from his place of business. I think they are going to be willing to cooperate. The business people I have talked to that have been involved in safety legislation or complying with safety legislation that is already on the book, have had good experience with it, and I do not think there would be any more problems with this new Commission.

Mr. SPRINGER. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota (Mr. NELSEN).

Mr. NELSEN. Mr. Chairman, I want to make the observation that I have received mail, letters from business establishments stating that they feel this is a good bill, but I want to point out that I signed the minority view because the habit around here is to keep on adding new agencies to do more things that ought to be done with existing agencies that are already there. I think Members will recall in our great debate on the cancer bill that the administration recommend a totally new agency, the Senate bill set up a totally new one, but our Subcommittee on Public Health and Environment of the Committee on Interstate and Foreign Commerce felt we should keep what we have and mandate the agency to do a better job by certain guidelines and moneys to be set forth in the bill. So in this case here we had a bill, and the administration recommended that the job stay in HEW, and certainly we have a good place to start, but we start a new agency. This was my feeling and I signed the minority view.

However, we did reach an agreement on parts of the bill, where some of the jobs stayed in the context of the introduced bill, and Food and Drug stayed where it was, so we worked out a little bit of a compromise and I think in the right direction.

But I want to mention again as I did the other day that some of us have experienced that with the passage of a bill in the Congress, with a beautiful title and with all the beautiful objectives, we have found for example in the OSHA situation—the Occupational Health and Safety Act—that the enforcement process went way overboard, to the degree where we had to do an undesirable thing and say we can only make this apply in those situations where they employ above 15 employees, which is not a very good way to legislate, but perhaps there was no other place to turn.

So we need to be aware of the fact that when we set up these agencies to do many things, sometimes they overreact and sometimes we begin to move in the direction of blighting some of the objectives we seek in the bill.

However, I think the committee did do a pretty good job and we do find endorsement for the objectives of the bill and the bill itself.

Mr. STAGGERS. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. CARNEY), a member of the committee.

Mr. CARNEY. Mr. Chairman, I am grateful for this opportunity to express my strong support of a bill which I have cosponsored, H.R. 15003, Consumer Product Safety Act. I take this opportunity also to say that the subcommittee worked very hard and to thank the members of the subcommittee and extend my best wishes to all the members of the subcommittee on both sides of the aisle, particularly to our subcommittee chairman, the gentleman from California (Mr. MOSS), and the staff who did such an excellent job in alleviating a great many of the problems that arose between the members.

Mr. Chairman, I hope Members of this body will see fit to adopt this bill.

Mr. Chairman, as we are all too painfully aware, it is only recently that the consumer "has come into his own" in our society and that proper emphasis has been placed on his role in the modern economy.

As evidence of the new interest in the consumer, during the past decade, we in Congress have enacted a broad battery of legislation designed to promote fairness in the marketplace. This bill before us today is a further step in advancing the cause of the consumer.

It is considered self-evident that the public is entitled to purchase products without subjecting themselves to unreasonable risk of injury or death. At the present time, however, consumers are not able to confidently rely on the safety of products which are distributed for their use or enjoyment.

Mr. Chairman, this legislation proposes that the Federal Government assume a major role in protecting the consumers from unreasonable risks of death, injury, or serious or frequent illness associated with the use of or exposure to consumer products. To carry out that objective, this bill would create a new, independent regulatory commission with comprehensive authority to take action across the full range of consumer products to reduce or prevent product-related injuries.

This independent regulatory Commission would have the authority to: First, collect and disseminate information on consumer product-related injuries; second, establish mandatory safety standards where necessary to prevent or reduce unreasonable product hazards, or—where such standards are not feasible—to ban the product from the marketplace; third, obtain equitable relief in the courts to protect the public from products which pose imminent hazards to health and safety; and fourth, administratively order the notification and remedy of products which fail to comply with commission safety rules or which contain safety related defects.

To me what is most important in this legislation is that we can no longer propose individual legislation designed to deal with the product hazards which had been identified. But rather, we must abandon this case-by-case approach to product safety and consolidate in a single agency authority sufficient to regulate the full spectrum of products which are sold to or used by consumers.

I have long supported consumer legislation such as: The Flammable Fabrics Act, Radiation Control for Health and Safety, the National Traffic and Motor Vehicle Safety Act, the Child Protection and Toy Safety Act—to name just a few. But now it is time we move a step further and I feel that H.R. 15003 is that step—this is the type of legislation 1972 calls for.

As a member of the Subcommittee on Commerce and Finance which developed this legislation, I can testify to the careful and extensive deliberations that went into this legislation. Every effort has been made to bring out a bill that will protect the American consumer and at the same time be fair to industry. The need for this legislation is obvious. The Department of Health, Education, and Welfare reports that 30,000 persons are killed, 110,000 permanently disabled, and 585,000 hospitalized every year in accidents associated with consumer products.

Approximately 7,000 of those killed are children under 15 years of age—a death toll higher than that of cancer and heart disease combined. Among the categories of consumer products which were found by the National Commission on Product Safety to include unreasonable hazards were such commonly used products as: architectural glass, color television sets, fireworks, floor furnaces, glass bottles, high-rise bicycles, hot-water vaporizers, household chemicals, infant furniture, ladders, power tools, protective headgear, rotary lawnmowers, toys, unvented gas heaters, and wringer washers.

These hazards are not necessarily the fault of any one individual or group. They are the result of impersonal forces which have trapped producers, sellers and buyers into inability to adequately consider safety in the production and uses of consumer products. This legislation opens a new era of national awareness of the unacceptable toll of home injuries. It is not expensive legislation. The annual economic cost of injuries associated with consumer products may exceed $5 billion according to the National Commission. Many products can be made safer at little expense. For example:

The magnetic latch on refrigerators, to prevent entrapment, adds nothing to the consumer's cost.

A double-insulated drill sells in the same price bracket as other top-line drills without double insulation. The manufacturer says the double insulation added little to his costs.

TV sets whose fire records were below average sold in the same price range as those above the average.

The wringer washer judged to have the safest instinctive release by Consumers Union sells at about the same price as others tested.

Mr. Chairman, the heart of this legislation is the establishment of an independent consumer product safety commission. Since the unanimous action of the subcommittee, many business groups have advised me that they are not as concerned with the structure of a product safety agency as they are with being afforded an adequate administrative hearings, due process and judicial review. These protections the committee has carefully written into the bill.

I urge my colleagues to support the Consumer Product Safety Act as reported. American consumers will thank you.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 5 minutes to the gentleman from Nebraska (Mr. McCollister), a member of the committee.

Mr. McCOLLISTER. Mr. Chairman, I suppose no Member has any greater concern for the problems of the small businessman than have I, having been one only so recently.

In consideration of this legislation, we were faced with the problem of dealing with that increasing burden of regulation and reporting, and at the same time dealing with a very real problem that exists in product safety. It is my feeling, my strong feeling, that this bill does represent a very good balance between limiting the burden and yet providing the remedy that is needed.

Reference has been made by the subcommittee chairman (Mr. Moss) and by the gentleman from Texas (Mr. Eckhardt) concerning the high degree of openmindedness and give and take in this committee's action on the bill. Though my view is necessarily more limited in scope than theirs, certainly of all the bills that we have considered in this subcommittee this year and this session. I could not imagine any better attitude existing than what prevailed as we considered this legislation.

There was an openmindedness and the majority was willing often to consider amendments which answered to the concern that the minority expressed. I wish to join in the tribute paid to every Member of that subcommittee in that kind of approach to the problem.

In testimony before the Subcommittee on Commerce and Finance, Mr. Arnold B. Elkind, former chairman of the National Commission on Product Safety, said that:

> * * * the laissez-faire approach to consumer products costs the American public about 20 percent of the overall toll that the public pays in injuries or deaths for the privileges of enjoying consumer products. This translates into 6,000 lives, 22,000 cripples, 4 million injuries, and $1.1 billion in treasure that could be saved each year by an effective system for making products safe to use.

The well-supported conclusion of our committee was that a comprehensive Federal consumer product safety mechanism was needed, to balance the equities between the consumer and the manufacturer. On the one hand, manufacturers are not sufficiently influenced by competitive forces to dedicate themselves to the production of safe products. The Commission and our committee found that self-regulation in the area of product safety just is not enough. On the other hand, the consumer has an ever-increasing appetite for technologically advanced products which he may not understand, which he cannot therefore evaluate in terms of safety and which may pose potential for harm either intrinsically or in a specific application.

Our committee has developed a mechanism in H.R. 15003 that balances the need for safety with the need for fairness to the manufacturer. It impacts on the manufacturing process in a minimal way and yet will be effective to prevent needless injury.

I am likewise enthused about the procedures established by the committee to carry out the mandate for Federal action. By placing the administration of consumer product safety in an independent regulatory agency, vested with new authority, we are confident that the intent of Congress will be carried out with cold neutrality and be insulated from undue economic and political pressures—more than would be possible or likely if the agency was a part of a Cabinet-level department, and with more dedication to fairness and effectiveness than if the agency was a part of, or if its authority was given to, an already existing regulatory agency. The effectiveness of the regulations is assured because this bill provides that industry and consumer groups will have an opportunity to participate in the standards writing process. We will not have illogical and impractical regulation because the experience and technological expertise of industry and consumer organisations will be utilized to the maximum extent possible, and within a framework of protection for the views of each, since the committee has beefed up the rulewriting procedure by allowing oral presentation of arguments, the keeping of a transcript, and an improved basis for judicial review. The new agency's necessary authority to recall unsafe products likewise has built-in protections for the manufacturer in pre-recall hearings, and these hearings will not unduly delay the removal of unsafe products or repair, replacement or refund.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 5 minutes to the gentleman from Iowa (Mr. Scherle).

Mr. SCHERLE. Mr. Chairman, I am concerned. What we have here is another bill to create another Federal bureaucracy. Where the Food and Drug Administration has inspectors across the Nation now responsible for foods, drugs, and product safety, we are going to start a new agency to duplicate that field staff. And, in addition, we are going to have one more new consumer agency. Pretty soon the free enterprise system in this country is going to need a roadmap just to chart its way through all the different official Ralph Naders as well as every overzealous newspaper reporter.

Now obviously I, and every Member here, want to protect the American consumer. The regulatory authority provided in this bill would add an aditional measure of safety particularly with respect to products such as appliances that are now exempt from any form of regulation. The Government Accounting Office has just issued a report outlining other deficiencies in legislative authority which the Congress will have an adequate opportunity to carefully consider in the future. But we do not need to create a new Government agency every time we identify a class of products that somehow escapes regulation. The Secretary of HEW has described these organizational provisions as nothing more than a phony bill of goods.

I have not always agreed with the FDA especially with their administration of the Delaney clause and the regulation of DES in animal feed, but under Commissioner Edwards' capable leadership, I believe FDA has moved effectively to meet the needs of a modern and rapidly changing technological society which is making increasing demands on Government. And I believe FDA is already doing an outstanding job in giving the American public the best protection in the world against harmful consumer products. I don't think we are going to help FDA do a better job by creating a new Federal agency to regulate can openers and tricycles.

The people I represent in Iowa want their food supply to be safe and nutritious. They do not want to buy household products which are hazardous. Parents in Council Bluffs want their children's toys to be safe but no one in the Seventh District of Iowa believes their hard-earned money has to be further taxed to support another new Government agency in Washington.

I am opposed to another layer of expensive and extensive bureaucracy.

This proposal would result in splintering product safety regulation and would also result in serious duplication. A separate field force of inspectors and field laboratories would be required.

An injury information system similar to that of FDA and similar administrative machinery would have to be established by the Commission. The related health expertise of other Departmental agencies would also not be as readily available to a Commission and the Department would be deprived of providing a single direction to health matters.

I think such a move would be counterproductive and would recommend that the needed legislation be assigned to the Department of Health, Education, and Welfare.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina (Mr. Jonas).

Mr. JONAS. Mr. Chairman, I should like to invite the attention of the Chairman of the Committee and other Members to section 23 on page 102. It strikes me that this section ought to be labeled an act for the relief of lawyers. What you are authorizing here is that any person who claims he has sustained personal injury or illness by reason of the failure of a product to comply with the rule may sue not only the manufacturer of the product or the distributor but also the retailer.

And he can do so in the Federal court regardless of the amount in controversy, and not only obtain damages, but the payment of his legal fees and expenses.

What is to prevent the filing of a multitude of frivolous suits? There is no liability imposed upon the plaintiff if he files a frivolous suit or one that is without merit. Retailers in every municipality and locality in the United States will probably be taken into Federal court even though the claim is a small one. I just cannot imagine how the overcrowded Federal courts are going to be able to handle what I predict will be a multiplicity of suits brought by people who allege that they became ill as a result of the use of some product. Now, may I inquire if this subject was explored by the subcommittee, or was it discussed within the committee? It seems to me that this opens up a wide area for litigation which may or may not be meritorious. I am afraid that this section is going to cause far more than it will provide benefits, and I think it ought to be tightened up.

I just wonder if that subject was explored by the committee or the subcommittee?

Mr. ECKHARDT. Would the gentleman yield?

Mr. JONAS. I will be glad to yield to the gentleman.

Mr. ECKHARDT. The subject was considered by the committee and the subcommittee. The provisions of the bill most directly applicable to the question is the language in section (b) on page 103, at line 19.

We were concerned about the possibility of a great number of suits being brought merely because a product resulted in injury. We did not wish to open that wide a gate, so we placed these limitations:

> (b) In the case of an action brought for noncompliance with an applicable consumer product safety rule, no liability shall be imposed under this section upon any manufacturer, distributor, or retailer who establishes (1) that he did not have reason to know in the exercise of due care that such product did not comply * * *

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, at the request of Mr. BROYHILL of North Carolina, Mr. JONAS was allowed to proceed for 2 additional minutes.)

Mr. JONAS. I am familiar with that section, but the trouble is that you require the defendant to come into court and prove that he did not have reasonable notice or was not aware of this; you do not impose the burden upon the plaintiff or any burden, except to prove that he was injured.

I do not believe this section would be subject to much criticism if the suit were restricted as against the manufacturer, but here you are going to open up the Federal courts to suits against every retailer in the United States. And he has to hire counsel. And what if he prevails? Who is going to pay his costs? And what if he wins the suit? Who is going to pay his damage? Nobody.

Mr. ECKHARDT. Will the gentleman yield?

Mr. JONAS. I yield to the gentleman.

Mr. ECKHARDT. The burden would be on the plaintiff first to show that the victim died or sustained personal injury——

Mr. JONAS. Or became ill.

Mr. ECKHARDT. Or became ill because of failure to comply with the applicable consumer standard.

Now, the burden would be on the plaintiff not only to show that the injury resulted, but that it was as a proximate cause of a failure of the product to comply with the consumer product standard. But even if the plaintiff sustained this burden and showed that the product was below the consumer standard—and this is a burden on the plaintiff—then the defendant could come in with an independent defense and could show that even though the product did not comply with the standard, he did not have reason to know in the exercise of due care that such product did not comply.

For instance, he had a very carefully conducted quality control program in his plant, and this managed to slip by.

Mr. JONAS. You are talking about the manufacturer. The retailer and the man who runs the retail store in a little country community does not have any quality control. He is not a manufacturer. How do you justify imposing that burden on him?

Mr. ECKHARDT. It actually would not lie against him, because it would not be by reason of a failure of a consumer product to comply with an applicable standard. This man would not be guilty of any offense.

Mr. JONAS. You allow the retailer to be sued.

Mr. MOSS. Will the gentleman yield to me briefly on that point?

Mr. JONAS. I yield to the gentleman.

Mr. MOSS. In this instance we have to include retailers because there are categories for them. Only in controlling both manufacturer and distributor of the main products.

Mr. JONAS. What about an operator of a country store in a small community? He buys this product in good faith. It is the manufacturer who ought to be held responsible and not the retailer. He should be required to come into court and defend a suit.

Mr. MOSS. I can conceive of no attorney acting on behalf of a plaintiff in those cases not joining the manufacturer and possibly the distributor in the suit.

Mr. JONAS. He may not be able to join the manufacturer who may not have an agent in that district.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BROYHILL of North Carolina. I yield the gentleman 2 additional minutes.

Mr. ECKHARDT. Will the gentleman yield further?

Mr. JONAS. Yes.

Mr. ECKHARDT. It is further provided on page 104:

> In the case of an action for noncompliance with an order under section 15, no liability shall be imposed under this section upon any manufacturer, distributor, or retailer who establishes that he took all steps as may be reasonable in the exercise of due care to comply with such order.

The retailer is not under any order, so all he has to show is he was not under an order in order to be completely relieved of any possible liability.

Mr. JONAS. As I read the bill, I think he will be required to go into court and hire a lawyer to establish his defense. I think that is going to be very burdensome to a retailer acting in good faith and who is not responsible for the placement of the product on the market. He did not manufacture it. I think this section might have been all right if it were restricted to the manufacturer.

I have had some little experience in the practice of law, and I know how crowded the courts are. My prediction is you will have the Federal courts filled up with a multitude of suits involving very small sums of money against retailers all over the United States.

Mr. ECKHARDT. Will the gentleman yield for one comment on this point?

Mr. JONAS. Yes.

Mr ECKHARDT. Of course, anyone can bring a suit contending that there is product liability because the product was negligently built. It would seem to me a bill of this nature that sets standards and gives relief against those who violate those standards would tend to channel such actions as would be otherwise brought under common law under the statute and against the manufacturer. So I think, if anything, we have protected the retailer by this action.

Mr. STAGGERS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Missouri.

Mrs. SULLIVAN. I thank the gentleman for yielding me this time.

I rise to ask a question of the chairman of the committee or the gentleman from California.

I would like to know whether any consideration was given in the committee to the idea of bringing the Food and Drug Administration under the new independent regulatory commission created by this bill. The bill transfers to the new agency some of the present responsibilities of the FDA in the field of hazardous substances and poisonous product packaging.

I note that the minority report deplores the establishment of an independent agency rather than giving the Food and Drug Administration all the authority that this bill gives to the new commission. And I note also that the Senate bill, on the other hand, transfers FDA, lock, stock, and barrel, to the new independent agency.

Can the gentleman tell me how much consideration was given in committee to doing what the Senate did in transferring FDA to the new agency?

Mr. MOSS. Mr. Chairman, will the gentlewoman yield?

Mrs. SULLIVAN. I will be happy to yield to the gentleman from California.

Mr. MOSS. Consideration was given only to the extent that the committee determined that it would not take that matter under consideration.

It was not part of the recommendations of the Commission on Consumer Product Safety, and it did not lie properly within the jurisdiction of the subcommittee. Our committee did not feel that it had before it either at the time of commencing its hearings, or at the conclusion of them, sufficient evidence to reach a decision. We left that to the Subcommittee on Public Health, which deals with the Food and Drug Administration.

Mrs. SULLIVAN. I thank the gentleman. And if the gentleman will permit, I have one further question: As one who worked with the Food and Drug Administration very closely when I came to the Congress in 1953, and for many years thereafter, I must say that I am far from satisfied with the way its powers within the Department have been limited and restricted so that, it seems to me, decisions are often made at the top in the Department, not on scientific and public safety considerations, so much as they are on political bases.

The CHAIRMAN. The time of the gentlewoman from Missouri has expired.

Mr. STAGGERS. Mr. Chairman, I yield 2 additional minutes to the gentlewoman from Missouri (Mrs. SULLIVAN).

Mrs. SULLIVAN. I thank the gentleman for the additional time.

And if I may continue, we had that situation in the cyclamates; we have it again on the DES issue. I think the Food and Drug Administration has been submerged in HEW. I wonder, does the gentleman agree?

Mr. MOSS. Mr. Chairman, will the gentlewoman yield?

Mrs. SULLIVAN. I will be happy to yield to the gentleman.

Mr. MOSS. For 16 years, as a member of the Committee on Interstate and Foreign Commerce through the administration of both political parties, I must confess to less than enthusiasm over the performance of the Food and Drug Administration. They are not a ball of fire, and they are not an example of one of the most effective or efficient agencies of our Government in my opinion.

Mrs. SULLIVAN. I thank the gentleman.

Mr. Chairman, as one who has served in the past on two national study commissions created by Congress, the National Commission on Food Marketing, and the National Commission to Study Mortgage Interest Rates, and am currently serving on a third, the National Commission on Consumer Finance, I know how much time and effort can go into the study of a major national problem through the Commission method of approach and how often the hard work done by a Commission is compressed into a final report which is filed and forgotten. Thus, it is a matter of great encouragement to me that the National Commission on Product Safety, which did an outstanding job of spotlighting the gaps in our consumer protections from unsafe household products, has not had its final report relegated to the dusty shelves to be neglected and ignored.

This bill now before the House is a concrete and emphatic consequence of the 2-year study by the Commission on Product Safety made by Chairman Arnold B. Elkind of New York and six associates, including two men whose work in the consumer field have been well known to me for many years—consumer writer Sidney Margolius, who writes a weekly column syndicated by the Machinist newspaper, and Senate Commerce Committee Staff Counsel Michael Pertschuk. I salute all seven members of this fine Commission for a remarkable job in the public interest. It was a personal privilege for me to appear before the Commission on Product Safety at one of its public hearings to discuss the consumer aspects of their work.

Mr. Chairman, I support H.R. 15003 as recommended by the Committee on Interstate and Foreign Commerce to carry out the proposals of the National Commission on Product Safety. It is one of the most important consumer measures to come before Congress in the past 4 years.

LETTER IN 1964 FROM MRS. FLORIS MILLS

It is always hard to pinpoint the origin of any major piece of legislation since, of course, many people become involved independently of each other in the development of an idea for legislation. But it is my belief that a letter I received in April 1964, from a resident of the St. Louis area, Mrs. Floris Mills of Webster Groves, Mo., may very possibly have provided the initial impetus for the proposal which led to the establishment of the National Commission on Product Safety and thus for the eventual development of H.R. 15003. In her letter to me, Mrs. Mills wrote, in part:

> DEAR MRS. SULLIVAN: It should be mandatory for all persons responsible for the health of the public to report to a central agency all accidents or diseases clearly related to some product which has been shipped in interstate commerce.
>
> The average person, including many public health officials and doctors, does not know what to do when such a product causes an accident. Usually, each incident "dies" with the patient, or is forgotten if recovery is made. Many such accidents may happen before someone who care takes action and brings a report to the proper authority. Therefore, the U.S. Public Health Service, or other designated agency, should place in the hands of all doctors, etc., mandatory reporting forms with adequate provision for the gathering of sample material, and information necessary for the tracing of the source of the material.
>
> Such reports should cover accidents to non-human life as well as human. Such reporting could be provided for under laws now being administered without further Congressional action.

I replied to Mrs. Mills that I would refer her suggestion to the heads of a number of agencies and ask for comments and advice, adding—

> It is very possible that the kind of thing you recommend can be carried out without the need for special legislation, but I am going to let them tell me so.

RESPONSES FROM AGENCIES

I thereupon wrote to Surgeon General Luther L. Terry of the U.S. Public Health Service, Commissioner George P. Larrick of the Food and Drug Administration, Administrator Byron T. Shaw of the Agricultural Research Service, and Chief Katherine B. Oettinger of the Children's Bureau. The replies indicated that, first, the proposed project could not be carried out under existing legislation; second, some work of this nature was being done by PHS, however, through its Division of Accident Prevention; third, the Poison Control Centers were making an outstanding contribution to physicians and first-aid centers in saving the lives of children who had ingested dangerous chemicals, but deaths and injuries from these sources were occurring at an alarming rate; and, fourth, flavored baby aspirin for children was the leading cause of death from poisoning of children under 5. This led me to incorporate in all subsequent versions of H.R. 1235, my omnibus bill to rewrite the Food, Drug, and Cosmetic Act of 1938 a section prohibiting the manufacture and sale in interstate commerce of flavored aspirin. This bill in turn led to introduction in 1966 of the Child Safety Act as a counterproposal of the Johnson administration.

In the hearings on that bill I submitted for the printed hearing record about 40 pages of official documentation compiled by Government agencies of the problems cited by Mrs. Mills in her letter of 2 years earlier.

The Product Safety Commission was authorized in the next Congress, to make a thorough study of all of the household hazards which confront the American family. The Commission went on to establish beyond any doubt the need for stronger laws to protect the consumers of this country from the death-dealing, disfiguring, crippling, scarring, and blinding appliances and household products and equipment we are constantly being urged to buy.

THE FOOD AND DRUG ADMINISTRATION

As the work of the Product Safety Commission clearly established, and as the report of the committee on H.R. 15003 amply illustrates, the Food and Drug Administration, despite vast increases in its appropriations over the past 20 years, has not been able to carry out its responsibilities to the public in a manner to give us sufficient assurance the public is adequately protected. When I came to Congress in 1953, the budget for this agency was in the neighborhood of $5 million. Now it is approaching $200 million. In the interval, there has been a tremendous increase in the scope of the agency's responsibilities in the fields of pesticides, 1954; food additives, 1958; color additives, 1960; hazardous substances, 1960; drug efficacy and safety, 1962; child safety, 1966; and toy safety, 1969.

But while the agency's responsibilities and funds were being drastically increased, the FDA itself was being downgraded within the Department of Health, Education, and Welfare in a series of administrative reorganizations which placed it below more and more layers of bureaucratic supervision and policy direction—or interference.

In consequence, decisions of the agency which should have been based entirely on scientific and legal determinations intended to protect the consuming public have been imposed from above, in too many instances, to reflect political judgments, from the cyclamates fiasco to the present indefensible position on diethylstilbestrol—a policy which permits the continued use of a cancer-causing growth hormone in beef cattle feed until present stocks are used up, in disregard of the fact that the law clearly prohibits further use of diethylstilbestrol—DES—in animal feeds now that evidence has finally surfaced that residues of the hormone are apparently impossible to keep out of beef carcasses intended for human food.

As cosponsor with Congressman DELANEY of the 1958 Food Additives Act, including the Delaney clause prohibiting the use in food of any chemical or ingredient which can cause cancer in man or in animal, and as the unsuccessful opponent in 1962 of a provision of the Kefauver-Harris Act modifying the Delaney clause as it related to use of diethylstilbestrol in animal feeds, I see no justification of any kind for the continued use of the hormone now. I was promised in the 1962 battle on the House floor that if residues of DES should ever show up in the meat supply, all animal feeds containing DES would instantly be withdrawn from use. That has not happened.

COSMETICS AMENDMENTS TO SENATE BILL

It has not happened, I am convinced, because the economic impact on the cattle industry was given greater consideration than the public health in this matter.

The FDA deserves to have enough administrative elbowroom to do its job regardless of political consequences. I believe the Senate was right in placing the functions of FDA, and its personnel, into a new agency set up for one purpose only—to protect the public safety.

Had this been done also in the House bill, I would have tried to amend the bill, as Senator EAGLETON did in the Senate, to tighten the powers of the agency to regulate cosmetics. As it is, such amendments to the House bill would not be germane.

I sincerely hope that when the bill goes to conference, the House conferees will study the Senate provisions with an open mind. If FDA, in the final version of the legislation, is placed under the proposed independent consumer product safety agency, I would like to point out that the Eagleton amendments on cosmetics represent a very limited approach to the problem of cosmetic safety, dealing only with the labeling of cosmetic ingredients. This would be of great importance to millions of Americans who are allergic to various cosmetic chemicals, but it would not get to the basic problem of preclearance of cosmetics for safety before they are sold. The Eagleton amendments deserve support as far as they go. I hope they can be agreed to in conference.

Mr. BROYHILL of North Carolina. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana (Mr. DENNIS).

The CHAIRMAN. The Chair must inform the gentleman from North Carolina that the gentleman has only 3 minutes remaining.

Mr. BROYHILL of North Carolina. I thank the Chairman, and I yield the gentleman from Indiana the remaining time.

Mr. DENNIS. Mr. Chairman, I thank the gentleman for that courtesy, and I will take advantage of it because I think the point made by the gentleman from North Carolina (Mr. JONAS) is a very important one and one that I would like to associate myself with, and I would refer to that point.

This bill not only gives an independent action for damages, regardless of the jurisdictional amount, regardless of the amount of money involved, in Federal court, to the private individual, it also gives him a right to enforce the statute itself by a private suit, and both the Chief Justice of the United States and the president of the American Bar Association, have had occasion to point out the problem of burdening our Federal courts with unnecessary business and additional business that they are not equipped to handle.

Now one way at least which could ameliorate that situation would be an amendment to this section, the section which the gentleman from North Carolina (Mr. JONAS) was talking about, which would at least restore the jurisdictional amount.

As we all know, ordinarily to get in the Federal court in cases of this kind, you have to have in excess of $10,000 involved. Here you could have $15 involved.

I am wondering whether the committee would consider favorably an amendment to the section on page 102 which we have been talking about, section 23, which would reestablish the ordinary jurisdictional amount of $10,000 for these suits in Federal courts.

It seems to me that that would go at least some way to ameliorate the situation which the gentleman from North Carolina (Mr. JONAS) pointed out and which I think is a very real one, if you want this law to operate efficiently and fairly.

I would be glad to know what the view of the committee would be as to such an amendment as that I am now suggesting.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. STAGGERS. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, I thank the gentleman for yielding me the additional time.

I hope that my time will be used by a response from somebody in management of the bill. I would really like to know, if I or some other Member offers an amendment of the kind that I have indicated, what the position of the committee will be.

It seems to me it would be a very reasonable thing to do here. Just why should we repeal the jurisdictional amount of $10,000 to get into the Federal court for this one type of suit? If it is a good general limit, and I think we mostly think it is—why should it not apply here as it does everywhere else?

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman.

Mr. ECKHARDT. To strike the words "without regard to the amount in controversy," we would not in any way change this statute because as I understand the Federal jurisdictional law, if a right is created under the commerce clause of the Constitution, the $10,000 amount in controversy is not a limitation.

Section 1331 applies to cases arising under diversity of citizenship and not under a Federal right arising under a Federal statute.

So we are not changing the Federal law—we are simply enunciating it. So far as I know, every case which is brought under an act of Congress arising under the commerce clause which does not specifically create a jurisdictional amount may be entertained by a Federal court without respect to the amount in controversy.

The gentleman might want to put in a limitation—but this is not an unusual act—it is a typical act as it stands.

Mr. DENNIS. My memory is that section 1331, and it may not be very clear, of course, is that it applies to civil suits arising under the laws of the United States, which I would have thought would have applied here.

But, assuming for the moment that the gentleman is correct, I call attention to the fact that at least you wrote in here "regardless of the jurisdictional amount," which indicates to me that the committee felt that if they did not write that in there, they would run into the jurisdictional amount.

Pursuing this further, why not, in any case, take up the suggestion that the gentleman just made and propose an amendment here which says—

> This is subject to the provisions of Section 1331 as to the amount in controversy.

Mr. ECKHARDT. Mr. Chairman, if the gentleman will yield, in the first place I did not propose that we write in a jurisdictional limitation.

I was simply pointing out that there would be no jurisdictional limitation if we had not used the words "without regard to the amount in controversy." This case would be governed by section 1337 which says:

> The District Court shall have original jurisdiction of any civil action or proceeding arising under any Act of Congress regulating commerce or protecting trade and commerce against restraints and monopolies.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STAGGERS. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. DENNIS. I thank the gentleman.

Regardless of whether the jurisdictional provision does or does not apply here in the absence of the language "regardless of the amount in controversy" in the bill as now drawn, I would like to know whether the committee would be inclined to accept an amendment which specifically wrote in that the jurisdictional amount of $10,000 would apply in this particular type of suit.

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman.

Mr. LATTA. Mr. Chairman, I think

the gentleman from Indiana and the gentleman from North Carolina have raised a very valid point.

Justice delayed is often justice denied and in our haste to pass this important legislation we might have overlooked its impact on our Federal court system. The Chief Justice of the United States in a speech on August 14, 1972, referred to this matter, and I read it in part——

The CHAIRMAN. The time of the gentleman has expired.

Mr. STAGGERS. Mr. Chairman, I yield to the gentleman 1 additional minute.

Mr. LATTA (reading):

> But there is no escape from constantly enlarging the federal judicial establishment except to adopt new judicial methods and improve performance as we are trying to do, and to have Congress carefully scrutinize all legislation that will create more cases.
>
> In recent years, Congress has required every executive agency to prepare an environmental "impact statement" whenever a new highway, a new bridge, or other federally funded projects are planned. I suggest, with all deference, that every piece of legislation creating new cases be accompanied by a "court impact statement", prepared by the reporting committee and submitted to the Judiciary Committees of the Congress with an estimate of how many more judges and supporting personnel will be needed to handle the new cases.

That is the end of part of the statement by the Chief Justice of the Supreme Court. I think these two gentlemen have raised a very important question with which this Congress should be concerned. If we are going to give all of this additional responsibility to the courts, we should give them the necessary tools to do the job.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STAGGERS. I yield to the gentleman 1 additional minute.

Mr. DENNIS. I thank the chairman. I should like to have the time used for some response to my inquiry as to the view of the committee on the amendment.

Mr. STAGGERS. I just say to the gentleman from Indiana the committee would have to resist the amendment because that would put it in a class for only those who own Rolls-Royces. We are preparing the bill for the protection of all of the people of the land so that they will have recourse.

Mr. DENNIS. I thank the chairman, but I must say I have brought many $10,000 suits for people who never saw a Rolls-Royce.

Mr. STAGGERS. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. I thank the chairman for yielding.

I want to ask two questions of either the chairman or the subcommittee chairman. I notice in section 3(A)(1) there is no language excluding persons covered by the Natural Gas and Pipeline Safety Act, as contained in the Senate version, S. 3419. This was brought up in our committee, and it is my understanding that it was not the intent of the committee to subject this safety program to product safety standards as prescribed in the bill, since the safety aspect on natural gas and its use is presently covered in the Natural Gas and Pipeline Safety Act.

Mr. MOSS. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from California.

Mr. MOSS. On page 59, line 10, under (A):

> Any article which is not customarily produced or distributed for sale to or use, consumption, or enjoyment of a consumer—

It was the consensus of the committee that a gas pipeline was not sold for that purpose, and we had no intention of including it within the scope of authority of the Commission.

Mr. PICKLE. I thank the gentleman.

May I ask one other question regarding subsection (c) of section 15 which provides that the Commission may call for public notice by the manufacturer of a dangerous product. Would it be possible for this Commission which we are creating by this act to compel a television or radio station to sell or to give time to an offending manufacturer or distributor or retailer for the purpose of complying with the order requiring public notice?

Mr. STAGGERS. No. It is made perfectly clear in the report that this is not the case.

Mr. PICKLE. I thank the gentleman.

Mr. BURKE of Florida. Mr. Chairman, I rise in support of H.R. 15003, the Consumer Product Safety Act.

The appalling dangers that are ever present in the American home compels me to do so. Each year 20 million Americans are injured in and around the home. Of this total, 110,000 injuries result in permanent disability and 30,000 in death. In fact, home accidents reap a death toll among children under the age of 15 higher than that of cancer and heart disease combined.

Perhaps we have been more concerned with chemicals that will clean an oven, remove spots from rugs, keep things from sticking to pans, or clean the bathroom than in the safety of the users. Children cannot always read labels and even the most careful mother cannot always be watching.

Our technology has been geared more with beauty than with safety. Sliding doors to balconies and terraces bring nature to the inside of a home, but, children and pets and even some adults cannot always discern whether the door is open or closed and as a result there are many incidents where people have been badly cut or scarred.

Children who lived years ago in the wild West, or in the wilds of jungles, had only forces of nature to worry about. On the other hand we surround our children and ourselves daily with products that could do us bodily harm.

Regrettably, for various reasons we have been slow, even reluctant, to act to improve product safety. Recently Congress has become more active and exhibited an increasing concern with the safety of the products which consumers buy and use in their daily lives. This concern has been manifested by the passing of a series of acts designed to deal with specific hazards and categories of products for which a substantial regulatory need had been established. These acts include the National Traffic and Motor Vehicle Safety Act of 1966, the Gas Pipeline Safety Act of 1968, the Flammable Fabrics Act Amendments of 1967, the Radiation Control for Health and Safety Act of 1968, the Child Prevention and Toy Safety Act of 1969, and the Poison Prevention Packaging Act of 1970.

The National Commission on Product Safety found after a 2-year study, conducted from 1967 to 1969, that—

> Such limited Federal authority as does exist is scattered among many agencies. Jurisdiction over a single category of products may be shared by as many as four different departments or agencies. Moreover, where it exists, Federal product safety regulation is burdened by unnecessary procedural obstacles, circumscribed investigative powers, inadequate and ill-fitting sanctions, bureaucratic lassitude, timid administration, bargain-basement budgets, distorted priorities and misdirected technical resources.

There are those who will argue that existing Government machinery is presently adequate enough to handle the product safety problem and they suggest that the Food and Drug Administration and HEW be given larger roles. Both of these agencies have done good work in some of their areas of expertise but no agency is perfect. I feel also that it is unfair to saddle several agencies with separate responsibilities to administer consumer safety programs. It is unfair to the consumer and it is unfair to the agency. To do this is being penny wise and pound foolish.

The legislation before us today proposes that the Federal Government assume a major role in protecting the consumers from unreasonable risks of death, injury, or serious or frequent illness associated with the use or exposure to consumer products. To carry out this goal, H.R. 15003 would create a new independent regulatory commission with comprehensive authority to take action across the full range of consumer products to reduce or prevent product-related injuries.

This independent regulatory commission would be vested with authority to:

First, collect and disseminate information on consumer product-related injuries.

Second, establish mandatory safety standards where necessary to prevent or reduce unreasonable product hazards, or—where such standards are not feasible—to ban the product from the marketplace;

Third, obtain equitable relief in the courts to protect the public from products which pose imminent hazards to health and safety; and

Fourth, administratively order the notification and remedy of products which fail to comply with Commission safety rules or which contain safety-related defects.

The bill would also provide a system of product certification and permit the Commission to compel inclusion of certain safety-related information in product labels.

While I am loathe to increase the plethora of Government agencies, and even more loathe to spend the taxpayers money unnecessarily, I feel the time has come when we acknowledge that a man's home, even though it is his castle, is also often his boobytrap, and that strong Federal action must be taken to reverse this trend. The building block of our society is the family, and the family home should be a happy one, safe from harm so that life in America for all families will be protected against the intrusion of injury from casual purchases made at the grocery store in good faith and in reliance on the manufacturers responsibility to insure safety to all Americans.

Mr. ROYBAL. Mr. Chairman, I rise in support of H.R. 15003 which will protect consumers against unreasonable product hazards.

This bill will establish an independent regulatory commission with plenary authority to prevent and reduce product-related injuries to consumers. The Commission will have the power to collect and disseminate information on consumer product injuries, establish mandatory safety standards, and obtain equitable relief in the courts to protect the public from imminent hazards. At present, there is a lack of a central agency to collect data on product-injury victims, and Federal safety standards for products exist only in a few industries.

Also, the commission will be empowered to administratively order the notification and remedy of products which fail to comply with the safety standards which it proclaims.

Today it is estimated that there are over 30,000 deaths and 20 million injuries every year in and around the house. Product-related injuries cost the economy almost $5 billion every year. The death toll among children under age 15 from product-related accidents is greater than from cancer and heart disease combined. The time has come for Congress to insure that defective and hazardous goods do not find their way into the marketplace.

Prior to this act, the Federal Government has never had a comprehensive program to protect consumers from injuries due to defective products. Rather, Congress has utilized a knee-jerk, hit-and-miss approach which has produced legislation to meet a crisis situation in one area and completely overlooked the larger problem.

Until now, it has been the courts which have been in the forefront developing protection for people injured by defective products. The growth of the doctrine of strict liability under the rubric of "products liability" over the last 15 years is the necessary outgrowth of a society of the mass-produced and multihandled product. The problem with the approach is that it can only aid people after they have suffered injury but it cannot protect them from the initial contact with the improper goods. This bill is the legislative counterpart of the growth of a products liability. It offers the consumer a means of protection from defective goods before they reach the marketplace by providing the Government with effective judicial remedies to deal with defective products. I commend the passage of this legislation to all my colleagues.

Mr. RONCALIO. Mr. Chairman, the Committee on Commerce, in bringing this bill to the Hall of the House, has wisely excluded from the definition of consumer product certain categories which are either now regulated under other safety laws or which it feels may not be amenable to safety regulation as envisioned by this measure. Among the exclusions are firearms and ammunition, which the amendment offered by the gentleman from New York would include in the rather broad coverage of this legislation.

Inclusion of firearms and ammunition in the scope of this bill is viewed by my constituents as a dangerous step toward the type of gun control legislation they adamantly oppose. What it would do is give to Federal agents the authority to establish mandatory safety standards; to conceivably ban those products from the marketplace, even. So, what have we? A back-door approach to gun control which could go far beyond the measure now pending or the bill recently enacted by the other body to control, we have been told, only cheap domestically produced handguns. My views on that measure are well known. It, too, would give too much discretion to the administrators who would enforce it.

Mr. Chairman, the amendment before us would not stop with so-called cheap handguns. It would include the hunting rifles, shotguns, and the components needed by sportsmen and ranchers of my State. Should we agree to this amendment, we would not even know what we were agreeing to in the way of eventual interference with our way of life. Guns and ammunition already are subject to regulation, Mr. Chairman. I believe the committee acted wisely in not including them in the coverage of this bill.

And I certainly hold firmly the belief that, if Congress is to act to broaden the regulation of firearms and ammunition, it must be quite specific in its language, its definitions, and its purpose. It is quite beyond my belief that this body would delegate such responsibility to a new, independent regulatory Commission, such as the one to be created if this bill is enacted. Nor does this bill need the encumbrance this amendment would burden it with. Those Members who support this legislation should realize that and join me in opposing the amendment.

Mr. FOUNTAIN. Mr. Chairman, I am usually extremely hesitant to support new avenues, because, as has been said, we already have too many, but HEW is already big enough and FDA has a big enough job if it protects us from unsafe foods and drugs which it is not adequately doing today. I rise in support of H.R. 15003, a bill to provide better protection for consumers from unreasonably hazardous products.

Ordinarily, I would favor enlarging the consumer protection responsibilities of the Department of Health, Education, and Welfare to include the purposes of this bill. However, because of the inadequate manner in which the Food and Drug Administration is presently administering the food and drug functions entrusted to it by the Congress, I cannot in good conscience support the placement of other consumer product safety responsibilities within the agency. Instead, I believe FDA should be relieved of this administrative burden so that the agency's top management can concentrate on the more effective regulation of foods and drugs.

The Intergovernmental Relations Subcommittee, which I chair, has held hearing after hearing on the FDA's operations. These hearings, and the resulting reports issued by the Government Operations Committee, paint a very unsatisfactory picture of FDA's performance. Not only has the Agency's administrative efficiency been found wanting, but the subcommittee's investigations disclose that FDA officials have repeatedly disregarded the law and their own agency regulations.

To illustrate this point, last week I brought to the attention of the House an opinion by the Comptroller General holding that the FDA Commissioner has acted without legal authority and contrary to law in permitting a "phase out" period for existing stocks of DES premixes used in livestock feeding. The legality of the continued use of the cancer-promoting drug DES in livestock feeding had been thoroughly examined in our subcommittee hearings during the past year and a half. On July 31, 1972, FDA issued an order withdrawing approval of the new drug applications for DES liquid and dry premixes. That order required the immediate cessation of the manufacture of DES premixes, but permitted the continued shipment and use of existing stocks of the premixes until January 1, 1973. It was this latter permission by FDA which I had questioned and which the Comptroller General found to be illegal.

Similarly, FDA is knowingly permitting the continued interstate shipment and sale of the new drug "Sec," despite the fact that the agency has taken final action withdrawing approval of the new drug application for this product. The Intergovernmental Relations Subcommittee will hold a hearing on this matter next Monday.

In a similar vein, only last month, Judge William B. Bryant of the U.S. District Court for the District of Columbia—in American Public Health Association and National Council of Senior Citizens against Acting Secretary of HEW and Commissioner of FDA—also criticized FDA for contravening the law with respect to the efficacy requirements of the Federal Food, Drug, and Cosmetic Act. Judge Bryant said:

> When, as is the case here, the Congress has shown an awareness of a problem and has acted accordingly, it seems inappropriate for any agency to adopt procedures which extend the grace period far beyond that envisioned by the statute, and which effectively stay implementation of the Congressional mandate that drugs in the marketplace be both safe and effective.

I know that some will defend FDA's inadequacies and failures by asserting that the agency has been underfunded and understaffed in the past. However true this argument may be, it does not come to grips with the fact that decisionmaking which violates the law and the intent of Congress has little, if anything, to do with agency funding. Rather, it is principally a function of the quality of top management.

It is for these reasons that I support the establishment of a strong independent regulatory commission, as was recommended by the National Commission on Product Safety and, let me add, a commission which wrote a report which speaks with authority on this subject.

Mr. Chairman, I want to endorse particularly section 5 of the bill, which provides for an injury information clearinghouse to collect, investigate, analyze, and disseminate information relating to the causes and prevention of death, injury, and illness associated with consumer products. I do not have recent figures, but in a hearing before our subcommittee, it was estimated in 1968 that 20 million injuries annually were associated with consumer products.

During the 91st Congress, the Government Operations Subcommittee, which I chair, investigated the adequacy of arrangements by Federal departments and agencies for collecting and utilizing accident and injury data. On the basis of the subcommittee investigation, the committee reached the following conclusions:

> 1. Adequate information concerning household accidents and injuries is essential for the proper implementation of Federal programs intended to protect the public from hazardous products and substances and to help prevent avoidable accidents. Comprehensive information of this kind is not presently available, nor is there any coordinated system in existence within the Federal Government for collecting, analyzing and disseminating such information.
>
> 2. Some potentially useful information about household accidents and injuries is being collected by Federal agencies. However, much of it is not being used advantageously because it has not been sent to or obtained by agencies which should have it or because it is not in usable form.
>
> 3. In recent months, steps have been taken by the National Commission on Product Safety and other agencies to obtain additional information on household accidents and injuries. However, although it appears possible to obtain additional data with very little added cost or effort through minor modifications of existing programs, this has not been done.
>
> 4. In too many instances, appropriate corrective action has not been taken by the responsible Federal agency even after sufficient information was available. Fragmented and overlapping jurisdiction has undoubtedly aggravated this problem.

Enactment of this bill should help greatly in correcting deficiencies disclosed by the subcommittee investigation and in accomplishing its recommendation for the establishment of a coordinated system for collection, analysis, and dissemination of data relating to household accidents and injuries.

Mr. GOODLING. Mr. Chairman, as has already been stated by the gentleman from Ohio (Mr. DEVINE) this bill creates another new commission which simply adds to more bureaucracy which is already too vast. The time to stop adding new agencies is now. The time for the Congress to display some sense of fiscal responsibility is now. The time to stop piling bureaucracy upon bureaucracy is now. Each time we do this we add more to budget deficits that are continuing to burst at the seams. There are agencies within the present framework of government that could assume additional responsibilities in a shorter length of time at a lesser cost.

There is another serious potential danger in this type of legislation. I have not heard any Member mention this but this legislation could be one more step down the bureaucratic highway of destroying our free enterprise system. Are we going to stifle the expertise responsible for our inventive genius that brings countless new and improved products to our marketplace? Are we going to, by this legislation, discourage costly research so necessary to the development of any new product when the developer must first secure permission from a government agency to sell his product?

Some time ago, the Congress, in its wisdom or lack of it, set up the Environmental Protective Agency. It has brought out in subsequent hearings that a considerable number of chemical companies would no longer put millions of dollars into research so necessary to produce new and safe chemicals for farm and industrial use when they could not be assured the product could be marketed when compounded.

This appears to be just one more piece of emotional legislation that will probably benefit very few other than those who shall be a part of this bureaucracy.

Mr. PICKLE. Mr. Chairman, I rise in support of the Consumer Product Safety Act.

I realize that some people may feel that this bill would only be a hindrance to the give-and-take of the marketplace. I know that many feel that this bill will only create another agency, which is effective only in meddling.

But, Mr. Chairman, the Members who have worked so diligently on this measure have faced these questions. They have weighed the pros and cons; there has been give and take. The result is a bill that I think meets general accord with Members on both sides of the aisle.

I believe that we can all support this bill in an atmosphere of harmony, resulting from solid accomplishment.

H.R. 15003, Mr. Chairman, is in the best interests of the consumer while not overly burdensome for industry. Thus, I urge Members to vote for the Consumer Product Safety Act.

Mr. CRANE. Mr. Chairman, the bill before us, calling for the creation of a Consumer Product Safety Commission, is an intrinsic part of the growing attack upon private business, and the effort to place business under the control of a huge new Government bureaucracy.

In the name of "protecting the public" we have already seen many interventions by government agencies, a number of which have served only to make it more difficult to do business, thereby harming the Nation's economy and hurting the very people in whose name the action has been taken.

The Federal Trade Commission, acting on the basis of the same need to "protect the public" which motivates the supporters of a Consumer Product Safety Commission, has broadened its power in recent days in an unprecedented manner.

One of the many companies which have felt its wrath has been the Du Pont Co., makers of Zerex antifreeze. I cite this example as only one of many which are available.

The Federal Trade Commission charged that Zerex was falsely advertised in a television commercial, charges which have since been proven to be untrue. The company, nevertheless, lost sales in 1971 and public confidence because of unfavorable publicity.

What the FTC did was to call a press conference in November 1970 and make a "proposed complaint" against Du Pont, alleging, without proof, that the television commercial was misleading, that the antifreeze actually damaged automotive cooling systems, and that it had been inadequately tested. The Federal Agency then publicly threatened to ban the product.

The commercial in question showed a man stabbing a can of Zerex and streams of antifreeze gushing out and then sealing up. After the FTC charged that this demonstration was phony, newspapers across the country carried stories of the Commission's condemnation of Zerex.

Officials at Du Pont were not even informed of the FTC's action before the Washington press conference. Equally important is the fact that the FTC turned out to be wrong. It dropped the charge of false advertising. It dropped the charge that the product could cause damage. The FTC, in fact, found nothing wrong with the product in any way.

The financial damage had, of course, already been done. Du Pont counted 160 newspaper stories after the initial FTC accusation and only 80, half as many, a year later when the Agency admitted it had been wrong. Twenty front-page stories appeared the first time. The FTC's error received no first page placements a year later.

Discussing the tactics being used by this Federal Agency, Prof. Yale Brozen of the Graduate School of Business of the University of Chicago, declared that—

> The FTC has come up with the technique of unilaterally deciding what is deceptive, conducting a trial by press release, and demanding that the advertiser run ads admitting the deception. The burden of proving innocence is left to the advertiser, if he can survive the trial by accusation and publicity—a complete turnabout from our judicial system in which an accused is regarded as innocent until proved guilty.

The FTC is now calling on advertisers, industry by industry, to file with it documentary proof of all claims. Perhaps, states Professor Brozen:

> The FTC should be forced to substantiate its claims before issuing press releases which greatly mislead consumers.

In the long run, notes Professor Brozen, to advertise at all may become a sin:

> The FTC is leveling a barrage of unsubstantiated claims against advertising which, if it prevails, may well cause a withering of advertising.

There are many other examples of the increasing harassment of private business and industry by Government. The Occupational Safety and Health Act invests authority in the Secretary of Labor for the first time to set job safety standards for the bulk of the Nation's 80 million working men and women.

Among other things, the Secretary is given authority to enforce the safety standards he may issue, and under his broad delegation of power can enter any "factory, plant, establishment, construction site, mine or other area or workplace or environment" to inspect it; close down any operation he finds dangerous; move to cancel Government contracts; and ask courts to impose fines and/or jail sentences for violators of his standards.

One wonders what ever happened to the fourth amendment guarantees against unwarranted search. One wonders what ever happened to fifth amendment guarantees of the security of private property. Our previous system based on State-determined standards, education, and cooperation, produced safety statistics which were the best in the world. This, however, has been abandoned in the interest of a nationalized, bureaucratically run system of harassment of private business.

And now, after the increasing intervention of Government agencies into the economic life of the Nation, making it ever more difficult for American business and industry to compete with those from abroad who are free of such regulation and control, we are told that we need still another Government agency—a Consumer Protection Commission—to regulate business and industry still more, and make it still more difficult to maintain maximum employment, and to compete in world markets.

If the Members of this body seek further to regulate and control business, no new commissions are necessary to implement such a policy. The Secretary of Labor, the Federal Trade Commission, and other governmental bodies have already assumed the powers being called for in this new commission. The Food and Drug Administration is already doing most of the things being urged upon this proposed new body.

What should be remembered, however, is that increasing Government power and control, far from serving the interests of the people, may do serious harm to such interests.

Woodrow Wilson, who was a keen student of history, stated:

> The history of liberty is a history of limitations of governmental power, not the increase of it. When we resist, therefore, the concentration of power, we are resisting the powers of death, because concentration of power is what always precedes the destruction of human liberties.

Today we are witnessing the most unprecedented concentration of such governmental power in our national experience. The bill before us would simply expand such power.

The proposed expansion, we are told, is for a "good purpose"—the safety of consumer products. Freedom, however, is always taken from men for "good purposes." No better warning against expansions of Government power such as is urged in the present legislation has been given than that of Supreme Court Justice Louis Brandeis. He stated:

> Experience should teach us to be most on guard to protect liberty when the government's purposes are beneficient. Men born to freedom are naturally alert to repel invasion of their liberty by evil minded rulers. The greatest dangers to liberty lurk in insidious encroachments of men of zeal. . . .

Our country has been made the most prosperous in the history of the world under a free economy. If we shackle that economy, if we control it and regulate it, we will also impoverish it. The proposed legislation is part of a continuing trend of such regulation and control. As such, it leads in a direction which most Americans, if they understood it properly, would not want to go. On this basis, it must be opposed.

Mr. PODELL. Mr. Chairman, despite the growth of a large consumer movement, not nearly enough effective consumer protection legislation has been passed by Congress. At last, we now have two major bills—H.R. 15003 before the House today and H.R. 4809 in committee—which will create a strong, Federal role in the protection of consumers.

The first bill, H.R. 15003, deals with protection against unsafe products. The bill is based on one simple principle. The buyer has a right to expect that the use of consumer products will not prove injurious or harmful in any way and that the products he buys are safe. He does not have that assurance now.

As early as 1962, President John F. Kennedy in his historic first special message to the Congress on protecting the consumer interest enumerated four consumer rights. What was the first such right? The right to safety—"To be protected against the marketing of goods that are hazardous to health or life."

And how much progress has been made in the area of product safety since then?

Let me quote from a recent statement by Arnold B. Elkind, former chairman of the National Commission on Product Safety. In speaking about the work of the Commission, he stated:

> Our gut estimate was that the current laissez-faire approach to consumer products costs the American public about 20 percent of the overall toll that the public pays in injuries or deaths for the privileges of enjoying consumer products. This translates into 6,000 lives, 22,000 cripples, 4 million injuries, and $1.1 billion in treasure that could be saved each year by an effective system for making products safe to use . . .
>
> Unfortunately it also means that 16 million injuries and 24,000 deaths may occur annually from using consumer products regardless of the care, skill, and best efforts of our society."

The need for legislative action in the field of consumer product safety is immediate and crucial. To quote once again from Mr. Elkind:

> The need of intervention into this problem area by the federal government is generally acknowledged by all men of good will who have considered product safety and its implications to the consumer.

H.R. 15003 goes a long way to satisfying that need. The bill would create an independent Safety Agency. The bill contains important provisions for setting safety standards, for banning unsafe products, and for criminal as well as civil penalties for violations of the law. In addition, the bill transfers the present functions of protecting the public from flammable fabrics, excessive dangerous radiations, dangerous toys, and certain other hazards to the new Safety Agency.

H.R. 15003 should be passed today. But H.R. 15003 deals with only part of the problem.

Consumers also have a right to be protected from false and misleading advertising and product warrantees. The Federal Government, through its Federal Trade Commission, has a duty to help protect consumers in the marketplace. H.R. 4809 gives the FTC the necessary powers to protect the consumer.

All other Federal regulatory agencies already have such powers in their own field. The FAA has such powers to protect airline passengers, the SEC has such powers to protect investors.

Only the FTC, the agency which protects the consumer in the marketplace, is forced to use unreasonably slow and unnecessary procedures.

It is my strong conviction that H.R. 4809 should be considered by the Congress during this session.

Mr. Chairman, the enactment of these twin bills, H.R. 15003 and H.R. 4809, would indicate loud and clear that this Congress is now on the side of the consumer. No special interests, no amount of lobbying should deter us from protecting consumers—because we, as well as our constituents, are the consumers who would suffer if we do nothing.

Mr. HALPERN. Mr. Chairman, I would like to express my enthusiastic support of H.R. 15003, the Consumer Product Safety Act.

Sadly, history shows us that national safety legislation in the United States largely comes about by a reaction to tragedy. Examples of this can be seen in the epidemic food poisoning at the turn of the century and more recently the shocking death toll due to accidents caused by defective automobiles. When faced with these situations, Congress recognized the necessity to provide the appropriate legislation.

Today, living in a space age technology as we do, we constantly come in contact with many new chemical, mechanical, and electronic gadgets. Many of these new marvels are to be found in the home. Strikingly, each year 30 million Americans are injured in and around the home. Of this total, 110,000 injuries result in permanent disability and 30,000 in death. It only takes commonsense to realize that the time has come for us in Congress to come to the aid of the American public.

We must face the fact that unsafe products are being marketed in disturbing numbers. Certainly available statistics show just how harmful they can be. Consumers Union, the independent, nonprofit organization which evaluates products for consumers, prepared a special report at the request of the Senate Commerce Committee several years ago, analyzing the results of their admittedly limited product testing over the past 10 years. During that period their tests and analyses had uncovered 376 products deemed so hazardous as to be unacceptable in the home.

Within the last 6 years, the Congress has exhibited an increasing concern with the safety of the products which consumers encounter in their daily lives. This concern has manifested in the passage of a series of acts designed to deal with specific hazards and categories of products for which a substantial regulatory need had been established.

These acts include the National Traffic and Motor Vehicle Safety Act of 1966, the Gas Pipeline Safety Act of 1968, the Flammable Fabrics Act amendments, the Radiation Control for Health and Safety Act, the Child Prevention and Toy Safety Act of 1969, and the Poison Prevention Packaging Act of 1970. While each of these acts is meritorious in its own right and deserving of enactment, this legislative program has resulted in a patchwork pattern of laws which, in combination, extend to only a small portion of the multitude of consumer products sold in the marketplace.

Mr. Chairman, H.R. 15003 would go a long way toward solving the problem of unsafe consumer products. It would create an independent regulatory commission with the authority to take action across the board on consumer products to reduce or prevent product-related injuries. It would invest authority in an independent regulatory commission to: First, collect and disseminate information on consumer product-related injuries; second, establish mandatory safety standards where necessary to prevent or reduce unreasonable product hazards, or where such standards are not feasible to ban the product from the marketplace; third, obtain equitable relief in the courts to protect the public from products which pose imminent hazards to health and safety; and, fourth, administratively order the notification and remedy of products which fail to comply with Commission safety rules or which contain safety-related defects.

It is considered self-evident that the public is entitled to purchase products without subjecting themselves to unreasonable risk of injury or death. At the present time, consumers are not able to confidently rely on the safety of products which are distributed for their use or enjoyment.

I believe, Mr. Chairman, that H.R. 15003 will remedy this situation and I earnestly hope that my esteemed colleagues will join me in support of this urgently needed piece of legislation.

Mr. DONOHUE. Mr. Chairman, I most earnestly urge and hope that this Consumer Product Safety Act, H.R. 15003, will be overwhelmingly adopted by the House.

In our legislative consideration of this important measure, let us primarily remember that the American public is unequivocably entitled to purchase products without the fear of subjecting themselves to unreasonable risk or injury. Second, Mr. Chairman, let us realize, that unfortunately at the present time, consumers cannot confidently rely on the safety of a tremendous number of products which are distributed for their use or enjoyment. Therefore, I believe the Congress of the United States, must and should legislatively speak out, on behalf of the consumer, through speedy enactment of the Consumer Product Safety Act.

The legislative measure we are considering today is designed to create an independent regulatory commission with comprehensive authority to initiate action to prevent or reduce product-related injuries to consumers. In substance, this legislative measure vests, within an independent regulatory commission, authority to, among other things, collect and disseminate information on consumer product related injuries, establish mandatory safety standards to prevent or substantially reduce unreasonable product hazards, to ban the hazardous product from the marketplace, obtain equitable relief in the courts to protect the public from products which pose imminent hazard to health and safety, and, administratively order the notification and remedy of products which fail to comply with Commission safety rules or which contain safety defects.

Of course, Mr. Chairman, in supporting this legislation, there is no intent whatsoever to inflict extreme and unnecessary hardships on our reputable business community. I think we all recognize and agree that a legitimate business which operates honestly and manufactures and markets safe and dependable goods, stands only to benefit from this legislation creating an independent product safety agency.

However, in spite of congressional concern and our initial legislative response to consumer problems, the evidence clearly reveals that for too long there has been an absence of strong and substantive Federal regulation to adequately protect the American consumer from hazardous consumer products.

Therefore, in simple fairness and equity, let us now act meaningfully to place the consumer on a more equal footing with the seller by the establishment of this regulatory Commission which will serve to effectively reduce and prevent product related injuries to consumers, which will help legitimate business fight the threat of unprincipled and unscrupulous producers, which will establish effective enforcement proceedings regarding consumer product safety and which will serve, in the overall national interest, to restore faith and confidence in the free-enterprise system.

Mr. RODINO. Mr. Chairman, I rise today to express my strong support for the bill before us to establish a new, independent regulatory commission to control consumer products to reduce or prevent product-related injuries.

In 1967 the Congress created the National Commission on Product Safety to conduct a comprehensive study of the scope and adequacy of measures and Federal controls to protect consumers against risks that might be caused by household products.

After a 2-year study, the Commission reported that there is a need for a strong and independent Government agency to protect the public. It concluded that although there are a number of Federal programs to supervise consumer products, these are scattered throughout a number of agencies and departments. In addition, the Commission found that State and local laws are a "hodgepodge of tragedy-inspired responses to challenges" and that self-interest and competitive forces are not sufficient to influence manufacturers to produce safe products.

Obviously, the approach recommended by the Commission and incorporated in the bill before the House today is the best answer to this acute problem. It would establish an independent neutral agency with strong and effective powers. The proposed Commission would be authorized to: First, collect and distribute information on consumer product-related injuries; second, establish mandatory safety standards or even to ban hazardous products from the marketplace; third, obtain relief through court action to protect the public or through the imposition of criminal and civil penalties; and fourth, order the notification and remedy of products that fail to comply with safety rules.

In addition, private suits for damages are allowed to be brought in Federal courts and consumer suits are permitted to compel compliance with safety rules and certain Commission orders.

Mr. Chairman, the National Center for Health Statistics has estimated that each year 20 million Americans are injured in and around the home, and of this 110,000 injuries result in permanent disability and 30,000 in death. It is also estimated that the annual dollar cost to the economy of product-related injuries is over $5 billion. Particularly tragic is the fact that home accidents reap a death toll among children under 15 which is higher than that of cancer and heart disease combined.

The new regulatory agency would have vast authority to regulate all types of consumer products, ranging from color television sets, glass bottles, toys, and infant furniture to household chemicals and such products as rotary lawnmowers.

In my judgment, with enactment of H.R. 15003 we will establish an effective program whereby both the consumer and industry can fairly and directly participate in developing and implementing proper safety standards to protect the public.

Mr. ANNUNZIO. Mr. Chairman, I am grateful for this opportunity to express my strong support for H.R. 15003, the Consumer Product Safety Act.

> The purpose of an economy is to produce goods and services, large in quantity, high in quality, reasonable in price for maximum satisfaction in consumer use.

This very apt definition was given by Arch W. Troelstrup, well-known specialist in consumer economics.

But it is only recently that the consumer "has come into his own" and that proper emphasis is placed on the pivotal role of the consumer in the modern economy. To reinforce our recognition of the importance of the consumer, we in Congress must assume a major role in protecting the consumers from unreasonable risks of death, injury, or serious or frequent illness associated with the use or exposure to consumer products.

There are many tragic examples of how dangerous many of our commonplace items can be. For example, every year 125,000 persons are injured by faulty heating devices; 100,000 are hurt and maimed by faulty power mowers or washing machines; 100,000, consisting mostly of children, have their limbs crushed by automatic clothes wringers; 40,000 people are gashed when they fall through a glass door; and another 30,000 are shocked and burned by defective wall sockets and extension cords. These are but a few examples of the possible harm any of us can encounter at any time.

Because this matter of safety in even our most common and familiar products becomes each year more complex, it must be taken seriously by every buyer of appliances and other consumer goods. Safety is a major factor in the value of many things we buy—often unexpected things. We take so much for granted, because not enough information or education for everyday safety has yet gotten through to us as consumers.

In 1967, Congress created the National Commission on Product Safety. The Commission transmitted its final report in July 1970 which confirmed both the absence of and the need for a strong, vigorous Federal presence to protect the public from hazardous consumer products.

Rather than propose individual legislation designed to deal with the product hazards which it had identified, the Commission decided that the Federal Government should abandon its traditional case by case approach to product safety and consolidate in a single agency authority sufficient to regulate the full spectrum of products which are sold to or used by consumers. To this end, the Commission recommended the creation of a new independent regulatory commission with comprehensive powers to minimize or eliminate unreasonably hazardous products.

H.R. 15003 represents these views of the Product Safety Commission and would create a new, independent regulatory Commission with comprehensive authority to take action across the full range of consumer products to reduce or prevent product-related injuries. The powers and procedural requirements contained in H.R. 15003, for the most part, draw and improve upon concepts and practices which the Congress has previously employed in other safety laws.

As a member of the House Banking and Currency Committee, I have fought long and hard for many consumer bills such as the Consumer Credit Protection Act and the Fair Credit Reporting Act. As a member of the committee, I was successful in adding my consumer protection amendment to the Economic Stabilization Act. My amendment is now part of the public law and permits consumers to protect themselves against overpricing during Phase II of Government price controls by allowing those who have been overcharged to sue for three times the amount of the overcharge.

As a Member of the House during the past 8 years, I have supported such landmark consumer protection legislation as the National Commission on Product Safety Act; the Traffic Safety Act, which sets performance standards for cars and tires; the Child Protection and Toy Safety Act; the Safe Packaging Act; and the Truth-in-Packaging Act.

Mr. Chairman, I hope my distinguished colleagues will join me in giving their full-hearted support to this, the latest in a series of necessary consumer legislation. I urgently support prompt and affirmative action on H.R. 15003.

Mr. PRICE of Illinois. Mr. Chairman, the Consumer Product Safety Act, H.R. 15003, is one of the most important pieces of legislation the House will consider during this session. The basic purpose of this bill is to have the Federal Government assume a major role in protecting consumers from unreasonable risks associated with the use of exposure to consumer products.

To accomplish this objective this bill creates an independent regulatory Commission, the Product Safety Commission, which brings together under one roof responsibility for regulating household consumer products as to safety. The Commission is authorized to study the causes and prevention of product-related injuries, establish mandatory safety standards for consumer products to reduce potential hazards and, if necessary, ban hazardous products from the marketplace and provide judicial and administrative relief against harmful products.

That this legislation is needed can be understood by the following data. The National Center for Health Statistics estimates that each year 20 million Americans are injured in and around the home. Of this total, 110,000 injuries result in permanent disability and 30,000 in death. One estimate has placed the annual dollar cost to the economy of product-related injuries at over $5 billion.

Moreover, home accidents cause a death toll among children under age 15 which is higher than that of cancer and heart disease combined. Yet the Federal Government is virtually powerless to curb hazards in a majority of consumer products. Also, there is no present central facility for collecting and evaluating injury data to measure the true scope of product-related injuries or to determine with confidence what portion of the annual toll of 30,000 deaths or 20 million injuries at home are actually caused by unsafe products.

This legislation is a culmination of congressional action over the last 6 years dealing with consumer safety. This action includes the National Traffic and Motor Vehicle Safety Act of 1966, the Gas Pipeline Safety Act of 1968, the Flammable Fabrics Act Amendments of 1967, the Radiation Control for Health and Safety Act of 1968, the Child Prevention and Toy Safety Act of 1969 and the Poison Prevention Packaging Act of 1970.

Each of these measures represents an important contribution to consumer safety. However, the resulting patchwork pattern of laws extends to only a small portion of the multitude of products. Moreover, the technological revolution and ever-increasing public demand for consumer products has produced thousands of new products whose impact are less understood and whose use may pose potential harm. Therefore, what is needed rather than the traditional case by case approach is a consolidated effort to promote consumer safety.

In closing, Mr. Chairman, I strongly support this bill and urge my colleagues to join in voting for it.

Mr. HILLIS. Mr. Chairman, I would like to add a word of support for the consumer product safety bill being considered before this body today. I am but one among many Members of the House who have promised their constituents to do a better job of looking after the interests of the consumer—the forgotten American in the past decade. The consumer has been mistreated and cheated far too often in the past. He has not had a voice to speak up for him and usually has not known how to complain if he discovered a faulty product or shoddy business practice. Certainly, a law suit is a possibility, but most consumers have not had either the financial resources nor the desire to undergo a long, unpleasant court battle on behalf of the consuming public "for the principle" of correcting an unjust situation.

Last year, the House, acting on a mandate from the public, finally enacted a Consumer Protection Act, which sets up an independent agency to represent the interests of consumers in proceedings before Federal agencies and courts, encourages research on consumer products, and disseminate consumer information, as well as establish an Office of Consumer Affairs in the Executive Office. That was a first step beyond what the Food and Drug Administration had offered previously.

But there are many in Congress who have felt we need something more—something that really gets to the heart of the consumer issue and authorizes bold action for effective remedies. We feel the consumer product safety bill is what we have been looking for. It hits at the most crucial issue in consumer affairs—that of safety. Getting a lemon of a sewing machine is a nuisance, or getting a toy for your child which breaks in its first hours of use is annoying—and consumers deserve protection and recourse against such instances.

But a sewing machine with unsafe wiring or a toy which could shatter during play into an object that could poke out your child's eye is far more serious. Often the damage cannot be undone. Here, the consumer generally has little knowledge which qualifies him to determine the future safety quotient of a product. I think the time has come for the consumer to know he can purchase any product without having to worry about the safety factor. That problem simply should not exist in the second half of the 20th century.

Therefore, I am glad to see this bill reported to the House and I am encouraged by its general acceptance here. This is a strong, effective bill, but not so unmanageable or so demanding that it becomes just another bureaucratic irritant. In fact, I am pleased to note that labor and business alike feel this bill is a reasonable approach to the problem. I have received several letters from businessmen in Indiana's Fifth District who recommend its passage as a generally effective means of assuring consumer safety, yet one which will not unreasonably burden businessmen whose products will be subject to inspection by this proposed Product Safety Commission.

I hope my colleagues on the House floor today will agree with those Fifth District constituents and vote to pass the Consumer Product Safety Act. Let us keep our promise to our consumer constituents and enact this piece of tough, but realistic, legislation.

Mr. STAGGERS. Mr. Chairman, I yield myself such time as I may consume.

Just in order to recapitulate what has taken place, I should like to say that in 1967 Congress authorized a commission to make a study throughout the United States on product safety and make a recommendation to the Congress which they have done in the final report of the National Commission on Product Safety. Those men are eminently qualified men. Let me name them for you: Arnold B. Elkind, chairman, attorney, New York; Emory J. Crofoot, attorney, Portland, Oreg.; Henry Aaron Hill, president, Riverside Research Laboratory, Haverhill, Mass.; Sidney Margolius, syndicated columnist, New York City; Michael Pertschuk, Chief Counsel, Senate Commerce Committee, Washington, D.C.; Hugh L. Ray, director, merchandise development and testing laboratory, Sears, Roebuck & Co., Chicago; Dana Young, senior vice president, Southwest Research Institute, San Antonio, Tex.

These gentlemen after 2 years came back with this report. I think most of their recommendations are carried in the bill which is before the House today. They definitely recommend this should be a separate agency.

I would like at this time to pay tribute to all the members of the subcommittee, including the chairman, the gentleman from California (Mr. MOSS), and the gentleman from North Carolina (Mr. BROYHILL), and the gentleman from Georgia (Mr. STUCKEY), and the gentleman from Nebraska (Mr. MCCOLLISTER), and the gentleman from Texas (Mr. ECKHARDT), and the gentleman from Pennsylvania (Mr. WARE), and the gentleman from Ohio (Mr. CARNEY).

I might say they have had many jobs and many of them onerous jobs which have been hard to compromise and work out. They have done an exceptional job for America on many of the bills they have brought to this floor.

I want to pay a special tribute to the Members on the other side for their cooperation, and for the hard work of all the men who have worked together, as well as the chairman, the gentleman from California (Mr. MOSS), in working out a compromise on bills that seldom met with public approval and on which it is difficult to get a consensus; but they have been able to work out compromises. The chairman has been able to work out compromises on many of the bills which have become the law of the land.

I hope this bill becomes the law of the land because it has been long delayed. Certainly it ought to be passed as the subcommittee recommended. It has been studied as long as any other subject which has been before the committee. They came forth with what I think are good recommendations. The subject was completely gone over by the full committee. It was reviewed and some changes were made, but the full committee thought it was a good bill, and on a voice vote I heard no nays on the bill. The bill was reported out unanimously by the subcommittee to the full committee.

There are those who talk about money and the creation of agencies. Let me say this. In the Commission report they stated there are 20 million accidents in America each year, 110,000 are permanently injured, and 30,000 die as a result of the accidents. We do not measure lives in terms of money. Certainly it is the duty of this Congress to protect as much as we can the welfare of the people of this Nation, and I think this bill does just that. There are many needless accidents that happen from appliances that should not happen. If we read the report we will see that many of these can be prevented, and that is the reason for the creation of the new agency which we hope and pray will carry out the mandates of this Congress to protect the people of this country.

With this, I say this bill ought to be passed overwhelmingly. I recommend it to the Congress as a very important bill.

Mr. HARRINGTON. Mr. Chairman, I rise in support of H.R. 15003, the Consumer Product Safety Act as amended by the Committee on Interstate and Foreign Commerce.

In recent years we have witnessed a rash of legislation reflecting the increasing concern of Congress for the safety of the consumer in the use, consumption, or enjoyment of products in and around the home. These acts were designed to deal with specific hazards and categories of products for which a substantial regulatory need had been established. These acts include the National Traffic and Motor Vehicle Safety Act of 1966, the Flammable Fabrics Act Amendments of 1967, the Gas Pipeline Safety Act of 1968, the Child Prevention and Toy Safety Act of 1969, and the Poison Prevention Packaging Act of 1970.

As commendable as these efforts have been, they have resulted in a piecemeal approach to consumer product safety. Federal authority to curb hazards has been virtually nonexistent in a majority of consumer products—and that which does exist is scattered among many agencies. Moreover, jurisdiction over a single category of products may be shared by as many as four different departments or agencies. Lastly, according to the National Commission on Product Safety:

> Federal product safety regulation is burdened by unnecessary procedural obstacles, circumscribed investigative powers, inadequate and ill-fitting sanctions, bureaucratic lassitude, timid administration, bargain-basement budgets, distorted priorities, and misdirected technical resources.

The need for an omnibus consumer product safety act becomes particularly compelling when one considers the physical and social cost incurred by the American public. According to the National Center for Health Statistics, each year 30,000 persons are killed, 110,000 permanently disabled, 585,000 hospitalized, and more than 20 million are injured in and around the home. Home accidents reap a death toll among children under the age of 15 which is higher than that of cancer and heart disease combined. The social costs of injuries, including actual billions of dollars unrealized as income taxes as a result of preventable deaths and injuries are: $446 million in public expenditures representing 1.7 percent of the current expenditures for health care. Finally, one estimate has put the annual dollar cost to the economy at more than $5 billion.

The Consumer Product Safety Act will go far in policing those areas now left unprotected, as well as complementing existing programs addressed to consumer product safety. This legislation will establish a Consumer Product Safety Commission with the authority to move decisively against any unsafe product in the marketplace. It also allows the consumer to petition the Commission to investigate the safety of any product. The hodgepodge of consumer safety programs are broadened and combined in an independent agency which is granted clear responsibility for insuring the safety and reliability of products in the marketplace. The Commission will develop uniform safety standards for consumer products and minimize conflicting State and local regulations, as well as promote research and investigation into the causes and prevention of product-related accidents. Moreover, the Commission is given a full panoply of powers, including civil and criminal sanctions, to enforce its findings.

I would like to emphasize the need for the functional independence of this agency. In view of the overwhelming public mandate for legislation of the kind before us today, I believe it is necessary to give proper status to the Consumer Product Safety Commission. And the only way to fulfill the wishes of the public in this matter is to assure its bipartisanship, accountability, and visibility.

In short, it must be an agency which is unaffected by the political orientation of the administration—be it Republican or Democratic, an agency whose budget will not be buried in the budget or a larger department of the executive branch. In this way, we can insure that the commitment to product safety will not be adulterated by competing considerations, or competing requests for limited funds. Most importantly, it must be an agency open to public scrutiny. This bill, as amended by the Committee on Interstate and Foreign Commerce, fulfills the justifiable expectations of the public for a regulatory agency formed for its protection.

It is unfortunate—yet, nonetheless true—that self-interest and competitive forces in the marketplace are insufficient to bring about the production of safe products. It is, therefore, the proper role of the Federal Government to insure the safety and efficiency of products in interstate commerce. This can be accomplished most effectively by the passage of the omnibus legislation before us today. To do otherwise would be to cheat the American consumer of the protection he deserves.

Mr. KEATING. Mr. Chairman, I support H.R. 15003, the Consumer Product Safety Act. The need for product safety regulations has been established through the recognition of 20 million injuries sustained annually by Americans in their homes. Although the exact figure is unknown, a large number of these injuries are related to consumer products. The annual dollar cost to the economy of product-related injuries is estimated at over $5 billion.

Existing regulations in this field are dispersed and fragmented with resulting ineffectiveness. Today the authority for the Flammable Fabrics Act is divided among the Department of Health, Education, and Welfare, the Department of Commerce, and the Federal Trade Commission; and the Poison Prevention Packaging Act between HEW and the Environmental Protection Agency.

If we are to correct the inadequacies and failures of the past, consolidation of present authorities in the field is of great importance. The substance of this bill permits an accommodation between the legislative recommendation of the National Committee on Product Safety for an independent consumer product safety agency, with the authority to set standards for all products, and the administration proposal to vest this authority in the Department of Health, Education, and Welfare rather than create a new agency.

Through H.R. 15003, the Food and Drug Administration would retain its authority to oversee food, drugs, and cosmetics, yet an independent agency would be created to regulate standards for other consumers products. Authority for the labeling of packaged drugs would be shared by the two agencies.

Through such consolidation of authorities, greater protection for the consumer will be provided. This is the intent and purpose of the legislation, and I wholeheartedly support it.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute now printed in the bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Consumer Product Safety Act".

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.
Sec. 4. Consumer Product Safety Commission.
Sec. 5. Product safety information and research.
Sec. 6. Public disclosure of information.
Sec. 7. Consumer product safety standards.
Sec. 8. Banned hazardous products.
Sec. 9. Administrative procedure applicable to promulgation of consumer product safety rules.
Sec. 10. Petition by interested party for consumer product safety rule.
Sec. 11. Judicial review of consumer product safety rules.
Sec. 12. Imminent hazards.
Sec. 13. New products.
Sec. 14. Product certification and labeling.
Sec. 15. Notification and repair, replacement or refund.
Sec. 16. Inspection and recordkeeping.
Sec. 17. Imported products.
Sec. 18. Exports.
Sec. 19. Prohibited acts.
Sec. 20. Civil penalties.
Sec. 21. Criminal penalties.
Sec. 22. Injunctive enforcement and seizure.
Sec. 23. Suits for damages by persons injured.
Sec. 24. Private enforcement of product safety rules and of section 15 orders.
Sec. 25. Effect on private remedies.
Sec. 26. Effect on State standards.
Sec. 27. Additional functions of Commission.
Sec. 28. Product Safety Advisory Council.
Sec. 29. Cooperation with States and with other Federal agencies.
Sec. 30. Transfers of functions.
Sec. 31. Limitation on jurisdiction.
Sec. 32. Authorization of appropriations.
Sec. 33. Effective date.

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) an unacceptable number of consumer products which contain unreasonable hazards are distributed in commerce;

(2) complexities of consumer products and the diverse nature and abilities of consumers using them frequently result in an inability of users to anticipate hazards and to safeguard themselves adequately;

(3) the public should be protected against unreasonable hazards associated with consumer products;

(4) control by State and local governments of unreasonable hazards associated with consumer products is inadequate and may be burdensome to manufacturers; and

(5) regulation of consumer products the distribution or use of which affects interstate or foreign commerce is necessary to carry out this Act.

(b) The purposes of this Act are—

(1) to protect the public against unreasonable hazards associated with consumer products;

(2) to assist consumers in evaluating the comparative safety of consumer products;

(3) to develop uniform safety standards for consumer products and to minimize conflicting State and local regulations; and

(4) to promote research and investigation into the causes and prevention of product-related deaths, illnesses, and injuries.

DEFINITIONS

SEC. 3. (a) For purposes of this Act:

(1) The term "consumer product" means any article, or component part thereof, produced or distributed (i) for sale to a consumer for use in or around a household or residence, a school, in recreation, or otherwise, or (ii) for the personal use, consumption or enjoyment of a consumer in or around a household or residence, a school, in recreation, or otherwise; but such term does not include (A) any article which is not customarily produced or distributed for sale to or use, consumption, or enjoyment of a consumer; (B) tobacco and tobacco products, (C) motor vehicles or motor vehicle equipment (as defined by sections 102 (3) and (4) of the National Traffic and Motor Vehicle Safety Act of 1966), (D) economic poisons (as defined by the Federal Insecticide, Fungicide, and Rodenticide Act), (E) any article which, if sold by the manufacturer, producer, or importer, would be subject to the tax imposed by section 4181 of the Internal Revenue Code of 1954 (determined without regard to any exemptions from such tax provided by section 4182 or 4221, or any other provision of such Code), or any component of any such article, (F) drugs, devices, or cosmetics (as such terms are defined in sections 201 (g), (h), and (i) of the Federal Food, Drug, and Cosmetic Act), or (G) food. The term "food", as used in this paragraph, means all "food" as defined in section 201(f) of the Federal Food, Drug, and Cosmetic Act, including poultry and poultry products (as defined in sections 4 (e) and (f) of the Poultry Products Inspection Act, meat, meat food products (as defined in section 1(j) of the Federal Meat Inspection Act), and eggs and egg products (as defined in section 4 of the Egg Products Inspection Act).

(2) The term "consumer product safety rule" means a consumer product safety standard described in section 7(a), or a rule under this Act declaring a consumer product a banned hazardous product.

(3) The term "hazard" means a risk of death, personal injury, or serious or frequent illness.

(4) The term "manufacturer" means any person who manufactures or imports a consumer product.

(5) The term "distributor" means a person to whom a consumer product is delivered or sold for purposes of distribution in commerce, except that such term does not include a manufacturer or retailer of such product.

(6) The term "retailer" means a person to whom a consumer product is delivered or sold for purposes of sale or distribution by such person to a consumer.

(7) (A) The term "private labeler" means an owner of a brand or trademark on the label of a consumer product which bears a private label.

(B) A consumer product bears a private label if (i) the product (or its container) is labeled with the brand or trademark of a person other than a manufacturer of the product, (ii) the person with whose brand or trademark the product (or container) is labeled has authorized or caused the product to be so labeled, and (iii) the brand or trademark of a manufacturer of such product does not appear on such label.

(8) The term "manufacture" means to manufacture, produce, or assemble.

(9) The term "Commission" means the Consumer Product Safety Commission, established by section 4.

(10) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, or the Trust Territory of the Pacific Islands.

(11) The terms "to distribute in commerce" and "distribution in commerce" mean to sell in commerce, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce.

(12) The term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

(13) The terms "import" and "importation" include reimporting a consumer prod-

uct manufactured or processed, in whole or in part, in the United States.

(14) The term "United States", when used in the geographic sense, means all of the States (as defined in paragraph (10)).

(b) A common carrier, contract carrier, or freight forwarder shall not, for purposes of this Act, be deemed to be a manufacturer, distributor, or retailer of a consumer product solely by reason of receiving or transporting a consumer product in the ordinary course of its business as such a carrier or forwarder.

CONSUMER PRODUCT SAFETY COMMISSION

SEC. 4. (a) An independent regulatory commission is hereby established, to be known as the Consumer Product Safety Commission, consisting of five Commissioners who shall be appointed by the President, by and with the advice and consent of the Senate, one of whom shall be designated by the President as Chairman. The Chairman, when so designated, shall act as Chairman until the expiration of his term of office as Commissioner. Any member of the Commission may be removed by the President for neglect of duty or malfeasance in office but for no other cause.

(b)(1) Except as provided in paragraph (2), (A) the Commissioners first appointed under this section shall be appointed for terms ending three, four, five, six, and seven years, respectively, after the date of the enactment of this Act, the term of each to be designated by the President at the time of nomination; and (B) each of their successors shall be appointed for a term of seven years from the date of the expiration of the term for which his predecessor was appointed.

(2) Any Commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A Commissioner may continue to serve after the expiration of his term until his successor has taken office, except that he may not so continue to serve more than one year after the date on which his term would otherwise expire under this subsection.

(c) Not more than three of the Commissioners shall be appointed from the same political party. No individual in the employ of, or holding any official relation to, any person, engaged in selling or manufacturing consumer products or owning stock or bonds of substantial value in a person so engaged or who is in any other manner pecuniarily interested in such a person, or in a substantial supplier of such a person, shall hold the office of Commissioner. A Commissioner may not engage in any other business, vocation, or employment.

(d) No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission, but three members of the Commission shall constitute a quorum for the transaction of business. The Commission shall have an official seal of which judicial notice shall be taken. The Commission shall annually elect a Vice Chairman to act in the absence or disability of the Chairman or in case of a vacancy in the office of the Chairman.

(e) The Commission shall maintain a principal office and such field offices as it deems necessary and may meet and exercise any of its powers at any other place.

(f)(1) The Chairman of the Commission shall be the principal executive officer of the Commission, and he shall exercise all of the executive and administrative functions of the Commission, including functions of the Commission with respect to (A) the appointment and supervision of personnel employed under the Commission (other than personnel employed regularly and full time in the immediate offices of commissioners other than the Chairman), (B) the distribution of business among personnel appointed and supervised by the Chairman and among administrative units of the Commission, and (C) the use and expenditure of funds.

(2) In carrying out any of his functions under the provisions of this subsection the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(g)(1) The Chairman, subject to the approval of the Commission, shall appoint an Executive Director, a General Counsel, a Director of Engineering Sciences, a Director of Epidemiology, and a Director of Information. Individuals may be appointed under this paragraph without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS-18 of the General Schedule.

(2) The Chairman, subject to subsection (f)(2), may employ such other officers and employees (including attorneys) as are necessary in the execution of the Commission's functions. No full-time officer or employee of the Commission who was at any time during the 12 months preceding the termination of his employment with the Commission compensated at a rate in excess of the annual rate of basic pay in effect for grade GS-14 of the General Schedule, shall accept employment or compensation from any manufacturer subject to this Act, for a period of 12 months after terminating employment with the Commission.

(h)(1) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(59) Chairman, Consumer Product Safety Commission."

(2) Section 5315 of such title is amended by adding at the end thereof the following new paragraph:

"(96) Members, Consumer Product Safety Commission (4)."

PRODUCT SAFETY INFORMATION AND RESEARCH

SEC. 5. (a) The Commission shall—

(1) maintain an Injury Information Clearinghouse to collect, investigate, analyze, and disseminate information relating to the causes and prevention of death, injury, and illness associated with consumer products; and

(2) conduct such continuing studies and investigations of deaths, injuries, diseases, other health impairments, and economic losses resulting from accidents involving consumer products as it deems necessary.

(b) The Commission may—

(1) conduct research, studies, and investigations on the safety of consumer products and on improving the safety of such products;

(2) test consumer products and develop product safety test methods and testing devices; and

(3) offer training in product safety investigation and test methods, and assist public and private organizations, administratively and technically, in the development of safety standards and test methods.

(c) In carrying out its functions under this section, the Commission may make grants or enter into contracts for the conduct of such functions with any person (including a governmental entity).

(d) Whenever the Federal contribution for any information, research, or development activity authorized by this Act is more than minimal, the Commission shall include in any contract, grant, or other arrangement for such activity, provisions effective to insure that the rights to all information, uses, processes, patents, and other developments resulting from that activity will be made available to the public without charge on a nonexclusive basis. Nothing in this subsection shall be construed to deprive any person of any right which he may have had, prior to entering into any arrangement referred to in this subsection, to any patent, patent application, or invention.

PUBLIC DISCLOSURE OF INFORMATION

SEC. 6. (a)(1) Nothing contained in this Act shall be deemed to require the release of any information described by subsection (b) of section 552, title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

(2) All information reported to or otherwise obtained by the Commission or its representative under this Act which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, shall be considered confidential and shall not be disclosed, except that such information may be disclosed to other officers or employees concerned with carrying out this Act or when relevant in any proceeding under this Act. Nothing in this Act shall authorize the withholding of information by the Commission or any officer or employee under its control from the duly authorized committees of the Congress.

(b)(1) Except as provided by paragraph (2) of this subsection, not less than 30 days prior to its public disclosure of any information obtained under this Act, or to be disclosed to the public in connection therewith, the Commission shall provide such information to each manufacturer or private labeler of any consumer product to which such information pertains, if the manner in which such consumer product is to be designated or described in such information will permit the public to ascertain readily the identity of such manufacturer or private labeler, and shall provide such manufacturer or private labeler with a reasonable opportunity to submit comments to the Commission in reward to such information. The Commission shall take reasonable steps to assure, prior to its public disclosure thereof, that information from which the identity of such manufacturer or private labeler may be readily ascertained is accurate, and that such disclosure is fair in the circumstances and reasonably related to effectuating the purposes of this Act. If the Commission finds that, in the administration of this Act, it has made public disclosure of inaccurate or misleading information which reflects adversely upon the safety of any consumer product, or the practices of any manufacturer, private labeler, distributor, or retailer of consumer products, it shall, in a manner similar to that in which such disclosure was made, publish a retraction of such inaccurate or misleading information.

(2) Paragraph (1) (except for the last sentence thereof) shall not apply to the public disclosure of (A) information about any consumer product with respect to which product the Commission has filed an action under section 12 (relating to imminently hazardous products), or which the Commission has reasonable cause to believe is in violation of section 19 (relating to prohibited acts), or (B) information in the course of or concerning any administrative or judicial proceeding under this Act.

(c) The Commission shall communicate to each manufacturer of a consumer product, insofar as may be practicable, information as to any significant hazard associated with such product.

CONSUMER PRODUCT SAFETY STANDARDS

SEC. 7. (a) The Commission may by rule, in accordance with this section and section 9, promulgate consumer product safety standards. A consumer product safety standard shall consist of one or more of any of the following types of requirements:

(1) Requirements as to performance, composition, contents, design, construction, finish, or packaging of a consumer product.

(2) Requirements that a consumer product be marked with or accompanied by clear and adequate warnings or instructions, or requirements respecting the form of warnings or instructions.

Any requirement of such a standard shall be reasonably necessary to prevent or reduce an unreasonable hazard to the public associated with such product. The requirements of such a standard (other than requirements relating to labeling, warnings, or instructions) shall, whenever feasible, be expressed in terms of performance requirements.

(b) A proceeding for the development of a consumer product safety standard under this Act shall be commenced by the publication in the Federal Register of a notice which shall—

(1) identify the product and the nature of the hazard associated with the product;

(2) state the Commission's determination that a consumer product safety standard is necessary to prevent or reduce the hazard;

(3) include information with respect to any existing standard known to the Commission which may be relevant to the proceeding; and

(4) include an invitation for any person, including any State or Federal agency (other than the Commission), within 30 days after the date of publication of the notice (A) to submit to the Commission an existing standard as the proposed consumer product safety standard or (B) to offer to develop the proposed consumer product safety standard.

An invitation under paragraph (4)(B) shall specify a period of time, during which the standard is to be developed, which shall be a period ending 150 days after the publication of the notice, unless the Commission for good cause finds (and includes such finding in the notice) that a different period is appropriate.

(c) If the Commission determines that (1) there exists a standard which has been issued or adopted by any Federal agency or by any other qualified agency, organization, or institution, and (2) such standard if promulgated under this Act would prevent or reduce the unreasonable hazard associated with the product, then it may, in lieu of accepting an offer pursuant to subsection (d) of this section, publish such standard as a proposed consumer product safety rule.

(d)(1) Except as provided by subsection (c), the Commission shall accept one, and may accept more than one, offer to develop a proposed consumer product safety standard pursuant to the invitation prescribed by subsection (b)(4)(B), if it determines that the offeror is technically competent, is likely to develop an appropriate standard within the period specified in the invitation under subsection (b), and will comply with regulations of the Commission under paragraph (3). The Commission shall publish in the Federal Register the name and address of each person whose offer it accepts, and a summary of the terms of such offer as accepted.

(2) If an offer is accepted under this subsection, the Commission may agree to contribute to the offeror's cost in developing a proposed consumer product safety standard, in any case in which the Commission determines that such contribution is likely to result in a more satisfactory standard than would be developed without such contribution, and that the offeror is financially responsible. Regulations of the Commission shall set forth the items of cost in which it may participate, and shall exclude any contribution to the acquisition of land or buildings.

(3) The Commission shall prescribe regulations governing the development of proposed consumer product safety standards by persons whose offers are accepted under paragraph (1). Such regulations shall include requirements—

(A) that standards recommended for promulgation be suitable for promulgation under this Act, be supported by test data or such other documents or materials as the Commission may reasonably require to be developed, and (where appropriate) contain suitable test methods for measurement of compliance with such standards;

(B) for notice and opportunity by interested persons (including representatives of consumers and consumer organizations) to participate in the development of such standards;

(C) for the maintenance of records, which shall be available to the public, to disclose the course of the development of standards recommended for promulgation, the comments and other information submitted by any person in connection with such development (including dissenting views and comments and information with respect to the need for such recommended standards), and such other matters as may be relevant to the evaluation of such recommended standards; and

(D) that the Commission and the Comptroller General of the United States, or any of their duly authorized representatives, have access for the purpose of audit and examination to any books, documents, papers, and records relevant to the development of such recommended standards or to the expenditure of any contribution of the Commission for the development of such standards.

(e)(1) If the Commission has published a notice of proceeding as provided by subsection (b) and has not, within 30 days after the date of publication of such notice, accepted an offer to develop a proposed consumer product safety standard, the Commission may develop a proposed consumer product safety rule and publish such proposed rule.

(2) If the Commission accepts an offer to develop a proposed consumer product safety standard, the Commission may not, during the development period (specified in paragraph (3)) for such standard—

(A) publish a proposed rule applicable to the same hazard associated with such product, or

(B) develop proposals for such standard or contract with third parties for such development, unless the Commission determines that no offeror whose offer was accepted is making satisfactory progress in the development of such standard.

(3) For purposes of paragraph (2), the development period for any standard is a period (A) beginning on the date on which the Commission first accepts an offer under subsection (d)(1) for the development of a proposed standard, and (B) ending on the earlier of—

(i) the end of the period specified in the notice of proceeding (except that the period specified in the notice may be extended if good cause is shown and the reasons for such extension are published in the Federal Register), or

(ii) the date on which it determines (in accordance with such procedures as it may by rule prescribe) that no offeror whose offer was accepted is able and willing to continue satisfactorily the development of the proposed standard which was the subject of the offer, or

(iii) the date on which an offeror whose offer was accepted submits such a recommended standard to the Commission.

(f) Not more than 210 days after its publication of a notice of proceeding pursuant to subsection (b) (which time may be extended by the Commission by a notice published in the Federal Register stating good cause therefor), the Commission shall publish in the Federal Register a notice withdrawing such notice of proceeding or publish a proposed rule which either proposes a product safety standard applicable to any consumer product subject to such notice, or proposes to declare any such subject product a banned hazardous consumer product.

BANNED HAZARDOUS PRODUCTS

SEC. 8. Whenever the Commission finds that—

(1) a consumer product is being, or will be, distributed in commerce and such consumer product presents an unreasonable hazard to the public; and

(2) no feasible consumer product safety standard under this Act would adequately protect the public from the unreasonable hazard associated with such product.

the Commission may propose and, in accordance with section 9, promulgate a rule declaring such product a banned hazardous product.

ADMINISTRATIVE PROCEDURE APPLICABLE TO PROMULGATION OF CONSUMER PRODUCT SAFETY RULES

SEC. 9. (a)(1) Within sixty days after the publication under section 7(c), (e)(1), or (f) or section 8 of a proposed consumer product safety rule respecting a hazard associated with a consumer product, the Commission shall—

(A) promulgate a consumer product safety rule respecting the hazard associated with such product if it makes the findings required under subsection (c), or

(B) withdraw by rule the applicable notice of proceeding if it determines that such rule is not (i) reasonably necessary to prevent or reduce an unreasonable hazard to the public associated with the product, or (ii) in the public interest;

except that the Commission may extend such sixty-day period for good cause shown (if it publishes its reasons therefor in the Federal Register).

(2) Consumer product safety rules which have been proposed under section 7(c), (e)(1), or (f) or section 8 shall be promulgated pursuant to section 553 of title 5, United States Code, except that the Commission shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

(b) A consumer product safety rule shall express in the rule itself the hazard which the standard is designed to prevent or reduce. In promulgating such a rule the Commission shall consider relevant available product data including the results of research, development, testing, and investigation activities conducted generally and pursuant to this Act.

(c)(1) Prior to promulgating a consumer product safety rule, the Commission shall consider, and shall make appropriate findings for inclusion in such rule with respect to—

(A) the degree and nature of the hazard the rule is designed to prevent or reduce, and

(B) the approximate number of consumer products, or types or classes thereof, subject to such rule; and

(C) the need of the public for the consumer products subject to such rule, and the probable effect of such rule upon the utility, cost, or availability of such products to meet such need.

(2) The Commission shall not promulgate a consumer product safety rule unless it finds (and includes such finding in the rule)—

(A) that the rule (including its effective date) is reasonably necessary to prevent or reduce an unreasonable hazard to the public associated with such product;

(B) that the promulgation of the rule is in the public interest; and

(C) in the case of a rule declaring the product a banned hazardous product, that no feasible consumer product safety standard under this Act would adequately protect the public from the unreasonable hazard associated with such product.

(d) Each consumer product safety rule shall specify the date such rule is to take effect not exceeding 180 days from the date promulgated, unless the Commission finds, for good cause shown, that a later effective date is in the public interest and publishes its reasons for such finding. A consumer product safety standard under this Act shall be applicable only to consumer products manufactured after the date of promulgation of the standard.

(e) The Commission may by rule amend or revoke any consumer product safety rule. Such amendment or revocation shall specify the date on which it is to take effect which shall not exceed 180 days from the date the amendment or revocation is published unless the Commission finds, for good cause shown, that a later effective date is in the public interest and publishes its reasons for such finding. Where an amendment involves a material change in a consumer product safety rule, sections 7 and 8, and subsections (a) through (d) of this section shall apply. In order to revoke a consumer product safety rule, the Commission shall publish a proposal to revoke such rule in the Federal Register, and allow oral and written presentations in accordance with subsection (a) (2) of this section. It may revoke such rule only if it determines that the rule is not reasonably necessary to prevent or reduce an unreasonable hazard to the public associated with the product. Section 11 shall apply to any amendment of a consumer product safety rule which involves a material change and to any revocation of a consumer product safety rule, in the same manner and to the same extent as such section applies to the Commission's action in promulgating such a rule.

PETITION BY INTERESTED PARTY FOR CONSUMER PRODUCT SAFETY RULE

SEC. 10. (a) Any interested person, including a consumer or consumer organization, may petition the Commission to commence a proceeding for the issuance, amendment, or revocation of a consumer product safety rule.

(b) Such petition shall be filed in the principal office of the Commission and shall set forth—

(1) facts which it is claimed establish that a consumer product safety rule or an amendment or revocation thereof is necessary; and

(2) a brief description of the substance of the consumer product safety rule or amendment thereof which it is claimed should be issued by the Commission.

(c) The Commission may hold a public hearing or may conduct such investigation or proceeding as it deems appropriate in order to determine whether or not such petition should be granted.

(d) If the Commission grants such petition, it shall promptly commence an appropriate proceeding to prescribe a consumer product safety rule, or take such other action as it deems appropriate. If the Commission denies such petition it shall publish in the Federal Register its reasons for such denial.

JUDICIAL REVIEW OF CONSUMER PRODUCT SAFETY RULES

SEC. 11. (a) Not later than 60 days after a consumer product safety rule is promulgated by the Commission, any person adversely affected by such rule, or any consumer or consumer organization, may file a petition with the United States court of appeals for the District of Columbia or for the circuit in which such person, consumer, or organization resides or has his principal place of business for judicial review of such rule. Copies of the petition shall be forthwith transmitted by the clerk of the court to the Commission or other officer designated by him for that purpose and to the Attorney General. The Commission shall transmit to the Attorney General, who shall file in the court, the record of the proceedings on which the Commission based its rule, as provided in section 2112 of title 28 of the United States Code. For purposes of this section, the term "record" means such consumer product safety rule; any notice or proposal published pursuant to section 7, 8, or 9; the transcript required by section 9(a) (2) of any oral presentation; any written submission of interested parties; and any other information, which the Commission considers relevant to such rule.

(b) If the petitioner applies to the court for leave to adduce additional data, views, or arguments and shows to the satisfaction of the court that such additional data, views, or arguments are material and that there were reasonable grounds for the petitioner's failure to adduce such data, views, or arguments in the proceeding before the Commission, the court may order the Commission to provide additional opportunity for the oral presentation of data, views, or arguments and for written submissions. The Commission may modify its findings, or make new findings by reason of the additional data, views, or arguments so taken and shall file such modified or new findings, and its recommendation, if any, for the modification or setting aside of its original rule, with the return of such additional data, views, or arguments.

(c) Upon the filing of the petition under subsection (a) of this section the court shall have jurisdiction to review the consumer product safety rule in accordance with chapter 7 of title 5 of the United States Code and to grant appropriate relief, including interim relief, as provided in such chapter. The consumer product safety rule shall not be affirmed unless the Commission's findings under section 9(c) are supported by substantial evidence on the record taken as a whole.

(d) The judgment of the court affirming or setting aside, in whole or in part, any consumer product safety rule shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28 of the United States Code.

(e) The remedies provided for in this section shall be in addition to and not in lieu of any other remedies provided by law.

IMMINENT HAZARDS

SEC. 12. (a) The Commission may file in a United States district court an action (1) against an imminently hazardous consumer product for seizure of such product under subsection (b) (2), or (2) against any person who is a manufacturer, distributor, or retailer of such product, or (3) against both. Such an action may be filed notwithstanding the existence of a consumer product safety rule applicable to such product, or the pendency of any administrative or judicial proceedings under any other provision of this Act. As used in this section, and hereinafter in this Act, the term "imminently hazardous consumer product" means a consumer product which presents imminent and unreasonable risk of death, serious illness, or severe personal injury.

(b) (1) The district court in which such action is filed shall have jurisdiction to declare such product an imminently hazardous consumer product, and (in the case of an action under subsection (a) (2)) to grant (as ancillary to such declaration or in lieu thereof) such temporary or permanent relief as may be necessary to protect the public from such risk. Such relief may include a mandatory order requiring the notification of such risk to purchasers of such product known to the defendant, public notice, the recall, the repair or the replacement of, or refund for, such product.

(2) In the case of an action under subsection (a) (1), the consumer product may be proceeded against by process of libel for the seizure and condemnation of such product in any United States district court within the jurisdiction of which such consumer product is found. Proceedings and cases instituted under the authority of the preceding sentence shall conform as nearly as possible to proceedings in rem in admiralty.

(c) Where appropriate, concurrently with the filing of such action or as soon thereafter as may be practicable, the Commission shall initiate a proceeding to promulgate a consumer product safety rule applicable to the consumer product with respect to which such action is filed.

(d) (1) Prior to commencing an action under subsection (a), the Commission may consult the Product Safety Advisory Council (established under section 28) with respect to its determination to commence such action, and request the Council's recommendations as to the type of temporary or permanent relief which may be necessary to protect the public.

(2) The Council shall submit its recommendations to the Commission within one week of such request.

(3) Subject to paragraph (2), the Council may conduct such hearing or offer such opportunity for the presentation of views as it may consider necessary or appropriate.

(e) (1) An action under subsection (a) (2) of this section may be brought in the United States district court for the District of Columbia or in any judicial district in which any of the defendants is found, is an inhabitant or transacts business; and process in such an action may be served on a defendant in any other district in which such defendant resides or may be found. Subpenas requiring attendance of witnesses in such an action may run into any other district. In determining the judicial district in which an action may be brought under this section in instances in which such action may be brought in more than one judicial district, the Commission shall take into account the convenience of the parties.

(2) Whenever proceedings under this section involving identical consumer products are pending in courts in two or more judicial districts, they shall be consolidated for trial by order of any such court upon application reasonably made by any party in interest, upon notice to all other parties in interest.

(f) Notwithstanding any other provision of law, in any action under this section, the Commission may direct attorneys employed by it to appear and represent it.

NEW PRODUCTS

SEC. 13. (a) The Commission may, by rule, prescribe procedures for the purpose of insuring that the manufacturer of any new consumer product furnish notice and a description of such product to the Commission before its distribution in commerce.

(b) For purposes of this section, the term "new consumer product" means a consumer product which incorporates a design, material, or form of energy exchange which (1) has not previously been used substantially in consumer products and (2) as to which there exists a lack of information adequate to determine the safety of such product in use by consumers.

PRODUCT CERTIFICATION AND LABELING

SEC. 14. (a) (1) Every manufacturer of a product which is subject to a consumer product safety standard under this Act and which is distributed in commerce (and the private labeler of such product if it bears a private label) shall issue a certificate which shall certify that such product conforms to all applicable consumer product safety standards, and shall specify any standard which is applicable. Such certificate shall accompany the product or shall otherwise be furnished to any distributor or retailer to whom the product is delivered. Any certificate under this subsection shall be based on a test of each product or upon a reasonable testing program; shall state the name of the manufacturer or private labeler issuing the certificate; and shall include the date and place of manufacture.

(2) In the case of a consumer product for which there is more than one manufacturer or more than one private labeler, the Commission may by rule designate one or more of such manufacturers or one or more of such private labelers (as the case may be) as the persons who shall issue the certificate required by paragraph (1) of this subsection, and may exempt all other manufacturers of such product or all other private labelers of the product (as the case may be) from the requirement under paragraph (1) to issue a certificate with respect to such product.

(b) The Commission may by rule prescribe reasonable testing programs for consumer products which are subject to consumer product safety standards under this Act and for which a certificate is required under subsection (a). Any test or testing program on the basis of which a certificate is issued under subsection (a) may, at the option of the person required to certify the product, be conducted by an independent third party qualified to perform such tests or testing programs.

(c) The Commission may by rule require the use and prescribe the form and content of labels which contain the following information (or that portion of it specified in the rule)—

(1) The date and place of manufacture of any consumer product.

(2) A suitable identification of the manufacturer of the consumer product, unless the product bears a private label in which case it shall identify the private labeler and shall also contain a code mark which would permit the seller of such product to identify the manufacturer thereof to the purchaser upon his request.

(3) In the case of a consumer product subject to a consumer product safety rule, a certification that product meets all applicable consumer product safety standards and a specification of the standards which are applicable.

Such labels, where practicable, may be required by the Commission to be permanently marked on or affixed to any such consumer product.

NOTIFICATION AND REPAIR, REPLACEMENT, OR REFUND

SEC. 15. (a) For purposes of this section, the term "substantial product hazard" means—

(1) a failure to comply with an applicable consumer product safety rule which creates a substantial hazard to the public, or

(2) a product defect which (because of the pattern of defect, the number of defective products distributed in commerce, the severity of the risk, or otherwise) creates a substantial hazard to the public.

(b) Every manufacturer of a consumer product distributed in commerce, and every distributor and retailer of such product, who obtains information which reasonably supports the conclusion that such product—

(1) fails to comply with an applicable consumer product safety rule; or

(2) contains a defect which could create a substantial product hazard described in subsection (a)(2),

shall immediately inform the Commission of such failure to comply or of such defect, unless such manufacturer, distributor, or retailer has actual knowledge that the Commission has been adequately informed of such defect or failure to comply.

(c) If the Commission determines (after affording interested persons, including consumers and consumer organizations, an opportunity for the oral presentation of views as well as for written presentations) that a product distributed in commerce presents a substantial product hazard and that notification is required in order to adequately protect the public from such substantial product hazard, the Commission may order the manufacturer or any distributor or retailer of the product to take any one or more of the following actions:

(1) to give public notice of the defect or failure to comply;

(2) to mail notice to each person who is a manufacturer, distributor, or retailer of such product; or

(3) to mail notice to every person to whom the person required to give notice knows such product was delivered or sold.

Any such order shall specify the form and content of any notice required to be given under such order.

(d) If the Commission determines (after affording interested parties, including consumers and consumer organizations, an opportunity for a hearing in accordance with section 554 of title 5, United States Code) that a product distributed in commerce presents a substantial product hazard and that action under this subsection is in the public interest, it may order the manufacturer or any distributor or retailer of such product to take whichever of the following actions the person to whom the order is directed elects—

(1) to bring such product into conformity with the requirements of the applicable consumer product safety rule or to repair the defect in such product;

(2) to replace such product with a like or equivalent product which complies with the applicable consumer product safety rule or which does not contain the defect; or

(3) to refund the purchase price of such product (less a reasonable allowance for use, if such product has been in the possession of a consumer for one year or more (A) at the time of public notice under subsection (c), or (B) at the time the consumer receives actual notice of the defect or noncompliance, whichever first occurs).

An order under this subsection may also require the person to whom it applies to submit a plan, satisfactory to the Commission, for taking action under whichever of the preceding paragraphs of this subsection under which such person has elected to act. The Commission shall specify in the order the persons to whom refunds must be made if the person to whom the order is directed elects to take the action described in paragraph (3). If an order under this subsection is directed to more than one person, the Commission shall specify which person has the election under this subsection.

(e)(1) No charge shall be made to any person (other than a manufacturer, distributor, or retailer) who avails himself of any remedy provided under an order issued under subsection (d), and the person subject to the order shall reimburse each person (other than a manufacturer, distributor, or retailer) who is entitled to such a remedy for any reasonable and foreseeable expenses incurred by such person in availing himself of such remedy.

(2) An order issued under subsection (c) or (d) with respect to a product may require any person who is a manufacturer, distributor, or retailer of the product to reimburse any other person who is a manufacturer, distributor, or retailer of such product for such other person's expenses in connection with carrying out the order, if the Commission determines such reimbursement to be in the public interest.

INSPECTION AND RECORDKEEPING

SEC. 16. (a) For purposes of implementing this Act, or rules or orders prescribed under this Act, officers or employees duly designated by the Commission, upon presenting appropriate credentials and a written notice from the Commission to the owner, operator, or agent in charge, are authorized—

(1) to enter, at reasonable times, (A) any factory, warehouse, or establishment in which consumer products are manufactured or held, in connection with distribution in commerce, or (B) any conveyance being used to transport consumer products in connection with distribution in commerce; and

(2) to inspect, at reasonable times and in a reasonable manner such conveyance or those areas of such factory, warehouse, or establishment where such products are manufactured, held, or transported and which may relate to the safety of such products. Each such inspection shall be commenced and completed with reasonable promptness.

(b) Every person who is a manufacturer, private labeler, or distributor of a consumer product shall establish and maintain such records, make such reports, and provide such information as the Commission may, by rule, reasonably require for the purposes of implementing this Act, or to determine compliance with rules or orders prescribed under this Act. Upon request of an officer or employee duly designated by the Commission, every such manufacturer, private labeler, or distributor shall permit the inspection of appropriate books, records, and papers relevant to determining whether such manufacturer, private labeler, or distributor has acted or is acting in compliance with this Act and rules under this Act.

IMPORTED PRODUCTS

SEC. 17. (a) Any consumer product offered for importation into the customs territory of the United States (as defined in general headnote 2 of the Tariff Schedules of the United States) shall be refused admission into such customs territory if such product—

(1) fails to comply with an applicable consumer product safety rule;

(2) is not accompanied by a certificate required by section 14, or is not labeled in accordance with regulations under section 14(c);

(3) is or has been determined to be an imminently hazardous consumer product in a proceeding brought under section 12;

(4) has a product defect which constitutes a substantial product hazard (within the meaning of section 15(a)(2)); or

(5) is a product which was manufactured by a person who the Commission has informed the Secretary of the Treasury is in violation of subsection (g).

(b) The Secretary of the Treasury shall obtain without charge and deliver to the Commission, upon the latter's request, a reasonable number of samples of consumer products being offered for import. Except for those owners or consignees who are or have been afforded an opportunity for a hearing in a proceeding under section 12 with respect to an imminently hazardous product, the owner or consignee of the product shall be afforded an opportunity by the Commission for a hearing in accordance with section 554 of title 5 of the United States Code with respect to the importation of such products into the customs territory of the United States. If it appears from examination of such samples or otherwise that a product must be refused admission under the terms of subsection (a), such product shall be refused admission unless subsection (c) of this section applies and is complied with.

(c) If it appears to the Commission that any consumer product which may be refused admission pursuant to subsection (a) of this section can be so modified that it need not (under the terms of paragraphs (1) through (4) of subsection (a)) be refused admission, the Commission may defer final determination as to the admission of such product and, in accordance with such regulations as the Commission and the Secretary of the Treasury shall jointly agree to, permit such product to be delivered from customs custody under bond for the purpose of permitting the owner or consignee an opportunity to so modify such product.

(d) All actions taken by an owner or consignee to modify such product under subsection (c) shall be subject to the supervision of an officer or employee of the Commission and of the Department of the Treasury. If it appears to the Commission that the product cannot be so modified or that the owner or consignee is not proceeding satisfactorily to modify such product it shall be refused admission into the customs territory of the United States, and the Commission may direct the Secretary to demand redelivery of the product into customs custody, and to seize the product in accordance with section 22(b) if it is not so redelivered.

(e) Products refused admission into the customs territory of the United States under this section must be exported, except that upon application, the Secretary of the Treasury may permit the destruction of the product in lieu of exportation. If the owner or consignee does not export the product within a reasonable time, the Department of the Treasury may destroy the product.

(f) All expenses (including travel, per diem or subsistence, and salaries of officers or employees of the United States) in connection with the destruction provided for in this section (the amount of such expenses to be determined in accordance with regulations of the Secretary of the Treasury) and all expenses in connection with the storage, cartage, or labor with respect to any consumer product refused admission under this section, shall be paid by the owner or consignee and, in default of such payment, shall constitute a lien against any future importations made by such owner or consignee.

(g) The Commission may, by rule, condition the importation of a consumer product on the manufacturer's compliance with the inspection and recordkeeping requirements of this Act and the Commission's rules with respect to such requirements.

EXPORTS

SEC. 18. This Act shall not apply to any consumer product if (1) it can be shown that such product is manufactured, sold, or held for sale for export from the United States (or that such product was imported for export), unless such consumer product is in fact distributed in commerce for use in the United States, and (2) such consumer product when distributed in commerce, or any container in which it is enclosed when so distributed, bears a stamp or label stating that such consumer product is intended for export; except that this Act shall apply to any consumer product manufactured for sale, offered for sale, or sold for shipment to any installation of the United States located outside of the United States.

PROHIBITED ACTS

SEC. 19. (a) It shall be unlawful for any person to—

(1) manufacture for sale, offer for sale, distribute in commerce, or import into the United States any consumer product which is not in conformity with an applicable consumer product safety standard under this Act;

(2) manufacture for sale, offer for sale, distribute in commerce, or import into the United States any consumer product which has been declared a banned hazardous product by a rule under this Act;

(3) fail or refuse to permit access to or copying of records, or fail or refuse to make reports or provide information, or fail or refuse to permit entry or inspection, as required under this Act or rule thereunder;

(4) fail to furnish information respecting a substantial product defect, as required by section 15(b);

(5) fail to comply with an order issued under section 15 (c) or (d) (relating to notification, and to repair, replacement, and refund);

(6) fail to furnish a certificate required by section 14 or issue a false certificate if such person in the exercise of due care has reason to know that such certificate is false or misleading in any material respect; or to fail to comply with any rule under section 14(c) (relating to labeling).

(b) Paragraphs (1) and (2) of section (a) shall not apply to any person (1) who holds a certificate issued in accordance with section 14(a) to the effect that such consumer product conforms to all applicable consumer product safety rules, unless such person knows that such consumer product does not conform, or (2) who relies in good faith on the representation of the manufacturer or a distributor of such product that the product is not subject to an applicable product safety rule.

CIVIL PENALTIES

SEC. 20. (a)(1) Any person who knowingly violates section 19 of this Act shall be subject to a civil penalty not to exceed $2,000 for each such violation. Subject to paragraph (2), a violation of section 19(a)(1), (2), (4), (5), or (6) shall constitute a separate violation with respect to each consumer product involved, except that the maximum civil penalty shall not exceed $500,000 for any related series of violations. A violation of section 19(a)(3) shall constitute a separate violation with respect to each failure or refusal to allow or perform an act required thereby; and, such violation is a continuing one, each day of such violation shall constitute a separate offense, except that the maximum civil penalty shall not exceed $500,000 for any related series of violations.

(2) The second sentence of paragraph (1) of this subsection shall not apply to violations of paragraph (1) or (2) of section 19(a)—

(A) if the person who violated such paragraphs is not the manufacturer or private labeler or a distributor of the product involved, and

(B) if such person did not have either (i) actual knowledge that his distribution or sale of the product violated such paragraphs or (ii) notice from the Commission that such distribution or sale would be a violation of such paragraph.

(b) Any civil penalty under this section may be compromised by the Commission. In determining the amount of such penalty or whether it should be remitted or mitigated and in what amount, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty when finally determined, or the amount agreed on compromise, may be deducted from any sums owing by the United States to the person charged.

(c) As used in the first sentence of subsection (a)(1) of this section, the term "knowingly" means (1) the having of actual knowledge, or (2) the presumed having of knowledge deemed to be possessed by a reasonable man who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations.

CRIMINAL PENALTIES

SEC. 21. (a) Any person who knowingly and willfully violates section 19 of this Act after having received notice of noncompliance from the Commission shall be fined not more than $50,000 or be imprisoned not more than one year, or both.

(b) Whenever any corporation knowingly and willfully violates section 19 of this Act after having received notice of noncompliance from the Commission, any individual director, officer, or agent of such corporation who knowingly and willfully authorized, ordered, or performed any of the acts or practices constituting in whole or in part such violation and who had knowledge of such notice from the Commission shall be subject to penalties under this section in addition to the corporation.

INJUNCTIVE ENFORCEMENT AND SEIZURE

SEC. 22. (a) The United States district courts shall have jurisdiction to restrain any violation of section 19, or to restrain any person from distributing in commerce a product which does not comply with a consumer product safety rule, or both. Such actions may be brought by the Attorney General, on request of the Commission, in any United States district court for a district wherein any act, omission, or transaction constituting the violation occurred, or in such court for the district wherein the defendant is found or transacts business. In any action under this section process may be served on a defendant in any other district in which the defendant resides or may be found.

(b) Any consumer product which fails to conform to an applicable consumer product safety rule when introduced into or while in commerce or while held for sale after shipment in commerce shall be liable to be proceeded against on libel of information and condemned in any United States district court within the jurisdiction of which such consumer product is found. Proceedings in cases instituted under the authority of this subsection shall conform as nearly as possible to proceedings in rem in admiralty. Whenever such proceedings involving identical consumer products are pending in courts of two or more judicial districts they shall be consolidated for trial by order of any such court upon application reasonably made by any party in interest upon notice to all other parties in interest.

SUITS FOR DAMAGES BY PERSONS INJURED

SEC. 23. (a)(1) If any person dies or sustains personal injury or illness by reason of the failure of a consumer product to comply with an applicable consumer product safety rule under this Act, then such person (or his survivors or legal representative) may sue any manufacturer, distributor, or retailer of such noncomplying product, and may recover any damages sustained as a result of such failure to comply.

(2) If any person dies or sustains personal injury or illness by reason of a failure to comply with an order under section 15(c) or section 15(d), then such person (or his survivors or legal representative) may sue any person who failed to comply with such order under section 15, and may recover any damages sustained as a result of such failure to comply.

(3) An action under this section may be brought in any United States district court in the district in which the defendant resides or is found or has an agent, without regard to the amount in controversy. In any action under this section, whenever a plaintiff shall prevail the court may award the plaintiff the costs of the suit, including a reasonable attorney's fee.

(b) In the case of an action brought for noncompliance with an applicable consumer product safety rule, no liability shall be imposed under this section upon any manufacturer, distributor, or retailer who establishes (1) that he did not have reason to know in the exercise of due care that such product did not comply with such consumer product safety rule, and (2) in the case of a manufacturer or a distributor or retailer who is a private labeler of such noncomplying product, that the product was designed so as to comply with all applicable consumer product safety rules and that due care was used in the manufacture of the product so as to assure that the product complied with such rule. In the case of an action for noncompliance with an order under section 15, no liability shall be imposed under this section upon any manufacturer, distributor, or retailer who establishes that he took all steps as may be reasonable in the exercise of due care to comply with such order.

(c) The remedies provided for in this section shall be in addition to and not in lieu of any other remedies provided by common law or under Federal or State statutory law.

PRIVATE ENFORCEMENT OF PRODUCT SAFETY RULES AND OF SECTION 15 ORDERS

SEC. 24. Any interested person may bring an action in any United States district court for the district in which the defendant is found or transacts business to enforce a consumer product safety rule or an order under section 15, and to obtain appropriate injunctive relief. Not less than thirty days prior to the commencement of such action, such interested person shall give notice by registered mail to the Commission, to the Attorney General, and to the person against whom such action is directed. Such notice shall state the nature of the alleged violation of any such standard or order, the relief to be requested, and the court in which the action will be brought. No separate suit shall be brought under this section if at the time the suit is brought the same alleged violation is the subject of a pending civil or criminal action by the United States under this Act. In any action under this section, such interested person may elect, by a demand for such relief in his complaint, to recover reasonable attorney's fees, in which case the court shall award the costs of suit, including a reasonable attorney's fee, to the prevailing party.

EFFECT ON PRIVATE REMEDIES

SEC. 25. (a) Compliance with consumer product safety rules or other rules or orders under this Act shall not relieve any person from liability at common law or under State statutory law to any other person.

(b) The failure of the Commission to take any action or commence a proceeding with respect to the safety of a consumer product shall not be admissible in evidence in litigation at common law or under State statutory law relating to such consumer product.

(c)(1) Subject to section 6(a)(2) but notwithstanding section 6(a)(1), (A) accident and investigation reports made under this Act by any officer, employee, or agent of the Commission shall be available for use in any civil, criminal, or other judicial proceeding arising out of such accident, and (B) any such officer, employee, or agent may be required to testify in such proceedings as to the facts developed in such investigations.

(2) Subject to sections 6(a)(2) and 6(b) but notwithstanding section 6(a)(1), (A) any accident or investigation report made under this Act by an officer or employee of the Commission shall be made available to the public in a manner which will not identify any injured person or any person treating him, without the consent of the person so identified, and (B) all reports on research projects, demonstration projects, and other related activities shall be public information.

EFFECT OF STATE STANDARDS

SEC. 26. (a) Whenever a consumer product safety standard under this Act is in effect and applies to a hazard associated with a consumer product, no State or political subdivision of a State shall have any authority either to establish or to continue in effect any provision of a safety standard or regulation which prescribes any requirements as to the performance, composition, contents, design, finish, construction, packaging, or labeling of such product which are designed to deal with the same hazard associated with such consumer product; unless such requirements are identical to the requirements of the Federal standard.

(b) Nothing in this section shall be construed to prevent the Federal Government or the government of any State or political subdivision thereof from establishing a safety requirement applicable to a consumer product for its own use if such requirement imposes a higher standard of performance than that required to comply with the otherwise applicable Federal standard.

(c) Upon application of a State or political subdivision thereof, the Commission may by rule, after notice and opportunity for oral presentation of views, exempt from the provisions of subsection (a) (under such conditions as it may impose) a proposed safety standard or regulation described in such application, where the proposed standard or regulation (1) imposes a higher level of performance than the Federal standard, (2) is required by compelling local conditions, and (3) does not unduly burden interstate commerce.

ADDITIONAL FUNCTIONS OF COMMISSION

SEC. 27. (a) The Commission may, by one or more of its members or by such agents or agency as it may designate conduct any hearing or other inquiry necessary or appropriate to its functions anywhere in the United States. A Commissioner who participates in such a hearing or other inquiry shall not be disqualified solely by reason of such participation from subsequently participating in a decision of the Commission in the same manner. The Commission shall publish notice of any proposed hearing in the Federal Register and shall afford a reasonable opportunity for interested persons to present relevant testimony and data.

(b) The Commission shall also have the power—

(1) to require, by special or general orders, any person to submit in writing such reports and answers to questions as the Commission may prescribe; and such submission shall be made within such reasonable period and under oath or otherwise as the Commission may determine;

(2) to administer oaths;

(3) to require by subpena the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

(4) in any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (3) of this subsection; and

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

(c) Any United States district court within the jurisdiction of which any inquiry is carried on may, upon petition by the Attorney General, in case of refusal to obey a subpena or order of the Commission issued under subsection (b) of this section, issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(d) The Commission may by rule require any manufacturer of consumer products to provide to the Commission such performance and technical data related to performance and safety as may be required to carry out the purposes of the Act, and to give such notification of such performance and technical data at that time of original purchase to prospective purchasers and to the first purchaser of such product for purposes other than resale, as it determines necessary to carry out the purposes of this Act.

(e) For purposes of carrying out this Act, the Commission may purchase any consumer product and it may require any manufacturer, distributor, or retailer of a consumer product to sell the product to the Commission at manufacturer's, distributor's, or retailer's cost.

(f) The Commission is authorized to enter into contracts with governmental entities, private organizations, or individuals for the conduct of activities authorized by this Act.

(g) The Commission may plan, construct, and operate a facility or facilities suitable for research, development, and testing of consumer products in order to carry out this Act.

(h) The Commission shall prepare and submit to the President and the Congress on or before October 1 of each year a comprehensive report on the administration of this Act for the preceding fiscal year. Such report shall include—

(1) a thorough appraisal, including statistical analyses, estimates, and long-term projections, of the incidence of injury and effects to the population resulting from consumer products, with a breakdown, insofar as practicable, among the various sources of such injury;

(2) a list of consumer product safety rules prescribed or in effect during such year;

(3) an evaluation of the degree of observance of consumer product safety rules, including a list of enforcement actions, court decisions, and compromises of alleged violations, by location and company name;

(4) a summary of outstanding problems confronting the administration of this Act in order of priority;

(5) an analysis and evaluation of public and private consumer product safety research activities:

(6) a list, with a brief statement of the issues, of completed or pending judicial actions under this Act:

(7) the extent to which technical information was disseminated to the scientific and commercial communities and consumer information was made available to the public;

(8) the extent of cooperation between Commission officials and representatives of industry and other interested parties in the implementation of this Act, including a log or summary of meetings held between Commission officials and representatives of industry and other interested parties;

(9) an appraisal of significant actions of State and local governments relating to the responsibilities of the Commission; and

(10) such recommendations for additional legislation as the Commission deems necessary to carry out the purposes of this Act.

PRODUCT SAFETY ADVISORY COUNCIL

SEC. 28. (a) The Commission shall establish a Product Safety Advisory Council which it may consult before prescribing a consumer product safety rule or taking other action under this Act. The Council shall be appointed by the Commission and shall be composed of fifteen members, each of whom shall be qualified by training and experience in one or more of the fields applicable to the safety of products within the jurisdiction of the Commission. The Council shall be constituted as follows:

(1) five members shall be selected from governmental agencies including Federal, State, and local governments;

(2) five members shall be selected from consumer product industries including at least one representative of small business; and

(3) five members shall be selected from among consumer organizations, community organizations, and recognized consumer leaders.

(b) The Council shall meet at the call of the Commission, but not less often than four times during each calendar year.

(c) The Council may propose consumer product safety rules to the Commission for its consideration and may function through subcommittees of its members. All proceedings of the Council shall be public, and a record of each proceeding shall be available for public inspection.

(d) Members of the Council who are officers or employees of the United States shall, while attending meetings or conferences of the Council or while otherwise engaged in the business of the Council, be entitled to receive compensation at a rate fixed by the Commission, not exceeding the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. Payments under this subsection shall not render members of the Council officers or employees of the United States for any purpose.

COOPERATION WITH STATES AND WITH OTHER FEDERAL AGENCIES

SEC. 29. (a) The Commission shall establish a program to promote Federal-State cooperation for the purposes of carrying out this Act. In implementing such program the Commission may—

(1) accept from any State or local authorities engaged in activities relating to health, safety, or consumer protection assistance in such functions as injury data collection, investigation, and educational programs, as well as other assistance in the administration and enforcement of this Act which such States or localities may be able and willing to provide and, if so agreed, may pay in advance or otherwise for the reasonable cost of such assistance, and

(2) commission any qualified officer or employee of any State or local agency as an officer of the Commission for the purpose of conducting examinations, investigations, and inspections.

(b) In determining whether such proposed State and local programs are appropriate in implementing the purposes of this Act the Commission shall give favorable consideration to programs which establish separate State and local agencies to consolidate functions relating to product safety and other consumer protection activities.

(c) The Commission may obtain from any Federal department or agency such statistics, data, program reports, and other materials as it may deem necessary to carry out its functions under this Act. Each such department or agency may cooperate with the Commission and, to the extent permitted by law, furnish such materials to it. The Commission and the heads of other departments and agencies engaged in administering programs related to product safety shall, to the maximum extent practicable, cooperate and consult in order to insure fully coordinated efforts.

TRANSFERS OF FUNCTIONS

SEC. 30. (a) The functions of the Secretary of Health, Education, and Welfare under the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) and the Poison Prevention Packaging Act of 1970 are transferred to the Commission. The functions of the Administrator of the Environmental Protection Agency and of the Secretary of Health, Education, and Welfare under the Acts amended by subsections (b) throngh (f) of section 7 of the Poison Prevention Packaging Act of 1970, to the extent such functions relate to the administration and enforcement of the Poison Prevention Packaging Act of 1970, are transferred to the Commission.

(b) The functions of the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and the Federal Trade Commission under the Flammable Fabrics Act (15 U.S.C. 1191 et seq.) are transferred to the Commission. The functions of the Federal Trade Commission under the Federal Trade Commission Act, to the extent such functions relate to the administration and enforcement of the Flammable Fabrics Act, are transferred to the Commission.

(c) A hazard which is associated with consumer products and which could be prevented or reduced to a sufficient extent by action taken under the Federal Hazardous Substances Act, the Poison Prevention Packaging Act of 1970, or the Flammable Fabrics Act may be regulated by the Commission only in accordance with the provisions of those Acts.

(d) (1) All personnel, property, records, obligations, and commitments, which are used primarily with respect to any function transferred under the provisions of subsection (a) and (b) of this section shall be transferred to the Commission. The transfer of personnel pursuant to this paragraph shall be without reduction in classification or compensation for one year after such transfer, except that the Chairman of the Commission shall have full authority to assign personnel during such one-year period in order to efficiently carry out functions transferred to the Commission under this section.

(2) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges (A) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are transferred under this section by any department or agency, any function of which are transferred by this section, and (B) where they are in effect at the time this section takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Commission, by any court of competent jurisdiction, or by operation of law.

(3) The provisions of this section shall not affect any proceedings pending at the time this section takes effect before any department or agency, functions of which are transferred by this section; except that such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Commission. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Commission, by a court of competent jurisdiction, or by operation of law.

(4) The provisions of this section shall not affect suits commenced prior to the date this section takes effect and in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this section had not been enacted; except that if before the date on which this section takes effect, any department or agency (or officer thereof in his official capacity) is a party to a suit involving functions transferred to the Commission, then such suit shall be continued by the Commission. No cause of action, and no suit, action, or other proceeding, by or against any department or agency (or officer thereof in his official capacity) functions of which are transferred by this section, shall abate by reason of the enactment of this section. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or the Commission as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this paragraph.

(e) For purposes of this section, (1) the term "function" includes power and duty, and (2) the transfer of a function, under any provision of law, of an agency or the head of a department shall also be a transfer of all functions under such law which are exercised by any office or officer of such agency or department.

LIMITATION ON JURISDICTION

SEC. 31. The Commission shall have no authority under this Act to regulate hazards associated with consumer products which could be prevented or reduced to a sufficient extent by actions taken under the Occupational Safety and Health Act of 1970; the Act of August 2, 1956 (70 Stat. 953); the Atomic Energy Act of 1954; or the Clean Air Act. The Commission shall have no authority under this Act to regulate any hazard associated with electronic product radiation emitted from an electronic product (as such terms are defined by sections 355 (1) and (2) of the Public Health Service Act) if such hazard of such product may be subjected to regulation under subpart 3 of part F of title III of the Public Health Service Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 32. (a) There are hereby authorized to be appropriated for the purpose of carrying out the provisions of this Act (other than the provisions of section 27(g) which authorize the planning and construction of research, development, and testing facilities) and for the purpose of carrying out the functions, powers, and duties transferred to the Commission under section 30—

(1) $55,000,000 for the fiscal year ending June 30, 1973;

(2) $59,000,000 for the fiscal year ending June 30, 1974; and

(3) $64,000,000 for the fiscal year ending June 30, 1975.

(b) (1) There are authorized to be appropriated such sums as may be necessary for the planning and construction of research, development and testing facilities described in section 27(g); except that no appropriation shall be made for any such planning or construction involving an expenditure in excess of $100,000 if such planning or construction has not been approved by resolutions adopted in substantially the same form by the Committee on Interstate and Foreign Commerce of the House of Representatives, and by the Committee on Commerce of the Senate. For the purpose of securing consideration of such approval the Commission shall transmit to Congress a prospectus of the proposed facility including (but not limited to)—

(A) a brief description of the facility to be planned or constructed;

(B) the location of the facility, and an estimate of the maximum cost of the facility;

(C) a statement of those agencies, private and public, which will use such facility, together with the contribution to be made by each such agency toward the cost of such facility; and

(D) a statement of justification of the need for such facility.

(2) The estimated maximum cost of any facility approved under this subsection as set forth in the prospectus may be increased by the amount equal to the percentage increase, if any, as determined by the Commission, in construction costs, from the date of the transmittal of such prospectus to Congress, but in no event shall the increase authorized by this paragraph exceed 10 per centum of such estimated maximum cost.

EFFECTIVE DATE

SEC. 33. This Act shall take effect on the sixtieth day following the date of its enactment, except—

(1) sections 4 and 32 shall take effect on the date of enactment of this Act, and

(2) section 30 shall take effect on the later of (A) 150 days after the date of enactment of this Act, or (B) the date on which at least three members of the Commission first take office.

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. GROSS. Mr. Chairman, reserving the right to object, I should like to hear the gentleman say, "open to amendment at any point."

Mr. STAGGERS. Mr. Chairman, I meant to add that. I do add that, "and open to amendment at any point."

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. GROSS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 374]

Abernethy
Abourezk
Adams
Addabbo
Anderson, Tenn
Annunzio
Aspinall
Badillo
Baring
Belcher
Betts
Bevill
Blanton
Boggs
Burton
Byrnes, Wis.
Carey, N.Y.
Celler
Clark
Clay
Conyers
Curlin
Daniels, N.J.
Derwinski
Dow
Dowdy
Dwyer
Edmondson
Edwards, Calif.
Esch
Evins, Tenn.
Findley
Flynt
Fraser
Fuqua
Galifianakis
Gallagher
Garmatz
Goldwater
Gray
Griffiths
Hansen, Idaho
Hébert
Helstoski
Hillis
Johnson, Pa.
Kastenmeier
Keating
Link
McClory
McCormack
McDade
McDonald, Mich.
McKinney
McMillan
Macdonald, Mass.
Michel
Mikva
Minshall
Mitchell
Murphy, N.Y.
Patten
Pirnie
Podell
Pucinski
Reid
Rooney, N.Y.
Rooney, Pa.
Rosenthal
St Germain
Saylor
Scheuer
Schmitz
Skubitz
Steiger, Ariz.
Stephens
Stratton
Teague, Tex.
Terry
Thompson, N.J.
Tiernan
Vigorito
Wilson, Charles H.
Wydler
Zion

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Bolling, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 15003, and finding itself without a quorum, he had directed the roll to be called, when 345 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

AMENDMENT OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Staggers: On page 79 of the bill, strike lines 16 through 18 and substitute the following:

"The effective date of a consumer product safety standard under this Act shall be set at a date at least 30 days after the date of promulgation unless the Commission for good cause shown determines that an earlier effective date is in the public interest. In no case may the effective date be set at a date which is earlier than the date of promulgation. A consumer product safety standard shall be applicable only to consumer products manufactured after the effective date."

Mr. STAGGERS. Mr. Chairman, I will just take 1 minute. I think, certainly, this amendment will be agreeable to the Whole Committee of the House. We are just trying to be fair with industry to be sure that they have time in which to amend their practices.

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. Mr. Chairman, I appreciate the gentleman yielding. Am I correct in understanding that this amendment to section 9(d) of the bill makes it clear that standards will be applicable only to consumer products manufactured after the effective date of the standard?

Mr. STAGGERS. Yes.

Mr. STEIGER of Wisconsin. I thank the gentleman.

Mr. Chairman, I support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. Staggers).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DENNIS

Mr. DENNIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dennis: Beginning on page 102, line 23, with the word "If", strike out all down to, but not including, line 11 on page 104, and substitute in lieu thereof the following: "Any person who shall sustain injury by reason of any knowing (including willful) violation of a consumer product safety standard, regulation, or order issued by the Commisisoner may sue therefor in any district court of the United States in the district in which the defendant resides or is found or has an agent, subject to the provisions of section 1331 of title 28, United States Code as to the amount in controversy, and shall recover damages sustained, and the cost of suit, including a reasonable attorney's fee, if considered appropriate in the discretion of the court."

Mr. DENNIS. Mr. Chairman, I have some serious reservations about the basic merits of this bill which spring from my general disinclination to create a new Federal regulatory body to ride herd on American business and from the fact that I personally, at any rate, have not had any great number of complaints from consumers in my own district, but this amendment is not addressed to those general concerns.

This is a legal amendment which is addressed to the question of the proliferation of lawsuits in the Federal courts provided in this measure as it now stands. Section 23 of the bill, which commences on page 102 and runs over to page 104 of the bill, through line 10, provides that any person who suffers or claims to have suffered any injury as a result of the failure of any consumer product to meet the standards which have been laid down under the bill can bring a suit in the Federal court for damages, illness, sickness, anything, regardless of the jurisdictional amount, and recover his damages and a reasonable attorney's fee.

The American Bar Association and the Chief Justice of the United States are both seriously concerned with the Congress loading down the Federal courts unduly with new and additional business. The bill as it is drawn provides for a suit against the retailer, the distributor, the manufacturer, for even as little as $10 or $15 as far as that is concerned. I simply fear that if we pass the bill in that form we are going to have the Federal courts jammed with all types of litigation when they already have plenty to handle.

I have been handed a copy of a telegram which the president of the ABA has sent, I believe, to the Speaker and the chairman of the Rules Committee, as well as other Members. This telegram says:

While the American Bar Association has taken no position on the substance of H.R. 15003, the proposed Consumer Product Safety Act, we are deeply concerned with any legislation which provides for a substantial increase in the workload of the Federal courts. I am advised that the views of the Judicial Conference of the United States were not sought by the House Committee on Interstate and Foreign Commerce. We recommend that the potential impact on the courts be carefully analyzed before passage of legislation, and in the case of legislation which will substantially add to the burden of the courts, we must oppose it until this has been done.

Chief Justice Burger, in an address to the bar association last August, said:

. . . . But there is no escape from constantly enlarging the federal judicial establishment except to adopt new judicial methods and improve performance as we are trying to do, and to have Congress carefully scrutinize all legislation that will create more cases.

In recent years, Congress has required every executive agency to prepare an environmental impact statement whenever a new highway, a new bridge or other federally funded projects are planned. I suggest, with all deference, that every piece of legislation creating new cases be accompanied by a "court impact statement", prepared by the reporting committee and submitted to the Judiciary Committees of the Congress with an estimate of how many more judges and supporting personnel will be needed to handle the new cases.

That, of course, in this case has not been done.

So, the thrust of this amendment, very simply, is to strike out the present section and simply provide that any person who sustains an injury——

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. STAGGERS. Mr. Chairman, I ask that the gentleman have 2 additional minutes.

Mr. DENNIS. That any person who has sustained injury may bring suit in the Federal courts under the normal jurisdictional requirements of section 1331, which means the amount in controversy has got to be $10,000 or more. This amendment would hold it down to that, as a means of limiting this proliferating litigation to the more important cases involving the real need for Federal court remedy, relegating others to the State courts.

Mr. Chairman, I yield to the chairman of the committee.

Mr. STAGGERS. The gentleman asked if we had asked the opinion of the Federal courts on this. We did ask the Administrative Office of the U.S. Courts about whether they had made a study. They said no, they had not, and it was not feasible. For that reason, we could not put it into our legislation.

I should like to say this: It seems perfectly clear to me that if we are going to have a Federal law affecting everybody in the United States, they should be dealt with in the Federal courts. This is not mandatory and certainly goes to the other courts as well. How are you going to say a man can only go to Federal court if he has a $10,000 lawsuit? Is a finger worth $10,000? Is a toe worth $10,000? Is an eye worth $10,000? Who is going to be the judge of that? I think the court has to be the judge when they come in as to what kind of damage or injury they have.

Mr. DENNIS. I might say to the chairman that I am only saying that we should treat these damage suits as we treat every other kind of ordinary damage suit in Federal court without giving them preferential status.

Mr. STAGGERS. I think the gentleman is putting the Federal courts ahead of the individual injury. If we need the judges, if this is what we have to have in order to have justice, let us get more judges, but let us give justice in America to the poor people and to the ones who need it.

Mr. ECKHARDT. Mr. Chairman, I rise in opposition to the amendment. I should like to say that the first mistake of the gentleman in assuming that this would overload the Federal courts is the favorable result of reducing danger from products on the market. We presently have authority to go into State courts, and in cases of diversity of citizenship which are frequently available, in Federal courts when damages occur.

The main thrust of this bill is to prevent people from being hurt in the first place. Now, I submit that if this act is passed as written, the offsetting reduction of damages and injuries to people will be at least as great as the additional number of cases brought in Federal court.

Incidentally, the idea of the Federal courts being overloaded is terribly exaggerated. Under this act it would be necessary to show that a rule had been issued with respect to the particular product involved, or that an order had been granted which had been violated.

Rules and orders will be passed as the administrator gets to those matters.

I submit that one should not be permitted to avoid liability in violating a Federal rule merely because the person injured had a finger cut off which is not worth $10,000.

I do not believe we ought to put a price on this type of responsibility. I believe the manufacturer who makes a dangerous product should be subjected to liability as the result of his violation of Federal law without regard to the amount in controversy.

I am tired of hearing this argument that the rights of people, no matter how small they may be, must depend on whether or not we have established enough courts to defend those rights. It seems to me that is putting the horse behind the cart. It seems to me this is entirely wrong thinking in this area.

In the first place, under the present provisions of the law, a person showing that he has a remedy has to show there has been a rule enacted and it has been violated. That cuts down the number of cases.

The rule has to be made. Presumably reasonable public-minded manufacturers will comply with the rule. That will cut down the number of cases.

Why should not a person injured have a right to come in under Federal law regardless of whether the $10,000 is involved? I used to like what Senator Yarborough said, "Let us put the jam on the lower shelf." Why should not the judicial jam be put on the lower shelf. Why should relief only be available to large corporations and to persons with amounts involved of over $10,000? It seems to me the consumers are entitled to have those courts available to them when a manufacturer has violated a rule established under Federal law regardless of the amount in controversy.

I urge a vote of "no" on the amendment.

Mr. WIGGINS. Mr. Chairman, I rise in support of the amendment.

It is important at the outset to understand what the amendment does and what it does not do.

First, Mr. Chairman, it should be understood that a consumer is not denied a right of action simply because he may not have access to a Federal court. He may sue in a State court. He has had that right all along, and it is not denied to him under this amendment.

The pending bill waives the amount in controversy requirement of section 1331 of title 28. At the present time access to the Federal court is not granted in all cases; it is granted only if the amount in controversy for certain specific types of claims is $10,000 or more.

This proposed statute waives that requirement with respect to causes of action arising under the bill.

Why is it necessary that the action be filed in the Federal court? What policy considerations would cause us to impose this added burden on the Federal courts? Certainly the reason cannot be that the Federal court is the only possible forum for the fair resolution of controversies arising under the bill. No one here should impute to the State courts an inability to settle a controversy properly even though it involves an interpretation of Federal law. They do that now. We are heaping a further burden upon the Federal courts for no good cause or reason. We have heard from the Chief Justice and others that it is in the public interest not to further burden the Federal courts.

This amendment would insulate the Federal courts from causes of action that involve lesser sums and would cause the plaintiffs in those cases to seek their relief in the State court.

It is wholly a responsible amendment, Mr. Chairman, and I urge the Members to support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. DENNIS).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. **MOSS**. **Mr.** Chairman, I demand **tellers.**

Tellers were refused.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. HENDERSON

Mr. HENDERSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HENDERSON: On page 65 of the reported bill, amend section 4—

(1) by striking out all of paragraph (1) of subsection (g), beginning with line 8 down through line 19;

(2) in line 20, strike out "(2)" and insert in lieu thereof "(g)"; and

(3) in line 21, strike out the word "other".

(Mr. HENDERSON asked and was given permission to revise and extend his remarks.)

Mr. HENDERSON. Mr. Chairman, my amendment will delete the provisions of section 4(g) (1), which authorize five political appointments to be made by the Chairman of the Consumer Product Safety Commission.

The provisions my amendment will delete, authorize the Chairman of the Commission, subject to the approval of the Commission, to appoint an Executive Director, a General Counsel, a Director of Engineering Sciences, a Director of Epidemiology, and a Director of Information—

First, without regard to the requirements governing appointments in the competitive civil service;

Second, without regard to the requirements relating to the classification of positions; and

Third, without regard to the General Schedule rates of pay except that the rate of pay fixed by the Chairman for any such appointee may not exceed the rate in effect for GS–18 of the General Schedule.

The provisions have the effect of authorizing five additional supergrades which may be filled by political appointees.

Section 4 of this legislation establishes an independent regulatory commission, the Consumer Product Safety Commission. The Commission will be bipartisan, since no more than three Commissioners may belong to the same political party.

I believe it is proper for the Commission of a regulatory agency, such as this agency, to be bipartisan. I believe it to be more important than the appointees to the five top positions of the new regulatory Commission not be subject to political appointment. They should be appointed under the usual requirements governing appointments to the competitive civil service.

I find no similar provisions or authority for appointments to be made in other regulatory agencies without regard to the competitive civil service. As a matter of fact, the regulatory agencies I have checked, such as the Securities and Exchange Commission, the Civil Aeronautics Board, the Federal Communications Commission, and the Federal Trade Commission, do not have authority proposed to be granted by this legislation.

My amendment, by striking out paragraph (1) of subsection (g), has the effect of subjecting the appointments to the top positions in the new regulatory agency, to the usual competitive civil service requirements. Authority for such appointments is included in other provisions of subsection (g).

Another objectionable feature of the provision which I propose to eliminate, is that it permits the Chairman of the Commission to fix rates of pay for the five positions at the supergrade levels.

As I have stated many times before this House, this is a matter that is strictly within the jurisdiction of the Post Office and Civil Service Committee.

Mr. Chairman, first of all, this matter should have been handled by the Post Office and Civil Service Committee, and second, we are considering legislation which will afford some flexibility in filling supergrade positions. I urge the adoption of my amendment.

Mr. GROSS. Will the gentleman yield?

Mr. HENDERSON. I am delighted to yield to the gentleman from Iowa, the ranking member of the House Committee on Post Office and Civil Service.

Mr. GROSS. I thank the gentleman from North Carolina for yielding, and join in support of his amendment. The House has on several occasions stricken such language from other bills, and I urge the members to approve the amendment.

Mr. MOSS. Mr. Chairman, I move to strike the requisite number of words.

The amendment offered by the gentleman from North Carolina has the effect of striking out not only the authority to appoint outside of the civil service but takes away the specific authority of the director to appoint the designated five officials in effect at a GS–18 level.

After discussion with the chairman, I have been informed that the committee would be agreeable to accepting an amendment which would require that the five enumerated officials at a grade of GS–18 be appointed from the scheduled civil service.

Mr. HENDERSON. Would the gentleman yield for one moment?

Mr. MOSS. I yield to the gentleman.

Mr. HENDERSON. As I understand, it you are suggesting if we would leave in the language of the five, it would be agreeable, but I hope you are not suggesting they have to be GS–18's. That is not your intent, is it?

Mr. MOSS. At an annual basic rate of pay that would not be in excess of GS–18. That would be the sense of the amendment.

Mr. HENDERSON. Mr. Chairman, I ask unanimous consent that my amendment be amended to provide for striking out the language beginning in line 11, on page 65, with the word "individuals," and if that is acceptable, it would leave the enumeration of the five positions in.

Mr. MOSS. That is agreeable to this side.

The CHAIRMAN. The Clerk will report the proposed modification made in the nature of a unanimous-consent request.

Will you please send it to the desk, or would you restate it?

Mr. HENDERSON. I would prefer to restate it.

My amendment would be amended to provide that it should strike out all in paragraph (g)(1), beginning in line 11 on page 65 with the word "individuals." It would have the effect of leaving the first sentence which enumerates the five positions in the bill.

The CHAIRMAN. The Clerk will report the amendment as proposed to be modified.

Mr. STAGGERS. May I clarify the amendment, if I might, before it is being reported?

The CHAIRMAN. The Chair would prefer to have the proposed amendment to the amendment at the desk in writing.

Mr. STAGGERS. I want to clarify with the gentleman from North Carolina (Mr. HENDERSON) what the intent of his modification is before we reach a general matter of agreement. Will the gentleman from California yield to me further for that purpose?

Mr. MOSS. I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, I would like to suggest that the first part of this down through "individuals" remain, and then end the amendment before the words "no individual so" on line 17, and then say that they shall not be paid in excess of GS–18.

Mr. HENDERSON. If the gentleman from California will yield——

Mr. MOSS. I yield to the gentleman from North Carolina.

Mr. HENDERSON. Mr. Chairman, I have no objection to that. It is surplusage, because, if you appoint them by designation, they may be appointed at the salary of GS–18, and you say "shall not be in excess of." I have no objection.

If the gentleman will yield further, the effect of my amendment is there could be more than five. This is a limiting amendment to five.

Mr. MOSS. We do desire to limit it to five.

Mr. HENDERSON. Very well.

Mr. MOSS. I thank the gentleman.

Mr. HENDERSON. Mr. Chairman, I ask unanimous consent that my amendment may be so modified, and I would ask that the Clerk read the modification.

The CHAIRMAN. The Clerk will report the proposed modification of the amendment.

The Clerk read as follows:

On page 65, line 11, strike out "Individuals" and all that follows down through line 17, and insert in lieu thereof "No individual so".

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina (Mr. HENDERSON).

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. HENDERSON) as modified.

The amendment, as modified, was agreed to.

AMENDMENT OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STAGGERS: On page 89 of the bill add after the word "product" the following new sentence: "The Commission may, in appropriate cases, permit information required under paragraph (1) and (2) of this subsection to be coded."

Mr. STAGGERS. Mr. Chairman, this amendment simply allows the commission on such products as perhaps are not changed from year to year, and which are made and put on the shelves of a store for sale, that they do not have to be dated specifically, but that they may have a coded date. It is left up to the commission as to whether or not they think it is essential that a specific manufacturing date be put on, otherwise they may have a coded date. This is a very simple amendment.

Mr. BROYHILL of North Carolina. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, the amendment is acceptable to this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. STAGGERS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MOSS

Mr. MOSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Moss: page 109, insert after line 5 the following:

"(d) No person shall be subject to civil liability to any person (cther than the Commission or the United States) for disclosing information at the request of the Commission."

Page 109, line 6, strike out "(d)" and insert in lieu thereof "(e)".

Page 109, line 15, strike out "(e)" and insert in lieu thereof "(f)".

Page 109, line 20, strike out "(f)" and insert in lieu thereof "(g)".

Page 109, line 24, strike out "(g)" and insert in lieu thereof "(h)".

Page 110, line 3, strike out "(h)" and insert in lieu thereof "(i)".

Page 118, line 18, strike out "section 27(g)" and insert in lieu thereof "section 27(h)".

Page 119, line 8, strike out "section 27(g)" and insert in lieu thereof "section 27(h)".

Mr. STAGGERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. MOSS).

Mr. MOSS. Mr. Chairman, the purpose of this amendment is to make it very clear that the persons supplying information at the request of the commission, incur no liability because of the supplying of the information.

Mr. BROYHILL of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman.

Mr. BROYHILL of North Carolina. Mr. Chairman, the members of the committee have discussed this amendment in some detail and have agreed to it.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman.

Mr. GROSS. Do I understand that the remainder of the amendment—that portion that was not read—simply had to do with renumbering subsections?

Mr. MOSS. That is right.

Mr. GROSS. I thank the gentleman.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I am happy to yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, this is a matter which I had not thought about at all. But I would like to consider with the gentleman for a minute the effect, the possible effect, of his amendment. I assume it changes the law in some respects. In other words, you are addressing yourself to a situation where there might be liability if you did not adopt this amendment—and I am just thinking as I go on—I am just wondering whether or not you want to give complete immunity—if that is what we are doing—to any and all individuals who might, for instance, disclose their employer's trade secrets, or confidential information of a slightly lesser degree, simply because some functionary of this commission demanded it.

Now maybe the man ought to have to make a choice there. I am not so sure he should be blanketed in and given immunity just because some bureaucrat asked for the information.

Mr. MOSS. The understanding of the gentleman from California, on the advice of counsel of the committee, is that it tends to clarify the common law on this matter of requiring in a report the disclosure of certain information which might be otherwise privileged.

Mr. DENNIS. I would say to the gentleman that ordinarily I find the common law pretty good, if you just leave it alone. I would feel a little more comfortable if we would leave them where the common law leaves them, instead of saying that there will not be any common law liability if somebody gives away this information.

Mr. MOSS. Those who have requested this amendment were the hospitals and insurance companies.

Mr. DENNIS. That does not satisfy me particularly.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Moss).

The question was taken; and on a division (demanded by Mr. Moss) there were—ayes 49, noes 10.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. MOSS

Mr. MOSS. Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. Moss: Page 114, insert after line 14 the following:

"(d) The Commission shall, to the maximum extent practicable, utilize the resources and facilities of the National Bureau of Standards, on a reimbursable basis, to perform research and analyses related to consumer product hazards (including fire and flammability hazards), to develop test methods, to conduct studies and investigations, and to provide technical advice and assistance in connection with the functions of the Commission."

Mr. MOSS. Mr. Chairman, I offer this amendment in response to a request of the Department of Commerce and the National Bureau of Standards. It was felt that the language here would insure utilizing facilities already existing rather than pressing, perhaps, to duplicate such facilities under some future planning of the agency.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Iowa.

Mr. GROSS. Would the gentleman suggest that we might cut a few million dollars out of the authorization contained in the bill in view of the savings he projects?

Mr. MOSS. I believe that the authorization reflects the consensus of the committee to accept this amendment. We believe through the wisdom of those who appropriate, an examination of the needs as they are finally detailed to the Appropriations Committee will be made.

Mr. BROYHILL of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield to the gentleman from North Carolina.

Mr. BROYHILL of North Carolina. As the gentleman from California knows, there is in this bill no sizable amount of money for construction, and we just want to make sure that the Commission does use those facilities presently available and if they have need to construct new facilities they have to come back to us and make a formal request.

Mr. MOSS. The gentleman is correct, and I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Moss).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WHITE

Mr. WHITE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WHITE: Page 81, line 15, by striking the period and adding the following: ", if such petition and reasons for such denial materially differ from any previous petition and subsequent denial."

Mr. WHITE. I present this particular amendment to the House in order to prevent a proliferation of petitions and subsequent placements of denials in the Federal Register. The bill provides that any person could petition the Commission, and then the Commission, if denying the petition, must subsequently put in the record their denial of that petition and the reasons for it. What I am saying by this amendment is that the Commission would not have to continue to put in denials, providing such petition and reasons for such denial do not materially differ from any previous petition and subsequent denial.

In other words, if there are one or two people continually writing in similar complaints, then we are not going to burden the Commission to place in the Register reasons for denials on the same type of petition. I am just trying to save the Government a considerable amount of money by preventing a voluminous Federal Register of Denials, if the Commission has the same denial and reasons for such denial on a similar petition already registered. That is the substance of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. WHITE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT: Page 68, line 24, after "therewith" insert the following: (unless the Commission finds that the public health and safety requires a lesser period of notice)".

Page 68, line 25, insert ", to the extent practicable," after "information".

Page 90, beginning on line 7 strike out "the oral presentation of views as well as for written presentations" and insert in lieu thereof "a hearing in accordance with subsection (f) of this section".

Page 91, line 2, strike out "section 554 of title 5, United States Code" and insert "subsection (f)".

Page 92, insert after line 22 the following:

"(f) An order under subsection (c) or (d) may be issued only after an opportunity for a hearing in accordance with section 554 of title 5, United States Code, except that if the Commission determines that any person who wishes to participate in such hearing is a part of a class of participants who share an identity of interest, the Commission may limit such person's participation in such hearing to participation through a single representative designated by such class (or by the Commission if such class fails to designate such a representative).

Mr. ECKHARDT. Mr. Chairman, section (c) that is referred to on page 90 deals with the administrative process which must precede the giving of notice of defect or failure to comply in the case of a product. Section (d) beginning on line 24 on page 90 deals with the ultimate action of the Commission which may order a company to bring a product into conformity or to replace the product or to refund money.

Originally we had provided two separate processes for these two administrative procedures. We had a more or less curtailed process with respect to the giving of public notice of the defect and we afforded the full ramifications of section 554 of title V of the United States Code to the ultimate process of calling for bringing the product into conformity. In other words the ultimate action of holding a product out of conformity and requiring it to be brought into conformity and the money paid back was protected by the full range of the Administrative Procedure Act's adjudicatory processes, but we had thought that a public notice of defect did not necessarily need quite that much protection and might have to be ordered rather summarily.

In discussing the matters with some of the industries that would be affected, they made the point, and I think they made it well, that to notify one's consumers that there may be a defect in one's own product may be very injurious, and that part of the total impact of the proceeding has been sustained by the industry before it has been afforded full process for its defense. Therefore, they said that there should be a fuller adjudicatory process, even preliminary to the defect notice.

They also raised this question: they said there should not be two different hearings. And if we set up merely the standards of section 553 with the additional requirement of the oral hearing as applicable to the defect notice and then we give the full ramifications of the adjudicatory process to the ultimate hearing, this requires two hearings. Why have two under the circumstances?

So, agreeing, we discussed it among the subcommittee and we offer this amendment, which makes the same process available to the notice of defect requirement as that applicable to the process calling for bringing the product into conformity and imposing other penalties or requirements.

Now there is only one thing that falls short of, or one thing somewhat different from, the provisions of 554 of title V of the United States Code. We do recognize that in some of these cases there might be a great number of people involved. This is somewhat like a rulemaking process, but it has adjudicatory aspects.

But it is like rulemaking in that there may be a great number of people distributing the same product, and we simply added the one qualification to the adjudicatory-type procedure that the Commission may require that those who have identical concerns and identical interests choose a single spokesman or else a single spokesman will be chosen and designated. We give the full right of cross-examination in both processes, with that very limited limitation. That is the effect of this amendment.

Now, the amendment to the earlier provisions on page 68 is merely to make it clear that in a proper case, since we are not providing for the quicker means of compelling the manufacturer to give notice of defects that the agency itself may give that notice at an earlier time than after the 30 days ordinarily required as a waiting period.

That is the effect of this amendment.

Mr. BROYHILL of North Carolina. Mr. Chairman, I want the Members of the Committee to know that what you are doing with your amendment is giving a manufacturer whose product is found to be in noncompliance, a greater right to be heard, to have his day in court, as the old saying is, and give him far more protection under this language in the bill. I support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BINGHAM

Mr. BINGHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BINGHAM: Page 59, beginning on line 17, strike out "any article" and all that follows down through "any such article, (F)" in line 23.

Page 60, line 2, strike out "(G)" and insert in lieu thereof "(F)".

Mr. BINGHAM. Mr. Chairman, I would first like to say that I think this is an excellent bill. I compliment the committee for it. I certainly intend to support it whether or not my amendment is adopted.

The purpose of my amendment, very simply, would be to restore to the bill the coverage of firearms. Firearms were covered in the original bill as introduced by the distinguished gentleman from California (Mr. MOSS), for whom I have the greatest admiration, and by other members of the committee. Then, subsequently, during the committee deliberations, the paragraph was inserted in the bill excepting firearms very specifically from the definition of the term "consumer product." It is that paragraph which my amendment would delete.

I would submit to the members of the committee that firearms are an important "consumer product." Some 6 million are sold every year in this country. While firearms are regulated in some respects, they are not regulated with regard to safety. According to the 1969 Eisenhower Commission on Fire Arms and Violence, firearms are the fifth most common cause of accidental deaths in this country, coming after motor vehicles, falls, fires, and drownings. Aside from motor vehicles, firearms are the single consumer item most consistently involved in accidental death.

Moreover, according to the 1970 final report of the National Commission on Product Safety, which appears in full in the committee hearings, 150,000 people are injured in gun accidents every year.

Now, Mr. Chairman and members of the House Committee, do not be alarmed. I am not bringing out a real pistol to show you at this time, but here is something that I want to show you. Here in my hand is a product that will be covered by this bill. This is a toy pistol. It shoots a little pellet and operates by a spring. This pistol will be covered under the provisions of this bill. But, if this were the real McCoy, if this was something that could blow up in your face and kill you or with which you could kill other people, it would not be covered.

I suggest that this is a topsy-turvy arrangement.

This is not a gun control amendment. It would not affect the question of who might buy guns or under what conditions. It is simply and purely a safety amendment. Hopefully, it would prevent the sale of guns that are unsafe.

I do not always agree with the actions by the other body, but I would call attention to the fact that in the version of this legislation passed by the other body firearms were included within the scope of the legislation.

I hope the Members will support the amendment.

Mr. MOSS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it pains me somewhat to have to oppose the amendment offered by my distinguished colleague from New York, but I find that I must, for good and sufficient reasons. These are mainly, that neither the Committee on Interstate and Foreign Commerce nor the special Commission on Consumer Product Safety made any kind of an inquiry into firearms. As a matter of fact, it was not included in the original bill, nor was it intended to be.

Out of an abundance of caution, to make clear that it was not to be included, on the redraft we specifically exempted it in order to accord with the instructions given by the Committee on Interstate and Foreign Commerce in the resolution creating the National Commission on Product Safety.

I have here the report of the National Commission of Product Safety, and in the report is included the statutory language creating the Commission. In section 6 of that language, under the definitions, the Commission was specifically excluded from considering the Federal Firearms Act (15 USC 901) and the National Firearms Act was also not within the scope of their activities. It was not within the scope of the hearings.

The distinguished gentleman from New York appeared before the National Commission on Product Safety and gave testimony on other matters but not on firearms.

I have checked carefully the records of the Subcommittee on Commerce and Finance and find no instance of the gentleman requesting the opportunity to come forward and urge the committee to go beyond the scope of the proposals as outlined in the actions of the Congress back in the mid 1960's when we created the National Commission on Product Safety.

This would not necessarily make firearms more safe. We are concerned primarily about the accidental use of firearms. It would not touch that problem. I do not believe we should here attempt to mislead the public. I am afraid that is what would happen if we were to suddenly have a firearms act without any kind of history as to what we intended. I believe it is an important enough subject to be dealt with as a separate subject.

It is being dealt with by the Committee on the Judiciary and I believe the Committee on Ways and Means has jurisdiction also. Neither we in the Committee on Interstate and Foreign Commerce nor in the Subcommittee on Commerce and Finance have at any time undertaken to deal with this subject.

I urge the defeat of the amendment.

Mr. WIGGINS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am not going to take all of the 5 minutes, but I want the Members not to treat this amendment lightly. They ought to recognize what it does.

The present bill defines "consumer products" so as to exclude firearms. The amendment proposed strikes that exclusion and, if adopted, "consumer products" would include firearms.

If consumer products do include firearms, authority is granted to the Commission to set certain standards with respect to consumer products which include, among other things, requirements as to performance, composition, design, construction, and other matters. Failing in meeting those standards subject to certain administrative review provisions, the consumer product can be denied in commerce entirely.

Therefore, what we have, no more nor less, is a gun control bill by administrative rule rather than by act of Congress

Now, I want to say that I support a regulation of weapons. The House Judiciary Committee is now considering a gun control bill of sorts and I expect to support a reasonable bill. But the Congress ought to consider it, and the Congress ought to adopt the law and not delegate its responsibility to a commission, and that is precisely what would happen if the amendment of the gentleman is adopted.

Mr. HOLIFIELD. Mr. Chairman, will the gentleman from California yield?

Mr. WIGGINS. Yes, of course, I will yield to the gentleman.

Mr. HOLIFIELD. I wish to aline myself with the remarks of the gentleman from California (Mr. Moss) and the gentleman now in the well (Mr. Wiggins).

This is a good way to kill this bill. As everybody knows, the gun control issue is a very controversial matter.

Now, they have a good bill; the committee has a good bill here on consumer safety, and regardless of the merit of the gentleman's amendment, from an ideological or theoretical standpoint, the one way to kill this bill is to attach controversial measures to it and have it die over in the other body with months of debate.

Mr. WIGGINS. I agree with the gentleman.

And one further point in conclusion: In the bill now pending before the Judiciary Committee the Secretary of the Treasury is granted very limited authority with respect to promulgating rules and regulations affecting guns. Congress is going to define carefully the authority of the Secretary to promulgate regulations under the legislation pending before the Judiciary Committee.

This legislation, on the other hand, grants almost carte blanche authority to a commission which is not subject to the kind of close legislative scrutiny which would be provided under the bill now pending before the Judiciary Committee.

Ladies and gentlemen, I urge the defeat of this amendment.

The CHAIRMAN. For what purpose does the gentleman from West Virginia, the chairman of the committee, rise?

Mr. STAGGERS. I move to strike the last word.

If I understood the gentleman who just spoke, I understand that he urged the defeat of the amendment; is that right?

Mr. WIGGINS. That is correct.

Mr. STAGGERS. I just wish to say this: We have no jurisdiction in our committee. This would give us jurisdiction in part and would put all the work on the other two committees in what they are doing.

Mr. RANDALL. Mr. Chairman, H.R. 15003 is for the most part a good bill and should be passed by the House. It would be difficult for a Member to oppose a bill which has its title, "A bill to protect consumers against unreasonable product hazards," and then provides in section 1 that the act may be cited as the "Consumer Product Safety Act." To be against objectives or purposes such as these is almost like being against motherhood or the flag.

However, Mr. Chairman, the amendment offered by the gentleman from New York is one that requires a very careful analysis. As you read the amendment, at first there seems to be almost nothing wrong with striking out several lines of the bill commencing at line 17 on page 59 which defines the term "consumer product." The section which is striken out, section E, is one among several listings of exceptions or exemptions to what is defined as a consumer product.

Now I would never attribute to the gentleman from New York anything but the best motives. But I cannot help but be suspicious that this amendment deserves a careful look because while it is innocent appearing, it seems to me that it could be an adroit attempt by the antigun lobby to bring gun control in through the back door in what is otherwise a completely acceptable consumer products safety bill.

We must recall that this bill deals with product hazards or, if turned around in the other direction, product safety. I sense that if this amendment were to be adopted it would remove some exception or some of those exemptions not intended to be included within the definition of consumer products.

In other words, this amendment would permit the inclusion of ammunition and firearms as a consumer product. We all know, of course, that the Consumer Product Safety Commission created by this bill will have the power and authority to lay down standards as to what products are safe and what products are hazardous. If the amendment of the gentleman from New York should pass, there would be nothing to keep the Commission from declaring that all guns of any or every type, and ammunition of all sorts, are dangerous and hazardous products and thereby achieve through indirection what the antigun lobby has never been able to enact directly—their avowed objective to outlaw all guns and ammunition.

Mr. Chairman, I repeat that it is possible this amendment could very well provide for gun control through the back door. It could very well mean that this subtle and rather innocent appearing amendment could result in taking guns away from our sportsmen and law abiding citizens. If the Consumer Commission saw fit it could impair the personal security of all of our citizens by limiting the right they now enjoy to possess firearms to make them secure in their homes.

No, Mr. Chairman, I am willing to face the issue of gun control squarely, either vote it up or down. But let us not do it this way, through the back door. Of course, many of us feel that the best approach to the so-called gun problem is the quick enactment of mandatory penalties for those using firearms in the commission of a crime. We should even get so tough as to deny parole to those using firearms when committing a crime. But today let us not fool ourselves and then later wake up to be surprised at the purpose of this amendment. Then it will be too late to do anything about it. This amendment must be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Bingham).

The amendment was rejected.

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Eckhardt: Page 115, line 2, insert after the period the following: "All functions of the Secretary of Health, Education, and Welfare under subpart 3 of part F of title III of the Public Health Service Act (relating to electronic product radiation), except to the extent that such functions relate to electronic product radiation emitted from electronic products which are devices (as defined in section 201 (h) of the Federal Food, Drug, and Cosmetic Act), are transferred to the Commission."

Page 118, line 7, strike out "The" and all that follows down through line 14 on such page.

Mr. ECKHARDT. Mr. Chairman, what this amendment does is transfer authority to the new agency to deal with products which are dangerous because of radiation, except that it does not deal with those products that are used medically, those that are defined under the Food and Drug Act in section 201(h) like X-ray equipment, and so forth, in doctor's offices.

Now, there is no provision in the act as now written that would cover a situation as, for instance, one involving a TV set that emitted radiation. It seems to me utterly ridiculous to put in this authority the control, for instance, of a TV set because it may shock a person and not give authority to the same agency to control the TV set because it emits radiation.

It seems to me legislation which purports to establish in a single agency the authority to protect the public and which protects the public from sustaining a slight shock or cut or injury but which does not protect them from having their children turn out like Mark Twain's Puddin' Head Wilson is rather defective.

For that reason I have tried to bring together in the agency the authority to control all types of dangers to the consumer without trespassing on that very proper jurisdiction of the FDA of controlling that type of equipment relating to medical use. What would be covered by this amendment would be consumer products. They should fall under the product safety agency.

That is all the amendment does.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Eckhardt).

The question was taken; and on a division (demanded by Mr. Staggers) there were—ayes 10, noes 46.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. PEPPER

Mr. PEPPER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Pepper: Page 104, line 13, after "state", strike out "statutory."

Mr. PEPPER. Mr. Chairman and members of the Committee, those of you who have the bill before you, if you will note, on page 104, line 11, it provides "the remedies provided for in this section shall be in addition to and not in lieu of any other remedies provided by common law or under Federal or State statutory law."

I have conferred with the able members of the committee to call their attention to the fact that the word "statutory" is a limitation here upon the right of the complainant to bring suit in the State court. He should have the right to bring suit under State case law as well as under State statutory law. I am sure the committee did not intend to limit him just to statutory rights.

Mr. STAGGERS. Will the gentleman yield?

Mr. PEPPER. I am glad to yield to the gentleman.

Mr. STAGGERS. Mr. Chairman, I have no objection, and I do not think anyone on this side of the aisle does to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. PEPPER).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. RANGEL

Mr. RANGEL. Mr. Chairman, I offer amendments.

The Clerk read as follows:

> Amendments offered by Mr. RANGEL: Page 71, line 3, insert after the period the following: "Any labeling warnings or instructions required under a consumer product safety standard shall be printed both in English and Spanish, and shall be printed in any other language which the Commission determines is appropriate."
>
> Page 90, insert after line 23 the following: "Any such notice shall be given both in English and Spanish, and shall be given in any other language which the Commission determines is appropriate."

Mr. RANGEL. Mr. Chairman and Members of the committee, we have before us today a piece of landmark legislation that is dramatic enough to call for congratulations to the drafters of the legislation because it takes into consideration the protection of life and the prevention of injuries.

In this country we have at least 12 million Spanish-speaking people as recorded by the Census Bureau, and for 70 percent of them Spanish is their primary language. We do have a problem in many of our States such as in New York State where we have some 1.2 million people of Spanish descent which represents 13 percent of our population, and I am certain that there are other States who have the very same problem where the failures of the public school systems have failed many of the people, who have come to this country to improve their political and economic lives, through their inability to deal with the English language.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman.

Mr. STAGGERS. Mr. Chairman, just for clarification, since I do not have a copy of the gentleman's amendments in front of me, would this be mandatory that these be printed both in English and in Spanish?

Mr. RANGEL. No, it is not mandatory.

Mr. STAGGERS. Would the gentleman yield further?

Mr. RANGEL. I yield further to the chairman of the committee.

Mr. STAGGERS. I would say to the gentleman from New York that this is inherent in the law now, and with the commission, that this is permitted, and that they are permitted to have this done wherever it is needed. So I do not think that the amendments are necessary, and I can assure the gentleman from New York that this is the intent of the law.

Mr. RANGEL. Mr. Chairman, in view of the statement by the Chairman, the gentleman from West Virginia (Mr. STAGGERS) and since it is a matter of record, I ask unanimous consent that I may be permitted to withdraw my amendments.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection

Mr. MATSUNAGA. Mr. Chairman, I move to strike the last word.

(By unanimous consent, Mr. MATSUNAGA was allowed to speak out of order.)

GROSSLY EXAGGERATED REPORTS

Mr. MATSUNAGA. Mr. Chairman, late yesterday I returned from Hawaii and rushed from the airport to the floor of the House to cast my vote in favor of the HEW appropriation measure. I then went to my office, handled a few rush matters, and left for my home in Kensington. While I was viewing "Hawaii Five-O" on television with my family, for the special purpose of watching the TV debut of Ed Flood, the son of my good friend Jim Flood, my daughter received a telephone call from a news reporter who was trying to confirm reports that Congressman SPARK MATSUNAGA had suffered a heart attack and had been rushed to the hospital.

To paraphrase Mark Twain, who, upon seeing his name in the obituary column, called the editor and remarked that that news of his demise was slightly exaggerated, let me say loud and clear, here and now, that news reports broadcast over the radio of my having been rushed to the hospital on account of a heart attack have been grossly exaggerated.

Since early this morning I have been receiving telephone calls from concerned friends and colleagues of the Congress, inquiring about my condition and conveying their condolences. I would admit to a slight acceleration of cardiopalpitation on viewing a lovely Hawaiian hula maiden doing a Tahitian dance, but no more—my heart is sound. I have never had a heart attack and certainly am not anticipating any. But to my dear friends who made personal inquiries about my health let me say, "Mahalo nui loa," which in Hawaiian means thank you very much.

Mr. GROSS. Mr. Chairman, I move to strike out the necessary number of words.

I should like to ask the chairman or someone knowledgeable about this bill, with respect to section 18. Does this mean products which would otherwise be disqualified under this Consumer Product Safety Act could be exported to foreign countries?

Mr. STAGGERS. If I understand the gentleman's question—that products are excluded?

Mr. GROSS. Products that might not meet the standards established in this bill for domestic use could be exported?

Mr. STAGGERS. No standards have been set on products that are exported.

Mr. GROSS. Why did you put this section in the bill. You are simply calling attention to the fact that you are perfectly willing to permit manufacturers in this country to make unsafe products and to ship them abroad—if I read this right.

Mr. STAGGERS. We are not trying to make the law for any country.

In certain instances certain products might be wrong here, but they might be all right in other countries—we do not know.

But we do know that they have their own laws and they import products and we cannot make the laws for other countries.

Our laws exclude these, of course, and anything else that comes from many of these countries. They import their products from other foreign countries and they do not require any more than may be done in our country. Millions of dollars of merchandise is exported that we would not be able to export from this country because they make their own laws because some would not even be applicable in other countries.

Mr. GROSS. The gentleman is saying, is he not, that we might ship an electrical tool that was dangerous to handle to a foreign country, one that would not meet the standards for sale in this country for sale to consumers? Then what may we expect in return from those who ship products to this country—are they supposed to be safe or unsafe?

Mr. STAGGERS. We require that they be safe in every way. They have to conform to our standards and anything we import from them has to come up to the standards set up by the Commission.

Mr. GROSS. We have a double standard; is that right?

Mr. STAGGERS. No, sir, not for America anyway.

Mr. GROSS. That is the only way I can read section 18 of this bill—that the bill provides two standards.

Mr. MOSS. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman.

Mr. MOSS. Yes, it clearly is a double standard because other nations want to have standards lower than ours and open up their markets to products which are nonsafe, as we require for use in our country, and if we deny our manufacturers a right to participate in that market all we are doing is denying them job opportunities because other countries will manufacture and ship into those nations products which conform to their standards. This is not new. We do it under the automobile safety standards and we do it in many cases.

Mr. GROSS. Then I do not know why it has to be written into this bill.

Mr. MOSS. If it is not written into the bill, then they would be prohibited from manufacturing in the United States nonconforming products. This authorizes the manufacturers of nonconforming products for export only.

Mr. GROSS. That is the export of nonconforming products?

Mr. MOSS. As you will, but if we do otherwise we would be working a severe penalty against American manufacturers in worldwide competition.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman.

Mr. ROUSSELOT. Let me ask the gentleman from California another question. In other words in this section of the bill—section 18—we are perfectly willing to export and sell products to foreign consumers what we are not willing to sell to our own consumers; is that correct?

Mr. MOSS. Would the gentleman from Iowa yield for a reply?

Mr. GROSS. I yield to the gentleman.

Mr. MOSS. I would say, of course, that is not the case. We are willing to export at standards set by the Government receiving the products manufactured in the United States.

Mr. ROUSSELOT. Suppose these are consumer items?

Mr. MOSS. They will be consumer items.

Mr. ROUSSELOT. Then I believe my statement is correct. We are willing to sell so-called defective products to foreign consumers but not willing to sell the same products to our own U.S. consumers.

Mr. MOSS. Would the gentleman propose to amend the bill to require that no product nonconforming to domestic standards be exported and thereby denying a very significant part of the world market to American manufacturers?

Mr. ROUSSELOT. I do not want to deny any proper markets to our manufacturers.

Mr. MOSS. That is exactly what you would do.

Mr. ROUSSELOT. What I am saying is—if we are willing to impose conditions on products to our U.S. consumers, those same conditions ought to be good enough for foreign consumers.

The CHAIRMAN. The time of the gentleman has expired.

(Mr. GROSS asked and was given permission to proceed for 1 additional minute.)

Mr. GROSS. Mr. Chairman, since the gentleman from Texas is on his feet, I would like to ask him where it is proposed to get the $308 million to fund this brandnew super-duper commission and advisory council and all the bureaucrats that are going to go with it? Is there any provision in this bill for raising the taxes to provide the money?

Mr. ECKHARDT. Mr. Chairman, I had not risen for that purpose, but rather to answer the gentleman's first question.

Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the points that the distinguished gentleman from Iowa raises do appear to be serious questions, but on a little further consideration one can see how impossible it would be for us to impose on our manufacturers standards for foreign export when we have no control over either the economic processes in those countries nor their controls of production of products in their own countries.

Let us suppose, for instance, you have a drill, and our standards require that you have to have a grounding wire and a plug that goes into a three-plug circuit. Let us suppose that in another country they do not use those at all. There is no way you can plug the drill in, but they are manufacturing drills with only two circuit wires and selling them in that country, and they are also receiving the same kind of articles from the Soviet Union. Why conceivably should we not be in a position to compete with other exporters into that country? Quite clearly persons in that country not using plugs for grounding circuit would have no use whatsoever for the third grounding wire and would probably cut it out. Why should not another nation establish its own standards of safety? But if it does not, should we impose our standards upon them and in so doing discriminate against our manufacturers who are in competition with manufacturers in other nations exporting to that same country?

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BOLLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 15003) to protect consumers against unreasonable product hazards, pursuant to House Resolution 1116, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

Mr. MOSS. Mr. Speaker, I demand a separate vote on the amendment offered by the gentleman from Indiana (Mr. DENNIS).

The SPEAKER. Without objection, the action by which the amendment was agreed to is rescinded.

Mr. DENNIS. Mr. Speaker, reserving the right to object, my understanding is that the amendment was agreed to and that the gentleman's request comes too late.

The SPEAKER. The Chair was under the impression that no separate vote was demanded and put the question on adoption of the amendment.

The Chair put as a unanimous consent request, that the action by which the amendment was agreed be rescinded.

Mr. DENNIS. I object.

The SPEAKER. Objection is heard.

Mr. DENNIS. I object because the amendment has been adopted.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ROUSSELOT

Mr. ROUSSELOT. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. ROUSSELOT. Mr. Speaker, on the basis of the discussion here I certainly am.

The SPEAKER. The gentleman qualifies. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ROUSSELOT moves to recommit the bill H.R. 15003 to the Committee on Interstate and Foreign Commerce.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, pursuant to the provisions of House Resolution 1116, I call up for immediate consideration the bill S. 3419.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STAGGERS moves to strike out all after the enacting clause of the bill S. 3419 and insert in lieu thereof the provisions of H.R. 15003, as passed, as follows:

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Consumer Product Safety Act".

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2 Findings and purposes.
Sec. 3. Definitions.
Sec. 4. Consumer Product Safety Commission.
Sec. 5. Product safety information and research.
Sec. 6. Public disclosure of information.
Sec. 7. Consumer product safety standards
Sec. 8. Banned hazardous products.
Sec. 9. Administrative procedure applicable to promulgation of consumer product safety rules.
Sec. 10. Petition by interested party for consumer product safety rule.
Sec. 11. Judicial review of consumer product safety rules.
Sec. 12. Imminent hazards.
Sec. 13. New products.
Sec. 14. Product certification and labeling.
Sec. 15. Notification and repair, replacement, or refund.
Sec. 16. Inspection and recordkeeping.
Sec. 17. Imported products.
Sec. 18. Exports.
Sec. 19. Prohibited acts.
Sec. 20. Civil penalties.
Sec. 21. Criminal penalties.
Sec. 22. Injunctive enforcement and seizure.
Sec. 23. Suits for damages by persons injured.
Sec. 24. Private enforcement of product safety rules and of section 15 orders.
Sec. 25. Effect on private remedies.
Sec. 26. Effect on State standards.
Sec. 27. Additional functions of Commission.
Sec. 28. Product Safety Advisory Council.
Sec. 29. Cooperation with States and with other Federal agencies.
Sec. 30. Transfers of functions.
Sec. 31. Limitation on jurisdiction.
Sec. 32. Authorization of appropriations.
Sec. 33. Effective date.

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) an unacceptable number of consumer products which contain unreasonable hazards are distributed in commerce;

(2) complexities of consumer products and the diverse nature and abilities of consumers using them frequently result in an in-

ability of users to anticipate hazards and to safeguard themselves adequately;

(3) the public should be protected against unreasonable hazards associated with consumer products;

(4) control by State and local governments of unreasonable hazards associated with consumer products in inadequate and may be burdensome to manufacturers; and

(5) regulation of consumer products the distribution or use of which affects interstate or foreign commerce is necessary to carry out this Act.

(b) The purposes of this Act are—

(1) to protect the public against unreasonable hazards associated with consumer products;

(2) to assist consumers in evaluating the comparative safety of consumer products;

(3) to develop uniform safety standards for consumer products and to minimize conflicting State and local regulations; and

(4) to promote research and investigation into the causes and prevention of product-related deaths, illnesses, and injuries.

DEFINITIONS

SEC. 3. (a) For purposes of this Act.

(1) The term "consumer product" means any article, or component part thereof, produced or distributed (i) for sale to a consumer for use in or around a household or residence, a school, in recreation, or otherwise, or (ii) for the personal use, consumption or enjoyment of a consumer in or around a household or residence, a school, in recreation, or otherwise; but such term does not include (A) any article which is not customarily produced or distributed for sale to or use, consumption, or enjoyment of a consumer; (B) tobacco and tobacco products, (C) motor vehicles or motor vehicle equipment (as defined by sections 102 (3) and (4) of the National Traffic and Motor Safety Act of 1966), (D) economic poisons (as defined by the Federal Insecticide, Fungicide, and Rodenticide Act), (E) any article which, if sold by the manufacturer, producer, or importer, would be subject to the tax imposed by section 4181 of the Internal Revenue Code of 1954 (determined without regard to any exemptions from such tax provided by section 4182 or 4221, or any other provision of such Code), or any component of any such article, (F) drugs, devices, or cosmetics (as such terms are defined in sections 201 (g), (h), and (i) of the Federal Food, Drug, and Cosmetic Act), or (G) food. The term "food", as used in this paragraph, means all "food", as defined in section 201(f) of the Federal Food, Drug, and Cosmetic Act, including poultry and poultry products (as defined in sections 4(e) and (f) of the Poultry Products Inspection Act), meat, meat food products (as defined in section 1(j) of the Federal Meat Inspection Act), and eggs and egg products (as defined in section 4 of the Egg Products Inspection Act).

(2) The term "consumer product safety rule" means a consumer product safety standard described in section 7(a), or a rule under this Act declaring a consumer product a banned hazardous product.

(3) The term "hazard" means a risk of death, personal injury, or serious or frequent illness.

(4) The term "manufacturer" means any person who manufactures or imports a consumer product.

(5) The term "distributor" means a person to whom a consumer product is delivered or sold for purposes of distribution in commerce, except that such term does not include a manufacturer or retailer of such product.

(6) The term "retailer" means a person to whom a consumer product is delivered or sold for purposes of sale or distribution by such person to a consumer.

(7)(A) The term "private labeler" means an owner of a brand or trademark on the label of a consumer product which bears a private label.

(B) A consumer product bears a private label if (i) the product (or its container) is labeled with the brand or trademark of a person other than a manufacturer of the product, (ii) the person with whose brand or trademark the product (or container) is labeled has authorized or caused the product to be so labeled, and (iii) the brand or trademark of a manufacturer of such product does not appear on such label.

(8) The term "manufacture" means to manufacture, produce, or assemble.

(9) The term "Commission" means the Consumer Product Safety Commission, established by section 4.

(10) the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, or the Trust Territory of the Pacific Islands.

(11) The terms "to distribute in commerce" and "distribution in commerce" mean to sell in commerce, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce.

(12) The term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

(13) The terms "import" and "importation" include reimporting a consumer product manufactured or processed, in whole or in part, in the United States.

(14) The term "United States", when used in the geographic sense, means all of the States (as defined in paragraph (10)).

(b) A common carrier, contract carrier, or freight forwarder shall not, for purposes of this Act, be deemed to be a manufacturer, distributor, or retailer of a consumer product solely by reason of receiving or transporting a consumer product in the ordinary course of its business as such a carrier or forwarder.

CONSUMER PRODUCT SAFETY COMMISSION

SEC. 4. (a) An independent regulatory commission is hereby established, to be known as the Consumer Product Safety Commission, consisting of five Commissioners who shall be appointed by the President, by and with the advice and consent of the Senate, one of whom shall be designated by the President as Chairman. The Chairman, when so designated, shall act as Chairman until the expiration of his term of office as Commissioner. Any member of the Commission may be removed by the President for neglect of duty or malfeasance in office but for no other cause.

(b)(1) Except as provided in paragraph (2), (A) the Commissioners first appointed under this section shall be appointed for terms ending three, four, five, six, and seven years, respectively, after the date of the enactment of this Act, the term of each to be designated by the President at the time of nomination; and (B) each of their successors shall be appointed for a term of seven years from the date of the expiration of the term for which his predecessor was appointed.

(2) Any Commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A Commissioner may continue to serve after the expiration of his term until his successor has taken office, except that he may not so continue to serve more than one year after the date on which his term would otherwise expire under this subsection.

(c) Not more than three of the Commissioners shall be appointed from the same political party. No individual in the employ of, or holding any official relation to, any person, engaged in selling or manufacturing consumer products or owning stock or bonds of substantial value in a person so engaged or who is in any other manner pecuniarily interested in such a person, or in a substantial supplier of such a person, shall hold the office of Commissioner. A Commissioner may not engage in any other business, vocation, or employment.

(d) No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission, but three members of the Commission shall constitute a quorum for the transaction of business. The Commission shall have an official seal of which judicial notice shall be taken. The Commission shall annually elect a Vice Chairman to act in the absence or disability of the Chairman or in case of a vacancy in the office of the Chairman.

(e) The Commission shall maintain a principal office and such field offices as it deems necessary and may meet and exercise any of its powers at any other place.

(f)(1) The Chairman of the Commission shall be the principal executive officer of the Commission, and he shall exercise all of the executive and administrative functions of the Commission, including functions of the Commission with respect to (A) the appointment and supervision of personnel employed under the Commission (other than personnel employed regularly and full time in the immediate offices of commissioners other than the Chairman), (B) the distribution of business among personnel appointed and supervised by the Chairman and among administrative units of the Commission, and (C) the use and expenditure of funds.

(2) In carrying out any of his functions under the provisions of this subsection the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(g)(1) The Chairman, subject to the approval of the Commission, shall appoint an Executive Director, a General Counsel, a Director of Engineering Sciences, a Director of Epidemiology, and a Director of Information. No individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS-18 of the General Schedule.

(2) The Chairman, subject to subsection (f)(2), may employ such other officers and employees (including attorneys) as are necessary in the execution of the Commission's functions. No full-time officer or employee of the Commission who was at any time during the 12 months preceding the termination of his employment with the Commission compensated at a rate in excess of the annual rate of basic pay in effect for grade GS-14 of the General Schedule, shall accept employment or compensation from any manufacturer subject to this Act, for a period of 12 months after terminating employment with the Commission.

(h)(1) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(59) Chairman, Consumer Product Safety Commission."

(2) Section 5315 of such title is amended by adding at the end thereof the following new paragraph:

"(96) Members, Consumer Product Safety Commission (4)."

PRODUCT SAFETY INFORMATION AND RESEARCH

SEC. 5. (a) The Commission shall—

(1) maintain an Injury Information Clearinghouse to collect, investigate, analyze, and disseminate information relating to the causes and prevention of death, injury, and illness associated with consumer products; and

(2) conduct such continuing studies and investigations of deaths, injuries, diseases,

other health impairments, and economic losses resulting from accidents involving consumer products as it deems necessary.

(b) The Commission may—

(1) conduct research, studies, and investigations on the safety of consumer products and on improving the safety of such products;

(2) test consumer products and develop product safety test methods and testing devices; and

(3) offer training in product safety investigation and test methods, and assist public and private organizations, administratively and technically, in the development of safety standards and test methods.

(c) In carrying out its functions under this section, the Commission may make grants or enter into contracts for the conduct of such functions with any person (including a governmental entity).

(d) Whenever the Federal contribution for any information, research, or development activity authorized by this Act is more than minimal, the Commission shall include in any contract, grant, or other arrangement for such activity, provisions effective to insure that the rights to all information, uses, processes, patents, and other developments resulting from that activity will be made available to the public without charge on a nonexclusive basis. Nothing in this subsection shall be construed to deprive any person of any right which he may have had, prior to entering into any arrangement referred to in this subsection, to any patent, patent application, or invention.

PUBLIC DISCLOSURE OF INFORMATION

SEC. 6. (a)(1) Nothing contained in this Act shall be deemed to require the release of any information described by subsection (b) of section 552, title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

(2) All information reported to or otherwise obtained by the Commission or its representative under this Act which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, shall be considered confidential and shall not be disclosed, except that such information may be disclosed to other officers or employees concerned with carrying out this Act or when relevant in any proceeding under this Act. Nothing in this Act shall authorize the withholding of information by the Commission or any officer or employee under its control from the duly authorized committees of the Congress.

(b)(1) Except as provided by paragraph (2) of this subsection, not less than 30 days prior to its public disclosure of any information obtained under this Act, or to be disclosed to the public in connection therewith (unless the Commission finds that the public health and safety requires a lesser period of notice), the Commission shall provide such information, to the extent practicable, to each manufacturer or private labeler of any consumer product to which such information pertains, if the manner in which such consumer product is to be designated or described in such information will permit the public to ascertain readily the identity of such manufacturer or private labeler, and shall provide such manufacturer or private labeler with a reasonable opportunity to submit comments to the Commission in regard to such information. The Commission shall take reasonable steps to assure, prior to its public disclosure thereof, that information from which the identity of such manufacturer or private labeler may be readily ascertained is accurate, and that such disclosure is fair in the circumstances and reasonably related to effectuating the purposes of this Act. If the Commission finds that, in the administration of this Act, it has made public disclosure of inaccurate or misleading information which reflects adversely upon the safety of any consumer product, or the practices of any manufacturer, private labeler, distributor, or retailer of consumer products, it shall, in a manner similar to that in which such disclosure was made, publish a retraction of such inaccurate or misleading information.

(2) Paragraph (1) (except for the last sentence thereof) shall not apply to the public disclosure of (A) information about any consumer product with respect to which product the Commission has filed an action under section 12 (relating to imminently hazardous products), or which the Commission has reasonable cause to believe is in violation of section 19 (relating to prohibited acts), or (B) information in the course of or concerning any administrative or judicial proceeding under this Act.

(c) The Commission shall communicate to each manufacturer of a consumer product, insofar as may be practicable, information as to any significant hazard associated with such product.

CONSUMER PRODUCT SAFETY STANDARDS

SEC. 7. (a) The Commission may by rule, in accordance with this section and section 9, promulgate consumer product safety standards. A consumer product safety standard shall consist of one or more of any of the following types of requirements:

(1) Requirements as to performance, composition, contents, design, construction, finish, or packaging of a consumer product.

(2) Requirements that a consumer product be marked with or accompanied by clear and adequate warnings or instructions, or requirements respecting the form of warnings or instructions.

Any requirement of such a standard shall be reasonably necessary to prevent or reduce an unreasonable hazard to the public associated with such product. The requirements of such a standard (other than requirements relating to labeling, warnings, or instruction) shall, whenever feasible, be expressed in terms of performance requirements.

(b) A proceeding for the development of a consumer product safety standard under this Act shall be commenced by the publication in the Federal Register of a notice which shall—

(1) identify the product and the nature of the hazard associated with the product;

(2) state the Commission's determination that a consumer product safety standard is necessary to prevent or reduce the hazard;

(3) include information with respect to any existing standard known to the Commission which may be relevant to the proceeding; and

(4) include an invitation for any person, including any State or Federal agency (other than the Commission), within 30 days after the date of publication of the notice (A) to submit to the Commission an existing standard as the proposed consumer product safety standard or (B) to offer to develop the proposed consumer product safety standard.

An invitation under paragraph (4)(B) shall specify a period of time, during which the standard is to be developed, which shall be a period ending 150 days after the publication of the notice, unless the Commission for good cause finds (and includes such finding in the notice) that a different period is appropriate.

(c) If the Commission determines that (1) there exists a standard which has been issued or adopted by any Federal agency or by any other qualified agency, organization, or institution, and (2) such standard if promulgated under this Act would prevent or reduce the unreasonable hazard associated with the product, then it may, in lieu of accepting an offer pursuant to subsection (d) of this section, publish such standard as a proposed consumer product safety rule.

(d)(1) Except as provided by subsection (c), the Commission shall accept one, and may accept more than one, offer to develop a proposed consumer product safety standard pursuant to the invitation prescribed by subsection (b)(4)(B), if it determines that the offeror is technically competent, is likely to develop an appropriate standard within the period specified in the invitation under subsection (b), and will comply with regulations of the Commission under paragraph (3). The Commission shall publish in the Federal Register the name and address of each person whose offer it accepts, and a summary of the terms of such offer as accepted.

(2) If an offer is accepted under this subsection, the Commission may agree to contribute to the offeror's cost in developing a proposed consumer product safety standard, in any case in which the Commission determines that such contribution is likely to result in a more satisfactory standard than would be developed without such contribution, and that the offeror is financially responsible. Regulations of the Commission shall set forth the items of cost in which it may participate, and shall exclude any contribution to the acquisition of land or buildings.

(3) The Commission shall prescribe regulations governing the development of proposed consumer product safety standards by persons whose offers are accepted under paragraph (1). Such regulations shall include requirements—

(A) that standards recommended for promulgation be suitable for promulgation under this Act, be supported by test data or such other documents or materials as the Commission may reasonably require to be developed, and (where appropriate) contain suitable test methods for measurement of compliance with such standards;

(B) for notice and opportunity by interested persons (including representatives of consumers and consumer organizations) to participate in the development of such standards;

(C) for the maintenance of records, which shall be available to the public, to disclose the course of the development of standards recommended for promulgation, the comments and other information submitted by any person in connection with such development (including dissenting views and comments and information with respect to the need for such recommended standards) and such other matters as may be relevant to the evaluation of such recommended standards; and

(D) that the Commission and the Comptroller General of the United States, or any of their duly authorized representatives, have access for the purpose of audit and examination to any books, documents, papers, and records relevant to the development of such recommended standards or to the expenditure of any contribution of the Commission for the development of such standards.

(e)(1) If the Commission has published a notice of proceeding as provided by subsection (b) and has not, within 30 days after the date of publication of such notice, accepted an offer to develop a proposed consumer product safety standard, the Commission may develop a proposed consumer product safety rule and publish such proposed rule.

(2) If the Commission accepts an offer to develop a proposed consumer product safety standard, the Commission may not, during the development period (specified in paragraph (3)) for such standard—

(A) publish a proposed rule applicable to the same hazard associated with such product, or

(B) develop proposals for such standard or contract with third parties for such development, unless the Commission determines that no offeror whose offer was accepted is making satisfactory progress in the development of such standard.

(3) For purposes of paragraph (2), the development period for any standard is a period (A) beginning on the date on which the Commission first accepts an offer under subsection (d)(1) for the development of a proposed standard, and (B) ending on the earlier of—

(i) the end of the period specified in the notice of proceeding (except that the period specified in the notice may be extended if good cause is shown and the reasons for such extension are published in the Federal Register), or

(ii) the date on which it determines (in accordance with such procedures as it may by rule prescribe) that no offeror whose offer was accepted is able and willing to continue satisfactorily the development of the proposed standard which was the subject of the offer, or

(iii) the date on which an offeror whose offer was accepted submits such a recommended standard to the Commission.

(f) Not more than 210 days after its publication of a notice of proceeding pursuant to subsection (b) (which time may be extended by the Commission by a notice published in the Federal Register stating good cause therefor), the Commission shall publish in the Federal Register a notice withdrawing such notice of proceeding or publish a proposed rule which either proposes a product safety standard applicable to any consumer product subject to such notice, or proposes to declare any such subject product a banned hazardous consumer product.

BANNED HAZARDOUS PRODUCTS

SEC. 8. Whenever the Commission finds that—

(1) a consumer product is being, or will be, distributed in commerce and such consumer product presents an unreasonable hazard to the public; and

(2) no feasible consumer product safety standard under this Act would adequately protect the public from the unreasonable hazard associated with such product,

the Commission may propose and, in accordance with section 9, promulgate a rule declaring such product a banned hazardous product.

ADMINISTRATIVE PROCEDURE APPLICABLE TO PROMULGATION OF CONSUMER PRODUCT SAFETY RULES

SEC. 9. (a)(1) Within sixty days after the publication under section 7(c), (e)(1), or (f) or section 8 of a proposed consumer product safety rule respecting a hazard associated with a consumer product, the Commission shall—

(A) promulgate a consumer product safety rule respecting the hazard associated with such product if it makes the findings required under subsection (c), or

(B) withdraw by rule the applicable notice of proceeding if it determines that such rule is not (i) reasonably necessary to prevent or reduce an unreasonable hazard to the public associated with the product, or (ii) in the public interest;

except that the Commission may extend such sixty-day period for good cause shown (if it publishes its reasons therefor in the Federal Register).

(2) Consumer product safety rules which have been proposed under section 7(c), (e)(1), or (f) or section 8 shall be promulgated pursuant to section 553 of title 5, United States Code, except that the Commission shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

(b) A consumer product safety rule shall express in the rule itself the hazard which the standard is designed to prevent or reduce. In promulgating such a rule the Commission shall consider relevant available product data including the results of research, development, testing, and investigation activities conducted generally and pursuant to this Act.

(c)(1) Prior to promulgating a consumer product safety rule, the Commission shall consider, and shall make appropriate findings for inclusion in such rule with respect to—

(A) the degree and nature of the hazard the rule is designed to prevent or reduce, and

(B) the approximate number of consumer products, or types or classes thereof, subject to such rule; and

(C) the need of the public for the consumer products subject to such rule, and the probable effect of such rule upon the utility, cost, or availability of such products to meet such need.

(2) The Commission shall not promulgate a consumer product safety rule unless it finds (and includes such finding in the rule)—

(A) that the rule (including its effective date) is reasonably necessary to prevent or reduce an unreasonable hazard to the public associated with such product;

(B) that the promulgation of the rule is in the public interest; and

(C) in the case of a rule declaring the product a banned hazardous product, that no feasible consumer product safety standard under this Act would adequately protect the public from the unreasonable hazard associated with such product.

(d) Each consumer product safety rule shall specify the date such rule is to take effect not exceeding 180 days from the date promulgated, unless the Commission finds, for good cause shown, that a later effective date is in the public interest and publishes its reasons for such finding. The effective date of a consumer product safety standard under this Act shall be set at a date at least 30 days after the date of promulgation unless the Commission for good cause shown determines that an earlier effective date is in the public interest. In no case may the effective date be set at a date which is earlier than the date of promulgation. A consumer product safety standard shall be applicable only to consumer products manufactured after the effective date.

(e) The Commission may by rule amend or revoke any consumer product safety rule. Such amendment or revocation shall specify the date on which it is to take effect which shall not exceed 180 days from the date the amendment or revocation is published unless the Commission finds for good cause shown that a later effective date is in the public interest and publishes its reasons for such finding. Where an amendment involves a material change in a consumer product safety rule, sections 7 and 8, and subsections (a) through (d) of this section shall apply. In order to revoke a consumer product safety rule, the Commission shall publish a proposal to revoke such rule in the Federal Register, and allow oral and written presentations in accordance with subsection (a)(2) of this section. It may revoke such rule only if it determines that the rule is not reasonably necessary to prevent or reduce an unreasonable hazard to the public associated with the product. Section 11 shall apply to any amendment of a consumer product safety rule which involves a material change and to any revocation of a consumer product safety rule, in the same manner and to the same extent as such section applies to the Commission's action in promulgating such a rule.

PETITION BY INTERESTED PARTY FOR CONSUMER PRODUCT SAFETY RULE

SEC. 10. (a) Any interested person, including a consumer or consumer organization, may petition the Commission to commence a proceeding for the issuance, amendment, or revocation of a consumer product safety rule.

(b) Such petition shall be filed in the principal office of the Commission and shall set forth—

(1) facts which it is claimed establish that a consumer product safety rule or an amendment or revocation thereof is necessary; and

(2) a brief description of the substance of the consumer product safety rule or amendment thereof which it is claimed should be issued by the Commission.

(c) The Commission may hold a public hearing or may conduct such investigation or proceeding as it deems appropriate in order to determine whether or not such petition should be granted.

(d) If the Commission grants such petition, it shall promptly commence an appropriate proceeding to prescribe a consumer product safety rule, or take such other action as it deems appropriate. If the Commission denies such petition it shall publish in the Federal Register its reasons for such denial, if such petition and reasons for such denial materially differ from any previous petitions and subsequent denial.

JUDICIAL REVIEW OF CONSUMER PRODUCT SAFETY RULES

SEC. 11. (a) Not later than 60 days after a consumer product safety rule is promulgated by the Commission, any person adversely affected by such rule, or any consumer or consumer organization, may file a petition with the United States court of appeals for the District of Columbia or for the circuit in which such person, consumer, or organization resides or has his principal place of business for judicial review of such rule. Copies of the petition shall be forthwith transmitted by the clerk of the court to the Commission or other officer designated by him for that purpose and to the Attorney General. The Commission shall transmit to the Attorney General, who shall file in the court, the record of the proceedings on which the Commission based its rule, as provided in section 2112 of title 28 of the United States Code. For purposes of this section, the term "record" means such consumer product safety rule; any notice or proposal published pursuant to section 7, 8, or 9; the transcript required by section 9(a)(2) of any oral presentation; any written submission of interested parties; and any other information, which the Commission considers relevant to such rule.

(b) If the petitioner applies to the court for leave to adduce additional data, views, or arguments and shows to the satisfaction of the court that such additional data, views, or arguments are material and that there were reasonable grounds for the petitioner's failure to adduce such data, views, or arguments in the proceeding before the Commission, the court may order the Commission to provide additional opportunity for the oral presentation of data, views, or arguments and for written submissions. The Commission may modify its findings, or make new findings by reason of the additional data, views, or arguments so taken and shall file such modified or new findings, and its recommendation, if any, for the modification or setting aside of its original rule, with the return of such additional data, views, or arguments.

(c) Upon the filing of the petition under subsection (a) of this section the court shall have jurisdiction to review the consumer product safety rule in accordance with chapter 7 of title 5 of the United States Code and to grant appropriate relief, including interim relief, as provided in such chapter. The consumer product safety rule shall not be affirmed unless the Commission's findings under section 9(c) are supported by substantial evidence on the record taken as a whole.

(d) The judgment of the court affirming or setting aside, in whole or in part, any consumer product safety rule shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28 of the United States Code.

(e) The remedies provided for in this section shall be in addition to and not in lieu of any other remedies provided by law.

IMMINENT HAZARDS

SEC. 12. (a) The Commission may file in a United States district court an action (1) against an imminently hazardous consumer product for seizure of such product under subsection (b)(2), or (2) against any person who is a manufacturer, distributor, or retailer of such product, or (3) against both. Such an action may be filed notwithstanding the existence of a consumer product safety rule applicable to such product, or the pendency of any administrative or judicial proceedings under any other provision of this Act. As used in this section, and hereinafter in this Act, the term "imminently hazardous consumer product" means a consumer product which presents imminent and unreasonable risk of death, serious illness, or severe personal injury.

(b)(1) The district court in which such action is filed shall have jurisdiction to declare such product an imminently hazardous consumer product, and (in the case of an action under subsection (a)(2)) to grant (as ancillary to such declaration or in lieu thereof) such temporary or permanent relief as may be necessary to protect the public from such risk. Such relief may include a mandatory order requiring the notification of such risk to purchasers of such product known to the defendant, public notice, the recall, the repair or the replacement of, or refund for, such product.

(2) In the case of an action under subsection (a)(1), the consumer product may be proceeded against by process of libel for the seizure and condemnation of such product in any United States district court within the jurisdiction of which such consumer product is found. Proceedings and cases instituted under the authority of the preceding sentence shall conform as nearly as possible to proceedings in rem in admiralty.

(c) Where appropriate, concurrently with the filing of such action or as soon thereafter as may be practicable, the Commission shall initiate a proceeding to promulgate a consumer product safety rule applicable to the consumer product with respect to which such action is filed.

(d)(1) Prior to commencing an action under subsection (a), the Commission may consult the Product Safety Advisory Council (established under section 28) with respect to its determination to commence such action, and request the Council's recommendations as to the type of temporary or permanent relief which may be necessary to protect the public.

(2) The Council shall submit its recommendations to the Commission within one week of such request.

(3) Subject to paragraph (2), the Council may conduct such hearing or offer such opportunity for the presentation of views as it may consider necesary or appropriate.

(e)(1) An action under subsection (a)(2) of this section may be brought in the United States district court for the District of Columbia or in any judicial district in which any of the defendants is found, is an inhabitant or transacts business; and process in such an action may be served on a defendant in any other district in which such defendant resides or may be found. Subpenas requiring attendance of witnesses in such an action may run into any other district. In determining the judicial district in which an action may be brought under this section in instances in which such action may be brought in more than one judicial district, the Commission shall take into account the convenience of the parties.

(2) Whenever proceedings under this section involving identical consumer products are pending in courts in two or more judicial districts, they shall be consolidated for trial by order of any such court upon application reasonably made by any party in interest, upon notice to all other parties in interest.

(f) Notwithstanding any other provision of law, in any action under this section, the Commission may direct attorneys employed by it to appear and represent it.

NEW PRODUCTS

SEC. 13. (a) The Commission may, by rule, prescribe procedures for the purpose of insuring that the manufacturer of any new consumer product furnish notice and a description of such product to the Commission before its distribution in commerce.

(b) For purposes of this section, the term "new consumer product" means a consumer product which incorporates a design, material, or form of energy exchange which (1) has not previously been used substantially in consumer products and (2) as to which there exists a lack of information adequate to determine the safety of such product in use by consumers.

PRODUCT CERTIFICATION AND LABELING

SEC. 14. (a)(1) Every manufacturer of a product which is subject to a consumer product safety standard under this Act and which is distributed in commerce (and the private labeler of such product if it bears a private label) shall issue a certificate which shall certify that such product conforms to all applicable consumer product safety standards, and shall specify any standard which is applicable. Such certificate shall accompany the product or shall otherwise be furnished to any distributor or retailer to whom the product is delivered. Any certificate under this subsection shall be based on a test of each product or upon a reasonable testing program; shall state the name of the manufacturer or private labeler issuing the certificate; and shall include the date and place of manufacture.

(2) In the case of a consumer product for which there is more than one manufacturer or more than one private labeler, the Commission may be rule designate one or more of such manufacturers or one or more of such private labelers (as the case may be) as the persons who shall issue the certificate required by paragraph (1) of this subsection, and may exempt all other manufacturers of such product or all other private labelers of the product (as the case may be) from the requirement under paragraph (1) to issue a certificate with respect to such product.

(b) The Commission may by rule prescribe reasonable testing programs for consumer products which are subject to consumer product safety standards under this Act and for which a certificate is required under subsection (a). Any test or testing program on the basis of which a certificate is issued under subsection (a) may, at the option of the person required to certify the product, be conducted by an independent third party qualified to perform such tests or testing programs.

(c) The Commission may by rule require the use and prescribe the form and content of labels which contain the following information (or that portion of it specified in the rule)—

(1) The date and place of manufacture of any consumer product.

(2) A suitable identification of the manufacturer of the consumer product, unless the product bears a private label in which case it shall identify the private labeler and shall also contain a code mark which would permit the seller of such product to identify the manufacturer thereof to the purchaser upon his request.

(3) In the case of a consumer product subject to a consumer product safety rule, a certification that the product meets all applicable consumer product safety standards and a specification of the standards which are applicable.

Such labels, where practicable, may be required by the Commission to be permanently marked on or affixed to any such consumer product.

The Commission may, in appropriate cases, permit information required under paragraphs (1) and (2) of this subsection to be coded.

NOTIFICATION AND REPAIR, REPLACEMENT, OR REFUND

SEC. 15. (a) For purposes of this section, the term "substantial product hazard" means—

(1) a failure to comply with an applicable consumer product safety rule which creates a substantial hazard to the public, or

(2) a product defect which (because of the pattern of defect, the number of defective products distributed in commerce, the severity of the risk, or otherwise) creates a substantial hazard to the public.

(b) Every manufacturer of a consumer product distributed in commerce, and every distributor and retailer of such product, who obtains information which reasonably supports the conclusion that such product—

(1) fails to comply with an applicable consumer product safety rule; or

(2) contains a defect which could create a substantial product hazard described in subsection (a)(2), shall immediately inform the Commission of such failure to comply or of such defect, unless such manufacturer, distributor, or retailer has actual knowledge that the Commission has been adequately informed of such defect or failure to comply.

(c) If the Commission determines (after affording interested persons, including consumers and consumer organizations, an opportunity for hearing in accordance with subsection (f) of this that a product distributed in commerce presents a substantial product hazard and that notification is required in order to adequately protect the public from such substantial product hazard, the Commission may order the manufacturer or any distributor or retailer of the product to take any one or more of the following actions:

(1) to give public notice of the defect or failure to comply;

(2) to mail notice to each person who is a manufacturer, distributor, or retailer of such product; or

(3) to mail notice to every person to whom the person required to give notice knows such product was delivered or sold.

Any such order shall specify the form and content of any notice required to be given under such order.

(d) If the Commission determines (after affording interested parties, including consumers and consumer organizations, an opportunity for a hearing in accordance with subsection (f)) that a product distributed in commerce presents a substantial product hazard and that action under this subsection is in the public interest, it may order the manufacturer or any distributor or retailer of such product to take whichever of the following actions the person to whom the order is directed elects—

(1) to bring such product into conformity with the requirements of the applicable consumer product safety rule or to repair the defect in such product;

(2) to replace such product with a like or equivalent product which complies with the applicable consumer product safety rule or which does not contain the defect; or

(3) to refund the purchase price of such product (less a reasonable allowance for use, if such product has been in the possession of a consumer for one year or more (A) at the time of public notice under subsection (c), or (B) at the time the consumer receives actual notice of the defect or noncompliance, whichever first occurs).

An order under this subsection may also require the person to whom it applies to submit a plan, satisfactory to the Commission, for taking action under whichever of the preceding paragraphs of this subsection under which such person has elected to act. The Commission shall specify in the order the persons to whom refunds must be made if the person to whom the order is directed elects to take the action described in paragraph (3). If an order under this subsection is directed to more than one person, the Commission shall specify which person has the election under this subsection.

(e) (1) No charge shall be made to any person (other than a manufacturer, distributor, or retailer) who avails himself of any remedy provided under an order issued under subsection (d), and the person subject to the order shall reimburse each person (other than a manufacturer, distributor, or retailer) who is entitled to such a remedy for any reasonable and foreseeable expenses incurred by such person in availing himself of such remedy.

(2) An order issued under subsection (c) or (d) with respect to a product may require any person who is a manufacturer, distributor, or retailer of the product to reimburse any other person who is a manufacturer, distributor, or retailer of such product for such other person's expenses in connection with carrying out the order, if the Commission determines such reimbursement to be in the public interest.

(f) An order under subsection (c) or (d) may be issued only after an opportunity for a hearing in accordance with section 554 of title 5, United States Code, except that, if the Commission determines that any person who wishes to participate in such hearing is a part of a class of participants who share an identity of interest, the Commission may limit such person's participation in such hearing to participation through a single representative designated by such class (or by the Commission if such class fails to designate such a representative).

INSPECTION AND RECORDKEEPING

SEC. 16. (a) For purposes of implementing this Act, or rules or orders prescribed under this Act, officers or employees duly designated by the Commission, upon presenting appropriate credentials and a written notice from the Commission to the owner, operator, or agent in charge, are authorized—

(1) to enter, at reasonable times, (A) any factory, warehouse, or establishment in which consumer products are manufactured or held, in connection with distribution in commerce, or (B) any conveyance being used to transport consumer products in connection with distribution in commerce; and

(2) to inspect, at reasonable times and in a reasonable manner such conveyance or those areas of such factory, warehouse, or establishment where such products are manufactured, held, or transported and which may relate to the safety of such products. Each such inspection shall be commenced and completed with reasonable promptness.

(b) Every person who is a manufacturer, private labeler, or distributor of a consumer product shall establish and maintain such records, make such reports, and provide such information as the Commission may, by rule, reasonably require for the purposes of implementing this Act, or to determine compliance with rules or orders prescribed under this Act. Upon request of an officer or employee duly designated by the Commission, every such manufacturer, private labeler, or distributor shall permit the inspection of appropriate books, records, and papers relevant to determining whether such manufacturer, private labeler, or distributor has acted or is acting in compliance with this Act and rules under this Act.

IMPORTED PRODUCTS

SEC. 17. (a) Any consumer product offered for importation into the customs territory of the United States (as defined in general headnote 2 to the Tariff Schedules of the United States) shall be refused admission into such customs territory if such product—

(1) fails to comply with an applicable consumer product safety rule;

(2) is not accompanied by a certificate required by section 14, or is not labeled in accordance with regulations under section 14(c);

(3) is or has been determined to be an imminently hazardous consumer product in a proceeding brought under section 12;

(4) has a product defect which constitutes a substantial product hazard (within the meaning of section 15(a)(2)); or

(5) is a product which was manufactured by a person who the Commission has informed the Secretary of the Treasury is in violation of subsection (g).

(b) The Secretary of the Treasury shall obtain without charge and deliver to the Commission, upon the latter's request, a reasonable number of samples of consumer products being offered for import. Except for those owners or consignees who are or have been afforded an opportunity for a hearing in a proceeding under section 12 with respect to an imminently hazardous product, the owner or consignee of the product shall be afforded an opportunity by the Commission for a hearing in accordance with section 554 of title 5 of the United States Code with respect to the importation of such products into the customs territory of the United States. If it appears from examination of such samples or otherwise that a product must be refused admission under the terms of subsection (a), such product shall be refused admission, unless subsection (c) of this section applies and is complied with.

(c) If it appears to the Commission that any consumer product which may be refused admission pursuant to subsection (a) of this section can be so modified that it need not (under the terms of paragraphs (1) through (4) of subsection (a)) be refused admission, the Commission may defer final determination as to the admission of such product and, in accordance with such regulations as the Commission and the Secretary of the Treasury shall jointly agree to, permit such product to be delivered from customs custody under bond for the purpose of permitting the owner or consignee an opportunity to so modify such product.

(d) All actions taken by an owner or consignee to modify such product under subsection (c) shall be subject to the supervision of an officer or employee of the Commission and of the Department of the Treasury. If it appears to the Commission that the product cannot be so modified or that the owner or consignee is not proceeding satisfactorily to modify such product it shall be refused admission into the customs territory of the United States, and the Commission may direct the Secretary to demand redelivery of the product into customs custody, and to seize the product in accordance with section 22(b) if it is not so redelivered.

(e) Products refused admission into the customs territory of the United States under this section must be exported, except that upon application, the Secretary of the Treasury may permit the destruction of the product in lieu of exportation. If the owner or consignee does not export the product within a reasonable time, the Department of the Treasury may destroy the product.

(f) All expenses (including travel, per diem or subsistence, and salaries of officers or employees of the United States) in connection with the destruction provided for in this section (the amount of such expenses to be determined in accordance with regulations of the Secretary of the Treasury) and all expenses in connection with the storage, cartage, or labor with respect to any consumer product refused admission under this section, shall be paid by the owner or consignee and, in default of such payment, shall constitute a lien against any future importations made by such owner or consignee.

(g) The Commission may, by rule, condition the importation of a consumer product on the manufacturer's compliance with the inspection and recordkeeping requirements of this Act and the Commission's rules with respect to such requirements.

EXPORTS

SEC. 18. This Act shall not apply to any consumer product if (1) it can be shown that such product is manufactured, sold, or held for sale for export from the United States (or that such product was imported for export), unless such consumer product is in fact distributed in commerce for use in the United States, and (2) such consumer product when distributed in commerce, or any container in which it is enclosed when so distributed, bears a stamp or label stating that such consumer product is intended for export; except that this Act shall apply to any consumer product manufactured for sale, offered for sale, or sold for shipment to any installation of the United States located outside of the United States.

PROHIBITED ACTS

SEC. 19. (a) It shall be unlawful for any person to—

(1) manufacture for sale, offer for sale, distribute in commerce, or import into the United States any consumer product which is not in conformity with an applicable consumer product safety standard under this Act;

(2) manufacture for sale, offer for sale, distribute in commerce, or import into the United States any consumer product which has been declared a banned hazardous product by a rule under this Act;

(3) fail or refuse to permit access to or copying of records, or fail or refuse to make reports or provide information, or fail or refuse to permit entry or inspection, as required under this Act or rule thereunder.

(4) fail to furnish information respecting a substantial product defect, as required by section 15(b);

(5) fail to comply with an order issued under section 15 (c) or (d) (relating to notification, and to repair, replacement, and refund);

(6) fail to furnish a certificate required by section 14 or issue a false certificate if such person in the exercise of due care has reason to know that such certificate is false or misleading in any material respect; or to fail to comply with any rule under section 14(c) (relating to labeling).

(b) Paragraphs (1) and (2) of section (a) shall not apply to any person (1) who holds a certificate issued in accordance with section 14(a) to the effect that such consumer product conforms to all applicable consumer product safety rules, unless such person knows that such consumer product does not conform, or (2) who relies in good faith on the representation of the manufacturer or a distributor of such product that the product is not subject to an applicable product safety rule.

CIVIL PENALTIES

SEC. 20. (a) (1) Any person who knowingly violates section 19 of this Act shall be subject to a civil penalty not to exceed $2,000 for each such violation. Subject to paragraph (2), a violation of section 19(a) (1), (2), (4), (5), or (6) shall constitute a separate violation with respect to each consumer product involved, except that the maximum civil penalty shall not exceed $500,000 for any related series of violations. A violation of section 19(a)(3) shall constitute a separate violation with respect to each failure or refusal to allow or perform an act required thereby; and, such violation is a continuing one, each day of such violation shall constitute a separate offense, except that the maximum civil penalty shall not exceed $500,000 for any related series of violations.

(2) The second sentence of paragraph (1) of this subsection shall not apply to violations of paragraph (1) or (2) of section 19(a)—

(A) if the person who violated such paragraphs is not the manufacturer or private labeler or a distributor of the product involved, and

(B) if such person did not have either (i) actual knowledge that his distribution or sale of the product violated such paragraphs or (ii) notice from the Commission that such distribution or sale would be a violation of such paragraphs.

(b) Any civil penalty under this section may be compromised by the Commission. In determining the amount of such penalty or whether it should be remitted or mitigated and in what amount, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty when finally determined, or the amount agreed on compromise, may be deducted from any sums owing by the United States to the person charged.

(c) As used in the first sentence of subsection (a)(1) of this section, the term "knowingly" means (1) the having of actual knowledge, or (2) the presumed having of knowledge deemed to be possessed by a reasonable man who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations.

CRIMINAL PENALTIES

SEC. 21. (a) Any person who knowingly and willfully violates section 19 of this Act after having received notice of noncompliance from the Commission shall be fined not more than $50,000 or be imprisoned not more than one year, or both.

(b) Whenever any corporation knowingly and willfully violates section 19 of this Act after having received notice of noncompliance from the Commission, any individual director, officer, or agent of such corporation who knowingly and willfully authorized, ordered, or performed any of the acts or practices constituting in whole or in part such violation and who had knowledge of such notice from the Commission shall be subject to penalties under this section in addition to the corporation.

INJUNCTION ENFORCEMENT AND SEIZURE

SEC. 22. (a) The United States district courts shall have jurisdiction to restrain any violation of section 19, or to restrain any person from distributing in commerce a product which does not comply with a consumer product safety rule, or both. Such actions may be brought by the Attorney General, on request of the Commission, in any United States district court for a district wherein any act, omission, or transaction constituting the violation occurred, or in such court for the district wherein the defendant is found or transacts business. In any action under this section process may be served on a defendant in any other district in which the defendant resides or may be found.

(b) Any consumer product which fails to conform to an applicable consumer product safety rule when introduced into or while in commerce or while held for sale after shipment in commerce shall be liable to be proceeded against on libel of information and condemned in any United States district court within the jurisdiction of which such consumer product is found. Proceedings in cases instituted under the authority of this subsection shall conform as nearly as possible to proceedings in rem in admiralty. Whenever such proceedings involving identical consumer products are pending in courts of two or more judicial districts they shall be consolidated for trial by order of any such court upon application reasonably made by any party in interest upon notice to all other parties in interest.

SUITS FOR DAMAGES BY PERSONS INJURED

SEC. 23. (a)(1) Any person who shall sustain injury by reason of any knowing (including willful) violation of a consumer product safety standard, regulation, or order issued by the Commissioner may sue therefor in any district court of the United States in the district in which the defendant resides or is found or has an agent, subject to the provisions of section 1331 of title 28, United States Code as to the amount in controversy, and shall recover damages sustained, and the cost of suit, including a reasonable attorney's fee, if considered appropriate in the discretion of the court.

(c) The remedies provided for in this section shall be in addition to and not in lieu of any other remedies provided by common law or under Federal or State law.

PRIVATE ENFORCEMENT OF PRODUCT SAFETY RULES AND OF SECTION 15 ORDERS

SEC. 24. Any interested person may bring an action in any United States district court for the district in which the defendant is found or transacts business to enforce a consumer product safety rule or an order under section 15, and to obtain appropriate injunctive relief. Not less than thirty days prior to the commencement of such action, such interested person shall give notice by registered mail to the Commission, to the Attorney General, and to the person against whom such action is directed. Such notice shall state the nature of the alleged violation of any such standard or order, the relief to be requested, and the court in which the action will be brought. No separate suit shall be brought under this section if at the time the suit is brought the same alleged violation is the subject of a pending civil or criminal action by the United States under this Act. In any action under this section, such interested person may elect, by a demand for such relief in his complaint, to recover reasonable attorney's fees, in which case the court shall award the costs of suit, including a reasonable attorney's fee, to the prevailing party.

EFFECT ON PRIVATE REMEDIES

SEC. 25. (a) Compliance with consumer product safety rules or other rules or orders under this Act shall not relieve any person from liability at common law or under State statutory law to any other person.

(b) The failure of the Commission to take any action or commence a proceeding with respect to the safety of a consumer product shall not be admissible in evidence in litigation at common law or under State statutory law relating to such consumer product.

(c)(1) Subject to section 6(a)(2) but notwithstanding section 6(a)(1), (A) accident and investigation reports made under this Act by any officer, employee, or agent of the Commission shall be available for use in any civil, criminal, or other judicial proceeding arising out of such accident, and (B) any such officer, employee, or agent may be required to testify in such proceedings as to the facts developed in such investigations.

(2) Subject to sections 6(a)(2) and 6(b) but notwithstanding section 6(a)(1), (A) any accident or investigation report made under this Act by an officer or employee of the Commission shall be made available to the public in a manner which will not identify any injured person or any person treating him, without the consent of the person so identified, and (B) all reports on research projects, demonstration projects, and other related activities shall be public information.

EFFECT ON STATE STANDARDS

SEC. 26. (a) Whenever a consumer product safety standard under this Act is in effect and applies to a hazard associated with a consumer product, no State or political subdivision of a State shall have any authority either to establish or to continue in effect any provision of a safety standard or regulation which prescribes any requirements as to the performance, composition, contents, design, finish, construction, packaging, or labeling of such product which are designed to deal with the same hazard associated with such consumer product; unless such requirements are identical to the requirements of the Federal standard.

(b) Nothing in this section shall be construed to prevent the Federal Government or the government of any State or political subdivision thereof from establishing a safety requirement applicable to a consumer product or its own use if such requirement imposes a higher standard of performance than that required to comply with the otherwise applicable Federal standard.

(c) Upon application of a State or political subdivision thereof, the Commission may by rule, after notice and opportunity for oral presentation of views, exempt from the provisions of subsection (a) (under such conditions as it may impose) a proposed safety standard or regulation described in such application, where the proposed standard or regulation (1) imposes a higher level of performance than the Federal standard, (2) is required by compelling local conditions, and (3) does not unduly burden interstate commerce.

ADDITIONAL FUNCTIONS OF COMMISSION

SEC. 27. (a) The Commission may, by one or more of its members or by such agents or agency as it may designate, conduct any hearing or other inquiry necessary or appropriate to its functions anywhere in the United States. A Commissioner who participates in such a hearing or other inquiry shall not be disqualified solely by reason of such participation from subsequently participating in a decision of the Commission in the same matter. The Commission shall publish notice of any proposed hearing in the Federal Register and shall afford a reasonable opportunity for interested persons to present relevant testimony and data.

(b) The Commission shall also have the power—

(1) to require, by special or general orders, any person to submit in writing such reports and answers to questions as the Commission may prescribe; and such submission shall be made within such reasonable period and under oath or otherwise as the Commission may determine;

(2) to administer oaths;

(3) to require by subpena the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

(4) in any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (3) of this subsection; and

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

(c) Any United States district court within the jurisdiction of which any inquiry is carried on may, upon petition by the Attorney General, in case of refusal to obey a subpena or order of the Commission issued under subsection (b) of this section, issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(d) No person shall be subject to civil liability to any person (other than the Commission or the United States) for disclosing information at the request of the Commission.

(e) The Commission may by rule require any manufacturer of consumer products to provide to the Commission such performance and technical data related to performance and safety as may be required to carry out the purposes of the Act, and to give such notification of such performance and technical data at the time of original purchase to prospective purchasers and to the first purchaser of such product for purposes other than resale, as it determines necessary to carry out the purposes of this Act.

(f) For purposes of carrying out this Act, the Commission may purchase any consumer product and it may require any manufacturer, distributor, or retailer of a consumer product to sell the product to the Commission at manufacturer's, distributor's, or retailer's cost.

(g) The Commission is authorized to enter into contracts with governmental entities, private organizations, or individuals for the conduct of activities authorized by this Act.

(h) The Commission may plan, construct, and operate a facility or facilities suitable for research, development, and testing of consumer products in order to carry out this Act.

(i) The Commission shall prepare and submit to the President and the Congress on or before October 1 of each year a comprehensive report on the administration of this Act for the preceding fiscal year. Such report shall include—

(1) a thorough appraisal, including statistical analyses, estimates, and long-term projections, of the incidence of injury and effects to the population resulting from consumer products, with a breakdown, insofar as practicable, among the various sources of such injury;

(2) a list of consumer product safety rules prescribed or in effect during such year;

(3) an evaluation of the degree of observance of consumer product safety rules, including a list of enforcement actions, court decisions, and compromises of alleged violations, by location and company name;

(4) a summary of outstanding problems confronting the administration of this Act in order of priority;

(5) an analysis and evaluation of public and private consumer product safety research activities:

(6) a list, with a brief statement of the issues, of completed or pending judicial actions under this Act:

(7) the extent to which technical information was disseminated to the scientific and commercial communities and consumer information was made available to the public;

(8) the extent of cooperation between Commission officials and representatives of industry and other interested parties in the implementation of this Act, including a log or summary of meetings held between Commission officials and representatives of industry and other interested parties;

(9) an appraisal of significant actions of State and local governments relating to the responsibilities of the Commission; and

(10) such recommendations for additional legislation as the Commission deems necessary to carry out the purposes of this Act.

PRODUCT SAFETY ADVISORY COUNCIL

SEC. 28. (a) The Commission shall establish a Product Safety Advisory Council which it may consult before prescribing a consumer product safety rule or taking other action under this Act. The Council shall be appointed by the Commission and shall be composed of fifteen members, each of whom shall be qualified by training and experience in one or more of the fields applicable to the safety of products within the jurisdiction of the Commission. The Council shall be constituted as follows:

(1) five members shall be selected from governmental agencies including Federal, State, and local governments;

(2) five members shall be selected from consumer product industries including at least one representative of small business; and

(3) five members shall be selected from among consumer organizations, community organizations, and recognized consumer leaders.

(b) The Council shall meet at the call of the Commission, but not less often than four times during each calendar year.

(c) The Council may propose consumer product safety rules to the Commission for its consideration and may function through subcommittees of its members. All proceedings of the Council shall be public, and a record of each proceeding shall be available for public inspection.

(d) Members of the Council who are not officers or employees of the United States shall, while attending meetings or conferences of the Council or while otherwise engaged in the business of the Council, be entitled to receive compensation at a rate fixed by the Commission, not exceeding the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. Payments under this subsection shall not render members of the Council officers or employees of the United States for any purpose.

COOPERATION WITH STATES AND WITH OTHER FEDERAL AGENCIES

SEC. 29. (a) The Commission shall establish a program to promote Federal-State cooperation for the purposes of carrying out this Act. In implementing such program the Commission may—

(1) accept from any State or local authorities engaged in activities relating to health, safety, or consumer protection assistance in such functions as injury data collection, investigation, and educational programs, as well as other assistance in the administration and enforcement of this Act which such States or localities may be able and willing to provide and, if so agreed, may pay in advance or otherwise for the reasonable cost of such assistance, and

(2) commission any qualified officer or employee of any State or local agency as an officer of the Commission for the purpose of conducting examinations, investigations, and inspections.

(b) In determining whether such proposed State and local programs are appropriate in implementing the purposes of this Act the Commission shall give favorable consideration to programs which establish separate State and local agencies to consolidate functions relating to product safety and other consumer protection activities.

(c) The Commission may obtain from any Federal department or agency such statistics, data, program reports, and other materials as it may deem necessary to carry out its functions under this Act. Each such department or agency may cooperate with the Commission and, to the extent permitted by law, furnish such materials to it. The Commission and the heads of other departments and agencies engaged in administering programs related to product safety shall, to the maximum extent practicable, cooperate and consult in order to insure fully coordinated efforts.

(d) The Commission shall, to the maximum extent practicable, utilize the resources and facilities of the National Bureau of Standards, on a reimbursable basis, to perform research and analyses related to consumer product hazards (including fire and flammability hazards), to develop test methods, to conduct studies and investigations, and to provide technical advice and assistance in connection with the functions of the Commission.

TRANSFERS OF FUNCTIONS

SEC. 30. (a) The functions of the Secretary of Health, Education, and Welfare under the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) and the Poison Prevention Packaging Act of 1970 are transferred to the Commission. The functions of the Administrator of the Environmental Protection Agency and of the Secretary of Health, Education, and Welfare under the Acts amended by subsections (b) through (f) of section 7 of the Poison Prevention Packaging Act of 1970, to the extent such functions relate to the administration and enforcement of the Poison Prevention Packaging Act of 1970, are transferred to the Commission.

(b) The functions of the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and the Federal Trade Commission under the Flammable Fabrics Act (15 U.S.C. 1191 et seq.) are transferred to the Commission. The functions of the Federal Trade Commission under the Federal Trade Commission Act, to the extent such functions relate to the administration and enforcement of the Flammable Fabrics Act, are transferred to the Commission.

(c) A hazard which is associated with consumer products and which could be prevented or reduced to a sufficient extent by action taken under the Federal Hazardous Substances Act, the Poison Prevention Packaging Act of 1970, or the Flammable Fabrics Act may be regulated by the Commission only in accordance with the provisions of those Acts.

(d) (1) All personnel, property, records, obligations, and commitments, which are used primarily with respect to any function transferred under the provisions of subsections (a) and (b) of this section shall be transferred to the Commission. The transfer of personnel pursuant to this paragraph shall be without reduction in classification or compensation for one year after such transfer, except that the Chairman of the Commission shall have full authority to assign personnel during such one-year period in order to efficiently carry out functions transferred to the Commission under this section.

(2) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges (A) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are transferred under this section by any department or agency, any functions of which are transferred by this section, and (B) which are in effect at the time this section takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Commission, by any court of competent jurisdiction, or by operation of law.

(3) The provisions of this section shall not affect any proceedings pending at the time this section takes effect before any department or agency, functions of which are transfered by this section; except that such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Commission. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Commission, by a court of competent jurisdiction, or by operation of law.

(4) The provisions of this section shall not affect suits commenced prior to the date this section takes effect and in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this section had not been enacted; except that if before the date on which this section takes effect, any department or agency (or officer thereof in his official capacity) is a party to a suit involving functions transferred to the Commission, then such suit shall be continued by the Commission. No cause of action, and no suit, action, or other proceeding, by or against any department or agency (or officer thereof in his official capacity) functions of which are transferred by this section, shall abate

by reason of the enactment of this section. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or the Commission as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this paragraph.

(e) For purposes of this section, (1) the term "function" includes power and duty, and (2) the transfer of a function, under any provision of law, of an agency or the head of a department shall also be a transfer of a function, under any provision of law, of an agency or the head of a department shall also be a transfer of all functions under such law which are exercised by any office of officer of such agency or department.

LIMITATION ON JURISDICTION

SEC. 31. The Commission shall have no authority under this Act to regulate hazards associated with consumer products which could be prevented or reduced to a sufficient extent by actions taken under the Occupational Safety and Health Act of 1970; the Act of August 2, 1956 (70 Stat. 953); the Atomic Energy Act of 1954; or the Clean Air Act. The Commission shall have no authority under this Act to regulate any hazard associated with electronic product radiation emitted from an electronic product (as such terms are defined by sections 355 (1) and (2) of the Public Health Service Act) if such hazard of such product may be subjected to regulation under subpart 3 of part F of title III of the Public Health Service Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 32. (a) There are hereby authorized to be appropriated for the purpose of carrying out the provisions of this Act (other than the provisions of section 27(h) which authorize the planning and construction of research, development, and testing facilities) and for the purpose of carrying out the functions, powers, and duties transferred to the Commission under section 30—

(1) $55,000,000 for the fiscal year ending June 30, 1973;

(2) $59,000,000 for the fiscal year ending June 30, 1974; and

(3) $64,000,000 for the fiscal year ending June 30, 1975.

(b)(1) There are authorized to be appropriated such sums as may be necessary for the planning and construction of research, development and testing facilities described in section 27(h); except that no appropriation shall be made for any such planning or construction involving an expenditure in excess of $100,000 if such planning or construction has not been approved by resolutions adopted in substantially the same form by the Committee on Interstate and Foreign Commerce of the House of Representatives, and by the Committee on Commerce of the Senate. For the purpose of securing consideration of such approval the Commission shall transmit to Congress a prospectus of the proposed facility including (but not limited to)—

(A) a brief description of the facility to be planned or constructed;

(B) the location of the facility, and an estimate of the maximum cost of the facility;

(C) a statement of those agencies, private and public, which will use such facility, together with the contribution to be made by each such agency toward the cost of such facility; and

(D) a statement of justification of the need for such facility.

(2) The estimated maximum cost of any facility approved under this subsection as set forth in the prospectus may be increased by the amount equal to the percentage increase, if any, as determined by the Commission, in construction costs, from the date of the transmittal of such prospectus to Congress, but in no event shall the increase authorized by this paragraph exceed 10 per centum of such estimated maximum cost.

EFFECTIVE DATE

SEC. 33. This Act shall take effect on the sixtieth day following the date of its enactment, except—

(1) sections 4 and 32 shall take effect on the date of enactment of this Act, and

(2) section 30 shall take effect on the later of (A) 150 days after the date of enactment of this Act, or (B) the date on which at least three members of the Commission first take office.

The motion was agreed to.

The SPEAKER. The question is on the third reading of the bill.

The bill was ordered to be read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. GROSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 319, nays 50, not voting 61, as follows:

[Roll No. 375]

YEAS—319

Abernethy
Abzug
Addabbo
Anderson, Calif.
Anderson, Ill.
Anderson, Tenn.
Andrews, N. Dak.
Arends
Ashley
Aspin
Badillo
Barrett
Begich
Belcher
Bennett
Bergland
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Bolling
Brademas
Brasco
Bray
Brooks
Broomfield
Brotzman
Brown, Mich.
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton
Byrne, Pa.
Cabell
Caffery
Carey, N.Y.
Carlson
Carney
Carter
Cederberg
Celler
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clausen, Don H.
Clay
Cleveland
Collier
Collins, Ill.
Conable
Conover
Conte
Conyers
Corman
Cotter
Coughlin
Culver
Daniel, Va.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dent
Dickinson
Diggs
Dingell
Donohue
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Fish
Flood
Flowers
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Grover
Gubser
Gude
Halpern
Hamilton
Hanley
Hanna
Hansen, Wash.
Harrington
Harsha
Harvey
Hastings
Hathaway
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks, Mass.
Hicks, Wash.
Hogan
Holifield
Horton
Hosmer
Howard
Hungate
Ichord
Jacobs
Jarman
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Kee
Keith
Kemp
King
Kluczynski
Koch
Kuykendall
Kyl
Kyros
Landrum
Latta
Leggett
Lent
Lloyd
Long, La.
Long, Md.
Lujan
McCloskey
McClure
McCollister
McCulloch
McEwen
McFall
McKay
McKevitt
Macdonald, Mass.
Madden
Mailliard
Mallary
Mann
Mathias, Calif.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Miller, Calif.
Miller, Ohio
Mills, Ark.
Mills, Md.
Minish
Mink
Mitchell
Mizell
Mollohan
Monagan
Montgomery
Moorhead
Morgan
Mosher
Moss
Murphy, Ill.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Hara
O'Konski
O'Neill
Pelly
Pepper
Perkins
Pettis
Peyser
Pike
Podell
Powell
Preyer, N.C.
Price, Ill.
Pryor, Ark.
Quie
Quillen
Railsback
Randall
Rangel
Rees
Reuss
Rhodes
Riegle
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Runnels
Ruppe
Ruth
Sandman
Sarbanes
Satterfield
Scheuer
Schneebeli
Schwengel
Seiberling
Shipley
Shoup
Shriver
Sikes
Sisk
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Springer
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steele
Steiger, Wis.
Stephens
Stokes
Stubblefield
Stuckey
Sullivan
Symington
Talcott
Taylor
Teague, Calif.
Thompson, Ga.
Thomson, Wis.
Thone
Tiernan
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Wampler
Ware
Whalen
Whalley
White
Whitehurst
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H.
Winn
Wolff
Wright
Wyatt
Wylie
Wyman
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—50

Abbitt
Alexander
Andrews, Ala.
Archer
Ashbrook
Baker
Blackburn
Bow
Brinkley
Burleson, Tex.
Byron
Camp
Casey, Tex.
Clawson, Del
Collins, Tex.
Colmer
Crane
Dennis
Dorn
Fisher
Goodling
Griffin
Gross
Hagan
Haley
Hall
Hammerschmidt
Hull
Hutchinson
Jonas
Lennon
Mahon
Martin
Mathis, Ga.
Passman
Patman
Poage
Price, Tex.
Purcell
Rarick
Roberts
Roncalio
Rousselot
Scherle
Sebelius
Smith, Calif.
Teague, Tex.
Terry
Waggonner
Whitten

NOT VOTING—61

Abourezk
Adams
Annunzio
Aspinall
Baring
Bell
Betts
Bevill
Blanton
Brown, Ohio
Byrnes, Wis.
Curlin
Daniels, N.J.
Derwinski
Devine
Dow
Dowdy
Dwyer
Edmondson
Findley
Flynt
Galifianakis
Gallagher
Garmatz
Goldwater
Griffiths
Hansen, Idaho
Hébert
Hillis
Hunt
Johnson, Pa.
Keating
Landgrebe
Link
McClory
McCormack
McDade
McDonald, Mich.
McKinney
McMillan
Michel
Mikva
Minshall
Murphy, N.Y.
Patten
Pickle
Pirnie
Pucinski
Reid
Rooney, N.Y.
St Germain
Saylor
Schmitz
Scott
Skubitz
Steiger, Ariz.
Stratton
Thompson, N.J.
Udall
Waldie
Wydler

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Hunt for, with Mr. Brown of Ohio against.

Until further notice:

Mr. Rooney of New York with Mr. Saylor.

Mr. Hébert with Mr. Devine.

Mr. Thompson of New York with Mr. Minshall.

Mr. Stratton with Mr. Wydler.
Mr. Patten with Mrs. Dwyer.
Mrs. Griffiths with Mr. McKinney.
Mr. Daniels of New Jersey with Mr. McClory.
Mr. Annunzio with Mr. Findley.
Mr. St Germain with Mr. Pirnie.
Mr. Curlin with Mr. Byrnes of Wisconsin.
Mr. McCormack with Mr. Derwinski.
Mr. Pickle with Mr. Steiger of Arizona.
Mr. Waldie with Mr. Bell.
Mr. McMillan with Mr. Betts.
Mr. Mikva with Mr. Michel.
Mr. Reid with Mr. McDonald of Michigan.
Mr. Murphy of New York with Mr. McDade.
Mr. Link with Mr. Johnson of Pennsylvania.
Mr. Flynt with Mr. Hillis.
Mr. Garmatz with Mr. Keating.
Mr. Galifianakis with Mr. Landgrebe.
Mr. Bevill with Mr. Skubitz.
Mr. Edmondson with Mr. Goldwater.
Mr. Aspinall with Mr. Hansen of Idaho.
Mr. Baring with Mr. Schmitz.
Mr. Pucinski with Mr. Scott.
Mr. Udall with Mr. Blanton.
Mr. Abourezk with Mr. Gallagher.
Mr. Dow with Mr. Adams.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 15003) was laid on the table.

GENERAL LEAVE

Mr. **STAGGERS**. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to extend their remarks on the bill just passed.

The **SPEAKER**. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

APPOINTMENT OF ADDITIONAL CONFEREES ON S. 976, MOTOR VEHICLES INFORMATION AND COST SAVINGS ACT

Mr. **STAGGERS**. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to appoint two additional conferees on the part of the House at the conference with the Senate on the bill S. 976 to promote competition among motor vehicle manufacturers in the design and production of safe motor vehicles having greater resistance to damage, and for other purposes.

The **SPEAKER**. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and appoints the following conferees: Messrs. ECKHARDT and WARE.

The Clerk will notify the Senate of the action of the House.

CHANGE OF LEGISLATIVE PROGRAM

(Mr. **BOGGS** asked and was given permission to address the House for 1 minute.)

Mr. **BOGGS**. Mr. Speaker, I take this time to announce that the motion to send to conference H.R. 7130, the Fair Labor Standards Act amendments, will be taken up the first thing tomorrow and not at the end of the day as previously announced.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 2185. An act to declare that certain federally owned land is held by the United States in trust for the Lac du Flambeau Band of Lake Superior Chippewa Indians;

H.R. 2589. An act to amend section 1869 of title 28, United States Code, with respect to the information required by a juror qualification form;

H.R. 6204. An act for the relief of John S. Attinello;

H.R. 10436. An act to provide with respect to the inheritance of interests in restricted or trust land within the Nez Perce Indian Reservation, and for other purposes; and

H.R. 14974. An act to amend certain provisions of law relating to the compensation of the Federal representatives on the Southern and Western Interstate Nuclear Boards.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 8389. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for the development and operation of treatment programs for certain drug abusers who are confined to or released from correctional institutions and facilities;

H.R. 9756. An act to amend the Merchant Marine Act, 1936, as amended; and

H.R. 15927. An act to amend the Railroad Retirement Act of 1937 to provide a temporary 20-percent increase in annuities, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4383) entitled "An act to authorize the establishment of a system governing the creation and operation of advisory committees in the executive branch of the Federal Government, and for other purposes."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 750. An act to provide for the compensation of persons injured by certain criminal acts, to make grants to States for the payment of such compensation, and for other purposes;

S. 1144. An act to authorize and direct the acquisition of certain lands within the boundaries of the Wasatch National Forest in the State of Utah by the Secretary of Agriculture;

S. 1911. An act to amend the Interstate Commerce Act to expedite the making of amendments to the uniform standards for evidencing the lawfulness of interstate operations of motor carriers;

S. 2501. An act for the relief of Daniel H. Robbins;

S. 2762. An act to authorize and direct the Secretary of Agriculture to acquire certain lands and interests therein within the boundaries of the Cache National Forest in the State of Utah;

S. 3113. An act to declare that the United States holds in trust for the Bridgeport Indian Colony certain lands in Mono, County, Calif.;

S. 3256. An act to designate the Aldo Leopold Wilderness, Gila National Forest, N. Mex.;

S. 3452. An act to amend the Trademark Act to extend the time for filing oppositions, to eliminate the requirement for filing reasons of appeal in the Patent Office, and to provide for awarding attorney fees;

S. 3466. An act to authorize the Secretary of Agriculture to review as to its suitability for preservation as wilderness the area commonly known as the Lone Peak Area in the State of Utah; and

S. 3483. An act for the relief of Cass County, N. Dak.

APPOINTMENT OF CONFEREES ON HOUSE JOINT RESOLUTION 984, U.S. PARTICIPATION IN THE INTERNATIONAL BUREAU FOR THE PROTECTION OF INDUSTRIAL PROPERTY

Mr. **FRASER**. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 984) to amend the joint resolution providing for U.S. participation in the International Bureau for the Protection of Industrial Property, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The **SPEAKER**. Is there objection to the request of the gentleman from Minnesota? The Chair hears none, and appoints the following conferees: Messrs. FRASER, FASCELL, and GROSS.

EXPANDED PROTECTION OF FOREIGN OFFICIALS

Mr. **DONOHUE**. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 15883), to amend title 18, United States Code, to provide for expanded protection of foreign officials, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 4, after "Officials" insert: "and Official guests of the United States".

Page 2, line 3, after "States" insert: "or against official guests of the United States".

Page 2, line 10, after "OFFICIALS" insert: "AND OFFICIAL GUESTS".

Page 2, line 14, after "officials" insert: "or official guests".

Page 2, line 15, after "official" insert: "or official guest".

Page 3, after line 23, insert:

"(4) 'Official guest' means a citizen or national of a foreign country present in the United States as an official guest of the government of the United States pursuant to designation as such by the Secretary of State."

Page 4, strike out the first line following line 7 and insert:

"1116. Murder or manslaughter of foreign officials or official guests.

Page 5, line 2, after "1116(b)" insert: "or an official guest as defined in section 1116 (c) (4)".

Page 5, line 19, after "OFFICIALS" insert: "AND OFFICIAL GUESTS".

Page 5, line 22, after "officials" insert: "and official guests".

Page 6, line 1, after "official" insert: "or official guest".

Page 6, strike out lines 6 to 9, inclusive, and insert:

"(b) Whoever willfully intimidates, coerces, threatens, harasses, or willfuly obstructs a foreign official or an official guest shall be fined not more than $500, or imprisoned not more than six months, or both."

Page 7, line 4, strike out "and".

Page 7, line 4, after "organization' " insert: ", and 'official guest' ".

Page 7, after line 6, insert:

"(e) Nothing contained in this section shall be construed or applied so as to abridge the exercise of rights guaranteed under the first amendment to the Constitution of the United States."

Page 7, strike out the line following line 9 and insert:

"112. Protection of foreign officials and official guests."

Page 7, line 22, strike out "or".

Page 7, line 22, after "official" insert: "or official guest".

Page 8, line 4, strike out "and".

Page 8, line 4, after "organization' " insert: ", and 'official guest' ".

The **SPEAKER**. Is there objection to the request of the gentleman from Massachusetts?

Mr. HALL. Mr. Speaker, reserving the right to object, as I understand this, the request is concurred in only by the ranking members of the Committee on the Judiciary and the subcommittee concerned. I also understand that it is urgent. Of course, this is a unanimous-consent request to concur in the Senate amendments. If it has not received full committee action, of course, it might well be subject to a point of order.

Mr. Speaker, in addition to this, the gentleman who makes the unanimous consent request has been courteous enough to confer, and his staff has provided information at his request concerning the Senate amendment that would add the term "official guests" to be designated by the Secretary of State to the coverage, so that it would be a Federal crime to murder, kidnap, assault, harass, or injure the property of any such official guest.

Mr. Speaker, quite outside of the question of procedure, I cannot help but wonder how many additional Federal police or marshals would be required at the time, for example, of a visit by a head of state designated as an official guest; whether there is any arrangement for after-the-fact designation of an official guest; and whether indeed it would not require that the Federal taxpayer out-of-pocket pay all of the expenses for protection of "official guests" to the United Nations.

Finally, certainly I believe it is fair to assume on the basis of what we have studied here today that it would result in innumerable requests from interested third parties, such as we of the Congress, for example, for our friends who might be journeying here from overseas to be designated as "official guests."

For all of these reasons I am constrained to object to this procedure, which is not in order; and, Mr. Speaker, I do object.

The **SPEAKER**. Objection is heard.

AMENDING RAILROAD RETIREMENT ACT OF 1937

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 15927) to amend the Railroad Retirement Act of 1937 to provide a temporary 20-percent increase in annuities, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert: That (a) section 3(a) of the Railroad Retirement Act of 1937 is amended by inserting at the end thereof the following new paragraph:

"(5) The individual's annuity computed under the preceding provisions of this subsection and that part of subsection (e) of this section which precedes the first proviso shall be increased by 20 per centum.".

(b) Section 2(e) of such Act is amended—

(1) by striking out "section 3(a) (3) or (4) of this Act" and inserting in lieu thereof "section 3(a) (3), (4), or (5) of this Act":

(2) by striking out the second sentence of the last paragraph; and

(3) by adding at the end thereof the following new paragraph:

"The spouse's annuity computed under the other provisions of this section shall (before any reduction on account of age) be increased by 20 per centum. The preceding sentence and the other provisions of this subsection shall not operate to increase the sponse's annuity (before any reduction on account of age) to an amount in excess of the maximum amount of a spouse's annuity as provided in the first sentence of this subsection. This paragraph shall be disregarded in the application of the preceding two paragraphs."

(c) Section 2(i) of such Act is amended by striking out "the last two paragraphs" and inserting in lieu thereof "the last paragraph plus the two preceding paragraphs".

(d) Section 3(e) of such Act is amended—

(1) by striking out the word "and" after clause (iv) in the second paragraph thereof and inserting after the semicolon in clause (v) in such second paragraph the following new clauses:

"(vi) individuals not entitled to an annuity under section 2 or 5 of this Act shall not be included in the computation under such first proviso except a spouse who could qualify for an annuity under section 2 (e) or (h) of this Act if the employee from whom the spouse's annuity under this Act would derive had attained age sixty-five, and such employee's children who meet the definition as such contained in section 216(e) of the Social Security Act; (vii) after an annuity has been certified for payment and such first proviso was inapplicable after allowing for any waiting period under section 223(c) (2) of the Social Security Act, and after having considered the inclusion of all persons who were then eligible for inclusion in the computation under such first proviso, or was then applicable but later became inapplicable, any recertification in such annuity under such first proviso shall not take into account individuals not entitled to an annuity under section 2 or 5 of this Act except a spouse who could qualify for an annuity under section 2(h) of this Act when she attains age sixty-two if the employee from whom the spouse's annuity would derive had attained age sixty-five, and who was married to such employee at the time he applied for the employee annuity; (viii) in computing the amount to be paid under such first proviso, the only benefits under title II of the Social Security Act which shall be considered shall be those to which the individuals included in the computation are entitled; (ix) the average monthly wage for an employee during his lifetime shall include (A) only his wages and self-employment income creditable under the Social Security Act through the later of December 31, 1971, or December 31 of the year preceding the year in which his annuity began to accrue, and (B) his compensation up to the date his annuity began to accrue; and (x) in computing the average monthly wage in clause (ix) above, section 215(b) (2) (C) (ii) of the Social Security Act shall, solely for the purpose of including compensation up to the date the employee's annuity began to accrue, be deemed to read as follows: 'the year succeeding the year in which he died or retired' "; and

(2) by striking out in the third paragraph thereof ", or on application, would be".

(e) Section 5(l) (1) of such Act is amended by striking out from the first sentence thereof "and (g)" and inserting in lieu thereof "(g), and (k)".

(f) Section 5 of such Act is further amended by inserting at the end thereof the following new subsection:

"(p) A survivor's annuity computed under the preceding provisions of this section (except an annuity in the amount determined under the proviso in subsection (a) or (b)) shall (before any reduction on account of age) be increased by 20 per centum."

Sec. 2. (a) All pensions under section 6 of the Railroad Retirement Act of 1937, all annuities under the Railroad Retirement Act of 1935, and all survivor annuities deriving from joint and survivor annuities under the Railroad Retirement Act of 1937 shall be increased by 20 per centum.

(b) All such widows' and widowers' insurance annuities which are payable in the amount of the spouse's annuity to which the widow or widower was entitled, shall, in cases where the employee died prior to October 1, 1972, be increased by 20 per centum.

(c) All such joint and survivor annuities shall be computed under section 3(a) of the Railroad Retirement Act of 1937 and shall be reduced by the percentage determined in accordance with the election of such annuity.

Sec. 3. All recertifications required by reason of the amendments made by this Act shall be made by the Railroad Retirement Board without application therefor.

Sec. 3. For the purposes of approximating the offsets in railroad retirement benefits for increases in social security benefits by reason of amendments prior to the Social Security Amendments of 1971, the Railroad Retirement Board is authorized to prescribe adjustments in the percentages in the Railroad Retirement Act of 1937 and laws pretaining thereto in order that these percentages, when applied against current social security benefits not in excess of the primary insurance amount applicable for an everage monthly wage of $650, will produce approximately the same amounts as those computed under the law in effect, except for changes in the wage base, before the Social Security Amendments of 1971 were enacted.

Sec. 5. (a) The amendments made by this Act, except for subsections (d) and (e) of section 1, shall be effective with respect to annuities accruing for months after August 1972 and with respect to pensions due in calendar months after September 1972. The provisions of clauses (vi) through (x), which are added by section 1(d) (1) of this Act, and the provisions of section 1(d) (2) of this Act, shall be effective as follows: clause (vi) shall be effective with respect to annuities awarded after the enactment of this Act; clauses (vii) and (viii), and the provisions of section (1)(d)(2), shall be effective with respect to annuities awarded or recertified after the enactment of this Act; and clauses (ix) and (x) shall be effective with respect to calendar years after 1971.

(b) The first three sections of this Act, except for subsections (d) and (e) of section 1, and the amendments made by such sections, shall cease to apply as of the close of June 30, 1973. Annuities accruing for months after June 30, 1973, and pensions due in calendar months after June 30, 1973, shall be computed as if the first three sections of this Act, except for subsections (d) and (e) of section 1, and the amendments made by such sections, had not been enacted.

SEC. 6. It is the policy of the Congress of the United States that the 20-percent increase in annuities of Railroad Retirement beneficiaries provided by this Act, as well as the 10-percent and 15-percent increases provided by Public Law 92–46 and Public Law 91–377, respectively, all of which will expire by the terms of such Acts on June 30, 1973, can be made permanent only if at the same time a method is adopted to insure the receipt of sufficient revenues by the Railroad Retirement Account to make such Account financially solvent based on sound actuarial projections. Accordingly, representatives of employees and retirees and representatives of carriers shall, no later than March 1, 1973, submit to the Senate Committee on Labor and Public Welfare and the House of Representatives Committee on Interstate and Foreign Commerce a report containing the mutual recommendations of such representatives based upon their negotiatians and taking into account the report and specific recommendations of the Commission on Railroad Retirement designed to insure such solvency. A copy of the report of such representatives shall also be submitted to the Railroad Retirement Board, which, no later than April 1, 1973, shall submit to such committees of the Congress a report containing its views and specific recommendations, and those of the administration, with reference to the report submitted by such representatives.

Amend the title so as to read: "An Act to amend the Railroad Retirement Act of 1937 to provide a temporary 20 per centum increase in annuities, to simplify administration of the Act, and for other purposes.".

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. FREY. Mr. Speaker, reserving the right to object—and I shall not object—will the gentleman explain the purpose of the amendment?

Mr. STAGGERS. Mr. Speaker, this is essentially a House bill with a Senate amendment to it. The Senate put in an amendment that industry and labor recommended to make the bill more sound.

Mr. FREY. That is the only change?

Mr. STAGGERS. That is the only change.

Mr. FREY. Mr. Speaker, I understand. I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 4383, EXECUTIVE BRANCH ADVISORY COMMITTEE

Mr. MONAGAN. Mr. Speaker, I ask unanimous consent to consider the conference report on the bill (H.R. 4383) to authorize the establishment of a system governing the creation and operation of advisory committees in the executive branch of the Federal Government, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

Mr. HALL. Mr. Speaker, reserving the right to object, I would inquire of the gentleman if this involves any violation of the 3-day House rule?

Mr. MONAGAN. That is correct.

Mr. HALL. I thank the gentleman for his forthright reply.

Mr. Speaker, I am strongly in favor of the advisory committee's limitations in this bill. Therefore, I will not object to the violation of the Reorganization Act of 1970 and the clause in the rule pertaining to the 3-day printing and availability for Members prior to consideration in this particular instance; but it is not to become a precedent, nor is it to be considered a procedure, unless we change the Reorganization Act of 1970.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 18, 1972.)

Mr. MONAGAN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. MONAGAN. Mr. Speaker, I do want to begin by thanking the gentleman from Missouri for his consideration in this matter, and to assure him that the request is simply for the purpose of expediting the business of the House and moving along this legislation, which is, I think, extremely important in bringing about a vast improvement in the operation of our Government.

There was really no objection to the legislation in the committee, and it passed this House with, I think, only 8 votes against it. All the members of the conference committee signed the report.

Mr. Speaker, I am reporting to the House on the outcome of the successful conference with the other body on H.R. 4383. This bill passed the House on May 9, 1972, and passed the Senate on September 12, 1972.

Members will recall that the bill H.R. 4383 was designed to lay down ground rules for the operation of the estimated 3,200 advisory committees in the Federal Government. These committees with their membership of 20,000 persons and annual cost of approximately $75 million have grown to justify their description as a "fifth arm of the Government."

The Senate struck all after the enacting clause of the House bill and substituted a Senate amendment. The conference substitute contains all the essential elements of the House bill.

The committee of conference agreed with the Senate amendment to change the title of the bill to the "Federal Advisory Committee Act."

The conference substitute adopts the definition of "advisory committee" contained in the House bill with some modification. The conference substitute definition includes committees which are established or utilized by the President or one or more agencies or officers of the Federal Government. It excludes from the definition of "advisory committee," in addition to the Advisory Commission on Intergovernmental Relations, the Commission on Government Procurement, and any committee which is composed wholly of full-time officers or employees of the Government.

The conference substitute exempts from the provisions of the bill any advisory committee established or utilized by the Central Intelligence Agency or by the Federal Reserve Board.

The conference substitute adopts the provision of the House bill which requires the President or any agency head who creates an advisory committee to follow the guidelines laid down for standing committees of Congress when they are considering legislation establishing advisory committees.

The conference substitute adopts a compromise between the Senate amendment and the House bill regarding the responsibilities of the President with respect to public recommendations of Presidential advisory committees. The conference substitute provides that the President "may" delegate responsibility for evaluating and taking action with respect to public recommendations of Presidential advisory committees. It further provides that the President or his delegate "shall" submit a report to the Congress stating his proposals for action or his reasons for inaction with respect to such public recommendations.

The conference substitute adopts the provision of the House bill requiring the President to make an annual report to the Congress on the number, membership, and cost of advisory committees in the executive branch. The President may exclude from such report information which, in his judgment, should be withheld for reasons of national security.

The conference substitute contains a provision requiring the Director of OMB to include in his budget recommendations a summary of the amounts necessary for the expenses of advisory committees, which is similar to a provision contained in the Senate amendment.

The committee of conference also agreed to provisions similar to those contained in the Senate amendment—setting forth the procedure to be followed when advisory committees are established—and requiring the designation of a committee management office in each agency having advisory committees.

The conference substitute provides for publication in the Federal Register of timely notice of advisory committee meetings, except where the President determines otherwise for reasons of national security. The conference substitute further provides for public access to advisory committee meetings subject to restrictions which may be imposed by the President or the head of any agency to which an advisory committee reports. Such restrictions may be imposed after it is determined that an advisory committee meeting is concerned with matters listed in section 552(b) of title V, United States Code. The conference substitute also provides that subject to section 552 of title V, United States Code, the records and other papers of advisory committees shall be available for public inspection and copying.

The conference substitute requires that a designated officer or employee of the Government attend each advisory committee meeting. No such meeting may be conducted in his absence or without his approval. Except in the case of Presidential advisory committees, the agenda of such meeting must be approved by him.

The committee of conference agreed to the adoption in the conference substitute of a provision similar to the provision contained in the Senate amendment that required agencies or advisory committees to make any transcripts of their proceedings or meetings available to the public at actual cost of duplication.

The conference substitute provides for the termination of any advisory committee within 2 years after the effective date of the act or the date of its creation, whichever is later, unless it is renewed by the creating authority or its duration is otherwise provided for by law.

All the outstanding differences with the Senate have been resolved by the committee of conference. This bill is the culmination of considerable work both here and in the other body. In the House the measure has had strong bipartisan support. In the other body the measure has progressed under the able leadership of Senators METCALF, ROTH, and PERCY.

I strongly urge that the conference report be accepted by the House.

Mr. BROWN of Michigan. Mr. Speaker, as a conferee on this bill, I am satisfied the conference report is an eminently fair compromise between the Senate and House-passed versions of the legislation and I believe it provides a viable system for the establishment and administration of advisory committees in the executive branch of the Federal Government. I can assure the House that the intent and purpose of the House bill were retained in the conference report. Moreover, I believe it is consistent with the objectives of the administration as set forth in the new Executive Order 11671 which are incorporated in part in the conference report.

The chairman has well described the major areas of compromise and I will not take the time of the House to reiterate his statements. However, I would like to emphasize that the conference report advances the public's right to know in this vitally important area. It provides for public access to advisory committee meetings not subject to special restrictions and provides for the availability of the records and other papers of advisory committees subject to the provisions of the Freedom of Information Act.

Other than that, as the chairman has indicated, the bill would provide much-needed guidelines for the creation, review, and reporting of advisory committees and relieve the confusion and disorganization which now exist.

I recommend the adoption of the conference report.

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. MONAGAN. I yield to the gentleman from New York.

Mr. HORTON. Mr. Speaker, I shall be very brief. I do want to commend the gentleman from Connecticut and the gentleman from Michigan and other members of the subcommittee for the work that they did in putting this legislation together and following it through in the conference report, and the commendable job they have done.

I think this is a very important step forward. I would like to ask the chairman of the committee, Mr. HOLIFIELD, a question.

Mr. MONAGAN. I yield to the gentleman from California (Mr. HOLIFIELD).

Mr. HORTON. Am I correct in the understanding that this bill does not apply to such organizations as the National Academy of Sciences and its various committees which make studies and submit reports to Federal agencies on request?

Mr. HOLIFIELD. The gentleman is quite correct. If he will refer to the joint explanatory statement of the committee of conference at page 10, the first full paragraph, it states as follows:

> The Act does not apply to persons or organizations which have contractual relationships with Federal agencies nor to advisory committees not directly established by or for such agencies.

As the gentleman knows, the National Academy of Sciences was founded by Congress and, therefore, it comes under that category.

Mr. HORTON. So, it would be excluded?

Mr. HOLIFIELD. That is correct.

Mr. HORTON. I thank the gentleman.

Mr. HOLIFIELD. Mr. Speaker, I just want to say that the findings of the subcommittee revealed that there are in the neighborhood of some 3,200 of these advisory committees. We had quite a bit of trouble finding out how many there were, and we are not sure that 3,200 covers it altogether. One agency reported 383 advisory committees, and later revised it to 420, and their latest revision is 511 agency advisory committees. Their latest revision is 511 interagency advisory committees. They are all over the map. Many of them ought to be abolished.

This bill, I believe, will go a long way toward getting a proper inventory of these advisory committees. Our committee will follow up on this and see that the obsolete ones or those which contradict each other are abolished.

I believe this is a move toward economy and efficiency. I want to thank the gentleman from Michigan (Mr. BROWN), the ranking minority member of the subcommittee, and the gentleman from Connecticut (Mr. MONAGAN), the chairman, for the good work they and the other members of the committee have done. I believe this is a step in the right direction, toward economy and efficiency.

Mr. MONAGAN. I thank the gentleman for his remarks.

I also thank the gentleman from New York (Mr. HORTON) for his generous statement, and the gentleman from Michigan (Mr. BROWN) for his cooperation at all stages of this legislation, which truly is a bipartisan product. That is true here in this body and also in the other body.

Mr. Speaker, I ask support of the Members for this conference report.

The SPEAKER. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MONAGAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

MAKING IN ORDER CONSIDERATION OF H.R. 16705, FOREIGN ASSISTANCE APPROPRIATIONS, 1973

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1122 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1122

> *Resolved*, That upon the adoption of this resolution it shall be in order to move, clause 6 of Rule XXI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 16705) making appropriations for Foreign Assistance and related programs for the fiscal year ending June 30, 1973, and for other purposes, and all points of order against said bill are hereby waived.

The SPEAKER. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. SMITH) pending which I yield myself such time as I may consume.

Mr. Speaker, this is an unusual rule. We in the Rules Committee have granted very few general waivers of points of order on bills in recent times. We have tried to specify what all the waivers were in detail.

On this bill there are so many points of order we are waiving that it would almost be a futility to try to list them. Almost everything in the appropriation bill is subject to a point of order for one reason or another, and the whole thing is subject to a point of order on the 3-day rule.

So I made the motion to waive all points of order, for the obvious reason that if we did not waive them all we would have a rule which might be longer than the bill.

The only justification for this—and I believe it is a very important justification—is that the provisions of the bill on which we have to have waivers include military assistance, aid to Bangladesh, and all kinds of things that have passed the House in a bill reported out by the Committee on Foreign Affairs and sent to the Senate, on which there has been no action.

The Senate in a very unusual procedure took up a bill. Then, in a most unusual of situations, people who for years have been for foreign aid and people who have become opponents of foreign aid defeated the bill. People who were strong supporters of the bill voted against it because of the provisions it contained with regard to ending the war in Vietnam.

Now, hopefully the Congress is moving toward a sine die adjournment. If there is to be a sine die adjournment this side of November or December, foreign aid is one of the things that is going to have to be acted on.

Now, the only alternative to acting on it in this fashion is to act on it with a continuing resolution, and I personally feel, as I believe most of the Members of the House feel, it would be better if we bit the bullet and tried to face the issue than passed legislation that did not acknowledge our inability to function as a total institution, as the Congress of the United States.

That is the justification for using this very unusual procedure to deal with this matter and send it to the other body so that once more the ball in a sense is in the other body's court.

Now, the reason for bringing it up today, in my judgment, is short of range, but still important. We are far enough along in the year so that there are a lot of people who have engagements of some importance to them in other places than in Washington, and the bringing up of the rule today—and we are just going to consider the rule—is so it will be more probable that the business of the week may be finished tomorrow. And with no apologies, I say this: This is a most unusual rule, a rule by which we waive points of order against everything under the sun, but this is the only way we can pursue the business of the House in a reasonably orderly fashion.

Mr. GROSS. Will the gentleman yield?

Mr. HALL. Will the gentleman yield?

Mr. BOLLING. I will be delighted to yield to either or both of my friends, the gentleman from Missouri, or the gentleman from Iowa.

Mr. GROSS. I cannot thank the gentleman from Missouri enough for yielding to me on this occasion.

To make a long story short, this is a most unusual rule on what always has been and still is a most unusual bill. This bill, if appropriated for in full, will mean that the taxpayers will cough up approximately another $2.7 billion to be dished out to foreigners who are already waiting with their tin cups ready around the world.

And so we are again confronted with what we usually are about this time of the year—an unusual rule making in order a bill to give away $2 to $3 billion of the American taxpayers' money to the spongers around the world. It is about that simple.

Would the gentleman from Missouri agree with me, at least in part?

Mr. BOLLING. I will agree with him on the fact it is unusual, and I will agree with him on the fact no one has been more consistent in his opposition to this kind of expenditure than the gentleman from Iowa has.

The only thing I would say in defense of the process, which I supported and do now support, is that a long line of Presidents, both Republican and Democratic, have felt very strongly about this subject, and a long line of Congresses with considerable pain have usually discovered a majority in support of these propositions, sometimes, I guess fairly regularly over the last 8 or 10 years, at a reduced level from the bill before us. I cannot even say that about this one, because I understand there will be a little bit more money spent this time than the last time if it is passed.

Mr. GROSS. Will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Iowa.

Mr. GROSS. And on behalf of those who have been voting for this annual multibillion-dollar foreign giveaway business through the years, I want to extend my sympathy to the taxpayers.

Mr. HALL. Will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Missouri.

Mr. HALL. I appreciate my nonapologetic colleague from Missouri yielding about his most apologetic remarks.

I just wonder if he would not join with me in the conclusion that an even quicker way to adjourn sine die would be to join with the other body and give this thing the decent burial that it deserves by voting down the rule waiving all points of order and changing again, as we just did on the previous consideration, the Reorganization Act of 1970 which the gentleman was so eminent in helping prepare.

Mr. BOLLING. I thank the gentleman for the last sentence, recognizing my interest in reorganization.

With regard to the rest of the statement, the only comment I can make would be that if we did not proceed in this fashion to a satisfactory conclusion and if we did not have the continuing resolution which kept this program going, I do not believe that this Congress could successfully adjourn permanently for this year. I say that because I am convinced the failure to have any foreign aid program would result in the President feeling that he had to call us back after the election if not earlier.

So I agree with the thrust of the gentleman's statement from his point of view, but I must say I do believe we must act on the matter, and this I believe is the more responsible way to act than by continuing resolution, to which we may come in the final analysis.

Mr. HALL. The question of responsibility is a matter of speculation for individual Members. Waiving all points of order takes away the elected individual Member's rights against nongermane bills or against appropriating committee reports that have not been authorized by the legislative committee, and it does damage, I think my distinguished friend will agree with me, to the orderly legislative process. Perhaps it is just as well to let this ball bounce in the court of the executive branch and put the onus on them for calling us back into session if this is all that important.

But be that as it may, I strongly hope that we would do even greater damage to this foreign aid giveaway. I yield to no one, even my friend from Iowa, in consistency in having voted against this at every opportunity I have had since I have been here, as I have voted against increaed debt ceilings and as I have voted against and will vote against a continuing resolution.

For the gentleman's information, I have already been approached today about this continuing resolution coming up next week and about extending the time beyond the middle of October. If this House does not want to dangle on the tenuous strings of the other body or the executive branch and assert its will as the representatives of the people, then I think it is time that we caught their attention by striking them between the eyes with a singletree, if necessary, in order to focus the attention of the American people on what is going on with their moneys.

Mr. GROSS. Will the gentleman again yield to me?

Mr. BOLLING. I am glad to yield to the gentleman.

Mr. GROSS. I cannot resist replying to my good friend from Missouri and his statement that he does not yield to me in his consistent opposition to the foreign handout programs. Let me say to him that I have about 24 years of voting against it and he still needs about 12 years to catch up.

Mr. HALL. Like the gentleman says, without qualms he can write songs.

Mr. BOLLING. I think I can say that any fair-minded observer can state that the gentleman from Iowa and the gentleman from Missouri are tied in their opposition.

Mr. LONG of Maryland. Will the gentleman yield to me?

Mr. BOLLING. I yield to the gentleman.

Mr. LONG of Maryland. I think the gentleman from Missouri is really a master of understatement when he said this bill was a little bit higher. It strikes me that you do not have to be against foreign aid to be worried about this bill, because it is $1 billion higher than last year. We have gone back over the last 16 years, and as far as we can find out, it is the highest foreign aid bill we have in all the 16 years that I was able to get the history on.

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, I find myself in between the gentleman from Iowa and the gentleman from Missouri, because I think I have only had 16 years that I have had the opportunity of being here, so I will never catch up with the gentleman from Iowa, because I am leaving at the end of this term. I am still opposed to foreign aid and will still vote against the bill.

But, Mr. Speaker, there is no other way that we can get this bill before this House but to do what the Committee on Rules did. I support the rule, and I think the gentleman from Missouri, in his always extremely able manner, has explained what we did entirely correctly.

Together with the comments of my two associates on this side of the aisle, I think everybody should know what we are doing, and I believe they do.

Accordingly, Mr. Speaker, I urge the adoption of the rule.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. HALL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 240, nays 98, not voting 92, as follows:

[Roll No. 376]

YEAS—240

Abzug
Addabbo
Alexander
Anderson, Ill.
Anderson, Tenn.
Andrews, N. Dak.
Arends
Ashley
Aspin
Badillo
Bennett
Bergland
Biaggi
Biester
Bingham
Blackburn
Blatnik
Bolling
Bow
Brademas
Brasco
Bray
Brooks
Brotzman
Brown, Mich.
Broyhill, Va.
Buchanan
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Byrne, Pa.
Cabell
Carey, N.Y.
Carlson
Carney
Carter
Casey, Tex.
Cederberg
Chamberlain
Chisholm
Clark
Clausen, Don H.
Cleveland
Collins, Ill.
Colmer
Conable
Conover
Conte
Conyers
Corman
Cotter
Coughlin
Culver
Daniel, Va.
Danielson
Davis, Wis.
de la Garza
Dellenback
Dellums
Dennis
Dent
Dickinson
Dingell
Donohue
Downing
Drinan
du Pont
Edwards, Ala.
Eilberg
Erlenborn
Esch
Evans, Colo.
Fascell
Fish
Flood
Foley
Ford, Gerald R.
Ford, William D.
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Fulton
Fuqua
Gaydos
Gonzalez
Goodling
Grasso
Gray
Green, Oreg.
Gubser
Gude
Halpern
Hamilton
Hanley
Hansen, Wash.
Harrington
Harsha
Harvey
Hastings
Hathaway
Hawkins
Hays
Heinz
Helstoski
Hicks, Mass.
Hicks, Wash.
Hogan
Holifield
Horton
Hosmer
Howard
Johnson, Calif.
Jones, Ala.
Karth
Kazen
Kee
Keith
Kemp
King
Kluczynski
Koch
Kuykendall
Kyl
Kyros
Leggett
Lent
Lloyd
Long, Md.
McCloskey
McCollister
McEwen
McFall
McKay
McKevitt
Macdonald, Mass.
Madden
Mahon
Mailliard
Mallary
Mann
Mathias, Calif.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mills, Ark.
Mills, Md.
Minish
Mink
Mollohan
Monagan
Montgomery
Moorhead
Morgan
Mosher
Murphy, Ill.
Myers
Natcher
Nedzi
Nelsen
Obey
O'Hara
O'Neill
Passman
Pelly
Pepper
Perkins
Pettis
Peyser
Podell
Preyer, N.C.
Price, Ill.
Purcell
Quie
Railsback
Randall
Rangel
Rees
Reuss
Rhodes
Riegle
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rooney, Pa.
Rosenthal
Rostenkowski
Roybal
Ruppe
Sarbanes
Scheuer
Schwengel
Sebelius
Seiberling
Shriver
Sikes
Sisk
Slack
Smith, Calif.
Smith, Iowa
Smith, N.Y.
Staggers
Stanton, J. William
Stanton, James V.
Steele
Stratton
Stubblefield
Sullivan
Symington
Taylor
Teague, Calif.
Terry
Thone
Tiernan
Ullman
Vander Jagt
Vanik
Vigorito
Wampler
Ware
Whalen
Whalley
Whitehurst
Whitten
Williams
Wilson, Bob
Winn
Wolff
Wright
Yates
Yatron
Young, Tex.
Zablocki
Zion

NAYS—98

Abbitt
Anderson, Calif.
Andrews, Ala.
Archer
Ashbrook
Baker
Begich
Brinkley
Broyhill, N.C.
Burke, Fla.
Byron
Caffery
Camp
Chappell
Clancy
Clawson, Del
Collier
Collins, Tex.
Crane
Davis, Ga.
Davis, S.C.
Denholm
Dorn
Duncan
Edwards, Calif.
Eshleman
Fisher
Flowers
Gettys
Gibbons
Griffin
Gross
Grover
Hagan
Haley
Hall
Hammerschmidt
Hechler, W. Va.
Henderson
Hull
Hungate
Hutchinson
Ichord
Jacobs
Jarman
Jones, N.C.
Jones, Tenn.
Kastenmeier
Landgrebe
Landrum
Latta
Long, La.
Lujan
McClure
Martin
Mathis, Ga.
Miller, Ohio
Mizell
Moss
O'Konski
Pike
Poage
Powell
Price, Tex.
Quillen
Rarick
Roberts
Rogers
Roncalio
Roush
Rousselot
Roy
Runnels
Ruth
Sandman
Satterfield
Scherle
Shipley
Shoup
Snyder
Spence
Steed
Steiger, Wis.
Stephens
Stuckey
Talcott
Thompson, Ga.
Thomson, Wis
Van Deerlin
Veysey
Waggonner
White
Wilson, Charles H.
Wyatt
Wylie
Wyman
Young, Fla.
Zwach

NOT VOTING—92

Abernethy
Abourezk
Adams
Annunzio
Aspinall
Baring
Barrett
Belcher
Bell
Betts
Bevill
Blanton
Boggs
Boland
Broomfield
Brown, Ohio
Byrnes, Wis.
Celler
Clay
Curlin
Daniels, N.J.
Delaney
Derwinski
Devine
Diggs
Dow
Dowdy
Dulski
Dwyer
Eckhardt
Edmondson
Evins, Tenn.
Findley
Flynt
Forsythe
Galifianakis
Gallagher
Garmatz
Giaimo
Goldwater
Green, Pa.
Griffiths
Hanna
Hansen, Idaho
Hébert
Heckler, Mass.
Hillis
Hunt
Johnson, Pa.
Jonas
Keating
Lennon
Link
McClory
McCormack
McCulloch
McDade
McDonald, Mich.
McKinney
McMillan
Michel
Mikva
Miller, Calif.
Minshall
Mitchell
Murphy, N.Y.
Nichols
Nix
Patman
Patten
Pickle
Pirnie
Pryor, Ark.
Pucinski
Reid
Rooney, N.Y.
St Germain
Saylor
Schmitz
Schneebeli
Scott
Skubitz
Springer
Steiger, Ariz.
Stokes
Teague, Tex.
Thompson, N.J.
Udall
Waldie
Widnall
Wiggins
Wydler

So the resolution was agreed to.

The Clerk announced the following pairs:

Mr. Boggs with Mr. Devine.
Mr. Hébert with Mr. Saylor.
Mr. Rooney of New York with Mr. Wydler.
Mr. Annunzio with Mr. Michel.
Mr. Celler with Mr. Forsythe.
Mr. Delaney with Mr. Bell.
Mr. Dulski with Mr. McClory.
Mr. Murphy of New York with Mr. Findley.
Mr. Patten with Mrs. Dwyer.
Mr. Thompson of New Jersey with Mr. Hunt.
Mr. Daniels of New Jersey with Mr. Widnall.
Mr. Barrett with Mr. McDade.
Mr. Hanna with Mr. Goldwater.
Mr. Abourezk with Mr. Clay.
Mr. Pucinski with Mr. Diggs.
Mr. Boland with Mrs. Heckler of Massachusetts.
Mr. St Germain with Mr. Broomfield.
Mr. Mikva with Mr. Mitchell.
Mr. Teague of Texas with Mr. Skubitz.
Mr. Eckhardt with Mr. Stokes.
Mr. Giaimo with Mr. McKinney.
Mr. Lennon with Mr. Jonas.
Mr. Nix with Mr. Johnson of Pennsylvania.
Mr. Aspinall with Mr. Keating.
Mr. Curlin with Mr. Hillis.
Mr. Edmondson with Mr. Minshall.
Mr. Green of Pennsylvania with Mr. Schneebeli.
Mr. Udall with Mr. Steiger of Arizona.
Mr. Evins of Tennessee with Mr. Derwinski.
Mr. Pickle with Mr. Brown of Ohio.
Mr. Pryor of Arkansas with Mr. Hansen of Idaho.
Mr. Waldie with Mr. Wiggins.
Mrs. Griffiths with Mr. McDonald of Michigan.
Mr. Patman with Mr. Belcher.
Mr. McMillan with Mr. Betts.
Mr. Link with Mr. Byrnes of Wisconsin.
Mr. Dorn with Mr. Scott.
Mr. Garmatz with Mr. Springer.
Mr. McCormack with Mr. McCulloch.
Mr. Flynt with Mr. Schmitz.
Mr. Abernethy with Mr. Galifianakis.
Mr. Gallagher with Mr. Miller of California.
Mr. Nichols with Mr. Adams.
Mr. Baring with Mr. Blanton.
Mr. Reid with Mr. Bevill.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

BILL TO RESTRICT TRAVEL TO COUNTRIES ENGAGED IN ARMED CONFLICT WITH THE UNITED STATES

(Mr. ICHORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ICHORD. Mr. Speaker, in July of this year the actress Jane Fonda traveled to North Vietnam. She did so without a passport validated for travel to that country, without informing the State Department of her intention to travel to North Vietnam after first going to Russia, and without seeking any official authorization for the trip. Her actions, of course, were not the first we have witnessed in this vein. North Vietnam seems to be becoming a popular destination. It certainly is a means for guaranteeing publicity for the junketeer. These journeys to North

Vietnam have been for a variety of purposes. The most recent ones have served to spread the enemy propaganda about dike bombing, they have aided the enemy's design in releasing prisoners of war in a dribble, they have falsely publicized the kind of treatments being afforded to the prisoners of war, and they have endeavored to sap the will and morale of our servicemen in Southeast Asia. Jane Fonda, serving as a tool of the Hanoi propagandists, made more than 20 broadcasts to American troops. Her statements are of a most pernicious nature. In my judgment they were clearly designed to engender doubts in the minds of our servicemen concerning their loyalty to the United States and their willingness to carry out military orders. This is the stuff of which sedition is made.

Over Radio Hanoi, directing her remarks to American servicemen, Jane Fonda said for example:

> Please think of what you are doing—have you any idea what your bombs are doing when you pull the levers and push the buttons?—how does it feel to be used as pawns?—tonight when you are alone ask yourselves: what are you doing? Accept no ready answers fed to you by rote from basic training—I know that if you saw and if you knew the Vietnamese under peaceful conditions, you would hate the men who are sending you on bombing missions—if they told you the truth, you wouldn't fight, you wouldn't kill—you have been told lies so that it would be possible for you to kill.

It would require a gross distortion of logic to conclude that these statements were not intended to create doubt in the mind of the listener. Is it not obvious that these remarks were intended to serve as a stimulus for diminished morale and loyalty, or for refusal of duty? It was the purpose of the sedition statute to prohibit such conduct. Regardless of how we may feel about the war in Indochina, we must not sanction efforts to destroy the morale and discipline of our troops.

The committee has been assisted in analyzing the psychological effects of the Fonda broadcasts on American servicemen by several experts in the field of psychological warfare. For the benefit of my colleagues I am appending to these remarks two of the analyses which have been prepared by these experts in their field. A review of these analyses is most helpful in demonstrating the serious effects of the broadcasts of Jane Fonda. Since it did not appear that the Department of Justice had consulted any such experts in order to be apprised of the likely effects of the broadcasts, I have also made these analyses available to the Department. The analyses are keenly relevant. The broadcasts cannot be studied in a vacuum. Although the American involvement in the war in South Vietnam is winding down, we must not lightly regard or dismiss blatant attempts to destroy troop morale at this critical juncture in our history.

Soon after learning of her initial broadcasts, my colleague from Georgia, Congressman Fletcher Thompson, asked that the Committee on Internal Security conduct an investigation of the matter, giving consideration to the issuance of a subpena to Miss Fonda. The committee met on August 10 to take the request of Mr. Thompson under advisement. By a vote of 8 to 1 the committee agreed to ask the Department of Justice for a report on the case. The text of my letter to the Attorney General conveying the wishes of the committee was placed in the Congressional Record, volume 118, part 22, page 28287.

The Department of Justice subsequently advised that a report could not be submitted by the date which the committee requested, inasmuch as the matter was still under investigation. Then, in response to my invitation, Assistant Attorney General A. William Olson appeared before the committee in executive session on September 19 to orally review the subject. Additionally, the committee heard the testimony of Mr. Robert Johnson, Deputy Director and Chief Counsel of the Passport Office, in relation to Fonda's travel and the difficulties in enforcement which are generally encountered by the Department of State. The testimony of these witnesses helped to clarify weaknesses in the law which make it inordinately difficult to apply criminal sanctions to conduct such as that of Jane Fonda. Although the Department of Justice testified that the Fonda case is still under prosecutive consideration, it is rather obvious that the executive branch is encountering severe difficulty in applying present statutes to the Fonda circumstances.

In considering the applicability of the treason or sedition statutes to activities of U.S. citizens within North Vietnam it does not take a great deal of imagination to recognize that witnesses are not readily available to prove the conduct in a court of law. If we can generally agree that the activities of U.S. citizens in North Vietnam have been overwhelmingly adverse to our national interests, then the solution is to simplify the evidentiary requirements by making unlawful all travel to countries with which we are engaged in armed conflict, except insofar as deemed necessary by the President in the national interest.

In analyzing the Fonda broadcasts, as well as the activities of others who preceded her, it has appeared to me that a new statute is needed which would authorize the President to restrict travel to countries whose military forces are engaged in armed conflict with ours. The President would be empowered to make exceptions in the national interest, but all other travel to such countries would be unlawful. I think it is fair to say that the general attitude of the committee's witnesses is supportive of this legislation.

In introducing this bill today, the text of which follows, I am joined by 5 other Members of the Committee on Internal Security, Mr. Ashbrook, Mr. Davis, Mr. Thompson, Mr. Zion and Mr. Schmitz.

Mr. Speaker, I feel very strongly that Miss Fonda violated the criminal laws of the United States when she traveled to North Vietnam and made the foregoing propaganda broadcasts to American troops. I also feel very strongly that she will never be prosecuted by the Department of Justice. However, I cannot fault the Department of Justice altogether. There are very serious evidentiary difficulties as well as the consideration that prosecution will result in making a martyr out of a person who does not deserve to be a martyr and also the probability of projecting a trial into the political arena much like the Chicago Seven conspiracy trial.

Therefore I firmly believe that the only way to obviate the controversy that has raged over the heads of Fonda, Ramsey Clark and others is to effectively forbid travel by any American citizen to a country with which the United States is having hostilities without prior permission.

I have no doubt about the constitutionality of the measure. It is constitutional. I can think of no legitimate reason why any American citizen should be permitted to travel to a hostile country without proper authorization. This measure represents one of the many realistic choices that this free society must begin to make between freedom and anarchy and license if we are to remain a free society.

A bill to amend section 4 of the Internal Security Act of 1950

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 4 of the Internal Security Act of 1950 (50 U.S.C. 783) is amended by adding immediately following subsection (c) of such section the following new subsection:

"(d) The President may restrict travel by citizens and nationals of the United States to, in, or through any country or area whose military forces are engaged in armed conflict with the military forces of the United States. Such restriction shall be announced by public notice which shall be published in the Federal Register. Travel to such restricted country or area by any person may be authorized by the President when he deems such travel to be in the national interest. It shall be unlawful for any citizen or national of the United States willfully and without such authorization to travel to, in, or through any country or area to which travel is restricted pursuant to this subsection."

(b) Section 4 of such Act is further amended by redesignating existing subsections (c) through (f), as (d) through (g).

BIOGRAPHICAL DATA OF FRANCIS M. WATSON, JR.

Francis M. Watson, Jr., is a graduate of the University of Georgia where he received both a BS in Education and a Master's degree in journalism. In the early 1960's he was Deputy Manager of an information analysis center for the American Institutes for Research where he conducted research in insurgency and propaganda techniques and revolutionary tactics. He became a specialist in media analysis whereby public opinion trends may be determined from newspapers and other information sources. In 1970 he became chief analyst for a Washington, D.C., firm, "National Media Analysis," where he studied the so-called "underground" press and edited published reports detailing the propaganda impact of such newspapers with respect to revolutionary and protest movements in the United States. He currently manages his own firm, Media Research, located in Dunn Loring, Virginia.

SEPTEMBER 11, 1972.

Dr. Joseph E. Thach,
Research Analyst Committee on Internal Security, House of Representatives, 309 Cannon Building, Washington, D.C.

Dear Doctor Thach: The enclosed selection of broadcasts, attributed to actress Jane Fonda, were reviewed as you requested. Frankly, although I have poured over literally thousands of pages of underground press material in the past few years, I have found little that I felt qualified more precisely as purely psychological warfare than these. I use this term in the sense of Dr. Paul M. A. Linebarger's classic book on the subject and of the FM 33 series of field manuals produced by the U.S. Army since the 1940's.

I have to discount Miss Fonda's words as constituting an anti-war protest, not only because they were allegedly directed toward U.S. military forces in the field—a group hardly in a position to act on anyone's protest without disobeying the orders they are operating under—but because she says as much in her text. In other words, she is not addressing her remarks toward influencing the voting behavior of fellow citizens, or toward legislators who are passing on military appropriations etc., or the President, Secretary of Defense, or even commanders in the field, she is, in her own words, addressing herself to men at the operational level of military units and suggesting to them that they not follow their orders.

As I noted in the beginning, her techniques, phraseology, and themes are more comparable to combat propaganda operations, designed to encourage misbehavior on the part of troops, than anything else I can think of. For example, her words seem to fit the following passage rather well:

> . . . Another major direction of the propaganda effort is to emphasize to the enemy soldier the dangers of combat. Such an appeal, combined with a questioning of the worth of his country's war aims, is designed to encourage the enemy soldier to be particularly cautious and to malinger and avoid danger at every opportunity, thus reducing the combat effectiveness of his unit. [p. 12, U.S. Army FM 33–5, January 1962]

Perhaps more specifically to the Vietnam situation, I see the texts of these broadcasts as falling quite handily into the statement of a primary psychological goal of insurgent forces as stated in the 1966 edition of this same manual:

> . . . to convince the world and the local population that the motives of nations assisting the threatened government are false. Through national and international media, the insurgent will attempt to malign the motives of all assistance to the local government. Economic exploitation, neo-colonialism, genocide, and capitalism seeking raw materials and markets are some of the numerous themes used to elicit sympathy and support. [p. 35, U.S. Army FM 33–5, October 1966]

Certain passages in Miss Fonda's material call to mind descriptions of propaganda aimed at the French in the Algerian experience:

> . . . Frenchmen were told that the war waged by France was unjust, that the FLN was justified in fighting for independence, that the very principles invoked by the FLN were learned from the French Revolution, etc. . . . [p. 279, *Undergrounds in Insurgent, Revolutionary, and Resistance Warfare,* Special Operations Research Office, The American University, November, 1963]

Similar material, of course, can be found in the literature on most revolutionary operations in the past fifty or sixty years. The Huks in the Philippines, for example, used some of the same themes.

Getting directly to the resemblance of Miss Fonda's material and traditionally accepted psychological warfare techniques and the prospects of this material affecting troop morale, let me call attention briefly to the origin, history, and theory of this branch of military tactics. As pointed out in U.S. Army manuals, these techniques are as old as recorded history, but came into habitual use in the U.S. services in World War I. There these efforts focused on surrender appeals to hungry enemy soldiers in trenches. In World War II the techniques were further perfected and broadened, but still, as far as combat troops were concerned, the propaganda appealed heavily to hungry or beleagured troops or forces whose chances of victory and eventual return to their homeland were rather easily shown to be poor. And, more often than not, that has been the case, the propagandist could see a host of personal deprivations among the enemy troops he could seize upon. Even the Tokyo Rose type of effort, at the strategic level, dwelled on the length of time troops had been away from home and played upon their being out of communications with their families and the home scene.

Part of the intelligence operation connected with the propaganda effort has always been to find out what the target troops did and did not have. It would always have been ridiculous to beam "hunger appeals" to well-fed troops or "we have got you surrounded" messages to carrier-based pilots. But, the application of the techniques has generally been to make the propaganda appeal on the lowest rung of the "physiological-need" ladder—tired, hungry, cold, beaten men's minds are at the lower rungs and it is futile to appeal to them with more abstract messages.

Perhaps many of us have become used to judging propaganda in these terms—and perhaps we have become used to judging troop morale primarily on these bases. But, of course, the propaganda theory has always been that if the baser needs were satisfied the propagandist had to raise his sights. When the next level of needs were satisfied he had to raise them again. When personal welfare and safety were not really in much jeopardy he had to get almost completely out of those areas or his propaganda would simply be laughed at.

Look at Vietnam. The U.S. troops have had essentially everything they could possibly want for, in terms of creature comforts. And, compared to other military experience in world history, their tours have been short, their communications with home good, and so on. I don't mean to suggest that Vietnam duty is a picnic—having been all through the Vietnam command, I know better. It would be foolish, however, for any propagandist to try to get at those troops with the old ploys. About the only themes left are precisely those Miss Fonda harps on. Nothing in the books suggests the propaganda will therefore be any less effective—a well-fed man can simply be reached on matters that a hungry man would not even listen to.

Thus, in the broadcasts it is easy to spot attacks on what is the basic element of any healthy, well-attended fighting man's spirit—the justice of his cause. Obviously, a man who is hungry enough, will kill just to eat—a frightened man will kill to preserve his own life, etc.—but a man who is not so deprived or so threatened must believe in his cause in order to take another human life. Keep pounding at him with arguments otherwise—supported by evidence that the obvious enemy is not the only one who says this—and you begin to get to him.

Then, inject the "war crimes" fear—the "even you may have to answer for this behavior later!!" Use as a background the "women and children" plea, support it with the "I am seeing it with my own eyes, and I am an American, too" credibility potential, and lace it with allusions to the beauty of the women and the pastoral nature of the countryside. Come in with the "inhumanity of buttons and levers" against an enemy you don't have to face, and the tearing of flesh with plastic and metal. It is all in Miss Fonda's text and it is just as it should be, from the standpoint of good propaganda operations.

Finally, there are some distinct advantages to Jane Fonda. American movie star, and frequent personality around Army posts, as a speaker. She is immediately known. She is glamorous. She has all the trappings of self-sacrifice, and she has rapport. She knows youth and she knows the Army. In this respect she is better than any Tokyo Rose history has ever known—she is a walking encyclopedia of *current, cultural* and technical intelligence on the U.S. military and the young people who occupy so many of its ranks. She is even an expert on the anti-military movement. She mentions that and thus provides a readily available philosophy and group-association for her listeners.

Just in case all of these things will miss some people, she puts in the personal risk, the prisoner-of-war threat, and the people back home crying over the men overseas, and tops that off with hints that there won't be a job or a place in life for the returning veterans. It is quite complete.

Again, these broadcasts are, in my opinion, *good, military* propaganda. *Whether or not they affect troop morale is a matter of assessment, but there is nothing wrong with the design.*

Sincerely,

FRANCIS M. WATSON, Jr.

PREPARED STATEMENT: BRIG. GEN. S. L. A. MARSHALL, USA (RET.)

Gentlemen of the Committee, I prize the confidence placed in me implied by your invitation to appear and add my witness to that of the other retired officers from whom you are hearing. I am not—I was not—a professional officer. But while my-active service has been as a Reservist, particularly my support, my consistent backing, has always come from the Regular Army. I have known every Chief of Staff of the Army since John J. Pershing and in some measure I have served as an adviser to every holder of that office from the time of George C. Marshall. That is perhaps less important than that I have seen more of the Army under a greater variety of conditions than any American past or present. My first active service was in 1917 which, as I recall, puts me in the same bracket as Congressman Pepper though I have not touched base with him since one week after Pearl Harbor. My last active field service was in Vietnam, May-June, 1968, just 51 years after my start. My most recent duties in uniform occurred one week ago, I cannot recap the whole thing for you; it would be very boring. Suffice to say that I had extended combat duty in both World Wars, Korea and Vietnam. More to the point, in World War II, during the first year, I was Chief of Orientation of the Army and then became one of the three officers assigned by George C. Marshall to establish the Historical Division. In the immediate postwar period, at General Eisenhower's direction, I wrote the official doctrine on leadership for the officer corps of all armed forces, a work that still stands.

AUGUST 28, 1972.

To ROBERT M. HORNER,
Chief Investigator,
HR Comm on Internal Security,
Washington, D.C.

DEAR MR. HORNER: You wrote me asking my judgment as to the likely effect of the Jane Fonda broadcasts out of North Vietnam on U.S. service people stationed in that area.

First as to my credentials, the following points should be pertinent and sufficient, though there are others:

1. During WW II, I was special adviser to high command Central Pacific on psywar problems, in particular, how to increase our take of POWs, and in this I succeeded. I had the same advisory role in Korea, 1950–51.

2. In between wars I was called as an expert witness on this subject by the directors of Project Vista.

3. From 1955–58 I was a member of Special Ops Panel, D of D, responsible for scientific guidance on psywar ops.

There is no question about the intent of the Fonda broadcasts. The evidence prima facia is that the purpose is to demoralize and discourage, stir dissent and stimulate desertion. But then, that is not the question you posed.

Would it have any one or all of these effects provided the words of the broadcaster were heard by a vulnerable individual? Here I speak of the Fonda production as a whole. There is no reason to doubt that it would. To be effective, what is said has to be credible. When the propagandist speaks in the idiom of the audience to whom the words are directed, and in reporting as an eye-witness, cites facts, objects and circumstances with which the listener is likely to be familiar, that meets all of the requirements that insure maximum belief.

I would speculate that Miss Fonda gets help in the preparation of her broadcasts. They are expertly done and are models of their kind.

All of this having been said, as to the main question of whether she did material damage to the well-being of forces in Asia, or for that matter, in the ZI, I am unable to answer.

I would stand on the general proposition that in the occurring circumstances, when any fellow citizen is permitted with impunity to go to such extremes, men and women in the serving forces feel resentful, and in the overwhelming majority, to the degree that they believe they have been let down by government because it does not act, their own feelings of loyalty become taxed. The hurt here is long-term and indirect.

That still does not answer the question. I have no idea how many serving people heard Miss Fonda, or of those who heard, what percentage had previously discounted her as a liar, a trouble-making subversive or a half-cracked female. One would need to know such things to make an intelligent estimate.

I do know we have an extremely sensitive situation in Indochina, one probably without precedent in our history. On returning there in July, 1970 to get a measure of troop morale and discipline the Chief of Staff, USA, felt so much alarm at what he found that on getting back to Washington he visited the President to warn him that "anything might happen." That would include large-scale mutiny. Where the balance is just that delicate, any act of aid and comfort to the enemy of the United States could become the fatal straw.

Faithfully yours,
S. L. A. MARSHALL,
Brigadier General Retired.

NIXON ORDERS THE FBI INTO THE GRAIN CASE: OTHER ANGLES THAT NEED PROBING

(Mr. MELCHER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MELCHER. Mr. Speaker, President Nixon's decision announced by Vice President AGNEW to have the FBI investigate the Russian grain sales ends speculation on one facet of the deal. That facet is the question of whether or not inquiries into the facts of the sales were politically motivated. If wanting to know all of the details and insisting that they be brought out into the open is political, then the President's order directing the FBI investigation removes any doubt, and it is now clearly bipartisan, as it should be.

Both Republicans and Democrats want a clear understanding of what was involved in making the grain sales to Russia and, in particular, what part the Department of Agriculture played in the sales.

On July 8, the announcement was made simultaneously from the west coast White House by President Nixon and by Secretary Butz here in Washington that our Government had entered into an agreement with Russia for a 3-year sale of grain amounting to $750 million, of which at least $200 million would be involved in the first year. This announcement was hailed by the administration as a tremendous boon to agriculture and to our balance of trade. It certainly was. But more was involved than was indicated in the announcement.

The fact is that the announcement came after a huge, unannounced sale of wheat had already been made to Russia. On July 5, after several days of negotiations in Washington and New York, Continental Grain Co. had quietly completed a sale of 147 million bushels of wheat to Russia at an agreed price of about $1.63 per bushel free on board gulf ports. The public was given no information whatever on the deal.

This sale by Continental, 3 days before the announcement by our Government that a huge grain agreement had been made with Russia, was already double the amount of wheat that the Department of Agriculture indicated that Russia would buy from us during the next 12 months.

It is difficult to understand how the Department could have been unaware of Continental's sale. Not only was the Continental sale of July 5 twice as much wheat as the Department had indicated would be sold to the Russians this year, it was also a sale that involved more than $240 million. That was more than the total dollar amount that the Government announcement, 3 days later, indicated would be spent by the Russians for U.S. grain during the next 12 months. On July 10 Cargill completed a sale to the Russians for 37 million bushels and on July 11 Continental completed another sale to the Russians for an identical amount. Again there were no public announcements.

Despite all these sales, on August 1 the Department of Agriculture issued a demand and price situation report which said that wheat prices should remain around last year's $1.31 price level, if, mind you, Russian sales held up. The August 1 wheat situation report, for farmer reading, indicated that wheat exports would be up only about 168 million bushels, to 800 million bushels, in the 1972–73 marketing year.

It was not until 45 days later—more than 60 days after the sales had been made and the firms had an opportunity to buy up wheat and future contracts as cheaply as possible—that the Department issued any public outlook document indicating that wheat exports would go over a billion bushels. They finally did issue such a report less than a week ago, predicting wheat exports will run 325 million bushels over their August 1 estimate at 1,125,000,000 bushels.

This Congress votes tens of millions of dollars annually for the Department of Agriculture to gather information and advise farmers and the public on commodity situations. The reports are supposed to be honest and incorruptible. People are locked up for hours in a section of the USDA's South Building during the assembly and final release of some of these reports to avoid anyone getting an unfair market advantage from an early leak of information.

The failure of the Department to report information promptly to the farmers is just as inexcusable as leaks.

In this instance, the Livestock and Grains Subcommittee is advised that there was not only a failure to report to farmers, at least one report which would have tipped off producers to the dire needs of Russia for wheat—a report on worsening crop conditions in the Soviet Union—was classified as "confidential" in mid-August so it would not get out to the public, and to the farmers who had wheat to market.

This matter of the adequacy and the absolute integrity of our multimillion-dollar commodity information services is one of the most serious aspects of this whole situation, and I hope that both the Agriculture Committee, and the Agricultural Appropriations Subcommittee, will go into it with great thoroughness before this matter is finally closed.

The nonpartisan but Republican leaning Des Moines, Iowa, Register, long well-informed on agricultural matters, agrees editorially that public confidence has been shaken in USDA reports by the suppressed report episode and urged Congress:

> To dig all the way into this and not be diverted by the undoubted diplomatic and economic advantages of the grain sales to Russia.

I include the editorial, from the Sunday Register of September 17, in the RECORD at this point:

WHAT'S THAT ODOR IN THE GRAIN?

Instead of blustering about a retraction from Senator McGovern for impugning his integrity on the grain deals with Russia, Agriculture Secretary Butz would be well advised to come clean on all the details. Blustering will not remove the suspicion arising from the musical chairs rotation of executives between USDA and the leading grain exporting companies during the time the deals were being made.

There is a strong smell of favoritism in the report by a USDA official Thursday that he was told to inform grain export companies of a change in export susidy arrangements ahead of the effective deadline. This apparently gave some companies an opportunity to make deals for substantial extra profits.

Butz cannot deodorize this situation by talking about the great benefits to America from large grain sales to Russia—everybody concedes that. But were the benefits dished out evenly or weighted toward the grain companies? Or were honest mistakes made in handling information about the grain deals?

It is clear that many wheat farmers were unable to benefit from the rise in prices caused by the extraordinary sale to Russia. There is doubt that USDA controlled information releases with the farmer's interest in mind. A report by a U.S. agricultural attache in late June indicating a much shorter Russian grain crop than previously forecast was not released by USDA.

Can the farmer be sure some members of the grain trade, who obviously are on intimate terms with USDA officials, did not have

> earlier information than the public? Butz said the release of the Russian crop report was held up because it was "confidential", since it came through diplomatic channels. He said its accuracy was doubted and more information was requested. The latter is a good reason, assuming no hints leaked out to the grain trade.
>
> The most questionable part of this affair is the handing out retroactively of juicy export subsidy payments to the grain companies. When USDA finally realized that the world price (as well as the U.S. price) was being jacked up by the grain sales to Russia, it recognized that the export subsidy was no longer needed. But it gave the exporting companies a week to buy grain and still get in on the subsidies—amounting to 47 cents a bushel by that time.
>
> USDA has long had a reputation for integrity in the release of crop report information and in all handling of agricultural information which is of market significance. Elaborate procedures are followed on assuring fairness and avoiding leaks. The recent happenings in the grain trade and its connections with USDA have shaken farmer and public confidence.
>
> Congress needs to dig all the way into this and not be diverted by the undoubted diplomatic and economic advantages of the grain sales to Russia.

Although 221 billion bushels of wheat had been sold to the Russians within 6 days, no public announcement was made other than the one on July 8. The fanfare connected with that announcement and the emphasis given to the coming sales of feed grain was misleading to wheat farmers, to the grain trade and to the public with, of course, the exceptions of Continental and Cargill Grain Cos., who had already made the sales, and perhaps two or three other companies who were dickering for orders. They were not talking, of course, because they were busy buying cheap grain to fill the orders.

The price in these sales for Russia, we are told, was approximately $1.63, but that is not the total cost of the wheat. Uncle Sam has a policy of subsidizing wheat exports by paying the difference between what is called the world price and the domestic price if the latter is higher. It is paid by issuing so-called export subsidies. Russia had a record drought and desperately needs to buy wheat from someone. The United States is the only country where sizable amounts of wheat are now available. Russia had to come to us. They moved quickly, as I described, in the early July purchases even before they had signed an agreement with the administration to purchase U.S. grains on credit.

The Soviets have proved to be much better horse traders than our Department of Agriculture. They liked the price of $1.63, knew it was a bargain, and signed what apparently are firm contracts for large quantities of wheat with the grain companies for that bargain price, well knowing that the purchases would stimulate the market and cause it to go up rapidly. The grain companies had been assured by the Department of Agriculture that the export subsidy would be allowed to go up as much as was needed so that when the wheat price increased, the difference between cost of the wheat and $1.63 would be paid by Uncle Sam.

The use of export subsidies was a two-edge tool. It protected the grain companies that make the sales and also assured Russia of a very moderate price. Without assurance that the export subsidy would be available and would be allowed to climb as needed to make up the difference between $1.63 per bushel free on board gulf ports and the market price, it is obvious that the grain companies would not have contracted that much wheat for Russia at that price at their own risk. The grain companies were aware that in all likelihood the pressure on the market from the Russian sales would greatly increase wheat prices. Wheat is currently selling at $2.27 per bushel at Kansas City, which is 76 cents per bushel higher than it was on July 7, the day before the Russian Trade Agreement was announced.

That price in Kansas City translates into about $2.35 free on board gulf ports.

In 1 week's time following an announcement on August 25 by the Department that export subsidy rates would be readjusted for any sales made after August 24, 281 million bushels of wheat were registered for the special export subsidy for old contracts at 47 cents per bushel. That was August 28 to September 1. This cost the Treasury $131 million. It still has not been established how much the total subsidy cost will be for the Russian wheat sales but it will be in excess of $150 million.

At least two preliminary conclusions can be reached.

First, the practice of announcing policy decisions piecemeal by telephone calls to a few grain companies should be terminated. On August 24 Assistant Secretary Brunthaver asked an assistant to make a series of calls starting with the six largest grain exporters and notify them that a change in the export subsidy policy was imminent. A meeting was held August 25 for grain companies and an announcement was made of the shift in export subsidy policies. They were told that for 1 week starting August 28 there would be a special subsidy. It proved to be 47 cents per bushel—9 cents over the previous rate.

The second preliminary conclusion is that the export subsidies were unreasonably high because almost all of the available wheat to be sold at this particular time was in the United States. The Russians had to buy their needs from us; it was obvious their purchases would make the market prices rise, and they could have reasonably been expected to buy in the rising market just as our old and largest farm commodity customer, Japan, has had to do. That would have saved taxpayers most of the $150 million, and perhaps have salvaged the friendship of our old trading partner, Japan.

PRESIDENT NIXON'S RECORD IN EDUCATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. QUIE) is recognized for 30 minutes.

Mr. QUIE. Mr. Speaker, President Nixon's education budgets for the fiscal years 1972 and 1973 are the two highest education budgets in history, calling for substantial increases over previous levels of support. The President has also proposed imaginative new Federal initiatives in education which should find approval both among educators and millions of citizens who are interested in education.

Yet I have received numerous inquiries from friends in the Minnesota Education Association who are troubled by statements of officials of certain national education groups that are highly critical of the President. Much of the misunderstanding has arisen from the fact that the President vetoed three Labor-HEW appropriations bills which contained amounts far in excess of even the increases he proposed in his budget. Every President must protect his budget. But whether we agree or disagree on the President's action on appropriations, we should understand the facts about his budget proposals and legislative initiatives for education.

The Federal budget is based not upon the calendar year, but upon a fiscal year which begins each July 1 and ends the next June 30. The budget is worked up and presented months in advance of July 1. Thus the last budget is presented by President Johnson was for fiscal year 1970—ending June 30, 1970. It was presented on January 15, 1969, shortly before President Nixon assumed office. He was able to make only minor revisions in that budget. The first real Nixon budget was for fiscal year 1971, and he has presented two others for the fiscal year 1972, and for the current fiscal year which will end on June 30, 1973.

The record on the education budget speaks for itself. President Johnson was rightly regarded as a friend of education, yet his last four budgets for the programs of the U.S. Office of Education ranged from $3,513,000,000 for fiscal 1967 to $3,591,000,000 in fiscal 1970—an increase of only 2 percent. The education budget for fiscal 1968 was a little over $4 billion, the highest in history before President Nixon. President Johnson cut this in 1969 to $3,790,000,000, and cut it again to the 1970 figure.

By contrast, the first real Nixon budget, for fiscal year 1971, included $4,002,000,000 for education—an 11-percent increase over President Johnson's last request and within a few million dollars of his record 1968 education budget. Far from cutting education budgets, as some misinformed critics have charged, President Nixon reversed a trend of cuts and began to make dramatic increases. His education budget for fiscal 1972 was $6,135,000,000—a 53-percent increase over the 1971 budget and the greatest single-year increase and the largest amount ever requested for Federal education programs. President Nixon's revised 1973 budget for education tops even this amount, maintaining vital programs at or above previous levels. Actually, President Nixon's education budget for fiscal 1973 is a 74-percent increase over the last budget of President Johnson.

The following increases are merely illustrative of the changes between President Nixon's 1973 budget and President

Johnson's last budget recommendations for education: $371.5 million—30 percent—more for aid for disadvantaged children, title I, ESEA; $110 million—120 percent—more for educational research and development; $218.7 million—78 percent—more for vocational-technical education; $31.1 million more—four times as much—for bilingual instruction; $45.2 million—52 percent—more for the education of handicapped children; $22 million—20 percent—more for professional development in education.

President Nixon has also proposed very substantial increases in funding for higher education, the lion's share of which has been for student assistance—from $648,700,000 in President Johnson's last budget to $1,211,745,000 in President Nixon's 1973 education budget. Helping students to obtain postsecondary education—whether it is vocational or academic in nature—is a major objective of America's teachers and parents. And it is a major objective of the Nixon administration, as shown by the budget figures.

Of course, within every budget some items are raised and some are decreased from year to year, and very often many educators and the Congress as well will disagree with the President on these items. I find, for example, that school people in Minnesota—and I think this is true across the country—greatly favor the equipment grants under title III of the National Defense Education Act. Yet President Nixon has recommended the elimination of this item from the budget—although Federal funds could still be spent for instructional equipment if his proposed consolidation of education programs was approved by Congress. What is not generally known is that President Johnson recommended the complete elimination of these funds in his fiscal 1970 budget, and the year before that he recommended reducing the $82 million for this purpose to a mere $18 million. The Congress has not gone along with either President Johnson or President Nixon on this item.

Mr. Speaker, I feel that the important thing is that educators and millions of citizens who care about education know these facts and give President Nixon the credit he is due, even though they may disagree with him on some of the details. Teachers and school administrators will vote for and against the President on the basis of many issues, not all of which will be related to education. I have not agreed with the President on every detail, yet the fact is that he has recommended dramatically increased Federal support for education and the public has a right to know this. I think that those of us who deal with education have a special obligation to deal with the issues fully and accurately, with a minimum of political rhetoric.

A President's record in education, as in other fields, does not consist only of his budget recommendations. As one Member of Congress who has been deeply interested in education, I commend the President for his legislative proposals to help improve the quality of education. Sadly, most of these have not been enacted by a Congress controlled by the other party. One which recently has been approved is the establishment of a National Institute for Education, which will put educational research and development on a par with medical research. I think that most people recognize—and particularly our educators—that we need to find effective answers to the many new challenges facing education. The National Institute of Education will be an important tool in achieving these results.

Racial segregation in the schools created by governmental action has been unconstitutional since 1954, and we have had a brand Civil Rights Act with specific provisions for school desegregation since 1964; yet President Nixon is the first President to request substantial Federal aid for school districts which are under court or Federal agency orders to desegregate, or which wish to do so voluntarily. He proposed legislation to spend $1.5 billion over 2 years for this purpose. The Congress did nothing on this emergency legislation for 2 full years, and only this year finally approved it. The President has also proposed limitations on busing as a desegregation tool, and the concentration of some of the desegregation-aid funds on remedial education in order to help racially isolated pupils in circumstances where true desegregation is difficult if not impossible to achieve. These funds, incidentally, would follow a disadvantaged pupil who transferred to a school in a more affluent area, and thus would encourage such transfers. While there has been great controversy on both sides of the issues presented by the President's proposals, I think he deserves credit for attempting to deal with these problems. One thing is certain, and that is that the schools cannot stand alone in dealing with the problems of racial desegregation as they have been asked to do for so many years.

One proposal of the President still languishing in Congress should commend itself to school officials all over the country, and that is the consolidation of some 34 separate educational grants into five broad areas of educational concern. This would be accompanied by an increase in the aggregate funding for the 34 separate programs by $300 million; in future years the Congress could further increase this support. The important things about this proposal is that it would vastly decrease the growing burden of administration and paperwork in these programs, would permit much more flexibility for the local schools in fitting the programs to educational needs of their own school, and allow a more creative use of Federal funds by teachers and administrators. While there inevitably will be disagreement on details—working these out is the legislative function—the principle of the President's proposal is sound and the consolidation of these narrow-purpose programs is long overdue. All too often Federal aid has become also a burden to schools because of the complicated procedures required to obtain it.

The President has also proposed a new Cabinet-level Department of Human Resources, which would combine the scattered responsibility for Federal programs in education, manpower training, and related fields in a single agency with greatly increased visibility and status for education. While I have long proposed a Department of Education and Manpower, I recognize that the President's recommendation is meritorious. It would combine more related functions, while accomplishing all of the objectives I had felt to be desirable. This, too, should commend the President to educators.

Mr. Speaker, there is a great deal more that could and ought to be said in support of President Nixon's record in education. For example, there is the monumental work of his Commission on School Finance, which is going to prove invaluable as we struggle with the complicated issues involved, reconsider the Federal role in helping to resolve them and increase the aid. This has been an administration which cares about education, and cares enough to tackle some of the really difficult problems. I am confident that when this record is fairly presented the President will have the understanding and support of a very substantial number of American educators. He deserves a fair presentation of his record, and I believe that he has earned that support.

THE URGENT NEED FOR BETTER MASS TRANSPORTATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HALPERN) is recognized for 10 minutes.

Mr. HALPERN. Mr. Speaker, one of the most pressing problems facing our cities today is the crisis in transportation.

This crisis centers around urban transportation facilities and directly affects more than 70 percent of the Nation's citizens who live in densely populated urban areas. It manifests itself in the form of urban congestion, deterioration of mass transit service, rising fares, and environmental degradation. However, it goes beyond urban boundaries. Congestion in aviation, intermodal conflicts, and financial distress among carrier companies are other manifestations.

Separate Federal programs with separate funding have contributed to built-in rigidity in our overall planning and implementation. As the record clearly shows, the result has been an imbalance in expenditures and accomplishments in streets and highways, to the neglect of other forms.

The bill I offer today would alter this inflexibility in our transportation programs. It does so by declaring that $2.3 billion in fiscal year 1974, and $2.8 billion a year for subsequent years would be made available from the Highway Trust Fund for use on whatever transportation problems and modes are deemed to be most urgent in a given State or urban center. The bill leaves intact $3 billion a year for continued work on the Interstate Highway System.

For those funds which are to be distributed to the distressed transportation modes, the bill incorporates a specific formula to govern the allocation. Half of the total is to go to the States on the basis of the ratio of metropolitan areas within the respective State. One-quarter is to be allocated on the basis of area, and the remaining quarter on the basis of total population of the State. To protect those States which are small in geographic size, the formula provides that no State shall receive less than one-half of 1 percent of the amount allocated on the basis of area.

The allocation formula further provides for distribution of 90 percent of the authorized funds on the basis of the formula, and the remaining 10 percent would be available for grants by the Secretary of Transportation at his discretion for transportation purposes.

Planning, of course, is fundamental to progress toward achieving effective balance in transportation, and overcoming disturbing deficiencies in some sectors, particularly in urban mass transit. Aided by a better balance in funding, the planning process should be enhanced, and the end product should be a more effective, efficient, and better coordinated overall transportation service to the public.

There are two features of considerable interest in the proposal which I would like to emphasize. First, there is no attempt to scuttle the Federal highway program. Throughout the period covered by the bill, $3 billion a year remains for highway construction matters. This is important to those who fear that it is the intent of such legislation to bring highway assistance programs to an end overnight.

Another feature deserving of special mention concerns the method of distributing the money earmarked for general transportation purposes. As I noted previously, half of this money, amounting to over $1 billion the first year, is to go to the standard metropolitan statistical areas—metropolitan centers of 50,000 population or more. The second year, and subsequent years, the apportionment for these areas will be $1,260 million a year.

These funds are to be apportioned on the basis of population of the SMSA, of which there are 233. The funds are to be passed through the Governor of the respective State directly to the planning agency in the metropolitan center. Basing the apportionment on the population of urban centers reflects a recognition that the problems of urban transportation are in direct proportion to the total number of people to be served. Since 50 percent of the funds in this category will go to these centers, an apppropriate degree of emphasis is being placed where the overall transportation is greatest.

Mr. Speaker, we are at a critical stage in this Nation where transportation is concerned, and the crisis is most apparent and most urgent in public transportation in our urban centers. This proposal, S. 3825, attempts to rectify this problem by helping to improve troubled areas of transportation, wherever they may be, while continuing the highway program.

Mass transit has been the stepchild of Federal transportation assistance for too long. This imbalance has tended to assist in the destruction of our cities, plus badly aggravating the air pollution problem of our cities.

I therefore urge my colleagues on both sides of the aisle here in the House to give serious consideration to this proposal, and to the problems it relates to.

DISSENT ON DEVELOPMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. BLACKBURN) is recognized for 10 minutes.

Mr. BLACKBURN. Mr. Speaker, we will soon be voting on a foreign aid bill this week. At the present time it appears that my schedule will prevent my voting on this important measure.

An editorial commentary in the September 18, 1972, issue of Barron's makes some observations regarding foreign aid which I think merit careful consideration by all Members of this body.

The editorial follows:

Dissent on Development—A British Scholar Destroys the Case for Foreign Aid

(By David A. Loehwing)

Washington, even with the candidates out on the hustlings, won't lack for spectacle next week. Envoys from 123 countries will gather there for a meeting of the International Monetary Fund, hoping to make a start on patching together some kind of world monetary order to replace the Bretton Woods Agreement, shaken a year ago last August when the U.S. went off gold. The outlook, admittedly, isn't too bright. For one thing, the U.S. still is dragging its feet, insisting that accord on tariffs and other trade barriers be part and parcel of any monetary pact. Equally disconcerting will be the din set up by the have-not, or "developing," nations, whose representatives outnumber those of the "affluent" countries by almost five-to-one. Their shtick is that they want any new monetary system to give them permanent aid. Indeed, the demand theirs right off the top. SDRs, replacing gold in the world monetary system, would not be issued by the IMF on the basis of each nation's subscription, as is now the case, because that way they would simply go into the same old affluent-nation coffers. And that's a bore. Instead, they would be channeled to the developing nations, presumably the largest sums ticketed for the most poverty-stricken. The lucky recipients could swap the SDRs for real, honest-to-goodness merchandise from the rich.

Advocated by a Belgian economist at last spring's UN Conference on Trade and Development in Santiago, Chile (where else?), the foregoing proposal had to be watered down before adoption, because some have-nots feared it would be used by the well-to-do as an excuse to cut back, rather than step up, foreign aid. The widespread support it received, nevertheless, illustrates the attitude of the developing nations toward help from the "developed" countries. Simply put the beneficiaries insist it's a permanent arrangement; it's theirs by right; it's not enough. Nor is it surprising that they should grab for the handouts so ungraciously when they are constantly being assured by economists and other self-styled experts from the industrialized nations that aid is, in effect, permanent, rightfully theirs and too parsimonious. This view amounts to a consensus in the tight little circle of jet-set economists, anthropologists, diplomats and civil servants who administer relief on a global scale. Somehow they have won acquiescence from otherwise rational statesmen. Nothing in public life, however, is as suspect as a consensus, and fortunately an able iconoclast has emerged to challenge this one. He is P. T. Bauer, professor of economics at the University of London, who sets forth his unorthodox views in a book entitled "Dissent on Development."

Over the past quarter-century, according to former Treasury Secretary John B. Connally Jr., the U.S. has paid out about $150 billion in foreign aid, outlays which to some extent are responsible for the balance of payments deficits that wrecked the international monetary system. Most of the other industrialized countries now are caught up in the same fruitless philanthropy, to such an extent that the flow of financial resources to the developing countries—about 65% of which is in the form of grants, the rest loans—amounts to $18 billion annually, up from $9 billion a decade ago. Far from contributing to world peace and harmony, this vast outpouring tends further to divide the world. Witness last week's holdup of a U.S. loan to Uganda after the president of that country, in a letter to the UN lauded the Nazi slaughter of six million Jews. Indeed, the very concept of development, as propagated by the foreign aid specialists, is belligerent. It holds that the poverty of the poor countries has been caused by the wealthy ones; foreign aid, therefore is merely a form of compensation for past exploitation. Moreover, were it cut off, the poor would rise up and overwhelm the rich. By subjecting such axioms to critical examination. Professor Bauer destroys the argument for foreign aid.

The foundations on which the case for development grants and loans rests, Professor Bauer says, are two hypotheses which experts have stated so often and so positively they are taken for granted. One is that the poor countries are caught in a vicious circle of poverty and stagnation; they cannot generate the capital necessary to pull themselves out of their predicament, because doing so would mean cutting consumption below the subsistence level. In other words, as one oft-quoted scholar puts it, "a country is poor because it is poor." The other key postulate is that of the ever-widening gap. It holds that, because the poor countries can't advance, they will inevitably lag or retrogress, while the wealthy ones will forge ahead; the disparity between per capita incomes therefore will grow. Logically, if these two statements are true, the only way out is continuing large-scale financial support of the poor by the rich nations. Professor Bauer, however, marshals persuasive evidence to the contrary on both scores.

The theory of the vicious circle, he notes, runs counter to the facts. All wealthy nations once were poor; if poverty prevents capital accumulation, how did they make the grade? The Pilgrims, to be sure, got some technical assistance from the Indians, who told them to plant fishheads under the corn stalks, but otherwise the U.S. started from scratch. Its success, moreover, is being emulated in many parts of the world. The economies of Mexico and Brazil are growing faster than that of the U.S. Nigeria's exports, mainly of ground nuts and cocoa, increased 100-fold in the first half of this century, although foreign capital input was practically nil. Hong Kong, a barren rock with no appreciable resources other than its people, has become a manufacturing center so competitive that western countries have put up trade barriers to protect their domestic industries. "Economic achievement and progress," says Professor Bauer, "depend largely on human aptitudes and attitudes, on social and political institutions . . . and to a lesser extent on external contacts, market opportunities and natural resources. If these factors favorable to material progress are present, societies will not stagnate. . . ." As for the thesis of the widening gap, it is largely based on statistical aberration. If the average income in Ethiopia is really $40 per year, how do Ethiopians not only survive, but multiply? Actually, per capita incomes in many parts of the Third World are increasing as rapidly as those in industrial countries, but the gains are obscured by lumping them together with the slow growth rates of India and Indonesia. The latter's problems, obviously, have little in common with those of Peru or Nigeria.

The English economist contends that foreign aid is not a requisite for economic development of a backward country. "If the mainsprings of development are present, material progress will occur even without foreign aid," he says. "If they are absent, it will not occur even with aid." Sometimes foreign aid is detrimental, especailly when its administration saddles a poor country with a "managed economy." On that score he points to the government export monopolies in West Africa, which drain off peasants' profits from cocoa and coffee plantations to support dubious social schemes, and to the once-prosperous Indian province of Kerala, now impoverished by inflation. Frequently, too, foreign aid induces governments to launch grandiose and ill-conceived industrialization schemes while neglecting agriculture, normally the best hope for raising living standards in a developing country. Unaccountably, financial help from abroad also seems to foster xenoophobia. Hostility toward "expatriates," as foreign managers and employes are called, has been a factor in the decline of tea plantations in India and Ceylon; Burma's rice economy nose-dived after the forced departure of Indian's landlords; Uganda's economy certainly will suffer from explusion of people of Asian descent. India, of course, is guilty of the worst misuse of foreign aid—the military buildup for its attack on Pakistan.

If foreign aid is not needed and in some cases actually is harmful, why is its perpetuation advocated by so many economists of international repute? Says Professor Bauer: "The pursuit of certain unacknowledged political objectives seems to be present in much of the development literature. . . . What appears superficially to be a conflict between developed and underdeveloped countries is more nearly one aspect of a campaign against the west: there are many people in the west who for various reasons have come so to dislike major institutions of western society, especially the market economy and its corollaries such as private property, that they regard the radical weakening of these institutions as a major objective of policy. Many of these people, influential in the universities, the mass media and the international organizations, consider the underdeveloped countries as allies, or rather as instruments, in the promotion of their aims."

Is anyone at the IMF listening?

JOB TRAINING FOR INMATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. RAILSBACK) is recognized for 5 minutes.

Mr. RAILSBACK. Mr. Speaker, for years we have been deceived by the erroneous assumption that it would cost the Federal Government far too much money to invest in vocational training for prison inmates.

Yet over 80 percent of all ex-offenders are unable to adjust to society and ultimately return to prison. One explanation offered as to why so many are unsuccessful is that they have inadequate job training. After release, only 17 percent of all ex-offenders obtain employment related to skills learned while they were institutionalized. For those with no marketable skills, the majority must resort to crime to obtain money, and once again are at odds with society.

It costs at least $11 a day to retain an inmate in a cell which can cost as much as $30,000 to construct. Therefore, the Federal Government may be better advised to invest funds for training of inmates so that they can become productive—and, hopefully, law-abiding members of society.

My distinguished colleague and good friend, Senator CHARLES H. PERCY, has introduced an excellent piece of legislation on this matter, and I commend his initiative.

Briefly stated, the bill authorizes the Federal Government to implement pilot projects—along with the private sector—which would provide vocational training opportunities within prison to inmates. Private industry would lease prison property on long-term basis, and provide work facilities for the prisoners. Employers would hire inmates at union-scale wages to produce regularly marketable goods.

By earning such wages, the prisoner could pay for his room, board, and maintenance. Also, he could assist with the support of his family, pay taxes, and make social security payments. The Attorney General would be authorized to require the prisoner to contribute up to 10 percent of his wages to compensate the victims of the prisoner's crime. In addition, the inmate would be acquiring necessary skills for legitimate employment upon his release.

The legislation has received the endorsement of the Bureau of Prisons, the Illinois and the District of Columbia Departments of Corrections, and is sponsored by Senators PERCY, BENSTEN, BROCK, COOPER, DOMINICK, PASTORE, and TAFT. I am pleased to introduce the bill in the House of Representatives this afternoon with the hope it will receive early and favorable consideration.

POLLUTION CONTROL TAX ACT OF 1972

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. HEINZ) is recognized for 10 minutes.

Mr. HEINZ. Mr. Speaker, I am today introducing the Pollution Control Tax Act of 1972 in the conviction that it is time to take a realistic look at pollution and to realize that pollution is something that cannot easily be overlooked, ignored, excused—or corrected. We have reached the time and place at which the contamination of our air and water can no longer simply be condemned but must instead be stopped. It must be corrected because we must not tolerate the threat it poses to our environment.

Many people reading the statistics on the dangers of pollution are no doubt startled or concerned for a period of time, but I fear that for far too many of us, our alarm is quickly forgotten. Far too many of us tend to feel that pollution is somebody else's problem—or that we can do something about pollution later. Frankly, we have reached the point in our history when contamination of air and water must be recognized for what it is—the diminishment and degradation of natural resources vital to life itself. Our very future existence on this planet is the issue.

Too many Americans, I fear, are content to believe the myth that increased production or new technologies will result in an unlimited supply of natural resources. And there are many who refuse to acknowledge that they themselves are responsible for part of our pollution problem. We, as ordinary citizens, too often have adopted the same pass-the-buck attitude also adopted by the polluter. And through our failure to take positive action to set a national environmental policy we have given all polluters the right to exhaust or destroy, in the name of production and consumption, our vital natural resources.

The Pollution Control Tax Act I propose will place the burden of pollution control where it belongs—on the polluter. And it will place the cost of the environmental damage caused by pollution where it belongs—on the product or service whose production results in pollution.

At the present time, the cost of pollution control is on each and every taxpayer rather than on the buyer or producer of the product or service that pollutes. Passage of my bill would provide both the penalties and the incentives for all polluters to reduce pollution below the accepted established standards, and in doing so relieve the taxpayer of the high bills he now pays.

By taxing polluters, as proposed, we hit pollution two ways. First, we make pollution a profit-and-loss decision. Polluters that continue to pollute will be taxed, thus making costs higher. Second, we also make pollution a consumer decision because the higher costs forced on the polluter by the tax necessitates a higher price for the product that pollutes. A responsible and aggressive competitor who is reducing pollution can take advantage of lower total costs and the rebate allowed and therefore charge a lower, more attractive price.

I would like to point out as well that the tax on each individual type of discharge will be uniform throughout the United States in order to prevent the degradation of areas with minimal air and water pollution, and to insure that all areas, all industries, all sources of pollution are treated alike and without discrimination.

Let me emphasize, too, that the tax applies to both stationary and mobile sources of pollution. It will be imposed on the operator of stationary sources, and, in the case of nonstationary sources such as buses, trucks, airplanes, and so forth, on the manufacturer or importer. An attack on both sources of pollution is vital if we are to be successful in cleaning up our environment. As support for this premise, one study taken in 1969 observed that if pollution from all stationary sources were eliminated immediately, 1 year later our air would still contain 86 million tons of contaminants due to nonstationary pollution sources.

As another case in point, there is practically no city in the United States with a population of more than 50,000 which is not threatened by photo-chemical smog from the internal combustion engine. Thus it is evident that any air pollution solution rests in large part with our reducing the air pollution caused by buses, trucks, cars and other nonstationary sources of pollution.

The tax on stationary sources of pollution will be charged to the operator of that source. In the case of nonstationary sources, the tax will be imposed, at the first sale, on the manufacturer or the importer; it will also take into account the probable amount of emissions during the first year of operation as well as the estimated increase of emissions resulting from deterioration over the useful life of the vehicle.

In both cases just mentioned, the tax would be levied on the volume or weight of discharges into the environment, and the tax rate will be based on the estimated damage to the environment caused by the pollutants discharged. Under this act the Administrator of the Environmental Protection Agency is required to recommend to the Congress the rate of tax for each pollutant within one year after the enactment of this legislation.

A special and, I believe, uniquely attractive feature of my bill is that a tax rebate is available to the operator of a stationary pollution source. The allowable rebate on taxes paid is equal to one-half of the permanent reduction in discharge. For example, if a manufacturer reduces his emissions by 80 percent, he will receive a 40 percent rebate on the amount of taxes paid. The taxes collected over and above the amount paid out for rebates will go into general revenues and can be used for such programs as additional pollution control research, pollution control implementation incentives, or even lower Federal income taxes. By restricting payment of rebates to stationary sources in operation before the effective date of the legislation, the bill takes into account the problems which older industries may have at some future date in competing with the advanced or radically different technologies of new industries.

In order to safeguard the integrity of State and Federal pollution control programs, nothing in this legislation, including payment of the taxes imposed, shall exempt any source of pollution from Federal, State or local pollution control or abatement requirements.

In conclusion, Mr. Speaker, I believe the Pollution Control Tax Act of 1972 which I introduced today is a reasonable, effective, and nondiscriminatory mechanism for dealing with the threats and problems posed by the pollution of our air and water. I hope my colleagues will assist in the speedy enactment of this bill.

THE LATE HARRY KIPKE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. GERALD R. FORD) is recognized for 5 minutes.

Mr. GERALD R. FORD. Mr. Speaker, a few days ago Harry Kipke passed away. He was a very close personal friend. As my football coach at the University of Michigan, Harry Kipke had a great impact on my life. I am certain he had a comparable beneficial impact on the lives of many others who had the good fortune to know him.

I respected, admired, and truly felt great affection for Harry Kipke. He had friends all over the country and in all walks of life. His death is a great loss to all of us.

I extend to his wonderful wife Flo and his fine family my deepest condolences.

Harry Kipke's great record in athletics, in education, in business, and in civic affairs is best set forth in an article by David Condon of the Chicago Tribune. I ask that this article be included as a part of my remarks. The article follows:

IN THE WAKE OF THE NEWS

(By David Condon)

Harry G. Kipke, a gentleman for all seasons, will be buried today after 73 years of delivering 100% to this tricky game of life.

While we pray, let's mentally retire his number, because the rosters suggest no one to replace him. There wasn't meant to be another Harry Kipke. Thank God for the one, a bonus citizen.

Harry Kipke's fame stretched beyond the playing fields. His influence and leadership were not confined within the arenas. Friends ranged from Ford's Harry Bennett to sportscasting's Harry Wismer.

He became a Chicago civic leader, in the finest tradition, after playing and coaching had added lustre to Michigan's football reputation. So the folk of Harry's adopted home town also have hearts suddenly heavy at the passing of this Wonderful Wolverine.

Oh, what a Wonderful Wolverine was Harry Kipke. One of the best among Michigan's legendary champions of the West.

A brilliant athlete on the high school fields in Lansing, Kipke advanced logically to nearby University of Michigan. There he won nine monograms in football, basketball, and baseball.

Football was his long suit. He became an All-American back who lived to be enshrined in the varsity Hall of Fame.

Now consider all the fabled coaches in Big Ten history: Amos A. Stagg, Bob Zuppke, Fritz Crisler, Bernie Bierman, Bo McMillin, Pappy Waldorf, Biggie Munn, Woody Hayes, Forest Evashevski, Ray Eliot, and the rest of an illustrious band. Kipke had one record none of these giants matched.

Harry Kipke of Michigan is the only man ever to coach four consecutive Big Ten champions or co-champions. The years were 1930 thru 1933.

Pop Warner had his double wing formation, Knute Rockne was famous for the Notre Dame box, Don Faurot and Bud Wilkinson are remembered for the Split T. Kipke's system was aptly described as the punt, pass, and prayer.

So when the Wolverines failed to win a conference game in 1934, an alumnus appraised: "Our punting was off, we had no passer, and our prayer went unanswered."

In 1921, Harry Kipke's first varsity year, the midwestern gridiron giants were Charles Maguire of Chicago; Aubrey Devine and Duke Slater of Iowa; Hunk Anderson, Eddie Anderson, and Roger Kiley of Notre Dame.

Red Grange was a sensational sophomore at Illinois, and Notre Dame's Four Horsemen were juniors, in 1923 when Kipke captained his last undergraduate team at Michigan.

Tho there were many memorable games, the one most vivid in Kipke's memory was played in 1922, at the dedication of Ohio State's awesome horseshoe stadium.

That afternoon the Wonderful Wolverine took a 40-yard touchdown pass from Irving Uteritz ran 55 yards for another T. D. after intercepting a pass, and kicked a field goal. That was only half the story.

Kipke's punting kept Ohio in the hole all day. He punted 10 times, always out of bounds, for a remarkable 47-yard average!

After that '22 season, The Tribune's Walter Eckersall—a University of Chicago immortal—experted for the Football Guide:

"Harry Kipke was the shining light of the Michigan attack. There is hardly anything on a football field which this player cannot do, and do a little better than most men who occupy one of the backfield positions. He was a tower of strength offensively, for he could skirt the ends, dash off the tackles, and execute forward passes with the proper deception."

Before the summons back to alma mater to succeed Tad Wieman in 1929, Kipke apprenticed as assistant at Missouri and as head coach at Michigan State.

But going home really ushered Kipke into the Big Time.

In 1929, Stagg still was at Chicago, Zuppke at Illinois, Rockne at Notre Dame.

And H. O. [Pat] Page was coaching at Indiana, Burt Ingwersen at Iowa, Dr. Clarence Spears at Minnesota. Dick Hanley was at Northwestern, Jimmy Phelan at Purdue, Glenn Thistlewaite at Wisconsin, Sam Willaman at Ohio State.

All had to make room for the Wonderful Wolverine.

Kipke had some storied players: Maynard Morrison, Harry Newman, Fred Petoskey, Ivy Williamson, Gerald Ford, Charles Bernard, Francis Wistert, and Bill Hewitt. He had those great seasons, too, but all good things must end.

When four dismal seasons followed the championship chain, the wolves howled. Kipke was replaced by Fritz Crisler.

Without a job, he came within a whisker of becoming head coach of the 1933 College All-Stars. In a nationwide poll, more than 4 million fans voted for Kipke. A handful more voted for Bo McMillin.

Undaunted, Kipke ran for the board of regents and was elected. He went into business, principally as a supplier for his old friends at Ford. He served four years in the naval reserve in World War II.

Then he homestaked in Chicago, becoming president of Chicago Coca-Cola, later chairman. His efforts led many civic drives and he met each challenge with the fury once unleashed on the gridiron. As president of the Chicago Convention Bureau, he made McCormick Place his arena.

Try to name Kipke's Chicago friends and you'll be counting thru next week. I wasn't born when Kipke played his final game for Michigan, but he was my friend, and my children's friend. He had a sincerely soft, hypnotic voice.

Kipke was a marvelous friend to party with. Aside from kindness, I liked his sense of humor best. He loved a practical joke.

At Michigan, Kipke's desk displayed a Rube Goldberg contraption—a jar with pipe stem, vents, and a fan. He called it a Breatholator.

Kipke never suggested that anyone test the Breatholator, but husky visitors who seized the bait and puffed mightily were blackened by a cloud of soot.

Today, in Port Huron, Mich., Harry G. Kipke will be returned to the earth. I cannot think of a finer eulogy than the tribute paid by Harry's closest friend, Patrick L. O'Malley, who told me:

"Any man who can leave such rich memories has lived his life fully. But Harry left us

more than a treasure of memories. He left us an example."

DR. AMI SHACHORI

The SPEAKER. Under a previous order of the House, the gentleman from Alabama (Mr. EDWARDS), is recognized for 5 minutes.

Mr. EDWARDS of Alabama. Mr. Speaker, there should be no place in this world for terrorists of any shape, form or fashion.

Terrorists attempt to accomplish through clandestine, atrocious acts what they and others who are in sympathy with them cannot accomplish through honorable, open means.

Instead of winning support for their cause, they succeed only in harming and killing innocent, unsuspecting people, and turning every ounce of contempt in the free world and elsewhere against them and their cause.

One of the latest acts of terror had a personal note for me.

Dr. Ami Shachori, 44-year-old agricultural affairs counselor in the Israeli Embassy in London, was killed September 19.

When my wife, Jolane, and I were in Israel in 1966 in connection with the House Government Operations Committee's study on increasing our agricultural exports to foreign countries, Dr. Shachori became my good friend. He and his wife Ruth and Jolane and I have exchanged correspondence through the years.

Now my friend is dead—killed by a bomb mailed to the Israeli Embassy in a harmless looking package. When he opened the package, it exploded in his face.

He was to have been replaced at his post in only a few short days. His wife and two children had already gone home to Israel.

For 13 years before going to London, Dr. Shachori ran an agricultural ministry erosion experimental station in Israel.

In one unsuspecting moment, my friend joined other innocent people of the world who have fallen victim to deceitful, disgusting acts of terror.

Dr. Shachori was a good man, an intelligent man, a family man. He was a man you would have been proud to know. His duties had nothing to do with politics or the military.

These senseless acts of terror must not be condoned nor be allowed to continue by any nation. Those who give sanctuary and support to terrorists must be willing to face the consequences. The terrorists must be willing to face the consequences. The terrorists must not be allowed to roam the world spewing out their venom. And they must not be allowed to return to their protected sanctuaries.

It is only when terrorists have no skirt or boundary to hide behind and when every nation of the world expresses its disgust through positive action that the world can see some lessening of these senseless unforgivable acts.

Mr. Speaker, my prayers today are for Ruth Shachori and for the two Shachori children and for all victims of a troubled world.

But, above all, my prayers are for peace. A world free of conflict and war. It is toward this end that we all must strive.

MR. JOHN WANER, FHA DIRECTOR FOR HUD IN THE CHICAGO AREA

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. KLUCZYNSKI) is recognized for 5 minutes.

Mr. KLUCZYNSKI. Mr. Speaker, I rise to congratulate and support Mr. John Waner, FHA Director for HUD in the Chicago area. Without regard to anything but the life and continued economic and physical health of the great city of Chicago, Mr. Waner has begun a series of reforms in the Chicago office of FHA with the complete support of his Regional Director, Mr. George Vavolis.

Among the reforms instituted by Mr. Waner are the tightened home inspection procedures; the supplying of legal services and counseling to home buyers; and most importantly, the courageous clean up of what had turned into an ugly racket of fraud and bribery of Federal employees. Mr. Waner has cooperated fully with the law enforcement agencies and has made every attempt to reform a program designed to benefit the little man.

Many responsible citizens join me in this recognition of Mr. Waner's service to the city of Chicago.

AMERICAN AGRICULTURE NEEDS 10-YEAR FARM PROGRAM

The SPEAKER. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 30 minutes.

Mr. ALEXANDER. Mr. Speaker, in just a few months farmers who produce our basic crops—cotton, soybeans, corn, wheat, grain sorghum, and barley—will be planning for the 1973 season. These 1973 crops will be the last for which programs are authorized by the Agricultural Act of 1970.

I take the floor today to remind my colleagues that continuation and improvement of these programs under which supplies of food and fiber are made available at reasonable prices is a matter of prime importance for every Member of this body. Members who represent substantial numbers of farmers producing these commodities have greater interest and involvement, of course, in the farm program. However, insuring that we have dependable sources of agricultural products is of vital concern to all of us. I urge all my colleagues to review what has transpired in the brief period of the 1970 statute which has been in effect.

I believe you will find that this law comes closer to doing all of the things required of farm legislation than any under which we have operated in the past.

Our present program gives farmers unprecedented freedom under government programs to adjust crop plans to changing conditions.

It reduces the role of government in handling and merchandising agricultural commodities.

It employs payments to farmers as a means of maintaining farmer income and obtaining program participation and compliance.

It authorizes temporary set-aside or diversion of cropland when necessary in order to reduce unneeded production of certain crops.

It provides for loan rates at levels that protect against price disaster but does not peg market prices at artificial, noncompetitive levels.

It limits the size of payment any one person can receive.

I am hopeful that the Agricultural Act of 1970 with improvements which we may may devise, can be extended to apply to the 1974 and subsequent crops. By this, I do not mean another 3-year bill. I believe farmers, their customers and their creditors are entitled to better treatment than the Congress has given them in the past.

I propose that we write a 10-year program into the next bill for agriculture. American agriculture needs a 10-year farm program. These farmers, in order to be efficient—in fact, in order to stay in business—need to have tied down for several years ahead as many as possible of the tangibles and intangibles with which they work.

Farming is big business even for the small farmer. Land is expensive, and scarce. Equipment is costly and prices seem to trend in only one direction—up. In addition, the farmer, through formal education or experience—preferably both—must be an expert in the handling of machinery, chemicals, water, and records. He must achieve a thorough understanding of the agricultural programs that affect him and his farming activities. He cannot control the weather, but in many situations he can adjust to it, and, also, to changing supply-demand-price conditions, if he has this complete understanding of the farm program and can count on it for the year ahead and even longer.

I have boundless respect and admiration for these people of the soil. I marvel at their patience, preserverance, and adaptability. They generally go about their profession in a steady, unobtrusive manner—so quietly that many find it easy not to remember how vital their contributions are to the survival of our Nation.

This body in the near future will have an opportunity to renew the programs under which these producers of food and fiber have given our Nation the greatest agricultural plant in the world. In the meantime, I hope that you will take some time to contemplate the role and needs of these farmers and agriculture generally in our society and economy. I would hope that as we consider the new agriculture program you will be ready to work with the Committee on Agriculture.

THE 15TH ANNUAL STEUBEN PARADE

The SPEAKER. Under a previous order of the House, the gentleman from New

York (Mr. ADDABBO) is recognized for 10 minutes.

Mr. ADDABBO. Mr. Speaker, on September 23, 1972, more than 15,000 Americans will march up Fifth Avenue and participate in the 15th Annual Steuben parade.

Public officials, dignitaries, and millions of Americans of German descent will celebrate and pay tribute to those who have contributed so much to our Nation.

The tradition of Gen. Friedrick Wilhelm von Steuben has kept the Steuben Society of America strong and dedicated to the highest ideals of freedom and justice for all in this Nation. The history of General von Steuben's deeds following his arrival at our shores on December 1, 1777, is a record for all who love our country to be proud of and to remember. He was heroic in the battle to win independence for America; he joined with Gen. George Washington at Valley Forge to bolster and help organize our fighting men; he distinguished himself in the battles of Monmouth and Yorktown; he issued regulations for the training of American troops, and he is credited with the proposal to establish the U.S. Military Academy at West Point.

The Steuben parade is organized and sponsored by the German-American Committee of Greater New York which represents approximately 400 societies and organizations through its affiliated Steuben parade committee. It is a joint undertaking by all these groups which are dedicated to continuing the memory of General von Steuben, to honoring the scores of German immigrants who have been leaders and statesmen of American history from the battle for our independence down to the present day and to display the pride of our citizens of German descent in that history.

Floats, bands, and entertainers will be on hand as every segment of the German-American community is represented in this stirring celebration. A great deal of work and time has gone into planning this parade and there will also be a companion parade in the city of Chicago.

Among the many honored guests who will review the New York parade will be Gov. Nelson Rockefeller; Mayor John V. Lindsay; Consul General of the Federal Republic of Germany; and New York Supreme Court justice, the Honorable Albert H. Bosch, former national chairman of the Steuben Society, who also served as general chairman for the golden jubilee of the Steuben Society. Justice Bosch was my distinguished predecessor in the U.S. House of Representatives for the Seventh District of New York.

Grand marshal of the Steuben parade is the Honorable George Balbach, an outstanding justice of the criminal court of the city of New York.

The trademark for the parade will be the blue cornflower which is so common in Germany and a cornflower queen, will reign over the parade from atop the Cornflower Queen-Miss German-American float. The President of the United States will send a representative to review the parade and the Army, Navy, Air Force, and Coast Guard will be represented by bands, troops, and color guards.

The 15th Annual Steuben parade promises to be an exciting and stimulating day and I know that my colleagues in the House join with me in wishing our friends of German descent a successful celebration and in commending them for their outstanding contribution to our society.

KEEPING DANGEROUS DRUGS OUT OF THE UNITED STATES

The SPEAKER. Under a previous order of the House, the gentleman from Rhode Island (Mr. TIERNAN) is recognized for 5 minutes.

Mr. TIERNAN. Mr. Speaker, I want to commend the President's announcement that he is prepared to cut off economic and military aid to all countries that willfully contribute to this country's narcotics problem. In his statement, the President stated he "considers keeping dangerous drugs out of the United States just as important as keeping armed enemy forces from landing in the United States." I think most Americans would agree with this statement, and would willingly join forces in support of the President's moves.

In November of last year, Congress passed the Foreign Assistance Act which includes authorization for such action as it states that aid shall be cut off from those regimes that the President himself determines have failed to take adequate steps to surpress dangerous drugs. It is significant that by law only the President can make such a determination. Continuous warnings have been made and action is overdue.

In August of 1971, members of the Subcommittee on Public Health of the Interstate and Foreign Commerce Committee visited the Far East in order to investigate the extent of production and abuse of opiates in that area of the world. This visit occurred shortly after Turkey's historic and courageous decision to eradicate the opium poppy itself. It was fully recognized at this time by the committee and, in fact, the world community, that Thailand and the bordering countries of Laos and Burma would become the world's largest source of heroin. Bureau of Narcotics and Dangerous Drugs officials are based in Bangkok and Chiang Mai and the Thai government's official position has been one of cooperation with the United States, however positive action has been minimal. According to the committee report submitted by the investigating unit:

> Most Thai officials discount their government's responsibilities and place the blame on the countries to which the traffic flows.

A Cabinet level task force report on the problem states:

> The most basic problem, and the one that unfortunately appears least likely of an easy solution, is the corruption, collusion and indifference at some places in some governments, particularly Thailand and South Vietnam, that precludes more effective suppression of traffic by the governments on whose territory it takes place.

It is time that our Government heeds the clear calls of both of these reports. An intense national effort must be made to rid our country of the dangerous menace of hard drugs.

We have issued a warning call—let it not be an echo but a mandate for action.

AMENDMENTS TO THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, when the Occupational Safety and Health Act first was passed, it was with the hope and expectation that it would bring a sharp decline in the number of industrial accidents which annually take many lives and injure thousands more. I do not question that the bill has resulted in a reduction of this type of accident, but in the congressional zeal to enact this legislation serious inequities in the bill were disregarded, even though these inequities in the main were identified at the time.

There remains an opportunity and a serious need to correct some of the shortcomings in the existing law. This is particularly important in the way that the law affects small businesses, light construction, and the neighborly farmer.

I do not believe it was the true intent of the Congress to impose the same kinds of safety requirements on the neighborhood natural or bottled gas distributor as are imposed on the huge conglomerate operating a giant refinery. I do not believe it was the intent of the Congress to impose identical safety requirements on the small contractor who builds family dwellings or carports that are imposed on the contractor erecting a 50-story office building. I do not beileve it was the intent of the Congress to, in effect, halt the practice by farmers of allowing a neighbor in time of need to use their equipment on loan.

Yet, these are some of the results of the 1970 act. Small nonmanufacturing businesses or businesses with fewer than 25 employees cannot, under any conceivable stretch of the imagination, be lumped in the same category with the corporate manufacturing giants. To require identical safety standards for such diversity of safety hazard is unfair, costly, and impractical, and it should be rectified.

I have sponsored or cosponsored legislation which now is before the Committee on Education and Labor for consideration. Similar proposals have been put forth by other Members of the Congress. The time is late, but it is very necessary that corrective legislation be enacted.

H.R. 12068 would amend the 1970 act to provide that businesses with fewer than 25 employees would be exempt from the act providing existing State laws are applicable. This exemption would not, Mr. Speaker, serve to nullify the effect of the 1970 act. It rather would recognize the difference between large and small business and it would take into account that, provided there are State laws to protect the workers, the Federal regulations aimed at improving safety in big business would not work a financial hardship on the smaller business.

H.R. 12679 touches on the problem of the small versus the large contractor. This amendment would allow the Secretary to consider the difference between a construction job of huge proportions and a small job where the construction of a private home or small building is undertaken. The present law does not allow the Secretary to exercise this discretion and the result has been that the small contractor now must spend thousands of dollars for safety equipment he does not need, cannot use, and cannot afford. Obviously, this is unfair and H.R. 12679 would rectify this inequity.

H.R. 14644 goes to the heart of a tradition in America, that of one neighbor helping another. In this case, I refer to the small farmer who loans his equipment to a neighbor to help with the harvest or planting. Under the terms of the 1970 act, this kind of neighborliness is construed as an employer-employee relationship and thus comes under the terms of the act. H.R. 14644 would alleviate this ridiculous situation simply by defining the terms of an employee as one who is paid for what he does. A farmer loaning his equipment and even operating it himself would not be considered an employee if he were not paid monetarily for his neighborly act.

Finally, Mr. Speaker, I would call the attention of the House to H.R. 13943 which, in effect, summaries the several amendments I have discussed here today.

I sincerely believe these amendments are needed if the Occupational Safety and Health Act of 1970 is to work to the advantage of all without undue hardship on a few.

There is no question that the Federal Government has a role in establishing safety and health standards in large business or in businesses with unusual risk and hazard. This is a proper role for Government. But I believe it is unjust for these regulations to apply across the broad spectrum of industry and lump the small business firm with the large manufacturer or industrialist.

I urge the Congress give serious consideration to the points I have raised. We are talking, not only about safety and health, but also about the very existence of many businesses in America. What good will have been done to enforce stringent, unworkable safety standards on a business in order to protect a few workers if those same regulations force the company out of business and throw its workers out of jobs.

I respectfully request favorable consideration of these proposed amendments.

THE RAFT TO FREEDOM

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, it is my privilege to call the attention of my colleagues to a notable address by the distinguished Lieutenant Governor of Florida, the Honorable Tom Adams, before the Latin American Chamber of Commerce. His remarks to the Latin chamber in Miami on August 26, 1972, evoke the spirit of hospitality in which the people of Florida have offered refuge to so many victims of tyranny. I commend it to our colleagues and ask that it be inserted in the RECORD at this point.

REMARKS BY TOM ADAMS, LIEUTENANT GOVERNOR OF FLORIDA TO THE LATIN AMERICAN CHAMBER OF COMMERCE, MIAMI, FLA., AUGUST 26, 1972

A sad symbol for all free men rides at rest not far from where we meet tonight in a tragic and constant reminder of man's deathless drive for freedom from the fetters and shackles of tyrannical oppression.

The symbol is a monument to the unknown refugee. . . . A collective memorial for all of those who died for freedom. . . . Who died rather than remain enslaved by Communist ideology . . . Who chose action to decide their ultimate fate and not passive submission to a harsh and cruel way of life totally abhorrent to all men of good spirit and conscience.

The symbol is a small raft . . . eight feet by twelve feet . . . which once held the hopes and dreams of human beings . . . people risking all in a desperate float for freedom from their Cuban homeland . . . trusting in God and fair winds and currents to bring them to the shores of America.

The raft did come ashore not far from here . . . empty.

God had willed that the unknown refugees . . . the nameless freedom seekers . . . could best serve humanity by becoming enshrined in the memories of many as a poignant reminder that those who are shaped in God's image are formed free and subject to the capricious and despotic rule of no man.

The empty raft reminds us that life is lived, and then is passed back to its maker in an endless mystical rejuvenation of spirit and mind.

The cycle of life and death goes on. The sun rose yesterday . . . It rose again today . . . and, hopefully, it will rise again tomorrow . . . and with each new sunrise, man awakens and begins a day of his life . . . the sun sets, and he sleeps until the dawn of another day.

We each live to this solar rhythm . . . this sublime cycle in which all life is lived in accord with the universal rule of a divine and omnipotent being.

It has always been so since intelligent life was born upon this planet we call earth. Wherever he is as the sun lifts above the earth's rim, man awakens in accord with this solar cycle and tills the fields of his various human endeavors.

Life ebbs and flows with that beautiful and mystical cycle of sunrise, sunset.

With each new sunrise we have one God-given day in which to do all those things we believe to be important . . . and when the sun sets on that one day, it is gone forever beyond recall.

What we do with that day can well determine the ultimate fate of our children and their children's children. What we do with that day can determine with absolute finality whether there will be a world on which the sun will shine, on which night will fall, on which man will live.

Our days are not given to us to squander, or to wastefully spend drugged with apathy and sodden with lethargy, producing nothing of value and accomplishing only the profligate death of one day of life.

We *are* given our days so that we may achieve the greatest possible good for the greatest possible number of our fellow human beings.

There can be no finer achievement than dedicated service to our fellowman, whether in government, private life, or any other human endeavor. There can be no greater good than to help a fellow human being find the best possible of lives. The greatest good. The most sublime spiritual satisfaction . . . can be ours only if we live each day as if that day was our first, or last, day on earth.

Each of you had a day when the sun rose as it has for millions of years . . . and you took an action which changed your life, the life of your homeland, and which ultimately enriched the collective life of this American Nation.

You used that one day of your life wisely and well . . . you chose freedom, rather than life under a despotic and capricious ruler who turned a freedom-loving country into an armed camp for communism . . . a man who raised the colors of a revolutionary movement dedicated to free the Cuban people, and once he had won the trust of those people he changed that false flag of freedom for the Red banner of communism.

Your decision was a courageous and clear-thinking decision. Fidel Castro caused many men in the world to believe he was a force for good . . . a man who would bring the bright light of freedom to a land darkened by oppression.

His cause particularly was lauded by those Americans who leap before they think . . . who adopt the latest insanity as a sacred cause . . . by the limousine liberals who bleed in the abstract for humanity, but fail to help their neighbors in time of tragedy for fear of "becoming involved" . . . by those contrived conservatives who believe the only good goals are the accomplishments of our forefathers, like inventing the wheel and discovering fire . . . and they propose that mankind simply repeat those processes because they have been done before and therefore are safe to do again.

Neither of these philosophical outposts, these extremes in American life, are a true portrayal of our national character, but, rather a betrayal of the premises upon which this republican democracy was founded.

These people waste their God-given days searching for extremes . . . they are the fuzzy-minded intellects who bring us into a senseless war, who favor the criminal and not the victim, who mistake permissiveness for freedom.

That is why thinking and patriotic Americans welcome so fervently those of you who favored us by actively adopting our land as your land. We need you to bring us into better balance, to help us maintain a national stability somewhere between the extreme right and left, to cherish and vigilantly guard our freedoms because you know so well what their loss means to mankind.

You have changed our national life . . . have enriched it because of your knowledge and experience . . . have given us a wisdom which only those who have suffered oppression can have . . . and have brought us an understanding of the true worth of individual man.

The changes you have wrought are easily seen here in Miami, and in Washington, and admired by the rest of the Nation.

You have come to our shore with little more than your knowledge and dedication and have made a home. More than 300,000 freedom-loving Cubans in Miami have established nearly 5,000 business endeavors, and have an estimated annual income of $588 million.

You have had considerable impact upon the religious life of our State and Nation. You brought your church with you to a Nation founded upon the premise that there will be no State religion and that every man is free to believe as he desires.

Your impact in our Nation's Capital has been felt . . . your needs have been ably communicated and have touched the hearts of all freedom-loving Americans and, for this current fiscal year, we have $144 million devoted to our Cuban refugee program . . . an increase of $32 million above the last fiscal year.

You have helped America by your presence, and America is responding to the needs of the Latin community.

You have formed individual and collective alliances with America . . . first, by choosing our Nation as your haven of freedom, as your adopted country . . . and second, by your financial and business endeavors which indicate a confidence in the future of our State and Nation.

These alliances are the fabric of our life . . . they have an impact for good far beyond the initial concept and implementation.

In 1963, in response to President Kennedy's call for an alliance of progress with all of Latin America, some States in our Nation adopted sister States to the south of us.

We in Florida formed a sistership with Colombia and founded the Florida-Colombia alliance. That alliance has had great personal impact upon me and has done much to strengthen the ties between my State of Florida, my Nation and my sister country, Colombia . . . as well as generate a profound and meaningful understanding and love for our friends to the south.

My greatest pleasure and personal reward from this alliance came recently when I went to Colombia with a group of Floridians to open up new areas of trade so that we may broaden our economic ties. While in Colombia, I went to Kennedy City and visited the Tom Adams School.

The sight of the four hundred students at the Tom Adams School was worth more to me than any material possession . . . the knowledge that they are receiving an education, are learning thoughts and skills which they will pass on to their children, has made all the days of effort worthwhile.

The realization that each day the sun rises, there are children in a nation plagued by poverty who are learning not only to survive, but to reach for the stars with unfettered spirits, will sustain me all the days of my life.

These are the alliances man must form with life . . . the use he must give to each day God gives him.

You have formed your alliance with America . . . an alliance initiated by a tyrannical and violent overthrow of established forms of life in your native Cuba, and in so allying with us you have brought a richness and depth to our national character which was not there before. You have given much more than you have received . . . and America is grateful to you and welcomes you as partners in our great democratic adventure.

Now that you have formed your individual alliances with America you must work with us to ensure that each day God's sun rises will be a day of productive joint effort to make this Nation the best of all possible nations.

We must work together so that each day, as the sun sets, we will know that we have bettered in some way the lives of those we love and who love us.

We must know that when the sun rises upon all the tomorrows of our national life that we are journeying toward that haven in which each man and his family is safe from oppression . . . in which each man and his family have a sense of dignity and purpose in life . . . and, in which each man and his family can live secure in the knowledge that sunsets only mark the beginning of a night of rest and not of terror.

You have known suffering and deprivation . . . you have known the lash of tyranny . . . and have been mocked by a mirage of freedom shown you by selfish and cynical men bent upon enslaving a nation and its people.

With this painful knowledge you can make each sunrise a national adventure . . . a national quest for the American destiny.

A destiny in which no American is hungry, or fearful, or without freedom . . . a destiny in which the minds of Americans can soar to the highest heights of cultural, intellectual and religious achievement . . . a destiny in which no man is less than another.

You must make each day of our national life a holy quest for that destiny of greatness . . . and you must begin here, where you live, for the waves of achievement you accomplish here will reach far beyond the place of first impact . . . like a pebble dropped into a calm lake sends ripples to the most distant shore.

Tonight, we are in an evening of one of the days God has given us . . . and each of us must silently assess how we have spent that day which has now passed beyond recall.

If we find ourselves lacking in some area . . . and this is only human . . . we must simply devote more spiritual and physical energy to the achievement of our personal and national goals . . . and, when tomorrow, with God's grace, the sun rises once again for us, we can make a new beginning . . . we can dedicate that tomorrow, and all of the tomorrows of our lives, to the quest for our true destiny of national and personal greatness.

Join with me, then, in joyful anticipation of tomorrow's sunrise . . . for it will begin the best day of our lives.

Thank you.

WILLIAM FITTS RYAN

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, I was absent when the special order was taken for a tribute to our distinguished, lamented colleague, William Fitts Ryan, or I would have joined my colleagues in a eulogy to him. An indication of his courage and character was emphasized in an editorial in the Washington Post of today which I ask to have incorporated at the end of my remarks.

Bill Ryan, as I call him, was a man of great vision and great compassion. His legislative record reveals his sensitivity to problems that were meaningful to people. He loved humanity and he fought to serve it and did serve it nobly. A little while ago there was a testimonial dinner to Bill Ryan in New York. He invited me to send a letter about him which I was pleased to do. I ask that my letter be incorporated following my remarks.

Mr. Speaker, our hearts are heavy that Bill Ryan will not be with us any more. We have lost a great colleague and a cherished friend. The Nation has lost a statesman. My wife joins me in expressing deepest sympathy to all of his loved ones.

[From the Washington Post, Sept. 20, 1972]

WILLIAM FITTS RYAN

In the death of William Fitts Ryan, New York City has lost a congressman of courage and the House has lost a member who often had uncanny foresight. Mr. Ryan's political courage was displayed early on, when in the late 1950s he challenged the entrenched might of New York's Tammany Hall. The ferocity of Manhattan politics, especially when Democrats go at each other, has ended many political careers before they began, but Mr. Ryan gambled successfully that the voters were tired of backroom manipulation. Once elected to the House, he continued taking risks by backing issues and ideas long before popularity made them safe. He called for admission of China to the U.N., spoke out against spending for nuclear arms and thought it foolish to renew funding for the House Un-American Activities Committee. Today, critics of the war are common, but few of the arguments they make now were not made years ago by Mr. Ryan. Though Mr. Ryan was often called by his critics a "wild-eyed" liberal, the turning of events suggests that his eye was not wild at all but well-controlled and excellent in vision.

In the June primary, Mr. Ryan won a spirited victory but the exhaustion of the campaign was apparently costly to his failing health. On the House floor following announcement of Mr. Ryan's death, his colleagues eulogized him for one and one half hours, a deserved tribute. Another kind of tribute will also be made by some members: a renewal of efforts to continue practicing the political ideals William Ryan believed in.

House of Representatives,
Washington, D.C., November 10, 1971.

Congressman William F. Ryan,
Tenth Anniversary Dinner,
New York, N.Y.

Dear Mr. Chairman: You will please allow me to join with the many friends of Bill Ryan who will be honoring him on this happy occasion. Bill Ryan as Representative in the Congress has made immeasurable contributions to the building of a greater and better America. He is an able legislator, a man diligent in the performance of his duties and deeply dedicated to the well-being of all the people of this great country, indeed all humanity. He has a warm humanitarian's heart; people mean something personal to him, and he tries to help those who need assistance as he would seek to aid a friend in trouble. Bill Ryan is color blind, he can't see black or white or yellow or brown—he just sees people—human beings, his brothers and sisters in the human family.

Bill Ryan is a gallant warrior for every worthy cause but he fights like a knight with chivalry and good nature. He is a friend whose friendship any man would appreciate. He has been my friend for many years.

I wish there were more Bill Ryans in the House of Representatives—in every legislative body—throughout government.

So it is with particular pleasure that I join you in warmest commendations of Bill Ryan. I wish I could be present to say so in person.

Warm regards, and
Believe me,
Always sincerely,
Claude Pepper,
Member of Congress.

THE TEACHERS' STRIKE

(Mr. BROYHILL of Virginia asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BROYHILL of Virginia. Mr. Speaker, the teachers' strike that took place yesterday in the city of Washington is a tragedy for all involved. For the teachers themselves who have placed their own economic and personal considerations above the welfare of students. For parents who have paid their taxes to support the public schools for their children. But most of all for the children in the public school system, who are suffering because of a quarrel of which they have no knowledge, in which they have no part.

Certainly, a measure of blame for this and other teacher strikes must fall upon the shoulders of politicians who encourage and profit from them. I refer in particular to Senator George McGovern, who two weeks ago said that:

> Teachers belong in school—or on the picket line, if necessary—but not in jail.

This deliberate endorsement of teachers' strikes, of the kind now plaguing city after city in this country, represents gross political irresponsibility on the part of Senator McGovern.

Reports have it that Mr. McGovern, for his endorsement of strikes by teachers, received a campaign contribution of a quarter of a million dollars. One hopes Mr. McGovern gets some mileage out of his contribution, for the parents and children in the public schools like Washington, D.C., are paying heavily for it.

Let me state my public philosophy on this question. Like the health and safety of a community, the education of children must not be considered just another chip on the table of collective bargaining. It is more important than that. And Mr. McGovern, and any political figure like him, who encourages the use of children as pawns in wage negotiations, does a grave disservice to the American people. And when endorsement of illegal or unethical conduct reaps as a reward an enormous campaign contribution from a teachers union, it is doubly inexcusable.

If this statement sounds angry, it is because I am angry with politicians jeopardizing the education of children to pick up campaign contributions.

AMENDMENT TO FOREIGN ASSISTANCE ACT

(Mr. VANIK asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. VANIK. Mr. Speaker, on Thursday, September 21, 1972, when the House of Representatives considers the Foreign Assistance Act, I expect to offer the following amendment:

Sec. 506. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, as amended, may be used to provide loans, credits, financial and investment assistance, or insurance guarantees on sales to or investments in any Nation which requires payment above nominal and customary costs for exit visas, exit permits or for the right to emigrate.

This amendment is designed to prohibit credits, loans, and guarantees on investment in the Soviet Union, as long as it continues to impose exorbitant exit charges on those who desire to depart the country. In the Soviet Union, these charges are reported to range up to 87,000 rubles.

These charges reflect a cruel and inhumane treatment—a monstrous ransom for citizens who desire to seek refuge.

MONTHLY GAO REPORT

(Mr. BROOKS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BROOKS. Mr. Speaker, under the provisions of the Legislative Reorganization Act of 1970, the Comptroller General submits a monthly list of General Accounting Office reports issued or released during the previous month. I am pleased to offer for insertion in the Record the list of such GAO reports for the month of August.

A quick scanning of the list reveals the extensiveness of GAO's audit activity. For example, reports were issued on Federal drug abuse control activities, federally aided higher education programs, problems encountered by licensees of the Atomic Energy Commission, plans for the 1976 Denver Winter Olympics, computer performance evaluation techniques, as well as reports on Federal health activities under medicare and medicaid, international affairs, and defense procurement.

The complete list follows. I encourage every Member to study the list and order copies of those reports of particular interest to him.

Comptroller General
of the United States,
Washington, D.C., September 5, 1972.

The President of the Senate,
The Speaker of the House of Representatives:

Public Law 91-510, the Legislative Reorganization Act of 1970, directs the Comptroller General, in Section 234, to prepare and transmit each month to the Congress, its committees, and Members a list of reports of the General Accounting Office of the previous month.

Reports issued or released in August 1972 are listed on the attachment.

The title of each report, file number, date of issuance and agencies reviewed or affected are provided.

Copies may be obtained from GAO's Report Distribution Section, Room 6417. Telephone: code 129-3784 or 386-3784.

Robert F. Keller,
*Acting Comptroller General
of the United States.*

GAO Reports Issued or Released in August 1972

I. REPORTS TO CONGRESS, COMMITTEES OR MEMBERS

Commerce and transportation

Examination into the financial activities of the Ohio-Kentucky-Indiana Regional Transportation and Development Plan and the Ohio-Kentucky-Indiana Regional Planning Authority. B-173350 of June 2, released August 2 by U.S. Representatives Donald D. Clancy and William J. Keating.

This is an examination into the financial activities of the Ohio-Kentucky-Indiana Regional Transportation and Development Plan and Regional Planning Authority. These organizations were formed to conduct transportation and urban-planning activities in the greater Cincinnati, Ohio, area.

GAO determined the source and amount of Federal funds provided for transportation and urban planning in the areas; the purpose for which these funds were spent; and, on a test basis, the propriety of such expenditures.

Education and manpower

Need for improved coordination of federally assisted student aid programs in institutions of higher education. Office of Education, Department of Health, Education and Welfare. B-164031(1) of August 2.

The Office of Education administers four major programs providing financial aid to students attending colleges, universities, and vocational schools: the Guaranteed Student Loan program, National Defense Student Loan program, College Work-Study program, and Educational Opportunity Grant program. The four programs provided assistance of about $1.7 billion to approximately 2.3 million students in fiscal year 1971.

On the basis of a sample audit, GAO estimated that 900, or 14 percent of 6,500 students enrolled at eight institutions, had been provided with aid under the federally assisted programs totaling at least $761,000 in excess of their indicated needs. Because some students received excess Federal aid, such aid was not available to others who qualified.

OE statistics for the Guaranteed Student Loan program showed that, as of June 30, 1971, the Government had paid claims totaling $17.6 million for loans on which students had defaulted. Statistics for the National Defense Student Loan program showed that outstanding loans totaling $22.2 million were delinquent from 4 months to more than 5 years.

GAO said the Congress should consider establishing an overall limitation on the amount that a student may borrow when participating in more than one loan program.

General Government

Examination of financial statements of the accountability of the Treasurer of the United States—fiscal years 1970 and 1971. Department of the Treasury. B-114802 of August 8.

In GAO's opinion, the financial statements accompanying its report, prepared by the Office of the Treasurer of the United States, present fairly the accountability of the Treasurer of the United States at June 30, 1970 and 1971, in conformity with principles and standards of accounting prescribed by the Comptroller General of the United States applied on a basis consistent with that of the preceding 2 years, except that the individual account balances included in the general account of the Treasurer are now presented on a final basis which GAO believes is an improvement.

Finance and operations of the John F. Kennedy Center for the Performing Arts. Smithsonian Institution. B-154459 of August 8, released August 16 by the Senate Committee on Public Works.

GAO was asked to review the status of construction of the building to house the John F. Kennedy Center for the Performing Arts, its management controls, use of funds, liabilities, theater rental practices, and concession agreements. The Center is administered under the direction of a Board of Trustees.

Problems of the Atomic Energy Commission associated with the regulation of users of radioactive materials for industrial, commercial, medical, and related purpose. B-164105 of August 18.

As of June 1971, AEC and State governments had issued about 16,300 licenses authorizing uses of radioactive materials by some 12,600 organizations or individuals.

The licenses are required for manufacturing and processing fuel used in nuclear reactors and for the industrial, commercial, medical, or educational use of radioactive materials but do not include the construction or operation of power reactors.

AEC has responsibility for enforcing its regulations for some 8,200 of these licenses, including those which involve the greatest potential hazards. State governments have responsibility for enforcing regulations for the remaining 8,100 licenses, under agreements with AEC.

This report informs the Congress of actions needed or taken by AEC to improve its regulation of those licensed to use radioactive materials.

Plans for staging the 1976 Winter Olympic Games in Colorado. B-135232 of August 18, released August 22 by the House Committee on Interior and Insular Affairs.

Legislation is proposed that would authorize a direct Federal appropriation to assist in financing facilities for holding the 1976 winter Olympic games in Colorado. This report reviews plans developed by the Denver Organizing Committee for the 1976 Winter Olympic Games, Inc., and by the city of Denver.

The Denver committee estimated that construction of new facilities and improvements to existing facilities would cost a total of $67.1 million. These facilities were classified as:

	Cost in millions
Minimum essential—those without which the games could not be held	$23.4
Highly desirable—those considered not absolutely essential but which would enhance the conduct of the games	28.8
Desirable—those which would be "nice" to have	14.9
Total	67.1

The Denver committee and the city of Denver have asked for a direct Federal appropriation of $19.9 million to cover a major portion of the minimum essential facility costs.

Opportunity for greater efficiency and savings through the use of evaluation techniques in the Federal Government's computer operations. B–115369 of August 22.

Because the Federal Government has thousands of computers, the annual operating cost of which is estimated at $4 to $6 *billion*, the potential for savings by improving the productivity of the Government's computers is apparent.

The report suggest that each agency consider the use of computer performance evaluation techniques, especially before acquiring additional computer capacity. Each agency needs to:

Make more use of techniques already developed.

Obtain more knowledge and expertise in using these techniques;

Report instances of significant improvements in computer efficiency to the Office of Management and Budget; and

Train personnel to use them properly.

Health

Problems associated with reimbursements to hospitals for services furnished under medicare. Social Security Administration, Department of Health, Education, and Welfare. B–164031(4) of August 3.

Annual Medicare benefit payments increased from $3.2 billion in 1967 to $7.5 billion in 1971—a 135 percent increase. About 70 percent of the payments were made to hospitals.

GAO made reviews at 14 large hospitals in five States which receive the majority of all Medicare hospital payments to find out whether the federally prescribed systems and procedures were adequate to insure that Medicare payments were made according to law and regulations.

Most payments to the 14 hospitals were correct. However, GAO noted problems in the administration of the Medicare hospital reimbursement system and questioned net charges to Medicare of about $622,300 involving payments to 12 of the hospitals.

The Congress has been considering various legislative changes to the Medicare and Medicaid programs, including authorizing HEW to experiment with various methods and techniques for paying hospitals on a prospective basis, rather than on the present retrospective-cost basis. GAO's comments on these proposed changes are included in this report.

Sizable amounts due the government by institutions that terminated their participation in the medicare program. Social Security Administration, Department of Health, Education, and Welfare. B–164031(4) of August 4.

This report contains information on problems experienced by HEW in recovering overpayments of millions of dollars made to hundreds of institutions which had terminated their participation in the Medicare program.

About 78 percent of the overpayments resulted from payments based on estimated costs that were higher than actual costs.

Overpayments occurred also because Medicare payments for—"current financing" to cover an institution's costs during the time it takes to process its bills and receive payments—were not refunded immediately, as required. As a result, institutions were paid again under normal billing procedures.

Overpayments occured also because tentative settlement payments—based on the institutions' unaudited cost reports—proved to be excessive.

GAO believes that the Medicaid law should be amended to authorize HEW to withhold Federal participation in State Medicaid payments to institutions which have terminated from Medicare but refuse to refund Medicare overpayments or to submit cost reports to account for Medicare payments received.

Drug abuse control activities affecting military personnel in the Department of Defense. B–164031(2) of August 11.

Intensification of law enforcement activities may have contributed significantly to the replacement of marihuana in the military services by more dangerous drugs such as heroin. Given legal sanctions against marihuana, possession or use by military personnel cannot be condoned.

There can be little alternative to mounting aggressive drug suppression and law enforcement activities, but doing so may create a more serious problem. On the other hand, unannounced urinalysis tests at randomly selected military units would be a more significant deterrent to drug users.

GAO discussed drug abuse problems with commanders and their staffs at various installations. They were very knowledgeable in the matters raised for discussion and generally agreed with GAO observations and recommendations.

Five enclosures to this report have been reported—four deal with overseas geographic locations visited and one with continental United States bases, visited by GAO.

Federal efforts to combat drug abuse. B–164031(2) of August 14.

This Government-wide survey identifies and determines the extent of Federal agencies' involvement in drug abuse programs. Information presented was supplied by the President's Special Action Office for Drug Abuse Prevention and by Federal agencies involved. The funding information is incomplete because data was not readily available in some instances.

GAO did not evaluate individual programs but made observations about some major problems and overall efforts. GAO has issued, and is in the process of issuing, reports which evaluate some of the individual programs.

Federal spending for drug abuse control from fiscal year 1969 has been about $842 million—$366 million for treatment and rehabilitation, $266 million for law enforcement and control, $108 million for education and training, and $102 million for research.

This spending has not curbed drug abuse.

More needs to be done to assure that physicians' services—paid for by medicare and medicaid—are necessary. Department of Health, Education, and Welfare. B–164031(4) of August 20.

Payments for physicians' services substantially increased from 1967 to 1971—under Medicare from $513.3 million to $1.7 billion; under Medicaid from $203.7 million to $712.8 million.

This report comments on efforts made so far to reduce unnecessary payments to physicians and shows that further efforts are needed to comply with the intent of the Congress—to prevent improper payments of public funds to physicians under Medicare and Medicaid.

International Affairs and Finance

U.S. Government monies provided to radio free Europe and Radio Liberty. B–173239 of May 25, released June 2 by the Senate Committee on Foreign Relations.

Radio Free Europe consists of 32 transmitters having an aggregate power of over 2.2 million watts and broadcasts daily to Czechoslovakia, Poland, Hungary, Rumania, and Bulgaria. Radio Liberty has 17 transmitters in the Federal Republic of Germany, Spain, and Taiwan and broadcasts in Russian and up to 18 other languages of the U.S.S.R.

GAO concentrated its evaluation of administrative effectiveness of the Radios in terms of expenditures for salaries, travel, equipment, contractual services, etc., as distinguished from evaluation of their effectiveness in accomplishing their objectives.

Need for improvements in the management system to assess performance of aid-financed projects in India. Agency for International Development, Department of State. B–146749 of August 3.

From 1951 through 1970 AID made dollar loans totaling $712.3 million and local currency loans equivalent to $394.9 million for capital projects in India—concentrated in electric power, manufacturing, and railways.

GAO reviewed capital projects involving AID assistance of $5 million or more which had been completed at least 1 year, but not more than 10 years, to try to determine the success of these projects, the achievements of project goals, and AID's actions when goals and objectives are not met. There were 19 such projects to which loans totaling $687.4 million had been made—$418.1 million and the equivalent of $269.3 million in local currency.

AID has been limited in its ability to assess the effectiveness of its assistance and has lacked information on which to propose and to negotiate corrective action with appropriate Indian agencies.

AID recently established a system for obtaining production and other data necessary to ascertain whether anticipated levels of production and use are being achieved and to identify and analyze reasons for shortfalls. The system is directed only to projects to be completed in the future.

U.S. system for appraising and evaluating Inter-American Development Bank projects and activities. B–161470 of August 22.

This review assesses how U.S. officials managed U.S. financial participation in the Inter-American Development Bank (IDB). The U.S. Government has contributed 95 percent of the Bank's dollars ($3.5 billion) since 1960 and has agreed to contribute another $1.8 billion. An unclassified digest was issued in lieu of the report itself which contains classified security information.

For the most part, the United States has not done much more than agree to IDB proposals put before it or merely advise IDB of a contrary or different U.S. view on a proposed project or transaction. Privately U.S. officials opposed loans but never voted against any loan proposed by IDB's President.

U.S. officials have been able to delay loans to countries involved in expropriations of property and to exercise a restraining influence in some other areas considered out of line with U.S. interests. On other issues, however, the United States has not fared well. The lack of forcefulness by the U.S. has let these issues go unattended or only partially corrected.

National Defense

The importance of testing and evaluation in the acquisition process for major weapon systems. Department of Defense. B–163058 of August 7.

GAO reviewed 13 weapon systems with estimated total costs of more than $46 billion. They include such weapons as the Army's Improved HAWK missile, the Navy's DE–1052 (destroyer escort), and the Air Force's F–15 aircraft.

On the basis of its observations of the pattern of testing performance, GAO concluded that in DoD:

Practices used to establish objectives for testing generally were adequate;

Most weapon systems did not have adequate plans for conducting tests;

Testing and evaluation for most weapon systems was not accomplished in a timely manner;

Most test reports were adequate, but their value was diminished due to inadequate test planning and actual testing. Some reporting improvements could be made; and

Complete and valid test and evaluation data was not available prior to those times in the acquisition cycle when decisions had to be made.

Audit of payments from special bank account to Lockheed Aircraft Corporation for C–5 aircraft program during the quarter ended June 30, 1972. Department of Defense. B–162578 of August 11.

This is GAO's fifth report on the audit of payments from the special bank account to the Lockheed Aircraft Corporation for the C–5 aircraft program. This report covers the quarter ended June 30, 1972.

The review revealed no payments from the special bank account to Lockheed-Georgia during the quarter ended June 30, 1972, contrary to Public Laws 91–441 and 92–156.

However, two matters presented in GAO's fourth report which could affect future payment practices have not been resolved. These concerned the legal prohibition that Lockheed-Georgia not be reimbursed for bid and proposal (B & P) costs and Lockheed's receiving of the Government's contributions to employees' retirement funds and holding them an average of about 14 months before making payments.

These matters are discussed in the report.

Impartial cost-effectiveness studies found essential to selecting new weapons. Department of Defense. B–163058 of August 21.

GAO made a detailed review of cost-effectiveness studies on 16 major weapon systems—five Army, six Navy, and five Air Force.

Examples include the Army's TOW, a surface-to-surface guided missile, and its HLH, or heavylift helicopter; the Navy's F–14, an all-weather fighter aircraft, and its DD–963 fleet escort destroyer; and the Air Force's B–1 strategic bomber or MAVERICK, an air-to-surface missile.

GAO found the cost-effectiveness technique is of great value and (1) apprises the Congress of the necessity for the military services to apply cost-effectiveness studies in procuring new weapon systems, (2) offers suggestions for improving the technique, and (3) summarizes progress made by DOD.

Economies available through increased use of the Federal Telecommunications System by military installations. B–146864 of August 24.

GAO reviewed DOD policies and procedures concerning the use of the Federal Telecommunications System (FTS) intercity telephone service, managed by the General Services Administration (GSA). The review was made to determine the feasibility and cost effectiveness of increased use of such service by DOD installations, in lieu of more expensive commercial service. GAO concluded that expanded use of FTS service by DOD installations in lieu of commercial long-distance service is feasible and can result in substantial savings to the Government.

Further improvements needed in controls over government-owned plant equipment in the custody of contractors. Department of Defense. B–140389 of August 29.

On November 24, 1967, GAO reported to the Congress that there was a need for improved controls over Government-owned property in contractors' plants. Some progress has been made toward DoD's goal of generally requiring contractors to furnish all equipment needed to perform Government contracts.

However, existing legislation does not permit the direct sale of equipment through negotiation with holding contractors unless certain conditions are met. DoD officials feel that enactment of House bill 13792, which permits the direct sale of equipment to holding contractors, would facilitate DoD's efforts to phase out the use of Government-owned equipment at contractors' plants.

GAO has endorsed similar legislation, proposed in previous years, and agrees with the intent of House bill 13792 to permit direct sale of equipment to the using contractors.

Natural resources

Improvements needed in the assessment and collection of penalties—Federal Coal Mine Health and Safety Act of 1969. Bureau of Mines, Department of the Interior. B–170686 of July 5, released August 7 by the Conservation and Natural Resources Subcommittee, House Committee on Government Operations.

This review is directed to timely and efficient assessment and collection actions and the consideration given to six statutory factors in assessing civil penalties for violations of the mandatory Federal health and safety standards by coal mine operators and miners.

GAO found that about 4 months elapsed from citation of a violation by a mine inspector to assessment of a penalty and about 10 weeks elapsed from the request for a hearing by a mine operator to initiation of the hearings process.

Significant delays in referring cases for hearings and in conducting hearings on cases disputed by mine operators resulted in a backlog of 1,062 cases awaiting hearings ($2.8 million in assessments) by December 31, 1971.

Opportunities for improvements in reclaiming strip-mined lands under coal purchase contracts. Tennessee Valley Authority. B–114850 of August 9, released August 22 by U.S. Representative Ken Hechler.

This report is concerned mainly with the adequacy of provisions in TVA contracts for the reclaiming of strip-mined lands and the extent that these requirements were enforced.

Land reclamation activities under 25 of the 329 strip-mined-coal purchase contracts which contained reclamation provisions were reviewed. The contracts were awarded by TVA from 1965 through November 1971. The 25 contracts covered mining operations in the four States from which TVA buys most of its strip-mined coal: Kentucky, Tennessee, Alabama, and Illinois.

Prior to December 1971 TVA's land reclamation requirements were stated in broad, general terms which did not provide sufficiently precise standards to restore strip-mined lands adequately. These requirements did, however, represent a valuable step toward reducing damages caused by the strip-mining method of extracting coal.

TVA's latest requirements (December 1971) are more specific and are an improvement in TVA's approach to reclaiming of strip-mined lands.

Administration of regulations for surface exploration, mining, and reclamation of public and Indian coal lands. Department of the Interior. B–148623 of August 10, released August 25 by the Conservation and Natural Resources Subcommittee, House Committee on Government Operations.

Permits and leases on public and Indian lands are administered by the Bureau of Land Management (BLM) and the Bureau of Indian Affairs (BIA) Department of the Interior. It's Geological Survey is responsible for providing scientific and technical advice to both BLM and BIA.

Departmental regulations on surface exploration, mining, and reclamation regulations should help in protecting environmental values. Although established for more than 3 years, the regulations were not being implemented effectively in several significant areas.

BLM has issued formal instructions to its field offices to implement the Department's regulations. The Survey and BIA have not. Issuance of such instructions would assist field personnel in administering and implementing the regulations.

The Department's regulations for implementation of National Environmental Policy Act of 1969 require consideration of the ecological factors for coal permits and leases issued on public and Indian lands. The Council on Environmental Quality requires that each Federal agency prepare formal procedures for the preparation of environmental impact statements.

BLM's procedures do not comply with the Council's implementing guidelines because they do not outline the criteria to determine when and under what circumstances environmental impact statements should be prepared. GAO believes that BLM should revise its procedures.

Legislation needed to revise the interest-rate criteria for determining the financing costs of water resource projects. Departments of the Interior and Army. B–167712 of August 11.

The Federal Government constructs, operates, and maintains multipurpose water resource projects and makes loans to assist State and local organizations in developing small reclamation projects.

Costs repayable by project users generally include (1) the Government's investment—land acquisition costs, construction costs, and interest capitalized during construction—and (2) annual interest on the unrepaid investment in the project or loan.

Although increasing benefits are being provided to private industry and to the public through development of multipurpose water resource projects, the Federal Government's cost of financing these projects is not being fully or uniformly recovered from project users.

The report includes GAO's recommendations for amendments to present laws to correct the situation.

Letter Reports

Five reports in the form of letters from the Comptroller General were released during August.

To Senator William Proxmire—concerning the practice of active duty military personnel writing articles for publication in magazines published by military associations with advertising from defense contractors. B–170924 of December 22, 1971, released August 8.

To the Chairman, Subcommittee on Health Senate Committee on Labor and Public Welfare—concerning the whole-body irradiation program at the University of Cincinnati Medical Center and the Department of Defense policy on the protection of humans used in medical research projects under contract. B–164031(2) of May 26, released August 2.

To the Chairman, Subcommittee on Postal Facilities and Mail, House Committee on Post Office and Civil Service—examining selected terminated architect-engineering design contracts for Postal Service buildings. B–171594 of June 13, released August 2.

To Senator William Proxmire—on procedures used by the Defense Personnel Support Center for pricing produce for sale to military commissary stores. B–146875 of June 20, released August 16.

To Representative Les Aspin—concerning methods used by the Department of the Navy and Litton Systems, Inc. in computing escalation in the DD–963 program. B–170269 of July 21, released August 23.

II. REPORTS TO HEADS OF DEPARTMENTS AND AGENCIES

Actions needed to terminate Federal administration of State rural rehabilitation funds program. (To the Secretary of Agriculture.) Farmers Home Administration, Department of Agriculture. B–114873 of August 18.

Since the mid-1930s the Farmers Home Administration (FHA) of the Department of Agriculture and predecessor agencies have administered, in trust, assets belonging to State rural rehabilitation corporations. The assets consist primarily of farm ownership and operating loans.

As of June 30, 1971, FHA had returned to the States most of their trust assets and was taking adequate action to return most of the remaining assets. Additional action should be taken, however, to complete the return of all assets and to terminate FHA's responsibility for control over the uses made of the returned assets.

Need to strengthen controls over the procurement and use of household goods containers. (To the Secretary of Defense.) Department of Defense. B-159390 of August 28.

During a survey of the household goods moving and storage program of the DoD, GAO noted that controls over the procurement and use of Government-owned packing containers appeared inadequate. The report states that DoD could realize significant savings by procuring household goods containers locally at certain overseas activities rather than from GSA. DoD acknowledged proposals made by GAO and stated that it would take the necesasry corrective action.

The Air Force gunship program—successes and lessons to be learned. (To the Secretary of Defense.) Department of Defense. B-176702 of August 31.

The Air Force spent about $317 million to convert C-130 and C-119 aircraft to gunships from 1968 to 1971. The program was highly successful in producing effective combat systems. Gunships have been used extensively in Southeast Asia for various purposes, including base and hamlet defense, close support of ground troops, and interdiction of enemy supply lines. Battle damage assessments confirm that they have performed well. On the basis of these successes, C-130 gunships are expected to remain in the Air Force inventory through the 1970s.

The program was well managed generally, in that an effective weapon was produced in a relatively short time. The most serious problem, in GAO's view, is the ability of one military department to develop unilaterally new concepts or programs intended to involve other military departments.

The Air Force proceeded unilaterally with a concept and program of its own design without agreement from the Army, even though Army participation was essential. The Army did not approve the ground equipment needed to correlate with the airborne equipment purchased by the Air Force but instead is proceeding to develop a program of its own for this mission.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Betts (at the request of Mr. Gerald R. Ford), for the remainder of this week and next week, on account of official business as U.S. delegate to the Interparliamentary Conference.

Mr. Byrnes of Wisconsin (at the request of Mr. Gerald R. Ford), for the remainder of this week and next week, on account of official business as U.S. delegate to the Interparliamentary Conference.

Mr. Pirnie (at the request of Mr. Gerald R. Ford), for the remainder of this week and next week, on account of official business as U.S. delegate to the Interparliamentary Conference.

Mr. Dulski (at the request of Mr. Boggs), for the remainder of the week and Monday, September 25, on account of official business.

Mr. Pucinski (at the request of Mr. Zablocki), for September 20 and 21, on account of death in family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Baker) to address the House and to revise and extend their remarks and include extraneous matter:)

Mr. Halpern, for 10 minutes, today.

Mr. Blackburn, for 10 minutes, today.

Mr. Railsback, for 5 minutes, today.

Mr. Heinz, for 10 minutes, today.

Mr. Gerald R. Ford, for 5 minutes, today.

Mr. Edwards of Alabama, for 5 minutes, today.

(The following Members (at the request of Mr. Mazzoli) and to revise and extend their remarks and include extraneous matter:)

Mr. Gonzalez, for 5 minutes, today.

Mr. Kluczynski, for 5 minutes, today.

Mr. Alexander, for 30 minutes, today.

Mr. Addabbo, for 10 minutes, today.

Mr. Tiernan, for 5 minutes, today.

Mr. Celler, for 60 minutes, on September 21.

Mr. Aspin, for 10 minutes, on September 21.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Brooks to revise and extend his remarks and include extraneous matter notwithstanding the cost is estimated by the Public Printer to be $467.50.

Mr. Brotzman, to revise and extend his remarks following those of Mr. Staggers on H.R. 11682.

Mr. Randall, to revise and extend his remarks on H.R. 15003 prior to the vote on the Bingham amendment at page 59 of the bill.

(The following Members (at the request of Mr. Baker), and to include extraneous matter:)

Mr. Springer in two instances.
Mr. Johnson of Pennsylvania.
Mr. Vander Jagt.
Mr. Whitehurst.
Mr. Hosmer.
Mr. Wyman in two instances.
Mr. Minshall.
Mr. Frenzel in three instances.
Mr. Chamberlain in three instances.
Mr. Dellenback.
Mr. Broyhill of Virginia.
Mr. Price of Texas.
Mr. Kyl.
Mr. Anderson of Illinois.
Mr. Frelinghuysen.
Mr. Bray in three instances.
Mr. Schwengel.

(The following Members (at the request of Mr. Mazzoli) and to include extraneous matter:)

Mr. Johnson of California.
Mr. Clark.
Mr. Donohue.
Mr. Boland in three instances.
Mr. Podell.
Mr. Harrington.
Mr. Charles H. Wilson in 10 instances.
Mr. Rarick in three instances.
Mr. Gonzalez in three instances.
Mr. Van Deerlin.
Mr. Morgan.
Mr. Nix.
Mr. Roe in two instances.
Mr. William D. Ford.
Mr. Corman.
Mr. Roybal in 10 instances.
Mr. O'Hara.
Mr. Rogers.
Mr. Jacobs.
Mr. Casey of Texas.
Mr. Koch in two instances.
Mr. Nichols.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 750. An act to provide for the compensation of persons injured by certain criminal acts, to make grants to States for the payment of such compensation, and for other purposes; to the Committee on the Judiciary.

S. 1144. An act to authorize and direct the acquisition of certain lands within the boundaries of the Wasatch National Forest in the State of Utah by the Secretary of Agriculture; to the Committee on Interior and Insular Affairs.

S. 1911. An act to amend the Interstate Commerce Act to expedite the making of amendments to the uniform standards for evidencing the lawfulness of interstate operations and motor carriers; to the Committee on Interstate and Foreign Commerce.

S. 2501. An act for the relief of Daniel H. Robbins; to the Committee on the Judiciary.

S. 2762. An act to authorize and direct the Secretary of Agriculture to acquire certain lands and interests therein within the boundaries of the Cache National Forest in the State of Utah; to the Committee on Interior and Insular Affairs.

S. 3113. An act to declare that the United States holds in trust for the Bridgeport Indian Colony certain lands in Mono County, Calif.; to the Committee on Interior and Insular Affairs.

S. 3256. An act to designate the Aldo Leopold Wilderness, Gila National Forest, N. Mex.; to the Committee on Interior and Insular Affairs.

S. 3452. An act to amend the Trademark Act to extend the time for filing oppositions, to eliminate the requirement for filing reasons of appeal in the Patent Office, and to provide for awarding attorney fees; to the Committee on the Judiciary.

S. 3466. An act to authorize the Secretary of Agriculture to review as to its suitability for preservation as wilderness the area commonly known as the Lone Peak Area in the State of Utah; to the Committee on Interior and Insular Affairs.

S. 3483. An act for the relief of Cass County, N. Dak.; to the Committee on the Judiciary.

ENROLLED BILLS SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2185. An act to declare that certain federally owned land is held by the United States in trust for the Lac du Flambeau Band of Lake Superior Chippewa Indians;

H.R. 2589. An act to amend section 1869 of title 28, United States Code, with respect to the information required by a juror qualification form;

H.R. 6204. An act for the relief of John S. Attinello;

H.R. 10436. An act to provide with respect to the inheritance of interests in restricted or trust land within the Nez Perce Indian Reservation, and for other purposes; and

H.R. 14974. An act to amend certain provisions of law relating to the compensation of the Federal representatives on the Southern and Western Interstate Nuclear Boards.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1031. An act to credit certain service rendered by District of Columbia substitute teachers for purposes of civil service retirement;

S. 2478. An act to provide for the disposition of funds to pay a judgment in favor of the Shoshone-Bannock Tribes of Indians of the Fort Hall Reservation, Idaho, as representatives of the Lemhi Tribe, in Indian Claims Commission docket No. 326–I and for other purposes; and

S. 2575. An act for the relief of William John West.

BILL PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on September 19, 1972, present to the President, for his approval, a bill of the House of the following title:

H.R. 7701. An act to amend the act of August 9, 1955, to authorize longer term leases of Indian lands located outside the boundaries of Indian reservations in New Mexico.

ADJOURNMENT

Mr. MAZZOLI. Mr. Speaker, I move the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 22 minutes p.m.), the House adjourned until tomorrow, Thursday, September 21, 1972, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2351. A letter from the Administrator, Environmental Protection Agency, transmitting a modified table 3 of part II of the 1972 report on the economics of clean water, entitled "Survey Results of Estimated Construction Cost of Sewage Treatment Facilities Planned for the Period Fiscal Year 1972–76," requested by the Committee on Public Works; to the Committee on Public Works.

Received From the Comptroller General

2352. A letter from the Acting Comptroller General of the United States, transmitting a report on the need for the Department of Defense to improve its procedures for evaluating the reasonableness of petroleum pipeline rates; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BRADEMAS: Committee on House Administration. House Resolution 1087. Resolution to provide for the printing of a committee print entitled "Court Proceedings and Actions of Vital Interest to the Congress" (Rept. No. 92–1412). Ordered to be printed.

Mr. BRADEMAS: Committee on House Administration. House Resolution 1113. Resolution to provide for certain printing for use of the Committee on Veterans' Affairs of the House of Representatives (Rept. No. 92–1413). Ordered to be printed.

Mr. BRADEMAS: Committee on House Administration. House Concurrent Resolution 679. Concurrent resolution to provide for the printing of additional copies of the report of the Commission on the Organization of the Government of the District of Columbia (Rept. No. 92–1414). Ordered to be printed.

Mr. BRADEMAS: Committee on House Administration. House Concurrent Resolution 681. Concurrent resolution to provide for the printing of 1,000 additional hearings entitled "Corrections" parts I through VI (Rept. No. 92–1415). Ordered to be printed.

Mr. BRADEMAS: Committee on House Administration. House Concurrent Resolution 687. Concurrent resolution providing for the printing of additional copies of parts I and II of hearings entitled "Discrimination Against Women" (Rept. No. 92–1416). Ordered to be printed.

Mr. BRADEMAS: Committee on House Administration. Senate Joint Resolution 204. Joint resolution to authorize the preparation of a history of public works in the United States; with an amendment (Rept. No. 92–1417). Ordered to be printed.

Mr. CONYERS: Committee on the Judiciary. S. 3671. An act to amend the Administrative Conference Act; with amendments (Rept. No. 92–1418). Referred to the Committee of the Whole House on the State of the Union.

Mr. HOLIFIELD: Committee on Government Operations. A report on the administration of the Freedom of Information Act. (Rept. No. 92–1419). Referred to the Committee of the Whole House on the State of the Union.

Mr. TAYLOR: Committee on Interior and Insular Affairs. H.R. 15597. A bill to authorize additional funds for acquisition of interests in land within the area known as Piscataway Park in the State of Maryland (Rept. No. 92–1420). Referred to the Committee of the Whole House on the State of the Union.

Mr. TAYLOR: Committee on Interior and Insular Affairs. H.R. 5838. A bill to designate certain lands in the Lava Beds National Monument in California as wilderness; with amendments (Rept. No. 92–1421). Referred to the Committee of the Whole House on the State of the Union.

Mr. TAYLOR: Committee on Interior and Insular Affairs. H.R. 10655. A bill to designate certain lands in the Lassen Volcanic National Park, Calif., as wilderness; with amendments (Rept. No. 92–1422). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ERLENBORN:

H.R. 16738. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the individual income tax for tuition paid for the elementary or secondary education of dependents; to the Committee on Ways and Means.

By Mr. FRASER (for himself and Mr. Steele):

H.R. 16739. A bill to amend the Social Security Act to make certain that recipients of aid or assistance under the various Federal-State public assistance and medicaid programs (and recipients of assistance under the veterans' pension and compensation programs or any other Federal or federally assisted program) will not have the amount of such aid or assistance reduced because of increases in monthly social security benefits; to the Committee on Ways and Means.

By Mr. HALPERN:

H.R. 16740. A bill to improve the efficiency of the Nation's highway system, allow States and localities more flexibility in utilizing highway funds, and for other purposes; to the Committee on Public Works.

By Mr. HEINZ:

H.R. 16741. A bill to amend the Internal Revenue Code of 1954 to impose an excise tax on the discharge of pollutants; to the Committee on Ways and Means.

By Mr. ICHORD (for himself, Mr. Ashbrook, Mr. Davis of South Carolina, Mr. Thompson of Georgia, Mr. Schmitz, and Mr. Zion):

H.R. 16742. A bill to amend section 4 of the Internal Security Act of 1950; to the Committee on Internal Security.

By Mr. MINISH:

H.R. 16743. A bill to amend the Social Security Act to make certain that recipients of aid or assistance under the various Federal-State public assistance and medicaid programs (and recipients of assistance under the veterans' pension and compensation programs or any other Federal or federally assisted program) will not have the amount of such aid or assistance reduced because of increases in monthly social security benefits; to the Committee on Ways and Means.

By Mr. MOSS:

H.R. 16744. A bill to amend section 278 of the Internal Revenue Code of 1954 to change the effective date for the provisions related to almond groves; to the Committee on Ways and Means.

By Mr. O'NEILL:

H.R. 16745. A bill to authorize the establishment of the Boston National Historical Park in the Commonwealth of Massachusetts; to the Committee on Interior and Insular Affairs.

By Mr. QUILLEN:

H.R. 16746. A bill to amend chapter 34 of title 38 of the United States Code to restore entitlement to educational benefits to veterans of World War II and the Korean conflict; to the Committee on Veterans' Affairs.

By Mr. RAILSBACK:

H.R. 16747. A bill to provide for the humane care, treatment, habilitation and protection of the mentally retarded in residential facilities through the establishment of strict quality operation and control standards and the support of the implementation of such standards by Federal assistance, to establish State plans which require a survey of need for assistance to residential facilities to enable them to be in compliance with such standards, seek to minimize inappropriate admissions to residential facilities and develop strategies which stimulate the development of regional and community programs for the mentally retarded which include the integration of such residential facilities, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 16748. A bill relating to employment of inmates in Federal and District of Columbia penal and correctional institutions; to the Committee on the Judiciary.

By Mr. REID:

H.R. 16749. A bill to amend the Internal Revenue Code to provide income tax simplification, reform, and relief for small businesses; to the Committee on Ways and Means.

By Mr. STEIGER of Wisconsin (for himself, Mr. Kemp, Mr. Robison of New York, Mr. Hammerschmidt, Mr.

Erlenborn, Mr. Conte, Mr. Bell, Mr. Keating, Mr. McKinney, Mr. Mazzoli, Mr. Brown of Ohio, Mr. Forsythe, Mr. Conover, Mr. Brown of Michigan, Mr. Rees, Mr. Ware, Mr. Buchanan, Mr. Gude, Mr. Ruppe, Mr. Preyer of North Carolina, Mr. Sikes, Mr. Cleveland, and Mr. Thone):

H.R. 16750. A bill to amend the Occupational Safety and Health Act of 1970 to provide additional assistance to small employers; to the Committee on Education and Labor.

By Mr. THOMSON of Wisconsin:

H.R. 16751. A bill to amend title 23 of the United States Code to provide for the Federal funding of land and easement acquisitions and the construction and improvement of necessary roads and scenic viewing facilities in order to develop a national scenic and recreational highway program; to the Committee on Public Works.

By Mr. BROYHILL of North Carolina:

H.R. 16752. A bill to provide disclosure standards for written consumer product warranties against defect or malfunction; to define Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HORTON (for himself, Mr. Udall, and Mr. Coughlin):

H.J. Res. 1305. Joint resolution to declare a U.S. policy of achieving population stabilization by voluntary means; to the Committee on Government Operations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. REID presented a bill (H.R. 16753) for the relief of Cornelius S. Ball, Victor F. Mann, Jr., George J. Posner, Dominick A. Sgammato, and James R. Walsh, which was referred to the Committee on the Judiciary.

SENATE—*Wednesday, September 20, 1972*

The Senate met at 8:30 a.m. and was called to order by the President pro tempore (Mr. Eastland).

PRAYER

The Reverend Father Gilbert V. Hartke, O.P., chairman, the speech and drama department, Catholic University of America, Washington, D.C., offered the following prayer:

Go home to your friends and tell them how much the Lord has done for you.—Mark 5: 19.

O Lord our God, we fail You through our sins. Lord, we easily make public confession of the sins of others. This we do because we are weak and need to place the root of our weakness in other than our self. Help us, Heavenly Father, to face our faults. Help us not to burden our brother by avoiding our responsibilities to You and to him, our neighbor. Lord, You came on earth and in 1,000 days taught my neighbor and me the centuries old lessons of contrition and compassion. Destroy, O Lord, we pray You, the ceaseless cycle of evil that holds us captive. Let sin die in us as the sin of the world died in Jesus Your Son. Through death to sin and no further shifting of responsibilities for our failings, may we be brother to each other and sons of God. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, September 19, 1972, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the calendar.

There being no objection, the Senate proceeded to consider executive business.

AMBASSADORS

The PRESIDENT pro tempore. The clerk will state the nominations on the Executive Calendar.

The assistant legislative clerk read the nominations of Marion H. Smoak, of South Carolina, to the Acting Chief of Protocol for the White House, with the rank of Ambassador, and Christopher Van Hollen, of Virginia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sri Lanka, and to serve concurrently and without compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Maldives.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I request that the President be immediately notified of the confirmation of the nominations.

The PRESIDENT pro tempore. Without objection, the President will be so notified.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

RESCISSION OF ORDERS RECOGNIZING SENATOR HANSEN AND SENATOR EAGLETON

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the special order granted to the distinguished Senator from Wyoming (Mr. Hansen) for this morning be vacated.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I also make the same request for the Senator from Missouri (Mr. Eagleton).

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The PRESIDENT pro tempore. The minority leader is recognized.

Mr. SCOTT. Mr. President, I yield back my time.

The PRESIDENT pro tempore. Under the previous order, the Senator from Texas (Mr. Bentsen) is recognized for not to exceed 15 minutes.

UNITED STATES-SOVIET GRAIN AGREEMENT

Mr. BENTSEN. Mr. President, I will discuss this morning the agreement the United States and the Soviet Union reached this past July 8 under which the Soviet Union was to purchase $750 million of assorted grains from the United States over a 3-year period.

During this discussion, I ask unanimous consent that my assistants, Mr. Gary Bushell and Mr. David Allen, be allowed the privilege of the floor.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BENTSEN. Initially, everyone greeted the news of this agreement with a great deal of enthusiasm, and I shared that enthusiasm with them, because we know this should benefit all of our people. Our farmers benefit because of the increased markets for their products. Our workers benefit through the increased number of jobs that result. Our consumers benefit because of the improvement in the state of our economy.

But, Mr. President, the thing that concerns me in this is the obvious disregard for the farmer and the way it has been handled in the Department of Agriculture. Some of the details I think threaten future trade. I want the details of this trade made public, and I want to know who has shown the lack of concern for the farmer in that Department.

Mr. President, the Soviet Union and a handful of huge international grain traders reaped great benefits from the United States-Russian grain deal. The U.S. farmer will, indeed, benefit in the long run with increased trade, but the trade conditions must be open and equitable and for the benefit of the producer as well as the large international grain trader.

In this deal the Soviet Union, at a time when her wheat crop was severely damaged by weather conditions, has handled Uncle Sam like the fairway barkers handled the city slicker who went to the country fair. Not only has Russia been able to obtain sorely needed wheat from this country, and in copious quantities, but she has been able to get it at bargain basement rates—rates that would have been made some of our old Yankee traders blush in embarrassment.

We have reportedly sold the Soviet Union an estimated 400 million bushels of wheat. While these large Soviet purchases forced an increase of 30 cents per bushel in the price of wheat to domestic consumers between July 8 and August 7, the Department of Agriculture held the Soviet Union's price steady by increasing the export subsidy paid on their wheat from 5 cents a bushel to 31 cents a bushel. Before it was all over, every bushel of wheat the Soviet Union purchased was costing the American taxpayer 47 cents in export subsidy.

Most experts place the cost to the American taxpayers in excess of $100 million. Since the Department of Agriculture considers the prices at which traders sell to the Soviet Union privileged business information, it is impossible to determine if the Russians or the grain traders, or in what proportion, received the benefit of the taxpayers' $100 million.

Why did the Department of Agriculture allow the export subsidies to get so high in an effort to maintain the world price at the low level at which the Soviet Union apparently was buying? The United States was the only major seller in the world at the time. The Canadians have told us that their exports were heavily committed until 1973. So we were the only big seller available in the market at that time.

On September 1, when the export subsidy was reduced from 47 cents to 30 cents, and the U.S. export price jumped up from $1.65 to $1.87, business was still good. In fact, some of our regular customers and allies are having to pay those higher prices. Because of the state of the world market, this years' wheat could possibly have been sold at domestic prices without any subsidy.

However, the aspect of this agreement causing the greatest controversy is the possibility of inside dealing.

In April, an Assistant Secretary of Agriculture was in Russia negotiating this agreement while also applying for a top-level management position with Continental Grain Co.

On the ninth he met with Soviet officials again in Washington, at which time the Soviets expressed interest in the credit terms they had earlier rejected in Moscow. Three days later he gave notice of his intention to leave the Department of Agriculture. On June 7 he officially resigned, and the following day he joined Continental Grain Co. as a vice president. That company ultimately made approximately one-half of the total wheat sales under the trade agreement which was announced; and that was announced publicly only 30 days after his departure from the Department of Agriculture.

It was revealed yesterday that the company he joined signed a contract of approximately $230 million with the Soviet Union for the sale of 150 million bushels of wheat 3 days before the public announcement of the United States-Soviet grain agreement.

Now, that is a remarkable set of coincidences, and it does not build confidence in the integrity of the Government.

Whether the Assistant Secretary's actions amount to a violation of Federal conflict-of-interest statutes is yet to be decided. Whether he gave his new employer valuable inside information concerning the Soviet need for wheat is a question which may never be answered. What is certain is that this type of apparent conflict will undermine public confidence in future East-West agreements.

Mr. President, inside information on trade policies is an advantage in any industry but it is particularly valuable in agricultural trade. Advance knowledge of a major sale such as this one would allow a company to purchase wheat during July and early August at low prices, store it, and postpone booking for export subsidies until late August when the subsidy rate had been pushed up by domestic price increases. The company could also buy wheat for future delivery in the commodity markets at low prices prior to the announcement of the sale and obtain delivery after the sale had pushed up the price.

Mr. President, when the export subsidies being paid to grain dealers finally became untenable, phone calls were made to the principal exporters on August 24 to warn them of a possible change in export payment policy, and a meeting was called for August 25 in Washington. Perhaps all this is normal at the Department of Agriculture; but what, Mr. President, is wrong with a public announcement which allows the whole Nation to know about a change in policy at the same time grain dealers do?

Mr. President, what about the farmers? It seems outrageous to me that the Agriculture Department, which has been so solicitous of the needs of the grain traders, has not been more helpful to the farmers in the affair.

After all, the Agriculture Department is supposed to represent the farmer in our Government, just as the Commerce Department represents the businessman, and the Labor Department the working man. The Agriculture Department is intended to be the farmer's advocate in our Nation's Capital.

While expanded trade for agriculture products is in the interest of all our farmers, and I support such expansion, this particular sale has had an inequitable effect in some areas. Due to the calculation of the value of wheat certificates on a 5-month average beginning on July 1 and going to November 30, farmers in early-harvest areas who sold without knowledge of the pending sale will actually make less money this year than if the Soviet sale had never been made. Farmers in the early-harvest States such as Texas sold at prices below what is now expected to be the 5-month average, and will receive approximately 30 cents less than the parity price they would have received absent the Soviet wheat purchases. It has been estimated that such losses to farmers will amount to almost $69 million.

In testimony before the House Subcommittee on Livestock and Grain the Secretary of Agriculture has expressed sympathy but has not made a commitment to provide equity for the farmer although his department moved very quickly to provide subsidies for the exporter.

The legislation which the Senator from Minnesota and I introduced last week would reimburse these farmers for this loss as a matter of simple equity. That legislation will be considered by the Senate Agriculture Committee this morning and I urge its speedy approval.

Once again, Mr. President, I wish to express my complete support of expanded trade for agricultural goods as well as other products—with the Soviet Union as well as other nations. But to build this expansion and public support for it, we must get a good price for our products, avoid apparent conflicts of interest, and insure the benefits are shared by all our citizens—farmers, taxpayers and traders.

Mr. President, I urge the early consideration and passage of this legislation.

The PRESIDENT pro tempore. Under the previous order, the Senator from Minnesota (Mr. HUMPHREY) is now recognized for not to exceed 15 minutes.

Mr. HUMPHREY. Mr. President, first of all I wish to commend my distinguished colleague from Texas (Mr. BENTSEN) upon his review of the current situation as it relates to the price and marketing of wheat, the relationships between the export program to the Soviet Union and the prevailing domestic price, and the impact of this entire operation of export sales upon the income of American farmers.

I do not use this occasion, Mr. President, to belabor the subject of the Soviet grain deal. Let me say that I, like the Senator from Texas, am very pleased whenever we can expand our exports. We need to do that. And, indeed, in years past, I joined with the distinguished Senator from Vermont (Mr. AIKEN) in encouraging what we call export subsidies, so that the American farmers and our exporters could engage competitively in world trade. The purposes of those export subsidies is to provide a freer flow and a greater flow of American agricultural products into world markets, without depressing the American domestic price.

The only question at issue here is the matter of timely information to the American farmer as compared to what kind of treatment the exporter receives related to that of the farmer. I do not draw conclusions at this time until the investigation of this whole subject matter has been concluded. There are certain areas, however, that require very careful attention.

For example, did exporters receive any tipoff of advance information that permitted them to step into the American domestic market to buy up grain supplies at low prices and hold them for later exports? Were there any relationships that violated standards of ethical conduct between departmental officials, present and former, and American exporters?

I do not have the answers to all of these questions, Mr. President, and I am not going to level any accusations.

I shall await the result of the investigation being conducted by the other body. I understand this morning that the Federal Bureau of Investigation is looking into the whole matter, as is the Commodity Exchange Authority. They are looking into matter as it relates to whether or not there was any violation of the law involving to what we call grain futures.

But I direct my attention primarily to the well-being of the farmer. The farmer did not receive any information about a projected Soviet grain deal or sale. The marketing services of the Department of Agriculture were very alert in their concern for the exporter, for the grain trade, but seemed to be very unconcerned about the interests of the individual farmer. Many of those farmers, hard-pressed as they are for cash, sold their grain at low prices in the early summer, despite the fact that had they received information as to the possibilities of this substantial export sale, they could have and would have held on for a better price in the marketplace.

Mr. President, Senator BENTSEN and I have introduced Senate Joint Resolution 267. I shall go to the Committee on Agriculture this morning, in the hope that we might be able to pass this measure.

The measure provides that the Secretary of Agriculture shall issue such regulations as necessary to carry out the provisions of this joint resolution on a fair and equitable basis. Such fair and equitable administration of this program of deficiency payments should not present any serious problems to the administration. The Commodity Credit Corporation now has an accepted scale of differentials by county and quality of wheat which it uses in administering its price support loan program. These differentials could be applied to producers' sales to determine the amount of the deficiency payment to which they were entitled.

Let me review briefly again what has happened.

The parity price of wheat in July 1972 was $3.03 per bushel. The U.S. average farm price at that time was $1.33 per bushel.

Let me digress for a moment to point out that the farmer was receiving less than half of what he ought to receive for his wheat. Under the U.S. average farm price, the value of 1972 wheat marketing certificates, under the Agricultural Act of 1970, is equal to the difference between the average market price in the first 5 months of the marketing year, July 1 to November 30, 1972, and the parity price in July.

With no new developments in the market, it is probable that the 5-month average market prices would have approximated $1.33, resulting in the certificates having a value of $1.70 per bushel.

As the extent of the Soviet purchases became known, market prices rose sharply. No. 1 ordinary red winter wheat at Kansas City increased in price from $1.52 a bushel the first days of July to $1.62 the first 2 days of August, to $1.95 the first 2 days in September, to $2.27, yesterday, September 19. This is an increase of 75 cents a bushel for first quality wheat at the Kansas City market.

It now appears probable that wheat prices will average 30 cents a bushel higher and wheat marketing certificate values will be 30 cents a bushel less than they would have been in the absence of the extraordinary export sales to the Soviet Union and other countries.

Wheat producers who sold their wheat before the sharp rise in prices occurred in late August and September not only failed to receive higher prices which are now expected to prevail for the balance of the season, but will receive marketing certificates valued at some 30 cents a bushel less than otherwise.

On the basis of previous marketings it is probable that about one-third of the 1972 wheat was sold by mid-August. Since southern wheat producers who sold early are probably about average in size it is probable that about a third of the wheat producers will be adversely affected by the wheat sales to the Soviet Union unless deficiency payments, similar to those authorized in Senate Joint Resolution 267 are made.

The domestic wheat marketing allotment is approximately 500 million bushels. If the value of these certificates is reduced 30 cents a bushel as a result of higher market prices Government expenditures would be reduced $150 million.

If the producers of one-third of this 500 million bushel domestic marketing quota qualified for deficiency payments, because of early sales at low prices, the deficiency payments would total $50 million, one-third of the anticipated savings to the Government.

Mr. President, the only reason we introduce this measure is that the Department of Agriculture did not level with the farmers—they did not indicate to them major sales were in the offing. I cannot say how much the Department knew as to the volume of those sales, but I do know, from the testimony that has already been received by the other body, that exporters in the grain trade did know that there would be some Soviet purchases and, indeed, information was given to these exporters relating to grain subsidies and to the possibilities of Soviet purchases. It was common talk in the marketplace among the exporters. The farmer did not receive that information.

The Department of Agriculture was very sensitive to the needs of the exporters. I am not accusing anyone of any hanky-panky. I am not saying there was any corruption. I do not know. That has yet to be determined. But I am saying that the Department of Agriculture was very alert to the needs and opportunities for the export trade, but apparently was very mute and silent when it came to informing the American farmer.

Approximately one-fourth to one-third of the farmers sold their grain at low prices prior to any announcements about the Russian sale. This meant that they were not able to really benefit from the sales, losing part of their certificate reimbursement, which will result in more than $50 million in lost income.

This does not apply particularly to the farmers in the area I represent in the Senate, because we market later in the year. Our harvesting of wheat in the Northern States comes in early August, and much of that wheat does not go to market until later. But in the South-Central States and the Southwestern States, it is of critical importance. Also, we know that the total supply of wheat affects the entire market price.

So, Mr. President, I rise today to encourage prompt action on the resolution that Senator BENTSEN and I have introduced, as I will press for in the Senate Committee on Agriculture later this morning.

Finally, let me just say a word about the Soviet purchases of wheat and the possibilities of other feed grain sales to Russia. I think there is legitimate reason to be critical of the administration in connection with its handling of the present shipping arrangements with the Soviet Union. I ask the Senate to remember that the arrangement as originally proposed provides for one-third of the cargo to be carried in U.S. bottoms, one-third in third country bottoms, and one-third in Soviet ships.

The failure to reach a timely agreement has resulted in two things: First, Soviet ships are not coming down into the ports of the Great Lakes, particularly the port of Duluth. As nearly as I can remember, the reason for this is that our Departments of State and Commerce not only have discouraged it but also have placed certain restrictions on their doing so. Our Government claims that the reason for their doing this is in order to bring about the best possible agreement from our point of view.

Second, the U.S. bottoms are not transporting the amount they would be entitled to transport if the agreement were in effect. If the Soviets were indeed permitted to enter the Great Lakes, it would mean increased business for those ports.

From an overall standpoint, the key issue is failure to arrive at an agreement in denying business to United States carriers where the agreement would insure that they would get one-third of the business and the other two-thirds of the business most likely would be with Soviet and third-country flags using Great Lakes ports and thus a failure to arrive at an agreement which would benefit not only the ports of the Great Lakes, but the entire United States shipping industry.

There is every reason, therefore, to be critical of the administration for its failure to reach such an agreement. It has had more than adequate time to do so. If something is not done almost within a matter of days, we in the Great Lakes will find ourselves in what we would call the winter season and the ports will be closed and we will have lost any opportunity to ship these very important agricultural commodities.

Thus, I ask the administration to act. I ask the administration to do it now before we lose the possibility of shipping on American ships and before we lose the possibility of utilizing the Great Lakes ports.

Mr. President, this administration has been derelict in its agricultural policy. This administration has permitted the American farmer to have an average parity ratio of only 74, a level which President Nixon said during his 1968 presidential election campaign as being far too low.

This administration up until the past 2 months has been having a farm parity price between 69 and 70. It has literally liquidated thousands of farmers and put American agriculture deep into debt. It has driven thousands of farmers off the land.

I recall a statement by the now President of the United States as he campaigned in Des Moines, Iowa, in September 1968, when he said:

> It is high time we had a Secretary of Agriculture who will not spend time in telling off the farmers of America but instead will talk for them.

Well, Mr. President, this Secretary of Agriculture played a leading role in killing the grain reserve bill. This Secretary of Agriculture has not as yet put himself on record with reference to the bill introduced by the Senator from Texas (Mr. BENTSEN) and myself, but I would not be surprised if he opposes it. This Secretary of Agriculture has refused to support what we call supply management legislation that would give the farmers a better price. This Secretary of Agriculture has spent a good deal of his time pitting labor against farmer. This Secretary of Agriculture has not spoken up for the American farmer—that family farmer who is the backbone of the American agricultural system.

So, Mr. President, I would summarize my case this morning by saying, No. 1, that we had better look to the future to see whether we will have adequate supplies from our agriculture. We cannot ask the farmer to plant more if he will not get a guarantee on his prices. The farmer has been up that road before. Even previous administrations said they were sympathetic to the farmer and asked him to plant when they thought there would be a shortage. The farmer responded, but only to receive low prices. Therefore, if we are going to ask the farmer to plant, he must be able to set aside grain reserves that do not adversely affect the market price.

I encourage export trade, but I say to this administration that when they do it, I hope that they make information relating to it totally public. Let there be nothing that will cloud the issue. Let there be no opportunity for people to say that something was done, so to speak, behind closed doors, or that some particular part of the agricultural community received special favor.

I hope and pray that we may find a way to give the American farmer proper assurance that he will receive parity prices for his commodities. He has suffered long enough. He is entitled to justice in the marketplace.

Mr. President, I ask unanimous consent to have printed in the RECORD a news story carrying a statement by Mr. Tony Dechant, president of the Farmers Union. Mr. Dechant's statement underscores the legitimate concern of our family farms.

I also ask unanimous consent to have printed in the RECORD the statement of my distinguished colleague, Senator MONDALE. Senator MONDALE emphasizes the importance of supply management and the result of the Nixon agricultural policies on our farm producers.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Minnesota Agriculture, Sept. 7, 1972]

SECRECY IN WHEAT DEAL HURT WHEAT FARMERS—DECHANT

WASHINGTON, D.C., August 30.—The Russian wheat deal has cost wheat farmers in early-harvest areas an estimated $100 million in government wheat certificate payments, according to Tony Dechant, the national president of the Farmers Union.

This will occur, Dechant said, because the rising wheat market could raise the average price to $1.75 per bushel, or higher, during the July to November marketing period. This will have the effect of reducing the federal subsidy by approximately 40 cents a bushel.

Dechant explained that farmers received the difference between the average price during the five-month marketing period and 100 per cent of parity, now estimated at $3.03 per bushel, on that portion of their wheat used in domestic markets. This is slightly less than half the total wheat harvested.

"But those farmers who sold their wheat in July received only $1.30 to $1.35 per bushel," Dechant said. "Their wheat certificate will amount to only $1.28 per bushel, if the average for the five-month period is $1.75—making their total return about 40 cents a bushel less than the full parity price to which they are entitled under law."

Dechant charged that the situation is the result of the secrecy surrounding the Russian wheat deal. "Full details should have been announced in advance so that farmers could have made better judgments at the time of harvest," he said.

Dechant estimated that farmers may have sold between 400 and 500 million bushels of wheat in July in such early-harvest areas as Texas, Oklahoma, Kansas and parts of Nebraska and South Dakota. "They were entitled to 100 per cent of parity on about half of this wheat," he said. "Instead, they will receive less than 90 per cent of parity."

MONDALE CONCERNED ABOUT LONG TERM INCOME BENEFITS FOR FARMERS IN SALES

The sale of nearly $1 billion worth of grain to the Soviet Union illustrates dramatically the potential for peaceful nonstrategic East-West trade. This trade could play a role in the expanding U.S. exports, according to Senator Walter F. Mondale.

"Export expansion of this type is especially important if we are to develop better farm income from our expanding agricultural productivity. Increased Russian purchases of feed grains for their growing livestock industry show promise of further trade opportunities," he said.

"I am concerned, however, that there is little promise of long-term income benefits for farmers from the sales. The present government farm program has resulted in farm prices often dropping to disaster levels. This, in turn, has exerted downward pressure on world prices as excess production is dumped into export markets."

The Administration consistently states that grain prices have to stay low in order to compete in world markets. But big trade volume without profits to the farmer accomplishes nothing. Further, these break-even prices exert downward pressure on world prices. This is the predicament which results when farmers have no voice in international farm trade decisions, he explained.

"As a result of vast overproduction, wheat prices have been at disaster levels for several years. Now, a crop failure in Russia has turned into a unique opportunity to reduce U.S. stocks of wheat. The result has been a sudden increase in wheat prices. But unless longer term market opportunities are developed, this price increase will be short term. The favorable prices this year will not carry farmers through several years of disaster level prices," he declared.

"In my judgment, a better government farm program is needed to more adequately stabilize farm production and balance supply with demand. Then, new export market opportunities open up, specific supply expansion measures can be taken. The current set-aside program allows too much slippage and uncertainty in production of major commodities. Besides all the natural risks in farming due to weather, disease, and insects, the government program does an inadequate job of supply management. In planning production and marketing, farmers have to rely heavily on the government crop reports or solely on chance. They have no specific idea at planting time how much of each commodity will be planted across the nation."

"A more adequate supply management program, a strategic grain reserve and increased price support loan rates could eliminate many of these uncertainties and increase farm income."

VITIATING ORDER FOR SENATOR COOK TO SPEAK THIS MORNING

Mr. SCOTT. Mr. President, I ask unanimous consent that the order granted to the distinguished Senator from Kentucky (Mr. COOK) yesterday to speak for 15 minutes this morning be vacated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. ALLEN). At this time, in accordance with the previous order, the Chair recognizes the distinguished Senator from Pennsylvania (Mr. SCOTT) for 15 minutes.

Mr. SCOTT. Mr. President, some people cannot stand prosperity. One would have thought if there was anything the farmer wanted more than anything else, it was to be able to sell his wheat, sell it at higher prices, and to get more contracts with other nations.

That is exactly what has been happening. The largest contract in history has just been negotiated with Russia. Another large contract is being negotiated with mainland China.

I heard one commentator mention at the time that it was being negotiated with France—which is a cute way of getting away from saying it was American wheat. There have been no negotiations with France on this, but who expects candor in these political days anyway?

What can we expect from an opposition suddenly confronted by the fact that the farmer is getting better prices for his product? We would expect them to do exactly what they are doing, that is, getting up and saying, "This is great. We love the farmer. We think this is fine, but it must be that someone else is getting more money than the farmer."

I have lived as a small boy on a farm, and I know that farmers generally are accustomed to blaming the middleman. I never saw a happy farmer, because always he was grumbling that the big corporations or the middleman or someone else was getting more money than he was.

Now, if we take a demagog who wants,

really, to flap his wings and ride the currents on this one, all he has to do is tell the farmer, "Sure, you make a profit. Wheat is going up, but someone else is making more money than you are."

That does not have to be proved, because this is an election year. This is the year of nonproof. This is the year of agitation. This is the year in which we kind of goose the farmer into cries of outrage all the way to the bank.

Mr. President, I am not talking about anything that has been said here. I am talking primarily about the almost instant reaction of the forces of the opposition to this administration when they were, I suppose, caught short on the grain deal. They were caught as short as some of the big grain dealers were. As a matter of fact, it will appear in due time that the principal grain dealers did not make money on the original transaction but that they lost money. I am waiting—we are all waiting—for the evidence of that, but certainly some of the grain dealers were actually short of grain and others were short on the stocks of the subsidy transaction.

There has been no evidence adduced, and I know of none, to indicate that there was any gambling, or inside information, in the market.

Moreover, it is well known that the information which the distinguished Senator from Texas referred to as of August 24 when wheat phone calls were made to principal exporters regarding export payment policy, that this policy had been made effective the previous day, August 23, in order to avoid giving any improper advantage to anyone.

The truth is that the Soviet Government has a right to come over here and make private deals for wheat or feed grains. That is our free enterprise system. The only people who object to that are those who have left the United States and gone up and joined the Canadian Wheat Board and who would rather see us do it the Canadian way.

Well, if we did it the Canadian way, we would not make any money for the farmer at all. The people who started to criticize, the people furnishing the information to enable some people to allege that grain exporters got some unwarranted advantage, were themselves people associated with the Canadian Wheat Board, one of whom had formerly been associated with the U.S. Department of Agriculture.

What did he want? He wanted to make trouble because he wanted the United States eventually to come to the Canadian Wheat Board.

What would happen then? The farmer would not get a cent of profit, because as you came out of the transaction, the only ones who would benefit would be the U.S. Government because the supply would come from the Government surplus.

Now, what happens under our system? The Commodity Credit Corporation has quite a lot of wheat. These sales to Russia are going to deplete its stock. And when that stock is depleted, the CCC has to refill its grain storage facilities with more wheat. Where does it get it? It gets it from next year's early harvest farmer.

So, here is the complaint: If anyone sells the day before a transaction was announced, he is disadvantaged.

Mr. President, that is true every day in the stock market. Anyone who sells before a price rise is worse off than the person who sells after the price rise. The only question is whether it is in the fair and normal course of trade. And that is a proper question. However, to imply that whole areas of the country have been disadvantaged is utterly false, because these early harvest farmers will benefit next year from a continued firmness in the price of wheat necessitated by the resupply of the Commodity Credit Corporation of the quantity of wheat necessary to restore its levels which have been substantially depleted by reason of this grain deal.

That is what it is all about, Mr. President.

Another charge was made, and I may say that I surprise myself by being an expert on this subject, because I am really not. However, it does not take an expert to label hogwash. I am not an expert in grain. However, I am an expert on garbage and hogwash. I know it when I see it.

When I heard this charge coming from the campaign trail, I could smell it all the way to the Potomac, especially a charge like the one that most farmers who grow wheat had been disadvantaged by this deal.

Actually, I think they will discover from the figures here that 1 week after the announcement of this trade deal with Russia—which allows for some sales in that week—83 percent of the farmers who could have qualified still had their wheat and had not disposed of it, and 17 percent of the farmers had disposed of their wheat. They will get their benefits next season. Their benefits will come in ultimate trading next season.

I heard someone on one of the networks say that most farmers had sold their wheat. That is wrong. It is totally wrong. Incidentally, this was on the ABC network. They had not bothered to check it at all. I do not believe that people who show one farmer on a network who says that he is dissatisfied are giving the American people a fair picture of the grain situation. Anyone can find a farmer who is not satisfied. All one has to do is to ask the first farmer he sees.

Everyone wants to do better. I do not blame them. We all do. However, this business of trying to rub the farmer the wrong way at this very time when he has had the greatest break he has had in years is purely political and ought to be dismissed as such.

Senators will notice that no charge is proved. The whole name of this game is to charge something without proving it. And so we always have the qualification that the U.S. farmer will indeed benefit in the long run with increased trade. We have the qualification that we have reportedly sold the Soviet Union such and such amount of grain. We have the qualification that it is impossible to determine which ones of the grain dealers received the benefit of the taxpayers' $100 million. We have the accusation that the Secretary's action amounts to a conflict of interest. That is for others to decide.

What is being charged here is that the United States, considerably to its own surprise, discovered that farmers do not have the best deal in private wheat sales at the Soviet mission in New York or elsewhere, and discovered that Russia wants to buy more wheat than anyone thought she wanted to buy.

We discovered for the first time that China, which was buying Canadian wheat, suddenly decided to buy U.S. wheat. Would we not think that is good news? Normally we would. But this happens in an election year. Therefore, we have the rule of 1984 which is to say that good news is bad news unless I announce it, and good news cannot be good news unless it is good for me.

That is not a new rule. Rather it is an old political rule.

So my role here is sort of vice president in charge of the elimination of hogwash or executive officer to control of stemming the flow of political garbage or some other title which I will award to myself from time to time. I am free to award that title to myself because there are no East German referees around to decide against me. I can make my own rules just as the East Germans did in the Olympics.

Mr. President, while we are about it, let us eliminate the miasma which pertains to good news and forbids it. Let us for once say that America is doing great. Let us for once say that this is a great country. Let us for once say that we are glad that the farmer is making a lot of money. Let us for once say that the Russian deal was fine and the Chinese deal is good.

Let us for once say that the administration is doing the right thing. Even in the eyes of our opposition we cannot be wrong every day and all the time. So let us look at the shiny side of the medal.

I think I have to keep on saying this, and if we are going every morning to have some kind of special order designed to put a burr under the saddle of the administration, I constitute myself assistant director in charge of putting burrs under the saddles of those who put a burr under the saddle of the administration. And if we want to play this game of burr and double burr and reburr and Aaron Burr and all the rest of the burrs. I will be burring around just as much as any burrer until we have put the burrer back where the burrer belongs, and that is on the path to truth.

Mr. President, I yield back the remainder of my time.

Mr. President, I ask unanimous consent that certain material entitled "The Truth About the Sale of Grain to Russia" be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE TRUTH ABOUT THE SALE OF GRAIN TO RUSSIA

ACCUSATION 1

The grain sale credit agreement with the Soviet Union was negotiated in April and was not announced to farmers and the public until July 8.

FACT: This accusation is absolutely false. The agreement on credit was negotiated starting June 28 and was completed on July 8. The details were announced to the public immediately after the agreement was signed.

ACCUSATION 2

Farmers were not notified of the agreement and thus sold wheat before they were aware of the agreement.

FACT: According to the Crop Reporting Service of the U.S. Department of Agriculture, farmers one week after the agreement was signed still retained control of approximately 83 percent of the 1972 and old crop wheat stocks.

ACCUSATION 3

Rising wheat prices automatically reduce wheat certificate payments, which make up the difference between market prices and support levels on wheat used for food in this country. Thus farmers did not benefit materially from the Russian purchases.

FACT: Wheat certificate payment to farmers will be reduced approximately $130 million, but farmers will benefit from increased prices for wheat sold for export, which will be the largest in history this crop year. The value of feed grain, wheat and soybean stocks controlled by farmers, including the 1972 harvest, will increase in value by approximately $1 billion, primarily as a result of the sales to Russia.

ACCUSATION 4

The Russian housewife is being subsidized by the U.S. taxpayer.

FACT: The export equalization payments on wheat exports to Russia, which make up the difference between U.S. export prices and higher prices paid to U.S. farmers for wheat, are the same as the export payments made on wheat shipments to Japan or any other country. The export equalization payments on the sale of wheat to Russia will cost approximately $120 million. Offsetting this cost is an estimated four-to-one return to the U.S. Treasury arising from the Russian sale. The estimated Treasury and tax savings of $500 million comes from higher returns from wheat stocks held by the government, lower certificate costs, and lower wheat program costs for next year.

ACCUSATION 5

Exporters were tipped off to a potential change in the export payment program a day and-a-half in advance and used this to their advantage.

FACT: Exporters were called and notified that a change in export policy had been made on sales made prior to the previous day. This was to immediately prevent overselling of certain classes of wheat. No information was given to them concerning what action would be taken. That was determined the next day and announced publicly after the market closed. Since the change in export payment applied to sales previously made, the information would not be to any exporter's advantage.

ACCUSATION 6

The Department suppressed a July Agricultural Attache Report from Moscow indicating crop conditions in Russia were deteriorating.

FACT: This report was made a part of an ERS evaluation which was released to the press and was published in such papers as the New York Times, and the Journal of Commerce.

ACCUSATION 7

The Russians received more favorable treatment in the purchase of U.S. grain than other U.S. customers.

FACT: The Russians purchased grain under the same competitive conditions as any other foreign buyer. No concessions were made on credit terms and no concessions were made on price to Russia. Any nation purchasing wheat from U.S. firms has had the same information and terms available to them as any other nation.

THE WHEAT SALE SCANDAL

Mr. CHURCH. Mr. President, I am pleased to join this morning with the Senator from Texas in looking into the grain deal with Russia. This appears to be another scandal which the administration first denies and then, as the days go by and more details become available, hopes will fade away.

Few people remember now, but when Earl Butz was appointed Secretary of Agriculture, Ralston Purina, which had been his employer, arranged a nesting place for his predecessor, Clifford Hardin. When Mr. Butz moved from Ralston Purina to Secretary of Agriculture, Mr. Hardin moved from Secretary of Agriculture to Ralston Purina.

This is just one more illustration of the cozy relationship that exists between big business and the Nixon administration. It is hardly surprising that the wheat sales to Russia were manipulated to funnel the profits to the big grain dealers instead of the farmers.

The estimates of loss to Idaho wheat farmers amount to millions of dollars. The farmer's loss became the big dealer's gain because grain dealers were tipped off in advance. The dealers were thus enabled to purchase wheat before the prices rose, once news of the Russian sale was made public.

Too often, in a discussion of problems in agriculture, we cloud the issue by using the jargon of the trade. We Senators from farm States speak of parity and supports and certificate payments. The wheat scandal evokes a metaphor everyone understands—dealing from the bottom of the deck. It is another example of behind-the-scene manipulation so characteristic of the Nixon administration.

Mr. President, I ask that a memo to my office by the National Farmers Union, together with its supporting documents, appear at this point in the RECORD, as well as an article from the Farmers Union Newsletter entitled "The Grain Sale Scandals," an article from the September 14, 1972, Wall Street Journal entitled "U.S. Suppressed Data That Might Have Aided Farmers in Grain Deal," and an article from the September 15, 1972, Washington Post entitled "U.S. Gave Grain Exporters Tip on New Policy."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL FARMERS UNION,
August 31, 1972.

URGENT LEGISLATIVE MESSAGE

To: Members of Congress from Major Wheat Producing States.

From: Reuben L. Johnson, Director of Legislative Services.

Enclosed herewith are two statements of Farmers Union national president, Tony T. Dechant, concerning the sale of wheat to Russia; copy of a letter received from a Kansas wheat farmer, Mr. Paul Whitmer together with copy of my reply; articles from the *Washington Post* written by Nick Kotz concerning wheat sales to Russia.

As our press release of August 29, indicates, we feel very strongly that the cloak of secrecy should be lifted concerning such questions as:

(1) How much wheat has been sold to Russia?

(2) What price was paid?

(3) Who received the export subsidy and in what amount?

(4) What are the credit terms?

(5) Who pays shipping charges, etc.?

Farmers would be in much better position to make decisions concerning wheat marketing if they knew the answers to these questions. We will appreciate very much your help in determining the best course of action to get this kind of information to the wheat producers of the Nation.

NATIONAL FARMERS UNION,
Washington, D.C.

WASHINGTON, D.C., August 29, 1972.—Tony T. Dechant, National President of Farmers Union, called upon President Nixon and Secretary of Agriculture Butz today to end "vest pocket" secrecy in export sale of grains and conflict-of-interest shifts of personnel between top grain companies and USDA. Dechant said that large wheat exporting companies have been privy to advance information concerning the extent of government subsidy and credit arrangements on export sales of wheat. The benefit of this information has made windfall profits possible through (1) purchase of wheat before prices went up, and (2) speculating in the wheat futures market.

"Had there been minimum prices in the International Wheat Agreement," Dechant said, "the kind of cozy working relationship that exists between the USDA officials and the private grain trade would not have been possible. Such an Agreement would have moved grain trading operations into the light of public scrutiny. The cloak of secrecy under which the grain trade operates with the blessing of the USDA would have been lifted."

"With the government paying subsidies on every bushel of wheat moving in export, there should be exact figures available on amount of exports, prices received and to whom subsidies are paid. Such information should be made public as soon as it is known to USDA.

"The private club atmosphere that has been created by grain trade officials moving in and out of the Department of Agriculture and the Administration constitutes a conflict-of-interest of the worst kind. In recent months," Dechant said, "two top USDA officials moved to high posts with grain exporting companies, while two officials from grain exporting companies took jobs with the Nixon Administration. In the first instance, I refer to Clarence Palmby who joined Continental Grain and Clifford Pulvermacher who joined Bunge, Inc. In the second instance, William Pearce, formerly a high official of Cargill & Co., joined the White House office concerned with trade negotiations and George Shanklin, a former official of Bunge, Inc. joined USDA where he serves as Assistant General Manager of the Export Marketing Service."

"As in the current situation regarding wheat," Dechant said, "when market prices advance, most farmers have already sold their crop."

"Every wheat producer gets counted in when prices based on balancing supply with demand move to favorable levels and stay there during the wheat harvest season. Only a few will benefit from the present boom and bust market situation. The Department of Agriculture, for example, has announced that exports of wheat will now be limited through adjustment in subsidy arrangements. A cut in market prices to producers will result. This unfortunate development would not have been needed if a realistic price range had been included in the International Wheat Agreement.

FARMERS UNION CHARGES LOSS TO WHEAT FARMERS RESULT OF RUSSIAN DEAL

WASHINGTON, D.C., August 30.—The Russian wheat deal has cost wheat farmers in early-harvest areas an estimated $100 million in government wheat certificate payments, according to Tony Dechant, the national president of the Farmers Union.

This will occur, Dechant said, because the rising wheat market could raise the average price to $1.75 per bushel, or higher during the July to November marketing period. This will have the effect of reducing the federal subsidy by approximately 40 cents a bushel, he said.

Dechant explained that farmers receive the difference between the average price during the five-month marketing period and 100 percent of parity, now estimated at $3.03 a bushel, on that portion of their wheat used in domestic markets. This is slightly less than half the total wheat harvested.

"But those farmers who sold their wheat in July received only $1.30 to $1.35 per bushel," Dechant said. "Their wheat certificate will amount to only $1.28 per bushel, if the average for the five-month period is $1.75—making their total return about 40 cents a bushel less than the full parity price to which they are entitled under law."

Dechant charged that the situation is the result of the secrecy surrounding the Russian wheat deal. "Full details should have been announced in advance so that farmers could have made better judgments at the time of harvest," he said.

Dechant estimated that farmers may have sold between 400 and 500 million bushels of wheat in July in such early-harvest areas as Texas, Oklahoma, Kansas and parts of Nebraska and South Dakota. "They were entitled to 100 percent of parity on about half of this wheat," he said. "Instead, they will receive less than 90 percent of parity."

THE GRAIN SALE SCANDAL

The wheat sale to Russian could have been a feather in Mr. Nixon's political cap. Wheat farmers, who had been suffering from low prices during the first 3 years of the Administration, suddenly found prices rising sharply. But instead of reaping political advantage, the Administration finds itself charged with conflict of interest and shady dealings with the grain trade, at the expense of thousands of wheat producers.

Farmers Union National President, Tony Dechant, had warned against the developing conflict of interest during Earl Butz's confirmation hearings last November. He said Butz and former Secretary Hardin were playing "musical chairs" in swapping their respective positions between USDA and Ralston Purina. In December, William Pearce left Cargill & Co. to become a White House advisor. The "cozy relationship" advanced further in June when Clarence Palmby resigned as USDA Assistant Secretary to become vice president of Continental Grain. Clifford Pulvermacher, chief of the Export Marketing Service, switched places with George Shanklin at Bunge, Inc. Palmby and Pulvermacher were members of the negotiating team which met in Russia last April. They resigned from the USDA before the grain deal was announced.

Due to this "clubbish atmosphere," grain traders had advance information on the Russian sale and were able to buy up supplies at low prices, both on the cash and future markets. Carroll Brunthaver, a former executive with the Cook Co., who moved up to replace Palmby at USDA, gave assurances to traders that subsidies would be raised.

But the producer's share of higher prices was left strictly to chance. Those producers who still had wheat to sell after the magnitude of the Russian sale became general knowledge, were able to sell at higher prices. But those who sold earlier at lower prices lost out and unwittingly contributed to the grain trade windfall. A prominent Wilson, Kansas wheat producer wrote to Farmers Union saying, "I feel cheated. . . I sold my wheat at $1.34 per bushel soon after harvest. It seems to me that 'Tricky Dick' was up to his old tricks. He only let his fat cats know about the wheat deal. They stole a lot of wheat at a low price before the price went up. . . To make it worse, I will also lose the last certificate payments."

In answer to this wheat producer, and others, Farmers Union National Director of Legislative Services, Reuben Johnson, replied that besides selling at a low price, early harvest producers will receive about 41 cents less per bushel. Johnson explained, "Certificate payments represent the difference between a 5-month average market price and parity ($3.03). If that average price rises to say $1.75, the producer who sold at $1.34 will lose the 41 cents difference."

President Nixon's trips to China and Russia have been highly touted as proof of his ability in foreign affairs. It is hard to believe that his negotiators were fooled into thinking that the grain sale would be much smaller and consist mostly of feed grains. But even if that is the case, the USDA should have kept everyone advised as the true picture emerged. The fact that subsequent negotiations were between private companies and the Russians is no excuse for not publicizing details. The USDA uses taxpayers' dollars to subsidize traders for every bushel of wheat in the deal. It must (or should) know every detail of every sale.

Administration officials have been suggesting that expanded exports will alleviate the need for farm programs. Yet Clarence Palmby, who until recently was head of international affairs and commodity programs at USDA, deliberately undercut attempts to include minimum prices in the International Wheat Agreement. With an orderly system of international trade, the present scandal could not have taken place because details of the sale would have been above board for all to see.

As it now stands, the kindest charge that can be made is utter incompetence. Other foreign markets are upset because Russia is receiving a privileged deal; U.S. producers have been bilked out of some $100 million; bakers are demanding increased prices; a consumer's group, many Congressmen, and the South Dakota Farmers Union have called for Congressional investigations.

[From the Wall Street Journal, Sept. 14, 1972]

SECRET STUDY: U.S. SUPPRESSED DATA THAT MIGHT HAVE AIDED FARMERS IN GRAIN DEAL

(By Burt Schorr)

WASHINGTON.—Agriculture Secretary Earl Butz's spirited defense of the way the Nixon administration has handled the Russian wheat deal may be in for another jolt.

The setback: disclosure that his department suppressed a report that might have helped U.S. farmers get higher prices for their wheat. Questions about what the report contains and why it was withheld from the public are expected to be raised today when a House Agriculture subcommittee opens hearings into the entire Russian grain transaction.

The report, an analysis of Soviet crop conditions completed in mid-August by the Agriculture Department's economic research service, concluded that the outlook for Russian grain production this year had worsened from an earlier estimate. But the study was never released because the research service deemed the findings "too controversial" and classified the analysis "confidential."

Publication of the study, of course, might have provided another dose of bullish news for already surging wheat markets. Farmers with wheat to sell presumably would have benefited from this. But exporters faced with the need to cover short-term foreign deliveries with cash-market purchases wouldn't have been happy. The Agriculture Department itself, debating at the time whether to continue increasing wheat-export subsidies to exporters in pace with rising domestic market prices, would have found its own problems greatly compounded.

[U.S. officials yesterday announced that the United States has sold a quantity of wheat to China. Rumors in the trade put the amount at 20 million bushels, valued at more than $30 million. See story on page 3.]

The decision to withhold the analysis will undoubtedly be seized upon by Sen. George McGovern as fresh evidence to support his allegations that the department cooperated with grain exporters to assure them cheap wheat for Soviet sales at the expense of U.S. farmers and consumers.

BUTZ TO APPEAR TODAY

Mr. Butz has been insisting all along that "not a single shred of evidence" exists to support the Democratic presidential nominee's charges. Living up to his reputation as President Nixon's most outspoken campaign surrogate, the Agriculture Secretary has held two press conferences here since Saturday to emphasize that point. His rebuttal is expected to continue today when he appears before the House Livestock and Grains subcommittee.

Among the topics to be probed by the committee: Has back-and-forth swapping of executives between Mr. Butz's department and grain-export companies led to conflicts of interest regarding the Russian purchases? Did Uncle Sam shell out too much in wheat-export subsidies, making the price paid by the Russians cheaper than it need have been?

Where the Secretary may face his greatest difficulty, though, is convincing the committee—and rural voters—that his department did everything possible to alert U.S. producers to the magnitude of Soviet grain needs. Statistics are still lacking, but a sizable number of growers at the southern end of the winter wheat belt (where the harvest starts) apparently sold their 1972 crop too soon to benefit from the 30% jump in prices that resulted as the full extent of Russian buying surfaced.

"Some of the guys in Texas and Oklahoma are quite upset over missing the price," says Jerry Rees, executive vice president of the National Association of Wheat Growers. Adding to the disappointment is the provision in current farm law that shrinks the government subsidy to producers as market prices rise—a feature estimated by the National Farmers Union to have lopped $100 million from payments for the current marketing year. Thus, a farmer who sold his wheat before the price runup also will face a smaller government check than he anticipated at planting time.

EARLIER CHARGES

Earlier charges of inadequate information from the Agriculture Department were made by John Schnittker, who was Under Secretary of Agriculture during the Johnson administration. Now a Washington commodity consultant as well as a McGovern supporter, Mr. Schnittker claimed that the U.S. agriculture attaché in Moscow filed reports in June and August that disclosed more about the Soviet grain situation than was known in the U.S. at the time—but the department didn't release them.

Officials in the department's foreign agricultural service confirm that such attache reports indeed are being held in a "confidential" file, separate from the bulk of attache reports available to the public. The confidential reports, in fact, along with weather satellite information and other data, were used by the department's economic research service to prepare the "special highlight" analysis dated Aug. 18. It was this study that projected a further decline in Russian production of wheat and other food grains from estimates contained in a similar analysis done in July.

But while the research service had released the July study to the public, it elected not to do the same for the August one, circulating it instead only among a select group of top department officials. Those with knowledge of the August study say the decision against making it public was partly influenced by the belief of still other analysts in the foreign agriculture service that the new estimate was too tentative to be reliable. Yet the biggest factor appears to have been fear that the August analysis was, as one economic research service man put it, "too controversial" in view of turbulent wheat-market conditions at the time.

To understand this reasoning, it's useful to reconstruct the wheat-market situation in the weeks before and after the Aug. 18 analysis. The chronology, to the extent it's known:

June 28. The newly arrived Soviet delegation to negotiate a grain deal notifies U.S. officials of its willingness to accept Washington's basic terms for Commodity Credit Corp. financing of Russian grain purchases. At the. time, the domestic price of No. 2 hard red winter wheat at Gulf ports stands at $1.64 a bushel, with the department offering to pay a one-cent subsidy to exporters. That's in accord with its established policy of maintaining U.S. wheat at approximately $1.63 in the world market for competitive reasons.

July 8. The $750 million, three-year deal between the two countries is announced. Secretary Butz predicts U.S. sales actually could exceed $1 billion (the figure for the first year alone now appears certain to equal that), but he and other officials indicate that it's mostly corn and other feed grains that the Soviets want, rather than wheat.

June 28–July 21. A Soviet grain-buying mission, which arrived with the agreement negotiators, quietly places orders for roughly 250 million bushels of wheat to be shipped before next June 30. By July 21, the Gulf price is up to about $1.76, and the subsidy is 13 cents.

July 29 to about Aug. 20. After having returned home, the Soviet grain buyers suddenly reappear in New York and resume negotiations with grain companies for still more wheat.

Aug. 1. With the Gulf price up to about $1.80, Agriculture Department officials grow concerned about rising subsidy costs and the fact that the expanding subsidy may be pushing, rather than following, the domestic price. They decide to let export wheat move above the $1.63 line by allowing the subsidy to lag behind domestic prices.

Aug. 8. Southwestern Miller, a trade publication, prints the first report that Soviet wheat purchases will reach 400 million bushels in the current marketing year, an amount almost equal to two-thirds of total wheat exports in 1971–72. Department officials, claiming they didn't have the news before anyone else, later say they're pleased but mystified by the unexpected orders. (A few department experts wonder privately, though, if the July 8 grain agreement was a smoke screen; the majority of Russian buying has been in wheat, not feed grains, and mostly for cash, not credit.)

Aug. 24. With the Gulf price up to about $2.14 and the subsidy a fat 38 cents, the department advises exporters that it's going to permanently abandon its "commitment" to maintain the $1.63 world price. The decision reflects Nixon administration concern that the subsidies' effect on domestic prices could lead to embarrassing bread-price boosts.

Aug. 25. At a meeting with grain-trade representatives to which the press is reluctantly admitted, Assistant Agriculture Secretary Carroll Brunthaver announces the policy change. Apparently influenced by exporters' protests, though, the department offers an unusual nine-cent retroactive supplement to the 38-cent subsidy to cover export sales made through Aug. 24 and registered by Sept. 1. Some 280 million bushels qualify for this provision, representing almost a 60% jump in the wheat registered since July 1 and lifting estimated subsidy costs to almost $250 million in the first two months of the marketing year. (Wheat subsidies last year amounted to only $65.4 million, and the high was $160 million in the 1965–66 crop year.)

When the economic research service put out its first special highlight appraisal of current Soviet grain crop prospects, on July 14, it found that Russian food-grain production, primarily wheat, would be down "roughly" 20 million metric tons from the 113 million tons harvested in 1971. (A metric ton is approximately 2,200 pounds.)

The July report didn't have any discernible impact on grain traders, however, apparently because it merely confirmed Soviet supply needs already evident from the actions of Russian buying missions in Canada, the U.S. and elsewhere. The general expectation at that time was that Russia would have to import 14 million to 15 million tons of grain for itself and its East European allies, including the approximately 250 million bushels, (or 7 million tons) negotiated in the first round of purchases in the U.S.

Reexamining the situation a month later, the economic research service decided to lower the Soviet food-grain production figure by another 7 million tons, to 86 million tons. The reduction apparently reflected the attache's opinion that severe cold, drought and finally record-breaking heat in the Ukraine and other Soviet winter-wheat regions had caused more damage than initially believed.

Critics of the administration contend that big grain exporters knew by the time of the study's completion that the Soviets actually had committed themselves to buying some 11 million tons of U.S. wheat, rather than the 7 million originally calculated. But most farmers probably didn't have any idea the Russian commitment was that big, these critics say. They say issuance of the analysis would have helped to spread the news more quickly.

Mr. Schnittker, for one, believes that even now Soviet needs for the year may be understated. His reasoning: Due to their winter-wheat troubles, the Russians must rely more than usual on the "new lands" of Western Siberia and Northern Kazakhstan, where the harvest of most of the now-vital Russian spring-wheat crop has just begun. Although soil moisture has improved in the new lands following a spring dry spell, conditions there still could yield a final harvest below the 45 million to 48 million tons that Western experts project.

Because the U.S. attache was permitted to make a rare visit to the remote region last month, his findings, if made public, could provide further important clues to the Soviet outlook, Mr. Schnittker believes.

UNITED STATES GAVE GRAIN EXPORTERS TIP ON NEW POLICY, AIDE SAYS

(By Nick Kotz)

An Agriculture Department official admitted yesterday that grain exporters selling wheat to Russia received advance information of a policy change. They could have used that information to make a profit at taxpayers' expense, another official testified.

Charles Pence, director of the grain division of USDA's export marketing service, told reporters he had telephoned grain exporters telling them that U.S. export subsidies would be lowered under a new USDA policy.

Carroll Brunthaver, assistant agriculture secretary for international affairs, told a House agriculture subcommittee that such advance information could have permitted a firm to make a quick deal and get a higher federal subsidy payment.

Both Brunthaver and Agriculture Secretary Earl Butz denied in testimony before the subcommittee that traders had advance warning of the Aug. 25 policy change.

Pence, however, in interviews with reporters, said he had called the exporters on Brunthaver's orders, which were relayed to him by another USDA official, Frank McKnight.

Told of Pence's statement, Brunthaver at first said, "I know nothing about it," and later said: "I don't know. I will have to check my calendar."

Rep. Graham Purcell (D-Tex.), chairman of the subcommittee, said he wanted Pence to testify next Monday morning. Brunthaver replied that Pence had been scheduled to leave for Japan last night, but later he said the trip would be cancelled and Pence would appear.

The Pence controversy is the latest element in a growing controversy over who benefitted from a $1 billion sale of U.S. wheat and other grains to the Soviet Union.

The U.S.-Soviet agreement for credit terms was announced July 8, but since then it has gradually become known that the Soviets bought far more wheat than expected—a total of about 400 million bushels which is more than one-fourth of total U.S. production.

The essential controversy, raised by Purcell and other congressmen and by presidential candidate George McGovern, is whether USDA handled information in a way that benefitted the exporters and hurt consumers, farmers, and domestic wheat users such as bakers.

Farmers in the southwest complain they sold their wheat at low prices in July, not realizing that a huge trade was unfolding that would cause the price of wheat to soar in August.

In testifying before the subcommittee yesterday, Butz insisted that the huge wheat purchase came as a surprise to USDA, the traders, and even the Russians, and that no one benefitted from inside information.

Butz said the United States will benefit from the sale—the largest of its kind in history—in an improved U.S. balance of payments, tax savings on lower price supports for farmers, higher farmer income, and better relations with the Soviet Union. He warned that future sales to the Soviets are endangered by the controversy.

Purcell and other critics responded that they favored the huge sale, but are concerned that exporters gained unfair advantage, and that a cozy relationship existed in which officials moved back and forth between export firms and the Agriculture Department.

Pence's telephone calls to the traders is but one of a number of circumstances that subcommittee is investigating to see how USDA handled the grain sales.

Rep. John Melcher (D-Mont.) asked whether any agriculture officials including Pence had called exporters in advance of an Aug. 25 policy change on federal export subsidies. Butz and Brunthaver replied that no such calls were made, but Brunthaver acknowledged that advance information "could have benefitted someone . . . they could have made a deal or a sale."

The subsidy is designed to help export U.S. wheat against foreign competition while maintaining prices for domestic wheat, thereby benefitting farmers. The export subsidy was about 7 cents a bushel in early July but rose to 38 cents by Aug. 25.

USDA announced late on Aug. 25 that it no longer would raise the export subsidy to match rises in the domestic price. However, it gave exporters one week to sign up for even higher subsidies on any grain sales made before 3:30 p.m. Aug. 24. On these sales, USDA said this was justified because exporters had been led to believe the subsidies would continue to rise.

During one-week grace period, exporters registered more than 280 million bushels of wheat for the higher subsidy, at a total federal cost of $130 million.

Pence told reporters that, on orders from McKnight and Brunthaver, he started telephoning the six export firms involved in the Soviet sale. Beginning before noon and finishing shortly after noon of Aug. 24, Pence said, he called officials of Continental Grain Co., Cargil, Inc., Bunge Corp., Cook Industries, Louis-Dreyfus and Co., and Garnack Grain Co. Later, he said he called other exporters so everyone "would have the word."

Following instructions, Pence said, he told the exporters that USDA would no longer increase the export price to match domestic price to match domestic rises" and in any new sales they would have to take the risk on their own" (that they could buy wheat at a price to make a profit).

As matters turned out, Pence's information could have been very valuable to a trader.

At the least, a trader knew that he had better move fast to close sales on which he would be guaranteed a 38 cents subsidy. At best, traders who closed sales before 3:30 p.m. on Aug. 24 got the special 47-cent subsidy.

For example, the Dreyfus firm sold 15 million bushels of wheat to China registered on Sept. 11, the last possible day to qualify for the special subsidy for sales made prior to Aug. 25.

The French firm received less than $6 million in subsidies, but would have received only about half that amount if the sale were made after Aug. 24.

USDA repeatedly told the subcommittee it does not know how much grain was sold by various grain companies, what price they charged the Soviet Union, how much subsidy each is getting, or when and at what price the exporters purchased the grain in the United States. These are the key questions in determining who benefited how much from the sale.

After Butz repeatedly said "I don't know" the answer to these questions, Rep. Bob Bergland (D-Minn.) commented: "I'm perplexed that the department is so ill-informed on what is going on in this grain deal."

Republicans on the subcommittee generally stoutly defended Butz's handling of the grain deal, but Rep. John Zwach (R-Minn.) said he is disurbed at USDA handling of information and about possible conflict of interest in the interchange of officials between USDA and private grain firms.

TRANSACTION OF MORNING BUSINESS

The PRESIDENT pro tempore. At this time, in a accordance with the previous order, there will be a period for the transaction of routine morning business not to exceed 15 minutes, with speeches by Senators limited to 3 minutes.

Is there morning business to be transacted at this time?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROPOSED ESTABLISHMENT OF FRENCH PETE INTERMEDIATE RECREATION AREA

Mr. PACKWOOD. Mr. President, one of the critical conservation issues for Oregonians and many, many Americans across the Nation, is a 19,200 acre tract in the Willamette National Forest known as "French Pete." No private lands are involved. The controversy centers around whether the Forest Service should manage this under a plan which would allow timber harvesting in some areas, or whether this beautiful area should be protected and kept as an unroaded, uncut, serene recreation area.

I have now pending in this Congress a bill, S. 866, which would establish the French Pete Intermediate Recreation Area. On May 25 of this year, the Senator from Nevada (Mr. BIBLE) graciously held hearings in his Subcommittee on Parks and Recreation on this important bill. Because of heavy committee work, he was unable to schedule field hearings in Oregon on this bill. That subcommittee has an infinite number of similar bills before it at all times, and must devote considerable time to each one that is scheduled. Of course, supporters of all these bills would like to have field hearings, but such is not possible. The Senator from Nevada (Mr. BIBLE) stated at those hearings here on S. 866, his desire to be able to go to Oregon, but I understand his problems. I certainly appreciate the time his committee has devoted to S. 866.

The citizens of Oregon who are concerned with preserving this unique valley, however, at their own expense sponsored independent citizen hearings in Eugene, Oreg., on May 16, 1972. This group of concerned citizens paid all the expenses of that hearing, and even hired a court reporter to take down the proceedings and prepare a hearing record. The cost of the hearings, reporter, advertising, transcript, and so forth, were personally and privately paid for by those citizens interested in preserving French Pete Valley as a recreation area.

Now, because the Committee on Interior and Insular Affairs, already heavily ladened with committee expenses, and under the crush of a closing session, is unable to print the hearing record of May 25, and to include the transcript of the Eugene hearing, there appears no way to put this important document before the American public. The committee burdened at this eleventh hour, realizing that the House had not acted upon a similar bill, and that as a result Congress would not pass a French Pete bill this year, has made the decision that it is unwise and an unneeded expense to print the hearing record. I sympathize with the committee, and am deeply appreciative of their help, concern and cooperation to me and to thousands of Americans who have an interest in French Pete.

Senator HATFIELD had told the people of Oregon that when the Interior and Insular Affairs Committee hearing record on S. 866 was printed, he would have inserted in it the transcript of the hearing record from Eugene. Through no one's fault this is now impossible, because there will be no Interior Committee print at all.

For these reasons I feel privileged, and Senator HATFIELD joins with me on behalf of those Oregonians who gave of their time and money to provide the Eugene hearing, to ask unanimous consent that the transcript of the May 16 hearings in Eugene, Oreg., be printed in the RECORD following my remarks. This is a valuable document of spontaneous citizen action, and it will be most useful next year, when I shall once again introduce legislation to preserve and protect the French Pete Creek Watershed as a recreation area for all time.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

HEARING ON ESTABLISHMENT OF THE FRENCH PETE CREEK INTERMEDIATE RECREATION AREA, SENATE BILL No. 866

TRANSCRIPT OF PROCEEDINGS

Hearing held in Eugene, Oregon, beginning at 9:00 a.m., Tuesday, the 16th day of May, 1972, in the City Council Chambers, before: Frank Barry, Chairman; Ms. Nancy Hayward, Fred Mohr, Rev. Bob Peters, and Roger Mellem, Coordinator.

WITNESSES

Mr. Charles O. Porter, 2680 Baker Street, Eugene, Oregon 97405.

Mr. James Weaver, 2301 Spring Blvd., Eugene, Oregon 97405.

Mr. Pete Sorenson, Survival Center, University of Oregon, Eugene, Oregon 97403.

Mr. Irving Brant, 1575 Ferry Street, Eugene, Oregon, 97401.

Mr. Jon Kemp, 2310 Trillium, Eugene, Oregon.

Ms. Claire Trotter, 1975 Potter, Eugene, Oregon.

Mr. Fred Keppel, Rt. 3, Box 412, Springfield, Oregon 97477.

Mr. John H. Bigelow, Box 31, McKenzie Bridge, Oregon.

Mr. Holway Jones, Library, University of Oregon, Eugene, Oregon 97403.

Mr. Steve McCarthy, 1646 N. W. 32nd., Portland, Oregon.

Mr. Peter Glazer, 1947 Kinkaid #2, Eugene, Oregon 97405.

Mr. James Baker, Finn Rock, Oregon 97401.

Mr. Harold M. Dunn, Mohawk Star Route Box 5, Springfield, Oregon.

Mr. Kerry M. Killgallon, 1237 East 21st, Eugene, Oregon 97402.

Mr. Joe Walicki, 1632½ High, Eugene, Oregon 97401.

Ms. Janet C. Newman, 2161 University St., Eugene, Oregon 97403.

Ms. Elizabeth Frenkel, 1431 Vista Place, Corvallis, Oregon.

Mr. Robert E. Frenkel, 1431 Vista Place, Corvallis, Oregon.

Mr. David Graham Novick, 1000 Patterson, Eugene, Oregon 97401.

Ms. Catherine Landon, 2093 Lawrence, Eugene, Oregon.

Mr. Bernard Conklin, 1204 W. 4th Avenue, Eugene, Oregon.

Ms. Diane Meyer, P.O. Box 819, Ashland, Oregon 97520.

Mr. Doug Newman, 2161 University Street, Eugene, Oregon.

Mark Soloos, 4550 Pearl, Eugene, Oregon.

Ms. Barbara Hoga, Oceanside, Oregon.

Mr. Dave McAllister, 1361 E. 21st, Eugene, Oregon.

Mr. Bob L. Wynia, 265 Barber Drive, Eugene, Oregon.

Mr. Bruce Sedgwick, 420 Monroe Street, Eugene, Oregon.

Ms. Donna Reimi, Box #1 Hawthorne Walton, University of Oregon, Eugene, Oregon.

Mr. Cecil Stickney, 33 E. 10th, Eugene, Oregon.

Mr. Tom Moore, 1975 Lawrence Street, Eugene, Oregon.

Ms. Catherine Lauris, 1240 East 18th, Eugene, Oregon.

Mr. Ed Reiman, 507 W. 11th, Eugene, Oregon.

Ms. Libby Evans, Eugene, Oregon.

Mr. Steve Wilson, 1361 E. 21st, Eugene, Oregon.

Mr. Al King, 484 West 13th, Eugene, Oregon 97401.

Mr. Bob Foster, 1883 University St., Eugene, Oregon 97403.

Dr. Herbert McCormack, 156 E. 19th Avenue, Eugene, Oregon.

Ms. Mardee Pagac, 2042 14th Place W., Eugene, Oregon.

Mr. Scott Peterson, 1893 Garde Avenue #14, Eugene, Oregon 97403.

Shirley Terreberry, 3615 Glen Oak, Eugene, Oregon 97405.

Mr. Ray Edwards, Box 172 Star Route, Fall Creek, Oregon 97438.

Mr. Paul T. Happel, 1893 Garden Avenue #13, Eugene, Oregon.

Mr. Jeg Elphinston, 1893 Garden Avenue #13, Eugene, Oregon.

Ms. Jill Warrington, 1859½ Jefferson, Eugene, Oregon.

Mr. LeRoy Owens, 2262 E. 15th, Eugene, Oregon.

Ms. Charles W. Foss, 3450 Donald Street, Eugene, Oregon.

Mr. Bill Turner, 1864 E. 15th, Eugene, Oregon.

Mr. Mel Jackson, 2865 Ferry Street, Eugene, Oregon.

Mr. L. E. Ward, 3150 Emerald Street, Eugene, Oregon.

Mr. Joseph Holaday, 242 S. Garden Way, Eugene, Oregon.

Ms. Susan B. Girardeau, 2398 Douglas Drive, Eugene, Oregon.

Mrs. Ed Sullivan, Route 7, Box 88, Eugene, Oregon 97405.

Mr. Donald A. Watson, 1285 E. 20th, Eugene, Oregon 97403.

Mr. Edward H. Vogt, 760 Vogt Lane, Junction City, Oregon.

Ms. Joyce Salisbury, 3330 Olive, Eugene, Oregon.

Mr. Stanton A. Cook, 1832 Longview Avenue, Eugene, Oregon 97403.

Mr. Ken Babbs, Route 2, Box 267, Maple Isle Lane, Eugene, Oregon.

Ms. Margaret Patoine, 2552 Alder Street, Eugene, Oregon.

Ms. Elizabeth Shaw, 1910 Van Buren, Eugene, Oregon 97405.

Mr. Jerry L. Edin, 45 Azalea, Eugene, Oregon.

Mr. Glen A. Love, 393 FulVue Drive, Eugene, Oregon.

Mrs. R. D. Waddell, 2425 Malabar Drive, Eugene, Oregon.

Mr. Brian Higbee, 680 Hunsacker Lane, Eugene, Oregon.

Mr. William E. Peterson, 665 Level Lane, Springfield, Oregon.

Mr. Allen H. Coons, 2742 Wingate Street, Eugene, Oregon 97401.

Mr. Thomas Drischler, 1540 S. Brooklin, Eugene, Oregon.

Mr. Peter C. Murphy, 2820 City View Street, Eugene, Oregon.

Mr. Robin Lodewick, 2526 University Street, Eugene, Oregon.

Mr. Scott Pressman, 1644 E. 27th, Eugene, Oregon.

Ms. Pauline Sandoz Lee, 1374 Willamette, Eugene, Oregon.

Mr. Kenneth Hertz, 328 W. 20th Avenue, Eugene, Oregon 97405.

Mr. Bernt Hansen, 1555 Jefferson, Eugene, Oregon.

Mr. J. K. Dohnal, 2550 Harris Street, Eugene, Oregon.

Mr. John E. Frohnmayer, 1975 Olive Street, Eugene, Oregon.

Ms. Janelle S. May, 340 N. W. 26th, Corvallis, Oregon.

Mr. Howard Bonnett, 775 E. 22nd Avenue, Eugene, Oregon.

Mr. Thomas C. Miller, 542½ E. 12th, Eugene, Oregon.

Mr. John Eliassen, 1836 Charnelton, Eugene, Oregon.

Ms. Sue Blix, 2295 E. 29th, Eugene, Oregon.

Mr. Robert Edminston, Box 1265, Eugene, Oregon.

Ms. Robbie Smith, 1380 Lincoln, Eugene, Oregon.

Mr. Ray L. Smith, 1382 Lincoln, Eugene, Oregon.

Mr. Thom Nelson, 1331 W. 10th, Eugene, Oregon 97402.

Ms. Esther Leong, Route 4, Box 306, Eugene, Oregon.

Mr. Ewart M. Baldwin, 2058 Harris Street, Eugene, Oregon 97405.

Mr. Jonathan M. Hoffman, 1762 Ferry, Apt. 3, Eugene, Oregon 97401.

Mr. Ernest H. Lund, 3150 Onyx Street, Eugene, Oregon.

Mr. Darryl D. Carper, 1630 South Tudor Street, Albany, Oregon.

Mr. Brock Evans, 4534½ University Way N.E., Seattle, Washington.

Ms. Libby Evans, 3519 Willamette, Eugene, Oregon.

Ms. Edna Wingard, 385 East 19th, Eugene, Oregon 97401.

Mr. Ben Merrill, 1947 Kincaid #2, Eugene, Oregon 97405.

Mr. Wallace E. Baldinger, 1790 Walnut Street, Eugene, Oregon 97403.

Mr. Edward Mehlhaff, 1671 Ferry #15, Eugene, Oregon.

Mr. William N. Copeland, 511 E. 12th, Eugene, Oregon 97403.

Mr. Jay West, 2028 University St., Eugene, Oregon.

Mr. Alan L. Fraback, 1000 Patterson, Eugene, Oregon.

Mr. John Koford, 957 Hilyard, Eugene, Oregon.

Mr. Tom Taylor, 1835 Jefferson, Eugene, Oregon.

Mr. W. F. Maxwell, 633 E. 11th, Eugene, Oregon.

Mr. Jon Spangler, 1670 Alder Street, Eugene, Oregon 97401.

Mr. Richard F. Freeman, 1140 6th Avenue West, Eugene, Oregon 97402.

Mr. Gerritt Rosenthal, Box 5515, Eugene, Oregon.

Ms. Elizabeth Bruce Riggs, 6715 Royal Avenue, Eugene, Oregon.

Mr. Mike McKeegan, 10b Lincoln Street Eugene, Oregon.

Mr. Don L. Hunter, 2608 Central Blvd., Eugene, Oregon 97403.

Mr. Richard Cooke, 1943 Agate Street, Eugene, Oregon.

Mr. Alva C. Good, Present Place Rd., Fall Creek, Oregon 97438.

Ms. Charlotte Schellman, 780 Lorane Hwy., Eugene, Oregon.

Ms. Myra Miller, 2123 Madison, Eugene, Oregon.

Mr. James Anderson, 1860 Potter St., Eugene, Oregon 97403.

Mr. David E. Leighton, 65 W. 35th Place, Eugene, Oregon.

Mr. Arnold L. Gibson, 1753 Walnut Street, Eugene, Oregon 97403.

Mr. Harry Van Oubenallen, 1757 E. 17th Avenue, Eugene, Oregon.

Mr. Courtney Shives 1725 N. 5th, No. 38, Springfield, Oregon 97477.

Mr. Don Willner, Portland, Oregon.

Mr. Michael P. Ryan, Apt. 18, 1414 East 18th, Eugene, Oregon 97403.

Mr. Robert Craig, 2159 Emerald, Eugene, Oregon 97403.

Mr. Fred Swanson, 10 East 49th Avenue, Eugene, Oregon 97405.

Mr. Boyd Kramer, 4525 Spring Drive, Eugene, Oregon 97405.

Mr. George Adams, 715 Leigh Street, Eugene, Oregon 97401.

Mr. William D. Engs, 1330 E. 20th Avenue, Eugene, Oregon 97403.

Mr. Roger Mellem, 2870 Potter Street, Eugene, Oregon.

Mr. David Howe, City of Eugene, Parks and Recreation Dept., Eugene, Oregon.

TESTIMONY TAKEN IN MORNING SESSION

Mr. Barry. This is the time for the hearing on the establishment of the French Pete Creek Intermediate Recreation Area, which is to be established by the Bill—Senate 866. This is not an official hearing of the U.S. Senate. We have attempted to persuade the members of the Senate Committee to grant such a hearing, but have been unsuccessful; however, we believe that it is in the interest of the people of this area and of Oregon in general that local hearings be given so that the local people would have an opportunity to express their views on Senator Packwood's Bill S-866.

Our first witness will be the supervisor of Willamette National Forest, Mr. Zane Grey Smith, Jr., who will describe the area, what its present legal status is, and within the limits of that status what his plans are for the French Pete Creek area. At the present time, the area is not protected against logging or roading. The purpose of Senator Packwood's bill is to afford such protection, among other things.

The statements that Mr. Smith will make at this hearing will not be included in the transcript which will go back to Washington for the understandable reason that the Department of Agriculture and Forest Service's position will be expressed at the Washington hearing.

Mr. Smith has kindly agreed to give us this presentation to start off with so that we will have a context in which to address our remarks. Mr. Smith.

(Mr. Smith then gave his presentation.)

Mr. Barry. Thank you very, very much, Mr. Smith; we appreciate your coming here and giving us this basic information.

At this time I would like to introduce the members who are on the panel. I am Frank Barry; I am a Professor of Law. On my right is Mrs. Hayward, who is a member of the Board of Commissioners, Lane County; Mr. Fred Mohr, who is a member of the City Council of the City of Eugene. On my left is Rev. Peters, Robert Peters, who is the Methodist Campus Minister.

Now, I have a telegram to read from Senator George McGovern to this hearing: "I am in full accord with your efforts to save the French Pete Wilderness Area. This rare and precious gift must be protected, and I applaud your vigilence because American Wilderness Areas are constantly threatened, I ask that you join with me now to bring about a change of national leadership. Together we can restore a proper balance between ourselves and our environment. With sincerest best regards, George McGovern, U.S. Senate."

Are there any other representatives of presidential candidates present. (No response).

We will hear the Congressional candidates from the Fourth District, which as far as I know are the only ones here right now. The first person would be Mr. Charles O. Porter.

Mr. Porter. Thank you. Mr. Chairman, and members of the committee, I appreciate this opportunity to put myself formally on record as opposed to logging the French Pete Valley and in favor of S. 866 to establish the French Pete Creek Intermediate Recreation Area, which among other things, it occurs to me, would protect that area from the kind of entry that was made on the other side of the mountain years ago, much to our consternation.

The Forest Service, and here I am talking about the presentation of Mr. Smith who represents them and for whom I have great respect, but I don't consider Zane Smith or the Forest Service infallible and Mr. Smith told me the other day, and he indicated as much here today, although he didn't put a date on it here today, that 1976 would be about the earliest time that the logging could begin in there. He could not say at this time whether or not logging would include clear-cutting. Clear-cutting, as everyone knows, is a standard and often times, very justifiable method of logging.

I have two suggestions in my short statement here today, one for the Forest Service and one for the conservationists.

To Forest Service Chief Maguire and Willamette Forest Supervisor Zane Smith I suggest they now review possible sale plans for French Pete Valley by the criteria set forth in the March, 1972 report of the Senate Subcommittee on Public Lands. On March 29, 1972, both retiring Chief Ed Cliff and the present Chief pledged Forest Service adherence to the harvesting guidelines set forth on pages 8 and 9 of that report, including such limitations on clear-cutting as: (and I quote)

"There is no assurance that the area can be adequately restocked within five years after harvest." That is often true in places where there are bad soils and there are some bad soils in terms of regeneration in this area.

"Aesthetic values outweigh other considerations." In terms of the French Pete Area, aesthetic values outweigh other considerations in the opinion of many of us here.

Another criterion, "the method is preferred only because it will give the greatest dollar return or the greatest unit output." And that is very plain.

In the standards set forth in those harvesting guidelines which forbid clear-cutting, it would seem that since these are official Forest Service guidelines, now, because they have been adopted by the Chief, even though they haven't come down yet in the form of regulations, they are guidelines for the Forest Service, that the whole question of whether to go into French Pete at all might well be settled by review in terms of these guidelines, which are now, in effect, law of the land.

And for my suggestion to the conservationists, among whom I count myself, if S. 866 not be enacted, and I hope it will be, and if the eventual logging sales involve clear-cutting, as they probably will, and any of the harvesting guidelines are not sufficiently observed, then a conservationist group, such as the Sierra Club, can bring the Forest Service into the U.S. District Court to have a factual determination whether or not the particular sale means that federal timber is being mined, which is illegal, or only harvested.

The maintenance of forest productivity is mandatory with respect to all federal timber sales. This proposition was resoundingly proclaimed in a decision on May 3, 1972, by the U.S. Court of Appeals for the Ninth Circuit in the *Family Clan* case in Portland and in which it was my pleasure to represent the successful appellants.

I urge early enactment of S. 866; I thank you for your intelligent and persistent efforts to preserve the French Pete Valley. Your devotion and ability may well make the difference for this wilderness area.

Thank you very much.

Mr. BARRY. Thank you very much, Mr. Porter.

We have copies of the bill. We don't have sufficient copies to be able to pass them out, but I am going to ask the attendants if they will post in some conspicuous place out there a copy of the bill, so if you would look at it, you will see what it provides. It isn't very long, but I am not going to take the time to read it. It closes the area to logging and dedicates it to recreation, in broad terms.

Are there any representatives of United States Senatorial candidates present?

Mr. James Weaver, candidate for Congress in the Fourth District.

Mr. WEAVER. Thank you, Mr. Chairman.

I am Jim Weaver of Eugene, Democratic candidate for U.S. Representative from the Fourth District.

I strongly urge maintaining the French Pete Valley in its natural state. It is unique, irreplaceable, and is of greater value to all of us as a natural forest than any other use.

I support Senate Bill 866 introduced by Oregon's Junior Senator. This bill must have the support of the Congressman from this district, the district in which French Pete is situated, in order to assure passage in the House as well as in the Senate. The incumbent Congressman from this district does not support this bill. He supports the Forest Service's plan for logging French Pete. It is essential, therefore, that a Democrat be elected from the Fourth District this fall in order to save French Pete.

If I am that Democrat, I will introduce the companion bill to Senate Bill 866 in the House and work diligently to obtain its passage.

I also will appear before all of the Senate Committee hearings on SB 866 in Washington, D.C., on May 25 to assure that committee that if I am elected Congressman from the Fourth District, they will receive support for this bill.

The major criticism of the "Save French Pete" movement has been to the effect that the log supply will be seriously diminished if French Pete is not put under commercial logging. This, it is feared, means the loss of jobs. I urge the timber industry to take a deeper look. If timber interests truly fear the loss of jobs, they should take the lead in banning all log exports. We export to Japan each year from the Pacific Northwest the allowable cut of 300 French Pete Greeks. Mr. Chairman, this is an astounding figure. We export 300 French Pete Greeks each year from the Pacific Northwest.

It appears paradoxical that it is the very timber interests who are pressing the logging of French Pete, who oppose most strenuously any limits on log exports. This leads to the only conclusion possible, that it is not jobs they are concerned with, but profits, the faster profits the better.

I urge the timber industry to stop, to cease opposing the preservation of French Pete, and instead put their efforts behind a bill to totally ban log exports. I will tell you that the workers in the timber industry, who I meet day after day, will ask the question, why am I supporting the Save the French Pete Movement when I am supposedly out representing them and their job interests? I say to the workers in the timber industry that have a genuine concern for their jobs, our real fight here in Oregon to save jobs should not be pointed at French Pete but at those large timber interests who log for export, and who log whole communities and who desert them.

Now, I am presently waging a battle in the community of Powers, Oregon, a small community south of Coos Bay. Georgia-Pacific went in there about twelve years ago and bought out a huge timber holding from the Coos Bay Lumber Company. This timber holding was so large it could have been on sustained yield cutting, on a sustained yield basis, and kept the community alive and preserved much of the scenic value around the Powers area. Instead, Georgia-Pacific, as typical with that corporation, logged out the entire timber holding in a decade and is now deserting the community of Powers. The mill is closed and 150 people were put out of work, and they are now in the process of abandoning the railroads, the small railroad, to Powers, and we are fighting this.

We are trying to point out that the real threat to jobs is rapacious timber interests such as Georgia-Pacific far more than any wilderness area or any Save French Pete area ever will be. If we can get this message to the working people and all the people in Oregon, we can truly and effectively get legislation to preserve such areas as French Pete Creek. We can have both jobs and beautiful environment.

Thank you, Mr. Chairman.

Mr. BARRY. Thank you, Mr. Weaver.

The next witness will be Mr. Pete Sorenson.

Mr. PETE SORENSON. I have a brief statement to read on behalf of the University of Oregon Survival Center.

My name is Peter Sorenson and I am here representing the Survival Center which is a branch of the Associated Students of the University of Oregon. As a matter of record, I am a junior majoring in geography and I have been a resident of the Fourth Congressional District since 1960.

The Survival Center has held to the position that, because virgin forest areas are becoming a rare natural beauty resource, it was in the national interest to preserve as many virgin areas as possible. For this reason, and a love for the wilderness in nature, we have fought to preserve the French Pete Valley area. Our original position was to make the area in question a wilderness area, but we have shown our willingness to compromise by accepting the provisions of Senator Robert Packwood's Bill S. 866. As we understand that bill, French Pete Valley would be not under the general management practices of the Willamette National Forest, but, would be a recreation area.

There is certainly no need, from our point of view, to justify the need to keep this piece of land out of the hands of the logging interests. These logging interests are behind the move to keep French Pete in a potentially logged area. It is time that the citizens got some input on the management of their land, instead of the logging interests. The Center has coordinated rallys, letter writing campaigns and petition campaigns to help save the French Pete area from chain saws. We have printed fact sheets and tried to educate not only the students at the University, but also the citizens of Eugene. Theoretically, if the government was doing its job, we would have to exist.

During the entire French Pete Valley fight, we have learned that Washington, D.C. is farther from Eugene, Oregon than the mere 3,000 miles separating the two points. Many of the students working with us on the effort to save French Pete have become disillusioned with the workings of government. Even though our senior senator is a member of the United States Senate Committee on Interior and Insular Affairs, there were no field hearings on the French Pete Bill.

It is our hope that the Committee will take this testimony back to Washington, D.C., and present the view of the majority of the University of Oregon students: save French Pete Valley through S. 866.

Thank you.

Mr. BARRY. Thank you, Mr. Sorenson.

Our next speaker is a very distinguished gentleman, who is honored in many fields. He was recently honored by the American Civil Liberties Union in Oregon for his contribution in that field. He is a distinguished journalist, who has had great experience in the area of conservation. He has written widely, and he is one of the citizens of whom we are proudest in this community, Mr. Irving Brant.

Mr. BRANT. After that introduction, I wish I was running for office.

Mr. BARRY. Any time that you would like to, we would be happy to have you.

Mr. BRANT. To repeat, my name is Irving Brant, and I live at 1575 Ferry Street, Eugene.

For several years, I was a consultant on conservation in the Roosevelt Administration. The Forest Service in its modified plan for partial preservation of the French Pete Creek Valley is about like a sawbones saying to his patient, "I am going to cut your leg off, but it is going to be done in the gentlest possible manner, you won't even know the leg is gone until you wake up." That is the way that it will be with French Creek, unless Congress steps in and says, "This must not be." No such intervention would be needed if the Forest Service truly followed the "multiple use" principle laid down by Congress in 1960. The trouble is that a bureau primarily committed to national forest commercialism is keeping close to its old practices while employing the working imposed for its reform.

Almost two years ago, in seeming response to public opinion in the Willamette Valley, the Forest Service appointed, as the new supervisor of the Willamette National Forest, a man whose career in California bespoke an enlightened outlook. Zane Smith's conduct in his new post has strengthened that impression, to the extent that he has been permitted to act on his own initiative.

But how far has that been permitted in the case of French Pete? Not by the minutest fraction of an inch. A policy initiated by his "chopem down" predecessor, modified as little as possible by a likeminded hierarchy, has been handed to Supervisor Smith as an unchangeable directive. Technically, of course, the matter had gone to the Secretary of Agriculture for final action, but it could have been recalled by the Chief Forester at any moment if he chose, since the Secretary's only function was to support over overrule a Forest Service decision.

The appointment of Supervisor Smith ought to have meant a new beginning, a fresh study, the chance of an altered outlook, on the disposition of the French Pete Valley. Nothing of the sort has been permitted.

Under the modified plan concocted in Portland and Washington, a partial degree of preservation will be given to a portion of French Pete Creek Valley—until the time comes to expand the commercialization. Even before that time, under the system of half-protection, the unspoiled natural characteristics of the valley will be destroyed forever.

Half a century ago there were 270 "French Petes" in the Cascades—long roadless forested valleys reaching from Alpine heights down to levels accessible to ordinary hikers. Today just one such accessible roadless valley is left in the central area. (One other off Mount Hood.) And that one relic of forest grandeur is doomed.

Apparently the Forest Service construed multiple use as a command for lumbering, and consequently for roads, in every locality that includes accessible timber of commercial size. Truly understood, the concept implies differing uses for different areas within each national forest. That includes scenic preservation.

The French Pete Creek Valley is the last remaining region in the Central Oregon Cascades where a pristine forest of mighty trees, once universal, can be preserved in its natural state within reach of the able-bodied population—men and women, boys and girls—from four years up to eighty, traveling on their own legs at any time of year. It must not be sacrificed to saw and ax, nor to bulldozers.

Make no mistake about it—roads in French Pete Creek Valley spell ruination. Road sites in that valley, the Forest Service has said officially, are unstable; therefore roads must go down to bed rock. That means vast mountainside excavations at every turn of a twisting highway. Roads will utterly wipe out the natural beauty of this last untouched work of nature.

Two years ago the Forest Service regional office at Missoula, Montana, was subjected to the stormiest assault in Forest Service history, chiefly over malpractices in the Bitterroot National Forest. The attack was spearheaded by Senator Lee Metcalf of Montana, with the cooperation of the Montana University School of Forestry. The Forest Service high command changed front completely. The once benighted regional office at Missoula is now receiving plaudits of its former critics.

It is my belief that if Senator Mark Hatfield and the Oregon House delegation—especially Congressman Dellenback—would throw themselves into the fight for Senator Packwood's French Pete Bill, they could not only put that bill through Congress, but also work a corresponding reform in the antediluvian outlook and policies of the regional office at Portland.

Thank you.

Mr. **Barry**. Thank you very much, Mr. Brant.

Mr. Jon Kemp, President of the Friends of the Three Sisters.

Mr. **Kemp**. Thank you, Mr Chairman.

My name is Jon Kemp. I reside in Eugene, Oregon and I am speaking on behalf of the Friends of the Three Sisters Wilderness, Inc. We are a non-profit corporation and we were established in 1954, supported entirely by dues and donations and served by persons receiving no remuneration.

The organization was formed in order to present the Forest Service the opinions of concerned citizens regarding the withdrawal of 53,000 acres including the French Pete Valley from the Three Sisters Primitive Area. This was about 18 years ago which perhaps makes us one of the oldest organizations in the area that might be called a Save French Pete group. All 53,000 acres of this area were designated to be managed under Multiple Use guide lines with the added assurance that special care would be exercised to preserve recreational and scenic values and to protect wildlife habitat and water quality. A few small areas were set aside as special purpose areas. Other than these small concessions the Forest Service has not honored these promises.

Our bylaws enjoin us to preserve and protect the Three Sisters Wilderness and adjacent wild areas. One method of achieving this goal is to provide semiwilderness areas for those now using the Wilderness who actually prefer conveniences such as fire places, tables, shelters and privies, which cannot be provided in an area managed under the Wilderness Act. This concept of semiwilderness was proposed in 1968 by the Pacific Northwest Forest and Range Experiment Station. In their Report No. PUW-61 entitled "Wilderness Users in the Pacific Northwest: Their Characteristics, Values and Management Preferences", "the rapid increase in Wilderness use" is noted and that "a great percentage of the users will not be seeking Wilderness in the pure and precise sense defined in the Wilderness Act. This may indicate a need for additional back-country recreation areas that could be managed as semiwilderness." Forest Service Administration has ignored this report and insisted that most undeveloped forest land, including French Pete, be managed for the production of commercial timber. The recent survey of undeveloped land conducted by the Forest Service has revealed that very little land is still available for semiwilderness classification. We have recommended that the Willamette and Deschutes Forest Supervisors carefully consider the recreational potential of those undeveloped areas adjacent to the Three Sisters Wilderness and to classify them as semiwilderness. If this is true of the areas adjacent to this wilderness area it is probably true of areas adjacent to Wilderness areas across the Nation.

Since the Forest Service Administration personnel appear reluctant to classify any land as semiwilderness, (back-country seems to be the best they can do and they don't really classify what that means) it is imperative that Senator Packwood's bill S. 866, a bill to establish the French Pete Creek Intermediate Recreation Area in which there would be no road construction or timber harvest activities of any kind be favorably recommended for Senate Debate by the Senate Committee on Interior and Insular Affairs and that the bill be approved by the Senate.

Mr. **Barry**. Thank you Mr. Kemp.

The next witness will be Claire Trotter.

Mrs. **Trotter**. I am Claire Trotter of Eugene, Oregon.

I believe there is a great need for the kind of wilderness that French Pete offers that will be lost if the Forest Service is allowed to carry out its proposals.

This is one of the three remaining valleys 10 miles or more in length in the Oregon Cascades that is still in its natural state, is easily accessible and can offer what none of the others can now give. Other valleys have been harvested, roaded, managed in what seem not to be short term objectives.

French Pete is also important in its natural state as a resource for people in various disciplines, biology and others to carry out their studies. We are not so far along with all our knowhow that we have all the answers. Man has a devastating way of making his impact felt on any area he enters.

I believe French Pete is unique in what it can offer us as an unspoiled valley, 40 miles from Eugene and accessible, in part, for the larger part of the year.

Edith Green's bill H.R. 5212 and Senator Packwood's bill S. 866 both recognize the need to protect French Pete.

I am deeply concerned with the impact that Forest Service management has had on our forests—the change in soil is just now being recognized, the silting and clogging of streams and rivers—the ecological balance that has been largely ignored because timber harvest has had first priority.

I think now the priorities must be reversed—nature and man's deeper needs recognized—and made first priority.

Mr. **Barry**. Thank you very much, Mrs. Trotter.

The next witness will be Fred Keppel.

Mr. **Keppel**. My name is Fred Keppel. I am 57 years old and I am a Consulting Mechanical Engineer registered in Oregon and Nebraska. I have been a property owner and resident of Springfield for 15 years. I am a lifetime registered Republican.

I want to endorse S. 866 in its entirety and particularly to prevent any logging whatsoever in French Pete Valley at any time.

I further find it impossible to believe that the Oregon (or National) Forest Products Industry is in such shape that it will be even trivially injured by unavailability of this tiny, last bit of virgin low altitude Douglas Fir Forest. If I am in error, and indeed the industry is in such tragic condition, then it will collapse very soon anyway. This irreplaceable natural and human resource should not be destroyed to try to help an industry that is either grossly and mendaciously exaggerating its needs, or, if accurate and truthful, is past hope anyway. Either way permission for any logging—ever—in French Pete seems inexcusable.

Thank you.

Mr. **Barry**. Thank you, very much.

The next witness will be Mr. John H. Bigelow.

Mr. **Bigelow**. Mr. Chairman, ladies and gentleman, I am an interested citizen of the McKenzie Valley; and I think the standpoint of those of us who live on the river are as important to this as anyone else. I have lived there since 1926. When I went up there as a child, it was a beautiful wilderness, gravel roads, clear streams, and the Forest Service in those days had their headquarters up there also, but they were maintaining trails. They were always welcomed and an honored member of the community. Then they came along with the idea of harvesting the dead trees, of salvaging, and they submitted this rather harmless looking appeal. "Here's these dead trees; let's cut them and save them." Use the timber. Everyone agreed; no one likes to see anything go to waste.

So, the timber industry went in and started cutting timber. Gradually, they started cutting all timber and finally timber became a crop, and they felt they were obligated to cut the timber. The Forest Service finally became oriented to where they had to cut timber, and the entire industry became oriented toward cutting timber. This indication of the timber industry toward cutting is becoming a rather frightening thing to we people who live up there. We are seeing our clear streams turn into turbulent, mud choked unsightly messes. It is rather a thing that is appalling. I can remember when this sort of thing never happened. We never saw the McKenzie like this before, but to see it today is something that is very hard to accept.

So, as a long time citizen of the valley near the French Pete area, I warn the people of what is coming, because I have seen it in the past, and I am frightened of what is going to happen in the future. We must preserve it as a primitive area, like the French Pete area, and I am all for Bob Packwood's bill.

There are other things here, too; I don't believe that logging is compatible with recreation, as a potential. Once the timber is cut, the loss is forever; and this makes a mockery out of the multiple use program. I thank you.

Mr. BARRY. Mr. Bigelow, I see that you live at McKenzie Bridge, Oregon; is that right?

Mr. BIGELOW. I live above it about five miles.

Mr. BARRY. I note when I was looking at a map the other day the quadrangle map of which French Pete is called the McKenzie Bridge quadrangle, I think; is that correct, the U.S. Geological Survey Map? You say, you have lived up in that area for how long?

Mr. BIGELOW. Since 1926.

Mr. BARRY. 1926?

Mr. BIGELOW. Yes sir.

Mr. BARRY. And you probably saw it when the fishing was good all the time in all the streams?

Mr. BIGELOW. Yes; I am probably one of the few living citizens of that area who can still bear witness as to what it was in the past. It was indeed beautiful.

Mr. BARRY. Thank you very, very much for your testimony, Mr. Bigelow.

Any person who desires to testify should register at one of the tables outside before you speak.

Mr. Holway R. Jones is the next speaker. Mr. Jones represents the Save French Pete Committee. Mr. Jones, do you have a written statement?

Mr. JONES. I am sorry, Mr. Chairman, I do not. I did not have a chance to write one out. I have some notes.

My name is Holway R. Jones; I have been a resident of Eugene since 1963. I have been very much interested in conservation since my college days. I have been a member of a number of conservation organizations, and at the moment have the hat of the chairman of the Pacific Northwest Chapter of the Sierra Club, although I am not officially speaking for that here today.

The Save French Pete Committee, which I am representing at the moment was formed in December of 1967, at the time that the Willamette National Forest recommended the first series of timber sales in French Pete Valley. We were alarmed by this, and I remember a very dark, rainy night when a group of citizens in this community as well as some other towns nearby met at Dr. Richard Noyes' home. At that time we formed the Save French Pete Committee with the purpose of preventing roading, logging in this, what we have come to regard as an unique valley on the western Cascades of Oregon.

I am only sorry that Dr. Noyes is not with us today; he could make a very elegant plea for this valley. As most of you know, he is on sabbatical leave from the University over in London. We are flying him from London to Washington, D.C., for the May 25 official hearing on French Pete, so we will be well represented at that hearing in Washington.

I would like to pay tribute for a moment to Mr. Zane Smith. You know we have come a very long way in this battle since we started in 1967. In fact, it goes much further back than that; it goes clear back to the beginning of the 1950's when the Forest Service chose to announce a reclassification of the Three Sisters Primitive Area. Some people who had been residents of this area much longer than I will remember that day hearing in 1957.

It is fascinating to go back and read the record of that hearing. If anyone wishes to do so, there is a copy in the University of Oregon Library. I would recommend that you do so. As a matter of count, forty-nine of seventy-nine witnesses at that hearing recommended either the entire 53,000 acres, which includes most of French Pete to be retained as part of the Three Sisters Wilderness, or they recommended a revised boundary which would have been on the Horse Creek in the Pasture Mountain area.

This is why we are in this battle today, because we feel we need to preserve, if we possibly can, from roading or logging, the last bit and remnants of those 53,000 acres.

I say I want to pay tribute to Mr. Smith, and I do, because we have come such a long way from that original plan of 1968. You did not see the original Forest Service plan on the screen; Mr. Smith did not show this. The original plan called for a road, for example, that would have gone all the way through the valley including the lower four or five miles. It would have included at least eleven clear cut sale units in the center of the valley with a considerable amount of roading, something more than twelve miles of roading in the valley.

It did not provide in the original plan for what the Forest Service calls water influence zones, not even on the upper part of French Pete Creek, which you see in the revised plan. I mention this just to illustrate just how far we have moved. We have moved because citizens, such as those who are gathered in this room today, made impact upon Forest Service planning.

I only wish that Mr. Smith had been here ten years previous; we probably would have had somewhat different management of this National Forest than we have had in the past. In spite of this, however, we are still not satisfied with what, I think, some people have called a compromise solution in French Pete.

I would like to cover here without too long a time some of the modification points that Mr. Smith mentioned and showed up here on the screen. I also would like to introduce, Mr. Chairman, if I may into the record some exhibits. One exhibit that I would like to introduce is the advertisement which was run by Save French Pete Committee in the Register-Guard November 15, 1971. This ad was run and paid for through the dimes and nickels and fifteen cents' that citizens of this community were able to raise. It costs a lot of money to run an ad like this in the Register-Guard, something around $500. I think this is one indication of the sincerity of the people in this community who want to save this valley. Now, I would like to introduce this into the record, because I think it expresses very well what Save French Pete Committee's position is on each of the six modifications which Mr. Smith mentioned and showed in the back of the room.

There isn't time here to go through each of these modifications, but I would like to make two points about them. You will remember there was a lower valley area and also the slopes in the south part of the valley, which are not to be cut until technology improves in some way so that we can cut them.

Obviously, the Save French Pete Committee is not in favor of that kind of modification. After all, someday we are going to have technology to allow us to go in there. Who is to say exactly what that technology will be. Technology moves extremely rapidly in our world as we know, and I have held out that we would find a way sometime, probably, to go in there and do some cutting. Therefore, we oppose that kind of modification. In the upper plateau area, the June 1969 plan of the Forest Service, it was stated that, that area would be managed essentially as back country. In the modified plan of the Secretary of Agriculture of October 14, 1971, that back country notion is done away with and the term, "dispersed recreation" is used, whatever that may mean. At any rate some logging, salvage logging and what have you, would be allowed in that upper plateau area. We are also opposed to this.

Now, another thing I think needs clarification is this whole question of the intermediate recreation area concept as it is set forth in Senator Packwood's bill, S-866, and wilderness. We are going to hear quite a bit today I think about the notion that perhaps part of French Pete or perhaps all of French Pete should be added to the Three Sisters Wilderness rather than in an intermediate recreation area concept.

I would like to point out that the Wilderness Act, itself, has a number of things to say about this notion of recreation. The Forest Service has a group of interpretations of the Wilderness Act, with which many conservationists do not agree; and I am one of those. I believe the Forest Service has gone overboard to interpret the provisions of the Wilderness Act in a very strict manner. You will note, for example, in the recent Roadless Inventory meetings which the Willamette National Forest has held—I am sure that some of you attended those—that the great point was made that Wilderness is not really for recreation. I disagree with this; I think that recreation has many different kinds of facets. I agree it is not for the mass kind of recreation that we see.

Let me point out in the Wilderness Act in the very first section, Section II, it says, "And these shall be administered for the use and enjoyment of the American people." Now, my definition is that enjoyment means recreation, and I think that most people would agree with that. If we go further on in the Act, in Section II–C, we have (2) "Wilderness as a place for solitude or primitive and unconfined type of recreation." There is that word recreation again.

If we go further on in the Act, over in Section III–D, we see this phrase, "Wilderness shall be devoted to the public purposes of recreation, scientific, educational, conservation and historical use."

In section C, we have some prohibitions to certain uses and we have some exceptions. It says, "Except as necessary to meet minimum requirements for the administration of the area for the purposes of this Act, including measures required in emergencies involving the health and safety of persons." This is one of the sections of the Wilderness Act that I think we get hung up on. We get hung up because one agency of our Federal Government is interpreting this Congressional Act and saying, "Well, you can't build toilets in the wilderness, you can't put certain kinds of things in." I say that this is rubbish. This Act allows the Forest Service as the administrative agency to put in facilities to protect the wilderness and the water quality. If they have to put in a Wallowa type toilet, for example, in the wilderness, there is nothing in this Act, which says that they cannot do this.

My only point in bringing some of this up is, because there is quite a bit of discussion about what we can and cannot do in wilderness areas and what we can and cannot do in intermediate recreation areas.

Now, I would like to come to some modifications, if I may, on S–866. The Save French Pete Committee certainly wholeheartedly does support SB–866. There is no question but this is a good bill. We would, however, like to make some suggestions to be considered hopefully by the Senate Committee when it has its hearing, and I would like to introduce as another exhibit to this hearing, Exhibit B which I will leave with you, which is a map, which happens to be taken from the base map of the Blue River Ranger District. On this map we have colored certain areas. One of our concerns in the Save French Pete Committee is not just French Pete; this is extremely important, but we are concerned about some of the peripheral lands which are still roadless and underdeveloped. We would like to recommend to the Senate Committee that they consider the possibility of adding the area that I have in red on the map, which includes Mosquito "Triangle", approximately 3500 acres immediately adjacent to the Three Sisters Wilderness and between the wilderness and the French Pete drainage; that this area along with, perhaps, as much as 4000 acres of the upper part of French Pete, that this area be considered for addition to the Three Sisters Wilderness. This would represent a modification in Senate Bill 866.

We should also like to recommend that the peripheral areas which are now roadless and undeveloped, including Walker Creek, approximately 9900 acres, and the upper Rebel Creek area, approximately 8600 acres, be added to the French Pete lower and middle areas valleys, which would then make an intermediate recreation area concept of something in the order of thirty-one or thirty-two thousand acres.

We definitely believe that all of these lands deserve the protection of Senate Bill 866, or some modified version thereof. That is the reason I would like, Mr. Chairman, if I may introduce this map as an official exhibit for the record.

One final thing I would like to comment on, and that is, when we come to determining the boundaries, if it comes to that, as to the upper area it is going to be a little difficult. One of the reasons for suggesting that the upper plateau area of French Pete and Mosquito Creek be added to the wilderness is that I believe it would give us a more viable boundary for the wilderness. It is a marginal timber area; it is an area that obviously was once in a primitive area, and I feel that it would be better served as a part of the wilderness, itself.

I would also like to introduce into the record one other exhibit, Exhibit C; this is a copy of a report done by the Save French Pete Committee dated June 10, 1969, titled, "Request for Review of Decision of February 6, 1957 by Secretary of Agriculture concerning land classification in the Willamette National Forest."

My reason for wanting to introduce this into the record is that I think this document is a very important document for the Senate Committee members to see. This document sets forth the reason why the French Pete Committee feels and still feels today that, that Secretary of Agriculture decision of 1957, which lopped off the 53,000 acres from the west side of the Three Sisters Wilderness, at the same time it established Diamond Peak in Washington Wilderness Areas, also set the management direction, presumably, for that 53,000 acres, under which the Forest Service has provided us with several multiple use plans.

This report sets forth the reasons why we think that Secretary's decision should have been changed. As some of you may know, I was privileged to be in Washington, D.C., in July of 1969, with Mr. and Mrs. Noyes to present our reasons why we felt that decision should be changed. The Secretary chose not to agree with us, and, of course, he issued his decision in October of 1971, under which the present supervisor is obliged to go along with some kind of renewed management planning.

We still think, though, that our reasons are valid, and we would like the Congressional Committee to see what our reasons are; and that is the reason I would like to introduce this into the record, Mr. Chairman.

One final thing that I would like to speak about, one of the objections that we frequently hear is that French Pete would be a delightful spot to practice multiple-usemanship. You know, the kind of place where you can put in your regular uses, clearcut, perhaps, and still have recreation and what have you.

This is great, but for God's sake, but let's not do it in French Pete. It is to unique, too precious a place to try to practice what might be a mistake. I would suggest that if the Forest Service really wants to do this kind of thing, that they find some other area on the forest, Packard Creek, for example, would be a good one, as far as I am concerned, a 6000 acre drainage with which they could practice some of this multiple-usemanship, and really show, perhaps, if they can what it is like to have logging and recreation of the type we are talking about; but let's not do it in French Pete. Thank you very much.

Mr. Barry. Mr. Jones, before you get away, we don't want you to escape because of your resource, last year, this year actually, last term I had a student who undertook to study the Hetch-Hetchy problem. The Hetch-Hetchy Valley in California is larger than the French Pete Area, but it has many similarities in the sense of the zeal of the people who are fighting to preserve it. I note that you wrote the definitive history of that fight in your book, *John Muir and the Sierra Club*.

Mr. Jones. That is right.

Mr. Barry. Do you see any parallel between these two controversies, do you have any expectations that this one will come out better than that one did?

Mr. Jones. Well, I can say that there is a parallel, I think there are parallels in all of these resource battles of this kind that we are fighting; true, Hetch-Hetchy was over power development and water reservoir for the City of San Francisco rather than over timber cutting. But there are similarities in all of these battles, I think; the important thing is the reason why we are able to save many of the beautiful spots in America, the National Parks, and what have you, is because the grass roots citizens like we see in this room right now, like the people who join the Sierra Club and many other organizations that we have, who are willing to devote hours and hours of their time without any compensation whatsoever. For this reason, I think there are similarities in these battles. I certainly not for a moment hope that the French Pete goes the way the Hetch-Hetchy did.

Mr. Barry. Thank you very much. Any questions? (No response) The next witness will be Mr. Steve McCarthy, of Portland, Oregon.

Mr. McCarthy. Thank you; first I have to say, I think I should say that the reason I am here is because I was associated with a law firm who was co-counsel in the French Pete case, but I am not representing any organization with which I am affiliated now. (See Exhibit #10.) Thank you.

French Pete is a special case and that is why we are all here. The Forest Service, I think, has taken the position on this and other issues, that we are treating it too much as a special case by asking that there be special legislation. I know many very responsible legislators who support something about saving French Pete, but they are not supporting the special legislation, in other words, making administrative land decision by special legislation. I think that is one of the real problems about this bill and I anticipate that will be one of the obstacles to it being passed.

French Pete is unique and that is really a good argument for making it a special case. Its uniqueness is a quality that I am sure that other witnesses have talked about. If you look at the early record of the Forest Service and the interest in French Pete, that its uniqueness was never recognized. It was never taken into consideration and it was never even discussed. In fact, not even really denied, prior to the final environmental impact statement. We should say that Zane Smith has recognized some of the uniqueness, but it is still going to be logged. So I would like to look at the way the Forest Service handled the initial decisions about French Pete and maybe arguments that it does deserve special treatment. In other words, if the Forest Service is going to handle French Pete in the way that they did initially, then there comes a time when the management and their competence is questioned and it has to be taken to the legislature essentially to take it away from the Forest Service and have some special guidelines set up.

They drafted the Multiple Use Plan for French Pete and let's take a look at the plan, as it was done by the Forest Service in 1969 and see what it says and see what they would have done if they hadn't been interrupted and what they might still do if the management isn't taken away from them.

Does the Multiple Use Plan make any real concessions to recreation or other non-timber uses? The answer is no from those plans.

According to page 40, the first multiple use plan was issued in 1969 and it says, ". . . skillful design of harvesting areas and the use of proper equipment should permit these areas to contribute their full allowable timber harvest."

In other words, at the time this plan was drafted, there were no concessions made regarding the uniqueness of the valley to cut down on the amount of timber that they might take out.

The Forest Service is saying that they are going to get the same amount of timber out of French Pete as if they logged it like any other valley.

What does the Management Plan say about clear-cutting? This is the Management Plan that we appealed and the Management Plan that the Secretary of Agriculture upheld, but maybe not the same thing that Zane Smith is going to do now.

What does the Management Plan say about clearcutting? The plan permits clearcutting throughout a great portion of the French Pete Valley. There is no meaningful regulation of clearcutting. The Plan states that "an attempt" will be made to hold the size of clearcuts under 35 acres (30 acres in a modified plan.) "Units that exceed 35 acres will be thoroughly justified". This is in a unique valley and the Forest Service says that clearcuts over 35 acres will be thoroughly justified. Do these statements have any real protection for aesthetic or other non-timber values? What is "thorough justification"? Who is going to be making the justification?

On page 22 of the First Management Plan it is stated: "Streamside strips of standing timber will usually *not* be left when such strips will not be accessible for management in the future". In other words, if they can't get in to cut it later, they are going to cut it all right now including down to and across the streams.

What about the lands up in the high parts of French Pete, the lands with predominate scenic values? This is what the Plan says: "All lands in the high meadow units that are not open grassy meadows, alder patches, rock slides, or snow avalanch paths will be managed for the optimum sustained production of timber products". In other words, whenever there are timber trees, management is for timber, for optimum sustained production. The stand will be intensively managed. This is not down in the Douglas Fir area in the lower valley, this is up in the higher meadows.

Even in these high meadow areas, clear-cuts will be allowed. The plan states that clear-cuts will not exceed 15 acres "unless necessary because of the topography or the need for salvage." So, again, even in the high meadows, they will be permitted clear-cuts. This is that it will permit clear-cuts and they could exceed 15 acres, if they were necessary for topography need for salvage. This is predominantly a logging criteria. What could you add to the definition of the process of deciding whether something was necessary because of the topography for salvage that would not be an economic or timber management criteria. Can you put a recreational criteria in there? I don't think you can the way that is written.

Does the Management Plan provide any other protection for high mountain meadows? Again the answer is no. On page 26 of the First Management Plan is the following quotation: "Meadows will be managed with recreation as the key use. Timber harvesting in adjacent areas will be done in such a way that recreation use is not impaired.

What does this mean? A first reading says that recreation is a key use. But the next sentence says that we are going to harvest the timber but we will try to do it in such a way that recreation is not impaired. Anyone who seriously believes the timber harvesting can be done next to a mountain meadow in such a way that "recreation use is not impaired" either does not know the Forest Service, or logging practices or has never been to a mountain meadow or both.

What about the location of roads? On page 26 of the First Management Plan it is stated: "Road locations will be planned to avoid meadows. Logging or heavy equipment will not be allowed to enter except where authorized for a specific purpose." You know, these guys wrote this and I think they were serious, in fact, I know they were serious. If the timber is on the other side of the meadow, they will be authorized to go in and get them. This is up in the meadows, too, up in the lands around the upper part of the valley by other criteria are the most valuable for recreation.

What about recreation planning. Let's look at what they say in the plan. Some examples:

(a) These units will be managed to maintain a near-natural appearance.

(b) Transportation planning will limit road construction within these units to that amount for which there is no other reasonable alternative.

(c) These strips (300 foot buffer between meadows and logged areas) will be selectively cut to maintain a thrifty timber stand. Roads will be subject to the set-back unless unacceptable damage to other resources would result.

What does all that mean? What it means is that they can log and will log in the so-called buffer zones between roads and meadows and clear-cuts. 300 feet is okay for the speeding motorist but not much good for anyone that is walking or even driving slowly. These are extremely small buffers and then they are going to log it too.

Some of the Forest Service reasoning borders on fantasy. They are talking about clear-cutting, for example. "Clear cutting will be allowed when justified as the most practical method." The only yardstick against which the criteria is practical is for the requirements of logging timber. There is no way that clear-cut can be judged practical on the basis of scenic or other recreational criteria.

Against the Forest Service doctrine is that "timber sales in this unit will be designed so that treatments blend with, rather than detract from the scene as viewed from the visitor attractions". In other words, they believe, and I don't know if they do anymore or not, that they can make clear-cuts in the last large low-altitude Douglas Fir valley in the State of Oregon and that it will not detract from the qualities of that valley.

These are some examples of what—admittedly is now apparently no longer what is exactly going to be done in French Pete, but it was the Management Plan that was upheld by the Secretary of Agriculture as an example of what the Forest Service has done in the past and perhaps will do in the future to this valley. I think that this is the best argument for the fact that we have to take it away from them. We have to say that French Pete is special enough and you haven't demonstrated to us in the past that you are going to take proper care of it. We are going to have to take it away from you through special legislation.

Thank you

Mr. BARRY. Just for the information of the record I think I should point out that Mr. Steve McCarthy, who has just testified, is a lawyer who practices in Portland, Oregon. He is now the Executive Director of the 50,000-member Oregon Student Public Interest Research Group. Thank you, again, Mr. McCarthy.

Are there any questions?

Reverend PETERS. Your testimony has been based primarily on a management plan, which apparently is not the current management plan. I wonder, and it may be useful just for the record if you could give us a reflection on the modifications that are before us. I don't know if you heard Mr. Smith testify this morning, but apparently there have been modifications in the logging plan. Could you just bring us up to date as to your views of those changes?

Mr. McCARTHY. I have had a couple of informal sessions with Zane Smith about what he wants to do. The first one was right after the Secretary of Agriculture's decision where we asked him essentially, "What are you going to do? The original management plan was upheld, what are you going to do?" At that time he went into some length to explain to us that he no longer took the original management plan as his guide. In other words, he didn't feel that he was bound by it; he felt that he was bound by the impact statement and some specific guidelines in the Secretary's decision.

Since that time I guess I have talked to him about what he is going to do and recently I heard from Holway about some of his plans through 1975, which indicates that a fairly substantial amount of recreation, I don't think the point is changed; I think, for example, obviously the new plan is inadequate, at least, to change the basic premise that at least a substantial part of French Pete should be managed for timber production.

I can't see any compromise on our position on that. It is an absurd example of land planning to take a resource that is unique like French Pete and use it in the same way they have used every other valley. I think his ideas are tremendous, but they should be applied, as Holway Jones says, in any of fifteen of twenty other valleys that are going to be devastated if this kind of a plan is applied to it.

The point that I was trying to make is this is an example of what would have happened and what may still happen in other areas, what may still happen to an extent in French Pete, if the land management is left to their administrative discretion.

We have got to take it away from them, at least in this case.

Dr. BARRY. Thank you again. Is Mr. Edward H. Vogt here? (No response) Mr. Vogt said that he had to leave at 10:15, but that he would come back. We will call his name from time to time.

The next witness is Mr. Peter Glazer.

Mr. GLAZER. I have a prepared statement.

Fellow Oregonians, legislators in Washington, my name is Peter Glazer, I am a nine-month a year resident of Eugene and a permanent resident of Portland. I have come today not to summarily criticize the Forest Service, because as with any organization or person, the Forest Service has its incompetence as well as its competence. I do not come as an expert on French Pete, or on wilderness areas or on forest management. I speak as an Oregonian highly concerned about the future livability of my state. My testimony is brief and I hope that you will bear with me should I cover ground already heard today.

My father is an architect; my dependence is upon his profession. I have no illusions about how everything would be rosy if we left all the trees standing and built only with concrete. In fact I much appreciate wood in building; it brings a quality of life to otherwise sterile constructions. But I also enjoy the beauty of a virgin forest; of an area devoid of construction. While I observe this state becoming one of second home development and growing suburbs, I relate to two questions.

The first is whether or not wilderness is necessary to the high quality of life in Oregon. I answer yes, that it most certainly is. I think of the two children that I plan to have, and I wish that they could see the beautiful state of our state today. I fear instead that they will see a land similar to present day southern California. I fear that they will grow in a sprawled and paved Oregon. Such a fate is not deserving of any Oregonian.

My second question is of the claim, made by many, that we need to cut our wilderness areas to build the necessary homes for America's poor. I see it as fallacious. Instead I see it in quite the opposite light. The trees that are being cut today are not being cut to build the homes we so desperately need for America's underprivileged. The trees we cut today are being used to build second homes for the affluent, and suburban boxes for the middle class. If indeed the argument is used that wilderness areas benefit only the affluent, I ask who benefits from second homes at the beach or mountain, or from suburban tracts. Not the poor.

The final point I would like to speak to this morning is raised as a question to all of us, particularly the forest industry. The question I ask relates to many aspects of management of Oregon's forests. It is a highly important question, and I suspect many Oregonians are disturbed about it. I ask then, when jobs are at a premium, and timber is most certainly at a premium, are we, as Oregonians, exporting hundreds of French Pete Valleys across the Pacific each year? Why are we not wisely utilizing our precious resources here in Oregon and in America? It seems ridiculous to contend that environmentalists are to blame for job reductions. It quite plainly seems that the culprits are not crazy environmentalists, but those who seek to profit by exporting our logs out of Oregon to the Japanese.

Finally, I pledge to members of the Forest Service, and the forest industry, that I will maintain an open mind with regard to charges against them and by them. My concern is not in labeling foresters wrong, or environmentalists crazy . . . it is with maintaining Oregon as a state where people can earn a good living, enjoy a profitable leisure, and live with an eye to the future. The closing of my remarks is with seven important words . . . Consider Your Inheritance and Save French Pete.

Mr. Barry. Thank you very, very much.

Mr. James A. Baker. Mr. Baker is from Finn Rock, Oregon. If I remember correctly, that is on the Willamette River.

Mr. Baker. That is on the McKenzie River. I have the statement of Eleanor Woods of Blue River.

Dear Sirs: I should like to have the following statement included in the record of the hearings on Senator Packwood's Bill 866 to create an Intermediate Recreation Area on French Pete Creek in the Willamette Valley Forest, Oregon.

When I first came to the McKenzie Valley in 1955, I could walk on shady, soft trails through the old-growth Douglas Fir forest unique to the Northwest, for five days to a week directly from my cottage without meeting a soul. Many others did the same thing; there was enough forest to absorb us all. Since then three dams have been built on the McKenzie or its tributaries within the National Forest, including Cougar Dam on the South Fork, into which French Pete Creek flows. Cougar Dam alone drowned about 1400 acres of forest and idyllic creeks as well as South Fork itself up to French Pete Creek. Moreover, the 53,000 acre of old growth forest between South Fork and the present Three Sisters Wilderness were taken out of the Primitive area in 1957.

These 53,000 acres were then opened up to Multiple-Use in 1960 along with the rest of the commercial forested acreage of the National Forest. Multiple-Use has meant, in practice, that about 96 percent of the Douglas Fir Forest has been designated by the Forest Service to have timber as its Key Use as well as 67 percent of Upper Forest. This has meant that much of the Forest has been scalped in clear-cut units and that gravel roads run up every creek or ridge—except, at present French Pete Creek. It is impossible to reach trail-heads without driving miles along logging roads and clear-cuts units, and what trails are left, are segmented into short units by other roads and clear-cuts. For hikers this means a cultural shock and depression every few miles.

In the meantime, the population of the nearby Eugene-Springfield area has doubled, as well as, probably, the population along the McKenzie. Now that there is much less de facto wilderness, there are many more people seeking either wilderness or natural surroundings in the forest. Today there are 15 cars parked at the trailhead at French Pete on a Saturday before the snow is off the upper part of the valley!

French Pete Creek is an idyllic creek. The valley itself is steep and narrow. Any logging in it or roading of it would be obvious to the hiker seeking solitude or escape from the city. I urge the passage of this Bill 866 in order to save it for future generations to enjoy.

Sincerely, Eleanor Woods.

Mr. Barry. Thank you very much, Mr. Baker.

Is there a representative of the Forest Service here now?

(No response.)

Well, the next witness will be Mr. Harold M. Dunn.

Mr. Dunn. Mr. Chairman, my name is Harold Dunn. I am perhaps unique in that I am a native born Eugenian; although for something over twenty-five years I have been living in the nearby Mohawk Valley.

When my son, Robert, completed his military service, he found employment in the San Francisco Bay area, but he comes home to Oregon for his vacations. I think it was two years ago that we went into the French Pete drainage, and we came to a spot of particular beauty, and anyone with a touch of Irish blood would immediately look for the pixies who might be hiding among the ferns in the logs, where in this little cove was a small drainage of water in the late summer time, when all else was parched and dry.

Now, there is no argument but that logging disrupts the hydrological flows and if logging is permitted in the drainage above this particular little spot I have in mind, the probability is that the flow will cease and the plants will die.

Now, the Forest Service will show us examples of green growth of vegetation where they log, but they do not show us the moss and the ferns, the sacrifice of the wild orchards, which are rather intolerant of such treatment.

I would urge the passage of Senator Packwood's bill S-866 that we may preserve this particular area, so that when my son has a family of his own, he can bring them in and have the youngsters do their own pixie hunting in this spot of beauty along the French Pete trail. Thank you.

Mr. Barry. Thank you, Mr. Dunn. Mr. Killgallon, are you here?

Mr. Killgallon. Yes.

Mr. Barry. Would you make a statement right now? We are out of witnesses right now, and they are registering some more. Your address sounds like you are a neighbor of mine.

Mr. Killgallon. Yes, I am. I didn't prepare a statement. I have lived in Eugene since I was born, and I am twenty-six years old. I have spent two years living up the river in the area of Blue River. It is a beautiful place and I hate to see the loggers come with their equipment, their clear cutting equipment. That is about all I have to say.

Mr. Barry. For the record, your full name is Kerry Michael Killgallon, 1237 East 21st, Eugene, Oregon. Thank you very much, Mr. Killgallon.

Mr. Joe Walicki.

Mr. Walicki. My name is Joe Walicki, and I live here in Eugene, Oregon. I want to go on record as an individual urging protection of French Pete.

I have been in the valley a number of times, and I was very fortunate about two weeks ago, Senator Packwood came to Eugene. Senator Packwood, Holway Jones, Zane Smith flew over the valley. They had two extra planes for the press, and one of the press planes had an empty seat, so I got in; and I flew over French Pete. I want to tell you, it was a magnificent experience. We flew right into the valley and then made a general right turn and a broad expanse of valley extending on up the wilderness area was pretty fantastic. You can probably get a pretty good view of it up on Yankee Mountain, of course, but from the plane, it was really an experience.

I would just like to say that there are many, many valleys or many, many areas in the United States, where there is great over-population—I originally come from Philadelphia, and one of the reasons I came out here was to enjoy some of these wilderness areas. What I am afraid of is that many of my friends in Philadelphia are going to come out; they are coming out and they will be coming out and once we get this quota system on many of our wilderness areas, it is very conceivable ten thousand people from Philadelphia can sign up for all the wilderness areas of Oregon, January 1, 1980, and not allow any more natives. It is very possible that these wilderness areas that we have now are going to be under tremendous pressure and continuing pressure in the near future, because the curve of individual involvement in wilderness as a recreation is going up and up and up. Sales of backpacking equipment, camping equipment is continually rising. I imagine it will taper off sometime, but it is going up and interest in wilderness is increasing; so unless we have a good increase, a large increase, in wilderness areas, we are going to be in trouble.

I think French Pete would be a perfect addition to the Three Sisters Wilderness Area if we are going to have recreation in the wilderness areas.

Mr. Barry. Thank you, Mr. Walicki. Janet Newman.

Miss Newman. I am Janet Newman; I have lived in Eugene for twenty-one years. I have visited French Pete in the snow and also in the summer. During the summer I have worked for the Parks and Recreation Department of Eugene, and I have had the opportunity to take children up there. I was rather dismayed in my initial contact with some of the children and found out that their only contact with wilderness was in a camper or on a motorbike or something like this. There are a lot of children who have never seen a wilderness area; and I would just like to see French Pete remain a wilderness area and be preserved in its natural state. I think too many times we go ahead and do things that are irreversible in the future. French Pete should be saved.

Mr. Barry. Thank you.

We will take a five to ten minute recess at this time.

(Hearing in recess from 11:05 to 11:15 a.m.)

Mr. Barry. I am going to turn the gavel over to Mr. Mohr. I have to be at a meeting on French Pete up at the University in a few minutes before we convene the afternoon session. Mr. Mohr.

Mr. Mohr. Thank you. Our next witness is Mrs. Elizabeth Frenkel from Corvallis. She wishes to present some oral testimony. Mrs. Frenkel.

Mrs. Frenkel. I am very grateful for the opportunity to speak today. I would like to testify to the fact that I am one of the people who have been in the French Pete area, which is one of the few areas where a family can go comfortably, when most of the upper elevations of the area are under snow. To place this under the intermediate recreational area plan would be a most useful way of keeping that area just as it is for me and my family to go there in the winter time.

The fact is the conflict on one of the scale of wilderness obviously doesn't fit the whole concept of wilderness, the conflict on the other hand of harvesting which would destroy the effective use of the area for recreation. I do hope it will be passed out of committee favorably. Thank you.

Mr. Mohr. Thank you, Mrs. Frenkel. Are there any questions? (No response)

Robert E. Frenkel, also of Corvallis, wishes to make a statement for the record. Mr. Frenkel.

Mr. Frenkel. (See Exhibit #18.)

Mr. Hearing Officer, ladies and gentlemen, my name is Robert E. Frenkel, 1421 N. W. Vista Place, Corvallis, Oregon. I am an Associate Professor of Geography at Oregon State University; my specialization is in ecology and natural resource conversation. I am pleased to have this opportunity to testify in Eugene today since it would be impossible for me to attend the Washington, D.C. subcommittee meeting hearing on May 25.

I wish to address two aspects of Senator Packwood's Bill, S. 866, establishing the French Pete Intermediate Recreation Area, a bill I fully support and which I urge the Parks and Recreation Subcommittee to favorably pass. One aspect relates to the quality of the area as an important scientific resource; the other concerns the need for intermediate recreation area management.

Situated at the lower margin of the Western Cascades between 2,000 feet and 5,700 feet elevation, French Pete Valley represents one of the last remaining unharvested, low elevation watersheds of comparable size in

Oregon's Cascade region. The uniqueness of this valley is, in part, an artifact of the harvest pattern which has disturbed almost all comparable west slope valleys. The geology of the watershed includes the transition between recent Pleistocene Lava flows typical of the High Cascades which are relatively undissected, and the more deeply eroded Miocene rocks with their characteristically sharp ridge pattern bordering lower French Pete Creek.

The diversity of parent material combined with almost 3,000 feet of relief; slope exposures dominantly north, south, and west; and a variety of surface terrain has led to a richness in vegetation cover. Foresters recognize two main forest types in the area; Douglas Fir and true fir mountain hemlock. Plant geographers, on the other hand, consider the areas as a valuable transition from the western hemlock zone to the subalpine forest zone where several species of true fir prevail. At least 30 loosely defined vegetation units exist in the area, including ten major forest community types within the *Tsuga heterophylla* zone reflecting variation in both moisture and temperature, possibly five forest types within the subalpine forest zone, xeric meadow, mesic meadow, wet meadow, snowbed communities, peaty melt seeps, rocky melt seeps, scree communities, talus block communities, vertical outcrop communities, lodgepole pine communities, unique quaking aspen groves, and several riparian communities. It is the mosaic of vegetation patterns including a variety of seral communities reflecting past history of vegetation development (in part the fire history) which excites plant geographers.

Hickman has studied some of the aspects of the flora occupying isolated peaks in this watershed. The relationship between the plants and communities on the peaks and ridges to those on slopes and valley bottoms is one of the problems needing further research.

The proposed Forest Service plan of integrating timber harvest with recreation would essentially destroy the opportunity for a broadly-based study of the vegetation mosaic and flora of the area as it now exists and is developing.

One might review the special management of other adjacent areas: Five Special Interest Areas are situated either within the French Pete watershed or near by. These are the Yankee Mountain Scenic Area, Lower Mountain Geological Area, Lamb Butte Scenic Area, Quaking Aspen Swamp Botanical Area, and Rebel Rock Geological Area. With the exception of the 240 acre Quaking Aspen area, all have rocky mountain top locations. Furthermore, the purpose of all of these is recreation use.

Two Research Natural Areas, Ollalie Ridge, preserving mountain meadows and their flora, and Wildcat Mountain, featuring noble fir, are all that now exist nearby in the Western Cascades. The conclusion from this enumeration is that little attempt has been made by the Forest Service to providing protection to integrated, low elevation forested landscapes. The French Pete Intermediate Recreation Area plan will provide this protection.

The U.S. Forest Service research, largely the output of Forest and Range Experiment Stations throughout the country, has elucidated the recreation desires of forest users and the management problems confronting Forest Service personnel. Thus Hendee, *et al.* (1968) point to the desires of many users for facilities and developments inimical to management of wilderness under the Wilderness Act. Lucas (1966), in a study of visitor perception of the Boundary Waters Canoe Area, demonstrates that people reflect all degrees of perception and desire in wild land use and that the Forest Service must meet this diversity of demand and perception by providing a diversity of management schemes. The Forest Service administration itself recognizes the incompatibility between heavy recreation use of wilderness and the continuance of the wilderness resource; yet, the Service has few extensive management schemes which will meet this demand. These few examples illustrate the need for an intermediate recreation area type of management which would permit considerably more intensive management and development than is possible in a wilderness area. The French Pete Bill would provide precisely this opportunity.

Once again I urge the Parks and Recreation Subcommittee of the Senate Interior and Insular Affairs Committee to pass favorably on S. 866.

Thank you.

Mr. MOHR. Thank you, Mr. Frenkel. Are there questions? Reverend Peters.

Reverend PETERS. It seems to me that the focus of your remarks would be to suggest that there is an uniqueness about this valley, that perhaps in some way its characteristics are not duplicated in any other. I wonder if you could, maybe, just for any layman who might be interested in this record, sum up what the characteristics of the unique features would be?

Mr. FRENKEL. The unique features from my view are to a certain extent the extent of the valley. The valley consists of about 19,000 acres. Almost all comparably sized valleys to my knowledge at low elevations already have been disturbed by timber harvests' operations.

So that we have a relatively undisturbed valley which offers an extensive array of habitat type of plant community which can be further used for research; this is one aspect.

The second uniqueness again relates to its integrity as a complete watershed. Here is a watershed which is fairly large, which has not been disturbed and used to study or as a control for use to understand hydrological processes and this type of knowledge. There has been this type of study in a very small way the nearby in the Andrews Experimental Forest, but not to any extent a watershed such as is available in French Pete.

Mr. MOHR. Any further question? (No response) The next witness is Mr. David Novick.

Mr. NOVICK. Mr. Chairman, as an Eugenian for thirteen of my nineteen years, I have enjoyed hiking in the French Pete area, and having seen the barren logged areas, I would urge the incorporation of the French Pete drainage into Wilderness Area on esthetic grounds. With the increasing and close to overload use of now recognized Wilderness Areas, we can ill afford to lose unrecognized but nevertheless excellent wilderness land.

The Three Sisters Wilderness Area is now in danger of overload; it is difficult to visit that area without running into many other people. Campsites developed at locations such as Green Lake are experiencing such heavy use as to make usually common firewood scarce.

Under these kind of conditions, it is apparent to me that the inclusion of the French Pete drainage is necessary not only to protect non-recognized areas from the exclusive ruin of roads and logging, but to protect non-recognized wilderness areas from the implicit ruin wrought by the tramping feet of overuse.

Once French Pete becomes subject to the transformation of multiple use planning, it will never return to its current state. And because of my analysis, the increase benefits in terms of wilderness available now far outweigh the increased benefits in terms of timber land available now. The nation must recognize the value, not tangible perhaps, but still value of unspoiled valleys, and French Pete is one of the few unique valleys still left in Oregon.

Mr. MOHR. Thank you, Mr. Novick. Catherine Landon is our next witness. Mrs. Landon says that she is a life long resident of Eugene.

Mrs. LANDON. Yes, I am a life time resident of Eugene. I was born on the banks of the Williamette River. I have watched it come up and I have watched it go down.

I enjoy hiking and I hike a great deal. I enjoy fly fishing on mountain streams. My husband has the same feelings and we like the same hobbies. Our children are grown and they and their children are all excellent hikers and fishers.

Now, we have found less and less trails and more and more hikers. We find fewer and fewer streams for kind of fishing and more and more fishermen. The trails and so many of the streams are disappearing with the logging operations. These are mud clogged, debris clogged, covered by slides, downed and dead trees, disbanded cable lines, equipment, junk, oil slicks, rust erosion, dry stream beds crossed and recrossed by cat tracks, high lines, garbage, logs, limbs and they will never flow clear water again in my lifetime, nor in your lifetime. They will only add to the ever increasing chain of public expense from the logging site to and into the ocean.

The French Pete area can still be hiked by beautiful trails, the creeks are clear and clean. It can be enjoyed all year, and from the number of vehicles in the parking areas convenient to trails it is more and more in demand.

So many have felt that we had enough wilderness areas set aside, but in the wilderness areas that I have been in, I find that there the going season is very short. There is timber, but it is stumped. Many of the trees that are often cut for boy scout projects are as much as 70 years old, and yet they are just the right size for the projects specified for boy scouts. This is something that should be curtailed. Maybe they could all use the same log and when they are through with them, reset them.

I find the trails in these other wilderness areas are worn so deep that we have to start new trails. They will never recover because the growing season is so short, they cannot recover from their heavy use.

Any degree of logging with our present methods would leave French Pete another disaster area. Its combined acreage is comparatively small for worthwhile logging. We have larger ranches, in fact, last weekend, I was on a larger potato ranch in Eastern Oregon.

It would leave another unsightly, noisy, 15 minute ride to the adjoining unsightly area and on until one wonders why we didn't stay home and watch the boob tube.

We are extremely sorry that a wilderness area was not established 30 years ago in the Coast Range. The virgin forests there at that time were beyond the imagination of our younger generations. Did you ever see a square dance on the stump of a Sequoia? It is gone and never again will it return.

I certainly hope that something is done to retain French Pete as a Wilderness area.

Mr. MOHR. Thank you.

Mr. Bernard Conklin.

Mr. CONKLIN. I have no prepared statement. I am for retaining the French Pete area as a natural wilderness. My chief reason as for that has been mentioned before by many people here, much of the Cascade region and much of Oregon has been set aside for logging and I think Oregon is one of the few states that has been able to retain its natural surroundings. I am an outdoorsman myself. I enjoy fishing, camping. I feel that most of the people who get into the natural regions are really conservationists. I, myself, have respect for the wildlife that is in there; and because of this I would like to leave it like that. From this point of view is why I am supporting it.

Mr. MOHR. Thank you very much.

Diane Meyer; Diane lives in Talent, Oregon.

Miss MEYER. I am Diane Meyer, I will submit a written statement, hopefully somewhere around the 25th, if I can. I came all the way up from Talent, Oregon, this morning. I represent the Rogue Group of the Sierra Club. We have over 150 members and over three sypathizers. We were lucky this last summer to have Holway Jones come down and show us some slides about French Pete. I was a resident of Eugene for ten years, and I think I have hiked most of the trails in French Pete many times, except for maybe one or two of them, so I know the area very well.

I was on the original French Pete Committee in 1969 when all of the problems of that original plan began. I won't go into too many details right here; I will have a written statement. I support many of the things that have been said already. I would in particular like to see French Pete a Wilderness, and I would support the bill that Packwood has used as an alternative measure. I would prefer wilderness; it is wilderness now, and I feel that it should remain that way, I got my first wilderness experiences in this kind of a lush and almost coast range type of habitat in the Cascades. When I came up from Southern Oregon this morning, it wasn't really raining like it is here. I know you get kind of depressed with all of the rain, but you know it is kind of dry down there, too. That is more open pine country. We don't have an unique French Pete habitat down there like you have here. I miss that every once in awhile. I like to come up just to go into a place like French Pete, maybe it is because I was born and raised here, but I think the people of the Pacific Northwest must realize that we have something unique here. If you cut down all of the big trees, I think what has made the Pacific Northwest what it is, will be gone.

Anyway, I do support Wilderness for French Pete.

Mr. MOHR. Thank you very much, Miss Meyer, for being with us this morning.

Is Mr. Doug Newman here?

Mr. NEWMAN. Yes. My name is Doug Newman, and I have lived in Eugene for twenty-five years. I have been going into the nearby mountains and foothills of this area all of my life. Within the last five or six years I have become involved with outdoor organizations in this area, and the growth has been phenomenal. Say, only five years ago, there were only a handful of people, it seemed to me, who were going out and participating in activities of this nature.

An organization with which I am associated, the University of Oregon Outdoors Program began at that time with perhaps a hundred people. Now, the figure is somewhat in the vicinity of 3500 people annually. At any rate the outdoors movement is growing. The Boy Scouts, the Girl Scouts, the Campfire Girls, YMCA, outdoor education programs in the schools, park and recreation departments all are growing very, very much. They need places to take their people. That is the thing I would like to bring out today; these places are shrinking. There seem to be fewer and fewer places as the years go by to go. I know I have seen it in my own short time of pursuing this activity that there are very few places in this area that aren't getting over-populated on the weekends.

The main thing about French Pete is that it is unique; it can be used year round. It is not like the geologic area, the natural area, the scenic area or any of that as any other in the vicinity. The other areas are all higher elevations. They are 4,000 feet or 5,000 feet high, which means that you can't get there all the months of the year. They are only accessible, perhaps, for four months of the year.

Another thing in the way of bearing out that we are losing these trails is the statement given by the Willamette National Forest, which describes the number of trails that were in existence in this fiscal year. They say that there are 616 miles of trails left as compared to 3,050 miles of roads. I can't see the number of trails getting very much bigger, but I can see the number of roads growing a lot.

Consequently, I would like to say that I favor Senator Packwood's Bill and I would like to see French Pete maintained in its present state. Thank you.

Mr. MOHR. Thank you very much.

Mark Soloos?

Mr. MARK SOLOOS. I am Mark Soloos and I have lived here for three years in Eugene and in the area for nine years. Once our Troop went up to French Pete and it was fantastic. Just the beauty of it was outstanding.

I have seen movies of roads being built and clear cutting and it made me curl up inside and want to do something about it. I have joined a Conservation group and tried to do something. Last month we saw a movie on the Blue River, which was a creek that was destroyed by logging and roads being built. Of course, the fish could not spawn again. They could not get back to the original place where they were born.

I am very much for saving French Pete for those of the outdoors.

Mr. MOHR. Thank you very much, Mr. Soloos.

Is there anyone else that wishes to give testimony this morning in this session?

(No response.)

This hearing will continue again this afternoon commencing at 1:30 in this room. It will continue through the afternoon and then it is again scheduled for this evening beginning at 7:30.

I will adjourn this meeting at this time. Thank you for coming.

(Hearing recessed.)

TESTIMONY TAKEN IN THE AFTERNOON SESSION

Mr. BARRY. We will call to order. This is the hearing on S. 866, which is Senator Packwood's Bill to establish the French Pete Creek Intermediate Recreation Area. The text of the Bill, of course, will be in the record. If you are interested in what the text of the Bill is, it is posted at various places around the building and you can read it at your leisure.

Generally and for the purpose of starting off the hearing, the Bill would establish an area which is closed to mining, to logging and to roading of the French Pete drainage area and dedicated to recreation purposes, with minimum development for recreation purposes.

We have heard this morning testimony from the Park Service, excuse me, from the Forest Service, describing what the present status, legal status of the area is, and describing what the plans are for its development in the future. This is including plans for a recreation development until logging and roading commences. In the railed area, the Forest Service has very kindly lent us and we have placed a relief map which is somewhat fragile, we were told, and should not be handled at all. It is sufficiently informative just to look at it to see, at least, what the area looks like. Many of you, of course, have seen it, but this gives you a different view, an aerial view, as it were.

It is not possible for me to continue as Chairman this afternoon. I expect to return this evening and I am asking Professor Lacy of the University of Oregon Law School to take the gavel at this time.

The other gentleman that you see at the table at this time is Mr. Bettis, from the University of Oregon, *Old Oregon* former editor. Now, we have two other panelists who will arrive for this afternoon and when they arrive, they will be introduced by Mr. Lacy. Meanwhile, I hope that you will excuse me as I am unavoidably required to leave.

One thing more, we have generally indicated that we want all views expressed at this hearing. While we didn't go and call up all of the logging companies to ask them if they wanted to send representatives, we certainly made it public that we do not intend that this would be a one-sided matter. Therefore, I wish to announce to you that this morning no one testified against the Bill, however, there were two persons who came to the meeting. One of them wrote out a hand written statement which was included in the record, but was not read publicly; and one of them gave his name, both indicating that they were opposed to the plan to save French Pete.

So, we wish to reiterate that this is a hearing in which the people of Eugene can express their views and we have no expectation that those views would be unanimous. Therefore, we welcome any views that one would want to present.

Thank you.

Mr. LACY. I have been handed about seven or eight slips of people who have to leave the hearing at 1:30. And not knowing any way to resolve this problem other than at random, well, one of these says 1:45, and that automatically cuts him out. But, I will simply go through these in order.

If you really have to leave at 1:30, I suppose that that is unfortunate and you can come back.

Mr. Mellem suggests that you try to keep your statement under three minutes, but I don't know if I go along with that. If you feel that what you have to say is really important and it takes more than three minutes I encourage you to go ahead with it.

Barbara Hoga is the first one.

BARBARA HOGA. I came today to say that I think that it should be preserved.

Mr. LACY. Dave McAllister?

DAVE MCALLISTER. I came today to just say too that I have hiked up there a lot and I have really learned to like that part of the country. I'm just hoping that it will be preserved.

Mr. BOB WYNIA. In my short lifetime, I have been witness to numerous tragedies which have befallen our society. The violence which permeates every aspect of American Society, not only affects our physical well being and that of our neighbors, but in addition it affects the very land we live on, the air we breathe, the water we drink and the wildlife around us. It is a small and fragile spaceship we survive on. Yet we treat it as violently as we treat our neighbors. Crimes which people commit against man are few and far between compared to the crimes we commit against our natural environment.

Once again the forces of industry and the need to allow the wealthy interests of our society to turn trees into money is confronting us as a people. This is an issue which truly affects every Oregonian as well as every citizen of this planet. The rationalizations which industry seems so adept at making about the need to "harvest the timber", the need for lumber to build homes, the large number of jobs provided in the logging industry, all seem hollow and unimportant when we consider that the very future of the existence of mankind may hinge on the decisions regarding thousands of French Petes all over this country.

If this sounds like a impassioned plea, that is precisely how it's meant. My family and I have spent numerous hours wandering the French Pete Creek area and have found no better place to educate our children regarding Oregon wildlife, the beauty of miles and miles of uncut trees and the ecology we hear so much about today. It must be saved. We simply cannot allow forest after forest to be turned into folding money which returns so little to the creation of a contented society.

Mr. Lacy. Well, I might explain my position in this a bit. Mr. Barry asked me to come down as a member of the Law School Faculty who has no convictions at all about this matter. I would describe myself as concerned but essentially uninformed. I am aware, vaguely, that there is a multiple use concept for lands in the national forests. It seems to me that this is through the decision that was made some years ago. And to take the attitude, which is more or less how I read Mr. Wynia, that there should be no logging or on the other hand, that we must give no concern to recreation, I think to take that stand, while it may be satisfying to you, I don't think that it is going to persuade very many members of Congress.

If I were, and I am not going to make this decision, if I were a member of the committee deciding how to vote on this measure or ultimately a member of Congress, I think that these are the things that I would be interested in. Number one, what is the uniqueness of French Pete?

I have often over the years that this has been in the news, heard it described as one of the few remaining virgin forests. What really does that mean? What is a virgin forest and how few and far between are places like French Pete? Secondly, what exactly is the economic impact? If this area is closed to logging, does this really mean that there are going to be fewer jobs here in Lane County? Does it really mean that there will be less money pumped into the economy or is it simply a matter of putting the same people to work somewhere else?

I would think that some hard information on points of this kind are likely to interest people who don't have their minds made up in advance and who are really trying to do what is the right thing.

The danger to the recreational value, supposing there is some logging in the area, as I understand to be the present proposal of the forest service; is this incompatible, totally incompatible, sort of incompatible with preserving the kind of values that Mr. Wynia talks about.

I am seeking information on points of this kind as I suspect that members of congress will do, if they have open minds at all and I think that a good many of them do.

Bruce Sedgwick. I would like to say something concerning what you just said.

Concerning what you said regarding what French Pete is or as a logging industry. This is regarding the fact by saving French Pete, the money won't be used for logging interests. I think an interesting question and a question that we should all consider is, how much we want money in Lane County being put into logging to take away the virgin forest?

In other words, I am questioning your basic assumption or one assumption you alluded to, which was that logging should be of interest to Lane County people. Obviously, it employs a great number of people and it supplies the economy of the area, but we have to come to a decision here as to whether we support business expansion at the cost of French Pete. And whether the basic assumption that we need that kind of industry in the County should be questioned first? Do I make myself clear?

Mr. Lacy. I guess that I didn't make myself clear. My question is, is it a choice? I don't know, as I said, I am seeking information.

Mr. Sedgwick. Well, this is the question that I have to offer the voters and people concerned; is it or it seems to me the decision that you have to make is whether you want logging or logging interests to be maintained at the County's expense of French Pete and perhaps, potentially, other forests. So, we have to challenge our basic assumptions about economy and about making money. That is all I have.

Mr. Lacy. All right, Donna Reimi.

Donna Reimi. I would like to say that I am not familiar with the economics of French Pete. I just think that French Pete is really beautiful and I think that beauty can't be put in dollars and cents or anything economic.

Mr. Bettis. Yes, thank you. I was perhaps going to say some of the same kinds of things. I think it is very important, while I agree with you and have many of the same kinds of questions, I certainly hope that Congress is going to pay attention to such questions and I am sure that they are; there is a great deal of value for those who have not had an opportunity to see French Pete for people like you come forward, Donna, and record the fact that it is a hell of a beautiful area and worth saving for that, among other reasons. I thank you.

Mr. Lacy. Mr. Stickney, would you like to speak now?

Cecil Stickney. First I would like to compliment the members of the faculty and the students at the University of Oregon for putting on this program this afternoon. You are young people and you are going to have to live for a long time with what happens here today and what happens on other forums such as this.

I will have to confess to a lack of knowledge of French Pete, generally. I have been in the area and I have talked to quite a few people who have been there. I have seen it and I hope that it is preserved for, not only for the present, but for future generations.

The logging industry isn't always credible as I remember being in the last couple of years on a site where the trees were marked for cutting on the bank of a river. A little metal clip on the side said, "do not cut behind this mark" and there was nothing there to cut. They were cutting right down to the river and on the other side of the river, bulldozers had torn up the bed of the stream.

I recall, I came up to Oregon after World War II and I had resided in Ohio before that and I was quite familiar with Southern Michigan. Back around 1910, I think it was, the State which had had the finest forest that America has produced probably, the large white pine. Around 1910, they woke up one morning and they had 20 acres of them left. They made a park and they are there yet.

I hope that we don't get crowded into this kind of position. Mr. Lacy and others have talked about value; what is the value of a forest, of our streams, of our wildlife? Can we hang a dollar sign on them as has been for so long in Oregon or must we treat them as a value beyond that?

We are here today, all at our own expense and on our own time, while the opposition is fortified with the money of corporations with good expense accounts that none of us have.

I rather shudder when they talk about multiple-use. I have seen some of it. Multiple-use ends up as a few picnic tables. Multiple-use is supposed to be or to reflect the interest of the public, but after all is done, they call on people to repair the mistakes that have been made. When I think of multiple-use, I think of land being opened up and access roads for the recreational use for the man with the gun.

I am a hunter myself, and I have hunted all my life, but I deplore the ravages being inflicted on our wildlife by the man with the gun.

I want to make a little notation or a little comment as to multiple-use. I incorporated this in a letter to the editor about French Pete two or three years ago. During World War II, meat was scarce and in one part of the city, a butcher advertised that he had for sale, horse and rabbit burgers. Of course, the public was interested in that. Also interested was the meat inspector and he went to call on this butcher and checked through his rabbit burgers and couldn't trace any sign of rabbit. So, he asked the butcher about that and he said, "well, my sign says rabbit and horse and I use one rabbit to one horse." Now, that is what we get out of multiple-use as I have seen it here today in Oregon.

Mr. Lacy. Mr. Stickney described himself as a hunter, but if your letters to the paper can be believed, you don't load your gun.

Mr. Stickney. Well, today's hunters are mobilized and too mechanical.

Mr. Lacy. Mr. Tom Moore?

Tom Moore. I have a very short simple statement. I learned from the timber industry that trees are a renewable resource and it is a well known fact by all of us that wilderness is not.

Mr. Bettis. If you will forgive me again, I hate and I hope I don't appear to be playing the part of the devil's advocate or suggesting that I have a position on this when I really don't. But, what Mr. Moore said about the renewability of forests suggests another question that has been rattling around in my head. I suspect that most of you are familiar—well, French Pete is described as a virgin forest and what does that mean? Does that mean that it has never been logged and if so there must be lots of land in Oregon that hasn't been logged, isn't that true?

Well, if you are familiar, let me say my part and then I will call on you. At the summit of Highway 58 on the part of the Skyline Trail that runs into Rosary Lake, there is a very handsome stand of timber there with trees that range up to two or three feet in diameter at 5,000 feet and I suppose that must mean that they are 70 or 80 or more years old. I don't think that they were logging up there that long ago, so, is that a virgin forest?

If you drive along Highway 20 from Sisters out toward Suttle Lake, there is a beautiful stand of Ponderosa Pine. Again, those trees must be at least 100 years old and I don't think that they were logging there 100 years ago, so is this a virgin forest?

Mr. Wynia. Excuse me, Mr. Lacy, but I was born and raised in the Tillamook area and yes, it is true that you can find in Tillamook County a stand or two where there is still virgin trees, but that is not considered a forest by many of us who have been born and raised in the State.

As in the State of Michigan, as I learned from some of my friends that come from Michigan, you can still find in places in Michigan where you can still find virgin timber or would you consider the heart of a park in the City of New York a virgin stand of timber? This is the question or are we talking about really preserving a thousand of acres piece of property that is represented as the only one left in this day of any expanse of virgin timber. It is, as I understand it, the only one left.

There are places that we haven't gotten the Cat and other logging equipment back into yet and there are pieces of virgin timber still standing there, but I, for one, do not buy that idea that that comprises a virgin forest. I think the thing that you are talking about on the Skyline Trail is just a section, like the Willamette Greenbelt. That is beautiful along side the Willamette and I wouldn't want to destroy that, but it does not take away the fact that we are destroying slowly all of the last stands of virgin forests in the State of Oregon.

Mr. Moore. Roger, excuse me, do you plan to include testimony in this?

Mr. Mellem. Yes, later.

Mr. Moore. This may help you out as Roger has about every piece of technical information concerning French Pete, physically how much of the land is left and he is apparently going to include that in the record and I think that most members of Congress who are concerned with this have had technical information made available to them, so it perhaps amounts to a decision made on a little more information than just the technical side.

Mr. MELLEM. I think that we should go back and get some more of the people who have to leave right away.

Mr. LACY. All right. Catherine Lauris?

Mrs. CATHERINE LAURIS. Ladies and Gentlemen of the Panel: My name is Catherine Lauris, 1240 East 18th Avenue, Eugene. I am currently chairman of the Board of Trustees, Lane Community College, and was for 12 years an elected member of the Eugene City Council. But I speak today for the preservation of the French Pete Valley as a private citizen and a fourth-generation Oregonian.

(1) One point that seems to be overlooked in the debate is that some wilderness must be preserved even if no human being approaches it in the next 100 years or more. Natural growth, heavy timber, and the entire cycle of change within a forest are necessary to the maintenance of good climate at the lower elevations, including rainfall, temperate summers, purification of air, clear, cool streams, and absence of erosion.

To completely denude all mountains and valleys of their forests, even though new plantings are contemplated completely changes the natural, historical climate for which this state is famous and which makes the Willamette Valley a comfortable place in which to dwell.

(2) Another point is that no given institution or natural phenomena can be all things for all people; to be that is to guarantee its overuse and ultimate destruction. Wilderness can be wilderness only because it is remote, withdrawn, dangerous, and inaccessible except to the hardy few. Not all persons aspire to primitive experiences in wild places. Nor do they all deserve to. One has only to view the trash, the motorized invasion, the careless usage and general desecration of our river banks, camp grounds, and forest trails to realize that great numbers of persons do not cherish the out-of-doors for the subtleties of its beauty, its flora and fauna, and its silence. There are numerous playgrounds now for this kind of recreation; all of the forest and mountain retreats cannot be made available to the modern world or they will shortly lose the very qualities that made them unique and precious.

(3) A third point is that the French Pete Valley represents about one percent of Oregon's timber stand; its short-range economic advantages can hardly outweigh the long-range ecological advantages. This generation of Oregonians have an obligation to preserve some of our magnificent heritage for those generations that will follow us. A managed forest land, a logged and reforested valley is not a true heritage, though such have their place.

(4) A final point is something of a recommendation for alternatives. Rather than using our energies and resources to foster irreversible change on a last remaining natural preserve, we should concentrate on the restoration and re-use of the lands we have already laid waste. We should accelerate the reforestation of areas lying open and unused throughout the old farm valleys, stretches along the public highways, the old dust bowls, the vacant lots and arid strips within the cities. We should turn our attention to restoration to good economic use of lands that were once fertile and are so no more as a result of our wasteful practices; I recommend the widespread study of the restoration practices used on old worn out farms in Ohio by Louis Bromfield thirty years ago; we should have paid him more heed. We must make wise re-use of idle lands lying within our cities, some covered over by deserted sheds and warehouses but there to be used for developing recreation areas, new living quarters; so we must rebuild livability within the cities; and we must better train and educate all persons in the proper use of recreation areas and in respect for the fragile nature of the out-of-doors.

We have been so intent on the easy invasion and careless development of new lands and virgin forests that we have not given sufficient thought to remedying the resulting ills; we are perfectly capable of doing so if we have the will. We have both funds and expertise to promote good husbandry of the heritage we hold in trust. I recommend we do so.

Thank you.

Mr. BETTIS. Thank you.

It has been said by numerous foresters and naturalists, in particular, in reference to French Pete, well, I have heard an expression of concern—not exactly of concern, but simply stating a fact that in all likelihood if we allow French Pete, which I would like to happen anyway, but say that we allow French Pete to remain unroaded. We establish good trails and manage the unit as carefully as one can manage a wilderness type tract, French Pete is almost certain to burn, eventually. A large part of it will burn; under logging a large part of it will burn eventually, also. But I am now talking about preserving this area because of its unique or unusual circumstances at this time, a very brief time.

I am curious, given the certainty, whether you are aware of this or agree with me or not, let me give you the fact, which may not be a fact, that it will burn within 100 years. That we will lose all or a substantial portion of it and that because of its roadless character, portions of that fire could move on up into that wilderness area freely. Do you still wish preservation under those circumstances?

Mrs. LAURIS. Yes, I think so, Mr. Bettis. It is a chance one takes because no matter what we do, as if we go in and manage it and log it and do all of those things that will destroy the wilderness area, anyhow, we have the fire protection and fire fighting facilities as one part of our plan, anyway. But, if we don't open it to logging and other recreational use, then the only threat is the lightning and this is a natural kind of thing that could happen. It is simply a chance that we have to take in the natural cycle.

Mr. LACY. Let me call on this gentleman back here who has been trying to speak for some time.

Ed REIMAN. In response to the question about the possibility or probability of fire in French Pete, you have to realize that as surely as you increase human use of French Pete, you also increase the chances of fire.

The chances of an uncontrolled wildfire by natural causes is the least likely of any fire causes. As a matter of fact, generally speaking, when you have fires as a result of lightning, you have accompanying rain and it generally extinguishes those fires within the area. That is the nature of lightning fires.

Anybody that has fought fires in the forest knows that. I guess that is it on that particular question.

I can't see that as a logical argument and as a matter of fact, I see that as a very good argument as to why you shouldn't log French Pete, because as soon as you send folks up there with bulldozers and cigars and whiskey, that is what is going to go down.

I think that the whole premise of this hearing or the reason that we are here today is to comment on the absurdity of our society. The fact that we are here trying to decide how we are going to use French Pete is in and of itself an obscene question. I think that it is a false idea that the entire face of the earth needs to get used. I think that is absurd.

There are other arguments. The argument that we are going to discuss. Nature has been taking care of trees, letting them die, letting them grow and letting them rot for millions and millions of years, long before we were ever walking around on this part of the earth. There is nothing ugly about the stump of a tree that has fallen from old age. That is a natural thing. There is something dreadfully ugly about the stump of a tree that has been cut down by chain saws. There is something dreadfully ugly about an old flash burn. There is something dreadfully ugly about that.

I am going to have children someday and I hope to be able to take them to a place where there has never been a chain saw, except to maybe clear a trail. That is my feeling on the logging of those trees and heaven help us if we lose the trees to disease.

I am not a biologist, or a botanist or a scientist, but I see the scientific value of a vast wilderness area. We are talking here, not about a simple patch of trees, but we are talking about an entire drainage area. An entire natural set of phenomena, something unique as there are only two wilderness areas left in Oregon. The Cascades are one and the French Pete is the other. At the turn of the century, we had over 100 of these wilderness areas, for a few facts and figures.

This is unique, nowhere else do you find the geological setting, like the simple accumulation of pine needles to form the natural compost. You can't find wildlife and flowers growing just the way they are in French Pete, no where else. This is unique and this is an entire natural phenomena, untouched by man with the exception of trails.

You asked if this was an either/or situation or question and I say that it is. On your relief map there, you will see that French Pete is very steep, particularly the entrances and there is no way that you can build a road up there suitable for logging without destroying both sides, likely, of the valley. It erodes terribly, even the trail itself that is up there doesn't help the ecology of that area and if you send a D–9 cat up there and you are going to ruin the whole valley. There is no doubt in my mind about that as I have hiked it too often to know.

Well, coming back to my notes, I put this uniqueness question down at the bottom. Around the turn of the century there were 100 and we have got two now. I think there was a Rabbi that wrote during World War II, that he saw somebody carried away by the Gestapo and he didn't say much. He saw his neighbors carried away and he didn't say much. Pretty soon they came and got him and there was no one to hear him when he did finally cry out.

I hope that we don't wait to cry out when there aren't any wilderness areas left. That is all I have to say.

Mr. LACY. Thank you. The lady in the back of the room.

LIBBY EVANS. My name is Libby Evans and I would just like to make one further comment concerning the possibility of fire in the French Pete area. French Pete has obviously been with us for many, many years and it has not burned down yet. I think that we would be relatively safe to assume that if it is still standing after this length of time, that it will continue to stand unless somebody comes along and cuts it down.

Furthermore, in old growth stand or virgin stands of timber as French Pete is, the older bark trees are very resistant to fire. If, by chance, fire does take place because of the nature of the age of the tree and the age of the bark, they will be pretty fireproof. But, I think that the possibility that a fire naturally caused is going to burn up that forest is relatively low. Also, partly because of the fact that it is very thick, and very cool on the floor of that area, which would lower the possibility of a devastating fire.

Mr. LACY. Thank you.

Now, I would like to introduce my colleague, Professor Chapin Clark from the Law School, who has just joined us.

All right, Stan.

Mr. Bettis. I would like to point out that French Pete has burned many times and the historical evidence is there. So, let's not say that it will never or has never burned as it will and has.

I wanted to ask a question of Mr. Reiman. You referred to French Pete as the only wilderness area left and the Cascade as the only wilderness areas left in Oregon. Could you define wilderness areas?

Mr. Reiman. By wilderness area, I assume that we are talking about a track of land large enough to justify preserving. I don't know the real legal definition of the word wilderness, in fact, I don't know if there is a legal definition. But I am talking about an area that is large enough so that you can not walk through it in a day. These areas that you talked about, you are able to walk through them in a couple of hours.

Mr. Bettis. Then you might say for the record the clarification here being that the area is or they are entire units as French Pete is a total watershed. The attempt here is to provide an ecological system as a watershed. The Cascade area, as I understand it, also stands as a unit or a watershed and is protected, is that correct, Mr. Reiman?

Mr. Reiman. As I understand it, yes.

Mr. Bettis. For my information, what size of an area is French Pete?

Mr. Reiman. 19,200 acres.

Mr. Lacy. What does that mean in miles east and west and miles north and south?

Mr. Reiman. I think that was defined this morning by the Forest Service.

Mr. Lacy. All right. Mr. Steve Wilson?

Steve Wilson. Well, I just have a fairly short statement. Earlier you were talking about the amount of virgin forest that is left in the State. There are a lot of people under the impression that most of the State of Oregon is virgin forest. They drive along in their car and fortunately, a lot of the areas on the highway haven't been logged. It is back a half a mile or a quarter of a mile and you can drive across the State and through the Cascades and there are hundreds and hundreds of miles of timber, but this just isn't the case.

Anyone who has ever hiked through the Cascades or flown over it, it has the wringworm effect. To fly over in an airplane, it is really distressing to look down in the Cascades and see the hundreds and hundreds of patches that are left after logging. This is pretty much what is in all the forest.

I have hiked in French Pete numerous times and I have hiked in the mountains above it and I think that there is no sight in the State of Oregon equal to the view from the mountain looking out one side at the Three Sisters and then looking out the other side down into French Pete Valley, itself. It is just one long, continuous side of virgin forest. I would like to see it preserved for myself and for my children.

Mr. Lacy. Thank you. Mr. Al King?

Mr. Al King. I am Al King, candidate for State Representative here in Eugene, and I have coordinated a course in forest wilderness management. Most of us present are aware that the Willamette National Forest has initiated a permit system for wilderness entrance and use. It will not be long before entrance quotas will be established, specific activities will be limited (horseback riding, for example), and/or permits may have to be purchased. Some, or all, of these possibilities are already included in existing plans for the wilderness areas in the future. Therefore it is impossible to surmise that we have enough wilderness area in Oregon, or the Willamette National Forest. Our wilderness areas are already crowded.

Whether or not French Pete is the best area to become wilderness I am not fully sure, as I personally feel a need for additional facts. I'd like to emphasize the need for a special committee either doing additional research, or generating more information to the public to enable citizens to fully comprehend and decide which areas should become wilderness. Presently, it seems to me that French Pete probably should be locked into wilderness because of its pristine qualities, availability to the public, and its proximity to the Three Sisters Wilderness. Proponents of logging in this valley wish to harvest the timber because it is mature and diseased. I feel this argument should be discounted as this condition is inevitable for any wilderness, therefore French Pete may not be a special situation which would call for immediate timber harvest. In addition I would like to point out that the leveling off of our national population should initiate a decreasing demand for timber 20 years hence.

Private profit at the expense of Oregon's, the Northwest's and all of America's citizens is the only legitimacy for log exports. If we should add any wilderness we would lose potential logging jobs, but I do not foresee any positions already held. On the other hand I don't see timber companies overly concerned about employment when replacing men with machinery. I recommend satisfying our domestic needs for timber and wilderness as a first priority, thereby limiting log exports until another solution providing for timber demands and the need for wilderness is found.

Finally, I would like to call for a commitment from our federal representatives, senators, and federal candidates as to their exact stand concerning French and this issue long before the general elections in November.

Mr. Bettis. Roger, has there been or will there be something on the economic impact of logging this area?

Mr. Mellem. Yes, there is going to be this afternoon.

Mr. Lacy. Mr. Bob Foster.

Bob Foster. I think that we should preserve French Pete. I have hiked through it and really enjoy hiking through rapid flowing streams that I can drink out of and have cold fresh water. I enjoy hiking a lot through the forest. The water that we will need in the future is limited by cutting the trees and letting it wash out.

This is my idea, that it would be sort of interesting to have a National Park developed throughout the Oregon Cascades, including Mt. Hood, Mr. Jefferson, the Three Sisters, Mt. Washington. All of these areas in one National Park and I think that it will be a really good idea, because I know that we need more areas for recreation in the future. This may be the only way to keep it from being logged.

I wish for French Pete to be saved, if at all possible.

Mr. Lacy. Thank you. Dr. Herbert McCornack?

Dr. Herbert McCornack. I have been familiar with the French Pete area for many years. In my opinion, it would be shortsighted and a mistake to road and log this beautiful little valley. It has great scenic and recreational value. There is no hurry. If you save it from destruction now it could still be logged in future generations if it should become necessary.

I am strongly in favor of Senator Packwood's Bill S 866.

Mr. Lacy. Thank you, Doctor.

Mardee Pagac?

Mardee Pagac. I have a written statement, but first I would like to mention something concerning the economic use. I was just up in the Cascades yesterday and I just can't see how they can say that it is economical to log that beautiful area.

I would like to voice my support for Senator Packwood's Senate Bill 866 and Representative Green's House Bill 5212. I am certain there will be much testimony on the beauty and uniqueness of French Pete so I will not go into that. I am not an expert on conservation or logging practices but I do feel that there is something left to say. I know that the logging lobby will come on strong at the Washington hearing and I think that I know some of the things they will say as they have been spending a lot of money on ads in Oregon newspapers trying to rally Oregonians to their side. (Money I feel could be better spent on reforesting.) I would like to let the committee know that not all of us have been fooled by these ads.

An example is an ad in the *Eugene Register-Guard* paid for by Boise Cascade which is entitled, "Today, you're invited to drive in most everywhere. Except where you most want to go". It tells us that the multiple use concept is in "some danger" due to the Forest Service study of 34 million acres as possible wilderness areas. It gives the distinct impression that there is a good chance that all of this land will become wilderness, and thus lock campers out of one fourth of the National Forest lands. This, of course, is untrue as by no stretch of the imagination will all these *study* areas become wilderness areas. The ad is directed specifically at people with camper trucks and trailers and end by saying in effect, if their (Boise Cascade) wheels can't go into these places neither can the campers. The question that this brings to my mind is does the Forest Service have to yield to campers any more than to loggers? I'm sure some people would camp in the parks around the great monuments in Washington, D.C. and even on the White House lawn, I suppose, if electric and water hookups were put in, but does that mean Washington has to make these accommodations for camper vacationists? Of course not.

This also states that the wilderness would be reserverd only for the one half of one percent of the people who hike or pack into wilderness areas. I, myself, am one of, I'm sure, many people who are not part of that percentage as yet but plan to raise the percentage. I would like the committee to consider some possibilities. First, that trailer camping is a fad which unquestionably has been growing, but will not necessarily continue forever. I feel that this is just a start of getting back to nature drive and that hikers and backpackers will be increasing dramatically, as the sons and daughters of the trailer campers decide they want a true wilderness experience. As our world gets more automated, more and more people will need a place to get away from it *all*. The second consideration is that it might be high time we started encouraging relatively pollution free recreation such as hiking rather than trailer camping which requires big automobiles, sanitary dumps, electric hook-ups, and usually results in expensive garbage collection to pick up all the beer cans left behind.

Making French Pete an intermediate recreation area will not "lock out" potential recreation seekers, it will give more people a chance for a true recreational experience and conserve this opportunity for our children and their children.

Thank you.

Mr. Lacy. Thank you.

Mr. Scott Peterson?

Mr. Scott Peterson. I have very little to say except that I am in support of Senator Packwood's Bill. My only contact with the French Pete area came two years ago when I took a weekend trip up the valley in the middle fo April. I think that at this time the French Pete trail was one of the very few wilderness trails that was open at this time, primarily because it is a lower elevation and it was not plagued by the receding winter snow. The fact that the French Pete is a low elevation valley is very important in terms of hiking and backpacking because it is an area that can be enjoyed.

This extends the area and a lot of people are going there in March and even before, where this would be impossible in the higher regions and areas.

French Pete is unique, it is different because of its low elevation. It is growing very rare right now and I certainly hope that they do nothing to destroy this.

Mr. Lacy. Mrs. Shirley Terreberry?

Mrs. Shirley Terreberry. I have come with a prepared statement, but I am prompted to make a few remarks as well. I do laud that landscape management practice of the Forest Service that allows a band of trees to remain standing by the highway so as to give the illusion to the passing motorist that there is forest there. But, if you peer closely on your next trip through, you will see that it is not true. I wish that everyone could fly over the State, because I don't know of any other way to realize how extensive is the rape of the land than to fly over and see the patchwork quilts below you from one end of the Cascades to the other.

The second part of what I want to say is in response to Mr. Lacy's request. I wish that we had a system that would allow me to say how much I would gladly pay in taxes to preserve the forest. Instead, I think that taxes have been used to exploit my own personal interest and this is not only in this country, but abroad.

I have spent many days and nights in the enchanted region called French Pete.

I've hiked many miles of trail in this virgin valley, spent many nights under the green canopy of this most tranquil place, fished the crystal-clear water of French Pete Creek, and bathed in the quiet pools of this creek and its clean tributaries.

I came to Oregon in search of places like French Pete, and I shall leave Oregon—for Canada, probably—if these precious places are sacrificed for economic gain.

I have spent almost 200 nights, now, in Oregon's "wilderness areas", most of which are at high elevation, accessible only in July and August, where I must look out over broad swaths of clear-cut below.

I rely on French Pete for my access to wilderness in spring and fall. There is no other place like French Pete anywhere in this state, let alone so accessible to those of us who live in Oregon's second most populous region.

If Oregon persists on the same path as Michigan—from whence I came—where the forests are all gone, the streams are stilted, and the lakes polluted, then I must say "good-bye", and find another home.

Mr. Lacy. Ray Edwards?

Mr. Ray Edwards. My name is Ray Edwards and I live in Fall Creek, Oregon. Some months ago I decided that I would, this spring, go on a hiking trip. Several times I have been by the Haggert Creek Trail signs up on the hill and so this Spring I decided that I would go up there. I was all packed up and I was let off by a friend. As I got off about 100 yards from the road on Friday morning, chain saws, logging whistles and so on. As I got on the trail they were building the road and bringing heavy equipment in.

So, last weekend, a friend and I were going to go backpacking and we also wanted to fish, we tried to think of a place where we would be able to backpack and fish—of course, the season hasn't been opened yet in the high lakes and they were snowed in anyway, but I just couldn't think of another place besides Haggert Creek Trail, which is fairly close and which is now being destroyed, even though it is an immacualte trail with dense forest, beautiful streams and loggers.

So, in talking about French Pete, I have never been there and so Friday morning we went up. It is an exquisite place, wonderful trails. We hiked in about four miles and saw two tiny pieces of litter. If they log it off, it is gone and I don't know where I would go next spring. Obviously Haggert Creek Trail is out and if French Pete is out, then I will have to wait for the high lakes to open.

My approach to French Pete was to say that French Pete simply doesn't exist, so forget it to the loggers. I think it is important, but what would happen if we didn't have it. Say, in two weeks that French Pete were to burn, the economy of Oregon wouldn't go down the drain. If we were that concerned about logs, then we would just have to stop exporting. Well, we just have to have our priorities on some things. We just cannot assume that the economy is based on consumption.

We have to stop and I think that we have to stop with French Pete and I wish that they had stopped with Haggert Creek Trail as I liked that trail very much.

Mr. Lacy. Thank you. Paul Happel?

Mr. Paul Happel. Mr. Chairman and friends. I am interested in ecology and in French Pete area as a whole. The French Pete Valley, as has been mentioned before, is one of the last few remaining virgin valleys, "virgin valleys". I think that it should be preserved for future generations. I would like the children that are now growing up to get a chance to see this before it is logged or destroyed.

As I understand it, if it is used as a National Park and used extensively, this would also include logging. This logging would essentially destroy the valley if roads were put into the area.

To make French Pete an intermediate recreation area might be quite beneficial to this particular area, if the extent of the recreation is for the people. One thing that this intermediate recreation area would do, possibly, is to take the heavy use off some of the wilderness areas. This would be a place for you if you did want to go see a particular mountain or a particular waterfall then they could come to the place at French Pete and do that.

We have seen that in the last two years that French Pete has been used very extensively and has become a so-called hot spot and people have come there to hunt and fish.

With the extent of the intermediate recreation area, it could remedy this circumstances so that it won't be destroyed by all of these people going in there.

As to building roads in this area, personally, I am against it because what roads have done to other areas. You put a road in there and people want to go in, they want to see an area, but they are not willing to extend the energy to go into an area. They would rather drive to it, like you can see a National Park. They want to drive through so that they can say that they have been there and then drive out as they are throwing their litter out the window.

Although a wilderness area is not beneficial to people who are handicapped and for these people, I feel sorry that they cannot use the area, cannot walk into the wilderness area. It is very unfortunate but it is something that we have to live with. If I, myself, became crippled, I would know that I just couldn't go into an area like that.

That is all I have to say. Thank you.

Mr. Lacy. Mr. Happel, would you explain to me what an intermediate recreation area is?

Mr. Happel. Well, an intermediate recreation area would mean, for one thing, that you would put roads in. It is under a plan that enables people to go into the area with facilities and well maintained trails.

Mr. Mellem. Well, in the hearing record, the question of what exactly an intermediate recreation area is has been really well detailed, this morning and I imagine that it might be touched on later.

Mr. Lacy. Do I ever get to find out?

Mr. Mellem. Well, we would ask someone else to define this.

Mr. Bettis. Roger, has any information been given about handicapped persons using this area?

Mr. Mellem. I am not sure, but perhaps Mr. Jackson who will be testifying a little later might touch on that because I am sure that he is involved with the program to some extent.

Mr. Lacy. Mr. Jeff Elphinston?

Mr. Jeff Elphinston. I am Jeff Elphinston and I am from Australia. We have many trees in Australia, beautiful types and different ones. But since I have been here, I have really been impressed with the Douglas Fir trees and the French Pete Valley. It is a fine stand of Douglas Fir trees in their mature state, growing to their full height. For this reason, I advocate this bill to make French Pete an intermediate recreation area.

It is also an investment for the future because if the land isn't saved from logging, it can't really be redeemed. The trees do grow again but it takes much time and the original character never returns.

The land can be used for popular recreational use which won't be damaging to the intermediate recreation area, such as nonmotorized use. If you get motorized use, it will inflict considerable damage on the land and reduce its capacity for recreation.

There has been some talk about wilderness areas and although French Pete isn't advocated for use as a wilderness area, it has some similarities because if it is kept unroaded and motorized vehicles aren't used in the area, well, it can have some of the character of a wilderness area.

The present statistics quoted say that approximately one half of one % of people use wilderness areas and I question the number because I use wilderness areas myself and I help take people into wilderness areas with the University. We must have been in this area many, many times and as far as we know, we have rarely become a statistic. We have filed in the registration forms at the entrance to areas just a few times, in other areas there have been no facilities for registering, so I feel that the percent of one half of one percent of wilderness usage is very misleading. It is probably much higher than that.

I am referring by this that there is much higher use of a valley, such as French Pete, than is generally understood. We have talked about the reasons such as the low level, away from the snow and accessability year around.

The gentleman before me mentioned Packard Creek. Now, I was at this area just about a month ago and I saw the logging road going in and I noticed how similar the valley was to the French Pete Valley. The logging road had gone in about half a mile when I was there and there was mud all over the trail and fallen trees and you couldn't even find the trail for half a mile. We just wandered around in the mud. The water was becoming stilted up and I can't imagine a mess like this being made in the French Pete Valley. This would be very simple to imagine if logging takes place in this area.

One last point, some of the people mentioned how you can see clear cut from a plane. I say that when you climb some of the mountains in Oregon, you can see the boundaries of the wilderness area. As soon as the boundaries of the wilderness ends, the clear cut begins. The only reason that the wilderness areas aren't clear cut, it seems to me, is because the trees aren't of as much commercial value. That is one of the reasons that they were made wilderness areas.

So, apparently, once an area has commercial value, then there is a fight over whether it will be a wlderness area or not. In French Pete, there is the commercial value, but I feel that this area must be saved for future generations.

Mr. Lacy. Jill Warrington?

Mr. JILL WARRINGTON. I have, for the past two years, been aware of the conflict of interests over the French Pete area and have often planned on hiking through the area though I was not able to until last weekend. Putting aside the easy, logical and true argument I then saw, that this area was accessible to the hiker but still relatively wild off the roads, and beautiful, stimulating and refreshing; as I said, putting aside this excellent but feeble, in the face of lumber needs argument, I still question the desire to begin clear-cutting patches in this area.

Looking at a Forest Service map and seeing the location of clear cuts surrounding the area in question, and the beginning of the end of the last fringe area protecting the wilderness area itself, one might feel a natural urge to maintain this area. But, coupled with the fact that there are already on maps almost twenty recognized and designated areas of interest or recreation in the French Pete area, the consideration to clear cut between them and among them, if not through them, suggests the beginning of another end: with growing population, more leisure, more encouragment and development of activities in the outdoors, and thus increasing pressures on the open spaces that remain, the end of such space as we have begins. If the wilderness areas are to be just that, wilderness, care has to be taken to preserve the natural wildness of it. The effect of many people and more every year on this wildness if contradictory and destructive of its quality. But, untouched, forested areas that surround it are equally as beautiful, more suitable to less knowledgeable and able hikers and climbers, and relieve some of this pressure on our proudly but dubiously labeled wilderness areas.

After hiking through this area, I was very moved by French Pete Creek, the impressive beauty and power, in a non-electrical sense, of it. Only after getting away from the man-made; the reservoir, the road, the cars and campers, back into the woods, on trail or off, but into the woods, could you feel this stream and the environment that created it and that it creates. I promised myself not to depend on poetic arguments so enough of this, but it had to be said.

Lastly, as a long, too long, native of New Jersey—the most densely populated State in the country with 953 people per square mile—I can deeply appreciate the desire to preserve open spaces and protect them from overuse. I have at times been encouraged in thinking that the West has learned lessons from the East, but more and more often, I feel that the West responds first to the economic pressures that made the East Coast the fine example of wall-to-wall, shoulder-to-shoulder, neon sign-to-neon sign, factory-to-factory type of society that it is today.

Please keep the French Pete Creek Valley and surrounding scenic areas for the safety valve we need more and more; room to move and breathe and be away from the everyday pressures of crowding, money making and money spending with all its overpopulated products, before we come to believe that is where we come from and what we are made of. After eighteen years in New Jersey and living next door to New York City, where millions were less exposed even to open space than myself, let me tell you, it is harder to believe in the open country and the forests, if and when you see them, than it is to assimilate the artificial but constant world of consumeritis and concrete, and the insidious, omnipresent advertising for the bleak expansion of this hyperman-made world: And just a short quote from E. E. Cummings, ". . . A world of made is not a world of born. . . ."

Mr. BETTIS. I have a question. Would you describe yourself as an outdoor type person; that is, do you camp and hike and climb and the whole bit?

Ms. WARRINGTON. I would describe myself as an outdoor type person, but I don't get to do enough of it. When I do, it is in a place like French Pete.

Mr. BETTIS. How did you happen to go to French Pete?

Ms. WARRINGTON. Pardon?

Mr. BETTIS. How did you happen to go to French Pete on this occasion?

Ms. WARRINGTON. Well, I had heard of the controversy over the past two years and I always wanted to see what we might lose and I never did have a chance to get into it. So, I finally went last weekend.

Mr. BETTIS. Was this part of the outdoor program or an organized hike or a group or what?

Ms. WARRINGTON. Well, it was through the University of Oregon as there was a group going up, but I had heard about it from various groups before that.

Mr. BETTIS. Thank you.

Mr. LACY. Representative LeRoy Owens?

Mr. LEROY OWENS. I just have a brief statement and then I will answer any questions that you might have.

It is appropriate that this hearing is being held today in close proximity to French Pete and the people who are most directly affected and concerned with its future. To argue that logging this largely untouched area is in the foremost public interest is to justify the long history of re-classifying the use of public lands to meet the insatisable appetite for profits and building materials. Failing to approve the preservation of this area is to admit that sustained yield practices are failing. If this be the case, logging French Pete will not solve the problem.

French Pete is more than a piece of real estate with usable timber upon it. It is a symbol of man's unrestricted use of his common environment with inadequate consideration for sustaining the resources of beauty, watershed, wildlife, and recreation as well as timber. If the need for lumber transcends the importance of retaining the remaining wilderness sites, then our future is gloomy indeed. Destroying the French Pete Valley as wilderness will not solve our long range needs for lumber. If saving French Pete will create a crisis in providing lumber for needed building and export, then we best face the crisis now, while some wilderness areas are still relatively intact.

We must face the crisis, now, not after all opportunity for preserving wilderness is past.

To argue that this one area, using the timber on it now and the accompanying problems to watershed and the recreational use and, so, I think is disastrous thinking. I am very concerned about this as I am sure are the people who have been at this hearing today. It seems to me that at some point we have got to establish a line to say that to the future of this State, the heritage and what it is and has been to us in the past will, to some degree, influence the future. The French Pete is a symbolic remembrance of that past, the memory and hopefully will be a continuing symbol of what is ahead and what we will hope will continue to be in the future.

Mr. LACY. Thank you.

Mr. CHAPLIN CLARK. Mr. Chairman?

Mr. LACY. Yes?

Mr. CLARK. I have a question. I will ask that question and then I will make a little speech to explain the question to get your reaction and perhaps that of any other witness.

The question is, do you think that if French Pete is saved for recreational value, that we should charge in order to enjoy that value? And if we should charge, would you and other people be willing to pay?

Now, that is my question and my analysis, which may or may not be valid goes something like this. I think that there are lot of resources like air and water and they belong to everybody and yet they belong to nobody on the side of property sense. The economists call this the common pool property. That is, the incentive is to develop and exploit it because there is no thought involved in utilization. I don't mean by exploit it that it is necessarily a bad word, but utilization, to use the air and use the flowing water in the streams.

It costs us nothing and yet with man's use, there are some costs involved. Clearly, and the question occurred to me, I think, when the earlier witness, Shirley Terreberry expressed this point of view, she said, "I wish that I would be able to show how much I value this by paying taxes" or by showing it by my pocketbook. In other words, she was talking about the economic loss that might be sustained if French Pete was not logged and yet, that is really not so important as the total economy of the State, particularly in the long run.

Others have testified to the accessibility of French Pete, which can be translated into high use or usability and it is clear that the publicity of the last few years has increased that use. I personally have gone into French Pete because of the publicity.

Now, I am trying to put all these factors together and getting back to my original question. We have taken an initial step to limit use so as not to effectively destroy what we are trying to preserve by high intensity use. The first step is the permit system and I suppose that we take that with a sigh of resignation. The fact that that is necessary, but I suppose that it is.

Now, a step beyond that would be, of course, the charge and maybe this is too far out an idea; but I am raising the question because are we coming to that point, do you think? Do you think or are we coming to the point where recreational values are so important to us that we will charge and then accept or be willing to pay for the privilege of reserving this for all of us? Why should we sustain the burden through taxes or tax payers, which means that non-users pay as well as users? Why not have a direct use charge for those values that we place high in our own field to give some relief in the economic situation, instead of absorbing the tax payers. Also, to give some curtailment to the high density use or high intensity use.

Now, that is an awful long winded question and maybe others will want to respond to it as well.

Mr. OWENS. I would like to respond to it. I would hope that we never get to the place where the only way we can protect our common heritage is to place a price tag on it and then have people purchase back the heritage.

Mr. CLARK. But we didn't pay for it, nonetheless, did we not? I mean that it seems to me that that is avoiding the question.

Mr. OWENS. Well, we do pay when we use air and water and all of our other resources, in one way or another. The United States Government will have to sustain that land, I assume, in its natural state.

I think that it is very logical for us in this sense to preserve this just as we would water and air. We have come to the place where the use of common resources breathing, for example, has to be taxed in order to maintain some pristeen nature to it and so on, and I think that is too bad.

I know the argument of providing some protective system through taxation. The problem with that is that we are then taxing those who make direct use, those who can afford that or can't afford that will be denied that natural right to begin with. I don't think that the use of our wilderness areas is a privilege and I think that it is to some degree a right. I think that we need to trace down our philosophical concepts of what belongs to us and what did to begin with. Maybe paying taxes to support that would be generally accepted to the Forest Service or the BLM or whatever kind of organizational effort which will preserve wilderness or near-wilderness areas, just as we would other things.

Mr. CLARK. You are suggesting then that perhaps that this thing should be more equivalent to public education, public libraries, police protection and this sort of a social good through the general tax base, rather than for those who have testified as to how important this is and asking them to contribute something to reserve that high priority.

Mr. OWEN. I think that we should all contribute to it and I think that it is the total responsibility of our total citizenry to do that. I think that it is one that we should accept and our failure to accept that on a very personal basis is what we are basing that kind of question on now. I think that we ought to get ourselves back to a personal responsibility for maintaining our problem environmental factors and not do so through the threat of taxation or protective financial means which deny use of what really is a public resource.

Mr. LACY. Thank you. I would like to introduce the fourth member of our panel, Mrs. Beal, a member of the Eugene City Council.

Mrs. Charles Foss?

Mrs. CHARLES FOSS. Mr. Chairman and interested people, at this time I would like to refer to French Pete. Mother nature built this paradise for a purpose. It has trees, wildlife, fields, ecology, a place for outdoor people and all the things that an area of this size can contain for many people in many walks of life.

Please let us have French Pete as a memorial to the efforts of those that have tried so hard to save it and as a memorial to the name, French Pete.

It is a place for people who are interested in ecology, a place for people to watch wildlife, and the quail walk beneath your feet so that you have to lift them up to keep from stepping on them at times. The bears, the birds and other wildlife. It has green unpolluted water; air, fragrant with the scent from the trees.

Outdoor people can come here to find adventure and they find a feast for the eyes as well. This is something that can be put into pictures for sharing.

I say please help Senator Packwood to influence the people that will hold the pen to sign away to gaping areas, these great trees and please, let them stay for a refuge for children and people.

These grand trees have been putting their roots down far longer than I am about or know about, and then they live and fall to make new soil for the other trees to grow each year and keep coning and dropping their seeds so that they may take root and grow now, not after the ground has been burned over, the music of all live, the plants and trees have been destroyed forever.

Please let us have French Pete as a memorial to the efforts of those who have tried to save it, and as a memorial to the name—French Pete.

Thank you.

(Applause.)

Mr. BILL TURNER. My name is Bill Turner. I come from the logging and tree planting and right now I am a truck driver and a student. When I first came to the Eugene area, I was primarily a fisherman as far as my outdoor activities were concerned. Then when I heard tell about paving a fishing trail along the MacKenzie River, after having used that area, I had to fall back and regroup a little bit. I couldn't believe my ears.

Now, they wanted to go in there and widen out a space and put some pavement down next to that beautiful stream. But, then, of course, I was working for a lumber company at the time and when somebody talked about saving French Pete, I thought, well, there is an awful lot of usable resources up there. Since then, and that was about three years ago, I have done a lot of backpacking in the area because of the publicity, in part, and I just wanted to get out and do a little fishing and do a little walking around myself.

There are an awful lot of nice trees up there in that area that would build an awful lot of houses. Now, I have heard an awful lot of relative value judgments on esthetics as far as the ugliness of clear cut, well, I guess that it can be to some. But now, before we start throwing too many knives, I would like to point out that the standard of living that we have now enables us to see the plight of continuing in this direction.

I think that we need a little perspective and I don't think that we would be in the direction now, these people that are here today talking about the esthetics of French Pete, would have been thinking along those lines were we not in the condition that we are now in as a country.

Now, to get to this point, it took a lot of people a lot of hard work and a lot of dedication to pull us through things like World War I, World War II. Now, I don't think that our parents or our grandparents or our great grandparents had any intent of running us off the end of a deadend street.

So, I would blame the industry, but I do, however, thank them for giving me what they did in the form of a free education, all the public services and the whole part and parcel of being an American citizen.

Then I look at French Pete and I think, well, now I have heard an awful lot of industry people talking about the projected demands in housing. The projected demands in housing in the next 30 years are going to increase geometrically. We demand, the Americans demand building materials to build their houses. I was shaking my head and listening to this and saying, yes, we have got to give them the materials. This was a period from 1968–1969 and about 20 percent of the trucks from that two year period taken from the Willamette National Forest was exported. I got to thinking, that is an awful lot of work to be selling to somebody else's market. You could house an awful lot of Americans for that.

Last night I heard on the news for this last year, this 1972 period in the last three months that there has been over 6 million board feet exported and this is a 6 percent increase from last year. We are selling an awful lot of trees to Japan and Germany.

So, I thought that that kind of negates the argument of the demands for housing. So, they are as much into this propaganda mill as I was initially against aesthetic, the emotional plea that clear cut is ugly, therefore, let's not cut the tree down.

Okay, that means that there is nothing else left but jobs. Jobs are hung on French Pete. How many jobs? Enough jobs to warrant logging French Pete, putting in roads and opening up clear cut? I have almost done a 180 degrees since I have come to this area and I will have to admit that I came to the area from California. But, if we continue in these short sighted goals, in this immediate return; that is, we need to open French Pete for logging because we need the jobs, that doesn't say much for our scientific level of technology, which has also projected the inevitable standard of living for the next 100 years, if we continue at the same level of progress.

Expansion is no longer synonymous with progress. Progress happens to be something that is stability, it gives you some sort of perspective and I, myself, am glad that when I first came here I didn't go into French Pete with the idea that this area is here for my usage, my end alone. We can't run the world on man's ends alone and I don't want to bring my kids up that way either, but I think that we ought to save French Pete, just for the element of perspective. That is what I have discovered. Thank you.

Mr. LACY. Thank you. Mel Jackson?

Mr. MEL JACKSON. My name is Mel Jackson and I work with the City of Eugene as the Outdoor/Environmental Coordinator. One of my concerns is directly related to the people here in the City and their recreation opportunities.

So many times, and I can say, probably 10 times a week, people call asking for a place to go. It is becoming more and more difficult to say that I know a good place for you to go. It is more difficult later in the summer.

I have been sending a lot of people to the French Pete area. I understand the problem of Packer's Creek because I used to send people to Packer's Creek. It becomes very difficult here because the quality of the outdoors and the outdoor experience.

I think that we were talking a little while ago about putting a road into an area or else the handicapped person cannot get in there. I feel that this is basically untrue. At the City Parks and Recreation Department, we have several outings per year into the wilderness area for handicapped people and blind enjoy the wilderness to an equal amount because of their extra senses. Those with other handicaps we take them along with us. The wheelchair people even go on some of the trails. There is no reason on some of the trails that they cannot go in a little way.

I think that one of the problems is that in areas we try to make everything for everyone and this is totally impossible. It doesn't just work out that way.

We are concerned at this time with the quality of the experience and we need these areas because we are losing them and eventually the big problem is that I won't have any place to send anyone.

Mr. LACY. Do you have a written statement, also?

Mr. JACKSON. Yes. I would urge the preservation of the French Pete Drainage as part of the Three Sisters Wilderness.

I work as the Outdoor/Environmental Coordinator for the City of Eugene Parks and Recreation Department and I am deeply involved with the needs of outdoor recreationists.

We are experiencing a tremendous increase in wilderness outdoor recreation which is putting increased pressures on the existing wilderness areas.

I am concerned about the quality of the wilderness user's experience and the quality of the wilderness itself.

We need more wilderness area.

We need the French Pete Area as a wilderness recreation facility.

Thank you.

Mr. LACY. Thank you, Mr. Jackson.

Would you like to come up and join us on the panel, if you have the time?

Mr. BETTIS. I would like to ask a question of Mr. Jackson.

Mr. LACY. All right.

Mr. BETTIS. Mel, would you say then that the areas such as French Pete are going to become increasingly important to the people in the City of Eugene and Springfield, in particular, as recreational areas that are organized as city programs and this type of thing? Are we going to see an increasing need for areas like this?

Mr. JACKSON. Well, I think that it is an increase all the way around. We need to increase programs within the City to keep up with the needs there and in the process, we are introducing people to a new or almost a new way of life. Of course, they need a place to go.

In a sense, we are maybe crowding the wilderness areas through our programming, not only the City of Eugene, but the University outdoor program and all the outdoor schools that are going on. It is increasing this as a way of life. I think that it is a good thing.

People are natural creatures and they want to return out of the chaos of city life.

Mr. BETTIS. Your programs have expanded considerably in the last decade, haven't they, Mel, the programs of the City Recreational Department? In fact, were there any outdoor programs as such in the City Parks and Recreation Department ten years ago?

Mr. JACKSON. They started in 1962, just about 10 years now, and they have increased to a point where we can't keep up with our present staffing. What we are going to is an educational system, not taking them out but indicating where they can go so they can provide their own recreation program.

There is a big increase and it is being felt. I can feel it is a few times I have taken down notes about the amount of calls that I get about where to go to fish or where to go to hike and it really puts your brain to work because you can't send everybody to one place. If you do that, you are programming them right back into the chaos that they are trying to get away from.

Mr. LACY. Lew Ward?

Mr. LEW WARD. My name is Lew Ward and I live in Eugene. For many years I have hiked and camped in and around French Pete Valley. I know it and love it. I think the most inspiring view of French Pete is from Lowder Mountain on the north side of the valley. Provided one keeps his eyes firmly riveted to the south or east, there is no more beautiful view in the northwest. It is a window into the past—a microcosm of the western slope of the Cascades before the logging industry arrived. I say one can enjoy this vista provided he does not let his eyes wander westward, for in that direction they will rest on some of the most intensively logged land—ravaged is not too strong a word—in Oregon. The supporters of Senator Packwood's Bill (S. 866) feel that it is reasonable and proper to save at least one low elevation valley from commercial exploitation. This area is, after all, contiguous with the Three Sisters Wilderness; it is prime de facto wilderness, superbly qualified to be reserved for recreational use.

A decision to save French Pete from logging will not impose any hardship on the logging industry. The valley represents a miniscule portion of the allowable cut in the Willamette National Forest. It is difficult to take seriously the piteous cries of industry spokesmen when they equate environmental activism with a threat to jobs. An industry which ships 20 percent of its raw materials overseas, logs that might otherwise be processed in Oregon mills, is only incidentally interested in jobs for Oregon working men. Their protestations to the contrary are hypocritical. Industry spokesmen delight in explaining how a reduction in their harvest will worsen the need for new housing, and of course it is not easy to oppose new housing. But it is not lumber for housing which causes the problem. It is the large fraction of each annual cut which goes into the products designed to be used once and then discarded.

The container and packaging industries are postulated on persuading the public to consume wastefully. Sensibly utilized, our decreasing supply of forest resources can be stretched further than is the practice today.

I should confess that I am not really a strong supporter of Senator Packwood's Bill, which contemplates establishing an intermediate recreation area in the valley. As a frequent user of Oregon wilderness areas, I am appalled at the rate of increase of human use of the wilderness. There seems to be reason to suspect that this rate of increase is exponential with time. Any demographer knows that such an explosive growth rate spells disaster if not checked. It is a certainty that we will have some sort of rationing of the individual's privilege to enjoy the wilderness in a very few years, if current trends continue. Such heavy public demand for wilderness recreation cries out for the protection of the few de facto wilderness areas remaining.

Well, political realities seem to rule out all chance of establishing French Pete as a part of the Three Sisters Wilderness. Still, half a loaf is better than none. I urge the adoption of S. 866.

Mr. BETTIS. Perhaps I misheard you, Mr. Ward, or you have got a figure that I have never heard before. You said that 20 percent of our logs are exported?

Mr. WARD. I am not—the information that I have comes strictly from a secondary source, and that was the figure that I received.

Mr. LACY. Joseph Holaday?

Mr. JOSEPH HOLADAY. My name is Joseph Holaday and I live at 242 S. Berrigan Way, Eugene. I have lived in this area for some 40 years. My great grandparents were from Eugene and Oregon, which was extremely beautiful. I hope to leave a fraction of that after me.

Now, a number of the speakers have correctly put their finger upon the crux of the French Pete problem. It is economic. I bow to the eloquent words of numerous speakers concerning the aesthetic value of French Pete. It is a matter of the psyche, but I fear that the issue of French Pete will be determined on economic and political considerations only.

Senator Hatfield, none other, has so stated at numerous intervals, and the hearings on clear cutting in April of 1971, devoted at least a page to his concern regarding public housing, which would be, he felt, curtailed if clear cutting were curtailed.

The forest industry, without much astonishment agrees with the Senator 100 percent. And if I had the time or if anyone had the time, they could go through those hearings and detach from the records the statements of Weyerhauser, Boise-Cascade, Georgia Pacific and the others in the forest industry. They all felt that to curtail or not manage intensively, the forest of the United States and certainly those of Western Oregon, would be disastrous to the people of the United States who in the key words of one statesman were, "the havenots as compared to the haves".

With all of this, we can agree. Now about the facts, for this is the issue upon which the matter will be decided. Let me quote from one who is no enemy of the growth concept. This is Mr. Richard O'Neill, who is publisher of the O'Neill Record, a privately circulated industry publication and President of the Housing Advisory Council of New York. In other words, he is interested in building more and more.

Mr. O'Neill, in the first of this past month in Portland stated that "the greatest danger facing the housing industry today is the threat of overbuilding". He then continues at some little length in which he explains about the millions of units, not for poor people, but for affluent people. Not for low cost housing units, but for multiple resident units and then he says, "as far as the price of lumber is concerned, it is no big deal. Everyone yells about the price of lumber, but it really represents very little of the construction cost". He added that prices are going to get higher in the coming months.

Then he says, "in each $1000 of single family house construction, there is only $100 worth of dimension lumber and plywood used".

This will be translated to Senator Hatfield and Senator Packwood with the hope that they will see that there are other factors involved than just supplying the lumber.

If you raise lumber prices, and this is Mr. O'Neill, if you raise the lumber prices 20 percent, you only raise construction prices two percent. He was not including cost of land improvements, but just construction.

He further said, "mortgage amortization and taxes make half of the monthly cost of house expense, so the final result of hiking lumber prices amounts to only about one percent more in the cost of a house". One percent more if we logged every foot from French Pete.

Regarding the cost of lumber and this I do want on the record, "regarding the cost of lumber," he said, "the lumber producer has almost nothing to do with it. The U.S., Canadian governments and Japanese business men are the major influences. If we devalue the dollar and the Japanese raise the value of the yen, their export markets have been hurt, but their economic hedge in importing logs has improved their import position and hurt the U.S. logging industry".

That is the testimony of a man who is extremely friendly to the housing industry and you can see the same thing in Eugene where it is the building by the speculator and the promoter of all kinds of multiple residence units that has created something of a stir in the building situation here.

As far as the general housing situation in the United States is concerned, it is an open scandal and as George Romney says, he will finally move the machinery for justice and place the rascals where they belong, which is behind bars.

In the meantime, we hope to have a little of French Pete left to clear our minds of the mirth that has surrounded the low cost housing industry.

Mr. LACY. Thank you, Mr. Holaday.

Susan Girardeau?

Ms. SUSAN GIRARDEAU. I am Susan Girardeau and I live in Eugene. I could see as a hiker in the French Pete Creek area on a hike about four years ago, going into Lowder Creek with a group of Sierra Club members, we could look on our left and see the effects of clear cutting. We would hate to see more clear cutting and more logging in this area.

As a hiker, I say, save the French Pete Creek area for the future.

Mr. LACY. Thank you.

Mrs. Ed Sullivan?

Mrs. ED SULLIVAN. I should like to express my feelings concerning the bill being presented by Senator Packwood on French Pete. I believe that this area should be preserved as a recreation area for several reasons. First, it is easily accessible practically all year around. Second, there are very few forests left that are in their natural state and this should be preserved for other generations to appreciate and observe. Third, anyone can enjoy the beauty of this valley if they are able to walk a couple of hundred yards. Fourth, if they log the upper portion of the valley the stream will undoubtedly be ruined from silt and this is one of the main attractions of the French Pete Valley. And lastly, why does man have to touch and disturb every square inch of this land? Can't we keep even a small portion, that is not miles from civilization, free from the consequences of our dollar-oriented society? I sincerely hope this valley can be saved.

Thank you.

Mr. LACY. Thank you.

Donald Watson?

Mr. DONALD WATSON. My name is Donald Watson and I am a resident of Eugene and employed by the University of Oregon. By profession, I am an economist. The statement that I would like to read has to do particularly with some of the economic aspects of resource use in general and French Pete in particular in this State.

Before I get to that and before I forget it, I would like to respond to Mr. Bettis in his question of just a moment ago, about 20 percent of log exports. It almost all goes to Japan, Stan, and the actual figures. We exported about 2.2 billion log or board feet of log striper scale in 1970. We exported about 1.8 billion in 1971 and if you project the first three months figure which you have been hearing on the radio lately, it comes to about 2.4 billion because there is some seasonal adjustment there, some up and downs. So, that would make 1972 the highest export year.

It is a little difficult to come by the exact allowable cut figures, partly because we don't have the private cut or I don't have the private cut. But from public land in both Oregon and Washington, it is somewhere in the neighborhood of 5.1 to 5.2 billion, so 2.2 out of 5.1 is easily 20 percent as you can see and it does figure out to around 25 percent.

Now, there are various laws, rules and regulations which prohibit the export of timber cut from public lands but I can't relate all that right at the moment.

Mr. Bettis. Can I ask what the percent profit is?

Mr. Watson. It is considerable. They are making or paying about $49 a thousand for Douglas Fir and selling it in Japan for $133, which I think is one of the most interesting aspects. There is also cedar, which they are buying presently for somewhere anywhere from $65 to $100 per thousand board feet and selling it in Japan for an average of $328 last year.

And if there are any other questions, I will be glad to answer them.

I support the proposition that most of the National Forest areas which could be considered for additional wilderness should be more carefully studied and at least temporarily withdrawn from timber harvest or other nonwilderness uses and I would say here that I do not particularly agree with intermediate recreation classification. The information which is offered is not directly related to a specific geographical area which might be considered for possible exclusion or inclusion in the wilderness. There is the general topic of the economic impact of removing forested areas from potential timber harvest.

The essence of the idea is that I do not detect clear evidence that setting aside any or all of the areas which could be considered will have particular adverse effect on the local economy or the areas most concerned.

The short term effect for the three to five year period while we make further decisions can hardly be adverse. The long term effect is not clear enough at this time to support an immediate decision either way.

In the interest of keeping as many options open as possible, the argument requires clear deliberation rather than reaction.

I feel that the long range planning on the part of timber industries and public agencies might improve the situation. I might say that I feel that this applies to natural gas, water, timber and others like these.

The existing management and overview of the timber industry purposes should not be expected to bear the exclusive blame for all the problems which we face.

Now, there are both public and private agencies who have gone about the situation in which the timber industry feels threatened by any reduction in the availability of raw material. But, we will not solve our long range problems by making decisions now as to whether it is to be cut or set aside.

The need to decide more clearly what potential losses or gains to private firms and the public use might be the result of adding to this wilderness area.

The assumption by industry representatives that the relationship between the reduction of allowable cut and the level of employment, income and taxes, that that relationship is direct, linear and one directional is not to be accepted without question.

The rather extended list of connections which must exist for this to be true, needs very careful examination. The evidence advanced by industry runs as follows, setting aside the areas from the allowable cut results in, first, reduction of allowable cut which will result in (2) an immediate reduction of the logs processed. This result will be (3) a reduction of labor required, and (4) a reduction of timber net earnings and this will (5) reduce the tax liability. It is also maintained that in reducing the allowable cut, it will reduce the County's receipts from the Forest Service.

Through the multiplier effect, this reduced economic activity will have about a threefold depressive effect on the local economy. These are things which are likely to be thrown about in Oregon's economy level.

Now, let's examine the points in turn. The first result would certainly come about and whether or not the Forest Service correctly ruled that any area set aside for wilderness must be left uncut, this would bring the whole law into question and I think that we have not satisfactorily solved that problem. We do not, frankly, know what sort of timber we have available.

The second effect, however, does not necessarily follow. That is, the immediate reduction of the logs processed, because this is a function of past, present and for future sale of forest service land and the volume of private timber available. It also depends on the demand for the lumber and plywood.

This alone brings the rest of the sequence under suspicion, but there is room for a further question. A reduction of labor required as a result of pure loss entering the production process is not a foregone conclusion. An examination of the historical record of the industry will show a larger number of employees 20 years ago with a lower level of logs cut.

There has been increased capital imput and better utilization of logs in the recent years. This has had a much greater impact on employment than timber harvest alone. Labor imput, may in fact, be at about the irreducible amount given the present technological state of the industry and the log cut reductions which would occur to leaving the wilderness may not result in a reduced labor imput at all.

The reduction of timber firms net earnings does not follow completely either. Net earnings are a function of many areas and variables, including rights, labor costs, capital return, inventory mark-up, price and the efficiency of the production crew. Now, of all of these only prices are directly related to the allowable cut and this can be absorbed internally by a more efficient usage of raw material. I might add that it is also influenced by the variation between what the BLM and the Forest Service allow to be taken out.

Point 5 is interrelated with point 4, and in addition it depends on the tax rate set by the State and the Federal Government on net corporate income. It is worthy of consideration but a little more complicated and I don't want to get into it right at the moment. It has to do with the tax liability, which is on the increase this year because the price of lumber and plywood is very high. Lumber, in fact, at the present time is highest on the index for any commodity.

Common receipts from the Forest Service are not dependent on the volume of the cut, but on the value. Thus, high sale prices for a clump of timber in conjunction with low cut might produce higher revenue for the Forest Service and therefore higher payment for the logging done.

It seems unlikely that a reduction in the supply of trees available for sale would result in a lower price per unit of logs. At least, tax revenue is not a function of the number of trees cut.

If all the consequences of preserving wilderness areas were to come about, that is, reduced income, employment and reduced taxes, then there would be multiple effects on the economy, but this raises the question as to if there could be other multipliers at work in the opposite direction. While the lumber and wood products were having a depressing effect on the economy, other industries which were expanding might exert even a greater multiple effect in an upward direction. This is not to suggest that reducing the number of trees cut would causally effect other industries to expand. It only suggests that a reduction in lumber and wood products activity does not mean that all others will experience only subtraction.

Other activities such as trade and services, could expand in spite of lumber and wood products declining. One possible expansion that would need to be considered would be the refurbishment of non-wilderness timber management areas. Both for more growing trees and for non-wilderness recreation. This would be labor intensive work and could provide for more jobs than the reduction lumber work, whatever it is.

There are many other aspects of the problem as to how much wilderness to preserve. There needs to be concern with further watershed management problems. The rising demand for outdoor recreation sites of all kinds, plus questions about future discounted uses of timber supply and problems related to the proper amount of return of development funds that should be applied to the wood products funds and many other questions about the lumber and wood products industry.

Some of the information is currently available and it clearly indicates that the wise. course of action is to delay the decision on wilderness areas or potential wilderness areas until they can be fully examined in all aspects possible.

Mr. Lacy. Thank you, Don. Are there any questions?

Mrs. Beal. I am interested in what he said about the economic effects of logging. One of the problems that I face or that many people face, but I am on the Lane Air Pollution Authority Board, is the problems of disposing of sawdust. Now, we find that the more lumber that is being cut, the more sawdust we have to dispose of. If we are not shipping, well, if we are shipping logs to Japan, Japan doesn't want our sawdust——

Mr. Watson. Oh, yes they do.

Mrs. Beal. They do, that is fine, but why—

Mr. Watson. That is why they pay $600 for the cedar because they use every scrap that is in that log.

Mrs. Beal. But, they don't want to ship the sawdust from Eugene, Oregon, to Japan. Our shipments of sawdust out of Lane County have fallen off. This has an effect, a very direct effect on air pollution because something has to be done to that wood or that sawdust. We can't burn it all in boilers of the University or by Weyerhauser, it has to be disposed of somewhere and we are trying to get rid of it.

What I am wondering about is whether this is the relationship and a very intimate relationship between the size of the allowable or at least the allowable timber that is cut and the utilization of waste products through particle board and, so on?

Mr. Watson. Yes, if we reduce the allowable cut or increase the price of the logs sold on public land, there would be increased utilization—if they were forced, for example, to pay $85 or $100 per thousand, instead of the average of $49 that they were paying last year for Douglas Fir, they would probably use a lot more of what they go into the woods to take out. I would even say that would work to reduce the size of the cut.

The market that exists at the present time is not a competitive market and it is subject to considerable public manipulation and I think that we ought to explore the possibility of controlling the market.

I want to make it clear that I don't advocate this and I don't say right now that we raise the price of public timber, but what I am saying is that we ought to explore the possibility what would happen if we did this sort of thing.

Mrs. BEAL. Another by-product of a heavy cut is the excess of newsprint now. You have probably seen that a Eugene Boys' Club is in dire straights financially because they are no longer able to sell their newsprint.

There is too much house fuel now and there is too much pulp material and now the bottom has dropped out of the re-cycling newspaper thing. This is another waste problem that appears to be a definite correlation or would you say so between a heavy cut and a solid waste problem that gets worse every year?

Mr. WATSON. Yes, so far as the industry and what the government statisticians refer to as SIC 24, accounts for somewhere in the neighborhood of 40 percent of all solid waste material produced in the economy each year. Mining is another big one and mining accounts for a very large percentage that would be in the area of 40 percent. Actually, household waste is very minor only about 5 percent at the most, including all the trash that you throw away for paper products. The real trash problem is in the waste products, the chips and the like.

Mrs. BEAL. Thank you.

Mr. BETTIS. Could you give me an example as I understood from some of your remarks in the latter part of your statement, it is possible for the economy of Oregon to show an upward trend in spite of a down trend in the logging industry, basically is that what you were saying?

Mr. WATSON. It would be feasible, that is correct.

Mr. BETTIS. Has it ever happened?

Mr. WATSON. Yes.

Mr. BETTIS. Could you give me an example?

Mr. WATSON. In 1966–1967, when the lumber and wood products industry showed quite marked reduction in output, mostly to the credit crunch. I can give you the figure if you want the direct figure on the reduction, but it was on the order of around 12 to 14 percent.

Then after the economy went moving along and I think that was, in fact, the year in which Oregon experienced something of a 9 percent increase in income.

Mr. BETTIS. What factors were increasing at the time the logging industry was going down some?

Mr. WATSON. Well, the manufacturing, farming and services and trades were expanding. I think that in 1967, and I would hate to be quoted on this, but I think that 1967 was the high income year for agriculture, which, incidently was relatively important to the State's economy and one which we ought to consider when we start cutting out the trees.

Agriculture is a heavy user of water and if we pollute the water in cutting down the trees, siltation in the flood plains and the reservoirs, we might lose more from agriculture than we gain from cutting the trees. Again, this is speculation and one more area which I think that we could investigate, explore and at least we would know more than we know now.

Mr. BETTIS. What about, speaking of speculation, the relationship of this kind of thing to our tourist industry, which is increasing, am I not correct?

Mr. WATSON. Yes. I have been for a long time a little skeptical of the idea the tourism produces a sizable net income in February. I would suspect that more Oregonians spend more outside the State than outsiders spend here.

I would have you compare only a week at the coast at Sunset Bay with a week in Las Vegas, or a week in New York. Now, this is obviously a very simplified sort of explanation as we don't have the figures and I don't know that we can get them. I don't think that the fact of whether we cut the trees or don't cut the trees would have much effect on the tourist trade. I don't think you would find many Californians at French Pete, but you might find an occasional stray up there.

Mr. LACY. Thank you very much, Professor Watson.

We have seven people who have asked to speak before 4 o'clock and that is 12 minutes from now. We will call them as rapidly as we can and I would ask you to limit your statements to three minutes or two minutes. If you have a longer statement to make, you might ask to be deferred if you can possibly speak after 4 o'clock.

Edward Vogt?

Mr. EDWARD VOGT. My name is Edward Vogt and I speak as a private individual and for persons who are friends of the French Pete Creek area and all the people who go to that area. We believe that the French Pete Creek area should be left in its natural condition for the exclusive use as a wilderness area. This is because such areas are in ever increasing demand for relief and relaxation from our noisy and hurried everyday life.

We feel that the money from logging will soon or twenty years from now, nobody will know where the money is and the money will be gone. But if we leave the area, it will still be there to enjoy, indefinitely.

There are many areas that have roads and campgrounds to satisfy the people who prefer to have developed recreation camps. We need French Pete Creek and many more areas to maintain a dependable stream flow.

The recent ruling by the Forest Service for permits indicates that use of wilderness areas has reached the condition where more areas should be added to primitive wilderness areas and not reduced.

Thank you.

Mrs. BEAL. Thank you very much, Mr. Vogt. Joyce Salisbury?

Ms. JOYCE SALISBURY. I am Joyce Salisbury, a democratic candidate for state representative from District 40. I strongly urge the preservation of French Pete Valley in its natural state. One of the few untouched spots in the United States, I feel that it is our duty to protect it from the avarice of man and the saw. I am not convinced that there is a shortage of lumber in the United States as long as we are exporting logs to Japan. It is greed for immediate profit without planning for the future that has denuded so many of Oregon's hills. Somewhere people of conscience must say "Stop". This lovely valley should be preserved as a monument to nature, one place that "civilized" man has not irretrievably altered or destroyed in his wanton use of the world's natural resources.

Mrs. BEAL. Thank you very much, Ms. Salisbury.

Stanton A. Cook?

Mr. STANTON COOK. My name is Stanton Cook and I live at 1852 Longview Avenue. I am an Associate Professor of Biology at the University of Oregon. I want to speak in favor of preserving French Pete from logging at the present time for two main reasons.

First is that the need to preserve some watershed from the damaging effect of building roads, culverts and cutting out the trees, and disrupting the soil. Such watershed we need for the purpose of study in order to be able to judge the effects of our logging practices on watershed. This is one area that has been very much neglected in the scientific literature. There have been very few studies done on nutrient cycling and the effects of logging on accelerated erosion and on others such as this.

Then as you know very well, we have saved very few such streams for scientific investigation. Thus, we are in the position of not really knowing what we are doing to our watershed.

Secondly, there are a number of uses that are recognized as bona fide uses in the use concept which are incompatible. Such as it is incompatible to log the area and study it at the same time. Or to use it for certain forms of recreation and log it at the same time. It is to the multiple use concept, in my opinion, that this applies. It is particularly important that we preserve for a recreationist, for a scientist, for education and for, in fact, appreciation and study.

I think that in the years gone by and we look back at the few spots that we have saved, we will find that they are much more valuable to us over the long term than they would have been logged over the short term. Thank you very much.

Mrs. BEAL. Thank you.

Mr. BETTIS. If you could wait around for a few minutes, I would like to ask you a few further questions.

Mrs. BEAL. If you don't have to leave right away, we would like to discuss your remarks with you, Dr. Cook.

Dr. COOK. I can be here until 4:15.

Mrs. BEAL. Well, I have to call the people who have requested to be heard first.

Ken Babbs?

Mr. KEN BABBS. Well, my name is Ken Babbs and I live at Route 2, Box 267, Maple Isle Lane, just on the other side of the freeway. I am speaking today entirely on my own behalf and the issue that French Pete has raised. I understand that this transcript is going to Washington and today I am not talking just to the people here but to the audience in Washington that has the power to decide the fate of not only French Pete, but many other issues that are going to come to light as French Pete has; because I see the issue is one of a growing consciousness that is coming over this country as opposed to an old fashioned consciousness which runs the country. I am speaking now of the profit motivated consciousness as opposed to a love and sharing and cooperation.

Now, this changing consciousness has been coming on for some time and it is really being expressed here in Oregon, particularly in Eugene. Now, if we can somehow communicate to Washington that the idea of making a dollar off of something or as much money as you can make off of it, is no longer the considerations that we are living by. I personally have put a limit on my own spending of $150 a month. On that money, I am raising three kids and taking care of a piece of land that is about one acre, so I know that it can be done.

It was very interesting here today to hear the discussion of the waste material, because I think that this is one of the solutions to our problems.

The set up of the universe seems to be of all beings living off of each other. Then there is no such thing as a waste product. The only thing is man's lack of imagination and how to use the waste products. I use for a symbol all the time in thinking about these things the very item that I think has corrupted us, which is money. I only have a nickel on me today, but that nickel says, "In God We Trust". That the money is just a symbol. It is in God that we trust and when we trust in this, this piece of stuff, we are corrupting the very thing that made us.

Now, specifically French Pete is that. The trees up there, which man tried to go in and change into money. Then he is destroying something that was made by the Creator. I don't feel like this is our role in the plan.

The understanding of our role comes very slowly, but it is coming to more and more of us. Our role here is to help, to assist, to operate to make life better for one another and we know now that it is not the material goods, it is not the profit that we make that makes our lives better, but it is the way we relate to everything on the planet. That is the people, the animals, the trees and the rocks. Someday we will be living in a rock house.

Mrs. BEAL. Thank you very much.

Margaret Patoine, is she still here?

Ms. Margaret Patoine. I am Margaret Patoine, 2552 Alder Street, I have no technical information to add but at the moment I am the Republican candidate for the House of Representatives, so I have been talking to a bunch of people. Almost all of the people that I have been talking to are very much in favor of saving French Pete. Only one person has suggested to me that it should be used for multiple use.

Now, I would like to yield the rest of my time to Dr. Cook so that you could ask him questions.

Mrs. Beal. I have a couple more people that I have to call before 4 o'clock. Elizabeth Shaw, is she here?

Ms. Elizabeth Shaw. My name is Elizabeth Shaw of 1910 Van Buren.

As we have provided for more people there have been more people and many now consider the world populated and fastly becoming spoiled. Let's try not to develop the same situation in our wilderness. We will need more wilderness so that people do not further separate themselves from the true necessities of life and make themselves extinct. Man should no longer try to adapt his environment to himself but rather like the animals, adapt to nature. I too, have hiked French Pete and swam in the creek, finding all of it very refreshing.

Let's leave French Pete alone and our other surviving wilderness alone . . . man's already got his hands dabbling destructively in too many things. Life of all should be our objective, not death. Aren't there enough cities and crowds for people who want the rights, but will there ever be enough wilderness?

By logging French Pete, many human rights and resources are hurt, but by leaving the area alone, only financial rights are hurt. In all fairness and with our priorities straight, let's leave our wilderness alone.

There is a very obvious bumper sticker out now that says "Legalize Freedom", and I think that this can also apply to "Legalize Wilderness". Thank you.

Mrs. Beal. Thank you.

Jerry L. Edin?

Mr. Jerry L. Edin. My name is Jerry Edin and I live in Eugene. I have worked in the woods as a logger and in a mill and I just have got done with planting trees this year. I have seen what happens when you clear cut and it is just sickening to me. That is one reason why I plant trees.

I think that the French Pete should be part of the Three Sisters Wilderness area. I don't know of very many places left like that where I can go and not see the trees cut and chopped, where I can enjoy being with nature and it hasn't been screwed up by humans.

Mrs. Beal. Thank you.

Glen A. Love?

Mr. Glen Love. My name is Glen Love and I live in Eugene. I have no expert testimony at all, just that of a father and as a teacher and as the husband of a teacher. I wish to speak on behalf of my family and myself. This is in urging that French Pete be left in its natural state, with no logging, selective or otherwise, and no roads. I have taken my small chidren hiking in the French Pete Valley, and my wife, a biology teacher, has taken her classes there for field study. We both believe that French Pete is a unique area which deserves to be protected and preserved for our own time and for the future. It is a low-level virgin forest, accessible nearly all the year around. There are plenty of "managed" forests where I can take my children, but there is only one French Pete, and there are very few such low-level areas first growth forests which are available the year around. As pressures for cutting more timber increase, as our populations grows, it is ever more important that we preserve such areas for the future. Once we road French Pete and cut it, we can never restore it. Surely we can set aside one area of old forest close to the state's second largest population area for the enjoyment and spiritual health of its citizens. The notion that preserving French Pete would be "locking it up" I find particularly specious. Anyone who can walk can enjoy French Pete. Our wilderness areas are already becoming overcrowded with the many persons who are willing to get out of their cars and walk in to our lovely alpine areas. We need more such areas, especially those like French Pete which are at a low elevation and can be visited throughout the year.

Therefore, we urge that French Pete be left as it is. Thank you.

Mrs. Beal. Dr. Cook is still here and available.

Mr. Bettis. Dr. Cook, speaking of French Pete now as an area for scientific study, and as a total drainage area, it certainly would be, logging certainly would affect its value for this purpose; wouldn't recreational use, the kind of intensive recreational use that it is likely to get in the future equally destroy its value as an area for scientific study?

Dr. Cook. I think that there would be no doubt but what it would have an effect and I don't, myself, have a picture of how intense this recreational use would be. The large number of people being there would have an effect on the system, but, for instance, it might have very little effect or a very, very slight effect on the natural movement of the soil. The conservatively built trails would have a very small effect as compared to logging roads.

Mr. Bettis. Then the value would continue and we would have to have massive recreational use before we would begin to do any serious damage?

Dr. Cook. I would think so, because after all, it is a very large space. This is one of the points that we have very few such large undisturbed spaces even available to study. The studies that have been carried out in the Cascades and elsewhere have been on very small watersheds.

Mrs. Beal. Would you consider it a valuable place for scientific study of a complete drainage of that kind?

Dr. Cook. Yes, because for one reason, it is mainly forest and that would make it different from areas that would come down from a drainage area that would have a large area that is not forest.

Mrs. Beal. What would you expect the scientific value of such a study to be or what kind of useful information would you consider that it would produce?

Dr. Cook. I think it would produce an idea of a norm of the streams and so forth. It might, from such studies, it might be possible to reckon the amount of restoration that takes place within the system.

There would be possible studies on the indigenous fauna and flora in the streams, and relate this to the rocks and trees. This is a large area of control which is being taken care of by nature.

Mr. Bettis. You mentioned studies having occurred in other parts of the country. To your knowledge has there ever been an opportunity to even study an area this large, say over several years?

Dr. Cook. No, in fact, because the Federal resources or research priorities hasn't funded large scale studies of watersheds. The International Biological Programs are only a few years old, but we are very eager to do something of this nature.

Now, it might be also said that the Forest Service has been studying this sort of thing for a long time, it is not true. The studies have been much more limited on a scale geographically relating to techniques of planting, establishment of reforestation and the techniques of getting out the logs. Relative to organic studies, there have been very few studies of a whole range.

Mr. Bettis. Then sites such as this very close to the University of Oregon, this will provide an excellent place for class work and so on, in the future, if it is reserved?

Dr. Cook. Yes, I would say so. Not only for the University, but for everyone in Corvallis for that matter, too.

Mrs. Beal. That question leads right into a question that was handed to me by someone and I think that it is a very good question. It says, please ask Dr. Cook if French Pete will help maintain diversity of tree species as opposed to the management of every area on short rotation cycles?

Dr. Cook. Well, I think that it would be more a question of—well, shall I say that the species that are there I think will persist elsewhere. I think the question wants to get at representation of the different species. If it is logged and managed, let's say for Douglas Fir, this will in that area leave the plan for the reforestation as we are trying to achieve a diversity or a multiculture, so I think that is true.

Mrs. Beal. Do you have further questions?

Mr. Mel Jackson. We have been throwing a couple of words around here and one is uniqueness and the other is a norm. I guess the question is, is it a typical area and if you were to look at all other areas of similar size up and down the Cascades, is this of a typical type?

Dr. Cook. I find that very difficult to answer. I am not aware of any pecularities that are up there.

Mr. Jackson. Well, is there any uniqueness, other than the fact that it has not been logged?

Dr. Cook. Well, that is right, and it has a structural uniqueness because it hasn't been logged. There is no road along one side or the other and how many areas do you go to in this State without seeing a road? There won't be many years before there will be roads going along both sides of all of our streams.

The other question was about norm. And by that I mean some measure of what might be the condition where man has not or is not manipulating. It has been said that man has been burning for thousands of years and this is true. It is a part of the human thing, the recurring fires; but the use of herbicides and the use of pesticides and disturbing things by building roads and culverts and I think that is really only corrected by glacial action.

So, if people want to find out about the effect of road building or logging, they will have to be able to say, well, look, our trees in our logged areas are just the same there as those in the unlogged areas. I think that you will agree that there is a tremendous amount of doubt throughout the whole citizenry about our forests.

It seems to me to be the Forest Service's own interest to be able to demonstrate that they are doing a good job and they can only do this if they have a norm to try it out on.

Mrs. Beal. Are there any other questions?

Mr. Bettis. Yes, one of the arguments favoring cutting on behalf of the industry, of course, has been the fact that there is disease in French Pete, and now just for the sake of the record, disease being a natural process, you are for allowing disease to continue there if it wants to, I take it?

Dr. Cook. Yes, I think that it is very important. This is an area that needs to be without pesticides, if you are interested in biological control. In subtler, more sophisticated or more economical means, then you would be very happy to have a place where there was some sort of natural population. Associated with those thousands of individual plants up there, there is a fair representation of the average or normal insect fauna and bird fauna and the very thing that interacts to control the insect population.

Here again, I vote for the concept of some kind of normal situation.

Mrs. BEAL. Thank you very much and thank you for waiting, Dr. Cook.

I wanted to ask now whether anybody must be heard right away. We would like to have a 10 minute recess and I would like to read you a telegram from Senator Hatfield that has just arrived. Is there anybody that must be heard right now or can you wait for 15 or 20 minutes until we can have our short recess?

Then, from Senator Hatfield, it is addressed to Roger Mellem and it says, "The testimony presented today in Eugene will be made a part of the official record of the May 25 hearing in Washington on Senate Bill 866. I am pleased to note the extent to which you have gone to insure an accurate transcript. The Senate Interior Committee will greatly appreciate your efforts.

Sincerely, Mark Hatfield, United States Senator."

Now, we will recess for ten minutes, until 4:25.

(Hearing in recess for 10 minutes.)

Mrs. BEAL. The Hearing on Senate Bill 866 will come to order.

Mr. BARRY. Mrs. Waddell ?

Mrs. ELIZABETH WADDELL. I certainly favor the idea of making French Pete into an intermediate recreational area. I think from the orations that have been given, I haven't heard all of them, but I am sure that they have been good and I would just like to reiterate on the thoughts that others have given. I would like to see French Pete saved and that is all I have to say.

Mr. BARRY. Thank you.

Mr. Brian Higbee?

Mr. BRIAN HIGBEE. I am Brian Higbee and I am a former student in wildlife. I have been working with the East Africa Wildlife Society in purchasing additional many thousand acres. It was offered by their poor government at $3.00 per acre. The people felt the real responsibility for this part of their heritage. They need a certain area for farming and economic things like that, but they also realize at this early stage that what they need is to preserve their heritage and enjoyment of the wild lands and wildlife that they have.

It sure seems funny to me that these people are making such good progress and then to look to the United States. I don't know what the problem is as this land was to be given as a wilderness. They gave the land to the Indians and then they took it back. But, once this land is logged in, it is poisoned, more or less.

These wilderness areas are a small part of the land that we have left and if things like this continue, in just a very short while people won't be able to be in these areas for enjoyment.

I might add that I was just listening to a commercial that they put out on fire prevention, forest fires and they really hit you as they say that forest fires not only kill trees, they kill other things and they show a picture of birds and other things like that.

I feel that it ought to be preserved.

I would like to voice my feelings on the possibility of harvesting the lumber from the "French Pete Wilderness Area." The lumber companies appear to be striving to turn Oregon into a lumber farm with just as much fervor and vigor as the Wildlife Department has in turning Oregon into a deer farm.

If the lumber companies continue this devastation of the woods and wilderness (don't give me the garbage on reforestation); we will have none left in a relatively short period of time.

It is time the government developed foresight and avoided mistakes instead of walking backward into a decision. This generation expects more from our leaders, just as we expect more from ourselves. I haven't much money to be an influence; just a love for a little piece of the original America which is found only in our wilderness areas.

Please save French Pete for me and my son.

Mr. BARRY. Thank you. Mr. William Peterson?

Mr. WILLIAM PETERSON. My name is William Peterson. I live at 665 Level Lane, Springfield. I am a chemical engineer in a local pulp and paper mill.

In view of the heated campaign to save French Pete, I felt obligated to check the area for myself. I recorded my experience in the valley and I feel certain the inclusion of my reflections will be appreciated.

My trip took place in late June. The sheltered upper reaches of the valley were still quite deep in snow. The therapeutic value of such a wilderness experience is almost incomprehensible—especially in contrast to the daily pressures of a busy industrialized environment.

On a Friday after work I drove the short 55 miles from my home in Springfield to French Pete. Up the trail a mile I was alone for a relaxing night by a noisy stream. Saturday I saw two young fishermen with close to their limit of trout. I stopped fishing when I had 5 fat ones. They became my delectable lunch over a small fire. Not since I've fished Eagle Creek, 40 miles from Portland, have I so easily caught fish—scrappy ones at that.

On up the trail, I came into the most magnificent stand of timber I've ever seen. Of course lumbermen want this easily accessible premium crop. The trail is in poor condition—many limbs and small trees were down after the hard winter, but it was amazingly litter-free, except in the areas where United States Forest Service surveying has begun. I made my way along an old trail toward Quaking Aspen Swamp. I stopped to gaze over a marsh; there was a big cow elk. I didn't bother her a bit. On up to the Aspen Swamp, I really lost the old trail. A new one can take the hiker up the East Fork Road. However, I chose to skirt around the southwest side, looking for old blazes when out in the swamp there were no other marks of the trail. Then out in the swamp I noticed not one but two huge bears foraging in the bushes. In 19 years that I have hiked the Cascades as a Boy Scout in Portland, I've never seen a bear, except in the zoo or the National Parks. Believe me, when it's late in the day, you're in total wilderness with no discernable trail and you come upon two bears and an elk, you know what the old Oregon country was once really like. Only a compass, some military experience and the pack on my back provided some security.

Climbing up a rock slide, I finally crossed the improved Lowder Mountain trail and came upon a plateau for a good camp with a view. The panorama into this virgin valley of French Pete is breathtaking. Again, I've never seen anything quite like it. Sunday became just as impressive through the Yankee Mountain scenic area, but the contrast between French Pete and the intensively logged South Fork of the McKenzie is strikingly depressing. If French Pete is logged then the reason for the Yankee Mountain scenic area will no longer exist. Down the side of Yankee Mountain an active outdoor group has fashioned a crude trail to link with the Old Yankee Mountain Trail up from the South Fork Valley floor. Thus, down the route I completed an exhilarating weekend hike, ending up where I'd started—approximately 20 miles. In this region there is at least one other circular weekend trip available and 4 one-way day hikes for the party with two cars. The wilderness recreation potential is tremendous.

Other circular weekend scenic wilderness trips are not readily available in the Cascades. The proximity of French Pete to the second largest population center of the state has greater wilderness appeal over the years than does high yield logging. French Pete should be allowed to be the last remaining virgin valley for the people of central Oregon and all her visitors.

If those who hear these words aren't as sensitive to the need for such remote country as I am then they won't understand my plea. Surely, both prerogatives for the use of French Pete can muster strong supportive arguments. But I have seen every square mile of this lower valley and in an objective manner, I can honestly evaluate this as a much greater asset as wilderness than as a multiple use developed area.

Please consider this evaluation along with all the other arguments that we have had here today.

Thank you.

Mr. BARRY. Thank you very much.

Mr. Allan Coons?

Mr. ALLAN COONS. Thank you. That will be a very hard speaker to follow.

My name is Allan Coons and I live at 2742 Wingate Street, Eugene. I have lived in Oregon for the four years preceding this date and before that I had lived in Eastern Oregon for a number of years. I have had breaks in this when I was in the military service and college.

I am currently chairman of the Eugene Sierra Club and am a member of some other outdoor organizations.

I am speaking here at this time primarily as an individual. I don't have a written statement now to present, but I will later submit a written statement and direct it to Senator Hatfield.

I submit that one of the important aspects of French Pete Valley is its status in this country as a museum piece, an outdoor museum piece, if you will. Perhaps 100 years ago, French Pete was not extraordinarily unique, but even then it was an intrinsically beautiful valley. There were other valleys, no doubt, which were also beautiful. When one considers the history of Western Oregon in the interim and looks at the countryside from an airplane as I have done and probably many others in the audience has done, one is struck by the lack of any extensive unbroken canopy in the valleys that haven't been invaded, either by clear cutting and/or by roading.

I know that the French Pete committee has done a survey over the Western Oregon Cascades, and I believe their figures are that there are perhaps three other valleys which are somewhat similar to French Pete in size and extent and are not roaded. One of them, of course, is protected in the wilderness area but it is not accessable by trail in its lower regions and is very difficult to get into. There is Eagle Creek, the previous speaker mentioned up near Portland and then French Pete.

French Pete as we know, unless we do something and this Bill which we are seeking to have pass, will soon be no more.

The Forest Service study, particularly the Hendee Report, which was done as I understand it, two or three years ago, and which has probably been referred to by other speakers indicates that there is a need for a type of recreational experience somewhere between the developed camp sites by the road such as are prevalent throughout the forest and the wilderness experience, where you throw your bag on the rocks near the trail.

The Forest Service, to date, has not really done a very good job in providing this type of a recreational experience. In French Pete, we have the opportunity of providing an intermediate recreational area along the lines contained in the Bill.

As a minimum, I suggest that the area should remain roadless and motor vehicles must be excluded. There can be no substantial timber harvest. It would be possible to have campsites or semi-camp sites, that is, having some sanitary facilities and things of that type.

It would be appropriate for groups to use an area like French Pete as an intermediate recreational area. It may be that we will see or have seen the end of group use of the wilderness. The Forest Service in the Williamette National Forest and the Deschutes National Forest have done a survey on the group use of the Three Sisters Wilderness and other wilderness areas.

Indeed, wilderness areas throughout the west and probably throughout the country have been over used. The Forest Service, on this forest and in other areas, are beginning to institute permits for the use of wilderness areas. I think that we can see the day when the number of people going into wilderness areas will be limited. The likelihood is that the first hikers to be limited will be groups like Boy Scout Troops, Park and Recreation Department outings, Girl Scout Troops, and other groups like that. These people have a genuine interest in having a high quality roadless wilderness experience. Unless there is an area like French Pete and hopefully some other areas too, there will be no where where these people can go for this type of experience.

French Pete, also, I submit will take some of the pressure off the wilderness areas. Certainly being of the recreation quality and beauty in the area, it is in danger of being overused. The existence of French Pete and perhaps the expansion of development in French Pete, the recreational development, would take some of the pressure off the wilderness area. Perhaps will come the day when we have to exercise more rigorous control on access into the wilderness area.

French Pete is close to Eugene. It is within 60 miles of the Eugene-Springfield area. You have recently seen editorials and articles in the local newspaper suggesting that we may have between 4 and a half and six million visitors from out of state with us for this summer, most from California. It suggests itself to me that maybe we ought not to promote tourism. Be that as it may, whether we promote tourism or not, it seems that we are stuck in a beautiful State and we are stuck in a position where people can see that things are going to be destroyed and continue to come into Oregon in large numbers.

I think that we need an area like French Pete, which would be available primarily to local groups and to the lesser extent to tourists.

We are going to need someplace to resort to get away from the population pressures that we experience by virtue of living in this area. I think that we have got a duty to ourselves and to our progeny to maintain this area in its wilderness state.

That is all I have.

Mr. BARRY. Thank you. Mr. Thomas Drischler?

Mr. THOMAS DRISCHLER. I am a student at the University of Oregon and I live in Eugene. I am currently enrolled in a mountain hiking class, a physical education class. Last Sunday we went to French Pete and that is the first time that I had been there and I was really struck by its beauty. Today, I heard there was going to be a hearing and during my boring philosophy class, I threw together some poorly written prose on what people who would like to see French Pete logged and what kind of attitudes they must have.

On French Pete—Ah! Those hideous brown trucks seemingly reaching half way to the sky, those depressing green branches drooping over the lone, one-lane paltry trail—it's all so disgusting! A chorus of gentle scents flows through my nose and into my lungs making me want to run back to my car, start up the engine and stick my nose in the dual exhaust pipes so I can lap up some of that good old carbon monoxide.

I hate the way the trees blot out the sun. They don't do a very good job of it—there are patches of sunlight all over the forest floor, making it look like a giant pizza somebody threw up. Buildings in the city don't let any light in.

What a pain in the ass it is to hike up this trail. Walking up and down all these little hills and having to cross the creek by log bridges is bad enough, but add to that having to listen to all those different streams and the roaring of creeks and you really have an obnoxious and unendurable experience.

I've heard they are going to log here. It's about time proper use was made of this natural junkyard. This forest has been standing several thousand years too long. Oh, boy, they'll put roads in here too. What fun it will be to cruise here. I'll lay rubber over here where I've done all this sweating today. I hope they'll get rid of the damn creeks. Why, it's so clear you can see the ugly rocks at its bottom. The fountain in the Eugene Mall is so much more becoming.

Those executives from the lumber companies are all heart. People just don't seem to realize that they don't want to make a buck. It's plain to see that their motives are purely altruistic.

Mr. BARRY. Mr. Mark Rowen?

(No response.)

Mr. BARRY. Mr. Peter Murphy?

Mr. PETER MURPHY. You are a tough one to follow now, especially since I am one of those timber executives.

I am Peter Murphy and I live at 2820 City View Street, here in Eugene, Oregon.

I appear before you here today as an interested citizen, an employer in the Forest Products Industry, also as a member of the 23 member Ad Hoc Committee appointed early in 1969 by the then supervisor of the Willamette National Forest, Dave Gibney. I serve as a member of the Advisory Committee now for the Willamette National Forest and as a member of the 11 member Advisory Board on National Parks for the Secretary of Interior.

I would like to refer to our Ad Hoc Committee of 1969 appointed by Supervisor Dave Gibney. In early 1969, the Forest Supervisor appointed an Ad Hoc Committee of 23 persons, broadly represented the public interest in the national forest question. After being furnished with study results and background materials, the group met on March 13, 1969.

The Forest Supervisor presented a tentative plan of management to the committee and invited expression of opinion from each member. The Board approved the management plan as the majority view.

I have a list of the 23 members who made up that committee, and they are all my good friends, both conservationists and preservationists were on the committee.

French Pete Creek has been studied, plans developed, reviewed and revised several times. I have been involved personally through many of the above committees with my conservation friends in planning the future for the French Pete Valley. It is hard to imagine that any startling information could be forthcoming from any group at this time. To me, the conservationists, of which I consider myself a member, and the preservationists can already claim a 99 percent victory. In essence, they have all but shut out the timber industry from this beautiful valley.

The allowable cut from this 19,000 acre tract is less than 4 million board feet per year—which is only the minimum amount needed in order to protect this drainage from further deterioration, forest fire potential and thus offers only the proper management needed for the Valley.

Only one permanent road system is to be constructed into the interior of this massive valley and this is to be closed off when not in use for log hauling or timber sale development. Then it only will be available in times of normal logging use. The only permanent roads to remain open, surround the French Pete area and these are simply peripheral roads.

I would like to refer to the Oregon Senate Joint Memorial #4 that was passed during our last regular Legislative session and at that time you will find all the Lane County Legislative Delegation supported the following paragraph in this memorial: "We further urge that no ecologically disruptive logging methods be allowed for the removal of trees and no permanent or conventional road systems be built, that no roads of any kind be built within 400 feet parallel from the center line of major streams, and that any clear cutting be located, limited in size and in shape, not to impair any scenic view; that harvesting of timber be allowed only after the regional forester has held public hearings and developed a plan for such harvesting which will minimize any adverse effect on scenic, recreational, and ecological values."

Now, mind you, this memorial was signed by each and every Lane County elected official in the legislature. Our three senators and six representatives, many local conversationists, and interested citizens from the timber industry had fully endorsed this memorial.

From a point of view as a member of the Secretary of Interior's Advisory Board for National Parks, I would like to state that the present status of French Pete as planned and presently authorized by the Secretary of Agriculture is already better equipped for handling of the public than most of our National Parks—very few roads at all to be constructed—the only permanent roads, as I mentioned, are those that surround the area, and this, I believe, is a necessity. Why should we shut the motoring public out altogether? Our senior citizens that are no longer able to get around, our physically handicapped as well as the mentally handicapped who cannot go out on their own, the blue collar worker of Lane County and the State of Oregon and others who do not have the time to pack in, and others who are not interested in pure back-packing or wilderness environment. Why don't they have the right to visit on occasions this impressive Valley? These peripheral roads will offer that to them.

Four wheeled vehicles are to be banned from the French Pete Valley under the present Forest Service plan. The National Parks system backs this proposal all the way. The use of trail bikes and skidoos in the Valley are to be considered at a later date and this I agree with because already the National Park System has backed down on the destruction that they thought would take place with the use of Skidoos. They find not that skidoos is not that bad of a threat and they are getting along and they are much better than the motor bike themselves. I think that French Pete could be used for skidoo traffic in the winter.

Now for my evil timber industry point of view—some of the discussion early today and I wasn't here to hear them, but I heard comments, centered around the issue of log exports. It has been stated that by banning all log exports from the National Forest lands that we could consider a reduction in the allowable cut, and we could do away with the need of the timber the industry is fighting for out of French Pete. This is not true in the State of Oregon. The Japanese and our other foreign markets who buy our logs, if they don't get our logs, they are going to get our lumber, or plywood, our finished product, and thus remains with more pressure on the local industry, regardless of what we would be removing from the French Pete Valley. The log export volume allowed from the Willamette

National Forest now would not keep one sawmill or plywood plant in the Willamette Valley operating for a year. The Forest is now allowing only 19 million feet to be exported and I would venture to say that after 1973, less than one half this allowed figure will be exported—there simply is too much red tape to contend with and the domestic demand is already applying the pressure to the exporters. So, I personally cannot buy their argument of banning exports to relieve pressure and take care of the demands of the local manufacturing plants.

As for clear cutting the French Pete, I believe this is not a point for argument. This Committee has laid out in the Memorial # 4 and it clearly states that the public hearings would be held before any logging took place in the French Pete Valley and I don't believe that there is any committee that would accept any type of clear cutting in the Valley.

I honestly believe that we can work it out with Senate Bill Memorial #4 and that it lays out the ground work to preserve French Pete Valley. The fellow checked to see if I marked my ballot with yes on preserving French Pete and I did mark it yes. The only thing is that I am not talking about full preservation, but I really believe that what is laid before us today is a decision of multiple use in the forest in everything that the conservationists and the preservationists favor.

Thank you.

Mr. Bettis. Mr. Murphy, although I recognize that you are not here as the representative of any individual company, could I ask who your employer is?

Mr. Murphy. Yes, I work for a family owned company, Murphy Company.

Mr. Bettis. You state that French Pete has been studied and I have, of course, seen also many of the studies. I am unaware as yet of any study done by an ecological team. Has such a study been done to your knowledge?

Mr. Murphy. Yes, there sure has been such a study conducted, I think as early as 1966 and I think that it ran through 1969. During that period, the Forest Service had different teams in that area. I have not read their findings, but I know that it was released. . . .

Mr. Bettis. Were you here when Dr. Cook was commenting on the value of the area for scientific study?

Mr. Murphy. Yes, I was.

Mr. Bettis. Particularly the value for providing a norm against which the effects of logging and so on, could be judged? In that, the preservation of the area could be of great value to the area, itself. He expressed the feeling that any form of construction work would certainly have extensive effects on the value of the area as a norm. Do you have any reaction to his feelings on this?

Mr. Murphy. Yes, from what I have seen of those plans, the amount of roads is going to be such a small percentage, there are going to be so many areas that are going to remain virgin, that I don't think that what little road is going to go in there is going to destroy any norm that he might be trying to establish. There will be a tremendous area left to study, both scientific and I think from all points of view. I think that speaking from industry side of it now, that we would supply any study that would go on up there; but there is no immediate timber removal plan for the area until something like five years. It is my understanding and so they could make any studies of it for five years. I think that when this was proposed and endorsed that we had all the protection that we need to do a good job there.

Mr. Bettis. The idea of saving an area like this for study in the unforeseeable future, even if it would hold possible benefit to the industry, would not be attractive to you?

Mr. Murphy. Not the entire area, no. We talked about the proximity to Eugene and I talked about many senior citizens and old people that would like to come into that valley and they can't get in by foot because they aren't capable.

Mr. Bettis. And yet he described the area as unique and that would be the factor, because of its size, and make it so valuable.

Mr. Murphy. I support the unique factor and I don't disagree with him on that.

Mr. Bettis. What about Professor Watson, were you here for his comments?

Mr. Murphy. No, I was not.

Mr. Bettis. He commented on the fact, much to my amazement and I thought that the figures were wrong, but backed it up that some 20 percent of our logs are now exported?

Mr. Murphy. 20 percent?

Mr. Bettis. Yes and he had very strong substantiating figures to back this up. I gather from what you are saying now that and we see the facts here that withdrawing French Pete from the allowable cut would reduce the logs availability, am I correct here, by one percent, is that correct? That would reduce the cut by one percent and yet we are exporting 20 percent? Or are these figures incorrect?

Mr. Murphy. Under the new study done by the Forest Service, as we passed out by Senator Harden, I understand that the removal would only be some three to four million a year, which was a reduction. Originally it was around 18 million and then it was reduced to around seven and as I understand it, it was more like a 50 percent reduction from that seven million, so we are talking about three and a half million board feet a year.

My point on exports and I wasn't here for Dr. Watson, is that our company depends upon Federal suffrage for survival as many others do in the Willamette Valley and throughout Washington and Oregon do. The Government is making it so tough today to live with exports. We really aren't getting a fair shake for what was allowed under the Morse Amendment in 1968, as it was laid out. I don't know if you understand the export law, but it goes according to how far away you are from the port, by proximity. And as you know, Eugene is a long ways from the nearest port, so the Willamette has the least of any exportable footage allowed except to the south. As you go south, the Umpqua and Roseburg has less footage. The north and western part has more allowed because they are closer to the port. So, we are allowed 19,000 feet a year off the Willamette, which is the largest cutting forest in the northwest.

Like I mentioned, by the end of next year, 1973, I think that less than 10 million board feet will be leaving the Willamette National Forest for foreign markets, whether it be Japanese, Italian or German markets. Less than 10 million and that will only run the average sawmill for half a year.

Mr. Bettis. Now, we are talking about the allowable cut from French Pete under the revisement?

Mr. Murphy. No, I am talking about the full forest.

Mr. Bettis. Yes, but now we are talking about the future and you were talking about a 3.4 million cut?

Mr. Murphy. Less than 4 million cut.

Mr. Bettis. How long is that going to run a mill?

Mr. Murphy. About two months.

Mr. Bettis. That will have a very, very tiny influence on the economy of the area, won't it?

Mr. Murphy. That is right. But that brings out my point about the point of the great amount of exports today. If you use it on French Pete, I will use it on the Willamette National Forest.

Mr. Bettis. So, really in either case, we are not going to have any great affect on the economy?

Mr. Murphy. That is right. Either way, the import/export issue is really minute, in view of the overall demand.

Mr. Bettis. Thank you.

Mr. Barry. Mr. Murphy, you are talking about some concern for the senior citizen to give them some access to look at this beautiful valley so that they could be able to drive to it. I take it that you are aware that almost all of the valleys with streams in them in Western Oregon have roads beside them already, so that the senior citizens have ample opportunity to see the rivers from their automobiles?

Mr. Murphy. The other valleys?

Mr. Barry. That is right. The Umpqua, the little Fork of the Willamette and then you drive for miles along the Middle Fork of the Willamette and comparable country. That seems not to be identical, but you couldn't tell the difference from the car anyway, could you?

Mr. Murphy. Well, I think it would be very impressive for them to drive up on a nice summer afternoon and see the view of Central and Eastern Oregon.

Mr. Barry. Well, wouldn't you agree that as long as they can stagger around just a little bit, that the Senior Citizens could allow those citizens that are just a little bit more agile just one valley in this area where they could walk without any roads?

Mr. Murphy. You are going to have a lot of that valley where they can't get to anyway, that is right and I agree with you there. They already have the Three Sisters in which the senior citizens can't get into now.

Mr. Barry. Well, what I mean now is that people in wheelchairs would probably have a rough time going up some steep part of French Pete Valley at this time but no doubt they could see any one of a hundred streams in this area from their automobiles without having to leave their car?

Mr. Murphy. Well, you know that they have heard so much about French Pete that they probably will want to go there.

Mr. Barry. Well, I had not been aware of the fact that the timber industry was advertising the beauty of the French Pete, is this correct?

Mr. Murphy. I wasn't advertising it, personally, no.

Mr. Barry. They are quite beautiful?

Mr. Murphy. Yes, to look at.

Mr. Barry. Now, you mentioned that you were in favor of banning exports from national forests, is that right?

Mr. Murphy. No, I didn't say that.

Mr. Barry. Well, there is now a limited amount?

Mr. Murphy. There is now a limited amount of board feet, and that is 350 million board feet from all national lands, not just the forests.

Mr. Barry. What would you feel about the position that would not permit for export purposes the substitution of private timber to be exported and using the local timber for domestic purposes?

Mr. Murphy. Well, I support what you are saying.

Mr. Barry. You think that there should be a strict ban on substitution?

Mr. Murphy. Yes, I think that there should be a strict ban on substitution, right.

Mr. Barry. Thank you very much.

Robin Lodewick?

Ms. Robin Lodewick. My name is Robin Lodewick; I am a librarian at the University of Oregon. I am speaking for the Obsidians, Inc., of Eugene, an outing and mountaineering organization with about 350 members, and for myself.

The Obsidians have supported the proposal for a French Pete Intermediate Recreation Area from the start. We continue to do so. Nevertheless we recognize the opposition from some people to this proposal, which they call a "locking up of resources", at a time when jobs are still scarce and trees are getting scarcer. It has always been difficult to weigh economic needs against non-economic needs. We believe that saving French Pete is necessary from the widest economic viewpoint and we will try to show this.

The Obsidians schedule several hikes each year into the French Pete watershed; our members go there at other times, and some of them joined the Sierra Club in developing the Yankee Mountain trail, down into the valley, for the Forest Service. Like many others in the Eugene area, we find French Pete close, low enough to be free from snow most of the year, and very beautiful. Anyone who returns to the acrid smog that fills the Willamette Valley in summer knows that the hours spent in the green oasis of the forest have been more than "mere recreation", they have been givers of health and sanity.

This is a need for, and use of, the forests that will increase as our cities grow. People are overcrowding the wildernesses, to the extent that permits are to be required, from now on, for going into them. Recreational use of all kinds, in the forests, is increasing each year, just as the logging of the forests also spreads to more land each year. Where the two needs are compatible, this causes no problem. Wilderness, however, vanishes when trees are cut. Lumbering and wilderness are two of the multiple uses of forest which cannot coexist in the same place. Either we set aside more wilderness, or semi-wilderness, now, to fill the need for it, or we turn wilderness seekers back to picnic areas and city parks.

An intermediate recreation area, such as Senator Bob Packwood's bill proposes for French Pete, can do just this; provide semi-wilderness, where more people can come, more of the year, and yet do less damage than in the high mountains with their frail soil.

When the Three Sisters Wilderness was set up, the low-country forests on the west side, which had been part of the earlier primitive area, were removed. There was less pressure for other uses of the forest, then. Now, when we take the short trail to Lowder Mountain or to Olallie Lookout, and look across the unbroken green cover of the French Pete Valley, we know that it is the only place we know of where we can see Oregon as it used to be.

In response to protest, the Forest Service has changed their first logging plans for French Pete; they will let logging roads return to forest, leave tree strips along some stream beds, and cut in irregular shape patterns or patches; on the steep slopes they will wait for improved techniques, perhaps balloon logging, before they cut. These changes are all worthwhile; would applaud them anywhere. They do not, however, save the unique values of this basin. French Pete is one of perhaps six low-level valleys in Oregon, which are not yet logged or roaded. If it stays uncut for another two years, it will probably be the last uncut valley.

Anyone who is worried about his job or his business is going to fight anything that he thinks threatens it, and no one can blame such a reaction. Yet all of us should remember that automation of removing more forest jobs each year is more than the loss of the French Pete cut would cause, in the one year when it occurred.

There is a sort of desperation on the side of some of the preservationists also, which helps make this question a more painful one than whether we can afford to not cut a few acres of trees. Some of us see not our livelihood, but life itself, the life of nature and eventually that of man, under threat of the technological changes we have launched on the world, with their too often unforeseen effects. Wilderness, to such people, is not merely a symbol of opposition, it is an actual force opposing pollution.

We would like to suggest that there is another argument to apply to the question of French Pete, besides these deeply emotional ones that we have been talking about; a reason which perhaps can unite both the economic and non-economic sectors.

The increasing pressures on all our natural resources, public and private, due to increasing demand for both lumber and recreation, both dams and fisheries, both power and clean air, can be met only by a more intensive management of those resources.

With the Forest Service showing the way, all timber lands must eventually be managed so that every acre is used most efficiently. Culls will be taken out as chips. Cutting will be followed by replanting or even-aged, single-species stands using improved genetic strains. The trees will be harvested at the peak of their growth, at 60 to 80 years when they are still small compared to the trees we know. (I might add, in reference to the advertisements which have appeared in Oregon recently, opposing wilderness and praising Swiss forestry, that I once had an opportunity to see a Swiss forest. It looked exactly like what it was, a farm crop. Straight rows, no twigs on the ground, not a leaf of undergrowth. Probably it was well managed.)

Fertilizer will be used in our forests in the future, and insecticides. And yet, will all this be enough as nutrients are used up or lost to erosion? In 1967, I believe, at hearings in Salem, I was deeply shaken when I heard a research forester for the Siuslaw National Forest state that second growth forest can never match first growth, nor third growth match the second growth. How long, then, will we have any forest? Will we be able to stop the deterioration? Natural forests do not deteriorate. Can we learn from them, in time?

This forest management of the future is the same sort of management that has produced the "green revolution" of today in wheat and rice, and it presents the same dangers. Agricultural experts are worried, I have heard, about our dependence on a few strains of food crops. They say we must keep the full genetic reservoir, the worldwide stock of food species from which these high yield strains have been developed. Without that, our crops may be wiped out by disease. With it, we can go on experimenting, and breeding new varieties. The same truth holds for all the genetic resources that our generation inherited. We are in danger of destroying them, and we will be in grave danger if we do destroy them.

We must be afraid of a world where species are wiped out. We must be afraid of a world where soil fertility deteriorates. Our safety lies in keeping, in each biotic zone, a reservoir of species, of soil, of unchanged ecologic networks; those things that cannot be restored, in any way, by humans, if they are once lost.

In pioneer times, in bad winters, starving people sometimes ate the seed corn, which they were keeping for next year's planting. Then they starved, to death, in the summer, if no one else could bring them seed. The forests, today, are our corn; some must be kept for seed. There is no one who can bring us more, if we lose the seed.

Biotic reservoirs are the most basic need man has today. They are an economic need, a scientific need, a need that we all share, as we share life itself. French Pete can be such a reservoir, for all of us, if it is saved.

Thank you.

Mr. BARRY. I have eight persons who have indicated a desire to speak. We would like to close this session at 5:30, therefore will you please limit your remarks to two minutes and give serious thought to perhaps returning this evening, especially if you feel that you would like to make a longer speech.

The evening session starts at 7:30.

Scott Pressman?

Mr. SCOTT PRESSMAN. I just kind of came over here without anything to say but I am just involved with hiking and Oregon and have been for all of my life that I have lived here. Coming back from trips in the East, I come down in Portland and from Portland by plane. When you fly over Oregon from Portland to Lebanon, and you look down and the place looks like a big chuckhole, where it has been cleared. It seems to me that it is not very easy anymore to go someplace in Oregon and find some clear virgin land, that hasn't been destroyed by loggers or roads or whatever.

There are very few valleys the size of French Pete left anymore. Three, I guess and it is a shame that we should have to use up all of our resources or to manipulate all of our resources in the present without any anticipation or any looking forward to what future generations are going to have to put up with.

Most of the wilderness area in this State is land which is essentially unloggable. The timber is worthless to the timber industry and it is not good, straight lumber.

It seems a shame that you can't have someplace where it is easily accessible where the forest is virgin and the trees are like here what Oregon used to be like, back a long time ago. It seems like the future generations should have some idea of what Oregon was like.

Mr. BARRY. Thank you.

Pauline Lee?

Ms. PAULINE LEE. Pauline Sandoz Lee.

The expressed leadership of the industry, as I hear it from the last Oregon Logging Congress, is that the power structure of the industry is going to decide what use is going to be made of our Earth's natural resources. The industry expressed the concept of the growth-oriented political economy, but one which is actually unable to distribute goods and services justly even to our own citizens.

The impact statement of moving a timber economy into another type of economy has not, I believe been aired publicly. The kind of thing I think necessary is a review of a timber industry economics seminar I recently attended. The seminar was conducted by Stuart Rich, University of Oregon. The seminar tended to destroy myths lumbermen hold dear regarding: (1) "jobs will be destroyed if we don't have trees to cut", and (2) the necessity to save those old rotten giants of trees by cutting them on economic grounds, when in truth, in no way is it economical to pass by good merchantable stands in order to reach these old trees.

Actually, whole areas of trees such as the Rocky Mountains should not even be cut according to Barney Dowdle, Forest economics professor at University of Washington.

There has, I feel, been too little study of land-use problems. I feel, the timber industry, with its great power of inter-locking directorates has been stampeding the people into rash action—for profit only—with little or no regard for the necessity to ration finite earth resources.

Without even this kind of study, right now, better logging methods would save not only French Pete, but other areas as well. USDA Forest Service research, Portland, Oregon states that half of the tree is left in the forest.

Thank you.

Mr. BARRY. William Johnson?

(No reply)

Mr. BARRY. Kenneth Hertz?

Mr. KENNETH HERTZ. I have prepared a full page but it will take more than three minutes.

Mr. BARRY. Would you like to take a few minutes to summarize?

Mr. HERTZ. No, I couldn't do that.

Mr. BARRY. All right, you may submit this for the record then.

Bernt Hansen?

BERNT HANSEN. It seems to me that when we are looking at issues like French Pete and looking at the local impact, we are either going to think in terms of the economy of the bill and its very real national impact. The press is on. The need for areas of recreation is becoming apparent. Those places that have been set aside in other states, the more populous areas, are becoming more crowded and the National Park System is a good example. It seems to me that our parks are the most beautiful and ecological and environmental sacred areas and because they are so rare, they have become popular to the point of overpopulation and they will lose their charm.

So, we definitely need more areas for recreation, where people can shove off the pressures of an urbanized society.

In Oregon we have an abundance of such areas. The problem is that we have to determine the terms of national priority. We also have to think in terms of the future of Oregon and whether we are going to put all of our chicks on the timber industry or whether we are going to try to diversify and encourage tourism. Tourism is certainly a growing industry in Oregon, besides we have made mistakes and they lie solely in the few pockets in the preserved pristeen areas. We are going to go the same route that they have gone.

So, I think that we must just think in terms of the future and we must realize that if we act now or opt now for cutting, we are only prolonging the inevitable. That within, maybe a generation, maybe sooner and maybe later, we will be still at the point that we are now with the timber industry screaming for more timber, but we won't have that great abundance of timber that we do now. So, the question is whether we meet the challenge now and we realize what our priorities must be. We must tighten our belts now so that we can support an economy and the demand for timber that could be handled by areas that are under private cultivation or areas that lend themselves to cultivation that are now part of the national timber land.

I am not saying that all timber on national timber lands should be preserved. I am saying that we need to look at a concept that will work through all the options of the Forest Service's multiple use concept.

We are not also feeling some pressure of limited laws. We have a national law that will allow us to define certain wilderness areas, but the definition of the wilderness areas is so restrictive that it actually places a burden upon anybody that would like to preserve something that is not quite a wilderness area. That is the purpose of the bill that is before us, because it defines a new definition of an intermediate use area. It will be a pilot project, I feel, that will follow with a strong national law that will define wilderness areas and intermediate use areas.

So, I am for this bill and I hope that we will find a means by which nationally built Forest Service land can be preserved in its system that is not as restrictive as a wilderness.

Mr. BARRY. Thank you.

J. K. Dohnal?

Mr. J. K. DOHNAL. My name is J. K. Dohnal and I am a structure engineer working for Steel Structures, Incorporated, here in town. Six years ago I have defected from Communist Czechoslovakia and I came here to express today that I do not understand you Americans at all.

For I don't know how you can even argue about things like preserving the wilderness in your country. When I go to the cemetery near where I work, there is a grave that says, when this person moved into this area there was only one family living where Eugene is today, and that was about 150 years ago when people were pouring to your Country. That was when your Country was great and the spirit of your nation was great. I am here also to say that I believe with the philosophy that everything in the world is connected with everything else.

This picture behind you expresses or reflects the will of the United States of today. Growing, buildings and construction everywhere, swimming in some hideous color and the sky of smog and smoke so that you can hardly see the sun. Yesterday, Alabama Governor Wallace was shot. Robert Kennedy was shot a few years ago, and President John Kennedy. Those are moments when I feel afraid to live in this Country. I have left my Country because it became unliveable, but I must say that in my Country, have I seen environment being as squandered as I have experienced here.

(Applause.)

Mr. BARRY. Thank you very much, Mr. Dohnal.

John Frohnmayer?

Mr. JOHN FROHNMAYER. My name is John Frohnmayer and I live at 1975 Olive Street, in Eugene. I am a life long resident of Oregon. Over the span of the 20 some years that I have lived here, I have gone to school and I have gone to valleys that I once knew to be uncut and have found them to be clear cut and scarred by roads.

Each time I just feel that a little bit of my experience has died and something of me has died with that valley. When I have been away from Oregon, I have found that as I grow there, I grow restless missing the mountains and missing the wilderness that is available in this area.

So, I think that I know what it means to say that there is an experience in the wilderness and it is an experience that can't be duplicated and cannot be fabricated artificially. So, I am putting in my small word today for preserving that vista where one can look carefully across the valley and see no semblance of man, no symbols of man, no roads, no logging, nothing other than what was naturally there. I think that we must preserve this experience and I certainly hope that we can.

Mr. BARRY. Thank you. Mr. Mellem tells me that Mr. Frohnmayer was the 75th speaker of the day. Let's try to 76 and then wrap it up this evening.

Janelle May?

Miss JANELLE MAY. My name is Janelle May and I am a student at Oregon State. I came down to say that I am in favor of this Bill. In one of my classes that I had two terms ago, we are studying the Department of Outdoor Recreation under Stuart Udall. But one of the main things that caught my mind was that it said that they were going to preserve wildernesses for the future. It said that in 1970, that if the industries keep on cutting the timber in the wilderness areas that we have now, there will be no wilderness areas by 1980, which is just eight years away. It is scary and I think that we should support this Bill.

Mr. BETTIS. Miss May, you came down from Corvallis which is about 40 or 50 miles to the north of here.

Ms. MAY. Yes.

Mr. BETTIS. Would you have any possibility of going to a hearing like this in Washington, D.C.?

Miss MAY. Going to a hearing?

Mr. BETTIS. Right?

Ms. MAY. When, on the 25th?

Mr. BETTIS. Right?

Ms. MAY. If I could raise the money, I could go.

Mr. BETTIS. Well, it just struck that we have been here listening to a lot of wonderful people who have been able to come here and speak who absolutely could not have gotten to Washington, D.C. and who have said a lot of valuable things.

Mr. BARRY. It is now a little past 5:30 and if there are any persons who would like to speak and for whom it would be a great hardship to return this evening we could take two or three more.

Mr. HOWARD BONNETT. My name is Howard Bonnett and I live at 775 E. 22nd in Eugene. I would not be back tonight but I will keep my remarks short. I was on French Pete Creek this weekend and I feel very strongly that the Three Sisters Wilderness area should be expanded and that French Pete Creek should be included in the wilderness area. Also that the wilderness area should be protected by the bill that is going to be heard in Washington very shortly.

I know that all the arguments that I think can be developed and they have been expressed, although I haven't been here all day. I must though point out that there is going on still an enormous export of logs from the Pacific Northwest and we are essentially behaving as an undeveloped country. I think that any arguments by forestry representatives that they need the timber for building homes in the United States and they need the timber for jobs or anything else like that need to be dismissed because they are not utilizing the logs that they are cutting down here at the present time.

Just in the figures for January, Washington and Oregon exported 150 million board feet to Japan. This is out of a *Register-Guard* article on March 21, 1972. Twenty-five percent of this was Douglas Fir and there is no reason at all to export this as it is very easily utilized here.

I think that the amount of reduction in cut that would be lost by preserving French Pete bears no semblance of relationship to the value that it would provide for our generation and future generations to preserve it.

Thank you.

Mr. BARRY. Very well.

Mr. THOMAS O. MILLER. Could I just file my statement then?

Mr. BARRY. Yes, you may.

Mr. ELIASSEN. I would like to file my statement also, my name is John Eliassen.

Mr. BARRY. Very well, the afternoon session is concluded and we thank you all very much for coming. We will convene at 7:30 in the evening.

(Meeting dismissed at 5:35 P.M.)

TESTIMONY TAKEN IN THE EVENING SESSION

Hearing held in Eugene, Oregon, beginning at 7:30 p.m., Tuesday, the 16th day of May, 1972, in the City Council Chambers, before: Ms. Nancy Hayward, Chairman, Hans Linde, John Strong, Art Johnson, Bill Wyatt.

Mrs. HAYWARD. This hearing on S.B. 866 will come to order. Good evening, ladies and gentlemen. I am Nancy Hayward and I am going to be the person that manages the traffic in tonight's discussion about the French Pete Creek area. If you are interested in making testimony tonight, would you please make certain that you have signed up out at the desk in front, and we will be glad to hear you. We will be here as long as there is anyone that wants to testify. We will be glad to hear from anybody. Some of us might want to ask questions of those who are going to testify, any of us up here might and perhaps some of the people in the audience might want to also, but at any rate, if you will just wait for a moment at the microphone and give us a chance, we will be glad to have an opportunity as we might want to ask questions.

The first person this evening who has signed up to testify is Sue Blix from the Eugene Parks and Recreation. Sue?

Miss BLIX. My name is Sue Blix, but I am representing myself.

We are all aware of the fact that logging is important to our economy. But we are also aware of the fact that more people than ever before are becoming aware of the importance of preserving some portions of the natural environment for purposes of study and recreation. "Man does not live by bread alone." More and more people are discovering the joy of getting into the out-of-doors. It is ironic that at a time that there are more people wishing to go into relatively untouched areas for a few days or even a few hours of experiencing and observing nature, there are fewer such areas available.

We observe serious overcrowding in our wilderness areas at the same time as many lower elevation trails are being bisected by logging roads, clear cut over, or even replaced completely by roads. Many people, who visit the high country would be just as happy hiking in lower elevations if they could be assured some qualities of the wilderness experience—such uncut hillsides and clear, pure water. It is for this reason that many of my colleagues and I favor the intermediate recreation concept for French Pete.

In my capacity of supervisor of outdoor and environmental programs for a municipal parks and recreation departemnt, I receive numerous inquiries about places to go and am faced with a constant need to find areas to send our own groups. Much of the high country is accessible to hikers only about two and a half months out of the year. But Oregonians are year around hikers. Many of our favorite lower elevation areas have been ruined for hikers by clear cutting practices. Just this year, for example, I have discovered this to be the fate of the Packard Creek Trail, Hardesty Mt., Tire Mt., and Cowhorn—all nearby and accessible much of the year. Please don't let French Pete be spoiled too.

As for the argument that roads are necessary to prevent loss by fire (many of which, by the way, are caused by road building and logging practices), recall Big Lake Fire of a couple of years ago. Here is an area practically encircled by roads, yet the fires raged for many days. A shift in the wind was finally the deciding factor in bringing the fire under control. There are other methods for fighting fires, including the dropping of retardants by plane.

There are many arguments that could be waged in favor of saving French Pete. However, I'll close my remarks with a question: Is it any wonder that many of us have become disillusioned with the whole system when so many of the decisions that affect us so deeply at the local level are made by people somewhere else?

I'm talking about decisions such as those regarding the areas near and dear to us, like French Pete, whose future is being decided by people who have never seen at first hand the natural beauty that so many of us Oregonians have worked so hard to preserve for all Americans.

Thank you.

Mrs. Hayward. Thank you, Mr. Strong, do you have a question of Miss Blix?

Mr. Strong. Would you venture any guess or educated opinion on the amount of use that the French Pete area has now which would be lessened by this bill?

Miss Blix. I probably could come pretty close. Specifically, someone has some records, someone has kept some records, I am sure. I know, personally, that they are used, the high meadows are used very much. One can tell by the number of cars that one sees in the parking lot down there. This situation is not going to lessen—I am sure that it will increase. Of course, if this area is lost, or if it is closed, of course these people will walk farther, but they will find a way to get in there.

Mrs. Hayward. Thank you very much, Miss Blix. We all appreciate your coming.

I must really confess to not having served my role very well in some instances, and by, especially, in not having introduced the rest of those people who are sitting as Hearing Officers here during this evening's hearings. So, may I start out by introducing Professor Strong, who is from the Law School, on my far left, and then immediately next to me is Mr. Arthur Johnson, who is an attorney in the City of Eugene, and on my right is Mr. Wyatt, who is the newly elected Student Body President at the University of Oregon.

I apologize—that was not very good of me. Is Mr. Edminston here?

Mr. Edminston. Here I am.

Mrs. Hayward. Mr. Edminston is our next witness. Mr. Edminston.

Mr. Edminston. My association with the French Pete area goes way back. My family pioneered that country and area in the early 1900's. They built many of the fine homes in that area—my grandfather did that. My mother in the 1920's had ridden horseback all through there and we vacationed in there every year. We would hate to see it logged and we would wish to preserve what we now have up there. If it were logged, it would be different if it were reforested properly, but once an area like that is logged, they put the operation in the hands of tree planting contractors, and it is generally considered a waste of the tax payer's money because at least 75% of the trees that are planted never come up. They are under a contract to get so many trees planted in so much time—they are under a time limit—they have to get so many trees in the ground or else they lose their contract and their money.

I know this from personal experience and I think that we would just ruin this valuable area as a recreational area and it would just be a scar on the country side for many years to come.

Mrs. Hayward. Thank you, Mr. Edminston. Are there any questions of Mr. Edminston?

Mr. Johnson. You mentioned development of the land, and I assume that you mean the McKenzie Valley?

Mr. Edminston. Well, I meant all up and down this beautiful country.

Mrs. Hayward. Thank you.

Robbie Smith?

Ms. Robbie Smith. I'm concerned with the ability of the Forest Service to operate French Pete as a "multiple use" forest area. I realize that many citizens maintain their income from the harvest of timber. However, it is obvious to anyone who has involved himself with the forestry issue that parts of our forest have been abused by bad logging practices, which have not only left ugly scars upon the land; but have harmed the wildlife that you find in the forest. These damaging practices can be replaced with conscientious forestry through a reordering of priorities in the timber industry.

According to the law, "multiple use" forests are supposed to fulfill six functions: recreation, watershed maintenance, wildlife preservation, timber production, grazing, and mining. However, if 20 percent of the National Forest Service's $500 million budget for the 1971–72 fiscal year goes to timber production while only 8 percent and less than 2 percent go to recreation and wildlife management respectively, then the emphasis cannot be on multiple use but on timber production. Without equal funding, recreation and wildlife fall far behind timber production.

The Forest Service assures the public that French Pete will be set up as a multiple use forest area. From the above information, it is only too obvious that this type of use would be and bring the destruction of French Pete as we know it today. Why should Oregon have to sacrifice one of its last remaining virgin forests to the system we now have and risk destruction of irreplacable resources through possible mismanagement?

Mrs. Hayward. Thank you, Ms. Smith. If you have a copy of your testimony, we would appreciate getting it.

Are there any questions of Ms. Smith? (No response.)

There have been two other gentlemen who have joined us at the table, Professor Barry from the Law School, on my far left, who is most singularly responsible for these hearings that are being held, and Professor Linde, from the Law School, who is on my immediate right.

Mr. Ray Smith?

Mr. Ray Smith. Whenever Oregon's logging economic future is in jeopardy because of 19,200 acres in the French Pete area; cut it.

Please see if you can find some way to keep Oregon loggers alive without cutting French Pete.

Thank you.

Mrs. Hayward. Thank you, Mr. Smith.

Does anybody have any questions of Mr. Smith?

(No response.)

Now, Thom Nelson.

Mr. Thom Nelson. Oregon's economy is largely based on the timber industry and our lives depend on timber products.

Sixty percent of all public timber lands logged in the nation are done by clear cutting. It would be easy to assume that the French Pete area, if logged, would also be clear cut since economically, clear cutting is the best method for logging.

When driving through timber lands in Oregon, it is hard to find a scenic area that has not had some logging done around it. Last summer was the first time that I hiked up French Pete Creek. I appreciated being able to hike all day in a virgin timber forest and not see where selected portions had been logged.

Why should the Oregon Timber Industry need this valley to log with all the other timber lands still available to them? There are a few areas in Oregon that have been set aside solely for recreational use by man. I believe that the French Pete area should also be preserved as a natural wilderness for man to visit.

Mrs. Hayward. Thank you, Mr. Nelson.

Does anybody have a question to ask of Mr. Nelson?

(No response).

Thank you very much.

Esther Leong?

Mrs. Leong. In the Western Cascades there are 70 valleys of 10 miles or more in length. About thirty years ago, virtually all of these valleys were untouched by roads and large scale logging. They were perfect examples of ecological balance and magnificant retreats for those fortunate enough to know them. Now there are only three such valleys which have not been opened to logging through roads. Of these, Separation Creek is protected by inclusion in the Three Sisters Wilderness area: Eagle Creek is presently under study by the Forest Service, but has been rejected for inclusion in wilderness areas; and French Pete is now threatened by roads and logging. The terrible irony of this is that French Pete is a unique area which is near a major population center and easily accessible to people of all ages; and yet, this place, too, the Forest Service is willing to give to the loggers. Having seen 67 major valleys in the Western Cascades given to the loggers, it would seem that the Government has a responsibility to reserve two or three for those citizens—taxpayers and voters—who prefer nature roadless and machineless.

I am concerned that French Pete be saved not so much for myself but for my children and their children. At least I can remember what it was like to walk through forests which were unviolated by roads or machines, by cans, bottles and garbage. But what will be the situation for our children and grandchildren? It is hard enough now for them to find such untouched areas that they, too, can have such humanizing and ennobling memories. Considering future pressures of population for recreation areas, the present radical depletion of our natural resources, and the consequent need for a re-evaluation of our whole lifestyle, we should really be considering a moratorium on any further road building in our national forests, rather than whether to road and log French Pete or not.

French Pete must be saved. This is not merely a statement of environmental convictions; it is also a statement of political necessity.

Mrs. HAYWARD. Does anyone have a question of Mrs. Leong?

Mr. BARRY. You are familiar with the French Pete Creek area?

Mrs. LEONG. Yes.

Mr. BARRY. How long does it take to get there from Eugene?

Mrs. LEONG. Oh, 45 minutes, 44 minutes or maybe an hour.

Mr. BARRY. Do you know—well, I am just asking you these questions to complete this record on the subject—do you know what proportion of the population of Oregon is within that distance of French Pete—how does it rate with other areas of Oregon?

Mrs. LEONG. I understand that Eugene is the fastest growing population in the State of Oregon.

Mr. BARRY. That could be if we only had two persons and grew to five the next year—it is also the second largest population center in the State, isn't that right?

Mrs. LEONG. Absolutely.

Mr. BARRY. How far would it be from Portland, say?

Mrs. LEONG. It would be about——

Mr. BARRY. In travel time, I mean?

Mrs. LEONG. I think that it would be about three hours, I imagine.

Mr. BARRY. So I think that about 80 or 90% of the population of the State would be rather close to this area, isn't that right?

Mrs. LEONG. You can get to it very rapidly, too, from the large population centers, yes.

Mr. BARRY. So that means, if somebody wants an outing for a day in a forest, in a relatively untouched area, they could come to the French Pete area, isn't that right?

Mrs. LEONG. That is most important—it is such an easy area to walk through, so that means that even older people unfamiliar with such an area can go into it—if you are unable to take a hard hike—it is so easy for anybody to go through parts of it.

Mr. BARRY. Have you ever seen any real small children up there?

Mrs. LEONG. Oh yes, my own.

UNIDENTIFIED QUESTIONER. How far would you drive in one day to get to a wooded area?

Mrs. LEONG. I wouldn't think anything about driving to French Pete. I don't think that I would drive it in the winter time if French Pete were a long ways away.

UNIDENTIFIED QUESTIONER. Why would you go there? Is it just a day's travel or would it be more for some of the people?

Mrs. LEONG. The trouble with that question is what is a wooded, wilderness area? You go to a wilderness area to get away from people in some respects—of course, there are a few people there, but you can see the wilderness area the way it was a long time ago. I go to a wooded area to see it and I am sure a lot of other people do, too.

Mrs. HAYWARD. Any other questions?

(No response.)

Let me remind those that have come in since we have started, and if you wish to give testimony, you should go out there at the desk and sign up and then you will be called up here, and we will certainly be glad to have you testify.

Mr. Ewart Baldwin is the next one. Is he here?

Mr. BALDWIN. Here.

Mrs. HAYWARD. You are next, Mr. Baldwin.

Mr. BALDWIN. I am speaking in support for the efforts to preserve French Pete Creek drainage in the Western Cascades of Oregon. French Pete Creek is one of the very few streams still in its relatively unscarred native state. It represents a forest and plant ecosystem that is not adequately represented in our Wilderness areas. As a geologist who has seen much of the Northwest, I feel that French Pete Creek should be preserved in its natural state. I believe that there are values—I realize there are values in timber, but I believe that there are also values that are very hard to define in terms of money in the unspoiled ecosystems that can give to both ourselves and our future generations. I therefore think that it is very imperative that we save French Pete Creek Valley for our future generations.

Mrs. HAYWARD. I think that you are the first geologist, at least, to my experience that we have had testify today. Perhaps there are some people that have some specific questions to ask you—Mr. Wyatt?

Mr. WYATT. As a geologist, what do you consider to be the finest features of this French Pete Creek area?

Mr. BALDWIN. Well, the plant life, I think is more important than the geology of the region up there. The geologist, of course, is interested in it as a part of the Western Cascades, but the rock will be there still, even if you log it all off, but it won't be there in exactly the same form. But as a geologist, I would put much more emphasis on the plants and animals living there, and the interaction produced, and also the human values. I think of that as a geologist, and that is what I would be more interested in.

Mrs. HAYWARD. Thank you. Mr. Johnson, you have a question of Mr. Baldwin?

Mr. JOHNSON. In that respect, Professor Baldwin, you can see in the valleys, very clearly the patterns of erosion and the rocks that must be of interest to study, but isn't there also some value other than just recreation value for future students to be able to to see a valley like French Peter with its aesthetic value, where there have been a pattern of a development of a valley with heavy flora or any growth during that time—I assume that it would be some different pattern of erosion that would be of interest, isn't that a fact? There would be some scientific interest to the value, at least to early students of geology, at least they haven't been able to see a valley of that kind—isn't that so?

Mr. BALDWIN. Well, I would agree that it is an excellent example of erosion in the Western Cascades. I can't say that it is much better than some of the other creeks in this particular instance—it is a good example, but I would still make my point on the human values, my plea on the human values and the interaction bargaining going on there. I appreciate the outdoors and I appreciate the beauty and the nearness of it, approximately of the outdoors, and as I have mentioned it is a representative of a forest and plant ecosystem that is not adequately represented in our Wilderness areas.

Mr. JOHNSON. It seems to me that since they have logged all other valleys, essentially, that there will be increasingly so in the generations to come, significant changes in the valleys. You know if there is logging in a valley, even with the latest techniques, that there is considerably more erosion and changes in the soil than they originally contemplated—isn't that so?

Mr. BALDWIN. Oh, yes, that certainly is true—and the soil, you can do a good job of clear-cutting, and we are hearing of more and more what some timber men call slew cutting, and when it gets into the streams it forms artificial dams and temporary dams and such, and then the whole thing does go down. Just this spring, I have noticed more slew cutting than I have ever seen in any one year. I think this winter it happened on Nose Creek just this winter.

Mr. JOHNSON. I think that there were two right on the McKenzie Highway this year, were there not?

Mr. BALDWIN. Yes. Clear cutting definitely menaces the soil which slew cutting doesn't seem to do, anyway as yet it hasn't shown it. Yes, that is very true.

Mr. JOHNSON. But I was thinking, if you have any kind of separate, aside from slew out, if you have any kind of logging, you have some change in the soil structure in the valley, and then some, obviously, in the plant life in the valley, and isn't that as valuable to the student and unique for the student to see one valley that hasn't had that—hasn't it been contemplated by the scientists that there are many things in that valley that they haven't yet discovered and may not yet for another decade or so?

Mr. BALDWIN. Yes, of course—under the definition of ecology, you have organisms in the environment, but you can't upset the physical setting with like clear-cutting and the like without upsetting the habitat for everything, for the plants and animals.

Mr. JOHNSON. So, in that respect, it has an additional recreational value, if it is one of the last valleys of the kind, it is rather unique then I would say.

Mr. BALDWIN. Yes, I certainly would agree with you and would hope that it would stay with us for a good long time for us to study and use for study for future generations.

Mr. JOHNSON. Thank you.

Mr. BARRY. May I ask a question?

Mrs. HAYWARD. Go ahead, Mr. Barry.

Mr. BARRY. First of all, you have a relationship between the vegetative cover and the geology of the area, isn't that right?

Mr. BALDWIN. Yes.

Mr. BARRY. So, if timber is removed from that area, you would see a remarkable change in the structure of the valley and the hillside, isn't that right?

Mr. BALDWIN. There is a speed up in the erosion, a visible speed up, yes, and in growing and in things like that.

Mr. BARRY. And there are plenty of examples of this for us to use of this throughout the Western United States, aren't there?

Mr. BALDWIN. Yes, many.

Mr. BARRY. And as I understand it, there are few areas left in which nature combines with the top soil to combine what we have got—if we remove this example and if we remove this top soil and if we remove the trees, which we will be doing if we lumber it—we will then remove this example for comparison to those areas in which logging has taken place, isn't that so?

Mr. BALDWIN. Yes, the natural fall of vegetation helps prevent over dryness, it helps the supply of water where needed, it helps in regard to the soil, it helps to keep the soil in place—if you lose the soil, not if you lose it all, but if you lose any significant part of it, it damages the roots and the undergrowth, and it will not be there for future generations.

Mr. BARRY. I was comparing the types of landscapes—making a comparison between the sort of landscapes on the moon and what we have got on earth, it is actually a difference of what we have got on a vegetative area and a non-vegetative area, isn't that so?

Mr. BALDWIN. I think we would much rather take this evidence than what we have seen on the moon.

Mr. BARRY. Now, just for the record, Doctor Baldwin, would you tell us just a little bit about yourself, so that when this record, which will be reproduced in full in the testimony by Senator Hatfield by the Senate Interior Committee, of which he is a member, so that the Senators will know what your qualifications are—will you do that—

will you tell a little bit about your background?

Mr. BALDWIN. I have spent all of my life in the Northwest and have spent 29 years in the State of Oregon, and have been with the University 25 years. I have been in all of the Counties of the State, and have tried to stay most of that time in the State. As a consequence, I believe that I am in a position to compare French Pete Creek with other parts of the State and the Northwest. I am also a Professor of Geology.

Mr. BARRY. At the University of Oregon?

Mr. BALDWIN. Yes.

Mr. HAYWARD. Does anybody else have a question of Dr. Baldwin—I thought I saw someone in the audience that wanted to ask a question——

UNIDENTIFIED QUESTIONER. This morning one of the gentlemen made a statement that the soil up in the French Pete area has been washed naturally down to the rock, I believe that is the way he put it—down to the rock—I think that is the way he expressed it—it is rock and it is steep terrain—and really doesn't have much to offer the hiker—I believe that is the way that it was expressed, and that it would take years to erode it if it were cleared of the logs—what do you think of that?

Mr. BALDWIN. I do not agree—there is no difference in differences of yards and yards of rock. It, of course, depends upon what you want and where you are. It is steep terrain. I do agree to that—and it is true that you have to put roads in solid rock, but then you will have to go down quite a ways. It would also call for primary use of the roads, as well as away from the roads. If you want to see somewhat comparable type of terrain, you will notice the roads around the Cougar Reservoir on both sides. They had similar slides and similar rock, steep slopes, and I don't think that there is any question at all but that would make a terrific shock. I don't think that that would demonstrate to be the same kind of thing, if you were to put roads in there.

Mrs. HAYWARD. Excuse me just a minute—I wonder if you who asked the last question would identify yourself, please?

UNIDENTIFIED QUESTIONER. Yes, I am David Fletcher, Biology Major here at the University.

Mrs. HAYWARD. It is my adviser's suggestion that because there are so many people who are willing to testify tonight that perhaps I should not ask for questions from the audience, so, if you don't mind, I shall from now on not do that, at least until the very end when everybody is all through. Thank you, Mr. Baldwin very much.

Jonathan Hoffman, are you still here?

Mr. HOFFMAN. My name is Jonathan Hoffman. I am presently working for the City of Eugene and I plan on attending the University of Oregon Law School next fall. The reason that I wanted to testify is that I felt that developers are moving into Oregon. You can just walk down the street on a day like today and you can tell the developers because they are always kind of conspicuous. I do hope that they all do get very wet.

Well, it is with the lately development of all of these areas that we cherish that have come into play and that is the reason that I wrote this song and I would like to play and sing it for you at this time.

BACK ON HOME

(By Jon Hoffman, 1971)

All my friends grab their umbrellas when the rains come
They don't want to get wet
Or let any water on their humdrum,
But I think the rain is nicest in the fall
It washes my soul even better than Cold Water All.
I'm going back on home to Oregon
To where they still appreciate the day the sun comes
Back on home, light up my Franklin stove
Take a walk by the river where it's clear and cold
Everybody needs a place that suits him just fine
And I guess that Oregon's mine.
Have you seen the day the rain is falling while the sun shines
And the rainbow's grinnin' like a Cheshire Cat
'Cause it's feeling might fine
So I'll go back home beside the soil
Where the skies do more than advertise for suntan oil
I'm going back on home to Oregon
To where they will still appreciate the day the sun comes
Back on home where it rains a bit too long
And everything is perfect 'cause it's always slightly wrong
Everybody needs a place that suits him just fine
And I guess that Oregon's mine.
Take your airstream trailer and stick it in your milkshake
You can keep your Daly Cities
And sit beside the TV's and the earthquakes
Get your motorboat off of my home
Turn your own jungle back into a garden you can call your own!
I'm going back on home to Oregon
To where they still appreciate the single day the sun comes
Back on home, to go on my living spree
Back to where the restaurants spell "potato" with an "e"
Everybody needs a place that suits him just fine
And I guess that Oregon's mine.

(Applause)

Mrs. HAYWARD. I am not sure that you have paid your dues in the James G. Blaine Society, I recognize you as a true member.

Mr. BARRY. May I say something?

Mrs. HAYWARD. Mr. Barry, surely.

Mr. BARRY. I think for the sake of those back in Washington, who are basking in the sunshine, I think that the record should show that today it has rained continuously.

Mrs. HAYWARD. It may be 25 inches.

Mr. BARRY. Well, at least I heard over the TV tonight that it was a record for the day, that at least an inch of rain had fallen.

Mrs. HAYWARD. Mr. Strong, do you have any questions to ask of Mr. Hoffman?

Mr. STRONG. Mr. Hoffman, would you be quite as anxious to come back to Oregon and to French Pete if it were cut over?

Mr. HOFFMAN. Let me put it this way—I have lived in Oregon for 15 years; the last six or seven years I spent the last 4½ years back in Massachusetts going to College, and the year after that my wife and I spent the last year in the San Francisco Bay area, where I taught school, and then the last year we travelled around Europe, so I think that I have seen a fair amount of this country, and I have to admit that I have seen a number of areas, at least from a distance, they look just as nice as Oregon, but the nice thing about Oregon is that—when you live in San Francisco, you can go down to Santa Cruz and it is just as beautiful as anything that you will find in Oregon, you can drive to places where there are nice mountains and stuff like that, but the only difference is that there are twenty million people there at a time, at the same time.

Of course, the reason for that is, I think is kind of an extension of this multiple use concept which is that we should open everything up so that everybody can get there so that everybody must come. I think that that kind of indirectly answers your questions, but I didn't answer it in full, but the thing that bothers me is that partly the fact is that there are areas here where you can get away from everybody else, where you can find a little bit of quiet, after living almost a year right on the Bay-Shore Freeway—just a block from the Bay-Shore Freeway—and I really appreciate Oregon—and I think that people who are not from the San Francisco Bay area can really understand—I really like these open spaces—does that answer your question?

Mr. BARRY. Thank you very much.

Mrs. HAYWARD. Thank you, Mr. Hoffman. Mr. Ernest Lund.

Mr. LUND. I have no written testimony. I am Ernest Lund from the Geology Department of the University of Oregon. I am very happy to testify here and hope that there may be some questions that I am able to answer, although Mr. Baldwin has done a remarkable job of that. I have no written testimony and no written statement, but I must say that I agree with all of the arguments that have been put forth for preserving this area in its pristine form. I think that one of the few remaining clear streams is one of the characteristic of French Pete and it has not been ravaged by man. I agree that even a small clear-cut will have its effect on the entire system there, and to log it fully would certainly destroy the characteristics of that stream and would make it valueless.

Now, the point has been made that with clear-cutting there is an increase in the erosion. This is true because the forest acts as a sponge, and once the forest is gone, the rate of run-off is increased. Now, this affects not only the immediate area of the clear cutting, but also the streams below because the run-off increases so rapidly as the rate of the soil run-off increases. Now, this soil has to go someplace. Some of it is very fine silt and will be carried down into the stream and in certain cases some of the organic materials will also be carried down into the streams, where it will upset the entire ecological balance along this stream, as it is an increase in the rate of sedimentation.

How seriously it would be upset would depend upon how near the clear cut would be to this stream itself, and how near the road would be, but any activity, any activity will have this effect in some measure on the French Pete Valley itself.

Mrs. HAYWARD. Thank you, Mr. Lund. Does anybody have a question to ask of Mr. Lund. Mr. Barry?

Mr. BARRY. Do you happen to know what effect this sedimentation would have upon any spawning beds?

Mr. LUND. Well, this is not within my——

Mr. BARRY. Well, Salmon would spawn there, I think.

Mr. LUND. On salmon, probably not above——

Mr. BARRY. Probably not above Cougar Reservoir——

Mr. LUND. Probably not above Cougar Reservoir, no—I don't know exactly what kind of beds trout use to spawn, but I doubt very much—I think that they need sand—I doubt very much that it is mud—I do think that they need sand—the sediment that would come out of the clear cut would be to a large measure mud. So, off hand, I would say that the effects would be a negative one.

Mrs. HAYWARD. Thank you very much, Mr. Lund. Is Mr. Darryl D. Carper here?

Mr. CARPER. Yes.

I am Darryl Carper and a member of the Santiam 4-Wheel Drive Association based in Lebanon, with 74 members in Corvallis, Albany, Sweet Home and the surrounding areas. This includes young and old, able bodied and also the handicapped.

We would like the French Pete Area to become a multiple use land for conservation of natural resources for the use of over 90 percent of the people and not preservation.

Our stand on land matter is multiple use of land, resources conservation, development of recreational resources whenever and wherever possible and practical.

Working with government agencies to open closed public lands by eliminating existing resource damage and getting the fullest use of all lands, and further the education of members and public on resource problems.

Mrs. Hayward. Mr. Johnson, do you have a question to ask of Mr. Carper?

Mr. Johnson. Yes. I am concerned by the use of the description when you use the phrase "multiple use", because you suggest that this valley, as well as the entire forest should become used in multiple use matters, is that correct?

Mr. Carper. There are a lot of wilderness areas now, and approximately only about one third of one percent of the population does use it, is that correct?

Unidentified Voice. I read that somewhere.

Mr. Johnson. Do you have any idea of what proportion of the Willamette National Forest is roaded?

Mr. Carper. No, I don't know what the percentage is, no.

Mr. Johnson. Virtually all of it is roaded, is it not?

Mr. Carper. A lot of it is, but I think that there is a lot that is not.

Mr. Johnson. But my question is—what I am getting at is, what size of area would you say is too small to suggest for multiple use—if you have a ten acre piece of forest, are you going to make that subject to multiple use, too?

Mr. Carper. That is according to the lay of the land. I am not a geologist, a timber analyst or anything like that, but if a particular area can be best used for that purpose, then I would say put it to that use. I can't see locking up a particular area, if a person is strong, able-bodied with a pack on his back, walking in there for a day, winding up in this area and staying for a couple of days. If a person doesn't want to walk or hike up to a certain area, he should be able to drive up to see it is the other alternative. How are the handicapped going to see these areas? How is the paraplegic going to get there? He is as entitled to this right to see these places as anybody else.

For example, we have the Vietnam veterans, the paraplegics, how are they going to walk in there? They have as much right as anybody else to see these areas.

Mr. Johnson. My interest in the handicapped and the paraplegic is just as much as yours, I am sure, but I don't think that that is the issue, and that is why I am trying to find out what your testimony, trying to understand it, because as I understand it—say if we take it—there is a park in our neighborhood, which is a block wide—it is a matter of 150 feet by 100 feet in size, very small—well, the question is how small do you get a piece before you begin to use multiple use. Obviously there have to be roads where people can, who are not physically able to drive a four-wheel, or ride in a four-wheel vehicle, but do you want us to get to every piece, you want us to get to every valley for that use, or do you want to save the same for unique uses, for unique studies?

Mr. Carper. There are a lot of wilderness areas right now that can be used for such unique studies. I have never been up to French Pete Creek all of the way—I have been up to some of it. Particularly, I would like to see all of the use come out of the land that is available to be used.

Mr. Johnson. Well, accepting that proposition, then the question involves sort of an immobile use, multiple use—wouldn't multiple use, when it is properly defined mean that you are going to have at least one valley in the entire Northwest that is over ten miles in length that has not yet been subjected to logging or roads, just one valley when looking at it in all directions that you can, that there are clear cuts and there are roads, next to it—

Mr. Carper. Getting off of French Pete for a minute, and getting to the tram-way, say up Mt. Hood, surely there are a lot of people that go up there just to see the beautiful country from up there from the Mountain, but I don't know if it is very beautiful, as I have never been up there.

Mrs. Hayward. Does anybody else have any questions of Mr. Carper?

Mr. Barry. Let me ask you—I am just as concerned about the handicapped that might want to go up here, but can't because they can't walk that far, the paraplegic and the cripple—do you know of any other area, let's say on the Coast Range, or on the beautiful Coast streams or anywhere around here, that isn't accessible by car?

Mr. Carper. Well, I have been up to a lot of them—I have been up to Box Canyon and it is not too far by car.

Mr. Barry. Is this just another one?

Mr. Carper. That is one that I just recall now.

Mr. Barry. Now, you enjoy, I presume, taking your vehicle into the wilderness country, is that correct?

Mr. Carper. Yes.

Mr. Barry. You would be so selfish as to say, if somebody wanted to get away from mechanization, that there aren't some places that they could go?

Mr. Carper. Well, there are a lot of places right now that they can go. There are such places all over.

Mr. Barry. Yes, there are trails that motorized vehicles can go on, but still they are not for some people, isn't that so?

Mr. Carper. How do people get up into the French Pete Creek area to begin with? There is a parking lot up there, isn't there?

Mr. Barry. Yes, there is a parking lot up there a short ways, but say then, there are no more motorized vehicles—would you say, would you think that it would be fair that everything in the Northwest should be accessible to motorized vehicles?

Mr. Carper. No.

Mr. Barry. Or should be there at least one place not spoiled by the vehicles?

Mr. Carper. But I am for multiple use, but as I say, I think that we have enough wilderness areas right now for that purpose. That is as I understand it.

Mr. Barry. Do you know what percentage of Oregon is in wilderness?

Mr. Carper. No, I do not.

Mr. Barry. Who was it that said it was less than 2%—do you think that is too much to give to people who do not want motorized vehicles spoiling the landscapes?

Mr. Carper. They have already got it.

Mr. Barry. That is not the question—do you think that is too much?

Mr. Carper. Well, they will have to eat someday.

Mr. Barry. What has eating got to do with it? Well, that is enough, thank you.

Mrs. Hayward. Any other questions?

Mr. Johnson. I have one other question. Are you aware that the wilderness areas that are in Oregon, that they are so crowded, that there is so much overuse, but as of this year, you will not be able to enter any of them without a prior written permit, did you know that?

Mr. Carper. Yes, I understand that that is true and I think that is a very good job and everything—I think that is good.

Mr. Johnson. And also are you aware of the fact that, at least to my knowledge, there are none at this low elevation that could be used during the long winters like this one?

Mr. Carper. Yes, I am aware of that.

Mr. Strong. You have said several times that there are enough wilderness area and it seems to you that multiple use is always preferred——

Mr. Carper. Yes.

Mr. Strong. I take it by that definition then that you would say that none would be enough, is that what you mean?

Mr. Carper. No, I am sorry, I didn't mean to say that. I have explored a lot of wilderness areas in the last couple of years.

Mr. Linde. Your organization is called the Four-Wheel Vehicle Association, is that it?

Mr. Carper. Yes.

Mr. Linde. Your testimony today seems to be that you are interested in primarily access type vehicles—what do you mean by that?

Mr. Carper. Areas where these vehicles can go, I guess is what you mean.

Mr. Linde. And you might be interested in going to logged off areas, is that right?

Mr. Carper. Yes.

Mr. Linde. And they—you are concerned with logged off areas—now, you have spoken more than once about multiple use area—what other use with a vehicle do you think you could get from the multiple use lands—are you just concerned with the use of the vehicle?

Mr. Carper. No, not at all.

Mr. Linde. What other use then?

Mr. Carper. Well, it would depend upon the lay of the land, just what it is used for. If it is a good logging area, well, go ahead.

Mr. Linde. Well, that is what I was trying to find out——

Mr. Carper. If there are large rock abutments and things of that nature, then it wouldn't be very good for either, it seems to me—if it has good fresh water then that should be used to stock fish and it would be good for the fisherman.

Mr. Linde. Are you taking a definite position on this—I mean on the logging of this French Pete Valley?

Mr. Carper. We have a stand of seven items that I read off—those are what they are.

Mrs. Hayward. Thank you very much, Mr. Carper. Mr. Brock Evans.

Mr. Brock Evans. Before going into my prepared speech, I would like to throw out a few comments—when I was down at Klamath Falls, Oregon, on one of these things, the fellow in the wheel chair got up and said that he didn't care about going to such an area, but that he would just like to speak for himself—I am sure that you find that is what a lot of these people you have been talking about—how they feel about this. There are a lot of areas now where they can go. He thought that it was important to have some of these wilderness areas.

My office has run a survey as to what has happened in the Northwest about the wilderness area in the last 15 or 20 years. In the past so many years some 800,000 acres that were formerly in wilderness areas have been taken out of this classification by the Forest Service. One of the problems that there is is that all of the areas that you have in wilderness areas, all of the areas in National Parks, all of the areas in State Parks here in Oregon and you put them all together, then you have just a little bit over what you have in one National Park in the State of Washington, the Olympic National Park—that is figured in acres. Washington has just a few more people than you have, but in the State of Oregon, this is all that you have left of these once beautiful forests.

To anyone that wants to see what has happened to the Oregon Cascades, should fly over them from the east to the west—it looks like a great army of moths has attacked them—in clear cutting, there are nothing more than just a few little patches of timber left.

I have come a long way to be here today, not just because I represent an environmental organization with a historic interest in French Pete Creek which goes back 20 years, but also because I personally have cared about what happens to this valley ever since I came to know and care about the Northwest land, itself.

I think perhaps it is difficult for many who have lived in the Northwest all their lives to truly understand what an impact the Northwest landscape—its mountains, its rivers, its forests—has upon those who live elsewhere and come here for the first time. So it was for me, born and raised all my life in Ohio and went to college on the east coast, the first time I saw the Cascades, and the first few times that I had begun to walk the great forests of the Northwest, both in Oregon and in Washington. There is something about the Northwest forest that they just don't have anywhere else, the feeling of the great massed trunks of trees reaching up to the sky, the feeling of the ferns and moss under your feet, of sensing the awe when you see the soft, green light that envelopes everything around you, that sweet musty smell that we only find in the Northwest forest. This is really something very special.

Soon after I moved to Seattle about ten years ago, and started hiking in the mountains, I became very conscious that such deep forest places away from the roads and machines and logging were very scarce indeed, and getting scarcer. Place after place that I would walk into one summer would be clear cut or logged off the next summer or two. I became very sad and unhappy about what was going on in the state of Washington, and the pressure of conservation issues were deepened and I was interested in what was happening in Oregon too. I followed the controversies over French Pete, and lived with the memories of battles lost by conservationists from Eugene of an earlier time. The history of the long struggle to save French Pete went back to the 1950's and was a living sadness for me too, and I wanted even then to do something about it if I could.

Thus it was that when I took the job of Northwest Representative in 1967 for these organizations, and one of my very first concerns was to see if we could salvage something of what was left of the great gentle forests that once swept like a green train from the mountaintops to the sea in Western Oregon.

It was about that time that the Forest Service was preparing its first major timber sale of French Pete, and I remember the long efforts that summer of trying to get the people together to see if we could make one last effort to save it and do something about it, so that all people could enjoy it. To keep a few places free from roads and logging, chainsaws and clear cuts.

I remember coming down to Eugene in a rainy January in 1968, and I lived three days at the house of Win and Dick Noyes, to document what we instinctively felt to be true: that French Pete indeed was one of just a very few places left where one could walk all day in the great Oregon forests, and still, at the end of the day, not be near logging and roads and clear cuts and chainsaws. I took maps of every National Forest in the Oregon Cascades, plotted out all the major valleys that were ten miles or more in length—this being what a good day's trip would be. The results of the survey were even more shocking than we felt. Of 67 major valleys of this type, only three, including French Pete, were left. I believe it was this realization, based on this documentation, that might have helped to galvanize the people of Oregon into realizing that most of what they had considered was there and theirs and to be safe, and was already gone; and that French Pete—perhaps not such an out-of-the-ordinary valley once, now was almost unique in the whole state.

It was my privilege and honor to prepare the first appeal that we filed, to ask the Forest Service not to log the area, and I served on the original Forest Service citizens committee as it "reconsidered" the area.

I share the views of most of the other conservationists who lived through those times that, despite its "restudies", the management of the Forest Service at that time had no intention whatsoever of deviating from its original plan to log the area. I think that subsequent events pertaining to this appeal showed that this proved to be a correct assessment, because our appeals to not log the area have been rejected at all levels of the Forest Service and the Department of Agriculture hierarchy, and now we will have to go to court to save what should have been saved by the agencies we have hired to protect the places we love.

We like and respect the present management of the Willamette National Forest, but it is still my considered opinion that there has been no change in the agency attitude and that eventually French Pete will still be logged, unless they are limited before the situation becomes out of hand. That is why we cannot leave the issue up to simply administrative discretion. This place will be logged if this is the case. We must protect it, by law, forever.

That is why we support Senator Packwood's legislation. It is not as strong as we would like but we still believe that the area qualified admirably to be a part of the Three Sisters Wilderness. We think that it also qualified as a magnificent representative sample of the Oregon Cascades, to be protected forever in the proposed Oregon Cascades National Park. We have not abandoned that dream, either. We believe that Senator Packwood's bill will protect the place at the very least and guarantee that it will not be logged. We think this is very important and so we support it.

We feel that it is too bad that the other members of the Oregon delegation with the exception of Congresswoman Green, haven't seen fit to speak out as Senator Packwood has to help protect this place and we wish they would.

In flying up the Oregon Cascades, we saw what you are talking about with the clear cuts, it looked mangy and then finally you see French Pete, a whole green finger of valley sticking down in the low land and not the high country as most of the Wilderness areas are. All around Eugene you see the clear cuts and more are being planned.

This is what it is all about and this is what we are fighting for. I travel all over the Northwest as part of my job and I see a lot of beautiful places but I think that the charm and uniqueness and for special value of the Oregon Cascades, that the French Pete area is one of the very best places that we have, and that we should protect it. Thank you.

(Applause.)

Mrs. Hayward. Thank you, Mr. Evans. Does anyone at the table here have any questions for Mr. Evans?

Mr. Linde. How great do you think the differences mentioned in the Wilderness area and the intermediate legislation that we have here in Senator Packwood's bill are?

Mr. Evans. There are basic differences as I recall, the permitting of more daily campers, this sort of thing, than are permitted in the wilderness bills, although the two bills are pretty similar in this regard unless one goes over them with a fine tooth comb.

Mr. Linde. Do you know of any other intermediate recreation areas that are fairly close to us here covered by Senator Packwood's bill?

Mr. Evans. No, Senator Packwood's bill is unique—I think that it is a concept that needs to be explored—I think that we need places like this. I think that they have been wilderness areas for so long—they worked hard to get it into the Three Sisters Wilderness Bill—that we should go right down the line with areas like this, and keep it in a wilderness state. The bill is a good one, maybe not as strict as we would like it, but it is the best that we can do at this time.

Mr. Linde. Well, your primary concern is avoiding, and I take it motorized traffic—keeping that out, is that right?

Mr. Evans. Roads and logging and motorized activities, right.

Mrs. Hayward. Thank you, Mr Evans. Is Libby Evans here?

Miss Evans. My name is Libby Evans and I am a student here at the University of Oregon. I live in Eugene.

French Pete is more than a lovely carpeted forest of old growth timber in the Oregon Cascades. French Pete is a symbol with it meaning many different things to different people.

To some, this valley means dollars and cents, buying and selling and lots of big profits just ripe for the pickings in its estimated 700 million board feet of timber. To others it symbolized the imperative long, hard and bitterly fought political battles which eventually entail more grey hairs and political hassels for all concerned, but hopefully it will result in victory, thus assuring the valley's protection.

To me, French Pete means all of this and it means a lot more. To me, it symbolizes my humaness. A couple of years ago, I had the opportunity to live in an unbelievably crowded and economically depressed neighborhood in Chicago. At the end of my six weeks stay there, I flew home to attend my brother's wedding in Ashland. In less than 24 hours I went from living and experiencing the constant psychological and emotional tension of the desperate big city life to being able to see, feel and experience open space and the earth's naturalness. This contrast was truly overwhelming to me. Never in my life have I experienced such a great and sudden psychological and even physical release from the constant driving pressures—the inevitable result of the concrete and asphalt existence.

It doesn't need to be said that human beings reflect the environment in which they live. And as Oregon's population continues to increase by the great influx of people from other parts of the country who are coming here to get away from it all, it is obvious that not only do we need French Pete but also a hundred other valleys and forests like it.

One incredibly beautiful day early last fall, I had the opportunity to hike into the quiet, majestic beauty of this valley. The feelings that I experienced are hard to describe but I know that I do not have these feelings in any city I have ever been in. For these reasons, I know that I need a special place to go so that I may stay in touch with those feelings that make me a human creature.

Thank you.

Mrs. Hayward. Thank you very much. May I remind those of you who have come in since we started that if you wish to make a statement if you will please sign up out in the corridor, then we will have your name before us.

Now, we have several people who have come in and have indicated that they need to get away by 8:30 p.m., and already it is past 8:30, so it occurred to us that perhaps if I can get some indication by having you raise your hand about the number of people who would like to speak by 8:30 and now it is past 8:30, perhaps we could take the next 10 or 15 minutes and let you come up first—Mrs. Wingard, I know that you are one. Are there others that need to get away?

(Some response) I see there are about four or five over there—let's see if in the next 10 or 15 minutes, we can get all of you taken care of. Perhaps if we do in that fashion, we can take care of all of you, with you limiting your remarks to maybe three minutes. Mrs. Wingard, we will start with you.

Mrs. Wingard. I am Edna Wingard and I am a charter member of the James Blaine Society. I like today—it is a beautiful day. (It was pouring down rain here.) (Applause) I am one of those who came here forty or fifty years ago, and one of my fondest hopes is that I leave my grandchildren the beautiful world of French Pete Valley.

I want these places saved so that my grandchildren and their grandchildren can see my woods that I love so much. I want them to become acquainted with these woods, and to see the small animals and vegetation that live there, to hear the forest sounds, to be able to breath the fresh forest air, to see the little branches, the waterfalls that abound there, the sounds that are there that is nowhere else around, to hear the singing of the wild birds that are there. I want them to hear the scampering about of the small animals that live there. Were such ecological wonders destroyed they could not be replaced by all of the King's horses and all of the King's men. Were this forest destroyed for its lumber, air conditioners will not produce the forest and fresh air, his 3-D color films not capture the forest's true beauty nor his stereophonic recorders match nature's voices. Man's imitations are "Near the church, but far from God".

Mrs. HAYWARD. Thank you, Mrs. Wingard. Mr. Merrill is next.

Mr. MERRILL. My name is Ben Merrill and I am a student at the University of Oregon School of Law. I have a short statement tonight which is a testimonial with no authority and I hope that this is noted in the record, for whoever reads it.

What can be said that hasn't already been said about French Pete? No doubt outdoorsmen and women, environmentalists, teachers, students and other citizens of the community, have come here today and this evening to record their feelings about French Pete. No doubt by now you know the location, formation, dimensions and perhaps its preciousness.

But perhaps you would let me turn from these observations already entered today to something which concerns me, at least and perhaps you, a little bit more. For lack of articulateness, let me call it a national psyche. Nations like people, develop psyches. We have observed manifestations of a national psyche in Germany from 1932 through 1945; and perhaps more recently in South Africa.

No doubt there is a corporate psyche, illustrated most graphically in the recent articles about ITT, a psyche which drive corporations on to greater profit, greater expansion and greater greatness.

And yet the ever increasing gross national product must be interpreted along with the gross national by-product—tangible by-products like smog, water pollution and indeed, the act of expansion that strikes out and destroys that which we all cherish—here today, French Pete, tomorrow, perhaps some other wilderness area.

Now, the government is supposed to represent the public interest, but it does little to protest that expansion.

Those of us training to be lawyers can only stand like small boys before a leaking dike, attempting to put a finger here, a thumb there. We attempt to take what little law there is, and use it the best we can in the most imaginative way that we can to stop the environmental degradation.

How much better to make law, to urge the government to take the initiative to halt the wholesale destruction of natural, unreplaceable resources.

Let there be no mistake, the violence we find ourselves in abroad leads to national economic setback at home. In the name of progress, in the name of national interest, our Government is urged—"to get the country moving, we must exploit, exploit, exploit". Yet exploitation is the very reason we find ourselves in the quagmire we are now in today.

Let the Government take the stand for which it is created—to guard and protect the public trust of its lands, be they forest or city. A public trust what has been breached.

Stephen Byington once wrote, "It can never be unpatriotic to take your country's side against your government; but it must always be unpatriotic to take your government's side against your country."

To many of us, French Pete represents our country. There can be no higher patriotism than that found in those who urge a preservation of an area which represents the wilderness, the untouched splendor, the very spirit of the reason behind America.

Newscaster John Chancellor recently stated: "It is easy to find the United States, just hard to find America." Can't we find and protect a little bit of America in French Pete? I think that we can, and if we can, I hope that it is not too late.

One of the most articulate teachers that I ever had was a fellow by the name of Rick Schuman who taught a seminar at William and Mary College, who dedicated the seventh editon of his textbook to his grandchildren, in hopes that he would leave them a fit world to live in. If fitness means wilderness, let's leave the world just a little bit better.

Thank you.

Mrs. HAYWARD. Thank you, Mr. Merrill.

Mr. BARRY. What was the name of that author?

Mr. MERRILL. Stephen Byington.

Mr. BARRY. Thank you.

Mrs. HAYWARD. Mr. Baldinger, did you have a statement that you wished to make?

Mr. BALDINGER. Yes. Madam Chairman, here at this hearing, this is testimony in support of Senate Bill 866, to establish the French Pete Intermediate Recreation Area in the State of Oregon.

I am Wallace Baldinger, Director Emeritus, Museum of Art, University of Oregon.

I have been a resident of Eugene for twenty-eight years. Early in this period of residency I set out with my family to build a cabin on a summer home site in the Willamette National Forest on Hose Creek a short distance upstream from that creek's confluence with the McKenzie River. Every detail of our design for the cabin and of its exact siting on the lot had to pass the scrutiny of the United States Forest Service rangers responsible for the group of summer home sites involved. When a ranger blocked our proposal for a shed roof and forced us to build a roof with a gable instead, when he allows us to fell a single specific tree in order to make room for the house and at the same time forbade us to fell another tree which we thought needed to come out, too, my family and I developed a wholesome respect and admiration for the Forest Service as a protective agency dedicated to the preservation of Oregon's greatest natural asset, her mountain forests.

Yesterday my wife and I hiked over a part of the French Pete Trail. Our respect and admiration for the Forest Service was renewed. The Trail was in perfect condition. It afforded us as we walked along it, soon mercifully out of hearing of the roar of logging trucks carrying out the loot from a big cutting operation nearby, a chance to share intimately once again in the life of a completely undisturbed mountain valley so fortunately easy of access to the people of this part of Oregon, so precious a surviving unit of this once-flourishing Cascade Mountain forests. We were overwhelmed with the beauty of French Pete's tumbling waters, of its spectacularly cascading tributaries, verdant banks and towering rocky borders. We noted with satisfaction how carefully the Forest Service was keeping the Trail cleared, the little bridges in repair, the log-walks across the Creek fully and safely replaced every time a winter flood dislodged them. We remarked that any government agency doing such a good job of maintaining a wild mountain valley for its scenic and recreational benefit to the citizenry of our state cannot be all bad.

Then the realization came back to us with greater shock than before that it was this same Forest Service which was planning to open up the French Pete Valley to the same attack by loggers which had laid waste every other comparable mountain valley of the Cascades, south of Mt. Hood. It seemed a genuine case of "split personality", of a "Dr. Jekyll-and-Mr. Hyde" complex—with one hand tending the Valley with seemingly loving care, with the other offering it for sale to rape by private timber interests.

If the Forest Service were remaining faithful to the trust placed in it by the people of the United States and not operating as though its primary responsibility lay in offering benefits to loggers, then this hearing, organized by the socially-conscious students of the University of Oregon after Senator Hatfield's defection, would not have been necessary.

At this moment when our environmental crisis looms over us so insistently as to threaten our very survival, it seems especially important that the French Pete Valley be taken safely out of the hands of those repeatedly tempted to sell its timber holdings to the highest private bidder. It needs to become permanently established as a recreational area beyond all chance of damage by any private commercial operation. French Pete is much more, in fact, than a mere picnicing-hiking ground. It is a completely balanced river-valley region, shaped by nature through ages of action and reaction of organic life and force of wind and weather. In its internal adjustments of one aspect with another, it is infinitely complex. Outside interference by a road-building and logging enterprise would upset the delicate natural balance on which this life depends. It would ruin the French Pete Valley just as it has already ruined so many other mountain valleys.

We know now how seriously our burgeoning population and affluent ways of behaving and expanding technologies are destroying the natural environment on which depend not only the lives of the other creatures of nature but also the lives of ourselves. According to a basic principle of ecology, "Nature Knows Best." In the French Pete Valley Nature up to this point has continued to demonstrate that principle. In this one mountain valley near us at least, let her continue so to demonstrate. The French Pete Valley, protected against man's destructiveness but open to his exploration and inquiry on foot along the Forest Service trails, has much to offer us without the mining of its lumber. It has even more to teach us.

Thank you.

Mrs. HAYWARD. Thank you, Mr. Baldinger. Any questions of Mr. Baldinger?

(No response.)

Mr. Ed Mehlhaff is next, I believe. We understand that you have been waiting since this afternoon to make testimony and we all appreciate your staying that long.

Mr. ED MEHLHAFF. Last weekend, I was in the French Pete area. While I was there, I came under the influence of the majestic trees. It will be a crime against all Americans, both present and future, if the French Pete Wilderness is allowed to be turned into a clear cut wasteland. As of now, there are trout in French Pete Creek and the adjacent streams. If the area is logged off, this situation may change. Like most Oregonians, I have seen the result of clear cutting and I am totally committed against this practice.

I view the French Pete controversy as a turning point in our government. How the controversy is settled will determine whether we will have a government existing for the people or a government existing for big business.

Mrs. HAYWARD. Thank you, Mr. Mehlhaff. Does anybody have any questions?

(No response.)

Mrs. HAYWARD. Mr. Copeland.

Mr. COPELAND. My name is Bill Copeland and I am a Graduate student here at the University of Oregon in plant ecology, and I would like to mention the importance of the soil to plant interrelationship and say that it is very important, but actually we know very little about it.

In my field, and in a lot of others, too, you hear a lot about maintaining diversity—diversity of this or diversity of that—the importance of that. It is all important—we hear a lot about it in agriculture and it is important, and the first question that comes to you is WHY—Why is it important. I think in our lowland forests it is very important, just as it is in agriculture. These lowland forests, which could be considered in the French Pete Valley, maintain a different set of species and soils and climates from the highland forests, where most of our wilderness areas are now. We now are beginning to realize this, that the species and soils are different and also the climates are different.

We are just now beginning to realize how very, very important the soil plant interrelationships are, and also we are beginning to realize how little we know about this system as a whole, how important the organic relationships are and such. Now, once we cut the lowland forests, they will all be gone, and we will no longer be able to use them to learn how nature has managed them, and we certainly don't know how to manage them without nature's wisdom. She has certainly done a good job up to now. We haven't been able to duplicate them in any way that she has done. The high forest system cannot be used as a study because the soils and systems are quite different from the lowland forests.

Are we going to be so imprudent as to destroy the last of these few natural lowland forests laboratories, thinking that we know enough now to manage them by ourselves? I hope not.

Mrs. Haywood. Thank you, Mr. Copeland.

Are there any questions of Mr. Copeland?

Mr. Linde. Yes. Mr. Copeland, your statement makes mention of lowland and highland forests. What altitude are you talking about there?

Mr. Copeland. The highland forests probably have an altitude of 1700 to 1800 feet, something like that—I am not to sure, but it is approximately around that altitude.

Mr. Linde. Then what altitude would you define as a lowland forest?

Mr. Copeland. I believe below 1,000 feet would be lowland forests.

Mr. Linde. That is the point that I wanted to bring out—is there any lowland forests that are in wilderness areas already at that altitude.

Mr. Copeland. And the highland area would go all the way to 4,000 or 4,500 feet altitude, so that there can be a great deal of difference in it.

Mr. Linde. There is quite a bit of wilderness in the State already at the higher altitude, isn't there—is there any below 1,000 feet that you know of?

Mr. Copeland. Not that I know of. I think that the Siskiyous have some lowland wilderness area—but that is about all that I know of, the Kalmiopsis, also.

Mr. Linde. This valley is not covered up by snow all the year around, or even in the winter, there has been testimony that it is passable in places—for how long does the snow last up there in this valley, do you know?

Mr. Copeland. Well, there is snow most of the way down a good part of the year—where is the gate—at about 3500 feet—there is snow sometimes down there on the McKenzie, I believe.

Mr. Linde. Thank you.

Mrs. Hayward. I think Mr. Barry has a question or two to ask you, Mr. Copeland.

Mr. Barry. I am trying to find out just exactly what your specialty is—you have mentioned the soils and the ecology and their relationships on the Douglas Fir forests there, and on the clear cutting——

Mr. Copeland. Well, I have a tendency to look at what the clear cutting will do to our Douglas Fir forests in there and the interrelationships there on the soil and the vegetation.

Mr. Barry. Have you found any evidence that you can cut, clear cut Douglas Fir and bring it back without having some kind of intermediate growth there?

Mr. Copeland. What do you mean by bringing it back?

Mr. Barry. Well, bring it back to a similar type forest, cut it, and then bring it back to the same type of forest without having any intermediate growth there—have you found any evidence that you can do that or cannot do that—what I am reaching for is that I heard a speaker, who may have had some authority on what he said, or he may not have had any authority, but he indicated, anyway, that the cycle for regrowth of Douglas Fir is 37 years—that they could get a Douglas Fir Forest to regrow in 37 years—but there were others that said it might be 100 years before you could get a Douglas Fir forest to regrow, of course, depending on many different things, etc., have you had any evidence of either one of these things at all?

Mr. Copeland. Well, Douglas Fir can begin to come into a site anywhere from the first year after it is cut—say you have the natural conditions after a fire, that is one of the common ones—it can come back again from one year to 150 years—it may take a long time after that at any particular site—each site you have to look at it individually.

Mr. Barry. And this is the field that you are working in, is that right?

Mr. Copeland. Yes.

Mrs. Hayward. Mr. Strong, do you have a question?

Mr. Strong. Yes. Do I understand from your last statement that there is no particular guarantee that a certain site will come back into Douglas Fir after it has been cut or had fire in it?

Mr. Copeland. There is just probability involved. Some sites will be more conducive than other sites, it just depends on what type of site it is and what undercover and the type of ground that there is—that has a lot to do with it, but where tnere are a good many shrubs in the area, it is a little more difficult for them to come back.

Mr. Barry. Nor can the Forest Service do it, is that right?

Mr. Copeland. That is right. In fact I was out on a slash burn the other day when they were putting in seedlings and I was talking about this very thing, and they said that they were very anxious to find out about this very thing, and evidently there is some controversy about it among them, themselves.

Mrs. Hayward. Anything else, gentlemen, in the way of questions?

(No response)

Thank you very much, Mr. Copeland. Mr. Jay West, you are next, I believe.

Mr. West. First, I want to say thank you for letting me come on now. First of all, I wish to make a very brief statement on my own behalf. I can only say that there is only one French Pete. Now, I say fight to save it. Now, I wish to read a statement from Wayne Morse. This is a statement that is a couple of months old, but he feels that things haven't changed much and he wants Senator Hatfield to know how he feels about it. This is the statement.

"French Pete should be designated as a Wilderness Area or, at the very least, as an Intermediate Recreational Area. It is the only remaining unspoiled valley below 3,000 feet in the Oregon Cascades; it is low enough in altitude to be accessible the year round to people who want a quick break into the solitude and spiritual inspiration resulting from their entrance into the God-made French Pete cathedral of undefiled nature.

Our Federal Government cannot justify denying to future generations the French Pete Creek land as a protected area. All the talk about conservation, ecology, and preservation of natural cathedrals constructed of forests, mountains, streams and all the inspiring wonders of nature, becomes verbal hypocrisy if French Pete and Rock Mesa are allowed to become despoiled by logging and mining.

The Congress and the State Legislature should seek to prohibit the building of any logging or mining roads into these two areas; in addition, the Congress should pass legislation which will prevent logging in French Pete and mining in Rock Mesa. Furthermore, there should be no delay in proceeding with all possible legal action in the courts to protect the public interest by preventing logging and mining in these areas.

All of us as citizens, acting through our constitutional system of self-government, should view the government as the trustee of God's gifts to our nation of life-giving and life-preserving natural resources. That trusteeship places upon each generation the moral responsibility of leaving those natural resources to the next generation in a better condition than it inherited them.

The people should know that our government can be counted upon to keep faith with its trusteeship obligation to protect our natural resources so that they will always be an unspoiled legacy to each oncoming generation.

We have not been good trustees for a long time in the United States. Pollution of land, water and air; wasteful depletion of forests, soil, minerals, wildlife, scenic and outdoor cultural values are impoverishing our nation.

Talk is cheap, but sound public action to conserve our priceless natural resources is wealth-creating. The time has come for the Federal Government to substitute action for talk in carrying out its trusteeship obligations in respect to our nation's resources."

I will leave some copies of this and I thank you again.

Mrs. Hayward. Thank you very much.

Does anybody have any questions to ask of Mr. West?

(No response.)

Thank you very much.

Mr. Alan Fraback, you are next.

Mr. Alan Fraback. I am Alan Fraback and I am a journalism major at the University of Oregon.

First I would like to say that we care for the forest and do so very cheaply.

I demand the preservation of the French Pete Creek Valley not only as a concerned citizen, but as a near lifetime Oregonian who recognizes the unsurpassed beauty and natural resources of this great state. I realize that the timber industry has brought this state to a high level of economic balance to compliment its abundance of resources. But that balance is in danger of tipping the scales in favor of total exploitation of Oregon's natural resources. Economic benefits from resources serve as benefits to the people up to a point before they become economic hinderances. When such exploitation results in diminishing, rather than increasing, returns to the people it is time to put a halt to it.

I know the beauty of the preserved wilderness areas of Oregon and have seen most of it firsthand. But none of the high alpine country can surpass the French Pete Valley for lush natural beauty and an abundance of nearly year-round recreation facilities. I was awed only three days ago by the springtime beauty of the valley and witnessed the excessive use the valley is receiving even before it has become an intermediate recreation area. Where are these many people to go if we should turn French Pete over to the economic interests of a minority? Hopefully, they'll not have to go elsewhere in the future!

I fully support Senator Bob Packwood's bill to establish the French Pete Creek Valley as an intermediate recreation area.

Thank you.

Mrs. Hayward. Thank you very much, Mr. Fraback.

Does anyone have a question to ask of him?

(No response.)

All right, thank you very much.

Mr. Koford, you are next.

Mr. Koford, I have been told by my advisors that I am to tell you that if you wish to hand your statement in, that it will be printed in its entirety and that you can summarize it, and that is true for anybody else that has testimony that he wishes to make. So, I am leaving that up to you, but that is what will happen. It will be included in the record if that is what you wish to happen.

Mr. Koford. I will try to speak briefly.

My name is John Koford and I would like to speak for myself and the University of Oregon Student Senate. With me I have three resolutions passed by the Student Senate expressing their views on French Pete and the other wilderness areas in the State of Oregon.

We feel French Pete's value as an easily accessible low-altitude wilderness should not be jeopardized by extensive development. For this reason, the Student Senate of the University of Oregon wishes to express their support for Senator Packwood's bill S. 866. Further, the Student Senate wishes to go on record as calling for the continuation of the studies to determine whether the last remaining wilderness areas in the States of Oregon and Washington will be included in the 1964 wilderness act.

And the resolution:

"Whereas Senator Robert Packwood has introduced in the United States Senate a bill to establish French Pete Valley as an intermediate recreation area,

"Whereas Senator Packwood's bill would keep French Pete Valley as it is now—in its natural state,

"Whereas the U.S. Senate Interior Committee, headed by Henry Jackson, has scheduled subcommittee hearings only in Washington, D.C. (May 25 and 26 of this year), concerning Senator Packwood's bill,

"Whereas said Senate committee has scheduled no field hearings for Senator Packwood's bill,

"Whereas many individuals supporting Senator Packwood's bill cannot afford to go to Washington, D.C. for the hearings to speak in favor of the bill with one exception, the well-financed timber industry which is opposed to the bill,

"Whereas Senator Mark Hatfield is a member of said committee and has been opposed to Senator Packwood's bill because the bill would eliminate clear cutting in French Pete Valley as envisioned and outlined under Senator Hatfield's bill allowing clear cutting in that area,

"Therefore Be It Resolved that the ASUO Senate send a letter to the U.S. Senate Interior Committee, its chairman, Senator Jackson, and all senators of said committee, and to all members of the Oregon Congressional delegation stating the ASUO support for Senator Packwood's bill and calling for field hearings to be held in Oregon by said subcommittee reviewing the bill before said committee takes final action on Senator Packwood's bill."

And a further resolution:

"Whereas the U.S. Forest Service is currently taking testimony on whether to discontinue the study of 12 wilderness areas in the Williamette National Forest which are currently being studies for wilderness classification,

"Whereas these are priceless, roadless areas where man comes as a visitor to watch nature. Further the U.S. Congress has designated wilderness criteria as, "suitability, man is visitor, 5,000 acres, availability".

"Whereas each of the 12 areas meets or exceeds these basic qualifications,

"Whereas OSPIRG and the ASUO Survival Center have offered testimony calling for the continuation of the present study an expansion of the study to include 210,000 acres.

"Therefore Be It Resolved that the ASUO Senate speaking for the students of the University of Oregon and as the financial supporters of OSPIRG and the Survival Center wishes to go publically on record as defending the stand taken by OSPIRG and the Survival Center."

And I have a short statement of my own.

In 1964 the United States Senate passed the, "Wilderness Act" which designated its criteria for a wilderness area as, suitability, 5,000 acres, five miles long and two miles wide.

The French Pete Valley exceeds all of the above criteria. It offers low altitude wilderness experiences to people who might find it difficult to climb into the higher elevation areas. This valley is one of the few areas below 3,000 feet in the State of Oregon which is roadless and in its primitive state.

Senator Packwood has proposed a bill S866 which would preserve French Pete's wilderness charm. The bill calls for an improvement of the trails (footpaths), the construction of basic campgrounds and the construction of a few outdoor rest rooms to avoid pollution of the French Pete Creek. This bill will preserve the quality of French Pete's environment while improving access to those who aren't able to reach the high elevation areas.

The questiton of French Pete is one of priorities. There are only 13 areas left in the States of Washington and Oregon which could be labeled wilderness areas under the law. In these areas nature is allowed to balance her environment without disruption from man. In a state once famed for its wilderness areas, doesn't it seem sad that all these states have left are 13 areas that are legally recognized as wilderness areas. I feel a time has come to make a commitment to the preservation of the quality of Oregon's environment.

French Pete and the other primitive areas must be protected. Therefore, I would like to encourage the Committee to consider carefully the question of French Pete. Further I would like the Committee to continue its study of the other 12 wilderness areas. The preservation of these areas is a debt we owe to the environment for all the great wealth she has bestowed upon this country.

Mrs. Hayward. Thank you, Mr. Koford.

Are there any questions of Mr. Koford?

(No response)

Thank you, very much.

Is Tom Taylor here?

Mr. Tom Taylor. Yes.

Mrs. Hayward. Mr. Taylor, we thought that you might be interested in knowing that you are the 100th witness that we have had before us today.

Mr. Taylor. Mrs. Hayward and gentlemen of the panel. My name is Tom Taylor. I am a partner in the architectural firm of Olson & Taylor.

I am also a native Oregonian who still hasn't learned to carry an umbrella.

I am a hiker and I have been an explorer of Oregon and the Oregon Cascades for the past 37 years, long enough to see the almost complete decimation of the de facto wilderness in the areas outside of the stated wilderness areas.

The French Pete Valley is one of the very last fractional elements of the de facto wilderness remaining. Looking at this valley from the standpoint of a plan, there are three basic land uses possible. The first two uses are now carried on in almost every other valley of the Western Cascade watershed, basically logging and mechanized recreation.

The only other use, the primitive recreation is available now in a very, very limited area outside of these dedicated wilderness areas. I worked on a land use plan for the Friends of the Three Sisters and for the Sierra Club, concerning the Three Sisters Wilderness area. From this plan, we concluded that wilderness is basically not a recreational area and it should be looked at from this point of view.

It is basically for wilderness value and the preservation of wilderness values and this does not always include recreational usage. We also concluded that at this time the Three Sisters Wilderness area has probably reached the point where it is being overused from the recreational standpoint.

So, other areas of this type are very, very important. We don't have to look very far to know how much of this area is left.

French Pete is one of these areas. The things that make French Pete so unique, is the unique combination of advantages and I will give those now. (1) It is close to population centers; (2) it is low elevation with a long season; (3) it is now roadless, and this is a great advantage for primitive recreation and in fact, it is a necessity; (4) it has good water and good camping areas and this is very difficult to find outside of any designated wilderness areas; (5) it has easy terrain which makes it excellent for all kinds of people, except those who cannot walk; (6) it is a complete valley system making a planned unit possible without external conflict. No intrusion of noise pollution, water pollution and this sort of thing. It would be just very easy to manage in terms of intermediate recreation.

Preserving French Pete Valley intact is good sound planning. Opportunities of this magnitude cannot be created but must be recognized and preserved.

If the survival of the American timber industry requires the cutting of French Pete, we are in deep trouble, God help us.

Thank you.

Mrs. Hayward. Thank you, Mr. Taylor.

Does anyone have any questions of Mr. Taylor?

Mr. Johnson. Yes. Sir, perhaps you could help me on this—French Pete is a relatively small Valley in relation to the Willamette National Forest, and certainly in regards to all of the National Forests in this State, and when you add to that the privately held forests in this State, all of them, it is a very small area—I wonder, do you have any information that you could furnish us as to really is the timber in the valley of significant importance to the entire amount of timber in this State, of importance to the timber industry in this State—do they really need to harvest that timber to obtain the timber industry and the mills in this State?

Mr. Taylor. Well, this is a matter of personal opinion, of course, but I say no. There have been many, many areas of the so-called over-ride timber fight, that the work of the cutter incorporates the timber into the mill, in fact areas of greater concern are around that are economically more feasible than this logging would be at French Pete. The furnishing of timber within this area is less than the amount which has been exported to Japan at any time now.

Mr. Johnson. Then we are exporting that amount of timber to Japan each year?

Mr. Taylor. Yes, as a matter of fact, the timber industry, I feel, is in or if it is in that much trouble that we should be getting timber in terms of importing it rather than exporting timber. We are in trouble with our National resource, because there may be a time when we see our National resource take a very, very deep nose-dive.

Mr. Mellem. May I say something for the record?

Mrs. Hayward. Yes, certainly.

Mr. Mellem. On June 8th and 9th, at Salem, Oregon, there will be two full days of hearings on log exports before Senator Bob Packwood, who is Chairman of a Subcommittee of the Senate Banking Committee, and he is considering about log exports—so there will be two full days in Salem, if anybody wants to go, you will certainly find out about log exports, that will be the place to go to find out about it then.

Mrs. HAYWARD. Thank you, Mr. Taylor.

Mr. Maxwell, you are next.

Mr. MAXWELL. My name is W. E. Maxwell and I live in Eugene.

The saving of the French Pete area has become almost symbolic of man's fight to save some of his dying world. The ethic of maximum utilization or exploitation of every resource for personal or national gain has led the nation and the world to the brink of irreversible damage to the earth's ecology. This ethic is being applied by those that would log this now unique area. French Pete is valuable as a resource to us and to future generations. It can take some of the recreational pressure off the endangered Three Sisters Wilderness area. It is an exquisite location for the wilderness experience that may help us keep sanity in a confusing civilized world. It could be a symbol of good will by the government in the area of conservation and ecology. It is a beautiful reality when much of our present life represents only illusions. If we can't save something this magnificent, what are our chances in other areas?

Thank you.

Mrs. HAYWARD. Thank you, Mr. Maxwell.

Is Jon Spangler here?

Mr. SPANGLER. My name is Jon Spangler, I am a student at the University and I am a scout master of Troop 6. I am here to testify here tonight both as a private citizen and as the scout master of Troop 6, representing some 20 young men who have been to and enjoyed French Pete.

Others have testified quite well and in detail on the environmental uniqueness of French Pete, which is very important.

Tonight, I would like to point out the spiritual values to me, the fellows in my troop and to many other people. French Pete is a lot more than just the last valley of soil content, wildlife, plantlife and colonies. It is a very, very beautiful and a spiritually uplifting place.

When we go on trips there, it isn't particularly the unique environmental factors which give French Pete its rejuvenating qualities—it's the fact that French Pete is a de facto wilderness area which we have access to in the State of Oregon and can enjoy.

We ask you not to just save French Pete as a living museum of how it used to be in the State of Oregon, but rather as a place to experience, to enjoy, and to learn from. Then, it is kind of hard to learn from or enjoy very much a dead clear cut.

Mrs. HAYWARD. Thank you very much, does anybody have any questions?

(No response.)

Richard Freeman.

Mr. FREEMAN. Mrs. Hayward, Chairman, and panel. I am Richard Freeman of 1140 West 6th Street, here in Eugene. As a member of the Sierra Club and McKenzie Gardening Club, I feel quite concerned about this French Pete area. My first experience with the French Pete area was in 1947, when I took my son, and we approached from Bend and came in to Elk Lake and then further over to Horse Lake and then crossed the Pass at Horse Lake and then came into French Pete Valley from that way.

Now, I have to depend on my very good friends and neighbors, who have been there, to tell me that this is a very unique area. I have in the past hiked over once in the lower part of French Pete. It is a unique area now and it was a unique area then. We must try to save it for future generations.

The reason that I am against this clear-cutting or full cutting is that I have a typical example on a place at Brighton. The cutting of logs near my place has resulted in the start of a log dump on my property. For four or five years I have had four or five hundred tons of logs there, as a result of the cutting of Weyerhauser on the private property above me. Luckily it was on my property that their log dump gave way on due to the snows and rains and not take out the highway bridge about 200 yard below. And I feel that this will be the effect in this French Pete valley if clear-cutting practices start there, or, for that matter, any type of log removing practices start there. It will develop in debris and wash-outs and the deposit of this material in Cougar Reservoir.

I am all for preserving the fish runs in the lower Willamette River, and you can see what all of this industrial waste has done to that—all of this debris in the river and especially Weyerhauser has put all of this material in the River from their mill at Springfield. We are now talking about this clearcutting this beautiful area and I am sure that it will spoil the area for future generations.

I wish to point out the fact of the example at Finn Creek in February of this year, there was a vast amount of debris that closed the highway into Finn Creek, and I am afraid that this would be typical of the result that would occur in French Pete and it would just be lost. This wonderful area would be lost to our future generations. This is on record this problem at Finn Creek and it would certainly be much more destructive in the area of French Pete Creek, and the deposits would be dumped right into the Cougar Reservoir, which is one of our assets, and this will be deprived of future generations if this occurs.

I feel like I must close now, but I feel that this testimony might do some good, and that is the reason that I am here to give this testimony to the people in Congress, and I intend to give a written statement which will be supplied at a later time.

Mrs. HAYWARD. Thank you, Mr. Freeman. Any questions of Mr. Freeman? I would like the record to indicate that Mr. Freeman is not only a Member of the Lane Community College Board of Directors, but also a member of the Eugene Water and Electric Board, and a Director of that group. Mr. Linde, you have a question?

Mr. LINDE. Would you just say for the record for the people who are going to be there, what your thoughts are about this Bill that you are in favor of——

Mr. FREEMAN. I know, but I will make a written statement and send it to them.

Mr. LINDE. The Register Guard reported this fully and gave the source of the story, but it was relatively censored as people clammed up and they weren't willing to permit their stories to be published, or even to be talked about, but it is evident that clear cutting practices have been going on for quite some time above Finn Creek in this area, which did result in a wash-out in the hill, as described by Mr. Freeman, the destruction of several utility poles, and the road was closed for about several weeks—that is the highway—only emergency vehicles were allowed to run on the highway at that time for quite awhile then. I am sure that there was much damage done to this upper area and beyond.

Mrs. HAYWARD. Any more questions? Thank you very much, Mr. Freeman. I have been asked to say that at 9:45 p.m., we will take a five minute recess, after which we will have a very brief slide showing, and then continue with the testimonies. Can I have some indication from those of you who are here, who need to speak within the next 15 minutes—(Responses) I see three, are there any more?

If you could make your statements as brief as possible, I think that it would help all of us, and I want to again say that you could prune your statements and cut the time that you will be testifying, and we will see that the statements are contained fully in the record. So, let's start with you over there (indicating).

Who are you?

Mr. ROSENTHAL. I am Gerritt Rosenthal.

Mrs. HAYWARD. Fine, go ahead then.

Mr. ROSENTHAL. My name is Gerritt Rosenthal and this is a summary of what I would like to say, but it is already a summary.

My name is Gerritt Rosenthal and I represent myself. I have been employed locally for two and a half years as a water chemist for Lane County. In this position, I participate in a water sampling program that measures roughly 20 parameters of data on more than twenty streams in central Western Oregon. This particular program samples these streams four times a year and includes a sample station on French Pete Creek. I would like to include at this time as a part of the record a tabular listing of French Pete Creek water quality data obtained from the Lane County Health Department.

The data shows that French Pete Creek is not a totally unique stream in terms of water quality because there are many very clean streams in Western Oregon, but it does indicate that French Pete is unique among the 40 plus sample sites on more than twenty streams in having the only recorded turbidity of 0.00 parts per million. It also has the lowest "most characteristic or median" turbidity of the streams sampled. I use these terms rather than "average" since French Pete Creek was sampled at flood stage on January 18, 1971, and this high turbidity value (60 parts per million) is not characteristic but would heavily weigh the average to the high side. French Pete Creek also contains a very low dissolved solid content and has an average hardness of 13.6 parts per million (20 ppm would be considered very soft water). Additionally, it sometimes shows a slight bacterial enrichment above that found in other nearby streams such as the South Fork of the McKenzie and the McKenzie River above the Blue River. This is caused either by animal habitation or is an effect of the heavy recreational usage this valley receives. I have seen evidence of recreational usage at all seasons of the year when doing field sampling, even in January. The lower portions of this valley (about 2500 feet) are snow free except during an occasional severe winter storm.

This valley offers several unique features that make it the recreational mecca that it is. It is only two hours from a major urban center, it is low enough to be accessible at nearly all times of the year while still providing access to the high-mountain Three Sisters Wilderness, and it contains a trail with a gentle enough slope that it can be enjoyably hiked by families with children and others not in the mood for strenuous exertion.

It is that particularly peaceful size of stream intermediate between the wide gravel swath of river and the tangled, underbush-hidden diminutive creek. It provides cool tranquility as well as stream side recreation without being so large as to make in-water activities dangerous during most of the year. Additionally, the valley is bounded on all sides by areas of special attraction that have already been designated "Special Interest Areas" by the Forest Service. These include two scenic areas; two geologic areas and a botanical area.

Since it already receives considerable usage, since it has such a wide attractiveness to various types of users, and since it already shows some, albeit small, increased bacterial loading presumably from recreational usages, I would strongly urge and hope that the French Pete Creek Intermediate Recreation Area, Bill (S. B. 866) would become law. It would both preserve natural features and uses as well as prevent the possible contamination of the watershed through overuse by providing some management of the usage. It is the only valley of this size in this area of the Cascades that can be so managed and would be a fine start toward developing a new concept in semi-wilderness outdoor recreation.

Thank you.

Mrs. HAYWARD. Thank you, Mr. Rosenthal. Does anyone have any questions?

(No response.)

Mrs. Elizabeth Bruce Riggs is next.

Mrs. RIGGS. My name is Elizabeth Bruce Riggs. I am an Oregon resident, a backpacker and a cross-country skier. I'm told that two weeks ago the Secretary of Agriculture asked the National Forest to increase timber production because of an expected housing shortage. I grew up in an adobe house in New Mexico. We built our own house. When my brother was born, and my mother needed a dark room, and we wanted a porch, we built our own out of mud and straw and water. I don't think that you could build one like that around here. I think that it would melt. I really like that and I think that we forget that there are alternatives to wood frame construction and we have more alternatives than any other culture has ever had before. I don't think that French Pete has to be logged. And I support Senator Packwood's bill.

Mrs. HAYWARD. Thank you. Are there any questions to ask of her?

(No response.)

The next one to testify is Mike McKeegan.

Mr. MCKEEGAN. My name is Mike McKeegan and I just have a short statement that I would like to give.

I would like to say that I was hiking up in the high country last summer for about 15 days and I was used to the quietness and everything and I came down to the French Pete area for nearly a week.

We got there pretty late and we came into the Quaking Swamp area. We got there probably about 10 o'clock at night. About eight o'clock in the morning, we heard the chainsaw starting to go and trees started falling. It kind of unnerves a person and I was very distressed about it. It sure depressed everybody that was with us.

We did a little bit more invertigating and there was an area there where they were clear cutting there. It was just near the top of the French Pete Valley. That really awakened me to the thought of how close clear cutting is to this area.

We hiked on down the trail but didn't quite enjoy it the same. The beauty was still there.

Thank you.

Mrs. HAYWARD. Thank you, Mr. McKeegan. Does anyone have any questions that they would like to ask Mr. McKeegan?

(No response.)

Mr. Hunter?

Mr. HUNTER. I am Don Hunter. I am most happy to give a statement, but I don't have anything written down. I still might be able to give something later and turn it in.

I am at the University of Oregon, and am the Conservation Chairman of the Obsidians. However, I am making this statement on my own and it will not be officially for the Obsidians.

I was born in this valley, the McKenzie Valley, as my father was before me, and I am sure it was by choice. I have seen other countries and I have gone no place that appeals to me like this beautiful western Oregon. That appeals to me. I hope that it will always be this way.

I used to go up, with my family, up Elk Creek out of Jasper to get away from the city noises and bustle. We would camp up there in the virgin valleys with big trees.

Then when I was first married, we used to go up Little Fork Creek and hike way up the trail there beyond the ranger station there. Later on, we went up Crow Creek and that is farther than the road ending and hiked there, around the virgin trees up there.

Of course, all that is gone now. It is disappearing so rapidly. I think that most of these people this evening have spoken so logically about the value that we are trying to preserve and are doing so unselfishly. Not only so that we can find interesting places to get away from civilization, but so that we know that other people who will follow us will not be denied this opportunity. We are trying to preserve something for them. It is not asking too much to preserve one unique valley.

I say that this is a unique valley mainly because it is the only one left. I have been reading about Pete French recently, the Eastern Oregon pioneer and cattleman, whose name the valley bears. And I was thinking about the pioneers as they came across and certainly they endured hardships and a very difficult life. It wasn't for riches, other than perhaps the prospectors, that they came West. Probably it was for the purpose of getting away from civilization, getting away from close neighbors. That area, the frontier, is now gone. We can't pull up our stakes and move to a new frontier in the continental United States, but we can save a little bit of what it was like if we don't give multiple use a definition of being a little bit of everything permitted in an area. Let's save some areas for logging and let's save other areas for recreation. Thank you.

Mrs. HAYWARD. Thank you, Mr. Hunter. Does anybody have any questions?

I have two more slips before me of people who are waiting to testify, Charlotte Schellman and Myra Miller. Are there others besides those two?

So, we have several more. Then if that is the case, we will now take a five minute break and afterwards we will have a brief slide show and then we will complete our testimony.

(Recess for five minutes.)

Mrs. HAYWARD. Let us come to order so that we can get our slide show started. It takes forever to get the lights out in this room.

Mr. RICHARD COOKE. The beauty that I see of French Pete is not the scenic beauty that the Forest Service sees there, but the very personal, intimate beauty that exists on a very small scale throughout the valley.

In the past four years I have visited there about 18 times. I would say about five times I have spent the night. I am a photographer, but I have many friends who use it for recreational activities. One of the purposes of relating to the area with my equipment, is that I can share it with other people.

(Slides are shown.)

(Applause.)

Mrs. HAYWARD. Thank you for sharing those with us.

Mr. LINDE. Mr. Cooke, are you making any arrangements for these slides to be available for the hearing in Washington, D.C.?

Mr. COOKE. I don't have anything to do with that.

Mr. LINDE. Well, your slides seem to me to demonstrate that you are a photographer and artist. I wonder that if as an artist and photograher that you feel that some selective logging is going to significantly impair the valley?

Mr. COOKE. I am against that in any form, even using the chain saw to clear the logging trails. I am very concerned about that place staying as it is, and the only way to do that is to keep logging out and not make it easy to reach.

Mrs. HAYWARD. Thank you.

(Poem was read.)

Mrs. HAYWARD. While we were having our intermission, I counted the slips that we had left and I think there were something like 15. So, I am going to take another opportunity to remind you that if you have statements written, that you can summarize them briefly for us and then you can give the written statement for the people down here and it will be included in the record.

Mr. Alva Good?

Mr. ALVA GOOD. I am Mr. Good and I am now a resident of the State of Oregon, but I am still a member of the Washington State J.C.'s and involved in the government there. I am very much appalled at the cause of this meeting. The fact that this meeting couldn't have been held here, instead of in Washington, D.C. This reason is the reason that people are losing confidence in the government in this country. It is the reason that is bringing about legislative reforms, because of the people that are now going to Washington and the representatives are not being fair to us or representing us in our own areas.

I am a native of Oregon, I was born in Eugene and raised here. I went to the University of Oregon. I did come into this hearing cold and did not have a prepared statement for it. My feelings are very mixed about clear cutting in the areas, but I do know the area that you are talking about and personally, not representing the State of Washington, I feel that this area should be left as it is.

On the face of the dollar, this Country says, "In God We Trust" and we don't need to cut this area.

Mrs. HAYWARD. Thank you, Mr. Good. Charlotte Schnellman?

Ms. CHARLOTTE SCHELLMAN. I wish to make a very strong plea for the saving of the French Pete Valley as an unroaded, unlogged area. My name is Charlotte Schellman; I am a research chemist at the University of Oregon. I am a member of the executive committee of the Eugene group of the Sierra Club, but this statement is made on behalf of my family. We believe that it is imperative that areas such as French Pete should be preserved in a nearly natural state so that our generation and future generations will be able to experience what much of our state was like before man found it necessary to log so much of our forests.

Unlike the wilderness trails, which are at much higher elevations, the trail which parallels the main creek of French Pete for many miles is easily accessible for all but a few days in the normal year.

With the rapidly increasing pressures on the much more fragile wilderness areas at higher elevations, it is extremely important that areas be set aside to attract some of these users to other, more accessible areas. Many critics of the wilderness concept have argued that such areas are not accessible to more than a hardy few. French Pete can offer an experience similar to the wilderness to a much broader spectrum of the public, who, although they may not be able to hike in the high wilderness, still want to escape from the roadside camp atmosphere with its crowding, noise and exhaust fumes. Such a buffer as French Pete is an ideal transition from crowded recreation areas to wilderness. We need more such facilities, not less.

Those who wish to log the French Pete drainage claim that it is needed to fill the demand for timber. Surely the forest products industry of Oregon can survive without the less than 20,000 acres which we are asking to be set aside. If the industry is truly concerned about providing products and jobs for America, they should show this concern by investing in a sincere, realistic research effort to find ways to better utilize the incredible waste of material which is left in the areas they log each year. The lumber and wood products industry spends only one dollar for research for every five hundred and ninety dollars worth of products sold; this is one of the worst records of any industry in this country. Such research would provide employment for many scientists who have been made jobless by the cutback in the aerospace industries, for example.

The kind of recreation provided by the French Pete Valley, if managed as an Intermediate Recreation Area, is both cheaper and healthier than car, trailer, or camper camping. The argument that wilderness or near wilderness is for the idle rich is utter nonsense.

It is imperative that we save French Pete and other similar areas scattered across our country, before none remain to be saved. Their value to us and to future generations is far beyond the logs which would come from this small area.

Mrs. HAYWARD. Thank you Ms. Schellman. Myra Miller?

Ms. MYRA MILLER. I am Myra Miller, a faculty member of the School of Community Service and Public Affairs at the University of Oregon.

I grew up in the Northwest. I have sailed its waters, climbed its mountains, rested in its forests and splashed in its streams. In the unspoiled out of doors I've found strength to survive in a world increasingly complex and alienating.

If my life is to have meaning, it will be through lives I have touched and through my willingness to speak out—and at this time I speak out for preservation of an area which man cannot duplicate but can only cherish.

Others have spoken of the geology, ecology, scenery and etc. of French Pete. I speak of it with love by paraphrasing Rabbi Hillel:

If I do not stand for myself, who will stand
for me?
If I do not stand for others, who will?
If not now, when?
I stand for French Pete.

Mrs. HAYWARD. Thank you, Ms. Miller. James Anderson?

Mr. JAMES C. ANDERSON. I don't know what I can add to this remarkable hearing, but I know that I have been tremendously inspired by this outpouring of a concerned citizenry. I have spent much time hiking in the Western Cascades, mostly in my native state of Washington, so I well know the marvelous mental and physical regeneration that comes from a few days in the woods, away from the grossest features of our Gross National Product. It is essential to keep such places as the French Pete Valley in its present natural state for the possibility of such return to untrammeled wilderness. To retain French Pete in its present natural condition is one step toward regaining our national wits and stopping the trend toward our collective suicide in the pursuit of the great God of economic growth, which is just now wisely beginning to be questioned.

Mrs. HAYWARD. Thank you, Mr. Anderson. David Leighton?

(No response.)

Mr. Leighton left a note that he would like to make the point that as long as the Pacific Northwest exports so much timber and is so lax in its reforestation practice, the need to log French Pete is not proven.

He has a somewhat longer statement and I am going to ask that that be included in the record.

Arnold Gibson?

Mr. ARNOLD GIBSON. My name is Arnold Gibson. I am a student at the University of Oregon.

My testimony at this hearing comes in the form of a question to Congress: "How can you possibly justify opening this God-created wilderness to the same industry which has been all but banned from our cities for crimes against healthy human beings?"

Mrs. HOWARD. Thank you, Mr. Gibson. Does anyone have a question for Mr. Gibson?

(No response.)

Harry Van Oudenallen?

Mr. HARRY VAN OUDENALLEN. I don't have a prepared text and I have mixed feelings about the whole couple of hours that I have sat here. I don't consider myself extremely interested in saving French Pete and yet I can't count the number of times that I have gone out to French Pete to see it and to photograph it so that it has great meaning to me. I am a transplanted New Yorker. I have learned to say Oregon and Willamette and I can't help but feel that there are more New Yorkers and more Californians who will also try, like me, to hide in Oregon.

With the increase in population, the use of French Pete will grow and I would like to see it remain a wilderness area. I feel somewhat indignant about coming to be heard in Eugene and yet the people who should be listening aren't here. That hearing takes place in Washington, and the people who are for logging French Pete, I don't see them, and yet this is the place to be heard. Somehow, if the Forest Service sees itself as being able to sell timber, all is well and good, but my taxes would go for a similar bribe or a plea for them not to log French Pete, and I will pay any money in taxes that is necessary.

Mrs. HAYWARD. Thank you very much. Courtney Shives?

Mr. COURTNEY SHIVES. My name is Courtney Shives.

I wish to make a very brief statement of what I consider a most important issue in the French Pete controversy and that is, must we always adopt the short range viewpoint and do what is politically and economically expedient at the moment or should a long range approach be adopted even if it requires some current sacrifices?

No doubt the timber industry representatives will present many facts and figures to economically justify the logging of French Pete at this time. I do not question that the logging of French Pete will financially benefit a small segment of the Oregon population. But what price must future generations pay for the current financial gain of these few? If a value of millions of dollars is placed on a work of art for aesthetic reasons, should not a similar lofty value be placed on an outstanding artistic work of nature. Value is also a function of scarcity and certainly Oregon Cascade Valleys undamaged by man are a scarce resource, the French Pete being only of only three such valleys remaining.

A poor farmer in Italy was recently offered over a million dollars to part with a Botticelli painting which he had inherited. Despite his obvious financial need he refused the offer because the painting is "the most beautiful thing I know." Has not the time come for more of us to adopt the thinking of this simple farmer and place a greater value on things of beauty?

If we cut French Pete and are wrong, the decision is irreversible. But if we decide not to cut French Pete, future generations can always reverse our decision. Let us leave them some choices.

Thank you.

Mrs. HAYWARD. Thank you Mr. Shrives.

I understand that Mr. Don Willner has a statement to be read by Mr. Holway Jones.

Mr. HOLWAY JONES. It is my privilege to present this statement from the State Senator, Mr. Don Willner, who as you know is the Democratic Candidate for the United States Senate.

"I would like to compliment the Oregon Committee on Interior and Insular Affairs for providing this unique opportunity for Oregonians to express their view on the future of the French Pete Drainage. I am disappointed that the senior senator from Oregon did not judge this issue worthy of hearings in Oregon.

"French Pete should be saved. I see the issue not as a symbol of a great tug of war between industry and environmentalists, but simply as a question of our priorities, and commitment, with respect to providing easily accessible year-round recreation for the masses of Oregonians who want to walk along a rushing stream in one of the last uncut, unroaded valleys. Shouldn't we reserve this unique place for those who forgot to get their wilderness permit? Shouldn't we provide a place for the fisherman, camper, and boater at Cougar reservoir to take his family for an easy hike along a swift cold stream? Shouldn't we provide the unique experience of a hike-in organizational camp for Boy and Girl Scouts? The Intermediate Recreation Area concepts include all these things.

"But what about those things which are excluded in an Intermediate Recreation Area? I am most concerned about the future of the timber supply in the Pacific Northwest. French Pete, however, is not the best place to grow trees. Moreover, the current forest cover is not a 400 year old, rotten, decadent stand. We can delay timber harvest for 200 years, until 2172, and still have a stand which is younger than most of the old growth on the Willamette National Forest. Sacrificing this unique area for some 150 year old trees cannot be true multiple use. I am also concerned about the cost of roading the area. How tragic it would be if the public had to subsidize road construction in the valley, just to turn a few trees into chips, or to help some private landowner ship his logs to Japan.

"Saving French Pete is a non-partisan issue, and I am pleased to voice my support for Senator Packwood's bill to create the French Pete Creek Intermediate Recreation Area."

Mrs. HAYWARD. Thank you.

John LaBranch?

(No response.)

Michael Ryan?

Mr. MICHAEL RYAN. Chairman and members of the panel. That is lengthy so I will just sum up the main points that I was making.

That is, I am conerned with population growth and when you consider that French Pete is only about an hour's drive from the state's second largest metropolitan area. In 1957, at the time of the Secretary of Agriculture's initial decision to classify French Pete Creek and several adjacent valleys for "multiple use", an estimated 50,000 people lived in the Eugene-Springfield area. Today there are probably about 140,000 and by 1990, there may be as many as 235,000. Nowhere in the Oregon Cascades are there provisions for large scale recreational use of an untouched forest valley. French Pete Creek could be a recreational bonanza for Oregon. Even if we had Zero Population Growth now, the population is going to grow in the next century and there is going to be more and more pressure to use these forest areas. To log this over now, I feel is a detriment to the quality of life for the future citizens of this area.

Thank you.

Mrs. HAYWARD. Thank you, Mr. Ryan.

Do you have a copy of your statement that you would like to put into the record?

Robert Craig?

Mr. ROBERT CRAIG. My name is Robert Craig and I have been a lifetime resident of Oregon. I have been to French Pete Valley several times and I know that it is a beautiful area. I think that this area should be preserved from logging and road building. I support Senator Packwood's bill to make French Pete Valley into an Intermediate Recreation Area.

Mrs. HAYWARD. Thank you, Mr. Craig.

Do you have a copy of your statement?

Mr. CRAIG. No.

Mrs. HAYWARD. Thank you very much.

Is Fred Swanson here?

Mr. FRED SWANSON. My name is Fred Swanson and I will try to keep my remarks brief. In the testimony here today, several people have mentioned the Packard Creek area. Mr.

Elphinson went with me several weeks and we hiked into this area. I think what we discovered there has bearing upon French Pete. That was that the first few miles of what used to be the trail into Packard Creek had been replaced by very ugly roads and thereafter the trail was fine, and is a very beautiful trail, comparable to the French Pete Trail, in fact, some what I think that it is more beautiful.

What is interesting about this is that the road was on Forest Service land the beautiful untouched areas are on private holdings. It seemed like there was something wrong here.

Ever since the issue of preserving French Pete flared up again in 1957, the area has been visited by increasing numbers of people. Most of these people do not seek a strenuous deep penetration of the wilderness, although French Pete also offers this to hikers with more ambition. These people seek, instead, a pleasant walk in an area substantially free of man's influence. Hikers seek wilderness, not a managed forest; this is evident when one views the deserted trails that are fragments in the areas which have been subjected to roading and logging. If the Forest Service were allowed to cut and section the trails in French Pete, most of the hikers would go elsewhere, into another wilderness. The only wilderness near Eugene which is protected in perpetuity are the established Wilderness Areas, and these are already receiving too much daily hiker use. The Forest Service wants to reduce the overuse of the protected Wilderness Areas, yet they give no assurance of protecting the other places, such as French Pete, where day hikers want to go.

In the Forest Service's French Pete Creek Environmental Statement is a statement concerning the development of the lower area, and I quote, "The plan presently provides that development of the lower canyon will be deferred pending a study to determine whether a road can be built and the area can be logged." This lower canyon area is extremely popular with the hikers, especially the day hikers. Their main concern seems to be with the unstable soils which would make a road difficult to build, instead of with the heavy recreational use of the area, which would be disturbed by the road.

It further states, "salvage and improvement cutting to enhance recreational values" means that timber harvest comes first and recreation is what's left over. The Multiple-Use Sustained-Yield Act of 1960 was supposed to help prevent this imbalance of uses.

I believe that Senator Packwood's bill, S. 866, would go a long way in restoring this balance.

Thank you.

Mrs. HAYWARD. Thank you.

Does anybody have any questions that they would like to ask of him?

(No response.)

We have statements here from Boyd Kramer and David Howe and I would like to ask that they be included in the record at this point. They were here for quite awhile and then had to leave.

Mr. George Adams?

Mr. GEORGE ADAMS. My name is George Adams. I have lived in Eugene for several years and in Oregon for 50 years.

Mr. Chairman and members of the committee:

I would like first to thank the students at the University of Oregon for their very generous gesture in funding the court reporting services required for this hearing.

I should also like to comment that I was very disappointed that Oregon Senator Mark Hatfield and Washington Senator Henry Jackson have not seen fit to hold hearings, field hearings on Senate Bill 866. It is well known that the forest products industry opposes this bill and the industry representatives can easily afford to travel to Washington for the hearings to be held there on May 25, while citizen proponents are rarely able to go and do so. So denial of field hearings constitutes a procedure heavily biased in favor of commercial timber industry.

There is probably little that I could say about this valley that others have not said better. My only visit to the area penetrated only about half way to the headwaters, from which point I climbed up to Pyramid Peak, near the southern boundary of the proposed area.

However, as a young man I tramped over hundreds of miles of trails, running over both public and private land, with majestic old growth trees reaching upward to the sky overhead. With such an abundance of opportunity to enjoy the unscarred beauty of the world's greatest stands of conifers, it hardly occured to me that such experiences could nearly vanish within far less than one man's lifetime.

My own children have been able to enjoy a dimishing number of such experiences, generally going much greater distances from their city homes to find woodlands still unravished. My grandchildren must hurry if they are to experience the cathedral-like grandeur of prime old growth forest before the chain saw levels it all. Unless, that is, we of my generation are willing to fight our contemporaries who see nothing in such virgin forests but the dollars which could temporarily be gleaned by harvesting in a few short years what nature took hundreds of years to grow, turning the land into short-rotation timber farm at best, or a wasteland at worst.

Our opponents cry out: "You already have thousands of acres of wilderness", and yes, indeed we have, no thanks to them either. But what we have is mostly the land too barren and rocky, at too high an elevation, and too costly and difficult of access to incite the greed of the forest industry. Readily accessible lands, at moderate elevations, and not too far from the population centers of our cities, have nearly all been logged, or are in the process of being logged. We need a few preserves such as French Pete, where city dwellers of tomorrow can learn what Joyce Kilmer meant when writing the words, "Only God can make a tree."

I say to you, ladies and gentlemen, that a civilization which cannot afford to save the natural shrines which inspire even the irreligious to reverence, is poor indeed. I shall have to tell my grandchildren and their children, if I am fortunate enough to live to enjoy them, that my generation was so eager to mine the last of the great old-growth forests in this region which once was covered from the shores of the Pacific Ocean to the high Cascade with them, that we couldn't even save an occasional sample of that magnificence for them to enjoy.

Must we admit to our posterity that we were so impoverished in spirit and so greedy for temporary gain that we were impelled to lay waste to every last acre of commercially desirable saw timber? I truly hope not.

Thank you.

(Applause.)

Mrs. HAYWARD. Thank you, Mr. Adams.

Do you have a copy of your statement for the record?

Mr. ADAMS. Yes.

Mrs. HAYWARD. William Engs?

Mr. WILLIAM D. ENGS. My name is William Engs.

I support the French Pete Intermediate Area proposal because people need to be assured of having a roadless recreation experience.

By roadless recreation experience, I mean essentially what has been proposed for the French Pete Intermediate Recreation Area; the provision for roadless areas where people can go and not come into contact with motor vehicles and extensive timber harvesting.

As things stand now, people cannot be assured that there will be any such areas in the future. I do not expect dedicated Wilderness Areas to provide for this type of experience. What is being used by people now is taken for granted—these areas are subject to road building and timber harvesting—here today and gone tomorrow. This is under the Forest Service Multiple Use management, and eventually the qualities essential to the roadless recreation experience will no longer exist anywhere. There needs to be some assurance that some of the areas which now provide a roadless recreation experience shall continue to exist in the future. The French Pete Intermediate Recreation Area proposal would provide assurance of this kind of experience—as well as keep one of our significant natural areas intact with a minimum of management.

Thank you.

Mrs. HAYWARD. Thank you very much, Mr. Engs.

Does anyone have a question for Mr. Engs?

(No response.)

Thank you.

Our 125th witness to testify is Roger Mellem.

Mr. Roger?

Mr. ROGER MELLEM. Thank you. I am Roger Mellem of 2870 Potter Street, Eugene, Oregon. I am here representing the People for French Pete Committee which was formed about two years ago to help fight plans for logging French Pete. It gives me pleasure to thank all of those people whose hard work made it possible for us to appear before you today and present our views.

On April 6, 1971, I had the privilege of testifying before the Subcommittee on Public Lands of the United States Senate Committee on Interior and Insular Affairs. The Subcommittee held three days of overnight hearings concerning timber management and clear cutting practices on the public lands, and these resulted in the recently issued clear cutting guidelines report. My statement for the Subcommittee concerned United States Forest Service mismanagement of French Pete Valley, and how their plans and actions betrayed the principle of multiple use. I request that my testimony from last year be included in the hearing record at the end of these remarks.

At the turn of this century, there were 273 Oregon Cascade valleys more than five miles in length that were roadless and untouched. Today French Pete Creek Valley is one of only seven of those 273 valleys that are still unintruded by roads or logging operations. The Forest Service has already immorally committed 266 western Oregon valleys more than five miles long to the rape of intensive roading and clear cutting. French Pete is our only remaining unspoiled valley in this region low enough to be accessible throughout the year, and it is inconceivable that the logging of this valley can be justified as securing multiple use for our Oregon forest resources.

In my attached statement I have detailed the callous and underhanded tactics employed by the Forest Service in their efforts to make French Pete just another backed up valley. They simply refused to consider seriously the alternatives presented by the Save French Pete Committee and others.

We commend Senator Bob Packwood for the excellent fight he has waged to save French Pete, and we note with sadness and disgust the effectiveness of Senator Mark Hatfield's decision not to press for field hearings in Oregon on this issue. Senator Hatfield has time and time again repeated his support for the Forest Service decision to log this beautiful place. We still hold out a little bit of hope that he will choose to include French Pete in the Omnibus Oregon De Facto Wilderness bill he promised conservationists more than one year ago he would introduce, but not much; the longer he waits before introducing that bill the clearer it becomes that he has little or no intention of pushing the wilderness bill.

We would be very happy if Senator Packwood's bill, S. 866, was passed by Congress; we would prefer, though, that this area be added to the National Wilderness Preservation System.

Last November 18, more than four hundred Eugeneans participated in the "Second Anniversary Save French Pete Rally and Rock Mesa Preservation March," an effort by students and townspeople who favor preserving America's remaining wilderness lands. Two news stories from the *Eugene Register-Guard* describing this day-long event are attached and I would appreciate their being printed in the official hearing record.

And Supreme Court Justice William O. Douglas sent me a note which should be placed in the record. It reads: "Please put in a word for me on the side of French Pete at your May sixteenth rally. Yours faithfully, W. Douglas."

A century ago the Oregon Territory was covered with one of the great primeval forests of the world. We need to retain French Pete as a memory of what it once was like.

Thank you.

(Applause.)

Mrs. Hayward. Thank you very much, Mr. Mellem.

As far as I know, that includes all the people who wished to testify. Is there anybody else who would like to make a statement at this time?

If there is nobody else that wishes to make a statement at this time, then I declare that the hearing is ended.

Unidentified Speaker. I would like to express a deep appreciation to the committee and the people who have carried this on throughout the day.

(Applause.)

(Hearing adjourned at 10:40 P.M.)

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

Report on the High Speed Ground Transportation Act of 1965

A letter from the Secretary of Transportation, transmitting, pursuant to law, the fifth annual report on activities carried out during 1971 under the High Speed Ground Transportation Act of 1965 (with an accompanying report); to the Committee on Commerce.

Report of Comptroller General

A letter from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Procedures for Evaluating Reasonableness of Petroleum Pipeline Rates Need Improving", Department of Defense, dated September 20, 1972 (with an accompanying report); to the Committee on Government Operations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ERVIN, from the Committee on the Judiciary, without amendment:

S. 2300. A bill for the relief of J. B. Riddle (Rept. No. 92–1188).

By Mr. HRUSKA, from the Committee on the Judiciary, without amendment:

S.J. Res. 251. Joint resolution to designate the week which begins on the first Sunday in March of each year as "National Beta Club Week." (Rept. No. 92–1189); and

H.J. Res. 807. Joint resolution authorizing the President to proclaim the second full week in October of 1972 as "National Legal Secretaries' Court Observance Week" (Rept. No. 92–1190).

By Mr. ALLEN, from the Committee on Government Operations, with an amendment:

S. 164. A bill to amend the Federal Property and Administrative Services Act of 1949 so as to permit donations of surplus property to public museums (Rept. No. 92–1191); and

S. 244. A bill to amend the Federal Property and Administrative Services Act of 1949 to permit donations of surplus property to State fish and wildlife and outdoor recreation agencies (Rept. No. 92–1192).

By Mr. ROTH, from the Committee on Government Operations, without amendment:

S. 718. A bill to create a catalog of Federal assistance programs, and for other purposes (Rept. No. 92–1193).

Mr. ROTH. Mr. President, at the request of the distinguished chairman of the Government Operations Committee (Mr. Ervin), I report for that committee S. 718, the Program Information Act. This legislation, which has been the subject of extensive hearings in both Houses, passed the Senate as S. 60 during the last Congress.

The bill is the outgrowth of the 8-month study conducted by my staff when I was a Member of the House. It would call upon the Office of Management and Budget to publish a catalog of Federal domestic assistance programs. Such a catalog would be of assistance to the State and local governments and others who apply for Federal grants-in-aid. Congress and the Executive can also benefit from this effort.

While the OMB is currently producing a much improved Catalog of Federal Domestic Assistance, this bill calls for more current updates as well as more complete financial information. It also provides a general legislative mandate for the publication of such a vital informational source for users of domestic grants and others.

By Mr. TALMADGE (for Mr. Jordan of North Carolina), from the Committee on Agriculture and Forestry, without amendment:

H.R. 14015. An act to amend section 8c(2), section 8c(6), section 8c(7)(C), and section 8c(19) of the Agricultural Marketing Agreement Act of 1937, as amended (Rept. No. 92–1194).

By Mr. TALMADGE (for Mr. Eastland), from the Committee on Agriculture and Forestry, with amendments:

S. 3947. A bill to prevent the unauthorized manufacture and use of the character "Woodsy Owl," and for other purposes (Rept. No. 92–1195).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations:

C. Robert Moore, of Washington, a Foreign Service officer of the class of Career Minister, now serving as Ambassador Extraordinary and Plenipotentiary to the United Republic of Cameroon, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary to the Republic of Equatorial Guinea; and

John N. Irwin II, of New York, to be U.S. Alternate Governor of the International Monetary Fund and U.S. Alternate Governor of the International Bank for Reconstruction and Development; U.S. Alternate Governor of the Inter-American Development Bank; and U.S. Alternate Governor of the Asian Development Bank.

AUTHORIZATION TO REPORT VOCATIONAL REHABILITATION BILL, S. 3987 AND H.R. 8395, BY MIDNIGHT, THURSDAY, SEPTEMBER 21, 1972

Mr. ROBERT C. BYRD. Mr. President, at the request of Mr. Cranston, I ask unanimous consent that permission be granted to report the vocational rehabilitation bill, S. 3987 and its companion bill, H.R. 8395, by midnight Thursday, September 21, which would extend the deadline from the present deadline of midnight tonight.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY TO PRINT AS A SENATE DOCUMENT THE REPORT OF SENATOR INOUYE CONCERNING HIS VISIT TO THE PHILIPPINES (S. DOC. NO. 92–88)

Mr. INOUYE. Mr. President, shortly after my designation as chairman of the Foreign Operations Subcommittee of the Appropriations Committee, I took advantage of the late August congressional recess to make a personal tour of the Central Luzon area of the Philippines. I made this visit to investigate and personally evaluate the extent of the damage which has been incurred from the recent floods in that area.

I arrived in Manila early on the morning of August 27 accompanied by Mr. Cleo Shook, director of the Korea-Philippine Desk at AID, and my administrative assistant, Mr. Eiler Ravnholt. I spent the next 6 days on the Island of Luzon touring six of the eight most severely flooded provinces by helicopter, by car and by jeepney. I met with the political leadership, including two lengthy and private meetings with President Marcos both upon arrival and again just before my departure. I talked not only with the President but with opposition leaders, with provincial governors, mayors, and barrio captains. I was briefed in depth by both American and Philippine officials.

My visit was not limited to an inspection of the flood, for I also visited with the American Chamber of Commerce representatives concerning their problems, a delegation from our Peace Corps contingent, Philippine business leaders, and others. I visited Clark Air Force Base and our naval base at Subic Bay and I talked with the commanders of both.

This was not my first visit to the Philippines. I was there is 1959 as a newly elected Member of Congress. I was there again in 1965 as a member of the Mansfield mission. I revisited some of the same areas.

The damage to the Philippines in terms of damaged crops, homes, and schools destroyed, food stocks lost, flood control and irrigation systems and roads and bridges destroyed or damaged was cause for deep concern and will require special efforts and assistance. The attitude of the Philippine Government, and the Philippine people, in terms of tightening their national belt and exerting maximum effort to overcome the effects of the disaster was heartening. So also was the feeling of gratitude and friendship which was evident toward Americans for their outstanding efforts to provide assistance during the period of great emergency.

Because I believe it is of importance, not only in determining what additional steps we may take to be of further help at this time, but also in further enhancing and strengthening our relations with the Philippines, I wish to share with you this report on my recent journey to the Philippines.

I ask unanimous consent that this statement and my report be printed as a Senate document.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. INOUYE. I yield.

Mr. MANSFIELD. Mr. President, may I say, on the basis of the firsthand report brought back by the distinguished Senator from Hawaii after a personal inspection of the flooded areas in Luzon, the Committee on Foreign Relations, before reporting out the aid authorization measure, specifically allocated $50 million for relief in that area, and I think the Senator is entitled to a great deal of credit for bringing his firshand report and observations to the attention of the Senate and the committee as well.

Mr. INOUYE. Mr. President, I thank the majority leader.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. KENNEDY:

S. 4009. A bill to authorize the establishment of the Boston National Historical Park in the Commonwealth of Massachusetts. Referred to the Committee on Interior and Insular Affairs.

By Mr. PASTORE (for himself, Mr. Griffin, Mr. Randolph, Mr. Kennedy, Mr. Cook, Mr. Beall, Mr. Humphrey, Mr. Nelson, Mr. Bible, Mr. Moss, Mr. Cotton, and Mr. Proxmire):

S. 4010. A bill to amend the act providing an exemption from the antitrust laws with respect to agreements between persons engaging in certain professional sports for the purpose of certain television contracts in order to terminate such exemption when a home game is sold out. Referred jointly, by unanimous consent, to the Committee on Commerce and the Committee on the Judiciary.

By Mr. NELSON:

S. 4011. A bill to establish a Federal Medical Malpractice Reinsurance Program. Referred to the Committee on Labor and Public Welfare.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KENNEDY:

S. 4009. A bill to authorize the establishment of the **Boston National Historical Park in the Commonwealth of Massachusetts**. Referred to the Committee on Interior and Insular Affairs.

BOSTON NATIONAL HISTORIC SITES ACT

Mr. KENNEDY. Mr. President, I am introducing today a bill to establish the Boston National Historical Park in the Commonwealth of Massachusetts. I ask unanimous consent that the full text of the bill and related correspondence be printed at the conclusion of my remarks. I am pleased to announce that Congressman Thomas P. O'Neill, Jr., is introducing companion legislation in the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit I.)

Mr. KENNEDY. Mr. President, the legislation I introduce provides for an historical park to be established in the city of Boston to include Fanueil Hall, the Paul Revenue House, the old State House, the Old North Church, Bunker Hill, and the Old South Meeting House if the present owners of these sites choose to either enter into cooperative agreements with the Secretary of Interior or sell or donate the sites to the Secretary. This legislation not only authorizes the Secretary of Interior to acquire by donation or purchase with the consent of the owner but provides authority for him to enter into cooperative agreements with the city of Boston, the Commonwealth of Massachusetts, or private organizations currently maintaining these sites. These agreements provide that preservation of historic sites may be assisted by the Secretary of Interior while the site is retained in municipal, State, or private ownership. Any such agreement would assure that maintenance under existing ownership is satisfactory to both the owner and the Secretary, and that any improvements or changes be made by mutual agreement.

It is this kind of mutual agreement that best serves the unique characteristics of these precious historical sites. It is this kind of partnership which can best assure that adequate funding is available for the restoration and preservation of the sites while at the same time assuring that those who have struggled over the years to care for and protect these sites will retain control over the maintenance and operation if they choose. It is this kind of partnership between the Federal Government and local government and private groups that provides for shared funding and shared responsibility that is the direction we must take if our natural and historical resources are to be preserved and protected.

On July 17 I met with distinguished representatives of government, community, and private groups interested in developing the best possible plan for the protection of historic sites in Boston. And this legislation includes many of their recommendations—a visitor center, provisions for the Department of the Interior to study additional sites for inclusion in the park such as the Boston Common, the Old Corner Book Store, Dorchester Heights, and several burying grounds, and adequate assurances that if no negotiated agreement can be reached by the owners and the Secretary of the Interior and the present owner does not wish to sell or donate, that no sites will be taken by eminent domain.

For initial consideration by the Secretary of the Interior, I have suggested six sites within the city of Boston that are most suitable for inclusion in the national historical park.

The legislation also provides that the Secretary of the Interior may accept any additional properties which he feels are appropriate. It is my hope that in the coming weeks, the Department of the Interior, working with the Commonwealth of Massachusetts, the city of Boston, private organizations, and the concerned citizens of Boston, may make additional suggestions for inclusion in the park. A most important provision of the bill establishes an Advisory Commission to be composed of members recommended by the Governor of Massachusetts, the Mayor of Boston, and representatives of the organizations which have entered into cooperative agreements with the Secretary of the Interior.

On March 3, 1972, a bill which I introduced to establish the Longfellow National Historic Site passed the Senate, and I am hopeful that companion legislation introduced by Congressman Thomas O'Neill, Jr. will be acted on soon in the House. This legislation preserves the outstanding Longfellow home site in Cambridge, Mass. The Longfellow home is not only a fine example of 18th century architecture, but it has exceptional historic significance. It served as George Washington's headquarters in 1775 and 1776, and it was the home of the beloved American poet, Henry Wadsworth Longfellow, from 1837 to 1882.

But to deal individually with each historical site in which Federal participation might assist in its preservation is a lengthy process and time takes its toll on these precious historical resources while we delay. In this Congress and in the 91st Congress, I introduced legislation to establish the Bunker Hill National Historic Site. While this legislation is pending, we receive the distressing reports on the deteriorating state of the monument and grounds. I have included the Bunker Hill Monument in this bill, not only in hope of fast action to assist in its preservation, but because it clearly ranks as a historic site which should be included in the national historic park.

There are two major reasons for consideration of comprehensive legislation to include all those sites of historical significance in the city of Boston. First, we are familiar with the disturbing accounts on the state of disrepair at some of these historic sites. The Old State House has not had new plumbing or heating since 1880. Fanueil Hall visitors may witness cement falling from its outer apron. Bunker Hill is distinctly uncomfortable during the winter months as the heating situation deteriorates. The 1960 Final Report of the Boston National Historic Sites Commission warned:

> Even though volumes have been written to extol the importance of Boston's history in the Colonial and Revolutionary periods and despite the fact the written record of a resplendent tradition may be complete, it is our misfortune today that the ravages of time and change have been so overwhelm-

ing and destructive of the physical setting that produced the movement and events which weighed so heavily in transporting American Colonies from a status as dependencies of England into full-fledged independence.

Local and State action since that date has demonstrated the concern of the elected officials and citizens of Massachusetts for these sites, but clearly the Federal Government can play an effective role by providing funds to assure adequate maintenance of the sites.

Second, as we move toward the bicentennial celebration, action is needed at every level of government to assure not only that visitors will not be disappointed, but that these homes and halls and monuments will be able to withstand the increased attendance. While we go ahead with our planning and programs for the celebration year, it seems clear that a Boston National Historical Park along the lines of the Independence National Historical Park is the most effective way to insure uniform consideration of these sites of major significance in the allocation of funding.

As the 1960 commission report states:

> At no time in American history has any one place ever played a more vital role or exerted a greater influence on "the course of human events" than the town of Boston between 1760 and 1776.

I would like to include a brief account of the historical significance of the sites included in this legislation for first consideration for inclusion in the park:

First, Faneuil Hall is known as the "cradle of liberty." It was here that colonial resentment was turned into organized, effective action toward American independence. On a motion of Samuel Adams on November 2, 1772, a committee of correspondence was formed "to state the rights of the Colonists—and to communicate the same to the several towns and to the world." Faneuil Hall housed the first Boston town meetings.

Second, Paul Revere House—It was from this home that Paul Revere took his famous ride. And on the first anniversary of the Boston Massacre, Paul Revere used the windows of his home to put on a graphic exhibition in candlelight of the dreadful day in King Street.

Third, Old North Church where Paul Revere hung the signal lanterns the night before the battles of Lexington and Concord is still used as a church today. The legislation provides that no control over its use as a church shall be imposed by any agreement with the Secretary of Interior. The day after Longfellow visited the church he composed the lines:

> Listen, my children and you shall hear
> Of the midnight ride of Paul Revere . . .

Fourth, Old State House was characterized in the 1960 Commission Report as the most important public building in American history prior to the Declaration of Independence. In February 1761, James Otis made his impassioned speech of which John Adams wrote:

> Then and there the child Independence was born.

The Old State House also figured prominently in the Stamp Act riots and the Boston Massacre. The famous circular letter of 1765 sent out to other assemblies was the means of bringing together the Stamp Act Congress.

Fifth, Bunker Hill—In June 1775, a band of militiamen from Massachusetts, New Hampshire, and Connecticut, in an attempt to drive the British from Boston fought off two assaults from well-armed British soldiers, but finally suffered military defeat.

But their belief that independence was attainable grew from their assessment of their own strength and resourcefulness here at Bunker Hill.

Sixth, Old South Meeting House—On November 29, 1773, five thousand citizens resolved that tea should not be landed in Boston. When word returned that the tea would not be moved from Boston, Samuel Adams stood in the pulpit of this meeting house and said, "This meeting can do nothing more to save the country" and citizens disguised as Indians rushed to Griffin's Wharf for the famous Tea Party.

The Boston National Historical Park will not serve just as a collection of war memorials, but as a tribute to the real beginnings of self-government in this country. Equally as important as the spirit of independence was the spirit of unity among the colonials. Equally as important as the military battles that marked the beginning of this independent nation, were the town meetings and charters and elections which formed the basis of our system of checks and balances, our Constitution, and the Congress. We cannot let time and the strain of expanding populations and communities wipe out these precious moments from the past. Only a cooperative effort by the Federal, State, and local governments working with the citizens of Boston who have guarded these treasures over the years can insure that the final note in future history textbooks will not read—these landmarks of history lasted until the 20th century.

EXHIBIT 1

S. 4009

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Boston National Historic Sites Act of 1972".

BOSTON NATIONAL HISTORICAL PARK

SEC. 2. (a) In order to preserve for the benefit and inspiration of the people of the United States as a national historical park certain historical structures and properties of outstanding national significance located in Boston, Massachusetts, and associated with the American Revolution and the founding and growth of the United States, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized, in accordance with the provisions of this Act, to acquire only with the consent of the current owner by donation or by purchase with donated or appropriated funds, and all lands and improvements thereon or interests therein comprising the following described areas:

(1) Faneuil Hall, located at Dock Square, Boston

(2) Paul Revere House, 19 North Square, Boston

(3) The area identified as the Old North Church area, 193 Salem Street, Boston

(4) The Old State House, Washington and State Street, Boston

(5) Bunker Hill, Breeds Hill, Boston

(6) Old South Meeting House, Milk and Washington Streets, Boston

(b) At any such time as the Secretary determines that he has acquired sufficient lands, improvements, and interests therein or entered into cooperative agreements with sufficient numbers of private, municipal, or state owners as provided in Section 3 of this Act, to provide an efficient administrative unit, he is authorized to establish such lands, improvements, and interests as the Boston National Historical Park by the publication of that fact in the Federal Register, together with a detailed map setting forth the boundaries thereof.

(c) In addition to the above described areas, the Secretary is authorized to study the following locations, and any others he deems appropriate for inclusion in the Park, either by donation or by purchase with the consent of the owner with donated or appropriated funds, or by entering into cooperative agreements:

(1) Boston Common

(2) Charlestown Navy Yard

(3) Thomas Crease House (old Corner Book Store)

(4) Dorchester Heights

(5) following burying grounds: King's Chapel; Granary; Copp's Hill

(d) No site will be included in the Park which has not been either acquired with the consent of the owner or the subject of a cooperative agreement as outlined in Sec. 3.

COOPERATIVE AGREEMENTS

SEC. 3. In furtherance of the general purposes of this Act as prescribed in section 2 thereof, the Secretary is authorized to enter into cooperative agreements with the city of Boston, the Commonwealth of Massachusetts, and private organizations to assist in the preservation and interpretation of such of the properties listed in section 2, or portions thereof, which, in his opinion, would best be preserved in private, municipal, or state ownership, in connection with the Boston National Historical Park. Such agreements shall contain, but shall not be limited to, provisions that the Secretary, through the National Park Service, shall have right of access at all reasonable times to all public portions of the property covered by such agreement for the purpose of conducting visitors through such properties and interpreting them to the public, that no changes or alterations shall be made in such properties except by mutual agreement between the Secretary and the other parties to such agreements, except that no limitation or control of any kind over the use of any such properties customarily used for church purposes shall be imposed by any agreement. The agreements may contain specific provisions which outline in detail the extent of the participation by the Secretary in the restoration, preservation, and maintenance of the historic site. Any historical properties not acquired by negotiated purchase, donation, or not the subject of a cooperative agreement may be excluded from the Boston National Historical Park.

ADDITIONAL AREAS

SEC. 4. The Secretary is authorized to accept donations of property of national historical interest and significance located in the city of Boston which he may deem proper for administration as part of the Boston National Historical Park. Upon such acceptance, such property shall be deemed part of such park. The Secretary may purchase with the consent of the owner or enter into a cooperative agreement with the owner of any additional historic sites which he deems appropriate for inclusion in the Boston National Historical Park.

ADVISORY COMMISSION

SEC. 5. The Secretary is authorized to establish a suitable advisory commission. The members of the advisory commisison shall be appointed by the Secretary, with three members to be recommended by the Governor of Massachusetts, three by the mayor of the city of Boston, Massachusetts, and one each by the organizations with which the Secretary has concluded cooperative agreements pursuant to section 3 of this Act. The advisory commission shall render advice to the Secretary, from time to time, upon matters which he may refer to them for consideration.

HISTORICAL MARKERS

Sec. 6. The Secretary is hereby authorized to carry out a program of historical marking in the city of Boston, Massachusetts, and other municipalities within the Commonwealth of Massachusetts, to cover nationally significant sites of the Colonial and Revolutionary periods of American history, and such sites as are related to any unit of the National Park System within the Commonwealth of Massachusetts, through agreements with the owners of such sites.

VISITOR CENTER

Sec. 7. The Secretary with the consent of the Advisory Commission is authorized to construct on lands acquired by him in accordance with this Act or upon other lands that may be donated to him for such purpose, or make use of existing facilities with proper restoration, a suitable visitor center for the interpretation of the historical features of the Boston National Historical Park.

ADMINISTRATION

Sec. 8. The Boston National Historical Park shall be administered by the Secretary in accordance with the provisions of this Act, the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented (16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467).

AUTHORIZATION

Sec. 9. There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this Act; except that no such sums shall be used for the purchase of property owned by the Commonwealth of Massachusetts, or the city of Boston, Massachusetts.

Christ Church,
Boston, Mass., September 5, 1972.
Senator Edward M. Kennedy,
Senate Office Building,
Washington, D.C.

Dear Senator Kennedy: You are to be commended for your leadership in proposing the legislation designed to create the Boston National Historic Park.

In response to your inquiry for my reaction, I am pleased to offer the following comments.

1. I believe that Christ Church, the Old North Church, must remain in the control of the Church . . . that is . . . free of government control. It is part of our genius and historic stance that we be free—separation of Church and State and all that.

2. I believe that this church should always be accessible to *all* people—no admission charges. It has been our experience that people are moved to tears when they arrive here and stand at the foot of the steeple from which those lanterns were hung to light the path of freedom in this land. It is further our commitment that *all* people be encouraged to visit here.

3. If to agree to be part of the park and accepting support from the Federal Government means controls as to what is said here, or if our ministry and programs were to be limited or infringed upon, then I must say we cannot be a part of the park.

4. If to be part of the park while retaining control would mean no support from the Federal Government, then I could not agree to this, because by being part of the park with appropriate signs, etc. would in people's minds indicate we were receiving support and would effectively dry up my voluntary sources of income.

5. As the proposed legislation now stands agreements are to be worked out with the Department of the Interior, and as each agreement could conceivably be different from site to site, I can only say again that our agreement, if we are to participate, would have to include our retaining control and Federal assistance, in return for which we would agree not to alter the building, and to maintain accepted standards of maintenance and bookkeeping.

Finally, I believe the idea of the Historic Park is sound and I further believe our particiaption is essential if the park is to be what it can and should be. I hope such agreements will be possible.

Sincerely

Robert W. Golledge, *Vicar.*

American Jewish
Historical Society,
Waltham, Mass., August 29, 1972.
Senator Edward M. Kennedy,
Committee on Labor and Public Welfare,
U.S. Senate, Washington, D.C.

Dear Senator Kennedy: I should like very much to acknowledge receipt of your letter of August 1 and the accompanying final draft of your bill to authorize the establishment of the Boston National Historical Park in the Commonwealth of Massachusetts.

I believe this final draft incorporated most of the applicable suggestions made during our meeting of July 17. I am particularly pleased to note that the property rights of present owners will be protected, be they private, municipal, or state. I think the bill would be subject to much criticism if this provision were not made. I also feel that inclusion of a visitor center is absolutely essential and was pleased to also note its inclusion.

In the event that I can be of additional aid or assistance to you and members of your staff, please do not fail to contact me.

Sincerely yours,

Bernard Wax, *Director.*

Massachusetts Historical Society,
Boston, Mass., August 11, 1972.
Senator Edward M. Kennedy,
U.S. Senate,
Washington, D.C.

Dear Senator Kennedy: Thank you for your letter of August 1. I read your proposed bill to establish a Boston National Historic Park in order to preserve certain historic sites in Boston, and I approve of it highly. I hope very much that your bill will pass. May I say that I have been greatly impressed by the manner in which other National Historic Parks are supervised and maintained.

I do hope that while your efforts to maintain and preserve historic buildings and sites will continue, that you will also consider the difficulties that face the nation's historical societies at the present time. These societies are preserving and acquiring the great collections of historical material which make interpretation of our past possible. As a member of this Society you know some of the collections we house, such as the Adams Family Papers, the Thomas Jefferson Papers, etc. But all of these institutions operate on a shoestring. They do not have the necessary staffs and funds which they desperately need. Don't you think it would be a good idea for the Bicentennial Commission to do something about these institutions that have worked so hard to preserve the things we say we hold dear, but rarely do anything about. For your information I enclose a copy of a news-release establishing an Independent Research Library Association. It may be of interest to you.

With best wishes.

Sincerely yours,

Stephen T. Riley, *Director.*

Palmer & Dodge,
Boston, Mass., August 21, 1972.
Senator Edward M. Kennedy,
Senate Office Building,
Washington, D.C.

Dear Senator Kennedy: Thank you very much for your kind letter of August 1, 1972 with respect to the "Boston National Historic Sites Act of 1972".

As chairman of the Back Bay Architectural Commission I am, of course, interested in the preservation of sites of historic and architectural importance within the city of Boston. I believe that the bill which you are proposing to submit to Congress would help in this endeavor by permitting the federal government to administer certain of the local land marks which form the basis of Boston's prominent position as a tourist attraction and as an historic shrine.

I think that the bill as currently drafted meets the objections which were raised at the meeting of July 17 at the Old State House. It seems to me that so long as the bill provides only for acquisition by the Secretary of Interior by purchase or gift and not by taking by eminent domain, there can be no legitimate criticism of federal interference in local matters. Also, the section providing for a more thorough system of signs for historical sites throughout the Commonwealth is important.

Thank you for your consideration in requesting my views on this matter.

Yours faithfully,

Donald F. Winter.

Boston Parks and Recreation,
Boston, Mass., August 1, 1972.
Hon. Edward Kennedy,
U.S. Senate, Committee on Labor and Public Welfare, Washington, D.C.

Dear Sen. Kennedy:

Thank you for your letter and the copy of your bill "To Authorize the Establishment of the Boston National Historical Park in the Commonwealth of Massachusetts.".

Certainly, this bill has been long needed to preserve our treasures in a manner worthy of our history. You were kind to come to Boston and hear our opinions.

Our historic open space parks need help also, although not necessarily by joining a national historic park. I hope that your next effort will be to help us preserve these open spaces for the people who live in the city, and can't afford to leave for weekends and vacations. We would like to provide even better maintenance and leisure programs for inner city residents.

Thank you for this fine bill, which I shall support here in all possible ways.

Sincerely,

Ruth S. Foster, *Ecologist.*

Boston Landmarks Commission,
Boston, Mass., August 10, 1972.
Hon. Edward M. Kennedy,
Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

Dear Senator Kennedy: Thank you for sending me a copy of the revised draft of your bill to establish a Boston National Historical Park. As you know from my comments at the July 17 meeting, the Boston Landmarks Commission, presently an advisory commission within the Boston Redevelopment Authority, endorses the concept of the bill and suggests the inclusion of Boston Common and Public Garden among the sites initially covered by the legislation. As you know, the Common and Garden have recently been listed in the National Register of Historic Places.

My principal suggestion about the revised draft of the bill is that the park should not be limited to Colonial and Revolutionary sites. Specifically, I would suggest that the following words be eliminated from Section 2: "and associated with the American Revolution and the founding and growth of the

United States." Although it may be desirable to concentrate at first on Revolutionary sites, especially in light of the approaching Bicentennial, the concept of the park should be broader than the Colonial and Revolutionary periods. "Outstanding national significance" (Section 2) or "national historical interest and significance" (Section 4) are sufficient criteria.

I commend your initiative in developing this legislation and look forward to its implementation.

Sincerely,
Robert B. Rettig,
Project Director.

The Commonwealth
of Massachusetts,
Boston, Mass., August 4, 1972.
Hon. Edward M. Kennedy,
U.S. Senate, Committee on Labor and Public Welfare, Washington, D.C.

Dear Senator Kennedy: Thank you for your letter of August 1, 1972, pertaining to the Boston National Historic Park.

We are pleased with the prospect of federal operation of national historic treasures and wish to commend you for your initiative.

This federal interest might also be extended to incorporate other federal historic properties on a cooperative basis so that the Boston Naval Shipyard and the U.S.S. Constitution could be part of the total Boston National Historic Park.

Another very important area for consideration might include the "Dorchester Heights" in South Boston, which were fortified so significantly and which led to the evacuation of British forces on March 17, 1776. It is hard to draw the line once you begin to create a national park in Boston because there are so many elements of great national significance. Therefore, the open authorization in the current draft of your Bill is appropriate.

May we ask you to support the U.S. Travel Service proposal that it may become a balanced national tourism promotion office? As attractions expand, it is important to carry out a balanced promotion program. We feel that the U.S. Travel Service program should include the domestic as well as the foreign aspects of tourism.

Please keep us informed of the progress of the Boston Historic Park and call on us for support at any time.

Sincerely,
Ernest A. Lucci,
Deputy Commissioner.

City of Boston,
Office of the Mayor,
City Hall, Boston, Mass., August 10, 1972.
Hon. Edward M. Kennedy,
Old Senate Office Building,
Washington, D.C.

Dear Senator Kennedy: The City of Boston appreciates your legislative initiative to create a National Historic Park here and welcomes the opportunity to comment on the proposed bill.

Two particular strengths of the legislation are the concept of cooperative agreements and the provision for incorporating other sites into the Historic Park at a future date. The cooperative agreements should be a means 1) to get the Office of Management and Budget to overcome its reluctance to authorize the use of federal funds for the operation and maintenance of this type of property, 2) to provide a uniformly excellent administrative and interpretive framework, and at the same time 3) to allow the title to the property to remain with the group associated with it historically.

With the approaching celebration of the Bicentennial, the bill's focus is understandably on sites with historical significance in the colonial and revolutionary periods. However, we are interpreting Sections 2 and 4 of the draft bill to mean that other sites associated with the growth of the United States and of more recent historical merit, such as the Charlestown Naval Yard and/or the Olmsted Park System, may be added sooner or later to the National Historic Park. The concept, definition, and preservation of both Boston's history and the National Historic Park should be dynamic and inclusive.

Any provisions in the bill for restoration and maintenance should recognize the special stress of an urban environment and should aim at correcting and preventing damage caused by urban pollution, be it air, water or noise.

Whereas the draft bill covers six key colonial and revolutionary sites, it omits several others which should be considered for inclusion. Particular attention should be given to Dorchester Heights and the burial grounds. As a National Historic Landmark, Dorchester Heights is already the subject of a cooperative agreement between the City of Boston and the National Park Service which could be retailored and made an effective part of the park. Historically, one values Boston's burying grounds not only for their early date, for the graves of notable patriots, and for their stones which are a record of the art and culture of the time, but also one prizes them for the patch of green open space they add to the urban environment. As the Department of the Interior begins to think about urban parks, we should underline this double value of the burying grounds. The following is a list of additional sites that you may want to cover in the initial legislation:

1. Boston Common and Central Burying Ground
2. Thomas Crease House (Old Corner Bookstore)
3. Dorchester Heights
4. Shirley-Eustic House
5. King's Chapel and Burying Grounds
6. Granary Burying Grounds
7. Copp's Hill Burying Ground
8. Castle Island (Fort Independence)
9. Highland Park (Roxbury High Fort)

In Section 2, you may want to define more precisely the "area identified as the old North Church area" and "Bunker Hill, Breeds Hill." Any ambiguity may conjure up apprehensions about land clearance and acquisition associated with the report and recommendations of the 1960 Boston National Historic Sites Commission. Also, it should be clarified if the Moses Pierce-Hichborn is included or not under the definition of the Paul Revere House.

Provision is made in Section 5 for local representation and expression in the affairs of the park; however, the Commission is a structure lacking true voice and authority. We would recommend that the legislation require that the Boston National Historic Park Advisory Commission approve all additions to the park, be it land or facilities, and also approve any new construction, such as a visitors' center, and any alterations of use of the facilities incorporated in the park to insure that such undertakings would always be in keeping with the concept and objectives of the park.

The City of Boston will be most interested in the progress of the bill and will be ready to assist in any way that we can.

Sincerely,
Kevin H. White, *Mayor.*

By Mr. PASTORE (for himself, Mr. Griffin, Mr. Randolph, Mr. Kennedy, Mr. Cook, Mr. Beall, Mr. Humphrey, Mr. Nelson, Mr. Bible, Mr. Moss, Mr. Cotton, and Mr. Proxmire):

S. 4010. A bill to amend the act providing an exemption from the antitrust laws with respect to agreements between persons engaging in certain professional sports for the purpose of certain television contracts in order to terminate such exemption when a home game is sold out. Referred jointly, by unanimous consent, to the Committee on Commerce and the Committee on the Judiciary.

Mr. PASTORE. Mr. President, on behalf of myself and the Senator from Michigan (Mr. Griffin), I send to the desk for appropriate referral a bill.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

Mr. PASTORE. Mr. President, today a professional football team can blackout the television coverage of its home games within its home territory. In professional football this generally means a blackout within a 75-mile radius of the home team's stadium.

Numerous inquiries regarding this provision have been received. Specifically, questions have been raised about the justification of blacking out of home games when these games are in effect sold out.

During the past season, according to one source, 97 percent of the seats in the National Football League stadiums were sold. On the average some 50,000 fans have paid to fill the seats at regular pro league games. Tens of thousands of others who desired to see the games were unable to get in. Yet even while thousands of fans were unable to buy seats, the television coverage of all regular home games is blacked out by the National Football League generally within a 75-mile radius of the home team's stadium. While there may have been some justification for this system when both the National Football and American Football teams were struggling to survive, there is a real question today whether it is any longer justified. It appears that most of the games are sold out and that television revenues from the regular and postseason games are estimated at between $45 and $50 million.

The Senator from Michigan (Mr. Griffin) and I are, therefore, proposing today that the local blackout be ended before game time. This would permit those who purchase tickets to go to the stadium and those unable to buy tickets to see it on their home television.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. PASTORE. I yield first to the Senator from Michigan.

Mr. GRIFFIN. I know that the Senator from Rhode Island will want to yield to the Senator from Wisconsin, because the Senator from Wisconsin has been interested in the subject, too, over a period of months. I commend the Senator from Rhode Island, the distinguished chairman of the Subcommittee on Communications of the Committee on Commerce, for introducing this bill. It is similar to a bill I have introduced. I am glad to cosponsor the measure as it is proposed today and to indicate my strong view that I hope we can get action in this area. I am getting many, many letters, and I am sure many other Senators are, particularly if they happen to represent a State that has a football team like the Detroit Lions, where 75 percent of all tickets are sold out to season ticketholders before the season even begins and almost without exception now every game is sold out long in advance.

We have the situation that people who are very interested cannot buy a ticket and they cannot watch the game on television.

The time has long passed when this policy, this arbitrary policy, on the part of the National Football League and the American Football League should be reviewed and the statutory exemption which Congress granted a few years ago should be revoked or repealed, at least insofar as it allows this arbitrary power in the hands of the leagues to black out completely these professional football games.

Mr. PASTORE. The argument usually made by the professionals is this: Because there is a sellout in the beginning, it would not happen next year if you eliminated it completely. That is the reason why I am introducing this bill today as a supplement to the bill that was introduced by Senator PROXMIRE some time ago.

I am saying in this bill that where there is a sellout of a particular game 48 hours before that game, they have to open up the screen.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. PROXMIRE. Mr. President, I cannot say how pleased and happy I am that the Senator from Rhode Island, who is the outstanding expert in the Senate on the FCC and on television and radio, has introduced this bill. As he said, I introduced a bill almost exactly like this a year and a half ago. I have been pressing hard for it.

I can tell the Senator from Rhode Island that there will be rejoicing in Wisconsin and Milwaukee and Green Bay, because people are outraged. The overwhelming majority of these stadiums are owned by the people. The stadiums are used by the professional teams, who make a tremendous amount of money out of it.

There are very few periods in American life that men especially—but women, too, I think—look forward to more than the Sunday afternoon football game they can watch on their television set. They prefer to go.

Mr. PASTORE. They cannot buy a ticket.

Mr. PROXMIRE. There is no possible way to get in. You have to have it deeded to you. People spend thousands of dollars for these things.

The Senator's provision that the game would have to be sold out 48 hours in advance, and only if it is sold out will it be shown on television, will protect the owners.

Mr. PASTORE. That is right.

Mr. PROXMIRE. It seems to me that it makes a great deal of sense. I am sure that there will be a great deal of rejoicing in Green Bay and Milwaukee tonight, with the knowledge that the Senator from Rhode Island has introduced this measure.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. PASTORE. I yield first to the Senator from Kentucky.

Mr. COOK. I thank the Senator.

As the Senator from Rhode Island knows, he, together with this Senator, held hearings on my sports bill some time ago; and we went to some extent into the unfairness of the blackout situation, about which the Senator from Wisconsin has spoken.

I suppose the most glaring example we can give is that the citizens of Kansas City voted a $69 million bond issue for their facilities—baseball, football, and basketball—and during the course of the bond issue, the best that the sports facilities could do to contribute to the extinction of those bonds was a little more than $9 million of the $69 million of debts. Yet, the people in Kansas City cannot watch their football team play football.

If they are going to call themselves the Kansas City Chiefs or if they are going to call themselves the New York Giants, who threatened the city of New York that if the city did not spend 20-some-odd million dollars to fix up Yankee Stadium they would move to New Jersey—and they are going to move to New Jersey—and yet they are totally sold out, I can say that legislatively something ought to be done about it.

I would like to be a cosponsor of the bill.

I also remind the Members of the Senate that in the basketball merger bill now on the calendar there are some provisions relative to blackouts and the eliminations of blackouts.

Mr. PASTORE. Those are only super games.

Mr. COOK. That is correct.

Mr. PASTORE. This bill refers to all games.

Mr. COOK. I would hope the Senator from Rhode Island, if that bill should happen to come up for consideration, would use the vehicle he has in his hand to have a good debate on this matter, relative to the expansion of the section that is now in that bill.

I ask the Senator to have my name added as a cosponsor of his bill.

Mr. PASTORE. Mr. President, I ask unanimous consent that the names of the Senator from West Virginia (Mr. RANDOLPH), the Senator from Kentucky (Mr. COOK), the Senator from Wisconsin (Mr. PROXMIRE), and the Senator from Minnesota (Mr. HUMPHREY) be added as cosponsors of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PASTORE. I yield to the Senator from Minnesota.

Mr. HUMPHREY. The Senator from Wisconsin (Mr. PROXMIRE) said that there will be rejoicing in Milwaukee, Green Bay, and Wausau and other places. There will be rejoicing in the Twin Cities, except when we play the Redskins. (Laughter.) If there is any way to black that out, it should be blacked out. Otherwise, I buy the whole bill.

In all seriousness, I want to compliment the Senator. I think this bill will be well received by the public. It is one of the great needs of entertainment.

Mr. PASTORE. It is a very frustrating situation. You go to the gates where the tickets are sold and there is a line a mile long, and people cannot buy a ticket for love or money. In many instances the tickets are sold even before the season starts. They are picked up by big industrialists for public relations purposes, and the ordinary American cannot buy a ticket even if he has the money.

Then the scalpers come into play, and sometimes some of these tickets are sold for as much as $50, and the poor people who have been standing in line in the rain go home and cannot even see the game. They have to take a train to New York and go 75 miles from their home in order to see the game.

Mr. HUMPHREY. I say to the Senator from Michigan that we look forward to the coming weekend, with the Detroit Lions and the Vikings. Perhaps the Senator will not want this game televised.

Mr. GRIFFIN. We would very much like it televised.

Mr. PASTORE. Mr. President, I yield to the Senator from New Hampshire.

Mr. COTTON. I thank the Senator.

Mr. President, I am thoroughly in accord with the proposed bill. I commend the distinguished Senator from Rhode Island, the distinguished Senator from Michigan, the distinguished Senator from Wisconsin, and the other Senators for introducing it.

I would not for the world cast any discordant note into this colloquy—at least, I am reluctant to do so—but I do feel constrained, on behalf of a vanishing generation, to call the attention of these Senators to the fact that the football teams are able to black out something more besides their own games.

I am old fashioned enough that I hate to see what I guess is about to become true, that baseball will cease to be America's favorite sport and is going out of the picture. But when the football season starts so early, the preseason games begin during the latter part of July and they run continuously every week thereafter, so that it is all the football on TV that has pushed baseball out of the picture. Some of us old-fashioned guys, once in a while, turn on the television set to see a baseball game, but instead a football game is being shown, and they run clear into February, which is all right during that part of the calendar.

When the bill gets to our committee I believe that we should consider whether we should extend it to the point that it covers all their preseason games as well as the regular season.

I realize that baseball is not making the money it used to and is not drawing the crowds it used to and is up against a bad situation. Perhaps it will become a thing of the past. But I get a little fed up when, instead of being able to see a baseball game, even when we are approaching the World Series with four teams in the American League running almost even, I am compelled to see four or five different football games on the television screen. So they wipe out baseball completely even if they break with themselves in their own territory.

I just want to add that when the bill comes to the committee I might be tempted to offer one small amendment which would not apply at all to the regular season or even to the afterseason games, but which might have something to do with the preseason games.

Mr. PASTORE. Mr. President, I ask unanimous consent that my bill, inasmuch as it has to do with the antitrust laws, be referred to the Committee on the Judiciary and to the Committee on Commerce.

Mr. HART. Reserving the right to object, what was that?

Mr. PASTORE. I asked unanimous consent that my bill, inasmuch as it has to do with the antitrust laws, be sent to the Committees on Judiciary and Commerce.

Mr. HART. I thank the Senator.

The PRESIDING OFFICER (Mr. HANSEN). Is there objection to the request of the Senator from Rhode Island?

Mr. COTTON. Mr. President, just one moment. I still did not hear what the Senator said.

Mr. PASTORE. I asked unanimous consent, inasmuch as this has to do in part with the antitrust laws, which comes under the jurisdiction of the Judiciary Committee that the bill be referred to the Committees on Judiciary and Commerce.

Mr. BEALL. Mr. President——

The PRESIDING OFFICER. Is there objection to the request of the Senator from Rhode Island?

Mr. BEALL. I do not object——

The PRESIDING OFFICER. Without objection, the bill will be referred jointly to the Committees on Judiciary and Commerce.

Mr. BEALL. Mr. President, will the Senator from Rhode Island yield?

Mr. PASTORE. I yield to the Senator from Maryland.

Mr. BEALL. Mr. President, I rise to ask the distinguished Senator from Rhode Island (Mr. PASTORE) to make me a cosponsor of his bill.

Mr. PASTORE. I have already added the name of the distinguished Senator from Maryland.

Mr. BEALL. I thank the Senator.

Mr. President, when we speak of making people happy, I am in the unique position of representing two different football constituencies here in the Senate. I represent the constituents who follow the Washington Redskins and live in suburban Maryland. I also represent the constituents who are loyal to the champion Baltimore Colts and live in the vicinity of Baltimore. So the Senator from Rhode Island has made two of my constituencies happy by this particular piece of legislation.

I might point out, also, that I represent the constituencies of the two football teams which will probably be meeting each other in the Super Bowl come January. [Laughter.]

Mr. PASTORE. Mr. President, I yield the floor.

Mr. COTTON. Mr. President, before the Senator yields the floor, in spite of my remarks about the harm being done baseball, I would like to be added as a cosponsor of the Senator's bill.

Mr. PASTORE. Mr. President, I ask unanimous consent that the name of the Senator from New Hampshire (Mr. COTTON) be added as a cosponsor of my bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. NELSON:

S. 4011. A bill to establish a Federal medical malpractice reinsurance program. Referred to the Committee on Labor and Public Welfare.

FEDERAL MEDICAL MALPRACTICE REINSURANCE ACT

Mr. NELSON. Mr. President, as stated in individual views on the HMO bill, I believe the section (1221)—requiring certification of all health providers who might benefit from the malpractice reinsurance provision—is impractical and unworkable at this time.

The committee adopted a malpractice reinsurance provision, setting up a Government-operated reinsurance pool, covering catastrophic insurers losses in malpractice suits.

The intent of this provision is to be a first step toward controlling the high cost of malpractice premiums; providing a mechanism for making malpractice insurance available to all qualified providers; and curbing the losses insurance companies are experiencing from high claim awards.

However, I do not believe that it is valid to use the malpractice reinsurance provision as a device to certify all health providers in a bill that primarily intends to aid the development of health maintenance organizations.

Of an estimated 334,000 physicians in the United States, approximately 6,500 (or about 2 percent) are practicing in some form of group practice or HMO, according to HEW estimates. Thus, 327,500 physicians in the country who are in solo practice would have to be certified by the HMO Quality of Care Commission before they could benefit from the malpractice reinsurance provision.

Many of the solo practitioners in the country are located in rural areas. Thirteen percent of the Nation's doctors practice in nonmetropolitan counties, including 3.6 percent who practice in counties of less than 25,000 population—according to 1971 American Medical Association figures.

Of the 334,000 physicians—an AMA figure—112,028 or 34 percent are board certified by 20 specialty boards. Practicing physicians are also licensed by States, of which 44 States utilize the FLEX—Federal licensure examination—exam—a 3-day examination devised by State medical boards and the National Board of Medical Examiners.

This bill would impose another certification procedure on top of existing mechanisms.

While I agree with the aim of the bill to insure that quality health care is being provided nationwide, and support peer review and quality review with participation by laymen receiving health care, I believe a federally controlled certification program envisioned by this bill is impractical and unworkable at this time.

A major problem is that there is no general consensus among doctors, health-care providers, consumers, or anyone as to what constitutes acceptable quality of care. The HMO does not indicate what levels or means of measuring quality would be, although it allows locally administered quality review meeting Federal standards set by the Quality of Care Commission.

Understandably, standards would vary from area to area. What might be considered good quality care in a rural area might be inadequate in an urban setting.

The bill would require certification for quality—which everyone agrees is difficult to establish or define—as a prerequisite to entitlement of benefits under the malpractice reinsurance program.

The issue of medical malpractice is one that should be considered thoroughly and separately from the HMO bill.

For this reason, I am introducing the malpractice reinsurance bill separately.

The bill sets up a Federal malpractice reinsurance program patterned after the Federal riot and flood reinsurance programs to protect primary insurance companies against catastrophic malpractice claim losses.

Insurance companies selling malpractice insurance could voluntarily pay into a federally administered reinsurance pool.

The pool initially would pay malpractice liability claims above $25,000 and up to $1 million. These figures could be adjusted up or down, based on actuarial experience.

The Federal Reinsurance Commission could regulate malpractice premium rates among participating insurance companies, so that rates could be stabilized or perhaps reduced, based on actuarial experience.

After analyzing the malpractice problem and various possible approaches to correct it, it is my conclusion that this reinsurance is the most practical first step to cut the spiraling cost of malpractice insurance, make it available to all qualified health care providers at reasonable costs, and still allow for judicial review of liability.

Testimony before the Department of Health, Education, and Welfare Malpractice Commission, the Senate Health Subcommittee and the First National Conference on Medical Malpractice, February 7–8, 1970, in Chicago cite the following problems:

First. Malpractice claims are increasing. The American College of Surgeons, in a recent nationwide survey, found that over 40 percent of 15,000 board certified surgeons who responded to the survey had at least one malpractice claim since 1960. The incidence of claims was higher in the second half of the 1960's than the first half. At such a rate, one out of three surgeons will have a suit against him in the first half of the 1970's.

The National Association of Insurance Commissioners, in a report of its industry advisory committee on medical malpractice insurance, June 12, 1972, stated:

> Are claims continuing to rise? Yes. They are rising at an ever increasing rate, particularly since the advent of the wage-price control. Are judgments and settlements continuing to increase? Yes. There has been a definite trend to far higher awards since the advent of the wage-price freeze.
>
> There is no control over the number of cases which may be brought against doctors in each state. There is no control over the amount of court-approved awards which juries or panels may give to plaintiffs, and there is no control over the level at which settlements must therefore be made. This coverage will continue to be available to the vast majority of physicians as long as adequate premiums can be obtained.

Second. Awards by courts are going up. Awards as high as $500,000 are occurring with increasing frequency, although average court settlements are $10,000.

Third. Premiums are skyrocketing and some doctors are having increasing difficulty obtaining malpractice insurance at all. In one of its first actions involving professional liability insurance rates, the Price Commission approved a 13.1 percent premium hike for physicians in northern California who are insured by one insurance company. The firm attributed the need for a rate hike to "a particularly sharp increase in claim frequency," which hit a record high in 1970. The actual increases ranged from 5 percent for general practitioners to 20.8 percent for specialists.

In testimony before the HEW Malpractice Commission, California doctors reported that the cost of $1 million worth of malpractice insurance for a general surgeon rose from $975 per year in 1968 to $3,925 for the same coverage by the end of 1969. For some specialities, witnesses said premiums are now as high as $15,000 to $25,000.

In Michigan, the majority of doctors in the Ingham County Medical Society paid malpractice premiums from $50 to $550 in 1966; by 1971, premiums for the same doctors had risen to between $1,000 and $3,000.

Fourth. Doctors retire early or move out of high-premium areas rather than pay premiums they feel they cannot afford.

Fifth. Insurance companies say they are forced to raise the premiums because of the risk of high losses. They claim their own reinsurance has gone up or that they cannot obtain reinsurance at reasonable rates. Thus, the cost of malpractice insurance is passed onto the doctor, who passes it onto the consumer.

Richard S. L. Roddis, dean, University of Washington School of Law, Seattle, Wash., wrote in a paper, "Medical Malpractice," published by the Center for the Study of Democratic Institutions:

> The insurer naturally will expect more in the way of a net return on those lines of coverage where it faces a greater risk that results will vary substantially from those anticipated, such as the malpractice insurance line.
>
> It is a fact that the uncertainties of malpractice underwriting have been very acute in the last 15 years for a number of reasons . . .
>
> Complicating the picture is that there comes a time when the uncertainties in underwriting just cannot be compensated for by ever-higher premium rates. There is no rate for some types of risks. Then the "capacity of the insurance market" is really limited. Indeed, you then see companies begin to withdraw from those lines of business.

Sixth. Doctors are practicing defensive medicine—often unnecessary, costly extra services, which doctors provide or order to protect themselves in the event of a suit.

Both the AMA and the American College of Surgeons, in surveys, found that doctors order more X-rays, laboratory tests, consultations, hospitalizations, and records, and some doctors reported cutting out certain procedures altogether, and ceasing emergency room activities because of the malpractice threat.

The result, then, has been higher doctor's fees, increased health care costs in general, and decreased availability in many areas. This is contrary to all efforts to make health care more available to persons at reasonable expense.

Blue Cross Association testified before the HEW Commission:

> It is estimated that hospital liability insurance premiums add 40 to 50 cents to each patient day in the hospital. . . . that burden amounted to $29,650,000, which had to be passed on to Blue Cross in the form of higher costs, and ultimately to the subscriber in higher rates.

This bill, providing federally administered malpractice reinsurance, would make it possible for insurance companies to stay in the malpractice business, and provide insurance at reasonable rates to qualified providers.

The bill provides limited Federal involvement in the malpractice insurance industry. Like Federal riot and flood insurance, it is an effort to utilize existing structures while providing a mechanism for protection against catastrophic losses by companies.

The Federal Insurance Administration estimates that reduced administrative expense incurred by the Federal crime insurance program will permit a 50-percent higher payout on claims.

The evidence from workmen's compensation and the Federal crime insurance program indicates that the costs of coverage under publicly administered programs are less than private insurance coverage.

At the first national conference on medical malpractice, sponsored by the American Osteopathic Association with support from HEW, February 7 through 8, 1970, Chicago, one workshop that explored alternative insurance mechanisms reported:

> Representatives of the insurance industry in our workshop pointed out that the real problem in malpractice insurance was the lack of reinsurance companies to share and spread the risks. It was generally believed that it was in the area of financial support in the field of reinsurance that companies handling malpractice insurance needed the most support. If such reinsurance support could be secured through the assistance of the federal government, then more companies would be attracted back into the medical malpractice market, and rates could conceivably be reduced. If insurance companies could make a profit in the professional liability field, competition would increase and premiums could be stabilized.

The ultimate effect of this bill, if enacted, would be to benefit the consumer, patient, and public.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 4011

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Medical Malpractice Reinsurance Act of 1972".

ESTABLISHMENT OF PROGRAM

Sec. 2. There is hereby established a program to be known as the Federal Medical Malpractice Reinsurance Program (hereinafter referred to as the "Program") which shall be administered by the Federal Medical Malpractice Reinsurance Board (hereinafter referred to as the "Board").

ESTABLISHMENT OF THE BOARD

Sec. 3. (a) (1) There is established a Federal Medical Malpractice Reinsurance Board (hereinafter called the "Board") consisting of nineteen members appointed by the President by and with the advice and consent of the Senate. Members of the Board shall be selected from among representatives of the general public, the insurance industry, State and local governments including State insurance authorities, and the Federal Government. Of these members of the Board, not more than six shall be regular full-time employees of the Federal Government, and not less than four shall be representatives of the private insurance industry and not less than four shall be representatives of State insurance authorities.

(2) The President shall designate a Chairman and a Vice Chairman of the Board.

(3) Each member shall serve for a term of two years or until his successor has been appointed, except that no person who is appointed while a full-time employee of a State or the Federal Government shall serve in such position after he ceases to be so employed, unless he is reappointed.

(4) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of that term.

(b) The Chairman shall preside at all meetings, and the Vice Chairman shall preside in the absence or disability of the Chairman. In the absence of both the Chairman and Vice Chairman, the Board may appoint any member to act as Chairman pro tempore. The Board shall meet at such times and places as it may fix and determine, but shall hold at least four regularly scheduled meetings a year. Special meetings may be held at the call of the Chairman or any three members of the Board.

(c) The Board shall review general policies and shall perform such other functions as are specified in this title.

(d) The members of the Board shall not, by reason of such membership, be deemed to be employees of the United States, and such members, except those who are regular full-time employees of the Government, shall receive for their services, as members, the per diem equivalent to the rate for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code, when engaged in the performance of their duties, and each member of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title for persons in the Government service employed intermittently.

REINSURANCE COVERAGE

Sec. 4. The Board is authorized to offer to any insurer or pool, subject to rules and regulations prescribed by the Board, reinsurance against liability for damages resulting from acts of medical malpractice.

BASIC AUTHORITY

SEC. 5. (a) In carrying out the medical malpractice reinsurance program the Board shall arrange for—

(1) appropriate financial participation and risk sharing in the reinsurance program by insurance companies or other insurers, and

(2) other appropriate participation on other than a risk sharing basis by insurance companies or other insurers, insurance agents and brokers, and insurance adjustment organizations.

(b) The Board shall initially make reinsurance available to cover liability for amounts over $25,000 but not exceeding $1,000,000. If on the basis of studies and investigations, and other information that becomes available the Board determines that it would be feasible to extend medical malpractice reinsurance programs to cover amounts less than $25,000 or more than $1,000,000 it may take such action under this Act as from time to time may be necessary.

CLAIMS AND JUDICIAL REVIEW

SEC. 6. (a) All reinsurance claims for losses under this Act shall be submitted by insurers in accordance with such terms and conditions as may be established by the Board.

(b)(1) Upon disallowance of any claim under color of reinsurance made available under this Act, or upon refusal of the claimant to accept the amount allowed upon any such claim, the claimant may institute an action against the Board on such claim in the United States district court for the district in which a major portion (in terms of value) of the claim arose.

(2) Any such action must be begun within one year after the date upon which the claimant received written notice of disallowance or partial disallowance of the claim, and exclusive jurisdiction is hereby conferred upon United States district courts to hear and determine such actions without regard to the amount in controversy.

USE OF EXISTING FACILITIES AND SERVICES

SEC. 7. In carrying out his responsibilities under this part, the Board may utilize—

(1) insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations, as fiscal agents of the United States.

(2) officers and employees of any executive agency (as defined in section 105 of title 5 of the United States Code) as the Board and the head of any such agency may from time to time agree upon, on a reimbursement or other basis, or

(3) both the alternatives specified in paragraphs (1) and (2), or any combination thereof.

ESTABLISHMENT OF AFFORDABLE RATES

SEC. 8. In estimating the affordable rates for the various insurance coverages offered from time to time under this Act, the Board shall consult with appropriate State insurance authorities and other knowledgeable persons and is authorized to take into consideration the nature and degree of the risks involved, the extent of anticipated losses, the prevailing rates for similar coverages in adjacent or comparable areas and territories, the economic importance of the various individual coverages, and the relative abilities of the particular classes and types of insureds to pay the full estimated costs of such coverages. Nothing in this section shall be construed to prohibit or require either the adoption of uniform national rates or the periodic modification of currently estimated affordable rates for any particular line or subline of coverage, class, State, territory, or risk on the basis of additional information or actual loss experience.

REPORTS ON OPERATIONS

SEC. 9. The Board shall include in its reports to the Congress on the program authorized by this title full and complete information on his operations and activities under this part, together with such recommendations with respect thereto as it may deem appropriate.

RECORDS, ANNUAL STATEMENT, AND AUDITS

SEC. 10. (a) Any insurer, or pool, acquiring reinsurance under this Act shall furnish the Board with such summaries and analyses of information in its records as may be necessary to carry out the purposes of this Act, in such form as the Board, in cooperation with the State insurance authority, shall, by rules and regulations, prescribe. The Board shall make use of State insurance authority examination reports and facilities to the maximum extent feasible.

(b) Any insurer or pool acquiring reinsurance under this title shall file with the Board a true and correct copy of any annual statement, or amendment thereof, filed with the State insurance authority of its domiciliary State, at the time it files such statement or amendment with such State insurance authority.

(c) Any insurer or other person executing any contract, agreement, or other appropriate arrangement with the Board under this Act shall keep reasonable records which fully disclose the total costs of the programs undertaken or the services being rendered, and such other records as will facilitate an effective audit of liability for reinsurance payments by the Board.

(d) The Board and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of investigation, audit, and examination to any books, documents, papers, and records of any insurer or other person that are pertinent to the costs of any program undertaken for, or services rendered to, the Board. Such audits shall be conducted to the maximum extent feasible in cooperation with the State insurance authorities and through the use of their examining facilities.

ADVANCE PAYMENTS

SEC. 11. Any payments which are made under the authority of this Act may be made, after necessary adjustments on account of previously made underpayments or overpayments in advance or by way of reimbursement. Payments may be made in such installments and on such conditions as the Board may determine.

RECOVERY OF PREMIUMS; STATUTE OF LIMITATIONS

SEC. 12. (a) The Board, in a suit brought in the appropriate United States district court, shall be entitled to recover from any insurer the amount of any unpaid premiums lawfully payable by such insurer to the Board.

(b) No action or proceeding shall be brought for the recovery of any premium due to the Board for reinsurance, or for the recovery of any premium paid to the Board in excess of the amount due to it, unless such action or proceeding shall have been brought within five years after the right accrued for which the claim is made, except that, where the insurer has made or filed with the Board a false or fraudulent annual statement or other document with the intent to evade, in whole or in part, the payment of premiums, the claim shall not be deemed to have accrued until its discovery by the Board.

PAYMENT OF CLAIMS

SEC. 13. The Board is authorized to issue orders establishing the general method or methods by which proved and approved claims for losses may be adjusted and paid for any liability which is covered by medical malpractice reinsurance made available under the provisions of this Act.

NATIONAL INSURANCE DEVELOPMENT FUND

SEC. 14. (a) To carry out the programs authorized under this Act, the Board is authorized to establish a National Medical Malpractice Reinsurance Development Fund (hereinafter called the "fund") which shall be available, without fiscal year limitations—

(1) to make such payments as may, from time to time, be required under reinsurance or direct insurance contracts under this title:

(2) to pay such administrative expenses as may be necessary or appropirate to carry out the purposes of this title; and

(3) to repay the Secretary of the Treasury such sums, including interest thereon, as may be borrowed from him for purposes of such programs under this Act.

(b) The fund shall be credited with—

(1) reinsurance premiums, fees, and other charges which may be paid or collected in connection with resinsurance;

(2) interest which may be earned on investments of the fund;

(3) such amounts as may be advanced to the fund from appropriations in order to maintain the fund in an operative condition adequate to meet its liabilities;

(4) such amounts which are hereby authorized to be appropriated as may be necessary from time to time to reimburse the fund for losses and expenses (including administrative expenses) incurred in carrying out the program;

(5) receipts from any other source which may, from time to time, be credited to the fund; and

(6) funds borrowed by the Board and deposited in the fund.

(c) If, after any amounts which may have been advanced to the fund from appropriations have been credited to the appropriation from which advanced, the Board determines that the moneys of the fund are in excess of current needs, he may request the investment of such amounts as he deems advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

DEFINITIONS

SEC. 15. (a) When used in this Act, unless the context otherwise requires, the term—

(1) "affordable rate" means such premium rate as the Board determines would permit the purchase of a specific type of insurance coverage by a reasonably prudent person in similar circumstances with due regard to the costs and benefits involved.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 16. There are hereby authorized to be appropriated to carry out the purposes of this Act, such sums as may be necessary.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 718

At the request of Mr. ROTH, the Senator from Maine (Mr. MUSKIE) was added as a cosponsor of S. 718, a bill to create a catalog of Federal assistance programs.

S. 3881

At the request of Mr. CHILES, the Senator from Oklahoma (Mr. HARRIS) was added as a cosponsor of S. 3881, a bill to provide that meetings of Government agencies and of congressional committees shall be open to the public.

S. 4001

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the names of the distinguished Senator from Arkansas (Mr. FULBRIGHT) and the distinguished Senator from New Hampshire (Mr. COTTON) be added as cosponsors of the social security bill introduced yesterday. This will bring the total to 74.

The PRESIDING OFFICER (Mr. JAVITS). Without objection, it is so ordered.

SENATE CONCURRENT RESOLUTION 98—SUBMISSION OF A CONCURRENT RESOLUTION AUTHORIZING THE PRINTING OF "SEPARATION OF POWERS AND THE NATIONAL LABOR RELATIONS BOARD: SELECTED READINGS"

(Referred to the Committee on Rules and Administration.)

Mr. ERVIN submitted the following concurrent resolution:

S. CON. RES. 98

Resolved by the Senate (the House of Representatives concurring), That the manuscript entitled "Separation of Powers and the National Labor Relations Board: Selected Readings", prepared for the Subcommittee on Separation of Powers of the Senate Committee on the Judiciary by Dr. James R. Wason of the University of Maryland, formerly Specialist in Labor Economics and Relations, Economics Division, Legislative Reference Service, The Library of Congress; and the Congressional Research Service and The Library of Congress, in cooperation with the staff of the Subcommittee on Separation of Powers, be printed as a Senate document.

SEC. 2. There shall be printed for the use of the Senate Committee on the Judiciary one thousand additional copies of the document authorized by Section 1 of this concurrent resolution.

SENATE RESOLUTION 369—SUBMISSION OF A RESOLUTION DESIGNATING THE STYLES BRIDGES ROOM IN THE U.S. CAPITOL

(Referred to the Committee on Rules and Administration.)

Mr. COTTON submitted the following resolution:

S. RES. 369

Resolved, That the room located in the United States Capitol and designated as number S-120 is hereby designated, and shall be known, as the "Styles Bridges Room".

SEC. 2. (a) Any law, rule, regulation, document, map, or record of the United States in which reference is made to the room referred to in the first section of this resolution shall be held and considered to be a reference to the Styles Bridges Room.

(b) The Committee on Rules and Administration is hereby authorized and directed to place an appropriate marker or inscription at a suitable location or locations to commemorate and designate such room as provided herein. Expenses incurred in connection therewith shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of such committee.

REHABILITATION ACT OF 1972—AMENDMENTS

AMENDMENTS NOS. 1555 AND 1556

(Ordered to be printed and to lie on the table.)

Mr. HUMPHREY. Mr. President, the amendments I am introducing today to S. 3987, the Rehabilitation Act of 1972, are designed to address two serious vocational rehabilitation needs that have been too long ignored.

The first amendment would establish a program whereby public safety officers who have become disabled as the result of injury sustained in the line of duty or those who retire after completing the required years of service, can obtain vocational counseling and retraining to continue to live with dignity in the performance of useful and adequately compensated work. This amendment, previously introduced as S. 3690 and as an amendment to H.R. 8395, the legislation passed by the House to amend the Vocational Rehabilitation Act, has been redrafted to conform with the provisions and language of S. 3987.

The second amendment provides for a demonstration program to determine the feasibility of wage supplement payments to the physically or mentally handicapped and severely handicapped individuals who are employed on a long-term basis in rehabilitation facilities which are sheltered workshops or work activities centers. I believe it is profoundly wrong that these persons should be institutionalized when with a modest income they could be enabled to live independently and function normally in their families and communities. The time has now come for Congress to act upon the recommendations of a previous Secretary of Labor and the President's Committees on the Employment of the Handicapped and on Mental Retardation in support of the development of a program of wage supplements for handicapped individuals employed in sheltered work situations.

Mr. President, I ask unanimous consent that the text of these two amendments be printed at this point in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1555

On page 51, insert between lines 14 and 15 the following:

PART D—PROGRAMS FOR RETRAINING PUBLIC SAFETY OFFICERS

STATEMENT OF PURPOSE

SEC. 130. It is the purpose of this part to provide a method whereby a State may utilize Federal matching funds, together with its own funds, for the purposes of establishing and conducting manpower and related training of public safety officers who have become disabled as the result of injury sustained in the line of duty or those who retire after completing the required years of service.

DEFINITION

SEC. 131. For the purposes of this part, the term "public safety officer" means, pursuant to regulations issued by the Secretary, a person who is employed by a unit of Federal, State, or general local government in any activity pertaining to—

(1) the enforcement of the criminal laws, crime prevention control, or education, including highway patrol;

(2) a correctional program, facility, or institution;

(3) a court having criminal jurisdiction, where the activity is determined by the Secretary to be potentially dangerous because of contact with criminal suspects, prisoners, or parolees, or

(4) firefighting, done voluntarily or otherwise, with or without compensation.

AUTHORIZATION FOR GRANTS

SEC. 132. The Secretary is authorized to make a grant to any State which meets the requirements of section 133 equal to an amount not to exceed 75 per centum of the cost of the activities undertaken by a State pursuant to the provisions of this part.

APPLICATIONS AND CONDITIONS

SEC. 133. (a) Any State which desires a grant under this part shall make application to the Secretary at such time, in such manner, and containing or accompanied by such information as he deems reasonably necessary.

(b) No grant may be made under the provisions of this part unless the Secretary finds that—

(1) after consultation with such State, the effectiveness of Federal manpower and related programs for the vocational counseling and retraining of public safety officers within such State can be facilitated or improved by additional State efforts and activities; and

(2) such application (A) describes how such additional efforts and activities will be undertaken in support of existing Federal programs, (B) demonstrates that such efforts and activities are not inconsistent with programs assisted under other provisions of this Act, (C) demonstrates that such efforts and activities will contribute to carrying out the purposes of this part, and (D) provides assurances that the State will pay the non-Federal share of the cost of such activities.

RULES AND REGULATIONS

SEC. 134. The Secretary may prescribe such rules and regulations under this part as he deems necessary.

AUTHORIZATION OF APPROPRIATIONS

SEC. 135. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this part.

AMENDMENT NO. 1556

On page 96, between lines 8 and 9, insert the following new section:

WAGE SUPPLEMENTS FOR HANDICAPPED INDIVIDUALS

SEC. 406. (a) In order to demonstrate the feasibility of the payment of wage supplements to handicapped individuals and severely handicapped individuals who are employed on a long-term basis in rehabilitation facilities which are sheltered workshops or work activity centers, there are authorized to be appropriated $2,200,000, for the fiscal year ending June 30, 1973, $4,800,600, for the fiscal year ending June 30, 1974, and $9,600,000, for the fiscal year ending June 30, 1975.

(b) (1) The Secretary is authorized to conduct demonstration projects either directly or by way of grant, contract, or other arrangement with public or private nonprofit agencies or organizations under which wage supplements are paid to handicapped individuals or severely handicapped individuals who are employed in rehabilitation facilities which are sheltered workshops or work activity centers in accordance with the provisions of this section.

(2) The Secretary shall carry out the program authorized by this section so as to determine the feasibility of the payment of wage supplements for such individuals on a nationwide basis and so as to assure that such payments are made in each region throughout the United States.

(c) No wage supplement payment may be made under this section unless an application is made by the appropriate public or private nonprofit agency or organization. Each such application shall contain provisions to assure that—

(1) the rehabilitation facility in which the handicapped or severely handicapped individual is employed is a sheltered workshop or work activity center or other similar facility which is eligible for obtaining certification for handicapped individuals under section 14(d) of the Fair Labor Standards Act of 1938;

(2) that the wage supplement paid to any handicapped individual or severely handi-

capped individual together with the earned wages of such individual will not exceed the minimum wage set forth in section 6 of the Fair Labor Standards Act of 1938, without regard to any exception or exclusion contained in that Act;

(3) the wage supplement payable to any handicapped individual will not exceed 55 per centum of the minimum wage prescribed by section 6 of the Fair Labor Standards Act of 1938, and that the wage supplement payable to a severely handicapped individual will not exceed 75 per centum of such minimum wage;

(4) wage supplement payments will be determined over a six-month period of sustained work effort in a rehabilitation facility meeting the requirements of paragraph (1) under which the handicapped individual or severely handicapped individual has engaged in a work program of at least thirty hours during each week, except that the payment of any wage supplement may be made on an estimated basis, on a weekly or monthly basis pursuant to an agreement between the applicant and the Secretary;

(5) each wage supplement payment to a handicapped individual or severely handicapped individual will be made separately from payment of the earned wages to that individual; and

(6) each applicant shall maintain such fiscal control and fund accounting procedures as the Secretary determines necessary to insure the proper disbursement of wage supplements payable under this section, and shall make such reasonable reports as the Secretary may require to carry out his functions under this section and shall keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

(d) No handicapped individual or severely handicapped individual shall be eligible for a wage supplement payment under this section unless such individual—

(1) is employed in a rehabilitation facility which is a sheltered workshop or a work activity center which meets the requirements of paragraph (1) of the preceding subsection;

(2) has attained sixteen years of age;

(3) has an earning capacity which is sufficiently impaired that such an individual is unable to obtain and hold employment compensated at a rate at the minimum wage applicable under section 6 of the Fair Labor Standards Act of 1938 without regard to any exclusion in that Act; and is not otherwise engaged in a training or evaluation program under this Act, pursuant to regulations promulgated by the Secretary, which involves either activities or such a significant portion of the time of the individual as to be inconsistent with the provisions of this section.

(e) In order to assist public agencies and private nonprofit organizations which are employing handicapped individuals or severely handicapped individuals and which meet the requirements of paragraph (1) of subsection (b) of this section, to participate in the program authorized by this section, the Secretary is authorized to make a grant to each such participating agency or organization in an amount not to exceed 10 per centum of all wage supplement payments in that fiscal year made to individuals of that agency or organization. For the fiscal years ending June 30, 1974, and June 30, 1975, the Secretary is authorized to enter into an agreement with any such agency or organization to make an increased payment under this section based upon the success which such agency or organization has in reducing reliance by handicapped individuals and severely handicapped individuals upon wage supplements by an increased reliance upon earned wages by such individuals.

(f) In carrying out the provisions of this section, the Secretary is authorized, jointly by regulation with the Secretary of Labor, to provide further requirements for the certification of a rehabilitation facility pursuant to paragraph (1) of subsection (b) of this section. Any such regulations may contain provisions requiring—

(1) that each such facility shall pay to individuals eligible for assistance under this section wages at a rate not less than 50 per centum of the minimum wage applicable under section 6 of the Fair Labor Standards Act of 1938, and to the extent feasible, wages at a rate equal to wages paid to nonhandicapped workers in industry in the vicinity for essentially the same type, quality, and quantity of work performed, except as prescribed under paragraphs (2) and (3) of section 14(d) of the Fair Labor Standards Act of 1938;

(2) that each such facility will not compete unfairly in obtaining work or in the sale of products or the furnishing of services; and

(3) such other reasonable requirements for the maximum efficient operation of any such facility as the Secretary and the Secretary of Labor may require.

(g) Notwithstanding any other provision of law, the payment of a wage supplement to a handicapped individual or a severely handicapped individual under this section shall not affect the eligibility of any such individual to receive payments under the Social Security Act or any other similar retirement or public assistance payments.

(h) Not later than April 1, 1975, the Secretary is authorized to prepare and submit to the Congress a report on program authorized by this section together with such recommendations for additional legislation as he determines desirable.

NOTICE OF HEARING ON NOMINATIONS

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Wednesday, September 27, 1972, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nominations:

Frank H. Freedman, of Massachusetts, to be U.S. district judge for the district of Massachusetts, vice Levin H. Campbell.

Frederick Pierce Lively, of Kentucky, to be a U.S. circuit judge, Sixth Circuit, vice Henry L. Brooks, deceased.

Joseph L. Tauro, of Massachusetts, to be U.S. district judge for the district of Massachusetts, vice Francis J. W. Ford, retired.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Mississippi (Mr. EASTLAND), chairman; the Senator from Arkansas (Mr. McCLELLAN) and the Senator from Nebraska (Mr. HRUSKA).

ADDITIONAL STATEMENTS

A CALL FOR WELFARE REFORM

Mr. PELL. Mr. President, as I have moved about my home State of Rhode Island in recent months I have found that one of the key public policy issues that most troubles all of us is the welfare issue.

I have noticed the aggravation of many hard-working Rhode Islanders that some of our fellow citizens are taking advantage of the welfare laws of our State and of our Nation.

This is a very understandable concern. With the burden of inflation and high taxes resting heavy on their shoulders, it is very upsetting to think that some of our fellow citizens are not contributing their share to the productivity of the State's economy and that they are living like parasites off the hard-earned dollars others have contributed to the financing of the welfare system.

As a U.S. Senator from Rhode Island, this problem troubles me for many reasons.

First, I am concerned about the reactionary forces that are being inspired. While I realize the validity of many of the complaints about the welfare system, I fear that the welfare recipient is in some cases being made the scapegoat for many of the failures of society over which he has no control.

Second, I am worried about the welfare crisis because of its fiscal implications. Costs of welfare have spiraled at an astronomical rate, and approximately half of those spiraling costs are being borne by the Federal budget and the other half by the State budget.

For example, during the 4 years of this administration the number of dependent children and single parents on welfare in Rhode Island has almost doubled in number and tripled in costs. This increase has put a terrible strain on a State budget already hit hard by the impact of the recent spiraling inflation and it further exacerbated the Federal deficit problem.

Third, I am deeply troubled by the impact that the actions of a few welfare chiselers has upon the thousands of hard-working people in our State receiving near poverty wages. These workers may come to the conclusion it is not worth their effort to work if the difference between working and being on welfare is only a few dollars, that they may even receive less.

I believe we can move to avert some of those dangers I have cited.

As I view the welfare crisis I see the necessity for a two-step approach. I believe both a shortrun and a longrun strategy is required.

We must first look at the shortrun problem of reforming the structure and administration of our present welfare system. This is a priority and a must; and I am deeply concerned by the delay in the passage of the President's original welfare reform proposals which had some ideas of real merit.

Unfortunately, the administration's shifting of support for its bill, which I believe was tied to their concern for shifts in public opinion, has made congressional supporters of the bill suspect of the administration's real concern for welfare reform. It is hard to go out on a limb to help the administration if it seems that the gratitude for your help might be shown by sawing that limb off.

There are four types of shortrun legislative and structural reforms that I would like to see.

First of all, an all-out effort must be made now to purge the welfare rolls of chiselers and employable persons.

Second, we must have guaranteed job programs for anyone capable of working.

Third, we should have uniform national standards of welfare assistance.

Fourth, we should have a gradual Federal takeover of the entire cost of the welfare system.

These four basic recommendations can be accomplished through a number of specific steps.

To move those off the welfare rolls who should be removed, I believe we should have required periodic reregistration of welfare recipients unless they are blind, permanently disabled, mothers of pre-school-age children, children, or over the age of 65.

I think Federal funds at a matching rate of 50 percent should be provided to State governments for the prosecution and investigation of welfare fraud.

All too often States find themselves in a "Catch 22" situation with regard to welfare fraud investigators. Since welfare costs take so much out of their budget, they lack the funds needed to curb welfare abuse.

On the Federal level there should be established in the Department of Health, Education, and Welfare, an Office of Assistant General Counsel for Welfare Fraud. This office should be provided the funds and the legal personnel to undertake a national task force investigation and prosecution of illegal welfare abuse in the same manner and with the same enthusiasm as the Department of Justice's recent task force attack on organized crime.

To take people off the welfare rolls we must provide for a better system of job placement. We need a tighter definition of suitable employment for welfare recipients, monthly reviews of the good-faith, job-searching efforts of employable welfare recipients, and a closer cooperation among State welfare departments, State employment departments, and private employers.

I have visited many plants around the State in the past months, and I have talked to many workers who find it very hard to understand why people can be on welfare and unemployment compensation when their plants are looking for unskilled and skilled employees. With nearly 28,000 people unemployed in Rhode Island and with a possible 15,000 on welfare who may conceivably take jobs, these workers I have met are very mad about the lack of applicants for jobs at their plants. The managers of these plants are even more upset because the increase in unemployment has brought about a rise in their unemployment compensation tax.

Now, I have looked into this problem and I have been informed that there are at least 4,000 reported job openings a month available now in the State. I understand that most of these jobs are being filled, but they are not being filled at the rate they should, and that very few persons from the welfare rolls appear to be finding their way to do those jobs.

There is scarce data available on this problem of job placement of unemployed people in the openings reported to me by workers in plants. However, I do believe there is some truth in the fact that not all is being done to place welfare recipients and other unemployed persons in available jobs.

I believe descriptive lists of those people on welfare and unemployment compensation who are capable of working and do not have children of pre-school age should be made available on a confidential basis to every employer in the State. These lists should include some basic data on possible work skills and should be updated every month. They should be provided to employers on the condition that they utilize these lists on a priority basis in seeking employees and that they report any rejections and the reasons for those rejections to the welfare department and employment department.

Anyone on welfare then rejecting a job for reasons other than lack of transportation to the job or certified health reasons should then have their eligibility automatically examined for the lack of a good faith effort to obtain a job.

Steps should be taken also to tighten up the welfare eligibility rolls.

Anyone who transfers all his assets as a gift to another in order to meet the income eligibility requirements for welfare should be discouraged from doing this by the enactment of a regulation requiring a year's waiting period for welfare benefits for anyone who takes such steps.

Stricter alimony laws should be implemented on the State levels. I suspect that in many cases welfare has become the poor man's alimony.

Obviously, providing better placement services and tightening welfare eligibility is not going to eliminate everyone from the welfare rolls.

The large majority of people on welfare are legitimately eligible for welfare and would like to work despite physical handicaps and the burdens of child care.

We must not forget also that the large majority of those on welfare are people whom society wants to help and most certainly does not expect to work. They are children, mothers with children under 6, aged, disabled, and blind persons.

We must be prepared to have some compassionate system of welfare to help these people and provide succor and help to those who are really in need, disabled, or incapacitated by acute illnesses or injuries.

However, for those persons on welfare who can work and yet cannot be placed in private sector jobs, I believe we should provide them with some sort of public employment.

We need more than the meager public service jobs program we have now. Although I am proud of the 1,100 public service jobs now provided in Rhode Island over the initial opposition of the administration of any public service jobs at all, I believe we have sufficient manpower shortages in our public services to put every welfare recipient to work who wants to work.

Some recipients could be put to work in the public works department of our cities. Some could be put to work running day care centers which I believe must be provided for mothers who want to work. Some others could be put to work to relieve the tremendous backlog of paperwork in our public bureaucracies.

To complement the guaranteed jobs program, I think a number of positive and negative incentives should be utilized to encourage people to seek work rather than welfare.

Imagine the impact the present welfare system can have on two Rhode Island families. We might have two Rhode Island families living side by side: One on welfare receiving $80 a week tax free together with some special needs payment for an appliance, such as a refrigerator, and next to that family, one hardworking man earning $100 a week for his family, but seeing nearly a third of that $100 being deducted for State and Federal income taxes and social security taxes. Now I ask, what incentive does that workingman have to continue working? If he had the economic interest of his family in mind, he would try to get them on welfare. This situation must be changed.

While I am not in favor of our Government subsidizing wages in the private sector, I do not believe we should completely eliminate welfare payments to every welfare recipient who obtains a job, as that automatically discourages him from working. If the job that a welfare recipient takes does not pay as much as the welfare recipient would receive if he was on welfare, then I believe the welfare recipient should be allowed to receive at least the difference between the two levels. This was the major reform proposed by the administration in 1969 and I still support that principle.

This provision I believe is essential to keep men from deserting their families in the hope that their families would receive higher welfare payments on their own than they would have received in earned wages.

A second incentive to work which I think is necessary is the provision of day care services. Unless day care services are provided I do not think any mother with young children should be made to work. Here I immensely regret the President's veto of the day care bill.

The third major reform that I think is necessary is uniform national standards of welfare. It seems to me unfair for some States to use low welfare payments and limited eligibility benefits as a means of encouraging their poverty populations to emigrate to other States with more humane standards.

The citizens of Rhode Island have been most charitable in setting their levels and standards of welfare. We have one of the most progressive and generous programs in the Nation; and I do not think other States with less generous standards should be able to take advantage of us by treating their citizens with less justice and equity. The treatment of the poor should be equally handled across the Nation.

I would note at this point what I consider a major deficiency in the administration's plan. H.R. 1 as it now reflects the administration's plan only contains national minimum standards on welfare payments which somewhat coincidentally means complete Federal payment of the low standards of welfare in Southern States, but less than three-fourths of the payments in Northern States. There is no provision requiring the Federal Government to provide matching payments to those States which have to by tradition pay above a national floor of $2,400 a year for a family of four.

Since Rhode Island now pays nearly an average of $3,100 a year, I think the Federal Government should be required to make the same total percentage effort in aiding each State with its welfare payments. If it's part of the administration's southern strategy to pay more than three-fourths of the welfare costs in Alabama, than it should provide the same for Rhode Island. We must remember too, that it is far more expensive to live in the North than in the South because of the higher cost of living and because of the necessity for winter clothing and heating.

This brings me to the final reform I believe is necessary. Since the number of people on welfare is pretty much a direct function of the success of national economic and social policies, I believe the Federal Government should pay for a larger portion of the costs of the welfare system.

I would suggest that this be done on a gradual basis as suggested in Senator Ribicoff's excellent amendment to H.R. 1 which contains many of the other reforms I believe are also desirable.

Those reforms include provisions giving procedural due process rights to recipients unjustly denied their benefits, labor protection for State employees who are moved into a federalized welfare system, and a "hold harmless" clause that would insure that initially no State would have to pay more in welfare costs than it paid in 1971.

I have classified the major reforms I have just outlined as a shortrun strategy because I believe that those reforms only serve to make the welfare system more equitable and efficient. Those reforms will not result in the elimination of the welfare rolls.

Some very basic underlying problems have to be considered; and a more widely focused longrun approach to the social questions underlying the welfare mess must be developed before the problem is really solved.

One of the chief reasons for the increase in the numbers of persons going on welfare has been the breakdown of the family unit.

A 1969 study showed that 75 percent of the persons receiving aid as dependent families were families where the father was absent from the home principally due to divorce, separation, or desertion.

I do not think anyone has the complete answer to how the trend toward a larger number of broken families can be changed. I do think that the trend is partly due to the failure of public efforts to relieve the poor and near poor of those well-known problems of the lack of decent educational opportunity, the lack of a decent, well-paying job, and the general lack of a decent living environment.

We find few persons who had the opportunity of a good education, of living in a decent house, and of having adequate food available to them falling into the welfare cycle.

We must not forget that the pressures of inflation and modern urban living fall hardest on the shoulders of those least able to bear the burden—the poor and the near poor.

Inflation for the middle class may mean no steak, but for the poor inflation may mean no meat at all.

With these things as they are, it is not too hard to see why some people do not feel like working for a system that works so poorly for them.

I am somewhat struck by the change in attitudes that occur over time. When John Kennedy was President, everyone was rushing to the press with new ideas on means of helping the poor.

It seems to me that there may be some hope of solving the underlying cause of welfare if we pick up again that spirit of asking what we can do for our country that was popular in the early 1960's.

Now we find the war on poverty aborted by an undeclared war in Vietnam. It is time to abort the undeclared war and to begin again to use some of our Nation's resources in an all-out effort to eliminate the basic social and economic causes of poverty.

I think that it is in such efforts that lies a part of the longrun solution of the welfare problem.

THE PRESIDENT'S SIGNING OF ECONOMIC OPPORTUNITY ACT AMENDMENTS

Mr. JAVITS. Mr. President, I am gratified by the action of the President in signing the Senate-House conference report on the Economic Opportunity Amendments of 1972, which Senator Gaylord Nelson and I introduced last December in the Senate after the unfortunate veto of the previous measure, the Economic Opportunity Amendments of 1971.

This 2-year extension should be a sign to the poor and to those who labor so hard in the poverty program that the administration joins with the Congress in the effort to break the cycle of poverty essentially through the continuation of the Office of Economic Opportunity on the national level and of community action agencies on the local level.

The bill authorizes a total of $4.7 billion over the 2-year period, fiscal years 1973 and 1974, for continued efforts in manpower training, preschool education, VISTA, alcohol and drug rehabilitation, community action, legal services, health and other vital antipoverty activities.

Importantly, it includes a provision which I authored with Senator Kennedy to establish a new title for community economic development, expanding on the base of the special impact program under the Economic Opportunity Act which has demonstrated such effectiveness in dealing with the problems of the poor in Bedford-Stuyvesant, N.Y. and throughout the country; I am pleased also with the inclusion of provisions, to which I had the privilege of contributing, to increase funds available for antipoverty efforts in the Commonwealth of Puerto Rico; and to insure more equitable treatment of the aged poor.

It is regrettable that the bill does not include the proposal for the establishment of a national legal services corporation, which has the general support of the administration and the Congress. Despite our efforts, an accommodation between the parties could not be reached upon key elements of the proposal, such as the composition of the board of directors.

I intend to pursue that initiative legislatively at the earliest appropriate moment and, in the meantime, shall seek additional funds for the existing legal services program, which will continue under the extension, and which has been so effective in contributing to the dignity of the poor, as well as the maintenance of ther basic rights.

Of course, we must also move forward on comprehensive child development legislation which was in the vetoed measure and which is awaiting action by the House after being passed by the Senate as a separate measure.

It is my hope that the administration will couple today's action with a determination to support efforts which I and others shall make to provide more adequate resources for the implementation of this new authorization and mandate so that the Nation's 24 million poor—more than a tenth of our population—will be given real hope that the Federal Government's purpose is to erase the chronic condition of poverty which clouds our otherwise beneficent society.

THE ARMENIAN GENOCIDE

Mr. PROXMIRE. Mr. President, in 1915 one and a half million Armenians were slaughtered by the Ottoman Turkish Government, during the first genocide of the 20th century. These mass murders were termed by the Allies as, "Crimes of Turkey against humanity." Nothing was done, however, and the Armenians not only lost more than half of their people, but nine-tenths of their 3,000-year-old homeland. This encouraged the second genocide of the 20th century. For on August 22, 1939, at Obersalzburg, Adolf Hitler declared to his military chiefs:

> I have given orders to my Death Units to exterminate without pity or mercy men, women, and children belonging to the Polish speaking race. . . . After all, who remembers today the extermination of the Armenians.

The Nuremberg trial of Nazi war criminals would not have been legally justified, had it not been for the Allied warning issued in 1915 and delivered to the Turkish Government by the American Ambassador in Constantinople, Henry Morgenthau. It was this fact, brought up by Prof. Andre Gros of the French delegation during the judgment of the International Military Tribunal at Nuremberg that made possible the judgment of the Nazi war criminals.

If we are to prevent the monstrous crime of genocide, we must understand how it happened in the past. A speech delivered by Zaven M. Messerlian at the 53d commemoration of the Armenian genocide in Beirut, Lebanon, on April 28, 1968, serves as an excellent account of how the Armenian genocide occurred in the past. I urge the Senate to consider this tragedy and join the 75 other nations which have already ratified the Genocide Convention.

Mr. President, I ask unanimous consent that the text of Mr. Messerlian's speech be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

THE ARMENIAN GENOCIDE

(By Zaven Messerlian)

NUREMBERG, 1946

At the judgment of the International Military Tribunal at Nuremberg, of the Major Nazi War Criminals, when thew were trying to find legal precedent to judge genocide, the French delegation had suggested that persecution be defined as an independent crime. The French delegate Prof. André Gros mentioned that there was a legal precedent of this, that during the killing of the Armenians during World War I the French government had proposed in view of these "crimes of Turkey against humanity", the allied governments should announce publicly that all the members of the Ottoman government and those of their agents who were implicated in the massacres would be held personally responsible for their acts. * * *

What crimes had the Ottoman government committed against humanity that even their ally of the time, the German Imperial Government, by a note of its Foreign Office, had made a formal remonstrance on August 9, 1915 and declined any responsibility.

It was the genocide of the Armenian people, premeditated, carefully organized and ruthlessly and cold-bloodedly put into execution by most fiendish methods.

Why had this mass-murder of a nation taken place? What were the real motives and what were the pretexts?

To explain this we must briefly go into the heart of the matter.

After the fall of the last Armenian Kingdom in Armenia Major, the Seljuk Turks occupied Armenia and were followed by the Ottomans. In 1514 the Ottoman Sultan Selim conquered Armenia, the 2000 years old homeland of the Armenians where he tried to scatter the Armenians and dwindle their number and introduce non-Armenian elements in Armenia.

The Ottoman treated the Armenians as second-rate subjects. They were heavily taxed, usually had to give one male child, aged 2 or 3 years to the Janissary corp, never to see them again. Justice was denied to the Armenians, their testimony was worthless. There was no security of life and property in the Armenian districts, Armenian girls were kidnapped or raped. Armenian owned farms or agricultural products were looted or burnt.

In 1809 Thomas Thornton in his book The Present State of Turkey published in London wrote: "frequently, a Christian, who by wearing slippers of a forbidden color is presumed to have usurped the privilege of the Turkish people is punished by death, and trampled upon for three days in the public street."

Above all the Ottomans had ocupied the homeland of the Armenians and denied them basic human rights in their own lands.

With the advent of nationalism there was an Armenian awakening. Armenians without being disloyal against the integrity of an Empire which had usurped them of their lands, demanded reforms and security of life, and thought in terms of self-defence. The Armenian mountaineers of Zeitun rebelled against the tyranical rule of the Sultan, in 1862.

The Grand Vizir of Abdul Hamid II, Kyamil Pasha, after the Armenians had secured, by article 61 of the Congress of Berlin, at least on paper, guarantees for security of life, declared: "We let in Europe snakes grow up amongst us but we must not do the same in Asia. They can cause us harm and be a tool of foreign intervention. We must destroy these elements. The raison d'etat of the Ottoman Empire demands that we secure our future by annihilating the Armenian people. To do this we have governors, judges, tax-collectors, policemen and soldiers. It will be an easy victory, we can declare a Jihad against a people who has no arms, no army, nor important office."

When the promises given at Berlin were not respected, Armenian political parties were formed with the aim of securing reforms. Abdul Hamid II put the plan of Kyamil Pasha into execution. Using this and that pretext, he had 300,000 Armenians slaughtered, ten percent of them in Istanbul. Europe termed him the Red Sultan and the Great Assassin.

After the Ottoman constitution of 1903 Sultan Abdul Hamid II was deposed. Turkey suffered setbacks in the Balkans and Lybia. The Armenians in the provinces were suffering more than ever.

The Armenian demands of reform became shriller. In January 1914 an agreement was signed, between Turkey and the great powers, whereby in the six Armenian vilayets of Anatolia, specific reforms would be carried out, under the control of foreign inspectors.

However, when in November 1914 the Ottoman Empire entered into the First World War, the agreement was annulled Armenians, who until then served loyally the Ottoman Empire up to the highest positions (in 1912 Turkey's foreign minister was Kapriel Noradounkian, the PTT Minister was Vosgan Mardigian, the Governor of Mt. Lebanon was Ohaness Pasha Kouyoumdjian, etc.), were regarded with suspicion.

Turkey's leaders who were from the Ittihad ve Terrake (Union and Progress) party believed that, if the war was to end with allied victory. Armenians would get their independence, along with the Arabs, and the Empire would be completely dismembered. Upon a premeditated plan, set in Salonica in 1912, put in its final form in February 1915, the ruling party of Turkey decided and carried out the annihilation of the Armenians of the Empire, especially of those living in the Armenian homeland.

The pretext used by the Turks was the activity of the Armenians of Russia who as Russian subjects were antagonistic to Turkey. The Turks also feared that the Armenians may revolt in Turkey, however, as history has revealed, there was no such general plan on the part of the Armenians.

The loyalty of the Armenians is shown by a significant detail. Turkey's Minister of War, Enver Pasha, was about to be shot at the Russian Front in 1915 by a Russian bullet, when an Armenian soldier saved him at the risk of his own life. Needless to say in 1908 all the leaders of the Ittihad party, led by Talaat, were given shelter in Armenian homes when the Sultan's forces were looking for them. Furthermore, when in 1914 Turkey entered into World War I, the Armenian men were drafted in the Ottoman army and served loyally.

The extermination of the Armenian people openly discussed by Kyamil Pasha, partially executed by Abdul Hamid II was carried out on a large scale by the Young Turkish Ittihad ve Terrake party.

A Turkish intellectual and politician Mevlan Zade Rifaat, reports, what Dr. Nazem, Secretary General of the Ittihad party, told the Central Committee in the meeting:

"Now we are at war, there is no better opportunity than this the interventions of great countries and the protests of the newspapers cannot be heard, even if they are heard, the matter will become an accomplished fact and will be over. This time's operation must be one of annihilation. It is necessary to exterminate all Armenians not even letting one alive."

On April 15, 1915 the Ittihad trinity—Minister of Interior Talaat. Minister of War Enver and Secretary General Dr. Nazem, sent the following cable to all the governors and local administrators of Asia Minor:

"Considering the nature and issue of their war, politics had stated and proved historically, that the Russian and English peoples can't agree upon sharing our own land. In case of victory they can agree with a third rightful heir. This third rightful heir can only be the Armenian people. Then God forbid! The Armenian Question shall come forth, which for more than half a century has already created international interest, and is thrusted in our breast. Therefore, the government—which represents the Turkish people and the Ittihad v Terrake party—in order to prevent the rise of the Armenian Question, has decided once and for all to put an end to this Question, by annihilating this element in the population. This may be done by driving them to the deserts of Arabia, according to the orders secretly given to you.

"The government and the party Central Committee appeals to you, to assist us in this task with all your forces. Every officer or government official who rejects this patriotic work and tries to defend any Armenian will be recognized as an enemy of the state and religion and will be judged accordingly.

The pretexts which may serve as reasons to carry out this plan are:

"(a) Armenian voluntary forces who serve the enemy armies.

"(b) Organizations within this country, which have planned to harm our army.

"(c) The great number of weapons and ammunition captured all over the land."

At first the Armenian men (ages 18 to 45) had been drafted in the Ottoman army, leaving women, children and old men back at home.

Second, the remaining Armenian populace was disarmed of self-defensive weapons. Third by heavy taxation the Armenian communities were economically ruined. Fourth under the pretext of war, the Armenian villages and towns were isolated from one another and all communication was broken between the provinces and Constantinople. This was done so that Armenians could not know what was being prepared for them, second, they would ignore each others' fate and third, that they could not combine their forces for resistance.

Once these preliminary steps were taken, the Armenian population of Zeitun, known for its bravery and courage, was deported on April 8, 1915 and soon afterwards on the night of April 24, 1915, all the eminent and influential Armenian leaders of Constantinople, including, Journalists, professors, clergymen, poets, composers, physicians, members of the Ottoman parliament—in short the intelligentzia (at first 270 then 600 more) of the Armenian community of Istanbul was arrested without any sound reason and sent to the interior of Turkey where they were massacred by most atrocious means. The same was done in the towns of the provinces. One of the arrested intellectuals was a lawyer and member of the Ottoman parliament, professor at the University, novelist Krikor Zohrab. Zohrab, whom Riad es-Solh gratefully remembered as his teacher, was dragged out of his carriage and had his head crushed by huge rocks on his way to the interior of Anatolia to stand for trial.

According to the famous German humanitarian Dr. Lepsius "only 8 of them were successful to save themselves from death." One of those whose life was saved was the great composed Father Gomidas, who became insane, when he saw all the sufferings of his close friends, and became a living dead until his last breath in 1935.

The aim of killing the Armenian intellectuals was to deprive the populace of its leadership and the elite.

Next came the 300,000 Armenian soldiers serving in the Ottoman army. Upon orders they were forced to give up all their arms and were turned into labor battalions. Within weeks they were taken into isolated spots, forced to dig their own graves, and then were roped together, to be shot in cold-blood.

Historian Herbert Gibbons writes—The labour battalions were divided sometimes to groups of 300 to 500 men and were sent to isolated spots to work. Then Turkish armed forces were sent, who shot the Armenians and sent reports back to Istanbul that "the rebellion has been crushed."

Once all the able-bodied men who were serving the army were exterminated, the turn came to the defenceless population of the Armenian provinces. Mostly women, children or old men. As all communication and correspondence was stopped, Armenians living in one region were ignorant of the events that took place in another.

On June 11, 1915 the deportation of all Armenians was decreed. Armenian cities and villages were emptied of their native population. The 3000 years old homeland of Armenia, was robbed of its native people.

Secret orders were issued by the Minister of Interior Talaat—these cables were preserved and published by an honest Turk, Naim Bey, Chairman of the Deportation Committee of Aleppo, to ease his consciousness. One of them said:

"It was at first communicated to you that the Government by the order of the Jamiet had decided to destroy completely all the Armenians living in Turkey . . . an end must be put to their existence however criminal the measures taken may be, and no regard must be paid to either age or sex nor to conscientious scruples."

Thus the real aim of the deportations was extermination. The deportations began with a few hours or days notice. Usually the men between the age of 15 and 70 were asked to report in front of the government building. There, they were put in prison and after a few days carried to isolated spots and killed. In the city of Kaiyseri, first the little boys up to the age of ten were taken outside the village and killed. Usually then the rest were ordered to leave all their property behind: houses, fields, crops, cattle, furniture, tools, etc. Everything was confiscated by the Turkish authorities. Then the long march towards the desert and death began. Village after village, whether the population was near war zones or far, were forced to leave their land. On the way, things that they had managed to carry with them, such as money, jewelry, even clothes were taken away from them, by the gendarmes. Then, at an isolated spot the gendarmerie would surround the people and hired butchers, released criminals and tchetés would massacre the defenseless women and old men who were spared, with axes, knives, saws or rifles. Another method was to make them walk thousands of miles to the desert, deny them food or water for days, exhaust and starve them and let disease take care of the work of extermination. If disease did not bring death, Turkish peasants or so called irregulars did.

According to the American Ambassador to Turkey "before the caravans started, it became the regular practice to separate the young men from their families, tie them together in groups of four, lead them to the outskirts and shoot them."

The American Ambassador to Turkey Morgenthau further states that "hundreds of children were bayoneted by the Turks and thrown into the Euphrates and men and women were stripped naked tied together in hundreds, shot and then hurled into the river."

Beautiful women and young girls were forcibly taken into Turkish harems, or raped in front of their mothers or husbands, then killed. Many women and girls chose death by mass suicide by hurling themselves into the Euphrates and Tigris, rather than accept of a life of shame.

Here is what Dr. Fridtjof Nansen, the great Norwegian humanitarian, wrote:

"As soon the columns had fairly started, the callous indifference of the guards turned into vicious brutality. The few men and elder lads were assembled, taken aside and killed. The women and children and old people were driven on, suffering agonies of hunger and thirsts; the food if there were any was scanty and; those who could not keep up were flogged on till they were collapsed or were killed. Gradually the columns became smaller and smaller, as hunger, thirst, disease and murder did their work. Young women and girls were raped or sold by auction."

In some places the Armenians were not even deported. They were simply massacred or burnt alive on the spot. The authorities by force would gather the Armenians inside churches or monasteries, and burnt them alive. Anyone who attempted to run was shot down. Faiez bek el Ghossein, an Arab Kaimakam of Harput in his book describes how a Turkish officer of Bitlis burnt hundreds inside a church. In Trebizond, thousands of chained Armenians were put on ships or boats which were then sunk or capsized. Ministers Talaat and Enver sent orders after orders to see that Armenians, especially of Armenia proper are exterminated without pity, that orphans were not to be gathered but left to starve and die or forcibly be Turkified. Here is one to the Government of Aleppo:

"Collect the children of the Armenians who by order of the war office have been gathered together and cared for the military authorities. Taken them away on the pretext that they are to be looked after by the Deportation Committee, so as not to arouse suspicion. Destroy them and report."

Here are some examples of the thousands of horrible events which occurred during the genocide.

A gendarme asked for money from an Armenian mother. The mother said she had no money on her, but when she was tortured, she gave all she had kept on her. The Turkish officer in his anger cut both of her arms and feet in front of her daughter and raped the young girl in front of the agonizing mother.

A written statement made by a German missionary, at the American Embassy of Constantinople, before the U.S. Ambassador Henry Morgenthau, said:

"Another terrible thing in Mamuret-ul-Aziz was the tortures to which the people had been subjected for two months; and they had generally treated so harshly the families of the better class. Feet, hands, chests were nailed to a piece of wood; nails of fingers and toes were torn out; beards and eyebrows pulled out; feet were hammered with nails, as they do with horses; others were hung with their feet up and heads down over closets. . . Oh! How one would wish that all these facts were not true. In order that people outside might not hear the screams of agony of the poor victims, men stood around the prison wherein there atrocities were committed, with drums and whistles."

Here is another official eye witness document, Number 113 of the British Blue Book of 1916.

"I have just returned from a ride on horseback through the Baghtcé Osmania plain, where thousands of exiles are lying out in the fields and on the roads, without any shelter and completely at the mercy of all manner of brigands. I found men and women badly wounded—bodies slashed open, broken skulls and terrible knife-wounds.

"A number of corpses were lying about unburied and it was only by bringing the gendarmes that we could induce them to allow their burial. . . .

"On one single day the burial committee buried as many as 580 people. Men were fighting for bread like hungry wolves."

This carnage went on until the end of the First World War. On Feb. 27, 1918 came the ultimate decree by Minister of War Enver: "In view of present circumstances, the Imperial Government has issued an order for the extermination of the whole Armenian race. The following operations are to be made with regard to them:

First, all the Armenians in the country who are Ottoman subjects, from 5 of age upwards, are to be taken out of the town and slaughtered.

Second, all the Armenians still serving the Imperial Armies are to be separated from their divisions without making any disturbance; they are to be taken into solitary places away from the public eye and shot.

The first genocide of this century had been committed.

In a letter dated October 3, 1918 and addressed to Lord Bryce by Robert Cecil, assistant Secretary of State for Foreign affairs of the United Kingdom, wrote "The Ottoman Armenians were systematically murdered by the Turkish government in 1915. Two thirds of the population were exterminated by the most cold-blooded and fiendish methods . . ." Before the genocide 2,380,000 Armenians lived in the Ottoman Empire mostly in Armenian provinces. 1,500,000 of them were massacred. Armenians in Turkey number today 85,000 only.

2050 churches, 203 monasteries were destroyed. Financial losses amounted to 18 billion pounds, above all Western Armenia was emptied of its native people. Armenia became fully Turkish.

Talaat had told to the U.S. Ambassador, Morgenthau, boastfully, "I did more in three months than what Abdul Hamid tried to do in 30 years." On Aug. 31, 1915 Talaat had declared cheerfully to the German Ambassador that the Armenian Question does not exist anymore as Armenians do not exist anymore.

However all Armenians did not get killed. Armenians of Van, Mussa Dagh, etc. resisted in successful self-defence. Others were lucky to survive the deportation. Today, there are 5.5 million Armenians.

SPENDING CEILING ON SOCIAL SERVICES IN REVENUE SHARING

Mr. ROTH. Mr. President, it is my understanding that the conference report on the revenue-sharing bill, which we should consider in the very near future, contains a $2.5 billion spending ceiling on social services.

I have been a strong and outspoken advocate for such a spending ceiling, and I am very much pleased to see that the conferees have adopted what appears to be an airtight limitation. With spending for social services having increased by roughly 700 percent during the past 2 years, there is no question whatsoever that some sort of a ceiling is an urgent necessity. When we have the opportunity to study the conference report on the floor of the Senate, I will speak in more detail concerning the proposed ceiling. At this point, however, I should like to emphasize that this ceiling must be only an interim measure.

It does not—indeed it cannot—provide a permanent solution to the social services problem. As I have said on several occasions, I believe strongly that Congress should reconsider the desirability of this program.

While I am personally convinced that many excellent State programs are financed with social services funds, I am deeply disturbed by the total lack of congressional and Presidential oversight. We have no idea how many programs are financed under social services, much less what these programs are. We do know that in one State, $500,000 was spent for a television film and that in another State money is used to teach convicts good grooming. But we know very little beyond that.

To assist in congressional reassessment of the social services program, I wrote the General Accounting Office on September 1 to ask that the Comptroller General investigate the social services program. Friday, I received a reply from the GAO, and I am pleased to say that such an investigation will be conducted. I am convinced that the results of such an investigation will be of great value to Congress.

I ask unanimous consent that the GAO reply be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Washington, D.C.,
September 15, 1972.

Hon. William V. Roth, Jr.,
U.S. Senate,
Washington, D.C.

Dear Senator Roth: Your letter of September 1, 1972, urged that the General Accounting Office consider doing work designed to answer questions relating to the effectiveness of social services provided to welfare recipients. Specifically, you requested that we consider reporting to the Congress on:

The effect that services have on helping welfare recipients achieve self-support or reduced dependency, and

The manner in which the Department of Health, Education, and Welfare and several States account for Federal dollars spent on services and the type of State programs being financed with these dollars.

You expressed concern about the need for Congress to have information on program performance, especially in light of the tremendous cost growth in the social service program.

We share your concern about these matters. In planning our work we place special emphasis on performing reviews of Federal programs in which there has been strong congressional interest as to whether the programs have achieved the purposes intended by the enacting legislation. We believe that our current and planned work in the social service program reflects this approach.

As part of our continuing review of programs administered by the Department of Health, Education, and Welfare, we have under way a review designed to determine the effect that social services have on helping recipients of aid to families with dependent children achieve self-support or reduced dependency. This review began in July 1972 and we expect to report our findings to the Congress in the spring of 1973.

We also plan to initiate a review in early 1973 of the manner in which the Department of Health, Education, and Welfare and several States account for Federal funds spent on social services. As part of this review we intend to determine whether specific State programs being financed with Federal social service dollars are directed primarily towards welfare recipients. The exact details of this review and the locations where it will be done are still being considered by our Office.

We believe that these reviews should provide the Congress with information that can assist it in defining the role social services should have in the nation's welfare program. We appreciate your interest in the social service program and believe that these reviews will be responsive to your concern.

Sincerely yours,

R. F. Keller,
Acting Comptroller General of the United States.

REAR-MOUNTED LIGHTING SYSTEMS FOR MOTOR VEHICLES—S. 3306

S. 3306

Mr. MOSS. Mr. President, on March 7, 1972, I introduced S. 3306, legislation which would require the establishment of standards related to rear-mounted lighting systems for motor vehicles. In my statement, I included certain material which I had obtained from the Center for Auto Safety as well as other documents which support the need for revisions in the vehicular lighting system. I have now received a communication from the Motor Vehicle Manufacturers Association of the United States, Inc., taking issue with some of the comments in the report of the Center for Auto Safety.

In the interest of fairness, I ask unanimous consent that the correspondence I received from the Motor Vehicle Manufacturers Association of the United States, Inc., including the organization's analysis of the Center for Auto Safety study, be printed in the Record.

There being no objection, the correspondence was ordered to be printed in the Record, as follows:

Motor Vehicle
Manufacturers Association
of the United States, Inc.,
Detroit, Mich., September 11, 1972.

Hon. Frank E. Moss,
U.S. Senate,
The Capitol,
Washington, D.C.

Dear Senator Moss: The Congressional Record dated March 7, 1972, makes extensive references to a report of the Center for Auto Safety and its quotations and attributions of data and conclusions based on a technical document submitted by the Automobile Manufacturers Association, now Motor Vehicle Manufacturers Association, Inc., to the Department of Transportation.

We have reviewed the quotations and attributions supplied by the Center for Auto Safety, and believe that they are an incorrect representation of what our technical data indicate and support and are being used improperly to advocate a specific system of lighting, without regard to other research which might be done or needs to be done.

We especially call your attention to the attached copy of our letter to the Center for Auto Safety, an additional copy of which is being forwarded to the National Highway Traffic Safety Administration for inclusion in its Docket No. 69–19.

Sincerely,

Franklin M. Kreml,
President.

Motor Vehicle Manufacturers
Association of the United
States, Inc.,
Detroit, Mich., September 11, 1972.

Attention: Mr. N. Lowell Dodge.
Center for Auto Safety,
National Press Building,
Washington, D.C.

Gentlemen: The introduction of Senate Bill 3306 and publication of information relative to this bill in the Congressional Record [1] have drawn attention to comments which your organization has put in the public record [2] with regard to some vehicle lighting research work conducted by this Association prior to 1967.

The thrust of our publication is to endorse a specific kind of lighting equipment and to base the recommendation for this lighting equipment on your interpretation of our test data. Our review of your submission to NHTSA indicates that it contains many references to lighting research work done by the Automobile Manufacturers Association, now Motor Vehicle Manufacturers Association, Inc., which are either incomplete, have been taken out of context or do not adequately or fairly represent the technical data which are in the AMA report.

The lighting research work to which your report refers did not either promote or discourage consideration of any specific new lighting systems or devices. When the Federal safety agency was activated and the then Director of the National Highway Safety Bureau, Dr. Haddon, expressed interest in such research, a report on the AMA effort was provided to the Department of Transportation [3] because we believed that it would be a useful resource to the Government in its safety related endeavors. We were not subsequently made aware of what consideration the agency gave to this material.

We are concerned now with the use to which the test information has been put by your organization, because you have taken incomplete excerpts and drawn conclusions beyond those which we believe are supported by our data. Consequently, we have carefully reviewed each of the quotations and attributions which you currently make, and have shown these on the attachment to this letter, together with our comments.

In order to correct these misrepresentations and misunderstandings, we are forwarding copies of this letter and its attachment to the Department of Transportation for filing in Docket No. 69–19 as a matter of public information. An additional copy is being forwarded to Senator Moss for his inclusion in his records or those pertaining to Senate Bill 3306.

Sincerely,

Franklin M. Kreml,
President.

Excerpts From the Congressional Record and Comments

CONGRESSIONAL RECORD

Automotive technology has increased far enough . . . for cautionary lights to be installed on every motor vehicle. Researchers have found that: color coding is the most efficient method of communicating this information. It is the method that results in the shortest response time and the least amount of confusion. Must the motoring public wait another fifty years while countless more people are maimed and killed, before the superior tri-light system is standardized? Based on the evidence cited in this report, the Center for Auto Safety adamantly recommends the tri-light system, and urges its adoption by January 1st, 1974.

COMMENTS

There follows a number of excerpts from the "evidence cited"—with particular attention to those references which are made to the Automobile Manufacturers Association data—and comments on the validity of this so-called "evidence."

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[1] Congressional Record—Senate, March 7, 1972, pp. 7243–7251.

[2] Center for Auto Safety letter of January 30, 1972, to Secretary Volpe and its attached Petition for Rulemaking, both comprising item No. 96 on NHTSA Docket No. 69–19.

[3] AMA letters of March 1, 1967, and November 7, 1967 and its attachments to Dr. William Haddon, Jr.

CONGRESSIONAL RECORD

Other groups have also realized that color coding is a major step in improving the rear lighting display: Together these studies suggest that color coding in addition to the intensity coding now used, can be a significant aid in deciding quickly how to react to the action of a lead car. (AMA Vehicle Lighting Committee)

COMMENTS

AMA has provided full information on its lighting studies to DOT, including test data on the positive *and* negative aspects of multicolor rear lighting systems. The references to AMA tests and reports cite only data which can either correctly or incorrectly construed as being favorable to green taillights. The many references that are made in these same data that are unfavorable to green taillights, or which warn of unknown factors, have been ignored.

CONGRESSIONAL RECORD

III. CONFUSION

The main objection to the tri-light system or color coded systems in general, (as submitted to Docket 69–19), is that a system with multicolored lights is confusing; however, none of these claims have been substantiated. Even Douglas Toms, Chief Administrator of NHTSA, stated . . . "and now I have concluded it is too confusing . . . we will not go to multicolor lights and we are opposing inventors of this system." (Bob Irvin's Column, Detroit News, 9–28–71). When later asked to give the basis for this claim, Mr. Toms stated that it was his personal opinion based on a few driving experiences at the G.M. test track. He did not cite any experiments which support his opinion.

AMA's comments on green taillights, as submitted to DOT, are constantly referred to in this document. However, the following section of these comments—on the subject of "confusion"—have apparently been ignored.

Effectiveness of Green in the Visual Clutter of City Lights

Only limited studies have been conducted in city traffic conditions to determine possible confusion which might result from the multiplicity of different colors, including traffic lights, signs, etc. There may also be a problem in connection with red rear identification and clearance lights on commercial vehicles.

Psychological Effects

The question of human reaction to green taillights versus red taillights is of great importance. Only limited studies of this question using qualified drivers and observers have thus far been conducted and we do not know what the effects may be on the average driving public. There is a question as to the use of a green signal which has universally been recognized as a command to "go" as a marker whose intention it should be to flag "caution."

In another section it was stated that:

"In general, there may be possible confusion because a car with the new system may be displaying a green taillight, a red taillight or a red stop light. Cars with the old system still on the road will display red lights at all times.

Vehicles running at moderate speeds will be displaying different taillight colors in mixed traffic conditions.

Summarizing, there may be possible confusion."

CONGRESSIONAL RECORD

In 1967 at the GM Proving Grounds, tests were done with both systems operating [100 cars total]. The results of 541 questionnaires showed that: There was no significant confusion due to the two (2) different tail lights systems operating simultaneously on the Proving Grounds (GM Test Report PG–23062, 4/5/67).

COMMENTS

The quotation cited is one of four results listed in the GM report. One of the important additional results—which was not quoted—was:

"Green taillights were more difficult to see than red taillights of equal intensity at dawn and dusk, in fog, in heavy dust, and in snow."

CONGRESSIONAL RECORD

The AMA Vehicle Lighting Committee compared a green-red to a conventional system and found that there was a 0.2 second difference (20 feet at 65 m.p.h.).

COMMENTS

AMA conducted *no* tests under, or close to, the conditions described (20 feet at 65 m.p.h.).

Summary

Quotation appears to be incorrect.

CONGRESSIONAL RECORD

In AMA testing, the rating of the response time of eight different systems on a scale from one to eight (one being the shortest response time), the conventional system was rated eight, the red-red system was rated 4.5, and the green-red system was rated first with a 0.88 response time.

Although it is not referenced, this quotation is apparently supposed to be from what is referred to as the "AMA report of 10–4–66."* If so, it is incorrect. These AMA tests rated the response of *5* different systems on a *10 pt.* scale (in this test the response time *was* .88 second to the green-red system). In the evaluation of this test the green-red system was given a relative effectiveness of 7.6 in city conditions, 7.7 in the country; the present system was rated 5.5 in the city and in the country.

Summary

If the reported data is purported to come from the above test results, it is incorrect and misleading.

CONGRESSIONAL RECORD

The Automobile Manufacturers of America (AMA), in its Report #2 (10/4/66), found that when red and green lights are at equal candle power, red was barely perceptible at 180 feet and green light at 170 feet. To make the green light recognizable at 180 feet the intensity was recommended to be two times that of the red. Yet at conditions above that of barely perceptible only 16% increase was needed. It is important to keep in mind that this is only a ten foot difference which can be overcome with a slight increase in intensity. Therefore the small increase in visual range should not be considered a reason not to use the tri-light system.

COMMENTS

"AMA" meant the "Automobile Manufacturers Association," as shown on all of the documents which are referenced.

As in the case noted above, the reference to AMA's "Report #2 (10–4–66) is confusing. It is presumed that this is an incorrect reference to the report on tail lamp color that was presented to the AMA Vehicle Lighting Committee on October 5, 1966, and later transmitted to DOT as a portion of AMA's submission of November 7, 1967.

On the assumption that this is the reference cited:

1. It is misleading in that it does not mention that the tests were conducted in a "200-foot" fog.

2. Some of the figures given are incorrect.

The report actually stated:

"Closer analysis of the results of the fog study conducted in a fog chamber leads to the following further conclusions. A red light 4 inches in diameter operating at 2 candlepower is barely perceptible at about 180 feet distance in a "200 foot" fog. A green light of equal photometric intensity would be visible at about 173 feet. In order for the green light to be visible at the same distance as the red light, 180 feet, it would have to have an intensity of 3.75 candlepower. It was previously reported to the VLC that the increased glare potential with green lights was not very great even though green lights of equal intensity to red are somewhat more annoying."

3. The reference to ". . . a 16% increase" was not contained in this report, and is used out of context. The reference to a 16% increase was from an entirely different report, issued at a different time. It stated:

"A discussion of green lamp penetration in fog resulted in the conclusion that at levels clearly visible in fog no appreciable difference is found with green when it is of 16% more candlepower. However, at barely visible levels a green light should be 50 to 150 percent greater in brightness than red."

CONGRESSIONAL RECORD

In an AMA report in 1964 by the Vehicle Lighting Committee, blue-green was termed "excellent" by the raters at both 300 feet and 1,000 feet. Because the results of this experiment were explained as "so implicit," another scheduled test was dropped from the agenda.

COMMENTS

The purpose of the AMA test (No. 1a of the April 6–10, 1964, program) was, as described in the report, to observe the *amber* tail lamps which had been proposed by the Joint Vehicular Signal System Committee, and by others outside of the automobile industry.

The test results indicated that the VLC and LMS members were in unanimous agreement that *amber* is an extremely poor color for tail lamps.

As is noted in the report of the test program, test 1b (also staged primarily to observe amber tail lamps) was not conducted because:

"At conclusion of test 1a, the observers decided that it would not be necessary to conduct test 1b because of the very conclusive results of test 1a."

Blue-green tail lamps were viewed during this test program by a number of observers, including one who was (red-green) color-blind. The reference to these AMA tests does not cite the following results that were included in the report:

"NOTE.—Observations of the (red-green) color-blind observer who was present were:

@ 1000′—Amber, yellow-green and blue-green all appeared as dim white lights.

@ 300′—Amber and yellow-green appeared white, blue-green began to be distinguishable as a colored light."

Summary

The reference to AMA tests was factually incorrect and was quoted out of context.

CONGRESSIONAL RECORD

In AMA Report # 1 (6/8/66) a long distance recognition (3,000 feet) test was run in a 200 foot nighttime fog.

It is not considered that the advantage of red over green observed here is of any consequence at these great distances. (AMA Report # 1, 6/8/66)

COMMENTS

The information presented is not in accordance with the facts noted in the AMA report, and the results attributed to the AMA test are physically impossible.

The AMA report, which did *not* refer to tests in fog, stated:

"With lamps of equal photometric brightness, taillights can be seen at about 3,000 ft distance, even against the glare of oncoming cars, with about a 10% advantage in distance for the red light. The lamps used in this experiment were about half the candlepower of taillights in common use today. It is not considered that the advantage of red over green observed here is of any consequence at these great distances. Amber is distinctly poorer than red or green."

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*The results of these tests were transmitted to DOT in AMA's submission dated November 7, 1967.

Summary

Quotation is incorrect.

CONGRESSIONAL RECORD

A report by Ford Motor Company, dated August 1966, states that consumer tests were held with 14,000 people. They "showed a favorable reaction to green lights."

AMA found that in informal observations in city traffic, with a green tail light twice the intensity of the red light used, that:

"Green was very salient, appeared to cause no significant objectionable glare." (AMA Report No. 2)

COMMENTS

1. This was not a "field test" involving cars with green taillights. Rather, as the report states, the test was of lamp and signal color. As described:

"The visitors looked at a rear-projected nighttime driving scene viewed through a long-focus spherical mirror. They were shown alternative systems in sequence and asked to indicate preferences. The resulting probability of preference is listed as follows, where the first color refers to the taillight, the second to the brake light:"

2. AMA's report on this test program also included the following statement:

"The green-red systems were given some prejudicial advantage because nearly ¾ of those presentations were made with the green taillight operated at twice the brightness of the compared red taillight."

3. AMA's report does *not* contain the quotation, "Green was very salient . . ." which is attributed to it.

SOUND FISCAL POLICY REQUIRES IMPROVED BUDGETARY CONTROLS

Mr. ROTH. Mr. President, I invite the Senate's attention to an excellent article published in yesterday's Wall Street Journal.

Dr. McCracken, who served President Nixon as Chairman of the Council of Economic Advisers, puts his finger right on one of our most pressing problems. He aptly points out that sound fiscal policy can only be achieved through improved budgetary controls. He says:

> Good budgetry requires a procedure for deciding not only whether each proposed outlay is good, but whether it is good enough to be included within some viable limit or total.

Mr. President, that viable limit is absolutely necessary this fiscal year, if we are going to avoid renewed inflation or stave off tax increases. I have long sponsored a fixed spending ceiling and am delighted that the administration is supporting my call for a $250 billion roof.

In testimony yesterday morning before the House Ways and Means Committee, I urged Chairman Mills and his committee members to accept my language as an amendment to the upcoming debt ceiling bill. I sincerely hope the House will take this action and the Senate will follow suit.

But, as we look down the road, Professor McCracken's words are well taken. Greater fiscal discipline is a mandatory precursor to effective budgeting. Later on, I plan to introduce legislation which will, I hope, provoke a good Senate debate and bring this critical issue to light.

I ask unanimous consent that Professor McCracken's article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Can Fiscal Policy Be Controlled?

(By Paul W. McCracken)

Is it possible that modern governments cannot manage fiscal policy? Only a few years ago to raise such a question would be to mark one as a troglodyte, a hair shirt who had not yet discovered that the thing to do with budgets was not necessarily to balance them but to manage them in ways that would produce the right economic conditions. That might call for a surplus, or a balance or a deficit. It would all depend.

Why the new skepticism?

It is not all home grown. Part of it grows out of international experience. In the early part of last year, for example, Germany was concerned about inflationary pressures on her economy. The concern was understandable. The German price level was rising at the rate of over 6% per year. This was about our rate at its worst in 1969, and it was particularly unacceptable to an inflation-conscious country like Germany. The fiscal prescription for this problem was obviously to limit spending and run a good strong budget surplus. The fiscal program that actually unfolded involved deficits and expenditures which rose 12% in 1971. Fiscal restraint, never popular politically, apparently looked particularly unattractive to this government with its thin parliamentary majority. A tough monetary policy was, therefore, deployed, but this drove interest rates above world levels and attracted a flow of funds into the country which aggravated the international monetary problems of that period.

It might be assumed that modern fiscal policy could at least be worked in the expansionist direction. Yet Japan has had its problems putting in place a sufficiently easy fiscal policy. Their sluggish domestic economy has had more slack than ours. This has, of course, produced sluggish imports, a large trade surplus, and emergent pressure for another upward revaluation of the yen (something which they very much want to avoid). Moreover, Japan needs to spend more on social facilities to bring them more into line with those needed by an advanced and high-income nation. Yet the required degree of fiscal expansion never really has been put in place.

A look over the world economy during recent years, in short, produces a picture of economic conditions which called for fiscal policies that the political process did not, and presumably could not, provide.

It is when we examine our fiscal problems at home, however, that doubts about how maneuverable fiscal policy really is have begun to emerge. Before we dismiss Japan's difficulty in achieving a sufficiently expansive fiscal policy as a special case, we should recall our own major excursion into tax reduction almost a decade ago. President Kennedy recommended tax reduction in January 1963, and indicated earlier that he would do so, but the actual tax reduction could not be achieved until March 1964.

RISING PUBLIC OUTLAYS

The real problem for modern fiscal policy, however, is the relentless rise in public outlays. The magnitudes are impressive. In 1965 the economy regained reasonably full employment. Yet from 1965 to 1968 the rise in federal, state, and local outlays (on a national accounts basis) was equal to almost 57% of the rise in national income, and the figure for the period 1968 to 1972 (first quarter) was almost 48%. With roughly half of the increase in national income absorbed by rising government outlays, the groundswell of public concern about taxes becomes understandable. Somehow our expenditure decision-making process has been giving us a larger rise in outlays then people are ready to pay for. The result is a trend that will carry expenditures for this fiscal year at least $10 billion beyond revenues that the tax system would produce at reasonably full employment.

Part of the problem is that to a growing extent federal outlays reflect permanent programs with yearly increases built in. They are thus uncontrollable in the literal sense unless legislation is changed. Social Security, agriculture, welfare—these are programs whose aggregate outlays will be determined by specified benefit levels and the number of eligible recipients. We thus have outlays on a path that is rising more rapidly than the increment of revenues that on-going economic growth will provide from any given tax system. The fiscal dividend of the 1960s has been replaced by the fiscal mortgage of the 1970s. If outlays continue to rise this rapidly, periodic increases in tax rates or new taxes will be required, something that the political process will not find it easy to deliver.

The problem has many roots, but a major one is the "new" fiscal policy itself. In retrospect it seems clear that the "new" fiscal policy threw a baby out with bath water—namely, the idea of fiscal discipline. The old always-balanced budget philosophy did seem at times to call for perverse actions, such as increased taxes or slashed spending in recessions, but it did impose a discipline. It in principle, required that governments couple with the delectabilities of spending the distasteful task of raising taxes. Thereby a rough cost-benefit equilibrium was achieved.

It was achieved intellectually, and it worked surprisingly well practically. Up to the Great Depression the budget had a surplus in two nonwar years out of three, while in the postwar period there have been deficits in two out of three years. "Marriage is popular," observed George Bernard Shaw, "because it combines the maximum of temptation with the maximum of opportunity." Something like this seems to have characterized the actual workings of modern fiscal policy. Having been told that there are times when the budget ought not to be balanced, the political process finds it tempting to assume that "now" is one of those times. And the always-balanced principle has metamorphosed into a never-balanced budget.

If modern fiscal policy is ever to live up to its potential, the concept of fiscal discipline must regain a central position in budget policy.

The President put forward a helpful concept with the idea that outlays should not exceed the revenues the tax system would generate at reasonably full employment. This would enable the budget to be expansive during a period of sluggish economic conditions, but it would assure that the budget would come back into equilibrium, with revenues covering outlays, when no further economic stimulus was needed.

CONGRESS IS THE KEY

The key to regaining a greater sense of fiscal discipline is in the Congress. Present congressional procedures do a reasonably effective job of screening the merits of individual requests for money. In that sense the budget problem is not waste and foolish spending. What one person considers "waste" or "unessential spending" is, of course, another's high-priority program. The problem is that the aggregate of individually meritorious programs will always exceed any viable total. In that important sense the federal government's budget problem *is* similar to that of a family or a business. There are other respects in which it is different, but economists have been so preoccupied with the differences that this important parallel has been overlooked.

Good budgetry, therefore, requires a procedure for deciding not only whether each proposed outlay is good but whether it is good enough to be included within some viable limit or total. This is the missing element in the congressional process. Without it the whole process has a bias toward larger spending than the citizenry will want—want in the only meaningful sense of what it is willing to forego in the way of private spending for these public programs.

The Appropriations Committees have made a small beginning by initial hearings on the budget as a whole. This is a good start. It should develop further into some meaningful actions about each year's budget as a whole.

What is essential is some procedure by which the Congress itself will decide what total outlays should be, and by which Congress also explicitly accepts responsibility for the aggregate expenditures which are the result of their individual program decisions. The initial congressional overview of the whole budget might be extended to include a total within which individual program decisions would have to fit (though early postwar attempts along this line were quickly dropped). Individual appropriations bills could be held until all are passed in order to see what the results would be for total outlays, with perhaps an amendatory bill to keep the total within a viable limit.

Whether modern fiscal policy can yet become a powerful tool for economic adjustment, or whether it must remain a theoretical idea with little substance in reality and largely immobilized by a relentlessly rising outlay trend, is going to depend heavily on whether a greater degree of fiscal discipline can be injected into the budgetary process. Because fiscal policy has substantial potential for domestic economic management and for harmonizing divergent national objectives in the world economy, it is important that the budgetary process be subjected to this greater sense of discipline.

On this both the "new" fiscalists and the "old" budget balancers have common ground.

PRESCRIPTION PRACTICES AND THE USE OF DRUGS

Mr. NELSON. Mr. President, the Harvard Medical Alumni Bulletin of May–June 1972 carried an article entitled "Burack's Rx." The author, Dr. Richard Burack, is a distinguished physician and author of the "New Handbook of Prescription Drugs"; was formerly on the staff of the Harvard Medical School; and is now chairman of the Massachusetts formulary committee.

Dr. Burack states that despite the physician's special responsibility as the purchasing agent for his patient, irrational prescribing practices and use of drugs, especially overprescribing, has become a very serious health problem in this country. Dr. Burack's article is supported by many other studies. An article in the Annals of Internal Medicine, April 1972, by Drs. Paul Stolley, Louis Lasagna, and others found that a large amount of drug prescribing and expenditures are for common, self-limiting illnesses. In fact, 95 percent of American physicians will issue one or more prescriptions to patients whom they diagnose as having the common cold, and 60 percent of these prescriptions will be for antibiotics.

Prof. Charlotte Muller in an article in the "American Journal of Public Health" of December 1967 described a study of 1-percent sample of over 100,000 prescriptions written by 159 physicians rendering care under the public welfare medical care program of Baltimore, Md. It was found that 55 percent were for proprietary preparations, and Dr. Furstenberg, who conducted the study identified the actions as pointless waste of the program's money since less expensive official preparations—listed in official sources—were quite suitable.

Another very interesting example which demonstrates Dr. Burack's point is that of Panalba, a fixed-ratio combination antibiotic. The National Academy of Sciences in its review of this drug stated that:

> A large number of papers purporting to demonstrate clinical efficacy of this combination were reviewed. No properly controlled studies were located and most consisted of reports of a few patients treated with variable results. It is the considered judgment of the Panel that this combination has no place in rational therapeutics and should not be marketed.

Although there was not a single, solitary study to show that this drug was effective as a combination, for many years it was one of the 50 most used drugs in the country, that is until it was removed from the market by the FDA, and not until, according to figures supplied by the FDA, thousands of people had been injured and some died.

Dr. Donald C. Brodie in a study sponsored by the Department of Health, Education, and Welfare's Public Health Service found that:

> It is common knowledge that much drug therapy avails little or nothing in terms of patient benefits and that the national waste from all sources of the misutilization of drugs is a multibillion dollar item.

I ask unanimous consent that Dr. Burack's excellent article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BURACK'S RX

(By Richard Burack, M.D.)

The Nation is gripped by an epidemic of irrational prescribing practices on the part of doctors. The effects have been, and will be, more destructive than most members of the profession realize unless something is done.

Doctors are prescribing too many drugs. Nearly everybody knows it, but nothing is done about it. A distinguished clinical professor of medicine at Columbia recently testified before the United States Senate that, in his opinion, about 60 percent of prescriptions are unnecessary. From my own busy, private practice of internal medicine, I know that 98 percent of all patients can be adequately treated with 25 or fewer drugs and some of these need be used only rarely.

Overprescribing is the most serious form of irrational use of drugs by doctors. While one can quibble with figures, every doctor and medical student ought to know that the United States Food and Drug Administration is on record within the past year: approximately 1.5 million persons are admitted to hospitals annually because of adverse reactions to drugs and another 2.5 million have their hospital stays prolonged because of adverse reactions to drugs administered in hospitals. The FDA is not given to overstatement. Obviously, human and material costs of misadventures with doctor-prescribed drugs are incalculable. Most illnesses and symptoms are self-limiting, require no prescription, and doctors ought to tell this to patients.

The prescribing of toxic drugs when less toxic ones would suffice is another form of irrational prescribing. Knowledge that chloramphenical (one brand name, Chloromycetin) can cause fatal aplastic anemia has been known to the profession since 1951. The drug is useful in typhoid fever. Yet, four million Americans received a course of Chloromycetin for varied reasons including common urinary infections, common colds, even for infection associated with ingrown toenails as recently as 1967. There is no excuse for this irrationality. And it does not enhance the image of the profession to know that a Congressional Committee had to expose this scandal; the profession had taken no effective measures on its own to educate its members. Medical journals, including the superficial, parasitic "giveaway" sheets, had been advertising the drug heavily, and according to a distinguished business journal (*Forbes Magazine*), Parke-Davis, Inc. had been receiving one-third of its income from the sale of Chloromycetin in 1966.

There are many other examples: Tedral for asthma instead of plain ephedrine sulfate. Tedral is a fixed dose combination of theophylline (in a very small dose which is probably ineffective), eight milligrams of phenobarbital and 25 milligrams of ephedrine sulfate. Doubtless it is the latter which confers effectiveness on Tedral and it is hard to understand why doctors expose their patients to possible toxic effects of theophylline and phenobarbital unnecessarily. Thousands of doctors routinely prescribe ampicillin for adults where less toxic tetracycline would almost always serve as well. They also prescribe concoctions containing systemic vasoconstrictors like pseudoephedrine and phenylethanolamine for people with stuffy noses. Constricting all the blood vessels in the body in order to constrict the blood vessels in the nose seems the height of folly. Most patients who are given such drugs would do as well with salt-water nose drops or drops with a local vasoconstrictor such as phenylephrine. Another example in this category is the habit of prescribing Indocin routinely instead of aspirin for patients with arthritis.

Doctors are prescribing expensive drugs where a less expensive one would suffice: V-Cillin-K instead of penicillin G, ampicillin instead of tetracycline, Gantrisin instead of triple-sulfa tablets, various sedatives ranging from Serax to Serentil to Sinequan, instead of chloral hydrate or phenobarbital. Few doctors know and too few students have been taught that the wholesale cost of two of the most popularly prescribed tranquilizers equal 25 times the official cost of gold for one, and ten times the cost of gold for the other.

Doctors have been prescribing therapeutically unnecessary and unnecessarily expensive combinations of drugs, some of which are, or may be, ineffective: Azogantrisin instead of triple-sulfa tablets; Achrostatin instead of tetracycline with the advice to take a couple of aspirin tablets, too; Panalba instead of tetracycline; Colbenamid instead of probenecid (now available inexpensively) plus a little colchicine as needed; Darvon Compound-65 instead of codeine sulfate plus the advice to take two or three aspirin tablets, too; Novahistine instead of either an inexpensive antihistamine or low cost over-the-counter nose drops containing phenylephrine (the best known brand is Neosynephrine).

The list is very long because approximately 40 percent of the medicines prescribed by doctors are so-called fixed dose combination items, nearly every one of which is unacceptable to the Council on Drugs of the American Medical Association, The United States Pharmacopeia, and the National Formulary. The standard argument given by colleagues who prescribe such things is that it's so much more convenient for a patient to swallow one pill instead of two or three. The counter-argument is that most doctors are relatively affluent with respect to most patients who might well prefer a minor inconvenience in order to save some money. Ten percent of the population purchase 25 percent of the drugs. Within this ten percent are the elderly and most of those live on small pensions or social security.

Doctors prescribe expensive "new" drugs instead of less costly older (and, therefore, probably safer) ones. Lomotil is all too often given routinely instead of paregoric for diarrhea. Banthine and Probanthine are nearly always prescribed instead of atropine sulfate or tincture of belladonna even though there is no convincing evidence that they are therapeutically superior, Atarax, Vistaril (they are chemically the same), Serentil and Suavatil are prescribed by many doctors instead of phenobarbital or chloral hydrate. Recently, I have noted the easy adoption by many physicians of something called Dalmane, a sleeping medication. What is wrong with inexpensive barbital, secobarbital, and pentobarbital?

Many readers will be able to add to the list of irrational ways that so many members of our profession prescribe medicines.

The reasons for irrational prescribing are multiple, but they boil down to economics and mass promotion. A highly monopolistic drug industry has taken away doctors' individualism and has managed to tell them how to prescribe. About five thousand dollars per doctor per year is spent to this end; that is about one billion dollars—more than it costs annually to administer all of the medical schools in the United States. The slick (and too often noncompostable) parasite press drums propaganda in the doctors' ears and itinerant salesmen who are euphemistically called "detail men" flatter doctors, give them little gifts, ply them with "samples" on new drugs and persuade them with carefully rehearsed "spiels" to "try it, Doctor, and you'll see." Professional people have no business receiving their "education" from advertisements and salesmen. No thoughtful doctor would use a lawyer whose decisions might be influenced by advertising and promotion.

Our very authoritarian profession has been a perfect set-up for insidious infiltration by the drug industry. A few big professors have been flattered and/or given subsidies of one kind or another and this is all it takes to mute their voices. They know that the goal of the industry, as an industry, is to maximize profits. They know that this is done by inducing busy doctors-in-the trenches to prescribe more drugs than needed and make as much profit on the sale of any individual drug as possible. These are not the goals of good doctors. It is strange indeed that the influential members of our profession have not made it crystal clear to medical students that the aims of doctors and the aims of drug manufacturers are antithetic and irreconcilable. The influential ones have utterly failed to tell medical students and young doctors-in-training that when a doctor writes a prescription for a patient, he is functioning as a purchasing agent. Purchasing agents are expected to know the costs and comparative costs of things they order and something about the comparative efficacy. Purchasing agents in good stores are not allowed to accept gifts from vendors, either. If they do, they are fired. And men in political life, who conduct themselves similarly, are immediately labeled "corrupt."

There is no blinking at the facts and there obviously is every reason for the medical leadership to take strong steps to clean house. What is best for patients is in the long term best for doctors. But while I cling to hope, I am not optimistic that the medical profession will act by itself. Money, power, privilege, and vested interest are no less powerful hormones today than they have ever been.

Mark this, though, and mark it well: the political leadership and increasing millions of citizens recoil at the thought that artificially-induced markets and overly-inflated industries are tolerated within the field of health care.

RAISING THE EARNINGS CEILING UNDER SOCIAL SECURITY

Mr. FANNIN. Mr. President, at the request of the distinguished Senator from Texas (Mr. TOWER), I ask unanimous consent that a statement by him relating to the raising of the earnings ceiling under social security be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR TOWER

The distinguished majority leader (Mr. Mansfield) and the distinguished Senator from Vermont (Mr. AIKEN), the ranking member of the Senate, have introduced S. 4001. The proposed legislation would increase the amount of outside earned income an individual may earn without having any deductions made in his social security benefits. Under the bill the ceiling would be raised from the present amount, which is $1680 to $3000. Furthermore, the bill would insure that under no circumstances a social security beneficiary would be penalized for working. This would be accomplished by deducting only 50 cents in social security benefits for every $1 of earned income.

Senators Mansfield and Aiken introduced the bill with seventy co-sponsors. I am proud to be among the list co-sponsoring this most important proposal. Certainly, the list of co-sponsors indicates that the legislation has an excellent chance of being approved by the Senate.

I have recognized this particular problem facing social security beneficiaries for some time. Government should not discourage our Senior Citizens from participating actively in our economy. They are no different from anybody else in enjoying much of the work they do. Furthermore, with most of their income derived from social security, Senior Citizens are extremely susceptible to the economic injuries resulting from inflation.

It was for these reasons that during the opening days of this Congress, I introduced S. 639. This legislation is very similar to the proposal introduced by Senators Mansfield and Aiken and co-sponsored by seventy other Senators. The only difference in the two bills is that S. 4001 contains a provision whereby the earned income ceiling would be automatically adjusted to take into consideration rising wage levels and the cost of living. This provision represents a positive supplement to my original proposal and I therefore endorse it.

Now that the basic proposal that I had recommended has received the support of the vast majority of the Senate, I trust that its enactment will be realized in the near future.

FIRM CEILING ON FEDERAL EXPENDITURES FOR FISCAL YEAR 1973

Mr. BOGGS. Mr. President, yesterday my able colleague from Delaware (Mr. ROTH) testified before the House Ways and Means Committee, seeking support for his legislation to place a firm ceiling on Federal expenditures for fiscal year 1973. I supported his bill in March, along with 48 other Senators, and I sincerely hope the Senate will act favorably on his latest proposal, S. 3977.

I ask unanimous consent that Senator ROTH's testimony of yesterday be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR WILLIAM V. ROTH, JR., BEFORE COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES

Mr. Chairman, and Members of the Committee, I greatly appreciate this opportunity to appear before you as you consider the pending legislation to raise the ceiling on our national debt limitation.

My prepared statement will be short, and speaks to the much publicized call for a tight lid on Federal outlays in this current fiscal year. This measure seems particularly germane to the debt ceiling bill, for it is the overall impact of expenditures and the net outflows in the loan accounts that produce the Treasury's need to borrow. Both Houses have met twice already this year to adjust the debt limit, simply because our Federal expenditures continue their inexorable rise.

I have been the chief spokesman for expenditure controls in the Senate since my able predecessor John Williams retired two years ago. His example is one I am happy to follow. Last November, I offered an amendment to the Revenue Act to hold FY 1972 outlays to $229.3 billion. We lost in the Senate by only 7 votes. And then in March of this year, I continued this thrust with an amendment to the debt ceiling, leveling outlays at $246.3 billion. Through a modified version of my language was accepted, further language introduced by Senator Long left the amendment with a floating lid which would have failed to impose the necessary fiscal discipline I feel is so important. The conferees in March rejected the Senate language.

Briefly, my most recent bill, S. 3977, would place a no-exception ceiling on FY 1973 outlays at $250 billion. (The bill's earlier companion, S. 3123, received the support of 49 other Senators, including both majority and minority leaders.) The language of my bill would mean that increases in uncontrollable categories would have to be offset by corresponding reductions in other discretionary programs. I am delighted to see that several distinguished Representatives, together with 129 co-sponsors, have recently introduced identical measures on this side. This seems to me the only honest way to approach expenditure controls, for it is *total* spending, regardless of its controllability, that affects our *total* debt requirements.

Mr. Chairman, there seems to me to be four compelling reasons for such a ceiling.

First, the Federal budget has not really served the meaning of the word. By the very nature of our political process, the budget is simply a guess at revenues and outlays. I have a table here I would like to insert in the record which shows that in the 20 years since FY 1954, we have overspent the estimate 16 times. Taken together with the shortfall in receipts (Table II) the total impact has been a series of deficits, $91.5 billion more than originally planned. These would be unacceptable in any private enterprise, and when we realize that proportionally higher spending and lower receipts have magnified those deficits in recent years, can we reasonably expect FY 1973 to be different if we do not impose this measure of self-discipline?

This brings me to my second point. As Federal deficits continue to rise, the American public places less and less confidence in the desire, or ability, of the Congress to achieve a sensible balance between fiscal stimulation and restraint. The most recent fiscal year, with its roller-coaster record of predictions and actualities is a perfect example. We have given the Administration authority to manage the Economic Stabilization program, which calls for sacrifices throughout the private sector, yet to date, Congress has shown no inclination to follow suit. Rightly or wrongly, if an uncontrollable Federal budget spells inflation to the average businessman or consumer, his behavior will naturally subvert the objectives of Phase II and perhaps lead to a longer and more painful Phase III.

Setting this example of a firm ceiling at $250 billion seems hardly sacrificial on our part. It will still create some $32 billion in deficit financing, the largest since World War II. With our domestic economy returning slowly to normalcy, an exemplary action by the Congress could well restore private confidence in our public decision making. We have all seen what happened in the height of 1969's inflation. Counterproductive as it was, people increased their savings, even though their dollars would buy less in another year, businesses cancelled plans for expansion, and the slowdown helped produce an aggravating and tragic situation of unemployment. It seems to me little enough to ask Congress and the Administration to hold to a sensible spending guideline when we are asking automakers, and supermarkets, doctors, and machinists, schoolteachers, and housewives alike to adhere to current controls.

Thirdly, our inflationary problem does not stop at the U.S. border. Our deteriorating trade deficit has been caused in part by America's inability to compete in world markets. I cannot pretend to be an expert on international economic problems, but the figures really speak for themselves. A fourth table here shows the widening import-export gap. We used to enjoy a healthy surplus, particularly in manufactured goods, but as the factor inputs of these products—labor and raw materials—have become more expensive, our surplus has turned to a festering deficit.

Parenthetically, too, the long-term success of our recent bold moves to adjust the parity of the dollar and freeze our remaining supply of gold, depends on international confidence in the U.S. dollar. Foreign central banks and exchange markets carefully watch our domestic economic activities. Runaway Federal deficits can only erode our trading partners' desire to hold dollars as a reserve currency, above and beyond their day-to-day needs. In the past two years, foreigners have acquired more than $30 billion in Treasury securities. Their desire to hold that debt, instead of redeeming it at maturity, will depend on the health and stability of our domestic economy.

Lastly, we all live with the haunting issue of tax increases. No other action with which we deal receives as much attention from our constituents, regardless of their wealth. I am sure this Committee of experts is well acquainted with the most recent Brookings report on National Priorities. It contains a very clear message—under present conditions, revenues will not be adequate to cover expenditures, if the Federal budget continues to grow at its current rate. I, for one, favor periodic review of our tax system, but every tax reform proposal I have seen recognizes that *substantial* revenue gains cannot be achieved without tapping the vast majority of middle income Americans. "Soak the rich" schemes simply will not produce the tax dollars we will need if Federal spending rises $20 plus billion a year. I certainly think it is fantasy to imagine no increases in taxes next year unless both the Congress and the Administration get tough on spending, starting right now.

Mr. Chairman, let me say in closing that I would happily support a figure lower than $250 billion, if we could get it through the Congress. I have tried in the past, though, and not succeeded. Senator Proxmire, for one, has proposed a level of $240 billion. (Should the Senate uphold the House cuts in Defense appropriations and the Congress as a whole fails to act on Title IV of H.R. 1, I can well see the ceiling being dropped $4 billion, or so.)

I will try to answer any questions you may have on this amendment and would urge that it be adopted as part of the pending debt bill.

Thank you.

TABLE I.—VARIATIONS IN ORIGINAL BUDGET PROJECTIONS (EXPENDITURES)

[In billions of dollars]

Fiscal year	Original expenditure estimates	Actual expenditures	Difference
1954	66.3	70.9	4.6
1955	65.4	64.4	−1.0
1956	61.2	66.2	4.1
1957	64.6	69.0	4.4
1958	71.2	71.4	.2
1959	73.6	80.3	6.7
1960	76.3	76.5	.2
1961	79.1	81.5	2.4
1962	80.9	87.8	6.9
1963	92.5	92.6	.1
1964	98.8	97.7	−1.1
1965	97.9	96.5	−1.4
1966	99.7	107.0	7.3
1967	112.8	125.7	12.9
1968	135.0	143.1	8.1
1969	186.1	184.6	−1.5
1970	195.3	196.6	1.3
1971	200.8	211.4	10.6
1972	229.2	231.6	2.4
1973	246.3	[1] 250.0	[1] 3.7
Total	2,333.9	2,404.8	+70.9

[1] Latest estimates, through Aug. 4, 1972.

Source: Office of Management and Budget.

TABLE II.—VARIATIONS IN ORIGINAL BUDGET PROJECTIONS (RECEIPTS)

[In billions of dollars]

Fiscal year	Original receipt estimates	Actual receipts	Difference
1954	70.3	69.7	−0.6
1955	62.5	60.2	−2.3
1956	59.7	67.8	8.1
1957	65.0	70.6	5.6
1958	73.1	68.6	−4.5
1959	74.0	67.9	−6.1
1960	76.4	77.8	1.4
1961	83.3	77.7	−5.6
1962	82.3	81.4	−.9
1963	93.0	86.4	−6.6
1964	86.9	89.5	2.6
1965	93.0	93.1	.1
1966	94.4	104.7	10.3
1967	111.0	115.8	4.8
1968	126.9	114.7	−12.2
1969	178.1	187.8	9.7
1970	198.7	193.7	−5.0
1971	202.1	188.4	−13.7
1972	217.6	208.6	−9.0
1973	220.7	[1] 223.0	2.3
Total	2,269.0	2,247.4	−21.6

[1] Latest estimates.

Source: Office of Management and Budget.

TABLE III.—BALANCES IN FEDERAL FUNDS, UNIFIED BUDGET, AND FULL EMPLOYMENT, LEVELS OF FEDERAL DEBT, AND DEBT INTEREST, 1963–73 INCLUSIVE

[In billions of dollars]

Fiscal year	Federal funds	Unified budget	Full employment budget	Total gross Federal debt at Dec. 31	Total debt interest
1963	−6.5	−4.8	+4.4	310.9	9.2
1964	−8.6	−5.9	+2.1	316.8	9.8
1965	−3.9	−1.6	+2.4	323.2	10.3
1966	−5.1	−3.8	−6.1	329.5	11.3
1967	−15.0	−8.7	−10.6	341.3	12.6
1968	−28.4	−25.1	−25.2	369.8	13.7
1969	−5.5	+3.2	0	367.1	15.8
1970	−13.1	−2.8	+2.6	382.6	18.3
1971	−30.2	−23.2	−3.2	409.5	19.6
1972	−28.9	−23.0	−3.6	[1] 445.8	21.8
1973[1]	−41.3	−34.2	−3.0	493.1	22.1

[1] Estimates.

Source: Office of Management and Budget.

TABLE IV

[Millions of dollars]

	Merchandise exports						Merchandise imports					Gross-merchandise trade surplus, seasonally adjusted
	Total (including reexports)[1]		Domestic exports				General imports[3]					
							Total[2]					
Period	Seasonally adjusted	Unadjusted	Total[1][2]	Food, beverages, and tobacco	Crude materials and fuels	Manufactured goods	Seasonally adjusted	Unadjusted	Food, beverages, and tobacco	Crude materials and fuels	Manufactured goods	
Monthly average:												
1963		1,869	1,845	349	315	1,191		1,428	322	396	672	441
1964		2,153	2,123	386	361	1,377		1,562	335	419	759	590
1965		2,229	2,201	377	356	1,453		1,786	334	453	937	444
1966		2,458	2,421	432	367	1,602		2,135	382	476	1,204	323
1967		2,586	2,554	392	394	1,737		2,241	392	447	1,313	345
1968		2,839	2,802	383	405	1,985		2,769	447	503	1,719	70
1969		3,111	3,066	370	417	2,232		3,004	442	533	1,918	107
1970		3,555	3,502	422	558	2,445		3,329	519	545	2,159	226
1971		3,629	3,576	423	537	2,437		3,797	534	606	2,534	−168

Period	Merchandise exports						Merchandise imports					Gross-merchandise trade surplus, seasonally adjusted
	Total (including reexports)[1]		Domestic exports				General imports[3]					
	Seasonally adjusted	Unadjusted	Total[1 2]	Food, beverages, and tobacco	Crude materials and fuels	Manufactured goods	Total[2] Seasonally adjusted	Unadjusted	Food, beverages, and tobacco	Crude materials and fuels	Manufactured goods	
			Unadjusted					Unadjusted				
1971:												
May	3,776	3,907	3,847	423	550	2,785	3,988	3,845	520	607	2,591	−212
June	3,662	3,687	3,626	395	546	2,604	4,012	4,271	593	665	2,888	−350
July	3,493	3,338	3,293	385	468	2,362	3,793	3,693	565	629	2,367	−300
Aug	3,678	3,366	3,329	384	515	2,353	3,928	3,838	616	640	2,462	−251
Sept	4,505	4,220	4,166	586	586	2,934	4,237	4,246	714	659	2,760	268
Oct	2,708	2,826	2,774	294	394	2,026	3,523	3,463	352	571	2,414	−815
Nov	3,160	3,221	3,177	395	471	2,247	3,379	3,522	353	598	2,454	−218
Dec	3,858	4,056	3,999	536	644	2,738	4,128	4,279	606	710	2,822	−270
1972:												
Jan	4,221	3,815	3,766	506	567	2,601	4,540	4,280	631	702	2,820	−319
Feb	3,806	3,780	3,723	485	527	2,632	4,403	4,177	626	673	2,763	−598
Mar	3,891	4,310	4,250	426	611	3,119	4,475	4,844	554	756	3,401	−584
Apr	3,760	3,887	3,812	396	567	2,754	4,460	4,248	544	659	2,918	−699
May	3,914	4,143	4,074	508	565	2,917	4,466	4,722	604	731	3,254	−552
June	3,905	4,015	3,942	528	557	2,762	4,495	4,767	614	715	3,306	−590

[1] Total excludes Department of Defense shipments of grant-aid military supplies and equipment under the military assistance program.

[2] Total includes commodities and transactions not classified according to kind.

[3] Total arrivals of imported goods other than intransit shipments.

Note: Data adjusted to include silver ore and bullion reported separately prior to 1969.

Source: Department of Commerce.

OUR HERITAGE IS FREEDOM, ADDRESS BY SENATOR ERVIN BEFORE THE FEDERAL BAR ASSOCIATION NATIONAL CONVENTION

Mr. BIBLE. Mr. President, one of the great constitutional lawyers of this body, the distinguished senior Senator from North Carolina (Mr. ERVIN), addressed a luncheon session of the Federal Bar Association National Convention on September 15 here in Washington, D.C.

At that time, Senator ERVIN spoke out again about the dangers to individual freedom which many believe are to be gaining ground in this country in diverse areas.

The threats about which the Senator warned can arise in private and governmental organizations. I found much food for thought in the distinguished Senator's presentation, and I hope that all lawyers who work for the Federal Government, or are associated with it, will keep these words in their minds and hearts.

I ask unanimous consent that Senator ERVIN's remarks be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

OUR HERITAGE IS FREEDOM

(By Senator SAM J. ERVIN, JR.)

Our heritage is freedom. The Constitution makes this manifest by declaring in its preamble that George Washington and his colleagues in the Convention of 1787 framed that instrument to secure the blessings of freedom to all Americans of all generations.

While love of freedom inspired the Constitution, it did not have its origin in our land.

The love of freedom was brought to our land before the Revolution by courageous men and women from the British Isles, Holland, the vineclad hills of France, the Palatinate of Germany, and the mountains of Switzerland, who craved above all things the freedom denied them by the tyrannical civil and ecclesiastical rulers of the Old World.

Since so many men appear so anxious nowadays to swap the reality of freedom for the mirage of security, it would be well for us to ponder the choice our ancestors made when they forsook the comparative security of the Old World for the terrifying insecurity of the new.

It was not without many pangs of regret that they turned their backs for all time upon the scenes of their childhood, the graves of their beloved dead, and the comparative security of the then civilized world, and journeyed in tiny barks across a boisterous ocean to establish homes for themselves and their children and their children's children in what was then a perilous wilderness in a new and strange land.

Why did they do this? Why did they exchange the comparative security of the Old World for the terrifying insecurity of the new? The answer is simply this: they preferred freedom to security.

While it is an indivisible whole, freedom does reveal herself in a fourfold guise as economic freedom, political freedom, religious freedom, and intellectual freedom.

ECONOMIC FREEDOM

The brave men and women who brought the love of freedom to our land did not learn economics sitting at the feet of those who promise "abundance for all by robbing Selected Peter to pay Collective Paul."

They acquired their knowledge in the hard school of experience, which is the most dependable of teachers. As a consequence, they had the hardihood to accept the economic truths plainly visible to all human beings who possess both the capacity and the willingness to accept reality.

They knew that earth yields nothing to man except the product of his own labor. They knew that Adam's curse is an unchanging and unchangeable law of life: "In the sweat of thy face thou shalt eat bread til thou return unto the ground."

They knew that man has but one choice in respect to this immutable economic fact, and that such choice is simply this: Whether the bread which he must eat in the sweat of his face shall be the bread of freedom or the bread of bondage.

They knew this unalterable decree of the creator of the universe: Free men cannot be induced to produce things of value unless they are permitted to retain a fair share of the fruits of their labor for themselves, their families, and the causes they hold dear.

They knew, moreover, that man can be free only if he is willing to accept responsibility for his own life.

They also knew the truth embodied in Michelangelo's assertion: "It is only well with me when I have a chisel in my hand."

As a consequence of these things, the valiant folks who made America realized not only that economic freedom is an absolutely necessary attribute of a free society, but also that it most effectively encourages men and women to make of themselves everything God gave them any possibility of becoming.

POLITICAL FREEDOM

The men and women who made America believed that governments derive their just powers from the consent of the governed. Moreover, they had absorbed the lessons taught by the history of the struggle of the people against arbitrary power for the right to be free from tyranny. Hence, they comprehended some eternal truths respecting men and government.

They knew that those who are entrusted with powers of government are susceptible to the disease of tyrants, which George Washington rightly diagnosed in his Farewell Address as "the love of power and proneness to abuse it." For this reason, they realized that the powers of public officers should be defined by laws which they as well as the people are obligated to obey.

They also knew the truth subsequently embodied by Daniel Webster in this aphorism: "Whatever government is not a government of laws is a despotism, let it be called what it may."

For this reason, they realized that liberty cannot exist except under a government of laws, i.e., a government in which the conduct of the people is controlled by certain, constant, and uniform laws rather than by the arbitrary, uncertain, and inconsistent wills of the men who occupy public offices, and in which the laws accord to the people as much freedom as the commonweal permits.

They likewise knew that Thomas Hobbes had proclaimed an unalterable principle when he said: "Freedom is political power divided into small fragments."

They knew, moreover, the political truth afterwards phrased by Woodrow Wilson in these words:

"Liberty has never come from the government. Liberty has always come from the subjects of it. The history of liberty is a history of the limitation of governmental power, not the increase of it. When we resist therefore the concentration of power, we are resisting the processes of death, because concentration of power is what always precedes the destruction of human liberties."

For these reasons, they realized that the powers of government should be diffused among different repositories, that "local processes of law are an essential part of any government conducted by the people," and that "no national government . . . can be as closely in touch with those who are governed as can the local authorities in the several states and their subdivision."

To preserve for themselves and their posterity the blessing of freedom, they framed a Constitution which created a government of laws conforming to these eternal truths, and which they intended to last for the ages and to constitute a law for rulers and people alike at all times and under all circumstances.

RELIGIOUS FREEDOM

The most heart-rending story of history is that of man's struggle against civil and ecclesiastical tyranny for the simple privilege of bowing his own knees before his own God in his own way. As Chief Justice Walter P. Stacy of the North Carolina Supreme Court so well declared in one of the great judicial opinions of all time, "men contend more furiously over the road to heaven, which they cannot see, than over their visible walks on earth," and history records "the tragic fact that men have gone to war and cut each others' throats because they could not agree as to what was to become of them after their throats were cut."

The men and women who gave freedom to America were devout souls. They had learned some of the sorrowful facts of the spiritual life of man in the bitter crucible of experience. Most of them dissented from the doctrines and usages of the churches established by law in the lands of their origins. They were denied the right to worship God in their own ways. They were compelled to pay tithes for the support and propagation of religious opinions which they disbelieved. They had their marriages annulled and their children adjudged illegitimate for daring to speak their marriage vows before ministers of their own faiths rather than before clergymen of the established churches.

But these cruel oppressions merely steeled their convictions that religion is a private matter between man and his God; that no human authority should undertake to control or interfere with the rights of conscience; and that "to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves is sinful and tyrannical."

For these reasons, our ancestors staked the very existence of America as a free nation upon the principle that "all men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences," and the corollary that this natural and unalienable right can be secured only by keeping the hands of the state out of religion and the hands of religion off the state.

INTELLECTUAL FREEDOM

While I divide freedom into parts for ease of discussion, the indivisibleness of freedom becomes manifest when we realize that intellectual freedom is inextricably intertwined with political and religious freedom, and that the full enjoyment of political, religious, and intellectual freedom is dependent upon economic freedom.

The greatest exponent of intellectual freedom among the men and women who made America a living reality was Thomas Jefferson, who said: "I have sworn upon the altar of God eternal hostility against every form of tyranny over the mind of man."

His contemporaries shared Jefferson's abhorrence of tyranny over the mind, and for this reason they adopted the First Amendment. When this amendment is read in conjunction with the Due Process Clause of the Fourteenth Amendment, it compels the governments of the states as well as the federal government to extend to every human being within our borders these intellectual, political, and religious freedoms:

1. Freedom to think whatever he pleases.
2. Freedom to speak and publish his thoughts with impunity, provided what he says or publishes is not obscene and does not falsely slander or libel another, or tend to obstruct the courts in their administration of justice, or create a clear and present danger that it will incite others to commit crimes.
3. Freedom to associate with others to accomplish any lawful objective.
4. Freedom to meet peaceably with others for consultation and protest, and to petition those invested with powers of government for redress of grievances, real or imagined.
5. Freedom to entertain such religious beliefs as appeal to his conscience, to practice his religious beliefs in any form of worship not injurious to the rights of others, to endeavor by peaceful persuasion to convert others to his religious beliefs, and to be exempt from taxation for the support of any institution which teaches religion of any character.

These freedoms are exercisable by fools as well as by wise men, by agnostics or atheists as well as by the devout, by those who defy our Constitution and laws as well as by those who conform to them, and by those who hate our country as well as by those who love it.

We cannot overmagnify the value of these freedoms. This is so because they are the fundamental freedoms which make it possible for America to endure as a free society.

To be sure, the exercise of these freedoms may require us to put up with a lot of intellectual rubbish. But our country has nothing to fear from them, however much they may be abused, as long as it leaves truth free to combat error.

DUTY TO PRESERVE FREEDOM

Freedom is hard to acquire or retain, but easy to lose.

Freedom is certainly not free. Our freedom was bought for us by the blood, sweat, tears, and prayers of men and women past numbering.

As the preamble to the Constitution indicates, the most solemn obligation resting upon us is to preserve freedom for ourselves and our posterity.

This we must do if we and future generations of Americans are to enjoy its blessings. As Thomas Paine declared in Revolutionary Days, "Those who expect to reap the blessings of freedom must, like men, undergo the fatigue of supporting it."

This is necessarily so because God grants freedom only to those who love it and are always ready to guard and defend it. The brave men and women who made the America we love dedicated it to the proposition that men "are endowed by their Creator with certain unalienable rights; that among these are life, liberty, the enjoyment of the fruits of their own labor, and the pursuit of happiness."

Having done this, they bequeathed America to us in trust for ourselves and our children and our children's children with knowledge of the unhappy truth that the conflict between tyranny and freedom never ceases, and that freedom always stands in peril at the hands of those forces which seek to dominate the lives of others.

To aid us in preserving freedom, they warned us that eternal vigilance is the price of freedom, and that we must recur to fundamental principles frequently to save it.

DEFEATS OF FREEDOM

During recent years, the conflict between tyranny and freedom has intensified; and freedom is suffering many defeats.

I will specify what I conceive to be a few of them. In so doing, I will undoubtedly offend powerful special interest groups which are not averse to destroying the freedom of others to achieve their special objectives.

I realize, moreover, that many sincere persons having no axes to grind may disagree with some of my specific observations. I freely accord to them their freedom to differ with me.

By concentrating ever-expanding power in itself, the federal government is substantially robbing the states and their political subdivisions of their right to regulate local and personal activities within their borders, and individuals of their freedom to contract with respect to their commercial and personal affairs and their private property.

By collecting and storing personal data concerning individuals for which it has no legitimate need, by placing under covert and overt surveillance individuals who dissent from its policies, and by branding the members of organizations obnoxious to it as intellectually or politically dangerous to the established order, the federal government is invading the privacy of individuals, and discouraging them to exercise their First Amendment rights to freedom of thought, speech, and the press, and their First Amendment right to freedom of association, and their First Amendment rights peaceably to assemble and to petition government for redress of grievances.

By extravagant expenditures for domestic and foreign programs past numbering financed in part by exorbitant taxes and in part by unprincipled deficit financing, the federal government is confiscating an inordinate proportion of the fruits of the labors of the people, destroying the value of their past savings and the purchasing power of the earnings it permits them to retain, and mortgaging their economic future and that of their children.

By adopting "no-knock" laws and claiming for the President as an inherent power the authority denied him by the Fourth Amendment, the federal government is subjecting the persons, houses, papers, and effects of the people to unreasonable searches and seizures.

By adopting a preventive detention law for the District of Columbia, the federal government is denying persons allegedly committing non-capital crimes in the District a right the people of the United States have enjoyed since 1789, i.e., the right to release on bail pending trial, and imprisoning them merely because a judge fears they may commit crimes in the future if they are released on bail.

By sanctioning compulsory unionism, the Federal government is enpowering unions in practical effect to compel those who labor to become and remain members of unions as conditions of employment and to participate in strikes they deem unjust under pain of severe union-inflicted fines.

By denying children the right to attend their neighborhood school and requiring them to be bused to and fro to mix them racially in schools in undefined proportions pleasing to bureaucrats and judges, the federal government is making children of all races the hapless and helpless pawns of bureaucratic and judicial tyranny.

By demanding that all Americans be taxed to support educational institutions maintained by churches to teach their religious beliefs, federal officials are imperiling the right of every American to be exempt from taxation to finance a violation of the Establishment and Freedom of Worship clauses of the First Amendment.

CONCLUSION

What I have been trying to say about freedom was much better expressed by one of its foremost champions, Rudyard Kipling, in his stirring poem entitled "The Old Issue." I quote his words:

"All we have of freedom, all we use or know
This our fathers bought for us long and long ago.

Ancient right unnoticed as the breath we draw
Leave to live by no man's leave, underneath the law.

Lance and torch and tumult, steel and grey-goose wing,
Wrenched it, inch and ell and all, slowly from the King.

Till our fathers 'stablished, after bloody years,
How our King is one with us, first among his peers.

So they bought us freedom—not at little cost—
Wherefore must we watch the King, lest our gain be lost."

In closing, I assert that the freedom of the individual is life's most precious value. If it is to endure in our land, we must renew our love for it, exercise eternal vigilance, recur frequently to fundamental principles, and make manifest our determination to guard and defend it, cost what it may.

THE NEED FOR EFFECTIVE CRIME PREVENTION LEGISLATION

Mr. PERCY. Mr. President, in recent weeks, there have been a series of shocking and vicious murders in the Chicago area. These crimes have numbed the community because the victims were mostly youngsters who had a whole life to look forward to, but who had their future abruptly and cruelly taken from them.

Law enforcement experts speculate that although there may be several causes for these murders, one fact which stands out is that many of them were committed by people who had been previously arrested, tried, convicted and sent to a "correctional" institutions. As Mr. Harvey Johnson, acting director of the Chicago Crime Commission said—

> Many of the offenders have prior police records and have often spent time in correctional institutions. Obviously they haven't been corrected or they wouldn't be repeating their crimes.

This is a very telling point, because nationally, it is estimated that 80 percent of all crimes are committed by people who have previously been in correctional institutions.

Mr. President, this seems to me to be convincing evidence of the need for new programs which can reverse the present trend so that once a man comes out of prison, it would be the exception rather than the rule that he returns to a life of crime.

There are programs which have demonstrated that this is not just a hopeless pipedream. The PACE program in Chicago, the Manhattan Court Employment Project in New York, and many others which I have discussed before on the floor present dramatic proof that correctional programs and institutions can "correct" if given a chance. It was for these reasons that I introduced S. 3185 and S. 3922. Both of these bills offer the hope that offenders who pass through our criminal justice system will no longer be a threat to the community. The first restructures the entire criminal justice system; the second provides for a new approach to vocational training for inmates.

When someone asks why I am involved in prison reform, I could give them many answers. But perhaps none could be more dramatic than showing them the article published in the Chicago Daily News on the weekend of September 16 and 17. That article describes with poignant accuracy the point I have been trying to make. By reforming and reorganizing our entire criminal justice system, crimes such as those which are outlined in the article will become fewer. By cleaning up our criminal justice system so that it actually works, we will have gone a long way toward reversing the fact that 80 percent of all crimes are committed by ex-offenders. For the protection of society from the type of madness which the article relates, the Congress needs to act forcefully and immediately.

Mr. President, I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Surge of Vicious Murders Spurs the Question: Why?

(By Edmund J. Rooney and Phillip J. O'Connor)

The Chicago area has been hit by a wave of vicious murders of children and young people in the last few months and officials give varying opinions on why the violence has occurred here.

Victims have ranged in age down to 18-month-old Renee Flanagan, who was found slain last Monday in a church parking lot in Mount Prospect with her mother. Both victims had been sexually molested.

Some of the slayings were multiple killings, including the slaying of a young woman and three others in posh Barrington Hills and the murder of three persons near Monee.

The shocking series of slayings has included several in what are generally considered "safe" areas, such as a tranquil gravel road west of Carol Stream.

The commander of the Chicago police homicide unit, William Keating, said "There has been a rash of what we call felony murders. These are murders in which a felony—such as robbery or rape—is committed before the murder itself.

"I don't know the reason for the increase in felony murders. However I do believe that if the death penalty was enforced in murder cases, it would be a deterrent.

"By this I mean that the death penalty should be carried out within a reasonable time, not have a convicted slayer sitting around for up to 12 years."

Keating said that over the years about 65 percent of Chicago's murders have been what he calls "crimes of passion." Keating said that by this he means there was some relationship between the killer and his victim prior to the slaying.

Coroner Andrew J. Toman said he believes violent television shows and movies are partly responsive for some of the shocking murders.

Deputy Coroner George Parker, who has offices in the Cook County Morgue, said, "We are seeing the bodies of a lot more children than we used to."

Harvey Johnson, operating director of the Chicago Crime Commission, said that there can be a variety of reasons why a person will commit what Keating refers to as felony murders.

"It can occur during a theft to buy narcotics, or sometimes it can be mere robbery for robbery's sake that develops into murder," Johnson said. "Many of the offenders have prior police records and have often spent time in correctional institutions. Obviously they haven't been corrected or they wouldn't be repeating their crimes."

Easy availability of guns also is a factor in the number of murders, Johnson added. Richard J. Elrod said:

"I'm shocked and dismayed at the recent upsurge of child murders and related crimes. Everything in the capacity of law enforcement should be done to prevent these types of crimes. All officials, regardless of jurisdictions, should work together to apprehend the individuals responsible.

We've found that people from low socioeconomic areas in the city go into more prosperous areas where they can steal things of higher value.

Chicago police said that surprisingly there have been fewer murders so far in 1972 than last year. Homicide investigators said that 500 persons have been murdered in the city so far this year, compared to 586 at this time a year ago.

Last year, Chicago set an all-time record when the number of murders zoomed to 824.

The child murders have been among the most shocking.

Sally Kandel, 14, of 531 Mohican, Carol Stream, was found beaten to death in a cornfield on Lies Rd. just west of Carol Stream Wednesday morning.

Another bicyclist, Julie Kathleen Morecraft, 18, of 802 Ford, Elgin, was found beaten to death with a rock near Streamwood last June 22.

A 15-year-old Naperville girl, Julie Hanson, was found stabbed to death in a cornfield near Naperville July 9.

A 16-year-old Lemont girl, Janet Bossert, was found shot to death in a wooded area in Lemont last Oct. 30.

A La Grange youth, Alan Fredian Jr., 15, was found beaten to death near Lyons Twp. High School South last Oct. 16.

A 14-year-old South Side youth, Rodney Harris, 14, was found slain Aug. 25 in Evanston.

Also among the most grisly murders were the mass slaying of four Aug. 4 in the posh Barrington Hills home of retired insurance executive Paul M. Corbett, 67, who was slain along with three others.

The victims in the triple murder near Monee, which occurred Sept. 4, were Stephen Hawtree, 58, his wife, Judy, 53, and their son, Thomas, 17.

The **PRESIDING OFFICER.** Is there further morning business?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION TODAY

Mr. SCOTT. Mr. President, I ask unanimous consent that the Subcommittee on Small Business of the Committee on Banking, Housing and Urban Affairs; the Committee on Labor and Public Welfare; the Committee on Agriculture and Forestry; the Committee on Commerce; and the Committee on Finance may be authorized to meet during the session of the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD later in the day said: Mr. President, I ask unanimous consent that the Committee on Government Operations be authorized to meet during the session of the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RESOLUTION 367 PLACED ON CALENDAR

The PRESIDING OFFICER. Is there further morning business? If not, the Chair lays before the Senate, Senate Resolution 367, which the clerk will please read by title.

The second assistant legislative clerk read the resolution (S. Res. 367) by title, as follows:

> A resolution to prohibit any notice of an increase in social security payments from referring to any individual who is a candidate for public elective office.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The time for the transaction of routine morning business has expired and morning business, therefore, is closed. Under a previous order the Senate must now proceed to the consideration of S. 3716. The resolution (S. 367), which has been laid before the Senate and has not yet been acted on even though the time for the morning hour has not expired, will be placed on the Calendar in accordance with rule XIV, paragraph 6, and the practices and precedents of the Senate in dispositions of resolutions going over under the rule.

HEALTH FACILITIES, MANPOWER, AND COMMUNITY MENTAL HEALTH CENTERS ACT OF 1972

The PRESIDING OFFICER. At this time, in accordance with the previous order, the Chair lays before the Senate, S. 3716, which the clerk will please state by title.

The second assistant legislative clerk read the bill by title, as follows:

> A bill (S. 3716) to amend the Public Health Service Act to provide for continued assistance for health facilities, health manpower, and community mental health centers.

The Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Health Facilities, Manpower, and Community Mental Health Centers Act of 1972".

Part A—Amendments to the Public Health Service Act

EXTENSION OF ASSISTANCE UNDER TITLE VI OF THE PUBLIC HEALTH SERVICE ACT

Sec. 2. Section 601 of such Act is amended to read as follows:

"Sec. 601. In order to assist the States in carrying out the purposes of section 600, there are authorized to be appropriated—

"(a) for the fiscal year ending June 30, 1973, and each of the next two fiscal years—

"(1) $85,000,000 for grants for the construction of public or other nonprofit facilities for long-term care;

"(2) $100,000,000 for grants for the construction of public or other nonprofit outpatient facilities; and

"(3) $15,000,000 for grants for the construction of public or other nonprofit rehabilitation facilities;

"(b) for grants for the construction of public or other nonprofit hospitals and public health centers, $160,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years;

"(c) for grants for modernization of facilities referred to in paragraphs (a) and (b) $150,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years;

"(d) $100,000,000 for the fiscal year ending June 30, 1973, $100,000,000 for the fiscal year ending June 30, 1974, and $100,000,000 for the fiscal year ending June 30, 1975, for grants for modernization of facilities referred to in paragraphs (a) and (b) which are—

"(1) located in metropolitan areas having a population of 500,000 or more persons, and

"(2) intended to serve a broadened population within such metropolitan area."

EXTENSION OF LOAN GUARANTEES AND LOANS FOR MODERNIZATION AND CONSTRUCTION OF HOSPITAL AND OTHER MEDICAL FACILITIES

Sec. 3. (a)(1) Section 621(a)(1) of the Public Health Service Act is amended by striking out the phrase "during the period July 1, 1970, through June 30, 1973,".

(2) Paragraph (2) of such section is amended by striking out the phrase "during the period July 1, 1970, through June 30, 1973,".

(b) Section 622(b) of the Public Health Service Act is amended by striking out the phrase "ending before July 1, 1973."

(c) Section 631 of the Public Health Service Act is amended by striking out "1971." and inserting in lieu thereof "1973.".

(d)(1) The title of part C of title VI of the Public Health Service Act is amended to read as follows:

"Part C—Construction or Modernization of Emergency Rooms and Development of Area Emergency Medical Services Systems"

(2) Section 633 of such Act is amended to read as follows:

"AUTHORIZATION

"Sec. 633. To assist in, improve, and expand the provision of adequate emergency medical services in the Nation for the treatment of accident victims, victims of sudden illness, and handling of other medical emergencies there are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1973; $100,000,000 for the fiscal year ending June 30, 1974; and $150,000,000 for the fiscal year ending June 30, 1975, for special project grants and contracts for the planning and development or expansion of comprehensive area emergency medical services systems. Sums made available under this section may be used for construction, training and manpower development, communication, transportation, public education, coordination of services and facilities and other components necessary for the implementation of a plan submitted in accordance with section 635."

(3) Part C of such title is further amended by adding at the end thereof the following new sections:

"ELIGIBILITY FOR GRANTS AND CONTRACTS

"Sec. 634. Funds appropriated pursuant to this part shall be available for grants and contracts by the Secretary, after consultation with the National Emergency Medical Services Advisory Council established by section 638, and funds available for grants and contracts under section 633 shall be provided on a matching basis of up to 75 per centum in accordance with criteria of need as determined by the Secretary pursuant to regulations he shall prescribe, to States, political subdivisions, or regional arrangements, compacts, or consortiums comprising the governmental jurisdictions for at least those areas included in a standardized metropolitan statistical area (as determined by the Office of Management and Budget) in the case of programs to be carried out in such standardized metropolitan statistical areas, presenting a plan for the provision of comprehensive and coordinated emergency medical services for a geographical area which encompasses an area at least congruent with an areawide comprehensive health planning agency as established under section 314(b) of this Act or multiples of such area (unless the Secretary determines that such area cannot feasibly operate under a single plan in which event he may approve a plan submitted for a portion of such area), which plan must be approved by the Secretary and meet requirements consistent with the provisions of section 635 set forth in regulations prescribed by the Secretary.

"PLANS

"Sec. 635. Each plan submitted pursuant to section 634 must include the following—

"(a) reasonable assurance that there has been or will be established in or for the area with respect to which such grant is sought, an area emergency medical services planning council pursuant to the provisions of section 636;

"(b) proposals for programs (carried out in coordination with education and training programs assisted under titles III, VII, VIII, and IX of this Act and in a manner consistent with the appropriate provisions of such applicable title) for the training and continuing education of health professionals and paraprofessionals (with priority for the recruitment and training of veterans of the Armed Forces of the United States with training or experience in the health care field) in the provision of emergency medical services to victims of accident and sudden illness which programs must meet criteria established by the Secretary in regulations and, in the case of the training of paraprofessionals, must include supervised clinical training for at least one-half of the program;

"(c) provision for a communications system including, at least, a central, areawide communication network linked with other appropriate area, State, and national networks, and with maximum accessibility for the public through a universal emergency telephone number and other means, which system shall allow transmission of information by voice, telemetry, or other electronic method and shall provide for cross-frequency patching capability;

"(d) provision for an emergency medical services transportation system, which shall include such air borne and water borne transportation as is necessary to meet the individual characteristics of the area;

"(e) provision for the establishment of easily accessible, continuously operational emergency medical service facilities in sufficient numbers and situated at strategic locations in the area to meet the emergency medical services needs of the area;

"(f) provision for emergency access to specialized critical medical care units in the area, including provision for the necessary transportation systems for such access, and, where such resources are nonexistent or inadequate in the area, for access to such units in a neighboring area where access is feasible in terms of time and distance;

"(g) assurance that necessary emergency medical services, to the maximum extent feasible, shall be provided to all patients requiring services and shall be provided without regard to, or prior inquiry as to, ability to pay;

"(h) provision for developing for submission for approval by the Secretary, within one year of receipt of funds under this part, a plan assuring an operational system for providing emergency medical services during mass casualties, natural disasters, or national emergencies;

"(i) provision for transfer to facilities and programs providing such followup care and vocational rehabilitation as is necessary to reflect the maximum recovery and restoration of the patient;

"(j) provision for a program of public education and information in the area served (taking into account the needs of visitors to the community to know or be able to learn immediately the means of obtaining emergency medical services), stressing appropriate methods of medical self-help;

"(k) provision for periodic, comprehensive, and independent review and evaluation of the extent and quality of the emergency medical services provided in the area; and

"(l) provision for a standardized patient record-keeping system meeting standards established by the Secretary in regulations, which records shall cover the treatment of the patient, from initial entry into the system through discharge from the emergency medical services system, and shall, to the maximum feasible extent, be consistent with ensuring patient records used in followup treatment and rehabilitation of the patient.

"AREA EMERGENCY MEDICAL SERVICES PLANNING COUNCIL

"SEC. 636. (a) The composition of the Area Emergency Medical Services Planning Council to be established in accordance with the plan submitted under section 635 shall include representatives of the State agency and appropriate areawide health planning agency or agencies (if any) established under section 314, of the regional medical program established under title IX of this Act in the area, of all public safety agencies having responsibilities within the area, of hospital councils, public, voluntary, and nonprofit private agencies, institutions, and organizations concerned with health or health education, of the local government or governments or units thereof exercising jurisdiction in the area, of uniformed services of the Federal Government operating installations in the area, of the Veterans' Administration medical facilities in the area, of communications networks, mass media, and public utilities, of firms, organizations, and other entities having responsibilities related to the provision of emergency medical services, and representatives of the general public who are not related to the provision of health care and who shall comprise at least one-third of the Council's voting membership.

"(b) The functions of such Council shall include development in consultation with the congruent areawide comprehensive health planning agency or agencies established pursuant to section 314(b), of the plan described in section 635(f) for areawide emergency medical services and shall include continuous monitoring and evaluation of the operation of the emergency medical service system with a view to making recommendations for the improved effectiveness of its operation.

"INTERAGENCY TECHNICAL COMMITTEE ON EMERGENCY MEDICAL SERVICES

"SEC. 637. The Secretary shall establish an Interagency Technical Committee on Emergency Medical Services which shall be responsible for coordinating those aspects and resources of all Federal programs and activities relating to emergency medical services to assure the adequacy and technical soundness of such programs and activities and to provide for the full communication and exchange of information necessary to maintain the necessary coordination and effectiveness of such programs and activities. The Secretary or his designee shall serve as Chairman of the Committee, which shall include appropriate scientific, medical, or technical representation from the Department of Transportation, the Department of Justice, the Department of Defense, the Veterans' Administration, the National Academy of Sciences, the National Science Foundation, the Office of Science and Technology, the Federal Communications Commission, the Office of Emergency preparedness, and such other Federal agencies, and parts thereof (including components of the Department of Health, Education, and Welfare), as the Secretary determines administer programs directly affecting emergency medical services functions and responsibilities.

"NATIONAL EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL

"SEC. 638. (a) The Secretary shall establish a National Emergency Medical Services Advisory Council with which he shall consult on a continuing and regular basis in administering this part. The Council shall consist of the Secretary or his designee, who shall serve as Chairman, the Director of the National Institutes of Health, and the Administrator of the Health Services and Mental Health Administration in the Department of Health, Education, and Welfare, all other members of the Interagency Technical Committee established under section 637, and eighteen members appointed by the Secretary, nine of which appointed members shall be members of the general public who are related to the provision of emergency medical services, and nine shall be individuals experienced in the provision or development of, or the training of personnel to provide emergency medical services.

"(b) The functions of the Council shall be to review and advise the Secretary, through a subgroup which it shall appoint on applications received for grants and contracts under this part and to make recommendations to the Secretary with respect to carrying out the provisions of this part.

"(c) Each appointed member of the Council shall be appointed for a term of four years, except that—

"(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(2) of the members first appointed after the effective date of this part, six shall be appointed for a term of four years, six shall be appointed for a term of three years, and six shall be appointed for a term of one year, as designated by the Secretary at the time of the appointment. Appointed members may serve after the expiration of their terms until their successors have taken office.

"(d) A vacancy in the Council shall not affect its activities, and fifteen members of the Council shall constitute a quorum.

"(e) Members of the Council who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the functions of the Council compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703, title 5, United States Code, for persons in the Government service employed intermittently.

"SEC. 639. (a) No application for a grant or contract under this part shall be approved unless—

"(1) the State comprehensive health planning agency established pursuant to section 314(a) and the areawide health planning agency established pursuant to section 314 (b) have had an opportunity to comment thereon, within ninety days of the submission to those agencies of copies of such application, and the applicant has submitted to the Secretary a reply to any such comments with a view toward accommodating any objectives by and remedying any differences with such agency or agencies.

"(2) the applicant agrees to maintain such records and make such reports to the Secretary as the Secretary determines are necessary to carry out the provisions of this part.

"PAYMENTS AND CONDITIONS

"SEC. 640. (a) Grants and contracts under this part shall be paid in advance or by way of reimbursement in such installments and on such conditions as in the judgment of the Secretary will best carry out the provisions of this part.

"(b) Nothing in this part shall limit or otherwise restrict the use of funds which are granted under other provisions of this Act or other Federal law and which are available for the conduct of medical emergency transportation and service programs from being used in connection with programs assisted through grants and contracts under this part where the former programs meet the standards and criteria established by the Secretary under this part.

"(c) Contracts may be entered into under this part without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"(d) No grants or contracts may be made under this part in support of an emergency medical service system except where all components of such system meet standards and criteria established in regulations by the Secretary after taking into account standards established by appropriate national professional or technical organizations.

"REPORTS

"SEC. 640A. The Secretary shall prepare and submit to the Congress, one year after enactment of this part and every year thereafter, a report on the administration of this part, which shall include an evaluation of the adequacy of the provision of emergency medical services throughout the Nation and the extent to which the needs for such services are being adequately met through assistance under this part and otherwise and his recommendation for any legislation necessary to promote the provision of and provide emergency medical services throughout the Nation at a level adequate to meet such needs."

STATE ALLOTMENTS

SEC. 4. Section 602(a) of the Public Health Service Act is amended to read as follows:

"SEC. 602. (a) (1) For each fiscal year beginning after June 30, 1973, the Secretary shall make allotments to each State from the sums appropriated under subparagraph (1), (2), or (3) of paragraph (a) or under subsection (b) of section 601 for grants for construction of respectively—

"(A) public or other nonprofit facilities for long-term care,

"(B) public or other nonprofit outpatient facilities,

"(C) public or other nonprofit rehabilitation facilities, and

"(D) public or other nonprofit hospitals and public health centers. Each allotment shall be made on the basis of the population, the financial need, and the extent of the need for construction of facilities for which grants from the allotment are to be made of the respective States.

"(2) For each fiscal year beginning after June 30, 1973, the Secretary shall, in accordance with regulations, make allotments among the States for grants for modernization of the facilities referred to in section 601. Such allotments shall be made from the sums appropriated under paragraphs (c) and (d) of section 601 and shall be made among the States on the basis of the population, the financial need, and the extent of the need for modernization of such facilities of the respective States.

"(3) If—

"(A) the allotment for any State under paragraphs (1) and (2) for any fiscal year for grants for construction or modernization of facilities described in any one of the clauses (A), (B), (C), and (D) of such paragraph is less than,

"(B) the amount of the allotment for grants for construction of facilities described in such clause for the fiscal year ending June 30, 1973, as computed under this subsection (as in effect prior to the date of the enactment of this paragraph) and subsection (b) (as in effect on and after such enactment) then such allotment shall be increased to that amount the total of the increase thereby required being derived by proportionately reducing the allotment to each of the remaining States under subsection (a) and the preceding paragraphs of this subsection for grants for construction of facilities described in such clause but with such adjustments as may be necessary to prevent any such allotment of any such remaining States from being thereby reduced to less than that amount.".

LOAN LIMITATIONS

SEC. 5. Part A of title VI of the Public Health Service Act is amended by adding at the end thereof the following new section:

"SEC. 611. In any fiscal year no loan guarantee may be made under this part and no agreement to make interest subsidy payments may be entered into under this title if the making of such guarantee or the entering into of such agreement which would cause the cumulative total of—

"(1) the principal of the loans guaranteed under this title in such fiscal year, and

"(2) the principal of the loans for which no guarantee has been made under this title and with respect to which an agreement to make interest subsidy payments is entered into under this title in such fiscal year, to exceed the amount of grant funds obligated under this title in such fiscal year; except that this paragraph shall not apply if the amount of grant funds obligated under this title in such fiscal year equals the sums appropriated for such fiscal year."

REGIONAL MEDICAL PROGRAM

SEC. 6. (a) Section 902 of such title is amended by inserting "(including area health education and service centers)" immediately after "regional medical program" in subsection (a).

(b) Title IX of such Act is further amended by adding at the end thereof the following new section:

"AREA HEALTH EDUCATION AND SERVICE CENTERS

"SEC. 911. Notwithstanding limitations with regard to the diseases with which this title is concerned, the Secretary is authorized to make grants to and enter into contracts with regional medical programs for the purpose of developing area health education and service centers.".

(c) The title of title IX of the Public Health Service Act is amended to read as follows:

"TITLE IX—REGIONAL COOPERATIVE ARRANGEMENTS FOR EDUCATION, RESEARCH, TRAINING, AND DEMONSTRATION TO IMPROVE HEALTH SERVICES AND MEDICAL CARE"

AVAILABILITY OF APPROPRIATIONS

SEC. 7. Notwithstanding any other provision of law, unless enacted after the enactment of this Act expressly in limitation of the provisions of this Act, funds appropriated for any fiscal year to carry out any program for which appropriations are authorized by the Public Health Service Act or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 shall remain available for obligation and expenditure until the end of such fiscal year.

CONTINUATION OF SUPPORT OF NATIONAL HEALTH SURVEYS AND STUDIES

SEC. 8. (a) Section 305(a)(1)(H) of the Public Health Service Act is amended to read as follows:

"(H) a vital statistics system to include family formation, growth, and dissolution; and".

(b) Section 305(a)(2) of such Act is amended by inserting immediately before the period at the end of the first sentence the following: "; to set standards, to establish quality control systems, to develop uniform data collective forms, definitions, and procedures, and to provide technical assistance and training for the collection and compilation of such statistics".

(c) Section 305(b) of such Act is amended by adding at the end thereof the following new sentence: "Such system is to be implemented through contracts and grants in a continuing program of sharing costs with States and local governments to maintain data systems which collect and provide comparable data for national purposes."

(d) Section 305(d) of such Act is amended to read as follows:

"(d) There are authorized to be appropriated to carry out the purposes of this section $25,000,000 for the fiscal year ending June 30, 1973; and $35,000,000 for the fiscal year ending June 30, 1974".

CONTINUATION OF ASSISTANCE FOR ALLIED HEALTH PROFESSIONS

SEC. 9. (a) Section 791(a)(1) of the Public Health Service Act is amended to read as follows:

"SEC. 791. (a)(1) There are authorized to be appropriated for grants to assist in the construction of new facilities for training centers for allied health professions or replacement or rehabilitation of existing facilities for such centers $40,000,000 for the fiscal year ending June 30, 1973; $40,000,000 for the fiscal year ending June 30, 1974;".

(b)(1) Subsection (a)(1) of section 792 of such Act is amended to read as follows:

"SEC. 792. (a)(1) There are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1973; and $15,000,000 for the fiscal year ending June 30, 1974;".

(2) Subsection (b) of such section is amended to read as follows:

"(b) There are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1973; and $30,000,000 for the fiscal year ending June 30, 1974, for special improvement grants to assist training centers for allied health professions in projects for the provision, maintenance, or improvement of the specialized function which the center serves."

(3) Subsection (c)(1) of such section is amended to read as follows:

"(c)(1) There are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1973; and $30,000,000 for the fiscal year ending June 30, 1974, for grants and contracts for special projects under this subsection."

(c) Section 793(a) of such Act is amended by striking out all of the first sentence through "1973" and inserting in lieu thereof the following:

"SEC. 793. (a) There are authorized to be appropriated $12,000,000 for the fiscal year ending June 30, 1973; and $12,000,000 for the fiscal year ending June 30, 1974; to cover the costs of traineeships for the training of allied health professions personnel to teach health service technicians or in any of the allied health professions to serve in any of such positions in administrative or supervisory capacities or to serve in allied health professions specialties determined by the Secretary to require advanced training."

(d) Subsection (b) of section 794A of such Act is amended to read as follows:

"(b) For the purpose of carrying out the provisions of this section there are authorized to be appropriated $1,250,000 for the fiscal year ending June 30, 1973; and $1,250,000 for the fiscal year ending June 30, 1974;".

(e) Subsection (f) of section 749B of such Act is amended to read as follows:

"(f) There are authorized to be appropriated for the purpose of carrying out the provisions of this section $6,000,000 for the fiscal year ending June 30, 1973; and $10,000,000 for the fiscal year ending June 30, 1974;".

(f) Subsection (e) of section 794C of such Act is amended to read as follows:

"(e) There are authorized to be appropriated for the purpose of carrying out the provisions of this section $6,000,000 for the fiscal year ending June 30, 1973; and $6,000,000 for the fiscal year ending June 30, 1974;".

(g) The first sentence of subsection (c) of section 794D of such Act is amended to read as follows:

"(c) There are authorized to be appropriated to the Secretary for Federal capital contributions to student loan funds pursuant to subsection (a)(2)(B)(i) $10,000,000 for the fiscal year ending June 30, 1973; and $10,000,000 for the fiscal year ending June 30, 1974, and there are also authorized to be appropriated such sums for the fiscal year ending June 30, 1975, and each of the two succeeding fiscal years as may be necessary to enable students who have received a loan for any academic year ending before July 1, 1974, to continue or complete their education."

ALLIED HEALTH EDUCATION COST STUDY

SEC. 10. Section 797 of the Public Health Service Act is amended to read as follows:

"STUDY OF COSTS OF EDUCATING STUDENTS IN THE VARIOUS ALLIED HEALTH PROFESSIONS

"SEC. 797. (a)(1) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as 'Secretary') shall arrange for the conduct of a study or studies to determine the national average annual per student educational cost of schools of the various allied health professions which lead to a certificate of degree or other appropriate evidence of completion of a course of training for practice in the various allied health professions.

"(2) Such studies shall be completed and an interim report thereon submitted not later than March 30, 1974, and a final report not later than January 1, 1975, to the Secretary, the Committee on Labor and Public Welfare of the Senate, and the Committee on Interstate and Foreign Commerce of the House of Representatives.

"(3) Such studies shall develop methodologies for ascertaining the national average annual per student educational costs and shall, on such basis, determine such costs for school years 1972–1973, 1973–1974, and the estimated costs for school year 1974–1975 in the respective disciplines. The study shall also indicate the extent of variation among schools within the respective disciplines in their annual per student educational costs and the key factors affecting this variation.

The studies shall employ the most recent data available from the allied health professional schools in the country at the time of the study.

"(4) Such studies shall also describe national uniform standards for determining annual per student educational costs for each allied health professional school in future years and estimates of the cost to such schools of reporting according to these uniform standards.

"(5) The report shall also include recommendations concerning how the Federal Government can utilize educational cost per student data to determine the amount of capitation grants under the Public Health Service Act to each allied health professional school.

"(b)(1) The Secretary shall request the Institute of Medicine of the National Academy of Sciences, to conduct such studies under an arrangement under which the actual expenses incurred by such Institute in conducting such studies will be paid by the Secretary. If the Institute of Medicine of the National Academy of Sciences, is willing to do so, the Secretary shall enter into such an arrangement with such Institute for the conduct of such studies.

"(2) If the Institute of Medicine of the National Academy of Sciences, is unwilling to conduct one or more of such studies under such an arrangement, then the Secretary shall enter into a similar arrangement with other appropriate nonprofit private groups or associations under which such groups or associations will conduct such studies and prepare and submit the reports thereon as provided in subsection (a)(2)."

SEX DISCRIMINATION

SEC. 11. Section 799A of part H, title VII of the Public Health Service Act is amended by adding at the end thereof the following new sentence: "This section shall not apply until July 1, 1978, in the case of a school of medicine which has begun the process of changing from being an institution which admits only female students to being an institution which admits students of both sexes, but only if it is carrying out a plan for such a change which is approved by the Secretary."

TECHNICAL AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

SEC. 12. Sections 767, 768, 769, 769A, and 769B (added by section 107 of Public Law 92-157) are redesignated as sections 769, 769A, 769B, 769C, and 769D, respectively.

PART B—AMENDMENT TO THE MENTAL RETARDATION FACILITIES AND COMMUNITY MENTAL HEALTH CENTERS CONSTRUCTION ACT

COMMUNITY MENTAL HEALTH CENTERS

SEC. 13. (a) Section 201 of the Community Mental Health Centers Construction Act is amended to read as follows:

"SEC. 201. There are authorized to be appropriated for grants for facilities of public and other nonprofit community mental health centers under this title $100,000,000 for the fiscal year ending June 30, 1973; $40,000,000 for the fiscal year ending June 30, 1974; and $50,000,000 for the fiscal year ending June 30, 1975;".

(b) Section 207 of such Act is amended to read as follows:

"SEC. 207. No grant may be made under any provision of the Public Health Service Act for any fiscal year, for construction of any facility described in this title unless the Secretary determines that funds are not available, under this title to make a grant for the construction of such facility.".

(c) Section 224(a) of such Act is amended to read as follows: "There are hereby authorized to be appropriated to enable the Secretary to make initial grants to community mental health centers, under the provisions of this part, $60,000,000 for the fiscal year ending June 30, 1973; $90,000,000 for the fiscal year ending June 30, 1974; and $100,000,000 for the fiscal year ending June 30, 1975. For the fiscal year ending June 30, 1973, and each of the thirteen succeeding fiscal years there are hereby authorized to be appropriated such sums as may be necessary to make grants to such centers which have previously received a grant under this part and are eligible for such a grant by the year for which sums are being appropriated under this sentence.".

(d) Section 246 of such Act is amended by striking "June 30, 1973" and inserting in lieu thereof "June 30, 1975".

(e) Section 247(d) of such Act is amended to read as follows:

"(d) To carry out the purposes of this section there are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1973; $60,000,000 for the fiscal year ending June 30, 1974; and $60,000,000 for the fiscal year ending June 30, 1975."

(f) Section 252 of such Act is amended by striking "June 30, 1973" and inserting in lieu thereof "June 30, 1975".

(g) Section 253(d) of such Act is amended to read as follows:

"(d) To carry out the provisions of this section there are authorized to be appropriated $14,000,000 for the fiscal year ending June 30, 1973; $14,000,000 for the fiscal year ending June 30, 1974; and $14,000,000 for the fiscal year ending June 30, 1975.".

(h)(1) Section 261(a) of such Act is amended by inserting after "June 30, 1973," the following: "$90,000,000 for the fiscal year ending June 30, 1974, and $100,000,000 for the fiscal year ending June 30, 1975,".

(2) Section 261(b) of such Act is amended by striking the word "nine" and inserting in lieu thereof "fifteen" and by striking "1973" and inserting in lieu thereof "1975".

(i) Section 271(d) of such Act is amended to read as follows:

"(d)(1) There are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1973; $45,000,000 for the fiscal year ending June 30, 1974; and $55,000,000 for the fiscal year ending June 30, 1975; for grants under this part for facilities and for initial grants under this part and for training and evaluation under section 272.

"(2) There are also authorized to be appropriated for the fiscal year ending June 30. 1974, and for each of the next twelve fiscal years such sums as may be necessary to continue to make grants with respect to any project under this part for which grants for operating costs were made from appropriations under paragraph (1) for any fiscal year ending before July 1, 1975."

(j) Section 256(e) of such Act is amended to read as follows:

"(e) There are authorized to be appropriated to carry out this section $60,000,000 for the fiscal year ending June 30, 1973; $75,000,000 for the fiscal year ending June 30, 1974; and $75,000,000 for the fiscal year ending June 30, 1975;".

(k)(1) Section 220(b) is amended by striking in paragraph (1) the word "eight" and inserting in lieu thereof "twelve" and by striking the word "four" and inserting in lieu thereof "eight".

(2) Paragraph (2) of such subsection is amended by striking the word "three" immediately after the word "next" and inserting in lieu thereof "seven".

(3) Such subsection is further amended by adding at the end thereof the following new paragraph:

"(3) In any year where funds appropriated do not reach the level required to fully fund applications for assistance under paragraphs (1) and (2), the Secretary shall distribute the funds available as follows: 30 per centum for applicants under paragraph (1) and 70 per centum for applicants under paragraph (2)."

(l)(1) Section 220(a) of such Act is amended by striking the words "of professional and technical personnel" and inserting in lieu thereof the words "for operational costs".

(2) The caption for part B of such Act is amended to read as follows:

"PART B—GRANTS FOR INITIAL COSTS OF OPERATION OF CENTERS"

(m) Section 220 of such Act is further amended by adding at the end thereof the following:

"(d) Notwithstanding subsection (b) of this section, the Secretary may make additional grants to each center equal to 5 per centum of such costs, which maintains a bona fide program under this section or parts C, D, F, and G, for each such program. In no case shall grants exceed 100 per centum of such costs for any project."

(n) Section 221(a) of such Act is amended by adding immediately after paragraph (5) the following new paragraphs:

"(6) the services to be provided by the center are made available to any health maintenance or health service organization if in the catchment area for such center;

"(7) such center has a program whereby it screens, and where practicable provides treatment for, persons within its catchment area, who may be admitted to a State mental health facility;

"(8) such center has a program for the followup care of persons within its catchment area, who are discharged from a State mental health facility."

(o) Part B of such Act is amended by adding at the end thereof the following new section:

"GRANTS FOR CONSULTATION SERVICES

"SEC. 225. (a) In the case of any community mental health center, alcoholism prevention and treatment facility, specialized facility for alcoholics, treatment facility for narcotic addicts, and other persons with drug abuse and drug dependence problems, or facility for mental health of children, to which a grant under part B, C, D, F, or G, as the case may be, is made from appropriations for any fiscal year beginning after June 30, 1972, to assist it in meeting a portion of the operating costs the Secretary may, with respect to such center or facility, make a grant under this section for consultation services in addition to such other operating grants for such center or facility.

"(b) A grant under subsection (a) with respect to a center or facility referred to in that subsection may not exceed 100 percent of such costs.

"(c) For the purposes of making initial grants under this section, there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1973; $5,000,000 for the fiscal year ending June 30, 1974; and $5,000,000 for the fiscal year ending June 30, 1975."

MENTAL HEALTH OF THE ELDERLY

SEC. 14. The Community Mental Health Centers Act is amended by adding at the end thereof the following new part:

"PART G—MENTAL HEALTH OF THE ELDERLY

"GRANTS FOR TREATMENT FACILITIES

"SEC. 281. (a) Grants from appropriations under section 282(a) may be made to public or nonprofit private agencies and organizations (1) to assist them in meeting the costs of facilities to provide mental health services for the elderly within the States, and (2) to assist them in meeting a portion of the operating costs (determined pursuant to regulations of the Secretary) of a facility for mental health of the elderly assisted with a grant made under part A or this part or for the operation of new services for mental health of the elderly in an existing facility.

"(b)(1) Grants may be made under this section only with respect to (A) facilities which are part of or affiliated with a community mental health center providing at least those essential services which are prescribed by the Secretary, or (B) where there is no such center serving the community in which such facilities are to be situated, facilities with respect to which satisfactory provision (as determined by the Secretary) has been made for appropriate utilization of existing community resources needed for an adequate program of prevention and treatment of mental health problems of the elderly.

"(2) The grant program for construction of facilities authorized by subsection (a) shall be carried out consistently with the grant program under part A, except that the amount of any such grant with respect to any project shall be such percentage of the cost thereof, but not in excess of 66⅔ per centum (or 90 per centum in the case of a facility providing services for persons in an area designated by the Secretary as an urban or rural poverty area), as the Secretary may determine.

"(3) The grant program for costs of operating facilities authorized by subsection (a) shall be carried out consistently with the grant program under part A, except that the amount of any such grant with respect to any project shall be such percentage of the cost thereof, but not in excess of 70 per centum (or 90 per centum in the case of a facility providing services for persons in an area designated by the Secretary as an urban or rural poverty area), as the Secretary may determine.

"(c) Grants made under this section for operating costs may not exceed the percentages of such costs, and may be made only for the periods prescribed for grants for such costs under section 242.

"(d) (1) There are authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1973; $30,000,000 for the fiscal year ending June 30, 1974; and $40,000,000 for the fiscal year ending June 30, 1975, for grants under this part for facilities and for initial grants under this part for the operating expenses and for training and evaluation grants under section 282.

"(2) There are also authorized to be appropriated for the fiscal year ending June 30, 1974, and each of the next twelve fiscal years, such sums as may be necessary to continue to make grants with respect to any project under this part for which an operating grant was made from appropriations under paragraph (1) for any fiscal year ending before July 1, 1975.

"TRAINING AND EVALUATION

"Sec. 282. The Secretary is authorized, during the period beginning July 1, 1973, and ending with the close of June 30, 1975, to make grants to public or nonprofit private agencies or organizations to cover part or all of the cost of (1) developing specialized training programs or materials relating to the provisions of services for the mental health of the elderly; or developing inservice training or short-term or refresher courses with respect to the provisions of such services; (2) training personnel to operate, supervise, and administer such services; and (3) conducting surveys and field trials to evaluate the adequacy of the programs for the mental health of the elderly within the several States with a view to determining ways and means of improving, extending, and expanding such programs."

The PRESIDING OFFICER (Mr. Mansfield). What is the wish of the Senate?

Mr. SCOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Is the time to come from the Senator's time, or is it not to be charged?

Mr. SCOTT. Mr. President, I ask unanimous consent that the time not be charged to either side on the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant administrative clerk proceeded to call the roll.

Mr. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that both majority and minority members of the Senate Health Subcommittee staff be permitted the privilege of the floor during the course of the consideration of three health measures.

The PRESIDING OFFICER. Without objection, it is so ordered.

How much time does the Senator from Massachusetts yield himself?

Mr. KENNEDY. Mr. President, I understand there is a limitation of 20 minutes on the bill.

The PRESIDING OFFICER. Thirty minutes on the bill and 20 minutes on each amendment, except for amendments having to deal with the Hill-Burton Act, which are of 1 hour's duration.

Mr. KENNEDY. I yield myself 7 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. KENNEDY. Mr. President, the legislative extensions of the Public Health Service Act contained in the committee's bill, Mr. President, were first introduced into the Senate as title V of S. 3327, the Health Maintenance Organization and Resources Development Act of 1972. Hearings on those extensions were held as a part of the committee's overall hearings on S. 3327.

In that respect a myriad of interested associations and individuals testified in support of the prompt extension of the Hill-Burton, community mental health centers, and allied health training programs. Except for the administration, which declined to testify, those who urged prompt legislative extensions of these authorities, so as to avert a monumental legislative logjam next year—which grows out of the fact more than a dozen high-priority PHS authorities expire on the same day—are as follows: The American Hospital Association, the American Nursing Home Association, the American Dental Association, the American Public Health Association, the Association of Schools of the Allied Health Professions, the Association of State and Territorial Health Officers, the Comprehensive Health Planning Agency of Missouri, the American Nurses Association, the American Dental Assistants Association, the Association of Dental Hygienists, the American Association of Dental Schools, the California School of Dentistry at the University of Southern California, the American Psychiatric Association, the National Association for Mental Health, the Committee Against Mental Illness, and the National Council of Community Mental Health Centers.

With respect to the administration's refusal to present testimony to the committee, it is insightful to recount the legislative history with regard to the Hill-Burton hospital construction program.

The Hill-Burton program was last extended by the Congress in 1970. At that time the bill reported to the Senate from this committee amended the allotment formula for the allocation of construction funds among the States so as to remove the provision which enabled the States with the lowest per capita income to receive a disproportionately higher share of the Federal funds—a provision which had resulted in the construction of substantial numbers of hospitals in those States, in some cases too many hospitals. That provision was modified on the Senate floor and was subsequently lost in conference with the House. At that time the conferees agreed to require the Secretary of Health, Education, and Welfare to conduct a study in respect to the allotment formula. Public Law 91-296 provided:

> (c) The Secretary of Health, Education, and Welfare shall conduct a study of the effects of the formula specified in section 602(a) (1) of the Public Health Service Act for allotment among the States of sums appropriated for construction of health facilities, and shall report to the Congress on May 15, 1972, the result of such study, together with recommendations for such changes, if any, in such formula as he may determine to be desirable, together with his justification for any changes so recommended. (Page 147 of compilation of selected public health laws.)

I ask unanimous consent, Mr. President, to have printed in the Record several letters from the committee to the Secretary of Health, Education, and Welfare, Mr. Richardson, and his responses thereto.

There being no objection, the letters were ordered to be printed in the Record, as follows:

Hon. Elliot Richardson,
Secretary, Department of Health, Education, and Welfare, Washington, D.C.

Dear Mr. Secretary: As Chairman of the Senate Health Subcommittee and as ranking minority member of the Senate Committee on Labor and Public Welfare, we are extremely interested in evaluating the report to the Congress which was required by section 103(d) of Public Law 91-296 in respect to the effects of the formula specified in section 201(a) (1) of the Public Health Service Act for allotment among the States of sums provided for the construction of health facilities.

As I am sure you remember, the requirement for this report was agreed upon by the Senate-House conference committee on the most recent extension of the Hill-Burton hospital construction program. That report was to be available to the Congress on May 15, 1972, and we had hoped that the Department would make the results of it, along with any recommendations for changes in the formula, available to the Subcommittee at the public hearing which our Committee held today in respect to extending and improving title VI of the Public Health Service Act. Since the Department was not in a position to accept the Committee's invitation to testify today in respect to these health programs, we are especially anxious to promptly receive copies of this important report.

Sincerely,

Edward M. Kennedy,
Chairman, Subcommittee on Health.
Jacob K. Javits,
Ranking Minority Member, Committee on Labor and Public Welfare.

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., June 8, 1972.
Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Health, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR SENATOR KENNEDY: Thank you for your letter of May 17, signed also by Senator Javits, requesting copies of the report to the Congress required by Section 103(c) of Public Law 91-296, to study the effects of the formula utilized in allotting grants to States.

It is regrettable that this report was not available to the Congress on May 15; however, we are working on its preparation and you may expect it the early part of July. You may be assured that I share your concern about this important health program, and apologize for the delay of the report.

With best regards,
Sincerely,
ELLIOT L. RICHARDSON,
Secretary.

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., July 26, 1972.
Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Health, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR SENATOR KENNEDY: This is just a note to let you know that I have not forgotten your letter of May 17, signed also by Senator Javits, about the availability of the report to the Congress required by Section 103(c) of Public Law 91-296, to study the effects of the formula utilized in allotting grants to States.

As you will recall, in my letter of June 8 we anticipated that the report would be available early in July. However, in coordinating the final review of the report, other program considerations became apparent which must be taken into account.

You may be sure I will be in touch with you again as soon as there has been time to evaluate these issues thoroughly.

With kindest regards.
Sincerely,
ELLIOT L. RICHARDSON,
Secretary.

[Telegram—Hand delivered]
MAY 11, 1972.
HON. ELLIOT RICHARDSON,
Secretary, Department of Health, Education, and Welfare, Washington, D.C.:

This confirms our invitation to you to testify before the Senate Health Subcommittee on title V of S. 3327, the HMO legislation. Hearing commences 9:30 AM in Room 6226 NSOB on Wednesday, May 17, 1972.

We specifically request the presence of Dr. Marston, Director of the NIH; Dr. Endicott, Director, Bureau of Health Manpower Education; Mr. Hatch, Director, Division of Allied Health Manpower; Dr. Wilson, Administrator of HSMHA; Dr. Brown, Deputy Administrator for Mental Health; and Dr. Granning, Director of the Hill-Burton Program. The Committee considers their testimony essential to the legislation now pending before the Committee.

Please submit 75 copies of your written statement not later than 24 hours in advance of the hearing to 4226 NSOB.

EDWARD M. KENNEDY,
Chairman, Subcommittee on Health.

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., May 16, 1972.
Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Health, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR SENATOR KENNEDY: This will confirm receipt of your telegram on May 11, 1972, requesting the Department to testify on May 17 on Title V of S. 3327, the Health Maintenance Organization and Resources Development Act of 1972.

Title V would extend indefinitely six major health services and training authorities which would otherwise expire at the end of Fiscal Year 1973. These authorities are those for: (1) Partnership for Health (section 314 of the Public Health Service Act), (2) the Hill-Burton Program, (3) Regional Medical Programs, (4) Allied Health Professions Training, (5) Community Mental Health Centers, and (6) Health Services Research and Development (section 304 of the Public Health Service Act). As I indicated in my testimony on S. 3327 before the Health Subcommittee on April 24, we are aware that these and several other Public Health Service authorities expire at the end of FY 1973. However, all these authorities are major components of the Department's health program and it is our preference to be able to address them all comprehensively on the basis of information we are currently analyzing in our planning, budget and legislative review process.

At the present time, our planning process is not sufficiently advanced to a point which would permit us to testify on May 17 on these expiring authorities. Moreover, it is our hope that your Subcommittee would be able to complete action on the pending HMO legislation before beginning consideration of legislation expiring at the end of FY 1973.

We share with the Congress the desire to consider these expiring authorities well in advance of June 30, 1973. Mr. Stephen Kurzman, Assistant Secretary for Legislation, and Dr. John S. Zapp, Deputy Assistant Secretary for Legislation (Health), would be willing to meet with the Subcommittee staff to explore a schedule for legislative hearings on these authorities which would allow ample time for careful Congressional consideration.

With kindest regards,
Sincerely,
ELLIOT RICHARDSON,
Secretary.

Mr. KENNEDY. Mr. President, this bill also authorizes a 1-year extension of the Allied Health Training Act.

Federal legislation authorizing the support for training of allied health professions personnel was initially enacted on November 3, 1966, through the Allied Health Professions Personnel Training Act (Public Law 89-751). That law was enacted in recognition of the increasing importance of allied health personnel to the provision of health services.

The initial legislation authorized four types of assistance to "training centers for allied health professions":

First. Grants for construction of teaching facilities;

Second. Formula and special improvement grants for improvement of educational programs;

Third. Grants for advanced traineeships for allied health personnel preparing to become teachers, administrators, supervisors, or allied health specialists; and

Fourth. Grants for development of new methods—specifically for development of new types of health personnel.

Title III of the Health Manpower Act of 1968 (Public Law 90-490) extended the allied health legislation for 1 year—through June 30, 1970—and broadened the authority for the developmental grants. It also required the Secretary of Health, Education, and Welfare to submit to the President and the Congress a report on the administration appraisal of the programs thereunder in light of their adequacy to meet the needs for allied health professions personnel, together with his recommendations. In April 1969, that report was submitted to the Congress. Among other things, the report identified the major allied health manpower education and training needs.

The act was further extended for 3 years by the Health Training Improvement Act of 1970, Public Law 91-519, approved November 2, 1970, which also significantly broadened the provisions both as regards the purposes for which support is authorized and the scope of entities eligible to participate in the programs.

Thus the current authorities, which are due to expire June 30, 1973, and which this bill would extend through June 30, 1974, include the following:

First. Grants to allied health training centers for construction of teaching facilities;

Second. Formula and special improvement grants to training centers for improvement of educational programs;

Third. Special projects—grants and contracts—for experimentation, demonstration, and institutional improvement;

Fourth. Traineeships for advanced training of allied health professions personnel preparing to serve as teachers, administrators, or allied health specialists;

Fifth. Grants and contracts to encourage full utilization of educational talent for allied health professions;

Sixth. Scholarship grants, work-study programs, and loans for allied health students.

The legislation has made possible Federal assistance for the development and improvement of certain categories of educational programs in junior colleges, colleges, and universities, and their affiliated clinical facilities. According to data collected in recent surveys of allied health educational programs in junior and senior colleges, the growth in such programs has been substantial. In five medical allied health educational occupations receiving support—occupational therapy, physical therapy, medical, technology, medical laboratory assisting, and radiological technology—programs increased from about 700 in 1965 to nearly 1,000 in 1971—a 39-percent increase—and graduates from about 4,000 to more than 10,000—a 150-percent increase.

Support has been provided for the development of coordinating mechanisms such as organized groupings of allied health training programs in a single college or university and consortia or regional networks involving a number of educational and service institutions in a geographical area. Improved coordination of programs can prevent unnecessary duplication of faculty and facilities, promote training of individual allied health specialists to serve as members of a team, and allow students more easily to move from one type or level of training to another without having to repeat training in previously acquired knowledge or skills.

In North Carolina, for example, a statewide system is being developed to coordinate allied health professions educational programs in the junior colleges, colleges, and universities. The system will make it possible for students to move easily and efficiently from entry level training to higher, more advanced levels, as well as otherwise contributing to more efficient and effective use of training resources.

Two projects in Connecticut, one in New Haven and one in Hartford, are integrating allied health training in high schools, vocational-technical schools, community colleges and universities for northern and southern Connecticut respectively. The development of guidance and counseling services and coordinated curriculums are among the objectives of these projects which are intended to encourage disadvantaged youths to pursue careers in the health field.

A type of consortium arrangement in dietetics and medical technology is being supported at Florida International University. This institution is coordinating its upper collegiate level program with the junior colleges to enable the students to build on their associate degree training to achieve the bachelor's degree.

Another purpose for which aid has been provided under the allied health training authorities is curriculum revision. Efforts to improve dietitic training are an example of how the Federal Government is working in partnership with private groups to achieve a desirable educational objective. Three projects are under way in different types of schools, in different parts of the country, to determine if it is possible to combine the academic and clinical portions of dietitic training, and thus shorten the total training time. Two of the three projects are supported under the allied health training program.

In the area of curriculum development, special attention has been given to the development and evaluation of curriculums for new types of allied health personnel. Under the recently enacted Nurse Training Act of 1971, encouragement is being given to efforts to prepare nurse practitioners; and the Comprehensive Health Manpower Training Act of 1971 gives special incentives to medical and dental schools preparing physician assistants and dental therapists. Under the allied health training authorities, encouragement is given to other institutions to support this type of training and also the training of a variety of other new types of personnel, among them the physical therapy assistant, the hospital pharmacy technician, and the occupational therapy assistant.

Assistance is being given under the allied health training authorities for the development of proficiency and equivalency tests to give appropriate recognition to previously acquired skill and knowledge, such that persons who do not have all the formal credentials may be admitted into the health delivery system. The Educational Testing Service has received aid in the development of equivalency tests for five courses in medical technology. Support has been provided for the development of a proficiency test for physical therapy assistance by the Professional Examination Service, in cooperation with the American Physical Therapy Association. Progress also is being made in the development of proficiency tests in the occupational therapy and radiologic technology fields.

Improved mechanisms for recognizing skills and knowledge without regard for where the learning occurred are particularly needed to permit discharged veterans with health training and experience to make a smooth transition into work in the civilian health field. The MEDIHC—military experience directed into health careers—program being supported under the allied health training legislation has been making outstanding progress in assisting veterans to move into civilian health jobs. In fiscal year 1972, more than 3,000 veterans were placed in health related jobs, and 1,700 were placed in training programs.

Traineeships provided under the allied health training program are helping to meet the need for teachers and persons with specialized administrative and supervisory skills for the allied health professions. Since the traineeship program was initiated in 1967, it has grown from supporting 64 trainees to about 700 this past year. In addition, a program of training institutes grants initiated in 1971 has provided assistance to about 4,000 trainees to obtain the benefits of specialized training in programs of less than a full academic year.

The revisions in the allied health training authorities effected by the Health Training Improvement Act of 1970 significantly broadened the provisions as regards both the purposes for which support is authorized and the scope of entities eligible to participate in the program. The 1970 act was not passed until November 20, 1970, which was well into fiscal year 1971. The provisions of the act have been in force little more than a year, and their full impact is yet to be realized.

This bill will assist in that realization.

Mr. President, S. 3716 also includes a 2-year extension of the provisions in existing law which authorize the development of community mental health centers.

Mental illness and related problems have caused, and continue to cause, untold suffering for the American people. Mounting evidence that comprehensive treatment within their home communities helps the mentally ill to recover more quickly and more completely spurred the Congress to establish the community mental health center program in 1963. The centers have since become the keystone of Federal efforts to meet the needs of as many as 40 million Americans who require care for a wide variety of emotional, behavioral, or social disorders.

This initiative reflects a new philosophy of treatment, an attempt to rationalize the broken, scattered pattern mental health services. To make sense out of the fragmented system and to give more Americans access to the help they need, the new program has had to break down a host of traditional system barriers that have compounded the difficulties inherent in establishing and running an ambitious and untried program.

Although the centers are still new, their successes already prove them to be both an effective and a humane, though not complete, approach to providing the kind of services people need.

One major impact has been the reduction in reliance upon State mental hospitals. The availability of centers as a comprehensive, community-based alternative has enabled thousands of people to take advantage of new drug treatment methods and changing public attitudes, and to return to their homes and communities while still receiving the treatment they need. People living in a geographical area served by a center that has been operating for at least 3 years have only half as much chance of being in a State mental hospital as do people in comparable areas not covered by a CMHC. And when all 476 of the centers which have so far received grants are operating, comprehensive mental health services will be available to 71 million Americans.

Statistics showing that 372,000 people received direct care at CMHC's in 1969, and 518,000 in 1970, testify to the magnitude of the need. Growing public acceptance has been documented both by increasing visits to centers and by recent public opinion polls.

The National Association for Mental Health has now declared a "National Commitment for Mental Health," designed to prevent mental illness, to improve treatment for the mentally ill, and to increase public understanding of mental health. This campaign is receiving strong, bipartisan support.

The time is ripe for firmly establishing the community mental health center not only as an accepted and valued resource for those with mental health problems, but as a model for comprehensive, integrated systems of health and human services. It is imperative that we maintain the momentum by extending legislative authority for the CMHC program. CMHC's are still new, and further improvements are needed to fulfill both of these potential roles. The recent report of the Center for Study of Responsive Law, among other studies, has pointed up some of the deficiencies. As in 1965, 1967, 1968, and 1970, we in the Congress are continuing the effort to respond flexibly to experience.

Some of the new revisions concern technical, operational changes to enable centers to better perform the tasks we have given them. The emphasis in support until now has been, effectively, on constructing new facilities; but we have found that most of the truly innovative programs have used existing buildings, such as storefronts or church basements. To encourage greater use of construction funds for purchase and renovation, the committee proposes that we change the terminology to provide for facility grants and give preference to such grant applications whenever purchase and renovation are feasible.

Along similar lines, part B of the law currently provides staffing grants for the salaries of professional and technical personnel. As in 1969, the committee recommends that centers, like other Federal programs, receive operating grants for part of all necessary operational costs. Only in this way can centers meet the rising costs for rent, phone calls, and travel, the latter two particularly heavy in rural catchment areas.

Also in the financial realm, we find that it is necessary to extend Federal support through the 12th year of center operation. The original plan was to phase out Federal funding of each center and replace it with locally generated support, and much has been accomplished to this end. State and local governments, patient fees, third party payments, fund raising, and philanthrophy now account for 77 percent of center revenues. But experience indicates that local and State funds alone are not sufficient to support the centers. This is especially true in poverty catchment areas. The extension of Federal support to 12 years is the only way to enable the centers to fulfill their potential, until the passage of comprehensive national health insurance.

But aside from these nuts and bolts issues, the committee sees an urgent need to strengthen the double linkage role of CMHC's. One part of this role relates to the CMHC's place within the existing system of mental health, general health, and human services. In order to avoid duplication, and to insure ready access to all services, true cooperation is needed among all existing human care systems. The CMHC will have the opportunity to illustrate the benefits and workability of such integration in three principal ways.

The bill requires that centers screen all catchment area residents who might be placed in State mental hospitals and, further, that they provide followup care for all catchment area residents discharged from a State facility. This will insure that people will neither be warehoused in large State institutions nor discharged to new warehousing in a nursing or foster care home, and that State hospitals will be used in the cases in which they are most appropriate. The bill also encourages CMHC's to provide a wide range of consultation to other institutions and programs throughout the social, educational, and health domains. By now including these grants under operational grants, we hope to stimulate one of the most basic services a CMHC can provide—that of prevention. Finally, in order to insure linkages with the developing modes of health care, the bill requires that centers make their services available to any health maintenance or health services organization serving its catchment area.

The second part of the linkage role occurs within the CMHC itself in relation to high-need population groups. In addition to the five essential mental health services each center must provide, parts C and D were added previously to the act to meet the special needs of alcoholics and drug abusers. Both of these important programs are now to be extended and expanded.

Two age groups in our population often come out on the short end of services. Part F recognized the need for specialized children's services. incorporating a wide range of preventive and outreach efforts and developing innovative approaches to the coordination of health, social, and other human services for children. The priority of this need is underlined by statistics showing increasing numbers and percentages of children in State mental institutions. The bill renews grant authority for specialized children's programs and increases the available funds.

At the other end of the age spectrum, the elderly, too, are often shortchanged. The tragic situation where many elderly persons find themselves unnecessarily confined to institutions, because there is no adequate community care is completely contrary to the purposes of the Community Mental Health Centers Act. Although virtually all CMHC's provide some services to the aged, only through specialized programs can we insure that these people will never again be overlooked. In a new part G, the bill authorizes center programs targeted at the problems of the elderly, analogous to current programs for alcoholics, drug abusers, and children.

These specialized programs reflect the philosophy underlying the whole CMHC movement—that is the need for comprehensive, integrated programs to combat problems. To encourage individual centers to take advantage of the special resources in the act, the committee recommends two mechanisms. First is an incentive grant, available to centers which provide specialized services for one of the groups identified for attention. And second, initiation and development grants can serve, particularly in poverty areas, as a vehicle both for encouraging the maximum possible cooperation between mental health and related services, and for insuring citizen participation in service planning and implementation.

With this legislation we have an opportunity, not to be missed, of strengthening a program that has already proved its worth and its potential as a provider of vital mental health services and as a model for future human services collaboration.

Mr. President, S. 3716, also contains a number of other important provisions which I want to briefly describe. The committee's bill contains a 1-year extension of the health statistics authority for HEW. The bill will permit HEW to implement its Federal-State-local health data system. For that purpose, as well as the other activities of the center, the bill authorizes a total of $35 million.

The bill also authorizes a special $300 million 3-year program to support emergency medical services throughout the Nation. In that regard, the bill will improve ambulance services, hospital emergency room services, and the training of skilled health professionals. As we know, Mr. President, about half of all heart attack victims who die, die before they ever receive any medical treatment. Clearly, there is a great deal that can be done—and should be done—to improve this situation.

Mr. President, I also wish to alert my colleagues that in order to expedite the conference with the House on expiring PHS legislation, I am proposing to amend the bill to add to it the provisions of four vital health bills which passed the Senate earlier this summer. These bills are: The medical libraries bill; the public health training bill; the migrant health bill; and the emergency health personnel bill. I am hopeful that their inclusion in S. 3716 will expedite action on them by the House-Senate conference committee.

Mr. President, this is an excellent bill. And I urge my colleagues on both sides of the aisle to support it. The bill was reported from the committee with broad bipartisan support, as were the other four measures I have just described. I want to compliment the ranking minority member of the full committee, the distinguished senior Senator from New York (Mr. JAVITS) and the distinguished ranking minority member of the subcommittee, Senator SCHWEIKER. Without their hard work and their cooperation, it would not have been possible for the committee to have reported such an excellent bill.

So, Mr. President, the thrust of this legislation is to provide for the extension of the all-important Hill-Burton Act. We are extremey hopeful of being able to adjust the traditional formula to take into consideration the need which exists, for the most part in many of the urban centers, particularly in the municipal hospitals that are assuming a greater and greater responsibility in providing health services, and I believe we can work out a formula that will be more responsive to those particular health needs.

Second, we have included some $100 million that will be available for funding for the urban hospitals, which I think is an extremely important and useful effort.

We have also included in the bill provision for emergency medical services. This was the result of an amendment introduced by the Senator from California (Mr. CRANSTON), and I think all those of us who had an opportunity to review the National Academy of Sciences report that was published widely last Sunday recognize the need for this type of program.

We have included as well a provision for health statistics, which are very important in the development of any health legislation. We are also including in the program, hopefully, provision for emergency medical services at mental health centers, with their broadened responsibility to help meet the problems of drug addiction and alcoholism, as well as the special problems of the elderly and the young, so as to provide a better service to the community, and the allied health centers program itself.

I believe that these programs will help in responding to many of the varying health needs of the people of this country. We will also have some technical corrections, which will be offered in the form of an amendment to be offered by the ranking Republican member (Mr. JAVITS) and myself.

Mr. President, I reserve the remainder of my time.

The PRESIDENT pro tempore. The Senator's time has expired.

Mr. SCHWEIKER. Mr. President, I urge the Senate to pass S. 3716, a bill which extends the Hill-Burton community mental health centers and allied health training programs. These are important programs in the national effort to provide facilities, personnel and services for the health of our citizens.

The authorities for these programs under the Public Health Service Act expire on June 30, 1973, and it is important that the Congress move to extend these authorities in advance of their expiration.

First enacted in 1946, the Hill-Burton program, to provide financial assistance for the construction and modernization of hospital facilities, has been the foundation of Federal support for the nearly 3,900 communities which have provided better health care facilities with Federal assistance.

Originally, the program focused on the need to construct new hospital facilities. Now, the emphasis has moved to modernization of current facilities in order to keep abreast of modern technology and medical/scientific knowledge.

Mr. President, the most sensitive element of the Hill-Burton Act is the formula for the allocation of funds to the States. When Hill-Burton was first enacted, Congress devised a formula which gave a priority to those States with a lower level of per capita income. This was based on the fact that at that time States with relatively low per capita income were also States that had the lowest rates of existing hospital beds in proportion to its population. Thus the formula included population and the per capita income squared. This rule has become known as the per capita income squared rule. The effect of this formula has been to give the poor States more money proportionately in relation to population than to wealthier States. Frankly, some of the Nation's more urban States have suffered.

There have been attempts to change the formula. In 1970 the Senate added a measure of need to the formula. However, the Senate provision was deleted and the original formula is the existing law.

S. 3716 as reported by the Labor and Public Welfare Committee proposes a new formula which allocates funds for construction and modernization of health-care facilities on the basis of population, financial need, and the extent of the need for construction and modernization of such facilities in the respective States. The formula is two-thirds weight on population and income and one-third on need.

Mr. President, it is my understanding that this formula in the committee bill will be amended to a formula of population income squared and need—80 percent weight on population and income, 20 percent on need. I support such a change.

Other provisions in this bill dealing with Hill-Burton include a limitation so that the principal of guaranteed loans and loans for which there are interest subsidy payments shall not exceed the amount of grant funds obligated under the act.

Mr. President, one of the most serious deficiencies in the health system in many communities is the inability to respond immediately and effectively to emergency medical crises. The bill authorizes, under the Hill-Burton program, the Secretary of HEW to support State and local governments to improve and expand emergency medical services. Grants are authorized to support programs which include training of specialized professional and paraprofessional staff, a 24-hour communications system with appropriate linkages between a dispatch point, vehicles, and emergency medical facilities. Also required of such a plan are adequate provisions for properly equipped emergency vehicles.

Mr. President, one of the problems that we hear mentioned with regard to the status of the Nation's health is the shortage of medical personnel, particularly in the nonurban or rural areas of the country. It has been pointed out that our rural areas are not properly served, either by appropriate numbers of professionally-trained medical manpower or the needed facilities to provide medical services. This problem was considered in some depth when the Congress last year enacted the Comprehensive Health Manpower Training Act. Several years ago the Carnegie Commission on Higher Education recommended that the Nation's medical-health science centers, that is, our medical universities, assume a role in the development of area health education centers which would serve as major satellites in rural areas to the university health science centers. These health education centers would have as a nucleus a hospital, usually a community hospital, and would be located in less-populated geographic areas or in urban areas so densely populated that a full health-science center could not possibly perform the broad educational research, and community service functions which the report recommended. Mr. President, this bill amends the Public Health Service Act to permit the regional medical programs to include, as part of their ongoing programs, support for the planning and implementation of these area health education centers.

In recognition of the vital role played by allied health personnel in the delivery of health services, the Congress, in 1966, enacted the Allied Health Professions Personnel Training Act. This act authorized four types of assistance for training centers for allied health professions: grants for construction, formula and special improvement grants for education programs, advanced traineeships, and grants for development of new types of health personnel. The pending bill would extend the authorities under the act for: First, grants to allied health training centers for construction of teaching facilities; second, formula and special improvement grants to training centers for improvement of educational program; third, special projects—grants and contracts—for experimentation, demonstration, and institutional improvement; fourth, traineeships for advanced training of allied health professions personnel preparing to serve as teachers, administrators, or allied health specialists; fifth, grants and contracts to encourage full utilization of educational talent for allied health professions; sixth, scholarship grants, work-study programs, and loans for allied health students. This is a very important section of the bill since, as is stated in the committee report:

> It has also become quite clear that allied health manpower is an increasingly important resource if we are to achieve our goal of providing accessible, high-quality, economical health services to all of our citizens.

Mr. President, I strongly support the committee's endorsement of continued assistance for the allied health professions as a Federal commitment to develop critically necessary manpower.

Mr. President, we fail to think of the Nation's mental health when we speak of our unmet health needs. Our system of health-care delivery must become a comprehensive system, including mental health resources, which provides an adequate network of facilities and personnel to serve the Nation's varied physical and mental-health needs. To this end, S. 3716 extends and revises the Community Mental Health Centers Act. Part B of the bill renews this expiring legislation for an additional 2 years and extends Federal support for existing centers through their 12th year of operation.

One of the most important areas in which the Community Mental Health Centers Act is deficient is in providing for adequate delivery of mental-health services to our children. The bill provides an emphasis on the need for a comprehensive range of services for this important population group. Although community mental health centers are required to provide services to children, the bill places a specific focus on programs which are preventative in nature including outreach efforts and "innovative approaches to coordinating a range of comprehensive health, social, and other human services for children."

The bill also takes cognizance of another special population group, the aged. According to the committee:

> Although virtually all Community Mental Health Centers do provide services for the aged, few have provided comprehensive specialized programs targeted at the needs of this group.

The bill seeks to emphasize services and treatment which eliminate the need for institutionalization of the elderly. The motive here is to provide services which rely on community resources.

Finally, Mr. President, I wish to point out that the Community Mental Health Centers Act is extended to provide financial assistance for the prevention and treatment of alcohol and narcotics abuse and addiction programs.

Mr. President, it is anticipated that four bills which have already passed the Senate will be attached to this bill in order to facilitate their consideration in a House-Senate conference. These include medical assistance in areas with health manpower shortages, public health personnel traineeship programs, migrant workers, and assistance for medical libraries. I wish to emphasize, Mr. President, that these bills have already passed the Senate and are being included in this bill to insure that they will be on the agenda for consideration by a House-Senate conference committee.

Mr. President, I wholeheartedly support the adoption of the pending bill, S. 3716.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum, without the time being charged.

The PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I send an amendment to the desk on behalf of myself and Senator Javits.

The PRESIDENT pro tempore. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment is as follows:

On page 33, line 7, strike the word "Act" and insert in lieu thereof the word "title".

On page 33, insert between lines 8 and 9 the following:

"TITLE I—EXTENSION OF TITLE VI PROGRAMS"

On page 67, line 7, add the following:

"TITLE II—MEDICAL LIBRARY ASSISTANCE

"Sec. 201. That this title may be cited as the 'Medical Libraries Act of 1972'.

"EXTENSION OF ASSISTANCE TO MEDICAL LIBRARIES

"Sec. 202. (a) Section 393(h) of the Public Health Service Act is amended to read as follows:

"'(h) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $13,000,000 for the fiscal year ending June 30, 1973, $15,000,000 for the fiscal year ending June 30, 1974, $17,000,000 for the fiscal year ending June 30, 1975, $19,000,000 for the fiscal year ending June 30, 1976, and $21,000,000 for the fiscal year ending June 30, 1977.'

"(b) The first sentence of section 394(a) of such Act is amended to read as follows:

"'In order to enable the Secretary to carry out the purposes of section 390(b)(2) of this Act, there are authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1973, $4,000,000 for the fiscal year ending June 30, 1974, $6,000,000 for the fiscal year ending June 30, 1975, $8,000,000 for the fiscal year ending June 30, 1976, and $10,000,000 for the fiscal year ending June 30, 1977.'

"(c)(1) Section 395(a) of such Act is amended by striking 'June 30, 1973' and inserting in lieu thereof 'June 30, 1977'.

"(2) Section 395(b) of such Act is amended by striking 'June 30, 1973' and inserting in lieu thereof 'June 30, 1977'.

"(d) Section 396(a) of such Act is amended to read as follows:

"'Sec. 396. (a) In order to enable the Secretary to carry out the purposes of section 390(b)(5), there are authorized to be appropriated $4,500,000 for the fiscal year ending June 30, 1973, $6,000,000 for the fiscal year ending June 30, 1974, $7,500,000 for the fiscal year ending June 30, 1975, $9,000,000 for the fiscal year ending June 30, 1976, $11,500,000 for the fiscal year ending June 30, 1977.'

"(e) The first sentence of section 397(a) is amended to read as follows:

"'In order to enable the Secretary to carry out the purposes of section 390(b)(6) there are authorized to be appropriated $3,500,000 for the fiscal year ending June 30, 1973, $5,000,000 for the fiscal year ending June 30, 1974, $6,500,000 for the fiscal year ending June 30, 1975, $8,000,000 for the fiscal year ending June 3, 1976, and $9,500,000 for the fiscal year ending June 30, 1977.'

"(f) The first sentence of section 398(a) of such Act is amended by striking 'June 30, 1973' and inserting in lieu thereof 'June 30, 1977'.

"TITLE III—EMERGENCY HEALTH PERSONNEL ACT AMENDMENTS

"Sec. 301. That this title may be cited as the 'Emergency Health Personnel Act Amendments of 1972'.

"Sec. 302. (a) Section 329(a) of the Public Health Service Act is amended to read as follows:

"'Sec. 329. (a) There is established, within the Service, the National Health Service Corps (hereinafter in this section referred to as the "Corps") which shall consist of those officers of the Regular and Reserve Corps of the Service and such other personnel as the Secretary may designate and which shall be utilized by the Secretary to improve the delivery of health care and services to persons residing in areas which have critical health manpower shortages.'

"(b) Section 329(b) of such Act is amended to read as follows:

"'(b)(1) The Secretary shall (a) designate those areas which he determines have critical health manpower shortages, (B) conduct information programs in such areas as may be necessary to inform the public and private health entities serving those areas of the benefits available under this Act and to encourage their application for such benefits, and (C) assist such entities to apply for the assignment of Corps personnel and other benefits authorized under this Act.

"'(2)(A) Upon request of a State or local health agency, or any public or nonprofit private health entity in an area designated by the Secretary under paragraph (1)(A), and upon certification to the Secretary by the State and the district medical societies (or dental societies, or other appropriate health societies as the case may be) for that area, and by the local government for the area, that such health personnel are needed for that area, the Secretary may assign personnel of the Corps to provide, under regulations prescribed by the Secretary, health care and services for all persons residing in such areas except that where all of the foregoing conditions are met in an area, except certification of need by the State and local medical, dental, or other health societies, and the Secretary finds from all the facts presented that such certification has clearly been arbitrarily and capriciously withheld, then the Secretary may, after consultation with the appropriate medical, dental, or other health societies, assign such personnel to that area. Corps personnel shall be assigned to such area on the basis of the extent of the need for health services within the area and without regard to the ability of the residents of the area to pay for health services.

"'(B) In providing health care and service under the section. Corps personnel shall utilize the facilities and organizational forms adapted to the particular needs of the area and shall make services equally available to all persons in such area regardless of the ability of such person to pay for the care and services provided in connection with—

"'(i) direct health care programs carried out by the Service;

"'(ii) any direct health care programs carried out in whole or in part with Federal financial assistance; or

"'(iii) any other health care activity which is in furtherance of the purposes of this section.

"'(C) Any person who receives health care or services provided under this section shall be charged for such care or service at a rate and in a manner (including prepayment, capitation, incentive reimbursement, fee-for-service, or other basis) established by the Secretary, pursuant to regulations, to recover the reasonable cost of providing such care or service; except that if such person is determined under regulations of the Secretary to be unable to pay such charge the Secretary shall provide for the furnishing of such care or service at a reduced rate or without charge. If a Federal agency, an agency of a State or local government, or other third party would be responsible for all or part of the cost of the care or service provided under this section if such care or service had not been provided under this section, the Secretary shall collect on a capitation, prepayment, incentive reimbursement, fee-for-service, or other basis from such agency or third party the portion of such cost for which it would be so responsible. Any funds collected by the Secretary under this subparagraph shall be deposited in the Treasury as miscellaneous receipts and funds allocated or obligated under this section shall not be dependent on or related to such fees collected in any way.

"'(D) Notwithstanding the provisions of the Federal Property and Administrative Services Act (40 U.S.C. 471), the Secretary may transfer the title to any or all facilities, equipment, and supplies, belonging to the Service and being utilized by the Corps in a medically underserved area designed by the Secretary under subsection (a) to any public or private nonprofit institution which the Secretary determines will conform to minimum standards of operation prescribed by him. In a case where the Secretary determines, after a hearing on the record, that such real or personal property is not being utilized in conformance with such minimum standards, title shall revert (after payment of proper compensation for facility improvements, if any) to the United States. This paragraph shall not apply to any hospital or clinical facilities operated by the Service prior to December 31, 1971.'

"(c) Section 329(c) of such Act is amended by striking out 'Service' and inserting in lieu thereof 'Corps'.

"(d) Section 329(d) of such Act is amended—

"(1) by striking out 'Service' in the first sentence and inserting in lieu thereof 'Corps', and by inserting before the period at the end of such sentence the following: ', except that if such area is being served (as determined under regulations of the Secretary) by a hospital or other health care delivery facility of the Service, the Secretary shall, in addition to such other arrangements as the Secretary may make to insure the availability of care or services by Corps personnel in the area, arrange for the utilization of such hospital or facility by Corps personnel in providing care and services in such area, but only if such utilization shall assure the continual provision of care to persons entitled to care and treatment at such facilities at such time.';

"(2) by striking out 'If there are no such facilities in such area' in the second sentence and inserting in lieu thereof 'If there are no health facilities in or serving such area';

"(3) by adding after the second sentence the following new sentence: 'In providing such care and services, the Secretary may (A) make such arrangements as he determines are necessary for the use of equipment and supplies of the Service and for the lease or acquisition of equipment and supplies, and (B) secure the temporary services of nurses and allied health professionals.'; and

"(4) by inserting '(1)' after '(d)' and by adding at the end the following:

"'(2) The Secretary shall conduct at medical and nursing schools and other schools of the health professions and training centers for the allied health professions, recruiting programs for the Corps. Such programs shall include the wide dissemination of written information on the Corps and visits to such schools by personnel of the Corps.

"'(3) (A) For the purpose of recruiting persons for the Corps who have gained experience in the provision of health services as a direct result of specialized military training, the Secretary, in cooperation with the Department of Defense and the Veterans Administration shall develop a list of persons having such experience.

"'(B) In the assignment of personnel to designated health manpower shortage areas, the Secretary shall give priority to persons recruited from the list developed under paragraph (A), with respect to such individuals' desires.'.

"(e) Section 329(f) of such Act is amended (1) by striking out 'Service' in paragraphs (1) and (3) and inserting in lieu thereof 'Corps', and (2) by striking out 'to select commissioned officers of the Service and other personnel' in paragraph (2) and inserting in lieu thereof 'to select personnel of the Corps'.

"(f) Subsection (g) of section 329 of such Act is redesignated as subsection (k) and the following new subsections are inserted after subsection (f) of such section:

"'(g) The Secretary shall report to Congress no later than May 15 of each year—

"'(1) the number of areas designated under subsection (b) in the calendar year preceding the year in which the report is made as having critical health manpower shortages and the number of areas which the Secretary estimates will be so designated in the calendar year in which the report is made;

"'(2) the number and types of Corps personnel assigned in such preceding calendar year to areas designated under subsection (b), the number and types of additional Corps personnel which the Secretary estimates will be assigned to such areas in the calendar year in which the report is submitted, and the need (if any) for additional personnel for the Corps; and

"'(3) the number of applications filed in such preceding calendar year for assignment of Corps personnel under this section and the action taken on each such application.'

"'(h) Section 5532 of title 5, United States Code shall not apply to a retired officer of a regular component of a uniformed service who holds a full-time position with the Corps, during the time he holds such position.

"'(i) The Secretary may from time to time and for such period as he deems advisable secure the assistance and advice of experts, scholars, and consultants, including the services of advertising and other public information specialists, to foster, promote, and improve the image of the Corps with regard to the provision of health services and with the further aim of emphasizing recruitment of new and retention of present members of the Corps.

"'(j) The Secretary may reimburse applicants for positions in the Corps for actual expenses incurred in traveling to and from their place of residence to an area in which they would be assigned for the purpose of evaluating such area with regard to being assigned in such area. The Secretary shall not reimburse an applicant for more than one such trip.'

"(g) Section 329(k) as redesignated by this Act, of such Act is amended by striking out 'and' after '1972;' and by striking out the period at the end and inserting in lieu thereof '; $30,000,000 for the fiscal year ending June 30, 1974; $40,000,000 for the fiscal year ending June 30, 1975, sums appropriated under this section shall remain available until expended.'

"(h) Section 329 of such Act is further amended by adding at the end thereof the following new subsection:

"'(l) Where the Corps requires personnel assigned to designated shortage areas to obtain State and local licenses or permits, the Secretary shall pay the fees therefor.'

"SEC. 303. (a) The Secretary may not close or transfer control of a hospital or other health care delivery facility of the Public Health Service unless—

"(1) he transmits to each House of Congress, on the same day and while each House is in session, a detailed explanation (meeting the requirements of subsection (b)) for the proposed closing or transfer, and

"(2) a period of ninety calendar days of continuous session of Congress has elapsed after the date on which such explanation is transmitted.

For purposes of paragraph (2), continuity of session is broken only by an adjournment of Congress sine die, and the days on which either House is not in session because an adjournment of more than three days to a day certain are excluded in the computation of the ninety-day period.

"(b) Each explanation submitted under subsection (a) for closing or transferring control of a hospital or other health care delivery facility of the Public Health Service shall contain—

"(1) (A) assurances that persons entitled to treatment and care at the hospital or other facility proposed to be closed or transferred and persons for whom care and treatment at such hospital or other facility is authorized will, after the proposed closing or transfer, continue to be provided such equivalent care and treatment through such hospital or other facility, or under such new arrangement and (B) a detailed explanation of how such care will be provided to such persons, and an estimate of the cost of providing such care and treatment to such persons after the proposed closing or transfer;

"(2) (A) assurances that the capacity to supply health services to the critical manpower shortage areas near the facillity will not be impaired by the closing or transfer and (B) a detailed explanation of how persons residing in such areas will be provided such care and treatment after the proposed closing or transfer;

"(3) (A) assurances that any teaching program conducted at the hospital or other facility proposed to be closed may be conducted at other appropriate facilities, and (B) a detailed explanation of how such program will be conducted after the proposed closing or transfer; and

"(4) the approval of those agencies established under section 314 (a) and (b) of the Public Health Service Act, having jurisdiction in the area in which such hospital or other facility is located, where both such agenceis exist or the approval of only one such agency where only one exists in such area.

"SEC. 304. Section 741(f) of the Public Health Service Act is amended (1) by striking out 'The payments' in paragraph (2) and inserting in lieu thereof 'Except as otherwise provided in this paragraph, the payments', and (2) by adding after and below subparagraph (C) the following:

"'In the case of any individual who qualified under paragraph (1) for payments on the principal of and interest on a loan and who, as a member of the National Health Service Corps, practices his profession in an area designated under section 329(b), the portion of the principal of and interest on the loans for which payments may be made for and on his behalf under paragraph (1) shall, upon completion of the first year of such practice, be 50 per centum and, upon completion of the second year of such practice, be the remaining 50 per centum.'

"SEC. 305. Section 218 of the Public Health Service Act is amended to read as follows:

"'PUBLIC HEALTH AND NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP TRAINING PROGRAM

"'SEC. 218. (a) The purpose of the Public Health and National Health Service Corps scholarship training program (hereinafter referred to as "such program") is to obtain trained physicians, dentists, nurses, and other health-related specialists for the National Health Service Corps and the Public Health Service Corps of the Department of Health, Education, and Welfare.

"'(b) To be eligible for acceptance and continued participation in such program, each applicant must—

"'(1) be accepted for enrollment, or be enrolled as a full-time student in an accredited (as determined by the Secretary) educational institution in the United States, or its territories or possessions;

"'(2) pursue an approved course of study, and maintain an acceptable level of academic standing, leading to a degree in medicine, dentistry, or other health related specialty, as determined by the Secretary;

"'(3) be eligible for, or hold an appointment as a commissioned officer in the Regular or Reserve Corps of the Public Health Service or be selected for civilian service in the National Health Service Corps; and

"'(4) agree in writing to serve in the Commissioned Corps of the Public Health Service or as a civilian member of the National Health Service Corps following completion of training as provided in subsection (f) of this section, in the National Health Service Corps, the Indian Health Service, the Federal Health Programs Service, and such other programs as the Secretary may designate.

"'(c) Each participant in such program will be authorized a stipend for each approved academic year of training, not to exceed four years, in an amount prescribed by the Secretary and payable in monthly installments. The stipend shall not exceed an amount equal to the basic pay and allowances of a commissioned officer on active duty in pay grade 0–1 with less than two years of service, plus an amount to cover the reasonable cost of books, supplies, equipment, student medical expenses, and other necessary educational expenses which are not otherwise paid as a part of the basic tuition payment.

"'(d) The Secretary may contract with an accredited educational institution for the payment of tuition and other education expenses, not otherwise covered under subsection (c) of this section, for persons participating in such program. If necessary, persons participating in such program may be reimbursed for the actual cost of tuition and other educational expenses authorized in this subsection, in lieu of a contract with the educational institution.

"'(e) A person participating in such program shall be obligated to serve on active duty as a commissioned officer in the Public Health Service or as a civilian member of the National Health Service Corps following completion of academic training, for a period of time prescribed by the Secretary which will not be less than one year of service on active duty for each academic year of training received under such program. For persons receiving a degree from a school of medicine, osteopathy or dentistry, the commencement of a period of obligated service can be deferred for the period of time required to complete internship and residency training. For persons receiving degrees in other health professions the obligated service period will commence upon completion of their academic training. Periods of internship or residency shall not be creditable in satisfying on active duty service obligation under this section except that if such residency is served in a Public Health Service facility or facility of the National Health Service Corps such residency shall be counted as satisfying the active duty service obligation under this section.

"'(f) If, for any reasons, a person fails to complete an active duty service obligation under this section, he shall be liable for the payment of an amount equal to the cost of tuition, and other education expenses, and salary expenses, paid under this section plus interest at the maximum legal prevailing rate. Any amount which the United States is entitled to recover under this paragraph shall, within the three-year period beginning on the date the United States becomes entitled to recover such amount, be paid to the United States. Until any amount due the United States under this paragraph on account of any grant under this subpart is paid, there shall accrue to the United States interest on such amount at the same rate as that fixed by the Secretary of the Treasury with respect to the grant on account of which such amount is due the United States.

"'(g) When a person undergoing training in such program is academically dismissed or voluntarily terminates academic training, he shall be liable for repayment to the Government for an amount equal to the cost of tuition and other educational expenses paid from Federal funds, plus all salary payment which he received under such program.

"'(h) The Secretary shall by regulations provide for the waiver or suspension of any such obligation applicable to any individual whenever compliance by such individual is impossible or would involve extreme hardship to such individual and if enforcement of such obligation with respect to any individual would be against equity and good conscience.

"'(i) Notwithstanding any other provision of law, persons undergoing academic training under such program shall not be counted against any employment ceiling affecting the Department of Health, Education, and Welfare.

"'(j) The Secretary of Health, Education, and Welfare shall issue regulations governing the implementation of this section.

"'(k) To carry out the purposes of this program, there are authorized to be appropriated $10,800,000 for the fiscal year ending June 30, 1974, and $11,500,000 for the fiscal year ending June 30, 1975.'

"SEC. 306. Section 2(f) of the Public Health Service Act is amended by inserting after 'Puerto Rico,' the following: 'Guam, American Samoa, and the Trust Territory of the Pacific Islands,'".

"TITLE IV—MIGRANT HEALTH

"SEC. 401. Section 310 of the Public Health Service Act is amended by striking out '$30,000,000 for the fiscal year ending June 30, 1973,' and inserting in lieu thereof 'not to exceed $60,000,000 for the fiscal year ending June 30, 1973, $105,000,000 for the fiscal year ending June 30, 1974, and $120,000,000 for the fiscal year ending June 30, 1975'.

"SEC. 402. Section 310 of the Public Health Service Act is further amended by striking 'and' immediately before the clause designation '(ii)' in paragraph (1) and inserting at the end of such clause the following: 'and (iii) premiums for a prepaid health care plan eligible for Federal assistance where such clinics or special projects so request. All such clinics, special projects, and prepaid health care plans shall provide out-reach and follow-up services;'.

"SEC. 403. Section 310 of the Public Health Service Act is further amended by inserting '(a)' immediately after the section designation and by adding at the end of such subsection the following new subsection:

"'(b) There are hereby authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1973, $35,000,000 for the fiscal year ending June 30, 1974, and $40,000,000 for the fiscal year ending June 30, 1975, to enable the Secretary to assist in the provision of necessary hospital care to domestic agricultural migratory workers and their families.'

"SEC. 404. Section 310 of the Public Health Service Act is further amended by adding at the end of new subsection (b) the following new subsection:

"'(c) In making grants under this section the Secretary shall give priority to those applicants whose policy-making body is composed of a majority of persons who are consumers of its services, where competing applicants appear to the Secretary of Health, Education, and Welfare to be equally qualified.

"TITLE V—PUBLIC HEALTH GRADUATE TRAINING

"SEC. 501. Section 306(a) of the Public Health Service Act is amended to read as follows:

"'SEC. 306. (a) There are authorized to be appropriated to cover the cost of traineeships for graduate or specialized training in public health for physicians, engineers, nurses, sanitarians, and other professional health personnel, $16,000,000 for the fiscal year ending June 30, 1972; $18,000,000 for the fiscal year ending June 30, 1973; $22,000,000 for the fiscal year ending June 30, 1974; $26,000,000 for the fiscal year ending June 30, 1975; $30,000,000 for the fiscal year ending June 30, 1976; and $34,000,000 for the fiscal year ending June 30, 1977.'

"SEC. 502. Section 309(a) of such Act is amended to read as follows:

"'SEC. 309. (a) In order to enable the Secretary to make project grants to schools of public health, and to other public or nonprofit private institutions providing graduate or specialized training in public health, for the purpose of strengthening or expanding graduate or specialized public health training in such institutions, there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1972; $16,000,000 for the fiscal year ending June 30, 1973; $17,000,000 for the fiscal year ending June 30, 1974; $18,000,000 for the fiscal year ending June 30, 1975; $19,000,000 for the fiscal year ending June 30, 1976; and $20,000,000 for the fiscal year ending June 3, 1977.'

"SEC. 503. (a) Section 309(c) of such Act is amended to read as follows:

"'(c) The Secretary shall make grants, to public and nonprofit schools of public health accredited by a body or bodies recognized by the Secretary, to provide assistance for—

"'(1) comprehensive and multidisciplinary training in the field of public health; and

"'(2) specialized consultative services and technical assistance in the field of public health.'

"(b) Section 309 of such Act is amended by adding at the end thereof the following new subsections:

"'(d) The Secretary shall prescribe by regulation such terms and conditions as he deems necessary for the making of grants under subsection (c).

"'(e) In awarding grants made under subsection (c), the Secretary shall give primary consideration to the relative number of students enrolled in such schools.

"'(f) There are authorized to be appropriated for carrying out the purposes of subsection (c), $21,000,000 for the fiscal year ending June 30, 1973; $24,500,000 for the fiscal year ending June 30, 1974; $28,000,000 for the fiscal year ending June 30, 1975; $31,500,000 for the fiscal year ending June 30, 1976; and $35,000,000 for the fiscal year ending June 30, 1977.

"'(g) To enable the Secretary to make project grants to schools of public health, and to other public or nonprofit private institutions providing graduate training in health care administration and management training, and for the purpose of strengthening or expanding such training in such institutions, there are hereby authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1973; $4,000,000 for the fiscal year ending June 30, 1974; $6,000,000 for the fiscal year ending June 30, 1975; $8,000,000 for the fiscal year ending June 30, 1976; and $10,000,000 for the fiscal year ending June 30, 1977.'.

"SEC. 504. Sections 306 and 309 of the Public Health Service Act are each amended by striking out 'Surgeon General' each place it occurs and inserting in lieu thereof 'Secretary'."

Mr. KENNEDY. Mr. President, on behalf of the distinguished ranking minority member of the Committee on Labor and Public Welfare, the Senator from New York (Mr. JAVITS), and myself, I am offering a package of amendments to S. 3716, which simply add to the bill four additional Senate-passed Public Health Service legislative extensions. These four measures are migrant health, medical libraries, public health training, and emergency health personnel. We are amending the committee's bill in this respect, Mr. President, simply to expedite the passage of these vital health programs in this Congress. Through this amendment we intend to place each of these programs before a House-Senate conference committee within the next week.

As I have indicated, each of these measures has already passed the Senate without a dissenting vote. I urge the adoption of the committee amendment.

Mr. SCHWEIKER. Mr. President, as the ranking Republican member of the Health Subcommittee, I support the chairman in his efforts and concur with his statement, and I strongly support the adoption of the amendment.

The PRESIDENT pro tempore. Is all time yielded back?

Mr. KENNEDY. I yield back the remainder of my time.

Mr. SCHWEIKER. I yield back the remainder of my time.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I send to the desk an amendment on behalf of myself and Senator JAVITS.

The PRESIDENT pro tempore. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 63, insert between lines 5 and 6 the following:

"(2) Section 221(b) of such Act is amended by striking 'June 30, 1973' and inserting in lieu thereof 'June 30, 1975'.

On page 62, line 16, insert "(1)" immediately after "(n)".

On page 60, insert between lines 8 and 9 the following:

"(2) Section 261(a) of such Act is further amended by striking 'construction and staffing of facilities' and inserting in lieu thereof 'facility and operating costs of facilities'."

On page 60, strike lines 9 through 11, and insert in lieu thereof the following:

"(3) Section 261(b) of such Act is amended to read as follows:

"'(b) There are authorized to be appropriated for the fiscal year ending June 30, 1971, and each of the next fifteen years such sums as may be necessary to make grants for operating costs with respect to any project under part C or D for which an operating grant was made from appropriations under subsection (a) of this section for any fiscal year ending before July 1, 1975.'."

On page 60, line 12, insert "(1)" immediately after "(i)", and on page 61, between lines 2 and 3 insert the following:

"(2) Section 271(a) of such Act is amended by striking the words 'construction of' and 'of compensation of professional and technical personnel'.

"(3) Section 271(b)(3) of such Act is amended by striking the words 'construction of'.

"(4) Section 271(c) of such Act is amended by striking the words 'costs of compensation of professional and technical personnel' and inserting in lieu thereof the words 'operating costs'."

On page 64, insert between lines 4 and 5, the following:

"(p)(1) Section 242(a) of such Act is amended by striking the words 'costs (determined pursuant to regulations of the Secretary) of compensation of professional and technical personnel' and inserting in lieu thereof the words 'operating costs (determined pursuant to regulations of the Secretary)';

"(2) Section 242(b)(1) is amended by striking the word 'three' and inserting in lieu thereof 'seven' and striking the word 'eight' and inserting in lieu thereof 'twelve';

"(3) Section 242(b)(2) is amended by striking the word 'three' and inserting in lieu thereof 'seven';

"(4) The section caption of section 242 of such Act is amended by striking the word 'Staffing' and inserting in lieu thereof 'Operating'.

"(q) Section 243(a) of such Act is amended by striking the words 'compensation of professional and technical personnel' and inserting in lieu thereof 'operating expenses';

"(r) Section 244 of such Act is amended by striking the words 'a project for the construction or initial staffing' and inserting in lieu thereof the words 'facility and operating costs'.

"(s)(1) Section 251(a) of such Act is amended by striking the words 'of construction' and 'of compensation of professional and technical personnel' and inserting in lieu of the latter the words 'operating costs'.

"(2) Section 251(c) of such Act is amended by striking the words 'costs of compensation of professional and technical personnel' and inserting in lieu thereof the words 'operating costs'.

"(3)(A) Section 256(b)(1) of such Act is amended by striking the word 'eight' and inserting in lieu thereof 'twelve'.

"(B) Section 256(b)(2) of such Act is amended by striking the word 'three' whereever it appears and inserting in lieu thereof the word 'seven'.

"(4) Section 254 of such Act is amended by striking the words 'a project for the construction or initial staffing of a' and inserting after the word 'facility' the words 'operating costs'."

On page 62, line 13, strike the words "this section or".

On page 63, line 14, insert before the word, 'to', "or mental health of the elderly".

On page 65, strike lines 7 through 15, and on line 16, strike "(3)" and insert in lieu thereof "(2)".

Mr. KENNEDY. Mr. President, on behalf of Senator Javits, the ranking minority member of the Committee on Labor and Public Welfare, and myself, I am offering a series of technical amendments to S. 3716, which are designed to correct certain inconsistencies in sections 13 and 14, which deal with community mental health centers. These amendments insure that the intent of the committee will be clarified with respect to this legislation. They have been worked out with the minority members.

I urge adoption of the technical corrections which have been designated in the amendment.

The PRESIDING OFFICER (Mr. Stevenson). Is all time yielded back?

Mr. JAVITS. Mr. President, will the Senator yield me 1 minute?

Mr. KENNEDY. I yield.

Mr. JAVITS. Mr. President, I realize that sometimes a very important bill passes, like this one, with full consent of the Senate and not too much debate. But I should like to emphasize the importance of this measure.

One title of the bill represents a critical element in the construction and modernization of hospitals in the country. It is an absolutely indispensable tool for the development and improvement of health facilities. Another title of the bill provides expanded support for community mental health centers which have been growing in importance and have a vital role in dealing with the problem of mental illness.

Senator Kennedy is probably the apostle here of the idea of community mental health centers and has been the principal force for bringing about considerable attention to that matter, not only in these health measures from his own subcommittee but also in the antipoverty bill.

I wish to emphasize, therefore, the aspects of Hill-Burton, the community mental health centers program and the extension of training in the allied health professions—all of which are contained in this very important bill.

Mr. President, I hope not only that the Senate will pass this bill, as now seems obvious, but also that we will be able to get together with the House in this session and that the bill may then become law; because, as we have perceived in our committee, in cases of health—probably uniquely in cases of health—the leadtime is very long as between the development of an idea, its implementation, and its fruits, in view of the problems of adequate training for personnel and other problems connected with really setting up for the delivery of the services for which we provide in this legislation.

My only purpose in this brief statement is to emphasize the importance of this bill to the total complex of medical care in the United States, notwithstanding the fact that it has not been extensively debated, and to congratulate Senator Kennedy upon the fine work of the Health Subcommittee, which has produced this measure and many other measures of tremendous benefit to the people of our country.

Mr. COOPER. Mr. President, will the Senator yield for a question?

Mr. KENNEDY. I yield.

Mr. COOPER. Mr. President, I am not attempting to give my views on the merits of letters I have received. I have received a number of letters dealing with the change in the Minimum Wage Act for hospital workers. This measure does not concern that matter, does it?

Mr. KENNEDY. No. It does not in any way affect legislation in respect to minimum wage for hospital workers.

Mr. COOPER. I am glad to hear the explanation of the Senator from Massachusetts and the comments of the Senator from New York.

A quick reading of the report and the bill indicates the tremendous value of this bill in strengthening the Hill-Burton program for community centers and many other innovative features which will do a great deal to strengthen hospital facilities and to help people who need help so badly in this field.

Mr. KENNEDY. I thank the Senator from Kentucky and the Senator from New York for their statements.

The Senator from New York is correct that, in spite of the fact that there is not a long and extended debate, the problems included in this measure are in many respects the backbone for allied health personnel, and for the building of health facilities and for community mental health programs. I think the measure represents the best judgment of all the members of the committee.

Mr. President, I yield back the remainder of my time on the amendment.

Mr. JAVITS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. RANDOLPH. Mr. President, will the Senator permit me at this time to offer an amendment that I know he has studied?

I send the amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

Mr. RANDOLPH. Mr. President, before the amendment is considered, I ask unanimous consent that Robert Humphreys, a staff member of the Committee on Labor and Public Welfare, have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The assistant legislative clerk read the amendment, as follows:

On page 47, beginning with line 5, strike section 4 in its entirety and insert in lieu thereof the following:

"Sec. 4. Paragraph (1) of section 602(a) of the Public Health Service Act (42 U.S.C. 291 (b)), as amended, is amended to read as follows:

"'(1) For each fiscal year beginning after June 30, 1973, the Secretary shall, in accordance with regulations, make allotments among the States, from the sum appropriated under subparagraph (1), (2), or (3) of paragraph (a), or under subsection (b), of section 601, for grants for construction of, respectively (A) public or other nonprofit facilities for long-term care, (B) public or other nonprofit outpatient facilities, (C) public or other nonprofit rehabilitation facilities, and (D) public or other nonprofit hospitals and public health centers. Each allotment shall be made on the basis of the following factors: (i) the population, (ii) the square of the per capita income, and (iii) the extent of the need for construction of the facilities for which grants from the allotment are to be made, of the respective States. For purposes of applying the preceding sentence, the factor referred to in clause (i) thereof shall be assigned a value equal to the value assigned to the factor referred to in clause (ii) thereof, and the value assigned to the factor referred to in clause (iii) shall be assigned a value equal to one-half of the value assigned to the factor referred to in clause (i) or (ii) thereof.'"

Mr. RANDOLPH. Mr. President, this amendment has been discussed in the Committee on Labor and Public Welfare, and the floor manager of this legislation, the distinguished Senator from Massachusetts (Mr. KENNEDY), has kindly considered the proposal.

I offer the amendment. As indicated in the committee report on this important legislation, the bill would alter the formula for alloting funds for hospital construction to the States by substituting for the existing formula one which gives equal weight to population, financial need, and the extent of the need for construction of facilities.

The amendment offered would adopt the same formula agreed to in the Senate in 1970 when it last amended the Hill-Burton Act.

Thus the formula would be weighted on the basis of 40 percent population, 40 percent per capita income squared, and 20 percent need for construction of facilities.

This proposal is, as I say, a compromise between the existing formula and that proposed in the bill as it comes from the committee.

I am hopeful that the chairman, who is so knowledgeable in this field as the chairman of the Subcommittee on Health, will accept the amendment I have offered.

Mr. KENNEDY. Mr. President, I yield to the distinguished Senator from New York (Mr. JAVITS).

Mr. JAVITS. Mr. President, this amendment which has been proposed by the distinguished Senator from West Virginia is a compromise, but I would be less than true to my responsibility as a Senator from New York and to the other industrialized States and urbanized States who are in the same position we are if I did not call attention to the fact that it is a compromise, only because the practicalities will probably make it unlikely, to say the least, that we can do any better. However, that does not make it just.

The fact is, Mr. President, the time has long since passed. It is now 26 years, since 1946, when the Hill-Burton formula was first adopted due to the gifted intercession of Senator Hill of Alabama, who was chairman of the committee for a long time. Circumstances have changed drastically since that time and new methodologies have been developed to measure need rather than per capita income squared. The whole key to the formula was that it gave the so-called poor States, based on per capita income, a very heavily weighted 2-to-1 advantage over the urbanized States. At the time, that advantage could be justified—I will give the detail on that in a moment—but that time has long since passed. I have been waging, along with others, and I think with the sympathy of the distinguished Senator from Massachusetts (Mr. KENNEDY) a fight to change this formula, because it is simply out of date. The degree to which it is loaded against the urbanized States is unjustified.

The committee formula is a fair one, composed of the three components of income, need, and population. But the amendment of the Senator from West Virginia (Mr. RANDOLPH) would again still weight it, but this time, the weighting only goes to 40 percent. It is still per capita income squared, but the per capita income squared is only 40 percent of the formula. It results in a modest improvement, say about 10 percent in round figures, in the situation of the urbanized States, but by no means is it an adequate improvement.

The difficulty in making a change on this is that in the Senate where we have two Senators from each State, a good many States, if the formula were equitably corrected, would lose something. It is well known—we just saw it in the revenue sharing bill—that that is not a happy proposition for the urbanized States. Therefore, Mr. President, notwithstanding the deep inequity which I still protest and which I cannot justify, but simply on the practicalities of the situation, I have had to reconcile myself to accepting the compromise.

The factual situation is this: in 1946, when we first loaded the formula against the urbanized States, it was a fact that the eight States with the highest per capita income had four beds per 1,000 population, as against 2.5 beds per 1,000 population in the eight States with the lowest income. But this imbalance has now been corrected.

Now, 4.08 beds per 1,000 population in the same high-income States and the low-income States have raced ahead of them. They now have 4.34 beds per 1,000 population. So the formula should be correct, according to the way the committee corrected it.

We live in a realistic world. Some improvement is better than no improvement. The process, notwithstanding what I have been able to do about it, is undoubtedly going to be slow in bringing back this correction. In a sense, it is a warning to the urbanized States. Once we open the door to a lopsided formula, it will take decades to root it out.

I have no word of criticism for those who wrote that formula, which would continue as it was, and which the mover of the pending amendment has made a compromise—indeed, the Senator from West Virginia (Mr. RANDOLPH) has tried within the limitations he feels surround him, as he comes from a State which, in terms of per capita income, is a "poor" State, and he has done his best to reach some accommodation with my own viewpoint which, for myself, I cannot help continuing to protest the inequity of, but I do not believe it would be in the interests of the people of my State or of any other urbanized State to sacrifice what advances can be made, at long last, in beginning to change the formula.

So, Mr. President, I accept the compromise. But I serve notice that I shall do my utmost to improve the situation in every other respect that I can, and on this bill, once the terms of the bill as it is enacted into law have expired. But this is a longstanding inequity. This is some correction but by no means now recognizes the new situation which is already factually created by the imbalance which has persisted over these past 26 years.

So, with those considerations, as I said when I started, the amendment, much as I am not happy about it, is acceptable to me.

Mr. RANDOLPH. Mr. President, if I may comment on the remarks of the able Senator from New York who, with Senator KENNEDY, has given much attention to this vital program, the following facts I think might be included in our discussion.

I think it is important that we know the House Committee on Education and Labor has determined that elimination of the squaring of the present per capita income in the formula would result in a reduction of allotments for 35 States and territories. Senator JAVITS has indicated that there would be a change but not in the exact figures that I have stated. It is interesting that within the act, as amended by the Hill-Burton legislation in the last Congress, there is a provision which reads:

> The Secretary of HEW shall conduct a study of the results of the formula specified—

And so forth;

> . . . for allotment among States of sums appropriated for construction of health facilities and shall report to the Congress on May 15, 1972, the results of such study.

As the Senator from New York knows, we have not received that report. And the report was to be coupled with recommendations for such changes if they were deemed to be advisable.

In our committee we have had no chance, therefore, to review any of the recommendations that the Secretary might make. And I am told that the survey has not yet been concluded by HEW.

Mr. KENNEDY. Mr. President, if the Senator will yield, I understand that the survey has been concluded and has actually been made available to the minority members of the committee.

Mr. RANDOLPH. We have not received it.

Mr. KENNEDY. No, and I wish that we could.

Mr. JAVITS. Mr. President, if the Senator would yield, I am the ranking minority member of the committee, and I have been beating the doors of HEW down for this survey obviously, because it has so much to do with what we are doing today.

I have not seen it, and I did not know it was completed.

I would like the Senator from Massachusetts and the Senator from West Virginia to join with me in insisting that this survey be produced. We are acting in the dark.

Mr. KENNEDY. I think it would be useful if we were all to join together in asking for it. My information is that it has been completed. And we would all benefit from that.

Mr. JAVITS. Mr. President, I wish to emphasize that there is nothing invidious in what I say about any of my colleagues. The State of Massachusetts is in the same position as my State. I understand the position of the Senator from West Virginia and those from other States which are benefiting from the present allocation formula.

It is obviously invidious to us. The bill is going through without the benefit of the survey which could give us some information about my claim that what is being done under the present formula is not right. However, under all of the circumstances and for the reasons I have stated, I simply must reconcile myself to this matter.

Mr. RANDOLPH. Mr. President, I appreciate the comments of the Senator from New York and the Senator from Massachusetts on this point. I would want to say that I have attempted very earnestly to determine if the report were available, and to secure a copy if it were. I did not expect the report to back up what I am attempting to do in the form of a compromise. However, I do say to the Senator from New York that as to all the facts about what has been found and what recommendations could be made, I think it would be very helpful to us during our consideration of this important measure. No testimony was given that I recall on this subject in the hearings.

So, I think that before we alter the formula extensively, we would want to know what recommendations are contained in the study. I say that not because I wish to remain static. I wish to be understanding in a sense and be able to adjust to what is appropriate.

I think that in the State of West Virginia, which does have a problem, of course, with very serious conditions from the standpoint of the shortage of hospitals in our State, we would want to cooperate with other States, industrial and perhaps the more rural. However, I do repeat for the Senate that the Hill-Burton program does not expire until the end of the 1973 fiscal year.

I will join with the Senator from New York and the Senator from Massachusetts in a letter or communication or a visit, whatever would be most helpful to the Secretary, so that we would have the information that our committee requires to make a full assessment of the need for changes in the formula.

We do have adequate time, I think, to explore it further before the end of the 1973 fiscal year and make an adjustment.

And finally, the compromise that I have offered, which has been received in an understanding way by the ranking majority and minority members of the Health Subcommittee, is in a sense a compromise that may not be justified in the way that I would like to see it. Nevertheless, I, in good faith, proposed this compromise, indicating my desire to be helpful in achieving an equitable solution of this problem.

Mr. KENNEDY. Mr. President, I join with the remarks of the Senator from New York. We mentioned earlier about the particular problems that many of the industrial States are facing and that many of the great cities of this country are facing, even outside of the rural States.

From the overwhelming evidence one becomes convinced that it is in these major urban areas where a number of the hospitals and the municipal hospitals have lost their accreditation. This matter poses a significant health problem in many of the communities.

I, too, have joined with the Senator from New York and others in urging that the formula be adjusted to consider not only the income of the population and income, but also need as an important element in the allocation formula for the Hill-Burton funds.

It is interesting to note for the RECORD that when John Veneman, who was Under Secretary of HEW when he appeared before the Health Subcommittee in 1970, said:

> Therefore, we are recommending that as in S. 1733 the population and per capita income squared formula should be replaced by one comprising population, per capita income, used only once, not squaring, and an appropriate measure of health facility need as the elements that make up the formula for the allocation of all grant funds.

That goes back to 1970. That was a statement by Mr. Veneman, Under Secretary of HEW at that time.

Since the requiring of the study as a result of the conference on that bill in 1970, the Senator from New York and I several months ago asked Secretary Richardson with respect to the status of that study.

Then on June 8 of this year, Secretary Elliot Richardson responded and in his letter said:

> We are working on its preparation and you may expect it the early part of July.

He wrote again on July 26 and said:

> This is just a note to let you know that I have not forgotten your letter of May 17.

The point is the study, which was due on May 15, 1972, is overdue today by four months.

So we are realistically in the position today of adjusting the adidtional formula to at least consider the element of need. In effect what the compromise amendment would provide would be a 40-percent formula based on income, 40 percent on population, and 20 percent on need.

I am hopeful we will be able to take this step forward and that we will begin to respond to the most urgent needs in our present hospitals in this country.

I would urge the acceptance of the amendment of the Senator from West Virginia that the legislation be adjusted to reflect his amendment.

I think, as has been pointed out, that we are in a practical situation where an accommodation can be reached and I think his amendment reflects it.

Unless there is further comment we are willing to accept the amendment and I urge its approval.

Mr. RANDOLPH. I thank the Senator.

Mr. ERVIN. Mr. President, will someone yield time to me?

Mr. KENNEDY. Mr. President, I yield 10 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. ERVIN. Mr. President, I wish to speak a word in defense of Senators who represent small States. Like Senators from large States they are actuated by exactly the same motives, which are approved by the Scriptures. The Scriptures say:

> But if any provide not for his own, and specially for those of his own house, he hath denied the faith, and is worse than an infidel.

I think Senators from large States and Senators from small States should recognize that even in such Gardens of Eden as North Carolina and other small States people get sick and need hospitalization.

I wish to commend the wisdom of the Founding Fathers who provided in the Constitution that every State of the United States should be represented in the U.S. Senate by two Senators. That was a compromise which made the adoption of the Constitution possible. Moreover, it is fraught with great wisdom, because human beings being what human beings are, and being actuated by a desire to look after their own in preference to others, I fear that the smaller States would not get any crumbs from the Federal table until the insatiable appetites of the urban States are satisfied, if the smaller States did not have equal representation in the Senate with the larger States.

Like my friend from New York, my friend from Massachusetts and my friend from West Virginia, I am in favor of a fair formula that would make a fair distribution, but frankly I do not think there is anyone in the United States who is capable of determining with exactness what the particular needs are in the various sections. I find in all sections of the United States great needs in the hospitalization field.

Mr. President, I wanted to make these remarks because I think, after all, Senators from small States have exactly the same right to look after their own as Senators from larger States, and it is very fortunate that we have this constitutional principle that all the States have equal representation in the Senate.

I thank the Senator for yielding.

Mr. KENNEDY. I thank the Senator from North Carolina. I think we are prepared to vote.

Mr. JAVITS. I yield back the remainder of my time.

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, that is the end of the amendments I know about. I will suggest the absence of a quorum, with the time not to be charged, to see if other Senators have amendments, and then we will ask for the yeas and nays.

Mr. President, I suggest the absence of a quorum, with the time not to be charged.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On which side is time?

Mr. SCOTT. I ask unanimous consent

that the time consumed by the quorum call——

Mr. MANSFIELD. Mr. President, will the Senator withhold that request?

Mr. SCOTT. I withdraw it.

Mr. MANSFIELD. I ask for the yeas and nays on passage.

The yeas and nays were ordered.

Mr. CRANSTON. Mr. President, I would like to express my support and approval of S. 3716 as it was reported from committee. This bill, the proposed Health Facilities, Manpower, and Community Mental Health Centers Act of 1972, will extend and expand several authorities of the Public Health Service Act as well as the Community Mental Health Centers Act. In the Public Health Service Act the authorities are the Hill-Burton authorities, the authorities to support programs for the training of allied health professions, and a new authority which was contained in an amendment I offered in committee to support comprehensive communitywide emergency medical services systems.

Each of the programs included in S. 3716 are indispensable to the functioning of the Nation's health system.

HILL-BURTON PROGRAM

The Hill-Burton program for the past 25 years has provided the means necessary to enable our communities to meet the need for medical facilities. This authority is extended and in addition the committee, recognizing changes which are occurring as a result of population shifts and social change, has placed new emphasis on construction of outpatient facilities, particularly in areas having a large proportion of low-income residents, as well as on projects for renovation and modernization of existing medical facilities.

ALLIED HEALTH TRAINING

Authorities for support of training in the allied health professions are extended for 1 year by S. 3716. The whole area of training in these professions is undergoing such a rapid change and growth and is so closely related to training in the health professions and in the nursing profession, that any substantive change in these authorities should be done in conjunction with changes in authorities for health professions and nurse training. The 1-year extension will result in simultaneous expansion of the committee to study all these authorities and will develop a comprehensive approach to improving Federal programs of support in the entire area of health training.

I have consistently urged the initiation of programs to encourage the development of new roles for existing health professionals and paraprofessionals, and for the development of new types of health care providers. I have also urged that legislation provide incentives and opportunities for the team training of health care personnel, so that the interrelationships of the skills of each type of provider will be evident to each and will be practiced in a manner most effectively utilizing each skill. I believe studying each of the authorities for health training together will provide the optimum opportunity to legislate effectively in this area.

S. 3716 directs the Secretary of Health, Education, and Welfare to arrange for the conduct of a study to determine the cost of allied health education. Information provided the committee as a result of this study should prove invaluable in developing legislation when the authorities are next scheduled for renewal.

COMMUNITY MENTAL HEALTH CENTERS

A third basic authority extended is that of the community mental health centers, which is extended for an additional 2 years through fiscal year 1975.

Two major changes are made in this authority, one to provide increased emphasis on programs for children and one to add new programs for mental health services for the elderly. While services for both of these groups are already authorized under existing legislation, it is becoming increasingly evident that these two groups are not being adequately reached. An increasing number of children are being assigned to State mental institutions. This sad statistic is evidence that community programs which are the more preferred treatment method, particularly in the case of a child, have not been adequate to the need.

At the same time evidence is mounting that too many elderly patients needing mental health care are in nursing homes where such services are not available. There is a need for the community mental health center to provide outreach services to reach these individuals.

Many elderly patients are assigned to State mental institutions where their mental health problems become more aggravated when the family support or community and environmental surroundings with which they are familiar are removed. As in the case of children, a preferred method of treatment would be in the community. Given the preponderance of the elderly suffering from mental illness, the small percentage of elderly patients using community mental health centers is an indication that special emphasis must be placed on programs for the elderly by these centers.

Another major change made by the bill is the expansion of coverage by grants from only support of staff to support of operations as well. The appropriations authorizations are increased for this purpose to cover the expanded areas of support.

Special incentives are also included in the bill to encourage centers to provide services to alcohol and drug abusers.

Another new emphasis provided by the committee bill is on providing a greater proportion of funding to those centers serving poverty areas.

EMERGENCY MEDICAL SERVICES SYSTEMS

A major new program was added as a result of amendments which I proposed to encourage the development of community-wide emergency medical services systems. Mr. President, I have become increasingly concerned with the inability of our Nation's communities to provide assistance to citizens in times of individual medical emergencies or in times of more widespread disasters. While the provisions of S. 3716 are primarily directed to the development of a comprehensive system for the provision of emergency medical services to the individual, they also require the development of a community plan in case of mass disaster.

EMERGENCY MEDICAL SERVICES SYSTEMS

One of the most serious deficiencies in the health system in many communities is the inability to respond immediately and effectively to emergency medical crises. I have been very concerned with the mounting number of deaths and disabilities resulting from medical emergencies which in many cases could be averted by adequate planning and organization of health resources.

MORTALITY AND DISABILITY FROM MEDICAL EMERGENCIES

Projections from studies indicate that mortality from accidents alone could be reduced by from 10 to 20 percent by proper medical care at the scene of the accident or en route to an emergency facility. Thirty percent of cardiac deaths could be prevented if the public were educated to recognize the symptoms of heart attack, and if ambulance attendants were adequately trained to provide immediate emergency treatment. Five thousand deaths each year from other causes such as poisonings, drownings, and drug overdoses could be prevented by immediate medical attention.

The Ambulance Association of America has estimated that 25,000 individuals are permanently injured or disabled every year by untrained ambulance attendants and rescue workers. In 1970 only 5 percent of the Nation's ambulance attendants met even minimum standards of training recommended by national professional organizations—such as the American College of Surgeons, or the National Academy of Sciences, the Department of Transportation, or the Department of HEW. Five percent of these attendants had no training whatsoever. One-third had had only a standard first-aid course.

Accident is the fourth leading cause of death in the United States. In 1968 trauma resulted in more than 100,000 deaths, 10 million cases of temporary disability, and 400,000 of permanent disability. Trauma patients used more hospital days than all heart patients or all obstetrical patients and more than four times as many hospital days as all cancer patients.

AMBULANCE SERVICES

The adequacies of ambulance services vary widely throughout the Nation. In many communities, ambulance services are run by the local undertaker, in others, the ambulance service is a commercial enterprise—yet few of these find it a profitable business; more than a fourth lose money on ambulance services and depend on other sources for income to make up the loss. The average cost of ambulance service is $75 per trip. Few emergency victims are able to pay that amount. Third-party insurance rarely covers the full cost; in many instances it covers none of the cost.

About one-fourth of the ambulance service in the United States is provided by the local unit of government—usually through a public safety organization such as the fire department, police department, or sheriff's office. Two percent of ambulance service is provided by hospitals.

The American College of Emergency Physicians reports that only 37 percent of ambulances in a recent survey met minimal design standards, and only 6 percent had facilities to communicate directly with a hospital emergency room. Many ambulances have little more room than that sufficient for a prone patient; forcing the attendant to crouch to minister to him. Frequently, life-saving equipment or even basic equipment such as splints, backboards, or poison antidotes, are not carried as standard equipment on the ambulance.

HOSPITAL EMERGENCY ROOMS

Increasing concern is being expressed regarding the heavy demands made upon a major element of any emergency medical system—the hospital emergency room. Hospital emergency rooms are increasingly called upon to provide outpatient care for the community. There has been over a 600-percent increase in the number of emergency visits in some hospitals in the last 25 years. Nationally the average is an increase of 10 percent a year. Last year there were approximately 50 million visits to emergency rooms.

The increased reliance of the community on the services of the emergency room has vastly compounded the difficulties of providing medical care to the emergency victim.

In many communities the small hospital is particularly hindered by inadequate staffing and undertrained personnel and by equipment shortages. Rural communities serving underpopulated areas find it particularly difficult to maintain emergency medical services at the optimum staff and equipment level necessary to meet the infrequent need to provide critical care to an accident victim. According to a study of the National Academy of Sciences, 70 percent of motor vehicle deaths occur in rural areas and communities with a population under 2,500. Some of this tragic difference is caused by inability to reach the patient quickly in an isolated area, but some of it is caused by the inadequacies of emergency room facilities.

I believe a special problem faces the rural community which also serves as a resort community on a seasonal basis. For a major part of the year, such communities have a small number of critical medical emergencies. However, during the peak of the resort season, the number of emergencies rises sharply. Frequently these areas have minimal health personnel or health facilities capable of dealing with these emergencies. In such instances the need for areawide planning of emergency medical services and coordination of such services with neighboring communities becomes a matter of necessity.

ADVANCES IN TECHNOLOGY

Modern science has given us the means of overcoming many of the obstacles to providing immediate and effective emergency medical care. The development of portable equipment for the treatment of victims of heart attack, or other critical and sudden illnesses; the development of totally equipped and staffed mobile critical care units capable of bringing the expertise of the hospital to the scene of the emergency; developments in radio and telecommunications permitting electronic monitoring and transmittal of patient data to an acute care center; utilization of rapid means of transport such as helicopters where ground transportation access is poor or too slow—have provided us with the tools necessary to assure prompt response and reaction to a medical emergency.

COORDINATION IN PLANNING SYSTEMS OF EMERGENCY MEDICAL SERVICES

I feel the deficiencies of emergency medical services throughout the country are not impossible to correct. The technical information and the medical capacity to deal with these problems exist. However, to date, efforts to find solutions to them have been fragmented and uncoordinated. The greatest deficiency has been lack of coordinated planning efforts at both the local and the national levels. At the community level, methods must be developed of involving all elements related to the provision of emergency services in meeting community needs.

At the Federal level, governmental units in numerous agencies are concerned and involved with the provision of these services, yet coordination has been haphazard.

In drafting this legislation, I considered means of developing a system whereby these units could work together nationally and locally toward meeting their shared goals.

S. 3716 is intended to provide the means by which this can be accomplished. The bill authorizes the Secretary of HEW to provide support to States, units of local governments, or combinations of local governments, comprising a SMSA to assist in, improve and expand the provision of emergency medical services. A basic requirement of any application for funding is the development of a comprehensive plan for the establishment of an emergency medical services system. Opportunity for participation in the development of the plan must be assured to all elements in the community having a relationship to emergency medical services, including consumers, public safety agencies, communications networks, representatives of Federal agencies, as well as health care providers, health facilities, and health education institutions.

The community must establish an area emergency medical services planning council whose membership will include representatives of these elements, and whose functions will include development of the plan, in consultation with the 314(a) and appropriate 314(b) planning agency, as well as continuous monitoring and evaluation of the operation of the emergency medical services system.

For the State or community to be eligible for Federal support, the plan must provide for certain essential elements.

TRAINING

To be eligible for a grant or contract the plan must include provision for the training of sufficient numbers of specialized professional and paraprofessional staff as well as providing for their continuing education.

Fully trained emergency medical services personnel are an essential element of any comprehensive emergency medical services system. I, therefore, feel that adequate programs for educating and training such individuals must be developed. The bill requires that these programs meet criteria and standards approved by the Secretary after due consultation with appropriate medical and educational interests. Since there will be an immediate demand that these programs be supported in sufficient numbers to provide the personnel necessary to permit the adequate functioning of EMS systems supported under this Act I would hope the Secretary will make the development of these programs a first priority.

The bill specifies that all training and education activities developed under plans adopted be coordinated with programs authorized under title III, VII, VIII, and IX of the Public Health Service Act. This coordination will ensure the full utilization of federally supported programs under other legislative authorities and should avoid the duplication of training activities.

The multidisciplinary approach to the provision of emergency medical services has proven its effectiveness in Los Angeles, Jacksonville, and the State of Illinois, among other communities having exemplary systems for the provision of emergency medical services. I believe that the training of emergency medical service personnel is particularly suited to the concept of team training provided within the concept of the total emergency medical services system.

Continuing education is of paramount importance to the paraprofessional as well as to the professional. I feel that any member of the emergency medical staff should be required to participate in regularly scheduled continuing education programs.

In order for EMS systems to be properly planned, developed, operated and evaluated, several types and levels of personnel will be needed and must be trained.

Currently, there are approximately 15,000 physicians providing emergency care on a full-time basis in emergency rooms across this Nation. Until 1972 there were no postgraduate training programs for emergency physicians such as those under which other specialists are trained. There are now six such programs, and more are being developed. This expansion in the number of postgraduate training programs is promising and I hope the expansion will continue. Many more of these programs are needed to provide the number of full-time emergency physicians needed to adequately serve the Nation's communities. In addition, these physicians must have access to continuing education programs geared to their needs as emergency physicians.

Further, there is a need for all physicians in postgraduate training programs in other specialties and physicians practicing in other specialties to be able to handle common medical emergencies as well as those which arise in their specialties. Programs must be developed to provide training for these physicians to handle common medical emergencies and to maintain their competence in handling them when they go into practice.

The importance of adequate training of the paraprofessional, who is most instances, is the first person at the scene of the emergency, cannot be overemphasized. A number of standardized training programs have been developed, most notably the course developed by the Department of Transportation which consists of some 70 hours of training. I have been impressed by reports on the highly skilled paraprofessionals who have completed longer periods of training of 300 hours or more. These individuals, working in conjunction with a professional at the emergency room or other health facility by voice communication, are capable of providing lifesaving care and utilizing complex equipment essential to save the patient from death and protect him from serious disability.

The utilization of the former military medic in these systems seems particularly appropriate and I am pleased with efforts of communities to recruit these individuals for these positions.

In addition there is a need to develop and train other emergency medical personnel. Among members of the emergency medical services system staff are the emergency nurse, including the specially trained nursing associate who can carry out triage in certain circumstances and provide some element of treatment to the patient, the emergency physician's assistant, emergency medical technicians to work both in hospital emergency departments and at the scene of the emergency, emergency communications personnel knowledgeable about the development and operation of sophisticated communications networks, emergency department ombudsmen, community workers both within the emergency room and in the community who can relate to the needs of the patients as well as provide educational services on the use of emergency facilities.

In addition to the emergency medical personnel directly involved with patient care, I am impressed with the need for managers of emergency medical systems who can plan, develop, operate, and evaluate such systems. Ideally, these managers would have a background in both emergency health care and in health administration and management. Reports of the development of programs to educate such individuals at Ohio State University and at the University of Pennsylvania are very promising and I would hope their development will be pursued at other educational institutions.

A recent article which appeared in the Journal of the American College of Emergency Physicians, written by Dr. Joseph Fortuna, discusses the role of such a specialist.

This article deals with the need for the training of an individual to serve as the manager of a community emergency medical services system, and the activities being supported in the Nation's educational institutions to develop the emergency medical services manager, or as the article dubs him the "emergency health systems specialist."

The need for health managers or administrators is becoming more evident as medical services move from a nonsystem of fragmented care to one of coordinated and organized systems. The need for trained individuals to provide the expertise was recognized in S. 3441, passed by the Senate on August 16, which included authorization for support of management training in schools of public health. There is a need for these specialists in implementing a comprehensive emergency medical services system in a large community or a State.

I ask unanimous consent to have excerpts from his article printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1)

COMMUNICATIONS

Mr. CRANSTON. Mr. President, another requirement of any plan is the provision for a twenty-four hour communications system which provides the necessary linkage from the point of the emergency through a central point dispatching emergency personnel and vehicles, and on through all points of the system to the emergency medical facility and its highly specialized personnel and equipment. These communications systems should at the same time be compatible with the transmission of patient data to the critical care unit through radio and video transmission or other electronic monitoring systems.

In providing ready consumer access to an emergency medical services system, while the 911 system currently being advanced by the telephone companies within the United States is highly desirable, it is a time consuming and expensive process, and alternative courses of action should be considered by communities as an interim or substitute measure prior to the installation of a 911 system. Another major problem involved in consumer access to the communications system is the ability of the dispatch center to locate the emergency geographically, when the consumer is a child, or a stranger to an area and unable to identify his location. Areas of technology must be pursued so that future capabilities can be established to help the central dispatch point identify the location of the call.

TRANSPORTATION

Another requirement of an emergency medical services system is provision for transportation. Sufficient numbers of vehicles, equipped with the necessary lifesaving equipment, accompanied by well-trained emergency personnel and meeting standards of safety and patient care recommended by nationally recognized organizations must be a basic element of any system. In many communities such vehicles are in use already, sometimes provided by commercial ambulance companies, sometimes by public safety agencies, sometimes by voluntary agencies, and sometimes by the community hospital. Where such resources already exist and where they meet standards of equipment and personnel recommended by the Secretary, they should be incorporated into a program for comprehensive emergency medical services.

Transportation systems must be geared to the special geographical characteristics of the community. In some areas where road systems are inadequate or distances are great, the utilization of a helicopter has proven particularly appropriate in transporting emergency victims. The outstanding record achieved by the MAST pilot programs established in several communities is an example of the effectiveness of the helicopter as an element of an emergency medical services system. One of the great deterrents to greater utilization of helicopters is the heavy expense. I believe the involvement of public safety agencies, many of which utilize helicopters for other purposes, in the development of plans for community emergency medical services can offer opportunities for the joint use of this method of transport.

FACILITIES

A fourth major element in any system for the provision of emergency medical services is adequate facilities, conveniently and strategically located, and available for utilization on a twenty-four hour basis. For the most efficient operation of an emergency medical services system and for the most efficient utilization of scarce financial and professional resources, planning for these facilities is essential. The potential order which could result from the application of the recommendations for categorization of facilities made by the Commission on Emergency Medical Services of the AMA makes them well worth consideration.

Adoption of such systems in the communities would appear to provide a rational approach to the provision of emergency medical services while avoiding expensive and unnecessary duplication of equipment and facilities and poor utilization of scarce staff resources.

ADDITIONAL REQUIREMENTS

Other requirements of community plans include:

Access to specialized critical medical care units either within the community or in a neighboring community, and means of transfer to facilities and programs which can provide such followup care and rehabilitation as is necessary to effect the patient's recovery.

Assurance that anyone in need of emergency medical care will be provided such care without regard to ability to pay or prior inquiry as to financial situation or insurance coverage.

Provision for developing a program to cope with emergency medical services during mass casualties, natural disasters, or national emergencies.

Provision for a program of public education and information, stressing appropriate methods of medical self-help.

Provision for standardized patient recordkeeping systems.

ROLE OF COMPREHENSIVE HEALTH PLANNING AGENCIES

Since the 314(b) agency should be the logical entity to coordinate and plan for a well functioning health system, the proposed act requires involvement of the comprehensive health planning agencies established under section 314 of the Public Health Service Act in the development and implementation of any programs for community emergency medical services. Indeed, to be eligible for a grant, a governmental unit or combination thereof would have to comprise at least the area covered by an areawide 314(b) planning agency unless the area proved to be incompatible to the development of a coordinated comprehensive system.

REPORTS AND RECORDS

A grantee must make such reports and maintain such records as the Secretary of HEW determines are necessary. To ensure that grants and contracts awarded under the provisions of the proposed act are directed towards the implementation of plans for emergency medical services systems, the Secretary is expected to make every effort to require periodic reporting on progress achieved in the development, establishment or expansion of components of such systems.

To assure the effectiveness of such systems, all components of an emergency medical services system must meet standards and criteria established in regulations by the Secretary.

The bill provides for two alternative award mechanisms—grants and contracts. The indefinite nature and need for flexibility in the development of plans for emergency medical services systems in any given area lends itself most appropriately to the grant mechanism. A similar approach is also preferred in training programs.

However, in the actual implementation of a plan for an emergency medical services system and the development of its components, the utilization of the contract mechanism has special applicability. The contract mechanism provides a greater degree of assurance that implementation of the plan will more closely follow the original purpose proposed in the application and provides for greater control over compliance with requirements and quality standards prescribed by the Secretary.

I believe and the committee has recommended that utilization of the contract mechanism must be subject to the same review and approval procedures as the grant mechanism and that flexibility should be sufficient to permit renegotiation of the contract should the local unit of government feel the original purpose for which the contract was awarded should be changed. Again any such renegotiation should be subject to the same review procedures as used in the grant mechanism.

INTERAGENCY TECHNICAL COMMITTEE

At the Federal level, the bill establishes an interagency technical committee to coordinate Federal programs and activities relating to emergency medical services. Many successes have been realized in the MAST programs through coordinated activities of the Department of Defense, Department of Transportation, and the Department of HEW. The Inter Agency Committee should result in further cooperative efforts at the Federal level. I hope that local community efforts also will be made to foster these coordinated arrangements at the local level.

NATIONAL EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL

A National Advisory Council is established by the bill within HEW to review and advise on applications and to make recommendations to the Secretary on implementation of programs under the proposed act. Membership of this Council includes not only representatives from other Federal agencies, but also the Director of the National Institutes of Health Services and Mental Health Adminstration. I recognize that the development of effective emergency medical services systems will depend on the coordination of the resources of both the research and the services components of the Public Health Service and for that reason specifically included the directors of these units on the Advisory Council.

REPORT TO CONGRESS

The bill requires an annual report to Congress which shall include an evaluation of the adequacy of emergency medical services throughout the Nation and recommendations on legislation which would correct any deficiencies. The provision of emergency medical services is affected in some States by inflexible laws on licensure, malpractice and liability. This seems to be an appropriate area for study in the preparation of the report.

CONCLUSION

Mr. President, adoption of S. 3716 will insure the continuation and improvement of existing basic health programs and will provide opportunities for new programs to develop in the communities. I urge the full support of the Senate for the provisions of S. 3716.

I would like to express my admiration for the leadership provided in the development of this legislation by the distinguished Senator from New Jersey (Mr. WILLIAMS), chairman of the Committee on Labor and Public Welfare, and by the distinguished Senator from Massachusetts (Mr. KENNEDY), chairman of the Subcommittee on Health, as well as by the distinguished respective ranking committee and subcommittee minority members, the Senator from New York (Mr. JAVITS), and the Senator from Pennsylvania (Mr. SCHWEIKER).

I would also like to express my deep appreciation for the excellent support provided by the staff of the Labor and Public Welfare Committee, Leroy Goldman, Stan Jones, Joe Perpich, and Jay Cutler, in the development of this bill.

EXHIBIT 1

EMERGENCY HEALTH SYSTEMS SPECIALIST—A PROPOSAL

(Excerpts)

(By Joseph A. Fortuna, M.D.)

It appears that much action has and is being taken to establish true systems of emergency medical services in which all the resources of the community, region or state can be integrated to increase the efficiency and effectiveness of these services.

WHO WILL MANAGE THE SYSTEM

What is not clear is the nature of the personnel who will be planning, developing and operating EMS systems. While the focus for such activities might vary in each community or state, and could be the local RMP, the areawide Comprehensive Health Planning Agency, the public health department, etc., or combination of these, what type or types of people can or should be engaged in such activities has not been worked out. Since any new federal legislation will undoubtedly include funds for support of training programs for EMS personnel, including managers of EMS systems, serious thought needs to be given to this question by the professional community now involved in EMS.

It is in this context that I am suggesting a new type of health professional. He (or she) would have the skills and knowledge of a professional trained in the treatment of acutely ill or injured patients (eg the emergency physician or nurse). He would also have the expertise of a professional who can organize and manage the delivery of health services (eg the health planner/administrator/manager). I would call such a professional an Emergency Health System Specialist (EHSS).

RESPONSIBILITIES

Being a clinician, the EHSS would be aware of and would keep current in the latest patient-care techniques. He could, therefore, view any EMS system he was planning and/or operating from the perspective of how and why such techniques are most effectively and efficiently utilized for the benefit of the individual patient. Also, as a clinician, the EHSS could relate more effectively to those other clinicians in the community who would, of necessity, be part of any EMS system being developed or operated. Since emergency medicine, unlike many other forms of practice, can be hour-related, it would be possible and, in fact, highly desirable for the EHSS to function as a clinician in the emergency department setting on a periodic basis.

Having expertise in the health administration area, the EHSS would be able to analyze the existing EMS system (or non-system) in an area using the sophisticated research and planning tools now available, to determine the optimum organization for the system. He would also be qualified to implement any plans he developed for an EMS system and even to operate the system, once established. Because of his credentials as a health administrator, the EHSS is more likely to gain acceptance of his efforts by health administrators than might the well-meaning physician or other health professional without administrative training whose plan may lack the sophistication such administrators are comfortable with.

What are the educational requirements for an EHSS? The answer, of course, is that there are many roads one could take to gain the needed competence. There are also many types of health professionals who may wish to enter this field including physicians, nurses, physicians assistants and others. Although I believe that avenues must be found for these other health professionals, I shall concentrate on the possible routes for physicians.

CLINICAL QUALIFICATIONS

The first requirement for physicians is that they have demonstrated competence in emergency medicine. Such competence could be achieved in several ways depending in large measure on the situation of the physician.

For the generalist or specialist in practice who is desirous of a second career, the answer might be a year of fellowship in emergency medicine or it might be a series of carefully selected uniconcept courses on various aspects of EMS.

The resident-in-training in a specialty other than EMS could either take a "research year" during his residency or add time after his residency as an EMS fellow.

The intern or graduating medical student desirous of becoming an EHSS might enter one of the new EMS residency training programs, such as those offered at the University of Cincinnati General Hospital, the University of Southern California Medical School, the Medical College of Pennsylvania or Northwestern University Medical School, with the understanding that work in the administrative area was to be worked into the curriculum.

The advantage of this last type of program is that it would prepare the physican specifically for the task of providing clinical emergency services in a training setting which takes into account all of the innovation in technology and manpower in the field. Another advantage is that often such programs are offered in the context of a department of emergency medicine in the medical school which fosters an academic approach to emergency medicine and, at the same time, offers a needed educational resource to the physicians currently in the geographic area. Another possible route for the physician still in the early stages of training would be a residency in community medicine. Such a residency might well serve as the focus for the entire EHSS program, providing the candidate with an administrative credential in the MPH or its equivalency as well as providing him with up to one full year of purely clinical EMS activity. A third year of this program could be spent in helping to plan, establish and operate an EMS system. Two such residency programs will begin in the Fall—one at Ohio State University and one at the University of Pennsylvania.

ADMINISTRATIVE TRAINING

How does the physician go about obtaining training in the administrative arena? The answer to this question is even less specific. It varies not only with the stage of clinical development of the candidate but also with the desired scope of administrative activity. Whenever possible, however, the course work in all programs for a degree in health administration should be integrated on a real-time basis with the clinical activity, since the clinical setting presents an excellent laboratory for developing and testing ideas and concepts discussed in the classroom.

Several degree programs would offer the needed coursework with some being more flexible than others. Among these are the MPH or its equivalency, the master's degree in comprehensive health planning, the MBA in health care administration and the master's degree in health care administration or in hospital administration. Any academic program should be focused on EMS and should include coursework in related fields such as law, sociology, public safety, public administration, public relations, etc.

With the aforementioned training, the candidate should feel comfortable with his ability to plan, develop and operate a system of emergency medical services and with integrating such a system into the total health system. He will also be conversant with the related legal, governmental and sociological problems which may arise.

The total EMS system concept is becoming more of a reality every day. I believe we need the professional emergency health systems specialist to most effectively plan, develop and manage the elements of the overall system.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. SCOTT. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time be taken from neither side.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I am prepared to yield back the remainder of my time.

Mr. JAVITS. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. STEVENSON). The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum, with the time not charged to either side.

The PRESIDING OFFICER. There is no time involved. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TUNNEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, I would like to ask the distinguished Senator from Massachusetts——

The PRESIDING OFFICER. Debate is not in order. All time has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a period of 3 minutes to conduct a colloquy.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TUNNEY. I would like to ask the distinguished Senator from Massachusetts what his attitude is toward a bill, S. 3894, which I introduced on August 8, 1972. S. 3894 would earmark one-quarter of 1 percent of all funds authorized pursuant to section 301 of the Public Health Service Act for an analysis of the social implications of health research.

The reason that I ask this question is because I have become deeply concerned about the social application of research work that is being done in the area of biomedicine. I am thinking of biomedical research which could have extraordinary repercussions on the human race, research directed toward such objectives as monogenic gene therapy, in vitro fertilization, cloning, and polygenic gene therapy. It seems to me that we have a desperate need to have a far greater understanding at the public level of what is being done with the funds that we are utilizing for research. Because we are expending public tax dollars, the public is entitled to know and to understand what the impact will be of the research that is being pursued.

I recognize that the committee has not had an opportunity to hold hearings on this measure, and I realize that, in the absence of that opportunity, it would not be appropriate at this time to offer S. 3894 as an amendment to this bill. But I wonder if the Senator from Massachusetts could tell me what his attitude is toward holding hearings on S. 3894 in the near future.

Mr. KENNEDY. Mr. President, I ask unanimous consent that we may have 3 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, this point is extremely important and entirely legitimate. It is proper that Senators have a legitimate concern for all the social and ethical implications raised by biomedical research.

Our Health Subcommittee considered Senate Joint Resolution 75, which would provide, over a 2-year period, for research in the whole area of the societal and ethical implications of biomedical research. And I think that would be related to the kind of questions the Senator from California has raised about genetic engineering and these other areas.

That resolution has passed the Senate and is now before the House of Representatives, and I would hope that they would give it prompt and favorable consideration. I would think that would be an extremely useful and important effort by those who are concerned about this type of research and its consequences.

Second, I believe that the Secretary of Health, Education, and Welfare under section 513, of the Public Health Service Act, allocates approximately 1 percent of all the funds under the Public Health Service for evaluation of the various programs, which could certainly be considered to fall within the kind of area of concern that the Senator from California has mentioned.

I would join with the Senator from California in asking the Secretary of HEW to move into this area under the authority of section 513 of the Public Health Service Act, and if he does not feel he has the appropriate kind of legislative authority to do so, I would join with the Senator from California in seeking to provide that kind of authority during the next session of Congress.

I hope the Senator from California will join with me in a letter to the Secretary, asking whether, under his interpretation, section 513 would provide the legislative authority to do so, and if it would, to indicate our desire that he begin such evaluation, and if not, to work with him in the next session of Congress to make sure he is given such authority.

Mr. TUNNEY. I appreciate the Senator's statement on that point. I think it is important, if we are going to use taxpayer dollars for this kind of biomedical research, that there be a component of technology assessment, to evaluate what the social application of such research.

My study of this area leads me to believe that a clear public policy is imperative with regard to the social implications of biomedical research. A clearer public understanding of the questions raised by this research is imperative. That is why I introduced S. 3894. That is why I have asked for early consideration of these issues and that is why I am pleased that the distinguished Senator from Massachusetts has expressed an interest and concern with the questions of technology assessment raised by S. 3894.

Mr. KENNEDY. Finally, Mr. President, I just want to say that an Office of Technology Assessment has been developed. That was a Senate bill introduced by the Senator from North Carolina (Mr. JORDAN). It passed the House, and there will be a conference on it tomorrow.

That will be another resource available to Congress to study these types of new and troublesome areas. It will offer a resource we could use to address ourselves to these needs. I urge that that be one of the first priorities when that measure becomes effective.

The PRESIDING OFFICER. The time of the Senator has expired.

The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from West VIRGINIA (Mr. ROBERT C. BYRD), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), the Senator from North Carolina (Mr. JORDAN), and the Senator from Wyoming (Mr. MCGEE) are absent on official business.

I further announce that, if present and voting, the Senator from West Virginia (Mr. ROBERT C. BYRD) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Iowa (Mr. MILLER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from New York (Mr. BUCKLEY) and the Senator from Florida (Mr. GURNEY) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Ohio (Mr. SAXBE), the Senator from Vermont (Mr. STAFFORD), and the Senator from Ohio (Mr. TAFT) are absent on official business to attend the Interparliamentary Union meetings.

The Senator from Arizona (Mr. GOLDWATER) and the Senator from Wyoming (Mr. HANSEN) are detained on official business.

If present and voting, the Senator from New York (Mr. BUCKLEY), the Senator from Wyoming (Mr. HANSEN), the Senator from Iowa (Mr. MILLER), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 78, nays 0, as follows:

[No. 460 Leg.]

YEAS—78

Aiken
Allen
Anderson
Beall
Bellmon
Bennett
Bentsen
Bible
Boggs
Brooke
Burdick
Byrd,
  Harry F., Jr.
Cannon
Case
Chiles
Church
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Eastland
Edwards
Ervin
Fannin
Fong
Fulbright
Gambrell
Gravel
Griffin
Harris
Hart
Hatfield
Hollings
Hruska
Hughes
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McIntyre
Mondale
Montoya
Moss
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott
Smith
Spong
Stennis
Stevens
Stevenson
Symington
Talmadge
Thurmond
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—22

Allott
Baker
Bayh
Brock
Buckley
Byrd, Robert C.
Goldwater
Gurney
Hansen
Hartke
Jordan, N.C.
McGee
McGovern
Metcalf
Miller
Mundt
Muskie
Saxbe
Sparkman
Stafford
Taft
Tower

So the bill (S. 3716) was passed, as follows:

S. 3716

An act to amend the Public Health Service Act to provide for continued assistance for health facilities, health manpower and community mental health centers

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Health Facilities, Manpower, and Community Mental Centers Act of 1972".

TITLE I—EXTENSION OF TITLE VI PROGRAMS

PART A—AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

EXTENSION OF ASSISTANCE UNDER TITLE VI OF THE PUBLIC HEALTH SERVICE ACT

SEC. 101. Section 601 of such Act is amended to read as follows:

"SEC. 601. In order to assist the States in carrying out the purposes of section 600, there are authorized to be appropriated—

"(a) for the fiscal year ending June 30, 1973, and each of the next two fiscal years—

"(1) $85,000,000 for grants for the construction of public or other nonprofit facilities for long-term care;

"(2) $100,000,000 for grants for the construction of public or other nonprofit outpatient facilities; and

"(3) $15,000,000 for grants for the construction of public or other nonprofit rehabilitation facilities;

"(b) for grants for the construction of public or other nonprofit hospitals and public health centers, $160,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years;

"(c) for grants for modernization of facilities referred to in paragraphs (a) and (b) $150,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years;

"(d) $100,000,000 for the fiscal year ending June 30, 1973, $100,000,000 for the fiscal year ending June 30, 1974, and $100,000,000 for the fiscal year ending June 30, 1975, for grants for modernization of facilities referred to in paragraphs (a) and (b) which are—

"(1) located in metropolitan areas having a population of 500,000 or more persons, and

"(2) intended to serve a broadened population within such metropolitan area."

EXTENSION OF LOAN GUARANTEES AND LOANS FOR MODERNIZATION AND CONSTRUCTION OF HOSPITAL AND OTHER MEDICAL FACILITIES

SEC. 102 (a) (1) Section 621(a) (1) of the Public Health Service Act is amended by striking out the phrase "during the period July 1, 1970, through June 30, 1973,".

(2) Paragraph (2) of such section is amended by striking out the phrase "during the period July 1, 1970, through June 30, 1973,".

(b) Section 622(b) of the Public Health Service Act is amended by striking out the phrase "ending before July 1, 1973."

(c) Section 631 of the Public Health Service Act is amended by striking out "1971." and inserting in lieu thereof "1973.".

(d) (1) The title of part C of title VI of the Public Health Service Act is amended to read as follows:

"PART C—CONSTRUCTION OR MODERNIZATION OF EMERGENCY ROOMS AND DEVELOPMENT OF AREA EMERGENCY MEDICAL SERVICES SYSTEMS"

(2) Section 633 of such Act is amended to read as follows:

"AUTHORIZATION

"SEC. 633. To assist in, improve, and expand the provision of adequate emergency medical services in the Nation for the treatment of accident victims, victims of sudden illness, and handling of other medical emergencies there are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1973; $100,000,000 for the fiscal year ending June 30, 1974; and $150,000,000 for the fiscal year ending June 30, 1975, for special project grants and contracts for the planning and development or expansion of comprehensive area emergency medical services systems. Sums made available under this section may be used for construction, training and manpower development, communication, transportation, public education, coordination of services and facilities and other components necessary for the implementation of a plan submitted in accordance with section 635."

(3) Part C of such title is further amended by adding at the end thereof the following new sections:

"ELIGIBILITY FOR GRANTS AND CONTRACTS

"SEC. 634. Funds appropriated pursuant to this part shall be available for grants and contracts by the Secretary, after consultation with the National Emergency Medical Services Advisory Council established by section 638, and funds available for grants and contracts under section 633 shall be provided on a matching basis of up to 75 per centum in accordance with criteria of need as determined by the Secretary pursuant to regulations he shall prescribe, to States, political subdivisions, or regional arrangements, compacts, or consortiums comprising the governmental jurisdictions for at least those areas included in a standardized metropolitan statistical area (as determined by the Office of Management and Budget) in the case of programs to be carried out in such standardized metropolitan statistical areas, presenting a plan for the provision of comprehensive and coordinated emergency medical services for a geographical area which encompasses an area at least congruent with an areawide comprehensive health planning agency as established under section 314(b) of this Act or multiples of such area (unless the Secretary determines that such area cannot feasibly operate under a single plan in which event he may approve a plan submitted for a portion of such area), which plan must be approved by the Secretary and meet requirements consistent with the provisions of section 635 set forth in regulations prescribed by the Secretary.

"PLANS

"SEC. 635. Each plan submitted pursuant to section 634 must include the following—

"(a) reasonable assurance that there has been or will be established in or for the area with respect to which such grant is sought, an area emergency medical services planning council pursuant to the provisions of section 636;

"(b) proposals for programs (carried out in coordination with education and training programs assisted under titles III, VII, VIII, and IX of this Act and in a manner consistent with the appropriate provisions of such applicable title) for the training and continuing education of health professionals and paraprofessionals (with priority for the recruitment and training of veterans of the Armed Forces of the United States with training or experience in the health care field) in the provision of emergency medical services to victims of accident and sudden illness which programs must meet criteria established by the Secretary in regulations and, in the case of the training of paraprofessionals, must include supervised clinical training for at least one-half of the program;

"(c) provision for a communications system including, at least, a central, areawide communication network linked with other appropriate area, State, and national networks, and with maximum accessibility for the public through a universal emergency telephone number and other means, which system shall allow transmission of information by voice, telemetry, or other electronic method and shall provide for cross-frequency patching capability;

"(d) provision for an emergency medical services transportation system, which shall include such air borne and water borne transportation as is necessary to meet the individual characteristics of the area;

"(e) provision for the establishment of easily accessible, continuously operational emergency medical service facilities in sufficient numbers and situated at strategic locations in the area to meet the emergency medical service needs of the area;

"(f) provision for emergency access to specialized critical medical care units in the area, including provision for the necessary transportation systems for such access, and, where such resources are nonexistent or inadequate in the area, for access to such units in a neighboring area where access is feasible in terms of time and distance;

"(g) assurance that necessary emergency medical services, to the maximum extent feasible, shall be provided to all patients requiring services and shall be provided without regard to, or prior inquiry as to, ability to pay;

"(h) provision for developing for submission for approval by the Secretary, within one year of receipt of funds under this part, a plan assuring an operational system for providing emergency medical services during mass casualties, natural disasters, or national emergencies;

"(i) provision for transfer to facilities and programs providing such followup care and vocational rehabilitation as is necessary to reflect the maximum recovery and restoration of the patient;

"(j) provision for a program of public education and information in the area served (taking into account the needs of visitors to the community to know or be able to learn immediately the means of obtaining emergency medical services), stressing appropriate methods of medical self-help;

"(k) provision for periodic, comprehensive, and independent review and evaluation of the extent and quality of the emergency medical services provided in the area; and

"(l) provision for a standardized patient record-keeping system meeting standards established by the Secretary in regulations, which records shall cover the treatment of the patient, from initial entry into the system through discharge from the emergency medical services system, and shall, to the maximum feasible extent, be consistent with ensuing patient records used in followup treatment and rehabilitation of the patient.

"AREA EMERGENCY MEDICAL SERVICES PLANNING COUNCIL

"SEC. 636. (a) The composition of the Area Emergency Medical Services Planning Council to be established in accordance with the plan submitted under section 635 shall include representatives of the State agency and appropriate areawide health planning agency or agencies (if any) established under section 314, of the regional medical program established under title IX of this Act in the area, of all public safety agencies having responsibilities within the area, of hospital councils, public, voluntary, and nonprofit private agencies, institutions, and organizations concerned with health or health education, of the local government or governments or units thereof exercising jurisdiction in the area, of uniformed services of the Federal Government operating installations in the area, of the Veterans' Administration medical facilities in the area, of communications networks, mass media, and public utilities, of firms, organizations, and other entities having responsibilities related to the provision of emergency medical services, and representatives of the general public who are not related to the provision of health care and who shall comprise at least one-third of the Council's voting membership.

"(b) The functions of such Council shall include development in consultation with the congruent areawide comprehensive health planning agency or agencies established pursuant to section 314(b), of the plan described in section 635(f) for areawide emergency medical services and shall include continuous monitoring and evaluation of the operation of the emergency medical service system with a view to making recommendations for the improved effectiveness of its operation.

"INTERAGENCY TECHNICAL COMMITTEE ON EMERGENCY MEDICAL SERVICES

"SEC. 637. The Secretary shall establish an Interagency Technical Committee on Emergency Medical Services which shall be responsible for coordinating those aspects and resources of all Federal programs and activities relating to emergency medical services to assure the adequacy and technical soundness of such programs and activities and to provide for the full communication and exchange of information necessary to maintain the necessary coordination and effectiveness of such programs and activities. The Secretary or his designee shall serve as Chairman of the Committee, which shall include appropriate scientific, medical, or technical representation from the Department of Transportation, the Department of Justice, the Department of Defense, the Veterans' Administration, the National Academy of Sciences, the National Science Foundation, the Office of Science and Technology, the Federal Communications Commission, the Office of Emergency preparedness, and such other Federal agencies, and parts thereof (including components of the Department of Health, Education, and Welfare), as the Secretary determines administer programs directly affecting emergency medical services functions or responsibilities.

"NATIONAL EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL

"SEC. 638. (a) The Secretary shall establish a National Emergency Medical Services Advisory Council with which he shall consult on a continuing and regular basis in administering this part. The Council shall consist of the Secretary or his designee, who shall serve as Chairman, the Director of the National Institutes of Health, and the Administrator of the Health Services and Mental Health Administration in the Department of Health, Education, and Welfare, all other members of the Interagency Technical Committee established under section 637, and eighteen members appointed by the Secretary, nine of which appointed members shall be members of the general public who are not related to the provision of emergency medical services, and nine shall be individuals experienced in the provision or development of, or the training of personnel to provide emergency medical services.

"(b) The functions of the Council shall be to review and advise the Secretary, through a subgroup which it shall appoint on applications received for grants and contracts under this part and to make recommendations to the Secretary with respect to carrying out the provisions of this part.

"(c) Each appointed member of the Council shall be appointed for a term of four years except that—

"(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(2) of the members first appointed after the effective date of this part, six shall be appointed for a term of four years, six shall be appointed for a term of three years, and six shall be appointed for a term of one year, as designated by the Secretary at the time of the appointment. Appointed members may serve after the expiration of their terms until their successors have taken office.

"(d) A vacancy in the Council shall not affect its activities, and fifteen members of the Council shall constitute a quorum.

"(e) Members of the Council who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the functions of the Council compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703, title 5, United States Code, for persons in the Government service employed intermittently.

"SEC. 639. (a) No application for a grant or contract under this part shall be approved unless—

"(1) the State comprehensive health planning agency established pursuant to section 314(a) and the areawide health planning agency established pursuant to section 314(b) have had an opportunity to comment thereon, within ninety days of the submission to those agencies of copies of such application, and the applicant has submitted to the Secretary a reply to any such comments with a view toward accommodating any objectives by and remedying any differences with such agency or agencies.

"(2) the applicant agrees to maintain such records and make such reports to the Secretary as the Secretary determines are necessary to carry out the provisions of this part.

"PAYMENTS AND CONDITIONS

"SEC 640. (a) Grants and contracts under this part shall be paid in advance or by way of reimbursement in such installments and on such conditions as in the judgment of the Secretary will best carry out the provisions of this part.

"(b) Nothing in this part shall limit or otherwise restrict the use of funds which are granted under other provisions of this Act or other Federal law and which are available for the conduct of medical emergency transportation and service programs from being used in connection with programs assisted through grants and contracts under this part where the former programs meet the standards and criteria established by the Secretary under this part.

"(c) Contracts may be entered into under this part without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"(d) No grants or contracts may be made under this part in support of an emergency medical service system except where all components of such system meet standards and criteria established in regulations by the Secretary after taking into account standards established by appropriate national professional or technical organizations.

"REPORTS

"SEC. 640A. The Secretary shall prepare and submit to the Congress, one year after enactment of this part and every year thereafter, a report on the administration of this part, which shall include an evaluation of the adequacy of the provision of emergency medical services throughout the Nation and the extent to which the needs for such services are being adequately met through assistance under this part and otherwise and his recommendation for any legislation necessary to promote the provision of and provide emergency medical services throughout the Nation at a level adequate to meet such needs."

STATE ALLOTMENTS

SEC. 103. Paragraph (1) of section 602(a) of the Public Health Service Act (42 U.S.C. 291(b)), as amended, is amended to read as follows:

"(1) For each fiscal year beginning after June 30, 1973, the Secretary shall, in accordance with regulations, make allotments among the States, from the sums appropriated under subparagraph (1), (2), or (3) of paragraph (a), or under subsection (b), of section 601, for grants for construction of, respectively (A) public or other nonprofit facilities for long-term care, (B) public or other nonprofit outpatient facilities, (C) public or other nonprofit rehabilitation facilities, and (D) public or other nonprofit hospitals and public health centers. Each allotment shall be made on the basis of the following factors: (i) the population, (ii) the square of the per capita income, and (iii) the extent of the need for construction of the facilities for which grants from the allotment are to be made, of the respective States. For purposes of applying the preceding sentence, the factor referred to in clause (i) thereof shall be assigned a value equal to the value assigned to the factor referred to in clause (ii) thereof, and the value assigned to the factor referred to in clause (iii) shall be assigned a value equal to one-half of the value assigned to the factor referred to in clause (i) or (ii) thereof."

LOAN LIMITATIONS

SEC. 104. Part A of title VI of the Public Health Service Act is amended by adding at the end thereof the following new section:

"SEC. 611. In any fiscal year no loan guarantee may be made under this part and no agreement to make interest subsidy payments may be entered into under this title if the making of such guarantee or the entering into of such agreement which would cause the cumulative total of—

"(1) the principal of the loans guaranteed under this title in such fiscal year, and

"(2) the principal of the loans for which no guarantee has been made under this title and with respect to which an agreement to make interest subsidy payments is entered into under this title in such fiscal year,

to exceed the amount of grant funds obligated under this title in such fiscal year; except that this paragraph shall not apply if the amount of grant funds obligated under this title in such fiscal year equals the sums appropriated for such fiscal year."

REGIONAL MEDICAL PROGRAM

SEC. 105. (a) Section 902 of such title is amended by inserting "(including area health education and service centers)" immediately after "regional medical program" in subsection (a).

(b) Title IX of such Act is further amended by adding at the end thereof the following new section:

"AREA HEALTH EDUCATION AND SERVICE CENTERS

"SEC. 911. Notwithstanding limitations with regard to the diseases with which this title is concerned, the Secretary is authorized to make grants to and enter into contracts with regional medical programs for the purpose of developing area health education and service centers.".

(c) The title of title IX of the Public Health Service Act is amended to read as follows:

"TITLE IX—REGIONAL COOPERATIVE ARRANGEMENTS FOR EDUCATION, RESEARCH, TRAINING, AND DEMONSTRATION TO IMPROVE HEALTH SERVICES AND MEDICAL CARE"

AVAILABILITY OF APPROPRIATIONS

SEC. 106. Notwithstanding any other provision of law, unless enacted after the enactment of this Act expressly in limitation of the provisions of this Act, funds appropriated for any fiscal year to carry out any program for which appropriations are authorized by the Public Health Service Act or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 shall remain available for obligation and expenditure until the end of such fiscal year.

CONTINUATION OF SUPPORT OF NATIONAL HEALTH SURVEYS AND STUDIES

SEC. 107. (a) Section 305(a)(1)(H) of the Public Health Service Act is amended to read as follows:

"(H) a vital statistics system to include family formation, growth, and dissolution; and".

(b) Section 305(a)(2) of such Act is amended by inserting immediately before the period at the end of the first sentence the following: "; to set standards, to establish quality control systems, to develop uniform data collection forms, definitions, and procedures, and to provide technical assistance and training for the collection and compilation of such statistics".

(c) Section 305(b) of such Act is amended by adding at the end thereof the following new sentence: "Such system is to be implemented through contracts and grants in a continuing program of sharing costs with States and local governments to maintain data systems which collect and provide comparable data for national purposes."

(d) Section 305(d) of such Act is amended to read as follows:

"(d) There are authorized to be appropriated to carry out the purposes of this section $25,000,000 for the fiscal year ending June 30, 1973; and $35,000,000 for the fiscal year ending June 30, 1974.".

CONTINUATION OF ASSISTANCE FOR ALLIED HEALTH PROFESSIONS

SEC. 108. (a) Section 791(a)(1) of the Public Health Service Act is amended to read as follows:

"SEC. 791. (a)(1) There are authorized to be appropriated for grants to assist in the construction of new facilities for training centers for allied health professions or replacement or rehabilitation of existing facilities for such centers $40,000,000 for the fiscal year ending June 30, 1973; $40,000,000 for the fiscal year ending June 30, 1974;".

(b)(1) Subsection (a)(1) of section 792 of such Act is amended to read as follows:

"SEC. 792. (a)(1) There are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1973; and $15,000,000 for the fiscal year ending June 30, 1974;".

(2) Subsection (b) of such section is amended to read as follows:

"(b) There are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1973; and $30,000,000 for the fiscal year ending June 30, 1974, for special improvement grants to assist training centers for allied health professions in projects for the provision, maintenance, or improvement of the specialized function which the center serves."

(3) Subsection (c)(1) of such section is amended to read as follows:

"(c)(1) There are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1973; and $30,000,000 for the fiscal year ending June 30, 1974, for grants and contracts for special projects under this subsection."

(c) Section 793(a) of such Act is amended by striking out all of the first sentence through "1973" and inserting in lieu thereof the following:

"SEC. 793. (a) There are authorized to be appropriated $12,000,000 for the fiscal year ending June 30, 1973; and $12,000,000 for the fiscal year ending June 30, 1974; to cover the costs of traineeships for the training of allied health professions personnel to teach health service technicians or in any of the allied health professions to serve in any of such positions in administrative or supervisory capacities or to serve in allied health professions specialties determined by the Secretary to require advanced training."

(d) Subsection (b) of section 794A of such Act is amended to read as follows:

"(b) For the purpose of carrying out the provisions of this section there are authorized to be appropriated $1,250,000 for the fiscal year ending June 30, 1973; and $1,250,000 for the fiscal year ending June 30, 1974;".

(e) Subsection (f) of section 749B of such Act is amended to read as follows:

"(f) There are authorized to be appropriated for the purpose of carrying out the provisions of this section $6,000,000 for the fiscal year ending June 30, 1973; and $10,000,000 for the fiscal year ending June 30, 1974;".

(f) Subsection (e) of section 794C of such Act is amended to read as follows:

"(e) There are authorized to be appropriated for the purpose of carrying out the provisions of this section $6,000,000 for the fiscal year ending June 30, 1973; and $6,000,000 for the fiscal year ending June 30, 1974;".

(g) The first sentence of subsection (c) of section 794D of such Act is amended to read as follows:

"(c) There are authorized to be appropriated to the Secretary for Federal capital contributions to student loan funds pursuant to subsection (a)(2)(B)(i) $10,000,000 for the fiscal year ending June 30, 1973; and $10,000,000 for the fiscal year ending June 30, 1974, and there are also authorized to be appropriated such sums for the fiscal year ending June 30, 1975, and each of the two succeeding fiscal years as may be necessary to enable students who have received a loan for any academic year ending before July 1, 1974, to continue or complete their education."

ALLIED HEALTH EDUCATION COST STUDY

SEC. 109. Section 797 of the Public Health Service Act is amended to read as follows:

"STUDY OF COSTS OF EDUCATING STUDENTS IN THE VARIOUS ALLIED HEALTH PROFESSIONS

"SEC. 797. (a)(1) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as 'Secretary') shall arrange for the conduct of a study or studies to determine the national average annual per student educational cost of schools of the various allied health professions which lead to a certificate of degree or other appropriate evidence of completion of a course of training for practice in the various allied health professions.

"(2) Such studies shall be completed and an interim report thereon submitted not later than March 30, 1974, and a final report not later than January 1, 1975, to the Secretary, the Committee on Labor and Public Welfare of the Senate, and the Committee on Interstate and Foreign Commerce of the House of Representatives.

"(3) Such studies shall develop methodologies for ascertaining the national average annual per student educational costs and shall, on such basis, determine such costs for school years 1972–1973, 1973–1974, and the estimated costs for school year 1974–1975 in the respective disciplines. The study shall also indicate the extent of variation among schools within the respective disciplines in their annual per student educational costs and the key factors affecting this variation. The studies shall employ the most recent data available from the allied health professional schools in the country at the time of the study.

"(4) Such studies shall also describe national uniform standards for determining annual per student educational costs for each allied health professional school in future years and estimates of the cost to such schools of reporting according to these uniform standards.

"(5) The report shall also include recommendations concerning how the Federal Government can utilize educational cost per student data to determine the amount of capitation grants under the Public Health Service Act to each allied health professional school.

"(b) (1) The Secretary shall request the Institute of Medicine of the National Academy of Sciences, to conduct such studies under an arrangement under which the actual expenses incurred by such Institute in conducting such studies will be paid by the Secretary. If the Institute of Medicine of the National Academy of Sciences, is willing to do so, the Secretary shall enter into such an arrangement with such Institute for the conduct of such studies.

"(2) If the Institute of Medicine of the National Academy of Sciences, is unwilling to conduct one or more of such studies under such an arrangement, then the Secretary shall enter into a similar arrangement with other appropriate nonprofit private groups or associations under which such groups or associations will conduct such studies and prepare and submit the reports thereon as provided in subsection (a) (2)."

SEX DISCRIMINATION

SEC. 110. Section 799A of part H, title VII of the Public Health Service Act is amended by adding at the end thereof the following new sentence: "This section shall not apply until July 1, 1978, in the case of a school of medicine which has begun the process of changing from being an institution which admits only female students to being an institution which admits students of both sexes, but only if it is carrying out a plan for such a change which is approved by the Secretary."

TECHNICAL AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

SEC. 111. Sections 767, 768, 769, 769A, and 769B (added by section 107 of Public Law 92–157) are redesignated as sections 769, 769A, 769B, 769C, and 769D, respectively.

PART B—AMENDMENT TO THE MENTAL RETARDATION FACILITIES AND COMMUNITY MENTAL HEALTH CENTERS CONSTRUCTION ACT

COMMUNITY MENTAL HEALTH CENTERS

SEC. 112. (a) Section 201 of the Community Mental Health Centers Construction Act is amended to read as follows:

"SEC. 201. There are authorized to be appropriated for grants for facilities of public and other nonprofit community mental health centers under this title $100,000,000 for the fiscal year ending June 30, 1973; $40,000,000 for the fiscal year ending June 30, 1974; and $50,000,000 for the fiscal year ending June 30, 1975;".

(b) Section 207 of such Act is amended to read as follows:

"SEC. 207. No grant may be made under any provision of the Public Health Service Act for any fiscal year, for construction of any facility described in this title unless the Secretary determines that funds are not available, under this title to make a grant for the construction of such facility.".

(c) Section 224(a) of such Act is amended to read as follows: "There are hereby authorized to be appropriated to enable the Secretary to make initial grants to community mental health centers, under the provisions of this part, $60,000,000 for the fiscal year ending June 30, 1973; $90,000,000 for the fiscal year ending June 30, 1974; and $100,000,000 for the fiscal year ending June 30, 1975. For the fiscal year ending June 30, 1973, and each of the thirteen succeeding fiscal years there are hereby authorized to be appropriated such sums as may be necessary to make grants to such centers which have previously received a grant under this part and are eligible for such a grant by the year for which sums are being appropriated under this sentence.".

(d) Section 246 of such Act is amended by striking "June 30, 1973" and inserting in lieu thereof "June 30, 1975".

(e) Section 247(d) of such Act is amended to read as follows:

"(d) To carry out the purposes of this section there are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1973; $60,000,000 for the fiscal year ending June 30, 1974; and $60,000,000 for the fiscal year ending June 30, 1975."

(f) Section 252 of such Act is amended by striking "June 30, 1973" and inserting in lieu thereof "June 30, 1975".

(g) Section 253(d) of such Act is amended to read as follows:

"(d) To carry out the provisions of this section there are authorized to be apppropriated $14,000,000 for the fiscal year ending June 30, 1973; $14,000,000 for the fiscal year ending June 30, 1974; and $14,000,000 for the fiscal year ending June 30, 1975.".

(h) (1) Section 261(a) of such Act is amended by inserting after "June 30, 1973," the following: "$90,000,000 for the fiscal year ending June 30, 1974, and $100,000,000 for the fiscal year ending June 30, 1975,".

(2) Section 261(a) of such Act is further amended by striking "construction and staffing of facilities" and inserting in lieu thereof "facility and operating costs of facilities".

(3) Section 261(b) of such act is amended to read as follows:

"(b) There are authorized to be appropriated for the fiscal year ending June 30, 1971, and each of the next fifteen years such sums as may be necessary to make grants for operating costs with respect to any project under part C or D for which an operating grant was made from appropriations under subsection (a) of this section for any fiscal year ending before July 1, 1975."

(i) (1) Section 271(d) of such Act is amended to read as follows:

"(d) (1) There are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1973; $45,000,000 for the fiscal year ending June 30, 1974; and $55,000,000 for the fiscal year ending June 30, 1975; for grants under this part for facilities and for initial grants under this part and for training and evaluation under section 272.

"(2) There are also authorized to be appropriated for the fiscal year ending June 30, 1974, and for each of the next twelve fiscal years such sums as may be necessary to continue to make grants with respect to any project under this part for which grants for operating costs were made from appropriations under paragraph (1) for any fiscal year ending before July 1, 1975."

(2) Section 271 (a) of such Act is amended by striking the words "construction of" and "of compensation of professional and technical personnel".

(3) Section 271(b)(3) of such Act is amended by striking the words "construction of".

(4) Section 271 (c) of such Act is amended by striking the words "costs of compensation of professional and technical personnel" and inserting in lieu thereof the words "operating costs".

(j) Section 256(e) of such Act is amended to read as follows:

"(e) There are authorized to be appropriated to carry out this section $60,000,000 for the fiscal year ending June 30, 1973; $75,000,000 for the fiscal year ending June 30, 1974; and $75,000,000 for the fiscal year ending June 30, 1975;".

(k) (1) Section 220(b) is amended by striking in paragraph (1) the word "eight" and inserting in lieu thereof "twelve" and by striking the word "four" and inserting in lieu thereof "eight".

(2) Paragraph (2) of such subsection is amended by striking the word "three" immediately after the word "next" and inserting in lieu thereof "seven".

(3) Such subsection is further amended by adding at the end thereof the following new paragraph:

"(3) In any year where funds appropriated do not reach the level required to fully fund applications for assistance under paragraphs (1) and (2), the Secretary shall distribute the funds available as follows: 30 per centum for applicants under paragraph (1) and 70 per centum for applicants under paragraph (2)."

(l) (1) Section 220(a) of such Act is amended by striking the words "of professional and technical personnel" and inserting in lieu thereof the words "for operational costs".

(2) The caption for part B of such Act is amended to read as follows:

"PART B—GRANTS FOR INITIAL COSTS OF OPERATION OF CENTERS"

(m) Section 220 of such Act is further amended by adding at the end thereof the following:

"(d) Notwithstanding subsection (b) of this section, the Secretary may make additional grants to each center equal to 5 percentum of such costs, which maintains a bona fide program under parts, C, D, and G, for each such program. In no case shall grants exceed 100 per centum of such costs for any project."

(n) (1) Section 221(a) of such Act is amended by adding immediately after paragraph (5) the following new paragraphs:

"(6) the services to be provided by the center are made available to any health maintenance or health service organization if in the catchment area for such center;

"(7) such center has a program whereby it screens, and where practicable provides treatment for, persons within its catchment area, who may be admitted to a State mental health facility;

"(8) such center has a program for the followup care of persons within its catchment area, who are discharged from a State mental health facility."

"(2) Section 221(b) of such Act is amended by striking "June 30, 1973" and inserting in lieu thereof "June 30, 1975".

(o) Part B of such Act is amended by adding at the end thereof the following new section:

"GRANTS FOR CONSULTATION SERVICES

"SEC. 225. (a) In the case of any community mental health center, alcoholism prevention and treatment facility, specialized facility for alcoholics, treatment facility for narcotic addicts, and other persons with drug abuse and drug dependence problems, or facility for mental health of children, or mental health of the elderly to which a grant under part B, C, D, F, or G, as the case may be, is made from appropriations for any fiscal year beginning after June 30, 1972, to assist it in meeting a portion of the operating costs the Secretary may, with respect to such center or facility, make a grant under this section for consultation services in addition to such other operating grants for such center or facility.

"(b) A grant under subsection (a) with respect to a center or facility referred to in that subsection may not exceed 100 percent of such costs.

"(c) For the purposes of making initial grants under this section, there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1974; and $5,000,000 for the fiscal year ending June 30, 1974; and $5,000,000 for the fiscal year ending June 30, 1975."

(p) (1) Section 242 (a) of such Act is amended by striking the words "costs (determined pursuant to regulations of the Secretary) of compensation of professional and technical personnel" and inserting in lieu thereof the word "operating cost (determined pursuant to regulations of the Secretary)";

(2) Section 242(b) (1) is amended by striking the word "three" and inserting in lieu thereof "seven" and striking the word "eight" and inserting in lieu thereof "twelve";

(3) Section 242(b) (2) is amended by striking the word "three" and inserting in lieu thereof "seven";

(4) The section caption of section 242 of such Act is amended by striking the word "STAFFING" and inserting in lieu thereof "OPERATING."

(q) Section 243(a) of such Act is amended by striking the words "compensation of professional and technical personnel" and inserting in lieu thereof "operating expenses";

(r) Section 244 of such Act is amended by striking the words "a project for the construction or initial staffing" and inserting in lieu thereof the words "facility and operating costs".

(s) (1) Section 251(a) of such Act is amended by striking the words "of construction" and "of compensation of professional and technical personnel" and inserting in lieu of the latter the words "operating costs".

(2) Section 251(c) of such Act is amended by striking the words "costs of compensation of professional and technical personnel" and inserting in lieu thereof the words "operating costs".

(3) (A) Section 256(b) (1) of such Act is amended by striking the word "eight" and inserting in lieu thereof "twelve".

(B) Section 256(b) (2) of such Act is amended by striking the word "three" wherever it appears and inserting in lieu thereof the word "seven".

(4) Section 254 of such Act is amended by striking the words "a project for the construction or initial staffing of a" and inserting after the word "facility" the words "operating costs".

MENTAL HEALTH OF THE ELDERLY

SEC. 113. The Community Mental Health Centers Act is amended by adding at the end thereof the following new part:

"PART G—MENTAL HEALTH OF THE ELDERLY

"GRANTS FOR TREATMENT FACILITIES

"SEC. 281. (a) Grants from appropriations under section 282(a) may be made to public or nonprofit private agencies and organizations (1) to assist them in meeting the costs of facilities to provide mental health services for the elderly within the States, and (2) to assist them in meeting a portion of the operating costs (determined pursuant to regulations of the Secretary) of a facility for mental health of the elderly assisted with a grant made under part A or this part or for the operation of new services for mental health of the elderly in an existing facility.

"(b) (1) Grants may be made under this section only with respect to (A) facilities which are part of or affiliated with a community mental health center providing at least those essential services which are prescribed by the Secretary, or (B) where there is no such center serving the community in which such facilities are to be situated, facilities with respect to which satisfactory provision (as determined by the Secretary) has been made for appropriate utilization of existing community resources needed for an adequate program of prevention and treatment of mental health problems of the elderly.

"(2) The grant program for costs of operating facilities authorized by subsection (a) shall be carried out consistently with the grant program under part A, except that the amount of any such grant with respect to any project shall be such percentage of the cost thereof, but not in excess of 70 per centum (or 90 per centum in the case of a facility providing services for persons in an area designated by the Secretary as an urban or rural poverty area), as the Secretary may determine.

"(c) Grants made under this section for operating costs may not exceed the percentages of such costs, and may be made only for the periods prescribed for grants for such costs under section 242.

"(d) (1) There are authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1973; $30,000,000 for the fiscal year ending June 30, 1974; and $40,000,000 for the fiscal year ending June 30, 1975, for grants under this part for facilities and for initial grants under this part for the operating expenses and for training and evaluation grants under section 282.

"(2) There are also authorized to be appropriated for the fiscal year ending June 30, 1974, and each of the next twelve fiscal years, such sums as may be necessary to continue to make grants with respect to any project under this part for which an operating grant was made from appropriations under paragraph (1) for any fiscal year ending before July 1, 1975.

"TRAINING AND EVALUATION

"SEC. 282. The Secretary is authorized, during the period beginning July 1, 1973, and ending with the close of June 30, 1975, to make grants to public or nonprofit private agencies or organizations to cover part or all of the cost of (1) developing specialized training programs or materials relating to the provision of services for the mental health of the elderly; or developing inservice training or short-term or refresher courses with respect to the provisions of such services; (2) training personnel to operate, supervise, and administer such services; and (3) conducting surveys and field trials to evaluate the adequacy of the programs for the mental health of the elderly within the several States with a view to determining ways and means of improving, extending, and expanding such programs."

TITLE II—MEDICAL LIBRARY ASSISTANCE

SEC. 201. That this title may be cited as the "Medical Libraries Act of 1972".

EXTENSION OF ASSISTANCE TO MEDICAL LIBRARIES

SEC. 202. (a) Section 393(h) of the Public Health Service Act is amended to read as follows:

"(h) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $13,000,000 for the fiscal year ending June 30, 1973, $15,000,000 for the fiscal year ending June 30, 1974, $17,000,000 for the fiscal year ending June 30, 1975, $19,000,000 for the fiscal year ending June 30, 1976, and $21,000,000 for the fiscal year ending June 30, 1977."

(b) The first sentence of section 394(a) of such Act is amended to read as follows:

"In order to enable the Secretary to carry out the purposes of section 390(b) (2) of this Act, there are authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1973, $4,000,000 for the fiscal year ending June 30, 1974, $6,000,000 for the fiscal year ending June 30, 1975, $8,000,000 for the fiscal year ending June 30, 1976, and $10,000,000 for the fiscal year ending June 30, 1977."

(c) (1) Section 395(a) of such Act is amended by striking "June 30, 1973" and inserting in lieu thereof "June 30, 1977".

(2) Section 395(b) of such Act is amended by striking "June 30, 1973" and inserting in lieu thereof "June 30, 1977".

(d) Section 396(a) of such Act is amended to read as follows:

"SEC. 396. (a) In order to enable the Secretary to carry out the purposes of section 390(b) (5), there are authorized to be appropriated $4,500,000 for the fiscal year ending June 30, 1973, $6,000,000 for the fiscal year ending June 30, 1974, $7,500,000 for the fiscal year ending June 30, 1975, $9,000,000 for the fiscal year ending June 30, 1976, $11,500,000 for the fiscal year ending June 30, 1977."

(e) The first sentence of section 397(a) is amended to read as follows:

"In order to enable the Secretary to carry out the purposes of section 390(b) (6) there are authorized to be appropriated $3,500,000 for the fiscal year ending June 30, 1973, $5,000,000 for the fiscal year ending June 30, 1974, $6,500,000 for the fiscal year ending June 30, 1975, $8,000,000 for the fiscal year ending June 30, 1976, and $9,500,000 for the fiscal year ending June 30, 1977."

(f) The first sentence of section 398(a) of such Act is amended by striking "June 30, 1973" and inserting in lieu thereof "June 30, 1977".

TITLE III—EMERGENCY HEALTH PERSONNEL ACT AMENDMENTS

SEC. 301. That this title may be cited as the "Emergency Health Personnel Act Amendments of 1972".

SEC. 302. (a) Section 329(a) of the Public Health Service Act is amended to read as follows:

"SEC. 329. (a) There is established, within the Service, the National Health Service Corps (hereinafter in this section referred to as the "Corps") which shall consist of those officers of the Regular and Reserve Corps of the Service and such other personnel as the Secretary may designate and which shall be utilized by the Secretary to improve the delivery of health care and services to persons residing in areas which have critical health manpower shortages."

(b) Section 329(b) of such Act is amended to read as follows:

"(b) (1) The Secretary shall (a) designate those areas which he determines have critical health manpower shortages, (B) conduct information programs in such areas as may be necessary to inform the public and private health entities serving those areas of the benefits available under this Act and to encourage their application for such benefits, and (C) assist such entities to apply for the assignment of Corps personnel and other benefits authorized under this Act.

"(2) (A) Upon request of a State or local health agency, or any public or nonprofit private health entity in an area designated by the Secretary under paragraph (1) (A), and upon certification to the Secretary by the State and the district medical societies (or dental societies, or other appropriate health societies as the case may be) for that area, and by the local government for that area, that such health personnel are needed for that area, the Secretary may assign personnel as are needed for that area, the Secretary may assign personnel of the Corps to provide, under regulations prescribed by the Secretary, health care and services for all persons residing in such areas except that where all of the foregoing conditions are met in an area, except certification of need by the State and local medical, dental, or other health societies, and the Secretary finds from all the facts presented that such certification has clearly been arbitrarily and capriciously withheld, then the Secretary may, after consultation with the appropriate medical, dental, or other health societies, assign such personnel to that area. Corps personnel shall be assigned to such area on the basis of the extent of the need for health services within the area and without regard to the ability of the residents of the area to pay for health services.

"(B) In providing health care and services under this section, Corps personnel shall utilize the facilities and organizational forms adapted to the particular needs of the area and shall make services equally available to all persons in such area regardless of the ability of such person to pay for the care and services provided in connection with—

"(i) direct health care programs carried out by the Service;

"(ii) any direct health care programs carried out in whole or in part with Federal financial assistance; or

"(iii) any other health care activity which is in furtherance of the purposes of this section.

"(C) Any person who receives health care or services provided under this section shall be charged for such care or service at a rate and in a manner (including prepayment, capitation, incentive reimbursement, fee-for-service, or other basis) established by the Secretary, pursuant to regulations, to recover the reasonable cost of providing such care or service; except that if such person is determined under regulations of the Secretary to be unable to pay such charge the Secretary shall provide for the furnishing of such care or service at a reduced rate or without charge. If a Federal agency, an agency of a State or local government, or other third party would be responsible for all or part of the cost of the care or service provided under this section if such care or service had not been provided under this section, the Secretary shall collect on a capitation, prepayment, incentive reimbursement, fee-for-service, or other basis from such agency or third party the portion of such cost for which it would be so responsible. Any funds collected by the Secretary under this subparagraph shall be deposited in the Treasury as miscellaneous receipts and funds allocated or obligated under this section shall not be dependent on or related to such fees collected in any way.

"(D) Notwithstanding the provisions of the Federal Property and Administrative Services Act (40 U.S.C. 471), the Secretary may transfer the title to any or all facilities, equipment, and supplies, belonging to the Service and being utilized by the Corps in a medically underserved area designated by the Secretary under subsection (a) to any public or private nonprofit institution which the Secretary determines will conform to minimum standards of operation prescribed by him. In a case where the Secretary determines, after a hearing on the record, that such real or personal property is not being utilized in conformance with such minimum standards, title shall revert (after payment of proper compensation for facility improvements, if any) to the United States. This paragraph shall not apply to any hospital or clinical facilities operated by the Service prior to December 31, 1971."

(c) Section 329(c) of such Act is amended by striking out "Service" and inserting in lieu thereof "Corps".

(d) Section 329(d) of such Act is amended—

(1) by striking out "Service" in the first sentence and inserting in lieu thereof "Corps", and by inserting before the period at the end of such sentence the following: ", except that if such area is being served (as determined under regulations of the Secretary) by a hospital or other health care delivery facility of the Service, the Secretary shall, in addition to such other arrangements as the Secretary may make to insure the availability of care or services by Corps personnel in the area, arrange for the utilization of such hospital or facility by Corps personnel in providing care and services in such area, but only if such utilization shall assure the continual provision of care to persons entitled to care and treatment at such facilities at such time":

(2) by striking out "If there are no such facilities in such area" in the second sentence and inserting in lieu thereof "If there are no health facilities in or serving such area";

(3) by adding after the second sentence the following new sentence: "In providing such care and services, the Secretary may (A) make such arrangements as he determines are necessary for the use of equipment and supplies of the Service and for the lease or acquisition of equipment and supplies, and (B) secure the temporary services of nurses and allied health professionals."; and

(4) by inserting "(1)" after "(d)" and by adding at the end of the following:

"(2) The Secretary shall conduct at medical and nursing schools and other schools of the health professions and training centers for the allied health professions, recruiting programs for the Corps. Such programs shall include the wide dissemination of written information on the Corps and visits to such schools by personnel of the Corps.

"(3) (A) For the purpose of recruiting persons for the Corps who have gained experience in the provision of health services as a direct result of specialized military training, the Secretary, in cooperation with the Department of Defense and the Veterans Administration shall develop a list of persons having such experience.

"(B) In the assignment of personnel to designated health manpower shortage areas, the Secretary shall give priority to persons recruited from the list developed under paragraph (A), with respect to such individuals' desires."

(e) Section 329(f) of such Act is amended (1) by striking out "Service" in paragraphs (1) and (3) and inserting in lieu thereof "Corps", and (2) by striking out "to select commissioned officers of the Service and other personnel" in paragraph (2) and inserting in lieu thereof "to select personnel of the Corps".

(f) Subsection (g) of section 329 of such Act is redesignated as subsection (k) and the following new subsections are inserted after subsection (f) of such section:

"(g) The Secretary shall report to Congress no later than May 15 of each year—

"(1) the number of areas designated under subsection (b) in the calendar year preceding the year in which the report is made as having critical health manpower shortages and the number of areas which the Secretary estimates will be so designated in the calendar year in which the report is made;

"(2) the number and types of Corps personnel assigned in such preceding calendar year to areas designated under subsection (b), the number and types of additional Corps personnel which the Secretary estimates will be assigned to such areas in the calendar year in which the report is submitted, and the need (if any) for additional personnel for the Corps; and

"(3) the number of applications filed in such preceding calendar year for assignment of Corps personnel under this section and the action taken on each such application.

"(h) Section 5532 of title 5, United States Code shall not apply to a retired officer of a regular component of a uniformed service who holds a full-time position with the Corps, during the time he holds such position.

"(i) The Secretary may from time to time and for such period as he deems advisable, secure the assistance and advice of experts, scholars, and consultants, including the services of advertising and other public information specialists, to foster, promote, and improve the image of the Corps with regard to the provision of health services and with the further aim of emphasizing recruitment of new and retention of present members of the Corps.

"(j) The Secretary may reimburse applicants for positions in the Corps for actual expenses incurred in traveling to and from their place of residence to an area in which they would be assigned for the purpose of evaluating such area with regard to being assigned in such area. The Secretary shall not reimburse an applicant for more than one such trip."

(g) Section 329 (k), as redesignated by this Act, of such Act is amended by striking out "and" after "1972;" and by striking out the period at the end and inserting in lieu thereof "; $30,000,000 for the fiscal year ending June 30, 1974; $40,000,000 for the fiscal year ending June 30, 1975, sums appropriated under this section shall remain available until expended."

(h) Section 329 of such Act is further amended by adding at the end thereof the following new subsection:

"(l) Where the Corps requires personnel assigned to designated shortage areas to obtain State and local licenses or permits, the Secretary shall pay the fees therefor."

SEC. 303. (a) The Secretary may not close or transfer control of a hospital or other health care delivery facility of the Public Health Service unless—

(1) he transmits to each House of Congress, on the same day and while each House is in session, a detailed explanation (meeting the requirements of subsection (b)) for the proposed closing or transfer, and

(2) a period of ninety calendar days of continuous session of Congress has elapsed after the date on whch such explanation is transmitted.

For purposes of paragraph (2), continuity of session is broken only by an adjournment of Congress sine die, and the days on which either House is not in session because an adjournment of more than three days to a day certain are excluded in the computation of the ninety-day period.

(b) Each explanation submitted under subsection (a) for closing or transferring control of a hospital or other health care delivery facility of the Public Health Service shall contain—

(1) (A) assurances that persons entitled to treatment and care at the hospital or other facility proposed to be closed or transferred and persons for whom care and treatment at such hospital or other facility is authorized will, after the proposed closing or transfer, continue to be provided such equivalent care and treatment through such hospital or other facility, or under such new arrangement, and (B) a detailed explanation of how such care will be provided to such persons, and an estimate of the cost of providing such care and treatment to such persons after the proposed closing or transfer;

(2) (A) assurances that the capacity to supply health services to the critical manpower shortage areas near the facility will not be impaired by the closing or transfer and (B) a detailed explanation of how persons residing in such areas will be provided such care and treatment after the proposed closing or transfer;

(3) (A) assurances that any teaching program conducted at the hospit[illegible]r other facility proposed to be closed [illegible] be conducted at other appropriate fa[illegible]ties, and (B) a detailed explanation o[illegible]ow such program will be conducted after the proposed closing or transfer; and

(4) the approval of those agencies estab-

lished under section 314 (a) and (b) of the Public Health Service Act, having jurisdiction in the area in which such hospital or other facility is located, where both such agencies exist or the approval of only one such agency where only one exists in such area.

SEC. 304. Section 741 (f) of the Public Health Service Act is amended (1) by striking out "The payments" in paragraph (2) and inserting in lieu thereof "Except as otherwise provided in this paragraph, the payments", and (2) by adding after and below subparagraph (C) the following:

"In the case of any individual who qualified under paragraph (1) for payments on the principal of and interest on a loan and who, as a member of the National Health Service Corps, practices his profession in an area designated under section 329(b), the portion of the principal of and interest on the loans for which payments may be made for and on his behalf under paragraph (1) shall, upon completion of the first year of such practice, be 50 per centum and, upon completion of the second year of such practice, be the remaining 50 per centum."

SEC. 305. Section 218 of the Public Health Service Act is amended to read as follows:

"PUBLIC HEALTH AND NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP TRAINING PROGRAM

"SEC. 218. (a) The purpose of the Public Health and National Health Service Corps scholarship training program (hereinafter referred to as 'such program') is to obtain trained physicians, dentists, nurses, and other health-related specialists for the National Health Service Corps and the Public Health Service Corps of the Department of Health, Education, and Welfare.

"(b) To be eligible for acceptance and continued participation in such program, each applicant must—

"(1) be accepted for enrollment, or be enrolled as a full-time student in an accredited (as determined by the Secretary) educational institution in the United States, or its territories or possessions;

"(2) pursue an approved course of study, and maintain an acceptable level of academic standing, leading to a degree in medicine, dentistry, or other health related specialty, as determined by the Secretary;

"(3) be eligible for, or hold an appointment as a commissioned officer in the Regular or Reserve Corps of the Public Health Service or be selected for civilian service in the National Health Service Corps; and

"(4) agree in writing to serve in the Commissioned Corps of the Public Health Service or as a civilian member of the National Health Service Corps following completion of training as provided in subsection (f) of this section, in the National Health Service Corps, the Indian Health Service, the Federal Health Programs Service, and such other programs as the Secretary may designate.

"(c) Each participant in such program will be authorized a stipend for each approved academic year of training, not to exceed four years, in an amount prescribed by the Secretary and payable in monthly installments. The stipend shall not exceed an amount equal to the basic pay and allowances of a commissioned officer on active duty in pay grade O–I with less than two years of service, plus an amount to cover the reasonable cost of books, supplies, equipment, student medical expenses, and other necessary educational expenses which are not otherwise paid as a part of the basic tuition payment.

"(d) The Secretary may contract with an accredited educational institution for the payment of tuition and other education expenses, not otherwise covered under subsection (c) of this section, for persons participating in such program. If necessary, persons participating in such program may be reimbursed for the actual cost of tuition and other educational expenses authorized in this subsection, in lieu of a contract with the educational institution.

"(e) A person participating in such program shall be obligated to serve on active duty as a commissioned officer in the Public Health Service or as a civilian member of the National Health Service Corps following completion of academic training, for a period of time prescribed by the Secretary which will not be less than one year of service on active duty for each academic year of training received under such program. For persons receiving a degree from a school of medicine, osteopathy or dentistry, the commencement of a period of obligated service can be deferred for the period of time required to complete internship and residency training. For persons receiving degrees in other health professions the obligated service period will commence upon completion of their academic training. Periods of internship or residency shall not be creditable in satisfying an active duty service obligation under this section except that if such residency is served in a Public Health Service facility or facility of the National Health Service Corps such residency shall be counted as satisfying the active duty service obligation under this section.

"(f) If, for any reasons, a person fails to complete an active duty service obligation under this section, he shall be liable for the payment of an amount equal to the cost of tuition, and other education expenses, and salary expenses, paid under this section plus interest at the maximum legal prevailing rate. Any amount which the United States is entitled to recover under this paragraph shall, within the three-year period beginning on the date the United States becomes entitled to recover such amount, be paid to the United States. Until any amount due the United States under this paragraph on account of any grant under this subpart is paid, there shall accrue to the United States interest on such amount at the same rate as that fixed by the Secretary of the Treasury with respect to the grant on account of which such amount is due the United States.

"(g) When a person undergoing training in such program is academically dismissed or voluntarily terminates academic training, he shall be liable for repayment to the Government for an amount equal to the cost of tuition and other educational expenses paid from Federal funds, plus all salary payment which he received under such program.

"(h) The Secretary shall by regulations provide for the waiver or suspension of any such obligation applicable to any individual whenever compliance by such individual is impossible or would involve extreme hardship to such individual and if enforcement of such obligation with respect to any individual would be against equity and good conscience.

"(i) Notwithstanding any other provision of law, persons undergoing academic training under such program shall not be counted against any employment ceiling affecting the Department of Health, Education, and Welfare.

"(j) The Secretary of Health, Education, and Welfare shall issue regulations governing the implementation of this section.

"(k) To carry out the purposes of this program, there are authorized to be appropriated $10,800,000 for the fiscal year ending June 30, 1974, and $11,500,000 for the fiscal year ending June 30, 1975."

SEC. 306. Section 2(f) of the Public Health Service Act is amended by inserting after "Puerto Rico," the following: "Guam, American Samoa, and the Trust Territory of the Pacific Islands,".

TITLE IV—MIGRANT HEALTH

SEC. 401. Section 310 of the Public Health Service Act is amended by striking out "$30,000,000 for the fiscal year ending June 30, 1973," and inserting in lieu thereof "not to exceed $60,000,000 for the fiscal year ending June 30, 1973, $105,000,000 for the fiscal year ending June 30, 1974, and $120,000,000 for the fiscal year ending June 30, 1975".

SEC. 402. Section 310 of the Public Health Service Act is further amended by striking "and" immediately before the clause designation "(ii)" in paragraph (1) and inserting at the end of such clause the following: "and (iii) premiums for a prepaid health care plan eligible for Federal assistance where such clinics or special projects so request. All such clinics, special projects, and prepaid health care plans shall provide outreach and follow-up services;".

SEC. 403. Section 310 of the Public Health Service Act is further amended by inserting "(a)" immediately after the section designation and by adding at the end of such subsection the following new subsection:

"(b) There are hereby authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1973, $35,000,000 for the fiscal year ending June 30, 1974, and $40,000,000 for the fiscal year ending June 30, 1975, to enable the Secretary to assist in the provision of necessary hospital care to domestic agricultural migratory workers and their families."

SEC. 404. Section 310 of the Public Health Service Act is further amended by adding at the end of new subsection (b) the following new subsection:

"(c) In making grants under this section the Secretary shall give priority to those applicants whose policy-making body is composed of a majority of persons who are consumers of its services, where competing applicants appear to the Secretary of Health, Education, and Welfare to be equally qualified."

TITLE V—PUBLIC HEALTH GRADUATE TRAINING

SEC. 501. Section 306(a) of the Public Health Service Act is amended to read as follows:

"SEC. 306. (a) There are authorized to be appropriated to cover the cost of traineeships for graduate or specialized training in public health for physicians, engineers, nurses, sanitarians, and other professional health personnel, $16,000,000 for the fiscal year ending June 30, 1972; $18,000,000 for the fiscal year ending June 30, 1973; $22,000,000 for the fiscal year ending June 30, 1974; $26,000,000 for the fiscal year ending June 30, 1975; $30,000,000 for the fiscal year ending June 30, 1976; and $34,000,000 for the fiscal year ending June 30, 1977."

SEC. 502. Section 309 (a) of such Act is amended to read as follows:

"SEC. 309. (a) In order to enable the Secretary to make project grants to schools of public health, and to other public or nonprofit private institutions providing graduate or specialized training in public health, for the purpose of strengthening or expanding graduate or specialized public health training in such institutions, there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1972; $16,000,000 for the fiscal year ending June 30, 1973; $17,000,000 for the fiscal year ending June 30, 1974; $18,000,000 for the fiscal year ending June 30, 1975; $19,000,000 for the fiscal year ending June 30, 1976; and $20,000,000 for the fiscal year ending June 30, 1977."

SEC. 503. (a) Section 309 (c) of such Act is amended to read as follows:

"(c) The Secretary shall make grants, to public and nonprofit schools of public health accredited by a body or bodies recognized by the Secretary, to provide assistance for—

"(1) comprehensive and multidisciplinary training in the field of public health; and

"(2) specialized consultative services and technical assistance in the field of public health."

(b) Section 309 of such Act is amended by adding at the end thereof the following new subsections:

"(d) The Secretary shall prescribe by regulation such terms and conditions as he deems necessary for the making of grants under subsection (c).

"(e) In awarding grants made under subsection (c), the Secretary shall give primary consideration to the relative number of students enrolled in such schools.

"(f) There are authorized to be appropriated for carrying out the purposes of subsection (c), $21,000,000 for the fiscal year ending June 30, 1973; $24,500,000 for the fiscal year ending June 30, 1974; $28,000,000 for the fiscal year ending June 30, 1975; $31,500,000 for the fiscal year ending June 30, 1976; and $35,000,000 for the fiscal year ending June 30, 1977.

"(g) To enable the Secretary to make project grants to schools of public health, and to other public or nonprofit private institutions providing graduate training in health care administration and management training, and for the purpose of strengthening or expanding such training in such institutions, there are hereby authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1973; $4,000,000 for the fiscal year ending June 30, 1974; $6,000,000 for the fiscal year ending June 30, 1975; $8,000,000 for the fiscal year ending June 30, 1976; and $10,000,000 for the fiscal year ending June 30, 1977."

SEC. 504. Sections 306 and 309 of the Public Health Service Act are each amended by striking out "Surgeon General" each place it occurs and inserting in lieu thereof "Secretary".

Mr. KENNEDY. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. COOK. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY subsequently said: Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized in the engrossment of S. 3716, to amend the Public Health Act, and so forth, to change the word "title" on line 7, page 33, to "act" and further that the Secretary of the Senate be authorized to make any technical and clerical changes in the engrossment of the said bill.

REGULATION OF THE DRUG DIETHYLSTILBESTROL (DES)

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1033, S. 2818, and that it be laid before the Senate and made the pending business.

The PRESIDING OFFICER (Mr. CANNON). The bill will be stated by title.

The assistant legislative clerk read as follows:

S. 2818, to amend the Federal Food, Drug, and Cosmetic Act to prohibit the administration of the drug diethylstilbestrol (DES) to any animal intended for use as food, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare with an amendment, to strike out all after the enacting clause and insert:

That section 301 of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end thereof the following new subsection:

"(q)(1) The administering of the drug diethylstilbestrol (DES) to the feed of any animal intended for use as food or to the feed of any animal the product of which is intended for use as food.

"(2) After December 31, 1972, the administering of the drug diethylstilbestrol (DES) to any animal intended for use as food or to any animal the product of which is intended for use as food unless, prior to such date, the Secretary affirmatively determines (pursuant to tests specifically designed to detect residues of such drug) that the provisions of section 512(d)(1)(H) of this Act are not applicable. If prior to December 31, 1972, the Secretary affirmatively determines (pursuant to tests specifically designed to detect residues of such drug) that the provisions of section 512(d)(1)(H) of this Act are applicable, he shall take immediate steps to prohibit the administering of such drug."

Mr. KENNEDY. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Massachusetts may proceed.

Mr. KENNEDY. Mr. President, I yield to the Senator from Nebraska.

Mr. CURTIS. Mr. President, a parliamentary inquiry.

Mr. MANSFIELD. Mr. President, would the Senator allow me briefly to suggest the absence of a quorum for 1 minute?

Mr. CURTIS. Surely.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. MANSFIELD. Mr. President, again I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a time limitation of 2 hours on the bill and a time limitation of 30 minutes on each amendment, with 15 minutes on amendments to the amendments; the time to be equally divided between the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Nebraska (Mr. CURTIS).

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Mr. KENNEDY. Mr. President, I yield myself 7 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 7 minutes.

Mr. KENNEDY. Mr. President, the legislation we are considering today was introduced by the distinguished Senator from Wisconsin (Mr. PROXMIRE) on November 8, 1971, for himself, Senators CASE, MOSS, RIBICOFF, and myself. It was considered before our Health Subcommittee.

Mr. President, I urge the enactment of S. 2818, a bill which would regulate the use of diethylstilbestrol as a food additive. DES is a synthetic estrogen which is effectively used to expedite the process of fattening cattle; but it is also a universally recognized animal carcinogen and has been shown to be a causal factor in the development of human vaginal cancer. In spite of the fact that the Food, Drug, and Cosmetic Act is, in part, designed to prohibit the appearance of known carcinogens in our food supply, DES is at this moment appearing on the American dinner table and is being ingested by the men, women, and children of this country.

Mr. President, the fact that DES residues should not be appearing in our slaughtered cattle is now beside the point; DES residues are appearing, and they are appearing with increasing frequency. The incidence has quadrupled since December—from 0.5 percent of all cattle tested to 2.4 percent of all cattle tested as of now.

I regret that the Food and Drug Administration has not acted promptly and thoroughly on this issue. A review of their involvement with DES is both instructive and disheartening:

In 1941 the FDA permitted 11 firms to market DES for clinical use.

In 1947 FDA permitted the poultry industry to implant DES pellets in order to fatten the poultry more quickly. Although DES was already a known carcinogen, FDA felt that there would be no residues of it in the food supply.

In 1954 the FDA granted permission to use DES as a cattlefeed additive, again convinced that no detectible residues would appear in our meat.

In 1955, making the same safety assumption, pellet implants of DES for cattle were approved.

Mr. President, the FDA developed a reliable assay method for the detection of DES residues in 1957. Tests showed residues of DES in liver and in the skin fat of poultry. Yet, on its own, the FDA took no action. After the Delaney amendment to the Food, Drug, and Cosmetic Act was passed in 1958 making the appearance of carcinogens in the meat supply illegal, the FDA banned the manufacture of DES in poultry.

Under the 1962 Kefauver-Harris amendments to the Food, Drug, and Cosmetic Act, the Secretary has the administrative option of allowing the use of a known cancer causing substance in the feeding of cattle only if he is reasonably certain that no residues of that substance will appear in the meat that reaches the American dinner table. The FDA instituted procedures for the use of DES designed to eliminate residues from the slaughtered cattle. They required that all cattle be withdrawn from DES

48 hours prior to slaughter. The incidence of DES residues continued to rise under these regulations and in December 1971, the Commissioner of the FDA conceded the procedures were ineffective, and announced new requirements—now cattle would have to be withdrawn from DES 7 days prior to slaughter.

In spite of this revision, the incidence of DES residues quadrupled. The Commissioner, in testimony before the Senate Health Subcommittee, which I chair, blamed the rising incidence on faulty compliance with sound administrative procedures. Two weeks later, however, the Commissioner acknowledged the receipt of new information which convinced him that no administrative procedure could eliminate DES residues. He then announced an immediate ban on the production of DES, but permitted the continued use of existing DES supplies to January 1, 1973. The announcement had no effect on DES implants. The Commissioner acknowledged that there was no evidence one way or the other on implants and that pending the completion of a Department of Agriculture study, implant use would be permitted.

Mr. President, if a substance is known to cause cancer in animals; if it is known to cause cancer—at higher doses—in humans; if the law clearly forbids the appearance of carcinogens in our food; and if the Commissioner himself admits that residues will appear if DES is used, then how can we allow the continued use and continued ingestion of a cancer-causing substance? Clearly we cannot, and the enactment of S. 2818 would immediately halt the use of DES as a feed additive.

There is a second important component of S. 2818 which deals with the use of implants. It is certainly true, Mr. President, that there is no evidence now that implants will leave detectible residues. But in view of the precedents in this situation, it is important to find out if they do, and to place the burden of proof on those who say it will not leave a residue.

Implants in poultry were allowed and then had to be removed. DES feed additives for cattle were allowed and are now being removed. Now the question of cattle implants has arisen and we must not again assume safety. Thus, S. 2818 directs the Secretary to conduct tests to determine if residues appear following implants. These test results must be reported by January 1, 1973, or DES implants will be banned. If the test results show that there are no residues, then implant use can continue; if they show residues, and the result is available prior to January 1, then the ban would become effective prior to January 1. This approach places the burden of proof where it should be—on those who claim the method is safe.

Mr. President, this Nation is committed to an all-out effort to conquer cancer. The U.S. Senate has distinguished itself as a leading force in that effort. We have set a difficult task for ourselves and our country, and we have to pursue the effort on many fronts: By supporting basic biomedical research; by supporting clinical research and epidemiologic investigations; by support of the training of needed professional manpower; by assuring prompt treatment for those who need it; and by controlling environmental hazards.

DES is an environmental carcinogen which can be controlled. The distinguished Director of the National Cancer Institute, Dr. Frank L. Rauscher, Jr., has stated that environmental carcinogens should be controlled whenever possible, and he used the DES case as an example of where it is possible. The distinguished director of the Cancer Control Bureau of New York State, Dr. Peter Greenwald, concurred in that opinion. He pointed out that there is far greater evidence linking DES to human cancer than there was or is linking cyclamates or pesticides to human cancer.

I would agree with those of my colleagues who say that there should have been no need for this legislation. But while the argument rages over the legality of the FDA's phased withdrawal approach, DES continues to appear on our dinner tables. Of course it is undesirable to pursue a piecemeal approach to the banning of hazardous substances; but it is intolerable to allow the Nation to be, as the Director of the National Cancer Institute has said, "a research laboratory" on the possible long-term carcinogenic effects of DES.

Mr. President, I urge the enactment of S. 2818, so that this known cancer-causing substance can be immediately removed from our daily diet.

Mr. CURTIS. Mr. President, I yield myself 10 minutes.

Mr. President, I yield to no person in the desire to eliminate cancer and the desire to eliminate everything that causes cancer. However, I also submit that unwise actions which are not based upon scientific fact merely confuse the issue, clutter the lawbooks, and hamper otherwise industrial activity. In the end it does not lessen cancer.

Mr. President, I rise to pose some very crucial questions as to the need to act upon S. 2818. The Food and Drug Administration on August 2, 1972, issued an order which banned the use of diethylstilbestrol—DES—in livestock feed effective January 1, 1973. They also stated at that time that DES in implants will be permitted continued use so long as no residues of the material show up in the liver tissues of beef animals. The USDA immediately undertook research utilizing the latest assay techniques to make this determination.

The bill sponsored by the Senator from Wisconsin, I submit, is not necessary in light of the actions of the Food and Drug Administration. In reviewing testimony presented at a hearing held by the Senate Subcommittee on Health, witnesses for the Food and Drug Administration made it clear that there was no imminent hazard to human health by permitting the continued use of DES in cattle feeds.

As a matter of fact, Mr. President, during that same hearing before the Health Subcommittee of the Committee on Labor and Public Welfare, FDA Commissioner Charles Edwards stated:

> I think the danger in eating a charcoal broiled steak is so much greater—the potential hazard is so much greater than a hazard by these DES residues, which are minimal, to say the least.

Mr. President, that statement comes from the highest authority in the U.S. Government in this particular field. It points out that the residue is minimal and that it does not involve as much risk as is assumed by someone who eats a charcoal broiled steak.

Under further questioning, Dr. Edwards also stated:

> We are not, nor is the National Cancer Institute, nor any of the authorities we have consulted, willing to categorize this (DES) as an imminent hazard.

Mr. President, are we called upon merely to give the status of law to someone's oratory or unfounded version or do we have a responsibility to be factual?

Mr. President, there was then the following line of questioning:

> Senator KENNEDY. In spite of all the information and the research and the studies that have been made to indicate there is an increase in DES residues in the liver of cattle generally, you are still not prepared to make such a recommendation to the Secretary that it is an imminent hazard?
>
> Dr. EDWARDS. That is right, Mr. Chairman; because we have absolutely no evidence that this has caused damage to human health.

Mr. President, again I say that this is not someone who is employed by some segment of industry. This is the highest authority in our Government on this matter.

He says that there has been absolutely no evidence that this has caused damage to human health.

Mr. President, Dr. Edwards then made this statement:

> Under the Federal Food, Drug, and Cosmetic Act, there are two possible courses for withdrawing DES from use in food animals. If an imminent hazard to health can be demonstrated, the Secretary of the Department of Health, Education, and Welfare can issue an immediate ex parte ban on the shipment of DES in interstate commerce. It should be noted that in this case, an opportunity for an expedited hearing must be provided to the affected parties.
>
> A decision that DES is an "imminent hazard" would require immediate removal from the market of all meat from animals fed DES and all feed containing DES.
>
> An "imminent hazard" under the Federal Food, Drug and Cosmetic Act is defined as being a condition so hazardous that the article involved cannot continue on the market during the pendency of administrative proceedings. There is no evidence of harm to humans from the use of DES as a growth promotant in food animals, and consequently, we cannot substantiate a finding that it constitutes an "imminent hazard" to health.

The Commissioner concluded his testimony with this very telling statement:

> DES will not be the only substance to generate these kinds of issues. This is why we cannot recommend enactment of S. 2818. We do not believe piecemeal legislation directed at any given substance is appropriate for making regulatory decisions that are to be based on scientific evidence. We now have sufficient regulatory authority to act effectively on behalf of the consumer. In this sense, S. 2818 is unnecessary.

In addition, Mr. President, I believe the following statement from the Director of the National Cancer Institute, Dr. Frank J. Rauscher, is worth mentioning:

> Finally, Mr. Chairman, and in order to put this testimony in objective perspective, I must say that at the present time, our data does not incriminate DES as a human carcinogen when ingested at levels currently being detected in beef liver.
>
> This fact, however, will not allow us to forget our concern when you recall that DES has been used for only approximately 15 years as an additive to feed grain; even with the relatively high doses used in the treatment of pregnant women it has taken 14 to 20 years to determine that cancers were induced in young women whose mothers received this drug during pregnancy.
>
> My point here, to deviate just a moment, is we simply do not have enough years under our belt to determine whether even low doses have any carcinogenic effect or not in man.

Mr. President, it seems odd that S. 2818 really did not receive a full airing in public hearings. One day of hearings was held with all witnesses being selected on an invitation-only basis. One cattle-producing group, the American National Cattlemen's Association, presented testimony. Dr. Duane Flack, manager of the Monfort Feed Lots of Greeley, Colo., appeared for them. In addition to managing this very large feed lot, Dr. Flack is a doctor of veterinary medicine.

In his testimony he pointed out that the beef cattle industry has made tremendous strides in proper use of animal drugs. However, the technology of assay techniques has accelerated. A few years ago, what we thought was zero residue, today minute quantities may show up. Dr. Flack also pointed out that the price of beef to consumers would increase substantially. Based upon feeding trials the Monfort Feed Lots has calculated that the loss of DES would cause the price of sirloin steak to increase at least 15 cents per pound at the retail level.

It is my judgment that additional facts must be known before the Senate acts on S. 2818. It is my feeling that the measure should be referred back to the Subcommittee on Health of the Senate Committee on Labor and Public Welfare so that a complete hearing record can be established. In this way, a complete report will be available for my colleagues to act in a more intelligent manner upon this important piece of legislation.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes, and then I shall yield to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, the point remains that 10 days after Dr. Edwards testified, he banned the production of DES. After all the points made here, the commissioner banned the feeding of DES after January 1, 1973; so he changed his position after the hearings. That is the first point.

Second, I have Dr. Rauscher's statement. He is the Director of the National Cancer Institute. He is the President's appointee; he is the "commander in chief" of the battle against cancer in this country; he has spent his whole life in the areas of cancer research. I read from his testimony, given before the Health Subcommittee on July 20:

> In conclusion, it can be stated that DES is definitely a carcinogenic substance for several animal species, and apparently for humans.

In other public statements on the matter he said:

> My view is this: In this case it is possible. My view is exactly that anything that increases the carcinogenic burden to man ought to be eliminated from the environment if at all possible—and in this case it is possible.

The Senator is quite correct that we are not able to say with scientific assurance how much DES must be ingested to constitute a health hazard. I say the burden of proof is on those who are willing to put DES on the dinner table to define what level is safe; no one can say now what that level is; no one can say that if so much of DES is ingested it will be safe, or that so much more will put a person in danger.

Those who have done the greatest research in this area like Dr. Peter Greenwald of New York State, say there is far more evidence linking DES to cancer in humans than there was for either cyclamates or pesticides, both of which have been banned.

Finally, we invited the Pharmaceutical Manufacturers Association and the Animal Health Institute, but they declined to testify.

Mr. CURTIS. Mr. President, will the Senator yield to me for 2 minutes so that I may reply?

Mr. KENNEDY. Yes, and then I will yield to the Senator from Wisconsin. I was going to yield to the sponsor of the bill, but if the Senator from Nebraska has a comment I yield to him first.

Mr. CURTIS. I thank my distinguished colleague. In my understanding, and I am sure the record bears this out, and I rise to set the record straight, Dr. Edwards has not changed his position since he gave his testimony. He acted in a regulatory manner because he was compelled to do so by law under a provision of the law that many of us believe should be modified and changed. The Delaney amendment, passed some years ago, provides that if they find any trace of a carcinogenic substance, there must be a ban, and it was under that law that Dr. Edwards was compelled to act. The law should be changed to ask the question, not is there a trace? but is there something there? is there a substance there that does cause damage to human beings? That is not the case. There are no authorities to support that it does. The head of the National Cancer Institution is not asking for the passage of this legislation, and the position of Dr. Edwards remains as it was stated in these quotations.

I yield the floor.

Mr. KENNEDY. Mr. President, I yield to the Senator from Wisconsin whatever time he desires.

Mr. PROXMIRE. Mr. President, I would like to respond very largely to the remarks made by the distinguished Senator from Nebraska (Mr. CURTIS).

Mr. President, S. 2818, my bill to immediately ban the use of the cancer-causing growth hormone diethylstilbestrol—DES—in livestock feed, is intended to meet expeditiously a problem that has been recognized by the medical profession as having great substance. It is intended to enforce the spirit, not merely the letter, of the Delaney clause, which prohibits any trace of a carcinogen in our food supply.

The Food and Drug Administration has announced that the use of DES in livestock feed will be terminated on January 1 of next year. In the course of the announcement the FDA did its level best to indicate that there was no health hazard associated with the use of DES. The agency referred to the use of DES as a "regulatory, not a public health, problem." Commissioner Edwards said that the FDA's action was "not based on any known hazard to human health."

Secretary of Agriculture Butz chimed in with a statement to the effect that Commissioner Edwards had to ban the use of DES despite the fact that there was no demonstrable hazard to human health in its use. He used the DES ban decision as a springboard to attack the entire Delaney amendment concept.

Both of these statements completely disregard the facts. Let me spell out some of those facts:

First. DES causes cancer in laboratory mice in doses as low as 6.25 parts per billion. Indeed it may cause cancer when administered in smaller doses. We just do not know because it has never been given in smaller doses under controlled laboratory conditions.

Second. There is a marked association between the taking of DES in doses as small as 1.5 milligrams a day by pregnant women to prevent abortion and cancer of the vagina in their daughters 15 to 22 years later. The association is particularly strong, because cases of this type of cancer in young women were almost unheard of. Dr. Herbst, of the Harvard Medical School, who did the pioneering study in the field indicated in his testimony before Senator KENNEDY's subcommittee on this legislation that "prior to 1966—only a few rare case reports existed in the medical literature."

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. PROXMIRE. I will yield to the Senator in just a moment.

The rash of cases that occurred after that date had one common link—the use of DES by the mothers of the diseased children to prevent abortion. Dr. Peter Greenwald, director of New York State's Cancer Control Bureau, testified that he believed there is a cause-and-effect relationship between DES and vaginal cancer.

I am happy to yield to the Senator from Nebraska.

Mr. CURTIS. I would like to be informed as to what manner DES was given to pregnant women to prevent abortion. Was it through the use of beef liver that they tied this to? Was it DES that had passed through the animal's body?

Mr. PROXMIRE. No, it was not given in that way. Nobody argues that it was.

Mr. CURTIS. Then it is totally irrelevant.

Mr. PROXMIRE. Of course, it is relevant. It was precisely the same thing——

Mr. CURTIS. It is irrelevant.

Mr. PROXMIRE. It was DES. It is the same thing we are talking about here.

Mr. CURTIS. It cannot be said that a drug that affects a person adversely directly is going to have that same effect if it is ingested by an animal and someone, a long time later, eats the meat from the animal. That does not follow at all.

Mr. PROXMIRE. Third, virtually all doctors concerned with the treatment of cancer believe that the use of DES in raising livestock should be banned if residues cannot be eliminated from our food supply, and a recent Department of Agriculture study shows that these residues cannot be eliminated. For example, Dr. Frank Rauscher, Director of the National Cancer Institute—who has been cited by the Senator from Nebraska as an authority—and thus the leader of the most comprehensive attack on cancer ever launched by any nation, put it this way:

> Although a direct connection between the ingestion of DES in beef and the development of human cancers cannot be documented, the presence of the chemical in food does, in my view, constitute a danger that should be circumvented.

That is what the Director of the Cancer Institute, which the Senator from Nebraska recognizes as an outstanding authority here, says should be circumvented.

Dr. Greenwald had this to say:

> It is clear that with DES we have direct evidence of a cancer-producing effect in humans, while with the other compounds [cyclamates and pesticides, products which have been banned] we do not.

Earlier in his testimony Dr. Greenwald indicated that in his personal opinion "it would be prudent to insure that DES is not in food when it reaches the table."

Now to the specifics of the bill. As I indicated earlier, S. 2818 would ban the use of DES in livestock feeds immediately upon passage—not next January. If DES is a true danger—and I submit that the facts show that it is—why wait until January to take it off America's dinner tables?

The bill also bans the use of DES implants, which are inserted under an animal's skin, effective January 1, 1973, unless the Secretary of Health, Education, and Welfare conducts and reports tests in the interim showing no residues are found in edible tissues following the use of implants. If the Secretary should discover before January 1 that residues do appear in edible tissue because of implants then he would have to take immediate steps to ban implants.

The FDA's recent ban on DES in feed permits the continuing use of implants unless residues are demonstrated to occur. S. 2818 places the burden of proof on the Government.

Although S. 2818 does not deal with the indemnity question, the committee report on the bill specifically leaves this question open—pending additional hearings.

It may be helpful to trace the events of the last few years in order to place the question of DES use in livestock in some sort of perspective. DES began to be used in cattle in the United States in 1954. It is particularly important to consider this date because the vaginal cancer study I alluded to earlier indicated that it took from 15 to 22 years for cancer to develop in those exposed to DES. Thus, if there were to be any discernible upsurge in cancer because of exposure to DES in meat, it would just now be occurring.

Despite the fact that 21 countries—I emphasize that—banned the use of DES in raising livestock, many of them in the early 1960's, the Department of Agriculture did not undertake a truly comprehensive program to uncover the extent to which DES residues were occurring in the livers of slaughtered cattle and sheep until 1971. Although the Department tested 1,023 samples in 1966, the testing program was greatly reduced thereafter to 495 samples in 1967, 545 in 1968, 505 in 1969 and 192 in 1970.

Finally, in April of 1971, a relatively comprehensive testing program was undertaken after a great amount of prodding from the public and the Congress. DES residues were found in approximately ½ of 1 percent of the 4,646 samples tested. Because of the continuing occurrence of residues where the law said there should be none, the Agriculture Department first called on the industry to institute a voluntary certification program under which cattle producers were to certify that their animals had been taken off the drug 48 hours prior to slaughter. When this appeared to be ineffective, the Department, in early 1972, instituted a mandatory 7-day withdrawal period.

At this point, it became evident that no amount of regulation would prevent the occurrence of residues. Although from January of this year to the middle of April the percentage of residues did not decrease, they did not increase, either. But between April 15 and August 26 residues have been showing up at the amazing rate of 3.34 percent—almost 7 times last year's rate. This can be attributed in part to improved detection methods that enable Agriculture Department scientists to find residues occurring at a level of less than two parts per billion. However, only 2 percent of the increase can be attributed to a jump in the sensitivity of the tests.

Despite FDA Commissioner Edwards' statement before Congressman Fountain's House Intergovernmental Relations Subcommittee last December that:

> Should the new control procedures prove unsuccessful in application . . . we are prepared to ban its use entirely from animal feeds.

The FDA did not finally announce a ban until August 2, and then only after research by the Department of Agriculture showed that residues could not be controlled by withdrawing the animals from DES impregnated feed before slaughter. Why this research was not conducted earlier remains a great unanswered question.

Still the FDA's action was incomplete.

Only a few days ago Congressman Fountain released a General Accounting Office report indicating that the FDA is acting illegally in continuing to permit the sale of DES until January 1. I ask unanimous consent that the report be reprinted in the Congressional Record at this point.

There being no objection, the report was ordered to be printed in the Record, as follows:

Comptroller General
of the United States,
Washington, D.C., September 11, 1972.

Hon. L. H. Fountain,
Chairman, Intergovernmental Relations Subcommittee, Committee on Government Operations, House of Representatives, Washington, D.C.

Dear Mr. Chairman: Reference is made to your letter of August 16, 1972, which reads, in part, as follows:

"The Federal Register of [August 4, 1972], contains an order of the Food and Drug Commissioner withdrawing approval of the New Animal Drug Applications of a number of premixes containing diethylstilbestrol (DES), which is a cancer-promoting drug. The order became effective on the date of its publication, but the Food and Drug Administration is permitting continued shipment and use of the premixes until January 1, 1973.

"I would appreciate an analysis of the effect of the order on the legal status of the premixes and your opinion as to whether existing stocks of these premixes are now deemed to be unsafe new animal drugs under 21 U.S.C. 360b, and, therefore, adulterated within the meaning of Section 351(a)(5).

"I would also appreciate your opinion as to whether shipment of the existing stocks would violate 21 U.S.C. 331(a); and whether their use in feed would result in the adulteration of the feed within the meaning of 21 U.S.C. 351(a)(6); and whether such use in feed violates 21 U.S.C. 331(b) or (k)?

"Finally, I would appreciate your legal opinion as to whether the withdrawal of approval of an application may be partial so as to prohibit further manufacture of the drug while permitting its continued shipment and use."

The instant matter arises under the Federal Food, Drug, and Cosmetic Act (hereafter "the Act"), approved June 25, 1938, ch. 675, 52 Stat. 1040, as amended, 21 U.S.C. 301 *et seq*. The administration of the Act is vested generally in the Commissioner of Food and Drugs (hereafter "the Commissioner"). See 21 CFR § 2.120. There appears to be no question but that the premixes involved in the Commissioner's order of July 31, 1972, and published in the Federal Register on August 4, 1972, 37 F.R. 15747, are "new animal drugs" within the application of the Act. See section 201(w), as amended, 21 U.S.C. 321(w); see also S. Rept. No. 1308, 90th Cong., 2d sess., page 3. It also seems to be unquestioned that DES is a cancer-causing, or carcinogenic, drug.

Under section 512 of the Act, as amended, 21 U.S.C. 360b, new animal drugs must be cleared prior to marketing by the filing of a "new animal drug application" with the Commissioner pursuant to subsection (b), and the approval of the application in accordance with subsection (c). Subsection 512(d) specifically provides several grounds upon which the Commissioner shall refuse to approve a new animal drug application. Among these provisions is subsection 512(d)(1)(H)—the so-called "Delaney Amendment"—which requires disapproval if—

"such drug induces cancer when ingested by man or animal or, after tests which are appropriate for the evaluation of the safety of such drug, induces cancer in man or animal, except that the foregoing provisions of this subparagraph shall not apply with respect to such drug if the Secretary [Commissioner] finds that, under the conditions of use specified in proposed labeling and reasonably certain to be followed in practice (i) such drug will not adversely affect the animals for which it is intended, and (ii) no residue of such drug will be found (by methods of examination prescribed or approved by the Secretary by regulations, which regulations shall not be subject to subsections (c), (d), and (h)), in any edible portion of such animals after slaughter or in any food yielded by or delivered from the living animals * * *."

Section 512(e) of the Act provides for the subsequent withdrawal of approval for new animal drug applications; and reads in part, as follows:

"(1) The Secretary [Commissioner] shall, after due notice and opportunity for hearing to the applicant, issue an order withdrawing approval of an application filed pursuant to subsection (b) with respect to any new animal drug if the Secretary finds—

* * * * *

"(B) that new evidence not contained in such application or not available to the Secretary until after such application was approved, or tests by new methods, or tests by methods not deemed reasonably applicable when such application was approved, evaluated together with the evidence available to the Secretary when the application was approved, shows that such drug is not shown to be safe for use under the conditions of use upon the basis of which the application was approved or that subparagraph (H) of paragraph (1) of subsection (d) [the Delaney Amendment] applies to such drug * * *."

The administrative action culminating in the order of July 31 was initiated with the publication on March 11, 1972, of a notice of opportunity for a hearing announcing that the Commissioner proposed to withdraw approval of new animal drug applications for DES liquid premixes used in the manufacture of feeds for cattle and sheep. 37 F.R. 5264. On June 21, 1972, a similar notice and announcement was published with respect to DES liquid and dry premixes and DES implants for cattle and sheep. 37 F.R. 12251. Objections and requests for a public hearing were submitted by a number of holders of the applications affected. However, a hearing was denied as to the liquid and dry premixes on the basis that "the objections fail to demonstrate the existence of a genuine and substantial issue of fact * * *." Discussion and order, *infra*, 37 F.R. 15749.

The Commissioner's actual order of July 31, 1972, 37 F.R. at page 15750, is as follows:

"* * * [P]ursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (Sec. 512, 82 Stat. 343–51; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120), the requests for evidentiary hearings with respect to the above-listed new animal drug applications for DES liquid and dry premixes for cattle and sheep are denied and approval of the applications, including all amendments and supplements thereto, is hereby withdrawn. Manufacturing of such premixes shall stop immediately, and feeding of existing supplies of such premixes shall stop as soon as existing supplies are exhausted but in any event no later than January 1, 1973. The Commissioner defers a ruling on withdrawal of the above listed new animal drug applications for DES implants for cattle and sheep. This order shall be effective on its date of publication in the FEDERAL REGISTER (8–4–72)."

The discussion of this order at pages 15748–9 reads, in part, as follows:

"The effectiveness of DES as a growth promotant has not been and is not questioned. Until Friday, July 28, 1972, the Commissioner was unaware of the existence of any data indicating that use under the conditions contained in the approved label would result in detectable residues of DES in the edible portion of animals. Prior studies, using the most sensitive research tools available, showed no detectable residues in the animal liver after 48 hours and even in inedible waste after 132 hours. On December 8, 1971 (36 F.R. 23292), the withdrawal period was extended from 48 hours to 7 days as a prudent precautionary measure to provide an extra margin of safety.

"On Friday, July 28, 1972, the Commissioner was informed of the results of a research study undertaken by the U.S. Department of Agriculture in which it was found, using radioactive-tagged DES in six steers, that detectable residues occurred in the liver from a single 19 mg. oral dose of DES after withdrawal for 3, 5, and even 7 days. * * *

* * * * *

"From earlier data, it was thought that the half-life of DES in the animal was 12 hours. The new data show that, after 3 days, the elimination rate appears to decrease substantially. Because the experiment has not been carried out for longer than 7 days, it is impossible at this time to determine the rate of residue elimination beyond this period. It is hypothesized that, after 30 days withdrawal, the residue would be reduced to the practical equivalent of zero. There are, however, no data available to substantiate this hypothesis. The law requires that the holder of a new animal drug application submit all data necessary to show that it is possible to use the drug without any residue remaining in the edible portions of the animal. In the absence of such data, the new animal drug application must be withdrawn.

"Even if data were available to demonstrate a suitable withdrawal period, it is now questionable whether a sufficiently precise regulatory surveillance method is available to permit continued approval of the drug in animal feed. In view of the new USDA study, it now appears that the test results thought possibly to be false positives may indeed have been true positives. The Commissioner is unaware of any data which could reasonably be interpreted to show that a 30-day feed withdrawal period, which in any event can only be hypothesized as a suitable withdrawal period, would be reasonably certain to be followed in practice. Even if a 30-day withdrawal period were ordered, no regulatory surveillance method now available would be sufficiently sensitive to detect violations of this requirement. The imposition of new and more stringent restrictions on the use of DES in feed, such as an increased withdrawal period, measures to avoid cross-contamination, and similar requirements, is therefore no longer a controlling factor in view of the new USDA study showing that even proper use of the drug under existing restrictions may result in violative residues."

It was also noted that the results of the USDA study were considered equally applicable to sheep, but not necessarily applicable where DES was introduced into cattle and sheep by the use of implants. The discussion as to withdrawal of approval for the new animal drug applications concluded at page 15749 as follows:

"This action is required under the strict terms of sections 512(d)(1)(H) and 512(e)(1)(B) of the act. These provisions, which contain the so-called Delaney Clause, require that there be no detectable residue. The new USDA study clearly shows residues at levels that are in the range of current detection methodology; new detection methodology is being developed that would be significantly more sensitive. Thus, under the law there is no alternative but to withdraw approval of the drug, even though there is no known public health hazard resulting from its use.

"It should be emphasized that the Commissioner has no reason to believe that use of DES in animal feed represents a public health hazard. No human harm has been demonstrated in over 17 years of use. Under the law, however, this continued use of the drug may no longer be permitted.

"The Commissioner has concluded that withdrawal of approval of the new animal drug applications for the DES liquid and dry premixes should be effective immediately. This means that these premixes may not be manufactured effective as of the date of publication of this order in the Federal Register."

The Commissioner's approach of "phasing out" the effects of his order withdrawing approval was explained at page 15748 as follows:

"This matter is a regulatory, not a public health, problem. The animal feeding industry, the pharmaceutical industry, and the U.S. Department of Agriculture have been unable to come forward with restrictions and controls on the use of DES in animal feed that are reasonably certain to be followed in practice and that will result in the absence of detectable residues in the edible portions of the animals. Accordingly, the law requires that use of the drug must be discontinued.

"Because there is no evidence of a public health hazard, however, there is no justification for an abrupt disruption of the production of the nation's meat supply. An immediate ban on use of DES in feed could result in an unwarranted public concern and an unjustified increase in meat prices. It is estimated that there is about a 4-month supply of DES liquid and dry premixes already manufactured and at various stages in the chain of distribution. Accordingly, the Commissioner had determined that the manufacture of liquid and dry premixes will be discontinued effective immediately. Feeding of DES will be discontinued as soon as existing supplies are used up, but no later than January 1, 1973. This will permit both an orderly phaseout of the use of the drug in animal feed and an opportunity for the animal feeding industry to switch to DES implants and other implants have been shown to be approximately as effective for growth promotant purposes as DES in feed."

The above-quoted portions of the order and discussion of July 31 demonstrate that the Commissioner's actual withdrawal of approval for the DES liquid and dry premix new animal drug applications was unequivocal and unconditional. In fact, the Commissioner apparently considered that, under the circumstances discussed, such withdrawal was mandated by section 512(e) of the Act. What the Commissioner's disposition purports to condition by the "phaseout" approach is the legal effect of his withdrawal of approval. Accordingly, for purposes of responding to the questions presented in your letter, we treat the Commissioner's action as a withdrawal of approval under section 512(e), and address only its "phaseout" aspect. In view of this, we express no opinion concerning the substantive and procedural validity of the withdrawal itself.

Section 512(a)(1)(A) of the Act, as amended, 21 U.S.C. 360b(a)(1)(A), provides:

"A new animal drug shall, with respect to any particular use or intended use of such drug, be deemed unsafe for the purposes of section 501(a)(5) and section 402(a)(2)(D) unless—

"there is in effect an approval of an application filed pursuant to subsection (b) of this section with respect to such use or intended use of such drug * * *."

Section 501(a)(5), as amended, 21 U.S.C. 351(a)(5), provides that "[a] drug or device shall be deemed to be adulterated * * * if it is a new animal drug which is unsafe within the meaning of section 512 * * *." Section 402(a)(2)(D), as amended, 21 U.S.C. 342(a)(2)(D), provides that "[a] food shall be deemed to be adulterated * * * if it is, or it bears or contains, a new animal drug (or conversion product thereof) which is unsafe within the meaning of section 512 * * *."

Animal feeds are generally treated separately under the Act, see section 201(x) of the Act, as amended, 21 U.S.C. 321(x), and are subject to premarketing clearance procedures as set forth in section 512(m), as amended, 21 U.S.C. 360b(m). However, if an animal feed bears or contains a new animal drug for which an approved new animal drug application is not in effect, the feed is "unsafe" under section 512(a)(2)(A), as amended, 21 U.S.C. 360b(a)(2)(A), and is itself an "adulterated drug or device" under section 501(a)(6), as amended, 21 U.S.C. 351(a)(6).

Section 301 of the Act, as amended, 21 U.S.C. 331, prohibits, *inter alia,* the following acts and the causing thereof:

the introduction or delivery for introduction into interstate commerce of any adulterated food, drug or device [subsection (a)];

the adulteration of any food, drug or device in interstate commerce [subsection (b)];

The receipt in interstate commerce of any adulterated food, drug or device, and the delivery or proffered delivery thereof for pay or otherwise [subsection (c)]; and

The manufacture within any Territory of any adulterated food, drug or device [subsection (g)].

Violations of section 301 are subject to civil injunctive remedies under section 302, as amended, 21 U.S.C. 332, and to criminal penalties under section 303, as amended, 21 U.S.C. 333. In addition, section 304, as amended, 21 U.S.C. 334, makes adulterated foods, drugs and devices liable to seizure and condemnation under the conditions set forth therein.

Sections 301 through 304, 402, 501, and 512(a) of the Act constitute a comprehensive and precise statutory system for the treatment of new animal drugs not having in effect approved new animal drug applications. The operation of this statutory system is, in our judgment, manifest: such new animal drugs, and feeds containing them, are adulterated drugs; foods containing such drugs are adulterated foods; and all of these products are covered by the prohibitions, sanctions and remedies set forth in sections 301 through 304.

We believe it is equally manifest that the Commissioner has no legal authority to vitiate or modify the operation of these statutory provisions. The Commissioner's authority and discretion under section 512(e)(1)(B) is limited to the determination of whether or not a condition for withdrawal of approval specified therein is presented. If it is, the Commissioner "shall * * * issue an order withdrawing approval * * *." There is nothing in section 512, or in any other provision of the Act, expressly or implicitly authorizing the Commissioner to withdraw approval for some purposes but not for others; or to delimit which legal consequences of withdrawal shall take effect; or to specify when and how such legal consequences shall take effect. On the contrary, the legal consequences of withdrawal specifically set forth in sections 512(a), 501 and 402 of the Act arise by operation of law. Thus the Commissioner has no function or authority, discretionary or otherwise, with respect to these effects.

We have no reason to question the Commissioner's sincerity in minimizing the significance of the DES problem from a health standpoint; and in seeking to ameliorate the practical difficulties which he apparently foresees as a result of withdrawal. However, the existence of a public health hazard is not a necessary prerequisite to withdrawal of approval under section 512(e)(1)(B) or to the operation of the legal consequences arising therefrom. Compare the last paragraph of section 512(e)(1), which does provide for suspension of approval and special procedures in cases of imminent hazard to the health of man or animals. Moreover, the practical consequences cited by the Commissioner, whether real or not, are, simply, immaterial under the statutory provisions governing withdrawals of approval and their legal effects.

For the reasons stated herein, it is our opinion that your first two questions must be answered in the affirmative and your last question in the negative.

Sincerely yours,

ROBERT F. KELLER,
Acting Comptroller General of the United States.

Mr. PROXMIRE. This GAO report makes it particularly important that S. 2818 be passed today. FDA has indicated that it intends to study the legal justification for the report before taking any action. The Senate should waste little time in backing up the GAO, its legal arm, by passing S. 2818. And, of course, S. 2818 would also solve the implant impasse.

A number of questions regarding the DES ban have come up over the months. Some of these questions have lost their timeliness in view of FDA's action. However, I would like to deal with them briefly.

The cattle industry claims that a ban of the use of DES will raise the price of meat at the retail level by as much as 10 to 15 cents per pound. We could expect the industry to provide us with a cost estimate on the high side as a convincing argument for permitting continued use of the drug. Yet, a Department of Agriculture study reaches the conclusion that the increase in cost to the consumer would be no more than 3½ cents per pound. This is a cheap price to pay for safe meat. It amounts to $3.85 per family per year.

Furthermore, the Department of Agriculture study shows that the long-range impact of a DES ban on the cattle industry will be negligible. In simple language, all will be in the same boat. No one will make a killing.

Others feel that since DES residues show up in virtually all cases only in the liver of the slaughtered animal, why not just stop the sale of beef liver? There are two answers to this question. First, liver is a nutritious food with large quantities of iron. Why ban it? Second, in two cases in which DES residues were found in parts of the carcass other than the liver—the musculature and the kidney—the level of concentration was approximately one-tenth the level found in the liver. Thus, if we assume that DES occurs in the musculature—sirloin steaks, and so forth—at one-tenth the level found in the liver, it would occur in the musculature at one-fifth part per billion when the level of DES in the liver was two parts per billion—until April of this year the lowest level of residue that could be detected. This one-fifth part per billion level is too low to be detectable but too high to be acceptable according to the FDA's own scientists who earlier this year in an internal memorandum urged a ban on DES until it can be detected at levels of one part per trillion. These were the FDA's own scientists, and this is what they asked for.

Finally, it has been said that we should be no more concerned about DES than we should about naturally occurring hormones that are present in our bodies. Again, an internal FDA memorandum makes it very clear that DES is a much more potent hormone than those occurring naturally. All plant hormones are significantly lower in activity than DES. One of the most potent, coumestrol, found in alfalfa and clover, has 1/10,000th the activity of DES. DES has 10 times the potency of the estrogen estradiol, which is naturally present in both animals and humans. Furthermore, DES is much more slowly broken down by the body than this natural hormone.

These, then, are the reasons why this body should act without delay to place a comprehensive ban on the use of DES in fattening livestock. Surely we own our people the same standard of care that most of the countries of Western Europe have exercised in banning this drug. American families should be able to choose their food without the nagging fear that it may contain too much of a cancer causing substance. We have already waited too long in making it clear that cheap but contaminated meat is a bad bargain indeed.

Mr. President, just one more note. Earlier this year, I was asked by the beef producers of my State, who were very concerned about my action in introducing this bill, to come out and talk to them. So I did, and we had a very constructive meeting. There were 300 or 400 beef producers present. The meeting was attended by a representative of Eli Lilly, one of the principal producers of DES; and it was attended by representatives of the State Department of Agriculture and also the Federal Department of Agriculture.

I must say, after discussing this matter with the beef producers, and after hearing both sides of the question very vigorously expounded by Lilly, they told me if there were any question at all, they would greatly prefer to have the DES banned, because they did not want to be in any way responsible for causing an increased incidence of cancer.

I understand their concern. From every standpoint, those people are good citizens, but they also recognize that they are consumers, too. Their own children and families consume this product. Beef has become far more important than ever before in the American diet. So there is need for safeguards.

There is a very serious doubt here, and one on which Congress can act, as I say, with relatively low cost to the consumer and, in the long run, at very little cost or perhaps no cost to the beef producer, because what will happen is that the consumer will pay a little bit more, but the producer will be in about the same position as now.

Mr. President, there is just no substitute for safe and sanitary food. If there were to be some small dropoff in demand because of a slightly higher price because DES is banned, it seems to me that would be far more than compensated for by the assurance to the American consumer that when he eats beef or liver, he is eating a food which is safe and sanitary and will not cause the most feared and terrible disease that plagues mankind.

I thank the Senator from Massachusetts, and I yield the floor.

The PRESIDING OFFICER (Mr. CHILES). Who yields time?

Mr. CURTIS. Mr. President, I ask unanimous consent that we may have a quorum call with the time not charged to either side.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Nebraska? The Chair hears none, and it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CURTIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. Mr. President, I ask unanimous consent that a member of the staff of the Committee on Agriculture and Forestry, Mr. Forest Reece, be permitted to be present in the Chamber during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. Mr. President, I yield such time as he may require to the Senator from Oklahoma (Mr. Bellmon).

Mr. BELLMON. Mr. President, I rise in opposition to S. 2818, not because I favor the use of any compound in agriculture that endangers the health or life of any person in this country, but rather because I know the importance of good food and economically priced food to the American people, and I feel that action on S. 2818 at this point in time, when the facts about DES are not known, is highly premature.

There is, so far as I know, no evidence that ear implants, which is the way that DES is commonly administered to livestock, have ever caused cancer, or even caused the accumulation of any residues in the edible portions of a beef animal.

As a cattle producer, I know that the elimination of DES from feed has done away with the source of the DES accumulation in the livestock livers, which is what touched off this entire controversy, but I have seen and I have watched the literature carefully, and I have yet to see any evidence that ear implants have been responsible in any way for accumulation of DES in any portion of the body that is used for human food.

The fact is that the use of DES in beef production is a major advantage to the beef consumers. The evidence that I have been able to accumulate shows that ear implants result in about a 10 percent reduction in the cost of beef production. These implants, which are generally used in young animals from the time they are old enough to start grazing or through the food lot, do result in greatly increased efficiency, and have the net effect of reducing the cost of production and thereby ultimately producing considerable benefit to those who consume the meat in their regular diets.

When we pass legislation like this, that has, probably, no benefit to the consumer, but rather will work a great hardship on many people who are already hard-pressed to secure adequate diets, I believe we are having a very strong negative effect on the very people we are trying to help.

Mr. President, this bill provides that the Secretary of HEW will need to make an affirmative finding that DES is not harmful. That provision would seem to be highly satisfactory; but the facts are that with the great emotion that has been stirred up over the DES controversy, this legislation is going to put the Secretary of HEW in an almost impossible position.

It seems to me that Congress is saying to a public official, who probably has very little access to knowledge about the livestock producing business, that this official is required to make a finding that the scientists and others who have studied the question at the present time are not in a position to make.

I strongly believe that the consumers of this country will be much better served by at least postponement of action on S. 2818 until the facts are known, or perhaps at this time by the defeat of this legislation until we are able to know exactly where we stand in connection with the use of this drug.

Mr. President, I would agree that the action taken so far to eliminate the oral feeding of DES is in the public interest. It has been shown that it was administratively impossible to establish guidelines that could be administered throughout the vast livestock industry that prevented the accumulation of DES in livestock livers, and that action clearly, in my mind is in the public interest; but when we undertake legislation like S. 2818, we are asking for a public official to make a finding that scientific evidence presently will not support.

Mr. President, I have in my hand a letter from a livestock feeder, Mr. C. Robert Buford, who runs the Seward County Land and Cattle Corporation in Liberal, Kans., and in his letter he points out precisely the cost benefits that are ultimately passed on to the consumers from the use of DES. He points out that the use of DES results in about one-fourth pound per day additional gain in an animal. This results throughout a 140-day feeding period in a saving of about $10 per head.

To quote directly from Mr. Buford's letter, he says that using two 15 milligram implants of DES provides us with a two-tenths pound per day of additional gain. As I said earlier, this results, as he said, in a $10.36 per head saving.

When you realize that for most feed lot operators, the margin of profit for fattening a beef animal averages out in the high plains of Oklahoma, Texas, Colorado, and New Mexico to about $15 a head, one can see that if S. 2818 is passed and the implants are no longer legal, the only thing that can happen is that the cost of beef has to go up.

The problem in my mind is a very clear one—that is, do we wish to increase the cost of wholesome beef to the American consumer by a fairly significant amount in order to satisfy the fears, the unfounded fears, of many that here is a drug that may under some circumstances cause problems.

These circumstances have never been proven, and to me, until they are proven, we are clearly acting contrary to the best interests of our consumers and constituents.

I ask unanimous consent that this letter be printed at this point in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Seward County Land
& Cattle Corp.
Liberal, Kans., June 23, 1972.
Senator Henry Bellmon,
Senate Office Building,
Washington, D.C.

Dear Senator Bellmon: As requested at the dinner meeting at Pawhuska last week, I have asked our nutritionist, Ross Cooley, of Amarillo, Texas, to prepare a short report on the usage of the controversial feed additive commonly referred to as DES. I quote from his report as follows:

"The question as to which form of DES the feedlots would rather give up is a very complicated one to answer because it is full of ifs, ands, and buts. First of all, let me say that we don't want to have either one taken from us. The Food and Drug Administration is well aware that most feedlots today are using both forms simultaneously. Why are they? Because the dual usage increases gain and increases feed efficiency and, therefore, decreases cost of gain. While there are no regulations for or against the dual usage (implanting as well as oral usage), the FDA last December chose to threaten to prosecute those feedlots whom they found practicing dual usage. If the dual practice is found today in a feedlot by the FDA, they no longer write them up as being in violation but simply inform the feedlot that the FDA does not condone this practice.

The use of the oral DES (10 mg. per day) in feedlot steer rations provides us with .25 pound additional gain per day. Using two 15 mg. implants in addition to the oral DES provides us with an additional .2 pound gain per day. This is a combined .45 pound gain per day from the dual usage of DES.

I offer the following:

140 day feeding period X .25 lb./gain=35 lbs. @37 cents/lb.=$12.95.

140 day feeding period X .2 lb./gain=28 lb. @37 cents/lb.=$10.36.

If they take away oral DES, we rob today's cattle feeders of $12.95. If they take away implant DES, we rob the cattle feeders of $10.36. Take both and we relieve the cattle feeders of $23.31, which is sometimes more profit than we actually make on cattle on the average.

We are having some minor problems today with liver residues of DES, but this is only since the new parts-per-billion technique was developed. In fact, the USDA and the FDA admitted on May 5, 1972, during the meeting with ANCA and many cattle feeder groups, that it does in fact probably take five days to clear the liver residues after withdrawal and not the forty-eight hours they originally cleared for the first oral DES applications. We can clean up the residue problem with proper guidance and leadership from the FDA, which they have never given as they have for commercial supplement manufacturers. If this is not possible, let's give up all livers and kidneys, which are the only organs showing some residues. If this is not possible, let's give up the oral DES, since no residues have ever been found from DES implants."

I might add that my objective as a feeder is an attempt to obtain a 15% return on equity, and I feel that this is the objective of most people. When we take Ross' figures and analyze the reduction in potential by discontinuing the use of DES, many people are going to give the cattle business a lesser consideration with their investment dollar.

Thank you for being such a fine representative of the cattlemen. We spent much time discussing the project you presented in Pawhuska last week—exporting feeder cattle. Mr. Butcher and several of us are very much interested in developing information on the potential of this area.

Again, Martha and I enjoyed dining and

visiting with Shirley and you, and only wish that our state was represented by you in our very fine government.

Sincerely,

C. ROBERT BUFORD.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. BELLMON. I yield.

Mr. PROXMIRE. Does the Senator argue that DES should be permitted as a feed until it can be proved that it does not cause cancer?

Mr. BELLMON. Mr. President, DES as a feed has already been removed. This is not the controversy. The controversy is whether or not it should be used as an implant, because, until it has been shown that DES as an implant causes residues in the edible portions of animals' bodies, there is no justification in taking this action.

Mr. PROXMIRE. I say to the Senator that DES has not been abandoned and will not be abandoned until January 1, 1973. Meanwhile, we have several months in which the hazard to human health, in my view, is continuing.

Mr. BELLMON. Let me say to the Senator from Wisconsin that I would support action to remove DES immediately as a feed additive. My concern is that S. 2818 removes DES also as an implant, and there never has been any evidence that an ear implant causes accumulation of DES in the edible portions of animals' bodies.

Mr. PROXMIRE. I appreciate the clarification. But I say, once again, that it seems to me that as long as there is a demonstrable concern on the part of top scientists and the FDA that the presence of as little as one part in a trillion in the animal can cause cancer, it seems to me that we should err on the cautious side and be careful the other way.

The Senator, it seems to me, is putting himself in the position or arguing that we should treat the American people as guinea pigs until we can show, over a period of years, that the incidence of cancer has increased from DES. Perhaps I misunderstand the Senator. Until we can show that the incidence of cancer has increased as a result of this, he would permit it to be used as an implant. Is that correct?

Mr. BELLMON. My position is that until and unless scientific evidence can be brought forth showing that an ear implant results in an accumulation of DES in the edible portions of the animal, there is no justification for legislation that prohibits the use of this drug, which has proved to be extremely beneficial in the economic production of food.

Mr. PROXMIRE. I say to the Senator from Oklahoma that what my bill, S. 2818, does is to place a ban on implants unless it can be shown that no residues occur. What is wrong with that? Why should we not say that we will ban it unless it can be proved that it does not cause residues of cancer?

Mr. BELLMON. Mr. President, what I stated earlier in my statement is that this bill puts the burden on the Secretary of Health, Education and Welfare; and with the tremendous emotional impact of the cancer question, in my judgment, this puts the Secretary in an impossible position.

Mr. PROXMIRE. Well, not impossible. The technology in this area is improving all the time.

Mr. BELLMON. There is no reference to technology.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. BELLMON. I yield.

Mr. KENNEDY. The Chairman of the Food and Drug Administration indicated to us in late July that in a period of 6 weeks the administration could do a study to indicate whether the implantation method was safe. That was in late July. They have indicated to our Health Subcommittee that they could conduct a study and make a report to indicate whether the implantation of DES is safe.

We know that they have been running into difficulties. We are giving them until January 1 of next year to make that study.

That is more time than they themselves indicated was necessary.

It seems to me that every time DES has been used residues have been found; they were found after DES was fed to poultry; they were found after DES was implanted in poultry; then it was fed to cattle and residues were found; now the same questions are raised with beef implants. The precedents are clear; residues have been found with every kind of DES use.

It is because of that that we are now trying, by the proposed legislation, to require that a study take place to see if implants leave residues in cattle; and we are willing to abide by that study in this proposed legislation.

I have favored a position to abandon the implants, in any event. But so far as the proposed legislation goes, we will abide by the study results.

Mr. BELLMON. I would agree with the Senator that if the legislation anticipates that the Secretary's decision will be made based on a finding that the implant does cause an accumulation of DES, then certainly there is reason for this action. But the legislation as I read it, says unless the Secretary affirmatively determines that the provisions of section 512(d)(1)(H) of this act are not applicable. I would therefore like to ask the chairman a question: Is it the intent of the legislation that this decision will be made after the tests are made, and after it has been demonstrated that the implants do cause an accumulation of DES which would ban the use of the drug?

Mr. KENNEDY. Yes, the decision will be on the basis of the test results. The Senator is correct. If the test comes out and says that there is no danger; the head of the Food and Drug Administration gives carte blanche so far as safety is concerned, then the implant use would continue.

Mr. BELLMON. In other words, if the tests show the implants do accumulate the DES, then the Secretary would make a finding banning use of the implants?

Mr. KENNEDY. That is correct. Page 8 of the committee report states that the committee's bill "bans the use of DES implants effective January 1, 1973, unless, prior to that time the Secretary of Health, Education, and Welfare conducts and reports the results of tests which indicate that no residues of DES are found. Then they would be able to use it after January 1. This bill bans immediately the use of DES in cattle feed which, as the Senator knows, is still being used under the Food and Drug Administration's phased withdrawal order. Implants are not banned if the Secretary proves they are safe; otherwise they too are banned.

That is what we are doing. We ban implants after January 1, 1973, unless the study indicates there is no DES residue in the edible portion of the cattle. If the Secretary determines that there is no residue, then they can continue to implant it, at least insofar as this legislation goes. I have some reservations about that, but in working it out in the committee, this was the compromise that was reached.

Mr. PROXMIRE. The fact is, my bill originally did not provide for any compromise. The committee watered down the bill. It compromised the bill which made it more acceptable to the industry. I do not see how we can go much further. If the bill is defeated, we will be in a position of having all our beef and liver offered for sale in this country in a suspect position. It will be far more damaging to the meat producing industry than passage of a compromise bill.

Mr. KENNEDY. I know that the Senator from Oklahoma is making his statement now but I would be interested, as a point of information, as to whether the use of pellet implants has increased. There is information that prior to January approximately 5 percent of farmers used implants. Now that has increased significantly. I would be interested in what the experience of the Senator from Oklahoma has been on this matter, as he comes from a meat producing State.

Mr. BELLMON. I believe the Senator is entirely accurate that the use of the implants is on the increase because the economics are such that it makes it almost necessary for an operator who wishes to be competitive to use this drug; otherwise, the efficiency of his operation is damaged.

Mr. KENNEDY. I was deeply impressed with one of the points the Senator from Wisconsin made. He said that if there is a ban that applies across the board, the economic disadvantages would affect all feeders equally and that their economic competitive situation would be pretty well equalized. Is that true?

Mr. BELLMON. That is entirely true. The net result would be that all feeders would ultimately have to increase the selling price of their animals, which would mean that consumers would have to pay higher prices. According to a reliable source I have, it would be $10.36 per head.

Mr. KENNEDY. We have had different reports on that. The Department of Agriculture made a study on it. It was $3.85 per person per year. I will include these figures in the RECORD, not during the Senator's remarks, but in an appropriate spot.

The estimated rise in meat prices by the Department of Agriculture was 3.8 cents per pound. This comes to $3.85 per year per person eating 100 pounds of meat.

Mr. CURTIS. Mr. President, will the Senator from Oklahoma yield for a question?

Mr. BELLMON. I yield.

Mr. CURTIS. If all use of DES is banned, it does put beef in a less competitive position with other foods, particularly other protein foods, is that not right?

Mr. BELLMON. The Senator is correct. For very good reasons. The American consumer seems to prefer beef, as the Senator is well aware. At the present time, poultry is available to the consumer at much lower prices than beef but the consumer consistently selects beef over poultry. The fact is, our appetites are such, it seems, that we have a greater desire for beef than any other kind of meat.

Mr. CURTIS. It was stated here by someone—at least I got that impression—that DES had been used in poultry feed and there were some known results with reference to that. Are there any facts with reference to such a test?

Mr. PROXMIRE. My understanding is it was banned for use in poultry feed in 1954.

Mr. CURTIS. Were any tests conducted?

Mr. PROXMIRE. They found residue, as I understand it. They found residue after DES was implanted in the necks of poultry.

Mr. KENNEDY. My understanding is that in 1954 DES was banned for use in poultry, and in 1959 for the implants on poultry of pellets.

Mr. CURTIS. Are there any known facts as to how much residue was found?

Mr. KENNEDY. We can provide that for the RECORD.

Mr. PROXMIRE. We do not have that—what the residue level was.

Mr. CURTIS. We do not have any facts whether it is harmful to human beings?

Mr. KENNEDY. We do have the facts, that DES is carcinogenic, that it is harmful to human beings. We also have the facts about the sizable increase in the consumption of meats. We have all of that.

Mr. PROXMIRE. The study made at the Harvard Medical School showed cancer of the vagina, which is a very rare disease, which occurred in the daughters of women who had received DES. As the Senator knows, we went over all this before.

Mr. CURTIS. But that was due to the intake of DES as medicine.

Mr. PROXMIRE. I thought the Senator asked was there any evidence that DES causes cancer. That is quite different from implanting DES or feeding DES to an animal which a human being consumed. We do not have that kind of specific evidence with respect to that.

Mr. CURTIS. I should state also that there are many sources of carcinogenic material that actually gets into food. It is there in a trace just as it is in beef. But today we are setting a precedent not to give that problem to a regulatory agency, to come up with a finding pursuant to scientific tests directly by legislation.

Mr. PROXMIRE. If we know that a substance is carcinogenic, we should take it out. We know that DES is a substance of high potency, far higher than many other elements.

Mr. CURTIS. But what we do not know is that there is a residue sufficient to cause damage to any human. I think that that is——

Mr. PASTORE. Mr. President, will the Senator from Nebraska yield for a question on that point?

Mr. CURTIS. I yield, although I do not have the floor. The Senator from Oklahoma has the floor.

Mr. BELLMON. I am happy to yield to the Senator from Rhode Island.

Mr. PASTORE. We may not have proof, but one of the worst scourges visited upon mankind is cancer. That is the one disease that everyone dreads. We all dread cancer. I think it is a horrible disease. There is a lot of talk here about how much this will cost with respect to the price of meat, which is of some concern, of course, but it is not the determining factor. In my humble opinion, it is not the determining factor.

Now, if the proof is not there, at least the suspicion is. This suspicion was strong enough to conclude that further production of DES should be stopped. Then they went a step further and said, "You can use it up." In other words, continue its use only because we want to use up the stock we already have.

That, to me, is a ridiculous decision. To be sure, it is absolutely ridiculous. If there is a suspicion that this is harmful to human beings and may cause cancer, then I think the benefit of the doubt ought to be toward banning it rather than allowing it.

Mr. PROXMIRE. Mr. President, is it not true——

Mr. BELLMON. Mr. President, let me respond to the Senator's comment. There has never been any evidence that implantation has ever caused cancer in an animal's body. The action taken was against the feed and DES. I would agree with the Senator that if it causes cancer in the animal's body, it should be banned.

Mr. PASTORE. Mr. President, will the Senator agree that we need proof that the implant will be harmless before we indulge in permitting it to continue?

Mr. BELLMON. We had proof of that.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. BELLMON. I yield.

Mr. CURTIS. Mr. President, I would like to point out that this is an issue involving other matters. And one of them concerns the right way to do it. Shall we make scientific decisions here, or shall an appropriate authority make it?

Here is what Dr. Edwards, head of the Food and Drug Administration, says:

> We have absolutely no evidence that this has caused damage to human health.

He further says:

> We are not, nor is the National Cancer Institute, nor any of the authorities we have consulted, willing to categorize DES as an imminent hazard.

Mr. PROXMIRE. Mr. President, I would like to quote Dr. Peter Greenwald, director of the New York State's Cancer Control Bureau. He said:

> It is clear that with DES we have direct evidence of a cancer-producing effect in humans, while with the other compounds (cyclamates and pesticides, products which have been banned) we do not.

We do not have that kind of evidence with any of the other products we have been talking about.

Mr. CURTIS. Mr. President, is the doctor citing a reference to DES use as a drug directly or the DES that comes from beef liver?

Mr. PROXMIRE. He is referring to DES as a drug.

Mr. CURTIS. Surely, he is. So the Senator stands without any evidence.

Mr. PASTORE. Will the Senator yield on that point?

Mr. CURTIS. I yield.

Mr. PASTORE. Mr. President, what experiments have been made that produce no evidence? Are we talking off the top of our heads, or from scientific research?

Mr. CURTIS. One of the top scientists can be referred to on this. It is Dr. Edwards.

Mr. PASTORE. So many of the other scientists disagree.

Mr. CURTIS. He was talking about another process where a human being took DES directly. The head of the Cancer Institute has not asked for this legislation.

Mr. PASTORE. Mr. President, I have a pamphlet in which Dr. Frank Rauscher, Director of the National Cancer Institute, urges a ban on DES.

Mr. CURTIS. And they did.

Mr. PASTORE. Why did they do it?

Mr. CURTIS. They did it because of the Delaney provisions of the law.

Mr. PASTORE. The Senator is correct. They did it because it was harmful to human beings in the human consumption of meat.

Mr. CURTIS. No.

Mr. PASTORE. Why did they ban it?

Mr. CURTIS. The Delaney amendment required that they ban it if there was a trace.

Mr. PASTORE. The Senator is correct. There was a trace, and because there was a trace, there was a suspicion. And because there was a suspicion, there is a suspicion also that it will harm human life.

That is all I am arguing. All I have heard is a discussion of how much it will cost a family to eat meat. I would rather go without meat than die of cancer.

Mr. CURTIS. There are a lot of other things that the Senator should stop. He should stop eating charcoal broiled steaks. Maybe we should outlaw that.

Mr. PASTORE. Maybe we should. If that kills people, I say stop it. However, that is up to me whether I want to eat a charcoal broiled steak. I do not do it. I put mine in my electric oven, and get just as good a steak.

If someone wants to eat charcoal broiled steak, let him do it. However, I am saying that people are buying this meat without knowing the effect it has on human beings. If that is so, we ought to stop it.

Mr. BELLMON. Mr. President, there has never been any evidence that implants cause this disease in an animal's body, and until there is, I do not think that we should ban it.

Mr. KENNEDY. Mr. President, that is the basis of the information we are going to get from the study by the Food and Drug Administration. It is going to determine whether there is a residue. If there is not, the effect of this legislation will be obscured. They will be able to continue with the implantations. However, we have seen that there was a residue shown in poultry meat when implantations were made. Therefore, DES was banned for use in poultry. When they fed it to cattle, it showed up in the residue; and they banned it.

There is proof that only a small percentage of the cattle had implants before the FDA order. Now its use is increasing. We want to see if a residue shows up following cattle implantation, and if it does we will ban it. If a residue does not show up, they can continue with their practice.

It seems to me that is a fair and reasonable way of proceeding on this matter. After all, DES has been generally recognized as a cancer causing substance.

No one can tell us on any scientific basis how much DES can be ingested by human beings without danger. No one knows that. There is no evidence from the Food and Drug Administration on this matter.

We cannot tell whether it is one part per billion, two parts per billion, or half a part per billion that is a safe quantity. We do know that it causes cancer. We do not know what the safe level is and if we want to protect the American dinner table, we ought to be able to be sure about the safety issue.

Mr. President, I am prepared to yield back the remainder of my time if there is no further discussion.

The immediate problem we are facing at the present time is that the incidence in December of last year was 0.5 percent. On July 20 of this year, it was 2.1 percent. Then FDA went ahead and banned its production. As of today it is 2.5 percent. So, the percentage of DES in beef has continued to rise, even after the production ban. The incidence is approximately four to five times as high today as it was last year. The number of cases has increased from 59 cases in July to 81 cases today. So, even with the ban on DES, we find that the incidence of residues is rising.

We cannot get away from the fact that all this legislation does is to do what the head of the National Cancer Institute says it is possible to do.

When the Secretary conducts that study, if they find implants are safe, their use can continue. If they find that they cannot give us that assurance, then the same ban would apply as applied in the case of the feed.

Mr. JAVITS. Mr. President, I urge the passage of S. 2818. This bill would prohibit the administration of the drug diethylstibestrol—DES—a synthetic estrogen used therapeutically in certain human diseases and to fatten cattle as a feed additive and implant—to any animal intended for use as food, immediately as a feed additive and as an implant on December 31, 1972, unless the Secretary of the Department of Health, Education, and Welfare affirmatively determines otherwise.

DES is universally recognized as a carcinogen for animals and most expert witnesses, including the Director of the National Cancer Institute, also feel that DES is a carcinogen for human beings.

The Director of the National Cancer Institute of the National Institutes of Health has stated that an important component of this Nation's all-out effort to conquer cancer will be the reduction of man's carcinogenic burden. I support that view and agree that anything that increases the carcinogenic burden to man ought to be eliminated from the environment if at all possible.

The Food and Drug Administration has stated that "Effective immediately, all production of DES for use in feeds must be stopped", and this bill implements that decision rather than permitting existing stocks of DES for feed to be used until January 1, 1973.

It is important to find out if they do, and to place the burden of proof on those who say it will not leave a residue. Therefore, the bill provides that if the test results show that there are no residues, then the DES implant use can continue. If they show residues, and the result is available prior to January 1, then the DES implant ban would become effective prior to January 1.

Mr. DOMINICK. Mr. President, we have all heard a lot of talk suggesting that due to our DES contaminated meat supply, Americans are in danger of getting cancer every time they sit down to have a steak or a hamburger, and that this legislation is necessary to put a stop to it. Some of this rhetoric, which is at best misleading, may be found in the committee report on S. 2818. Just to balance the record, I would like to emphasize a few points which are not in dispute.

First, no DES has ever been found in steak or hamburger. Small traces of DES have been found only in beef livers and kidneys. Such traces were found in one half of 1 percent of samples tested in 1971. Second, there is absolutely no evidence that such small quantities of DES impose any risk of cancer in humans. Third, there are laws on the books right now which, if strictly enforced, are adequate to provide full protection to the American public.

I think a brief summary of the essential background facts will be helpful. DES—diethylstilbestrol—is a synthetic estrogen. It has been used since about 1954 as a growth stimulant for cattle and sheep, either by adding it to feeds, or by implanting small pellets in the ear. Dr. Charles Edwards, Commissioner of the Food and Drug Administration, testified before the Health Subcommittee that "a beef animal will reach a market weight of about 1,000 pounds 35 days sooner using 500 pounds less feed than a comparable animal not fed DES. Additionally, this increase in body weight is reflected in additional protein and less fat in edible tissues." DES or similar growth hormones are administered to 80 to 90 percent of the cattle fed for market.

The use of DES to stimulate growth in cattle and sheep is regulated by the Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act. The 1958 food additives amendment to the act included the so-called "Delaney clause" which prohibited the use of any food additive known to cause cancer in man or animals. Since DES had been shown to cause cancer in laboratory mice, Congress in 1962 amended this provision for the express purpose of permitting the use of DES in cattle and sheep. The 1962 Drug Amendments amended the Delaney clause to except animal drugs which, though they may be carcinogenic, are: First, safe to the animal, and second, leave no detectible residues in edible tissues at the time of slaughter if used in accordance with label directions that are reasonably certain to be followed in practice.

Although DES residues have been detected in the liver and kidneys of cattle and sheep, no such residues have ever been found in any other edible tissue—including steak and hamburger. Until recently, tests conducted by the Department of Agriculture indicated that no residues are detectable in livers or kidneys when the use of DES is discontinued 48 hours prior to slaughter. Accordingly, FDA regulations under the act required a 48-hour withdrawal period. This was extended to 7 days when, due to enforcement problems, DES residues continued to appear. In July of this year, a new radioactive tracer test developed by the USDA showed detectible residues up to 1 part per billion could be expected in livers of cattle slaughtered 7 days after withdrawal of DES from their feed.

Shortly after notification of the results of USDA's new tests, the FDA issued an order immediately prohibiting further production of DES for use in feeds, and prohibiting the use of existing stocks of DES in feeds after December 31, 1972. This order was based on a determination that it would be difficult, if not impossible to regulate the use of DES in feeds so as to prevent residues in any amount, as required by the Delaney clause. The order made clear that it was based on the "no detectible residues" requirement, rather than any hazard to health. It stated specifically that there is no evidence that DES residues in the amounts detected pose any danger of cancer to humans. Since residues of DES administered to cattle or sheep only by the implant method have never been detected, the order did not affect the continued use of DES implants pending the outcome of further tests. I ask unanimous consent that the full text of the FDA order be printed in the RECORD at this point.

There being no objection, the text of the order was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE,
Rockville, Md.

DIETHYLSTILBESTROL (DES)

The Food and Drug Administration today ordered an end to the use of diethylstilbestrol (DES) as a growing stimulant in animal feeds.

Charles C. Edwards, M.D., Commissioner of Food and Drugs, said: "New scientific data developed by the U.S. Department of Agriculture and received by my office on July 28, 1972, casts serious doubt on our ability to set rules for the use of DES in animal feed that will insure against residues remaining in animal livers at time of slaughter. The Delaney amendment of the Food, Drug, and Cosmetic Act explicitly forbids any such residues. Since regulatory requirements of the law cannot be met we have no choice but to discontinue approval for use of the chemical in animal feed."

Effective immediately, all production of DES for use in feeds must be stopped.

Dr. Edwards emphasized that the withdrawal order is an administrative action dictated by strict provisions of law which govern the use of products, such as DES, which have been shown to induce cancer in test animals. Dr. Edwards pointed out that levels found in livers of animals were far lower than those used in tests, and today's action was not based on any known hazard to human health. DES has been used in the feed of cattle and sheep for nearly two decades, without a single known instance of human harm.

"Therefore," said the Commissioner, "in order to avoid an abrupt disruption in the production of the Nation's meat supply, the FDA will permit existing stocks of DES for feed to be used until January 1, 1973.

"This will permit an orderly phase-out and will provide the animal feeding industry an opportunity to switch to implants or to other methods of meat production." said Dr. Edwards.

Today's order makes final a preliminary proposal published for public comment on June 21. Under the law this proposal gave manufacturers 30 days to submit legal objections and to request a formal hearing.

Such objections and requests were received from 15 of the 25 holders of new animal drug approvals for the products.

In denying those requests, Dr. Edwards reiterated that the final withdrawal decision is predicated on new scientific evidence developed by the USDA's Agricultural Research Service and reported to him on Friday, July 28. This new study used an extremely sensitive radioactive tracer technique and showed that detectable residues could occur in cattle livers, even after withdrawal for seven days in conformance with current regulations. Prior to this experiment, all available tests had shown no measurable traces of DES in animal livers 48 hours after withdrawal.

On this basis, Dr. Edwards said: "We can only conclude that the animal feeding and pharmaceutical industries are unable at this time to suggest restrictions that are reasonably certain to be followed in practice and will at the same time eliminate all possibility of detectable residues. A hearing, therefore, would serve no useful purpose."

Use of DES as implants will continue to be allowed, pending results of tests now underway by the USDA and scheduled to be completed in the next several weeks. To this point USDA has never detected a residue when implants were used as the sole source of DES. Implants have been shown to be approximately as effective as DES in feed, even though used at a dosage level at least 30 times lower than that used in feed.

Further decisions on DES implants, including the possible need for a hearing, will await the results of these tests.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Rockville, Md., August 2, 1972.

Diethylstilbestrol (DES) in Animal Feeds

Because of widespread interest in the use of diethylstilbestrol (DES) in animal feeds, Commissioner Edwards has asked me to call to your attention the Food and Drug Administration's decision concerning the continued use of this drug.

The enclosed material provides a detailed explanation of the basis for FDA's decision to order an end to the use of DES in animal feeds as a growth stimulant. This decision follows the receipt of new data from a U.S. Department of Agriculture study which casts serious doubts on whether rules can be set sufficient to insure against residues remaining in animal livers at time of slaughter. It should be emphasized that this order is an administrative action dictated by strict provisions of law and is not based on any known hazard to human health from the use of DES in animal feed.

The order provides that, effective immediately, all new animal drug applications approved by FDA for DES-containing feeds are withdrawn. All production of DES intended for feeds must cease. Existing stocks of DES for feed may be used until January 1, 1973. Use of DES implants will continue to be allowed, pending results of tests now underway and scheduled to be completed in the next several weeks.

Either Mr. Wetherell, Mr. Hallerman, Mr. Brubaker or I (Phone 443-3793) would be pleased to provide any additional information you may desire concerning this decision.

GERALD F. MEYER,
Director, Office of Legislative Services.

[Docket Nos. FDC–D–452, 494; NADA Nos. 11–295V, 9525, et al.]

DIETHYLSTILBESTROL: ORDER DENYING A HEARING AND WITHDRAWING APPROVAL OF NEW ANIMAL DRUG APPLICATIONS FOR LIQUID AND DRY PREMIXES, AND DEFERRING A RULING ON IMPLANTS

In the Federal Register of March 11, 1972 (37 F.R. 5264), a notice of opportunity for a hearing was published announcing that the Commissioner of Food and Drugs proposed to issue an order under section 512(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of new animal drug applications for diethylstilbestrol (DES) liquid premixes for use in the manufacture of feeds for cattle and sheep.

In the Federal Register of June 21, 1972 (37 F.R. 12251) a notice of opportunity for a hearing was published announcing that the Commissioner proposed to issue an order under section 512(e) of the act withdrawing approval of new animal drug applications for DES liquid and dry premixes for use in the manufacture of feeds for cattle and sheep and for DES implants for cattle and sheep. This notice stated that the earlier notice of opportunity for a hearing with respect to DES liquid premixes would be acted upon at the same time.

Objections and requests for a public hearing were received from 13 of the 25 holders of the new animal drug applications for DES liquid and dry premixes for use in the manufacture of animal feed for cattle and sheep. For the reasons stated below, a hearing is denied with respect to these new animal drug applications. The new animal drug applications for such products are hereby withdrawn, effective immediately.

This matter is a regulatory, not a public health, problem. The animal feeding industry, the pharmaceutical industry, and the U.S. Department of Agriculture have been unable to come forward with restrictions and controls on the use of DES in animal feed that are reasonably certain to be followed in practice and that will result in the absence of detectable residues in the edible portions of the animals. Accordingly, the law requires that use of the drug must be discontinued.

Because there is no evidence of a public health hazard, however, there is no justification for an abrupt disruption of the production of the nation's meat supply. An immediate ban on use of DES in feed could result in an unwarranted public concern and an unjustified increase in meat prices. It is estimated that there is about a 4 months supply of DES liquid and dry premixes already manufactured and at various stages in the chain of distribution. Accordingly, the Commissioner has determined that the manufacture of liquid and dry premixes will be discontinued effective immediately. Feeding of DES will be discontinued as soon as existing supplies are used up, but no later than January 1, 1973. This will permit both an orderly phaseout of the use of the drug in animal feed and an opportunity for the animal feeding industry to switch to DES implants, to other implants, or to other methods of meat production. DES implants and other implants have been shown to be approximately as effective for growth promotant purposes as DES in feed.

Objections and requests for a public hearing were also received with respect to all new animal drug applications for DES implants. For the reasons stated below, the Commissioner has concluded that the further testing now underway and scheduled to be completed within several weeks should be concluded before a ruling is made on these objections and requests for a hearing. Accordingly, such a ruling is deferred pending completion of those tests, at which time it will promptly be made and published in the Federal Register.

DES LIQUID AND DRY FEED PREMIXES

The following new animal drug applications for liquid and dry feed premixes for cattle and sheep were covered by the March 11 and June 21 notices of opportunity for a hearing:

Elanco Products Company, Post Office Box 750, Indianapolis, Ind. 46206. NADA Nos. 9525, 11090, and 42162.

Pfizer, Inc., New York, N.Y. 10017. NADA Nos. 9757 and 9770.

Walnut Grove Products, Division of W. R. Grace Co., Atlantic, Iowa 50022. NADA No. 10132.

Dawes Laboratories, Chicago, Ill. 60632. NADA Nos. 10421, 11485, and 34916.

Simonsen Manufacturing Company, Quimby, Iowa 51049. NADA No. 10566.

Hess and Clark, Division of Rhodia, Inc., Ashland, Ohio 44805. NADA Nos. 11295, 44344, 45982, and 45981.

Peter Hand Foundation, Inc., Waukegan, Ill. 60085. NADA No. 14773.

Thompson-Hayward Chemical Company, Kansas City, Kansas 66106. NADA Nos. 35019 and 35017.

Feed Additives, Inc., Fremont, Nebr. 68025. NADA Nos. 36313 and 37869.

Dale Alley Co., Post Office Box 444, St. Joseph, Mo. 64501. NADA Nos. 36671 and 36554.

Standard Chemical Manufacturing Company, Omaha, Nebr. 68103. NADA Nos. 36976 and 34735.

National Oats Co., East St. Louis, Ill. 62205. NADA Nos. 37148 and 37541.

Texas Nutrition & Service Co., Ft. Worth, Tex. 76108. NADA Nos. 38507, 38510, and 39509.

Bresley-Koelling, Inc., Ord, Nebr. 68862. NADA No. 39491.

Feed Products, Inc., Denver, Colo. 80211. NADA Nos. 39716, 39718, 39717 and 39715.

Merck Sharp & Dohme Research Laboratories, Division of Merck & Co., Inc., Rahway, N.J. 07065. NADA Nos. 39772, 42840, and 10261.

Chemetron Corp., Chicago, Ill. 60611. NADA No. 42355.

Farmland Industries, Kansas City, Mo. 64116. NADA No. 42702.

Western Farmers Association, Seattle, Wash. 98111. NADA No. 44526.

Western Feed Supplements, Ellensburg, Wash. 98926. NADA No. 40014.

Ultra Life Laboratories, Inc., East St. Louis, Ill. 62201. NADA No. 38682.

Square Deal Fortification Co., Kouts, Ind. 46347. NADA No. 39161.

Falstaff Brewing Corp., St. Louis, Mo. 63166. NADA No. 44795.

American Cyanamid Co., Princeton, N.J. 08540. NADA No. 10258.

S. B. Penick Co., New York, N.Y. 10008. NADA No. 36479.

Of these all but the following firms submitted objections and requests for a hearing:

Peter Hand Foundation, Inc., Waukegan, Ill. 60085.

Feed Additives, Inc., Fremont, Nebr. 68025.

Dale Alley Co., St. Joseph, Mo. 64501.

National Oats Co., East St. Louis, Ill. 62205.

Texas Nutrition & Service Co., Fort Worth, Tex. 76108.

Feed Products, Inc., Denver, Colo. 80211.

Ultra Life Laboratories, Inc., East St. Louis Ill. 62201.

Square Deal Fortification Co., Kouts, Ind. 46347.

Falstaff Brewing Corp., St. Louis, Mo. 63166.

American Cyanamid Co., Princeton, N.J. 08540.

The Commissioner has concluded that these objections, in the light of new evidence from radioactive tracer studies on animals withdrawn from DES feed for 7 days, fail to show reasonable grounds for a hearing on a basis of evidence.

Virtually all of the objections and requests for a hearing fail to comply with 21 CFR 135.15(b), which requires that the objector file a full factual analysis of the data upon which it relies. In this case, the objections received generally rest upon mere allegations or denials and fail to set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing.

The objections contend that there are genuine and substantial issues of fact requiring a hearing as follows:

1. The number of violative residues may not actually have increased and, in fact, may have decreased.

2. New and more sophisticated laboratory methodology may be detecting residues at a level that previously was not detected.

3. The validity of the new methodology for detection has not adequately been established at the lower levels.

4. Some of the positives reported may be false positives rather than DES residues.

5. The compound found in animal livers is the monoglucuronide ester, not DES, and this ester has not been tested for carcinogenicity.

6. The level of compliance necessary to satisfy the statutory standard of "reasonably certain to be followed in practice" is unclear and, in any event, a degree of violation was contemplated by Congress.

7. The directions for use of DES may presently be inadequate and may be capable of improvement to assure the safe use of DES.

8. Present manufacturing controls may be inadequate to prevent cross-contamination of withdrawal feeds, and may be capable of improvement to preclude such cross-examination.

9. A substantial portion of the current violative residues may be the result of cross-contamination of withdrawal feeds rather than of misuse of the drug.

10. Some violative residues may be the results of other sources of DES contamination, rather than misuse of the drug, and more restrictive controls over DES and of animals on withdrawal feed may reduce or eliminate such violative residues.

11. There may be alternative restrictive conditions under which DES may safely be used, such as disposal of animal livers, restrictions on the size or capability of feed lots authorized to use the drug, or other means of testing cattle for DES withdrawal prior to slaughter.

12. Withdrawal of approval of DES may have adverse effects on the environment as a result of increased manure production per day and increased number of days required for feeding to a specific weight.

These objections were stated largely as questions, without a presentation or analysis of the data necessary to support hypotheses advanced and without specific data from tests designed to answer the questions or to support specific proposals or recommendations sufficient to correct the problems demonstrated. Changes in labeling and new restrictions to reduce or eliminate cross-contamination, misuse of the drug, or other sources of violative residues are properly requested through supplemental new animal drug applications rather than through a hearing.

The effectiveness of DES as a growth promotant has not been and is not questioned. Until Friday, July 28, 1972 the Commissioner was unaware of the existence of any data indicating that use under the conditions contained in the approved label would result in detectable residues of DES in the edible portion of animals. Prior studies, using the most sensitive research tools available, showed no detectable residues in the animal liver after 48 hrs. and even in inedible waste after 132 hrs. On December 8, 1971 (36 F.R. 23292), the withdrawal period was extended from 48 hrs. to 7 days as a prudent precautionary measure to provide an extra margin of safety.

On Friday, July 28, 1972, the Commissioner was informed of the results of a research study undertaken by the U.S. Department of Agriculture in which it was found, using radioactive-tagged DES in six steers, that detectable residues occurred in the liver from a single 10 mg. oral dose of DES after withdrawal for 3, 5, and even 7 days. Two steers each were slaughtered at 72, 120, and 168 hrs. after being fed the radioactive-tagged DES. The results of that study are as follows:

Hours after withdrawal:	*Parts per billion residue in animal liver*	
72	1.06	.41
120	.65	.15
168	.21	.52

These cattle were fed 10 mg. DES twice daily for a sufficient time period to establish the usual feeding pattern and were then fed a single radioactive-tagged 10 mg. dose of DES. Because only this split dose was tagged, FDA and USDA scientists project from these data that, even after withdrawal for 7 days, some cattle fed the approved level of 10 mg. DES twice daily in liquid or dry feed could be expected to have up to 1 p.p.b. DES in the liver.

From earlier data, it was thought that the half-life of DES in the animal was 12 hrs. The new data show that, after 3 days, the elimination rate appears to decrease substantially. Because the experiment has not been carried out for longer than 7 days, it is impossible at this time to determine the rate of residue elimination beyond this period. It is hypothesized that, after 30 days withdrawal, the residue would be reduced to the practical equivalent of zero. There are, however, no data available to substantiate this hypothesis. The law requires that the holder of a new animal drug application submit all data necessary to show that it is possible to use the drug without any residue remaining in the edible portions of the animal. In the absence of such data, the new animal drug application must be withdrawn.

Even if data were available to demonstrate a suitable withdrawal period, it is now questionable whether a sufficiently precise regulatory surveillance method is available to permit continued approval of the drug in animal feed. In view of the new USDA study, it now appears that the test results thought possibly to be false positives may indeed have been true positives. The Commissioner is unaware of any data which could reasonably be interpreted to show that a 30-day feed withdrawal period, which in any event can only be hypothesized as a suitable withdrawal period, would be reasonably certain to be followed in practice. Even if a 30-day withdrawal period were ordered, no regulatory surveillance method now available would be sufficiently sensitive to detect violations of this requirement. The imposition of new and more stringent restrictions on the use of DES in feed, such as an increased withdrawal period, measures to avoid cross-examination, and similar requirements, is therefore no longer a controlling factor in view of the new USDA study showing that even proper use of the drug under existing restrictions may result in violative residues.

Neither the new USDA study nor other information available to the Commissioner demonstrates that there are residues of DES in muscle tissue, which represents the major source of meat for the country. This raises the possibility of permitting continued use of DES in animal feed but of destroying beef livers and kidneys from any animals so fed. The Commissioner has concluded, however, that there are insufficient scientific data on which to base a clear decision on when DES residues will not be found in muscle tissue. In addition, no evidence has been submitted with the objections or is otherwise known to the Commissioner that would permit a conclusion that a requirement that the liver and kidneys of cattle fed DES must be destroyed would be reasonably certain to be followed in practice. The maintaining of identification and records to differentiate between animals fed DES and animals not fed DES would be extremely difficult. Such a control system would require a significant change in the method of handling cattle in this country, the complexity of which does not permit such institution hurriedly or on the basis of conjecture. If any such system is to be developed, it must be the subject of pilot programs conducted through investigational new animal drug plans that will demonstrate its feasibility and after further radioactive tracer studies which show the exact time when residues in muscle tissue are eliminated.

The new USDA study involved only cattle, and not sheep. The information available to the Commissioner, however, shows that the problem of DES residues is approximately the same in both animals. Previous data establish roughly the same level of residue under the same conditions of DES use in feed. Violative residues have been found in sheep at roughly the same rate as in cattle. The two animals are biologically quite similar. Accordingly, the Commissioner concludes that there is no basis for distinguishing between them with respect to approval of DES for use in feed.

Finally, the Commissioner has reviewed the potential environmental impact of this action. It has been estimated that there would be a substantial increase in animal waste and in available nitrogen if DES were to be withdrawn from use as an animal growth promotant. In view of the fact that this action permits the continued use of DES implants pending the results of a study now in progress, as described below, and in view of the availability of at least one alternative implant drug, the Commissioner is unable to conclude that the environmental aspects of this problem outweigh the clear requirements of the law. Pursuant to proposed § 6.3(c) of the proposed regulations governing environmental impact considerations published in the Federal Register of July 12, 1972 (37 F.R. 13636), the Commissioner has concluded that the Federal Food, Drug, and Cosmetic Act requires immediate action on this matter without preparation and filing of a draft or final environmental impact statement. By publication of this order, the Council on Environmental Quality and the public are so informed.

For the foregoing reasons, therefore, the Commissioner concludes that the objections fail to demonstrate the existence of a genuine and substantial issue of fact and, accordingly, a hearing is denied with respect to the use of DES in liquid and dry premixes for feed for cattle and sheep.

This action is required under the strict terms of sections 512(d)(1)(H) and 512(e)(1)(B) of the act. These provisions, which contain the so-called Delaney Clause, require that there be no detectable residue. The new USDA study clearly shows residues at levels that are in the range of current detection methodology; new detection methodology is being developed that would be significantly more sensitive. Thus, under the law there is no alternative but to withdraw approval of the drug, even though there is no known public health hazard resulting from its use.

It should be emphasized that the Commissioner has no reason to believe that use of DES in animal feed represents a public health hazard. No human harm has been demonstrated in over 17 years of use. Under the law, however, this continued use of the drug may no longer be permitted.

The Commissioner has concluded that withdrawal of approval of the new animal drug applications for the DES liquid and dry premixes should be effective immediately. This means that these premixes may not be manufactured effective as of the date of publication of this order in the Federal Register.

In the Commissioner's judgment, although withdrawal of approval is warranted by the facts, the continued use of meat from animals fed DES, of feed already containing DES, and of premixes already manufactured does not present a health hazard. Approval is being withdrawn not because there is a proof of danger from DES, but because at this time the new USDA study shows a lack of clear and convincing proof that the requirements of the law are fully satisfied. Accordingly, no recall or cessation of shipment or use of existing stocks is warranted. As long as there is no further manufacturing of these premixes, existing supplies of feed and premixes may be used in an orderly phaseout of the drug. In order to place an end point on this phaseout, the Commissioner has determined that all feeding of DES shall be discontinued by January 1, 1973.

DES IMPLANTS

The following new animal drug applications for DES implants for cattle and sheep were covered by the June 21 notice of opportunity for a hearing:

Pfizer, Inc., New York, N.Y. 10017. NADA Nos. 9783 and 11356.

Vineland Laboratories, Inc., Subsidiary of Damon, Vineland, N.J. 08360. NADA No. 10964.

Hess & Clark, Division of Rhodia, Inc., Ashland, Ohio 44805. NADA No. 12553.

O. M. Franklin Serum Co., Denver, Colo. 80216. NADA No. 15274.

Fort Dodge Laboratories, Fort Dodge, Iowa 50501. NADA No. 31446.

E. R. Squibb & Sons, New Brunswick, N.J. 08902. NADA No. 11365.

The new USDA study did not include implants. Earlier testing has shown that implants result in no detectable residues, and that there is at least a 10-fold, and probably a 30-fold or greater, difference in the potential for such residues. Thus far, the USDA in its sampling program has not found a single residue resulting from the implants alone, but the significance of that fact is uncertain because there is no information on the amount of cattle administered DES solely by implant and the USDA sampling has uncovered instances in which a residue was found in animals fed DES and implanted at the same time.

Use of implants represents a substantially reduced total dose of DES as compared with use of medicated feed. The 20 mg. per day normal dose of DES in feed represents 3,000 mg. per head over the customary 150 days of feeding. During the same period, the maximum dose of DES that would be expected from the use of implants would be approximately 100 mg. per head, based upon the approved use of three 12 mg. implants for a 60-day period, and this dose would ordinarily be less because a smaller implant is customarily used when the animal is younger. This difference represents at least a 30-fold dosage factor, with respect to both the possibility of residues and any potential environmental impact.

USDA had previously begun preparations for a radioactive tracter study using implants. The test using these radioactive-tagged implants has just begun, and the results will be available within several weeks.

The Commissioner has therefore concluded that it is premature to rule at this time on the objections and requests for a hearing with respect to DES implants. A ruling on this matter will await the results of the USDA implant study now underway.

At the present time, the Commissioner has no reason to believe that DES implants raise a public health hazard. Thus, while it is prudent to pursue and to resolve existing scientific questions about DES implants, it is unnecessary to remove existing implants or to be concerned about the safety of meat from animals implanted with DES.

CONCLUSION

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (Sec. 512, 82 Stat. 343–51; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120), the requests for evidentiary hearings with respect to the above-listed new animal drug applications for DES liquid and dry premixes for cattle and sheep are denied and approval of the applications, including all amendments and supplements thereto, is hereby withdrawn. Manufacturing of such premixes shall stop immediately, and feeding of existing supplies of such premixes shall stop as soon as existing supplies are exhausted but in any event no later than January 1, 1973. The Commissioner defers a ruling on withdrawal of the above listed new animal drug applications for DES implants for cattle and sheep. This order shall be effective on its date of publication in the Federal Register.

As referred to the Committee on Labor and Public Welfare, this bill would have imposed an immediate ban on the use of DES in feeds or implants. Since the testimony made it clear that there is no evidence whatever of detectible residues from DES implants alone, the bill was modified to apply the immediate ban only to DES in feeds. DES implants would be prohibited as of January 1, 1973, unless the FDA determines before then that such implants, when used in accordance with labeling requirements "reasonably certain to be followed in practice," leave no detectible residues. The only practical effect of this would be to require the FDA to evaluate the tests on implants now being conducted by USDA and make a determination before January 1.

With this background, it should not be necessary to point out that it is misleading to claim, as the committee report does, that this bill is necessary to protect the American public from DES. First, although DES has been proven to cause cancer in laboratory mice, there is absolutely no evidence that trace residues from DES in cattle feeds can cause cancer in humans. The hearing record on S. 2818 is very clear on this. The only evidence that DES may be carcinogenic in humans is based on a 1970 study which suggests that seven cases of vaginal cancer in young women may have been caused by direct therapeutic doses of DES to their mothers during pregnancy. Scientists have not yet concluded that there is a casual relationship. Even assuming there is, it is a long jump from there to the conclusion that trace residues in beef livers or kidneys present a threat of cancer. Therapeutic doses of DES ranging from 1.5 to 125 milligrams per day during pregnancy are not quantitatively comparable with trace residues of one to two parts per billion in liver. No scientist has been willing to make that jump, as one lay member of the Labor and Public Welfare Committee, I do not pretend to have the expertise to make it either.

Second, even assuming that trace residues from DES in feeds do present a health hazard, existing law, if fully enforced, is adequate to protect the public. Again, the Delaney clause in the Food, Drug, and Cosmetic Act specifically requires the FDA to withdraw animal drugs which leave detectible residues in edible tissues, regardless of whether such residues present a health hazard. Under this requirement, the FDA ordered a ban on further production of DES for use in feeds, even though it found no health hazard from DES residues. I thought that the committee decided to apply this bill's immediate ban on existing DES stocks as well because the detectible residue test in the Delaney clause required it, not because, as the committee report indicates, "if the substance is hazardous enough to be banned, then it is hazardous enough to be banned immediately." Moreover, the FDA has authority to immediately remove from the market any drug which it finds to present an "immediate hazard" to health. The FDA did not use that authority with DES in feeds because, again, all available scientific evidence indicated trace residues present no hazard to health.

Another point which needs to be made is that this bill establishes a bad precedent for dealing with so-called carcinogenic drugs on an ad hoc basis. There are hundreds of known carcinogens. Many occur naturally in the environment. Recognition of this raises some difficult questions. First, assuming scientists can eventually establish levels below which potential cancer-causing agents present no danger to man, or below which the risks are outweighed by the benefits, what kind of legislation is needed to regulate their use? The Delaney clause operates on the assumption that the presence of potential carcinogens in the food supply is intolerable, however minute the amounts. As detection methods become more and more refined, theoretically such agents in amounts all the way down to zero could be detected. In that event, the Delaney clause could prohibit the addition of water to cattle feeds, because it may contain naturally occurring carcinogenic agents in trace amounts.

On the other hand, until we are sure that detection methods are 100-percent reliable, would it be wiser to abandon the detectible residues test, and attempt to eliminate the use of known carcinogens entirely? Dr. Rauscher, Director of the National Cancer Institute, testified that we should, and that appears to be the underlying basis of this bill. If we are going to move in that direction, what consideration should be given to the benefits versus the risks of different carcinogens?

For instance, on the ground that the benefits outweigh the risks, physicians continue to prescribe daily oral contraceptives containing a known carcinogen—estrogen—in 100 to 200 times the amounts in which it has occasionally been detected in DES residues.

Questions like these cannot be adequately dealt with in ad hoc legislation such as this bill. In the committee's rush to get on record as opposing cancer, questions like what effect the removal of DES would have on meat prices—one estimate was 10 to 15 cents a pound for sirloin—or the risks involved in using any of the several other growth stimulants as substitutes for DES, were brushed lightly aside. As one of the sponsors of the comprehensive cancer legislation we enacted last year, I am as concerned about cancer as anyone. But I do not think the piecemeal, shot-in-the-dark approach of this bill is a sensible way to do something about it. Unanswered questions like the ones I have raised should be carefully explored in thorough hearings on the subject of regulating the use of potential carcinogens. For that reason, I was pleased to note Senator KENNEDY's commitment to hold Health Subcommittee hearings on the Delaney clause next year.

Mr. HANSEN. Mr. President, while I certainly share the concern of the Senator from Wisconsin about insuring that all feed products are safe, it is critically important that feeds are not categorized unsafe without justification.

On July 20, 1972, I received correspondence from the U.S. Department of Agriculture's Animal and Plant Health Inspection Service. This letter, signed by Mr. D. L. Houston of the meat and poultry inspection program stated clearly that when properly used DES—diethylstilbestrol—does not result in a public health hazard.

Mr. Houston pointed out that the DES control program has been developed jointly with the Food and Drug Administration. He explained the program requires the rejection of cattle and sheep marked for slaughter unless the owner certifies either that the animals did not receive DES during their production, or that they did receive DES during their production, or that they did receive DES but at FDA prescribed dosages and were withdrawn from the DES feed 7 days before slaughter.

On August 2, 1972, I received notification from the Food and Drug Administration that the FDA had made the decision to order an end to the use of DES in animal feeds as a growth stimulant. It was emphasized in the notification from the Director of Legislative Services, Gerald F. Meyer, that the decision was not based on any known hazard to human health from the use of DES in animal feed. Mr. Meyer said the order was an administrative action based upon data from a USDA study which cast doubts on whether sufficient rules could be set to insure against residues remaining in animal livers at time of slaughter.

Mr. President, the FDA ordered the manufacture of liquid and dry pre-mixes discontinued effectively immediately, with feeding of DES discontinued as soon as existing supplies were used up, but no later than January 1, 1973.

As I understand it, the ban on DES was issued—not because it posed a danger to human health, in amounts far in excess of those found, but because of an existing law that makes it illegal to feed carcinogens to meat animals if there is any residue left in the meat, any residue at all, even if only in the liver of an animal.

Competent medical authority has told me that there is far greater danger to human health from exposures to the carcinogens in the air in a room where cigarettes are being smoked than would result from eating meat with DES residue far in excess of that found in carcasses so far tested.

It may be proved conclusively within a short period that trace residues of DES can in no way be harmful to human health. Yet the legislation of the Senator from Wisconsin, if it becomes law, would be on the books prohibiting use of a chemical that has enabled the American consumer to have meat a little cheaper than he would have been able to have it otherwise.

On August 3, 1972, the president of the American Cattlemen's Association, Mr. John Trotman, estimated that beef prices would climb as much as 10 cents per pound for hamburger. Perhaps this substantial increase will not be sufficient to cause Americans to turn to other products for a major source of protein. They possibly could go to poultry, or dairy products, or fish. I do not know. Some of our best food fish have been in trouble because of alleged mercury contamination.

Mr. President, I am concerned about rising food costs at any time, and especially if it is determined that we have through hasty action unnecessarily caused an increase in food prices, when there was in fact no danger to the public health.

The PRESIDING OFFICER (Mr. BENTSEN). The Senator from Massachusetts has stated that he is willing to yield back the remainder of his time if the Senator from Nebraska is willing to yield back the remainder of his time.

Mr. CURTIS. Mr. President, I yield back the remainder of my time.

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the committee amendment in the nature of a substitute. (Putting the question.)

The committee amendment in the nature of a substitute was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 2818) was passed.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

QUORUM CALL

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS STEVENSON, MOSS, BURDICK, KENNEDY, AND HART TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, immediately after the two leaders have been recognized under the standing order, the following Senators be recognized each for 15 minutes and in the order stated: Senator STEVENSON, Senator MOSS, Senator BURDICK, Senator KENNEDY, and Senator HART.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the conclusion of the orders for the recognition of Senators tomorrow there be a period for the transaction of routine morning business for not to exceed 15 minutes with statements limited therein to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH MAINTENANCE ORGANIZATION AND RESOURCES DEVELOPMENT ACT OF 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of S. 3327.

The PRESIDING OFFICER. The bill will be stated by title.

The bill was stated by title as follows:

A bill (S. 3327) to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, health care resources, and the establishment of a Quality Health Care Commission, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Labor and Public Welfare with an amendment.

The amendment of the Committee on Labor and Public Welfare was to strike out all after the enacting clause and insert:

That this Act may be cited as the "Health Maintenance Organization and Resources Development Act of 1972".

Sec. 2. (a) The Congress finds that—

(1) there is a shortage and maldistribution of quality health care resources which has resulted in limited access to quality health care in the United States;

(2) the present health care system is not organized in a manner which encourages the efficient and economical provision of quality health care;

(3) the present health care system is oriented toward providing care to those manifesting disease, rather than toward providing health maintenance services and maintaining good health;

(4) the establishment of health maintenance organizations, health service organizations, and area health education and service centers will aid in alleviating the serious maldistribution of health care resources which has resulted in inadequate access to medical care particularly in both inner city and rural areas, in providing health care in a more efficient and economical manner, and in reorienting the health care system toward the maintenance of health;

(5) there is a need to provide technical assistance and resources to individuals and groups, undertaking the planning, development, and initial operation of health maintenance organizations, health service organizations, and area health education and service centers;

(6) there is a shortage of educational facilities in health sciences, unbalanced emphasis on hospital practice and on rare and exotic diseases in medical education; and

(7) there exists an excessive variance in the quality of health care and health services.

(b) The purpose of this Act is to assist in improving the system for the delivery of health care through encouragement of and support for the planning, development, and initial operation of health maintenance organizations, supplemental health maintenance organizations, health service organizations, and area health education and service centers, particularly with the intent of improving the health of populations in medically underserved areas.

TITLE I—HEALTH MAINTENANCE ORGANIZATIONS

Sec. 101. The Public Health Service Act is amended by inserting after title X the following new title:

"TITLE XI—HEALTH MAINTENANCE ORGANIZATIONS AND HEALTH SERVICE ORGANIZATIONS

"PART A—SUPPORT OF HEALTH MAINTENANCE ORGANIZATIONS

"DEFINITIONS

"Sec. 1101. For purposes of this title:

"(1) The term 'health maintenance organization' means an entity which—

"(A) provides as a minimum for all its enrollees (or subscribers) comprehensive health services (as defined in this section) which are uniformly available to all its enrollees (or subscribers) directly through its own staff and supporting resources or through a medical group or groups and such other additional services as may be required through other health delivery entities, for a fixed payment which (i) is to be paid on a periodic basis without regard to the frequency, extent, or kind of health service actually furnished to any particular enrollee; and (ii) is uniform for all its enrollees subject to rules and regulations regarding family rates;

"(B) demonstrates to the satisfaction of the Secretary ability to assure that appropriate comprehensive health services are available and accessible to all its enrollees promptly and in a manner which assures continuity;

"(C) demonstrates to the satisfaction of the Secretary financial responsibility through proof of adequate provision against the risk of insolvency;

"(D) is organized in such a manner (as prescribed by regulations of the Secretary) that assures its enrollees a substantial role (generally defined as one-third representation in the body establishing or recommending policy) in the making of policy for the health maintenance organization, with equitable representation of enrollees from medically underserved areas, and provides meaningful procedures for hearing and resolving grievances (i) between its enrollees and the health maintenance organization (including the medical group or groups and other health delivery entities providing health services), and (ii) between the medical group or groups providing health services and other employees and the health maintenance organization;

"(E) encourages and actively provides for its enrollees (i) health education services, and (ii) education in the appropriate use of health services provided; and (iii) in the contribution the patient can make to the maintenance of his own health;

"(F) has organizational arrangements, established in accordance with regulations of the Commission on Quality Health Care Assurance (established under title XII of this Act) for an ongoing quality assurance program which stresses health outcomes and assures that health centers provided meet the requirements of the Commission on Quality Health Care Assurance;

"(G) provides, in accordance with regulations of the Secretary (including safeguards concerning the confidentiality of the doctor-patient relationship) an effective procedure for developing, compiling, evaluating, and reporting to the Secretary, data (which the Secretary shall publish and disseminate on an annual basis) relating to (i) the cost of its operations, (ii) the patterns of utilization of its services, (iii) the availibility, accessibility, and acceptability of its services, and (iv) such other matters as the Secretary may require and disclose at least annually and in a manner acceptable to the Secretary, such data to its enrollees and to the general public;

"(H) except for (i) out of area emergency care, and (ii) care reasonably valued in excess of the first $5,000 per enrollee per year, assumes direct financial responsibility, without benefit of insurance, on a prospective basis for the provision of the comprehensive health services defined in this section;

"(I) has an open enrollment period unless a waiver has been granted under section 1149, of not less than thirty days at least once during each consecutive twelve-month period during which it accepts individuals in the order in which they apply for enrollment up to its capacity, subject to the requirements of paragraph (K);

"(J) assumes responsibility for the provision of health care services to its enrollees (and on a reimbursable basis for short-term health care services to enrollees of any other health maintenance or health service organization who are temporarily outside the service area of the health maintenance, supplemental health maintenance, or health service organization in which they are enrolled) twenty-four hours a day, seven days a week, and for the appropriate availability of such services in emergencies;

"(K) shall enroll no more than 50 per centum of its enrollees from medically underserved areas, except in rural areas as designated by the Secretary;

"(L) provides, or makes arrangements for continuing education for its staff;

"(M) emphasizes the use of nurse practitioners, physicians' assistants, dental therapists and other allied health personnel and to the extent practicable and consistent with good medical practice, trains and employs such personnel in the rendering of services;

"(N) provides to its enrollees as an option, for an additional premium, extended care facility services and dental services;

"(O) may purchase on a fee-for-service basis unusual or infrequently used health care service for its enrollees;

"(P) does not refuse enrollment to or expel an enrollee for any reason concerning his health status or requirements for the provision of health services;

"(Q) provides for the prevention, diagnosis, and medical and psychological treatment of the abuse or of addition to alcohol and drugs either through its own facilities or existing community facilities; and

"(R) meets such other criteria for its organization and operations as the Secretary may by regulation prescribe, consistent with the provisions of this title.

"(2) The term 'comprehensive health services' means health services provided without limitation as to time or cost as follows—

"(A) physician services (including consultant and referral services);

"(B) inpatient and outpatient hospital services;

"(C) home health services;

"(D) diagnostic laboratory, and diagnostic and therapeutic radiologic services;

"(E) preventive health (including but not limited to voluntary family planning, infertility services, and preventive dental care for children) and early disease detection services;

"(F) emergency health services rendered by any provider of health care, the expense of which shall be borne by the enrollee's health maintenance, supplemental health maintenance, or health service organization;

"(G) provision of or payment for prescription drugs (with patterns of patient drug utilization under continuous surveillance, evaluation, and review by a clinical pharmacist whose duties shall include the maintenance of a drug use profile for each enrollee);

"(H) medical social services;

"(I) vision care (except for eyeglasses which shall be optional) as provided by a physician skilled in the diagnosis and treatment of diseases of the eye, or by an optometrist provided such services are within the scope of his license;

"(J) physical medicine and rehabilitative services (including physical therapy);

"(K) mental health services utilizing existing community mental health centers on a priority basis;

"(L) preventive diagnostic and medical and psychological treatment of the abuse of or addiction to alcohol and drugs; and

"(M) such other personal health services as the Secretary may determine are necessary to insure the protection, maintenance and support of human health.

(3) The term 'medical group' means a partnership or other association or group of health professionals of whom not less than four and at least a majority shall be persons who are licensed to practice medicine or osteopathy, and such other licensed health professionals as are necessary to provide comprehensive health services and who are eligi-

ble for assistance under this Act, in conformance with requirements promulgated under section 1202, in a State and who (A) as their principal professional activity engage in the coordinated practice of their profession as a group responsibility providing services to health maintenance or health service organization enrollees; (B) if not employees or retainees of a health maintenance organization, or health service organization, pool their income from practice as members of the group and distribute it among themselves according to a prearranged salary or drawing account plan; (C) jointly use or share medical and other records, and substantial portions of major equipment and professional, technical, and administrative staff; (D) share or jointly utilize such additional health and allied health professionals who may include but are not limited to psychologists and other mental health workers, optometrists, pharmacists, podiatrists, dental therapists, physicians' assistants, nurse practitioners and nurse midwives, as are needed to provide comprehensive health services; and (E) arrange for and encourage the continuing education of their members in the field of clinical medicine and related areas.

"(4) The term 'enrollee' when used in connection with a health maintenance organization, supplemental health maintenance organization (as defined in part B), or health service organization (as defined in part C) means an individual who has entered into a contractual arrangement, or on whose behalf a contractual arrangement has been entered into, with a health maintenance organization or a health service organization under which such organization assumes the responsibility for the provision of health services to such individual.

"(5) The term 'medically underserved area' means an urban or rural area or population group designated by the Secretary as an area or population group with a shortage of personal health services. Such a designation may be made by the Secretary only after consideration of the comments, if any, of (A) each State comprehensive health planning agency designated pursuant to section 314(a) of this Act, covering, in whole or in part, such area, (B) each areawide comprehensive health planning agency designated pursuant to section 314(b) of this Act, covering, in whole or in part, such area, and (C) regional medical programs established pursuant to title IX of this Act, covering, in whole or in part, such area.

"(6) The terms 'construction' and 'cost of construction' include (A) the construction of new buildings, and the acquisition, expansion, remodeling, replacement, and alteration of existing buildings, including architects' fees, and acquisition of land, and (B) equipping new buildings and existing buildings, whether or not acquired, expanded, remodeled, or altered with assistance under this title.

"(7) The term 'university health center' means a health care institution which is owned and operated by an accredited university or college of medicine or which has a written affiliation arrangement with an accredited university or college of medicine for the purpose of educating undergraduate medical students.

"(8) The term 'area health education and service center' means a hospital, educational facility, or other public or private nonprofit entity affiliated with a university health center for the purpose of providing clinical training (stressing cooperative interdisciplinary training in the use of the team approach to the provision of health care services) in a nonmetropolitan area (other than an area presently served by a university health center) which—

"(A) has an agreement with a health maintenance organization or health service organization (if such an organization exists within the geographical area served by such center) to provide education services to, and health care services through such organization;

"(B) has an agreement with other providers of health care to provide education services to, and health care services through such center; and

"(C) provides, to all health professionals belonging to disciplines eligible for assistance under this Act in the geographic area which it serves, equal opportunity to use its facilities and programs.

"(9) The term 'non-metropolitan area' means an area no part of which is within an area designated as a standard metropolitan statistical area by the Office of Management and Budget, and does not contain a city whose population exceeds fifty thousand persons.

"(10) The term 'non-profit provider group' means an incorporated body of health providers (including physicians, administrators, nurses, and paraprofessionals who qualify under the Public Health Service Act) that is regional in scope.

"(11) The term 'high-risk enrollee' means a person who is likely to utilize the services of a provider of health care more often than an actuarily determined average.

"GRANTS FOR PLANNING AND FEASIBILITY STUDIES

"SEC. 1102. (a) The Secretary may make grants, subject to the general provisions of this title, to public or private nonprofit agencies, organizations, or institutions to assist in projects for planning or studying the feasibility of developing or expanding health maintenance organizations. No project may receive more than $250,000 in grants under this section. Funds awarded under such grants shall be available for expenditure by the grantee for such period (not to exceed two years from the date of award) designated by the Secretary.

"(b) In making grants under this section the Secretary shall give priority to those applicants who give assurances that at least 30 per centum of their total enrollment shall be persons from medically underserved areas.

"(c) There are authorized to be appropriated to carry out the provisions of this section $25,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"GRANTS FOR INITIAL DEVELOPMENT COSTS

"SEC. 1103. (a) The Secretary may make grants, subject to the general provisions of this title, to any public or private nonprofit agencies, organizations, or institutions, to assist them in meeting the costs involved in a project for the initial development of a health maintenance organization prior to its first day of operation. No project may receive more than $1,000,000 in grants under this section.

"(b) Sums awarded under such grant shall be available for expenditure by the grantee for not more than three years, and shall be utilized for such purposes as may be prescribed in regulations of the Secretary, including but not limited to (1) implementation of an enrollment campaign; (2) detailed design of and arrangements for the health services to be provided; (3) development of administrative and internal organizational arrangements, including fiscal control and fund accounting procedures and the development of a capital financing program; (4) recruitment of personnel and the conduct of personnel training activiites; and (5) payment of architects' and engineers' fees.

"(c) In making grants under this section the Secretary shall give priority to those applicants who give assurances that at least 30 per centum of their total enrollment shall be persons from medically underserved areas.

"(d) There are authorized to be appropriated to carry out the provisions of this section $50,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"CONSTRUCTION GRANTS

"SEC. 1104. (a) The Secretary may make grants, subject to the general provisions of this title, to assist any public or private nonprofit health maintenance organization or any public or private nonprofit agency, organization, or institution intending to become a health maintenance organization in meeting the cost of construction of facilities or portions of facilities for ambulatory care and capital investment for necessary transportation equipment, to be used by it for the provision of health services to its enrollees. The Secretary shall give special consideration to applications for grants for the acquisition or renovation of existing facilities. Except for exceptional circumstances, in which case up to 90 per centum of the cost of construction (as determined by the Secretary) may be authorized by the Secretary, no grant under this section for any project may exceed 75 per centum of the cost of construction of such project. No project may receive more than $2,500,000 in grants under this section.

"(b) In making grants under this section the Secretary shall give priority to those applicants who give assurances that at least 30 per centum of their total enrollment shall be persons from medically underserved areas.

"(c) There are authorized to be appropriated to carry out the provisions of this section $74,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"GRANTS FOR INITIAL COSTS OF OPERATION

"SEC. 1105. (a) Where the Secretary determines that the applicant has made all reasonable attempts to meet his operating expenses (including loans and loan guarantees), he may make grants to public and private nonprofit health maintenance organizations to assist them in meeting operating deficits during the initial three-year period of their operation.

"(b) Grants under this section shall be made only for the period beginning with the first day of the first month for which such grant is made and ending with the close of three years after such first day; and such grant with respect to any such organization may not exceed 100 per centum of such operating deficit for the first year after such first day; 67 per centum of such first year operating deficit for the second year after such first day; and 33 per centum of such first year operating deficit for the third year after such first day.

"(c) There are authorized to be appropriated to carry out the provisions of this section $59,400,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"CONSTRUCTION LOANS

"SEC. 1106. (a) The Secretary may make loans, subject to the general provisions of this title, to any public or private nonprofit health maintenance organization, or any public or private nonprofit agency, organization, or institution intending to become a health maintenance organization, to assist it in meeting the cost of construction of facilities for ambulatory care and transportation services for the provision of health services to its enrollees. The Secretary shall give special consideration to applications for loans for the acquisition or renovation of existing facilities. No loan under this section for any project may exceed 90 per centum of the cost of construction (as determined by the Secretary) of such project.

"(b) There are authorized to be appropriated to carry out the provisions of this section $74,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years. Sums so appropriated, together with repayments of loans made under this section and any other receipts in connection with the program under this section, shall be placed in and constitute a revolving fund which shall be available to the Secretary without fiscal year limitation for use in making loans and other expenditures in the exercise of his functions under this section.

"LOANS FOR INITIAL COSTS OF OPERATION

"Sec. 1107. (a) The Secretary may make loans, subject to the general provisions of this title, to any public or private nonprofit health maintenance organization to assist it in meeting, for the period prescribed in subsection (b), a portion of its initial operating costs in excess of gross revenues determined under regulations of the Secretary.

"(b) Loans under this section for initial costs of operation may be made only for the period beginning with the first day of the first month for which such a loan is made and ending with the close of three years after such first day; and such loans with respect to any project may not exceed 60 per centum of such costs of operation, for the first year after such first day; 40 per centum of such costs for the second year after such first day; and 20 per centum of such costs for the third year after such first day.

"(c) There are authorized to be appropriated to carry out the provisions of this section $59,400,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years. Sums so appropriated, together with repayments of loans made under this section and any other receipts in connection with the program under this section, shall be placed in and constitute a revolving fund which shall be available to the Secretary without fiscal year limitation for use in making loans and other expenditures in the exercise of his functions under this section.

"Part B—Supplemental Health Maintenance Organizations

"SUPPLEMENTAL HEALTH MAINTENANCE ORGANIZATIONS

"Sec. 1108. (a) From funds appropriated under part A of this title which remain unobligated in any given fiscal year, the Secretary in the next succeeding fiscal year, may make grants and loans to a supplemental health maintenance organization (as defined in section 1109).

"(b) No assistance shall be given under this section unless the Secretary certifies to the Committee on Labor and Public Welfare of the Senate, and the Committee on Interstate and Foreign Commerce of the House of Representatives, that there were insufficient qualified eligible applicants for grants and loans under part A in the fiscal year in which funds were originally appropriated for the purposes of such part.

"DEFINITIONS

"Sec. 1109. For the purposes of this part and part E—

"(1) The term 'supplemental health maintenance organization' means a public or private organization which—

"(A) provides, either directly or through arrangements with others, health services to individuals enrolled with such organization on a per capita prepayment basis;

"(B) provides, either directly, or through arrangements with others and through institutions, entities, and persons meeting the applicable requirements of section 1861 of the Social Security Act, all those health services which a defined population might reasonably require in order to be maintained in good health, including as a minimum emergency care, inpatient hospital and physician care, ambulatory physician care, and outpatient preventive medical services;

"(C) provides physicians' services (i) directly through physicians who are either employees or partners of such organization, or (ii) under arrangements with one or more groups of physicians (organized on a group practice or individual practice basis) under which each such group is reimbursed for its services primarily on the basis of an aggregate fixed sum or on a per capita basis, regardless of whether the individual physician members of any such group are paid on a fee-for-service or other basis;

"(D) demonstrates to the satisfaction of the Secretary proof of financial responsibility and proof of capability to provide comprehensive health care services, including institutional services; efficiently, effectively, and economically and in a manner which assures continuity;

"(E) has arrangements for assuring that the health services required by its members are received promptly and appropriately and that the services which are received meet quality standards which it establishes in accordance with regulations of the Commission on Quality Health Care Assurance; and

"(F) is organized in such a manner as to emphasize local initiative and consumer and community involvement in the planning, development, and operation of such supplemental health maintenance organization and seek to insure prompt response to local initiative."

TITLE II—SUPPORT OF HEALTH SERVICE ORGANIZATIONS

STATEMENT OF PURPOSE

Sec. 201. It is the purpose of this title to assist in the establishment of health service organizations primarily directed at defined rural population groups which are characterized by a lack of medical care services.

AMENDMENT TO PUBLIC HEALTH SERVICE ACT

Sec. 202. The Public Health Service Act, as amended by this Act, is further amended by inserting after part B of title XI the following new part:

"Part C—Health Service Organizations

"DEFINITIONS

"Sec. 1120. For the purpose of this part the term—

"(1) 'health service organization' means an entity operating in a rural or nonmetropolitan area which—

"(A) provides as a minimum for all its enrollees, indirectly or directly through its own staff and supporting resources or through a medical group or groups, comprehensive health services, to the extent the Secretary determines such organization is able, which are uniformly available to all its enrollees, and such additional services as may be required through other health delivery entities, for a fixed payment which—

"(i) is to be paid on a periodic basis without regard to the frequency, extent, or kind of health service actually furnished to any particular enrollee; and

"(ii) is uniform for all its enrollees, subject to rules and regulations regarding family rates;

"(B) demonstrates to the satisfaction of the Secretary ability to assure that appropriate health services are available and accessible to all its enrollees promptly in a manner which assures continuity;

"(C) has a written agreement with an area health education and service center for the use of the educational and service facilities and programs of such center, if such a center is located in the geographic area served by such health service organization;

"(D) provides, to the extent the Secretary determines such health service organization is able, continuing education for its staff;

"(E) demonstrates to the satisfaction of the Secretary financial responsibility through proof of adequate provision against the risk of insolvency;

"(F) is organized in such a manner (as prescribed by regulations of the Secretary) that assures its enrollees a substantial role (generally denned as one-third representation in the body establishing or recommending policy) in the making of policy for the health service organization and provides meaningful procedures for hearing and resolving grievances (i) between its enrollees and the health service organization (including the medical group or groups and other health delivery entities providing health services) and (ii) between the medical group or groups providing health services and other employees of the health service organization;

"(G) encourages and actively provides for its enrollees (i) health education services, and (ii) education in the appropriate use of health services provided;

"(H) has organizational arrangements established in accordance with regulations of the Commission on Quality Health Care Assurance for an ongoing quality assurance program which stresses health outcomes, and assures that health services provided meet quality standards established in accordance with requirements of the Commission on Quality Health Care Assurance;

"(I) provides in accordance with regulations of the Secretary an effective procedure for developing, compiling, evaluating, and reporting to the Secretary, data (which the Secretary shall publish and disseminate on an annual basis) relating to (i) the cost of its operation, (ii) the patterns of utilization of its services, (iii) the availability, accessibility, and acceptability of its services, and (iv) such other matters as the Secretary may require and discloses at least annually in a manner acceptable to the Secretary such data to its enrollees and to the general public;

"(J) except for (i) out-of-area emergency services; and (ii) care reasonably valued in excess of the first $5,000 per enrollee, per year assumes direct financial responsibility without benefit of insurance, on a prospective basis for the provision of comprehensive health services as defined in section 1101(2);

"(K) has an open enrollment period unless a waiver has been granted under section 1149, of not less than thirty days at least once during each consecutive twelve-month period during which it accepts individuals in the order in which they apply for enrollment up to its capacity;

"(L) assumes responsibility for health care services to its enrollees (and on a reimbursable basis for short-term health care services to enrollees of any other health maintenance, supplemental health maintenance, or health service organization who are temporarily outside the service area of the health maintenance or health service organization in which they are enrolled) twenty-four hours a day, seven days a week and for the appropriate availability of such services in emergencies;

"(M) does not refuse enrollment to or expel an enrollee for any reason concerning his health status or requirements for the provision of health services;

"(N) emphasizes the use of physicians' assistants, dental therapists, nurse practitioners, and other allied health personnel, and to the extent practicable and consistent with good medical practice, trains and employs such personnel in the rendering of services; and

"(O) meets such other criteria including plans for providing full comprehensive health services at a future date where the Secretary has determined such an organization was not able to provide such health services under paragraph (A), for its organization and operations as the Secretary may by regulation prescribe, consistent with the provisions of this title.

"GRANTS FOR PLANNING AND FEASIBILITY STUDIES

"Sec. 1121.(a) The Secretary may make grants subject to the general provisions of this title to public or private nonprofit agencies, organizations, or institutions to assist in meeting the costs of projects for planning or studying the feasibility of developing or expanding a health service organization. No project may receive more than $250,000 in grants under this section. Funds awarded under such grants shall be available for expenditure by the grantee for such period, not to exceed two years from the date of the award, designated by the Secretary.

"(b) There are authorized to be appropriated to carry out the provisions of this section $10,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"GRANTS FOR INITIAL DEVELOPMENT COSTS

"SEC. 1122. (a) The Secretary may make grants, subject to the general provisions of this title, to any public or private nonprofit entity to assist it in meeting the costs involved in a project for the initial development of a health service organization prior to its first day of operation. No project may receive more than $1,000,000 in grants under this section.

"(b) Sums awarded under such grant shall be available for expenditure by the grantee for not more than three years and shall be utilized for such purposes as may be prescribed in regulations of the Secretary including but not restricted to (1) implementation of an enrollment campaign, (2) detailed design of an arrangement for the health services to be provided, (3) development of administrative and internal organizational arrangements including fiscal control and fund accounting procedures and the development of a capital financing program, (4) recruitment of personnel and the conduct of personnel training activities, and (5) payment of architects' and engineers' fees.

"(c) There are authorized to be appropriated to carry out the provisions of this section $20,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"CONSTRUUCTION GRANTS

"SEC. 1123. (a) (1) The Secretary may make grants subject to the general provisions of this title to assist any public or private nonprofit health service organization in meeting the cost of construction of facilities or portions thereof for ambulatory care and capital investment for necessary transportation and communication equipment to be used by it for the provision of health services to its enrollees. The Secretary shall give special consideration to applications for grants for the acquisition or renovation of existing facilities. Except for exceptional circumstances in which costs up to 90 per centum of the cost of construction may be authorized by the Secretary, no grant under this section for any project may exceed 75 per centum of the cost of construction on such project. No project may receive more than $2,500,000 in grants under this section.

"(b) There are authorized to be appropriated to carry out the provisions of this section $25,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"GRANTS FOR INITIAL COST OF OPERATION

"SEC. 1124. (a) Where the Secretary determines that the applicant has made all reasonable attempts to meet his operating expenses (including loans and loan guarantees), he may make grants to public or private nonprofit health service organizations to assist them in meeting operating deficits during the initial three-year period of their operation.

"(b) Grants under this section shall be made only for the period beginning with the first day of the first month for which such grant is made and ending with the close of three years after such first day and such grant with respect to any such organization may not exceed 100 per centum of such operating deficit for the first year after such first day; 67 per centum of such first year operating deficit for the second year after such first day; and 33 per centum of such first year operating deficit for the third year after such first day.

"(c) There are authorized to be appropriated to carry out the provisions of this section $20,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"CONSTRUCTION LOANS

"SEC. 1125. (a) The Secretary may make loans subject to the general provisions of this title to any public or private nonprofit health service organization or any public or private nonprofit agency, organization, or institution intending to become a health service organization to assist in in meeting the cost of construction and facilities for ambulatory care and transportation and communication services for the provision of health services to its enrollees. The Secretary shall give special consideration to applications for loans for the acquisition or renovation of existing facilities. No loan under this section for any project may exceed 90 per centum of the cost of construction of such project.

"(b) There are authorized to be appropriated to carry out the provisions of this section $25,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years. Sums so appropriated together with repayments of loans made under this section and any other receipts in connection with the program under this section shall be placed in and constitute a revolving fund which shall be available to the Secretary for use in making loans and other expenditures in the exercise of his functions under this section.

"LOANS FOR INITIAL COST OF OPERATION

"SEC. 1126. (a) The Secretary may make loans subject to the general provisions of this title to any public or private nonprofit health service organization to assist it in meeting, for the period prescribed in subsection (b), a portion of its initial operating costs in excess of gross revenues determined under regulations of the Secretary.

"(b) Loans under this section may be made only for the period beginning with the first day of the first month for which such a loan is made and ending with the close of three years after such first day and such loans with respect to any project may not exceed 60 per centum of such initial operating costs for the first year after such first day; 40 per centum of such initial operating costs for the second year after such first day and 20 per centum of such initial operating costs for the third year after such first day.

"(c) There are authorized to be appropriated to carry out the provisions of this section $20,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years. Sums so appropriated together with repayments of loans made under this section and any other recipts in connection with the program under this section shall be placed in and constitute a revolving fund which shall be available to the Secretary for use in making loans and other expenditures in the exercise of his functions under this section."

TITLE III—AREA HEALTH EDUCATION AND SERVICE CENTERS AND GENERAL REQUIREMENTS

SEC. 301. The Public Health Service Act, as amended by this Act, is further amended by inserting after part C of title XI the following new parts:

"PART D—GRANTS TO ASSIST AREA HEALTH EDUCATION AND SERVICE CENTERS

"STATEMENT OF PURPOSE

"SEC. 1130. It is the purpose of this part to—

"(1) promote cooperative arrangements between area health education and service centers and health service organizations;

"(2) provide for and encourage, the continuing education of providers of health care services in a designated area and stressing cooperative interdisciplinary training in the use of the team approach to the provision of health services;

"(3) provide for and encourage clinical experience in a nonmetropolitan setting for students from university health centers; and

"(4) encourage the utilization of regional medical programs where such programs exist.

"GRANTS FOR COSTS OF DEVELOPMENT

"SEC. 1131. (a) The Secretary is authorized to make grants to university health centers, regional medical programs, or nonprofit provider groups to assist in meeting the costs involved in the development of area health education and service centers.

"(b) Funds awarded under such grants shall be available for expenditure by the grantee for a maximum of three years and shall be utilized for such purposes as may be prescribed in regulation by the Secretary, including but not limited to: (1) detailed design of and arrangements for education, health and medical services, and integration with the institution's research and educational programs; (2) development of administrative and internal and organizational arrangements, including fiscal control and fund accounting procedures and the development of a capital financing program; and (3) recruitment of personnel and conduct of personnel training activity.

"(c) There are authorized to be appropriated to carry out the provisions of this section $25,000,000 for the fiscal year ending June 30, 1973; $50,000,000 for the fiscal year ending June 30, 1974; and $75,000,000 for the fiscal year ending June 30, 1975.

"CONSTRUCTION OF FACILITIES

"SEC. 1132. (a) The Secretary is authorized to make grants to university health centers, regional medical programs, or nonprofit provider groups to assist them in the construction and equipment of educational facilities in conjunction with the development of area health education and service centers. An award under this authority shall be made only after the Secretary has determined that assistance for the construction proposed has been sought and is not available under titles I and II of the Medical Facilities Construction and Modernization Amendments of 1970 and title IX of the National Housing Act.

"(b) There are authorized to be appropriated to carry out the provisions of this section $10,000,000 for the fiscal year ending June 30, 1973; $20,000,000 for the fiscal year ending June 30, 1974; and $25,000,000 for the fiscal year ending June 30, 1975.

"PART E—GENERAL PROVISIONS

"GRANTS AND LOANS

"SEC. 1140. (a) Any loan by the Secretary shall bear interest at a rate comparable to the current legal rate of interest prevailing with respect to loans which are guaranteed under section 1141. No payment of principal on a loan shall be required for the first five years after such loan is made.

"(b) No such loan shall be made unless—

"(1) the Secretary is reasonably satisfied that the applicant therefor will be able to make payments of principal and interest thereon when due, and

"(2) the applicant provides the Secretary with reasonable assurances that there will be available to it such additional funds as may be necessary to complete the project with respect to which such loan is requested.

"(c) Any such loan shall have such security, have such maturity date, be repayable in such installments, and be subject to such other terms and conditions (including provisions for recovery in case of default) as the

Secretary determines to be necessary to carry out the purposes of this title while adequately protecting the financial interests of the United States.

"(d) No such loan shall have a term in excess of fifteen years.

"(e) The Secretary may, for good cause, waive any right of recovery which he has by reason of the failure of a public organization to make payment and interest on a loan under this section.

"LOAN GUARANTEES AND INTERESTS SUBSIDIES

"SEC. 1141. (a) In order to assist (1) private health maintenance organizations and health service organizations (or entities intending to become either), to carry out construction projects for ambulatory care facilities and transportation services and in the case of health service organizations communication services to be used by it for the provision of health services to its enrollees, or to meet their initial development costs (for not more than three years) or to meet their costs of operation (for not more than three years), (2) assist university health centers, regional medical programs, and other non-profit provider groups in the development of area health education and service centers, and to provide working capital for the operation of such area health education and service centers as well as to subsidize the difference between income and operating expenditures, the Secretary, during the period beginning January 1, 1973, and ending with the close of June 30, 1975, may, in accordance with the provisions of this section, and subject to the general provisions of this Act (A) guarantee to non-Federal lenders making loans to such organizations for such purposes, payment of principal of and interest on such loans which are approved under this section, and (B) in the case of nonprofit health maintenance or health service organizations, pay to the holder of such loans (and for and on behalf of the organization which received such loan) amounts sufficient (not to exceed 3 per centum per annum) to reduce the net effective interest rate otherwise payable on such loan. No loan gaurantee or interest subsidy under this section may, except under such special circumstances and under such conditions as are prescribed by regulations, apply to or be made for an amount which, when added to any grant or other loan under this or any other law of the United States, is—

"(i) with respect to any construction, in excess of 90 per centum of the cost of such construction,

"(ii) with respect to initial development costs, in excess of 90 per centum of such costs, or

"(iii) with respect to initial operating costs, in excess of 90 per centum of such costs.

No such loan guarantee may apply to more than 90 per centum of the loss of principal and interest on the loan.

"(b) The Secretary may not approve the application of a health maintenance organization, supplemental health maintenance organization, health service organization, university health center, regional medical program, or other non-profit provider unless—

"(1) he determines, in the case of a loan for which a guarantee or an interest subsidy payment is sought, that the terms, conditions, maturity, security (if any), and schedule and amounts of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulations, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States;

"(2) the term of a loan for which a guarantee and interest subsidy is sought does not exceed twenty-five years if for construction, or fifteen years if for operating costs, or such shorter period as the Secretary *prescribes;* and

"(3) he obtains assurances that the applicant will keep such records, and afford such access thereto, and make such reports, in such form and containing such information, as the Secretary may reasonably require.

"(c) Guarantees of loans and interest subsidy payments under this section shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this section will be achieved, and, to the extent permitted by subsection (e), any of such terms and conditions may be modified by the Secretary to the extent he determines it to be consistent with the financial interests of the United States.

"(d) In the case of any loan guaranteed under this section, the United States shall be entitled to recover from the applicant the amount of any payments made pursuant to such guarantee unless the Secretary, for good cause, waives his right of recovery, and, upon making any such payment, the United States shall be subrogated to all the rights of the recipient of the payments with respect to which the guarantee was made.

"(e) Any guarantee of a loan under this section shall be incontestable in the hands of an applicant on whose behalf such guarantee is made, and as to any person who makes or contracts to make a loan to such applicant in reliance thereon, except for fraud or misrepresentation on the part of such applicant or such other person.

"(f)(1) There is established in the Treasury a Health Maintenance Organization, Health Service Organization and Area Health Education and Service Center Loan Guarantee and Interest Subsidy Fund (hereafter in this section referred to as the 'fund') which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts (A) to enable him to discharge his responsibilities under guarantees issued by him under this title, and (B) for interest subsidy payments authorized by this title. There are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required by the fund. To the extent authorized from time to time in appropriation Acts there shall be deposited in the fund amounts received by the Secretary as interest payments or repayments of principal on loans and any other moneys, property, or assets derived by him from his operations under this title, including any moneys derived from the sale of assets.

"(2) If at any time the moneys in the fund are insufficient to enable the Secretary to discharge his responsibilities under this title to meet the obligations under guarantees of loans under subsection (a) or to make interest subsidy payments on such loans, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from such fund.

"(g)(1) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under this section may not exceed such limitations as may be specified in appropriation Acts.

"(2) In any fiscal year no loan guarantee or agreements to make interest subsidy payments may be entered into under this title if the making of such guarantee or the entering into of such agreement would cause the cumulative total of—

"(A) the principal of the loans guaranteed under this title in such fiscal year, and

"(B) the principal of the loans for which no guarantee has been made under this title and with respect to which an agreement to make interest subsidy payments is entered into under this title in such fiscal year, to exceed the amount of grant funds obligated under this Act in such fiscal year; except that this paragraph shall not apply if the amount of grant funds obligated under this title in such fiscal year equals the sums appropriated for such fiscal year under this title.

"APPLICATION REQUIREMENTS

"SEC. 1142. (a) No grant, contract, loan, loan guarantee, or interest subsidy may be made under this title unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, consistent with subsection (b)(1), as the Secretary shall by regulation prescribe.

"(b)(1) An application for a grant, loan, loan guarantee, or interest subsidy under this title shall include to such extent, in such manner and among such other matters as the Secretary may by regulation prescribe, satisfactory specification of the existing or anticipated (A) population group or groups to be served by the existing or proposed health maintenance organization, supplemental health maintenance organization, or health service organization described in the application, (B) enrollment for such organization, (C) methods, terms, and periods for the enrollment of enrollees, (D) nature and estimated costs per enrollee of the health care and educational services to be provided, (E) sources of professional services, and organizational arrangements for providing health care and educational services, (F) organizational arrangements for an ongoing quality assurance program in conformance with the requirements of the Commission on Quality Health Care Assurance, (G) sources of prepayment and other forms of payment for the services to be provided, (H) facilities available for and additional capital investments and sources of financing therefor, required to provide the level and scope of services proposed, (I) administrative, managerial, and financial arrangements and capabilities of such organization, (J) role for enrollees in the planning and policymaking for such organization, (K) grievance procedures for enrollees, staff, and employees, and (L) evaluation or evaluations of the support for and acceptance of such organization by the population to be served, the sources of operating support, and the professional groups to be involved or who would be affected thereby. An organization making multiple applications for assistance under this title simultaneously or over the course of time shall not be required to submit duplicate or redundant information but shall be required to update the description of the existing or proposed organization in such manner and with such frequency as the Secretary may by regulation prescribe.

"(2) Upon completion of assistance under this title, the recipient of assistance shall make a full and complete report to the Secretary, in such manner as he may by regulation prescribe. Each such report shall include, among such other matters as the Secretary may by regulation prescribe, descriptions of plans, developments, and operations in those areas enumerated in paragraph (1) for specification in applications for assistance.

"(c) A health maintenance organization, supplemental health maintenance organization, health service organization, other nonprofit providers, regional medical programs or university health center receiving assistance under this title shall submit to the Secretary as a condition of its continued assistance, satisfactory assurances, in accordance with such regulations as the Secretary shall prescribe, including but not limited to the following: (1) financial responsibility, and (2) development and operation consistent with the terms of this title and the plans contained in such organization's application or applications for assistance.

"(d) (1) An application for a grant or for a loan, loan guarantee, or interest subsidy under this title shall contain assurances satisfactory to the Secretary that the applicant will, in accordance with such criteria as the Secretary shall by regulation prescribe, enroll the maximum number of persons that its available and potential resources (as determined under regulations of the Secretary) will enable it to effectively serve; except that the applicant shall enroll no more than 50 per centum of its enrollees from medically underserved areas except in rural areas as designated by the Secretary.

"(2) No grant may be made and no loan, loan guarantee, or interest subsidy payment may be made under this title unless the applicant demonstrates to the satisfaction of the Secretary that the applicant will or has enrolled, and will maintain an enrollment of, the maximum number of persons that its available and potential resources (as determined under regulations of the Secretary) will enable it to effectively serve, except that the applicant shall enroll no more than 50 per centum of its enrollees from medically underserved areas except in rural areas as designated by the Secretary.

"(e) The Secretary shall have the authority after a hearing on the record to terminate or cancel any grant, loan, loan guarantee, or interest subsidy to any recipient of assistance under this title which it determines is in substantial noncompliance with any material provision of this title or after notice from the Commission on Quality Health Care Assurance that such organization has had its certificate of compliance suspended or revoked.

"(f) Effective two years after the date of enactment of this Act, no assistance shall be given under this Act, or the mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, to a provider of health care unless such provider holds a valid certificate of compliance under section 1202.

"EFFECT ON STATE LAW

"SEC. 1143. (a) Notwithstanding any provisions of State law which—

"(1) require approval of a health maintenance organization, supplemental health maintenance organization, or health service organization by a medical society;

"(2) require that physicians constitute all or a majority of the governing body of a health maintenance organization, supplemental health maintenance organization, or health service organization;

"(3) require that all physicians or a percentage of physicians in the local medical society be permitted to participate in rendering the services of the organization;

"(4) require that such organization submit to regulations as an insurer of health care services;

"(5) require that only unincorporated individuals or associations or partnerships may provide health care services;

"(6) prohibit advertising by a professional group for recruitment of enrollees; or

"(7) impose requirements or restrictions on a health maintenance organization, supplemental health maintenance organization, or health service organization in a manner determined by the Secretary to be incompatible with this title,

a health maintenance organization, a supplemental health maintennace organization, a health service organization (as defined in this title), or other providers of health care receiving quality health care initiative awards under this title, who otherwise conform with the laws for incorporation and laws for licensing of physicians, osteopaths, and dentists in such State, shall be allowed to provide health care services in such State in accordance with the provisions of this title.

"QUALITY HEALTH CARE INITIATIVE AWARDS

"SEC. 1144. (a) Every provider of health care which is certified by the Commission on Quality Health Care Assurance as maintaining quality control standards in compliance with the requirements set by the Commission on Quality Health Care Assurance shall be entitled to an annual payment in an amount equal to 2 per centum of the gross revenues of such provider attributable to the delivery of health care services in order to defray expenses associated with such compliance. Any provider of health care, whether or not subject to the provisions of this Act, may apply to the Commission for certification of compliance under section 1202.

"(b) There are authorized to be appropriated to carry out the provisions of this section $100,000,000 for the fiscal year ending June 30, 1973; $300,000,000 for the fiscal year ending June 30, 1974; and $500,000,000 for the fiscal year ending June 30, 1975.

"CAPITATION GRANTS TO ENABLE HEALTH MAINTENANCE ORGANIZATIONS, SUPPLEMENTAL HEALTH MAINTENANCE ORGANIZATIONS, AND HEALTH SERVICE ORGANIZATIONS TO SERVE ALL PERSONS

"SEC. 1145. (a) (1) The Secretary shall make annual grants to health maintenance organizations, supplemental health maintenance organizations, or health service organizations serving persons who cannot meet the expenses of such organizations' premiums (excluding additional premiums for high option services). The amount of such annual grants shall be equal to the difference between the maximum amount (as determined by the Secretary) an enrollee could reasonably be expected to pay toward the health maintenance, supplemental health maintenance or health service organization premium and the premium for membership enrollment in such health maintenance, supplemental health maintenance or health service organization for each such person enrolled.

"(2) In determining the amount an enrollee could pay toward the premium, the Secretary shall consider all sources (including public sources) of income available to each such enrollee.

"(3) Grants under this section shall not exceed 25 per centum of the total premium receipts for such health maintenance, supplemental health maintenance or health service organization for the next preceding year.

"(4) There are authorized to be appropriated to carry out the provisions of this section $150,000,000 for the fiscal year ending June 30, 1973; $375,000,000 for the fiscal year ending June 30, 1974; and $700,000,000 for the fiscal year ending June 30, 1975.

"(b) (1) Where a health maintenance, supplemental health maintenance, or health service organization proposes an increase in its premium rate and the Secretary determines that such increase is due in whole or in part to fulfillment of the requirement for open enrollment, in that such organization has in its enrolled population a disproportionate number of high-risk enrollees, the Secretary shall make annual grants to such organization equal to an amount that would eliminate the need for that part of the proposed premium increase caused by such disproportionate number of high-risk enrollees in such organization.

"(2) There are authorized to be appropriated to carry out the provisions of this section $100,000,000 for the fiscal year ending June 30, 1973; $150,000,000 for the fiscal year ending June 30, 1974; and $350,000,000 for the fiscal year ending June 30, 1975.

"PAYMENT OF GRANTS

"SEC. 1146. The amount of any grant under this title shall be determined by the Secretary. Payments under such grants may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necesary.

"PROHIBITION ON TRANSFER OF FUNDS

"SEC. 1147. (a) No funds appropriated pursuant to any of the preceding sections of this title shall be available for any purposes other than the purposes of the program authorized by the particular section pursuant to which such funds are appropriated.

"(b) No funds, except those appropriated under this title, shall be used for the purposes of carrying out the provisions of this title.

"(c) Only funds appropriated under titles IX and XI of this Act shall be used to initially develop, construct, and initially operate a health maintenance organization, supplemental health maintenance organization, health service organization, and any other entity that provides, either directly or indirectly through arrangements with others, health care to a defined population on a prepaid basis.

"LABOR STANDARDS

"SEC. 1148. All laborers and mechanics employed by contractors or subcontractors on all construction projects assisted under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934.

"OPEN ENROLLMENT WAIVER

"SEC. 1149. In a case where all appropriated funds are expended under section 1145(b) (2) and where a health maintenance organization, supplemental health maintenance organization, or health service organization demonstrates to the satisfaction of the Secretary that it has a disproportionate share of high-risk enrollees and by maintaining open enrollment it would be required to enroll a nonrepresentative cross section of the community in which it provides services, to the extent that financing is available and people are willing to enroll, and the enrollment of such disproportionate share of high-risk enrollees will jeopardize its economic viability, the Secretary may waive such requirement for open enrollment for a period of not more than three years. A health maintenance, supplemental health maintenance, or health service organization may receive more than one waiver."

TITLE IV—COMMISSION ON QUALITY HEALTH CARE ASSURANCE

SHORT TITLE

SEC. 401. This title shall be known as the "Commission on Quality Health Care Assurance Act of 1972".

STATEMENT OF PURPOSE

SEC. 402. It is the purpose of this title to promote the quality of health care in the United States by establishing a Commission on Quality Health Care Assurance to develop, establish, and encourage parameters and standards for quality health care.

SEC. 403. The Public Health Service Act, as amended by this Act, is further amended by inserting after title XI the following new title:

"TITLE XII—COMMISSION ON QUALITY HEALTH CARE ASSURANCE

"PART A—COMMISSION ON QUALITY HEALTH CARE ASSURANCE

"ESTABLISHMENT OF COMMISSION

"SEC. 1201. (a) There is hereby established (as an independent agency in the executive branch) a Commission on Quality Health Care Assurance.

"(b) The Commission shall be composed of eleven members to be appointed by the President by and with the advice and consent of the Senate from among individuals who by virtue of their service, experience, or education are especially qualified to serve on the Commission. In making such appointments the President shall appoint individuals who are representative of the health care delivery industry, private organizations engaged in developing health care quality standards which may be applicable on a national basis, and consumers not related to the delivery of health care. The terms of office of each member of the Commission shall be five years except that—

"(1) the members first appointed shall serve, as designated by the President, three for a term of one year, two for a term of two years, two for a term of three years, two for a term of four years, and two for a term of five years;

"(2) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed; and

"(3) a member shall be eligible for reappointment for one additional term.

"(c) The President shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Commission.

"(d) Any vacancy in the Commission shall not affect its powers and six members of the Commission shall constitute a quorum.

"(e) Four members of the Commission shall be consumers not related to the delivery of health care.

"DUTIES OF THE COMMISSION

"SEC. 1202. (a) The Commission shall—

"(1) promulgate standards for qualifications of personnel, composition of medical groups, and other characteristics dealing with the adequacy of facilities and equipment;

"(2) conduct such research and experimental programs as are determined necessary for the development of—

"(A) criteria for new and improved quality assurance systems, and

"(B) norms, with regard to processes, utilization characteristics, and outcomes;

"(3) require and monitor, in accordance with criteria established based upon findings under paragraph (2) quality assurance systems for health maintenance organizations, supplemental health maintenance organizations, health service organizations, and other providers of health care subject to the provisions of this Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 which shall be designed to—

"(A) improve as well as assess the quality of health care;

"(B) evaluate the inputs, processes, utilization characteristics, and outcomes of health care as related to individuals and population groups, and establish relationships between inputs, processes, utilization characteristics, and outcomes;

"(C) concentrate on those illnesses which have relatively high incidence in the population and which are particularly influenced by medical treatment, rather than on unusual illnesses or conditions whose course is little influenced by therapy;

"(D) improve as well as assess the accessibility, availability, and acceptability of health care provided by health maintenance organizations, supplemental health maintenance organizations, and health service organizations, or other providers of health care;

"(E) develop procedures for such systems to report through the policymaking body of the health maintenance, supplemental health maintenance, or health service organization (or as appropriate in the case of any other provider of health care) to the membership and to the Commission on Quality Health Care Assurance; and

"(F) take into account the need for inclusion of consumers as well as the several health care disciplines in the decisionmaking membership of the system;

"(4) issue certificates of compliance to providers of health care certifying that such providers maintain an approved quality assurance system and are otherwise conforming with requirements published under this section;

"(5) after a hearing on the record, revoke or suspend such certificate where it determines that such provider has significantly deviated from the standards, approved quality assurance system, or the norms published pursuant to this section unless such deviation is justified to the satisfaction of the Commission;

"(6) monitor reports by health care providers covered by this Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, for the purpose of assuring that the performance of such health care providers is in conformance with the approved quality assurance system and norms published under this section;

"(7) publish objective statistical descriptions of norms accumulated through experience and results of programs conducted under this Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963;

"(8) conduct a program of research and development which shall have the objectives of—

"(A) improving the technology of assessing the quality of health care with emphasis on the outcomes of health care;

"(B) assessing and comparing the quality of health care provided under different delivery system arrangements;

"(C) analyzing the effects of providing information to consumers and improvement in the methods of information dissemination;

"(D) analyzing the impact of its quality assurance program upon the quality of health care for the American people; and

"(E) coordinating the collection, assimilation, and cataloging of existing information regarding quality health care assurance programs of Federal, State, and local agencies and their relationships with one another, with due regard for the protection of the confidential nature of the doctor-patient relationship,

"(9) collect, summarize, and distribute information regarding the impact of medical services and the health status of the population of the United States;

"(10) provide technical assistance to providers of health care in the development of quality control programs;

"(11) study the levels, costs, and quality of health care under health care programs of the Federal Government;

"(12) administer the reinsurance program established under part B of this title;

"(13) interface with National Institute of Health Care Delivery established under title XIII of this Act;

"(14) prescribe a schedule of reasonable contingent fees for attorneys representing claimants in proceedings under section 1209; and

"(15) annually report to the President and to the Congress on the conduct of activities under this title (including results of studies conducted under paragraph (11)) together with such recommendations for additional legislation as the Commission may determine appropriate.

"(b) In developing quality health care assurance system criteria the Commission's consideration shall include but not be limited to existing State regulations, such standards as are in effect for Federal health agencies, and analysis of the results of the reinsurance program and the results of arbitration procedures under part B of this title.

"ADMINISTRATIVE POWERS

"SEC. 1203. (a) In order to carry out the provisions of this Act the Commission is authorized to—

"(1) appoint and fix the compensation of personnel of the Commission in accordance with the provisions of title 5, United States Code;

"(2) make, promulgate, issue, rescind, and amend rules and regulations as may be necessary to carry out the functions vested in the Commission and delegate authority to any officer or employee;

"(3) acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain, research and other necessary facilities and equipment, and related accommodations as may be necessary, and such other real or personal property (including patents) as the Commission deems necessary; to acquire by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Commission for a period not to exceed ten years without regard to the Act of March 3, 1877 (40 U.S.C. 34);

"(4) employ experts and consultants in accordance with section 3109 of title 5, United States Code;

"(5) appoint one or more advisory committees (including a committee for the preparation and analysis of statistics) composed of such private citizens and officials of Federal, State, and local governments as it deems desirable, to advise it with respect to his functions under this Act;

"(6) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, and local public agencies with or without reimbursement therefor;

"(7) accept voluntary and uncompensated services, notwithstanding the provisions of section 665(b) of title 31, United States Code;

"(8) accept unconditional gifts or donations of services, money, or property, real, personal, or mixed, tangible or intangible; and

"(9) take such actions as may be required for the accomplishment of the objectives of the Commission.

"(b) Upon request made by the Commission each Federal agency is authorized and directed to make its services, equipment, personnel, facilities, and information (including suggestions, estimates, and statistics) available to the greatest practicable extent consistent with other laws to the Commission in the performance of its functions with or without reimbursement. Where the Commission determines that such services, equipment, personnel, facilities, and information cannot be made available for utilization in a manner which would enable it to expeditiously perform its duties under this Act, the Commission may establish where necessary the programs necessary to accomplish its tasks.

"(c) Each member of a committee appointed pursuant to paragraph (5) of subsection (a) of this section who is not an officer or employee of the Federal Government shall receive an amount equal to the maximum daily rate prescribed for GS-18 under section 5332 of title 5, United States Code, for each day he is engaged in the actual performance of his duties (including traveltime) as a member of a committee. All members shall be reimbursed for travel, subsistence, and necessary expenses incurred in the performance of their duties.

"(d) The Chairman shall be the chief executive and the administrative officer of the Commission and shall exercise the responsibility of the Commission with respect to—

"(1) the appointment and supervision of personnel employed by the Commission;

"(2) the distribution of jobs among the personnel of the Commission; and

"(3) the use and expenditure of funds.

"COMPENSATION

"SEC. 1204. (a) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"'(59) Chairman, Commission on Quality Health Care Assurance.'

"(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"'(96) Members, Commission on Quality Health Care Assurance (10).

"'(97) General Counsel, Commission on Quality Health Care Assurance.'

"APPLICABILITY OF COMMISSION REQUIREMENTS

"SEC. 1205. (a) Except as provided in subsection (b) the requirements established by the Commission pursuant to section 1202 shall apply to any provider of health care receiving assistance under this Act or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 after the date of enactment of this title.

"(b) Any provider covered under this Act or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, may apply to the Commission for a temporary order granting a variance from any requirement or any provision thereof promulgated under section 1202 of this Act. Such temporary order shall be granted only if the provider files an application which establishes that—

"(1) the provider is unable to comply with a requirement by its effective date because of unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with any requirement or because necessary construction, alteration, or modernization of facilities cannot be completed by its effective date; and

"(2) the provider has an effective program for coming into compliance with any requirement as quickly as possible with adequate interim safeguards for the protection of consumers of health care.

"(c) The Commission is authorized to grant a variance from any of its requirements or portion thereof whenever it determines or the Secretary of Health, Education, and Welfare certifies that such a variance is necessary to permit a provider to participate in a project approved by him designed to validate new and improved techniques of health care delivery systems.

"REPORTS AND MAINTENANCE OF RECORDS

SEC. 1206. (a) Each provider, covered under this title, shall make, keep, and preserve, and make available to the Commission and the Secretary of Health, Education, and Welfare, such records regarding activities governed by this title as the Commission, in cooperation with the Secretary of Health, Education, and Welfare, shall prescribe.

"(b) The Commission shall prescribe rules and regulations as may be necessary with regard to inspection of the records and facilities of a provider.

"DISCLOSURE TO CONSUMERS OF HEALTH CARE SERVICES

"SEC. 1207. (a) A description of any health care plan covered by this title shall be published as required herein within ninety days after the establishment of such plan or when such plan becomes subject to this title.

"(b) A description of the plan shall be comprehensive and shall include, in a manner designed to be understood by the average enrollee, the following:

"(1) fees and prices;

"(2) scope of services included in benefit packages;

(3) accessibility and availability of services including the location of the facilities, equipment available, hours of operation, practitioners by type and location, and amenities;

"(4) the name and type of administration of the plan; and

"(5) a statement of certification by the Commission.

"(d) The Commission shall monitor the provision of information by providers of care as required by this section. In any case in which information is disclosed or disseminated under this title and is subsequently found to be insufficient, inaccurate, or inaccurately disseminated the Commission shall take such action as is necessary to assure a full retraction of the inaccurate information together with a statement of new data in a manner similar to the initial disclosure or dissemination of such information.

"(e) The disclosure must also include procedures to be followed in presenting claims for benefits under the plan and the remedies available under the plan for the redress of claims which are denied in whole or in part.

"(f) Every provider shall furnish a copy of the plan description (including amendments or modifications thereto) described in subsection (b), to every enrollee upon his enrollment in the plan, and cause the same to be published, in a manner prescribed by the Commission, to the general public.

"PENALTIES

"SEC. 1208. (a)(1) Whenever the Commission after reasonable notice and opportunity for hearing to the provider finds that the provider has significantly deviated from the approved quality assurance system or is engaged in practices which significantly deviate from national or regional norms as determined by the Commission, the Commission shall notify the provider, and the Secretary of Health, Education, and Welfare that such provider shall be ineligible to participate in assistance under this Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 and that the certificate of approval has been suspended until such time as the provider is found to be in compliance with the requirements established under section 1202. Hearings conducted under this section shall be held, where practicable, in a location convenient to the provider of health care.

"(2) Providers of health care, who have had their certificate suspended for a period, which the Commission determines to be unreasonable, shall have their certificate revoked and shall be liable for the repayment of part or all amounts received under this Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963.

"(3) The Commission is authorized to make arrangements with providers of health care who have had their certificates revoked, for reimbursement of amounts received under this Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, including deferred payments on such terms and for such periods as are deemed equitable and appropriate.

"(b) Any provider who willfully or repeatedly violates the requirements of section 1207 (concerning disclosure) may be assessed a civil penalty of not more than $10,000 for each such violation.

"(c) Any person who knowingly makes any false statement, representation, or certification on any application, record, report, plan or other document filed or required to be maintained pursuant to this Act shall upon conviction be punished by a fine of not more than $10,000 or by imprisonment of not more than six months or by both.

"(d) Civil penalties owed under this title shall be paid to the Secretary for a deposit into the Treasury of the United States and shall accrue to the United States and may be recovered in a civil action in the name of the United States or in the United States district court for the district where the violation is alleged to have occurred or where the provider has its principal office.

"ARBITRATION

"SEC. 1209. (a) A provider of health care that possesses a valid certificate of compliance issued under section 1202 may enter into a program for the equitable and expeditious handling of malpractice claims which may arise out of care and treatment of patients. Such programs shall be based upon agreements between the patients and the providers of health care to submit all disputes, not settled to the satisfaction of both parties, to binding arbitration in order to gain the benefits of such programs for patients and providers. Records of all such settlements shall be kept by each provider of health care, and submitted to the Commission in such manner as it shall prescribe.

"(b) An agreement to submit to binding arbitration under subsection (a) must be valid in the jurisdiction in which such agreement is made and shall provide for the selection of arbitrators in accordance with rules and regulations promulgated by the Commission. For those providers who shall establish arbitration programs as specified in this section, title 9 of the United States Code shall apply to such arbitration programs if the State or States in which the provider is located has not enacted legislation providing for the finality of arbitration decisions, or for parties to enter into agreements to arbitrate prior to a dispute.

"(c) Written findings of fact and conclusions of law shall be prepared for each arbitration proceeding held under this section. In each case the findings shall be certified by the arbitrator to the Commission. The Commission shall develop a systematic codification of all findings of arbitration proceedings undertaken pursuant to this section and shall publish such findings at least annually or more frequently at the discretion of the Commission. The Commission shall certify all findings of arbitration proceedings undertaken pursuant to this section to all appropriate State or local licensing or disciplinary boards for each such arbitration procedure under the territorial jurisdiction of such board.

"(d) (1) Every attorney who, in connection with any proceedings under this section for personal injuries or for death or for loss of services resulting from personal injury proximately caused by medical malpractice, accepts a retainer or enters into an agreement, express or implied, for compensation for services rendered or to be rendered in such proceedings whereby his compensation is to be dependent or contingent in whole or in part upon the successful prosecution or settlement thereof, shall, within thirty days from the date of any such retainer or agreement of compensation, sign personally and file with the Commission a retainer statement of such retainer or agreement of compensation containing such information as the Commission shall require.

"(2) An attorney retained by another attorney on a contingent fee basis as trial or appeal counsel or to assist in the preparation, investigation, or settlement of any such proceeding, shall, within thirty days from the date of such retainer, sign personally and file with the Commission a retainer statement of such retainer or agreement of compensation containing such information as the Commission shall require.

"(3) A closing statement shall be filed with the Commission with every proceeding in which a retainer statement is required containing such information as the Commission shall require.

"(4) All statements of retainer or closing statements filed with the Commission shall be confidential, and the information therein contained shall not be divulged or made available for inspection or examination except upon written order of the Chairman or the General Counsel of the Commission.

"(5) Any attorney who charges or collects, for services rendered in connection with any proceedings described in this subsection, any fee in excess of that allowed, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

"PUBLICATION OF CRITERIAL AND NORMS

"SEC. 1210. (a) The Commission may, by rule, promulgate, modify, or revoke any quality health assurance system criterion or norm in the following manner:

"(1) whenever the Commission upon the basis of information submitted to it in writing by an interested person, a nationally recognized standard-producing organization, the Secretary of Health, Education, and Welfare, or a State or political subdivision, or on the basis of information developed by the Commission, or otherwise available to it, determines that a rule should be promulgated in order to serve the objectives of this title, the Commission shall publish such proposed rule promulgating, modifying, or revoking a standard or criterion for a quality health care assurance system or norm in the Federal Register, and shall afford interested persons a period of sixty days after publication to submit written data or comments.

"(2) on or before the last day of the period provided for the submission of written data or comments, any interested person may file with the Commission written objections to the proposed rule stating the grounds therefor and requesting a public hearing on such objections. Within sixty days after the last day for filing such objections the Commission shall publish in the Federal Register a notice specifying the criteria for quality health care assurance systems or norms to which objections have been filed and a hearing request and specifying a time and place for such hearing. Hearings conducted under this section shall be held, where practicable, in a location convenient to the person filing such objection.

"(3) within sixty days after the expiration of the period provided for the submission of written data or comments or within sixty days after the completion of any hearing, whichever is later, the Commission shall issue and publish in the Federal Register, a rule promulgating, modifying, or revoking standards, criteria for quality health care assurance systems or norms, or making a determination that a rule should not be issued. Such a rule may contain a provision delaying its effective date and such period (not in excess of ninety days) as the Commission determines may be necessary to insure that affected persons will be informed of the existence of the criteria or norm and of its determinations and that they are given an opportunity to familiarize themselves with the existence of the requirements of such criteria or norm.

"(b) Any person who may be adversely affected by the promulgation of a rule issued respecting criteria or norms under this section may at any time prior to the ninetieth day after such criteria or norm is promulgated, file a petition challenging the validity of such criterion or norm with the United States district court for the district where such person resides or has his principal place of business for a judicial review of such criterion or norm. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commission. The filing of such petition shall not, unless otherwise stated by the court, operate as a stay of the criteria or norm. The determinations of the Commission shall be conclusive if supported by substantial evidence in the record considered as a whole.

"(c) (1) In the case of establishing criteria for the assimilation of objective statistical material required for the publication of norms, the Commission shall hold hearings only when it determines such hearings to be necessary.

"(2) The Commission shall publish in the Federal Register a summary and basis for the establishment of the criteria required by paragraph (1).

"(d) The Commission in compiling information for setting the requirements for this title shall solicit views and information from concerned entities.

"STATE JURISDICTION AND STATE PLANS

"SEC. 1211. (a) Nothing in this Act shall prevent any State agency or court from asserting jurisdiction under State law over any health issue with respect to which no standard criterion, or norm is in effect under section 1202 of this Act.

"(b) Any State which at any time desires to assume responsibility for the development and enforcement of health standards, criteria, or norms relating to any health issue with respect to which a Federal standard, criterion, or norm has been promulgated under section 1202, shall submit to the Commission a State plan for the development of such standards, criteria, or norms and their enforcement.

"(c) The Commission shall approve the plan submitted by a State under subsection (b) or any modification thereof only if such plan—

"(1) designate a State agency or agencies as the agency or agencies responsible for administering the plan throughout the State;

"(2) provides for the development and enforcement of health standards, criteria, or norms relating to one or more health issues which standards, criteria, or norms (and the enforcement of which) will be no less stringent than the standards, criteria, or norms promulgated under section 1202 which relate to the same health issues;

"(3) provides for a right to entry and inspection of all premises of providers of health care subject to the Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 which includes a prohibition on advance notice of inspections;

"(4) contains satisfactory assurances that such agency or agencies have or will have the legal authority and qualified personnel necessary for the enforcement of such standards, criteria, and norms;

"(5) gives satisfactory assurances that such State will devote adequate funds to the administration and enforcement of such standards, criteria, and norms;

"(6) contains satisfactory assurances that such State will, to the extent permitted by its law, establish and maintain an effective and comprehensive health program applicable to all provides of health care of the State and its political subdivisions, which program is as effective as the standards contained in an approved State plan;

"(7) requires providers of health care in the State to make reports to the Commission in the same manner and to the same extent as if the State plan were not in effect; and

"(8) provides that the State agency will make such reports to the Commission in such form and containing such information as the Commission shall from time to time require.

"(d) If the Commission rejects a plan submitted under subsection (b), it shall afford the State submitting the plan reasonable notice and opportunity for a hearing before so doing.

"(e) After the Commission approves a State plan submitted under subsection (b), it may, but shall not be required to, exercise its authority with respect to comparable standards, criteria, or norms promulgated under section 1202, for the period specified in the next sentence. The Commission may exercise the authority referred to above until it determines, on the basis of actual operations under the State plan, that the standards, criterions, or norms set forth in subsection (c) are being applied, but it shall not make such determination for at least three years after the plan's approval under subsection (c).

"(f) The Commission shall, on the basis of reports submitted by the State agency and its own inspections, make a continuing evaluation of the manner in which each State having a plan approved under this section is carrying out such plan. Whenever the Commission finds, after affording due notice and opportunity for a hearing, that in the administration of the State plan there is a failure to comply substantially with any provision of the State plan (or any assurance contained therein), it shall notify the State agency of its withdrawal of approval of such plan and upon receipt of such notice, such plan shall cease to be in effect, but the State may retain jurisdiction in any case commenced before the withdrawal of the plan in order to enforce standards under the plan whenever the issues involved do not relate to the reasons for the withdrawal of the plan.

"(g) The State may obtain a review of a decision of the Commission withdrawing approval of or rejecting its plan by the United States court of appeals for the circuit in which the State is located by filing in such court within thirty days following receipt of notice of such decision a petition to modify or set aside in whole or in part the action of the Commission. A copy of such petition shall forthwith be served upon the Commission, and thereupon the Commission shall certify and file in the court the record upon which the decision complained of was issued as provided in section 2112 of title 28, United States Code. Unless the court finds that the Commission's decision in rejecting a proposed State plan or withdrawing its approval of such a plan is not supported by substantial evidence, the court shall affirm the Commission's decision. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(h) The Commission may enter into an agreement with a State under which the

State will be permitted to continue to enforce one or more health standards, criterions, or norms in effect in such State until final action is taken by the Commission with respect to a plan submitted by a State under subsection (b) of this section, or two years from the date of enactment of this title, whichever is earlier.

"PROCEDURES TO COUNTERACT IMMINENT DANGERS

"SEC. 1212. (a) The United States district courts shall have jurisdiction, upon petition of the Commission, to restrain any conditions or practices by a provider of health care which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this title. Any order issued under this section may require such steps to be taken as may be necessary to avoid, correct, or remove such imminent danger or to maintain the capacity of a continuous process operation to resume normal operations without a complete cessation of operations, or where a cessation of operations is necessary, to permit such to be accomplished in a safe and orderly manner.

"(b) Upon the filing of any such petition the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order pending the outcome of an enforcement proceeding pursuant to this title. The proceeding shall be as provided by rule 65 of the Federal Rules, Civil Procedure, except that no temporary restraining order issued without notice shall be effective for a period longer than five days.

"(c) Whenever and as soon as the Commission concludes that conditions or practices described in subsection (a) exist it shall inform the affected provider of health care of the danger and that it is recommending to the Commission that relief be sought.

"(d) If the Commission arbitrarily or capriciously fails to seek relief under this section, any person who may be injured by reason of such failure, or the representative of such person might bring an action against the Commission in the United States district court for the district in which the imminent danger is alleged to exist or the provider has its principal office, or for the District of Columbia, for a writ of mandamus to compel the Commission to seek such an order and for such further relief as may be appropriate.

"DEFINITIONS

"SEC. 1213. For the purposes of this title, the term—

"(1) 'input measure' means assessment based on the qualifications of personnel, facilities, and equipment permitted to provide medical care;

"(2) 'process measure' means assessment based upon the conformance of medical decisions and actions taken in actual episodes of care to some defined standards of medical practice;

"(3) 'utilization characteristics' means those characteristics giving information concerning the rates of usage of components of the health care system such as the length of hospital stays, the number of doctor-patient contracts, and the number of hospital admissions in a year;

"(4) 'outcome measure' means assessment of care based upon health of patients during and particularly at the conclusion of episodes of care. Standards for clinical outcome should be based solely on the results of health care;

"(5) 'Commission' means the Commission on Quality Health Care Assurance;

"(6) 'reinsurance program' means the Federal Medical Malpractice Reinsurance Program established under part B of this title; and

"(7) 'norm' means a statistical range which reflects the parameters of acceptable quality health care practices existing at the time such norm is promulgated.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1214. There are authorized to be appropriated for the carrying out of the provisions of this part $75,000,000 for the fiscal year ending June 30, 1973; $100,000,000 for the fiscal year ending June 30, 1974; and $110,000,000 for the fiscal year ending June 30, 1975.

"PART B—FEDERAL MEDICAL MALPRACTICE REINSURANCE PROGRAM

"PROGRAM ESTABLISHED

"SEC. 1220. There is hereby established an insurance program to be known as the Federal Medical Malpractice Reinsurance Program which shall be administered by the Commission.

"SCOPE OF PROGRAM

"SEC. 1221. The Commission shall make medical malpractice liability reinsurance available to primary insurers of such liability to the extent that such primary insurers are liable for damages resulting from acts of an insured who holds a valid certificate of compliance in accordance with the requirements of section 1202.

"BASIC AUTHORITY

"SEC. 1222. (a) In carrying out the medical malpractice reinsurance program the Commission shall arrange for—

"(1) appropriate financial participation and risk sharing in the reinsurance program by insurance companies or other insurers, and

"(2) other appropriate participation on other than a risk-sharing basis by insurance companies or other insurers, insurance agents and brokers, and insurance adjustment organizations.

"(b) The Commission shall initially make reinsurance available to cover liability for amounts over $25,000 but not exceeding $1,000,000. If on the basis of studies and investigations, and other information that becomes available the Commission determines that it would be feasible to extend medical malpractice reinsurance programs to cover amounts less than $25,000 or more than $1,000,000 it may take such action under this Act as from time to time may be necessary.

"NATURE OF COVERAGE

"SEC. 1223. (a) The Commission from time to time shall, after consultation with appropriate representatives of insurance authorities of the respective States, provide by regulation for general terms and conditions of insurability which shall be applicable to primary medical malpractice insurers participating in the reinsurance program, including—

"(1) the nature and limits of liability which may be covered by such insurance;

"(2) the classification, limitation, and rejection of any risks which may be advisable;

"(3) appropriate minimum and maximum premiums;

"(4) appropriate deductibles; and

"(5) any other terms and conditions relating to insurance coverage or exclusion which may be necessary to carry out the provisions of this title.

"(b) The Commission may enter into such contracts, agreements, or other arrangements upon such terms and conditions as may be agreed upon with primary insurers in order to carry out the purposes of this part.

"PREMIUM RATES

"SEC. 1224. (a) Premium rates established by the Commission shall be—

"(1) uniform with respect to similar classifications of risks;

"(2) sufficient to provide adequate proceeds to pay all claims for probable losses over a reasonable period of years; and

"(3) exclusive of any loading for administrative expenses of the United States under this part.

"(b) Premiums established under subsection (a) shall be paid to the Commission in such manner as the Commission shall prescribe by regulation.

"TREASURY BORROWING AUTHORITY

"SEC. 1225. (a) The Commission is authorized to issue to the Secretary of the Treasury from time to time and have outstanding at any one time, in an amount not exceeding $500,000,000 (or such greater amount as may be approved by the President), notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Commission, with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on the outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations to be issued under this subsection, and for such purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"(b) Any funds borrowed by the Commission under this authority shall, from time to time be deposited in the Medical Malpractice Reinsurance Fund established under section 1226.

"MEDICAL MALPRACTICE REINSURANCE FUND

"SEC. 1226. (a) To carry out the reinsurance program authorized by this Act, the Commission is authorized to establish in the Treasury of the United States a Medical Malpractice Reinsurance Fund which shall be available, without fiscal year limitation—

"(1) to repay to the Secretary of the Treasury such sums as may be borrowed from him (together with interest) in accordance with the authority provided in section 1225 of this title; and

"(2) to pay such administrative expenses (or portion of such expenses) of carrying out the reinsurance program as the Commission may deem necessary; and

"(3) to pay claims and other expenses and costs of the reinsurance program (including any premium equalization payments and reinsurance claims), as the Commission deems necessary.

"(b) The fund shall be credited with—

"(1) such funds borrowed in accordance with the authority provided in section 1225 of this Act as may from time to time be deposited in the fund;

"(2) such amounts as may be advanced to the fund from appropriations in order to maintain the fund in an operative condition adequate to meet its liabilities;

"(3) interest which may be earned on investments of the fund pursuant to subsection (c);

"(4) such sums as are required to be paid to the Commission under section 1224; and

"(5) receipts from any other operations under this Act which may be credited to the fund.

"(c) If, after all outstanding obligations have been liquidated, the Commission determines that the moneys of the fund are in excess of current needs, it may request the investment of such amounts as it deems advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

"PAYMENT OF CLAIMS

"SEC. 1227. The Commission is authorized to issue orders establishing the general method or methods by which proved and approved claims for losses may be adjusted and paid for any damage which is covered by medical malpractice reinsurance made available under the provisions of this Act."

TITLE V—NATIONAL INSTITUTE OF HEALTH CARE DELIVERY

"SEC. 501. The Public Health Service Act, as amended by this Act, is further amended by inserting after title XII the following new title:

"TITLE XIII—NATIONAL INSTITUTE OF HEALTH CARE DELIVERY

"ESTABLISHMENT OF INSTITUTE

"SEC. 1301. (a) There is hereby established in the Department of Health, Education, and Welfare a separate National Institute of Health Care Delivery. The Institute shall carry out a multidisciplinary research and development program to improve delivery of health care services and shall be the principal agency in the Department of Health, Education, and Welfare to coordinate and cooperate with the Commission on Quality Health Care Assurance for improvement of health care in the United States.

"(b) The Institute shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate. There shall be in the Institute a Deputy Director. The Deputy Director shall perform such functions as the Director may prescribe and shall be the Acting Director during the absence or disability of the Director or in the event of a vacancy in the position of Director.

"(c) The Director is authorized to appoint within the Institute not to exceed four Assistant Directors.

"FUNCTIONS OF THE INSTITUTE

"SEC. 1302. (a) It shall be the function of the Institute in coordination and cooperation with the Commission on Quality Health Care Assurance to pursue methods and opportunities to improve and advance the effectiveness, efficiency, and quality of health care delivery in the States, regions, and communities of the United States, through initiation and support of studies, research, experimentation, development, demonstration, and evaluation of, but not limited to, the following:

"(1) the existing health care system, emphasizing means and methods to improve such system and the devising and testing of alternative delivery systems;

"(2) health care systems and subsystems in States, regions, and communities which give special attention to the effective combination and coordination of public and private methods or systems for health care delivery;

"(3) preventive medicine and the techniques and technology, including multiphasic screening and testing, to improve the early diagnosis and treatment of diseases, particularly for preschool children;

"(4) systems and technical components of emergency health care and services (including at least one experimental statewide helicopter transportation emergency care system), which utilize, where possible, the skills of returning military corpsmen;

"(5) systems and components of rural health services;

"(6) the development of policy with respect to long-term care, particularly for mentally and physically handicapped individuals and senior citizens, with special emphasis on alternatives to institutionalization including the use of home health aides;

"(7) methods to meet the Nation's medical manpower requirements, including new types of manpower and their utilization and the extent to which tasks performed by physicians and other health professionals may be safely delegated to other appropriately trained individuals in both new and existent health occupations;

"(8) continuing education and the exploration of programs and methods to help health professionals to stay abreast of current developments and to maintain professional excellence;

"(9) health manpower credentialing, licensing, and certification;

"(10) the medical malpractice problem, particularly as it relates to quality care, the practice of 'defensive medicine' and added costs to the public;

"(11) programs for educating health manpower and the accreditation of such education programs;

"(12) application of all forms of technology, including computers and other electronic devices, in health care delivery;

"(13) the efficiency, management, and utilization of new and existing health care facilities including studies of admission practices and examination of cost-finding techniques;

"(14) the development of tools and methods to improve planning, management, and decisionmaking in the health care system;

"(15) the development of information by which quality, efficiency, and cost of health care may be measured;

"(16) the development of uniform accounting practices, financial reporting, and uniform health records;

"(17) the development and testing of incentive payment mechanisms that reward efficiency in health care delivery without compromising the quality of care;

"(18) the needs of individuals, families, and groups for health care and related services, emphasizing the various life styles, including environmental, recreational, and nutritional factors that bear on an individual's health; identification of those factors affecting acceptance and utilization of health care and related services; and the development of educational materials and methods communicating to the public the importance of personal decisions and actions on health;

"(19) the economics of health care and related services, and the impact of the total system of health care delivery and related services upon the standards of living and the general stability of the national economy;

"(20) proposals for the financing of health care, including the potential cost and benefits, and their impact on the health care system;

"(21) concepts and data essential to the formation of a factual basis for national health policies; and

"(22) the effects on health care delivery of the organization, functions, and interrelationships of Federal, State, and local governmental agencies and programs concerned with planning, organization, and financing of health care delivery.

"(b) The Institute shall in cooperation and coordination with the Commission on Quality Health Care Assurance (1) develop methods for, and support of, training of individuals to plan and conduct research, development, demonstrations, and evaluation of health care delivery and related services; (2) provide technical assistance and development of methods for the transfer of new knowledge, components, and systems to public and private agencies, programs, institutions, and individuals engaged in the improvement of health care delivery; (3) collaborate with governments and public and private health care institutions and programs in foreign countries for the exchange of information and support of research, experiments, demonstrations, and training in order to advance health care delivery in the United States and cooperating nations.

"(c) The Institute in cooperation and coordination with the Commission on Quality Health Care Assurance shall evaluate the quality, effectiveness, and efficiency of Federal health programs in improving the delivery of health care to the Nation's citizens. For the purposes of this subsection the Secretary is authorized to transfer to the Institute such funds as may be necessary pursuant to section 513 of this Act.

"ADMINISTRATIVE PROVISIONS

"SEC. 1303. (a) In order to carry out the provisions of this title the Director is authorized to—

"(1) make grants to States, political subdivisions, universities, hospitals, and other public or nonprofit private agencies, institutions, or organizations for projects for the conduct of research and development, experiments, studies, demonstrations, and training of individuals to plan and conduct such projects;

"(2) make contracts with public or private agencies, institutions, or organizations for the conduct of research and development, experiments, studies, demonstrations, and the training of individuals to plan and execute such contracts;

"(3) appoint and fix compensation of the personnel of the Institute in accordance with chapter 51 of title 5, United States Code, except that (A) to the extent that the Director deems such action necessary to recruit men and women of exceptional talent, he may establish the entrance grades for personnel at a level of two grades higher than the grade level provided for such personnel under the General Schedule established by such title and fix their compensation accordingly, and (B) to the extent that the Director deems such action necessary to the discharge of his responsibilities, he may appoint personnel of the Institute without regard to civil service or classification laws, except that personnel appointed under such laws do not exceed at any one time one-third of the number of full-time regular technical or professional employees of the Institute;

"(4) make, promulgate, issue, rescind, and amend rules and regulations as may be necessary to carry out the functions vested in him or in the Institute and delegate authority to any officer or employee under his direction or his supervision;

"(5) acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain research and other necessary facilities and equipment and related accommodations as may be necessary, and such other real or personal property (including patents) as the Director deems necessary;

"(6) to acquire by lease or otherwise from the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Institute for a period not to exceed ten years without regard to the Act of March 3, 1877;

"(7) employ experts and consultants in accordance with section 3109 of title 5, United States Code;

"(8) appoint one or more advisory committees composed of such private citizens and officials of Federal, State, and local governments as he deems desirable to advise him with respect to his functions under this Act;

"(9) utilize with their consent the services, equipment, personnel, information, and facilities of other Federal, State, and local public agencies with or without reimbursement therefor;

"(10) accept voluntary and uncompensated services notwithstanding the provisions of section 665(b) of title 31, United States Code;

"(11) accept unconditional gifts or donations of services, money, or property, real or personal, mixed, tangible or intangible;

"(12) allocate and expend or transfer to other Federal agencies for expenditure funds made available under this title as he deems necessary;

"(13) establish within the Institute such offices and procedures as may be appropriate to provide for the greatest possible coordination of activities under this title with related research and development activities being carried on by the Commission on Quality Health Care Assurance and other public and private agencies and organizations; and

"(14) take such other actions as may be required for the accomplishment of the objectives of this part.

"(b) Upon requests made by the Director, each Federal agency is authorized to make its services, equipment, personnel, facilities, information, and statistics available, to the greatest practicable extent, consistent with other laws, to the Institute in the performance of its functions with or without reimbursement.

"(c) Each member of a committee appointed pursuant to paragraph (8) of subsection (a) of this section who is not an officer or employee of the Federal Government shall receive an amount equal to the maximum daily rate prescribed for GS–18 under section 5332 of title 5, United States Code, for each day he is engaged in the actual performance of his duties including traveltime. All members shall be reimbursed for travel, subsistence, and necessary expenses incurred in the performance of their duties.

"COMPENSATION

"SEC. 1304. (a) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"'(98) Director, National Institute of Health Care Delivery.'

"(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"'(132) Deputy Director, National Institute of Health Care Delivery.'

"ADMINISTRATION OF GRANTS IN CERTAIN MULTIGRANT PROJECTS

"SEC. 1305. Where funds are advanced for a single project by more than one Federal agency for the purposes of this title, the Director of the Institute in cooperation and coordination with the Commission on Quality Health Care Assurance may act for all in administering the funds advanced and a single non-Federal share requirement may be established according to the proportion of the funds advanced by each Federal agency. The Director may order any such agency to waive any technical grant or contract requirement which is inconsistent with the similar requirements of the Institute or which the Institute does not impose, except that nothing in this section shall be construed to authorize the Secretary to waive or suspend, with respect to any such project, any requirement with respect to any of such programs if such requirement is imposed by law or by any regulation required by law.

"TRANSFER OF RESEARCH FUNDS OF OTHER GOVERNMENT DEPARTMENTS AND AGENCIES

"SEC. 1306. Funds available to any department or agency of the Government for health care delivery research and development, or for the provision of facilities therefor shall be available for transfer with the approval of the head of the department or agency involved, in whole or in part, to the Institute for such use as is consistent for the purposes for which such funds were provided, and funds so transferred shall be expendable by the Institute for the purposes for which the transfer was made.

"TRANSFER OF NATIONAL CENTER FOR HEALTH SERVICES RESEARCH AND DEVELOPMENT

"SEC. 1307. (a) The National Center for Health Services Research and Development is hereby transferred from the Health Services and Mental Health Administration to the Institute.

"(b) Subject to the provisions of this section, the President, for a period of two years after the date of enactment of this Act, may transfer to the Institute any functions (including powers, duties, activities, facilities, and parts of functions) of the Department of Health, Education, and Welfare or of any officer or organizational entity thereof which relate primarily to the functions, powers, and duties of the Director as described by this Act. In connection with any such transfer the President may, under this section or other applicable authority, provide for appropriate transfers of records, property, personnel, and funds.

"NATIONAL ADVISORY COUNCIL ON HEALTH CARE DELIVERY

"SEC. 1308. (a) There is hereby established a National Advisory Council on Health Care Delivery (hereafter referred to as the Council) to be composed of twenty-one members. The Council shall consist of the Secretary of Health, Education, and Welfare, the Chief Medical Officer of the Veterans' Administration, a medical officer designated by the Secretary of Defense, the Administrator of the Health Services and Mental Health Administration, the Director of the National Institutes of Health, and the Director of the National Institute of Health Care Delivery who shall be ex officio members and an additional fifteen members not otherwise in the regular full-time employ of the United States to be appointed by the President without regard to civil service laws. The appointed members shall be (1) persons who are leaders in the field of medical sciences or in the organization, delivery, or financing of health care, (2) leaders in the management sciences, or (3) representatives of the consumers of health care. At least seven of the appointed members shall be representatives of the general public who are consumers not related to the provision of health care.

"(b) The President shall designate a Chairman of the Council. The Council shall meet at the call of the Chairman but not less than four times a year.

"(c) Each appointed member of the Council shall hold a term of four years except that any member appointed to fill a vacancy prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, except that the terms of the office of the members first taking office shall expire as designated by the President at the time of appointment, three at the end of the first year, four at the end of the second year, four at the end of the third year, and four at the end of the fourth year after the date of appointment. An appointed member shall not be eligible to serve continuously for more than two terms.

"(d) Appointed members of the Council shall receive compensation at rates not to exceed the daily rate prescribed for GS–18 under section 5332, title 5, United States Code, for each day they are engaged in the actual performance of their duties, including traveltime, and, while so serving away from their homes or regular place of business, they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expense authorized by section 5703, title 5, United States Code, for persons in the Government service employed intermittently.

"(e) The Chairman of the Council, with the concurrence of a majority of the Council members, shall appoint an Executive Secretary of the Council. The Executive Secretary may be appointed without regard to civil service laws and may be compensated at a rate not exceeding the appropriate rate provided for individuals in grade GS–18 under section 5332, title 5, United States Code, as may be necessary to provide for the performance of duties as may be prescribed by the Council in connection with his duties under this Act. The Director of the Institute shall make available to the Council such additional staff, information, and other persons as it may require to carry out its activities.

"(f) The Council shall—

"(1) review programs, policies, and priorities of the Institute, and centers established under section 1311, and advise the Director on the development and conduct of the programs of the Institute and centers;

"(2) examine and coordinate health care delivery efforts in cooperation and coordination with the Commission on Quality Health Care Assurance within the Department of Health, Education, and Welfare and other Federal departments and agencies so as to avoid duplication; and

"(3) assure that significant research and development findings of the Institute and centers are being disseminated and evaluate the extent such findings are making an impact on the health care delivery system.

"(g) The Council shall submit as an appendix to the report acquired by this Act its report on the progress of the Institute and centers toward the accomplishment of the objectives of this Act, and the status of health delivery research development in the United States including any minority views of the Council members.

"SEC. 1309. The Director shall, within one year after the date of his appointment and prior to February 1 of each year thereafter, prepare and submit to the Secretary for his transmittal to the President and the Congress a written report that shall include:

"(1) an appraisal of the activities and accomplishments of the Institute and the centers;

"(2) bibliographies with annotations of research performed or supported and a summary of the significant research and development findings which show promise (given due consideration to the cost, benefits, and the quality of health care program) of improving health care delivery or increasing the productivity of health care systems; and

"(3) identification and recommendations concerning those factors or barriers which inhibit implementation of the significant research and development findings of the Institute and centers or that prevent innovation in health care.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1310. For the purposes of carrying out the provisions of this title (except for the provisions of section 1311) there are authorized to be appropriated $125,000,000 for the fiscal year ending June 30, 1973; $150,000,000 for the fiscal year ending June 30, 1974; and $200,000,000 for the fiscal year ending June 30, 1975. Any unexpended sums appropriated pursuant to this section may be carried over without fiscal year limitations.

"REGIONAL AND SPECIAL EMPHASIS CENTERS

"SEC. 1311. (a) In order to strengthen the Nation's research and development base in health care delivery, to enable the examination and study of health care delivery problems of the various regions of the United States, and to link better research and development findings with actual practice, the Director in cooperation and coordination with the Commission on Quality Health Care Assurance is authorized to enter into cooperative arrangements with public or private nonprofit agencies or institutions to pay all or part of the cost of planning, establishing, and providing basic operating support for (1) not to exceed eight regional centers to carry out multidisciplinary research and development in health care delivery, and (2) two national special emphasis centers, one of which shall be designated as the Health Care Technology Center, to focus on all forms of technology, including computers and electronic devices, and its application in health care delivery; and one which shall be designated as the Health Care Management Center, to fous on the improvement of management and organization in the health field, the training and retraining administrators of health care enterprises, and the development of leaders, planners, and policy analysts in the health field.

"(b) Federal payments under this subsection in support of such cooperative agreements may be used for—

"(1) construction to the extent that the National Advisory Council determines such construction is necessary;

"(2) staffing and other basic operating costs;

"(3) research and development;

"(4) training; and

"(5) demonstration purposes.

Support under this subsection other than support for construction shall not exceed $2,000,000 per year per center, except for the Health Care Technology Center, and may be funded for an initial period of not to exceed three years. The Director, following a review of each center's operation and upon the recommendation of the National Advisory Council, may extend the centers for an additional period of not more than three years each.

"(c) The location of the regional centers authorized by subsection (a) shall be determined by the National Advisory Council with a view, to the extent possible, of broad geographical distribution of such centers.

"(d) The administrative officer of each regional and national special emphasis center shall transmit annually to the Director a report which shall set forth (1) an audit of expenditures in accordance with generally accepted accounting procedures, (2) bibliographies, with annotations, of research performed, and (3) a description of ongoing research programs including a summary of significant research and development fundings.

"(e) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1973; $35,000,000 for the fiscal year ending June 30, 1974; and $40,000,000 for the fiscal year ending June 30, 1975. Any unexpended sums appropriated pursuant to this subsection may be carried over without fiscal year limitations.

"SUPPLEMENTAL INCENTIVE GRANTS TO ENCOURAGE EXPERIMENTATION

"SEC. 1312. (a) In order to encourage individuals, institutions, and health facilities to participate in research and demonstration projects, which without the incentive assistance provided under this section would not otherwise be carried out, and which have been designated by the National Advisory Council as essential, the Director is authorized to provide funds to be used to increase the Federal contribution to such projects under Federal grant-in-aid programs above the fixed maximum portion of the cost of such projects otherwise authorized by an applicable law. Funds shall be so provided for Federal grant-in-aid programs for which funds are available under the Acts authorizing such programs and shall be available without regard to any appropriation authorization ceiling in such Acts.

"(b) The Federal portion of such cost shall not be increased in excess of the percentage established by the Director, and shall in no event exceed 80 per centum thereof.

"(c) The term 'Federal grant-in-aid programs' as used in this section means those Federal grant-in-aid programs in the health area authorized on or before December 31, 1972.

"(d) Not to exceed 10 per centum of the funds appropriated by this part shall be available to carry out this section."

TECHNICAL AMENDMENTS TO THE PUBLIC SERVICE ACT

SEC. 502. (a) Section 1 of the Public Health Service Actis amended by striking out "title" I to X" and inserting in lieu thereof "titles I, II, and XIV".

(b) The Act of July 1, 1944 (58 Stat. 682), is further amended by renumbering title XI (as in effect prior to the date of enactment of this Act) as title XIV and by renumbering sections 1101 through 1114 (as in effect prior to such date) and references thereto as sections 1401 through 1414, respectively.

(c) Sections 767, 768, 769, 769A, and 769B of the Public Health Service Act (added by section 107 of Public Law 92–157) are redesignated as sections 769, 769A, 769B, 769C, and 769D, respectively.

AMENDMENT TO THE NATIONAL LABOR RELATIONS ACT

SEC. 503. (a) Section 2 of the National Labor Relations Act (49 Stat. 449) is amended by adding at the end thereof the following new sentence:

"(14) The term 'prepaid health care plan' means health care furnished by a provider eligible for assistance under parts A, B, or C, of title XI of the Public Health Service Act."

(b) Section 8(a) of such Act is amended by striking out the period at the end of paragraph (5) of such section and inserting in lieu thereof a semicolon and adding at the end thereof the following new paragraph:

"(6) to refuse to offer his employees in any collective bargaining agreement containing provisions for furnishing a health care plan to such employees, the option of choosing a prepaid health care plan if the prepaid health care plan (A) is no more costly to the employer than any other plan provided for in such an agreement, and (B) is available in the area in which the employee resides.".

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 193, strike out line 11 through line 25, and on page 194, strike out lines 1 through 5.

Mr. KENNEDY. Mr. President, this is included as an amendment in the final consideration of the health maintenance organization bill. It deals with mandated multiple choice. It was included in the bill as an amendment, in committee executive session, but we have encountered technical problems in carrying through the thrust of that amendment. We have talked to the minority members of the committee, and they understood we would be proposing this amendment.

Therefore I move the consideration of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. DOMINICK. Mr. President, I ask unanimous consent that my committee staff member on the Health Subcommittee, Mr. Charles Woodruff, be permitted to be present on the floor during the debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I ask unanimous consent that Mr. Herbert Jasper and Mr. Daniel Murray be accorded the privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I ask unanimous consent that during the consideration of the pending measures, two members of the staff of the Finance Committee, Mr. Jay Constantine and Dr. James Morgan, be permitted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I am pleased to be able to call the Health Maintenance Organization and Resource Development Act of 1972 to the attention of the Senate. Throughout almost a year of hearings specifically concerning health maintenance organizations, and through many additional months of hearings concerning the health care crisis, a number of problems related to the existing manner in which health care services are delivered have come to light. The Health Maintenance Organization and Resources Development Act of 1972, as reported by the Senate Committee on Labor and Public Welfare, contains many provisions intended to alleviate some of the problems which have come to the attention of the Committee on Labor and Public Welfare over the past year and a half.

In his 1971 and 1972 messages on health, the President has called for passage of legislation intended to stimulate the development of health maintenance organizations. I am pleased to be able to call S. 3327 before the Senate in response to that request on the part of the President.

Although it is clear that no single piece of legislation can correct the many problems currently existent in the delivery of health care services, I believe it to be the responsibility of the Congress to identify problems which currently exist in the health care industry and to do what it can to alleviate them. I believe that new Federal legislation should represent the most progressive and most considered thinking available at the time of its passage. I believe the Federal Government should act to set a tone which can serve as a benchmark to those, in and out of the health care delivery professions, who are interested in the improvement of our current health care delivery system and in elimination of the many problems currently present in it. For that reason, I believe Federal legislation must be the cutting edge of innovation and change in an industry critical to the well-being of the American people. I believe this bill represents that kind of change.

The Health Maintenance Organization and Resources Development Act of 1972 contains provisions intended to alleviate difficulties the committee has observed in the organization, availability, accessibility, and efficiency of the delivery of health care services in urban and rural America.

HEALTH MAINTENANCE ORGANIZATIONS

Title I of S. 3327 provides capital assistance for the planning, initial development, and initial operation of health maintenance organizations in urban areas. In addition, grants and loans to offset the costs of construction of ambulatory facilities are included in this bill.

Health maintenance organizations qualifying for support under the terms of this legislation would represent a substantial departure from the existing solo practice fee-for-service mode of the delivery of health services. The health care industry, now overwhelmingly cast in the fee-for-service solo practice model, provides no real alternatives to the consumer. At the present time, only about five million Americans are able to receive services through health maintenance organizations similar to those eligible for assistance under the provisions of title I of S. 3327. The intent of this legislation is to provide a stimulus to the development of more health maintenance organizations, so that the existing situation in which no real alternative to the consumer exists can be modified. As President Nixon stated in his 1972 message on health,

> I do not believe that HMOs should or will entirely replace fee-for-service financing. But I do believe that they ought to be everywhere available so that families will have a choice between these methods.

I agree with the president. The provisions of S. 3327 are designed to increase capital support for health maintenance organizations so that we can move away from the 96.4 ratio which currently exists between fee-for-service solo practice and health maintenance organizations.

A health maintenance organization, as defined in title I of the bill pending before us, has many inherent advantages. First, a group practice arrangement, required under the provisions of part A of title I of this bill, will enable physicians to engage in an informal ongoing peer review and consultative process not possible to nearly as great an extent when providers are geographically separated.

In a multispecialty group practice, such as that described in the definitions contained in this title, specialists of many types are available on site for formal and informal consultation concerning the problems of specific patients. The time saved by doing away with the necessity for referring patients to a physician located at some distance from the referring physician will greatly facilitate the provision of high quality health care to patients enrolled in health maintenance organizations. Moreover, a multispecialty group practice approach will facilitate the integration of many of the new and emerging types of health professionals into a truly effective team for the delivery of health care services. Such an approach will go far in increasing the efficiency and effectiveness of the most highly trained and most costly members of the health care team.

Another advantage to a multispecialty group practice approach is that it makes possible the compilation of a single medical record, containing the notes and comments of various types of health professionals who have seen the patient concerning a particular illness, in a single place. A single unit medical record will greatly improve communications among the various health professionals responsible for the care of a patient or group of patients.

It is true that many types of health care organizations exist and are coming into existence in response to growing national concern over the costs and availability of health care services. Many types of health care organizations other than those which would qualify under the definitions in title I of this bill already exist or are being planned. The purpose of the Health Maintenance Organization and Resources Development Act of 1972 is to provide Federal capital support for forms of health care delivery organizations of proven effectiveness.

The steady growth of multispecialty prepaid group practice over the years, despite the inherent expense and difficulties experienced in establishing them, and the persistent discrimination against and harrassment of these organizations, both legal and extralegal, by organized medicine, is testimony to their effectiveness and acceptability.

In the view of the Committee on Labor and Public Welfare, Federal dollars should be used for the capital support of the very best available in the health care field. The Health Maintenance Organization and Resources Development Act of 1972 makes Federal dollars available for those entities which, in the view of the committee, are the best available at the present time.

SUPPLEMENTAL HEALTH MAINTENANCE ORGANIZATIONS

Support for the capital development of a much broader range of less well proven health care delivery entities is available under part B of title I only if the number of applicants eligible under the more rigorous definitions contained in part A are inadequate to utilize all funds available. In addition, moneys for the purchase of services from a broad variety of health care organizations are provided in other titles of the bill.

For purposes of this legislation, priority in Federal capital subsidy is provided to those organizations of proven effectiveness, and those organizations which are most difficult to form, which have the highest capital requirements, and therefore have the greatest need for outside subsidization. As other types of health care delivery organizations become established, the committee will be conducting an ongoing review of their cost and effectiveness, and will be happy to modify this or any future legislation to support those health care entities which have proven their value and effectiveness.

Capital support for experimentation with new types of health care delivery organizations is already available under numerous Public Health Service Act authorities. The intent of title I of the Health Maintenance Organization and Resources Development Act of 1972 is to initiate the formation of multispecialty prepared group practice forms of health maintenance organizations. It is anticipated that the Secretary of Health, Education, and Welfare will continue to use the multiplicity of authorities already in existence for experimentation with other forms of health care delivery organizations.

HEALTH SERVICE ORGANIZATIONS—RURAL AREAS

Title II of this bill provided support for health service organizations, intended to help relieve the unique problems of health care delivery in nonurban areas. Because of relatively scattered populations in rural areas, in the view of the committee, a health maintenance organization as defined in part A of title I of this bill would be difficult or impossible to establish in a rural area. For that reason, provisions are made to provide capital support for health service organizations in rural areas. Health service organizations differ from health maintenance organizations in that great flexibility is permitted for the structure and range of health services provided. Under the provisions of title II of this bill, individual practice plans would be eligible for capital support in rural areas.

The cost of providing health care services in rural areas exceeds that in urban areas on a per capita basis because of the problems of transportation and communication presented by attempting to provide health care services in rural areas. For that reason, Federal capital subsidy is made available under the provisions of title II for a wide variety of types and forms of health care delivery organizations which would qualify under the definition of a health service organization contained within this legislation. The range of services required in this legislation in order for an entity to qualify for support may be altered in the case of a health service organization by a specific waiver on the part of the Secretary of Health, Education, and Welfare. This provision was included as a result of the committee's recognition that personnel, equipment, and facilities to deliver the full range of required comprehensive health services may not be available in rural areas, and that such a requirement might therefore stifle the development of health service organizations unless the flexibility provided by a waiver was included in the bill. However, a health service organization, in obtaining a waiver, must provide the Secretary with adequate assurances that it will work toward the provision of a full range of comprehensive health services as rapidly as possible.

The range of comprehensive health services, which are required to be provided by a health maintenance organization and, with exception of the waiver provision in title II, by a health service organization, are somewhat narrower than that included in S. 3327 as introduced. Specifically, it is not necessary for dental services for adults or extended care facility services to be provided as part of a basic benefits package. These expensive services, however, must be offered as a high option benefit to the enrollees of an HMO or HSO.

The services, included in the definition of comprehensive health services and required to be offered by HMO's and HSO's, include only those services which are currently being rendered with success and for a reasonable and competitive premium cost by HMO's at the present time. Some witnesses have testified that services such as mental health services, preventive dental care for children, and prescription drug services, could not be provided by an HMO and HSO without placing it at a competitive disadvantage. Doubt is cast upon the validity of these comments when one realizes that each of these services is being delivered by HMO's at the present time, as is detailed as part of the committee's hearing record on this legislation.

It is the intent of the Committee on Labor and Public Welfare that the Congress take a leadership role in improving the availability and comprehensiveness of services received by enrollees of plans subsidized with Federal funds. To cite the fact that many existing plans do not conform to what the committee believes to be desirable standards at the present time is an inadequate argument against the assumption of a leadership role by the Federal Government in stimulating an improvement in the comprehensiveness of health services which Americans receive. I believe that Federal funds should be used not to reinforce the status quo, but rather to lead the way in improving the existing health care delivery system. The provisions of this bill are designed to accomplish that goal.

AREA HEALTH EDUCATION AND SERVICE CENTERS

Title III of S. 3327 contains authority for the Secretary of Health, Education, and Welfare to fund area health education and service centers. Throughout our hearings, both in Washington and last year in the field, it became evident that the urbanization of medical education in this country has contributed to the sparsity of physicians and other health care personnel in rural areas. While this factor is certainly not the only, or perhaps even the major, cause of the shortage of health care personnel in rural areas, it is a contributory factor in the view of the committee. During the visit of the Health Subcommittee to four European countries last fall, we had an opportunity to observe ways in which some of those countries handled the problem of attracting health care personnel to rural areas. One of the most effective ways in which this was done was through the assignment of health care personnel in training to rural health care educational facilities and health care delivery facilities. Not only did this accomplish the goal of placing health care professionals in rural areas on a temporary basis, but it appeared to be a significant factor in encouraging health care personnel to remain in rural areas after the completion of their training. Programs such as these help to reduce the sense of professional isolation felt by health care professionals in rural areas, while at the same time accomplish the goal of providing high quality health care services to the residents of those areas.

Title III of the Health Maintenance Organization and Resources Development Act of 1972 authorizes grants and loan guarantees to subsidize the cost of establishing area health education and service centers in non-metropolitan areas. University health centers, regional medical programs, and nonprofit provider groups are eligible for these funds. The intent of the committee in establishing these authorizations is to encourage the development of educational facilities and programs in areas where such programs do not now exist. It is the intent of the committee that such programs shall not be exclusively educational in nature, but shall utilize the opportunity provided by their existence to provide health care services to the community in which they are located where this is feasible. The committee realizes, of course, that the funding for such health care services should not be derived from funds intended for education alone, but should be derived where possible from service funds.

Toward that end, an area health education, and service center must have a written agreement with a health service organization, where a health service organization exists in the area served by the area health, education, and service center, and must make its facilities and programs available to all licensed providers who are eligible for assistance under the Public Health Service Act, in the area served by the center. It is hoped that the impact of the area Health Education, and service center upon the quality of health services in the area will in this way be maximized. It is hoped by the committee that area health, education, and service centers will not become ivory towers without impact or interaction upon the surrounding community.

GENERAL PROVISIONS

Title III of the Health Maintenance Organization and Resources Develop- Act of 1972 also contains various general provisions. Among them is a provision preempting State laws which restrict group practice, the corporate practice of medicine, or other conditions which would impede and inhibit the growth of health maintenance organizations, health service organizations, and supplementary health maintenance organizations. The history of innovation in the delivery of health care has been one of opposition, harassment, and discrimination on the part of organized medicine toward innovators. Some of this opposition has become manifest in State law. As of May 1971, 22 States continued to have law prohibiting prepaid group practice. Section 1143 of the Health Maintenance Organization and Resources Development Act of 1972 provides for Federal preemption of such laws. The committee recognizes the fact that some of these laws were originally intended as controls over the quality of the practice of medicine. Therefore, in order for any provider of health care services to qualify for the preemption provisions of this legislation, that provider must have the approval of the Commission on Quality Health Care Assurance, established in title IV of this bill.

This requirement was written into this legislation by the committee in order to assure consumers of health care services that those services will be of high quality.

Another important preemption provided in the Health Maintenance Organization and Resources Development Act of 1972 is that against advertising for the purpose of recruiting enrollees. The committee believes that health maintenance organizations, health service organizations, and supplemental health maintenance organizations must be allowed to attempt to recruit enrollees to at least as great an extent as commercial health insurance plans. To prohibit them from doing so, as is the case in many States, would seriously impair their ability to grow. The committee believes that private insurance plans which advertise for the recruitment of subscribers, and then reimburse providers on a fee-for-service basis, are in effect acting as the agents of those providers electing to practice in the fee-for-service mode. It sees no reason why prepaid health care organizations, as long as adequate quality assurances can be provided, should not be allowed to compete on an equal basis.

The preemption of State law regarding the corporate or group practice of medicine is not without precedent. Title IV of Public Law 91-515 established authority for group practice and authorized eligible carriers under the Federal Employees Health Benefit Act to underwrite prepaid group practice without regard to certain State restrictions. In a sense, this provision of the Health Maintenance Organization and Resources Development Act of 1972 is simply a broadening of that general principle.

Another provision contained in title III of this bill authorizes capitation grants to enable health maintenance organizations, supplemental health maintenance organizations, and health service organizations to serve medically indigent and high-risk individuals in instances where all other source of financing for such services has been utilized. Throughout the past year and a half, the Health Subcommittee has heard of many instances where adequate health care could not be obtained because of inadequate financial resources despite existing insurance mechanisms.

For that reason, the committee has authorized the appropriation of funds, falling into two categories: The first is for the subsidization of the costs of premiums in a health maintenance organization, health service organization, or supplementary health maintenance organization, when all other sources of funding, both public and private, have been exhausted. The committee has provided this form of subsidy for two reasons. First of all, it wishes to underscore its view that in utilizing public funds for the developmental assistance of health maintenance organizations, health service organizations, and supplemental health maintenance organizations, the committee believes it has an obligation to assist those incapable of meeting the costs of services in such organizations.

Second, the committee wishes to encourage the enrollment of individuals in organized systems of health care delivery. The committee believes that such organized systems of health care delivery will be capable of giving higher quality health care at much lower costs than is true in a relatively disorganized system.

The second form of subsidy available under this provision is to enable the health maintenance organization, health service organization, or supplemental health maintenance organization to maintain the open enrollment policy required by the provisions of this legislation.

Two practices, prevalent in the private insurance industry, make it difficult for individuals with a history of chronic or recurrent illness, or who in the opinion of the insurer stand a chance of requiring unusually high numbers of health care services, to obtain adequate insurance coverage.

These two practices are related. The first is called skimming. Skimming is the practice whereby an insurance company may refuse to provide such an individual with insurance coverage effectively skimming only the best risks for insurance coverage, enabling the company to offer lower rates. The second practice is called experience rating.

Experience rating is the practice wherein an individual with a high "risk" of utilizing health care services is charged a higher premium rate than are individuals or a group of individuals with a low risk of utilizing services. In this way, the insurance company attempts to pay for the cost of providing a high number of services by levying an additional premium on the user of high number of services. Most often, a high utilizer of services is an individual with a chronic or recurrent illness, who is generally less well able to pay for his services than others.

The committee believes both of these practices to be undesirable, and to be antithetic to the purpose and principles of insurance coverage and risk sharing. For that reason, this legislation requires that any organization qualifying for assistance maintain a community rating policy; that is, must charge the same premium to all of its enrollees, and maintain open enrollment. Open enrollment means that the organization must accept enrollees in the order in which they apply up to its capacity, without regard to the applicant's prior health care history.

The committee realizes that both of these requirements place organizations qualifying for assistance under this legislation at a competitive disadvantage with the commercial industry which need not adhere to these requirements. For that reason, the Secretary has been authorized to subsidize organizations qualifying for assistance under this legislation in order to enable them to maintain the required open enrollment policy. If an eligible applicant under the terms and conditions of this legislation can demonstrate to the Secretary that a continuation of an open enrollment policy will result in a premium increase, the Secretary is authorized to make a grant to that organization equal in amount to the amount required to prevent such a general premium increase.

COMMISSION ON QUALITY HEALTH CARE ASSURANCE

Mr. President, problems of the determination of quality in health care services far transcend lack of current knowledge or lack of competence on the part of a particular provider. In my opinion, the absence of agreed upon norms and standards for quality health care on a national scale have greatly contributed to the difficulties currently being experienced by the administrators of public health care programs in determining just what constitutes appropriate health care services in a given situation. I fully appreciate the unique and important position an individual health care provider must play in determining the appropriateness of services for a particular patient in a particular instance. However, the importance of the role of that provider cannot justify the continued absence of generalizable standards relating to the inputs, process, or utilization characteristics of health care services, nor to the virtual absence of a capability to relate the process of medical care to the results of that process on the health of the patient.

Licensure standards vary from State to State, despite the existence of the National Board of Medical Examiners, a private certification board. Despite this fact, reciprocity exists in licensure between most States. The impact of this situation is that despite varying requirements for licensure from State to State in the health professions, many licensed health providers can obtain licenses in other States simply by reciprocity.

No reason exists for the continuation of this situation in the health professions. Unlike law or certain other professions, there is no justification for regional variation in the practice of medicine. Although the incidence of disease may vary from place to place and the population of patients may vary from place to place, medicine is a universal art and science.

I believe providers of health care services throughout the country would welcome the opportunity to participate in an effort intended to increase the body of knowledge concerning the long range impact of their practices and the opportunity to compare their modes of practice with those of providers in other parts of this country.

For that reason, this legislation provides for the establishment of a Commission on Quality Health Care Assurance.

The intent of the committee in authorizing the establishing of such a Commission is to promote the assurance of quality health care practices, invest in the accumulation of additional knowledge about the practices of health care professions in this country and the results of those practices, and to provide assurances that consumers have an opportunity to become involved in many of the major policy aspects of the provision of health care services which they purchase and which they receive.

The Commission as authorized in title IV of this bill would consist of 11 members and would be an Independent Agency of the Federal Government. Of those 11 members, four at any given time must be consumers unrelated to the health care industry. The remaining seven must be professionals drawn from health care disciplines. The committee intends that the composition of the professional membership of the Commission shall be representative of various aspects of the health care industry.

The Commission is authorized to promulgate standards relating to the qualifications and characteristics of personnel and facilities. This authority is, in the committee's view, closely related to the preemption of State law authorized in title III. It is intended that the Commission, in promulgating such input standards, shall attend to the functions of State laws preempted under the provision of this legislation.

The committee does not intend that the Commission shall engage in the determination of how the health professions should be practiced. It is not the intent of the committee that the Commission shall engage in capricious or arbitrary standard setting concerning health care practices. However, the committee believes it to be essential that the Commission be allowed to assure quality, and to effectively monitor health care practices in such a way as to enable it to eventually determine and formulate criteria for what constitutes good health care practices, and to identify reasons for deviation from good health care practices on the part of providers and consumers alike.

The Commission is authorized to ascertain that a provider, in order to become eligible for certification by the Commission have an approved quality health care assurance system. No attempt is made to describe the nature of that system in this legislation, with the exception of the committee's desire that consideration be given to the feasibility of including varying types of health care professionals and consumes in the composition of the quality health care assurance system. It is intended by the committee that the quality health care assurance system be locally determined and operated, in compliance with general criteria established by the Commission. It is anticipated by the committee that such quality health care assurance systems will assume a variety of forms. It is the committee's wish, however, that such systems be able to comply with the uniform reporting requirements, in order to enable the Commission to gather and compile data which will make the establishment of norms for health care practices possible.

The Commission is further directed to utilize the information gathered from the quality health care assurance systems as well as the medical malpractice arbitration systems authorized later in the title, to compile information relating to health care practices throughout the country. It is then directed to establish, after adequate hearings, statistical norms describing those practices, and is authorized to investigate instances in which significant deviation from those norms is observed.

In this way, it is the hope of the committee that a body of knowledge can be established which will lend itself to the formation of standards within the health care field.

The ultimate goal of the Commission, although requiring many years in the accomplishment, will be to relate the processes of medical care to the results of those processes.

The Commission is further authorized to enforce the rather rigorous consumer participation and consumer disclosure requirements of this legislation. It is the view of the committee that the consumer, who is the purchaser and recipient of the health care services, should have the greatest possible voice in how and under what circumstances those services are to be delivered. It is hoped by the committee that the Commission will assist in the accomplishment of this goal.

The Commission is authorized to issue certification to health care providers meeting its requirements regarding standards, the operation of approved quality health care assurance systems, and consumer disclosure. Certification by the Commission will be prerequisite to eligibility for any assistance under this legislation or any future assistance under the provisions of the Public Health Service Act.

In addition, any provider, whether an applicant for Federal funds or not, may voluntarily seek Commission certification. In return, any certified provider will receive a quality health care initiative award, equal in amount to 2 percent of his annual gross receipts, designed to offset the costs of compliance with the Commission requirements, such as recordkeeping, bookkeeping, and reporting. No provider shall be eligible for the preemption of State law, the medical malpractice reinsurance protection or federally supervised medical malpractice arbitration procedures unless he is a certified provider of health care under the provisions of this legislation.

In this way, it is intended to stimulate the participation of all health care providers in the quality assurance program on a voluntary basis. It is only through participation of a large proportion of all health care providers that an accurate assessment can be made of the quality of health care in this country at the present time. Adequate evidence already exists that the quality of health care services in this country is, at best, spotty.

This legislation additionally provides for State standards for quality health care assurance. If a State can promulgate standards at least equal to those of the Commission on Quality Health Care Assurance and acceptable to the Commission, and can offset the costs of enforcing such standards, it may do so in lieu of direct Federal administration of the quality assurance program.

MEDICAL MALPRACTICE

Mr. President, this bill also provides for the arbitration of medical malpractice disputes, the limitation of contingency fees in such arbitration proceedings, and the establishment of a Federal medical malpractice reinsurance program. These provisions are most important reforms to assure stability and equity in this vital area for both the provider of care and the patient.

Medical malpractice litigation has become an onerous and protracted means to resolve medical malpractice disputes. The costs are escalating with less and less of the medical insurance premium dollar going to compensate the injured party. The delays in resolving such disputes average up to 4⅓ years from initial filing of a suit. Litigation has failed to provide an efficient means to achieve a fair result for all concerned.

Arbitration is an efficient and effective method to resolve such disputes. High costs and long time delays are avoided. The procedure may be held in any site convenient to all parties. There is no need for extensive legal procedures since rules and procedures governing courtroom litigation are inapplicable. Arbitration has proved successful in several different programs including the Ross-Loos medical group for the past 40 years, and I believe will be most effective in the HMO and HSO setting.

Litigation of medical malpractice claims has not been an effective method to monitor quality health care standards in the past. Arbitration as conceived in this bill would be a most important monitor of health care practice. Arbitration is under the aegis of the commission on quality health care assurance and is closely related to the functions of the commission. The commission will use the findings in settlement and arbitration proceedings to evaluate health care and provide data for establishing criteria and standards for quality health care. Because arbitration findings are to be used for developing such standards which ultimately will be incorporated in the criteria for certification, it is most important that providers be certified in order to participate in arbitration. With certification, arbitration infomation will be an important feedback mechanism to the providers.

Arbitration will not only provide an expeditious method for the resolution of medical malpractice disputes, but will also be an important means to assess and improve the quality of health care. In such a context the provider of care should be certified by the Commission so that arbitration will be an effective mechanism for insuring better medical care.

Mr. President, the Committee on Labor and Public Welfare accepted an amendment to limit contingency fees of attorneys in those cases of medical malpractice disputes which go to settlement or arbitration within a Health Maintenance Organization.

This provision, offered by Senator GAYLORD NELSON, merits strong support, for it is crucial to counter the escalating costs of medical malpractice disputes and their settlement. I believe limitation of contingency fees is most appropriate in the arbitration setting since the need for extensive pretrial preparation for litigation in the courtroom is avoided.

The Commission on Quality Health Care Assurance shall be responsible for monitoring all findings of the arbitration of settlement proceeding and the corresponding contingent fee arrangements of the attorneys and their clients.

An excellent opportunity is provided the Commission to evaluate the entire process and establish important criteria and standards in this area. Because the Commission shall have such an important role under this provision, it is most important hat arbitration and the limitation of contingency fees be available only to those providers of care who have obtained a certificate of compliance from the Commission. These provisions are closely related to issues of quality health care and programs to be provided only to those who have obtained the certificate of compliance.

Mr. President, as a complement to the arbitration and contingent fee limitations provisions in this bill and to assure a measure of stability in medical malpractice insurance, I strongly support the provision for a Federal medical malpractice reinsurance program.

This program responds to the serious need for stability in medical malpractice insurance which has lacked a strong base of backup support in the reinsurance area. Lack of such support has been a significant factor in cancellation of medical malpractice insurance policies for entire States and localities as well as to individual practitioners. By establishing a Federal reinsurance program of support and controls, the result should be stability and reduced costs for the provider of care.

To obtain the benefits of this reinsurance program, the provider of care must obtain a certificate of compliance from the Commission which is responsible for administering this program. I strongly support this precedent condition of certification, for I do not believe this program should be available to those providers who may not be meeting the quality health care standards promulgated by the Commission. I believe it is most reasonable that all providers, from the individual practitioner to the HMO or HSO, be eligible for such reinsurance protection by simply obtaining certification.

Mr. President, arbitration, the limitation of contingency fees and the reinsurance program as provided in this bill merit strong support to implement reform in a vital health care. Under the supervision of the Commission on Quality Health Care Assurance, these measures would not only significantly improve an area of critical concern to providers of care and patients, but also establish the wherewithal to monitor health care standards. Certification as a condition precedent for the provider of care to qualify for such programs is eminently fair and reasonable. I believe providers of care will welcome the evaluation provided by the Commission as vital assistance in developing and maintaining high standards of health care, which is a goal we all share.

Mr. President, title V of S. 3327 amends the Public Health Service Act to establish a National Institute of Health Care

Delivery as a separate agency within the Department of Health, Education, and Welfare.

The Institute's mission will be to carry out an accelerated multidisciplinary R. & D. effort to improve the organization and delivery of health care in the Nation.

Title V also authorizes up to eight research centers, two national special emphasis centers, a health care technology center, and a health care management center.

The total amount of money authorized by title V of the bill both for the Institute and the centers is $155 million for fiscal year 1973, $185 million for fiscal year 1974, and $240 million for fiscal year 1975. This is a total authorization of $580 million.

A 21-member national advisory council on health care delivery is also authorized by the committee's bill for the purpose of advising the Institute on the development, priorities, and execution of the program.

Since World War II, the United States has invested approximately $20 billion in biomedical research. This investment has produced many dividends in terms of major medical breakthroughs and has made the Nation preeminent in the world in respect to biomedical research.

On the other hand, comparatively small investments have been made in research and development efforts to improve the organization and delivery of health care. Appropriations for fiscal year 1972 contrast the Nation's investment in biomedical research as compared to the health care delivery research. The fiscal year 1972 budget for the NIH, the Federal Government's principal biomedical research organization, was $2.2 billion, while the budget for the National Center for Health Services Research and Development was only $62 million. This great disparity may help to account for this nation's preeminence in biomedical research and our lack of understanding concerning the deficiencies in the present delivery system. The gap between what we know and what we practice is one which grows wider each day. The American people marvel at the miracle-like heart transplants which are largely the result of this Nation's enormous investment in biomedical research. Regrettably, these kinds of achievements are not matched in respect to the organization and delivery of health care. For millions of Americans health care is either not available at all, is inaccessible, and/or is not affordable.

To develop the means and methods to deliver the results of medical research and the know-how to our citizens whereever they live at a price they can afford is the principal health task facing this soon-to-be-established National Institute on Health Care Delivery.

Mr. President, I wish to emphasize in very strong terms that the mandate given to the National Institute of Health Care Delivery will be very difficult to carry out and that it is, therefore, essential that the activities of the Institute be undertaken in a prudent and orderly manner. The dual goals of the Institute are to enhance the breadth and effectiveness of health services research and development in the Nation through an expansion of available funds and through the transfer of the National Center for Health Services Research and Development to the Institute and to create a capability to carry out health policy research, development, and training through the staff of the Institute.

While this innovative approach to policy research and formulation is, in my view, urgently needed and deserving of support, there are serious constraints which will plague this effort. These constraints are: First, there is in the Nation essentially no tradition of health policy research and development and no suitable model upon which to base the establishment of a complex large and multifaceted R. & D. effort. Second, there is in the Nation essentially no body of experienced managers to initially head up an effort of the magnitude the committee's bill ultimately envisions. Third, there is in the Nation a critical shortage of qualified professional personnel in respect to the broad-based functions of the Institute and, therefore, the recruitment of adequate numbers of such persons will be arduous.

Given these formidable constraints, it is clear that it is not possible to draw a complete analogy between this proposed Institute and the ongoing National Institutes of Health. When the NIH was established in 1937, there was a large pool of well-trained biomedical researchers who were then constrained principally by the lack of money and resources with which to carry out high-level biomedical research. At that time there was also a large body of potential investigators eager for training if resources could be made available. Such is not the case in health policy research today, in which there is only a small body of practitioners from economics, law, medicine, social sciences, and so forth, which has specialized in the conduct of the kinds of efforts which are intended to be carried out by the Institute.

It believe that, if the efforts of the National Institute on Health Care Delivery are to be successful, priorities must be set which will take cognizance of these constraints. For example, the small number of qualified policy analysts leads me to the conclusion that only a few centers of excellence are possible at the outset of the Institute's activities. I also urge that the Institute devote a major share of its effort to the creation of a major intramural health care research effort, analogous to the Clinical Center of the NIH.

I also urge the establishment within the Institute of a specific unit charged with supporting and developing training programs and training centers for health policy and health care research workers. The expansion of trained manpower in this area is absolutely essential to the viability of the Institute's long-term program.

I further urge that the Institute and the Department of Health, Education, and Welfare give serious thought to the relationships between the Institute's program and the Lister Hill Center for Biomedical Communications which is located in the Department of the National Library of Medicine.

In summary, I want to stress that the initial years of operation of the Institute will be critical in respect to long-term success or failure of it and that the decisions which are taken in respect to these initial years' activities should be made with the greatest possible care, commonsense, and vision.

Finally, Mr. President, I want to just briefly mention the relationship between the National Institute on Health Care Delivery and the Commission on Quality Health Care Assurance, established by title IV of the committee's bill. Without question, the agency of the Federal Government with which the Commission will have its greatest concern and interaction will be the Department of Health, Education, and Welfare. The need for close and cooperative working relationships between the Commission and HEW is made greater by the provisions of title V of the committee's bill which authorize the creation of the National Institute on Health Care Delivery. Accordingly, the committee has mandated enumerous sections contained within title V of the bill that the activities of the National Institute of Health Care Delivery be carried out in coordination and in cooperation with the Commission on Quality Health Care Assurance. In this respect, the committee considers the Commission and the Institute to be essential to the effective carrying out of the mandate of S. 3327 and further considers that the relationship between the Commission and the Institute must be compatible. While some of the functions of the Commission and the Institute are intimately related to one another, I wish to emphasize that in no way can or should either the Commission or the Institute be viewed as duplicative of the other. Both are essential.

Mr. President, the pending measure came out of the Committee on Labor and Public Welfare with a unanimous recommendation. There are different provisions which have been of concern to different members of the committee. It is an extremely expansive, far-reaching, and significant piece of legislation. When enacted, it will provide the basis for establishing health facilities as well as services to the American people in both urban and rural areas. It will result in higher quality health care for all our people.

This legislation and the health manpower legislation represent two of the most important efforts made by Congress in addressing itself to the health care crisis.

When passed and implemented, the third aspect of the health care crisis will be addressed—the financing mechanism. It will be one thing if we have an adequate supply of well-trained health manpower, and if we are able to build various health facilities in urban and rural America; yet if people are not able to use those services or those facilities because of some kind of financial hardship, we will still have failed, I believe, to meet our responsibility to assure that in this great country of ours, quality health care will be available to the American people at a price they can afford to pay. We have tried to address ourselves in a modest way to that problem.

The intent of this bill is to provide quality medical care in urban and rural areas; it provides financial assistance to those communities that need it, and gives them assistance in developing their HMO's and SHO's.

What we have tried to do here is to establish for the first time a commission on quality control. We have brought the neighborhood resident, hopefully, into the health delivery system. We have established, as well, a system by which the facilities can be created in all parts of the country in which high quality care can be delivered. I believe that this bill represents the combined, best judgments of Republicans as well as Democrats in the health area. It is an important step forward in trying to meet one of the very important needs of the American people—decent health care.

As this time, I am prepared to consider any amendments.

Mr. JAVITS. Mr. President, I have joined the Senator from Massachusetts (Mr. KENNEDY) now for some years in trying to bring us to the present stage with respect to health care for the American people. I did that, first, because of a deep concern for the welfare of my own people in New York State—which comprises almost 10 percent of the population of this country, as well as for the entire United States. Second, because, having been for some years in the coexistence, competition struggle, cold war, with the Communists since I first came to Congress immediately after World War II, I have have been so impressed with the fact that when we boil it all down, the only thing the Russians have really offered their people is universal health care. Other than that, there is not a thing I can discover in which we not only outrank them but also outclass them; yet, it has taken us so long, and is still taking us a long time, to get to the point where we can really effectively challenge them.

We challenged their quality. There is no question about that. But we do not, as yet, effectively have universality. That is the fundamental purpose.

Of course, the second step in what the Senator from Massachusetts has properly described as a three-phase effort, the first phase is to supply the personnel. We have bills on that. And the health provision. I had a health bill on the health provisions. Then there is nursing.

Now the effort is to supply the means through which health care may be delivered the most efficiently, especially as we have learned that health maintenance is even more important than health care in terms of the economy and effectiveness for the people.

Our struggle is to keep the people well, as well as to cure them when they are ill. Really, that is the new concept of medicine today, to keep the people well. Thus, I am deeply gratified that we are finally here.

I wish to emphasize also with this particular measure, that it is the second leg of a three-legged stool on which I hope the American people will ultimately be able to sit comfortably with respect to health care. But I wish to emphasize one other point, which the Senator from Massachusetts mentioned but which, uniquely I suppose, would lie in my mouth to say, and that is the bipartisan nature of the sponsorship of this measure.

I joined the distinguished Senator from Massachusetts in developing it. It was part of my national health scheme, as it is part of his. Here we found common ground. It is interesting that in the committee, on the whole, there was no dissent with the fundamental purpose, although the distinguished Senator from Colorado (Mr. DOMINICK) has some views about a certain kind of HMO, a supplemental HMO—which we will deal with with respect to his amendment.

What I wish to emphasize is that we are still leaving entirely open all options on financing national health care, or on even the university of its provisions insofar as the Government has responsibility to see that it is available to all without penalty because the individual is economically unable to pay for quality health care. All our options remain open, after this bill, as they did before. Let us remember that the options range all the way from the American Medical Association's own plan, which we can consider the right wing, as it were, of this whole effort, the administration's own plan, the trade union's plan, and my own plan, which I suppose could be described as the so-called hospitals plan, and then various health organizations like Blue Cross, Blue Shield, and so forth.

But everyone's options are open—including no plan. There may be Members here who would go for no plan—not the administration's, not the American Medical Association's. OK. The options are open. We can start right here and we will have rendered a great benefit to the American people in opening up channels by which they may get effective medical care. This is critically important, because it underlines the fact that we have proceeded step by step, up to and including this point, which is still essentially not a controversial point.

Certainly, everyone can agree that we need enough doctors and nurses, and enough other medical help and personnel to provide the most efficient means by which to render the services necessary.

The next question is, who will render it, to whom, and what will it cost? That is a stage we have not yet reached. I have appreciated very much Senator KENNEDY's first amendment to deal with this matter in the collective bargaining field which appears at the very end of the bill in section 503.

Again the Senator from Massachusetts is faithful to our concept of keeping this clean with respect to its fundamental purpose upon which there could be such broad agreement. I congratulate him on that. We will fight about the other part in due course. However, at least we will be standing on the second, of the two plateaus which could not have been erected without his willingness to subordinate his strong feelings on a national health act and saying, "OK. We are going one step further beyond the professions in the methodology of the act. Let us at least cosponsor that."

I hope very much that Members of the Senate will understand the frame of reference in which this fits and will support at least accomplishing the second of the two monumental steps in order to do it. It might be the same with regard to the ultimate goal. But it does not get us to that goal.

Upon that, I think the facts and the details are clear. My own relationship to this matter dates back to the introduction of my own Local Comprehensive Health Service Systems Act of 1971, followed by the administration's Health Maintenance Assistance Act of 1971, which I introduced. And this is a logical sequel to all of this. It shows that we have found that the health maintenance organization based on a group concept, is the best.

At this time, I would like to read—and I shall not detain the Senate long, at least in this preliminary debate—the words of the Secretary of HEW, Secretary Richardson on that score when he testified, for example, against the fact that many States impose legal restrictions on HMO development and said:

> Many States impose legal restrictions on HMO development which will have to be overcome, for example, in the areas of licensure of health professionals and sponsorship of HMO's. Twenty-one States have even more restrictive laws, in some instances, requiring HMO's to operate under rules applicable to Blue Shield plans or insurance companies. Since HMO's operate in a different fashion from either of these, such laws make it difficult for HMO's to organize.

What this bill seeks to achieve is not only uniformity, but efficiency. In this way it circumvents laws that are inconsistent with it within the States and also frees States which have no laws. This would, therefore, enable HMO's to operate. In other words, it settles all economical questions where State medical associations might attempt through their power to discipline doctors so as to inhibit the organization of HMO's. It places tremendous emphasis upon the concept of quality both in the case of organized HMO's and in the technique by which an HMO is established.

One other thing is critically important. No one has to use an HMO. He can use all of the private doctors he wants. We believe, and we have proved it, that this is the most effective and economical way in which to render service. And it is a superior service because it is dedicated not only to curing, but also to helping people prevent illness.

Therefore, I strongly commend it. It takes advantage of the fee for service on a per capita basis where a great many people are not covered. However, the people want to be covered. And this enables them to be covered in the most efficient possible way.

These are, of course, nonprofit organizations except for the fact that doctors and everyone else get salaries, as they would in any other organization. This is the most advanced concept there is.

While we encourage it, we do not make anyone use it. We are not at the advanced stage as yet. We will get to that point. However, we are not there yet.

The Senator from Colorado (Mr. DOMINICK) felt strongly that the so-called medical foundation, HMO, should have a right to be organized and to function within the context of an HMO concept under the bill. A medical foundation HMO has one difference from the classic HMO which the Senator from Massachusetts and I have done our utmost to perfect. That difference is that the doctor gets a fee for services. He does not have to, but he may operate on a fee for service basis. That is the basic difference under the classic HMO concept. A per capita fee is paid by a person, an organization, a union, or someone else, and the doctors and all other personnel get salaries, and they take the good with the bad, the hard with the easy, and the long with the short hours.

We believe that this is the most efficient way for dealing with the matter. The medical foundation, the HMO, also has to live. We recognize that right in the bill. And the bill contains a title in part B on page 106 which enables us to extend the same benefits to them that we are extending to HMO's generally to those supplemental HMO's with the understanding that, as we pay a per capita fee and salary concept in a classic HMO, we felt that we should not have the so-called medical foundation HMO unless it was necessary to make available all of the potentials of such an organization in a given area where there was no HMO organized according to the classic pattern.

So we provide that the supplemental HMO is permitted where there are insufficient qualified, eligible applicants for grants as HMO's, as the classic HMO.

Mr. President, I worked that comprise out myself with the full approval of the Senator from Massachusetts. I believe it to be a fair one. I hope very much that we will be able to accommodate that compromise in the disposition which we make of the amendment of the Senator from Colorado.

I say that, Mr. President, not because I believe that these supplemental in HMO's are inferior in any way, but because they do have a function as an HMO would, for example, except that they do not represent, in our judgment, the most economical and the most likely to give the types of care, including preventive care, one-stop care, which we look forward to in presenting this bill to the Senate on the classic HMO concept.

Mr. President, finally, in conclusion, we focus upon the need for some national health scheme. There are some 76 such bills pending before Congress. We must recognize, all of us, however we might feel about this bill and the concept, that we need to augment and improve the capacity for health care to meet the increasing demands which will result ultimately from whatever financing of the measures we adopt. If we adopt none, we still face the need for more health care. Therefore, the pending bill seeks to provide ways in which to improve access to health care and to control the costs of health care.

And I want to emphasize how the costs have been running away according to the Consumer Price Index, they have doubled in cost and this has compelled us to look to the question of costs and seek to maintain the quality of that care for the American people.

So this bill proposes materially to improve a system for delivering health care in this Nation and to provide solutions for those difficult problems of cost and quality by authorizing support for the concept of prepaid health care delivery systems which are capable and more economical and will provide a full range of services.

I hope very much that the Senate will give the only tribute which I know the Senator from Massachusetts and I desire for our monumental labors which have gone into what I consider a magnificent, strong, and very constructive bill by giving its approval.

Mr. BEALL. Mr. President, I rise first to indicate my support for 53327, a bill to encourage the development of Health Maintenance Organizations in the Nation. This is landmark. I also want to congratulate the Senator from Massachusetts, the Chairman of the Subcommittee on Health, and the ranking Republican member, the Senator from New York (Mr. JAVITS), who is the ranking member of the full Committee on Labor and Public Welfare, and Senator SCHWEIKER, the ranking minority member of the health subcommittee, and Senator DOMINICK for the leadership that they have shown in the entire area of improving opportunities for health care delivery in this country. This is the result of many years of work that began long before I came to the Senate. I am happy to have had the opportunity to participate in these measures for improving access to the health system.

The Senator from Massachusetts and the Senator from New York both very eloquently described the legislation that is under consideration today and they have gone into detail on Health Maintenance Organizations sections.

I will focus my remarks on title V of the legislation, which authorizes a new National Institute of Health Care Delivery as a separate agency within the Department of Health, Education, and Welfare.

The Institute's mission will be to conduct a multidisciplinary, research and development effort to improve the delivery and organization of health care in the country. In addition, there is authorized up to eight regional centers and two special emphasis centers, a health care technology center, and a health care management center. The total authorized funding for the Institute, the regional centers, and the special emphasis centers will be $155 million for the first year, $185 million for the second year, and $240 million for the third year for a total of $580 million over a 3-year period.

BACKGROUND AND NEED

Mr. President, I first made this proposal for a National Institute of Health Care Delivery in a June 15, 1971 speech in Gaithersburg, Md. Thereafter, I circulated reprints of the speech to various medical and health organizations and to many experts in the field around the country. The interest in the proposal was most encouraging. I was particularly pleased with the favorable editorial comment by the respected "Science Journal." The comments, suggestions, and criticisms that I received were most helpful in molding the proposal into legislative form. I want to extend a special thanks to Johns Hopkins and Maryland University. Their faculties' interest and observations contributed significantly to the final bill. I also examined the administrative and organizational structure of the various Federal research and development efforts, as well as some private organizations.

Finally, on March 13 of this year I introduced S. 3329, a bill to establish a National Institute of Health Care Delivery. S. 3329 was cosponsored by Senators DOMINICK, HOLLINGS, PASTORE, and STEVENS. I am grateful for their support and assistance on this legislation.

Mr. President, since World War II, the United States has invested approximately $20 billion in biomedical research. This investment has produced many dividends in terms of medical breakthroughs. This effort has made the United States preeminent worldwide in biomedical research.

During the same period, comparatively small investments have been made in research and development to deliver the fruits of biomedical research to the American citizens. During the last fiscal year, for example, the National Institutes of Health's budget was $2.2 billion, while the budget for the National Center for Health Services Research and Development was only $62 million. I want to make it clear that the citing of this contrast does not suggest or imply that we are spending too much for biomedical research. For the record of this Senator, the Congress, and the administration clearly reveals strong support for an accelerated attack against the No. 1 and 2 diseases of our citizens, heart and cancer. Biomedical research and health-care delivery are inextricable pursuits.

The disparity in spending between biomedical research and health care research and development may help explain the preeminence of the United States in biomedical research and the deficiencies in our present health system, as well as the growing gap between what medical knows and what is delivered to the patient.

I have talked to many Marylanders and citizens of this country. Although our citizens marvel and applaud the achievements of medical science, including the miracle-like transplants that are taking place, their first plea to the health community is not for more dramatic breakthroughs, although these are wanted, but for the health system to make available, accessible, and affordable the achievements, methods, and procedures developed by medical science over the last quarter to one-half century. The public is aware of the gap between the capabilities of medical science and what is delivered to the patient, and this is a source of much discontent.

Developing the means and methods to deliver the results of medical research to our citizens wherever they live and at a price they can afford will not be an easy task. It will be the difficult mission and challenge given the new Institute.

PRESENT EFFORTS INADEQUATE

Presently, the Nation's effort in this area is at the National Center for Health Services Research and Development. This Center presently is buried in the bureaucracy of the Department of Health, Education, and Welfare, being one of many units of the Health Services and Mental Health Administration.

This center would be moved to the new Institute. At its present position in the Department, the Center for Health Services Research and Development lacks visibility and its clout is small. It lacks an effective organizational structure and the flexibility that characterizes many Government research and development organizations. It is not funded adequately. Its research function has been shortchanged and underemphasized. It does not even have a legislative mandate. I doubt whether many in Congress, other than those with a special interest in health or serving on the health or appropriations committees, even know the center exists.

Although some interesting efforts have been undertaken at the center and elsewhere, one must admit that the efforts to date have contributed disappointingly little either to the solving of the problems of the present delivery system or to the producing of alternative systems. The fact is that important questions that had been raised about health care delivery 10 years ago, are still being asked today.

I do not believe that we can wait another decade for these answers. The committee shares this belief not only because of the urgency of our present problems, but also because we will be making fundamental decisions with respect to the directions of health care delivery in the near future and we need all the information and wisdom we can gather so that the decisions made will be the best possible. The new National Institute of Health Care Delivery, with a clear mandate from Congress, top management, the necessary organizational structure and administrative provisions, and with adequate resources, will help us to find the answers to the many health care delivery questions and help make health care delivery in the United States as important as medical research.

LOCATION AND APPROACH

The new National Institute of Health Care Delivery will be a separate agency within the Department of Health, Education, and Welfare. Its organization position within the Department will be comparable to the National Institutes of Health. This position will be needed because of the importance and urgency of health care delivery problems. It is necessary if the Institute is going to attract top management and the talented men and women required for this undertaking. This elevated structure will give health care delivery research and development greater visibility and raise its stature among the public, the health community and within the Government. The Institute's new structure will enable it to have a strong voice for a needed increased investment and interest in research and development in health care delivery.

The Institute will provide a creative environment wherein multidisciplinary teams from such academic disciplines as health, medicine, engineering, science, accounting, statistics, social sciences, architecture, law, education, and the management sciences can interact and focus their attention and generate action oriented research on the critical and complex problems of health care delivery.

The imporatnce of the multidisciplinary approach was underscored in a recent speech by Prof. William B. Schwartz of the Tufts University School of Medicine when he said:

> There is a clear implication that the problems will require a multidisciplinary approach—we are not simply dealing with economic problems to be formulated and analyzed by economists or manpower problems to be dealt with by physicians. The problem of delivery or primary medical care, for example, obviously has an enormous number of facets. It involves not simply a question of more and larger medical schools training more physicians but a range of issues including the maldistribution of physicians, inducements to rural and ghetto practice, restriction of physician entry into specialities that are overpopulated, the use of allied medical personnel to replace physicians in the delivery of primary care, the introduction of computer-aided diagnosis and management as a means of upgrading the non-physician's performance and increasing his range of responsibilities, the use of television as a link between doctors and patients, and the introduction of new transportation strategies as a means of making high quality care available to areas of low population density.
>
> In weighing these approaches, consideration must also be given to patient acceptance of new personnel and new technology, to the reliability of computer-aided diagnosis and management, to the response of the physician to incursions of new health personnel and new technology into his domain, to legal problems related to licensure and malpractice, to the time lags involved in the introduction of new strategy, and to the trade-off between quality and quantity that is implicit in changing the traditional patterns of health care. Only in this way can we allocate resources appropriately and can a desirable mix of manpower and technology be brought to bear".

There is another important concept in research and development; namely, "critical mass". This term originated in nuclear physics where "critical mass" is defined as the amount of radioactive material needed to produce a self-sustaining nuclear reaction. In research and development, "critical mass" refers to the minimum size and composition needed to achieve the important self-sustaining creative atmosphere for the undertaking. In theoretical basic research, one or two researchers may be the "critical mass." On the other hand, in complex and larger research efforts, the "critical mass" may be hundreds of individuals from many disciplines. In complex and large undertakings where the "critical mass" is not achieved, researchers tend to pursue smaller tasks individually. The smaller efforts of individuals doing their "own thing" do not often cumulate to produce major efforts. Today we have inadequate numbers of people trained and experienced in this area, and those with this experience are dispersed throughout the government, universities, and research institutions.

As a result, the synergism that can occur when a "critical mass" of people who are problem solvers from many academic disciplines interact has not yet been adequately developed.

POLICY ANALYSIS ROLE

We also need to develop a strong capability in health care policy analysis. The United States, in reality, today has no overall health policy although there is growing recognition of the need for one.

Even the Department of Health, Education, and Welfare with its enormous responsibility in the health field, has no cadre of full time professionals solely committed to policy research and analysis. At the secretariat level, there are a handful of individuals dealing with these matters, but their time and efforts are too often devoted to dealing with present crises or firefighting rather than examining the long-term issues, no matter how important the latter may be.

I might also add that the situation here in the Congress is even more critical. We in Congress should consider establishing a Joint Committee on Health to serve as adjunct to the respective legislative committees of both the House and the Senate. Such a committee could serve a role to the congressional committees with jurisdiction in the health area, similar to that played by the Joint Committee on Taxation in supporting and complementing the Ways and Means and Finance Committees.

It is clear that the resolution of major policy issues will shape the future of health care delivery in the country. Thus, there is a critical need to develop analytical capabilities to cope with the large, complex and long-run issues, while the Nation continues to address the immediate problems in the health field.

Policy analysis then will be an important assignment of the Institute through its policy analysis division. As the committee report says:

> Policy analysis will be an important part of the work of the Institute. The committee intends that there be established within the Institute a Health Policy Analysis Division to enable groups of professionals to concentrate on long-term policies in the health field.

INSTITUTE'S MANDATE

The Institute will be headed by a Director, appointed by the President, with the advice and consent of the Senate. The salary of the Director will be at Executive Level 4, which is similar to and competitive with other Federal research and development agencies. The Institute will also have a Deputy Director and not to exceed four Assistant Directors, selected by the Director.

It will carry out its functions through an inhouse capability and through an extramural effort at the regional health care centers and its two national special emphasis centers, the Health Care Technology Center and the Health Care Management Center, as well as broad authority to: First, make grants to States, political subdivisions, universities, hospitals, and other public or nonprofit agencies, institutions, or organizations, and second, contract with public or private agencies, institutions, or organizations for the conduct of research and development, experiments, studies, demonstrations, and the training of individuals to plan and conduct such efforts.

The objectives and mandate of the Institute will be broad. It will pursue all methods and opportunities to improve and advance the effectiveness, efficiency, and quality of health care delivery in the States, regions, and communities of the United States through initiation and support of studies, research, experimentation, development, and demonstration of, but not limited to, 22 specific functions which are spelled out in the legislation. I ask unanimous consent that these functions be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FUNCTIONS OF INSTITUTE

(1) The existing health care system, emphasizing means and methods to improve such system and the devising and testing of alternative delivery systems;

(2) Health care systems and subsystems in States, regions, and communities which give special attention to the effective combination and coordination of public and private methods or systems for health care delivery;

(3) preventive medicine and the techniques and technology, including multiphasic screening and testing, to improve the early diagnosis and treatment of diseases, particularly for preschool children;

(4) systems and technical components of emergency health care and services (including at least one experimental statewide helicopter transportation emergency care system), which utilize, where possible, the skills of returning military corpsmen;

(5) systems and components of rural health services;

(6) the development of policy with respect to long-term care, particularly for mentally and physical handicapped individuals and senior citizens, with special emphasis on alternatives to institutionalization, including the use of home health aides;

(7) methods to meet the Nation's medical manpower requirements, including new types of manpower and their utilization and the extent to which tasks performed by physicians and other health professionals may be safely delegated to other appropriately trained individuals in both new and existent health occupations;

(8) continuing education and the exploration of programs and methods to help health professionals to stay abreast of current developments and to maintain professional excellence;

(9) Health manpower credentialing, licensing, and certification;

(10) The medical malpractice problem particularly as it relates to quality care, the practice of "defensive medicine" and added costs to the public;

(11) Programs for educating health manpower and the accreditation of such education programs;

(12) Application of all forms of technology, including computers and other electronic devices, in health care delivery;

(13) The efficiency, management, and utilization of new and existing health care facilities including studies of admission practices and examination of cost-finding techniques;

(14) The development of tools and methods to improve planning, management, and decisionmaking in the health care system;

(15) The development of information by which quality, efficiency, and cost of health care may be measured;

(16) The development of uniform accounting practices, financial reporting, and uniform health records;

(17) The development and testing of incentive payment mechanisms that reward efficiency in health care delivery without compromising the quality of care;

(18) The needs of individuals, families, and groups for health care and related services, emphasizing the various life styles, including environmental, recreational, and nutritional factors that bear on an individual's health; identification of those factors affecting acceptance and utilization of health care and related services; and the development of educational materials and methods communicating to the public the importance of personal decisions and actions on health;

(19) The economics of health care and related services, and the impact of the total system of health care delivery and related services upon the standards of living and the general stability of the national economy;

(20) Proposals for the financing of health care, including the potential cost and benefits, and their impact on the health care system;

(21) Concepts and data essential to formation of a factual basis for national health policies; and

(22) The effects on health care delivery of the organization, functions, and interrelationships of Federal, State, and local governmental agencies and programs concerned with planning, organization, and financing of health care delivery.

Mr. BEALL. Mr. President, I would like to make some comments on a number of the specific functions assigned to the institute. It will examine the ways physicians and other health professionals are organized and utilized and the extent to which tasks performed by such professionals may be delegated to other appropriately trained individuals. With respect to any illness, we can combine the talents of medical personnel in various ways. Take a routine physical examination. It may be performed entirely by a doctor, by a doctor-nurse combination, with the nurse taking the medical history and the patient's temperature, or by a doctor-nurse-technician team where the technician performs many of the tests and the doctor's role is limited to the interpretation of the results such as in multiphasic screening. These different approaches to the routine physical examination may produce medical care of the same quality.

They, however, carry vastly different implications, both in terms of cost and the utilization of the physician's scarce time. Similarly, experts tell us that from 70 to 80 percent of the pediatrician's medical task could be performed by a trained physician-assistant, such as nurses. Furthermore, it is generally felt that doctors spend too much time on routine tasks, including 25 percent of their time on business, such as bookkeeping, billing, ordering supplies, et cetera. Also, it has been estimated that nurses spend up to 25 percent of their time on paperwork. We need to explore all of these areas and to improve our utilization of scarce medical personnel.

The Institute will study the manpower credentialing and malpractice problem. Both of these issues have been examined recently, but it is important that an examination and followup on these reports be made. Indications are that malpractice insurance may cost some hospitals as much as $2 a day per patient. The malpractice problem has also resulted in what some refer to as "defensive medicine" under which certain tests or procedures are ordered which may not be really necessary in order to protect a physician from a possible charge of negligence. The Institute could use the Federal Government's Public Health Service hospitals and outpatient clinics if license laws prove to be an obstacle to experimentation on the use of new categories of health manpower. Successful experimentation in these Federal facilities should encourage their use elsewhere.

The new Institute also will have the responsibility of examining the efficiency, management, and utilization of new and existing health care facilities including studies of admissions practices, financial reporting, and uniform health records.

Some medical experts estimate that as many as 30 percent of hospital admissions are unnecessary. With the average cost of a single day's stay in any hospital being $100 in many urban areas, it becomes important to avoid unnecessary hospitalization. The U.S. Chamber of Commerce in their excellent study, "Improving our Nation's Health Care System: Proposals for the Seventies," pointed out the need and potential for operational analysis to control cost saying:

> Operational analysis by hospitals should quickly become widespread. One hospital director has in effect a "predicted length of stay profile" for each diagnosis, to use in measuring a doctor's performance. He requires a prospective rather than a retrospective hospital utilization review to be carried out, so that each discharge can be measured against the predicted length of stay for that diagnosis. He suggests greater reward for doctors whose performance results in lowering community costs.
>
> The average length of stay in his hospital is much lower than surrounding institutions. These illustrations suggest the scope for applying to the hospital cost-saving operational analysis familiar to industrial engineers for a generation or more.

An article in Medical Economics of December 1971 features Parkview Hospital in Indiana which "operates with one-fourth fewer employees per patient than comparable hospitals nationally, and at no apparent sacrifice in the general level of care." The cost per patient at this hospital was $58.09 compared with an average of $83.11 for other Indiana hospitals with 250 beds or more.

While I have not evaluated these particular situations personally, I believe they illustrate the potential for operational analysis and the desirability of uniform accounting rules and reporting so that administrators will be able at least to compare the cost and quality of their facility with comparable facilities elsewhere. This should be a useful tool in moderating health costs.

There is also the serious problem of communities and professionals competing for the most advanced and expensive equipment. This often results in unnecessary duplication. Open heart surgery is a good example. One hospital director has said that open heart surgery requires a team of 12 doctors, nurses, and technicians on constant standby and that 50 operations are needed a year in order to keep the team at its maximum effectiveness and efficiency.

Yet, of the 800 hospitals equipped to do this surgery, one-third do not have a single operation in a year, let alone 50.

A General Accounting Office study recently released points out that the problem of duplication also exists at the Federal veterans' hospitals. The study noted that since 1965 the Veterans' Administration has established 23 open heart surgery centers in its hospitals and that only seven centers during fiscal 1971 performed the minimum number of open heart operations considered necessary.

The Institute would have a mandate to develop and test incentive payment mechanisms that reward efficiency in health-care delivery without, of course, compromising the quality of health care.

The Institute would also examine the applications of all forms of technology including computers and other electronic devices in health care delivery. In this connection the Institute along with the Health Care Technology Center, will examine data processing, which has become standard in other segments of our society. One of the Nation's aerospace corporations did a study of the famed Mayo Clinic and they found that in a $1,000 hospital bill, $300 went to unproductive information handling and filing. Alarmingly, they also found that with all the red tape required, 12 individual steps were needed merely for an X-ray picture—there was one chance in six that the hospital test had some error in it.

The potential of data processing has been illustrated in my State by the Maryland Blue Cross—computer link arrangements with 30 Maryland hospitals. This has enabled Blue Cross to cut its costs of processing patients' admissions and claims by 30 percent from $3.60 per claim to $2.52 per claim.

The Institute should encourage development of preventive medicine and the techniques and technology, including multiphasic screening and testing, to improve the early diagnosis and treatment of diseases, particularly for preschool children. One issue that needs to be answered here is the cost and benefits associated with annual physical examinations or periodic physical examinations at critical ages. With the growing evidence regarding the importance of the early learning years and the growing interest in early childhood programs, I believe it is important that we develop techniques for early detection of physical or mental difficulties that children may have. That is why I have particularly emphasized the early diagnosis for preschool children.

The Institute will give special emphasis to the development of systems and components of rural health services. Certainly, there is little disagreement with respect to the need to upgrade health care in many rural areas.

The Institute will develop policy with respect to long term care, particularly for mentally and physically handicapped individuals and senior citizens, with special emphasis on alternatives to institutionalization, including the use of home health aids. Long-term care was one of the areas of concern at the White House Conference on Aging. I believe that society's experience in other area such as mental retardation demonstrates that alternatives to institutionalization are possible.

The Institute will develop and test systems and technical components of emergency health care and services—including at least one experimental statewide helicopter transportation emergency care system—which utilize, where possible, the skills of returning military corpsmen. This is a neglected area and has been called the "hidden crisis in health care" by Secretary Du Val. Injuries are the chief killer of Americans aged 1 through 38. All of us are potential victims. Yet, the fact is that a trauma victim in Vietnam probably has a better chance of survival than an accident victim in the United States. This is because the military, during the Second and Korean wars developed a highly organized system for transporting and caring for the emergency victim. This procedure has been perfected in Vietnam to such an extent that Secretary of Defense Laird has been able to declare that the death rate of such victims in Vietnam was near zero.

The technology and know-how is there; all we have to do is organize on a rational basis and apply these lifesaving methods. Heart attack victims could also benefit from improved emergency care arrangements, as some experts have estimated that prompt and early care might potentially save 150,000 heart attack victims annually.

My own State of Maryland, for example, is pointing the way in this area with its trauma center at the University of Maryland and its four helicopters now in operation. With three or four more helicopters, this system could be statewide and the able director of the center, Dr. R. Adams Cowley, predicts that accident deaths in Maryland could be cut by one-half in 2 years.

I ask unanimous consent that an article from a booklet "Today's Neglected Disease Trauma," written by Dr. Cowley and Lieutentant Hudson on the Maryland program be printed at the conclusion of my remarks.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(See exhibit 1.)

TRAINING AND TECHNICAL ASSISTANCE

Mr. **BEALL**. Mr. President, the Institute will develop methods and support for training of individuals to plan and conduct research, development, and evaluation of health-care delivery and provide technical assistance and develop methods for the transfer of new knowledge, components, and systems to the health community. The Institute is also authorized to exchange information and collaborate with other countries for the advancement of health-care delivery in the United States. The Institute and its affiliated centers will also provide an opportunity for individuals from industry, local and State government and Federal agencies to receive training.

In addition, "alumni" of the Institute and centers will be available for administrative and policymaking positions in the health community.

These responsibilities are critical. Our ability to expand research and development in the health care delivery field will require additional skilled and trained personnel. Yet, the number of economists, physicians, engineers, lawyers, and other experts qualified by training and experience to work in health care research and policy analysis field is limited. I believe that the broad authority granted to the Institute and its centers to develop methods and support for the training of individuals in this field will enable the production of the required manpower.

The Institute should seriously explore the fellowship and training grant mechanism employed so successfully by the National Institutes of Health to lure young talent into biomedical research. Basically, NIH uses two approaches. First, following an individual's intern or residency, fellowships are available on a national comeptitive basis for research. The competitive nature of the fellowship program plus the preeminence of the National Institutes of Health have combined to make this mechanism most successful.

Second, certain universities become training centers for a specific area; for example, heart diseases, and that institution is given a grant by the National Institutes of Health which enables the Institute to attract researchers.

The critical importance of the training function makes it imperative that the Institute capitalize on the experience of NIH and others and provide the support necessary to produce a cadre of first-rate professionals in this field sharing common analytical concepts of understanding.

The Institute may also determine that long-term appointments are needed to attract individuals from academic life and this certainly would be possible under the broad authority also. Furthermore, the Institute or the centers may be supporting or conducting seminars in this area. These examples are only cited as illustrative of the broad authority provided to the Institute and the centers. The specific training program, incentives, and personnel policies will be decided by the Director.

The importance of this training function cannot be emphasized too much, for as the committee report notes—

> The Committee believes that the requirement and training of top caliber personnel must be an important priority of the Institute, for the ultimate success of the enterprise will depend on men and women who direct and work in the Institute and its centers.

I also want to emphasize the important responsibilities of the Institute to see that the results of its research and development efforts are disseminated to the health community. The results are of little use resting on a shelf of a researcher. Such results must reach the health community.

MAJOR EVALUATION ROLE

The new Institute will also have a major evaluation role. The Institute will evaluate the quality, effectiveness, and efficiency of Federal health programs, including medicare, medicaid, and the maternal and child health programs of the Social Security Act. For such evaluation, the Secretary of Health, Education, and Welfare is authorized to transfer the evaluation funds appropriated pursuant to section 513 of the Public Health Service Act as he deems necessary.

The Institute will have more expertise, talent and objectivity for evaluation of programs than probably any other Federal agency, and I believe its utilization for this purpose will be exceedingly desirable. There is general agreement that more and improved evaluation efforts are needed.

EXPERIMENT INCENTIVES

The legislation also provides for supplemental incentive grants to encourage experimentation. The basic thrust of this section is that when the National Advisory Council designates a project or a health facility as essential to the research and development efforts of the Institute or centers, and where it is determined that such experimental efforts would not be undertaken without this incentive, the Director could increase or supplement the regular Federal grant-in-aid health programs up to 80 percent.

For example, under Hill-Burton, the Federal program for health facility construction and modernization, the Federal matching in general cannot exceed two-thirds. Assuming that a particular facility was designated as essential, this section would enable the facility to receive 80 percent Federal matching. Not more than 10 percent of the funds authorized by this legislation could be used for these incentive grants to encourage experimentation.

REPORTS

The Director of the Institute, within 1 year after his appointment and prior to February 1 of each year thereafter, is required to prepare and submit to the Secretary of Health, Education, and Welfare for transmittal shortly thereafter to the President and the Congress, a written report including: First, an appraisal of the Institute's activities, and accomplishments; second, a summary of its significant research and development findings; and third, an identification and recommendation concerning those factors or barriers which inhibit implementation of the Institute's significant findings or prevent innovation in health care.

ACTIVE ADVISORY COUNCIL

The Institute will have a prestigious National Advisory Council on Health Care Delivery. This Council will have 21 members, including the Secretary of Health, Education, and Welfare; the chief medical officer of the Veterans' Administration; a medical officer designated by the Secretary of Defense; the Director of the National Institutes of Health; the Administrator of the Health Services and Mental Health Administration; and the Director of the National Institute of Health Care Delivery as ex officio members. The other 15 members will be selected by the President from persons who are leaders in the field of medical science, or the organization, delivery, or financing of health care; leaders in the management sciences; or representatives of consumers of health care. In selecting the membership of this Council, it is my intention that the President search for the most distinguished and talented individuals available. The legislation does not spell out, but it is my intention, and that of the committee, that at least one of the Council members be a practicing physician. At least seven of the Council members must be representatives of consumers. The President will designate the Chairman of the Council and they will meet at the call of the Chairman, but not less than four times a year.

The bill contemplates an active Council and specific responsibilities are delineated in the legislation. The Council will be responsible for reviewing the programs, policies, and priorities of the Institute; examining and coordinating health care delivery efforts within the Department of Health, Education, and Welfare and other Federal agencies so as to avoid duplication; assuring that significant research and development findings are communicated throughout the health system and to the public; and evaluating the impact that the Institute's research and development efforts are having on the health-care system.

The Council will be independent and will have its own Executive Director. If the Council is to enjoy the independence that the legislation envisions, it is important that it have a top staff person accountable only to the Council.

The Council is also required to submit as an appendix to the Director's report a summary of the progress of the Institute in achieving the bill's objectives and the Council's evaluation of the status of health-care delivery and research and development in the Nation. Any minority views of Council members will also be included in this report.

NEEDED ADMINISTRATIVE PROVISIONS

In drafting this legislation, I have studied the various Federal research and development agencies such as the National Institutes of Health, NASA, the National Science Foundation, and the National Institute of Education, which was enacted into law this year. We have given to the Institute the administrative provisions which seem to be important to a successful research and development effort.

Thus, the new Institute and centers are provided a flexible personnel system to enable the attraction of the most qualified and talented individuals. This will include the authority, when the director deems it necessary, to establish the entrance pay level up to two grades higher than it otherwise would be and the authority to appoint a percentage of the employees without regard to civil service laws.

The new Institute is granted the authority to carry over unexpended funds from one year to the next. This is vital and will permit the Institute provide stable funding for multiyear projects which are important in research and development.

The new Institute is given multigrant authority which will enable the waiver of certain requirements for undertakings where funds are advanced to a single project by more than one Federal agency. While this is not as desirable as in my original bill, it nevertheless will be a useful provision.

REGIONAL AND SPECIAL EMPHASIS CENTERS

Title V also provides for up to eight regional centers and two special emphasis centers, the Health Care Technology Center and the Health Care Management Center. The objectives of the regional centers are: first, to enable the study of the different health care problems of the various regions of the Nation; second, to broaden and strengthen the Nation's research and development base in health-care delivery; and third, to link better research and development with actual practice.

It may also be desirable, in addition to the above general purposes and programs, that some or all of the regional centers might specialize in an area or areas such as the malpractice problem and other medical-legal issues; information handling problems; and quality assessment and insurance programs.

The location of the regional centers will be determined by the National Advisory Council. This Council, to the extent feasible, is directed to provide broad geographical dispersion of the centers. When all of the centers are operational, each region of the Nation will be served by a center.

I do want to emphasize that the bill authorizes not to exceed eight regional centers. While I believe that eight centers are ultimately desirable, I do want to underscore the admonition in the committee report that "it is not the intent of the committee that all eight centers be created initially." The committee, mindful of the manpower and other constraints, by this language is stressing our intent that we desire the regional centers to be of highest quality. While I envision that all eight centers will be operational sometime in the future, I want to reach that number without sacrificing quality.

Thus, it may be desirable that only two centers be established at the outset. Then, as the Institute's training efforts begin to produce the additional trained manpower, more centers would be established. An added advantage of this approach is that the experience of the early centers should enable subsequent centers and the Congress to learn and make adjustments as experience indicated where necessary.

The regional centers will be funded initially by the Institute for up to 3 years. Thereafter, following a review of each center's work and operations, by the Director and upon the recommendation of the National Advisory Council, the Director may extend the centers for an additional period of not more than 3 years. After this period, it is my intent that the majority of the regional centers' support will be program support in competition with other Institutions. I also hope and believe that the States in the regions in which the various centers are located will utilize the Centers for research, development, and evaluation. Thus, at the end of the 6-year period, the success of the center will be determined by the quality of their efforts and the degree of interest shown in their work by the States, local governments, private foundations and industry, and the health care community within the area in which the centers are located. These centers may be managed by a university, or a number of universities and colleges under a consortium arrangement, or by public and private organizations and associations, both profit and nonprofit.

SPECIAL EMPHASIS CENTERS

Two special emphasis centers, health care technology center and a health care management center, are also authorized.

The health care technology center will focus on all forms of technology, including computers, and electronic devices, and its application in the improvement of health care.

Technological advances in such areas as space, communications, and data processing in the last decade have been almost unbelievable. Yet, the technology has not made a similar impact on the health system. In fact, much of the health care system continues to employ the same manual procedures used at the turn of the century. We need to wed 20th-century technology with 20th-century research to improve the delivery of health care. This will be the assignment of the Health Care Technology Center.

President Nixon, in a number of messages to the Congress, has emphasized the need to encourage the application of science and technology to the solution of domestic problems. In his March 2, 1972, Health Message, the President specifically identified health as a "vital area" for exploiting technology.

One must confess that the expectations, particularly in the sixties, that technology would produce a "revolution in health care" have not materialized. The Health Care Technology Center is expected to provide the leadership and mobilize the Nation's involvement and interest in the development and utilization of technology. Particular attention needs to be paid to the involvement of private industry, for the successful development of technology depends, to a great extent, on the interest and actions of private industry. Industry's limited involvement in the health technology area today results from a number of factors including the diffused markets of the health field; the limited success achieved to date; and the Government's failure to give priority to the utilization of technology in solving of health problems as has been done, for example, in space and defense.

Technological solutions are not likely to result unless the above difficulties are addressed.

To do this, there is a need to aggregate both health resources and markets. Once this occurs, I believe industry will identify and take advantage of the economics of scale that generally results from larger markets.

I am convinced that there are steps that the Federal Government in general and the Health Care Technology Center in particular can take to encourage technological development in the health area.

For example, various agencies of the Federal Government operate their own health systems, such as the Defense Department and Veterans' Administration. These Federal health systems offer the opportunity for a market sufficiently large to attract industry investment.

Second, the Federal Government could identify potential opportunity for technological solutions and solicit competitive bids through requests for proposals—RFP's—as is done by the Defense Department. Thereafter, there could be full funding of a prototype followed by a guarantee that a sufficient number would be purchased to insure a profit. The units produced could then be sold, loaned, leased, or donated to individuals or organizations that would use them effectively.

A decision, for example, could be made by the Federal Government to do something about the problems of the visually handicapped in the country. There are about 400,000 legally blind persons in the Nation today. It has been estimated that many of them have a significant amount of visual perception in at least one eye. Optical devices, such as eyeglasses, are of limited value to many of these citizens since such glasses only magnify the image and do not control brightness and contrast which are equal in importance in perceptual acuity. The Rand Corp. has designed and fabricated a prototype circuit television system—CCTV—an electro-optical system involving image magnification, brightness, and contrast. This prototype system has been tested on a number of visually handicapped people ranging in ages from 10 to 83 with a wide variety of eye disorders. Better than 80 percent of the subjects have found the system helpful in reading and writing.

At present, the Rand Corp. is working on a second generation system which is aimed at solving the difficult problem that many partially sighted persons face, namely the transfer of information from one place to another.

The CCTV could well be the forerunner of the new series of devices which would be used to enhance the education of visually handicapped children, to permit partially sighted persons of working age to obtain and hold well-paying jobs which would otherwise be closed to them, and to allow elderly persons with reduced vision to enjoy the pleasures of reading and writing during their declining years.

I cite this as only an example of the problem area for which there exists a sufficiently large market which would undoubtedly create a response from the industrial community as well as lead to a tremendous aid for the handicapped if the decision were made to exploit technology in this area.

The second Special Emphasis Center, the Health Care Management Center, is of critical importance. For as Dr. Kerr White, professor of medical care and hospitals, of the Johns Hopkins University has observed:

> Vastly improved managerial expertise is a prerequisite for any meaningful improvement in our health care system at the operating and geographical levels.

The health care management centers will focus on the improvement of management and/or organization in the health field, the training and retraining of health administrators, and the development of leaders, planners, and policy analysts in the health field. The job of the managers in the health field is most complex. The modern manager of a health enterprise, if he is to carry out his responsibilities with maximum effectiveness, must have a basic understanding of a wide variety of management skills and some background in such areas as health, economics, computer technology, and statistics, to mention a few.

Quite often medical administrators are elevated to these positions without adequate preparation for these new responsibilities. Certainly American industry would make certain that its top executives are adequately trained and the health system must do no less. There is also often the need to provide retraining of health managers as is evidenced by the letter I received from one administrator, Dr. Fine, Deputy Commissioner of the Boston Department of Health and Hospitals. He said:

> Practitioners of Health Care Administration, among whom I am one, have been flying by the seat of their pants for too long. The Nation deserves better. There is currently no systematic effort I know of to reach decision makers in the health care field with the results of innovative research and to stimulate a research orientation to many of the problems we all face in the financing, organization, and delivery of services.
>
> There is moreover, an almost total neglect of more formal continuing education opportunities for health care administrators. . . . After ten years or more in the field, many of us are in positions of responsibility and strong in experience but weak in understanding of fundamental advances in health care systems, e.g. the problem-oriented medical record, how to organize a prepaid group practice, the use of television in medical diagnosis and treatment, computer applications to health systems problems, etc.

The administrative officer of each regional center and each special emphasis center will be required to submit annually to the director a report which shall include an audit of expenditures; bibliographies, with annotations of research performed; and a description of on-going research programs including a summary of significant research and development findings.

The regional and special emphasis centers have a separate authorization of $30 million for the initial fiscal year and a total of $105 million over a 3-year period. Support for a center, other than support for construction, shall not exceed $2 million per year per center, except for the Health Care Technology Center, and Federal assistance may be used for research and development, staffing and other basic operating costs, training, demonstration purposes, and construction where the National Advisory Council deems necessary.

The committee report makes a point with respect to the Technology Center's purposes which is important and bears reiteration. The report states:

> The committee wishes to emphasize that the center's purpose is to encourage the development of technology to solve the health problems of our citizens and our health institutions and not as a place to find markets for available technology.

In other words, the center should be searching for technological solutions to patient care, health institutions, and systems problems, and not for ways to utilize available technology.

It is also important that the technology or systems that are developed are such that can or will be adopted by the health professionals. It would be also extremely valuable if the Technology Center would develop expertise with respect to technological forecasting so that the consequences, particularly the cost, of new technology might be predicted. Certainly, with the rising health care costs, the health system does not need "technological playthings" which are neither cost effective or fail to increase productivity.

Mr. President, the Senate Labor and Public Welfare Committee, on which I serve, last year heard testimony regarding the potential of the computer coupled with new "health care specialists." The committee saw demonstrated a potential way of extending the doctor in remote areas which have been unable to attract a physician.

The computer is already being employed in such areas as the interpretation of the electrocardiogram and the automation of history taking. Earlier this year, I visited the University of Maryland Hospital Trauma Center and I watched the computer perform a variety of tasks, including the constant monitoring of even the chemical content of the air that the center's severe trauma victims were breathing.

I believe that there is enormous potential for the use of technology that could bring many benefits to the public and the patient. At present, our success has been limited. At present, only a handful of individuals are actively concerned with the technology and its potential in helping to solve health problems.

The Health Care Technology Center is designed to remedy this situation and serve as the focal point for an accelerated group research effort on both program and hardware development.

CONCLUSION

Mr. President, the health care enterprise in the country is our second largest industry today with spending totaling $75 million or 7.4 percent of our gross national product. By 1974, health will probably become our largest enterprise with expenditures exceeding $100 billion.

The magnitude of these expenditures alone argue for an accelerated and strengthened research and development component in the health field. There is considerable public frustration and dissatisfaction with various aspects of health care. The public is alarmed over rising costs. I recently read an Associated Press story which headlined that the hospitals per day costs in 1971 averaged $92.31, an increase of 13.9 percent over the previous year. The story hastened to add, however, that the 1970 increase was 15.7 percent and that hospitals have been able to slow the rate of increase. Think about it, over a 2-year period almost a 30-percent increase in hospital costs occurred. This obviously cannot continue.

The public is also concerned about the manpower and facility shortages as well as their maldistribution and the Congress has taken steps enacting legislation in response to the problem. The public is also distressed that the benefits of medical science and the scientific discovery system are not reaching them.

There is considerable change occurring in the health system, the bill before the Senate today is designed to encourage additional change with the development of health maintenance organizations. The rapidity of change and reform is likely to accelerate in the years ahead. I believe that it is imperative that we strengthen our research and development capabilities in the health area so that we may make more intelligent choices and foster constructive changes. I believe that we desperately need advanced warnings of approaching "crises." I believe we need more information upon which to base decisions and make meaningful comparisons in the area.

I believe we need to sharpen our abilities to illuminate issues and to identify possible options and their implications. I believe we need a framework for evolving health-care policy for the long term while we continue to address the immediate problems. The size of the health enterprises, its importance to the American public, and the growing Federal investment to make it imperative, in my judgment, that research and development in health care delivery become as important and achieve the preeminence of biomedical research in the United States.

The respected Science Journal, in a favorable editorial on my proposal said:

> A major tour de force is needed now to dramatize the importance of rationale organization and planning services . . . if the magnificent benefits of American medical research are meant for all of our people, then an effective science of health care delivery is as important as the medical research itself.

I shall ask unanimous consent that this editorial be printed at the conclusion of my remarks.

As Dr. Kerr White, of Johns Hopkins University, noted—

> The issue in research and development, it seems to me, is the extent to which we are prepared to make Federal, State, institutional, academic, and industrial commitments to aggressive pursuit of improved ways of providing health care.
>
> Acceptance of change is inevitable and recognition that we need more science in health care rather than less seems essential. The point to be recognized is that the sciences required are more than those encompassed by the traditional biomedical sciences.

A new National Institute of Health Care Delivery represents such a "commitment" and will provide the "major tour de force" to make health care delivery as important as medical research, and to help speed the benefits of medical science and the scientific discovery system to the people of the United States.

I strongly urge its enactment by the Senate and the Congress.

I ask unanimous consent that the editorial from Science Journal be printed in the Record at the conclusion of my remarks.

I also ask unanimous consent that the portion of S. 3327, dealing with the new National Institute of Health Care Delivery, be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 2 and 3.)

Exhibit 1

Air-Evac Helicopters Help Save Lives

(By Capt. Frank Hudson and
R. A. Cowley, M.D.)

"Since some accidents will always occur, steps must be taken to minimize human losses resulting from them. . . ."

Over the years, we have watched persons with life threatening injuries or illness die at the scene awaiting an ambulance, die on their way to the nearest hospital or die in that hospital due to inadequate facilities, personnel and equipment to offer the necessary immediate treatment and care for survival.

A study in which the deputy state medical examiner participated indicates that roughly 40 per cent of the persons killed in Maryland die in hospitals . . . and half of these could likely have been saved if promptly and properly diagnosed and treated. One concerned researcher's comment sums up the problem:

"It is essential that we strive for a reasonable balance between the need for prompt treatment and the better treatment which may be possible if the injured are taken to trauma centers."

Still, present policy seems to be to transport most injured, without regard for the severity of their injuries, to hospitals whose chief distinction is being nearest the scene. When or if the receiving doctor feels the injury is too severe to be treated in his facility, the patient is transported to another hospital (provided he has survived thus far). This adds up to an appalling waste of time, which can be ill-afforded by the person with the life threatening injury or illness.

To help overcome this problem, the University of Maryland Hospital developed the Center for the Study of Trauma thus providing critical patients the best immediate treatment available in the country. Treatment centers of this caliber are enormously expensive and difficult to staff. As a result one cannot expect rapid development of additional facilities of this type; therefore, it is imperative that safe, rapid transportation be provided persons with life threatening illness or injury so the services of the center are made available to them.

Medical authorities tell us that we should strive to have the severely injured in a well-equipped and staffed medical facility soon after they have been injured if complications from their injuries are to be reduced and their lives saved. Indications are that 30 minutes from the injury to definitive medical treatment is usually acceptable with one hour being the outside practical limit. With the surface traffic congestion of today and insufficient medical facilities equipped to handle the severely injured, the lightweight highspeed helicopter is the most effective and economical way to avoid congestion, cover the distances involved and assure that highway injured receive needed treatment in time.

The State Police are duty bound to assure that the lives and safety of all persons in the state are safe-guarded and when injured or ill come under their care, they receive the best handling possible under existing conditions. Their helicopters provide for transportation of critical persons as an extension of normal police helicopter operations. This provides a sound fiscal base as existing know-how, facilities, equipment and personnel are utilized to the maximum.

The troopers assigned to the helicopters have completed the Red Cross advanced first aid course, receive advanced ambulance attendant training from the Fire Service Extension, University of Maryland, and receive an intensive week of training in the Shock Trauma Unit.

Our cooperative program, one of the few successful programs of this type in the country, has been a simple matter of developing community resources between the university, State Police and the City Fire Department Ambulance Service.

State Police records show that 58,672 persons were injured in Maryland from automobile accidents last year. Of the 787 killed in these accidents, many could have been saved by fast, efficient helicopter service to University Hospital's Shock Trauma Center.

When persons are injured in an automobile accident, volunteer fire company ambulance crews sometimes decide incorrectly to take the most serious to the nearest hospital, even though a helicopter is available.

Such a case happened earlier this year when the helicopter landed near the scene of an accident. The ambulance crew decided to take the most serious case to the nearest hospital. When the State Police helicopter crew delivered the less severely injured victim to University Hospital, the county hospital where the other victim was taken called for the helicopter because they did not have the necessary life-saving equipment. But it was too late.

With a top speed of 150 miles per hour, helicopters can fly from the Maryland-Pennsylvania line to University Hospital in less than 15 minutes and less than an hour from the Eastern Shore. An ambulance, even with wide-open siren, would require at least twice as much time because of traffic congestion especially on weekends when most accidents occur. An emergency in Cumberland would take only an hour to reach University Hospital by helicopter.

Better service can be provided. The most obvious area that needs strengthening is the education and acceptance by police, ambulance and medical authorities to the fact that the best interest of the patient must be served. Some units are still guarding what they believe are their prerogatives, thus causing some critical patients to be taken to an outlying hospital (and often held there) instead of going directly to a major trauma unit. Accreditation and categorization of hospital emergency departments could go a long way toward solving this problem. This approach has long been advocated by the National Research Council's committee on trauma and shock.

While we learn to better utilize equipment, personnel and systems, more high-quality emergency facilities with trauma units will be needed. Quick response helicopter service will also be needed statewide. Tentative studies indicate that as few as seven fully manned helicopters are needed for definitive statewide service.

Why not police helicopters in ambulance service? They complement not threaten surface units. The safety of the few victims demanding helicopter transport is compromised when handled routinely. The police helicopter has been here for years, their crews are vastly experienced in applying helicopter support to civil public service operations. Required communications also have been here for years, the police communications net is one of the finest designated for rapid emergency communications. This is an excellent opportunity for the public to realize a greater return for their investment in government.

A 17-year-old boy delirious, with a high temperature was admitted suffering from a gunshot wound below the knee which was emitting a sweetish odor—gas gangrene. The infection had extended above the knee, to the thigh and onto the abdomen—traditional amputation was impossible. The wound had become contaminated with clostridia, a bacteria causing gas gangrene which can't survive in high concentrations of oxygen. If hyperbaric oxygen was not administered quickly the teenager would be dead. Once placed in the hyperbaric chamber, within 24 hours his temperature dropped, he became alert, and after three days, the gangrene symptoms disappeared—his life was saved.

In shock, the blood pressure falls, circulation slows, and the cells, which depend on oxygen for survival, suffer; if this is not corrected the cells die. Lack of oxygen in cells, called hypoxia, is the prime cause of death in shock. One way to correct this inadequacy is to drench the blood going through the cells with oxygen—hyperbaric oxygenation—in a pressurized chamber.

Few of these hyperbaric facilities exist, therefore patients from nearby states are also treated in the Maryland facility.

In the future, an inhalation poison center will be open using the hyperbaric medical facilities and the Medi-Vac helicopter program for those victims, fire fighters, chemical workers and others throughout the state who will need this resource for survival.

EXHIBIT 2

[From Science magazine, September 1971]

THE TOPSY-TURVEY WORLD OF HEALTH-CARE DELIVERY

(By William Bevan)

In a recent speech Senator J. Glenn Beall, Jr. (R.-Md.), called for the establishment of a National Institute of Health-Care Delivery. In so doing, he has focused attention on a national problem on broad scale and transcendent urgency.

Over the years the American people have prided themselves on being the best clothed, best fed, best housed, best educated, and healthiest people in the world. But recent health statistics give cause for concern. Across the board, we are not the healthiest people in the world, in spite of a number of impressive facts. The nation has spent some $20 billion on biomedical research since the late 1940's. We now have more physicians and hospitals than ever before. And currently we spend for health services more—and the rate of expenditure is escalating more rapidly—than we have ever done before. In the last decade alone, physicians' fees have risen twice as rapidly and hospital charges four times as fast as other items in the Consumer Price Index.

The situation is a complex one. Certainly, the balance among the diseases has shifted toward the degenerative disorders. But, in addition, there are striking geographic variations in the availability of health resources. There are marked differences in availability for urban and rural populations and for the poor and the more affluent. Most insurance coverage is inadequate in that it excludes outpatient and preventive services and only partially accommodates catastrophic incidents. And, generally, resources, particularly those for unusual treatment, are poorly utilized everywhere (If, for example, the utilization of health-care resources were improved by only 10 percent, the saving would be $5 billion. But, with a high proportion of third-party payments, there is little incentive for efficiency. Instead, the trend is to use the higher-cost facilities and services and to make as many of these available as possible.)

The essential ingredients of the Beall proposal merit serious examination. By 1970, health-care delivery had become the nation's second largest industry. But last year only $18 million was spent on research in this area. No other industry can make such a claim. The National Institutes of Health are charged with the technical aspects of prevention and treatment. The Health Services and Mental Health Administration is concerned with health-care delivery, but it has other responsibilities as well. A major tour de force is needed now—an administrative mandate backed by appropriate funding—to dramatize the importance of rational organization and planning of services, even though such action would add yet another agency to the welter already existing in the health field. Future legislation would do well to direct its sole attention to the social sciences, both basic and applied, which underlie effective organization and management. Furthermore, the importance of testing and evaluation should receive significant consideration. Already, a number of alternative systems—for instance, group practice, private prepaid care, a variety of community health-care schemes, and health maintenance organizations—are in various stages of design and development, and a nation with an established scientific tradition must certainly recognize the importance of pilot projects.

If the magnificent benefits of American medical research are meant for all of our people, then an effective science of health-care delivery is as important as the medical research itself.

EXHIBIT 3

TITLE XIII—NATIONAL INSTITUTE OF HEALTH CARE DELIVERY

ESTABLISHMENT OF INSTITUTE

SEC. 1301. (a) There is hereby established in the Department of Health, Education, and Welfare a separate National Institute of Health Care Delivery. The Institute shall carry out a multidisciplinary research and development program to improve delivery of health care services and shall be the principal agency in the Department of Health, Education, and Welfare to coordinate and cooperate with the Commission on Quality Health Care Assurance for improvement of Health care in the United States.

(b) The Institute shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate. There shall be in the Institute a Deputy Director. The Deputy Director shall perform such functions as the Director may prescribe and shall be the Acting Director during the absence or disability of the Director or in the event of a vacancy in the position of Director.

(c) The Director is authorized to appoint within the Institute not to exceed four Assistant Directors.

FUNCTIONS OF THE INSTITUTE

SEC. 1302. (a) It shall be the function of the Institute in coordination and cooperation with the Commission on Quality Health Care Assurance to pursue methods and opportunities to improve and advance the effectiveness, efficiency, and quality of health care delivery in the States, regions, and communities of the United States, through initiation and support of studies, research, experimentation, development, demonstration, and evaluation of, but not limited to, the following:

(1) the existing health care system, emphasizing means and methods to improve such system and the devising and testing of alternative delivery systems;

(2) health care systems and subsystems in States, regions, and communities which give special attention to the effective combination and coordination of public and private methods or systems for health care delivery;

(3) preventive medicine and the tech-

niques and technology, including multiphasic screening and testing, to improve the early diagnosis and treatment of diseases, particularly for preschool children;

(4) systems and technical components of emergency health care and services (including at least one experimental statewide helicopter transportation emergency care system), which utilize, where possible, the skills of returning military corpsmen;

(5) systems and components of rural health services;

(6) the development of policy with respect to long-term care, particularly for mentally and physically handicapped individuals and senior citizens, with special emphasis on alternatives to institutionalization, including the use of home health aides;

(7) methods to meet the Nation's medical manpower requirements, including new types of manpower and their utilization and the extent to which tasks performed by physicians and other health professionals may be safely delegated to other appropriately trained individuals in both new and existent health occupations;

(8) continuing education and the exploration of programs and methods to help health professionals to stay abreast of current developments and to maintain professional excellence;

(9) health manpower credentialing, licensing, and certification;

(10) the medical malpractice problem, particularly as it relates to quality care, the practice of "defensive medicine" and added costs to the public;

(11) programs for educating health manpower and the accreditation of such education programs;

(12) application of all forms of technology, including computers and other electronic devices, in health care delivery;

(13) the efficiency, management, and utilization of new and existing health care facilities including studies of admission practices and examination of cost-finding techniques;

(14) the development of tools and methods to improve planning management, and decisionmaking in the health care system;

(15) the development of information by which quality, efficiency, and cost of health care may be measured;

(16) the development of uniform accounting practices, financial reporting, and uniform health records:

(17) the development and testing of incentive payment mechanisms that reward efficiency in health care delivery without compromising the quality of care;

(18) the needs of individuals, families and groups for health care and related services, emphasizing the various life styles, including environmental, recreational, and nutritional factors that bear on an individual's health; identification of those factors affecting acceptance and utilization of health care and related services; and the development to educational materials and methods communicating to the public the importance of personal decisions and actions on health;

(19) the economics of health care and related services, and the impact of the total system of health care delivery and related services upon the standards of living and the general stability of the national economy;

(20) proposals for the financing of health care, including the potential cost and benefits, and their impact on the health care system;

(21) concepts and data essential to the formation of a factual basis for national health policies; and

(22) the effects on health care delivery of the organization, functions, and interrelationships of Federal, State, and local governmental agencies and programs concerned with planning, organization, and financing of health care delivery.

(b) The Institute shall in cooperation and coordination with the Commission on Quality Health Care Assurance (1) develop methods for, and support of, training of individuals to plan and conduct research, development, demonstrations, and evaluation of health care delivery and related services; (2) provide technical assistance and development of methods for the transfer of new knowledge, components, and systems to public and private agencies, programs, institutions, and individuals engaged in the improvement of health care delivery; (3) collaborate with governments and public and private health care institutions and programs in foreign countries for the exchange of information and support of research, experiments, demonstrations, and training in order to advance health care delivery in the United States and cooperating nations.

(c) The Institute in cooperation and coordination with the Commission on Quality Health Care Assurance shall evaluate the quality, effectiveness, and efficiency of Federal health programs in improving the delivery of health care to the Nation's citizens. For the purposes of this subsection the Secretary is authorized to transfer to the Institute such funds as may be necessary.

ADMINISTRATIVE PROVISIONS

Sec. 1303. (a) In order to carry out the provisions of this title the Director is authorized to—

(1) make grants to States, political subdivisions, universities, hospitals, and other public or nonprofit private agencies, institutions, or organizations for projects for the conduct of research and development, experiments, studies, demonstrations, and training of individuals to plan and conduct such projects;

(2) make contracts with public or private agencies, institutions, or organizations for the conduct of research and development, experiments, studies, demonstrations, and the training of individuals to plan and execute such contracts;

(3) appoint and fix compensation of the personnel of the Institute in accordance with chapter 51 of title 5, United States Code, except that (A) to the extent that the Director deems such action necessary to recruit men and women of exceptional talent, he may establish the entrance grades for personnel at a level of two grades higher than the grade level provided for such personnel under the General Schedule established by such title and fix their compensation accordingly, and (B) to the extent that the Director deems such action necessary to the discharge of his responsibilities, he may appoint personnel of the Institute without regard to civil service or classification laws, except that personnel appointed under such laws do not exceed at any one time one-third of the number of full-time regular technical or professional employees of the Institute;

(4) make, promulgate, issue, rescind, and amend rules and regulations as may be necessary to carry out the functions vested in him or in the Institute and delegate authority to any officer or employee under his direction or his supervision;

(5) acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain research and other necessary facilities and equipment and related accommodations as may be necessary, and such other real or personal property (including patents) as the Director deems necessary;

(6) to acquire by lease or otherwise from the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Institute for a period not to exceed ten years without regard to the Act of March 3, 1877;

(7) employ experts and consultants in accordance with section 3109 of title 5, United States Code;

(8) appoint one or more advisory committees composed of such private citizens and officials of Federal, State, and local governments as he deems desirable to advise him with respect to his functions under this Act;

(9) utilize with their consent the services, equipment, personnel, information, and facilities of other Federal, State, and local public agencies with or without reimbursement therefor;

(10) accept voluntary and uncompensated services notwithstanding the provisions of section 665(b) of title 31, United States Code;

(11) accept unconditional gifts or donations of services, money, or property, real or personal, mixed, tangible or intangible;

(12) allocate and expend or transfer to other Federal agencies for expenditure funds made available under this title as he deems necessary;

(13) establish within the Institute such offices and procedures as may be appropriate to provide for the greatest possible coordination of activities under this title with related research and development activities being carried on by the Commission on Quality Health Care Assurance and other public and private agencies and organizations; and

(14) take such other actions as may be required for the accomplishment of the objectives of this part.

(b) Upon requests made by the Director, each Federal agency is authorized to make its services, equipment, personnel, facilities, information, and statistics available, to the greatest practicable extent, consistent with other laws, to the Institute in the performance of its functions with or without reimbursement.

(c) Each member of a committee appointed pursuant to paragraph (8) of subsection (a) of this section who is not an officer or employee of the Federal Government shall receive an amount equal to the maximum daily rate prescribed for GS–18 under section 5332 of title 5, United States Code, for each day he is engaged in the actual performance of his duties including travel time. All members shall be reimbursed for travel, subsistence, and necessary expenses incurred in the performance of their duties.

COMPENSATION

Sec. 1304. (a) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(98) Director, National Institute of Health Care Delivery."

(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(132) Deputy Director, National Institute of Health Care Delivery."

ADMINISTRATION OF GRANTS IN CERTAIN MULTI-GRANT PROJECTS

Sec. 1305. Where funds are advanced for a single project by more than one Federal agency for the purposes of this title, the Director of the Institute in cooperation and coordination with the Commission on Quality Health Care Assurance may act for all in administering the funds advanced and a single non-Federal share requirement may be established according to the proportion of the funds advanced by each Federal agency. The Director may order any such agency to waive any technical grant or contract requirement which is inconsistent with the similar requirements of the Institute or which the Institute does not impose, except that nothing in this section shall be construed to authorize the Secretary to waive or suspend, with respect to any such project, any requirement with respect to any of such programs if such requirement is imposed by law or by any regulation required by law.

TRANSFER OF RESEARCH FUNDS OF OTHER GOVERNMENT DEPARTMENTS AND AGENCIES

Sec. 1306. Funds available to any department or agency of the Government for health care delivery research and development, or for the provision of facilities therefor shall be available for transfer with the approval of the head of the department or agency involved, in whole or in part, to the Institute for such use as is consistent for the purposes for which such funds were provided, and funds so transferred shall be expendable by the Institute for the purposes for which the transfer was made.

TRANSFER OF NATIONAL CENTER FOR HEALTH SERVICES RESEARCH AND DEVELOPMENT

SEC. 1307. (a) The National Center for Health Services Research and Development is hereby transferred from the Health Services and Mental Health Administration to the Institute.

(b) Subject to the provisions of this section, the President, for a period of two years after the date of enactment of this Act, may transfer to the Institute any functions (including powers, duties, activities, facilities, and parts of functions) of the Department of Health, Education, and Welfare or of any officer or organizational entity thereof which relate primarily to the functions, powers, and duties of the Director as described by this Act. In connection with any such transfer the President may, under this section or other applicable authority, provide for appropriate transfers of records, property, personnel, and funds.

NATIONAL ADVISORY COUNCIL ON HEALTH CARE DELIVERY

SEC. 1308. (a) There is hereby established a National Advisory Council on Health Care Delivery (hereafter referred to as the Council) to be composed of twenty-one members. The Council shall consist of the Secretary of Health, Education, and Welfare, the Chief Medical Officer of the Veterans' Administration, a medical officer designated by the Secretary of Defense, the Administrator of the Health Services and Mental Health Administration, the Director of the National Institutes of Health, and the Director of the National Institute of Health Care delivery who shall be ex officio members and an additional fifteen members not otherwise in the regular full-time employ of the United States to be appointed by the President without regard to civil service laws. The appointed members shall be (1) persons who are leaders in the field of medical sciences or in the organization, delivery, or financing of health care, (2) leaders in the management sciences, or (3) representatives of the consumers of health care. At least seven of the appointed members shall be representatives of the general public who are consumers not related to the provision of health care.

(b) The President shall designate a Chairman of the Council. The Council shall meet at the call of the Chairman but not less than four times a year.

(c) Each appointed member of the Council shall hold a term of four years except that any member appointed to fill a vacancy prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, except that the terms of the office of the members first taking office shall expire as designated by the President at the time of appointment, three at the end of the first year, four at the end of the second year, four at the end of the third year, and four at the end of the fourth year after the date of appointment. An appointed member shall not be eligible to serve continuously for more than two terms.

(d) Appointed members of the Council shall receive compensation at rates not to exceed the daily rate prescribed for GS–18 under section 5332, title 5, United States Code, for each day they are engaged in the actual performance of their duties, including travel time, and, while so serving away from their homes or regular place of business, they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expense authorized by section 5703, title 5, United States Code, for persons in the Government service employed intermittently.

(e) The Chairman of the Council, with the concurrence of a majority of the Council members, shall appoint an Executive Secretary of the Council. The Executive Secretary may be appointed without regard to civil service laws and may be compensated at a rate not exceeding the appropriate rate provided for individuals in grade GS–18 under section 5332, title 5, United States Code, as may be necessary to provide for the performance of duties as may be prescribed by the Council in connection with his duties under this Act. The Director of the Institute shall make available to the Council such additional staff, information, and other persons as it may require to carry out its activities.

(f) The Council shall—

(1) review programs, policies, and priorities of the Institute and centers established under section 1311, and advise the Director on the development and conduct of the programs of the Institute and centers;

(2) examine and coordinate health care delivery efforts in cooperation and coordination with the Commission on Quality Health Care Assurance within the Department of Health, Education, and Welfare and other Federal departments and agencies so as to avoid duplication; and

(3) assure that significant research and development findings of the Institute and centers are being disseminated and evaluate the extent such findings are making an impact on the health care delivery system.

(g) The Council shall submit as an appendix to the report acquired by this Act its report on the progress of the Institute and centers toward the accomplishment of the objectives of this Act, and the status of health delivery research development in the United States including any minority views of the Council members.

SEC. 1309. The Director shall, within one year after the date of his appointment and prior to February 1 of each year thereafter, prepare and submit to the Secretary for his transmittal to the President and the Congress a written report that shall include:

(1) an appraisal of the activities and accomplishments of the Institute and the centers;

(2) bibliographies with annotations of research performed or supported and a summary of the significant research and development findings which show promise (given due consideration to the cost, benefits, and the quality of health care program) of improving health care delivery or increasing the productivity of health care systems; and

(3) identification and recommendations concerning those factors or barriers which inhibit implementation of the significant research and development findings of the Institute and centers or that prevent innovation in health care.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1310. For the purposes of carrying out the provisions of this title (except for the provisions of section 1311) there are authorized to be appropriated $125,000,000 for the fiscal year ending June 30, 1973; $150,000,000 for the fiscal year ending June 30, 1974; and $200,000,000 for the fiscal year ending June 30, 1975. Any unexpended sums appropriated pursuant to this section may be carried over without fiscal year limitations.

REGIONAL AND SPECIAL EMPHASIS CENTERS

SEC. 1311. (a) In order to strengthen the Nation's research and development base in health care delivery, to enable the examination and study of health care delivery problems of the various regions of the United States, and to link better research and development findings with actual practice, the Director in cooperation and coordination with the Commission on Quality Health Care Assurance is authorized to enter into cooperative arrangements with public or private nonprofit agencies or institutions to pay all or part of the cost of planning, establishing, and providing basic operating support for (1) not to exceed eight regional centers to carry out multidisciplinary research and development in health care delivery, and (2) two national special emphasis centers, one of which shall be designated as the Health Care Technology Center, to focus on all forms of technology, including computers and electronic devices, and its application in health care delivery; and one which shall be designated as the Health Care Management Center, to focus on the improvement of management and organization in the health field, the training and retraining administrators of health care enterprises, and the development of leaders, planners, and policy analysts in the health field.

(b) Federal payments under this subsection in support of such cooperative agreements may be used for—

(1) construction to the extent that the National Advisory Council determines such construction is necessary;

(2) staffing and other basic operating costs;

(3) research and development;

(4) training; and

(5) demonstration purposes.

Support under this subsection other than support for construction shall not exceed $2,000,000 per year per center, except for the Health Care Technology Center, and may be funded for an initial period of not to exceed three years. The Director, following a review of each center's operation and upon the recommendation of the National Advisory Council, may extend the centers for an additional period of not more than three years each.

(c) The location of the regional centers authorized by subsection (a) shall be determined by the National Advisory Council with a view, to the extent possible, of broad geographical distribution of such centers.

(d) The administrative officer of each regional and national special emphasis center shall transmit annually to the Director a report which shall set forth (1) an audit of expenditures in accordance with generally accepted accounting procedures. (2) bibliographies, with annotations, of research performed, and (3) a description of ongoing research programs including a summary of significant research and development findings.

(e) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1973; $35,000,000 for the fical year ending June 30, 1974; and $40,000,000 for the fiscal year ending June 30, 1975. Any unexpended sums appropriated pursuant to this subsection may be carried over without fiscal year limitations.

SUPPLEMENTAL INCENTIVE GRANTS TO ENCOURAGE EXPERIMENTATION

SEC. 1312. (a) In order to encourage individuals, institutions, and health facilities to participate in research and demonstration projects, which without the incentive assistance provided under this section would not otherwise be carried out, and which have been designated by the National Advisory Council as essential, the Director is authorized to provide funds to be used to increase the Federal contribution to such projects under Federal grant-in-aid programs above the fixed maximum portion of the cost of such projects otherwise authorized by an applicable law. Funds shall be so provided for Federal grant-in-aid programs for which funds are available under the Acts authorizing such programs and shall be available without regard to any appropriation authorization ceiling in such Acts.

(b) The Federal portion of such cost shall not be increased in excess of the percentage established by the Director, and shall in no event exceed 80 per centum thereof.

(c) The term "Federal grant-in-aid program" as used in this section means those Federal grant-in-aid programs in the health area authorized on or before December 31, 1972.

(d) Not to exceed 10 per centum of the funds appropriated by this part shall be available to carry out this section.

Mr. KENNEDY. Mr. President, I want to express appreciation to the distinguished Senator from New York (Mr. JAVITS) who spoke in support of this program. He introduced S. 833. We borrowed generously from that proposal in a variety of ways in the bill before us today. I thank him for those efforts.

I also thank the Senator from Maryland for his contribution in the development of title V. I hope that this legislation will help make the concepts underlying the National Institute of Health Care Delivery a reality. I want to thank him for his contribution.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 92, line 8, insert the word "education" immediately before the word "in".

On page 111, line 14, strike the word "and" and on line 16 strike the semicolon and insert in lieu thereof the following: ", and (iii) education in the contribution the patient can make to the maintenance of his own health;".

Mr. KENNEDY. Mr. President, this is a technical, procedural amendment. The minority is aware of it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I have one further technical amendment, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 166, strike lines 1 and 2 and insert in lieu thereof the following:

"of the danger and that it shall seek relief under this section."

On page 139, insert between lines 2 and 3 the following new section:

"ACCESS TO RECORDS

"SEC. 1150. (a) Each recipient of Federal funds under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such funds, the total cost of the undertaking in connection with which such funds are given or used, the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of Federal funds under this Act."

Mr. KENNEDY. Mr. President, again, this is an amendment of which the minority is aware. It is a clarification of language already contained within the bill.

Mr. COOPER. Mr. President, I am not on the committee. I notice that the ranking Republican member of the committee is not in the Chamber. Has this been cleared with him?

Mr. KENNEDY. Yes. Both of these are technical and procedural amendments. The Senator from Colorado (Mr. DOMINICK) is aware of them.

Mr. COOPER. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMINICK. Mr. President, what is the pending business?

The PRESIDING OFFICER. S. 3327.

Mr. DOMINICK. As I understand it, there is no time limit on this bill. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMINICK. I think it would be helpful at this point, since both the Senator from Massachusetts (Mr. KENNEDY) and the Senator from New York (Mr. JAVITS) have already spoken, if I made a brief general statement, to start with, on the bill.

I think it is only fair to comment that the document room, in printing the report, did not indicate on the face of the report that there were any individual views. I have asked the staff here to note on the reports that there are individual views included within the report, starting on page 161, which were written by the Senator from Wisconsin (Mr. NELSON), in which I joined, and beginning on p. 163, my individual views. I shall have an amendment which will be offered on behalf of myself, the Senator from Oregon (Mr. PACKWOOD), the Senator from Ohio (Mr. TAFT), and the Senator from Maryland (Mr. BEALL). The Senator from Oregon (Mr. PACKWOOD) does want some time to be able to talk on both the amendment and on the bill itself.

Mr. President, I voted to report S. 3327 favorably because, as I have said on many occasions, I agree with its objectives, namely, to improve the quality and the accessibility of medical care and to reduce its cost, but I am concerned about several provisions which, in my opinion, seriously undermine its ability to achieve those objectives. In my individual views in the committee report, to which I have just referred, I discuss those concerns at some length. I will just summarize them here.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. DOMINICK. I am happy to yield.

Mr. KENNEDY. I want to say, as chairman of the subcommittee, I regret, as the Senator has pointed out, that on the face of the report there is a failure to indicate that there are included individual views, for which the committee staff accepts responsibility. The minority views are in the report, but that fact does not appear on the face of the report, so that anyone taking up the report, certainly from looking at the face, would not gather that there are such individual views. However, they do appear in the report itself. We accept responsibility for that, and I regret that that exclusion took place. I note that at the outset of the Senator's comments.

Mr. DOMINICK. I thank the Senator from Massachusetts. I, frankly, was not blaming the staff in the least. I thought it was the document room that had made the slip.

As I said, there are individual views by myself, and the Senator from Wisconsin (Mr. NELSON).

I have asked the pages to make notations on the reports as they are put on Senators' desks that there are individual views.

In summarizing my concerns, I want to take up first the definition of health maintenance organization; namely, an HMO. This definition, in my opinion, is too restrictive. A wide variety of organizations can meet the essential elements of the HMO concept—provision of comprehensive services to an enrolled population on a prepayment rather than a fee for service basis. At the risk of oversimplification, the types of organizations capable of assuming HMO responsibilities could be divided into two broad categories: Closed panel group practices, where the physicians providing HMO services practice in a single facility; and individual practice organizations, where the physicians providing HMO services continue to practice in individual settings. The 110 recipients of experimental HMO grants funded by HEW in the last 2 fiscal years include a variety of organizations in both categories.

For the purpose of again amplifying this, the Kaiser-Permanente type program would be a closed panel HMO, where the doctors are employed, they are in a single facility, and they serve a group of enrollees who have prepaid health care provisions under the contract which they offer. In the other type of plan, they could be referred to as foundations, as they are now called, which permit a group of individual practitioners, where a group of practitioners gather together saying that their services will be available to patients at certain prescribed rates, and they will not charge any more than that, where there is peer review, and, in addition to that, they are permitted, over and beyond that, once they have signed these contracts, to have individual practice. This in turn gives the patient the opportunity to choose his own physician or her own physician. It seems to me this right of choice in a consumer of medical care is perhaps as important as any other single thing which we have in our medical community.

This bill defines a health maintenance organization, however, in a way which would limit assistance under title I to only one specific organizational form; namely, the closed panel group practice.

Under this definition, as I have said, all individual practice organizations would be excluded. Such organizations in rural areas could qualify for assistance under the more flexible definition of "health service organization" in title II. But in urban areas, where the bulk of HMO funds would be committed, only closed panel group practices would be eligible. Moreover, only 20 of the 85 existing groups which provide more than 50 percent of their care on a prepayment basis would qualify structurally as HMO's under this rigid definition now in the bill.

I repeat—only 20 of the 85 existing groups could qualify under the definition in the bill as the committee reported it.

I feel strongly that this narrow approach would be detrimental to our efforts to find improved methods of health care delivery. It operates on the arrogant and unrealistic presumption that closed panel group practice is the one ideal model for medical care delivery, and that further innovation is unnecessary. It further presumes that all providers and consumers of medical care can be forced into this federally defined model. Both presumptions are open to serious question. The closed panel prepaid group practice model has been around since the 1930's. Yet today it encompasses only 2 percent of practicing physicians, and serves less than 4 percent of the U.S. population. On these facts, it can hardly be said that this model has won the acceptance of consumers and providers of medical care.

Title I would authorize $1.025 billion over a 3-year period for assistance to HMO's.

It seems to me that this money should be used in a way which will maximize innovation and competition in developing better methods of health care delivery, and yet preserve a wide range of choice for both patients and physicians. A variety of organizational forms which meet essential HMO criteria should be eligible for assistance and, as I say, I shall at a later date offer an amendment to broaden the definition of the HMO so that individual practice organizations can qualify as well.

I am also concerned about the permanent financing mechanism that this bill establishes. Title III authorizes almost $2 billion over the first 3 years to subsidize the difference between premium costs and what HMO enrollees could afford to pay. Each HMO and HSO—that is, the health service organizations in rural areas—would be eligible for annual grants in amounts up to 25 percent of its total premium receipts in the preceding year. HMO's and HSO's with a disproportionate number of so-called "high-risk enrollees" would be eligible for additional grants in whatever amounts would be necessary to avoid increasing premium rates.

Now, these massive Federal subsidies—and I am talking about $2 billion over the first 3 years—are made necessary by the broad range of services which each HMO is required to make available to its enrollees at one premium rate if it is to qualify under this bill. In addition to basic physician, hospital, and emergency services, the mandated benefit package would include prescription drugs, "medical social services"—whatever that means—vision care, physical medicine and rehabilitative services, mental health services, and treatment of alcoholism and drug abuse.

As most Senators know, I have been working in the Alcoholism and Narcotics Abuse Subcommittee under the Senator from Iowa (Mr. HUGHES), and have been extremely active in it. I do feel that there is need for us to go forward in that field. But whether or not HMO's should be required to provide such services in order to be eligible for assistance under this act seems to me to be somewhat open to question.

Each HMO is also required to provide extended care and dental services to enrollees who elect them for an additional premium. This mandated benefit package must be made available by every HMO without regard to the needs of the enrolled population.

This mandated benefit package must be made available to every HMO, without regard to the needs of the enrolled population. In other words, if you did not have too many people who either had eye problems or needed rehabilitative services, or that kind of thing, or if you had other adequate facilities for mental health, nevertheless an HMO, unless it also offered these things, would not be eligible for assistance.

I might say to the Senator from Massachusetts—and I am not sure I made this specific point in the process of our discussion of these factors in committee, but it is well worth making—that a number of years ago we started what is called the Comprehensive Health Planning program, which is an effort to try to get the people in each State and locality to get together to determine what their actual medical needs are, and to decide what type of facilities or services will be offered in those areas.

In many places this comprehensive health planning program is really just getting underway. In other places it has not gone nearly as far as I would like. But no matter how you look at it, if we put this amount of money in this type of bill, with this requirement for services, the comprehensive health program planning commission might just as well turn up its toes and fade away. It just is not going to leave them any leeway whatsoever to determine what facilities and what types of programs are needed in their particular area.

Even the HMO prototypes such as the Kaiser-Permanente, which I referred to before, do not provide the range of services that this bill would mandate. The result is that no HMO receiving assistance under this legislation could become economically viable. In short, they could never make their own way without a Federal subsidy. Without massive Federal subsidies, their premium rates would not be competitive with other medical plans, such as those offered by insurance companies. Aside from the substantial additional cost that this permanent financing mechanism adds to an already extravagantly expensive bill, it amounts to piecemeal national health insurance, which in my opinion should be dealt with in separate legislation. As I have told the Senator from Massachusetts over and over again, national health insurance is not within the jurisdiction of our committee; it is within the jurisdiction of the Finance Committee.

By spending tax funds to subsidize premium costs for the enrollees in HMO's and HSO's, it discriminates against the tax-paying Americans who choose to receive their medical care from non-HMO types of providers, or who cannot enroll in an HMO because none is located in their area.

Title IV of S. 3327 ambitiously attempts to control the quality of care through establishment of an independent "Quality Health Care Commission," with broad powers to establish and enforce uniform national standards.

Parenthetically I might say that in the hearings on this particular bill, we did not get very much testimony on this point, and I am not a bit sure that to this day people in the medical profession realize the scope of this particular commission. This, I might say, is not an advisory commission. In addition to all the HMO's and HSO's receiving assistance under this legislation, the commission would have jurisdiction over all providers receiving assistance under the Public Health Service Act and the Community Mental Health Centers Act. For example, any hospital receiving funds under the Hill-Burton Act which we just finished extending a few hours ago would be subject to the jurisdiction of this commission. Other providers—and again I am talking about medical providers—voluntarily submitting to its jurisdiction, would be entitled to annual grants equaling 2 percent of their gross annual receipts from delivery of medical services.

The Commission would enforce its quality standards primarily through its power to grant and revoke certificates of compliance which would be a condition of receiving Federal assistance. Time and again, I remember Senators talking about the carrot and stick approach of our categorical aid programs. Here, once again, we are doing the same thing: We are saying to the medical providers of this country, "If you comply with these things, we will give you Federal assistance. If you do not, we will not give it to you, but we will give it to anyone else who will."

So we put the carrot out there, and the stick is that we withdraw this assistance and put them in a totally different competitive position.

The Commission has the power to require repayment of Federal funds previously received by noncomplying providers, and to impose civil and criminal penalties, including fines up to $10,000, for each violation.

In other words, as I pointed out before, this is no advisory committee. This is, in effect, a Commission whose members have the power to be arbitrary czars over anyone receiving Federal assistance under this act, under the Public Health Services Act, and under the Community Mental Health Act.

It is a very powerful commission. When we started out, I believe that there was a commission of five and there was a provision, which I am sure must have been a misstatement, that not less than two must be consumers. That meant, in effect, that a commission of five could be all consumers, with not a medical man on it at all, in which case the whole medical profession of this country would have been run by consumers.

There are many people who think this might be all right. I do not happen to be one of them. In the process of the committee discussions, we changed this around to a commission of 11, if I can recall correctly, of which not less than four must be consumers. So we at least have some medical input into the determination of what this commission can do. That is a big improvement over what the original bill was, and we are still—and I want to make this clear—giving the commission the power not only to require repayment of Federal funds, where there has been some mistake or some miscalculation, or they do not comply with the rules and regulations; but also to impose civil penalties on everybody involved—11 people, not a jury, not a court trial, not a thing. This is what they can do. For the life of me, I cannot understand why we should give that type of power to such a group.

In addition, eligibility for the malpractice, arbitration, and reinsurance program established in title IV would be conditioned on certification by the commission. In other words, one cannot get malpractice reinsurance and arbitration, as provided under title IV, unless one complies with whatever this commission says.

This is intended, I presume, as an added incentive for other providers to submit to the jurisdiction of the commission. But I think this consideration is far outweighed by the need to make malpractice insurance accessible to all providers.

Incidentally, the malpractice problem we have is one of the reasons why costs in the medical field have gone up as high as they have—the proliferation of malpractice claims or suits and the consequent insurance rates that all medical providers have to maintain.

It seems to me that all providers of medical care should be eligible for the reinsurance program, regardless whether they happen to be certified by the Commission.

Malpractice insurance, as I said, is so expensive now that many physicians cannot obtain it. In two States that I know of, as of last year, there were no insurance companies offering any type of insurance to any doctors.

There are some States in which, as I said, insurance companies will not even write it, due to the unfavorable legal precedents that have been established. This reinsurance program, modeled on Federal flood and disaster insurance, would make coverage available at preferred rates.

Why should physicians—and their patients, I might add—be denied these benefits, simply because they are not certified by the new Quality Commission? Just think of the job it is going to be, in view of the number of physicians we have in this country, 11 people on this Commission, plus the staff, to determine whether each of these medical providers is, in fact, complying with the Commission's rules and regulations. You are going to have an army of bureaucrats out across the country to determine this and to see what the problems are.

So it seems to me that we are going much too far, not only in respect to the medical providers, but also in respect to this reinsurance situation, so far as the Quality Commission is concerned.

Solo practitioners, as pointed out by Senator **Nelson** during our discussions in committee, particularly in rural areas, are going to have great difficulty in meeting the Commission's uniform national quality standards. Believe it or not—and most people who live in urban areas probably will not believe it—in rural areas there are still doctors who will go out in the middle of the night and will go out in a snowstorm and will go out to a patient's house and will take care of everything from the birth of a baby to an appendicitis to a major operation, and do it as a matter of course.

It seems obvious to me that to try to get these men, who have been practicing and who have been licensed by their own States, to come in and say that they are going to comply with the uniform national quality standards established by this Commission is a little more than anyone should possibly expect. Many of them would be denied certification for malpractice reinsurance for reasons totally unrelated to the quality of their services. For instance, an overworked solo practitioner may be unable to comply with the extensive recordkeeping requirements imposed by the Commission. Further since virtually all physicians are subject to State licensure laws and specialty board certification, there is no real need to require certification by the Commission as a condition of eligibility for reinsurance.

Another problem is that the Commission would have broad powers to make immediate decisions affecting virtually every aspect of the practice of medicine, but with very little information on which to base such decisions.

Control of medical care is acknowledged by nearly everyone to be a primitive field. The data and methodology necessary to impose specific quality criteria probably will not be available pending several years of intensive research.

There is no assurance that the standards imposed by the Commission in the meantime will be realistic. The inhibiting effects on peer review-type quality assurance systems and insensitivity to varying conditions and needs in different geographical areas make uniform national standards a difficult problem.

For example, suppose you have a problem in Alaska in the winter time with the Eskimo population. How do you make a uniform quality standard of care for them as compared with the problems you will have, say, in a suburban area of sunny Florida? How is that going to work? How are you going to say that the same quality of care must and shall be available to each of those areas and that they have to be uniform; otherwise, they are not subject either to this reinsurance or to any of the Federal subsidies we are providing under this law?

For now, I think it would make better sense to leave the burden of quality control with State licensure laws and local peer review mechanisms, subject, perhaps, to monitoring by the Department of HEW on a regional basis.

It ought to be pointed out, also, that the Commission would be expensive. The bill authorizes $1.185 billion for the Commission's activities during the first 3 years. This is the Commission alone. After its initial startup period, it can be expected to be far more costly. The Department of HEW estimates its cost over the first 5 years at more than $6 billion.

Mr. President, in conclusion, the bill has two—at least two—fundamental flaws. First, it is unrealistic both in terms of cost and scope. It authorizes more than $5 billion over the first 3 years. It tries to do too many other things other than to improve the health care delivery system. The development of a more efficient and accessible delivery system is, in itself, a formidable task for one piece of legislation. To the extent that this bill attempts to do more, such as direct financing of medical care by the Federal Government, its chances of improving the delivery system are diminished.

Second, this is a promotional bill rather than an assistance bill. It does not objectively attempt to improve the delivery system. It is designed, instead, to promote one particular form of health care delivery—closed panel group practice, and one particular financing mechanism—direct payments to health providers by the Federal Government, a la national health insurance. The extent of this promotional effort is illustrated by the provision in title V which would amend the National Labor Relations Act to make it an unfair labor practice for employers to refuse to offer prepaid health care plans as part of collective bargaining agreements which include health benefits.

I will say that I doubt there are more than six Senators in this body who had the slightest idea that this provision was in the bill. I am pleased to see that Senator **Kennedy** has today modified the bill to delete this provision, and saved me from offering an amendment to try to do it myself. I yield the floor.

Mr. COOPER. Mr. President, I have received many communications concerning the provision in the health maintenance organization and resources development bill, section 503, which would make the failure of an employer to refuse employees the option of choosing a prepaid health care plan when available in the area, and is no more costly than other plans available, an unfair labor practice under the National Labor Relations Act.

I am very glad that the manager of the bill, the Senator from Massachusetts (Mr. KENNEDY) has agreed to remove this provision from the bill. My position on this section is not to criticize a prepaid health plan, but the section creating a new unfair labor practice has no business being in this bill. The bill deals with the development of a health maintenance organization program, a concept which I believe is good and should not be burdened by subjects that properly come within the realm of free collective bargaining. I think the provision is also inconsistent with the principle of free collective bargaining. "Unfair labor practices" relate chiefly to the prevention of free collective bargaining. I am opposed to this section of the bill for it would deny free collective bargaining.

I congratulate Senator DOMINICK who is also a member of the committee which reported the bill for pressing for its removal, and I am glad to support him. I am glad that Senator KENNEDY has responded, I think properly, by agreeing to strike the provision from the bill.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unnimous consent that the Senate proceed to consider calendar order Nos. 1112, 1119, and 1120.

The PRESIDING OFFICER. Without objection, it is so ordered.

U.S. FORGECRAFT CORP.

The resolution (S. Res. 361) to refer the bill (S. 3969) entitled "A bill for the relief of United States Forgecraft Corporation" to the Chief Commissioner of the U.S. Court of Claims for a report thereon was considered and agreed to, as follows:

Resolved, That the bill (S. 3969) entitled "A bill for the relief of United States Forgecraft Corporation", now pending in the Senate, together with all the accompanying papers, is hereby referred to the Chief Commissioner of the United States Court of Claims; and the Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due from the United States to the claimant.

KUAY TEN CHANG

The Senate proceeded to consider the bill (S. 180) for the relief of Kuay Ten Chang (Kuay Hong Chang) which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That, in the administration of the Immigration and Nationality Act, Kuay Ten Chang (Kuay Hong Chang) shall be held and considered to be within the purview of section 203(a)(2) of that Act and the provisions of section 204 of that Act shall not be applicable in this case.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ANNA KOLBRIASZ

The Senate proceeded to consider the bill (S. 2518) for the relief of Anna Kolbriasz which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That, for the purposes of sections 203(a)(1) and 204 of the Immigration and Nationality Act, Anna Kolbriaz-Sala shall be held and considered to be the natural-born alien daughter of Mr. Vincent Sala, a citizen of the United States: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill for the relief of Anna Kolbriaz-Sala."

HEALTH MAINTENANCE ORGANIZATION AND RESOURCES DEVELOPMENT ACT OF 1972

The Senate continued with the consideration of the bill (S. 3327) to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, health care resources, and the establishment of a Quality Health Care Commission, and for other purposes.

Mr. SCHWEIKER. Mr. President, S. 3327, the Health Maintenance Organization and Resource Development Act of 1972 is perhaps one of the most important health bills to be considered by the Senate during the 92d Congress. The pending bill is a comprehensive and complex measure which may, when enacted into law and fully implemented, make a major change in the present system of health care delivery in the United States. The Health Maintenance Organization is a health delivery organization whose characteristics include prepaid, periodic payment; comprehensive services; a contract period for services; assumption of the financial risk by the organization; and the group practice of medicine. The HMO represents a departure from the traditional delivery of health care services. This bill creates a new pattern of resources, a new mode of delivery.

In my judgment, the existing health care delivery system does not need to be replaced, lock, stock, and barrel. However, changes are needed in the system. An alternative must be introduced and the HMO represents that alternative.

Mr. President, the bill provides three definitions for the types of organizations designed to deliver health care services, the HMO, the supplemental HMO and the HSO or Health Service Organization. The HMO is a rigidly defined organizational structure which provides very broad health services under very rigid terms. The supplemental HMO is an organization defined in a manner similar to the administration's HMO, but under the bill can only be assisted if there are insufficient funds and applicants for the primary HMO. The HSO or health service organization is highly defined, but the bill permits the Secretary of Health, Education, and Welfare's discretion on the scope of benefits being provided. The HSO is designed for delivery of health services in rural areas.

S. 3327 provides grants for planning and feasibility, grants for development, grants for construction, grants for operating costs, construction loans, operating loans, construction loan guarantees with up to 3 percent interest subsidies and operating loan guarantees with up to 3 percent interest subsidies. In the case of proprietary HMO's only construction and operating loan guarantees without subsidies are provided.

In order to encourage and develop better health services in rural areas, the bill seeks to create relationships between HMO's and area health education and service centers. These area health education and service centers are the result of the recommendation by the Carnegie Commission on Higher Education which suggested that the Nation's medical health science centers, that is, our medical universities, assume a role in the development of area health education centers which would serve as major satellites in rural areas to the university health science centers. These health education centers would have as a nucleus a hospital, usually a community hospital, and would be located in less-populated geographic areas or in urban areas so densely populated that a full health science center could not possibly perform the broad educational research community service functions which the Commission felt was needed. The bill provides grants to universities, regional medical programs, and nonprofit providers for project construction and equipment of facilities to develop these centers which must, according to the provisions of the bill, have a working relationship with the HSO which would be the organization to deliver services. The area health education and services would be the linkage to the university science center.

Mr. President, an important feature of this bill is the section which preempts State laws. In a number of our States, statutes exist which impose a restriction or prohibitions on the establishment of group health practice or prepaid health delivery. The provision in the pending bill would preempt such laws, and allow the Federal chartering of HMO's.

Mr. President, perhaps the most significant provision in the bill is the establishment of a Commission on Quality Health Care Assurance. S. 3327 provides for independent agency to monitor quality mechanisms; prescribe regulations, standards, and norms; certify providers of services through an HMO to operate a malpractice reinsurance program. In addition, the Commission will be involved in research dealing with measurement of quality.

The Commission on Quality Health Care Assurance would be composed of Presidential appointees including consumers nonrelated to health care delivery. Its duties include the promulgation of standards, qualifications of personnel, composition of medical groups, and other characteristics dealing with adequacy of facilities and equipment.

It will conduct research to develop the criteria for new and improved quality systems and norms regarding processes utilization characteristics and outcomes. The Commission will monitor HMO's, supplemental HMO's, health service organizations, quality assurance systems and issue certificates of compliance. The Commission will conduct hearings concerning the revocation of any certificates of compliance. In addition, it will monitor Community Mental Health Centers and mental retardation facilities and their quality assurance systems. The bill requires the Commission to publish statistics, conduct research, distribute information, provide technical assistance, study the levels, costs, and quality of care under Federal programs, administer reinsurance plans for malpractice, and report annually to the President and the Congress. The Commission could have its own facilities, staff, consultants, and advisory committees. A provision is made for delegation of activities to State agenies having approved plans for enforcement of standards.

Mr. President, the creation of a Commission on Quality Health Care is clearly the most significant feature of this bill.

Mr. President, I also wish to point out to the Senate that the bill provides grants equal to the difference between the HMO or HSO premium and the amount enrollees can be reasonably expected to pay under a premium contribution schedule. Such grants are limited to 25 percent of an organization's previous year's premium receipts. Also, where the HMO or HSO proposes to increase premiums either in whole or in part to the enrollment of a disproportionate share of high risk citizens, the Secretary shall make grants equal to the amount that would eliminate the need for the part caused by such disproportions.

Mr. President, S. 3327 is not without defects. There are provisions which we may find are not workable and will not accomplish what it sought. Certain features in the bill are controversial. Nevertheless, I recommend that the bill be supported by my colleagues. There are clear and obvious pressures on the present health system for a change. The system is not meeting the need for quality health care for more people at lower cost. The problems of accessibility of health care and the rising costs of that care remain. We must recognize that the public has come to believe, quite properly, that access to quality care is no longer a privilege, but a right. Mr. President, we are being called upon to respond, and I believe that the pending HMO bill is an answer. I urge its passage.

SENATOR RANDOLPH SUPPORTS THE HEALTH MAINTENANCE ORGANIZATION AND RESOURCES DEVELOPMENT ACT OF 1972

Mr. RANDOLPH. Mr. President, I strongly support the measure being considered, S. 3327, the Health Maintenance Organization and Resources Development Act of 1972. The distinguished Senator from Massachusetts (Mr. KENNEDY) has expended much time and energy in bringing before the Senate a measure designed to bring the United States one giant step closer to the realization of a goal which is of major importance to Americans—quality health care for all people.

I have earnestly supported two other recently enacted laws whose purpose is to aid in easing the health care crisis in America—the Emergency Health Personnel Act and the Comprehensive Health Manpower Training Act. This bill fits well into the pattern of those laws.

As Senators know full well, health care is not now being provided to millions of Americans. Millions more are receiving care which I describe as marginal. The committee report on S. 3327 states:

> Although remote rural areas and urbanized ghettos were the first groups to be identified as underserved, extensive health subcommittee testimony showed the health care crisis has already begun to affect millions of middle and upper income Americans.

There is a real danger that the United States may become the least healthy of all the world's developed nations. Amid our great national wealth and high standard of living, this specter of declining health care and rising health care costs is shocking, and yet, I fervently hope, preventable.

S. 3327 is a vehicle by which America can get back on the high road toward better health care. It embodies some new concepts, but the basis for the legislation has been successfully tested.

About 4 million Americans are now enrolled in prepaid group practice programs which can be characterized as HMO's, or Health Maintenance Organizations. The Senate committee report states that:

> There is substantial evidence that HMO enrollees receive high quality care at a significantly lower cost—as much as one-fourth to one-third lower than traditional care in some parts of the country.

In these days of skyrocketing health care costs and catastrophic illnesses which can and do bankrupt even the very affluent, it is imperative that measures be taken to bring health care—all kinds of health care—within the means of the average American.

Although the fundamental concepts in S. 3327 have been fully explained by the able chairman of the Subcommittee on Health (Mr. KENNEDY), it is useful to reinforce them. The bill would authorize grants for planning, initial development, and construction of health maintenance organizations, supplemental health maintenance organizations, and health services organizations. Because high initial operating costs are inherent in these facilities, the bill would authorize both grants and loans to help meet operating deficits incurred during the first 3 years. Grants and loan guarantees would also be authorized for the development, construction, and equipment of area health education and service centers. Loan guarantees and interest subsidies would be available for the construction of ambulatory health care facilities, transportation and communications equipment, and for initial development and operating expenses.

The measure before the Senate would do more. It would authorize capitation grants to the described organizations to enable them to serve medically indigent and high risk individuals where necessary; authorize quality health care initiative awards to assist providers to maintain internal quality control systems; establish a Federal Medical Malpractice Reinsurance Program; establish a Commission on Quality Health Care Assurance; and establish an Institute of Health Care Delivery within the Department of Health, Education, and Welfare.

Of particular interest to me as a Senator from a State whose population has a high rural component, are the proposals in this legislation for health service organizations—(HSO's), and area health education and service centers. These two exciting concepts, in my judgment, will help to provide a dramatic improvement in the availability and quality of health care delivery in rural areas in West Virginia and other States.

The Health Service Organization is a hybrid concept specifically designed to improve health care delivery in rural areas where inadequate transportation and communications, shortages of health professionals and facilities, and widely scattered populations, make quality health care difficult to provide. The HSO idea permits the indirect provision of services through solo practice organizations, which would qualify for support under the bill. An HSO would not be required to provide the full range of medical services necessary to the establishment of an HMO. It would be required to enter into a formal working arrangement with an area health education and service center, and funds provided for HSO's are to be used in part to improve transportation and communications services to make health care more accessible to the enrolled population. Financial support levels are somewhat higher for HSO's than for HMO's because of the higher costs attendant to providing health care in rural areas.

Area health education and service centers will provide clinical training to health care providers in nonmetropolitan areas, stressing cooperative interdisciplinary training in the use of health care teams. It is anticipated that such centers will be hospitals, educational facilities, or other public or private nonprofit entities such as regional medical programs affiliated with a university health center. These area health education and service centers are conceptualized to be satellites for university health science centers, which would provide patient care, especially on a referral basis from remote, outlying areas, education, research, and community service functions, to enrich the quality and quantity of health care in nonmetropolitan and rural areas.

This legislation holds the promise of a new era of health care delivery in America, in which more and better care is provided to needy people. Highly organized and efficient health service systems, such as are fostered and encouraged through this bill, are consistent with modern, advanced concepts of technology, as well as with the old-fashioned but too often neglected concept of human compassion.

S. 3327 is a forward-looking measure, and one that is worthy of strong support by this Congress. I support it and I believe my colleagues will do likewise.

The PRESIDING OFFICER (Mr. BEALL). The bill is open to amendment.

Mr. DOMINICK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOMINICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1447

Mr. DOMINICK. Mr. President, I call up my amendment No. 1447 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 96, line 25, strike the words "as their principal professional activity".

On page 97, line 7, after the word "salary" insert a comma; after the word "or" insert the word "a"; after the word "account" insert the words "or other".

On line 8, after the word "share" insert the words "substantial portions of".

On line 9, strike the words "and substantial portions of".

On line 18 add the following new sentence: "Such group may be organized on a group practice or individual practice basis, and individual physician members may be paid on a fee for service or any other basis, so long as the group is reimbursed for its services primarily on the basis of an aggregate fixed sum or on a per capita basis."

Mr. DOMINICK. Mr. President, I have sent to the desk and had stated an amendment offered on behalf of myself, Mr. BEALL, Mr. PACKWOOD, and Mr. TAFT. A short summary is on each Senator's desk. Its effect would be to make individual practice organizations eligible for health maintenance organization assistance under title I of S. 3327. They are presently excluded by the restrictive definition of health maintenance organization, which can be met only by closed panel group practice organizations.

Under the closed panel group practice model, a group of physicians and health professionals practice together in one facility and treat only patients who are enrolled in a plan entitling them to receive all of their medical care from the group. The Kaiser-Permanente plan is the prototype for this model. It obviously has done very fine work. It now has one going in Colorado, although there it is not now economically feasible, but hopefully it will be over a period of time.

There are about 85 such groups which provide more than 50 percent of their services on a prepaid basis. Most of these are located on the west coast, and on the east coast, between Boston and Washington, D.C.

Under the individual practice model, the member physicians continue to practice in individual or small group settings, rather than as one group in a single facility. Where such an organization agrees to sponsor a prepaid health care plan, member physicians may continue to treat patients who are not enrolled in the plan, and may be reimbursed on a fee-for-service basis by such outside patients. The most prevalent form of this model is the foundation for medical care sponsored by a State or local medical society. The San Joaquin Foundation for Medical Care is the prototype for these. At present there are 61 foundations operating in 27 States. Foundations are developing in 17 additional States.

The chief difference between these two types of organizations is that a closed panel group practice operates out of one facility, while foundations and other types of individual practice organizations are composed of physicians practicing in separate facilities. But they are alike in two respects, which are very important to the HMO concept: They both can provide comprehensive care on a prepayment basis, and they both assume the same responsibilities to their enrollees.

Title I of S. 3327 authorizes $1.025 billion in start-up assistance for health maintenance organizations—grants and loans for planning, development, construction and initial operating costs. Section 1101(1)(A) defines "health maintenance organization" as an entity which provides comprehensive health services directly through its own staff and supporting resources or through a medical group or groups. Section 1101(3) defines "medical group" as a partnership or other association or group of health professionals who, among other things: first, as their principal professional activity provide services as a group to health maintenance organization enrollees; second, pool their income from practice as members of the group and distribute it according to a prearranged salary or drawing account plan; and third, jointly use or share all medical and other records. The effect of this definition would be to limit assistance under title I to closed panel group practice-type health maintenance organization. Medical society-sponsored foundations or other groups of physicians who practice in individual, rather than group practice settings, would be excluded. Such organizations would be eligible for title I assistance under the definition of "supplemental health maintenance organization", but only to the extent of funds left over at the end of each fiscal year after all applications from closed panel group practice-type organizations had been funded. Being realistic, it is extremely unlikely that any significant amount of funds would be available under this provision.

Hence, we are, in practical effect restricted to a closed panel HMO, even though the distinguished Senator from New York tried to put this in as a compromise which would be helpful in providing flexibility.

My amendment would modify the definition of "medical group" so that individual practice-type organizations could qualify for assistance on an equal basis, providing they are able to meet all other criteria set out in the bill. The amendment would remove the requirement that physician members of a group provide services to HMO enrollees "as their principal professional activity." This would be construed to mean that each physician must spend at least 50 percent of his time providing services to enrollees. Such a requirement would be almost impossible for foundations and other types of individual practice-type organizations to meet. One of the basic features of individual practice-type organizations is that while the group as a whole assumes the responsibility of providing comprehensive services to enrollees in the group plan, individual physician members continue to practice in their own offices, and continue to provide services to patients who are not enrolled in the group plan. Further, most existing group practice clinics would be unable to meet this requirement. Such prominent groups as the Palo Alto Clinic, which provides services to 80 percent of its patients on a fee-for-service basis, and 20 percent on a prepayment basis, would be disqualified for HMO assistance. Of course, as the popularity of prepaid medical care increases, the percentage of services provided by any group to HMO enrollees would increase proportionately.

The requirement that all income from services provided by a group be pooled, and distributed to its physician members "according to a prearranged salary or drawing account plan," is intended to preclude reimbursement of physician members on a fee-for-service basis, and would thus disqualify foundation-type organizations. My amendment would permit reimbursement on a fee-for-service or other basis. The critical requirement is that all prepayments for services provided by the group be pooled. Once that occurs, the method of distribution to member physicians is essentially irrelevant.

This point was emphasized by witnesses representing the Department of Health, Education, and Welfare. The most important feature of the HMO concept is that comprehensive services are provided on a prepaid basis. The necessity of staying within a predetermined budget creates the incentive for preventive care in order to avoid expensive acute care. If an organization—whether a closed panel group practice or a foundation—must live within a predetermined budget, it makes no difference how the prepayments are distributed to individual physician members—the incentive is the same.

The method of reimbursement is related to the productivity of individual physician members, however. Where the physicians work on a purely salaried basis, productivity is obviously not affected. That is why the reimbursement method of almost every existing closed panel group practice takes the productivity of each physician member into account. Whether the salary increases, or is supplemented in accordance with productivity, or the drawing account plan is controlled by a formula based on productivity, the result is the same—if a physician provides more services, he makes more money.

It is difficult to find anything other than a semantical distinction between those methods of reimbursement and the fee-for-service method used by foundations. A foundation-type HMO would establish the maximum charge for each type of service, and where necessary would reduce fees on a prorata basis in order to stay within the predetermined budget. The opposition to "fee-for-service" under these circumstances, therefore, appears to be more emotional than rational. The argument that "fee-for-service medicine" has no cost-control incentives simply does not apply where medical care is paid for in advance, regardless of whether the organization providing the care is a closed panel group practice, or a foundation for medical care.

The requirement that all physician members "jointly use or share medical and other records" would be impossible for individual practice-type organizations to meet. Because their physician members do not practice in one facility, they could not use a single set of records.

Our amendment—I will say to the distinguished occupant of the chair (Mr. BEALL) that it is his amendment as well as mine—would, therefore, require that they share substantial portions of such records. Foundations could meet this requirement by utilizing a computerized record storage system, so that the complete medical history of each enrollee would be available to physician members, even though each maintains separate records.

As a matter of fact, many of the foundations are starting to do that already.

Mr. President, except for the foregoing three changes, all of the existing conditions for eligibility would remain intact, and would apply equally to individual practice-type organizations. For example, the bill contains specific requirements with respect to fixed sum prepayment by enrollees, pooling of income, quality control, comprehensive health benefit package, availability of care on 24 hours a day, 7 days a week basis, open enrollment, uniform premium rates, financial responsibility, bearing of risk by member physicians, consumer representation, and the mix of health professionals which must be represented in each health maintenance organization. This amendment is designed to make the absolute minimum changes in the definition of HMO which are necessary in order for individual practice-type organizations to qualify for assistance. This amendment is not designed to preserve the status quo. If it is adopted, existing foundations would be required to do many things they are not doing now, just as existing closed panel group practices would.

These are the most important reasons why individual practice-type organizations—including foundations for medical care—should be eligible for HMO assistance on an equal basis with closed panel group practices:

First. They can meet all of the essential elements of the HMO concept. They provide comprehensive services to a defined population on a prepayment, rather than fee-for-service basis. Their member physicians are at risk if the cost of services exceeds prepayments. They provide for continuity of care through sharing of medical records. They provide for careful quality control through peer review. Like closed panel group practice HMO's, they would be subject to the jurisdiction of the Commission on Quality Health Care Assurance established in title IV.

Second. The HMO concept has not been tested sufficiently in practice to justify spending the $1.025 billion authorized in title I to promote one narrow organizational form—closed panel group practice. There are only 85 group practices presently in operation which provide more than 50 percent of their care on a prepaid basis. These encompass less than 2 percent of practicing physicians. Only 20 of these—serving 4 million enrollees, or 2 percent of the population—would qualify structurally as HMO's under title I of S. 3327 as it now reads. On these facts, it can hardly be said that the closed panel group practice model has won the acceptance of either the American public or the medical profession. As I pointed out earlier, they started back in the 1930's; so they have had some time to get going.

The purpose of Federal assistance for HMO's is to stimulate the development of improved methods of health care delivery. To limit HMO assistance to one narrow organizational form would be to limit the HMO concept's potential for improving the health care delivery system.

The approach of the bill assumes that HMO as defined in this bill represents the ideal health care delivery system, and that no further innovation is necessary. It further assumes that all providers and consumers can be molded into this one federally defined model. Both assumptions are open to serious question. If we are seriously interested in finding improved methods of health care delivery, HMO should be defined flexibly so that a variety of organizations—existing and new over which may be conceived of in the future—could qualify.

The hearing record on S. 3327 overwhelmingly supports this view. Most of the witnesses who addressed this issue recommended strongly that in order to stimulate competition and innovation, a variety of organizational forms—including the foundation model—should be eligible for assistance. Among them were representatives of the Department of Health, Education, and Welfare, the Association of American Medical Colleges, the American Association of Foundations for Medical Care, the American Association of Medical Clinics, the American Hospital Association, the American Medical Association, Blue Cross-Blue Shield, the Group Health Association of America, the Health Services Research Center of the American Rehabilitation Foundation, the Kaiser-Permanente Foundation—the prototype for the closed panel group practice model—the National Medical Association, and the Student American Medical Association.

Third. Individual practice-type HMO's offer a wide range of choice to patients and physicians. Enrollees in a foundation plan are able to choose from a much larger number of physicians than an enrollee in a closed panel group practice plan.

Let me just make an assumption here. Let us suppose that any Member of the Senate has been going to a particular family doctor for his particular needs or her particular needs, over a long period of time, and all of a sudden decides to enroll in a prepaid medical program as defined under this measure, which was to be supported by Federal assistance. That means, if they are going to enroll in that program, they cannot go to their doctor any longer, unless he goes into a closed panel group.

These patients can continue to see their family physicians who are members of the foundation, and be referred, where necessary, to specialists within the foundation.

This would again mean that most doctors in most areas where a foundation is being formed have been active in the community for a period of time, and are doing a lot of private practice, and once they get into the foundation prepaid situation, they can continue to take care of that family and continue to refer them to any specialists who happen to also be members.

This, it seems to me, is very important to those, particularly the elderly, who have long established relationships with particular physicians. On this point, it should be noted that a significant percentage of closed panel group practice enrollees go to outside physicians for some of their care. A recent study indicated 37 percent of the patients in one closed panel plan went to outside physicians for surgery. This means that though they have a closed panel and a so-called prepaid care system, they are spending up to 37 percent of their medical care dollars outside that closed panel, outside the contracts they have, on individual physicians they happen to think are best for their particular requirements.

Most physicians prefer to practice in individual rather than group practice settings. Only 17.6 percent of non-Federal physicians practice in groups. Less than 2 percent of non-Federal physicians practice in groups which provide more than half of their care on a prepaid basis.

Fourth. All existing resources should be utilized to attack the medical maldistribution problem. The foundation approach has more potential than the closed panel group practice approach for serving physician-shortage areas. Title II of S. 3327 recognizes that closed panel group practice HMO's are unlikely to be effective in rural areas, and accordingly makes individual practice HMO's eligible for assistance there. The same approach should be taken in urban-shortage areas

Due to economic and environmental problems, closed panel group practice HMO facilities are unlikely to locate in inner city areas.

This leaves many inner city residents with access only to care provided through neighborhood health centers, which is inadequate.

Citywide foundation type HMO's would utilize existing physicians and facilities in inner city areas, giving residents there access to another organized system of care. Such foundations receiving Federal assistance will be obligated to use their resources to provide comprehensive care to inner city enrollees. Since foundations utilize existing resources and very little construction is necessary, this could be done more quickly and with less expense than through closed panel group practice HMO's. Closed panel group practice HMO's require 3 to 5 years and $2.5 million to $5 million to get into full operation.

The fifth point is that foundations are doing many innovative things to reduce costs and to improve the quality and accessibility of health care. All foundations use peer review mechanisms to monitor the quality, utilization, and cost of medical services provided by their member physicians. Many foundations perform cost and quality review functions for outside providers. Several foundations have contracted to perform such functions for medicare and medicaid programs. Several are administering areawide hospital utilization review programs based on the certified hospital admission program developed by the Sacramento Foundation. These programs, through a peer review certification system have been effective in reducing unnecessary admissions and minimizing length of stay. Others are involved in communitywide utilization programs for all extended care facilities.

Foundations are also involved in the development of a model treatment program to facilitate the establishment of effective quality control programs.

The Colorado Foundation for Medical Care has received a contract from the Health Services and Mental Health Administration to do a comprehensive survey of Colorado's health-care needs and resources and to develop an improved delivery system through voluntary cooperation of the public and private sectors. The foundation has completed a feasibility study for implementation of a statewide computerized health services information system by January 1, 1974. The foundation has also developed a program to provide comprehensive medical services to approximately 8,000 medically indigent migrant workers. To deal with the migrants' unique continuity of treatment problem, the program includes an abbreviated medical record to be carried by each patient. So that as they go from job to job, each doctor they consult will have an updated medical record on them.

Foundations are working with regional medical programs and comprehensive health planning agencies to provide care to migrants and the urban poor through the use of mobile clinics and multiphasic screening. Several foundations have contracted with the Civil Service Commission to provide HMO services to Federal employees through the Federal employees health benefits program. Several have contracted with States to provide HMO services to medicaid recipients, and several have received HMO development grants from HEW.

In conclusion, Mr. President, it is very clear to me that there simply is no justification for excluding individual practice organizations from HMO assistance under title 1 of this act. On the other hand, there are compelling reasons why they should be eligible.

The hearing record on S. 3327 overwhelmingly supports their inclusion, and they would be eligible on an equal basis under the HMO bill pending in the House. There are many controversial issues in this legislation, but whether individual practice organizations should be eligible for startup assistance is not one of them. Nearly everyone who has considered that question agrees that the answer is "Yes." I hope my colleagues in this Chamber will agree when the amendment comes to a vote.

All we are trying to do is to say, "Leave the criteria, if you want to, but make the money which is eligible under title I eligible for all the new innovative types of health delivery systems and not just one closed system; namely, the closed panel group."

It would be a little like saying we are going to give Federal assistance to housing, which we do in overwhelming methods; that we will give it only to one type of design structure. We do not do that in the housing bill. We do not do it in any other type of assistance. For the life of me, I cannot see why we should restrict the expenditure of more than $1 billion of taxpayer funds to the one type of program as it is defined under title I at the present moment.

As I have said, I am going to give full credit to the Senator from New York, who did his best to get around this situation. But the problem with the amendment he offered, and which was accepted, is that no money is available after all the applications from closed panel groups have been funded.

Mr. KENNEDY. Mr. President, I intend only to briefly respond to the observations that have been made by the Senator from Colorado.

I just have a couple of points which I do think should be underlined at this point in the discussion. First of all, foundations are treated in title II, the "Health Service Organizations" title, equitably. So in all of rural America, wherever foundations are developed, they will be treated identically with the Health Service Organizations. There will be absolutely no change, no alternative, no difference in those particular provisions. So in the areas of rural America, they absolutely will be treated the same.

There is almost a suggestion in the remarks of my good friend, the Senator from Colorado, that for some reason we have something against—or those that are supporters of the bill have something against—the foundation. Absolutely not. They have been growing; they have been developing. They are worthwhile organizations. They have been springing up all over the country, and their growth in the last couple years has been truly outstanding. In many instances they have been useful and helpful in providing better quality of health for the people in this country. But even given the enormous growth in recent times, one just cannot get away from some rather fundamental kinds of assets that exist within the HMO, as defined within title I of the bill. However, before getting very briefly into those differences, I think it is important that we realize at the outset that under title II, in all of rural America, the foundations are treated the same.

Mr. DOMINICK. Will the Senator yield for a question on that point?

Mr. KENNEDY. I yield.

Mr. DOMINICK. In order to enliven the debate, if the Senator from Massachusetts thinks this is fine for the rural areas, why does he not think it is also fine for the urban areas?

Mr. KENNEDY. I will be getting into that. The point remains, with regard to the rural communities—before getting into the urban areas—that the rural communities are considered equitably.

Obviously the Senator from Colorado understands the difference in the availability of manpower availability and a whole wide variety of different health needs for rural America and urban America.

Second, with regard to the HMO's, the foundations will be equally eligible for a wide variety of other forms of assistance under the bill. They will be eligible for subsidies for capitation, for the open enrollment provisions, for malpractice protection, for incentive awards, as well as the provisions of the bill with regard to the preemption of State laws. The only thing they will not be eligible for will be the startup costs of the HMO under title I. It has certainly been the experience to date that the foundations for the most part have developed without sizable startup costs essential for the development of HMO's in the urban areas. So there should be a distinction.

Next, we are not, by the passage of this law, preempting any kind of system for the delivery of health care. If a family wants to use their same family doctor, they can continue to do that. Nothing we pass in this legislation will prohibit that practice. All we are trying to do is to encourage the development of the Health Maintenance Organization as a viable alternative so that the American people will have a choice.

We have the one feature of providing health assistance for those individuals who are restricted financially. There are some rather outstanding characteristics for the health maintenance organization. We recognize that with the development of them, we will have integration among the various specialties which we do not have with a wide diversified system. There will be integration of these various specialties. We will have the efficiency of a unit record system. We will have the advantage of one-stop shopping. If someone has some kind of illness or sickness and he goes into a health maintenance organization, hopefully, no matter what his sickness, he will be able to be treated in that health maintenance organization and not be shunted from one specialist to another. It will have the great advantage of peer review.

So these are just some of the advantages we have seen in the course of our testimony to be helpful to the consumer. I think they commend themselves to the Senate. I would hope that what we would do would be the position of Congress, that we would provide these incentives to what I believe to be the most forward looking system for the delivery of health care in this country.

Other provisions in this will help and assist the foundations in developing and providing services. If, over a period of any reasonable length of time, the foundations have been disadvantaged or discriminated against, there will be ample opportunity to consider that and to consider ways of helping and assisting them.

But in order to develop the work, there is no reason further to diffuse the limited resources—and there is a sizable amount of money involved here, $5 billion for the various provisions of the bill.

There will be resources in here for planning the health maintenance organizations. The initial startup cost will be supported for a limited period of time. We know that these are enormously complex and complicated developments. The best estimates we have range from $50,000 to $250,000 for the development of these HMO's. With the construction facilities they have gone up as high as $10 million.

So there are expensive programs but they are out in the communities where people can have access to them to meet their health care needs. They need that initial kind of capitalization, I think, if we are really interested in reaching out to provide the kind of incentive to the development of these facilities.

I am not going to get into the various other aspects of the health maintenance organization at this point. The range of services is wide. The options in the benefit package are in terms of dental care and other services, or in the role of the consumer in making policy. These have been included. If there are amendments on them, we will be glad to discuss them further.

But it seems to me that, although we are really interested at this time in trying to encourage the prepaid group practice, there are a number of people in this country who are opposed to it. Only a few years ago, when any kind of prepaid group practice program was developed, the authors of such programs were labeled as medical Soviets. There are still, as we pointed out, 22 States that prohibit the development of a prepaid group practice. So there are those elements in organized medicine who are absolutely opposed to these efforts in what, I think, has been a proven record of achievement and accomplishment, and, I must say, not of lesser importance, the savings, costwise, in providing quality health care.

So I would hope that, recognizing the foundations themselves will be eligible for a wide range of different benefits under this legislation in the title II provisions, and in a number of different provisions. Then, if there does come a need for additional kinds of capitalization outside of the amendment included in the program by the Senator from New York, we can consider it at that time, based upon a documented record with respect to the need for Federal assistance for such support.

Mr. DOMINICK. Mr. President, I have listened with great interest to the Senator from Massachusetts. I know the amount of work he has put into the medical field and his desire for new and innovative approaches to health care delivery systems and a lot of other things. For the life of me, I cannot understand why he is in opposition to this amendment. He supports innovation and flexibility in medical care delivery, and yet title I of his bill would restrict the $1 billion it authorizes to one single type of delivery system. It simply does not make any sense to me.

Different types of areas are different. Maybe the State of Colorado is more advanced than other States. Maybe the State of Minnesota is more advanced than other States in the development of health care delivery systems. Whether we are advanced or not, there is always room for improvement. That is the great thing about this country, there is always room for improvement. Nothing is perfect. Each generation, hopefully, gets better and better. But to say that we are going to take $1 billion of the taxpayers' funds and spend it on one preconceived idea of what might be good for a health delivery system is, in my opinion, totally wrong.

I might say that even Kaiser-Permanente, the prototype of the closed panel group practice model, disagrees with this approach. Robert Erickson, vice president for legal and governmental relations, Kaiser Foundation Health Plan in Oakland, Calif., testified on this point.

He said:

> We do support the HMO concept, particularly those aspects of it which would encourage organized delivery systems that assume responsibility for comprehensive health services for a defined population.
>
> We also very much favor the aspects of it which encourage pluralism in the organization of health services and competition between competing health care delivery systems. We think this is perhaps the best way to improve health care and control costs in the health care field.
>
> The Kaiser-Permanente program is one of a number of alternative organizational arrangements within the HMO definition. We are not the prototype in our eyes; we are one of the prototypes; and there is room for and there will be many other types of HMOs.

Mr. President, what I am saying in this amendment is, let us have other forms of HMO's. Let us give the foundations a chance. Let us not spend $1 billion on one preconceived idea, namely, that the closed panel group practice is the only type of organization entitled to Federal assistance. There are all kinds of health systems which can and should be aided if we are going to go this HMO route at all. If this is such a radical idea, why are they eligible under the House HMO bill, and why did virtually every witness who testified before our committee agree they should be eligible?

I would say once again insofar as urban areas are concerned, as referred to by the Senator from Massachusetts, that it is far more likely that we are going to have individual practicing doctors in an inner city who will be part of a foundation than to have a whole closed panel group practice—the building, offices, computerized systems, and all of the equipment that goes with it—move into that particular area. A foundation which will stretch into that area and be able to work with other individual practitioners who are capable in their field is going to give the needed aid much more quickly and, as far as I am concerned, much more efficiently than is the closed panel. And I am not ruling that out. We can have both. We are not saying that we should stand pat. We are not saying that we do not want closed panel groups. We recommend that.

We are saying, "Let us not restrict it to just one. Let us make it broader and have the opportunity of doing something about getting enough flexibility, as advocated by the members of the closed panel groups themselves, so that we can continue to improve medical care delivery."

Mr. President again let me read from the hearing record.

Mr. Stephen M. Morris, president-elect of the American Hospital Association, had this to say:

> Maximum flexibility must also be assured through varied organizational forms for HMO's. Referring back to Dr. Ellwood, he has identified only two possible models, the prepaid group practice model and the medical care foundation model. We have identified four basic models; (1) the single corporate entity, (2) the physician's corporation and an institutional corporation combined under a single board—the Kaiser model, (3) the consortium model which provides a coordinated management for several independent institutions, and (4) the "Samaritan model," in which a large urban hospital provides administrative and professional services to a group of smaller institutions, a model which particularly serves the need for rural health care.
>
> There are, to be sure, other appropriate organizational models for new delivery systems. Maximum flexibility is required. We believe the only organizational criterion for an HMO should be its ability to deliver comprehensive health care services to a defined geographic area.

That is all I and the other sponsors of this amendment—the Senator from Maryland (Mr. BEALL), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Ohio (Mr. TAFT)—are trying to do. We are trying to provide needed flexibility so that if one system works better in one area than another, we could give the assistance needed to get it started. If one system proved superior to the other in the way of giving prepaid and lower price care, we could emphasize that for all areas of the country.

Heaven knows, we are diverse in background, geography, and resources, and unless we have diverse systems for the delivery of health care, it seems to me that we are going in the wrong direction.

Secretary Richardson, the Secretary of Health, Education, and Welfare, in his testimony at page 1793 of the hearing record emphasized the administration's support for this approach. In describing the definition of HMO in the administration's bill, S. 1182, which I cosponsored, he said:

> It is important to add at this point that this definition does not restrict HMO's solely to one form of organization for medical practices. Such an organization can have a variety of forms and sponsors. As the President remarked in his 1971 health message, "One of the strengths of this new concept, in fact, is its great flexibility."
>
> Thus, although the HMO concept encompasses the well known prototype prepaid group practice arrangement, it can also cover organizations which use physicians practicing in an individual setting, such as the various types of medical care foundations which are developing rapidly in many parts of the Nation. Our concept would include these organizations if they assume the financial risk of physician and hospital services, and if they take steps to assure their membership entry into the health care system and continuity within it.
>
> This deliberate diversity is designed to build upon the strengths of our pluralistic system and to offer a significant range of choices to providers and consumers alike.

Mr. President, I sincerely hope that the Senate in its wisdom will adopt this amendment and give us the needed diversity that we should be permitted if we are going to be spending the taxpayers' funds for the benefit of the people of this country, for the benefit of the people who pay the taxes, and for the benefit of people who, unfortunately, have not enough income to pay them at all. And unless we can give them diversity, as would be accomplished by my amendment, we are restricting our efforts and restricting our ability to deliver medical care to the American people.

Mr. KENNEDY. Mr. President, does the Senator have figures concerning how many foundations are or are not being currently run by the medical profession at the present time?

Mr. DOMINICK. The answer is that almost all foundations for medical care are sponsored by State or local medical societies.

Mr. KENNEDY. Yes.

Mr. DOMINICK. We are not changing any of the criteria the Senator set up in his bill. If they are going to be qualified as an HMO under the bill they have to meet those criteria, which is like a closed panel.

Mr. KENNEDY. Mr. President, I say finally and briefly that we hear a great deal of talk about pluralism and diversity in the health delivery system. We do not have pluralism. Ninety percent of the services provided American people are under a system of fee for service and 4 percent are under a prepaid practice. The system today works to the disadvantage of prepaid service.

What we are doing here is to offer some innovative help and assistance for those who are going to benefit from prepaid group practice, for the benefit of the consumer, so that in rural America and urban America a patient can go to one facility and not be shunted all over town and get half a dozen different bills. His family would be able to avail itself of the same service.

Once he enters the health care system he will continue in that system, with referral to the hospital, or whatever his need may be, until he is better. That is what I think we need in this country and it is what 8 million Americans are receiving today. This is not a new, radical, wild idea. This has been in effect for 40 years. But it takes startup capital cost. What we are trying to do, if one will read the bill all the way through, is to provide these HMO's and HSO's, which would be consumer run. We will make them nonprofit. That is a credit to the nonprofit HMO's.

But to listen to my friend from Colorado about opening up funds, it would provide hundreds of millions of taxpayer dollars to subsidize medical societies in this country.

I say that we want pluralism and we should not have the kind of profiteering in the health care system that is now present.

Mr. DOMINICK. Mr. President, will the Senator yield?

Mr. KENNEDY. I shall yield in just a moment but I wish to complete my statement now.

This is what we are trying to do in this approach. We are trying to provide the incentive so that we can build and provide health assistance. I repeat that foundations will be treated in rural America the same as HSO's, and they will be treated in title I the same as HMO's. All will be included; they are only restricted on capitalization.

I wonder why we want to open up taxpayer dollars to subsidize the medical societies in this country, when these foundations are growing like topsy, with the medical societies providing those fees for service. Mr. President, the sicker you get, the more it costs you.

We should be trying to get at that particular issue. Those of us who support this are interested in pluralism. We want to permit the present system to continue for those who want it to continue. If a person is sick and wants to use the family doctor, fine; if he wants to continue the fee for service, fine. Nothing in this bill would require him to go to an HMO or HSO.

But the thousands of people who live in rural America and urban America, who want to go to one facility, and who want to say, "Doctor, I am sick. What can you do for me?" and be able to go to one facility, this would provide that means because those who live in rural America, in urban America, or in the suburbs of America are so heavily taxed by property taxes and other taxes that they do not have the ability to develop those facilities. But if we provide the kind of incentives we provide here, with the kind of strict enforcement we try to include here for quality control—and I wish they were consumer run programs—but with heavy consumer input on this, we try to provide health care to hundreds of millions of Americans who today are completely confused about how to get decent health care. They go first to one doctor and then to another doctor, which adds up the medical care bills, and unless they have been going to him for years they do not know if they are getting the best in health care.

I yield to the Senator from Colorado.

Mr. DOMINICK. I am happy to hear the Senator come out fighting. I find that in his statement he contradicts himself four times in four sentences.

First of all, he opposes my amendment on the ground that it would subsidize the medical profession. Yet apparently he is willing to subsidize them in rural areas, because foundations in rural areas would be eligible under title 2.

Mr. KENNEDY. That is correct, and I am sure——

Mr. DOMINICK. If the Senator is going to do it there why should he not do it in the urban areas?

Mr. KENNEDY. If the Senator will permit me to answer, there is more need for development of facilities in rural America. With the range of different specialists available you have to have a more flexible approach. That is what we are trying to provide. We provide a waiver provision, and the range of services.

This is the kind of approach we should have and the kind of flexibility we should have for development within rural communities. I agree. I think we have to give help and assistance because of those needs which are differentiated from urban areas.

Mr. DOMINICK. The Senator wants flexibility in rural areas but not in urban areas. I want it in both. That is my point.

Second, it would appear that while he objects strenuously to "subsidizing" members of the medical profession who happen to practice in individual settings, such as foundations, he is more than happy to subsidize members of the medical profession who happen to practice in closed panel group practice—to the tune of $1 billion over the first 3 years. It does not make sense to me.

I do not see any reason to say we will spend only $1 billion on one form of care when we need the most innovation we can provide to take care of rural areas as well as urban areas.

Mr. President, I am ready to vote.

Mr. KENNEDY. I am ready to vote.

Mr. PACKWOOD. Mr. President, I would like to associate myself with the views expressed by the very distinguished Senator from Colorado (Mr. DOMINICK) and support his amendment to S. 3327 on medical foundations.

This important amendment will include medical care foundations and will thereby greatly improve the flexibility of the HMO program we are authorizing. As a result, it will significantly increase its potential for making a major impact on health care improvement.

Without this amendment, the bill would limit HMO's in urban areas to closed-panel group practices and would thereby imply that further innovation or experimentation is unnecessary. This assumption is unrealistic, to say the least, from both the patient's and the practitioner's point of view, the closed-panel approach may not be the most desirable one. If the objectives of the HMO concept can be reached without the straight-jacket requirements of closed panels, we have an obligation to allow maximum freedom.

Furthermore, Mr. President, it is much too early in the history of HMO development to restrict participation to one narrow organizational form, whatever it be. The real issue to which we should properly be addressing ourselves is not to choose which system is ideal, but rather to provide a wide range of choices to providers of health care and consumers alike.

Mr. President, we live in a pluralistic society. We must maximize freedom of choice. We must encourage a variety of organizational forms—not just one monolithic model—in order to stimulate innovation and competition.

The scarcity of medical resources in rural and inner city areas is one of the most difficult and urgent medical problems facing us today. S. 3327 recognizes this problem for rural areas in that it provides for a variety of HMO organizational structures, including the foundations. But the bill ignores the resource problem in relation to inner city areas. The legitimate argument that all available resources should be marshaled applies with equal force to underserved areas in urban settings. Witness after witness supported this view in extensive hearings we held on this bill. It was pointed out that closed-panel group practices would probably not locate in many of the most needy urban areas, and of those who do. Most could not survive economically without massive Government subsidies. An urban foundation-type HMO could serve the area and, furthermore, could accomplish the necessary mix of enrollees that is vital to HMO success.

For HMO development to really take hold in this country, active and massive participation by health providers and consumers alike is needed. A flexible system that maximizes alternatives will thrive. A rigid organizational plan, as outlined in S. 3327 without the Dominick amendment, is likely to fail.

Mr. JAVITS. Mr. President, I am opposed to the amendment offered by Senator Dominick. It would, in effect, not only provide that medical care foundations are placed on an equal basis for Federal financial assistance, but also "water down" the committee's carefully structured and defined classic HMO.

I emphasize again that an individual joining an HMO is voluntary—not compulsory.

The amendment would no longer require the medical group forming the HMO to engage in the coordinated practice of their profession as "their principal professional activity." Thus, the medical group's responsibility to be principally concerned about the health care of a defined patient population would be negated. Rather, such a defined patient population would become a segment of each physician's overall patient load and readily identifiable as such.

The amendment would mean the individual doctor in his separate individual office, on an individual fee-for-service, without assured continuity of health maintenance could continue without real change in the system being effectuated. This is true because the amendment's addition of "other" would clearly permit fee-for-service as the means of physician reimbursement. And, rather than requiring the physicians to "jointly use or share medical records", it modifies this to include only "substantial portions" thereof. I believe the amendment would result in no major change in a real sense in the health care delivery system from what it is now.

Let me make clear that my opposition to this amendment does not mean that I do not believe medical care foundations offer a potential also for improving the health care delivery system, and I cite, for example, the accomplishments of the San Joaquin Foundation. However, the medical care foundation is at the initial stage of its development and what it will do precisely is still undetermined while the classic HMO is clearly defined.

My support for the potential for change offered by the medical care foundation is readily seen in the provision in the bill I authorized—section 1109—which authorized funding assistance for the development of "medical care foundation supported HMO's which can meet reasonable criteria—similar to those in the administration bill I introduced. Also, I supported the bill's provisions to provide funding assistance to medical care foundation HMO's—defined as health service organizations in the bill—for rural and other non-metropolitan areas.

However, the record should be made clear that medical care foundations are not philanthropic organizations. Rather, they are a concept for a system for the delivery of health care. I believe the medical care foundation does seek to improve the health care delivery system—although I recognize the concern expressed by many that the medical care foundation is organized medicine's response to maintaining the status quo—but not to the degree contemplated by the pending bill's criteria for HMO's and, therefore, medical care foundations should not—until they are prepared to meet such criteria—be eligible for Federal support on a first dollar basis.

The American people have a right to free choice in how they elect to receive health care. That is the intent and purpose of the bill—to give our citizens a choice—and the amendment would stifle that choice. At present, there is, in reality, no choice, for 96 percent of medical care is provided by solo practice or specialty group on a fee-for-service basis, and only 4 percent of medical practice is in the form of the HMO model.

If we are to make the right of free choice a reality, we must supply incentives for changing the pattern of how medical care is provided.

The bill stimulates the development of HMO's. Thus, the American people can then freely make the decision of whether they prefer the bill's multigroup practice in which salaried medical specialists and other health professionals and allied health personnel offer one stop health care for a predetermined fixed annual amount or the existing system, a fee for each service rendered—if they have the means to pay the fee and can find the physician to render the service.

I am deeply concerned that the bill's economic incentive for the providers to avoid over-utilization of health care services will be overturned by the amendment's support of fee-for-service. The AMA has publicly stated, in response to questions regarding HMO's during the committee's extensive hearings, that:

> In individual cases, medical services could be encouraged in fee-for-service practice.

Also, I am concerned that first dollar support of a watered-down medical group, contemplated by the amendment, will indicate support for the retention of provider dominated "policing" of health care. Because of the economic incentive for efficiency, there is the potentiality in the HMO model for under-utilization of services and, if for no other reason, it is therefore urgent that patients have input into the issue of quality of care provided. I believe it is time that patients had input not only into the formation of HMO's, but also into the review of the quality of the care rendered. The input of nonphysicians is essential if we are to effectively improve the Nation's health care delivery.

Mr. DOMINICK. Mr. President, so we may have more Senators to ask for the yeas and nays, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PASTORE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question now occurs on the amendment of the Senator from Colorado (Mr. Dominick). The yeas and nays having been ordered, the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Carolina (Mr. Hollings), the Senator from South Dakota (Mr. McGovern), the Senator from Montana (Mr. Metcalf), the Senator from Maine (Mr. Muskie), the Senator from Alabama (Mr. Sparkman), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

I further announce that the Senator from Indiana (Mr. Bayh), the Senator from Indiana (Mr. Hartke), the Senator from North Carolina (Mr. Jordan), and the Senator from Wyoming (Mr. McGee) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. Allott), the Senators from Tennessee (Mr. Baker and Mr. Brock), the Senator from Iowa (Mr. Miller), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from New York (Mr. Buckley) and the Senator from Florida (Mr. Gurney) are absent on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Ohio (Mr. Saxbe), the Senator from Vermont (Mr. Stafford), and the Senator from Ohio (Mr. Taft) are absent on official business to attend the Interparliamentary Union meetings.

Also, the Senator from Arizona (Mr. GOLDWATER) and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

If present and voting, the Senator from New York (Mr. BUCKLEY), the Senator from Iowa (Mr. MILLER), the Senator from Ohio (Mr. TAFT), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 37, nays 40, as follows:

[No. 461 Leg.]

YEAS—37

Aiken
Allen
Beall
Bellmon
Bennett
Bentsen
Byrd, Harry F., Jr.
Chiles
Cook
Cooper
Cotton
Curtis
Dole
Dominick
Eastland
Ervin
Fannin
Fong
Gambrell
Griffin
Hansen
Hatfield
Hruska
Jordan, Idaho
Long
McIntyre
Packwood
Pearson
Proxmire
Roth
Scott
Smith
Spong
Stennis
Talmadge
Weicker
Young

NAYS—40

Anderson
Bible
Boggs
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Church
Cranston
Eagleton
Edwards
Fulbright
Gravel
Harris
Hart
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Magnuson
Mansfield
Mathias
McClellan
Mondale
Montoya
Moss
Nelson
Pastore
Pell
Percy
Randolph
Ribicoff
Schweiker
Stevens
Stevenson
Symington
Tunney

NOT VOTING—23

Allott
Baker
Bayh
Brock
Buckley
Goldwater
Gurney
Hartke
Hollings
Jordan, N.C.
McGee
McGovern
Metcalf
Miller
Mundt
Muskie
Saxbe
Sparkman
Stafford
Taft
Thurmond
Tower
Williams

So Mr. DOMINICK's amendment (No. 1447) was rejected.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, informed the Senate that, pursuant to the provisions of Section 602(b), Public Law 92-352, the Speaker had appointed Mr. ZABLOCKI and Mr. MAILLIARD; and Dr. Stanley P. Wagner of Oklahoma and Dr. Arend D. Lubbers of Michigan, from private life, as members of the Commission on the Organization of the Government for the Conduct of Foreign Policy.

The message announced that the House had passed the following bills of the Senate, each with an amendment, in which it requested the concurrence of the Senate:

S. 345. An act to authorize the sale and exchange of certain lands on the Coeur d'Alene Indian Reservation, and for other purposes; and

S. 447. An act to modify the boundaries of the Santa Fe, Gila, Cibola, and Carson National Forests in the State of New Mexico, and for other purposes.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H.R. 12207) to authorize a program for the development of tuna and other latent fisheries resources in the Central and Western Pacific Ocean.

The message further announced that the House had agreed to the amendment of the Senate to the amendment of the House to the concurrent resolution (S. Con. Res. 31) authorizing the printing of the compilation entitled "Federal and State Student Aid Programs, 1971" as a Senate document.

The message also announced that the House had agreed to the amendments of the Senate to the concurrent resolution (H. Con. Res. 553) authorizing certain printing for the Committee on Veterans' Affairs.

The message further announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

H.R. 5668. An act for the relief of Capt. Ronald W. Grout, USAF.

H.R. 6318. An act to declare that certain federally owned lands shall be held by the United States in trust for the Burns Indian Colony, Oregon, and for other purposes;

H.R. 10330. An act to provide for the distribution of funds appropriated to pay a judgment in favor of the Cheyenne River Sioux Tribe in Indian Claims Commission docket numbered 114, and for other purposes;

H.R. 10857. An act to authorize the Secretary of Agriculture to exchange certain national forest lands within the Carson and Santa Fe National Forests in the State of New Mexico for certain private lands within the Piedra Lumbre Grant, in the State of New Mexico, and for other purposes;

H.R. 11035. An act to amend title 10 of the United States Code to designate the medal of honor awarded for military heroism as the "Congressional Medal of Honor";

H.R. 11563. An act to amend chapter 87 of title 5, United States Code, to waive employee deductions for Federal employees' group life insurance purposes during a period of erroneous removal or suspension;

H.R. 15659. An act to extend civil service Federal employees group life insurance and Federal employees health benefits coverage to U.S. nationals employed by the Federal Government;

H.R. 16654. An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1973, and for other purposes;

H.J. Res. 733. Joint resolution granting the consent of Congress to certain boundary agreements between the States of Maryland and Virginia;

H.J. Res. 912. Joint resolution granting the consent of Congress to an agreement between the States of North Carolina and Virginia establishing their lateral seaward boundary; and

H.J. Res. 1268. Joint resolution calling for an immediate and appropriate moratorium on the killing of polar bears.

HOUSE BILLS AND JOINT RESOLUTIONS REFERRED

The following bills and joint resolutions were severally read twice by their titles and referred, as indicated:

H.R. 5668. An act for the relief of Capt. Ronald W. Grout, USAF;

H.J. Res. 733. Joint resolution granting the consent of Congress to certain boundary agreements between the States of Maryland and Virginia; and

H.J. Res. 912. Joint resolution granting the consent of Congress to an agreement between the States of North Carolina and Virginia establishing their lateral seaward boundary; to the Committee on the Judiciary.

H.R. 6318. An act to declare that certain federally owned lands shall be held by the United States in trust for the Burns Indian Colony, Oregon, and for other purposes;

H.R. 10330. An act to provide for the distribution of funds appropriated to pay a judgment in favor of the Cheyenne River Sioux Tribe in Indian Claims Commission docket numbered 114, and for other purposes; and

H.R. 10857. An act to authorize the Secretary of Agriculture to exchange certain national forest lands within the Carson and Santa Fe National Forests in the State of New Mexico for certain private lands within the Piedra Lumbre Grant, in the State of New Mexico, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 11035. An act to amend title 10 of the United States Code to designate the medal of honor awarded for military heroism as the "Congressional medal of honor"; to the Committee on Armed Services.

H.R. 11563. An act to amend chapter 87 of title 5, United States Code, to waive employee deductions for Federal Employees' Group Life Insurance purposes during a period of erroneous removal or suspension; and

H.R. 15659. An act to extend Civil Service Federal Employees Group Life Insurance and Federal Employees Health Benefits coverage to United States nationals employed by the Federal Government; to the Committee on Post Office and Civil Service.

H.R. 16654. An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1973, and for other purposes; to the Committee on Appropriations.

H.J. Res. 1268. Joint resolution calling for an immediate and appropriate moratorium on the killing of polar bears; to the Committee on Foreign Relations.

ORDER OF BUSINESS

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

(The remarks that Mr. PASTORE made at this point when he introduced S. 4010 and the ensuing discussion are printed in the routine morning business section of the RECORD under Statements on Introduced Bills and Joint Resolutions.)

HEALTH MAINTENANCE ORGANIZATION AND RESOURCES DEVELOPMENT ACT OF 1972

The Senate continued with the consideration of the bill (S. 3327) to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organization, health care resources, and the establishment of a Quality Health Care Commission, and for other purposes.

Mr. CRANSTON. Mr. President, S. 3327, the proposed "Health Maintenance Organization and Resources Development Act of 1972" which has been reported from the Labor and Public Welfare Committee under the leadership of the Senator from New Jersey (Mr. WILLIAMS), chairman of the Committee and the Senator from Massachusetts (Mr. KENNEDY), chairman of the Subcommittee on Health, the Senator from New York (Mr. JAVITS), and the Senator from Pennsylvania (Mr. SCHWEIKER), the ranking minority members of the full committee and the Health Subcommittee respectively, is a major legislative step toward encouraging the development of systems capable of providing comprehensive health care of high quality in an efficient and economical manner.

The committee has held extensive hearings on the need for such systems and on the effects of the establishment of such systems on existing medical resources and the community's ability to respond to the individual patient's needs. Considerable testimony was heard and evidence presented to the committee which has been taken into account in our development of the bill as reported. The members of the committee all participated fully and in great detail in the development of the bill and devoted considerable time and effort to marking it up. The result is a bipartisan effort which I believe responds to one of the greatest needs of the Nation's health-care system in an effective and realistic manner—an alternative to fee-for-service care.

I was particularly gratified with the responsiveness of the members of the committee to several suggestions I made to amend the legislation.

These suggestions were to:

First, expand the consumer and other health disciplines role in quality care assurance systems;

Second, expand the consumer role in the health maintenance organization and health service organization;

Third, increase emphasis on the participation of all health disciplines in the management of the system and in the provision of health services;

Fourth, provide for reciprocity between HMO's and HSO's in providing essential continuity of services to enrollees who may travel outside the geographical area of their home-based HMO or HSO;

Fifth, include greater specificity as to services included in preventive health services; and

Sixth, utilize the skills of clinical pharmacists to the greatest possible extent.

EXPANSION OF THE CONSUMER ROLE AND GREATER PARTICIPATION OF ALL HEALTH DISCIPLINES IN QUALITY ASSURANCE REVIEW SYSTEMS

The committee fully recognized that consumers must have a meaningful role in the formulation and implementation of policy concerning the manner in which health-care services are delivered, and for that reason the bill does require that consumers have a substantial role in the HMO or HSO policymaking body as well as a substantial representation on the Commission on Quality Health Care Assurance. At the same time the committee fully recognized that all health disciplines had a significant role to play in the provision of health care and in the decisions made on how such care should be provided. I have felt that the consumer and all the health disciplines have an important contribution to make in the quality review procedures adopted by an HMO or an HSO.

It is my very strongly held view that we should establish a clear Federal recognition of the fact that providing health care is not the monopoly of the medical profession.

Also, while I support and approve the principle functions and responsibilities of the Commission on Quality Health-Care Assurances in the bill, I do not see that Commission as a panacea for upgrading the quality of and improving the access to the provision of health care in the country. I think it can help, but I do not think it can do the job alone.

The Commission can make a beginning of reviewing and monitoring some of the possibly thousands of review systems established around the country only if it creates an enormous Federal bureaucracy. Even then, I do not believe that it can really be counted on to provide effective quality care assurance in the majority of systems for many, many years.

Thus, for me, the best method of attempting to provide for responsive and effective functioning of quality assurance review systems at the local level would be to require the Commission to establish criteria with respect to the representative nature of the decisionmaking membership of those systems, and to take into account in establishing such criteria the desirability of providing representation on such systems of consumers and health-care disciplines other than physicians.

Although my amendment does not require explicitly that the national Commission prescribe criteria for the composition of the local review systems, I would hope the Commission could elect to do so.

I was pleased that the amendment I offered to this effect in committee was accepted and that such consumer and multidisciplinary participation will be fostered as a result. I believe that quality assurance systems—the local review mechanism—can be more consistently effective in achieving correction of the deficiencies discovered if they have consumer representation and participation of other health disciplines rather than being composed solely of physicians.

The amendment which I offered extended the committee's emphasis on the principle of the multidisciplinary approach and strong consumer participation on the health-care system by citing as a duty of the Commission on Quality Health Care Assurance the setting forth requirements for and to subsequently monitor quality assurance systems for health maintenance, supplemental health maintenance, and health service organizations, and other providers of health care. These quality assurance systems would be designed not only to improve and assess the quality of health care, evaluate the provision of health care, concentrate on illnesses having a high incidence in the population which are particularly influenced by medical treatment, but in addition improve as well as assess the accessibility, availability, and acceptability to consumers of the health care provided, and to develop procedures for the systems to make their recommendations known to the membership through the policymaking body of the organization. In the establishment of the quality care assurance system, the committee bill suggests that such systems be designed, where feasible, to include consumers as well as members of the several health care disciplines—such as dentists, nurses, and health administrators—in their membership.

I strongly feel that there is a need for the quality assurance system to direct its inquiries to the overall provision of health care and not to limit such inquiries to the quality of medical techniques or procedures utilized. The provision of comprehensive health care at a level acceptable to the patient must also take into consideration nonmedical factors such as location, ambience, and accessibility of service, among others.

These factors frequently are foremost in determining the patient's utilization of services and will bear a direct relationship to his full utilization of comprehensive preventive services.

In these specific areas, the consumer as well as other health care personnel such as the nurse and the social worker, for instance, can make substantial contributions to evaluation of the responsiveness of the organization to the patient's needs. The amendment clarifies that the Commission is expected to encourage emphasis on these factors and on the inclusion of representatives of consumers as well as of the various health disciplines in quality health care assurance systems.

INCREASED EMPHASIS ON THE PARTICIPATION OF ALL HEALTH DISCIPLINES IN MANAGEMENT OF HMO'S AND HSO'S

Another area in which the role of all health disciplines was strengthened was in the definition of the term "medical group" which was expanded to include not only physicians and dentists, but also such other health professionals as are necessary to provide comprehensive health services. I suggested this redefinition to assure that all health disciplines will have an opportunity to participate in the management of an HMO or HSO.

I am delighted with the emphasis placed in the bill on the need for the development of new types of professionals such as the nurse practitioner specialists, and new types of paraprofessionals, and feel that the provisions encouraging the use of team training in all education programs, including continuing education programs will substantially hasten this development. I was gratified to participate in drafting these provisions.

RECIPROCITY OF SERVICES BETWEEN HMO'S AND HSO'S

When an individual enrolls in an HMO or an HSO, he should be entitled to comprehensive preventive care. I believe this entitlement should exist even when he is outside of the area of his home HMO or HSO. For that reason, I am delighted that the committee accepted language I offered which would reinforce this entitlement and make such services available on a reimbursable basis for short-term health care services to enrollees temporarily outside of their home based HMO or HSO.

GREATER SPECIFICITY AS TO PREVENTIVE HEALTH SERVICES

When S. 3327 was introduced, as a cosponsor, I mentioned that I would seek to amend the term preventive health services to clarify that voluntary family planning services, counseling, and infertility services as well as nutrition counseling and education are included as basic preventive health services. I believe that the bill as reported and the committee report reflect this view, and again am pleased at the cooperative spirit with which my suggestions were accepted.

FULL UTILIZATION OF THE CLINICAL PHARMACIST IN THE HMO AND HSO

The effect of adverse drug reactions on the recovery of the patient, and the possibility of term injury or disability, are extremely serious considerations in the provision of health. Recent surveys have indicated that the incidence of adverse drug reactions is substantial. It is estimated by initial studies that from 3 to 6 percent of hospital admissions are due to adverse drug reactions, and that a minimum of 15 to 18 percent of patients, hospitalwide, suffer an adverse reaction subsequent to their admission. On the assumption that these adverse reactions on the average double the patient's hospital stay, the costs involved are overwhelming. In 1970, there were 478 million hospital days recorded in the United States; one-seventh of this amounts to approximately 70 million patient days, and assuming a room charge of $85 per day, works out to around $6 billion in direct cost. About 80 percent of adverse drug reactions are preventable. Thus 80 percent of this estimated cost—or $4.8 billion—could have been saved, had a system been in operation for insuring a rational drug therapy for each of the patients.

Hopefully, these incidents can be reduced in HMO's by the requirement in S. 3327, resulting from an amendment I offered, that a clinical pharmacist survey, evaluate, and review patterns of patient drug utilization, including drug regimens and therapies, and maintain a drug use profile for each enrollee of an HMO.

With the increasing number of new medications and their growing complexity, potential drug use side effects and interactions have become a matter of substantial concern to the medical and patient communities. Making available to the staff of the HMO the services of a clinical pharmacist, specially trained in all the nuances of drug use should assist in minimizing medication errors and preventable adverse drug reactions and interactions.

In addition, the clinical pharmacist can play a major role in the dissemination of important drug use and abuse information, both to the HMO staff and to the enrollees, and play an active role in the health education programs of the HMO. Certainly, the clinical pharmacist in each HMO should oversee and control the quality of drug products utilized by enrollees of the HMO and participate in comparative studies of use and abuse records with other HMO's and other health care facilities.

ELIGIBILITY OF MEDICAL FOUNDATION

An issue which was a matter of much concern to the members of the committee was the extent to which medical foundations should be entitled to Federal support under the provisions of S. 3327.

I am well aware of the outstanding contributions the medical foundations have made to the provision of quality medical care particularly in California, and I had been hopeful that some means could be found to encourage the development of similar organizations dedicated to finding new methods of providing comprehensive quality health care economically and efficiently to communities.

Senator DOMINICK'S amendment offered a means of achieving this purpose, however I believe it contained language which would not have provided sufficient assurances that the foundations would function within the concept of a health maintenance organization as enunciated in S. 3327. I joined in attempts by members of the committee to find a means of making this amendment philosophically acceptable, and at the same time not prohibit the participation of the foundations in the development of health maintenance organizations. Unfortunately this proved to be an impossible task.

I find this very regrettable and will continue to try to find a means whereby it can be achieved.

I would like to point out that the committee bill includes language to provide grants and loans to a "supplemental health maintenance organization" which is defined as a "public or private organization" meeting certain requirements as to composition of enrollees, and comprehensiveness of services, among other requirements, with such loans and grants to be available when there are insufficient qualified eligible applicants qualifying as a health maintenance organization.

CONCLUSION

Mr. President, the bill which the committee has reported is a product of much study by the members of the committee. The bill we developed is an excellent one and one which I believe can lead to a vast improvement in the ability of the Nation's medical communities to respond to the needs of its citizens.

I would like at this time to express by admiration for the very effective staff work provided the members of the committee by Phil Caper, Jay Cutler and Leroy Goldman. Their ability to provide needed facts, statistics and analysis was invaluable in the development of this legislation.

I urge the full support of the Senate for this bill.

THE CONSUMER AND PREPAID HEALTH CARE

Mr. MOSS. Mr. President, I am pleased to give my support to S. 3327, the health maintenance organization bill. This proposal builds on the best innovation presently used in the medical professions. It is a refreshing break from the past and allows us to look forward to days of improved public health and increasingly high quality health-care service.

There are several deficiencies in our Nation's health-care delivery system, and as a result, we are paying very high prices for the services we receive. I believe that the HMO concept will help reduce these rising costs.

INNOVATIVE HEALTH CARE

A health maintenance organization is a facility that provides comprehensive health care to an individual who subscribes voluntarily and pays a fixed premium in advance. This premium, however, is unrelated to the number of visits a subscriber makes or the number of times he utilizes the covered services. Under this program, the individual would know exactly what services would be provided through his premium payment before he went to the hospital or HMO facility.

By paying a fixed premium in advance, the individual is not subject to the ups and downs of the fee-for-service treatment he has received to date. Instead, the doctor is rewarded not for the number of visits that he receives, but for how healthy patients stay. This is a deliberate step toward preventive medicine.

All of the patients' health problems are treated in one location. This means that he will no longer have to visit one doctor in one section of town and be referred to another doctor on the other side of town, who may in turn send the patient to a specialist in still another area. A broad group of doctors with different specialties will be in one location to meet this problem. In addition, the patient's medical records will be in the same central locations so that doctors treating him may refer to the full and complete records immediately without having to wait for this information to be sent by mail, causing 2 or 3 days' delay.

The costs and premiums paid by the consumer of health care will be less than before because doctors will be able to share expensive medical equipment. High quality service will be possible because doctors may be able to confer with one another on specific cases and also because each doctor must meet certain high quality service requirements that satisfy his peers in his profession.

In general, the health maintenance organization created by this bill will qualify for Federal grants and/or loans. To qualify for this aid, prospective HMO's must measure up to minimum standards and provide comprehensive health care specifically to the individual who pays a fixed premium in advance. In those areas where it would be impractical to construct medical centers which render comprehensive service, health service organizations would be established as intermediary steps between the patient and the health maintenance organization.

THE PATIENT AS A CONSUMER

I am particularly pleased with the philosophy of this bill which allows consumers to have a voice in the affairs of the HMO's. According to this bill, the consumer may influence HMO policy in two ways. First, there will be consumer representation on the policymaking board of the HMO. The bill requires that consumers constitute one-third of the body which establishes or recommends policy.

Second, the bill also makes provisions for consumer grievances to be heard and resolved. Such a procedure is sound and reasonable and should allow for steady improvement in medical service through the mutual effort of the doctor and his patients.

I would like to add, Mr. President, that though this generally is a new concept in medical service, it has been tried and tested and results have been more than satisfactory. The Group Health Cooperative of Puget Sound in the State of Washington is perhaps the best example. This HMO type organization was established in 1944 by Seattle residents who were disenchanted with both the cost and organization of fee-for-service medicine. They decided to organize a group practice clinic in which control would rest with members of the cooperative rather than with the doctors.

On the 11-man board of directors now heading this cooperative, only the director is appointed. In addition, board members are elected to fill the positions on the local district board of directors.

The results of this prepaid health cooperative have been favorable. Medical costs have been held below the national average; the same is true for the number of days of hospitalization per year for each co-op member. These doctors and co-op members are to be commended for developing some of the most outstanding hospitals and medical centers to be found, and for devoting special attention to preventive medicine.

This is the purpose of the health maintenance organization bill: To provide the consumer the many benefits of our highly developed medical knowledge that are available but have been, because of high cost, or distant location at least partially inaccessible.

RURAL HEALTH CARE

I am also pleased to see that in this legislation the previously under-privileged medical areas of the country have become the priority areas of this bill. Special provisions have been made to reach the inner-city and rural citizens who have suffered from inadequate medical care. Medical service extended to these areas is provided by facilities entitled Health Service Organizations. These facilities will provide medical care to those who, because of the impracticality of building full-scale HMO's, may still receive needed medical care. In my own State of Utah, for example, medical care is needed in many areas. There are towns in Utah with no physician and none within a radius of 75 miles. Ambulatory care systems and increased communications between highly populated urban area medical facilities and rural area organizations will serve to remedy these dire conditions.

INSURING QUALITY CARE

The prepaid health plan is one exciting alternative to the fee-for-service type of medical practice. However, even though there are deficiencies in this Nation's health-care delivery system and even though medical costs are rising, the prepaid health plan would be an ineffective alternative if it did not provide adequately high quality medical service. Therefore, to insure high standards in these areas, a Commission on Quality Health Care Assurance is necessary. This commission would encourage all national systems to provide the kind of care that we all want, in all HMO facilities.

In this light, I think it is also advisable that physicians' principal professional activity be in group medical service. Ample testimony was given in the Senate hearings on this bill to sustain this provision. Difficulties are engendered by the mixture of fee-for-service and salaried practices. This situation seems to provide the incentive for health professionals to increase the proportion of time devoted to fee-for-service practice so as to maximize their income at the expense of their prepaid patients. Many health cooperatives have demonstrated the desirability of hiring full-time health professionals who devote the majority of their time to their prepaid patients.

Once again, Mr. President, let me state my support for S. 3327, as it was reported by the committee. I feel confident that medical services can be provided most beneficially when the consumer has a voice in the type of services that will be rendered. In other words, the consumer must be given a voice in the administration of the organization if the idea prompting this legislation is to be realized.

Furthermore, to insure quality medical service and high priority attention for the members of this prepaid health plan, the participating physician should dedicate the majority of his professional practice time, his principal professional activity, to the care of the members of the HMO's. In cases where individual practitioners join together to form an HMO, a prearranged salary or drawing account plan for distribution of financial remuneration should be established and maintained to deter and discourage physicians from engaging in any substantial fee-for-service practice.

This bill does not threaten the respected role of the family physician and individual practice. It simply provides a clear alternative where one is needed. I support the committee bill.

Mr. KENNEDY. Mr. President, if the Senator will yield, I thank the Senator from Utah for his comments. He is recognized in this body as one of the great protectors of consumer interests. And I know that he has been extremely interested in the development of all of this legislation. He has talked to me frequently about it. He has touched upon a number of different points which I think are of extreme importance in this bill and on what we try to achieve for the role of the consumer in HMO's and HSO's as well as the Commission on Quality Health Care Assurance. What we have tried to do is assure that consumers know about this legislation. I think that in the entire health care delivery consumers have an important role to play. I know that this has been the aim and desire of the Senator from Utah.

I would like to express my appreciation for his comments and for his continued interest in providing quality health care to urban America as well as to rural areas.

Mr. MOSS. I thank the Senator from Massachusetts. I think it would be an advantageous procedure to provide each member of the HMO health care plan with a disclosure handbook at the time of enrollment. This handbook would provide information concerning the extent of the member's health coverage.

I have in my hand a copy of the Kaiser Handbook that is distributed to the members of that health community. It is inserted here on page 1284 of the committee hearings. Here we can read a detailed plan of how to use the Kaiser health plan. It informs the members of such things as how to choose a physician, how to make appointments, and other helpful suggestions.

On page 1307, the handbook describes the types of other health care not provided by the minimal membership plan and lists the services for which additional charges will be made. Such information should be available for each HMO participant. I suggest that the HMO personnel investigate this idea and develop some similar brochure to inform the health plan members of the facilities and services available to him.

Mr. KENNEDY. Mr. President, the suggestion of the Senator is a valid and worthy one. The legislation requires that such information be available to all of those who take advantage of the services of HSO's as well as HMO's. That is a requirement under the Commission on Quality Health Care Assurance title 7 of the bill. The Senator is exactly right about the value of such a booklet to those who participate in the Kaiser program and also the Group Health Cooperative of Puget Sound program as well as others of this type which are available.

I agree with the Senator on this point. I share in his feelings that such information should be required and will be of great benefit to the consumers.

Mr. MOSS. Mr. President, I thank the Senator. Does the Senator also agree that it is practical and desirable for the members of an HMO, the consumers, to have a voice in the management, as it were, of the health care facility, and do that without infringing on the professional expertise or prerogatives of the health professionals who work there and provide medical services to those who receive care?

Mr. KENNEDY. I do. As initially introduced, the HMO legislation gave preference to consumer dominated HMO's. It was changed in the committee to provide that one-third of the policymaking group would be consumers.

I was discouraged that we did not continue to give preference to those HMO's and HSO's which are consumer dominated. However, it was the judgment of the committee, consumers should have a substantial voice, but not absolute preference, so we eliminated it. Where consumers have a voice the people have been better served.

For instance, in Charlestown, Mass., they know more about the need for a dental program for their people because they are more familiar with their water supply. In my State and in some other States that have fluoridation they do not have the dental needs other areas may have. The parents know if they have a drug problem or if they have an alcoholism problem in the community. This input can be helpful in the total approach. This kind of activity by consumers should be decided at the local level rather than at the national level. That is the kind of contribution the people who benefit from the program bring to it. So we have a strong voice for the consumer. I wish it were stronger. I hope we can keep a strong consumer voice we have after conference with the House.

Mr. MOSS. Does the Senator agree if the consumers are involved and, therefore, feel the institution is theirs, in effect, they would be much more likely to use it, rather than to have an alienated feeling, and also the concern about going to see the doctor that keeps so many people away until their ailment is so severe it requires much more drastic care when they have delayed in consultation on medical problems.

Mr. KENNEDY. The Senator is correct.

Probably the most efficient, and I believe the more effective health delivery system in this country is the Puget Sound program in Seattle, Wash. That is completely consumer run and completely consumer dominated. They have extreme power in hiring and firing of doctors and a whole range of services. Also it provides a great range of services at very reasonable costs.

There are other excellent programs such as the Harvard community health plan program. I agree with the Senator. We have tried to bring that spirit to this legislation. I hope we will be able to retain it with the House.

Mr. MOSS. I wish to pose one final question. I understand setting up this type health care is really a voluntary matter so far as a citizen wishing to join and to pay a premium is concerned, and also for the medical profession as to whether or not they want to participate in this kind of program. In other words, would it be possible for private practice to go on in the kind of patient-health care we have now and, therefore, can a person, if he wishes, remain completely out?

Mr. KENNEDY. The Senator has correctly stated the situation. There is nothing mandatory or compulsory in this legislation. The doctor is under no requirement to join in HMO or HSO, and the patient is under no requirement to subscribe to it.

However, this has proved itself to some eight million Americans and when the consumer is able to share the range of services for himself and his family in HMO and HSO, compared to the kind of scattered approach under fee for service, and I dare say it is more economical, their free choice will be to go into an HMO or HSO or not.

Mr. MOSS. I thank the Senator. I thank the members of the committee for reporting the bill. I think it is a great step forward in the delivery of medical health care services to consumers of this country, and I do support the bill.

Mr. LONG. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 90, between lines 7 and 8, insert the following:

SEC. 3. Nothing in this Act, or any amendment made by this Act, shall be construed to supersede any activity relating to review of the provision of health care services (including review and assessment of quality or quantity of such services or determination of reimbursement therefor) or to the determination of eligibility of any provider, practitioner, agency, or organization to participate under any program established under the Social Security Act.

Mr. LONG. Mr. President, those of us who serve on the Committee on Finance have considered in the brief time we had available to us some of the problems raised by the pending bill. The Finance Committee, by a voice vote, agreed that this amendment should be offered.

What is involved here is an existing medicaid program and an existing medicare program. Those are major programs. They exist under laws enacted by Congress, and laws which we undoubtedly will amend this year. Regulations flow from those laws which, for the most part, we would not want to change. There are some aspects of the regulations which should be changed; some require a change of law where, because of trial and error, we are convinced they should be modified.

Those of us who serve on the Committee on Finance have been working on this matter for a long time to assure quality health care to all the aged and to the poor, under the medicare and medicaid programs, and to try to assure that there would be proper and publicly accountable peer review so that both quality and quantity of services would be monitored.

I have before me the proposed text, in a confidential committee print, of H.R. 1, which we expect to report to the Senate at the end of this week. There are one or two major amendments to be considered, or at least areas to be reconsidered where we think we can improve the bill in a substantial way. But for the most part the detail work has been. This is the product of more than 3 years' hard work in the Committee on Finance and the Ways and Means Committee.

One might ask, "Why did it take so long?" The problem was that the House sent us a bill in the previous Congress. We in the Senate studied that bill and in the closing days of Congress we eliminated the most controversial feature and passed the parts we thought were most meritorious and the least controversial. They included the best we could recommend at that time for improvement of the medicaid and medicare program.

Unfortunately, on that occasion the House, speaking through the senior members of the Ways and Means Committee, declined to go to conference with us because they wanted to use what we had passed as leverage, one might say, to press for their version of a family assistance plan. The result was that they sent back to us a bill last year which incorporated their thoughts as well as many provisions originally generated in the Committee on Finance.

The House Ways and Means Committee worked in this area and in the welfare area in executive sessions for approximately 4 months. The Senate Finance Committee conducted hearings. We have worked in executive sessions on this measure for more than 4 months. We have approximately 350 pages of legislative language in H.R. 1 dealing with medicaid and medicare programs, designed to improve the operation of those programs, to assure quality care, and to seek to control the costs of the programs—that is, reduce inefficiency and reduce unnecessary costs.

All of this has been in close cooperation with the Department of Health, Education, and Welfare, and the administration, and, for that matter, anybody else available to us to advise in this area.

We do not wish to see this proposal by the Senate Committee on Labor and Public Welfare confuse the law with regard to requirements under medicaid and medicare. In a great number of cases, the bill that is proposed by the Committee on Labor and Public Welfare would leave standard-setting to the discretion of a commission. For example—I am looking at page 43 of the report—it says:

Title IV of S. 3327 directs the Commission on Quality Health Care Assurance to put heavy emphasis on the development of criteria for internal quality assurances systems.

We in the Finance Committee have undertaken to put on the statute books legislation, based on experience achieved under medicaid and medicare, designed to specifically spell out how those programs should be administered. We would not want this Commission to confuse the law and to upset the practices that have become established. We would not want this new Commission or Board seeking to improve quality control, so confuse the law that it would impede the effective implementation of the medicare or medicaid programs.

I quote further:

The Committee has intentionally left the exact nature of the quality assurance system to be determined through the deliberations and experience of the Commission on Quality Health Care Assurance.

Well, Mr. President, we think we are just far beyond that point in the medicare and medicaid programs—to where we have been able to leave a lot less to guesswork and the discretion of anybody, because we have been able to set it out fairly precisely in a statute. It is far more desirable if one can go back to a statute to explain what shall be done and what shall not be done, rather than leave it up to the discretion of some board yet to be created, not knowing what they might decide and what they might not decide.

I read on:

In meeting the requirements of the Commission, the Committee wishes emphasis to be placed upon the development of local mechanisms for monitoring and improving the quality of health care services, both in and out of health maintenance organizations. For that reason, the Commission will have great flexibility in defining criteria for local quality health care assurance systems.

In all those areas of concern we believe we have found a great many answers, some of them by being right in the first instance, and others through trial and error. Therefore, we think it would be most unfortunate, and certainly completely unplanned, if this legislation were to confuse and confound those who were trying to administer a medical care program under legislation which had its origin in the taxwriting committees.

For that reason, I believe this amendment is necessary. The amendment was offered on behalf of myself and the Senator from Utah (Mr. BENNETT). We joined as cosponsors of this amendment because it was our feeling that this should be a committee position, and it is the formal position of the Finance Committee.

Mr. BENNETT. Mr. President, will the Senator yield?

Mr. LONG. Yes; I am happy to yield to the Senator from Utah.

Mr. BENNETT. Mr. President, I rise to express my appreciation to the Senator from Louisiana (Mr. LONG) and the committee for the consideration which they have given to the problem of protecting the existing mechanisms and the plans that have been so carefully worked out to make them more effective in the service of the patients, of the recipients and beneficiaries of the medicaid and the medicare programs. So I am pleased to join the Senator from Louisiana (Mr. LONG), chairman of the Finance Committee, in sponsoring this amendment, which, as he has said, has had the consideration of the entire committee and, in a sense, the Senator from Louisiana and I are speaking for all the members of the Finance Committee.

We feel this amendment is necessary to avoid not only duplication and conflict, but possible jurisdictional problems, and I am happy to be able to report to the Senate that the amendment has the support of the President and the Department of Health, Education, and Welfare. I hope the sponsors of the bill will accept the amendment.

Mr. KENNEDY. Mr. President, I would like to ask the proponent of the amendment, the Senator from Louisiana to enter into a dialog, just so the record is clear, because I am hopeful we can accept the amendment, and believe we can, if I understand the amendment correctly.

As I understand it, the Senator wants his amendment to apply to services offered by health delivery systems under social security—medicare and medicaid.

Mr. LONG. Social security and public welfare. Yes, I specifically have that in mind. We have two existing programs. They are ongoing programs. They have had a lot of experience, some good, and some bad, but those administering the program, where they have had the power to change regulations to correct something that appeared to be in error, and where they have found a better way of doing something, have done so.

We have, as I have said, proposed over 300 pages of medicare and medicaid changes in the bill which is right here before me, where we feel the law can be amended, to help more effectively administer the programs.

We also are interested in a potential national health insurance program under the Social Security Act. That is something we would expect to recommend to the Senate sometime in the next Congress.

Mr. KENNEDY. So this applies with respect to the Social Security Act, as I understand?

Mr. LONG. Yes.

Mr. KENNEDY. Further, in instances where, a health service system offers services reimbursed under the Social Security Act, and also falls under the provisions of this HMO, legislation is it the understanding of the Senator from Louisiana that the requirements of both acts will apply equally, that neither will supersede the other, but that they both will be respected?

Mr. LONG. Well, we would hope that we would not have overlapping, and particularly we would hope that we would not have in the same clinic two conflicting sets of regulations.

In other words, we would think it would be important that one know what the law is, what law he is trying to administer, and that where there is an existing operation which apparently is going about the way experience would dictate it should go, we would hope it would not be confused by having a completely different set of laws and regulations where there might be a possibility of a conflict, and where a person might not know his duties and responsibilities.

Mr. KENNEDY. I think of the instance, for example, where we have the development of a health maintenance organization meeting this legislation's criteria to insure quality control, which has a few subscribers who are covered by medicare. It seems to me what we are looking for is to make the laws complement each other. I would think that is your intention and it is certainly acceptable to me.

Mr. LONG. I would hope so, and I would not seek to change a situation that would cause the legislation suggested by the Senator to provide another answer, where the law which we have on the books and which we are seeking to amend in this session, is solid. In other words, where we do not provide an answer I would think it would be appropriate that one would look to the section the Senator is recommending to find it; but where the answer is there, it would seem to us that that should prevail, unless we should decide to change that language.

We just do not want to have two conflicting sets of regulations, which provide two answers that are not the same to the same problem, particularly under social security programs.

In other words, it is all right with us, for the purpose of this amendment, if we regard it as affecting programs which are not social security programs, and under which medicare and medicaid are not providing an answer, for the Senator's legislation to provide one.

Mr. KENNEDY. Then I see no objection to the amendment. I might say at this point that I am generally familiar with the provisions which have been introduced in the past by the Senator from Utah with regard to PSRO's. Of course, we are not talking about that particular question now, but there is nothing in this legislation which is inconsistent with the development on approval similar to that. So I see no objection to the amendment, Mr. President, and I would urge its adoption with that understanding. All this amendment proposes to do is to make clear that nothing in the bill invalidates the provisions of the Social Security Act and vice versa.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, it has been suggested by the Senator from New York that it might clarify the language to change one word, and I modify my amendment accordingly.

The PRESIDING OFFICER. The amendment, as modified, will be stated.

The assistant legislative clerk read as follows:

On page 90, between lines 7 and 8, insert the following:

SEC. 3. Nothing in this Act, or any amendment made by this Act, shall be construed to supersede any activity relating to review of the provision of health care services under (including review and assessment of quality or quantity of such services or determination of reimbursement therefor) or to the determination of eligibility of any provider, practitioner, agency, or organization to participate under any program established under the Social Security Act.

Mr. JAVITS. Mr. President, I thank the Senator from Louisiana. Just to be sure that the amendment applied to programs under the Social Security Act, I suggested the modification. He has now made that very clear, and I join with the Senator from Massachusetts in urging that the amendment be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana, as modified.

The amendment was agreed to.

Mr. TUNNEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 145, insert between lines 13 and 14 the following:

"(14) analyze the need for standardization of medical record information and facilitate the development of a system of standard medical reference mechanisms;".

On page 145, line 14, strike "(14)" and insert in lieu thereof "(15)" and on line 17 strike "(15)" and insert in lieu thereof "(16)".

Mr. TUNNEY. Mr. President, this amendment would add an additional function to the work of the Commission on Quality Health Care Services. It would instruct the Commission to analyze the need for standardization of medical records and to facilitate the development of a system of standard medical reference mechanisms.

An effective system for maintaining medical records is essential to quality health care. It has become clear to both medical professionals and laymen that the existing health record system in the United States is in very sad disarray. Too frequently, a physician on treating a patient with whom he is not familiar must reconstruct the medical records, based almost solely on what the patient's memory is of his condition, because of the fact that many people move from one location to another, one part of the country to another. It is clear that in emergency situations the lack of information about a patient's previous illness or treatment or his sensitivity to a particular drug may have more unfortunate—at times even fatal—consequences.

Furthermore, even when the patient's records are available to the physician, they are far too often fragmented and too incomplete to be of much use to him.

In the past, inadequacies in medical records were partially compensated for by the fact that the attending physician was a general practitioner, who was familiar with the patient, having treated him over an extended period of time. With the continuing decline in the number of general practitioners, however, it is even more likely today that the attending physician will be a specialist who is unfamiliar with the patient's total health picture.

The problem is further complicated by the increased mobility of the average citizen that I have referred to previously. The average American moves once every 7 years and one-fifth of the general population moves annually.

Under these conditions, the medical record becomes increasingly important, because it may provide the only framework of continuity or comprehensiveness of care. If there is no source to which a physician may turn for an overall picture of the patient's medical history, effective treatment becomes much more difficult and the patient's recovery needlessly delayed.

The 1967 report of the National Advisory Commission on Health Manpower included the following statement:

> The panel believes that there is an urgent need for an improved capability to provide medical records for the patient.

The report went on to emphasize the development of data bank systems through which medical records could be retrieved even though a patient had moved frequently and been treated by a variety of physicians.

Mr. President, there are two principal benefits to the average citizen from this amendment. First, medical personnel could provide better treatment to him through better and more complete knowledge of his medical history by means of retrieval systems designed as a result of this amendment.

Second, and perhaps more important, in emergency situations such as auto accidents, there would be less chance of erroneous treatment.

A final point, which I should mention is the question of privacy. By placing the task of developing this system within the Commission on Quality Health Care Assurance, adequate safeguards could be developed to assure individual privacy and confidentiality of medical information and limits on access to medical records. By assigning this task to the Commission, rather than to the Health Care Institute, for example, the development of safeguards against unauthorized use of medical records could be assured.

Mr. President, I am confident that this amendment will have a most constructive result. I have discussed it with numerous physicians and academic personnel and I believe it fully meets the need which they have expressed to me for the development of such a system. I believe it is not in conflict with any of the provisions of this bill, in fact it is complementary. I urge the Senate to adopt it.

(At this point Mr. JAVITS assumed the chair.)

Mr. KENNEDY. I thank the Senator from California.

I will be glad to urge the Senate to consider this amendment favorably.

This amendment is completely consistent with the rest of title IV, the Commission on Quality Health Care Assurance. As a matter of fact, it is spelled out in very similar language in title V, page 117, line 4, where we talk about the development of uniform accounting practices, financial reporting, and uniform health records.

So this amendment is completely consistent—with the thrust and purpose of the proposed legislation. It spells out in greater detail than we did in the proposed legislation the importance of standardizing recordkeeping, which in turn will help the Quality Commission to identify problems of over- and underutilization in different parts of the country. It will also help the Commission to track successful treatment modalities in different parts of the country.

So I think that for a wide variety of reasons this amendment will be useful and helpful and will strengthen the proposed legislation, and I am glad to accept it.

Mr. TUNNEY. I thank the distinguished chairman.

Mr. BEALL. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. BEALL. I do not object to the idea behind the amendment. I point out that the subject matter is already covered in the bill, in title V, page 177. It cites as a responsibility of the National Institute of Health Care Delivery "the development of uniform accounting practices, financial reporting, and uniform health records."

So it is a good idea, and one that the committee has already considered and has already incorporated in the proposed legislation. I have pride in it, because it is an amendment I offered to the bill, and it was accepted.

Mr. KENNEDY. From where is the Senator reading?

Mr. BEALL. From the bill, page 177.

Mr. KENNEDY. What subsection?

Mr. BEALL. Line 4, section (16).

Mr. TUNNEY. I think that the Senator's amendment, referring to uniform health records, was a good one. But the problem which my amendment is addressed to is the development of a system which allows for quick retrieval of medical records throughout the country. For example, a doctor treating a man who is injured in an auto accident while visiting in California could gain quick information about the medical history of the victim if his health records were contained in a system designed to allow swift location and retrieval. The most obvious example would be through the use of electronic data processing methods in which an individual's records were coded by a number assigned only to him.

My purpose in offering the amendment is to assure that we develop a system whereby we would have not only a standardization of medical records but also would have the ability to retrieve the information contained in those records in any part of the country.

One possible example would be to use a number system analogous to the social security number so that, simply by employing that number, a doctor in Detroit could obtain the medical history of an accident victim who might live in another State.

My concern, Mr. President, is that we face this problem directly, by making specific reference to it in the legislation. The language referred to by the Senator from Maryland does not do so, nor does it suggest anything beyond an attempt to allow assessments of cost and delivery questions through standardizing records and accounting methods. But I am glad to hear that he agrees with me on the need for the program I have described.

Similarly, although there is other language in the bill which speaks of the use of advanced technology, there is nothing which ties the two concepts together to assure that the retrieval system I am describing will be developed. I believe we should make this a matter of high priority because of the potential it has to reduce the consequences of emergency cases. While I am confident that the mandate contained in the bill that technology be applied in health care delivery could be read to allow the development of such a system, there is nothing in the bill which requires or encourages it.

In fact, because of the great problem of assuring privacy and confidentiality there has been considerably less attention focused on this problem than is needed. It was this factor which caused the deans of two prominent medical schools in California to suggest this amendment to me. I might add, Mr. President, that both had read this bill and the report and felt that there was not adequate provision in it to encourage the study required to develop such a system.

Mr. BEALL. I agree that this is a good idea. If the Senator will refer to the preceding page, page 176, subsection (12), he will see that it refers to the "application of all forms of technology, including computers and other electronic devices, in health care delivery."

I think all these systems should be used, and I am happy that the Senator from California agrees. I have no objection to his amendment. I am sure it can be incorporated into the proposed legislation, because the subject matter, as I have already said, is covered in the bill as reported by the committee.

Mr. KENNEDY. Mr. President, I urge the Senate to adopt the amendment.

Mr. TUNNEY. Mr. President, I yield back the remainder of my time.

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. BEALL). All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from California.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. DOMINICK. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. DOMINICK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 106, strike lines 12 through 24, and in lieu thereof, insert the following:

"SEC. 1108. The Secretary may make grants and loans to community health maintenance organizations (as defined in section 1109) from funds appropriated pursuant to authorizations under part A of this Act for the purposes described in part A in amounts not to exceed 25 per centum of the amounts appropriated under such part. Such grants and loans shall be for the same purposes, and subject to the same conditions and limitations as are applicable in the case of grants and loans to health maintenance organizations (as defined in section 1101)."

On page 107, strike lines 3 through 5, and in lieu thereof, insert the following:

"(1) The term 'community health maintenance organization' means a public or private organization operating in a metropolitan area which—"

On page 122, line 24, before the word, "and", insert "community health maintenance organizations".

On page 123, line 1, strike out the word, "either", and insert in lieu thereof "such an organization"; on line 21, before the word "or", insert "organizations, community health maintenance organizations,".

On page 137, line 11, strike the word, "No", and in lieu thereof insert, "Except as provided in section 1108, no".

Throughout the bill, wherever the word, "supplemental", modifies the term, "health maintenance organization", strike the word, "supplemental", and in lieu thereof insert the word, "community".

Mr. DOMINICK. Mr. President, copies of this amendment have been furnished to the Senator from New York and the Senator from Massachusetts, as I understand.

Title I authorizes assistance for development of two kinds of organizations which provide comprehensive health care on a prepaid basis—"health maintenance organizations" and "supplemental health maintenance organizations." The definition of "health maintenance organization" is restrictive. Organizations meeting that definition clearly could not survive without the large Federal subsidies—$1.825 billion over the first 3 years—authorized in title III. The definition of "supplemental health maintenance organization" is flexible. Organizations meeting that definition could be economically viable without continuing Federal subsidies. Little, if any, funds would be available under title I for assistance to "supplemental health maintenance organizations." This amendment would assure that 25 percent of the funds appropriated under title I would be available for assistance to "supplemental health maintenance organizations."

Part A of title I authorizes $1.025 billion over 3 years for grants and loans for development of "health maintenance organizations." Under the definition of "health maintenance organization" (sec. 1101(1)) only closed panel group practice-type organizations would qualify for assistance. Each such organization would be required to provide a long list of services without regard to the needs of its enrollees (sec. 1101(2)):

Inpatient and outpatient hospital services;

Home health services;

Diagnostic laboratory, and diagnostic and therapeutic radiologic services;

Preventive health—including but not limited to voluntary family planning, infertility services, and preventive dental care for children—and early disease detection services;

Emergency health services rendered by any provider of health care, the expense of which shall be borne by the enrollee's health maintenance, supplemental health maintenance, or health service organization;

Provision of or payment for prescription drugs—with patterns of patient drug utilization under continuous surveillance, evaluation, and review by a clinical pharmacist whose duties shall include the maintenance of a drug use profile for each enrollee;

Medical social services;

Vision care—except for eyeglasses which shall be optional—as provided by a physician skilled in the diagnosis and treatment of diseases of the eye, or by an optometrist provided such services are within the scope of his license;

Physical medicine and rehabilitative services—including physical therapy;

Mental health services utilizing existing community mental health centers on a priority basis;

Preventive diagnostic and medical and psychological treatment of the abuse of or addiction to alcohol and drugs; and

Such other personal health services as the Secretary may determine are necessary to insure the protection, maintenance and support of human health.

Part B of title I authorizes grants and loans for development of "supplemental health maintenance organizations." Under the definition of "supplemental health maintenance organization" (Sec. 1109), individual practice type organizations as well as closed panel group practice organizations would qualify for assistance. Rather than mandating a complete list of specific services to be provided, the definition would require only that each such organization provide to its enrollees:

All those health services which a defined population might reasonably require in order to be maintained in good health, including as a minimum emergency care, inpatient hospital and physician care, ambulatory physician care, and outpatient preventive services.

But part B contains no separate authorization of appropriations for assistance to "supplemental health maintenance organizations." Such organizations would be eligible only for funds left over at the end of each fiscal year after all applications for development of "health maintenance organizations" under part A of title I had been funded. It is unlikely that any significant amount of funds would be available under this provision.

This amendment would do two things. First, it would earmark 25 percent of the funds appropriated under part A for applications filed under part B. This would insure that some funds would be available every year for assistance to HMO's meeting the more flexible definition in part B. Second, it would change the title, "Supplemental health maintenance organizations," to "Community health maintenance organizations." This would remove the implication that HMO's meeting the more flexible definition in part B are inferior.

The overwhelming weight of testimony in the hearing record was that in order to stimulate competition and innovation in developing improved methods of health care delivery, a variety of organizations—including those where physicians practice in individual rather than group settings—should be eligible for assistance. Among the witnesses testifying to that effect were representatives of the Department of Health, Education, and Welfare, the Association of American Medical Colleges, the American Association of Foundations for Medical Care, the American Association of Medical Clinics, the American Hospital Association, the American Medical Association, Blue Cross-Blue Shield, the Group Health Association of America—representing the major prepaid group practices—the American Rehabilitation Foundation, the Kaiser-Permanente Foundation—the prototype for the closed panel group practice model—the National Medical Association, and the Student American Medical Association.

These same witnesses testified that to require each HMO to provide a broad range of specific services would inhibit the development of HMO's. They recommended that the benefit package should be flexibly defined to require only essential minimum services, and beyond that, whatever services were required by the enrolled population, and which could be furnished without making premium costs uncompetitive with other providers. The hearing record indicates that few, if any, existing prepaid group practices—including the prototype for the HMO concept, Kaiser Permanente—provide the range of services which would be mandated in this bill. Representatives of the American Association of Medical Clinics and Group Health Association of America, who are involved in HMO type medical care delivery, testified strongly that the range of services mandated in S. 3327 was too broad, and would stifle HMO development by placing them at a severe disadvantage in competing with other types of providers, including the insurance industry. They felt that what services are provided beyond certain minimum services should be dictated by the ability of the HMO to provide them, and the ability of the enrollees to pay for them. This view was expressed by witnesses for the AFL–CIO, which represents probably the largest single group of existing and potential HMO enrollees.

Although the committee refused to modify the restrictive definition of HMO, it added the more flexible definition in part B of title I as an intended compromise. But since essentially no funding would be available for HMO's meeting this flexible definition, it is a meaningless compromise.

This amendment would not disturb the definition of HMO in part A of title I. It would merely assure some funding for HMO's meeting the more flexible definition in part B. This would increase the opportunities for innovation in developing better methods of health care delivery. Such HMO's could be developed at much lower cost than those required to meet the restrictive organizational and benefit package conditions of the part A definition. Finally, HMO's qualifying under the more flexible definition would not be dependent on the permanent operating subsidies—provided for in Section 1145—without which HMO's established under part A could not survive.

Mr. President, as I have indicated in my individual views in the committee report on S. 3327, and during the course of this debate, I feel strongly that it would be a serious mistake to authorize more than $1 billion to develop HMO's which will have virtually no chance to ever become economically viable. If we are really serious about improving our health care delivery system, we should provide assistance to develop HMO's which will be able to compete on their own without massive permanent Federal subsidies. This amendment would assure that part of this money will be used for that purpose. I hope my colleagues will support it.

I ask unanimous consent that the amendment which I have submitted and is now at the desk may be considered en bloc because it is all part of the same package.

Mr. JAVITS. Reserving the right to object, and I hope that we can work it out with the Senator, I have noted that, and I would suggest that he make his unanimous consent request apply to the title and all other incidental amendments which flow from the first. I do not know but what we may have some feeling, even if the Senator's amendment should carry respecting what he would call these health organizations, but I do not expect that we would have any problem about it, but I think it should not just go with the substantive amendment which the Senator is making. Would the Senator mind doing that?

Mr. DOMINICK. I will be happy to modify it to leave it as the supplemental health maintenance organization, if that is what the Senator means.

Mr. JAVITS. I do not want to foreclose the Senator. I just suggest in dividing the vote that we divide it between the amendment on page 106 and all the other amendments being considered en bloc, and the one on page 106. That is just a practical way to get at what may result from adoption or rejection of the one on page 106. It may still be a good idea to call it a community health maintenance organization, even if the Senator loses.

Mr. DOMINICK. If I lose the first part, I do not care a hoot about the rest of it. That is the point I am making. The first part is the key. The remainder merely substitutes the title "Community Health Maintenance Organization" for the present title, "Supplemental Health Maintenance Organization." It would have no substantive effect; it would just remove the implication that such HMO's are inferior.

Mr. JAVITS. Does the Senator mind severing the amendment as to pages 106 and 107 and all those that follow?

Mr. DOMINICK. Mr. President, I ask that all of the amendment which I have previously submitted be stricken, starting with the words "on page 107," line 1, and continuing on through the balance of the amendment, leaving only section 1108 on page 106.

The PRESIDING OFFICER (Mr. BEALL). The amendment will be so modified.

Mr. DOMINICK. Mr. President, I also ask unanimous consent that the word "community" be transferred to the "supplemental" in the first line so that section 1108 would read, "The Secretary may make grants to the community health maintenance organizations."

The PRESIDING OFFICER. The Senator may modify his amendment accordingly.

Mr. DOMINICK. I want to emphasize that this amendment would make no changes in the definitions of HMO or supplemental HMO which are presently in the bill. It would just assume that 25 percent of the funds appropriated under title I would be available for the more flexible definition. Under that definition, supplemental HMO's would be required to provide comprehensive medical services. But they would not be locked into a long list of specific services as the other definition mandates.

The supplemental health maintenance organization definition would require that each such organization provide for its enrollees "all those health services which a defined population might reasonably require in order to be maintained in good health, including as a minimum emergency care, inpatient hospital and physician care, ambulatory physician care, and outpatient preventive services."

It would strike me that since we are trying as best we can to find improved delivery systems, it would be wise to make sure that some of the money authorized can be used for innovation, rather than to promote one narrow organizational form. This amendment would earmark up to 25 percent of the funds appropriated under title I for the Secretary, in his discretion, to use in funding supplemental HMO's. It is entirely possible that he may not want to use any, in which case the whole amount still goes to the closed panel group practice type HMO's. But he has the option.

Mr. President, I suggest the absence of a quorum.

Mr. President, I modify my own amendmet, which I have already modified twice, so that in section 1108, in the fourth line, the figure "25" be changed to "17.5 percent."

I have discussed this with the Senator from New York and with the Senator from Massachusetts. And it is my understanding that this will make available 17.5 percent of the funds appropriated under title I of this bill, to supplemental health maintenance organizations, as defined in part B of title I.

It would be agreeable with me if it is agreeable with him.

Mr. JAVITS. Mr. President, I appreciate what the Senator said. It is entirely agreeable to me, although I believe that the health maintenance organizations of a classic character described in the bill are vital to the future provision of health care for all the American people. I also believe that the supplemental health maintenance organization ought to have a chance to improve its worth and it is defined under the bill as qualified under the bill.

Therefore, I feel that the provision now being made for its having a chance to prove its worth is an appropriate one and I hope the amendment is agreed to.

Mr. KENNEDY. Mr. President, I am reluctant about this amendment which will support the status quo in health care, but we would be willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMINICK. Mr. President, I send to the desk an amendment on behalf of the distinguished Senator from Kentucky (Mr. COOPER) and myself.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 154, beginning with line 4, strike all language through line 7.

On page 154, beginning with line 14 strike all language through line 20 and substitute for (c) page 154 line 8 (b).

Mr. DOMINICK. Mr. President, I wish to make a very brief explanation of the amendment. This is something I have been concerned about and it is something that the Senator from Kentucky has been concerned about. I refer to the penalty section, section 1208, starting at page 152 of the bill. It gives the Commission, as I pointed out in my statement, a great deal of power. For example, the Commission would have the power to resolve the certification of any noncomplying provider, making it ineligible for Federal assistance. It could require noncomplying providers to repay all Federal funds it had received. It could go into court to seek an injunction against practices it considered dangerous. It could institute criminal proceedings against providers for knowingly filing false reports.

This should be enough enforcement power. Yet the Commission also has the power to "assess" civil penalties up to $10,000 for each violation. This concerns me, primarily because there are no procedural safeguards. No hearing requirements, no protection of due process rights whatsoever. In criminal proceedings under the criminal penalty provision these rights would be protected by the courts.

I hope the manager of the bill shares our concern and will accept this amendment.

Mr. COOPER. Mr. President, I am glad to join with Senator DOMINICK in proposing the amendment to strike the section which would impose mandatory civil penalties up to $10,000.

I do not condone any mismanagement or wrongdoing. But the imposition of mandatory civil penalties on anyone, without a hearing, without trial, without due process, fundamental in our system of law, is unjust. This practice of fixing civil penalties, to be administered often arbitrarily, is growing too common in legislation being enacted. It should never be done, and should be repealed, wherever enacted in all previous legislation. It is unfair and contrary to all we have claimed as due process and fairness under our system of justice.

Mr. KENNEDY. Mr. President, again, I accept this amendment. We were trying not to have the Commission itself act on these cases, but to set off a triggering device, as has been done in other administrative agencies. We have taken that approach from other administrative agencies.

However, there are other means to assure prosecution under these provisions.

I am willing to take the amendment. I would like to hear from the Senator from New York, who is a distinguished legal craftsman, about this matter.

Mr. JAVITS. Mr. President, I agree with the Senator. I feel there is a reason for the civil penalty. Sometimes we prefer it to a criminal penalty. The criminal penalty remains respecting false statements under the amendment of Senator COOPER. I do not think it is a matter we should allow to impede the progress of the bill. Therefore, I concur with the Senator and I hope the Senate accepts the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. FANNIN. Mr. President, S. 3327 undertakes an ambitious strategy to change what is presently constituted as our health-care delivery system. It is a strategy which continues and expands Federal intervention in health care.

There is much to be questioned in S. 3327, but I am more vitally concerned with the strategic choice which S. 3327 represents. This legislation raises the basic policy issue of whether the Government should visualize HMO's as being in the private competitive sector to the same extent as, for example, insurance companies and conventional fee-for-service medical groups, thus exhibiting all the diversity of sponsorship and organizational form characteristic of the American economy, or whether HMO's should be established as federally sponsored organizations subject to Government direction and regulation.

Evidently, the sponsors of this bill have chosen the latter strategy.

Evidently, the sponsors of S. 3327 strongly believe that only through a massive and expanded Federal involvement in health care will we ever succeed in controlling health costs and developing a more effective health-care delivery system.

It is evident to me that such a strategy will not solve the problems but only increase them.

What is needed, therefore, is a strategy which minimizes Federal intervention and regulation and maximizes the opportunity for self-regulation.

The cornerstone of our free enterprise system is competition where poor products, poor organization, poor leadership can be eliminated. In health care, we need a system which encourages competition to achieve the same results. Massive Federal involvement will not change appreciably the health-care delivery system nor reduce costs.

If we are to truly serve the consumer, Congress should develop a health-care system which the consumer can regulate through choice. Establishing a system in which consumers participate does not guarantee efficiency, nor change. What is needed is a system which actually permits consumers to force change through the real act of economic choice.

In essence, then, I believe in adopting a strategy which emphasizes competition in the health-care system.

Mr. MONDALE. Mr. President, I am pleased to support the Health Maintenance Organization and Resources Development Act of 1972, which I had the privilege to cosponsor. I think this may well be one of the most significant pieces of health legislation considered by the Congress in this decade. Proposed national health insurance legislation addresses itself, primarily, to the financing of health care. This legislation is addressed to the equally important problem of delivering that care to the people.

The bill should make it possible to achieve the objectives noted by the President of making a health maintenance organization available throughout the United States. Unfortunately, the legislation proposed by the administration to support that objective has been found, through extensive hearings, to fall short of the mark. This bill should give us the mechanisms to make the growth and development of health maintenance organizations a reality.

I am especially pleased to be a cosponsor of this bill for two reasons. First, the Institute of Interdisciplinary Studies, in my own State of Minnesota, has been a leading force in the development of the health maintenance organization strategy. This organization, headed by my good friend, Dr. Paul Ellwood, was instrumental in persuading the administration to adopt the health maintenance strategy. Since then, through testimony before the Health Subcommittee, and in consultation with members and staff of the subcommittee, Dr. Ellwood and his excellent interdisciplinary team have provided an invaluable resource in developing the approach which is reflected in this legislation. The health services research team at the Institute includes a physician-economist, two lawyers, a psychologist, a biostatistician, and a theoretical physicist.

I am also pleased that the bill reflects the substance of my proposed Community Medicine Act, S. 1301. My bill seeks to engage medical schools and teaching hospitals in the delivery of health services to underserved populations through health maintenance organizations. Thus, it has two objectives: to improve the quality and relevance of medical education, and to improve the level of services to those whom the present delivery system has left behind. The provisions for area health education and service centers in the bill should achieve the same objectives.

Perhaps most significantly, this bill will make it possible for high quality, comprehensive, medical services to be brought to citizens in our rural areas who have increasingly been denied such care.

I am greatly encouraged by the possibility that enactment of this legislation will contribute to the control of health care costs. As we all know, these have been skyrocketing. Experts agree that group practice, emphasizing preventive care and early detection of disease, can help to cut the costs of medical care, while not sacrificing quality. The bill also provides for a significant innovation in the form of a quality health care commission. This commission should be able to lead the way in the development of new measures and standards to monitor and improve the quality of care. The Institute for Interdisciplinary Studies in Minneapolis contributed significantly to the development of these features in the bill.

There is a rapidly growing consensus on the advantages of using health maintenance organizations as a means for delivering health care. We have such a plan operating very successfully in St. Paul, Minn., and another excellent plan serving the northern Minnesota communities of Hibbing and Virginia. The experience in our State amply justifies the reliance that this bill places on health maintenance organizations as an important contribution to improved health delivery.

Mr. President, I believe this is an excellent bill and the Senator from Massachusetts (Mr. KENNEDY), who has worked so hard and so effectively as chairman of the Health Subcommittee, deserves our congratulations and our appreciation. I am proud of my contribution and that of a number of outstanding Minnesotans to this bill. I hope it will be approved and acted on promptly by the House.

Mr. PELL. Mr. President, it is with great pleasure that I speak in support of

S. 3327, the Health Maintenance Organization and Resources Development Act of 1972.

As a member of the Health Subcommittee on the Senate Committee on Labor and Public Welfare, I took part in the lengthy and in-depth public hearings on this legislation which started over a year ago. The testimony given indicated that there is a great need in this country for some type of Federal support to improve the present health care delivery system. Indeed, if there was one underlying theme in all of the hearings, it is the great need of facilities in which all of our citizens can find available service both for preventative and curative medical care. And we would be remiss if we did not admit that medical care in this country turns around a person's ability to pay.

I am proud that one of the models used for a vital, innovative quality health maintenance organization was the Rhode Island Group Health Association.

This bill goes a long way toward meeting these medical needs. I am glad, too, that it incorporates some of the ideas contained in my own minimum health care bill S. 703. It is my hope that it will soon become public law and also become meaningly funded.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. There is a sufficient second. The yeas and nays are ordered.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. While we are waiting, could I pass some unobjected-to items on the calendar?

Mr. KENNEDY. I have no objection.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of all items on page 12 of the calendar and the first item on page 13 of the calendar, beginning with Calendar No. 1109.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHEYENNE-ARAPAHO TRIBES OF OKLAHOMA

The bill (H.R. 6575) to amend the act entitled "An Act to provide for the disposition of judgment funds now on deposit to the credit of the Cheyenne-Arapaho Tribes of Oklahoma", approved October 31, 1967 (81 Stat. 337) was considered, ordered to a third reading, read the third time, and passed.

CHIEF PETTY OFFICER JUDGE P. OLIVER

The resolution (S. Res. 178) to refer the bill (S. 272) entitled "A bill for the relief of Chief Petty Officer Judge P. Oliver, United States Navy, and his wife, Thelma F. Oliver" to the Chief Commissioner of the U.S. Court of Claims for a report thereon was considered and agreed to, as follows:

Resolved, That the bill (S. 2721) entitled "A bill for the relief of Chief Petty Officer Judge P. Oliver, United States Navy, and his wife, Thelma F. Oliver", now pending in the Senate, together with all accompanying papers, is referred to the Chief Commissioner of the United States Court of Claims. The Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States, or a gratuity, and the amount, if any, legally or equitably due from the United States to the claimant.

DATRONICS ENGINEERS, INC.

The resolution (S. Res. 357) to refer the bill (S. 3953) entitled "A bill for the relief of Datronics Engineers, Inc." to the Chief Commissioner of the United States Court of Claims for a report thereon was considered and agreed to, as follows:

Resolved, that the bill (S. 3953) entitled "A bill for the relief of Datronics Engineers, Inc.", now pending in the Senate, together with all the accompanying papers, is referred to the Chief Commissioner of the United States Court of Claims; and the Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States, or a gratuity, and the amount, if any, legally or equitably due from the United States to the claimant.

The Chief Commissioner is specifically requested to determine the expenses, damages, and losses of the claimant to which claimant is entitled by way of equitable or legal relief attributable in whole or in part, directly or indirectly, to transactions with the United States Navy under contract numbered NBY 48950 awarded on July 19, 1963.

The Congress of the United States waives the defense of lack of privity between the United States and the claimant as a bar to relief or entertainment of a claim for relief commenced under this resolution.

Mr. MANSFIELD. Mr. President, I will ask that we stop at Calendar No. 1111, and we will proceed with them later.

HEALTH MAINTENANCE ORGANIZATION AND RESOURCES DEVELOPMENT ACT OF 1972

The Senate continued with the consideration of the bill (S. 3327) to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, health care resources, and the establishment of a Quality Health Care Commission, and for other purposes.

The PRESIDING OFFICER (Mr. GRAVEL). The committee amendment is open to further amendment.

Mr. MONDALE. Mr. President, I send an amendment to the desk and ask unanimous consent that its reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendment will be printed in the RECORD.

The amendment is as follows:

On page 139, between lines 2 and 3, insert the following:

"PART F—SPECIAL PROJECT GRANTS TO FACILITATE HEALTH SERVICES IN NONMETROPOLITAN AREAS

"SEC. 1160. (a) The Secretary is authorized to make grants to or contracts with any public or nonprofit private entity (which otherwise may not be eligible for grants or assistance under this title) to study, initiate, and evaluate projects for the delivery, or to facilitate the delivery, in nonmetropolitan areas of comprehensive health services on a prepaid basis.

"(b) There are authorized to be appropriated to carry out the provisions of this section $5,000,000 for the fiscal year ending June 30, 1973; $5,000,000 for the fiscal year ending June 30, 1974; and $5,000,000 for the fiscal year ending June 30, 1975.

Mr. MONDALE. Mr. President, this amendment is intended to assist in the development of health service organizations in rural areas. The bill, S. 3327, already recognizes that the more sparsely populated areas of the Nation face special impediments in moving toward prepaid health plans. Therefore, it authorizes health service organizations for nonmetropolitan areas with somewhat more flexible requirements than for the "standard" health maintenance organization.

The impediments to establishing rural programs include geographically larger service areas required for an enrolled population which can support comprehensive care arrangements; the relative scarcity of multispecialty medical groups in rural settings; the aversion that farmers and other rural people with irregular income may have to the prepayment approach to medical care; and the shortage of local leadership prepared to assume responsibility for the development of prepaid group practice arrangements.

Scarcity of leadership is of course crucial. There is no apparent lack of leadership potential among rural people. But rural leadership on health problems tends to be latent and often must be mobilized on an ad hoc basis. In contrast, urban areas more often have institutionalized leadership, represented by specialized offices and personnel devoted full-time to health matters.

In view of these unique problems facing nonmetropolitan areas, we must make special arrangements to assure that the developmental efforts needed for rural programs will be supported adequately. We should, therefore, take full advantage of any public and nonprofit entities which have special concern and competence in rural health. They could take initiatives as well as stimulate other individuals and groups into action. Unless this is done, the accelerated thrust in S. 3327 toward health maintenance organizations as the dominant means for reshaping health delivery in the United States may leave rural areas even further behind than they are now.

My amendment is designed to insure access to funding for any public or nonprofit private entity which is in a position to contribute to the development—but not operation—of prepaid health services in the more sparsely populated, nonmetropolitan areas of the United States. Under my amendment, an organization would be eligible for funding regardless of whether it was organized on a national, State, or local—that is, health service area—basis. In rural settings, we may need to rely initially upon State and national agencies to work cooperatively with local leadership toward establishment of health service organizations.

Under my amendment, an entity would be eligible for funding if it was not prepared to move directly toward operation of a health service organization, but instead was engaged in a project that would facilitate the eventual creation of a health service organization in a particular nonmetropolitan setting. For example, an organization now serving as a watchdog for rural areas—keeping track of emerging programs, policies, and practices and informing local groups of such developments—might qualify for funding. It would not, however, be eligible for funding, under this amendment, for operation as an HSO, but only for assistance in the planning and developmental phase.

We cannot anticipate at this time the range of entities that might contribute in a significant way toward rural-based prepaid, comprehensive health care systems. The important consideration is that we not restrict the financial assistance in this bill to locally based organizations that are prepared to move directly to the operation of health service organizations.

My amendment would assure access to funding to entities promising to promote more indirect routes toward the establishment of prepaid, comprehensive health care arrangements in nonmetropolitan areas. In view of the present impediments, these may be the only courses to follow.

In other words, what this amendment is designed to do is to make certain that provisions of the pending legislation are realistically adapted to the problems that are faced in rural areas, where there may not be any of the type of organizational structures one might expect to find initially in urban areas.

I do not think it is a controversial amendment. I would hope the committee could accept it.

Mr. JAVITS. Mr. President, I am going to suggest the absence of a quorum for one very good reason—I have not seen the amendment. It is being printed.

I have just been handed a copy of it now.

Mr. KENNEDY. Mr. President, as I understand the amendment, it would permit in rural America those public or private, nonprofit organizations which have been forced either at the national or State or local level to provide technical kinds of assistance to help with the development of HSO's.

Mr. MONDALE. The Senator is correct. It is not controversial. It is simply to make the provisions of this bill more adaptable to rural situations.

Mr. JAVITS. Mr. President, if the Senator will yield, would he leave out the provision for the money? I think the Senator from Colorado (Mr. Dominick) is right. This is a multibillion-dollar program. We come in here suddenly with $15 million. Why cannot we make them eligible for grants under the bill?

Mr. KENNEDY. I would interpret it to mean that they would be eligible under various existing provisions for development and formulation grants. That is what we want to do—permit these groups to help in the development and formulation of health service organizations.

Mr. MONDALE. Mr. President, I ask to modify my amendment by deleting subsection (b) which contains specific amounts authorized to be appreciated.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 139, between lines 2 and 3, insert the following:

"Part F—Special Project Grants To Facilitate Health Services in Nonmetropolitan Areas

"Sec. 1160. (a) The Secretary is authorized to make grants to or contracts with any public or nonprofit private entity (which otherwise may not be eligible for grants or assistance under this title) to study, initiate, and evaluate projects for the delivery, or to facilitate the delivery, in nonmetropolitan areas of comprehensive health services on a prepaid basis.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

The PRESIDING OFFICER. The committee amendment is open to further amendment.

If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senate staff may be allowed to make technical corrections in order to coordinate the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the committee amendment, in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on passage. This is an important bill. This is one of the few times when the leadership has asked for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered.

Mr. DOMINICK. Mr. President, before we go to a vote, I just wish to make a brief statement. I appreciate very much the cooperation of the Senator from New York and the Senator from Massachusetts in taking the second amendment. I want to repeat that I believe, if we had had a full membership here, 51 Senators would have voted in favor of my amendment. However, adoption of the other amendment cures a part of the problem.

I am probably going to vote "yea" on final passage, even though I have strong reservations about portions of it.

In addition to my specific concerns about the restrictive definition of HMO, the broad powers of the quality commission, and the massive permanent capitation subsidies, I would like to reemphasize the two basic problems I see with its approach.

First, it is unrealistic, both in terms of cost and scope. It authorizes more than $5 billion over the first 3 years. It tries to do too many things other than improve the health care delivery system. The development of a more efficient and accessible delivery system is in itself a formidable task for one piece of legislation. To the extent that this bill attempts to do more, such as direct financing of medical care by the Federal Government, its chances of improving the delivery system are diminished.

Second, it is a promotional bill, rather than an assistance bill. It does not objectively attempt to improve the delivery system. It is designed instead to promote one particular form of health care delivery—closed panel group practice, and one particular financing mechanism—direct payments to health providers by the Federal Government, a la national health insurance.

As I have indicated, I will vote for the bill, because I think it addresses some important health care problems. But I hope that if this bill does not pass the House and go through conference and back to the various bodies before we adjourn, we will have an opportunity to improve it next year, so that it will represent a realistic effort to improve the health care delivery system.

Mr. JAVITS. Mr. President, just one word in respect to what the Senator from Colorado (Mr. Dominick) has said. It goes back to what we said originally.

If the question of health care were in an experimental state, I could agree with the Senator. But, Mr. President, it is far advanced. The estimate of what is being spent in the United States for health care per annum is well in excess of $60 billion a year. I believe the exact figure is well over that.

We have debated for years now one form of being able to cover all Americans, certainly, on the health issue. Therefore, as I believe we are already far advanced into this field, and that this is an essential plateau upon which we must learn to stand, I believe the requirements plus the carrot, which is the appropriation, will enable us to bring the American medical delivery system to a point where it will not be the highly expensive and relatively exclusive province, in terms of many millions of Americans, that it is today.

I think it is rather to the credit of the Senator from Colorado (Mr. Dominick)—and he has shown this before—that although he has very grave reservations, he allows himself to go along with an effort to try something out. Though expressing his doubts, he will still vote "yea." His point of view has been very important on our committee. I for one, as I am so close to him on this committee, value very much that attitude of a very enlightened American conservative. I think it is very sensible, and I appreciate it very much.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Massachusetts yield for a question?

Mr. KENNEDY. I yield.

Mr. HARRY F. BYRD, JR. What is the amount involved, approximately?

Mr. KENNEDY. $5.1 billion.

Mr. HARRY F. BYRD, JR. $5.1 billion?

Mr. KENNEDY. For a 3-year period.

The PRESIDING OFFICER. (Mr. Gravel). The question is, Shall the bill pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Carolina (Mr. Hollings), the Senator from South Dakota (Mr. McGovern), the Senator from Montana (Mr. Metcalf), the Senator from Maine (Mr. Muskie), the Senator from Alabama (Mr. Sparkman), the Senator from New Jersey (Mr. Williams), the Senator from Illinois (Mr. Stevenson), the Senator from Mississippi (Mr. Stennis), the Senator from Missouri (Mr. Eagleton), and the Senator from Oklahoma (Mr. Harris) are necessarily absent.

I further announce that the Senator from Indiana (Mr. Bayh), the Senator from Indiana (Mr. Hartke), the Senator from North Carolina (Mr. Jordan), and the Senator from Wyoming (Mr. McGee) are absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. Williams) would vote "yea."

On this vote, the Senator from South Dakota (Mr. McGovern) is paired with the Senator from Texas (Mr. Tower).

If present and voting, the Senator from South Dakota would vote "yea" and the Senator from Texas would vote "nay."

On this vote, the Senator from Illinois (Mr. Stevenson) is paired with the Senator from New York (Mr. Buckley).

If present and voting, the Senator from Illinois would vote "yea" and the Senator from New York would vote "nay."

On this vote, the Senator from New Jersey (Mr. Williams) is paired with the Senator from Mississippi (Mr. Stennis).

If present and voting, the Senator from New Jersey would vote "yea" and the Senator from Mississippi would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. Allott), the Senators from Tennessee (Mr. Baker and Mr. Brock), the Senator from Arizona (Mr. Goldwater), the Senator from Iowa (Mr. Miller), the Senator from South Carolina (Mr. Thurmond), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from New York (Mr. Buckley) is absent on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Ohio (Mr. Saxbe), the Senator from Vermont (Mr. Stafford), and the Senator from Ohio (Mr. Taft) are absent on official business to attend the Interparliamentary Union meetings.

On this vote, the Senator from Vermont (Mr. Stafford) is paired with the Senator from South Carolina (Mr. Thurmond). If present and voting, the Senator from Vermont would vote "yea" and the Senator from South Carolina would vote "nay."

On this vote, the Senator from Texas (Mr. Tower) is paired with the Senator from South Dakota (Mr. McGovern). If present and voting, the Senator from Texas would vote "nay" and the Senator from South Dakota would vote "yea."

On this vote, the Senator from New York (Mr. Buckley) is paired with the Senator from Illinois (Mr. Stevenson). If present and voting, the Senator from New York would vote "nay" and the Senator from Illinois would vote "yea."

If present and voting, the Senator from Iowa (Mr. Miller) would vote "yea."

The result was announced—yeas 60, nays 14, as follows:

[No. 462 Leg.]

YEAS—60

Aiken
Anderson
Beall
Bellmon
Bentsen
Bible
Boggs
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Cook
Cooper
Cranston
Dole
Dominick
Fong
Fulbright
Gambrell
Gravel
Griffin
Gurney
Hart
Hatfield
Hruska
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Magnuson
Mansfield
Mathias
McClellan
McIntyre
Mondale
Montoya
Moss
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Roth
Schweiker
Scott
Smith
Stevens
Symington
Talmadge
Tunney
Weicker
Young

NAYS—14

Allen
Bennett
Byrd,
Harry F., Jr.
Cotton
Curtis
Eastland
Edwards
Ervin
Fannin
Hansen
Jordan, Idaho
Long
Proxmire
Spong

NOT VOTING—26

Allott
Baker
Bayh
Brock
Buckley
Eagleton
Goldwater
Harris
Hartke
Hollings
Jordan, N.C.
McGee
McGovern
Metcalf
Miller
Mundt
Muskie
Saxbe
Sparkman
Stafford
Stennis
Stevenson
Taft
Thurmond
Tower
Williams

So the bill (S. 3327) was passed, as follows:

S. 3327

An act to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, health care resources, and the establishment of a Quality Health Care Commission, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Health Maintenance Organization and Resources Development Act of 1972".

Sec. 2. (a) The Congress finds that—

(1) there is a shortage and maldistribution of quality health care resources which has resulted in limited access to quality health care in the United States;

(2) the present health care system is not organized in a manner which encourages the efficient and economical provision of quality health care;

(3) the present health care system is oriented toward providing care to those manifesting disease, rather than toward providing health maintenance services and maintaining good health;

(4) the establishment of health maintenance organizations, health service organizations, and area health education and service centers will aid in alleviating the serious maldistribution of health care resources which has resulted in inadequate access to medical care particularly in both inner city and rural areas, in providing health care in a more efficient and economical manner, and in reorienting the health care system toward the maintenance of health;

(5) there is a need to provide technical assistance and resources to individuals and groups, undertaking the planning, development, and initial operation of health maintenance organizations, supplemental health maintenance organizations, health service organizations, and area health education and service centers;

(6) there is a shortage of educational facilities in health sciences, unbalanced emphasis on hospital practice and on rare and exotic diseases in medical education; and

(7) there exists an excessive variance in the quality of health care and health services.

(b) The purpose of this Act is to assist in improving the system for the delivery of health care through encouragement of and support for the planning, development, and initial operation of health maintenance organizations, supplemental health maintenance organizations, health service organizations, and area health education and service centers, particularly with the intent of improving the health of populations in medically underserved areas.

Sec. 3. Nothing in this Act, or any amendment made by this Act, shall be construed to supersede any activity relating to review of the provision of health care services (including review and assessment of quality or quantity of such services or determination of reimbursement therefor) or to the determination of eligibility of any provider, practitioner, agency, or organization to participate under any program established under the Social Security Act.

TITLE I—HEALTH MAINTENANCE ORGANIZATIONS

Sec. 101. The Public Health Service Act is amended by inserting after title X the following new title:

"TITLE XI—HEALTH MAINTENANCE ORGANIZATIONS AND HEALTH SERVICE ORGANIZATIONS

"Part A—Support of Health Maintenance Organizations

"definitions

"Sec. 1101. For purposes of this title:

"(1) The term 'health maintenance organization' means an entity which—

"(A) provides as a minimum for all its enrollees (or subscribers) comprehensive health services (as defined in this section) which are uniformly available to all its enrollees (or subscribers) directly through its own staff and supporting resources or through a medical group or groups and such other additional services as may be required through other health delivery entities, for a fixed payment which (i) is to be paid on a periodic basis without regard to the frequency, extent, or kind of health service actually furnished to any particular enrollee; and (ii) is uniform for all its enrollees subject to rules and regulations regarding family rates;

"(B) demonstrates to the satisfaction of the Secretary ability to assure that appropriate comprehensive health services are available and accessible to all its enrollees promptly and in a manner which assures continuity;

"(C) demonstrates to the satisfaction of the Secretary financial responsibility through proof of adequate provision against the risk of insolvency;

"(D) is organized in such a manner (as prescribed by regulations of the Secretary) that assures its enrollees a substantial role (generally defined as one-third representation in the body establishing or recommending policy) in the making of policy for the health maintenance organization, with equitable representation of enrollees from medically underserved areas, and provides meaningful procedures for hearing and resolving grievances (i) between its enrollees and the health maintenance organization (including the medical group or groups and other health delivery entities providing health services), and (ii) between the medical group or groups providing health services and other employees and the health maintenance organization;

"(E) encourages and actively provides for its enrollees (i) health education services, and (ii) education in the appropriate use of health services provided; and (iii) education in the contribution the patient can make to the maintenance of his own health;

"(F) has organizational arrangements, established in accordance with regulations of the Commission on Quality Health Care Assurance (established under title XII of this Act) for an ongoing quality assurance program which stresses health outcomes and assures that health services provided meet the requirements of the Commission on Quality Health Care Assurance;

"(G) provides, in accordance with regulations of the Secretary (including safeguards concerning the confidentiality of the doctor-patient relationship), an effective procedure for developing, compiling, evaluating, and reporting to the Secretary, data (which the Secretary shall publish and disseminate on an annual basis) relating to (i) the cost of its operations, (ii) the patterns of utilization of its services, (iii) the availability, accessibility, and acceptability of its services, and (iv) such other matters as the Secretary may require and disclose at least annually and in a manner acceptable to the Secretary, such data to its enrollees and to the general public;

"(H) except for (i) out of area emergency care, and (ii) care reasonably valued in excess of the first $5,000 per enrollee per year, assumes direct financial responsibility, without benefit of insurance, on a prospective basis for the provision of the comprehensive health services defined in this section;

"(I) has an open enrollment period unless a waiver has been granted under section 1149, of not less than thirty days at least once during each consecutive twelve-month period during which it accepts individuals in the order in which they apply for enrollment up to its capacity, subject to the requirements of paragraph (K);

"(J) assumes responsibility for the provision of health care services to its enrollees (and on a reimbursable basis for short-term health care services to enrollees of any other health maintenance or health service organization who are temporarily outside the service area of the health maintenance, supplemental health maintenance, or health service organization in which they are enrolled) twenty-four hours a day, seven days a week, and for the appropriate availability of such services in emergencies;

"(K) shall enroll no more than 50 per centum of its enrollees from medically underserved areas, except in rural areas as designated by the Secretary;

"(L) provides, or makes arrangements for continuing education for its staff;

"(M) emphasizes the use of nurse practitioners, physicians' assistants, dental therapists and other allied health personnel and to the extent practicable and consistent with good medical practice, trains and employs such personnel in the rendering of services;

"(N) provides to its enrollees as an option, for an additional premium, extended care facility services and dental services;

"(O) may purchase on a fee-for-service basis unusual or infrequently used health care services for its enrollees;

"(P) does not refuse enrollment to or expel an enrollee for any reason concerning his health status or requirements for the provision of health services;

"(Q) provides for the prevention, diagnosis, and medical and psychological treatment of the abuse of or addiction to alcohol and drugs either through its own facilities or existing community facilities; and

"(R) meets such other criteria for its organization and operations as the Secretary may by regulation prescribe, consistent with the provision of this title.

"(2) The term 'comprehensive health services' means health services provided without limitation as to time or cost as follows—

"(A) physician services (including consultant and referral services);

"(B) inpatient and outpatient hospital services;

"(C) home health services;

"(D) diagnostic laboratory, and diagnostic and therapeutic radiologic services;

"(E) preventive health (including but not limited to voluntary family planning, infertility services, and preventive dental care for children) and early disease detection services;

"(F) emergency health services rendered by any provider of health care, the expense of which shall be borne by the enrollee's health maintenance, supplemental health maintenance, or health service organization;

"(G) provision of or payment for prescription drugs (with patterns of patient drug utilization under continuous surveillance, evaluation, and review by a clinical pharmacist whose duties shall include the maintenance of a drug use profile for each enrollee);

"(H) medical social services;

"(I) vision care (except for eyeglasses which shall be optional) as provided by a physician skilled in the diagnosis and treatment of diseases of the eye, or by an optometrist provided such services are within the scope of his license;

"(J) physical medicine and rehabilitative services (including physical therapy);

"(K) mental health services utilizing existing community mental health centers on a priority basis;

"(L) preventive diagnostic and medical and psychological treatment of the abuse of or addiction to alcohol and drugs; and

"(M) such other personal health services as the Secretary may determine are necessary to insure the protection, maintenance and support of human health.

"(3) The term 'medical group' means a partnership or other association or group of health professionals of whom not less than four and at least a majority shall be persons who are licensed to practice medicine or osteopathy, and such other licensed health professionals as are necessary to provide comprehensive health services and who are eligible for assistance under this Act, in conformance with requirements promulgated under section 1202, in a State and who (A) as their principal professional activity engage in the coordinated practice of their profession as a group responsibility providing services to health maintenance or health service organization enrollees; (B) if not employees or retainees of a health maintenance organization, or health service organization, pool their income from practice as members of the group and distribute it among themselves according to a prearranged salary or drawing account plan; (C) jointly use or share medical and other records, and substantial portions of major equipment and professional, technical, and administrative staff; (D) share or jointly utilize such additional health and allied health professionals who may include but are not limited to psychologists and other mental health workers, optometrists, pharmacists, podiatrists, dental therapists, physicians' assistants, nurse practitioners and nurse midwives, as are needed to provide comprehensive health services; and (E) arrange for and encourage the continuing education of their members in the field of clinical medicine and related areas.

"(4) The term 'enrollee' when used in connection with a health maintenance organization, supplemental health maintenance organization (as defined in part B), or health service organization (as defined in part C) means an individual who has entered into a contractual arrangement, or on whose behalf a contractual arrangement has been entered into, with a health maintenance organization or a health service organization under which such organization assumes the responsibility for the provision of health services to such individual.

"(5) The term 'medically underserved area' means an urban or rural area or population group designated by the Secretary as an area or population group with a shortage of personal health services. Such a designation may be made by the Secretary only after consideration of the comments, if any, of (A) each State comprehensive health planning agency designated pursuant to section 314(a) of this Act, covering, in whole or in part, such area, (B) each areawide comprehensive health planning agency designated pursuant to section 314(b) of this Act, covering, in whole or in part, such area, and (C) regional medical programs established pursuant to title IX of this Act, covering, in whole or in part, such area.

"(6) The terms 'construction' and 'cost of construction' include (A) the construction of new buildings, and the acquisition, expansion, remodeling, replacement, and alteration of existing buildings, including architects' fees, and acquisition of land, and (B) equipping new buildings and existing buildings, whether or not acquired, expanded, remodeled, or altered with assistance under this title.

"(7) The term 'university health center' means a health care institution which is owned and operated by an accredited university or college of medicine or which has a written affiliation arrangement with an accredited university or college of medicine for the purpose of educating undergraduate medical students.

"(8) The term 'area health education and service center' means a hospital, educational facility, or other public or private nonprofit entity affiliated with a university health center for the purpose of providing clinical training (stressing cooperative interdisciplinary training in the use of the team approach to the provision of health care services) in a nonmetropolitan area (other than an area presently served by a university health center) which—

"(A) has an agreement with a health maintenance organization or health service organization (if such an organization exists within the geographical area served by such center) to provide education services to, and health care services through such organization;

"(B) has an agreement with other providers of health care to provide education services to, and health care services through such center; and

"(C) provides, to all health professionals belonging to disciplines eligible for assistance under this Act in the geographic area which it serves, equal opportunity to use its facilities and programs.

"(9) The term 'non-metropolitan area' means an area no part of which is within an area designated as a standard metropolitan statistical area by the Office of Management and Budget, and does not contain a city whose population exceeds fifty thousand persons.

"(10) The term 'non-profit provider group' means an incorporated body of health providers (including physicians, administrators, nurses, and paraprofessionals who qualify under the Public Health Service Act) that is regional in scope.

"(11) The term 'high-risk enrollee' means a person who is likely to utilize the services of a provider of health care more often than an actuarily determined average.

"GRANTS FOR PLANNING AND FEASIBILITY STUDIES

"SEC. 1102. (a) The Secretary may make grants, subject to the general provisions of this title, to public or private nonprofit agencies, organizations, or institutions to assist in projects for planning or studying the feasibility of developing or expanding health maintenance organizations. No project may receive more than $250,000 in grants under this section. Funds awarded under such grants shall be available for expenditure by the grantee for such period (not to exceed two years from the date of award) designated by the Secretary.

"(b) In making grants under this section the Secretary shall give priority to those applicants who give assurances that at least 30 per centum of their total enrollment shall be persons from medically underserved areas.

"(c) There are authorized to be appropriated to carry out the provisions of this section $25,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"GRANTS FOR INITIAL DEVELOPMENT COSTS

"SEC. 1103. (a) The Secretary may make grants, subject to the general provisions of this title, to any public or private nonprofit agencies, organizations, or institutions, to assist them in meeting the costs involved in a project for the initial development of a health maintenance organization prior to its first day of operation. No project may receive more than $1,000,000 in grants under this section.

"(b) Sums awarded under such grant shall be available for expenditure by the grantee for not more than three years, and shall be utilized for such purposes as may be prescribed in regulations of the Secretary, including but not limited to (1) implementation of an enrollment campaign; (2) detailed design of and arrangements for the health services to be provided; (3) development of administrative and internal organizational arrangements, including fiscal control and fund accounting procedures and the development of a capital financing program; (4) recruitment of personnel and the conduct of personnel training activities; and (5) payment of architects' and engineers' fees.

"(c) In making grants under this section the Secretary shall give priority to those applicants who give assurances that at least 30 per centum of their total enrollment shall be persons from medically underserved areas.

"(d) There are authorized to be appropriated to carry out the provisions of this section $50,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"CONSTRUCTION GRANTS

"SEC. 1104. (a) The Secretary may make grants, subject to the general provisions of this title, to assist any public or private nonprofit health maintenance organization or any public or private nonprofit agency, organization, or institution intending to become a health maintenance organization in meeting the cost of construction of facilities or portions of facilities for ambulatory care and capital investment for necessary transportation equipment, to be used by it for the provision of health services to its enrollees. The Secretary shall give special consideration to applications for grants for the acquisition or renovation of existing facilities. Except for exceptional circumstances, in which case up to 90 per centum of the cost of construction (as determined by the Secretary) may be authorized by the Secretary, no grant under this section for any project may exceed 75 per centum of the cost of construction of such project. No project may receive more than $2,500,000 in grants under this section.

"(b) In making grants under this section the Secretary shall give priority to those applicants who give assurances that at least 30 per centum of their total enrollment shall be persons from medically underserved areas.

"(c) There are authorized to be appropriated to carry out the provisions of this section $74,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"GRANTS FOR INITIAL COSTS OF OPERATION

"SEC. 1105. (a) Where the Secretary determines that the applicant has made all reasonable attempts to meet his operating expenses (including loans and loan guarantees), he may make grants to public and private nonprofit health maintenance organizations to assist them in meeting operating deficits during the initial three-year period of their operation.

"(b) Grants under this section shall be made only for the period beginning with the first day of the first month for which such grant is made and ending with the close of three years after such first day; and such grant with respect to any such organization may not exceed 100 per centum of such operating deficit for the first year after such first day; 67 per centum of such first year operating deficit for the second year after such first day; and 33 per centum of such first year operating deficit for the third year after such first day.

"(c) There are authorized to be appropriated to carry out the provisions of this section $59,400,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"CONSTRUCTION LOANS

"SEC. 1106. (a) The Secretary may make loans, subject to the general provisions of this title, to any public or private nonprofit health maintenance organization, or any public or private nonprofit agency, organization, or institution intending to become a health maintenance organization, to assist it in meeting the cost of construction of facilities for ambulatory care and transportation services for the provision of health services to its enrollees. The Secretary shall give special consideration to applications for loans for the acquisition or renovation of existing facilities. No loan under this section for any project may exceed 90 per centum of the cost of construction (as determined by the Secretary) of such project.

"(b) There are authorized to be appropriated to carry out the provisions of this section $74,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years. Sums so appropriated, together with repayments of loans made under this section and any other receipts in connection with the program under this section, shall be placed in and constitute a revolving fund which shall be available to the Secretary without fiscal year limitation for use in making loans and other expenditures in the exercise of his functions under this section.

"LOANS FOR INITIAL COSTS OF OPERATION

"SEC. 1107. (a) The Secretary may make loans, subject to the general provisions of this title, to any public or private nonprofit health maintenance organization to assist it in meeting, for the period prescribed in subsection (b), a portion of its initial operating costs in excess of gross revenues determined under regulations of the Secretary.

"(b) Loans under this section for initial costs of operation may be made only for the period beginning with the first day of the first month for which such a loan is made and ending with the close of three years after such first day; and such loans with respect to any project may not exceed 60 per centum of such costs of operation, for the first year after such first day; 40 per centum of such costs for the second year after such first day; and 20 per centum of such costs for the third year after such first day.

"(c) There are authorized to be appropriated to carry out the provisions of this section $59,400,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years. Sums so appropriated, together with repayments of loans made under this section and any other receipts in connection with the program under this section, shall be placed in and constitute a revolving fund which shall be available to the Secretary without fiscal year limitation for use in making loans and other expenditures in the exercise of his functions under this section.

"PART B—SUPPLEMENTAL HEALTH MAINTENANCE ORGANIZATIONS

"SUPPLEMENTAL HEALTH MAINTENANCE ORGANIZATIONS

"SEC. 1108. The Secretary may make grants and loans to supplemental health maintenance organizations (as defined in section 1109) from funds appropriated pursuant to authorizations under part A of this Act for the purposes described in part A in amounts not to exceed 17.5 per centum of the amounts appropriated under such part. Such grants and loans shall be for the same purposes, and subject to the same conditions and limitations as are applicable in the case of grants and loans to health maintenance organizations (as defined in section 1101).

"DEFINITIONS

"SEC. 1109. For the purposes of this part and part E—

"(1) The term 'supplemental health maintenance organization' means a public or private organization which—

"(A) provides, either directly or through arrangements with others, health services to individuals enrolled with such organization on a per capita prepayment basis;

"(B) provides, either directly, or through arrangements with others and through institutions, entities, and persons meeting the applicable requirements of section 1861 of the Social Security Act, all those health services which a defined population might reasonably require in order to be maintained in good health, including as a minimum emergency care, inpatient hospital and physician care, ambulatory physician care, and outpatient preventive medical services;

"(C) provides physicians' services (i) directly through physicians who are either employees or partners of such organization, or (ii) under arrangements with one or more groups of physicians (organized on a group practice or individual practice basis) under which each such group is reimbursed for its services primarily on the basis of an aggregate fixed sum or on a per capita basis, regardless of whether the individual physician members of any such group are paid on a fee-for-service or other basis;

"(D) demonstrates to the satisfaction of the Secretary proof of financial responsibility and proof of capability to provide comprehensive health care services, including institutional services, efficiently, effectively, and economically and in a manner which assures continuity;

"(E) has arrangements for assuring that the health services required by its members are received promptly and appropriately and that the services which are received meet quality standards which it establishes in accordance with regulations of the Commission on Quality Health Care Assurance; and

"(F) is organized in such a manner as to emphasize local initiative and consumer and community involvement in the planning, development, and operation of such supplemental health maintenance organization and seek to insure prompt response to local initiative."

TITLE II—SUPPORT OF HEALTH SERVICE ORGANIZATIONS

STATEMENT OF PURPOSE

SEC. 201. It is the purpose of this title to assist in the establishment of health service organizations primarily directed at defined rural population groups which are characterized by a lack of medical care services.

AMENDMENT TO PUBLIC HEALTH SERVICE ACT

SEC. 202. The Public Health Service Act, as amended by this Act, is further amended by inserting after part B of title XI the following new part:

"PART C—HEALTH SERVICE ORGANIZATIONS

"DEFINITIONS

"SEC. 1120. For the purpose of this part the term—

"(1) 'health service organization' means an entity operating in a rural or nonmetropolitan area which—

"(A) provides as a minimum for all its enrollees, indirectly or directly through its own staff and supporting resources or through a medical group or groups, comprehensive health services, to the extent the Secretary determines such organization is able, which are uniformly available to all its enrollees, and such additional services as may be required through other health delivery entities, for a fixed payment which—

"(i) is to be paid on a periodic basis without regard to the frequency, extent, or kind of health service actually furnished to any particular enrollee; and

"(ii) is uniform for all its enrollees, subject to rules and regulations regarding family rates;

"(B) demonstrates to the satisfaction of the Secretary ability to assure that appropriate health services are available and accessible to all its enrollees promptly in a manner which assures continuity;

"(C) has a written agreement with an area health education and service center for the use of the educational and service facilities and programs of such center, if such a center is located in the geographic area served by such health service organization;

"(D) provides, to the extent the Secretary determines such health service organization is able, continuing education for its staff;

"(E) demonstrates to the satisfaction of the Secretary financial responsibility through proof of adequate provision against the risk of insolvency;

"(F) is organized in such a manner (as prescribed by regulations of the Secretary) that assures its enrollees a substantial role (generally defined as one-third representation in the body establishing or recommending policy) in the making of policy for the health service organization and provides meaningful procedures for hearing and resolving grievances (i) between its enrollees and the health service organization (including the medical group or groups and other health delivery entities providing health services) and (ii) between the medical group or groups providing health services and other employees of the health service organization;

"(G) encourages and actively provides for its enrollees (i) health education services, (ii) education in the appropriate use of the health services provided, and (iii) education in the contribution the patient can make to the maintenance of his own health;

"(H) has organization arrangements established in accordance with regulations of the Commission on Quality Health Care Assurance for an on-going quality assurance program which stresses health outcomes, and assures that health services provided meet quality standards established in accordance with requirements of the Commission on Quality Health Care Assurance;

"(I) provides in accordance with regulations of the Secretary an effective procedure for developing, compiling, evaluating, and reporting to the Secretary, data (which the Secretary shall publish and disseminate on an annual basis) relating to (i) the cost of its operation, (ii) the patterns of utilization of its services, (iii) the availability, accessibility, and acceptability of its services, and (iv) such other matters as the Secretary may require and discloses at least annually in a manner acceptable to the Secretary such data to its enrollees and to the general public;

"(J) except for (i) out-of-area emergency services; and (ii) care reasonably valued in excess of the first $5,000 per enrollee, per year assumes direct financial responsibility without benefit of insurance, on a prospective basis for the provision of comprehensive health services as defined in section 1101(2);

"(K) has an open enrollment period unless a waiver has been granted under section 1149, of not less than thirty days at least once during each consecutive twelve-month period during which it accepts individuals in the order in which they apply for enrollment up to its capacity;

"(L) assumes responsibility for health care services to its enrollees (and on a reimbursable basis for short-term health care services to enrollees of any other health maintenance, supplemental health maintenance, or health service organization who are temporarily outside the service area of the health maintenance or health service organization in which they are enrolled) twenty-four hours a day, seven days a week and for the appropriate availability of such services in emergencies;

"(M) does not refuse enrollment to or expel an enrollee for any reason concerning his health status or requirements for the provisions of health services;

"(N) emphasizes the use of physicians' assistants, dental therapists, nurse practitioners, and other allied health personnel, and to the extent practicable and consistent with good medical practice, trains, and employs such personnel in the rendering of services; and

"(O) meets such other criteria including plans for providing full comprehensive health services at a future date where the Secretary has determined such an organization was not able to provide such health services under paragraph (A), for its organization and operations as the Secretary may by regulation prescribe, consistent with the provisions of this title.

"GRANTS FOR PLANNING AND FEASIBILITY STUDIES

"SEC. 1121. (a) The Secretary may make grants subject to the general provisions of this title to public or private nonprofit agencies, organizations, or institutions to assist in meeting the costs of projects for planning or studying the feasibility of developing or expanding a health service organization. No project may receive more than $250,000 in grants under this section. Funds awarded under such grants shall be available for expenditure by the grantee for such period, not to exceed two years from the date of the award, designated by the Secretary.

"(b) There are authorized to be appropriated to carry out the provisions of this section $10,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"GRANTS FOR INITIAL DEVELOPMENT COSTS

"SEC. 1122. (a) The Secretary may make grants, subject to the general provisions of this title, to any public or private nonprofit entity to assist it in meeting the costs involved in a project for the initial development of a health service organization prior to its first day of operation. No project may receive more than $1,000,000 in grants under this section.

"(b) Sums awarded under such grant shall be available for expenditure by the grantee for not more than three years and shall be utilized for such purposes as may be prescribed in regulations of the Secretary including but not restricted to (1) implementation of an enrollment campaign, (2) detailed design of an arrangement for the health services to be provided, (3) development of administrative and internal organizational arrangements including fiscal control and fund accounting procedures and the development of a capital financing program, (4) recruitment of personnel and the conduct of personnel training activities, and (5) payment of architects' and engineers' fees.

"(c) There are authorized to be appropriated to carry out the provisions of this section $20,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"CONSTRUCTION GRANTS

"SEC. 1123. (a) (1) The Secretary may make grants subject to the general provisions of this title to assist any public or private nonprofit health service organization in meeting the cost of construction of facilities or portions thereof for ambulatory care and capital investment for necessary transportation and communication equipment to be used by it for the provision of health services to its enrollees. The Secretary shall give special consideration to applications for grants for the acquisition or renovation of existing facilities. Except for exceptional circumstances in which costs up to 90 per centum of the cost of construction may be authorized by the Secretary, no grant under this section for any project may exceed 75 per centum of the cost of construction on such project. No project may receive more than $2,500,000 in grants under this section.

"(b) There are authorized to be appropriated to carry out the provisions of this section $25,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"GRANTS FOR INITIAL COST OF OPERATION

"SEC. 1124. (a) Where the Secretary determines that the applicant has made all reasonable attempts to meet his operating expenses (including loans and loan guarantees), he may make grants to public or private nonprofit health service organizations to assist them in meeting operating deficits during the initial three-year period of their operation.

"(b) Grants under this section shall be

made only for the period beginning with the first day of the first month for which such grant is made and ending with the close of three years after such first day and such grant with respect to any such organization may not exceed 100 per centum of such operating deficit for the first year after such first day; 67 per centum of such first year operating deficit for the second year after such first day; and 33 per centum of such first year operating deficit for the third year after such first day.

"(c) There are authorized to be appropriated to carry out the provisions of this section $20,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years.

"CONSTRUCTION LOANS

"SEC. 1125. (a) The Secretary may make loans subject to the general provisions of this title to any public or private nonprofit health service organization or any public or private nonprofit agency, organization, or institution intending to become a health service organization to assist it in meeting the cost of construction and facilities for ambulatory care and transportation and communication services for the provision of health services to its enrollees. The Secretary shall give special consideration to applications for loans for the acquisition or renovation of existing facilities. No loan under this section for any project may exceed 90 per centum of the cost of construction of such project.

"(b) There are authorized to be appropriated to carry out the provisions of this section $25,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years. Sums so appropriated together with repayments of loans made under this section and any other receipts in connection with the program under this section shall be placed in and constitute a revolving fund which shall be available to the Secretary for use in making loans and other expenditures in the exercise of his functions under this section.

"LOANS FOR INITIAL COST OF OPERATION

"SEC. 1126. (a) The Secretary may make loans subject to the general provisions of this title to any public or private nonprofit health service organization to assist it in meeting, for the period prescribed in subsection (b), a portion of its initial operating costs in excess of gross revenues determined under regulations of the Secretary.

"(b) Loans under this section may be made only for the period beginning with the first day of the first month for which such a loan is made and ending with the close of three years after such first day and such loans with respect to any project may not exceed 60 per centum of such initial operating costs for the first year after such first day; 40 per centum of such initial operating costs for the second year after such first day and 20 per centum of such initial operating costs for the third year after such first day.

"(c) There are authorized to be appropriated to carry out the provisions of this section $20,000,000 for the fiscal year ending June 30, 1973, and for each of the next two succeeding fiscal years. Sums so appropriated together with repayemnt of loans made under this section and any other receipts in connection with the programs under this section shall be placed in and constitute a revolving fund which shall be available to the Secretary for use in making loans and other expenditures in the exercise of his functions under this section."

TITLE III—AREA HEALTH EDUCATION AND SERVICE CENTERS AND GENERAL REQUIREMENTS

SEC. 301. The Public Health Service Act, as amended by this Act, is further amended by inserting after part C of title XI the following new parts:

"PART D—GRANTS TO ASSIST AREA HEALTH EDUCATION AND SERVICE CENTERS

"STATEMENT OF PURPOSE

"SEC. 1130. It is the purpose of this part to—

"(1) promote cooperative arrangements between area health education and service centers and health service organizations;

"(2) provide for and encourage, the continuing education of providers of health care services in a designated area and stressing cooperative interdisciplinary training in the use of the team approach to the provision of health services;

"(3) provide for and encourage clinical experience in a nonmetropolitan setting for students from university health centers; and

"(4) encourage the utilization of regional medical programs where such programs exist.

"GRANTS FOR COSTS OF DEVELOPMENT

"SEC. 1131. (a) The Secretary is authorized to make grants to university health centers, regional medical programs, or nonprofit provider groups to assist in meeting the costs involved in the development of area health education and service centers.

"(b) Funds awarded under such grants shall be available for expenditure by the grantee for a maximum of three years and shall be utilized for such purposes as may be prescribed in regulation by the Secretary, including but not limited to: (1) detailed design of and arrangements for education, health and medical services, and integration with the institution's research and educational programs; (2) development of administrative and internal and organizational arrangements, including fiscal control and fund accounting procedures and the development of a capital financing program; and (3) recruitment of personnel and conduct of personnel training activity.

"(c) There are authorized to be appropriated to carry out the provisions of this section $25,000,000 for the fiscal year ending June 30, 1973; $50,000,000 for the fiscal year ending June 30, 1974; and $75,000,000 for the fiscal year ending June 30, 1975.

"CONSTRUCTION OF FACILITIES

"SEC. 1132. (a) The Secretary is authorized to make grants to university health centers, regional medical programs, or nonprofit provider groups to assist them in the construction and equipment of educational facilities in conjunction with the development of area health education and service centers. An award under this authority shall be made only after the Secretary has determined that assistance for the construction proposed has been sought and is not available under titles I and II of the Medical Facilities Construction and Modernization Amendments of 1970 and title IX of the National Housing Act.

"(b) There are authorized to be appropriated to carry out the provisions of this section $10,000,000 for the fiscal year ending June 30, 1973; $20,000,000 for the fiscal year ending June 30, 1974; and $25,000,000 for the fiscal year ending June 30, 1975.

"PART E—GENERAL PROVISIONS

"GRANTS AND LOANS

"SEC. 1140. (a) Any loan by the Secretary shall bear interest at a rate comparable to the current legal rate of interest prevailing with respect to loans which are guaranteed under section 1141. No payment of principal on a loan shall be required for the first five years after such loan is made.

"(b) No such loan shall be made unless—

"(1) the Secretary is reasonably satisfied that the applicant therefor will be able to make payments of principal and interest thereon when due, and

"(2) the applicant provides the Secretary with reasonable assurances that there will be available to it such additional funds as may be necessary to complete the project with respect to which such loan is requested.

"(c) Any such loan shall have such security, have such maturity date, be repayable in such installments, and be subject to such other terms and conditions (including provisions for recovery in case of default) as the Secretary determines to be necessary to carry out the purposes of this title while adequately protecting the financial interests of the United States.

"(d) No such loan shall have a term in excess of fifteen years.

"(e) The Secretary may, for good cause, waive any right of recovery which he has by reason of the failure of a public organization to make payment and interest on a loan under this section.

"LOAN GUARANTEES AND INTERESTS SUBSIDIES

"SEC. 1141. (a) In order to assist (1) private health maintenance organizations and health service organizations (or entities intending to become either), to carry out construction projects for ambulatory care facilities and transportation services and in the case of health service organizations communication services to be used by it for the provision of health services to its enrollees, or to meet their initial development costs (for not more than three years) or to meet their costs of operation (for not more than three years), (2) assist university health centers, regional medical programs, and other non-profit provider groups in the development of area health education and service centers, and to provide working capital for the operation of such area health education and service centers as well as to subsidize the difference between income and operating expenditures, the Secretary, during the period beginning January 1, 1973, and ending with the close of June 30, 1975, may, in accordance with the provisions of this section, and subject to the general provisions of this Act (A) guarantee to non-Federal lenders making loans to such organizations for such purposes, payment of principal of and interest on such loans which are approved under this section, and (B) in the case of nonprofit health maintenance or health service organizations, pay to the holder of such loans (and for and on behalf of the organization which received such loan) amounts sufficient (not to exceed 3 per centum per annum) to reduce the net effective interest rate otherwise payable on such loan. No loan guarantee or interest subsidy under this section may, except under such special circumstances and under such conditions as are prescribed by regulations, apply to or be made for an amount which, when added to any grant or other loan under this or any other law of the United States, is—

"(i) with respect to any construction, in excess of 90 per centum of the cost of such construction,

"(ii) with respect to initial development costs, in excess of 90 per centum of such costs, or

"(iii) with respect to initial operating costs, in excess of 90 per centum of such costs.

No such loan guarantee may apply to more than 90 per centum of the loss of principal and interest on the loan.

"(b) The Secretary may not approve the application of a health maintenance organization, supplemental health maintenance organization, health service organization, university health center, regional medical program, or other non-profit provider unless—

"(1) he determines, in the case of a loan for which a guarantee or an interest subsidy payment is sought, that the terms, conditions, maturity, security (if any), and schedule and amounts of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulations, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States;

"(2) the term of a loan for which a guarantee and interest subsidy is sought does not exceed twenty-five years if for construction, or fifteen years if for operating costs, or such shorter period as the Secretary prescribes; and

"(3) he obtains assurances that the applicant will keep such records, and afford such access thereto, and make such reports, in such form and containing such information, as the Secretary may reasonably require.

"(c) Guarantees of loans and interest subsidy payments under this section shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this section will be achieved, and, to the extent permitted by subsection (e), any of such terms and conditions may be modified by the Secretary to the extent he determines it to be consistent with the financial interests of the United States.

"(d) In the case of any loan guaranteed under this section, the United States shall be entitled to recover from the applicant the amount of any payments made pursuant to such guarantee unless the Secretary, for good cause, waives his right of recovery, and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

"(e) Any guarantee of a loan under this section shall be incontestable in the hands of an applicant on whose behalf such guarantee is made, and as to any person who makes or contracts to make a loan to such applicant in reliance thereon, except for fraud or misrepresentation on the part of such applicant or such other person.

"(f) (1) There is established in the Treasury a Health Maintenance Organization, Health Service Organization and Area Health Education and Service Center Loan Guarantee and Interest Subsidy Fund (hereafter in this section referred to as the 'fund') which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts (A) to enable him to discharge his responsibilities under guarantees issued by him under this title, and (B) for interest subsidy payments authorized by this title. There are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required by the fund. To the extent authorized from time to time in appropriation Acts there shall be deposited in the fund amounts received by the Secretary as interest payments or repayments of principal on loans and any other moneys, property, or assets derived by him from his operations under this title, including any moneys derived from the sale of assets.

"(2) If at any time the moneys in the fund are insufficient to enable the Secretary to discharge his responsibilities under this title to meet the obligations under guarantees of loans under subsection (a) or to make interest subsidy payments on such loans, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from such fund.

"(g) (1) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under this section may not exceed such limitations as may be specified in appropriation Acts.

"(2) In any fiscal year no loan guarantee or agreements to make interest subsidy payments may be entered into under this title if the making of such guarantee or the entering into of such agreement would cause the cumulative total of—

"(A) the principal of the loans guaranteed under this title in such fiscal year, and

"(B) the principal of the loans for which no guarantee has been made under this title and with respect to which an agreement to make interest subsidy payments is entered into under this title in such fiscal year, to exceed the amount of grant funds obligated under this Act in such fiscal year; except that this paragraph shall not apply if the amount of grant funds obligated under this title in such fiscal year equals the sums appropriated for such fiscal year under this title.

"APPLICATION REQUIREMENTS

"SEC. 1142. (a) No grant, contract, loan, loan guarantee, or interest subsidy may be made under this title unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, consistent with subsection (b) (1), as the Secretary shall by regulation prescribe.

"(b) (1) An application for a grant, loan, loan guarantee, or interest subsidy under this title shall include to such extent, in such manner and among such other matters as the Secretary may by regulation prescribe, satisfactory specification of the existing or anticipated (A) population group or groups to be served by the existing or proposed health maintenance organization, supplemental health maintenance organization, or health service organization described in the application, (B) enrollment for such organization, (C) methods, terms, and periods for the enrollment of enrollees, (D) nature and estimated costs per enrollee of the health care and educational services to be provided, (E) sources of professional services, and organizational arrangements for providing health care and educational services, (F) organizational arrangements for an ongoing quality assurance program in conformance with the requirements of the Commission on Quality Health Care Assurance, (G) sources of prepayment and other forms of payment for the services to be provided, (H) facilities available for and additional capital investments and sources of financing therefor, required to provide the level and scope of services proposed, (I) administrative, managerial, and financial arrangements and capabilities of such organization, (J) role for enrollees in the planning and policymaking for such organization, (K) grievance procedures for enrollees, staff, and employees, and (L) evaluation or evaluations of the support for and acceptance of such organization by the population to be served, the sources of operating support, and the professional groups to be involved or who would be affected thereby. An organization making multiple applications for assistance under this title simultaneously or over the course of time shall not be required to submit duplicate or redundant information but shall be required to update the description of the existing or proposed organization in such manner and with such frequency as the Secretary may by regulation prescribe.

"(2) Upon completion of assistance under this title, the recipient of assistance shall make a full and complete report to the Secretary, in such manner as he may by regulation prescribe. Each such report shall include, among such other matters as the Secretary may by regulation prescribe, descriptions of plans, developments, and operations in those areas enumerated in paragraph (1) for specification in applications for assistance.

"(c) A health maintenance organization, supplemental health maintenance organization, health service organization, other nonprofit providers, regional medical programs or university health center receiving assistance under this title shall submit to the Secretary as a condition of its continued assistance, satisfactory assurances, in accordance with such regulations as the Secretary shall prescribe, including but not limited to the following: (1) financial responsibility, and (2) development and operation consistent with the terms of this title and the plans contained in such organization's application or applications for assistance.

"(d) (1) An application for a grant or for a loan, loan guarantee, or interest subsidy under this title shall contain assurances satisfactory to the Secretary that the applicant will, in accordance with such criteria as the Secretary shall by regulation prescribe, enroll the maximum number of persons that its available and potential resources (as determined under regulations of the Secretary) will enable it to effiectively serve; except that the applicant shall enroll no more than 50 per centum of its enrollees from medically underserved areas except in rural areas as designated by the Secretary.

"(2) No grant may be made and no loan, loan guarantee, or interest subsidy payment may be made under this title unless the applicant demonstrates to the satisfaction of the Secretary that the applicant will or has enrolled, and will maintain an enrollment of, the maximum number of persons that its available and potential resources (as determined under regulations of the Secretary) will enable it to effectively serve, except that the applicant shall enroll no more than 50 per centum of its enrollees from medically underserved areas except in rural areas as designated by the Secretary.

"(e) The Secretary shall have the authority after a hearing on the record to terminate or cancel any grant, loan, loan guarantee, or interest subsidy to any recipient of assistance under this title which it determines is in substantial noncompliance with any material provision of this title or after notice from the Commission on Quality Health Care Assurance that such organization has had its certificate of compliance suspended or revoked.

"(f) Effective two years after the date of enactment of this Act, no assistance shall be given under this Act or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, to a provider of health care unless such provider holds a valid certificate of compliance under section 1202.

"EFFECT ON STATE LAW

"SEC. 1143. (a) Notwithstanding any provisions of State law which—

"(1) require approval of a health maintenance organization, supplemental health maintenance organization or health service organization by a medical society;

"(2) require that physicians constitute all or a majority of the governing body of a health maintenance organization, supplemental health maintenance organization, or health service organization;

"(3) require that all physicians or a percentage of physicians in the local medical society be permitted to participate in rendering the services of the organization;

"(4) require that such organization submit to regulations as an insurer of health care services;

"(5) require that only unincorporated individuals or associations or partnerships may provide health care services;

"(6) prohibit advertising by a professional group for recruitment of enrollees; or

"(7) impose requirements or restrictions on a health maintenance organization, supplemental health maintenance organization, or health service organization in a manner, determined by the Secretary, to be incompatible with this title,

a health maintenance organization, a supplemental health maintenance organization, a health service organiaztion (as defined in this title), or other providers of health care receiving Quality Health Care Initiative Awards under this title, who otherwise conform with the laws for incorporation and laws for licensing of physicians, osteopaths, and dentists in such State shall be allowed to provide health care services in such State in accordance with the provisions of this title.

"QUALITY HEALTH CARE INITIATIVE AWARDS

"SEC. 1144. (a) Every provider of health care which is certified by the Commission on Quality Health Care Assurance as maintaining quality control standards in compliance with the requirements set by the Commission on Quality Health Care Assurance shall be entitled to an annual payment in an amount equal to 2 per centum of the gross revenues of such provider attributable to the delivery of health care services in order to defray expenses associated with such compliance. Any provider of health care, whether or not subject to the provisions of this Act, may apply to the Commission for certification of compliance under section 1202.

"(b) There are authorized to be appropriated to carry out the provisions of this section $100,000,000 for the fiscal year ending June 30, 1973; $300,000,000 for the fiscal year ending June 30, 1974; and $500,000,000 for the fiscal year ending June 30, 1975.

"CAPITATION GRANTS TO ENABLE HEALTH MAINTENANCE ORGANIZATIONS, SUPPLEMENTAL HEALTH MAINTENANCE ORGANIZATIONS, AND HEALTH SERVICE ORGANIZATIONS TO SERVE ALL PERSONS

"SEC. 1145. (a)(1) The Secretary shall make annual grants to health maintenance organizations, supplemental health maintenance organizations, or health service organizations, serving persons who cannot meet the expenses of such organizations' premiums (excluding additional premiums for high option services). The amount of such annual grants shall be equal to the difference between the maximum amount (as determined by the Secretary) an enrollee could reasonably be expected to pay toward the health maintenance, supplemental health maintenance or health service organization premium and the premium for membership enrollment in such health maintenance, supplemental health maintenance or health service organization for each such person enrolled.

"(2) In determining the amount an enrollee could pay toward the premium, the Secretary shall consider all sources (including public sources) of income available to each such enrollee.

"(3) Grants under this section shall not exceed 25 per centum of the total premium receipts for such health maintenance, supplemental health maintenance or health service organization for the next preceding year.

"(4) There are authorized to be appropriated to carry out the provisions of this section $150,000,000 for the fiscal year ending June 30, 1973; $375,000,000 for the fiscal year ending June 30, 1974; and $700,000,000 for the fiscal year ending June 30, 1975.

"(b)(1) Where a health maintenance, supplemental health maintenance, or health service organization proposes an increase in its premium rate and the Secretary determines that such increase is due in whole or in part to fulfillment of the requirement for open enrollment, in that such organization has in its enrolled population a disproportionate number of high-risk enrollees, the Secretary shall make annual grants to such organization equal to an amount that would eliminate the need for that part of the proposed premium increase caused by such disproportionate number of high-risk enrollees in such organization.

"(2) There are authorized to be appropriated to carry out the provisions of this section $100,000,000 for the fiscal year ending June 30, 1973; $150,000,000 for the fiscal year ending June 30, 1974; and $350,000,000 for the fiscal year ending June 30, 1975.

"PAYMENT OF GRANTS

"SEC. 1146. The amount of any grant under this title shall be determined by the Secretary. Payments under such grants may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary.

"PROHIBITION ON TRANSFER OF FUNDS

"SEC. 1147. (a) No funds appropriated pursuant to any of the preceding sections of this title shall be available for any purposes other than the purposes of the program authorized by the particular section pursuant to which such funds are appropriated.

"(b) No funds, except those appropriated under this title, shall be used for the purposes of carrying out the provisions of this title.

"(c) Only funds appropriated under titles IX and XI of this Act shall be used to initially develop, construct, and initially operate a health maintenance organization, supplemental health maintenance organization, health service organization, and any other entity that provides, either directly or indirectly through arrangements with others, health care to a defined population on a prepaid basis.

"LABOR STANDARDS

"SEC. 1148. All laborers and mechanics employed by contractors or subcontractors on all construction projects assisted under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934.

"OPEN ENROLLMENT WAIVER

"SEC. 1149. In a case where all appropriated funds are expended under section 1145(b)(2) and where a health maintenance organization, supplemental health maintenance organization, or health service organization demonstrates to the satisfaction of the Secretary that it has a disproportionate share of high-risk enrollees and by maintaining open enrollment it would be required to enroll a nonrepresentative cross section of the community in which it provides services, to the extent that financing is available and people are willing to enroll, and the enrollment of such disproportionate share of high-risk enrollees will jeopardize its economic viability, the Secretary may waive such requirement for open enrollment for a period of not more than three years. A health maintenance, supplemental health maintenance, or health service organization may receive more than one waiver.

"ACCESS TO RECORDS

"SEC. 1150. (a) Each recipient of Federal funds under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such funds, the total cost of the undertaking in connection with which such funds are given or used, the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of Federal funds under this Act.

"PART F—SPECIAL PROJECT GRANTS TO FACILITATE HEALTH SERVICES IN NONMETROPOLITAN AREAS

"SEC. 1160. (a) The Secretary is authorized to make grants to or contracts with any public or nonprofit private entity (which otherwise may not be eligible for grants or assistance under this title) to study, initiate, and evaluate projects for the delivery, or to facilitate the delivery, in nonmetropolitan areas of comprehensive health services on a prepaid basis."

TITLE IV—COMMISSION ON QUALITY HEALTH CARE ASSURANCE

SHORT TITLE

SEC. 401. This title shall be known as the "Commission on Quality Health Care Assurance Act of 1972".

STATEMENT OF PURPOSE

SEC. 402. It is the purpose of this title to promote the quality of health care in the United States by establishing a Commission on Quality Health Care Assurance to develop, establish, and encourage parameters and standards for quality health care.

SEC. 403. The Public Health Service Act, as amended by this Act, is further amended by inserting after title XI the following new title:

"TITLE XII—COMMISSION ON QUALITY HEALTH CARE ASSURANCE

"PART A—COMMISSION ON QUALITY HEALTH CARE ASSURANCE

"ESTABLISHMENT OF COMMISSION

"SEC. 1201. (a) There is hereby established (as an independent agency in the executive branch) a Commission on Quality Health Care Assurance.

"(b) The Commission shall be composed of eleven members to be appointed by the President by and with the advice and consent of the Senate from among individuals who by virtue of their service, experience, or education are especially qualified to serve on the Commission. In making such appointments the President shall appoint individuals who are representative of the health care delivery industry, private organizations engaged in developing health care quality standards which may be applicable on a national basis, and consumers not related to the delivery of health care. The terms of office of each member of the Commission shall be five years except that—

"(1) the members first appointed shall serve, as designated by the President, three for a term of one year, two for a term of two years, two for a term of three years, two for a term of four years, and two for a term of five years;

"(2) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed; and

"(3) a member shall be eligible for reappointment for one additional term.

"(c) The President shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Commission.

"(d) Any vacancy in the Commission shall not affect its powers and six members of the Commission shall constitute a quorum.

"(e) Four members of the Commission shall be consumers not related to the delivery of health care.

"DUTIES OF THE COMMISSION

"SEC. 1202. (a) The Commission shall—

"(1) promulgate standards for qualifications of personnel, composition of medical groups, and other characteristics dealing with the adequacy of facilities and equipment;

"(2) conduct such research and experimental programs as are determined necessary for the development of—

"(A) criteria for new and improved quality assurance systems, and

"(B) norms, with regard to processes, utilization characteristics, and outcomes;

"(3) require and monitor, in accordance with criteria established based upon findings under paragraph (2) quality assurance systems for health maintenance organizations, supplemental health maintenance organizations, health service organizations, and other providers of health care subject to the provisions of this Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 which shall be designed to—

"(A) improve as well as assess the quality of health care;

"(B) evaluate the inputs, processes, utilization characteristics, and outcomes of health care as related to individuals and population groups, and establish relationships between inputs, processes, utilization characteristics, and outcomes;

"(C) concentrate on those illness which have relatively high incidence in the population and which are particularly influenced by medical treatment, rather than on unusual illnesses or conditions whose course is little influenced by therapy;

"(D) improve as well as assess the accessibility, availability, and acceptability of health care provided by health maintenance organizations, supplemental health maintenance organizations, supplemental health maintenance organizations, and health service organizations, or other providers of health care;

"(E) develop procedures for such systems to report through the policymaking body of the health maintenance, supplemental health maintenance, or health service organization (or as appropriate in the case of any other provider of health care) to the membership and to the Commission on Quality Health Care Assurance; and

"(F) take into account the need for inclusion of consumers as well as the several health care disciplines in the decisionmaking membership of the system;

"(4) issue certificates of compliance to providers of health care certifying that such providers maintain an approved quality assurance system and are otherwise conforming with requirements published under this section;

"(5) after a hearing on the record, revoke or suspend such certificate where it determines that such provider has significantly deviated from the standards, approved quality assurance system, or the norms published pursuant to this section unless such deviation is justified to the satisfaction of the Commission;

"(6) monitor reports by health care providers covered by this Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, for the purpose of assuring that the performance of such health care providers is in conformance with the approved quality assurance system and norms published under this section;

"(7) publish objective statistical descriptions of norms accumulated through experience and results of programs conducted under this Act and the Mental Retardation Facilities and Community Mental Health Center Construction Act of 1963;

"(8) conduct a program of research and development which shall have the objectives of—

"(A) improving the technology of assessing the quality of health care with emphasis on the outcomes of health care;

"(B) assessing and comparing the quality of health care provided under different delivery system arrangements;

"(C) analyzing the effects of providing information to consumers and improvement in the methods of information dissemination;

"(D) analyzing the impact of its quality assurance program upon the quality of health care for the American people; and

"(E) coordinating the collection, assimilation, and cataloging of existing information regarding quality health care assurance programs of Federal, State, and local agencies and their relationships with one another, with due regard for the protection of the confidential nature of the doctor-patient relationship;

"(9) collect, summarize, and distribute information regarding the impact of medical services and the health status of the population of the United States;

"(10) provide technical assistance to providers of health care in the development of quality control programs;

"(11) study the levels, costs, and quality of health care under health care programs of the Federal Government;

"(12) administer the reinsurance program established under part B of this title;

"(13) interface with National Institute of Health Care Delivery established under title XIII of this Act;

"(14) analyze the need for standardization of medical record information and facilitate the development of a system of standard medical reference mechanisms;

"(15) prescribe a schedule of reasonable contingent fees for attorneys representing claimants in proceedings under section 1209; and

"(16) annually report to the President and to the Congress on the conduct of activities under this title (including results of studies conducted under paragraph (11)) together with such recommendations for additional legislation as the Commission may determine appropriate.

"(b) In developing quality health care assurance system criteria the Commission's consideration shall include but not be limited to existing State regulations, such standards as are in effect for Federal health agencies, and analysis of the results of the reinsurance program and the results of arbitration procedures under part B of this title.

"ADMINISTRATIVE POWERS

"SEC. 1203. (a) In order to carry out the provisions of this Act the Commission is authorized to—

"(1) appoint and fix the compensation of personnel of the Commission in accordance with the provisions of title 5, United States Code;

"(2) make, promulgate issue, rescind, and amend rules and regulations as may be necessary to carry out the functions vested in the Commission and delegate authority to any officer or employee;

"(3) acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain, research and other necessary facilities and equipment, and related accommodations as may be necessary, and such other real or personal property (including patents) as the Commission deems necessary; to acquire by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Commission for a period not to exceed ten years without regard to the Act of March 3, 1877 (40 U.S.C. 34);

"(4) employ experts and consultants in accordance with section 3109 of title 5, United States Code;

"(5) appoint one or more advisory committees (including a committee for the preparation and analysis of statistics) composed of such private citizens and officials of Federal, State, and local governments as it deems desirable, to advise it with respect to his functions under this Act;

"(6) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, and local public agencies with or without reimbursement therefor;

"(7) accept voluntary and uncompensated services, notwithstanding the provisions of section 665(b) of title 31, United States Code;

"(8) accept unconditional gifts or donations of services, money, or property, real, personal, or mixed, tangible or intangible; and

"(9) take such actions as may be required for the accomplishment of the objectives of the Commission.

"(b) Upon request made by the Commission each Federal agency is authorized and directed to make its services, equipment, personnel, facilities, and information (including suggestions, estimates, and statistics) available to the greatest practicable extent consistent with other laws to the Commission in the performance of its functions with or without reimbursement. Where the Commission determines that such services, equipment, personnel, facilities, and information cannot be made available for utilization in a manner which would enable it to expeditiously perform its duties under this Act, the Commission may establish where necessary the programs necessary to accomplish its tasks.

"(c) Each member of a committee appointed pursuant to paragraph (5) of subsection (a) of this section who is not an officer or employee of the Federal Government shall receive an amount equal to the maximum daily rate prescribed for GS–18 under section 5332 of title 5, United States Code, for each day he is engaged in the actual performance of his duties (including traveltime) as a member of a committee. All members shall be reimbursed for travel, subsistence, and necessary expenses incurred in the performance of their duties.

"(d) The Chairman shall be the chief executive and the administrative officer of the Commission and shall exercise the responsibility of the Commission with respect to—

"(1) the appointment and supervision of personnel employed by the Commission;

"(2) the distribution of jobs among the personnel of the Commission; and

"(3) the use and expenditure of funds.

"COMPENSATION

"SEC. 1204. (a) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"'(59) Chairman, Commission on Quality Health Care Assurance.'

"(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"'(96) Members, Commission on Quality Health Care Assurance (10).

"'(97) General Counsel, Commission on Quality Health Care Assurance.'

"APPLICABILITY OF COMMISSION REQUIREMENTS

"SEC. 1205. (a) Except as provided in subsection (b) the requirements established by the Commission pursuant to section 1202 shall apply to any provider of health care receiving assistance under this Act or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 after the date of enactment of this title.

"(b) Any provider covered under this Act or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, may apply to the Commission for a temporary order granting a variance from any requirement or any provision thereof promulgated under section 1202 of this Act. Such temporary order shall be granted only if the provider files an application which establishes that—

"(1) the provider is unable to comply with a requirement by its effective date because of unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with any requirement or because necessary construction, alteration, or modernization of facilities cannot be completed by its effective date; and

"(2) the provider has an effective program for coming into compliance with any requirement as quickly as possible with adequate interim safeguards for the protection of consumers of health care.

"(c) The Commission is authorized to grant a variance from any of its requirements or portion thereof whenever it determines or the Secretary of Health, Education, and Welfare certifies that such a variance is necessary to permit a provider to participate in a project approved by him designed to validate new and improved techniques of health care delivery systems.

"REPORTS AND MAINTENANCE OF RECORDS

"SEC. 1206. (a) Each provider, covered, under this title, shall make, keep, and preserve, and make available to the Commission and the Secretary of Health, Education, and Welfare, such records regarding activities governed by this title as the Commission, in cooperation with the Secretary of Health, Education, and Welfare, shall prescribe.

"(b) The Commission shall prescribe rules and regulations as may be necessary with regard to inspection of the records and facilities of a provider.

"DISCLOSURE TO CONSUMERS OF HEALTH CARE SERVICES

"SEC. 1207. (a) A description of any health care plan covered by this title shall be published as required herein within ninety days after the establishment of such plan or when such plan becomes subject to this title.

"(b) A description of the plan shall be comprehensive and shall include, in a manner designed to be understood by the average enrolle, the following:

"(1) fees and prices;

"(2) scope of services included in benefit packages;

"(3) accessibility and availability of services including the location of the facilities, equipment available, hours of operation, practitioners by type and location, and amenities;

"(4) the name and type of administration of the plan; and

"(5) a statement of certification by the Commission.

"(d) The Commission shall monitor the provision of information by providers of care as required by this section. In any case in which information is disclosed or disseminated under this title and is subsequently found to be insufficient, inaccurate, or inaccurately disseminated the Commission shall take such action as is necessary to assure a full retraction of the inaccurate information together with a statement of new data in a manner similar to the initial disclosure or dissemination of such information.

"(e) The disclosure must also include procedures to be followed in presenting claims for benefits under the plan and the remedies available under the plan for the redress of claims which are denied in whole or in part.

"(f) Every provider shall furnish a copy of the plan description (including amendments or modification thereto) described in subsection (b), to every enrollee upon his enrollment in the plan, and cause the same to be published, in a manner prescribed by the Commission, to the general public.

"PENALTIES

"SEC. 1208. (a) (1) Whenever the Commission after reasonable notice and opportunity for hearing to the provider finds that the provider has significantly deviated from the approved quality assurance system or is engaged in practices which significantly deviate from national or regional norms as determined by the Commission, the Commission shall notify the provider, and the Secretary of Health, Education, and Welfare that such provider shall be ineligible to participate in assistance under this Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 and that the certificate of approval has been suspended until such time as the provider is found to be in compliance with the requirements established under section 1202. Hearings conducted under this section shall be held, where practicable, in a location convenient to the provider of health care.

"(2) Providers of health care, who have had their certificate suspended for a period, which the Commission determines to be unreasonable, shall have their certificate revoked and shall be liable for the repayment of part or all amounts received under this Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963.

"(3) The Commission is authorized to make arrangements with providers of health care who have had their certificates revoked, for reimbursement of amounts received under this Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, including deferred payments on such terms and for such periods as are deemed equitable and appropriate.

"(b) Any person who knowingly makes any false statement, representation, or certification on any application, record, report, plan or other document filed or required to be maintained pursuant to this Act shall upon conviction be punished by a fine of not more than $10,000 or by imprisonment of not more than six months or by both.

"ARBITRATION

"SEC. 1209. (a) A provider of health care that possesses a valid certificate of compliance issued under section 1202 may enter into a program for the equitable and expeditious handling of malpractice claims which may arise out of care and treatment of patients. Such programs shall be based upon agreements between the patients and the providers of health care to submit all disputes, not settled to the satisfaction of both parties, to binding arbitration in order to gain the benefits of such programs for patients and providers. Records of all such settlements shall be kept by each provider of health care, and submitted to the Commission in such manner as it shall prescribe.

"(b) An agreement to submit to binding arbitration under subsection (a) must be valid in the jurisdiction in which such agreement is made and shall provide for the selection of arbitrators in accordance with rules and regulations promulgated by the Commission. For those providers who shall establish arbitration programs as specified in this section, title 9 of the United States Code shall apply to such arbitration programs if the State or States in which the provider is located has not enacted legislation providing for the finality of arbitration decisions, or for parties to enter into agreements to arbitrate prior to a dispute.

"(c) Written findings of fact and conclusions of law shall be prepared for each arbitration proceeding held under this section. In each case the findings shall be certified by the arbitrator to the Commission. The Commission shall develop a systematic codification of all findings of arbitration proceedings undertaken pursuant to this section and shall publish such findings at least annually or more frequently at the discretion of the Commission. The Commission shall certify all findings of arbitration proceedings undertaken pursuant to this section to all appropriate State or local licensing or disciplinary boards for each such arbitration procedure under the territorial jurisdiction of such board.

"(d) (1) Every attorney who, in connection with any proceedings under this section for personal injuries or for death or for loss of services resulting from personal injury proximately caused by medical malpractice, accepts a retainer or enters into an agreement, express or implied, for compensation for services rendered or to be rendered in such proceedings whereby his compensation is to be dependent or contingent in whole or in part upon the successful prosecution or settlement thereof, shall, within thirty days from the date of any such retainer or agreement of compensation, sign personally and file with the Commission a retainer statement of such retainer or agreement of compensation containing such information as the Commission shall require.

"(2) An attorney retained by another attorney on a contingent fee basis as trial or appeal counsel or to assist in the preparation, investigation, or settlement of any such proceeding, shall, within thirty days from the date of such retainer, sign personally and file with the Commission a retainer statement of such retainer or agreement of compensation containing such information as the Commission shall require.

"(3) A closing statement shall be filed with the Commission with every proceeding in which a retainer statement is required containing such information as the Commission shall require.

"(4) All statements of retainer or closing statements filed with the Commission shall be confidential, and the information therein contained shall not be divulged or made available for inspection or examination except upon written order of the Chairman or the General Counsel of the Commission.

"(5) Any attorney who charges or collects, for services rendered in connection with any proceedings described in this subsection, any fee in excess of that allowed, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

"PUBLICATION OF CRITERIA AND NORMS

"SEC. 1210. (a) The Commission may, by rule, promulgate, modify, or revoke any quality health assurance system criterion or norm in the following manner:

"(1) whenever the Commission upon the basis of information submitted to it in writing by an interested person, a nationally recognized standard-producing organization, the Secretary of Health, Education, and Welfare, or a State or political subdivision, or on the basis of information developed by the Commission, or otherwise available to it, determines that a rule should be promulgated in order to serve the objectives of this title, the Commission shall publish such proposed rule promulgating, modifying, or revoking a standard or criterion for a quality health care assurance system or norm in the Federal Register, and shall afford interested persons a period of sixty days after publication to submit written data or comments.

"(2) on or before the last day of the period provided for the submission of written data or comments, any interested person may file with the Commission written objections to the proposed rule stating the grounds therefor and requesting a public hearing on such objections. Within sixty days after the last day for filing such objections the Commission shall publish in the Federal Register a notice specifying the criteria for quality health care assurance systems or norms to which objections have been filed and a hearing request and specifying a time and place for such hearing. Hearings conducted under this section shall be held, where practicable, in a location convenient to the person filing such objection.

"(3) within sixty days after the expiration of the period provided for the submission of written data or comments or within sixty days after the completion of any hearing, whichever is later, the Commission shall issue and publish in the Federal Register a rule promulgating, modifying, or revoking standards, criteria for quality health care assurance systems or norms or making a determination that a rule should not be issued. Such a rule may contain a provision delaying its effective date and such period (not in excess of ninety days) as the Commission determines may be necessary to insure that affected persons will be informed of the existence of the criteria or norm and of its determinations and that they are given an opportunity to familiarize themselves with the existence of the requirements of such criteria or norm.

"(b) Any person who may be adversely affected by the promulgation of a rule issued respecting criteria or norms under this section may at any time prior to the ninetieth day after such criteria or norm is promulgated, file a petition challenging the validity of such criterion or norm with the United States district court for the district where such person resides or has his principal place of business for a judicial review of such criterion or norm. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commission. The filing of such petition shall not, unless otherwise stated by the court, operate as a stay of the criteria or norm. The determinations of the Commission shall be conclusive if supported by substantial evidence in the record considered as a whole.

"(c) (1) In the case of establishing criteria for the assimilation of objective statistical material required for the publication of norms, the Commission shall hold hearings only when it determines such hearings to be necessary.

"(2) The Commission shall publish in the Federal Register a summary and basis for the establishment of the criteria required by paragraph (1).

"(d) The Commission in compiling information for setting the requirements for this title shall solicit views and information from concerned entities.

"STATE JURISDICTION AND STATE PLANS

"SEC. 1211. (a) Nothing in this Act shall prevent any State agency or court from asserting jurisdiction under State law over any health issues with respect to which no standard criterion, or norm is in effect under section 1202 of this Act.

"(b) Any State which at any time desires to assume responsibility for the development and enforcement of health standards, criteria, or norms relating to any health issue with respect to which a Federal standard, criterion, or norm has been promulgated under section 1202, shall submit to the Commission a State plan for the development of such standards, criteria, or norms and their enforcement.

"(c) The Commission shall approve the plan submitted by a State under subsection (b) or any modification thereof only if such plan—

"(1) designates a State agency or agencies as the agency or agencies responsible for administering the plan throughout the State;

"(2) provides for the development and enforcement of health standards, criteria, or norms relating to one or more health issues which standards, criteria, or norms (and the enforcement of which) will be no less stringent than the standards, criteria, or norms promulgated under section 1202 which relate to the same health issues;

"(3) provides for a right to entry and inspection of all premises of providers of health care subject to the Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 which includes a prohibition on advance notice of inspections;

"(4) contains satisfactory assurances that such agency or agencies have or will have the legal authority and qualified personnel necessary for the enforcement of such standards, criteria, and norms;

"(5) gives satisfactory assurances that such State will devote adequate funds to the administration and enforcement of such standards, criteria, and norms;

"(6) contains satisfactory assurances that such State will, to the extent permitted by its law, establish and maintain an effective and comprehensive health program applicable to all providers of health care of the State and its political subdivisions, which program is as effective as the standards contained in an approved State plan;

"(7) requires providers of health care in the State to make reports to the Commission in the same manner and to the same extent as if the State plan were not in effect; and

"(8) provides that the State agency will make such reports to the Commission in such form and containing such information as the Commission shall from time to time require.

"(d) If the Commission rejects a plan submitted under subsection (b), it shall afford the State submitting the plan reasonable notice and opportunity for a hearing before so doing.

"(e) After the Commission approves a State plan submitted under subsection (b), it may, but shall not be required to, exercise its authority with respect to comparable standards, criteria, or norms promulgated under section 1202, for the period specified in the next sentence. The Commission may exercise the authority referred to above until it determines, on the basis of actual operations under the State plan, that the standards, criterions, or norms set forth in subsection (c) are being applied, but it shall not make such determination for at least three years after the plan's approval under subsection (c).

"(f) The Commission shall, on the basis of reports submitted by the State agency and its own inspections, make a continuing evaluation of the manner in which each State having a plan approved under this section is carrying out such plan. Whenever the Commission finds, after affording due notice and opportunity for a hearing, that in the administration of the State plan there is a failure to comply substantially with any provision of the State plan (or any assurance contained therein), it shall notify the State agency of its withdrawal of approval of such plan and upon receipt of such notice, such plan shall cease to be in effect, but the State may retain jurisdiction in any case commenced before the withdrawal of the plan in order to enforce standards under the plan whenever the issues involved do not relate to the reasons for the withdrawal of the plan.

"(g) The State may obtain a review of a decision of the Commission withdrawing approval of or rejecting its plan by the United States court of appeals for the circuit in which the State is located by filing in such court within thirty days following receipt of notice of such decision a petition to modify or set aside in whole or in part the action of the Commission. A copy of such petition shall forthwith be served upon the Commission, and thereupon the Commission shall certify and file in the court the record upon which the decision complained of was issued as provided in section 2112 of title 28, United States Code. Unless the court finds that the Commission's decision in rejecting a proposed State plan or withdrawing its approval of such a plan is not supported by substantial evidence, the court shall affirm the Commission's decision. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(h) The Commission may enter into an agreement with a State under which the State will be permitted to continue to enforce one or more health standards, criterions, or norms in effect in such State until final action is taken by the Commission with respect to a plan submitted by a State under subsection (b) of this section, or two years from the date of enactment of this title, whichever is earlier.

"PROCEDURES TO COUNTERACT IMMINENT DANGERS

"SEC. 1212. (a) The United States district courts shall have jurisdiction, upon petition of the Commission, to restrain any conditions or practices by a provider of health care which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this title. Any order issued under this section may require such steps to be taken as may be necessary to avoid, correct, or remove such imminent danger or to maintain the capacity of a continuous process operation to resume normal operations without a complete cessation of operations, or where a cessation of operations is necessary, to permit such to be accomplished in a safe and orderly manner.

"(b) Upon the filing of any such petition the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order pending the outcome of an enforcement proceeding pursuant to this title. The proceeding shall be as provided by rule 65 of the Federal Rules, Civil Procedure, except that no temporary restraining order issued without notice shall be effective for a period longer than five days.

"(c) Whenever and as soon as the Commission concludes that conditions or practices described in subsection (a) exist it shall inform the affected provider of health care of the danger and that it shall seek relief under this section.

"(d) If the Commission arbitrarily or capriciously fails to seek relief under this section, any person who may be injured by reason of such failure, or the representative of such person might bring an action against the Commission in the United States district court for the district in which the imminent danger is alleged to exist or the provider has its principal office, or for the District of Columbia, for a writ of mandamus to compel the Commission to seek such an order and for such further relief as may be appropriate.

"DEFINITIONS

"SEC. 1213. For the purposes of this title, the term—

"(1) 'input measures' means assessment based on the qualifications of personnel, facilities, and equipment permitted to provide medical care;

"(2) 'process measure' means assessment based upon the conformance of medical decisions and actions taken in actual episodes of care to some defined standards of medical practice;

"(3) 'utilization characteristics' mean those characteristics giving information concerning the rates of usage of components of the health care system such as the length of hospital stays, the number of doctor-patient contracts, and the number of hospital admissions in a year;

"(4) 'outcome measure' means assessment of care based upon health of patients during and particularly at the conclusion of episodes of care. Standards for clinical outcome should be based solely on the results of health care;

"(5) 'Commission' means the Commission on Quality Health Care Assurance;

"(6) 'reinsurance program' means the Federal Medical Malpractice Reinsurance Program established under part B of this title; and

"(7) 'norm' means a statistical range which reflects the parameters of acceptable quality health care practices existing at the time such norm is promulgated.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1214. There are authorized to be appropriated for the carrying out of the provisions of this part $75,000,000 for the fiscal year ending June 30, 1973; $100,000,000 for the fiscal year ending June 30, 1974; and $110,000,000 for the fiscal year ending June 30, 1975.

"PART B—FEDERAL MEDICAL MALPRACTICE REINSURANCE PROGRAM

"PROGRAM ESTABLISHED

"SEC. 1220. There is hereby established an insurance program to be known as the Federal Medical Malpractice Reinsurance Program which shall be administered by the Commission.

"SCOPE OF PROGRAM

"SEC. 1221. The Commission shall make medical malpractice liability reinsurance available to primary insurers of such liability to the extent that such primary insurers are liable for damages resulting from acts of an insured who holds a valid certificate of compliance in accordance with the requirements of section 1202.

"BASIC AUTHORITY

"SEC. 1222. (a) In carrying out the medical malpractice reinsurance program the Commission shall arrange for—

"(1) appropriate financial participation and risk sharing in the reinsurance program by insurance companies or other insurers, and

"(2) other appropriate participation on other than a risk-sharing basis by insurance companies or other insurers, insurance agents and brokers, and insurance adjustment organizations.

"(b) The Commission shall initially make reinsurance available to cover liability for amounts over $25,000 but not exceeding $1,000,000. If on the basis of studies and investigations, and other information that becomes available the Commission determines that it would be feasible to extend medical malpractice reinsurance programs to cover amounts less than $25,000 or more than $1,000,000 it may take such action under this Act as from time to time may be necessary.

"NATURE OF COVERAGE

"SEC. 1223. (a) The Commission from time to time shall, after consultation with appropriate representatives of insurance authorities of the respective States, provide by regulation for general terms and conditions of insurability which shall be applicable to primary medical malpractice insurers participating in the reinsurance program, including—

"(1) the nature and limits of liability which may be covered by such insurance;

"(2) the classification, limitation, and rejection of any risks which may be advisable;

"(3) appropriate minimum and maximum premiums;

"(4) appropriate deductibles; and

"(5) any other terms and conditions relating to insurance coverage or exclusion which may be necessary to carry out the provisions of this title.

"(b) The Commission may enter into such contracts, agreements, or other arrangements, upon such terms and conditions as may be agreed upon with primary insurers in order to carry out the purposes of this part.

"PREMIUM RATES

"SEC. 1224. (a) Premium rates established by the Commission shall be—

"(1) uniform with respect to similar classifications of risks;

"(2) sufficient to provide adequate proceeds to pay all claims for probable losses over a reasonable period of years; and

"(3) exclusive of any loading for administrative expenses of the United States under this part.

"(b) Premiums established under subsection (a) shall be paid to the Commission in such a manner as the Commission shall prescribe by regulation.

"TREASURY BORROWING AUTHORITY

"SEC. 1225. (a) The Commission is authorized to issue to the Secretary of the Treasury from time to time and have outstanding at any one time, in an amount not exceeding $500,000,000 (or such greater amount as may be approved by the President), notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Commission, with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on the outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations to be issued under this subsection, and for such purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"(b) Any funds borrowed by the Commission under this authority shall, from time to time, be deposited in the Medical Malpractice Reinsurance Fund established under section 1226.

"MEDICAL MALPRACTICE REINSURANCE FUND

"SEC. 1226. (a) To carry out the reinsurance program authorized by this Act, the Commission is authorized to establish in the Treasury of the United States a Medical Malpractice Reinsurance Fund which shall be available, without fiscal year limitation—

"(1) to repay to the Secretary of the Treasury such sums as may be borrowed from him (together with interest) in accordance with the authority provided in section 1225 of this title; and

"(2) to pay such administrative expenses (or portion of such expenses) of carrying out the reinsurance program as the Commission may deem necessary; and

"(3) to pay claims and other expenses and costs of the reinsurance program (including any premium equalization payments and reinsurance claims), as the Commission deems necessary.

"(b) The fund shall be credited with—

"(1) such funds borrowed in accordance with the authority provided in section 1225 of this Act as may from time to time be deposited in the fund;

"(2) such amounts as may be advanced to the fund from appropriations in order to maintain the fund in an operative condition adequate to meet its liabilities;

"(3) interest which may be earned on investments of the fund pursuant to subsection (c);

"(4) such sums as are required to be paid to the Commission under section 1224; and

"(5) receipts from any other operations under this Act which may be credited to the fund.

"(c) If, after all outstanding obligations have been liquidated, the Commission determines that the moneys of the fund are in excess of current needs, it may request the investment of such amounts as it deems advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

"PAYMENT OF CLAIMS

"SEC. 1227. The Commission is authorized to issue orders establishing the general method or methods by which proved and approved claims for losses may be adjusted and paid for any damage which is covered by medical malpractice reinsurance made available under the provisions of this Act."

TITLE V—NATIONAL INSTITUTE OF HEALTH CARE DELIVERY

"SEC. 501. The Public Health Service Act, as amended by this Act, is further amended by inserting after title XII the following new title:

"TITLE XIII—NATIONAL INSTITUTE OF HEALTH CARE DELIVERY

"ESTABLISHMENT OF INSTITUTE

"SEC. 1301. (a) There is hereby established in the Department of Health, Education, and Welfare a separate National Institute of Health Care Delivery. The Institute shall carry out a multidisciplinary research and development program to improve delivery of health care services and shall be the principal agency in the Department of Health, Education, and Welfare to coordinate and cooperate with the Commission on Quality Health Care Assurance for improvement of health care in the United States.

"(b) The Institute shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate. There shall be in the Institute a Deputy Director. The Deputy Director shall perform such functions as the Director may prescribe and shall be the Acting Director during the absence or disability of the Director or in the event of a vacancy in the position of Director.

"(c) The Director is authorized to appoint within the Institute not to exceed four Assistant Directors.

"FUNCTIONS OF THE INSTITUTE

"SEC. 1302. (a) It shall be the function of the Institute in coordination and cooperation with the Commission on Quality Health Care Assurance to pursue methods and opportunities to improve and advance the effectiveness, efficiency, and quality of health care delivery in the States, regions, and communities of the United States, through initiation and support of studies, research, experimentation, development, demonstration, and evaluation of, but not limited to, the following:

"(1) the existing health care system, emphasizing means and methods to improve such system and the devising and testing of alternative delivery systems;

"(2) health care systems and subsystems in States, regions, and communities which give special attention to the effective combination and coordination of public and private methods or systems for health care delivery;

"(3) preventive medicine and the techniques and technology, including multiphasic screening and testing, to improve the early diagnosis and treatment of diseases, particularly for preschool children;

"(4) systems and technical components of emergency health care and services (including at least one experimental statewide helicopter transportation emergency care system), which utilize, where possible, the skills of returning military corpsmen;

"(5) systems and components of rural health services;

"(6) the development of policy with respect to long-term care, particularly for mentally and physically handicapped individuals and senior citizens, with special emphasis on alternatives to institutionalization, including the use of home health aides:

"(7) methods to meet the Nation's medical manpower requirements, including new types of manpower and their utilization and the extent to which tasks performed by physicians and other health professionals may be safely delegated to other appropriately trained individuals in both new and existent health occupations;

"(8) continuing education and the exploration of programs and methods to help health professionals to stay abreast of current developments and to maintain professional excellence;

"(9) health manpower credentialing, licensing, and certification;

"(10) the medical malpractice problem, particularly as it relates to quality care, the practice of 'defensive medicine' and added costs to the public;

"(11) programs for educating health manpower and the accreditation of such education programs;

"(12) application of all forms of technology, including computers and other electronic devices, in health care delivery;

"(13) the efficiency, management, and utilization of new and existing health care facilities including studies of admission practices and examination of cost-finding techniques;

"(14) the development of tools and methods to improve planning, management, and decisionmaking in the health care system;

"(15) the development of information by which quality, efficiency, and cost of health care may be measured;

"(16) the development of uniform accounting practices, financial reporting, and uniform health records;

"(17) the development and testing of incentive payment mechanisms that reward efficiency in health care delivery without compromising the quality of care;

"(18) the needs of individuals, families, and groups for health care and related services, emphasizing the various life styles, including environmental, recreational, and nutritional factors that bear on an individual's health; identification of those factors affecting acceptance and utilization of health care and related services; and the development of educational materials and methods communicating to the public the importance of personal decisions and actions on health;

"(19) the economics of health care and related services, and the impact of the total system of health care delivery and related services upon the standards of living and the general stability of the national economy;

"(20) proposals for the financing of health care, including the potential cost and benefits, and their impact on the health care system;

"(21) concepts and data essential to the formation of a factual basis for national health policies; and

"(22) the effects on health care delivery of the organization, functions, and interrelationships of Federal, State, and local government agencies and programs concerned with planning, organization, and financing of health care delivery.

"(b) The Institute shall in cooperation and coordination with the Commission on Quality Health Care Assurance (1) develop methods for, and support of, training of individuals to plan and conduct research, development, demonstrations, and evaluation of health care delivery and related services; (2) provide technical assistance and development of methods for the transfer of new knowledge, components, and systems to public and private agencies, programs, institutions, and individuals engaged in the improvement of health care delivery; (3) collaborate with governments and public and private health care institutions and programs in foreign countries for the exchange of information and support of research, experiments, demonstrations, and training in order to advance health care delivery in the United States and cooperating nations.

"(c) The Institute in cooperation and coordination with the Commission on Quality Health Care Assurance shall evaluate the quality, effectiveness, and efficiency of Federal health programs in improving the delivery of health care to the Nation's citizens. For the purposes of this subsection the Secretary is authorized to transfer to the Institute such funds as may be necessary pursuant to section 513 of this Act.

"ADMINISTRATIVE PROVISIONS

"SEC. 1303. (a) In order to carry out the provisions of this title the Director is authorized to—

"(1) make grants to States, political subdivisions, universities, hospitals, and other public or nonprofit private agencies, institutions, or organizations for projects for the conduct of research and development, experiments, studies, demonstrations, and training of individuals to plan and conduct such projects;

"(2) make contracts with public or private agencies, institutions, or organizations for the conduct of research and development, experiments, studies, demonstrations, and the training of individuals to plan and execute such contracts;

"(3) appoint and fix compensation of the personnel of the Institute in accordance with chapter 51 of title 5, United States Code, except that (A) to the extent that the Director deems such action necessary to recruit men and women of exceptional talent, he may establish the entrance grades for personnel at a level of two grades higher than the grade level provided for such personnel under the General Schedule established by such title and fix their compensation accordingly, and (B) to the extent that the Director deems such action necessary to the discharge of his responsibilities, he may appoint personnel of the Institute without regard to civil service or classification laws, except that personnel appointed under such laws do not exceed at any one time one-third of the number of full-time regular technical or professional employees of the Institute;

"(4) make, promulgate, issue, rescind, and amend rules and regulations as may be necessary to carry out the functions vested in him or in the Institute and delegate authority to any officer or employee under his direction or his supervision;

"(5) acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain research and other necessary facilities and equipment and related accommodations as may be necessary, and such other real or personal property (including patents) as the Director deems necessary;

"(6) to acquire by lease or otherwise from the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Institute for a period not to exceed ten years without regard to the Act of March 3, 1877;

"(7) employ experts and consultants in accordance with section 3109 of title 5, United States Code;

"(8) appoint one or more advisory committees composed of such private citizens and officials of Federal, State, and local governments as he deems desirable to advise him with respect to his functions under this Act;

"(9) utilize with their consent the services, equipment, personnel, information, and facilities of other Federal, State, and local public agencies with or without reimbursement therefor;

"(10) accept voluntary and uncompensated services notwithstanding the provisions of section 665(b) of title 31, United States Code;

"(11) accept unconditional gifts or donations of services, money, or property, real or personal, mixed, tangible or intangible;

"(12) allocate and expend or transfer to other Federal agencies for expenditure funds made available under this title as he deems necessary;

"(13) establish within the Institute such offices and procedures as may be appropriate to provide for the greatest possible coordination of activities under this title with related research and development activities being carried on by the Commission on Quality Health Care Assurance and other public and private agencies and organizations; and

"(14) take such other actions as may be required for the accomplishment of the objectives of this part.

"(b) Upon requests made by the Director, each Federal agency is authorized to make its services, equipment, personnel, facilities, information, and statistics available, to the greatest practicable extent, consistent with other laws, to the Institute in the performance of its functions with or without reimbursement.

"(c) Each member of a committee appointed pursuant to paragraph (8) of subsection (a) of this section who is not an officer or employee of the Federal Government shall receive an amount equal to the maximum daily rate prescribed for GS-18 under section 5332 of title 5, United States Code, for each day he is engaged in the actual performance of his duties including traveltime. All members shall be reimbursed for travel, subsistence, and necessary expenses incurred in the performance of their duties.

"COMPENSATION

"SEC. 1304.(a) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"'(98) Director, National Institute of Health Care Delivery.'

"(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"'(132) Deputy Director, National Institute of Health Care Delivery.'

"ADMINISTRATION OF GRANTS IN CERTAIN MULTIGRANT PROJECTS

"SEC. 1305. Where funds are advanced for a single project by more than one Federal agency for the purposes of this title, the Director of the Institute in cooperation and coordination with the Commission on Quality Health Care Assurance may act for all in administering the funds advanced and a single non-Federal share requirement may be established according to the proportion of the funds advanced by each Federal agency. The Director may order any such agency to waive any technical grant or contract requirement which is inconsistent with the similar requirements of the Institute or which the Institute does not impose, except that nothing in this section shall be construed to authorize the Secretary to waive or suspend, with respect to any such project, any requirement with respect to any of such programs if such requirement is imposed by law or by any regulation required by law.

"TRANSFER OF RESEARCH FUNDS OF OTHER GOVERNMENT DEPARTMENTS AND AGENCIES

SEC. 1306. Funds available to any department or agency of the Government for health care delivery research and development, or for the provision of facilities therefor shall be available for transfer with the approval of the head of the department or agency involved, in whole or in part, to the Institute for such use as is consistent for the purposes for which such funds were provided, and funds so transferred shall be expendable by the Institute for the purposes for which the transfer was made.

"TRANSFER OF NATIONAL CENTER FOR HEALTH SERVICES RESEARCH AND DEVELOPMENT

"SEC. 1307. (a) The National Center for Health Services Research and Development is hereby transferred from the Health Services and Mental Health Administration to the Institute.

"(b) Subject to the provisions of this section, the President, for a period of two years after the date of enactment of this Act, may transfer to the Institute any functions (including powers, duties, activities, facilities, and parts of functions) of the Department of Health, Education, and Welfare or of any officer or organizational entity thereof which relate primarily to the functions, powers, and duties of the Director as described by this Act. In connection with any such transfer the President may, under this section or other applicable authority, provide for appropriate transfers of records, property, personnel, and funds.

"NATIONAL ADVISORY COUNCIL ON HEALTH CARE DELIVERY

"SEC. 1308. (a) There is hereby established a National Advisory Council on Health Care Delivery (hereafter referred to as the Council) to be composed of twenty-one members. The Council shall consist of the Secretary of Health, Education, and Welfare, the Chief Medical Officer of the Veterans' Administration, a medical officer designated by the Secretary of Defense, the Administrator of the Health Services and Mental Health Administration, the Director of the National Institutes of Health, and the Director of the National Institute of Health Care Delivery who shall be ex officio members and an additional fifteen members not otherwise in the regular full-time employ of the United States to be appointed by the President without regard to civil service laws. The appointed members shall be (1) persons who are leaders in the field of medical sciences or in the organization, delivery, or financing of health care, (2) leaders in the management sciences, or (3) representatives of the consumers of health care. At least seven of the appointed members shall be representatives of the general public who are consumers not related to the provision of health care.

"(b) The President shall designate a Chairman of the Council. The Council shall meet at the call of the Chairman but not less than four times a year.

"(c) Each appointed member of the Council shall hold a term of four years except that any member appointed to fill a vacancy prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, except that the terms of the offices of the members first taking office shall expire as designated by the President at the time of appointment, three at the end of the first year, four at the end of the second year, four at the end of the third year, and four at the end of the fourth year after the date of appointment. An appointed member shall not be eligible to serve continuously for more than two terms.

"(d) Appointed members of the Council shall receive compensation at rates not to exceed the daily rate prescribed for GS-18 under section 5332, title 5, United States Code, for each day they are engaged in the actual performance of their duties, including traveltime, and, while so serving away from their homes or regular place of business, they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expense authorized by section 5703, title 5, United States Code, for persons in the Government service employed intermittently.

"(e) The Chairman of the Council, with the concurrence of a majority of the Council members, shall appoint an Executive Secretary of the Council. The Executive Secretary may be appointed without regard to civil service laws and may be compensated at a rate not exceeding the appropriate rate provided for individuals in grade GS-18 under section 5332, title 5, United States Code, as may be necessary to provide for the performance of duties as may be prescribed by the Council in connection with his duties under this Act. The Director of the Institute shall make available to the Council such additional staff, information, and other persons as it may require to carry out its activities.

"(f) The Council shall—

"(1) review programs, policies, and priorities of the Institute, and centers established under section 1311, and advise the Director on the development and conduct of the programs of the Institute and centers;

"(2) examine and coordinate health care delivery efforts in cooperation and coordination with the Commission on Quality Health Care Assurance within the Department of Health, Education, and Welfare and other Federal departments and agencies so as to avoid duplication; and

"(3) assure that significant research and development findings of the Institute and centers are being disseminated and evaluate the extent such findings are making an impact on the health care delivery system.

"(g) The Council shall submit as an appendix to the report acquired by this Act its report on the progress of the Institute and centers toward the accomplishment of the objectives of this Act, and the status of health delivery research development in the United States including any minority views of the Council members.

"SEC. 1309. The Director shall, within one year after the date of his appointment and prior to February 1 of each year thereafter, prepare and submit to the Secretary for his transmittal to the President and the Congress a written report that shall include:

"(1) an appraisal of the activities and accomplishments of the Institute and the centers;

"(2) bibliographies with annotations of research performed or supported and a summary of the significant research and development findings which show promise (given due consideration to the cost, benefits, and the quality of health care program) of improving health care delivery or increasing the productivity of health care systems; and

"(3) identification and recommendations concerning those factors or barriers which inhibit implementation of the significant research and development findings of the Institute and centers or that prevent innovation in health care.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1310. For the purposes of carrying out the provisions of this title (except for the provisions of section 1311) there are authorized to be appropriated $125,000,000 for the fiscal year ending June 30, 1973; $150,000,000 for the fiscal year ending June 30, 1974; and $200,000,000 for the fiscal year ending June 30, 1975. Any unexpended sums appropriated pursuant to this section may be carried over without fiscal year limitations.

"REGIONAL AND SPECIAL EMPHASIS CENTERS

"SEC. 1311. (a) In order to strengthen the Nation's research and development base in health care delivery, to enable the examination and study of health care delivery problems of the various regions of the United States, and to link better research and development findings with actual practice, the Director in cooperation and coordination with the Commission on Quality Health Care Assurance is authorized to enter into cooperative arrangements with public or private nonprofit agencies or institutions to pay all or part of the cost of planning, establishing, and providing basic operating support for (1) not to exceed eight regional centers to carry out multidisciplinary research and development in health care delivery, and (2) two national special emphasis centers, one of which shall be designated as the Health Care Technology Center, to focus on all forms of technology, including computers and electronic devices, and its application in health care delivery; and one which shall be designated as the Health Care Management Center, to focus on the improvement of management and organization in the health field, the training and retraining administrators of health care enterprises, and the development of leaders, planners, and policy analysts in the health field.

"(b) Federal payments under this subsection in support of such cooperative agreements may be used for—

"(1) construction to the extent that the National Advisory Council determines such construction is necessary;

"(2) staffing and other basic operating costs;

"(3) research and development;

"(4) training; and

"(5) demonstration purposes.

Support under this subsection other than support for construction shall not exceed $2,000,000 per year per center, except for the Health Care Technology Center, and may be funded for an initial period of not to exceed three years. The Director, following a review of each center's operation and upon the recommendation of the National Advisory Council, may extend the centers for an additional period of not more than three years each.

"(c) The location of the regional centers authorized by subsection (a) shall be determined by the National Advisory Council with a view, to the extent possible, of broad geographical distribution of such centers.

"(d) The administrative officer of each regional and national special emphasis center shall transmit annually to the Director a report which shall set forth (1) an audit of expenditures in accordance with generally accepted accounting procedures, (2) bibliographies, with annotations, of research performed, and (3) a description of ongoing research programs including a summary of significant research and development findings.

"(e) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1973; $35,000,000 for the fiscal year ending June 30, 1974; and $40,000,000 for the fiscal year ending June 30, 1975. Any unexpended sums appropriated pursuant to this subsection may be carried over without fiscal year limitations.

"SUPPLEMENTAL INCENTIVE GRANTS TO ENCOURAGE EXPERIMENTATION

"SEC. 1312. (a) In order to encourage individuals, institutions, and health facilities to participate in research and demonstration projects, which without the incentive assistance provided under this section would not otherwise be carried out, and which have been designated by the National Advisory Council as essential, the Director is authorized to provide funds to be used to increase the Federal contribution to such projects under Federal grant-in-aid programs above the fixed maximum portion of the cost of such projects otherwise authorized by an applicable law. Funds shall be so provided for Federal grant-in-aid programs for which funds are available under the Acts authorizing such programs and shall be available without regard to any appropriation authorization ceiling in such Acts.

"(b) The Federal portion of such cost shall not be increased in excess of the percentage established by the Director, and shall in no event exceed 80 per centum thereof.

"(c) The term 'Federal grant-in-aid program' as used in this section means those Federal grant-in-aid programs in the health area authorized on or before December 31, 1972.

"(d) Not to exceed 10 per centum of the funds appropriated by this part shall be available to carry out this section."

TECHNICAL AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

SEC. 502. (a) Section 1 of the Public Health Service Act is amended by striking out "titles I to X" and inserting in lieu thereof "titles I, II, and XIV".

(b) The Act of July 1, 1944 (58 Stat. 682), is further amended by renumbering title XI (as in effect prior to the date of enactment of this Act) as title XIV and by renumbering sections 1101 through 1114 (as in effect prior to such date) and references thereto as sections 1401 through 1414, respectively.

(c) Sections 767, 768, 769, 769A, and 769B of the Public Health Service Act (added by section 107 of Public Law 92–157) are redesignated as sections 769, 769A, 769B, 769C, and 769D, respectively.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. KENNEDY. I move to lay that motion on the table.

The motion was agreed to.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 3327.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, at this time I want to extend my thanks to the Senator from New York, the Senator from Colorado, the Senator from Pennsylvania, and all minority members on the Health Subcommittee and the full Committee on Labor and Public Welfare for their cooperation, as well as to the Democratic members who made such a valuable contribution to this bill. It is comprehensive; it is far-reaching. I think it is the kind of approach which will prove to be most effective in providing quality health care to the people of this country.

I also thank the staff of the Health Subcommittee: Dr. Philip Caper, who has spent a great deal of time on the bill, as well as Mr. Cutler, Mr. Hunnecutt, Mr. Woodruff, Mr. Goldman, Dr. Horowitz, Dr. Perpich, Mr. Jones, Mrs. Janet Klein of the Library of Congress and Mr. Danny Murray of the Senate Legislature Counsels office. These persons did yeoman's service on this bill.

Mr. JAVITS. Mr. President, I join the Senator from Massachusetts in thanking the staff members especially. They always do such an unbelievably Herculean job and in this case, with such a complex situation, they acquitted themselves admirably on the majority and the minority side.

I also want to thank the Senator from Colorado (Mr. DOMINICK) for his fine feelings of assessing exactly what he wanted to accomplish and economizing on the time and effort of the Senate. He did exactly what he wanted to do—no less and no more—and then allowed the Senate to vote. His attitude was admirable and we all owe him a special vote of thanks.

I should also like to congratulate the Senator from Massachusetts (Mr. KENNEDY) in piloting this bill through. I consider this to be a real milestone in progress towards universal quality health care for the people of this country.

Whatever plan we ultimately adopt, this is one of the essential elements in the infrastructure without which no one's plan, the American Medical Association's, Mr. Kennedy's, mine, or anyone else's, would be possible.

I thank the Chair.

Mr. MANSFIELD. Mr. President, it is with a great deal of admiration and appreciation that I commend the senior Senator from Massachusetts (Mr. KENNEDY), chairman of the Subcommittee on Health of the Senate Labor and Public Welfare Committee. His remarkable handling of the three health bills which were so expeditiously and thoughtfully disposed of today by the Senate demonstrates once again his role as a leader in this all-important area of providing health care to millions of Americans and breaking through the antiquated system that has long deprived many of the citizens of this Nation of adequate medical attention. His subcommittee and the entire Labor Committee deserve the highest accolades for their outstanding work on these health measures considered today—the Public Health Service Act, the DES measure and the health maintenance organization bill. The importance of the passage of these bills cannot be overemphasized.

Joining with Senator KENNEDY in moving these vital measures to successful passage by the Senate was the ranking minority member of the Labor Committee, the senior Senator from New York (Mr. JAVITS). His concern in this area of health care is well known and as always, he presented his views in an eloquent and well-informed manner. His expertise was once again invaluable.

Without the able assistance of all members of the Labor Committee—both those who favored the measure and those who retained reservations regarding it—the debate would not have been as well-developed and informative. The Senate is indebted to each and every Senator whose strong advocacy of varying views added to the high quality of debate.

As majority leader, I am deeply grateful for the cooperation demonstrated here today. The Senate once again has provided the leadership of action—and not leadership of rhetoric alone.

(The following proceedings, which occurred earlier in the day, are printed at this point in the RECORD by unanimous consent.)

TIME LIMITATION ON ESTABLISHMENT OF OLDER WORKER COMMUNITY SERVICE PROGRAM (S. 555)

Mr. ROBERT C. BYRD. Mr. President, at the direction of the distinguished majority leader and after consultation with the distinguished Senator from Massachusetts (Mr. KENNEDY) and the distinguished Senator from New York (Mr. JAVITS), I propound the following unanimous-consent request agreement, to be written in its usual form:

I ask unanimous consent that the time on S. 555, at such time as it is called up and made the pending business before the Senate, be limited to 20 minutes to be equally divided between the Senator from Massachusetts (Mr. KENNEDY) and the Senator from New York (Mr. JAVITS); that the time on any amendment thereto be limited to 20 minutes, and that the time on any debatable motion or appeal likewise be limited to 20 minutes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

ORDER FOR CONSIDERATION OF OLDER WORK COMMUNITY SERVICE PROGRAM (S. 555) TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, immediately following the routine morning business, the Chair lay before the Senate S. 555.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, for the information of the Senate, there will be a yea-and-nay vote on S. 555 tomorrow morning after the time has expired under the unanimous-consent agreement.

Mr. DOMINICK. Mr. President, I would like to ask the Senator from West Virginia a question. I missed yesterday on official business, 10 votes, I believe it was. On the previous day, I think that I missed 11 votes, and on the previous day I missed about 5 votes. I had to be away. Most of those votes were 84 to nothing or something of that kind, or 76 to nothing.

Is there intended to be a system within the Senate by which we are required to vote to show that we are good boys and to be here on a rollcall vote or are we allowed on noncontroversial measures, as we always used to be able to do, to vote on a voice vote, particularly where there is no controversy?

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Colorado knows as well as I do that under the Constitution a yea and nay vote is required upon a show of hands of one-fifth of the Senators present. And as long as a quorum of 51 Senators is present at all times, a show of 11 hands can call for a quorum. I do not question Senators if they want a yea-and-nay vote. They are entitled to it.

Mr. DOMINICK. Mr. President, I think that in the time since I have been here we have had probably 171 yea-and-nay votes all the way through the middle of September and sometimes in October on a full year's program. This year we have had 427, I believe, already because everyone is just asking for yea-and-nay votes whether he needs it or not. I do not see any sense in it.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. DOMINICK. I yield.

Mr. PASTORE. Mr. President, I can understand the Senator's feelings completely. I felt pretty much the same way myself.

I do not think the leadership ought to be faulted. The requests for yea and nay votes have been made by sponsors of the amendments, and sometimes an amendment was unanimously accepted as the Senator from Colorado has stated. However, that is no one's fault but the Senator who sponsored the amendment and asked for a yea and nay vote.

In many cases we did not have 11 Senators present in the Senate, and they suggested the absence of a quorum. I quite agree with the Senator. However, I do not think it is anyone's fault but the temper of the Senate and the membership at the present time. We had yea and nay votes in certain situations when I thought it was ridiculous to take up the time of the Senate and have to rush back and vote in order to be shown as voting.

That was not the fault of the Senator from West Virginia nor the fault of the Senator from Montana. It was nobody's fault but the particular Senator who sponsored the amendment.

Mr. DOMINICK. Mr. President, I think the Senator from Rhode Island has made a very good point. I only bring it up because I am hoping that where we have a relatively noncontested amendment, we can get along without having a rollcall vote on it.

A great many Members may be hurt for one reason or another, because their opponents, whether they are running now, 2 years, or 4 years from now, will use this against them whether the vote would have made a particle of difference or not.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. DOMINICK. I yield.

Mr. MANSFIELD. Mr. President, I agree with the distinguished Senator from Colorado. May I say on behalf of the leadership on this side of the aisle that it is very seldom that we ask for yea and nay votes except on treaties. And on appropriation measures the yea-and-nay votes have been asked for by the majority and minority leaders.

I want to say to the Senator from Colorado that I hope that what he has suggested will be followed and that we will not be called upon to run back and forth to vote on matters which are noncontroversial and with which everyone agrees.

Mr. PASTORE. Mr. President, I would hope that the Senator from Colorado would set an example by not asking for a yea and nay vote.

Mr. DOMINICK. I am about to modify my amendment so that perhaps we can do so. However, the last vote was extremely close. And from that I can understand why we sometimes have to have yea and nay votes.

Mr. ROBERT C. BYRD. Mr. President, I thought it fair to announce on behalf of the leadership that there would be a yea and nay vote on the bill tomorrow. At the time there were not 11 Senators present or I would have made the request at the time. However, if a request is made by a Senator, that Senator is entitled to have his request at least acted upon.

So, I now ask unanimous consent that it be in order——

Mr. DOMINICK. Mr. President, may I ask the Senator from West Virginia, since I still have the floor, I believe, whether there is going to be an argument about this bill. If there is not going to be an argument about it, I will not raise my hand.

Mr. ROBERT C. BYRD. Mr. President, I withdraw my request for the yeas and nays. However, the yeas and nays will be ordered tomorrow on the bill at the request of a Senator.

Mr. DOMINICK. Mr. President, I will bring up the point tomorrow.

(This marks the end of the colloquy which occurred earlier and which by unanimous consent was ordered to be printed in the RECORD at this point.)

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

S. 1031. An act to credit certain service rendered by District of Columbia substitute teachers for purposes of civil service retirement;

S. 2478. An act to provide for the disposition of funds to pay a judgment in favor of the Shoshone-Bannock Tribes of Indians of the Fort Hall Reservation, Idaho, as representatives of the Lemhi Tribe, in Indian Claims docket numbered 326-I, and for other purposes;

S. 2575. An act for the relief of William John West;

H.R. 2185. An act to declare that certain federally owned land is held by the United States in trust for the Lac du Flambeau Band of Lake Superior Chippewa Indians;

H.R. 2589. An act to amend section 1869 of title 28, United States Code, with respect to the information required by a juror qualification form;

H.R. 6204. An act for the relief of John S. Attinello;

H.R. 10436. An act to provide with respect to the inheritance of interests in restricted or trust land within the Nez Perce Indian Reservation, and for other purposes; and

H.R. 14974. An act to amend certain provisions of law relating to the compensation of the Federal representatives on the Southern and Western Interstate Nuclear Boards.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the calendar, beginning with No. 1113 and going through 1118.

The PRESIDING OFFICER (Mr. GRAVEL). Without objection, it is so ordered.

JESUS MARIA GUERECA-MORALES AND DONALL TERRANCE TODD

The resolution (S. Res. 366) opposing the suspension of deportation of Jesus Maria Guereca-Morales and Donall Terrance Todd was considered and agreed to, as follows:

Resolved, That the Senate does not favor the suspension of deportation in the cases of the aliens hereinafter named in which cases the Attorney General has suspended deportation pursuant to section 244(a)(1) of the Immigration and Nationality Act, as amended (8 U.S.C. 1254; 75 Stat. 1247):

A-2239013, Guereca-Morales, Jesus Maria.

A-7917485, Todd, Donall Terrance.

WAIVER OF CLAIMS OF THE UNITED STATES ARISING OUT OF CERTAIN ERRONEOUS PAYMENTS

The bill (H.R. 7614) to amend titles 5, 10, and 32, United States Code, to authorize the waiver of claims of the United States arising out of certain erroneous payments, and for other purposes was considered, ordered to a third reading, read the third time, and passed.

EFFECT OF CONTRIBUTORY NEGLIGENCE ON CLAIMS INVOLVING MEMBERS OF THE NATIONAL GUARD

The bill (H.R. 7616) to amend section 715 of title 32, United States Code, to authorize the application of local law in determining the effect of contributory negligence on claims involving members of the National Guard was considered, ordered to a third reading, read the third time, and passed.

PREWAR JAPANESE BANK CLAIMANTS

The bill (H.R. 8215) to provide relief for certain prewar Japanese bank claimants was announced as next in order.

Mr. MANSFIELD. Mr. President, may I say in this respect that I am delighted that justice, such as it is in this particular case, is, at long last, coming into being.

This is another indication of the most difficult and uncalled for treatment we accorded to fellow citizens of Japanese descent at the time of the outbreak of World War II. All countries—as do all men—have events in their past of which they are not proud. The events at the time of the outbreak of World War II with respect to the Americans of Japanese ancestry are one of the most nefarious in our history. There is no way now to undo those events, nor to even make fair compensation; it is only to never forget so that never will they be repeated.

The bill (H.R. 8215) was considered, ordered to a third reading, read the third time, and passed.

WALTER EDUARD KOENIG

The bill (H.R. 14173) for the relief of Walter Eduard Koenig was considered, ordered to a third reading, read the third time, and passed.

RICHARD L. KRZYZANOWSKI

The bill (H.R. 15865) for the relief of Richard L. Krzyzanowski was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, that concludes the call of the calendar.

CONSUMER PROTECTION ORGANIZATION ACT OF 1972

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1049, S. 3970. I do this so that it will be the pending business.

The PRESIDING OFFICER (Mr. GRAVEL). The bill will be stated by title.

The assistant legislative clerk read as follows:

S. 3970, to establish a Council of Consumer Advisers in the executive office of the President, to establish an Independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and serve the interests of consumers, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

THE PURCHASE OF U.S. GRAIN BY THE SOVIET UNION

Mr. HARRY F. BYRD, JR. Mr. President, on another subject, I have had a great deal of correspondence seeking the text of the agreement between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics with respect to the purchase of grains by the Soviet Union in the United States and credit to be made available by the United States. I have the text of this agreement. I also have the Russian text, but I will not ask that that be placed in the RECORD, but at an appropriate later time I will ask that the text of this agreement be published in the RECORD.

I will comment on one item, that the interest rate for the purchases under this agreement shall be 6⅛ percent.

I also have a statement, a letter of understanding, written by the head of the U.S.S.R. Government delegation to the American negotiators, and also a letter to the first deputy minister from the heads of the U.S. Government delegation; namely, Secretary Peterson and Secretary Butz.

I note also, Mr. President, that the U.S. News & World Report of September 25, 1972, carried this item:

> Russia, which just bought massive quantities of grain from the U.S. to alleviate domestic shortages, is shipping wheat to North Vietnam. Intelligence sources say four Russian ships recently unloaded supplies of wheat at the Chinese port of Ch'in-Chou, to be moved overland to North Vietnam, avoiding the U.S. naval blockade.

I would think that the Defense Department would want to look into this matter and determine whether it is wise for the United States to indirectly supply wheat to a country with which the United States is at war.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the text of the agreement between the Government of the United States and the Government of the Union of Soviet Socialist Republics with respect to the purchases of grain by the Soviet Union in the United States with credit to be made available by the United States.

There being no objection, the text of the agreement was ordered to be printed in the RECORD, as follows:

AGREEMENT BETWEEN THE UNITED STATES AND THE SOVIET GOVERNMENT

The Government of the United States of America (USA) and the Government of the Union of Soviet Socialist Republics (USSR) have agreed as follows:

ARTICLE 1

1. The Government of the USA through its Commodity Credit Corporation's Export Credit Sales Program hereby makes available a total amount of US $750 million credit for financing the payment for USA grown grains (at buyer's option—wheat, corn, barley, sorghum, rye, oats) purchased by the USSR in the USA under this Agreement. Such total amount may be increased by the USA.

2. The USSR through its foreign trade organizations shall purchase from private United States exporters not less than US $750 million port value of such grains (at buyer's option—wheat, corn, barley, sorghum, rye, oats) for delivery during the three-year period August 1, 1972, through July 31, 1975, and of such amount not less than US $200 million shall be purchased for delivery prior to August 1, 1973. In case of purchases of such grains for cash for delivery during the period of August 1, 1972, through July 31, 1975, the U.S. dollar amount of such purchases shall be counted as if they were made on credit terms under this Agreement.

3. The following provisions shall apply with respect to the credit refered to in Section 1 of this Article 1.

3.1 It shall continue to be available, if not previously exhausted, for deliveries made not later than July 31, 1975.

3.2 The total amount of credit outstanding at one time shall not exceed US $500 million.

3.3 Delivery for purchases shall be F.A.S. or F.O.B. port of export and interest shall run from date of delivery. The date of delivery shall be the on-board date of the ocean bill of lading.

3.4 The principal and interest for credit arising under each delivery shall be payable by the USSR as follows: one-third of the principal annually, plus accrued interest on the outstanding principal balance to the date of each principal payment.

3.5 The amount of credit for each delivery will be limited to the United States port value of the commodity, without ocean freight, insurance, or other charges or costs.

3.6 The interest rate for purchases under this Agreement for which delivery is made not later than March 31, 1973, shall be 6⅛ percent per annum on that portion of the obligation confirmed by a USA bank. This rate of interest for that portion of the obligation confirmed by a USA bank shall be applicable during the whole three-year period for repayment of the credit which arises under each delivery made not later than March 31, 1973.

ARTICLE 2

This agreement shall enter into force from the day of its signing and shall remain valid until all the obligations arising from it for both sides are fulfilled.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that a text of a letter from the head of the U.S.S.R. Government delegation to the American negotiators be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
July 3, 1972.

Hon. PETER G. PETERSON,
Hon. EARL L. BUTZ,
Heads of the U.S. Government Delegation, Washington, D.C.

DEAR SIRS: In connection with the signing today of the Agreement between the Government of the Union of Soviet Socialist Republics and the Government of the United States of America with respect to purchase of grains by the Soviet Union in the United States and credit to be made available by the United States, I have the honor to confirm the understanding on interpretation reached between us that:

1. As to matters not covered in the above Agreement, the credits for grain purchases under the Export Credit Sales Program will be governed by the "Regulations Covering Export Financing of Sales of Agricultural Commodities under the Commodity Credit Corporation Export Credit Sales Program (GSM-4)" effective in the USA on the day of signing this Agreement.

2. Grains purchased under the above Agreement will be consumed primarily in the USSR. However, the USSR will have the right to divert some portion of the grain for consumption in European countries presently full members of the Council for Mutual Economic Assistance.

Accept, Sirs, the assurances of my highest consideration.

M. KUZMIN,
Head of the U.S.S.R. Government Delegation.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the text of a letter from the heads of the United States Government delegation to the head of the U.S.S.R. Government delegation be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
July 8, 1972.

Hon. M. R. KUZMIN,
Head of the U.S.S.R. Government Delegation, Washington, D.C.

DEAR MR. FIRST DEPUTY MINISTER: In connection with signing today of the Agreement between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics with respect to purchases of grains by the Soviet Union in the United States and credit to be made available by the United States, we have the honor to confirm the understanding on interpretation reached between us that:

1. As to matters not covered in the above Agreement, the credits for grain purchases under the Export Credit Sales Program shall be governed by the "Regulations Covering Export Financing of Sales of Agricultural Commodities under the Commodity Credit Corporation Export Credit Sales Program (GSM-4)" effective in the USA on the day of signing this Agreement.

2. Grains purchased under the above Agreement shall be consumed primarily in the USSR. However the USSR shall have the right to divert some portion of the grain for consumption in European countries presently full members of the Council for Mutual Economic Assistance.

Please accept, Mr. First Deputy Minister, the assurances of our highest consideration.

PETER G. PETERSON,
EARL L. BUTZ,
Heads of the USA Government Delegation.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the article from the U.S. News & World Report of September 25, 1972, concerning the shipment by Russia of wheat to North Vietnam be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHEAT FOR HANOI

Russia, having just bought massive quantities of grain from the U.S. to alleviate domestic shortages, is shipping wheat to North Vietnam. Intelligence sources say four Russian ships recently unloaded supplies of wheat at the Chinese port of Ch'in-Chou, to be moved overland to North Vietnam, avoiding the U.S. naval blockage.

Mr. HARRY F. BYRD, JR. Mr. President, an editorial was published in the Richmond Times-Dispatch of September 17, 1972, captioned "A Big Deal: Too Big?" This editorial is, in my judgment, a very well reasoned editorial concerning various negotiations between the American Government and the Government of the Union of the Soviet Socialist Republics. It does not oppose the negotiations. However, it does raise significant questions. I think it is worthwhile for the CONGRESSIONAL RECORD to print this editorial from the Richmond Times-Dispatch.

I ask unanimous consent that the editorial to which I have referred be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Richmond Times-Dispatch, Sept. 17, 1972]

A BIG DEAL: TOO BIG?

It now appears almost inevitable that within several weeks the United States and Soviet Russia will conclude a trade deal of a magnitude that would have been hard to imagine not long ago when the Cold War was the pervasive concern of the two superpowers.

And as history's penchant for upside-down irony would have it, it is the old Cold Warrior supreme of the 1950s—Richard M. Nixon—who is paving the way to wide commercial dealings with the Communist world.

Though details are skimpy, we are being asked to envision: the Soviets paying off their long overdue Lend-Lease debt to the U.S. for World War II aid, albeit in reduced sum and over a stretched-out period of perhaps 30 years; Import-Export Bank credits to assist the Russians in "catching up" with the West in computers, electronics, and industrial plant design; American engineers and technologists out in Siberia helping the Russians develop their vast reserves of natural gas and oil, some of which supposedly will eventually help alleviate shortages in the U.S.; American corporations opening branch offices in Moscow and American executives living it up in posh American-built hotels affording a scenic view of the Kremlin; and a possible confering upon Soviet exports the same favorable tariff consideration goods from our allies receive.

Already known—and rapidly developing into a major election-year controversy—is the giant July 8 deal under which the Russians promised to buy at least $750 million of American grain over the next three years. So hungry were the Russians (so dismal the failures of their collectivized agricultural system) that $1 billion worth had actually been purchased by the U.S.S.R. by the end of August. Angling for the Midwest farm vote, Sen. George S. McGovern is trying to make the case that the Administration deliberately tipped U.S. grain exporters to the impending Russian deal so they could buy up huge quantities of wheat at low prices from farmers and make a handsome windfall profit—at the expense of farmers. A case for an ulterior motive has yet to be made; the indication at present is that the Administration itself was surprised at how voraciously the Russians would snap up the wheat and corn and thereby drive commodity prices sky-high.

But, as laudable as the goal of expanded. East-West commerce may be in principle, some hard questions ought to be asked about the implications of vastly-expanded Soviet-American trade. McGovern isn't asking the key questions.

The primary advantage to the U.S. seems to be the opportunity to reduce the nation's staggering trade deficit, which totaled $2 billion in the second quarter of 1972. But the advantages to the Russians would seem to be far more extensive: U.S. help in bailing out a notoriously inefficient food production system; U.S. help in acquiring sophisticated computer and technological know-how to reduce the Soviet lag in this area (are we to forget that a key argument for SALT was that U.S. technological superiority would counterbalance U.S. numerical inferiority in weaponry?); U.S. help in tapping undeveloped natural resources, and so on. In short, will the U.S. get even approximately as much as it is giving?

Some cite the swap of American grain for Russian natural gas and oil as "mutually advantageous"? But will it be? Will it serve the national interest to develop a growing dependence on Communist Russia for vital energy needs?

Is Vietnam at the bottom of it all? Is the idea to buy Russian cooperation in ending the war by dangling juicy trade plums before Chairman Brezhnev's eyes? As ardently as peace is to be desired, can we expect the Soviets to "deliver" on Vietnam? Can they deliver, in view of North Vietnam's strident obsession with total conquest? Even if they can deliver. will the national interest be served in the long run if the result is to enable Russia to consolidate its economic and military power?

Henry Kissinger's mysterious comings and goings—to Paris, to Moscow, back to Paris for still more private talks with Le Duc Tho of Hanoi's Politburo—strongly smack of a Vietnam connection. No doubt most Americans can understand the sensitive nature of such discussions, and pray an honorable peace will be the outcome. But at some point the American public is due an honest explanation just how the much-touted East-West trade splurge is going to benefit this nation over the years at least as much as it benefits the Communist world.

Mr. HARRY F. BYRD, JR. Mr. President, I yield the floor.

THE COST OF HEALTH CARE

Mr. STENNIS. Mr. President, I was detained on important matters. Even though I tried to get to the floor in time to vote on the health maintenance organization bill, I missed the vote by a few minutes.

Mr. President, I am interested in the bill and will follow the consideration of it. I am concerned about the cost of health care to American people. I realize that something must be done.

We had rather extensive hearings this year regarding the need for medical command doctors in the military services. And we ended that consideration by establishing a medical school so as to have a better chance to get doctors for our military services in future years.

However, I had not concluded my thoughts about the merits of the bill. If I had been here, I would have cast my vote against the passage of the bill at this time, not that I am against the idea of some programs, but because we are adding billions and billions of dollars every few days to these programs that will have to be financed within the next few years. And they total in the tens, twenties, and forties of billions of dollars for new programs. And we are not meeting our obligation to see that the revenues come in.

Mr. President, I have just decided that more and more of us will have to slow down and take a second look. However, I am vitally interested in the subject matter of the bill. And if it passes with some moderation, we can use a trial run maybe with limited appropriations. However, I think that we cannot keep on just taking the lid off and taking someone's estimate of what it will take to do these things and then authorize billions and billions of dollars of funds.

Mr. HARRY F. BYRD, JR. Mr. President, the comments of the Senator from Mississippi are in accord with the views of the Senator from Virginia.

As the Senator from Mississippi has said, it is important that Congress explore the methods of being helpful in the medical field. I think it is a matter of great importance to the American people. However, I think we also must be aware that Congress is continuing to add more and more new programs, and very costly programs in the Government.

The measure we passed today authorizes $5.1 billion over 3 years. We passed one last week which would spend $30 billion over 5 years. And we are doing all of this and piling new and additional programs on top of what we already have.

There is no effort or recommendation made by any source to eliminate some of the older programs to make room for newer programs.

I have reached the firm conclusion, as has been expressed by the able Senator from Mississippi, that while I would prefer to support and vote for many of the programs which have been offered to the Senate in the way of new spending, I feel that the time has come when we in the Congress must realize that there is only one place the Government can get the money, and that is out of the pockets of the wage earners. And the wage earners will be paying for all of these spending programs that Congress has enacted either by paying more taxes or by more inflation or both.

Mr. HANSEN. Mr. President, may I say that I agree very much with the remarks of my two friends, the Senator from Mississippi and the Senator from Virginia.

As a member of the Finance Committee, we have been considering a number of health proposals which seem to be, as projections are made, extremely costly.

I think this is an area where a great deal of money could easily be squandered and wasted, not that some benefits, and perhaps in many cases some slight benefits, might not occur.

Mr. President, as I recall the hearings before our committee, it was pointed out that some of the people in this country who are receiving medical aid under the various programs that are provided, oftentimes at no cost to the recipients by the Government, result in those who make no contributions receiving better medical attention than is within the reach or the grasp of others to pay for it themselves.

They are called upon to contribute taxes, any variety of taxes, and we have the anomalous situation of wage earners, who are self-supporting, assuming the full responsibility for their families, being medical service comparable to that which is given to others who make no financial contribution at all.

I do not mean to imply by what I now say that I am against doing the very best job we can as representatives in the legislative branch of Government in seeing that we provide better care for everyone, consistent with our ability as a nation to pay for those programs, because it could so easily be that we spend more money than we have, which as a government we have been doing for a good many years now. The concomitant inflation which results denies more and more of our elderly citizens, those on social security, those on pensions, and those on annuities of one kind or another, the ability to buy those things which they had a right to feel would have been within their grasp earlier, as they were wage-earning and income-earning members of society, and contributing in those years significant amounts of tax money to the Government.

So I want to say that I agree wholeheartedly with the distinguished Senator from Mississippi and the distinguished Senator from Virginia in expressing concern and alarm over the willingness of this body to adopt almost any sort of proposal, and I do not speak specifically of the one passed earlier this afternoon. But in all candor it can be said that all too few of us understand what may be encompassed in these enormous outlays of capital in the legislation we pass. We do not take the time to make the comparison between one proposal and another proposal, nor do we seek out and heed the advice of professionals whose experience and ability should be worth something to us in knowing how best to meet problems and to provide better health care to our people.

I voted against the proposal. The Senator from Mississippi was denied the opportunity to vote, because of other important duties he was performing at the time and which occasioned his delay beyond the point to vote, but I appreciate what he said and I share his point of view and the point of view of the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I thank the Senator from Wyoming. I have the feeling that more and more Senators are becoming concerned as to the Nation's financial position. I share the view expressed a moment ago by the Senator from Wyoming as to whether these new programs we are initiating here, very costly programs, really have been gone into carefully and whether we, as Members of Congress, really know the full cost of what we are doing.

One of the most dramatic examples, and not an isolated case, is what happened in 1967, when Congress passed legislation in regard to social service programs, to provide Federal matching. It was an appealing program, and the cost was put at $40 million a year. Here we are in 1972 and the record shows that the States now are requesting $4.8 billion for this social service program. That is rather dramatic evidence about how these spending programs can get out of hand and how little we know about them, and how little concerned we seem to be when we enact them. They sound good.

Every Member of the Senate and every Member of Congress wants to try to be helpful to the people of our Nation, but I question whether we are really helping the people when we pile huge spending programs on top of huge spending programs and then go back to the people themselves and take out of the pockets of wage earners, and that is the only place to get the money, the money to pay for the programs, and if they are not paid for in that way, they are paid for through inflation, which hits hardest in the long run on the low-income people and the elderly who are on fixed incomes.

Mr. HANSEN. Mr. President, whether it is through taxes or inflation, it still comes out of the pockets of the people. Is that not true?

Mr. HARRY F. BYRD, JR. The Senator is so right. Whether it comes out of the pockets of the people by heavier taxes or through inflation, by prices the individual has to pay for the necessities of life, in any case it comes out of the pockets of the wage earners of this country.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HANSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDRESS BY SECRETARY OF COMMERCE PETER G. PETERSON BEFORE THE PITTSBURGH ECONOMIC CLUB

Mr. HANSEN. Mr. President, I ask unanimous consent to have printed in the RECORD a statement prepared by the Senator from Pennsylvania (Mr. SCOTT), including a speech given by Secretary of Commerce Peter G. Peterson.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR SCOTT

Secretary of Commerce Peter G. Peterson has indicated that Senator McGovern's economic plans, if they can be called that, advocate short term employment gains at the expense of long-run joblessness and inflation. Speaking before the Pittsburgh Economic Club yesterday, Secretary Peterson scored some telling points which are worthy of review by other members of the Senate.

CAN MCGEORGE GOVERN?

Senator McGovern bases his economic thinking on the vision of a vast pot of gold among corporations and individuals just waiting to be tapped. Corporations and individuals, he alleges, are getting much more than their fair share, and that share should be redistributed to those who need it most.

Let's follow this fiscal rainbow and see if we can find the pot of gold. A lot of people—Senator McGovern is only one—think that it is an enormous pot. Surveys indicate that Americans believe U.S. corporations on average make a 28 cent profit after taxes on each dollar of sales. Americans feel this is unfair, and that a fair after tax return would be 10 cents on the dollar. To me this is absolutely astounding. People believe companies are making 28 cents after tax on each dollar of sales, when the actual figure is about 4 cents on the dollar—one-seventh of what they believe it to be and less than half of what they think would be fair.

Is it any wonder that some people believe there's a huge corporate pot of gold? At 28 cents on the dollar, corporate profits would be $300 billion. Even at the "fair" return of 10 cents on the dollar, profits would be over $100 billion after taxes. That's a lot of income to redistribute. It's no wonder that some people think companies ought to lose accelerated depreciation and investment tax credits, that they ought to be taxed more, that they ought to be forced to cut their prices, that they ought to pay more in wages, that they ought to absorb all the costs of pollution, and so on.

But, unfortunately, the pot of gold isn't there. Companies don't make 28 cents on the dollar, or even ten cents on the dollar. They make more like four cents. Total corporate profits are about $47 billion after taxes—and the taxes are high. U.S. corporations pay around 45 percent of their profits in taxes—higher than in any other major industrial nation.

So where is that pot of gold? Is it in the hands of the wealthy? Well there is a pot there, but it isn't nearly as large as some people seem to think. The total income of all people earning more than $100,000 per year accounts for two percent of the income of all individuals . . . or about $14 billion. If the government were to have a 100 percent tax—if it were to confiscate all this income—we would have only about $70 per person to redistribute among all other Americans.

Even though there isn't an overflowing pot of gold, individual or corporate, suppose we try to redistribute it anyway. Senator McGovern feels that this could be done to the advantage of the nation without harming the growth prospects of the economy. We could cut all the tax "loopholes", we could remove investment incentives, and we could substitute for them increased federal spending to spur consumption.

I don't think this will work. It is "cart-before-the-horse" economics. But you don't have to take my word for it. In a recent poll of the National Association of Business Economists, four times as many economists felt that real growth would be smaller under Senator McGovern's proposals than it would be under a continuation of this Administration. One of the most widely-renowned private economic services reached the same conclusion, with their models showing reduced levels of investment and higher levels of inflation under the Senator's proposals.

Today the United States is near the bottom of the industrial nations in the percent of its national income it sets aside as an investment in the future. Investment is already too low. Billions are needed for new machines and new plants to allow us to compete with other nations and to allow us to produce more so we can earn more. Billions are needed for research and development into better ways of using our natural resources, better ways of producing products, and better and more economic uses of all our economic resources—especially people. No one has to vote these billions. Individuals and businesses will save and invest these billions on their own if we don't destroy the incentive.

It is not just investment in capital we need to make. It is also investment in people. We need to create up to 20 million jobs just in this decade. These must be meaningful, satisfying, lasting and productive jobs. These jobs won't just happen. And they won't be created by the Government. They must be created by private investment—an investment fueled by each of us being able to produce more, earn more and save more. This is the complex process that concerns all of us.

Senator McGovern's approaches, while they may still be presumed to be in a state of rapid evolution, aren't going to further this process. His approaches seem preoccupied with today. But today must not be enhanced at the expense of all our tomorrows.

There aren't any get-rich-quick schemes that will give this nation the quality of life it wants. We can't consume more today and expect a better tomorrow. There just aren't any simple solutions. Well over half of the so-called tax loopholes, for example, don't benefit companies or the wealthy; but instead go to benefit all Americans in such things as paying their medical bills, paying for their houses, for their education, and for their retirement. The Senator may be gunning for the fat cat, but he's got a thin cat in his sights.

It is important to understand that when we speak of international competitiveness, we are not speaking of some abstract academic concern. This is not just a matter of national or corporate one-upsmanship. This boils down to the very basic matter of who has jobs and what they get paid for them. No one has a greater stake in this country's competitiveness than the American workers. Through the ups and downs of competition with our trade partners, he is the man on the long end of the see-saw.

We are on a demanding and competitive voyage and we are making headway. One used to hear it said of voyages that getting there was half the fun. Senator McGovern apparently feels that the fun is getting half way there. For he would arrest the progress we have made to date.

The prospect of future wealth is the very essence of our incentive system. It is what motivates the poor man to enter the middle class, and it is what pushes the middle class further up the economic ladder. Moreover, it provides more than simple incentive; it provides hope, it gives purpose and it is the stuff of which dreams are made.

So when Senator McGovern proposes that we attack the rich by taxing their wealth away, what is he really doing? He may reduce the net worth of a handful of rich individuals, but by cutting the top off the economic incentive structure, he will take the meaning out of the lives of millions and millions of working Americans.

He is telling them, in effect, to go about their daily tasks with the solace that, while they will never be rich, neither will anyone else.

Finally, Senator McGovern has sought to appeal to the American public's preference for a free and open economy by promising repeal of our current system of wage and price controls.

In advocating removal of controls, Senator McGovern has badly misread the sophistication of the average American. The public opinion polls indicate strong grass roots support for continuing the controls until our inflation goals are met.

Taken in conjunction with the enormous budgetary deficits which would result from his spending proposals, the decision to drop controls in favor of flap-jaw admonishment is more than fiscal permissiveness—it is an outright license for inflation.

With rampant inflation, the first to suffer will be those of fixed incomes. They will be followed by those who have jobs in export industries and those in import-competing industries. As inflation is reflected in soaring interest rates the housing market will go flat and workers in the construction industry will be laid off.

In the end, everyone will suffer when the government finally bites the bullet and pays the terrible price in joblessness that has always accompanied the correction of inflation.

It will, of course, not do you, or this Administration or anyone else any good simply to observe smugly that Senator McGovern's proposals are unrealistic; that their consequences would be disastrous and that their public acceptance—such as it is—is grounded in misunderstanding. In light of them, however, I think it is fair to ask," can McGeorge govern?"

Senator McGovern is fond of recounting his war-time experiences as a bomber pilot. If he were a pilot today and submitted flight plans comparable to the economic game plans he has put forward, he'd have every air-traffic controller in the country biting his nails down to the quick. Moreover, this is no ordinary flight he has in mind. He wants 210 million Americans in the plane with him.

QUORUM CALL

Mr. HANSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS STEVENSON, MONDALE, MOSS, KENNEDY, FANNIN, WEICKER, AND SCOTT TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the recognition of Senators tomorrow prior to the conduct of routine morning business be revised and that the following Senators be recognized, each for not to exceed 15 minutes, and in the order stated: Mr. STEVENSON, Mr. MONDALE, Mr. MOSS, Mr. KENNEDY, Mr. FANNIN, Mr. WEICKER, and Mr. SCOTT.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR SENATE TO PROCEED TO THE CONSIDERATION OF S. 2280 FOLLOWING THE DISPOSITION OF S. 555

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of S. 555 tomorrow the Senate proceed to the consideration of S. 2280, dealing with the unlawful seizure of aircraft.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR S. 3970 TO BE TEMPORARILY LAID ASIDE TOMORROW UNTIL THE DISPOSITION OF S. 2280

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 3970, which will be the unfinished business tomorrow, be considered to be laid aside temporarily at the conclusion of routine morning business tomorrow, and that it remain temporarily laid aside until the disposition of S. 2280 or at the discretion of the distinguished majority leader or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PRINT H.R. 15376 AS PASSED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 15376, which was passed by the Senate yesterday be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9 o'clock a.m. The following Senators will be recognized, each in the order stated and for not to exceed 15 minutes: Mr. STEVENSON, Mr. MONDALE, Mr. MOSS, Mr. KENNEDY, Mr. FANNIN, Mr. WEICKER, and Mr. SCOTT; after which there will be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements limited therein to 3 minutes; at the conclusion of which the Senate will take up S. 555, to authorize the establishment of the older workers program, under a time limitation, and there will be a yea-and-nay vote on passage of that bill.

After S. 555 has been disposed of, the Senate will take up S. 2280, dealing with the unlawful seizure of aircraft, with a time limitation thereon and a yea-and-nay vote on final passage.

On the disposition of S. 2280, the Senate will return to the consideration of the then unfinished business, S. 3970, the Council of Consumer Advisers bill. Yea-and-nay votes are expected.

ADJOURNMENT TO 9 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 o'clock a.m. tomorrow.

The motion was agreed to; and at 6:33 p.m. the Senate adjourned until tomorrow, Thursday, September 21, 1972, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 20, 1972:

DIPLOMATIC AND FOREIGN SERVICE

Marion H. Smoak, of South Carolina, Acting Chief of Protocol for the White House, for the rank of Ambassador.

Christopher Van Hollen, of Virginia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sri Lanka, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Maldives.

EXTENSIONS OF REMARKS

LOYALTY DAY RESOLUTION

HON. BILL NICHOLS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. NICHOLS. Mr. Speaker, Sunday, September 17, was observed in the United Methodist Church as Loyalty Day. It was a day in which the church expressed its loyalty to country, God and self.

I commend Methodists everywhere for their expressions of loyalty made during the services conducted on Loyalty Day for certainly this country—through the grace of God—has received so many wonderful blessings for which we should all be thankful.

Mr. Speaker, like many church members throughout America I have become concerned over the recent trends which would seem to indicate the decline of our moral values in America. I am likewise concerned that we often become lax in our expressions of loyalty to these United States.

In connection with Loyalty Day at the First United Methodist Church in my hometown of Sylacauga, Ala., the administrative board, sharing the concern of many Americans, has expressed their concern in the form of a resolution. I believe the contents of this resolution to be worthy of reading by Americans everywhere and I am inserting it in the CONGRESSIONAL RECORD.

The resolution follows:

RESOLUTION OF THE ADMINISTRATIVE BOARD, FIRST UNITED METHODIST CHURCH

Whereas the Administrative Board of The First United Methodist Church of Sylacauga, Alabama is deeply concerned about the moral laxity which prevades our country, and deplores the increasing evidence of lack of faith in God, Church and Country; and

Whereas we condemn the actions of those who show disloyalty to their country by draft card burning, destruction of public and private property, illegal use of drugs, disrespect to the American Flag, the flagrant disregard for law, order and the rights of others and the condoning of such actions; and

Whereas we feel that the moral disintegration of this Nation has been brought about by a combination of concepts stemming from rationalism for selfish purposes and misguided liberalistic idealism, instigated by calculated disruption from external sources, which have moved into the vacuum of non belief in a Supreme Being; and

Whereas the strength, character and spirit of a people are best tested in adversity and best sustained by a faith in God, in one's self and in his fellow man; and

Whereas we are well aware that the future of this Nation always rests with our young people, most of whom are persons of high principles, strong character and dedicated Christian spirit, with a zest for living the full life, and we regret the waste generated by the unused potential of the small minority who expend their energies in fruitless or undesirable pursuits; now therefore,

Be it resolved by the administrative board of the First United Methodist Church of Sylacauga, Alabama, That we do hereby reaffirm our faith in God, the Creator and Sustainer of Life; in Jesus Christ, His only Begotten Son, our sole salvation; in the Holy Spirit, our ever-present Comforter; and in the Holy Bible as the divinely inspired Word of God;

Be it further resolved that, we do hereby reaffirm our faith in the Constitution of the United States and in our democratic way of life, and that we do again pledge allegiance to the flag of the United States and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all;

And be it further resolved that a copy of this resolution be spread upon the minutes of this meeting of the Administrative Board; that at the next regular meeting of this Church that the congregation be asked to concur in this Resolution; and that a copy be sent to the President of the United States, both Houses of Congress, the Bishop of the North Alabama Conference of The United Methodist Church, and the Superintendent of the Sylacauga District.

Passed by unanimous vote of The Administrative Board in its regular meeting on September 11, 1972.

LUFTWAFFE TRAINEES AT LUKE AIR FORCE BASE, ARIZ.

HON. PAUL J. FANNIN

OF ARIZONA

IN THE SENATE OF THE UNITED STATES

Wednesday, September 20, 1972

Mr. FANNIN. Mr. President, for many years, now, the Luftwaffe has been sending young men to Luke Air Force Base, in Arizona, for training. During these years the people of the area have enjoyed a warm relationship with the Germans.

The Luftwaffe pilots and ground crews have given generously of their time and talents to help in civic activities. Their work in helping the Glendale Boys' Club has been especially noteworthy.

I am most pleased that an article giving richly deserved credit to these young Germans appeared in the most recent issue of a magazine published in Holland—NATO's Fifteen Nations. The excellent article was written by retired U.S. Air Force Col. Barney Oldfield, who now lives in California.

Mr. President, I ask unanimous consent that the article be printed in the RECORD as testimony to the fine work by Luftwaffe personnel in Arizona.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LUFTWAFFE: CACTUS COUNTRY GOOD CITIZENS

(By Col. Barney Oldfield)

In the late Spring of any year, particularly in a geographic area as continually sunny as America's state of Arizona, it may seem a little strange that the spirit of giving which is traditional to Christmas persists so long. This urge to make a gift to young people is far from an any-day-a-year thing, but goes on in one manifestation or another the whole year around. This compulsion is nowhere more evident than among the young pilot trainees of Germany's Luftwaffe at Luke Air Force Base, and for that reason, they are giving their "all" in an annual soccer game which has literally been "kicked together" for an act of international Good Samaritanism. It may all sound complicated, and perhaps it is, but it is only an extension of the great complications of the human spirit, what motivates it, and how this can be compounded in men who are required by the needs of their country's national security to spend long periods away from their homes and homeland. These Luftwaffe pilots and ground crews give of themselves at and off the flightline in order to fly better from early morning until sunset, but between the departure of the sun and the time of its return and on their weekends, they go about totally different chores and errands of a personal nature.

In nearby Glendale, Arizona, a suburb of Phoenix, there is a small but thriving Boys' Club. People who drive by or visit it find about an equal mix of Mexican-American (Chicano) and white (Anglo) boys playing there. It would be most unlikely in any other locales in the American Southwest that one would get any answer at all if a question was put as to what the Luftwaffe's "Cactus Starfighter Squadron" is, but not at this Club. There the explanation comes quickly and from the heart, and it would be to the effect that those German Luftwaffe pilots are "our friends."

Fighter pilots, the world over, are known for being imaginative, quick and ingenious people. They have been the leading edge in attack in war, have supported infantry close-up on the battlefield, have interdicted supply lines, and protected big bomber formations. But they are not widely known as or thought to be a diplomatic and cultural force. That's not what they are for, although the Luftwaffe in Arizona has demonstrated via a diplomacy of deeds that it is a factor of German-American relations hard to overlook. These Luftwaffe members have shown an ability and considerable delight in coming to the rescue of many disadvantaged and underprivileged boys which cuts a cultural swathe for Germany in the United States, which gives the German Ambassador in far off Washington an extra dimension in the goodwill business.[1]

Such is the niche of respect attained by these young Germans that the very first of their succession of Luftwaffe detachment commanders at Luke—then Colonel Hans Wolf—was decribed as politically potent by no less than the Mayor of Phoenix himself. He said he dared not leave town for any length of time, as it might give the local citizenry the idea to elect this popular German commander as burgomeister in his absence. And this would mean he would have no job to come home to, as a result of this miscalculation of the acceptance locally and the effect of the wide-ranging and constructive community activities with which the Luftwaffe was so well identified.

The Luftwaffe action is backed up in a

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[1] Before he left his post as Luftwaffe head to become Chairman of the Military Committee of NATO, Lt. Gen. Johannes Steinhoff visited Luke and was told by the Wing Commander, USAF—Col. Arthur Small—that he could not have performed his community relations function in the cities and towns around that big airbase had it not been for the dedication and devotion for this kind of activity which had been exhibited by the men of the Luftwaffe. Other Luftwaffe high rankers, the present Chief, Lt. Gen. Guenther Rall, then commander of the Luftwaffe's Second Air Division, and Maj. Gen. Walther Krupinski, then head of the U.S. German Training Command, have attended the charity soccer games with the Air Force Academy.

maintenance way by the members of what is called the Starfighter Management Club. This organization rosters those companies which have technical representation contracts for Luftwaffe training support, and they include: The Lockheed Aircraft Service Company (Lockheed is the builder of the NATO F-104G Starfighters long in wide use in the Federal Republic, and other NATO Air Forces); the General Electric Company, Autonetics, and the Litton Systems, Inc. element of Litton Industries, Inc.

While a so-called management club is not new where a military activity seeks complementary contractual ties with industrial firms which are most knowledgeable about their highly technical equipment, this Starfigher Management Club was coaxed into a new magnitude of relationship by Litton's Tom Rhone.[2] He came to Litton on his retirement from the USAF in 1964, but while in the Air Force he was their first NCO to win their new super grades of Senior Master Sergeant and then Chief Master Sergeant in the information-public relations-community relations career field where he had served in the U.S., in Europe and in the Far East. When asked, he offered advice and gave recommendations and how-to-do-it counsel for the Luftwaffe, and successive Luftwaffe commanders and pilots caught on fast. And he worked to set up what has become the promotional high-mark each year, which is sponsored by the Starfighter Management Club—the annual soccer clash to raise charity money which is a hard fought game between the Luftwaffe of Luke Air Force Base and the Cadet Wing of the United States Air Force Academy in Colorado Springs, Colorado.

The Air Force Academy enjoys this comradely and good-natured confrontation, and appreciates the identification it gives that glamorous edifice of higher learning with the humane and sociological purposes served by the game's proceeds. Both the Air Force and the Luftwaffe, knowing that some of their professional service careers are bound to bring them together on joint and allied staffs, think the reference point of these yearly joustings will be important ingredients in establishing a kind of "international old boy network" among them as professional airmen.

While that may take a much longer time to develop, the immediate effects have been on the Boys' Club of Glendale, Arizona. Although soccer has never been a big-audience sport in the U.S., from a scratch start in 1967 up to the present time, it has produced about $15,000, after all expenses were deducted, for the Boys' Club. The ramshackle old building which once housed it and used to repel more than it attracted youngsters has now been replaced by a new one, in a better neighborhood, and this has given the better racial balance to the young people who use it. Any positive factor added in any American community in the matter of race relations is welcome, indeed.

The Germans may ruefully regard their athletic record, (they were defeated by the Academy 3-1 in 1967, 6-2 in 1968, and 5-1 in 1970, and only won once, 4-2, in 1969), but they gloat over the other results. They were desolate in 1971 when the Academy was unable to squeeze them into its schedule, but through the great interest in renewal as reflected by Lt. Gen. A. P. Clarke, Superintendent of the Academy, and recently retired Luftwaffe Brig. Gen. Hanns Heise, who headed the U.S. German Training Command until the fall of 1971, the game is on again for 1972. Gen. Heise thought so much of its worth to the welcome which has been traditional of the American Southwest, he made almost a noble cause of getting the soccer game rescheduled right up to the end of his active military life—and retired happy in the assurance that it is back to stay.

Soccer is not really the sole involvement of the Luftwaffe in the community and state life, even though it is the moneymaker. In the year-end holiday season, the Luftwaffe assembles its own choral group made up of the pilots, which tours homes of the aged and hospitals in the Luke vicinity. They do a rainbow of songs, English and German, and as they have excellent voices they are strongly applauded and always welcomed back. They put on Christmas parties for poor children and orphans, and become very competitive about who will be an occasion's Santa Claus, or St. Nicholas, or Father Christmas, or Kris Kringle, or whatever name and motif is required for the time of year. They serve as judges in model airplane contests, and even help some youngsters build their entries.

But the Boys' Club of Glendale is an all-year around interest. Each year, as many as forty of the pilots show up on some weekend in coveralls, and paint the place so it shines. They add to the fun by painting each other a little, too, just to keep from boredom.

There is reverence added to the Boys' Club of Glendale. It all came about through the tragedy which followed the presence of a very popular Luftwaffe Major Peter Hell. He was not only good at everything he tried to do, he was superlatively so as a pilot who was sent to Luke after having logged more than 1,900 flying hours in an assortment of T-33's, RF-84s, and F-104Gs. His mission: Instructor Pilot, to train other German pilots. He added another 1,500 hours to his log in that role. Even with the exactness and dedication this called for, he sought his relaxation and outlet for his plentiful energies through hunting, fishing, and a variety of charity and community works.

This led him to becoming the player-coach for the first four of the Academy-Luftwaffe soccer matches, and he was in the choral group which toured the hospitals. Major Hell, with his wife, Annamarie, and two children, Michael and Sabine, was slated to return to Germany in the summer of 1970. On May 8th, while instructing a student, he was killed in an aircraft crash.

A great shock went through the Luftwaffe, through the Phoenix community, and tearfully among the regulars at the Boys' Club of Glendale. There good friends are not easy to come by, and Peter Hell was a good friend of theirs.

Almost a year after Major Hell's death, a movement began. A decision was made that there would be a "Major Peter Hell Room" in the Boys' Club of Glendale, and there would be a fitting ceremonial dedication. When word of this got back to Germany, the Luftwaffe flew Peter's widow, Annamarie, back to the United States to take part in the tribute. All the Luftwaffe pilots came from Luke with their wives and children. Brig. Gen. Heise, of the U.S. German Training Command came in from Fort Bliss, Texas, and Major Gen. Karl-Heinz Greve, of the First German Air Division, came from Germany. Mayor Max Klass of Glendale joined them. The large Luftwaffe turnout was explained to the Chicano and Anglo boys as being because Major Peter Hell was "one of their own."

One of the Chicano boys said: "He was one of *our* own, too."

Of all the measurements which might have been made about the quality of Luftwaffe cactus country good citizenship that day, perhaps Major Hell would have liked that quote best.

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[2] So popular with Luftwaffe has Tom Rhone become, he has been godfather to eight children born to German pilots, and is referred to in Bonn and wherever the Luftwaffe may be as "Unser mann in Arizona" (our man in Arizona). A mark of honor, he cherishes, by the way.

NEWS BULLETIN OF THE AMERICAN REVOLUTION BICENTENNIAL COMMISSION

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. WHITEHURST. Mr. Speaker, I am inserting in the RECORD the September 18 edition of the news bulletin of the American Revolution Bicentennial Commission—ARBC. I take this action to help my colleagues be informed of developments across the country planning for the Nation's 200th aninversary in 1976. The bulletin is compiled and written by the staff of the ARBC Communications Committee. The bulletin follows:

BICENTENNIAL BULLETIN

Congressman Emanuel Celler, Chairman of the House Judiciary Committee, announced on September 12 that he would submit amendments recommending the authorization of ARBC legislation for six months and reducing the amount of funds authorized, as well as calling for a Judiciary Staff Study of the operations and functions of the Commission. In a statement Chairman Mahoney stated, "The actions of Congressman Cellar are gratifying." The Chairman further stated he feels this is a positive step forward and welcomes the opportunity to provide current information to the Judiciary Committee. "An all-out effort is needed to proceed with the important planning and implementation of the Nation's 200th Anniversary."

Meeting in Washington last week the Commission adopted several internal resolutions which added two additional Congressional members, one from each party, to the Executive Committee; increased the number of Commission meetings from four to six per year; vested total policy power in the full Commission membership; increased the public representation on the Commission's Executive Committee by the addition of three more public members from minority groups (a Black, a Mexican-American and an Indian); raised the number of Executive members from 10 to 16, including a representative of the Interior Department (in addition to the above).

The Commission also officially recognized as Bicentennial activities the 1975 World Congress on the Philosophy of Law and Social Philosophy and the proposed Hall of Maritime Enterprise at the Smithsonian Institute.

A resolution was adopted to endorse the New York Floating Theatre, the Showboat, as a Bicentennial project. A national model for water cities, Showboat is conceived by the Eugene O'Neill Memorial Theatre Center, Inc. as a multi-faceted Children's theatre center for New York City. The O'Neill Center has formed a three-way partnership with the New York City Center and the South Street Seaport to bring the project to fruition. Festival USA Chairman George Lang said the project is a perfect Bicentennial program that will bring the arts to the people.

The Commission also adopted six major travel and hospitality action areas to insure that millions of Americans and foreigners alike will have the opportunity to see and visit America for the Bicentennial. The six proposals were endorsed by the Invitation to the World Panel and submitted by the Festival USA Committee.

As reported in the current monthly ARBC Newsletter, the Commission also granted formal recognition to three major projects (Foxfire, South Street Seaport and the Bicentennial Exhibit of the Chicago Museum of Science and Industry), as well as designated twenty Revolutionary War locations that were submitted by the Heritage '76 Committee as Bicentennial sites.

It was announced at the full Commission meeting that ARBC member Nancy Porter has been appointed Chairperson of the Horizons '76 Committee. Ms. Porter, National Representative of the Girl Scouts of the USA, replaces Erik Jonsson, who will supervise the "Call for Achievement" program of the ARBC. Chairwoman Porter in accepting the position stated, "My first and chief goal is to meet the tremendous challenge of making the Horizons' potential known to the American people. There is a place for each and every citizen in Horizons."

Lieutenant Governor James H. Brickley announced on August 31 that Howard Lancour, a television newscaster, has been appointed Executive Director of the Michigan Bicentennial Commission.

The Montana Historical Society is beginning a "Montana Hunt for Historical Records and Photographs," a project financed by the federal grant presented to the Montana ARBC. The Society plans a statewide search for materials relating to Montana history that may be in the hands of private citizens. Jeff Cunniff, an Assistant Archivist who is in charge of the "Hunt," is interested in business or family records and correspondence, scrapbooks, photographs and diaries—anything that could be used for research. The materials gathered will be included in the Society's library in Helena.

Our Lady of the Lake College in San Antonio, Texas will dedicate as its part of the Texas Colleges and Universities Bicentennial Program a 1972–73 Cultural Entertainment Series to the Bicentennial theme "The American Democratic Experience: Achievements, Lessons and Goals." Student leaders and faculty at OLL planned the nine-month program of lectures, workshops, concerts, films and festivals which concern American lifestyles, their development and their ever-changing nature. Through the series, OLL will offer a representation of many of the unique cultures of the U.S. including those of the Mexican-American, Black, American Indian, and Anglo (Appalachian and urban). Scheduled "experiences" include: Dr. Uvaldo Palomares, a Chicano educator and psychologist; Wilebaldo Lopez, award-winning Mexican actor director-playwright; Alex Haley, Black author of "The Autobiography of Malcolm X;" and the North American Indian communications group, the White Roots of Peace.

The New Mexico ARBC selected Edward H. Pond of Santa Fe from a group of 63 applicants as the new director of the Commission. Pond said the goal of the Bicentennial should not only be to celebrate the nation's birthday, but also to unite the four cultures in New Mexico to work toward a common purpose. "We will have failed if we don't involve every individual in the state who wishes to be involved."

Mrs. Jean Helliesen, Chairman of the Wisconsin ARBC, recently announced that the Commission has endorsed "Old World Wisconsin" an "outdoor museum" composed of more than 75 buildings reflecting Wisconsin's diverse ethnic background. The museum is being developed in the Kettle Moraine State Forest by the Wisconsin State Historical Society and the State Department of Natural Resources. The Commission also recommended that the National Bicentennial Park proposal be broad enough to include coordination of Wisconsin participation in the Parks plan with the existing state plan for Old World Wisconsin.

A student operated project at Rutgers University in New Jersey, has been submitted for consideration as an official Bicentennial program. The proposal is for a Bicentennial Canal Park to be built along the Raritan Canal, the Delaware River and surrounding historic sites. The park and structures would remain as permanent residuals to the state, and it is estimated that the income from the sale of potable water from a reservoir to be built will provide the funds required to maintain the Canal Park after 1976. The study for the park was initiated in January 1971, and it is hoped that it may serve as a model for other states in assisting them in the establishment of a Bicentennial program.

MORE GOVERNMENT SPENDING

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Wednesday, September 20, 1972

Mr. HARRY F. BYRD, JR. Mr. President, the Senate has just passed the new spending program by a vote of 61 to 14, authorizing the expenditure of $5.1 billion over a 3-year period.

Last week the Senate approved another new spending program, calling for the expenditure of $30 billion over the next 5 years.

Mr. President, in both of these programs there is much that is desirable. I found it necessary, however, to vote against both of them. The Nation is in a very difficult financial situation. We are running smashing deficits. In the 3-year period, fiscal 1971, fiscal 1972, and fiscal 1973, the deficits will total $100 billion, and yet Congress continues to add new spending programs on top of all the other programs.

I noted yesterday, Mr. President, that the Secretary of the Treasury, in testifying before the Ways and Means Committee in the House of Representatives, warned that a tax increase will be forthcoming if spending climbs.

I noted too, that the Secretary of the Treasury and the Director of the Office of Management and Budget testified yesterday for the need to increase the debt ceiling. The ceiling is now $450 billion and the administration wants this increased to $465 billion.

Mr. President, I have prepared a table for the 20-year period, 1954 through 1973, setting forth receipts, outlays, the deficits, or in the case of 3 years in that 20 years, the surplus and the interest on the national debt.

Mr. President, it will be noted that in the current fiscal year the interest on the national debt was $22.7 billion. To phrase this another way, of every personal and corporate income tax paid into the Federal Government, 17 cents goes for the one purpose of paying the interest on the national debt.

I ask unanimous consent that the remarks I have just made and the table which I have mentioned be printed in the Extensions of Remarks.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

DEFICITS IN FEDERAL FUNDS AND INTEREST ON THE NATIONAL DEBT, 1954–73 INCLUSIVE

[In billions of dollars]

	Receipts	Outlays	Surplus (+) or deficit (−)	Debt interest
1954	62.8	65.9	−3.1	6.4
1955	58.1	62.3	−4.2	6.4
1956	65.4	63.8	+1.6	6.8
1957	68.8	67.1	+1.7	7.2
1958	66.6	69.7	−3.1	7.6
1959	65.8	77.0	−11.2	7.6
1960	75.7	74.9	+.8	9.2
1961	75.2	79.3	−4.1	9.0
1962	79.7	86.6	−6.9	9.1
1963	83.6	90.1	−6.5	9.9
1964	87.2	95.8	−8.6	10.7
1965	90.9	94.8	−3.9	11.4
1966	101.4	106.5	−5.1	12.0
1967	111.8	126.8	−15.0	13.4
1968	114.7	143.1	−28.4	14.6
1969	143.3	148.8	−5.5	16.6
1970	143.2	156.3	−13.1	19.3
1971	133.7	163.7	−30.0	20.8
1972	148.8	177.7	−28.9	21.2
1973 [1]	152.6	190.4	−37.8	22.7
20-year plan	1,929.3	2,140.6	211.3	241.9

[1] Estimated figures.

Source: Office of Management and Budget and Treasury Department.

ROBERT YESH NAMED OUTSTANDING DOORMAN OF THE YEAR FOR THE HOUSE FLOOR

HON. THOMAS E. MORGAN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. MORGAN. Mr. Speaker, a young man from my congressional district was recently given the honor of being selected Doorman of the Year on the House floor by the U.S. House of Representatives doorman's society.

Robert's personal qualities of leadership, adaptability, and initiative have afforded him quick success in whatever task he undertakes.

He was born on May 29, 1943, at Uniontown, Pa., and is the son of Mr. and Mrs. Roman Yesh. He graduated from Uniontown Senior High School, Uniontown, Pa., in 1961. He entered the U.S. Army and served with the 505th Airborne 101st and later transferred to the 9th Infantry, 2d Infantry Division, Fort Benning, Ga. He was awarded a medal for expert in marksmanship.

Later, received a diploma from Nationwide Semi-Division in Kentucky and owned and operated his own business before moving to Washington, D.C. Married on August 1, 1969.

Bob has been a doorman on the House floor under the Doorkeeper of the U.S. House of Representatives since May of 1970 and was just recently promoted to a supervisory position in the Democratic Cloakroom.

He is a member of the Myron M. Parker Grand Lodge of F.A.A.M., Washington, D.C., member of the Polish Club, Uniontown, Pa., member of St. Joseph's Roman Catholic Church, Uniontown, Pa. His hobbies are hunting, fishing, boating, swimming, tennis, and building stock cars.

I am proud of Robert's accomplishment and take this opportunity to relate this information to my colleagues. I congratulate Robert on his outstanding work in the House of Representatives.

CHRISTIAN SERVICE AT LENINGRAD

HON. WILLIAM L. SPRINGER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. SPRINGER. Mr. Speaker, the Soviet Union is in the process of opening a consulate in San Francisco. Under a reciprocal agreement between the United States and the Soviet Union, we have the right to open a consulate in Leningrad.

On June 5, holy communion was celebrated at the residence of the American Consul General in Leningrad to consecrate the residence. Mrs. Springer and I were fortunate to be in Leningrad on that day and were invited to attend by the Consul General, Mr. Culver Gleysteen. As far as the records show, this religious service is the first one conducted by an American bishop in Leningrad since the Bolshevik revolution.

The right of American citizens to hold such services was guaranteed in the agreements which led to the establishment of diplomatic relations between the United States and the Soviet Union in 1933. Bishop Hines, presiding bishop of the American Episcopal Church, celebrated holy communion. I asked him to send me an account in his own language of the Christian service at Leningrad which he has done as of August 25, and I am inserting it into the RECORD.

The account follows:

CHRISTIAN SERVICE AT LENINGRAD CONSULATE BUILDING

On June 5, 1972, Bishop Hines, Presiding Bishop of the American Episcopal Church, celebrated Holy Communion at the residence of the American Consulate General in Leningrad at Grodnenskiy Pereulok 4. There were 18 Americans present, including Congressman and Mrs. William L. Springer of Illinois, Consul General Designate and Mrs. Culver Gleysteen, members of the Bishop's party and a handful of Americans who work in the Consulate General Designate and their children.

Secretary of State Rogers inspected the residence during President Nixon's visit to Leningrad on May 27. The service conducted by Bishop Hines was the next formal event which took place in the house. It doubtlessly is the first time an American Bishop has conducted a service in Leningrad since the Bolshevik Revolution. Possibly it is the first time an American Bishop has celebrated a service in Petersbourg-Petrograd-Leningrad.

The holding of religious services of different denominations in American official premises in the Soviet Union is a practise which flows from the absence of other available premises. The right of American citizens to hold such services was guaranteed in the agreements which led to the establishment of diplomatic relations between the United States and the Soviet Union in 1933.

THE FUTURE OF AUTOMOBILES

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. FRENZEL. Mr. Speaker, Bill Ruckelshaus, Administrator of the Environmental Protection Agency, recently put into perspective the environmental consequences of our almost exclusive dependence on the automobile for urban transportation.

In a speech before the American Automobile Association, Mr. Ruckelshaus points out that while the automobile is here to stay, unless we "broaden the modalities of movement," we cannot hope to overcome the present crises in energy, pollution, and urban design.

A study at Carnegie-Mellon shows that buses are five times more efficient than the automobile in the use of gasoline equivalents. With the automobile currently consuming 20 percent of all energy used in the Nation, the immediate need to develop more efficient means of transportation seems self-evident. It is also clear these transit alternatives will have to include the more desirable features of the automobile, if they are to win public acceptance. Current transit systems have failed miserably in the marketplace. Our best hope for turning this dismal picture around is to develop transit systems which people will want to use.

I am hopeful that through the increased funding for transit R. & D. which this Congress has approved, we can rapidly develop and test more attractive transit options. At this point, I insert Mr. Ruckelshaus' speech in the RECORD:

THE FUTURE OF THE AUTOMOBILE

(By William D. Ruckelshaus)

I've been looking forward to meeting with members of the American Automobile Association for a long time. With the possible exception of the makers of automobiles themselves, no private organization has done more than Triple-A in the last 70 years to make driving enjoyable. Your name is synonymous with service and in this age of impersonality service is more important than ever.

When Triple-A was founded there were only 23,000 cars in the entire country, but motorists were hemmed in by all kinds of bizarre restrictions. In some towns you weren't allowed to go more than 10 miles per hour. In one place you couldn't drive down the street unless you were preceded by a man waving a red flag. In another you had to empty your gas tank before using the ferry boat. When you crossed a county or state border you might have to buy new license plates.

For those who believe history never repeats itself, there were even communities which outlawed the use of self-propelled vehicles altogether. So that idea is not new.

Thanks in considerable measure to the dedicated work of AAA Clubs, the machine that had been merely a rich man's toy or a bachelor's runabout was eventually accepted as a normal part of the American scene. The automobile provided fast access to jobs, schools and stores. It enabled us to get away from things on weekends. We gained a mobility that was the envy and wonder of the world.

Can you ever forget that scene in *The Wind in The Willows* where Mr. Toad and his companions are bowled over by a speeding roadster on a country lane? My kids always enjoyed that part best.

When the dust lifted they found poor Toad "in a sort of trance, a happy smile on his face, his eyes still fixed on the dusty wake of their destroyer."

"'Glorious . . . sight' murmured Toad." Poetry in motion! "'The *real* way to travel! The *only* way . . .'"

"'What are we to do with him?' asked the Mole. 'Nothing' . . . replied the Rat firmly . . . "He is . . . possessed.'".

Well, I'm sure you recognize the syndrome; it affects every growing boy and some grown long ago. Americans all want cars and one of the problems is that 75% of us get them. The very popularity of the automobile now seriously threatens its usefulness. In many of our cities we are confronted by pollution, congestion, noise, delay, ugliness and urban breakdown on a scale that has not been seen since the last days of imperial Rome.

It seems clear that we will have to be more imaginative in our use and even design of the automobile if we are to ensure the amenities of civilized living and keep that instant mobility we all want.

It is significant that your organization recognizes the importance of controlling exhaust emissions and the importance of searching out alternatives to the internal combustion engine. Until an alternative is found, we should make certain that control devices work and continue to work throughout the life of the car. That means not only that we provide incentives for quality equipment in the first place, but that we train good men to service it and keep it operating at maximum efficiency.

Given present power systems, exhaust emission controls cannot do the job by themselves where traffic volumes are too great or atmospheric conditions are unfavorable. In such cities as Chicago, New York, Philadelphia, Denver, Los Angeles, Cincinnati and Washington the public must gird itself for the possibility of substantial changes in commutation habits.

As we head toward the air quality deadlines under the Clean Air Act in 1975, these cities—and others—will be considering their options. We will be hearing more about metered traffic, exclusive bus lanes, staggered working hours, restricted parking, dispersed employment, and sanctions against the man who drives his 6-passenger car to work with no one else in it.

Statistics now show that the rate of occupancy of cars during peak load periods is down to 1.2 persons per vehicle, and at the present rate of passenger decline by 1980 one out of every three cars will be tooling along without a driver. That wouldn't be much more absurd than the present practice of encasing one man in 5,000 pounds of steel, adding 400 horsepower and then making him creep along at five miles per hour breathing a combination of synergistic poisons.

The sheer aggravation that was once the curse only of downtown commercial districts is now spreading to suburban shopping and work places as well. Even the national parks are so burdened with cars as to jeopardize the very serenity our people desperately seek.

Some say the answer is simply to build better highways; others that the automobile should be eliminated in our more congested areas and replaced by mass transit. My profound belief is that attempting to solve the problems of modern living by attacking a piece of that complex is wrong because it's shortsighted. The automobile is part of the larger mosaic of American life. If an understandable picture is to emerge from the pieces, we must comprehend how they all fit.

We desperately need a broad systems approach integrating emissions control of motor vehicles with highway planning, land and energy use, resource conservation, demographic factors, economic growth, and the protection of wilderness and countryside. We need transportation that is fast, safe, reliable and ecologically responsible.

If we limit our attention to the problem of pollution pure and simple—or perhaps I should say impure and simple—then we will fail. We will fail for the reason that in the total world environment, everything is connected to everything else.

Consider, for example, the contribution of the automobile to costly suburban sprawl and the waste of urban land. It requires a highway network of enormous expense when tax dollars are needed to address other social problems. The automobile kills over 50,000 Americans every year. It is expensive to service and repair.

You have all heard talk about an energy crisis in the United States. We have not yet reached the crisis point and we may never do so. As the cost of energy rises, we will have to cut the present waste of our fuel resources. There may even be temporary shortages of one fuel or another. Patterns of consumption in industry, in domestic heating and cooling, and in transportation could change greatly over the next decade.

Traditionally, we are prone to think of efficiency as mere speed: jet planes and gleaming new automobiles seem almost by definition to be highly efficient. Actually it isn't so. A research team at Carnegie-Mellon has compared the transport modes in terms of passenger- and ton-miles per gallon of gasoline equivalents. They found to no one's great surprise that you get 200 passenger miles per gallon out of a double-decker suburban train but only 22 passenger miles per gallon from a 747 jumbo jet or from the family automobile carrying the standard load of 1.2 people. Even buses are five times as efficient as cars. So considering that gasoline used in private cars represents one-fifth of all energy used in the nation, and that vehicle miles are rising 4–5% annually, we must strive to use this fuel with maximum efficiency.

How then can we get around the energy—resources—pollution—urban design impasse? How can we broaden the modalities of movement?

One answer that obviously needs much more attention is mass transit. It should be deliberately employed—like housing and the utility infrastructure—as a major element in the design of more efficient cities. Air conditioning, express service, attractive interiors, quiet low-emission engines, flexible routes, courteous service, seating arrangements which recognize the importance of "personal space"—these features might lure the suburbanites back to town, where their financial presence, moral commitment and political leadership is vitally needed. Fast and reliable public transportation would certainly open up suburban light-industrial jobs to inner city residents. Jobs which today go unfilled could be filled by those who need them.

We should realize that not everyone can afford a car, not everyone wants to drive, and that nobody really wants to drive everywhere all the time. We need more flexibility of choice; we need means of transportation that bring people into contact with each other and not just with machines.

A safe, efficient transportation system might do a lot to stem the tide of loneliness, fear and alienation which threaten city life today.

As a matter of social justice, we should restore decent public transportation for the 25% of our citizens who are old, poor, handicapped or under 16. Physical isolation—inability to get to a doctor, a shop, a job or even to a movie house—has been suggested as a major cause of urban unrest.

If necessary, fares should be subsidized or abolished. No one expects the police or the schools to make a profit, yet transit has been so obligated in most metropolitan areas.

Winston Churchill once said in a characteristic fit of hyperbole that the worst disaster in the history of mankind was the invention of the automobile. The people do not seem to agree.

A questionnaire was circulated a few years ago noting the air pollution, noise and congestion caused by the automobile, the displacement of tens of thousands of homeowners and small businessmen by highways, the destruction of natural beauty, the tens of millions of injuries and the almost 2 million deaths during this century and so forth—and people were asked "Is it worth it?"

Eighty-five percent responded with an enthusiastic and unqualified "yes." I think that tells us how strongly Americans feel the need for the sense of autonomy and freedom provided by the automobile. So I hope nothing I have said today will be taken as an attack on this venerable and necessary American institution, which is so much more than a way to get from one place to another.

The automobile is indeed here to stay. It will continue to have a dominant role in the exurbs, on the farm, between cities over short distances and as an alternate mode of transportation everywhere. But we must supplement it if we are to get the most efficient service out of it. Henry Ford himself has said so.

Downtown, for example, the worker or shopper should be able to get around in automated, low speed, easy access people movers of one kind or another, like the one linking the campuses of the University of West Virginia at Morgantown.

In the suburbs we should modify the system which has made countless wives into chauffeurs for their children, trapped in an endless round of ferrying the kids back and forth to school, to the dentists, to the scouts and to friends. Perhaps we can look to dial-a-bus, which has already been tried in Haddonfield, New Jersey or other methods to provide alternatives to those who want them.

As for transportation to the airport, the air-cushion train powered by a linear-induction motor could be an answer during the late 70's. It could also make a real dent in medium-haul travel times from one urban nucleus to another, especially along the Atlantic, Pacific and Great Lakes corridors.

Overall, according to the Department of Transportation, the revolution in mobility will require as much as $33 billion in the next 10 to 20 years. Some of this money may be diverted from the highway trust fund; whatever its origins it will be well spent. We don't have to go from one place to another in ways that are time-consuming, wasteful of fuel, nerve-wracking or socially destructive.

But in broader context, we must question whether we need to do so much moving about the landscape in the first place. The 4-day week would eliminate up to 20% of rush hour pollution weekly. Maybe people could even do more of their work at home. Modern telecommunications could replace a lot of hours wasted in traffic and in the office, where one's physical presence not only is unnecessary but often impedes the transaction of business.

Above all, in discussing the future of the private car we must not fall into the trap of being mere participants in endless pro-versus anti-automobile debate. We need not be either to be pro-humanity.

In retrospect, then, we would acknowledge that Kenneth Grahame's Toad was mesmerized and so were we all—for a time. The open road is no longer simply an invitation to adventure but also a problem and a challenge. We have it within our power to create a kind of mobility which transcends movement for its own sake or movement compelled by circumstances. We can formulate a life style which guarantees the variable mobility a complex society requires.

PLANNING, PROGRAMING, AND BUDGETING SYSTEM

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. SCHMITZ. Mr. Speaker, for some time, my office has been receiving a number of letters concerning the planning, programing, and budgeting system. Recently, the letters have contained a note of urgency and concern. The PPBS, as it is called, seems to be spreading through all the States, some education systems, and some local governments, with little awareness for the most part, by either the public or their elected representatives, of exactly what it is, why it is being promoted, or what the long-term effect will be.

I have felt it necessary to look into the matter, and what I have learned about the PPBS makes me wonder whether my colleagues might not find food for thought in some of this information.

Although usually advanced as an improved method for budgeting and accounting, there is much more to the PPBS than is generally recognized or acknowledged. A former colleague of mine, Assemblyman Robert Burke, of the California State Legislature, wrote of the PPB in education:

> All the elements necessary for the implementation of a plan for the management of society through the public schools of the United States are now functioning.

In 1966, Dan Smoot, one of the ablest researchers in the country, stated in his newsletter:

> This is government by computers: the people are ruled by machines, which are manipulated by an elite of bureaucrats.

He was referring to the use of PPB in government. When two men as competent as these reach such conclusions, one after the fact, one before, it is reason enough for a closer look at the situation. For that reason, I would like to give at this time a brief history and assessment of the PPBS.

One of the recommendations of the second Hoover Commission was to institute a new method of accounting in the Federal departments, which was followed in due course by a bill in Congress to approve such a move. Neither of these steps gave any indication of the potential they carried for extension to such an instrument of control as has developed in the planning, programing and budgeting system.

Under Robert Strange McNamara, the PPBS was installed in the Defense Department, and the military was the first to feel the pinch of the computerized straitjacket of the PPBS. Seasoned officers reported that decisionmaking was removed from their control, and placed in the hands of scientists and technicians—and computers. Despite the failure of the PPBS in solving the problems of the Pentagon, in 1965 President Johnson announced his decision to introduce a very new and very revolutionary system of planning, programing, and budgeting throughout the vast Federal Government. As Dan Smoot put it:

> Computers, manned by a "very special staff of experts" will decide what is the finer life for all Americans; will postulate the decisions as national goals; will determine what action is needed by Congress and executive agencies to achieve those goals; and will designate how much tax money is required.

He also cited the house organ of the Council on Foreign Relations (CFR):

> The system is a management method . . . The key questions are . . . what do we want from our technology? . . . Who will make the . . . decisions . . . ? How is (sic) the data to be weighted . . . ? What should have access to the information . . . ?

To the best of my knowledge, these questions have never been asked of the Congress, whose duty it is to be the voice of the people. It is evident that they have not been answered for the people. It has come as a great surprise to them, and to me as a Representative, to find that this program has been developed and is being implemented without their knowledge and consent. Perhaps the CFR supplied their own answers to their own questions.

From all indications, there are, within the planning, programing, and budgeting system, the seeds of tyranny. Not only is it a management and control system, requiring a huge reservoir of information of every imaginable kind, it is also an evaluating and measuring instrument. A proposal for a Federal data bank was resoundingly defeated by the Congress some years ago, but indications are that such a data bank is being built to accommodate the needs of the PPBS. The government of the State of California was used as a test operation in project 5-5-5, starting in 1966. Four other States were also used as pilots, as well as five cities and five counties scattered across the Nation. Los Angeles City and San Diego County were also involved. How many State legislators knew that it was occurring in their States? Title III funds of the Elementary and Secondary Education Act of 1965 were used in California to develop and prepare for statewide implementation of the PPBS in our education system. Was it the intent of Congress to provide funds for such a purpose? Does this sound like the functioning of our constitutional form of government?

In an article in the Public Administration Review, Robert McNamara is quoted on the importance of management, which is an integral element of the PPBS:

> Its medium is human capacity, and its most fundamental task is to deal with change. It is the gate through which social, political, economic and technological change in every dimension is rationally spread through society.

As the main sponsor of the PPBS, his evaluation must be given proper attention. "Human capacity?" Does he mean management of society through managed use of "human resources?" Is this what this Nation has come to? My contact with citizens of this country has revealed a mounting indignation at the indications in recent legislation that they have been reduced to "human resources."

They are fed up with "experts" playing games with their lives, their fortunes, and most of all their children. PPBS is evidently more of the same.

STERLING HEIGHTS, MICH., MAN SPARKS A MAJOR CAMPAIGN TO AID THE PEOPLE OF ALASKAN COMMUNITY

HON. JAMES G. O'HARA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. O'HARA. Mr. Speaker, thanks to the generosity of the people of America, the citizens of the town of Delta Junction, Alaska, soon are going to have their own fire truck to help them save lives and protect their precious property.

Many people responded to the needs of Delta Junction by collecting coupons issued by a national food company, and all of them deserve recognition for their efforts in this noble undertaking. I would like, however, to pay tribute to one man—Bernard B. Calka of Sterling Heights, Mich.—who worked for nearly a year and a half to make this project a success.

Barney Calka is the assistant fire chief of Sterling Heights. He helped collect a staggering number of the coupons in his community and throughout Macomb County, Mich. In addition, he helped publicize the campaign throughout the entire United States. Literally thousands of hours of Barney Calka's leisure time went into this project—time that could just as easily have been spent with his family or on his favorite sport of fishing. Instead, Barney Calka gave freely of himself to help people in a far off community who were in need.

The actions of Barney Calka, and of all the people who took part in this endeavor, help to show that the word "neighbor" has taken on a new meaning in today's society—that it applies to the person in need, whether that person is just around the corner in our hometown, or half a world away.

I would like to take this opportunity to pay deserved tribute to Bernard B. Calka for a job well done, and to express the hope that more and more, we Americans will reach out a helping hand to those in need.

Mr. Speaker, I would like to include along with my remarks an article from the Macomb Daily concerning the contribution made by Barney Calka, the people of Sterling Heights, the people of Michigan, and all of the others across the land who helped bring this project to its successful completion.

COUNTY HELPS ALASKA TOWN TO GET FIRETRUCK

(By Ken Kish)

STERLING HEIGHTS.—It took 25 months of collecting nearly seven million Betty Crocker coupons, but the small town of Delta Junction, Alaska—thanks to Macomb County residents—is getting a $34,000 firetruck.

More than 160,000 coupons donated by county residents and collected by Sterling Heights Assistant Fire Chief Barney Calka pushed the drive past its 6,960,000 goal.

Mrs. Hanna Heineman, a 70-year-old grandmother from Delta Junction and co-chairman of the national drive, said the generosity of Michigan residents "brought tears into my eyes."

"You helped us at the time we needed it most," Mrs. Heineman said in a letter to Calka. "Your contribution put us over our goal and I doubt if we will ever be able to really express our thanks."

The coupon drive was started in June 1970, when the General Mills Corporation agreed to buy the firetruck if the 917 residents in Delta Junction could collect $34,000 worth of coupons.

The national food corporation made the offer after hearing that Delta Junction did not have the money to purchase a firetruck but had been the scene of numerous fires.

The plight of Delta Junction gained national recognition following an article in the New York Times about the seemingly impossible attempt to collect the coupons.

News media across the country quickly picked up the story and a number of local drives were started to aid the Alaskan residents.

Calka, who has long been a leader of goodwill endeavors in the area, joined the drive in March, 1971.

Calka, who helped publicize the drive throughout the U.S., said that Michigan residents have donated more than 500,000 coupons and $200 in cash to the drive.

The majority of the state donations were made by Macomb County residents, Calka said.

"It's wonderful to know that the drive was a success," Calka said. "I'm relieved that it is over. A lot of people deserve thanks for working in the drive, but those who should really get the credit are the ones that simply took the time to save a few coupons and mail them in."

The Michigan State Firemen's Association has been awarded a proclamation by the state legislature for its work in the drive. Calka is the vice-president of the association.

The 6,977,306 coupons collected have been turned over to the General Mills Corporation and the firetruck has been ordered, Calka said.

In addition, cash donations totalling more than $5,000 will be used to build a garage for the new firetruck, which is expected to arrive in Delta Junction this December.

"It's going to be a nice Christmas present," Calka said.

FRANK A. BRACKEN LEAVES WASHINGTON

HON. JOHN KYL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. KYL. Mr. Speaker, I bring to the attention of my colleagues the recent departure from public service of Frank A. Bracken, an Indianian who has served for nearly 4 years as legislative counsel to the Department of the Interior.

In his period of service to Secretaries Hickel and Morton, Frank Bracken has compiled a distinguished record. Those of us with whom he worked came to recognize not only his competence as a lawyer, but his earnest commitment to Government in the public interest. During his tenure at the Department, Frank Bracken exercised the responsibility for its legislative program with such skill and perseverance that much important legislation bore the mark of his craftmanship. He made a contribution, as well, in other areas of concern to the Department, often serving as a personal representative of the Secretary.

It is not difficult to understand why Frank Bracken was reluctant to leave Washington. His performance here augurs well for the successful continuation of a career in the practice of law, but he leaves in Washington a wide circle of friends who are members of the Congress, members of committee staffs, and colleagues in the executive branch.

Mr. Speaker, I endorse wholeheartedly the President's expression of appreciation for the service performed by Frank Bracken on behalf of the American people, and I insert it at this point in the RECORD.

The expression of appreciation from the President follows:

THE WHITE HOUSE,
Washington, D.C., September 14, 1972.

Mr. FRANK A. BRACKEN,
Legislative Counsel, Department of the Interior, Washington, D.C.

DEAR MR. BRACKEN: As you prepare to leave Washington and the Department you have served so well, I want to take this occasion to express my admiration and appreciation for all that you have done on behalf of the American people. Your efforts in framing innovative measures to protect the environment have significantly contributed to what I believe is an outstanding Administration record. Your diligence and sheer hard work have won you not only the esteem of your colleagues in government but, even more importantly, the gratitude of every American who shares our concern for the environment.

With my best wishes for continued success in the years ahead,

Sincerely,

RICHARD NIXON.

THE PROPOSED STUB END CANAL

HON. FRANK M. CLARK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. CLARK. Mr. Speaker, during the 1960's, when our neighbors in the Youngstown, Ohio, area were making an all-out effort to have Congress authorize the construction of a canal between Lake Erie and the Ohio River, my initial position was one of neutrality as between the procanal and anticanal forces. With a substantial portion of the proposed canal to be located within my district, I withheld all public comment on the project until I had the opportunity to study fully the canal's possible effects upon the industries, local communities, and private individuals in my district.

After giving careful study to all sides of the very controversial project, I called a press conference on August 27, 1965, to announce my opposition to the proposed canal. The importance I attached to this measure is evident from the fact that although then in my sixth term in Congress, it was the first press conference I had ever held.

My principal reasons for opposing the canal were: First, enormous costs that would have to be borne by local interests in my district; second, worsening of the pollution problem at a time when earnest efforts were being made to improve a dangerous and troublesome condition; third, serious doubts that the steel companies would actually use the canal to the extent claimed in the Corps of Engineers report; fourth, disadvantage to steel plants in my district, if the canal were to confer benefits on steel industries in the Youngstown area; and fifth, potential loss of thousands of jobs in the steel and railroad industries located in my district.

A new campaign is now underway, sparked by the same Youngstown interests that previously promoted the effort for a full canal, for a so-called stub end canal between Beaver, Pa., and Warren, Ohio, following the Beaver and Mahoning Rivers. As over half of the length of the proposed stub end canal would be in my district—Beaver and Lawrence Counties—the revival of the canal project has again become a matter of great importance. Of particular concern to me are the continuing references to statements by various canal proponents in the Youngstown area to the fact that the stub end canal is a "first step" or "phase one" in opening a through waterway connecting Lake Erie and the Ohio River. There is no doubt in my mind that this is the present intent of the canal proponents and, consequently, I am unalterably opposed now for the very same reasons I stated 7 years ago.

I will not at this time oppose the efforts of my congressional colleague, Representative CHARLES J. CARNEY, of Youngstown, to have a study made of the proposed stub end canal. However, I must state in my opinion such a study would show the limited traffic available to a stub end canal would not lead to a favorable recommendation by the Corps of Engineers. Further, if the project somehow were to be recommended, most of the same objections I raised in 1965 to a full canal would apply equally to the shorter version.

Additionally, I believe the vast sums to be expended for the construction of a canal would better serve the needs of the people of my district for the construction of public housing, medical and educational facilities. Finally, I see no possible benefits to the 25th Pennsylvania Congressional District, or to the Commonwealth of Pennsylvania, in the current stub end canal proposal.

PREADJOURNMENT POLL

HON. ALBERT W. JOHNSON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. JOHNSON of Pennsylvania. Mr. Speaker, I have prepared a special preadjournment questionnaire to send to the people of the 23d District of Pennsylvania. For the information of the Members, and in order to make the questionnaire a part of the official record of this session, I am presenting my questionnaire in detail, which will soon be mailed into the district. The questionnaire on its face will have a picture of myself in front of the Capitol. On the back of the questionnaire is a picture of the Capitol Building. The inside of the questionnaire has a picture of myself at the telephone, wherein I state that I am calling to ask the people for their views. The remainder of the questionnaire is as follows:

SEPTEMBER 1972.

DEAR FRIENDS: As we approach the end of the 92nd Session of Congress, many national questions remain unresolved. Many new ones have arisen.

To ascertain the opinions of the people of the District on some of these issues, I am issuing this special preadjournment poll.

Will you please take a minute or two and give me your views? The card is detachable for return mailing to me, and I welcome having your opinions.

As usual, the results will be tabulated and made known to you, the Congress, and the President.

Sincerely yours,

ALBERT W. JOHNSON.

CONGRESSIONAL QUESTIONNAIRE

(Answer Yes or No. On multiple question No. 2, indicate your opinion by inserting a, b, c, or d in the space provided.)

1. Would you favor voting to sustain a Presidential veto on bills which substantially exceed the Federal budget?

2. With respect to Wage and Price Controls, do you favor:

a. immediately terminating controls,

b. continuing controls until inflation is ended,

c. continuing controls indefinitely,

d. going to a fully controlled economy, including an OPA type local office and enforcement.

3. Do you favor a continued effort to achieve voluntary prayer and Bible reading in our schools?

4. There is a bill in Congress which would grant nationwide collective bargaining for teachers with the right to strike. Would you vote for this proposal?

5. Do you favor making the interest on bonds of municipalities subject to the Federal income tax?

6. There is a bill in Congress which would permit Federal employees to retire at age 50 after 30 years of service. Do you favor this proposal?

7. Do you favor an income tax credit to parents who have students in private elementary and secondary schools?

8. Do you favor eliminating the interest paid on a home mortgage as an income tax deduction?

9. Do you favor cuts in defense spending?

10. Do you favor Federal financing of public broadcasting on a long range (five year) basis?

11. Do you feel that we should expand agricultural and non-strategic trade with the Communist nations?

12. Do you feel that busing is a legitimate means to achieve racial balance in the public schools?

13. Do you favor diverting some of the highway user taxes now used to build roads to help finance urban mass transit systems?

14. Would you be willing to pay more for products and services if their manufacture and use could be made virtually pollution free?

Comments:

LEGISLATIVE ACTIVITIES IN THE 92D CONGRESS

HON. HAROLD D. DONOHUE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. DONOHUE. Mr. Speaker, in accord with the custom I have followed throughout my service in the House of Representatives I wish to include, at this time, a summary report on the major issues with which this 92d Congress has been concerned and an account of my own convictions and legislative actions in connection with these issues.

Limitations of space and time will, of course, restrict any attempt to present a review of all the activities of this 92d Congress but I shall try to include as many as possible of the more important subjects upon which some action was taken.

UNEMPLOYMENT

It is a very sad but unfortunately true fact that this country, because of a prolonged economic recession, has been and is now suffering from an exceedingly high rate of unemployment. This catastrophe has generated widespread demoralization of spirit and material distress among great numbers of American workers and their families.

Accepting their national responsibility in such a disastrous situation affecting so many millions of Americans the Members of the 92d Congress approved several legislative actions, all of which I advocated and supported, designed to create productive jobs for our people who are out of work.

Chief among our legislative actions in this area were the Emergency Employment Act, Public Law 92-54; the Public Works and Economic Development Act, Public Law 92-65; expanded Manpower Development and Training Act, Public Law 92-277, and the act to extend the benefits of the Emergency Unemployment Compensation Act, Public Law 329 of the 92d Congress.

In addition to these and some other measures I have introduced legislation to create 500,000 more essential public service jobs, to further extend unemployment compensation benefits to qualified workers who cannot find jobs through no fault of their own, to project more equitable adjustments in our foreign trade agreements to preserve the jobs of American workers and find new ways to more substantially assist our American people and businesses who are suffering severe economic hardships because of excessive imports and to provide encouragement to business firms that establish work programs for the hard-core unemployed.

It is axiomatic that there can be no stable economy in this country until the very great majority of able American workers are gainfully employed and I shall continue to do everything within my individual and cooperative power to hasten the accomplishment of this wholesome national objective.

INFLATION CONTROL IS IMPERATIVE

It is obvious that the inflation plague visits its worst hardships upon the impoverished, those trying to live decently on fixed incomes, such as our elderly citizens on social security benefits and the great majority of middle-income families who must pay the largest share of the Nation's taxes. The 92d Congress recognized the imperative urgency of initiating action to more effectively and speedily control inflation. In acting to meet their responsibility in this emergency the Congress recognized, like most other people, that the President, with his tremendous executive power, has a unique capacity to obtain the pertinent economic information from and act through the various Federal Government agencies to lessen and remove the distressing economic effects being inflicted upon the American people by rising inflation.

Therefore, this Congress, early in 1971, adopted legislation, Public Law 92-8, giving the President the authority to impose regulatory controls upon wages, prices, and interest rates. Later on in 1971 the Congress approved amendments to the Economic Stabilization Act to extend and amend the President's power to impose emergency regulations upon the economy for the benefit of all the American people.

Unfortunately, the President did not choose to use his authority in this area until inflation had risen to a pretty perilous point and a good many experts have registered their fears that White House projections came too late with too little and contained too many discouraging inequities.

While some rather extravagant claims are being currently made that the present system of executive controls now appear to be working fairly well the testimony of those who regularly shop in the marketplaces serves to cast substantial doubt about such claims. It seems most unfortunately true that our desired control of inflation has not yet been accomplished. Therefore, many economic authorities suggest a careful review of existing controls and the exploration of other possibilities with more enforceable restrictions and perhaps the institution of voluntary guidelines to stop the continuing ravishing effects of the inflation spiral upon our people.

On this score I most earnestly believe that whatever revised or new control policy may be imposed, in this emergency period, it must, in order to be successful be placed with absolute equality and fairness upon the affected segments of our economy and my efforts will continue to be perseveringly directed toward that achievement.

A PRIORITY OBJECTIVE—ENDING THE VIETNAM WAR

In my opinion the quickest possible ending of the Vietnam war must remain a priority objective of the Congress and the country until it becomes a reality. There is no doubt whatever that the prolongation of this tragic conflict continues to stifle domestic progress, stir up the fires of inflation and promote dangerous disunity throughout the Nation.

Without considering the continuing invaluable loss of American lives, it has been reliably estimated that the material cost of carrying on this unfortunate military venture, just during fiscal 1972, amounts to some $7 billion and this estimate was made before the new air offense against North Vietnam was initiated. As a result of this accelerated air activity it has been further estimated that the cost of the war to the United States, on a month-by-month basis, has nearly doubled.

At the same time it has become discouragingly clear that currently this Nation will not be able to adequately fund programs deemed essential to our domestic rehabilitation or make any real reduction in our national debt of more than $425 billion until this disastrous war is over.

That is why, in these past 3 years, I consistently voted in favor of all six of the legislative efforts that were made in the House of Representatives to end this fruitless war, and it is why, over these past several years, I have repeatedly initiated and cosponsored bills and resolutions to hasten the war's conclusion, subject only to the return of American war prisoners, an account of those missing in action and the safe withdrawal of American military personnel.

That is why I shall continue to appeal to the President of the United States to unceasingly exercise his fullest executive resources to expedite a peaceful settlement of the war and persevere in my own support of all further legislative measures designed to speed the end of this haunting Vietnam tragedy.

TAX REFORM

It has long been my firm belief that very little if any further progress can be made in this country toward the establishment of a "more perfect union" unless and until we remove the deplorable inequities in our present tax system and reinstitute our traditional fair standard of "taxation in accord with the ability to pay."

We cannot revive and strengthen the peoples' trust in Government until we repair and improve a faltering tax system under which the low-income and great majority of middle-income people continue to suffer constantly increasing tax levies while those who are best able to pay are given the unfair advantage of technical loopholes and other evasion opportunities permitting them to escape their just share of the overall tax burden.

That is why I advocated and supported, in the Congress, the Tax Reform Act of 1970, Public Law 91-172 and the Revenue Act of 1971, Public Law 92-178, designed to eliminate some of the special interest tax favoritism and extend limited tax relief to the vast majority of Americans who need it the most. These well intended and right direction measures did not, however, accomplish the complete purpose, by any means, and much more must still be done.

Therefore, I shall continue to advocate and support pending proposals to provide a more realistic increase in personal exemptions; to greatly reduce the oil depletion allowance; to further eliminate loopholes that still favor giant corporations and financial enterprises; to make certain that some taxes are imposed on all substantial incomes; to grant tax exemptions on the first $5,000 of retirement income; to permit income tax splitting; to extend encouraging assistances to qualified small businesses and to simplify the frustratingly complex tax form.

STRENGTHENING SOCIAL SECURITY

Mr. Speaker, some 20 million Americans, 65 years of age or over, are almost totally dependent upon the income they receive from their social security benefits to live in minimal decency and dignity. This nearly forgotten group of diligent and loyal Americans have suffered the most from the ever rising inflationary costs of even basic necessities of life itself. In my opinion it is only through a strengthened social security system that these older Americans could and can be assisted in overcoming the frightening specters of abject poverty and hunger, sickness, and despair.

This 92d Congress recognized and responded to the desperate plight of this neglected group of Americans and enacted several measures, which I urged and supported, to help alleviate their hardships and enable them to try to live in reasonable security and dignity. The principal congressional action to assist our aged citizens was the approval of a 20 percent social security increase, the largest adjustment ever funded by one Congress.

Among other measures adopted to encourage our retired citizens were those designed to originate a program of nutrition for the elderly, extend the Older Americans Act, expand employment opportunities, establish senior citizens community centers, provide low-cost transportation and create a National Institute of Aging to study and develop appropriate treatment for the health problems of the elderly.

Mr. Speaker, although we have enacted some programs of assistance to our older people in this Congress, I wish to emphasize that they will not accomplish the full intent of the Congress unless we take further legislative steps to make certain that the additional benefits we have granted them will not result in an unwitting reduction in the total sum of the overall allowances that they receive. I shall continue to advocate the earliest possible adoption of this necessary legislation and I shall continually urge the Congress not to adjourn until such legislation has been approved. Any other course would tend to amount to a near betrayal of the needs of our older Americans.

Because I am convinced that the strengthening of our social security system also strengthens the fundamental fabric of our civilized society, I shall persist in my individual and cooperative efforts to bring our social security system into more realistic accord with the prices and costs of our modern economy and to insure that it does effectively operate to improve the quality of life for the elderly in this country for which and to which they sacrificed and contributed so much in their prime years.

ELIMINATING DRUG ABUSE

Unquestionably the frightening growth in drug abuse among young Americans in our schools, colleges, and military service and increases in violent crimes are two of the greatest plagues affecting our modern society. Authoritative studies have revealed that three-fourths of all those arrested on drug charges are under 25 years of age. In continuing effort to contain and eliminate this terrible affliction upon our youth, this current Congress enacted, and I supported, Public Law 92-13, increasing the authorized funds for the Commission on Marijuana and Drug Abuse Prevention and Treatment.

Other drug control measures that passed the House and which I advocated and supported would include H.R. 15670, to modernize judicial procedures; H.R. 12846, providing treatment programs for drug afflicted servicemen and veterans; H.R. 9323, to increase available treatment options, and H.R. 9936, requiring manufacturers to provide the Government with up-to-date information on commercially distributed drugs and initiate the prosecution of violators.

I shall continue to support every legislative effort designed to remove the curse of drug abuse from American life.

CRIME CONTROL

Mr. Speaker, in my opinion a primary obligation of our Government is the establishment and maintenance of law and order, with justice, to keep our citizens safe in the streets of our communities and in their homes throughout this country. In response to the alarming increase in recent years, in crimes of violence, I have constantly urged and voted, in the past several Congresses, for greater Federal assistance to our cities and towns to provide better local police training, to strengthen our courts, to impose more severe sentences for violent crimes, to sensibly regulate the interstate sale of firearms, to expand juvenile correction facilities and to educate our young people to the dangers of drug abuse.

The 92d Congress mainly acted to generally implement and strengthen existing overall crime reduction programs and additionally approved Public Law 92-31, extending the Juvenile Delinquency Prevention and Control Act. The House passed other measures, that I also supported, to amend the Omnibus Crime Control and Safe Streets Act to include drug treatment for inmates in State and Federal prisons and to establish an Institute to collect data and train personnel in the field of juvenile justice.

The increasing fears of organized crime and criminal violence are of immense concern to all the people of this country and Members of Congress and I shall continue to support every Federal measure that is necessary to reduce and remove these frightening and illegal dangers to the lives and the property of all law-abiding American citizens.

REVENUE SHARING

One of the most important measures ever passed by this or any other Congress is the so-called Revenue Sharing Act of 1972. This legislation, which I have advocated since 1965, is intended to provide payments to our distressed cities and towns for high priority expenditures over a 5-year period and extend urgently needed relief to our overburdened property taxpayers.

Today it is unfortunately very clear that a great many of our cities and towns are right on the edge of financial disaster. It is equally obvious that if property tax increases are permitted to continue unchecked many people will be unable to maintain their present home and a great many others will never be in a financial position to purchase a home. Although legislative action on this bill has not been completed at this time, U.S. Treasury officials have estimated that its final approval will bring substantial Federal funds into our Commonwealth and to all of our cities and towns and such Federal assistance will unquestionably serve to help stabilize property tax rates.

It is anticipated that local government will use this Federal aid for operating expenses in providing public safety through better police, fire, and environmental protection, and capital expenditures for desperately needed refuse disposal systems, sewage treatment facilities, and improved public transportation.

While we all recognize that this revenue sharing measure is not, by any means, a perfect instrument that is going to meet and cure all the urgent problems existing in every State and local community, most authorities are in full agreement that it is undoubtedly a substantial first step in responding to a growing crisis in the financial affairs of all our States and local governmental units in the Nation.

FISCAL RESPONSIBILITY—BUDGET REFORM

Mr. Speaker, in order to regain and maintain our national financial integrity, it is absolutely necessary that Federal spending be kept to a positive minimum and that all extravagant, wasteful, and unnecessary programs be eliminated. Every Federal agency budget must, therefore, be thoroughly scrutinized for appropriate reductions and, on this score, a great many military and financial experts have emphasized the fact that the Federal Defense Department budget, over these past several years has grown to the staggering amount of more than $77 billion. While everyone acknowledges the practical necessity of maintaining adequate military security in the present world situation, a good many of us still earnestly think, in the light of authoritative testimony, that such necessity does not excuse the Congress from its high obligation to conduct the most careful review of the annual Defense Department budget.

Because of our persistent urging of such rigid review of defense spending, Congress has, in recent years, finally come to devoting several days, in place of the former and customary several minutes, to an itemized examination of the overall military budget request. In the last Congress the resultant savings was authoritatively estimated to be some several billion dollars, and this year Congress again reduced the defense budget by more than $4 billion.

These taxpayer savings can and should be used to meet such priority domestic needs as additional job opportunities, unemployment compensation extension, social security benefits expansion, health, hunger, housing, education, old-age assistance, manpower training, mass transportation, crime, and pollution control and a host of others.

This sharpened "watchdog" attitude, over the military and other Federal department appropriations, is one of the most important modern achievements of the Congress and its continuation holds forth a solid promise of additional tremendous savings. I shall continue to support this reassuring and encouraging intention of the Congress to insist upon fiscal responsibility in the conduct of its own affairs and in the financial operations of every agency within the National Government. In my opinion this is the only way in which our threatened national bankruptcy can be avoided.

HUMAN RESOURCES AND SOCIAL PROGRESS

Within these general categories, Mr. Speaker, a great many bills were considered and passed in both the House and Senate and I think that those that follow, all of which I supported, should be listed among the more important ones.

The Higher Education Act of 1971, Public Law 92–318, was approved to provide some urgently needed fiscal assistance to our higher learning institutions and needy students. Although I urged and will continue to support a more expansive measure, to include increased amounts of student financial assistance and enlarge the participation eligibility of students in so-called higher middle-income families, I am hopeful that this particular measure will offer some meaningful help to qualified students in underwriting the increasing tuition costs and enable our area educational institutions to meet the ever rising burden of maintaining quality education.

Both Houses of the Congress approved the Equal Opportunity Act Amendments of 1971, to provide continuation of the existing programs on the declared "war on poverty" as well as to establish new and expanded programs of education, health and nutritional services to preschool children, but the President vetoed the bill. However, a compromise bill, with many of the original objectives, is currently waiting upon further congressional action which is expected to be completed and submitted to the President in the near future.

Accelerated advances in national health improvement will be made possible by passage of the Comprehensive Health Manpower and Training Act, Public Law 92–157; the Nurse Training Act of 1971, Public Law 92–158; and the Conquest of Cancer Act, Public Law 92–218, which initiates a bold new national crusade to hasten the discovery of the cause and project the cure for this terrifying disease.

Although the Office of Management and Budget stymied the efforts of many of us in the Congress to more fully meet our national moral obligation to adequately provide for our war veterans and their dependents we were successful in obtaining approval of several measures of real significance to a great many veterans and their families, which I supported.

Among them were Public Law 92–198, to liberalize death allowances and disability compensation; Public Law 92–193, providing a new modified plan of National Service Life Insurance; Public Law 92–69, to strengthen cooperation between the U.S. Veterans' Administration and new State medical schools for improved medical services to veterans and their dependents and other bills to extend hospital and medical care benefits to qualified veterans dependents, to grant a limited increase in educational allowances and to expand the veterans drug treatment and rehabilitation programs.

Mr. Speaker, this country and the Congress must never neglect its acknowledged duty to constantly and adequately meet the needs of our war veterans by providing the best possible hospital and medical care, modernizing the GI education and training bill, granting more realistic pension benefits and continuously strengthening vocational assistance programs, particularly for our Vietnam veterans. These are the substantive goals which I shall continue to legislatively support on behalf of all our veterans and their families.

Among other measures, a Consumer Protection Act was approved to give additional help and guidance to the consumer by establishing an Office of Consumer Affairs within the Executive Office of the President and an independent Consumer Protection Agency to set up more stringent regulations and represent the consumer in certain court actions. Also, the Flammable Fabrics Act to continue and strengthen the enforcement of the original legislation was adopted.

In the physical environment field, a number of very significant measures were approved, such as the Water Resources Planning Act, the Federal Environmental Pesticide Control Act, the extension of the Federal Water Pollution Control Act, the Marine Protection, Research and Sanctuaries Act and approved resolutions to establish a Joint Committee on the Environment and a National Advisory Committee on the Oceans and Atmosphere.

Other measures that I supported and I think deserve mention here would include: Granting voting rights to our younger citizens, 18 years of age and older, in all elections; the more equitable revision and extension of the military draft law, pending the establishment of an all-volunteer Army; the equal rights amendment; campaign election reform; the initiation of recorded teller votes in the House for the first time, which has resulted in a substantial increase in Chamber voting participation; also two bills of particular interest to small business, to expand present and to establish some new programs of assistance to these smaller private enterprises and to increase the amount of available loans and guarantees through the Small Business Administration; repeal of the Emergency Detention Act of 1950; and a wholesome and sensible beginning of the separation and reduction of foreign military and development assistance.

BILLS INTRODUCED

Mr. Speaker, space herein does not permit a full recital of the more than 150 bills I individually and cooperatively sponsored, but the following are some of the bills I introduced that were passed into law and others whose provisions were partially included in other bills that were approved:

H.R. 7183: To provide public service employment programs during times of high unemployment. Public Law 92–54.

H.R. 10322: To establish a temporary Emergency Guidance Board to facilitate economic recovery with minimum inflation by price and wage guidelines. Public Law 92–210.

H.R. 15443. To extend emergency unemployment compensation programs. Public Law 92–329.

House Joint Resolution 18: To designate a "National Week of Concern for Prisoners of War/Missing in Action." Public Law 92–6.

H.R. 14944. To increase social security benefits 20 percent. Public Law 92–336.

H.R. 5018. To expand low cost meal, nutrition training and education prorams for the elderly. Public Law 92–258.

H.R. 6731: To establish an Office of Drug Abuse Control. Public Law 92–255.

H.R. 3656: Conquest of Cancer Act. Public Law 92–218.

H.R. 6486: To extend the Federal Water Pollution Control Act. Public Law 92–137.

H.R. 15743: To provide Federal assistance for victims of tropical storm Agnes. Public Law 92–137.

H.R. 15766. To provide flood insurance for Federal insured or guaranteed mortgage property. Public Law 92–337.

House Joint Resolution 565: Authorizing additional research and development in the field of high-speed ground transportation. Public Law 92–316.

H.R. 12446: To amend tariff and trade laws to promote full employment and restore a diversified production base.

H.R. 4122: To conduct programs to prepare country for conversion from defense to civilian, socially oriented activities.

H.R. 12599: To promote peaceful resolution of international conflicts.

House Concurrent Resolution 637: Calling on all parties of Geneva Convention to insure humane treatment of prisoners of war held in North Vietnam.

H.R. 4550: To provide for procurement of voluntary military manpower.

H.R. 2355: To expand the list of certified drugs covered under social security hospital insurance programs.

House Resolution 120: To create a select committee on aging.

H.R. 14118: To establish an older worker community service program.

H.R. 9105: To authorize reduced transportation rates for persons 65 years of age or older.

H.R. 851: To extend income tax splitting benefits to single individuals.

H.R. 3610: To allow a tax credit for certain education costs.

H.R. 6917: To provide income tax deduction for an individual who sets up a higher education fund for dependents.

H.R. 8242: To permit full deductions of medical expenses for persons 65 years of age or older.

H.R. 10013: To increase personal exemption based on the consumer price index.

H.R. 11788: To allow tax credits for expenses of repairing and improving a personal residence.

H.R. 13964: To provide income tax simplification relief and reform for small businesses.

House Concurrent Resolution 361: To control production and traffic of illegal drugs.

House Resolution 875: To suspend aid to countries for failure to take adequate steps to control traffic of opium through its borders.

H.R. 4135: To make it a Federal crime to kill or assault a fireman or law enforcement officer engaged in the performance of duty.

H.R. 7105: To expand and improve Federal, State, and local correctional facilities.

H.R. 7107: To strengthen controls over dangerous defendants on bail and require speedy trials for Federal law violators.

H.R. 10896: To establish a Commission on Penal Reform.

H.R. 4124: To create a national system of health security.

H.R. 14677: To establish a commission to find a cure for multiple sclerosis.

H.R. 4217: To prevent the discharge of waste into United States or international waters.

House Joint Resolution 4: To establish a Joint Commission on the Environment.

H.R. 4572: To provide for the abatement of air pollution through control of vehicle emissions.

H.R. 12862: To provide appropriations for urban renewal, low-income home ownership and rental housing programs.

H.R. 4430: To establish an Office of Consumer Affairs in the Executive Office of the President and a Consumer Protection Agency.

H.R. 8438: To require labeling to assist consumers in purchases of packaged perishables and semiperishables.

H.R. 10248: To encourage licensing by States of automobile mechanics.

H.R. 11583: To amend and expand the Fair Packaging and Labeling Act.

H.R. 3652: To create a Department of Youth Affairs.

H.R. 13545: To improve urban mass transportation systems.

H.R. 4933: To terminate the oil import control program.

House Resolution 1015: To empower the President to impose export controls on cattle hides.

Mr. Speaker, at this point I wish to state that I have the special duty and privilege of presiding as chairman of the No. 2 House Judiciary Subcommittee on Claims and more than 550 bills were referred to our subcommittee in this Congress. Thus far, some 209 bills were procedurally considered by our subcommittee during more than 65 meetings and 20 hearings. As the result of these meetings and hearings more than 83 of these bills were tabled, more than 126 were reported, approximately 109 were passed by the House, 72 by the Senate and 64 became law. These actions represent, I think, quite an impressive committee accomplishment and I am pleased to observe that it also reflects the exceptional competence, diligence and cooperation of my subcommittee colleagues in both parties.

CONCLUSION

Mr. Speaker, without any further and unnecessary prolongation of this summary report, I earnestly believe that the legislative actions I have already outlined above, together with a host of other and perhaps less important matters that were considered, constitute a substantial record of accomplishment by the 92d Congress in the various legislative fields of economic stability, health improvement, human needs and social development, law enforcement, environmental and consumer protection, governmental reform and fiscal integrity. Although a good deal has been achieved, much, of course, remains to be done by the next, 93d Congress, to more completely solve the great problems of our time.

I am confident these problems can and will be solved. However, I wish to emphasize my long-standing conviction that in order to do so it is basically and absolutely essential to seek and accomplish nonpartisan cooperation between the President and the Congress. That cooperation, with the good-will understanding of the great majority of the American public, is the only way in which we can really overcome our modern national challenges to increase employment opportunities, halt inflation, end the Vietnam war, establish firm priorities for Federal funding, substantially reduce nonessential military and other Government expenditures, stabilize the level of Federal spending, restore fiscal integrity, and accelerate our united efforts to control crime and eliminate pollution.

If we do not move steadily forward, together, toward the realization of these and other primary national goals, our representative type of democratic government will be in grave danger of failing, we will be perilously threatened with financial instability and loss of world prestige, and eventually we will be either poisoned or suffocated in an overwhelmingly polluted environment.

I very deeply believe the one most important fundamental thing a Member of Congress can personally do to contribute the utmost to the success of these national goals is to conscientiously work and vote without regard to partisan politics and that is what I shall continue to do so long as I have this high responsibility and great privilege.

JOE LOUIS—A GREAT AMERICAN

HON. WILLIAM G. BRAY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. BRAY. Mr. Speaker, a long-overdue tribute to Joe Louis will take place this Saturday night in Chicago when he is honored as "Athlete of the Century."

He has given much to his country, this outstanding example of a man, whose simple, genuine code of honesty and decency has meant so much to so many.

The following story from the Washington Evening Star and Daily News of September 20, 1972, is only one of the many tributes Joe Louis so richly deserves:

TRIBUTE TO LOUIS RICHLY DESERVED

(By Wendell Smith)

CHICAGO.—They're bringing Joe Louis back here Saturday night to honor him as the "Athlete of the Century" between halves of the football game at Soldier Field between Tennessee State and Alcorn A&M.

It's a fine gesture and one of which the former heavyweight champion is most deserving.

The football game between these two black college teams should be exciting. But the return of Joe Louis to the scene of his most exciting days carries even more significance.

It was in Chicago, on the balmy night of June 22, 1937, that Louis won the heavyweight championship of the world by knocking out James J. Braddock at Comiskey Park in seven rounds.

That triumph was more than just a victory in the ring. It opened the doors for black athletes in practically every major sport.

Louis, by virtue of his innate modesty and excellent deportment, changed the attitude of millions in this country toward the black athlete.

Before Joe Louis won the championship of the world most black athletes were restricted in the world of professional sports.

They did play college football and ran on track teams but there were no doors opened to them in baseball and basketball and other major sports areas.

Then Louis came along, fighting out of the Golden Gloves tournaments as a youngster eventually to become the heavyweight champion.

The only black champion before him had been Jack Johnson, whose flamboyant conduct had created a barrier that no black fighter was able to overcome.

Louis was handled perfectly on the way to the top by his managers, John Roxborough and Julian Black.

When he reached the pinnacle the barriers began to fall and people started asking: 'Why aren't there any blacks in major league baseball and football, and other major professional sports?"

The question persisted, of course, until the Jackie Robinson, Kenny Washingtons and others arrived on the scene and were accepted.

Some were accepted ever so reluctantly at first (Robinson in baseball) but since the barriers came crashing down there is hardly an area in sports now where they are not received warmly.

Louis changed public opinion with his iron fists and his great dignity. He made Americans proud that he was an American and he paved the way for those who were to follow him.

He was charitable with his success, giving money to the Army and Navy Relief Funds while risking his valuable crown against the best fighters available.

He joined the Army and entertained servicemen of World War II all over the world.

Those are just some of the reasons why Louis' return here Saturday night is highly significant and worthwhile. People must be reminded to remember this man.

Time has a tendency to blot out the contributions of those who did, and do, humane things on a voluntary basis.

And Louis' contributions to his country were strictly voluntary.

Life has not been easy for him in recent years due to financial adversities and poor health.

The time has come to salute him.

THE CONSULATES SHOULD BE GUARDED BY THE EXECUTIVE PROTECTION SERVICE

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. KOCH. Mr. Speaker, the President recently sent forth members of the Executive Protection Service to New York City to help the local police provide security for the opening of the 27th session of the U.N. General Assembly. These men were assigned in recognition of the brutal terrorism which is rampant in the world today and which poses a threat to the operation of the U.N. itself.

But while the assignment of the Executive Protection officers is only temporary there are no temporal limitations on the mad acts of murder that terrorists have recently perpetrated. And so when the Executive Protection Service is called back from New York, the entire burden of guarding not only the U.N. but all the foreign missions and consulates—of which there are over 200 in New York City, most in my congressional district—will fall again on the New York City Police Force.

New York City Police have been protecting all the foreign diplomatic properties in the city at a cost to local taxpayers in excess of $2 million annually. In the 17th police precinct where the U.N. is located, over 10 percent of the local force is assigned on a daily basis to guard foreign properties, and this percentage surely increases during special U.N. functions. In the 19th precinct almost 20 percent of the force guards foreign missions and consulates daily.

This allocation of manpower occurs at a time when our police force is already undermanned and at a time when street crime is a growing menace. The cost to New Yorkers in both financial and social terms is unfair.

I have introduced a bill, H.R. 839, which would require the Executive Protection Service to protect all foreign missions and consulates throughout the country. This is truly a Federal responsibility; and it is one which the Federal Government must assume immediately given the wave of international terrorism.

The President, by assigning 40 members of the EPS to New York, has recognized the problem on a temporary basis. But the problem is permanent and must be countered with a permanent solution.

The passage of H.R. 839 legally mandating the EPS to guard foreign diplomatic facilities is such a solution.

CONGRESSIONAL ACTION FUND DEFENSE STATEMENT

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. ASPIN. Mr. Speaker, I am inserting into the RECORD today the fourth and final portion of the Congressional Action Fund report on defense. This final portion discusses the fiscal implications of the SALT agreements, the cost of the war, the cost of a volunteer army, and an explanation of cost overruns.

I recommend this study to my colleagues for their consideration.

Part IV follows:

FISCAL IMPLICATIONS OF THE SALT AGREEMENTS

The direct budgetary impact of the SALT agreements is relatively small; they could however, have major fiscal consequences depending upon the interpretation accorded to the treaties, and to what they reveal regarding the nature of U.S.-Soviet strategic relations now and in the future.

Administration officials, notably Secretary of Defense Laird, have stated that the negotiations resulted in agreement because the United States maintained a vigorous strategic weapons modernization program. He argues that the SAFEGUARD program, for example, for which the U.S. obligated more than $5 billion since 1968, was instrumental in encouraging the Soviet Union to agree to limits its own anti-ballistic missiles, as well as its offensive weapons. Such considerations have become known as the "bargaining chip theory." Based on this theory, in part, and on postulated requirements to develop hedges against Soviet cheating or sudden abrogation of the treaties, the administration advocates vigorous modernization programs in almost all aspects of strategic weaponry not precluded by the existing agreements themselves. Such programs, it is claimed, will help ensure the sufficiency of America's strategic forces, and provide incentives for Soviet agreement to more comprehensive forms of arms limitation during future negotiations.

Others argue precisely the opposite. First, noting that despite its modernization programs the United States exercised restraint in not matching the Soviets one-for-one in new missile deployments during the course of the negotiations, these observers disparage the value of "bargaining chips." Second, in view of the technological superiority usually granted to the United States (multiple warheads, more accurate missiles, quieter submarines, etc.), they deny the requirement for accelerated research and development programs as hedges. It is claimed that the agreements signed in May foretell the possibility of the establishment of a new and more stable strategic relationship between the two superpowers, based on the mutual acceptance of nuclear parity and of deterrence through the maintenance of secure retaliatory capabilities. To this end, they urge the retardation of weapons development programs as to not destroy the new atmosphere of mutual understanding which had appeared to emerge. They feel that the linkage of new spending programs with the existing treaties would destroy this atmosphere and reduce the possibilities for follow-on agreements.

Specific spending issues related to these very different viewpoints may be catalogued as follows:

Safeguard System.—The treaty on anti-ballistic missiles limits each signatory to two operational sites (each with no more than 100 launchers and specified radars). Previously, the U.S. envisioned a 12-site Safeguard system. The reduction amounts to savings of $650 million in fiscal 1973 and, on average, $1.4 billion per year over the duration of the 1970's. Moreover, should the U.S. decide not to deploy an ABM site at Washington (the so-called National Command Authority site), for which no funds have been allocated as yet, even though it is permitted under the terms of the treaty, additional savings on the order of $200 million per year can be expected.

Additional research and development—The Administration has requested that $110 million of the $650 million reduction in the SAFEGUARD request this year be reallocated for new or accelerated research projects. These items are described as necessary hedges against Soviet cheating or sudden abrogation of the treaties. According to a recent article in the *Washington Post* (June 30, 1972), the funding breakdown would be: $60 million for advanced anti-ballistic missile-research to assure the survivability of Minuteman missiles; $20 million for research related to the development of a new strategic weapon—the submarine launched cruise missile; $20 million for advanced warhead technology; $10 million for military communications and research on surveillance systems.

Major bargaining chips—The largest programs being linked to the SALT accords are those developing follow-on systems for strategic submarines and bombers. In fiscal 1972, the proposed strategic submarine (TRIDENT) was funded at a modest $140 million, as part of a program designed to deploy the first new submarines in the early 1980's. This year, the administration has requested more than $900 million for TRIDENT, as part of a revised program designed to deploy the first new submarines in 1978. This sharp acceleration is justified, primarily, on the basis of the bargaining chip theory previously described. Additionally, $450 million has been requested for fiscal 1973, for continued development of the B–1 strategic bomber. While this is not an acceleration of the program outlined last year, Secretary Laird has linked continuation of the program at high funding levels to future SALT negotiations, pointing toward possible mutual limitation of strategic aircraft.

Air Defenses—The administration has outlined an ambitious air defense modernization program (including new interceptor aircraft, surface-to-air missiles, and the airborne warning and control systems) to be implemented during the balance of the decade. Some have argued that such measures are not consistent with the SALT accords. They argue that since the U.S. has foresworn deploying large-scale population defenses against missile attacks in the ABM treaty, it makes little sense to spend billions of dollars to defend the population from the much less serious threat of bomber attack. Savings resulting from abandoning the air defense modernization program and reducing present force levels have been estimated at $2.2 billion per year during the balance of the decade.

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*Incremental costs are those beyond what would have been required to finance our military forces in peacetime. For example, the incremental cost of the air war includes combat pay, aircraft losses greater than the peacetime accident rate, and so forth. It does not include the cost of procuring the aircraft (unless the squadrons would not have been in the baseline force structure), basic salaries (again, unless the battalions would not have been in the baseline force structure), other peacetime operating costs, etc.

DOLLAR COST OF THE WAR IN SOUTHEAST ASIA

The war is no longer an item of major budgetary consequence. In fiscal 1973, the incremental cost* of the war is unlikely to exceed $5 billion, or roughly 6 percent of total Defense Department expenditures. At its peak, in fiscal 1969, the war required nearly $22 billion, more than one-fourth of that year's defense outlays. The table below summarizes the cost of the war, by year.

At present, roughly half of U.S. incremental expenditures are used for military aid to South Vietnam and associated states. The Vietnam and Laos aid is not part of the regular military assistance program (MAP), but funded within the regular service budgets. Additionally, MAP funds for Cambodia are considered part of the incremental war expenses. Military assistance will probably account for close to $3 billion in fiscal 1973.

The balance of the incremental cost of the war goes for expenses associated with the air war and, to an increasingly lesser extent, to maintain U.S. ground forces in Southeast Asia. As of September 1, 1972, there will be some 40,000 U.S. troops in Vietnam, and 40-50,000 in Thailand. Most of the latter, of course, are included in the cost of the air war.

COST OF THE WAR IN SOUTHEAST ASIA

[Outlays in billions of dollars; in fiscal years]

	In current dollars	In constant fiscal 1973 dollars
Incremental cost:		
1965	0.1	0.1
1966	5.8	8.1
1967	18.4	24.6
1968	20.0	26.2
1969	21.5	27.0
1970	17.4	20.8
1971	11.5	13.0
1972	7.3	7.7
Total, 1965-72	102.0	127.5
1973	5.8	5.8
Full cost:		
1965	.1	.1
1966	5.8	8.1
1967	20.1	25.7
1968	26.5	34.2
1969	28.8	35.5
1970	23.1	27.2
1971	14.7	16.5
1972	9.3	9.5
Total, 1965-72	128.4	158.0
1973	7.1	7.1

[1] Figures for 1965 through 1972 are official Defense Department estimates. The 1972 figure does not include the supplemental request following the North Vietnamese offensive in April; but this amount should not be significant. The 1973 figures are rough estimates. Comparisons across years should use the constant dollar figures, as these discount the effect of inflation.

DOLLAR COST OF THE VOLUNTEER ARMY

In April 1970, the administration announced it would attempt to eliminate the draft by July 1, 1973, the beginning of fiscal year 1974. In conformance with this goal, special military payraises have been proposed and enacted by Congress. In fact, the Congress accelerated the proposed pace of increases, so as to provide additional incentives to aid attainment of the enlistment rate consistent with the President's goal. Draft calls have declined considerably during this time; it may be noted, however, that manpower levels in the armed forces have also been dropping sharply, as a result of the withdrawal from Southeast Asia.

The effect of the payraise program has been to transform a cost of the U.S. military establishment long hidden from view into an explicit addition to the defense budget; additionally, the portion of American society which must bear this cost has been transformed. Through the vehicle of the draft, the government had been able to pay young men far less than prevailing market rates for their services. Thus, a specific segment of society, males between the ages of 19 and 26 (and primarily those from lower economic strata) were being taxed in kind, incrementally—for two years they earned less than they would have been able to earn in the civilian sector.

As we move toward the all-volunteer armed force, this special tax is being redistributed to the population at large (or at least to the distribution generally contributing to the government revenues). In order to obtain volunteers, the government must pay prevailing market rates. The cost of payraises designed to obtain this "comparability," and associated programs such as barracks improvements and accelerated recruiting, is estimated as $1.9 billion in fiscal 1972, and $3.1 billion in fiscal 1973.

Moreover, it is not yet clear that these expenditures will be sufficient to achieve the President's goal. Military spokesmen have indicated that enlistment rates, particularly for certain types of units, have not yet reached levels that would be sufficient to meet manpower requirements, *at presently contemplated force levels*. Should this enlistment rate continue, decision-makers will have to choose from a number of alternatives that would be available.

(a) Drop the objective of abolishing the draft—some would say, a most unlikely option.

(b) Reduce force levels, thereby decreasing enlistment requirements.

(c) Increase military pay further or provide additional funds for re-enlistment bonuses, differential pay for certain branches of the military, etc.

(d) Reduce intelligence and physical standards for volunteers; these standards have been increased within the past several years.

(e) Amplify the role of women in the armed forces, thereby increasing the potential base from which volunteers may come.

(f) Replace some positions presently occupied by uniformed personnel with civil service ratings.

COST OVERRUNS: AN EXPLANATION

No aspect of military spending receives as much attention in the public media as the sometimes spectacular increases in the cost of major weapon systems. The General Accounting Office now reports regularly on this topic. In 1971 it reported that 61 major weapon systems then under development had already experienced, on average, an increase of 26 percent ($24 billion) in their expected total cost, from the cost estimates made at the time preliminary engineering studies had been completed. In 1972, the comparable figure for 77 major systems then under development was 19 percent ($21 billion).

Costs increase for a number of reasons—inflation, of course, being an obvious example. It is the cost growth beyond that which would be expected due to inflation, however, so-called "real cost growth", that is most worrisome. Reasons for these real increases include:

(a) Quantity changes—Alterations in the number of units of particular weapons which are procured tends to increase the unit cost of each system. Contracts are usually based on the planned procurement of a certain number of weapons. Penalty clauses are invoked when this number is reduced.

(b) Technical uncertainties—In some cases there is simply a lack of knowledge as to what will be required to obtain certain capabilities, at the time the preliminary cost estimates are made. For this reason, new systems incorporating the largest technological advances usually also exhibit the largest cost growth.

(c) Changes to operating requirements or delivery schedules—Some studies have indicated that changes to the parameters of the system being developed are the greatest single cause of cost growth. These changes, made at various points in the development cycle, are generally service-directed and reflect new information concerning opposing capabilities, or rethinking of operational needs.

(d) Estimating Procedures—Simply, pressures do exist, within the individual services and within the Defense Department as a whole, to minimize the expected cost of new systems at the time they are first being proposed.

While measures are being taken to reduce the magnitude of the cost overrun problem, there can be little doubt that the problem will persist for the indefinite future. A recent RAND Corporation report[1] indicated that an empirical study of weapons procurement in the 1950's and 1960's suggests, on average, a real increase of 40 percent in the cost of new weapons from the original estimate to the final actual price. Based on factors developed in this study, the [2] Brookings Institution has projected that the acquisition programs described by Administration officials for the period fiscal 1973-1979 are likely to lead to real cost growth on the order of $25-35 million. These cost increases will be borne in the defense budgets between fiscal 1974 and 1983, but peak, at $4-5 billion per year, during the fiscal 1977 to 1979 period.

SOURCES OF ADDITIONAL INFORMATION ON DEFENSE SPENDING ISSUES

Members of Congress for Peace Through Law, 201 Massachusetts Avenue, NE, Washington, D. C. 20002, Att. Ron Tammen. (202-544-4250).

Center for Defense Information, 201 Massachusetts Avenue, NE, Washington, D.C. 20002, Att. David Johnson, Sally Anderson. (202-543-0400).

Coalition on National Priorities and Military Policy, 413 E. Capitol St., SE, Washington, D.C. 20003, Att. Reuben McCormack. (202-546-7000).

Citizens' Organization for a SANE World, 318 Massachusetts Avenue, NE, Washington, D.C. 20002, Att. Sandy Gottlieb, Tom Kiddell. (202-546-4868).

Institute for Policy Studies, 1520 New Hampshire Avenue, NW, Washington, D.C., Att. Richard Barnet, Leonard Rodberg. (202-234-9382).

Friends' Committee on National Legislation, 245 Second St., NE, Washington, D.C. 20002, Att. Ed Snyder, Diana Bird. (202-547-4343).

Federation of American Scientists, 203 C St., NE, Washington, D.C. 20002, Atty. Jeremy Stone. (202-546-3300).

Student (Advisory) Committee on International Affairs, Suite 503—1717 Massachusetts Avenue, Washington, D.C. 20036, Att. Michael Krepon. (202-667-1874).

THE EAST SIDE STORY

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. KOCH. Mr. Speaker, with officials of the Nixon administration talking about cutting back on federally aided job training programs, a frank appraisal of such operations is in order. I am placing in the RECORD excerpts from just such an appraisal of the 10 years during which the Mobilization for Youth has worked in Manhattan's Lower East Side, part of which is in my congressional district.

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[1] Robert Perry et al. *System Acquisition Strategies* (Santa Monica: RAND, R-733-PR/ARPA; 1971).

[2] Charles Schultze, et al. *Setting National Priorities: The 1973 Budget*. (Washington: Brookings, 1972), p. 80.

Five articles, by New York Post reporter Robert Garrett reveal the problems and disappointments of MFY. They also reveal its indisputable success. Here is a job training program that works. MFY trains over 1,000 youths annually, and places them in full-time jobs with almost all the workers staying on in their employment. For the Nixon administration, which has placed so much rhetorical stress on what it calls "workfare," to end programs such as the MFY program would be cruel and tragic irony.

In addition to my belief in MFY, I know its director, Jack Agueros; he is a conscientious and energetic administrator. He was one of the first to come and see me when part of the Lower East Side was added to my district to acquaint me with its problems.

I have walked through the Lower East Side and talked to the people there many times. It is hard no doubt for many of my colleagues to imagine the despair which some of the residents of this area feel, faced with a jobless future. MFY can bring to many of these people not only a job but the self-confidence and hope that goes with it. One girl, an MFY graduate, put it best when asked in one of these articles what she thought about MFY: "I got a job, and so did lots of other people. Now I am a person."

Programs like this must not be terminated, and I am sure our colleagues will agree after reading the excerpts from the five stories entitled, "East Side Story, Mobilization for Youth—10 Years Later," which appeared in the New York Post in August. They follow:

EAST SIDE STORY, MOBILIZATION FOR YOUTH—10 YEARS LATER

A vicious street fight a few blocks away drew crowds of onlookers, taking sides and cheering—or booing—as each forceful blow was landed.

A boy of about 15 struggled for nearly an hour to break through a barred entrance to a closed-for-lunch shop, while passersby walked quickly past turning their heads away or muttering "Never a cop when you need one . . ."

A young boy and girl, nodding in a narcotic haze, occupied the door-stoop of a run-down apartment house.

But on E. 4th St., on one floor of an abandoned school building, a dozen girls and boys in Mobilization for Youth's industrial sewing class sat temporarily oblivious to the disasters of their neighborhood, three Spanish-speaking instructors scrutinizing their every stitch.

While comprising only a handful of the 1000-plus youngsters trained yearly by the Lower East Side anti-poverty, anti-delinquency organization, the sewing class nevertheless typifies the style, the method, of MFY's programs.

Five days a week, the 16 to 21-year-olds punch in at 9 a.m. on an ancient time clock mounted on a fourth-floor wall, then chatter happily among themselves as they find seats before the same kind of sewing machines found in many industrial shops throughout Manhattan's garment district. Sometimes they chatter too much, ignoring the cloth and thread around them. The instructors step in, and with a few sharp words the youngsters are again at work.

A casual observer might liken the class to the sweat shops prevalent in the garment industry before unions fought for and won higher wages and improved conditions for young workers.

But the comparison would be short-lived if he saw production stop 30 minutes for a mini-lesson in arithmetic, or a Friday morning group-counseling session, or if he noticed the constant attention of the instructors.

Organized in 1963 as one of the first training facilities of the federally-funded Mobilization, the industrial sewing classes have trained and placed in jobs throughout the city hundreds of youngsters over the past nine years, while serving as an experimental workshop for teaching and counseling procedures.

The students are paid, as are all MFY trainees, and often take home their families only wages. In many cases, the weekly $50 compares favorably with their mothers' welfare benefits, and is used for clothes, food and an occasional ice cream cone for younger brothers and sisters. Their training is open-ended, lasting usually about three months, but sometimes cut short by demonstrated versatility with the machines after two months, or occasionally extending to six months if more than average difficulty is experienced.

Such differences are unimportant to Josephine Falzone, who has headed the sewing class since its inception. "A lot of them are treated like children by their families," she said recently. "They're usually just very afraid of the world."

"But after we've proven to them that they can learn, they get a different concept of themselves, and the training starts going quickly."

The children of one of New York's poorest areas hear of Mobilization's programs through word of mouth, for the most part, and consider the training more as a job in itself than a way to higher pay. But once Miss Falzone takes them in hand, they begin to understand the program's purposes.

"We've got to go through everything they might come across outside," she says. "Everything we do is a learning process." Like requiring the youths to be on time every day, or telling them to have a friend phone when they are sick. If they are late, or unacceptably absent, their pay is docked."

* * * * *

John F. Kennedy was President. Idealistic youth throughout the country, including Manhattan's dismally poor Lower East Side, saw in the President a hope that the problems of juvenile delinquency and drug abuse could be eliminated.

On May 31, ten years ago, Kennedy, his brother Robert, Mayor Wagner with a host of other dignitaries at his side, announced the beginning of a new type of anti-delinquency program, aimed at keeping youngsters out of trouble by paying them to learn trades. By October, 1962, Mobilization for Youth opened its doors on E. 2d St. and, after the ribbon was cut and the celebration had ended, settled down for a decade of trying to end crimes committed by youngsters.

Among the first projects undertaken by MFY was a food shop, designed to train teenagers in the techniques of small business. Serving about 2500 customers weekly, the shop was robbed of $80 the day after it opened. It has since closed completely—the result of an experiment that produced many experienced youngsters, but had no control over a shrinking number of available jobs in the city.

Neighborhood "service centers" were established, too, that would help impoverished families establish contact with private or city agencies against whom they had complaints. Peeling paint in hallways, bafflement over tax forms, or anger about garbage collection were typical of the problems. The centers still operate, but are no longer a part of MFY. They became private corporations four years ago, employing local residents who had "been through the mill" already.

Other innovations included a narcotics information center, home tutoring programs, and a gas station controlled by Shell but operated by the youngsters. All have passed into oblivion as unworkable the way they were organized. If conditions change, or if newly designed programs smooth over the problems of the past, they may be back. Otherwise, according to one MFY official, there are "about 15" projects, never before tested, that are waiting for final planning or funding.

* * * * *

In mid-1970, a new director replaced Beck. East Harlem-born Jack Agueros, a 37-year-old veteran of several other anti-poverty programs and social agencies, entered the office with a $1 million budget and 103 staff members, heading an organization that was only one-fourth its original size, but now dedicated primarily to research and development.

"If you judge us now in relation to the entire community problem," says Agueros, "we're a drop in the bucket. There are thousands of kids out there that we just don't reach. But when a boy or girl drops out of school at 16, that means the Board of Education has wasted their time and money on him. We try to pick up some of them from there."

Which is more important, though, training individual youths for jobs, or establishing methods that other organizations can use?

"It has to be a mixture," Agueros claims. "For the kids, their own futures are most important, and we have to look after that. We analyze the job market and go into training where we can get big employment."

* * * * *

In addition to the various training programs for youngsters, handled by the Experimental Manpower Laboratory, MFY's executive department is testing new methods of providing jobs for the disadvantaged "immediately."

"There are some fields where no long-range training is needed," Agueros explains. "We started a private company called Lunasol, a cooperative. It's a simple thing, really; they clean offices. It stems from a feasibility study we did years ago on ways to offer jobs to local groups of unemployed men.

"Although the company is operating in the black now, it's still subsidized by Mobilization, and will be for a little longer. The important thing, though, is that it gave jobs to 30 people right away, with only a little training."

Another trial program of economic assistance is a cooperative coin-operated laundry, "almost at the break-even point now," said Agueros, "and about to become independent."

For the future, Agueros and his staff are studying the possibility of opening a chain of "convenience" stores in the neighborhood which would train youngsters and adults alike in selling, buying, stocking store shelves and other related jobs.

"That's really where our concentration is," Agueros said. "Most of the problems center on people not having enough money. But we can't just give it to them. We have to provide jobs, jobs, jobs."

Are jobs available for every MFY graduate, as they are led to believe? Al Winfield, one of the three job-developers at Mobilization, thinks so.

"We have established such a backlog of employers," he said, "that we have no trouble filling our needs. Even if people drift in off the streets and want a job, I usually have one available."

Not that MFY is an employment office, he hastens to add, "but after we place a few kids in a company, and they work out, word gets around. One firm tells another firm, and one day we get a call that a bank, or department store, is looking for young trainees."

* * * * *

What do Gonzales' students think of their instructor, and the MFY program generally? Of 11 jewelry shop graduates contacted, only one was unemployed last month, "because of my family," he explained. "I can't say anything against Mobilization at all, and I learned a lot in the jewelry shop. I got paid, more than anyone else in my apartment. But there was nobody else to look after my brothers." Peter has three younger brothers living together in a two-room E. Seventh St. apartment with an alcoholic mother, who "doesn't even go on welfare."

* * * * *

A pretty Dominican girl, Delores, who still lives with her family on Av. B near Sixth St., agrees that MFY has something the public schools lack.

"Mostly, it's that they speak Spanish. In school, everybody thought I was dumb because I couldn't even do homework. But in the shop, I learned whatever I had to. It was kind of easy." Delores has been working 15 months now, and contributes to the cost of food and rent at home. Her father, a construction worker "when they hire him," has told her it's "time to get married." But she laughs, answering that she doesn't have to, now that she can support herself.

* * * * *

Past and present MFY students almost uniformly say, when asked why they joined Mobilization, that both money and training motivated them. Although aware that their training is part of a vast experiment to discover what types of instruction can effectively encourage learning and help them land, and hold, jobs, they appear unconcerned about MFY's overall purpose.

Not only in the jewelry shop, but in sewing, clerical, computer punch-card and other fields, many students show a unique understanding of the MFY experiment, yet insist they only care about learning and earning.

"Sure, I know" it's an experiment, is a typical statement. "But it helps me make money, so I don't care."

How successful, though, has the over-all anti-delinquency, anti-poverty program been? In purely statistical terms, it is difficult to assess.

In early 1963, almost 7,000 youths between 16 and 21, the very ages MFY would work with, lived in the Lower East Side. Delinquency had been increasing by about 25 per cent annually, and was commonly called an "epidemic."

Recent figures put the youth population at close to 10,000, and the Police Dept. says delinquency continues to be a growing problem in the area.

Superficially, this would indicate that MFY has had no major effect on the delinquency problem in the neighborhood. Yet Mobilization trains over 1000 youths annually, placing them in full-time jobs. Investigation shows that the vast majority continue to earn wages in their field of MFY training years after they leave the program. Only about 20 per cent actually quit the field; many of these, it is known, return to their homes in the Caribbean, so are no longer part of the Lower East Side's poverty or delinquency problem.

Some Mobilization workers suspect that youths untouched by MFY's programs commit more "per capita" crimes than previously, possibly due to higher drug prices brought on by increased police arrests of major pushers over the past 10 years. Others believe that more juvenile crimes are caused by youths from outside the neighborhood, and that Lower East Side youngsters are "definitely less responsible for the known cases of delinquency here."

Whatever the real reason for still increasing delinquency, it seems sure that if Mobilization wasn't there, the problems would be much greater.

* * * * *

Indeed, training programs based on MFY's results have sprung up in Boston, Chicago, Los Angeles, and a host of other American cities troubled by juvenile delinquency in impoverished neighborhoods. Some European capitals have asked to be included on Mobilization's mailing lists, and the Lower East Side sees a constant parade of youth workers from as far away as Japan.

* * * * *

Even on the South Pacific's remote Fiji Islands, MFY has had a direct effect. The director of program operations, Elmyria Hull, recently spent 12 months there advising YWCA workers on Mobilization's methods. The result: a training program in office work, household help, child care, cooking, and guiding tourists, all jobs requiring hundreds of workers annually.

Much like youngsters new to New York's bustling and often confusing life, villagers throughout Fiji were coming to the cities in mass, searching for opportunity but unable to cope with a metropolis. The MFY methods, as directed by Mrs. Hull, soon had instructors teaching window-washing and broom-sweeping, both tasks unknown among villagers, but necessary for employment as domestics.

* * * * *

Closer to home, Mobilization for Youth has been granted the first New York State certificate as a non-profit trade school. While such licensing will not alter the training aspect of MFY, it will undoubtedly open new paths of funding, in addition to the Labor Dept's grants. Private trade schools, the Veterans Administration and the State Welfare Dept. will now be permitted to support particular schooling programs within the Mobilization concepts.

* * * * *

Despite the apparent success of MFY's various programs, the agency is not about to stand still. Community representatives, professionals, researchers and theoreticians from city universities and industry pour suggestions into Mobilization's offices. So many ideas are presented and discussed during weekly, sometimes daily, staff meetings that the originator is often forgotten.

Most suggestions, of course, are rejected either because they would cost more than the budget allows, or because after discussion unforeseen major problems are discovered. Those ideas that pass this initial discussion are submitted to the Labor Dept.'s Office of Research and Development for review and, if approved, are undertaken within the framework of some 15–20 projects engaged in at any given time. The projects follow guidelines established in accordance with MFY's mandate as the first of three nation-wide Experimental Manpower Laboratories, designated by the Labor Dept.

One recent proposal that passed the test of close scrutiny seems simple on the surface, but required careful coordination with the Board of Education. The Manpower Laboratory developed an "alternate high school senior year" program for potential drop-outs. The students would attend MFY classes, receiving both job training and High school diploma equivalency training.

The youths then return to their neighborhood schools for graduation day to receive a standard diploma, but now have the added option of securing a job because of their MFY training. The underlying principle, says Feifer, is to direct "government manpower programs toward the viable prevention of dropping out," rather than to focus exclusively on providing job training to the youths once they have dropped out.

The open admissions program at City University offers these students an additional opportunity to continue their formal schooling—a far cry from merely training a youngster and sending him to a job interview. The agency is exploring the feasibility of using the CU policy by incorporating their results directly into the school system.

Another project under study is to provide training in New York labor market skills to recent Hispanic arrivals prior to leaving their points of origin. The goal, according to MFY officials, would be that rather than add to welfare rolls for lack of a "match" between their "native skills" and the city's job market, a job opportunity could be awaiting for the trained youngsters when they arrive in the city.

SOVIET CROP FAILURE AND U.S. GRAIN DEAL

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. RARICK. Mr. Speaker, there is much talk during these preelection days about the promise to American agriculture from the United States-Soviet grain deals.

If the Soviet Union is truly looking to the U.S. farmers as a regular source of grain to feed her people, rather than to temporary bail the Soviet hierarchy out of a food shortage, because of the inefficiency of their system, bungling, and act of God—then the worth of these historic sales could be said to be true, provided the Soviets improve their credit rating by paying their bills.

An interesting report from Moscow tells us that the much-lauded $750 million grain deal with the United States has never been mentioned in the Russian news media. The report also suggests that the Soviets are desperate to obtain food imports, because their food supplies are critically low as a result of nature, bad management, and even thievery. The Communist leaders obviously fear a food panic. This being so, it appears that they would have paid full price, including gold, on what will probably end up being a one-shot deal.

I am inserting a related newsclipping in the Record at this point:

[From the Washington Post, September 20, 1972]

BAD HARVEST THREATENS SOVIET ECONOMY—CROP SABOTAGED BY NATURE, BUNGLING, INEFFICIENCY

(By Robert G. Kaiser)

"This summer has been capricious and difficult."

Moscow, September 19.—For millions of Russians, from Leonid Brezhnev to a Muscovite with a few apple trees around his suburban dacha, this has been a lousy month. The fall harvest, one of the biggest events in the year for the Soviet Union, has been poor. The consequences of its failures will be felt all year.

It is difficult for Americans to imagine the significance of the harvest in Soviet life. Judging by the press, it has been the principal preoccupation of the nation's leaders for some time.

The front pages of virtually all Soviet newspapers have been filled for weeks with exhortations to bring in a good crop. Television repeats the message. "Don't lose a single stalk, a single grain! Pravda's main headline urged the other day.

Tens of thousands of ordinary citizens are pressed into duty to help with the harvest. Thousands of trucks and boxcars are diverted from their normal work to help move the crop from the fields.

The exhortations are serious. So is the extensive reporting in the Soviet press about mistakes, bad management and even thievery that have hindered the harvest. But the major problem this year was not mismanagement or inefficient workers, important as these may have been. This year nature sabotaged the Soviet harvest, long before the reaping and threshing began a few weeks ago.

The ramifications of an inadequate harvest are vast. They begin with the gloomy look on the face of a Saturday gardener in a village near Moscow who dug up his potato patch last weekend. He found that a stingy mother nature had given him a small harvest of shrunken, unappetizing spuds.

In Moscow's Central Market, where farmers sell the produce from their private plots of land, prices have shot up. Cauliflower that cost about 90 cents a pound (at the inflated official exchange rate) a year ago now costs $1.80. The price of apples has also doubled. Lettuce is rare and selling at winter prices of $1.80 a pound.

In state shops, some limits have been imposed on the quantity of potatoes each customer can buy at one time. Lines for potatoes—a staple in the starchy Russian diet—are common, and the potatoes themselves are small.

The situation in the provinces is undoubtedly worse, because Moscow has the highest priority in the country for consumer goods of all kinds. For example, Moscow's butcher shops always have meat to sell, but the state stores in some small towns haven't sold fresh meat for five years. (Such towns get their meat from farmers' markets. Private plots produce more than a third of the food eaten in the Soviet Union.)

BREAD WASTE

Officials have assured the public several times that there is no cause to fear a bread shortage, but the press has also carried articles criticizing people who waste bread.

The government has already taken steps to assure the bread supply by contracting for vast quantities of foreign wheat, mostly American and Canadian. By Western estimate, the Soviet Union will spend $1.5 billion or more on foreign grain purchases. At this level, the poor harvest becomes an important factor for the entire Soviet economy.

The Soviet Union operates on a five-year plan whose parts are all interconnected. The plan for this year foresaw production of about 190 million tons of grain. Western experts here predict the harvest will be 20 to 30 million tons short of that goal.

Western scholars assume that the five-year plan does not allow much margin for error. When a crucial factor like the harvest falls so far below expectations, adjustments throughout the economy are probably inevitable.

The first of these may come in the hard currency budget. If the Soviets do spend more than $1.5 billion for grain this year, far more than they had planned, they will have to cut back other purchases of foreign goods, or perhaps sell off some of their vast gold reserves.

(The Soviet ruble is a "soft" currency—it isn't traded on international money markets, and Western businessmen won't accept it.)

The principal product the Soviet Union now seeks abroad is modern technology. So a bad harvest can hinder the modernization of this country's enormous but uncompetitive economy, though this may be the single most important goal that the Soviet leaders have set for themselves.

Brezhnev and his colleagues may well feel that this is an undeserved trick of fate. Their plan was not unreasonable, assuming relatively normal weather. But the weather here has been wildly abnormal since last winter, and it has frustrated the country's farmers in almost every imaginable way.

First the weather was dry and extremely cold. The winter wheat harvest was unsuccessful. The ground was dry when planted, and got drier as July and August became months of drought. Then, when the harvest began, heavy rains in many sections ruined much of the crop.

LEAP YEAR

Even relatively carefree crops, like apples, did poorly this year. One Muscovite reports that his friend's little orchard in the country "didn't produce a single apple, not one." this same man explained the bad weather with a typical piece of Russian folk wisdom: "It's a leap year—leap years are always bad."

If nature was the principal cause of the poor harvest, it was not alone. The Soviet press has provided abundant, vivid examples of agricultural mismanagement and malfeasance in recent weeks.

The reports detail cases of bad maintenance of machinery, inefficient allocation of resources, lack of official foresight and imagination. "In the Sverdlvsk administrative district," Pravda reported, "There is a good crop of potatoes, but they can't be harvested properly—there aren't enough sacks to hold them. The district needs three million sacks, but has been promised only 900,000."

In another report, Pravda disclosed: "In the Ukraine, grain elevators' capacities are smaller than the amount of grain harvested in some districts . . . Thousands of railroad freight cars are not fit for the transportation of grain . . ." In one section of wheat-growing Kazakhstan, the newspaper "Rural Life" reported, "more than 500 trucks have not been repaired on local farms. The local repair shop has not yet fixed 70 truck engines sent to it last June . . ."

At the same time, motor pools in big cities including Moscow, were depleted to a fraction of their normal size, and thousands of trucks were shipped by rail to help with the harvest—especially in that same area of Kazakhstan.

One of the biggest scandals of the harvest season was reported by Komosomolskaya Pravda, whose correspondent in Kazakhstan saw dozens of new, 11.5-ton trucks parked on a road and decided to find out why they were not in use.

SPARE PARTS

The trucks, he learned, had been shipped from the factory that made them on flat cars. They arrived to cheers from the local population, and men got into them to drive them off the train. The first one would not start. Neither would the second, third, fourth—or any of them; apparently, there were more than 60 trucks, and important parts had been stolen from every one, the paper reported, although the shipment was supposed to be guarded the entire way.

A local official told the journalist that the trucks could not be repaired, because the stolen parts were simply not available in that part of the country.

The press has also reported special incentives for farmers and local trading officials to get more potatoes into the state warehouses this year. Farmers are being offered 5 per cent higher prices for all potatoes they deliver above plan, and purchasing agents are being tempted to find more potatoes to buy with bonuses of a full month's salary or more.

One subject that the press has not mentioned is the Soviet government's extensive purchases of foreign grain. Nikita Khrushchev, Moscow taxi drivers will tell you, squandered Soviet gold on Canadian wheat. Perhaps Khrushchev's successors don't want to be remembered similarly. Whatever the reason, the Soviet news media have never reported the $750 million grain deal with the United States, or Moscow's other grain purchases.

THE PRESIDENCY: THE POWER AND THE GLORY—AND THE MISERY

HON. WILLIAM G. BRAY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. BRAY. Mr. Speaker, the American Republic is now in the middle of a presidential campaign. It will not really culminate until noon, January 20, 1973, Inauguration Day when, on the steps of the U.S. Capitol, the full might and majesty of our Republic's executive, legislative and judicial power assembles, along with thousands of individual citizens, to witness the beginning of another presidential term.

This quadrennial ceremony is probably the most solemn and moving of any scheduled event in our national life. There is either a peaceful and orderly transition of power, if a new administration is succeeding an old one, or it is a continuation, by mandate of the American people, of the previous 4 years. Regardless of who places his hand on the Bible, and raises the other, to take the oath of office, in doing so he is carrying on, unbroken, a custom that goes back almost 200 years. He is spiritual and lineal descendant of the men chosen over the years to carry the burdens of the American Presidency: the power, and the glory—and the misery.

The American Presidency is totally unlike any other chief executive office anywhere in the world. We Americans, whether we realize it or not at times, are thoroughly political in nature and makeup; by that I mean we tend to pay more attention to and speculate upon our political institutions to a degree not found elsewhere. And, of course, this begins with the President.

We crucify them; we deify them. We poke fun at them; and, in more sober moments, we realize the tremendous burden of power and authority that we have vested in them. Not a man has ever escaped this; none ever will. Examples of these things fill the history books and columns of the daily papers, but some in particular come to mind and are worth mentioning here.

When we wish to abuse our Presidents, we do so with all the savagery of a trapped and wounded tiger. During the campaign of 1828, Gen. Andrew Jackson and his wife had been the subject of charges that they were living in adultery, which they were not. Rachel Jackson died during the campaign, of a broken heart, it was said, and Jackson himself never ceased grieving. On his way to Washington early in 1829, he was subjected to a particularly vicious encounter at one of his stops by an individual described as "a bulking boy from a keel-boat." The conversation went like this—it is from a contemporary account:

> "General Jackson, I guess?"
>
> The General bowed assent.
>
> "Why, they told me you was dead."
>
> "No! Providence has hitherto preserved my life."
>
> "And is your wife alive, too?"
>
> The General, apparently much hurt, signified the contrary, upon which the courier concluded his harangue, by saying,
>
> "Aye, I thought it was the one or the t'other of ye."

And we deify them. Probably the most magnificent example of this is the striking Brumidi fresco in the canopy of the dome of the Capitol Building, entitled "Apotheosis of Washington." To be sure, George Washington deserves every honor and tribute the country can bestow upon him; of all the tributes, however, I have always felt this awe-inspiring painting was best.

The figures are 15 feet high, but from 180-feet below, on the floor of the Rotunda, they appear life-size. Washington is in the center; on his right is the Goddess of Liberty; on his left a figure representing Victory and Fame. Surrounding him are 13 maidens, for the Thirteen Original States, with a banner with the motto "E Pluribus Unum." Six allegorical groupings border the figures. Below Washington is War, with Freedom as the central figure. Clockwise, the next group is Arts and Sciences, with Minerva; Marine, with Neptune; Commerce, with Mercury; Mechanics, with Vulcan; and Agriculture, with Ceres.

We poke fun at the office; Ambrose Bierce called the Presidency "The greased pig in the field game of American politics," then turned his scalpel on the term of President itself:

> A temporary chief, elected by the leaders of a party of political bandits, for the purpose of dividing the spoils amongst them. The leading figure in a small group of men of whom—and of whom only—it is positively known that immense numbers of their countrymen did not want any of them for President.

And there are sober moments of realization what the office truly is. Don Marquis spelled it out in a few lines, and also drew the sharp distinction between the American President, and a dictator:

> There is bound to be a certain amount of trouble running any country if you are president the trouble happens to you but if you are a tyrant you can arrange things so that most of the trouble happens to other people.

Gouverneur Morris, at the Constitutional Convention, commenting on the office of President, said:

> Our country is an extensive one. We must either then renounce the blessings of the Union, or provide an Executive with sufficient vigor to pervade every part of it.

Let us consider what the Presidents themselves have had to say about the office. How about the Power of the Presidency?

Grover Cleveland:

> Sir, it is a solemn thing to be President of the United States.

William McKinley:

> What an impressive thing it is to assume tremendous responsibilities!

Theodore Roosevelt:

> A President has a great chance; his position is almost that of a king and a prime minister rolled into one; once he has left office he cannot do very much; and he is a fool if he fails to realize it all and to be profoundly thankful for having had the great chance.

Woodrow Wilson:

> I cannot choose as an individual what I shall do; I must choose always as a President, ready to guard at every turn and in every way possible, the success of what I have to do for the people. . . . The President is a superior kind of slave, and must content himself with the reflection that the kind is superior.

Calvin Coolidge:

> The President gets the best advice he can find, uses the best judgment at his command, and leaves the event in the hands of Providence.

John F. Kennedy:

> There's such a difference between those who advise or speak, or legislate, and between the man who must make—select from the various alternatives proposed and say that this shall be the policy of the United States. . . . If you take the wrong course, and on occasion I have, the President bears the burden, responsibility, quite rightly. The advisers may move on to new advice.

And what have they had to say about the glory of the Presidency?

George Washington:

> So strongly had the citizens of this place imbibed an idea of the impropriety of my accepting invitations to dinner that I have not received one from any family (though they are remarkable for hospitality, and though I have received every civility and attention possible from them) since I came to the city except dining with the Governor on the day of my arrival, so that, if this should be adduced as an article of impeachment there can be at least one good reason adduced for my not dining out: to wit, never having been asked to do so.

John Adams:

> If I could have my wish, there should never be a show or a feast made for the President while I hold the office.

James K. Polk:

> In truth, though I occupy a very high position, I am the hardest working man in this country.

Chester A. Arthur:

> I believe that I am permitted to dine with Cabinet officers, Justices of the Supreme Court, the Vice President, and Mr. George Bancroft. (Bancroft was an elderly historian, who had been Polk's Secretary of the Navy.)

William Howard Taft:

> I have come to the conclusion that the major part of the work of a President is to increase the gate receipts of expositions and fairs and bring tourists into the town.
>
> I'll be damned if I am not getting tired of this. It seems to be the profession of a President simply to hear other people talk.

Warren G. Harding:

> In this job I am not worried about my enemies. I can take care of them. It is my friends who are giving me trouble.

Herbert Hoover:

> Many years ago I concluded that a few hair shirts were part of the mental wardrobe of every man. The President differs only from other men in that he has a more extensive wardrobe.

> There are some valuable privileges attached to being President—among them the duty and right to terminate all interviews, conferences, social parties and receptions. Therefore, he can go to bed whenever he likes.

And the misery of the Presidency?

John Quincy Adams:

> The four most miserable years of my life were my four years in the Presidency.

Andrew Jackson:

> I can with truth say mine is a situation of dignified slavery.

James Garfield:

> My God. What is there in this place that a man should ever want to get in it?

William Howard Taft:

> One trouble is no sooner over in this office than another arises.

Franklin D. Roosevelt:

> Presidential plans for future engagements are, I find to my sorrow, more susceptible to change than the plans of any private citizen.

Harry S. Truman:

> There is no exaltation in the office of President of the United States—sorrow is the proper word.

Their comments on the personal attacks levied against them—as every President, and indeed every public officeholder has at one time or another—show a stoic acceptance of the slings and arrow:

George Washington:

> I suffered every attack that was made upon my Executive conduct . . . to pass unnoticed while I remained in public office, well knowing that if the general tenor of it would not stand the test of investigation, a newspaper vindication would be of little avail.

John Quincy Adams:

> I can never be sure of writing a line that will not some day be published by friend or foe. Nor can I write a sentence susceptible of an odious misconstruction but it will be seized upon and bandied about like a watchword for hatred and derision. This condition of things gives style the cramp.

Harry S. Truman:

> The President of the United States, of course, cannot spend his time replying to personal attacks and insinuations. If he did, his time would be fully occupied with nothing else.

John F. Kennedy:

> I know that when things don't go well, they like to blame the President, and that is one of the things Presidents are paid for.

And some of them have made it abundantly clear that they were more than glad to leave the job:

John Adams:

> I feel my shoulders relieved from a burden.

James Buchanan:

> When I parted from President Lincoln, on introducing him to the Executive Mansion, according to custom. I said to him: "If you are as happy, my dear sir, on entering this house as I am in leaving it and returning home, you are the happiest man in the country."

Rutherford Hayes:

> It is no doubt well to leave the high place now. Those who are in such a place cannot escape the important influence on habit, disposition and character. In that envied position of honor and distinction they are deferred to, flattered and supported under all

circumstances, whether right or wrong, by shrewd and designing men and women who surround them. Human nature cannot stand this too long.

William Howard Taft:

I am glad to be going—this is the loneliest place in the world.

Grover Cleveland:

You cannot imagine the relief which has come to me with the termination of my official term. There is a good deal yet which seems to result from the Presidency and the kindness of people in a social way which keeps me in remembrance of Washington life, but I feel that I am fast taking the place which I desire to reach—the place of a respectable private citizen.

The true meaning of the office can only be felt and appreciated and accurately commented upon by the men our Republic has at various times chosen to fill it. The above comments are but a random selection from their extensive writings, and, after all, the Presidents should speak for themselves.

I sometimes think, however, that perhaps the meaning of the office was best summed up 300 years before we were even a Nation. In his "Henry V," William Shakespeare has Henry muse, alone, on the night before the Battle of Agincourt, upon the burdens he, Henry, bears. True, the speech is written for a King, but I believe Henry's monolog, one of the most masterful and dramatic in all English literature, portray for all time what surely must be and always will be, part and parcel of the lot of the American President:

Upon the king!—let us our lives, our souls,
Our debts, our careful wives, our children, and
Our sins lay on the king? We must bear all.
O hard condition, twin-born with greatness,
Subject to the breath of every fool,
Whose sense no more can feel but his own wringing!
What infinite heart's ease must kings neglect
That private men enjoy! . . .
Canst thou, when thou command'st the beggar's knee,
Command the health of it? No, thou proud dream,
That playst so subtly with a king's repose:
I am a king that find thee; and I know
'Tis not the balm, the sceptre, and the ball,
The sword, the mace, the crown imperial,
The intertissued robe of gold and pearl,
The farced title running 'fore the king,
The throne he sits on, nor the tide of pomp
That beats upon the high shore of this world,—
No, not all these, thrice gorgeous ceremony,
Not all these, laid in bed majestical,
Can sleep so soundly as the wretched slave . . .
The slave, a member of the country's peace,
Enjoy it; but in gross brain little wots
What watch the king keeps to maintain the peace
Whose hours the peasant best advantages.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,757 American prisoners of war and their families.

How long?

STANLEY J. PREEBE, MULTIMILLION SALESMAN

HON. WILLIAM E. MINSHALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. MINSHALL. Mr. Speaker, one of Parma, Ohio, and northern Ohio's most distinguished citizens is a remarkable gentleman I am proud to call my friend, Stanley J. Preebe.

This immensely likeable man has a story Horatio Alger might envy. His outstanding career proves that with brains, grit, integrity and hard work a man can still reach for the stars in this great country of ours—and touch them.

I was particularly impressed with his statement that his parents taught their family that one can achieve his objectives by being industrious. Stan Preebe certainly heeded their advice.

I am very pleased to see that the Cleveland Press of September 15, 1972, has paid well-earned tribute to this splendid citizen, and I would like to share the article with my colleagues in the House:

MULTIMILLION SALESMAN

Poverty, hardship and frustration dogged the youth of Stanley J. Preebe, oldest of five children of Polish immigrant parents. Compulsively, he developed an affinity for hard work that has become his dominant characteristic.

Born at Forman Ave. and Broadway, he sold The Press and the Plain Dealer in his teens at three Southeast intersections. He employed three other youths, and had the attributes of a crack salesman.

Orphaned at 17, he graduated from South High School. He attended Cleveland College and Fenn College at night, majoring in marketing, and worked days as a laborer in a foundry, a steel mill, and in construction.

Today, he is president of S. J. Preebe & Associates at 3540 Ridge Rd., Brooklyn, and vice president of Wahl Refractory Products Co. of Fremont in charge of national sales. He is strictly on a commission basis, and his sales are multimillion dollars annually. On Jan. 1, he will have charge of sales throughout the North America continent. He also will move to larger quarters.

Wahl Refractory makes refractories for all types of industrial furnaces. Preebe has been in industrial sales since 1946, after serving three years as a staff sergeant in reconnaissance with the Army Tank Corps. He also served a year in the Civilian Conservation Corps.

In 1946, Preebe married Ursula Biegacki. She has been secretary to the principal of Schaaf Junior High School in Parma for the past 15 years. After eight years in sales for Kaiser Refractories and four years as district manager Preebe resigned to establish his firm in 1960. He was promoted to vice president in 1965.

Preebe tripled national sales in six years. In 1964, he had been given a five-year contract. He doubled his sales, and was given a 10-year contract in 1968. Again, he doubled his sales, and received another 10-year contract.

"My parents met in Cleveland, and were ghettoized by language, customs and group. They worked hard, and died young, but they taught us that one can achieve his objectives by being industrious." Preebe said.

In 1954, Preebe received the Top Hat Award of the Sales & Marketing Executives of Cleveland for distinguished industrial selling. A former star softball pitcher in Class A and at Ft. Riley and Camp Polk, Preebe underwent major heart surgery in 1963 by Dr. John J. Kralik at Marymount Hospital.

"This had a tremendous influence on me," Preebe said. "I developed more enthusiasm for life and the impulse to do good for people. My ambition is to establish a scholarship at South High School for needy students. The class and staff paid for my clothes, prom and commencement in 1937, and I want to reciprocate by helping others."

Preebe, 53, robust, gregarious and sartorially elegant, has found summer employment for 50 high school and college students in recent years.

He is a charter member of the First Friday Club, a member of the City Club, Cleveland Council of the Knights of Columbus, the Holy Name Society, and the Citizens Finance Advisory Committee of the Parma School Board. He is a golf and bowling buff and an avid reader of history. The Preebes lives at 10204 Keswick, Dr., Parma Heights.

SUPPORT FOR ASIAN DEVELOPMENT BANK FUNDS

HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. HANNA. Mr. Speaker, I want to express my strong support for a U.S. contribution of $100 million to the consolidated special funds of the Asian Development Bank. This Bank is an increasingly effective development lending institution, with sound financial management. It enjoys a high degree of confidence and trust in the private capital markets of the world. I therefore regard the Appropriations Committee's action in denying any funds at all for the administration's request for the Asian Bank as shockingly shortsighted.

And I regard the committee report's explanation of its action as both inadequate and misleading. The report disallows any funding on the grounds that there was no multilaterally negotiated agreement to contribute to the Asian Bank's special funds—although the committee did not hesitate to disallow funds for the Inter-American Bank where there was just such a multilaterally agreed formula. But the issue in the Asian Bank's case is not whether we are legally obligated or not. It is whether we should in the exercise of our free judgment, join in contributing to soft loan funds for use in Asia under responsible administration by the Asian Bank. I contend we should.

I find the committee report misleading because it never mentions that more than 10 other contributors are already making roughly $200 million available for special funds—so that even the full $100 million appropriation request could not represent more than a one-third U.S. share. Nor does it mention that these other countries have put up their money while we have merely talked about our contribution for a full 5 years.

Mr. Speaker, the committee report speaks of congressional control of U.S. contributions to international financial institutions, but evidently it means committee elimination of such contributions. It speaks of determining amounts, but evidently the amount the committee typically has in mind is zero. I do not believe our interests in Asia are served by such a heavyhanded approach. I do not believe this is what the Congress itself had in mind when it authorized this multilateral program last February. Certainly Southeast Asia is one area where a multilateral rather than a bilateral United States presence would be desirable. I urge that we restore the $100 million that the committee has disallowed, and thereby help to restore some of the faith of the nations of Asia that we share their hopes for a peaceful, better future.

THE HIGHWAY TRUST FUND—ABDICATION OF RESPONSIBILITY

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. WYMAN. Mr. Speaker, I am deeply disappointed by the decision of the other body to permit the highway trust fund to be tapped for nonhighway related expenditures.

The highway trust fund was established in 1956 to finance the construction of the Interstate Highway System and to modernize the Nation's secondary road network. The financing of this tremendous operation has been through a user tax on gasoline and other automobile-related products deposited in the trust fund until expended for the purposes authorized by law. The success of this program is without parallel. Not one cent of general revenue funds has been required for this extremely expensive undertaking.

Now, it appears, this very success is to be reason for destroying a program that has efficiently and equitably delivered a necessary government service. Rather than come to grips with the complex problem of financing a mass transportation system, we are being asked to simply dip into the other fellow's pocket for the necessary funds. We are not being asked, as in the case of the airport development fund, to emulate a proven method of revenue raising, nor are we being asked to investigate the possibility of expanding both these funds—and their supporting user taxes—into a general transportation trust fund. No, we are simply being asked to rob Peter to pay Paul.

More importantly, we are being asked to ignore our responsibilities as legislators. Because the problem of financing an adequate mass transportation system is difficult of solution is no reason for failing to come to grips with it. By sticking our heads in the sand we will not only fail to eventually solve the mass transportation problem, but will destroy an example of enlightened Federal assistance in the process.

I urge my colleagues to reject this attempt to break faith with those who have footed the bill for a modern national highway transportation system.

OIL IMPORT QUOTAS

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. BOLAND. Mr. Speaker, President Nixon's decision to increase oil import quotas is a cheering sign for New England. Long the principal victim of this quota system, New England must dig deeper and deeper into its financial resources each year to heat its homes and fuel its industries. The modest increase President Nixon has just ordained—9,500 barrels daily until the end of the year, but fully 4,500 of these against the 1973 quotas—may not be enough to ward off another oil shortage this winter. Certainly, Mr. Speaker, this increase will not lower the almost extortionate oil prices now exacted from New Englanders.

The oil import quotas, barring all but a trickle of inexpensive foreign oil from entering the United States, has given the domestic oil industry what is kindred to absolute dominion over the New England marketplace, investing that industry with the power to raise prices or diminish supplies at whim.

President Nixon's quota increase is a step in the right direction, but it does not go far enough.

I will continue to press for major revisions in the quota systems—a doubling, at the very least—and for the ultimate abolition of the quota system itself.

Here are two editorials, one from the Springfield, Mass, Union, the other from the Hartford, Conn., Courant—that discuss New England's plight:

[From the Springfield, Mass., Union, Sept. 19, 1972]

NOT A SOLUTION

The temporary relaxing of heating oil import quotas which President Nixon announced Monday may help ease a shortage, but it won't bring the Northeast's highest-in-the-nation fuel prices down. At least an administration spokesman declined to forecast any price drop.

Similar moves have been made in other years to help this region fill its special need for fuel oil in the winter. This year the nation's existing import quota of 45,000 barrels could go to 83,000 if importers request that much in excess allocations. In addition, the basic annual allowance for imports would be raised by 5,000 barrels a day.

As for the temporary increase, it is important to note that the excess allocations requested by importers would be deducted from their 1973 allocations, which are yet to be set. Thus, how much more heating oil flows into New England this winter will depend largely on how the importers feel about having it taken out of their 1973 allocations.

To help the Northeast the fuel import quota system ought to be scrapped. The administration has toyed with that idea, but never followed through. Instability in the Middle East, the source of most foreign oil, raised a question of this nation's "security," according to both the Johnson and Nixon administrations. And the domestic suppliers have held their grip on the U.S. market.

Not until the import quota system is dropped will the problems of high fuel oil prices and the annual threat of shortages be solved for the Northeast. Relaxing the quotas temporarily is a delaying action, not a solution.

[From the Hartford (Conn.) Courant, Sept. 19, 1972]

EASING THE OIL QUOTA

While its immediate effect is likely to be small, the President's proclamation increasing by a third the annual quota of foreign oil that can be imported into the United States is cause for real satisfaction, particularly in New England which has been the chief victim of the oil quota system. Since the entire annual increase will be telescoped into the last three months of the calendar year, the order could mean that as much as 85 percent more cheap foreign oil than had been scheduled, will be brought into East Coast ports by the end of the year.

Particularly gratifying is the fact that the quota on No. 2 heating oil, which is New England's standard home heating fuel, has been more than doubled. While it will take some time to get more foreign oil into the domestic market, the order's effect on New England's winter oil supply—and its price—should be noticeable.

The increase in the quota of petroleum products that hits New England, New York and New Jersey hardest is useful. But the indefensible quota system remains. Under the basic system, to which presumably the quota will return after the end of the year, the importation of foreign oil into the East Coast is arbitrarily limited to 12.2 per cent of the domestic production east of the Rocky Mountains, which in effect sets the price of oil in the east at the price of domestic production. While both the price of foreign oil in the world market and the cost of transporting it have increased substantially in recent months, foreign oil can still be laid down in Boston or New York for substantially less than the price of domestic oil of the same quality. The difference between the two costs is a windfall for the importer.

Last winter, after 13 years of futile effort to get the quota system abolished, the New England states joined in a legal attack on the constitutionality of the system. They contended that the quota system violates the constitutional requirement that "all duties, imports and excises shall be uniform throughout the United States". The Supreme Court has yet to rule in the case, although at least superficially the differential treatment of East and West Coast oil imports by the quota system would seem clear.

Figures are tricky. But the extra cost of the basic oil quota to New England has been set at $175 million a year. A two-year old study of the industry made for a cabinet committee named to review the quotas set the cost to the whole nation in the 13 years it has been in force at $5 billion. That committee, incidentally, recommended abolition of quotas, with their replacement by traditional tariffs if the protection of the domestic oil industry were deemed necessary to the national defense, which many authorities dispute. The recommendation has been ignored.

The easing of the quota system should relieve the northeastern states of the perennial threat of a winter oil shortage. It could even produce some price relief. But the real end that ought to be sought is the abolition of a system that discriminates heavily against one section of the country, the northeast, as against most of the rest of the states.

BIAGGI ATTACKS AFFIRMATIVE ACTION PLAN

HON. BERTRAM L. PODELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. PODELL. Mr. Speaker, our distinguished colleague, the gentleman from New York, Representative MARIO BIAGGI, has been in the forefront of the fight for equal rights and justice for all Americans. His efforts to provide equal rights for police officers and servicemen have won him national acclaim. More recently his fight for proper care and treatment of the mentally retarded has resulted in numerous proposals to improve the conditions in State mental institutions and in a landmark case against the New York State Department of Mental Hygiene that is currently being tried in State court.

In the last several months, he has been in the forefront of the attack on the affirmative action plan of the Federal Government. This program has lead to a deterioration in the civil service system which in the past made merit and ability the sole criterion of advancement.

While the objective of creating greater opportunity for minority groups is an essential element of governmental policy, it cannot be done by relaxing the standards of excellence and merit that have made the civil service system in this country one of the most outstanding and envied in the world.

Congressman BIAGGI sets forth quite succinctly his arguments against the Department of Health, Education, and Welfare's affirmative action plan in the following article taken from this month's Jewish Teachers Association Newsletter. I commend our colleague's views and hope we may all benefit from them:

EQUAL OPPORTUNITY THROUGH MERIT

(By Congressman MARIO BIAGGI)

The establishment of equality of opportunity and the elimination of discrimination have always been the cardinal goals of the Jewish community. As an Italo-American from a poor but proud family and a member of a minority group as well, I too have experienced the evils of discriminatory acts. But, despite it all, this country with its basic creed of tolerance and equality gave me the opportunity to become—first a postal employee, then a police officer, and then enabled me to attend New York Law School and finally rise to the position of a United States Congressman.

This opportunity to compete on an equal basis according to my ability and my ability alone is the very heart of an issue which now threatens to destroy, not only our educational institutions, but the very fabric of American life and justice as we have come to expect it to be. That opportunity also instilled in me long ago the resolution that at all costs the attitude of equal opportunity within a merit system must be preserved in this country.

In 1949, educators from all over the United States gathered together in Chicago to face what was then already a 30-year-old problem—the quota system—discrimination in college admissions.

In those days such discrimination was termed "evil"—that it violated the credos which educators held most sacred and that ethnic quota systems, the device which limited the entrance of minority group students into colleges, was counter to all they believed.

All of us in those days were aware of such quota systems. But because they were considered "unethical" to say nothing of being "unAmerican", they were vigorously opposed.

However, during the past 23 years since that meeting in Chicago, a strange phenomenon has been occurring. Now we find that the very ethnic quota system you and I fought then has become an accepted policy of government, not only in college admissions—but in employment as well.

Out of HEW's Office of Civil Rights have come directives urging "excess zeal" in the implementation of Affirmative Action Programs, which have unfortunately resulted in a kind of reverse discrimination and the establishment of job quotas in our schools, colleges and universities throughout the country.

Affirmative action programs were originally intended to bring about equal opportunity for all Americans. It was, according to Chanceller Kibbee of the City University of New York, an effort to overcome de facto discrimination in employment against women and minorities where those conditions existed. But this did not mean that the new policy or its implementation required preferential treatment in recruitment, hiring or promotion on the basis of any criteria other than merit.

Now it appears that the affirmative action concept has been completely distorted to the point where it constitutes preferential treatment to such an extent as to be totally discriminatory. It discriminates against one minority group in favor of another. It pits one ethnic group against another and has become of serious concern, not only to the Jewish community which seems most significantly affected, but to all who have always held to the belief that discrimination in any guise must be fought where and whenever it appears and who believe firmly in the merit system.

The principle of an ethnic quota system which has now become a fait accomplis throughout the country, whether it be in student admissions or in the hiring of faculty members, is one which has long been held as absolutely counter to our American way of life. But, most significantly—it serves to foster not only further discrimination—but a deep seated antagonism between the ethnic groups.

Today, the specter of anti-Semitism has raised its ugly head again and we are beginning to find a wide gulf yawning between minority groups—all of whom basically desire the same things out of life—a fair and equal chance for education, and equal opportunity for employment according to ability.

In our schools, colleges and universities fully qualified teachers are being replaced by those less qualified in order to bring more minority group members in to the faculty. In some instances, we have even witnessed totally unqualified applicants placed in high educational positions merely because they were members of a particular ethnic group. Often qualified applicants are denied even so much as an interview, and recent hiring practices and statistics strongly indicate that the affirmative action policy has indeed been carried to the extreme.

You, who are teachers and live with this problem daily understand its ramifications. The intimidation with which some of you have been threatened is a new element we are witnessing, and it grows out of the disaffection and hostility that is growing because of the implementation of what can only be viewed as undemocratic and inflammatory processes. As a United States Congressman, or in whatever public position I may be, my strength will be pitted against such intimidation, against quota systems against discrimination no matter what form it takes and no matter where it appears.

AN ADDRESS TO THE FACULTY

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. SCHWENGEL. Mr. Speaker, on August 31, Dr. Willard Boyd, president of the University of Iowa, gave an address to his faculty.

Dr. Boyd's remarks reflect on the challenges many of our great universities are facing. They also demonstrate the great leadership through difficult times which Dr. Boyd is providing. He is a distinguished educator. He makes the hard decisions in a realistic way. He has set his priorities.

His example is one many educators can follow:

AN ADDRESS TO THE FACULTY

(By President Willard L. Boyd)

The 70s have brought to American higher education decreasing growth of financial support coupled with accelerating demand for more varied and expanded educational programs and services. No amount of imagination and efficiency can reconcile this contradiction. Choices will have to be made. In making these choices, we must retain that which is sound in our present programs. We must not blindly respond to the slogans of the moment. Nevertheless, we must actively seek new and better ways within the limit of our financial means. Searching is the essence of the University.

Our continued ability to meet educational needs of the present and future depends on both increased funds and increased efficiency. As a public university we rely principally upon public funds. More and more colleges and universities are coming to rely to some extent on public funds; while the citizenry also is demanding more tax supported services of all kinds from all levels of government. Increasing requests for tax support together with a slower economic growth pose serious priority problems for public funds. Recognizing this, the Carnegie Commission on Higher Education has predicted that the rate of increase in public support for higher education will be slower in the 70s than in the 60s. Even so, this will result in a greater share of the Gross National Product being devoted to higher education in the years ahead. Therefore, the Commission contemplates that public support for higher education will continue to grow but at a slower rate. Accordingly, the Commission has advocated numerous ways of economizing to meet the educational needs of this decade.

In reducing institutional requests, the Board of Regents stressed the problem of state priorities and financial resources in its 1973–75 legislative askings. The Governor seeks to deal with this problem by his requirement that all state agencies are to prepare their 1973–75 requests by starting with a base budget in which the appropriation would be reduced by 10% from the 1972–73 appropriation level. He stresses that his purposes in asking that budgets be prepared on this basis are to help determine program priorities and to find funds for new and expanded public services. This process—universal reduction of base budgets, followed by re-allocation of funds derived by this reduction—is well known to this University, for we have had to utilize this process to build the 1971–73 budgets, and we are experiencing its consequences.

In addition to our internal re-allocation plan which has been specifically mentioned by the Carnegie Commission, we have effected other economies and we are actively pursuing the suggestions of that Commission and others, both on and off the campus, to reduce costs further. But neither the public nor the campus should be misled as to the ultimate outcome. The most efficient education in terms of operating costs and quality can be provided to students in residence on the campus where faculty, staff, libraries, computers, and laboratories can be assembled most economically. Efficiency and economy will require an emphasis on campus-based educational programs and a reduction in services and off campus instruction at the very time when people are clamoring for university outreach.

The 1973–75 budgetary priorities of this University are twofold: First, increased compensation for faculty and staff; second, increased enrollment in the health colleges. It is also our objective to maintain the accessibility of the University through a policy of low tuitions. A tuition increase was avoided in the current biennium because of the funds provided by the legislature and our internal re-allocation program. Nevertheless, we were unable to provide the compensation increases which we felt necessary for faculty and staff. Indeed, in the case of the faculty, no general salary increase was possible for this year. Percentage increases to salary budgets in this biennium on an annualized basis are 1.75% for the administrative group, 1.87% for the faculty group, and 5.25% for the general service group.

By giving first priority to increased faculty and staff compensation in 1973–75, we continue a policy we pursued throughout the 1960s. Underlying this policy is the recognition that the quality of the University depends on the quality of its faculty and staff. During the 1960s we emphasized competitive compensation over other important needs. Consequently, we added faculty sparingly to meet increasing enrollments and we were reluctant to develop new programs. Unlike many American universities—exotic language programs, research institutes, and graduate studies did not proliferate at Iowa. While our graduate enrollment grew like our undergraduate and professional enrollments, the percentage of the University's enrollment at the graduate level has remained constant during the last twenty years. By limiting program and personnel expansion, we were able in the 1960s to become more competitive with other universities in terms of salaries. However, our fiscal circumstances do not permit us to advance competitively with other universities during the current biennium.

Our secondary budgetary priority for the next biennium is the expansion of the health college enrollments. The decision to expand these programs was taken in the early 1960s in response to the health needs of the state and the nation. While a portion of this expansion cost during the present biennium was borne by our general internal re-allocation process, the costs of these enlarged programs must be borne more widely than by this University alone. The health colleges must not be expanded to the detriment of the other missions of the University. Recognizing this, the Board of Regents is specifically requesting special state funds for the health colleges and the hospitals. In addition to state funds and tuition, federal capitation grants will be made to each of the health colleges. At the present time more than forty percent of the College of Medicine budget comes from federal and foundation sources. The earnings of the clinical faculty in medicine and dentistry also are utilized. In the case of the medical clinical faculty somewhat less than one-third of their fees are paid back to the physicians who earn them as part of their salaries and the remainder of the fee income is channeled into the College budget and represents 24 percent of that budget.

The Regents are also requesting special state funds to permit University Hospitals to aid in the preparation of more health personnel and to enable the University Health Center to became the apex of a well integrated health care system in Iowa. However, it must be remembered that earnings are the principal means of financing University Hospitals and that the Hospital appropriation must be earned by providing care to indigent patients.

Because we were conservative in program and personnel expansion in the 1960s, because we have been systematically trying to reduce costs, because we have engaged in our own internal re-allocation program during the present biennium, because the Regents have adopted an asking which gives greater recognition to the condition of the state than to the needs of the institutions, and because of the uncertainty of federal funding for education including the Higher Education Act of 1972, any reduction in the Regents' askings or the present level of state appropriations through re-allocation would endanger the University as we know it today.

In assessing and meeting educational needs, American colleges and universities have traditionally enjoyed considerable autonomy to assure unfettered teaching and research. Nowadays, however, the assertion is made that higher education is not responsive enough to the needs of society. The call for "educational accounting" comes from every quarter. It relates to "effectiveness" as well as "efficiency", to public means as well as public ends. No one denies our accountability for the stewardship of this institution. However, the term "educational accounting" has been adopted before any valid method of measurement has been developed. Its objective is to standardize and quantify the highly individualistic and complex process of teaching.

When "educational accounting" pertains to "efficiency", the University can respond in terms of student-teacher ratios, class sizes, number of courses taught, number of students graduated, length of time required for degrees, distribution of the efforts of faculty, staff and administration, costs of programs—to mention only a few of the overt facts which can be gathered. Yet "efficiency" cannot be measured by these facts alone since educational methods and objectives vary from field to field and even within fields. There is no single best curriculum or instructional method. Variety not homogeneity is needed for diverse students with diverse needs and aspirations.

We also are being asked to account for or measure the "effectiveness" of education. The plain truth of the matter is that we cannot. This is true of all fields but has been particularly well stated in the case of the humanities by James Moffitt's assertion that:

"This trend (toward the use of behavioral objectives in evaluating school performance) will most likely have disastrous effects on the teaching of English and other subjects in the humanities, for many goals in the humanities either do not naturally result in overt behaviors or result in overt behaviors occurring so far away in time and space from the stimulus presentation that for all practical purposes they are lost to evaluation and will never be counted."

I report this statement not to avoid accountability, but rather to state honestly that we cannot quantify all of education any more than we can quantify all of life. This University continually strives to make "efficient" uses of the resources made available to it by the public. It must also be allowed to continue to make "effective" use of these resources even though the proof is elusive. Continuous self-study will provide the best vehicle for accountability. This will require us to be open-minded and amenable to change.

We have embarked on self-study through the system of periodic departmental and collegiate reviews which seek to evaluate our programs. All significant aspects of these programs should be evaluated, including faculty, students, staff, administration, teaching, and research. Such evaluations are essential to comprehensive university-wide budgeting and planning. To be of maximum use these reviews must not only involve people within the unit subject to review but also other knowledgeable people within and outside the University.

An undertaking of academic program review of each department and college every five years requires coordination and definition of content because this is an enormous task. Since our principal task is teaching and research rather than reporting, we must be careful in the expenditure of funds, time, and energy to be assured that these reviews do not detract from the work we are doing. Therefore, the reviews should relate to essential issues and should strive for brevity and clarity. It is important to have comparability in these reviews throughout the University if they are to be useful in assessing the total efforts of the University.

At the request of the Board of Regents, the University has developed a document entitled, "Report on Academic Planning." This document is an abbreviated compilation of factors now included in reviews occurring within the colleges of Medicine and Liberal Arts and contained in the Statement on Academic Review of the University Faculty Senate. Regential requirements make it necessary to prepare this report on academic planning every two years in relationship to biennial legislative askings. A portion of the information required in this report will be furnished at the outset by the University administration as a result of information now being gathered at the request of the Regents. In order to conserve time, energy and funds and to assure comparability and simplicity, the five-year annual reviews might build on this biennial report so that the five-year reviews will be comparable and easier to prepare.

Seven of the colleges of the Universtiy are departmentalized and will require reviews by department in addition to review of the college as a whole in a five-year period of time. Since the responsibilities of the deans of the several colleges and the dean of the Graduate College overlap with respect to these departments and because it would be unnecessarily burdensome if there were two separate departmental reviews, it will be advantageous for a departmentalized college and the Graduate College to develop a single joint program of review which will cover all significant aspects of the educational program. Therefore, I have requested that the dean of the Graduate College meet with the dean of Education, the dean of Engineering, the dean of Liberal Arts, the dean of Medicine, the dean of Dentistry, and the dean of Business Administration to develop a joint system of review of departments or divisions for the two colleges. The two deans should have appropriate consultation with the dean of Extension. The two deans then should report to the Provost the proposal for a method of joint review.

Upon completion of departmental reviews, these should be forwarded to the Provost for review by the University administration and the Faculty Senate Budget Review Committee and the Committee on the Future of the University.

The Provost should also in consultation with the dean of a particular college and the Graduate dean develop a plan for review of colleges over a five-year period of time.

Since we have limited resources, we will have to limit the use of examiners outside the University to a very select few and rely chiefly upon persons from other programs within the University to maintain the objectivity of these reviews. The reviews should be incisive and brief in order to be useful. By this means of internal self-study and review the University can maintain its autonomy, demonstrate its ability to assess programs and make changes, and discharge its responsibility to account for its actions.

Institutional autonomy coupled with reasoned accountability will best assure quality education in the future. Implicit in this assertion is the desirability of decentralization. It is the curse of American higher education that there is so little diversity. Too many colleges and universities are built on the same model. The pressure is great for us to comply with the standardizations set for us by the scholarly, professional, accrediting, governmental, and other external groups which consist of academicians as well as lay people.

Of special concern are the growing number of federal directives which are attached to federal funds. Some are sound; some are unsound. Objectionable provisions exist in the recently enacted Higher Education Act of 1972. These provisions require and admonish state and institutional action with respect to coordination and governance of post high school educational institutions. Federal funds should not bring federal intervention. Governance and coordination should remain state and institutional prerogatives if diversity is to be encouraged.

An essential aspect of diversity is the elimination of improper discrimination and the greater participation of women and minorities in this University and throughout higher education. Affirmative action is essential. This is a joint concern of The University of Iowa and the state and federal governments. The Department of Health, Education and Welfare requires the University to establish and implement an affirmative action program. The purpose of the plan is to establish goals for increased participation by under-represented groups. The University must then make a good faith effort to achieve these goals. The federal policy places the responsibility for adoption and implementation of the plan on the President of the University. In the case of Iowa, however, internal and state policies do not vest the final or exclusive responsibility and authority for these matters in the President. Generally, the final responsibility and authority reside with the Board of Regents. More specifically, I have previously taken the personal position that the faculty has the primary responsibility for the appointment, retention, and promotion of the faculty. The adoption of the Regents Merit System now involves the Regents Merit Coordinator and the State Merit Commission in the establishment of employment policies for the members of the general services staff of this University. In the case of the professional and administrative staff, we have retained a consulting firm to assist us in the development of a classification plan which will encompass both affirmative action and good employment practices.

I cite these differences with the federal government over definition of responsibilities as the basis for urging that all of us in Iowa who do share these responsibilities work actively and effectively to formulate and implement an affirmative action program during the coming year.

Because the present University budget and the Regents askings for 1973–75 do not contemplate expanded employment opportunities outside of the health areas and because we have an obligation to our present employees, the employment goals will of necessity relate primarily to the refilling of existing positions which become vacant because of resignation, retirement, or death. Since "good faith" requires extensive searches, there will be delays experienced in filling these positions. Although there may be differences of opinion on the campus as to the methods, I am confident that we are united in the goal of affirmative action.

Through program reviews and affirmative action the vitality of the University can be enhanced. There is much academic ferment on this campus. We are actively seeking new and better ways within the limits of our financial means. In doing so we must be mindful of the future as well as the present. Although it is impossible to forecast the university of tomorrow in detail, it is possible to outline the perimeters. One essential vehicle for accomplishing this is physical campus planning which deals with general assumptions and which requires that the specific dilemmas of the moment be solved in a broader context. The nature of the physical environment is just as critical for a university as it is for a city. Both the availability and utilization of space will influence this University's programs substantially, now and in the future.

Iowa is unique among universities. It remains a university, not a multiversity, not a campus in a system. We are unique because we are not only present physically in one place but also because we are intellectually present in one place. The core of the University is arts and sciences surrounded by well integrated professional colleges. This uniqueness is educationally sound. We must maintain this intellectual integration in the future. There must not be an east campus and a west campus; there must be a single campus. Because the city has grown up around us, we are severely limited in space. Within this limited space, we seek to have both a great University and a great health center. Therefore, over time we must reduce the physical barriers within our limited space which encourage fragmentation and stifle future development. This is why campus traffic must be reduced. This is why we must experiment with Cambus, and this is why the river must be our mall.

The University of Iowa has had a continuing struggle with its physical planning. Insufficient capital funds from the 1930s through the 1950s resulted in expedient solutions with unsatisfactory long-term consequences. Expanded state and federal funds for major building projects during the 1960s helped to overcome many of these problems. However, limited Regential askings for capital in 1971 and 1973, limited legislative appropriations in 1971, and substantial reductions in federal constructon funds place us once more in the pressure cooker of expediency. No matter how small, every immediate physical decision has a long-term implication which cannot be ignored. An appropriate period of evaluation of the future implications of every building decision must be a mandatory part of planning, no matter how great a nuisance it might seem, no matter how great a problem it might seem.

Because the future is unknown, it is essential to be flexible in academic planning. Moreover, the whole purpose of education is to enhance the individual's flexibility in coping with the future. In the last few years educational discussions have been cast in terms of "relevancy". Relevancy means different things to different people. Now the term "relevancy" is being specifically equated with "career education". Such education is said to be primarily the task of elementary and secondary schools and community colleges. Four-year colleges and universities are charged with having failed to provide career education. Its purposes are to dignify the work of all and to provide jobs for all. No one should object to the first purpose, but the second purpose can be misleading. America's colleges and universities deplore the pressures on everyone to seek bachelors, masters, and doctors degrees. Instead we believe there should be a variety of educational opportunities available in a variety of educational institutions. On the other hand, it is misleading to indicate that a job awaits at the end of any given curriculum. Availability of jobs is determined in large measure by the state of the economy. The prosperity of the economy in general or any portion of it in particular defies accurate prediction. It vacillitates and if, for example, construction decreases, everyone in that industry is adversely affected regardless of educational preparation. No educational program can honestly guarantee initial or continued employment for its students.

Discussions about "career education" tend to oversimplify life. Of course, we need vocational, technical, and professional education, but we also need general education. Until recently many who are advocating "career education" have been advocating education for leisure and before that education for citizenship. We are still faced with leisure and unsolved problems of a social nature as well as an uncertain job market. And we shall continue to be faced by all of these problems.

The need for general education is inherent in the philosophy of community colleges. Strangely enough, general education has been emphasized relatively more in community colleges than in universities where it has been caught in the vise between career oriented students and specialty minded faculty. I continue to reassert that excessive vocationalism is highly impractical because it restricts the student's long range flexibility. The purpose of education should be to develop analytical ability. By stressing the analytical process the student is more able to generalize, transfer, and apply the problem solving process to changes in work and life. New information and techniques can be secured through on-the-job training and continuing education programs. Many professional fields wisely are beginning to deemphasize specialization and course sequences. The shift is from training to analysis to permit greater career flexibility both within and without the field. With the expansion of the life span and the quickening pace of life, we must be mobile. We will shift not only from place to place, but from job to job. We expect our education to provide us with that mobility so that we will not be outmoded by the time we are forty, fifty, or sixty. By stressing analysis and the problems students will face in their careers and lives, we best prepare them to cope with change.

To provide both flexible and economic education, we must continually review our curriculum. The overall time required for medical and dental education is being reduced. Through credit by examination, it is now possible to earn a bachelor's degree at Iowa in three academic years. On June 10, 1972, more than 600 entering students took these examinations which permit them to satisfy course requirements and earn credits. Moreover, by year-round operation the Law School has increased its enrollment and also enables a law student to finish more rapidly.

The professional curricula are being broadened to include courses which deal with issues confronting the professions. Courses are also being developed for non-professional students which relate the work of the profession to the problems of society. Virtually every professional program seeks to provide some clinical education. Well planned and supervised field experiences can be worthwhile, but the costs of clinical instruction far exceed the costs of classroom instruction. If clinical education is to be expanded, the costs must be borne principally by the professions and the private and public businesses and agencies which will ultimately benefit.

In addition to collegiate and departmental curricular review, university-wide committees are considering a human biology core program, environmental teaching and research, women studies, a combined administrative science program for non-profit and governmental organizations, external degrees and a University college. This curricular concern throughout the University reflects the necessity for institutional vitality at all times and in all circumstances. The need to be imaginative and venturesome in economic adversity as well as prosperity is recognized by every educator and every commission studying the current financial crisis of American higher education.

The University of Iowa is in its 125th year. Now, as throughout its history, this University has before it great challenges and great opportunities. Some say that because we are beset by so many problems, especially fiscal ones, we must, therefore, retrench intellectually as well as financially. To take this view is to stifle the future of the institution. Standing still is not standing for quality. The University of Iowa cannot ignore the contemporary and future needs of teaching and scholarship. This is neither the time nor the place for intellectual timidity. Venture we must. Venture we shall!

TIMBER SUPPLY REQUIRES INTENSIVE MANAGEMENT

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. JOHNSON of California. Mr. Speaker, a short time ago several of us, representing the timber growing areas of the Nation had an opportunity to meet with Secretary of Agriculture Earl Butz, the Forest Service Chief John McGuire, and representatives of their respective agencies. The basic purpose for this meeting, which was also attended by industry representatives, was to discuss with the departmental officials the very grave situation which exists in areas heavily dependent upon federally grown timber to meet the supply of wood products required by a growing population and the related increased demand for housing.

We have many problems, some of which can be solved through the start now of a program of intensive management of our woodlands. During the discussion, one of California's outstanding foresters, Mr. Howard Blagen, vice president of American Forest Products Corp. in San Francisco, gave this evaluation of the situation as he saw it in California.

So that I may share these views with my colleagues, I insert Mr. Blagen's remarks in the RECORD at this point:

REMARKS BY MR. HOWARD BLAGEN

My primary purpose today is to represent Western Timber Association, a California group covering the great majority of California timber operators dependent upon National Forest public timber. Public timber sustains almost half of the current total California timber harvest.

During recent years the public timber harvest of California mills has closely approached the allowable cut level. Very substantial plant investments, payrolls, expanded dependent communities and a great contribution to the nation's shelter needs have been the result.

An efficient and responsive industry is essential to the best interests of all citizens in converting the sustained growth of our commercial forests to needed products, particularly housing. We have that kind of industry in California, which has functioned well, but present uncertainties in future timber supply may well lead us to chaos. Current trends and U.S. Forest Service announcements indicate a future reduction of 25 to 30% and more, from previous sale levels. This is primarily due to ever increasing preservationist constraints. This potential reduction in public timber supply, right or wrong, is already seriously affecting basic economic balance within our industry.

The media tells us of the public outcry over rising lumber and plywood prices but much faster rising timber prices should be cause for far greater concern. In a nut shell, the economics of our forest industry cannot be stabilized until there is evidence of stability in raw material timber supply. How much timber will regularly be available for commercial operation is the critical question.

It is our conviction that the U.S. Forest Service, as the skilled and disciplined administrator of our National Forest public timber should exercise firm professional judgment in the determination of just how much national forest timber will be sold. Public meetings packed with emotionally charged laymen will not assure the right answer. Carefully exercised professional judgment, weighing economic, as well as aesthetic and other factórs relating to the greatest good for the greatest number in the long pull, will provide a logical and proper determination.

I would therefore, most strongly urge that this administration and the Congress give the U.S. Forest Service positive and immediate support in promptly reaching the objective of offering a regular and reasonably assured volume of national forest timber for future sale.

U.N. EFFECTIVENESS UNDER QUESTION

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. SIKES. Mr. Speaker, the Christian Science Monitor is recognized as one of the Nation's great newspapers. It continues to be one of the few major publications that attempt to give both sides to a question. When it leans, it leans to the side of liberal causes, but the newspaper accomplishes this in an idealistic, not an offensive, manner. Consequently, when the Christian Science Monitor seriously questions the effectiveness of the United Nations, it is time to take note. This the Christian Science Monitor has done recently in two instances. Once was on Monday, September 18, in an article entitled "U.N. Effectiveness Under Question," and again in an editorial on Tuesday, September 19, entitled, "The U.N. Is In Question." I submit them for reprinting in the RECORD.

U.N. EFFECTIVENESS UNDER QUESTION

(By David Winder)

UNITED NATIONS, N.Y.—The strong winds that frequently rattle against the tall exposed United Nations building on the East River, whipping its flagpoles, and swirling around the beautifully simple freeform Barbara Hepworth sculpture are symbolic of political winds buffeting the UN these days.

The world body's effectiveness has never been challenged as it is today—following its inability last year to stop the India-Pakistan war.

U.N. prestige is at stake. And the Secretary-General's public remarks about restoring international credibility in the UN show that the problem is acknowledged.

Those at UN headquarters hope the lack of credibility is only a passing phenomenon. Reassuring them is the hope that the world is entering a new era in which the UN must play an enlarged role.

Exploration of the moon, protection of ocean resources, control of environmental degradation—all these point to the need for a global organization that can formulate an international code of behavior.

PRISONER ON PLANET

As Ambassador Christopher Phillips, the United States' No. 2 man here, says, 'The notion that the astronauts brought back a planetary society is absolutely relevant to us. We are increasingly prisoners on this small planet."

For the moment, though, disenchantment with the United Nations runs deep in Western Europe, and even deeper in the United States.

Gallup Polls indicate how far the UN has fallen in its appeal to Americans. The U.S. public overwhelmingly supported the world body in 1945, but only 35 percent of the population believed the UN was doing a good job in 1971.

Several factors account for Americans' disenchantment:

A. Initial overselling of the United Nations as an organization that could wave a magic wand over the world problems and summarily remove them.

B. The evolution of the UN from a small and fairly homogeneous group of nations with built-in, pro-Western bias to a much larger organization in which the U.S. can no longer push through decisions.

C. The U.S. experience in Vietnam which has resulted in Americans looking inward toward themselves and their problems at home.

But a purely West European or American assessment of the UN is necessarily a one-sided view. It doesn't take into account the fact that for countless millions of Latin Americans, Africans, Asians, and Middle Easterners, the UN is a necessity.

For these countries, the United Nations is the international forum where they can prick rich nations' consciences. It is their means of winning trade concessions and getting aid, economic assistance, and emergency relief. In the UN they can make big powers more responsive to the problems of disarmament and racial discrimination. Above all, for the small and weak the UN is a safety valve.

As one delegate of a prominent third-world country puts it: "We have no napalm. No tanks. No platform. The UN is the only place where we can talk about our problems to reach agreement."

UN CALLED INDISPENSABLE

For an ambassador from a small African nation the UN is indispensable: "They talk about downgrading the UN, but we wouldn't know what to do without it."

Is the UN, then, vital only to the underdeveloped world, and irrelevant or of limited value for big-power nations?

That question was underscored by one American who said she could sum up U.S. reaction to the UN thus: "I am bored with the UN. It's all right for that half of the world that is underdeveloped and illiterate. But what's in it for me?"

Andrew W. Cordier, an executive assistant to two former secretaries-general and an American himself, believes the value of the UN to the U.S. is very clear cut.

For him, whenever tensions in the world are alleviated at the UN through worldwide discussions—to that extent is the U.S. saved from military and diplomatic involvement that could lead to further aid and expenditure.

Secondly, says Dr. Cordier, "We gain as people in the broader fields of improving standards of living of the peoples of the world. We cannot forever expect as a rich nation to live in a world of splendid isolation while the rest live in poverty."

ECONOMIC FREEDOM NEEDED

On this economic and social front, the UN has scored outstanding successes that are not generally appreciated by the public.

Says Ambassador Mooki Molapo of Lesotho, "We are heavily dependent on the UN. Its assistance is vital and indispensable to the government's development policies."

The point UN officials make is that political independence for emerging countries is worthless unless accompanied by economic independence.

Beyond these economic benefits are larger questions of international security not necessarily expressed in political conflicts between nations.

Without the preparatory work that went into UN disarmament debates, it is doubted here whether there would have been such accomplishments as the 1963 Partial Test Ban Treaty or the progress recorded in previous SALT talks.

Despite all these gains a certain exasperation exists at UN headquarters because the public—as UN officials see it—overestimates the power of the organization.

True, the UN has some of the attributes of a world government in embryo. But it has no prime minister, cannot levy taxes, and cannot raise an army without its members volunteering the troops.

In a word, the UN has no executive powers—it has only moral authority.

Very often problems come to the UN precisely because all other efforts at mediation have been exhausted.

As Sir Colin Crowe, Britain's permanent representative to the UN points out. "We get stuck with all the horrors—Middle East, Korea, and Cyprus—the ones that defy bilateral settlement."

This is not to suggest that the UN is free of imperfections. Far from it.

Critics feel that the UN gives itself a bad name by responding sluggishly or by not responding at all to gross violations of human rights—either for reasons of political expediency, or because members find it convenient to hide behind Article 2.7 of the UN Charter which upholds national sovereignty.

Reformers would like to see the UN place more stress on peacemaking rather than peacekeeping; on establishing research centers throughout the world that could quickly pinpoint trouble and find ways of resolving it; and on establishing within the Security Council small conciliation groups that could work out solutions for major world problems, out of the harsh glare of the public eye.

The UN, it is said, can go only as far as its members will let it—consensus not majority decisions being the rule.

Until countries can subordinate selfish national interests for international good, the UN will be stuck with its obvious limitations. But, say observers here, to declare it irrelevant or of minimal worth is not only unfair, but also a distortion of its record.

THE UN IS IN QUESTION

The foreign ministers of many, not all, governments are gathering in New York again this week for the annual fall meeting of the General Assembly of an organization which calls itself the United Nations.

The arrival of many of them proves that in the opinion of most governments it continues to be unwise to be not represented at this annual occasion although positive reasons for being there are harder than ever to identify.

The sad fact is that the organization which inhabits the familiar glass building on the East River in New York City is at an all-time low in prestige, provable usefulness and in ability to influence the course of events. No foreign minister is in New York this week because he thinks he will take part in or witness a historic occasion. He is there to conduct the routine business of diplomacy in a convenient setting. It is the only place and time when most of the world's foreign ministers are in one place.

History is not being made at the UN these days. It has become a sort of trade association of governments which are concerned primarily in individual self-serving. Nobel Prize winner Alexander Solzhenitsyn was perhaps brutally accurate when he wrote the following:

"Relying on the mercenary partiality of the majority, the UN jealously guards the freedom of some nations and neglects the freedom of others. As a result of an obedient vote, it declines to undertake the investigation of private appeals—the groans, screams, and beseechings of humble individual plain people—not large enough a catch for such a great organization. The UN made no effort to make the Declaration of Human Rights, its best document in 25 years, into an obligatory condition of membership confronting the governments. Thus it betrayed those humble people into the will of the governments which they had not chosen."

This is fair comment. The UN has ceased to be concerned effectively with moral standards, with justice, with humane causes, with the advancement of the principles of self-government. It is doing nothing to liberate people from tyrannical governments. It is ineffective as an instrument for shortening the war in Vietnam. It had no influence on the massacres and wars which brought misery to the peoples of Nigeria and of Bangladesh. It ignored years of the most brutal civil war in the Sudan. It is incompetent today in the troubles in Uganda. It is not a world government. It is not, in fact, anything more than a forum where delegates from some but not all of the governments of the world gather together on occasion, but particularly in September.

And yet the foreign ministers keep on coming. They come for the same simple reason which in the old days of horses and wagons brought the farmers into town on Saturday night. They come partly to do their shopping and partly also just to talk and gossip and exchange ideas. The UN is not a gathering of nations. Calling it the United Nations was a mistake. It is neither a gathering of nations nor is it united. It is a marketplace for diplomats—no more and no less.

But back in the days before railways, electricity, and automobiles life on the farm would have been intolerable without the market town. People must come together to do their business and exchange ideas.

They are not doing much business in those big buildings on the East River in New York these days. But the diplomats do come together. They do exchange a few ideas.

This condition is a bitter disappointment to the idealists who hoped for so much more. It should be comforting to those who feared that it would become a world government. It survives, because it is a marketplace. A marketplace is a human necessity.

DEFENSE APPROPRIATIONS

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. PRICE of Texas. Mr. Speaker, as part of my continuing effort to keep the residents of northwest Texas informed about my activities in the Congress, I am inserting in the CONGRESSIONAL RECORD at this time, the text of the Washington Report for August 7 and September 7 and the text of my latest news report:

DEFENSE APPROPRIATIONS

The favorable action on the 75 billion dollar Defense Appropriation bill for 1973 was essential. A strong defense is the only way to guarantee world peace.

The current Soviet strategic arms build-up continues to gain momentum, and their lead in military defense critically affects the world balance of power. We must maintain *defense parity* between the United States and Russia.

Currently the Russians are spending 25% of their Gross National Product on defense as compared with 7% in this country. More importantly, the Russians are spending 75% of their defense dollar on equipment and research, while in the current appropriations bill, the U.S. will be spending only 33%.

The majority party-controlled Appropriations Committee struck 2.8 billion dollars from the Administration's request for funds to purchase new ships, planes, weapons and equipment. However, the most vital slash in the bill was one billion dollars cut from funds requested for research and development.

We are spending two-thirds of our defense appropriation on manpower—salaries, food and housing. Our priority should shift to money for equipment and technology.

An extravagance that was added into the budget against the Committee recommendation is the turning of KP and housekeeping duties over to civilians. The Committee had recommended that the military do its own housekeeping chores.

NIX RECOMMENDS ZUCKERMAN ARTICLES

HON. ROBERT N. C. NIX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. NIX. Mr. Speaker, at this time, I would like to have entered into the RECORD the first of a series of articles which discusses the serious situation in the new Postal Service as uncovered by my Subcommittee on Postal Facilities and Mail.

This article and three others appeared in the following newspapers: The St. Paul Pioneer Press & Dispatch, Duluth Herald, Long Beach Independent, San Jose Mercury & News, Pasadena Star-News, Grand Forks, N. Dak., Herald, Aberdeen, S. Dak., American-News, Garden Grove, Calif. News, Gary, Ind., Post-Tribune, Boulder, Colo., Daily Camera, and Niles, Mich., Star.

I want to congratulate Ed Zuckerman on a job well done. He has taken a mass of material and organized it into a coherent story. I recommend that the Members of the House read these articles which discuss the state of the Postal Service:

HIGHER COSTS SEEN—CRITICS YIPE AT NEW POSTAL IDEAS

(By Ed Zuckerman)

WASHINGTON.—The U.S. Postal Service, enjoying new freedoms as a quasi-private corporation, has begun a $4.95 billion construction project which it claims will result in cheaper, speedier mail service.

But some congressional critics of the independent agency believe the massive project will cost much more than anticipated and that the end result will bring poorer—not better—mail delivery.

The critics, to their glee, are also finding that the postal service is unwittingly providing the best arguments against itself—primarily because of its refusal to answer inquiries from the press and Congress and secondarily by growing reports that postal authorities are conducting their financial affairs in a spendthrift manner.

The plan to revamp the mail distribution method calls for the establishment of separate networks for handling preferential (first class) mail and the bulk mail which consists of advertising circulars, mail order catalogs, newspapers and magazines and parcels.

The preferential mail system will require a network of 177 buildings costing $4 billion which are to be operational by 1978. The network is expected to save about $1 billion annually in handling costs.

The bulk mail processing system calls for 21 major and 12 satellite handling centers, costing an estimated $950 milion. Expected to be operational in 1975, its annual savings is to be around $300 million.

One feature of the future bulk mail process will eliminate the sorting of parcels in local post offices. Instead, all bulk mail—except for that marked for delivery in the same post office service area—will be shipped to one of the 33 processing buildings for sorting and distribution.

Critics of the plan are enjoying themselves these days, trying to come up with the most ludicrous examples to demonstrate a serious drawback in the plans.

One of the prize examples traces the delivery route of a parcel that could be sent from Marfa to Fort Davis—two Texas towns which are only 21 miles apart but are situated within different bulk mail processing zones.

Theoretically, a package mailed from the Marfa post office would be shipped to the processing center which serves its zone—in this case, a satellite center in Albuquerque, N.M. From there it would go to the major processing center in Denver for routing to the small Texas town. It would first be sent to the bulk mail processing center in Dallas which serves the zone in which Fort Davis is located.

Thus, what could be a short 21-mile delivery becomes a journey of about 2,200 miles requiring many days, many sortings and an untold number of damaging jolts to the parcel.

"I want you to think about a package of cookies," laughed the critic who discovered the example.

While the proposed system is being subjected to ridicule, it doesn't begin to compare with the criticisms being lodged against the postal service's spending practices. In its haste to get the huge construction projects started, the postal service has committed several apparent blunders.

For example, in mid-1970, the postal service (which was not yet an independent agency) cancelled the design contract for 20 buildings when new studies suggested major changes to the mail-handling process. The cost of the scrapped designs was slightly more than $8 million. According to the critics, postal auothorities knew the study might cause radical changes but they went ahead with the design projects hoping the study would require minor adjustments.

In another case, the bulk mail processing center under construction in Jersey City, N.J., will end up costing $130 million—a figure that is more than double the original $62 million estimate. The new cost figure eclipses the price tag for the much-maligned Rayburn House Office Building which, until now, had been the "Taj Mahal of government buildings."

There are numerous errors involved in the Jersey City project—beginning with the belated discovery of methane gas under its swamp location after much of the 25-acre concrete floor was poured and ending with serious conflict of interest charges against a postal service employe who previously worked for the company that was awarded a multimillion dollar contract to develop and manufacture the equipment that will go into the building.

A great deal of the testy relationship between the postal service and its congressional critics is grounded in the agency's refusal to respond to inquiries.

An example was offered by Rep. William Alexander, D-Ark., who told a House post office and civil service subcommittee:

"Getting information has been more difficult for me to receive than top secret information dealing with the military operations of this nation in Indochina."

Alexander's bitterness was generated by the selection of a site in Memphis, Tenn., for one of the 21 major bulk mail processing centers. He had sought to locate the installation in West Memphis, Ark., about 10 miles from the Tennessee metropolis but within his own congressional district.

"One night I was riding on a plane between Washington and my district and I was seated by a man from Tennessee who identified himself as a building contractor," the Arkansas Democrat said.

"We discussed various problems with the government in one way or another and I brought up the subject of the Memphis bulk mail center. I was complaining somewhat because I had not been able to receive the information that we needed in Arkansas in order to be competitive in the site selection process.

"This man said: 'Well, I can get you that information.'

"I said: 'You can? How can you do that?'

"He said: 'Well, I am in pretty good with some people in the federal government.'

"So, the next day he called me and gave me this information that I could not receive from the postal service," Alexander recounted.

The Arkansas Democrat's difficulty in obtaining information from the independent agency isn't an isolated example.

When the House subcommittee was quizzing a top Army Corps of Engineers official about cost overruns and the discovery of methane gas at the Jersey City installation, Rep. H. R. Gross, R-Iowa, posed a direct question and got a rather evasive answer.

"Do you have an agreement reached with the postal service that forbids you to answer questions from the press or public about this project?" asked the conservative Iowa Republican who enjoys exposing wasteful government spending as much as a bear enjoys eating honey.

"Not when I am here before this subcommittee, but if members of the press or—let's divide it into two areas," Brig. Gen. George Rebh haltingly responded.

"If members of Congress were to address a letter to me, I would have to forward it to the postal service for answer because this falls under the agreement between the secretary of the Army and the postmaster general signed Nov. 9, 1971," Rebh went on.

"As far as the press, official announcements, anything having to do with the program before the construction actually started, those announcements are made by the postal service. However, on day-to-day operations, the district engineer can make announcements after having coordinated them with the local postmaster . . . the purpose being to keep the local postmaster informed as he has a real interest in the project."

Joining in the chorus of anti-postal service criticism is Morris Biller, president of the 27,000-member Manhattan-Bronx Postal Union, AFL–CIO. Biller would rather see money spent on improving working conditions instead of for new buildings.

Biller has experienced problems with postal authorities for many years and, judging from his comments before the house subcommittee, he is beginning to detect a method in what he perceives as madness.

"Former Postmaster General Arthur Summerfield, under President Eisenhower, set out to modernize the post office through the use of trucks galore," Biller lamented. "Republican Summerfield set up highway post offices and began to buy trucks to carry the mails the way you and I buy postage stamps. He did away with the far-reaching, high-speed underground pneumatic tube system that used to speed the mails through much of New York City and clogged the streets with even more trucks. Mr. Summerfield was a former top official of General Motors and the Chevrolet Corporation.

"Former Assistant Postmaster General Hartigan worshipped the idea of modernizing the post office through the unlimited use of airlanes. Mr. Hartigan, a Democrat under the late President Kennedy, stepped up airline subsidies to new heights as the post office soared into the skies. Mr. Hartigan had formerly been closely allied with the airline industry.

"As for Winton Blount (who resigned as postmaster general late last year to seek a Senate seat from Alabama), construction is the magic word. Build in the swamps, build in the suburbs and be exceedingly cautious of spending what could be good construction money on such minor maintenance items as air conditioning for the workers, or clean windows, or sound-absorbing material. Who cares if we underestimate by more than 100 per cent as long as we keep building? Mr. Blount, a Republican, was formerly—you guessed it—one of the country's biggest contractors."

Next—The $8 million decision to abort design projects for 20 postal buildings—was it a boon or a boondoggle?

RECYCLING OF AUTOMOBILES

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. VANDER JAGT. Mr. Speaker, my sponsorship of legislation to encourage the recycling of abandoned automobiles expresses my deep interest in restoring the beauty of America's landscape and in achieving the reuse of her precious resources. In conjunction with that legislation, in which approximately 80 Members have joined, I wish to call to the House's attention a report on a junk car removal and disposal project in Benzie County, Mich. The report was published by the Cooperative Extension Service of Michigan State University.

"Operation Scrap," unique in that all manpower, equipment, and finances were donated, resulted in the processing of more than 5,000 junk cars in that one county. The project's success indicated the dedication of the area's residents toward environmental enhancement. It reminds us of the tremendous contribution that abandoned automobile collection and recycling would make upon the conservation of America's vital natural resources.

I commend everyone who was involved in this project for their vision and their efforts. They have made a valuable contribution to their community and to the Nation's environment.

The report follows:

JUNK CAR REMOVAL AND DISPOSAL

(By Cherry Frostic and Norman J. Brown)

The remocal and disposal of junk cars involves three major problems: finances, manpower and equipment. Few units of government have the resources necessary to supply all these needs without outside assistance.

Most junk car cleanup programs are launched on either a citywide or countywide level, and most experience severe difficulties because they lack the required resources to complete the job successfully.

An exception is "Operation Scrap," a junk car harvesting program carried out in northwest Michigan's Benzie County. Operation Scrap was unique in that all manpower, equipment and finances were donated. Operation Scrap was also successful. This bulletin outlines the steps that led to that success in the hope that other counties and municipalities may benefit from the experiences of Benzie.

LEADERSHIP ORGANIZED

The cleanup movement was initiated when a group of local women organized a working committee and incorporated under the title "Keep Benzie Beautiful" (KBB). Once this step was taken, it wasn't long before a countywide meeting was held with all government officials, club representatives and general citizens invited. At the meeting, the proposed "Operation Scrap" project was explained and those willing to help were asked to sign a project roster.

The next move by the KBB committee was to canvass the county to locate the largest concentrations of junk cars in order to establish the most efficient crushing sites possible.

A minimum of one acre of land was required for each of the crushing sites. The ground had to be flat, hard packed and easily accessible. Four such sites were finally located and established on state-owned land at convenient locations around the county.

CONSENT FORMS

Once the junk cars were located and collection sites established, consent forms had to be signed by the car owners releasing their vehicles to Operation Scrap. These forms, and accompanying flyers explaining the project and its purposes, were printed free-of-charge at the Benzie County Extension Office. On Earth Day, local high school students delivered the consent forms and flyers throughout the county. The students were driven by members of a local women's club.

In the meantime, KBB presented a program to local school assemblies in order to bring about an awareness of the magnitude of the junk car problem and incite a concern for action.

A second push was then made to secure releases for the junkers. A meeting was held at which the county was divided into sections and a volunteer assigned to canvass each section for signed releases. This method helped, but there were still some releases left unsigned.

CRUSHER CHOSEN

Several crushing firms were investigated and a reliable one selected to do the work. When a total of 1,000 cars had been released to the project, a written agreement was contracted between the crusher and the State of Michigan to assure suitable cleanup of the state-owned sites after the crushing was completed.

Flyers soliciting donations to finance the project (Mainly to supply gasoline for the hauling vehicles) were printed at a discount by a local newspaper and sent out with the weekly edition. News releases emphasized that the services of Operation Scrap were to be free to all citizens owning junk cars.

All cars that had been released to the project were tagged with surveyor's tape and their locations marked on mailboxes or trees on the owner's property. Then convenient hauling routes were selected and a schedule designed for efficient pick-up so that project resources could be concentrated on cleaning up one area at a time, each in its turn.

GUARD HELPS

The Michigan National Guard was contacted and agreed to supply men and equipment from its armored division for three weekends of concentrated hauling. The Guard supplied over 20 men, 2 flat-bed trucks, 2 hydraulic lifts, and a pickup truck. The Benzie County Sheriff's Department assisted the operation by setting up radio communications for the Guardsmen and by providing volunteer escort service through traffic during actual towing and hauling.

National Guard efforts were facilitated by the local Farm Bureau which used its farm equipment to tow derelict cars out to the side of the road for pickup. In areas where farm equipment was not available, local wreckers and industry donated men and machines to either haul junkers to the side of the road or directly to the crushing sites. These volunteers also furnished their own gas.

The added publicity gained by the National Guard working on the project produced yet another response from local residents. A whole new wave of junk car releases came in to the committee. Newspaper and TV coverage kept local interest at a high level.

When the National Guard was no longer available for service, the County Road Commission took over hauling. The Commission supplied a driver and a helper for a period of 30 days—long enough to finish cleaning up the county.

General Motors Corporation became involved in Operation Scrap by donating the use of a flat-bed, tilt-bed truck with hydraulic lift and winch. The truck had been used on GM's proving grounds for hauling away wrecked cars.

Others gave whatever they could. Local oil and gas distributors, for instance, donated more than 800 gallons of gasoline for use by the towing and hauling vehicles. Additional gasoline provisions were taken care of through financial donations.

WHERE TO NOW?

When the project was completed, more than 5,000 junk cars had been processed and Benzie County became a more attractive place to work, live and vacation. A permanent dumping site for the derelict cars has been established at the county landfill, and as this area becomes filled, a crusher will be contacted to process all the cars on the site.

Despite a difficult job well done, Benzie County residents are not resting on their laurels. They are actively campaigning to establish a suitable junk car ordinance for their county. Past experience in other Michigan counties has shown that an enforceable ordinance prohibiting owners from abandoning non-operating motor vehicles on their property is absolutely necessary to prevent a cleaned-up area from again becoming cluttered with unused vehicles.

A NEW TRADE POLICY TOWARD COMMUNIST COUNTRIES

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. FRENZEL. Mr. Speaker, recently the Committee for Economic Development issued a statement which called for a worldwide economic panel to formulate ground rules to govern East-West trade. The CED's multinational statement appears as an appendix to its report "A New Trade Policy Toward Communist Countries."

The CED, a group of high-level U.S. businessmen, supports increased East-West trade as a means of stimulating a less hostile relationship that can become the basis of a more peaceful world. The CED urges that the United States remove all restrictions on exports, except on military items, to most Communist countries, and change its trade polices to equalize Communist countries with other industrialized nations.

CED also believes that the United States should extend longer term credit to Communist block nations so that we would be competitive with other Western countries who trade with the Communist bloc. However, CED's recommendations do not apply to North Vietnam, North Korea, or Cuba.

Mr. Speaker, I believe that it is time for this country to begin negotiating for greater trade on a country-by-country basis with the Communist nations, eventually offering most-favored-nation status in return for fair trade guarantees.

A NATIONAL HISTORIC SHRINE: THE THADDEUS KOSCIUSZKO HOME—A BICENTENNIAL COMMEMORATION TO POLISH-AMERICAN HERITAGE HONORING GENERAL KOSCIUSZKO, AN OUTSTANDING POLISH AMERICAN PATRIOT

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. ROE. Mr. Speaker, historically speaking, the strength of America lies in her representative democracy richly endowed with the traditions and achievements of our forebearers who came to America from all nations of the world. I know you and our colleagues here in the Congress will agree that the preservation and enhancement of America's democracy has been nourished and secured by the cultural standards of excellence that all nationalities have contributed to her greatness. Truly the deeds, courage, and fidelity to freedom of Gen. Thaddeus Kosciuszko will be forever etched in the historical journals of America personifying the outstanding contributions that all of those of Polish heritage have so long contributed to the strength of our representative democracy.

The story of the men who rise above all others and excel in heroic deeds, statesmanship, dedication, devotion, courage, fortitude, compassion, and service to their fellowman continues to inspire each generation in man's constant quest for quality in our way of life. With the ever-increasing competition for the use of our land and escalating intrusions upon our environment, we sometimes forget the cultural needs of our people for a place to remember and reflect, separate the fiction from the nonfiction, and gain strength and inspiration in seeing, visiting, and touching the tangible evidence of the existence of these men of destiny.

The House Committee on Interior and

Insular Affairs has just concluded hearings on my bill H.R. 13457 and other similar measures sponsored by many of our colleagues calling for the establishment of the Thaddeus Kosciuszko Home National Historic Site in Philadelphia, Pa., where the renowned Polish engineer Thaddeus Kosciuszko, who played a decisive role in the American revolution for independence, resided during his historic, eventful days in America.

The history books are replete with the story of General Kosciuszko's meritorious contributions to America's beginning during the American Revolution as a Polish patriot who arrived in Philadelphia in August 1776 and quickly volunteered his extraordinary technical engineering expertise to the American colonies.

Mr. Speaker, this young Polish engineer's technical skills in choosing battlefields, erecting fortifications, surveying fields of operations, pointing out strategic areas, determining potential sources of food and water, and devising means for rapid transportation of troops and provisions during the American Revolution deserves, as it did then, the national recognition and esteem of all Americans. I am pleased to call to the attention of you and our colleagues here in the House my statement to the chairman of the Committee on Interior and Insular Affairs, Congressman WAYNE N. ASPINALL, in support of pending legislation to have General Kosciuszko's home in Philadelphia preserved as a national historic site. My endorsement to the committee reads as follows:

> Mr. Chairman, as we approach the 200th anniversary celebration of America's Declaration of Independence, it is important that we seek to memorialize and remain steadfast in our national resolve to provide an historic preservation program that will properly honor and adequately portray the pioneering spirit, courage and heroic deeds of our forebearers—the peoples of all nations—who have made our United States of America the great country it is today through active participation in our country's history.
>
> It gives me great pleasure to submit this written statement to you and the members of the Committee on Interior and Insular Affairs in support of my bill H.R. 13457 to provide for the establishment of the Thaddeus Kosciuszko Home National Historic Site in Philadelphia, Pennsylvania. Your committee's action in conducting public hearings on this legislation is most timely and sincerely appreciated by myself and other Members of the House who have sponsored similar measures seeking the preservation of this historic site which served as a home for the universally famed Polish patriot, Thaddeus Kosciuszko, who arrived in Philadelphia in August 1776 and immediately volunteered his services in support of America's noble cause for independence.
>
> The value of his rare extraordinary expertise in engineering to the American colonies during this revolution is clearly manifested by his meteoric rise to fame in America's army: He was commissioned a Colonel in the Northern Army by the Continental Congress in the Spring of 1777, appointed Chief Engineer of the Army of the South in 1780, and at war's end had earned the distinguished appointment of Brigadier General. It is also significant to note that, after America's victory, his return to Poland where he spent his remaining years fighting for the independence of Poland has further endeared him to all freedom-loving peoples of the world.
>
> In measuring a normal lifespan of an individual, we are all agreed that General Kosciuszko's stay in America was brief in time but his heroic deeds and accomplishments as a member of America's pioneering fighting men of valor and acclaim are monumental and most deserving of a place in America's history and America's historic preservation program. As a "charter sponsor" of subject legislation, I respectfully seek your committee's favorable consideration of this measure which will establish the Thaddeus Kosciuszko Home in Philadelphia as a national historic site to be preserved and set aside in public ownership as an historically significant property associated with the life of the renowned Polish engineer and American General for the benefit and inspiration of the people of the United States.

Mr. Speaker, I trust that this most important legislation will secure early approval of the Committee on Interior and Insular Affairs so that it can be scheduled on our congressional calendar for consideration by the full House in the near future so that we can move with dispatch in having this historic site included in the bicentennial preservation and restoration program for America's 200th anniversary celebration in 1976.

ON HONORING OUR INDIAN HERITAGE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. EDWARDS of California. Mr. Speaker, September 22, we honor the American Indian, the native American whose heritage and culture has been a major, though little recognized, influence upon our society. For many years, society has systematically eradicated, neglected, and assimilated the American Indian in a misguided and largely unsuccessful attempt to erase his identity. In spite of attacks upon his lands, his culture, his language, his children and his religion, the American Indian has managed to survive and now is a vital part of the ongoing struggle of many minorities to achieve their rightful place in the political, economic, and social life of the system. And he has done so while maintaining a remarkable diversity of traditions with an extraordinary capacity for adaptation and innovation.

Although many Americans think of Indians only in terms of past glories, dead heroes, and lost territory, the first Americans possess a dynamic strength that manifests itself in their daily lives now as in the past. In addition, it offers us an invaluable model of the meaning of reverence for life. American Indians have a deep-seated sense of generosity and loyalty toward their families and friends. Their sense of pride, autonomy, and individual freedom is an ideal that has been directly adopted into the mainstream of American culture. The Indian appreciation of nature without exploitation or destruction is a way of life that we have only recently come to understand and emulate. Some of the best examples of democratic political systems are found in the organizational structures of American Indian groups.

Throughout the United States, Indians are drawing on the strength of their traditions and organizing projects in an effort to preserve their heritage and to make it applicable to present situations. In California, the California rural Indian land project is attempting to increase the Indian land base and to retard the tendency for land to leave Indian ownership. I have cosponsored a bill to provide funds for the establishment of Denganawidah-Quetzacoatl University, a school dedicated to the progress of Native-American and Chicano people. The San Jose Indian Center, Incorporated acts as a clearinghouse and community resource, providing Indians and others with information about programs, meetings, and organizations that are working for and with Indians. Last summer, the Indians of all tribes proposed that Alcatraz Island be returned to the Indians to be used as a place of retreat, for ceremonies of earth renewal and purification, rededicating it to the healing power of nature in time for the 200th anniversary of the United States. There are only a few, localized examples of what Indians are doing, not only for themselves, but for the Nation as a whole.

Unfortunately, rather than recognizing and paying tribute to the contributions Indians have made to our society, the Federal Government is still operating, to a large extent, on the prejudices and stereotypes of the past. Paternalism and patronization continue to exist in the Bureau of Indian Affairs. Despite a wealth of programs aimed at educational, nutritional, housing, and income improvement, the situation of the Indian has not materially improved. Economically and socially the American Indian still remains outside the mainstream of American life, unable to join the tide without sacrificing his identity. It should be our goal, by providing him with financial independence and allowing him to speak for himself, to enable the American Indian to achieve the status he has so long deserved as the proud and noble bearer of a rich, meaningful cultural heritage.

1972 OREGON FOURTH CONGRESSIONAL DISTRICT QUESTIONNAIRE

HON. JOHN DELLENBACK

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. DELLENBACK. Mr. Speaker, the 1972 Oregon Fourth Congressional District questionnaire, which is being sent this week throughout Oregon's Fourth Congressional District, includes questions covering issues such as busing, welfare reform, the sale of handguns known as Saturday night specials, the war in Vietnam, and the economic stabilization program. These are all issues about which Oregonians have expressed particular concern through correspondence or personal contacts.

The last question asking respondents

to choose what they consider to be the five most critical problem areas facing the Nation today and number them in order of importance is one which I ask each year. It not only indicates what problems are highest in concern on the minds of Fourth District residents, but it also helps point up the vast number of complex issues before Congress and the Nation.

The 1972 Oregon Fourth Congressional District questionnaire follows:

QUESTIONNAIRE

SEPTEMBER 1972.

DEAR FELLOW OREGONIAN, the returns of the questionnaire which I send annually throughout the Fourth District have been consistently helpful. This year the questions included cover issues which Oregonians have expressed particular concern about through correspondence and personal contacts.

In order to get an accurate assessment of the views of Fourth District residents, I need wide participation. I hope you will take the brief time necessary to look over these questions and let me know your opinions.

When you have completed the questionnaire, simply detach at the fold, place an eight-cent stamp on it and return it to me.

I will report the results of this year's opinion poll just as soon as they are tabulated. Thank you once again for your help.

Sincerely ours,

JOHN DELLENBACK,
Fourth District Congressman.

QUESTIONS

[Answers from two respondents]

1. What action, if any, should Congress take regarding the use of busing to end school segregation? (check one)

A. Leave responsibility with states and courts under guidelines of the Civil Rights Act of 1964.

B. Legislatively set restrictions on busing.

C. Approve a Constitutional Amendment prohibiting the use of busing for school desegregation.

D. Other.

2. Do you favor a Federal law prohibiting the sale of hangfuns unsuitable for sporting use ("Saturday night specials")?

A. Yes. B. No. C. Undecided.

3. Which of the following steps do you think should be part of welfare reform? (check one or more)

A. Set a minimum benefit level for all recipients.

B. Have the Federal government take over from the states a greater share of welfare costs.

C. Require each recipient able to work to accept training or emloyment, or lose benefits.

D. Other.

4. A U.S. agreement to withdraw from Vietnam should include: (check one or more)

A. Return of POWs; accounting for MIAs.

B. Ceasefire under international supervision.

C. Replacement of Thieu government.

D. Withdrawal of North Vietnamese troops from South Vietnam.

E. No conditions.

F. Other.

5. When Phase II of the economic stabilization program ends, what should the federal government do? (Check one)

A. Establish voluntary wage-price guidelines.

B. Establish mandatory wage-price controls.

C. Take no further action.

6. Which five of the following do you consider to be the most critical problem areas facing the nation today? Please number 1 through 5 in order of their importance.

Aid to agriculture, aid for elderly, anti-strike laws, campaign spending, consumer protection, crime, drug abuse, economy, education, environment, foreign relations, government credibility;

Gun control, health care, housing, national defense, population control, poverty, race relations, sex discrimination, tax reform, unemployment, Vietnam, welfare, and others.

Age—Respondent No. 1: Under 21, 21–30, 31–45, 46–65, over 65.

Respondent No. 2: Under 21, 21–30, 31–45, 46–65, over 65.

GOVERNMENT INTERFERENCE IN EDUCATION

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. CRANE. Mr. Speaker, our society today faces a serious challenge to traditional concepts of academic freedom and the integrity of the university.

One aspect of that challenge relates to the hiring of faculty members at the Nation's colleges and universities. Universities have been told, in effect, that their faculties must include a specific percentage of women, blacks, and members of other minorities. If they do not, all Federal aid and assistance will be shut off to them.

It is proper to ask where the Department of Health, Education, and Welfare receives the authority for the imposition of racial, ethnic, and sexual quotas? The answer is, it does not get this authority from any act of Congress, for the elected representatives of the people have never sanctioned this policy. The policy is a creation of the bureaucrats in the Department of Health, Education, and Welfare themselves.

Prof. Paul Seabury expressed the view that Government agencies are not fighting discrimination in their interference in the academic world, but are calling for it. He wrote in Commentary magazine:

> A striking contradiction exists between HEW's insistence that faculties prove that they do not discriminate and its demand for goals and timetables which require discrimination to occur. For there is no reason to suppose that equitable processes in individual cases will automatically produce results which are set in the timetables and statistical goals universities are now required to develop. If all that HEW wishes is evidence that universities are bending over backward to be fair, why should it require them to have statistical goals at all?

The danger we face is that a new Government-imposed racism is threatening the independence of our institutions of higher learning. At the August 3, 1972, meeting of the directors of the American Association of Presidents of Independent Colleges and Universities a resolution was passed which discussed this and related problems.

The group deplored "the increasing tendency of Federal and State governmental bodies to interfere with the governance and operation of independent institutions of higher education."

Among the actions which prompted the resolution were:

1. Government requirements affecting student admissions and college employment policies, which force educational institutions to subordinate academic quality to other considerations.

2. Governmental intrusion into institutional policies affecting dormitory life and other aspects of campus living.

Dr. John Howard, president of Rockford College and head of the college presidents' association, declared that—

> We cannot believe that it is the wish of the citizens that all higher education should be homogenized to conform to the ebb and flow of social theory . . . We call upon all thoughtful citizens to assist in sustaining the independence of the independent colleges and universities.

I wish to share with my colleagues the following memorandum to AAPICU members and education media from John T. McCarty, assistant to the president of Rockford College. This memorandum, which includes the resolution passed by the group and Dr. Howard's remarks, follows:

AMERICAN ASSOCIATION OF PRESIDENTS OF INDEPENDENT COLLEGES AND UNIVERSITIES

AUGUST 8, 1972.

To: AAPICU Members and Education Media
From: John T. McCarty

The following resolution was passed at the August 3, 1972 meeting of the Directors of the American Association of Presidents of Independent Colleges and Universities:

"RESOLUTION

"The Board of Directors of the American Association of Presidents of Independent Colleges and Universities deplores the increasing tendency of federal and state governmental bodies to interfere with the governance and operation of independent institutions of higher education.

"Prominent among the actions which prompt this resolution are:

"1. Government requirements affecting student admissions and college employment policies, which force the educational institution to subordinate academic quality to other considerations.

"2. Governmental intrusion into institutional policies affecting dormitory life and other aspects of campus living.

"We call upon our member presidents and all other citizens who recognize the importance of striving for intellectual excellence and who acknowledge the right of an independent college to engage in character education to join in appropriate action to resist the governmental regulation of independent higher education."

Dr. John A. Howard, president of Rockford College and head of the college presidents' association, in making public this Resolution, cited a recent memorandum of the Pennsylvania Human Relations Commission as an illustration of inappropriate governmental intrusion into college policy. A letter from that Commission informed Pennsylvania college presidents that the Pennsylvania Human Relations Commission Act "requires that all housing regulations, housing rules, or services facilities, advantages or privileges in connection with that housing be equal for male or female students". That interpretation would seem to prevent a college in an urban area from controlling nightly access to the women's dormitory as a safety precaution without doing the same for men's dormitories. It also would seem to prohibit the establishment of "late hours" for women and not for men students, in accord with a generations-long practice of many colleges, a practice that has reflected the judgment and the wish of the parents of many students as well as the judgment of the college.

"We cannot believe," said Dr. Howard, "that it is the wish of the citizens that all of higher education should be homogenized to conform to the ebb and flow of social theory. One of the great strengths of this nation has been a system of higher education characterized by a very great diversity, with different colleges operating on different assumptions and serving different objectives. Such a system not only supports and enhances a pluralistic society, but provides protection against over-response to the clamors of the day. We call upon all thoughtful citizens to assist in sustaining the independence of the independent colleges and universities."

EMERGENCY MEDICAL SERVICES

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. ROGERS. Mr. Speaker, on September 6, 1972, the Committee on Interstate and Foreign Commerce reported H.R. 15859, the "Emergency Medical Services Act of 1972." While I recognize it is late in the session, I am hopeful that my colleagues will have the opportunity to vote on this vital bill this year. After 3 days of hearings, our Subcommittee on Public Health and Environment became convinced that much of the appalling loss of life and disability due to sudden catastrophic illness or accidents is unnecessary and can be prevented through implementation of proper emergency medical services systems. H.R. 15859 will support development of these vital programs.

Mr. Speaker, last Sunday, the Palm Beach Post-Times carried the following article describing the tragic quality of emergency medical care in this country. A similar article appeared in the New York Times on September 10. I include the Palm Beach Post-Times article in the RECORD at this point:

HEALTH SERVICES BLASTED: RESEARCHERS REPORT THOUSANDS DIE, BECAUSE OF DEFECTIVE EMERGENCY CARE

NEW YORK.—The National Academy of Sciences has charged that thousands of Americans die needlessly each year because of inadequate emergency health services.

In a report that sharply criticized the Department of Health, Education and Welfare and the office of the President, the National Research Council, which is the operating arm of the academy, said emergency services represented "one of the weakest links in the delivery of health care in the nation."

Accidental injuries impose "a staggering demand" on the nation's health services, the report said, and it termed such injuries, the leading killer of Americans aged 1 through 38.

"Thousands of lives are lost through lack of systematic application of established principles of emergency care," the academy charged.

The report said many attendants who treated accident victims did not know even the basics of first aid. Other scientists have concluded from studies that as many as 18 per cent of automobile fatalities could have been averted if the victims had received proper emergency treatment.

The urgency expressed in the National Research Council's criticisms reflects growing efforts that private organizations like the American College of Surgeons are taking to try to improve the effectiveness of emergency health care services.

By stimulating better community planning, these organizations hope to raise the level of emergency care in this country to that existing in eastern Europe, where such training and care are regarded as the most sophisticated in the world. The council said in the report, written last March but released by the academy just this month:

"Federal agencies have not kept pace with the efforts of professional and allied health organizations to upgrade emergency health services."

A spokesman for the National Academy of Sciences in Washington said an early draft of the report had been sent to the White House before President Nixon delivered his State of the Union address before Congress last January. In that message, Mr. Nixon expressed concern about the lag in American emergency medical care.

As a result, the academy spokesman said, administration officials have begun to take steps to develop in the Department of Health, Education, and Welfare more effective leadership in emergency medicine.

The release now of the academy's report coincides with publicity and legislative proposals by other organizations to dramatize the need for better emergency care.

The American Medical Association pointed out in an editorial in its journal that the association had sponsored legislation that asks for a new department of emergency medicine in HEW headed by a qualified health care professional appointed by the President. The proposed legislation also calls for measures recommended by the National Academy of Sciences to upgrade emergency care by improving the quality of ambulance vehicles and of the first-aid administered by drivers.

Meanwhile, more doctors are taking time to attend symposia on emergency medicine.

Doctors attending such meetings are among the increasing number of American physicians who are specializing fulltime in emergency medicine.

The four-year-old American College of Emergency Physicians, an organization of such specialists based in East Lansing, Mich., estimates that 15,000 doctors now qualify as emergency physicians. They are working full-time in hospital emergency rooms, clinics, factories and part-time wherever large crowds gather, such as in sports and civic stadiums. Though comparative figures are not available, officials of the organization say they believe the present total of such specialists is considerably larger than it was a decade ago.

The common aim of such meetings and organizations is to focus on the magniture of the problem of emergency care for the 52 million Americans who are injured each year.

Some 110,000 Americans die and 11 million must remain in bed at least one day each year from such injuries. It costs at least $10 billion a year for the permanent disability that 400,000 injured Americans suffer, the council's report said.

Under an improved national arrangement, the council urged, life-saving measures such as the following should be taken:

Establishing a "911" emergency telephone reporting system on a nationwide basis (911 is the number that anyone can dial on a telephone in several cities such as New York for emergency assistance).

Upgrading the quality of ambulances to replace 80 per cent of the 25,000 ambulances in the country, which are hearses, limousines or station wagons and "inadequate in space and equipment."

Setting up urban and regional emergency communication centers that use radio-frequencies compatible for cross-communication. Operators should know medical terms to avoid confusion in conversations.

Creating a nationwide corps of properly trained emergency medical technicians assigned to ambulances fit to carry out measures now applied by personnel in hospitals, emergency departments and by medical corpsmen in combat areas.

CONGRESSMAN WALDIE'S VIEWS ON REGIONAL CENTERS

HON. LIONEL VAN DEERLIN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. VAN DEERLIN. Mr. Speaker, the September 1972 issue of Regional Center Newsletter, published from the Children's Hospital of Los Angeles, had a lead article based on an interview with our colleague JERRY WALDIE regarding his thoughts on the regional center concept of aiding the mentally retarded.

Congressman WALDIE is uniquely qualified to discuss this issue, as he was California's leading legislative figure in the field of mental health care and treatment during his years in the California State Legislature.

Mr. Speaker, JERRY WALDIE continues to have a keen interest in this area, and has received much recognition from organizations devoted to assisting the mentally retarded.

The article follows:

"I think regional centers have helped to change people's attitudes toward the mentally retarded—for one thing, people now are beginning to realize that the MR individual is simply another individual in our society who has special problems." The man uttering these words can do so with authority for he is one of the VIP's in RC history.

Jerome Waldie, U.S. Congressman from Contra Costra County, the 14th Congressional District, served on the original fact-finding committee surveying alternatives to state hospitalization of the retarded and later introduced the legislation (AB 691) which established the regional center concept.

Recalling those days, Congressman Waldie explained that the central theme was to provide an alternative of keeping the individual in the community or in a facility other than a state institution if that facility would serve the MR individual best. Congressman Waldie believes that society has the obligation of providing each individual member an opportunity to develop his fullest potential regardless of how that potential is measured. "The fact that a child has been, in the past, categorized as 'MR' is perhaps just a cruel manner of describing the extent of that child's measured potential at that particular moment in time."

Although Congressman Waldie explained that there are no general plans for a federal education program on public awareness of MR, he heartily agrees that such a program would be worthwhile. He believes that there is in the community as well as in the state and nation a latent, but enormous sympathy for the problems of the retarded. "There is an enormous willingness to find solutions to these problems if only they can be presented in a manner that can bring this latent understanding and sympathy to the surface."

Continuing in this vein, he added, "I can think of no group in California that is more equipped to express its concerns with the directions these MR programs are going or its concerns over the lack of attention and priorities given to these programs than the families who have utilized the services of the regional centers."

Congressman Waldie would like to see Regional Center families organized throughout the state with a newsletter that would not only be informative in terms of how the programs are developing in the various areas of the state, but also be action oriented—suggesting ways families could increase support for the RC concept. He also envisions having political candidates examined with reference to their commitments to the program. "I believe that there would be few candidates in the state that would not recognize the potential influence that such a state-wide organization would possess," he emphasized.

A native of Antioch, Congressman Waldie was first elected to the House of Representatives in 1966, after serving two terms in the state legislature. He is married and has three children, Jill, Jonathon and Jeffrey. A cum laude graduate of the University of California, Berkeley, he received his L.L.B. from the University of California School of Law in 1953.

FROM GARBAGE TO GREENS

HON. BOB CASEY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. CASEY of Texas. Mr. Speaker, I would like to share with my fellow Members a couple of newspaper clippings concerning a proposed environmental project in Houston of which we are very proud.

The Holmes Road landfill in my district was, as projects of this nature tend to be, an eyesore in the midst of one of the fastest growing areas of Houston, which we all know is one of the greatest, most beautiful and dynamic cities in our country.

The landfill was closed approximately 2 years ago and has been unused since. It was a source of criticism and detracted from the Astroworld complex nearby and seen by so many tourists.

On August 29, the Houston City Council took steps to make this dump into a 27-hole golf course, to be designed with the aid of Houston golfer Jimmy Demaret. The council's action was, I feel, a wise and much-needed step toward local concern over the environment. As the Houston Chronicle's editorial writer said:

> The project should make Houston into a shrine for the ecologists, because turning a 180-plus acre garbage dump into a 27-hole golf course has got to be one of the biggest recycling jobs in history.

I would like to share with you two clippings from our Houston newspaper—the first written by Clark Nealon, the Houston Post's sports director, and the other an editorial from the Houston Chronicle.

[From the Houston Post, Aug. 31, 1972]

A HOUSTON SHOWPLACE COULD BE RISING OUT OF A GARBAGE DUMP

(By Clark Nealon)

It's been a long time since an idea rang our bell like the one given the go-ahead by City Council in Tuesday's meeting.

Actually it isn't new because Councilman Johnny Goyen first proposed it in 1964, but Tuesday's action put the show on the road for what we think can become one of Houston's showplaces, a facility needed and long deserved by the legion of many golfers, a future site for the Houston Classic in an intelligent union between the City and the Houston Golf Association in the interests of a progressive national image and marked for a practical piece of well located land.

Tuesday council, on recommendation of Parks and Recreation Director Bill Scheibe, gave the go-ahead for starting the planning of a golf complex on the 180-plus acres of the old Holmes Road garbage landfill, across Loop 610 south and west of the Astrodome.

The idea has unlimited, sound possibilities, including Scheibe's points Tuesday that this will be the first golf course Houston has built on revenue from fees paid by golfers on many courses and that there is the already investigated possibility of obtaining a matching federal grant.

We'd say the report that Council's decision was influenced by the enthusiasm and interest of Jimmy Demaret is correct, for rarely have we heard James Newton as keen for an idea on which he has pledged his work, his knowledge and his tremendous image in golf, gratis.

"I have told Bill Scheibe that I can't think of a better idea for the City and I have promised to work with the City and the other golf professionals of Houston on the project," Demaret said Wednesday.

"It's in an area that needs it, it's on land that's of practical value that is being used for nothing, it will be of service to golfers and the game of golf and it can be made into one of the most beautifully landscaped areas in Houston.

"Houston and golf have been good to me," continued Demaret, who with Jack Burke, already directs one of the nation's golf showplaces in Champions Golf Club on the other side of Houston. "I'm delighted to work with the city in any way they want me to work.

"I've looked at this site and the topography lends itself to a golf course. There's room for 27 holes, and the project can pay its way through fees.

Land values and use prevent building of many golf courses but this will be reclaiming land that is not being used.

The longer you've been around Houston the better you know that Demaret, the ex-caddy and muny golf course phenom, has been a great image of the game of golf and the City of Houston for nigh these 40 years. And if you're only a recent golf-oriented resident, certainly you have been conscious of the symbol of the game and the city that Demaret has been.

It's warming here that his enthusiasm for a project and its potential has had some influence on the go-ahead at last. He's known the pinnacle, Golf's Hall of Fame; the plush club life, three Masters' titles, worldwide touring as host of Shell's Wonderful World of Golf.

Yet at heart he's a muny golfer with a strong and unsophisticated pride and interest in Houston. Any Sunday morning he's in town, and despite his interest in Champions and now a new project in Onion Creek near Austin, you can find Demaret in the pro's shop at Memorial Park, in a bull session with muny golfers.

Demaret, like other veterans of a long, hard fight for muny golfers of Houston, enjoys the thought that finally the City plans to build a course from the revenue produced by the fees the muny golfers pay. Key to the argument over the years has been that the golf fees so often went into the general fund. And they're considerable. James keenly feels the problems of the muny golfer and welcomes this as a way to do right by his boys and get a job done in a facility of which Houston can be proud.

Hidebound, perhaps, but we're long been an advocate of open tournaments of muny courses. The thought is that an open golf tournament, in fundamental essence, is a clambake at which every fan should feel at home, a part of it all. Few, if any, muny courses can match the plush accommodations of the club courses but we cling to the thought that they can be far closer to club accommodations, modern, neat and clean and more than adequate, and we hope that this new idea for Houston can be an illustration of the point.

And we've dared to hope that such advancement could be the theme of a union, certainly co-operation, between the City of Houston and the Houston Golf Association through the Houston Classic. An agreement with which both parties could live and work together to improve the lot of the muny golfer, the image of the game and the city, as a common, beneficial cause to both parties. Yes, an aid to tourism, the attractiveness of the city to visitors and planned trips here. And one more point to reflect it all in national television of the Classic as well as other national telecasts.

The HGA has shown repeatedly over the years that its a great example of everyday guys with a dedicated interest in the game and the city. It helped pioneer the sale of sponsorships that has utterly amazed a veteran like us, time and again.

The city's new project and the enthusiasm of the HGA, to us, meshes, seems to be directed at many of the same fundamental goals. And co-operation would hasten realization.

In any event, Tuesday's action by City Council is one more long-awaited municipal step. Enthusiasticaly welcomed here.

And a more genuine deynoter than J. Demaret couldn't have been found.

Fore, please! Get the show down the middle of the fairway.

[From the Houston Chronicle, Sept. 5, 1972]

FROM GARBAGE TO GREENS

The conversion of the Holmes Road landfill into a city golf course is the kind of project that's got everything going for it. It will please the sportsmen, it will enrich the neighborhood esthetically and it will bring some revenue to the city.

The project should make Houston into a shrine for the ecologists, because turning a 180-plus acre garbage dump into a 27 hole golf course has got to be one of the biggest recycling jobs in history.

The construction of the course will be getting the attention of a master; Houston golfer Jimmy Demaret will be advising, which should assure the complete metamorphosis of dump site to showcase.

The city deserves credit for imagination and foresight.

THE POW-MIA'S—REWARD FOR BETRAYAL

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. SCHMITZ. Mr. Speaker, the following item appeared in the Washington Evening Star on April 18, 1966:

> And boring directly in on Lyndon Johnson's trade and aid policies, New York attorney Richard M. Nixon declared that U.S. foreign aid should be cut off to any country helping the enemy in Vietnam.

Just a few months ago, the Economic Pressure Committee of the National League of Families of POW-MIA's in Southeast Asia called on all presidential and congressional candidates to pledge, if elected, to "actively support a trade embargo against all countries that supply goods or services to North Vietnam." I made that promise in writing and have in fact advocated cutting off all aid and trade with Communist nations throughout my public life—and before it as well.

Senator McGovern seems elated to receive a $25 check at the direction of a prisoner of war incarcerated in North Vietnam, while "attorney Richard M. Nixon" as President has changed his tune and gives computer technology to the Soviet Union through aid and trade, enabling North Vietnam to computerize its antiaircraft guns shooting down our planes and thereby adding more American prisoners of war to the dungeons in Hanoi. By what moral standard can this possibly be justified?

You do not have to dig very far to find out how disillusioned the families of these POW–MIA's are becoming. What is happening goes deeper than politics. It goes to the inner core of the soul of America. The soldier-statesman and our greatest military leader since Robert E. Lee, Gen. Douglas MacArthur, in his farewell speech at West Point summed up that inner core as "Duty—Honor—Country." Our soldiers, sailors and airmen who were taught that in their homes, churches and schools, and are now prisoners, are being asked to forget it and actually encouraged to collaborate with the enemy to gain their freedom.

Now the newspapers present to us the spectacle of three American prisoners about to be freed giving statements on behalf of the enemy, while their families will accompany self-confessed Communist Dave Dellinger and his hatchet-woman, Cora Weiss, to Hanoi. Cora was an organizer of the disruption of the 1968 Democratic National Convention and has been active in the New Mobilization to End the War in Vietnam. She and Dellinger are cofounders of the Committee of Liaison with Families Detained in North Vietnam, through which Hanoi intends to deal as part of its strategy to induce many of the families of the POW–MIA's to join the antiwar movement and become tools of the enemy. The mother of one of the three men about to be released, Minnie Lee Gartby, has participated in two major Communist-inspired antiwar demonstrations in New York and Washington.

Americans in the North Vietnamese prisons who do not cooperate will be dealt with by Cora's husband Peter Weiss, a member of the official legal bulwark of the Communist Party, the National Lawyers Guild. Peter, working on behalf of Clergy and Laymen Concerned About Vietnam, has been engaged for the past 2 years in gathering evidence to prosecute those POW–MIA's who do not kiss the boots of their brutal tormentors who hold them captive.

One POW wife asked me some time ago what I would do about all this if I were President. I told her that every day I had the chance I swam half a mile, but neither in the swimming pool nor anywhere else did I practice the Hanoi crawl. If I were President, there would very soon be a full Green Beret group and a Marine division knocking on their prison doors to bring all our POW–MIA's home, leaving not one unaccounted for. North Vietnam has committed all its combat divisions to the invasion of the South. They have none left to stop such an operation.

I want to see, as much as their families do, the tears of joy and relief when their men come home, having kept faith with the soul of America: Duty—Honor—Country.

SOVIET TRADE, YES—RHODESIAN TRADE, NO

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. RARICK. Mr. Speaker, as the American people learn that our politico-economic leaders seek to make political hay out of trading with the Soviet Union, Red China, and apparently every Communist country but North Vietnam and Cuba, it is only right to question why they continue to prohibit trade under any conditions with Rhodesia.

The cynical war on Rhodesia ignores the truth and is dishonest.

A majority of the opinion molders of the United States continues to grind out the U.N. fabrication that Rhodesia is somehow a threat to world peace because the liberated government of that nation is said not to base its principles on self-determination and majority rule.

The same test is never applied to the masters of the Soviet Union or the unelected hierarchy of Red China and was conveniently forgotten to the peoples of Hungary and Poland when their countries were invaded and the democratic-leaning leaders overthrown because they may have constituted a threat of independence from the Soviet bloc. Trading with Communists but not with Rhodesia is ideological discrimination.

An interesting editorial appeared recently in Barron's Financial Weekly which follows my remarks:

LEFTIST OUTCRIES AGAINST RHODESIA IGNORE THE TRUTH

(By Robert M. Bleiberg)

Annual meeting time has come and nearly gone, bringing its customary quota of criticism from the floor and leaving its fair share of bruised executive egos. In sharp contrast to last year or the one before, this season in the main has been a relatively tranquil affair, with confrontations few and far between, riot and civil commotion conspicuously absent. Here and there, however, estimates of sales and earnings, no matter how rosy, have taken second place to angry protests. Thus, as the annual meeting of Union Carbide Corp., Chairman F. Perry Wilson disclosed that profits in the first quarter had increased 14 percent, and voiced confidence that the company "will make solid progress in 1972."

Nonetheless, dissident stockholders took management to task for "corporate offenses ranging from its activities in southern Africa to executive campaign contributions," while "a group of about 30 chanting demonstrators marched in front of company headquarters, protesting Union Carbide's recent importation of 26,000 tons of Rhodesian chrome." Mr. Wilson got off easier than his opposite number at Foote Mineral Co., whose annual meeting at the Barclay Hotel in Philadelphia drew a contingent of 50 pickets, which, in between denunciations of the company for dealing with white supremacists, "danced and sang to the sound of African bongo drums."

On Capitol Hill, which usually marches to a different drum, both Congressmen and Senators lately have taken up the beat. Negro members of the House of Representatives, organized into a so-called Black Caucus, have publicly called for the destruction of American property in Rhodesia and South Africa and the violent overthrow of their racist regimes.

Pending that happy outcome, together with various church groups and the outlawed Zimbabwe African National Union—have brought suit in U.S. District Court seeking an injunction against the use of chrome ore shipped from Rhodesia to these shores by Foote Mineral and Union Carbide.

Meanwhile, in the upper chamber, with the blessings of the State Department, are pushing the repeal of last year's Byrd Amendment, which made such imports legal.

Fanaticism, said George Santayana, is redoubling one's effort while losing sight of one's aim, but the radical left is something else. For nearly half a century, despite compelling evidence to the contrary, it has proclaimed the innocence of Sacco and Vanzetti, anarchists and convicted killers, and, with equally ruthless disregard of proven fact, has launched a campaign to whitewash the Rosenbergs and Alger Hiss.

TRUTH IGNORED

By the same token, the fanatical war on Rhodesia is longer on ideology than on respect for truth. By trading with Rhodesia, charged the leader of the demonstration against Foote Mineral, the U.S. "has saved Ian Smith's government from economic disaster." In truth, thanks to the widespread flouting of United Nation's sanctions, notably by neighboring Zambia and other black African states, Rhodesia for the past half-decade has flourished.

More to the point, by repealing the Byrd Amendment, Congress would deliberately reimpose a financial burden on both procedures and consumers of stainless steel (which requires chrome, and once again make this country heavily dependent upon the Soviet Union for a vital raw material.)

Finally, while boycotting Rhodesia—only strategic products are free of the general ban—for its repugnant form of government (which, in U.N. eyes, at any rate, constitutes a "threat to peace"), the U.S. is briskly extending the hand of friendship, not to mention offers of tangible financial aid, to two of the bloodiest tyrannies in the history of mankind. You can't do business with Smith, but you can subsidize Kosygin, Brezhnev and Mao.

ECONOMIC WAR

Armed with this double standard, the U.S. for years has been waging economic warfare on Rhodesia. Pursuant to a resolution of the U.N. Security Council in December 1966 (reaffirmed and strengthened in May 1968), President Lyndon Johnson by Executive Order imposed sanctions on that country, violations of which are punishable by fines of $10,000 and prison sentences up to 10 years. (In first case of the kind, five defendants recently pleaded guilty to violating the embargo by supplying ammonia to a Rhodesian fertilizer plant—some crime against humanity.)

Under the Nixon Administration, things continued in the ugly vein until last fall, when Senator Harry F. Byrd Jr. (D., Va.) succeeded in amending the military procurement authorization bill, to permit, in effect, the importation of Rhodesian chrome and other "strategic and critical raw materials." Since then, to the outrage of the Black Caucus and corporate pickets, shipments totaling fifty thousand tons have landed in the U.S., and efforts to repeal the Byrd Amendment have redoubled. Last week's collapse of the tentative agreement between Her Majesty's Government and Salisbury, based on findings that the black majority disapproved of its terms, doubtless will intensify the drive.

As an economic weapon—her Satayana's definition applies—the international embargo has been a joke. Since Rhodesia's Declaration of Independence in 1965, production and trade have risen by 10 per cent per year.

This is how Salisbury looked a few months ago to Ray Vicker, chief European correspondent of The Wall Street Journal: "Japanese, French, German and Italian businessmen are encountered in hotel lobbies here. Hertz' Rhodesian outlets offer Japanese-made Toyotas for rent, while Avis competes with German-made BMWs. Liquor stores carry stocks of British gin and choice Scotch. Italian shoes are popular with Rhodesian women, while French wines are found at top hostelries. . . .

Rhodesia's manufacturing industries have expanded to provide many products that were formerly imported. Manufacturing expanded 12.5 per cent in 1970 from 1969, and probably will show an increase of around 8 per cent this year. 'We can continue to get by indefinitely, if we have to,' says one Rhodesian sanctions buster, who travels the world negotiating agreements for Rhodesian exports and imports.

JOKE ON U.S.A.

Until last fall, moreover, the joke was on this country, which wound up paying an exorbitant price for chrome mined in the Soviet Union (or, there is reason to suspect, merely transshipped via Moscow from Rhodesian mines).

After the imposition of U.N. sanctions, the price of imported chromite soared from $33 a ton to $72, to the pleasure and profit of the Kremlin, which, like the most rapacious capitalist, charged whatever the traffic would bear.

* * * * *

—to judge by results of sophisticated analysis performed by Crucible Steel, which found that the Soviet Union differed markedly from that of Rhodesia—probably had its origins in racist mines. According to one State Department spokesman: "Occasionally we have heard of Russian ships docked in Africa to pick up Rhodesian chromite, but verification has proved this not to be the case." Trust Foggy Bottom to try to prove a negative.

LEGAL VIEW

So much for the dollars and sense. As to the legality of the Byrd Amendment, the controversy, as noted, has landed in the courts, where a U.S. District Court judge has refused to issue a preliminary injunction against Foote Mineral and Union Carbide.

Plaintiffs doubtless will appeal to higher authority. However, at least one eminent lawyer, the late Dean Acheson, had no doubts as to the illegality of the embargo. In a memorable address before the American Bar Association in 1968, he stated: "It would surprise some of our fellow citizens, though hardly anyone here, to learn that the United States is engaged in an international conspiracy, instigated by Britain and blessed by the United Nations, to overthrow the government of a country that has done us no harm and threatens no one . . . (this is) barefaced aggression, unprovoked and unjustified by a single legal or moral principle."

Why was Rhodesia, alone among nations, singled out as a threat to world peace? The State Department in 1969 offered a reason: "American policy on Rhodesia rests on the basic principles of self-determination and majority rule."

The explanation must have impressed billions of disenfranchised, hopeless people throughout Latin America, Asia and Africa, not to mention the Soviet Union, upon which the Nixon Administration is eagerly preparing to lavish most-favored-nation treatment and subsidized credits. What a shame!

WHY ROOSEVELT IS SUPPORTING NIXON

HON. WILLIAM L. SPRINGER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. SPRINGER. Mr. Speaker, many of us who are now in the House remember when Jimmie Roosevelt was a colleague of ours in this body. Although it it is admitted that many of us may have disagreed with Jimmie on many of the matters which he presented the House, we never doubted his sincerity or his integrity.

He was one who came carefully prepared with facts and figures to support his position and it greatly upset him to hear people debating on the floor who had neither the facts nor the figures or were fully informed on the issue. He was a stickler for accuracy and knowledge on the particular subject which was under debate.

Jimmie Roosevelt was probably closest to his father of all the Roosevelt children while FDR was President. In the early days, he helped his father in getting about and always seemed to be at the President's elbow. In short, Jimmie was a self-indoctrinated New Dealer and an enthusiastic Democrat. For him to make a change in even one election to support a Republican President certainly takes a lot of courage on his part.

I am sure he has come to this conclusion only after the most careful consideration and that he believes conscientiously that he ought to support President Nixon under all the circumstances of this period in history.

In an excellent article by him in the Los Angeles Times of September 8, James Roosevelt sets out why he believes he will vote for Richard Nixon in November. In view of the fact that Jimmie Roosevelt was a prominent member of this body and such a strong Democrat, I am sure all of my colleagues on both sides of the aisle will want to read Jimmie Roosevelt's reasons for supporting Richard Nixon in 1972.

The article follows:

WHY A ROOSEVELT IS SUPPORTING NIXON

(By James Roosevelt)

All Democrats and citizens in general have a right to ask for the reasons why certain Democrats in this coming election will vote for a Republican, Richard M. Nixon. Here are some of them in necessarily abbreviated form.

We believe the powers and opportunities of the office of the President are so vast that the country should not deny the incumbent a second term unless the alternative candidate is clearly a better prospective user of those powers and opportunities or unless the incumbent has notably failed in his leadership of the country.

President Nixon, from any objective viewpoint, has opened doors and initiated new sources of trade, disarmament and overall avenues for the peaceful solution of some of the world's most pressing problems by his courageous visits to Peking and Moscow. His handling of Middle Eastern problems has lessened tensions and he has given aid to Israel, our best ally in that area, in a manner which has evoked their outspoken appreciation.

Contrast this with the statement of Sen. George S. McGovern that he would give up American naval bases in Greece because we don't like the nondemocratic Greek government. Is that enough reason to give the Russians complete control of the eastern Mediterranean and expose Israel to indefensible pressure from hostile naval forces?

The Nixon handling of the Vietnam war is more open to contention. On one hand he has withdrawn American ground forces from the combat area in an orderly and rapid program. He has offered a peace plan, obviously more than just and fair, and received until now no response showing any real desire for a ceasefire from the dictatorship of North Vietnam. One must wonder, if North Vietnam is sincere in not wanting to impose control on South Vietnam, why it has not made some sort of cease-fire offer, while political matters are negotiated.

On the other hand, the continued bombing and the precise manner of its renewal are certainly open to criticism fron a moral standpoint. But what does the President's opponent offer? An abject pullout of all U.S. military forces after which he would go to Hanoi "to beg" for the release of our prisoners of war. This would save a few American lives, many North Vietnamese lives, and assure a blood-bath of South Vietnamese lives. Not exactly a glorious chapter for American history.

On top of this, for anyone to say, as McGovern has said, that begging will assure the return of the prisoners within 90 days is just plain demagogic. This is particularly so when most knowledgeable people foresee as a bargaining ploy a heavy demand, if not blackmail, for an American dollar rehabilitation plan. But no beggar has yet won a fair deal, or any deal, except captivity from a dictatorship. Everybody wants peace. Some want peace at any price to America's future. I want peace and badly, but not at any price nor at a dishonorable price.

On the domestic side the issues are even more clearly drawn. In four years the Nixon Administration has halved the rate of inflation; there has been no decrease in unemployment but over 2½ million more people are on jobs; business activity is steadily increasing; Social Security benefits have been increased substantially and a good start made on reducing the chaos of the welfare problem.

Contrast this with the almost unbelievable inconsistency of McGovern's position on taxes and welfare. Four differing solutions on welfare and taxes since 1970 forced by the exposure of the faulty mathematics and the patently unsound basis behind them. When the heat was on the "bold new proposals," McGovern melted them. Everyone is entitled to some mistakes but not to such a continuing and backward stretching series.

President Nixon isn't perfect either. Democrats, including myself, are not happy with his Supreme Court appointments, but he didn't veer from 1,000% support to zero. What kind of appointments can the country expect after the Eagleton, Salinger and O'Brien fiascos?

There isn't much change in this from the man who as a delegate in 1948 left the Democratic Party to vote for the nomination of Henry Wallace at the Progressive Party convention. But the campaign heat brought a return to Harry S Truman before November. There is no growth from the man who voted on both sides of the issues in the anti-labor Landrum-Griffin legislation of 1959, who in 1964 voted against labor in the efforts in the Senate to repeal section 14(b) of the Taft-Hartley Act and cast a vote at the behest of the special interest wheat exporting companies.

There are also inconsistencies in the McGovern record on civil rights. McGovern cosponsored some but initiated no civil rights legislation on his own and all eight bills he cosponsored never left the committee stage.

To be President a man must have achieved a certain toughness of spirit and soul. It usually comes from some searing incident, personal or political. For my father it was a nearly fatal illness, for Mr. Nixon it was his despair after losing to Gov. Brown for governor of California in 1962. Men of sufficient timbre to be President recover. It took Mr. Nixon six years of dogged effort. In McGovern, I hear the crusading voice, but week by week, I see the same inept changing, the inability to break away from poor advisers and perhaps even from those to whom he has given control of his campaign. These seem to be those for whom power for the so-called New Democrats is more important than the best interests of the country.

We need change, but in my belief the whole system is not ready for the junk yard.

Finally, do I now love the "old Nixon"? Have I forgotten Jerry Voorhis or Helen Gahagan Douglas? Flatly, No. But a man is entitled to grow. I believe I have seen Richard Nixon grow. The office of the President has done it for most men. At this point in our country's history, the Democratic Party has not nominated a man of sufficient stature, proven record or future promise to deny Richard Nixon reelection as President. We Democrats for Nixon support him and at the same time urge election of a Democratic Congress to guarantee there will be no turning backward. We wish to prevent a wild, ill considered leadership coming from a McGovern controlled White House.

WHY SOME DEMS WILL SUPPORT NIXON

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. FRENZEL. Mr. Speaker, although this political year should have taught me by now to expect the unexpected, I was still pleasantly surprised to read in the September 12, 1972, Saint Paul Pioneer Press a reasoned and glowing endorsement of President Nixon by FDR's eldest son and former Congressman, James Roosevelt. I could not have made the case better myself.

The article follows:

WHY SOME DEMS WILL SUPPORT NIXON

(By James Roosevelt)

(NOTE.—James Roosevelt, eldest son of President Franklin D. Roosevelt, was elected to six terms in Congress as a Democrat and ran unsuccessfully for governor of California (1950) and mayor of Los Angeles (1965)).

All Democrats and American citizens in general have a right to ask for the reasons why certain Democrats in this coming election will vote for a Republican, Richard M. Nixon. Here are some of them in necessarily abbreviated form.

We believe the powers and opportunities of the office of the President are so vast that America should not deny the incumbent a second term unless the alternative candidate is clearly a better prospective user of those powers and opportunities or unless the incumbent has notably failed in his leadership of the country.

President Nixon, from any objective viewpoint, has opened doors and initiated new sources of trade, disarmament and overall avenues for the peaceful solution of some of the world's most pressing problems by his courageous visit to Peking and Moscow. His handling of Middle Eastern items has lessened tensions and he has given aid to Israel, our best ally in that area, in a manner which has evoked their outspoken appreciation.

Contrast this with the statement of Sen. George S. McGovern that he would give up American naval bases in Greece because we don't like the nondemocratic Greek government. Is that enough reason to give the Russians complete control of the eastern Mediterranean and expose Israel to indefensible pressure from hostile naval forces?

The Nixon handling of the Vietnam war is more open to contention. On one hand he has withdrawn American ground forces from the combat area in an orderly and rapid program. He has offered a peace plan, obviously more than just and fair, and received until now no response showing any real desire for a cease-fire from North Vietnam.

On the other hand, the continued bombing and the precise manner of its renewal are certainly open to criticism from a moral standpoint. But what does the President's opponent offer? An abject pullout of U.S. military forces after which he would go to Hanoi "to beg" for the release of our prisoners of war.

On top of this, for anyone to say, as McGovern has said, that begging will assure the return of the prisoners within 90 days is just plain demogogic.

On the domestic side the issues are even more clearly drawn. In four years the Nixon administration has halved the rate of inflation; there has been no decrease in unemployment but over 2½ million more people are on jobs; business activity is steadily increasing; Social Security benefits have been increased substantially and a good start made on reducing the chaos of the welfare problem.

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To be President a man must have achieved a certain toughness of spirit and soul. It usually comes from some searing incident, personal or political. For my father it was a nearly fatal illness, for Nixon it was his despair after losing to Gov. Brown in California in 1962. Men of sufficient timbre to be President recover. It took Nixon six years of dogged effort. In McGovern, I hear the crusading voice, but week by week, I see the same inept changing, the inability to break away from poor advisers and perhaps even from those to whom he has given control of his campaign.

We need change, but in my belief the whole system is not ready for the junk yard.

SENATE—*Thursday, September 21, 1972*

The Senate met at 9 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Our Father God, amid the bustle and busyness of these days, we pause with quiet and reverent hearts, seeking the peace, the poise, and the power which comes from Thee. Give Thy servants ears to hear and hearts to obey the still small voice from within. Shed Thy light upon our daily work investing even the smallest duty and the humblest task with divine approbation. Help us to give primacy to the things which matter most. Lead us step by step to the completion of the work and fulfillment of the public trust. Make us partners with Thee in making ready the coming of the day when Thy will is done on earth as it is in heaven.

We pray in His name who first fulfilled Thy kingdom. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, September 20, 1972, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the calendar beginning with Calendar No. 1122.

The PRESIDENT pro tempore. Without objection, it is so ordered.

TWO HUNDREDTH ANNIVERSARY OF DICKINSON COLLEGE

The concurrent resolution (S. Con. Res. 90) commemorating the 200th anniversary of Dickinson College, was considered and agreed to, as follows:

S. CON. RES. 90

Resolved by the Senate (the House of Representatives concurring), That the Congress of the United States extends its greetings and congratulations to Dickinson College, Carlisle, Pennsylvania, on the occasion of the observance and celebration by that institution of its two hundredth anniversary, and expresses its recognition of the contribution which Dickinson College has made to educational excellence, and its appreciation of the leadership role which many distinguished alumni of Dickinson have played in the life and affairs of this Nation.

BILL PASSED OVER

The bill, H.R. 9135, to amend the act of August 19, 1964, to remove the limitation on the maximum number of members of the board of trustees on the Pacific Tropical Botanical Garden was announced as next in order.

Mr. MANSFIELD. Over, Mr. President.

The PRESIDENT pro tempore. The bill will be passed over.

NATIONAL FAMILY WEEK

The joint resolution (H.J. Res. 135) to authorize the President to issue a proclamation designating the week in November of 1972 which includes Thanksgiving Day as "National Family Week," was considered, ordered to a third reading, read the third time, and passed.

NATIONAL MICROFILM WEEK

The joint resolution (H.J. Res. 1193) to provide for the designation of the week which begins on September 24, 1972, as "National Microfilm Week," was considered, ordered to a third reading, read the third time, and passed.

NATIONAL INVENTORS' DAY

The joint resolution (H.J. Res. 1232) designating, and authorizing the President to proclaim February 11, 1973, as "National Inventors' Day," was considered, ordered to a third reading, read the third time, and passed.

BILLS PASSED OVER

The bills, H.R. 16029, to amend the Foreign Assistance Act of 1961, and for other purposes, and S. 2567, to facilitate prosecutions for certain crimes and offenses committed aboard aircraft, and for other purposes, were announced as next in order.

Mr. MANSFIELD. Mr. President, I ask that these two bills go over.

The PRESIDENT pro tempore. The two bills will be passed over.

NATIONAL SOKOL U.S.A. DAY

The Senate proceeded to consider the joint resolution (H.J. Res. 1263) authorizing the President to proclaim October 30, 1972, as "National Sokol U.S.A. Day," which had been reported from the Committee on the Judiciary with an amendment, on page 1, line 5, after the word "Sokol", strike out "U.S.A.".

The amendment was agreed to.

The amendment was ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution was read the third time, and passed.

The title was amended so as to read: "Joint resolution authorizing the President to proclaim October 30, 1972, as 'National Sokol Day'.".

COAST GUARD FLAG OFFICER STRUCTURE

The bill (H.R. 13697) to amend the provisions of title 14, United States Code, relating to the flag officer structure of the Coast Guard, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

MASTER CHIEF PETTY OFFICER—LIGHTHOUSE SERVICE

The bill (H.R. 10486) to make the basic pay of the Master Chief Petty Officer of the Coast Guard comparable to the basic pay of the senior enlisted advisers of the other Armed Forces, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

COAST GUARD RESERVE

The Senate proceeded to consider the bill (H.R. 14891) to amend title 14, United States Code, to authorize involuntary active duty for Coast Guard reservists for emergency augmentation of regular forces, which had been reported from the Committee on Commerce with amendments, on page 2, line 2, after the word "than", strike out "thirty days a year" and insert "fourteen days in any four-month period and not more than thirty days in any one-year period"; and, in line 16, after "(1)", strike out "may, in the discretion of the Secretary, satisfy" and insert "shall satisfy on a day-for-day basis".

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. MANSFIELD. Mr. President, that completes the call of the calendar for the time being.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the executive calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDENT pro tempore. The nominations on the executive calendar will be stated.

DIPLOMATIC AND FOREIGN SERVICE

The second assistant legislative clerk read the nomination of C. Robert Moore, of Washington, a Foreign Service officer of the class of Career Minister, now serving as Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Republic of Cameroon, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Equatorial Guinea.

The PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

INTERNATIONAL MONETARY FUND; INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT: INTER-AMERICAN DEVELOPMENT BANK: ASIAN DEVELOPMENT BANK

The second assistant legislative clerk read the nomination of John N. Irwin II, of New York, to be U.S. Alternate Governor of the International Monetary Fund for a term of 5 years and U.S. Alternate Governor of the International Bank for Reconstruction and Development for a term of 5 years; U.S. Alternate Governor of the Inter-American Development Bank for a term of 5 years and until his successor has been appointed; and U.S. Alternate Governor of the Asian Development Bank.

The PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed; and, without objection, the President will be immediately notified of the confirmation of these nominations.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Illinois (Mr. STEVENSON) is now recognized for 15 minutes.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum with the time to be taken out of the Senator's time.

The PRESIDENT pro tempore. Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE POLITICS OF WEALTH AND STEALTH

Mr. STEVENSON. Mr. President, no public figure, no matter what his party, can be happy when charges of political dishonesty, and the evidence of it, are in the air.

When the clouds of suspicion and mistrust gather over Washington, their shadows spread not only over one man or one party or one institution; they darken the entire political landscape.

Those clouds, Mr. President, now hang over Washington; over the White House; over the public and political conduct of President Nixon and his highest appointees.

At first the clouds were no bigger than a man's hand: a hint of fat political contributions unreported; a wheedling letter from a White House aide, on White House stationery, to his brother's business clients.

But in 4 years those clouds have darkened into thunderheads. They hang so thickly now that no one can ignore them; no rain dance of unpersuasive denials can dispel them; no huffing and puffing from campaign headquarters can blow them away.

Only truth—not empty denials—can dispel suspicion. Only candor—not bombast—can clear away the doubts.

But in the absence of forthright explanation, what shall the people conclude about the dealings of Mr. Nixon and his party?

Five men invade a national political headquarters. They are caught carrying the tools of burglary and espionage. With them, incredibly, two men are indicted who have held positions of trust and responsibility in the White House. Their generous bankroll is traced to a secret treasury gathered by the President's highest fundraised—a former Cabinet officer.

Yet we are asked to believe that these men operated with no authority but their own; that large sums of money slipped magically into their hands from Mr. Stans' remarkable safe. We are asked to believe that the accused men had no connection with the highest officials of the Republican campaign; in short, that those in charge of the rake-in had nothing to do with the break-in. We are asked to believe that the fruits of the burglars' labors—the photographs and transcribed conversations—were for their own entertainment, not for the eyes of high Republican officials.

A political war chest estimated at $10 million is solicited—not openly from the public, but secretly from corporations and businessmen who need the Government's good will. Hundreds of thousands of dollars are routed through secret bank accounts in Mexico; delivered in suitcases on private planes; stashed clandestinely in office safes.

Yet we are asked to believe that there is nothing unusual in all of this: That those frenzied efforts at concealment are designed, not to keep anything from the public, but merely to protect friends of the Republican Party from bothersome charities and fundraisers.

The American people are blandly asked once again, to believe the unbelievable. And Mr. Stans' office safe emerges as the most fabulous piggy bank since the sheriff of Tammany Hall and his little tin box.

A lobbyist's memorandum comes to light: Its unguarded language strongly indicates that, in the Washington of Nixon and Mitchell and Kleindienst, antitrust settlements can be had for a price. A chain of evidence emerges which gives weight to those suspicions: A White House aide, we learn, has intervened in the proceedings; a series of secret conferences has taken place between corporate officers and the highest officials of the Justice Department. Stories are told, then retracted and changed to obscure great inconsistencies; the remaining evidence is fed into a shredder.

Yet we are asked to believe that the author of the memorandum, a trusted employee of the corporation, was simply doing a bit of creative writing; that she is somehow unstable and unreliable; that her memo contained mistakes; and finally, that it was never written. We are asked to believe that the White House aide's extraordinary involvement was only an effort to be helpful; that the secret meetings were not negotiations, but mere philosophical discussions.

We are asked, in short, to believe the unbelievable.

In early summer, American farmers sell their wheat harvests at low per-bushel prices—not knowing, because they are not told, that Soviet wheat purchases will send wheat prices up. The Agriculture Department knows; it has negotiated the wheat deals. And the giant grain exporters seem to know: They buy up wheat at the lower prices in hopes of profits later.

Later we learn that Clarence Palmby, the Agriculture Department official most responsible for the Soviet grain deal, is now vice president of Continental Grain. That his successor, Carroll Brunthaver, comes from Cook Industries, another grain trader. That another Agriculture Department figure in the grain negotiations, Clifford Pulvermacher, has been hired by the Bunge Corp., a big grain trader. And finally, that the White House special representative for trade negotiations has close ties to Cargill, another big trader.

The revolving doors between the Nixon administration and the big corporate traders are well oiled, wide open and whirling, it appears. But the American farmer and the public are left outside.

Yet we are asked to believe that it is all coincidence.

Perhaps.

But such coincidences, piled one atop the other, grow too heavy for mere faith to bear. Never, at least since Teapot Dome, have so many, so high, denied so much, so often—so unconvincingly.

There are, for example, repeated charges—and a sizable body of evidence—suggesting that the President's assistant, Mr. Peter Flanigan, has used his position to feather his nest: To see that his own investment house is selected as underwriter of $250 million in postal bonds; to obtain a Treasury waiver which would create a windfall for his Barracuda Tanker Corp.

There are recurring charges—persuasive ones, in my judgment—that the Nixon administration deals extraordinarily generously and gently with corporations whose presidents and chairmen are political friends and contributors. There are indications that Mr. Kleindienst suppressed antitrust suits against the Warner-Lambert Corp.; indications that the Price Commission made rulings specifically favorable to the Combined Insurance Co. of Chicago.

The first company is headed by Elmer Bobst, Mr. Nixon's "adopted father." The second is headed by W. Clement Stone, a friend of Mr. Nixon's whose political contributions total at least half a million dollars.

Mr. Kleindienst has admitted receiving a bribe offer from one Robert Carson which he failed to report at the time. According to his later testimony, Mr. Kleindienst—the highest legal officer in the land, presumably a competent attorney—"did not recognize" the offer as a bribe.

In another scandal involving highly placed administration friends, Mr. Kleindienst first whitewashed, then ignored the dereliction of a U.S. attorney in San Diego; a failure of responsibility which Mr. Kleindienst later conceded was a shocking breach of the public trust. The offending U.S. attorney, Harry Steward, went undisciplined.

The National Steel Corp. of Pittsburgh merges with the Granite City Steel Co., of Granite City, Ill. The merger presents a classic case in antitrust law: the merger of the Nation's fourth and 11th largest steelmakers, direct competitors, greatly reducing competition in the industry.

A complaint is signed and presented to the Attorney General, Mr. Mitchell. But he refuses to prosecute.

Again, Mr. McLaren of the Antitrust Division presses his case; again Mr. Mitchell refuses to act, choosing instead to bend the law to permit the merger.

A director of National Steel is Gilbert W. Humphrey, a large Republican contributor.

His father is George Humphrey, another large contributor whose Hanna Mining Co. owned more than half the stock of National Steel and has long-term contracts with Granite City Steel.

TRUST-BUSTING—OR TRUST-BUILDING?

The collapse of the Sharpstown State Bank of Texas—part of the corporate empire of Frank W. Sharp—sets off a major scandal implying flagrant violations of Federal law. But the central figure in the case, Frank W. Sharp, is granted the privilege of pleading guilty to lesser charges in return for his testimony implicating leading opposition party officeholders in Texas. In short, the big fish was tossed back in favor of some minnows.

Who, at the time of the investigation, headed the Justice Department's Criminal Division? A Texan named Will Wilson—a former attorney for Frank Sharp. Mr. Wilson, it developed, had received a $30,000 loan from Mr. Sharp's interests while in the Justice Department—and almost $300,000 between 1964 and 1968.

After this interesting coincidence, Mr. Wilson finally resigned—but only when another investigation threatened to embarrass the administration.

It would be unfair, Mr. President, to infer that every charge is true simply because it has been made. Most of the suggestions of wrongdoing in this administration await—or have escaped—real investigation.

And that is just the point. The Nixon administration, whatever its reasons, bitterly resists the inquiry these charges warrant.

What are the tactics of Mr. Nixon's administration when faced with damaging allegations?

First. A pained, embarrassed silence.

Second. Denials, without explanations.

Third. False and trivial counter-accusations, like those advanced recently when Republican fund-raising efforts came under suspicion.

Fourth. An expensive, smooth, and clever public relations barrage which separates the President from the workaday machinations of his party and his administration. He becomes, in the popular mind, a remote, olympian figure, separated from all human contact, not to mention contact with wrongdoers.

Fifth. And finally, Mr. President, there is the magical technique of self-investigation. The administration proudly announces that it has investigated itself and found itself pure! It is a puzzling technique. It is something like appointing Polly Adler to the Vice Commission.

The administration's tactics, whatever else they may achieve, do not inspire confidence in the integrity of our highest Government officials.

And what is at stake when charges of corruption fly—more than the survival or prestige of one party or set of politicians—is the confidence of our citizens: their faith and trust.

In no administration in recent memory have charges been so thick: charges of wrongdoing; of omissions; of catering to special interests. And surely not in recent memory have the explanations been so pallid; the efforts to confuse and obsure so frantic.

The people are left to conclude what they will. And they will conclude that Mr. Nixon's administration, because it will not permit an impartial investigation of the charges against it, has a great deal to hide.

They are left to conclude that government of the people, by the people, for the people, has given way, in Mr. Nixon's Washington, to the politics of wealth and stealth.

And they are left to conclude that the era of the New Deal and the era of the Fair Deal have given way to Mr. Nixon's era: the era of the deal.

There is another word for all this, Mr. President: It is "corruption."

I speak not only of the corruption which inevitably ensues when money changers invade the temples of government. That form of corruption is as familiar as Teapot Dome. It is, ultimately, a matter for the courts.

There are other forms of political corruption which are more subtle but equally insidious.

One is the invasion of every public enterprise by partisan politics.

We have witnessed, in the past 4 years, the transmutation of the Department of Justice into a branch of campaign headquarters.

The Secretaries of State and Defense have hit the campaign trail; they routinely issue partisan political pronouncements—a new and dismal twist.

Government statistics about jobs and crime are manipulated shamelessly for maximum political mileage.

The very celebration of our Nation's bicentennial has been invaded by partisan hacks and corporate fast-buck artists.

This sort of perversion—this corruption—may build temporary majorities. But it destroys the enduring faith of the people in their institutions.

A second form of corruption invades our politics when high officials subvert the public interest in the name of private interests.

ORDER OF BUSINESS

The PRESIDENT pro tempore. The Senator's time has expired.

Mr. STEVENSON. Mr. President, I have been authorized by Senators Mondale, Hart, and Kennedy to take such additional time as I may require, the additional time to be charged against their time.

Mr. ROBERT C. BYRD. Mr. President, I hope the distinguished Senator will understand my objection to this. For 2 years we have operated on the basis that 15 minute orders would not be extended by unanimous consent, and not one time has such an order been extended.

We have proceeded on the principle that when a Senator gets an order for 15 minutes that Senator will be here to control that time; otherwise it would be very easy for a half dozen Senators to get 15-minute orders, and then call in and say, "Give my time to Mr. X," and that Senator would end up with an hour and a half of time.

So I have to object.

Mr. President, I ask unanimous consent that the time allotted to Mr. Mondale be allotted to me. I am here to control the time, and I am glad to yield that time to the Senator from Illinois. But Senators must understand——

Mr. BELLMON. Mr. President, I object.

The PRESIDENT pro tempore. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, would the Senator allow me to finish?

Mr. President, Senators must understand that a Senator must be here to control the 15 minutes when it is allotted. I hope Senators from here on out will be on the floor to control their time. Somebody has to come in early to open the Senate, and the reason for coming in early is to accommodate Senators who request time. The majority leader is glad to come in early, and I am glad to come in early, but Senators who request orders should be here punctually to use or control the time reserved for them.

Now, I ask unanimous consent that the 15 minutes previously allotted to Senator Mondale be transferred to me so that I may in turn yield it to the Senator from Illinois.

Mr. BELLMON. I object.

The PRESIDENT pro tempore. Objection is heard.

ORDER VACATING RECOGNITION OF SENATOR MONDALE

The PRESIDENT pro tempore. Under the previous order, the Senator from Minnesota (Mr. Mondale) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator's time be vacated at the conclusion of the previous unanimous-consent request.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Under the previous order, the Senator from Utah (Mr. Moss) is recognized for not to exceed 15 minutes.

Mr. MOSS. Mr. President, I will be happy to yield such time as is allotted to me to the Senator from Illinois to render him the courtesy of being able to finish a speech he prepared for this body.

I yield to the Senator from Illinois.

Mr. STEVENSON. I am very grateful to the Senator. I will be brief.

The PRESIDENT pro tempore. The Senator is recognized.

THE POLITICS OF WEALTH AND STEALTH

Mr. STEVENSON. Mr. President, it is not necessary that men be evil to betray the public trust. They betray it when they are blind, after too many years in the dim light of corporate boardrooms, to distinctions between what is good for the country and what is good for them alone. This is the corruption known as favoritism to the rich—as corporate welfarism.

It is best expressed, I think, in a letter sent last spring by one of Mr. Stans' lieutenants to wealthy Republican contributors:

> I can't emphasize too strongly, that the protection of your stake and my stake is precisely what is at stake here.

His language was not a model of literary excellence. But they knew what he meant.

A third and final corruption is the corruption of arrogance: the corruption which infects our politics when our highest leaders simply will not speak forthrightly to the people.

Again and again, Mr. Nixon has invoked the doctrine of executive privilege to frustrate congressional investigations.

He has refused, with an imperious disdain unprecedented in the White House, to meet the press and submit to their questions. His tactic against the free press has been to ignore them from the top and intimidate them from below.

The President speaks, when he speaks at all to the people, from the security of a television studio, or with the help of scriptwriters, stage managers, and makeup men.

We have come to expect a certain amount of artifice in our politics. But when stagecraft becomes the principal means of encounter between the President and the people, the result is not lively public discourse, but a series of Presidential monologs.

Thus Government becomes, not a relationship between a leader and his people, but a performance between actor and audience. Leadership becomes a gesture of artifice, not truth; the President's acts seem more the posturing of royalty than the earnest efforts of a public servant accountable to the people.

And that, Mr. President, is the final corruption: indifference to the people.

Take all the scandals of yesteryear; pile them block on block, and you cannot equal it. Find enough old Deepfreezes to chill the Sahara; enough vicuna coats to warm the polar icecap; enough Persian rugs to dazzle a sultan—and still you cannot match that final betrayal of the people's trust. The greatest scandal—the ultimate corruption—is an arrogant refusal to answer the questions of the people.

I suspect the administration's response to my remarks will be angry rejoinders and counter accusations. They would do better to ponder the meaning of one of their greatest heroes.

Abraham Lincoln said:

> I must keep some consciousness of being somewhere near right. I must keep some standards of principle fixed within myself.

Mr. Nixon and his political committee would do well to reflect upon those words.

If they do not, they may soon have to replace, as obsolete and inappropriate, the symbol of their party: That great, sturdy, and honest beast, the elephant.

What new device will serve to symbolize the new Republican party?

One good possibility might be the ferret, whose stock in trade is secret maneuvering.

Some might propose the squid, which sets up a screen of ink to frustrate its pursuers.

And, finally, some might suggest the image of Maurice Stans—carrying a suitcase and wearing a sombrero.

MR. STANS AND HIS LITTLE TIN BOX

Mr. MOSS. Mr. President, I now claim the remainder of the time I have been allotted in this great temple of free speech, the Senate of the United States, where every Senator is entitled to have his say.

Like most of my other colleagues, I thought that the Federal Election Campaign Act was a significant step forward; that we would put behind us the disgraceful practices of secret campaign financing by powerful and affluent special interest groups.

Although some of us feared that the President might veto the bill, less it hamper plans for his own reelection campaign, we were, of course, considerably relieved when the President did affix his signature to the act last February. Our fears had been raised when we read in an interview with Maurice Stans, then Secretary of Commerce, that he considered the new law "an administrative nightmare." Stans went on to say in an interview appearing in the February 5 National Journal:

> It places substantial limitations on the ability to raise money; it is not going to be an easy job for anyone to raise the finances that are required.

Mr. Stans has subsequently disproved his fears and perhaps deserves a citation for his amazing facility in raising funds. He may also deserve an indictment, but that will be for others to decide.

When President Nixon signed the Federal Election Campaign Act into law he said:

> By giving the American public full acces to the facts of political financing, this legislation will guard against campaign abuses and will work to build public confidence in the integrity of the electoral process.

Mr. President, does hiding $10 million in campaign contributions collected prior to the April 7, 1972, effective date of the Federal Election Campaign Act, really give "the American public full access to the facts of political financing?" Does the collection of $10 million prior to the effective date of the legislation "guard against campaign abuses?"

What noble sentiments. What excellent phrases. But throughout the Nation, when millions of citizens believed that finally those politicians in Washington had done something to restore a sense of honesty to the political process, we were unaware that in the backroom of the Committee To Reelect the President, whose acronym is CREEP, men were making cynical plans to subvert the very purpose which the President himself had enunciated.

I am saddened to say—as I am sure my colleagues are—that the kingpin in this effort to undermine the Federal Election Campaign Act was a man who should have known better. He appears to be a man with a distinguished record in his profession of public accounting; one who had been granted the opportunity to serve at the highest levels in the Eisenhower and Nixon administrations. In 1960, he was made a member of the Accounting Hall of Fame, and his accounting for the secret $10 million in contributions received by CREEP prior to April 7 is indeed worthy of the Hall of Fame, if not a criminal indictment.

Even more ironic is the awarding in the executive branch of the Maurice H. Stans award for distinguished Federal management. Undoubtedly a prerequisite for this award is significant experience with a document shedding device.

Maurice Stans resigned as Secretary of Commerce on February 15, 1972, to take over another position which was apparently more important to President Nixon—chairman of the Finance Committee To Reelect the President—CREEP.

There may have been some who hoped that the President had given Stans this responsibility to carry out the mandate he publicly enunciated 8 days earlier when he signed the Federal Election Campaign Act—"giving the American public full access to the facts of political financing." But those of us who have toiled in the consumer field knew of Stans callous disregard for the public in his handling of the Flammable Fabrics Act, the Fair Packaging and Labeling Act, and his efforts to subvert virtually all consumer legislation comtemplated by the Congress.

But even those few optimistic souls who did not know about Stans' background were not to be disappointed. For it turned out that Stans' principle objective was to amass the largest pile of money—to sell the administration for the highest price—before April 7, the date when the new law came into effect. The aim, pure and simple, to explain to the fat cats how they could give huge gifts to the Nixon campaign while at the same time evade the capital gains tax, the gift tax, and the Federal Election Campaign Act. Indeed the work of a brillant accountant.

The New York Times has published a typical fund raising letter sent out under Stans direction by his California lieutenants early in 1972:

> The simplest and most painless way to do this is by giving appreciated low-cost securities to several committees in amounts of $3,000 to each committee. In this way, neither the gift tax or the capital gains tax liability is incurred . . . we have a deadline of April 7 to meet for this important gift phase of the drive, because that is the effective date of the new Federal Campaign law which will require reporting and public disclosure of all subsequent campaign contributions in excess of $100, which we all naturally want to avoid.

Why would anyone want to avoid public acknowledgement of his gift? Would the tycoons be embarrassed if the public knew that they had bought off the Republican Party? Of course, and in order to avoid this embarrassment, and to succeed in selling its wares to the highest bidder. Mr. Stans carried the banner of the Republicans throughout this hasty campaign. An avowed disciple of Polly Adler you say? In her wildest dreams, Polly Adler never imagined taking in as much in her entire lifetime as the Republican Party succeeded in earning in 2 months—both engaging, of course, in the same profession.

Given President Nixon's mandate about open finances, is it not a bit disappointing that the premier fund raiser of American politics would not let the public in on some of his secrets? What, for instance, was his pitch to the oil companies after his 3-year campaign as Commerce Secretary to restrict oil imports and to preserve the oil depletion allowance? How did he cozy up to the chemical manufacturers after his celebrated advice that the Government should "go slow" on prosecuting polluters?

Maurice Stans would no doubt have succeeded in keeping the public from learning his tactics in this felonious assault on the American people except for his little felony in which his henchmen were caught. I refer here, of course, to the notorious burglary in the early morning hours of June 17, 1972, when five CREEP agents had the misfortune of being caught by the police as they attempted to ply their trade at the Democratic National Committee headquarters.

For 6 weeks, there was nothing to connect Maurice Stans with the break in at Democratic headquarters. But then, on August 1, it turned out that the burglary was actually bankrolled by a bigger mob, the secret campaign contributors who had entrusted Stans with their funds before April 7.

Columnist James J. Kilpatrick, one whose conservative leanings are well known, wrote:

> The evidence, to this point, was at best circumstantial and tenuous, and the caper had its funny aspects. It isn't funny anymore. It now appears that Maurice Stans, former Secretary of Commerce and Treasurer of the Committee for the Re-election of the President, on April 11 had in his hands a $25,000 check intended as a campaign contribution. Nine days later, on April 20, that same check was deposited to the Florida account of Bernard L. Barker. The following day Barker made a $25.000 withdrawal. This is the same Bernard L. Barker, 55, alias Frank Carter, who was arrested at 2:30 a.m., June 17, caught in the headquarters of the Democratic National Committee at the Watergate Apartment Complex here in Washington.

Stans refused to see reporters, because he was "tightly scheduled," as his aides put it. Indeed he must have been tightly scheduled running around collecting millions of dollars in illegal campaign contributions, dispensing with illicit tax guidance, and shredding the secret documents at CREEP, in a fashion similar to the charade at ITT headquarters here in Washington several months earlier. But then again the shredding could be expected, after all this was another production of those wonderful folks who gave us the ITT affair.

As President Nixon said about the Watergate burglary, "what really hurts is if you try to cover it up." But Mr. Stans did not listen to the President on this occasion, or perhaps the President did not listen to Mr. Stans. The sad truth is that Maurice Stans has engaged in a massive and disreputable coverup job which serves to point out once again his undistinguished record of service in the private interest.

Consider what we have learned in the last few weeks:

Before the April 7 deadline under the campaign disclosure law, Maurice Stans kept detailed ledger books listing the campaign contributors and amounts they gave. Immediately after April 7, these records were shredded or otherwise destroyed.

On April 3, according to a staff report of the House Banking and Currency Committee, Maurice Stans received a phone call fom Nixon's chief Southwest fundraiser, William Liedtke. What Liedtke wanted to know, he told committee investigators, was whether there were any legal problems if the CREEP received U.S. money which had been funneled through Mexico. According to Liedtke's own recollection, Stans called back a few hours later to say that "it was OK to bring the money to Washington." Clearly, Maurice Stans had put his personal stamp of approval on a plan to render these contributions untraceable by means of a "Mexican laundry operation."

On the evening of April 5, Liedtke carried over $700,000 in checks, cash, and stock certificates in a suitcase from Texas to Washington so he could deliver it to Stans. Obviously, Mr. Liedtke had not seen the American Express commercials which suggest that you buy traveler's checks, but perhaps he knew that American Express did not have the invisible laundry marks of the Mexican laundry. Included in the suitcase was $89,000 in four checks which had passed through the Texas to Mexico to Washington laundry operation. A few days later, the same $89,000 mysteriously appeared in the Florida bank account of accused Watergate burglar Bernard L. Barker.

Questioned by the House Banking and Currency Committee staff about the Mexican transfers, Maurice Stans outdid himself. So many contradictions emerged in his account that the subcommittee staff entitled one section of their confidential report "The Shifting Positions of Maurice Stans." When questioned by the committee on August 30, Stans repeatedly denied knowledge of any State or local GOP finance committee that had transferred any funds to Mexico. He gave a second version on September 5. As the committee report put it:

> Mr. Stans now recalled that on April 3rd he had been informed by our Texas Chairman of a possible contribution of $100,000 in U.S. funds in Mexico!

The House committee was very properly skeptical as to how Stans could have obtained legal opinions to pass on to the Texas chairman about the Mexican transfer "without knowledge of some details of the plans or transactions."

Now that indictments have been returned, the Attorney General feels that the Justice Department has completed the "most extensive, thorough, and comprehensive investigations since the assassination of President Kennedy." If this is the case, then for no other reason we need a new administration in order to replace the current Attorney General and Justice Department which consider that it has finished its work.

Mr. President, Nicholas von Hoffman hit a responsive chord when he suggested in last week's Washington Post that the President was surrounding himself with an "all felony cabinet." The felonies performed may not be those of the current Cabinet, but they certainly can be attributed to the people who surround the President down at CREEP. When the Federal Bureau of Investigation finally completes its investigations into organized crime and into white-collar crime, it will be evident that a number of important political figures will have been investigated and possibly indicted.

Mr. President, I ask unanimous consent that an editorial from yesterday's Washington Post be printed in the Record at the conclusion of my remarks.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Washington Post, Sept. 20, 1972]

After the Indictments: Unanswered Questions

Now that the indictments have been returned against the five men arrested in the Democratic National Committee Headquarters—and the two ex-White House aides who are alleged to have been their helpers, co-conspirators and cheerleaders—we have heard the clash and clangor of the expected political rhetoric. Sen. Dole has demanded that Sen. McGovern apologize for all the mean things he has said about Mr. Maurice Stans, finance director of the President's re-election campaign and Sen. McGovern has called the whole thing a whitewash. The Attorney General apparently feels that the Justice Department has completed "the most extensive, thorough, and comprehensive investigation since the assassination of President Kennedy." According to reports from around the country, the people seem to feel that the whole thing is either (a) too complicated for them or (b) just another example of how politics is played by both sides.

So, this may be a good time to review the essence of this affair, because it seems to us that whatever else may be said about it, it is not—in essence—all that complicated, and neither is it exactly an every day event. To our knowledge, this is the first time in the history of the Republic that a link is alleged to have been established between a burglary and a bugging and the effort to re-elect a President of the United States. That is the simple nub of the Watergate affair, although it is true that despite the pious cries coming out of the administration and the President's campaign committee in the wake of the indictments, there are still a whole lot of questions which remain to be answered for the public before election day.

Now, let's run through the major facts of the case as they have been made public. First of all, we have known for some time that the Committee for the Re-election of the President collected $10 million prior to April 7 when disclosure of campaign donors was made mandatory and we know that, having the *legal* right to do so, the committee chose to keep its list of donors secret. Subsequently, on June 17 we learned that five men with electronic devices had been arrested before dawn in the Democratic Party headquarters. We then learned that one of those men was an employee of both the Republican National Committee and the Nixon campaign committee.

Then came news of some of the financing arrangements. Carl Bernstein and Bob Woodward of this newspaper learned that a $25,000 check, intended as a Nixon campaign contribution ended up in the bank account of one of the men arrested at the Watergate. Sometime later, the public learned that $89,000 more—intended for the campaign—had also landed in the suspect's bank account and that the money had been "laundered", i.e. made untraceable, by having been passed through a Mexican bank account. Subsequently, we learned that Mr. Stans kept a cash stash of perhaps as much as $700,000 in his office safe and that somehow the $114,000 (25+89) had passed through that unaccounted for stash. Later, we learned that just before the April 7 reporting deadline, $700,000 in cash and securities, stuffed into a suitcase, was rushed in a corporate jet from Texas to the Nixon committee's headquarters.

An interesting highlight to the secret fund and the tie between that fund and the Watergate business came to public view when it was revealed that the donor of the $25,000 check was a Minneapolis businessman—formerly a prominent Humphrey supporter—whose group later got hasty approval of a federal bank charter.

Then, came the indictments. In addition to the employee of the campaign committee and three apparent freelancers, a White House consultant—recommended for that position by the President's Special Counsel—and a former high official in the Nixon campaign committee, who was also a former member of the White House staff were also indicted. We have confirmation that the Democrats were both burglarized and bugged. And finally, we have the revelation of an aborted reconnaissance of the McGovern headquarters by the two campaign officials and the White House consultant on May 27.

So there you have the outlines of what the public knows. It all establishes a clear link between the burglary and bugging of the Democrats' headquarters, the Nixon campaign committee and at least part of the secret $10 million campaign fund. So now Sen. Dole expects apologies, Mr. MacGregor prophesies that the issue will redound to the President's political credit and, Mr. Kleindienst, among others, presumably wants everybody to applaud his department's work and to say no more for fear of prejudicing a fair trial of the seven men who have been indicted.

Well, we agree that the defendants are entitled to a fair trial and that nobody should do anything to prejudice that. But this is hardly grounds in an election year for silence across the board on a matter that bears heavily on the character and quality of the President's campaign and on the qualifications of men who are working in his name and for his cause. It is idle to suppose that responsibility for the Watergate affair could have ended with the seven men who have been indicted. And it is self-serving and silly to suggest that other aspects of this case, related only indirectly to the Watergate, are not fit subjects for public curiosity. Are we not even to mention authoritative reports that there was a list of top Mitchell lieutenants who had access to the slush fund in Mr. Stans' safe? Or the report that three of the top lieutenants—including G. Gordon Liddy—drew as much as $300,000 from that fund for unaccounted purposes? Or the report that the list of those with access to the safe plus a ledger giving the names of the donors to the $10 million secret fund were destroyed just after the burglars were arrested at the Watergate? Or the report that Hugh Sloan, former counsel to the Nixon campaign committee, "left because he . . . didn't want anything to do with it?"

And then there are the central questions. Who gave the $10 million and what did they think they were getting in return? Who authorized this venture and the transfer of campaign funds to Mr. Barker's account? How much money was laundered through Mexico and for what purposes? Who authorized that? Did any of the Mexican laundry money come from foreign nationals? Who at Nixon campaign headquarters received and used the information obtained by bugging and by burglary and where did they think the information came from—these after all were not naive men? How could Mr. Stans not know what was going on right in his own safe? And, finally, what kind of authority did Mr. Mitchell give to the fellow riders on his ship?

These are not mean questions. They go, as we have said before, to the heart of the political process and to the peoples' right to know about the people who are offering to govern them for four more years. Mr. Kleindienst's investigation by no means closes the case, for he, and therefore his subordinates, are hardly disinterested parties. Nor can Mr. Stans' indignation, Sen. Dole's anger, Mr. MacGregor's optimism, Mr. Mitchell's invisibility or Mr. Nixon's air of innocent isolation from the whole thing make them go away. *Somebody* engaged in burglary and illegal bugging on behalf of the re-election of the President and the people have a right to know who's responsible. In Mrs. Sloan's purported words, somebody has to "stand up for what is right."

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the Senator from Massachusetts (Mr. KENNEDY)——

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—I have now been able to clear this with the distinguished Senator from Oklahoma (Mr. BELLMON)—that the time which was allotted to Mr. MONDALE be restored and that I have control of that time.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, to be charged against the time under my control.

The PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded, and I relinquish the remainder of my time.

The PRESIDING OFFICER (Mr. STEVENSON). Without objection, it is so ordered.

Under the previous order, the Chair now recognizes the Senator from Massachusetts (Mr. KENNEDY) for not to exceed 15 minutes.

NIXON ADMINISTRATION OIL IMPORT POLICY

Mr. KENNEDY. Mr. President, President Nixon has been in office since January 1969.

Since his inauguration, the price of crude oil in the United States has risen 17 percent.

Since his inauguration, the price of home heating oil in the northeast has risen 20 percent. And since his inauguration, the price of residual fuel oil has risen 100 percent.

These statistics accurately reflect the balance between this administration's concern for the balance sheets of the Nation's oil giants and the pocketbooks of the Nation's consumers.

For in virtually every contest during the past 4 years in which the public interest has been pitted against the private interests of the oil companies, the decsion has gone to the oil companies.

And the result is seen in the glowing reports of the oil companies. The five majors, Standard of New Jersey, Texaco, Standard of California, Mobil, and Gulf, reported a lump sum net income of $1.8 billion in the first half of this year, and $13 billion since 1969, which is substantially better than the average American worker has done since 1969.

For the average citizen, this has meant higher home heating oil prices, rising gasoline prices and skyrocketing utility bills.

And the administration has helped to protect that profit year by year in its stubborn refusal to close the loopholes that permit oil companies to escape taxes that other businessmen must pay. The oil depletion allowance still operates to subsidize oil companies. And even the minimal effort to slice that allowance back to 22 percent was opposed by an oil-conscious administration. The loophole, even after the cutback to 22 percent, costs the Treasury over $1 billion, and other tax loopholes raise the total tax break to the oil industry even higher.

No wonder then that 93 percent of the reported contributions of members of the petroleum industry went to the Republican Party 4 years ago. And no wonder that the first in-depth study of the oil import control system, a study conducted by the President's own task force, was buried when it recommended dumping the oil import quota system.

Peter Flannigan, apparently the President's top oil and energy adviser, and the oil industry's top administration conduit, monitors the oil policy committee that has refused for 3 years to act on the recommendations of that study.

The study not only disputed the allegation that national security required an oil import system; but it found that the system was costing the Nation's consumers $5 billion a year, a sum that is expected to rise to nearly $8½ billion by 1980.

While they did not describe the system in these terms, their documented study clearly concluded that the oil import system was a boondoggle of mammoth proportions maintained to serve the financial interests of the oil industry.

The system operates very simply. Even though the price of a barrel of crude oil on the world market ranges between $1.80 and $2.40 and the U.S. price sits at approximately $3.40 per barrel, U.S. consumers cannot buy the cheaper foreign oil freely. Instead the quota system rigidly works to insure that there is no competition with domestic oil producers and works to insure that all consumers dance to the tune of the oil companies.

And the quota system operates most inequitably against the consumers of the northeast United States. The Cabinet Task Force on Oil Import Control reported in 1969 that the national per capita cost of the oil import program was $24. Yet the cost to consumers in Massachusetts was $35 a person, in New Hampshire, $39, in Maine $41, and in Vermont $45.

The reason is simple. The nine States of the Northeast consume more than 55 percent of the Nation's No. 2 fuel for heating their homes, their schools, their hospitals and their businesses. In fact they consume more heating oil than gasoline. And the phony import quota system forces these States to bear the heavy cost of supporting the price of domestic oil. Currently, the demand for fuel oil is 1 million barrels a day on the east coast, yet less than 5 percent of that can be imported and even then it must be imported from the western hemisphere.

A garrish contrast is seen by comparing fuel costs in Boston and Montreal. Oil from the Mideast is brought in at Portland, Maine, shipped overland to Montreal where it sells for some 3 cents a gallon less than we pay in Boston.

That 3-cent differential means $150 million more for New England consumers each year, including $75 million more for Massachusetts.

And since this administration has come into office, the cost of No. 2 fuel oil has risen 3 cents, meaning that New England consumers are paying $150 million more annually than when this administration came to office. And a similar story holds for the mid-Atlantic States which are paying over $240 million more than when this administration came to office.

In my own State of Massachusetts, I can point to specific examples to show the inequity that the administration's policy now produces. The Boston Housing Authority estimated a year ago that its fuel costs were up 83 percent, some $525,000. The United Shoe Corp. in Beverly found its costs had risen by $100,000. In Taunton, city fuel costs were $700,000 in 1969, $1.5 million in 1970 and $1.8 million last year.

And these costs are passed directly along to the consumer and taxpayer. They are the ones who must bear the burden of this administration's decision to place the interests of the oil companies above the interests of the people.

And this administration has refused to adopt policies to remedy the inequities of the oil import quota system.

It was a Republican President who adopted the quota system in 1959 with an alleged rationale of protecting the national security. Now we have a Republican President whose own cabinet task force has said there is no such national security justification, yet he refuses to accept their judgment.

Instead, he has fiddled and played with the mechanics of an inherently unfair system and the result has been to produce the twin evils of oil shortages and high oil prices.

In 1966, a Democratic President provided for free imports of No. 6 oil into the east coast, which then was the basic source of fuel for hospitals and industries and utilities.

Now when No. 2 oil is fast replacing No. 6 as a result of environmental standards, the administration has simply refused to recognize the problem.

Each fall we are faced with shortages to our stockpiles and there is a frantic tinkering with the machinery to try and provide on an emergency basis a supply adequate for the coming winter.

Never, however, has the administration adopted an import policy that would produce a reduction in price. Its only concern was opening the spigot barely wide enough to prevent New England homes from going cold.

And this year again, despite the administration's proud explanations last year of how it had solved the home heating problem, stockpiles were 10 percent less than they were a year ago. This week, we have witnessed the latest frantic exercise of the administration trying to prevent a winter crisis in the eastern United States that its own policies have created.

For months, observers have noted that No. 2 fuel oil stocks were being depleted and the domestic oil companies were refusing to produce No. 2 oil if they did not get a price increase. Reports of their sniffing out the possibility of price increases with the price commission were frequent.

But the administration did nothing. Instead, it waited until the last possible moment to announce a piecemeal solution that contained within it the seeds of another crisis.

First, the President raised the level of No. 2 imports 5,000 barrels a day, but only for calendar year 1972.

Second, he adopted a borrow-from-Peter-to-pay-Paul policy of permitting importers to borrow 10 percent of the 1973 quota.

Both actions reflect a continued unwillingness to adopt a permanent solution to the home heating problems of the east coast. For the President must be aware that two-thirds of the fuel oil burned in New England during a winter heating season is burned after January 1, and thus he has virtually assured another crisis in January.

In hearings just this week conducted by Senator McIntyre's Small Business Subcommittee, the hollowness of the administration's policy was virtually admitted by its advocates.

For General Lincoln, Director of the Office of Emergency Preparedness, admitted that domestic refiners are operating at near capacity today while stocks of gasoline are 7 million barrels less than a year ago and stocks of home heating oil are down 24 million barrels over a year ago.

Nor is there any bright hope in the future since domestic production has virtually peaked and domestic refiners do not expect any substantial increase in capacity.

What has been demonstrated by these hearings is that for 13 years the consumers of this country have been protecting oil company profits. Yet these companies have been pumping those profits, not into domestic exploration or domestic refining capacity.

Instead they have been soaking up tax benefits at the same time that they invest those enormous profits abroad.

Now there is no possible way for domestic production to meet our increasing demand. The result is that we will have to import—no longer merely to lower domestic prices but to come close to meeting domestic demand.

Under those circumstances, the import quota system makes little sense.

And the action taken by the President this week is about as effective as pasting a band-aid on a dying man when what is needed is corrective surgery.

And the President can carry out that surgery with a fountain pen by signing his name to an Executive order abolishing the import quota system.

With one signature by the President, he could reduce consumer prices for citizens in every State in the Union. With one signature, he could permanently remove the threat of winter home heating oil shortages from the east coast. With one signature, he could stimulate competition.

But he will not take that step. He will not sign that paper. And the basic reason is that this administration owes more and expects more and is concerned more with the profits of the oil industry than with the pocketbooks of the Nation's consumers.

Finally, Mr. President, I just want to underscore the point that was mentioned earlier, that if the justification for the oil import program is national security, than we in the Northeast who consume approximately 55 percent of the Nation's home heating oil should not have to bear additional burdens, prices, or expenses that other parts of the country do not share.

We have 6 percent of the population. We consume 55 percent of the home heating oil, and if the oil import quota restrictions are justified on national security grounds, then the cost of the program should be borne equitably throughout this country.

But more important, I cannot imagine how anyone could believe there is a national security reason for the oil import program. It would seem to me that, in terms of our national security, it makes much more sense to use up the oil that is available in other parts of the world today and preserve some substantial portion of the oil resources that exist in the United States. That makes more sense, so far as the national security of this country is concerned.

If there ever is a conflict with the Soviet Union or one of the other great powers, then the shipping lanes will be threatened. It seems to me we might want to preserve an oil reserve in the United States for that eventuality. Therefore, what we ought to do, both in terms of consumer interests, which means lower prices, and in terms of national security interests, is to use the cheaper oil that exists and is available in other parts of the world now, in order to preserve the oil that exists in the United States. And it should also be noted that the President's Cabinet report found no security justification for the quota restrictions.

There are import restrictions on oil which deny lower prices to the consumer; yet there is an open market on shoe and textile imports, which throw people out of work in New England. So there is a dual standard; and this administration, which has had the benefit of the oil import study, has refused to adjust to this particular problem. As a result, we have seen industry, hospitals, and homes forced to pay these escalated prices.

When the President acts to reduce increased meat prices, he talks about importing more meat and beef; yet when we in New England talk about a problem which has existed for far too long in our part of the country, all we get is a deaf ear.

I think the people of the Northeast know this. They are tired of it. They are demanding some kind of change. They deserve it; and I would certainly hope that the President would provide permanent and meaningful relief to the people of the Northeast.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. Stevenson). Under the previous order, the distinguished Senator from Arizona (Mr. Fannin) is now recognized for 15 minutes.

THE TRUTH ABOUT THE SALE OF GRAIN TO RUSSIA

Mr. FANNIN. Mr. President, we have heard a great deal recently about the grain deal with Russia and about what has happened. There has been a great deal of criticism about it. Still, when we consider that it has been the desire of this country to expand its markets, and since we have been able to start what could be a tremendous East-West trade program, it is difficult for me to understand why this program would not be enthusiastically received by all Americans interested in the economy of the country and in building a good relationship with other countries of the world.

Mr. President, in a campaign document called "McGovern on the Issues" which circulated widely during the primaries, Senator McGovern included a section on agriculture. It said:

> McGovern proposals include—100 percent parity on wheat.

In the Congressional Record of April 21, 1972, Democratic Representative James Abourezk of South Dakota offered up Senator McGovern's agriculture positions in an entry entitled "Senator George McGovern; Income and the Future of the Family Farm."

In volume 118, part 11, page 13990 of the Congressional Record, Senator McGovern said:

> The Secretary of Agriculture has the authority to set price supports at 90 percent of parity. This authority should be used until a program is devised which would insure 100 percent of parity.

On three other occasions—and reading the Congressional Record is certainly instructive—referring to bills introduced in Congress, the following is found:

> 1967—"By Mr. McGovern: S. 7. A bill to provide a special export wheat payment to farmers for a portion of crops of wheat and to provide that price support for corn, beginning with the 1967 crop, shall be at a national average rate of not less than 90 percent of parity, and for other purposes; to the Committee on Agriculture and Forestry." (Congressional Record, vol. 113, pt. 1, p. 190.)
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> 1969—"By Mr. McGovern: . . . S. 236. A bill to provide a special export wheat payment to farmers for a portion of crops of wheat and to provide that price support for corn, beginning with the 1969 crop, shall be at a national average rate of not less than 90 per centum of parity, and for other purposes; to the Committee on Agriculture and Forestry." (Congressional Record, vol. 115, pt. 1, p. 1010.)
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> 1972—"By Mr. McGovern: S. 3138. A bill to provide price support for milk at not less than 90 per centum of the parity price therefor. Referred to the Committee on Agriculture and Forestry." (Congressional Record, vol. 118, pt. 3, p. 2808.)

Mr. President, what I do not understand is why there is this great hue and cry about the grain sales to Russia.

The first accusation made is that the grain sale credit agreement with the Soviet Union was negotiated in April and was not announced to farmers and the public until July 8.

This accusation is absolutely false. The agreement on credit was negotiated starting June 28 and was completed on July 8. The details were announced to the public immediately after the agreement was signed. So the statement that the sales agreement with the Soviet Union was negotiated in April is absolutely false.

Another accusation is that farmers were not notified of the agreement and thus sold wheat before they were aware of the agreement.

It has been brought out in the past few days, according to the Crop Reporting Service of the U.S. Department of Agriculture, that farmers 1 week after the agreement was signed still retained control of approximately 83 percent of the 1972 and old crop wheat stocks.

That certainly answers that accusation.

Another accusation made is that rising wheat prices automatically reduce wheat certificate payments, which make up the difference between market prices and support levels on wheat used for food in this country. Thus farmers did not benefit materially from the Russian purchases.

That is absolutely untrue. Wheat certificate payment to farmers will be reduced approximately $130 million, but farmers will benefit from increased prices for wheat sold for export, which will be the largest in history this crop year. The value of feed grain, wheat, and soybean stocks controlled by farmers, including the 1972 harvest, will increase in value by approximately $1 billion, primarily as a result of the sales to Russia.

Then there is another accusation, that the Russian housewife is being subsidized by the U.S. taxpayer.

Well, the fact is that the export equalization payments on wheat exports to Russia, which make up the difference between U.S. export prices and higher prices paid to U.S. farmers for wheat, are the same as the export payments made on wheat shipments to Japan or any other country. The export equalization payments on the sale of wheat to Russia will cost approximately $120 million. Offsetting this cost is an estimated 4-to-1 return to the U.S. Treasury arising from the Russian sale. The estimated Treasury and tax savings of $500 million comes from higher returns from wheat stocks held by the Government, lower certificate costs, and lower wheat program costs for next year.

Another accusation made is that exporters were tipped off to a potential change in the export payment program a day and-a-half in advance and used this to their advantage.

That is not a fact. The fact is that exporters were called and notified that a change in export policy had been made on sales made prior to the previous day. This was to immediately prevent overselling of certain classes of wheat. This was the procedure that should have been followed—and it was. No information was given to them concerning what action would be taken. That was determined the next day and announced publicly after the market closed. Since the change in export payment applied to sales previously made, the information would not be to any exporter's advantage.

Then there was another accusation, that the Department suppressed a July agricultural attaché report from Moscow indicating crop conditions in Russia were deteriorating.

That is not true. The fact is, the report was a part of an ERS evaluation which was released to the press and was published in such papers as the New York Times, and the Journal of Commerce and received wide circulation.

Another accusation—and I could go on and on, but I give just one more—the Russians received more favorable treatment in the purchase of U.S. grain than other U.S. customers.

The fact is, the Russians purchased grain under the same competitive conditions as any other foreign buyer. No concessions were made on credit terms and no concessions were made on price to Russia. Any nation purchasing wheat from U.S. firms has had the same information and terms available to them as any other nation.

Mr. President, this illustrates perhaps the concern on the part of some people that this administration has been successful, that it has been able to carry through programs never considered possible before. I think there is an element of jealousy generated by this successful accomplishment. I say successful because certainly when we increase our markets for the farmers to the extent that it has been done in the past few weeks through these negotiations, we should be very proud of that success and not apologize for it in any way.

The President seems to be criticized so much in the press about this matter that perhaps there is a misunderstanding as to just what has happened.

To be sure that there is no misunderstanding that everything is thoroughly examined, President Nixon has ordered the FBI to investigate the $750 million sale of wheat to the Soviet Union. The inquiry will be conducted to determine whether anyone has made undue profit due to "misinformation or improperly revealed information on the part of the Federal Government."

As I said, this has been brought out because of the charges made by the Democratic Presidential nominee, GEORGE MCGOVERN, that large grain dealers were given advance information concerning the deal which enabled them to purchase large amounts of grain at lower prices before any public announcement was made.

Mr. President, I think that what I have said before establishes the record, but just to summarize, the two leading members of a House subcommittee investigating the sale of American wheat to the Soviet Union said a few days ago that they could see no wrongdoing on the point of a major figure in the investigation of the deal. Former Assistant Secretary of Agriculture Clarence Palmby had testified before the subcommittee that he had no definite knowledge when he quit his post in June that a United States-Soviet trade deal would be concluded although he had said publicly such an agreement was possible. He said he had no inside information concerning a pact when he joined a private grain firm and produced figures to prove his company did not reap any undue profits from a sale to the Soviets. After his testimony Chairman GRAHAM PURCELL, Democrat of Texas, said he was reserving judgment concerning some aspects of the Department's operations but Palmby's actions had had been totally proper. Representative WILEY MAYNE, Republican of Iowa, said there was nothing to show "any illegal, unethical, or improper conduct."

Mr. President, charges of improper conduct have been presented solely from a political point of view. I think that it is harmful to future negotiations and to those that may be going on with some other countries of the world when this matter is turned into a political affair. I think that it could be damaging to our countries.

Mr. President, politics affects the work of our country in promoting exports and in handling the imports. Therefore, I think we should see in proper perspective just what is happening. I do not think that the President has any doubt that it was properly handled, and the President has leaned over backwards to satisfy the American people that it was in order.

Mr. President, on the same subject insofar as it affects foreign affairs, I refer also to a matter of importation. We know that there is a great energy crisis in this country. We do not say it should be answered solely just by importing more products. As far as the energy crisis is concerned, we do not want to be dependent on other countries of the world to any greater extent than necessary.

We are trying to develop our own resources, both here on the continent and in other parts of the world. If we could develop our resources in Alaska to a greater extent, it would be tremendously helpful. Action is going forward in this direction. I think that we are making a big step toward increasing our importation here in this country.

We have witnessed in the past few months changes in some of the policies concerning the interstate gas transactions, brought about because of a recognition that this would be of great assistance in helping to overcome these shortages and failures. However, we still face an energy crisis.

President Nixon signed on September 18, 1972, a proclamation authorizing the importation of an additional 622,000 barrels of oil per day for the last quarter of this year. The President has continuously taken into consideration what our needs are in this country as far as our oil supplies are concerned and has acted accordingly.

The President's action at this time was based on the advice of George Lincoln, the Director of the Office of Emergency Preparedness and chairman of the Oil Policy Committee, who determined that domestic production has not kept pace with increasing demands. This action expands by 35 percent the daily level of oil imports into the United States and was the second Presidential adjustment this year on oil import quotas. The move was designed to ward off threats of a home fuel crisis and potential price increases in the event of a shortage.

Mr. President, I commend the President for taking this action.

PROPOSED ORDER FOR ORDERING THE YEAS AND NAYS ON S. 555

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. FANNIN. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask that it be in order to order at this time the yeas and nays on S. 555.

Mr. SCOTT. Mr. President, would the distinguished Senator withhold that request temporarily? Since I discussed it with the Senator from West Virginia, I understand that the Senator from Colorado wishes to be present. Would the Senator give me a few moments to get the Senator from Colorado here?

Mr. ROBERT C. BYRD. Mr. President, we tried to get the yeas and nays last night. As the Senator knows, we will be able to get them eventually. This is just a matter of saving time.

Mr. SCOTT. I know that it will be possible to get them. However, I did not know a moment ago when I spoke to the Senator from West Virginia that the Senator from Colorado (Mr. DOMINICK) wanted to be present.

Mr. ROBERT C. BYRD. Mr. President, I withdraw the request.

ORDER OF BUSINESS

The PRESIDING OFFICER. At this time, the Senator from Connecticut (Mr. WEICKER) is recognized for not to exceed 15 minutes.

UNKEPT PROMISES

Mr. WEICKER. Mr. President, yesterday the Senate passed S. 2818, a bill to ban the cancer-causing substance, DES, in cattle food. A copy of that bill was on my desk and on the desk of all Senators.

That copy stated that Mr. PROXMIRE, on behalf of himself, Mr. CASE, Mr. KENNEDY, Mr. MOSS, and Mr. RIBICOFF sponsored the bill, which had been read twice and referred to the Committee on Labor and Public Welfare.

However, in the November 8, 1971 issue of the CONGRESSIONAL RECORD, volume 117, part 30, page 39734, there is a little item, appearing under Statements on Introduced Bills and Joint Resolutions, which states that S. 2818 was introduced by Mr. PROXMIRE, for himself, Mr. MCGOVERN, Mr. CASE, Mr. MOSS, and Mr. RIBICOFF.

On February 24, 1972, there again appeared a small item in the CONGRESSIONAL RECORD, under "Removal of Cosponsors from S. 2818," which stated:

> Mr. PROXMIRE. Mr. President, I ask unanimous consent that the names of the Senator from South Dakota (Mr. MCGOVERN) and the Senator from Indiana (Mr. BAYH) be removed as cosponsors of S. 2818, an amendment of the Federal Food, Drug, and Cosmetic Act.

So, Mr. President, this morning I would like to attempt to give an answer to what transpired between November 8, 1971, when the Senator from South Dakota (Mr. MCGOVERN) was cosponsoring the DES bill and yesterday, when that bill passed this body without the sponsorship of the distinguished Senator.

Mr. President, I have heard it said that a politician is known by the promises he keeps.

There was great promise—promise for the long abused American consumer—in the DES legislation that passed the Senate yesterday. However, the men that made that promise were not the same men who kept the promise.

The bill to ban DES in cattle food, a bill to remove cancer-causing agents from the consumer's meat purchases, was brought to the Senate on November 8, 1971. The men who sponsored this much needed consumer protection were Senators MCGOVERN, CASE, MOSS, RIBICOFF, and PROXMIRE.

But as the legislative progress of this bill came to a close yesterday, one of those distinguished Senators was conspicuous by his absence. Senator GEORGE MCGOVERN's name had officially been dropped as a cosponsor of this consumer legislation.

It may be that some people are so busy learning the tricks of the trade that they have no time for those who suffer from the effects of the trade.

Or it may just be another piece of indecision, the kind of indecision that has become a scrap heap of discarded friends and principles.

Whatever the case, on November 8, 1971, Senator PROXMIRE stood before the U.S. Senate to introduce legislation for himself—and I quote now from the CONGRESSIONAL RECORD of that date—

> And for Senators MCGOVERN, CASE, MOSS, and RIBICOFF to ban the use of diethylstilbestrol—DES—to artificially stimulate the growth of livestock destined for America's dinner tables.

I am still quoting Senator PROXMIRE:

> This controversial drug is a proven carcinogen, or cancer causing agent, yet it is currently used to promote weight gains in cattle and sheep slaughtered for human consumption.

Certainly there can be little question that DES is a bad bargain for the consumer.

Why then did the distinguished Senator from South Dakota appear in the CONGRESSIONAL RECORD on February 24, 1972, with a request that—and I now quote from the RECORD of that date—his name "be removed" as a cosponsor.

Could it be that the mercantile interests in South Dakota, the cattle business to be specific, educated their distinguished Senator?

Or could it be that the Senator from South Dakota does not know where he stands on this rather well-defined issue?

Could it be that the first "plan" had to be scrapped for a "new plan"?

Why the loud silence in erasing the evidence of cosponsorship? Why the silence in the CONGRESSIONAL RECORD or elsewhere on the shift?

Why is it that when constituents from my home State of Connecticut called the Senator's campaign headquarters here in Washington yesterday they were told the Senator had no position on the DES issue? Was it really no position? Or is it that the Senator loved DES in February as he had not in November?

Come home, Senator MCGOVERN, to the Senate and explain yourself to the millions of consumers across this land, who need to know which promises for the future will be kept.

Can this be the same distinguished Senator who has said—and I quote—

> The Executive branch must use its power to expand consumer information and protection.

The Senate of the United States and the National Cancer Institute have said no to the Nation being "a research laboratory on this kind of issue."

In light of his chameleonism, rather than his consumerism, I ask Senator MCGOVERN, DES—Yes or no?

Mr. SCOTT. Mr. President, if the Senator from Connecticut has time remaining, I would like to ask him to yield for a few quesitons.

Mr. WEICKER. I yield to the distinguished Senator from Pennsylvania.

Mr. SCOTT. Mr. President, would the distinguished Senator from Connecticut agree that it is difficult to know the views of the candidate of the opposition party, since he has been absent from the Senate for most of these votes? I believe his attendance record is 28 or 29 percent. Does not that contribute to the Senator's difficulty in arriving at any ascertainment of the Senator's present views on these matters on which we are legislating?

Mr. WEICKER. It is very, very difficult to ascertain his views, and I would much prefer that he be standing here in order to answer this question, far better than my asking the question of an empty seat.

Mr. SCOTT. I commend the Senator for having brought out the fact that on a particular bill where the Senator was a cosponsor, he, for reasons which must have seemed to him sufficient, caused his name to be withdrawn as a cosponsor. I believe there should be as much publicity given, if one wishes to talk about disclosure, to the withdrawal of cosponsorship as there is to cosponsorship.

Mr. WEICKER. I concur with the distinguished Senator from Pennsylvania, because I am sure that when this bill was cosponsored there was a great flurry of activity on the part of the junior Senator from South Dakota, as he explained his ventures on behalf of the consumers of America. But now the consumers of America do not know that he is no longer interested in sponsoring this legislation which passed yesterday, almost unanimously. It is not just that he was not here to vote on the measure, but he also apparently does not want to be associated with it.

So if there are points to be made in South Dakota from his withdrawal of cosponsorship, and I think there might be, it is important that my constituents in Connecticut understand that on this piece of legislation the business interests of South Dakota come first.

Mr. SCOTT. Could the Senator explain why the Senator who is the candidate of the opposition has made speeches criticizing the rise in the crime rate but failed to be present in votes on four or five crime bills this week; and why the Senator who is the candidate of the opposition party, who has become an authority on health matters, failed to be present to vote on a number of important health bills, including the health maintenance organization bill yesterday; and why the Senator who is the candidate of the opposition party, who is an expert on foreign policy, failed to be here to vote on the interim agreement or the SALT agreement; and why the Senator who is the candidate of the opposition, who is an authority on revenue sharing, failed to explain to the people of the country, or the mayors and Governors of the country, why he was not present to vote on revenue sharing?

Mr. WEICKER. I might also point out another very important matter in which the Senator failed to participate or vote, since the distinguished Senator from South Dakota has many times expressed a desire to assist the plight of the poor in our American cities. Very important legislation, introduced by the Senator from Massachusetts (Mr. KENNEDY), the distinguished Senator from Maine (Mr. MUSKIE), the distinguished Senator from Kentucky (Mr. COOPER), and myself to increase mass transit facilities in American cities, to enable the poor to move within those cities and to get to their jobs and not have to rely on automobiles. Certainly there was no assistance at all on the part of the Senator from South Dakota in this matter.

Mr. SCOTT. He has conducted a campaign based on the difference between promise and performance, but could his positions stated on the road be regarded as promises and his failure to vote in the Senate or to testify in committee be considered as nonperformance? Does the Senator agree?

Mr. WEICKER. It would certainly seem that way to me. We have a job to do here. I believe, and the distinguished minority leader would know better than I, that at least 2 more weeks of business must be concluded on this floor, business that affects the State, the poor, and the consumers, right down the line. This is the business of the country. And it is the business, it seems to me, of every Senator. If he does that job and does it well it is good politics, but apparently there is more to be gained on the road, while there are those of us here and in the executive branch attempting to make a better United States through our actions and not through words.

Mr. SCOTT. Does it not seem that the absence of the candidate of the opposition, who also happens to be a Senator from South Dakota, is one which weighs heavily on all of us who would like to see Senators in the full performance of their duties, as well as of their faculties and thoughts, too deep for tears suffuse me at this concept?

The PRESIDING OFFICER. The 15 minutes of the Senator have expired.

ORDER OF BUSINESS

Under the previous order the Senator from Pennsylvania (Mr. SCOTT) is recognized for not to exceed 15 minutes.

POLITICAL SPEECHES IN THE SENATE

Mr. SCOTT. Mr. President, this daily exercise—this daily setting up exercise—whereby some Senators on the other side of the aisle set up targets and then Senators on this side of the aisle knock them down, it seems to me, in all candor, is a bit unfortunate. It diminishes the effectiveness of the Senate when it is used as a sort of political cesspool. It slows up the business of the Senate. And I have suggested—and renew my suggestion—to the leadership on the other side of the aisle, who have no part in this tactic, I am sure, that any time the Senators who are daily engaged in this hammering technique wish to get back to business, we on this side would be relieved of the responsibility to reply, and that if we do not have to engage in any of this, then we can get on with the business of the Senate. But I say, too, if they are going to try these diversionary tactics, they will be met with reply, rebuttal, and a riposte. I think this is a kind of hammerhead shark technique, cruising around underwater to slash at would-be prey.

Take, for instance, the criticism of the Secretary of State and the Secretary of Defense for responding to charges made against their conduct of foreign and domestic policy. That criticism has nothing whatever to stand upon, because it is the critics who have forced these replies.

The late Senator Vandenberg's famous dictum in foreign policy matters—that bipartisanship stops at the water's edge—is still good, and members of both parties have, until this election, observed a decent regard for the necessities of executives and the conduct of foreign policy by those executives, whether the Congress was of the same party as the executive or another. That valuable tradition has been broken by injecting foreign policy into this campaign as a major issue and by assaulting the Secretary of State and the Secretary of State's implementations of that foreign policy.

So when the Secretary properly replies that the charges are ridiculous, he is accused of making a political reply. That is nonsense.

The same thing happened with respect to the Secretary of Defense. Normally, the Secretary of Defense does not campaign in a political campaign, but when the Department of Defense is accused of not doing anything about the draft, and the Secretary of Defense replies he is ending it, and when the Secretary of Defense is accused of carrying on a war, and the Secretary of Defense outlines how the President and he, under the President's instructions, are ending it, he is accused of engaging in politics. The very ones who accuse them are the very ones in Congress who summon these witnesses to testify before committees and then refer to the answers as political. This is self-serving, and they really ought to be ashamed of doing that.

I dealt yesterday with the humbuggery of the wheat sale critics. Suffice it to point out that farmers stand to profit by $1 billion through these favorable transactions. The farmers are not criticizing, but the politicians who like the farmer for political dirt are busy in their criticism. This is not because the farmer is not profiting, but because, by reason of the farmer's receiving more money for his products than he has for some time, he will know to whom to be grateful. The party of the opposition has nothing to gain except the conclusion of the farmer that, had it been in power, this kind of favorable result probably would not have taken place.

As to the financing of campaigns, both political parties are bound by the rules of the law we passed, and most of us—except the Senator from South Dakota, who may or may not have been here; no one ever knows—joined in debating and voting for the campaign financing law. We fixed the deadline. By our act, by our fiat it was provided that those contributions, up to a certain date, not be required to be disclosed, nor that anyone be required to disclose for them such contributions, and that after that date there was to be full disclosure. This was worked out by members of both political parties. Neither party has a patent on it. Neither party has the right to claim the benefit for it.

The fact is that Senator MCGOVERN's campaign committees were guilty of at least seven major violations, as charged by the junior Senator from Kansas and never satisfactorily rebutted.

Some Senators speak of their concern about electronic surveillance, but not one of them, even up to this moment, has had his conscience sufficiently nudged to condemn the most recent example of that technique—the basement caper of John Kerry's brother and his pals in the congressional primary of their party in Massachusetts.

This does not excite anyone. It does not cause great news. The newspapers virtually ignore it. This is so because these gentlemen have white hats, and there is attached to them future sainthood, they already having been anointed in the press for great things. They have their eyes lifted upward toward heaven, and they cannot be criticized by those who are promoting them for future advancement to public office. I ask only that John Kerry be given equal time in the hall of defame among those who have still a modicum of fairmindedeness in their system.

What is the purpose of this daily exercise in frustration, as conceived by members of the majority staff who are acting as recruiting sergeants for willing Senators?

The answer: How to escape from the dilemma created by the Candidate McGovern's staying away from the Senate and the Senate staying away from McGovern? The way to get at that is to try a diversionary operation. Look for targets of opportunity. Fire at will.

That reminds me of the old story of the drill sergeant who told the recruits to "Fire at will." One of them waved his gun around vaguely and generally and said to the sergeant, "Which one is Will?" I think that is our problem. If they cannot find the target they are looking for, they grab a shotgun and scatter the pellets all around, hoping that at least one of them will wing something.

I wish that everybody concerned could stop this futile folly of trying to grab attention up here on Capitol Hill to get a Washington dateline for the purpose of trying to balance out a floundering candidate who has been trying to stop his bottoming out; but since he has an endless bottom, the bottoming out has yet to happen. While the fate of the candidate sinks further and further into the Slough of Despond and he is flailing at opportunistic targets and lands no blows, gallant Senators who wish they could do something for him without having to mention his name have submitted themselves to this recruitment in this sad and forlorn cause.

I say, "Let's stop it. Let's get on with the business of the Senate. You are forcing us to use time that ought to be used on legislation. If you will just confine yourselves to press releases, I renew a commitment I made previously. Instead of making these charges on the floor of the Senate, put them all in press releases and send them up to the Gallery. They won't get any more attention there than they are getting now, but send them up. After all, some of the members of the press can use the blank backs of those press releases for scratch pads. But send them up, and I make my offer once more, that the majority leader and I each designate a Senator, hopefully with time on his hands, to read all the speeches that are sent up to the Gallery for political purposes. Sometime between now and Inauguration Day—I originally said Christmas, but I do not want to interfere with the holiday season, and I think up to Inauguration Day would give us a fair time to do it—if we can catch some Senator on our side, and I can run him down, I will designate him as our reader in chief, and if the other side will have a reader in chief, then we can avoid all this futility and get on with the important business of the Senate."

Mr. President, that is about it. I shall have something to say tomorrow, and tomorrow, and tomorrow, as they creep in their petty pace from day to day, as each of the bitter charges piles itself upon another, in a minuscule attempt to compete with Ossa high on Pelion piled. But the higher we are piling Ossa on Pelion, I think everyone knows what we are really piling up here, and it is time we stop it.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. Stevenson). Under the previous order, there will now be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes each.

POLITICAL SPEECHES IN THE SENATE

Mr. FULBRIGHT. Mr. President, I was a little taken aback by the statement of the Senator from Pennsylvania. I have been here for more than an hour, and the only rather vicious attack upon anyone was that made by the Senator from Pennsylvania. I think he protests too much. I had not heard, this morning, at least, anything which would call forth such a violent and heavy-handed reaction. What I have heard so far has been rather mild.

THE INTERIM AGREEMENT ON OFFENSIVE WEAPONS

Mr. FULBRIGHT. Mr. President, I wish to state for the information of the Senate that the Senate has appointed conferees on the interim agreement. We asked for them the day it was passed. The House has so far not named conferees. I only wish to explain that the delay in the final approval of the interim agreement is the responsibility of the House of Representatives. The Senate conferees are ready to meet with the House conferees at any time, and it should not take very long to dispose of it.

I am informed informally that the House is unwilling to accept all of the language of the Senate bill, that the members of the House committee would like to accept most of it, and informally, without contacting any of the Senate conferees, they have urged staff members to take the initiative to "clean up" the language of the joint resolution.

I do not wish to be a party to any such informal arrangement. If they are unwilling to have a conference, then they can take the Senate resolution as it passed. That is their right, as I understand. But other than that, I see no reason for any further delay.

PARTISAN POLITICS AND THE SOCIAL SECURITY INCREASE

Mr. FULBRIGHT. Mr. President, the effort by President Nixon to take credit for the forthcoming increase in social security benefits is not only blatantly political, but highly hypocritical as well.

It was bad enough for speakers at the Republican Convention to praise Nixon for bringing about a social security increase which he actually opposed. Now, however, we have the outrageous example of the planned inclusion with social security checks of a printed message which implies that the President was somehow responsible for the increase.

This injection of partisan politics into social security payments is in itself deplorable. It becomes especially offensive in this case in view of President Nixon's opposition to the legislation which provided the increased payments. As the Senator from Idaho (Mr. Church) has pointed out, the 20-percent increase was enacted over vigorous and persistent administration opposition.

The message which would be included with the checks to be mailed to 28 million Americans receiving social security checks next month would read:

> Your Social Security payment has been increased by 20 percent, starting with this month's check, by a new statute enacted by the Congress and signed into law by President Nixon on July 1, 1972.
>
> The President also signed into law a provision which will allow your Social Security benefits to increase automatically if the cost of living goes up. Automatic benefit increases will be added to your check in future years according to the conditions set out in the law.

The President, who proposed a 5-percent increase instead of the 20-percent increase approved by Congress, is trying to claim credit for the larger increase. As one who supported this reasonable and needed increase, I resent the President's actions. He is using money from taxpayers to pay for this propaganda which would go to all 28 million social security recipients.

Mr. President, the irony of this whole episode is heightened by the fact that at the time of the passage of this legislation, the President indicated that the Congress was being irresponsible because sufficient funding would not be available. He ignored the fact that the amendment contained not only the 20-percent increase, but also the necessary adjustment in social security taxes to pay for the increase. Now, the President has apparently forgotten all about his baseless charges of irresponsibility, and is trying to claim credit for the increase.

Mr. President, this increase in social security payments was justified in view of the rising cost of living, particularly the costs of food, medical care, and property taxes, items which hit older citizens hard. The increase was vital to many of our elderly citizens and is going to mean that some 1.5 million persons over the age of 65 will benefit substantially from this increase.

I think it is important for the American people to have the facts, so they are not deceived by this propaganda effort.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MANSFIELD. Mr. President, I ask for recognition, and yield my time to the Senator from Arkansas.

Mr. FULBRIGHT. I thank the majority leader.

PRESIDENT NIXON FIELDS HIS CABINET

Mr. FULBRIGHT. Mr. President, I am bound to say that this defense by the Senator from Pennsylvania of the activities of all of the various members of the Cabinet who have been designated as the political propagandists in this campaign is rather strange. I have never, since I have been in politics, seen so many of the Cabinet Secretaries, especially those holding the positions of Secretary of Defense and the Secretary of State, take such an active part in the campaign. Secretary of Agriculture Butz, who has been to my State only recently to make a "salute to Nixon" speech, also, I think, bears a heavy responsibility for this.

According to the September 25 issue of Newsweek magazine, Cabinet members and others whose salaries are paid by the public are crisscrossing the country daily in behalf of the Nixon campaign, coordinated by a computer. Newsweek named Cabinet members Rogers C. B. Morton, George Shultz, John Volpe, Elliot Richardson, Earl Butz and James Hodgson, plus Presidential advisers Robert Finch and Virginia Knauer. These are, of course, only a few of those on the public payroll who have been assigned to campaign.

I would only sum up by saying that I think whatever speeches have been made here on the Senate floor are a very minor part of the effort to set up a political exercise within the Senate. They have not been, I think, nearly as bitter, nor as critical nor have they employed such language as the Senator from Pennsylvania uses. The issues arising out of the Watergate incident and the wheat sale are very substantial issues, and I think they deserve discussion in public without any implication that they are solely of a political nature.

THE CASCADIA RESERVOIR PROJECT

Mr. PACKWOOD. Mr. President, all of us talk about the necessity for frugality in government. All of us are perpetually pointing to examples of waste, or projects that do not have sufficient factual foundation to justify continuance. If we are to be true to ourselves and fulfill our obligations to this country and to our States, then the same searching fiscal spotlight should be focused on projects within our respective States as on those outside.

With this in mind, Mr. President, I wish to place before the Senate today the findings of the General Accounting Office resulting from their review of the computation of the flood control benefits for the proposed Cascadia Reservoir project in Oregon. This GAO study was begun in August 1971, at my request, and in March of this year, GAO representatives presented a midway briefing in my office, attended by personnel of the other Oregon congressional offices. That was one of the finest briefings I have ever had by an agency of the Federal Government, and this report GAO has now given me substantially confirms what they told us during that briefing.

This has been a unique experience for me. This study has involved two Federal agencies—one doing the investigating, and one whose past actions were being investigated. In both instances, I have been extremely impressed with the professional attitude, and responsiveness to duty.

As far as I know, this is the first time the Corps of Engineers' activities on a specific proposed project have been studied by the GAO.

I requested this GAO study after receiving considerable mail in opposition to the project, in favor of protecting the South Santiam River and in support of bringing it into the Oregon scenic waterways system.

Many of these Oregonians questioned the project's costs and its purported benefits.

Of course, many folks in and around the project area had wanted and looked forward to this project since it was first conceived in the early 1950's. As I began to look into the pros and cons of the project, I determined to have a thorough, impartial, and comprehensive review done, and made my request of GAO.

To be quite frank, I did not anticipate the kind of response demonstrated by the Corps of Engineers in Portland. I rather anticipated a reluctance, a halfway effort and downright stubbornness by the corps personnel who became involved in this investigation, but under the guidance of Col. Paul Triem, district corps engineers, we saw a complete shattering of this preconception. In all instances reported to me, Colonel Triem's staff cooperated and aided the GAO in their investigation. With this kind of cooperation and good will, one hoped the corps would emerge intact, with no criticism from its investigators. Unfortunately that did not occur, and in their report the GAO has summarized their findings, listing, among other things, the insufficient data, inadequate studies, and shortcomings of the corps computation of benefits.

But with professional resilience the Portland office of the Corps of Engineers bounced right back, and agreed with the GAO that additional studies were needed, and stated they were planning studies to verify damages estimated for flood stages beyond the 100-year level. This corps office also further stated its plans to study and develop more supporting data on the economic growth of the flood plain. It is my understanding that the corps' Portland office let its first contract on June 30, 1972 to map the river in the Portland area and to develop procedures for studying other locations on the river.

Mr. President, I have often challenged certain dams and other major Federal activities, both within my State of Oregon and in this Nation, on environmental grounds. This, however, is a new rung on the ladder for me, as I asked for this study primarily on economic grounds. It is my desire to make this one-of-a-kind study available to other Members of the Senate and the House of Representatives who may have an interest, and I, therefore, request unanimous consent to have the General Accounting Office's report on the computation of flood control benefits for the Cascadia Reservoir project, Oregon, not adequately supported, printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

COMPUTATION OF FLOOD CONTROL BENEFITS FOR THE CASCADIA RESERVOIR PROJECT, OREGON, NOT ADEQUATELY SUPPORTED

(By the Comptroller General of the United States)

COMPTROLLER GENERAL OF THE
UNITED STATES,
Washington, D.C.

Hon. BOB PACKWOOD,
U.S. Senate.

DEAR SENATOR PACKWOOD: This is our report on inadequate computation of flood control benefits for the Cascadia Reservoir Project, Oregon. Our review was made pursuant to your request of August 6, 1971. Whereas the matters presented in this report have been discussed with officials of the Corps of Engineers, we have not obtained the comments of the Department of the Army.

We plan to make no further distribution of this report unless copies are specifically requested, and then we shall make distribution only after your agreement has been obtained or public announcement has been made by you concerning the contents of the report.

Sincerely yours,
ELMER B. STAATS,
Comptroller General of the United States.

COMPTROLLER GENERAL'S REPORT TO THE HONORABLE BOB PACKWOOD, U.S. SENATE

WHY THE REVIEW WAS MADE

At the request of Senator Bob Packwood, the General Accounting Office (GAO) reviewed the Corps of Engineers' computation of flood control benefits for the Cascadia Dam and Reservoir, a multiple-purpose project to be located on the South Santiam River in the Willamette River Basin, Oregon.

Background

Cascadia—one of 14 dams completed or planned in the Willamette River Basin—is intended to control floods for 160 miles from its site on the South Santiam River to the Columbia River, an area which includes Salem, Oregon City, and Portland.

The estimated cost to construct Cascadia increased from $28.4 million at the time it was authorized in 1962 to $58.4 million as of January 1972. Although about $1.1 million had been appropriated to study the Cascadia project through fiscal year 1971, funds to construct the project have not been appropriated.

FINDINGS AND CONCLUSIONS

The Corps' computation of flood control benefits is not adequately supported in three key areas.

Cascadia's ability to control floods

The Corps' Portland District Office estimated that Cascadia would provide some control over all floods in the Willamette River Basin up to that flood which would occur once in 10,000 years. However, the district did not study or demonstrate the project's capability to control floods greater than that which would occur once in 500 years. About 24 percent of Cascadia's benefits are attributed to its capability to control floods more severe than the 500-year flood level.

Determining flood damages

The district estimated the damages which would result from all possible floods up to a flood so severe that it probably would occur only once in 10,000 years. Damage surveys of the 1955 flood, and the 1964 flood—the highest recorded flood, which has a probability of occurring once in 100 years—were used to establish damage values. However, the district performed no studies to project flood damages from the 100-year flood to the 10,000-year flood. About 62 percent of Cascadia's flood control benefits are based on the projected damage values for floods greater than the 100-year level of severity.

Projecting future growth in the flood plain

The district determined the value of property in the flood plain by estimating normal growth, induced growth (caused by the greater use of property made possible by increased flood protection), and the effects of protective measures such as flood plain zoning and floodproofing.[1]

Data on the total Willamette River Basin was used to estimate normal growth; this data was not supported by specific studies of potential growth within the area Cascadia was to affect. Professional judgment, rather than specific studies, were used to project induced growth and zoning's potential effects on growth.

Reporting benefit-cost ratios

The district used two approaches to compute Cascadia's benefits—the incremental and the system approaches—and used both to develop benefit-cost ratios.

The *incremental* approach determines benefits by comparing existing flood conditions with the conditions that would exist if the project were constructed. The *system* approach computes flood control benefits by distributing total benefits to all projects in a system according to the extent that each project would reduce floods.

The project's system benefit-cost ratio, 4.18 to 1, markedly exceeds the incremental ratio, 1.32 to 1, because the former recognizes flood control benefits not directly attributable to Cascadia. With one exception, the Corps had reported only the system approach ratio to the Congress in its requests for construction funds.

GAO favors the incremental approach because it compares the benefits directly attributable to the project with the costs of providing these benefits.

Review of postauthorization studies

The Corps requested construction funds before the Office of the Chief of Engineers had formally reviewed and approved the Portland District's postauthorization studies of the project, contrary to Corps regulations.

Effect of interest rates on Cascadia's benefit-cost ratio

Opponents of the project questioned the interest rate used to analyze the Cascadia project's economics because they believed the rate was too low. Corps regulations and directives permit the 3¼-percent rate used by the Portland District to update the economic analyses of the project. The incremental approach would not economically justify Cascadia at any interest rate more than 4 percent. (See pp. 23 to 25.)

RECOMMENDATIONS OR SUGGESTIONS

The Secretary of the Army should require that—additional studies be made to verify the flood control benefits claimed for Cascadia and; the incremental benefit-cost ratio and the system benefit-cost ratio be reported to the Congress when requests for authorization or appropriations are made.

AGENCY ACTIONS AND UNRESOLVED ISSUES

The Corps' Portland District Office agreed that additional studies were needed, and the Corps was planning studies to verify damages estimated for flood stages beyond the 100-year level. The district also plans to study and develop more supporting data on economic growth of the flood plain.

A contract, according to district officials, was let on June 30, 1972, to map the river in the Portland area and to develop procedures for studying other locations of the river.

CHAPTER 1

INTRODUCTION

At the request of Senator Bob Packwood, we reviewed the Corps of Engineers' computation of flood control benefits for the Cascadia Dam and Reservoir, South Santiam River, Oregon. The review was performed at the Corps' district office in Portland, Oregon, which had developed the data and performed the studies used in computing the project's flood control benefits. Whereas the matters presented in this report have been discussed with Corps officials, we did not obtain comments from the Department of the Army.

The Flood Control Act of 1962 (Public Law 87-874) authorized construction of the Cascadia Dam and Reservoir, a multiple-purpose project to be located on the South Santiam River in the Willamette River Basin. In addition to controlling floods, the project will provide recreation, navigation, and downstream power.

To control floods on the Willamette River Basin, the Corps planned to construct a system of 14 multiple-purpose dams, of which 11 are completed and functioning; Cascadia would be the 12th dam. Two additional projects—Gate Creek and Holley—have been authorized but, like Cascadia, are not yet under construction.

The map on the following page shows the 14 multiple-purpose Corps' projects in the Willamette River Basin. Cascadia would help control floods for about 160 miles from its site on the South Santiam River to the Columbia River, immediately downstream from Portland. Corps' studies show major flood-damage centers downstream from Cascadia in the Salem, Oregon City, and Portland areas.

The estimated cost to construct Cascadia increased from $28.4 million at the time it was authorized in 1962 to $58.4 million as had been appropriated for project studies of January 1972. Although about $1.1 million through fiscal year 1971, the Congress did not approve the first request for $600,000 for project construction in the President's fiscal year 1972 budget, because the South Santiam River could possibly be declared a scenic waterway under Oregon's 1970 Scenic Waterways Act. A Portland District official advised us that the President's fiscal year 1973 budget did not include a request for project construction funds because the scenic waterway issue had not been resolved.

On May 16, 1972, the Oregon State Highway Commission recommended to the Governor that the South Santiam River not be designated a scenic waterway. The State Water Resources Board made the same recommendation to the Commission. Since the Governor is authorize to designate new scenic waterways only after they have been recommended by both the Highway Commission and the Water Resources Board, the scenic waterway issue apparently may no longer affect Cascadia.

As of June 1972, the Portland District had not prepared its fiscal year 1974 budget estimate. Any decision to include construction funds for Cascadia in the fiscal year 1974 budget would be made later, according to a district official.

Benefit-cost analysis

Benefit-cost analysis is the Corps' basic tool for economically evaluating a project. Project benefits are the net identifiable increases in goods or services which result from project construction. Flood control benefits include reduction in flood damage and the increased utilization or enhancement of property that will result because of the project.

The district used two approaches—the incremental approach and the system approach—to compute Cascadia's flood control benefits and use both to develop project benefit-cost ratios.

The incremental approach attempts to identify the specific value of benefits gained, from the value of costs to construct, operate, and maintain the project. This approach determines flood control benefits by comparing existing flood conditions with the conditions that would exist if the project were constructed. Thus, the incremental approach credits benefits to Cascadia which result directly from its construction.

The system approach attempts to allocate to each project the total estimated flood control benefits from all existing and authorized projects in the Willamette River Basin. Total system benefits are the sum of the benefits determined for each project in the system using the incremental approach, plus the benefits resulting from the increased effectiveness of the projects acting as a system. The system approach determines a project's share by distributing the total benefits among all the projects of the system according to the extent that each project would reduce flood stages. The system approach assumes Cascadia would help control all floods, including the smaller, more frequent ones.

Using a system approach, the district estimated in January 1972 that Cascadia's annual project benefits were about $11.7 million, of which flood control benefits accounted for $10.8 million, or about 92 percent. The district also computed a 4.18-to-1 benefit-cost ratio for Cascadia.

Using the incremental approach, the district computed the benefit-cost ratio at 1.32 to 1, with total average annual benefits of about $3.7 million. About $2.8 million, or 76 percent, of this amount is for flood control.

We primarily examined the Corps' incremental approach to compute flood control benefits, because this approach identifies only those benefits resulting directly from Cascadia's construction and does not allocate benefits claimed for the whole system.

In chapter 3, we discuss our views on the Corps' need to report to the Congress the benefit-cost ratio resulting from both the incremental and system approaches.

CHAPTER 2

CORPS' ACTIONS PLANNED TO VERIFY CASCADIA'S FLOOD CONTROL BENEFITS

Flood control benefits are estimated by determining the project's capability to reduce flood stages throughout the range of possible floods and the damages which reducing flood stages would prevent.

Existing Corps' projects afford a high degree of flood protection to the Willamette River Basin. Most of the flood control benefits estimated by the Corps to justify constructing Cascadia and other proposed basin projects under study were derived on the basis of providing additional protection against floods greater than the largest recorded flood.

Our review of available documentation raised questions as to whether the Corps' support for three key issues was adequate: (1) Cascadia's ability to control the full range of floods for which they claimed benefits, (2) the damages which would be prevented by controlling floods greater than the largest recorded flood, and (3) the projected increased value of damageable property in the flood plain over the economic life of the project.

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[1] "Floodproofing" is a combination of structural changes and adjustments to properties subject to flooding primarily to reduce or eliminate flood damage. "Flood plain zoning" is a legal means used by the community to preclude the occupancy of the flood plain by certain types of residential, commercial, or agricultural development.

Cascadia's ability to control floods

The Portland District estimated that Cascadia would provide some control over all floods in the Willamette River Basin up to that flood which would occur once in 10,000 years. This estimate is particularly significant for the basin because Corps' studies show that the highest recorded flood occurred in December 1964 and had a recurrence probability of once in 100 years.

Information from the district shows that about 62 percent of Cascadia's flood control benefits are associated with the project's ability to control large floods which would occur less frequently than once in 100 years. The 11 existing projects are designed to control the smaller, more frequent floods to stages at which relatively small damage would result.

To determine Cascadia's ability to control the full range of recorded and projected floods, the district analyzed the project's capability to reduce flows of five floods up to the 100-year level.

The district then developed a hypothetical flood for the Willamette River Basin called a Standard Project Flood and studied Cascadia's capability to exhibit some control over it. Corps' regulations define "Standard Project Flood" as a flood which:

"* * * may be expected from the most severe combination of meteorologic and hydrologic conditions that are considered reasonably characteristic of the geographical region involved, excluding extremely rare combinations."

The Standard Project Flood for the Willamette River Basin has a recurrence frequency of once in 500 years.

For projected floods more severe than the Standard Project Flood, the district estimated that Cascadia's effectiveness would gradually decrease to zero for the 10,000-year flood in all reaches[1] except Portland, where the limit would be a 5,000-year flood. Because no known floods had approached these magnitudes, the dam's effectiveness was based on judgment; no studies had been made to support Cascadia's capability to control floods above the Standard Project Flood.

The following table compares Cascadia's total flood control benefits claimed and that portion of these benefits derived from floods more severe than the 500-year flood.

River reach	Percent of total flood control benefits	Percent of total benefits due to floods over the 500-year frequency
		1
South Santiam	5	1
Santiam	6	1
Salem	21	1
Grand Island	9	0
Newberg	2	0
Oregon City	20	2
Portland	37	18
Total	100	[1] 24

[1] Difference due to rounding.

Although approximately 24 percent of the benefits claimed for Cascadia were attributed to more severe floods than those which would occur once in 500 years, the district did not study the project's capability to control these larger floods.

Determining flood damage

To assign dollar values to the expected flood level reductions, the district estimated the damages from the full range of floods that Cascadia would help control. It used damage surveys from the 1955 flood (a 10-year flood) and the 1964 flood (a 100-year flood) to establish damage values for floods that would occur once in 100 years. For floods above the 100-year level, an upper limit damage value was estimated on the basis of a 10,000-year flood (a 5,000-year flood was used in the Portland reach).

The following table compares the actual damages caused by the 100-year flood and the district's estimate for the upper limit flood.

[In millions]

River reach	Surveyed damages for 100-year flood [1]	Estimate damages for upper limit flood [1]
South Santiam	$3.7	$16.7
Santiam	1.3	7.6
Salem	7.6	172.0
Grand Island	4.8	18.3
Newberg	1.2	5.8
Oregon City	17.0	80.8
Portland	11.2	585.0

[1] All damages at 1965 price levels.

The district used these limits to establish damage values for intermediate floods, although the upper limit damage value was an estimate. It did not conduct damage surveys or studies to support either the upper limit values or the damage values for the intermediate floods above the 100-year level.

The following table shows the portion of the total flood control benefits that are derived from floods more severe than those which occur once in 100 years.

River reach	Percent of total flood control benefits	Percent of total benefits due to floods over the 100-year frequency
South Santiam	5	2
Santiam	6	1
Salem	21	8
Grand Island	9	2
Newberg	2	
Oregon City	20	13
Portland	37	35
Total	100	[1]62

[1] Difference due to rounding.

About 62 percent of Cascadia's claimed flood control benefits are for floods over the 100-year frequency. Damage surveys or studies do not support such benefits.

Projecting future growth in the flood plain

To project increased property value that would occur in the flood plain during Cascadia's economic life, the district applied the following factors: (1) the normal growth rate, (2) the induced growth rate, and (3) nonstructural alternatives, such as floodproofing and flood plain zoning.[1]

The district developed the normal growth rate to reflect long-term increases in economic development in the area subject to flooding, using the 1969 Willamette Basin Comprehensive Study Report[2] as its primary source. District officials advised us that the report showed regional and subregional growth rates but not specifiv growth rates for the flood plain. Corps regulations make the following reference to regional studies.

"Trends and forecasts developed for larger areas, such as entire cities, metropolitan areas, river basins or states, should not be assumed directly applicable to flood areas in estimating flood damages and flood control benefits, without adequate demonstration of their applicability, or adjustment to the smaller areas."

District officials said that they had not made studies of the flood plain which would determine whether the normal growth rates used were applicable.

The district developed the induced growth (or land enhancement) rate to estimate the increased use of property that further flood protection from the project would make possible. Concerning the derivation of induced growth rates, Corps regulations state:

"Evaluation * * * will require consideration of past use of the affected property and the probable future uses of the property * * *. Care must be taken to exclude that portion of the earning power of property creditable to the additional investments other than for flood control, that must be made in order to realize an increased or higher utilization of the property. This is particularly important when use of land for residential and industrial purposes is involved. * * * Increased utilization benefits will be evaluated on the basis of sound and conservative estimates of probable future land use."

District officials based the induced growth rate on their professional judgment and not on a study of the flood plains. They expect most of the induced growth in the flood plain to accrue from converting agricultural land to residential or industrial use.

The third economic factor was an adjustment to reflect nonstructural alternatives to constructing the project, such as floodproofing and flood plain zoning. This adjustment assumes that maximum floodproofing and flood plain zoning will reduce the growth of flood damageable property in the 100-year flood plain. Thus, this factor reduces the flood control benefits claimed.

The district made the following adjustments for nonstructural alternatives for Cascadia.

1. A 10-percent reduction in existing urban benefits within the 100-year flood plain.
2. A 50-percent reduction in future urban benefits within the 100-year flood plain.

District officials made these adjustments on the basis of professional judgment and not on specific studies.

SUMMARY

The district estimated that Cascadia would help control floods up to the 10,000-year flood level. However, the district did not study or demonstrate the project's capability to control floods greater than that flood which would occur once in 500 years. About 24 percent of Cascadia's flood control benefits are attributed to its capability to provide some control over such floods.

The district estimated the damage which would result from all possible floods up to the 10,000-year flood. Their estimates, however, were limited to determining damages which resulted from recorded floods, the highest of which had a recurrence probability of once in 100 years. The district did not make any studies to support its projections of flood damages from the 100-year to the 10,000-year flood. About 62 percent of Cascadia's flood control benefits are dependent on the projected damage values for floods greater than the 100-year flood.

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[1] When typical flood damage is analyzed, the area subject to flooding is divided into subareas, usually designated as river reaches. In selecting the reaches, the district considers factors such as political boundaries, zoning plans, and differences in development.

[1] "Floodproofing" is a combination of structural changes and adjustments to properties subject to flooding primarily to reduce or eliminate flood damage. "Flood plain zoning" is a legal means used by the local community to preclude the occupancy of the flood plain by certain types of residential, commercial, or agricultural development.

[2] The report resulted from a comprehensive study of water and related land resources in the Willamette River Basin. The study was directed and coordinated by the Pacific Northwest River Basins Commission's Willamette Basin Task Force. The task force consisted of representatives of six Federal departments, the Federal Power Commission, and the State of Oregon.

The district determined future growth in the value of damageable property in the flood plain during the project's 100-year economic life by estimating the normal growth rate, the induced growth rate, and the potential effects of measures such as flood plain zoning. The normal growth rate was estimated from basin and subbasin growth rate data on the total Willamette River Basin and was not supported by studies of potential growth rate within the flood plain to be affected by Cascadia. The district based the induced growth rate and the potential effects of growth due to zoning on professional judgment rather than on specific studies.

RECOMMENDATION TO THE SECRETARY OF THE ARMY

We recommend that additional studies be made to verify the flood control benefits claimed for Cascadia.

ACTIONS PLANNED BY THE PORTLAND DISTRICT

We discussed the need for additional studies to support the flood control benefits claimed for Cascadia with Corps officials at the Office of the Chief of Engineers (OCE) in March 1972 and with district officials in May 1972.

By letter dated June 5, 1972 (app. I), the District Engineer, Portland District, advised us of the district's plans to initiate studies to verify damage values estimated for flood stages above the 100-year flood.

Referring to the damage studies, the District Engineer stated:

"* * * The Portland District agrees that there is a need to verify flood frequency-damage relationships for rare floods based on detailed field studies to resolve the issues raised and to provide better data for other Willamette Basin projects. Because of the critical manpower shortage in the District and the urgency for completion of the damage survey, we propose to accomplish this work through contractual agreements with one or more architect-engineering firms.

"The initial contract, which we are presently preparing, will cover field and office work for re-evaluating flood stage-damage relationships for the Portland reach of Willamette River which extends from the mouth of the Willamette to Oregon City. Our plans call for this work to be under contract by 30 June 1972. Work on the remaining reaches of the basin will follow as funds become available * * *."

Concerning other issues which relate to computing flood control benefits, the District Engineer stated:

We also recognize the need for developing more supporting data pertaining to hydrologic analysis and economic growth in the various reaches of the flood plain. Our present plan is to conduct the necessary work for resolving these two problem areas in-house as the Corps of Engineers has special expertise in these two fields. Attached is a brief outline of the scope and coverage we feel is required."

The first contract, according to district officials, was let on June 30, 1972, to map the Portland river reach and to develop procedures to be applied in studying the other river reaches.

We believe that the studies, as summarized in the outline of study requirements attached to appendix I, should provide the additional data needed to better determine the flood control benefits to be expected from Cascadia and other planned Willamette River Basin projects.

CHAPTER 3

OTHER PROJECT MATTERS CONSIDERED DURING OUR REVIEW

We considered other matters relating to the project such as (1) the Corps' method of reporting benefit-cost ratios to the Congress, (2) the Corps' review of Cascadia's postauthorization studies, and (3) the effect of interest (discount) rates on the project's benefit-cost ratio.

Reporting benefit-cost ratios

In our opinion, the Corps did not fully disclose Cascadia's economic effectiveness to the Congress because the Corps, in requesting postauthorization study and construction funds, reported benefit-cost ratios which include flood control benefits not directly attributable to Cascadia.

The benefit-cost ratio compares the estimated average annual benefit to be realized from a project with its estimated average annual costs. As such, the Corps used it as the prime indicator of economic effectiveness. It is the principal single factor provided to the Congress which can compare and evaluate a project's relative economic effectiveness and merit.

The Corps had used two approaches—the incremental and the system—to compute project benefits and to report project benefit-cost ratios. With one exception, the Corps had reported to the Congress only those benefit-cost ratios for Cascadia determined on the system approach. According to a North Pacific Division official, the Corps reported only Cascadia's system benefit-cost ratio in its requests for postauthorization study funds and in its initial request for construction funds for fiscal year 1972. The only time Cascadia's incremental benefit-cost ratio was reported to the Congress was in July 1971 in recall testimony on the fiscal year 1972 budget.

The two approaches resulted in markedly different ratios. Portland District analyses prepared in January 1972 showed benefit-cost ratios for Cascadia of 4.18 to 1 under a system approach and 1.32 to 1 under an incremental approach. The following table shows Cascadia's benefits and costs under the two approaches.

[Dollar amounts in millions]

Approach	Average annual benefits			Average annual cost	Benefit-cost ratio
	Flood control	Other	Total		
System	$10.8	$0.9	$11.7	$2.8	4.18 to 1.
Incremental	2.8	.9	3.7	2.8	1.32 to 1.
Difference	8.0	--------	8.0	--------	

The difference in benefit-cost ratios shown by the table is due solely to the $8 million difference in flood control benefits.

Cascadia would derive the major portion of its benefits from reducing floods in excess of the 100-year flood, because projects already constructed effectively control the smaller, more frequent floods. The system approach, however, assumes that Cascadia helps control all floods including those smaller, more frequent ones.

Senate Document 97, Eighty-seventh Congress, second session, provides guidance in formulating, evaluating, and reviewing plans for using and developing water and related land resources. Senate Document 97 requires that tangible benefits exceed project costs. It defines "benefit" as increases or gains in the value of goods and services which result from conditions *with* the project, compared to conditions *without* the project. Thus, we believe that using an incremental analysis to determine a project's economic feasibility would comply with Senate Document 97.

CONCLUSIONS

Because some projects' benefit-cost ratios are reported on an incremental approach and others such as Cascadia are reported on a system approach, the Congress does not have the information necessary to judge the projects' relative effectiveness or merit. This could result in approving projects which are far less deserving than others being considered.

We believe that the incremental approach best measures Cascadia's economic effectiveness because it compares the increase in benefits to be provided by the project with the project costs.

RECOMMENDATION TO THE SECRETARY OF THE ARMY

Whereas the Corps may wish to inform the Congress of a project's benefit-cost ratio determined by the system approach, we recommend that the Corps also report the incremental benefit-cost ratio to the Congress when it requests project authorization or appropriations for construction.

REVIEW OF CASCADIA'S POSTAUTHORIZATION STUDIES

The Corps requested funds to construct Cascadia before it had formally reviewed and approved the Portland District's postauthorization studies of the project.

The first request for Cascadia's construction funds was contained in the President's fiscal year 1972 budget. Referring to funding requirements, the Corps' regulations on postauthorization studies state that:

"Post-authorization studies of individual projects will normally require, as a minimum, the submission of a general design memorandum in two phases followed by feature design memorandums covering separate aspects of the work. In Phase I of the general design memorandum, appropriate studies and investigations will be made to either reaffirm the authorized project or reformulate the project to meet present day conditions and/or criteria. Phase I will be primarily a planning document in which formulation, evaluation, coordination, and preliminary cost allocation will be presented in sufficient detail to support the conclusions and recommendations made. Phase II will be * * * concerned primarily with the technical design of the structures * * *."

Corps' regulations further state that the postauthorization schedule:

"* * * should provide for approval of Phase II * * * of the general design memorandum prior to the request for funds to initiate construction of the project."

At the time of our review, the only postauthorization studies submitted to OCE for formal review and approval were the district's design memorandums covering the project's hydrological aspects and site selection. The district was completing the general design memorandum, which discusses the flood damage and economic analysis. OCE officials had not reviewed the details supporting the district's determination of flood control benefits for Cascadia.

In March 1972 we discussed our preliminary findings with OCE officials to determine whether they felt the district's procedures in determining Cascadia's flood control benefits were appropriate and adequate. They concluded that more analysis and support were needed to justify the district's conclusions.

OCE, in our opinion, should have reviewed and approved Cascadia's postauthorization studies before it requested construction funds from the Congress. Subsequently, OCE officials plan to explore certain aspects of the project with the district office, such as the development of the hydrologic aspects of the project, the methodology used in evaluating Cascadia's flood control benefits, and the Corps' policy of reporting project economic feasibility with both systems and incremental analyses to the Congress. As discussed on pages 17 and 18 of this report, the Portland District plans additional studies.

Effect of interest rates on Cascadia's benefit-cost ratio

A major factor in the Portland District's determination of Cascadia's flood control benefits and the resulting benefit-cost ratio is the interest or discount rate.[1] Opponents of the project have questioned the interest rate applied to Cascadia's economic analysis because they believe that it is too low. Corps' regulations and directives allow the 3¼-percent rate used for Cascadia. The incremental approach would not economically justify Cascadia if the interest rate exceeded 4 percent.

Senate Document 97, approved May 15, 1962, provides guidance on the interest rate to be used. It states:

"The interest rate to be used in plan formulation and evaluation for discounting future benefits and computing costs, or otherwise converting benefits and costs to a common time basis shall be based upon the average rate of interest payable by the Treasury on interest-bearing marketable securities of the United States outstanding at the end of the fiscal year preceding such computation which, upon original issue, had terms to maturity of 15 years or more."

Cascadia was authorized in 1962 on the basis of economic analysis using a 2⅝-percent interest rate. A district official said that the interest rate required for updating economic analyses of the project increased annually until fiscal year 1968 when it reached 3¼ percent.

In December 1968, the Office of Management and Budget (OMB) announced that it was adopting a new formula to compute the discount rate to be used in formulating plans and analyzing the economics of Federal projects. In announcing the formula, the OMB instructions stated that the new rate would be applied to future projects, and that "The old rate—3¼ percent—will be used on authorized projects if non-Federal financial commitments are made by December 31, 1969." Subsequent OCE instructions added the following criteria:

"For any active projects that have no requirements of local cooperation or reimbursement, a discount rate of 3¼ percent will be used."

Pending completion of Bureau of Reclamation studies on possibly using the project for irrigation (a purpose which would require reimbursement), there are no allocated share of costs for non-Federal interests to repay for Cascadia. Neither are there any other reimbursable, or potentially reimbursable, project purposes involved. Thus, the Corps believes that Cascadia can continue to use the 3¼-percent interest rate.

Since 1968 a statement of the discount (interest) rate to be used during the ensuing fiscal year has been published annually in the Federal Register. For fiscal year 1972 this interest rate was 5⅜ percent. But this rate does not apply to Cascadia.

On December 21, 1971, the Water Resources Council published a study, entitled "Proposed Principles and Standards for Planning Water and Related Land Resources," in the Federal Register. The principles and standards suggested that discount rates from 7 to 10 percent may be appropriate and proposed that a 7-percent rate be used to evaluate water resource projects during the next 5 years, because the rate approaches the total cost of Federal borrowing. If adopted by the Federal Government, these proposed principles and standards would replace those contained in Senate Document 97.

To determine the potential impact of the Water Resources Council's proposal regarding discount rates, the Corps reevaluated the economic feasibility of proposed and authorized but unconstructed projects using the proposed interest rates. Using an incremental approach the Portland District analyzed the economic feasibility of Cascadia using the 3¼-percent rate, the fiscal year 1972 rate of 5 percent, and the proposed rates of 7 and 10 percent. Cascadia's benefit-cost ratio for each of the interest rates was as follows:

Interest rate used (percent)	Benefit-cost ratio[1]
3¼	1.29 to 1
5⅜	.61 to 1
7	.41 to 1
10	.24 to 1

[1] The Portland District subsequently re-evaluated project costs. As a result, the costs decreased and the benefit-cost ratio increased. The incremental benefit-cost ratio shown elsewhere in this report (1.32 to 1) is based on the revised costs.

The sensitivity of Cascadia's economic feasibility under the incremental approach to changes in the interest rate is depicted on the chart on the next page. It shows that at any interest rate above 4 percent Cascadia would not be economically justified.

(Chart not printed in RECORD.)

APPENDIX I

DEPARTMENT OF THE ARMY,
PORTLAND DISTRICT CORPS OF ENGINEERS,
Portland, Oreg., June 5, 1972.

MR. MICHAEL ZIMMERMAN,
U.S. General Accounting Office,
Washington, D.C.

DEAR MR. ZIMMERMAN: Reference is made to your telephone request of 1 June 1972 concerning progress being made on re-evaluating stage-damage relationships for the Willamette River Basin flood plain.

The basic problem centers around the fact that much of the flood control benefits for Cascadia and other proposed projects under study are derived from flood frequency probabilities greater than the largest flood for which damages are recorded. That flood for December 1964 had a recurrence probability of once in about 100 years, on the average, throughout the basin. Thus a significant portion of the flood control benefits have been evaluated on the basis of extrapolated frequency-damage relationships, rather than being based on field appraisals of probable flood damages that would result from these larger probable floods.

Several issues have been raised by representatives of environmental organizations and the General Accounting Office with respect to the reliability of flood control benefits. The Portland District agrees that there is a need to verify flood frequency-damage relationships for rare floods based on detailed field studies to resolve the issues raised and to provide better data for other Willamette Basin projects. Because of the critical manpower shortage in the District and the urgency for completion of the damage survey, we propose to accomplish this work through contractual agreements with one or more architect-engineering firms.

The initial contract, which we are presently preparing, will cover field and office work for re-evaluating flood stage-damage relationships for the Portland reach of Willamette River which extends from the mouth of the Willamette to Oregon City. Our plans call for this work to be under contract by 30 June 1972. Work on the remaining reaches of the basin will follow as funds become available. Seven reaches would be affected by Cascadia storage, 5 on the Willamette and 1 each on Santiam and South Santiam Rivers. There is a total of 33 river reaches on Willamette River and its tributaries, 7 of which are on Willamette River. Damages in each reach will be classified into not less than 3 damage categories. That is, 3 damage curves, 1 for each category, will be made for each river reach.

We also recognize the need for developing more supporting data pertaining to hydrologic analysis and economic growth in the various reaches of the flood plain. Our present plan is to conduct the necessary work for resolving these two problem areas in-house as the Corps of Engineers has special expertise in these two fields. Attached is a brief outline of the scope and coverage we feel is required.

I wish to take this opportunity to express my appreciation for the cooperative spirit, the open-minded approach, and the sincere effort put forth by the General Accounting Office personnel in their determination to appraise Corps procedures as related to issues discussed herein. I trust this letter furnishes the information necessary to answer your questions pertaining to these problem areas. If further information is desired, please do not hesitate to call my office.

Sincerely yours,

PAUL D. TRIEM,
Colonel, Corps of Engineers, District Engineer.

OUTLINE OF STUDY REQUIREMENTS

1. *System and Incremental Analysis Requirements.* An incremental analysis is required for all projects under study regardless of whether they are part of a defined system. For the incremental analyses, discharge-frequency and discharge-damage data are required for conditions without the project (but including all projects existing and under construction) compared with conditions with these projects plus the project under study. For projects which are included in a system analysis, the following data are required:

a. Definition of the system objective; identification of projects in the system and a showing that the project being added is essential to attainment of the system objective.

b. Comparative discharge-frequency and discharge-damage data for unregulated conditions and conditions provided by regulation of the complete system.

c. Presentation and explanation of how system regulation effects are to be apportioned among components of system (by reaches as pertinent), and resulting benefit distribution among all projects in the system.

2. *Hydrologic Analysis: Discharge-Frequency Curves.*

a. Explain fully the derivation of the unregulated curve:

(1) Supporting explanation of its development, including why the most probable or average curve is used.

(2) Explain reason for skew coefficient used, by reference to and summary of findings of regional studies that established it.

b. Identify, on maps, several flood plains. For actual floods, the 1964 flood plain and that of at least one smaller flood should be shown. Additional flood plains of larger floods should also be identified as necessary to establish the shape of the curve, including an estimate of the flood plain for the largest flood for which benefits are claimed. The study should describe, by reaches, factors which affect damage determinations such as increased depth and duration of inundation and velocities, as well as increased areas.

c. Present summary of routings for representative floods, including the largest for which any regulation is claimed, supporting and describing the effectiveness of such regulation in terms of prospective damage reduction by reduced area or reduced depth and duration of inundation, etc. This should include support particularly for effectiveness at the upper end of the curve, and emphasis should be given to the Portland reach and other reaches where, because of extent of damages, the protection is most needed or most significant to the benefit analysis.

d. Regulated curves for the complete system by appropriate reaches.

e. Regulated curves for existing conditions

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[1] In formulating water resources projects, the values of benefits and costs that accrue at varying times are comparable only if all are adjusted to a uniform time basis. The use of interest rates provides a means for converting estimates of benefits and costs to a common time point or period.

(projects existing and under construction) by same reaches as item d above.

3. *Discharge-Damage Analysis*. The incremental justification for any additional projects under study apparently rests primarily on reduction of damages from floods of lesser frequency than once in about 100 years on the average. Large floods also are a significant factor in system benefit analysis. Actual damages from such rare floods have not been experienced. Therefore, it is essential that estimated damages and benefits be fully supported. Data necessary to establish the shape of the curve and its upper limits will require extensive field and office appraisals to support claimed benefits, to include the following:

a. Based on flood plain delineations provided from the hydrologic analysis (2b), determine from field observations the acreages, types of use, property, and property valuations for the actual and estimated flood plains. Data for the actual floods should include the 1964 flood and one or two smaller floods. At least two or three larger floods should also be included, including the largest flood for which benefits are claimed.

b. Some supporting data should be shown for damage estimates, such as acreage, crop types and typical production losses applicable to agricultural damages, and for other types of damages appropriate description of derivation, such as major industrial plants, loss of bridges, numbers of residential units and per unit damage, etc. The basis for damage estimates for the larger floods should be well supported in terms of additional areas, depths of inundation, increased velocities, etc., which explain the increases relative to actual historical records of damages. Comparable explanatory data should also be furnished in support of claimed damage reductions.

c. The summary breakdown of damages by type of property should conform with ER 1120–2–113, paragraph 3b (4), i.e., agricultural, commercial, industrial, residential, utilities, etc., with agricultural further broken down between crop and other.

d. Existing and future damages should be shown separately by categories, also per ER 1120–2–113. Rates of growth used to derive future damages should be in terms of indicators appropriate to each category of damage. Reliance cannot be placed solely on historical or projected national relationships between selected economic indexes and categories of property or activity without corroborating evidence that flood plain variables demonstrate a generally similar relationship.

e. Land enhancement benefit should be identified as appropriate, and supported.

The PRESIDING OFFICER. The Senator from California is recognized.

(The remarks of Mr. TUNNEY, when he introduced S. 4014, are printed in the RECORD under Statements on Introduced Bills and Joint Resolution.)

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. First, Mr. President, with no time to be taken out of either side, I ask unanimous consent that the Subcommittee on Labor of the Committee on Labor and Public Welfare; Commerce Committee; the Subcommittee on Parks and Recreation of the Interior and Insular Affairs Committee, Armed Services Committee, Finance Committee, and the Public Works Committee may be authorized to meet during the session of the Senate today.

The PRESIDING OFFICER (Mr. MONDALE). Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

PROPOSALS FOR ADDITIONS TO THE NATIONAL WILDERNESS PRESERVATION SYSTEM

A communication from the President of the United States transmitting, pursuant to law, proposals for sixteen additions to the National Wilderness Preservation System (with accompanying papers); to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SYMINGTON, from the Committee on Armed Services, without amendment:

H.R. 16251. An act to release the conditions in a deed with respect to certain property heretofore conveyed by the United States to the Columbia Military Academy and its successors (Rept. No. 92–1197); and

H.R. 4634. An act to direct the Secretary of the Army to release on behalf of the United States a condition in a deed conveying certain land to the State of Oregon to be used as a public highway (Rept. No. 92–1196).

By Mr. McCLELLAN, from the Committee on the Judiciary, with amendments:

S. 3316. A bill to grant the consent of the United States to the Arkansas River Basin compact, Arkansas-Oklahoma (Rept. No. 92–1198).

By Mr. RANDOLPH, from the Committee on Public Works:

S. 4018. An original bill authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes (Rept. No. 92–1199).

Mr. RANDOLPH. Mr. President, this morning the Committee on Public Works ordered reported an original bill authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes. This is a major piece of resource management legislation which promises to substantially reduce flood damage and improve navigation in many areas of the Nation.

Mr. President, I report from the Committee on Public Works an original bill authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

Mrs. SMITH. Mr. President, as in executive session, from the Committee on Armed Services I report favorably the nominations of 21 flag and general officers in the Army, Navy, and Marine Corps.

The PRESIDING OFFICER. The nominations will be placed on the Executive Calendar.

The nominations, ordered to be placed on the Executive Calendar are as follows:

Maj. Gen. John Russell Deane, Jr., U.S. Army, to be assigned to a position of importance and responsibility designated by the President, in the grade of lieutenant general;

Maj. Gen. Donald Harry Cowles, U.S. Army, to be assigned to a position of importance and responsibility designated by the President, in the grade of lieutenant general;

Maj. Gen. Elmer Hugo Almquist, Jr., U.S. Army, to be assigned to a position of importance and responsibility designated by the President, in the grade of lieutenant general;

Lt. Gen. Stanley R. Larsen, Army of the United States (major general, U.S. Army), to be placed on the retired list in the grade of lieutenant general;

Maj. Gen. Phillip Buford Davidson, Jr., U.S. Army, to be assigned to a position of importance and responsibility designated by the President, in the grade of lieutenant general;

Vice Adm. Walter L. Curtis, Jr., U.S. Navy, for appointment to the grade of vice admiral when retired; and

Harry C. Olson, and sundry other officers, for promotion in the Marine Corps.

Mrs. SMITH. Mr. President, in addition, I report favorably 275 nominations in the Army, 2,873 in the Navy, 96 in the Marine Corps, and 16 in the Air Force—Air National Guard in the Reserve—all in the grade of colonel/captain or below. Since these names have already appeared in the CONGRESSIONAL RECORD, in order to save the expense of printing on the Executive Calendar, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, ordered to lie on the desk, are as follows:

IN THE AIR FORCE

Air Force nominations beginning Frederick H. Barnes, to be lieutenant colonel, and ending Gene A. Allen, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on September 5, 1972.

IN THE ARMY

Army nominations beginning Irma V. Bouton, to be lieutenant colonel, and ending Richard J. Williams, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on September 6, 1972.

IN THE NAVY

Navy nominations beginning David H. Acton, to be ensign, and ending Philip M. Lightfoot, Jr., to be captain, which nominations were received by the Senate and appeared in the Congressional Record on September 5, 1972;

Navy nominations beginning David S. Ailes, to be captain, and ending Eugene M. Riddick, to be commander, which nominations were received by the Senate and appeared in the Congressional Record on September 6, 1972; and

Navy nominations beginning David D. Abelson, to be lieutenant, and ending William C. Jarrett, to be commander, which nominations were received by the Senate and appeared in the Congressional Record on September 6, 1972.

IN THE MARINE CORPS

Marine Corps nominations of John Caldwell, to be second lieutenant, and Clarence U. Gebsen, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on August 15, 1972; and

Marine Corps nominations beginning Vincent A. Albers, Jr., to be colonel, and ending William A. Tate, to be colonel, which nominations were received by the Senate and appeared in the Congressional Record on September 6, 1972.

ENROLLED BILLS SIGNED

The President pro tempore today, September 21, 1972, signed the following enrolled bills which had previously been signed by the Speaker of the House of Representatives:

S. 1031. An act to credit certain service rendered by District of Columbia substitute teachers for purposes of civil service retirement;

S. 2478. An act to provide for the disposition of funds to pay a judgment in favor of the Shoshone-Bannock Tribes of Indians of the Fort Hall Reservation, Idaho, as representatives of the Lemhi Tribe, in Indian Claims docket numbered 326-I, and for other purposes;

S. 2575. An act for the relief of William John West;

H.R. 2185. An act to declare that certain federally owned land is held by the United States in trust for the Lac du Flambeau Band of Lake Superior Chippewa Indians;

H.R. 2589. An act to amend section 1869 of title 28, United States Code, with respect to the information required by a juror qualification form;

H.R. 6204. An act for the relief of John S. Attinello;

H.R. 10436. An act to provide with respect to the inheritance of interests in restricted or trust land within the Nez Perce Indian Reservation, and for other purposes; and

H.R. 14974. An act to amend certain provisions of law relating to the compensation of the Federal representatives on the Southern and Western Interstate Nuclear Boards.

ORDER FOR STAR PRINT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a star print be ordered of report No. 92–1155 on the bill (S. 3362) known as the Surface Transporation Act of 1971, in order to correct certain errors appearing in the original printing of the report.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. SCOTT:

S. 4012. A bill to make additional immigrant visas available for immigrants from certain foreign countries, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. MONDALE:

S. 4013. A bill to amend the Social Security Act to make certain that recipients of aid or assistance under the various Federal-State public assistance and medicaid programs (and recipients of assistance under the veterans' pension and compensation programs or any other Federal or federally assisted program) will not have the amount of such aid or assistance reduced because of increases in monthly social security benefits. Referred to the Committee on Finance.

By Mr. TUNNEY (for himself and Mr. GURNEY):

S. 4014. A bill to amend the antitrust laws of the United States and for other purposes. Referred to the Committee on the Judiciary.

By Mr. THURMOND:

S. 4015. A bill to authorize the Secretary of the Interior to convey certain mineral interests of the United States to the owner or owners of record of certain lands in the State of South Carolina; and

S. 4016. A bill to authorize the Secretary of the Interior to convey certain mineral interests of the United States to the owner or owners of record of certain lands in the State of South Carolina. Referred to the Committee on Interior and Insular Affairs.

By Mr. PELL:

S. 4017. A bill to establish a Regional Railroad Rights of Way Authority. Referred to the Committee on Commerce.

By Mr. RANDOLPH, from the Committee on Public Works:

S. 4018. An original bill authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes. Ordered to be placed on the calendar.

By Mr. BIBLE:

S. 4019. A bill to provide for the administration of the Mar-A-Lago National Historic Site, in Palm Beach, Florida. Referred to the Committee on Interior and Insular Affairs.

By Mr. KENNEDY:

S. 4020. A bill to encourage and support the dissemination of news, opinion, scientific, cultural, and educational matter through the mails. Referred to the Committee on Post Office and Civil Service.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SCOTT:

S. 4012. A bill to make additional immigrant visas available for immigrants from certain foreign countries, and for other purposes. Referred to the Committee on the Judiciary.

Mr. SCOTT. Mr. President, I am today introducing legislation to eliminate several unfair practices which have developed subsequent to the enactment of certain amendments in 1965 to the Immigration and Nationality Act. My bill would provide for additional special immigrant visas, on an annual basis, to each country of the Eastern Hemisphere, and would trim the backlog in visa issuance in the so-called fifth preference category—brothers and sisters of U.S. citizens.

Very simply, the old system for selecting immigrants to the United States was based on a national origins quota concept. Legislation passed by the Congress replaced that system with an overall ceiling on Eastern Hemisphere immigration on a first-come, first-served basis, within various preference categories. However, during the phaseout period of the old system, the backlogs in some oversubscribed preferences were not removed. Furthermore, immigration from the former high quota countries was adversely affected. Immigration, particularly from Ireland, was cut back severely while the "brothers and sisters" backlog, particularly from Italy, was reduced by a very small amount.

The bill I am introducing today, as a counterpart to one already approved by the House of Representatives, restores to these countries the immigration benefits originally intended for them. One purpose of the bill is to facilitate the immigration of aliens chargeable to the beneficiary countries who would not otherwise qualify for immigration or who would experience a delay in obtaining an immigrant visa because of the oversubscription of the Eastern Hemisphere preference classification to which they were entitled. The special visas granted would primarily benefit Germany, Great Britain, Ireland, and Poland.

A second purpose of the bill is to reduce the backlog in the "brothers and sisters" preference. The old national origins system provided disproportionate national quotas, to govern the admission of immigrants, without regard to the reunification of families. In the transition to the new system, some countries, particularly Italy, were discriminated against. Under my bill, the special visas issued would benefit Italy, Greece, Poland, and Portugal.

Mr. President, it seems to me that if we are to continue our immigration and nationality program, we ought to make it fair and equitable, especially for the countries, such as Ireland and Italy, which have been adversely affected. I am hopeful that this new legislation will move us closer to that goal.

By Mr. MONDALE:

S. 4013. A bill to amend the Social Security Act to make certain that recipients of aid or assistance under the various Federal-State public assistance and medicaid programs—and recipients of assistance under the veterans' pension and compensation programs or any other Federal or federally assisted program—will not have the amount of such aid or assistance reduced because of increases in monthly social security benefits. Referred to the Committee on Finance.

SOCIAL SECURITY PASS THROUGH

Mr. MONDALE. Mr. President, on June 29 the Congress passed an urgently needed 20 percent increase in social security benefits. I am proud that I was a cosponsor of that long overdue legislation.

However, more recently, on the Senate floor, I said that many social security recipients were losing all or part of their 20-percent increase, although the Congress did not intend this to happen.

Let me read parts of two letters I have received from Minnesota concerning this pitiful and cruel situation.

One poverty stricken widow wrote to me saying that—

> The Minneapolis Housing Authority is raising my rent as a result of my increase in Social Security . . . and I will be losing my food stamps also. The way I figure it, I would be better off without the raise.

Another elderly couple in Cushing, Minn., sent me the notice of a rent increase they had received from the housing authority and said that their old age assistance check was being reduced dollar for dollar to take away every cent of the social security increase. The elderly wife wrote:

> Senator, I just haven't been able to keep up as it is and now to get a cut in our Old Age checks. Living is so terribly high. Everything is so terribly high. We pay taxes, insurance, we have payments. We don't begin to have what we need.
>
> My husband is a cripple from arthritis and 79. We are two people that just don't like to beg. We have no other income, just our Social Security and Old Age Assistance . . . and now giving more on Social Security but taking away Old Age Assistance . . . we aren't getting any raise. What can be done?

These are typical letters. Recipients of old age assistance and aid to the blind and disabled, those with veterans' pensions, people receiving food stamps, the medically indigent and many people in public housing are finding that the 20-

percent social security increase will mean a reduction or even a loss of these other benefits.

This is happening because in most States, those who receive old age assistance will lose dollar for dollar any increase they receive in their social security benefits.

In Minnesota, the terrible problems illustrated by the letters I have just read are not limited to a few. Sixty percent of the 23,000 elderly citizens who receive old age assistance—about 14,000 senior citizens—may be in danger of losing part or all of their social security increase. These are the poorest of the poor—living in small apartments, often alone, faced by soaring inflation which hits them much harder than it does other people.

Another 2,000 elderly Minnesotans will lose all entitlement to old age assistance as a result of the 20-percent social security increase—and will thereby lose all or part of their medicaid and food stamp benefits.

In addition to this problem with old age assistance, there is another serious threat to the recent social security increase of those elderly Americans who live in public housing. As a result of increased rentals for many public housing units—in Minnesota and throughout the country—these elderly citizens will lose as much as 25 percent of their social security increase.

These rental increases can be avoided, not only for social security beneficiaries, but for all other public housing tenants as well, if the President will simply release $130 million for public housing operating subsidies—funds which have already been appropriated by the Congress. I have recently written to the President, urging him to release these funds.

But although the President can roll back increases in public housing rents himself—this is only part of the solution to the problem. Congress itself must act to make it mandatory to pass through the 20-percent social security increase by preventing cuts in old age assistance, medicaid, food programs, and housing rents.

The bill I am introducing today is a bill which my colleagues from Minnesota, Congressmen FRASER and KARTH, have already introduced in the House. It will correct the serious injustices which I have mentioned and it will also focus attention on the underlying problem—our failure to adequately coordinate programs for the elderly.

I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 4013

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2(a)(10)(A) of the Social Security Act is amended by inserting "(I)" immediately after "(i)", by striking out "(ii)" and inserting in lieu thereof "(II)", and by inserting immediately before the semicolon at the end thereof the following: ", and (ii) the State agency shall, in the case of any individual who is entitled to monthly benefits under the insurance program established under title II, disregard any part of such benefits which results from (and would not be payable but for) the general increase in benefits under such program provided by section 201 of Public Law 92-336 or any subsequent cost-of-living increase in such benefits occurring pursuant to section 215(i) of this Act".

(b) Section 402(a)(8)(A) of such Act is amended by striking out "and" at the end of clause (i), by striking out "; and" at the end of clause (ii) and inserting in lieu thereof ", and", and by adding after clause (ii) the following new clause:

"(iii) in the case of any individual who is entitled to monthly benefits under the insurance program established under title II, any part of such benefits which results from (and would not be payable but for the general increase in benefits under such program provided by section 201 of Public Law 92-336 or any subsequent cost-of-living increase in such benefits occurring pursuant to section 215(i) of this Act; and".

(c) Section 1002(a)(8) of such Act is amended by striking out "and" at the end of clause (B), and by inserting immediately before the semicolon at the end thereof the following: ", and (D) shall, in the case of any individual who is entitled to monthly benefits under the insurance program established under title II, disregard any part of such benefits which results from (and would not be payable but for) the general increase in benefits under such program provided by section 201 of Public Law 92-336 or any subsequent cost-of-living increase in such benefits occurring pursuant to section 215(i) of this Act".

(d) Section 1402(a)(8) of such Act is amended by striking out "and" at the end of clause (B), and by inserting immediately before the semicolon at the end thereof the following: ", and (D) the State agency shall, in the case of any individual who is entitled to monthly benefits under the insurance program established under title II, disregard any part of such benefits which results from (and would not be payable but for) the general increase in benefits under such program provided by section 201 of Public Law 92-336 or any subsequent cost-of-living increase in such benefits occurring pursuant to section 215(i) of this Act".

(e) Section 1602(a)(14) of such Act is amended by striking out "and" at the end of subparagraph (C), by striking out the semicolon at the end of subparagraph (D) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(E) the State agency shall, in the case of any individual who is entitled to monthly benefits under the insurance program established under title II, disregard any part of such benefits which results from (and would not be payable but for) the general increase in benefits under such program provided by section 201 of Public Law 92-336 or any subsequent cost-of-living increase in such benefits occurring pursuant to section 215(i) of this Act;".

SEC. 2. (a) Subsection (g) of section 415 of title 38, United States Code, is amended by adding at the end thereof the following new paragraph:

"(4) In determining the annual income of any individual who is entitled to monthly benefits under the insurance program established under title II of the Social Security Act, the Administrator, before applying paragraph (1)(G) of this subsection, shall disregard any part of such benefits which results from (and would not be payable but for) the general increase in benefits under such program provided by section 201 of Public Law 92-336 or any subsequent cost-of-living increase in such benefits occurring pursuant to section 215(i) of the Social Security Act."

(b) Section 503 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) In determining the annual income of any individual who is entitled to monthly benefits under the insurance program established under title II of the Social Security Act, the Administrator, before applying subsection (a)(6) of this section, shall disregard any part of such benefits which results from (and would not be payable but for) the general increase in benefits under such program provided by section 201 of Public Law 92-336 or any subsequent cost-of-living increase in such benefits occurring pursuant to section 215(i) of the Social Security Act."

(c) In determining the annual income of any person for purposes of determining the continued eligibility of that person for, and the amount of, pension payable under the first sentence of section 9(b) of the Veterans' Pension Act of 1959, the Administrator of Veterans' Affairs shall disregard, if that person is entitled to monthly benefits under the insurance program established under title II of the Social Security Act, any part of such benefits which results from (and would not be payable but for) the general increase in benefits under such program provided by section 201 of Public Law 92-336 or any subsequent cost-of-living increase in such benefits occurring pursuant to section 215(i) of the Social Security Act.

SEC. 3. Notwithstanding any other provision of law, in the case of any individual who is entitled for any month after August 1972 to a monthly benefit under the insurance program established by title II of the Social Security Act, any part of such benefit which results from (and would not be payable but for) the general increase in benefits under such program provided by section 201 of Public Law 92-336, or which results from (and would not be payable but for) any cost-of-living increase in such benefits subsequently occurring pursuant to section 215(i) of the Social Security Act, shall not be considered as income or resources or otherwise taken into account for purposes of determining the eligibility of such individual or his or her family or the household in which he or she lives for participation in the food stamp program under the Food Stamp Act of 1964, for surplus agricultural commodities under any Federal program providing for the donation or distribution of such commodities to low-income persons, for admission to or occupancy of low-rent public housing under the United States Housing Act of 1937, for subsidized mortgages or rentals under title II of the National Housing Act, or for any other benefits, aid, or assistance in any form under a Federal program, or a State or local program financed in whole or in part with Federal funds, which conditions such eligibility to any extent upon the income or resources of such individual, family, or household.

SEC. 4. The amendments made by the first section of this Act shall be effective with respect to calendar quarters ending on or after September 30, 1972. The amendments made by section 2 of this Act shall apply with respect to annual income determinations made pursuant to sections 415(g) and 503 (as in effect both on and after June 30, 1960) of title 38, United States Code, for calendar years after 1971. The amendments made by section 3 of this Act shall be effective with respect to items furnished after August 1972.

By Mr. TUNNEY (for himself and Mr. GURNEY):

S. 4014. A bill to amend the antitrust laws of the United States and for other purposes. Referred to the Committee on the Judiciary.

THE ANTITRUST PROCEDURES AND PENALTIES ACT

Mr. TUNNEY. Mr. President, we have learned a great deal about the importance of the Nation's antitrust laws in recent months and in particular about the manner in which they are administered. Two recent books, Morton Mintz and Jerry Cohen's "America, Inc." and the Ralph Nader study group's "The Closed Enterprise System," have focused with remarkable clarity upon the impact of economic concentration on the everyday lives of American citizens.

Combined with tne Judiciary Committee's recent hearings, these events have crystalized the rather vague concept of antitrust into a very tangible reality.

Perhaps for the first time since the now famous electric company price-fixing cases in the 1950's, public attention has been focused in a very direct and emphatic way upon the administration of the Nation's antitrust laws. Concern has been renewed about the standards and the safeguards which apply when the stakes are high.

That concern is not limited to any one party or one administration. Confidence in the process by which public decisions are made is an issue in which every public official has a very immediate investment. Moreover, it is an investment which must be shared with every member of the electorate. The disaffection which an increasing number of Americans have come to feel for their Government poses the gravest of threats to the delicate balance by which we all consent to be governed.

The problem is especially acute where the issue is antitrust because the stakes are high. Antitrust cases often carry with them profound implications not only for the particular defendants but for the millions of voiceless consumers with whom they deal. The decision to settle a case, and the components of that settlement, may affect the price, the quantity, and the quality of the most basic commodities. The elimination of several independent bakeries or dairies in a metropolitan area, for example, may have a very direct effect upon the cost of bread and milk to millions of families. Or the commodity might be drugs. For example, between 1953 and 1961, 100 tablets of the antibiotic tetracycline retailed for about $51. Ten years later, after exposure of an illegal conspiracy which had set prices, the same quantity was approximately $5, a 90-percent decrease.

In short, enforcement of the antitrust laws may have a very profound effect on the lives of every citizen of this country.

But beyond the economic effect, there is a political effect. Increasing concentration of economic power, such as has occurred in the flood of conglomerate mergers, carries with it a very tangible threat of concentration of political power. Put simply, the bigger the company, the greater the leverage it has in Washington. Bigness may not be bad in itself, but it carries with it a wide range of implications and consequences that must be examined very carefully.

We are not yet a corporate state but we may wish to decide whether we want to be before it happens by default.

All of these considerations point to the fact that the public has a direct and vital interest in effective enforcement of the antitrust laws, particularly in the process by which antitrust cases are resolved.

For these reasons I am today introducing S. 4014, the Antitrust Procedures and Penalties Act. I am pleased and honored to have my distinguished colleague on the Antitrust and Monopoly Subcommittee, Mr. GURNEY, join me as a prime sponsor.

The bill which we are introducing today has three basic provisions. The first establishes a reasonable but specific set of standards and guidelines to govern the process by which antitrust suits may be settled and consent judgments entered. The second increases the penalties for criminal violations of the antitrust statutes. Finally, a third provision revises the Expediting Act to improve the process of appellate review of antitrust cases, and in particular to authorize the United States appeal from the denial of a preliminary injunction at the trial court level.

I. CONSENT DECREE PROCEDURES

By the most recent figures available, over 80 percent of the civil antitrust suits brought by the Justice Department are disposed of through consent decrees—voluntary settlements negotiated between defendants and the Government and adopted by the court prior to trial. Essentially the decree is a device by which the defendant, while refusing to admit guilt, agrees to modify its conduct and in some cases to accept certain remedies designed to correct the violation asserted by the Government.

The consent decree has a number of major public consequences, however. First, it means that the substantial resources of the Justice Department will be removed from the effort to establish that the antitrust laws were violated. Because consent decrees by statute carry with them no prima facie effect as an admission of guilt, private parties who may have been damaged by the alleged violations are left to their own resources in their efforts to recover damages. As a practical matter because of the protracted nature of antitrust litigation, and the deep pockets of many corporate defendants, few private plaintiffs are able to sustain a case in the absence of parallel litigation by the Justice Department.

In addition, however, the consequences to the public of the provisions contained in the decree itself may be of major significance. Depending upon the skill of the Justice Department's attorneys and opposing counsel, and the relative leverage which they can bring to bear, a bad or inadequate consent decree may as a practical matter foreclose further review of a defendant's practices both inside and outside the scope of the decree.

Similarly, where the decree establishes guidelines for future conduct, the enforcement and modification of those guidelines takes on even more importance.

Finally, the public's interest in deterrence of future antitrust violations by the defendant and by other potential defendants may be affected profoundly by the willingness of the Justice Department to settle cases and the price exacted for such settlements.

None of these points implies that settlement of an antitrust case should necessarily be discouraged. There is in fact little question that consent decrees have been a particularly valuable enforcement tool.

But because of the frequency of their use, because of the importance a particular decree may have, and because of importance of public confidence in the manner a decree is arrived at, I believe we must provide specific standards and procedures to assure that the decision to settle and the settlement itself are in fact in the public interest.

A. PUBLIC IMPACT STATEMENT

Section 2 of the bill adds a new subsection (b) to section 5 of the Clayton Act (15 U.S.C. S. 16). This new subsection provides that any consent decree proposed by the United States must be filed with the court in which the case is pending and simultaneously published in the Federal Register at least 60 days prior to the effective date of the decree. In addition, the Government must file a "public impact statement" containing the following:

First, the nature and purpose of the proceeding;

Second, a description of the practices or events giving rise to the alleged violation of the antitrust laws;

Third, an explanation of the proposed judgment, relief to be obtained thereby, and the anticipated effects on competition of that relief, including an explanation of any unusual circumstances giving rise to the proposed judgment or any provision contained therein;

Fourth, the remedies available to potential private plaintiffs damaged by the alleged violation in the event that the proposed judgment is entered;

Fifth, a description of the procedures available for modification of the proposed judgment;

Sixth, a description and evaluation of alternatives to the proposed judgment and the anticipated effects on competition of such alternatives.

Each of these items is relatively self-explanatory. In sum, they have a dual purpose: First, they explain to the public, particularly those members of the public with a direct interest in the proceeding, the basic data about the decree to enable such persons to understand what is happening and make informed comments or objections to the proposed decree during the 60-day period. Second, the items listed in the subsection will serve to focus additional attention by both sides during settlement negotiations upon the factors which should be considered in formulating a decree.

The requirements of this provision are departures from the current practice of the Antitrust Division, but are not necessarily burdensome ones. At present, proposed consent decrees are filed with the court 30 days before they are to be entered. Typically the Department issues a brief press release recounting the fact of the filing of the decree and in some cases giving some additional but limited information about the litigation. Following the 30-day period during which public comments are received—but rarely solicited—the decree is entered by the court.

This new subsection lengthens the comment period to 60 days and provides for circulation of both the decree and an analysis of its public impact by publication in the Federal Register. In addition, an affirmative duty is placed upon the Department to provide copies of both upon request.

The public impact statement required by this section is analogous to the environmental impact statement presently required from governmental agencies by the National Environmental Protection Act. It is therefore not without precedent but rather reflects a continuing concern on the part of the Congress to assure that decisions having a major public impact be arrived at through procedures which take account of that impact.

In addition, the public impact statement will serve as the basis for vastly improving the quality of comments filed in response to the decree. In so doing, it may render more meaningful the period for public comment which exists in shorter form under present procedure. Given the enormous amount of time and resources devoted to the prosecution of most antitrust suits, it is both logical and necessary that the end result be as carefully considered as possible.

The significance of this latter point should not be overlooked. Regardless of the ability and negotiating skill of the Government's attorneys, they are neither omniscient nor infallible. The increasing expertise of so-called public interest advocates and for that matter the more immediate concern of a defendant's competitors, employees, or antitrust victims may well serve to provide additional data, analysis, or alternatives which could improve the outcome.

B. PROCEDURES FOR PUBLIC COMMENT AND DEPARTMENTAL RESPONSE

As explained above, the bill would lengthen the present 30-day public comment period to 60 days. A new subsection (c) would be added to section 5 of the Clayton Act which would require the Attorney General or his designee to establish procedures to carry out the provision for public comment on the decree. The bill also provides that the 60-day period may be shortened by order of court but only upon a showing that extraordinary circumstances require it and that such a shortened time period would not be adverse to the public interest.

An additional requirement contained in this subsection is the filing by the Justice Department of a formal response to comments submitted to it pursuant to this provision. This requirement has two purposes: First, to give some assurance that public comments will in fact be considered by the Department when received; and second, to provide additional data to the district court in making its decision whether to enter the decree.

This latter point is particularly important because of the historically limited role which the courts have played in scrutinizing consent decrees. Before a court can be expected to exercise an independent judgment with respect to the merits of a particular decree, it must have adequate information available to it.

The public impact statement required by the bill, and the departmental response to public comments, can provide significant contributions toward the adequacy of the data available to the court.

C. ENTRY OF THE DECREE

A new subsection (d) which the bill would add to section 5 of the Clayton Act establishes the general criteria by which the court should determine whether to enter a particular decree.

The mandate is phrased first in general terms: Before entering any consent judgment, the court shall determine that entry of that judgment is in the public interest.

The mandate is a highly significant one because it states as a matter of law that the role of the district court in a consent decree proceeding is an independent one. The court is not to operate simply as a rubber stamp, placing an imprimatur upon whatever is placed before it by the parties. Rather, it has an independent duty to assure itself that entry of the decree will serve the interests of the public generally.

Though this may seem a truism to some, too often in the past district courts have viewed their roles as simply ministerial in nature—leaving to the Justice Department the role of determining the adequacy of the judgment from the public's view. While in most cases that judgment may be a reasonable one, there may well be occasions when it is not. Furthermore, the submission of the proposed decree to the court and its subsequent embodiment in a judgment lends a permanence that endures long after the passing of a particular administration of the Department.

For all of these reasons, the mandate placed upon the court by this section, even though a general one, carries with it a major significance.

In addition, however, and as an aid to the court in making its independent judgment, the bill provides a number of more detailed criteria for determination of the public's interest. Those criteria are as follows:

First, the public impact of the judgment, including termination of alleged violation, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies, and any other considerations bearing upon the adequacy of the judgment;

Second, the public impact of entry of the judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaints, including consideration of the public benefit to be derived from a determination of the issues at trial.

The thrust of those criteria is to demand that the court consider both the narrow and the broad impacts of the decree. Thus, in addition to weighing the merits of the decree from the viewpoint of the relief obtained thereby and its adequacy, the court is directed to give consideration to the relative merits of other alternatives and specifically to the effect of entry of the decree upon private parties aggrieved by the alleged violations and upon the enforcement of the antitrust laws generally.

These latter two points merit some additional explanation. First, as is well known by the antitrust bar, in the vast majority of cases, the Government is the only plaintiff with resources adequate to the task of protracted antitrust litigation. Thus, a major effort of defense counsel in any antitrust case is to neutralize the Government as plaintiff and leave prospective private plaintiffs to their own resources. Consent decrees have that effect because by statute they cannot be used as prima facie evidence of a violation in subsequent suits by private plaintiffs.

Thus, removal of the Government as plaintiff through entry of a consent decree has a profound impact upon the ability of private parties to recover for antitrust injuries. Such a result is by no means improper nor perhaps in every case unreasonable. But because of that impact, it is a factor which should enter into the calculus by which the merits of the decree are assessed. It may well be that the economic cost to the public of a particular antitrust violation merits the application of governmental resources toward gaining a recovery of that cost in damages for those who can establish their injury.

Similarly, the court is instructed to look at the question of antitrust enforcement generally to determine whether there may be overriding public interest in denying a particular settlement or even forcing a trial on the merits. For example, it may be that a particular case presents issues which demand an outcome which carries value as precedent. Such considerations would thus be added to the guides by which the court would arrive at its decision.

D. PROCEDURES AVAILABLE TO THE COURT

To assist the court in making the determination of public interest required by the bill, a variety of discretionary procedural devices are provided in a new subsection (e). Those procedures are as follows:

First, take testimony of government officials or experts or such other expert witnesses, upon motion of any party or participant or upon its own motion, as the court may deem appropriate;

Second, appoint a special master pursuant to rule 53 of the Federal Rules of Civil Procedure, and such outside consultants or expert witnesses as the court may deem appropriate, and request and obtain the views, evaluations or advice of any individual, group or agency of government with respect to any aspects of the proposed judgment or the effect thereof in such manner as the court deems appropriate;

Third, authorize full or limited participation in proceedings before the court by interested persons or agencies, including appearance amicus curiae intervention as a party pursuant to rule 24 of the Federal Rules of Civil Procedure, examination of witnesses or documentary materials, or participation in any other manner and extent which serves the public interest as the court may deem appropriate;

Fourth, review any comments or objections concerning the proposed decree filed with the United States under subsection (c) and the response of the United States to such comments or objections;

Fifth, take such other action in the public interest as the court may deem appropriate.

A few key factors should be mentioned. First, all of the procedural devices continued in this subsection are discretionary in nature. They are tools available to the district court for its use, but use of a particular procedure is not required.

The decision to make those procedures discretionary is dictated by a desire to avoid needlessly complicating the consent decree process. There are some cases in which none of these procedures may be needed. On the other hand, there have been and will continue to be cases where the use of many or even all of them may be necessary. In fact, in a very few complex cases, failure to use some of the procedures might give rise to an indication that the district court had failed to exercise its discretion properly.

Second, the procedures are not meant to be exclusive. Rather, they are designed as guides for the courts to follow. To a considerable extent, they serve as safe harbors for a court to look to when faced with a difficult case. By following one or more of the procedures contained in this provision, an individual judge can develop the data he needs without fear that he is embarking upon an untried and perhaps reversible journey. This point is particularly significant where courts have been confronted in the past with the argument that any effort to make an independent examination of the decree is unprecedented.

Turning to the specific procedures provided by the bill, most are quite simple. The first two mechanisms, testimony of expert witnesses and special masters or other expert consultants, are designed to allow the court to obtain from whatever source necessary the technical expertise required to assess the merits of the decree or its consequences. This might include, for example, calling upon an economist from the Antitrust Division to explain the practices complained of and the effect of the relief sought. Or it might involve testimony from an expert obtained by the court from the SEC or some other Government agency. In a particularly complex case, it might include appointing one or more special masters or expert consultants to analyze and evaluate the decree or other arguments in its support. In short, the court would be authorized to obtain, from whatever source deemed appropriate, information sufficient to make an informed judgment about the decree.

In addition, the court may take appropriate measures to solicit comments on the decree from groups, agencies of government, or individual members of the public to assure itself that the decree has received adequate public attention. While it seems clear that the court would have such authority in the absence of legislation, this provision like those discussed above serves to encourage such requests by removing any aura of extraordinariness.

A third provision outlines a variety of methods in which interested third parties may be authorized to participate in the proceedings. The thrust of this provision is broadly flexible. It ranges from full intervention as a party under rule 24 of the Federal Rules of Civil Procedure down through a wide variety of more limited forms of participation. The basic point, however, is that the court is given broad discretion to fashion the degree of participation necessary to assure an adequate airing of the merits of the decree. Thus, for example, it need not allow an intervenor to come in with all the rights of a party to the litigation, but can choose instead to confer more limited rights. The effect of this provision should be to allow more extensive participation by so-called public representation where useful or appropriate without needlessly complicating the entire litigation.

The fourth procedural mechanism deals with public comments other than through actual participation in the proceedings before the court. Thus, public comments received during the 60-day period for such comments together with the Justice Department's response would be available to the court.

Finally, a blanket authorization for other appropriate procedures is included to encourage the court to fashion such additional tools as may be useful in fulfilling the mandate placed upon it to evaluate the proposed decree.

E. RECORD OF LOBBYING ACTIVITIES

One of the unfortunate lessons which the American people have learned in the past few months is that access to governmental institutions and governmental decisionmakers is inherently unequal. Large corporations and their officials can obtain a hearing at the highest levels of government on a scale that is beyond the imagination of the average citizen. This problem is not unique to the present administration, it is a fundamental reality of any administration. And it will continue to be a problem as long as we continue to finance political campaigns by watering at the big money trough.

But having said that, we must also assure that adequate safeguards govern the manner and extent of corporate influence.

The problem is particularly critical where the antitrust laws are concerned because to a considerable extent those laws are viewed as a direct threat by those who exercise the greatest corporate influence. And because the stakes are high the level of lobbying is equally high.

For this reason, it is particularly important to assure some measure of public scrutiny of the exercise of that influence. Justice Brandeis once said, "Sunlight is the best of disinfectants." And it is sunlight which is required in the case of lobbying activities attempting to influence the enforcement of the antitrust laws.

To deal with this problem in a constructive way, the bill proposes a new provision in the Clayton Act which would require a disclosure of lobbying activities on behalf of any defendant in connection with a consent decree proceeding.

The bill adds a new subsection (f) which provides that not later than 10 days following the filing of any proposed consent judgment as required by the bill, each defendant must file with the district court a description of any and all written or oral communications by or on behalf of that defendant with any officer or employee of the United States concerning or relevant to the consent judgment or the subject matter thereof. Included under this provision are contacts on behalf of a defendant by any of its officers, directors, employees or agents or any other person acting on behalf of the defendant, with any Federal official or employee. Thus, for example, the provision would include contacts with Members of Congress or staff, Cabinet officials, staff members of executive departments and White House staff.

The only exception is a limited exception for attorneys representing the defendant who are of record in the judicial proceeding. The exception is designed to avoid interference with legitimate settlement negotiations between attorneys representing a defendant and Justice Department attorneys handling the litigation. However, the provision is not intended as a loophole for extensive lobbying activities by a horde of "counsel of record."

In operation, the provision would require disclosure, for example, of a meeting between a corporate official and a Cabinet officer discussing "antitrust policy" during the pendency of antitrust litigation against that corporation. The disclosure intended is a disclosure of the fact of the meeting and the general subject matter. It obviously does not envision an outline of the conversation. But the essential data, that is, the date, the participants, and the fact that antitrust matters were discussed must be disclosed.

In addition, the bill requires that prior to entry of the consent judgment by the court, each defendant must certify to the court that the requirement of the section have been complied with and that the filing is a true and complete description of all such contacts or communications.

The requirements of this section are by no means burdensome. They demand no extraordinary efforts on the part of any defendant in order to comply with the duties imposed in the section.

Furthermore, they apply equally to contact with any branch of Government, including the Congress. I believe it is important that we in the Congress accept the same scrutiny as we would impose on any other branch. Furthermore, I believe there is a great deal to be gained by having a corporate official who seeks to influence a pending antitrust case through congressional pressure, know that his activity is subject to public view.

For all these reasons, I believe this section will be an important contribution toward vastly improving the atmosphere in which the Antitrust Division must operate in seeking to enforce the law. I have little doubt that enactment of this section might enable the Government's attorneys to do an even better job of litigating a particular case.

F. PRIMA FACIE EFFECT

A final provision in the consent decree procedures retains the provision presently contained in section 5 of the Clayton Act which prevents use of a consent decree in any way in subsequent litigation as prima facie evidence of violation. A new subsection (g) would be added which provides that proceedings before the district court in connection with the decree and public impact statements filed pursuant to the provisions of the bill are not admissible against any defendant in any action or proceeding brought by any other party against that defendant under the antitrust laws or by the United States under section 4A of the Clayton Act, nor may they constitute a basis for introduction of the decree as prima facie evidence against such defendant in any such action or proceeding.

The basic reason for including this provision is to preserve the consent decree as a substantial enforcement tool by declining to give it prima facie effect as a matter of law.

Although there have been suggestions that such effect be written into the law this bill does not reflect such suggestions. Since the primary purpose of the new consent decree procedures is to improve the process by which such decrees are used, continuation of the protection against prima facie effect appears necessary.

However, this provision is not intended to affect the Government's ability to require a so-called asphalt clause providing such effect where such a clause is deemed appropriate.

II. INCREASED CRIMINAL PENALTIES

A second part of the bill increases the penalties for criminal violations of the antitrust laws from $50,000 to $100,000 for individuals and to $500,000 for corporations. In an era when the profits available through antitrust violations can run to the millions of dollars, this increase is long overdue.

Former Attorney General John Mitchell, himself no stranger to corporate boardrooms, said this in support of increased corporate penalties in 1969:

> The maximum fine for violations of the Sherman Antitrust Act was increased to $50,000 in 1955. Since that time the assets and profits of corporations have increased dramatically, while the purchasing power of the dollar has decreased greatly. Consequently, the basic purpose of such a fine—to punish offenders and to deter potential offenders—are frustrated because the additional profits available through prolonged violation of the law can far exceed the penalty which may be imposed. The $50,000 statutory maximum makes fines in criminal antitrust cases trivial for major corporate defendants.

The need for this increase is self-evident. The only way violations of the antitrust laws will be deterred is by making the cost of violations unacceptable. Increasing the fines is not the only solution; more jail sentences for individual defendants might well be the most effective deterrent. But increasing the monetary penalties might well remove some of the profits which make antitrust violations attractive to otherwise ethical businessmen.

Increasing the maximum fine will do nothing if judges fail to use it effectively. Actual fines in the past have been far below the maximum possible. The Ralph Nader study group report on antitrust enforcement recently estimated that between 1955 and 1965, corporate fines averaged $13,420 and individual fines $3,365. Unless judges are prepared to make a violation economically painful, mere increases in statutory maximums will carry little deterrent value.

III. APPELLATE REVIEW OF ANTITRUST CASES

Mr. President, the final portion of this bill would amend the Expediting Act to improve the procedures for appeals in antitrust cases, and particularly to permit immediate Supreme Court review of those cases of general public importance. Additionally, it would remove the present uncertainty as to whether or not the interlocutory appeal statute is available under the Expediting Act. This present uncertainty has hampered the Department of Justice in obtaining preliminary injunctions in antitrust cases because of the doubt as to the applicability of appellate review.

In brief, the proposal would amend section 1 of the Expediting Act (15 U.S.C. 28, 49 U.S.C. 44) which provides for a three-judge district court in civil actions where the United States is a plaintiff under the Sherman or Clayton Antitrust Acts or certain sections of the Interstate Commerce Act, when the Attorney General files with the district court a certificate that the case is of general public importance. The section also provides that the hearing and determination of such cases shall be expedited. The amendment would eliminate the provision that a three-judge court be impaneled when the Attorney General files his expediting certificate, but would retain the expediting procedure in single-judge courts.

The bill would amend section 2 of the act (15 U.S.C. 29, 49 U.S.C. 45), which provides that appeal from a final judgment of a district court in any civil action brought by the United States under any of the acts covered by section 1 of the Expediting Act will lie only in the Supreme Court. The amendment would eliminate direct appeal to the Supreme Court in such actions for all but cases of general public importance, substituting normal appellate review through the courts of appeals with discretionary review by the Supreme Court. The amendment provides that any appeal from a final judgment in a government civil case under the antitrust laws, or other statutes of like purpose, and not certificated by the Attorney General or the district court as requiring immediate Supreme Court review will be taken to the court of appeals pursuant to sections 1291 and 2107 of title 28 of the United States Code. Any appeal from an interlocutory order entered in any such action shall be taken to the court of appeals pursuant to sections 1292(a)(1) and 2107 of title 28 of the United States Code, but not otherwise. Any judgments entered by the courts of appeals in such actions shall be subject to review by the Supreme Court upon a writ of certiorari.

The amendment also provides that an appeal and any cross-appeal from a final judgment in such proceedings will lie directly in the Supreme Court if, not later than 15 days after the filing of appeal, (1) upon application of a party, the district judge who decided the case enters an order stating that immediate consideration of the appeal by the Supreme Court is of general public importance in the administration of justice or (2) the Attorney General files in the district court a certificate containing the same statement. Upon filing of such an order or certificate, the Supreme Court shall either dispose of the appeal and any cross-appeal in the same manner as any other direct appeal authorized by law or deny the direct appeal and remand the case to the court of appeals. Review in that court could then go forward without further delay. This is similar to the procedure of the Criminal Appeals Act (18 U.S.C. 3731).

These revisions represent a substantial improvement in the appellate process for antitrust cases. In addition, the provisions authorizing appeal by the Government from a denial of a preliminary injunction at the district court level are directly responsive to the repeated pleas of the former head of the Antitrust Division, Richard McLaren, voiced recently. Judge McLaren repeatedly emphasized the need for legislation to give the Government the right to appeal from such denials:

> Again, I refer to the fact that we have asked, or the Department asked, repeatedly for legislation that would give us the right to appeal in those denials.

That request has been echoed recently by Donald Baker, Chief of Policy Planning and Education for the Antitrust Division:

> Under present law, the government has no effective appeal from a denial of a preliminary injunction in a merger case. We have sought unsuccessfully to get that power in recent years. Congress has not acted.

This bill will resolve that problem in a manner acceptable to the Justice Department. All of the revisions of the Expediting Act contained in this bill have been endorsed by the Department in hearings during the 91st Congress.

Mr. President, I ask unanimous consent that a copy of the bill and a section-by-section analysis of it be printed at this point in the Record.

There being no objection, the bill and analysis were ordered to be printed in the Record, as follows:

S. 4014

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the "Antitrust Procedures and Penalties Act."

CONSENT DECREE PROCEDURES

Sec. 2. Section 5 of the Act entitled "An Act to Supplement Existing Laws against Unlawful Restraints and Monopolies, and for Other Purposes", approved October 15, 1914 (38 Stat. 730; 15 U.S.C. 16) is amended by redesignating subsection (b) as (h) and by inserting after subsection (a) the following:

"(b) Any consent judgment proposed by the United States for entry in any civil or criminal proceeding brought by or on behalf of the United States under the antitrust laws shall be filed with the district court before which that proceeding is pending and published in the Federal Register at least 60 days prior to the effective date of such decree. Simultaneously with the filing of the proposed consent judgment, unless otherwise instructed by the court, the United States shall file with the district court, cause to be published in the Federal Register and thereafter furnish to any person upon request a public impact statement which shall recite:

"(1) the nature and purpose of the proceeding;

"(2) a description of the practices or events giving rise to the alleged violation of the antitrust laws;

"(3) an explanation of the proposed judgment, relief to be obtained thereby, and the anticipated effects on competition of that relief, including an explanation of any unusual circumstances giving rise to the proposed judgment or any provision contained therein;

"(4) the remedies available to potential private plaintiffs damaged by the alleged violation in the event that the proposed judgment is entered;

"(5) a description of the procedures available for modification of the proposed judgment;

"(6) a description and evaluation of alternatives to the proposed judgment and the anticipated effects on competition of such alternatives.

"(c) During the 60-day period provided above, and such additional time as the United States may request and the court may grant, the United States shall receive and consider any written comments relating to the proposed consent judgment. The Attorney General or his designate shall establish procedures to carry out the provisions of this subsection, but the 60-day time period set forth herein shall not be shortened except by order of the district court upon a showing that extraordinary circumstances require such shortening and that such shortening of the time period is not adverse to the public interest. At the close of the period during which such comments may be received, the United States shall file with the district court and cause to be published in the Federal Register a response to such comments.

"(d) Before entering any consent judgment proposed by the United States under this section, the court shall determine that entry of that judgment is in the public interest. For purpose of this determination, the court shall consider:

"(1) the public impact of the judgment, including termination of alleged violation, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies, and any other considerations bearing upon the adequacy of the judgment;

"(2) the public impact of entry of the judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint, including consideration of the public benefit to be derived from a determination of the issues at trial.

"(e) In making its determination under subsection (d), the court may—

"(1) take testimony of Government officials or experts or such other expert witnesses, upon motion of any party or participant or upon its own motion, as the court may deem appropriate;

"(2) appoint a special master, pursuant to rule 53 of the Federal Rules of Civil Procedure, and such outside consultants or expert witnesses as the court may deem appropriate; and request and obtain the views, evaluations, or advice of any individual group or agency of government with respect to any aspect of the proposed judgment of the effect thereof in such manner as the court deems appropriate;

"(3) authorize full or limited participation in proceedings before the court by interested persons or agencies, including appearance amicus curiae, intervention as a party pursuant to rule 24 of the Federal Rules of Civil Procedure, examination of witnesses or documentary materials, or participation in any other manner and extent which serves the public interest as the court may deem appropriate;

"(4) review any comments or objections concerning the proposed judgment filed with the United States under subsection (c) and the response of the United States to such comments or objections;

"(5) take such other action in the public interest as the court may deem appropriate.

"(f) Not later than 10 days following the filing of any proposed consent judgment under subsection (b), each defendant shall file with the district court a description of any and all written or oral communications by or on behalf of such defendant, including any officer, director, employee, or agent thereof, or other person except counsel of record, with any officer or employee of the United States concerning or relevant to the proposed consent judgment.

Prior to the entry of any consent judgment pursuant to the antitrust laws, each defendant shall certify to the district court that the requirements of this section have been complied with and that such filing is a true and complete description of such communications.

"(g) Proceedings before the district court under subsections (d) and (e), and public impact statements filed under subsection (b) hereof, shall not be admissible against any defendant in any action or proceeding brought by any other party against such defendant under the antitrust laws or by the United States under section 4A of this Act nor constitute a basis for the introduction of the consent judgment as prima facie evidence against such defendant in any such action or proceeding."

PENALTIES

Sec. 3. Sections 1, 2, and 3 of the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (26 Stat. 209; 15 U.S.C. 1, 2, and 3) are each amended by striking out "fifty thousand dollars" and inserting "five hundred thousand dollars if a corporation, or, if any other person, one hundred thousand dollars."

EXPEDITING ACT REVISIONS

Sec. 4. Section 1 of the Act of February 11, 1903 (32 Stat. 823), as amended (15 U.S.C. 28; 49 U.S.C. 44), commonly known as the Expediting Act, is amended to read as follows:

"Section 1. In any civil action brought in any district court of the United States under the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies,' approved July 2, 1890, or any other Acts having like purpose that have been or hereafter may be enacted, wherein the United States is plaintiff and equitable relief is sought, the Attorney General may file with the court, prior to the entry of final judgment, a certificate that, in his opinion, the case is of a general public importance. Upon filing of such certificate, it shall be the duty of the judge designated to hear and determine the case, or the chief judge of the district court if no judge has as yet been designated, to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited."

Sec. 5. Section 2 of that Act (15 U.S.C. 29; 49 U.S.C. 45) is amended to read as follows:

"(a) Except as otherwise expressly provided by this section, in every civil action brought in any district court of the United States under the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies,' approved July 2, 1890, or any other Acts have like purpose that have been or hereafter may be enacted, in which the United States is the complainant and equitable relief is sought, any appeal from a final judgment entered in any such action shall be taken to the court of appeals pursuant to sections 1291 and 2107 of title 28 of the United States Code. Any appeal from an interlocutory order entered in any such action shall be taken to the court of appeals pursuant to sections 1292(a)(1) and 2107 of title 28 of the United States Code but not otherwise. Any judgment entered by the court of appeals in any such action shall be subject to review by the Supreme Court upon a writ of certiorari as provided in section 1254(1) of title 28 of the United States Code.

"(b) An appeal from a final judgment pursuant to subsection (a) shall lie directly to the Supreme Court if:

"(1) upon application of a party filed within five days of the filing of a notice of appeal, the district judge who adjudicated the case enters an order stating that immediate consideration of the appeal by the Supreme Court is of general public importance in the administration of justice; or

"(2) the Attorney General files in the district court a certificate stating that immediate consideration of the appeal by the Supreme Court is of general public importance in the administration of justice; or

"(3) the district judge who adjudicated the case, sua sponte, enters an order stating that immediate consideration of the appeal by the Supreme Court is of general public importance in the administration of justice."

A court order pursuant to (1) or (3) or a certificate pursuant to (2) must be filed within fifteen days after the filing of a notice of appeal. When such an order or certificate is filed, the appeal and any cross appeal shall be docketed in the time and manner prescribed by the rules of the Supreme Court. That Court shall thereupon either (1) dispose of the appeal and any cross appeal in the same manner as any other direct appeal authorized by law, or (2) in its discretion, deny the direct appeal and remand the case to the court of appeals, which shall then have jurisdiction to hear and determine the same as if the appeal and any cross appeal therein had been docketed in the court of appeals in the first instance pursuant to subsection (a)."

Sec. 6. (a) Section 401(d) of the Communications Act of 1934 (47 U.S.C. 401(d)) is repealed.

(b) The proviso in section 3 of the Act of February 19, 1903, as amended (32 Stat. 848, 849; 49 U.S.C. 43), is repealed and the colon preceding it is changed to a period.

Sec. 7. The amendment made by section 2 shall not apply to an action in which a notice of appeal to the Supreme Court has been filed on or before the fifteenth day following the date of enactment of this Act. Appeal in any such action shall be taken pursuant to the provisions of section 2 of the Act of February 11, 1903 (32 Stat. 823), as amended (15 U.S.C. 29; 49 U.S.C. 45) which were in effect on the day preceding the date of enactment of this Act.

ANTITRUST PROCEDURES AND PENALTIES ACT— SECTION-BY-SECTION ANALYSIS

Sec. 1. Short Title

The Act may be cited as "The Antitrust Procedures and Penalties Act."

Sec. 2. Consent Decree Procedures

Section 2 adds a series of new subsections to Section 5 of the Clayton Act (15 USC § 16) to establish procedures governing the filing and entry of a consent judgment settling a civil antitrust suit by the United States. These new subsections, numbered "(b)-(g)" are inserted after the present subsection "(a)" in Section 5 of the Clayton Act.

SUBSECTION (B)—PUBLIC IMPACT STATEMENT

This subsection provides that any consent decree proposed by the United States must be filed with the court in which the case is pending and simultaneously published in the Federal Register at least 60 days prior to the effective date of the decree. In addition the Government must file a "public impact statement" containing the following:

(1) the nature and purpose of the proceeding;

(2) a description of the practices or events giving rise to the alleged violation of the antitrust laws;

(3) an explanation of the proposed judgment, the relief to be obtained thereby, the anticipated effects on competition of that relief and an explanation of any special circumstances giving rise to the proposed judgment or any provision contained therein.

(4) the remedies available to potential private plaintiffs damaged by the alleged violation in the event that the judgment is entered;

(5) a description of the procedures available for modification of the judgment;

(6) a description and evaluation of alternatives to the proposed judgment and the anticipated effects on competition of such alternatives.

The public impact statement required by this subsection is analogous to the environmental impact statement presently required from governmental agencies by the National Environmental Policy Act.

SUBSECTION (C)—PROCEDURES FOR PUBLIC COMMENT AND DEPARTMENTAL RESPONSE

This subsection lengthens the present 30 day public comment period to 60 days. It also provides that the sixty day period may be shortened by order of court but only upon a showing that extraordinary circumstances require it and that such a shortened time period would not be adverse to the public interest.

An additional requirement contained in this subsection is a filing by the Justice Department of a formal response to comments submitted to it pursuant to this provision. This requirement has two purposes: first, to give some assurance that public comments will in fact be considered by the Department when received; and second, to provide additional data to the district court in making its decision whether to enter the decree.

SUBSECTION (D)—ENTRY OF THE DECREE

This subsection establishes the general criteria by which the court should determine whether to enter a particular decree.

The mandate is phrased first in general terms: Before entering any consent judgment, the court shall determine that entry of that judgment is in the public interest.

In addition, however, and as an aid to the court in making its independent judgment, the bill provides a number of more detailed criteria for determination of the public's interest. Those criteria are as follows:

(1) the public impact of the judgment, including termination of alleged violation, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies, and any other considerations bearing upon the adequacy of the judgment; and

(2) the public impact of entry of the judgment upon the public generally and persons alleging specific injury from the violations set forth in the complaint; including consideration of the public benefit to be derived from a determination of the issues at trial.

SUBSECTION (E)—PROCEDURES AVAILABLE TO THE COURT

This subsection adds a series of discretionary procedural devices to assist the court in making the determination of public interest required by the Act. Those procedures are as follows:

(1) take testimony of Government officials or experts or such other expert witnesses, upon motion of any party or participant or upon its own motion, as the court may deem appropriate;

(2) appoint a special master, pursuant to Rule 53 of the Federal Rules of Civil Procedure, and such outside consultants or expert witnesses as the court may deem appropriate; and request and obtain the views, evaluations, or advice of any individual, group or agency of government with respect to any aspect of the proposed judgment or the effect thereof in such manner as the court deems appropriate;

(3) authorize full or limited participation in proceedings before the court by interested persons or agencies; including appearance amicus curiae, intervention as a party pursuant to Rule 24 of the Federal Rules of Civil Procedure, examination of witnesses or documentary materials, or participation in any other manner and extent which serves the public interest as the court may deem appropriate;

(4) review any comments or objections concerning the proposed decree filed with the United States under subsection (c) and the response of the United States to such comments or objections;

(5) take such other action in the public interest as the court may deem appropriate.

SUBSECTION (F)—RECORD OF LOBBYING ACTIVITIES

This subsection provides that not later than 10 days following the filing of any proposed consent judgment as required by the bill each defendant must file with the district court a description of any and all written or oral communications by or on behalf of the defendant with any officer or employee of the United States concerning or relevant to the consent judgment or the subject matter thereof. Included under this provision are contacts on behalf of a defendant by any of its officers, directors, employees or agents, or any other person acting on behalf of the defendant, with any federal official or employee. Thus, for example, the provision would include contacts with Members of Congress or staff, Cabinet officials, staff members of executive departments and White House staff.

The only exception is a limited exception for attorneys representing the defendant who are of record in the judicial proceeding. The exception is designed so as to avoid interference with legitimate settlement negotiations between attorneys representing a defendant and Justice Department attorneys handling the litigation. However, the provision is not intended as a loophole for extensive lobbying activities by a horde of "counsel of record."

In addition, the subsection requires that prior to entry of the consent judgment by the court, each defendant must certify to the court that the requirements of the section have been complied with and that the filing is a true and complete description of all such contacts or communications.

SUBSECTION (G)—PRIMA FACIE EFFECT

A final provision in the consent decree procedures retains the provision presently contained in Section 5 of the Clayton Act which prevents use of a consent decree in any way in subsequent litigation as prima facie evidence of violation. A new subsection (g) would be added which provides that proceedings before the district court in connection with the decree pursuant to this Act and public impact statements filed pursuant to the act are not admissible against any defendant in any action or proceeding brought by any other party against that defendant under the antitrust laws or by the United States under Section 4A of the Clayton Act, nor constitute a basis for introduction of the decree as prima facie evidence against such defendant in any such action or proceeding.

The basic reason for including this provision is to preserve the consent decree as a substantial enforcement tool by declining to give it prima facie effect as a matter of law.

SECTION 3. CRIMINAL PENALTIES

This section increases the penalties for criminal violations of the antitrust laws from $50,000 to $100,000 for individuals and $500,000 for corporations.

SECTION 4—7. EXPEDITING ACT REVISIONS

These sections incorporate revisions of the Expediting Act which previously passed both House and Senate in the 91st Congress. They provide for intermediate appellate review of antitrust cases, with direct appeal to the Supreme Court retained for cases of general public importance. In addition, the present uncertainty regarding the opportunity for appeal by the Government from a denial of a preliminary injunction by a district court is resolved by allowing such appeals.

By Mr. PELL:

S. 4017. A bill to establish a Regional Railroad Rights of Way Authority. Referred to the Committee on Commerce.

Mr. PELL. Mr. President, I introduce today for reference to the Senate Committee on Commerce a bill to allow the establishment of regional rail roadbed authorities to take ownership of the roadbed of bankrupt railroads and to issue revenue bonds to aid in the recapitalization of bankrupt railroads. I also ask that the bill be printed in full following these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I think there would be few people who would disagree with the statement that we must preserve our Nation's freight and passenger rail service capacity. The economic and environmental justifications for that proposition has been well debated on this floor for many years.

The disagreement remains with the means the Congress should use to maintain the viability of our railroad services.

Very few persons want to nationalize the railroads.

Very few persons want to subsidize the railroads.

The question then remains as to what other means exist for saving our railroad system, especially our railroad system in the Northeast Corridor.

I believe there is a third alternative which is actually a very simple alternative.

I would propose that railroads be treated by Government policy in the same manner as airlines and truck companies are treated.

Airlines are provided runways and airlanes and truck companies are provided highways through the implementation of governmental policies. Yet railroads are left solely responsible for providing their own rights-of-way.

I think it is unreasonable to expect that railroads will remain competitive with other modes of transportation if railroads are to be the only mode of transportation which are to be left to finance completely their own rights-of-way.

It seems to me that there is a way through our constitutional authority for maintaining interstate commerce for Congress to maintain the vitality of the railroad industry without nationalizing the railroad or without subsidizing the railroad.

I believe we can accomplish this end by treating railroad beds like highway toll roads.

I am offering today a bill which would establish independent regional Federal authorities to take ownership of the roadbeds of a bankrupt railroad's roadbed through the issuance of tax-exempted revenue bonds which the bankrupt railroad could then use in tax-free transaction to exchange for their existing long-term debt.

The regional railroad rights-of-way authority would lease back to the bankrupt railroad the continued use of the railroad bed through an arrangement where the railroad pays for the maintenance of the roadbed; that is, through a net-net lease.

The lease would be given on the basis of a minimum payment together with a predetermined car toll similar to the procedure used on toll roads. Electronic devices are available which could be placed along the roadbed at various points to audit the use of the roadbed.

The bonds that would be issued by the regional authority would pay a 5 percent tax exempted dividend and be completely negotiable in tax-free exchanges.

If a regional authority determined that a particular railroad was not providing adequate freight service to a region, or in certain cases, inadequate passenger service, the regional authority would give a lease to another competing railroad in conjunction with the lease to the initial railroad or in replacement of the lease to the first railroad.

If, by some unlikely circumstance, the roadbeds acquired by the authority were not able to be leased to a railroad or able to generate enough income to pay off the bonds, the authority could sell the roadbeds to commercial developers. Since real estate is as constantly appreciating investment and since most railroad beds likely to be purchased by an authority as needed for services will lie in densely populated areas, there is no likelihood that the sale of the nonusable roadbeds to commercial developers would not produce more than enough income to repay the defaulted revenue bonds.

This proposed regional rail rights-of-way authority would provide a number of benefits.

First, it would provide a means for keeping needed rail service of bankrupt railroads in effect without any direct costs to the Federal Government. The railroad roadbeds obviously would no longer be a source of tax revenue under this proposal; but this is not an argument against the authority since a railroad that is bankrupt is also not a source of tax revenue.

Second, the revenue bonds of the authority would serve to make the railroad's roadbeds a liquid asset thus enabling the bankrupt railroad to reduce its liabilities, to save on the amortization costs attached to its roadbed, and to provide for the creation of new capital needed by railroads to modernize their equipment and to improve their service.

Third, since the railroad rights-of-way authority could lease the use of its roadbed to more than one railroad, it could provide for competitive service to communities being served by an inefficient railroad.

Fourth, no new bureaucracy would be created, and the operation of the newly created National Rail Passenger Corp.—Amtrak—would be simplified. Since the railroad rights-of-way authority would have no operational authority, only authority to appraise, condemn, and issue bonds for rail rights-of-way, there would only be the need for a very small number of personnel to operate the authority. Since Amtrak could contract directly for the costs of the roadbeds it would use with the railroad rights-of-way authority instead of contracting through existing railroads which are only concerned with freight service, Amtrak would be better able to ascertain the true costs of its roadbed usage and would be in a better position to contract for a better treatment of its passenger trains vis-a-vis freight trains.

I believe if this proposal was enacted it would be a great boon to the Northeast. It could mean the end to Penn Central's bankruptcy, a modernization and improvement of Penn Central's freight service, and a return to sound financial footing for all the railroads serving the Northeast.

My own State of Rhode Island has been particularly hard hit by Penn Central's bankruptcy in terms of direct job loss from Penn Central and in terms of damage done to my State's industry due to the lack of reliable and low-cost freight service.

This proposal I am offering today would reverse, I would hope, that situation.

I know that one nationally known businessman in my own State, Mr. Royal Little, believes this proposal can make that difference.

His imaginative thinking has provided the inspiration for this proposal; and I believe that his well-known financial sagacity should provide confidence in us. This proposal is one of substance and one that is economically viable. I realize its chances of passage in this Congress are limited. But this is an approach and an idea that I believe not only has merit, but will come to be, and the sooner the better. I know I will fight for it as hard as I can.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 4017

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Regional Railroad Rights of Way Authority Act".

DEFINITIONS

Sec. 2. For the purposes of this Act the term—

(1) "Authority" means the Regional Railroad Rights of Way Authority established pursuant to section 3 of this Act;

(2) "railroad" means a common carrier by railroad, as defined in section 1(3) of the Interstate Commerce Act (49 U.S.C. 1 (3));

(3) "railroad right of way" means real property which is owned by a railroad and is within 300 feet on either side of a track, the roadbed for such track, and such structures and devices as are permanently installed on such real property, and may include such additional realty adjoining such real property as the Authority deems necessary for the purposes of this Act.

STATEMENT OF PURPOSE

Sec. 2. The purpose of this Act is to assist railroads, which because of financial problems are having difficulty providing adequate transportation services, by purchasing from such railroads their rights of way and providing for the continued use of such rights of way by lease.

REGIONAL RAILROAD RIGHTS OF WAY AUTHORITY

Sec. 3. (a) There is established in the executive branch of the Government an independent agency to be known as the Regional Railroad Rights of Way Authority. The Authority shall be subject to the supervision and direction of a Board of Trustees which shall consist of five members to be appointed by the President, by and with the advice and consent of the Senate, for terms of five years, except that the terms of four of the trustees first taking office after the enactment of this Act shall expire, as designated by the President at the time of appointment, one at the end of one year, one at the end of two years, one at the end of three years, and one at the end of four years. A vacancy shall be filled only for the unexpired portion of any term and trustees shall hold office until their successors are appointed. Trustees shall serve on a full-time basis and shall be compensated at the rate provided for level III of the Federal Executive salary schedule.

(b) The President shall designate the trustee to serve as Chairman and as Vice Chairman. Three trustees shall constitute a quorum.

FUNCTIONS OF THE AUTHORITY

Sec. 4. (a) The Authority—

(1) shall, after obtaining two independent appraisals of value, acquire by purchase or condemnation all right, title, and interest to the rights of way of any railroad in the United States which is undergoing reorganization under section 77 of the Bankruptcy Act, and provide compensation therefor with obligations issued pursuant to clause (2);

(2) shall issue, after consultation with the Secretary of the Treasury, and have outstanding in such amounts as are necessary for the purposes of carrying out its functions pursuant to clause (1) and for redeeming obligations issued pursuant to this clause, negotiable obligations which (A) are not obligations of the United States but are secured by the assets of the Authority, (B) are in denominations of $200,000 each, (C) bear interest, which shall be exempt from Federal, State, or local income taxes, at a rate of at least 5 per centum, determined by the Authority, (B) have maturities of at least 30 years but not to exceed 50 years, determined by the Authority and are not redeemable before maturity, and (E) shall be redeemed at maturity by the Authority;

(3) shall enter into a lease or leases with each railroad from which right of way is so acquired providing (A) for the use of all or part thereof by such railroad at a rate determined by the Authority on a per car or other equitable basis but amounting on a per annum basis to not less than 5 per cen-

tum of the amount paid for such right of way, and (B) for maintenance in accordance with standards established by the Authority to be carried out by such railroad, except that in any case approved by the Secretary of Transportation the Authority may lease the use of such right of way to one or more additional railroads at such rate and in such event the minimum provided in this clause shall apply to the total received from all such railroads; and

(4) may enter into such arrangements as may be appropriate for the use or disposition of property acquired pursuant to this Act which is not thereafter leased to a railroad or otherwise necessary for rail transportation purposes.

(b) Amounts received by the Authority in carrying out its functions pursuant to this Act may be deposited in a special fund in the Treasury which shall be available to the Authority, without appropriation, for carrying out the purposes of this Act or may be used to purchase interest bearing obligations of the United States.

(c) Property owned by the Authority shall not be subject to State or local taxes.

TAX FREE EXCHANGES

SEC. 5. For the purpose of the Internal Revenue Code of 1954 the receipt by a railroad of bonds pursuant to section 4(1) of this Act and the receipt of any such bonds from a railroad in payment of any part of its capital indebtedness shall be treated as an exchange to which section 1031 (relating to tax free exchanges) applies.

ADMINISTRATIVE PROVISIONS

SEC. 6. (a) In addition to any authority vested in it by other provisions of this Act, the Authority, in carrying out its functions, is authorized to—

(1) prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(2) appoint employees, subject to the civil service laws, as necessary to carry out its functions, define their duties, and supervise and direct their activities;

(3) utilize from time to time, as appropriate, experts and consultants, including panels of experts, who may be employed as authorized in title 5 of the United States Code;

(4) accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized in title 5 of the United States Code for persons in the Government service employed without compensation;

(5) rent office space in the District of Columbia or outside thereof; and

(6) make other necessary expenditures.

(b) The Authority shall submit an annual report to the President for transmittal to the Congress on or before the 15th day of January of each year. Such report shall summarize the activities of the Authority for the preceding year, and may include such recommendations as the Authority deems appropriate.

APPROPRIATIONS AUTHORIZED

SEC. 7. There is authorized to be appropriated not to exceed $——— to the Authority for administrative expenses only during the initial two years pursuant to this Act.

By Mr. KENNEDY:

S. 4020. A bill to encourage and support the dissemination of news, opinion, scientific, cultural, and educational matter through the mails. Referred to the Committee on Post Office and Civil Service.

PROTECTION OF MAGAZINES FROM RISING SECOND CLASS POSTAL RATES

Mr. KENNEDY. Mr. President, I send to the desk for appropriate reference a bill to alleviate the impact of the Postal Service's new second-class mailing rates on the Nation's magazines and other publications, and I ask that it may be referred to the appropriate committee.

I do not introduce this legislation lightly, the Postal Reorganization Act of 1970 established the U.S. Postal Service, a quasi-governmental, self-governing entity, to replace the traditional Post Office Department. Many hours of thought and expertise were spent in deciding the appropriate administrative procedures that would be necessary to allow the new Postal Service to function effectively. An important result of this legislation has been the general "hands-off policy" applied by Members of both the House and the Senate—that is, a strong reluctance by Congress to interfere in the ongoing decision of the new agency.

At the same time, however, I believe that in cases such as the present, involving an across-the-board increase of 127 percent in the postal rates charged magazines and other periodicals, there are overriding considerations of public policy that require Members of Congress to speak out.

Some weeks ago, I joined with Senator GAYLORD NELSON, of Wisconsin, and a number of other Senators in supporting legislation (S. 3758) in the Senate to help mitigate the unfair impact of these new rates. Now, I am pleased to join with Congressman MORRIS UDALL, of Arizona, in introducing new legislation in the Senate and the House of Representatives to alleviate the crisis.

The death of some of the Nation's most popular magazines in recent years because of financial hardship attests to the very real danger posed to all publications by the new rate increases. The backbone of our free society is the robust exchange of ideas. That is why I believe the present situation is one in which the simplistic economic standard applied by the Postal Service in determining the rate increases must yield to the more important standard of freedom of the press enshrined in the first amendment.

The bill that I am joining Congressman UDALL in introducing contains four principal provisions:

First, it establishes a 10-year period for phasing in the increases for all second-class publications, rather than the current 5-year program. The phasing in will take place in 2-year steps, with the next adjustment occurring in July of 1974.

Second, a ceiling of 66⅔ percent of the applicable rates is established for the first 250,000 copies of any publication. In this way, important new protection is provided for small volume magazines and other journals.

Third, all future rate increases for nonprofit magazines would be borne one-half by the publishers and one-half by congressional appropriations.

Fourth, the bill provides for automatic funding to pay the cost of these Federal postal subsidies. In this way, it will be possible to guarantee that adequate funds will always be available to protect the Nation's magazines, instead of subjecting them to the vagaries of the annual appropriations process.

There is little doubt that the postal rate increases are a death sentence for many of the Nation's magazines. It is my hope that the new Congress which convenes next January will make this issue one of is first priorities.

In the face of the overwhelming threat, Congress must act promptly to alleviate the burden of this confiscatory rate increase, and to prevent the demise of many publications that serve a cherished historical purpose in our democracy. They may not have the clout to challenge the administration and the Postal Service on their own, but that is why Congress sits.

Mr. President, I ask unanimous consent that the text of the bill may be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 4020

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(a) Section 3626 of title 39, United States Code, is amended—

(1) by inserting "(a)" immediately before "If the rates of postage for any class of mail or kind of mailer";

(2) by striking out "with annual increases as nearly as practicable, so that—" and inserting in lieu thereof "with annual increases as nearly equal as practicable for mail under former sections 4421, 4422, 4452, and 4454, and with biennial increases (after 1972) as nearly equal as practicable for mail under former sections 4358 and 4359, so that—";

(3) by inserting "(and the ninth year in the case of mail under former section 4358)" immediately after "tenth year" in paragraph (1);

(4) by deleting "4359," in paragraph (2);

(5) by deleting the word "and" at the end of paragraph (1), deleting the period at the end of paragraph (2) and inserting in lieu of the period a semicolon and the word "and", and adding immediately below paragraph (2) the following new paragraph (3);

"(3) the rates for mail under section 4359 shall be equal, on and after the first day of the ninth year following the effective date of the first rate decision applicable to that class or kind, to the rates that would have been in effect for such mail, if this subsection had not been enacted.";

(6) by adding immediately after "unless he files annually with the Postal Service a written request for permission to mail matter at such rates." the following new sentence: "Notwithstanding any other provision of this section, rates established by the Postal Service for the first 250,000 pieces of each issue of a publication of a class or kind authorized to be mailed under former sections 4358 and 4359 of this title shall not exceed 66⅔ percent of the otherwise applicable temporary or permanent rate then in effect."; and

(7) by adding at the end of such section the following new subsections:

"(b) Notwithstanding any other provision of this title, the revenues received from rates for mail under former section 4358 shall not exceed 50 percent of the amount that would otherwise be received from any increase in rates for such classes required by the provisions of this chapter after July 6, 1972, if this subsection (b) had not been enacted."

"(c) Notwithstanding any other provision of this title, the revenues received from rates for mail under former section 4359 shall not exceed 50 percent of the amount that would otherwise be received from any increase in rates for such classes established in any proceeding under the provisions of this Chapter instituted after July 6, 1972, if this subpargaraph (c) had not been enacted.".

(b) The changes in existing law made by this section shall become effective on such date (not later than the ninetieth day after the date of enactment of this Act), published in the Federal Register by the United States Postal Service, as the Postal Service shall determine.

SEC. 2. Section 2401 of title 39, United States Code, is amended—

(1) by deleting in subsection (b)(1) "there are authorized to be appropriated to the Postal Service the following amounts:" and inserting in lieu thereof "the Secretary of the Treasury, at the beginning of each fiscal year, shall credit to the Postal Service Fund, out of any moneys in the Treasury not otherwise appropriated, the following amounts:";

(2) by deleting in subsection (b)(1)(A) "1972" and inserting in lieu thereof "1974"; and

(3) by amending subsection (c) to read as follows:

"(c) At the beginning of each fiscal year, the Secretary of the Treasury shall credit to the Postal Service Fund, out of any moneys in the Treasury not otherwise appropriated, such sums as may be determined by the Postal Service annually to be equal to the difference between the revenues the Postal Service would have received if sections 3217, 3403—3405, and 3626 of this title and the Federal Voting Assistance Act of 1955 had not been enacted and the estimated revenues to be received on mail carried under such sections and Act. Determinations by the Postal Service under this subsection (c) shall be subject to verification by the Comptroller General of the United States.".

ADDITIONAL COSPONSOR OF A BILL

S. 555

At the request of Mr. KENNEDY, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 555, to authorize the establishment of an older worker community service program.

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 364

At the request of Mr. STEVENSON, the Senator from New Jersey (Mr. CASE), the Senator from California (Mr. CRANSTON), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Rhode Island (Mr. PASTORE), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from California (Mr. TUNNEY) were added as cosponsors of Senate Resolution 364, calling for suspension of assistance to the regime of General Amin, of Uganda.

SAFE DRINKING WATER ACT—AMENDMENT

AMENDMENT NO. 1558

(Ordered to be printed and to lie on the table.)

Mr. STEVENS (for himself, Mr. COTTON, and Mr. COOK) submitted an amendment intended to be proposed by them jointly to the bill (S. 3994) to assure that the public is provided with an adequate quantity of safe drinking water, and for other purposes.

SURFACE TRANSPORTATION ASSISTANCE ACT—AMENDMENTS

AMENDMENTS NOS. 1559 AND 1560

(Ordered to be printed and to lie on the table.)

Mr. STEVENS submitted two amendments intended to be proposed by him to the bill (S. 2362) to restore and maintain a healthy transportation system, to provide financial assistance, to encourage investment, to improve competitive equity among surface transportation modes, to improve the process of Government regulation, and for other purposes.

CONSUMER PROTECTION AGENCY—AMENDMENTS

AMENDMENTS NOS. 1561 THROUGH 1566

(Ordered to be printed and to lie on the table.)

Mr. MOSS. Mr. President, on behalf of Mr. MAGNUSON and myself I offer six amendments to S. 3970, a bill to establish a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and serve the interests of consumers, and for other purposes.

Mr. President, I ask unanimous consent that the text of these amendments be printed in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1561

On page 23, line 8, after the word "proceeding": "against the person to whom the interogatory is addressed."

AMENDMENT NO. 1562

On page 21, line 20, after the word "required" delete all through the word "Code" on line 22 and substitute in lieu thereof the following: "to protect the interest of consumers and, subject to section 3502, Title 44, United States Code where applicable,"

On page 22, beginning on line 22 delete all through the word "fraud" on line 23 and substitute in lieu thereof the following: "is necessary to protect the interest of consumers."

AMENDMENT NO. 1563

On page 33, line 14, after the word "Operations" delete the words ", and to such other committees as the Senate may deem appropriate" and insert in lieu thereof the following: "and to the Committee on Commerce".

AMENDMENT NO. 1564

On page 26, line 19, after the word "not" delete the words "in any manner" and after the word "indicate" insert the word "expressly".

AMENDMENT NO. 1565

On page 17, line 23, after the word "and" insert the word "may"; on line 24 delete the word "to"; on page 18 line 1 after the word "wherever" insert the words "he determines that"; on line 4 after the word "arose" insert a semicolon and delete the comma after the word "or".

AMENDMENT NO. 1566

On page 24, line 19, after the word "subject" insert the word "only".

REGULATION OF SURFACE MINING OPERATIONS—AMENDMENT

AMENDMENT NO. 1567

(Ordered to be printed and to lie on the table.)

Mr. COOPER (for himself and Mr. BAKER) submitted an amendment intended to be proposed by him to the bill (S. 630) to provide for the future regulation of surface mining operations, and for other purposes.

ADDITIONAL STATEMENTS

MULTISERVICE TRANSPORTATION OPENS OPPORTUNITIES FOR KANSAS CITIZENS

Mr. SYMINGTON. Mr. President, the Department of Transportation in Kansas City recently completed a demonstration project designed to identify and meet the special transportation needs of disadvantaged inner-city residents.

Through its multiservice transportation—MUST—program, Kansas City helped open employment opportunities and improved access to community services and activities for residents of the city's consolidated employment program project area.

The final report on MUST, which has been sent to our office, indicates that the two phases of activity under the program were successful in providing the improved transportation services needed to open opportunities for the particularly disadvantaged residents of the inner city.

Under phase I of MUST, two kinds of special bus routes were established, providing service at low cost to the riders.

The first, the inner-city fixed routes, improved access to the city's services and activities for residents of the project area, particularly those on fixed incomes, senior citizens, youth and low-income workers with pay scales generally under $2 an hour.

Also under the first phase, special employment routes were established to provide project area residents better job opportunities in suburban employment centers which generally provide higher pay scales. The effort was made to bring bus service within three blocks of potential riders. In instances where ridership was particularly scattered, feeder systems and some door-to-door services were tested.

Aside from transporting over 292,000 persons at a relatively low cost, the greatest success of phase I is that most of the routes are still operating. Two of these, the routes to Western Electric and EWA, are now in private operation, in accordance with the ultimate goal of their establishment.

The second phase of MUST, designed to increase the mobility of the disadvantaged, provided transportation on a flexible, nonscheduled basis by responding to clients needs through referral calls. In cooperation with the Human Resources Corporation, the concentrated employment program, and other groups, phase II offered transportation to health, welfare, and educational services.

Under phase II, MUST officials also cooperated in providing transportation to participants in the summer youth program and inner-city youth recreation programs.

Approximately 350 senior citizens benefited from group tours of public parks, the zoo, the art gallery and museums under phase II of MUST; and in cooperation with the Regional Health and Welfare Council, almost 400 children were transported to schools for the physically or mentally handicapped.

All six goals of MUST were at least partially achieved during the 2 years of operation.

Unfortunately, the provisions of present authorizations for such experiments to not permit Federal assistance for the continued operation of MUST, and many of the activities had to be terminated last winter.

We of Missouri, nevertheless, are proud of Kansas City's pioneering efforts in the field of transportation of the considerable success of their work.

I congratulate the MUST program director and the other responsible officials for their ingenuity and resourcefulness to carry out an experiment which has inspired new initiatives for improving opportunities for disadvantaged inner-city residents.

THE 158TH ANNIVERSARYY OF THE BATTLE OF BALTIMORE

Mr. MATHIAS. Mr. President, this month, 158 years ago, the courageous people of Baltimore repelled an attack on their prized city by an invading British Army. In 1908, to commemorate this heroic feat, the State legislature declared September 12 a fixed legal holiday in the State of Maryland.

The history of the battle for Baltimore is replete with acts of courage and patriotism. The people of Baltimore have always been extremely proud of their city, and in 1814 they showed a magnificent ability to sustain adverse circumstances, never abandoning their pride for accommodation.

On September 12 of this year, the Frederick Post published an excellent chronicle of Baltimore's struggle for liberty entitled "Defenders' Day—Maryland's and Baltimore's Proudest Hour." I highly recommend this story to the Senate and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Frederick (Md.) Post, Sept. 12, 1972]

DEFENDERS' DAY—MARYLAND'S AND BALTIMORE'S PROUDEST HOUR

(By Judge Edward S. Delaplaine)

Today is Defenders' Day, one of ten fixed legal holidays in the State of Maryland.

Defenders' Day was made a legal holiday by an act of the Maryland Legislature approved by Governor Austin L. Crothers on April 1, 1908.

The holiday had its origin in the heroic defense of Baltimore against the British invaders on September 12, 1814. The people of Baltimore had been terrified by the news of the capture of Washington and the burning of the United States Capitol and the President's House. It was feared that Baltimore would be the next city to be attacked. The British had a special hatred of Baltimore—a prosperous city with about 46,000 inhabitants—on account of the fact that more than 500 British vessels had been sunk or captured by privateers from Baltimore.

Some of the Baltimoreans thought it would be advisable to pay a ransom, as Alexandria had done; but on the 24th of August, 1814, when the Mayor of Baltimore Edward Johnson, cited a number of the leading citizens to the Council Chamber for a hurried conference, they immediately determined to resist.

General John Eager Howard, a former Governor of Maryland, who was one of the heroes of the Revolutionary War, 62 years old, declared that though he had four sons in the Maryland Militia and owned as much property as any man in Baltimore, yet he would rather have his sons killed and his property destroyed than surrender and disgrace the country.

In the threatening crisis the patriotic citizens took all the precautions they could to defend their city. The group in the Council Chamber organized a Committee of Vigilance and Safety with Mayor Johnson as chairman. They decided to ask United States Senator Samuel Smith to take command of all military forces that might come to the defense of the city.

Without delay a delegation called on Senator Smith and urged him to take command. Like John Eager Howard, Samuel Smith was a hero of the Revolution. Smith, too, was 62 years old, but he was as tough and active as ever. He was ready and willing to take command. He took off his toga and put on his uniform.

Under an act of the Legislature, passed in 1793, the Maryland Militia had been organized into three divisions, each commanded by a Major General. There were 51 regiments in the State. This number was seemingly sufficient for adequate military protection; but in the wild excitement stirred by the threat of disaster, companies of volunteers were speedily recruited. In Frederick Town, for example, on the 25th of August, when news of the disaster at Bladensburg was received, there was no trouble in recruiting volunteers. The whole town was in commotion. The Court House yard was full of wagons filled with government archives sent from Washington, and the Central Bank was stocked with specie sent from the Baltimore banks for safe keeping.

The man who called for recruits was Captain John Brengle, 42 years old whose father, the venerable Lawrence Brengle, became the first Mayor of Frederick three years later. Captain Brengle's lieutenants were Matthias E. Bartgis and William Kolb.

Captain Brengle rode through the streets calling for volunteers. He had the hearty co-operation of the Rev. David Frederick Schaeffer, the enthusiastic young pastor of the Lutheran Church. Pastor Schaeffer, a graduate of the University of Pennsylvania, had taken charge of the Frederick congregation in 1808 when he was 20 years old; he was now 26, a tall, sturdy man with a strong, clear voice. He rode in the procession by the side of Captain Brengle encouraging the men of the community to join the company. With the aid of Pastor Schaeffer, Captain Brengle completely recruited his company within less than four hours.

In Hagerstown there was a similar burst of patriotic feeling. The lead in recruiting in Washington County was taken by Captain Thomas Quantril, who called his company the "Homespun Volunteers."

The brunt of the defense fell, of course, upon Baltimore. During the final days of August men and boys had pickaxes and shovels digging fortifications around the eastern edge of the city. The Baltimore banks advanced more than $600,000 to pay the expenses of defense. Many private citizens volunteered to donate to the fund.

It was the 11th of September when the news came to Baltimore that the British fleet, which had upwards of 50 vessels, had arrived off North Point. The terrifying news was announced to the people by the firing of three alarm guns from the Court House green. It was Sunday noon. The church bells were rung to call the militiamen to arms.

Through the streets of Baltimore the cry rang out: "The British are coming! To arms! To arms!"

In one of the churches the pastor in dismissing the congregation said: "My brethren, the alarm guns have fired. The British are approaching. I commend you to God and word of His Grace. I pronounce the benediction, and may the God of Battles accompany you."

In another church the pastor said: "May the Lord bless King George, convert him, and take him to Heaven as we want no more of him."

General Smith hoped to assemble 16,000 militiamen to defend the city. But many of them had been scattered and demoralized by the disaster at Bladensburg. How could the volunteers withstand the British veterans who had captured and burned the Nation's Capital?

General Smith, placing 10,000 men at the fortifications on Hampstead Hill, ordered one brigade, including more than 3,000 men, commanded by General John Stricker, to advance toward North Point. Most of the men in this advance brigade were Baltimoreans, but with them were three companies of volunteers from Pennsylvania and the company of "Homespun Volunteers" commanded by Captain Quantril from Hagerstown.

Sunday afternoon at 3 o'clock Stricker's brigade—most of the men in uniforms, but some wearing homespun clothes—enlivened by fife and drum corps marched down Baltimore Street to the Philadelphia Road. They marched by the earthworks at Hampstead Hill and down the North Point peninsula and finally Sunday night at 8 o'clock, they arrived at the Methodist meeting house near Bear Creek. They were hungry and tired. Fortunately General Smith had stocked the area around the meeting house with rations for 3,000 men and hay for 200 horses. Here the marchers were ready to lie down for a restless night's sleep.

At 3 o'clock Monday morning the British fleet began moving toward the shore. By 4 o'clock a thousand men had disembarked. By 6:30 approximately 4,700 had landed. At 7 o'clock the bugles sounded, the columns formed, and the veterans were on their way toward Baltimore.

Riding on his black horse was the commander of the invading army, General Robert Ross, who had won distinction in France, Italy, Portugal, and Egypt. Riding along with him was Admiral George Cockburn, the officer who had ridden with Ross into the City of Washington and who had ascended the rostrum in the House of Representatives and, calling the mob together, put the motion: "All in favor of setting fire to this harbor of Yankee democracy, say Aye!"

Early in the morning General Ross and Admiral Cockburn stopped at the farmhouse of Robert Gorsuch and there were given a substantial breakfast. When the officers were about to leave, Mr. Gorsuch asked them whether they intended to come back in time for supper.

"No!" General Ross growled, "I'll eat supper in Baltimore—or in Hell!"

Shortly afterwards, when Ross was riding alone, a bullet pierced his right arm and entered his chest. Staggered by the blow, he fell off his horse. He was found lying in the dust. An officer galloped away madly calling for a doctor. A doctor came and began binding the wounds but the General knew it was useless. He was put on a farm cart and jolted along the road toward the beach. For a short while they rested under a tree. When they reached the beach the General was dead.

The battle that Monday afternoon was a terrible ordeal for the citizen soldiers who faced the veterans of King George III—"'Wellington's Invincibles" and seamen who had served under Nelson, the daring fighter who had fought the combined French and Spanish fleets off Cape Trafalgar when he had sent his famous signal: "England expects that every man will do his duty."

About 4,000 British troops were ordered to advance. John Stricker's brigade was supposed to have numbered over 3,000; but one of his regiments was held in reserve, and quite a few of the defenders disappeared, so that the actual fighting force was reduced to less than 2,000. Some of them had "run in the Bladensburg races," but most of them had never been under fire. The defenders wavered and began to fall back. The battle lasted about an hour and a half. It has been estimated that 24 of the defenders were killed, 139 wounded, and 50 taken prisoner.

By 4 o'clock the news reached Baltimore that General Stricker's men were retreating. All over the city the people were terrified.

But the British decided to embark and move toward Fort McHenry. Sir George Prevost, Governor General of Canada, was so confident that Baltimore would surrender that he proposed that a jubilee planned at Montreal to celebrate the capture of the City of Washington should be postponed for a few days in order that the surrender of Baltimore could be celebrated at the same time.

More than 1,000 heavy bombs were hurled on Fort McHenry. But Fort McHenry was strongly built. In spite of the terrific bombardment it withstood the attack. "Turning his field glasses in the direction of North Point as the mists began to clear away, Francis Scott Key was able to discern a hurried movement on the shore. Men were getting into boats, the boats were moving toward the transports. This was proof that the army and the navy of George III had been repulsed."

A few hours later on that thrilling 14th day of August in 1814, a number of the men who had been at North Point and Fort McHenry assembled in the tavern outside the fort to celebrate their deliverance. It was, however, more than a celebration, more than a jollification. The men were not in the mood for merrymaking. Then and there they formed an association, one sacred to them, which they called "The Defenders of Baltimore in 1814,"; they entered into a solemn pledge that they would assemble every year on the 12th day of September, the anniversary of the Battle of North Point; they selected Major General Samuel Smith, one of the Senators from Maryland, as their Military Commander.

Because of the fact that the young citizens in Stricker's brigade fell back when fired upon by the British veterans, the British viewed the Battle of North Point as a rout of the Americans and a victory for the British. General Ross, who was killed before the battle started, has been acclaimed for his part in winning the victory for the British.

An illustration of the credit given to General Ross is the inscription on the monument over his grave in Halifax. This inscription states that Ross was killed "at the commencement of an action which terminated in the defeat and rout of the troops of the United States, near Baltimore, on the 12th of September, 1814."

Another illustration is the inscription on the monument erected in the General's honor at the ancestral estate of the Ross family in Ireland. This says that the British Army "under his conduct attacked and dispersed the Americans at Bladensburg on the 24th of August, 1814, and victoriously entered Washington, the Capital of the United States."

Another illustration is the memorial tablet in St. Paul's Cathedral. This says that the General, "having undertaken and executed an enterprise against the City of Washington, the Capital of the United States of America, which was crowned with complete success, was killed shortly afterwards while directing a successful attack upon a superior force, near the City of Baltimore, on the 12th of September, 1814."

The people of Maryland have had a different view. They have not only revered the defenders of Baltimore for their patriotism and courage, but have regarded their performance at North Point and at Fort McHenry, by saving Baltimore from capture, as a victory for the patriotic defenders of Baltimore. As a consequence of their devotion to their country, Baltimore is the only major city on the Atlantic seaboard of all the thirteen original States that has never had a foreign flag to wave overhead since the founding of the United States as a sovereign Nation.

For these reasons the Legislature of Maryland passed the act making the 12th of September a legal holiday and Governor Crothers signed the act on April 1, 1908.

The defenders themselves were proud of their performance. They kept their pledge: year after year they assembled to celebrate the defense of Baltimore.

In the year 1842 the survivors framed a more formal organization calling it "The Old Defenders' Association." In this year plans were made to organize "The Association of Sons of the Defenders."

The Old Defenders themselves held their last reunion on September 12, 1883. Out of all those who were willing to sacrifice their lives for the defense of their homes and their country, there were only twelve survivors who were able to attend the reunion after the passage of 69 years. Assembling in Druid Hill Park, they were photographed on the portico of the mansion there.

One more year rolled by. On the 12th of September, 1884, only four of the Old Defenders were able to appear. An invitation was extended by Mr. Robert Rennert to be his guest at an anniversary banquet in the Hotel Rennert. They were brought in carriages to the hotel as heroes. This was the last dinner of the Old Defenders. The Old Defenders' Association had come to an end.

Four more years passed. On the 12th of September, 1888, only two of the Old Defenders were still alive. They were Nathaniel Watts and James C. Morford. In that year descendants organized "The Association of the Descendants of the Defenders of Baltimore in the War of 1812."

This long name was retained for five years. Then, in October 25, 1893, when the association was incorporated, the name was changed to "The Society of the War of 1812 in the State of Maryland."

The next step was the organization of "The General Society of the War of 1812." This has led to the formation of Societies in many States and the District of Columbia.

Among those who have served as President General of the General Society is a native of Frederick, S. Denmead Kolb, who is now residing in Salisbury, Maryland. Mr. Kolb served as President General from 1964 to 1968. His ancestors were Lieut. James H. Marriott, who was one of the men wounded in the Battle of North Point, and Lieut. John William Kolb, who served as commander of the Frederick Barracks, the historic stone buildings constructed during the administration of Governor Thomas Johnson.

On Hampstead Hill a marker has been erected in honor of the citizen soldiers who answered the call to arms in September, 1814. Another plaque has been erected to mark the location of the old tavern where the defenders assembled on September 14, 1814, to celebrate their deliverance from the invaders.

The most distinctive of the monuments in Baltimore is the Battle Monument erected in Monument Square, Calvert and Fayette Streets, in memory of those who died in 1814 while fighting in defense of the city.

The cornerstone of the monument was laid on September 12, 1815. In keeping with the fact that the monument was to be in honor of the gallant dead, the occasion assumed the nature of a public funeral. A huge procession was formed around a hearse, which was drawn by six white horses and escorted by a detachment of cavalrymen. The hearse carried the design of the proposed monument prepared by Maximillian Godefroy, the city's leading architect, who had left France to escape from persecution. In the procession were militiamen who had defended the city.

Conspicuous among those at the laying of the cornerstone were Mayor Johnson, General Samuel Smith, General John Stricker, who had commanded the City Brigade at North Point, and Colonel Armistead, who had commanded the garrison at Fort McHenry. The principal address was delivered by the Rev. Dr. James Inglis, a Presbyterian clergyman.

Godefroy's design was elaborate. The sculpture was done by Antonio Carpellano, an Italian pupil of Antonio Canova, the Italian sculptor who achieved international fame as one of the greatest exponents of neoclassical art.

The monument consists of an Egyptian pyramidal base surmounted by a pedestal with eagles at the four corners. From the pedestal rises a column on the top of which is a female figure ten feet high symbolizing the City of Baltimore. She wears a mural crown, and in one hand she holds up the laurel wreath of Victory while the other hand rests upon the rudder of a ship as the symbol of Maritime Power.

On the column are bas-reliefs of the attacks on North Point and Fort McHenry. The decoration also include lachrymal urns, fillets with the names of the fallen, and other details that have special significance.

The laying of the cornerstone of two imposing monuments within a little over two months—the Washington Monument on July 4, 1815, the Battle Monument on September 12—focused the attention of the Nation upon Baltimore. Since that time it has been known as the Monumental City.

Consequently it would be understandable to find Defenders' Day better understood and appreciated in Baltimore than in other parts of the State.

REPRESENTATIVE WILLIAM FITTS RYAN

Mr. PELL. Mr. President, I deeply regret the death of our colleague, William Fitts Ryan.

He was a man of idealism and integrity—a man whose ideas came to function.

His death is a loss to our Congress and to our Nation.

My admiration for him was immense, and, for that reason, I was glad to campaign for him in his district.

I extend my condolences to his wife and family, who have lost not only a wonderful husband and father, but a leader of our Nation. I ask, at this point, that an editorial published in the Washington Post be inserted in the Record.

There being no objection, the editorial

was ordered to be printed in the Record, as follows:

William Fitts Ryan

In the death of William Fitts Ryan, New York City has lost a congressman of courage and the House has lost a member who often had uncanny foresight. Mr. Ryan's political courage was displayed early on, when in the late 1950s he challenged the entrenched might on New York's Tammany Hall. The ferocity of Manhattan politics, especially when Democrats go at each other, has ended many political careers before they began, but Mr. Ryan gambled successfully that the voters were tired of backroom manipulation. Once elected to the House, he continued taking risks by backing issues and ideas long before popularity made them safe. He called for admission of China to the U.N., spoke out against spending for nuclear arms and thought it foolish to renew funding for the House Un-American Activities Committee. Today, critics of the war are common, but few of the arguments they make now were not made years ago by Mr. Ryan. Though Mr. Ryan was often called by his critics a "wild-eyed" liberal, the turning of events suggests that his eye was not wild at all but well-controlled and excellent in vision.

In the June primary, Mr. Ryan won a spirited victory but the exhaustion of the campaign was apparently costly to his falling health. On the House floor following announcement of Mr. Ryan's death, his colleagues eulogized him for one and one-half hours, a deserved tribute. Another kind of tribute will also be made by some members: a renewal of efforts to continue practicing the political ideals William Ryan believed in.

INCREASING CREDIT DEMAND FROM GOVERNMENT

Mr. SCOTT. Mr. President, I invite the attention of the Senate to an article published recently in the Wall Street Journal, written by Dr. Maurice Mann, executive vice president of the Western Pennsylvania National Bank in Pittsburgh.

Dr. Mann theorizes that Federal credit programs have contributed to mushrooming in recent years of credit demand from Government and its agencies. Mann has served as assistant director of the Federal Office of Management and Budget and as vice president and general economist for the Federal Reserve Bank of Cleveland and, therefore, is obviously qualified to pass judgment on this subject. Dr. Mann offers several suggestions which deserve the consideration of Senators. I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Has Federal Borrowing Hit Limit?

(By Maurice Mann)

In recent years there has been an explosion in the number and dollar size of federal credit programs. In addition to serious economic and federal budget consequences, this development has contributed to the burgeoning of federal government and federally supported credit demands in the nation's financial markets.

It is estimated, for example, that combined Treasury and federally-assisted borrowing from the public will amount to approximately $60 billion in 1972. This would represent roughly 50% of expected total credit demands in the economy. Only three years ago, the comparable statistics were $16 billion and 18%.

To be sure, there is not a one-for-one relationship between the proliferation of federal credit programs and the volume of federal and federally-related borrowing. Nonetheless, both phenomena reflect responses to the same kinds of issues and problems and both give rise to serious questions about the allocation of the nation's real and financial resources, the federal budget, and the impact on financial institutions and financial markets.

Federal credit programs (or credit aids) are designed specifically to utilize the prestige and the market power of the federal government to channel available financial resources into selected areas of the economy. These areas include housing and home ownership, the development of agriculture and natural resources, promotion of private business, area development, higher education and foreign economic development.

Federal credit aids take essentially four forms:

(1) Direct loans by federal departments and agencies such as the Rural Electrification Administration.

(2) Federal insurance or guarantees of private loans such as FHA and VA-guaranteed mortgages.

(3) Federal interest subsidy payments to private lenders such as low income housing programs.

(4) Loans by federally-sponsored agencies such as FNMA.

A DRAMATIC ACCELERATION

The expansion of federal credit programs has accelerated dramatically in recent years. For example, the special analysis section of the federal budget shows that federal and federally-assisted credit outstanding amounted to just under $100 billion in fiscal 1961 and to less than $150 billion in fiscal 1967. The budget estimate for the 1973 fiscal year amounts to $580 billion, a very substantial increase, to say the least. The numbers in themselves are perhaps not as important as the fact that this considerable growth involves a massive re-allocation or redistribution of the nation's real and financial resources.

This is the case primarily because expanded use of federal credit programs does not increase the amount of savings in the economy—the amount that is available to finance spending or investment. Consequently, by increasing (sometimes justifiably) the market power or market position of selected users of funds, these programs tend to favor certain areas at the expense of others. In effect, given a fixed amount of available resources, the use of federal credit programs represents a political decision to rely on the clout of the federal government to take resources from one pocket and put them in another.

There is strong evidence that all of this has no been very carefully thought through, particularly as reflected in the adverse impact on the economy, the budget and the financial markets.

There are, of course, a number of factors that account for the rapid expansion of federal credit programs in recent years. Over and above their political attractiveness, perhaps one of the most important reasons is that, for the most part, they are not included in the federal budget and are thus not subject to the budget review process. Increasing reliance on credit programs seems to be regarded as a feasible and painless approach to attaining a number of major national objectives or goals. Unfortunately, this is not the case at all: Exclusion from the budget gives credit programs a considerable amount of priority over federal programs that are subject to budget controls and, in fact, discriminates against the latter.

It is not surprising that a number of credit programs tends to take off in size and activity as soon as restrictions are removed. A case in point is the recent removal of the Export-Import Bank from the budget. Freed from budget constraints, the agency's borrowing is scheduled to jump from $100 million in fiscal 1972 to over $900 million in fiscal 1973. This is not necessarily "bad"—indeed, encouraging exports is a high national priority. Nevertheless, the "freeing up" of a credit program removes the discipline of budget review and the test of the budget process and the allocation of budget resources. It also sets a very dangerous precedent for other agencies still in the budget.

Given the advantage of subsidy, those involved in credit programs, the beneficiaries, are able to take advantage of other potential users of credit who are not subsidized. In short, an interest rate advantage quickly turns into an availability of credit advantage. In addition, subsidized users of credit under the federal credit programs tend to be insulated from the credit-rationing impact of monetary policy as well as the financial market and institutional restraints that are imposed on other users of credit. Moreover, it is not insignificant that recipients of federal inerest subsidies are frequently insulated from increases in market interest rates.

To some observers, the proliferation of federal credit programs shows signs of turning into an uncontrollable monster, at least to the extent that credit is no longer allocated in the marketplace but rather by fiat or by political decisions to subsidize specific users of credit. The mortgage market has, of course, been the beneficiary of a political decision to isolate it from the full force of credit market developments, particularly during periods of credit restraint. As a result, in calendar 1972 nearly 60% of the total flow of funds into the mortgage market will be directly or indirectly supported by the federal government.

The list of agencies engaged in supporting the mortgage market in one form or another is formidable and includes the Federal Home Loan Banks, FNMA, GNMA, FHA, the Veterans Administration, the Farmers Home Administration and the Department of Housing and Urban Development, among others.

The "federalization" of the mortgage market, to all intents and purposes, can be expected to insulate housing fairly successfully from monetary policy and credit restraints. While this may be well and good for housing, it may not be the most desirable way of spreading the burden of adjustment to monetary policy changes or of allocating the nation's resources.

Continued and further federalization of other credit sectors would raise serious doubts as to whether a restrictive monetary policy will ever be able to have a desired general effect throughout the economy. Indeed, under the circumstances that are emerging, it appears that virtually all of the burden of restrictive monetary policy would be placed on those sectors of the economy that receive relatively less federal credit support. I do not think it is out of line to speculate that the burden of restrictive monetary policy in the future will fall even more heavily than in the past on small businesses, individuals and state and local governments.

CONTROLS AND CURTAILMENT

In my opinion, in view of the various problems—budget, resource allocation, and financial markets—caused by the politically influenced flow of resources into federal credit programs, it seems imperative that effective controls must be placed over the total volume of federally-assisted credit. In short, its growth must be considerably slowed, if not curtailed.

The proposed Federal Financing Bank that has been suggested by the administration as a means of bringing some order into the proliferation of federal agency security offerings would be of some help at least to the extent it was successful in restricting the total amount of borrowing. But I'm afraid it would not accomplish very much. For one thing, it would be like locking the barn door after most of the horses had been stolen.

The heart of the problem would still be the accelerated growth of federal programs that need to be financed.

Also, while the Federal Financing Bank would cover most lending agencies—that is, in terms of the number of agencies—most of the major lenders would not be covered. In fact, perhaps as much as 90% of federally-supported borrowing would be excluded from FFB coverage. The excluded agencies include the Federal Land Banks, the Banks for Cooperatives, FNMA, the Federal Intermediate Credit Banks and the Federal Home Loan Banks.

Restricting federal agency borrowing is easier said than done, as illustrated by the reported resistance of the U.S. Postal Service to any borrowing restrictions. Congress recently authorized the Postal Service to borrow up to $10 billion over the next several years. The Postal Service would obviously, and understandably, prefer not to be submerged in the anonymity that would result if it were to sell its offerings to the Federal Financing Bank and were to accept the constraints thereby imposed. Indeed, it can hardly be expected that any such agency would accept without resistance any attempt to establish borrowing ceilings.

If we are at all serious about getting a handle on the outsize growth of federal credit programs, it is clear that something meaningful needs to be done. As a starter, Congress should require that all federal credit programs be brought into the government's annual budget process and budget review. These programs should be evaluated and coordinated in the same way and under the same procedures as all other federal programs. Moreover, as Murray L. Weidenbaum has pointed out in testimony before the Joint Economic Committee, all proposals to create or expand federal credit programs should be evaluated in terms of the relationship between the interest rate charged in the program, the rate that would be charged in the private market, and the rate needed to cover the cost to the federal government.

CONGRESS SHOULD ACT

In addition, more detailed and more evaluative consideration should be given to the immediate and eventual impact of existing and new federal credit programs on the economy—in total as well as on the individual sectors—and on the financial markets—for both public and private debt. Finally, it would seem desirable for Congress to impose annual ceilings on the total volume of federally assisted credit, the amount of debt created through federal insurance and guarantee programs, and the total volume of borrowing by federal and federally-supported credit agencies.

If all, or even some of these proposals had been in effect prior to now, I have serious doubts that the federal government would be directly or indirectly supporting approximately 50% of the funds raised in financial markets in calendar 1972. Moreover, I feel strongly that if such proposals were to be adopted and rigorously followed, we would be able to prevent federal credit programs from proliferating far beyond the purposes for which they were originally intended. At the minimum, the federal government in one form or another would become a less dominant factor in the nation's financial markets. I suspect this is a turn of events that most economists and nearly all financial market participants would welcome.

THE CASE FOR STATEHOOD

Mr. KENNEDY. Mr. President, the Members of this Senate for a long time, have known that I am concerned with the safeguard of citizens rights guaranteed by the Constitution. I believe that it is the responsibility of our Government to insure equal protection and representation under the law to all citizens. It is the right of the governed to have a voice in the councils of Government. Their right to have a voice in the formulation of policies effecting their lives ought not be denied.

I, therefore, find a great deal of agreement with Mr. Sam Smith's article "The Case for Statehood," written in the Washington Post, September 17, 1972. Two years ago I begin to campaign for the District of Columbia to elect two Senators and representation in the Congress based upon its population. Though my amendment dealt only with congressional representation for the District of Columbia, I have always supported and voted for home rule. I firmly believe that the residents of the District of Columbia deserve the benefits of full citizenship that all American citizens enjoy.

Mr. Smith presents an exceptionally reasonable argument for the Nation's Capitol to achieve these benefits through statehood. He fully explains why the Capital City deserves to operate and function as a self-supporting State. As a State, the District Government could increase its borrowing potential from the U.S. Treasury; it could institute badly needed tax reforms; and it could provide for better jobs and homes for its residents.

The time for the Congress to initiate the exercise or these constitutional rights for the 750,000 citizens residing in Washington, D.C., is long overdue. I am pleased to commend to the Senate "The Case for Statehood." I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Case for Statehood

(By Sam Smith)

In March, 1969, Douglas Moore, Chuck Stone, Jesse Anderson and several other black activists held a news conference to announce the formation of the D.C. Statehood Committee. They issued a manifesto that declared that "statehood for the District of Columbia is a natural right which can no longer be denied and must be achieved by whatever means necessary by the people."

It turned out to be another 12-hour revolution—beginning with a morning press briefing and ending with the 11 p.m. news. It was not until more than a year later, in the fall of 1970, that statehood emerged as a prominent issue in District affairs with the campaign of Julius Hobson for delegate. In that first delegate election, Hobson and the Statehood Party received 13 per cent of the vote, a surprising figure for a brand new party. Since that time, statehood has moved from being an obscure, eccentric issue to become a major element in the debate over the future status of the District. As an idea, its time may not yet have come, but it is coming.

Two statehood bills have been introduced in the House. Sen. George McGovern came within a few days of introducing one in the Senate in June, 1971, but backed off after a plea from one of Walter Fauntroy's key supporters. Two Statehood Party members sit on the D.C. School Board and the president of the Board, Marion Barry, has said he is for statehood or any other form of self-government the city can get. The same attitude prevailed among candidates in the first delegate race. Even Republican John Nevius said he would support statehood if the people of the District wanted it. Only Democrat Fauntroy, among those running, flatly opposed the idea. And earlier this year, House District Committee chairman John McMillan surprised even statehood supporters when he stated that he might consider statehood as a second choice after his pet plan to give the District back to Maryland. Said McMillan: "The only way you are going to get pure, unadulterated representation is by ceding the city back to Maryland or through statehood."

It hasn't been a bad two years for a radically new proposal to end the nearly 175-year dispute over local status. The growing interest in statehood stems in part from the fact for the first time the fundamental principle of self-determination has not been begged. Statehood is the only status for the District that would make Washingtonians fully and irrevocably equal to other American citizens.

HOME RULE PITFALLS

Contrary to popular impression, traditional home rule proposals fall far short of this goal. To meet the constitutional requirement that Congress retain exclusive legislative jurisdiction over the District, home rule advocates have usually provided for a presidential and/or congressional veto over the actions of the locally elected government. Thus, the local government would be free only to the extent that it did not alienate the federal government. A commuter tax, a civilian supervisor of the police department, a ban on automobiles downtown are the sort of issues that would be sure to raise a congressional clamor for a veto. If Congress got really mad, it could simply take away the home rule it had granted. As Sen. Thomas Eagleton, chairman of the Senate District Committee, blithely pointed out when this issue was raised: "The Lord giveth and the Lord taketh away."

This is not an idle threat. Congress has rescinded home rule once before, in the 1870s, and has changed the form of local government several times. And the congressional browbeating of the School Board after the release of school children for a war protest march last spring is a reminder that local elections would be no guarantee of an end to congressional interference.

It would also be possible, although not widely favored, to seek home rule through a constitutional amendment. Such an amendment would fix the form of government in the constitutional process and would require another amendment to change that form. An amendment might, for example, provide the District with a mayor-city manager government, an 11-man City Council and a fixed federal payment. If the city wished to eliminate the city manager's office, change the payment or alter the size of the council, it would be unable to do so without years of national consideration.

Statehood would avoid these pitfalls. Under statehood, the District would be granted political equality with the other units of the federal system. Unlike home rule, statehood would not leave Congress or the President with a veto over District affairs. Unlike a constitutional amendment to change D.C.'s local government or grant it national representation, statehood could not be revoked. It would, by simple majority vote of Congress, permit the three-quarter million residents of the District to join the Union as full and equal members.

A SIMPLE PROCEDURE

Statehood could be made possible by the simple expedient of redefining the size of the District. The Constitution puts an outer limit on the size of the District—10 miles square—but indicates no minimum size. Congress could redefine the District of Columbia to include an unpopulated area stretching from the Supreme Court and

Library of Congress to the Lincoln Memorial (including the Mall and the Federal Triangle) and grant the rest of the city statehood.

The technical procedure for obtaining statehood is relatively direct:

1. Congress could authorize and fund an elected constitutional convention to draw up a state constitution and negotiate an agreement with the federal government for an annual payment in lieu of taxes and for transitory grants to get the new state on its feet. The enabling legislation would define the area of the new state and of the remaining federal district.

2. The District would hold a constitutional convention, draw up a constitution and submit the issue of statehood to referendum.

3. The convention, upon the approval of the people, would petition Congress for admission of the proposed state to the Union.

4. Congress, by majority vote, would grant admission.

Naturally, such a profound change in the status of Washington has aroused criticisms. One of these is that statehood would weaken the federal government's security in the city. Yet dozens of other stable countries, such as England, France and West Germany, manage to grant self-government to their capital city without endangering national security. Should problems arise, the federal government has abundant power to deal with riots, as has been demonstrated by the use of federal troops in other cities in recent years.

It is also said that the District is too small to be a state. Yet it has a population larger than 10 states and 20 independent nations, including 12 that have an equal voice with the United States in the U.N. General Assembly. (One of these, Iceland, is a member of NATO, although it has a population about a quarter that of the District.) Every territory since 1789, with the exception of Oklahoma, had fewer people at the time of its admission than the District has now.

THE FEDERAL PAYMENT

Perhaps the most frequent criticism of the logic of statehood is that the new state could not support itself. Critics suggest that the present federal payment to the city would dwindle or disappear entirely, leaving Washington essentially bankrupt. Yet the District's colonial status has in no way assured it a reliable and just federal payment. The payment has varied from 12 to 50 per cent of the local budget and the percentage today is about half what it was in 1878.

The fact that the federal payment has varied so markedly under the single status that the District has experienced in the past century points to a major misunderstanding concerning the payment: It is not a function of status so much as of simple equity. The federal government absorbs a great deal of otherwise taxable land; it requires a large number of municipal services; and it consumes manpower and space that might otherwise be used in activities more profitable to the city, such as industry and commerical services. These conditions will remain regardless of status, and fairness requires that the federal government offer proper compensation—more than the present $250 per capita.

As a state, with two senators and two congressmen and with no congressional veto over local affairs, the city would be in a better position to seek a fair payment from the government than it is now or would be under home rule. One would be hard-pressed to find examples of Congress attempting to bully a state in the way that it now does the District and would most likely continue to do under home rule. One of the basic principles of Congress is a reluctance to undercut the special interests of its members. The back-scratching tradition on local issues is based on the realization that the vote one casts today can be reclaimed tomorrow. The city-state would benefit considerably from this new leverage. It is hard to conceive of a Congress deliberatly alienating the four-member delegation from Washington in a dispute, say, over a mere $20 million of federal payment. Congress just doesn't work that way.

The argument that the new state could not support itself is a familiar one in the history of statehood movements. It was one of the major reasons cited for opposition to Alaskan statehood. But it has also been true that new states have historically been aided towards financial self-sufficiency through special grants of money and, more dramatically, immensely valuable lands, Statehood, in fact, may be considered almost a prerequisite to financial self-sufficiency for units of the federal system. In order to be financially equal, one must first be politically equal.

The two most recent states, Hawaii and Alaska, benefit from enormous federal grants at the time they were granted statehood and for years thereafter. Hawaii got a trust of public lands to support public schools and other public improvements. Alaska got 103 million acres of federal land, $28.5 million in transitional grants, 90 per cent of the proceeds of government-owned mines and 70 per cent of the sales of fur seal skins and sea otter skins.

SELF-SUPPORTING STATE

But the economic justification for statehood does not rest on the assumption of fair compensation from the federal government, but rather on the economic potential of the city itself. Contrary to the myth of the "dying city," Washington has been, and will continue to be, a center of expanding opportunity for many of its citizens, especially the black majority. As George Grier, vice president of the Washington Center for Metropolitan Studies, wrote in a recent issue of the Voice newsletter:

"Racial transition has not turned Washington from a white middle- and upper-income city to a black poor city. It is more prosperous today than ever before. The total number of black families in the District with annual incomes over $15,000 approximately tripled in the decade (1960–1970), even after the correction for inflation. The same was true for those earning over $12,000. The number with incomes of $8,000 or over more than doubled. There now are actually more black families at these higher income levels than there were white families with the same incomes in 1960."

When people talk about the city's eroding tax base, they are really talking about the fact that government expenditures have outstripped the growth in the tax base. The financial erosion is not taking place on the streets of Washington but in the District Building. If anything is dying in the District, it is the District government. The reasons for this again argue for statehood: the inability of the District government to set policy without approval of Congress and the White House, the unresponsiveness of an appointed local government to the citizens of the city; and incompetence and bureaucratic self-aggrandizement unchecked from above by Congress or from below by the people.

Under statehood, the city-state would be able to raise revenues in a manner of its own choosing without fear of a congressional veto or, worse, the potential that the limited form of self-government granted under home rule might again be repealed entirely. Sources for the increased revenues might include:

Increased borrowing: Under the present system the District has a limited ability to borrow from the U.S. Treasury. Under statehood it could sell bonds to finance public school construction and other public works. If the District borrowed at the per capita level of the Maryland suburbs, for example, it would double the borrowing level of the city.

Property tax reform: Property taxes are a major source of local income. Yet the District does not administer these taxes fairly, nor does it tax all the property it could. For example, under statehood the city might end the property tax exemption for profit-making holdings of otherwise non-profit organizations. Further, the introduction of a progressive property tax, with those owning more property taxed at a higher rate, could add to receipts, as could a tax on other forms of wealth.

Lotteries and race tracks: Julian Dugas estimated the other day that a locally owned lottery and race track could produce as much as $50 million a year in new revenue.

An improved tax base: The District government has done little or nothing to attract the type of employment that would enable the poorer residents of the city to pay more taxes. Unlike almost every other city in the country, our government has failed to seek light industry and service firms that require blue collar employment, preferring instead to subsidize the construction of office buildings for nontaxpaying suburbanites. While businesses produce pollution, so do the tens of thousands of Maryland and Virginia cars that pour into the city daily. The encouragement of low-polluting commercial enterprises would be a net gain for the city.

More tourism: Perhaps the greatest potential lies in further development of the city's tourist trade. While the District government subsidizes the Board of Trade's tourist promotion efforts, tourist facilities have increasingly been allowed to drift into the suburbs. Further, the city has totally failed to take advantage of one of its long-term assets, its status as a black city. Properly promoted, Washington could become the Quebec of America, attracting people not just because it is a center of monuments and political power, but because it is culturally unique. This would mean jobs and money for black residents.

In its housing programs, such as they are, the District has likewise failed to provide lower-income residents wtih a chance to become bigger taxpayers. It has failed to provide the basic equity that supports the American middle class: home ownership. Instead, the government has either done nothing or else dabbled in showcase programs for the middle class such as Southwest and Fort Lincoln.

The city's use of available land and housing has been unimaginative. Thousands of abandoned homes put a drag on the tax rolls. Lots are rented to Parking Management, Inc., at ridiculously low prices instead of being put to productive and potentially higher taxed use. Meanwhile, the city fritters away time and funds on childish and costly schemes like the ill-fated sports arena which would have drained rather than filled the city's treasury.

To top it off, programs such as urban renewal and freeway construction have driven people off taxable land permanently or for years at a time. One of the prime victims of this myopic policy has been the small businessman, an important taxpayer, who must honestly regard the District Building these days as his enemy rather than his friend.

Under statehood, it would be easier for the District to reverse the destructive policies of local planners and the federal government over the past two decades and not only make a better, more attractive city but improve the tax base dramatically as well.

NOT SO RADICAL

To some, statehood appears an attractive idea but politically impractical. This criticism often comes from those who have spent the better part of their political lives failing to achieve home rule.

Actually, the long-term outlook for statehood is hardly bleak.

One of the hopeful signs is that it has attracted interest on both the left and the right. Rep. McMillan's comments were not merely cant aimed at upsetting Del. Fauntroy. To the conservative mind, statehood fits neatly into the traditional federal system. The Constitution made it easier to create new states than it did to allow blacks, women or those under 21 to vote; statehood can be achieved by simple majority vote of Congress. The steady enlargement of the Union throughout its history has not been the result of radicalism; the last two states admitted, for example, came in during the hardly radical Eistenhower administration. For liberals and radicals, on the other hand, statehood is attractive because it offers an end to the colonial administration of three-quarters of a million Americans.

If the District were admitted, it would not, in all probability, be the last state. Statehood has been seriously proposed for Puerto Rico and New York City. At least one economist has suggested that the urban crisis might best be resolved by granting statehood to the 17 largest metropolitan areas, ending the subservience of so many cities in rural-dominated state legislatures. The creation of new states is one of the built-in flexibilities of the Constitution designed to permit the nation to change as it grows. The potential should not be allowed to lie fallow.

Building a political base for statehood has obviously just begun. The first step is to break the century-old allegiance to the belife that home rule is the best that we can hope for. This is happening. The politicians, the local civic elite and the media are slowly becoming aware of statehood and are being forced to deal with it. Although much of the present pressure comes from the D.C. Statehood Party, other organizations may soon feel secure enough to add statehood to their goals now that the Board of Trade has endorsed home rule.

Once a local consensus for statehood has been achieved, Congress would begin to feel the pressure. As a national issue, statehood would be easier to explain and attract support for than home rule has been. Labor unions, big city mayors, black organizations and others would welcome an urban state; its votes in Congress would give them an interest in its creation. The support from these sources for home rule has been pathetic, largely because hardly anyone outside the District has a vested interest in home rule.

If Congress failed to act, the District could follow the pattern set by Tennessee when it entered the union in 1796. Tennessee held unofficial elections and sent unauthorized "members" to Congress. The elected "members" pressed for statehood and Congress granted it. The same procedure was used by Alaska. In 1956, an officially approved non-voting delegate, Bob Bartlett, was sent to Washington, but so were "Sens." Ernest Gruening and William Egan and "Rep." Ralph Rivers. This so-called Tennessee Plan has been used on six other occasions to help obtain statehood for territories.

The drive for statehood for the city of Washington stems from the bitter experience of colonies everywhere, even those under the most beneficent adminstration. It gains strength from the realization that any solution short of statehood would leave District residents short of full citizenship. It does not guarantee a successful future; it only makes it possible.

OUTSTANDING CAREER OF CLEOPATRA CAMPBELL, FREDERICK COUNTY, MD.

Mr. MATHIAS. Mr. President, it has been my pleasure to follow the outstanding career of Cleopatra Campbell, one of two women lawyers in Frederick County, Md. Miss Campbell has great expertise and knowledge of the law, and I am delighted that she has been named assistant prosecutor for Frederick County's State's attorney.

Last month, the Morning Herald of Hagerstown, Md., published an excellent article entitled "Cleopatra Campbell's Got the Stamp of 'Competence,'" in which Miss Campbell voices her views on women in the legal profession. Her comments are well worth reading. I ask unanimous consent that this feature be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CLEOPATRA CAMPBELL'S GOT THE STAMP OF "COMPETENCE"

(By Susan Stitley)

"I'm not on a campaign to prove anything," Cleopatra Campbell, "except that I can do it."

Miss Campbell, 36, one of twelve woman lawyers in Frederick County, two weeks ago was named assistant prosecutor for the county State's Attorney. She is the first woman prosecutor Frederick has had.

She said it is the "stamp of competence on a woman lawyer" to be named to this position.

"You would assume any man appointed would be competent," she explained. "But a woman has really got to be competent" to justify the appointment.

Miss Campbell is glad for the opportunity to prepare and prosecute criminal cases in District Court because of the experience she will get.

She said the judges have all been very complementary to her, and so have the lawyers, "as lawyers go."

She's gotten many congratulatory notes, telegrams and calls since her appointment. One she recalled was from a woman she didn't know who said she knew how Miss Campbell felt ince she was the first woman deacon in her church.

While she is holding the assistant prosecutor job, she must give up her own criminal defense work, but she still may maintain her civil practice.

She says she hopes to concentrate more on corporate law in her private practice, because "corporations—they're good to you."

But she also might get back into criminal defense when her stint as prosecutor is over. "I like trial work," she said.

She said she prefers cases, like those in District Court, which are not long and drawn-out, but are over with quickly.

Miss Campbell made up her mind to become a lawyer after spending several years in counseling positions at both Colorado College, Colorado Springs, and at Frostburg State College.

She became frustrated, she said, and decided people who did things were lawyers.

"I decided it was lawyers who had a piece of the action, who were part of their community and knew what was going on.

"And I wasn't going to let anybody take advantage of me."

So she received her law degree from the University of New Mexico in 1967 and came to Frederick on August 1 to practice in the law firm of Mathias, Mathias and Michel.

She picked Frederick to practice because she had been born on the Eastern Shore and her parents still reside in the Baltimore area. She made a list of all the "pleasant places near my origins, and Frederick was on the top."

Shortly after she joined the Frederick firm, Charles Mathias Sr. died, and Charles Mathias Jr. resigned last year. Now only she and Glenn Michel remain.

Miss Campbell feels she's had to make it on her own in law. "Mr. Michel gave me a chance, but it was up to me to prove myself."

She also feels that things would have been easier for her if she had been a man.

"The average woman lawyer is better than the average man lawyer," she claimed. "She's gotta be or she wouldn't be there."

In law school, however, she said, the female students got "special treatment."

"We got away with more," she explained, "but not because we were women. Because we were better students, better prepared, better all the way around."

She said she has gleaned from comments that people feel a woman lawyer is the last one you would go to, so she has to work harder to prove herself.

But it's not as hard to justify herself to a business client, she said, as to his superior.

In commenting on wrongs in this country's system of justice, Miss Campbell said, "We have to ask ourselves, under all circumstances, do we normally give a person a fair trial?"

Her answer is yes.

But she said she has to note "our escapism or substitute blame."

"Whenever we have a criminal case and one of those involved doesn't like the decision, he's always ready to blame 'them.' The judge was paid off, the lawyer was incompetent or the witness lied," she commented.

"Not many people are willing to acknowledge that justice is done. They blame anybody but themselves."

She thinks one glaring wrong in the system is the inequality of people. But she said it is not the law, but the administration and enforcement that is the problem.

"There is a failure to pay people according to merits, not race, color or sex," she pointed out. "And there is the eternal problem of fair housing for the poor.

"I was raised under the puritan, Protestant ethics that if you wanted it, you worked for it," said Miss Campbell, who is chairman of Frederick County's Judicare program which provides free legal service for poor people.

"But this leaves out the possibility that one did not have the opportunity, incentive or parents to provide encouragement.

"In our society there are lots who don't have these factors. And they will remain poor, not because they're lazy but because they will never get out of the cycle. They can't help themselves," she observed.

"I think practicing law is full of life—full of the things that make up lives," Miss Campbell said. "There's lots of opportunity to be involved and you're the one that's negotiating."

She added that the position is full of risk and responsibility, "but it's not humdrum."

A WORLD ASSEMBLY ON AGING

Mr. CHURCH. Mr. President, on September 13, I was to have addressed the 25th Annual Conference on Aging of the Institute for Gerontology, University of Michigan-Wayne State University.

As chairman of the Senate Special Committee on Aging, I was especially hopeful that I could participate in that event. The annual Michigan conference, now a quarter-century old, has had a powerful influence upon the thinking and deeds of those directly concerned in making a better life for older Americans. I salute the sponsors and planners of that conference for all they have done.

This year's conference had special significance, too, because of the tribute paid to seven "pioneers in aging" selected this year: James E. Birren, E. V. Cow-dry, Wilma T. Donahue, Robert J. Havighurst, Ollie A. Randall, Nathan W. Shock, and Clark Tibbitts. Each of these leaders in gerontology received a medal presented in recognition of pioneering achievements in the field of aging.

My address was to give the view from Capitol Hill on the progress that has been made in devising and implementing a national policy on aging since the 1971 White House Conference on Aging. I could not personally deliver my speech because of a heavy workload in the Senate. It was, however, read in my absence.

Regrettably, I had to report to the conferees that progress toward a realistic, farsighted national policy on aging is slow and uncertain, largely because the Nixon administration has failed to take advantage of the opportunity presented by the White House Conference. Even yet, however, I believe that Presidential leadership could help us regain lost ground.

My speech also dealt with a matter more closely related to the overall theme of the conference, "Aging around the world: Dimensions of the future." I proposed that a world assembly on aging be conducted in the next 3 to 5 years, possibly under the auspices of the United Nations.

Such an assembly, it seems to me, would involve governments in a cooperative venture which would help each nation determine what kind of commitments must be made in a world in which larger and larger segments of the population live a lengthening number of years in what we now call retirement.

My speech alludes to a "retirement revolution" which exists not only in the United States, and in other industrialized nations, but in many other nations in varying stages of development.

Mr. President, I believe that the proposal is worthy of deliberation. I ask unanimous consent that my address of September 13 be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

TOWARD A NATIONAL POLICY ON THE AGING—A VIEW FROM CAPITOL HILL

(By Senator FRANK CHURCH)

My pleasure at being here this morning is tempered only by the realization that I am a Johnny-come-lately when it comes to aging.

It's true that I *am* an older worker, by Department of Labor standards. *That* happened three birthdays ago.

And it's true that I have served on the Senate Committee on Aging since it was founded eleven years ago.

And it's equally true that in 1969 I came to one of these annual conferences on aging in order to conduct a hearing on consumer problems of the elderly.

But that was a mere three years ago, and this conference is the twenty-fifth one sponsored at the University of Michigan. You began back in 1947, when—I must admit—I was just in the process of becoming a young Democrat. But now, of course, I've passed the arbitrary retirement age for that organization, too.

Here, at this conference, you have already honored the American Pioneers in Aging: men and women who first concerned themselves about gerontology when most people didn't know what the word meant.

Last night you heard from Wilma Donahue, Clark Tibbitts and others who made the conferences here a genuine nationwide event, an idea exchange, a springboard for action to be taken during the following year.

A little later today you will hear from Wilbur Cohen, a man who shuttles back and forth from college campus to agencies of power in Washington with the greatest of ease, advancing the cause of social justice no matter where he is.

But I will say, Wilbur, that I hope you are soon back at H.E.W., serving a President of your choice in an Administration which understands just exactly what you had in mind when your work was interrupted almost 4 years ago. You are a great American, and this Nation needs you.

Well, here we are.

Twenty-five years after the first Michigan conference.

Two White House Conferences on Aging later.

And for today, I have been asked to give the view from Capitol Hill: just how well are we doing in establishing a policy on aging—a policy which, in my view, should guide action and be shaped by action?

I wish I could say to you that I think that the Congress and the Executive Branch have neatly tied together a national policy solidly based upon the White House Conference recommendations which were analyzed for you by an earlier speaker.

But of course I cannot. In the case of Congress, 1972 has been primarily a year for the seizing of opportunity.

In the case of the Administration—as I will discuss in just a few moments—I am sorry to say that 1972 has thus far been, in my view a year of inadequate response to the challenge of the White House Conference and to the needs of older Americans.

Very quickly, let me tell you of the major legislative developments since the Conference.

First, of course, is the enactment of a 20 percent increase in Social Security.

That across-the-board benefit rise attached to—of all things—a bill authorizing the increase of the national debt limit.

In addition, that debt ceiling bill was made the vehicle for an amendment which will establish, for the first time—a cost-of-living adjustment mechanism for Social Security benefits. This is the long-awaited action needed to make Social Security much more "inflation-proof" than it now is.

That 20 percent increase is the largest dollar increase in the history of Social Security. And I am proud to have led the Senate effort which resulted in its passage, which also will remove 1.4 million older persons from the poverty rolls.

But I am dissatisfied about several matters related to passage of the 20 percent bill.

My first complaint is that, while welcome, the 20 percent increase resulted in relatively modest monthly increases:

From $133 to $161 for the average retired worker;

From $223 to $270 for the typical retired couple;

From $70.40 to $84.50 for minimum monthly payments;

For widows, still the hardest hit group of all, from $114 to $137.

Those extra dollars are vitally needed, but they still fall far short of what yet must be done.

We must, for example, finally take older Americans off welfare throughout this Nation.

We should end the Old Age Assistance program by establishing a national standard of retirement income above the poverty level for all persons of age 65 and up.

To do that, we should supplement below-poverty retirement income with a monthly check issued through the Social Security Administration.

Furthermore, we should take from H.R. 1 other proposed reforms which would make Social Security, Medicare, and Medicaid far more useful than they now are to elderly Americans.

If that kind of action is possible before Congress adjourns this year, I will certainly support it.

My second major complaint about the 20 percent increase is that the Administration—even the President himself—opposed the Congressional initiative, and then consented only grudgingly when the time came to sign the legislation.

The President made it look as if Congress had him over a barrel—or perhaps even *under* a barrel.

But I think that the extreme reluctance of the Administration to face up to the 20 percent was uncalled for.

After all, in 1971 the Advisory Council on Social Security—a distinguished body headed by Arthur Flemming—had recommended more realistic actuarial assumptions on the status of the Social Security trust funds. And these assumptions, it soon became evident, could make a 20 percent increase possible.

And this paved the way for Senate action, without any serious problem. Very quickly, the House of Representatives accepted the Senate amendment without much fuss at all.

Here was a case of everyone being in step but the President and his Secretary of Health, Education, and Welfare.

Instead of taking the lead, the Administration resorted to its usual policy: to have no policy at all on retirement income.

That non-policy was made all-too-clear when a high-ranking HEW official said earlier this year that it was his practice to wait and see what Congress might do on Social Security. And then he would make a lower bid.

What kind of attitude is that when almost one out of four older Americans lives in poverty?

What kind of attitude is that when almost 40 percent can't afford what the Department of Labor says is required for a modest retired couples budget?

I think that the Administration has failed, and is continuing to fail, on the number one problem facing older Americans: they simply don't have enough dollars to keep up with the rest of our society.

But I don't think that Congress has done all it should, either.

And I think, too, that we have come to a point along the road where we should consider some major innovations in national policy on retirement income.

For that reason, I am announcing to you today that the Senate Special Committee on Aging will conduct hearings early next year on "New Directions in Social Security".

It is clear, I think, that we in this nation can no longer rely on catch-up benefit raises or even an automatic cost-of-living adjustment mechanism.

We have to grapple with other issues:

How can we make the payroll tax less onerous for so many workers?

What more can be done—besides adjusting the Social Security "retirement test"—to deal with one of the biggest complaints now made by the elderly—the feeling that they are being forced to give up work when they reach retirement age?

How can we make retirement more secure for women?

How can we deal fairly with elderly members of minority groups, so many of whom do not live to age 65?

Should general revenues be used for specific, limited purposes?

At this point I should say that Senator McGovern's new proposals on retirement income would deal very effectively with several major issues in this area. His proposals would receive careful attention at the hearings I have just described.

I said before that 1972 was primarily a year for Congress to seize opportunities.

That was the case on Social Security. And it happened on other fronts as well.

The Executive Branch, after opposing a Nutrition for the Elderly Bill all during 1971, finally embraced it early this year. And it was passed within a matter of weeks. Since then, the Senate has approved full funding of $100 million for this program, which should provide not only hot meals but related services and companionship.

That same appropriations bill, by the way, included two amendments which I advanced:

An additional $5 million to the National Institute of Child Health and Human Development for research and training on aging.

An additional $1 million to help assure enforcement of the Age Discrimination in Employment Act.

But, of course, you know what happened to my amendments and to the entire appropriations bill. The President has vetoed that bill, and now the funding level for programs on aging is temporarily in doubt.

Here again, Congress wanted action, but an Administration committed to bombs in Indo-China and unemployment and high military spending at home decided it had to say no.

Congress is now about to take final action on the extension of the Older Americans Act. The Senate has bills before it which would increase the authority of the Administration on Aging considerably, and which would give a higher place in the hierarchy to aging in general. My own bill, S. 3181, for example, would create an office on aging at the White House level in addition to a beefed-up AoA. I hope that the Senate Committee on Labor and Public Welfare adopts these provisions in its bill.

On the House side, an impressive bill H.R. 15657, has already been passed. It would strengthen the role of AoA by making the Commissioner directly responsible to the Secretary of Health, Education, and Welfare, by establishing special impact programs, and by several other innovative steps.

Here again, however, it appears to me that the Executive Branch has not taken advantage of the momentum generated on aging in Congress during the past few years. Its own bill to extend the Older Americans Act reflected, in my view, a great deal of serious thought about establishing a coordinated social service system for older Americans. But I find at least two flaws in it.

One: The Administration seems intent on establishing a new layer of "planning" agencies somewhere between State and county governments. It seems to ignore all the planning that has been conducted by those units of government within recent years.

Two: The Administration bill does nothing at all to take the Administration on Aging from where it now is—lost somewhere far down in the HEW apparatus—to a position of higher visibility and effectiveness. Everyone who has studied the problems of aging—including President Nixon's own task force in 1970—has been critical of the misplacement of AoA within the Social and Rehabilitation Service.

But the Administration is willing to let the status remain quo. Not only that, Congress is supposed to pour funds into the AoA, even though the Administration refuses to heed our misgivings.

So much for AoA. I can only hope that, as has so often been the case of late, the Administration will finally accept a Congressional initiative just when it seems about to become law, anyway.

I hope that turns out to be the case, too, on three other bills which were approved by the Senate Committee on Labor and Public Welfare on June 21.

The Older American Community Service Employment Act or Senate Bill S. 555. This bill is commonly described as a senior service corps bill, and it would authorize $250 million over two years for enlistment of low-income persons 55 or older in service projects right within their own home towns.

The Middle-Aged and Older Workers Employment Act (S. 1307). This bill would provide practical help to persons who face employment problems in mid-careers. That problem might be unemployment, underemployment, or a simple desire to change jobs. At a time when one million persons 45 years old or older are out of work, such legislation is desperately needed.

Finally, the Research on Aging Act, S. 887, has been reported to the Senate. It would establish a National Institute of Aging at NIH. A similar bill has already been passed by the House.

Let me spell this out: all three of the bills I just mentioned have been *opposed* by the Administration. Here again, I wish that more positive action had been taken.

Congress has done a great deal else in 1972. As for Administration action, another speaker today—a man who had a great deal to do with making the White House Conference on Aging such a great success—will soon give you his analysis—an analysis which understandably differs from mine.

Incidentally, I would like to add my own personal note of thanks to Arthur Flemming for taking on his assignment with the Conference as well as his present position as Special Advisor to the President. He has always been a man of decency and advocacy. The entire field of aging is in his debt for all he has done—and everything else that he would like to do.

But I think that Dr. Flemming would readily agree with me when I say that neither Congress nor the Administration has yet even begun to develop a genuine, well-thought-out, step-by-step national policy on aging.

We are aiming at targets of opportunity, rather than at the strategic heart of each matter.

For that reason, I have introduced a bill which would authorize what might be called "mini" White House Conference on Aging every two years or so during this decade. Unlike the big White House Conference on Aging—which invited thousands of delegates—the interim conferences would invite specialists to examine one major issue at a time. Retirement income, of course, would have first priority. Their findings could be used to help measure progress made since the White House Conference.

These mini-conferences would be useful, but they will not substitute for three other vital ingredients:

Presidential leadership that genuinely attempts to implement major White House Conference recommendations.

Efforts within Congress to carry out such recommendations or to take initiatives of its own.

The continuing high degree of interest shown by the elderly themselves, by academicians, and by public administrators and others who are directly related to our success or failure in dealing with problems faced by older Americans.

I put Presidential leadership at the top of that list of prerequisites because I believe that it is not too late—even yet—for a really determined Chief Executive to make full use of the magnificent opportunity presented to this nation by the 1971 White House Conference on Aging.

When we in Congress instructed the President to call that Conference, we had high hopes for it.

I, personally, still have that kind of hope.

But I must face the fact—and so must everyone else who cares about older Americans—that the Administration response to that Conference has been one of tactics rather than one of substance.

As I said before, the Administration has yet to announce its goals on retirement income.

It offers a nursing home "reform" program which puts primary emphasis upon policing, rather than improvement of care.

It has thus far failed to present a workable strategy for improving and strengthening the Older Americans Act, even though Congress has voted dramatic increases in funding for the Administration on Aging.

And can anyone tell me what the Administration goals on housing for the elderly are?

All down the line, the Administration seems to have a "this too shall pass" attitude when it comes to aging.

Its spokesmen—from the President on down—seem anxious only to get through the next two months or so without any real commitment, any real program, on aging.

It happens, however, that the President is also a candidate. One measure of his campaign—a measure of key importance to the Senate Committee on Aging, to everyone at this conference, and to 20 million older Americans and their offspring—is whether the President will level with the American public on aging.

If he does not, even under the rigors of a political campaign, then what could we expect if he were to win another term in office?

Thus far I've confined myself to the topic you assigned to me: the view from Capitol Hill on a National Policy on the Aging.

But the view from Washington, D.C., extends in other directions as well, and I would like to take a few moments to share a few thoughts with you on the more general subject of this Conference:

"Aging Around the World: Dimensions of the Future."

I'm glad that you have chosen that topic because it is closely related to a proposal which I want to make to this Conference.

It seems to me that the United States must look beyond its own efforts on aging, just as this Conference has done over the past three days.

Other nations, as well, must face up to the fact that what has been called a "retirement revolution" is a reality in developing nations as well as the most advanced nations.

The full extent of that revolution is as yet unknown, but the United Nation's report—described earlier in this Conference by a representative of the U.N.—provides several important bits of evidence about its significance.

That report notes that about 200 million older persons—people of age 65 and over—reside on planet Earth.

That report points out that this total is about 24 million more than just 5 years ago.

And thirteen years from now—1985—the overall total may be 270 million, 70 million more than the total today.

These numbers are impressive but they tell only part of the story. We must compare the growth in the numbers of aged with the growth in other age groups.

Between now and 1985, overall population growth will be about 11 percent.

For the aged, this increase will be far higher: 24 percent.

In less developed nations, total population growth will be up 27.8 percent between 1970 and 1980, it will be up 38.2 percent for the aged.

It is no wonder that the United Nations report says the world has an aging population, with social and economic implications which are not yet clearly understood.

We also face a prospect which is pleasant in personal terms, but which is monumental when considered in terms of world impact.

I'm referring to speculation that man's years on earth may be extended because of scientific breakthroughs of one kind or another.

Everyone here, I am sure, is familiar with recent statements which seem to promise that those breakthroughs are at hand. I don't know about that, but I am impressed when I pick up an article by a high official of the World Health Organization and find that he is speculating, in matter of fact fashion, about the social implications if life expectancy increased by 15 years or so.

And mind you, he is not talking only about extending life by controlling disease. He is talking about delay of the actual aging process. Certain lines of research are aimed at postponing the onset of frailty, and it is this prospect that is being examined by the W.H.O.

Imagine: a world in which the people in their 60s, 70s, and beyond could have the energy and physical capacity of middle-age. The W.H.O. official is right to tell us that we should expect major change if such new patterns of life become real.

But even if it does not—at least in the immediate decades ahead—there is ample reason to ponder what is happening now.

As we have already seen, in absolute numbers and in percentages, the number of elderly is increasing.

Earlier retirement ages are becoming more common in many nations.

If present trends continue, birthrates will continue to decrease in many parts of the earth.

On the basis of what we can already foresee, we have many questions to ask.

How much of an economy should be committed to retirement income?

If skills become obsolete in middle age in industrial nations, what will be the effect upon employment status of those affected? What effect will unemployment or underemployment have on their social insurance payments for retirement?

What if nations around the world follow one after the other in establishing lower compulsory retirement ages? How will the lower number of productive years affect tomorrow's retirement?

In developing nations, what effect upon the elderly will result from the widespread move of younger people from rural areas to urban?

We could pose other questions, as did the U.N. study. But I think that the point is clear:

No nation in the world can ignore the "retirement revolution," and every nation can help other nations in a common effort to deal with the situation described so well by the U.N.

The elderly throughout the world cannot be expected to live in exclusion. But they can make many positive contributions to the societies in which they reside, if we alter our social and economic systems—and our attitudes, as well. No easy task, to be sure. But one that stands a better chance of success if nations talk to one another. The stage may be set, right now, for such communication.

The United States has recently concluded a White House Conference on Aging. Interest is still high; momentum could be made to grow.

The Ninth International Congress of Gerontology took place just two months ago in Kiev, Russia. There scientists brought each other up to date on research findings on everything from the cellular aging process to income maintenance. This Congress, to be followed in three years by the next international meeting in Israel, certainly adding to the momentum on aging.

The United Nations is expected to report early next year on its survey with an eye toward seeking additional action within the U.N.

And there are plans afoot for individual multi-nation conferences on one subject or another in 1972 and beyond.

Everywhere we see momentum. What is needed now is direction and some mutual goals.

I therefore propose that nations work together, possibly through the United Nations, to plan and conduct a World Assembly on Aging within the next 3 to 5 years.

That Assembly could be the finale toward which all the other conferences would work.

It would involve the scientists who participate in the International Congresses of Gerontology.

Its major function would be to involve governments in a cooperative venture which would help each nation determine what kind of commitments must be made in a world in which larger and larger segments of the population live to be older.

As a first step, the United States and the Union of Soviet Socialist Republics should take steps to broaden the agreements they have reached to deal with cancer, heart, and environmental diseases. Those agreements should also include cooperative action on aging. I have made this suggestion to President Nixon, and I hope that it can be acted upon in the near future.

What is needed now, however, are actions by the United States and other governments to cooperate in steps leading to the world convocation I have mentioned.

It may well be that such an assemblage could best be conducted through the United Nations, employing some but not all of the methods used in the World Conference on Environment in Stockholm this year.

It may well be that smaller, regional conferences could be held as part of a global effort to arrive at a better basis for action on aging.

Whatever the final form, discussion on the Assembly should begin at an early date. I wish to assure you that I personally will do all I can to have that dialogue begin and I will welcome your suggestions as to the next steps.

At the risk of being called isolationist—which seems to be a reappearing label these days—I would like to point out that the United States has certain selfish interests that could be served by a World Assembly on Aging.

For one thing, a World Assembly on Aging would be an additional prod for development of a national policy on aging—something we hoped that the White House Conference would do. The momentum generated at that conference, while still impressive, needs recharging. If the United States had to prepare for an international meeting at which it would develop its commitment on aging in conjunction with other nations, we could be more certain that a national policy would not only be formulated, but implemented.

Second—and this is suggested by my last point—we must have comparisons with other nations if we are to develop real perspective on our own failures and achievements. I do not say that the United States lags or is ahead of other nations in terms of the general well-being of older people. But it is probable that some nations are ahead of us in certain fields, such as housing, and that we are ahead of other nations in other ways. We should at least find out where we stand, and what we can do with other 'Nations'.

You have other speakers this morning and I will end my global speculations in order to make way for them.

My final comment is one with which, I suppose, few people will disagree. For that reason it should be repeated until its message is understood, rather than merely acknowledged.

I believe that great things can happen when people live with an injustice or worse for so long that finally they begin to question it.

We in this nation lived with war in Indo-China for years before we recoiled and said that this was inhuman and intolerable.

We in this nation are questioning the terrible drain that military spending puts on each one of us and those in need of help denied to them because we spend instead for arms.

We in this nation are questioning even our liberalism and wondering whether we substitute token programs for actual concern and real remedies.

Out of such questioning is our hope for the future. This is as true in the field of aging as in everything else. I have been with you today as much to ask questions as to make suggestions. I have enjoyed the opportunity to share the work we must all do on behalf of today's elderly and tomorrow's, as well.

Thank you for having me here today.

STATE TAXATION OF INTERSTATE COMMERCE

Mr. MATHIAS. Mr. President, with the agreement of the committee on the conference on the revenue-sharing legislation, H.R. 14370, I think that whether one opposed or favored this far-reaching legislation, all will agree its enactment will accomplish a fundamental and far-reaching change in Federal-State fiscal relationships.

Federal revenues to be shared with the States, whether in the form of existing categorical grants or the new unfettered general revenue sharing, are, of course, derived in large part from income earned by business in interstate commerce. Therefore, I firmly believe that the next order of priority for the Congress in the area of Federal-State fiscal relationships is enactment of legislation to bring order into the present chaotic system of taxing interstate commerce by State and local governments. We expect the States and localities to be responsible in their use of Federal funds, but we must also demand that they act responsibly in breaking down the tax barriers that now impede the free flow of commerce between the 50 States.

Mr. President, a clear explanation of the relationship of revenue sharing to the problems of State taxation of interstate commerce I have seen was presented during the hearings before the Committee on Finance on July 26, 1972, by Mr. Roland M. Bixler, representing the National Association of Manufacturers. Mr. Bixler, a resident of Connecticut and a small businessman, is president of J-B-T Instruments, Inc., and chairman of the NAM's subcommittee on State taxation of interstate commerce. Mr. Bixler's testimony, in part, follows:

> Revenue sharing legislation in general, and federal collection of state taxes in particular, raise again the question of a much older and more protracted problem—state and local taxation of interstate commerce. In fact, this subject has been before Congress since the 1950's—long before we had even heard of the "fiscal crisis" in state and local finance. Exhaustive studies have been made and the House, by wide margins, twice has passed bills that would set minimum standards for taxing multistate businesses and grant some relief from the maze of complicated state and local tax requirements. Unfortunately, the Senate has not acted.
>
> The burden on business in seeking to comply with the array of different state and local regulations and procedures is staggering, as the number of jurisdictions taxing companies engaged in interstate commerce is literally exploding. There are 46 sets of corporate income tax laws and 46 sales and use tax laws in effect at the state level—not to mention the numerous other laws of general

applicability such as gross receipts tax laws, capital stock laws, etc.

Prior to 1945, only New York City and New Orleans imposed a local sales tax. By 1971, more than 3500 local governments, including approximately 3000 municipalities and 500 counties, levied sales taxes.

The problems is especially critical for small and moderate-sized firms. By definition their business operations are modest and thus their relationship to most states is slight. Yet, the myriad jurisdictional rules of the various states reach and grab at these businesses in such a variety of ways that these firms are often forced by cost alone to noncomply and thus to risk a build-up of liability that can threaten their existence. The difficulties facing all firms doing interstate business are pointed out by this quote from the Recommendations of the House Special Subcommittee on State Taxation of Interstate Commerce, published in 1965:

"With respect to all of the taxes considered in this report, the threshold question facing the interstate company is whether or not its activities within a State are sufficient to make it taxable by that State. For each kind of tax, there is a broad range of activities for which liability is asserted by some States and not by others. In many cases, the determination of whether or not liability exists is difficult, if not impossible.

". . . When the problem of determining whether there is liability is reviewed in terms of the cumulative effect of all four types of taxes, the variety and complexity is greatly increased. Not only do jurisdictional standards differ among the States, but they are also nonuniform for different taxes within a single State."

Despite much prodding, the states have not been able or willing to cooperate in setting sensible jurisdictional and apportionment standards on their own. The result is a serious threat to our "common market" of the 50 states.

We ask you now to consider the issue as a pertinent part of your deliberations on revenue sharing. You should consider that:

(1) If the federal government is to share its tax revenues, which depend so greatly on interstate commerce, with lower tax jurisdictions, it is incumbent on the federal government to require not only that these funds be spent in a responsible manner, but that the recipients of such aid show responsibility in their jurisdictional reach and apportionment procedures for taxing interstate commerce.

(2) If the federal government is to provide for collection of state income taxes and require participating states to conform their tax bases with the federal income tax, there is all the more reason to require the states to use common standards for taxing interstate business.

(3) Most of the past resistance to federal interstate tax legislation has been the fears of revenue loss expressed by the states. Although not well documented, any such "losses" would be *de minimus* compared to the financial benefits (at least $5 billion per annum) that general revenue sharing would bring to states and localities.

The NAM's own interest in the field of state taxation of interstate commerce dates back many years. In addition to participating in litigation in the early 1950's, the Association was also involved in the discussions leading to the passage of P.L. 86-272 in 1959 and in the studies and hearings conducted last decade by the House Select Subcommittee on State Taxation of Interstate Commerce. Members and staff of the Association have discussed the subject at length, statements have been hammered out in policy sessions, and testimony has been presented to the Congress on several occasions.

Throughout this period, the NAM has consistently urged that the problems concerning state taxation of interstate commerce can be solved by enactment of a limited bill establishing federal jurisdictional standards for all types of state taxes levied on interstate commerce.

Therefore, we strongly urge you to take action on the interstate taxation issue. Specifically, the business community has favored the jurisdictional rule and other standards contained in S. 317 introduced by Senators Ribicoff and Mathias and other Members of the Senate.

However, we are not insisting on any one particular piece of legislation. As a matter of fact, as a result of recent efforts at compromise in order to get some movement on the problem after these many years, there is gathering support in the business community for a measure that would fall short of S. 317. This would set certain jurisdictional and apportionment standards but would allay revenue loss fears of the states by preserving certain court decisions regarding collection of sales and use taxes. A registration procedure would be established to protect businesses selling in interstate commerce from liability for payment or collection of taxes in states where they have no business location.

We feel that this type of measure would go a long way toward solving the interstate tax problem and could receive widespread support as a middle ground position.

Beginning with my service in the House of Representatives, and particularly as a member of the Special Subcommittee on State Taxation of Interstate Commerce, I have long been convinced that we must have permanent Federal legislation establishing minimum uniform rules for setting forth the conditions under which all types of State and local taxes can be levied. The Congress has not acted on this subject since 1959 when stopgap legislation, Public Law 86-272, was enacted.

In the 92d Congress, along with the distinguished senior Senator from Connecticut (Mr. RIBICOFF), I have been pleased to cosponsor the Interstate Taxation Act, S. 317. Additional cosponsors of this act include Senators BEALL, BROCK, CASE, COOPER, GURNEY, and HUMPHREY. It is similar to legislation I introduced in the 91st Congress. It is also similar to legislation which passed the House by overwhelming majorities in both 1968 and 1969. In this 4-year period, however, the Senate has not had an opportunity to act. The Committee on Finance has not held hearings.

The distinguished chairman of the Committee on Finance (Mr. LONG) has assured me on a number of occasions that the committee plans to hold hearings on the subject of State taxation of interstate commerce before this Congress adjourns. He has given such public assurances as recently as the revenue-sharing hearings held by the Committee on Finance in July of this year. Even if the time remaining during the closing days of the 92d Congress do not permit enactment of this vitally needed legislation, I hope that public hearings can still be held so that we can act early in the 93d Congress.

Mr. President, in recent years there appears to have been an unbridgeable gap between the position of State and local governments and that of the business community. The States, particularly those who have joined together to form the Multistate Tax Commission, are adamantly opposed to the type of legislation urged by a broad spectrum of the business community. I do not believe that this apparent gap is unbridgeable.

In recent months, three major business organizations—the National Association of Manufacturers, the National Association of Wholesalers-Distributors, and the Council of State Chambers of Commerce—have been developing a new interstate taxation bill in an effort to meet some of the objections of State and local governments.

From my long study of the problems of interstate taxation, the working drafts of this new bill I have seen convince me that it represents major concessions on the part of the business community in order to reach an accommodation with the views of State and local governments. This is particularly so with regard to sales and use tax jurisdiction and apportionment of income or capital for tax purposes.

Despite the concessions which the business community appears to be willing to make, this bill will not represent a marked departure from S. 317 and earlier versions. It will still provide Federal minimum standards designed to relieve the most pressing tax problems of companies doing business in more than one State. Its basic elements will be similar to the bill of which I was one of the authors and which passed the House initially in 1968 and again in 1969.

In addition to the three business organizations which are developing this new legislation, I am informed it has been reviewed and approved in principle by a large number of other business groups, including Air Transport Association, American Machine Tool Distributors Association, Association of Institutional Distributors, Automotive Service Industry Association, Direct Mail Advertisers Association, Distilled Spirits Institute, Manufacturing Chemists Association, National Small Business Association, Printing Industries of America, Inc., and the Society of American Florists.

Mr. President, I plan to introduce this legislation before the close of this session. I will not claim that it will provide all of the answers to the complex problems of State taxation of interstate commerce, but it merits serious study by all those who would be affected by it, the business community, other taxpayers and State and local governments. If it is seriously considered by the Committee on Finance along with all the other bills introduced on this subject during public hearings which I hope will be held very soon, I believe we can come up with a practical Federal solution. I would remind Senators that Congress, in 1959, by enactment of Public Law 86-272, clearly establishes the right of the Federal Government to exercise its authority in this important area.

TRUTH IN TAX COLLECTIONS

Mr. NELSON. Mr. President, on August 10, the Senator from Minnesota (Mr. MONDALE) introduced S. 3903, The Truth in Tax Collections Act of 1972. The bill would require the Internal Revenue Service to make clear to taxpayers which of its current instructions have been rejected by any Federal court. It would also require the IRS to reconcile differences among its instruction pamphlets and to advise taxpayers which one may be regarded as authoritative. Finally, it would permit a taxpayer contesting a deficiency assessment in the tax court to see his appeal through to final adjudication without having to pay the claimed deficiency or post a bond.

The bill was discussed in two recent newspaper columns by Mr. E. Edward Stephens. In an article entitled "Bill Demands IRS Tell 'Whole Truth,'" published in the Philadelphia Evening Bulletin of August 21, Mr. Stephens pointed out that—

> When in doubt, the service generally construes the law unfavorably to the taxpayer, and writes its interpretation into instructions to be issued with the tax forms.

Thus, a taxpayer's interest will often require him to contest the IRS interpretations. But, the service does not even give him a clue as to whether other taxpayers may already have succeeded in identical challenges to the IRS instructions.

In a column published in the New York Daily News on September 1, Mr. Stephens noted that—

> The tax court is the only forum where one can contest an IRS deficiency without first paying the interest and penalties.

Therefore, the advantage in using the tax court route is lost by the taxpayer if he must pay the deficiency claim before he can appeal an unfavorable ruling by the tax court. This inequity is underscored by the fact that taxpayers lose an overwhelming number of cases in the tax court—almost 70 percent in the first half of 1972. Yet, they do far better upon appeal. The Mondale bill would permit the taxpayer to pursue his appeal to finality before having to pay the deficiency.

Mr. President, I ask unanimous consent that the two columns be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Counsel to the Taxpayer—Bill Demands IRS Tell "Whole Truth"

(By E. Edward Stephens)

Q. Is it true that the Internal Revenue Service doesn't tell the whole truth when it instructs taxpayers on how to fill out their tax forms?

A. Yes—and Minnesota's hard hitting senior senator, Walter F. Mondale (D), wants IRS to come clean.

Taking the warpath, he joined battle Aug. 10 by introducing a bill, S. 3903, pointedly called the "Truth in Tax Collections Act of 1972." It was referred immediately to the tax-writing Senate Finance Committee.

The senator said IRS instructions are "badly misleading" the taxpayer.

"We would readily condemn a similar action if it were taken by a private company," he commented.

IRS has a tough job interpreting any provisions of our highly complex Internal Revenue Code. When in doubt, the service generally construes the law unfavorably to the taxpayer, and writes its interpretation into instructions to be issued with the tax forms.

PROTECT THE REVENUE

Many taxpayers balk. They drag IRS into court, and often succeed in overturning IRS regulations or rulings.

The rub is that IRS usually doesn't change its instructions when this happens. There isn't a word to let unsuspecting readers know that any part of the instructions may be invalid.

Senator Mondale doesn't question the service's right to take "arguable" positions to "protect the revenue." He knows that U.S. Supreme Court decisions are the only ones that IRS must apply to all taxpayers.

A lower court decision doesn't bind IRS except in the case of the taxpayer who filed the suit.

But, Mondale said, it's unfair to give other taxpayers only one side of the story in official instructions. And, he added, this is particularly unjust in the case of a little guy who can't afford tax counsel.

MONDALE'S FIVE STEPS

Where any court has rejected or modified an IRS position, Mondale said, all taxpayers should be informed. The instructions should put readers on notice that it might be advantageous to seek further information on specific points, or to retain counsel.

IRS moguls often say they don't want to collect a single penny that isn't due under the law. To this, the plain-speaking Minnesota senator retorted "Facts belie the claim."

The Mondale bill is designed to make IRS tell the whole truth. If it were enacted in its present form, IRS would have to take five actions.

Prepare an "authoritative" set of instructions interpreting the tax laws as of the date of issue, for use in preparing returns and other documents that taxpayers must file.

FOOTNOTES AND MORE

Revise the set from time to time.

Make these instructions available to any taxpayer on request.

Refer to this set, in all other instructions, as the "authoritative" source of instructions for preparing returns and other papers.

Note conspicuously in all instructions, via footnote or other device, any instance in which a provision of the code has been held, by any U.S. "court of competent jurisdiction," to have a meaning or application other than that in the instructions.

U.S. courts of competent jurisdiction include the Tax Court, Court of Claims, district courts, and circuit courts of appeals, as well as the Supreme Court.

Taxpayer's Counsel—Bill To Curb IRS Abuses Has Appeal

(By E. Edward Stephens)

Q. According to one of your columns, if I lose a case in the U.S. tax court, the Internal Revenue Service can move in and collect whatever the court says I owe—even though the U.S. court of Appeals later may decide that I didn't owe a dime in the first place. Is anybody trying to correct this deplorable situation?

A. Yes. An Aug. 10, Minnesota's senior senator, Walter F. Mondale (D), introduced a bill (S-3903) to set things right. It provides that if you go to the tax court, IRS can't collect until the case is finally resolved against you on appeal.

The Mondale bill is long overdue. For nearly 50 years, U.S. taxpayers have been victimized by the outrageous law now in force.

Organized in 1924 as the Board of Tax Appeals, the tax court is the only forum where you can contest an IRS deficiency without first paying it, with interest and penalties. The court was set up for this very purpose.

The system works fine if you win the tax court decision. But if you lose there, the result can be disastrous—even though you win the case hands down on appeal.

For example, suppose you go to the tax court. You have one interpretation of an Internal Revenue Code provision; IRS has a different construction. The judge plumps for IRS. (In the first six months of 1972, taxpayers lost 69.7 per cent of the tax court decisions.)

You go on to the U.S. Court of Appeals. Still, you must pay the deficiency, or post a bond guaranteeing payment. This is the law today—pay up or put up.

If you can't raise the cash, you're in trouble. The bonding company will charge a stiff fee; and you'll never get it back. The government won't reimburse you, even if the Court of Appeals decides you were right all along.

This is bad enough. But usually the situation is far worse. If you're short of assets, chances are no bonding company will take the risk. You're thrown into the hands of tough "revenue officers"—formerly called "collection officers"—who have tremendous power.

They can grab your bank account and any other personal property you own, seize your real estate, sell everything at rock bottom forced sale prices, pay auction fees, storage costs and other selling expenses, and apply what's left of the proceeds against your deficiency.

Now suppose that, after this disaster, you win the case in the court of appeals. Does IRS have to put you back in the condition you were in before it sold you out?

Not by a longshot. IRS will hand you back the net amount of money it realized on the sale of your property. For instance if your car netted $40 above storage and selling expenses, this is what IRS will pay you, plus interest.

IRS doesn't have to replace the car, or your home. If you were forced out of business, it doesn't have to set you up again. If you were fired because your salary was attached, IRS doesn't even apologize.

For heaven's sake. Let's get the Mondale bill enacted.

STATEMENT BY CLIFFORD ALEXANDER ON DISCRIMINATION IN FEDERAL EMPLOYMENT

Mr. KENNEDY. Mr. President, perhaps one of the most serious failings of our Government is the denial of equal employment opportunities for minorities and women on Federal jobs. Because Washington, D.C., employs a higher percentage of Federal employees than any other metropolitan area, the effect of discrimination in Federal employment is more serious in this town than in other communities.

Representative Walter Fauntroy is currently conducting hearings on the problem of discrimination in Federal employment.

Clifford Alexander testified earlier this week about the way minorities have been denied equal job opportunities in our Federal agencies. Because Mr. Alexander is a former chairman of the Equal Employment Opportunity Commission, he was expertly able to document the failings in the system. I am impressed with the testimony he presented on this matter, and I ask unanimous consent that it be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement by Clifford L. Alexander, Jr.

In August of this year, a series of events were triggered which are already having profoundly negative effects on the employment conditions of minorities. The head of the American Jewish Committee (Philip E. Hoffmann) sent an identical letter to President Nixon and Senator McGovern, for reasons that are all too politically apparent. Hoffmann's letter raised the specter of unqualified minority workers receiving positions based solely on their race and of unqualified students being enrolled in institutions of higher learning just because they are Black. The letter presumed that "merit" was not being considered when Blacks were hired. Both the response of President Nixon and candidate McGovern failed to properly challenge the underlying fallacious assumption of Mr. Hoffmann—that is that Blacks were receiving something extra not accorded their white brothers. Both Hoffmann and Nixon imply that a merit test is being applied only to white applicants and that Blacks need only walk through the door and they will be given a desk and a paycheck every week. President Nixon used the occasion of Mr. Hoffmann's letter to set in motion a series of actions which are having and will continue to have a serious negative affect on the economic position of Blacks in this country. Nixon has already started to erode a rather weak but much heralded Philadelphia plan (to provide employment opportunities for Blacks and other minorities in the construction trades). Corporations are asking if they can forget about the sometimes effective tool of affirmative action programs which would increase minority employment. With respect to the Federal Government, Nixon in his response to Hoffmann said:

"With respect to these affirmative action programs, I agree that numerical goals, although an important and useful tool to measure progress which remedies the effect of past discrimination, must not be allowed to be applied in such a fashion as to, in fact, result in the imposition of quotas, nor should they be predicated upon or directed towards a concept of proportional representation.

"I have asked the appropriate departmental heads to review their policies to ensure conformance with these views."

It is clear for anyone who bothers to look that Black people are excluded from the higher paying, more responsible jobs in the Federal Government.

A review of the executive branch and regulatory agencies is in order. But the kind of review that is required is precisely the opposite from the kind Nixon ordered. The review would reveal the following:

That in the Office of Management and Budget, under the President's direction, there are 67 supergrades and not a single one is held by a Black.

In the Department of Justice, there are 318 supergrades and only four Blacks are employed in these job categories.

In the Department of Commerce, the umbrella agency for much of the highly tauted Black capitalism shell game, there are 374 supergrades (GS–16's through 18's) and only one is held by a Black. The quota for Blacks, however, in Commerce is at the bottom of the GS structure, where the pay is the lowest and the responsibilities are the least. In Commerce, Blacks make up 30 percent of the GS–1's through 4's.

In Civilian Department of the Air Force, there are 170 supergrades—no Blacks.

In the Navy, 334 supergrades—no Blacks.

In the Department of the Army, 237 supergrades—2 Blacks.

Those who carry the picture of America to the rest of the world state, A.I.D. and the Peace Corps have 42 in supergrade jobs and not a Black.

The Atomic Energy Commission has 349 individuals in supergrade positions and the Black quota is—yes—zero.

The Environmental Protection Agency has 44 supergrades and only one Black. This same agency has 649 GS–14's and 15's; of that number, ½ of 1 percent (3) are Black.

Finally, the Interstate Commerce Commission has 113 supergrades with no Blacks, but the Black quota is very high in the GS–1 through 4 at the I.C.C. There of the 248 GS–1 through 4's, 167 are Black or 67.3 percent. The issue of discrimination in employment, because of the unfortunate events following the Hoffmann letter, needs thoughtful and constructive action and analysis. After a review, the action that Nixon and Company must take is to provide opportunities for promotion and employment and see to it that those who are in positions of responsibility and are discriminating are removed from those positions. But Nixon has made one thing perfectly clear, this is not the direction in which he wants his Government to move. We now have the politically sensitive term "quota" being used to pit Black against white, worker against

Instead, we should be examining what are

Instead, we should be examining what are the handful of techniques that have been employed that have to any significant degree increased minority employment opportunities. One tool that I personally utilized while Chairman of the Equal Employment Opportunity Commission and which has proved to have some limited effectiveness is the "affirmative action plan."

It establishes in various job categories targets or goals for the employment and promotion of minority workers. It says that those targets or goals will be met within a specified time period. It says that the standard for acceptable performance will be applied with equality to Blacks and whites. Most importantly, it forces the reluctant employer to examine the rich and plentiful Black labor market in this country. Affirmative action plans recognize that pledges of voluntary compliance and statements of good will don't put money in Black pockets.

The unhappy history of Plans for Progress proved this beyond a shadow of a doubt. How useless mere verbal assurances can be. In 1968, as Chairman of E.E.O.C., we conducted hearings on white collar discrimination in New York City. We compared 46 Plans for Progress corporations to 54 non-Plans for Progress corporations. The unhappy result of our findings based on the employment statistics of the corporations themselves, was that in every significant job category, non-Plans for Progress companies (those that were not involved in the voluntary Plans for Progress program) were employing more minorities than Plans for Progress companies (Plans for Progress companies had signed vague pledges with the Vice President of the United States, to promote and ensure equal employment opportunity for Black Americans).

Thus, establishing targets and goals, and demanding that they be achieved in a given time frame is and has been an effective tool. Any affirmative action plan worth its salt, recognizes that whoever is hired or promoted will be capable of doing the job in question. This is important from the employer's point of view certainly, but it is obviously important to the prospective minority worker whose sense of dignity and worth and satisfaction in a job well done, is just as strong as his counterpart in the white working world.

Appeals to bigotry in 1968 were made through the code words "law and order." In 1972, those appeals are being made through the code word "merit." Let us all remember that twice as many Blacks as whites are unemployed. That the average Black family makes only $60.00 for every $100.00 that white families make. That Blacks are excluded from better paying jobs in corporations and as we have seen in the earlier statistics I presented to you, in the Federal Government. Many of us would have been delighted had a hue and cry been raised when quotas were all white some years ago. There the technique of quota was being used to keep Blacks out of jobs. Today, for those who confuse quota with target and goal, let it be said that if that five-letter word is used to afford minorities what is due them, then all power to the word "Quota."

One definition of quota is "the share or portion received or granted to a person, as being one of a certain number entitled to a part." Blacks in Government or any other field of employment are entitled to jobs they are qualified to perform. Up to today, those who have been given appropriate opportunities have been the exception rather than the rule. Actions to change the bigoted behavior of past governmental supervisors need to be undertaken and enforced. We are supposed to be living in a society of laws and under law, minority employment rights are theoretically protected. It is the responsibility of this President, even though it isn't his inclination, to see to it that Blacks and other minorities receive the opportunities to which they are entitled. The last thing we need at this point in our history is the pitting of hard working whites against hard working Blacks for the achievement of short-term political goals.

Finally, let us take a closer look at discrimination in the Federal Government—and particularly the U.S.C.S.C. The United States Civil Service Commission is given two grave and important responsibilities.

One: They are supposed to be in the forefront in seeing to it that all federal agencies become equal opportunity employers.

Two: They play an important part in the complaint mechanism by which aggrieved minorities and women may officially complain of instances where they believe they have borne the brunt of employment discrimination. It is clear under executive order and by law the Civil Service Commission has the two aforementioned powers and responsibilities.

It is also clear in fact that the Civil Service Commission has never exercised its authority on behalf of minorities and women. Why? There are several reasons.

One: The Civil Service Commission is for all practical purposes a plantation. All of the individuals in Washington charged with running the EEO program are white males. All those in subordinate categories are minorities. Each of the Civil Service Commission's regional directors and deputy directors is white. The 10 EEO representatives in those regions are minority and report to white deputies and white directors. The plantation mentality that governs the Civil Service Commission's hierachy says publicly that problems of harassment and retribution against complaints are virtually nonexistent. Any member of a minority group who has had the backbone and dares to complain, knows differently. The plantation is run by 53 supergrade positions. Those 53 big house plantation positions are all held by white males.

The plantation testers at the Civil Service Commission administer the Federal Service Entrance Examination. The FSEE has never been validated in accordance with generally accepted standards and guidelines from employment tests. It is a test that is blatantly discriminatory against Blacks.*

The Civil Service Commission should be administering affirmative action plans throughout the Federal Government. But what agency is going to take them seriously when the C.S.C.'s record is so blatantly biased. It is a sad fact that the powers that be in the Federal Government spend their time constructing defenses for past failings—rather than seeking equity for minority workers.

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* This finding was verified in a September 1971 study of the Urban Institute.

GENOCIDE CONVENTION DOES NOT USURP THE SUPREMACY OF THE CONSTITUTION

Mr. PROXMIRE. Mr. President, one of the concerns that has repeatedly arisen in the controversy over the Genocide Convention is that the convention, if ratified, would become the supreme law of the lana superseding the Constitution. Opposition to the treaty on these grounds is especially concerned with article VI of the convention which deals with trial of persons convicted of genocide.

The fear has been expressed that the treaty would provide for prosecuting procedures beyond that which is provided by the U.S. Constitution. Mr. President, such concerns are groundless. The U.S. Supreme Court and other Federal tionship between the Constitution and treaties. The Supreme Court has said:

> To construe this clause (Article VI, clause 2) as permitting the United States to exercise power under an international agreement without observing constitutional prohibitions would permit amendment of the Constitution in a manner not sanctioned by Article V. *Reid v. Covert*, 354 U.S. 1.

Further, the courts have said:

> The treaty making power of the federal government is subject to prohibitions within the constitution against state or federal government, and does not extend so far as to authorize what the constitution forbids. *Amaya v. Stanolind Oil*, 158 F.2d 554.

And again:

> No article or term of treaty may nullify any guarantee of right preserved by the Constitution to citizens. *Pierre v. Eastern Airlines*, 152 F. Supp. 486.

Thus it is clear that the Constitution has precedence over all treaties. Should there ever be a conflict between the Constitution and the convention, under our system of government, the conflict would be resolved in favor of the Constitution.

Mr. President, I call upon the Senate to ratify the Genocide Convention without delay.

VIETNAM—PEACE JEOPARDIZED BY McGOVERN

Mr. BENNETT. Mr. President, while American negotiators and diplomats are in one of the most delicate periods of negotiation to end the war in Vietnam, I have watched with growing concern the political activities of the last few weeks, the end results of which may delay the peace we are seeking. I know my concern is shared by the great majority of American citizens.

In the last three and a half years, this administration has engaged in the most arduous pursuit—publicly and privately—of a responsible settlement of the Indochinese conflict. Today, those negotiations are at their most sensitive and critical stages.

Though the enemy has been intransigent throughout this process, President Nixon has taken a number of risks which make clear our desire for peace. The United States has withdrawn over a half million U.S. troop forces from Vietnam, and prior to the recent all-out invasion of the South by the Communists, the air sortie rate had been cut in half.

Moreover, the United States has made a series of far-reaching peace proposals—including provisions for an internationally supervised ceasefire throughout Indochina; the return of all prisoners of war; and a political settlement among the Vietnamese based on new elections fair to all parties concerned. Our proposals have been fair, imaginative, and flexible. Throughout this intense effort, which began the day President Nixon entered office, we have rightly refused to negotiate only one point: the overthrow of the duly elected Government of South Vietnam as a concession to the enemy.

Recently, however, well-intentioned but woefully misguided efforts by an assorted group of personalities have resulted in the direct and unfortunate interference with negotiations by the American Government. These personalities, whose common bond is support for and affiliation with a candidate for the presidency, have been shockingly careless about the basic facts of the situation and of the negative consequences their actions may have on the prospects for peace.

In rapid sequence, the most prominent efforts have come from a candidate for the vice-presidency, a former Cabinet official, and a private citizen best described as a political operative for the Democratic presidential candidate.

Senator George McGovern, whose views these gentlemen surely share, must obviously be aware that he cannot evade the consequences of actions by men so very close to his candidacy.

It is in light of this situation and this responsibility that the most recent Vietnam-related events and statements connected with the McGovern campaign must be discussed. The confusion, contradiction, and obfuscation of the past few weeks is in need of the fresh air of public exposure.

First, and perhaps most obviously, Senator McGovern and his people have proved ill-informed. They have neglected to do some of the most basic homework on this complex issue, and Senator McGovern has in an unusually derogatory manner even gone so far as to refuse any personal briefings or discussions at the White House as offered by the President. Thus, even in a period of particularly delicate negotiations, the Senator has preferred to rely on indirect and often ill-informed reports from his subordinates, the press, and even the North Vietnamese.

We have been confronted with a series of clumsily orchestrated side-shows: Pierre Salinger of the Citizens for McGovern Committee has been in Paris. Ramsey Clark, whom the Senator has described as his potential choice for FBI Director has recently returned from Hanoi. And vice-presidential candidate Sargent Shriver is making incredible allegations on U.S. television.

The Pierre Salinger case is typical of the ineptitude which has marked these escapades. When the story broke that Mr. Salinger has been directed by Mr. McGovern to contact the North Vietnamese delegation in Paris to discuss the question of POW's and an end to the war, McGovern first flatly denied that he had instructed Salinger. Two hours after the denial, and after Salinger's persistent linkage with McGovern, the Senator acknowledged that he had indeed asked Mr. Salinger to be his emissary. Subsequently Mr. McGovern's staff began issuing contradictory pronouncements about the purpose and intent of the Salinger effort.

One thing is clear, however. Senator McGovern played an irresponsible game with very delicate and important matters concerning the foreign policy of the United States and negotiations under progress. While the American people have every right to expect that peace in Vietnam be given every possible chance for success, the path to that peace has been trod upon by the amateurish and partisan efforts of Senator McGovern's agent.

Consider for a moment this scenario. At the very time the U.S. Government is conducting complex and sensitive negotiations with the other side, a candidate for the presidency asked his political lieutenant—a man totally inexperienced in the art of diplomacy—to make personal contacts to see if a sort of private peace agreement could be reached in virtual contradiction to the foreign policy of the U.S. Government. Such a maneuver cannot but damage the chances for peace.

And while the cloak and dagger charade of Mr. Salinger was taking place in Paris, a more blatant and open affair was taking place in the capital city of America's enemy. Ramsey Clark, a former Attorney General of the United States, and the man who George McGovern feels would make a "perfect" FBI Director, had traveled to Hanoi for what can be considered one of the most disturbing actions in the long and difficult history of this war.

Given a guided tour by his Communists hosts, Mr. Clark did not even wait until his return to announce his findings. Over Hanoi Radio, the voice of Ramsey Clark was heard to say how American POW's were in better health than he was; how American Air Forces were purposely bombing North Vietnamese dikes; and, generally, how America was thoughtlessly killing civilians.

That Mr. Clark would cite as evidence only that which his hosts decided he could see is shocking enough. But not to wait at least until he was off enemy soil to broadcast his charges, compounded the disturbing and distressing actions of Mr. Clark.

We are asked to believe that on the basis of talking with 10 American prisoners of war—all captured since November 1971—that Mr. Clark has given us an adequate profile of the conditions of the prisoner-of-war camps in North Vietnam and the fate of 1,700 Americans who are missing in action or are known to be prisoners in the hands of Hanoi and its Communist allies. If the Clark presentation is an accurate profile, why has not North Vietnam let the International Red Cross in to see the camps and to verify the actual fact? Why did not Mr. Clark make that point a central theme of his report? Instead, Mr. Clark chose to concentrate on the bombing of North Vietnam, which he calls "criminal" and "absolutely unjustifiable," but which the United States has carried out only in response to the massive Northern invasion—a subject about which Mr. Clark managed to say nothing critical.

Mr. Clark's sincerity is not placed into question. But the spectacle of a former Cabinet official being so naive and gullible as to accept on face value the tour offered and sights chosen for him by his hosts is beyond comprehension. Surely, Mr. Clark might have been more wary of the validity of what he was allowed to see, but he has not betrayed such wariness in public forums.

From the time he returned to the United States there have been only discrepancies in Mr. Clark's performance. As he returned from Hanoi, he proudly announced that he had in writing a guarantee from the Foreign Minister of North Vietnam that there would be no difficulty in getting the American POW's home if there was an end to the war. Upon closer inspection, however, Mr. Clark turned out to be reading notes from the Foreign Minister which said that all that was necessary to accomplish the release of POW's was the acceptance of the Communist's "seven point" proposal. Now there is nothing new in these seven demands, which have been under negotiation for many months. But the salient sections of the seven-point proposal are tantamount to a call for American surrender—not mentioned by the Nation's former No. 1 lawyer.

The enemy simply demands that the United States withdraw unilaterally, end all military and economic aid to the South Vietnamese, and see to it that a government suitable to them is imposed upon the South Vietnamese people. We have been working for months to get the other side to modify these patently unreasonable proposals—but in one short visit to Hanoi, Mr. Clark believed he had discovered the way out of the war.

In the simplest terms, Mr. Clark's utter lack of understanding of the past record of Vietnam negotiations is a disservice to the American people. Perhaps most tragically, it may yet harm serious efforts to break the negotiating deadlock which stands in the way of peace in Southeast Asia. The longer the deadlock, the longer our POW's will be kept from home.

In the end it comes down to this. What conclusion can the American people draw from a man who once served as Attorney General, who visits Hanoi and swallows whole the propaganda and shopworn proposals of the leading violators of peace in Indochina—there are more than 100,000 North Vietnamese troops in South Vietnam; more than 80,000 Hanoi forces in Laos, and more than 50,000 in Cambodia. This aggression, plus the latest massive invasion of the South by the North using 500 tanks would surely represent ample justification for the air and sea operations which the President has ordered used against North Vietnam. Does Mr. Clark's posture help the cause of peace? It does not.

And finally, we come to the patently ridiculous charge by R. Sargent Shriver, George McGovern's running-mate, that President Nixon missed a golden opportunity for peace in either late 1968 or early 1969. The record shows that as Ambassador to France during that period, Mr. Shriver did not in any manner transmit an awareness of such an alleged, and in fact, mythical golden opportunity for peace to the then Secretary of State Dean Rusk or to President Johnson. In point of fact, the North Vietnamese launched major "high point" attacks in February 1969, and they rejected all peace proposals.

Mr. Shriver, of course, continued to serve as Ambassador to Paris under President Nixon in 1969. He now says that he finally resigned because he was disappointed about missed opportunities and about the fact that President Nixon did not do what President Eisenhower did to settle the Korean war in 1953. Shriver's letter of resignation, however, contains no such assertions. To the contrary, Shriver praised Mr. Nixon's efforts to achieve peace in Vietnam.

Furthermore, for Mr. Shriver's information, President Eisenhower did three things about gaining a responsible settlement in Korea. First, in 1953, he started training new Korean divisions—a kind of Koreanization program. Second, he started special bombing of North Korea's strategic hydroelectric system. Third, he passed the word to the Communist side that no restrictions would be observed as to the type of weaponry to be employed if there was not a real peace achieved through negotiations. One wonders whether Mr. Shriver or Senator McGovern really wishes that President Nixon had adopted such a policy in 1969.

Mr. Shriver simply had not done his homework. Unfortunately, this voyage into fantasy by Mr. Shriver has only added to the difficulty of persuading enemy negotiators to move off their intransigent positions. Mr. Shriver knows full well that there was no "golden" peace offer by the Communists in 1969. Yet he persists in distorting the record before the American public solely, one would guess, to disavow himself from war policies to which he was so closely wedded as a very high official in the Johnson administration.

These last few weeks have been most difficult. We are not interested in making fine debater's points, we are interested in finding peace. Senator McGovern, his advisers and spokesmen do not hold their views lightly, I am sure. I know them to be individuals who present their views sincerely, and I respect them for it though I disagree with them. That, for example, their solution includes allowing a Communist takeover of South Vietnam is not really in question. We disagree strongly with that view, and as long as President Nixon is responsible for our Nation's foreign policy, that disagreement will remain.

We are dealing here with misplaced intentions, and it is my judgment that the American people, who want progress in the peace talks, deserve more than the misplaced intentions of Senator McGovern. The hour calls for wise and intelligent leadership, seasoned judgment, careful decisions, and quiet, genuine progress toward the ultimate goal of peace.

It has frankly been embarrassing to see the clumsy activities of the McGovern campaigners take place at the very time the President is actively negotiating with the enemy through authorized government channels. Irresponsible public statements, trips to Hanoi, attempted personal negotiations with the Communists, and distortions of the past record all do little to assist us in gaining what we all want—an early end to the killing and a responsible settlement to the conflict in Southeast Asia.

ADDRESS BY FORMER PRESIDENT LYNDON B. JOHNSON

Mr. HUMPHREY. Mr. President, appearing in today's New York Times are excerpts from a speech delivered by former President Lyndon B. Johnson at the dedication of the Scott and White Clinic, in Temple, Tex.

I commend this article to the Senate because it is a passionate plea by a wise statesman for the Nation and its people to live up to their greatness.

Writing in the autumn of another year gone by, Lyndon Johnson urges a new springtime for the American people. A time of rebirth—a time when we will allow our vision of what America can become to triumph over our perceptions of failure.

I believe that all Senators would agree with the former President that—

> We have no time for melancholy—we have work to be done—the greatest work any generation of Americans ever faced.

This spirit must guide us as it guided him.

Mr. President, I ask unanimous consent that President Johnson's address be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

As the Days Dwindle Down

(By Lyndon B. Johnson)

Temple, Tex.—With the coming of September each year, we are reminded, as the song says, that the days are dwindling down to a precious few. By the calendar, we know that soon the green leaves of summer will begin to brown; the chill winds of winter will begin to blow; and—before we are ready for the end to come—the year will be gone.

If we permit our thoughts to dwell upon this perspective, these days can become a melancholy season.

As it is with the calendar, so it sometimes seems to be with our country and its system. For there are those among us who would have us believe that America has come to its own September. That our days are dwindling down to a precious few. That the green leaves of our best season are turning brown and will soon be falling to the ground. That before long we will feel the first chill wind of a long American winter—and that our nation's stand as mankind's "last best hope" will be done.

For those who preach this prophecy—and for those who believe it—this period of our affairs can only be a melancholy season. But it is to that mood—and to the perceptions which foster it—that I want to address my remarks today.

Over the course of a long, full and gratifying life, I have seen many Septembers and have known many autumns. In public service—and in private life—I have experienced a full measure of unwelcome winters. Yet melancholy is not a mood which I have ever allowed to weigh for long upon my spirits.

I live—as I have always worked—by the faith that with each passing day, we are always approaching nearer to the beginning of a new springtime. It is by that perspective I see our country now.

If I believe anything of this land—if I know anything of its people and their character—I believe and I know that we have not come to and are not approaching America's September.

On the contrary, it is my conviction—a conviction which deepens every day—that this land and its people are quickening with the new life and new potential of what will become the springtime of a new America.

I do not say this merely to offer reassurance in anxious times. Far from it, I intend what I say to be taken as a challenge—a challenge to every citizen of every age.

No nation can be more than the visions of its people. Americans cannot be more than we believe ourselves capable of becoming. Thus we are directly challenged to choose between two very different perceptions of what we are and what we can make of America itself.

On the one hand, we can choose to guide our course by the light of the bright perceptions—of America the beautiful, America the just, America the land of the free and the home of the brave.

Or, on the other hand, we can choose to move toward the shadows of what some have called "the dark perception" of America the unclean, America the unjust, America the unworthy.

For myself—as, I am sure, for many of you—there is no real choice. I want to open the soul of America to the warm sunlight of faith in itself, faith in the principles and precepts of its birth, faith in the promise and potential of its resources and skills and people. Yet I know that, in these times, this is not easy.

For too long, we have permitted the dark perception to pervade our midst. Day after day, month after month, the portrayal of America as unclean, unjust and unworthy has been ground into the consciousness of our people.

We no longer see the blooming flowers for we are searching for the litter. We no longer celebrate the many fresh triumphs of justice for we are lingering over the residue of yesterday's shortcomings. We no longer measure the miles we have come toward a more humane, civil and peaceful world for we are too busy calibrating the remaining inches of times we are trying to escape and leave behind.

This is our clear and present challenge.

When we permit these dark perceptions to dominate us, we are allowing our future to be shaped by visions that are small and mean and diminishing to our potential. We are, in simple terms, dooming those who come after us to know what could only be a second-rate America.

This is a future which I am unwilling to accept.

I have devoted my time on this earth to working toward the day when there would be no second-class citizenship in America, no second-quality opportunity, no second-hand justice at home, no second-place status in the world for our ideals and benefits.

I do not intend now that second-rate visions shall set our course toward settling for a second-rate America. That is why I speak as I do now.

All through the pages of history we read the heart-rending stories of those who set out in quest of great goals and discoveries, yet when they were almost to the edge of success, they hesitated—not knowing or understanding how near they were to their aims. Out of that moment of hesitation, all too often they lost forever their opportunity to succeed.

In many respects, that seems to me to be a pattern we ourselves are in danger of repeating.

Over all the years of our nation's existence, we have been setting goals for ourselves and striving tirelessly to reach them. Those goals have been both the slogans and the substance of national affairs for generation after generation.

Full employment. Decent wages. Adequate housing. Education for everyone. Opportunity for all. Good health, good medical care, good hospitals for even the least among us. Above all, equal justice under the law for all our fellow men. America's goals have been simple and basic.

They have permeated and motivated all our institutions—churches and schools, professions and labor unions and corporations and foundations—as well as our government at every level.

All our American resources and strengths—private and public—have been committed to the effort and we have come very close to success.

Nowhere—over all the globe—have any people, under any other system, come nearer to fulfillment of such aspirations than we have under our system.

Yet, at the very moment we were near to realization, we have allowed our effort to go slack, our momentum to slow and we have entered a season of hesitation.

Why?

Basically, I believe, it is because we have not understood—and still do not fully comprehend—where we are or what we are about.

Whatever may be your own perception of where we are and where we may be heading, let me say for myself that I see little today suggesting that our system is failing—but I see all too much which convincingly argues that by our doubts and hesitation we may be failing the promise and potential of our system.

We are not living in times of collapse. The old is not coming down. Rather, the troubling and torment these days stems from the new trying to rise into place.

With our nation's past efforts, with our long and faithfully kept commitments, with our infinite successes in so many fields, we have brought into being the materials, as it were, with which to construct a new America.

Faced with the task of such great dimensions, we have no time for melancholy. We have no cause for moroseness. We have work to be done—the greatest work any generation of Americans has ever faced. Believing that, I say—let's be on with our labors.

The essentials of a new America—a better America—are all on hand and within our reach. It is our destiny—and, I believe, our duty—to take up our appointed positions and commence the labors that will change what needs change among us.

Our real challenge lies not in suppressing change but utilizing it to vitalize and energize our society. Change is not our enemy. On the contrary, this society has no deadlier danger than refusal to change.

This is what I believe our young Americans are trying—and have been trying—to communicate to us. With their fine young minds, fresh new learning and clear new vision, they are seeing many segments of our society as it needs to be seen and understood.

The most frightening thing that could happen to us today would be for us to close our eyes to new ideas, and to close our ears to those—particularly the young, in whom we have invested so much hope and effort through the years of our existence—who are trying to tell us how they would go about perfecting the visions of America.

It is just such spirit that we honor on this occasion. It is by restoring that spirit to our lives and our nation's life that we can honor our own trust as Americans.

This article was adapted from an address last Saturday by President Johnson at the Scott and White Clinic in Temple, Tex.

COSTS OF NATIONAL HEALTH INSURANCE

Mr. KENNEDY. Mr. President, I ask unanimous consent that a letter by Mr. Alfred Baker Lewis, national treasurer emeritus of the National Association for the Advancement of Colored People, be printed in the RECORD. The article was published in the Hartfort Courant on July 18 and addresses the key question of the costs of national health insurance. A great deal of bad information has been propagated concerning the costs of the national health insurance proposals that I have introduced in the Senate—the health security program—and I am pleased to see Mr. Lewis' thoughtful intent to set the record straight in this regard.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HEALTH COSTS

(By Alfred Baker Lewis)

To the Editor of The Courant:

Dr. C. A. Hoffman, just elected president of the American Medical Association, attacked the bill for comprehensive government health insurance introduced by Senator Kennedy and backed both by organized labor and the N.A.A.C.P. He used the old and discredited argument that it would cost too much.

There is nothing in government health insurance which increases the social or financial cost of ill health. The cost is already borne in full by our population. Either the ill person pays for it, or his family pays for it because it comes out of savings for old age or for the education of his children. His employer pays for it in part by loss of his work. If he carries insurance—and few policies are comprehensive—his fellow policy holders pay for it. If he is on welfare, or forced on to welfare by the high cost of medical and hospital care, the state and local taxpayers who carry most of the burden of public welfare relief, pay for it.

All that government health insurance does is to redistribute the cost. So far as this means transferring the cost of ill health for those on welfare from the state and local taxpayers to the Federal Government's general budget, there is no addition to the cost and some real gain in economic justice. The Federal Government's tax system is based mainly on the graduated personal income tax and the corporation profits tax. This is roughly based on the principle of taxation in accord with ability to pay. The tax systems of local government bodies and the states are based mainly on property and sales taxes which are regressive because they tend to bear more heavily on the poor in proportion than on the rich. The local and state taxpayer would gain every penny that the Federal taxpayer had to pay additionally.

Government health insurance would reduce the total cost of ill health in one significant way. Insofar as medical and hospital costs are covered now by private insurance companies, the competitive costs of getting the business, known as acquisition costs, and the costs of collection are substantial. I know because I was formerly an insurance company executive. The acquisition costs would be totally eliminated by government health insurance.

The cost of collection for government health insurance for those who have jobs and their families would be minuscule. It would simply be added to the sums now deducted from payrolls for old age benefits. The well person would pay for his sickness when well, and would get his needed medical and hospital costs free when he was hit by illness or non-industrial accidents.

TENTH ANNIVERSARY OF KMEX-TV, CHANNEL 34, LOS ANGELES, CALIF.

Mr. TUNNEY. Mr. President, I invite the attention of Senators to a proud event that will occur this month in Los Angeles, Calif.

KMEX-TV, Channel 34 in Los Angeles, will observe its 10th anniversary on September 30, 1972, marking a decade of virtually unparalleled growth and acceptance by southern California's Spanish-speaking audience.

Unfortunately, my duties in Congress prevent me from personally being in Los Angeles to congratulate KMEX-TV on its 10th anniversary, but I would like to take this opportunity to salute KMEX and wish the station continued success.

I know it could not have attained its 10th years except for the tremendous support it has received. All Californians should be proud of KMEX and its pioneering efforts to bring the first Spanish-language programing to California.

KMEX has realized its social and educational responsibilities to the public, and has brought it some of the finest service.

KMEX began broadcasting on September 30, 1962, and at that time was the first and only Spanish language television station in California. Currently, KMEX enjoys a popularity among the ethnic audience it serves that is second to none.

KMEX, today, is the western flagship of the Spanish International Network—SIN—and the corporate and broadcast headquarters of SIN-West, the regional network of Spanish language television stations in California, whose programing is available to 3.2 million Spanish-speaking Californians.

As evidence of its early influence, KMEX was largely instrumental in stimulating the sale of television UHF converter equipment while it pioneered Spanish-language programing in southern California.

KMEX's broadcast philosophy is based on serving the educational needs of its viewers while providing them with some of the finest ethnic programing available. The station broadcasts the finest Spanish-language programing from around the world, including the prestigious and highly popular programs from Telesistema in Mexico. KMEX presents live satellite programing, which is occasionally fed to other American national networks, and produces its own programing to suit the needs of Spanish-speaking Americans. The station has a high degree of public service programing that in addition to informing and educating, encourages Spanish-speaking Americans to take a larger role in the community.

Perhaps most importantly, KMEX presents the most comprehensive news relative to the Spanish-language community. The station has been singled out for a Peabody Award for their news, which is the most valued award of broadcast journalism. Locally, it provides 75 minutes of news daily as well as news to the regional network, and the Spanish International Network, and occasionally news to the Telesistema network in Mexico.

This year, KMEX sent Guillermo Restrepo, KMEX newsman, to the Democratic, Republican, and Raza Unida political conventions. The station broadcast included continuous reports to its Los Angeles viewers, as well as the SIN network, with a wrapup report at the end of each convention—a significant first for the pioneering Los Angeles station.

KMEX has been the first to break the news of many important events in the Los Angeles community. Notably, its news reporters and cameramen have either been the first on the scene or the only reporters allowed at the scene of some important news stories. KMEX news director Ruben Salazar lost his life during the East Los Angeles riots. KMEX was the only station allowed to film hijacker, Chavez-Ortiz, who hijacked a plane to Los Angeles to draw attention to the plight of many Mexican-Americans.

In the spirit of cooperation and recognizing the public's right to know, KMEX consistently shares its exclusive film stories with other independent and network television stations in the Los Angeles community, in addition to the SIN network.

Evidence of KMEX's growth over the past 10 years is reflected in its increased percentage of daily programing hours. The station's total broadcast day has increased 80 percent.

When it premiered in 1962, KMEX-TV reached an audience of 1,200,000 Spanish language people. Now, in 1972, KMEX reaches 1,900,000 in its five county southern California broadcast area.

KMEX is much more than the typical entertainment media. It is a cross between an educational and a commercial station that realizes its tremendous social obligations to the Spanish-speaking people of southern California. It is the voice of its audience; editorializing, entertaining, informing, encouraging, and teaching.

The station has become involved in raising money for education scholarships; health projects, such as raising money for kidney machines or campaigns against dope addiction; refunding projects for bilingual education; acquiring better government service for its community; and advocating increased political activity by Spanish language Americans.

KMEX has accomplished much in the past 10 years and plans to accomplish much more in the next decade.

The employees of KMEX feel their community responsibilities most keenly and all are involved in projects and organizations within their community. None illustrates this so well as Danny Villanueva, general manager of KMEX, who is actively involved in a number of local and statewide public service organizations and average 160 speeches a year.

Danny Villanueva is a hard-driving broadcasting executive, a highly respected television newsman, and tireless worker for the Mexican-American community.

Involved with KMEX-TV almost since its inception, Danny has striven for the past 9 years to create a Spanish language network to serve the needs of the United States' large Spanish-speaking population.

During a successful professional football career with the Rams and Cowboys, Danny joined KMEX in 1963, as sports director. He became director of community relations and news director in 1968, and station manager in 1969. Two years later, he was appointed general manager of KMEX.

Danny's advocacy journalism is a result of the tremendous social obligations that KMEX must undertake since the Spanish-speaking do not have a Time or Newsweek or Los Angeles Times which meets their needs.

Almost all of Danny's free time is spent working for the Mexican-American community. He has a strenuous speaking schedule and participates in scholarship fund drives, youth programs, and a variety of community activities.

During the disastrous earthquake which struck Los Angeles in 1971, Danny approached several retail food establishments and persuaded them to make available supplies of emergency food. He took it upon himself to deliver the food to Santa Rosa parish in San Fernando, Calif.

Mr. President, I know that all Senators will join me in wishing KMEX a very happy 10th birthday and much future success.

NIXON AND BIG OIL

Mr. MOSS. Mr. President, many Americans must have shared my shock and dismay when press reports linked contributions by the textile industry to the Administration's securing of voluntary textile import quotas; when the Justice Department settled its antitrust suit against ITT in return for a $400,000 campaign contribution by that company; when following a large contribution by the dairy industry, dairy price supports were increased; and when Minnesota investor Dwayne Andreas received a bank charter in record time following his contribution to the Republican Party. But the relationship between campaign contributions and favorable Government action is even more insidious with respect to the petroleum industry.

The oil barons have traditionally been heavy contributors to political campaigns. In 1968 the contributions of members of the petroleum industry was greater than any other occupational classification: $800,000; 93 percent of this amount went to the Republican Party. Also in 1968, $430,000 was contributed by directors of the American Petroleum Institute, the oil industry's trade association. This was the largest amount reported for any business association. In addition, the amounts contributed by major oil families in 1968 was substantial. For example, Herbert Alexander reports in his book "Financing the 1968 Election" that the Pew family, heirs to the Sun Oil Co., contributed $159,000. Mrs. John D. Rockefeller and David Rockefeller, heirs to the Standard Oil of New Jersey Co., contributed more than $1.5 million to the Republican campaign. Interestingly in 1968, J. Hugh Liedtke, chairman of the board of Pennzoil United, reported contributions of $18,000, and Mr. W. C. Liedtke, Jr., president of Pennzoil United, contributed $14,000 to the Republicans.

All of these 1968 contributions were reported under the loophole-filled 1925 Corrupt Practices Act. Because under this law only limited records were required and reporting provisions could easily be circumvented, these figures represent only a small proportion of actual amounts contributed. Other estimates range as high as $20 million actually contributed to the Republican Party by the petroleum industry in 1968.

Maurice Stans, chairman of the Finance Committee To Reelect the President, in 1968 told big donors that their contributions are to insure that the executive branch of Government is in the right hands. The petroleum industry's investment of campaign contributions has indeed paid handsome returns.

The oil import quota program operates to maintain oil prices at artificially inflated levels to the detriment of the American economy and consumers. President Nixon's own cabinet task force on oil import control recommended after 11 months of careful study that the present quota system be abandoned. But Peter Flanigan had now emerged as President Nixon's energy advisor and he focused his attention on the political aspects rather than the economic aspects of oil importation. He simply overruled all the recommendations which would have cut domestic oil prices. The political aspects had to do with campaign contributions from the oilmen of Texas.

Prior to becoming a presidential advisor, Flanigan had close ties to the petroleum industry. He was senior vice president of Dillon, Read & Co., a New York investment banking firm which handled financing for many oil and gas clients including Union Oil Corp. of California and Texas Eastern Gas Transmission. In addition, Flanigan was president of Barracuda Tanker Corp., which owned three petroleum tankers.

The oil import quota program costs consumers $5 billion per year. But this did not satisfy the petroleum industry. Since 1954, when the Supreme Court ruled that the Federal Power Commission should regulate the price the natural gas producers charge, the industry has sought to rid itself of this regulatory burden. Year after year the industry exerted immense pressures on Congress to exempt it from effective regulation. Having failed in securing such legislation, the petroleum barons turned their attention to a sympathetic Nixon administration. In the 1968 campaign Nixon promised his major contributors that he would ease the Government's regulation of their businesses. Nowhere was he more interested in making good on his promise than with the Federal Power Commission.

President Nixon's first appointment to the Federal Power Commission was chairman John Nassikas. Nassikas was formerly general counsel for Manchester Gas Co. His views have consistently paralleled the position of the industry on major policy matters. They liked him, and he talked their language. Under Nassikas' direction, natural gas prices increased more than $111 million in 1970, $531 million in 1971 and 1972's increases are likely to be the largest ever. In addition, the Federal Power Commission has encouraged pipelines to make enormous profits by importing liquefied natural gas—a costly substitute that is three times as expensive as the domestic product.

Nassikas was not able to do all this by himself. He needed the help of other Nixon appointees. Pinkney Walker was next selected for the Commission by President Nixon. Walker was a member of the economics faculty of the University of Missouri and its business school dean.

At various times he had served as a consultant for Southwestern Bell Telephone Co., Mississippi River Transmission Corp. and Missouri Power & Light. He participated for a fee in programs set up by the Panhandle Eastern Gas Pipeline Co., the American Gas Association, and Bendix Corp. In every consultant case he urged higher profits for the companies and higher prices for the consumer. But most importantly, after Walker became a Commissioner he emphatically stated his preference that the Federal Power Commission should not have the power to control the price gas producers charge the pipelines—a duty which the FPC was ordered to perform by the Supreme Court.

But the most interesting appointees to the Federal Power Commission were Gordon Gooch and Rush Moody. Gooch was selected for the position of FPC General Counsel. Gooch was involved in Texas Republican politics and was a partner in the law firm of Baker, Botts, Shepherd & Coates. It is one of the most powerful oil and gas law firms in Texas. A senior partner of that firm, Baine P. Kerr, is general counsel of Pennzoil United.

Baker, Botts has been a training ground for many bright young attorneys who went on to other gas and oil firms. One of these was Rush Moody, Jr., who later became a partner in Stubbeman, McRae, Sealy, Laughlin & Browder. This firm's clients included Mobil, Atlantic Richfield, and Humble Oil Companies; it also represented Pennzoil United.

Rush Moody was selected by Nixon as another FPC Commissioner. It has been reported that spokesmen for certain Texas oil and utility interests first sounded out Moody's law partner, Tom Sealy, about accepting the appointment. Later Sealy received another inquiry from Hugh and William Liedtke, chairman and president respectively of Pennzoil United. This is a multibillion-dollar conglomerate which owns among other things, United Gas Pipeline. It is regulated by the FPC. The Liedtkes therefore were very interested in the composition of the Commission. Sealy not only was a personal friend but his law firm also handled legal work for Pennzoil. He decided, however, that he did not want to go to Washington and suggested his law partner for the FPC vacancy. The Liedtkes immediately began pulling strings inside the White House to get Moody appointed. Not surprisingly, since his appointment Rush Moody has repeatedly stated that he does not favor FPC regulation of natural gas prices at the wellhead.

Today, Gordon Gooch, the former FPC General Counsel, is now serving on the Committee to Reelect the President as regional coordinator of New York and Pennsylvania—among other things he is responsible for fundraising in these States.

Rush Moody continues as a Federal Power Commissioner.

The Liedtke's of Pennzoil United are a center of controversy in the Watergate incident. According to a House Banking and Currency Committee report, on April 5, 1972, a young man arrived in the offices of Pennzoil and said he had money for Liedtke. These offices had become a major collection point for Republican contributions from Texas, Mexico, and surrounding areas. The agent opened a pouch and deposited four checks totaling $89,000 and 110 $100 bills on Liedtke's desk. Liedtke placed these funds together with other amounts collected in a suitcase which contained approximately $700,000. Late in the afternoon of April 6, one day before the new Federal Election Campaign Act was to become effective, the Pennzoil officials took the $700,000 to the Houston airport to a waiting Pennzoil Company plane, and delivered it to the Finance Committee to Reelect the President. $114,000 of the $700,000 eventually found its way into the account of Bernard Barker, one of the five people arrested inside Democratic Headquarters at the Watergate in connection with a break-in and alleged bugging of Democratic Committee offices. Barker and six others are now under Federal criminal indictments.

Today the Nixon Administration is considering the nomination of Robert Morse for another Federal Power Commission vacancy. According to press reports, until he began his own practice recently in San Francisco, Morse had been with the large law firm there of Pillsbury, Madison, and Sutro. While at the firm his clients included Standard Oil Co., of California, which he represented in some of the Commission's largest and most important natural gas cases—those which involve setting area price ceilings for natural gas in both Southern Louisiana and the Permian Basin. Morris' nomination would follow the Nixon tradition of making a mockery of the FPC mission: to protect consumers from exploitation at the hands of the natural gas companies.

Where does this leave the American

public? The inequitable oil import quota system, which serves only to line the pockets of the petroleum interests, remains. The Federal Power Commission is completely dominated by industry members. So pleased is the industry that Pennzoil United stated in a recent annual report:

> Recent developments are encouraging. The past two years brought more serious and candid concern, especially by the Federal Power Commission, than the entire decade before.

The campaign contributions of the petroleum barons cost the public dearly: in addition to the oil import quota system, special tax provisions such as the foreign investment tax credit for petroleum companies cost consumers an additional $2.4 billion a year. The oil depletion allowance, often criticized as the most inefficient way to stimulate exploration, costs the American public another $1.4 billion a year.

The Federal income tax rate for corporations whose profits exceed $25,000 annually is 48 percent. But because of special privileges, the major petroleum companies pay an effective income tax rate of less than 7 percent. Natural gas rates have been increasing with the blessing of the FPC at a rate of billions of dollars a year and the public may be forced to pay up to $750 billion under a new regulatory procedure which the FPC has recently embarked upon. In addition the oil companies appear to be immune from antitrust prosecution. Oil companies control more than 83 percent of natural gas production, nearly 30 percent of the Nation's coal reserves and 80 percent of the uranium reserves. Increasingly a major customer, whether he seeks to purchase oil, natural gas, coal, or atomic power, must deal with the same seller. Yet the Justice Department takes no steps against these obviously anticompetitive practices.

No wonder Maurice Stans obtains large donations by urging campaign contributors to protect the investment they made in 1968.

All of Nixon's appointees to the Federal Power Commission are from the industry that is to be regulated. Several important officials have moved from the industry to the Federal Power Commission and then to the Committee to Reelect the President. Under the Nixon administration, national policy is not decided by voters at the polls but by contributions of special interest groups. Nearly 2 years ago it was written: "President Nixon's willingness to put private interests ahead of public interests, however, may yet become the biggest scandal of his administration." That prophecy is now fulfilled.

PROMPT PASSAGE OF OCEAN-DUMPING BILL IS URGED

Mr. ROTH. Mr. President, I invite the attention of the Senate to a most interesting article published in the New York Times Sunday Magazine, for September 10, 1972. Written by Miss Sara Davidson, it is an in-depth portrait of Capt. Jacques-Yves Cousteau, the indefatigable undersea explorer and scientist. Captain Cousteau's enthusiasm, love of life, and love of nature come through very clearly in this illuminating article. He is truly a man whose interests are not confined to oceanography, but stretch across a very broad area of human knowledge.

Captain Cousteau is no stranger to other Members of Congress. Last year, he testified before committees of both House and Senate in support of the ocean-dumping legislation, when, with characteristic eloquence and simplicity, he told the Senate Commerce Committee:

> The cycle of life is intricately tied with the cycle of water. Anything done against the water is a crime against life. The water system has to remain alive if we are to remain alive on this earth.

The ocean-dumping bill has, I understand, been approved by both Houses, and the conference report has been written. I think this is an appropriate occasion to suggest to our leadership that time is wasting, and the sooner we can vote on the conference report, the sooner we can start working to correct the damage that has already been done to our coastal waters by indiscriminate dumping and the sooner we can put a stop to ocean dumping across the board. I offer this suggestion not in any accusatory sense, but rather in recognition that this is a vital bill, necessary to the welfare of our country and one which, as the votes in the House and in the Senate have already demonstrated, has the support of the overwhelming majority of Members of both Houses.

Frankly, this legislation is of extreme importance to all coastal States, but especially to my home State of Delaware. As many Members of Congress know from their summer outings to Rehoboth and other resort communities in Delaware, my State is blessed with relatively unspoiled and undeveloped coastal areas. However, although Delaware can thank only good fortune for originally having received such natural resources, I think I can say with considerable pride that we have preserved those resources by virtue of self-sacrifice and discipline. We have rejected the lucrative prospects of establishing heavy industry in the coastal area, and we have consciously set aside large and beautiful expanses of beach and estuary as parks and wildlife sanctuaries.

Despite this discipline and sacrifice, however, our coastal areas are faced with potential damage as a result of ocean dumping. Because ocean dumping is an inexpensive, simple solution to the problem of waste disposal, other States dump treated sewage less than 14 miles off our coast. In all fairness, I must admit that there is still some question whether the Delaware coastline is damaged by this dumping. Scientists and laymen alike disagree.

But the point I wish to make is this: My State of Delaware should not be forced to bear the risk which inheres as long as the effects of ocean dumping remain in doubt. We have worked hard to preserve our coast, and we have sacrificed so that our resources would remain relatively pure and unspoiled. That sacrifice and dedication should not be jeopardized so that others can save money.

The ocean dumping bill would ultimately solve Delaware's dilemma. Under the bill as passed, the Environmental Protection Agency would be required to approve affirmatively any ocean dumping; also, a prerequisite to EPA consideration would be scientific studies to ascertain the effects of the ocean dumping. But such studies cannot commence until this bill is passed and becomes law.

We have already waited 1 year for this bill to become law. Once it passes, we will be required to wait another 6 months until the ocean dumping bill becomes effective and EPA has authority to act. And once EPA has the authority to act, we will probably have to wait another 2 years before scientific studies can be completed. In short, Mr. President, my State must already wait more than 2 years. Even if the bill were passed today, Delaware would bear the risk for another 2 years. That is long enough. There is no reason for enactment of this legislation to be postponed unnecessarily. I am personally eager that it be considered as soon as possible, and stand ready and willing to assist in the resolution of any disputes which may be impeding the progress of this legislation. As I said, the sooner we can pass this bill, the sooner we can get to work.

ECONOMY OF PEOPLE'S REPUBLIC OF CHINA

Mr. PROXMIRE. Mr. President, I am pleased to announce that the Joint Economic Committee today released a volume of committee hearings on the economy of the People's Republic of China. These hearings were preceded by a compendium published in May 1972 on "People's Republic of China—an Economic Assessment" which updated and to some extent modified an earlier committee assessment. The current study found the performance of the Chinese economy more impressive than did our earlier one.

Using the study as a point of departure, the hearings were held in June. We were privileged at that time to have our session inaugurated by the Senate majority leader, Mr. MANSFIELD, and by the Senate minority leader, Mr. SCOTT. Their formal statements and their responses to committee questions drew on their recent trip to China, as well as their profound knowledge of this subject.

Another feature of the hearings is a letter from House majority leader, HALE BOGGS, who provided us with highlights of his trip. Mr. BOGGS, who participated in the hearings just prior to departing to China, was accompanied on that trip by House minority leader, Mr. GERALD R. FORD.

The witnesses before the committee represented a range of professional judgment on the various aspects of the Chinese economy which, taken in its entirety, in my opinion, provides a highly interesting insight into this intriguing subject. While individual conclusions of witnesses varied somewhat, I believe that certain general points of agreement emerged clearly.

One area of agreement is the general assessment that China is now an economically viable unified nation and has the capability of remaining so. Another general consensus is that the isolation of mainland China from the world community has ended. The People's Republic of China has joined the United Nations, the President of the United States and leaders of both Houses of the U.S. Congress have visited China, and a modest flow of American academicians, newsmen, and private citizens have journeyed to the Chinese mainland. The People's Republic of China is also undergoing domestic change. Although Mao Tse-tung is today the undisputed leader of China, many changes and considerable instability has characterized his two decades of Communist rule. The great leap forward program in the late fifties and the great proletarian cultural revolution almost a decade later interrupted economic growth and, at least temporarily, appeared to rupture the political and social stability of changing Chinese society.

A third point is that, while the People's Republic of China may continue to bear a heavy military burden on its scarce resources, it is likely to use its military capabilities primarily to protect its own borders. Of particular concern to China is the common border with the Soviet Union. Limited naval and logistics capabilities restrict the expansion of Chinese military power beyond its borders, especially across water. Although the Chinese nuclear capability remains small, and to this point used primarily as a deterrent to Soviet military action, it may have a significant, future political effect on its neighbors, especially Japan.

Another point of agreement is that the major short run constraint to improved relations is the war in Indochina; the long run problem is Taiwan. If the Vietnam war ends and U.S. presence is withdrawn from all of Indochina, relations may be materially improved through increased trade, exchanges of a cultural, scientific, or media nature. Significant as the new relations may be they are likely to remain relatively modest as compared with our economic, cultural, and scientific intercourse with other countries in the area such as Japan. And in the longer run resolution of the Taiwan question will remain a bar to cordial relations of the United States with China.

Senators MANSFIELD, SCOTT, and the academic witnesses agreed that at present the Chinese leadership appears willing to downgrade the negative effect of the Taiwan issue on United States-Chinese relations. The agreed perception appeared to be one of gradually improving United States-Chinese relations. Professor Lattimore, one of the witnesses, found a different interpretation of the current change in relations between Peking and Washington in a shift from a policy of negotiation from strength to one built—at least in the short run—on a position of weakness, that is, the Vietnam withdrawal policy of the Uinted States.

Our witnesses also agreed that in spite of the adoption of family planning and other birth control programs and the improvement in Chinese agricultural performance, demographic pressures on subsistence are likely to continue. All the witnesses appeared to accept the conclusions of the Joint Economic Committee study that the average Chinese citizen was currently adequately fed and clothed.

The end of Soviet aid in 1960 represented a short-run setback for the Chinese economy. Western sources of high technology products have now replaced Soviet economic ties and the influence of the Soviet "model" in Chinese development has disappeared with little apparent prospect of recovery. The political and ideological schism between the two Communist giants not only led to termination of Soviet aid, but a perhaps permanent state of hostility between them. The depth of antipathy and the concern by each of the political and military threats presumed by the other was noted by most of the witnesses. Several noted that this mutual concern and hostility may have been a major factor in the improvement of relations between each Communist country and the United States. Indeed, the twin summits may have been possible only because of the Sino-Soviet hostility. China, especially, may wish to use its new relations with the United States to offset a continued Soviet effort to isolate and contain her influence within the confines of the Chinese borders.

Most witnesses believed that there is no assurance that current economic vitality and political stability under the leadership of Mao Tse-tung and Chou En-lai will continue. The periodic shifts from more pragmatic, economically rational policies, to more ideological, politically destabilizing policies of Chairman Mao might recur. There are many diverse interests at the top and the passing of the aged current leadership could be followed by open airing of differences. Although there is considerable uncertainty as to the composition of the "post-Mao" leadership and the policies that will be followed, the nation appears economically and politically unified and committed to a broad course of social and economic change. Still, what might appear to outside viewers as irrational, ideological, and nonpragmatic may be consistent with the perceived needs of Chinese leadership and people. In this sense what may seem to outsiders to be political and social instability disrupting future economic growth may, in fact, be a part of the process of social and political change desired by Chairman Mao or his successors and may have broad support among the populace.

Current assessments indicate that the great leap forward and cultural revolution had less adverse effect on economic performance than earlier thought. The economy as a whole appears recovered and even the intellectual and academic casualties of the cultural revolution are being rehabilitated. However, as Western perspectives have often varied from overly negative to overly positive assessments it is well not to project uncritically into the future the apparent, current economic vitality to impressive future performance in the PRC.

From these hearings certain recommendations may be made for improvement in our China policy in my view:

First. A reassessment is past due of all U.S. programs for Asian countries, including military and economic assistance, based on the changing nature of the "China threat." The still currently applied view of the "China threat," carried over from an era when U.S. Asian policy was based on the interrelated concepts of isolation and containment of mainland China, somewhat changed by the new detente with China. Although our policy of isolation has been largely discarded with the admission of the People's Republic of China to the United Nations and the establishment of a form of de facto recognition by visits of U.S. leaders to the People's Republic of China, the structure of the containment policy is still intact—starting with the "forward defense" of Indochina on the Asian mainland. The withdrawal of all U.S. forces from the Asian mainland will modify the United States and the China power position in Asia. For those reasons a thoroughgoing reassessment of our Asian strategy and programs of foreign military aid is needed.

Second. Further steps toward bringing the People's Republic of China into the world community might be taken through fairer and more equitable trade relations. China was put on the same footing in its trading relations with the United States as the Soviet Union prior to President Nixon's visit. Although most-favored-nation treatment, Export-Import Bank credits, and a variety of other trade and financial arrangements designed to facilitate trade are being considered with the Soviet Union, in my view it is too soon to consider similar trade relaxation seriously for the People's Republic of China. A large volume of trade is not likely in the near future, but other positive benefits may follow in improving relations between the United States and China. Specific recommendations by Mr. BOGGS in his letter to the committee chairman, included in the hearings, calls for, first, a commercial commission similar to that being set up to handle Soviet-American commercial relations; second, negotiations on frozen Chinese assets and U.S. private claims.

Third. A substantial increase in mutually beneficial, scientific, and cultural exchanges, and access—with a minimum of restrictions—of the media of each country to reporting sources within the other country should be explored. Perhaps a formal exchange agreement such as the one we have with the Soviet Union would be deemed mutually beneficial.

Fourth. Encouragement of better understanding of China is of vital importance. At a time when our comprehension of political and economic development in China is demonstrably incomplete and United States-Chinese relations are in flux, improved scholarship is essential to facilitate an informed national debate on China policy in the United States. Steps in this direction would include more bilingual training through the National Defense Education Act and more social science research support via the National Science Foundation and private foundations. While the U.S. Government is still spending billions on policies for "containing the China threat," we should do more to assist us in understanding China better.

SHUT DOWN REFORM SCHOOLS?

Mr. KENNEDY. Mr. President, the time has now come to pursue another course of action regarding correction and punishment for juvenile delinquents. Surely, one of the most beneficial safeguards against crime is to have a strong constructive rehabilitation program that reforms rather than punishes; that accepts rather than rejects; a system that is designed for treating the cause rather than responding to the symptoms. It is time to recognize that the greatest danger our society faces is to turn our backs on those that need us the most—our youth. Sid Ross and Herb Kupferberg wrote "Shut Down Reform Schools" for Parade, the Sunday magazine supplement. Their article appeared in the Washington Post on September 17, 1972, and comes at a time when crime in every State in our Nation is on the rise; the recidivism rate continues to climb; prisons and reform schools are overcrowded and the tax burden on each citizen grows heavier each year. It ought to be clearly understood by all, that society is not doing the right thing in addressing the problems of delinquency.

Dr. Jerome Miller, Massachusetts Commissioner of Youth Services, clearly understands this, as he graphically describes how reform schools have served as the perpetuator of crime. I am inclined to agree with Dr. Miller that correction institutions should follow a "firm but fair" policy when correcting youthful offenders. Penalties would probably be far more effective if the offender realizes that the punishment is fair and warranted. The effectiveness of his new approach can be measured by the recidivism rate of past offenders placed in group homes, instead of in the old-fashioned institutional settings. Dr. Miller has cut the recidivism rate by two-thirds.

It is past time for correction institutions to follow a course of action that will allow for offenders to become productive members of our society.

Dr. Miller has received the praise and approval of many experts in the field of correction. Massachusetts is fortunate to have a man of his talent concentrating on this serious social problem. This presentation in Parade deserves the attention of the Senate. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SHUT DOWN REFORM SCHOOLS?—MASSACHUSETTS HAS, AND HERE IS WHAT IS HAPPENING

(By Sid Ross and Herbert Kupferberg)

BOSTON, MASS.—If Jerome Miller had his way, every reform school in the United States would be closed down tomorrow.

Who's Jerome Miller? He's a 40-year-old Ph.D. out of Minnesota who has been Commissioner of Youth Services for the Commonwealth of Massachusetts since October, 1969. In his three years in office, he has abolished the Bay State's system of training schools for youthful offenders. And he says the U.S. won't solve its juvenile delinquency program until all the other states do the same.

"Reform schools are no damn good," he says. "They neither reform nor rehabilitate. The longer you lock up a kid in them, the less likely he is to make it when he gets out. They don't protect society. They're useless, they're futile, they're rotten."

Dr. Miller has replaced Massachusetts' training school system with a network of halfway houses, group shelters, foster homes, forestry work, special counseling services, and community action programs. Of 2000 boys and girls who would otherwise be behind bars, only 100 hard-core, violent cases are still under confinement, being treated in special psychiatric care facilities.

Miller, who has had to defend his reforms against a spate of Massachusetts critics, cites killer Charles Manson as a classic example of the failure of training schools. Manson spent some of his adolescent years in a juvenile institution. Says Miller: "The lockup, maximum-security training school escalates the potentiality toward violence."

AMATEURS INTO PROS

Miller also cites the 60–80 percent rate of recidivism—or backsliding to criminal ways—among youths who have spent time in reform school. He agrees with the thesis that about all a reform school teaches "is how to make an amateur car thief a professional."

He charges that such standard reformatory punishments as taking away children's clothes, putting them in isolation, and making them scrub the floor with a toothbrush, are not only degrading but self-defeating. "These things don't change the kids, and they don't contribute to law and order," he says. "All they do is make a kid a thing, not a human being."

To get young offenders out of reformatories, Miller is ready to take the risk that they may commit crimes, even serious crimes, although so far there have been no major incidents involving youngsters in his program. "If any of our kids goes too far, we whisk him off the street," he says. "We feel that there's less peril and more potential in keeping him outside and working with him rather than locking him up for a time and dumping him out again—over and over again."

"FIRM BUT FAIR"

The youthful offenders whom Miller has "sprung" from such solidly established Massachusetts penal institutions as Bridgewater, Shirley, Roslindale, Oakdale, Lancaster, and Lyman haven't simply been turned loose onto the streets. Miller, a psychiatric social worker who got his degree from Catholic University in Washington, D.C., and worked with U.S. Army stockade prisoners in England and later in the Ohio correctional system, says he opposes complete permissiveness and favors "firm but fair" limits when a child gets into trouble.

Instead of forcing such youngsters into the institutional lockstep, he is placing many of them in approximately 100 "halfway houses" or "group homes" throughout the state. These are run by private organizations and agencies ranging from religious groups to a Black Muslim unit. They get their funds from Miller's Department of Youth Services—which he says is far less costly than paying for penal institutions.

PUNISHMENT SYSTEM

Group homes still maintain a certain amount of discipline and punishment, but Miller has found that residents are much more amenable to correction than they would be in reform schools. "Meting out penalties for wrongdoing is the role of the family," he explains, "and the group home is a type of family. If punishment is called for, it's given out by your own."

Parade visited a typical group home, the Libra Halfway House in Cambridge. Libra, which is for boys only, has a set of strictly enforced regulations, including rules against liquor and drugs. Among its residents are black and white youths. Some have jobs, some attend school, other are involved in counseling and other rehabilitation programs. All are on parole, and must check in every night. Violations of rules are punished with loss of privileges, confinement to the building, and the like.

Libra's atmosphere is fairly homelike, with girlfriends allowed to visit. After dinner boys and girls alike sit around the kitchen table and talk.

"This is one of the things I like here," says a 17-year-old boy. "My girl can visit me like it was my own home. Well, it is my home, really, I've been here two months and I'm getting straightened out. I was in Shirley twice and Roslindale a few times. You were a nothing there. There was fights and stealing and punishment; it was like animals. I used to be bitter, but not now. I know I'll make it okay. Here you don't fool around—you'd be hurting yourself."

WANTS HER BABY

At the Kennedy House for Girls in Jamaica Plain, an old frame dwelling set back from the street, an unmarried 16-year-old mother holds her baby in her arms and says: "My big thing was running away from home. Then boys, I got pregnant. I want to keep my baby now—he's all I got—but my family is against it. I don't know what I want out of life, or what'll happen to me. But here they talk to you, they're straight with you, they understand you, and they've got a lot of patience."

Among the most visible of the rehabilitation projects instituted under Miller's let-them-out approach is an East Boston ice-cream parlor which is manned by 15 youngsters with delinquency records. Under the auspices of a non-profit enterprise called Community Aftercare Program (CAP), the young parolees and others are paid $1.75 an hour, 20 hours a week. "No one thinks of stealing," remarks a 15-year-old girl named Lynda, "because we'd be stealing from each other."

"It sure is great," adds 15-year-old Billy, originally picked up for car theft. "It's the first time I ever got paid for working, or that anybody trusted me with money."

The CAP ice-cream parlor is being bankrolled by a 21-year-old Harvard senior named Tom Wolfe, who laid out $5,000 of his own money. A number of college Youth Advocate Volunteers have enrolled in another one of Miller's programs, usually working as "big brothers" to delinquents on a one-to-one basis.

SUPPORT FROM GOVERNOR

Miller has received solid backing from Governor Francis Sargent, who appointed him to head the State's new Department of Youth Services following a series of scandals in the 1960's at several training schools, then run by the Youth Services Board. "I told the Governor exactly what I wanted to do when he was considering me for Commissioner," says Miller. "I told him I wanted to move away from punitive institutions to child care models. We want to be advocates for children, not jailers. We want to help them right in their own communities."

Miller also has the support of juvenile corrections experts throughout the country, many of whom would like to see their own States shut down their reform schools, too. Milton G. Rector, executive director of the National Council on Crime and Delinquency, calls the decision to abolish the Massachusetts institutions "a courageous step in the right direction."

Although Miller is convinced he's on the right track, his reforms have also run into a barrage of opposition. His critics range from detention guards whose jobs are in jeopardy, to legislators who favor sterner methods of dealing with delinquents. He's been denounced as "permissive," "soft-headed," and "a bleeding heart," and accused of "subverting the juvenile justice system" and "endangering public safety."

After heading up a legislative investigation of the DYS, State Representative Robert J. McGinn declared: "I think Miller is well-qualified and his ideas are good, but he's moving far too fast. There's not enough screening of the homes to which kids are sent, and there's not enough screening of the kids themselves before they're sent back into society."

State Senator Francis X. McCann, chairman of a special committee on state corrections, accuses Miller of making "a farce out of justice in Massachusetts" and recently advised him to "get on his bike and pedal back to Ohio."

COMMUNITIES OBJECT

Opposition has spilled out of the legislature into local communities, some of which are up in arms against the idea of halfway houses operating in their areas. In Malden last January an angry crowd at a meeting expressed such stiff resistance to having even carefully screened, non-chronic offenders in a house operated by a group called Adolescent Counseling in Development (ACID) that the project had to be shelved. It's still in limbo.

Dr. Miller, a rumpled, boyish-looking man who's married to a psychiatric nurse and operates out of a tiny, cluttered office in downtown Boston, is admittedly impatient and scornful of his critics. He's especially irritated by the argument that he's moving "too fast," and that he should have phased out the institutions gradually rather than clamping them shut practically at once.

"You almost have to force the community to do its job," he says. "There'll never be real progress without turmoil. You've got to move fast. You just can't change, or modify the reform schools. Any reforms you make will get watered down and trickle away. The training schools are the backbone of the old system and have to be abolished. They're going the way of the almshouse."

Miller points to a recidivism rate in the group homes of only 18–20 percent—about a third of the reform-school rate—as evidence that the new approach is working.

SMASH OLD CELLS

A year after Miller took charge, he held a symbolic ceremony at Shirley Industrial School to signify his drastic changeover. On a dark and rainy winter night, 10 youngsters, at a signal from the new DYS chief, swung sledgehammers into the walls and bars of solitary confinement cells in which each had spent punishment time. They left the place a shambles.

In much the same way, Jerome Miller has made a shambles of the century-old delinquency reform structure of Massachusetts. In its place he has erected something he thinks will serve better and last longer—a system in which young delinquents are treated not as hopeless criminals but as erring humans who can win back their place in society.

THE HARTFORD PROCESS: MODEL FOR RECONSTRUCTING THE CITY

Mr. HUMPHREY. Mr. President,the September 1972 issue of the Mortgage Banker details the story of city building efforts in Hartford, Conn.—a story which may be the prototype for reconstructing American cities. The Hartford process represents the best of community oriented efforts to mold the diverse elements of any city into a team—a team that works together for both physical and social renewal.

The original concept for the Hartford process came from the American City Corp., a subsidiary of the Rouse Co., Inc., the builders of Columbia, Md. The Hartford process, as envisioned by Rouse's American City Corp., is unique—because it forces a city to face up to the totality of its environment. The process, as the article states—

> Treats the job of physical renewal as only one element of an all-encompassing effort that includes basic social change.

Mr. President, I have met with Mr. Rouse and the developers behind the American City Corp. They have, I believe, a sound and progressive format for building new towns or as in the case of Hartford, building new towns in town.

The Hartford process succeeds precisely because the community is involved, the community makes decisions, and the community organizes itself to move directly from planning to actual development.

Mr. President, I urge Senators to examine this article. I ask unanimous consent that the story of the Hartford process, entitled "Old Wine in New Bottles: A Formula for Success in Regional Renewal Efforts," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OLD WINE IN NEW BOTTLES: A FORMULA FOR SUCCESS IN REGIONAL RENEWAL EFFORTS

(By Trevvett Matthews)

Hartford, Connecticut may soon become known as the place where the urban-suburban problem was faced head-on! By keeping their eyes on the ball marked $$$, Hartford businessmen and the planners they have attracted to the 300-year-old city have a fighting chance of saving the urban way of life in the United States.

But it takes more than money or the desire to improve an area. Courage is a key ingredient. It was the courage of corporate chiefs that provided $3.4 million to bring into being a program that—even if it falls flat on its face—will influence American thinking on how to deal with most urban-suburban problems. Other municipalities have already come to take a look, before even a single nail has been driven to implement the regional renewal program.

The ambitious effort being made in Hartford may ultimately reduce the emphasis on conventional brick and mortar aspects of building and put a stronger spotlight on such things as education, transportation, tax structure, and job opportunities.

The Hartford undertaking is unique in that it treats the job of physical renewal as only one element of an all-encompassing effort that includes basic social change. Hartford has drawn heavily on the experience of Columbia, Maryland. Basic to the Hartford effort is the Columbia axiom that social change must accompany physical building. As James Rouse, developer of Columbia, Maryland and owner of The Rouse Co., Inc., whose subsidiary, American City Corp., was hired to research the potential problems in the Hartford renewal, says, "The Hartford 'Process' marks the first time in the history of the country that a city has faced up to the totality of its environment."

Not only in scope of thinking, but in physical and political extent, the Hartford effort is unique. Its 765 square miles cover a sixth of the state and include 29 local governments. This regional development/redevelopment undertaking is unique in a third way: its political powerlessness. As stated in what amounts to a prospectus for local citizens: "The power of both corporations . . . is strictly limited. First neither can condemn land. Second, neither can act outside the legal framework of local government. . . ." Further, they do not "usurp the powers of existing agencies public or private. . . ."

These disclaimers, and others in the 148-page booklet called "An Open Letter to the Citizens of Hartford," make clear that the approach is mostly carrot and very little stick as far as communities and even individual neighborhoods are concerned. Attending public meetings in Hartford reinforces this point. Officers of the Greater Hartford Process, Inc., which is known locally simply as Process, do not receive automatic support from political leaders. Although some elected officials, including the mayor of Hartford, serve as directors, Process must sell its concepts and each specific program it proposes.

Process has a subsidiary, Greater Hartford Community Development Corp., which is known as DevCo. It is the operating arm that must translate into physical reality the ideas that come from Process. Among other things, DevCo is a developer in the conventional sense. But it has a special partner, Process, which seeks to set its goals.

Process, says one planner, "determines the general feasibility, including the financial ramifications for the town involved, and proposes a program to DevCo." DevCo, says an official, has the job of finding money to do the things suggested by "27 dreamers over at Process." The fact that the two are united, both in practical and ideological ways, is possibly the key to the Hartford effort.

Almost as important is the realism with which political facts of life are faced. No illusion exists about the powers and permanence of the 29 governments of the region. Among the disclaimers published by Process is the statement that "it does not represent an effort to establish a regional government." What it seeks is "a coherent approach to the overall needs of our region." The ability of Process to face both political and economic reality without any wishful thinking is reason enough to call it a success even at this early stage. What it does in the next 25 years remains to be seen.

Patrick Cusick, president of Dev-Co, gives the following as a general timetable: Five years will establish Process as a way of doing things, five to 15 years will see substantial accomplishment, and it will take ten to 25 years for the full yield of the effort to be realized. "We haven't invented the wheel, but we do believe we have Mark I of an example of how regional problems should be confronted," says Mr. Cusick.

Process put out its "Open Letter" prospectus in April and is just beginning to implement its programs. Indeed, one of the important steps in the Process timetable is the soliciting of community opinion that may result in modifying its proposals.

This emphasis on public exposure at an early stage is basic to the reasoning that produced Process, and is counted on to provide popular and political support for proposals in their final form. Arthur J. Lumsden, president of the Chamber of Commerce, said, almost a year before Process became an independent entity, that its founders would provide money for public forums "to press the minds of the people of the Greater Hartford region right up against the proposals—to make sure that dissent and disagreement are brought up at the beginning, at the earliest possible time, and thus avoid guerrilla warfare later on."

Hartford's worst physical, social, and economic conditions are in the northern part of the city, which covers half its area, contains 40 percent of its population, and 75 percent of its commercial and office space. It is here that Process is making its first effort, called Phase I. Tentatively, a Phase II is planned for the southern half of the city, but this and plans for other parts of the region are not firm.

One reason that Process picked the blighted northern part of Hartford as a starting place was that conditions there harmed the whole city. But Process also wanted to show what it could do. The reasoning was that "programs successful in improving conditions for the poorest portion of the region stand the greatest chance of affecting the region as a whole."

DevCo has entered a joint venture with a local association, South Arsenal Neighborhood Development Corp. (SAND) to undertake the first part of the Phase I effort. SAND, formed in 1967, lacked the financial capacity to be a developer on its own. The joint venture has assured state and city tax abatement. It expects to break ground early next spring. SAND, according to Dick Chase, DevCo manager of the project, will receive a third of the profits from the development, instead of the 10 percent normally given to community developers.

The Phase I program, of which South Arsenal is part, is the largest rebuilding program yet proposed for an American city—a $780 million effort. Its 20-year schedule calls for rehabilitating 10,000 dwellings and construction of 6,500 new units, plus an extensive list of amenities. The economic model of Phase I calls for $580 million of private investment (about $320 million more than present trends would produce) plus $200 million of public money from a bond issue. The model calls for the city to realize, via an increased tax base plus state and federal grants, some $124 million more than the $200 million it invests.

The word "model" is used throughout the Process Open Letter, but not until it has been explained that "this kind of model is not a three-dimensional thing, like a model airplane or a model of a building. . . . A model is a representation in words, numbers, and physical plans of the economic, social, and physical aspects of a community."

What will be the second push is not yet disclosed, but financing is already assured for a new community. Reportedly, much of the land has been acquired. Indicative of the expected stress is the fact that Robert P. Tyler, the DevCo vice president who raised this money, says that he has other lenders waiting in line if any current investors cancel out. "This is purely crap-shooting, just as assembling land always is, but there are some differences," says Mr. Tyler. "I have a negative balance sheet, can give no participation, and no guarantees, implicit or explicit." Basically, his money is obtained at a cost geared to prime.

DevCo, although it is legally a nonprofit corporation, expects to report profits. Profits will go to Process, which is a nonprofit corporation that can receive tax-free contributions. Mr. Tyler expects it to be eight or nine years before DevCo can flow dollars through to Process. He notes that the local housing market is about 6,000 units a year, and that DevCo must get 16 percent of that market—a high target for any developer. But he is encouraged by the influx of capital to Hartford, normally a heavy exporter of capital. Coming from a mortgage man who "knows where the bodies are," this augurs well for Process.

The impetus that led to formation of Process came from the business community with a big assist from Mr. Lumsden. This group persevered in the face of obstacles. In 1964, an outside researcher told Hartford leaders that a majority of the 650,000 people in the region preferred the status quo. He said that "no more than tenuous support of regional planning" could be expected from the Capital Region Planning Agency representatives.

Regional thinking has not been a historical trait in what is termed with local pride as "town meeting country." For instance, there has been a Metropolitan District Commission since the early thirties, but it never exercised all its limited authority in utility functions. A series of 1964 meetings on metropolitan cooperation and development published conclusions more filled with hope than substantive reason for optimism.

During the fifties and sixties, a number of Hartford projects were successful, most notably Constitution Plaza, but social problems were not being solved as fast as they developed. Mr. Lumsden recalls that he had the chief executives of Aetna, Connecticut General, and Travelers (later joined by men from United Aircraft and the Hartford Insurance Group), held conversations with urban experts for more than a year before concluding that:

Current actions, even if expanded enough to build a new city, would still leave most of the same problems.

Government at all levels had been unsuccessful and was trying to pass a "hot potato" to the business community, which would also fail if it attempted the job alone.

Suburban sprawl was more insidious than the center city ghetto, and the entire region would have to be treated as a single entity.

No better way could be found to make enemies than to challenge existing government jurisdictions, agencies, and civic organizations. Hence, any action must seek their cooperation.

In April 1969, this group formed the Greater Hartford Corporation, a managing and community development corporation whose primary function is to collect money from 30 contributors. It was through this corporation that the $3.4 million out-of-pocket contribution was made to create Process.

Funds from the Greater Hartford Corp. were used to hire the American City Corp., a subsidiary of The Rouse Company, for a six-month research project in 1969. The findings convinced the Hartford group that a way could be found to solve community problems, and a 22-month, $3-million contract was signed with American City. This resulted in the formation of Process in January 1971. Once the business group decided on the nonprofit approach, it became apparent that broader representation was needed. Although Greater Hartford Corporation remains an organization of corporate contributors, Process attempts to cover the local spectrum. The board includes politicians, labor leaders, and spokeswomen for such neighborhood groups as the Poor People's Federation. In April 1972, the American City contract ended and Process was cut loose to operate on its own.

The $3.4-million gift to Process, and another $1.7-million loan of seed money to DevCo, are only the beginnings of financial support that Hartford business expects to provide for regional renewal. Until DevCo is profitable, the corporations will have to support Process. An additional $7.7 million is budgeted through 1979. This will induce additional investment from foundations and federal agencies. These funds are expected to total $10.5 million during the 1972–79 period.

Several factors contributed to the success of this hefty job of fund raising. Money to get Process off the ground, claim local observers, was obtained because of the cohesiveness of the business community, the unusual strength of the Chamber of Commerce under Mr. Lumsden, and the investment experience of the life insurance companies who were familiar with the snowballing effect often produced in areas where real estate values are declining. Once the leadership made clear which way it was headed, there was not a great deal of trouble in gaining an adequate following.

The business community has not stood in the way of the planners, headed by Peter Libassi, president of Process. The 148-page prospectus for the future of the region tells the aims of the corporation and how it will function.

There are eight guiding principles for Process:

1. Bring the essential parties to the table. Local governments operate in a limited area and if they are to cooperate to their mutual interest, they must be aware of what is beyond their borders. Instead of the traditional ignorance, when one city department might not be aware of what the other is doing, Process seeks to bring together all parties from the public and private sectors. For this reason its board is as diverse as possible.

2. Set forth a believable image of a region that works. This means finding common goals and developing the political support necessary to reach these goals.

3. Unite planning and development with a commitment to carry out the plans. This makes necessary a financially stable DevCo as the operating arm of Process. The lack of a link between planners and practical developers has often doomed good ideas to die on the shelf, buried in the report of a study group.

4. Recognize the inseparability of social, economic, and physical planning and development. Citing the "all systems" thinking used in the moon exploration. Process planners say that on earth "we haven't yet acted as though we understand how one system impinges on another." For instance, infant mortality is not just a question of medical care, but is influenced by such things as an apartment with poor heat, or a father who is always last to be hired and first to be fired.

5. Use physical development as the opportunity for positive social change. When a new school is to be built, there is an opportunity to build a school different from what has gone before.

6. Work at a large enough scale. Isolated projects use up time, money, and civic energy without significantly improving the quality of life. A good system of health care is dependent on more than one community or neighborhood. Transportation problems cannot be solved on a local basis. These are a few of the areas demanding regional attention.

7. Create and capture values. Increases in land value are captured by developers and town governments when land is planned and developed. Similarly, investment to improve social and economic systems can make an area more attractive to private investment, and thus raise land values.

8. Establish a continuing process. Planning cannot be effective on a one-time basis; it must generate a way of thinking that causes a community to engage in a continuing self-examination. This way, the community will face up to decisions rather than let questions be decided by default.

Almost half of the 148-page report of Process is used to describe "Redesigning the Fundamental Systems." These are what it calls the "life support systems" that permit urban and suburban communities to exist. These systems, it says, "have developed in response to constant crisis, offering too little and too late."

Again with reference to NASA work, Process notes that little effort has been made to plan social systems that will produce specific results, such as reforming a criminal or eliminating illiteracy. The effort has always been toward improving an existing penal system or an existing school system. High technology organizations such as NASA, it notes, have used the method of specifying the performance of the finished product, while allowing individual creativity in the details. It is this technique that Process hopes to emulate.

Among the grandiose, almost utopian aims of Process are: basic revision of Connecticut taxes, including the politically hot issue of imposing an income tax; radical reorganization of police departments, to make them less paramilitary and more extensions of the average citizen's desire for peaceful surroundings; establishment of at least two prepaid medical plans, which, among other things, would reward doctors for keeping people healthy; complementing the rigid structure of the educational system with a learning system that would be flexible and broad enough to include three-year-olds and the elderly; and development of a correctional system that would focus on rehabilitation and make obsolete the prison system that emphasizes physical retention of offenders.

Process, by definition, cannot be completely successful in attaining the end results it envisions. Any progress it makes is likely to produce new, more difficult goals. But it is likely to be a success compared with conventional renewal efforts, and it may attain a measure of success in unexpected areas.

To paraphrase Bob Tyler, the mortgage man whose pencil must be sharp enough to convince investors to gamble on the financial success of the undertaking: This is the first time outside academia that cost benefiting has been done for social services. Which will yield more, a dollar spent on educating the underprivileged, or a dollar spent on food to help the brain of a tiny infant develop to its full potential? The Hartford Process will not answer such questions for all time, but it is dealing with them on a real time, real money basis.

WILBUR COHEN'S GOALS FOR OLDER AMERICANS

Mr. CHURCH. Mr. President, this month's 25th conference on aging of the Institute of Gerontology at the University of Michigan-Wayne State University was memorable in many respects, but one of its outstanding events was an address by Wilbur J. Cohen.

Mr. Cohen is now dean of the school of education at the University of Michigan and cochairman of the Institute of Gerontology. He is also a former Secretary of Health, Education, and Welfare and one of the most effective architects of our social security system.

For his topic at the anniversary conference, Dean Cohen chose to forecast what the next 25 years may bring in the way of security and satisfaction for older Americans.

His immediate goal is the elimination of poverty among older Americans, primarily through improvements to the social security system. But Dean Cohen also sees the need for other actions, including adjustments in our practices and attitudes toward work patterns throughout the average lifetime. He asks us to share his belief that, while human beings continue to make mistakes, they also continue "to try to uncover the secrets and mysteries of the universe in which the greater the risks, the greater are the opportunities."

Mr. President, Dean Cohen's address is significant and challenging. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

TOWARD A NATIONAL POLICY ON THE AGING: THE NEXT 25 YEARS

(By Wilbur J. Cohen)

Twenty-five years from now, when we will meet here again, the issues and problems facing the aged of our nation are likely to be both very different but at the same time very much the same in some respects as today. There will be many changes, but these changes will bring new problems which our children and our grandchildren will have to resolve. We can make the resolution of these issues a little easier for them by what we do in the next few years, but many of the changes that will occur will also result in new and perplexing dilemmas, while at the same time offering interesting challenges for innovative and creative new programs.

The fundamental factor which in my opinion will result in many changes will be the continued economic growth of our economy. I believe there are reasonable grounds to believe that our economic growth during the next twenty-five years will be not less than the economic growth which has occurred during the past years.

Our economic growth over this period has averaged 3 to 4.5 per year. With the many scientific and technical developments which are on the drawing board at the present time, I believe that our economic growth will continue to be even more favorable than it has been in the past.[1]

This economic growth will make it possible for us to share the growing affluence throughout our society so that poverty will be eliminated. As a first step in that direction, poverty can, should, and will be eliminated among our senior citizens within the next five to ten years. We have taken significant steps in this direction by the Congress increasing social security benefits over 50% in the past 3 years.

A monumental step forward was taken this year when on the initiative of chairman WILBUR D. MILLS and Senator FRANK CHURCH Congress adopted a 20% increase in social security. This will result in about 1.9 million persons being removed from the poverty rolls, of whom about 1.5 million are 65 and over.[2]

There are, however, some three to four million persons aged 65 and over who are still in the poverty group. I believe that an additional number of these can be removed from poverty by an immediate increase in widows' benefits under social security from 82½% of the primary benefit to 100% of the primary benefit.

Such a provision was incorporated in H.R. 1 which passed the House of Representatives last year and the Senate Finance Committee has also approved this recommendation. It is my hope, therefore, that this proposal will be adopted by the full Senate and the Congress this year, thus taking another important step in removing additional aged persons from the poverty group. About 3.8 million persons would receive immediately increased benefits from adoption of this provision.

The Congress recently adopted a provision which provides for the automatic increase in social security benefits related to the rise in the cost of living. There is merit in this proposal. However, it must be recognized that any increase in social security benefits related to the increase in the cost of living only places the beneficiary in the same relative position he was in previously. It does not provide for a real increase in benefits. Therefore, we need to have some other provision which will make it possible for the aged to share in the economic growth and affluence of our society. The automatic cost-of-living provision does not do this.

I believe, therefore, that we must make other changes in the social security system to reflect the growing and dynamic character of the American economy. I propose, therefore, that the method of determining the average earnings for benefit for purposes in social security, which is now essentially a lifetime or career average, be basically modified so that the earnings computation will be based on the most recent period of earnings which is most favorable to the individual.

Federal civilian employees now have their average earnings determined on their best consecutive three-year average, while the military have their benefits determined on their highest rank and pay. I hope, therefore, that the Congress will consider taking steps to treat individuals contributing to social security on approximately the same basis as Federal civilian and military personnel.

A first step along these lines could be taken by adding additional dropout years to the five years of dropout which are now authorized by Federal law. We could therefore proceed to initially have social security benefits based on the best fifteen years of earnings in the immediate future, then by 1975 go to the best ten years, and, as our resources increase, subsequently to the best five years, then to three years, and eventually to the best single year.

I believe we can reach this goal before twenty-five years from now, but I hope the Congress will start on this road this year by enacting an additional dropout year for each 15 years of coverage such as is contained in H.R. 1 as passed by the House of Representatives.

Another—and in some ways even more important step—is for benefits after retirement to be increased in relation to increased productivity and earnings in the general economy. Let us assume that after a person retires prices rise approximately 1% to 1.5% per year on the average.

On the other hand, let us assume that earnings increase about 4% a year which, in my opinion, is a reasonable prospect in the kind of dynamic and growing economy I envision in the United States during the coming twenty-five years. If benefits are only increased in relation to the cost of living, then the retired aged person will fall further and further behind in his relative status with other members of the population.

This would not only be inequitable but, in my opinion, would be undesirable, tragic and immoral. The aged should share equitably in the development of the economy just as children, mothers, and all others in our economy should. The way to handle this problem is, therefore, to increase the individual's retirement benefit by approximately the same increase which takes place in earnings, thus putting the social security system on a dynamic basis to match the dynamic character of our economy.

Several countries have already incorporated this general principle into their social security program by one way or another. I believe this is an important new step that must be taken to make our social security system a meaningful one for those who retire.

The problems to be solved, however, during the next two or three decades are not as simple as they may seem to some who advocate very simplistic notions about retirement planning. With the growing affluence and productivity that I have indicated I see ahead of us, there is also likely to be a demand for earlier retirement and, at the same time, medical and scientific miracles will extend the lifespan so that many more individuals will have a longer period of time in retirement than before.

This will result in a more costly program as far as both social security and private retirement plans are concerned. We must do a great deal more thinking of how to balance the adequacy of the amount of payments while a person is in retirement with the total amount of payments that or she will get over their retirement lifetime.

It is for this reason that I am one of those who strongly favors continuation of a retirement test for some period of an individual's retirement. It is erroneous to argue that there

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should be no retirement test because an individual has "paid for" his benefits.

The fact of the matter is that no age group of persons have yet paid fully for their retirement benefits. If general revenue contributions are included to finance the cost of the social security program, there may never come a time when any age group has fully paid for their benefits. In any case, at the present time the actuarial calculations for the contributions that are being paid presently and in the future all assume a continuation of a retirement test so that no group of people are being unfairly dealt with from a financial point of view even though you may read articles and statements to the contrary.

Another objection to a retirement test is that it prevents individuals who wish to continue work from doing so. This argument has some merit but usually only with regard to a very small number of people. Most aged people are physically unable to work and most older individuals do not wish to work. There are, however, two groups of people who wish to work.

The first are professional people such as lawyers, architects, physicians, engineers, professors and other self-employed people who are, by and large, in the upper-income group and can continue to earn substantial sums of money even when they work less than full time.

The other group consists of aged persons with very low incomes who wish to work part time to supplement their inadequate income or, like the professional person, who wish to continue to do some work in order to have a feeling of satisfaction and contact with other people.

The social security law at the present time is a combination of a retirement test for individuals under age 72 and an annuity for people aged 72 and over. A proper allocation of financial responsibility seems to me to indicate lowering the age at which the annuity begins from 72 to 70, providing for both men and women to be eligible for social security benefits at age 60, with a retirement test from age 60 to 70 set at present prices of $200 per month instead of the $140 in the present law.[3]

This amount should then periodically be increased in relation to changes in earnings levels just as other benefits should be adjusted upward as earnings levels increase. Approximately 2 million persons would receive increased benefits by these changes.

Individuals who work past the age of 65 also should have their benefits re-computed annually and an increment of at least 1% should be added to their benefits for each year after 65 in which they work and do not draw any benefits. This provision in H.R. 1 would result in increased benefits for 5 million persons immediately.

I believe that it would be unwise to eliminate the retirement test at this time or in the near future or to so liberalize it that all, or practically all, people who continue to work after age 60, 62, or 65 would receive their full wages plus their full benefits. This would be an unwise use of limited funds since the only people who would benefit would be those who could work and find jobs while the millions of other aged persons—comprising some 90 to 95% of the aged—would get nothing additional from the billions of dollars of increased expenditures.[4] We will do much better in the immediate future to put as much of our available funds at those points where they will meet the greatest social need, rather than to add to our cost by providing the funds to those who are most able to work, have the highest incomes and who least need the additional benefits.

There are presently about two million persons aged 65 and over who are receiving State welfare benefits with the aid of Federal funds. In addition, there are approximately 1.2 million disabled and blind individuals under the age of 65 who are in substantially the same dependent position as retired aged persons on welfare. I strongly favor taking this entire group of about 3 million individuals and providing for payments to them directly from the Federal government.

The Federal government should finance the cost of payments to this group entirely out of general revenues and the program should be administered by the Federal government through the Social Security Administration on a uniform, nationwide basis, with simplified eligibility conditions. I believe that the amount of the payment at present prices should be not less than $150 per month for a single individual and $225 a month for a couple.[5]

For the time being, in any State which makes payments to an individual of a larger amount, they should be required by Congress to supplement the Federal payment for this transitional group of beneficiaries. As the Social Security program is improved, there will be fewer and fewer individuals who will have to apply for such Federal benefits and in the course of time this program can be eliminated or superseded by the Social Security program covering all aged persons with a basic minimum payment.

Looking forward to the future, I see the Social Security program financed in part by contributions out of the general revenues supplementing the employer and employee contributions. In general, I favor a reasonably adequate minimum benefit with the Federal government paying out of general revenues the cost of any such benefits which are above what the formula in the law would produce for the person who would normally contribute for a full 40 years of his or her working lifetime.

To illustrate what I mean, let us assume that an individual would normally receive about 40% of his earnings as his benefit and if he had a wife who had not worked at all that she would receive an additional 20%, thus making a total they would receive together of about 60% of their earnings.

If the minimum payment were to produce for a particular individual 80% of his prior earnings, then the difference between the 60% he would have received and the 80% would be paid out of Federal general revenues. There are a number of different ways in which this same result can be achieved. I have tried to illustrate the principle in a general way without necessarily indicating the exact financial method by which the cost to Federal general revenues would be computed.

Another change in the program which seems to me desirable would be to provide for a partial refund of contributions to employees and self-employed persons with very low incomes. To illustrate, assume that an individual with a family was earning less than whatever the poverty level was for him and his family at a given moment of time.

The individual would pay his social security contribution as he does now but at the end of the year he could file for a refund of a portion of his social security contribution. Thus to illustrate the principle, if he had earned $2000 in the year, and the social security contribution was 5%, he would have paid a contribution of $100. When he filed for the refund he could get such proportion of this $100 back as Congress determines. I would recommend that he not get a full refund so that he would continue to pay some small amount toward his social security so that his benefits would continue to be a statutory benefit as a matter of contributory right without an income test.

While as we work toward further improvements in social security for the aged during the next twenty-five years, we must also recognize that we must deal more fairly and adequately with many people under the age of 65 who are deserving of our understanding, compassion, and protection.

There are some twenty million individuals under the age of 65 today who have incomes below the poverty line. Well over half of these individuals are children under the age of 18. We must provide a reasonably decent income to these families with children so that they will grow up to become responsible citizens whose work and efforts will produce the goods and services that will make it possible for the generations ahead of them to retire with adequate retirement benefits.

It is in the interest of the aged to be generous in meeting the needs of our children and grandchildren. This makes good economic sense and good morality. We cannot look upon one group as the competitor or enemy of the other without unfortunate results which will be detrimental to them both and to our society as a whole. While I believe that our body politic is now ready to make a commitment to provide national income insurance to the aged, disabled, widows, and orphans, I believe that this is just a first step to such a national income guarantee program for the working poor, and particularly for families with children.

After all, the social security program is an income guarantee program to the aged, the disabled and to widows and orphans. Such a national income guarantee program has worked successfully and has been administered wisely and effectively by the Social Security Administration. The social security offices throughout the United States provide a quality of service to individuals who apply for benefits that is outstanding.

The personnel of these offices are well trained. Most of the checks come to the beneficiaries on time. Moreover, the entire system is administered very efficiently, with the total administrative cost for old age and survivors benefits being equivalent to only 1.5% of the contributions—a figure which is neither equalled nor challenged by private enterprise.

As I look forward to the years ahead I see, however, the possibility of making the system even more efficient and less costly by eliminating the monthly distribution of millions of checks to the individual mailboxes of the recipients.

I see no reason why, with our present computors, a social security check or the national income guarantee check could not be deposited in the individual account of the beneficiary in the bank, credit union, or building and loan association of his or her choice with the social security number being used as the identifying control. In this way we would eliminate lost and stolen checks and the occasional mailbag which is misplaced at the post office. The printing and mailing of individual checks would be avoided.

Social security probably can never provide adequate income to all beneficaries. Individual savings through home ownership is a very important element in the economic security for the aged. There should be more different kinds of housing to suit the changing needs of older persons.

Some older people wish to move out of their houses into apartments so they do not have the responsibility for caring for the lawn, washing the windows, removing snow, and similar obligations. Some wish to move to warmer climates. We should establish a wide variety of housing arrangements to meet the different life-styles and requirements of older persons.

We must especially provide alternative arrangements to minimize the pressure to put older persons in nursing homes. Many older persons can be kept in their own homes and apartments if appropriate health, homemaking, nutrition and related services are available. In England, far fewer persons are placed in nursing homes because they make

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these kinds of services available. If they can do this, why can't we?

Private pension plans exist which supplement social security. These private plans have grown very rapidly but they still provide benefits to only a small proportion of the present aged. They will undoubtedly increase during the next 25 years. There are, however, very serious problems in the private plans. As in the case of the closure of the Studebaker Company, there is no real assurance that every promise can or will be kept. Many plans do not have full vesting of benefits or full reserves to pay off all commitments. New Federal legislation is urgently required to make private plans meet basic standards of security, adequacy and fairness.

One of the high priorities in the immediate future is to provide a decent and reasonable income to the young children and middle-aged families whose incomes are still below the poverty line. It is for this reason that I strongly favor at this time passage of Senator Ribicoff's amendment to H.R. 1 which would establish a payment level of $3,000 to a family of four without any other income. This is roughly equivalent to approximately three-fourths of the poverty level for that size family. Senator Ribicoff proposes to reach the poverty level within about four or five years, which by 1975 or 1976 would probably be in the neighborhood of $4,500 for a family of four, assuming a reasonably moderate increase in prices and earnings in the immediate future.

To provide all of the roughly twenty-five million people in the United States with income below the poverty lines with sufficient income to bring them up to the poverty level would cost about 10 billion dollars a year. This is roughly equivalent to about 1% of our gross national product at the present time. However, the problem is not as simple as just providing the income which will bring an individual or family up to the poverty line because it is desirable to provide an incentive to the individual who goes out to work to keep some of the earnings from his work.

If the incentive feature is set at a point where an individual can keep anywhere from ½ to ⅔ of the earnings from his work, it will obviously probably cost closer to 25 billion dollars a year to accomplish the combined effect of eliminating poverty and providing a work incentive. Because of the costs involved, it probably would be more acceptable to the Congress and to the American people to establish the initial payment level at somewhat less than the poverty level, but with a work incentive feature, and then progressively improve these two provisions as our gross national product and affluence improves.

We have discussed some important steps to improve the conditions for our aged, disabled, blind, widows and orphans and those who are families with children and where the breadwinner is working but not earning enough to bring him or her up to the poverty level. But, at the same time, we must be realistic and understanding of the needs of the men and women who work hard every day, earn their living, pay taxes, and who are not on welfare nor are likely to be on welfare during their working lives.

Some of the increased earnings due to increased productivity must clearly go to these individuals for they are the backbone of our productivity. They are not only the tax payers, but they are also the voters and the articulate consumers. As I look ahead, I see that the increasing productivity and earnings benefit them in the following ways: (1) the weekly hours of work may be reduced from 40 to 37½; however, some individuals may prefer to have the 40-hour week but work a four-day work week. Others will prefer to take their increases in longer vacations. (2) Looking ahead still further, I see the possibility of individuals receiving a full sixteen weeks of time off for each five years that they work.

This will enable any individuals to go back to school for a semester or term and learn new skills, prepare for a "second career," develop new ideas or prepare more effectively for retirement. This will result in a still further increase and expansion in community college which will have a wide-range of courses available to people in their home communities at little or no cost in special fees. This will make an opportunity for many more teachers in the community colleges.

I also see the prospect of average total family income increasing based upon more women and wives working. As more women go to work, there will be an increased demand for early childhood education and day care of young children, not only for those children aged three to five, but even for children younger than age three. Here again, this will provide tremendous opportunities for teachers in early childhood education, administrators of day care centers, and the evaluation and research of many different possibilities for different kinds of work with young children.

While this development may have profound effects upon the family, the likelihood of continued expansion of family planning services is likely to reduce the number of very large families and result in the more adequate spacing of children. The combined impact we cannot adequately foresee at the present time.

In addition to these possible changes affecting the middle-income families, I see certain changes occurring in the tax laws which will also benefit the middle-income family. At the present time the middle-income family whose income is entirely or largely from earned income may pay more in Federal income taxes proportionate to his income than a very high-income family whose income is received from capital gains or other sources where the taxes are either lower or non-existent.

For the middle-income person to be dealt with fairly, it will be necessary to change our tax laws so that money earned by men and women will not result in higher relative taxes than money earned by money in terms of speculative investment. Thus, for those who really believe in the work ethic, as I do, a necessary change is in our tax laws so that money earned by work is not unduly penalized as it is today.

Another necessary change which I believe will occur is the reduction in the residential property tax as a method of financing elementary and secondary education. This tax bears particularly heavy on older people who are living on fixed retirement incomes. The first step would be to eliminate practically all residential property tax on aged persons with incomes below $6000 per person and then find ways to further reduce the property tax for all persons.

One step to accomplish this objective would be for the Federal government to pay at least 35% of the total cost of all elementary and secondary education out of Federal general revenues so as to relieve the States and localities of a very large portion of the residential property tax. At the present time the Federal government is providing for about only six percent of the total cost of elementary and secondary education in the United States. We need to improve our elementary and secondary education system but we cannot do so if we are going to continue to depend so strongly on the residential property tax as a method of financing it.

There is no question in my mind but that 25 years from now we should have practically eliminated the residential property tax for financing education and have found a more equitable and progressive method of meeting the educational needs of our future generations.

I do not think that it will take 25 years to find a better way to finance and handle health services in this nation. I believe that within the next five years we will have a national health insurance plan which will cover everybody from the time they are born until the time they die. It will cover the rich and the poor, the city person and the farmer. It will provide for a comprehensive scope of benefits that will bring the magic of the medical miracles to the millions of our people.

There is already general agreement that we need some kind of a national system which will insure everyone against health costs. But, in addition, there is also general agreement that we must develop a more effective delivery system which will actually bring medical care to people when and where they need it in relation to their medical need.

Today many persons receive very valuable and costly health services for medical care which is not properly related to their medical need. On the other hand, there are millions of people in the inner city who cannot get a physician when they really need one. Some 20 to 30% of the individuals who are in a hospital on a given day would not need to be there if we had a wider range of services and facilities that would meet their needs. The maldistribution of our medical services at the present time is tragic, wasteful and unnecessary.

One way in which not only a larger quantity of medical services could be provided but also more effectively and efficiently would be to have physicians, nurses, and other health personnel organized in groups. This kind of program, called "group practice" or a "health maintenance organization" would enable the health personnel to work as a team rather than as a fragmented and disorganized piece-work system such as exists in most places in the country at the present time.

Naturally, this will require a major shift in attitude both with regard to the providers of services as well as the consumers of services. Medical care and health services are becoming so complex that it is no longer possible for one individual to know all there is to know about all the diseases, disabilities, drugs and the therapy that is possible or to be aware of all the diagnostic skills that are avaliable or the preventive measures that can reduce sickness, disability and premature death.

Most physicans are still leery of working together in groups, as are most patients. But a whole new health education program must be undertaken if we are to be able to bring medical care to people who need it, to control the mounting costs, and to meet the health and medical needs of our fellow citizens.

All this will not be an easy task. Most physicians are very conservative, independent, and deeply concerned about their professional status, their incomes, and their freedom. One of the larger tasks of the coming decade is how to retain the freedom of the individual practitioner, enable him to make his diagnosis and treatment without interference but at the same time make him accountable, provide him with a reasonable income in relation to his years of training, experience and ability, and at the same time control rising prices, give the patient and consumer of medical care a larger voice in policy decisions of health without interfering with the medical decisions of the practitioner. This is obviously a very big order, but one in which I feel from past experience can be solved, provided that physicians will begin to cooperate with nonphysicians in the examination of ways to deal with these problems.

I hope that physicians will have learned something from the Medicare experience. If they continue to stay on the outside looking in on medical economics problems instead of getting on the inside looking out and use some of their talents and find solutions to our problems rather than finding only objections to proposed solutions, we may be able to enter into an era of cooperation. This may avoid socialized medicine and regimentation which both the physicians as well as myself so strongly disapprove.

The advent of national health insurance for everyone should help to reduce still further infant and maternal mortality, increase the availability of family planning services, and thus have some further impact increasing the life expectancy of persons even at some of the upper ages. If this does occur during the next 25 years, it is most likely that many individuals who live somewhat longer will have more chronic ailments and this will necessitate re-examining many of our present arrangements.

In the first place, it argues strongly for the inclusion of prescription drugs under the Medicare system so that the small number of older persons who have a very heavy cost for prescription drugs will have a large portion of this heavy cost met by the social security program. Such action requires great care because there is an inevitable human tendency for people to over-use drugs in an effort to find some relief from a disability.

It will not only require a more basic health education program concerning drugs, but a greater degree of vigilance on the part of the Food and Drug Administration over ineffective drugs and require adequate labeling and information so that not only the patient but the physician and the pharmacist have a better idea of what the risks and counter indications really are.

In order that the consumer may be more intelligent in this regard, we need a national compendium of drugs which is approved by the Food and Drug Administration and we need to encourage the use of generic drugs in order to keep the prices of prescription drugs as low as is economically and socially desirable.

There are other difficult problems that we must face in the years ahead. With new drugs, new information, new devices, new surgical skills, it will probably be possible to keep many people alive who would have died earlier years ago. The whole problem of how to deal with terminal illness remains one of the most difficult and complex issues of our time. We do not wish to have the physicians play God but, on the other hand, we must find some way that individuals can die in dignity that respects not only their own wishes but the wishes of those they leave behind. I do not know the answer to this problem, but I venture to suggest that each of us will be working on this problem and in the future we may be putting into our will or informing our children or physician of how we wish to be treated when that inevitable moment comes for each of us.

This brings up the important question of providing the services to older people which they need. Money alone does not produce the necessary personal services to people when and where they need them. There must be an organized effort to provide the social services in the community, the neighborhood or the housing project which are necessary. Individuals must be trained to perform these services.

The present effort in Congress to use a meat-axe approach to limit social services is a step in the wrong direction. While some reasonable limitations are necessary to assure proper and efficient use of limited funds, the aged, blind and disabled should not have services curtailed. A new approach is necessary to provide the services required.

So the next 25 years will bring many new problems and a continuation of many old problems. The challenge for all of us will still be there. I do not look ahead with a feeling of doom and gloom. There is great opportunity for men and women who wish to work hard, to use their brains and their hands to fashion new and better ways to deal with human problems.

I believe there will be more opportunities for people in the future than there have been in the past. I think that new avenues of ideas and life styles will be opening up which will free the human spirit. I see the possibility of new ideas that were thought impossible when I was a boy. I see human beings continuing to make mistakes but continue to try to uncover the secrets and mysteries of the universe in which the greater the risks, the greater are the opportunities. I think the atomic bomb may possibly bring us freedom from large-scale war. We may then be able to concentrate on dealing more effectively with our pressing domestic social needs and with re-ordering our priorities at home and abroad.

For each tragedy and for each anxiety there is also a great accomplishment on the part of mankind. We witnessed just a short time ago for the first time a case of one man winning seven gold medals in the Olympics.

At the same time we saw the use of naked raw force that was as savage and uncivilized as you might imagine. Perhaps in the next 25 years we will be able to redress the imbalance by concentrating more on man's accomplishments than upon his tragedies. I hope you will join with me in returning 25 years hence to see whether mankind can do better than I have set forth.

FOOTNOTES

[1] For the 60 years 1910–69, the average annual compounded rate of growth in the national product was 3.1 percent; for the period 1960–69 it was 4.5 percent. An annual average growth rate for the future between 4 and 4.5 percent, therefore, seems feasible. On the other hand, prices during the period 1960–69 went up an average of about 2.5 percent. Over a 50-year period, 1920–69, prices went up less than 2 percent on the average. Thus, productivity has been increasing faster than prices and hence, the standard of living has improved. *Statistical Abstract of the United States, 1970*, pp. 313 and 344.

[2] There were about 4.7 million persons age 65 and over with incomes below the poverty level in 1970. The poverty threshold in 1970 was: $1,852 for a single aged person and $2,328 for a couple. Source: *Characteristics of the Low-Income Population, 1970*, U.S. Dept. of Commerce,, Bureau of the Census, Series P–60, No. 81, Nov, 1971, pp. 3 and 20.

[3] I would recommend that individuals who are disabled for employment in their regular occupation receive full benefits at age 60 or age 55.

[4] In 1969 there were 17.9 million persons aged 65 and over eligible for benefits. Some 8.3 million were age 72 or over and were not affected by the retirement test. About 6.6 million persons had no earnings at all, and 1.2 million had earnings of $1400 a year or less. Thus, a total of 16.1 million of the aged, or about 90% of the aged, were not affected by the retirement test. About 1.4 million persons, or 8 percent, were earning amounts which resulted in the loss of some or all their benefits. Some 400,000 were close to the limit which may have been due to their limiting their earnings to conform to the test. Source: *The Stake of Today's Workers in Retirement Security*, Senate Committee on Aging, April 1970, p. 20. The figures come from the Social Security Administration.

[5] At this payment level some 5 to 6 million persons might be eligible for benefits.

THE COOPER-MUSKIE AMENDMENT TO THE FEDERAL-AID HIGHWAY ACT OF 1972

Mr. COOPER. Mr. President, on Tuesday the Senate adopted the Cooper-Muskie amendment to S. 3939, the Federal-Aid Highway Act of 1972, by a vote of 48 to 26, and then approved the bill, 77 to 0. There was a limitation on debate, and as time was short, I take this opportunity to say that the vote on the amendment was testimony not only to the merits of the proposal, but also to the personal dedication and unfailing efforts of the Secretary of Transportation, Mr. Volpe, on its behalf.

Earlier in the session, the Secretary submitted to Congress legislation to allow metropolitan areas to use highway funds for mass transit. Although certain features of the administration's proposal failed to receive widespread acceptance, the Secretary has continued actively to support and promote the idea of allowing greater flexibility to cities in planning and carrying out transportation programs. Great credit is due Secretary Volpe for his part in the passage of this measure to provide more balanced transportation to cities.

I ask unanimous consent to have printed in the Record a letter I received from the National League of Cities/U.S. Conference of Mayors, supporting the Cooper-Muskie amendment.

There being no objection, the letter was ordered to be printed in the Record, as follows:

SEPTEMBER 19, 1972.

Hon. John Sherman Cooper,
U.S. Senate,
Washington, D.C.

Dear Senator Cooper: The National League of Cities and the United States Conference of Mayors wish to express strong support for Amendment No. 1512 to S. 3939, the Federal-Aid Highway Act of 1972, to allow Urban System funds to be used for fixed rail and bus public mass transportation systems. Adoption of this amendment will signal the firm commitment of the Federal Government to a balanced transportation system responsive to the needs and priorities of local governments. Furthermore, by allowing only Urban System funds to be used for rail, bus, and highway transportation systems, funds would not be withdrawn from already planned and much-needed highway projects on the Primary and Secondary systems. This amendment would therefore be a positive step forward to allow cities to determine not freeways versus rail transit, but how much of each, as determined by the elected local decision-makers.

We would expect continued reliance to be placed upon general revenues to support the bulk of public mass transportation programs. A strengthened Urban Mass Transportation Assistance Act, as contained in S. 3939, coupled with opportunities for urban areas to use Urban System Trust Fund monies for either highway or public mass transportation systems, as proposed in Amendment No. 1512, would give urban areas the opportunity to integrate planning and flexible program funding so as to provide the means for a balanced urban and national transportation system.

The National League of Cities and the U. S. Conference of Mayors urge support be given by all Senators to Amendment No. 1512 to S. 3939.

Sincerely,

Allen E. Pritchard, Jr.,
Executive Vice President, National League of Cities.

John J. Gunther,
Executive Director, U. S. Conference of Mayors.

THE ASCS PUBLIC ACCESS PROGRAM

Mr. BELLMON. Mr. President, the New York Times of September 7, contains a story reporting on the excellent features of the Department of Agriculture's new public access program. The public access program was authorized by the Agriculture Act of 1969 and is now being tested on a pilot basis on 150 counties in 10 States. USDA provided $1,500,000 for the initial pilot program.

The thrust of the program is simple: The Department of Agriculture, operating through the Agricultural Stabilization and Conservation Service, contracts to pay farmers a nominal fee if those farmers will open their lands to the public for fishing, hunting, hiking or other forms of recreation.

I bring the New York Times article to the attention of the Senate, because it reports on the apparent success and widespread acceptance of the pilot program on the part of both the farmer and the recreationist. The article further supports my belief that the public access program is one of the wisest public recreation and environmental improvement programs enacted in recent years by the Congress. I feel it deserves the support of Congress for expansion to a much larger scale.

Mr. President, there are many reasons why the public access program represents a good investment of public funds.

We are all well aware of the surging demand for recreational space and recreational opportunities close to population centers. This has resulted in serious overcrowding of available recreation areas. Both State and Federal Governments have responded to the demand by purchasing large amounts of land for hunting and fishing, parks and other public uses. These lands are maintained at heavy expense and cease to provide local tax revenues. In spite of the large purchases and the great amount of money spent, Government is still not able to keep pace with the demand for public use areas.

The fact is, there will never be enough money in the Treasury to buy all the land needed for public recreation—especially for uses such as hunting and hiking which require large acreages. In the future, as in the past, we must still depend upon privately owned lands to provide the majority of the recreational opportunities, especially in the eastern one-half of the country where only a small percentage of the land is in the public domain.

In the recent past, hunters and fishermen had little difficulty obtaining access to private lands. In more recent times, due to increased pressure on available lands, access has been greatly restricted by private landowners. In many areas of the country it is virtually impossible to find a farm or ranch that is not posted with "no tresspassing" signs. Landowners who allow public access sometimes find their lands overrun by the number of urban residents looking for a place for recreation. For their own protection these landowners are forced to close their lands. Access to private lands has declined in direct proportion to the increase in demand, and one result is increasing tension and misunderstanding between rural and urban dwellers.

Mr. President, the public access program has great potential for reversing these trends—for once again opening private lands to recreationists and for greatly improving relations between farmers and urban dwellers.

In the current pilot program, the Agriculture Department has completed agreements which will open more than 1¼ million acres of private farm lands to the public. That will convert to several million man-days of additional recreational opportunities for our citizens.

In addition, 365 farm ponds and small lakes on private farms were opened to public fishing last spring, and preliminary reports indicate that use has been phenomenally high. For example, the New York Times article refers to one pond in the State of Indiana which was used by more than 1,300 persons during the summer. The cost to the Federal Government for making this fishing pond available to the public was only $150—or about 11 cents per fishing day.

The economics of the public access program represents one of the strongest arguments in its behalf, and one of the major reasons why the program should be expanded.

A number of studies have been conducted by the Department of Wildlife Conservation in my own State of Oklahoma to determine the cost of buying and managing lands for public recreation. On one such area, which had the highest rate of usage in the State, the cost of buying the land when spread over 25 years amounted to $5.48 per acre per year. The annual cost of operating and managing the land amounted to $2.01 per acre. This brought the total cost for each man-day of hunting to nearly $13.

Land prices have risen greatly over the last 25 years. Using current land values and current interest rates the annual cost to the Government of owning and managing are roughly double.

Under the public access pilot program, 1,278,570 acres have been opened to the public at a total cost of $1,355,682. This is an average annual cost of $1.06 per acre. That is about one-half of what it costs the Government to manage an acre of land that it already owns and less than 10 percent of what it costs the Government to purchase and manage public access lands.

It is easy to see that the Government and the public get far more benefit from each tax dollar spent under the public access program than when the money is spent for outright acquisition of public use areas. Even the poorest farmlands sell for upwards of $200 an acre at the present time.

The annual interest cost to the Government on a $200 purchase price, figured at the current borrowing rate of 6¾ percent, amounts to $13.50. To this must be added an annual management fee of at least $1 per year, and an annual tax loss to local governments of about $1.50 per acre.

This brings the total cost, not including capital outlay, to $16 an acre per year for land owned and managed by the Government compared to just over $1 an acre under the public access program.

Mr. President, the public access program is one under which everyone benefits.

It allows the Federal Government to provide far more benefits to the public for every recreation dollar spent at much smaller outlays from the Federal Treasury.

The public realizes far more recreational opportunity in a great many more conveniently located places and is required to pay far less in taxes for the opportunity.

The farmer realizes an additional income from his land which helps bolster the sagging rural economy, and far less land will be taken out of agricultural production and off local tax rolls to be set aside solely for recreation.

The total environment will benefit, because the public access program has incentives for farmers to improve wildlife habitat on their lands.

Many of these advantages of the public access program were recently pointed out in an article in the Daily Oklahoman by Glenn Titus, a widely known wildlife management specialist and outdoor writer. I ask unanimous consent that the article by Mr. Titus and the New York Times article which I mentioned previously be printed in the RECORD at the conclusion of my remarks.

Mr. President, I urge Senators—particularly those from the 10 States where the public access pilot program is being conducted—Colorado, Indiana, Iowa, Louisiana, Michigan, North Dakota, Oklahoma, Oregon, Pennsylvania, and South Carolina—to become familiar with the program, to study the wisdom of the program, and to support expansion to a nationwide program at the earliest possible time.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Daily Oklahoman, July 27, 1972]

PUBLIC ACCESS PROGRAM

(By Glenn Titus)

An opportunity to reverse the trend of fewer places to hunt, fish and just enjoy the outdoors is being offered to the urban and suburban dwellers of Oklahoma by the federal "Open Acres Program."

This is a pilot program under national farm legislation and operated by the Oklahoma office of the Agriculture Stabilization and Conservation Service.

Bascially the federal government pays the landowner a fee, on a per acre basis, to let people use his land for recreation. Also the rate per acre is higher if the land has good cover for wildlife and thus, provides an incentive for landowners to improve wildlife habitat on their holdings.

This program isn't one that was hatched out on the banks of the Potomac, but got its start right here in Oklahoma.

When Sen. Henry Bellmon (R-Okla.) explained the Open Acres Program at the National Quail Symposium in Stillwater last spring, he credited the late Wendell Bever, a former state wildlife director, with the original idea.

However, it was the Senator himself who devoted time toward getting various state and federal agencies to develop the plan and then he had to fight to get the program through Congress and put into operation by the agriculture department.

I would guess there have been about six

years of effort, by a number of folks, into getting Open Acres operating on an experimental basis.

On several occasions I have heard the Senator state his reasons for supporting the Open Acres idea. He has said that the demand for recreational land will not be denied.

Thus, the two alternatives to meet the demand of recreation seekers are: one, to buy more public land near population centers or two, provide the recreation on private land with a cash income to landowners.

Bellmon is both an ardent hunter as well as a rancher and understands the need for recreational land. Yet, typical of many landowners, he believes that with a few exceptions private land should be kept in private ownership.

Thus, the Open Acres Program has been created as an attempt to provide space for recreation and at the same time keeps the ownership of the land in private hands.

How well the program works is up to us who use this land for our outdoor recreation.

If we respect the land and its owner, be careful of our litter, take the time to stop by and get acquainted with our host and show our appreciation, there is little doubt that the plan can be a success.

Should we tolerate any slobs, be they masquerading as hunters, fishermen or picnickers, abusing these privileges, then we can except the program to fold.

True, our tax money is paying for these privileges, but not near enough for any landowner to put up with many ill-mannered litterbugs.

[From the New York Times, Sept. 7, 1972]

UNITED STATES PROMOTING EXCURSIONS DOWN ON FARM

(By Seth S. King)

STROUD, OKLA., September 1.—Claud Earp squatted happily on the damp, manure-spotched bank of his farm pond, watching Mrs. Thelma Newnam and her married daughter pull little bluegill from the murky water.

"Fishermen know that some of the best fishing you're going to get in Oklahoma is in farm ponds," Mr. Earp explained. "So we're getting somebody out here most every day. Most of 'em, like those ladies there, do real good, too."

Mr. Earp is one of more than 160 Oklahoma farmers who, in return for an Agriculture Department payment, are opening their land, with few restrictions, and no charge, to fishermen, hunters, or townspeople who might want to hike around their farms.

It is part of a pilot program to test the feasibility of paying farmers to allow anyone who wishes to escape from his community for a few hours' free access to the countryside.

IN 50 COUNTIES

Since early spring, when the program began, scores of these recreational farms in 50 counties in Colorado, Indiana, Iowa, Louisiana, Michigan, North Dakota, Oklahoma, Oregon, Pennsylvania and South Carolina have opened their gates.

The Agriculture Department has set aside $1.5-million to finance the program this year. It is expected to be continued, and still on an experimental basis, next year. If it is judged a success, the department may ask Congress to provide funds to expand the program throughout the nation.

Opening his property to the public is about the only action a participating farmer has to take, besides posting signs along his fences. These signs, supplied by the local Agricultural Stabilization and Conservation Service, state that hunting or fishing or both are permitted without charge on the farm. The sign includes two lines of type reading "discrimination on the basis of race, color, or national origin is prohibited."

The farmer does not have to place any special improvements on his property. He may open all or part of his land to the visitors. He may also request them to stay away from his buildings and he may set rules on fires and overnight camping if he chooses.

The annual fee paid to the farmer is set by local agriculture officials and is based on the estimated value of the recreational possibilities on the farm and how much land, when hunting is permitted, is available to hunters. Payments may range from as low as $100 to more than $1,000 a farm.

Charles W. Smith, whose farm is within a few miles' drive of Indianapolis, has been paid $150 for permitting people to fish in his three-acre pond and $150 more to allow squirrel and quail hunters to shoot on his property this fall.

Since fishing weather became good at the beginning of the summer, more than 1,300 fishermen have tried the Smith pond. Many of them came from Indianapolis. Some came from as far away as Michigan, California and Arizona.

"They sure don't bother anything and most of 'em clean up pretty good afterwards," Mr. Smith said. "I stocked the pond myself about six years ago and there's some real dandy channel cat and bluegill in there. The word is getting around, and I figure they'll be out bigger than ever until the weather gets too cold."

"NEIGHBORS" A BIT

Mr. Smith's pond is only a few yards away from his house and barn, but he said the visiting fishermen had not bothered him in the least.

"I go down and neighbor a bit with them," he said. "I've found most of them real nice folks. They were real nice about everything. Why, I even get some Cherokee Indians that come out often, catch their fish and cook 'em right on the bank and sometimes they stay all night. I don't care, because they always clean up pretty good after."

The local agriculture officers have publicized the program through newspapers, and each office of the stabilization service has lists of participating farms and directions on how to reach them.

Mr. Earp of Oklahoma, who says he has been told that he is a distant relative of the legendary Wyatt Earp, the Dodge City deputy, said he had not bothered to restrict visitors in any way.

Five of his man-made farm ponds, well-stocked with fish donated by the state wildlife department, are open to fishermen, and hunters can roam over 700 acres of his pastureland in search of dove, quail and, later in the year, deer.

"There's been a few real good parties thrown here this summer," he told a visitor. "But they're paying for old beer cans these days, and the kids come out and pick up what's left, so I don't have any problems."

Mr. Earp said that, at first, he had been worried that somebody pretending to fish might steal some of his beef cattle.

"Well, I figure now that having people around the pond so much is going to help stop that," he said. "Last year, somebody stole four good calves. I haven't been bothered this year. Besides, I'll get somewhere near $1,000 for the hunting and fishing contract. Go a good way toward paying my property tax, I'll tell you."

Oklahoma's turtledove season opened last week and the hunters were moving in on Mr. Earp's farm to the north of Stroud and on Marion Wright's dairy farm to the west, in central Oklahoma.

Mr. Wright has opened 425 acres to hunters for the dove, quail and deer seasons that will run through December.

"I sure hope none of those users will be silly enough to shoot toward my cows, but it's a risk I'll take," Mr. Wright said. "I suppose there could be some people come in here you wouldn't want on your farm. And there's always some city people that slip in to hunt anyway without asking you. But usually a good sportsman will come by to see if it's all right to hunt. This way, they won't have to bother because the signs are up and they know they can go in."

Mr. Wright said the $850 he expected to receive for participating in the pilot program had been an attractive incentive.

Including the Earp and Wright farms, there are now 36 farms open for hunting under the program here in Lincoln County, most of them about an hour's drive from either Tulsa or Oklahoma City. There are 41 more farms in Pawnee County, west of Tulsa, open to hunters.

"The big hunters, with good resources, usually have farms lined up for shooting long beforehand," said Gerald Briscoe, the Lincoln County stabilization service director. "It's the old boy that has a couple of kids or grandkids and who just wants to spend an afternoon out with them that this program really helps."

ADDRESS BY SENATOR MUSKIE BEFORE INTERNATIONAL CITY MANAGEMENT ASSOCIATION

Mr. ERVIN. Mr. President, on Monday the distinguished junior Senator from Maine (Mr. MUSKIE) spoke at the opening conference of the International City Management Association in Minneapolis.

In that speech, Senator MUSKIE urged these local government leaders to join in a drive to make Government at all levels "an open process" by adopting measures that would "systematically disclose actions taken and arguments held behind closed doors or sealed away in inaccessible files."

The Senator further warned:

> To many citizens, government at all levels has become a cold, impersonal and unresponsive force, too remote to fight, too complex to change, too powerful to ignore. What should be open to their participation seems closed to their concerns.

The Senator from Maine in that speech has hit upon an issue that must be of the utmost concern to all of us. If our democratic process is to remain strong, the people of this country must know what Government is doing and participate in Government decisions.

I ask unanimous consent that the remarks of Senator MUSKIE to the International City Management Association be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY SENATOR EDMUND S. MUSKIE TO THE INTERNATIONAL CITY MANAGEMENT ASSOCIATION, MINNEAPOLIS, MINN., SEPT. 18, 1972

I am anxious to talk today about a trend in our lives that bothers me a great deal, the tendency of government to escape the control of men. In a recent *New York Times* article on the same subject, President Nixon's chief speechwriter, William Safire, told of an occasion when the President was assured that a pending problem had been referred to "the appropriate mechanism" perhaps, in this Administration, that is exactly what happened, but even Mr. Safire felt the phrase was unfortunate.

The description, however, reflects a depressing truth about the way Americans see their government. To many citizens, government at all levels has become a cold, impersonal and unresponsive force, too remote to fight, too complex to change, too powerful to ignore. What should be open to their participation seems closed to their concerns.

This is especially true in Washington, of course, and in the giant metropolitan areas where bigness, almost by itself, defeats the community instinct. Coming from a small city myself, as do many of you, I have greater faith in the harmony such towns can provide. But even in many of them, there is a growing alienation of the individual from his society.

Government, at most levels, is becoming as mechanical and frustrating as a computer-ruled corporation. Both seem to be machines whose errors, whether they are minor overcharges or major policy mistakes, are equally frustrating to combat. People who are numbers, instead of personalities, to their bankers, their city planners and their Federal tax collectors lose not only their own identity but their social reality. Statistics cannot generate compassion. Ciphers cannot effect change.

Instead, the temptation grows for the machine to manipulate the faceless mass. Anonymity breeds anomie; first, the individual loses his bearings and his standards; then society drifts after him into powerlessness and insecurity.

I am not a Jeremiah. I do not see decline and doom as imminent or inevitable. America remains strong and anxious to find better answers, to correct injustice, to improve the quality of a civilization that is already the most vigorous the world has seen.

Our size and the size of our problems compel the search for solutions on a national scale. Yet the American genius has always been seen in the guarantees we offered individuals to act and experiment. Our basic goals are easy to state—secure and rewarding work, decent housing, safe neighborhoods, quality schools, clean air and water, adequate health care, full recreational opportunities—but the goals are becoming increasingly hard to reconcile with each other and with the requirement of meeting them for 210 million people at once.

A good job is too often made the excuse for a dirty stream. Sound homes for one group may entail the destruction of a hiking trail. More money for a police force may require a cut in education budgets.

These are familiar problems of choosing among competing priorities. You do it every day in your cities. I do it in the Senate. All of us are under pressure from different interested groups and groups of interests claiming exclusive consideration for their views. And all of us, in the end, have to answer to ourselves for our decisions.

* * * * *

What worries me is not the clash of pressures. We can cope with them, or we should not be trying to govern. Instead, I am disturbed by a silence in the midst of tumult, by an unheard voice, an unregistered opinion. I do not hear—and I suspect you do not either—as often as I should or would wish to from the unincorporated American, the single and singular citizen whose life we are shaping.

* * * * *

Let me give you a concrete example. The Senate Government Operations Committee spent some 30 hours in Executive session in July and August before it favorably reported a bill to establish a Consumer Protection Agency. The legislation is fairly controversial, but it has received little public notice. As a member of the committee, but neither a sponsor nor avowed opponent of the bill, I have received 101 letters or telegrams soliciting my vote one way or another.

One letter was from the Consumer Federation of America, one telegram was from Common Cause. With seven other organizations, they supported a strong bill. Ninety-one other pieces of correspondence, as well as a personal visit to my office by the representative of a manufacturer in Maine, was generated by opposition to the Act—from the Sun Oil Company, Scott Paper, Reynolds Metals, The Teamsters Union, The National Association of Manufacturers, The Farm Bureau, Governor Wallace of Alabama and a Maine newspaper publisher who happens to be my brother-in-law.

Only one letter came from a housewife, the consumer for whose protection, in theory, the legislation had been drafted. She supported the bill, and so, as it happened, did I, but if any of the Senators who hoped they were acting on behalf of American shoppers had had to rely on the voice of those whose interests seemed to be at issue, the Consumer Protection Agency would be a dead letter.

* * * * *

Or at a level nearer your immediate concerns, there is one situation uncovered by my Subcommittee on Intergovernmental Relations in the field of property tax assessment. In one city we found the largest taxpayer—U.S. Steel—could easily prevent even the mayor from examing the company's financial and tax records. Across the country we have found, by contrast, that individual homeowners have no easy way of determining whether the assessments on their property are fair or are in line with other values in their neighborhood.

The process that often makes it possible for giant companies to negotiate their tax bills in relative secrecy simultaneously baffles the householder who might well have grounds to appeal an arbitrary assessment. In both situations, equity is sacrificed, and the average man's feeling of powerlessness is aggravated.

* * * * *

This imbalance between citizen involvement and special interest representation in decision-making shows up over and over again. In another Senate Committee, we recently finished the first round of a hard fight over reallocating the revenues of the highway trust fund to the needs of urban mass transit.

I believe the federal highway program needs significant redirection. As it works now, it encourages urban sprawl and wasteful land use. It abets congestion in our cities and automobile exhaust pollution in our air. It compounds the social and economic handicaps on those who cannot afford or cannot drive cars, and it ignores the possibility that an energy shortage may force us . . . perhaps sooner than we imagine . . . to consider restricting private automobile use.

Many Americans . . . many of my colleagues in Congress . . . share this concern, and I am hopeful that we can amend the bill in the Senate to free an $800 million portion of the fund for use by the cities for whatever mass transportation programs they wish to advance. We would be blind to continue a system that makes Federal funds for highway construction available at rates up to nine dollars for each local dollar spent, but restricts Federal aid to mass transit to a maximum of two dollars for every one dollar of local funds.

No matter how this issue is decided in this section of Congress, however, the fact remains that very few Americans will participate in this decision, even though almost all of us will be affected by its outcome. The corporations who build roads and sell steel and concrete for them will participate in the debate. The trucking companies whose economic interest is intimately involved in the outcome will bring their influence to bear. I hope some city officials for whom freeways—at a local cost this year of over three billion dollars—have lost their charm will also make themselves heard.

But the worker who must invest in a second car to get from his home to his job will probably not register any opinion. The elderly woman who must depend on the kindness of friends to take her shopping or to a doctor will probably not express her views to the Congress or the Department of Transportation. The ghetto child walled off from the rest of his city by a maze of highways and an inefficient network of public transportation will not go on record in this decision.

* * * * *

Land use policy is another significant issue now before the Senate. Some of us are seeking new policy directions to help cities readjust property taxation systems so that taxes falling heavily on buildings and lightly on land do not accelerate blight in the urban centers but assist renovation and revival of communities that must again become the focus of men's best energies and the setting for our highest opportunities.

Again, though, I worry that the decision will be made and shared and understood by so very few people. And every crucial choice that is made in such a way—by a limited number of knowledgeable or self-interested people without the full expression of public sentiment—diminishes the strength of democracy.

* * * * *

Our strength is diminished when high government officials participate in negotiations to sell wheat to the Soviet Union and then take their inside knowledge to jobs with companies profiting from the export agreements. The Democratic process is eroded when officials of a conglomerate can obtain sanction for their merger ambitions in backdoor deals with the Justice Department. And citizen influence on government becomes a fraud when we can only learn from stolen documents the truth about key policy decisions and the men who make them in secret.

Why is participation so limited? Partially, of course, because people are understandably preoccupied with managing their private lives. But, we risk making apathy a virtue when we discourage people from taking a civic role. We can and do discourage them by treating attempts at intervention as nuisances, by bucking complaints as fast as possible to the next man's desk, by managing paper and not men and women.

Above all, a government that arrogates all wisdom to itself, a system that puts a premium on keeping its doings confidential naturally rebuffs outside interference, no matter how potentially helpful. It is easier and faster to say, "I can't be bothered" than to seek citizen involvement, but it is more than ever necessary to solicit such participation. Without it, we will build even thicker walls around our government and shut out the light and heat of reality.

* * * * *

I do not have any easy solution to the problem I have posed—how to reverse the trend toward government by elites and by experts; how to involve the people more closely in guiding their own destiny. But it seems to me both ironic and dangerous that we can put millions of people into instant touch with a moonwalk or a massacre in Munich, and yet hamper them from communicating effectively with each other and with those they elect to govern them.

* * * * *

To begin with, we must adopt one basic and, I admit, inconvenient principle: government has to be an open process. I do not mean only that our political parties have to have wider representation of minority views than they do even now or that there is a magic formula for alloting places of power according to age, sex, race, economic status or residential or ethnic background.

Rather, I believe we must systematically disclose actions taken and arguments held behind closed doors or sealed away in inaccessible files. Decisions which seem complex or sophisticated cannot, for that reason, be referred to "appropriate mechanisms." They and their likely effects have to be exposed and explained as broadly as possible.

* * * * *

The Senate took one step in that direction last week when it passed a bill developed by Senator Lee Metcalf in my Subcommittee to open to the public the meetings of government advisory committees. Until now, these committees have been serving as secretive conduits for special interest influence on major government decisions.

Let us see, though, what open government ought to mean closer to home—at the local level. The Revenue Sharing Act the Senate adopted last Tuesday carries language requiring city, county and state officials to publish in their local newspapers regular reports on how funds received have been used and are to be used.

In theory, these will be the same reports as those sent to the Secretary of Treasury. In fact, I would hope you would see these reports not as columns of dry statistics embedded in conventional jargon, but as opportunities to inform and involve your neighbors in your decisions. If you choose, the reports can be occasions for real discussion of local priorities.

Whether through a televised city council meeting at which citizens are encouraged to present their own suggestions . . . and criticisms . . . for appropriate spending programs or at a series of smaller sessions—neighborhood town meetings, perhaps—I believe you must do everything possible to make the taxpayer feel responsible for the way his tax dollars are spent. I know this means more time spent suffering bores gladly, but the Federal Government is making you and other local officials a grant of trust.

The Congress has rejected the argument that separating tax collecting from spending would merely encourage waste at the local level. It is up to you to prove that our decision was sound.

Your response must be one of carrying the trust a step farther . . . to the people from whom the revenue to be shared came in the first place. You have to tell them what you are doing, why you are doing it and what your actions will mean to their lives. Instead of waiting to be petitioned or invaded by frustrated and angry citizens, our city councils—and city managers—have to make the effort of going where the people are, of soliciting their constructive participation in the workings of their government.

* * * * *

I fully realize that this consultation cannot be effective unless, as your task force on management criteria recommends, we put Federal grants on a more reliable and less restrictive footing. I am well aware of the frustration that comes from seeing an imaginative local program wither away because funding disappears or from losing an opportunity for action because money that is promised does not come when it is needed.

Revenue sharing is part of the answer. Additionally, I am happy to tell you that my Intergovernmental Cooperation Act of 1972 was approved by the Senate last Thursday. It is still to be considered by the House, but I am hopeful of its passage there and of a smoother-running system of Federal grants to local governments in the future.

* * * * *

Earlier, I spoke of the need to improve property tax administration. My proposals for reform and relief in this crucial area of local finance are not likely to be acted on at this session. But the momentum built in this area will not, I feel sure, die with the election campaign.

I advocate . . . and I hope you will consider the idea favorably . . . a system of direct Federal help to the elderly poor with their property tax bills. But my proposal is tied to a reform that would assure each taxpayer's receiving a clear explanation, with his tax bill, of how his property was assessed, how his assessment fits with that of similar property in his neighborhood, and how major taxpayers in his city are being assessed.

Disclosure is the key feature of the system. The change would require more frequent studies of the relationship between assessed and real values than most local appraisal authorities now conduct. I think the Federal Government must be prepared to assist in those studies, with necessary financing at the beginning, with its own, impartial experts when needed, with the property value information its agencies regularly collect and with its own appraisals of complex industrial sites for which no real market value exists. It is essential that governments which rely heavily on property taxation take great pains to insure that the tax burden is not only fairly shared but also is seen to be equitable.

Before loading you down with advice, of course, the Congress must act to put its own house in order and on public view. Our floor debates obviously need to be more informative and inclusive. Too many of our *real* decisions are taken in Executive Committee session, contrary to the requirement that we involve those we represent.

We must change our rules to make it harder for committees to transact the public business in secret. If we are going to close our committee room doors, we should at least have to explain why we are doing so, not assume, as we almost automatically do, that our performance at the negotiating table cannot be improved by outside judgments.

* * * * *

Finally and, in fact, crucial to dismantling government by machine, the Executive Branch must set the pace toward disclosure. It is bad enough when large interests have easier access to the White House than ordinary citizens; confidence is destroyed when the normal bureaucratic preference for secretive efficiency overrides all consideration of public participation.

We can legislate greater openness in government, and I intend to press for the fundamental reform set out in my Truth-In-Government Act, the institution of an independent board to review all Federal decisions on classification. Until now, we have left the Executive Branch alone to police this area, and, to quote Nikita Khrushchev, the result has been like "setting the goat to guard the cabbage patch." Between June 1967 and July 1971, the government investigated 2,433 instances of violations in the area of national security classification. 2,504 people were punished with anything from a reprimand to a loss of pay.

Every one of those individuals was penalized for failing to protect the secrecy of information in one way or another. In only two cases were there investigations of people who disregarded the decree that "over-classification shall be scrupulously avoided." And in neither of those cases were any administrative penalties assessed.

We must set these priorities right. We must give dominant weight to the people's right to know.

Since 1965 we have been working with the Freedom of Information Act. But it has not had a happy history, because, by itself, it could not explicitly reverse the built-in psychological pressure for big government to use its size as a hiding place for error, a camouflage for soullessness.

* * * * *

Only good and open administration and constant public scrutiny can make government responsive to all its constituents, instead of just the privileged and expert few. As we are men ruled by human laws, not automatons operating in a mechanized vacuum, we are certain to make errors in attempting to build ourselves a stronger and fairer society. What we may lose in efficiency, however, I feel we will gain through a more responsive democratic process. Opening up our conduct of office should also mean closing out a future of alienation and discord.

I began this talk by quoting with approval from a Republican writer. I want to end with a citation from a more familiar and comfortable source . . . myself.

A book I wrote this year called "Journeys" has this appropriate passage: ". . . we tend to forget that the strength of the country depends heavily on the social and economic health of thousands of communities, where the lessons of mutual confidence and cooperation are learned or forgotten. These are the laboratories where experiments in national policy are tried, and where successes or failures are enjoyed or suffered. These are the places where such concepts as equality and justice are tested to see if they have meaning in the classrooms and the job markets, on the streets, and in the courthouses. If democracy doesn't work in the community, it won't work at our national conventions or in our national capital, and if our communities are not whole, then the United States cannot fulfill its national responsibilities at home or abroad."

DR. WOLFGANG FRIEDMANN

Mr. JAVITS. Mr. President, I was shocked to read of the death of Prof. Wolfgang Friedmann, distinguished professor of international law at Columbia University. Dr. Friedmann was brutally murdered after being robbed several blocks from the Columbia campus. His murder shows again why we must seek in every way to deal with the random lawlessness and brutality that exists in so many of our great cities today. It is indeed tragic that Dr. Friedmann, who worked so long and hard for international peace, could not find ultimate peace himself in the United States. His distinguished scholarship in the field of international law is a great landmark for the role of law in the world. I extend my deepest sympathy to Mrs. Friedmann sons.

I ask unanimous consent that the front page story about Dr. Friedmann, published in the New York Times today, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Professor Slain in Mugging Here—Dr. Friedmann Is Stabbed Near Columbia Campus

(By Emanuel Perlmutter)

Dr. Wolfgang G. Friedmann, professor of international law and director of international legal research at Columbia University, was robbed and stabbed to death yesterday afternoon three blocks from the campus.

The police, responding to an anonymous phone call, found the body of the 65-year-old scholar and refugee from Nazi Germany in front of Public School 36 on Amsterdam Avenue between 122d and 123d Streets. His gray shirt and blue blazer sport jacket were bloody. His wallet was missing, and his attaché case was lying at his side.

Witnesses told detectives they had seen three youths between 15 and 17 years old wrest a wallet from Dr. Friedmann's pocket. They said that his assailants had tried to seize his wrist watch and that the professor had resisted. A struggle ensued in which he was stabbed near the heart and then the youths fled, the witnesses said.

Mayor Lindsay issued a statement last night in which he expressed outrage at the crime and announced that he had directed Police Comimssioner Patrick V. Murphy to start a round-the-clock hunt for the assailants.

Dr. Friedmann once before was attacked, but he was successful in fighting off his assailants. In 1956, he was walking through Riverside Park on his way home from classes when two youths attacked him. One punched him in the eye, but the professor fought back, punching and wrestling with the two youths and throwing one to the ground. Then his attackers fled.

Last night three youths picked up by police at the scene of the crime were taken to the West 126th Street Police Station for questioning. The police would not say whether the youths were being questioned as witnesses or suspects.

Dr. Friedmann, who was born in Berlin on Jan. 25, 1907, fled Germany after the Nazis came to power. In World War II he served with the political intelligence department of the British Foreign Office and with the Allied Military Government from 1944 to 1947.

He was the author of numerous works on international law, legal aspects of foreign investment, world politics, social change and finance. His home was in North Salem, N.Y.

Deputy Chief Inspector Jules Sachson arrived at the scene at 5 p.m. to take charge of the investigation. There was only one stab wound in the body, which was taken to the Bellevue Hospital morgue at 6:30 p.m. for autopsy.

It was the second assault against a faculty member of Columbia in the last two months. On July 25, Henry S. Coleman, dean of Columbia College, was shot and seriously wounded in his office by a former student who was seeking readmission following his dismissal for bad grades. The student is still being sought.

Dr. William McGill, president of Columbia University, said: "I was shocked and saddened by the death of Professor Friedmann. It produces feelings beyond expression. He was not just an eminent scholar of international law. He was my friend and colleague."

And Michael I. Sovern, dean of the Columbia Law School, said "I grieve for him, for us, and for a world that violently carries off its men of peace." He said that the time and place for a memorial service to Dr. Friedmann would be announced shortly.

WAS JUDGE IN GERMANY

David Kern, a Columbia student and a friend of one of Dr. Friedmann's four sons, recalled last night that the slain scholar frequently spoke about the days when he had been a judge in Germany before the war.

According to Mr. Kern, Dr. Friedmann told him that Nazi stormtroopers would sometimes come into his court demanding sterner penalties for accused criminals. Dr. Friedmann would tell the Nazis to get out of his court, Mr. Kern said.

In a brief news conference held last night at the scene, Detective Capt. Martin Kost said that the police had conducted an intensive search in the area but had found no weapon. He said that nobody had gone to Dr. Friedmann's aid during the assault.

In his statement last night, the Mayor said that he had spoken to the professor's widow May, to convey his "deepest and most heartfelt sympathy" to her and her four sons, Anthony, John, Peter and Martin Friedmann. He said he had also expressed shock to Dr. McGill.

"I have assured Mrs. Friedmann and President McGill that no effort will be spared to apprehend those responsible," Mr. Lindsay said.

"I call on all citizens who have any information pertaining to the murder to help the police in this highest priority investigation. Anyone with information should call 663-9500 or 663-9501."

Dr. Friedmann obtained his law degree from the University of Berlin in 1930. He received graduate law degrees later from the University of London and the University of Melbourne and was admitted as barrister-at-law in Middle Temple, London.

In addition to Columbia, he had been on the law faculties of the University of Toronto and the University of Melbourne. He delivered the Carnegie Lectures at The Hague in 1959 and was a visiting professor at the University of Paris in 1969.

His best known books were "Law and a Changing Society," published in 1959 and "Changing Structure of International Law," published in 1964.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. All time for morning business having expired, morning business is closed.

OLDER WORKER COMMUNITY SERVICE EMPLOYMENT ACT

The PRESIDING OFFICER (Mr. Mondale). Under the previous order, the Chair lays before the Senate S. 555, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 555) to authorize the establishment of an older worker community service program.

The Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Older American Community Service Employment Act".

OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM

Sec. 2. (a) In order to foster and promote useful part-time work opportunities in community service activities for unemployed low-income persons who are fifty-five years old or older and who have poor employment prospects, the Secretary of Labor (hereinafter referred to as the "Secretary") is authorized to establish an older American community service employment program (hereinafter referred to as the "program").

(b) In order to carry out the provisions of this Act, the Secretary is authorized—

(1) to enter into agreements with public or private nonprofit agencies or organizations, agencies of a State government or a political subdivision of a State (having elected or duly appointed governing officials), or a combination of such political subdivisions, or Indian tribes on Federal or State reservations in order to further the purposes and goals of the program. Such agreements may include provisions for the payment of costs, as provided in subsection (c), of projects developed by such organizations and agencies in cooperation with the Secretary in order to make the program effective or to supplement it. No payments shall be made by the Secretary toward the cost of any project established or administered by any such organization or agency unless he determines that such project—

(A) will provide employment only for eligible individuals, except for necessary technical, administrative, and supervisory personnel, but such personnel shall, to the fullest extent possible, be recruited from among eligible individuals;

(B) will provide employment for eligible individuals in the community in which such individuals reside, or in nearby communities;

(C) will employ eligible individuals in services related to publicly owned and operated facilities and projects, or projects sponsored by organizations exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code of 1954 (other than political parties), except projects involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship;

(D) will contribute to the general welfare of the community;

(E) will provide employment for eligible individuals whose opportunities for other suitable public or private paid employment are poor;

(F) will result in an increase in employment opportunities for eligible individuals, and will not result in the displacement of employed workers or impair existing contracts;

(G) will utilize methods of recruitment and selection (including, but not limited to, listing of job vacancies with the employment agency operated by any State or political subdivision thereof) which will assure that the maximum number of eligible individuals will have an opportunity to participate in the project;

(H) will include such training as may be necessary to make the most effective use of the skills and talents of those individuals who are participating, and will provide for the payment of the reasonable expenses of individuals being trained, including a reasonable subsistence allowance;

(I) will assure that safe and healthy conditions of work will be provided, and will assure that persons employed in public service jobs assisted under this Act shall be paid wages which shall not be lower than whichever is the highest of (i) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the participant and if he were not exempt under section 13 thereof, (ii) the State or local minimum wage for the most nearly comparable covered employment, or (iii) the prevailing rates of pay for persons employed in similar public occupations by the same employer;

(J) will be established or administered with the advice of persons competent in the field of service in which employment is being provided, and of persons who are knowledgeable with regard to the needs of older persons;

(K) will authorize pay for necessary transportation costs of eligible individuals which may be incurred in employment in any project funded under this Act in accordance with regulations promulgated by the Secretary; and

(L) will assure that to the extent feasible such projects will serve the needs of minority, Indian, and limited English-speaking eligible individuals in proportion to their numbers in the State.

(2) to make, issue, and amend such regulations as may be necessary to effectively carry out the provisions of this Act.

(c)(1) The Secretary is authorized to pay not to exceed 90 per centum of the cost of any project which is the subject of an agreement entered into under subsection (b), except that the Secretary is authorized to pay all of the costs of any such project which is (A) an emergency or disaster project or (B) a project located in an economically depressed area as determined in consultation with the Secretary of Commerce and the Director of the Office of Economic Opportunity.

(2) The non-Federal share shall be in cash or in kind. In determining the amount of the non-Federal share, the Secretary is authorized to attribute fair market value to services and facilities contributed from non-Federal sources.

ADMINISTRATION

SEC. 3. (a) In order to effectively carry out the purposes of this Act, the Secretary is authorized to consult with agencies of States and their political subdivisions with regard to—

(1) the localities in which community service projects of the type authorized by this Act are most needed;

(2) consideration of the employment situation and the types of skills possessed by available local individuals who are eligible to participate; and

(3) potential projects and the number and percentage of eligible individuals in the local population.

(b)(1) The Secretary is authorized and directed to require agencies and organizations administering community service projects assisted under this Act to coordinate their activities with agencies and organizations conducting related manpower programs receiving assistance under other authorities such as the Economic Opportunity Act of 1964, the Manpower Development and Training Act of 1962, and the Emergency Employment Act of 1971. In carrying out the provisions of this paragraph, the Secretary is authorized to make necessary arrangements to include projects assisted under this Act within a common agreement and a common application with projects assisted under other authorities such as the Economic Opportunity Act of 1964, the Manpower Development and Training Act of 1962, and the Emergency Employment Act of 1971.

(2) The Secretary is authorized to make whatever arrangements that are necessary to carry out the programs assisted under this Act as part of any general manpower legislation hereafter enacted, except that appropriations for programs assisted under this Act may not be expended for programs assisted under that Act.

(c) In carrying out the provisions of this Act, the Secretary is authorized to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement, and on a similar basis to cooperate with other public and private agencies, and instrumentalities in the use of services, equipment, and facilities.

(d) The Secretary shall establish criteria designed to assure equitable participation in the administration of community service projects by agencies and organizations eligible for payment under section 2(b).

(e) Payments under this Act may be made in advance or by way of reimbursement and in such installments as the Secretary may determine.

(f) The Secretary shall not delegate his functions and duties under this Act to any other department or agency of Government.

PARTICIPANTS NOT FEDERAL EMPLOYEES

SEC. 4. (a) Eligible individuals who are employed in any project funded under this Act shall not be considered to be Federal employees as a result of such employment and shall not be subject to the provisions of part III of title 5, United States Code.

(b) No contract shall be entered into under this Act with a contractor who is, or whose employees are, under State law, exempted from operation of the State workmen's compensation law, generally applicable to employees, unless the contractor shall undertake to provide either through insurance by a recognized carrier, or by self insurance, as allowed by State law, that the persons employed under the contract, shall enjoy workmen's compensation coverage equal to that provided by law for covered employment. The Secretary must establish standards for severance benefits, in lieu of unemployment insurance coverage, for eligible individuals who have participated in qualifying programs and who have become unemployed.

INTERAGENCY COOPERATION

SEC. 5. The Secretary shall consult and cooperate with the Office of Economic Opportunity, the Administration on Aging, the Department of Health, Education, and Welfare, and any other related Federal agency administering related programs, with a view to achieving optimal coordination with such other programs and shall promote the coordination of projects under this Act with other public and private programs or projects of a similar nature. Such Federal agencies shall cooperate with the Secretary in disseminating information about the availability of assistance under this Act and in promoting the identification and interests of individuals eligible for employment in projects funded under this Act.

EQUITABLE DISTRIBUTION OF ASSISTANCE

SEC. 6. (a)(1) From the sums appropriated for any fiscal year under section 8 there shall be initially allotted for projects within each State an amount which bears the same ratio to such sum as the population aged fifty-five or over in such State bears to the population aged fifty-five or over in all States, except that (A) no State shall be allotted less than one-half of 1 per centum of the sum appropriated for the fiscal year for which the determination is made; and (B) Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall each be allotted an amount equal to one-fourth of 1 per centum of the sum appropriated for the fiscal year for which the determination is made. For the purpose of the exception contained in this paragraph, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(2) The number of persons aged fifty-five or over in any State and for all States shall be determined by the Secretary on the basis of the most satisfactory data available to him.

(b) The amount allotted for projects within any State under subsection (a) for any fiscal year which the Secretary determines will not be required for that year shall be reallotted, from time to time and on such dates during such year as the Secretary may fix, to projects within other States in proportion to the original allotments to projects within such States under subsection (a) for that year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates that projects within such State need and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for that year.

(c) The amount apportioned for projects within each State under subsection (a) shall be apportioned among areas within each such State in an equitable manner, taking into consideration the proportion which eligible persons in each such area bears to such total number of such persons, respectively, in that State.

DEFINITIONS

SEC. 7. As used in this Act—

(a) "State" means any of the several States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands;

(b) "eligible individual" means an individual who is fifty-five years old or older, who has a low income, and who has or would have difficulty in securing employment;

(c) "community service" means social, health, welfare, educational, library, recreational, and other similar services; conservation, maintenance or restoration of natural resources; community betterment or beautification; antipollution and environmental quality efforts; economic development; and such other services which are essential and necessary to the community as the Secretary, by regulation, may prescribe.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There are hereby authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1973, and $150,000,000 for fiscal year ending June 30, 1974.

The PRESIDING OFFICER. Debate on the bill and amendments thereto is limited to 10 minutes to a side.

Mr. MANSFIELD. Mr. President, how does the time limitation read?

The PRESIDING OFFICER. Ten minutes to a side.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I be allowed to suggest the absence of a quorum without the time being taken out of either side, in the hope that the distinguished Senator from Massachusetts (Mr. KENNEDY), the manager of the bill, and the distinguished Senator from Colorado (Mr. DOMINICK), who is interested in this bill, will be in the Chamber shortly.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. TUNNEY). The Senator will state it.

Mr. KENNEDY. Do I understand correctly that the pending order of business is S. 555?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. And that there is a time limitation——

The PRESIDING OFFICER. Ten minutes to a side on the bill.

Mr. KENNEDY. I thank the Chair.

Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 10 minutes.

Mr. KENNEDY. Mr. President, I rise to speak in favor of S. 555, the Older Americans Service Employment Act which was unanimously approved by the Senate Labor and Public Welfare Committee.

This bill will provide $250 million over the next 2 years and is expected to create some 100,000 job opportunities for older workers.

The history to this legislation extends back to the 91st Congress when I introduced on March 18, 1970, S. 3604. Hearings were held and the major portion of the bill was incorporated in the comprehensive manpower bill which was later vetoed by the President.

At the outset of the 92d Congress, I reintroduced this legislation, again with a bipartisan list of cosponsors. Hearings were held and now that bill is before the Senate.

The urgency of action on this bill is clear. For during the past several years of rising unemployment, the impact on older workers has been particularly grim. From January 1969 to September 1971, unemployment for persons 45 and older jumped from 596,000 to 1,527,000, a 77-percent hike. And the large bulk of that increase fell on those individuals 55 and older.

What is perhaps even more of an indication of our failure to show a national sensitivity to the needs of these older workers is the recent reports from the Bureau of the Census. They show that some 6.8 million persons aged 55 and older are living in poverty, 25 percent of the Nation's 25.9 million poor. The impact of unemployed and poor older workers on the social service system of the Nation is increasing as a result with some 2.9 million Americans over 55 receiving public assistance. And the lack of income heightens the difficulties faced by older Americans in providing for their basic needs. The result of the lack of income and the absence of a meaningful role to play in society combine to propel older persons prematurely into custodial care institutions.

While the existing network of job opportunities for older workers in the private economy has been shrunk by the decline of our economy, the public service opportunities sponsored by Government have filled the gap.

The Emergency Employment Act of 1971 was the major Federal effort to provide public employment opportunities to our citizens. Yet the older worker, despite representing 25 percent of the poor, has received only 6 percent of the available EEA job opportunities, according to the Department of Labor. The Labor Department's administration of this program unfortunately has continued the past pattern of neglect for these older workers.

The most successful Federal effort in providing job opportunities to older Americans has been the economic opportunity pilot program, Operation Mainstream.

With Operation Mainstream support, the National Council of Senior Citizens has operated the senior aides project; National Farmers Union has directed the green thumb and green light projects; the National Council on Aging has funded senior community service projects, and the ARRT–NRTA has administered the senior community service aides project.

All of these projects have met with enormous success, success documented in evaluations carried out under Labor Department contract and success documented in testimony before the Senate Aging Subcommittee.

The projects on the whole have provided part-time work for older Americans, usually 4 hours a day, 5 days a week with an average wage of $2.15 per hour. In addition to the importance of the added income provided by these programs, older men and women have discovered a second vocation, a second career, a second opportunity to contribute to the life of the Nation.

Yet, despite the evident success of these programs, the total number of slots anticipated for fiscal year 1973 remains at under 30,000 even with the increased appropriations voted by the Congress.

When the magnitude of the need is measured at over a half million unemployed older workers and 6.8 million poor older persons, then the present level of job opportunities directed toward our older workers is negligible.

For that reason, the Older Americans Community Service Employment Act is vital to the needs of the Nation's older Americans. It is for that reason that every major group representing older Americans has testified in favor of this legislation and has sent telegrams and letters affirming their support for the early approval of this legislation.

For this bill represents a beginning step to meet the employment needs of older workers, providing 100,000 additional job opportunities in the next 2 years.

Unfortunately, despite the unanimous approval of elderly persons, of the AFL–CIO, and of State and national senior citizen groups, the administration has opposed this legislation.

Its objection to this program was the same as its objection to the nutrition for the elderly program which signed into law this spring. It is termed a categorical program and therefore not in keeping with the administration's general philosophy.

However, no administration witness could guarantee the committee that if this categorical program was not passed, that a single dollar more would be spent next year to provide additional job opportunities for older Americans.

And the opposition of the administration also is surprising since it conflicts with the President's own statement to the White House Conference on Aging last December. There the President said:

> Some of the best service programs for older Americans are those which give older Americans a chance to serve. Thousands of older Americans have found that their work in hospitals and churches, in parks and in schools gives them a new sense of pride and purpose even as it contributes to the lives of others.
>
> Federal programs to provide such opportunities have proven remarkably successful at the demonstration level. But now we must move beyond this demonstration phase and establish these programs on a broader, national basis.

Yet, despite the President's rhetoric, the administration consistently has opposed this bill which in fact would do exactly what the President applauded, namely, the establishment of these pilot programs on a broader national basis.

I wrote the Secretary of Labor, along with other Senators, to inquire whether the administration now supported this bill following the President's statement. However, we have never received an answer to that letter.

Despite the formal administration objection, the overwhelming evidence in support of the bill resulted in its unanimous passage by the Senate Aging Subcommittee and by the Senate Labor and Public Welfare Committee.

The bill does the following:

First, it seeks to convert the Operation Mainstream pilot programs into permanent nationwide programs.

Second, it would authorize the Secretary of Labor to enter into agreement with nonprofit private organizations and State or local governments to pay up to 90 percent of the cost of community service employment projects for low-income persons 55 and older who have or would have difficulty in locating employment. Also, 100 percent Federal funding would be authorized in economically depressed areas.

Third, it would authorize the Secretary of Labor to consult with State and local governmental units with regard to localities where community service projects are most needed, employment situation and types of skills processed by eligible individuals, and the number of eligible individuals in the local population.

Fourth, it would authorize the Secretary to encourage agencies administering community service projects to coordinate activities with agencies conducting existing programs of a related nature under the Economic Opportunity or Emergency Employment Act.

Fifth, it would require the Secretary to establish criteria designed to achieve equitable distribution of assistance among States and between urban and rural areas.

Finally, it would authorize $100 million for fiscal year 1972 and $150 million for fiscal year 1973.

Thus, this bill would create a focus for the advocacy of manpower training and job opportunities for the older workers within the Department of Labor. It would establish the authority for the creation of a nationwide, permanent program aimed at providing job opportunities for these workers in areas where they can best contribute to the life of the Nation, in hospitals, in schools, in libraries, and in other public service agencies.

I believe that this measure is part of the process of change in our concern for our older citizens that the Congress is stimulating. It is reflected in the nutrition for the elderly program passed this year and it is reflected in the 20-percent hike in social security payments passed this year. Passage of this legislation will continue that process, emphasizing as it does the critically important element of providing jobs for elder workers, jobs which benefit the entire society.

I urge the Senate to approve this bill.

Mr. President, I reserve the remainder of my time.

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER (Mr. TUNNEY). The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, I support the Older American Community Service Employment Act, which would authorize $100 million for fiscal year 1973 and $150 million for fiscal year 1974, to provide public service employment opportunities to low-income persons 55 years and older.

The conditions of unemployment and job scarcity which affect many of our citizens are particularly harsh in their effect on older persons; most vulnerable to technological change and subject as well to age discrimination, the older worker is often at a disadvantage in competing for existing jobs in the labor market.

As a result, there are approximately 6 million persons aged 55 and older living in poverty—representing more than 20 percent of the Nation's 25.9 million poor; in fact 2.9 million Americans 55 or older are public assistance recipients.

Existing public service employment and work experience programs have not been adequate to meet the employment needs of such persons.

The Emergency Employment Act of 1971, the principal legislative source for public service jobs, has brought only limited benefits to older persons. The Department of Labor reports that of the 177,528 persons employed under the act as of July 31, 1972, 9,596, or less than 6 percent, were 55 years or older and the Department estimates that the same approximate number of employment opportunities for older persons will be available in fiscal 1973.

Operation Mainstream, conducted under the Economic Opportunity Act of 1964, which provides work experience for older persons, is projected at a level of 29,800 opportunities for fiscal 1973.

Accordingly, it may be estimated that for fiscal 1973 an aggregate of approximately 40,000 public service employment and work experience opportunities will be available for older persons, a number less than 1 percent of the more than 6 million persons in that age group living in poverty.

The Older American Community Service Employment Act provides an authorization for the creation of an additional 40,000 jobs in fiscal year 1973 and for 60,000 jobs in fiscal year 1974, in public service areas of crucial importance to older persons as well as to others, such as health, transportation, housing, rural development, and environmental action.

The administration opposes this legislation on the basis that it would establish a new "categorical" manpower program and urges that the needs of older workers be met by the States, counties, and cities through comprehensive manpower reform legislation, such as is proposed by the administration in S. 1243, the Manpower Revenue Sharing Act of 1971; they suggest also that current programs are adequate and that S. 555 would be duplicative.

The basic position is set forth in a letter dated April 25, 1972, from Secretary of Labor, James Hodgson, to Chairman **Eagleton**, and in similar reports from other agencies, all printed in the committee report, beginning at page 9.

As I indicated in my supplemental views, joined in by Senator **Beall**, the ranking minority member of the Subcommittee on Aging, the administration's position is not without merit and it was my hope that there might be some prospect for consideration of comprehensive manpower training reform before consideration of this bill so that we might reconsider the latter in light of the total fabric of proposed new efforts.

However, since my views were written, the majority and minority leaders have made known their understanding that with few exceptions bills not reported by last Friday will not be considered in this Congress.

This had deadened the hope of consideration of manpower reform and thus necessitated the passage of this measure as a separate program.

However, fortunately, we anticipated that possibility and, in deference to the the Department of Labor have included in this bill very strong provisions dealing with coordination with existing programs and permitting the Secretary to lock this program into any subsequently enacted comprehensive manpower reform measure.

These provisions, which I authored, are set forth in paragraphs (1) and (2) of subsection 3(b) of the bill on page 14; they read as follows:

> (b)(1) The Secretary is authorized and directed to require agencies and organizations administering community service projects assisted under this Act to coordinate their activities with agencies and organizations conducting related manpower programs receiving assistance under other authorities such as the Economic Opportunity Act of 1964, the Manpower Development and Training Act of 1962, and the Emergency Employment Act of 1971. In carrying out the provisions of this paragraph, the Secretary is authorized to make necessary arrangements to include projects assisted under this Act within a common agreement and a common application with projects assisted under other authorities such as the Economic Opportunity Act of 1964, the Manpower Development and Training Act of 1962, and the Emergency Employment Act of 1971.
>
> (2) The Secretary is authorized to make whatever arrangements that are necessary to carry out the programs assisted under this Act as part of any general manpower legislation hereafter enacted, except that appropriations for programs assisted under this Act may not be expended for programs assisted under that Act.

It should be noted also that with respect to coordination with other programs affecting the aging, the committee bill contains in section 5—at page 17 of the committee bill—a direction that the Secretary of Labor consult and cooperate with the Office of Economic Opportunity, the Administration on Aging, the Department of Health, Education, and Welfare, and other agencies to achieve "optimal coordination" with other programs.

Mr. President, it is clear then that we have sought to meet the administration's basic concern with respect to proliferation, first by indicating our desire to have the bill considered in connection with manpower reform and, since that has failed, by falling back on strong authority to achieve administrative coordination and integration.

This leaves, of course, the administration's suggestion that the proposal programs is duplicative of existing programs.

This viewpoint is expressed in the letter from the Office of Management and Budget dated April 14, 1972 to chairman of the Committee on Labor and Public Welfare, Senator **Williams**, printed at page 10 of the committee report.

The letter from OMB's Assistant Director for Legislative Reference, Wilfred H. Rommel, states:

> S. 555 . . . would also duplicate activities currently carried out by the Department of Labor under existing legislative authorities. These include the recently expanded Mainstream projects which provide employment opportunities for older workers. In addition, under the Emergency Employment Act, State and local governments are providing thousands of meaningful employment opportunities for older workers.

Mr. President, the bill would duplicate to some extent activities now conducted under existing programs, but it is a necessary duplication for it appears that we have reached the saturation point in both of the existing programs.

Operation Mainstream is only a pilot program and has been maintained at about the same level of opportunities over recent years; the administration's request for fiscal year 1973 would create 5,000 more jobs than in fiscal 1972, but that hardly suggests an intent to make it a comprehensive program to meet the needs of the group.

Similarly, as I noted, the Emergency Employment Act is not designed principally for older persons and the decisions with respect to the age of participants are left basically to the States, counties, and cities; based upon the fiscal 1972 experience, it can hardly be relied upon.

As I noted earlier, together these sources will provide only 40,000 opportunities in fiscal 1973.

In contrast, the interim recommendations of the 1971 White House Conference on Aging—noting that present manpower programs fail to take adequate account of the unemployment problems of older people—recommends the creation of 1 million full and part-time jobs for older persons.

Mr. President, this bill, which would roughly double the opportunities in the current fiscal year, represents an intention to go beyond the existing pilot program and general funds to deal more adequately with the employment needs of older persons.

I urge adoption of the committee bill to deal with the needs of this group which has earned the Nation's continued attention and concern.

Mr. President, I ask unanimous consent that there be inserted in the **Record** at this point a letter dated September 12, 1972, from Assistant Secretary Malcolm Lovell to me in response to my letter of August 18, 1972, also to be inserted, regarding the Department's efforts for jobs for older persons to date.

There being no objection, the material was ordered to be printed in the **Record**, as follows:

U.S. Senate,
Committee on Labor
and Public Welfare,
Washington, D.C., August 18, 1972.

Hon. Malcolm R. Lovell, Jr.,
Assistant Secretary for Manpower,
U.S. Department of Labor,
Washington, D.C.

Dear Mr. Lovell: I would appreciate very much receiving a statement estimating the number of public service employment opportunities which will be funded during fiscal year 1973 for low-income persons who are fifty-five years or older.

Please include breakdowns by program, in terms of opportunities, funds available, and age; in the latter case it will be sufficient to indicate the number who are between fifty-five and sixty-five years of age, and those who are older.

If projections are unavailable, would you please provide estimates on the basis of the most recent experience.

Sincerely,

JACOB K. JAVITS.

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE ASSISTANT SECRETARY
FOR MANPOWER,
Washington, D.C., September 12, 1972.
Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: Thank you for your letter of August 18, 1972, in which you request information concerning the number of public service employment opportunities for persons who are 55 years or older.

The Public Employment Program, under the Emergency Employment Act of 1971, has had the following experience:

Of 177,528 persons employed as of July 31, 1972, five percent, or 8,716, were between 55 and 64 years of age. Those who were 65 years of age or over numbered 880. The total number of older participants, therefore, is 9,596. This trend has been fairly constant since the inception of the Public Employment Program. In view of the fact that the seasonally adjusted national unemployment rate for persons 55 years and older was 3.4 in July and has also remained stable during the year, we are satisfied that the Public Employment Program is more than fulfilling the needs of older workers within the parameters of the legislation.

We have no projections available for 1973. However, anticipating a similar utilization of older workers, we can expect the same approximate number of employment opportunities next year. This would involve expenditures of approximately $70 million in fiscal year 1973.

Thank you for your interest in our efforts to ameliorate the condition of unemployed or underemployed older persons.

Sincerely,

MALCOLM R. LOVELL, Jr.,
Assistant Secretary for Manpower.

Mr. DOMINICK. Mr. President, would the Senator yield me 2 minutes?

Mr. JAVITS. I yield 2 minutes to the Senator from Colorado.

Mr. DOMINICK. Mr. President, I just want to say that I think the Senator from New York has done a very excellent job in trying to coordinate this program with the existing manpower programs. It was his initiative in which I willingly joined to get this coordination put together.

I must say that one of the problems we have, of course, insofar as jobs for older people are concerned, is the automatic deduction they get, after they have earned a certain amount, from their otherwise deserved social security checks.

For many years I have been urging that we raise that limitation, knowing full well that to every dollar we raise it, to that degree we have a further drain on the social security fund. Nevertheless, it does not seem right to me to say if a person is going to take a job, the money he has put in social security should be reduced. I am hopeful we can have some debate on this point later on, if and when the social security bill comes to the floor of the Senate.

In the meantime, Mr. President, I point out this is apparently a noncontroversial bill. The Senator from Massachusetts and the Senator from New York know full well that I am not loathe to raise objections, either in committee or on the floor of the Senate, to any bill. We have agreed here unanimously to report the bill and to have 10 minutes of debate on a side on the bill, and then it seems to me we could move forward with a voice vote on the bill and go to other work in the Senate.

I thank the Senator from New York.

Mr. KENNEDY. Mr. President, I yield 2 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BELLMON. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 10, line 18, after the word "Reservations" "or other Federally recognized" Indian tribal groups.

Mr. BELLMON. Mr. President, the purpose of the amendment is very simple. The language in the bill limits the measure to Indian tribes on Federal or State reservations. We have about 110,000 Indians, more than any other State, and we have no reservations. So the language in the bill, in my opinion, would eliminate or make this measure unavailable to those Indians.

The purpose of the amendment is to include them in the same way as Indians on reservations are covered.

I believe the author of the bill is in agreement with the amendment.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, this subject did come up during the course of the deliberations of the committee. We thought the other language in the section would provide the opportunity for nonreservation Indians to take advantage of the bill. I think this language spells that out and clarifies it.

It is my intention, and I hope it is the intention of other members of the committee, to agree that those groups should be included. I think it is worthy and I have no objection.

I welcome the comments of the Senator from New York.

Mr. JAVITS. Mr. President, the Senator from Colorado (Mr. DOMINICK) and I have no objection. We will be glad to see the amendment agreed to.

Mr. DOMINICK. Mr. President, will the Senator from Oklahoma yield to me for 1 minute for a question?

Mr. BELLMON. I am glad to yield to the Senator if I have time remaining.

Mr. DOMINICK. I did not hear the clerk read the amendment, but I understand that this goes along with the wording adopted in the higher education bill at the Senator's request.

Mr. BELLMON. The Senator from Colorado is correct. The problem is that language which specifies Indian tribes on Federal or State reservations eliminates the 100,000 or more Indians we have.

Mr. DOMINICK. I congratulate the Senator for bringing up this point and preserving the rights of the people in his State.

The PRESIDING OFFICER. Is all time yielded back?

Mr. BELLMON. I yield back the remainder of my time.

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. KENNEDY. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I am prepared to yield back the remainder of my time. Then, I will ask for the yeas and nays on this measure, even though we are at the point now where there is virtual unanimity in the Senate in support of this program. However, this has not been the case either on this program or on nutrition for the elderly program, or several other elderly programs as far as the administration is concerned.

I think the elderly people of this Nation have been the forgotten minority. I find, in my visits to my State and in contacts with various representatives who have done such a good job in developing this legislation that they somehow have in their minds that we in Washington are not concerned or interested in their well-being; that we do not think programs directed to them are important or significant. Tragically, that has been their experience in the past, even under the Emergency Employment Act where elderly persons who make up 25 percent of the population living in poverty, are receiving only 6 percent of EEA jobs.

It is important that this body be aware of what they are voting on, and that this does not pass through as a matter of lesser significance and importance. So I am going to ask for the yeas and nays. I hope that the members of this body would feel that this matter, even if it has uniform support among Senators, is sufficiently important to come here from their offices and indicate their position on this important matter.

Finally, the administration failed to support this program, just as they did not support the nutrition program, right up to the end. I feel it is important that they understand that we are very serious about providing assistance to the elderly and that we will continue to press them further and continue to press Members to take positions on this subject.

For these reasons, I will ask for the yeas and nays.

I yield 1 minute to the Senator from Utah.

Mr. MOSS. Mr. President, I thank the Senator from Massachusetts.

I commend the Senator from Massachusetts for his sponsorship and leadership in bringing this bill to the Senate. I have spent more than 12 years on the Special Committee on Aging and I wish to associate myself with the remarks made by the Senator concerning our actions toward our elderly citizens. We have limited them. We have not provided opportunities to enable them to participate in society as full members. In fact, they should be the most honored members of our society, and certainly not forgotten members.

What this bill purports to do and will do for them certainly increases the state of humanity of our elderly citizens. I wish to support the bill fully and I hope we can have a unanimous rollcall vote indicating that the Senate is solidly behind the bill.

Mr. HUMPHREY. Mr. President, will the Senator yield?

The PRESIDING OFFICER. All time has expired.

Mr. JAVITS. Mr. President, I have 2 minutes remaining. I yield 1 minute to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. HUMPHREY. Mr. President, I join the Senator from Massachusetts, the Senator from Utah, the Senator from New York, and other Senators in supporting this bill. Good work has been done for older Americans in this session. The Senator from Massachusetts has been in the forefront of this effort. I have been privileged on other occasions to join him in support of his efforts. I am pleased he has asked for a rollcall vote.

Older Americans, among whom there is a larger share of poverty than in any other group, deserve care and attention and the consideration of this Congress more than any other group. This bill will do much to be of help. I join in the effort to get the bill passed.

Mr. JAVITS. Mr. President, I ask unanimous consent, rather than putting in an amendment, which is artificial, that each side have an additional 5 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. MANSFIELD. Mr. President, reserving the right to object, I would suggest that 5 minutes of that time be allocated to the Senator from Colorado.

Mr. JAVITS. That is my purpose.

The PRESIDING OFFICER. Is there objection to the request for additional time? Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I yield 5 minutes to the Senator from Colorado (Mr. DOMINICK).

Mr. DOMINICK. I thank the Senator from New York.

Mr. President, I take this opportunity only to bring up again the colloquy which I had yesterday, which is found on pages 31617 to 31618 of the RECORD, a colloquy between the distinguished majority leader (Mr. MANSFIELD), the distinguished assistant majority leader (Mr. ROBERT C. BYRD), the distinguished Senator from Rhode Island (Mr. PASTORE), and myself, in which all of us agreed that rollcall votes on noncontroversial matters were a total waste of time, that they did not accomplish a thing, and, I might add, that under the Senate practices and procedures which were agreed to by the joint leadership in January of 1971, at the suggestions of Senators CRANSTON, HUGHES, SAXBE, and SCHWEIKER, one of the things suggested was greater restraint on asking for rollcall votes on one-sided matters. There is nothing more one-sided than this particular bill. I have already said I was in favor of the bill. So has the Senator from New York (Mr. JAVITS). So has every other Senator who has gotten up and spoken on it.

What in the world do we need a rollcall vote for? All we do is embarrass every Senator who is not here. We interrupt committee meetings. We interrupt meetings Senators are having in their offices. We go back and forth like yo-yos from the Senate Office Buildings to the Capitol. But we are doing that just so someone, when he goes back home, can say, "Look what I did. I got a bill through by a vote of 76 to 0"—or whatever happens to be the number of Senators present at the time of voting.

Mr. AIKEN. I just heard the Senator from Colorado mention '76. Is the Senator referring to 1776 or 1976? I think much of our difficulty in getting our work done rests with the spirit of 1976. The spirit of 1976 is already too rampant in this body.

Mr. DOMINICK. I would certainly hope, when we have a noncontroversial matter, which we do have in this bill, that we could pass it by a voice vote and go on with our business. Yesterday I listed the number of votes taken in the past sessions. As a matter of fact, I have a list of those votes in my pocket.

In 1963, which session lasted, I believe, until December of that year, we had a total of 229 votes. In 1964 we had a total of 312. This year, to date, we have had over 430 votes—over twice as many on matters where there is agreement. Over and over and over again there have been no votes in the negative.

Of course, Senators can do it by rollcall. They could force this procedure, I suppose, somehow, but I am going to insist that we do it under the rules if we are going to do it at all. I suppose we have to have a quorum. Then we have to have one-fifth of that quorum. Then we have to have one-fifth of that quorum raise their hands. I am going to ask Senators on this side not to raise their hands. I suppose eventually we will get a quorum.

It is idiotic for the Senate to take time on rollcall votes on matters which are noncontroversial. This is a good bill; a fine bill, and it will put everybody on record, and everybody who does not happen to be here today, for one reason or another, will be embarrassed.

I might add that what I am doing, among other things, is probably helping the Democratic candidate for President, who has been present only 25 percent of the time the last 2 years. The fewer the rollcalls, the less his voting record will go down on the average.

It seems to me we have gone far enough in this. I say again that if it is insisted on, I am going to insist upon the rule.

Mr. ROBERT C. BYRD. Mr. President, what rule is the Senator going to insist on?

Mr. DOMINICK. That we have one-fifth of the Senators who previously voted or a quorum here, and in fact that they raise their hands for a yea-and-nay vote.

Mr. ROBERT C. BYRD. The Senator has the right to do that.

Mr. MOSS. Mr. President, I would like to have 1 minute.

Mr. MANSFIELD. Mr President, I would like to suggest the absence of a quorum, because we do not have 11 Members of the Senate present, and the yeas and nays are evidently going to be asked for

Mr. KENNEDY. Mr. President, I think there is time remaining to me.

Mr. MOSS. Mr. President, does the Senator have any time remaining?

The PRESIDING OFFICER. The Senator from Massachusetts has 5 minutes.

Mr. KENNEDY. I yield 2 minutes to the Senator from Utah.

Mr. MOSS. Mr. President, I listened to the Senator from Colorado with some interest. I think we should have a rollcall vote, and I would like to have a rollcall vote, but the point he made is one I tried to make on Friday last in the Senate, urging that a unanimous-consent agreement several days in advance of the rollcall votes to be held on subsequent bills that had not even been called up be vacated, because I suggested they might be unanimous, or nearly unanimous, in their passage. As the facts proved, they were, when we voted on them some 3 days later.

Unfortunately for me, I had committed myself to a speech before the American Mining Congress in San Francisco. On being absent that 1 day when it was necessary for me to make that speech, there were 10 rollcall votes on the floor of the Senate, and there were no close ones in the whole batch. But I think, having put our hand to the plough and said this is how we are going to run the Senate, we should not turn around now and go back. I want a rollcall vote on this one.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes.

It is interesting to hear about the uniformity and unanimity in support of this legislation, because the administration has fought this legislation. All one has to do is review the record and the letter from Elliot Richardson to the chairman of the committee, Mr. Harrison Williams, on September 6, 1971:

> We would therefore recommend that S. 555 not be favorably considered.

On April 14, from Mr. Rommel, Assistant Secretary for Legislative Reference:

> We recommend against enactment of S. 555.

They have opposed it all the way along the line.

If there are some Members on that side who do not want to follow the administration, which has taken a strong position in opposition to this legislation, that is fine; but when we have a substantial element of the administration which is opposed to it, just as it once opposed the nutrition for the elderly program, then

I think we should have a record vote of how we stand. I think the older people ought to know where we all stand on this matter. I think it is interesting that this point is being made against a program for elderly people. It is not made against some other program, but it is made against a program for elderly people.

Mr. DOMINICK. Come on, now. The Senator from Massachusetts knows the point is not being made against elderly people. It is made against the procedure of the Senate.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. PASTORE. Then when it is all over and we have passed this legislation they will embrace it and take credit for the bill we passed. They advocated a 5-percent increase in social security. We made it 20 percent. To listen to them on the stump, one would think they did it. After we pass it, they embrace it. They did the same thing on social security, on health, and on education, and it is about time that the American people began to understand just who is for the people and who has been opposing this program.

Mr. MANSFIELD. Mr. President, in an attempt to bring this to a head, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered.

The yeas and nays were ordered.

Mr. DOMINICK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Colorado will state it.

Mr. DOMINICK. As I understand it, Senators requesting the yeas and nays must constitute one-fifth of the number of Senators who were here on the preceding vote. Is that correct?

Mr. ROBERT C. BYRD. If the preceding vote is on the same day. It does not go back to the previous day.

Mr. DOMINICK. I did not ask the assistant majority leader. I asked the Chair.

The PRESIDING OFFICER. There has not been a vote today. The yeas and nays are ordered by one-fifth of a presumptive quorum, which is 51.

Mr. DOMINICK. And not by one-fifth of the number who were present on the preceding vote?

The PRESIDING OFFICER. Not on the preceding day, no.

Mr. DOMINICK. I thank the Chair.

Mr. PERCY. Mr. President, I am most pleased today to support and cosponsor S. 555, the Older Americans Community Service Employment Act. This legislation, very similar to title III of S. 1580 that I introduced, will help fund programs to provide jobs for low-income persons 55 years or older who have difficulty in securing employment. They would be employed in community service projects.

The sum of $100 million is authorized for fiscal year 1973 and $150 million for fiscal year 1974 of which my State of Illinois would receive $4,500,000 in fiscal year 1973 and $6,750,000 in fiscal year 1974.

The unemployment problems of older workers are especially acute. A report issued by the Senate Special Committee on Aging projects that if current labor force participation trends continue, one out of six men now in the 55 to 59 age category will no longer be in the work force by the time he reaches age 65.

Ten years ago this ratio was only one in eight. And the committee suggests that if major policy changes are not made, this problem will intensify during the 1970's.

Unemployment hangs like a black cloud over the entire Nation, but it most seriously threatens the middle-aged and older worker. It is much easier for the younger worker to increase his job opportunities simply because he is more mobile than the older person.

More often than not, older persons are tied down to a given location because of home mortgages and children in school. Older people cannot readily cancel debts and say goodbye to friends and ties of long standing to take jobs in other cities. Thus their job market is somewhat more restricted than that of the younger worker, who can more easily relocate to another city where employment prospects are better.

In addition to his reduced mobility, the older worker must cope with age discrimination in employment. One study has revealed that more than half of all private employers in States without age discrimination legislation in 1965 admitted to making use of age limits in hiring practices.

The effects of unemployment on the younger worker can be discouraging. The effects on the older worker can be tragic.

The community senior service program established by this bill for older workers seeks not only to help older workers, but also to utilize their talents and contributions to make improvements in our clinics, hospitals, schools, day-care centers, libraries, and in our environment.

What a small investment we are making for a magnificent potential achievement both for older people, to put them to work and make them feel important in what they are doing, and for the communities which will benefit from what these older workers will contribute.

I heartily endorse this piece of legislation.

Mr. BEALL. Mr. President, one of the truely alarming problems confronting our Nation today is the fact that, according to the 1970 census, there are almost 7 million older Americans living in poverty. As the ranking Republican member of the Aging Subcommittee, the plight of older Americans is of special concern to me. I, for one, hold out Nation's senior citizens in a position of great respect because these Americans have toiled long and hard on our Nations farms, in its factories, in its armed services, et cetera, to build our country. In their own way, each has made a significant contribution to our Nation's well being. Through their efforts, our Nation has reached unprecedented heights of economic prosperity, met the challenge of foreign aggressors who would threaten the peace, and create for all Americans a society dedicated to the full realization of the goals of our Nations forefathers.

In enacting S. 555, the Senate is seeking to meet one of the pressing problems facing those Americans 55 years of age and over. Many older Americans find the opportunities to them severely limited. Our youthful population abounds with highly trained talent in numerous fields. Many older Americans find themselves automated out of a job, "encouraged" to retire at an early age, or simply untrained and unskilled to meet the demands of our changing economy. But these factors should not and must not be allowed to deny our Nation the benefits of their practical experience, their skills and their judgment. For that reason, the Aging Subcommittee and subsequently, the full Labor and Public Welfare Committee have considered and favorably reported the Older American Community Service Act which is designed to provide meaningful employment opportunities for tens of thousands of our Nation's older Americans.

Under the provisions of this legislation, the Department of Labor will administer programs designed to provide community service jobs for low-income older Americans 55 years of age and older. These jobs would be in the fields of education, social service, recreational services, conservation, environmental restoration, economic development, et cetera. The legislation is structured in such a way as to draw upon the experiences of numerous pilot and demonstration projects conducted by the Department of Labor under the operation mainstream program. In addition, we have found that there are often six or eight or more applicants per job opportunity in each of these pilot projects. This clearly demonstrates that our older Americans sincerely want to remain active, contributing members of our society. The enthusiasm shown by older Americans for existing programs such as senior aids, senior community projects, Green Thumb, as well as the Foster Grandparents and RSVP programs, which are administered by the Action Agency, is most encouraging. Although the latter are primarily volunteer programs, they still serve to highlight the desire of our senior citizens to remain active, vital, contributing members of their community.

Mr. President, needless to say there are some areas of concern with regard to this legislation. Early in our deliberations on this bill, there was some question as to whether programs created within the framework of S. 555 would compete with the activities and programs of the Action Agency. It is my understanding, and I would hope that the distinguished senior Senator from Massachusetts would correct me if I am wrong, that it is the intention of this legislation to create employment programs within the Department of Labor that would in no way conflict with or create jurisdictional controversies with the programs administered by the Action Agency. A second concern revolved around the Department of Labor's belief that all categorical grant programs are inconsistent with the Department's desire to establish and administer integrated manpower programs. It is my understanding, Mr. President, that the amendment added by the distinguished Senator from New

York, the ranking minority member of the Labor and Public Welfare Committee, granted the Secretary broad power to coordinate the programs established by S. 555 with existing manpower programs as well as with those contained in any comprehensive manpower legislation which might subsequently be enacted by Congress. It would appear to me that the flexibility granted to the Secretary by this amendment should preclude the establishment of competing or overlapping programs within the Department of Labor and thus fulfill the Department's desire to run a coherent manpower program.

Mr. President, with these concerns largely removed, I think it is incumbent upon the Senate to act favorably on this legislation so that it may be referred to the House of Representatives for action by the other body.

Mr. CHURCH. Mr. President, I strongly support the enactment of the Older American Community Service Employment Act, a measure which I have cosponsored with the Senator from Massachusetts (Mr. Kennedy).

A major purpose of S. 555 is to convert the successful mainstream pilot projects—such as green thumb, senior aides, senior community service projects, and senior community service aides—into permanent ongoing national programs.

We do not need any more proof that these demonstration projects will work. What is needed now is a genuine national effort to take advantage of the wealth of talent with which the elderly are so richly endowed.

Yet, in our work-oriented society today, far too many older Americans are relegated to lead empty and frustrated lives.

For most of these individuals, inactivity is one of their greatest enemies. As a consequence, many want to work to remain more active in their later years. Others simply must work to supplement inadequate retirement income.

And the Older Americans Community Service Employment Act can provide the framework and wherewithal for establishing a long overdue national senior service corps.

It would do this by providing new employment opportunities in needed community service activities—in antipollution programs, hospitals, libraries, schools, and elsewhere—for low-income persons 55 or older.

Serving in their communities can be a most rewarding experience for older Americans. For others, it can offer a new career. And for the cities and rural areas, it can provide an effective means of delivering urgently needed public services.

But there is also another added dividend. Community service employment can also help thousands of elderly persons help themselves out of poverty while helping others.

Over a 2-year period, it would provide 100,000 jobs for low-income persons 55 or older.

This is particularly significant because there are now 541,000 persons 55 or older who are unemployed, nearly 72 percent above the level in January 1969. And this figure—depressing as it is—probably only reflects the tip of the iceberg. It does not, for example, include the labor force "dropouts," those who have given up the active search for employment.

Denial of employment opportunities for older Americans represents a senseless and wasteful use of our human resources. No nation can ever hope to achieve its full potential if some of its most experienced citizens are not allowed to participate.

We have much more to gain, it seems to me, by drawing upon the ready reservoir of talent of older Americans to render needed and useful services in our communities and rural areas.

Mr. President, I urge the adoption of S. 555, the Older American Community Service Employment Act.

Mr. BENTSEN. Mr. President, I am a cosponsor and strong supporter of S. 555.

Of all the problems besetting older Americans, none is more serious than the absence of adequate employment opportunities. Somehow, in our youth-oriented culture, we have developed the idea that a man or woman over 45 is no longer a good employment risk.

Let me say that I have no prejudice against younger workers, but I believe our attitude toward middle-aged and older workers is nothing short of a national scandal.

During the last 2 or 3 years, older workers have suffered severe losses in employment. From January 1969 to September 1971, unemployment for persons 45 and over jumped 77 percent. Many of these people find themselves in a no-man's land—too young to retire, too old to hire—and they usually remain unemployed for longer periods than their young counterparts.

Part of the problem results from subtle or direct age discrimination in employment, and I have introduced a measure which successfully passed the Senate broadening the scope of our Age Discrimination in Employment Act.

But we have to do more than stop discrimination. We have to target some funds directly on creating job opportunities for older workers. That is what S. 555 would seek to do.

This bill would expand upon our successful programs under Operation Mainstream in the Labor Department by allocating $100 million the first fiscal year to enable the Department to give more emphasis to hiring older workers for community service activities. I might note, Mr. President, that only yesterday I urged the Labor Department to continue and expand the Green Thumb and Green Light programs, which provide work for elderly, poverty stricken Americans.

In a letter to Secretary Hodgson, I noted:

> Of the 1.8 million Texans who are over 55 years of age, more than 800,000 of them are under the poverty level. Green Thumb and Green Light offer them a chance to get a job. It is not a handout or welfare, but an opportunity for these 800,000 forgotten Texans to work on meaningful projects in the areas of beautification, conservation, and recreation.

Mr. President, I am pleased to see that S. 555, if fully funded, would channel some $4,150,000 into Texas in fiscal 1973 for these and similarly directed programs. That is a major step forward.

I commend Senator Eagleton for his work in bringing this measure to a vote and I urge its enactment by the Senate.

PROMOTING THE VITAL ROLE OF OLDER AMERICANS IN COMMUNITY SERVICE

Mr. HUMPHREY. Mr. President, I strongly support the Older Americans Community Service Act, S. 555, and urge its passage today by the Senate. This vital legislation, which I joined in sponsoring, clearly recognizes the major role that older Americans can and should take in helping to carry out the social services that are of crucial importance to our communities.

Building upon the success of the Operation Mainstream pilot program that I was privileged to have a direct role in fostering, this legislation will establish an Older Worker Community Service employment program in the Department of Labor with a 2-year authorization of $250 million. Under this program, persons over age 55 who have had difficulty in securing employment can be employed by public or private nonprofit agencies in social, health, educational, recreational, and conservation and neighborhood improvement services that are essential to the community. Project operators will be required to pay either the Federal, State, or local minimum wage or the prevailing wage for similar public occupations, whichever is higher. The Federal Government will pay 90 percent of the costs of establishing and operating these projects, and the full cost of a project located in a disaster area or economically depressed area.

The Older Americans Community Service Employment Act establishes a national commitment that I have long urged upon Congress: That there must be a firm Federal policy against discrimination in employment on the basis of age, and in support of the right of every older citizen to continue utilizing his or her education, experience, and skills in meaningful work at a fair wage. Everything possible must be done to maintain the direct involvement of older Americans in the life of our Nation and its communities. That is why last year I fought for the doubling of appropriations, to a level of $100 million, for community service projects under the Older Americans Act, such as Foster Grandparents, RSVP, Green Thumb, and Senior Aides. And to further these objectives, I introduced the Older Workers Conservation Corps Act earlier this year, to provide for a major expansion of opportunities for older Americans to obtain paid jobs of great importance to our communities and States.

It is profoundly wrong that there should be 6 million persons aged 55 and older living in poverty in America today. It is unconscionable that our federally assisted manpower programs, as presently administered, should fail to take adequate account of the unemployment problems of older people.

Under the Older Americans Community Service Employment Act, some 100,000 additional jobs can be created for older persons in work of vital importance to our cities and towns. Mr. President, I believe that a decent respect for human dignity demands that this legislation be enacted.

Mr. KENNEDY. I yield back whatever time I have left.

The PRESIDING OFFICER. All time has expired.

Mr. JAVITS. Mr. President, I think I have several minutes left.

The PRESIDING OFFICER. The Chair informs the Senator from New York that all time has expired.

The question is on agreeing to the committee amendment in the nature of a substitute, as amended. All in favor say "aye."

Mr. KENNEDY. Mr. President, the yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays were ordered on passage, not on the committee amendment.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 555) was read the third time.

The PRESIDING OFFICER (Mr. (Tunney). The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Maine (Mr. Muskie), the Senator from Alabama (Mr. Sparkman), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

I further announce that the Senator from Indiana (Mr. Bayh), the Senator from Indiana (Mr. Hartke), the Senator from North Carolina (Mr. Jordan), and the Senator from Wyoming (Mr. McGee) are absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. Williams), the Senator from New Hampshire (Mr. McIntyre), and the Senator from South Dakota (Mr. McGovern) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. Allott), the Senators from Tennessee (Mr. Baker and Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Florida (Mr. Gurney), the Senator from Iowa (Mr. Miller) and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from Arizona (Mr. Goldwater) is absent on official committee business on the west coast and also celebrating a wedding anniversary.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senators from Ohio (Mr. Saxbe and Mr. Taft) and the Senator from Vermont (Mr. Stafford) are absent on official business to attend the Interparliamentary Union meetings.

The Senator from Maryland (Mr. Beall) is detained on official business at the White House.

If present and voting, the Senator from Colorado (Mr. Allott), the Senator from Maryland (Mr. Beall), the Senator from New York (Mr. Buckley), the Senator from Iowa (Mr. Miller), the Senator from Vermont (Mr. Stafford), and the Senator from Texas (Mr. Tower) would each vote "yea."

The result was announced—yeas 77, nays 0, as follows:

[No. 463 Leg.]

YEAS—77

Aiken
Allen
Anderson
Bellmon
Bennett
Bentsen
Bible
Boggs
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Eastland
Edwards
Ervin
Fannin
Fong
Fulbright
Gambrell
Gravel
Griffin
Hansen
Harris
Hart
Hatfield
Hollings
Hruska
Hughes
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
Mondale
Montoya
Moss
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott
Smith
Spong
Stennis
Stevens
Stevenson
Symington
Talmadge
Thurmond
Tunney
Weicker
Young

NAYS—0

NOT VOTING—23

Allott
Baker
Bayh
Beall
Brock
Buckley
Goldwater
Gurney
Hartke
Jordan, N.C.
McGee
McGovern
McIntyre
Metcalf
Miller
Mundt
Muskie
Saxbe
Sparkman
Stafford
Taft
Tower
Williams

So the bill (S. 555) was passed, as follows:

S. 555

An act to authorize the establishment of an older worker community service program

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Older American Community Service Employment Act".

OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM

Sec. 2. (a) In order to foster and promote useful part-time work opportunities in community service activities for unemployed low-income persons who are fifty-five years old or older and who have poor employment prospects, the Secretary of Labor (hereinafter referred to as the "Secretary") is authorized to establish an older American community service employment program (hereinafter referred to as the "program").

(b) In order to carry out the provisions of this Act, the Secretary is authorized—

(1) to enter into agreements with public or private nonprofit agencies or organizations, agencies of a State government or a political subdivision of a State (having elected or duly appointed governing officials), or a combination of such political subdivisions, or Indian tribes on Federal or State reservations or other federally recognized Indian tribal groups in order to further the purposes and goals of the program. Such agreements may include provisions for the payment of costs, as provided in subsection (c), of projects developed by such organizations and agencies in cooperation with the Secretary in order to make the program effective or to supplement it. No payments shall be made by the Secretary toward the cost of any project established or administered by any such organization or agency unless he determines that such project—

(A) will provide employment only for eligible individuals, except for necessary technical, administrative, and supervisory personnel, but such personnel shall, to the fullest extent possible, be recruited from among eligible individuals;

(B) will provide employment for eligible individuals in the community in which such individuals reside, or in nearby communities;

(C) will employ eligible individuals in services related to publicly owned and operated facilities and projects, or projects sponsored by organizations exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code of 1954 (other than political parties), except projects involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship;

(D) will contribute to the general welfare of the community;

(E) will provide employment for eligible individuals whose opportunities for other suitable public or private paid employment are poor;

(F) will result in an increase in employment opportunities for eligible individuals, and will not result in the displacement of employed workers or impair existing contracts;

(G) will utilize methods of recruitment and selection (including, but not limited to, listing of job vacancies with the employment agency operated by any State or political subdivision thereof) which will assure that the maximum number of eligible individuals will have an opportunity to participate in the project;

(H) will include such training as may be necessary to make the most effective use of the skills and talents of those individuals who are participating, and will provide for the payment of the reasonable expenses of individuals being trained, including a reasonable subsistence allowance;

(I) will assure that safe and healthy conditions of work will be provided, and will assure that persons employed in public service jobs assisted under this Act shall be paid wages which shall not be lower than whichever is the highest of (i) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the participant and if he were not exempt under section 13 thereof, (ii) the State or local minimum wage for the most nearly comparable covered employment, or (iii) the prevailing rates of pay for persons employed in similar public occupations by the same employer;

(J) will be established or administered with the advice of persons competent in the field of service in which employment is being provided, and of persons who are knowldgeable with regard to the needs of older persons;

(K) will authorize pay for necessary transportation costs of eligible individuals which may be incurred in employment in any project funded under this Act in accordance with regulations promulgated by the Secretary; and

(L) will assure that to the extent feasible such projects will serve the needs of minority, Indian, and limited English-speaking eligible individuals in proportion to their numbers in the State.

(2) to make, issue, and amend such regulations as may be necessary to effectively carry out the provisions of this Act.

(c)(1) The Secretary is authorized to pay not to exceed 90 per centum of the cost of any project which is the subject of an agreement entered into under subsection (b), except that the Secretary is authorized to pay all of the costs of any such project which is (A) an emergency or disaster project or (B) a project located in an economically depressed area as determined in consultation with the Secretary of Commerce and the Director of the Office of Economic Opportunity.

(2) The non-Federal share shall be in cash or in kind. In determining the amount of the non-Federal share, the Secretary is authorized to attribute fair market value to services and facilities contributed from non-Federal sources.

ADMINISTRATION

SEC. 3. (a) In order to effectively carry out the purposes of this Act, the Secretary is authorized to consult with agencies of States and their political subdivisions with regard to—

(1) the localities in which community service projects of the type authorized by this Act are most needed;

(2) consideration of the employment situation and the types of skills possessed by available local individuals who are eligible to participate; and

(3) potential projects and the number and percentage of eligible individuals in the local population.

(b) (1) The Secretary is authorized and directed to require agencies and organizations administering community service projects assisted under this Act to coordinate their activities with agencies and organizations conducting related manpower programs receiving assistance under other authorities such as the Economic Opportunity Act of 1964, the Manpower Development and Training Act of 1962, and the Emergency Employment Act of 1971. In carrying out the provisions of this paragraph, the Secretary is authorized to make necessary arrangements to include projects assisted under this Act within a common agreement and a common application with projects assisted under other authorities such as the Economic Opportunity Act of 1964, the Manpower Development and Training Act of 1962, and the Emergency Employment Act of 1971.

(2) The Secretary is authorized to make whatever arrangements that are necessary to carry out the programs assisted under this Act as part of any general manpower legislation hereafter enacted, except that appropriations for programs assisted under this Act may not be expended for programs assisted under that Act.

(c) In carrying out the provisions of this Act, the Secretary is authorized to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement, and on a similar basis to cooperate with other public and private agencies, and instrumentalities in the use of services, equipment, and facilities.

(d) The Secretary shall establish criteria designed to assure equitable participation in the administration of community service projects by agencies and organizations eligible for payment under section 2(b).

(e) Payments under this Act may be made in advance or by way of reimbursement and in such installments as the Secretary may determine.

(f) The Secretary shall not delegate his functions and duties under this Act to any other department or agency of Government.

PARTICIPANTS NOT FEDERAL EMPLOYEES

SEC. 4. (a) Eligible individuals who are employed in any project funded under this Act shall not be considered to be Federal employees as a result of such employment and shall not be subject to the provisions of part III of title 5, United States Code.

(b) No contract shall be entered into under this Act with a contractor who is, or whose employees are, under State law, exempted from operation of the State workmen's compensation law, generally applicable to employees, unless the contractor shall undertake to provide either through insurance by a recognized carrier, or by self insurance, as allowed by State law, that the persons employed under the contract, shall enjoy workmen's compensation coverage equal to that provided by law for covered employment. The Secretary must establish standards for severance benefits, in lieu of unemployment insurance coverage, for eligible individuals who have participated in qualifying programs and who have become unemployed.

INTERAGENCY COOPERATION

SEC. 5. The Secretary shall consult and cooperate with the Office of Economic Opportunity, the Administration on Aging, the Department of Health, Education, and Welfare, and any other related Federal agency administering related programs, with a view to achieving optimal coordination with such other programs and shall promote the coordination of projects under this Act with other public and private programs or projects of a similar nature. Such Federal agencies shall cooperate with the Secretary in disseminating information about the availability of assistance under this Act and in promoting the identification and interests of individuals eligible for employment in projects funded under this Act.

EQUITABLE DISTRIBUTION OF ASSISTANCE

SEC. 6. (a) (1) From the sums appropriated for any fiscal year under section 8 there shall be initially allotted for projects within each State an amount which bears the same ratio to such sum as the population aged fifty-five or over in such State bears to the population aged fifty-five or over in all States, except that (A) no State shall be allotted less than one-half of 1 per centum of the sum appropriated for the fiscal year for which the determination is made; and (B) Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall each be allotted an amount equal to one-fourth of 1 per centum of the sum appropriated for the fiscal year for which the determination is made. For the purpose of the exception contained in this paragraph, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(2) The number of persons aged fifty-five or over in any State and for all States shall be determined by the Secretary on the basis of the most satisfactory data available to him.

(b) The amount allotted for projects within any State under subsection (a) for any fiscal year which the Secretary determines will not be required for that year shall be reallotted, from time to time and on such dates during such year as the Secretary may fix, to projects within other States in proportion to the original allotments to projects within such States under subsection (a) for that year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates that projects within such State need and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for that year.

(c) The amount apportioned for projects within each State under subsection (a) shall be apportioned among areas within each such State in an equitable manner, taking into consideration the proportion which eligible persons in each such area bears to such total number of such persons, respectively, in that State.

DEFINITIONS

SEC. 7. As used in this Act—

(a) "State" means any of the several States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands;

(b) "eligible individual" means an individual who is fifty-five years old or older, who has a low income, and who has or would have difficulty in securing employment;

(c) "community service" means social, health, welfare, educational, library, recreational, and other similar services; conservation, maintenance or restoration of natural resources; community betterment or beautification, antipollution and environmental quality efforts; economic development; and such other services which are essential and necessary to the community as the Secretary, by regulation, may prescribe.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There are hereby authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1973, and $150,000,000 for fiscal year ending June 30, 1974.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, informed the Senate that the Speaker had appointed Mr. ECKHARDT and Mr. WARE as additional managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill (S. 976) to promote competition among motor vehicle manufacturers in the design and production of safe motor vehicles having greater resistance to damage, and for other purposes.

The message announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4383) to authorize the establishment of a system governing the creation and operation of advisory committees in the executive branch of the Federal Government, and for other purposes.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H.R. 15927) to amend the Railroad Retirement Act of 1937 to provide a temporary 20 per centum increase in annuities, and for other purposes.

The message further announced that the House had disagreed to the amendments of the Senate to the joint resolution (H.J. Res. 984) to amend the joint resolution providing the U.S. participation in the International Bureau for the Protection of Industrial Property; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. FRASER, Mr. FASCELL, and Mr. GROSS were appointed managers on the part of the House at the conference.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, and he announced that on September 19, 1972, the President had approved and signed the act (S. 3323) to amend the Public Health

Service Act to enlarge the authority of the National Heart and Lung Institute in order to advance the national attack against diseases of the heart and blood vessels, the lungs, and blood, and for other purposes.

THE PROPOSED NEW WILDERNESS AREAS—A MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. GRAVEL) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Interior and Insular Affairs:

To the Congress of the United States:

Everywhere in America, we seek the horizons where escape is free and where despair can never catch up. We sense that our wilderness, more than a concept, is an experience, where we may find something of ourselves and of our world that we might never have known to exist.

Wide-winged birds soaring over remote treetops can set our dreams in new directions. Serrated cliffs can tell us about our geological past. Mountain flowers beside woodland trails can teach us vital lessons about our ecological relationships. Sea winds blowing across lonely beaches can refresh us for new accomplishments.

It is a prime objective of government to balance the use of land sensibly to ensure that the world of nature is preserved along with the world of man.

"A wilderness . . ." according to the epochal Wilderness Act of 1964, "is hereby recognized as an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain." Within the National Wilderness Preservation System established by this act, the first 9.1 million acres of our country were set aside, to be conserved, unimpaired, in their natural state.

Today, I am proposing to the Congress 16 new wilderness areas which, if approved, would add 3.5 million acres to our wilderness system. This is the largest single incremental increase in the system since passage of the act.

Five would be located in our National Wildlife Refuge Areas. They are the Brigantine National Wildlife Refuge in New Jersey, the Blackbeard Island National Wildlife Refuge in Georgia, the Chassahowitzka National Wildlife Refuge in Florida, and the Lostwood National Wildlife Refuge and the Chase Lake National Wildlife Refuge in North Dakota. A sixth area, administered by the National Park Service, would be within the Cumberland Gap National Historical Park on the borders of Tennessee, Virginia, and Kentucky. These six additions would add 40,257 acres to the Wilderness Preservation System.

In the Western States, in units administered by the National Park Service, my proposals today would designate as wilderness 2,016,181 acres in Yellowstone National Park, 512,870 in the Grand Canyon complex, 646,700 acres in Yosemite National Park, and 115,807 acres in Grand Teton National Park.

I further propose for inclusion in our National Wilderness Preservation System an additional 216,519 acres in some of the most beautiful regions of our country. These would include designated areas in the Great Sand Dunes National Monument in Colorado, the Theodore Roosevelt National Memorial Park in North Dakota, the Badlands National Monument in South Dakota, the Guadalupe Mountains National Park in Texas, the Carlsbad Caverns National Park in New Mexico and the Haleakala National Park in Hawaii.

The 1964 Wilderness Act further directed the Secretaries of Agriculture and of the Interior to review federally owned lands which they administer and to report to the President, who transmits to the Congress their and his recommendations for those areas which qualify as wilderness as defined by the act. This wilderness review process, to be conducted in three phases, was to be completed by 1974.

Beginning in 1969, I accelerated this program, and on April 28, 1971, I forwarded to the Congress 14 new wilderness proposals which, when enacted, would substantially increase the acreage added since passage of the Wilderness Act. I warned that we would need a redoubled effort by the Departments of Agriculture and the Interior in completing the review process and prompt action on these proposals by the Congress.

On February 8, 1972, I transmitted a second package of 18 new wilderness proposals to the Congress, which, if enacted, would designate 1.3 million additional acres as wilderness. At that time I reported that the September, 1974 statutory deadline for reviews could and would be met. I also pointed out that the majority of the wilderness areas recommended to date had involved western lands. Therefore, I directed the Secretaries of Agriculture and Interior to accelerate the identification of areas in the Eastern United States having wilderness potential.

The Congress has now received 78 wilderness proposals which would add 5.8 million acres to the original 9.1 million acres designated by the Congress.

To date, however, the Congress has acted on only 35 proposals, approving 1.7 million acres for inclusion in the system. This leaves pending 43 wilderness proposals encompassing 4.1 million acres.

I now urge the Congress—in this centennial year of our National Park System—to act quickly in favor of these new proposals as well as the ones already pending.

I am aware of the commercial opportunities in potential wilderness areas such as mining, lumbering, and recreational development. I believe we must achieve a sensible land use balance—America can have economic growth *and* the unspoiled nature of the wilderness.

Increasingly, in fact, the preservation of these areas has become a major goal of all Americans. The process of developing wilderness proposals is now exemplifying public participation and cooperation with the governmental process. Commercial and conservation groups—and individuals from all over the country—have, through public hearings and direct contact with Government agencies, done much more than is generally realized to contribute to the wilderness program.

I believe the value of this cooperative effort between the public and their government officials is reflected in the wilderness proposals I am proud to submit today. This is an excellent example of the responsive way in which our government is meant to work.

The first man on earth, according to the scriptures was placed in a natural garden, and he was charged "to dress it and keep it." Our own great naturalist John Murir said that our "whole continent was a garden and . . . seemed to be favored above all the other wild parks and gardens of the globe."

The addition of these new areas to our national wilderness system will help to keep it that way.

RICHARD M. NIXON.

THE WHITE HOUSE, *September 21, 1972.*

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer (Mr. GRAVEL) laid before the Senate a message from the President of the United States submitting the nomination of Lt. Gen. Paul K. Carlton, major general, Regular Air Force, U.S. Air Force, to be assigned to a position of importance and responsibility designated by the President, in the grade of general while so serving, which was referred to the Committee on Armed Services.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent to be recognized, regardless of the next order of business and the time limitation attached thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following noncontroversial items on the Calendar: Calendar No. 1071, Calendar No. 1080, Calendar No. 1121, and Calendar No. 1123.

The PRESIDING OFFICER. Without objection, it is so ordered.

JUDGMENT IN FAVOR OF THE HAVASUPAI TRIBE OF INDIANS

The bill (H.R. 9032) to provide for the disposition of funds appropriated to pay a judgment in favor of the Havasupai Tribe of Indians in Indian Claims Commission docket numbered 91, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

NATIONAL INSTITUTE OF AGING

The Senate proceeded to consider the bill (H.R. 14424) to amend the Public Health Service Act to provide for the establishment of a National Institute of Aging and for other purposes.

Mr. MANSFIELD. I move that all after the enacting clause be stricken and that there be substituted therefor the text of S. 887 as reported with an amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

The amendment of the committee was to strike out all after the enacting clause and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Research on Aging Act of 1972".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. The Congress hereby finds and declares—

(1) that the study of the aging process, the one biological condition common to all, has not received research support commensurate with its effects on the lives of every individual;

(2) that, in addition to the physical infirmities resulting from advanced age, the economic, social, and psychological factors associated with aging operate to exclude millions of older Americans from the full life and the place in our society to which their years of service and experience entitle them;

(3) that recent research efforts point the way toward alleviation of the problems of old age by extending the healthy middle years of life;

(4) that there is no American institution that has undertaken, or is now capable of undertaking, comprehensive systematic and intensive studies of the biomedical and behavioral aspects of aging and the related training of necessary personnel;

(5) that the establishment of a National Institute on Aging within the National Institutes of Health will meet the need for such an institution.

SEC. 3. Title IV of the Public Health Service Act is amended by adding at the end thereof the following new part:

"PART G—NATIONAL INSTITUTE ON AGING

"ESTABLISHMENT OF NATIONAL INSTITUTE ON AGING

"SEC. 461. The Secretary shall establish in the Public Health Service an institute to be known as the National Institute on Aging (hereinafter in this part referred to as the 'Institute') for the conduct and support of biomedical, social, and behavioral research and training relating to the aging process and the diseases and other special problems and needs of the aged.

"ESTABLISHMENT OF ADVISORY COUNCIL

"SEC. 462. (a) There is established in the Institute a National Advisory Council on Research on Aging to be composed of sixteen members, as follows:

"(1) The Secretary, the Director of the National Institutes of Health, the chief medical officer of the Veterans' Administration (or his designee), and a medical officer designated by the Secretary of Defense shall be ex officio members of the Council.

"(2) Twelve members appointed by the Secretary. Each of the appointed members of the Council shall be leaders in the fields of fundamental sciences, medical sciences, behavioral and social sciences, or public affairs. Six of the appointed members shall be selected from among the leading medical or scientific authorities who are skilled in the sciences relating to gerontology; three of the appointed members shall be selected from the leading authorities who are skilled in aspects of the social or behavioral sciences relating to aging; and three of the appointed members shall be selected from the general public.

"(b)(1) Each appointed member of the Council shall be appointd for a term of four years, except that—

"(A) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(B) of the members first appointed after the effective date of this section, three shall be appointed for a term of four years, three shall be appointed for a term of three years, three shall be appointed for a term of two years, and three shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office.

"(2) A vacancy in the Council shall not affect its activities, and twelve members of the Council shall constitute a quorum.

"(3) Upon appointment of the Council it shall assume all of the functions, powers, and duties relating to research on aging of the National Advisory Child Health and Human Development Council established pursuant to section 443(a), and all of the functions, powers, and duties of the National Advisory Health Council, or its successors, under section 301 with respect to research or training projects relating to aging.

"(4) Members of the Council who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the functions of the Council compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703, title 5, United States Code, for persons in the Government service employed intermittently.

"(c) The Chairman of the Council shall be appointed by the Secretary from among the members of the Council and shall serve as Chairman for a term of two years.

"(d) The Director of the Institute shall (1) designate a member of the staff of the Institute to act as executive secretary of the Council, and (2) make available to the Council such staff, information, and other assistance as it may require to carry out its functions.

"(e) The Council shall meet at the call of the Director of the Institute or of the Chairman, but not less often than four times a year.

"FUNCTIONS

"SEC. 463. (a) The Secretary shall, through the Institute, carry out the purposes of section 301 with respect to research, investigations, experiments, demonstrations, and studies related to the aging process and the diseases and other special problems and needs of the aged, except that the Director of the National Institutes of Health shall determine the area in which and the extent to which he will carry out such activities in furtherance of the purposes of section 301 through the Institute or another institute established by or under other provisions of this Act, or both of them, when both such institutes have functions with respect to the same subject matter, and shall be responsible for coordinating such activities so as to avoid unproductive and unnecessary overlap and duplication of such functions. The Secretary may also provide training and instruction and establish traineeships and fellowships, in the Institute and elsewhere, in matters relating to study and investigation of the aging process and the diseases and other special problems and needs of the aged. The Secretary may provide trainees and fellows participating such training and instruction or in such traineeships and fellowships with stipends and allowances (including travel and subsistence expenses) as he deems necesary, and, in addition, provide for such training, instruction, and traineeships and for such fellowships through grants to public or other nonprofit institutions. In carrying out his health manpower training responsibilities under the Public Health Service Act or any other Act, the Secretary shall take appropriate steps to insure the education and training of adequate numbers of allied health, nursing, and paramedical personnel in the field of health care for the aged.

"(b) The Secretary shall, through the Institute, conduct scientific studies to measure the impact on the biological, medical, and psychological aspects of aging of all programs and activities assisted or conducted by departments and agencies of the Federal Government designed to meet the needs of the aging.

"(c) The Secretary, through the Institute, shall carry out public information and education programs designed to disseminate as widely as possible the findings of Institute sponsored and other relevant aging research and studies, and other information about the process of aging which may assist elderly and near-elderly persons in dealing with, and all Americans in understanding, the problems and processes associated with growing older.

"SEC. 464. (a) The Secretary, in consultation with the Institute (acting through the Council) and such other appropriate advisory bodies as he may establish, shall within one year after the effective date of this section develop a plan for an aging research program designed to coordinate and promote research into the biological, medical, psychological, social, educational, and economic aspects of aging. Such program shall be carried out, as to research involving the functions of the Institute, primarily through the Institute, and as to other research shall be carried out through any other institute established by or under other provisions of this Act or through any appropriate agency or other organizational unit within the Department of Health, Education, and Welfare.

"(b) The plan required by subsection (a) of this section shall be transmitted to the Congress and the President and shall set forth the staffing and funding requirements to carry out the program contained therein."

Mr. CHURCH. Mr. President, I urge the adoption of S. 887, the Research on Aging Act.

Today the low priority assigned to aging research constitutes one of the most serious problems in the field of gerontology.

Yet, we know far too little about the aging process, even though it accounts for a substantial proportion of cost of medical care.

For example, about 80 percent of all persons 65 or older suffer from some form of chronic condition. More importantly, many of these conditions, which are associated with advancing age, are the end product of a process begun several years earlier—when these individuals were in their forties or early fifties.

As a nation, we now recognize the importance and need for continuing research, but unfortunately not in the field of aging. Many businesses and governmental units earmark 5 percent of their available funds for research. But aging research at the National Institutes of Health represents only about one-tenth of 1 percent of Federal expenditures in health programs for the elderly.

There are, however, numerous compelling reasons to reverse this shortsighted commitment for aging research.

Health care costs, for instance, can be reduced because of aging research. With this body of knowledge, greater emphasis can be placed upon preventive medicine, instead of waiting to treat disease after it reaches a serious or crisis stage.

Moreover, research can help more people live better for longer periods of time. Such efforts can, of course, contribute to more years of useful, healthy living.

Finally, in terms of sheer numbers we, as a Nation, should be concerned with the aging process. Today there are nearly 21 million persons 65 or older, almost seven times as many at the turn of the century. It is estimated that perhaps 45 to 50 million persons will have reached their 65th birthday during the next 30 years.

Important but still unanswered questions about growing old present powerful reasons for developing an expanded, coordinated research program on aging. And, S. 887 represents a sound and sensible approach to provide the essential commitment for a systematic approach in the field of aging. First, S. 887 would establish a National Institute on Aging to conduct and support biomedical, social, and behavioral research and training related to the aging process. The new institute would also concentrate on diseases and other special problems of the elderly.

Second, the bill establishes a National Advisory Council on Aging to monitor programs conducted by the Institute.

Third, S. 887 directs the Secretary of Health, Education, and Welfare to prepare a comprehensive aging and research plan within 1 year, along with a statement of the staffing and funding requirements necessary to implement the plan.

A National Institute on Aging, I am pleased to say, had the strong and enthusiastic support of the White House Conference on Aging.

All Americans—the young as well as the old—have a vital stake in understanding and learning to cope with the inevitable aging process.

For these reasons, I strongly support enactment of S. 887, a bill which I cosponsored with the Senator from Missouri (Mr. EAGLETON).

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 14424) was read a third time and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that S. 887 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The title was amended, so as to read: "A bill to amend the Public Health Service Act to provide for the establishment of a National Institute on Aging."

NATIONAL DRUG ABUSE PREVENTION WEEK

The joint resolution (S.J. Res. 236) to authorize and request the President to proclaim the week beginning October 15, 1972, as "National Drug Abuse Prevention Week" was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to heighten the awareness of the people of the United States with regard to the national threat of drug abuse, and to provide an opportunity for a period of special emphasis on this problem, the President is authorized and requested to issue a proclamation designating the week beginning October 15, 1972, as "National Drug Abuse Prevention Week", and calling upon the people of the United States and interested groups and organizations to observe such period with appropriate ceremonies and activities.

PACIFIC TROPICAL BOTANICAL GARDEN

The bill (H.R. 9135) to amend the Act of August 19, 1964, to remove the limitation on the maximum number of members of the board of trustees of the Pacific Tropical Botanical Garden was considered, ordered to a third reading, read the third time, and passed.

PROGRAM

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. SCOTT. Mr. President, I rise to inquire as to the order of business for the rest of the day and the rest of the week.

Mr. MANSFIELD. Mr. President, as the Senator is aware, the distinguished Senator from Nevada is prepared to take up a measure having to do with the unlawful seizure of airplanes.

Following that, the Senate will proceed to the consideration of S. 3970, a bill to establish a Council of Consumer Advisers in the Executive Office of the President, which I understand is quite controversial.

Tomorrow morning, it is the desire of the leadership that the Senate proceed to the consideration of Calendar No. 1127, H.R. 16029, an act to amend the Foreign Assistance Act of 1961, and put that on the first track.

It is anticipated that we will be in session on Saturday this week.

We hope that early next week it will be possible to take up H.R. 1, welfare reform, a bill which, I understand, will be on the calendar next Monday.

We also hope to consider Calendar No. 1107, S. 630, with respect to the future regulation of surface mining operations.

We have, of course, the debt ceiling to consider, a continuing resolution very likely, and five appropriation bills, as well as the Equal Educational Opportunity Act.

Those are the major items at the present time, which would indicate to the Senate that we face a heavy schedule. We will be in session this coming Saturday in an attempt to face our responsibilities.

Mr. SCOTT. I thank the distinguished majority leader. I should like to raise another point, not really under the control of the leadership. But the fact that we are meeting earlier and earlier in order to get our business done and to adjourn is being, to a degree, subverted—and I use that word in a nice sense—by the large number of special orders that we are getting in the morning, in which I have been participating.

These special orders are being used, if I may say so, for daily political forays in which donkeys behave like donkeys and elephants behave like elephants. The public is not really enlightened, nor is the public paying much attention to it. I realize that we cannot control that, but I should like to point to what I think is the futility of what we are doing. Charges are made in one direction and replies are made in another. We are not convincing each other of anything. We are not doing anything except delaying the ultimate adjournment of the Senate.

I say this for the record, because it is being said privately by Senators on both sides of the aisle who are not participating in this rather unholy exercise. I suggest we find some means by which we can enter into an interim agreement, or a treaty of nonpolitical violence here. [Laughter.]

Mr. PASTORE. Mr. President, if the Senator from Pennsylvania will yield, I think the best way to illustrate that is to say that we came in today at 9 a.m. but we did not take a vote until 11:30 a.m. It strikes me——

Mr. DOMINICK. Mr. President, may we have order in the Senate so that we may hear the Senator from Rhode Island. I cannot hear the Senator from Rhode Island for the first time in my life. [Laughter.]

Mr. PASTORE. Well, Mr. President, I think I can accommodate my good friend from Colorado.

Mr. President, I do not see why we cannot have these speeches made at 6 p.m. at night and let us do our work during the waking hours of the day, rather than having to do the serious work in the sleeping hours and doing the other work in the waking hours. Maybe we should reverse it.

Mr. SCOTT. The Senator is quite correct.

Mr. DOMINICK. Mr. President, will the distinguished Senator from Pennsylvania yield me 1 minute?

Mr. SCOTT. The Senator from Montana has the floor.

Mr. MANSFIELD. I am delighted to yield to the Senator from Colorado.

Mr. DOMINICK. Mr. President, I want to say to Senators who are now in the Chamber that we just finished having a rollcall vote of 77 to 0. Despite my colloquy with the Senator from Montana and the Senator from Rhode Island yesterday, there was still a rollcall vote at the request of the Senator from Massachusetts (Mr. KENNEDY) on a bill which was totally noncontroversial and which no one voted against.

Now, having had a 77 to 0 vote on this, and feeling as strongly as I do that we are wasting a whale of a lot of time by voting on noncontroversial measures with yea and nay votes, I will now ask the Parliamentarian and the Presiding Officer, who seem to be shifting seats here, whether it is not true that, at this point, in order to get a rollcall vote, it requires one-fifth of those who just voted on the previous measure?

The PRESIDING OFFICER (Mr. GRAVEL). Under Senate procedure, a demand for the yeas and nays is a constitutional privilege and a quorum is always presumed to be present. Such a demand for the yeas and nays must be seconded by at least one-fifth of the presumptive quorum, a minimum of 11 with the present Membership of 100, and based on the last rollcall. The demand should be put when requested.

Mr. DOMINICK. In other words, based on the last rollcall vote, then, we would have to have more than 11 on the next demand; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DOMINICK. I want to make it clear on this point, from my point of view, that if there is any controversy on an amendment to any bill, I have no objection whatever to having a rollcall vote, whether only two or three Senators are involved who happen not to like the bill and want to be recorded against it. I do not see why they should not have that right. But this total waste of time in going forward with so many rollcall votes and embarrassing everyone who is not able to be here, wasting the time of Senators in having to go back and forth from their offices or committee rooms to the Chamber in order to vote, seems to me to be totally out of line.

I have said so before, I asked that there not be a rollcall vote, but there was one now, which is proper under the Senate rules, by a vote of 77 to 0. But we have now disrupted, to my personal knowledge, two committees, and many meetings which are going on, and we are wasting a whale of a lot of time. I hope we will not do it any more.

Mr. ALLEN. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. I yield.

Mr. ALLEN. I want to commend the distinguished majority leader for his statement with regard to the placement of the Equal Educational Opportunities bill, which is the so-called antibusing legislation, on the list.

The Senator from Alabama recalls that the distinguished majority leader has stated he will give at least 24 hours' notice before the bill is called up.

Therefore, would the Senator from Alabama be correct in assuming that the distinguished majority leader will yet give us 24 hours' notice, or does this notice he has just given mean that it may be called up in the order as listed by the distinguished majority leader?

Mr. MANSFIELD. May I say that I will do my best to give 24 hours' notice, but I am sure that the Senator from Alabama will understand that notices of this nature in part are also notices of intent with no time specified.

Mr. ALLEN. I thank the distinguished majority leader. The Senator from Alabama did not require 24 hours notice—that much notice to me. The Senator from Alabama is glad to learn that this may constitute notice that would abridge the 24-hour notice or statement the distinguished majority leader made heretofore. So it may be anticipated, then, that this bill may come up for consideration by the Senate the early part of next week.

Mr. MANSFIELD. Or the latter part, or the following week, depending on circumstances.

Mr. ALLEN. The latter part of this week?

Mr. MANSFIELD. The latter part of next week, or the week following. It depends on circumstances. The Senator from Alabama will have to allow me some flexibility.

Mr. ALLEN. Yes, but the distinguished majority leader did state the order that he now plans to follow.

Mr. MANSFIELD. Not necessarily the order in which they would come up, but I stated the schedule of bills that would have to be considered, in my opinion.

Mr. ALLEN. In that order?

Mr. MANSFIELD. Not necessarily in that order.

Mr. ALLEN. Yes. I thank the distinguished majority leader for this clarification.

ANTIHIJACKING ACT OF 1972

The PRESIDING OFFICER (Mr. GRAVEL). Under the previous order, the Chair now lays before the Senate Calendar No. 961, S. 2280, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 2280) to amend sections 101 and 902 of the Federal Aviation Act of 1958, as amended, to implement the Convention for the Suppression of Unlawful Seizure of Aircraft, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce with amendments on page 1, line 4, strike out "1971" and insert "1972"; on page 3, line 21, after the word "for", strike out "any term of years or for life, if the death penalty is not imposed" and insert "not less than twenty years, if the death penalty is not imposed"; on page 4, line 8, after the word "act", strike out the comma and insert a period; after line 8, insert:

"(3) This subsection shall only be applicable if the place of takeoff or the place of actual landing of the aircraft on board which the offense as defined in paragraph 2 of this subsection is committed is situated outside the territory of the State of registration of that aircraft.

After line 13, insert:

"(4) For purposes of this subsection an aircraft is considered to be in flight from the moment when all the external doors are closed following embarkation until the moment when one such door is opened for disembarkation, or in the case of a forced landing, until the competent authorities take over responsibility for the aircraft and for the persons and property aboard."

After line 23, strike out:

(d) By amending that portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the heading "Sec. 902. Criminal Penalties." by striking out the following items:

"(n) Investigations by Federal Bureau of Investigation.

"(o) Interference with aircraft accident investigation.";

and by inserting the following items in place thereof.

"(n) Aircraft Piracy Outside Special Aircraft Jurisdiction of the United States.

"(o) Investigations by Federal Bureau of Investigation.

"(p) Interference with aircraft accident investigation.".

SEC. 4. The amendments contained in this Act shall become effective one day after fulfillment of the following conditions:

(a) the entry into force for the United States of the Convention for the Suppression of Unlawful Seizure of Aircraft signed at The Hague, Netherlands, December 16, 1970; and

(b) the publication in the Federal Register by or on behalf of the Secretary of State of a notice referring to this Act and stating that the Convention has entered, or will enter, into force for the United States on a date specified in that notice.

On page 5, after line 15, insert a new section, as follows:

SEC. 4. (a) Title XI of the Federal Aviation Act of 1958 is amended by adding a new section 1114 as follows:

"SUSPENSION OF AIR SERVICES

"SEC. 1114. (a) Whenever the President determines that a foreign nation is acting in a manner inconsistent with the Convention for the Suppression of Unlawful Seizure of Aircraft, he may, without notice or hearing and for as long as he determines necessary to assure the security of aircraft against unlawful seizure, suspend (1) the right of any air carrier and foreign air carrier to engage in foreign air transportation, and any persons to operate aircraft in foreign air commerce, to and from that foreign nation, and (2) the right of any foreign air carrier to engage in foreign air transportation, and any foreign person to operate aircraft in foreign air commerce, between the United States and any foreign nation which maintains air service between itself and that foreign nation. Notwithstanding section 1102 of this Act, the President's authority to suspend rights in this manner shall be deemed to be a condition to any certificate of public convenience and necessity or foreign air carrier or foreign aircraft permit issued by the Civil Aeronautics Board and any air carrier operating certificate or foreign air carrier operating specification issued by the Secretary of Transportation.

"(b) It shall be unlawful for any air carrier or foreign air carrier to engage in foreign air transportation, or any person to operate aircraft in foreign air commerce, in violation of the suspension of rights by the President under this section.".

(b) Title XI of the Federal Aviation Act of 1958 is amended by adding a new section 1115 as follows:

"SECURITY STANDARDS IN FOREIGN AIR TRANSPORTATION

"SEC. 1115. (a) Not later than 30 days after the date of enactment of this Act the Secretary of State shall notify each nation with which the United States has a bilateral air transport agreement or, in the absence of such agreement, each nation whose airline or airlines hold a foreign air carrier permit or permits issued pursuant to section 402 of the Federal Aviation Act of 1958, of the provisions of subsection (b) of this section.

"(b) In any case where the Secretary of Transportation, after consultation with the competent aeronautical authorities of a foreign nation with which the United States has a bilateral air transport agreement and in accordance with the provisions of that agreement or, in the absence of such agreement, of a nation whose airline or airlines hold a foreign air carrier permit or permits issued pursuant to such section 402, finds that such nation does not effectively maintain and administer security measures relating to transportation of persons or property or mail in foreign air transportation that are equal to or above the minimum standards which are established pursuant to the Convention on International Civil Aviation, or prior to a date when such standards are adopted and enter into force pursuant to such Convention, the specifications and practices set out in Appendix A to Resolution A17–10 of the 17th Assembly of the International Civil Aviation Organization, he shall notify that nation of such finding and the steps considered necessary to bring the security measures of that nation to standards at least equal to the minimum standards of such Convention or such specifications and practices of such Resolution. In the event of failure of that nation to take such steps, the Secretary of Transportation, with the approval of the Secretary of State, may withhold, revoke, or impose conditions on the operating authority of the airline or airlines of that nation."

On page 8, after line 12, insert a new section, as follows:

SEC. 5. Section 901(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1471(a)) is amended by inserting the words "or section 1114" before the words "of this Act" when those words first appear in this section.

After line 16, insert a new section, as follows:

SEC. 6. Section 1007(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1487(a)) is amended by inserting the words "or, in the case of a violation of section 1114 of this Act, the Attorney General," after the words "duly authorized agents,".

And, after line 21, insert a new section, as follows:

SEC. 7. That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the heading

"Sec. 902. Criminal penalties.",

is amended by striking out the following items:

"(n) Investigations by Federal Bureau of Investigation.

"(o) Interference with aircraft accident investigation.";

and by inserting the following items in place thereof:

"(n) Aircraft piracy outside special aircraft jurisdictions of the United States.

"(o) Investigations by Federal Bureau of Investigation.

"(p) Interference with aircraft accident investigation.";

and that portion which appears under the heading

"TITLE XI—MISCELLANEOUS"

is amended by adding at the end thereof the following:

"Sec. 1114. Suspension of air services.

"Sec. 1115. Security standards in foreign air transportation.".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Anti-Hijacking Act of 1972".

SEC. 2. Section 101(32) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(32)), is amended to read as follows:

"(32) The term 'special aircraft jurisdiction of the United States' includes—

"(a) civil aircraft of the United States;

"(b) aircraft of the national defense forces of the United States;

"(c) any other aircraft within the United States;

"(d) any other aircraft outside the United States—

"(i) that has its next scheduled destination or last point of departure in the United States, if that aircraft next actually lands in the United States; or

"(ii) having 'an offense', as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, committed aboard, if that aircraft lands in the United States with the alleged offender still aboard; and

"(e) other aircraft leased without crew to a lessee who has his principal place of business in the United States, or if none, who has his permanent residence in the United States;

while that aircraft is in flight, which is from the moment when all the external doors are closed following embarkation until the moment when one such door is opened for disembarkation, or in the case of a forced landing, until the competent authorities take over the responsibility for the aircraft and for the persons and property aboard."

SEC. 3. Section 902 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472), is amended as follows:

(a) By striking out the words "violence and" in subsection (i)(2) thereof, and by inserting the words "violence, or by any other form of intimidation, and" in place thereof;

(b) By redesignating subsections (n) and (o) thereof as "(o)" and "(p)", respectively, and by adding the following new subsection:

"Aircraft Piracy Outside Special Aircraft Jurisdiction of the United States

"(n)(1) Whoever aboard an aircraft in flight outside the special aircraft jurisdiction of the United States commits 'an offense', as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, and is afterward found in the United States shall be punished—

"(A) by death if the verdict of the jury shall so recommend, or, in the case of a plea of guilty, or a plea of not guilty where the defendant has waived a trial by jury, if the court in its discretion shall so order; or

"(B) by imprisonment for not less than twenty years, if the death penalty is not imposed.

"(2) A person commits 'an offense', as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft when, while aboard an aircraft in flight, he—

"(A) unlawfully, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of, that aircraft, or attempts to perform any such act; or

"(B) is an accomplice of a person who performs or attempts to perform any such act.

"(3) This subsection shall only be applicable if the place of takeoff or the place of actual landing of the aircraft on board which the offense as defined in paragraph 2 of this subsection is committed is situated outside the territory of the State of registration of that aircraft.

"(4) For purposes of this subsection an aircraft is considered to be in flight from the moment when all the external doors are closed following embarkation until the moment when one such door is opened for disembarkation, or in the case of a forced landing, until the competent authorities take over responsibility for the aircraft and for the persons and property aboard."

(c) By amending redesignated subsection (o) thereof by striking out the reference "(m)", and by inserting the reference "(n)" in place thereof; and

SEC. 4. (a) Title XI of the Federal Aviation Act of 1958 is amended by adding a new section 1114 as follows:

"SUSPENSION OF AIR SERVICES

"SEC. 1114. (a) Whenever the President determines that a foreign nation is acting in a manner inconsistent with the Convention for the Suppression of Unlawful Seizure of Aircraft, he may, without notice or hearing and for as long as he determines necessary to assure the security of aircraft against unlawful seizure, suspend (1) the right of any air carrier and foreign air carrier to engage in foreign air transportation, and any persons to operate aircraft in foreign air commerce, to and from that foreign nation, and (2) the right of any foreign air carrier to engage in foreign air transportation, and any foreign person to operate aircraft in foreign air commerce, between the United States and any foreign nation which maintains air service between itself and that foreign nation. Notwithstanding section 1102 of this Act, the President's authority to suspend rights in this manner shall be deemed to be a condition to any certificate of public convenience and necessity or foreign air carrier or foreign aircraft permit issued by the Civil Aeronautics Board and any air carrier operating certificate or foreign air carrier operating specification issued by the Secretary of Transportation.

"(b) It shall be unlawful for any air carrier or foreign air carrier to engage in foreign air transportation, or any person to operate aircraft in foreign air commerce, in violation of the suspension of rights by the President under this section.".

(b) Title XI of the Federal Aviation Act of 1958 is amended by adding a new section 1115 as follows:

"SECURITY STANDARDS IN FOREIGN AIR TRANSPORTATION

"SEC. 115. (a) Not later than 30 days after the date of enactment of this Act the Secretary of State shall notify each nation with which the United States has a bilateral air transport agreement or, in the absence of such agreement, each nation whose airline or airlines hold a foreign air carrier permit or permits issued pursuant to section 402 of the Federal Aviation Act of 1958, of the provisions of subsection (b) of this section.

"(b) In any case where the Secretary of Transportation, after consultation with the competent aeronautical authorities of a foreign nation with which the United States has a bilateral air transport agreement and in accordance with the provisions of that agreement or, in the absence of such agreement, of a nation whose airline or airlines hold a foreign air carrier permit or permits issued pursuant to such section 402, finds that such nation does not effectively maintain and administer security measures relating to transportation of persons or property or mail in foreign air transportation that are equal to or above the minimum standards which are established pursuant to the Convention on International Civil Aviation or, prior to a date when such standards are adopted and enter into force pursuant to such Convention, the specifications and practices set out in Appendix A to Resolution A17–10 of the 17th Assembly of the International Civil Aviation Organization, he shall notify that nation of such finding and the steps considered necessary to bring the security measures of that nation to standards at least equal to the minimum standards of such Convention or such specifications and practices of such Resolution. In the event of failure of that nation to take such steps, the Secretary of Transportation, with the approval of the Secretary of State, may withhold, revoke, or impose conditions on the operating authority of the airline or airlines of that nation."

SEC. 5. Section 901(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1471(a)) is amended by inserting the words "or section 1114" before the words "of this Act" when those words first appear in this section.

SEC. 6. Section 1007(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1487(a)) is amended by inserting the words "or, in the case of a violation of section 1114 of this Act, the Attorney General," after the words "duly authorized agents,".

SEC. 7. That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the heading

"Sec. 902. Criminal penalties.",

is amended by striking out the following items:

"(n) Investigations by Federal Bureau of Investigation.

"(o) Interference with aircraft accident investigation.";

and by inserting the following items in place thereof:

"(n) Aircraft piracy outside special aircraft jurisdiction of the United States.

"(o) Investigations by Federal Bureau of Investigation.

"(p) Interference with aircraft accident investigation.";

and that portion which appears under the heading

"TITLE XI—MISCELLANEOUS"

is amended by adding at the end thereof the following:

"Sec. 1114. Suspension of air services.

"Sec. 1115. Security standards in foreign air transportation.".

Mr. CANNON. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. SCOTT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SCOTT. Mr. President, will the Chair announce the number of Senators who held their hands up?

The PRESIDING OFFICER. It is not customary to announce the number of those who held up their hands.

Mr. SCOTT. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SCOTT. Mr. President, is a sufficient number one-fifth of the 77 who voted on the last rollcall?

The PRESIDING OFFICER. Under the precedents, that is left up to the judgment of the Chair. Of course, under the practices, it is one-fifth of the number who voted on the last rollcall recently taken.

It is the judgment of the Chair that there was a sufficient number of Senators, based on precedents and practices of the Senate, who raised their hands to order the yeas and nays.

Mr. SCOTT. Mr. President, I thank the Presiding Officer.

Mr. CANNON. Mr. President, I ask unanimous consent that Robert Ginther, majority counsel, and John Kirtland, minority counsel, be permitted the privilege of the poor during the debate on the bill

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HRUSKA. Mr. President, will the Senator yield briefly?

Mr. CANNON. I yield.

Mr. HRUSKA. Mr. President, I ask unanimous consent that Malcolm Hawk, a member of the staff of the Judiciary Committee who worked on this legislation, be given the privilege of the floor during the consideration of both of these bills.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, S. 2280 is designed to provide the legislation necessary for the United States to implement the Convention for the Suppression of Unlawful Seizure of Aircraft—the Antihijacking Convention—to which the United States is a party, and which came into effect on October 14, 1971.

In addition, the bill is designed to provide the President authority to suspend air service to any foreign nation which he determines is encouraging aircraft hijacking by acting in a manner inconsistent with the Hague Treaty and to suspend foreign air carrier service between the United States and any nation which continues to provide for or accept air service from any nation which the President has determined is encouraging hijacking.

Finally, the bill provides the Secretary of Transportation authority to withhold, revoke or limit the operating authority of any foreign air carrier whose government does not effectively maintain and administer security measures equal to or above the minimum standards established pursuant to the Convention on International Civil Aviation.

In addition, Mr. President, I plan to offer an amendment on behalf of the Commerce Committee to S. 2280 containing additional provisions dealing with the menace of air piracy and criminal violence against air transportation. This amendment was developed by the committee following the reporting of S. 2280 but should be considered with it as part of a total legislative program.

Briefly, the amendment will require the FAA Administrator to issue regulations, as soon as practicable, requiring for at least the next 12 months, that all passengers and their carry-on property carried in air transportation involving large aircraft be screened by weapon detecting devices, operated by employees of air carriers, before the passengers and their baggage are boarded. The amendments authorize the Administrator to acquire and furnish metal detector devices for this purpose with funds from the airport and airway trust fund. The devices will remain U.S. property.

Mr. COTTON. Mr. President, the Senator from New Hampshire has an inquiry to make of the manager of the bill. I am a little confused concerning the time limitation on this bill.

There was no real controversy over the original bill, S. 2280, as it was reported on August 4 (Calendar Order No. 961). It could have been disposed of, at any time.

But, then the committee filed an amendment (No. 1557). I am not going to oppose the committee amendment. However, there is some question about it. I have a letter from the Secretary of Transportation, and I wish to make a brief statement concerning it.

However, somewhere along the line a time limitation of 1 hour was agreed to on the bill, S. 2280. I do not know by whom that was done. I did not have an opportunity to be heard on that. But, I want to be sure that I have an opportunity to get some material in the RECORD.

Quite frankly, I do not understand why, after the committee's amendment (No. 1557) was reported, there was this time limitation.

Mr. SCHWEIKER. Mr. President, I am responsible for the time limitation of 1 hour. The reason is very easy to explain. An agreement was entered into in the RECORD on the basis of 20 minutes for amendments. The committee amendments were printed. I did not know what we could or could not amend. My amendment would amend the committee amendment and not the bill.

I want to assure the Senator from New Hampshire——

Mr. COTTON. I am not concerned at the moment about the amendment. But, I am interested in the 1-hour time limitation on the bill—30 minutes to a side. Certainly, in view of this time agreement, the Senator from Nevada, chairman of the Aviation Subcommittee, acted very properly as he did.

I simply want to be sure I will have 5 or 10 minutes.

Mr. MANSFIELD. Mr. President, if the Senator will yield, the Senator from New Hampshire can be assured that he will have the time he needs.

Mr. SCHWEIKER. Mr. President, I will be glad to give him some of my time. I may not use all of it.

Mr. CANNON. Mr. President, under terms of the new committee proposal, the Administrator of the FAA will also be required to establish an air transportation security force of sufficient size to provide a law enforcement presence and capability at airports in the United States adequate to insure the safety of passengers from violence and air piracy. The officers of such force will have the authority to: First, detain and search any person seeking to travel in air transportation to ascertain whether such person is carrying, unlawfully, a dangerous weapon, explosive, or other destructive substance; second, search or inspect property destined for or in air transportation to determine whether it unlawfully contains any dangerous weapon, explosive, or other destructive substance; third, arrest any person whom he has reasonable cause to believe has violated or has attempted to violate Federal statutes relating to crimes against aircraft or against air transportation; and fourth, and to carry firearms.

In addition, the Administrator is empowered to designate and deputize state and local law enforcement officials to exercise the authority described above.

The amendments require that the FAA Administrator prescribe regulations requiring that airlines refuse to transport persons not consenting to a search of their person or property to determine whether dangerous weapons, explosive or other destructive substances are being carried unlawfully. Further, the amendment provides that an agreement for carriage of persons or property in air transportation shall be deemed to include an implied consent to search persons and search and inspect property to determine if dangerous weapons, and so forth, are being carried unlawfully.

The amendment will also broaden section 902(1) of the Federal Aviation Act relating to "carrying weapons aboard aircraft" by making it a Federal crime to carry aboard or have carried aboard or placed aboard an aircraft in air transportation a concealed explosive or other destructive substance. Further the amendment provides that if concealed weapons, and so forth, are carried aboard or placed aboard aircraft with reckless disregard for the safety of human life, the penalty for such violation of law is not more than 5 years' imprisonment or a fine of not more than $5,000. The prohibition against concealed carriage of weapons, explosives, or destructive substances does not apply to law enforcement officers acting within their official capacities and the Administrator is authorized, by regulation, to exempt other persons from such prohibition at his discretion.

I will discuss the committee amendment I have just described in more detail in a few moments.

PROVISIONS OF THE BILL

Section 2 of the bill expands the definition of "special aircraft jurisdiction of the United States" in section 101(32) of the Federal Aviation Act of 1958 to include: First, aircraft having "an offense" as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, committed aboard, if that aircraft lands in the United States with the alleged offender still aboard; and second, other aircraft leased without a crew to a lessee who has his principal place of business in the United States. The bill provides a new definition of when an aircraft is in flight as follows:

> * * * from the moment when all external doors are closed following embarkation until the moment when one such door is opened for disembarkation, or in the case of a forced landing, until the competent authorities take over the responsibility for the aircraft and for the persons and property aboard.

Section 3 of the bill amends section 902 of the Federal Aviation Act by establishing U.S. legal jurisdiction over persons having committed an offense under the Hague Treaty who are found in the United States but who are alleged to have committed the offense outside the "Special Aircraft Jurisdiction of the United States." In such instances, if convicted, the offender is subject to the death penalty if recommended by a jury; or by imprisonment of not less than 20 years.

Under the terms of section 3 of this bill, a person commits "an offense" as defined in the Hague Convention when he "unlawfully, by force or threat thereof, or by any other form of intimidation, seizes or exercises control of, that aircraft or attempts to perform any such act or is an accomplice of a person who performs or attempts to perform any such act." Section 3 contains a qualifying provision, however, which exempts purely domestic hijackings or hijackings beginning and ending within one nation from the provisions of subsection (b) of section 3.

Section 4(a) of the bill authorizes the President to make a determination whether any foreign nation, whether a signatory of the Hague Convention or not, is acting in a manner inconsistent with the provisions of the Hague Convention by encouraging hijacking; if that determination is affirmative, the President is authorized to suspend the operating authority of any U.S. and foreign air carrier for provision of air transportation service to that foreign nation. Further, the amendment permits the President to suspend the rights of any foreign carrier operating in the United States whose government maintains air service between itself and the offending foreign nation. Section 4 makes it unlawful to engage in foreign air transportation in violation of the suspension of rights by the President. Section 5 of S. 2280 provides for civil penalties of $1,000 per violation. Section 6 of the bill provides the Attorney General with the authority to enforce the provisions of section 4(a).

Section 4(b) of S. 2280 provides the Secretary of Transportation authority, subject to the approval of the Secretary of State, to withhold, revoke, or impose conditions on the operating authority of an airline of any nation which does not maintain and administer effective security measures relating to foreign air transportation. In order to avoid U.S. action under this subsection, foreign nations must maintain such security standards that are equal to or above the minimum standards which are established pursuant to the Convention on International Civil Aviation or, prior to a date when such standards are adopted and entered into force pursuant to such Convention, the specifications and practices set out in Appendix A to Resolution A17–10 of the 17th Assembly of the International Civil Aviation Organization. If the Secretary finds any nation not adhering to such security standards, or ones of equal value, then he must notify that nation of such finding and the steps considered necessary to bring the security measure of that nation to standards at least equal to the minimum standards of such convention or such specifications and practices of such resolution.

Section 4(b) also requires the Secretary to notify all nations who are parties to bilateral air transport agreements with the United States and all nations whose airlines hold foreign air carrier permits of the United States of the provisions of this subsection within 30 days of the enactment date of this act.

COMMITTEE AMENDMENTS TO S. 2280

The committee has added four substantive amendments together with numerous technical and drafting amendments to S. 2280. The substantive amendments are explained below:

First. S. 2280 originally prescribed criminal penalties, for offenders of the Hague Convention committing unlawful acts outside the special aircraft jurisdiction of the United States but who are found within the United States, of death or imprisonment for any term of years if the death penalty is not imposed. The committee amendment provides for a minimum penalty of not less than 20 years in prison for such offenses.

Second. The committee has amended section 3(b) of the bill to provide that the new criminal provisions of the bill, section 902(n), relating to offenses against the Hague Convention committed outside the special aircraft jurisdiction of the United States, be applicable only to offenses occurring aboard international flights. The amendment will preclude the interpretation that the provision in the bill establishing the offense of hijacking outside the special aircraft jurisdiction of the United States applies to a hijacker of a purely domestic flight within a foreign country. The amendment conforms the provision to article 3, section 3, of the convention which states that the convention applies only if the place of takeoff or the place of actual landing of the aircraft is situated outside the territory of the state of registration of the aircraft. The amendment also incorporates into the new universal jurisdiction provision the definition of the term "in flight" as it is used in the convention.

Third. The committee has adopted an amendment to S. 2280, adding a new section 1114 to the Federal Aviation Act of 1958. The amendment authorizes the President to make a determination whether any foreign nation, whether a signatory to the Hague Convention or not, is acting in a manner inconsistent with the provisions of the Hague Convention by encouraging hijacking; if that determination is affirmative, the President is authorized to suspend the operating authority of any U.S. and foreign air carrier for provision of air transportation service to that foreign nation. Further, the amendment permits the President to suspend the rights of any foreign carrier operating in the United States whose government maintains air service between itself and the offending foreign nation.

The amendment makes it unlawful to engage in foreign air transportation in violation of the suspension of rights by the President.

It further provides civil offenses against the Federal Aviation Act.

Finally, the Attorney General of the United States is given the authority to enforce the provisions of the amendment.

Fourth. Finally, the committee has added, by amendment to S. 2280, a new section 1115 to the Federal Aviation Act of 1958, which provides the Secretary of Transportation authority, subject to the approval of the Secretary of State, to withhold, revoke, or impose conditions on the operating authority of an airline of any nation which does not maintain and administer effective security measures relating to foreign air transportation. In order to avoid U.S. action under this subsection, foreign nations must maintain such security standards that are equal to or above the minimum standards which are established pursuant to the Convention on International Civil Aviation or, prior to a date when such standards are adopted and entered into force pursuant to such convention, the specifications and practices set out in appendix A to resolution A17–10 of the 17th Assembly of the International Civil Aviation Organization. If the Secretary finds any nation not adhering to such security standards, or ones of equal value, then he must notify that nation of such finding and the steps considered necessary to bring the security measures of that nation to standards at least equal to the minimum standards of such convention or such specifications and practices of such resolution.

The amendment also requires the Secretary to notify all nations who are parties to bilateral air transport agreements with the United States and all nations whose airlines hold foreign air carrier permits of the United States of the provisions of this section within 30 days of the enactment date of this act.

S. 2280 was submitted by the Department of Transportation and is designed to implement, for the United States, the Convention for the Suppression of Unlawful Seizure of Aircraft—sometimes referred to as the Hijacking or Hague Convention.

The Hijacking Convention was signed by the United States and 49 other countries at The Hague on December 16, 1970. The convention was designed to strengthen substantially the Tokyo Convention which applies to the commission of crimes aboard aircraft. The Tokyo Convention provides that in the case of aircraft in flight in international air transportation the law of the state of the flag of the aircraft applies to events occurring aboard that aircraft. That convention gives certain powers and responsibilities to the commander of an aircraft with respect to crimes committed aboard his aircraft. In the case of a hijacked aircraft, contracting states are obliged to restore control of the aircraft to its lawful commander, to permit the passengers and crew to continue their journey as soon as practical, and to return the aircraft and its cargo to the lawful possessors.

However, the Tokyo Convention does not oblige any state to establish jurisdiction over hijacking or to extradite or submit to prosecution hijackers in its custody. It is this gap in the international legal system which the Convention for the Suppression of Unlawful Seizure of Aircraft closes.

The Hijacking Convention obligates its parties to establish jurisdiction to punish hijacking—"the offense"—and any other act of violence against passengers or crew committed in connection with the offense when first, the offense is committed on board an aircraft registered in that State, second, the aircraft on board which the offense is committed lands in that State with the hijacker on board; and third, the aircraft on board which the offense is commented is leased without crew to a lessee whose principal place of business, or permanent residence, is in that State. In addition, each contracting State is required, regardless of where the offense is committed, to establish jurisdiction to prosecute any hijacker found within its borders whom it does not extradite.

Current law already enables the United States to implement, in many respects, the Hijacking Convention. In 1961, Congress added to title IX of the Federal Aviation Act a number of provisions dealing with the commission of crimes aboard aircraft. These included provisions proscribing aircraft piracy, interference with the performance of the duties of a flight crewmember, and a number of crimes of violence such as murder and manslaughter.

In 1970, following the ratification of the Tokyo Convention, a number of amendments were made to those provisions to fulfill our responsibility to implement that Convention.

Previous to the enactment of these amendments, most of the criminal provisions of title IX applied to acts committed aboard aircraft in flight "in air commerce." The 1970 amendments extended and clarified Federal jurisdiction over these crimes by establishing the "special aircraft jurisdiction of the United States" to include while in flight:

First. All civil aircraft of the United States;

Second. All aircraft of the U.S. national defense forces; and

Third. All other aircraft within the United States, or outside the United States if the aircraft has its next scheduled destination or last point of departure in the United States, provided that the plane next actually lands in the United States.

In order to implement effectively the Hijacking Convention, additional amendments to these provisions are required, and this is the purpose of S. 2280.

First, the definition of the special aircraft jurisdiction of the United States is amended to include: any aircraft outside the United States aboard which the offense of air piracy is committed, if the aircraft lands in the United States with the offender still aboard, and any aircraft, no matter what its registration, leased without crew to an operator who has his principal place of business in the United States or who is a permanent resident of the United States.

Second, in order to satisfy article 4, paragraph 2 of the convention, the bill includes a special provision establishing jurisdiction over the offense of hijacking when it occurs anywhere outside the special aircraft jurisdiction of the United States but the alleged offender is later found in the United States. This is the so-called universal jurisdiction provision which makes hijackers outlaws wherever they are found.

The bill establishes a separate substantive offense to cover this situation, carrying its own penalty provision.

The penalty provisions are identical to those applying to crimes committed within the "special aircraft jurisdiction of the United States."

The administration proposal would have provided a penalty of death or imprisonment for any term of years, or for life, whereas under our existing law and under the terms of the bill as it relates to the extension of the "special aircraft jurisdiction of the United States," the offense of aircraft piracy is punishable by death or by imprisonment for not less than 20 years, or for life. In speaking to its proposal the administration testified:

> Thus, the maximum penalty is the same for both provisions; only the minimum penalty is different. It should be noted, however, that the existing domestic law on air piracy provides for lesser included offenses such as interference with flight crew members, which is punishable by imprisonment for any term of years; the same minimum penalty we recommend for the "international" offenses. Consequently, the penalty structure for a "domestic" offender is in practice no different from that which would be applied by the proposed legislation to implement the universal jurisdiction provision of the Convention, since in some domestic cases the offender may be prosecuted for a lesser included offense rather than air piracy because of lack of evidence, extenuating circumstances, or other reasons.

We believe it would be an unfortunate precedent to provide a lesser penalty applicable to a hijacker who is a fugitive from the jurisdiction of another nation and happens to be found in the United States as opposed to the more stringent minimum penalty applicable to a hijacker who is within the aircraft jurisdiction of the United States. If we wish to impress upon the world community that hijacking is a crime against international civil aviation, we must not differentiate between the penalty structure applicable to other nations' hijackers as compared to that of U.S. hijackers. They must both be subject to the same severe penalties.

The explanation given in the testimony of the U.S. Department of Transportation for making such differentiation of penalties is not persuasive. If, in a particular case, it would not be appropriate for the United States to prosecute as a hijacker a fugitive who happened to be found in the United States, or if, in a particular circumstance, it would appear that a minimum penalty of 20 years for such fugitive would be inappropriate, the United States has the option under the Hijacking Convention and domestic law to extradite the alleged offender to another State which has jurisdiction. Therefore, because of the extradition option available to the United States, there is no need to differentiate between penalties applicable to the domestic offender and the fugitive offender. Each should be subject to the same severe minimum and maximum penalties now in effect under domestic law.

We believe that part of the reason for the alarming increase in hijacking has been the failure of the U.S. court system to impose stiff penalties on those convicted of hijacking and, concurrently, the failure of the U.S. Government to fully prosecute those apprehended and tried for hijacking. In some instances the Department of Justice accepts pleas of guilty to a lesser crime than hijacking. The result is often minimal sentences.

The committee believes that each hijacking offender must be prosecuted to the fullest extent of the law and that the judiciary must impose stern sentences on those convicted. If more examples of swift and stringent punishment were publicized to the public, the incidence of hijacking would undoubtedly decrease.

U.S.-IMPOSED SANCTIONS AGAINST NATIONS WHICH ENCOURAGE HIJACKING

One of the major reasons international political hijacking continues unabated is the widely known fact that certain nations encourage or condone air piracy by refusing to punish or extradite hijackers who seek sanctuary in their territory.

Such nations refuse to abide by the

provisions of the Hague Convention and apparently still believe that aircraft piracy is a legitimate expression of political or social dissent or an acceptable means of fleeing to political asylum.

The United States, in attempting to deal with this situation, has been seeking multilateral accords among states. For example, in June the Council of the International Civil Aviation Organization—ICAO—endorsed a U.S. resolution dealing with this situation. The resolution called for maximum compliance with the physical security standards previously proposed by the United States. It also directed ICAO's legal committee urgently to resume work on the drafting of an international convention directed toward the enforcement, by joint international action, of certain obligations contained in the Hague Convention. Such work resumed in Washington on September 4 but ended without agreement. The U.S. position was strongly opposed.

While the committee is sympathetic with the administration's efforts to reach multilateral agreement on the sanctuary problem, we are not convinced that those efforts will meet with early success.

The committee believes that while the United States should continue to seek agreement among nations, more direct action aimed at the problem is also necessary and desirable. Therefore, we have provided the President explicit statutory authority in section 4 of the bill to suspend air service between the United States and any foreign nation he determines is not acting consistently with the provisions of the Hague Convention and, further, to suspend foreign air carrier service between the United States and any other nation which continues to maintain air service between itself and a nation which the President has determined is not living up to its international responsibilities under the Hague Convention. This legislation does, in fact, provide for a unilaterally imposed U.S. air transport boycott of both a primary and secondary character.

In testifying on this matter on June 28, 1972, the Department of State made the following observations:

> It would impose upon the President the duty to utilize possible denial of access by foreign air carriers to the United States as a unilateral means of enforcing international adherence to the standards of the Hague Convention. We wholeheartedly support the proposition that a state which fails to discharge its responsibilities to civil aviation should face the possibility of exclusion from the benefits of the aviation system. However, we do not consider it appropriate or fair for the United States to bear the entire burden of adjudicating this problem and enforcing the remedy. Indeed, were the United States to signal its willingness to "police" Hague obligations unilaterally, many states, now favorably disposed toward playing their role in the enforcement process, might contentedly sit back, waiting for us to do it all.
>
> Moreover, as a practical matter, the application of S. 2280 as a unilateral measure might do substantial harm to U.S. interests, without necessarily influencing those states whose conduct might pose a threat to our carriers and passengers. Some of our most difficult problems have arisen in states which have no direct air connections with the United States. These would not be affected by the primary boycott provisions of 1113 [1114] (a)(1). In addition, while our air services to other states might be terminated, it would be at great cost to the United States. Also, it might have only questionable impact were the target state's conformity to Hague principles a disputed issue. Moreover, we were to attempt to utilize the provisions of 1113 [1114] (a)(2), this might have little if any effect in cases where other states providing air connections to the target country did not serve the United States. These practical considerations, once again, illustrate the fact that only an international effort focusing the political weight of international opinion as well as the economic weight of service suspension can provide a successful approach to the problem.

In general terms the committee is in agreement with the observations of the State Department. However, we believe that current circumstances warrant a case-by-case evaluation of each hijacking incident in which The Hague convention would be involved. Certainly the new Presidential authority contained in the bill will be helpful as a bargaining tool for the United States in seeking to convince other nations to deal responsibly with hijackers seeking sanctuary in their territory. Simply the threat of U.S. imposed air transportation boycotts should have a salutary effect on nations which might be reluctant to abide by The Hague Convention provisions.

Furthermore, the committee believes that in certain instances the President should impose air transport boycotts of both a primary and secondary character against nations which continue to completely ignore their international obligations. Such a U.S. boycott would point out to the world that this Nation is willing to take the most stringent measures at its command to demonstrate its disfavor toward nations whose attitude jeopardizes the lives of millions of innocent citizens of the world who rely on air transportation to meet their economic and social needs.

While the imposition of such a boycott would obviously have far-reaching diplomatic and economic repercussions and ramifications, international air piracy is such an extreme threat to the world's air transport system that the United States must be willing to take extreme measures to censure nations which continue to condone or encourage such criminal activity.

We expect the President to exercise caution in exercising this new authority and to take into account the myriad factors which would be involved in any U.S. imposed air transport boycott. Obviously there will be instances, despite some nation's failure to live up to the terms of the Hague Convention, in which U.S. action imposing a boycott would not be wise. However, in our view there will be occasions when the imposition of such a boycott, either primary or secondary, will further the interests of the United States, its citizens, and all nations of the world who live by international law and want to preserve the security and safety of the international air transport system.

SECURITY IN FOREIGN TRANSPORTATION

The committee believes that additional measures are also needed to protect American nationals traveling on foreign air carriers. Recently 16 Americans were killed in one terrorist incident at Lod International Airport near Tel Aviv after debarking from an Air France flight. Reports at the time indicated that lax security had been a factor in enabling terrorists to conceal weapons in uninspected luggage.

Section (4)(b) of S. 2280 would permit the Secretary of Transportation, with the approval of the Secretary of State to restrict, limit, or revoke the operating authority of foreign air carriers when, after appropriate consultations, foreign nations or their carriers fail to afford necessary security safeguards to the traveling public. This provision does not require the executive to undertake a worldwide survey of foreign security procedures, but the United States would be prepared to act in cases where the safety of American passengers is at issue.

The procedures outlined in section 4(b) parallel those governing safety under our most recent bilateral air transport agreements. The interim international standards of ICAO resolution A17–10, which are to govern until more definitive standards are approved by ICAO, were proposed by the United States at the 17th Extraordinary Assembly of ICAO in June 1970 and have been drawn together in ICAO's Security Manual for the Prevention of Unlawful Acts against Civil Aviation, Doc. 8973, Restricted (1971). Appendix A to resolution A17–10 sets forth in detail those minimum standards of air security to which section 4(b) refers.

In acting to encourage interim international safety standards to protect U.S. citizens in foreign air transportation, the committee has followed a precedent established by Public Law 89–777, 80 Stat. 1356. The Congress, in that instance, prohibited certain foreign and domestic vessels from departing U.S. ports if those vessels did not comply with standards set forth in the International Convention for the Safety of Life at Sea, 1960, as modified by the amendments proposed by the 13th session of the Maritime Safety Committee of the Intergovernmental Maritime Consultative Organization contained in annexes I through IV of the "Note Verbale" of the Secretary General of the organization dated May 17, 1966, No. A1/C/3.07 (NV.1).

The committee has recommended providing the administration with authority to impose U.S. sanctions against the airlines of foreign nations who do not observe interim international standards of air security much as Congress in 1966 mandated sanctions against foreign-flag international safety standards for the safety of life at sea.

The committee recognizes the urgency of adopting effective security measures providing for adequate screening of passengers prior to boarding aircraft. Permanent international air security standards are being developed in ICAO's technical bodies at this time, and work on the final standards should be completed within 12 to 18 months. The interim measures set forth as appendix A to ICAO Resolution A17–10, however, should be implemented by all concerned States immediately. The committee has concluded that the Executive should have authority to withhold, revoke, or impose conditions on the operating rights of the airline or airlines of a country which fails to effectively maintain and administer security standards that are equal to or above the minimum standards promulgated in appendix A to Resolution A17-10. When permanent standards are established, pursuant to the Convention on International Civil Aviation, the committee believes those standards should be implemented worldwide. Comparable sanctions should be available to the Executive in the event that a foreign country fails to comply with the permanent standards of the convention, when such standards become effective.

The committee, in recommending section 4(b), has carefully avoided the temptation to mandate U.S. security standards as minimum standards for foreign air carriers. The United States does not necessarily prescribe the best methods or procedures for preventing air piracy, or other unlawful acts against civil aviation. The committee has concluded that American citizens should be protected by air security standards at least equivalent to official international standards promulgated by ICAO, and section 4(b) is an effort to secure that minimum degree of protection.

Mr. President, I ask unanimous consent that the Senate agree en bloc to the committee amendments to S. 2280 as reported.

The PRESIDING OFFICER. Will the Senator please repeat his request?

Mr. CANNON. Mr. President, I ask unanimous consent that the Senate agree en bloc to the committee amendments to S. 2280 as reported.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CANNON. If the committee amendments are agreed to en bloc, would it still be possible to amend them?

The PRESIDING OFFICER. No; it would foreclose any additional amendment to the committee amendments, unless the Senator makes that a part of the request.

Mr. CANNON. Mr. President, there is some confusion. I am talking about committee amendments en bloc as reported, we have not had the new committee amendment called up.

Mr. MOSS. Mr. President, could the request be made that they be considered original text and subject to amendment?

The PRESIDING OFFICER. If the Senator made such a request and it was agreed to, the bill and the committee amendments would be subject to amendment.

Does the Senator from Nevada wish to include in his request that the bill be considered as original text for the purpose of amendment?

Mr. CANNON. Mr. President, the request pertains to the committee amendments to the bill as reported.

The PRESIDING OFFICER. The Chair understands that.

Mr. CANNON. And the committee proposes to offer another amendment to the bill as a committee amendment, which Senator SCHWEIKER desires to amend.

Mr. SCHWEIKER. Mr. President, I withdraw my objection.

Mr. MOSS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. MOSS. I shall be glad to yield to the chairman, but I think we simply need the words that the committee amendments be considered as original text.

The PRESIDING OFFICER. Is that the request?

Mr. CANNON. There is no objection.

The PRESIDING OFFICER. Does the Senator object?

Mr. CANNON. No.

Mr. MAGNUSON. Mr. President, I want to ask the chairman of the Subcommittee on Aviation to permit me to make an observation. All of us know this is a very serious problem——

The PRESIDING OFFICER. Before the Senator continues, is there objection to having the bill, as thus amended, considered as original text for the purpose of further amendments? The Chair hears none and it is so ordered.

Mr. MAGNUSON. As I pointed out in our committee report, air piracy is one of the serious problems that concerns everyone in the Nation and people all over the world. The situation does not seem to get any better. The Committee on Commerce all year has considered how to attack the problem. Many ways have been suggested, some extreme, others milder. We have tried to prepare, in the committee, a total program with the help of the Senator from New Hampshire and the Senator from Nevada. It will be a major step forward in helping to solve the problem.

When the United States has sought agreements in the international field, on the sanctuary problem we have met with some rebuffs. I ask the chairman of the subcommittee if that is not correct.

Mr. CANNON. We have indeed.

Mr. MAGNUSON. We have had difficulty with other nations in working out new agreements. We have heard from many people and many airline pilots, not only domestic pilots, but pilots from foreign airlines, whose lives are in danger daily because of this problem.

I want to say that unless certain nations sit down with the United States and Canada and work out agreements on the sanctuary problem, and do it pretty soon, the airline pilots themselves are going to take matters into their hands. That would be an unfortunate way to do it. The way to do it is to work it out in international agreement, but if it is not worked out, I would not blame the pilots. There is going to be an airline pilot rebuff to those nations, if they do not do something about it.

This proposal is a step forward. The two bills, S. 2280 and S. 2567 with their amendments, are movement in the right direction. They may not be a complete answer. We do not know the techniques yet for a complete answer, but we know we have to take the leadership not only in this Nation but in the world to do something about this problem.

The patience of the airline pilots and the crews is getting down to the ragged edge. They are the ones who run the risk of being shot or killed every time airplanes take off. They are getting pretty angry. I think it is France and perhaps some other nations that are dilly-dallying about coming to some agreement.

This problem is occurring every day all over the world. I think we should approach it in the best way we know how, within our jurisdiction and capability, hoping it may point up to something that can be done, particularly in the international field.

Mr. PEARSON. Mr. President, I yield myself 6 minutes.

Mr. President, the Convention for the Suppression of Unlawful Seizure of Aircraft, commonly called the Hague Antihijacking Convention, was signed by the United States and 49 other countries at The Hague on December 16, 1970. The Convention was submitted to the Senate on April 15, 1971, and reported favorably by the Committee on Foreign Relations in August of that year. The Senate consented to the resolution of ratification on September 8, 1971, by a vote of 53 to 0.

The Hague Convention complements, and strengthens substantially, the Tokyo Convention which applies to the commission of crimes aboard aircraft. While the Tokyo Convention obligated signatory states to restore hijacked aircraft to the control of their lawful commanders, the Hague Convention obligates its parties to establish jurisdiction over hijackers and agree to extradite or submit to prosecution those offenders in custody.

Mr. President, the legislation before the Senate would implement the Hague Convention by extending the special aircraft jurisdiction of the United States to include any aircraft outside the United States, aboard which the offense of air piracy is committed, if the aircraft lands in the United States with the offender still aboard; and any aircraft leased without crew to an operator who has his principal place of business in the United States or who is a permanent resident of the United States.

The legislation reported by the committee also would implement the "universal jurisdiction" provision of the Hague Convention by establishing U.S. jurisdiction over the offense of air piracy when it occurs outside the special aircraft jurisdiction of the United States, but the alleged offender is subsequently found in the United States. This provision brands an air pirate as an outlaw in all signatory states. It forces him to seek safe haven beyond the borders of the parties to the Convention.

Mr. President, sections 2 and 3 of the committee bill would conform U.S. domestic law to the terms of the Hague Convention. The enactment of these provisions, in substance, is an obligation of the United States under international law. I would urge all Senators to lend their support in this endeavor.

It cannot be asserted that the Hague Convention will eliminate safe havens, or lead to the prosecution of all hijackers. Less than half the nations of the world community are signatories to the Convention. Nevertheless, this initiative is a substantial beginning toward the goal of universal jurisdiction over the offense. Piracy on the high seas was eliminated when the offenders no longer had the security of a refuge from justice. Air piracy can be defeated in the same manner.

Mr. President, the committee recognizes that international air piracy continues to be a menace because some nations, as a matter of policy, condone hijacking by refusing to extradite or punish offenders who seek sanctuary in their territories.

The committee, in response to this situation, has recommended the authorization of certain U.S.-imposed sanctions against those nations which encourage hijacking. This authorization is contained in section 4(a) of the pending bill, and I want to comment on my understanding of this provision.

Section 4(a) gives the President discretionary power to suspend air service between the United States and a country which acts inconsistently with obligations set out in the Hijacking Convention. It also covers secondary boycotts.

In testifying on this matter, the administration stated that the most effective boycott measures are those taken pursuant to joint international action, rather than unilaterally. In this regard a U.S. resolution was introduced in the Council of the International Civil Aviation Organization last June calling for the immediate convening of a special subcommittee to prepare an international convention which would set up the multilateral procedures for boycott action.

The Council adopted this resolution and the subcommittee was invited by the United States to meet in Washington. It met at the State Department during the first 2 weeks of September. It is my understanding that the subcommittee met with considerable success and that a complete text of a convention, while not formally approved by the subcommittee, has been referred to the Legal Committee with a recommendation that the subcommittee work be studied as soon as possible. I think this is good progress. If the Legal Committee meets shortly, a diplomatic conference could be held by next summer to formally adopt a convention.

The fundamental purpose of section 4(a), as I would understand it, is to enable the President to cut off air services between the United States and a country which does not punish hijackers, in action taken in concert with other countries. Pending formal adoption of a convention on boycotts, this multilateral action would be taken pursuant to a resolution on this subject introduced by the United States 2 years ago and passed by the ICAO Council on October 1, 1970.

The purpose of section 4(a) is not to get the United States way out in front taking unilateral action. The United States cannot, alone, stand as "policeman of the world." Aviation states are to act together to isolate countries which do not take strict measures against hijackers. Boycotts must be joint to have impact in the usual case.

The committee's report, on pages 18 and 19, indicates general agreement with this analysis. It is expected that the Presidential discretionary power would be used sparingly, in urgent circumstances, where it would have clear effectiveness. And it would only be in rare cases that the President could be expected to exercise this power as a unilateral U.S. measure—this would require, as the report notes, use of extreme caution, taking into account the myriad factors involved in any U.S.-imposed air transport boycott.

Mr. President, all Americans were shocked and saddened when 16 U.S. citizens were killed in one terrorist incident at Lod International Airport near Tel Aviv after debarking from an Air France flight. There were reports at the time that lax security had been a factor in enabling terrorists to conceal weapons in their luggage.

In response to the demand for improved security standards to prevent air piracy, terrorist attacks, and extortion plots against civil aviation, the 17th Extraordinary Assembly of the International Civil Aviation Organization in June, 1970, adopted resolution A17–10, setting forth minimum standards for the protection of aircraft on the ground and in the processing of passengers, crew, mail, and freight. These minimum security standards were proposed to the assembly by the U.S. representative, and are comparable to part 107 of the Federal air regulations as promulgated by the Federal Aviation Administration. Airport operators throughout the United States are implementing security programs pursuant to these new regulations at this time.

Under international law, ICAO member-states are obligated to implement comparable programs of physical security. The committee is of the view that U.S. citizens traveling abroad deserve the minimum degree of protection afforded by the terms of ICAO resolution A17–10. Therefore, the committee has recommended extending to the Executive the authority to withhold, revoke, impose conditions upon the operating rights of the airline or airlines of a country which fails to effectively maintain and administer security standards that are equal to or above the minimum standards of the ICAO resolution.

This provision is contained in section 4(b) of the committee bill. Although the standards of resolution A17–10 are of an interim nature, they are nevertheless binding upon all member-states. The sanction against the airlines of countries which fail to comply with minimum physical security standards are, of course, discretionary and flexible to provide an appropriate response by the United States.

Under section 4(b), the Secretary of Transportation and the Secretary of State are not required to undertake a worldwide review of airport security. But the Executive is empowered to initiate limited sanctions against countries which fail to afford U.S. citizens traveling abroad the minimum degree of security to which international law entitles them.

As author of section 4(b), I am gratified that it has earned the support of the administration as a practical, workable unilateral initiative to promote better worldwide airport security.

Mr. President, every responsible citizen of the world community is committed to the demise of unlawful attacks on civil aviation. The elimination of air piracy must be considered a priority of the international community. The legislation before the Senate today fulfills the obligations of the United States under the Hague Convention; and additionally, it provides the executive branch with certain powers the committee believes necessary to facilitate U.S. leadership in combating air piracy.

I support the committee bill, and respectfully urge its passage by the Senate.

I yield 5 minutes to the distinguished Senator from New Hampshire (Mr. COTTON).

Mr. COTTON. I thank the Senator. I have an appointment off the floor and for that reason I wanted to begin as soon as I could.

Mr. President, by letter dated yesterday, September 20, Secretary of Transportation Volpe expressed to me several concerns which his Department has with regard to the bill S. 2280 now being considered and the Commerce Committee amendment No. 1557 to be considered later. The majority of Secretary Volpe's comments dealt with his Department's concern over the provisions of the Commerce Committee amendment No. 1557, which was ordered reported by the committee on September 13 and which provides, in part, for the establishment of an air transportation security program and an air transportation security force to be administered by the Administrator of the Federal Aviation Administration.

I share some of the concerns expressed by Secretary Volpe in his letter of September 20; others, I do not. I take this position in recognition also of the status of a companion bill to S. 2280 in the House of Representatives. It is my understanding that a House companion bill, H.R. 16191, has been introduced which is identical to the provisions of S. 2280 as originally reported by our Committee on Commerce. H.R. 16191, however, does not contain the provisions of the Commerce Committee amendment. I further understand that no hearings thus far have been held on this companion measure H.R. 16191, so that as a practical matter the likelihood of the other body taking final action on S. 2280, including the Commerce Committee amendment is at this point in time somewhat remote. But, even if the House was able to act, I believe that we might have an opportunity in conference to consider the differences raised by Secretary of Transportation Volpe in his letter of September 20.

Therefore, I am not going to offer the amendments suggested by the Secretary of Transportation, but I do wish to ask unanimous consent to insert in my remarks the full text of his letter of September 20.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., September 20, 1972.
Hon. NORRIS COTTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR COTTON: We have had the opportunity to review S. 2280 as reported by your Committee on August 4, 1972, and also the proposed Committee Amendments to S. 2280 contained in the Committee Print of September 13, 1972, and would like to provide you our views thereon.

S. 2280 and the proposed Committee Amendments contain a broad-sweeping program attacking the aircraft hijacking problem. The Department appreciates the attempt of the Committee to come to grip with the often frustrating problem of stopping persons who would commit acts of violence and piracy against our air transportation system, and we believe that a number of the provisions would be helpful in strengthening the attack against hijackers. However, some of the provisions are inappropriate in our view and, as indicated in the discussion below, should be omitted from the bill.

S. 2280 AS REPORTED BY THE COMMITTEE

As to S. 2280 as reported on August 4, 1972, the Department fully supports sections 2 and 3 which contain amendments to the Federal Aviation Act adjusting our law to the provisions of the Convention for the Suppression of Unlawful Seizure of Aircraft (Hague convention). That Convention, which obligates contracting States to establish jurisdiction over hijacking and to extradite or submit to prosecution hijackers in its custody, was signed by the United States on December 16, 1970. Last September the Senate gave its consent to ratification of the Convention and the Convention entered into force. With respect to the United States, the last formal step necessary now to fulfill our obligations under the Convention is to enact sections 2 and 3 of S. 2280. Therefore, we urge Senate approval of those sections.

Section 4(a) of S. 2280 as reported by the Committee empowers the President to suspend air service to and from any foreign nation he determines is acting in a manner inconsistent with the Hague Convention. It also permits him to suspend the right of any foreign air carrier to engage in foreign air transportation between the United States and any foreign nation which maintains air service between itself and a second foreign nation acting in a manner inconsistent with the Convention. The Department recognizes the need to eliminate "safe havens" around the world for hijackers, but we believe the way to attack this problem is through multilateral, rather than unilateral, action. A primary boycott implemented on a unilateral basis cannot be effective in a case where the United States does not provide air service to the offending country. In a case where we do provide service to such a country, it would be of limited value if the offending country could look to the continued provision of air service to its territory by other countries. A secondary boycott implemented in such a situation still might not remedy the situation if the offending nation were served by countries that do not serve the United States. Finally, even if the offending nation did rely upon service by nations which also served the United States, a secondary boycott on our part could very well result in our damaging our friends and allies to a greater extent than the offending country.

In view of the above, the Department recommends against adoption of the secondary boycott provision in section 4(a). We agree that a primary boycott provision might be appropriate, but only if it is understood that whatever action taken must be in concert with other nations. The attached amendments contain language which would accomplish these purposes.

COMMITTEE AMENDMENTS TO S. 2280

There are two aspects of the Committee Amendments to S. 2280 which the Department strongly opposes. We are in total disagreement with that portion of new section 24 which deals with the establishment of an air transportation security force. Our basic reasons are as follows:

1. The acceptance of a permanent Federal role in the law enforcement phase of civil aviation security is an intrusion of Federal personnel into State and local jurisdictions and responsibilities;

2. Local communities must begin to assume greater responsibility for providing police protection for their citizens;

3. The creation of a special air transportation security force limits the flexibility of the Executive Branch by reducing the options available to it for developing an effective civil aviation security program on a partnership basis with State and local government units;

4. Most airports have already made arrangements for their own security and police protection specifically for the aviation security program;

5. The Federal Government does not provide similar services to other transportation modes; for example, railroad police are employees of the railroads;

6. Existing Federal law enforcement agencies are trained to deal with the Federal aspects of the air transportation security program;

7. The creation of a new law enforcement agency is unwarranted in view of the number of such agencies already in existence; and

8. The Department of Transportation (including the Federal Aviation Administration) is a safety oriented agency, *not* a law enforcement agency.

Therefore, we recommend the deletion from the bill, as outlined in the attached amendments, of provisions of new sections 22, 24, and 27 dealing with the establishment of a security force.

The second aspect of the Committee Amendments to which the Department is firmly opposed is the vesting of responsibilities under the bill in the FAA Administrator rather than the Secretary of Transportation.

The President has assigned primary responsibility for civil aviation security to the Secretary of Transportation, with directions to coordinate and consult with other Cabinet officers and executive agency heads. In addition, in order to insure effective management of the Department's operations, it is important that all statutory responsibilities of the Department be vested in the Secretary. Therefore, I urge that any new authority provided by the bill specifically be placed under the direction of the Secretary of Transportation. In that event I would, of course, delegate appropriate operational responsibility to the Federal Aviation Administration, the agency which now has the principal responsibility for administering our program. Again, the attached amendments indicate the changes needed to vest the authority in the Secretary.

The Committee Amendments add a new section 23 to S. 2280 which would require the screening by weapon-detection devices of all passengers and property intended to be carried in the aircraft cabin in air transportation or intrastate air transportation. It also requires the Government to furnish for the use of the carriers sufficient devices necessary for the purpose of conducting such screening. The Department has no objection to these amendments as they relate to the screening of passengers by weapon-detection devices. However, equipment is not now available nor is it expected to be available in the near future in sufficient quantities to inspect property intended to be carried in the aircraft cabin. The weapon-detection devices used for screening passengers are not intended to perform a dual function and are of little value when used on baggage or packages.

The Department also has no objection to the Committee Amendment to S. 2280 (new section 25) which provides for the promulgation of regulations requiring the air carriers to refuse transportation to (1) any person who does not consent to a search of his person to determine whether he is carrying a dangerous weapon, explosive, or other dangerous substance, or (2) any property of any person who does not consent to a search or inspection of such property to determine whether it contains a dangerous weapon, explosive, or other dangerous substance. Existing Federal Aviation Regulations require basically these same things, but the amendments are desirable to further strengthen regulatory action.

The Committee Amendments add a new section 26 to S. 2280 which provides heavier penalties for carrying weapons aboard aircraft. The Department supports these amendments. Where the action is willful and taken without regard for the safety of human life, we believe it appropriate that the suspect be charged with a felony rather than a misdemeanor as is the case under existing law. The enactment of such a provision should serve as a deterrent to such reckless and unsafe acts.

In conclusion, we appreciate the action of the Committee in reporting legislation implementing the Hague Convention and we recognize that many other provisions proposed by the Committee could make a positive contribution to the existing program for thwarting hijackers. We are strongly opposed, however, to (1) the formation in the Department of the new enforcement agency outlined in the Committee Amendments; (2) the placement by statute in the FAA Administrator rather than the Secretary of Transportation of the authority proposed in the Committee Amendments; and (3) the secondary boycott provision in S. 2280 as reported by the Committee.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report to the Committee.

Sincerely,

JOHN A. VOLPE.

Mr. COTTON. Mr. President, as I just stated, I do not share some of the points that Secretary Volpe has in mind. I do feel, however, that one objection—and I would like to read his reasons—is valid. If I did not believe that we might have a chance to cope with it in the committee of conference, if we reach that point, I would be constrained to offer his amendment on that point.

I will read just an excerpt of his letter which states his opinion on the point:

> We are in total disagreement with that portion of new section 24 which deals with the establishment of an air transportation security force. Our basic reasons are as follows:

This is the position of his department.

> 1. The acceptance of a permanent Federal role in the law enforcement phase of civil aviation security is an intrusion of Federal personnel into State and local jurisdictions and responsibilities;
>
> 2. Local communities must begin to assume greater responsibility for providing police protection for their citizens;

I would interpolate that, of course, this is referring to the fact that this force would be operating, not on board planes but at airports, dealing with the public before they board the planes.

3. The creation of a special air transportation security force limits the flexibility of the Executive Branch by reducing the options available to it for developing an effective civil aviation security program on a partnership basis with State and local government units;

4. Most airports have already made arrangements for their own security and police protection specifically for the aviation security program;

5. The Federal Government does not provide similar services to other transportation modes; for example, railroad police are employees of the railroads;

6. Existing Federal law enforcement agencies are trained to deal with the Federal aspects of the air transportation security program;

7. The creation of a new law enforcement agency is unwarranted in view of the number of such agencies already in existence; and

8. The Department of Transportation (including the Federal Aviation Administration) is a safety-oriented agency, *not* a law enforcement agency.

To make a long story short, the objection of the Department of Transportation is the fundamental one of the dangers of Federal police. It also recaps the efforts of the Department in training and securing the cooperation of State and local police in dealing with the problem on the ground before passengers enter the aircraft.

Based upon my understanding—and I hope if I am incorrect that the distinguished Senator from Nevada, chairman of the Aviation Subcommittee, will correct me——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PEARSON. I yield the Senator 2 additional minutes.

Mr. COTTON. It is my understanding that this bill, even with the committee amendment No. 1557, will not make it impossible, in cases of remote regional airports where no planes remain overnight, and where there may be but two or three flights a day and the planes land for 15 minutes to take on passengers, for the FFA to make arrangements with the State to train State or local police to screen passengers and remain at the airport there until the plane takes off. Am I correct?

Mr. CANNON. Mr. President, the Senator is correct. We recognize that a total Federal law enforcement presence at all airports in the United States is an economic impracticability, and would be an unwarranted expenditure of Government funds. We believe the Administrator should, in appropriate circumstances, delegate the security force functions and the enforcement authority to local law enforcement officials, provided they are adequately trained, as the Senator has pointed out, and we would expect the Administrator to do just that.

Mr. COTTON. I thank the Senator. That is very reassuring to me, for the reasons which I have stated. Thus, although attention need not now be paid to the position of the Department of Transportation. I think that when we get to conference there will probably be enough differences so that some attention can be given to this question. I, therefore, shall not delay action on this bill by trying to amend the committee amendment (No. 1557), which I think has some merit.

Mr. CANNON. Mr. President, as my distinguished colleague knows, the position of the Department of Transportation was made known to us when we held the hearings on S. 3815, and the committee did not agree with the Department. The committee decided against them, and that is the reason why we reported out the amendments as we have.

We are aware of the fact that the Secretary of Transportation does not want to lose any of his present authority or have us delegate authority to anyone other than him in this field. But we came to a different conclusion, and it is covered in our committee amendment.

Mr. COTTON. That is entirely true, and I would say to my distinguished friend from Nevada——

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. PEARSON. I yield the Senator as much additional time as he may desire.

Mr. COTTON. I was at the committee meeting, and I do agree that the objections were raised.

The original bill, until the committee amendment (No. 1557) was filed, did not result in objection by the Department. I am not in complete sympathy with some of the objections of the Department set forth in this letter. But, I do feel that the letter should go into the RECORD. I also feel that we should consider carefully the matter of the creation of a Federal police force.

Mr. MOSS. Mr. President, will the Senator from Nevada yield?

Mr. CANNON. Mr. President, I have not completed my statement. I knew that the Senator from New Hampshire had other matters. I would like to continue. I want to call up amendment No. 1557 to this bill, which was approved unanimously by the committee in executive session last week. However, the amendment at the desk is incorrectly printed, and I shall send forward a corrected copy.

Mr. MOSS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MOSS. I sought recognition when the bill was opened to amendment, and I believe the Chair had recognized me, but, assuming that the manager of the bill wanted to go back on the bill, I permitted him to proceed. I, too, am under tremendous pressure, because I have to sit on a conference, and would like to present my amendment, if I may.

The PRESIDING OFFICER. Is that acceptable to the Chairman?

Mr. CANNON. The rest of my statement relates to the bill and the committee amendments. I have no objection; if the Senator wants to bring up his amendment now, I am willing to let him bring it up, and withhold consideration of the committee amendments. I felt that before other amendments were called up, we ought to have the entire bill as amended by the committee before us, but if the Senator wishes to proceed I have no objection.

Mr. MOSS. I do appreciate that, Mr. President, if the Senator will permit me to go ahead. I support the committee amendment, and I shall support it when it is presented. But if it has to go as an amendment, if I could present mine now I would like to do so.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah.

Mr. PEARSON. Mr. President, will the Senator yield for a question?

Mr. MOSS. I yield for a question.

Mr. PEARSON. Does the Senator's amendment refer to the bill as originally reported, or does it amend the committee amendments? Because we have to have those reported if the Senator's amendment were to amend the committee amendments.

Mr. MOSS. No; it amends the bill as originally reported. I do not think it is necessary to have the committee amendments in for mine to be considered.

AMENDMENT NO. 1552

I call up my amendment No. 1552, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the end of the bill insert a new section as follows:

SEC. 8. The last sentence of section 403 (b) of the Federal Aviation Act of 1958 is amended by inserting after "ministers of religion" the following: "or individuals who are twenty-one years of age or younger or sixty-five years of age or older".

Mr. MOSS. Mr. President, I ask unanimous consent that my assistant, Mr. Val Halamandaris, be accorded the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOSS. In addition to the cosponsors shown on the amendment, I ask unanimous consent that the names of Mr. KENNEDY, Mr. ROTH, Mr. SAXBE, Mr. INOUYE, and Mr. GRIFFIN be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOSS. My proposal would amend another section of the Federal Aviation Act of 1958—section 403(b) to authorize those airlines so wishing to offer reduced fares for individuals 21 years of age or younger or 65 years of age or older.

The effect of this amendment is to allow the airlines to institute reduced fares for senior citizens and to continue the present youth fares on a standby basis only.

I believe there are compelling reasons for offering such fare reductions particularly since it is now clear that the Civil Aeronautics Board will overrule youth fare.

Several airlines expressed the wish to see youth fare continued but on a standby basis only. Standby youth fares allow the airlines to pick up additional revenue where they would ordinarily have an empty space. Youth fares on a standby basis were an overwhelming financial success. Senator MONTOYA pointed out recently that in 1968, 5 million young people used youth fare saving themselves $112 million but at the same time the airlines still made a profit of $21 million on youth fare in 1968.

Youth fare should continue to be offered in recognition of the modest incomes of younger Americans and to foster the flying habit. In this, the day of the jumbo jets, there will be more and more space available on our airlines which now fly year in and year out at less than 50-percent full. Our under-21 population traveling on a standby basis would be more than glad to help fill some of those empty seats.

In short, I offer this amendment to save youth fare on the knowledge from spokesmen from our major airlines who indicated to my staff positive knowledge that youth fares will be overruled by the Board. This finding is logical since there is nothing in the 1958 Federal Aviation Act which expressly authorizes such deductions. If youth fare is to be continued, the Congress must act.

A similar case can be made for reduced fares for senior citizens—perhaps an even stronger case. Once again there is nothing in the Federal Aviation Act authorizing senior citizens' fares which have been consistently blocked by the CAB on the basis of their possible discrimination against other age groups. My amendment would authorize those airlines which so desire to offer a senior citizens' fare but like youth fare it will be on a space-available or standby basis only.

Once again there are compelling reasons. First, the average load factor on the airlines is less than 50 percent for the fourth year in a row—airlines are flying less than half full.

Second, senior citizens are precisely the group that could make use of the airlines during "offpeak" hours when travel is the lightest.

Third, senior citizens make up only 5 percent of all airline passengers but 10 percent of our population.

Fourth, senior citizens do not fly because they cannot afford to do so.

Fifth, when fares are reduced the senior citizens will take advantage of the reductions.

Examples: The Chicago and New York experiments with mass transit have been most successful. In the first year after fare reductions the Mayor's Office on Aging in New York announced a 27-percent increase in ridership.

The success of Hawaiian and Aloha Airlines.—The only airlines the CAB has offered to allow reduced fares for senior citizens since 1965 are Aloha and Hawaiian Airlines. Since instituting the fares in 1968 Hawaiian has experienced a 38-percent increase in overall passengers but a 400-percent increase in senior citizen passengers. I want to emphasize that these fare reductions are offered on a "standby" only basis like my current proposal. At the same time Hawaiian has seen senior citizen standby revenues increase by more than 400-percent since 1968.

Let me now address the question of the suitability of "standby" fares for senior citizens directly. First, I offer the success of Hawaiian Airlines—the only ongoing experiment on reduced fares as an example of "senior citizens standby" fares at work.

Second, I would point out that the White House Conference on Aging considered the question and delegates from each of our States and asked the Congress to institute reduced fares on a space available basis.

Third, the inconvenience of waiting in an airline terminal is offset by the inconvenience of traveling long hours in a bus.

Fourth, if senior citizen fares are to be successful, fares must be reduced as much as possible. Deep reductions in fares are not possible or economically feasible on a positive space basis.

I believe that this proposal is an important step in correcting the way that this society treats its elderly. We sometimes forget that almost one out of four seniors lives in poverty, that medicare still only covers 42 percent of their health needs and that 6 million seniors live in substandard housing. This amendment today is really a test of the way our society will treat its older citizens in the future. I hope the amendment is adopted.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. MOSS. I am happy to yield to the chairman of the committee and then I will yield to the Senator from Illinois.

Mr. MAGNUSON. Let us be realistic about this. S. 2280 is a hijacking bill. We have discussed it many times in committee meetings. There was no mention of this amendment there, for the simple reason that this was a hijacking bill and your amendment regarding air fares did not belong there.

Also in the committee we approved a bill which is on the calendar, Calendar No. 1102, S. 1665, which deals precisely with this subject. It is on the calendar.

I would hope that all of us who are in sympathy with your amendment would put an amendment on a bill that has a chance to get passed in the House. If this amendment is put on the hijacking bill and then goes to conference, I am afraid your amendment will jeopardize it.

I do not know why the Senator wants to add this on this bill when there is a bill on the calendar that is going to be brought up in the next 4 or 5 days that deals with the subject.

Mr. MOSS. I think the way to get it passed on the House side is to put it on this bill, and that is exactly the reason.

Mr. MAGNUSON. I doubt that. I think S. 1655 would pass very simply on the House side. There is no objection to it.

I just think this is in the wrong place. I know the idea is that you put it on a hijacking bill, which is urgent. We have gone through this in committee over the years. The CAB approve reduced fares now if they wish. This bill gives them specific authority. We have a bill on the calendar that deals with the subject.

Mr. MOSS. The CAB is doing exactly the opposite.

My time is very limited, and I have agreed to yield to the Senator from Illinois and the Senator from Minnesota.

Mr. MAGNUSON. I will use some of my own time.

We have no objection to what the Senators are trying to do, but this is supposed to be a hijacking bill and there is a bill on the calendar that is going to be brought up dealing with reduced air fares. We have had hearings on it. It is on the same subject. I am sure the Senators would have the unanimous endorsement of the Committee on Commerce for all these amendments on the bill which is going to be brought up in the next 2 or 3 days.

I do not know why we jump the gun on a hijacking bill.

Mr. PERCY. Mr. President if the Senator will yield——

Mr. MAGNUSON. I understand some of this, too. Your proposal is politically popular. I understand that. The Senator from Washington will have to vote "present," on your amendment I think. The Senator from Rhode Island will have to vote "present." The Senator from New Hampshire will have to vote "present." We cannot vote to reduce fares for ourselves. Every Senator who is over 65 will have to vote "present."

Mr. PERCY. I shall vote for it.

Mr. MAGNUSON. The Senator from Illinois is less than 65.

Mr. PERCY. But I hope I will not have to wait around so long for this legislation to come to fruition that I will have to vote "present."

Mr. MAGNUSON. How long will the Senator wait around, when the committee has approved a bill on this subject? It is on the Calendar. The hijacking bill received higher priority because we have an emergency situation.

Mr. PERCY. On February 28, 1969, I introduced a bill identical to this bill, S. 1179, and I had 38 cosponsors in the Senate.

Mr. MAGNUSON. This is on my time. Let me finish.

Mr. PERCY. There were 38 cosponsors, and yet the elderly have still been waiting this long.

Mr. MAGNUSON. I am one of the older people. I am waiting, too. But I would like to consider these separate matters in order. Your idea is not new. One would think that somebody just discovered this idea last night or woke up with it. We have discussed these matters.

I was the first one to propose that the clergy be allowed discount air fares.

Also, it is a matter for the CAB to consider. These are nice things to do, and we are all for them, but I hate to see them added on to a hijacking bill, a safety matter. This is an emergency. We are trying to get the measure to the House. A hijacking might take place today. I have talked with the Policy Committee, and the other bill S. 1655 will come up, and it deals exactly with the subject.

When this bill comes up on the floor, it will be hard for any of us to vote against it, because we all believe in doing something like this. This is part of our effort to make things better for the people who are over 65, and I appreciate it. I am over 65, and I hope I will be a recipient of some of these special benefits.

But is the age going to be 65, 60, or 75? I do not want to be hijacked, whether I am on a reduced fare or a regular fare. [Laughter.]

This is what we are trying to do here today on this matter.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. CANNON. The CAB has testified on this subject and they say that the airlines have the authority now, if they desire, to put into effect reduced fares for youth and reduced fares for the elderly. But the airlines, apparently, have been reluctant to put elderly fares into effect because they are losing so much money. If they do, they will do it at the expense of the full-fare-paying passenger.

I agree with my colleague that this is not the place for this particular amendment. I am a cosponsor of one of these bills to provide reduced fares for the elderly. So I am sympathetic to it, but I am more sympathetic to those people who are getting hijacked. I believe that our main effort today should be to get a hijacking bill through so that we can get it through the House and put it into effect and get at this problem of international air piracy if we can possibly do so.

I do not think this is the place to consider reduced fares for the elderly or for youth or for ministers or for anyone else, but that when we have some other vehicle, we can do that. There is one on the calendar now, S. 1655, which deals with reduced fares for certain survivors of deceased longtime airline employees. That would be a logical place for this. It is on the calendar and we have assurance that it will be called up.

Mr. MOSS. Mr. President, I am glad now to yield first to the distinguished Senator from Illinois (Mr. PERCY) and then to the distinguished Senator from Minnesota (Mr. HUMPHREY).

Mr. PERCY. Mr. President, I appreciate it. I should like to reaffirm that I am solidly behind the pending bill. I would not do anything to interfere with it. If I thought for a moment that passage of that bill, by adoption of this amendment, would preclude us from stopping hijacking, certainly I would not be the principal cosponsor of this amendment and neither would the Senator from Utah have offered it. But we have waited all these years for consideration of this amendment. We do have a very serious situation. The airlines are probably reluctant to move ahead, although the Hawaiian airlines in doing so, have met with dramatic success, so much so, that I do not believe we need to test the idea any more. They had a 300-percent increase in airline fares after they provided for reduced fares.

But there is a problem involving the legality of the youth fares. It has been in the courts. It has been challenged by middle-aged groups who say it is discriminatory. The courts ordered the Board to render a decision. It was to have rendered that decision by July 1, 1972. July 1 has come and gone and there has been no decision yet. It is hanging in limbo. Someone must make a decision.

I think this is a policy which is both the right and the obligation of Congress to consider. We are not setting the rates. We are only providing for it in law, for such rates to be offered. It is permissive language. It is not obligatory. We are not establishing what the rate will be. The basic rate is set by the CAB in accordance with existing law.

All we are saying is that what is sauce for the goose is good for the gander. If it is good for young people, then put it into law and say that it is the policy of the Congress and take away the ambiguity and the potential court cases. And, if it is good for youth on a standby basis, it should be good for older Americans, 65 and more, on a standby basis.

I cannot imagine that this would apply to the distinguished Senator from Washington (Mr. MAGNUSON). I would imagine that he would not want to go out on a standby basis and take a chance on getting to Seattle. His time is precious. He has an active and vigorous job here. Time is money in his case. But for the elderly person who has retired, and who would not be able to take a trip otherwise, they would not mind sitting down in an air-conditioned airport waiting room, awaiting their chance to get on one of the airplanes, the average of which is only 50-percent loaded, anyway, and in some cases only 10-, 15- or 20-percent loaded. The added revenue for the airlines might even take away the necessity to subsidize some of the short-haul lines, because we subsidize them now. Certainly some of them would be used by the elderly to fill presently empty seats.

Mr. MAGNUSON. Mr. President, the Senator knew how to run a large company and he did it very well. But to run an airline is a different proposition. They have to at least just break even or they will come up here and get a subsidy. The Senator is arguing about the merits of his amendment. Let us not talk about that. We are in agreement about it. Let us talk about how we will get it done. I happen to think it would be better on another bill than on this one. I am afraid that in conference with the House, we would have some trouble with it and then we would be set back. I am talking about that, not about the merits. I have heard testimony on that for years. I understand it. All of us in the committee do. But what we are trying to say is, how do we get it done in the best possible way, and this is what we want to do.

Mr. PERCY. This is the reason it is so difficult when we talk about the retirement of people and the groups who represent them. The White House Conference has recommended it. We have had legislation on it, and many hearings.

It is time to say: When will we ever say that the condition of the elderly in America is an emergency, because, after all, they are getting older every single day? How long are they going to have to wait to take the trip that they might take if they could get a reduced fare on a standby basis and wait for the first available seat?

We all agree on the merits. I would leave to my distinguished colleague the strategy as to how this should be handled in committee. If he wants to offer this amendment, I am a cosponsor, and proud to be one. The question should be directed, perhaps, to the principal sponsor now of the amendment.

Mr. MAGNUSON. A week or 10 days is not going to make that much difference.

Mr. MOSS. Mr. President, I have already checked this with the House. We will not have any trouble, the House says, if we can get the amendment over there.

Mr. HUMPHREY. Mr. President, the point is clear. There is no real assurance that S. 1655, to which reference has been made, will be brought up in the Senate or that it can be passed in the House. But the pending bill is in this forum now, and it will be passed in the House. The amendments would not encumber it or impair it in any way. Actually, it would not affect passage of the hijacking bill. It is one way we can obtain a saving of time. It needs to be done under the Federal Aviation Act. The hijacking bill, obviously, is of critical importance, and I commend the chairman, the subcommittee chairman, and the members of the committee for this good legislation.

But the other amendment—and I have one I wish to offer for the handicapped—these are things that can be added to the bill without in any way impeding its progress because we have the positive assurance from the other Members in the other body in a similar committee that it will not impede the progress of the hijacking legislation.

Mr. MAGNUSON. I hope that this debate has not created the implication that any of us are against this amendment. We are all for this proposition. We were just thinking about a better way to do it. In a week or so when we get the other bill up we may do it there. If we are going to insist on doing it here, that is all right with me. I think we could make a try and maybe if it should get into trouble in conference with the House, we still have the other bill to fall back on.

Mr. HUMPHREY. That is correct. That is what I was hoping the chairman would do.

There is no implication in my remarks as to any criticism of the chairman, or the subcommittee chairman, or any of the members of the committee to proceed to this legislation. No one is more generous, more compassionate, or more considerate of the elderly or the sick, the needy, and the handicapped than the Senators who have just addressed themselves to this amendment.

Mr. PASTORE. Mr. President, I think there is a great deal to be said on both sides, but it is my information that the House will be reluctant to pass on any measures after next Monday. While it is true that in 5 or 6 days we may bring up the other bill, the fact still remains that I would hope this amendment is accepted, and I believe if it is pursued it will be accepted, by the membership of the Senate at least, and that the distinguished Senator from Nevada (Mr. CANNON), who is a fine manager of any bill, would agree to take it to conference. The worst that can happen to it is, if the House is against it, we may have to take a double risk. That risk is that the word is already out that the Rules Committee in the House will not consider any new legislation after next Monday. So if we send over a bill that has little to do with the matter before us, as brought up by the Senator from Utah, then I am afraid we will not get this kind of relief this session.

I realize what the problem of the Senator from Nevada is. I only say to him as a matter of pragmatism that if this comes to a vote, there is no question that the sympathy is on the side of those in favor of the amendment. I would hope under the circumstances that the Senator would take it to conference and see what can be done about it.

Mr. CANNON. Mr. President, I yield myself 1 minute.

Mr. President, I would say that this is a very attractive proposition. However, I want to explain to the Senators what we are up against. In the first place, we have an emergency hijacking bill before us. Everyone is in sympathy with the plight of the elderly, the young people, the ministers of religion, and survivors. However, we will soon have an amendment to put in a provision to cover the plight of the handicapped. I would not be surprised if someone would offer an amendment to include everyone else left out.

The bill would provide reduced airline fares to everyone. I think the airlines would be glad to do that if they could still make a profit. However, I can assure my colleagues that we will not stop with the elderly and the young, because as the distinguished Senator from Minnesota has already said, he has another amendment that he is ready to offer which includes the handicapped.

Mr. HUMPHREY. The severely handicapped.

Mr. CANNON. It would include the blind and the crippled.

Mr. HUMPHREY. And those who have to travel with a companion for the purpose of safety.

Mr. CANNON. This bill, which is an emergency bill to stop international hijacking, is going to be made to look absurd, I believe, to the people of this country if it ends up being a reduced airline fare bill rather than a hijacking bill, as it was intended. I would certainly urge my colleagues not to press their amendments.

Mr. MOSS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. NELSON). The Senator from Utah has 1 minute remaining.

Mr. MOSS. Mr. President, in that 1 minute, may I say first of all that there need be no concern about the profit that we take away from the airlines. As a matter of fact, it is a bill that applies only to flying empty seats and filling those seats with people who will at least pay half fare.

Under the CAB rulings at present, the airlines cannot reduce fares to elderly people. They did try it with the students for awhile, and a ruling is coming down which says that it cannot apply to young people.

This measure provides that an airline may offer a reduced airline fare to the elderly and young on a standby basis, space-available basis. If a plane is going to take off from a terminal and it has 12 or 14 empty seats, and there happen to be waiting in that airport terminal elderly people who want to get on, they could get on for half fare.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. HUMPHREY. Mr. President, I would like to offer an amendment to the pending amendment.

The PRESIDING OFFICER. That amendment is not in order until all time has expired. There are 6 minutes remaining on the pending amendment.

Mr. CANNON. Mr. President, I yield back my remaining 6 minutes.

Mr. HUMPHREY. Mr. President, I offer an amendment to the pending amendment for the purpose of discussing it with the chairman.

My amendment would make the amendment of the Senator from Utah read as follows:

> At the end of the bill insert a new section as follows:
>
> SEC. 8. The last sentence of section 403(b) of the Federal Aviation Act of 1958 is amended by inserting after "ministers of religion" the following: "or individuals who are twenty-one years of age or younger or sixty-five years of age or older, or handicapped persons and persons traveling with and attending such handicapped persons when the handicapped person requires such attendance. As used in this section, the term "handicapped person" means the blind and other persons who are physically or mentally handicapped, as further defined by regulations of the Civil Aeronautics Board.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. PASTORE. Does that mean on a standby basis.

Mr. HUMPHREY. The Senator is correct. It means on a standby basis.

The PRESIDING OFFICER. Will the Senator from Minnesota send his amendment to the desk.

Mr. CANNON. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 1 minute.

Mr. CANNON. Mr President, I say for the benefit of my colleagues that there is not one thing in the act that limits youth fares to "on a standby basis." So, we are getting ourselves into a very precarious position. And I think that we will never get a hijacking bill through if we encumber it with amendment such as this.

Mr. MOSS. Mr. President, will the Senator yield?

Mr. HUMPHREY. Mr. President, I yield to the Senator from Utah.

Mr. MOSS. Mr. President, I will read from the statute, the CAB statute, section 403(b). The last sentence reads:

> Any air carrier or foreign air carrier, under such terms and conditions as the Board may prescribe, may grant reduced-rate transportation to ministers of religion on a space-available basis.

Then the amendment would go in on a space available basis. That is what we are talking about, on a space-available basis.

Mr. HUMPHREY. Mr. President, I say most respectfully that I had intended originally to offer this on a regular reserved space basis. However, it seems to me in the light of the dialog and discussion had here that it might be better to keep it on the space-available basis. Surely this would not impair the revenue of the airlines. It would increase the revenue of the airlines. It does not take up reserved space. It does authorize the CAB to make whatever judgment and regulations may be necessary.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. PASTORE. Mr. President, I realize the noble motivation of the Senator from Minnesota. However, personally I would hate to see a blind person or a person in a wheelchair waiting in a terminal for a seat to become available in order to take advantage of this attractive offer of a reduced rate.

I would hope that independently we would be able to make some reduced rates available on a reserved space basis.

I am a little fearful as to whether we are doing a justice or an injustice, a kindness or an unkindness to these individuals.

I would not want to see a blind person with a seeing eye dog, and a person who is paralyzed, or something of the sort being accompanied by someone else and waiting in a terminal for a seat to become available.

Mr. HUMPHREY. Mr. President, the amendment at the desk is on a reserved space basis. I thought, to expedite the matter, that since we had discussed the space-available section under the present law, it would be well to include it at this point.

I think it would be a sound change. Let me say that I am perfectly willing to withdraw this amendment and bring it up on its own on a reserved space basis for the handicapped, because I want to see the amendment of the Senator from Utah adopted without any trouble at all.

Therefore, Mr. President, I withdraw this amendment and yield back my time in the hopes that we can pass the amendment offered by the Senator from Utah.

The PRESIDING OFFICER. The amendment is withdrawn.

REDUCED AIR FARES

Mr. PERCY. Mr. President, I am pleased to be the principal cosponsor of this amendment to authorize the airlines to offer reduced fares on a space-available basis for senior citizens and for individuals age 21 or younger. I introduced such legislation (S. 1179) in the 91st Congress, and I am even more convinced of the need at the present time.

I am aware that this proposal is controversial in some circles—all the more reason for the Congress to act to clear the air.

As you know, the current controversy started in the early 1960's when the Civil Aeronautics Board allowed airlines to offer reduced fares for youth, absent express statutory authority. These fares were challenged in court by a group of middle-aged individuals who asserted: First, that there was no statutory basis for the youth discounts; and second, that the reduced fares for youth constituted "unlawful discrimination" prohibited by the Federal Aviation Act of 1958.

The fifth circuit in 1968 asked the

Board to reevaluate "youth fare" in light of these assertions which seemed valid to the court.

The CAB then launched an investigation into its powers to offer youth fares. In 1969 the Board issued its preliminary finding that youth fare was not discriminatory and the inquiry continued. The inquiry continued through 1970 and 1971, and despite promises that the Board's decision would be forthcoming by July 1, 1972, no decision has been issued. The Board's decision is important because reduced fares for senior citizens on the airlines have been consistently blocked by the Board pending the outcome of the youth fare investigation. The Board has ruled that if youth fare is discriminatory and thus prohibited, then senior citizens' fares would be similarly prohibited.

All of this background should be seen in the light of current rumors that the CAB plans to strike down youth fares but that the CAB is waiting for Congress to adjourn before announcing its decision.

All I can say is that this bureaucratic tangle could be avoided if the Congress had enacted my bill in the 91st Congress. We have essentially a policy question before us: Should the Congress authorize reduced rate transportation for our youth and older Americans?

I answer the question with a forceful "Yes."

Millions of elderly citizens today feel cut off from society. The extended family concept is gone. Grandmother and granddad do not live with the family anymore. Great distances commonly separate families. Younger and middle-aged Americans can afford to fly. In fact, some businessmen fly first class and charge it off as a business expense. But senior citizens cannot afford to fly.

Even with the recent 20-percent social security increase, almost one out of four older Americans has income placing him below the poverty line. Most were never poor until they retired.

Six million Americans live in substandard housing. Medicare only covers 42 percent of their health needs.

The legislation before us allows us a rare opportunity to express our interest in the elderly and to do so at a low cost to the Federal purse—in fact we will be fostering more efficient use of the airlines. This proposal may even increase airline revenues.

I am sure that everyone knows airline load factors for the past several years have been less than 50 percent, meaning that the airlines are flying at less than half full. This means that many flights starting at off hours have a much smaller load factor than this. Senior citizens are the group who could make use of the airlines during times when load factors are lowest. Since such fares will be offered on a standby basis, the airlines will be receiving revenues where they ordinarily would be losing money because of empty seats.

I want to emphasize again that reduced fares will result in increased ridership. The elderly make up only 5 percent of airline passengers at the present time. More would fly if costs were lowered. As proof I offer the success of Chicago's reduced fare program on mass transit. The city of New York has had a similar experience—in fact, New York enjoyed a 27-percent increase in ridership by the elderly in the first year following its offering of reduced fares on the mass transit system during nonpeak hours.

My last and most concrete example relates to the success of Hawaiian Airlines, which has offered reduced fares for senior citizens since 1968. The Hawaiian example also serves to focus attention on the standby issue. Hawaiian has shown a 38-percent increase in passengers since 1968. In that same time period, when it offered reduced fares for senior citizens on a standby basis, the number of passengers 65 years of age and older has increased 300 percent. Senior citizen standby revenues have also increased more than fourfold since the first year. This is the only ongoing experiment in reduced fares that we have and we can learn from it.

With regard to the question of the appropriateness of standby to senior citizens, I too, have heard the elderly tell me that a few hours in an air conditioned generally attractive airline terminal are no real inconvenience compared to a much longer trip on other modes of interstate transportation. The White House Conference on Aging did, in fact, call upon the Congress to grant reduced fares on a space-available basis. Last, I think the success of Hawaiian's standby senior citizen fare is most convincing.

As for youth fare, I understand that as long as it was strictly on a standby basis that it was an overwhelming success. For this reason, youth fare should be continued on a space-available basis in partial recognition of the limited incomes of our young people and to foster the flying habit. Moreover, there are several airlines interested in continuing to offer reduced fares for youth and new fares for senior citizens. There are compelling reasons why they should be allowed to do so. I hope the amendment will be agreed to.

Following are questions about this amendment that could be raised together with my answers to such questions:

1. If the Congress acts to offer reduced fares for youth or senior citizens on the airlines isn't this shifting rate making from the CAB to the Congress?

No. The amendment has nothing to do with rate setting, it is a simple question of policy. The Congress has full power to authorize reduced rate transportation for any group if it provides a "rational basis" for treating this group differently from the rest of society. The CAB would still set the rates and fare structure after considering economic and transportation factors.

2. Would the reduced fare proposal compel or require airlines to institute special rates?

No. The amendment is permissive. It would authorize reduced rate transportation. Airlines could institute such fares or not as they chose.

3. Aren't there plenty of promotional fares now to encourage people to fly more and to fly during the Tuesday through Thursday slack period?

True, there are a great many promotional fares and some airlines have used them to take passengers away from each other rather than to attract new passengers into the marketplace. However, airline load factors over the last four years still averaged less than 50 percent—this means our airlines continue to fly half empty. Further, senior citizens don't fly now (they make up about 5% of airline passengers) because they can't afford it. If reduced fares were offered a great many more seniors would fly. In this instance promotional fares would work the way they are supposed to—by attracting new people into the marketplace.

With regard to "youth fare" the principal problem is caused by so-called "student fares" or fares which offer a guaranteed seat. Under these circumstances there is no incentive for the youth to pay full fare. Under the old system, some would rather have a guaranteed seat and pay more than go through the hassle of "stand-by".

4. In authorizing reduced fares for senior citizens on a space available basis, won't this mean that the elderly will be flying "stand-by" and is "stand-by" really suitable for senior citizens?

First, in this society we paternalistically tend to think of anybody over 65 as helpless and incompetent. This simply isn't true. Age 65 is young today with more and more people living into their 70's and 80's. Second, the recent White House Conference on Aging—experts on aging and almost 5,000 senior citizen delegates considered this question and asked for reduced rate transportation "on a space available basis". Third, in terms of the inconvenience, seniors can plan their time to use the airlines when they are least busy. With load factors of less than 50 percent overall, their chances of getting a standby flight are very good. Further, the possible inconvenience of waiting at the airline terminal for several hours to catch a 2 hour nonstop flight to Chicago does not compare to the strain of a 16 to 18 hour trip to Chicago by bus. Fourth, in recognition of their low incomes, if senior citizens are to be encouraged to fly the fares must be cut as deep as possible. Fare cuts of 40 to 50 percent would not be economically feasible on a positive space (guaranteed seat) basis. Last, Hawaiian Airlines, which has "stand-by" senior citizen fares, has shown great success. From 1968 to 1971 total air passengers have increased 38%. Senior citizens fares started in 1968 and over the same period passengers aged 65 and over increased 400%. Senior citizen stand-by revenues over the period increased by more than 400%.

5. Discount fares are designed to stimulate travel by people who do not ordinarily fly. Won't the effect of senior citizens discounts be self-diversion of scheduled passengers from full to discount fares with an accompanying loss to the airlines?

First, few senior citizens now fly. According to best data they constitute 5 percent or less of airline passengers. Those who are wealthy enough to fly would continue to do so and pay full fares, particularly if the alternative was a fare reduction accompanied by the necessity of flying "stand-by". The "stand-by" fares on the other hand would attract new passengers who could under no circumstances afford full fare.

6. Won't these fare reductions for senior citizens result in losses to the airlines and won't the airlines have to come to the government for subsidy money?

Under the current proposal which authorizes reduced fares on a stand-by basis the airlines are receiving revenue where they would have had an empty seat. It would be very difficult to see how the airlines could lose money. No subsidy is contained with the current proposal. However, Local Service Carriers, Air West, North Central Airlines, etc.—those that serve certain areas of the country over shorthauls—currently do receive Federal subsidy. Some people argue that if the reduced fare proposal on a "stand-by" basis reached its true potential that these subsidies can actually be reduced. Local service carriers have a load factor of 43 percent—they are flying 57 percent empty.

7. Isn't the CAB conducting an investigation on the subject of promotional fares—primarily "youth fares" which are allegedly discriminatory? Won't this decision have an impact on proposals for reduced fares for senior citizens? If so, why is the Congress intervening?

Yes, the CAB has had youth fare under investigation since 1967 when the Fifth Circuit asked it to take another look at youth fare and the possibility of its being discriminating against other age groups. The CAB issued a preliminary ruling in 1969 that the fare was not discriminatory but the investigation continued. In July of 1971 hearings on reduced fare proposals before the Aviation Subcommittee of the Commerce Committee were postponed because the CAB was not ready to issue its decision. On June 14, 1972, the General Counsel of the CAB promised a decision by the first week of July, noting that the decision was complete and was in final clearing. The decision is important because of CAB's ruling that if youth fares are discriminatory and prohibited, then senior citizen fares would be similarly prohibited. The Congress has waited and waited for the Board to act. The first week in September, the Staff of the Senate Committee on Aging heard from one airline spokesman that it was common knowledge in the trade that the Board's decision would strike down "youth fare" and that airlines were preparing to cope with the consequences. The staff polled 10 of the major airlines whose spokesmen 9 out of 10 stated that they had positive knowledge that the Board would strike down youth fare.

It appears clear the board will overrule youth and senior citizen fares, and if they are to be continued the Congress must act. Even if the Board should do a 180 degree turnabout, youth fare or reduced fares for senior citizens could be challenged again in court since they are not expressly authorized under the statute. Clearly, Congress should act and keep faith with the White House Conference on Aging who made this proposal one of their priority resolutions.

8. Rather than give special treatment to selected groups, shouldn't fares be dropped as low as possible for all members of the traveling public?

In offering "stand-by" fare reductions, the airlines are picking up extra revenue from what would be empty seats. This hardly constitutes "special treatment". Further, anyone who thinks that elimination of "youth" fare will result in lower fares for all airline passengers is naive. Some airlines are asking for fare increases. Further, the most important cost factor in air travel is: How full is the aircraft? Charter airlines achieve economies by spreading costs over a full aircraft, 146 people in the case of a Boeing 707 and 362 seats on a 747. With airline load factors averaging at less than 50 percent, the airlines are spreading their costs over 73 or 181 people, depending on the size of aircraft. "Stand-by fares result in fuller aircraft and reduced operating costs. According to Senator Montoya, whose staff researched the proposal, 5 million youths used "youth fare" in 1968, saving themselves $112 million, but at the same time, the airlines still made $21 million profit on youth fare in the same year.

9. Don't reduced fares for the youth and for senior citizens discriminate against members of the traveling public not falling within these age groups?

On its face, a reduced fare for senior citizens or the youth does discriminate against other age groups. However, Congress every day passes legislation which designates a particular beneficiary class. Such legislation can be challenged in the Courts under the "Equal Protection" clause of the Constitution. The current role in Constitutional law is that if the Congress provides a "rational basis" for treating one group differently from another or the rest of society, then the legislation is allowed to stand.

Once again, the current proposal is offered on a "stand-by" basis and so the discrimination against other age groups is slight. However, there is a rational basis for treating senior citizens and the youth differently from the rest of America. The argument can be made on social policy issues which are reserved to the Congress and on the transportation and economic factors that are the province of the CAB.

"Youth fare" on a stand-by basis can be defended because of its financial success as related previously. It is in part a recognition of the limited incomes of the 21 and under population and the fare reduction serves to increase the number of passengers from this age group and to foster in them the flying habit.

The "youth fare" proposal got into trouble when some airlines offered a reserved seat at a reduced rate. Some offered fare reductions to students and not to individuals 21 and under generally. The question of discrimination is much stronger here and there is no incentive for the youth to fly at full fare. These positive space fares should not be continued.

Reduced fares for senior citizens should be implemented because there is empty space on airlines at present; senior citizens are precisely the group that could plan to use the flights when travel is lightest; senior citizens constitute only 5 percent of airline passengers and don't fly because they can't afford it. Accordingly, a reduction in fares will mean an increase in ridership. Examples: New York reduced buses and subways 50 percent for senior citizens during off-peak hours and ridership increased 26.7%. Chicago's experiment showed similar results with their mass transit system. Over 50 cities now offer such reductions. Further, Hawaiian Airlines which has the only on-going program of reduced fares for senior citizens has shown a growth rate of 32 percent for all passengers between 1968 and 1971. Reduced fares for senior citizens on a stand-by basis were instituted in 1968 and during this same time period, 1968–1971, Hawaiian experienced a 400 percent increase in over 65 passengers and a 400 percent increase in senior citizen stand-by revenues.

Arguing the social policy questions, one out of four senior citizens has an income placing him below the poverty line; Medicare covers only 42 percent of his health needs, and 6 million senior citizens or 30 percent live in substandard housing. The enactment of reduced fares proposals would be an important psychological victory for the elderly—many of whom feel lost and forgotten in society.

Last, many middle aged people who cry "discrimination" are businessmen who claim air travel as a business expense and write it off on their income tax. All of us age. In some sense we may be the victims of fare discrimination today but the beneficiaries tomorrow.

10. Is legislation necessary to grant reduced fares for the elderly and for the youth?

Youth fare was being allowed by the CAB absent statutory authority which occasioned the whole "youth" fare controversy. Congress should act to clear the air and prevent additional suits which will surely result if the CAB allows youth and senior citizen fare (current information is to the contrary).

11. Are there any other reasons why senior citizens should be reduced fares?

The elderly today have the feeling of being cut off from society—of forced isolation. The extended family concept is gone—grandmother and grandfather no longer live with the family in our society. Parents often live hundreds or thousands of miles from their loved ones and the only feasible way to travel is by air. Yet, few seniors can afford to do so. Younger and middle-aged American fly but older Americans take the bus. Traveling by bus over great distances is a great inconvenience and very taxing physically. Medical assistance for the needs of the elderly would be more available if air travel was feasible.

12. Since the offered legislation is only "permissive", would the airlines offer reduced fares for senior citizens?

No airline would be required to offer the fare which would be strictly "stand-by" but some would. Najeeb Halaby, President of Pan American Airways recently stated. "Why not fill those empty flights with oldsters as well? They are seeking a bargain and are willing to contract 3 to 6 months in advance."

13. Wouldn't reduced fares for senior citizens mean a lot of trouble for the airlines, particularly if the handicapped elderly, the sick and the disabled flooded the airports?

The airlines can and have required medical evidence that an individual is competent to fly or that he be accompanied by a responsible person. These same requirements could be made applicable to the senior citizen fare.

14. What types of senior citizens discounts exist at the present time?

Discounts on prescriptions and other products of drug stores, are offered in a great many cities. Some banks offer free checking accounts or other banking services. San Francisco, Chicago and Minneapolis-St. Paul have discounts on meals in restaurants outside regular meal hours. Entertainment such as movies and ballgames also is reduced in some cities. More than 50 cities offer reduced rates on mass transit.

15. Under the present law what groups are authorized to receive reduced rate transportation on the airlines?

Armed forces, those blind and disabled as a result of an airline accident, families of airline employees and ministers of religion on a space available basis.

Youth fare and other promotional fares have been allowed by the Board under its general authority "to promote adequate economical and efficient service by air carriers at reasonable charges without unjust discrimination. . . ."

Mr. GRIFFIN. Mr. President, as a cosponsor of the amendment offered by the distinguished Senator from Utah (Mr. Moss), I strongly hope that the Senate will approve this proposal authorizing reduced air fares for persons over 65 years of age on a space available basis. This amendment is similar to a bill I introduced last year.

Mr. President, it is an unfortunate fact of life that many of our senior citizens are virtually imprisoned because economical transportation is not available. For example, in 1970 only 1 million of our 20 million senior citizens crossed a State line.

Furthermore, persons over 65 account for only 5 percent of all airline passengers. Certainly, Congress can and should do something to correct this inequitable situation.

To my knowledge, the only reduced rates for the elderly currently offered by any airline, railroad, or bus line are those offered by the two Hawaiian airlines. These rates are on a space available basis.

In the absence of specific congressional authority, several courts, as well as the CAB, have raised questions as to whether reduced fares for certain classes of people, such as youth fares and family fares are unjustly discriminatory of the Federal Aviation Act.

In fact, the CAB has had under investigation since 1970 the question of the legality of discount fares.

However, much less concern has been raised with respect to standby fares for youth and military. At the outset of the committee hearings on this legislation, the distinguished chairman of the Senate Aviation Subcommittee, Mr. CANNON, noted that the CAB had informally advised the Committee that there is no legal barrier to airlines offering reduced rates for the elderly on a space available basis. This conclusion was echoed by the president of the Air Transport Association, Mr. Stuart Tipton.

Unfortunately, the airlines have not chosen to extend standby fares for youth and military personnel to senior citizens. In his testimony before the subcommittee, Mr. Tipton opposed reduced rates for the elderly on a space available basis on the grounds such rates "would not be suitable for the elderly."

Apparently there is a communication gap between the airlines and senior citizens in light of the following colloquy during the subcommittee hearings between the chairman and the representative of the American Association of Retired Persons:

> Senator CANNON. Do you think that this is going to create a lot of problems if reduced rate transportation is made available on a stand-by basis in view of the fact that many of the elderly are not in too good health and would have difficulty sitting out a period of time, perhaps through several airline schedules at a departure time?
>
> Mr. GILBERT. I can understand your idea. But let's consider this: Assume that somebody has a sick, or dying son out in the Midwest, and they want to make a hurried call.
>
> Even with a full hour's stand-by or three or four hours stand-by, it is a lot easier and a lot more reasonable for them to get out there by air than by bus or some other mode of transportation that might be available, or that they might better afford.
>
> So, I believe although you are a hundred percent right, that waiting on a stand-by basis might produce a small problem, I think in the overall picture, it would be less of a problem that they are facing today trying to get out there under the strain that they are under with some degree of speed.

If there is any problem of rate discrimination it is at present where the elderly must pay the same fares as everyone else, despite their dependence on often inadequate fixed incomes. Until our senior citizens are provided with adequate retirement income, including increased social security payments and better private pension security, they should not be denied basic services, such as transportation, which is available to the rest of society.

The importance of transportation for the elderly was emphasized by the 1971 White House Conference on Aging. In its report the conference stated that—

> The transportation needs of the elderly cannot wait for more studies. Immediate action is needed.

One of the specific recommendations of the White House conference dealt with reduced fares. The conference proposal is quite similar to the provisions of this amendment and reads as follows:

> Appropriate legislation at all levels of government should provide that the elderly and handicapped be allowed to travel at half fares or less on a space available basis on all modes of public transportation.

I wholeheartedly concur in this recommendation.

The effectiveness of reduced fares for the elderly has been demonstrated by the increased ridership on New York subways, where such fares have been introduced.

Many airlines are operating at far less than capacity on many routes and particularly during the week. Offering reduced fares on a space-available basis should not impose any undue economic burden on transportation systems. At the same time, the availability of space on many carriers during certain nonpeak periods provides a fair and reasonable opportunity for the elderly to travel across the country as well as overseas.

Mr. President, there is widespread support in Congress for this legislation, and I have received hundreds of letters from constituents in support of my bill, S. 2055. I am confident the Senate will approve this amendment.

Mr. ROTH. Mr. President, I am extremely happy to have this opportunity to support the amendment proposed by the distinguished Senator from Utah. Many Senators and Representatives have talked about this problem for quite some time, and I personally believe that it is time we took some affirmative action. I welcome the opportunity to do so.

As I understand it, the Senator's amendment would have the effect of authorizing airlines to offer reduced fares to senior citizens on a standby basis. In this respect, it is identical to bills which I have introduced: S. 2061 and, while I was a Member of the Lower House, H.R. 17606. I introduced those bills and support this amendment for a variety of reasons.

First, I would point out that the elderly seem to be one of the few classes of persons today who are unable to take advantage of one or more of the special fares, packages, or other deals offered by the airline industry.

Young people can, of course, fly at half price on a standby basis; businessmen or businesswomen whose spouses accompany them are eligible for reduced fares; young and middle-aged couples can take advantage of liberal charter arrangements; and persons with certain occupations—servicemen and ministers, for instance—are able to fly at reduced fares. The elderly, however, are foreclosed from the vast majority of these opportunities. They are not young enough to fly youth fare. They are not rich enough to take advantage of the charter arrangements. And, since they are retired, they are unable to take advantage of the business or occupational benefits.

This vital neglect of our senior citizens is aggravated by the simple fact that for most elderly persons flying is the only reasonable mode of transportation available to them. As a practical matter, the limited retirement income of senior citizens prevents many of them from purchasing automobiles. Even of those financially able to purchase and maintain automobiles many often cannot afford the type of auto which is new enough or comfortable enough for extended trips. I think it is important to remember that the discomfort which is merely an inconvenience to younger people may be a hazard to the elderly. Moreover, the cost of lodging, meals, and gasoline on an extended trip frequently exceeds the cost of round-trip airfare so the same financial problems which prevent our senior citizens from flying can also preclude driving.

Many of these same handicaps prevent senior citizens from utilizing train or bus service. While I think the major bus lines should be commended for their efforts to make transportation available to the elderly at a reasonable cost, any of us who have taken extended trips on buses know that they, too, can be extremely tiring. Trains, although somewhat more comfortable than buses, are unfortunately quite expensive; indeed, the cost of train fare often equals or exceeds the cost of air fare. In addition, both trains and buses require days to cover distances that can be covered in hours by aircraft.

In short, Mr. President, the same considerations which make air travel either a convenience or a luxury for most Americans, make air travel a necessity for older Americans. And while America seems willing to, in effect, subsidize convenience or luxury for some, we appear unwilling to accord the same treatment to those who need it most.

As a practical matter, the standard air fares listed by commercial airlines and established by the Federal Government are a barrier to only one group in this country: the elderly. An enormous number of people are able, through one means or another, to travel at reduced rates; an equally large number are able to travel at practically no cost because the fares are either deductible or compensable. But senior citizens cannot deduct the cost of air fare or be compensated for the cost of air fare or reduce the cost of air fare. Like it or not, if they want to fly, they must do so at full and complete cost; and if they want to travel, they must fly.

Mr. President, I am not asking that senior citizens be accorded special treatment. I am asking that we accord them the same treatment which, in one form or another, we accord the vast majority of other Americans. The Congress, the Federal Government, and the airlines have hedged on this problem for more than 2 years, and it is time to stop talking and start acting. The equities in this case are clear and simple; and all we must do to correct this wrong is vote yes on the amendment before us.

Mr. FONG. Mr. President, because of the great success of senior citizen discount air fares in my State of Hawaii for the past 5 years and because of the great good to and the need of most senior citizens to have discount air fares, I strongly support and am happy to cosponsor amendment No. 1552 to the pending antihijacking bill, S. 2280, and I rise to urge Senators to support this amendment.

As the ranking Republican member of the Special Committee on Aging, I am most concerned about insuring the continuation of discount air fares for

Hawaii's senior citizens and to expand the coverage to senior citizens nationwide. I am especially concerned that the senior citizens of Hawaii do not lose their privilege of receiving discount air fares, a privilege they have had since 1967.

The pending amendment would give airlines the right to grant discount fares—on a standby basis only—to senior citizens 65 years of age or older and to youths 21 years or younger.

Specifically, it would allow airlines to extend the same rights to senior citizens and youths, as they now extend to ministers of religion, by amending the last sentence of section 403(b) of the Federal Aviation Act of 1958.

Scheduled flights are often not filled. By allowing a discount to the old and the young on a standby basis—when a place is not filled—will increase the passage loads of our airlines and will give them added revenue which they so badly need. This will afford our elder and younger citizens a greater opportunity to visit friends, family, and old and new places which cannot but help to benefit our economy.

Because I have been informed that the Civil Aeronautics Board is about to announce a finding that youth fares are discriminatory, it is imperative that Congress take the initiative to guarantee that this finding will not imperil the right of airlines to voluntarily give standby discount rates to senior citizens and young people, if they so desire.

Since the success of senior citizen discount rates has already been proven in Hawaii, I strongly urge Senators to extend this opportunity to other senior citizens throughout the Nation by voting for this amendment which would extend discount air fares to youths and senior citizens.

Mr. TUNNEY. Mr. President, I am pleased to cosponsor this important amendment offered by Senator Moss. I firmly believe that the option should be given to the airlines to offer reduced fares for youth and senior citizens. It is long past time for a policy decision to be made on this issue. The Congress should now take the initiative. The question must be settled.

The success of the youth fare program is evident. By selling seats to young people on a space-available basis, the number of passengers is increased, thereby increasing revenues for the airline companies. At the same time, the young travelers are able to make trips whose cost would otherwise have been prohibitive.

Mr. President, I believe it is even more important that we now provide the opportunity for airlines to offer the same program for our senior citizens. Older people frequently have very meager incomes, rendering travel by plane either impractical or impossible. The rigors of other, slower modes of transportation discourage seniors from making trips of more than a few hundred miles. Yet at this point in their lives, many senior citizens are eager to travel to new places, and they have the time to make such pleasure trips at their leisure. Many of them have never been on airplanes, and they would welcome the chance to experience the thrill of flying. By opening a standby system of air travel to our older citizens, we will encourage them to make their dreams come true.

I strongly urge my colleagues to support this amendment to S. 2280. It is yet another way in which we may remind our senior citizens that we welcome their participation in society and wish to assure that they too benefit from the social and technological advances which they have helped to create.

Mr. MONTOYA. Mr. President, I rise in support of the amendment from the distinguished Senator from Utah (Mr. Moss).

Earlier this year, I was privileged to join in sponsorship of this proposal contained in Senator Moss' bill S. 1808. The Senator from Utah is to be commended for his energetic efforts on behalf of our elderly citizens who, more than anyone else, feel the brunt of the ever-increasing cost of living.

This amendment is but one of the many steps taken by the Senator to alleviate the economic plight of the elderly citizens.

I had the privilege of testifying on behalf of this proposal when it was considered by the Senate Committee on Aging. My interest and support has still not diminished.

I still strongly believe that airlines should be given the authority to grant reduced-rate transportation to all persons 65 years of age or older on a space-available basis.

America's elderly citizens are suffocating under the threat of increased social isolation. This isolation is largely due to the inadequacies of transportation services in this country.

In December 1970, the Senate Committee issued a report entitled "Older Americans and Transportation: A Crisis in Mobility." At that time, the committee stressed the inadequacies of transportation services for the elderly.

The Committee on Aging further determined that these inadequacies:

> . . . are intensifying many other difficult problems faced by the elderly in the United States today. Low-income individuals are hardest-hit, but so are those with fair-sized retirement incomes. Transportation is the life line to services they do not need until they become old. Without mobility, they are denied much else.

Although this report dealt primarily with the inadequacies of surface transportation, I believe it is equally important to examine the needs of our senior citizens with respect to air travel.

Leaders in the transportation field believe that America needs a balanced transportation system which will serve the needs of all citizens. I think we all recognize this to be true, and if we do, we must ensure that the elderly have ready access to all components of this balanced system, including air transportation.

The fact is that most of our senior citizens live on fixed incomes during this inflationary time. Therefore, the only way we can guarantee equal access to air transportation for our senior citizens is to allow them to fly at reduced rates on a standby basis.

There are other reasons, however, why our senior citizens should be encouraged to travel by air. In our highly mobile society, friends and relatives may live thousands of miles away. Every year, approximately 6.6 percent of our people move from one county to another. During the period 1968–69, 23 million Americans changed residences. Of those who changed, 3.6 million moved to a different State; 6.3 million moved to another county within the same State. As children grow up, leave home, and marry, they often move great distances from home. As their families increase, cost of air fare prevents them from visiting their parents.

S. 1808 would make it much easier for senior citizens to visit their married children and grandchildren, which would reduce the growing sense of isolation and despair many of them now feel.

Surface travel over long distances puts a great deal of stress on the elderly, especially if they are driving. Undoubtedly, many of our senior citizens do not even attempt to make long, overland trips for this very reason. Those who do so place undue strain on their health. Lowering the financial barriers to air travel would help alleviate this problem as well.

I urge all the Members to join Senator Moss in his effort to lessen the economic burden of our senior citizens.

The question is on agreeing to the amendment of the Senator from Utah.

Mr. MOSS. Mr. President I ask for the yeas and nays.

Mr. President, I withdraw that request.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment was agreed to.

Mr. MOSS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HUMPHREY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUMPHREY. Mr. President, I send to the desk an amendment on behalf of myself and the Senator from Utah (Mr. Moss).

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> On page 9, after line 6, insert the following new section:
>
> SEC. 8. (a) Section 403(b) of the Federal Aviation Act of 1958 is amended (1) by inserting after "persons in connection with such accident;" the following: "handicapped persons and persons traveling with and attending such handicapped persons when the handicapped person requires such attendance;", and (2) by inserting at the end thereof of the following: "As used in this section the term 'handicapped persons' means the blind and other persons who are physically or mentally handicapped, as further defined by regulations of the Board."

THE RIGHT OF HANDICAPPED AND OLDER AMERICANS TO TRAVEL

Mr. HUMPHREY. Mr. President, the amendment I am offering today to S. 2280, addresses one of the most critical problems confronting handicapped persons as well as the elderly: The prohibitive policies and costs that can work to deny their right to travel.

My amendment, based upon a bill, S.

1554, which I introduced earlier this year on behalf of both handicapped and elderly persons, would amend section 403(b) of the Federal Aviation Act of 1958 to authorize free or reduced-rate transportation to handicapped persons. Specifically, it would permit fare discounts on regular airline reservation tickets, to the blind, the physically and mentally handicapped, and persons traveling in their attendance, as further defined by regulations of the Civil Aeronautics Board—an authorization already applied to railroads and buslines under existing law.

I believe it is profoundly wrong that a disabled veteran, confined to a wheelchair, should be required to pay double fare to have an attendant on an airline flight. And it is wrong that an elderly couple should be denied the opportunity to visit their grandchildren because of the cost of air travel.

My amendment, in company with the amendment by Senator Moss authorizing a similar fare reduction on a space-available basis to youth and to persons aged 65 and older—an amendment which I have been privileged to cosponsor and which has recently been passed—provide for the most comprehensive and equitable approach to solving these problems, and I urge its adoption.

Mr. President, I also add as a cosponsor of the amendment the distinguished Senator from Rhode Island.

Mr. STEVENSON. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. STEVENSON. Mr. President, I came to the Chamber intending to offer an identical amendment as the amendment which has just been reported. I ask that the Senator add my name as a cosponsor of the amendment.

Mr. HUMPHREY. I am very honored to do so. The Senator from Illinois told me of his intention.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. MAGNUSON. Does the amendment state on a reserved basis?

Mr. HUMPHREY. It would apply to the section of the law that is on a reserve basis. There is no doubt about the problem brought up by the Senator from Rhode Island.

Mr. MAGNUSON. We are talking about people who make a reservation.

Mr. HUMPHREY. That is correct.

Mr. MAGNUSON. Not reserved on the plane.

Mr. HUMPHREY. No; those making reservations.

Mr. MAGNUSON. Those who make definite reservations.

Mr. HUMPHREY. Yes.

Mr. MAGNUSON. I ask that my name be added as a cosponsor.

Mr. HUMPHREY. I thank the Senator. The Senator from Delaware (Mr. ROTH) also wishes to be added as a cosponsor.

Mr. President, I ask unanimous consent that the names of the Senators mentioned may be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, the first point to be emphasized in regard to this amendment is that it is entirely permissive. It only permits commercial airlines to grant these free or reduced fares. It does not mandate them to do so.

Second, this amendment merely grants the airlines the same authority which is presently available to bus companies and railroads under the Interstate Commerce Act and Amtrak's authorizing legislation. Before Amtrak was formed, virtually every railroad granted such reduced fares to the blind. Amtrak has continued the preexisting policies of the railroads in regard to the blind.

The situation is different with the airlines. Because of controversy over youth fares, group fares, and other promotional fares, the airlines are wary of moving without specific statutory authority. The CAB has been in the throes of deciding whether such reduced promotional fares are allowable under present law and the matter is far from settled.

The Congress could act now to authorize concessions for the blind and the severely handicapped. Such action would encourage and permit greater travel by the blind and the severely handicappped without prejudicing any existing right of the carriers to grant fare concessions.

This amendment is designed to enable people to travel who have difficulty traveling alone and are discouraged by the high cost of traveling with a companion. From the airlines point of view, there is potentially a greater demand for travel and a smaller demand upon airlines personnel. If a handicapped person is to travel by airline, it is in the interest of the airline to encourage an attendant to travel with the handicapped person. In many cases the attendant makes travel possible—and in all cases the attendant relieves stewardesses and other personnel of the attention required by the severely handicapped.

The amendment has not attempted to define "severely handicapped persons" beyond indicating the blind and those physically and mentally handicapped who must travel with an attendant. Further terms and conditions would be set by the CAB.

I might add that this amendment contemplates that these potential reduced fares would apply on a reserved-seat basis. Simply offering the reductions on a space-available basis would not be in the interests of the handicapped. Indeed, it would seem cruel and counterproductive—to lure the handicapped and in some cases an attendant to the airport perhaps for hours, and perhaps never to get a ticket.

I reemphasize that this amendment is entirely permissive. Filling empty seats on an airplane is the name of the game. If those empty seats can be filled with a severely handicapped person and an attendant—even if filled at less than two full fares—then the airlines cannot but gain. Whether such gains, from the offering of these reduced fares to the handicapped and their attendants is offset by the loss of revenue from full-fare passengers who would be displaced, is a competitive economic decision that the airlines will have to make. This amendment merely provides the option.

This amendment would encourage the handicapped to travel. Travel has of course many purposes—to visit friends and relatives, to engage in business, to vacation, just to get away from it all. But travel is too often denied to the handicapped because he needs an attendant—either on the plane or after he gets to his destination—and the cost of two fares is prohibitive.

For all of these reasons, I urge the Senate to act favorably on this amendment.

Mr. HUMPHREY. Mr. President, I yield back the remainder of my time if the chairman is ready to yield back his time.

Mr. CANNON. Mr. President, I yield back the remainder of our time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 1557

Mr. CANNON. Mr. President, I call up my amendment No. 1557, which, as I said earlier, is printed incorrectly. I have sent a corrected copy to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. CANNON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

1. On page 1 between lines 2 and 3 insert the following:

"TITLE I—ANTI-HIJACKING ACT OF 1972"

2. On page 1, line 3, strike out "That this Act" and insert in lieu thereof "SECTION 1. This title".

3. On page 9 after line 6 insert the following:

"TITLE II—AIR TRANSPORTATION SECURITY ACT OF 1972

"SEC. 21. This title may be cited as the "Air Transportation Security Act of 1972".

"SEC. 22. The Congress hereby finds and declares that—

"(1) the United States air tranportation system which is vital to the citizens of the United States is threatened by acts of criminal violence and air piracy;

"(2) the United States air transportation system continues to be vulnerable to violence and air piracy because of inadequate security and a continuing failure to properly identify and arrest persons attempting to violate Federal law relating to crimes against air transportation;

"(3) the United States Government has the primary responsibility to guarantee and insure safety to the millions of passengers who use air transportation and intrastate air transportation and to enforce the laws of the United States relating to air transportation security; and

"(4) the United States Government must establish and maintain an air transportation security program and an air transportation security-law enforcement force under the direction of the Administrator of the Federal Aviation Administration in order to adequately assure the safety of passengers in air transportation.

"SEC. 23. (a) Title III of the Federal Aviation Act of 1958 is amended by adding at the end thereof the following new section:

" 'SCREENING OF PASSENGERS IN AIR TRANSPORTATION

" 'SEC. 315. (a) The Administrator shall as soon as practicable prescribe regulations requiring that all passengers and all property intended to be carried in the aircraft cabin in air transportation or intrastate air transportation be screened by weapon-detecting devices operated by employees of the air carrier, intrastate air carrier, or foreign air carrier prior to boarding the aircraft for such transportation. One year after the enactment of this section the Administrator may alter or amend such regulations, requiring a continuation of such screening by weapon-detecting devices only to the extent deemed necessary to assure security against acts of criminal violence and air piracy in air transportation and intrastate air transportation. The Administrator shall submit semiannual reports to the Congress concerning the effectiveness of this screening program and shall advise the Congress of any regulations or amendments thereto to be prescribed pursuant to this subsection, at least thirty days in advance of their effective date.

" '(b) The Administrator shall acquire and furnish for the use by air carriers, intrastate air carriers, and foreign air carriers at airports within the United States sufficient devices necessary for the purpose of subsection (a) of this section, which devices shall remain the property of the United States.

" '(c) The Administrator may exempt, from provisions of this section air transportation operations performed by air carriers operating pursuant to part 135, title 14 of the Code of Federal Regulations.'

"(b) Notwithstanding any other provision of law, there are authorized to be appropriated from the Airport and Airway Trust Fund established by the Airport and Airway Revenue Act of 1970 such amounts not to exceed $5.5 million to acquire the devices required by the amendment made by this section.

"SEC. 24. Title III of the Federal Aviation Act of 1958 is further amended by adding at the end thereof the following additional new section:

" 'AIR TRANSPORTATION SECURITY FORCE

" 'Powers and Responsibilities

" 'SEC. 316. (a) The Administrator of the Federal Aviation Administration in administering the air transportation security program shall establish and maintain an air transportation security force of sufficient size to provide a law enforcement presence and capability at airports in the United States adequate to insure the safety from criminal violence and air piracy of persons traveling in air transportation or intrastate air transportation. He shall be empowered, and designate each employee of the force who shall be empowered, pursuant to this title, to—

" '(1) detain and search any person aboard, or any person attempting to board, any aircraft in, or intended for operation in, air transportation or intrastate air transportation to determine whether such person is unlawfully carrying a dangerous weapon, explosive, or other destructive substance;

" '(2) search or inspect any property, at any airport, which is aboard, or which is intended to be placed aboard, any aircraft in, or intended for operation in, air transportation or intrastate air transportation to determine whether such property unlawfully contains any dangerous weapon, explosive, or other destructive substance;

" '(3) arrest any person whom he has reasonable cause to believe has (A) violated or has attempted to violate section 902 (i), (j), (k), (l), or (m) of the Federal Aviation Act of 1958, as amended, or (B) violated, or has attempted to violate, section 32, title 18, United States Code, relating to crimes against aircraft or aircraft facilities; and

" '(4) carry firearms when deemed by the Administrator to be necessary to carry out the provisions of this section,

and, at his discretion, he may designate and deputize State and local law enforcement personnel to exercise the authority conveyed in this subsection.

" 'Training and Assistance

" '(b) In administering the air transportation security program, the Administrator may—

" '(1) provide training for State and local law enforcement personnel whose services may be made available by their employers to assist in carrying out the air transportation security program, and

" '(2) utilize the air transportation security force to furnish assistance to an airport operator, or any air carrier, intrastate air carrier, or foreign air carrier engaged in air transportation or intrastate air transportation to carry out the purposes of the air transportation security program.

" 'OVERALL RESPONSIBILITY

" '(c) Except as otherwise expressly provided by law, the responsibility for the administration of the air transportation security program, and security force functions specifically set forth in this section, shall be vested exclusively in the Administrator of the Federal Aviation Administration and shall not be assigned or transferred to any other department or agency.'

"SEC. 25. Section 1111 of the Federal Aviation Act of 1958 is amended to read as follows:

" 'AUTHORITY TO REFUSE TRANSPORTATION

" '(a) The Administrator shall, by regulation, require any air carrier, intrastate air carrier, or foreign air carrier to refuse to transport—

" '(1) any person who does not consent to a search of his person to determine whether he is unlawfully carrying a dangerous weapon, explosive, or other destructive substance, or

" '(2) any property of any person who does not consent to a search or inspection of such property to determine whether it unlawfully contains a dangerous weapon, explosive, or other destructive substance;

Subject to reasonable rules and regulations prescribed by the Administrator, any such carrier may also refuse transportation of a passenger or property when, in the opinion of the carrier, such transportation would or might be inimical to safety of flight.

" '(b) Any agreement for the carriage of persons or property in air transportation or intrastate air transportation by an air carrier, intrastate air carrier, or foreign air carrier for compensation or hire shall be deemed to include an agreement that such carriage shall be refused when consent to search persons or search or inspect such property for the purposes enumerated in subsection (a) of this section is not given.'

"SEC. 26. Section 902(1) of the Federal Aviation Act of 1958 is amended to read as follows:

" 'Carrying Weapons Aboard Aircraft

" '(1)(1) Whoever, while aboard, or while attempting to board, any aircraft in or intended for operation in air transportation or intrastate air transportation, has on or about his person or his property a concealed deadly or dangerous weapon, explosive, or other destructive substance, or has placed, attempted to place, or attempted to have placed aboard such aircraft any property containing a concealed deadly or dangerous weapon, explosive, or other destructive substance, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

" '(2) Whoever willfully and without regard for the safety of human life or with reckless disregard for the safety of human life, while aboard, or while attempting to board, any aircraft in or intended for operation in air transportation or intrastate air transportation, has on or about his person or his property a concealed deadly or dangerous weapon, explosive, or other destructive substance, or has placed, attempted to place, or attempted to have placed aboard such aircraft any property containing a concealed deadly or dangerous weapon, explosive, or other destructive substance shall be fined not more than $5,000 or imprisoned not more than five years, or both.

" '(3) This subsection shall not apply to law enforcement officers of any municipal or State government, or the Federal Government, while acting within their official capacities and who are authorized or required within their official capacities to carry arms, or to persons who may be authorized, under regulations issued by the Administrator, to carry concealed deadly or dangerous weapons in air transportation or intrastate air transportation.'

"SEC. 27. To establish, administer, and maintain the air transportation security force provided in section 316 of the Federal Aviation Act of 1958, there is hereby authorized to be appropriated for fiscal year 1973 the sum of $35,000,000, and for each succeeding fiscal year such amounts, not to exceed $35,000,000, as are necessary to carry out the purpose of such section.

"SEC. 28. Section 101 of the Federal Aviation Act of 1958, as amended, is amended by adding after paragraph (21) the following:

" '(22) "Intrastate air carrier" means any citizen of the United States who undertakes, whether directly or indirectly or by a lease or any other arrangement, solely to engage in intrastate air transportation.

" '(23) "Intrastate air transportation" means the carriage of persons or property as a common carrier for compensation or hire, by turbojet-powered aircraft capable of carrying thirty or more persons, wholly within the same State of the United States.'

and is further amended by redesignating paragraph (22) as paragraph (24) and redesignating the remaining paragraphs accordingly.

"SEC. 29. That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the heading

" 'TITLE III—ORGANIZATION OF AGENCY AND POWERS AND DUTIES OF ADMINISTRATOR'

is amended by adding at the end thereof the following:

" 'Sec. 315. Screening of passengers in air transportation.

" 'Sec. 316. Air transportation security force.

" '(a) Powers and responsibilities.

" '(b) Training and assistance.

" '(c) Overall responsibility.' "

Mr. CANNON. Mr. President, the major failure of the U.S. antihijacking program to date has been the lack of an effective and thorough screening process designed to keep would-be hijackers and other criminals from boarding aircraft.

Up to now the airlines and the Government have relied upon the so-called "hijacker personality profile" to identify and search passengers thought to be suspicious. Generally, only those passengers conforming to behavioral traits contained in the profile have been subjected to screening by weapons-detecting devices or to personal search of the person or of carry-on possessions.

The so-called profile has undoubtedly been effective in identifying many would-be hijackers and other criminals, but has not been totally effective in safeguarding our air transportation system from attack. Unfortunately, the airline employee or agent has up to now been responsible for applying the profile to each individual passenger who is processed for boarding. Obviously, occasions have occurred in which, during the pressures of boarding, agents have inadvertently not applied the profile to all passengers.

The committee is of the view that the profile is only one tool in the effort to keep hijackers out of the air transportation system and that other more thorough measures must be taken immediately, utilizing technology presently available.

Mr. President, the amendment I am offering contains a requirement that all passengers and their carry-on possessions traveling in air transportation and intrastate transportation involving large aircraft be screened by weapons detecting devices prior to boarding aircraft. The provision is quite similar to that proposed by Senator SCHWEIKER in S. 3815.

Present technology has made it possible to inobtrusively screen passengers with metal-detecting devices in a rapid and accurate fashion and to determine if any passenger is carrying what could be a dangerous weapon. The committee amendment authorizes funding so as to provide for the purchase of an adequate number of weapon-detecting devices so that passengers on all flights involving large aircraft within the United States and their carry-on possessions may be screened.

The committee believes that, while the Government should purchase the weapon-detecting devices, the devices should be routinely operated by employees of the airlines who process and supervise the aircraft boarding procedures. Presently, the screening program I have described above is being done on a haphazard and spot basis—the amendment will make such screening a firm requirement.

During the process of passenger screening some passengers will activate the metal-detecting devices, thus raising the possibility that a dangerous weapon is being carried illegally. We believe that such passengers exhibiting a positive response on the metal detecting machinery should be thoroughly searched by law enforcement personnel on the scene prior to their boarding the aircraft. Other provisions of the bill will provide adequate Federal law enforcement capability at all airports so that passengers who elicit a positive response may be searched.

We believe that the actual physical search of a person is an odious process both to the passenger and to the person performing the search. We believe that it is not proper for such personal searches to be conducted by airline employees who after all are not law enforcement officers and are not trained in law enforcement or safety procedures.

Our amendment provides that at airports not requiring a Federal security force presence, local law enforcement officers, pursuant to an agreement with the Federal Aviation Administration, may be authorized to search and arrest passengers suspected of violating or attempting to violate statutes relating to air transportation.

The committee amendment also contains a provision which would require the airlines to refuse transportation to any person who does not consent to search or inspection of his person and property. This amendment will establish firm and explicit authority for air carriers to refuse to provide transportation to anyone refusing to consent to be searched and will serve to clarify a somewhat fuzzy area of law. The committee is concerned however that new provisions of law requiring search or screening of passengers engaging in air transportation be very narrowly applied to avoid any possible infringement on constitutionally protected freedoms.

The only purpose for which the general search or inspection of persons and their property shall be undertaken is to insure that dangerous weapons will not be unlawfully carried in air transportation or in intrastate air transportation.

The committee amendment requiring absolute screening of all passengers and their carry-on possessions will be effective for at least 1 year following the enactment of the amendment. After that time the Administrator of the Federal Aviation Administration is given discretionary authority to modify rules and regulations relating to passenger screening as conditions at the time warrant. It is conceivable that at some point in the future such precautions may become unwarranted if the new security program proposed in this amendment is effective and at that point universal screening may no longer be required.

The Administrator is also given discretionary authority to exempt from the universal screening requirement air transportation performed by air taxis or commuter air carriers operating small aircraft. The committee believes that this segment of air transportation has, up to now, not been a target for air piracy or other criminal action.

The other major facet of the committee's amendment is to strengthen, unify, and bring under single-agency direction the Government's current antihijacking enforcement capability.

Several years ago, with great publicity and fanfare, the Government announced the establishment of the sky marshal program. The concept of that program was to provide a Federal police presence aboard aircraft while in flight to apprehend or otherwise deter hijackers. Of course, now the results of that program are well known. It was not effective in halting the alarming increase in air piracy and was shown to be largely ineffective because of its lack of emphasis on keeping potential skyjackers off airplanes.

As my colleagues know well, the sky marshal program was quietly abandoned to be replaced by a Federal law enforcement presence on the ground to act to keep skyjackers from boarding aircraft. This force is made up of Government agents from the Department of Treasury and the Department of Justice assembled on an ad hoc basis several years ago to provide Federal law enforcement capability at many of the Nation's airports. Unfortunately, the committee has been informed that the administration is seeking to phase out the present force in the current fiscal year.

Mr. President, crimes against air transportation are Federal crimes and the situation today is so potentially catastrophic that we must increase rather than eliminate the Federal law enforcement presence at our Nation's airports. The administration has argued that the prevention of hijackings and other acts of violence in air transportation is primarily a responsibility of local government as far as law enforcement assistance is concerned. We strongly disagree and can find no reasonable argument for turning over the primary responsibility of enforcement of Federal laws to local authorities.

Accordingly, our amendment will draw together present Federal law enforcement personnel engaged in air transport security into a new Federal security force under the direction of the Federal Aviation Administrator who shall exercise sole responsibility for the establishment and direction of the air transportation security force. Presumably, personnel employed by other departments of the Government now working in air transport security will be transferred to the Federal Aviation Administration and become a part of the air transportation security force established by the provisions of the committee amendment.

The amendment has provided officers of the security force authority to search and inspect persons and cargo to determine if weapons, explosives or destructive substances are being illegally carried; to arrest persons attempting to illegally carry or have illegally carried weapons and to enforce other provisions of U.S. law relating to crimes against air transportation. Members of the security force will have no further police enumerated in the amendment and their sole responsibility is to protect the air transportation system from air piracy, criminal violence and other illegal acts directed toward it.

The committee feels strongly that the present security presence composed of U.S. officers is not as effective as should be because of a lack of central direction and coordination. Officials of the Federal Aviation Administration have told me that they have sometimes been ineffective in protecting the air transport system because of contradictory policies and directives from other Government agencies. Airport authorities have testified before the committee that the confusion regarding responsibility for air transport security at the Federal level has made it difficult to coordinate Federal policy with local security action.

Accordingly the committee strongly believes the air transportation security and law enforcement must be centrally directed and that the FAA Administrator—charged specifically under law with maintaining a safe air transportation system—is the appropriate Federal official to whom this responsibility must be entrusted. Unnecessary intrusion and second guessing from Cabinet Departments and Cabinet Secretarys has already hampered the FAA's attempts to deal with air piracy.

The Department of Transportation, I am told, has often attempted to overrule the FAA on various security measures and proposals for more funding because of an attitude that skyjacking is a temporary threat to the air transport system and will go away. We find such an attitude deplorable. When Congress passed the Department of Transportation Act in 1966, it brought the FAA, in some respects, under the authority of the Secretary of Transportation. Wisely, however, certain specific safety functions of FAA were left entirely within the authority of the FAA Administrator with no review or control by the Secretary of Transportation.

The committee believes that this was wise policy in 1966 as it is now and accordingly believes that the air transport security program and law enforcement force must logically be the responsibility of the Administrator as they are entirely related to the concern for public safety.

We recognize that a total Federal presence at all airports in the United States is an economic impracticality and would be an unwarranted expenditure of Government funds. Therefore, we believe the Administrator should, in appropriate instances, delegate the security force functions and enforcement authority to local law enforcement officials provided they have adequate training. The committee specifically authorizes such a delegation of Federal authority and a deputization of local peace officers when circumstances warrant.

Finally, Mr. President, our amendment strengthens current provisions of law relating to the crime of carrying weapons aboard aircraft. The amendment modifies section 902(e) of the Federal Aviation Act relating to enforcement.

Presently, a violation of section 901(l) is only a misdemeanor. The misdemeanor penalty has been adequate in cases of persons who carry weapons such as unloaded pistols or knives aboard aircraft, but do so without any intent to use those weapons while on board. On the other hand, that penalty has not been adequate in cases where the nature of the weapon involved and/or surrounding circumstances indicate a very real danger that the weapon is intended for immediate use or that human life is imperiled. The proposed revision of the statute would provide a felony offense, punishable by up to 5 years' imprisonment or a fine of up to $5,000, or both, for the latter class of cases. It would retain the existing exemption for law enforcement officers and others authorized by the Secretary of Transportation to carry arms aboard aircraft, limiting the exemption, however, to the situations where those officials are acting within their official capacities. This limitation would guard against the unlikely, but possible, event of a law enforcement officer carrying or attempting to carry a deadly or dangerous weapon aboard an aircraft with no authority to do so.

Furthermore, the legislation would extend the coverage of the weapon section, which now applies only to U.S. air carriers, to foreign air carriers, thus enabling Federal prosecutions of individuals who carry concealed deadly or dangerous weapons aboard aircraft within the United States which are being operated by foreign air carriers.

In addition, the amendment also specifically makes it unlawful to carry or place for carriage a concealed explosive or other destructive substance with criminal sanctions provided identical to those provided for carriage of concealed dangerous weapons.

Mr. President, in conclusion, S. 2280 with the proposed committee amendments represents the most comprehensive attempt ever made to provide legislative machinery to deal with air piracy and criminal violence directed toward air transportation.

If enacted, this legislation will give the U.S. Government new methods, manpower, and financial authority to deal with threats to air transportation in a thorough and comprehensive fashion. The enactment of this bill will reflect congressional concern and action and will greatly add to the safety and well-being of millions of Americans who use the air transportation system.

Mr. President, I urge the Senate to unanimously approve S. 2280 and the committee amendment as here proposed.

Mr. PEARSON. Mr. President, I rise in support of the committee amendments to S. 2280, as reported by the Committee on Commerce.

The committee amendments direct the Administrator of the Federal Aviation Agency to promulgate regulations requiring that all passengers and all property to be carried aboard a flight originating in the United States be screened by weapon-detecting devices operated by employees of the air carrier.

The committee amendments further direct the FAA to acquire and furnish for the use by air carriers sufficient weapon detecting devices necessary to carry out the screening program. The devices will remain the property of the United States.

The committee amendments further authorize $35 million to be appropriated for fiscal year 1973 to establish, administer, and maintain an air transportation security force under the Administrator of the FAA. This security force would have the responsibility of maintaining a law enforcement presence and capability at U.S. airports to deter air piracy and protect the safety of air travelers. Mr. President, I do not deny that the establishment of such a force is an extraordinary response to a problem of law enforcement. Nevertheless, the threat to the safety of air travelers posed by air piracy transcends the problems associated with other law enforcement activities.

There must be established a force of highly trained specialists in air security, a force whose sole responsibility is to prevent criminal acts which jeopardize the lives of all those who travel by air. The cost of acquiring this security force will be modest, indeed, compared to the cost in human lives which one air tragedy could entail.

Mr. President, the committee amendments further establish criminal sanctions against those who conceal dangerous weapons, explosives, and other dangerous materials on their persons while aboard, or attempting to board an aircraft. These provisions are necessary, of course, to implement an effective program of air transportation security.

Mr. President, I urge the Senate to accept the committee amendments to the bill.

Mr. GRIFFIN. Mr. President, in the last 4 years aircraft hijackings have reached epidemic proportions and truly constitute an international crisis.

The use of aircraft for purposes of political blackmail is a threat to world peace, as evidenced by the recent Olympic tragedy in Munich and other hijackings in the Middle East. Strong and effective measures must be taken to prevent hijackings as well as to punish offenders swiftly and severely.

The pending bill provides the tools, which if rapidly implemented and vigorously enforced, will go a long way toward reversing the hijacking rate.

First, the bill would authorize the President to invoke a national air transportation boycott against nations which refuse to punish hijackers or extradite them. In addition, there is authority to impose secondary boycotts against the air service of third countries which refuse to invoke sanctions against the offending nation.

Now I realize that it may not be diplomatically expedient for any President to use such sanctions since he is not required to do so but I believe that a stiff backbone policy will promote worldwide respect and cooperation. Furthermore, as the committee report points out:

> Simply the threat of U.S. imposed air transportation boycotts should have a salutary effect on nations which might be reluctant to abide by the Hague Convention provisions.

Second, the bill would require the screening of all air passengers by weapon detection devices. Funds are authorized for the FAA to provide these devices to the airlines.

Third, the bill would provide authority to the FAA to require air carriers to refuse transport to any person who does not consent to a search for dangerous weapons. The safety of thousands of individuals requires this small infringement upon individual liberties.

Fourth, the bill provides stiff criminal penalties for the unlawful carrying of a concealed weapon aboard an aircraft where there is a willful and reckless disregard for the safety of human lives. The realities of travel at 35,000 feet dictate the necessity to deal harshly iwth all air-related crimes.

However, even with strong penalties, I am concerned over the reluctance of the judicial system to mete out severe punishment for hijackings and other related crimes. For instance, although Federal law authorizes the death penalty for persons convicted of air piracy, the threat of the death penalty or a long prison term appears to have had little effect on reducing hijackings. Between 1961 and March of 1972, 135 hijackings occurred in the United States, most of which have occurred within the last 3 or 4 years.

Yet of the 33 individuals who have been brought to trial or have pled guilty since 1961 of hijacking offenses, not one has received the death penalty. Only one received life imprisonment and only two additional persons were sentenced to prison terms above the minimum 20-year term required by law. In this regard I fully concur in the following statement from the committee report:

> The Committee believes that each hijacking offender must be prosecuted to the fullest extent of the law and that the Judiciary must impose stern sentences on those convicted. If more examples of swift and stringent punishment were publicized to the public, the incidences of hijacking would undoubtedly decrease.

Obviously, this legislation cannot solve a problem international in character. It does signify, however, the intention of the United States to take decisive action to eliminate one of the most dangerous of crimes. It is my hope that this legislation will be approved by an overwhelming vote.

Mr. BOGGS. Mr. President, I shall vote for the amendment to S. 2280 offered by the distinguished Senator from Nevada (Mr. Cannon) on behalf of the Commerce Committee, but not without reservations.

I applaud the provisions of the amendment relating to screening of all passengers and their carry-on luggage by weapon-detecting devices and the acquisition of metal detectors by the Federal Government to carry out this purpose. I introduced antihijacking legislation (S. 3871) not long ago which included similar proposals. I also support the provisions of the committee amendment raising penalties for carrying firearms or explosives aboard aircraft when this endangers the safety of passengers and crew. This proposal was also a part of my bill.

However, I proposed that responsibility for screening passengers with weapons detectors be placed with the Justice Department, specifically with the U.S. Marshal Service. I appreciate the consideration which the committee gave to my proposal.

However, the committee has decided that this responsibility should remain with airline employees assisted by State and local law enforcement personnel and a new air transportation security force under the direction of the Federal Aviation Administration. While I would like to have seen this responsibility transferred to Justice, I feel strongly that the urgency of the skyjacking problem requires that additional security measures be implemented as soon as possible.

Therefore, I shall vote for this amendment.

Mr. HART. Mr. President, will the Senator yield to me for a moment?

Mr. CANNON. May I ask for a vote on the committee amendment first?

The PRESIDING OFFICER. Will the Senator yield back the remainder of his time?

Mr. CANNON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CANNON. The Senator from Pennsylvania (Mr. Schweiker), I understand, has an amendment to the committee amendment. I want to be sure he is not precluded.

The PRESIDING OFFICER. His amendment would be in order after all time is yielded back on the amendment of the Senator from Nevada.

Mr. CANNON. Mr. President, I yield 1 minute to the Senator from Michigan (Mr. Hart) on the bill.

Mr. HART. Mr. President, over a period of time some of us here have sought to prevent the extension of the capital punishment sanction in Federal legislation. I rise to make the point that section 902(1) of the Federal Aviation Act as rewritten in the bill before us carries forward and incorporates the basic sanctions under the aviation piracy law, including death under certain conditions. I believe that under the recent Supreme Court decisions, basically the Furman decision, this provision is now unconstitutional.

Mr. SCHWEIKER. Mr. President, I send an amendment to the desk, and ask that it be read.

The PRESIDING OFFICER. Is the Senator's amendment an amendment to the pending amendment of the Senator from Nevada?

Mr. SCHWEIKER. That is correct.

The PRESIDING OFFICER. The amendment will be read.

The legislative clerk read the amendment to the amendment, as follows:

> On page 3, line 1, strike out "the enactment of this section" and insert in lieu thereof "the effective date of such regulations."

The PRESIDING OFFICER. Is this the amendment on which there is a limit of 1 hour?

Mr. SCHWEIKER. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SCHWEIKER. Mr. President, the pending committee amendments to S. 2880 include a provision which requires that the Administrator of the Federal Aviation Administration issue regulations, as soon as practicable, requiring for at least the next 12 months, that all passengers and their carry-on property carried in air transportation be screened by weapons-detecting devices, operated by employees of air carriers, before the passengers and their baggage are boarded. The amendments authorize the Administrator to acquire and furnish metal detector devices for this purpose with funds from the Airport and Airway Trust Fund. In addition, the committee has added a requirement for the FAA to provide Congress with semiannual reports about the effectiveness of the screening program.

The Senate is aware that on July 20, 1972, I introduced S. 3815, a bill which would mandate the Administrator of the FAA to publish regulations requiring that every passenger who boards a commercial aircraft be electronically screened prior to his enplaning. The bill is supported by the Airline Pilots Association and I ask that a letter from the association in support of mandatory screening be printed at this point in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

> Air Line Pilots Association,
> *Washington, D.C., September 20, 1972.*
> Hon. Richard S. Schweiker,
> *U.S. Senate,*
> *Washington, D.C.*
>
> Dear Senator Schweiker: With the vote on antihijacking legislation approaching in the Senate, I again wish to emphasize our full support for your bill, S. 3815, requiring the screening of all passengers and carry-on baggage by adequate weapons detecting devices.
>
> As I stated before the Senate Subcommittee on Aviation last month, such legislation will serve as a strong deterrent to the heinous crime of aerial piracy. We hope that sufficient funds can be authorized and appropriated to provide metal detection devices at every airport gate used in commercial aviation.
>
> We respectfully urge the Senate to pass this and similar legislation for the mandatory, thorough screening of passengers and hand luggage.
>
> Sincerely,
> J. J. O'Donnell, *President.*

Mr. SCHWEIKER. That bill was later introduced as an amendment intended to be offered to the Airways Development Act and I was pleased to have been joined on that amendment by Senators Boggs, Bible, Dominick, Hughes, Humphrey, Williams, Eagleton, and Ribicoff. On August 15, 1972, the Aviation Subcommittee of the Senate Commerce Committee held a hearing on the problem of aircraft hijacking and received testimony regarding the legislation which had been introduced on this problem which included my bill. During the hearing the Secretary of Transportation testified regarding my bill:

> We agree with the objectives of this legislation. In fact, our current plans call for the establishment of detection capability for screening of all scheduled air carrier flights.

Mr. President, I ask that the full text of my testimony before the Aviation Subcommittee of the Senate Commerce Committee be printed at this point in the Record.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

Testimony of Senator Richard S. Schweiker Before the Commerce Committee, August 15, 1972

> Mr. Chairman, I would like to thank the Committee for this opportunity to testify on the problem of aircraft hijacking, a problem which we have not yet solved. This is clearly a very important hearing, since there is a definite need for prompt action. I commend the Committee for its initiative and remain hopeful the Congress will be able to act this year on legislation designed to curtail the incidence of aircraft hijackings. As a matter of public policy the Congress should make it clear that the Nation's airways are secure for the travel of the American public and for the maintenance of commercial air traffic free from the death and destruction which a hijacker can cause.
>
> The Committee is aware that I introduced S. 3815, a bill which would mandate the Administrator of the Federal Aviation Administration to publish regulations requiring that every passenger who boards a commercial aircraft be electronically screened

prior to his enplaning. I had intended to offer the bill as an amendment to the Airway Development Act and I was pleased to have been joined on that amendment by Senators Boggs, Bible, Dominick, Hughes, Humphrey, Williams, Ribicoff and Eagleton. The amendment was not offered due to the scheduling of these hearings.

Mr. Chairman, despite the efforts of the Federal Aviation Administration, and the use temporarily of "sky marshalls," we continue to witness the hijacking of passenger aircraft. The traveling public as well as the crews of the Nation's commercial aircraft continue to face the risk of being kidnapped and injured or killed, not to mention inconvenienced. We continue to be amazed at the ease with which hijackers can take control of an aircraft and demand and receive large sums of money. It is strange that hijackers are still able to take control of aircraft after the rules for air carriers ordered by the FAA. This year alone we have already witnessed more hijackings in the United States than in any previous year. To date there have been 156 hijackings in the United States, of which 96 were successful; 30 were incomplete, that is, the hijacker took control of the aircraft but then was overcome; and 30 were unsuccessful, wherein the hijacker failed to gain control of the flight.

In my judgment, the hijacking rules established by the FAA are not nearly strong enough. In addition, there is some serious question whether the airlines are in full compliance with the regulations promulgated by the federal government. Until recently the rules established by the FAA for the air carriers and airports have required them to establish security plans acceptable to the agency. The agency in most instances has not prescribed the specific procedure or outline of the required plan. This stems in part from a desire of the agency to permit the airlines to establish those procedures most compatible with their own operations. However, the difficulty has been that the airlines feel much of this security is the responsibility of the federal government. On the other hand, the federal government feels the responsibility in great measure falls upon the airlines. Thus, a stringent and effective security program as yet has not been established. Of the 73 hijackings involving regularly scheduled aircraft departing from U.S. Airports since October, 1969 (the date security measures were inaugurated), 42 have occurred after no security measures were employed. Fifteen hijackings involved the use of a profile, 3 involved the use of a "spot check," 10 hijackers boarded the aircraft by other than normal means, and only 3 occurred after the use of both a profile evaluation and electronic screening device. The recent $1 million ransom hijacking of a Delta Airlines DC 8 jet to Algeria caused the FAA to declare the hijacking situation an "emergency." The announcement by the agency of emergency procedures for physical search of all passengers who fit a "security profile" of hijacker characteristics is a step in the right direction, but does not go far enough. Congress must require mandatory screening of each and every passenger.

Electronic screening is a simple reliable method that allows all passengers to be electronically searched for weapons without inconvenience while walking through an aircraft boarding gate. This electronic device gives us the ability to eliminate the great majority of all hijackings by screening all passengers on all flights before they board their plane. Mandatory electronic screening will enable us to detect hijackers carrying weapons aboard aircraft whose characteristics do not fit the "security profile" currently in use.

Clearly, the most critical element in any security program is the screening of passengers prior to their embarkation. At present not every passenger is being screened. The various methods when employed by the airlines have failed to detect far too great a number of hijackers. As a result, men have boarded aircraft carrying the weapons for a successful hijacking. The majority of all hijackings, worldwide, have been undertaken with weapons detectable by electronic screening devices. A blatant example is the recent Philadelphia hijacking in which the hijacker carried a shotgun aboard the aircraft.

The need for a system which can rapidly and reliably detect the presence of concealed weapons on airline passengers is obvious. Research in the area of concealed weapons detection has produced a reliable cost-effective method by which concealed weapons can be detected without inconvenience to unarmed passengers. This is a very important finding since application of this new weapon detection technology, together with identification and current profile test procedures, could greatly reduce the number of attempted hijackings. Unfortunately, there has been a reluctance to believe that any electronic system could achieve the kind of performance needed.

In evaluating any security system, two considerations are paramount. The probability of detection should be high—90% or higher—and the cost of capturing potential hijackers should be low. In the case of airplane hijackers who appear very infrequently (less than one in one million passengers), it is critically important to organize a screening process which minimizes the requirement to interview suspects. Unless a system is characterized by a low false alarm rate, the cost of eliminating one potential hijacker will be very high. For example, any system which requires interviewing even 20% of the passengers to eliminate hijackers may be too costly.

It may be suggested—in view of the cost—that electronic screening is not really necessary to achieve a significant reduction in the number of hijackings. I strongly disagree. Although the security profile currently being used is assumed to be effective, it alone will probably never be adequate simply because it depends too much on individual performance. There is evidence that persons assigned the problem of identifying well-defined but very infrequent defects in objects have great difficulty in performing well if the frequency that they encounter defects falls outside the range of 1 to 20%. The frequency of appearance of a potential hijacker is well below this range. The profile test should not be abandoned. But I believe all passengers must also be screened by a weapon detector in order to prevent concealed weapons from being carried onboard commercial flights. By using both the profile and reliable weapon detection techniques, the probability of detection can be increased better than 95% with little or no increase in screening costs, since an attendant is required in either case.

It has been established that modern technology properly applied, can be effectively and economically used to screen airline passengers for concealed weapons without inconvenience to them, and without creating any harmful side effects to them or their possessions. The FAA has been investigating electronic screening devices, both active and passive, high-frequency and low-frequency. Although technical operating questions remain to be settled, it is clear these devices can significantly reduce the number of hijackings. Electronic screening represents the most efficient and least cumbersome means of improving the security of air travel without the need for elaborate security enforcement programs involving large numbers of federal, state and local law enforcement officials.

The Secretary of Transportation recently stated, "I firmly believe that the best place to catch an airplane hijacker is on the ground before he has an opportunity to jeopardize the lives of innocent people. The equipment of our airports with these devices will help achieve that goal, and therefore I feel it is proper expenditure of public funds." S. 3815 directs the Administrator of the FAA to acquire and furnish the necessary devices for the purpose of electronic screening of passengers.

We must insure that every person who boards an airplane can be assured that none of his fellow passengers is carrying the equipment necessary to hijack that aircraft. The way to do that, obviously, is to get tough. We have to mandate the use of known electronic equipment available for metal detection purposes. Until we do get tough and make it mandatory, we won't solve the airline hijacking problem. If we do get tough—we will stop air hijacking.

Mr. SCHWEIKER. Mr. President, I wholeheartedly support the committee amendment to the pending bill which is the result of the hearing I just mentioned. I am quite pleased that the committee included in its amendment the provisions of my bill which require that all passengers and their baggage be electronically screened prior to their boarding an aircraft. However, the committee added to this provision the authority for the Administrator of the FAA, 1 year after its enactment, to alter or amend such regulations requiring a continuation of such screening by weapon-detecting devices only to the extent deemed necessary to assure security against acts of criminal violence and air piracy in air transportation and interstate air transportation. It is my understanding that the committee feels that after 1 year of such required screening, it may not be necessary to continue such a program and, therefore, the Administrator is permitted to make such changes as he feels are in order.

There was testimony to support such action. I do not quarrel with the committee's view in this regard. I wish to point out, however, that this provision contains a technical difficulty. Specifically, the 1 year begins after the enactment of the legislation. Based on the information that has been made available to me and the committee, it will not be possible for the Department of Transportation to acquire the necessary equipment and publish the appropriate regulations allowing time for comment by interested parties, to permit the full implementation of such a program to last for 1 year before the Administrator is authorized to alter or amend them. Therefore, my amendment seeks to change the language of this provision by striking the words "the enactment of this section," and inserting in lieu thereof "the effective date of such regulations." If my amendment is adopted, the committee amendment will then read:

> One year after the effective date of such regulations the Administrator may alter or amend such regulations, requiring a continuation of such screening by weapon detecting devices only to the extent deemed necessary to assure security against acts of criminal violence and air piracy in air transportation and interstate air transportation.

Thus, we will have a full year of experience in the mandatory screening of passengers and baggage boarding commercial airliners.

Mr. President, I have felt for some

time that the antihijacking rules established by the FAA have not been strong enough. In addition, I have felt that there has been some serious question as to whether the airlines have been in full compliance with the regulations promulgated by the Federal Government. Apparently, the airlines and the Federal Government have been quarreling as to whose specific responsibility is the security of the traveling public. The pending committee amendment resolves that issue, and clarifies the responsibility for the airlines and the Federal Government.

Clearly, the most critical element in any security program is the screening of passengers prior to their embarkation. At present, not every passenger is being screened. The various methods, when employed by the airlines, have failed to detect far too great a number of hijackers.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SCHWEIKER. I yield myself 3 additional minutes.

In a case in Philadelphia, a person actually smuggled a shotgun under his raincoat and got on an airplane. An obvious attempt like this, as well as the concealing of a small pistol, would be thwarted under the electronic screening processes now available.

As a result, men have boarded aircraft carrying the weapons for a successful hijacking. In fact, the majority of all hijackings, worldwide, have been undertaken with weapons detectable by electronic screening devices.

A blatant example is the Philadelphia hijacking just mentioned in which the hijacker carried a shotgun aboard the aircraft.

Mr. President, my amendment earlier was called to the attention of the committee for their review and consideration, and I am hopeful that it can be adopted today so that what, in my judgment, is a weakness in the committee amendment can be corrected.

I believe the bill will accomplish the intended purposes, which are exemplary and commendable, and for which I certainly commend the committee.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. SCHWEIKER. I yield.

Mr. CANNON. First I want to thank the Senator for his kind remarks, and I want to say that I have examined his amendment. It is acceptable, and I am willing to accept it at this time.

Mr. SCHWEIKER. I thank the distinguished Senator from Nevada and the distinguished Senator from Kansas for their help and support, and I yield back the remainder of my time.

Mr. BOGGS. Mr. President, before the Senator yields back his time, will he yield me 1 minute?

Mr. SCHWEIKER. I am glad to yield to the Senator from Delaware.

Mr. BOGGS. I take this opportunity to commend the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Nevada (Mr. CANNON), and the Senator from Kansas (Mr. PEARSON) for the fine job they have done in offering and accepting this amendment to the legislation, because I think skijacking is a matter of the utmost urgency, and we must proceed as far as possible on it.

Again I thank the Senator from Pennsylvania, and ask permission to join with him as a cosponsor of the amendment.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that the name of the Senator from Delaware (Mr. BOGGS) may be added as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHWEIKER. Mr. President, I would like to add that the Senator from Delaware was one of the sponsors of my original bill. He has a bill of his own in this area, and has worked very hard on these matters. I commend his efforts, and thank him for his help and support.

I yield back the remainder of my time.

Mr. CANNON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment was agreed to.

Mr. CANNON. Mr. President, have the committee amendments been agreed to?

The PRESIDING OFFICER. The question recurs on agreeing to the amendment of the Senator from Nevada, as amended.

The amendment was agreed to.

Mr. CANNON. Mr. President, I call up an amendment which I have at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

At the end of the bill, add the following: The second sentence of section 403(b) of the Federal Aviation Act of 1958 is amended by inserting after "in the service of such air carrier or foreign air carrier;" the following: "widows, widowers, and minor children of employees who have died while employed by such air carrier or foreign air carrier after twenty-five or more years of such employment;".

Mr. CANNON. Mr. President, I yield myself 2 minutes.

I had not intended to offer this as an amendment until the other airline fare amendments were offered and voted on.

The amendment I am offering now is identical to language contained in S. 1655, which is already on the calendar. I feel that as long as we are getting into this question of reduced rates on a standby basis and reduced rates on a reserved basis, and the general problem of rates, we should consider this bill a part of it, since it is already on the calendar, and we have held hearings on it, determined that we would report it out, and had it ready for action.

So I hope the Senate will agree to the amendment I have just offered, which now covers the entire gamut of reduced fares. I think the only persons now left out who would not be eligible for reduced rate transportation are those people who are hale and hardy between the ages of 21 and 65.

I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nevada.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. LONG. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. HRUSKA. Mr. President, will the Senator yield me 2 minutes?

Mr. CANNON. I yield 2 minutes to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, I rise to commend the members of the Committee on Commerce for the work they have done on this bill.

It will be recalled that one day last week the Committee on the Judiciary called up for consideration the bill (S. 2567) which dealt with aircraft piracy amendments. The attention of our committee was called to the fact that there was some duplicatory treatment of piracy on aircraft contained in our bill and in the bill which is today before us.

The result was, as has already been explained, that three of the sections of the bill that originated in the Committee on the Judiciary were recommended for deletion by the Committee on Commerce, and then the substance of those three sections was treated at even greater length in the bill upon which we are about to vote, bringing about a splendid result.

Speaking at least for myself, I suggest that we are indebted to the surveillance of the chairman, the Senator from Nevada (Mr. CANNON), and to the members of his committee for the results thus obtained. Others, of course, participated in it, but someone had to spearhead it, and he did. I commend him for it, and urge that the bill be passed.

Mr. DOMINICK. Mr. President, will the Senator from Nevada yield for a few questions, or the Senator from Kansas?

Mr. PEARSON. Mr. President, I yield 5 minutes to the Senator from Colorado.

Mr. DOMINICK. Unfortunately, because of other commitments, I have not been able to be here during the debate, and the questions I ask may have been in part touched upon before. But I would like to ask the Senator from Nevada or the Senator from Kansas these questions.

Suppose, for example, someone is trying to get out of Cuba and takes over a private airplane by force, which, as I understand, is an offense under this measure. Do I understand that at that point, although he is trying to get out of an area and would ordinarily be considered a refugee, he would be subject to the death penalty upon arriving in this country?

Mr. CANNON. He could be subjected to the death penalty, or a penalty of not less than 20 years in prison, if he takes the aircraft, while in flight, by force, thus endangering the lives of other persons. If he just steals an aircraft, I think that is probably a different proposition.

Mr. DOMINICK. Well, when we talk about an aircraft, are we talking about a passenger aircraft? Suppose he takes a freight aircraft, or suppose a U.S. citizen, let us say, has been seized by Hungarian authorities on a trip over there, and hijacks a plane and gets to Austria. Is he subject to 20 years in jail when he gets back here, or to the death penalty? If he is, I think that is a grave mistake.

Mr. CANNON. Mr. President, let me read the pertinent section:

"(n)(1) Whoever aboard an aircraft in flight outside the special aircraft jurisdiction of the United States commits 'an offense' as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, and is afterward found in the United States shall be punished—

"(A) by death if the verdict of the jury shall so recommend, or, in the case of a plea of guilty, or a plea of not guilty where the defendant has waived a trial by jury, if the court in its discretion shall so order; or

"(B) by imprisonment for not less than twenty years, if the death penalty is not imposed.

"(2) A person commits 'an offense', as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft when, while aboard an aircraft in flight, he—

"(A) unlawfully, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of, that aircraft, or attempts to perform any such act; or

"(B) is an accomplice of a person who performs or attempts to perform any such act.

Mr. DOMINICK. Could I ask the manager whether the committee did consider, as a part of the hearings, the problems I am talking about?

Suppose we had a U.S. citizen who was seized by the authorities in Hungary. It looked as though he was going to be incarcerated in a Communist jail for I do not know how long, and suddenly he sees a chance to get out of there, takes an airplane, and takes it into Austria by force. Are we going to say, when he gets back here, in an effort to escape from that kind of situation, that he is going to be executed or put in jail for 20 years?

Mr. CANNON. Mr. President, we are doing our best to discourage hijacking of aircraft, no matter where the hijacking is or how it may occur. We are trying to get other nations to agree with us in a similar course of action, because no matter how laudable his individual desires may be—and we have seen that in the case of hijackings from our own country to go to Cuba because someone thought he was a political prisoner and wanted to get out of the country to go to Cuba. In dealing with a situation of this kind, we have to put the shoe on both feet.

Mr. DOMINICK. Mr. President, as far as I am concerned, nobody has ever objected to their going to Cuba. I even offered a statement here on the Senate floor that we would even pay their way to go, if they wanted to go. We are not talking about that. I am talking about someone who is in a totally different capacity. This is the only thing about this bill that bothers me. Other than that, I think it is an excellent bill.

If an American citizen is traveling abroad and is seized by authorities and is to be shoved in jail and finds a way of getting out——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CANNON. I yield the Senator 5 additional minutes.

The PRESIDING OFFICER. The Senator from Nevada has no time remaining. The Senator from Kansas has time.

Mr. PEARSON. Mr. President, I yield the Senator 5 additional minutes.

Mr. DOMINICK. I thank the Senator from Kansas.

I am not trying to be difficult about this situation, and I can understand the complexity of it.

Let us take a four-passenger airplane. The Senator from Nevada flies, I fly, and the Senator from Kansas flies; we all have flown our own airplanes.

Suppose someone is in a Communist country and is seized and he finds an opportunity to get on a four-place plane while the pilot is onboard, while the plane is warming up, and he can get to Austria. The pilot was not going there in the first place, so the person has to display a gun or other weapon to the pilot. In addition, there is the problem of perhaps being shot by the border guards in the process. There are all those problems. But the fellow is going to do that, anyhow, if he wants to escape 20 years in a Communist prison.

My question is this: Why should we then go ahead and say that he ought to stay in jail or be shot by our own authorities? I just cannot see it. I wonder whether there is any kind of exception we could make that would be legitimate in this matter.

Mr. PEARSON. May I respond very briefly to the Senator?

Mr. DOMINICK. I yield.

Mr. PEARSON. Actually, this question was more or less resolved at the time the Senate considered the Hague Treaty, the antihijacking measure, and it was passed by the Senate. What we really did was to enter into an international agreement, in treaty form, with some 49 countries, I think, to outlaw hijacking. That would pertain to hijacking motivated by political reasons, whether or not it be someone in this country, which was the case in too many instances some years ago, in which they would commandeer an aircraft and go to Cuba, to Havana.

When we deal with hijacking and seek to implement it on an international basis—and that must be done—the whole solution to this problem is to wipe out any sanctuaries that the criminal may have.

As does the Senator from Nevada, I sympathize with the feelings of the Senator from Colorado, that those who want freedom from states that live under a totalitarian system ought to have some right and some means to accomplish that; and our Government has been most lenient, it seems to me, in accommodating and providing asylum for those who escape from Communist countries. But to do so in a criminal act, it seems to me, is to place in the balance the matter of safety in air transportation and to do it on an international basis, and I do not see any alternative that the Senator seeks.

Mr. CANNON. If the Senator will yield, I may say that, under the Hague Convention, we are bound now to either prosecute or to extradite hijackers found in our country.

Mr. DOMINICK. We are bound to prosecute or to do something. I can see why, perhaps, in order to make this thing viable we will have to do something; but to automatically provide as this bill does, when a man is trying to save his life, when he is going to be shot by the country he belongs to and is a citizen of, simply because he is trying to get out of a totalitarian area, seems to be going too far.

I wonder if we can, somehow or other, give some discretion here so that this does not happen.

I introduced a bill the other day, as Senators know, which was passed by the Senate, which provided for giving additional sentences to people who commit felonies with the use of a firearm. On the first offense, we made sentencing discretionary, at the suggestion of some Members of the Senate. I was glad to do it. My guess is that it will stay that way. But here it is not made discretionary. Under this bill, he is going to get 20 years in jail or he is going to be shot, even though the Supreme Court has said that is unconstitutional in some cases.

I really do not know what to do about it. I bring up this matter, because I think it is a problem. I think there will be a public outrage if we have an American citizen who is incarcerated or caught by one of the totalitarian countries and uses this method of escape. I think there will be public outrage if we conduct any kind of trial of that person, particularly if he does not hurt anybody.

Let us suppose he takes over a plane and does not hurt anybody; that all he has is a flashlight in his pocket, which the pilot thinks is a gun or something. He bluffs the pilot and is taken to Austria. Perhaps he even has the cooperation of one of the pilots and goes over. The fellow cannot admit that he was in collusion, because he will be shot by the Hungarians or the Rumanians, or whoever it may be.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. TUNNEY. Mr. President, will the Senator from Kansas yield me 1 minute?

Mr. PEARSON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Kansas has 8 minutes.

Mr. TUNNEY. Will the Senator yield me 1 minute?

Mr. PEARSON. I am glad to yield.

Mr. TUNNEY. Mr. President, the distinguished Senator from New York and I are cosponsors of an amendment. We desire to offer our amendment, so I am going to ask unanimous consent that we be permitted to offer our amendment at this time.

Mr. CANNON. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. JAVITS. Mr. President, will the Senator yield me 2 or 3 minutes?

Mr. PEARSON. I yield the Senator from New York 3 minutes.

Mr. JAVITS. Mr. President, the amendment we would offer to this bill can be offered to another bill. I think it is most unfortunate, that the manager of the bill should object, and I think he should know what the amendment contains. I do not know whether or not he has it before him and is reading it. It will be offered, and it can only get more complicated if we have to offer it to another bill. I would hope very much, therefore, that the Senator might perhaps reconsider.

The purpose was to utilize the discretionary machinery, as this uses the word "may" throughout in this bill, with respect to aircraft, to apply also in the case of nations which aid or abet terrorism through extending weaponry or giving sanctuary or otherwise being an accomplice before or after the fact.

In view of the fact that it is a very serious problem, with explosive packages being mailed daily and with entire nations implicated, in view of the fact that this is a very mild sanction, in an effort to find the remedy which is contained in this bill, I would hope that at least the Senate would have an opportunity to express itself upon this subject.

As I say, if it is necessary to offer the amendment to another bill, it will be offered. It only complicates life around here if there are many objections to unanimous-consent requests, and so forth, because one feels, in a sense, that he is not being dealt with as he would hope to be dealt with in respect of a particular bill.

That is the amendment, and that is its purpose, and I suggest that to the manager of the bill accordingly.

Mr. CANNON. Mr. President, will someone yield me some time?

Mr. PEARSON. I yield.

Mr. CANNON. Mr. President, this matter raises an entirely new issue that was not considered by the committee. We held no hearings on this foreign-policy matter. We have no communication from the State Department as to their position on it. We are under a time limit, even if the amendment had been offered at the proper time.

I certainly have no objection to the amendment being offered to some other bill and to the amendment being considered fully and discussed; but, under the circumstances, as manager of this bill, I have to object to it being offered here and now.

Mr. TUNNEY. Mr. President, will the Senator yield?

Mr. PEARSON. I yield.

Mr. TUNNEY. Mr. President, I should like to ask the distingushed Senator from Nevada (Mr. CANNON) to reconsider. He knew this morning that this amendment might be offered. That message was communicated to his staff. The Senator from New York and I were inadvertently off the floor at the time of third reading. We had believed that pending legislation would be considered until at least 2 p.m. today, and that we would have until that time to offer our amendment. I believe that the Senate should have the opportunity to work its will on a most important amendment, one that deals with terrorism. It deals with countries that house and give aid and comfort to terrorists who are hijacking planes, including American planes. It provides the President with a remedy in those circumstances. It enables him to suspend air operations between the United States and such countries. The need for this amendment is urgent. The distinguished Senator from Nevada should have been put on notice by his staff this morning that this amendment might be offered.

Mr. CANNON. That is absolutely incorrect. I never heard of the amendment until it was handed to me within the past 10 minutes, after we had obtained third reading. That was the first I had any knowledge of it. I read the amendment very hurriedly. I dislike the implication that it obtained third reading knowing there would be another amendment offered. We have been on this bill for a number of hours now and a number of amendments have been offered. There was plenty of opportunity to add this amendment.

It has not been subjected to hearings. Every amendment offered this morning and accepted has been subjected to hearings by the committee. We have gone into the questions thoroughly. We did act and accept a number of amendments. We have not gone into this particular foreign policy matter that is raised by the amendment. We have had third reading and I object, Mr. President.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. WEICKER). The 1 minute of the Senator from Kansas has expired.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Who yields time for the parliamentary inquiry?

Mr. PEARSON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Kansas has 3 minutes remaining?

Mr. JAVITS. I wish only 1 minute.

Mr. PEARSON. I yield 1 minute to the Senator from New York for his parliamentary inquiry.

The PRESIDING OFFICER. The Senator from New York is recognized for 1 minute.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from New York will state it.

Mr. JAVITS. Is a motion to recommit the bill to report back forthwith with an amendment still in order after third reading?

The PRESIDING OFFICER. Yes. Such a motion would be in order any time up to passage.

Mr. JAVITS. Well, Mr. President, I move to recommit the bill to the Committee on——

Mr. PEARSON. Commerce.

Mr. JAVITS (continuing). Commerce, to report back forthwith with an amendment, as follows:

On page 6, line 1, after the word "aircraft," insert the following: "or if he determines that a foreign nation is used as a base of operations or training or as a sanctuary or which arms, aids, or abets in any way, terrorist organizations which knowingly use the illegal seizure of aircraft or the threat thereof as an instrument of policy."

On page 6, between lines 22 and 23, insert the following new section:

"(c) The President shall within 5 days of any action taken pursuant to this section, report fully to the Congress setting forth all the reasons which support the action taken."

Mr. President, I ask for the yeas and nays.

Several Senators addressed the Chair.

Mr. PEARSON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Two minutes remain to the Senator from Kansas.

Mr. PEARSON. Mr. President, I yield myself the 2 minutes. I hope that the——

The PRESIDING OFFICER (Mr. WEICKER). Would the distinguished Senator from Kansas please suspend? Would Senators please raise their hands to comply with the request for the yeas and nays?

There was not a sufficient second.

Several Senators addressed the Chair.

Mr. PEARSON. Mr. President, with the remaining 2 minutes, I would hope that the motion of the Senator from New York would not prevail. This is a very complicated subject, a matter that touches the hearts of every one of us who has any concern for his fellow man and who feels quite dreadful about the terror that is abroad in the world today, such as we witnessed at the Olympic games in Munich, at the airport in Tel Aviv, and all across this land. It is something that we should deal with.

But we have brought forth a bill today, almost on an emergency basis, dealing with another critical situation in this country and that is skyjacking or hijacking and extortion on an international basis. It is in line with a treaty that the Senate passed on some time ago. We have taken amendments here that deal with all sorts of rates for the youth and the elderly, and so forth; but I must say that I do hope the Senate will reject the motion of the Senator from New York. I respect his feelings on this matter. I am positive that the Senator from Nevada will call for hearings, and the Senator from Washington (Mr. MAGNUSON), the chairman of the committee, will expedite the matter so that we can deal with it in a few weeks from now.

Mr. DOMINICK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Who yields time for the parliamentary inquiry?

Mr. JAVITS. A parliamentary inquiry. How much time do I have?

The PRESIDING OFFICER. All time on the bill has now expired, but there are 20 minutes left on the motion of the Senator from New York, with 10 minutes to each side.

Who yields time?

Mr. JAVITS. I thank the Chair and I yield 1 minute to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 1 minute.

Mr. DOMINICK. Mr. President, if the motion of the Senator from New York and the Senator from California to recommit with instructions should be passed, in that event, would the bill be open to further amendment?

The PRESIDING OFFICER. If the motion of the Senators from New York and California is agreed to, the chairman would immediately report the bill to the Senate with the proposed amendment which would be before the Senate for immediate consideration, but the bill otherwise would not be open to amendment since we have had the third reading of the bill.

Mr. DOMINICK. Then, Mr. President, I do not know what to do, then, because notwithstanding my feeling of great sympathy for the Senator's point of view, if I may say so, I also feel great sympathy for the people who may be incarcerated in a totalitarian country and, in trying to get out find that when they do, they will be punished by their own government. It makes no sense to me.

Mr. JAVITS. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 3 minutes.

Mr. JAVITS. Now, Mr. President, the only reason I made this motion is to demonstrate again what we all know in this Chamber, that we can get things done here if we know the rules.

I regret very much that it was necessary, but it was, because we really were—and I do not blame the Senator from Nevada at all, I take absolutely at face value what he said, that he did not know anything about this amendment—denied the opportunity to present an amendment which is key to our time and germane to this issue.

Now we have an opportunity to present it and we will discuss it and however the Senate works its will, that will be its will. But a vote on it we are entitled to with respect to this particular measure, and we shall now have one.

Mr. President, I now ask for the yeas and nays.

There was not a sufficient second.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from New York will state it.

Mr. JAVITS. How many Senators are necessary for a sufficient second?

The PRESIDING OFFICER. Sixteen Senators would comprise a sufficient second.

Mr. JAVITS. Mr. President, I again ask for the yeas and nays, as I believe there are 16 Senators now present.

The PRESIDING OFFICER. There is a sufficient second. The yeas and nays are ordered.

Mr. JAVITS. Mr. President, I will take another minute and then I shall yield to the Senator from California (Mr. TUNNEY).

What are we trying to do here? This is an entirely voluntary bill, giving power to the President that he may do this or he may do that with respect to the aircraft of this country and foreign countries, or countries which deal with those offending against the hijacking principles set forth in this bill.

What the Senator from California (Mr. TUNNEY) and I are trying to do is to apply the same permissiveness in terms of the President's authority, in order to show the deep feeling we have about the barbarism going on in the world today with respect to terrorism, with the absolute option in the hands of the President of the United States.

Why cannot we give him that authority with respect to aircraft?

It is as simple as that. At least it gives him some tool that he can use, instead of the absolute helplessness which we find ourselves in now with respect to terrorism, which may be visited on anyone in any country, at any time, no matter how high or how low.

For the simple reason of plain humanity, I believe that we should give the President this authority with respect to aircraft. That is all we are doing. At least, it will give him something to use as a handle to redress the situation. The bill before us is an appropriate means to carry that out.

Mr. PASTORE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Rhode Island will state it.

Mr. PASTORE. Is a unanimous-consent request in order to return the pending bill to its status before third reading by unanimous consent?

The PRESIDING OFFICER. The Senator is correct. By unanimous consent that would be in order and the third reading could be vacated.

Mr. PASTORE. Mr. President, I ask unanimous consent that we return the bill to its status before third reading.

Mr. CANNON. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. PASTORE. Is it open to a motion?

The PRESIDING OFFICER. It is not.

Mr. JAVITS. Mr. President, I yield 2 minutes to the Senator from California.

Mr. TUNNEY. Mr. President, I thank my friend, the senior Senator from New York.

I think the Senator from New York expressed our mutual feeling. I think the people of this country and throughout the world are outraged by the activities of terrorist gangs that are hijacking planes and that have proudly claimed credit for the massacre at the Lod Airport in Israel. They have enthusiastically and madly claimed credit for the massacre of the Israeli athletes in Munich.

This group of international outlaws to my mind must be curbed. One way in which we can curb them is to give the President authority to suspend air service between the United States and those countries that aid or harbor these international criminals.

It is about time that we use whatever diplomatic weapons are available to us to take action against those countries that are perfectly willing to let American planes land but who are also perfectly willing to support murderers and terrorists.

The amendment we have introduced is a good one. It is a matter of great urgency. It is not something on which we can wait for months and months. The amendment is very clear. It states that the President of the United States can suspend air service to any country used by terrorists as a base of operations or training or as a sanctuary, and that we can suspend air service to any country which aids or abets in any way terrorist organizations.

It is a very simple issue. It does not need to be subjected to months of hearings. These terrorists must be stopped—and we must begin to act now.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. JAVITS. Mr. President, I do not know if the opposition wishes to use any of its time.

Mr. CANNON. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 2 minutes.

Mr. CANNON. Mr. President, I am very sympathetic to this proposition, generally. However, I am not sympathetic to having it come into this bill when we have a hijacking bill that we have already encumbered. The bill is loaded now with nongermane matters to the point that I have some concern about whether we can get it through the House rapidly.

This amendment raises a serious foreign policy question. I think it is a matter which should properly be considered by the Foreign Relations Committee. It has not been the subject of any hearings before my committee, whereas we have had hearings on all the matters contained in the bill, either by amendment or otherwise.

This was the reason for my objection. The amendment has not had any hearings. The matter may raise grave problems as to whether we can get the bill eventually passed with these provisions in it with no hearings of any sort on them, even though I am in sympathy with the problem they are trying to get at. This might apply to a lot of countries; having nothing to do with the issue of hijacking itself.

Mr. JAVITS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from New York has 15 minutes remaining.

Mr. JAVITS. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 2 minutes.

Mr. JAVITS. Mr. President, I have two points to make and then I think that the Senate will have a clear grasp of the situation.

First, this is entirely a matter of giving authority to the President. The President may do something or he may not. I have no idea as to when, how, or where he would use that authority. However, he has it. We are saying that we are giving it to him for a given purpose.

This is critically important. It concerns the attitude of the United States toward what seems to be highly elusive terrorism. And that is the main point. It is only the granting of authority. How he uses it and whether he uses it and when he uses it is another matter.

Mr. President, the second question concerns what we can do. We have to keep up with what seems to be a creeping scourge upon us. We should try to keep up with it as it hits us. This is a situation which has crept up upon us in the night. It is a clear and evident situation.

This is a Senate bill that will go to conference. If there are bugs in these ideas, they can come out in conference for good reason. However, at least we show the President that we want to do something.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. PASTORE. Mr. President, let us assume that an American plane has landed in one of these countries and there are terrorists there who want to hijack it. Many of these people are dangerous, even more so than those mentally deranged people who hijack a plane for a thrill or for some ulterior motive.

Why should not the President say—if that is what is going to happen in these countries—that we will not have our planes land there.

Mr. JAVITS. Mr. President, we should not have our planes land there. I ask every Senator to ask himself if, when he is in a plane at an airport in Amsterdam, Paris, or some other city and he looks out the window and sees a plane there from a country that has been responsible for murders, whether that pleases him. Do we have any right to act in a manner that concerns our survival? It is that principle upon which the amendment is based.

I hope that the Senate adopts the amendment.

We are ready to yield back our time.

Mr. CANNON. Mr. President, I yield 2 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 2 minutes.

Mr. FULBRIGHT. Mr. President, the Senator has suggested that this involves serious international questions and wanted to know my position on it.

I am sympathetic with the position of the chairman. I would think, though I had nothing to do with the legislation itself, that we had a treaty relating to the matter of hijacking, and the matter is very serious. I am very sympathetic with the position of the Senator from New York with respect to this tragedy that occurred at Munich.

I will support the position of the chairman of the committee. I think this is a broad new proposal that does require hearings.

It is quite clear what we all think of this terrible event which happened in the airport at Tel Aviv and in Munich. However, we have also done some things which could very well be raised against us.

I do not know how far-reaching it is. However, as far as killing people, the United States is not without responsibility in the last few years. It is a terrible thing when we see individuals do the sort of thing that occurred at Munich. It is very offensive. However, the people that we kill are just as dead.

I do not think that we should take this kind of action off the cuff. I believe it would endanger the ultimate passage of this legislation.

There has been more hijacking in our country than there has been in any other country throughout the world. When we were discussing the International Convention, the testimony indicated that substantially more hijacking had occurred here than anywhere else.

This is not all one sided. The killing has not all been done by the bloody terrorists who have been in the news so much recently.

I, for one, think the record should be made on this matter before we adopt the amendment. I shall support the position of the chairman of the committee.

Mr. TUNNEY. Mr. President, I should like to explain a bit more fully the urgent nature and necessity of this legislation.

Mr. President, it is imperative that the Congress take the most effective possible action to curb air piracy and terrorist violence. That is why Senator Javits and I have introduced this amendment.

Our amendment enables the President to suspend air service between the United States and any nation which is used as a base of operations or training, or as a sanctuary for terrorist organizations which thrive on violence and which deal in death. It would also permit the President to suspend air operations to those countries which aid or abet these international outlaws.

S. 2280 is a good bill, Mr. President, and it is an important step in the right direction. But it does not go far enough. Millions of innocent civilians live in increasing fear of terrorist fanaticism. Airline passengers face potential danger every time they board a plane. We have already mentioned the fact that terrorist gangs have already proudly claimed credit for the massacre at Lod Airport, the violent seizure of a number of civilian airplanes, and the infamous and maniacal murders in Munich, to mention only the most recent and well-publicized crimes they have committed.

This Nation and this Congress cannot stand idly by while civilians are threatened, intimidated, and killed by the wild excesses of barbarians.

Something effective must be done, Mr. President. Pious pronouncements and mild legislation will not suffice. Our commitment must be demonstrated by tough, clear, and comprehensive legislation which will work.

That is why we have introduced this amendment. With this amendment, the President will have the clear authority to suspend air travel between the United States and those nations which harbor or assist terrorists.

Mr. President, if we are to begin to take effective action to curb terror and to protect airline passengers I respectfully suggest that the Javits-Tunney amendment must be enacted.

Mr. CANNON. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 1 minute.

Mr. CANNON. Mr. President, I am very sympathetic with the views of the two Senators. However, I do think this kind of proposal ought to have some kind of hearing and consideration. The State Department ought to be heard from as to what problems are involved. It does go far beyond the problem of hijacking.

We are vitally concerned and we are now trying to get a bill on hijacking passed.

Mr. President, if no one else desires to use any more time, I intend to yield back the remainder of my time and I move to table the motion to recommit.

Mr. JAVITS. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to recommit. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. McClellan), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Maine (Mr. Muskie), the Senator from Alabama (Mr. Sparkman), the Senator from Virginia (Mr. Spong), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

I further announce that the Senator from Indiana (Mr. Bayh), the Senator from Indiana (Mr. Hartke), the Senator from North Carolina (Mr. Jordan), and the Senator from Wyoming (Mr. McGee) are absent on official business.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. McIntyre) would vote "nay."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. Allott), the Senators from Tennessee (Mr. Baker and Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Michigan (Mr. Griffin), the Senator from Florida (Mr. Gurney), the Senator from Iowa (Mr. Miller), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from Arizona (Mr. Goldwater) is absent on official committee business on the west coast and also celebrating a wedding anniversary.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senators from Ohio (Mr. Saxbe and Mr. Taft) and the Senator from Vermont (Mr. Stafford) are absent on official business to attend the Interparliamentary Union meetings.

If present and voting, the Senator from Michigan (Mr. Griffin), the Senator from Iowa (Mr. Miller), and the Senator from Texas (Mr. Tower) would each vote "nay."

The result was announced—yeas 31, nays 44, as follows:

[No. 464 Leg.]

YEAS—31

Anderson
Bellmon
Bennett
Bentsen
Bible
Burdick
Byrd, Harry F., Jr.
Cannon
Church
Curtis
Edwards
Ervin
Fannin
Fong
Fulbright
Hart
Hollings
Hruska
Inouye
Jackson
Jordan, Idaho
Long
Magnuson
Mansfield
Montoya
Moss
Pearson
Randolph
Stennis
Symington
Young

NAYS—44

Aiken
Allen
Beall
Boggs
Brooke
Byrd, Robert C.
Case
Chiles
Cook
Cooper
Cotton
Cranston
Dole
Dominick
Eagleton
Eastland
Gambrell
Gravel
Hansen
Harris
Hatfield
Hughes
Humphrey
Javits
Kennedy
Mathias
Mondale
Nelson
Packwood
Pastore
Pell
Percy
Proxmire
Ribicoff
Roth
Schweiker
Scott
Smith
Stevens
Stevenson
Talmadge
Thurmond
Tunney
Weicker

NOT VOTING—25

Allott
Baker
Bayh
Brock
Buckley
Goldwater
Griffin
Gurney
Hartke
Jordan, N.C.
McClellan
McGee
McGovern
McIntyre
Metcalf
Miller
Mundt
Muskie
Saxbe
Sparkman
Spong
Stafford
Taft
Tower
Williams

So Mr. CANNON's motion to lay on the table Mr. JAVITS' motion to recommit S. 2280 with instructions to include the Tunney-Javits amendment was rejected.

Mr. PASTORE. Mr. President——

The PRESIDING OFFICER. The question now recurs on the motion to recommit offered by the Senator from New York.

The Senator from Rhode Island.

Mr. PASTORE. Mr. President, I ask unanimous consent at this time that the bill be returned to the status it was in before third reading.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, may we know the parliamentary situation?

The PRESIDING OFFICER. The Chair will advise the Senator from New York that he should withdraw his motion to recommit with instructions at this point, by unanimous consent.

Mr. JAVITS. Mr. President, I ask unanimous consent to withdraw that motion.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I send an amendment to the desk, for myself, the Senator from California (Mr. TUNNEY), and the Senator from Utah (Mr. MOSS).

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment, as follows:

On page 6, line 1, after the word "aircraft," insert the following: "or if he determines that a foreign nation is used as a base of operations or training or as a sanctuary or which arms, aids, or abets in any way, terrorist organizations which knowingly use the illegal seizure of aircraft or the threat thereof as an instrument of policy."

Mr. JAVITS. Mr. President, the matter has been thoroughly debated. I think the Senate is ready to vote. I shall abide by the views of the Senate.

Is there a request for the yeas and nays?

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. JAVITS. Mr. President, I yield back my time.

Mr. CANNON. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from New York. [Putting the question.]

The amendment was agreed to.

Mr. DOMINICK. Mr. President, I send an amendment to the desk, which I ask to have stated.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk read the amendment, as follows:

On page 3, between lines 23 and 24, add the following:

"Provided that wherever the court or jury find that the offense has been carried out by a defendant or defendants who are refugees from a foreign jurisdiction, the court or jury shall have discretionary authority to determine the penalty, if any, and shall not be limited by the provisions of subsection (n)(1) (a) and (b) hereof."

Mr. DOMINICK. Mr. President, I brought this matter up a little earlier. Not many Senators were present on the floor. I hope I can have the attention of the Senate to describe what I am trying to do.

The PRESIDING OFFICER. The Senate will please be in order so we may hear the words of the Senator from Colorado.

The Senator from Colorado.

Mr. DOMINICK. As I understand the penalty clause in this bill, it does not make any difference under what circumstances an offense has been committed. If, for example, a U.S. citizen had gone legally to Cuba and was then illegally jailed or held there without being allowed to go back, and he eventually got a small plane and forced the pilot to fly here, that U.S. citizen who went to court on that offense, because it would be an offense under this bill, would be either given the death penalty or held for 20 years in jail. I do not want to be any party to that, if I can help it.

Similarly, under the amendment offered by the Senator from New York, if a Pan American aircraft were hijacked and taken to Libya, and a U.S. citizen was not allowed to get out of there, and then he subsequently did it by getting a small plane and going to Italy, likewise, when they got him back here, even though he had done no wrong to begin with, he would be subject to 20 years in jail or punished by death.

I see no point in any of this. What I am trying to say is not that it should not be an offense, but that the court ought to have discretion under these circumstances to determine what the penalty should be. That is the whole point or purpose of the amendment. It does not try to change the impact of the bill. It simply says, let the courts have some discretion. We let courts have discretion with respect to the punishment of criminals on their first offense, even when they use a firearm in the commission of a felony.

Let us, for heaven's sake, give the court and the jury some discretion in this kind of case, where we are dealing with a U.S. citizen, potentially, or a refugee who may not be a citizen but is trying to get out from a totalitarian government. It seems to me that under those circumstances the court or the jury ought to have some discretion. I would certainly hope the manager of the bill would accept that proposition.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. DOMINICK. I yield.

Mr. CHILES. I wonder whether the Senator from Colorado can tell me whether the bill would actually provide for the death penalty, if we put in discretion? As I have read the Supreme Court decisions in recent cases involving the death penalty, I understood them to say that wherever there is discretion, and the statutes would allow the jury to give a penalty other than death, the Court has knocked out the death penalty.

My question is, Would not that discretion knock out the death penalty in hijackings? And second, what would it do to the constitutionality of the measure itself?

Mr. DOMINICK. I will try to answer the Senator's first question first. I am not changing the bill in any way except to provide discretion under certain circumstances. I do not want to get into the question of the constitutionality of the death penalty at this point, although obviously that will be subject to review at some point along the line.

What I am saying is, for heaven's sake, let us not put this provision in where a fellow is trying to get to freedom from another country, or a U.S. citizen himself is trying to get to freedom. It just seems to me that is wrong, and that is why I urge the proviso.

Mr. CHILES. Another question that occurs to me is that I just wonder whether a jury, in the fact situation the Senator has presented, where someone has hijacked a plane to Cuba, or is arrested in Cuba, or a plane is hijacked to Libya—does the Senator feel that any jury in this country would ever convict a man, a citizen of the United States, who, under that factual situation, took a plane?

Mr. DOMINICK. I would say to the distinguished Senator from Florida that under this bill as now written, they have no choice. All they have to do is to prove the offense, and the penalty is then automatic. There is not anything that can be done about it. That is why I put the proviso in.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. DOMINICK. I yield.

Mr. COTTON. It would still be possible to have a Presidential pardon.

Mr. DOMINICK. It would be possible to have Presidential pardon, that is true.

Mr. COTTON. I know that my friend from Colorado is a well-trained lawyer. I think there is merit to his point. Certainly, I do not want to see Congress override Executive discretion or the judicial branch. But, when we talk about giving the courts discretion, in the last few years I have begun to wonder how many courts have any discretion. I simply do not like to weaken this bill. In an extreme case such as the Senator from Colorado has explained, I cannot imagine, between the jury and the possibility of a Presidential pardon, that leniency would not be extended even under the strict provisions of the bill.

Mr. DOMINICK. I appreciate the comments of the Senator from New Hampshire, but all he has to do is read the bill. On page 3 it says:

Whoever aboard an aircraft in flight outside the special aircraft jurisdiction of the United States commits "an offense", as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, and is afterward found in the United States shall be punished—

(A) by death if the verdict of the jury shall so recommend, or, in case of a plea of guilty, or a plea of not guilty where the de-

> fendant has waived a trial by jury, if the court in its decision shall so order; or
>
> (B) by imprisonment for not less than twenty years, if the death penalty is not imposed.

No matter what the circumstances are. All I am trying to do is say, for heaven's sake, under certain circumstances, let us give them a break. I do not see that there is any harm in taking this thing to conference, and maybe working on it there, if Senators want to, but I would want a chance to bring it up.

Mr. CANNON. Mr. President, I yield myself 2 minutes.

This would completely gut the stern tone of the bill. We put together this hijacking bill to make it clear to the world community that we would not countenance air piracy. What this amendment would do is say, "We are only going to countenance a little bit of air piracy; if you don't do it too much, you will be all right."

I do not believe that the nations of the world ought to be in a position where they can countenance air piracy of any sort, whether a man takes a four-place airplane by force a 140-place airplane by force.

We said, in the committee report:

> We believe it would be an unfortunate precedent to provide a lesser penalty applicable to a hijacker who is a fugitive from the jurisdiction of another nation and happens to be found in the United States as opposed to the more stringent minimum penalty applicable to a hijacker who is within the aircraft jurisdiction of the United States. If we wish to impress upon the world community that hijacking is a crime against international civil aviation, we must not differentiate between the penalty structure applicable to other nations' hijackers as compared to that of U.S. hijackers.

Mr. President, we would be doing exactly that. We would be saying, "You can have a little bit of a penalty if you want to get back to our country." I do not know what would apply to the man who is in this country and wants to get away. This is what started the whole thing; someone wanted to hijack an airplane and go to Cuba, and that started it.

With respect to the penalty, I would say this: The President has the authority to pardon or commute sentences, and I am sure, if appropriate circumstances were shown, he would take the appropriate action. But I hope very much the Senate would not make a complete turnaround, and completely gut a bill that started out to be a hijacking bill to discourage international air piracy. If the Senate should do that, I would say the hijacking bill got hijacked.

Mr. DOMINICK. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 7 minutes.

Mr. DOMINICK. I will just yield myself 3 or 4 minutes. I do not want to extend this debate any farther; but I am really amazed at the statement of the Senator from Nevada, for whom I have great respect.

What he is saying is that we are going to put a penalty in here which we do not have on any other crime, as far as I know, in the whole United States, for anything that goes on with the exception of murder, and not even there, because even in those cases they have the right of leniency. And yet in this one situation, even where you have mitigating circumstances which in most cases would cause a country to let them go free, they are not allowed to go free, but they are going to get 20 years in jail at the minimum, or the death penalty, which is subject to this constitutional problem to begin with.

For the life of me I cannot see how we can gut a bill if we simply say, "We are going to leave those two provisions in, but under this type of circumstances you have discretion to make the penalty lesser if you want to."

It might be that if someone gets shot up and badly hurt in this kind of situation, it may be they have been brutal, or something of that kind, all right; under those circumstances, leave in the 20 years, or whatever it may be. But where no one has been hurt, why would you send a guy to 20 years in jail, simply because he was trying to get to what we consider the free world? I think that is wrong.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. DOMINICK. I yield.

Mr. PASTORE. In the hypothetical situation suggested by my good friend from Colorado, I do not think any American grand jury would ever indict anyone.

The PRESIDING OFFICER. Who yields time? Do Senators yield back the remainder of their time?

Mr. CANNON. Mr. President, I am prepared to yield back the remainder of my time.

Mr. DOMINICK. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Colorado.

The amendment was rejected.

Mr. SPONG. Mr. President, as a member of the Senate Commerce Committee which helped develop S. 2280, I am pleased to support this legislation.

We must take the strongest of actions to deter the hijacking of aircraft. We must do everything that we can to remove the possibility of hijacking and the shadowy fear which must lurk in the minds of passengers every time they board an airplane. Hijacking is an evil which must be dealt with in the harshest of terms.

We have seen too much hijacking and we know it for what it is. It is an instrument of terror—a means utilized by a small group of demented men to try to embarrass and damage a nation. It is a tactic used by guerrillas against Israel, an effort to employ a type of international blackmail.

It is a threat to life—to innocent persons caught by happenstance in a situation over which they have no control and forced to suffer often for causes and issues over which they have no influence or responsibility. It is a threat of useless and senseless loss of life.

It is a possible destruction of property—an attempt to bring about damage and loss.

It is the act of distorted men and women, confused by life and ideas of right and wrong—an act, which all too often goes beyond those misguided individuals initiating it to bring tragedy and suffering to others.

Against all this, we must do what we can to curtail hijacking, to remove the smallest likelihood that such attempts will succeed. The measures suggested by the pending legislation may seem harsh. They are. They should be. The threat to international air traffic and to the lives and properties of millions of persons throughout our nation and the world at stake.

In view of this, I believe we have little choice but to move toward the termination of air service with those nations which refuse to cooperate in every way possible to prevent hijackings and the tragic ramifications which all too often occur. And, I believe minimum sentences for hijackers are only logical.

Mr. JAVITS. Mr. President, because of the importance of this legislation, I intend to vote for it in spite of my misgivings concerning the penalty provisions—section (n)(1)(a) of the amended Federal Aviation Act of 1958. This new section would provide for a death penalty "if the verdict of the jury shall so recommend" or where the defendant has waived jury trial, "if the court, in its descretion shall so order."

On June 29 of this year, the Supreme Court decided, in the case of Furman against Georgia, that the death penalty is void as an unconstitutional imposition of cruel and unusual punishment. The full scope of the opinion is unclear because Justice White, one member of the 5-to-4 majority limited his decision to cases where the judge or jury had discretion in imposing the death penalty. It is possible then, that at some future time, the Court may uphold statutes making the death penalty mandatory in certain situations, thus eliminating discretion and attendant possible discrimination. The Furman case however, is crystal clear on the unconstitutionality of discretionary death penalty, such as this bill contemplates. Since I believe the provision is therefore unconstitutional, and will be stricken by the court to which it may be appealed, I can vote for the otherwise desirable bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. CANNON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. McCLELLAN), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Maine (Mr. MUSKIE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), the Senator from North Carolina (Mr. JORDAN), and the Senator from Wyoming (Mr. MCGEE) are absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. WILLIAMS) and the Senator from New Hampshire (Mr. MCINTYRE) would each vote "yea."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Michigan (Mr. GRIFFIN), the Senator from Florida (Mr. GURNEY), the Senator from Iowa (Mr. MILLER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Arizona (Mr. GOLDWATER) is absent on official committee business on the west coast and also celebrating a wedding anniversary.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senators from Ohio (Mr. SAXBE and Mr. TAFT) and the Senator from Vermont (Mr. STAFFORD) are absent on official business to attend the Interparliamentary Union meetings.

If present and voting, the Senator from Colorado (Mr. ALLOTT), the Senator from Michigan (Mr. GRIFFIN), the Senator from Iowa (Mr. MILLER), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 75, nays 1, as follows:

[No. 465 Leg.]

YEAS—75

Aiken
Allen
Anderson
Beall
Bellmon
Bennett
Bentsen
Bible
Boggs
Brooke
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Eagleton
Eastland
Edwards
Ervin
Fannin
Fong
Fulbright
Gambrell
Gravel
Hansen
Harris
Hart
Hatfield
Hollings
Hruska
Humphrey
Inouye
Jackson
Javits
Jordan, Idaho
Kennedy
Long
Magnuson
Mansfield
Mathias
Mondale
Montoya
Moss
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott
Smith
Spong
Stennis
Stevens
Stevenson
Symington
Talmadge
Thurmond
Tunney
Weicker
Young

NAYS—1

Hughes

NOT VOTING—24

Allott
Baker
Bayh
Brock
Buckley
Goldwater
Griffin
Gurney
Hartke
Jordan, N.C.
McClellan
McGee
McGovern
McIntyre
Metcalf
Miller
Mundt
Muskie
Saxbe
Sparkman
Stafford
Taft
Tower
Williams

So the bill (S. 2280) was passed, as follows:

S. 2280

An act to amend sections 101 and 902 of the Federal Aviation Act of 1958, as amended to implement the Convention for the Suppression of Unlawful Seizure of Aircraft and to amend title XI of such Act to authorize the President to suspend air service to any foreign nation which he determines is encouraging aircraft hijacking by acting in a manner inconsistent with the Convention for the Suppression of Unlawful Seizure of Aircraft and to authorize the Secretary of Transportation to revoke the operating authority of foreign air carriers under certain circumstances

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—ANTI-HIJACKING ACT OF 1972

Section 1. This title may be cited as the "Anti-Hijacking Act of 1972".

SEC. 2. Section 101 (32) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 (32)), is amended to read as follows:

"(32) The term 'special aircraft jurisdiction of the United States' includes—

"(a) civil aircraft of the United States;

"(b) aircraft of the national defense forces of the United States;

"(c) any other aircraft within the United States;

"(d) any other aircraft outside the United States—

"(i) that has its next scheduled destination or last point of departure in the United States, if that aircraft next actually lands in the United States; or

"(ii) having 'an offense', as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, committed aboard, if that aircraft lands in the United States with the alleged offender still aboard; and

"(e) other aircraft leased without crew to a lessee who has his principal place of business in the United States, or if none, who has his permanent residence in the United States;

while that aircraft is in flight, which is from the moment when all the external doors are closed following embarkation until the moment when one such door is opened for disembarkation, or in the case of a forced landing, until the competent authorities take over the responsibility for the aircraft and for the persons and property aboard."

SEC. 3. Section 902 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472), is amended as follows:

(a) By striking out the words "violence and" in subsection (i) (2) thereof, and by inserting the words "violence, or by any other form of intimidation, and" in place thereof;

(b) By redesignating subsections (n) and (o) thereof as "(o)" and "(p)", respectively, and by adding the following new subsection:

"AIRCRAFT PIRACY OUTSIDE SPECIAL AIRCRAFT JURISDICTION OF THE UNITED STATES

"(n) (1) Whoever aboard an aircraft in flight outside the special aircraft jurisdiction of the United States commits 'an offense', as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, and is afterward found in the United States shall be punished—

"(A) by death if the verdict of the jury shall so recommend, or, in the case of a plea of guilty, or a plea of not guilty where the defendant has waived a trial by jury, if the court in its discretion shall so order; or

"(B) by imprisonment for not less than twenty years, if the death penalty is not imposed.

"(2) A person commits 'an offense', as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft when, while aboad an aircraft in flight, he—

"(A) unlawfully, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of, that aircraft, or attempts to perform any such act; or

"(B) is an accomplice of a person who performs or attempts to perform any such act.

"(3) This subsection shall only be applicable if the place of takeoff or the place of actual landing of the aircraft on board which the offense as defined in paragraph 2 of this subsection is committed is situated outside the territory of the State of registration of that aircraft.

"(4) For purposes of this subsection an aircraft is considered to be in flight from the moment when all the external doors are closed following embarkation until the moment when one such door is opened for disembarkation, or in the case of a forced landing, until the competent authorities take over responsibility for the aircraft and for the persons and property aboard."

(c) By amending redesignated subsection (o) thereof by striking out the reference "(m)", and by inserting the reference "(n)" in place thereof; and

SEC. 4. (a) Title XI of the Federal Aviation Act of 1958 is amended by adding a new section 1114 as follows:

"SUSPENSION OF AIR SERVICES

"SEC. 1114. (a) Whenever the President determines that a foreign nation is acting in a manner inconsistent with the Convention for the Suppression of Unlawful Seizure of Aircraft, or if he determines that a foreign nation is used as a base of operations or training or as a sanctuary or which arms, aids, or abets in any way, terrorist organizations which knowingly use the illegal seizure of aircraft or the threat thereof as an instrument of policy, he may, without notice or hearing and for as long as he determines necessary to assure the security of aircraft against unlawful seizure, suspend (1) the right of any air carrier and foreign air carrier to engage in foreign air transportation, and any persons to operate aircraft in foreign air commerce, to and from that foreign nation, and (2) the right of any foreign air carrier to engage in foreign air transportation, and any foreign person to operate aircraft in foreign air commerce, between the United States and any foreign nation which maintains air service between itself and that foreign nation. Notwithstanding section 1102 of this Act, the President's authority to suspend rights in this manner shall be deemed to be a condition to any certificate of public convenience and necessity or foreign air carrier or foreign aircraft permit issued by the Civil Aeronautics Board and any air carrier operating certificate or foreign air carrier operating specification used by the Secretary of Transportation.

"(b) It shall be unlawful for any air carrier or foreign air carrier to engage in foreign air transportation, or any person to operate aircraft in foreign air commerce, in violation of the suspension of rights by the President under this section.".

(b) Title XI of the Federal Aviation Act of 1958 is amended by adding a new section 1115 as follows:

"SECURITY STANDARDS IN FOREIGN AIR TRANSPORTATION

"SEC. 1115. (a) Not later than 30 days after the date of enactment of this Act the Secretary of State shall notify each nation with which the United States has a bilateral air transport agreement or, in the absence of such agreement, each nation whose airline or airlines hold a foreign air carrier permit or permits issued pursuant to section 402 of the Federal Aviation Act of 1958, of the provisions of subsection (b) of this section.

"(b) In any case where the Secretary of Transportation, after consultation with the competent aeronautical authorities of a foreign nation with which the United States has a bilateral air transport agreement and in accordance with the provisions of that agreement or, in the absence of such agreement, of a nation whose airline or airlines hold a foreign air carrier permit or permits issued pursuant to such section 402, finds that such nation does not effectively maintain and administer security measures relating to transportation of persons or property or mail in foreign air transportation of persons or property or mail in foreign air transportation that are equal to or above the minimum standards which are established pursuant to the Convention on International Civil Aviation or, prior to a date when such standards are adopted and enter into force pursuant to such Convention, the specifications and practices set out in Appendix A to Resolution A17–10 of the 17th Assembly of the International Civil Aviation Organization, he shall notify that nation of such finding and the steps considered necessary to bring the security measures of that nation to standards at least equal to the minimum standards of such Convention or such specifications and practices of such Resolution. In the event of failure of that nation to take such steps, the Secretary of Transportation, with the approval of the Secretary of State, may withhold, revoke, or impose conditions on the operating authority of the airline or airlines of that nation."

SEC. 5. Section 901(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1471(a)) is amended by inserting the words "or section 1114" before the words "of this Act" when those words first appear in this section.

SEC. 6. Section 1007(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1487(a)) is amended by inserting the words "or, in the case of a violation of section 1114 of this Act, the Attorney General," after the words "duly authorized agents,".

SEC. 7. That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the heading

"Sec. 902. Criminal penalties.",

is amended by striking out the following items:

"(n) Investigations by Federal Bureau of Investigation.

"(o) Interference with aircraft accident investigation.";

and by inserting the following items in place thereof:

"(n) Aircraft piracy outside special aircraft jurisdiction of the United States.

"(o) Investigations by Federal Bureau of Investigation.

"(p) Interference with aircraft accident investigation.";

and that portion which appears under the heading

"TITLE XI—MISCELLANEOUS"

is amended by adding at the end thereof the following:

"Sec. 1114. Suspension of air services.

"Sec. 1115. Security standards in foreign air transportation.".

SEC. 8. The last sentence of section 403(b) of the Federal Aviation Act of 1958 is amended by inserting after "ministers of religion" the following: "or individuals who are twenty-one years of age or younger or sixty-five years of age or older".

SEC. 9. Section 403(b) of the Federal Aviation Act of 1958 is amended (1) by inserting after "persons in connection with such accident;" the following: "and handicapped persons and persons traveling with and attending such handicapped persons when the handicapped person requires such attendance;", and (2) by inserting at the end thereof the following: "As used in this section the term 'handicapped persons' means the blind and other persons who are physically or mentally handicapped, as further defined by regulations of the Board."

SEC. 10. The second sentence of section 403(b) of the Federal Aviation Act of 1958 is amended by inserting after "in the service of such air carrier or foreign air carrier;" the following: "widows, widowers, and minor children of employees who have died while employed by such air carrier or foreign air carrier after twenty-five or more years of such employment;".

TITLE II—AIR TRANSPORTATION SECURITY ACT OF 1972

SEC. 21. This title may be cited as the "Air Transportation Security Act of 1972".

SEC. 22. The Congress hereby finds and declares that—

(1) the United States air transportation system which is vital to the citizens of the United States is threatened by acts of criminal violence and air piracy;

(2) the United States air transportation system continues to be vulnerable to violence and air piracy because of inadequate security and a continuing failure to properly identify and arrest persons attempting to violate Federal law relating to crimes against air transportation;

(3) the United States Government has the primary responsibility to guarantee and insure safety to the millions of passengers who use air transportation and intrastate air transportation and to enforce the laws of the United States relating to air transportation security; and

(4) the United States Government must establish and maintain an air transportation security program and an air transportation security-law enforcement force under the direction of the Administrator of the Federal Aviation Administration in order to adequately assure the safety of passengers in air transportation.

SEC. 23. (a) Title III of the Federal Aviation Act of 1958 is amended by adding at the end thereof the following new section:

"SCREENING OF PASSENGERS IN AIR TRANSPORTATION

"SEC. 315. (a) The Administrator shall as soon as practicable prescribe regulations requiring that all passengers and all property intended to be carried in the aircraft cabin in air transportation or intrastate air transportation be screened by weapon-detecting devices operated by employees of the air carrier, intrastate air carrier, or foreign air carrier prior to boarding the aircraft for such transportation. One year after the effective date of such regulation the Administrator may alter or amend such regulations, requiring a continuation of such screening by weapon-detecting devices only to the extent deemed necessary to assure security against acts of criminal violence and air piracy in air transportation and intrastate air transportation. The Administrator shall submit semiannual reports to the Congress concerning the effectiveness of this screening program and shall advise the Congress of any regulations or amendments thereto to be prescribed pursuant to this subsection at least thirty days in advance of their effective date.

"(b) The Administrator shall acquire and furnish for the use by air carriers, intrastate air carriers, and foreign air carriers at airports within the United States sufficient devices necessay for the purpose of subsection (a) of this section, which devices shall remain the property of the United States.

"(c) The Administrator may exempt, from provisions of this section, air transportation operations performed by air carriers operating pursuant to part 135 title 14 of the Code of Federal Regulations."

(b) Notwithstanding any other provision of law, there are authorized to be appropriated from the Airport and Airway Trust Fund established by the Airport and Airway Revenue Act of 1970 such amount, not to exceed $5,500,000 to acquire the devices required by the amendment made by this section.

SEC. 24. Title III of the Federal Aviation Act of 1958 is further amended by adding at the end thereof the following additional new section:

"AIR TRANSPORTATION SECURITY FORCE

"Powers and Responsibilities

"SEC. 316. (a) The Administrator of the Federal Aviation Administration in administering the air transportation security program shall establish and maintain an air transportation security force of sufficient size to provide a law enforcement presence and capability at airports in the United States adequate to insure the safety from criminal violence and air piracy of persons traveling in air transportation or intrastate air transportation. He shall be empowered, and designate each employee of the force who shall be empowered, pursuant to this title, to—

"(1) detain and search any person aboard, or any person attempting to board, any aircraft in, or intended for operation in, air transportation or intrastate air transportation to determine whether such person is unlawfully carrying a dangerous weapon, explosive, or other destructive substance;

"(2) search or inspect any property, at any airport, which is aboard, or which is intended to be placed aboard, any aircraft in, or intended for operation in, air transportation or intrastate air transportation to determine whether such property unlawfully contains any dangerous weapon, explosive, or other destructive substance;

"(3) arrest any person whom he has reasonable cause to believe has (A) violated or has attempted to violate section 902 (i), (j), (k), (l), or (m) of the Federal Aviation Act of 1958, as amended, or (B) violated, or has attempted to violate, section 32, title 18, United States Code, relating to crimes against aircraft or aircraft facilities; and

"(4) carry firearms when deemed by the Administrator to be necessary to carry out the provisions of this section,

and, at his discretion, he may designate and deputize State and local law enforcement personnel to exercise the authority conveyed in this subsection.

"Training and Assistance

"(b) In administering the air transportation security program, the Administrator may—

"(1) provide training for State and local law enforcement personnel whose services may be made available by their employers to assist in carrying out the air transportation security program, and

"(2) utilize the air transportation security force to furnish assistance to an airport operator, or any carrier, intrastate air carrier, or foreign air carrier engaged in air transportation or intrastate air transportation to carry out the purposes of the air transportation security program.

"OVERALL RESPONSIBILITY

"(c) Except as otherwise expressly provided by law, the responsibility for the administration of the air transportation security program, and security force functions specifically set forth in this section, shall be vested exclusively in the Administrator of the Federal Aviation Administration and shall not be assigned or transferred to any other department or agency."

SEC. 25. Section 1111 of the Federal Aviation Act of 1958 is amended to read as follows:

"AUTHORITY TO REFUSE TRANSPORTATION

"(a) The Administrator shall, by regulation, require any air carrier, intrastate air carrier, or foreign air carrier to refuse to transport—

"(1) any person who does not consent to a search of his person to determine whether he is unlawfully carrying a dangerous weapon, explosive, or other destructive substance, or

"(2) any property of any person who does not consent to a search or inspection of such property to determine whether it unlawfully contains a dangerous weapon, explosive, or other destructive substance;

Subject to reasonable rules and regulations prescribed by the Administrator, any such carrier may also refuse transportation of a passenger or property when, in the opinion of the carrier, such transportation would or might be inimical to safety of flight.

"(b) Any agreement for the carriage of persons or property in air transportation or intrastate air transportation by an air carrier, intrastate air carrier, or foreign air carrier for compensation or hire shall be deemed to include an agreement that such carriage shall be refused when consent to search persons or search or inspect such property for the purposes enumerated in subsection (a) of this section is not given."

Sec. 26. Section 902(1) of the Federal Aviation Act of 1958 is amended to read as follows:

"Carrying Weapons Aboard Aircraft

"(1)(1) Whoever, while aboard, or while attempting to board, any aircraft in or intended for operation in air transportation or intrastate air transportation, has on or about his person or his property a concealed deadly or dangerous weapon, explosive, or other destructive substance, or has placed, attempted to place, or attempted to have placed aboard such aircraft any property containing a concealed deadly or dangerous weapon, explosive, or other destructive substance, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(2) Whoever willfully and without regard for the safety of human life or with reckless disregard for the safety of human life, while aboard, or while attempting to board, any aircraft in or intended for operation in air transportation or intrastate air transportation, has on or about his person or his property a concealed deadly or dangerous weapon, explosive, or other destructive substance, or has placed, attempted to place, or attempted to have placed aboard such aircraft any property containing a concealed deadly or dangerous weapon, explosive, or other destructive substance shall be fined not more than $5,000 or imprisoned not more than five years, or both.

"(3) This subsection shall not apply to law enforcement officers of any municipal or State government, or the Federal Government, while acting within their official capacities and who are authorized or required within their official capacities, to carry arms, or to persons who may be authorized, under regulations issued by the Administrator, to carry concealed deadly or dangerous weapons in air transportation or intrastate air transportation."

Sec. 27. To establish, administer, and maintain the air transportation security force provided in section 316 of the Federal Aviation Act of 1958, there is hereby authorized to be appropriated for fiscal year 1973 the sum of $35,000,000, and for each succeeding fiscal year such amounts, not to exceed $35,000,000, as are necessary to carry out the purpose of such section.

Sec. 28. Section 101 of the Federal Aviation Act of 1958, as amended, is amended by adding after paragraph (21) the following:

"(22) 'Intrastate air carrier' means any citizen of the United States who undertakes, whether directly or indirectly or by a lease or any other arrangement, solely to engage in intrastate air transportation.

"(23) 'Intrastate air transportation' means the carriage of persons or property as a common carrier for compensation or hire, by turbojet-powered aircraft capable of carrying thirty or more persons, wholly within the same State of the United States."

and is further amended by redesignating paragraph (22) as paragraph (24) and redesignating the remaining paragraphs accordingly:

Sec. 29. That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the heading

"TITLE III—ORGANIZATION OF AGENCY AND POWERS AND DUTIES OF ADMINISTRATOR"

is amended by adding at the end thereof the following:

"Sec. 315. Screening of passengers in air transportation.

"Sec. 316. Air transportation security force.

"(a) Powers and responsibilities.

"(b) Training and assistance.

"(c) Overall responsibility."

The title was amended, so as to read: "An act to amend sections 101 and 902 of the Federal Aviation Act of 1958, as amended to implement the Convention for the Suppression of Unlawful Seizure of Aircraft and to amend title XI of such Act to authorize the President to suspend air service to any foreign nation which he determines is encouraging aircraft hijacking by acting in a manner inconsistent with the Convention for the Suppression of Unlawful Seizure of Aircraft and to authorize the Secretary of Transportation to revoke the operating authority of foreign air carriers under certain circumstances."

Mr. CANNON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical corrections or additions required to be made in S. 2280 as amended, and I further ask unanimous consent that the Senate bill as passed be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, I ask unanimous consent that further consideration of S. 1655, Calendar No. 1102, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I voted in favor of the hijacking legislation although I have serious disagreements with those provisions of the legislation that impose a death penalty.

Usually when the Congress acts to establish legislative procedure, that action occurs without the experience or the precedent of rulings passed by the Supreme Court. However, in regard to the matter of imposing the death penalty for serious crimes like hijacking, it is my understanding that the Court has determined such penalty to extend beyond the bounds of constitutionality. It is my understanding that the Court's decision on the Furman case has made it clear that the death penalty cannot be legally imposed in instances of this type. Although, I voted to support the principal provisions of the pending legislation, I do not intend for my vote to stand in support of imposing the death penalty for these very serious crimes. Because of the Supreme Court ruling in this area I continue to hold very serious reservations about the death penalty as a lawful penalty for those convicted of the crimes described in this measure. I would hope, however, that upon enactment, this legislation will have been engineered so as to include sufficient deterrents that meet the seriousness of the acts described and at the same time accomplish those goals in an acceptable and judicious manner.

Mr. HUGHES. Mr. President, if we are under agreement, I ask unanimous consent that I be allowed to make a 30-second statement as to why I voted against the previous bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUGHES. Mr. President, the principles of the bill just passed almost unanimously I agree with 100 percent. But the Senator from Iowa cannot vote for legislation containing the death penalty. My commitments in public life have been toward that end.

Throughout my service in public life, I have felt that the provisions of a death penalty, and also other legal provisions of penalties which are in this bill, almost make it mandatory for those presumed guilty to accept trial other than by jury.

For these two reasons, Mr. President, I voted against the legislation although I agree with everything else in the bill.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the bill (S. 3419) to protect consumers against unreasonable risk of injury from hazardous products, and for other purposes, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the joint resolution (S.J. Res. 204) to authorize the preparation of a history of public works in the United States, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House had passed a bill (H.R. 11682) to change the name of the Department of Commerce Laboratories in Boulder, Colo., to the Dwight David Eisenhower Laboratories, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the following concurrent resolutions, in which it requested the concurrence of the Senate:

H. Con. Res. 679. Concurrent resolution to provide for the printing of additional copies of the report of the Commission on the Organization of the Government of the District of Columbia;

H. Con. Res. 681. Concurrent resolution to provide for the printing of one thousand additional hearings entitled "Corrections" parts I through VI; and

H. Con. Res. 687. Concurrent resolution providing for the printing of additional copies of parts I and II of hearings entitled "Discrimination Against Women".

HOUSE BILL REFERRED

The bill (H.R. 11682) to change the name of the Department of Commerce Laboratories in Boulder, Colo., to the Dwight David Eisenhower Laboratories, was read twice by its title and referred to the Committee on Commerce.

HOUSE CONCURRENT RESOLUTIONS REFERRED

The following concurrent resolutions were referred to the Committee on Rules and Administration:

H. Con. Res. 679. Concurrent resolution to provide for the printing of additional copies of the report of the Commission on the Organization of the Government of the District of Columbia.

H. Con. Res. 681. Concurrent resolution to provide for the printing of one thousand additional hearings entitled "Corrections" parts I through VI; and

H. Con. Res. 687. Concurrent resolution providing for the printing of additional copies of parts I and II of hearings entitled "Discrimination Against Women".

CONSUMER PROTECTION ORGANIZATION ACT OF 1972

The PRESIDING OFFICER (Mr. Curtis). The Chair now lays before the Senate the unfinished business, S. 3970, which the clerk will state.

The legislative clerk read as follows:

S. 3970, to establish a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and serve the interests of consumers, and for other purposes.

The Senate resumed the consideration of the bill.

QUORUM CALL

Mr. ERVIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AIRCRAFT PIRACY AMENDMENTS OF 1972

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limitation on S. 2567 of 20 minutes, to be equally divided between the distinguished Senator from Nebraska (Mr. Hruska) and the distinguished Senator from New York (Mr. Javits).

Mr. ERVIN. Mr. President, reserving the right to object, I should like to ask the distinguished assistant majority leader what that bill is.

Mr. ROBERT C. BYRD. In response to the very distinguished senior Senator from North Carolina (Mr. Ervin), may I say that this is a bill to facilitate the prosecution of certain crimes and offense committed aboard aircraft. The bill was referred a few days ago to the Committee on the Judiciary with the understanding that it would be reported back within a certain time. The bill has been reported back from the Committee on the Judiciary. It is related to the one just passed a few minutes ago. It was felt that it would be appropriate to call it up at this time, with a time limitation thereon.

Mr. ERVIN. I have no objection.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from North Carolina.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the unfinished business be temporarily laid aside and that the Senate proceed to the consideration of S. 2567 and that the unfinished business remain in a temporarily laid-aside status until the disposition of S. 2567, or close of business today, whichever is the earlier.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate proceeded to consider the bill (S. 2567) to facilitate prosecutions for certain crimes and offenses committed aboard aircraft, and for other purposes which had been reported from the Committee on the Judiciary and the Committee on Commerce with amendments.

The amendments of the Committee on the Judiciary are as follows:

On page 1, line 4, after the word "of", strike out "1971" and insert "1972"; at the top of page 2, strike out:

Sec. 2. Section 35 of title 18, United States Code, is amended by deleting "false information," and substituting therefor "a threat or false information" in subsections (a) and (b) of that section.

Sec. 3. Section 1395 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) A proceeding to recover a penalty under section 35 of title 18 or under section 901(c) of the Federal Aviation Act of 1958 may be brought in the judicial district where the defendant resides or the district where the false information or threat was imparted or conveyed or attempted to be imparted or conveyed. In any such suit process against any defendant may be served in the district where the defendant is found with the same force and effect as if the process had been served within the district in which said suit is brought."

And. in lieu thereof, insert:

Sec. 2. (a) Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following news section:

"§ 36. Imparting or conveying threats

"Whoever imparts or conveys or causes to be imparted or conveyed any threat to do an act which would be a felony prohibited by section 32 or 33 of this chapter or section 1992 of chapter 97 or section 2275 of chapter 111 of this title with an apparent determination to carry the threat into execution, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

(b) The analysis of chapter 2 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"36. Imparting or conveying threats.".

On page 3, after line 6, insert a new section, as follows:

Sec. 3. Subsection (a) of section 1395 of title 28, United States Code, is amended by striking the period at the end of such subsection and adding the following: ", and in any proceeding to recover a civil penalty under section 35(a) of title 18 of the United States Code or section 901(c) of the Federal Aviation Act of 1958 (72 Stat. 731; 49 U.S.C. 1471(c)), all process against any defendant or witness, otherwise not authorized under the Federal Rules of Civil Procedure, may be served in any judicial district of the United States upon an ex parte order for good cause shown.".

In line 20, strike out "Threats"; in line 22, after the word "conveyed", strike out "any threat, or"; on page 4, after line 6, strike out:

(a) Section 902(1) is amended to read as follows:

"Carrying Weapons Aboard Aircraft

"(1) (1) Whoever, while aboard, or while attempting to board, an aircraft being operated by an air carrier or a foreign air carrier in air transportation, has on or about his person a concealed deadly or dangerous weapon shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(2) Whoever willfully and without regard for the safety of human life or with reckless disregard for the safety of human life, while aboard, or while attempting to board, an aircraft being operated by an air carrier or a foreign air carrier in air transportation, has on or about his person a concealed deadly or dangerous weapon shall be fined not more than $5,000 or imprisoned not more than five years, or both.

"(3) This subsection shall not apply to law enforcement officers of any municipal or State government, or the Federal Government, who are authorized or required to carry arms, or persons as may be so authorized under regulations issued by the Secretary of Transportation, while acting within their official capacities."

(b) Section 902(m) is amended to read as follows:

On page 5, line 8, after the word "conveyed", strike out "a threat, or"; in line 11, after the word "a", strike out "crime" and insert "felony"; in line 12, after "(j)", strike out "(k), or (l)" and insert "or (1) (2)"; in line 14, after the word "or", strike out "both." and insert "both."; and, after line 14, insert:

"(2) Whoever imparts or conveys or causes to be imparted or conveyed any threat to do an act which would be a felony prohibited by subsections (i), (j), or (1) (2) of this section, with an apparent determination to carry the threat into execution, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

(c) The table of contents of the Federal Aviation Act of 1958, in the matter of title IX (72 Stat. 734; subchapter IX, chapter 20 of title 49, U.S.C. § 1472(m)) is amended by redesignating

"Sec. 902. (m) False information."

to read

"Sec. 902. (m) False information and threats.".

The amendments of the Committee on Commerce are as follows:

On page 4, line 5, after "Section 902", insert "(m)"; and, after line 6, strike out:

(a) Section 902(1) is amended to read as follows:

"Carrying Weapons Aboard Aircraft

"(1) (1) Whoever, while aboard, or while attempting to board, an aircraft being operated by an air carrier or a foreign air carrier in air transportation, has on or about his person a concealed deadly or dangerous weapon shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(2) Whoever willfully and without regard for the safety of human life or with reckless disregard for the safety of human life, while aboard, or while attempting to board, an aircraft being operated by an air carrier or a foreign air carrier in air transportation, has on or about his person a concealed deadly or dangerous weapon shall be fined not more than $5,000 or imprisoned not more than five years, or both.

"(3) This subsection shall not apply to law enforcement officers of any municipal or State government, or the Federal Government, who are authorized or required to carry arms, or persons as may be so authorized under regulations issued by the Secretary of Transportation, while acting within their official capacities."

(b) Section 902(m) is amended to read as follows:

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Aircraft Piracy Amendments of 1972".

SEC. 2. (a) Chapter of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 36. Imparting or conveying threats

"Whoever imparts or conveys or causes to be imparted or conveyed any threat to do an act which would be a felony prohibited by section 32 or 33 of this chapter or section 1992 of chapter 97 or section 2275 of chapter 111 of this title with an apparent determination to carry the threat into execution, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

(b) The analysis of chapter 2 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"36. Imparting or conveying threats.".

SEC. 3. Subsection (a) of section 1395 of title 28, United States Code, is amended by striking the period at the end of such subsection and adding the following: ", and in any proceeding to recover a civil penalty under section 35(a) of title 18 of the United States Code or section 901(c) of the Federal Aviation Act of 1958 (72 Stat. 731; 49 U.S.C. 1471(c)), all process against any defendant or witness, otherwise not authorized under the Federal Rules of Civil Procedure, may be served in any judicial district of the United States upon an ex parte order for good cause shown.".

SEC. 4. Section 901 of the Federal Aviation Act of 1958 (49 U.S.C. 1471) is amended by adding at the end thereof the following new subsection:

False Information

"(c) Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by subsection (i), (j), (k), or (l) of section 902 of this title, shall be subject to a civil penalty of not more than $1,000 which shall be recoverable in a civil action brought in the name of the United States."

SEC. 5. Section 902(m) of the Federal Aviation Act of 1958 (49 U.S.C. 1472) is amended as follows:

"False Information and Threats

"(m) (1) Whoever willfully and maliciously, with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a felony prohibited by subsection (i), (j), or (l) (2) of this section, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

"(2) Whoever imparts or conveys or causes to be imparted or conveyed any threat to do an act which would be a felony prohibited by subsections (i), (j), or (l) (2) of this section, with an apparent determination to carry the threat into execution, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

(c) The table of contents of the Federal Aviation Act of 1958, in the matter of title IX (72 Stat. 734; subchapter IX, chapter 20 of title 49, U.S.C. § 1472(m)) is amended by redesignating

"Sec. 902. (m) False information."
to read
"Sec. 902. (m) False information and threats.".

SEC. 6. Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. 1473) is amended by striking "Such" at the beginning of the second sentence of subsection (b) (1) of that section, and substituting therefor, "Except with respect to civil penalties under section 901(c) of this title, such".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limitation on any amendment, debatable motion, or appeal, with respect to S. 2567, of 20 minutes and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. SCOTT. Mr. President, if the Senator from Connecticut and the Senator from Nebraska have no objection, I ask for 2 minutes for the majority leader to propose a unanimous-consent request, the time not to be taken out of either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT ON SCOTT, AND STENNIS TO BROOKE AMENDMENTS TO FOREIGN AID BILL, AND ON PASSAGE OF THE BILL

Mr. MANSFIELD. Mr. President, the joint leadership has discussed the consent agreement which I am about to make and I hope that it will meet with the approval of the Senate, in view of the difficult schedule we have confronting us. If the agreement is amenable to the Senate, we will not come in on Saturday. I am not holding that out as a carrot, but the circumstances just worked out on that basis.

As the Senate knows, the foreign aid bill will be laid before the Senate and made the pending business tomorrow at the conclusion of morning business.

Mr. President, I ask unanimous consent that the votes on the Scott amendment to increase the amount, the vote on the Stennis amendment to delete the Brooke amendment, and the vote on the final passage occur, in that order, without further debate beginning at 2 o'clock on Tuesday afternoon next and that rule XII be waived.

The PRESIDING OFFICER (Mr. CURTIS). Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on the Scott amendment and the Stennis amendment there be a division of time from the conclusion of the morning business until the hour of 2 o'clock, the time to be equally set aside for both amendments and the time to be divided between the authors of the amendments and the manager of the bill, the Senator from Arkansas.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, with that understanding, there will be no business for the Senate to attend to on Saturday, except to spin its wheels. We do not want to come in, unless there is business to be done; so after tomorrow, we will go over until Monday.

Mr. SCOTT. Mr. President, I thank the distinguished majority leader. I do not regard the decision as to Saturday as offering a carrot. It is rather sort of an 18-carat proposal, which we readily accept. I thank the majority leader.

Mr. MANSFIELD. I thank the Senator from Mississippi (Mr. STENNIS), the distinguished Republican leader, the Senator from Pennsylvania (Mr. SCOTT), the distinguished Senator from California (Mr. CRANSTON), the Senator from Massachusetts (Mr. BROOKE), the chairman of the committee, the Senator from Arkansas (Mr. FULBRIGHT), and the ranking minority member of the committee, the Senator from Nebraska (Mr. HRUSKA).

Mr. SCOTT. If the Senator will further yield, I understand debate will continue tomorrow on the foreign aid bill.

Mr. MANSFIELD. Yes, it will be laid before the Senate, and hopefully, if there are any other amendments, we can dispose of them at that time.

AIRCRAFT PIRACY AMENDMENTS OF 1972

The Senate continued with the consideration of Calendar No. 1128 (S. 2567), a bill to facilitate prosecution for certain crimes and offenses committed aboard aircraft, and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. I yield myself 4 minutes. I ask unanimous consent, Mr. President, that Robert Blakey and Ken Lazaras be granted the privilege of the floor during the consideration of S. 2567.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HRUSKA. The Senator from Arkansas (Mr. MCCLELLAN) is conducting a hearing and has asked me, in his absence, to manage S. 2567 this afternoon.

Mr. President, this is the second time this month that the Senate has had before it for consideration this bill, S. 2567, relating to aircraft piracy. I refer those interested in the proposal to the remarks made by this Senator and Senator MCCLELLEN on the Senate floor on September 5, 1972, at S. 14097 et seq., in the daily edition of the CONGRESSIONAL RECORD.

At that time the chairman of the Commerce Committee asked permission for his committee to be given an opportunity to look at the terms of S. 2567 in conjunction with its work on S. 2280, a bill to implement the Convention for the Suppression of Unlawful Seizure of Aircraft. The managers of S. 2567 concurred in the request of Senator MAGNUSON and the Commerce Committee was given until September 19 to examine the bill. This examination has now been completed and the bill has been reported favorably, with an amendment, by the Commerce Committee. S. 2280 has just been approved by the Senate.

This Senator feels that the action by the Commerce Committee on S. 2567 deleting section 5(a) from the Judiciary bill is constructive. I believe that I can speak for not only myself but the Senator from Arkansas in indicating that the amendment is agreeable to us. This is especially true in light of the language in the Commerce Committee bill which duplicates and indeed expands the deleted portion of the Judiciary Committee bill.

At the time the Senate had S. 2567 under consideration, the Senator from Kentucky (Mr. COOPER) and the Senator from New York (Mr. JAVITS) raised a question concerning the constitutionality of two provisions of the bill, sections 2(a) and 5, relating to "imparting or conveying threats". As a result of this colloquy, the views of the Department of Justice were sought on this question. In response, I received a letter dated September 15, 1972, from the Assistant Attorney General in charge of the Office of Legal Counsel which discusses the language in the bill in relation to the Supreme Court decision in *Watts v. United States,* 394 U.S. 705 (1969) reversing the decision of the U.S. Court of Appeals for the District of Columbia Circuit, *Watts v. United States,* 402 F. 2d 676 (1968).

I ask unanimous consent that the full text of the letter and the two court opinions be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is to ordered.

(See exhibit 1.)

Mr. HRUSKA. Mr. President, let me indicate that having considered the arguments made by Mr. Cramton in his letter and having read the per curiam Supreme Court decision and the lower court decision, including the dissent by Judge Wright, I am convinced anew that the bill as reported from the Judiciary Committee is in accord with the first amendment and would be found to be constitutional should it be questioned. I will have more to say on this point in a moment. I believe that if Congress enacts a statute with the specific intent to make unlawful the imparting or conveying of threats with an apparent determination to carry the threat into execution, it would not fail under the Watts test.

I do not believe that any Senator questions the need for such a statute. By our vote to approve this bill, we will indicate that such language has our approval and, to this Senator, that is sufficient to meet the potential problem raised by the Watts decision.

EXHIBIT 1

DEPARTMENT OF JUSTICE,
Washington, D.C., September 15, 1972.

Hon. ROMAN L. HRUSKA,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HRUSKA: During the Senate debate on S. 2567, a question was raised as to the constitutionality of certain provisions of the bill proscribing "threats". For this and other reasons, the bill was sent to the Commerce Committee for its study. Senator Magnuson, Chairman of that Committee, then requested an advisory opinion from the Office of Legislative Counsel of the Senate on the merits of the constitutional question. The Memorandum from the Office of Legislative Counsel concluded that the provisions as drafted presented problems of constitutional dimension. For the reasons set forth herein, we are of the opinion that the provisions are constitutional.

Two provisions of the bill have been questioned. Sec. 2(a) of the bil amends Chapter 2 of title 18, United States Code, by adding at the end thereof the following new section:

"§ 36. Imparting or conveying threats

"Whoever imparts or conveys or causes to be imparted or conveyed any threat to do an act which would be a felony prohibited by section 32 or 33 of this chapter or section 1992 of chapter 97 or section 2275 of chapter 111 of this title *with an apparent determination to carry the threat into execution,* shall be fined not more than $5,000 or imprisoned not more than five years, or both." (Emphasis supplied)

Sec. 5 of the bill amends § 902(m) of the Federal Aviation Act of 1958 and provides:

"(m)(2) Whoever imparts or conveys or causes to be imparted or conveyed any threat to do an act which would be a felony prohibited by subsections (i), (j), or (l) (2) of this section, *with an apparent determination to carry the threat into execution,* shall be fined not more than $5,000 or imprisoned not more than five years, or both." (Emphasis supplied)

The memorandum from the Office of Legislative Counsel argues, on the basis of *Watts* v. *United States,* 394 U.S. 705 (1969), that the underscored language of each provision is of doubtful constitutional validity.

We believe that this contention misinterprets *Watts.* The memorandum appears to be grounded upon the belief that that decision discusses the constitutionality of the subject statute when, in fact, the language referred to by the Legislative Counsel is merely an exposition on the proper construction of the term "willfulness" in the law.

The petitioner in *Watts* was convicted of a violation of 18 U.S.C. § 871(a) which prohibits, *inter alia,* any person from "knowingly and willfully . . . [making] any threat to take the life of or to inflict bodily harm upon the President of the United States . . ." The conviction was affirmed by the United States Court of Appeals for the District of Columbia in a majority opinion authored by Judge Burger, 402 F. 2d 676 (1968). The Supreme Court reversed on the ground that the petitioner's speech was "political hyperbole" rather than a "threat" within the meaning of the statute. The Court made it clear, however, that 18 U.S.C. § 871(a) was constitutional on its face, and that true "threats" could be proscribed. To the same effect see Judge Wright's dissent in *Watts:*

". . . threats are properly punished every day under statutes prohibiting extortion, blackmail and assault without consideration of First Amendment issues." (420 F. 2d at 690.)

The Supreme Court turned its attention to the "willfulness" requirement of section 871(a), stating:

"The judges in the Court of Appeals differed over whether or not the 'willfulness' requirement of the statute implied that a defendant must have intended to carry out his 'threat'. Some early cases found the willfulness requirement met if the speaker voluntarily uttered the charged words with 'an *apparent* determination to carry them into execution.' *Ragansky* v. *United States,* 53 F. 643, 645 (C.A. 7th Cir. 1918) (emphasis supplied); cf. *Pierce* v. *United States,* 365 F. 2d 292 (C.A. 10th Cir. 1966). This majority below seemed to agree. Perhaps this interpretation is correct, although we have grave doubts about it. See the dissenting opinion below, 131 U.S. App. D.C., at 135–142, 402 F. 2d, at 686–693 (Wright, J.)."

It is the above-quoted language that has led to the contention that the "apparent determination" test adopted by S. 567 is of questionable constitutionality.

While this position is appealing at first glance, it suffers under detailed scrutiny—the Court rested its decision only on the issue of what a "threat" was within the limits of 18 U.S.C. § 871(a). The Court was merely saying that it had grave doubts about the long-standing judicial understanding of the legislative history underlying the word "willfully" as it appeared in that particular statute. It did not say that the "apparent determination" test was unconstitutional, only that Congress might have intended a greater degree of culpability in connection with offenses under section 871(a). The dissent of Judge Wright below is informative in this respect; he discussed at length the intent of the framers of the statute and concluded that a showing of specific intent is required.

There is nothing in the quoted language to indicate that a constitutional problem would be present had Congress expressly included language requiring an "apparent determination" to carry threats into execution.

The Judiciary Committee has explicitly set out the proper meaning for the intent requirement by adopting the "apparent determination" test. If the bill is enacted in this form, the courts will not be faced with the question of Congressional intent as they were in the *Watts* litigation.

In our view, the quoted sections of the bill appear to be within the proper scope of Congressional judgment and consistent with constitutional guarantees under the First Amendment.

Sincerely,

ROGER C. CRAMTON,
Assistant Attorney General.

WATTS v. UNITED STATES

(On petition for Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit—No. 1107, Misc. Decided April 21, 1969)

Petitioner's remark during political debate at small public gathering that if inducted into Army (which he vowed would never occur) and made to carry a rifle "the first man I want to get in my sights is L. B. J.," *held* to be crude political hyperbole which in light of its context and conditional nature did not constitute a knowing and willful threat against the President within the coverage of 18 U. S. C. § 871(a).

Certiorari granted; 131 U. S. App. D. C. 125, 402 F. 2d 676, reversed and remanded.

Joseph Forer for petitioner.

Solicitor General Griswold for the United States.

Ralph J. Temple, Melvin L. Wulf, and *Lawrence Speiser* for the American Civil Liberties Union et al. as *amici curiae.*

Per Curiam.

After a jury trial in the United States District Court for the District of Columbia, petitioner was convicted of violating a 1917 statute which prohibits any person from "knowingly and willfully . . . [making] any threat to take the life of or to inflict bodily harm upon the President of the United States . . . ."* The incident which led to petitioner's arrest occurred on August 27, 1966, during a public rally on the Washington Monument grounds. The crowd present broke up into small discussion groups and petitioner joined a gathering scheduled to discuss police brutality. Most of those in the group were quite young, either in their teens or early twenties. Petitioner, who himself was 18 years old, entered into the discussion after one member of the group suggested that the young people present should get more education before expressing their views. According to an investigator for the Army Counter Intelligence Corps who was present, petitioner responded: "They always holler at us to get an education. And now I have alalready received my draft classification as 1–A and I have got to report for my physical this Monday coming. I am not going. If they ever make me carry a rifle the first man I want to get in my sights is L. B. J." "They are not going to make me kill my black brothers." On the basis of this statement, the jury found that petitioner had committed a

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Footnotes at end of article.

felony by knowingly and willfully threatening the President. The United States Court of Appeals for the District of Columbia Circuit affirmed by a two-to-one vote. 131 U. S. App. D. C. 125, 402 F. 2d 676 (1968). We reverse.

At the close of the Government's case, petitioner's trial counsel moved for a judgment of acquittal. He contended that there was "absolutely no evidence on the basis of which the jury would be entitled to find that [petitioner] made a threat against the life of the President." He stressed the fact that petitioner's statement was made during a political debate, that it was expressly made conditional upon an event—induction into the Armed Forces—which petitioner vowed would never occur, and that both petitioner and the crowd laughed after the statement was made. He concluded, "Now actually what happened here in all this was a kind of very crude offensive method of stating a political opposition to the President. What he was saying, he says, I don't want to shoot black people because I don't consider them my enemy, and if they put a rifle in my hand it is the people that put the rifle in my hand, as symbolized by the President, who are my real enemy." We hold that the trial judge erred in denying this motion.

Certainly the statute under which petitioner was convicted is constitutional on its face. The Nation undoubtedly has a valid, even an overwhelming, interest in protecting the safety of its Chief Executive and in allowing him to perform his duties without interference from threats of physical violence. See H.R. Rep. No. 652, 64th Cong., 1st Sess. (1916). Nevertheless, a statute such as this one, which makes criminal a form of pure speech, must be interpreted with the commands of the First Amendment clearly in mind. What is a threat must be distinguished from what is constitutionally protected speech.

The judges in the Court of Appeals differed over whether or not the "willfullness" requirement of the statute implied that a defendant must have intended to carry out his "threat." Some early cases found the willfullness requirement met if the speaker voluntarily uttered the charged words with "an *apparent* determination to carry them into execution." *Ragansky* v. *United States*, 253 F. 643, 645 (C. A. 7th Cir. 1918) (emphasis supplied); cf. *Pierce* v. *United States*, 365 F. 2d 292 (C. A. 10th Cir. 1966). The majority below seemed to agree. Perhaps this interpretation is correct, although we have grave doubts about it. See the dissenting opinion below, 131 U.S. App. D. C., at 135–142, 402 F. 2d, at 686–693 (Wright, J.). But whatever the "willfullness" requirement implies, the statute initially requires the Government to prove a true "threat." We do not believe that the kind of political hyperbole indulged in by petitioner fits within that statutory term. For we must interpret the language Congress chose "against the background of a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials." *New York Times Co.* v. *Sullivan*, 376 U.S. 254, 270 (1964). The language of the political arena, like the language used in labor disputes, see *Linn* v. *United Plant Guard Workers of America*, 383 U.S. 53, 58 (1966), is often vituperative, abusive, and inexact. We agree with petitioner that his only offense here was a "kind of very crude offensive method of stating a political opposition to the President." Taken in context, and regarding the expressly conditional nature of the statement and the reaction of the listeners, we do not see how it could be interpreted otherwise.

The motion for leave to proceed *in forma pauperis* and the petition for a writ of certiorari are granted and the judgment of the Court of Appeals is reversed. The case is remanded with instructions that it be returned to the District Court for entry of a judgment of acquittal.

It is so ordered.

Mr. Justice Stewart would deny the petition for certiorari.

Mr. Justice White dissents.

Mr. Justice Douglas, concurring.

The charge in this case is of an ancient vintage.

The federal statute under which petitioner was convicted traces its ancestry to the Statute of Treasons (25 Edw. 3) which made it a crime to "compass or imagine the Death of . . . the King." Note, Threats to Take the Life of the President, 32 Harv. L. Rev. 724, 725 (1919). It is said that one Walter Walker, a 15th century keeper of an inn known as the "Crown," was convicted under the Statute of Treasons for telling his son: "Tom, if thou behavest thyself well, I will make thee heir to the Crown." He was found guilty of compassing and imagining the death of the King, hanged, drawn, and quartered. 1 J. Campbell, Lives of the Chief Justices of England 151 (1873).

In the time of Edward IV, one Thomas Burdet who predicted that the king would "soon die, with a view to alienate the affections" of the people was indicted for "compassing and imagining of the death of the King," 79 Eng. Rep. 706 (1477)—the crime of constructive treason [1] with which the old reports are filled.

In the time of Charles II, one Edward Brownlow was indicted "for speaking these words, that he wished all the gentry in the land would kill one another, so that the comminalty might live the better." 3 Middlesex County Rec. 326 (1888). In the same year (1662) one Robert Thornell was indicted for saying "that if the Kinge did side with the Bishops, the divell take Kinge and the Bishops too." *Id.*, at 327.

While our Alien and Sedition Laws were in force, John Adams, President of the United States, en route from Philadelphia, Pennsylvania, to Quincy, Massachusetts, stopped in Newark, New Jersey, where he was greeted by a crowd and by a committee that saluted him by firing a cannon.

A bystander said, "There goes the President and they are firing at his ass." Luther Baldwin was indicted for replying that he did not care "if they fired through his ass." He was convicted in the federal court for speaking "sedicious words tending to defame the President and Government of the United States" and fined, assessed court costs and expenses, and committed to jail until the fine and fees were paid. See J. Smith, Freedom's Fetters 270–274 (1956).

The Alien and Sedition Laws constituted one of our sorriest chapters; and I had thought we had done with them forever.[2]

Yet the present statute has hardly fared better. "Like the Statute of Treasons, section 871 was passed in a 'relatively calm peacetime spring,' but has been construed under circumstances when intolerance for free speech was much greater than it normally might be.'" Note, Threatening the President: Protected Dissenter or Political Assassin, 57 Geo. L. J. 553, 570 (1969). Convictions under 18 U.S.C. § 871 have been sustained for displaying posters urging passersby to "hang [President] Roosevelt." *United States* v. *Apel*, 44 F. Supp. 592, 593 (D.C.N.D. Ill. 1942); for declaring that "President Wilson ought to be killed. It is a wonder some one has not done it already. If I had an opportunity, I would do it myself." *United States* v. *Stickrath*, 242 F. 151, 152 (D.C.S.D. Ohio 1917); for declaring that "Wilson is a wooden-headed son of a bitch. I wish Wilson was in hell, and if I had the power I would put him there," *Clark* v. *United States*, 250 F. 449 (C.A. 5th Cir. 1918). In sustaining an indictment under the statute against a man who indicated that he would enjoy shooting President Wilson if he had the chance, the trial court explained the thrust of § 871:

"The purpose of the statute was undoubtedly, not only the protection of the President, but also the prohibition of just such statements as those alleged in this indictment. The expression of such direful intentions and desires, not only indicates a spirit of disloyalty to the nation bordering upon treason, but is, in a very real sense, a menace to the peace and safety of the country. . . . It arouses resentment and concern on the part of patriotic citizens." *United States* v. *Jasick*, 252 F. 931, 933 (D.C.E.D. Mich. 1918).

Suppression of speech as an effective police measure is an old, old device, outlawed by our Constitution.

Mr. Justice Fortas, with whom Mr. Justice Harlan joins, dissenting.

The Court holds, without hearing, that this statute is constitutional and that it is here wrongly applied. Neither of these rulings should be made without hearing, even if we assume that they are correct.

Perhaps this is a trival case because of its peculiar facts and because the petitioner was merely given a suspended sentence. That does not justify the Court's action. It should induce us to deny certiorari, not to decide the case on its merits and to adjudicate the difficult questions that it presents.

FOOTNOTES

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*U. S. C. § 871(a) provides:

"Whoever knowingly and willfully deposits for conveyance in the mail or for a delivery from any post office or by any letter carrier any letter, paper, writing, print, missive, or document containing any threat to take the life of or to inflict bodily harm upon the President of the United States, the President-elect, the Vice President or other officer next in the order of succession to the office of President of the United States, or the Vice-President-elect, or knowingly and willfully otherwise makes any such threat against the President, President-elect, Vice President or other officer next in the order of succession to the office of President, or Vice President-elect, shall be fined not more than $1,000 or imprisoned not more than five years, or both."

[1] The prosecution in those cases laid bare to the juries that the treasonous thoughts were the heart of the matter; "the original of his Treasons proceeded from the imagination of his heart; which imagination was in itself High-Treason, albeit the same proceeded not to any overt fact; and the heart being possessed with the abundance of his traitorous imagination, and not being able so to contain itself, burst forth in vile and traitorous Speeches, and from thence to horrible and heinous actions." *Trial of Sir John Perrot*, 1 How. St. Tr. 1315, 1318 (1592). "[T]he high treason charged, is the compassing or imagining (in other words, the intending or designing) the death of the king; I mean his Natural Death; which being a hidden operation of the mind, an overt act is any thing which legally proves the existence of such traitorous design and intention—I say that the design against the king's natural life, is the high treason under the first branch of the statute; and whatever is evidence, which may be legally laid before a jury to judge of the traitorous intention, is a legal overt act; because an overt act is nothing but legal evidence embodied upon the record." *Trial of Thomas Hardy*, 24 How. St. Tr. 199, 894 (1794). And see 84 Eng. Rep. 1057 (1708).

For a discussion of the adequacy of mere words as overt acts see 3 W. Holdsworth, History of English Law 293 (1927).

[2] In the Sedition Act cases, the tendency of words to produce acts against the peace and security of the community was stretched to its utmost latitude. Likewise, judges and juries, in their willingness to presume evil

intent on the part of Republican writers, largely nullified the safeguards erected by the Sedition Act itself. Criticism of the President and Congress—in which every American indulges as his birthright—was severely punished; yet this practice manifestly has only a remote tendency to injure and bring into contempt the government of the United States. In short, much that has become commonplace in American political life was put under the ban by the Federalist lawmakers and judges of 1798." J. Miller, Crisis in Freedom 233 (1951).

[U.S. Court of Appeals, District of Columbia Circuit, Argued April 10, 1968, Decided September 25, 1968, No. 21528]

ROBERT WATTS, APPELLANT, V. UNITED STATES OF AMERICA, APPELLEE

Defendant was convicted in the United States District Court for the District of Columbia, Burnita Shelton Matthews, J., of threatening life of President of the United States and he appealed. The Court of Appeals, Burger, Circuit Judge, held that defendant's alleged statement that he would refuse induction into the armed forces and "If they ever make me carry a rifle the first person I want in my sights is LBJ" could be found to amount to a threat against the life of the President of the United States.

Affirmed.

J. Skelly Wright, Circuit Judge, dissented.

1. Homicide.—92

It is the making of the threat, not the intent to carry out, that violates statute prohibiting threats against life of President of the United States. 18 U.S.C.A. § 871(a).

2. Homicide.—92

Ultimate purpose underlying statute prohibiting threats against life of President of the United States is to deter the act of killing or injuring President by deterring the act of threatening his life or safety. 18 U.S.C.A. § 871(a).

3. Homicide.—92

For purposes of statute prohibiting threats against life of President of the United States, there is no requirement that the person uttering the threats have an intention to carry them out, nor is it a defense that the words were intended merely as a jest. 18 U.S.C.A. § 871(a).

4. Homicide.—92

Fact that threat is conditional does not per se prevent it from being a violation of statute prohibiting threats against life of President of the United States. 18 U.S.C.A. § 871(a).

5. Homicide.—92

Defendant's alleged statement that he would refuse induction into the armed forces and "If they ever make me carry a rifle the first person I want in my sights is LBJ" could be found to amount to a threat against the life of the President of the United States. 18 U.S.C.A. § 871(a).

6. Constitutional Law.—90

The First Amendment does not prevent proscription of utterances that comprise knowing and wilful threats to the life or safety of the President of the United States. U.S.C.A. Const. Amend. 1; 18 U.S.C.A. § § 871, 871(a).

7. Judgment—751

A defendant in a criminal case can assert collateral estoppel against the government in the proper circumstances.

8. Judgment—751

Prior judicial determination on motion to suppress made in a separate proceeding on another charge in the Court of General Sessions that there had been no probable cause for Secret Service agents to believe that defendant's words constituted a threat to the President of the United States did not operate as a collateral estoppel to felony charge in the District Court. 18 U.S.C.A. § 871(a).

Mr. Joseph Forer, Washington, D.C., (appointed by this court) for appellant.

Mr. Lee A. Freeman, Jr., Asst. U. S. Atty., with whom Messrs. David G. Bress, U. S. Atty., Frank Q. Nebeker and Victor W. Caputy, Asst. U. S. Attys., were on the brief for appellee.

Before Wilbur K. Miller, Senior Circuit Judge, and Burger and Wright, Circuit Judges.

Burger, Circuit Judge:

This is an appeal from a conviction for threatening the life of the President of the United States in violation of 18 U.S.C. § 871 (a) (1964).[1]

Appellant attended a DuBois Club meeting and participated in a discussion group dealing with police brutality. In the course of these discussions, Appellant allegedly made a statement that he would refuse induction into the armed forces and "if they ever make me carry a rifle the first person I want [or would want or would like to have] in my sights is LBJ."[2] There is evidence that he also stated that Negroes should not shoot their "black brothers" or Vietnamese. The following day he was arrested by Secret Service agents for threatening the life of the President. When arrested, Appellant was found to possess marijuana and an information was filed in the Court of General Session charging him with this misdemeanor.

Prior to his trial for threatening the President, Appellant moved to dismiss the indictment on the ground that his words did not constitute a "threat" within the language of the statute. This motion was denied. Subsequently, in the marijuana prosecution, Appellant moved to suppress the evidence on the ground that the arrest and search were illegal since the arresting officers lacked probable cause to believe that a felony—threatening the life of the President—had been committed. The Court of General Sessions granted the motion. The government's request for reconsideration being denied, the government nolle prossed the marijuana charge.

The felony charge of threatening the President was tried in the District Court and Appellant was convicted.[3] Appellant raises three grounds for reversal (1) that the evidence was insufficient to support a finding that he uttered a "threat" against the President; (2) that a conviction would violate the First Amendment; and (3) that the prior judicial determination on the motion to suppress in the Court of General Sessions operated as collateral estoppel to the felony charge in the District Court.

I

[1] Turning to the language of 18 U.S.C. § 871 (1964), we see that what it prohibits is "knowingly and willfully * * * mak[ing] any * * * threat to take the life of or to inflict bodily harm upon the President * * *." On its face, and under conventional standards of statutory construction, the statute prohibits the knowing and willful *act of threatening* the life of the President. The forbidden utterance is the criminal act; the adjective "willfully" precedes and modifies "threaten"; it has no relation whatever to the *act of killing or injuring*. The act of killing or assaulting is a separate crime. Therefore, the District Judge correctly instructed the jury: "It is the making of the threat, not the intent to carry it out, that violates the law."

Given this clarity of the statute itself, there is little necessity to turn to the legislative history, except to discern the broad purposes of Congress. However, in light of the dissent's reliance on some utterances of an individual Congressman in terms that would actually alter the clear meaning of the statute, we turn to the total legislative history. The record of the House debates on section 871 does not, as the dissent asserts, "indicat[e] that Congress considered specific intent to execute the threat an element of the offense * * *." Indeed the House record is to the contrary.[4]

[2] The ultimate purpose underlying section 871 is to deter the *act* of killing or injuring the President by deterring the *act* of threatening his life or safety. As Congressman Webb, the proponent of the bill, asserted: "That is one reason why we want this statute—in order to decrease *the possibility* of actual assault *by punishing threats* to commit an assault." 53 Cong.Rec. 9377–78 (1916) (emphasis added). The act of willfully threatening was itself made the crime not only to deter the threat but also the consequences of verbal or published threats in terms of their incitement of others—including those less stable than the speaker and perhaps more suggestible. Congressman Webb's explication of the rationale behind a prohibition of "threats" is of interest:

"A bad man can make a public threat, and put somebody else up to committing a crime against the Chief Executive, and that is where the harm comes. The *man who makes the threat* is not himself very dangerous, but *he is liable to put devilment in the mind of some poor fellow who does try to harm him*" [the President].

Id. at 9377 (emphasis added). Prophetically, Congressman Webb added: "I think the time may come when we will have great need for this kind of a statute." This review of the factors which prompted the promulgation of legislation prohibiting "threats" would seem to cast doubt upon the assertion of the dissent that "Congress considered specific intent to execute the threat an element of the offense."[5]

The dissent correctly quotes Congressman Webb's comment that "I think it must be a willful intent to do serious injury to the President." But we need to look at the context in which this statement was made. Some Representatives were troubled by the possibility that in the absence of the need for a "willful" threat, a man might be convicted for mailing to a friend, as a matter of news, an article he had discovered which contained a threat by the author of the article on the life of the President.[6] A reading of the entire debate on section 871 reveals that Congressman Webb's comment about *"willful intent to do serious injury* to the President" is the only time that the concept of "willful intent" was joined with the act of killing or injuring. Without exception, every other reference to "willful intent" was in the context of a *"willful intent to threaten"*. Reviewing the entire legislative debate on section 871, we conclude that, as is so often the case when various members address themselves extemporaneously to statutory language, these speeches are not without ambiguity; certainly the debate is far from indicating a Congressional desire to demand proof that the accused "made the statement with the specific intent to execute it" as Judge Wright argues.[7] Indeed if the legislative history were to be so read, it would repeal the statute.

[3] Prior decisions construing section 871 similarly evidence the interpretation that it is the *threat* which must be "knowingly and willfully" made and not that the intent to execute the content of the threat be an element. To meet these requirements the government must establish that "the maker [of the threat] comprehends the meaning of the words uttered by him" and that "the maker voluntarily and intentionally utters them as the declaration of an apparent determination to carry them into execution." Ragansky v. United States, 253 F. 643, (7th Cir. 1918). *See* Pierce v. United States, 365 F.2d 292, 294 (10th Cir. 1966). There is no requirement that the person uttering the threats have an intention to carry them out. *Cf.* Michaud v. United States, 350 F.2d 131 (10th Cir. 1965).

Footnotes at end of article.

Nor is it a defense that the words were intended merely as a jest. Pierce v. United States, *supra;* Ragansky v. United States, *supra.*

Appellant contends that the words he used could not be interpreted as a threat because they did not contain a statement of present intention to injure the President. Appellant asserts that his statement was a matter of common hyperbole rather than a true threat, that it expressed a desire rather than an intention to carry it out, and that it was conditional upon his being forced—by involuntary service—to carry a rifle whereas he had stated an intention to avoid induction into the Army.

[4] Appellant's conditional theory stems from the principle of the classic case of Tuberville v. Savage, 86 Eng. Rep. 684 (K.B. 1669), in which it was held that there was no assault where the defendant, at assize time, placed his hand on his sword and stated: "If it were not assize-time, I would not take such language from you." If an utterance is conditioned on factors which cannot be fulfilled, the condition negates any threat. Such a condition removes the apparent intent which is a necessary element. But the fact that the threat is conditional does not *per se* prevent it from being a violation of 18 U.S.C. § 871 (1964). Convictions have been affirmed [8] and indictments sustained [9] where the language was conditional. The "condition" of Appellant's submitting to induction into the Army does not negate the presence of apparent present intent since it is a matter within his control.[10] Statements with conditions such as "if I had the opportunity" or "if I had the power" or "if I ever get close enough to him," have been held violations of the statute. *See* notes 8 & 9 *supra.*

Appellant also claims that, when he stated he "would want" or "would like to have" or "wanted" to have "LBJ" in his rifle sights, he was merely expressing a desire, and not a threat. Other convictions under this statute have been affirmed where the statement was essentially in the form, as Appellant urges his statements were, of mere expressions of desires or wishes.[11] Appellant relies, however, on two cases in which there was found to be no statement of apparent intention to inflict harm. In United States v. Daulong, 60 F. Supp. 235 (W.D. La. 1945), the indictment was quashed because it charged that the accused only stated he "had a notion" to kill the President and that, if no one else did it, he "felt like" killing him. The court found these words to lack any "expression of determination or intent to do the act itself." In United States v. Marino, 148 F. Supp. 75 (N.D.Ill. 1957), an indictment was dismissed which charged that the accused had posted signs reading: "There can be slain no sacrifice to God more acceptable than an unjust President." Here again, the court found no expression of intent to perform the act in question.

Unlike these cases, Appellant's words, considered in context, reasonably permit an inference that he was uttering a threat. The naked words do not always tell the whole story. For example, the words "I will see you in the street at sundown" meant, in certain times and places, a challenge to a shooting. The context was all important—on Beacon Hill in Boston, the same words at the same period might have had a totally different meaning or none at all. It is the *message* the words communicate that is at issue, and what that message meant was a question of fact for the jury under appropriate instructions. On this appeal, there is no challenge to the instructions.

Appellant's counsel urged the jury, as he does on appeal, that Appellant was expressing a mere *desire* and that his statements were gratuitous hyperbole. The District Judge charged the jury in accordance with the case law developed under the statute, including the definition of threat. He also instructed the jury that "a declaration of a mere desire to injure is not a threat" and that they were to consider the context and circumstances in which the alleged statement was made.

[5] Among the circumstances that the jury could have considered in determining the import of the words here used was the testimony that in speaking Appellant made a gesture as if sighting down the barrel of a rifle. Appellant points out that his remarks were greeted by laughter and applause, and argues that this negates any acceptance by the listeners as a genuine threat. But it has not been unknown for laughter and applause to have sinister implications for the safety of others. History records that applause and laughter frequently greeted Hitler's predictions of the future of the German Jews. Even earlier, the Roman holidays celebrated in the Colosseum often were punctuated by cheers and laughter when the Emperor gestured "thumbs down" on a fallen gladiator. However, since Appellant did not claim at trial that his words were uttered in jest, we need not reach or decide what instructions would have been appropriate had he made such a claim except to observe in passing that subjective intent of the speaker, standing alone, has not been considered dispositive.[12] We need not decide what the situation would be if one accused under this statute claimed that he was acting in jest and showed that his listeners considered the utterance to be such. Here the Appellant laid no evidentiary basis for an instruction that his statements were uttered in jest and accepted as such by those who heard him. On the evidence and contentions developed at trial, a jury could reasonably have concluded either that the words were or that they were not a threat and either conclusion is within the range of a permissible verdict.[13]

II

Appellant's second contention is that his utterances are protected by the First Amendment and cannot be made the basis of a criminal prosecution. He argues that they are not words that by their very utterance tend to inflict injury or incite an immediate breach of the peace, Chaplinsky v. State of New Hampshire, 315 U.S. 568, 571–572, 62 S. Ct. 766, 86 L.Ed. 1031 (1942), and that they did not constitute a clear and present danger of a substantive evil which Congress has the power to prevent. Dennis v. United States, 341 U.S. 494, 71 S.Ct. 857, 95 L.Ed 1137 (1951); American Communications Ass'n v. Douds, 339 U.S. 382, 70 S. Ct. 674, 94 L.Ed. 925 (1950). *See also* Wood v. Georgia, 370 U.S. 375, 82 S.Ct. 1364, 8 L.E4. 2d 569 (1962).[14]

[6] Meeting these claims directly, we conclude that the First Amendment does not prevent proscription of utterances that comprise knowing and willful threats to the life or safety of the President. Although freedom of speech is indeed one of "our most precious freedoms," Keyishian v. Board of Regents, 385, U.S. 589, 603, 87 S. Ct. 675, 17 L. Ed. 2d 629 (1967), and needs "breathing space to survive," *id.* at 604, 87 S. Ct. 675, [a]n analysis of the leading cases in [the Supreme Court] which have involved *direct limitations on speech* * * * will demonstrate that * * * this is not an unlimited, unqualified right, but that the societal value of speech must, on occasion, be subordinated to other values and considerations.

Dennis v. United States, 341 U.S. 494, 503, 71 S. Ct. 857, 864, 95 L. Ed. 1137 (1951). Simply because first amendment rights are in the "balance," Congress is not precluded from regulating particular individual activity. Before a decision on constitutionality is reached, "there must be weighed the value to the public of the ends which the regulation may achieve." Communist Party v. SACB, 367 U.S. 1, 91, 81 S. Ct. 1357, 1407, 6 L. Ed. 2d 625 (1961). *See also* Dennis, *supra;* American Communications Association, C.I.O. v. Douds, 339 U.S. 382, 70 S. Ct. 674, 94 L. Ed 925 (1950); Schenck v. United States, 249 U.S. 47, 39 S. Ct. 247, 63 L. Ed 470 (1919).

The basis for section 871 is clear. The Congress arrived at a legislative determination that the safety and freedom of movement of the Chief Executive was of such overriding importance to the well-being of the enentire nation that threats which would tend to restrict his capacity to fulfill his duties or incite others to harm his person would not be tolerated. Congressional awareness of past Presidential assassinations in part contributed to the enactment of the 1917 statute.[15] Recent experience with the assassination of three public figures in less than 5 years hardly undermines the conclusion reached by the Congress 50 years ago when it enacted Section 871.

A statute making it a criminal act to utter threats as to citizens generally might well be open to constitutional challenge. Assuming arguendo that a statute might not be sustained if applied to any threat toward any one of 200 million Americans, the statute here in question must be judged by different standards, limited as it is to Chief Magistrate of the nation and his constitutional successors. Threatening language which might be thought tolerable when directed at a private citizen takes on a different hue when directed at the President and the dimensions of the consequences are an important guide.[16]

There are unique considerations surrounding the President of the United States. No person in the world, perhaps, is so comprehensively guarded. Yet this intensive protection has not prevented the assassination of four Presidents. In our system, the safety of the Chief Magistrate of the nation is so crucial to the national welfare that, notwithstanding our traditional tolerance of uninhibited and even vicious criticism of a President,[17] it was thought essential to make threats upon the life and safety of the President criminal acts. To appreciate the need to protect a President from danger or the inhibiting effect of threats, one only need recall the shock waves which rocked the entire world in November 1963 when a President was murdered. The enormous political, sociological, and economic consequences of that event are poignant reminders of the evil sought to be avoided by section 871. The assassination, or even attempted assassination, or suspicion of a conspiracy to this end, of no living person can upset the nation's—even the world's—equilibrium as does such action directed at a President of the United States.

When the interests to be protected are evaluated in the light of first amendment safeguards, the consequences here sought to be prevented afford a valid basis for reasonable limitation on speech.[18] The impediments which this statutory "regulation causes to entire freedom of individual action" are indeed outweighed by "the value to the public of the ends which the regulation may achieve." Communist Party v. SACB, *supra,* 367 U.S. at 91, 81 S.Ct. 1407. The protection of the President is precisely the type of substantial public interest which can justify prohibitions aimed at preventing substantive evils which can flow from the condemned activity. Cf. NAACP v. Button, 371 U.S. 415, 444, 83 S.Ct. 328, 9 L.Ed.2d 405 (1963).

Although speech "may indeed best serve its high purpose when it induces a condition of unrest, creates dissatisfaction with conditions as they are, or even stirs people to anger," Terminello v. City of Chicago, 337 U.S. 1, 5, 69 S.Ct. 894, 896, 93 L.Ed. 1131 (1919), a threat on the life of the President is "likely to produce a clear and present danger of a serious substantive evil that rises far above public inconvenience, annoyance, or unrest." *Id.* Trivial hazards must of course be

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Footnotes at end of article.

tolerated if they fall within the purview of the First Amendment,[19] but the turmoil attendant upon the death or disability of a President is hardly a "trivial hazard." When the gravity of this evil is discounted by the not so improbable likelihood of its occurrence, we conclude that it "justifies such invasion of free speech as is necessary to avoid the danger." Dennis v. United States, 341 U.S. 494, 510, 71 S.Ct. 857, 868, 95 L.Ed. 1137 (1951).

Given the sound basis for section 871's prohibition of threats on the President's life, we feel that the jury, having acted under instructions not challenged here, was warranted in finding that Appellant had or had not "knowingly and willfully" threatened the life of the President. Here, the import of Appellant's words were indeed susceptible of an interpretation by the jury that Appellant had made such a threat.[20]

This statute does not require the jury to undertake the almost impossible task of evaluating Appellant's subjective mental processes in relation to executing his apparent intent as that intent was manifested by his words and gestures in context.

III

[7] Appellant also argues that the finding of the jury that his words constituted a threat under 18 U.S.C. § 871 (1964), cannot stand because of the collateral estopped effect of a prior judicial determination. His claim is based upon the suppression by a Court of General Sessions Judge of the marijuana found on Appellant at the time of his arrest. The Judge found that there had been no probable cause for the Secret Service agents to believe that Appellant's words constituted a threat to the President. It is settled that a defendant in a criminal case can assert collateral estoppel against the Government in the proper circumstances.[21] Collateral estoppel will prevent the relitigation of an issue that was necessary to a prior judgment or final disposition of a case.[22]

Appellant's claim does not take into account that there was a determination by a District Court Judge in the present case, prior to the action of the Court of General Sessions Judge, that the indictment charged statements sufficient to sustain a conviction under the statute. A General Sessions Judge acting on a minor charge cannot reverse a holding of the United States District Court—relating to the same issue. Appellant argues that the District Court order decided only that the words could support a conviction, depending upon the surrounding circumstances, whereas the General Sessions Judge made a factual determination considering those surrounding circumstances. The record, however, fails to support Appellant's characterization of the decision of the General Sessions Judge.[23] He heard only the testimony of one witness who related, not the circumstances surrounding the statements by Appellant, but the events surrounding the subsequent arrest and the words that the witness had been told were spoken by Appellant. His decision, just as that of the District Judge, was concerned only with the legal issue of whether the words spoken were sufficient under the statute.

[8] A further difficulty with the claim of collateral estoppel here is that no authority holds that rulings on unappealable pre-trial motions matters are proper subjects for collateral estoppel. The only cases located were contrary to Appellant's position.[24] For example, in People v. Kissane, 347 Ill. 385, 179 N.E. 850 (1932), a defendant charged in a county court with the unauthorized possession of a pistol sought collateral estoppel from a municipal court's suppression of the pistol in a prior case on the same charge. The Illinois Supreme Court held that the doctrine was not available because the decision was a "mere preliminary motion" and there had not been a trial, or even the entry of a plea by the defendant, in the prior case.

Affirmed.

FOOTNOTES

[1] 18 U.S.C. § 871(a) (1964) provides:

(a) Whoever knowingly and willfully deposits for conveyance in the mail or for a delivery from any post office or by any letter carrier any letter, paper, writing, print, missive, or document containing any threat to take the life of or to inflict bodily harm upon the President of the United States, the President-elect, the Vice President or other officer next in the order of succession to the office of President of the United States, or the Vice President-elect, or knowingly and willfully otherwise makes any such threat against the President, President-elect, Vice President or other officer next in the order of succession to the office of President, or Vice President-elect, shall be fined not more than $1,000 or imprisoned not more than five years, or both.

[2] It is not disputed that this referred to President Johnson.

[3] The imposition of sentence was suspended and Appellant was placed on probation for four years.

[4] Before seeking to discover Congressional intent relating to an unambiguous statute, we would do well to remember Justice Frankfurter's incisive admonition that when the legislative history is unclear, judges should turn back to the language of the statute.

[5] We see therefore that if the statute is directed at deterring the incitement of others to the prohibited action, to demand that the speaker "must willfully intend to do serious injury to the President" would defeat the effectiveness of the statute. We must ask ourselves whether Congress is impotent to prevent the reckless exhortations of a rabble-rouser who urges a mob to storm the White House but has absolutely no intention of his own to kill the President. *See* the dissent's evaluation that a conviction under § 871 cannot be sustained unless "the defendant made the statement with specific intent to execute it. * * *" With this thrust of the dissenting opinion, we profoundly and explicitly disagree.

Nor can we agree with the assertion that: "What *is* clear is that Congressman Webb, the sponsor of the bill, insisted upon a specific intent to execute the threat." Dissent at p. 687 n. 4. This analysis does not take sufficient cognizance of Congressman Webb's previously noted concern for the *incitement* dangers inherent in uncontrolled threats. See discussion *supra*.

[6] The following colloquy ensued when some Congressmen were troubled by the possible conviction of a person who "intended" to make no *threat*.

Mr. VOLSTEAD. Mr. Speaker, I think it would be a mistake to strike out the word "willfully." Suppose a person found a document containing a threat and sent it through the mail to a friend as a matter of news. He might knowingly send the document, not intending to convey any threat. *The word "willfully" adds an intention to threaten,* and distinguishes a case of that kind so as to take it out of the category of criminal acts.

* * * * *

Mr. VOLSTEAD. No; I did not say that. If the gentleman will read it with the word "willfully" stricken out, he will see that a person might send innocently, without any intention to convey a threat at all, an instrument to a friend that contained a threat, and he would be guilty if you strike out the word "willfully."

* * * * *

Mr. VOLSTEAD. The gentleman does not catch the point I have in mind. This statute does not require that the instrument shall be sent to the President. It might be sent to some other person. *If, as the gentleman suggests, you strike out the word "willfully," a person who simply sends an instrument, say, a newspaper that contains such a threat to some friend to call his attention to the matter, would do so knowingly, and would come within the language of this bill.* 53 Cong. Rec. 9379 (1916) (emphasis added).

[7] In fact, Congressman Raker felt that sending or conveying a known threat should be enough to allow conviction. It was to prevent conviction in these circumstances of one who did not *"intend to threaten"* that the word willfully was retained in the statute. *See* note 6 *supra*.

[8] Rothering v. United States, 384 F.2d 385 (10th Cir. 1967) ("appellant said that he wanted to go to jail; that he would do the same thing [rob] over again; that he would rob other people; and that 'if they didn't do any good "I will kill the President if it is necessary." ' "); United States v. Stepp, 144 F. Supp. 826 (D. Colo. 1956) ("President Eisenhower is a German [———], and if I ever get close enough to him I will kill him. I have a 30–30 bullet for him. If he walks across the street in front of me I would let him have it."); Clark v. United States, 250 F. 449 (5th Cir. 1918) ("I wish Wilson was in hell, and if I had the power I would put him there.").

[9] United States v. Stickrath, 242 F. 151 (S.D. Ohio 1917) ("President Wilson ought to be killed. It is a wonder some one has not done it already. If I had an opportunity, I would do it myself.").

[10] That the threat is conditioned upon a contingency subject to the maker's control does not deprive it of the quality of a threat, if the contingency be a possible one. Every threat unexecuted involves some contingency, if none other than the maker's purpose be not abandoned, or that execution by him be not prevented.

United States v. Metzdorf, 252 F. 933, 938 (D. Mont. 1918).

[11] Ragansky v. United States, 253 F. 643 (7th Cir. 1918) ("We ought to make the biggest bomb in the world and take it down to the White House and put it on the dome and blow up President Wilson and all the rest of the crooks."); Clark v. United States, 250 F. 449 (5th Cir. 1918) ("I wish Wilson was in hell, and if I had the power I would put him there."); *cf.* United States v. Stobo, 251 F. 689 (D. Del. 1918) ("The President ought to be shot and I would like to be the one to do it.") (Demurrer to indictment sustained for failure to aver that the oral threat was heard by anyone.)

[12] Pierce v. United States, 365 F. 2d 292 (10th Cir. 1966); Ragansky v. United States, 253 F. 643 (7th Cir. 1918); *cf.* Morissette v. United States, 342 U.S. 246, 72 S. Ct. 240, 96 L. Ed. 288 (1952).

[13] See cases cited in notes 7–10, *supra*.

[14] Contrary to what Appellant claims, he was not prosecuted for his expression of views on Negroes and the Vietnamese war. He was free to challenge and attack the policies of the United States and actions of the President. *See* Bond v. Floyd, 385 U.S. 116, 87 S. Ct. 339, 17 L. Ed. 2d 235 (1966). Appellant was prosecuted for uttering a threat against the life of the President under a statute narrowly drawn to prevent such utterances.

[15] Congressman Webb made this observation:

[E]veryone admits that the Chief Executive of a great nation like ours ought to be protected in every way possible, especially in view of the sad experience we have had in losing by assassination three of our beloved Presidents.

* * * * *

[A]n ounce of prevention is worth a pound of cure, and we want to prevent the threats which often incite men to kill and murder. 53 Con. Rec. 9378 (1916).

[16] This distinction was clearly recognized by the drafters of section 871:

It is a crime to assault any person, but it is not a crime to assault the President any more than any other person. It is a crime against the person, but it ought to be a very different offense. Assaulting the President of the United States is quite a different matter from assaulting some private individual. That is the reason the gentleman's bill has the provision against threats. There is a law now covering the private individual, as far as these things are concerned, and the President to the same extent; but in this bill you are differentiating the office of President, and the man who fills the office, from any other citizen of the United States.

53 Con. Rec. 9377 (1916).

[17] Few would claim that much of the editorial commentary that has been aimed at our Presidents fails to fulfill the sought for "uninhibited, robust, and wide-open" debate necessary to a democratic society. New York Times Co. v. Sullivan, 376 U.S. 254, 270, 84 S. Ct. 710, 11 L. Ed. 2d 686 (1964). Moreover, prohibiting the very limited "criticism" of threatening the life of the President seems to be a trivial limitation on the overall capacity to present effective political argument. Can it be thought that "robust debate" is inhibited by prohibiting threats on the very life of a President?

[18] Without entering the fashionable semantic debate, *see* dissent, pp. 690, 691 n. 11, on the vitality of "clear and present danger," "balancing of interests," or other labeled "tests" for determining First Amendment controversies, we conclude that the present regulation is valid within the strictures of any of these criteria.

[19] Whitney v. People of State of California, 274 U.S. 357, 377, 47 S.Ct. 641, 649. 71 L.Ed. 1095 (1927) (Brandeis, J., concurring): "Prohibition of free speech and assembly is a measure so stringent that it would be inappropriate as the means for averting a relatively trivial harm to society."

[20] That these utterances were made at a meeting focusing on dissatisfaction with police-community relations and police brutality, and were made within a few hundred yards of the White House, are not irrevelant factors; they could have weighed in the jury's evaluation. Violence of extraordinary dimensions only recently was triggered in part by verbal incitement—again within a few hundred yards of the White House.

[21] Sealfon v. United States, 332 U.S. 575, 68 S.Ct. 237, 92 L.Ed. 180 (1948); United States v. Oppenheimer, 242 U.S. 85, 37 S.Ct. 68, 61 L.Ed. 161 (1916); Laughlin v. United States, 120 U.S.App. D.C. 93, 344 F.2d 187 (1965); United States v. Kramer, 289 F.2d. 909 (2d Cir. 1961).

[22] The Government argues that the suppression order was not a final order because it was not appealable. DiBella v. United States. 369 U.S. 121, 130–131, 82 S.Ct. 654, 7 L.Ed.2d 614 (1962). But appealability is not the touchstone of a final order for these purposes. The most frequent type of order that leads to a claim of res judicata or collateral estoppel is a judgment of acquittal, *see, e. g.*, cases cited in note 21, *supra*, and that is not subject to appeal by the Government. However, judgments of acquittal and even dismissals of cases have a degree of finality that is absent when, as here, the prior case is terminated by the Government's nolle prosequi.

[23] In assessing what issues have been terminated for the purposes of collateral estoppel, it is appropriate to examine the record to see what was raised before the judge in question. Sealfon v. United States, 332 U.S. 575, 579, 68 S.Ct. 237, 92 L.Ed. 180 (1948).

[24] Tell v. Wolke, 21 Wis.2d 613, 124 N.W. 2d 655 (1963) (prior discharge after preliminary hearing is not res judicata as to subsequent prosecution on same charge); People v. Van Eyk, 56 Cal.2d 471, 15 Cal.Reptr. 150, 364 P.2d 326 (1961) (order in prior case setting aside information because of illegal seizure of evidence not res judicata in subsequent prosecution for related offense); People v. Prewitt, 52 Cal.2d 330, 340, 341 P.2d 1, 6 (1959) (prior dismissal of same charge on preliminary hearing because it was determined that the evidence was illegally seized was not res judicata or collateral estopped on same issue in subsequent prosecution). *See* Vestal & Coughenour, *Preclusion/Res Judicata Variables: Criminal Prosecutions,* 19 VAND.L.REV. 683, 692 (1966).

One reason for not according collateral estopped consequence to rulings on pre-trial motions of this nature is that frequently such action does not reflect full and careful determination of the issue. In the present case, for instance, the General Sessions Judge granted the Assistant United States Attorney only a short recess to locate the Assistant United States Attorney who had already convinced the District Court that the words were sufficient to constitute a violation of 18 U.S.C. § 871(a) (1964). When that Assistant could not be located at once, the General Sessions Judge gave short shrift to the prosecutor's argument that the same issue had already been determined by the District Court and was not open to the Court of General Sessions.

J. Skelly Wright, Circuit Judge (dissenting).

Appellant attended a rally of the W. E. B. DuBois Club at the Sylvan Theater on the Washington Monument grounds. Those attending the rally divided into several discussion groups, one of which appellant joined. The rally and the discussion groups were open to the public.

In the course of a discussion of police-community relations in appellant's group, a participant said something to the effect that "we should have a better education before we get involved in things of this nature." According to Freeburger, an investigator for the Army Counter Intelligence Corps who was observing the discussion, appellant then replied:

"They always holler at us to get an education and yet I have already received my draft classification as 1–A and I have got to report this Monday coming for my physical. I am not going. If they ever make me carry a rifle the first man I want to get in my sights is L. B. J. They are not going to make me kill my black brothers."

Shoemaker, a detective sergeant of the United States Park Police, essentially confirmed this version of what appellant said. According to Wieghart, a reporter for the Milwaukee Sentinel, appellant said in substance:

"* * * that he did not think that Negroes ought to serve in Vietnam to shoot Vietnamese. He didn't think black men should look down the barrel of a rifle to kill Vietnamese. He said that rather than looking down the barrel of a rifle to kill Vietnamese people he would rather look down a rifle aimed at the President."

After appellant made his remark, persons in the audience laughed and applauded.

On the basis of these facts, appellant was convicted of "knowingly and willfully" making a "threat to take the life of or inflict bodily injury upon the President of the United States," under 18 U.S.C. § 871 (1964). I believe that the conviction cannot stand, when Section 871 is construed in accordance with its legislative history and the dictates of the First Amendment.

I

The statute today codified as 18 U.S.C. § 871 was enacted in what for purposes of this case can be regarded as its present form in 1917.[1] The brief report of the House Judiciary Committee, which approved the bill, stated its purpose as follows:

"This bill is designed to restrain and punish those who would threaten to take the life of, or inflict bodily harm upon, the President of this Republic. It is the first and highest duty of a Government to protect its governmental agencies, in the performance of their public services, from threats of violence which would tend to coerce them or restrain them in the performance of their duties."[2]

The House floor debate on the bill somewhat clarified and expanded upon this cryptic expression of legislative intent. In responding to the complaint that the bill was useless as a protection of the President's person, its chief spokesman, Congressman Webb, indicated that it was partly designed to prevent the incitement of others to assassination.[3] More significantly, Congressman Webb repudiated a suggestion that the words "and willfully" be deleted from the bill. In so doing, he indicated his view, as representative of the committee which had recommended the bill, of the intent required as an element of the offense which it created:

"* * * I think he ought to be shown to have done it willfully. *I think it must be a willful intent to do serious injury to the President*. If you make it a mere technical offense, you do not give him much of a chance when he comes to answer before a court and jury. I do not think we ought to be too anxious to convict a man who does a thing thoughtlessly. *I think it ought to be a willful expression of an intent to carry out a threat against the Executive,* and I hope that the gentleman will not offer his amendment."

53 CONG. REC. 9378 (1916). (Emphasis added.) The requirement of willfulness was retained and the bill was enacted into law without further substantive debate in either house.[4]

This indication that Congress considered specific intent to execute the threat an element of the offense was largely ignored by the courts which first construed the act during 1917–18. Thus in United States v. Stickrath, S.D.Ohio, 242 F. 151 (1917), no intent to execute the threat was required to be alleged or shown. *See also United States* v. Stobo, D.Del. 251 F. 689, 693 (1918).

Ragansky v. United States, 7 Cir. 253 F. 643 (1918), gives an often cited definition of the intent element of the offense. The court upheld the conviction of a defendant alleged to have said, among other things, "I can make bombs and I will make bombs and blow up the President." The trial court had charged the jury that " 'the claim that the language was used as a joke, in fun' is not a defense." *Id.* at 644. In supporting this charge over defendant's objection that it ignored the word "willfully" in the statute, the appellate court said:

"And a threat is willfully made, if in addition to comprehending the meaning of his words, the maker voluntarily and intentionally utters them as the declaration of an *apparent* determination to carry them into execution."

Id. at 645. (Emphasis added.) And, remarkably, the court went on:

"While under some circumstances, the word 'willfully' in penal statutes means not merely voluntarily, but with a bad purpose [citations omitted], nothing in the text, context, *or history* of this legislation indicates the materiality of the hidden intent or purpose of one who * * * voluntarily uses language known by him to be in form such a threat * * *."

Ibid. (Emphasis added.)

In only one early case did the court cleave to the requirement of a specific intent to execute the threat. In United States v. Metzdorf, D.Mont., 252 F. 933, 938 (1918), a District Court dismissed an indictment under the act on the ground, among others, that it had alleged the supposedly threatening words alone, without including the innuendo that they were accompanied by a "present determination or intent to injure presently or in the future."

Footnotes at end of article.

Among the few reported decisions between 1918 and 1965 which construe this statute, none explicitly deal with the actual intent which must be shown to support a conviction for willfully threatening the President.[5] In two cases, courts dismissed indictments because the words defendants were alleged to have used could not have constituted threats; they did not even express *apparent* intent. United States v. Marino, N.D.Ill., 148 F.Supp. 75 (1957); United States v. Daulong, W.D.La., 60 F.Supp. 235 (1945).[6] Neither case reached the question of what, beyond the objective purport of the words, would have to be shown at trial to support a conviction under Section 871.

Since 1965, three decisions construing Section 871 are reported, all in the Tenth Circuit, which indicate that that Circuit has rejected the requirement of intent to execute the threats as an element of the offense. In Michaud v. United States, 10 Cir., 350 F.2d 131 (1965), the defendant telephoned a clear and explicit threat against the President's life to the White House. At trial, the court instructed the jury that, at least in the case of threats not inciting others to injure the President, "there must be proof beyond a reasonable doubt that the maker of such threats intended to carry them out himself." On appeal, the Tenth Circuit identified this charge with *Metzdorf*, which it characterized as a minority view, and remanded for a new trial under the *Ragansky* standard, according to which specific intent is not at issue.

The *Ragansky* rule was extended by the same Circuit in Pierce v. United States, 10 Cir., 365 F.2d 292 (1966), apparently to include obvious jokes, and in Rothering v. United States, 10 Cir., 384 F.2d 835 (1967), to include hyperbole. In *Pierce*, the defendant, an inmate in the city jail of Holton, Kansas, passed to a guard with orders that it be sent to the White House a piece of paper on which he had written in pencil, "I * * * swear to kill the President of the United States of America the first chance I get." To this oath he had appended the ominous postscript, "and by the way send me $100.00 for cigarette money." Tried under Section 871, he defended on the ground that his scrawled "threat" arose out of a joke with a drunken cellmate. The trial court charged, on the basis of *Ragansky*, that the claim that the "threat" was a joke is no defense. The Tenth Circuit affirmed, under the rubric, used by the District Court in its charge in this case, that "[i]t is the making of the threat, not the intent to carry it out, that violates the statute. 365 F 2d at 294.

Rothering affirmed the Section 871 conviction of a defendant who, after being arrested for breaking into a food market, told a policeman "that he wanted to go to jail; that he would do the same thing over again; that he would rob other people; and that 'if that didn't do any good "I will kill the President if it is necessary." ' " Against the defense that this statement was exaggeration or hyperbole, the court held that, just as the claim that a supposed threat was made as a joke was held to be no defense in *Pierce*, "[t]he claim of exaggeration is entitled to the same treatment."

The trial judge here relied on *Ragansky*, *Pierce* and *Rothering* in charging the jury as follows:

"You are told that if one makes a threat against the President, he cannot shield himself by a claim that the words were uttered lightly or without intent to do bodily harm. It is the making of the threat, not the intent to carry it out, that violates the law. Therefore, idle talk or jesting is not a defense. * * *"

Appellant had established at trial that the audience had laughed when he made his statement. He urged to the jury that, given the circumstances, the offending words were at most rhetorical exaggeration or hyperbole, which the jury could not believe beyond a reasonable doubt were accompanied by an intent to harm the President.

I have indulged in a perhaps overlong recitation of the facts of cases in which Section 871 convictions were sustained under the *Ragansky* construction simply in order to demonstrate that Congressman Webb knew what he was doing when he insisted that "willfully threaten" meant "threaten with intent to execute" in his bill. He did not think "we ought to be too anxious to convict a man who does a thing thoughtlessly." Where the standard he convinced the House to maintain has been ignored, men have been convicted of doing something thoughtless— of using offensive language, with some implication against the President's life, which was meant as jest, as rhetoric, or as hyperbole.

II

I do not rest my belief that this conviction cannot stand upon the legislative history of Section 871 alone. The First Amendment restricts the construction which may constitutionally be placed on the statute, at least in cases of the kind which is before us today.

In my view, Section 871 is on its face a valid statute, designed to ward off two evils which Congress has the constitutional power to prevent. The first evil is an attempt on the life of the President. The second is restriction of the President's movements, and hence interference with his conduct of his duties, caused by reasonable fear for his safety arising out of serious threats on his life.[7] That Congress legitimately aimed at these evils in enacting what is now Section 871 is indicated by the legislative history.[8]

However, the statute which Congress passed in the relatively calm peacetime spring of 1917 was destined to be first construed in a nation at war when concern for constitutionally protected individual rights is ordinarily at low ebb.[9] Thus in United States v. Stickrath, *supra*, the first case construing the act, the court interpreted it on the understanding that the use of threatening language against the President "stimulates opposition to national policies, however wise," "is an affront to all loyal and right-thinking persons," and "is akin to treason." [10] 242 F. at 153.

The trial court in United States v. Stobo, *supra*, held that "[t]he vital inquiry under the act is whether the threat is of such a nature as to create or tend to create sedition or disloyalty." 251 F. at 692. And in United States v. Jasick, E.D.Mich., 252 F. 931, 933 (1918), we find that threats against the President indicate "a spirit of disloyalty" and arouse "resentment and concern on the part of patriotic citizens."

All of these stated reasons for interpreting Section 871 broadly cannot stand First Amendment scrutiny. Speech may not be prohibited in this country because it stimulates opposition to national policies, indicates or produces a spirit of disloyalty or affronts right thinking people. This was made finally clear by New York Times Co. v. Sullivan, 376 U.S. 254, 84 S.Ct. 710, 11 L.Ed. 2d 686 (1964), which laid to rest the threadbare contention that the First Amendment preserved the English common law of seditious libel.

Nor does the First Amendment give Congress a free hand in pursuing its valid objectives of protecting the President's safety and his freedom of movement. Particular "threats" within the ambit of Section 871 may be protected speech, and courts may be required to decide whether such threats may be prohibited under the clear and present danger test. Of course, all spoken threats do not constitute protected speech. Utterances which "are no essential part of any exposition of ideas" or which are "not in any proper sense communication of information or opinion" are not within the purview of the First Amendment. Chaplinsky v. State of New Hampshire, 315 U.S. 568, 572, 62 S.Ct. 766, 86 L.Ed. 1031 (1942); Cantwell v. State of Connecticut, 310 U.S. 296, 310, 60 S.Ct. 900, 84 L.Ed. 1213 (1940). Thus threats are properly punished every day under statutes prohibiting extortion, blackmail and assault without consideration of First Amendment issues.

On the other hand, where an utterance does convey an idea, particularly an idea about how public affairs should be conducted, the label "threat" does not preclude First Amendment protection any more than do the labels "obscenity," Roth v. United States, 354 U.S. 476, 77 S.Ct. 1304, 1 L.Ed. 2d 1498 (1957), or "libel," New York Times Co. v. Sullivan, *supra*.

Nor is provocative, tasteless, or even shocking speech outside the constitutional protection. The First Amendment favors "uninhibited, robust, and wideopen" debate on public issues, debate which may include "unpleasantly sharp" attacks on public officials. New York Times Co. v. Sullivan, *supra*, 376 U.S. at 270, 84 S.Ct. 710. Free speech "may indeed best serve its high purpose when it induces a condition of unrest, creates dissatisfaction with conditions as they are, or even stirs people to anger." Terminiello v. City of Chicago, 337 U.S. 1, 4, 69 S.Ct. 894, 896, 93 L.Ed. 1131 (1949).

For these reasons, speech which communicates ideas, particularly speech which criticizes public policies or public officials, "is * * * protected against censorship or punishment, unless shown likely to produce a clear and present danger of a serious substantive evil that rises far above public inconvenience, annoyance, or unrest." Ibid.[11]

Prosecutions under Section 871 for alleged threats which are part and parcel of the communication of ideas, particularly political ideas, must thus conform to the clear and present danger test. At the very least, this consideration supports the construction of the statute urged in Part I of this opinion. Where statutes impinge upon protected speech, statutory provisions governing intent will be read to require specific intent. Abrams v. United States, 250 U.S. 616, 627, 40 S.Ct. 17, 63 L.Ed. 1173 (1919) (dissenting opinion of Mr. Justice Holmes); *cf.* Dennis v. United States, 341 U.S. 494, 499–500, 71 S.Ct. 857, 95 L.Ed. 1137 (1951). Where the allegation is that the defendant, by his threat, incited others to kill the President, it is clear that specific intent to bring about this result must be shown. Yates v. United States, 354 U.S. 298, 318, 77 S.Ct. 1064, 1 L. Ed.2d 1356 (1957). Otherwise protection of free speech would be illusory, for in one sense "[e]very idea is an incitement." Gitlow v. People of State of New York, 268 U.S. 652, 673, 45 S.Ct. 625, 69 L.Ed. 1138 (1925) (dissenting opinion of Mr. Justice Holmes).[12]

Where the claim is that the alleged threat brings about the other evil which concerned Congress in enacting Section 871, "threats * * * which would tend to coerce * * * or restrain [the President] in the performance of his duties," a more difficult problem arises in reconciling this statutory purpose with the First Amendment. Congress may no doubt legislate to meet this evil. The restrictions placed upon the movements of the President, as well as other public men, by the danger of assassination have recently been much noted and deplored. There can be little doubt that the proper functioning of the Executive branch is hindered by these restrictions. On the other hand, a First Amendment standard which would allow abridgement of speech because it "tends" to create a substantive evil has been long rejected in favor of the clear and present danger test. Abrams v. United States, *supra*, 250 U.S. at 627–628, 40 S.Ct. 17 (dissenting opinion of Mr. Justice Holmes); West Virginia State Board of Education v. Barnette, 319

Footnotes at end of article.

U.S. 624, 633, 63 S.Ct. 1178, 87 L.Ed. 1628 (1943).[13]

Many statements wholly proetcted against restriction by the First Amendment may "tend" to contribute to the climate of hate which makes the free movement of the President dangerous. The affirmations of the affluent as well as the militant exhortations of the dispossessed may have this tendency. Many statements on political affairs may, by implication or through hyperbole, compass the violent end of the Chief Executive. The threat of punishment for all such statements would exert a chilling effect on political speech too drastic to be consistent with the guarantee of free expression.

I would reconcile these competing considerations as follows. Where an alleged threat which involves the communication of ideas is thought to "coerce or restrain" the President in the performance of his duties, a conviction under Section 871 can be sustained if (1) the defendant made the alleged threat with specific intent to execute it, *and* (2) in the context and circumstances the statement unambiguously constituted a threat upon the life or safety of the President. The first requirement follows from both the legislative history and the consistent strict requirement of specific intent in criminal prosecutions impinging upon protected speech, Yates v. United States, *supra*, 354 U.S. at 318, 77 S.Ct. 1064. The second is an application of the clear and present danger test to the purposes of Section 871.

Consonant with Dennis v. United States, *supra*, 341 U.S. at 511–515, 71 S.Ct. 857, I would leave the question of subjective intent to the jury, but would make the application of the objective standard a question for the court. In *Dennis*, the Court ruled that "[t]he doctrine that there must be a clear and present danger of a substantive evil that Congress has a right to prevent is a judicial rule to be applied as a matter of law by the courts." *Id.* at 513, 71 S.Ct. at 869. In free speech cases, appellate courts have long engaged in detailed examination of the facts to determine whether the First Amendment permitted restriction of expression in the particular situation.[14]

III

When the standards developed in Part I of this opinion are applied to the facts of this case, it is clear that at the very least appellant should have a new trial. The District Court followed the *Ragansky, Pierce* and *Rothering* cases in charging the jury that intent to execute the supposed threat was not an element of the offense. This was contrary to the meaning of Section 871 as Congress enacted it. Further, the First Amendment standards developed in Part II of this opinion, in my judgment, require reversal and entry of a judgment of acquittal.

In applying these standards, the first question is whether appellant's supposed threat was speech of a kind which comes within the protection of the First Amendment at all, or whether it was, like obscenity, malicious libel and the threats which typically constitute the crimes of extortion and assault, excluded from such protection. The inquiry here is whether the words used were "in any proper sense communication of information or opinion." Cantwell v. State of Connecticut, *supra*, 310 U.S. at 310, 60 S.Ct. 900, 84 L.Ed. 1213.

The version of appellant's statement most damaging to him, that reported by Agent Freeburger, was in my mind unquestionably the expression of a political idea. The idea was that it was wrong for Negroes to kill their "black brothers," the Vietnamese, because their real grievance was against the white establishment at home, personified by the President. The idea is the same as that articulated in more developed and refined form in the statement held protected by the First Amendment in Bond v. Floyd 385 U.S. 116, 87 S.Ct. 339, 17 L.Ed.2d 235 (1966).

The fact that the statement expressed political ideas merely brings the First Amendment into play; it does not decide the case. The statement "I have a gun and I intend to kill the President, because that's the best way to end the war in Vietnam" similarly expresses an idea, but it might well be the basis of a valid conviction under Section 871. The language used and the surrounding circumstances must be examined to determine if appellant's words constituted an unambiguous threat against the President's life.

Several factors lead me to conclude that they did not. First the "threat" was uttered in conjunction with an attack on the war and the killing of "black brothers." In this context, the words Agent Freeburger reported are more likely than not to have had as their natural purport the meaning ascribed to them by the witness Wieghart—the rhetorical idea that appellant would *rather* shoot the President than the Vietnamese.

Second, appellant's "threat" was conditioned on an event which he stated he had no intention of allowing to take place—his induction into the armed forces. The premising of a "threat" upon a condition which the speaker has the power and avowed intention to frustrate renders it something less than an unambiguously serious threat.

Finally, the audience's response—laughter mixed with applause—is relevant if not dispositive. Such laughter may, as the majority opinion argues, have sinister implications. However, it is much more reasonable to interpret it as indicating that the words which evoked it were taken in context by their hearers to be hyperbolic emphasis of a political view which they supported.[15]

In short, appellant's words, taken in their context, are most readily susceptible to the interpretation that they were a crude, even offensive, rhetorical device. They cannot be read unambiguously as a serious threat against the President. Thus in my view punishment of appellant for speaking these words would deprive him of the right to free speech guaranteed to him by the First Amendment.

I respectfully dissent.

FOOTNOTES

[1] The Act was amended in 1955 to include threats against the Vice President and the President-elect, 69 STAT. 80, and in 1962 to include threats against the Vice President-elect and the person next in line to succeed the President when there is no Vice President, 76 STAT. 956.

[2] H.R. REP. No. 652, 64th Cong., 1st Sess. (1919).

[3] 53 CONG. REC. 9377 (1916).

[4] A statute punishing a "threat" made "knowingly and willfully" is hardly so unambiguous as to preclude looking to the legislative history for clarification of the mental element required. I do not claim that the House debate unambiguously supports the construction urged here. Congressman Volstead's remarks, for instance, can be read to have the import which the majority gives them. They can as well be read to express concern with only one among many dangers which deletion of the word "willfully" would bring on. What is clear is that Congressman Webb, the sponsor of the bill, insisted upon a specific intent to execute the threat. Because of the obvious dangers posed by the statute, and amply illustrated by the history of its use, I consider the narrower view of the mental element the proper one.

[5] The cases I have located are Pierre v. United States, 8 Cir., 275 F. 352 (1921) (indictment dismissed because no allegation that anyone heard threat); United States v. Stepp, D.Colo., 144 F.Supp. 826 (1956) (indictment sustained); United States v. Reid, W.D.La., 49 F.Supp. 313, *affirmed*, 5 Cir., 136 F.2d 476, *cert. denied*, 320 U.S. 775, 64 S.Ct. 87, 88 L.Ed., 465 (1943) (motion for new trial denied); United States v. Apel. N.D.Ill., 44 F. Supp. 592 (1942) (indictment sustained); as well as the *Daulong* and *Marino* cases cited in text.

[6] In *Daulong*, the defendant was alleged to have said that he "had a notion to" kill and "felt like" killing the President. These words were held to be mere expressions of hope or desire that someone might kill the President, rather than "an expression of determination or intent to do the act itself." There was dictum to the effect that the statute required apparent but not actual intent to carry out the threat.

In *Marino*, the defendant was alleged to have posted a statement reading "There can be slain no sacrifice to God more acceptable than an unjust President." Here too the court found in the words no expression of apparent intent, hence no threat.

[7] A threat may endanger the President's life either by indicating that the person making the threat plans to attempt assassination, or by inciting others to the crime. If the former were the legislative concern, the statute would come dangerously close to punishment for thoughts alone. Where the latter is feared, the statute should be construed consistently with other laws making incitement to crime an offense.

The purpose of protecting the President's freedom of movement appears to subsume the purpose of protecting his safety. Any threat serious enough to warrant punishment for endangering life would presumably also serve to restrict officially mobility.

[8] *See* Notes 2 and 3, *supra*.

[9] For an account of the widespread judicial abdication of responsibility for civil liberties during World War I, *see generally* Z. CHAFEE, FREE SPEECH IN THE UNITED STATES 36–107 (2d ed. 1941), and for a criticism of wartime prosecutions under this statute, *see id.* at 184.

[10] The suggestion that threatening the President is "akin to treason" is historically accurate. According to English law, it had been treason to "compass or imagine" the death of the King at least since the statute of 25 Edw. 3 in 1352, and still was at the time the Constitution was framed. *See generally* 2 J. STEPHEN, HISTORY OF THE CRIMINAL LAW OF ENGLAND 241–297 (1883). For an account of two perhaps apocryphal extreme applications of this statute, *see* Note, 32 HARV.L. REV. 724 (1919). Chafee suggests that the careful definition of treason in the Constitution, Article III, Section 3, which excludes "imagining" or "compassing," invalidates by implication Section 871. Z. CHAFEE, *supra* Note 9, at 172.

[11] I have no doubt that clear and present danger is the proper test to apply to direct restrictions of protected speech. Though criticized by both balancers and absolutists, and occasionally weakened by the courts under the stress of extraordinary times and circumstances, Dennis v. United States, 341 U.S. 494, 71 S.Ct. 857, 95 L.Ed. 1137 (1951), the historic standard has survived. Wood v. Georgia, 370 U.S. 375, 82 S.Ct. 1364, 8 L.Ed. 2d 569 (1962); Edwards v. South Carolina, 372 U.S. 229, 237, 83 S.Ct. 680, 9 L.Ed. 2d 697 (1963); *cf.* Kingsley International Pictures Corp. v. Regents, 360 U.S. 684, 689, 79 S.Ct. 1362, 3 L.Ed. 2d 1512 (1959).

[12] In any event, there would appear to be no support for any claim of an inciting threat in this case.

[13] *And see* Dennis v. United States, *supra* Note 11, 341 U.S. at 507, 71 S.Ct. 857, for explicit recognition that the early Holmes and Brandeis dissents in First Amendment cases have become law.

[14] On the allocation of issues between judge and jury in First Amendment cases, *see* E. HUDON, FREEDOM OF SPEECH AND PRESS IN AMERICA 116–121 (1963); Richardson, *Freedom of Expression and the Function of Courts*, 65 HARV.L.REV. 1, 24–31 (1951).

[15] These three factors, of course, also go to the statutory question of whether defendant made a threat against the President in

the sense of an expression of *apparent* intent to harm him. *See* United States v. Marino, N.D.Ill., 148 F.Supp. 75 (1957); United States v. Daulong, W.D.La., 60 F.Supp. 235 (1945). As such they were doubtless considered by the jury. However, since in my view the clear and present danger test requires a *judicial* determination that an unambiguous threat has been made, the jury's apparent findings cannot have controlling weight here.

Mr. HRUSKA. Mr. President, I ask unanimous consent that the bill as reported by the Judiciary Committee and the Commerce Committee be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER (Mr. FANNIN). Without objection, it is so ordered.

Mr. HRUSKA. Mr. President, the Commerce Committee deleted three provisions of the bill as reported by the Judiciary Committee. Those three sections are to be found on pages 4 and 5 of the bill. They are contained in section 5(a) of the bill as reported by the Judiciary Committee. These sections, Mr. President, pertain to the amendment of section 902 of the Federal Aviation Act of 1958. Those deleted sections were incorporated into the bill, S. 2280, just approved. They are properly there and they were dealt with in much more extended fashion in the measure just approved by the Senate than they have been in the bill as reported by the Judiciary Committee.

The Judiciary Committee, I am authorized to say this for the chairman of the Subcommittee on Criminal Laws, approves of that change and commends, in fact, the Committee on Commerce for having acted as it did. It is for action on the balance of the bill that request is made now for decision by the Senate.

Earlier I made reference to a potential problem which some Senators see in sections 2(a) and 5 of the bill. It has to do with the constitutionality and the propriety of these two provisions of the bill, relating to imparting or conveying threats. As a result of conferences with the Senator from New York and the Senator from Kentucky, an amendment is proposed to clarify that language which I believe is agreeable to all concerned.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HRUSKA. I yield myself 3 more minutes.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 3 additional minutes.

Mr. HRUSKA. I call up the amendment at this time.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 3, line 1 following the word "determination" add the words "and will".

On page 5 line 18 following the word "determination" add the words "and will".

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. Mr. President, I yield myself three minutes.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. HRUSKA. Mr. President, a question arose with reference to the adequacy and the constitutionality of the language, which reads at page 3, line 1, and page 5 of the bill, line 18, "with an apparent determination to carry out the threat."

It was suggested that that was vulnerable language and that it should be modified. The Senator from New York and I have reached an agreement that the amendment will insert on line 1 of page 3 and on line 18 at page 5 after the word "determination" two additional words, "and will", so that phrase in the bill would read "that the threat would be imparted or conveyed. * * *" and so forth, "* * * with an apparent determination and will to carry the threat into execution."

Now, it is considered by this Senator that this clarifying language would be an improvement. It will be adequate and I am sure it will answer the original purpose and intent of the bill.

I reserve the remainder of my time on the amendment and yield to the Senator from New York for such comments as he would like to make.

Mr. JAVITS. Mr. President, we had originally thought that the word "determination" should be stricken and that the word "ability" should be included. After talking with the distinguished Senator from Nebraska (Mr. HRUSKA) we came to the conclusion that this might be too restrictive in terms of what we are seeking to reach in that sometimes a threat itself is blackmail and the word "ability" would carry it beyond the threat stage, so that the person would have to have the means to carry out the threat.

I feel, therefore, that with the addition of the words "and will" where the threat itself is considered, premeditated willful act, that it would be proper to make that the crime in view of the damage it can do—to make a person do something he would not otherwise do; where it is blackmail, an oppression in the sense of the criminal law.

For those reasons, although I do not consider it a perfect solution, I am willing to accept it as the best that can be done in view of the fact, as I said a while ago, that a threat itself, standing in and of itself, can be used as a criminal instrument.

Therefore, as I say, it is possible that the definition of the crime could be, under conceivable circumstances, the threat itself.

Mr. COOPER. Will the Senator yield?

Mr. JAVITS. I yield to the Senator from Kentucky.

Mr. COOPER. Mr. President, I recall when the bill was before us several days ago I raised the question of the constitutionality of these two sections. The Senator from New York (Mr. JAVITS), with his usual ability, proposed language which we hoped solved the problem.

I have read the letter which has been written to the Senator from Nebraska (Mr. HRUSKA) by the Assistant Attorney General at the Department of Justice.

I think the Senator from New York made a very correct statement when he said some threats can be considered a part of the crime, for instance a threat to extort, or blackmail is a part of the crime which induces the person against whom it is directed to do something. The threat to do these things which are felonies under these acts could be linked so substantially itself to the crime I do not think there would be difficulty. Does the Senator from New York agree?

Mr. JAVITS. Yes, I do agree.

Mr. COOPER. I believe we could have situations where the mere threat, as evil as it is and as wrong as it is, could be considered as just a first amendment statement, and not punishable. But I think the Senator from Nebraska and the Senator from New York have made their statements and I accept those statements.

Mr. HRUSKA. Mr. President, I am prepared to yield back the remainder of my time on the amendment.

Mr. JAVITS. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HRUSKA. Mr. President, I yield myself 3 minutes on the bill.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HRUSKA. Mr. President, the discussion we had 2 weeks ago, together with the discussion that has been made here, will be ample explanation for purposes of a vote on the merits of the bill and final passage at this time.

But before yielding back all of our time I wish to thank the Senator from New York (Mr. JAVITS) and the Senator from Kentucky (Mr. COOPER) for their interest in the matter and for their cooperation in working out what I believe is a satisfactory solution.

If the Senator from New York is prepared to yield back the remainder of his time, I am prepared to yield back my time.

Mr. JAVITS. I yield back the remainder of my time.

Mr. HRUSKA. I yield back the remainder of my time.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2567

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Aircraft Piracy Amendments of 1972".

SEC. 2. (a) Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 36. Imparting or conveying threats

"Whoever imparts or conveys or causes to be imparted or conveyed any threat to do an act which would be a felony prohibited by section 32 or 33 of this chapter or section 1992 of chapter 97 or section 2275 of chapter 111 of this title with an apparent determination and will to carry the threat into execution, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

(b) The analysis of chapter 2 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"36. Imparting or conveying threats.".

Sec. 3. Subsection (a) of section 1395 of title 28, United States Code, is amended by striking the period at the end of such subsection and adding the following: ", and in any proceeding to recover a civil penalty under section 35(a) of title 18 of the United States Code or section 901(c) of the Federal Aviation Act of 1958 (72 Stat. 731; 49 U.S.C. 1471(c)), all process against any defendant or witness, otherwise not authorized under the Federal Rules of Civil Procedure, may be served in any judicial district of the United States upon an ex parte order for good cause shown.".

Sec. 4. Section 901 of the Federal Aviation Act of 1958 (49 U.S.C. 1471) is amended by adding at the end thereof the following new subsection:

"FALSE INFORMATION

"(c) Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by subsection (i), (j), (k), or (l) of section 902 of this title, shall be subject to a civil penalty of not more than $1,000 which shall be recoverable in a civil action brought in the name of the United States."

Sec. 5. Section 902(m) of the Federal Aviation Act of 1958 (49 U.S.C. 1472) is amended as follows:

"FALSE INFORMATION AND THREATS

"(m)(1) Whoever wilfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a felony prohibited by subsection (i), (j), or (l)(2) of this section, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

"(2) Whoever imparts or conveys or causes to be imparted or conveyed any threat to do an act which would be a felony prohibited by subsections (i),(j), or (l)(2) of this section, with an apparent determination and will to carry the threat into execution, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

(c) The table of contents of the Federal Aviation Act of 1958, in the matter of title IX (72 Stat. 734; subchapter IX, chapter 20 of title 49, U.S.C. § 1472(m)) is amended by redesignating

"Sec. 902. (m) False information."

to read

"Sec. 902. (m) False information and threats.".

Sec. 6. Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. 1473) is amended by striking "Such" at the beginning of the second sentence of subsection (b)(1) of that section, and substituting therefor, "Except with respect to civil penalties under section 901(c) of this title, such".

Passed the Senate September 21, 1972.

Mr. HRUSKA. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONSUMER PROTECTION ORGANIZATION ACT OF 1972

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the unfinished business, which the clerk will state.

The bill was read by title as follows:

S. 3970, to establish a Council of Consumer Advisers in the executive office of the President, to establish an Independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and serve the interests of consumers, and for other purposes.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that during the debate and voting on this bill, the staff of the Subcommittee on Executive Reorganization and Government Research be granted the privileges of the floor, and that Michael Pertschuk and Lynn Sutcliffe of the Commerce Committee also be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent that during the consideration of S. 3970, Dennison Young, Jr., of my office, may be on the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I ask unanimous consent that Mr. Robert B. Smith, of the staff of the Committee on the judiciary, be allowed to be on the floor of the Senate at all times during the Senate's consideration of S. 3970, the Consumer Protection Organization Act of 1972.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. RIBICOFF. I yield.

Mr. PERCY. Mr. President, I ask unanimous consent that Mr. Stuart Statler, minority counsel of the Subcommittee on Executive Reorganization be permitted on the floor during the consideration of the bill, including votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. I ask unanimous consent that my legislative assistant, Miss Jody Reed, may have the privilege of the floor during the consideration of this bill and during the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, before making my opening statement I would like to take this opportunity to pay tribute to the distinguished Senator from Illinois (Mr. PERCY) and the distinguished Senator from New York (Mr. JAVITS) for their outstanding work on this bill. Their contributions and cooperation were extremely valuable to make this measure possible.

I also would like to take this opportunity to pay tribute to our distinguished chairman who has so ably and fairly exercised the chairmanship of the full committee during the latter part of the consideration on the measure. He extended to us all possible courtesy, understanding, and cooperation, although he was opposed to the bill and voted against the bill. As the chairman he held meeting after meeting; and when it was difficult to obtain a quorum he was the first to arrive and the last to leave. Many of the amendments which were adopted by the committee, which greatly improved this bill, were suggested by him, and this bill already bears many of his excellent ideas. I pay this tribute to my chairman for the cooperation he gave the entire committee in working its will on this bill.

I also pay tribute to the former chairman of the committee, the Senator from Arkansas (Mr. McCLELLAN) who from time to time has unjustly been criticized, supposedly for what he did or did not do on this bill. The Senator from Arkansas (Mr. McCLELLAN), as chairman of the committee, day after day came at 10 o'clock in the morning and stayed to the end to assure that there was full consideration of this measure when it was difficult to get a quorum. Chairman McCLELLAN, like Chairman ERVIN, was always there to do everything he could to expedite consideration of the bill. This generous attitude was characteristic of the outstanding leadership which the distinguished Senator from Arkansas gave to the Government Operations Committee for many years. For the permanent RECORD I specifically wish to thank our present distinguished chairman and our previous distinguished chairman for their fairness, their courtesy and their cooperation in making sure that the bill would have an opportunity to be brought before the full committee and the full Senate.

Mr. ERVIN. I thank the Senator. With the full acquiescence of the entire committee, at my request the Senator from Connecticut is acting as floor manager of the bill. He was one of the original authors. As he said, I am not in favor of the bill and it would be inappropriate for me to have any official connection with the bill on the floor.

Mr. RIBICOFF. I thank the chairman.

Mr. President the purpose of this bill is to strengthen the organization and improve the operation of Federal consumer protection activities. To achieve this, it establishes a Council of Consumer Advisers in the White House Executive Office and a Consumer Protection Agency in the executive branch. Together, they will provide what is now lacking in our consumer protection efforts—effective program coordination and policy development, a vigorous advocate to represent the consumer interest in the regulatory process and support for State and local consumer protection programs.

This bill is the product of more than 3 years' work by its sponsors and the Government Operations Committee. We have held 13 days of hearings on seven different proposals. We heard from many leading consumer, business, and Government spokesmen. Our total record covers 1,480 pages.

The committee has carefully considered the bill. After it was unanimously approved by the Subcommittee on Executive Reorganization and Government Research, the full committee closely scrutinized it in seven executive sessions lasting more than 16 hours. We adopted more than 50 substantive and technical amendments, then overwhelmingly approved it 11 to 2, with four additional proxies also in support. The final result is a measure which is refined and improved over the Consumer Protection Agency bill passed by the Senate 74 to 4 in December 1970.

TITLE I

Title I of the bill establishes a Council of Consumer Advisers in the Executive Office, composed of three members appointed by the President with the advice and consent of the Senate. The President will designate one member to serve as chairman.

One of the primary responsibilities of the Council will be to assist the President in preparing a yearly consumer report to Congress and the American people. The report, similar to the report of the Council of Economic Advisers and the Council on Environmental Quality, will review the effectiveness of Federal consumer protection programs, evaluate the coordination among Federal agencies engaged in consumer protection and recommend national priorities and resources for advancing the consumer interest.

Today no one knows how many consumer protection programs are conducted by the Federal Government, nor do we have a realistic assessment of their performance. We need a top-level executive branch organization to analyze our consumer protection efforts and determine whether the programs are meeting their goals. We also need to plan ahead, so that we will be ready to meet emerging consumer protection problems with the necessary programs and resources. The Council will perform these functions and thus provide the high-level leadership now lacking in Federal consumer protection activities.

TITLE II

Title II is the heart of the bill—it establishes the CPA as an independent, nonregulatory agency and defines its mission.

The CPA will be a unique agency in Government. It will have no substantive authority over any other agency or person. Its rights will be solely procedural. The purpose of the CPA is to fill a gap which has existed for decades in our regulatory process. Business interests have always been well represented, but there has never been adequate representation for the consumer interest. This will be the job of the CPA.

The Agency will be headed by a bipartisan three-member Commission, which will establish its policies and control its resources. The President will designate the chairman, who will also serve as Administrator of the Agency. The Administrator will be the chief operating officer and will carry out the day-to-day functions of the Agency.

The Commissioners will be appointed by the President with the advice and consent of the Senate from among persons who are especially qualified to represent the interests of consumers by reasons of their training, experience, and attainments. Commissioners will be eligible to serve no more than two 4-year terms, coterminous with that of the President.

The Agency's mandate covers the entire spectrum of the consumer interest. The bill lists 12 specific functions for the Administrator. The most important of these are:

First. Represent consumer interests before Federal agencies and courts;

Second. Receive and transmit consumer complaints;

Third. Conduct surveys and research concerning the interests of consumers;

Fourth. Disseminate information relating to consumer interests; and

Fifth. Make grants to States and localities, to assist their consumer protection programs.

CONSUMER REPRESENTATION

The primary responsibility of the Agency will be representation of the consumer interest before Federal agencies and courts. Section 203 sets forth the rights and duties of the Administrator when representing the consumer interest before other Federal agencies.

Whenever the Administrator determines that the result of any formal adjudicatory or rulemaking proceeding, conducted under the Administrative Procedure Act, may substantially affect the interests of consumers, he may as of right intervene or otherwise participate for the purpose of representing the interests of consumers. The Administrator must refrain from intervening as a party unless he determines it is necessary to represent adequately the interests of consumers. The purpose of this legislation is to emphasize that the Administrator is to avoid unnecessary involvement in the administrative process. Where submission of written briefs or other material is sufficient, he should do no more than that.

When intervening or participating in formal proceedings, the Administrator must comply with the Administrative Procedure Act and the statutes and rules of procedure of the host agency. This assures that the CPA will not disrupt the proceeding or the agency's decisionmaking process.

In informal agency activities, outside the formal procedures prescribed by the APA, such as the investigation of a case or the negotiation of a consent order, the Administrator may as of right participate whenever he determines that the result of the activity may substantially affect the interests of consumers. Under this section, the Administrator is entitled to present orally or in writing relevant information, briefs, and arguments to responsible agency officials, and to additional participation equal to that of any person outside the agency. This means that if representatives of General Motors have a meeting with the officials of the Highway Safety Bureau concerning the alleged defect in the Corvair heater, the Administrator has a right to present his views on the subject to Safety Bureau officials at another meeting.

Note that the section does not require that the Administrator be present at the General Motors meeting and have an opportunity to present his position at the same time it does. This is the meaning of the last sentence of section 203(b):

> Such participation need not be simultaneous, but should occur within a reasonable time.

What is required is that the CPA have a fair chance to represent the consumer interest.

In exercising his rights under this section the Administrator must proceed in an orderly manner and without causing undue delay. He should always recognize the interest of the host agency in the efficient use of its resources.

These sections, and those that follow, cannot be fully understood without reference to the definition of two important terms, "interests of consumers" and "agency activity."

Section 401(11) states that—

> Interests of consumers means the substantial concerns of consumers related to any business, trade, commercial or marketplace transaction.

Thus the CPA will not be much involved in environmental matters nor will it have a significant role in occupational health and safety cases. The CPA will not be a superagency, intruding into any subject remotely related to the consumer interest. The Agency will concentrate its efforts on the fundamental interests of people as consumers of goods and services.

Section 401(4) states that agency activity means "any agency process, or phase thereof, conducted pursuant to any authority or responsibility under law, whether such process is formal or informal, but does not mean any particular event within such process." This may appear to be a complex and difficult concept, but basically it is meant to cover everything an agency does in carrying out its statutory responsibilities, but not each individual act which it does. For example, in the FTC Geritol advertising case, which lasted more than 10 years, the CPA would not have a right to participate in every communication between the agency and the company during that time. But it would have a right to present its views during the decisionmaking process. Thus the definition strikes a balance between the interest of the CPA and the host agency—it grants the CPA access to the decisionmaking process, but allows the host agency to do its job without interference at each step in the process.

If the CPA is to intervene and participate effectively in proceedings and activities before departments and agencies it must have notice of the matters they are considering. Section 205 spells out a general framework for providing adequate notice to the Administrator of important consumer matters before Federal agencies.

Subsection (a) requires any agency considering any subject matter which may substantially affect the interests of consumers, to notify the Administrator, upon request, of any proceeding or activity at such time as public notice is given. Subsection (b) further provides that after specific request by the Administrator, any Federal agency considering a subject matter which may substantially affect the interests of consumers, shall give the Administrator a brief status report on what has been done concerning it and what is presently being considered. The term "specific request" should not be read narrowly to limit the Administrator's right to have adequate notice of important matters, but rather should be read broadly to allow him to obtain the information necessary to be an effective advocate. He should not be required, for example, to specify a specific adjudication in asking for information about a particular area. The requirement of a "specific request" would be satisfied, for example, by a request to provide information about regulation of a certain product, or definable class of products. The committee recognized, of course, that the more general the request for information by the Administrator, the more general would be the reply he would likely receive.

When intervening in a proceeding or participating in an activity, the Administrator may request the host agency to issue such subpenas or interrogatories as are appropriate under its statute and rules of procedure, and the agency shall do so, unless it determines that the Administrator's request is not relevant to the case, would be unnecessarily burdensome to the party, or would unduly interfere with the conduct of the proceeding or activity. Thus, the CPA has no independent authority to obtain information when involved in cases before other agencies. It must rely on the discovery powers of the other agencies and has no greater powers than they do.

The committee also struck a balance in defining the conditions in which the CPA could intervene or participate in State or local agency or court proceedings. Clearly, the health, safety and economic welfare of large numbers of consumers are affected by decisions of these governmental bodies; however, the smooth functioning of our Federal system requires that agencies at one level not disrupt the proceedings of those at other levels of government. For this reason the bill gives the Administrator discretion to intervene in civil proceedings which may substantially affect the interests of consumers when he is requested to do so in writing by the Governor of the State, the State consumer protection agency or other State or local agency or court conducting the proceeding.

In order to carry out its mandate to represent the interests of consumers, the CPA must be able to intervene and participate not only before the agencies, but before the courts as well. Accordingly, section 204 establishes the terms on which the CPA may obtain judicial review. Whenever a final agency action may substantially affect the interests of consumers, the Administrator may obtain judicial review of any case reviewable under law which involves the review or enforcement of a Federal agency action. The Administrator may intervene as of right as a party or otherwise participate in any civil proceeding whether or not he intervened or participated in the proceeding or activity out of which the action arose. However, where he did not intervene or participate in the case before the host agency, the Administrator must file a timely petition for rehearing or reconsideration if this is authorized by the agency statute or rules. The reasoning behind this provision is that while it is wise to conserve the CPA's resources, by allowing it to forego pro forma interventions in order to preserve its appellate rights, before seeking judicial review, the CPA should give the host agency an opportunity to hear its arguments. Moreover, where the Administrator did not intervene or participate before the host agency, he may not intervene if the court determines that his appeal of the case would be detrimental to the interests of justice.

Opponents of the bill have expressed fears that interagency litigation will lead to "guerrilla warfare" between agencies and foster a policy of "survival of the fittest." These fears are groundless. The administrative law section of the American Bar Association recently completed a study which found that—

> Interagency litigation over the validity of administrative action has been commonplace since the early days of the Federal administrative process.

The study went on to point out that multiplicity of governmental parties has not created any difficulties for the courts, which have welcomed the presentation of all sides in the complex and important matters frequently involved. In summing up, the study said:

> We therefore conclude (a) that no new problems, either doctrinal or practical, are presented by the proposal to give the Consumer Protection Agency the right to initiate or intervene in proceedings for judicial review of other agencies' actions, and (b) that the feasibility and desirability of interagency litigation should accordingly be recognized in this context as readily as elsewhere.

Mr. President, I ask unanimous consent that this study and the resolution of the House of Delegates of the American Bar Association endorsing CPA intervention in cases before Federal departments and agencies be printed in the RECORD at the conclusion of my remarks.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(See exhibit 1.)

CONSUMER COMPLAINTS

Mr. **RIBICOFF**. The complaint section, 206, received more attention from the committee than any other provision of the bill. As a result, it strikes a good balance between the public's right to know about products or services which may endanger their health and safety, or which may cause substantial economic injury to consumers, and the right of those complained against to answer and protect their reputation.

The bill provides that written and signed complaints alleging a violation of Federal law, or a trade practice detrimental to the interests of consumers, shall be referred to the appropriate authority for action. The Administrator will also forward a copy to the person complained against, unless such disclosure would impede an investigation into the alleged violation. The person complained against will be given a reasonable time for comment. Then the complaint, the comment, and any agency evaluation of it will be made available for public inspection where disclosure will serve to protect the health or safety of consumers or reveal substantial economic injury to them. The bill grants the Administrator authority to delete the name of the complainant, for good cause, or not publish the complaint, where publication would be detrimental to him.

INFORMATION GATHERING

The effectiveness of the Administrator's advocacy will be largely determined by the amount of information in his possession. Thus, it is important that he have adequate information gathering powers.

Section 207(b) authorizes the Administrator to submit interrogatories to persons engaged in a business which substantially affects interstate commerce, and whose activities he determines may substantially affect the interests of consumers. The interrogatories must concern the health or safety of consumers or seek to discover consumer frauds. The fraud need not involve a technical violation of law. It is sufficient if the Administrator is seeking information on deceptive or fraudulent practices which result in substantial economic injury to consumers.

In order to prevent unwarranted fishing expeditions by the Administrator, his interrogatories must meet three conditions: First, the information sought must substantially affect the health or safety of consumers or be necessary to discover consumer fraud; second, the interrogatory may not be unnecessarily or excessively burdensome to the person requested to provide the information, and third, the information must be relevant to the purpose for which it is sought. The court is given power to modify the Administrator's interrogatory and to apportion costs on a just basis. In answering the interrogatory, no person need disclose any information which would violate any relationship privileged according to law.

To prohibit the unjustified use of the interrogatory authority, the bill places three additional limitations on the Administrator. He may not exercise the power where the information is available as a matter of public record, can be obtained from another Federal agency, or is for use in connection with his intervention in any pending agency proceeding.

Thus, this section, like the others, balances the public and private interests involved to accommodate the legitimate interests of each. The CPA is granted substantial authority to obtain information from businesses, but the power is carefully restricted to assure fairness in its exercise.

It should be noted that the authority granted here is very narrow. The Administrator is not authorized to inspect or copy documents, books, papers, or records, nor may he issue a subpena to compel the attendance of any person at any proceeding. In fact, the CPA has less information-gathering authority than the FTC has had for nearly 60 years and less than that which was approved just 3 months ago for the Food, Drug, and Consumer Product Agency in S. 3419. See section 104(c)(6).

One of the primary sources of information for the CPA will be the records and documents of other agencies. As an equal Government agency, the CPA is granted access as of right to all the material in their files, with six specific exceptions: First, classified national security information; second, policy recommendations by agency personnel intended for internal use only; third, information concerning routine executive and administrative functions which are not otherwise a matter of public record; fourth, personnel, medical, and similar files containing private and personal material; fifth, information which one agency is expressly prohibited by law from disclosing to another agency, and sixth, income tax records. These exceptions are designed to protect the legitimate interests of other agencies in the privacy of certain sensitive classes of information.

INFORMATION DISCLOSURE

One of the premises of this bill is that well-informed consumers will be able to choose intelligently the products and services they buy and so better protect their own health, safety, and economic interests. Accordingly, section 208 authorizes the Administrator to disclose all information appropriate for carrying out the purposes of the legislation.

But here also the committee has created several necessary exceptions and restrictions in order to balance the public's right to know with the rights of other agencies and private firms to safeguard the confidentiality of certain kinds of information. Thus, the Administrator must not disclose:

First, information received from another agency which is exempt from disclosure under the Freedom of Information Act or any other law, and which the agency has specified shall not be disclosed; or where the agency has prescribed a particular form or manner of disclosure, only in compliance with the form or manner so prescribed;

Second, trade secrets or other confidential business information, except to protect the public health and safety, and in a manner designed to protect confidentiality, to Congress and courts and other agencies; and

Third, information which would violate any relationship privileged according to law.

The Administrator is directed to take all reasonable measures to assure that the information released is accurate and not misleading or incomplete, and to act promptly to correct any errors. Where the release of information is likely to cause substantial injury to a person, the Administrator is ordered to notify the person and provide an opportunity for comment and injunctive relief, unless immediate release is necessary to protect the public health or safety. Tight restrictions are imposed on the release of information which discloses brand names. Where applicable, the Administrator must make clear that not all competitive products have been tested, that products tested have not been rated over those untested, and he must not indicate in any manner that one product is a better buy than another.

IMPORTANT GENERAL PROVISIONS

Section 210 of the bill contains several important general provisions applicable to the entire bill. Subsection (b), for example, grants Federal agencies discretion to allow the Administrator additional participation in, or notice of, any proceeding or activity beyond what is authorized in sections 203 and 205, respectively.

Subsections (e)(1) (B) and (C) define the circumstances in which persons involved in agency proceedings and activities may obtain appellate court review of actions of the Administrator. The committee wanted to prevent wasteful, piecemeal litigation, but it also wanted to assure that persons adversely affected by the actions of the Administrator would be afforded the protection of review in a court of law. Accordingly, the committee authorized a party to any agency proceeding or activity in which the Administrator intervened or participated, to obtain judicial review, where it is otherwise accorded by law, of any final agency action on the ground that the Administrator's intervention or participation resulted in prejudicial error to such party. The committee also provided that any person substantially adversely affected by the Administrator's request for discovery or an interrogatory or his release of information may obtain judicial review of that action, unless a court determines that judicial review would be detrimental to the interests of justice. These provisions assure that the propriety of important actions taken by the Administrator may be tested in court.

As a final step to guarantee that no person is unfairly prejudiced by the Administrator's actions, he is required to issue regulations designed to assure fairness to all affected persons in carrying out his discovery, complaint, interrogatory, and information disclosure functions.

TITLE III

Consumer protection is not solely the responsibility of the Federal Government. States, local governments and private, nonprofit organizations have an important role to play. And may I add, in addition to my other commendations of the senior Senator from New York (Mr. JAVITS), that the idea of involving State and local governments is his. It did not come from the administration or from any other Member of Congress. But I, together with the other members of the committee, saw the value and the constructive nature of his suggestion, and therefore we incorporated into the overall proposal the States and local governments because we know and believe they have an important role to play. Many hazards to the health, safety, and economic welfare of consumers are local in nature and are best remedied at that level. Accordingly, the proper role for the Federal Government is to support and assist these units in carrying out their consumer protection activities.

This is the purpose of the grant program authorized in title III. It provides planning and program grants to States and local agencies for a wide variety of consumer protection programs. The grant formula has been designed to provide an equitable distribution of funds, so that all American consumers will benefit from the program.

As reported from the Subcommittee on Executive Reorganization and Government Research, section 303 provided for direct grants from the Administrator to private, nonprofit organizations. The committee amended the bill to provide that States may contract with such organizations for the performance of consumer protection activities. This will assure closer supervision of the wide variety of tasks they may undertake.

COST

The bill authorizes $15 million for the CPA in fiscal 1973, $20 million in fiscal 1974, and $25 million in fiscal 1975. These funds provide for a successful launching of the agency, but leave no room for wasted manpower or effort. They guarantee that the CPA will not become a superagency involved in the minutiae of every other Federal department and agency. It simply will not have the funds to do so. This authorization, if fully funded, will only put the CPA on a par with other independent agencies such as the FTC, FPC, and SEC after 3 years.

The bill provides no funds for the grant program during the first fiscal year of the Agency. The committee believes that the Administrator should devote his full time during this period to its organization and operation. Thereafter, the bill provides $20 million and $40 million, respectively, for the next 2 years.

CONCLUSION

During the past 6 years Congress has enacted many new consumer protection laws. We passed the Wholesome Meat and Poultry Acts, but the GAO continues to report unsanitary conditions at meat and poultry plants. We passed a Flammable Fabrics Act, but there are no effective standards for most children's clothing. And we passed a Motor Vehicle Safety Act, but millions of defective cars continue to roll off the assembly lines each year.

We passed so many consumer protection laws, it seemed every agency was responsible for protecting the consumer. But in reality none of them were, for each one had only a limited function to perform. Our consumer protection efforts lack a sharp organizational focus. There is no one to coordinate them and assure consistent policy development. Nor is there any agency specifically charged with representing the consumer interest, to assure that it is properly considered in the decisionmaking process.

S. 3970 will remedy those defects. The Council will pull together current programs so that they will be more effective and the CPA will advocate the consumer interest before the policymaking agencies of Government. In tandem, these two agencies will assure that our Government will meet the needs of consumers in the 1970's.

The bill has been precisely drafted by the committee. The many perfecting and clarifying amendments we adopted improved it. Weakening amendments were rejected. This is a strong bill, but it is fair and well balanced. It will not tip the scales of justice for the consumer or against business. It advances the consumer interest without harming legitimate private interests. It provides the CPA with the tools and resources needed to represent effectively the consumer interest. The Agency will fit smoothly into the Federal administrative process.

The Consumer Protection Agency is truly an idea whose time has come. We have debated it for a decade, and this year it was endorsed in the platforms of both major political parties. It is responsible, bipartisan legislation in the best sense. Senators JAVITS, PERCY, and I, with other members of the committee, have worked harmoniously for 3 years to produce this bill. It is one which all friends of the consumer can support.

This is historic legislation, for the Federal Government has never made a lasting commitment to the consumer. Now is our opportunity to elevate the consumer interest to the same level as business, labor and agricultural interests. The passage of this legislation will be the fulfillment of our Nation's promise to the American consumer that his rights to be heard, to be informed, to be safe and to choose will be assured by the Federal Government.

Mr. President, I yield the floor.

EXHIBIT 1

AMERICAN BAR ASSOCIATION SECTION OF ADMINISTRATIVE LAW

RECOMMENDATION

The Section of Administrative Law recommends the adoption of the following resolution:

Whereas, the House of Delegates has directed the Section of Administrative Law to preserve the gains made by adoption of the Administrative Procedure Act as the law of the land; and

Whereas, the purpose of the Administrative Procedure Act, as expressed in the title thereof, is "to improve the administration of justice by prescribing fair administrative procedure"; and

Whereas, fairness requires that the interests of consumers be adequately represented by administrative proceedings which may substantially affect such interests; and

Whereas, pursuant to the action of the House of Delegates at the 1972 Midyear Meeting, the Section has reconsidered its views in light of the suggestions advanced by the Solicitor General of the United States in the course of debate on the floor of the House of Delegates;

Now therefore, be it resolved:

That the Chairman of the Section is directed to cause the Congress of the United States and the appropriate Committees thereof to be notified:

(a) that the American Bar Association supports in principle the enactment of Title II of H.R. 10835, 92d. Cong., 1st Sess. ("The Consumer Protection Act of 1971"), as passed by the House of Representatives on October 14, 1971:

(b) that the ABA recommends the inclusion therein of a provision which would confirm and make explicit the authority of the new Consumer Protection Agency to institute judicial review proceedings under the Freedom of Information Act if another Federal agency invokes the exceptions in that Act so as to preclude public disclosure of information such other agency has supplied; and

(c) that the ABA opposes the inclusion therein of any provision which would, under any circumstances, make special findings by a reviewing court a prerequisite to the Consumer Protection Agency's institution of or intervention in judicial review proceedings.

REPORT

At the suggestion of the Solicitor General, we have carefully reconsidered the desirability of giving the Consumer Protection Agency any authority at all to seek judicial review of other agencies' action. We conclude that interagency litigation over the validity of administrative action has been commonplace since the early days of the administrative process; that no new problems, either doctrinal or practical, are presented by the proposal to give the Consumer Protection Agency the right to initiate or intervene in proceedings for judicial review of other agencies' actions; and that the feasibility and desirability of inter-agency litigation should accordingly be recognized in this statutory context as well. The legal analysis supporting our conclusion is spelled out in the attached Second Interim Report of the Consumer Protection Committee of the Administrative Law Section.

We have also considered the implications of the recent Supreme Court decision in *S & E Contractors, Inc.* v. *United States*, 40 U.S.L. Week, 4410 (April 24, 1972). In that case, the Wunderlich Act (40 U.S.C. Sec. 321–22) and the standard provisions of Government procurement contracts were held to preclude refusal by the General Accounting Office to approve payment on an award rendered in a contract dispute by the contracting Federal agency, and also to preclude relitigation by the Department of Justice when the contractor sues in the Court of Claims to recover on the award.

Not only did the decision apparently respond to the unique problems faced by contractors in dealing with the Government as customer, however, the Court made it perfectly clear that even these factors were considered merely as a guide in interpreting the particular statute involved and that Congress would have been perfectly free to promulgate a different rule. We therefore conclude that the reaons for allowing the Consumer Protection Agency to seek judicial review of other agencies' decisions, as expressed in the attached Committee Report, are in no way called into question by the *S & E* case.

The Section of Administrative Law endorses in principle Title II of the "Consumer Protection Act of 1971." We believe it will materially improve the administrative process by facilitating agency consideration of important interests—those of the consumer as defined elsewhere in the bill (Sec. 304(4)–(5)). We also applaud the bill's utilization of the scheme of the Administrative Procedure Act as the frame of reference for defining the role of the Consumer Protection Agency.

We recommend, however, that the bill explicitly provide for judicial review of administrative agency action in two situations not presently included in it.

First, we believe there should be no room for doubt that the judicial-review provisions of the Freedom of Information Act are available to the Consumer Protection Agency when another agency invokes one of that statute's exceptions, pursuant to Sec. 209 (a)(2) of the bill, so as to preclude public disclosure of information supplied by the other agency.

Private persons seeking the same information from the transmitting agency could obtain review of a decision to withhold it. In a dispute over applicability of a Freedom of Information Act exception, a Consumer Protection Agency assertion that disclosure should be allowed is at least as likely to be meritorious as the position of a private person seeking disclosure. Thus, review of the transmitting agency's contrary determination should be available to the Consumer Protection Agency just as it would be to the private person. Allowing such review is fully consistent with the limited reason for allowing a transmitting agency to forbid disclosure by the Consumer Protection Agency on Freedom of Information Act grounds, i.e., to prevent the Consumer Protection Agency from serving "either purposely or inadvertently as a conduit for information which would not otherwise be made available to the public" (H.R. 92–542, 92d Cong., 1st Sess. 26 (1971)).

Second, we believe that the Consumer Protection Agency should not be required to satisfy a reviewing court as to preliminary matters before being permitted to institute or intervene in a judicial review proceeding, whether or not the Agency was a party to the administrative proceeding below. The inclusion of such requirement in Sec. 204(d) of the bill, which requires findings of adverse effect and inadequate representation in cases where the Agency was not a party below, should be deleted.

The preliminary-findings requirement seems to thwart the purpose of the bill in granting the Agency *any* authority to seek review in such cases, i.e., to make it necessary for the Agency to file *pro forma* papers in administrative proceedings so as to secure its right to review in the event the final agency action is adverse to consumers. Avoiding the need to satisfy a reviewing court as to preliminary matters would be just such an undesirable incentive to *pro forma* participation or intervention.[1]

Under the bill as presently written, moreover, Sec. 204(d) reviewing-court findings would arguably be required on review of fine/penalty/forfeiture adjudications where the Agency has merely filed briefs or argued as *amicus* pursuant to Sec. 204(c). If the reviewing-court findings requirement has any significance at all, it would thus hamper Agency efforts to obtain judicial relief from administrative action in such cases where the interests of consumers have been adversely affected.

The preliminary reviewing-court findings required by Sec. 204(d), finally, relate to the "standing" of the Agency to seek judicial review. The trend in recent decisions has been to minimize the role of such barriers to review and to focus attention on the merits of the challenge to administrative action. As amended on the floor of the House, the new Act would allow the Agency to institute judicial review proceedings where it had not been a party below only "to the extent that a right of review is otherwise accorded by law" (CONGRESSIONAL RECORD, vol. 117, pt. 28, p. 36209), thus insuring that generally-applicable doctrines of ripeness and standing will govern. No more stringent criteria should apply merely because it is the Agency rather than a private person which seeks review.

Respectfully submitted,
MILTON M. CARROW,
Chairman.

SUMMARY

Inter-agency litigation over the validity of administrative action has been commonplace since the early days of the Federal administrative process. In some instances, such litigation has been expressly authorized by statute. Elsewhere, the right to seek judicial review of other agencies' action has been asserted as inherent in the challenging agency's authority to carry out its own statutory mandate.

The nominal posture of the challenging agency may vary. Sometimes the litigation has been between co-defendants in a judicial review proceeding brought by a private party. In other cases, the challenging agency has intervened as plaintiff or petitioner in a privately-initiated review proceeding. And in some instances, the review proceeding has been initiated by the challenging agency itself.

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[1] The provision in Sec. 204(d) requiring the Agency in some situations to move for reconsideration at the administrative level before seeking review does not; in our view, jeopardize its right to seek review when it was not a party below. It is our understanding that all agencies would be required to entertain such reconsideration motions notwithstanding that the Agency was not previously a party. Otherwise, we would oppose the reconsideration requirement on the ground stated in text above.

The interests asserted by the challenging agency have in some cases been proprietary, *i.e.*, involving the Government's financial interests. In other instances the challenging agency has sought to litigate pure policy differences, such as over the proper role of competition in a regulated industry. In neither type of dispute has the multiplicity of Governmental parties appeared to create any difficulties for the courts, which indeed have welcomed the presentation of all sides in the complex and important matters frequently involved.

The agency unable to secure the services of the Department of Justice in such a conflict has readily obtained legal representation from its own General Counsel. Several major agencies are expressly authorized by statute thus to defend their own actions independently of the Justice Department, in the Supreme Court as well as in the lower courts. Where no such statute obtains, the Solicitor General has simply authorized agency lawyers to conduct the litigation on behalf of their respective "clients".

We therefore conclude (a) that no new problems, either doctrinal or practical, are presented by the proposal to give the Consumer Protection Agency the right to initiate or intervene in proceedings for judicial review of other agencies' actions, and (b) that the feasibility and desirability of interagency litigation should accordingly be recognized in this context as readily as elsewhere.

DISCUSSION

1. Present Federal law provides a clear statutory precedent for allowing the Consumer Protection Agency to seek judicial review of other agencies' decisions. Section 201 of the Agricultural Adjustment Act of 1938 (52 Stat. 36, 7 U.S.C. § 1291) authorizes the Secretary of Agriculture not merely "to make complaint to the Interstate Commerce Commission with respect to rates, charges, tariffs, and practices relating to the transportation of farm products, and to prosecute the same before the Commission" (§ 201(a), 7 U.S.C. § 1291(a)), but also "to invoke and pursue original and appellate judicial proceedings involving the Commission's determination" (§ 201(b), 7 U.S.C. § 1291(b)). The provision was apparently intended as a vehicle for relieving farmers of exorbitant and discriminatory freight rates, which were thought by many members of Congress to be a significant cause of the economic depression then afflicting American agriculture (see generally the debates on the Act in 82 Cong. Rec.)

Section 201 may have been inspired by a provision in earlier legislation setting up what became the Bituminous Coal Consumers' Counsel (see 82 Cong. Rec. 1199 (remarks of Rep. Mapes)). The original Bituminous Coal Conservation Act of 1935 (49 Stat. 991) had authorized the National Bituminous Coal Commission to participate in administrative proceedings before the ICC relating to the transportation of coal, although unlike the Agricultural Adjustment Act the coal statute was silent as to subsequent judicial review (§ 18, 49 Stat. 1007). This right of participation before the ICC had been extended by the Bituminous Coal Act of 1937 (50 Stat. 72) to the Coal Commission's office of consumer's counsel (§ 16, 50 Stat. 90), which had been created by the 1935 legislation to represent the consuming public in proceedings before the Coal Commission.[1]

Pursuant to the judicial review authorization in Section 201(b), the Secretary of Agriculture has repeatedly attacked a wide variety of ICC orders viewed as contrary to the interests of farmers. Typical cases include *Benson* v. *United States*, 281 F. 2d 34 (D.C. Cir. 1960) (Secretary filed suit to review ICC order denying reparations to cotton shippers, and took appeal from adverse district court decision); *Sec'y of Agriculture* v. *United States*, 350 U.S. 162 (1956) (Secretary intervened as plaintiff in suit to review ICC order approving exoneration-from-liability provisions in rail tariffs, and took appeal from adverse district court decision); *Sec'y of Agriculture* v. *United States*, 347 U.S. 645 (1954) (Secretary intervened as plaintiff, "acting on behalf of the affected agricultural interests" (347 U.S. at 647), in suit to review ICC order approving railroad charges for unloading, and took appeal from adverse district court decision); *East Texas Motor Freight Lines, Inc.* v. *Frozen Food Express*, 351 U.S. 49 (1956) (Secretary intervened as plaintiff in suit to review ICC order enjoining uncertificated carriage of allegedly nonexempt agricultural products, and defended favorable decision on appeal); *ICC* v. *Inland Waterways Corp.*, 319 U.S. 671 (1943) (Secretary intervened as plaintiff in suit to review ICC order setting rail rates for grain and defended favorable district court decision on appeal); *McLean Trucking Co.* v. *United States*, 321 U.S. 67 (1944) (relying on § 201, Secretary intervened as plaintiff in suit to review ICC order approving motor carrier merger, and took appeal from adverse district court decision).

Each of the foregoing cases, like many others in which the Secretary challenged ICC action, involved not only the Secretary and the ICC as parties, but also the United States as the statutory defendant (28 U.S.C. § 2322), represented by the Department of Justice (28 U.S.C. § 2323), in suits to review ICC orders.[2] In some instances, the Justice Department sided with the Secretary against the ICC (*East Texas Motor, supra*; *Sec'y of Agriculture* v. *United States*, 350 U.S. 162, *supra*). In others, the Justice Department took no position (*Sec'y of Agriculture* v. *United States*, 347 U.S. 645, *supra*; *ICC* v. *Inland Waterways Corp., supra*). Where the Justice Department has declined to support the Secretary, the latter has usually been represented by the General Counsel of his own Department.[3]

Another statute authorizing judicial review of agency action at the instance of another government agency is the Bank Merger Act of 1966 (80 Stat. 7, 12 U.S.C. § 1828(c)), which authorizes antitrust suits against bank mergers approved by the Comptroller of the Currency, the Federal Reserve Board, or the Federal Deposit Insurance Corporation. Although such suits technically arise under the antitrust laws, the Supreme Court has indicated that they are in the nature of judicial review proceedings (*United States* v. *First City National Bank*, 386 U.S. 361, 366–67 (1967); indeed, under the terms of the statute. The function of the court in such suits is to "review de novo the issues presented" in the prior administrative proceedings (12 U.S.C. § 1828(c)(7)(A)), and the agency which granted approval is authorized to intervene as a defendant in support of its order (12 U.S.C. § 1828(c)(7)(D)).

Numerous proceedings have been initiated under this statute by the Justice Department in the name of the United States. In each instance the banking agency involved has vigorously opposed the Justice Department both at trial and on appeal to the Supreme Court. Examples include *United States* v. *First City National Bank, supra* (Justice Department filed suit and took appeal from adverse district court decision, which was defended by Comptroller of the Currency); *United States* v. *Phillipsburg National Bank & Trust Co.*, 399 U.S. 350 (1970) (same); *United States* v. *First National Bancorporation, Inc.*, 329 F. Supp. 1003 (D. Colo. 1971), *prob. juris. noted*, 40 U.S. L. Week 3398 (1972) (same).

2. While the Agricultural Adjustment Act was the first statute expressly to authorize the initiation of judicial review proceedings by one federal agency against another, litigation between agencies over the validity of orders entered by one of them has been authorized by statute ever since 1911 in a procedural context differing only in form. The Urgent Deficiencies Act (28 U.S.C. § 2321–25) provides, *inter alia*, that all actions to review orders of the ICC shall be brought "by or against the United States" (28 U.S.C. § 2322),[4] which shall be represented by the Justice Department (28 U.S.C. § 2323).[5] The ICC is authorized, however, to appear as a party in such a judicial review proceeding (ibid.), and to defend its order "unaffected by the action or nonaction of the Attorney General therein" (*ibid.*). Over the years similar provisions have been enacted to govern proceedings for review of certain orders entered by the Atomic Energy Commission, the Federal Communications Commission, the Federal Maritime Commission, the Maritime Administration, and the Secretary of Agriculture (28 U.S.C. §§ 2344, 2348).[6]

The Justice Department has consistently maintained that, in this as in all types of Government litigation, its duty differs from that of counsel for a private litigant in that if the Department is persuaded of the invalidity of the agency order in question its public responsibility requires it to so advise the court.[7] Such a course has frequently been taken at least since *Pennsylvania R. Co.* v. *ICC*, 235 U.S. 708 (1914) (Justice Department supported ICC below but took a neutral position in the Supreme Court) and *Assigned Car Cases*, 274 U.S. 564 (1927) (Justice Department opposed ICC throughout the litigation).

The result has been vigorous litigation between the Justice Department and the agencies subject to this procedure, on matters as varied as railroad mergers (*Baltimore & O.R. Co.* v. *United States*, 386 U.S. 372 (1967)); rate competition between railroads and coastwise water carriers (*ICC* v. *New York, N.H. & H.R. Co.*, 372 U.S. 744 (1963));[8] harmonization of the Administrative Procedure Act with procedural provisions of the Interstate Commerce Act (*Pan-Atlantic Corp.* v. *Atlantic Coast Line R. Co.*, 353 U.S. 436 (1957)); exclusive-dealing discounts in ocean freight rates *FMB* v. *Isbrandtsen Co.*, 356 U.S. 481 (1958)); applicability of the APA prohibition against *ex parte* contracts in certain FCC rule making proceedings (*Sangamon Valley Television Corp.* v. *United States*, 269 F.2d 221 (D.C. Cir. 1959)); and segregation in railroad dining cars (*Henderson* v. *United States*, 339 U.S. 816 (1950)). In virtually each instance[9] the agency has been represented by its General Counsel or a member of his staff, and the court has resolved the intra-Governmental dispute as readily as one between private parties.

The concept of litigation between agencies which nominally are codefendants has met with no disfavor in the courts. To the contrary, one court has expressly stated (*Consolidated Truck Service, Inc.* v. *United States*, 144 F. Supp. 814, 820 (D.N.J. 1956)) that:

"We can perceive no reason why a Department or a Cabinet Officer, charged with duties of decision by Congress may not express views in accordance with judgment and conscience. The writ of Mark, iii, 25 does not run in this case."[10]

Before Congress, the Justice Department has steadily urged the preservation of its right to litigate against other agencies in judicial review proceedings, despite agency allegations that the procedure is "embarrassing" or otherwise unseemly. As recently as 1970, Deputy Attorney General Kleindeinst wrote (*Hearings on Judicial Review of Decisions of the ICC Before the Subcommittee on Improvements in Judicial Machinery of the Senate Judiciary Committee*, 91st Cong., 2d Sess. 8–9):

"Still applicable is the following objection to legislation to remove the United States and the Attorney General from suits to set

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aside Commission orders expressed by the then Deputy Attorney General William P. Rogers in an April 11, 1955 letter to the Director of the Bureau of the Budget:

"'* * * The overall legislative plan now is and should be to create a check and balance between the Commission and the Attorney General in such fashion as to give double protection to the people of the United States.'"

The Justice Department's testimony in the cited hearings explicitly recognized the particularly important role of "double protection" when the representation of consumer interests is involved (*id.* at 12):

"Mr. Comegys (Deputy Ass't Att'y Gen., Antitrust Division). * * * Transportation affects the economy. It also affects the consumer. There is no independent consumer counsel within the Interstate Commerce Commission. Therefore, it is important that the United States bring an independent view to bear on the conduct of this litigation at all levels."

3. Even in the absence of explicit statutory authorization, numerous federal agencies (sometimes represented by the Justice Department and sometimes not) have sought judicial review of other agencies' decisions. Their right to do so has regularly been asserted by the Justice Department, and been confirmed by the Supreme Court.

The seminal case is *United States* v. *ICC*, 337 U.S. 426 (1949). The Department of the Army (represented by the Justice Department) had sought reparations from certain railroads, alleging discrimination vis-a-vis other shippers. The district court had dismissed the Army Department's appeal from an adverse ICC decision, on the ground that the United States (in whose name the proceeding was being conducted) was statutorily required to be named as defendant in the review action and that a suit by the United States against itself could not be maintained. The Supreme Court reversed, holding that "courts must look behind names that symbolize the parties to determine whether a justifiable case or controversy is presented" (337 U.S. at 430).

The inherent right of Government agencies to protect the proprietary interests of the United States by seeking judicial review of other agencies' decisions had previously been recognized in *United States* v. *Public Utilities Commission*, 151 F.2d 609 (D.C. Cir. 1945), where the Justice Department filed suit in the name of the United States to review an electric power rate order of the District of Columbia PUC. Subsequent instances include *United States* v. *ICC*, 352 U.S. 158 (1956) (controversy similar to that in *United States* v. *ICC*, 337 U.S. 426, *supra*); *Western Air Lines, Inc.* v. *CAB*, 347 U.S. 67 (1954), and *Delta Air Lines, Inc.* v. *Summerfield*, 347 U.S. 74 (1954) (Postmaster General, represented by Justice Department, petitioned for review of CAB orders setting mail pay rates); *Secretary of the Army* v. *FPC*, F.2d 496 (D.C. Cir. 1969) (Secretary, represented by Justice Department, petitioned for review of FPC order disclaiming regulatory jurisdiction over natural gas sales to military post); *American Trucking Associations, Inc.* v. *FCC*, 377 F.2d (D.C. Cir. 1966), *cert. denied*, 388 U.S. 943 (1967) (Administrator of General Services, acting in name of United States but represented by GSA lawyers, petitioned to review FCC order approving radio common carrier rates).[11]

4. In *Far East Conference* v. *United States*, 342 U.S. 570 (1952), the Supreme Court ruled that a Justice Department petition to review a Federal Maritime Board order on antitrust grounds would be justified by the position of the United States as a shipper of ocean freight. Even where no proprietary interests are involved, however, but only differences in policy, the Justice Department has relied upon the proprietary cases as establishing a right to seek judicial review.

Thus, when the Justice Department filed suit in the name of the United States to review on antitrust grounds the ICC order approving the Great Northern/Northern Pacific railroad merger, it asserted that "the government's right to maintain this action, even though it is in form of a suit by the United States against the United States, is clearly established by *United States v. Interstate Commerce Commission*, 337 U.S. 426, 430–32" (Brief for the United States, p. 85, *United States* v. *United States*, 296 F. Supp. 853 (D.D.C. 1968), *aff'd*, 396 U.S. 491 (1970)). Similarly, the Justice Department has cited *United States* v. *ICC* as well as confession-of-error cases as showing that intra-Governmental litigation on policy matters "in fact, of course * * * is far from unique" (Reply Brief for Appellant United States of America, p. 6, *Pacific Far East Line, Inc.* v. *FMB*, 275 F. 2d 184 (D.C. Cir.), *cert. denied*, 363 U.S. 827 (1960) (Justice Department, in the name of the United States, intervened as plaintiff in suit to review FMB order on antitrust grounds).

The principal rationale invoked by the Justice Department to justify challenges in court by one agency to the decisions of another has been, however, that "government agencies have standing to protect the interests committed to their jurisdiction by participating in administrative proceedings or challenging administrative action even without express statutory authority for those specific acts" (Mem. in Support of Motion for Stay, p. 31, *United States* v. *FCC*, No. 21147, D.C. Cir., *dismissed as moot*, Jan. 23, 1968) (Justice Department took appeal in name of United States from FCC order approving transfer of ABC's broadcast stations to ITT as part of ITT/ABC merger). In that case, as in its suit to review the ICC order approving the Great Northern/Northern Pacific railroad merger, the Justice Department relied upon "the authority of the Attorney General to protect the interests of the public in competition * * * as an independent basis for suit" (*ibid.*; Brief for the United States, p. 85, *United States* v. *United States*, 296 F. Supp. 853 (D.D.C. 1968), *aff'd*, 396 U.S. 491 (1970)).[12] Substantially the same argument had been advanced twenty-five years earlier, specifically as to a Consumers' Counsel, in *Associated Industries of N.Y. State, Inc.* v. *Ickes*, 134 F.2d 694 (2d Cir.), *vacated as moot*, 320 U.S. 707 (1943).

In *Associated Industries*, the Government urged that individual consumers of coal had no standing to seek review of an order of the Interior Department's Bituminous Coal Division (successor to the National Bituminous Coal Commission, see note 1 *supra*) setting minimum prices for coal. The argument was (a) that if the Coal Consumers' Counsel had standing to assert consumer interests on review, his standing must be exclusive so as to protect his authority to forego judicial review on behalf of consumers, and (b) that the Consumers' Counsel did have standing, even though the statute nowhere so provided, because "being designated by § 2(b) [of the Coal Act] to represent the Consumers' interest in 'any proceeding before the [Coal] Commission,' he is necessarily, by clear implication, * * * a 'person aggrieved', for purposes of court review within the meaning of [the Act's general judicial review provisions]" (134 F.2d at 708) (Frank, J.)[13]

The Second Circuit rejected the Government's claim of exclusivity, on the ground that "anyone possessing or representing a consumer's interest, is a 'person aggrieved', and accordingly, if he is a party to the Commission proceedings, entitled to seek court review" (*id.* at 709). There was no hint of disagreement with the Government's reliance on the same theory to show that, despite the lack of explicit statutory authorization for the Consumers' Counsel to pursue the interests of consumers beyond the administrative level, he was nevertheless empowered to seek judicial review.

The *Associated Industries* opinion was subsequently cited by its author in *Isbrandtsen Co.* v. *United States*, 96 F. Supp. 883 (S.D.N.Y. 1951) (3-judge court), *aff'd by an equally divided court*, 342 U.S. 950 (1952), as authority for the Secretary of Agriculture to intervene as plaintiff in a suit to review a Federal Maritime Board decision even though no statute explicitly so provided. In conjunction the court cited Section 203(j) of the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended, 7 U.S.C. § 1622 (j)), which authorizes the Secretary to assist in * * * obtaining equitable and reasonable transportation rates and services and adequate transportation facilities for agricultural products and farm supplies by making complaint or petition to the Interstate Commerce Commission, the Maritime Commission, the Civil Aeronautics Board, or other Federal or State transportation regulatory body * * *". Unlike the Agricultural Adjustment Act of 1938, however, the 1946 statute makes no provision for judicial review at the instance of the Secretary.

It is therefore clear, we think, that the inherent-power rationale for allowing one agency to seek judicial review of another's decisions was accepted by the court in *Isbrandtsen*. And Judge Frank's reference to his prior *Associated Industries* opinion is further evidence that the Second Circuit in the latter case had entertained a similar view.

In *United States ex. rel. Chapman* v. *FPC*, 345 U.S. 153 (1953), the Supreme Court explicitly upheld the right of the Secretary of the Interior to petiton for review of an FPC order granting a hydroelectric plant construction license even though no statute so provided. While declining to state its reasons, the Court indicated no disagreement with the inherent-power test which had been applied by the court below, *i.e.*, whether the challenging agency is "able to point to some special interest for which he is charged with responsibility that may be adversely affected by the decision attacked" (191 F.2d 796, 800 (4th Cir. 1951)).[14]

In numerous other instances, both before and after that decision, the Supreme Court has similarly entertained challenges to agency orders initiated in the lower courts by other agencies despite the lack of an express enabling statute. Examples include *Vision* v. *Washington Gas Light Co.*, 321 U.S. 489 (1944) (OPA filed suit to review D.C. Public Utilities Commission rate order); *ICC* v. *City of New Jersey City*, 322 U.S. 503 (1944) (OPA intervened as plaintiff in suit to review ICC rail passenger fare order); *North Carolina* v. *United States*, 325 U.S. 507 (1945) (same); *FMB v. Isbrandtsen Co.*, 356 U.S. 481 (1958) (Secretary of Agriculture intervened as petitioner in proceeding for review of FMB order); *Udall* v. *FPC*, 387 U.S. 428 (1967) (Secretary of Interior petitioned to review FPC order granting hydroelectric plant construction license).

5. A remaining issue, and one possibly troubling the Solicitor General, may be the extent to which the Consumer Protection Agency should be free to litigate outside the Justice Department's control. The issue has occasionally arisen as to proposed legislation affecting other agencies, with the Justice Department usually insisting that its role as lawyer for the Government should be exclusive. But Congress has frequently declared otherwise, as the foregoing text demonstrates.[15] Even where no statute explicitly so authorizes, moreover, a number of agencies (*e.g.*, the FCC, the FTC, the SEC) conduct their own court of appeals litigation through their own lawyers despite the

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general provisions of 28 U.S.C. §§ 516 and 518 reserving the conduct and supervision of litigation to the Justice Department. See *FTC* v. *Dean Foods Co.*, 384 U.S. 597 (1966), where the Supreme Court endorsed this practice as proper. And in the Supreme Court the Solicitor General has frequently authorized agencies to litigate through their own lawyers when he determines not to support them. For example, in addition to many of the cases cited herein, see *Purolator Prods., Inc.*, v. *FTC*, 389 U.S. 1045 (1968); *Standard Oil Co.* v. *FTC*, 340 U.S. 231 (1951).

CONCLUSION

Against this history of inter-agency judicial review litigation, it would be difficult to argue that fundamental principles are infringed by the proposed explicitly to authorize the Consumer Protection Agency to seek judicial review of other agencies' decisions. To the contrary, it is probable that the courts would recognize the standing of the Agency to seek review even in the absence of statutory provision therefor.

The Consumer Protection Agency proposal is in substance identical, moreover, to the existing provision for review of ICC orders at the instance of the Secretary of Agriculture. That procedure has apparently worked well to protect the interests of farmers for almost 35 years. We perceive no reason why the use of a similar procedure to protect the interests of consumers would not be equally workable.

Nor would any problem in fact arise in determining the proper role of the Justice Department in such interagency review litigation. As in the cases cited herein, an agency which the Justice Department is unwilling to support can readily be authorized to litigate through its own lawyers. This procedure has worked well in the past, and there is no reason to suppose it would not work here.

The desirability of this practice where agencies are in dispute was spelled out by a former Acting Solicitor General in *Stern, "Inconsistency" in Government Litigation*, 64 *Harv. L. Rev.* 759, 768–69 (1951). It was noted that—

"even where the ultimate authority over litigation policy rests in the Attorney General and Solicitor General, the most orderly course may not be the best course. Many of the administrative agencies are important policy-making bodies. Not even the President has authority to tell them how to decide particular cases. They are not subject to the supervisory authority of the Department of Justice. "In such cases, determination by the judiciary is often more satisfactory than an effort by the Department of Justice to force its own views on the disagreeing agency, by refusing to present the agency's position to the courts. The Attorney General has no authority to give binding legal advice to the independent agencies. Only the judiciary has authority to give the conclusive answer to the question in dispute."

We believe this view is sound. We believe it applies to the proposed Consumer Protection Agency as well as to the agencies before which the new Agency would appear, just as it was in fact applied to officers such as the Secretary of Agriculture, the Secretary of the Interior, or the Director of Economic Stabilization in the cases cited herein. As a recent study concluded (Note, *Government Litigation in the Supreme Court: The Roles of the Solicitor General*, 78 *Yale L. J.* 1442, 1466 (1969)):

"The fact that * * * policy disagreements involve intra-governmental conflict should not alter the appropriateness of the court's assuming the responsibility for resolution. * * *

"Where an issue has reached the court, the presentation of the conflict within the Executive, and certainly between the Executive and the regulatory commissions, may encourage more informed decisionmaking by the court."

FOOTNOTES

[1] In 1941 the Bituminous Coal Consumers' Counsel was established as an independent agency in Executive Branch to carry on the work of the former office of consumers' counsel in the Coal Commission (55 Stat. 134), which was then being performed by a Division in the Office of the Solicitor of the Interior Department pursuant to Executive Reorganization Plan No. II of 1939 (53 Stat. 1431). Participation in ICC proceedings was thus among the functions of the Coal Consumers' Counsel and his predecessors from 1935 until the expiration of the Bituminous Coal Act in 1943 (57 Stat. 84).

[2] The statute speaks of the Attorney General. In the Supreme Court, however, the United States is represented by the Solicitor General (28 C.F.R. § 0.20(a)). References hereafter to the Justice Department should therefore be read to include not merely the Attorney General and his subordinates but also the Solicitor General insofar as Supreme Court proceedings are involved.

[3] In *McLean Trucking, supra*, the Attorney General sided with the Secretary in the district court and formally took no position in the Supreme Court. Lawyers supplied by the Antitrust Division were among those representing the Secretary on appeal, although the complaint filed by the Secretary as plaintiff in the district court had been signed only by the Acting Solicitor of the Department of Agriculture.

[4] The reference to actions "by" the United States may have been intended to cover actions to *enforce* ICC orders, which are provided for in the same section as review actions (28 U.S.C. § 2321).

[5] See note 2 *supra*.

[6] The procedure has also been made applicable to judicial review of certain orders of the Secretary of the Interior (50 U.S.C. § 167h(b)).

[7] *E.g.*, Reply Brief for the United States, p. 1, *Maintenance of Way Employees* v. *United States*, 221 F. Supp. 19 (E.D. Mich.) *aff'd*, 375 U.S. 216 (1963).

[8] In this case the Attorney General took an appeal from a district court decision overturning an ICC order but reserved the right to part company with the Commission, and ultimately argued that the ICC order was erroneous.

[9] See note 3 *supra* as to the unusual situation in *McLean Trucking Co.* v. *United States*, 321 U.S. 67 (1944).

[10] The cited verse reads, "And if a house be divided against itself, that house cannot stand" (King James).

[11] The United States was also named a respondent in the review petition, as required by statute (see p. 8 *supra*).

[12] See also Brief for Appellant United States of America, pp. 12–13, *Pacific Far East Line, Inc.* v. *FMB, supra* ("* * * intervention [by the United States as a plaintiff in suit to review FMB order] was deemed necessary in order to permit the United States to protect its 'interest' in assuring that fullest consideration be given to these basic competitive factors").

[13] The Attorney General had previously given a formal opinion to the Secretary of the Interior that the question whether the Consumers' Counsel had standing to seek review "can be finally determined only by the courts" and that, if called upon to appear in a review proceeding initiated by the Consumers' Counsel, "it would be my purpose not to oppose the position of the Consumers' Counsel but only to collaborate in the full and free presentation of the issues to the court for its assistance in resolving any doubts that might be suggested concerning the right of the Consumers' Counsel to the relief sought" (Letter dated Feb. 3, 1938, from Att'y Gen. Cummings to the Secretary of the Interior, in *Hearings on Interior Department Appropriation Bill for 1939 Before the Subcommittee of the House Appropriations Committee*, 75th Cong., 3d Sess., Pt. I, at 78 (1938)).

[14] The same test was applied by the D.C. Circuit in holding that the Civil Aeronautics Administrator, the prosecutor in pilot license revocation proceedings before the Civil Aeronautics Board, could not seek judicial review of Board decisions favorable to the pilots (*Lee v. CAB*, 225 F.2d 950 (D.C. Cir. 1955) ("When one government agency has been found to have standing to seek review of another government agency's action, the two agencies have had different interests * * *. We have found no case in which agency action has been reviewed on the application of an official whose function is to prosecute claims in and for the same agency.")

[15] See also § 4(a) of the National Labor Relations Act, 49 Stat. 451, as amended, 29 U.S.C. § 154(a) ("Attorneys appointed under this section may, at the direction of the [National Labor Relations] Board, appear for and represent the Board in any case in court"); § 20(c) of the Natural Gas Act, 52 Stat. 832, 15 U.S.C. § 717s ("The [Federal Power] Commission may employ such attorneys as it finds necessary * * * to appear for or represent the Commission in any case in court"); § 213(c) of the Federal Power Act, 49 Stat. 861, 16 U.S.C. § 825m(c) (same).

Mr. JAVITS. Mr. President, I deeply appreciate the very fine presentation made by Senator RIBICOFF and the very gracious things he has said about me and Senator PERCY and other Senators.

It is a fact, however, that the first bill on this matter, in the last Congress, on which I had the privilege of cooperating with Senator RIBICOFF, was authored by him long before the tremendous surge of sentiment respecting the rights of consumers came up in the country.

Without in any way showing any ungraciousness about the very fine things he has said about me and my colleague who is the ranking minority member of the Committee on Government Operations, I think, in all fairness, that a real understanding should be had in the country of the role of initiative and leadership which has been played by Senator RIBICOFF, the chairman of the Subcommittee on Executive Reorganization, from which came this bill. In addition he has been instrumental in helping to carry it through successive committee stages and with the consideration of the enormous number of amendments.

Many amendments were included in the bill in order to meet disquiets expressed by various elements of the business community. As a lawyer, I would say that if they are not satisfied that the bill will not be used as an inquisitorial weapon against them now, they should be, because it is my conviction that the strict advocacy function which has now been delineated for the Consumer Protection Agency, further protected by Senator McCLELLAN's very fine and helpful intercession for a commission in the nature of a board of directors to determine top policy, bipartisan in nature—to which I will refer again later—makes this bill, in my judgment, as fair and balanced an instrument for advocacy of consumer interests as one could possibly ask.

I do not know of a bill in which an able lawyer could not see the many ways we have safeguarded the legitimate interest of business concerns. I do not see the remotest way in which it can be used as an instrument of oppression. It is perfectly the privilege of those who will argue that it can be to so argue. But I think that in this respect we have articulated almost every way in which one could fashion a bill to satisfy anyone who wishes reasonably to be satisfied on that particular issue.

As Senator RIBICOFF has said, this is a historic moment. It has been a long time coming. The bill fills a long standing and unmet need of the American people. I believe that it is quite characteristic of the times that the leadership has called it up notwithstanding that we are close to the end of the session and that the desire is to deal only with essential matters and matters in which it is not likely that there will be any undue delay.

It is a tribute to its importance and to its timeliness, in a historic, not a superficial sense, that it has been called up now.

S. 3970 represents an effort by Government to better organize itself so that the consumers interests—like those of business, agriculture, labor, and so forth—are given due consideration throughout the Government's regulatory network. It has as its primary objective the improvement of the Government's consumer protection structure. Too often—for one reason or the other—the agencies and departments of Government have failed to weigh in the decisionmaking processes the needs and concerns of the consumer or to insure the consumer's problems—vis-a-vis the problems of other private interests—have been given the attention they deserved.

One thing that needs to be placed in a proper frame of reference immediately is the fact that the Government in all its departments today is supposed to protect the consumer's interest, because the consumer is everybody and the Government is everybody's servant; hence, that is the primary objective of all government and it was properly raised when we were discussing this bill.

This bill is nothing but a way of reorganizing the Government's consumer "advocacy" function, so that at least in part it may be better channeled and staffed in one agency, instead of just ranging throughout the Government.

That is the real essence of this bill. It should be looked at properly as a method by which the Federal Government is organizing itself in order to better perform the consumer advocacy function.

It has not been done effectively and adequately up to now and the reason is that what is everybody's business is nobody's business.

Mr. President, what this bill does by providing certain structural changes, especially by the institutionalization of a "consumer advocate" within the Federal system, is to try to help the Government correct this serious lack of consumer representation. This bill establishes a Consumer Protection Agency—CPA—to advocate the consumer interests before all the other departments and agencies of government and in the Federal courts. It provides for grants to State and local governments and nonprofit private organizations to assist them with consumer protection programs; and it establishes a three-member Council of Consumer Advisers in the White House to help coordinate and reinforce the ongoing consumer efforts in the executive branch.

The bill itself has been under active consideration by both Houses of Congress for more than 3 years and each House has supported it at least once. A measure similar in design passed the Senate in the 91st Congress, December 1, 1970, overwhelmingly by a vote of 74–4. That measure died in the House at the tail end of the session on a tie vote, 7–7, in the Rules Committee. This Congress the House has passed companion legislation, 344–44. What we are doing now is presenting our version of the bill so that it can be reconciled when the ultimate product may be available for signature by the President.

After extensive and detailed consideration and careful refinement, the Senate Government Operations Committee, by a vote of 11–2 with four additional proxies in support, reported out S. 3970, modifying the original S. 1177 which Senators RIBICOFF, PERCY, and I have cosponsored. Indeed the committee met for more than 16 hours on the bill discussing virtually every section and adopting 57 amendments. These amendments perfect the bill in many ways and reflect the deliberateness with which the committee members considered it, and I personally would like to express my appreciation to Senators ERVIN, ALLEN, and others, who had problems with the bill, for their diligence, attention, and study to the various aspects of the bill. The total quantum was essential in finally turning out what I consider to be a highly finished product and the result of this committee action was a bill with broad based support.

We left the bill on the calendar for a time so that the Committee on Commerce might have an opportunity to look at it, so that the Senator from Washington (Mr. MAGNUSON) and the Senator from New Hampshire (Mr. COTTON), respectively the chairman and the ranking minority member, might have an opportunity to make a studied view of the bill and the parts of it which they felt reflected the work of their committee.

In 1970 before coming to the floor the Commerce Committee, which has primary jurisdiction over consumer matters, reviewed the bill and, with a number of amendments, recommended that it pass. Had it not been for the dispatch with which Senators MAGNUSON and COTTON as well as the others on the Commerce Committee considered this measure then and now and the sympathy they have for the needs of consumers it is hardly likely this bill would have come this far. The Senate should commend them for their efforts.

Mr. President, I ask unanimous consent to include at this point in my remarks a summary of the bill we, the sponsors, have prepared.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY AND EXPLANATION OF S. 3970 AS
MENT OPERATIONS ON SEPTEMBER 8, 1972
APPROVED BY THE COMMITTEE ON GOVERN-

This bill is the end product of more than three years of work by the Committee. It is a sharpened and refined version of the bill which passed the Senate in December, 1970, 74–4. The bill was favorably reported by the full Committee by a vote of 11–2 with four additional proxy votes all in support.

Title I establishes a three-member Council of Consumer Advisers patterned after the Council of Economic Advisers. It will prepare a yearly report on the status of the consumer interest, just as the CEA does on the economy.

In addition, it will be responsible for:

1. recommendation of program priorities;
2. assistance in program coordination;
3. development of new policies and legislation;
4. evaluation of current programs.

Title II establishes an independent, nonregulatory Consumer Protection Agency. The Agency will be headed by a three-member Commission appointed by the President with the advice and consent of the Senate for a term of four years, coterminous with the President. The Commission will be chaired by an Administrator who shall be the chief administrative and executive officer.

The principal functions of the Agency will be to:

1. Represent consumer interests before Federal agencies and courts;
2. Receive and transmit consumer complaints;
3. Conduct surveys and research concerning the interests of consumers;
4. Disseminate information relating to consumer interests;
5. Publish a Federal Consumer Register of information useful to consumers; and
6. Make grants to states, localities, and nonprofit private organizations to encourage and assist their consumer protection programs and activities.

The most important function of the Agency will be representation of the consumer interest before Federal agencies and courts (sections 203, 204). In *formal* adjudicatory or rulemaking proceedings under the Administrative Procedure Act, the CPA is authorized to intervene as a party, but shall refrain from doing so unless such intervention is necessary to adequately represent the interests of consumers. The purpose of this limitation is to emphasize that the Administrator must exercise discretion in his intervention and avoid unnecessary involvement in the administrative process. Where submission of written briefs and other material is sufficient, the Administrator should do no more than that.

In *informal* agency activities, such as notice and comment rulemaking or investigations, the Administrator is authorized to present oral and written arguments to agency officials and have an opportunity to participate equal to that of any person outside the agency. This means that if the lead tinsel manufacturers have a meeting with the Commissioner of FDA on the schedule for removing lead tinsel from the market, the Administrator is entitled to present his views on the subject to FDA officials. The section *does not* give him the right to be present at the tinsel manufacturers meeting and argue his case at the same time they do. To use an analogy from broadcasting, the concept is one of "fairness," not "equal time."

When intervening in an agency proceeding or participating in an agency activity, the Administrator may request the host agency to issue such subpoenas or interrogatories as are appropriate under its rules of practice and procedure, and the agency shall do so, unless it determines that the Administrator's request—is not relevant to the case, would be unnecessarily burdensome to the party, or would unduly interfere with the proceeding or activity. Thus, the CPA has no independent authority to obtain information when involved in cases before other agencies. It must rely on the discovery powers of the other agencies and has no greater powers than they have.

The Administrator is authorized to intervene in a state and local agency or court proceeding, except a criminal proceeding, where the Administrator determines that the result of such proceeding may substantially affect the interests of consumers and such intervention has been requested in writing by an appropriate state official or agency.

The Administrator is authorized to seek judicial review and intervene in any civil proceeding reviewable under law if he was a party to the proceeding below, or participated in the activity out of which the appeal arose. The Administrator may also seek review of cases in which he did *not* intervene or participate, unless the court determines that such intervention or participation in the judicial proceeding would be detrimental to the interests of justice. However, before taking the appeal, he must file a timely petition before the Federal agency for rehearing and reconsideration, if this is authorized by statute or agency rules. The purpose of this provision is to allow the CPA to forego pro forma interventions in order to preserve its appellate rights.

Section 205 provides for notice to the CPA of the proceedings and activities of other agencies which may substantially affect the interests of consumers. Basically, it grants the Administrator three rights:

1. To be notified at the same time public notice is given;

2. To request a brief status report on any case or investigation; and

3. To request other relevant information which would not be unreasonably burdensome to the agency.

The complaint section (206) has been simplified and pared down from the 1970 bill. It now provides that non-frivolous complaints alleging violations of law shall be referred to the appropriate authorities. Producers and sellers of goods are to be furnished copies of complaints unless such disclosure is likely to prejudice or impede an investigating or prosecuting action. Public disclosure to the extent required to protect consumer health or safety or reveal substantial economic injury to consumers is authorized. Prior to public disclosure, the producer or seller will be afforded an opportunity to review and comment on the complaint and that comment will be included with the complaint at the time it is made public. The evaluation of the complaint by any agency to which it was referred will also be included. The name of the complainant will be deleted where the Administrator finds good cause to do so.

To carry out his survey and research authority, section 207 grants the Administrator authority to submit written interrogatories to persons engaged in a trade, business or industry substantially affecting interstate commerce and whose activities are found to substantially affect the interests of consumers. Such interrogatories must be by general or specific order setting forth the consumer interest involved and the purposes for which the information is sought. The purpose of the interrogatories will be to promote and protect the health and safety of consumers and to discover instances of consumer fraud. In responding to the interrogatory, no one need disclose any information privileged according to law. The Administrator may not use the authority granted here where the information is publicly available, can be obtained from another Federal agency, or is for use in an agency proceeding or activity. Thus, when the Administrator is involved in cases before other agencies, he may only use the discovery authority granted under Section 203. Interrogatories must be relevant to the purpose for which they are sought and not unnecessarily burdensome.

Section 207 also provides for access by the CPA to information contained in the files of other agencies which does not involve national security, tax records, policy recommendations intended for internal use only and other similar private information.

Section 208 covers information disclosure. As a general rule, the Administrator is authorized to disclose, as much information as he deems appropriate in carrying out the purposes of the Act. However, he shall not disclose:

1. Information received from another agency which is exempt from disclosure under the Freedom of Information Act or any other law, and which the agency has specified shall not be disclosed, except in a form or manner prescribed by the host agency.

2. Trade secrets or other confidential business information, except to protect the public health and safety, and in a manner designed to protect confidentiality, to Congress and courts and other agencies; and

3. Information which would violate any relationship privileged according to law.

The Administrator is directed to take all reasonable measures to assure that the information released is accurate and not misleading or incomplete. Where the release of information is likely to cause substantial injury to a person, the Administrator is ordered to notify the person and provide an opportunity for comment and injunctive relief, unless immediate release is necessary to protect the public health or safety. Tight restrictions are imposed on the release of information which discloses product or service names.

Section 209 contains the standard administrative powers normally granted an agency.

Section 210 sets forth several general provisions applicable to the entire Act. It:

1. Confirms the Administrator's authority to communicate with Federal, State and local agencies in a lawful manner;

2. States that nothing in the Act should be construed to limit the discretion of any Federal agency to permit the Administrator to participate in any proceeding to a greater extent than he is entitled as of right and to provide him more notice or information than is required by this Act.

3. States that appearances by the CPA shall be in its own name;

4. States that the Administrator shall have full authority to direct the conduct of all litigation in which the CPA is involved; and

5. Provides for judicial review of the actions of the Administrator and of Federal agencies concerning the authority of the Administrator and of Federal agencies concerning the authority of the Administrator under Sections 203, 205, 206, 207 and 208.

Section 212 authorizes $15 million for fiscal year '73, $20 million for fiscal year '74, and $25 million for fiscal year '75. The section also provides that funds appropriated for the Agency cannot be withheld by OMB.

Title III authorizes $20 million and $40 million for planning and program grants to states, local governments, and private, nonprofit organizations in fiscal years '74 and '75. No grant funds are authorized for '73 because in the first year the CPA should concentrate on getting organized and beginning its operations.

Twenty percent of the funds are reserved for planning with the Federal share not to exceed 75 percent. The funds are to be distributed equitably, with no more than 15 percent of the funds allocated to a single state. The same distribution formula is applied to program grants with 50 percent of the funds reserved to the states for such grants. The Federal share is limited to 75 percent of the total amount except in special circumstances. Grants may be made for a broad variety of purposes relating to state and local consumer protection laws and educational activities.

No more than 15 percent of the total funds may be reserved for the states for contracting with private, nonprofit organizations. Ten percent of the program grant funds are specified for pilot and demonstration projects.

Title IV contains the definitions and other general provisions. The most important definition is the one of "agency activity." This is defined to mean, "any agency process, or any phase thereof, conducted pursuant to any authority or responsibility under law, whether such process is formal or informal, but does not mean any particular event within such process." Thus, it includes anything the agency does which may substantially affect the interests of consumers, but not any specific thing. The purpose of this distinction is to differentiate between an entire course of conduct and any single part of it. As explained above, in connection with Section 203, the CPA's rights of participation in agency activities extend to the course of conduct, not an individual event within it.

In Section 401(11) the interests of consumers are defined. The committee has defined this concept to include matters which might be of substantial concern to people in their roles as consumers. To qualify as substantial the consumer interest should be a significant aspect of any issue and reasonably related to it. A concern must be related to a business, trade, commercial, or marketplace transaction. This includes the overall process by which tangible or intangible goods and services are transferred for value.

Section 405 establishes basic rules of public participation for all Federal agencies. This is an important and useful step forward since many agencies do not now have such rules.

Section 407 exempts the CIA, FBI, NSA and the security and intelligence functions of the Department of Defense or the Office of Emergency Preparedness.

Mr. JAVITS. Mr. President, this sketch may be helpful to our colleagues and, together with the report, should make clear the meaning and interpretation of the various sections in the bill.

CONSUMER PROTECTION AGENCY

As I said a minute ago, the core of the bill is the Consumer Protection Agency. Its most important function is to "advocate" the interest of consumers before other agencies and departments of Government.

The Senator from Connecticut (Mr. RIBICOFF) has already noted that the idea of a Consumer Protection Agency is supported in both the Republican and Democratic Party platforms.

Unfortunately the basic design and mission of this Agency too often has been misunderstood. What must be made clear from the outset is that this Agency is an advocacy agency. It will have absolutely no regulatory nor enforcement authority. To highlight this fact, that the CPA will not be able to veto, override, or overrule the decisions of the various agencies of Government, the bill specifically provides in the declaration of purpose—(section 3 (3)):

> . . . the authority of the Consumer Protection Agency to carry out this purpose does not supersede, supplant or replace the juris-

diction of any other Federal agency over any subject matter, nor deprive any agency of any responsibility to exercise its statutory authority according to law;

The CPA is an advocacy agency. It is not a "superagency" of Goverment. As to its advocating role before other agencies, it has procedural rights, and that is all. I greatly appreciate that many in the business community and some among the Federal agencies fear that the CPA in its advocate's role would disrupt the orderly processes of Government and unduly interfere with legitimate relationships businesses have with these agencies.

I respectfully submit that the design of the bill, as well as its intent, does not admit of that fear. We have designed it so that there is no reason for the fears. They may be entertained, but there is no reasonable basis for them.

CPA'S ADVOCACY RIGHTS

The Administrator, as an advocate, will have the right to appear as a party in the formal proceedings of the agencies, which may substantially affect the interests of consumers—section 203(a)—and to participate in the informal activities roughly to the same extent as outside parties—203(b). It will also have the right to appeal cases in certain instances—section 204. But these rights are not unrestricted. There are many limitations incorporated in the bill to insure that the exercise of these rights does not unduly disrupt the agency processes.

To intervene, the Administrator must first determine that the proceeding may substantially affect the interests of consumers and if he intervenes he must do so in a timely way and in compliance with the statutes and rules of procedure governing the conduct of the proceeding. Furthermore, the legislation mandates that the Administrator refrain from entering as a party, unless he determines that party intervention is necessary to represent adequately the interests of consumers. Where the presentation of arguments of the submission of written briefs or other material is sufficient, he is to limit his involvement accordingly.

In the less formal activities of agencies, after making the determination that the activity may substantially affect the interests of consumers, the Administrator may participate, but only in a manner roughly equivalent to the way in which outside persons participate in those activities and only in "an orderly manner and without undue delay." Language of the bill will not allow the CPA to force its way into every meeting between the host agency and outside persons nor to be involved in every telephone call made to the decisionmaking agency. Should the FAA wish to meet privately with the airlines concerning safety regulations, for example, it could do so without the CPA being there. The CPA in such a case could inquire as to what transpired and could present any material to the FAA it thought relevant to the issue of aircraft safety and might even ask for a meeting of its own, but if the FAA wanted the CPA excluded from the meeting with the airline then generally speaking the CPA would have no right to be there.

The bill grants the CPA the right to request the host agency to use the agency's discovery powers on the CPA's behalf. But if the request is not relevant to the matter at issue, or it is unnecessarily burdensome to the person from whom the information is sought, or it would unduly interfere with the conduct of the agency's proceeding or activity, then the agency could deny the CPA's request.

As integral to the advocacy role the CPA Administrator is authorized to bring appeals of those cases in which he did intervene or participate or, unless the court determines that such action would be detrimental to the interests of justice, in which he could have intervened or participated—but again this authority is limited by the language of the legislation and by existing law relating to appeals. Like all outside persons who may wish to appeal an agency decision, the CPA would have to do so "in a manner prescribed by law". The decision from which the appeal is taken would have to be one presently "reviewable under law." And before taking such appeal the Administrator would have to "file a timely petition" within the decisionmaking agency for a rehearing or reconsideration of the decision if such a petition is authorized by law. The requirements necessary to overturn Federal agency actions are generally stringent. These standards would likewise apply to the CPA such that the CPA will have no advantage over another person affected by the agency decision in pressing his point of view.

In short, Mr. President, without going into too much detail in the bill, there are tremendous safeguards with respect to the advocacy authority and the appeal-taking authority of the agency.

In addition we have provided in section 210(e)(1)(B) that a party or participant to any agency proceeding or activity in which the Administrator intervened or participated may obtain judicial review, where it is otherwise accorded by law, of the final agency action if the Administrator's intervention or participation resulted in prejudicial error based on the record viewed as a whole.

This is a very important protection to the individual who deals with the new Government agency in a case in which the consumer protection agency takes part.

What these limited rights to advocate do is offer the consumer a voice in his Government decisions which affect him. It will help fill a void in the decisionmaking process—that is, to have a consumer point of view presented before a decision is made.

Mr. President, I believe that we have striven, and have striven successfully, to make this an advocacy agency, not to give it plenary power, not to give it oppressive power, not to give it power that could be used oppressively, even though they are not oppressive in themselves, but to give integrity to each other Federal agency with which the Consumer Protection Agency may deal so that it will have an ability to run its own show without the Consumer Protection Agency being able to break in and inhospitably ask what is going on.

Safeguards such as those I have mentioned concerning the advocacy role of the CPA run throughout the bill and relate to each of the CPA's other functions. Limitations have been applied, for example, to the CPA's information-gathering authority, to its disclosure authority and to the way in which it will handle complaints. I ask unanimous consent to insert in the RECORD at this point of my remarks a list of the major safeguards we have included in this bill.

There being no objection, the list of major safeguards was ordered to be printed in the RECORD, as follows:

MAJOR SAFEGUARDS IN S. 3970 AGAINST UNDUE INTERFERENCE BY THE CONSUMER PROTECTION AGENCY WITH RESPONSIBLE BUSINESS PRACTICES AND THE ORDERLY PROCESSES OF GOVERNMENT

1. The CPA will have no regulatory authority. It will not be able to overrule, veto or impair any Federal agency's final determinations. The participation rights granted to the CPA are procedural only, not substantive, such that no authority granted to the CPA shall be construed as superseding, supplanting, or replacing the jurisdiction of any agency over any subject matter, nor deprive any agency of its responsibility to exercise its authority under law. (Section 3(3), Declaration of Purpose)

2. Limitation on CPA interventions: Authority to intervene as of right as a party is granted to the CPA in formal agency proceedings, but the Administrator must exercise discretion and avoid unnecessary involvement. He is to refrain from intervening as a party unless he determines that such extent of involvement is necessary to represent adequately the interests of consumers. Where submission of written briefs or other material is sufficient, or presentation of oral argument is sufficient, he is to exercise self-restraint and limit his involvement accordingly. (Section 203(a))

3. Protection against disruption and delay of agency proceedings and activities: Upon intervening, or participating in formal agency proceedings, the Administrator must comply with the host agency's statutes and rules of procedure governing the timing of his participation and the conduct of such proceeding (Section 203(a)). In participating in an informal agency activity, the Administrator must do so in an orderly manner and without undue delay. (Section 203(b))

4. Protection against CPA intrusion in the private meetings and discussions between a Federal agency and a particular business firm: While the CPA may present orally or in writing relevant information and arguments (Section 203(b)(1)), it is not granted the right or authority to be present at any particular meeting or discussion, nor to monitor any phone conversations, between an agency and a company. Instead, it needs only have an opportunity *equal* to that of the company to present its views. CPA's participation, therefore, need not be simultaneous (and generally will not be) but need only occur within a reasonable time of any prior involvement by such company or at a time when it might reasonably have an input into a contemplated agency action. (Section 203(b)(2))

5. Protection against misuse of a host agency's compulsory process: Where the CPA seeks to use an agency's subpena authority for discovery purposes, the host agency retains discretion and control over such use. CPA's request must be: (i) relevant to the matter at issue: (ii) not unnecessarily burdensome to the person from whom the information is sought; and (iii) not such as would unduly interfere with the conduct of the host agency proceeding—all to

be determined by the host agency, not the CPA. (Section 203(e))

6. Protection against unfair advantage to CPA in requiring information from businesses: The compulsory information gathering authority of the CPA (Section 207(b)) may not be exercised to obtain information which: (i) is available as a matter of public record; (ii) can be obtained from another Federal agency; or (iii) is for use in connection with his intervention in any pending agency proceeding. (Section 207(b)(2)). The Administrator's request under Section 207 must relate to consumer health or safety or consumer frauds and be specific as to the purpose for which the information is intended. Moreover, the request must be relevant to that purpose and not unnecessarily burdensome to the person from whom the information is sought. The scope of the Section has been limited so as not to require the production of records, books, or documents, the appearance of witnesses, or the disclosure of information which would violate any relationship privileged according to law. (Section 207(b)(1))

7. Protection against arbitrary, capricious or vindictive intervention by CPA: The determination by the CPA that a consumer interest may be substantially affected by the result of an agency proceeding will be subject to ultimate judicial review if there was prejudicial error involved. (Section 210(e)(1)(B)). The Administrator is required explicitly and concisely to set forth in a public statement the interests of consumers he is representing in a particular agency or court proceeding. (Section 402(b))

8. Protection against unwarranted allegations in complaints from consumers against business, its products or services: Upon receipt of consumer complaints, CPA will as a matter of course promptly notify the company named, furnish it a copy of the complaint, and afford it a reasonable time in which to respond to the charge. Both the complaint and the company's response will be placed in the public file simultaneously, together with any comments or report from any Federal agency to which the complaint was referred for action. Frivolous, malicious and unsigned complaints will not be placed in the public file. (Sections 206(b) and (c)).

9. Protection against access by CPA to all classified information and restricted data under the Atomic Energy Act. Section 207(c)(1).

10. Protection against CPA access to internal policy recommendations: The CPA will have access to factual material developed by agencies but will have no right to have access to opinions expressed by agency personnel which are not in the nature of factual data. Section 207(c)(2).

11. Protection against CPA access to information concerning routine executive and administrative functions: Most internal agency documents dealing with the management of the agency need not be accessible to the CPA. This will protect the legitimate interests of federal agencies in managing their own affairs without interference. Section 207(c)(3).

12. Protection against CPA access to personnel and medical files and other files access to which would constitute an unwarranted invasion of personnel privacy: The CPA will not have a right to have access to these files, which should properly remain private in order to preserve important interests of confidentiality. Section 207(c)(4).

13. Protection against CPA access to information which any agency is expressly prohibited by law from disclosing to another federal agency: Where a statute of judicial decision has declared that an agency may not disclose information to another agency, this policy applies to the CPA, and denies the CPA the right to access to such information. Section 207(c)(5).

14. Protection against CPA access to income tax records: There is no authorization in this act to any federal agency to disclose the amount or source or income, profits, losses, expenditures, or any particular thereof, from any income return, or to permit CPA access to any such return. This will insure that records which are now treated as confidential by the IRS with respect to access by other federal agencies will be treated in the same manner with respect to the CPA. Section 207(d).

15. Protection against disclosure of confidential information relating to business practices in the files of another agency: The CPA has access to, and can copy agency files but cannot disclose to the public any information which the host agency has exempted from disclosure or is otherwise exempted by law. (Section 208(b))

16. Protection for business trade secrets that come into CPA's possession: Trade secrets and other confidential business information may not be disclosed under criminal penalty of law, except if necessary to protect public health and safety, or to courts, committees of Congress, and other concerned Federal agencies in a manner designed to preserve confidentiality. (Section 208(c))

17. Protections against disclosure to the public of false or misleading information regarding a business: CPA disclosures may not be inaccurate, misleading or incomplete. Otherwise, CPA will be required promptly to issue a retraction, to take other appropriate measures to correct any error, or to release significant additional information affecting the accuracy of information previously released. (Section 208(d))

18. Protection against "surprise" disclosures to the public information likely to injure the reputation or good will of a business: CPA is required, as a matter of course, to give prior notice to such company and afford an opportunity to comment, unless public health and safety would be imperiled by such action. (Section 208(d)). Injunctive relief to a company which might be damaged is provided for.

19. Protections against unfair comparisons of the products or services of a business: In disclosing information, CPA: (i) must make clear that all products of a competitive nature have not been compared, if such is the case; (ii) must make clear that there is no intent or purpose to rate products compared over those not compared, nor to imply that those compared are superior or preferable in quality to those not compared; and (iii) must not subjectively indicate that one product is a better buy than another. (Section 208(e))

20. Clarification that substantive criteria applicable to agency decisions remain unaffected: Reference in the predecessor bill, S. 1177, to giving "due consideration" to the interests of consumers in agency decision-making might have been construed—and was by some—as meaning that added weight was to be given to the consumer interest in regulatory and other decisions involving, e.g., the grant or denial of a license, route, or rate increase. We did not intend to change the substantive standards now applicable and have therefore taken out the reference to "due consideration" requiring only a concise statement as to how, if at all, the consumer interest was taken into account in reaching a decision. (Section 402(a))

FINAL OBSERVATION

The structure and operation of a Consumer Protection Agency need not be hostile to business interests. There are numerous situations where the CPA would, in presenting the case for consumers, find itself advancing or defending a business practice. For example, antitrust law today often frustrates industry self-regulation even where health or safety considerations may be at stake. The television industry, alerted to a potential fire hazard in color TVs two years ago, responsibly assembled in Chicago to upgrade flammability standards only at the risk of possible antitrust suit by the Justice Department. Not untypical, the power lawnmower industry for years has been leery of using collective means to devise an alternative to the rotary blade, which each year is responsible for more than 140,000 injuries, some resulting in death, blinding, or severe disfigurement. The CPA might also help to expedite agency action, as for example in the case of a new drug application before the FDA, where more timely response could promote health or save lives. In these circumstances, the consumer interest in maximizing safety would clearly outweigh the consumer interest in seeing that the antitrust laws are enforced to the letter. Thus, the CPA would expectably intervene on behalf of the legitimate business interest which, in not a few cases, coincides with the legitimate consumer interest.

Mr. JAVITS. Mr. President, this bill is balanced and is responsible legislation. It will offer the consumer a strong voice in his Government's activities, but will not unduly interfere with the legitimate operations of responsible business nor with the orderly processes of government.

POINTS TO BE STRESSED

Mr. President, I have a few basic points that need to be made.

OBLIGATION OF OTHER AGENCIES

First, it cannot be repeated often enough that this agency has no regulatory nor enforcement authority; that the decisionmaking authorities and powers now vested in the other agencies will remain there. What must be drummed home is that the agencies and departments empowered to make the decisions and to take action must continue to do what they think is right. The only obligation they will have with respect to the advocacy rights of the CPA is to let the CPA have the opportunity to present its evidence and arguments, listen to what it has to say and give its views appropriate consideration. If the host agency disagrees with a position taken by the CPA, it must not be afraid, based on the whole record before it, to come to the conclusion it thinks just. The CPA will plead its case; the host agency must make the decision. If the basis for the decision is sound, it will be sustained and respected. The obligation is on the host agency to make its decision on the merits and in no way to feel intimidated by what may be no more than a fashionable idea marked by a sympathetic press.

My own view is that it would be helpful to the various agencies to have the specialized Consumer Protection Agency in the picture. It will help them with the public and the press, which is not so likely to be so quick to jump on an agency for failure to give consideration to consumer viewpoint. I think it is a tremendously important way of organizing the Federal Government.

PRUDENCE OF THE CPA

Second, Mr. President, we have made it very clear that if this Consumer Protection Agency is going to survive, it will have to watch its step. It must be judicious in the positions it takes and in the manner in which it presents them.

For this agency to operate successfully, it must have the confidence of the other agencies and of the business community; both must know that the CPA will act with discretion and prudence and will not be reckless. The restrictions we have imposed on the CPA help set the proper tone. The CPA will have no free-for-all at a host agency's or a company's expense. In large measure we will have to depend on those who are appointed to run the CPA to follow our outline. To best serve the consumer interest they will need the cooperation and trust of their colleagues in the other agencies and in large measure of business. The Administrator must achieve this reputation of respect and even-handedness while at the same time never compromising his advocacy role. He must not be afraid to present an honestly held opinion and fight for it to the fullest; but if a decision goes against him he must respect the honestly held views of others.

ROLE OF COMMISSION AND ADMINISTRATOR

Third, one of the most important protections in the bill, in my judgment—and the Senator from Arkansas (Mr. McClellan) is responsible for having this in the bill—is that the Agency has as its board of directors a bipartisan three-member commission. The chairman of the commission is the Administrator of the Agency.

The report appropriately analogizes this setup to that of a corporation. The commission is vested with the authorities and powers of the Agency, but the Administrator is charged with the full responsibility of carrying on the functions and day-to-day operations. The board of directors of a corporation is vested with the authorities and powers of the corporation, but it is the chief executive officer who carries out the policies laid down by the Board. The Administrator will, as does a chief executive officer, have broad discretion to carry out the responsibilities he will have, but only within the frame of reference of and under the directives given him by the commission. Ultimate responsibility vests with the commission as it does with a board of directors. Throughout the bill, the Administrator is charged with taking certain actions and making certain determinations. Naturally these actions and determinations would follow guidelines put forth by the commission, but the actions and determinations themselves would be made by the Administrator. It would be unwise for the commission to intrude in the daily operation of the Agency, for only chaos and confusion would result, both in the Agency and outside among its sister agencies and in the business community.

Mr. President, I think this is the single most effective safeguard which has now been latched onto the bill.

COMPETING CONSUMER INTERESTS

Fourth, the CPA is not the sole repository of knowing what is best for the consumer. It is not to be thought of by the people of the United States or the other agencies as the one and only consumer voice. This Agency is an advocate; it is charged with presenting and fighting for consumer positions before other agencies. Though it may present to a host agency a variety of consumer concerns upon which a particular agency decision may impact it is expected that it will advocate one interest over another. It, therefore, must be recognized—especially by the host agencies—that there may be competing consumer interests and that often many of them may never be presented.

The host agency is under an obligation to make decision in the public interest. Unlike the CPA it must weigh the impact of its decision on all segments of the society. It, therefore, is of paramount importance in my opinion that decisionmaking agencies be ever vigilant of all consumer interests. They must keep their doors open to other consumer groups, who must be encouraged to present their own views, and even to solicit their opinions. Sometimes the CPA's positions may coincide with those of private consumer groups, or with businesses or political representatives, but frequently they will not. The host agency should make it easy—by adopting new procedural regulation if necessary or instituting internal watchdogs for such purposes—for these other consumer voices to be heard.

AMICUS CURIAE

Fifth, to give this new agency any less authority to intervene and participate before the other agencies than the bill now provides—that is, to provide "amicus" standing only—would be like giving someone a new car on the condition he is not allowed to buy gas—the car just will not go.

The primary responsibility of the CPA is to represent the consumer interests before other agencies. It will not be able to do this effectively if it does not have authority "as of right" to plead its position fully—as a full party, in the case of "formal" proceedings, for example. The right to intervene or participate in agency proceedings or activities insures that the CPA will have its views heard and that it will be able to develop its position as the situation demands. As an amicus curiae, the CPA would merely be an interested outsider whose views could not be forcefully argued before the decisionmakers. To grant the CPA standing as amicus curiae only would curtail the effectiveness of the CPA. It would deny it the basic tool it needs to get the job done.

Indeed, we believe it would cut down the responsibility of the agency as an agency of the Federal Government to protect consumers. To adopt the amicus would be negating the concept of establishing an advocate agency as a method of helping to better organize the company advocacy functions in Government—instead of having them totally diffused to every Government department—to give them a specific voice, a specific place, a specific point of view, and guidelines under which to operate. So the amicus curiae amendment simply negated the whole theory of Government reorganization in which we were engaged in the Government Operations Committee.

That is not to say that the CPA should be—or has been—given unbridled authority to involve itself in agencies' affairs. To the contrary, the CPA's intervention and participation authority have been carefully defined and limited, as I have discussed before. I have already inserted in the RECORD as part of my remarks a list of limitations and safeguards to show the balance we have struck between the rights of the CPA to be involved and the rights of the host agencies to run their own affairs and retain their authorities and for businesses to be free from undue Government interference. The CPA will not be an interloper, nor a superagency. It will not hamstring the normal course of agency business.

CONGRESSIONAL OVERSIGHT

Sixth, the Congress will maintain a constant oversight of the CPA. The CPA as a responsible agency of Government will be answerable to Congress; generally to its parent committees—Government Operations and Commerce; to the appropriations committees before which it will plead for funds; and in particular instances to the substantive committees which have jurisdiction over the host agencies before which the CPA will appear. It is hardly likely that the CPA will act with reckless abandon. Clearly the limited authorizations of funds will curtail such activity. And if it is to survive, the CPA will have to act exceptionally prudently. It will have to spend its funds wisely and make every effort to respect the "decisionmaking" authority of the other agencies. Section 212 authorizes funds for 3 years. As that authorization expires, Congress will be called upon to either recharge the Agency's batteries or let it die. It is quite unusual in creating a new agency, but we limit it so that we might have a thorough look at it in an effort to test them. Its record over the 3 years will determine what is to be done.

Mr. President, in addition to creating a CPA this bill also provides for a consumer grant program and establishes a three-member Council of Consumer Advisors in the White House.

The grant program authorized by title III is modeled after a bill I introduced. It will serve primarily to upgrade consumer protection on the local level where problems must be dealt with directly and speedily. Clearly consumer protection is the shared responsibility of all levels of Government. Consumer protection should not be the responsibility of, nor can it be handled by, the Federal Government alone. The local unit of Government is frequently in the best position to curtail fraud and deception in the marketplace and to improve the consumer's lot generally, and by encouraging and supporting them we will offer the consumer the quickest and most direct assistance possible. The local governments generally have greater flexibility to respond to their peculiarly indigenous consumer problems; yet because local consumer protection units—some 40 States have some sort of statewide unit—are short of funds, they are of limited usefulness to the consumer.

Title III authorizes the Federal Government for the first time to make consumer protection grants to States and local governments—and limitedly to private nonprofit organizations—for the planning and operation of consumer protection programs. The major purpose of this title is to stimulate new approaches and techniques for protecting the interests of consumers in our rapidly changing economy, society, and marketplace. There is great latitude in the type of consumer protection program that can be funded under this title and the bill directs the Administrator to insure that the bulk of the funds are apportioned among the States evenly. Accordingly in this way we attempt to have the limited funds applied to as many different consumer problems as possible. These grant programs have enormous capability for accelerating solutions, making infinitely more efficient and broad, consumer protection programs throughout the country. With this small amount of money we can have a great impact.

Title I establishes the three-member Council of Consumer Advisers in the White House, modeled after the Council of Economic Advisers and the Council on Environmental Quality. It would expand and build upon the present White House Office of Consumer Affairs.

The Government Operations Committee felt that a council of this nature would have greater stature and visibility in the Federal Government and with the public. It would be in a better position and more able to assume the far broader and more profound responsibilities we have prescribed for it, than would be the present Office of Consumer Affairs. The council would coordinate, evaluate, and review the consumer protection programs and activities of the Federal Government. It would develop and recommend national policies on priority consumer matters and new consumer legislation. And it would assist the President with the preparation of the annual consumer report of the President, a report similar to those of the Council of Economic Advisors and the Council on Environmental Quality. The day-to-day operation activities of this high level White House unit would be limited and most of those operational activities, now ongoing in the present office, would be shifted to the CPA.

Mr. President. I would like to pay tribute to Mrs. Knauer, the director of the White House office. Mrs. Knauer's office has functioned well for what it was designated to do. The establishment of this Council should in no way derrogate from her excellent service or the high caliber of her staff. To the contrary the office under her leadership as well as under her predecessors has shown us just how effective a unit in the White House can be and how necessary it is to have one there. If she is continued as the chairman of the council, I think it will only validate this and will show the extent and kind of service that can be rendered in view of the great experience she has had. The fact is that the existence of her office has stimulated us to provide what we think may be an even more effective and useful operation in the White House. This is not to say that an office like Mrs. Knauer's could not function in the way we would like to see the Council function. But the success evidenced by the Council of Economic Advisors and the Council on Environmental Quality in their respective areas leads us to believe that a council may be more suited to serve the consumers than an office.

Mr. President, I would like the Senate to note what I am sure is the sincere desire on the part of the President to have a workable Consumer Protection Agency. The administration does support the House-passed version of this bill and though the Senate bill may differ somewhat I am confident each House can accommodate one another so that we might all unify behind and support the resulting agency and its goals.

On the part of the administration, Mrs. Knauer and her exceptionally able deputy, William Walker, and general counsel, Robert Montgomery, have worked extremely hard on this legislation both in the House and here, and many of their recommendations have been included. While the administration may have reservations about certain provisions and is not yet able to support the Senate bill, the administration should be given large credit for helping us articulate some of the underlying philosophies of the bill. Similarly the Senate should recognize the great assistance and input of Mr. Roger Cramton, former Chairman of the Administrative Conference, who has just recently been appointed Assistant Attorney General for Legal Affairs. In his testimony and during the extensive amount of time he spent with the staff, he and his deputy, Richard Berg, added immeasurably to the soundness of this bill and we should be especially grateful.

In addition, representatives of business, consumer advocates, law professors, and legislators were consulted and the thinking of them has been in some way included in this bill. I think the result is a balanced responsible piece of legislation. It is a refinement of a bill that passed the Senate once before. It deserves to be passed again.

It is really an organization of the advocacy function of the Federal Government in an intelligent, centralized, and effective way. It also seeks to bring down as far as possible to the local level the activities of consumer protection. In no way is it in a position to negate, overrun or veto the work of any other Government agency.

Finally, I wish to repeat, under the amendment of the Senator from Arkansas (Mr. McCLELLAN), the commission that will run the agency has the ability to draw back authority from the administrator which, in my judgment, is the final element of making this a balanced piece of legislation. This bill is of great benefit to all the people as consumers, and it will help Government agencies to do their job. It can be a great reassurance to business that once it goes to the agency with this kind of consumer agency participation, that is it. The decision reached will have a broad acceptance to go forward.

Mr. President, for all those reasons, I very much hope the Senate approves this measure.

Mr. PERCY. Mr. President, I have probably spent more time on the piece of legislation before us at this moment than on any other single measure that I have been involved with in the Senate during the course of the last 6 years. I commend my distinguished colleague from Connecticut (Mr. RIBICOFF) for his excellent and concise explanation of this bill in which I concur completely. He, together with the senior Senator from New York (Mr. JAVITS), has worked studiously and tirelessly for over 3 years in assuring that the legislation before us affords adequate protection for the American consumer and at the same time sufficient guarantees that responsible business enterprises will not be penalized or harassed and that the orderly processes of government will remain intact.

Having myself spent 25 years in the business community, and as a cosponsor of this vital legislation, I was a natural target for businessmen to seek out to stop what some called "dreadful legislation" and as to which others categorized as a "super-agency." I can say without any hesitation that there has been no piece of legislation that I have encountered in my years in the Senate as to which there have been more misstatements of fact and misrepresentations as to impact than has surrounded this bill. I know of no legislation in my years in the Senate as to which more lobbyists have tried to see me. I have met with board chairmen, chief executive officers and general counsels of some of the most outstanding firms in this Nation, as well as with executive directors of trade associations and many others, many of whom, when questioned face-to-face about the measure, have indicated that they have never read the bill but were concerned as to what they had heard about it. Most frequently, as I sat down with them and turned the pages of the bill, we found that the harsh accusations, the innuendoes and the untruths could not be substantiated—indeed were refuted by the very language of the bill.

In fact, some came in for certain types of protection to be incorporated in the bill that were already in it. When I read the particular section to them they would say, "That answers the question, but our trade association did not tell us that."

Many of these trade associations justify their annual salaries and the next dues increase with the vengeance with which they attack legislation of this type. It almost reached ludicrous proportions when I would receive letters addressed "Dear Chuck," from friends of mine in business, 3, 3½ pages long, saying that from their personal experience this is their reaction to this bill; and I had to write back to remind them that it could not be very personal when I had received exactly the same letter, word for word, comma for comma, period for period, all 3½ pages of it, from another good friend of mine who had spoken about his personal reaction to this bill.

I consider it rather an insult to my intelligence not to be able to discern after all these years a form letter written by a trade association, with that good friend of mine or a constituent signing it without understanding what he was signing.

For that reason I have been somewhat concerned, as we have spent months and months working with highly responsible members of the business community who have found no objection to appropriate legislation, that the rest of the business community has not kept abreast of the fact that we have tried to keep the doors open, we have been open-minded. I can certainly speak for my colleagues from Connecticut and New York, that we have always been willing to listen to reason, bearing in mind that first and foremost this is a consumer economy.

For far too long businessmen have assumed that the purpose of the economy is to serve the producer. That is not true. "The customer is king," should be the adage and guideline that motivates every businessman. It certainly did me in my years in business, and I think it does for 97 percent of the businessmen of this country. They have built their businesses on the success they have had. Most businesses get their increase in business from the satisfaction that existing customers have.

What we are really doing is a great favor to the business community, to find a way to take the low regard in which the American public holds many segments of the business community now, and simply show that the reason for it is the callous attitude adopted by a very small—a minuscule—percentage of business. That small segment stains the reputation of so many of the other businesses that observe a code of ethics which would be considered acceptable, and probably the highest in the world. I do have that regard and faith in the American business community.

In the last few months I, and I am sure Senators RIBICOFF and JAVITS, have found that simply addressing ourselves to the charges against the bill, and patiently meeting with those who were legitimately concerned, had the result of assuaging many of the fears and anxieties which led these people to seek a meeting with me in the first place. I have sat down with the president and other representatives of the Illinois Chamber of Commerce and I have addressed such groups as the Consumer Affairs Council of the U.S. Chamber of Commerce and the National Council of Better Business Bureaus with respect to this legislation. I think it fair to say that after each of these sessions the response back was one of considerable relief that so many of the representations that had been made about the proposed Consumer Protective Agency were in fact unfounded.

Of course, the question that inevitably arises is, Why do we need a Consumer Protection Agency? The answer, and it is a sad one to face up to, is that the consumer has been neglected and kicked around too often by the very regulatory agencies of Government that we have set up to protect him, most particularly and most dismayingly in the important areas of health and safety and fraud where his vital interests are at stake.

To cite an example, for the past 4 years, the manufacturers of several brands of baby cribs have been told by experts that the spaces between bars of their cribs are wide enough to allow a baby to squeeze his body through, but not his head. Each year about 200 infants strangle themselves trying to get out of their cribs, many of them in this way.

In 1969, when the chairman of the board of one of the largest crib firms was informed that the space between the bars of a crib he manufactured exceeded safety limits prescribed by the Food and Drug Administration—FDA—he responded "So what?" He did not "have to justify anything," he said. In a practical sense it seems he was right. That brand of crib, and others with the same hazard, are still on the market even though the FDA holds the power to remove them.

Who, one can reasonably ask, should represent the interests of the thousands of infant consumers who have died in the past, and who will die in the future, because impervious manufacturers and an idle Federal agency refuse to take needed action?

The existence of so many infant crib deaths demonstrates in the most abhorrent way the inadequacy of the present system of caveat emptor—let the buyer beware. No sane parent would buy a crib in which he knows his child can hang himself. But the combined efforts of responsible manufacturers and sellers, of the 1970 National Commission on Product Safety, and of the FDA failed to eliminate their manufacture and sale or to inform all buyers of their dangers. In this instance, "let the buyer beware" literally meant let the children perish.

Such abuses demanded Government action, and this is why we wrote the Consumer Protection Organization Act. This is also why, at the end of the 91st Congress, in December of 1970, the Senate, by an overwhelming vote of 74 to 4, approved legislation to create an independent Consumer Protection Agency whose fundamental structure, functions, authorities, and responsibilities were in all major respects nearly the same as those contained in S. 3970, which is before us today. Unfortunately, because of a tie-up in the House Rules Committee at that earlier time, companion legislation which had been reported out of the Government Operations Committee never reached the floor of the House in that Congress.

In this 92d Congress, however, legislation to establish such an agency, H.R. 10835—which embodies the principle of full party participation where necessary for the CPA and which enjoyed the support of the administration—has been resoundingly approved by the House of Representatives, 344 to 44. This was largely due to the considerable and persistent efforts of Chairman CHET HOLIFIELD of the House Government Operations Committee and of FRANK HORTON, the ranking minority member of the Subcommittee on Legislation and Military Operations which considered the measure, thus reflecting the bipartisan support that this legislation has had from its inception.

I think this would be a very appropriate time to pay high tribute to the former chairman of our Government Operations Committee, Senator MCCLELLAN, who, though he had some problems with the legislation, consistently and steadily tried to help get a quorum on the bill—always trying to move it forward so this Congress could consider this legislation.

In that same spirit, though he has been eloquent in pointing out certain policies and flaws which, in his good judgment and conscience, he has seen in this bill, the new chairman of the Committee on Government Operations (Mr. ERVIN), has himself consistently pushed forward so that we could have this bill in a form—which he disagrees with—which could be considered by this Congress, because he wanted to see the will of the Senate worked on a bill involving 210 million consumers in America.

I pay high tribute to our colleague for the way in which he has conducted the Government Operations Committee since he has taken over the chairmanship, despite the fact that he himself has had very heavy and pressing business in other areas of his Senate responsibilities.

S. 3970 had as its predecessor S. 1177, which was reported out of the Subcommittee on Executive Reorganization on June 13 of this year by a unanimous 7-to-0 margin. After 2 months' consideration by the full Government Operations Committee, on which I am privileged to serve as the ranking minority member—indeed after more than 16 hours of intensive deliberations and discussion—the committee reported the bill on August 17 by yet another lopsided margin of 15 to 2—including proxies—with only Chairman ERVIN and Senator ALLEN voting in the negative. In the course of its consideration, the committee adopted numerous amendments, a good number proposed by its sponsors, which for the most part refined and improved the bill.

In the deliberative process that has gone on this year in the Government Operations Committee, both in subcommittee and in full committee, I can certify to consumers and producers that we have, up to the very moment of putting this bill to bed and reporting it out, continued to refine and improve it. I feel confident that there will be further amendments offered on the floor that will further strengthen and improve this bill.

While providing for a strong and effective voice for consumers, we have been careful to protect the overwhelming number of businessmen from any harassment or unwarranted intervention in their businesses.

REGULATORY NEGLECT

The Consumer Protection Agency will be a serious inconvenience only to businessmen such as the crib maker I have described. Businessmen of that ilk, who guide their firm by caveat emptor, have yet to learn that whatever short-term gain they make at the expense of the consumer costs them in the long run and leads to further long-term, industry-wide Government intercession in the marketplace.

The position I take as a public official today is no different from the position

I have taken for 25 years in business. The worst enemies the business community has are some men in business who feel that by short-changing and by short-circuiting the marketplace and its normal functions, by finding some way to cut corners through trade practices that are illegal or reprehensible, they can obtain an advantage. They are the ones who do more damage to business than anyone else. This measure is for the interest of the overwhelming majority of the business community. We feel that the Consumer Protection Agency actually will serve the best interests of the whole economy and of reputable business enterprises in this country.

But the practices that we know of, which are being practiced at this very moment, that we are condemning and wish to seek out, expose, and eliminate, are not of recent vintage. It goes back many, many years, in the history of the business community. And this is true not just for this country, but has been true for as long as business has ever been done between people on earth, at any point in civilization.

But in our country's history, as early as 1887, the price gouging tactics of a number of railroads led to the creation of the Interstate Commerce Commission and the regulation of all rates charged by any interstate carrier. In 1906, a Congress sickened by the poisoning stench of some food processing plants created what is now the FDA to regulate the purity of all food shipped in interstate commerce.

But despite the creation of these and other regulatory agencies, despite the development of hundreds of consumer protection programs, the regulatory process has too often permitted consumer safety and welfare to be compromised.

Let me remind my colleagues of but a few recent examples of documented regulatory neglect:

In the spring of this year it was discovered that almost 1,250,000 chickens tainted with PCB—polychlorinated biphenyls—a DDT-like industrial chemical linked with skin irritation in humans—had been destroyed in Maine after discovery was made by Agriculture Department officials. Who, among the responsible Federal inspection officials, was sleeping on the job to have permitted so many chickens to have become contaminated without earlier discovery? This disclosure followed on the heels of a General Accounting Office report to Congress sharply criticizing the Department's inspection of poultry plants and citing such unsanitary conditions as:

Filthy and debris-strewn floors;

Greasy conveyor motors and rollers congested with fecal material, feathers, and dirt;

Dusty, cobwebbed ceilings and green algae on the walls of coolers; and

Rusty, dirty equipment, with heavy blood accumulations from previous slaughter.

While 4,000 people die annually from clothing burns, and even though in 1967 Congress amended the Flammable Fabrics Act to provide much more stringent fire prevention standards, the Commerce Department did not announce standards for infant sleepwear until last year and we must now wait until next year for the standards to take effect.

Some 200 children under the age of 6 die annually from lead poisoning contracted by eating paint chips with lead content from cracked or peeling walls; all told, between 50,000 and 100,000 children take in enough lead each year to require medical treatment. Reacting, the Department of Housing and Urban Development—HUD—last year banned the use of paint containing more than 1-percent lead by weight in the construction or renovation of federally assisted owned or mortgaged residential property. But this year HUD quietly circulated a directive to its regional offices exempting HUD-owned properties from the ban.

In August 1971, a secret agreement was negotiated between Food and Drug Administration officials and particular suppliers of leaded Christmas tree tinsel. FDA dealt away its obligation to inform the public of the hazard in return for the manufacturer's promise to discontinue manufacturing the leaded tinsel after Christmas 1971, and discontinue sales of the tinsel after Christmas 1972—this coming Christmas.

Despite the complaints of hundreds of Corvair owners of odors and fumes entering the passenger compartment through an alleged faulty heating system—and instances of carbon monoxide poisoning reported—the National Highway Safety Bureau in the Department of Transportation even today stands by without taking action.

Local Federal Housing Administration—FHA—officials in Chicago permitted wholesale fraud and corruption in the operation of mortgage insurance housing programs to go on right under their noses.

Here is something that I feel very deeply about, because I came to the Senate of the United States 6 years ago with one particular concept foremost in mind and ready to go on a piece of legislation. I introduced it in Congress. At that time, it seemed to me wrong that for 30 some years, FHA had been subsidizing middle-income families to build homes essentially in the suburbs, to become homeowners, to become a part of this country, to own something, to have something of their own. But at the same time, FHA was then building high rise public housing for the low-income people crowding them all together and sticking them all in the same area. In Chicago it is the Robert Taylor homes, where crime and the chance for a woman to be raped, robbed, or murdered are multiplied, in fact, by some 40 times in Federal public housing projects over those in any other part of urban America.

So we looked for a new concept, and after several years of struggle, it became the law of the land, bipartisanly supported, that lower income people should have the opportunity to buy their own homes. Instead of putting them in federally owned projects, we give them a chance to buy their own housing. We give them a chance to accept a subsidized interest payment if they look as though they are a good risk for the future. They have a chance to work their way out of the subsidy, and if they cannot make a down payment in cash, they can contribute sweat equity.

We called in the housing industry, we called in the mortgage people, and we told them of this new type of legislation that would be such a boom for the housing industry and for the low-income people. We told them how ludicrous it was for this country to be helping people in Latin America with 2 percent loans, and forcing every low-income person in this country to seek a loan at the regular rate of interest, without any assistance or help from the Federal Government.

Some people asked, "Well, why should they be subsidized in this area?" I could only reply that middle-income Americans and high-income Americans have been subsidized, in that they can deduct their interest costs and their tax payments.

But what happened? This legislation went into effect, and we now have, particulary in the area of section 235 homeownership programs and section 236 rental and cooperative housing programs, agency officials who ignore unscrupulous operators and fast-buck artists who are bilking low-income families and defrauding the public treasury. Similar problems involving FHA administration of Federal housing programs have been documented on the front pages of major dailies throughout the country.

This is now the subject of grand jury investigations in a number of cities. But if we had an alert, aggressive consumer protection agency where complaints could have been brought from St. Louis or Chicago or New York, as they would have been brought, the situation might have been different. But here they purchased a house and signed a 30-year mortgage for a house that probably will not last 15 years. They were talked into it by some fast-buck operator who did not even read to them the fine print in the contract and who committed them to this mortgage and sold them a house that should not be valued at more than $17,000, but he put a value of $24,000 or $23,000 on it because, after all, the Government was paying for it. These are the representations that were made.

If enough of these had come in so that we could have seen a pattern early enough, these persons would have been saved hundreds of millions of dollars and much grief.

As it is, the problem has worked out reasonably well, despite these abuses, and we have almost a million people living in these homes. But how much better it would have been if we did not have to tie up the courts across the country now, tie up FHA, tie up HUD, tie up any number of agencies, if we could have had someone looking out for the interests of the unsuspecting consumer, moving in on this situation in an earlier time and alerting HUD to the potential danger that we were moving into.

Other examples abound:

Ruling against a majority of its own advisors, the Labor Department in June of this year decided to give industry more than 4 years to cut in half the 20 to 30 million hazardous asbestos fibers in the air which workers breathe.

Just last month the General Accounting Office—official watchdog of Congress over the executive branch agencies—charged the Bureau of Mines with laxity in failing to enforce Federal coal mine safety standards against flagrant violation by some mine operators.

And in March of this year the Government Accounting Office told Congress that the Division of Biologics Standards—DBS—in the National Institutes of Health was guilty of a callous disregard for public health and safety in permitting the sale of ineffective and potentially hazardous flu vaccines to the public. From 1966 through 1968, DBS indiscriminately approved subpotent dosages of influenza vaccine and thereby subjected Americans to more than 60 million doses of what may have been worthless prevention, or worse. The agency failed to turn down a single lot of flu vaccine, even though some contained as little as 1 percent of the required strength. Of 221 lots released during the period, 130 did not meet standards established by the agency itself. Inasmuch as the side effects of these inoculations—including extreme fever, rash, incapacitating diarrhea, and cramps—can be severe, I suspect that for thousands, if not millions, of Americans, their attempts to protect themselves from illness were actually much more harmful than no protection at all. The DBS blunder illustrates that the American public has been deceived into believing that, because an agency of the Federal Government has been set up to afford protection, the public is indeed being protected. But the tragic truth is: that just is not so.

Before this act became law, the distinguished Senator from Connecticut, the distinguished Senator from New York, and I accepted the spirit of this legislation. When we were advised that a public notification would be put out naming the 10 manufacturers who had been responsible for the manufacture of these vaccines, we asked that reasonable notice be given to these manufacturers so that they might prepare simultaneously whatever statement they wished, to protect their own integrity, to explain what they had done, to give any amount of detail they wanted about the circumstances of the charges that were being made against them. I recall that telephone calls were made by our respective offices, so that the spirit of this law could be enacted and implemented.

These 10 manufacturers, when the charge was being made against them, were protected, in that they could then respond and provide answers.

This is one of many protections built into this measure so that businesses cannot in the future, as they have been in the past, be caught absolutely offguard, unsuspecting that any charge was to be made, and then finding themselves on page 19 in answering a charge several days later, when the charge itself was on page 1. We considered this grossly unfair. Now they all have a chance to be on page 1, if it is of enough public interest; but at least the company has a chance to put in a response.

Too often, as these examples indicate, the regulatory agencies are sloppy, seemingly unconcerned and negligent. In themselves the frequency and severity of these mistakes require the intercession of a consumer advocate to protect the consumer interest.

But the need is deeper and involves the day-to-day operation of hundreds of programs where honest, conscientious Federal regulators are willing to respond to reasonable arguments presented in an effective manner. The problem lies in the fact that more often than not the consumer viewpoint goes unargued.

Take, for example, the recent case where the airline industry requested permission from the Civil Aeronautics Board for a price increase that, now granted, requires a consumer to pay almost 3 percent more on domestic flights.

That amount will almost certainly not be significant enough to the individual consumer to justify his hiring an advocate to protest to the agency. For the industry, however, that relative small percentage increase multiplied by thousands of flight bookings will represent millions of dollars. When a Federal agency is about to make a decision that may mean just a few dollars in price increases for millions of consumers, but millions of dollars in sales for a few producers of goods or suppliers of a service, it is no wonder that the consumer's voice is barely heard, if heard at all.

For each consumer this process may be repeated with hundreds, even thousands, of goods and services. Even though in recent years a number of consumer interest organizations have been formed, they are too few and too inadequately funded to counterbalance the resources of the regulated industries. As long as the consumer interest lacks an effective way of presenting its position, no agency—no matter how honest and competent—can be expected to take full and accurate account of that interest. And, as long as that imbalance exists, it also gives individuals such as the manufacturer of a potentially deadly baby crib an opportunity to say, "So what?"

SAFEGUARDS

But, as I mentioned earlier, S. 3970 reflects a deeply felt sensitivity on the part of its sponsors and others on the Government Operations Committee for the legitimate interests of responsible businesses in this country. In the course of the drafting of this legislation, while it was before the Subcommittee on Executive Reorganization, and in sessions involving the full Government Operations Committee, I personally sponsored or supported a series of safeguards against undue interference by the Consumer Protection Agency with responsible business practices and the orderly processes of government. Among these safeguards are the following:

1. The CPA will have no regulatory authority. It will not be able to overrule, veto or impair any Federal agency's final determinations. The participation rights granted to the CPA are procedural only, not substantive, such that no authority granted to the CPA shall be construed as superseding, supplanting, or replacing the jurisdiction of any agency over any subject matter, nor deprive any agency of its responsibility to exercise its authority under law. (Section 3(3), Declaration of Purpose)

2. Limitation on CPA interventions: Authority to intervene as of right as a party is granted to the CPA in formal agency proceedings, but the Administrator must exercise discretion and avoid unnecessary involvement. He is to refrain from intervening as a party unless he determines that such extent of involvement is necessary to represent adequately the interests of consumers. Where submission of written briefs or other material is sufficient, or presentation of oral argument is sufficient, he is to exercise self-restraint and limit his involvement accordingly. (Section 203(a))

3. Protection against disruption and delay of agency proceedings and activities: Upon intervening, or participating in formal agency proceedings, the Administrator must comply with the host agency's statutes and rules of procedure governing the timing of his participation and the conduct of such proceeding (Section 203(a)). In participating in an informal agency activity, the Administrator must do so in an orderly manner and without undue delay. (Section 203(b))

4. Protection against CPA intrusion in the private meetings and discussions between a Federal agency and a particular business firm: While the CPA may present orally or in writing relevant information and arguments (section 203(b)(1)), it is not granted the right or authority to be present at any particular meeting or discussion, nor to monitor any phone conversations, between an agency and a company. Instead, it need only have an opportunity *equal* to that of the company to present its views. CPA's participation, therefore, need not be simultaneous (and generally will not be) but need only occur within a reasonable time of any prior involvement by such company or at a time when it might reasonably have an input into a contemplated agency action. (Section 203(b)(2))

5. Protection against misuse of a host agency's compulsory process: Where the CPA seeks to use an agency's subpoena authority for discovery purposes, the host agency retains discretion and control over such use. CPA's request must be: (i) relevant to the matter at issue; (ii) not unnecessarily burdensome to the person from whom the information is sought; and (iii) not such as would unduly interfere with the conduct of the host agency proceeding—all to be determined by the host agency, not the CPA. (Section 203(e))

6. Protection against unfair advantage to CPA in requiring information from businesses: The compulsory information gathering authority of the CPA (Section 207(b)) may not be exercised to obtain information which: (i) is available as a matter of public record; (ii) can be obtained from another Federal agency; or (iii) is for use in connection with his intervention in any pending agency proceeding. (Section 207(b)(2)). The Administrator's request under Section 207 must relate to consumer health or safety or consumer frauds and be specific as to the purpose for which the information is intended. Moreover, the request must be relevant to that purpose and not unnecessarily burdensome to the person from whom the information is sought. The scope of the Section has been limited so as not to require the production of records, books, or documents, the appearance of witnesses, or the disclosure of information which would violate any relationship privileged according to law. (Section 207(b)(1))

7. Protection against arbitrary, capricious or vindictive intervention by CPA: The determination by the CPA that a consumer interest may be substantially affected by the result of an agency proceeding will be subject to ultimate judicial review if there was prejudicial error involved. (Section 201(e)(1)(B)). The Administrator is required explicitly and concisely to set forth in a public statement the interests of consumers he is representing in a particular agency or court proceeding. (Section 402(b))

8. Protection against unwarranted allegations in complaints from consumers against business, its products or services: Upon receipt of consumer complaints, CPA will as a matter of course promptly notify the company named, furnish it a copy of the complaint, and afford it a reasonable time in which to respond to the charge. Both the complaint and the company's response will be placed in the public file simultaneously, together with any comments or report from any Federal agency to which the complaint was referred for action. Frivolous, malicious and unsigned complaints will not be placed in the public file. (Sections 206(b) and (c))

9. Protection against disclosure of confidential information relating to business practices in the files of another agency: The CPA has access to, and can copy agency files, but cannot disclose to the public any information which the host agency has exempted from disclosure or is otherwise exempted by law. (Section 208(b))

10. Protection for business trade secrets that may come into CPA's possession: Trade secrets and other confidential business information may not be disclosed under criminal penalty of law, except if necessary to protect public health and safety, or to courts, committees of Congress, and other concerned Federal agencies in a manner designed to preserve confidentiality. (Section 208(c))

11. Protections against disclosure to the public of false or misleading information regarding a business: CPA disclosures may not be inaccurate, misleading or incomplete. Otherwise, CPA will be required promptly to issue a retraction, to take other appropriate measures to correct any error, or to release significant additional information affecting the accuracy of information previously released. (Section 208(d))

12. Protection against "surprise" disclosures to the public of information likely to injure the reputation of good will of a business: CPA is required, as a matter of course, to give prior notice to such company and afford an opportunity to comment, unless public health and safety would be imperiled by such action. (Section 208(d)). Injunctive relief to a company which might be damaged is provided for.

13. Protections against unfair comparisons of the products or services of a business: In disclosing information, CPA: (i) must make clear that all products of a competitive nature have not been compared, if such is the case; (ii) must make clear that there is no intent or purpose to rate products compared over those not compared, nor to imply that those compared are superior or preferable in quality to those not compared; and (iii) must not subjectively indicate that one product is a better buy than another. (Section 208(e))

14. Clarification that substantive criteria applicable to agency decisions remain unaffected: Reference in the predecessor bill, S. 1177, to giving "due consideration" to the interests of consumers in agency decisionmaking might have been construed—and was by some—as meaning that added weight was to be given to the consumer interest in regulatory and other decisions involving, e.g., the grant or denial of a license, route, or rate increase. We did not intend to change the substantive standards now applicable and have therefore taken out the reference to "due consideration" requiring only a concise statement as to how, if at all, the consumer interest was taken into account in reaching a decision. (Section 402(a))

Perhaps most important of all, as I have insisted from the outset, the structure and operation of a Consumer Protection Agency need not be hostile to business interests. There are numerous situations where the CPA would, in presenting the case for consumers, find itself advancing or defending a business practice. For example, antitrust law today often frustrates industry self-regulation even where health or safety considerations may be at stake. The television industry, alerted to a potential fire hazard in color TV's 2 years ago, responsibly assembled in Chicago to upgrade flammability standards only at the risk of possible antitrust suit by the Justice Department. Not untypical, the power lawnmower industry for years has been leery of using collective means to devise an alternative to the rotary blade, which each year is responsible for more than 140,000 injuries, some resulting in death, blinding, or severe disfigurement. The CPA might also help to expedite agency action, as for example in the case of a new drug application before the FDA, where more timely response could promote health or save lives. In these circumstances, the consumer interest in maximizing safety would clearly outweigh the consumer interest in seeing that the antitrust laws are enforced to the letter. Thus, the CPA would expectably intervene on behalf of the legitimate business interest which, in not a few cases, coincides with the legitimate consumer interest.

COUNCIL OF CONSUMER ADVISERS

I am pleased to be able to report that one of the major provisions of S. 3970, which has received virtually no opposition either from the business community or in the Government Operations Committee, involves the establishment in title I of a Council of Consumer Advisers in the Executive Office of the President. The Council, replacing the existing Office of Consumer Affairs in the White House, would be patterned after two existing high-level advisory structures of proven effectiveness; namely, the Council of Economic Advisers and the Council on Environmental Quality.

We recognize that there is nothing mystical about the concept of a three-member council, but inasmuch as this organizational structure has already been created for the economy and the environment, it makes eminent good sense to provide for a parallel structure for the vital function of assuring that the President is directly informed with respect to the consumer impact of administrative decisionmaking, and that the various consumer functions that are carried out throughout Government are coordinated with one another.

The Council would primarily deal with advising and assisting the President in establishing consumer priorities and policies and in managing consumer protection programs. The Council would engage in:

First. Evaluation of the performance of current consumer protection programs in relation to the needs and the objectives of the programs;

Second. Coordination of consumer protection programs, especially those where authority is shared by several agencies;

Third. Formulation of new consumer protection policies and programs; and

Fourth. Analysis of the impact of other Federal policies and programs upon consumers.

A statutory council, free of the day-to-day operation of consumer programs and able to fully concentrate on policy, would have greater stature, visibility, and credibility with both the Federal Government and the public. It would expand and build upon the work of the Office of Consumer Affairs.

Mr. President, S. 3970 represents literally years of conscientious study, refinement, and improvement on the part of its sponsors and supporters. The bill provides the Senate with an opportunity to temper the arrogance, cynicism, and callousness of those who would deceive, cheat, injure, or even kill buyers and users of goods and services; it affords the opportunity to help protect and preserve the integrity of the overwhelming percentage of business and responsible Government officials who do have the public interest in mind. Passage of the Consumer Protection Organization Act of 1972 will mean that the American consumer can soon be represented at the highest levels of Government, before regulatory agencies, and in the courts by highly trained professionals voicing, fighting for, and enduring on behalf of the consumer interest.

This is a cause which the Senate resoundingly endorsed less than 2 years ago and I trust will endorse again by an even more overwhelming vote.

Mr. **ERVIN**. Mr. President, I ask unanimous consent that during further consideration of the pending business, the following persons from the Committee on Government Operations be permitted the privilege of the floor, so that they may help any Member who may have any questions about the proposed legislation, which they helped develop: James R. Calloway, Thomas M. Gunn, Arnold Smith, Eli Nobelman, and Max Parrish.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **KENNEDY**. Mr. President, the establishment by Congress of a full-time consumer advocate is long overdue. Through the years our Government has experimented with various methods of promoting advocacy of the consumer's interest within the various agencies and departments, dating back to the Consumers' Counsel established in the Coal Commission in 1935. President Johnson established an Office of Consumer Counsel in the Justice Department in the mid-1960's; recent legislation setting up the Postal Service provided for a public counsel to participate in rate proceedings. The Consumer Protection Agency represents a culmination of decades of these piecemeal efforts, and would build into the federal system generally an independent voice for the interests of the American people as consumers.

Much of the administrative process works in an adversary manner, even when rulemaking is involved. But too often the adversaries all represent special interests vying for a favored position in the marketplace. The interests of big business are never forgotten in proceedings affecting their interests; the Washington lawyer sees to that, perennially subjecting the agencies to lopsided pressures. The large economic blocks in our society can afford to hire agents who keep tabs on agency activities and are alerted usually before actions affecting their interests are initiated. Whether over cocktails or at lunch, or through the Federal Register or trade journals, industry's representatives stand ready to do battle. At hearings they appear with an army of engineers, economists, and other experts—in quadruplicate—to persuade the agency that the public interest or the public convenience and necessity coincide with their position. Yet all the while the voice of the consumer is drowned out by competition of these more particularized interests.

It is no secret that particularized interests have found effective representation within the structure of the Federal Government. Hardly a day goes by without the newspapers carrying further evidence that the agencies have become captives of the industries they regulate. The Department of Agriculture represents the farmer. The Department of Commerce represents the businessman. The Interstate Commerce Commission represents the carrier. So far, however, the consumer does not have his own, independent, exclusive spokesman.

Last year a study completed for the National Product Safety Commission analyzed the scope and adequacy of the automobile safety, flammable fabrics, toys, and hazardous substances programs of the Department of Transportation, Commerce, and Health, Education, and Welfare. That study concluded:

> To counter industry arguments and institutional constraints limiting vigorous agency action, an independent voice speaking for the generalized consumer interest should be intruded into the administrative process. That voice should be heard in the critical phases of standard setting before specific proposals are published, and later, when formal proposals have been formulated. The ubiquitous presence of the consumer spokesman should stiffen the spine of the most timid official.

At last count, over 50 separate bills had been introduced in Congress to provide, in some manner, representation for the consuming public—often broadly defined—before Federal agencies. All of these would, among other things, give consumers a vehicle through which their interests could be translated into effective representation and channeled through the proper administrative channels to reach Government decisionmakers.

Proposed legislation would have placed this public advocate in a Cabinet-level agency, in an independent agency, in the Executive Office, in the Justice Department, or in an independent public corporation. Each approach had its advantages and disadvantages, and many of these have been brought out in hearings on the bills. In short, the need for a full-time consumer advocacy agency at the Federal level has been well established. After hearings extending over 3 years in various committees, the Consumer Protection Agency established by S. 3970 has been determined to be best designed to meet this need.

I, myself, authorized a bill to create a Public Counsel Corporation—an independent Federal agency to represent the views of the public in administrative proceedings. This bill was one of the first, if not the first, proposal for a strictly advocacy agency, with no regulatory or product-testing functions. Hearings were held before my Administrative Practice Subcommittee and witness after witness brought out the urgent need for the establishment of an institutional voice in Washington for the consumer. I am most pleased to see that the proposed Consumer Protection Agency will be able to shoulder the burdens for which my Public Counsel Corporation was designed; in many respects it is a stronger, more comprehensive bill, and it has my full support.

As has been pointed out on numerous occasions, hundreds of Federal consumer protection activities are spread out among dozens of departments and agencies. Thousands of decisions are made each day affecting every aspect of our lives, while we often stand by wondering whether the Government—our Government—exists of the people and for the people, or whether it merely exists for its own sake. The average consumer does not know who makes the decisions here in Washington, or how they are made. And he is not involved in the process by which they are made. But he knows one thing: those decisions affect him, and he must live with their outcome. The consuming public want to be heard on decisions affecting them, and the decisionmakers desperately need to hear fully and forcefully the views of consumers. But in the past the consumer's voice has seldom reached the decisionmaker, and the quality public regulation and administration has suffered the consequences. The Consumer Protection Agency can fill the void, providing a new, vigorous advocate to assist all government agencies in responding more directly to the real needs of the American public.

Mr. MOSS. Mr. President, the Committee on Government Operations is to be congratulated for reporting out this outstanding piece of legislation, one which will protect and preserve the rights of the American consumer. S. 3970 has been a long time in coming, but through the diligent efforts of the Committee on Government Operations, we at last have a very fine bill, one that has bipartisan support, and one that is wholeheartedly endorsed by the American public.

In the 91st Congress, I was particularly close to the development of S. 4459, which was the Consumer Protection Organization Act of 1970. As you will recall the legislation passed the Senate by a 74 to 4 vote after having been favorably reported by both the Committee on Government Operations and the Senate Commerce Committee. I presided over hearings on that legislation and thoroughly investigated existing State and local consumer protection activities. Additionally we paid close attention to the activities of the Federal Trade Commission and the Office of Economic Opportunity which are the primary Federal agencies involved in State and local consumer protection programs.

Let us make clear what the Consumer Protection Organization Act does and does not do. It does not create a new Federal regulatory agency. It does not have the power to interfere with a businessman's way of doing business. It does not issue comparative lists of products. It does not interfere in any way with the private concerns of the public or the business community.

What does the Consumer Protection Organization Act do? First, it establishes a Council of Consumer Advisers similar to the Council of Economic Advisers. The Council would issue an annual report on the status of the consumer interest as well as recommend program priorities, assist in program coordination, develop new policies in legislation, and evaluate current consumer programs. The bill would also establish a Consumer Protection Agency which would be headed by a Commission appointed by the President with the advice and consent of the Senate. This agency would represent the consumer interest before Federal agencies and in courts, it would receive and transmit consumer complaints, it would conduct surveys and research concerning the interest of consumers, it would disseminate information relating to consumer interests, it would publish a Federal Consumer Register of information useful to consumers, and it would make grants to States, localities, and nonprofit private organizations to encourage and assist consumer protection programs and activities.

Far and away the most important functions of this agency are its advocacy functions. From our investigation of various consumer legislation both in the 91st and 92d Congress, we have learned that the energy and effectiveness of consumer protection regulations diminishes in direct proportion to the absence of vigorous external surveillance and initiatives. No single fact of bureaucratic life emerges with more striking clarity from legislative oversight activities of the Senate Commerce Committee.

Unhappily we have witnessed a virtually unvaried pattern, first a growth and promise, then debilitation, in the implementation of consumer laws. Congress enacts a new law; the agency charged with regulatory responsibilities issues a bold pronouncement of its plans for implementation, Congress turns its attention to new issues which press for the legislative limelight. Then come the inevitable delays in implementation; regulations are eroded; the agency begins to lose its initial sense of mission and purpose. In the end, the agency finds itself facing every day only one consistently concerned constituency—the very industries that it regulates. For example, just today I read in the trade press that some sleepwear manufacturers, in an effort to avoid the standard for children's sleepwear promulgated by the Department of Commerce under the Flammable Fabrics Act, have renamed their products playwear, thus attempting to evade the meaning and intent of the Flammable Fabrics Act and the standards promulgated.

Mr. President, there must be someone present to speak for the consumer and to present a balanced picture for those agencies of government which must make the decisions. That is one of the primary functions of the Consumer Protection Agency and that is why I endorse this legislation and urge Senate approval.

There will be a number of amendments which the distinguished chairman of the Committee on Commerce, Senator MAGNUSON, and I will jointly offer, but these are merely to clarify and strengthen several provisions of the bill reported by the Committee on Government Operations. It is truly a fine piece of legislative draftmanship and a positive contribution to the public good.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed a joint resolution (H.J. Res. 1304) authorizing the President to proclaim October 1, 1972, as "National Heritage Day," in which it requested the concurrence of the Senate.

HOUSE JOINT RESOLUTION REFERRED

The joint resolution (H.J. Res. 1304) authorizing the President to proclaim October 1, 1972, as "National Heritage Day," was read by its title and referred to the Committee on the Judiciary.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, September 21, 1972, he presented to the President of the United States the following enrolled bills:

S. 1031. An act to credit certain service rendered by District of Columbia substitute teachers for purposes of civil service retirement;

S. 2478. An act to provide for the disposition of funds to pay a judgment in favor of the Shoshone-Bannock Tribes of Indians of the Fort Hall Reservation, Idaho, as representatives of the Lemhi Tribe, in Indian Claims docket numbered 326–I, and for other purposes; and

S. 2575. An act for the relief of William John West.

Mr. RIBICOFF. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS CHILES, PACKWOOD, PROXMIRE, FULBRIGHT, HART, HUMPHREY, ROBERT C. BYRD, AND SCOTT TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, immediately following the recognition of the two leaders under the standing order, the following Senators be recognized, each for not to exceed 15 minutes and in the order stated: Mr. CHILES, Mr. PACKWOOD, Mr. PROXMIRE, Mr. FULBRIGHT, Mr. HART, Mr. HUMPHREY, Mr. ROBERT C. BYRD, and Mr. SCOTT.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the recognition of Senators under the orders aforementioned, there be a period for the transaction of routine morning business tomorrow for not to exceed 15 minutes with statements limited therein to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO CONSIDER AMENDMENT TO FOREIGN ASSISTANCE ACT TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow at the conclusion of routine morning business the Senate proceed to the consideration of H.R. 16029, an act to amend the Foreign Assistance Act of 1961.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR S. 3970 TO BE LAID ASIDE TEMPORARILY TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the unfinished business, S. 3970, be temporarily laid aside at the conclusion of routine morning business tomorrow and that it remain in a temporarily laid aside status until a time later in the day to be decided by the distinguished majority leader or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR BEALL ON MONDAY, SEPTEMBER 25, 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday next, following the recognition of the two leaders under the standing order the distinguished Senator from Maryland (Mr. BEALL) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROPOSED PROCEDURE FOR RECOGNITION OF SENATORS UNDER SPECIAL ORDERS

Mr. ROBERT C. BYRD. Mr. President, I ask the indulgence of the Chair and other Senators, awaiting at the moment word from a Senator as to the possible alteration of time on Tuesday next when the Senate will begin voting under the order entered earlier today by the distinguished majority leader.

In the meantime, may I just say that with respect to unanimous-consent orders for the recognition of Senators for 15 minutes, we have now been operating for a couple of years under a procedure by which unanimous-consent orders for the recognition of Senators prior to the morning business may be entered on any day of actual session prior to the day when such speech is to be delivered. The procedure has worked very well in the main, but it probably would be useful to all Senators if the following could be carefully noted.

First. The 15-minute order must be secured on a day of actual session prior to the day on which the order is to be executed.

Second. A Senator for whom such order is entered must personally be on the floor himself to control the time—although he may yield to others for a colloquy—when it is reached or the order will have to be vacated.

In other words, a Senator could not call up on the telephone and ask that his time be allotted to another Senator who has a 15-minute order. If that were permitted, a half-dozen Senators could get orders entered for recognition of themselves for not to exceed 15 minutes each and could later call in and ask that Senator X, who had 15 minutes under an order, be given their time, and that particular Senator would be able to speak for an hour and a half or so.

Third. Any request to extend the 15-minute period for an additional minute or so has consistently been objected to over the past 2 years and will be objected to in the future. This is necessary, and no exceptions have been or can be permitted or else things will get out of hand, and the procedure which has worked rather well will be useful. Fifteen minutes is the maximum order, but orders for less time—say 10 minutes—may be gotten.

Fourth. It will make for smoother operation and avoid inconvenience to all Senators if he or his own personal staff member will contact my whip office notifying me that the Senator definitely wants a 15-minute order entered for a certain date.

Fifth. A Senator for whom a 15-minute order is entered must be on the floor when the Chair reaches his order. Otherwise, if we are notified that the Senator is on his way, although his order will not then be vacated he runs the risk, depending upon the circumstances, of having the time run against his 15-minute order.

Sixth. Speeches under the 15-minute orders always occur at the beginning of a day, and prior to morning business.

At best, slip-ups can occur and there is no foolproof method, of course, but during the last day or so, orders have been entered for Senators when the Senators apparently were not personally desirous of having the orders entered or did not personally initiate the requests. If a Senator personally requests the leadership to enter an order it can be expected that the Senator will be on the floor at the time his order comes up. The Senate comes in early to accommodate such orders; therefore, if a Senator does not show, the Senator is kept waiting.

What I have said is not offered by way of criticism at all, but if Senators or their own staff members would call the whip office or contact me or my secretary we will do everything we possibly can to see that their requests are entered and everything possible will be done to notify each Senator for his own convenience as to when his order will occur, as to where in the lineup he will appear. It is hoped that the staffs of Senators would also keep the foregoing in mind. Staffs can be more helpful to Senators if they know the procedures being followed, and this will also assist the leadership in its desire to accommodate all Senators, and at the same time keep the business on the track and expedite the flow of legislation.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. ALLEN. I wonder if it would not be helpful also to the Senate if each Senator applying for time would state in capsule fashion the nature of the remarks he plans to make. Just recently the Senator from Alabama was on the floor when one Senator, and it has happened many times, offered a highly controversial resolution and asked unanimous consent that it might be considered at that time. With respect to the 15-minute orders, if it be understood they are merely for the purpose of making a speech, that might be fine; but if it causes the Senate to take action, would it not be well for the Senate to be advised of their plan or at least the nature of the remarks they intend to make?

Mr. ROBERT C. BYRD. It would be helpful to all Senators, I say to the distinguished Senator from Alabama. I, personally, would feel hesitant, however, to ask a Senator what he is going to talk about, but I think it would be helpful if Senators would indicate the subject matter of their statements. Other Senators might want to come to the floor and listen.

Mr. ALLEN. I appreciate the remarks and plans of the distinguished Senator from West Virginia.

Mr. ROBERT C. BYRD. The leadership wants to express appreciation to all Senators for the splendid cooperation they have shown in the past, and hopes it will continue to have the understanding of Senators in this procedure which has been so helpful in saving the time of all Senators, in expediting the business of the Senate, and in taking up Senate matters in conformity with a dependable scheduled order.

There was a time, Senators will remember, when if any Senator chose to speak for 3 minutes, he could get it extended ad infinitum. There were times when I heard 3-minute speeches become 2- and 3-hour colloquies. As a result, the unfinished business or the bill to be taken up as the pending measure was delayed for most of the day, and the legislative business suffered.

It was for that reason that some Senators on both sides of the aisle suggested this procedure, so that they would know when they were to appear, early speeches would be limited, and the Senate could get on to its business at a predictable hour. This has worked out well. As I have said, there are times when things break down a little, and occasionally it is well for the RECORD to just state what the procedures are that we are trying to follow.

ESTIMATED FUNDS AVAILABLE UNDER THE REVENUE SHARING BILL

Mr. COOK. Mr. President, I would like to share with my colleagues in the Senate an article appearing in the September 22, 1972 National Association of Counties News. The article, written by Larry Naake, legislative representative to NACO, outlines the Senate-House conference agreement on the Revenue Sharing Act. It contains the estimated funds for each State as well as the overall State share and local share. The figures in this article have been confirmed as well as the overall outline. I would like to point out one error in the article which was a misprint. After each State was given its highest total under either the Senate or House bill it was necessary to reduce the figures on a percentage basis so that the overall $5.3 billion ceiling could be maintained. This percentage figure is 9.1 percent instead of the 8.3 percent quoted in the article.

I am bringing this to your attention because my office for 1 week has been barraged with phone calls from various city and county officials and State government departments who, needless to say, are concerned about the future of their programs. My office has not been able to obtain any information whatsoever except approximate dates as to when the conference agreement report and figures might be released. In checking with both the House Ways and Means Committee, I was able to verify that no press release or any other form of official information has been released except what was given out at the press conference immediately following the final conference meeting. However, not even a summary of that meeting has been made available for use by congressional offices.

For those of you who would like to compute the approximate figures which will be made available to each county and major city in your State, you need only to use the star print, part II, of the Senate Finance Committee report on the bill and take 83 percent of those figures.

I think it is incredible that a congressional office is forced to seek information from newspapers when it is the duty of the committees involved to make this information available for dissemination as soon as possible so that inquiries may be intelligently and speedily answered. After all, this is one of the prime duties of our office.

Mr. President, I would like to make these remarks and information available in the RECORD so that Senators will have available the information of the funds to be distributed to cities and local communities in their States.

I ask unanimous consent to have the news articles to which I referred printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CONFERENCE COMMITTEE REPORTS REVENUE BILL

(By Larry E. Naake)

By the time you receive this newspaper, the House-Senate Conference Committee will most likely have come to full agreement on Revenue Sharing. The U.S. Senate and House of Representatives will have approved this agreement, and the President of the United States will have signed the "Revenue Sharing Act of 1972".

The Bill (H.R. 14370) is now progressing rapidly in the House-Senate Conference Committee, following a week of debate on Senate Floor. The Senate earlier last week passed the measure by a vote of 63 to 20. (Please see list on "How Your Senator Voted")

SENATE ACTION

The debate on the Senate Floor centered around the three issues of an annual appropriations process for revenue sharing, a different formula which would have benefited urban states, and the issue of whether or not to include the social services program amendments in the revenue sharing bill. NACo, and the other public interest groups in Washington, were successful in turning back an attempt by Senator John McClellan (D-Ark.), Chairman of the Senate Appropriations Committee, to subject the revenue sharing funds to the annual appropriation process. Such an amendment would have "gutted" one of the basic concepts of general sharing—namely, the access of state, county, and municipal governments to a predictable and dependable source of unfettered revenue over the five-year period. We were quite pleased that the majority of the Senators agreed with us.

All attempts by Senators from urban states to alter the formula to provide more funds to the more populous states was also defeated.

The Senate further rejected an attempt by states and counties to eliminate that portion of the revenue sharing bill which drastically reduced and amended the existing, open-ended social services program. As passed by the Senate, Title III of H.R. 14370 would have virtually eliminated federal assistance for social services. The Senate version limited these two programs to $600 million per year.

CONFERENCE COMMITTEE AGREEMENTS

However, by publication date, the House-Senate Conference Committee had resolved two of the issues discussed above.

SOCIAL SERVICES PROGRAMS

Since Social Service was not in the House version of the Revenue Sharing Bill, it was a point that had to be resolved by the Conference Committee. In a major victory for states and counties, the Conference Committee raised the $600 million limit to $2.5 billion, beginning July 1, 1972. This amount is merely an authorization, and still must go through the annual appropriations process. The funds would be distributed among the states on a straight population basis.

The eligible services were also expanded to include almost all of those that are eligible under existing law, rather than the two limitations contained in the Senate bill—family planning and child care services. Funds under the program for retarded persons, child care, and family planning may be spent on potential, present, and prior welfare recipients. However, 90 percent of the remaining funds (after the funds have been spread by the state or county for the three programs just mentioned) may be spent only for applicants or recipients of welfare. Child care services, as defined under this Conference Committee agreement, have been limited and include only those services needed to enable a member of a family to work, take job training, or to provide necessary supervision for a child whose mother is deceased or disabled.

The program matching features will still contain the 75% federal, 25% local ratio.

DISTRIBUTION OF REVENUE SHARING FUNDS UNDER HOUSE BILL, SENATE BILL, AND UNDER THE CONFERENCE COMMITTEE AGREEMENT

[In millions of dollars]

States	House bill	Senate bill	Conference committee agreement		
			1st year total amount (calendar year 1972)	State share	Local share
U.S. total	5,300.0	5,300.0	5,300.0	1,800.0	3,500.0
Alabama	80.2	127.6	116.1	38.7	77.4
Alaska	6.6	5.5	6.0	2.0	4.0
Arizona	46.1	55.1	50.1	16.7	33.4
Arkansas	38.3	60.4	55.0	18.0	37.0
California	610.8	510.4	555.8	185.2	370.6
Colorado	57.4	60.0	54.6	18.2	36.4
Connecticut	72.6	57.5	66.1	22.1	44.0
Delaware	17.3	12.9	15.7	5.2	10.5
District of Columbia	26.0	14.1	23.7	7.9	15.8
Florida	150.0	160.3	145.9	48.6	97.3
Georgia	103.4	120.7	109.8	36.6	73.2
Hawaii	25.9	22.7	23.6	7.8	15.8
Idaho	15.4	21.8	19.8	6.6	13.2
Illinois	301.8	250.9	274.6	91.5	183.1
Indiana	113.8	114.6	104.3	34.7	69.6
Iowa	67.8	84.6	77.0	25.6	51.4
Kansas	47.7	58.0	52.8	17.6	35.2
Kentucky	71.8	95.9	87.3	29.1	58.2
Louisiana	83.2	124.8	113.6	37.8	75.8
Maine	19.9	34.2	31.1	10.3	20.18
Maryland	117.5	94.8	106.9	35.6	71.3
Massachusetts	179.0	143.5	162.9	54.3	108.6
Michigan	243.7	210.9	221.8	73.9	147.8
Minnesota	141.1	108.2	103.8	34.6	69.2
Mississippi	46.0	99.6	90.6	30.2	60.4
Missouri	107.6	108.5	98.7	32.9	65.8
Montana	16.7	22.6	20.6	6.8	13.8
Nebraska	34.5	47.1	42.9	14.3	28.6
Nevada	12.2	11.7	11.1	3.7	7.4
New Hampshire	13.5	16.7	15.2	5.0	10.2
New Jersey	179.7	142.6	163.5	54.5	109.0
New Mexico	22.5	36.5	33.2	11.0	22.2
New York	649.6	507.1	591.1	197.0	394.1
North Carolina	113.0	148.8	135.4	45.0	90.4
North Dakota	12.0	21.7	19.7	6.5	13.2
Ohio	227.4	185.4	206.9	68.9	138.0
Oklahoma	52.9	65.3	59.4	19.8	39.6
Oregon	60.1	61.8	56.2	18.8	37.4
Pennsylvania	300.9	240.2	273.8	91.2	182.6
Rhode Island	25.9	23.1	23.6	7.8	15.8
South Carolina	57.9	89.5	81.4	27.1	54.3
South Dakota	13.5	27.6	25.1	8.3	16.8
Tennessee	79.3	108.1	98.4	32.8	65.6
Texas	248.3	268.6	244.4	81.4	163.0
Utah	29.0	34.5	31.4	10.4	21.0
Vermont	11.0	16.3	14.8	4.9	9.9
Virginia	115.6	109.7	105.2	3.5	101.7
Washington	79.1	92.3	84.0	28.0	56.0
West Virginia	36.4	57.5	92.1	17.4	34.9
Wisconsin	137.0	147.1	111.0	44.6	89.1
Wyoming	6.1	10.7	9.7	3.2	6.3

Details may not add to total due to rounding.

REVENUE SHARING DISTRIBUTION FORMULA

In an attempt to satisfy the complaints of both urban states and rural states, the Conference Committee agreed on a formula which would give each state the higher amounts of either the House formula or the Senate formula each year. The House version of the bill would essentially have distributed the funds to state and local governments on the basis of population, urbanized population, and population inversely weighted for per capita income. The Senate version would essentially have distributed the funds on the basis of population inversely weighted for per capita inverse per capital income (the so-called poverty factor). By taking the higher amount for each state, the total program for the first calendar year, 1972, would be $5.825 billion. However, the Conference Committee determined that the Federal Government should expend only $5.3 billion this first calendar year. Therefore, after the higher figure for each state is determined, it will be proportionately reduced so that the totals for all states will equal $5.3 billion (this means an approximate reduction of 9.1% for each state). The totals under the House bill, the Senate bill, and the Conference Committee agreement are shown in the chart on page 11.

The Conference Committee also provided that the revenue sharing fund would increase by $150 million each year. Thus, the total revenue sharing funds available each calendar year are as follows: 1972—$5.3 billion; 1973—$5.975 billion ($150 million plus the base year amount of $5.825 billion); 1974—$6.125; 1975—$6.275 billion; 1976—$6.425 billion. The total program, therefore, over the five year period equals $30.1 billion.

After these funds are distributed down to the state level, they are divided one-third to the state government and two-thirds to the local governments within that state. The two-thirds to local governments are then distributed in the same manner as provided under the Senate bill. First, it is distributed to the county area on the basis of county population, tax effort, and inverse per capita income (i.e., each county area's share is determined by its population multiplied by the tax efforts of the county and its municipalities and further multiplied by its inverse per capita income). Second, the funds are split between the county and its municipalities on the basis of "adjusted taxes". "Adjusted taxes" are defined to include property, income, sales, gross receipts, corporate income, etc., with the exception of those taxes levied for or attributable to education. This step in the formula determines the amount that a given county government would receive. Finally, the remaining amount is divided among the municipalities within a county on the basis of the same three factors of population, tax effort, and inverse per capita income.

TRIBAL INDIANS

The Conference Committee also agreed to include tribal Indians as eligible recipients of revenue sharing funds. Basically, they would receive funds in proportion to their population within a given county. For example, if 30 percent of the population of a county consisted of tribal Indians, then 30 percent of the county areas allocation would be distributed to that Indian tribe.

These then are the agreements made by the House-Senate Conference Committee on Revenue Sharing as of publication time of "County News".

A major point of difference between the two bills still to be decided by the Conference Committee concerns the so-called "High Priority Expenditure Items". As you recall, the House version restricted the use of local funds for certain federally-determined high priority areas. These included, for maintenance and operating expenses, public safety, environmental protection, and public transportation. For capital expenditures, the funds could be used for sewage collection and treatment, refuse disposal systems, and public transportation. The bill provided that the states may establish further priorities within the above categories.

The Senate Bill had no such restrictions. It merely provided that the funds may be used by state and local governments for any purpose legally allowable. Our best guess is that the high priority expenditure items will remain in the final version, but that the list of eligible programs for expenditure will be expanded.

Because certain features are the same in both the House and the Senate version of the revenue sharing bill, they will not be debated at points of difference and will be contained in the final bill. These features include the following:

RETROACTIVE PAYMENTS

The funds will be distributed and payments made retroactively to January 1, 1972.

NONDISCRIMINATION

Both bills contain a provision which prohibits state and local governments from using revenue sharing funds in a manner that discriminates on the basis of race, color, national origin or sex.

MATCHING FEDERAL PROGRAMS

Although there are minor differences, both bills prohibit state and local governments from using the funds to match other federal grant funds.

This then is the status of the revenue sharing bill at this time. We will describe and analyze in detail the entire and final version of the Revenue Sharing Act of 1972 in next week's issue of *County News*.

HOW SENATORS VOTED

(Democrats for: 31)

Allen (Ala.) Bayh (Ind.) Cannon (Nev.) Cranston (Calif.) Eastland (Miss.) Edwards (La.) Fulbright (Ark.) Gravel (Alaska) Hart (Mich.) Hartke (Ind.) Hollings (S.C.) Hughes (Iowa) Humphrey (Minn.) Jackson (Wash.) Jordan (N.C.) Long (La.) Magnuson (Wash.) McClellan (Ark.) Metcalf (Mont.) Mondale (Minn.) Montoya (N.M.) Moss (Utah) Muskie (Maine) Pastore (R.I.) Pell (R.I.) Randolph (W. Va.) Ribicoff (Conn.) Spong (Va.) Talmadge (Ga.) Tunney (Calif.) Williams (N.J).

(Republicans for: 32)

Aiken (Vt.) Baker (Tenn.) Beall (Md.) Bellmon (Okla.) Bennett (Utah) Boggs (Del.) Brock (Tenn.) Brooke (Mass.) Buckley (N.Y.) Case (N.J.) Cook (Ky.) Cooper (Ky.) Cotton (N.H.) Dole (Kan.) Dominick (Colo.) Fong (Hawaii) Griffin (Mich.) Gurney (Fla.) Hansen (Wyo.) Hruska (Neb.) Javits (N.Y.) Mathias (Md.) Packwood (Ore.) Pearson (Kan.) Roth (Del.) Schweiker (Pa.) Scott (Pa.) Smith (Maine) Stafford (Vt.) Stevens (Alaska) Tower (Tex.) Weicker (Conn.)

(Democrats against: 15)

Bentsen (Tex.) Bible (Nev.) Burdick (N.D.) Byrd (Va.) Byrd (W. Va.) Chiles (Fla.) Eagleton (Mo.) Ervin (N.C.) Gambell (Ga.) Mansfield (Mont.) Nelson (Wis.) Proxmire (Wis.) Stennis (Miss.) Stevenson (Ill.) Symington (Mo.)

(Republicans against: 5)

Hatfield (Ore.) Percy (Ill.) Saxbe (Ohio) Taft (Ohio) Young (N.D.)

Paired—(A pair designates the positions of

senators when one or both are absent and unable to vote).

Paired for: [Allott (R-Colo.) Thurmond (R-S.C.) McGovern (D-S.D.).]

Paired against: Curtis (R-Neb.) Jordan (R-Idaho) Church (D-Idaho).

Absent or not voting: Fannin (R-Ariz.) Goldwater (R-Ariz.) Harris (D-Okla.) Inouye (D-Hawaii) Kennedy (D-Mass.) McGee (D-Wyo.) McIntyre (D-N.H.) Miller (R-Iowa) Mundt (R-S.D.) Sparkman (D-Ala.) Anderson (D-N.M.).

The PRESIDING OFFICER (Mr. HUMPHREY). The Chair wishes to commend the Senator from Kentucky.

Mr. COOK. I thank the Chair and, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN ASSISTANCE ACT—UNANIMOUS-CONSENT AGREEMENT AND SCHEDULE OF ROLLCALL VOTES ON TUESDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time for beginning the series of rollcall votes on Tuesday next, which was 2 p.m. under the order previously entered, be changed to 1:30 p.m.

The PRESIDING OFFICER. And that rule XII be waived?

Mr. ROBERT C. BYRD. And that rule XII be waived. I thank the Chair.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that after the first rollcall vote, which is to occur at 1:30 p.m., any succeeding rollcall votes during the afternoon of Tuesday be limited to 10 minutes on each rollcall, with the warning bell to be sounded after the first 2½ minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM FRIDAY UNTIL 9 A.M. ON MONDAY, SEPTEMBER 25

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order providing for a convening of the Senate on Saturday be vacated, and that when the Senate completes its business tomorrow, it stand in adjournment until 9 o'clock a.m. on Monday next.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I am informed that a Senator wishes to speak, and while he is coming to the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9 o'clock a.m. After the two leaders have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes and in the order stated: Messrs. CHILES, PACKWOOD, PROXMIRE, FULBRIGHT, HART, HUMPHREY, ROBERT C. BYRD, and SCOTT.

At the close of these orders, there will be a period for the transaction of routine morning business for not to exceed 15 minutes, with the usual limitation of 3 minutes on statements.

When morning business is closed, the Senate will take up the foreign aid bill, H.R. 16029. It is hoped that amendments will be offered thereto, in which event yea-and-nay votes could occur.

At some hour on tomorrow, the distinguished majority leader or his designee will set aside the foreign aid bill, and the Senate will resume its consideration of the unfinished business, S. 3970, a bill to establish a Council of Consumer Advisers. Hopefully, amendments to that bill will be called up, in which case yea-and-nay votes could occur. Conference reports can be called up at any time and yea-and-nay votes can occur.

There will be no Saturday session.

On Monday, insofar as I can now see, the Senate will come in at 9 o'clock a.m. Following the recognition of the two leaders under the standing order, the distinguished Senator from Maryland (Mr. BEALL) will be recognized for not to exceed 15 minutes. If there are other orders for the recognition of other Senators entered in the meantime, those orders will be effectuated, after which there will be a period for the transaction of routine morning business for not to exceed 15 minutes, with the usual limitation of 3 minutes on statements therein, following which the Senate will again return to the consideration of the foreign aid bill. If amendments are offered, they will be voted upon. As such time as there is no further progress to be made on that bill and no amendments to be called up, the Senate will resume consideration of the unfinished business, the Council of Consumers Advisers bill, S. 3970. Hopefully, if there are further amendments thereto, they will be called up and yea-and-nay votes could occur. Conference reports can also be called up at anytime and yea-and-nay votes requested.

On Tuesday the Senate will come in at 9 o'clock, or earlier if there are orders entered to recognize Senators, and at no later than 9:30 a.m. the Senate will proceed to the consideration of the foreign aid bill.

There is a time limitation on the Scott amendment to increase the amount. There is a time limitation on the Stennis amendment to delete the Brooke amendment. The time between 9:30 a.m. and 1:30 o'clock p.m. will be equally divided for debate on those two amendments, to wit, 2 hours on each of the two amendments. The votes on the Scott amendment, the Stennis amendment, and final passage of the bill, in that order, will begin at 1.30 o'clock p.m. on Tuesday.

Following the disposition of the foreign aid bill on Tuesday, the Senate will resume the consideration of the consumers advisers bill, if that bill has not been disposed of prior to that time.

On Wednesday, it is the plan of the leadership to call up H.R. 1, the welfare bill, on the first track.

ADJOURNMENT UNTIL 9 A.M.

Mr. ROBERT C. BYRD. Mr. President, word has now come to me that the Senator will not come to the floor to speak. Therefore, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 a.m. tomorrow.

The PRESIDING OFFICER (Mr. HUMPHREY). The Chair heartily concurs in that motion.

The motion was unanimously agreed to; and at 5:48 p.m., the Senate adjourned until tomorrow, Friday, September 22, 1972, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate September 21, 1972:

U.S. AIR FORCE

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be general

Lt. Gen. Paul K. Carlton [redacted] FR (major general, Regular Air Force), U.S. Air Force.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 21, 1972:

DIPLOMATIC AND FOREIGN SERVICE

C. Robert Moore, of Washington, a Foreign Service officer of the class of Career Minister, now serving as Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Republic of Cameroon, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Equatorial Guinea.

INTERNATIONAL MONETARY FUND; INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT; INTER-AMERICAN DEVELOPMENT BANK; ASIAN DEVELOPMENT BANK

John N. Irwin II, of New York, to be U.S. Alternate Governor of the International Monetary Fund for a term of 5 years and U.S. Alternate Governor of the International Bank for Reconstruction and Development for a term of 5 years; U.S. Alternate Governor of the Inter-American Development Bank for a term of 5 years and until his successor has been appointed; and U.S. Alternate Governor of the Asian Development Bank.

HOUSE OF REPRESENTATIVES—*Thursday, September 21, 1972*

The House met at 12 o'clock noon.

William F. McLean, pastor, Calvary Baptist Church, Alexandria, Va., offered the following prayer:

God of our Lord Jesus Christ, we thank Thee for blessing and prospering our land, for the men who have guided our Nation to its greatness, and for those who have died in battle to make us free.

Give our leaders wisdom to solve our problems, strength to bear the burdens, and courage to do right. Watch over our soldiers in Vietnam. Comfort the prisoners of war, and grant they may soon be free and the war over.

We look forward to the coming of our Lord and His kingdom when men "shall beat their swords into plowshares and their spears into pruninghooks; neither shall they learn war any more."

In the name of our Lord who died that we might live. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries, who also informed the House that on September 19, 1972, the President approved and signed bills of the House of the following titles:

On September 19, 1972:

H.R. 1860. An act for the relief of David Capps, formerly a corporal in the U.S. Marine Corps;

H.R. 5299. An act for the relief of Maj. Henry C. Mitchell, retired.

H.R. 5315. An act for the relief of Gary R. Uttech;

H.R. 10635. An act for the relief of William E. Baker; and

H.R. 12350. An act to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills and joint resolutions of the House of the following titles:

H.R. 6575. An act to amend the act entitled "An act to provide for the disposition of judgment funds now on deposit to the credit of the Cheyenne-Arapaho Tribes of Oklahoma," approved October 31, 1967 (81 Stat. 337);

H.R. 7614. An act to amend titles 5, 10, and 32, United States Code, to authorize the waiver of claims of the United States arising out of certain erroneous payments, and for other purposes;

H.R. 7616. An act to amend section 715 of title 32, United States Code, to authorize the application of local law in determining the effect of contributory negligence on claims involving members of the National Guard;

H.R. 8215. An act to provide relief for certain prewar Japanese bank claimants;

H.R. 14173. An act for the relief of Walter Eduard Koenig;

H.R. 15865. An act for the relief of Richard L. Krzyzanowski;

H.J. Res. 135. Joint resolution to authorize the President to issue a proclamation designating the week in November of 1972 which includes Thanksgiving Day as "National Family Week";

H.J. Res. 1193. Joint resolution to provide for the designation of the week which begins on September 24, 1972, as "National Microfilm Week"; and

H.J. Res. 1232. Joint resolution designating, and authorizing the President to proclaim, February 11, 1973, as "National Inventors' Day."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 15376. An act to amend the Service Contract Act of 1965 to revise the method of computing wage rates under such act, and for other purposes.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 180. An act for the relief of Kuay Ten Chang (Kuay Hong Chang);

S. 632. An act to establish a national land use policy; to authorize the Secretary of the Interior to make grants to assist the States to develop and implement State land use programs; to coordinate Federal programs and policies which have a land use impact; to coordinate planning and management of Federal lands and planning and management of adjacent non-Federal lands; and to establish an Office of Land Use Policy Administration in the Department of the Interior, and for other purposes;

S. 2518. An act for the relief of Anna Kolbiarz-Sala;

S. 2818. An act to amend the Federal Food, Drug, and Cosmetic Act to prohibit the administration of the drug diethylstilbestrol (DES) to any animal intended for use as food, and for other purposes;

S. 2901. An act to amend the Wild and Scenic Rivers Act by designating a segment of the Colorado River in the State of Utah for study as a potential component of the national wild and scenic rivers system;

S. 3939. An act to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes; and

S. 3943. An act to amend the Public Buildings Act of 1959, as amended, to provide for the construction of a civic center in the District of Columbia, and for other purposes.

CHANGE IN LEGISLATIVE PROGRAM

(Mr. BOGGS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. BOGGS. Mr. Speaker, I take this time to announce to the Members of the House that the originally programed vote on sending the Fair Labor Standards Act amendments to conference for today has been indefinitely postponed.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE REPORT ON MILITARY CONSTRUCTION APPROPRIATIONS, 1973

Mr. SIKES. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on the bill making appropriations for military construction, Department of Defense, for the fiscal year ending June 30, 1973, and for other purposes.

Mr. TALCOTT reserved all points of order on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

OPINION OF THE MAJORITY SHOULD BE REPRESENTED BY CONFEREES ON MINIMUM WAGE BILL

(Mr. HALEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HALEY. Mr. Speaker, I am strongly of the opinion that the House of Representatives, in defense of its own status as a coequal body in the Congress, should not agree to send this bill to conference—unless there could be first established some firm guarantee that the House managers for the bill be committed to support the position of the House in this controversy.

I cannot say that it would be possible to bind our managers to support of the House position forever. But I do think that the House majority which passed our version of the minimum wage bill could reasonably expect that our managers be selected from those who supported the bill in the form in which it was passed by the House.

And, going beyond that, I would not think it unreasonable at all for the House to insist at least that none of its managers be Members who have announced in advance that they would refuse to support the House position, as several prospective managers have announced on this floor. And I would certainly think that, whoever the managers may be, the House ought to instruct them, to the firmest degree possible, to support the House position regardless of their personal feelings. It seems to be that the phrase, "managers for the House," means that its conferees represent the House and do not represent their own personal views.

Too often, Mr. Speaker, conferees named by the House have simply knuckled under to the other body on controversial issues, sometimes shrugging off, as if they did not exist, instructions from this body to stand up for our position. It has happened, in fact, so often that the House is becoming recognized as the subservient rubber stamp for the other body, rather than as a coequal part of the Congress.

We should not continue to allow this to happen. I must vote against sending the minimum wage bill to conference unless we can be assured in advance that our managers will stand up and fight for our position.

NEW WILDERNESS AREAS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. No. 92-356)

The SPEAKER laid before the House the following message from the President of the United States; which was read and referred to the Committee on Interior and Insular Affairs and ordered to be printed:

To the Congress of the United States:

Everywhere in America, we seek the horizons where escape is free and where despair can never catch up. We sense that our wilderness, more than a concept, is an experience, where we may find something of ourselves and of our world that we might never have known to exist.

Wide-winged birds soaring over remote treetops can set our dreams in new directions. Serrated cliffs can tell us about our geological past. Mountain flowers beside woodland trails can teach us vital lessons about our ecological relationships. Sea winds blowing across lonely beaches can refresh us for new accomplishments.

It is a prime objective of government to balance the use of land sensibly to ensure that the world of nature is preserved along with the world of man.

"A wilderness . . ." according to the epochal Wilderness Act of 1964, "is hereby recognized as an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain." Within the National Wilderness Preservation System established by this act, the first 9.1 million acres of our country were set aside, to be conserved, unimpaired, in their natural state.

Today, I am proposing to the Congress 16 new wilderness areas which, if approved, would add 3.5 million acres to our wilderness system. This is the largest single incremental increase in the system since passage of the act.

Five would be located in our National Wildlife Refuge Areas. They are the Brigantine National Wildlife Refuge in New Jersey, the Blackboard Island National Wildlife Refuge in Georgia, the Chassahowitzka National Wildlife Refuge in Florida, and the Lostwood National Wildlife Refuge and the Chase Lake National Wildlife Refuge in North Dakota. A sixth area, administered by the National Park Service, would be within the Cumberland Gap National Historical Park on the borders of Tennessee, Virginia, and Kentucky. These six additions would add 40,257 acres to the Wilderness Preservation System.

In the Western States, in units administered by the National Park Service, my proposals today would designate as wilderness 2,016,181 acres in Yellowstone National Park, 512,870 in the Grand Canyon complex, 646,700 acres in Yosemite National Park, and 115,807 acres in Grand Teton National Park.

I further propose for inclusion in our National Wilderness Preservation System an additional 216,519 acres in some of the most beautiful regions of our country. These would include designated areas in the Great Sand Dunes National Monument in Colorado, the Theodore Roosevelt National Memorial Park in North Dakota, the Badlands National Monument in South Dakota, the Guadalupe Mountains National Park in Texas, the Carlsbad Caverns National Park in New Mexico and the Haleakala National Park in Hawaii.

The 1964 Wilderness Act further directed the Secretaries of Agriculture and of the Interior to review federally owned lands which they administer and to report to the President, who transmits to the Congress their and his recommendations for those areas which qualify as wilderness as defined by the act. This wilderness review process, to be conducted in three phases, was to be completed by 1974.

Beginning in 1969, I accelerated this program, and on April 28, 1971, I forwarded to the Congress 14 new wilderness proposals which, when enacted, would substantially increase the acreage added since passage of the Wilderness Act. I warned that we would need a redoubled effort by the Departments of Agriculture and the Interior in completing the review process and prompt action on these proposals by the Congress.

On February 8, 1972, I transmitted a second package of 18 new wilderness proposals to the Congress, which, if enacted, would designate 1.3 million additional acres as wilderness. At that time I reported that the September, 1974 statutory deadline for reviews could and would be met. I also pointed out that the majority of the wilderness areas recommended to date had involved western lands. Therefore, I directed the Secretaries of Agriculture and Interior to accelerate the identification of areas in the Eastern United States having wilderness potential.

The Congress has now received 78 wilderness proposals which would add 5.8 million acres to the original 9.1 million acres designated by the Congress.

To date, however, the Congress has acted on only 35 proposals, approving 1.7 million acres for inclusion in the system. This leaves pending 43 wilderness proposals encompassing 4.1 million acres.

I now urge the Congress—in this centennial year of our National Park System—to act quickly in favor of these new proposals as well as the ones already pending.

I am aware of the commercial opportunities in potential wilderness areas such as mining, lumbering, and recreational development. I believe we must achieve a sensible land use balance—America can have economic growth *and* the unspoiled nature of the wilderness.

Increasingly, in fact, the preservation of these areas has become a major goal of all Americans. The process of developing wilderness proposals is now exemplifying public participation and cooperation with the governmental process. Commercial and conservation groups—and individuals from all over the country—have, through public hearings and direct contact with government agencies, done much more than is generally realized to contribute to the wilderness program.

I believe the value of this cooperative effort between the public and their government officials is reflected in the wilderness proposals I am proud to submit today. This is an excellent example of the responsive way in which our government is meant to work.

The first man on earth, according to the scriptures was placed in a natural garden, and he was charged "to dress it and keep it." Our own great naturalist John Muir said that our "whole continent was a garden and . . . seemed to be favored above all the other wild parks and gardens of the globe."

The addition of these new areas to our national wilderness system will help to keep it that way.

RICHARD NIXON.

THE WHITE HOUSE, *September 21, 1972.*

ONE ASPECT OF REVENUE SHARING

(Mr. HANNA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANNA. Mr. Speaker, the Members might be interested in one aspect of revenue sharing which has recently come to my attention. It is rather dramatic that the birthplace of President Nixon, Yorba Linda, Calif., Orange County, is going to be one of the cities that will not be helped by revenue sharing. The reason is a rather technical one, and I think the Members ought to be aware of this problem because I suggest it is going to give them more than a little trouble.

Any city which has become incorporated after the 1970 census is not now included in the list of the cities that are going to get assistance under revenue sharing. As a matter of fact, I checked with the Treasury and they told me they would only be added when they have been processed by the Census Bureau. The Census Bureau told me they are 18 months to 2 years behind in processing newly incorporated cities.

To give you an idea of the size of this problem, there have been 320 cities actually that have been incorporated since the 1970 census. In addition to that, any city that has had any annexation will probably get less than they think they are entitled to, because annexations which have occurred after this date will not be included in the entitlement of any of these cities, which suggests to me that the counties will get more money than they are entitled to.

When the cities come in for approval of their claim and the date of their incorporation, they will ask for the money back from the counties. The counties will already have spent it, and then they will lose that amount, and the Members are going to hear a lot of noise about it.

FAIR LABOR STANDARDS ACT AMENDMENTS

(Mr. PERKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PERKINS. Mr. Speaker, I understand that our distinguished majority leader has already made the announcement that the motion will not be made today to send the minimum wage to conference, which is true. There has been some misunderstanding on the floor about which body would act first. There is certainly no objection on the part of the leadership of the House if the Senate acts first, but the Senate never did request this conference. It did not make the request, so after the papers came over here, it was necessary that I make the request which I did.

There is no earthly way, according to the Parliamentarian's ruling, for us to take those papers over to the Senate so they can request a conference. So the motion must come from the House Chamber to go to conference and that motion will be made sometime next week.

I want to make it clear that there is nothing in the rumor that we are going over there to take the Senate bill. The purpose of the conference, however, is to compromise, and this bill will have to be compromised. The differences, and I know there are many, will be compromised when we do go to conference.

Mr. WAGGONNER. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Speaker, I thank the gentleman for yielding.

I want to say at the outset some compromise must be made. I realize full well that compromises have to be made if we are going to get a bill, further I want to say I am not one of those and I do not know anybody who is trying to prevent passage of a bill. I think it is to the advantage of everybody concerned, Democrats, the Republican Party, the administration, and America as a whole, to work out something that is equitable. I think we can work out a compromise if we will just sit down and put our heads together.

But I do ask the gentleman, having said now that we will consider this legislation next week, if he would be willing, as he has been and surely he will, to just give us as much as 48 hours notice before he is going to ask for action on the floor to go to conference.

Mr. PERKINS. Yes, I will be delighted to do that.

Mr. WAGGONNER. I thank the gentleman from Kentucky.

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the minority leader.

Mr. GERALD R. FORD. Mr. Speaker, unfortunately I was on the telephone when the gentleman took the floor so I am not wholly familiar with the comments he made at the outset. As I understand it the gentleman indicated the legislation would be brought to the floor some day next week and a motion would be made to send the fair labor standards bill to conference. Is that correct?

Mr. PERKINS. Yes.

Mr. GERALD R. FORD. As I understand the colloquy I just heard, the gentleman said he would give Members on both sides of the aisle 48 hours notice.

Mr. PERKINS. Yes, sir.

Mr. GERALD R. FORD. Let me add I agree with what the gentleman from Louisiana has said. We want a minimum wage bill. We want it to become law. I think we can achieve that. A great deal of effort has been put forth on the part of gentlemen from that side of the aisle and gentlemen from this side of the aisle who have been trying to find a key so we can have a new minimum wage law. I think if we work at it a little harder we can get a compromise that is good legislation. I urge the gentleman from Kentucky and others in the interim to work for that kind of compromise which would be in the best interest of the United States.

Mr. PERKINS. I thank the distinguished minority leader, but I wanted to make it clear that there was no way for the House to act first inasmuch as the Senate did not request a conference, according to the ruling of the Parliamentarian today.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, it was my understanding when the rules were changed I believe in 1965 by adding a motion to go to conference, we did not thereby dispense with the other two means that were available for taking a bill to conference. The chairman can make a unanimous-consent request or go to the Rules Committee for a resolution to send a bill to conference. As I understand the debate that took place at the time of the rules change in 1965 the gentleman's statement would not be correct, that is, the statement which he made earlier, that there is no other way for this bill to get to a conference other than by a vote by the House on a motion to send it to conference.

Mr. PERKINS. I will say to my distinguished colleague, and I know his eagerness to obtain a bill, I know the gentleman understands the trouble we could encounter at this later hour on any piece of legislation going to the Rules Committe if we ask for a rule.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield further?

Mr. PERKINS. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, I merely should say in response to that letter from the chairman of the Rules Committee this week an exception was made for procedural matters. It seems to me this would fall within the exception stated in the latter from Mr. COLMER, chairman of the Rules Committee, with respect to the Monday midnight deadline on rules and reports.

Mr. DENT. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the distinguished chairman of the subcommittee, the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Mr. Speaker, I want the House to know that there has been a very serious effort made by Members of both the Republican and Democratic Parties to arrive at a reasonable position that all of us would be able to vote for on an increase in minimum wages.

I do not think anybody really believes that there should not be a bill of this kind. Most of the men I have talked to are willing to vote for a bill, but they would like to have it amended by the conference committee rather than have an understanding reached before we go to conference.

The door has not been closed. I believe there is some misunderstanding on the floor that we have closed the door on any compromise, and that we are not continuing our discussions. We are continuing our discussions. I talked as late as last evening with the ranking members of the committee on the other side of the question of when we could get together.

The purpose today is to emphasize that we will have a vote at some point. We are positive that when we come to that vote, you will have an understanding of how the House will attempt to handle itself in the conference.

Mr. PERKINS. Mr. Speaker, I yield to the distinguished gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Speaker, the gentleman from Pennsylvania is absolutely correct. We have been talking about trying to reach an understanding before we go to conference, and the door is not closed; we have continued to talk. We just have not gotten any agreement by today, as I look at the situation, we find ourselves in the place where, as was indicated the other day when the House voted down the motion to go to conference, that a majority of the conferees would not have voted for the substitute as passed the House. We all recognize the problem involved here.

Many people ask the question, "Why are you compromising before you go to conference?" Under the circumstances, I think it is necessary. The gentleman from Pennsylvania indicated his willingness to still attempt to reach an understanding. The people who will be conferees should have some understanding with each other so we know that the position of the House is protected.

It is not easily worked out, this complicated situation, between divided groups interested in the legislation, but I want to say as the ranking minority member on the committee in joining the distinguished minority leader, that we intend to get a minimum wage bill this year, one in which the interests of the House are protected, because it is a vastly different bill from the Senate bill. The House amended the committee bill and took that action as the majority strongly felt. I, for one, believe that there are honorable men on both sides who can work this out. I hope we can, and I believe that the assurance of 48 hours before it will be called up again is necessary and I appreciate it.

One other matter: The House will not have the opportunity for a motion to recommit back to conference, as the chairman has indicated. That is why, if we are going to go to conference, we have to have some prior understanding.

Mr. PERKINS. I yield to the gentleman from Missouri.

Mr. BURLISON of Missouri. Mr. Speaker, I appreciate the distinguished gentleman yielding to me.

I have noted the remarks made by the gentleman from Pennsylvania (Mr. DENT) and the gentleman from Minnesota (Mr. QUIE) with regard to the negotiations that have gone on and are continuing on this matter. I want to say for the benefit of these gentlemen, the chairman, and other members of the Education and Labor Committee that I did support the House committee bill. I voted against the Anderson amendment and against the Erlenborn substitute. I felt that I could vote for the House bill because it did not broaden the coverage to agricultural workers and did not cover such seasonal employment as the cotton gin operations, which occupy a very special category and a very special situation. Our cotton gins operate only a few days each year, but many hours during this short period. Loss of overtime exemptions will result in an exorbitant increase in ginning costs to the farmer. There is no way the farmer can pass on or offset this cost.

The reason I make these remarks, Mr. Speaker, is that I feel there are several other Members who fall into the same category as I. We want to support increasing the minimum wage, as contained in the House bill, but may not if it extends and broadens coverage to agricultural workers and seasonal employees, who occupy the special circumstances of our ginners. I refer specifically to legislation doing away with the overtime exemptions, as found in the Senate bill.

I hope the gentlemen, in their continuing negotiations, will keep these matters carefully in mind.

MILITARY RETIRED PAY HEARINGS WILL START OCTOBER 3

(Mr. STRATTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRATTON. Mr. Speaker, in view of the considerable interest in the Congress in recomputation and related retired-pay matters, I wish to take this opportunity to announce to Members of the House that hearings on military retired pay will begin before the Special Subcommittee on Retired-Pay Revisions, of which I am chairman, on Tuesday, October 3.

The first group of witnesses heard will be Members of Congress. I am making the announcement today so that Members who wish to testify will have as much time as possible to prepare their statements. I ask that all Members wishing to appear notify the staff of the committee by Thursday, September 28. The telephone extension is 56703.

THE SALE OF GRAIN TO RUSSIA

(Mr. MAYNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MAYNE. Mr. Speaker, the House Subcommittee on Livestock and Grain has now concluded hearings on the Russian grain sale after 3 full days of testimony and there was no evidence introduced in those hearings to substantiate Senator McGOVERN's sensational charges concerning this transaction. Once again we find the Senator's statements are exposed for what they usually are—irresponsible and reckless allegations in search of headlines and votes. He has charged that the transaction was tainted by conflicts of interest, that the Department of Agriculture gave grain speculators unique access to inside information to exploit farmers, that the speculators then used this secret information to quietly buy up huge quantities of wheat before the credit agreement between Russia and the United States was announced, and that the Department in effect issued licenses to profiteer to grain exporters who allegedly received huge excessive profits.

The evidence shows that the two principal companies in this transaction acted largely on the basis of their own information which was in some respects superior to that of the Department of Agriculture. They did not receive secret inside information from the Department and they were not speculating in advance of the sale. They were not "long" in wheat holdings when they made their deals with the Russians, and had to buy from domestic sources to make delivery under their contracts. Continental Grain Co. and the Soviet trading organization had already signed the contract on most of the grain involved in this transaction 3 days before the Department negotiated and announced the agreements for credit and the Department did not even know about it! What better refutation could there be of McGOVERN's charges that secret inside information from the Department enabled the companies to manipulate the terms of the sale?

Denying the accusation of "huge windfall profits" the witness for Cargill Inc. estimated his company's profits will be less than 1 percent of sales, and there was not a shred of evidence introduced to contradict the clear and conclusive testimony of former Assistant Secretary Clarence Palmby establishing freedom from impropriety on grounds of conflict of interest.

Senator McGOVERN's remarkable ignorance of how grain sales have long been conducted in this country and his complete misconception of the wheat export subsidy is shown by his September 8 description of the subsidy at Des Moines as "money that goes directly to the exporters and not to the farmers." The fact is the exporters would not pay farmers the higher domestic price if they did not receive the subsidy differential which enables them to sell abroad at the lower world price.

On the basis of all the evidence introduced before our subcommittee, this historic sale is good for America. It is good for farmers, laborers, and taxpayers alike. The smears and innuendos which have been used against it have not been sustained by evidence, and now stand revealed as crudely partisan ploys of a Democratic presidential candidate who would deny the Nixon administration deserved credit for a much needed increase in exports. I now invite all Members to read the statements of the three Department witnesses who testified at the hearings, which will follow at this point in the RECORD. They are Secretary of Agriculture Earl Butz, Assistant Secretary Carroll Brunthaver and Charles W. Pence of the Export Marketing Service. I will ask permission to insert the testimony of other witnesses on next Monday, September 25.

STATEMENT OF THE HONORABLE EARL L. BUTZ

Mr. Chairman and Members of the Subcommittee:

I am here at your request to testify concerning the large and beneficial sale of U.S. grain which is being sold to the Soviet Union by the private grain trade.

At the outset, I would like to make clear that this sale to Russia is a historic and major agricultural and national achievement.

This sale of grain is good for American farmers—they have stronger markets, higher prices and more freedom to plant. The sale is good for consumer taxpayers—they will pay less for storing excess grain and less for farm program costs. The sale is good for labor—they will have more jobs and more work. The sale is good for our economy—it will be strengthened by this increase in business activity and by a sizeable, favorable contribution to our balance of trade. The sale is good for all citizens—it is a major contribution to bettered commercial and political relations between two powerful nations.

Those facts, I am sorry to say, have been partially obscured by a continuing, patently political smokescreen emanating from innuendoes, misstatements, falsehoods, and haranguing.

My mission here today is to bring some semblance of fact, perspective, and good judgment to the matter.

I urge you knowledgeable men of this subcommittee to join me in the quest for calm and understanding. I am aware that this is more difficult for you since the political leadership of the House has injected politics into the matter by asking you to hold this hearing. I am also aware that it is more difficult for you when a candidate for the Presidency fills the airwaves almost daily with wild, unsubstantiated and inaccurate charges, as he tries to make a political circus out of an historic event.

I can tell you frankly that these biased political manipulations are jeopardizing the present and future sale of grain to the Soviet Union. The political attacks are harming the continuing commercial relations and political relations between two great and powerful nations. The political harangue is jeopardizing the attitude of the American people, the Maritime workers, and the private grain traders toward commercial sales with the Soviet Union. Professional workers in the Department of Agriculture are wondering if they must face a political inquisition every time a trade of this kind is made; prospective appointees with experience and expertise will refuse to serve the Department of Agriculture if they must face character assassination by desperate office seekers who, for personal political gain, try to taint a major achievement.

From the viewpoint of the Soviet Union, it is going through a new experience in dealing in this magnitude with private traders in this country. Soviet officials are more familiar with state monopolies which make a trade, and that's it. But the Russians, who bought grain here on the same terms as other nations, now find reckless partisan politicans telling the American people that U.S. consumers are subsidizing the sale to Russia. They find a candidate for President, no less, telling the American people that the largest grain sale in history was good only for American grain traders and was bad for farmers and taxpayers. And this candidate is alleging to the Russians that their negotiators let the American private trade make windfall profits out of their misfortunes.

These distortions are bound to cause the Soviet Union to wonder if the Americans want friendly, commercial relations with the Russians. The international sale of farm commodities is a highly competitive business. And I repeat, the partisan attacks on this historic sale to Russia, and the poor judgment displayed, are jeopardizing the present and future sale of American farm products, and all commercial products, to the Soviet Union.

You can perform a statesmanlike and bipartisan service for the country by restoring calm appraisal to the achievement for United States farmers, workers, taxpayers, and citizens that is embodied in this historic commercial transaction between these two nations.

Let's look at what this sale of grain to Russia has done, and what the alternatives would be:

1. It has increased the value of farmers' crops by nearly $1 billion. The alternative would be less income in farmer's pockets.

2. The sale to Russia has reduced the total stocks of grain in this country—but there are still adequate supplies—and this has enhanced the prospect of stronger grain prices for farmers next year. The alternative would be larger surpluses, lower farm prices, and tighter controls on farmers.

3. The sale to Russia has reduced the cost to U.S. taxpayers so that the cost of the export payments on the sales to Russia are offset by dollar savings of about four to one. The cost of wheat in a loaf of bread has increased by an amount equivalent to only about one-half cent per loaf. The alternative would be higher government tax costs, with farmers getting more of their income from the government rather than from the market.

4. The sale was conducted by private traders, which is the American way of doing business. The alternative would be state monopoly trading with the government conducting our export business.

5. The credit arrangements were negotiated and carried out by experts in the Department of Agriculture who were selected for their experience and knowledge of complicated international trade. The alternative is to have our Department of Agriculture run by political hacks who have no expertise or acceptability in international trade negotiations.

6. The sale to Russia was made by meeting world competition with the aid of export payments that have been used since 1949. The alternative would be to withdraw from wheat exports or to let United States farmers compete individually against the Government monopolies that conduct the wheat trade of other major exporting countries and can offer huge quantities of wheat at prices of their own choosing.

7. The agreement with the Soviet Union was deferred until Russia agreed to our regular CCC three-year credit terms at 6⅛ percent interest. This agreement came on July 8 after some U.S. farmers had sold their wheat. Our estimates indicate that by July 15 farmers had sold only 330 million bushels of wheat out of a total supply of 1,958 million bushels under farmers' control at the beginning of the season. The alternative would have been to induce the Russians to sign earlier by granting them the 10-year, 2 percent interest that they first requested—which we are not legally authorized to offer and which, in any case, would have been better than the terms available to our long-time, established world customers.

Despite the clear-cut and obvious advantages of these Russian grain sales for all segments of our economy, a number of questions and complaints have been made about them. Some of these no doubt are deliberate misrepresentations. Some undoubtedly stem from real misunderstanding due to the fact that exporting is a complicated business.

I would now like to address myself to several of these areas of fault-finding.

FARMERS' PRICE BENEFITS

The contention has been made that farmers did not get the real benefits of the Russian sales because they sold before the Russian business caused market prices to rise.

I am aware that some United States wheat farmers sold their wheat before the full extent of the upward influence on price was known. They did this in preference to using the support loan program. This is unfortunate. The number of such farmers is apparently not large, since our figures show that of the total 1972 crop plus farmer-owned carryover into 1972, 83 percent was still owned by farmers on July 15.

In any case, it should be clear that the Department of Agriculture did all it could to make the situation clear to farmers promptly. This is something that the Department insisted upon in making the agreement with the Soviets.

To clarify this, let me take a few moments to outline the steps in the development of this Soviet export business.

As you know, a marketing team from the Department of Agriculture accompanied me on a trip to Russia in April to negotiate terms of trade for the possible sale of grain to the Soviet Union.

This meeting was a follow-up to the grain sale that had been made to Russia last fall, and it followed an indication of interest in further trade by the Soviet Minister of Agriculture, Vladimir Matskevich, when he visited this country last December.

President Nixon, when he visited Russia in May, further enhanced the prospect for trade between the two countries as a result of the Summit Conference.

There are three factors involved in the sharply increased grain trade with the Soviet Union:

1. A warming of relationships between the two nations with a mutual expression of interest in cooperating in cultural and scientific exchanges, and in greater economic trade to the benefit of both nations.

2. A commitment on the part of the Soviet Government to increase the protein component of the diet of its people by 25 percent during the current five-year plan. In order to achieve that goal, the Soviet Government has indicated that it would import food and feedgrains.

3. A severe winter with limited snow cover led to heavy winterkill of fall-planted grains in Russia. The Soviets planted more spring grains to compensate, but these spring-planted grains ran into a hot, dry summer. No one, including the Russians could assess the effect on their grain production until the summer weather unfolded day-by-day.

That was the setting for grain negotiations between the two countries. In April, the Russians did not appear interested in our regular terms of Commodity Credit Corporation trade, including three-year credit and going interest rates. They wished to negotiate for better terms.

If we had had a choice, we would have much preferred to reach a trade agreement in Moscow in early April during my visit. This would have made the news available to all U.S. farmers before the wheat harvest had started. However, the only way that that could have been achieved would have been for the United States to make concessions to the Soviet Government that it is not making to other nations that have been long-time customers for our wheat and feedgrain. We did not want to do that, and held firm.

The next move was entirely up to the Soviet Government. They decided to agree to our terms on their own time schedule, which became more urgent for them when they began to assess the damage to their grain from the unusually hot and dry summer weather.

As the severity of their weather damage began to unfold, the Soviets came to this country in late June and early July to negotiate further. The entire agreement was reached in eleven days, whch is virtually unprecedented in international negotiations. Ultimately, the Russians agreed to our regular CCC terms of credit.

As soon as this agreement was reached, and was signed on Saturday, July 8, the terms were announced to the world in a press statement by President Nixon and then at a joint press conference on the same day by myself and Secretary of Commerce Peter G. Peterson.

We held the signings and made the announcements on a Saturday because we believed that there should be no delay in making the information available to farmers, to the trade, to the nation's citizens, and to the world.

Of course, the handwriting about the future was plain for those who cared to read it and act upon it. As early as last April, upon my return from Moscow, I was confidently and publicly predicting that substantial grain sales to the Soviet Union were in prospect. Many other Department officials did likewise. Between early April and early September, in more than 35 separate speeches, press conferences, broadcasts, and announcements, I explained the sale of grain to Russia.

We did not tell this just to grain companies or just to farmers or just to each other. We told it to the world in speeches and statements that were generally released and widely disseminated. Circumstances have made us even better prophets than we knew.

ROLE OF EXPORTERS

Another complaint we have heard is that the export grain firms were given advance information by the Department about the volume of grain the Russians planned to purchase.

This is absolutely untrue. At the time of the U.S.–USSR negotiations in Washington the first week in July, the Soviets *may* have had an idea that they were about to enter the markets in a major way. If such is the case, they *may* have contacted individual grain companies with respect to cash purchases prior to the completion of official conversations with the U.S. Government. In this way, the companies *may* have known that the Russians were contemplating large purchases. If this is the case, we did not know about it, either from the Russians or from the companies. Certainly, the companies did not learn about it from us.

We do know that Soviet buying agents were in New York during the first week of July. But any contacts they made at that time were with trading firms—not with us. And of course the purchases were made from private sources and not from the U.S. Government. This is long established policy, fully in keeping with the American free enterprise system and with repeated Congressional directives and policy statements.

I emphasize that nobody knew then—neither the Department of Agriculture nor the trade—just how much the Russians would buy. The export traders were not telling each other how much the Soviets were booking with them. The exporters did not tell the Department of Agriculture. Nor were the Russians talking.

It is accurate to say that the size of the Soviet purchases caught everyone by surprise, including the Russians themselves. Soviet grain purchasers were in this country dealing with the private export trade in July and went home. Unexpectedly, they came back in a few days—apparently after getting a further assessment of the damage that had been done to their wheat crop by the hot, dry weather.

Of course, the Russians did not want to pay more than they had to for the grain, so they were not broadcasting what their requirements would be.

As late as July 6, two days before the signing of the Russian grain agreement, nine U.S. exporters offered to sell 7 million bushels of wheat to the Commodity Credit Corporation for use in the foreign donation program at Gulf prices of approximately $1.70 a bushel. Would they have done this if they had known that business was pending which would bull the market by between 44 and 48 cents within 60 days?

On the day before the signing of the Russian agreement, exporters booked 2½ million bushels of wheat for export at an export payment of 7 cents a bushel. Would they have done this if they had knowledge of pending business that would force that export payment up to 47 cents in August?

In the entire month of July, exporters booked 153 million bushels at export payments of 15 cents a bushel, or less. Does that sound like the action of people who had advance information as to a wheat buying boom?

NO SPECIAL TREATMENT FOR RUSSIA

Some critics have alleged that the Soviets received special treatment in this matter, either in credit terms or prices.

The Soviets *did not* receive special treatment. When the Soviets bought grain, they bought from international trading companies and paid the open market price just as a Japanese or European buyer would do. If they bought on credit, they had the same credit terms available as other importers—except that CCC credit to the Soviet Union had a dollar limit.

Moreover, let me point out that much of the grain purchased to date is for cash dollars. Commodity Credit Corporation credit is available for no more than $500 million at any one time, under the terms agreed upon July 8, and if the Soviet Union should buy $1 billion worth of grain, half of it would have to be for dollars. The other half—the CCC credit—is protected by bank-guaranteed letters of credit.

ROLE OF EXPORT PAYMENTS

Complaints about the export payment or export subsidy program seem to center around the belief that the United States taxpayer is in some manner subsidizing wheat sales to the Soviet Union.

Again, the answer is no. American taxpayers are benefited by these transactions, and by the export payment program that facilitates the overseas movement of wheat.

The export payment program has been used since 1949 to enable U.S. wheat to move into export—to make up the difference between a domestic price at a higher level and a world price at a lower level. Without it, we would have been relegated to the role of residual suppliers in the world wheat market.

Most of our agricultural export commodities move without the benefit of any export payment or subsidy. Once a decision is made to use export payments, there are two ways you can go. You can use a fixed payment rate, which means that you will be competitive only when other suppliers are offering at net export prices equal to yours or above them. Or you can use a variable rate that attempts to achieve targeted prices. This will keep the United States competitive at all times. The latter is the way we have been operating in the case of the wheat program.

Our target for many months has been to hold our export price at approximately $1.63 a bushel, f.o.b. Gulf ports—a level that was designed to keep our wheat moving at stable world prices.

We had several reasons for wanting to maintain this stability. We had large stocks of wheat carried over from last year and a large 1972 crop assured. We had a substantial investment in a set-aside program designed to prevent burdensome wheat surpluses. We needed to export large amounts of wheat and at the same time not discriminate against our traditional wheat customers and create conditions that would hurt us in future years.

But with the Soviets coming into the market in a big way in August, we faced a new situation. The United States domestic price rose sharply. This, of course, was all to the good, since one of the goals of our farm policy is to help farmers get a fair price in the market place. It did require, however, that we increase the export payment in order that exporters might buy at the higher domestic prices and continue to sell at competitive world prices.

Within a few weeks, however, it was apparent that something had to give. In view of the prospect that we had equaled or surpassed our export sales goals and the cost of the wheat program had been reduced, we felt justified in permitting the export price of wheat to rise. We so informed the grain exporters on August 25 and allowed them one week in which to book export payments on sales made prior to August 24 at export payment rates made on the basis of world prices that had prevailed until early July.

We did this in the belief that if the Government is going to take part in the marketing process, it has an obligation to play fairly. The exporter is entitled to know what plan we are using, what the rules are, and when the rules are changed. That is why, for example, in past years in the case of large wheat purchase tenders by importers which have remained open for a considerable period of time, exporters had been assured that the subsidy would follow the domestic market and maintain an export price they could rely on.

On sales made since August 24, we are offering export payments at lower rates. Since the domestic price has continued to rise, it is obvious that our export prices are higher. It is too early to tell what effect this will have on export sales for the remainder of the marketing year. Payments on somewhat over 20 million bushels were booked at the lower rates during the period August 28–September 1, indicating that sales are continuing, although perhaps in a reduced volume.

In total, as of September 1, exporters have booked nearly 800 million bushels of wheat export payments covering exports during the 1972–73 marketing year. This is clear indication that our exports of wheat and wheat products for the year will equal or exceed a billion bushels—by far the largest total in our history.

As for the cost of the export payment program, it is true that it involves a Treasury outlay. It does not follow, however, that this is a net cost. Quite the reverse! As I have already pointed out, taxpayers will benefit from dollar savings in the ratio of four to one on the cost of the export payments on the sales to Russia. A total outlay of $300 million export payments on all shipments to all destinations will bring back Government farm program savings of a half-billion dollars, for a net savings to taxpayers of $200 million.

RECORD AGRICULTURAL EXPORTS

In conclusion, I want to say a word about the contribution of this Soviet business to our total agricultural export picture.

During the 1972 fiscal year, our agricultural exports reached $8 billion for the first time. Soybeans became our first $2 billion a year export crop. Exports of animals and animal products reached $1 billion for the first time. It was a banner year, and it looked like a hard one to top.

But we are going to top it this year, and the principal reason we are is the sale of wheat, feedgrains, and soybeans to the Soviet Union. Currently, it appears that the Soviet Union will buy between $900 million and $1 billion in agricultural products from us during the 1973 fiscal year. If it does, and if our exports to other customers maintain the pace at which they started out in July, we seem almost certain to reach $9 billion this year and we may approach President Nixon's $10 billion goal.

The balance of payments contribution of the Soviet sales is likewise impressive. Since all sales will be made for dollars, they represent a direct contribution to our trade balance. In the last fiscal year, agriculture accounted for a favorable trade balance of $2 billion, offsetting much of the deficit racked up by the non-agricultural sector.

With nearly $1 billion in Soviet business added, we should increase our contribution to the balance of payments substantially this year.

In quick summary, the grain sale to Russia:

1. Will enhance farm income by several hundred million dollars.
2. Will move our farmers substantially in the direction of getting their income in the marketplace, and away from such heavy dependence on government payments.
3. Will mean less onerous planting restrictions on our farmers as they produce for an expanded market.
4. Will reduce taxpayers costs by some $200 million.
5. Will create 25,000 to 30,000 additional jobs for our laboring men.
6. Will add one billion dollars to U.S. balance of payments.
7. Will move the world's two most powerful nations along the road to normal commercial relations and peace.

STATEMENT BY CARROLL G. BRUNTHAVER

Secretary Butz and I were asked at this hearing last Thursday whether we had knowledge of alleged calls made by Charles Pence of the Department of Agriculture to "tip off" exporters of an impending change in the wheat subsidy program. The question was correctly answered in the negative.

We had no knowledge that Charles Pence had phoned the trade with so-called tip-off calls or any other. What did happen was that I asked Frank McKnight, Assistant General Sales Manager of the Export Marketing Service, on August 24 to notify exporters immediately that a change had just been made in export policy; which, in effect, notified wheat exporters not to assume that sales made after the close of business on the 23rd of August would necessarily qualify for export payments based on U.S. export prices that had prevailed for the previous 10 months.

Mr. McKnight asked Mr. Pence to make these calls on August 24. This was intended to place exporters on instant notice that if they continued making sales they did so at their own risk as to subsidy levels. This was done to prevent overselling of certain classes of wheat. The exporters were not told what a new U.S. export price would be nor was any information given to indicate that the level of subsidy would necessarily change, only that they could not count on the previous export price policy being continued.

At the time of the questioning last Thursday, I was not aware that these were the calls referred to by Congressman Melcher nor was I aware at that time that McKnight had asked Pence to make these calls.

Notifications given exporters by telephone on August 24 were not considered to be market sensitive since it was not intended to indicate an actual change in either the level of the export subsidy or in the target prices. Any change would depend on subsequent developments. In fact, it was hoped that no change in the target prices would have to be made. As verification of that fact, I would like to submit for the record a copy of a speech that I delivered on the night of August 24 in which I discuss the desirability of retaining the export price of U.S. wheat at the prevailing target levels.

It was only after a meeting I attended in the Executive Office Building on the morning of August 25 attended by representatives of the Office of Management and Budget, Council of Economic Advisers and others, and with discussions following this meeting with Secretary Butz, that the Department decided to change the U.S. export target price objectives. Even at this time, I urged for retaining the level of U.S. export prices that had prevailed for the previous 10 months so as to protect traditional U.S. customers and to discourage additional competition for U.S. wheat farmers.

Exporters who received telephone calls on August 24 and who may have expected changes in subsidy levels for new sales on August 24 or 25 were wrong. In fact, the subsidy level remained constant from August 17 through 3:30 p.m. August 28. Thus, exporters receiving telephone calls had no advantage over those receiving this information from the August 25 press release.

Congressman Melcher's question to me as to whether advance information of a subsidy change would be helpful to a trader was answered correctly in the affirmative. However, no advance information was given to anyone. The exporters were simply advised afterwards of a change in policy that had already taken place.

To the extent that there is confusion on this point, it is in the fact that there were two separate actions. One, a telephone notification dealing with the cancellation of a target price objective; the second, a press release establishing a settlement period for old sales and a new subsidy level for new sales. No one had advance information of either action. The details of the second announcement were not worked out until a meeting was held in my office on August 25 at approximately 3:30 p.m.; these were announced in a press release shortly thereafter.

STATEMENT BY CHARLES W. PENCE

Mr. Chairman and Members of the Subcommittee:

I am Charles W. Pence, Director of the Grain Division, Export Marketing Service, USDA. This Division is responsible for operating the export payment program for wheat.

I am here at your request to testify concerning certain telephone calls to the grain trade on August 24, 1972.

At approximately 11:00 a.m. Frank McKnight, Associate General Sales Manager, Export Marketing Service, informed me that Carroll Brunthaver, Assistant Secretary of Agriculture, had asked EMS to call the several grain companies involved in grain sales to the U.S.S.R. Mr. McKnight asked me to make these calls.

I called the six companies who we believed had sold wheat to Russia (Garnac, Cook, Cargill, Continental, Bunge, and Dreyfus). As instructed, I told these companies two things:

First, I asked that a senior official of each company meet with the Department of Agriculture and other sellers of wheat to Russia to discuss aspects of the sales, the meeting to be held in Secretary Brunthaver's office at 2:00 p.m., August 25, 1972.

In addition, they were told that as of the close of business on August 23, 1972, the Department's export payment policy on wheat would no longer reflect U.S. export price levels which were in effect previous to the Russian wheat sales.

The meeting called with the exporters who sold to Russia was for the purpose of obtaining information in regard to the quantities sold, classes, and grades, etc., so that the Department would have the information needed in revising its policy and to prevent the overselling of certain classes of wheat.

In addition to these calls, I called other exporters to inform them that, as of the close of business August 23, 1972, the Department's export payment policy on wheat would no longer reflect a U.S. export price level which was in effect previous to the Russian agreement.

As many exporters as possible were called. This word became public in the trade and exporters were calling me for verification. As a result, I feel most exporters were informed of the change in policy.

The afternoon of August 24 I was asked to look into the possibility of a two-tiered system of export payments. My staff drafted such a system for sales made on or before August 23 and sales August 24 and forward.

This two-tiered system was approved the afternoon of August 25 and was announced that afternoon. The decision to change the effective time of the new policy to August 24 instead of August 23 was made by Secretary Brunthaver and his staff at about 3:00 p.m., August 25, in recognition of the possibility that some exporters conceivably might not have received word on August 24 of the impending change and, therefore, might have continued selling wheat under the earlier export payment policy.

In my view, the exporters who were notified by phone on August 24 would not find this information to their advantage, since I specifically told them that the new payment policy would be effective as of the close of business the previous day, August 23.

COMMENDING 1972 U.S. OLYMPIC TEAM AND MARK ANDREW SPITZ IN PARTICULAR

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 701) commending the 1972 U.S. Olympic team for their athletic performance and Mark Andrew Spitz, in particular, for his unparalleled achievement in the 1972 Olympic games in Munich, Germany.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 701

Resolution by the House of Representatives (the Senate concurring), That—

(1) Mark Andrew Spitz, of Carmichael, California, is commended for the individual excellence, skill, and perseverance that earned him a record seven gold medals in swimming in the XX Olympiad, the historically significant achievement of being the first Olympic contestant to ever win seven gold medals in one Olympiad, and the recognition of being the outstanding Olympian of modern times;

(2) The Congress notes with praise the determination and exceptional athletic ability displayed, individually and in team concert, by the many fine athletes who represented the United States during the 1972 Olympic games in Munich, Germany, and commends the 1972 United States Olympic team for its athletic performance in the XX Olympiad.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MOSS. Mr. Speaker, the 1972 Olympic games were an emotional marathon. This body has expressed its outrage, profound sorrow, and disbelief in the senseless tragedy which occurred in Munich. We are still in a state of shock. But today we have an opportunity to remember the real purpose of the Olympics—to promote interest in education and culture and to foster better international understanding through the universal medium of youth's love of athletics. We have a chance to express our pride in the ability of the young athletes who represented the United States at the 1972 games and gave so much of themselves, as individuals and as a team. There were 33 gold, 31 silver, and 30 bronze medals won by the U.S. Olympic team in the 1972 games. Ninety-four medals is an impressive number, illustrative of the outstanding athletic performance and ability of our athletes.

There is no dispute over the fact that the XX Olympiad was historic and for a number of reasons. Many should be singled out for special recognition, but one young athlete in particular, I feel, deserves our special praise. He exemplifies what determination and perseverance and learned skill can accomplish. That individual is Mark Andrew Spitz of Carmichael, Calif., who I am proud to say is a resident of my congressional district. At the 1972 games, Mark attained the historic achievement of being the first Olympic contestant to ever win seven gold medals in one Olympiad.

Mark has been swimming for 20 years, ever since the age of 2. He has been a recordbreaker throughout his swimming career and at age 18 was recognized as the world's No. 1 swimmer. He has continued to set, and break, national and international records. The 1972 Olympic games were no exception. Mark's unparalleled ability to excel in his sport resulted in four individual and three team records. That is seven events, seven world records, and seven gold medals.

Mark Spitz is a remarkable young man who has been recognized the world over as the greatest Olympian of modern times. He merits the special commendation of his countrymen. So do the many exceptionally fine American athletes who participated in the 1972 Olympic games deserve our commendation. So do the coaches who trained and guided and helped develop the talent displayed by our athletes in the Olympic games. The athletes, who work hard, win the medals and recognition. Their trainers and coaches also work hard, but without receiving the laurels due them. Special mention should be made of a coach like Sherman Chavoor of the Arden Hills Swim Club in Carmichael, Calif. Sherm's coaching has produced many outstanding swimmers, including Mark Spitz and Debbie Meyer of Sacramento, another world recordbreaker and Olympic champion, who won several gold medals in the 1968 Olympic games.

All in all, the many outstanding U.S. athletes and the entire staff who work with the athletes and contribute so much to their success are deserving of our praise and commendation. I know how proud the residents of my district are and am sure that that same feeling of pride in our U.S. Olympians is shared by all Americans.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the concurrent resolution just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

COMMEMORATING THE 200TH ANNIVERSARY OF DICKINSON COLLEGE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 672) commemorating the 200th anniversary of Dickinson College.

The Clerk read the concurrent resolution as follows:

Resolved by the House of Representatives (the Senate concurring), That the Congress of the United States extends its greetings and congratulations to Dickinson College, Carlisle, Pennsylvania, on the occasion of the observance and celebration by that institution of its two hundredth anniversary, and expresses its recognition of the contribution which Dickinson College has made to educational excellence, and its appreciation of the leadership role which many distinguished alumni of Dickinson have played in the life and affairs of this Nation.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. GOODLING. Mr. Speaker, on Saturday last I had the privilege of attending an outstanding event in my congressional district. It was the opening convocation in a yearlong program recognizing the 200th birthday of an outstanding institution.

During the coming academic year, beginning in September 1972 and concluding in May 1973, Dickinson College will celebrate her 200th anniversary. The founding date of 1773 is based on the school's earliest legal document, a patent issued by Thomas and Richard Penn. The school, however, had its actual beginning, 1759, in the educational function of two rival Presbyterian pastors in the new frontier village of Carlisle—a little cluster of log and stone houses around a fort of the French and Indian War. In 1769, with the churches united, the school was formally organized with trustees. It was this school which the Penns assured a future place in American life with the patent in 1773.

Throughout the early years of struggle for national independence, the school was both nourished by and nurtured patriots who determined the future course of this free Nation. Included among the nine trustees named in the 1773 patent were two generals and two colonels in the war for independence; a member of the Pennsylvania Committee of Safety, 1775–76; and another who signed the Declaration of Independence, was a member of the Constitutional Convention of 1787, and was a Justice of the Supreme Court by appointment of President George Washington. These men, and other patriots, were joined by Dr. Benjamin Rush and Governor John Dickinson as trustees when the school was renamed Dickinson College in 1783. The eminent Dr. Rush was among those who believed that the long war for independence was only "the first act of the great drama." Dickinson College, older than the Republic, was a commitment to the idea of a continuing American Revolution. He envisioned a national educational system, publicly and privately supported, in which Dickinson College would be "a source of light and knowledge to the western parts of the United States."

Central Pennsylvania is no longer regarded as "the western parts of the United States" but the vision of Dr. Rush has been fulfilled. For over 200 years the school which began so humbly has provided leadership as well as "light and knowledge" to the Nation. Among her alumni are distinguished men of state, medicine, church, law, business, and the arts. She is the only educational institution in America to have had the distinction of alumni serving concurrently as President of the United States and Chief Justice of the Supreme Court.

In her bicentennial celebrations, Dickinson College will be emphasizing the intellectual and spiritual meaning of educational excellence and the future of a pioneering college and people who never cease to be "on the way." This will be done with deep awareness of the goodly heritage in a nation born in adversity, maturing through struggle, and moving toward new and exciting tomorrows. Looking toward the national bicentennial in 1976, these themes and resources in an institution actually older than our Nation might well serve as lessons for all Americans.

In recognizing Dickinson College it should also be noted that one of the best loved and most highly respected employees of this House graduated from Dickinson a half century ago. He is presently serving as a member of the board of trustees. I refer to our devoted chaplain, Dr. Latch.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks in the RECORD on this concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING THE PRESIDENT TO PROCLAIM OCTOBER 1, 1972, AS "NATIONAL HERITAGE DAY"

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent for the immediate consideration of the joint resolution (H.J. Res. 1304) authorizing the President to proclaim October 1, 1972, as "National Heritage Day."

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the joint resolution as follows:

H.J. RES. 1304

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating Sunday, October 1, 1972, as "National Heritage Day", and calling upon the people of the United States, all of us immigrants, to observe such day with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the joint resolution just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

CALL OF THE HOUSE

Mr. HALEY. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. PRICE of Illinois. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 377]

Abourezk
Abzug
Annunzio
Ashbrook
Badillo
Baker
Baring
Bell
Betts
Bevill
Blackburn
Blanton
Bow
Byrnes, Wis.
Byron
Carey, N.Y.
Celler
Clark
Clawson, Del
Clay
Conyers
Curlin
Davis, S.C.
Derwinski
Devine
Dowdy
Dulski
Dwyer
Edmondson
Ford, William D.
Gallagher
Goldwater
Green, Pa.
Griffiths
Halpern
Hansen, Idaho
Hastings
Heckler, Mass.
Holifield
Jarman
Jonas
Kuykendall
Link
Long, Md.
McClory
McCormack
McCulloch
McDade
McDonald, Mich.
McMillan
Michel
Miller, Calif.
Minshall
Murphy, Ill.
Murphy, N.Y.
O'Hara
O'Neill
Patman
Patten
Pepper
Pickle
Pirnie
Powell
Rangel
Rees
Reid
Robison, N.Y.
Rooney, N.Y.
Saylor
Scheuer
Schmitz
Scott
Skubitz
Smith, Calif.
Springer
Steed
Teague, Tex.
Thompson, Ga.
Thompson, N.J.
Veysey
Waldie
Wyatt
Wydler

The SPEAKER. On this rollcall 347 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATIONS, 1973

Mr. PASSMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 16705) making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1973, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to a period not to exceed 2 hours, the time to be equally divided and controlled by the gentleman from Kansas (Mr. SHRIVER) and myself.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Louisiana.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 16705, with Mr. PRICE of Illinois in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Louisiana (Mr. PASSMAN) will be recognized for 1 hour, and the gentleman from Kansas (Mr. SHRIVER) will be recognized for 1 hour.

The Chair recognizes the gentleman from Louisiana (Mr. PASSMAN).

Mr. PASSMAN. Mr. Chairman, may I state at the outset that the bill before you today, all parts of it, had previously been authorized by this House. Nothing contained in the bill is new. It has previously been authorized.

Mr. Chairman, in fiscal 1955 the budget request for foreign aid represented about 5 percent of the total unified budget outlays for that year. In fiscal 1973 the budget request for foreign aid represents about 2 percent of the projected total unified budget outlays. Had we permitted the foreign aid program to have progressed as other programs, the budget request could be in the neighborhood of $15 billion. So, may I say that we have contained foreign aid as it relates to the percentage of the budget requests of the total budget outlays.

The House has previously authorized, as I said a moment ago, every dime of the funds carried in the bill. Now, this bill is too much for many, and it is too little for many others, but I can assure you that it is about the best balanced bill that your committee could bring to the floor for your consideration.

So that we may make some legislative history on Philippine disaster relief, the Committee on Appropriations has received correspondence from the executive branch requesting its support for an amendment to the Foreign Assistance Act of 1961 now pending in the Senate. The amendment would permit the United States to assist the Philippine Islands in its relief and reconstruction efforts to recover from the floods which devastated parts of the island of Luzon during July and August. If enacted, that amendment would provide up to $50 million from funds available under part I of the act to help meet the need for external assistance now estimated at $200 million.

Because this amendment had not been included in the authorizing legislation, as passed the House, the committee felt it should not recommend a specific amount in this bill. However, it supports the request and feels funds should be made available for this purpose from either funds available under part I of the Foreign Assistance Act of 1961, as amended, or possibly even from security supporting assistance funds.

Mr. Chairman, this committee is not looking for bouquets; neither do we like brickbats. We have tried to do a creditable job with a very difficult piece of legislation. You may recall that as chairman of this committee, I have in the past and have, to some extent, this year, placed in the hands of the membership a list of all foreign aid and foreign assistance, meaning, of course, the good and the bad. Some parts of the chart that we put out, we must recognize as good; but I wanted to make it all inclusive so that the Members may have some knowledge as to the total amount of the funds made available either under loans or grants.

Let me make this statement, and I shall stand by it and establish it during the day, this bill is a well balanced bill so far as foreign aid goes. It is by no stretch of the imagination the largest bill ever presented to the floor of this House or to the House of Representatives.

If I may call your attention to title I, usually referred to as foreign assistance, the administration requested $3,121 millions.

The committee recommends $2,722 million.

Mr. Chairman, we should contrast that with the bill in 1957, when in title I the administration requested $4,859,975,000. If we compare the $4,859 million to the part comparable in this year's bill, we find that amount exceeded this year's request by about $1.7 billion.

Much of this program is for loans and not outright grants.

The sum of $450 million is included for military credit sales. What are the terms of military credit sales? They are from 3 to 10 years, with the buyer paying the prevailing interest rate.

If we sell country *x* $50 million in military credit sales, that country pays the going interest rate on equipment which the U.S. manufacturer makes a substantial profit and pays tax into the U.S. Treasury.

In addition to the $450 million in military credit sales, we have also $350 million in development loans. Even the developing nations are paying these loans back on the due date. I will admit quickly that on most of it we make a concessionary interest rate. I would like to see them pay the prevailing interest rate, but that just does not happen to be the policy at this time.

So, if we subtract from the figure I have mentioned all of those items, including, of course, supporting assistance, which we must have in this bill if the present administration or the next administration is going to wind this war down.

Let us make this bill all-inclusive, if we may. If we take title I, title II and title III of the bill, the committee is recommending $4,195 million. This picks up all of those titles. This is $967,869,000 below the budget request, which is about a 20-percent reduction.

That is just about the average for this subcommittee. I believe if we will go back for the past 18 years we will find we have averaged about a 20-percent reduction in the foreign aid requests. Let us be realistic. Some would say, "They exaggerate their needs, so that when you cut the bill they have what they want." That is not so. Back in the years when they received 99 percent of every dime they requested that was not said. The very first year the management of this present subcommittee took over, we cut them by close to a billion dollars, and we have maintained pretty close to that percentage average for the entire 18 years.

Let us analyze the bill, if we may. I do not want to be partisan about this. We are in this trouble together.

The bill includes many different items that we have to call absolutely essential. If we may discuss briefly the military assistance program, in the past 25 years every President and every Congress has felt it was in the best interest of the United States to help other countries maintain their freedom by supplying U.S. assistance in the form of funds and personnel.

Examples of this U.S. investment abroad are as follows:

	In billions
Estimated Korean war costs, DOD (fiscal years 1950–54)	$18.0
Cost of maintaining U.S. military forces in Korea (fiscal years 1954–70)	8.6
Military assistance grant aid program (fiscal years 1950–71)	3.3
Economic assistance programs (fiscal years 1946–71)	5.3
Total	35.2

U.S. MILITARY CASUALTIES IN THE KOREAN WAR	
Killed in action	23,300
Dead from other causes	10,329
Total deceased	33,629
Wounded in action	105,785
Missing in action	5,866
Captured or interned	7,140

The U.S. investment in Vietnam is even larger:

	In billions
Estimated Vietnam war costs, DOD (fiscal years 1965–72)	$128.2
Economic assistance programs (fiscal years 1961–71)	4.5
Military assistance programs (fiscal years 1961–72)	10.9
Total	143.6

U.S. MILITARY CASUALTIES IN VIETNAM
(JAN. 1, 1961–JULY 8, 1972)

Killed in action	45,810
Dead from other causes	10,234
Total deceased	56,044
Wounded	303,208
Missing	1,119
Captured or interned	520

Now, where do we find ourselves today, as compared to past years? For the past 20 years it has been the policy of this country to provide the manpower and to provide the funds.

Under the present policy we are saying, "We are going to bring our personnel home, but we will modernize your forces."

Now, I like that system better: To get our boys home and allow these countries to modernize their forces and let them do their own fighting, if fight they must.

Now, in the military assistance program the administration proposed $215 million for Korea, the second year's installment in modernizing their forces.

Under the present administration they said they were going to bring home 20,000 troops. That we did, but we agreed we would modernize their forces over a period of 5 years to the extent of $1,500,000,000. We are saving $1,100,000,000 by bringing the 20,000 home, so in reality it is only costing us in the neighborhood of $400 million over a 5-year period to modernize their forces, with this number of personnel withdrawn.

Now, let us, if we may, discuss something that is rather touchy with a lot of people, and that is Vietnam. We have never had a bad President. We have had Presidents who made mistakes, but I do not think this Nation ever had a bad President.

If we discuss Vietnam, we have to go back many, many years, if you please, to the Kennedy and to the Johnson administrations. I think our first economic aid to Vietnam was approved under President Eisenhower; certainly it was under President Kennedy, then under President Johnson, and then under President Nixon.

But what do we find, Mr. Chairman? We find that we have made an expenditure in Vietnam of $143 billion; we find that we have had killed 56,044, with 303,000 injured.

Now, where do we find ourselves in 1969? We had 543,500 troops in Vietnam. It was costing $28,800 million a year to maintain our position in Vietnam.

What do we find today? We find that that troop strength has been reduced to a figure in the neighborhood of 49,000 as of 8 weeks ago, and by next December 1 it will be down to 27,000.

Contrast the cost, if you will: $28,800 million in 1969, and it is estimated to be down to $7,100 million for the fiscal year 1973.

Why did I bring out these figures? For this very reason: Of course, we are winding that war down. We will have to do something to offset the great loss to the economy of Vietnam, if that is the policy that we have been following all these years. We have to have a program of supporting assistance in that area. Most of the supporting assistance will go to Vietnam.

We have withdrawn the troops. We are going to have to maintain some stability in their economy.

I did not get us into this mess; we got ourselves into it, and we are getting out. But we are going to have to provide some supporting assistance to that country.

Mr. Chairman, moving along, if we may, to show you we have contained this bill, we are phasing aid out in many of the countries.

Now, if you will turn to page 7 of the report, we will be very specific about the economic assistance. As I mentioned earlier, the figures show the estimate for 1973 as $1,412 million for economic aid. Your committee is only recommending $1,197 million for this title this year. I should think practically every Member of the House of Representatives and I am sure every member of the subcommittee voted for these authorizations back a few weeks ago and voted for a higher figure not only in the Foreign Assistance Act, but they voted for these international organizations, so they should certainly support the bill today, especially since we have reduced it by almost $1 billion.

Let us take a look at the worldwide technical assistance program. That is the one most of us admit is a good one, and it was known as the point IV program, which has been in effect for many years.

Last year the Congress approved $160 million, and this year your committee is recommending $155 million, which is a reduction of $5 million.

If we go over to page 8, technical assistance for Latin America, we see last year the committee provided $80 million, and this year we are only recommending $77.5 million, which is a reduction of $2.5 million below last year.

Mr. Chairman, with regard to international organizations and programs, I do not think there has ever been a bill that reached the floor of the House that I would not have liked to have made some changes in. In most instances it is a matter of compromise. I have never understood why we have to make an aid agency out of the United Nations, but that bridge has been crossed before and it has been in effect for many, many years.

Last year your committee recommended and the Congress approved $127 million for international organizations. This year your committee is recommending only $105 million, which is a reduction of $22 million.

Let us check closely now. One reason why we are making this reduction is that you actually have three agencies working in the field of aid, and they are just about the same. One is the Peace Corps. They are mainly involved with technical aid, as before. Your expanded United Nations technical aid group is, of course, the same as bilateral technical aid. Since you are operating in three areas we thought some adjustment should be made in these accounts, and your committee has gone along on that basis.

Population control. Of course, heretofore we have had population control built into a program where it was impossible to know the cost because it would come out of different segments of the overall bill. Your committee thought last year we should place a line item in the bill so that we know just what we are spending on population control. Therefore we moved it out of the general area and put it in the bill as a line item and recommended $125 million. This year, recognizing the very substantial unobligated funds, we recommended only $100 million.

American schools and hospitals abroad. To my way of thinking, this is a good program and one which we will have to watch closely. When the budget came down this year with several items, Dr. Hannah said they had made commitments on these items and they were essential, but they had not gotten down to the Office of Management and Budget in time to have them included, so he amended his original request, and his total request was for $25.5 million.

The Indus Basin, on page 13. Last year we gave them in grants $10 million. Somehow or other we felt we should hold it to that sum this year notwithstanding the fact that they made a larger request. The Indus Basin development loans last year were $12 million, and this year we are recommending the same amount.

Now we come to the President's contingency fund. Last year Congress approved $30 million. We feel we have to make some adjustments in this act, so we reduced this to $25 million.

Mr. GROSS. Mr. Chairman, will the gentleman yield now, or does he wish to finish his statement?

Mr. PASSMAN. I have not finished my statement, but I will yield when I do finish the statement.

Mr. GROSS. I thank the gentleman.

Mr. PASSMAN. On page 15, under the international narcotics control program, the request is for $42.5 million. We felt that inasmuch as we are going all out to bring this problem under control that the committee should recommend the entire $42.5 million, and that is the amount we are recommending in the bill. And on page 16 we have itemized information here as to where this money will be funded, and I believe that the Members will find it interesting.

Then we come to development loans. Before I get into development loans let me say, Mr. Chairman and members of the committee, that this is a most difficult bill to handle, and a most difficult bill to explain in detail, even some members of the committee have trouble understanding why the figure this year is in excess of the figure last year.

For instance under the International Development Association, they requested $640 million, $320 million in a supplemental for fiscal 1972 that was absolutely denied and $320 million for fiscal 1973. There is no figure to compare that with last year because we had no appropriation whatsoever.

Let us take development loans. As I mentioned earlier this is one of the most worthwhile assistance programs that we have, and we have found that the developing nations are paying their loans back in dollars, and on time. So far as I know there is less than 1 percent of these loans that are delinquent. Last year we provided only $200 million for these loans. This year they asked for $415 million, and your committee is recommending $350 million in development loans.

Administrative expenses—again, if you expect these people to do a creditable job you are going to have to give them funds with which to administer the program. They requested $50 million, and the committee is recommending the $50 million.

Mr. Chairman, I wish that the Members would check very closely page 22 and page 23 of the report, dealing with the military assistance program. It is self-explanatory, but I would like to elaborate to this extent, that we have made certain hard commitments, commitments that we have been making for 25 years, commitments that we have been living up to for 25 years. Whether you like it, or whether I like it, these are the facts of life.

But under the new system, if I may repeat what I said earlier, under the new system we are going to furnish military assistance, but we are not going to provide the men, and to my way of thinking this is a good proposition to be able to furnish the money rather than the money and the men.

Now the Secretary of Defense who we all know and whom we respect very much, a man of great wisdom and sound judgment, says that the $730 million we are recommending in this bill is inadequate because we have made these commitments when we withdrew these troops and brought them home.

Of course, we are heavily committed in Cambodia. We are not trying to hide anything from you. We must provide that money—and the same is true with Korea, Turkey, and Taiwan.

Now we should not have started this 25 years ago, if we had not intended to see it through.

The same people who requested funds for foreign aid are the same people who request funds for all the other programs. I think we should not get any bouquets, but we should not get any brickbats either for making a 20-percent reduction.

Let us discuss, if we may, the Overseas Private Investment Corporation. This agency has been in effect and in business for about 20 years under a different name. The purpose of OPIC was to protect the American businessman making investments abroad. It is just that simple—it is to guarantee and insure the American businessman making investments abroad against unusual things like war and expropriation.

It has been in effect, as I said, for approximately 20 years. We have controlled this account. But nothing goes out free. The American businessman goes abroad and builds a plant and the Overseas Private Investment Corporation guaranteed this businessman abroad.

We have stayed on top of this account to keep it from getting out from under control. But its main function is to guarantee investments abroad.

Now this year they have asked for $85 million and, subsequently, it may be necessary to give them a supplemental appropriation because they have lots of claims coming in. But we saw fit not to give them what they asked for—they wanted $85 million this year and your committee recommended $42,500,000.

I wish you would read the report very carefully and you will note at a subsequent date they may have to come in for a supplemental.

There is another item, and that is the Peace Corps. This has been a controversial item for many, many years. To my way of thinking, they have never known exactly what they needed. They had a habit of coming in with a request shortly before we started the hearings, then they would reduce it downward. They would wind up with excess funds. So we have been riding herd on the Peace Corps trying to keep them under control.

Now this is an outright grant.

One way of discussing the Peace Corps would be this—that they have spent $1 billion that we borrowed for them. I should say that for the rest of our lives, we will be paying $60,000,000 a year interest on that $1 billion that we borrowed for the Peace Corps and that they spent. But let that be as it may. This year they said, if you give us $81 million, we will stay off the Hill and we will not do any lobbying and we will not interfere with your processes. I said, rather than to get into an argument with you, I am going to recommend $81 million and that is all we have recommended in the bill.

Another item, for those who have not studied the bill carefully enough to understand it, and which we want to bring out—and that is the assistance to refugees in the United States.

This is another one of those programs that we did not have a few years ago and which we are obligated to fund—and that amounts to $145 million.

I want you to look very carefully at that, if you will because this costs a certain amount of money, and the amount that you do not appropriate then your respective States will have to handle through the welfare department for the Cuban refugees.

That is why we want to keep that from happening and why we have recommended a higher figure than we did last year.

The next is the Asian Development Bank. Again your committee has tried to understand what is going on and has been trying to keep some control over multilateral organizations and has looked very closely at this operation.

Even though they ask for $100 million for the fiscal year 1973, your committee decided not to give them anything. We felt that they had sufficient unexpended funds to keep them right in business for 1, 2, and maybe 3 more years.

So we have denied the $100 million and it is going to be rather difficult for me to be able to yield on that during the consideration of this bill whether it is in conference or not.

Next item—the Inter-American Development Bank, last year we gave them $211 million.

It is shocking. This year they wanted $836,760,000, and we said the answer is "No. We are going to give you half of it—$418,380,000." I can assure the Members that there are ample funds in this bill to take care of the Inter-American Development Bank; but do not ask us to increase it because it has not been justified.

I think we are entitled to a little credit occasionally for making the reductions we have.

Mr. Chairman, I reserve the remainder of my time.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I yield to the gentleman from Texas.

Mr. GONZALEZ. In one of the stages of your message and report there you gave a figure of 143. Was that $143 million or $143 billion?

Mr. PASSMAN. What page are you referring to?

Mr. GONZALEZ. You were speaking here about the cost of Vietnam.

Mr. PASSMAN. You will find that on page 5. Yes, the total cost of the Vietnam involvement is $143 billion.

Mr. GONZALEZ. This is the estimate of the total overall cost on the Vietnam conflict, military, of course?

Mr. PASSMAN. The total cost.

Mr. GONZALEZ. The total cost. Over what period of time?

Mr. PASSMAN. Since we became involved, I believe, under the Eisenhower administration.

Mr. GONZALEZ. 1954. The distinguished gentleman then explained about the decline in activity there, but I am wondering, now, we have been getting all of these other reports about decreased activity in Vietnam as such, but then we get these other reports about increase in actual troop commitments in Thailand and in Laos, increases in naval personnel diverted to the zone or the area. I am just wondering what the total would be today, say, for this last fiscal year in Southeast Asia.

Mr. PASSMAN. I can give that to you. First, Vietnam in 1969 cost $28,800,000,000 a year. Now it is down to $7,100,000,000.

Let us go over troop levels, if we may, in Southeast Asia. In 1969 the total strength in Southeast Asia was 608,400. It is down now to 123,000.

These sheets are available. That refers to all Southeast Asia.

Mr. GONZALEZ. Outside of South Vietnam?

Mr. PASSMAN. The total Southeast Asia area inclusive, it is about 25 percent of the normal total in 1969.

Mr. GONZALEZ. Did the gentleman mention a figure?

Mr. PASSMAN. It is 600,000 versus 123,000.

Mr. GONZALEZ. I thank the gentleman.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, the gentleman mentioned the $85 million to the Overseas Private Investment Corporation.

Mr. PASSMAN. Yes.

Mr. ICHORD. I am very much concerned about the future cost of this program particularly because of the expropriation of U.S.-owned property in Chile. May I ask what happens to the premium collected by the Overseas Private Investment Corporation?

Mr. PASSMAN. It is placed in a reserve to meet subsequent claims.

Mr. ICHORD. Then this is the cost over and above the premiums collected by the Corporation?

Mr. PASSMAN. No. It is all in the reserve. Let me say this. They have built up, subject to correction, some $115 million in reserves over a period of these many years in excess of the claims they had. There have been some unusual things happen in Latin America, as the gentleman knows, and it would appear at this time they have sufficient claims pending to liquidate all reserves they have collected, which includes fees collected, and there is a possibility at some subsequent date they will come in with a supplemental and have to proceed under a lower basis.

They have new management. They have Brad Mills, who I believe is the president of the new management, and we have Dr. Hannah I believe from AID on this board. They are tightening up this program. I think when they get over these unexpected claims we will find the Overseas Private Investment Corporation will improve and we will recoup some of these losses.

Mr. ICHORD. All of this $85 million is for the payment of claims; is it not?

Mr. PASSMAN. They would make that case but I am not convinced that is true. If we go ahead and load this account with the entire $85 million added to what we have given them previously and what they have collected in the way of fees, it may make it more difficult if the gentleman understands, for them to compromise these claims out. In other words I say we should not load it up at the psychological moment when the decision must be made as to what claims they are going to recognize as valid.

Mr. PRICE of Texas. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I yield to the gentleman from Texas.

Mr. PRICE of Texas. Mr. Chairman, I rise today in opposition to H.R. 16705, the foreign assistance appropriations bill for fiscal year 1973. It has long been my firm conviction that we can no longer continue to support or can we justify our foreign aid program to ourselves or the American public. Our foreign assistance program still desperately requires extensive reexamination by the Congress.

For years we have been pouring countless billions of dollars into our foreign aid program to the point where it has reached incomprehensible proportions. Despite our great giveaway program, with which we have placed the American taxpayer's money into an endless list of programs and projects around the world, we have in reality purchased very few friends and little peace or security during the past two and one-half decades.

This indeed is not to say that all foreign assistance is bad or wrong. No one can deny those investments which are vital to the military security of the citizens of the United States nor could we as a humanitarian nation not continue to contribute to programs of disaster relief for victims of great natural catastrophes such as floods and earthquakes. However, well planned, logical programs of foreign aid are one thing—overlavish, unjustifiable, giveaway programs are another story. This is the point to which I am adamantly opposed.

For the record, let us look at some of the facts. Great Britain, which has been one of the worst offenders in trade with Cuba since 1963, has been, since 1946, the recipient of a total of 7,209,000,000 American dollars in the form of economic and military loans and grants. But Great Britain is by no means the only offender. This country is in fact joined by 21 others, including Cyprus and Italy, in supporting through trade a Communist dictatorship that is bent upon destroying the security and peace of the Western Hemisphere. We continue to help them while they in turn help the enemy. While these countries remain the beneficiaries of the generosity of the American taxpayer, the American taxpayer continues to shoulder the burden of maintaining the peace that their self-serving actions only help to destroy.

It is mandatory that we reassess the American foreign aid program with a mind toward eliminating any and all frills including our contribution to the morally bankrupt United Nations. In the future let us have a foreign assistance program that is in fact a real investment in the security of America. Let us put an end to the notion that we can appease others with an endless stream of dollars siphoned from the pocketbooks of weary American taxpayers.

The CHAIRMAN. The Chair recognizes the gentleman from Kansas (Mr. SHRIVER).

Mr. SHRIVER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the foreign aid appropriations bill before the House this afternoon gives each of us the opportunity to support the implementation of the Nixon doctrine and to take advantage of what was described during our hearings as "the opening toward peace."

Traditionally, we have regarded this bill in terms of what it was meant to accomplish for other nations. This year, more than any other, the foreign aid funding included in the bill is recommended by our subcommittee because of its direct importance to our own national interests and security.

Our people have invested thousands of lives and billions of dollars during the past two decades to promote stability in an unstable world. Into the power vacuum which appeared after World War II we sent our sons as the United States inherited an unwanted but accepted role as the principal defender of the free world.

During the last 3 years, we have witnessed dramatic changes in this role. The President's plan to "de-Americanize" the war in Vietnam—a plan which has seen more than 90 percent of our troops brought home; the announcement of the Nixon doctrine, which has been instrumental in preventing the United States from swinging from a position of overinvolvement to a position of underinvolvement—to withdraw our forces while avoiding a dangerous security gap; and the historic trips by the President of the United States to Peking and to Moscow to change policies of confrontation to promises of negotiations.

During this period, we have seen the costs of maintaining our military presence in Southeast Asia drop from a high in fiscal year 1969 of $28.8 billion to the estimated cost in fiscal year 1973 of $7.1 billion. If we are to take full advantage of this progress for peace, however, we must be willing to meet our responsibilities under the Nixon doctrine.

Assistant Secretary of State Marshall Green, a noted expert in East Asian affairs, told our subcommittee that—

> Right now would be the worst time in terms of seeking some fruits from the President's visit to Peking and Moscow for us to be slashing aid or support for our friends, undermining mutual confidence in this area.

In his aid message to Congress this year, the President stated:

> As we begin to make adjustments in our international role, it is especially critical that we maintain a firm United States commitment to an adequate level of security assistance. For without such adequate levels, our friends and allies will lack the confidence required for successful international cooperation in an era of negotiations. And without adequate security assistance, we cannot safely reduce our military presence abroad.

Our committee is recommending $750 million for security supporting assistance, $730 million for military assistance, and $450 million for foreign military credit sales. This total of nearly $2 billion is higher than last year's appropriations for these purposes, but as the war is wound down, the need for these funds is more important.

I am not in the habit of supporting large increases in the foreign aid appropriations bills. In fact, since I became ranking member on this subcommittee, our committee has cut these appropriations by $6 billion below the requests.

But I support this increase for security and military assistance because of its direct and immediate effect on our own Nation. During our hearings, Secretary of Defense Mel Laird, a former Member of this House and of our Appropriations Committee, briefly listed the accomplishments of these expenditures. He stated:

> This program has made it possible for us to return to the United States well over 500,000 American servicemen and women from Asia. It has made it possible for us to reduce the size of our military establishment here in the United States by 1,100,000 men and women. It will make possible further reductions in civilian personnel in the Department of Defense, where we have already reduced 280,000.

Our Nation's vital interests and our security are affected by these funds. Our committee report points out that we have invested over 56,000 American lives and nearly $150 billion in our attempts to help South Vietnam protect itself against aggression from the North.

It is pointed out in the committee report that we have invested over $35 billion and more than 33,000 American servicemen in assisting Korea in resisting Communist invasion.

Support assistance as called for in this bill is needed to make sure that these American investments in Korea and Southeast Asia shall not have been in vain and to assure an honorable peace in Asia.

Since our chairman has discussed in detail what is in this bill, I will just touch briefly on several other items which, in my opinion, warrant your attention.

We are recommending the full budget request of $42.5 million for international narcotics control. I agree completely with President Nixon's comparison of the invasion of illegal drugs into our country with an overt armed invasion by a foreign power. Both types of invasion threaten our society.

Our committee received an estimate of the total cost of drug abuse in the United States of $3 billion annually, and some estimates of the cost go to twice that figure. Most of this is property crime cost to the victims of drug addicts. Compared to this huge cost and unquestioned cost is human terms, this $42.5 million is a wise investment.

We recommend the full $7.3 billion program limitation for the Export-Import Bank. This Bank has been responsible for inflows of $21 billion to the U.S. balance of payments, one-fourth of this amount in the last 2 years. At a very nominal cost, the Export-Import Bank has initiated a very worthwhile program of local export seminars in various locations around the country. I have worked along with people in my own hometown in sponsoring two of these seminars for Kansas businessmen. The response and results have been most encouraging. Exports from my own congressional district increased from $60 million in 1969 to $115 million in 1970, and this growth is continuing. These exports mean new jobs here in this country, and the committee has supported the Bank in these programs.

One program I have long been interested in is our contribution to refugees over the world. It is not one of the larger items of this bill, but one of great interest to most of you and our constituents. We have added to our contribution the sum of $50 million for Jewish refugees from the Soviet Union.

Israel will benefit from this bill specifically in the following ways:

First. The committee strongly recommends AID's paying costs and expenses for medical education and research in dollars;

Second. A proviso that $50 million may be allocated to Israel from security supporting assistance;

Third. A proviso that $300 million may be allocated to Israel from foreign military credit sales funds.

Fourth. A special State Department program to assist Jewish refugees from the Soviet Union. Only $50 million of the authorized $85 million is allocated because the committee does not think more is needed at this time, but the committee is willing to consider any further requests as necessary.

Mr. Chairman, there are many other items in this bill, of course. But I will not take up any more time. I recommend to all of you to read the committee report and to look through the hearings which are available at the committee tables. As usual, our dedicated chairman, Mr. PASSMAN, and the other members of the subcommittee have studied these programs extensively and I commend and congratulate each member. Chairman PASSMAN has done his usual fine job of recommending reductions in the items of this bill.

While including adequate funds to protect and promote our national interests, we have cut this bill by nearly a billion dollars from the budget requests. This cutback may force the delay or even cancellation of some desirable and worthwhile programs in underdeveloped countries, and that is regrettable. But we have been forced to cut back on many desirable and worthwhile programs for our own people this year in view of the large budget deficit. We certainly should not be adding new foreign projects in spite of domestic cutbacks.

I urge your support for this bill.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. SHRIVER. I yield to my chairman.

Mr. PASSMAN. I wish the gentleman would elaborate briefly as to why this recommendation is higher than that of last year. Of course, we are $967 million below the budget estimate.

As I mentioned earlier, last year we had no request for the International Development Association, which accounts for $320 million of the increase. Likewise, on the development loan fund, we reduced this item last year and almost crippled the development loan fund. It was necessary to increase that by $150 million. In addition thereto, there is the Inter-American Development Bank. We gave them $418 million and they asked for $846 million this year. Even though we cut them, that accounted for an additional $200 million. There was extra money, of course, for supporting assistance, so we could wind down this conflict in Vietnam and partly fill the vacuum created by the withdrawing of our troops.

Have I stated that in accordance with the gentleman's understanding?

Mr. SHRIVER. Yes. I would further emphasize the importance, as I have throughout my brief remarks, of the security supporting assistance. The added funds there, the added funds for military credit sales and for military assistance are items that are important in connection with winding down the war, bringing our troops home, getting out of our involvement, letting them do the job and take care of their own problems.

Mr. PASSMAN. Will the gentleman yield?

Mr. SHRIVER. I yield to the Chairman of the committee.

Mr. PASSMAN. I have it from the very highest authority that if we do not furnish this supporting assistance and this military assistance it could very possibly prolong this conflict which we are all praying will come to a conclusion.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. SHRIVER. I yield to the chairtleman.

Mr. J. WILLIAM STANTON. Mr. Chairman, I have read very carefully the portion of the report of the Appropriations Committee on the foreign aid and related agencies appropriations bill, 1973, on the Inter-American Development Bank. I have listened carefully to the statements of the distinguished leader of that committee's Subcommittee on Foreign Operations. I would like to sincerely disagree with the conclusions of the report and the statements of the distinguished member and support the full funding of the Inter-American Development Bank. Certainly, the IDB and the work it does is no stranger to the mmbers of this House simply because of the performance and service it has rendered in the development of Latin America and the reputation it has gained as a sound development banking institution throughout the world. Authorization bills for the funds we have been asked to appropriate here today have been passed not once but twice by this body, the last time being in February of this year when the contribution to the fund for special operations was fully debated on the floor of the House and legislation passed by a vote of 285 yeas to 102 nays.

As I stated previously, Mr. Chairman, the IDB is well known to this body which has given its vital support to it from its founding in the later years of the administration of President Dwight Eisenhower through the administrations of Presidents John Kennedy, Lyndon Johnson and now the administration of President Richard Nixon. During this period, Mr. Chairman, the Bank has become the prime focal point for Latin American economic and financial activity making some 679 loans in the amount of $4.75 billion.

However, the total resources mobilized for these projects in Latin America amounted to more than $13.6 billion. This means, Mr. Chairman, that for every dollar supplied from the Bank's resources in a project loan approximately $2 came from counter-part funds supplied primarily from the recipient Latin American country itself to finance projects which are for development.

Then, Mr. Chairman, if we add together the Latin and nonmember country resources which go into the total cost of an IDB project we find that the average effective U.S. contribution runs only about 30 percent of the total invested in any one project. This seems to demonstrate rather graphically to me the ability of the Bank through its financial and technical capabilities to attract to its projects substantial additional resources which have had the effect of more than tripling the funds coming to the Bank itself from its member countries.

Of course, this leveraging of the Bank's funds has made possible a greater benefit to the welfare of a larger number of peoples of Latin America inasmuch as the Bank's projects themselves are designed to affect those self-sustained sensitive economic areas crucial to stimulating further growth and not solely to yield a direct profit-type return. This also emphasizes the confidence in the leadership of the Inter-American Development Bank of the Latin American member countries and non-member countries who supply the funds. I submit, Mr. Chairman, that the self help and burden sharing which the Inter-American Development financing of Latin America is something that this Congress should encourage rather than discourage.

While the IDB has been most successful in mobilizing additional counterpart resources from its member countries, the generation of funds through borrowings in the capital markets of the world has provided the Bank with over a billion dollars to date. Of this amount to date $578 million was raised in 16 nonmember developed countries. Another $217 million has been contributed by nonmember countries and entities in the form of trust fund and other financial arrangements which the Bank administers. This type of participation by the world financial community seems to me to be very substantial evidence of the confidence of world finanical leaders in the soundness of the projects and the financial integrity of the Bank.

As you are aware these funds raised in the capital markets of the world are backed by the callable capital subscriptions of member countries. These callable subscriptions would be called only in the extremely unlikely event they were needed to cover repayments of these borrowings and are very much of a contingent liability in view of the fact that they have never come close to being called since the time the Bank was founded. They do not constitute a budgetary outlay for the United States or the member countries. Of the $837 million requested in this appropriation $336.8 million is for the U.S. share of the callable capital.

Mr. Chairman, it is interesting to observe as we debate this appropriation, which with reference to the fund for special operations portion is long overdue, virtually all of the Latin American countries have agreed to subscribe to that replenishment and have actually deposited their instruments of payment. In connection with contributions to the fund for special operations, the Latin American countries themselves are supplying an increasing share of these resources which finance such important projects as water, sewage, technical education, health, housing, and agriculture.

In relation to the U.S. contribution of a billion dollars for the FSO in this replenishment, the $500 million Latin American contribution places their share at 33 percent which represents a marked increase from the 16-percent figure in the first major replenishment of FSO in 1964. With respect to the ordinary capital subscriptions at the completion of this replenishment the U.S. subscription to the Inter-American Development Bank would total 40.4 percent of the Bank's total ordinary capital of $4.9 billion including the recent subscription by Canada of almost $250 million.

Mr. Chairman, in May of 1959 when President Eisenhower submitted to the Congress of the United States the original proposals for the founding of the Inter-American Development Bank he spoke of a special relationship: historical, political, and economic between the United States and the Latin American Republics; he mentioned the pressing economic and social problems in the area; and emphasized the desirability of establishing an institution which would specialize in the needs of Latin America and whose work would be supported in large part by Latin American resources. These are still valid reasons for supporting the Bank today.

The wisdom of the original decision to found the Bank has been confirmed by the favorable results evidenced by the region's high rate of growth which has been due in no small measure to the Bank's financial and institutional building programs.

Finally, Mr. Chairman, recent statistics show that in 1971 gross domestic product in Latin America increased at a rate of about 6.6 percent which considerably exceeded expectations prevailing at the beginning of the 1960's when the economic growth targets of the Alliance for Progress of 6 percent and of the first United Nations development decade of 5 percent were established. Of all the developing regions of the world, Latin America demonstrates by far the highest rate of growth today and can reasonably be expected to increase its relative lead. This has led to expansion of its market and the capacity of the region to purchase goods and services resulting in large annual balances of trade in favor of its traditional trading partner—the United States. However, immense problems remain for an area of 265 million people with an accelerating rate of population growth. This is a critical period for the continent and the Inter-American Development Bank under its distinguished new President, Antonio Ortiz Mena, who as the Finance Minister of Mexico for 12 years made such a valuable contribution to the growing economic development of that neighboring country. It would be a tragic and shortsighted mistake in my opinion, Mr. Chairman, for this House not to support the full funding of the Inter-American Development Bank and to continue to participate with the peoples of our own Western Hemisphere in their attempts to achieve for themselves viable national economies and a greater measure of human dignity.

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield?

Mr. SHRIVER. I yield to the gentleman.

Mr. FRELINGHUYSEN. I would like to begin by congratulating the gentleman for his statement in support of this bill, and I agree with much of what he has said. I think the bill should be approved. However, I am concerned about some of the specific reductions made by the committee. They do not seem to me to be justified by the statements that have been made thus far.

As an example, what is the nature of the reduction proposed for international organizations and programs? The dollar amount is roughly $20 million below the amount requested, but I cannot find whether the committee feels that that cut should be taken out of the amount requested by the United Nations development program or whether it should come from some other program.

I would hope that the somewhat harsh language with respect to the UNDP is not a reflection on the value of the UNDP as one of the ways in which the United Nations can provide some assistance.

May I ask the gentleman whether the proposed reduction is all to be taken out of the $90 million which is requested for the United Nations development program?

Mr. PASSMAN. Will the gentleman yield?

Mr. SHRIVER. I will be glad to yield to my chairman (Mr. PASSMAN).

Mr. PASSMAN. Somewhere, in some way, we are going to have to recognize that the United Nations was never intended to be a foreign aid distributor. We just felt it was necessary when we looked at the record and now the many technical aid programs we thought we should bring these multilateral organizations under a little better control.

In addition to that, they have a substantial reserve they can draw upon.

Mr. FRELINGHUYSEN. Will the gentleman yield further?

Mr. SHRIVER. I yield to the gentleman.

Mr. FRELINGHUYSEN. I assume the gentleman from Louisiana is not attempting to answer my question. If he was, he evidently did not.

My question was whether the proposed reduction was meant to come from the U.N. development program, or elsewhere. The remarks of the gentleman from Louisiana simply were to the effect that multilateral organizations were not to be trusted, in effect, and that the United Nations should not be engaged in assisting other nations.

I would have thought that one of the fundamental justifications for the United Nations was that it can, and does provide the kind of expertise that the development program furnishes. I would hope this is not simply blind hostility and resistance to the value of multilateral organizations. I hope that is not the basis for the proposed cut.

Can I renew my question to the gentleman from Kansas as to where the cut is supposed to be applied? Is it across the board?

Mr. PASSMAN. Will the gentleman yield?

Mr. SHRIVER. I yield to the chairman.

Mr. PASSMAN. In answer to the question, it be mostly in the UNDP because it is the largest. UNICEF has $15 million earmarked specifically. It will not affect the $15 million for UNICEF. The UNDP is the biggest program, and we felt inasmuch as it was testified to before our committee that the bilateral program was doing a much better job, we should be a little bit stronger on bilateral and not quite as strong on the multilateral.

Mr. FRELINGHUYSEN. If the gentleman will yield further, I do not know what point the gentleman from Louisiana is making.

Mr. PASSMAN. I do not know what your point is, either.

Mr. FRELINGHUYSEN. Mr. Chairman, can I have regular order? I would like to finish my question to the gentleman from Kansas.

The gentleman from Kansas said

UNICEF was not to be cut. I see no assurance to that effect in the report. I would like to have an assurance that the United Nations relief agency is not to be cut.

Mr. SHRIVER. No such program is to be cut. We have provided in many places for development loans unilaterally throughout this bill, both in the Alliance for Progress and the general development loans. We thought we were doing a good job this year to make those moneys available.

Mr. PASSMAN. Will the gentleman yield further?

Mr. SHRIVER. I yield to the gentleman.

Mr. PASSMAN. Of course, we did earmark for the children's fund $15 million in the bill.

Mr. FRELINGHUYSEN. Will the gentleman yield?

Mr. SHRIVER. I yield to the gentleman.

Mr. FRELINGHUYSEN. I might say to the gentleman, if he yields further, that I hope this discussion will not pinpoint that the UNDP is to take the full amount of the proposed cuts. I regret if such a judgment should have been made by the committee, because I think it is erroneous. The UNDP has proven by its past record that it is capable of doing a good job. I think the amount requested was a reasonable one and this substantial cut is unreasonable.

Mr. PASSMAN. Will the gentleman yield for a clarification?

Mr. SHRIVER. I yield to the chairman.

Mr. PASSMAN. The UNDP does not absorb the entire cut. If you will read the bill and the report, you will see that. The only item that is earmarked is $15 million for the children's fund. The others will take proportionate cuts depending on their proportion of the overall cuts.

Mr. FRELINGHUYSEN. Will the gentleman yield again?

Mr. SHRIVER. I yield to the gentleman.

Mr. FRELINGHUYSEN. I just understand from the gentleman from Kansas that the UNDP was going to be the place where the prime cut would be taken. Now I hear the gentleman from Louisiana give us what is supposed to be an assurance that they will not be the only ones cut. I would like to have a clarification as to which of the other programs that should be financed—and I would think at the level requested—will have to cut and where they think cuts can be safely made.

The gentleman's statement simply adds to my contention as to what would be the result of a cut of this size. I suppose, if you have to make a cut, it would be better to cut just one of the international agencies than to have every one of them absorb a 20-percent cut, with the exception of UNICEF. It certainly does not console me at all. There is nothing in the statement of the committee that indicates where the cuts should be made. In spite of the clarifications, as I guess we will call them, of the gentleman from Louisiana, I am more confused than I was when I first asked my question.

Mr. PASSMAN. Will the gentleman yield again?

Mr. SHRIVER. I yield to the chairman.

Mr. PASSMAN. We made the appropriation on an illustrative basis with the exception of $15 million for the children's fund. On the other programs we would assume they would be funded on a priority basis, wherever the administrator determines the reductions should be made. We are not trying to embarrass the administrator of the program, but somewhere along the line cuts will have to be made, and I will say to the gentleman in all probability you will see amendments before the day is over even to cut the bilateral program. We think it has been testified to in the report the bilateral program is definitely doing a better job than the multilateral program in the same field.

There is nothing personal about this, we are just trying to save a few million dollars that we are going to have to borrow to fund the program.

Mr. SHRIVER. In further answer to your question, if you will look at page 2 of the bill under international organizations and programs it says:

> For necessary expenses to carry out the provisions of section 301, $105,000,000, of which $15,000,000 shall be available only for the United Nations Children's Fund.

In other words, flexibility is left to the administration in connection with this.

Mr. FRELINGHUYSEN. If the gentleman will yield further, the only flexibility is to cut from the amount requested by about 20 percent. That is a very substantial cut for programs which in large part are very small. I would suppose it could have disastrous results to cut substantial amounts from some of the items listed in the committee report. Perhaps this means the obvious target is the UNDP. If so, we are back where we began and presumably the cut will be taken largely from the hide of UNDP. As I have said, I think this is an erroneous judgment on the part of the committee. And the discussion we have had here has not alleviated my apprehensions as to what will be the result of such an interpretation.

Mr. SHRIVER. There were requests made in many instances for far more than we are recommending in this bill for many items such as technical assistance and many other items throughout the bill.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield further?

Mr. SHRIVER. I yield further to the gentleman from Louisiana.

Mr. PASSMAN. Mr. Chairman, I appreciate the gentleman yielding. Let me say that in some of the programs we cut them 100 percent, we cut whole programs out altogether. Some programs we cut 3 percent, some programs we cut exactly 50 percent. We think that, based upon the testimony of the witnesses that the emphasis should be placed on the bilateral program—and I do not like to put this in the RECORD because, you know, this bill has many, many stages to face before we can bring it to conference and report back to you.

Mr. PASSMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. HALEY).

Mr. HALEY. Mr. Chairman, I oppose this bill, as I have all foreign aid bills since I have been a Member of this Congress.

Mr. Chairman, we are gathered in this Chamber today, in the face of perhaps the worst fiscal crisis our Nation has ever faced, and certainly the most severe crisis that has arisen during the service of any Member of this body.

But we are not gathered to solve that critical problem to our future. The purpose of our meeting today is to worsen the crisis, by again appropriating additional billions of dollars we do not have and therefore must borrow so that we might lend a so-called helping hand to other nations in our constantly failing effort to buy their friendship and their support.

At the very moment we are meeting to authorize this unconstitutional misuse of revenue taken from our overburdened taxpayers—revenues in the amount of $4.2 billion—we are confronted by the knowledge that next week we will be asked to increase the ceiling on our national debt to $450 billion. We are asked to increase this ceiling in order that our Government may continue to defy our need for a sound fiscal system, a balance budget or at least an approach to that, by spending money we do not have and therefore must borrow.

And at the same time, Mr. Chairman, we are faced with the demand of the President of the United States that we impose on Government spending for the current fiscal year, a flat ceiling of $250 billion. I certainly am in favor of a rigid ceiling on government expenditures—but the President knows, as well as you and I know, that such a ceiling as he proposes will in the long run be meaningless because the programs which he has requested, and which a congressional majority wants because this is an election year, will cost more than that when added to the routine, necessary expenditures for Government operations.

But it occurs to me that this Congress is in a great position to help the Chief Executive to at least move in the direction of realistic impositon of the quarter-billion-dollar ceiling he suggests.

We can this very day take one simple step which will accomplish three great purposes. By one vote, we can reduce by $4.2 billion the amount of the prospective deficit of $31 billion for the next fiscal year—can reduce by $4.2 billion the necessity for elevation of the debt ceiling—and can provide inspiration for meeting the President's request for a $250 billion ceiling on the current fiscal year's Federal spending.

I therefore urge, Mr. Chairman, that my colleagues join me in achieving this threefold goal—by simply casting one vote per man to defeat this proposed $4.2 billion bill to finance our foreign aid operations.

I shall vote against the bill, commendably cut heavily, though it may have been by the distinguished members of the House Appropriations Committee. I hope that a majority of my colleagues would join me in this effort.

Mr. PASSMAN. Mr. Chairman, I yield 8 minutes to the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr. Chairman, first I want to say that I have long admired and enjoyed working with my colleague, the gentleman from Louisiana, the chairman of this subcommittee (Mr. PASSMAN). I voted for the bill and for the foreign aid authorization. I voted for it largely and quite frankly, because I wanted to make sure that there would be some money in here for Israel—because that beleaguered country is having a difficult time trying to survive. However, this appropriation bill does not increase any funds for Israel, it just gives them the same amount of money as last year. As a matter of fact, it does not even do that. One of my amendments will be addressed to that.

I oppose this bill, because it is too high. I am not against foreign aid, but I am against this tremendous increase.

The gentleman from Louisiana (Mr. PASSMAN) talks of a decrease of $967 million as a cut. That is not a cut. This is a cut below the President's budget request, and the President is asking for one of the largest foreign aid appropriations in the history of the bill.

I have a table that the gentleman from Louisiana (Mr. PASSMAN) prepared which shows $5.1 billion. This budget request is way above anything else before. It was cut nearly a billion. The sum of money that is left is $1 billion greater than last year. It is $2 billion greater than the year before. It is 2½ times what it was 4 years ago in 1969.

This is unconscionable. As a result, I have decided to offer a number of amendments. I am going to offer amendments to cut the Alliance for Progress Development loans by $15 million, the Worldwide Development loans by $150 million, the military assistance by $229 million. The Security Supporting Assistance by $200 million. The Overseas Private Investment Corporation by $30 million. The Inter-American Development Bank by $206.6 million. The International Development Organization by $160 million.

Except for the International Development Organization, all of these amendments merely cut the programs back to last year's appropriations. The total added together did not quite bring the bill down to last year.

Now you know the President has been criticizing the Congress for overspending and causing inflation and debt and making it necessary to increase taxes next year.

JOHN BYRNES yesterday said there was going to be a tax increase next year.

The Baltimore Morning Sun reported that, a White House aide said a tax increase will be necessary next year to pay for congressional overspending.

Think of the needs of all your people back home—for pollution control, flood control, better schools, help for the physically handicapped and the mentally retarded, and the need for more police and courts and prisons to fight crime and to stamp out drug traffic.

Sure, there is a little money in this bill to cut out drugs from abroad, but that will not do the job.

Then there is the need for more income and hospital care for the elderly, help for the cities and rural areas, welfare reform, revenue sharing, and stopping the deficit financing by the Department of the Treasury.

That is not going to reduce taxes.

This bill raises foreign aid by one-third—33⅓ percent. Would you not like to take a bonanza like that back to your district to help the elderly, the sick, the disabled, the mentally retarded, the crime ridden cities, to help pay for the courts, and to be able to cut taxes a little bit?

Instead, we have this huge increase in foreign aid in the face of all the evidence that it has done little or nothing to help the people for which it was originally intended—the poor and the downtrodden.

I received a dispatch from the United Nations Food and Agriculture Organization just a couple of days ago.

A Reuters report from Rome stated that between 300 and 500 million people in the world are suffering from malnutrition—the same number as 15 years ago.

Now to quote the gentleman from Louisiana (Mr. PASSMAN) for whom I have the profoundest respect—and with whom I agree until he marks up a bill:

> The foreign aid bill has been fragmentized so that the most astute Member of Congress had difficulty picking out the requests in the budget and putting them together in one place where you can look at the grand total.

In another place, the gentleman from Louisiana (Mr. PASSMAN) said that the foreign aid program has gotten totally out of control. That is why I am going to offer these amendments when the time comes.

Let me say in offering these amendments, I hope the gentleman from Louisiana does not take the position that he seems to have—that the offering of these amendments is some kind of act of disloyalty. I do not believe a member of the committee is supposed to go along with the committee on everything. I do not see why we cannot offer amendments. I do not see why we have to follow the authorization. We are not slaves to the authorization. Once we are told that we have to go along with the authorization, why on earth do we need a Committee on Appropriations?

Mr. Chairman, I yield back the balance of my time.

Mr. SHRIVER. Mr. Chairman, I yield 5 minutes to the genleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I would like to have the attention of the gentleman from Maryland (Mr. LONG), for I want to commend him for the statement he has made. The gentleman has said many of the words I would have said in opposition to the foreign handout program and assure him that I will certainly support his amendments to reduce the spending under this bill.

Foreign aid in all its aspects has gone from $12 billion in the fiscal year 1971 to $13,500,000,000 in 1972 and to $18.5 billion in this fiscal year 1973.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Louisiana.

Mr. PASSMAN. Let us keep the record straight. The foreign aid bill has been reduced.

Mr. GROSS. I am talking about all aspects and all faucets spewing out foreign aid.

Mr. PASSMAN. I know, but the gentleman wants to be fair. The gentleman is talking about the Export-Import Bank that has actually made billions for the United States Treasury since it has been in business. The gentleman included military credit sales, which is paid back in about 3 years and at going interest rates. The gentleman included the Development Loan Fund. What the gentleman is doing is making it all inclusive, but the gentleman is not taking out those items that should not be included as foreign aid. I know the gentleman wants to be fair, and I hope he will correct the record.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Maryland, but first let me say that I was not referring to any particular institution.

Mr. LONG of Maryland. Mr. Chairman, I appreciate what the gentleman has just said, because up until this particular meeting the figures the gentleman from Iowa has been quoting have been precisely the figures that the chairman of the subcommittee has been quoting for years and years. Those are exactly the figures he has been quoting.

Mr. GROSS. I was just going to say that the figures I have used are the figures of the gentleman from Louisiana.

Mr. PASSMAN. If the gentleman will yield further, the gentleman did not say foreign aid. The gentleman should read the recapitulation. It says foreign aid and assistance, and I tried to give the membership the information I thought they would appreciate. I do not think the gentleman should have twisted my words to make it appear as foreign aid. It is going to make me reluctant to do his research in the future. Let us correct the record and show it is foreign aid, and the economic part is only about 25 percent of the outright foreign aid grant we had in 1957. In the future the gentleman will have to smile and be very nice to me for me to do his research work for him and give him these figures which I have accommodated the membership with in the past.

Mr. GROSS. Maybe I need a new source of research.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. I think this is exactly the impression the gentleman has been trying to convey over the years. That is why he put all of these programs together, to add up to a $13 or $18 billion figure.

The gentleman calls it foreign aid and assistance. I do not see where the big distinction is there. If assistance and aid are not synonyms, I do not know what they are.

Mr. PASSMAN. If the gentleman will yield further, I told the distinguished gentleman earlier that he did not understand the bill. I hated to report it in the

RECORD. There is a lot of difference between aid and assistance. One is we are talking about grant aid, and one is a good, hard loan that will be paid back, so that the manufacturers will make a profit, and they will pay the prevailing interest where we extend credit, whether it is 3 years or 10 years.

Mr. GROSS. Perhaps I should have risen here today to speak in support of this bill, because I am opposed to it.

Mr. PASSMAN. I want to commend the gentleman for taking his position, as long as he keeps the record straight. That is all I am interested in.

Mr. GROSS. Mr. Chairman, I would hope that the gentleman from Kansas could give me 5 additional minutes.

Mr. SHRIVER. I yield 5 minutes additionally to the gentleman from Iowa.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Apparently now my friend is making a distinction somehow between money that we grant and money that we lend or give away, or what I call very soft loans indeed. I have listened to the gentleman for many scores of hours in the committee while he told the various people that came before us that he was pretty certain that we were never going to get this money back, and I would ask anybody to tell us when in the history of our aid programs in all of the world we have ever gotten our money back. I do not think the distinction between grant and loan is very valid.

Mr. PASSMAN. Mr. Chairman, if the distinguished gentleman will yield one more time, of course the gentleman is making a statement not supported in the record. I never made any such statement as that any place, that we would not be paid back from the Export-Import Bank. If the gentleman can show me where I made that statement I will send my letter of resignation to the Speaker of the House. The gentleman is pulling out these words trying to impress his constituents, and that is one thing, but to put something in the RECORD attributed to the gentleman from Louisiana is something else. I defy anyone to show me where I have ever said these Export-Import Bank loans would not be paid back, so start the research and come up with the information.

Mr. GROSS. Mr. Chairman, if I heard the gentleman correctly earlier in his remarks to the House, he said the administration's promoters of foreign aid did not have an asking and a taking price. I would like to refer to page 655 of the hearing record for this year, wherein the gentleman from Louisiana (Mr. PASSMAN) had this exchange with Mr. DePalma as follows:

> Mr. PASSMAN. I would assume that you support the philosophy of the great AID Director, Dr. John Hannah as far as you can, do you not?
>
> Mr. DEPALMA. In general I do, certainly.
>
> Mr. PASSMAN. He has stated that on all AID programs there is an asking price and a taking price.

Mr. PASSMAN. Mr. Chairman, if the gentleman will yield further, of course, there is an asking price and a taking price.

I might say that this humble country boy chairman, since he became chairman, has reduced this bill from the asking price down to the taking price by some $14 billion. So, there is a great deal of difference between what they are asking and what we have recommended.

Mr. GROSS. So, the issue the gentleman has made out of the fact that this bill has been reduced by less than a billion dollars from the budget asking does not mean very much, does it? It is still far above spending for the same purposes last year.

Mr. PASSMAN. It all depends on who is using the words.

Mr. GROSS. It simply means there is a highly inflated asking price so that they will get a fat increase.

Mr. PASSMAN. If the gentleman will yield for one clarification.

Mr. GROSS. Yes.

Mr. PASSMAN. The Export-Import Bank, which is one of the finest agencies in the Government, it has made and paid into the U.S. Treasury since it came into being many billions of dollars. That is paid by the manufacturers. The manfacturers make a profit. They pay income tax into the Treasury, but in making loans they are charged from the date of the loan and they pay interest, and that is paid into the Treasury. This year alone under the Development Loan Fund, in the so-called AID program, there would be $215 million cash paid into the United States by them.

Mr. GROSS. Mr. Chairman, I would like to ask the gentleman a few other questions if he has the time.

Mr. PASSMAN. If the gentleman does not have the time, I will be happy to yield time to him.

Mr. GROSS. We might start out with the organization known as the Inter-American Foundation, formerly known as the Inter-American Social Development Institute. This appears to be a lovely little outfit of wide-eyed do-gooders who claim to deal with people, not governments. It seems they have a trash pickers' project going in Colombia and a housewives club in Honduras which we are financing. Could that be right?

Mr. PASSMAN. Let me say to the distinguished gentleman, I want to answer his question.

Mr. GROSS. Somewhere along the line they got $15 million, did they not?

Mr. PASSMAN. The gentleman did want an answer, did he not?

Mr. GROSS. Yes, of course.

Mr. PASSMAN. The gentleman's committee, and I respect him very much, approved this item. They approved the $50 million. I do not like it as well as the gentleman did, because his committee wrote it up. We are not giving them money. We are putting a limitation this year on it, and we said they will get $5 million. If the gentleman's committee did not bring this legislation out we would not be in this hassle, would we?

Mr. GROSS. The gentleman well knows I have not voted for a foreign aid bill in the Foreign Affairs Committee since I have been a member of that committee. My record is consistent. Do not toss the record of that committee at me. I am one of some 36 members on that committee. Let us drop this subject.

Mr. PASSMAN. I thought the gentleman would want to drop it.

Mr. GROSS. We have the gentleman's bill before the House. We do not have a bill out of the Foreign Affairs Committee. I do not oppose foreign aid in one place and vote for it in another. That is what we are dealing with today.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. PASSMAN. Mr. Chairman, I yield the gentleman an additional 3 minutes.

I hope he has some other questions. I know the gentleman feels badly over it and I sympathize with the gentleman over what his committee did.

Mr. GROSS. Mr. Chairman, I feel badly over the fact that this bill appropriates so much money, and because I thought I could rely on the gentleman to cut the gizzard out of it.

Mr. PASSMAN. We got the gizzard and part of the liver.

Mr. GROSS. On the Asian Development Bank the gentleman has said it did not accomplish anything. Is that correct?

Mr. PASSMAN. I said I did not like the way the Asian Development Bank operated. This year we did not give them a dime.

Mr. GROSS. Well, they did not need it because it was overfunded in the first place, was it not?

Mr. PASSMAN. They requested it themselves. We refused to give them a dime. We cut out the entire request.

Mr. GROSS. You gave them $50 million to start, and then we borrowed the money back.

Mr. PASSMAN. We did not give a dime this year.

Mr. GROSS. I did not say anything about this year. I said that when the Bank was started we put in $50 million and then borrowed it back and paid 6 percent interest on the money.

Mr. PASSMAN. You are talking about something which happened in past years. They asked for a hundred million this year, and we denied everything.

Mr. GROSS. I am talking about how foolish this Government has been in this foreign giveaway business; how foolish it has been in trying to police and finance the rest of the world.

Mr. PASSMAN. Would the gentleman permit me to make this observation?

Mr. GROSS. Yes.

Mr. PASSMAN. The International Development Association wanted $640 million. We denied that and gave them $320 million in the regular appropriation. The Asian Development Bank wanted $100 million; we did not give them a dime. The Inter-American Development Bank wanted $836 million; we only gave them half of that. What better record could a committee make?

Mr. GROSS. Do you give Thailand any money this year?

Mr. PASSMAN. We do not earmark funds. You understand the funds are appropriated on an illustrative basis. We never know where it is going until after the fact.

Mr. GROSS. This Government borrowed $100 million of the money it had given Thailand and on which we are paying interest. That is a 4½ year loan that is scheduled to mature next year, and the money will have to be borrowed to pay it.

Mr. PASSMAN. I do not know actually how much money went to Thailand, because it is on an illustrative basis. Any other question?

Mr. GROSS. Yes, how much are you giving India this year in view of the fact that Mrs. Ghandi, the Prime Minister, has told us that the $8 to $10 billion in aid we have given them through the years was a hindrance? Why give a country millions when it slaps us in the face?

Mr. PASSMAN. I am not faulting my dear friend from Iowa; I think he is a very fine gentleman. I do not love these things any more than you do, but I represent the committee. I do not like to lend money.

Mr. GROSS. I thought you put about $80 million in this bill for India.

Mr. PASSMAN. All aid to India has been suspended.

Mr. GROSS. Do not walk away with that idea.

Mr. PASSMAN. I am staying within seeing distance, eye distance.

Mr. RIEGLE. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. Yes.

Mr. RIEGLE As I recall, there is a budget amount for Thailand. It is substantially larger this year than it was last year.

Mr. PASSMAN. Circumstances in concluding the war will decide that question and not you or the gentleman from Louisiana (Mr. PASSMAN).

Mr. RIEGLE. If the gentleman from Iowa will yield further, I think there was concern on the part of some of the members of the subcommittee that there were differences between the last Vietnam and the budget figure.

They have asked for and planned for substantially higher than it was last year, which is something we all ought to be concerned about.

Mr. GROSS. The nice part about all this is that we borrowed $100 million from Thailand on which we are paying interest, and next year we will borrow the money to repay the loan and pay interest on that.

Mr. PASSMAN. I yield an additional 1 minute to the gentleman from Iowa and ask him to yield.

The gentleman is making a substantial contribution to this consideration. I respect him, and he knows I respect him very much.

This is a most difficult program, let me say to the gentleman. We have discussed this many, many times in the past. There has never been a bill prepared in the House which you would not have changed and I would not have changed. It is a matter of compromise. I did not ask for this job; it was given to me, and I am trying to be a reliable Member of Congress. We have certain commitments which we set forth, and I would urge us to live up to them.

I am going to be a responsible Member and I am talking about supporting assistance and military assistance.

Let us look at the record. This war is winding down; from 543,000 troops down to 27,000 troops is a big reduction, and from $28 billion to $7 billion is a big reduction.

Mr. HARRINGTON. Mr. Chairman, the $4 billion Foreign Assistance Appropriations Act we find before us is essentially the same as those which have preceded it. Once again its major emphasis is on military rather than on the economic and technological aid for underdeveloped nations. The program does little, if anything, to improve the daily existence of an average citizen outside the United States. This administration has promised us reforms in the foreign aid program, yet what remains is essentially a bill that could have been written 25 years ago. We continue to give away considerable funds for the wrong purposes—and to the wrong people. A good example of this exists in this legislation. It will enable the Agency for International Development to extend assistance to the African Nation of Uganda.

Recently, Ugandan President Idi Amin expelled some 60,000 Ugandans of Indian descent. Furthermore, Amin has now sent a telegram to United Nations Secretary General Kurt Waldheim justifying the Munich massacre and actually praising Adolf Hitler's extermination of the Jews in World War II. Copies were sent to Israeli Prime Minister Golda Meir and Palestine Liberation Organization leader Yassir Arafat. This telegram constitutes one of the most extraordinarily racist statements in recent history:

> It is now 25 years since the Israelis occupied Palestine. Very many thousands of Palestinians have been killed, thousands of them are now slaves of Israel . . . The Israelis are the ones who actually should be condemned (for the Munich massacre) and removed completely from the United Nations and Palestine . . .
>
> . . . when Hitler was Prime Minister and supreme commander, he burnt over six million Jews. This is because Hitler and all the German people knew that the Israelis are not people who are working in the interest of the people of the world and that is why they burnt the Israelis alive with gas in the soil of Germany . . .

Such actions as these cannot be tolerated by decent human beings. If there is to be any chance for peace and harmony in this world, then all men must act to halt President Amin in his tracks. Words alone are insufficient to stop his racist acts. This House should make some meaningful action regarding this situation, but it must consider the safety of those Americans now scattered across Uganda. I strongly urge the administration to take action as soon as possible that will isolate the poisonous effects of this very dangerous situation.

Mr. REUSS. Mr. Chairman, the administration asked for a total of $837 million this fiscal year for U.S. subscriptions and contributions to the Inter-American Development Bank. The Appropriations Committee, however, has recommended that the administration's amounts be slashed by one-half, to a total of $418 million. Such a drastic cut is unjustified and unwise. If we have any concern at all for our relations in the Western Hemisphere, we should act promptly to restore the amounts requested by the administration.

We should recall that the contributions we are talking about today were negotiated with our Latin American partners in the IDB by Secretary of the Treasury David Kennedy in April 1970. Now, 2½ years later, the administration has still not been given the funds to permit the replenishment of the Fund for Special Operations to come into effect, and the Appropriations Committee again proposes to put the United States behind schedule on subscribing to the Bank's ordinary capital.

Latin America has long since done its part of the bargain. The U.S. contributions to IDB have been fully authorized. Our bilateral loan programs for Latin America have been cut to a fraction of their former levels, ostensibly in favor of greater reliance on the IDB. Yet here is the recommendation for cutting IDB by a far deeper percentage than bilateral loans. This does not make sense. It will impair our credibility in Latin America for years to come.

I want to emphasize that the financial situation of the Fund for Special Operations will be extremely critical by the end of this year, when its hard currency resources will be fully committed. Commitments in 1973 will depend very largely on what we do on this appropriation. It is not really relevant what the level of undisbursed past loans is, as the committee report suggests. The fact is that without adequate new resources, the ability to make new loans will be hamstrung.

There simply is no cushion in this program. These cuts will be immediately translated into reduced IDB lending levels. IDB lending levels cannot be summarily cut in half without seriously affecting the economic growth of Latin America.

Useful projects are already in the FSO pipeline. The Bank must have the means to carry them out. This will not be possible unless we restore the amounts deleted in the bill now before us. I strongly urge the House to do just that.

Mr. WALDIE. Mr. Chairman, since 1969 I have consistently voted against Department of Defense appropriations and foreign aid appropriations as my expression of total opposition to the war in Southeast Asia.

That means of opposition to the war was really the only meaningful act available to a Congressman.

I regretted at the time that there was no parliamentary procedure available in which the House could vote on items within the Defense and foreign aid appropriations bills which specifically fund the war.

Because I could not vote on these specific items, I chose to vote against the entire bills.

Mr. Chairman, today I am going to break away from that method of opposition against the war and today I am going to support the bill before us for two very important reasons.

First of all, I think it vital to our Nation's interest that nations such as Israel and Korea are secure. If this foreign assistance bill provides a measure of security to Israel, then I will support that bill.

I am also vitally interested in granting all possible assistance to Jews in the Soviet Union and to those Soviet Jews who have emigrated to Israel.

Because this foreign assistance bill does provide for this program, I am in support of this bill.

Thus, even though this bill contains funds that are related to the terrible war in Vietnam, I am in support of it.

I want to make it quite clear, Mr. Chairman, that my objection to the policies of this administration in sacrificing American lives and dollars and in the destruction of a culture of long duration is as firm as ever.

This war must end.

Mr. MONAGAN. Mr. Chairman, in 1971 the Congress, through section 481 of the foreign aid bill, authorized the President to furnish assistance to nations fighting drug abuse and to terminate aid to nations which failed to cooperate in combating illicit drug traffic.

I was pleased to introduce section 481 because this two-pronged weapon provides an effective new tool in the war against narcotics, a "carrot and stick" approach which gives the United States new leverage in dealing with other countries in this field. The aid termination section has already proved its value in the extradition case of Latin American narcotics dealer, Auguste Ricord. Though aid was never actually cut off, section 481 provided the crucial pressure in bringing about the extradition of Ricord from Paraguay. It was only when Mr. Nelson Gross, the State Department's senior adviser for international narcotics control, personally communicated the text of section 481 to the Paraguayan Government that Ricord was sent to New York for trial.

I welcomed President Nixon's recent pledge that he would "not hesitate to comply fully and promptly" with section 481. Congress did not pass this provision as an idle threat. Section 481 was designed as a tool to use as aggressively as possible in combating drug abuse, and I endorse the President's promise to actively apply this law.

The appropriations bill before us today will guarantee that effective use is made of the "carrot" of section 481 as well as as the "stick." The bill provides $42,500,000 to be used for advisory assistance on narcotics enforcement techniques, to provide aid to the agricultural sector of any affected country for crop substitution, and to tender limited assistance for treatment and rehabilitation programs.

The largest single designation of funds in this appropriation, as outlined in the proposed fiscal 1973 budget, consists of $15,000,000 to assist Turkey in eliminating its opium production during the current crop year. Should this crop substitution even partially reduce the supply of heroin presently reaching the streets of the United States, it would have been worth many times over this sum.

The proposed fiscal 1973 budget also designates a total of $2,193,000 for Laos, Thailand, and Vietnam, a totally inadequate sum in light of narcotics traffic developments in Southeast Asia during the past year. After Turkey decided to outlaw opium cultivation, and France cracked down on processing laboratories, other regions moved in to fill the vacuum in drug supply. The "Golden Triangle" area in Southeast Asia was one such region, and is potentially the key narcotics supply area of the future. I therefore hope that considerably more of the $42,500,000 appropriation in this legisation will be applied to Southeast Asia than the current budget proposal.

In the meantime, I urge all Members to support this overall appropriation for international drug control. In section 481, Congress has provided a valuable tool in the war against drug abuse, and it is essential that we now provide the funds to make it work.

Mr. DORN. Mr. Chairman, originally foreign aid was conceived to assist the war-ravaged people of Europe. Now it has simply gotten out of hand. America now has its own national debt approaching $450 billion, and the Congress has been asked to raise the debt limit to $465 billion. Twenty-seven years after the close of World War II the time has come for some of our international friends to return what they owe us. I cannot support an appropriation of even $1 for foreign aid. It has gone on long enough.

Mr. HARRINGTON. Mr. Chairman, once again, this Congress is presented with a foreign aid bill that is substantially no different in shape and content since the beginning of its creation. Clearly, no one has taken the trouble to recast the bill in the realities of today. It is an anachronism sold on the tired phantom of Communist aggression, sold on U.S. business ventures abroad, and on sustaining what was once a well-intentioned attempt toward protecting a threatened Europe.

But in an age where strategic deterrence is an overrated concern, first, for the simple fact that nuclear war essentially means no war and secondly, that deterrence is only good for deterrence sake, we must guard against illusory myths we see staked out abroad. Other questions have taken the place of the once prominent military threat: Questions of economic and environmental resources and the foreign policy implications constrained by both financial and commercial needs as well as ecological mishap.

It is time to take a fresh look at the world, at the real priorities facing us in this decade. We can no longer afford to invest in ideological mythologies as we have seen where they have gotten us: Into an endless and senseless war, into, debt over foreign aid that has not only failed to narrow the gap between the rich nations and the poor but the gap between the small, wealthy elites and the impoverished masses.

The major question is what is the United States trying to achieve through foreign aid?

If we are trying to combat communism that is one thing, if we want to develop countries that is another but I would suggest that it is impossible to wage a war on underdevelopment and communism at the same time. The United States must be prepared to assert as a goal, development qua development, independent of other foreign policy goals if this country is truly dedicated to that end.

We have learned in the case of Vietnam as in Latin America that transferring money as we did in the Alliance for Progress is like passing water through a sieve and that before any policy is developed the total parameters of the Nation's capacities, heritage, religion, and policies must be understood.

Therefore, the task for formulation of a new foreign aid policy is twofold: To recognize what we are trying to do with foreign aid, and to decide what is the best way to do it in each country which we approach.

Until the U.S. Government in Congress or in the executive branch attempts a policy for foreign assistance which is structured to reflect and hopefully resolve these questions, foreign aid cannot be effective in the world community. However, because of the immediate and urgent needs of the underdeveloped world, this bill should be passed. I rise in support of H.R. 16705 and hope that this year in our capacities as lawmakers for the United States we can formulate a true policy of reform for the future.

Mr. BROTZMAN. Mr. Chairman, I rise to express my approval of the amendment of the gentleman from Ohio (Mr. VANIK).

The latest efforts of the Soviet Union to extract a ransom from Jews who wish to emigrate is shocking to people of conscience throughout the world. One way in which the people of the United States can demonstrate their revulsion toward this Soviet policy is by financially assisting Israel in resettling those who do manage to escape the Soviet Union. We in Congress can manifest our concern by supporting this amendment.

The persecution of Jews by Soviet authorities is well known despite the efforts of the Soviet Government to suppress the free flow of information. Long denied the basic human rights enunciated in the United Nations Universal Declaration of Human Rights, Soviet Jews, for the most part, find that they are even denied the prerogative of leaving the country. For the few who are lucky enough to win permission to leave the Soviet Union, it now develops that they must pay a ransom based on their level of education.

I believe, Mr. Chairman, that it is imperative for the U.S. Congress to show its support for Soviet Jews by supporting this amendment.

Mr. EDWARDS of California. Mr. Chairman, in the past I have consistently voted against the foreign assistance authorization bill. The military appropriations provisions contained in this bill have perpetuated and will continue to perpetuate the Vietnam war, not only in Vietnam itself but through other Southeast Asian countries. In addition, this bill provides fuel for the fires of hot and cold wars throughout the world, jeopardizing our national security and endangering world peace.

Today, however, I intend to vote for the Foreign Assistance Act. Despite its numerous detrimental provisions, this bill contains extremely important authorizations for aid to Israel. In view of the recent tragedy at Munich and the unrelenting tension in the Middle East, I find the necessity for aid to Israel a compelling reason to support this legislation this year. With this in mind, I urge support for Congressman Dow's amendment requiring the funds earmarked for Israel actually be spent for Israel.

Additionally, I want to urge my distinguished colleagues to support Congressman VANIK's amendment to the Foreign Assistance Act prohibiting loans and guarantees to any nation that imposes exorbitant emigration taxes on all those seeking to leave that country. Foreign assistance is not a simple issue involving only political and economic considerations. Again, a member of the world community has singled out a minority group for special harassment. The exit fees callously imposed by the Soviet Union on all Jews desiring to leave the U.S.S.R. are a flagrant violation of moral and ethical standards and an affront to principles of individual liberty. Recognizing the special value of Jews and turning them into cash export is a ruthlessly exploitative action on the part of the Soviet Government that cannot be allowed to go unchallenged. Other minority groups may soon follow Jews as hostages for blackmail if this precedent is not overturned. The rights of thousands are jeopardized if this "protective economic action" is accepted by the international community.

How is it possible to grant "most-favored-nation" trade status to a government that treats its citizens like chattels, suitable in exchange for cash payments in foreign currency to bolster its trade deficit? How can we continue to sell huge quantities of wheat to a nation that levies upon its citizens taxes so excessive that it renders them destitute? Congressman VANIK's amendment places at our disposal the means to bring pressure to bear on the Soviet Union to rescind these emigration fees. The passage of this amendment will not only formally register our protest of such "taxation" but will underline our opposition with economic sanctions that have implications Russia cannot ignore. Surely the principles of freedom and justice on which our Nation was founded demand that our dealings with the Soviet Union be ruled not only the economic considerations of trade and foreign assistance, but also by the humanitarian ideals of democratic governments.

Mr. PREYER of North Carolina. Mr. Chairman, step by step, with no chief villain, no one administration to bear all the blame, we were drawn into the Vietnam war. Almost all now agree our intervention in Vietnam was a mistake. Yet we remain caught up in this tragic, apparently endless war, seemingly impotent to carry out our national policy, as expressed by the President, of ending all military activities as soon as practicable.

The war has already cost more than 1 million lives—some 46,000 of them Americans; the rest, persons equally human and no less the children of God.

Between January and June of this year, the tonnage of American bombs dropped on Laos, Cambodia, North and South Vietnam increased 100 percent, from 56,000 tons to 112,000 tons—massive destruction to preserve a remote government in Saigon.

The increased bombing and the mining of Haiphong Harbor could be justified—and was successful—in protecting the withdrawal of our men from Vietnam. But how far are we morally justified in going on and pouring death and destruction from the air and the sea to win a war that is not essentially ours?

Let us, as President Goheen of Princeton University says "be honest and courageous enough to recognize that we have gone astray and need now to point ourselves back once more to the great humanitarian ideals of our Judeo-Christian heritage."

Let us recognize the futility of trying to save face by persisting in a mistaken war to cover up the mistakes that led us into this tragedy. America now needs not to save face "but to let that face show the deep lines of hard lessons learned and of human compassion."

We must end this war. In trying to save face in Vietnam we may lose our souls here in America.

If the war cannot be ended in any other way, Congress must assert its authority to force the withdrawal and disengagement. I shall support the Addabbo amendment which establishes as a national policy the termination of all U.S. military operations in Indochina and the withdrawal of all U.S. military forces within 4 months, subject to the release of all American prisoners of war and a full accounting for those Americans missing in action. Four months is a fair compromise between any date and no date at all. Let us hope that the administration can act faster than this to end the fighting.

Mr. ROYBAL. Mr. Chairman, I rise to cast a reluctant vote in favor of the Foreign Assistance Act, H.R. 16705.

There is much in this bill that troubles me. I believe that the entire concept of military assistance is misplaced in a world that is troubled by the constant threat of warfare. This country cannot expect to speak on behalf of the forces of justice and peace in the world if it continues to supply countries with the implements of destruction.

Yet after much contemplation, I have decided to cast an aye for this bill, because it provides funding for three programs which have already proven themselves beneficial in helping to spread the ideas of friendship and peace throughout the world.

The appropriation for the Peace Corps has been raised by $8.5 million over last year's to $81 million for the coming fiscal year. The Peace Corps volunteers are some of America's most articulate and well received ambassadors of good will overseas. They not only build roads and educate people, but through the closeness of person to person contact they help to show the people of the world the sensitive and good traits of our American society while at the same time clearing up some of the myths and misconceptions which people in other countries generally have about us.

Second, the bill provides for $165 million for the Alliance for Progress programs. This program helps build the facilities of essential social services such as roads, schools, and hospitals in South America. In the past, these programs have contributed a great deal to the growth and improvement of the life of the inhabitants of our neighbors to the South. The repayment record of the various countries that have utilized funds from this program has been exemplary. It is expected that in this year alone more than $77 million with interest in prior loans will be repaid.

Lastly, this bill contains money for a wide range of international development programs. These programs are used to fund programs which are directly beneficial to the people. Many of these are funded through international agencies such as the United Nations. Such projects enhance the prospects of peace while at the same time improving the living conditions in less-developed nations.

Mr. Chairman, it is the humanitarian aspects of this bill that I find appealing and that is the reason for my "aye."

Mr. KEATING. Mr. Chairman, in the decade of the 1970's as the United States seeks an environment of peace which will encourage all nations, large and small, to defend their own actions and determine their own futures, the passage of the Foreign Assistance Appropriations Act is both relevant and important.

H.R. 16705 moves toward the reduction of the U.S. military involvement abroad at the same time we increase military assistance to our allies, which furnishes them with the flexibility necessary for self-determination. I support this policy.

In particular, I commend the $42.5 million appropriation for International Narcotics Control. The complexities of the drug problem can only be effectively solved by international cooperation and ultimately by an effective international enforcement agency. I view international concern for drug abuse to be so essential to its ultimate correction that I am in favor of cutting off aid to any country which is not cooperative in the control of the illegal drug traffic.

I support with equal enthusiasm the denial of funds to provide loans, credits, financial and investment assistance, or insurance guarantees on sales to or investments in any nation which requires payment in excess of $50 for exit visas, exit permits, or the right to emigrate. Ugly racist actions on the part of any nation must be condemned and the victims of such action must be, whenever possible, aided in the most appropriate way.

At this point in the Middle East conflict both the Israeli and Arab Governments deserve our support against the guerrilla terrorism within their borders. For this reason I support the amendments that allocated $50 million for security supporting assistance for Israel and $300 million for foreign military credit sales to Israel.

The military assistance programs, at this time in the evolution of man's history, contribute to the common good, but I advocate with creative interest the medical, educational and economic development provisions of this year's foreign aid bill. "Foreign aid" is, perhaps, a misnomer because the U.S. moneys and equipment made available to foreign nations ultimately aid and strengthen our own backyards.

Mr. SHRIVER. Mr. Chairman, I have no further requests for time.

Mr. PASSMAN. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Alliance for Progress, development loans: For necessary expenses to carry out the provisions of section 251 with respect to Alliance for Progress, development loans, $165,000,000, together with such amounts as are provided for under section 203, all such amounts to remain available until expended.

AMENDMENT OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LONG of Maryland: On page 4, line 8, after the word "loans," strike out $165,000,000" and insert in lieu thereof "$150,000,000,".

Mr. BOW. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 378]

Abourezk
Anderson, Tenn.
Annunzio
Ashbrook
Badillo
Baker
Baring
Bell
Betts
Bevill
Blackburn
Blanton
Boggs
Brotzman
Broyhill, N.C.
Buchanan
Byrnes, Wis.
Carey, N.Y.
Carter
Celler
Clark
Clawson, Del
Clay
Curlin
Davis, S.C.
Davis, Wis.
Delaney
Dellenback
Derwinski
Devine
Dowdy
Drinan
Dulski
Dwyer
Eckhardt
Edmondson
Edwards, Calif.
Esch
Evins, Tenn.
Flowers
Flynt
Gallagher
Goldwater
Gray
Griffiths
Hansen, Idaho
Hays
Hébert
Heckler, Mass.
Jacobs
Jonas
Keith
Kuykendall
Link
McClory
McCormack
McDade
McDonald, Mich.
McKevitt
McMillan
Macdonald, Mass.
Minshall
Moorhead
Moss
Murphy, Ill.
Murphy, N.Y.
O'Hara
Patman
Patten
Pepper
Peyser
Pirnie
Powell
Railsback
Rangel
Reid
Rooney, N.Y.
Saylor
Scheuer
Schmitz
Schneebeli
Scott
Seiberling
Skubitz
Springer
Staggers
Steiger, Ariz.
Stuckey
Thompson, Ga.
Thompson, N.J.
Tiernan
Veysey
Waldie
Ware
Wilson, Charles H.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. PRICE of Illinois, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill H.R. 16705, and finding itself without a quorum, he had directed the roll to be called, when 335 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

Mr. LONG of Maryland. Mr. Chairman, I ask unanimous consent that I may have my amendment reread.

The CHAIRMAN. Without objection, the amendment will be reread.

There was no objection.

The Clerk reread the amendment.

Mr. LONG of Maryland. Mr. Chairman, this is a very small cut of $15 million from $165 million to $150 million in the Alliance for Progress development loan program.

As I indicated before, I intend to offer a number of amendments which add up to nearly a billion dollars to cut the program back to what it was last year. That is what this Alliance for Progress development loan cut would do.

I have been all over much of Latin America, and probably some of you have been also. I have never been any place in Latin America where I did not hear the same judgment, that the Alliance for Progress has been pretty much of a total failure. Where there is any progress at all, the progress has gone to a few people in the top few percent of the population, as in Brazil. This is a waste of the American taxpayers' money.

These loans are very soft loans. For example, three-quarters of 1 percent during the 10-year grace period and 2 percent during the remaining 30 years in the case of the Peruvian highway loan. Would you not like to be able to borrow money like that? Three-quarters of 1 percent for the first 10 years and 2 percent for the remaining 40 years.

Let me give you an example of the Peruvian highway project. I was down there a few years ago and talked to the President of Peru who was subsequently forced out of power. He was very proud of the highway they were going to build. We put a great many millions of dollars in that, $35.1 million financed largely by AID, although not entirely, because the Peruvian share was $12 million.

This went on for several years, and the GAO study of the project found the following:

The 139-mile project was far behind schedule. No work had been done on a 57-mile stretch. Both U.S. contractors had stopped work on the highway and both are being sued by the Peruvian Government on charges of poor workmanship, collusion and fraud.

If the highway had ever been completed, it would not have been any good anyway, because it was being built in an unpopulated part of the country. I never found anybody who felt that it would ever accomplish anything economically for the country.

Nobody would ever do this with his own money—only when he could borrow money for practically nothing.

I do not think I need to say much more about this. All I am asking you to do is to cut the program back to last year, because this bill has a billion dollars more than last year for all the programs.

I am offering amendment after amendment, the total sum of which will cut the program back to last year. This will cut the Alliance for Progress development loan program back to 1972 levels, which incidentally for all programs was higher by 250 percent than in 1969 when this administration came into being. This AID program has been inflated beyond reason. This amendment is just a small start on cutting it back to some kind of reasonable level.

Last year was a big year for the program. Let us cut it back to last year's level.

Mr. PASSMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, if Members will turn to page 18 of the committee report they will find that the budget request for Alliance for Progress development loans, fiscal year 1973, was $206.5 million.

Your committee examined this item well, and we recommended only $165 million. We cut it about 20 percent.

Members would be surprised to know the calls we have had opposing this cut.

This item, to my way of thinking, should have been cut, and the committee supported me. The gentleman who just spoke supported me in the subcommittee. He did not offer the amendment then. Had he offered it then we could have given thought to it. Now he catches me by surprise and offers the amendment to reduce this program. If there is one program which has been any good, it is this one.

Mr. LONG of Maryland. Will the gentleman accept the amendment at this time?

Mr. PASSMAN. I do not yield to the gentleman.

Mr. Chairman, 88 percent of all of the development loan fund is spent for U.S. commodities.

This is a loan. This is not a grant.

Let us look at the repayment record. We are recommending $165 million in loans to Latin America in fiscal year 1973. Latin America will pay back to us $77 million in cash on prior loans. They cannot absorb this and carry on the present commitments.

The commitments have been made. They have an excellent repayment record.

I should like to repeat, if I may, that 88 percent of this goes for U.S. commodities, where the producer makes a profit and pays taxes into the U.S. Treasury.

They will pay back this year in cash to the U.S. Treasury $77 million, which is just about 50 percent of the loans we are proposing to make to them.

I certainly hope the Members will accept these statistics as factual. They are factual.

I certainly hope the Members will consider the amendment on its merits and vote it down overwhelmingly.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I yield to the gentleman from Maryland, a member of the committee.

Mr. LONG of Maryland. Does the gentleman dispute that these loans are made at very low interest rates, as low as three-fourths of 1 percent during the initial 10-year period?

Mr. PASSMAN. Of course, the loans are long term and most of them are at a concessionary interest rate.

That is a good question, but it also follows that they do pay them back and they do pay interest, also.

Let me say to the gentleman that I certainly will readily admit the concessionary interest rate, but the interest also is repaid in dollars.

I repeat, if I may, they will pay into the U.S. Treasury this year in cash on prior loans almost 50 percent of what we propose to loan to them this year.

I hope the amendment will be voted down.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I yield to the gentleman from Iowa for a question.

Mr. GROSS. How much money has the Alliance for Progress—if the gentleman has the figures—put into Chile in the past?

Mr. PASSMAN. I do not have that at my fingertips. I would assume that they made the same mistake we made, and the same mistake that other nations made, and made them a loan.

I used to be in business. I made bad loans, but that did not prompt me to cut off all of the good loans because I made a bad loan occasionally.

I hope this amendment will be voted down.

Mr. GROSS. Will the gentleman not agree that in his case he was dealing with his own money and in this case we are dealing with the public's money?

Mr. PASSMAN. That is exactly why I want to state categorically that this is a loan program; 88 percent of it will be spent for U.S. commodities, and they will pay back to the U.S. Treasury this year $77 million on prior loans.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I yield to the gentleman from Maryland for a question.

Mr. LONG of Maryland. I appreciate what the gentleman has said, but the point is that we are loaning this money for practically nothing.

The gentleman says that they are going to buy American goods. Would it not be nice if the gentleman's constituents could get loans like this, at three-fourths of 1 percent?

Mr. PASSMAN. They do not get loans at three-fourths of 1 percent, and the gentleman knows that.

Mr. LONG of Maryland. And for 10 years, with a stipulation of low interest for another 30 years?

Mr. PASSMAN. I do not want to embarrass the gentleman by making a record of the "fusses" we have had. The gentleman wants all of this to go to one specific nation, and for that nation he does not care what concessions are made, so long as he has his way. That is why I quarrel with him. He is not consistent in what he recommends.

I hope the amendment will be voted down.

Mr. SHRIVER. Mr. Chairman, I rise in opposition to the amendment.

The committee has greatly reduced the request for the Alliance for Progress development loans, a reduction of $41.5 million from the request. The amount that was asked was $206.5 million; the amount recommended in the bill is $165 million. So there has been a substantial reduction made by the committee.

This program, development loans under the Alliance for Progress, was started under President Kennedy. It has proven to be successful from the standpoint of bettering our relations with our friends in Central and South America.

We reduced the amount for the multilateral agency, the InterAmerican Bank, by more than $400 million in this bill. So I think we have made substantial reductions, and another reduction should not be requested at this time.

It has always occurred to me that it is in this hemisphere where we should be concerned with the underdeveloped countries of Central and South America.

For that reason I think it is an unwise move to further reduce this program.

I might add further that the development loans finance a wide range of commodities and related designated facilities that are used for such facilities as schools, clinics, and irrigation works, and these loans also finance the import of products, such as rubber products, industrial and electrical machinery, raw materials, and spare parts for industrial and commercial development.

Mr. RHODES. Mr. Chairman, will the gentleman yield?

Mr. SHRIVER. I will yield to the gentleman from Arizona.

Mr. RHODES. I thank the gentleman for yielding.

Is it not the situation that the $165 million for Alliance for Progress is greatly reduced from the levels of expenditures in previous years?

It seems to me when I was on this very distinguished subcommittee that the amounts for the Alliance for Progress were as high as $600 or $700 million.

Mr. SHRIVER. Indeed, that is true, and I believe that further reductions at this time would hurt our relations with our friends to the south.

Mr. RHODES. Mr. Chairman, would the gentleman yield further?

Mr. SHRIVER. I yield to the gentleman from Arizona.

Mr. RHODES. Certainly there can be no doubt in anyone's mind as to the importance of Latin America to the United States and the need for low-interest loans in this part of the world. There are facilities which are needed by the nations which are developing in Latin America, nations which are to a great extent friendly to the United States and always have been.

This in fact is the greatest reservoir of possible good will which this country has in the world today, and I think it would certainly not be wise if we were to adopt the amendment of the gentleman from Maryland.

Mr. PASSMAN: Mr. Chairman, will the gentleman yield?

Mr. SHRIVER. I yield to my chairman, the gentleman from Louisiana.

Mr. PASSMAN. Of course, Mr. Chairman, we have made drastic reductions in this program. We have worked it down from a $425 million annual level years ago to our recommendation today of $165 million. We have reduced it substantially, notwithstanding a very excellent repayment record.

I think it would be wrong to try to reduce this item any further.

Mr. MONAGAN. Mr. Chairman, would the gentleman yield?

Mr. SHRIVER. I yield to the gentleman from Connecticut.

Mr. MONAGAN. I want to say to the gentleman I support his position. I think it would be a very unfortunate time for us to make any abnormal reductions in this program.

As the gentleman from Louisiana has said, there have been substantial cuts over the years, and this is not the time to practically eliminate these programs.

I might say, too, that many of these countries have been helpful and cooperative with us in regard to the important questions in the United Nations. Eighteen of these countries have voted with the United States, and I think things like this are worthy of consideration.

Mr. LONG of Maryland. Will the gentleman yield?

Mr. SHRIVER. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Chairman, I think several points have been made here that require amplification.

The fact is that under this program they are borrowing at three-quarters of 1 percent, with a 10-year grace period, a period in which they do not have to pay anything back at all.

We do not allow this to our own people. Remember I am not trying to get this cut out, but I am just trying to get it cut back to where it was last year. I do not see any point, when we have a tremendous deficit this year in this country, why we ought to be increasing it. We know that they are buying American goods, but if you lend this money to Americans, they will buy American goods, too, will they not?

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. SHRIVER was allowed to proceed for 1 additional minute.)

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. SHRIVER. I yield to the chairman.

Mr. PASSMAN. There is no three-quarters of 1 percent interest rate on loans in this bill to Latin America. If the distinguished gentleman would just take time out for the next hour and read this report, he will not embarrass himself like that. The lowest rate that we presently have is 2 or 3 percent. There is no such thing as a three-quarters of 1 percent rate to Latin America now.

Mr. SHRIVER. I will remind the gentleman that we did make a substantial reduction of over $400 million to the Inter-American Development Bank, which does the same thing in the field of development loans.

Mr. ROYBAL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I probably will not take the 5 minutes allotted to me on this difficult subject matter, because I believe all of the arguments have been made and all of the reasons have been given as to why this amendment should be defeated.

I think that in recapitulation I should point out that the repayment record of the Alliance for Progress is excellent. This year alone $76 million have been repaid. This is not at three-fourths of 1 percent interest but, rather, at 2 to 3 percent.

I would also like to point out that I, too, have visited Latin America and have seen some of these programs in action. In fact, I have been wanting to get my good friend Mr. GROSS to go there with me so that he could see for himself some of the good things that the Alliance for Progress is doing.

I admit to the fact that there have been some failures, but when you look at the overall picture there have been more successes in Latin America with the Alliance for Progress than there have been failures.

Mr. Chairman, I have seen schools built out in the mountains of Peru and in other countries in South and Central America. I have seen clinics built and health facilities provided where they were actually needed to fight disease, provide much needed prenatal and postnatal care, and help prolong life. Irrigation works and roads being built by moneys that were made available by this Government are helping these underdeveloped nations grow their food and send it to market. I have seen in those same countries American-made goods and, yes, I think it is important to point out, also, that they use American fertilizer and farm equipment and drugs manufactured in the United States. That they use iron and steel which is produced in the United States, as well as industrial and electrical machinery that is taken from the United States and used in many of the underdeveloped countries of Latin America. All of this is gradually helping the growth of those nations and bringing up their gross national product. In the very near future they will be increasing more and more their potential to survive and become self-sufficient.

I think you gentlemen will remember that Paul G. Hoffman once said that if Latin America were to develop by just 1½ to 2 percent a year, that the American businessman would be so busy manufacturing the implements of peace, such as tractors and plows and whatever is needed for the development of the countries south of the border, that he would have no interest in manufacturing the implements of war and destruction.

Mr. LONG of Maryland. Will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. The three-quarters of 1 percent figure for the first 10 years comes from the General Accounting Office, I might say. It is 2 percent after that. Even if it is 2 percent, certainly I think it is a giveaway loan.

You are talking about how much they repay. Certainly all of these countries will repay as long as we keep on lending them more than they are repaying in any one year. It is a wonderful business deal, is it not? Sure. We keep on lending them twice and three times as much as they are paying back, and they will give it back as long as we keep those loans coming, but once they stop coming you try to get your money back.

Mr. ROYBAL. What suprises me about the gentleman's position is that he has favored this bill in the past. Not only did he favor it in the committee this year but he supported substantial grants to countries. These grants are just gifts, and, of course, bear no interest and are not paid back. Now, the gentleman is making the argument that the interest rates are too low. I really cannot understand the position the gentleman is taking.

Mr. LONG of Maryland. My position is not that we eliminate the program, but we must not increase it here when we have the biggest national debt in history that we have ever had. Is that unconscionable?

Mr. ROYBAL. But the gentleman's argument does not coincide——

Mr. LONG of Maryland. Let us stay where we were in 1972, which is bigger than the year before.

Mr. ROYBAL. The gentleman's argument does not coincide with his action.

Mr. Chairman, I will yield no further to the gentleman from Maryland.

I would like to add, Mr. Chairman, that a visit to the underdeveloped nations of Latin America would enlighten the Members of the House. You would be as I was particularly interested in roads that were being built where the campesinos in these countries used their trucks to take their product to the market, whereas prior to that time they had to use their burros to get through the mountains. These products were grown with American know-how and American equipment and under present conditions they are able to grow more, get a higher yield per acre, take their product to market, and sell their product quicker. The development of the underdeveloped countries of Latin America must continue and the only way it can is to see to it that the Alliance for Progress is made available to them.

Mr. GROSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to say two things to my friend, the gentleman from California (Mr. ROYBAL). The first is that if we keep up what we are doing with these foreign giveaway programs, and some other wild-eyed spending measures, we will eventually make it to the poorhouse and it might be on a burro.

Second, if the gentleman will assure me that if I accompany him on the trip to Latin America that I can get hold of a wad of that 2 percent money I will be glad to go. Just let me get hold of enough of that 2-percent money, and I will be perfectly satisfied, because I think I can relend it as some of these foreign countries do, right back to the U.S. Government at a much higher rate of interest.

I can remember a time when we made a $40 million handout to Argentina, and they turned around and bought $40 million worth of our gold.

So if the gentleman will just assure me that I can get hold of some of that 2-percent money I will be glad to accompany him to Latin America.

Nobody seems to want to talk about Chile, and I wonder why. Maybe it is because they have stolen five of our copper mines and a telephone company down there to the value of several hundred millions of dollars. And the Chileans have gotten into the U.S. till for about $400 million in low-interest loans. When do you think they will ever repay that $400 million for the copper mines and the telephone company they have stolen?

But I arose to speak to another subject. I would like to say a few words about this program as a whole, and I would like to quote the gentleman from Louisiana (Mr. PASSMAN), when he was addressing representatives of the Alliance for Progress who appeared before his committee.

> We just wanted to see how fast and how far we could go with this aid program. Consequently, we have gone a long way toward destroying our world markets, diminishing our gold reserve, building up a tremendous balance-of-payments deficit, and finally, acquiring the first trade deficit in 1971 since 1888.

Continuing, the gentleman from Louisiana (Mr. PASSMAN) said to the witness for the Alliance for Progress:

> You people have become addicted to giving away our wealth, and you have made these same justifications so often for so long that actually you have gotten to where you believe them yourselves. I know the money you people are giving away is absolutely not justified. But we have reached the point where giving away our resources to acquire friends is the order of the day.

And so on and so forth.

Mr. Chairman, I commend the gentleman for his statement and condemnation of the foreign giveaway program.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I am glad to yield to the gentleman.

Mr. PASSMAN. I commend the gentleman from Iowa for his wonderful memory—he is quoting from something recorded a while ago.

Mr. GROSS. I refer you to page 1,053 of your hearings on May 17 of this year.

Mr. PASSMAN. You are addressing yourself to the overall aid and not just this loan program.

Mr. GROSS. I am talking of what your attitude has been toward foreign aid.

Mr. PASSMAN. Oh, well, that is different.

Mr. GROSS. But you are here today trying to sell us this program.

Mr. GONZALEZ. Mr. Chairman, I move to strike out the last word and rise in opposition to the amendment.

Mr. Chairman, I want to make it perfectly clear that I do not intend to take the full 5 minutes. I think the distinguished chairman of the subcommittee has answered the main points involved in the consideration of this amendment proposed by the gentleman from Maryland. I think his associate on the subcommittee, the gentleman from California, supplemented him, and other members, including the distinguished minority ranking members have answered also.

But I would like to say this, which I think is the main thing that we ought to consider. First, that some misstatements of fact have been expressed. The chairman has pointed out, and correctly, that there is no such thing as three-quarters of 1-percent interest charges.

Second, the records are undeniable so far as the loan records and repayment records of the countries involved in this particular program are concerned. They are the best. These countries have performed exactly along the lines that this

Congress wishes the recipient of the funds to operate.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman.

Mr. PASSMAN. Mr. Chairman, I want to thank the distinguished gentleman for yielding. But to get back to the amendment.

The development loan funds for Latin America started at $425 million annually. We have gradually reduced it each year until the administration this year only requested $206,500,000.

But in spite of the fact that the House of Representatives voted $206,500,000, this committee further reduced it to $165,000,000.

Now there will be a repayment of $77,000,000.

If this amendment is adopted, it would just about destroy the program.

Mr. GONZALEZ. I thank the distinguished gentleman.

I find it odd. I think this subcommittee has an undisputed record of being accused of being niggardly up to being overly generous.

I think its history has shown that since it has been on the receiving end of criticism that it has toned down all the requests both administrations ever made—as well as those by Members of Congress on both sides of the Capitol.

So I think the record here is clear. If the committee has reached the point of recommending this, let me assure you it must be minimally and basically required. I urge my colleagues to vote against this amendment because it would go a long way in knocking out a basic program that this country has sponsored over a period of years and which is to the national interest to continue and sustain.

I endorse and applaud the action of the committee for approving the full request of $320 million for the International Development Association. At the same time, I am disturbed and distressed by the committee's recommendation for no funds at all for the Asian Development Bank and only half the request for the Inter-American Development Bank.

In the case of the Inter-American Development Bank, the request for a capital contribution amounts to the purchase of shares in the Bank; I believe that we should support the full request, if for no other reason than that a full subscription would help assure that our voting strength on the Bank board remains as it is at present. Further, I believe that we should support the full request for callable capital for the Inter-American Development Bank—a request which does not represent any real expenditure, but only a guarantee against bonds that the Bank issues. It is most unlikely that we would ever be called upon to pay a cent out of this request, for the IDB has an enormously successful record as a lending institution and there is no question whatever about its ability to honor the bonds that it issues.

I believe that the committee should also have acted favorably upon the full $450 million request for the fund for special operations, which is the soft loan window of the Inter-American Development Bank. This fund has provided the most important source of soft loan capital for Latin American countries, and they have used the money wisely and well. I am persuaded that our contribution to this fund represents the most effective and efficient possible way to support the development needs of Latin America.

There are those who would argue that the Inter-American Development Bank suffers from bad management. But I would point out to such critics that the Bank has made $5 billion in loans, and that it has made bad loans amounting to just $12 million, and all of those are secured by mortgages. I know of no commercial bank in the world that can equal that record for good loans. In light of this, how can it be seriously said that the Inter-American Development Bank is badly managed, or that it is unconcerned about the confidence of its investors?

There are those who say that the Inter-American Development Bank has on hand too many undisbursed loans. But the truth is that the Bank would be foolish to advance the entire amount of funds committed on long term projects—prudent management requires that advances be made only as they are needed and required—and that is exactly the practice of the Bank.

There are those who say that we should exercise more control over the Inter-American Development Bank. But my friends, the United States controls effectively every dime in the fund for special operations, by virtue of our voting strength in the Bank. If we do not trust our own representatives to exercise their responsibilities toward their own Government and the Bank, I suppose that we might question the wisdom of this investment. But if we lack that trust, then why are we appropriating any money at all for foreign operations? I believe that our voting strength alone is adequate protection for our interest in this bank.

Now there are those who question the internal management and administration of the Inter-American Development Bank. But what they do not know is that the president of the IDB, Antonio Ortiz Mena, is a distinguished financier in his own right. He has been in the Bank only a few months, and he has already made a number of impressive and important management changes in the Bank.

One measure of his success is the fact that the administrative budget of the IDB this year is almost the same as it was a year ago—and I do not think there are many places that can say that. And this successful holding down of expenses is not brought about by any sacrifice in the volume or quality of the work done by IDB—for by any measure of quality and productivity, the Bank has improved dramatically in the past 12 months.

The Bank deserves our support and confidence. It has won the support of Canada, which has joined the Bank and paid in $270 million. I do not think they would have made that investment if the Bank were shaky or badly managed, or if it did not warrant the confidence of the Government or our neighbor to the north.

We have every proof, every measure, every indicator, that the Inter-American Development Bank is effective, responsive, and responsible. I believe we should support the full request for it.

The only reason the full request will not be made, if it is not granted today, will be that the administration has not supported it. The Treasury Department knows all that I have recited. They have said that they want the full appropriation, but they are unwilling to fight for it.

The Treasury tells us on the one hand that they want the money, but on the other they do not want to call out the troops to get it—they do not want to insist that the minority side support their own program; they do not want to challenge gratuitous actions and erroneous statements; they do not want to risk votes. That is a shame and a disgrace, because I believe in these international institutions, and I believe they deserve our full support. If there is any failure here, it is not of the Inter-American Development Bank, but a failure of heart and nerve by the administration, which neither understands the importance of the developing countries to the south, nor has a clear sense of the priorities all developing nations should have on our agenda.

We need these institutions—they have brought us great benefits, and they have brought great benefit to the developing countries of the world. They have a great record of productivity, efficiency, effectiveness, honesty, and integrity—and they have earned every dime we have out into them. It is a shame that the administration does not have the heart to fight for these institutions; and we might as well let our friends know, the only reason that any reduction would have to be made in their request is that the Treasury wants to make quiet deals that cannot be delivered—and if they cannot make blackroom deals, do not want to confront the issues. It is a shame and a disgrace.

Finally, let me speak to the general provisions that would require a project by project approval of loans made through financial institutions, and project by project audit by the Comptroller General. These projects involve more than our own money; we have no right to audit money that is not our own. The organizations themselves conduct the most exhaustive kind of justifications and audits, and I have never heard anyone claim that these were inadequate. I think that we should be able to trust our representatives to see that the projects are justified and well operated. And I challenge anybody to tell me that they have not been diligent, nor the institutions diligent—for who can match their record of good loans? Enactment of these special provisions—sections 504 and 505—would simply be an end to our ability to participate in them.

I once again applaud the committee for its support of the International Development Association. I regret that its actions with the special provisions, and with respect to the Asian Development Bank and Inter-American Development Bank were not so favorable—for I feel these institutions have all earned our respect and confidence, and we have no reason to withhold our support of the full budget request, nor to impose any special conditions.

Mr. RIEGLE. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to this particular amendment, although I may support other amendments the gentleman from Maryland may offer later. I rise primarily to take account of the statement just made by the gentleman from Texas that if the gentleman from Iowa and someone else would perhaps travel to other countries, it would be a good way to dispose of administrations in other lands that we do not particularly care for. I know he said that tongue-in-cheek, but I think it is important that he not leave a misimpression here that this was the intent of the foreign aid program or American foreign policy.

I think too often we tend to think that who rules another country is our business more than it is the business of the people who live in that country. I do not think that that is the view of the gentleman from Texas. I know it is not my view, and I want to make sure it is clear on the RECORD at this point.

Mr. SEIBERLING. Mr. Chairman, I rise in opposition to the amendment. I just want to make some brief remarks that I think pertain to what the gentleman from Texas said.

A year ago the House Judiciary Subcommittee on Immigration and Nationality had hearings in El Paso and Los Angeles on the problem of illegal immigration. Of course, the House just a few days ago passed our bill to put some curbs on illegal immigration into the United States, but there is one thing that I think we have to recognize: The problem of illegal immigration is a serious one in large part because of the miserable economic conditions south of the border. It is in our own interest to help these people get on their feet so they can get jobs in their own countries, instead of having to come across our borders secretively and violate our laws in order to find enough to keep body and soul together. The United States does not exist in a vacuum, or behind a maginot line, and to imply that we have no interest in helping other countries of the world, particularly our neighbors to the south, would be unrealistic and irresponsible.

In an election year, it is the easiest thing on earth to talk about how terrible it is to lend or give money to foreign countries. The really responsible thing to do is to try to point out to the people of our country that that is one way we can help keep the peace in the world, and, I might add, to create conditions abroad so that those people can buy our products. Our best customers are the developed countries. Does not that tell us something about what we ought to be doing to help the economic development of our neighbors to the south?

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. LONG).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. LONG of Maryland. Mr. Chairman, I demand tellers.

Tellers were refused.

So the amendment was rejected.

Mr. HANNA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the full funding of the appropriations for the U.S. subscription to the Inter-American Development Bank. As a member of the Committee on Banking and Currency, I have had considerable opportunity to review and examine the operations of this institution. It was only after the most mature and thoughtful consideration that our committee recommended to this body authorization legislation which would give adequate funding to permit the U.S. participation in an increase of resources for the Bank. The proposal submitted by the Banking and Currency Committee was overwhelming accepted by the House and by the Congress. Today, we are considering the appropriations to fulfill what the Congress has already authorized. The Committee on Appropriations has recommended one-half of what the Congress had previously authorized and it might be useful to examine critically why the Committee cn Appropriations came to a different conclusion.

I wish to address myself to one aspect of the reasoning which I have heard expounded again and again on the floor with respect to the funding for this and similar institutions. Much has been said and much has been made over the amount of resources which the institution has available to disburse. So-called money in "the pipeline." We are told no further appropriations or very limited additional appropriations are necessary, since the Bank has plenty of money to meet its disbursement needs over the years. We are asked to believe that the Bank is sitting on large hoards of money and that further appropriations will only add to the stockpile.

Nothing can be further from the truth. What is requested here is absolutely essential for the Bank to have the authority to make commitments to continue economic and social development of Latin America.

Let me explain: When a builder goes to a savings and loan association in the United States and requests a construction loan, does the savings and loan association, when approving the loan, give him the total amount in cash? No; of course, not. What he receives is a line of credit against which he will draw during the period of construction. This is normal procedure.

Does the savings and loan association, when it has made the commitment to the builder for the resources, have the right to commit the same resources to another builder? Of course not. Once the commitment has been made it goes against the books of the savings and loan association as a commitment and reduces the capacity to make further commitments until payment has been executed.

The Bank's situation is not much different than that of the savings and loan association. It makes loans for projects including education, water, sewage, industry, agriculture, covering the whole gamut of lending for economic and social programs. Does the borrower receive in cash the amount of the loan when its board of executive directors authorizes the loan and the contract is signed? Of course not. On the contrary, because it is a development institution, the Bank carefully studies not only the project, but the execution of the project, and disbursement of the committed funds takes place only against proof that the borrower has spent his own resources for the project and the total counterpart that the borrower must obtain has been disbursed pari-passu.

The loans of the Bank are complicated loans for they require changes in tariffs and they require basic institutional changes. The very complexity of lending frequently requires disbursement periods as long as 3 to 5 years. The Bank is very careful with funds entrusted to it. There are many safeguards to assure that the resources are spent appropriately. This is contemplated when the loan is approved by the board of executive directors. In its 12 years of operation no incident has arisen when money has gone astray, where all payments were not made for purposes other than the project for which the loan was granted. It follows, therefore, that a considerable amount of undisbursed resources is available to meet the commitments into which the Bank has entered. But they are not resources available for lending. They are only available to fund the projects for which the loans have already been granted.

As of August 31, the Bank had available for commitment about $250 million in the fund for special operations. That is the entire amount aavilable for the Bank to continue lending from the fund for special operations. It is not the disbursement of loans already granted at. The uncommitted amount to which we must look. And the lending capacity of the Bank's fund for special operations will be completely exhausted by the end of this year.

The administration has also asked Congress in the President's budget proposal to appropriate resources for the Bank's ordinary capital. Before us is a proposed 50-percent reduction in a small amount of paid-in capital and a 50-percent reduction in U.S. subscription to the callable capital stock. It is indeed ironic that the Committee has seen fit to reduce by 50 percent the U.S. subscription to the callable ordinary capital. For indeed here is no cash outlay at all but rather a very contingent liability appropriation which would permit the Bank to raise resources in the capital markets of the world rather than utilize taxpayers dollars.

Again we hear it said that so much is available; that the Bank is sitting on a stockpile of money without risking it. There is no mention that the Bank's funds are totally committed to loans and that the Bank has borrowed much of that money in the capital market in order to meet its disbursement requirements and to be able to charge the borrowers an interest rate which bears a relation to its borrowing costs.

Let me emphasize. In dealing with the callable capital subscription there is no relation between available resources and the appropriations process, since the Bank utilizes the stock subscription to the callable capital only as a means to be able to borrow funds when they will be needed and when they are available at reasonable rates in the capital market. I think it worthwhile to point out that the capital structure of the Bank was so fashioned that the Bank would be required to go to the capital markets for a share of its resources in order to assure that the appropriate financial disciplines which apply to any borrower in the public market apply to the Bank.

The fact that the Bank has borrowed successfully over $1 billion in the world's capital markets—and over half of that amount outside the United States—affords ample proof that the world financial community regards the institution as a sound and competent one.

In closing, Mr. Chairman, I think we can disregard the variety of statements made about large amounts of resources available. I think we know better. We have heard this before. The truth of the matter is that unless the United States is able to agree to make a contribution to the Bank's fund for special operations, the commitment capability of the Bank will be ended and with it the capacity of the institution to continue to contribute to the economic and social development of our hemisphere and hopefully to the political stability as well.

Make no mistake, if there are no new commitments, there will be no new projects. If there are no new projects, there will be no continuance of Latin American progress. We vote here today for or against that small but important contribution to progress for the underdeveloped countries of the Americas that we pledged ourselves to at Punta del Este under President Kennedy. The price is so small for such an honorable redemption of that solemn pledge.

I, therefore, urge that there be appropriated the full amount requested by the President of the United States to meet what he deems to be an appropriate level of funding for this institution.

Mr. STEPHENS. Mr. Chairman, will the gentleman yield?

Mr. HANNA. I yield to the gentleman from Georgia.

Mr. STEPHENS. Mr. Chairman, I thank the gentleman for yielding. I associate myself with the remarks made by the gentleman from California.

Mr. Chairman, I rise to support full funding for the Inter-American Development Bank. As you may recall during the latter part of the 1950's after the Korean war when prices for primary commodities, especially coffee, had fallen drastically there was considerable unrest in Latin America which was demonstrated rather graphically by the visit of then Vice President Nixon in 1958. I should like to point out that until that time the United States had poured out vast funds for the reconstruction of Europe, yet limited resources were made available to assist much poorer countries in Latin America to raise their standards of living to a tolerable level.

At that time it was thought that the establishment of a regional development bank for Latin America might consitute one of the more effective means of encouraging the forces of change in these countries into productive channels. The Bank was conceived as an international cooperative venture based on a regional concept and this, of course, was for me one of its most appealing aspects. The willingness of the Latin countries themselves to unit in membership in the Bank and to contribute substantial resources and skills of this joint effort for the development of the region as a whole seemed to me at that time to be in the consonance with the tradition of self-help we had long had in this country.

The message which was sent to Congress in 1959 by President Eisenhower stressed the special relationships—historical, political, and economic between the United States and Latin America—but above all pointed out the desirability of an institution specializing in the needs of that region which would be supported in large part by Latin American recources and would give the Latin American members a major responsibility in determining priorities and authorizing loans in the light of their individual circumstances. Of course, it was not our intention, nor has it come about, that the United States should make a major contribution and abdicate its responsibility to guide the policies and procedures. But this system seemed to be at least a beginning of an institution through which the United States might assist in the economic and social development of its neighbors in the Southern Hemisphere by institutionalizing a dialog rather than to dictate to them in the terms of master to servant.

A capital structure of the Bank was fashioned by means of a subscription to callable capital which requires no cash outlay from the U.S. Treasury requiring the Bank to go to the capital market for a substantial share of its resources. Not only does this serve to draw private capital for economic development but also requires the Bank to maintain prudent financial disciplines to gain the confidence of the market. After all, the bond buyer is the harshest judge of all since he has so many alternative uses for his money. Since its inception, the Bank has raised over a billion dollars in the private capital market, all over the world, Europe, Japan, the United States. All issues are AAA rated. The record speaks for itself. In addition provision was made for subscription to a small amount of paid-in capital made available as non-interest-bearing notes which are drawn down as necessary to meet commitments.

President Kennedy channeled U.S. funds to the Inter-American Development Bank; President Johnson gave full support to its second replenishment and the third replenishment which is presently before the Congress for appropriation, has had the full backing of President Nixon. Each President realized the need for economic advance to provide political stability and secure the peace of the Western Hemisphere. Since its founding each Secretary of the Treasury has given the Bank his wholehearted support. The United States has pressed the Latin American members to take more responsibility for supplying Bank resources and allocating them to the lesser developed countries. This strategy has in large part been successful particularly with respect to their increased participation in the fund for special operations or soft loan window of the current replenishment now before the Congress for funding.

I believe the performance of the Bank over the last 12 years bears out our initial confidence in establishing it. The Bank's total portfolio of loans is approaching $5 billion. It has pratically no loans in default.

The loan proceeds have gone to make the agricultural and industrial sectors of the economies of the Latin American members more viable in both economic and social sense with pure water and proper sanitation facilities, with decent housing and other urban and rural community facilities, and with the improved educational facilities required in today's technological world. A substantial portion of the proceeds has been invested in infrastructure projects necessary to long term growth.

In 1970 the United States negotiated with the Latin American member countries an increase in resources of the Bank to enable it to continue its activities. The proposed increase totaled $3½ billion in two parts—a $2 billion increase in ordinary capital largely in callable capital to enable the Bank to continue to borrow in the market and a $1.5 billion increase in the fund for special operations, the window from which the Bank makes loans on concessional terms for projects which are essentially social—or humanitarian—in nature. The increases are to be made over a 3-year period in various increments. The U.S. share of the increases is $673 million for callable capital, $150 million in paid-in capital and $1 billion for the fund for special operations. Congress authorized these increases but now the appropriations are needed to enable the United States to meet this commitment.

In the 1973 appropriation $50 million is sought for the paid-in ordinary capital, payment of which is effected through non-interest-bearing letters of credit drawn down as necessary to meet the actual loan disbursements which usually begin to be made a year or so after commitment. The appropriation request also provides for $336.8 million as a contingent liability subscription to callable ordinary capital which as mentioned previously does not constitute a U.S. budgetary outlay.

The 1973 appropriation request for the fund for special operations for fiscal year 1973 is for $450 million which would be used for concessional financing of high priority humanitarian projects particularly necessary in the least developed member countries of the Bank who are not able to carry the heavier debt service of the ordinary capital loans. The United States has control over the disposition of these resources through its vote on the Board of Executive Directors. As with the paid-in portion of the ordinary capital subscriptions, these funds would be made available under non-interest-bearing letters of credit procedures with drawdowns only as needed to cover the loan disbursements. Without approval of this appropriation FSO resources would be exhausted by the end of 1972.

While almost every Latin American country has kept its promise made in 1970 and has appropriated the full funds due on time, the Congress although authorizing the full commitment has not seen fit to make the full appropriation of the U.S. share for the first time in the history of the Bank. Any serious cut in the Bank's program cannot have, it seems to me, anything but a serious impact both in a political and economic sense. The cut is particularly unfortunate in the fund for special operations area where commitments will have to be cut off for important social and economic development projects even though the cash outlays for disbursements may be delayed for 3 to 5 years.

I fully realize the difficulties in assigning priorities to the limited available resources, but I feel strongly that it would be shortsighted to neglect an institution which for 12 years has been such a good working example of regional cooperative enterprise, within our own hemisphere. I urge you to support a full funding for the U.S. subscription to the Bank.

Mr. HANNA. Mr. Chairman, I thank the gentleman from Georgia.

Mr. Chairman, if the Members will look at the record of this Bank they will see it has done a remarkable job over the years in terms of what we expected it to do. It has taken this business of getting involved in the development of the countries of this world who are not yet in the mainstream of modern industrialization, and it has made that kind of input which has a mix of dollars in which we are engaging in about one-third participation where we used to be in the 100 percent front of this thing after World War II. It develops from $3 to $9 of local money for every dollar put in and it is done on a project basis.

Mr. PASSMAN. Mr. Chairman, inasmuch as it is my privilege to handle this bill on the floor, I would say we have made substantial reductions. I want to say I have profound respect for the great Committee on Banking and Currency and each member of that committee. I think I can say to the committee that now this is an outright grant. There is no way, no way for it to be recovered, so we had to look over the operation of the Bank for the past 11 years and compare it with the Agency for International Development which disburses grants for the same purposes, for public works projects. The Agency for International Development is doing the same work and we could examine that in great detail, whereas the Inter-American Bank is a multinational organization and we do not have the right of detailed examination, but we managed to get inside to have a good close look. We found during 11 years of operation they had in the pipeline $4,168 million, but they have only withdrawn $1,990 million, which gives them a 5-year supply of money at the highest disbursement rate. The highest disbursement annually was $400 million.

On that basis, with $2,177,000,000 undisbursed, we thought we were quite generous in allowing an additional $418 million to be added to that. If my mathematics are correct, a substantial amount of money that could go into the sixth and seventh year, so we know that this is an outright gift if this would happen. We think $418 million is quite generous.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Development loans: For necessary expenses to carry out the provisions of section 201, $350,000,000, together with such amounts as are provided for under section 203, all such amounts to remain available until expended.

AMENDMENT OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LONG of Maryland: On page 4, line 13, after the word "201" strike out "$350,000,000" and insert in lieu thereof "$200,000,000".

Mr. LONG of Maryland. Mr. Chairman, this is another one of these furniture sale cuts. Actually, the bill provides $350 million this year compared to $200 million last year. On the other hand, narcotics control is being paid for out of separate line item in the bill this year, so that the effective increase is $192,500,000, almost a doubling in the development loan figure.

These are so-called loans. I just wish that the home buyers in your districts could borrow at 2 percent for the first 10 years and 3 percent thereafter for 40 years altogether. These ridiculous interest rates, plus the fact that there is no way of forcing repayment without a war, mean that this loan is largely a gift. We are going to see that these countries will pay back a portion of what we are lending—so long as we keep lending them money. But we are never going to get our money back from these loans.

I would not mind—I have been a supporter of foreign aid in the past, but let me give you an example: In the early 1960's we made an emergency loan to Indonesia for $7 million. Later that same week we learned that Indonesia was going to spend $20 million to purchase three U.S. luxury airliners for its officials. AID officials admitted that they knew nothing of this.

A dike was built in Jordan to catch rain for irrigation, but rain never falls in the area. The United States approved money to Kenya for doubling their fishing boat and thus increase the catch. The fishermen got the same number of fish as before and just went home early every day.

I am not going to dwell on this. The usual arguments have been made that they will buy our goods, but I am pointing out that if you lend the money to our own people, they will buy our goods.

You are arguing that you are raising the standard of living. I have been through poor country after poor country. If you use your eyes, you will see an increase in the standard of living all right, but only for the top small percentage of the population; maybe 10 percent. The great mass of campesinos, the poor peasants all over the world, are scarcely touched by these AID programs.

That is what has turned me off. If they really raised the standard of living, I would be willing to see it increase. But I am going to enunciate Long's law: Subsidies almost always go to the wrong people for the wrong reasons.

They go to the people with the power and know-how to get it. The poor, suffering human beings we pretend to be lending this money to, or to whom we pretend to give it, never get any part of it.

I am not for abolishing the aid program. All I want to do is to hold it at last year's figure in view of the tremendous debt which we are accumulating; $80 billion in the last 4 years. I make this prediction: we are certain in the next 4 years to get a tax increase, and foreign aid is going to be a large part of the reason for it.

Let us have the foreign aid program, but let us keep it within reasonable limits; keep it at levels that are already high; in fact, higher than a number of years before.

Mr. PASSMAN. Mr. Chairman, I rise in opposition to the amendment.

First, I am extremely fond of my very dear friend from Maryland. Of course, he voted for a higher figure for supporting assistance.

Mr. LONG of Maryland. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Mr. PASSMAN. I thank the gentleman for getting a quorum here, because I want the Members to hear this.

The CHAIRMAN. Eighty-seven Members are present, not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 379]

Abourezk
Anderson, Ill.
Anderson, Tenn.
Annunzio
Aspin
Badillo
Baker
Baring
Bell
Betts
Bevill
Blackburn
Blanton
Boggs
Bow
Byrnes, Wis.
Carey, N.Y.
Celler
Clark
Clawson, Del
Clay
Curlin
Davis, S.C.
Derwinski
Devine
Diggs
Dorn
Dowdy
Dulski
Dwyer
Edmondson
Evins, Tenn.
Flynt
Fraser
Gallagher
Giaimo
Goldwater
Griffiths
Hall
Hansen, Idaho
Hansen, Wash.
Hays
Hébert
Jacobs
Jarman
Jonas
Keating
Kuykendall
Kyros
Landrum
Leggett
Link
Long, Md.
McClory
McCormack
McCulloch
McDade
McDonald, Mich.
McMillan
Mikva
Minshall
Murphy, Ill.
Murphy, N.Y.
Nichols
O'Hara
Patman
Patten
Pepper
Peyser
Pirnie
Powell
Pryor, Ark.
Pucinski
Rangel
Riegle
Rooney, N.Y.
Saylor
Scheuer
Schmitz
Skubitz
Steed
Thompson, Ga.
Thompson, N.J.
Ullman
Veysey
Waldie
Wiggins
Wilson, Charles H.
Wyatt

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. PRICE of Illinois, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 16705, and finding itself without a quorum, he had directed the roll to be called, when 341 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The Chair recognizes the gentleman from Louisiana (Mr. PASSMAN) for 5 minutes.

Mr. PASSMAN. Mr. Chairman, as I stated previously, I do have a very high regard for my friend from Maryland. He is a fine American. We do a lot of kidding, but I find it rather difficult to follow his thinking as compared to his voting. On August 10, my good friend voted for the Foreign Assistance Act. I think that is when the foreign aid bill passed the House. Then, in the subcommittee he likewise voted for my recommendation which would reduce it to $350 million.

Now, I do not want to kid my friend too much. My opponent withdrew, but, of course, he is going to have to handle himself in such a way as to appear to be a conservative back in his district. I hope he hides those records, because they may get hold of his previous voting record. I want him to hide them, because I want him to come back.

Mr. LONG of Maryland. Will the gentleman yield?

Mr. PASSMAN. Not at this point.

Now, in 1965 worldwide development loans, we appropriated $773 million. We had Members who objected to this figure. They thought it should be $800 million, so every year now your committee has spent hundreds of hours trying to build a record that would justify reducing all of these programs. We finally reduced this program down to where last year in a compromise late in the season, we only recommended $200 million. We just about wrecked the program, because we had commitments made that we could not finance. Some commitments we had funded up to 80 percent, and they did not have the money to finance the projects.

Let us look at the record. The administration recommended $415,000,000 for the worldwide development loan program, but your committee has reduced that to $350 million.

Mr. Chairman, this is one of the things in the bill that we can label "good." Even the so-called developing nations are paying these loans on time. There is less than 1 percent of the total indebtedness delinquent at this time.

Now, let us have a look at what the repayment record would be in 1973. We are only recommending $350 million for development loans, but the borrowing nations will repay to the U.S. Treasury in cash this year $135 million out of previous years' loans, so we are going to get back more than 32 percent as much as we are putting out.

They have a marvelous record. Again, 88 percent of the money contained in this item is spent in America for American commodities. That means a profit for the manufacturer so he can pay to the U.S. Treasury, and it helps these nations.

I have always believed in making loans rather than outright grants. I hope this amendment is voted down, because we have tried to do a creditable job for you. It is impossible to bring a bill out that pleases all the Members. If we cut too much, we displease some. If we do not cut enough, we displease others, so we try to bring you a balanced bill. When you reduce the budget request by a billion dollars and 20 percent, you establish a record year after year where your subcommittees, and I respect all of them, will cut 2 to 3 percent.

We broke our necks and spent hundreds and hundreds of hours and cut 20 percent, so do not give us bouquets, but do not give us brickbats either. Back us up so that we can continue doing a creditable job for you.

Mr. SHRIVER. Will the gentleman yield?

Mr. PASSMAN. I yield to the gentleman from Kansas.

Mr. SHRIVER. We did not fund the Asian Bank the $100 million asked for, and it is similar to this worldwide development loans program in that part of the world and elsewhere.

Mr. PASSMAN. In that part of the world, yes. That is a very excellent observation, because this agency, we cut all of it out. We denied the entire amount, $100 million.

I hope the Members will vote down this amendment and give us an opportunity to continue working for them constructively.

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I am sure it would be wonderful if all we had to do was to make money available at 2 or 3 percent interest to foreign countries and that would salvage the economy of this country. If it were all that simple I believe I could support a foreign aid program. But it does not work out quite that way, and I do not believe the gentleman from Louisiana thinks it does, either.

Mr. Chairman, I now yield to the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. I thank the gentleman from Iowa.

The gentleman from Louisiana has given us the usual litany of fallacies here in connection with this bill. He talked about how much they have cut it below the budget. Of course, that is a furniture sale cut, as I said before, to those people who were in this Chamber. It is a "phony" cut.

When we count the shift of money away to the narcotics program, this is almost double what it was last year, in a year in which we have never been in greater trouble on the budget, with tax increases staring us in the face next year.

I am getting awfully tired of listening to this stuff about how if we just give all these people this money they will spend it in the United States, and this will sell American products. I wonder whether the gentleman from Louisiana ever stopped to think that if we put this money in his district in Louisiana or in my district in Maryland those people would be fairly sure to spend the money in the United States. I would think we would have a somewhat better chance of selling these goods.

This is the biggest economic fallacy I have ever heard.

The interest rates are absolutely absurd, with grace periods of 10 years, 2 percent for the first 10 years and 3 percent thereafter. A little while ago the gentleman said it was not an interest rate of three-fourths of 1 percent. No, it is not; they call it a service charge.

Mr. GROSS. There are hundreds of millions if not billions of dollars of old loans made to foreigners at three-fourths of 1 percent or 1 percent interest and for 40 to 50 years.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield for a question?

Mr. LONG of Maryland. No, I will not. I want to make this point.

I hope this will burn itself into the brains of Members. Much has been said here about the high repayment rate, and that there is no default. All of us know what the repayment record of foreign countries is toward this country. In fact, any country which lends money outside of its own country has a very poor chance of ever getting it back, on the record.

What they are talking about, as to this low default rate, is that they are paying back a certain amount of money. The point is that they will do this so long as every year we lend them two or three times as much money as they are paying back. While we do that we can count on them to keep up with the repayment. But heaven help us if we ever stop.

If these loans mature, get to a mature lending situation, which inevitably is going to happen, since this cannot go on forever, as to giving it away and getting it back, when that time comes to get it back entirely that is when the repayment will stop. You know it and I know it. They are just kidding the taxpayers.

Mr. GROSS. The gentleman is exactly right, and I am sure the gentleman from Louisiana cannot argue with that.

Mr. LONG of Maryland. I have heard the gentleman from Louisiana say it himself.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Louisiana.

Mr. PASSMAN. I have no quarrel with my friend from Iowa. I am trying to understand the inconsistency of my dear friend who is a member of the subcommittee. On August 10 he supported the Authorization Act. In my committee last Friday he voted for this bill. I did not know he was opposing it. He must have heard from some of the voters back home.

Mr. GROSS. It is said that some minds are pure because they change so often. Perhaps that is why his mind is so clear on the facts here today.

Mr. PASSMAN. I directed that statement to the gentleman because he voted for the highest figure.

Mr. LONG of Maryland. Would the gentleman yield?

Mr. GROSS. I yield to the gentleman.

Mr. LONG of Maryland. Speaking here on behalf of the voters back home, I wonder if the sudden enthusiasm of the gentleman from Louisana for foreign aid is due to the fact he has just finished his primary back in Louisiana and he has got a pretty free ride for the next 2 years.

Mr. PASSMAN. I want the gentleman to understand Mr. PASSMAN always stands consistent in the way he votes, in the way he talks, and the way he acts.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. LONG).

The question was taken; and the

Chairman announced that the noes appeared to have it.

Mr. LONG of Maryland. Mr. Chairman, I demand tellers.

Tellers were refused.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

MILITARY ASSISTANCE

> Military assistance: For necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, as amended, including administrative expenses and purchase of passenger motor vehicles for replacement only for use outside of the United States, $730,000,000: *Provided*, That none of the funds contained in this paragraph shall be available for the purchase of new automotive vehicles outside of the United States.

AMENDMENT OFFERED BY MR. DOW

Mr. DOW. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Dow: On page 5, line 23, strike out "$730,000,000" and insert in lieu thereof "$537,750,000".

The CHAIRMAN. The gentleman is recognized in support of his amendment.

Mr. DOW. Mr. Chairman, as Members of this House know, I have on every occasion when this appropriation for military assistance for Cambodia came to the House, stood here in opposition. I have opposed funds for Southeast Asia on every and all occasions, for Vietnam, Laos, and Cambodia. Since hardly anyone else is concerned about Cambodia, I think this Cambodia funding presents the occasion for somebody to oppose it.

Most certainly the American policy in Cambodia has been a misbegotten policy of failure, misery, and chaos. I believe that the numbers of refugees there have approached a figure nearly as great as those in Vietnam, and this is because the United States has chosen to do its fighting there largely by air.

We are not sure what government rules in Cambodia. We are not even sure why the government in Cambodia was overturned a year or two ago, and possibly the United States had a hand in it. That feature, too, is obscure.

Therefore, I am offering an amendment to make a record to show that about 25 percent of the military assistance provided in this bill shall be deducted, because the amount listed in the report for Cambodia is approximately 25 percent of the total figure in the report of $800 million-and-some for military assistance. I would have given it as an exact figure down to the pennies, but that would have been pretty detailed. My figure here is approximately a 25-percent cut in the amount for military assistance, because that is approximately what we are providing for Cambodia.

Those who question our policy in Southeast Asia should oppose any more funding for Cambodia, especially after the futile forays that went on into the Parrot's Beak and the Fishhook and into other places that wound up under the control of the North Vietnamese.

There is nothing right or illustrious about our performance in Cambodia, and I submit, Mr. Chairman, we should end it as promptly as possible.

Mr. PASSMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, of course, this item is illustrative. We do not know how the funds will be allocated. We do indicate in our report the portion which would be allocated to these different nations as proposed in the budget request. Now, of course, we are working, hoping, and praying that we can finally conclude this conflict in Southeast Asia, which I guess we all regret we have gotten into. However, it would appear that if you look at the record, we had 543,000 troops in 1969 in Vietnam and it is estimated to be down to 27,000 on December 1 or maybe even less. If you look at the cost in 1969 of the war it was running about $28 billion a year and the cost now is estimated to be down to $7 billion in fiscal 1973. It would appear that we are trying to wind down this conflict.

I think this is the very minimum military assistance that we can have in order to carry out not only our necessary commitments in Southeast Asia but around the world.

Of course, the administration wanted a lot more money than this. I have a letter here from the Secretary of Defense, a man we all respect very highly. He said in addition to the $730 million, that my good friend from Maryland voted for back on August 10 and this great Committee on Foreign Affairs recommended, we may need more. Even after the recommendations of the strong-willed men of wisdom, we still cut it by $50 million. The Secretary of Defense said we made a mistake and that they were going to have to come in and get a supplemental.

I sincerely believe the security of our country is at stake and if we are going to conclude this war in Southeast Asia and if we are going to bring our troops home, we are going to have to provide a minimum amount of military assistance. This is something which we have practiced for 25 years—furnishing the money and the men. Under the new doctrine, we will only furnish the money.

Mr. Chairman, I hope the Members vote down this amendment and that we conclude this conflict and bring our boys home.

Mr. LONG of Maryland. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of the amendment. I had contemplated proposing a somewhat similar amendment, although not the same.

This is, of course, more money down the drain. After 22 years we are still pouring money into Southeast Asia; we are still being told that the end of the war is just around the corner; we are still being told that this money is to modernize the weapons out there so that we can make it their war instead of ours.

Ten years ago I sat on the Committee on Armed Services and was told that we were modernizing the weapons there and that these people were all disciplined and good fighters and that we had accomplished our purpose. Now 10 years later I am hearing the same song and I have no doubt that 10 years from now Mr. PASSMAN will still be standing up and giving us the same litany that we have to pour more money into Southeast Asia to bring our boys home.

We have done a little juggling with figures—27,000 he says. There are other people who have a different judgment, feeling that we have something like 140,000 Americans when you count all of the fighting men out there in one capacity or another.

Mr. Chairman, let me point out while this money is for Thailand and Cambodia, and so on, frankly I think our purpose in moving into those areas was really to give the Communists a blank check to move in there and communize the whole area, when eventually, I suppose, we do get out, but we have certainly given them a good excuse to go in.

Let me give you an example——

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. LONG of Maryland. No, I do not yield to the gentleman. I do not yield at this time.

At the time of this military assignment Thai military personnel were trained in the United States at a cost of about $500,000 to operate and maintain a missile system that would not be installed for some indefinite period of time. Also the Iranians were trained in a training program on the operation of Iranian aircraft, and at that time the Iranian Air Force only had one single-engine aircraft.

This is from the GAO report.

But my friend, the gentleman from Louisiana (Mr. PASSMAN) is very fond of chiding me for voting for the foreign aid although I did vote for the whole thing. I voted for it because I wanted to make sure that there was money in it for Israeli. The money for Israel is about the only good part of this bill, in my estimation.

But let me read a little bit from Mr. PASSMAN's words. Mr. PASSMAN said, before our hearings:

> Aren't we going to keep this world in a state of turmoil as long as we provide these nations with some type of military assistance, whether equipment or training? How are we going to cool this thing down around the world if we don't make a reduction in the number of nations receiving aid?

This was just a short time ago that my chairman, the gentleman from Louisiana (Mr. PASSMAN) made that statement.

Mr. PASSMAN. And I stick by that statement, if the gentleman will yield.

Mr. LONG of Maryland. I do not yield to the gentleman.

Mr. PASSMAN. I tried to yield, but the gentleman did not accept.

Mr. LONG of Maryland. Mr. Chairman, I will not yield to the chairman.

I want to say that this is a huge increase, an increase of 50 percent over last year, and it is an unconscionable increase. While I support military assistance I think this is much, much too much, along with the rest of this bill, and I hope very sincerely that the amendment offered by the gentleman from New York (Mr. Dow) is accepted.

Mr. SHRIVER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment offered by the gentleman from New York (Mr. Dow).

Mr. PASSMAN. Mr. Chairman, would the gentleman yield?

Mr. SHRIVER. I will be very happy to yield to my chairman.

Mr. PASSMAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, let me reiterate that I have affection and regard for my good friend, the gentleman from Maryland, but I am somewhat shocked to think that he would vote for a possible $5 billion bill and then for $50 million change his position. Let me say that I am a very sincere friend of Israel, very definitely, but I do not want to stand here and say that I would vote for a $5 billion bill just because there may be $25 million in it for Laos and Cambodia.

I want to make it very clear what my good friend from Maryland voted for a higher figure, voted for the full figure on August 10. I do not know what has brought this change in the gentleman's position.

I will look forward to his return to the House so that the gentleman will be back on the committee and work with me next year.

I thank the gentleman for yielding.

Mr. SHRIVER. Mr. Chairman, the figures I would point out that are in the report that relate to the various countries are illustrative. The report was quite clear on that, this is an illustrative program, and the funds will not necessarily be used as shown on page 21. However, the fiscal year 1973 budget proposes to supply materiel and training programs in some 25 countries, and training only programs in some 22 countries. And the aid for Cambodia, as mentioned in the report—and the amendment is directed to this—is aid in implementing the Nixon doctrine of reducing the U.S. presence over there and winding down this war. That is its purpose.

Mr. SIKES. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I intend to be very brief. I oppose the amendment because Cambodia is seriously threatened by Communist forces. Cambodia is our friend. Cambodia must have weapons and equipment. If the Communist should prevail there, Cambodia could revert to the status of principal supplies of Communist forces which was true when Prince Sihanouk ruled that nation.

It should be very clear what is happening out there throughout Southeast Asia now. Much of Cambodia already has been overrun by Communist forces. Even more of Laos is held by them. They occupy parts of South Vietnam. They are trying to lay hold of every inch of territory that they can because one day they know they must go to the negotiating table and seek an end to war. One day they are going to the negotiating table, and when they do they are going to say, "The land we hold—it is ours—now we will negotiate for yours."

That is the way the Communists do business.

We propose only money for military supplies for these hard-pressed friends. This is far different from direct force involvement. We must help these friends of ours to stay alive.

Let me just quote directly from a letter which has already been referred to from Secretary of Defense Laird. He said this:

> I want to re-emphasize at this time my strong conviction that the levels we have requested for grant aid and credit sales are the absolute minimum needed to protect the viability of our program under the Nixon Doctrine.
>
> I am personally convinced of the need of a supplemental for the fiscal year 1973 grant assistance appropriations to offset short falls because of cuts made last year and affecting this year's funding level.

The Secretary of Defense says that not only do we need every dime of the money in the bill before you, but that he is going to have to request a supplemental in addition if we are to discharge our obligations.

So there is not too much money in the military assistance program. It is probably the best investment in the foreign aid bill. Do not pull the rug out from under our friends.

Mr. Chairman, I hope this amendment will be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Dow).

The amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SECURITY SUPPORTING ASSISTANCE

Security supporting assistance: For necessary expenses to carry out the provisions of section 531 of the Foreign Assistance Act of 1961, as amended $750,000,000: *Provided,* That no part of this appropriation shall be used to initiate any project or activity which has not been justified to the Congress: *Provided further,* That of the funds appropriated under this paragraph, up to $50,000,000 may be allocated to Israel: *Provided further,* That the funds appropriated or made available pursuant to this paragraph shall be available notwithstanding the provisions of sections 534, 535, nd 536 of the Foreign Assistance Act of 1961, as amended.

AMENDMENT OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LONG of Maryland: On page 6, line 10, after the word "amended," strike out "$750,000,000" and insert in lieu thereof "$550,000,000."

Mr. LONG of Maryland. Mr. Chairman, this bill provides $730,000,000 or $229,400,000 greater than last year, much of which is to Southeast Asia and presumably for the stabilization of war and relief activities in Vietnam.

Now I am proposing to cut this back to last year's level because again I feel that this is more money down the drain.

I also propose in a subsequent amendment, which I will offer, to change the language providing security assistance to Israel as part of this sum to strengthen the language to make sure that Israel gets the money because the language has been weakened this year and Israel might get $50,000,000 and they might get 10 cents.

Now, let me quote my friend, the gentleman from Louisiana (Mr. PASSMAN)—because I greatly admire him—I think he has made a real study of this legislation, but I am just shocked that he has changed his mind on so much of it recently.

I want to read what he said about some of the security support assistance. Particularly, he mentions the fact that Thailand, to whom we are giving security support assistance, has built up $1 billion in a foreign exchange account. Now he says this bill is illustrative.

I might point out that the gentleman from Louisiana (Mr. PASSMAN) supports an illustrative bill.

He does not want a line item bill where we can nail the administration down and make sure that the money will go to a specific country.

This bill is deliberately weasel worded so that you can always shift out when somebody says the money is going to a particular place that you do not want it to go to.

Mr. PASSMAN pointed out under the Johnson administration, we went to Thailand and borrowed $100,000,000 to be repaid in 4 years at an interest rate of 6 percent. We were giving the money for practically nothing and we borrowed it back at 6 percent—and here I repeat this language, he said:

> How silly can we get, Mr. ———? Here is a small nation that has had a favorable foreign exchange credit and we go out and actually borrow $100,000,000 from them at a high rate of interest to be paid back in four years.

Here you are requesting a grant-in-aid program for Thailand when these people have a favorable foreign exchange balance, even at this time with a $100 million loan from the United States that we borrowed from them to be repaid next year with interest.

This is the gentleman from Louisiana (Mr. PASSMAN). He is appalled by the type of economic behavior that we have been guilty of, and I agree with him. I just do not understand his recent change of heart. I think there is plenty of money out there in Southeast Asia. I think there always has been. What we have got to learn and what we have not learned in all of these years of the Vietnam war is that dollars do not fight; men do. We have got a quarter of a million Communists fighting all over Southeast Asia. They have been fighting 2 million people, plus 600,000 Americans when we had them there. They had everything—our allies, the men, the equipment, the finest we could give them, and our allies were beaten, outclassed by a quarter of a million people. Nobody has ever claimed there was more than a quarter of a million Communists.

What is the difference? The Communists have the will to fight and you cannot give people the will to fight by pouring dollars onto them, and that is what we are guilty of doing.

We are just kidding ourselves again by raising the ante, pouring in more money over last year. All I want to do is cut it back to last year; I do not want to cut it out altogether—although I might if I could. I just want to cut it back to last year, in view of the tremendous debt, the tremendous burden on the taxpayer that faces us.

Mr. PASSMAN. Mr. Chairman, I rise in opposition to the amendment.

I want to commend the gentleman for quoting me so often. It makes me feel very good to know that I am such an expert that what I have said in the past, and the statistics I have established, have enabled this little old country-boy chairman to make a reduction of an average of $1 billion a year in the foreign aid bill with the support of his committee, something I like to see in writing.

Mr. Chairman, the very security of our troops in Vietnam is involved in this item. I know that the distinguished chairman of the Foreign Affairs Committee will verify what I am saying. The very life of our remaining troops is built around this appropriation; 85 percent of this supporting assistance will go to those four nations in Southeast Asia: Cambodia, Laos, Thailand, and Vietnam. I am not going to pull that rug out from under this area. I want us to conclude that conflict. The Members know and I know that we are going to have to continue supporting Vietnam economically; otherwise, the Government would fall. We are in this, and we are going to have to work it out together. I think this is the bare minimum budget we can meet our commitments with and protect the lives of those remaining precious boys.

My distinguished friend mentioned about having money in here for Israel. There is not a man in this House who has more consideration for Israel than I have. I feel we have backed Israel, and we created this state. We put money in this bill for Israel, but we do not have to single out one nation and earmark funds over and above everything else. We can indicate our position by this language and by this report. I will assure the Members that they will get the $50 million for Israel, but I would not want to see the funds earmarked.

I hope that the Members will vote this amendment down, recognizing, as the great chairman of the Foreign Affairs Committee has, that all of the Members and the members of my subcommittee, including my good friend from Maryland, who did, incidentally, reserve partially on this line item—so that we can face up to our real responsibility and wind down the war, protect those boys, and bring them home.

Mr. Chairman, I ask for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. LONG).

The question was taken; and on a division (demanded by Mr. LONG of Maryland) there were—ayes 10, noes 43.

Mr. LONG of Maryland. Mr. Chairman, I demand tellers.

Tellers were refused.

So the amendment was rejected.

Mr. PUCINSKI. Mr. Chairman, I offer an amendment.

Mr. LONG of Maryland. Mr. Chairman, does the gentleman's amendment apply to $50 million, because as a member of the committee I have an amendment on that matter. I have an amendment, as I indicated in the well, in connection with the $50 million.

AMENDMENT OFFERED BY MR. LONG OF MARYLAND

Mr LONG of Maryland. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Maryland.

The Clerk read as follows:

Amendment offered by Mr. LONG of Maryland: On page 6, line 14, after the word "paragraph," strike out "up to $50,000,000" and insert in lieu thereof "not less than $50,000,000".

Mr. LONG of Maryland. Mr. Chairman, the language in this bill allocating $50 million to Israel has been called an earmarking, but it is not an earmarking at all. All the bill does is say that up to $50 million may be allocated to Israel. The reason I am offering this language to change that wording to say "not less than $50 million" is that this was precisely the language last year. I am merely asking that this bill allocating security supporting assistance to Israel be just as strong in its allocation of $50 million this year as it was in last year's bill.

Let me point this out. Right now the situation for Israel looks pretty good. It is a valiant little state fighting for its life, surrounded by 100 million enemies, with not too many friends except the United States. We have both Presidential candidates competing to assure that Israel is assured it will get security supporting assistance and military credit sales support. But that, remember, is during the election campaign. We have 6 weeks to go before November 7. Then one of these gentlemen will have been elected, and after that we will have no assurance at all that we will get that kind of support from whichever one becomes President, whichever one is elected.

Under the language right here, as we have it now, we could have a situation in which theoretically only 10 cents could be allocated to Israel and it would conform perfectly well to the wording of this bill. So I ask that we strengthen the language to make it at least as strong as that of a year ago.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for yielding. I rise in support of his amendment.

Mr. Chairman, I would like to call attention to the fact that the language the gentleman is proposing to restore as it was last year is also the language in the authorization bill which was passed by this House just recently. If we used the language that presently obtains in the bill it would be inconsistent with what the House did just a few weeks ago when it passed the authorization bill in which it was clear that not less than $50 million of the security supporting assistance would be allocated to Israel.

Mr. LONG of Maryland. Exactly. I am glad the gentleman brought that up. This was the reason I voted for this provision several weeks ago.

I might point out that although we had a tremendous increase in appropriations for practically every country in the world the appropriations offered in here for Israel are exactly the same as last year, and in fact they are less because under this $50 million not even 10 cents could be given if the administration or if this Congress should change their minds.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from New York.

Mr. BINGHAM. Is it not also true that if the House uses weaker language this year than it did last year and in the authorization bill, this might be construed as somewhat of a lessening of support for the State of Israel in this House?

Mr. LONG of Maryland. I do not know why it would not be. I think it does.

Mr. DOW. Mr. Chairman, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from New York.

Mr. DOW. I am afraid I must say that the gentleman's amendment is not as strong as it should be. I had intended to offer the same amendment he has, but in a stronger version by adding the word "shall" instead of "may" following the amount of $50 million.

As soon as I have the opportunity, I mean to offer an amendment to the amendment offered by the distinguished gentleman from Maryland, which, I believe, will strengthen the true purpose of his amendment, namely to make certain that the $50 million provided for Israel is nothing less.

Mr. LONG of Maryland. Mr. Chairman, I ask unanimous consent that the language of the gentleman from New York be substituted for mine to make it "shall" instead of "may."

Mr. PUCINSKI. Mr. Chairman, I have sent a substitute amendment to the desk.

The CHAIRMAN. Did the gentleman from Maryland make a unanimous-consent request?

Mr. LONG of Maryland. I make a unanimous-consent request that the language of the gentleman from New York which substitutes the word "shall" for "may" be inserted as part of my amendment so that my amendment shall read:

Shall allocate not less than $50 million.

I think it is a play on words. I think the "not less than" is strong enough.

Mr. PUCINSKI. Mr. Chairman, reserving the right to object, I have at the desk an amendment which I had attempted to offer when the Chair recognized the gentleman from Maryland, and my amendment which was at the desk and is at the desk would have changed the word "may" to "shall."

I had also sent up the substitute which would provide that the language read "not less than $50 million shall be allocated."

In view of the fact the gentleman had an amendment before the House now stating that not less than $50 million may be allocated, and he has now asked unanimous consent that the word "may" be changed to "shall," in order not to confuse the parliamentary situation I will not object.

I do want to point out that I had planned to offer the same amendment. I support this amendment.

Mr. GERALD R. FORD. Mr. Chairman, reserving the right to object, I must say that I think this is a tempest in a teapot, because the authorization bill—the gentleman from New York was right—does direct the executive branch to obligate up to $50 million to Israel. I am for the intent and purpose of the bill and the amendment. On the other hand, all administrations I have known in 24 years in the House, whether they were Democratic or Republican, have never construed a directive in the field of obligations to be mandatory.

So, I think whether you make it "shall" or "may" or "up to," it is really immaterial, because the Nixon administration will make available to Israel every dollar that is needed to maintain Israel's independence and security.

Mr. Chairman, in my judgment, rather than to amend this bill in this sort of haphazard way, I will object, and if somebody wants to offer a substitute that includes "shall," I will support it. I think the proponents ought to do it in a more proper legislative way and not by some confused procedure on the floor of the House.

I object.

The CHAIRMAN. Objection is heard.

Mr. PASSMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I want to give you my positive assurance that there is no plan to shortchange Israel. It has been my privilege to handle this bill for 18 years. We have shown preference to that country by design, and I have been guilty of it; because we created that state.

They are doing a tremendous job in the world. I believe we should support them. As far as I am concerned, I am going to support them.

What we are attempting to do is to keep the system of appropriating funds on a regular basis. We should not actually earmark funds for nations. All of these funds are on an illustrative basis. Even as serious as the situation is in that part of the world, we do not earmark funds for Vietnam.

It has not been the policy since the inception of the foreign aid program to earmark funds. We always give it on an illustrative basis.

We have made the legislative history here. I can assure the Members who are present that as it would apply to the military credit sales as well as to supporting assistance, Israel will receive the aid.

If we earmark funds for Israel in the bill and make it mandatory that it be allocated, that will leave a small amount for all the other nations of the world.

It may be just that way, but what would happen if halfway through the administration should decide that they needed only $30 million, and we pinned them down to $50 million? Then we cannot utilize the other $20 million.

We want to keep the record straight that we give this money on an illustrative basis, and we are looking to the administration to fund the programs as we have expressed ourselves not only in the bill but also in the report.

I have this record for 18 years of sticking by my word, helping my friends. We do not have too many of them but Israel is one of our best friends.

I am certainly going to give my assurance to the Members that they will not be led into a trap on this. Let us keep the regular arrangement going.

I respect all of these great Members, such as the three now standing trying to get in an amendment dealing with Israel. How about the other nations where we have a program? Let us move along according to the bill. The Members can take the committee chairman's word that Israel will be taken care of.

Mr. CORMAN. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I yield to the gentleman from California.

Mr. CORMAN. It is my understanding that there is at least an indication from the administration that no money here will be used for military sales to Pakistan.

Mr. PASSMAN. That is correct.

Mr. CORMAN. I do not anticipate offering an amendment, but I hope the administration will stick to that. I believe it would be tragic if we spent American taxpayers' money for Pakistan.

Mr. PASSMAN. So far as I know there will not be any.

Mr. GERALD R. FORD. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I am happy to yield to the distinguished minority leader.

Mr. GERALD R. FORD. Is it the intention of the chairman of the subcommittee that $50 million in security supporting assistance be made available to Israel? Is that the intention?

Mr. PASSMAN. That is not only the intention, but so far as the committee has the power to do so we are going to see that they get the $50 million.

Remember this: If we should accept the language presently pending, it is not mandatory that the administration give Israel one dime. This would not be doing anything. They do not have to allocate this money regardless of the language.

Mr. GERALD R. FORD. On the assurance the gentleman from Louisiana has just given I do not believe any significant change in the language is necessary because the Nixon administration will spend whatever is necessary to maintain Israel's independence. The intention of the House, and I trust of the Senate, would be that that much money be made available to Israel for security supporting assistance. I reiterate that I support that amount and whatever is necessary to maintain Israel's independence.

Mr. PASSMAN. There is nothing any better than a record, and that is what we have lived up to, on our commitment.

Please vote down the amendment, and let us move along on this bill.

SUBSTITUTE AMENDMENT OFFERED BY MR. PUCINSKI FOR THE AMENDMENT BY MR. LONG OF MARYLAND

Mr. PUCINSKI. Mr. Chairman, I offer a substitute amendment.

The Clerk read as follows:

Amendment offered by Mr. Pucinski, as a substitute for the amendment offered by Mr. Long of Maryland: Page 6, line 14, after the word "paragraph," strike out "up to $50,000,000" and insert "not less than $50,000,000 shall".

The CHAIRMAN. The gentleman is recognized for 5 minutes in favor of his amendment.

Mr. PUCINSKI. Mr. Chairman, I offer this amendment to give the House an opportunity to speak out as Americans and as friends of the people of Israel in Israel's most serious crisis.

We know there is a monstrous conspiracy against Israel and her foreign outposts all over the world. No nation today is subjected to a greater degree of brutal terrorism than is Israel, and it seems to me that this is an excellent opportunity for us in this House, with all due respect to the argument being offered by the distinguished minority leader and the distinguished chairman of the subcommittee, and with all due respect to the other arguments presented here, this is an excellent opportunity through this gesture here on the floor of the House today to say to the people of Israel that we intend to stand behind them in this, their grim moment of tragedy, when we see the most vicious, diabolical kind of terrorism being practiced against this country, starting at Munich, with the assault on Israel's athletes, and only yesterday watching this wholly new type of terrorism being exported not only into our own country, but into other countries by Arab terrorists through the form of letters containing lethal explosives.

I think the distinguished chairman of the subcommittee made an excellent presentation here. I know that he spells out the case very wisely, and I do not intend to argue with him.

I respect his word; I know that what he says here is valid and meaningful. But I would hope that this amendment would be adopted by the committee as an expression by this Congress that in this tragic moment when the most brutal resources are being used against Israel and her government, we in this country are sensitive to her plight and want to help her in her hour of crisis. My vote for this amendment will be a reaffirmation that America stands behind Israel and all attacks on her sovereignty will fail.

Mr. Chairman, I hope the amendment will be adopted.

Mr. LONG of Maryland. Would the gentleman yield?

Mr. PUCINSKI. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. We have all come to concur in the general philosophy we live under a government of laws, not men.

Now, does the gentleman from Louisiana (Mr. Passman) have a guarantee he is going to be here all next year? I hope so, but do we know that for sure?

Mr. PUCINSKI. Well, I can tell the gentleman I hope he will be. He has been a distinguished Member of this Congress and has made a great contribution, and I hope he will be here for a long, long time to come.

But the issue is not whether or not this amendment is going to pass; the issue here is that it gives us an opportunity to express our strong feelings of support to Israel in her great moment of crisis.

Mr. LONG of Maryland. Will the gentleman yield?

Mr. PUCINSKI. I yield to the gentleman.

Mr. LONG of Maryland. I think the

language ought to be just as strong as it was last year.

Mr. PASSMAN. Will the gentleman yield?

Mr. PUCINSKI. I yield to the chairman of the committee.

Mr. PASSMAN. Let us just look at this in an orderly way. Why is the gentleman selecting one little nation of 3 million? You could make a stronger case——

Mr. PUCINSKI. I am picking out Israel because there is no other nation in this world which is today the victim of monstrous terrorism that you see being inflicted against Israel. You cannot name me another. Israel needs our help and I intend to do all I can to help assure this help.

Mr. PASSMAN. How about the Far East?

Mr. PUCINSKI. There is no other nation that is a victim today of the kind of diabolic plotting and brutality that is going on in the form of a whole new concept of terrorism that is being exported by the terrorists against Israel to every corner of this world.

This is a situation that is of deep concern to every one of us, and that is why I single out Israel, because today no nation needs the moral support of the world more than Israel.

Mr. PASSMAN. Would the gentleman yield further?

Mr. PUCINSKI. I yield to the gentleman from Louisiana.

Mr. PASSMAN. First, the gentleman picks Israel. Are not we really a little bit ridiculous when we select one small nation? We all want to help, but here we are singling out one nation among 102 nations that receive help. You know I am just as pro-Israel as anyone. We know the record. We are all pro-Israel. But let us not louse up a piece of legislation trying to overmake our points.

Mr. BUCHANAN. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of the Pucinski substitute to the amendment offered by the gentleman from Maryland (Mr. LONG), and the Long amendment as amended thereby.

I do not think there is any question but that the chairman of the subcommittee and the subcommittee intend for this money to go to Israel. I do not think there is any question of the friendship of this Democratic-controlled Congress for Israel or any question of the Republican-controlled administration's friendship for Israel, and I believe the present President of the United States not only this year but for the next 4 years is going to continue to demonstrate that friendship as President of the United States.

However, I think we should leave no doubt under heaven and not one stone unturned so that there can be no question at all of the fact that we intend this money to go to Israel. I cannot see why we cannot use the same language that we did last year for that purpose.

So I do rise in support of the substitute as well as the amendment.

Mr. PASSMAN. Will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman.

Mr. PASSMAN. If you should adopt this language, it is not mandatory upon the administration to allocate one dime to Israel. You are not changing anything, you are only indicating the reason why we are doing this. I stated that purpose about 2 minutes ago.

Mr. BUCHANAN. Of course, the gentleman is correct. However, I would say it is stronger language for us to use, and that is why I want to vote for it. I think the President will come across with this money and the intentions of both the administration and the Congress are firm but it is stronger language and therefore I want to vote for it.

Mr. CONTE. Will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from Massachusetts.

Mr. CONTE. I want to compliment the gentleman from Alabama and associate myself with his remarks. I want to clarify the fact that, should we adopt this language, it will indicate the strong sense of Congress that the United States must provide for a strong and viable Israel.

Mr. BUCHANAN. The gentleman is absolutely correct.

Mr. GROSS. Will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from Iowa.

Mr. GROSS. Speaking of terrorists, it seems to me you are overlooking a place where they have a great number of them, namely, Ireland.

Mr. YATES. Will the gentleman yield to me?

Mr. BUCHANAN. I yield to the gentleman.

Mr. YATES. Under the language presently written in the bill there is no obligation on the part of the President to make any money available to Israel. Under the language of the Pucinski amendment there is no obligation, either, on the President except it is more firm.

What the Pucinski language does is to say that if this money is to be available, it shall go to Israel. On the other hand, if you use the language of the bill, the President will have a choice of whether to use that money for Israel or some other nation. I support the Pucinski amendment.

Mr. PASSMAN. Will the gentleman yield for a clarification?

Mr. BUCHANAN. I yield to the gentleman.

Mr. PASSMAN. Let us put it in the proper perspective both on the military credit sales and supporting assistance. If you put stronger language in the bill with regard to the $300 million for military credit sales and Israel found out they wanted to purchase only $210 million worth of planes, then you are going to lose $90 million. Under the present language you can fund it up to $300 million, if it is needed, but if you pass this language in the amendment, you are making it mandatory to set it aside. If you find out later that they need only $210 million worth, then the administration cannot spend the other $90 million.

We handled it this way in the past, and Mr. YATES, I see, agrees with me completely.

Mr. BUCHANAN. I will say to the gentleman that such a development might save the taxpayers some money. If Israel should not need it, let it be saved. I am confident, however, Israel will need this help, and should have it.

Mr. LONG of Maryland. Will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. I thank the gentleman for yielding.

I offered this amendment originally. I did not think it was a great big deal, but that it would be good to have the same language this year as last. But the more the objections heat up against it, the more concerned I am as to what on earth is the reason for not putting in the stronger language.

The gentleman said that the President does not have to allocate. All right. He does not have to. But what is the harm in the language? It is merely an expression of opinion. Why should we not put it in there?

I think the fact that the chairman and the minority leader do not want to put it in here indicates there must be something here I do not know about and many of the rest of us do not know about.

Mr. BUCHANAN. Mr. Chairman, I refuse to yield further.

May I simply say this: that it is beyond question that the distinguished minority leader supports this money for Israel. His record is clear, as is that of the President.

I do want the record to show and the bill to reflect that we supported and voted for the strongest possible language in this body. I therefore urge support for the substitute and the amendment.

Mr. DOW. Mr. Chairman, I ask unanimous consent that the clerk reread the substitute amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The clerk will reread the amendment offered by the gentleman from Illinois (Mr. PUCINSKI) as a substitute for the amendment offered by the gentleman from Maryland (Mr. LONG).

The Clerk reread the substitute amendment.

Mr. DOW. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I had intended to offer this amendment. I had it drafted yesterday. I would like to suggest that the gentleman from Illinois (Mr. PUCINSKI) perfect his amendment by striking out the word "may" following the sum of "$50,000,000," and in that case I think the amendment will be in the shape that the gentleman intends.

Mr. YATES. If the gentleman will yield, the gentleman already has; the word "shall" is in there.

Mr. DOW. No, the word "may" is there.

The CHAIRMAN. Does any Member desire to make a unanimous-consent request to modify the substitute amendment?

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield?

Mr. DOW. I yield to the gentleman from Illinois.

Mr. PUCINSKI. Mr. Chairman, I believe the gentleman from New York will find, on reading the amendment, that we substituted the language, "not less than $50,000,000 shall." That is the language we are putting in.

Mr. YATES. If the gentleman will yield, the gentleman from Illinois did not strike "may."

Mr. PUCINSKI. All right; I will accept the modification.

Mr. LONG of Maryland. Mr. Chairman, I am not sure at this point just what the language is.

The CHAIRMAN. The Chair will state that the gentleman from New York has the floor.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. DOW. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Chairman, I should like to know, as the author of the original amendment, as to where the amendment stands now at the present time, because it would appear that we have a Pucinski substitute amendment to the Long of Maryland amendment, and now we have a Dow amendment.

The CHAIRMAN. If the gentleman will permit the Chair to interject, the Chair will state that the substitute amendment at the desk is as just reread by the Clerk. The Clerk read the amendment offered as a substitute by the gentleman from Illinois (Mr. Pucinski) to the amendment offered by the gentleman from Maryland (Mr. Long).

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. DOW. I yield to the diistinguished chairman of the Subcommittee on Appropriations.

Mr. PASSMAN. Mr. Chairman, I thank the gentleman for yielding, and I merely wish to suggest that we certainly have demonstrated one thing here very clearly, and that is the situation is confused. No one seems to know what the amendment is all about. So I say, let us vote the amendment down, and you can rest assured that Israel will be taken care of by the Congress. Let us not kid ourselves. Let us vote the amendment down.

Mr. GIBBONS. Mr. Chairman, I ask unanimous consent that the amendment offered by the gentleman from Illinois (Mr. Pucinski) as a substitute for the amendment offered by the gentleman from Maryland (Mr. Long) be modified so that it will read:

> On page 6, line 14, strike out the words "up to $50,000,000 may", and insert in lieu thereof "not less than $50,000,000 shall".

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. GERALD R. FORD. Mr. Chairman, reserving the right to object, I rise in objection not about the proposal made by the gentleman from Florida (Mr. Gibbons), but I do object to the comment that was made by my dear friend, the gentleman from Louisiana (Mr. Passman) when he characterized all of us as confused. I think the confusion exists among those who have been trying to beat each other over the head with certain language, or certain dollars. This confusion is only among those who have done this or done that on this amendment on its several variations, so please do not include the rest of us.

Mr. PASSMAN. Mr. Chairman, if the gentleman will yield, the gentleman is correct. I stand corrected. There are only several Members that are confused.

Mr. GERALD R. FORD. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida (Mr. Gibbons)?

There was no objection.

Mr. VANIK. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I rise in support of the Pucinski substitute to the Long amendment. For too long we have disregarded the outflow of American capital. This is a grave American illness—for jobs are known to follow the flow of capital.

I want to also say that this language is imperative because we have before the Committee on Ways and Means, as you know, a proposal which has been offered by the administration which provides for a ceiling limitation of $250 billion on spending. Never before, in my legislative experience, has such a blanket authority been requested by any President.

What this does is to give the President the right to cut everything and anything. He can cut social security. Or he can cut veterans' pensions. He can cut anything.

I think in the light of these circumstances and the possibilities that exist of that kind of legislative restriction which may be placed on the books, I think it is absolutely imperative that this amendment say what it says in the strongest possible terms.

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman.

Mr. PUCINSKI. Mr. Chairman, I listened with some interest to the remarks of the distinguished chairman of the subcommittee about somebody being confused. Perhaps the chairman was confused. But I am sure there is no confusion on the part of the author of this amendment because this amendment gives us an opportunity to express a sincere desire by this Congress in support of the people of Israel and their government who are now going through perhaps their most tragic moment in history with a whole new form of terrorism being exploded all over the world against these brave and gallant people.

Mr. Chairman, there is no confusion on that.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Illinois (Mr. Pucinski) as a substitute for the amendment offered by the gentleman from Maryland (Mr. Long).

The substitute amendment, as modified, was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. Long), as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

> Overseas Private Investment Corporation, reserves: For expenses authorized by section 235(f), $42,500,000, to remain available until expended.

AMENDMENT OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Long of Maryland: On page 7, line 6, after the word "235 (f)", strike out "$42,500,000" and insert in lieu thereof "$12,500,000,"

Mr. LONG of Maryland. Mr. Chairman, my amendment cuts the appropriation from $42,500,000 to $12,500,000, which was the approriation last year.

The Overseas Private Investment Corporation and its predecessors were set up as an insurance corporation 24 years ago to encourage corporations to invest overseas—and have they taken advantage of it?

We have had the export of capital needed to modernize our own workshops. We have had the export of jobs, since the U.S. Overseas Investment produces goods which is sent back and which undersells United States goods.

We have had the decline of the value of the dollar on the world exchanges.

Present insurance claims pending are $215.5 million of which $192.8 million are alone in Chile—$92,000,000 of this is for the telephone company that was nationalized—the ITT that we hear so much about, and I believe a very large piece of change went to a campaign committee of a certain candidate for Congress. $100,000,000 for Anaconda Copper—for copper companies including Anaconda and Canco.

The total overseas reserves of OPIC are $133.4 million. The maximum contingent liability of OPIC is over $3,000,000.

CONCLUSION

What started out to be a contributory insurance system under which firms would pay for their own insurance has become a Treasury raid by big United States and foreign conglomerates—like the ITT—and this is only the beginning.

Now is the time to stop them. This is a subsidy—an export of the Nation's capital, to say nothing of a campaign contributions subsidy.

I will quote at this time my friend and Chairman, to Mr. Mills and Dr. John S. Hannah, Chairman of OPIC:

> If you people have such a good operation, why don't you operate on your own profits? Why do you want to come to the Congress for this fantastically high annual appropriation?

Let us take Mr. Passman at his word and OPIC at its word and cut this appropriation down to last year's amount. I believe my friend, the gentleman from Florida, has an even stronger amendment later to come, but I really feel very strongly that this item should be strongly cut.

Mr. PASSMAN. Mr. Chairman, I rise in opposition to the amendment. I question whether there is a Member of Congress that has any less love for an agency than I have for the Overseas Private Investment Corporation, but we have to be realistic. We created this agency or its predecessor some 20 years ago to insure U.S. overseas investments. Of course, they charge a substantial premium on this insurance, and so as to create a reserve, the Congress has made annual appropriations to this account.

Mr. Chairman, these people pleaded with us for the entire $85 million. The facts are they might need the entire $85 million.

Let me read from the report so that the Members will know that we are approaching this thing properly. Page 26, Budget request: $85 million. We recommend $42,500,000. I quote about the fourth paragraph down:

> The Corporation presently estimates that the maximum contingent liability facing OPIC as of June 30, 1972, approximates $2.3 billion. The present insurance claims pending as of the same date are estimated to total $215.5 million, of which $192.8 million is attributed to Chile alone. In addition, it is estimated that about $93.3 billion in potential claims could be presented to OPIC for processing.

We have to meet these claims. In the very near future, they may have to have a supplemental appropriation; but, if we get this cat too fat, the Members will understand it will make it more difficult for these people to adjust these claims.

I think this law should be tightened up, but in all fairness to Mr. MILLS, the president of OPIC, he is doing a great job. He is streamlining the organization. He is moving with great caution as to guaranteeing additional investments abroad. So I think that we should provide the $42,500,000, and then get the legislative committee next year to tighten up this legislation and have stricter guidelines by which OPIC should operate.

Mr. SHRIVER. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I yield to the gentleman from Kansas.

Mr. SHRIVER. Mr. Chairman, I thank the gentleman for yielding. I want to concur in the remarks he made and state that we did make substantial reductions by cutting the request by half. It is more than likely that by the end of the year in order to comply with a need they will have to have a supplemental.

I would call to the attention of the Members that we found out during the hearings that most of the other trading countries have similar organizations to our OPIC. The United Kingdom has their Commonwealth Development Corporation with over $500 million invested. France has its organization, and Japan has a large overseas economic cooperation fund, and Germany has, and Denmark has, and the Netherlands has. If we are going to compete with the countries of the world in making sure that our products are being used and sold and that our exports are being taken into other countries to reduce our balance-of-payments problem, we need an organization such as OPIC. I would emphasize that OPIC operates in the underdeveloped countries.

Mr. Chairman, it is doing a good job and I especially would like to concur in the fact that the present leadership of OPIC is especially well qualified and is doing an excellent job.

Mr. PASSMAN. Incidentally they are doing an excellent job now.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I support the gentleman in the well. I hope this amendment does not prevail.

I understand OPIC has developed over $4 billion of investment in these countries. The countries the United States is interested in in Asia and Africa and South America represent half the population of the world. These are new markets. If we prevail in these countries it is going to markedly improve our balance-of-payments situation in the future.

Mr. Chairman, I hope the amendment is defeated.

The CHAIRMAN. The time of the gentleman from Louisiana has expired.

(By unanimous consent, Mr. PASSMAN was allowed to proceed for 3 additional minutes.)

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, I would like to know what hazards other than expropriation of U.S. properties is covered by the insurance program?

Mr. PASSMAN. Under the charter OPIC can also make loans. They are making some loans with the OPIC account. I never liked that because we have 15 agencies of the Government making loans. I thought these people ought to stay in the insurance business, but Congress in its wisdom authorized these people to make loans. They are making loans. This committee has no veto power over the Congress, so when Congress authorizes these agencies and gives them authority, then our committee has to fund them.

Mr. ICHORD. My question is limited to the insurance coverage, to the coverage of the insurance program. What hazards are covered other than expropriation?

Mr. PASSMAN. For instance the maneuvering of the currency. One can maneuver currency and break a man as quickly as one could with expropriation. Or in times of war there could be a complete loss. There is quite a list of things. They can take part of it or only part of it and they can insure only partially.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I would like to inquire whether or not under present law OPIC has authority to make such contracts of guaranty in the Soviet Union?

Mr. PASSMAN. There is no type of aid to the Soviet Union that I know of.

Mr. VANIK. Right now a great body of American businessmen are considering making considerable investments in the Soviet Union with plants and equipment. This is a very important question that I think we ought to have an answer to before we give OPIC a blanket authority to do something.

Mr. PASSMAN. Let me assure the gentleman as far as I know they are not presently insuring any loans in Russia and they do not have any plans to do so. I cannot speak too far into the future.

Mr. VANIK. I have one additional question. In going over the financial statements of the American corporations in the list earlier this year, there was an express statement made in the ITT financial report for 1971, that this one corporation was going to receive over $80 million from the Overseas Investment Corporation.

The CHAIRMAN. The gentleman may revise and extend his remarks.

Mr. PASSMAN. I think they are going to be very cautious about over-extending credit now because they have so many claims pending. They are being extremely cautious. I can provide the information to the gentleman or he can call the President of OPIC.

Mr. VANIK. I will see that the full information is included.

Mr. PASSMAN. I trust this amendment will be voted down.

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I do not think it was ever contemplated, as the chairman of the subcommittee, Mr. PASSMAN indicated, that the Overseas Private Investment Corporation make loans. It was designed to provide insurance for American investments abroad. In reading the hearings I learned, for instance that this outfit made a loan to a bankrupt motorcycle outfit in California which is now producing motorcycles in Taiwan with foreign labor and selling in this country. They have also made a loan to an investment corporation in Panama where the head of that government recently seized a public utility owned by citizens of the United States.

What kind of business is this?

Mr. PASSMAN. Will the gentleman yield?

Mr. GROSS. Please give me some answers.

Mr. PASSMAN. Yes, I will. I objected strenuously to this system of OPIC making loans, but the Congress did not see it that way. They passed an authorization giving them the right to make loans. That is why we have been riding herd on this organization for many, many years. We have given them only about 20 percent of their request. This year, we have cut them in half. They asked $85 million; we gave them $42,500,000.

I hope the gentleman will pursue this thought and go to the legislative committees and take these people out of the money-lending business and put them back entirely in the insurance business. I do not quarrel with the gentleman's view at all.

Mr. GROSS. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. I want to reiterate that the gentleman from Louisiana and the committee have not cut one nickel from this bill. All they have cut is a lot of money from an asking price. The bill is a lot higher than last year. This is three times; almost four times what it was last year.

Let me give you another little gem brought out in the hearings concerning OPIC. They laid off or reinsured quite a bit of this stuff with Lloyds. Lloyds, of course, is merely a broker for a lot of other companies all over the place.

We tried to find out in the hearings whether the people who laid this insurance off, or this reinsurance, had the reserves to cover the losses if they occur; for example, if Chile should completely go out, and these other countries, and it turns out that most of them do not have the reserves. That is a small part.

Nevertheless, we are paying them fees, and we are getting pseudo insurance or reinsurance in exchange. I think this is the phoniest bill we have ever had.

Mr. GROSS. I do not know how much they are lending.

Mr. PASSMAN. Will the gentleman yield for clarification?

Mr. GROSS. I yield.

Mr. PASSMAN. I have no quarrel with the gentleman's position as far as OPIC reinsuring. I do not like it any better than you do, but remember, we have $215 million in claims pending.

Notwithstanding, we did cut them. I do not think it is quite proper to say of the Director of the Budget that he deals unfairly with this committee only, and he is honest and forthright with the other 11, and overstates the needs. I am not going to indict all the public officers downtown.

I do not like OPIC any better than you do. I want to see it get back into the insurance business, but I think we are going to have to settle these claims.

Mr. Chairman, I hope this amendment is voted down.

Mr. GROSS. Let me say to the gentleman and members of the committee, we are doing some mighty weird things these days.

The Federal Deposit Insurance Corporation was never designed as a loan outfit to compete with commercial banks, yet it is making loans. It has made a loan commitment of $80 million to a Michigan bank, and there are others.

Mr. PASSMAN. Will the gentleman yield?

Mr. GROSS. This kind of business has got to be stopped. They are either insurance companies or loan institutions. They should not be both.

Mr. PASSMAN. Will the gentleman yield again?

Mr. GROSS. Yes, I yield.

Mr. PASSMAN. The gentleman realizes, of course, that these claims now have been presented. All of these companies who made these investments abroad paid their insurance premiums. We have an obligation; we are going to have to meet it. I hope the amendment is voted down.

Mr. CONTE. Mr. Chairman, I rise in opposition to the amendment.

The Chairman, I rise in opposition because, of all the agencies for which funds are provided in the bill, this is one of the finest. I think there are serious misconceptions here which must be cleared up. I direct the attention of my colleagues to the hearings, part I, page 560:

> This is a point, not widely recognized, which bears directly on the reserve appropriation request of $85 million before you today. OPIC and its predecessor agencies have earned more than $140 million in insurance fees paid by investors, against only about $4 million in insurance claims paid, net of recoveries.

I believe that is a very significant fact.

> The Congress diverted $50 million of these earnings to the AID housing guaranty program when OPIC was established as a separate corporation. The Congress also rescinded $200 million in Treasury notes in fiscal 1968. Up until 1970, the administrator of the insurance and guaranty programs was not allowed to invest fee income in U.S. Government securities; we are still unable to invest appropriated portions of reserves.

In answer to the gentleman from Ohio (Mr. VANIK) regarding his claim with respect to ITT, I quote from page 563 of the same hearings:

> To date we have paid only one Chile claim. This was on inconvertibility coverage to Ford Motor Co. The amount was $910,885. Most of this was recovered by OPIC through the sale (for U.S. Embassy use) of the escudos of the Chilean Government did not allow Ford to convert.

To quote further:

> About two-thirds of our total liabilities in Chile are in two expropriations; namely, Kennecott and I.T.T. The Chilean authorities and I.T.T. continue to talk about how a settlement might be negotiated.

In regard to the question of loans, here on the same page 563, I direct the attention of my colleagues to the second from the last paragraph, which says:

> Income from guarantees of private loans issued by OPIC in fiscal year 1973 is estimated at $2.9 million, compared to $2 million in fiscal year 1972 and $1.7 million in fiscal year 1971. This program enables institutional investors such as insurance companies, pension funds, and credit unions to participate in overseas development projects, many of which also involve smaller and medium-size investors. It is a way to place increased reliance on the private sector in international development.

And listen to this:

> Income from direct loan investments from OPIC's capital fund will total an estimated $1 million in fiscal year 1973, ten times the estimated $100,000 earned by this new program in fiscal year 1972.

I ask, "What do you want to do? Kill a profitable venture?"

There are a lot of things in foreign aid which are just like pouring corn down a rat hole, but this is a program making money which could increase our balance of payments and could help the United States with respect to some of these developing countries.

I say we are attacking the wrong program.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the chairman of the subcommittee.

Mr. PASSMAN. I thank the distinguished gentleman for his contribution. I certainly agree with him, though we may disagree in thought. I wonder if he agrees with me that the mistakes made have mostly been in the past, and under the new management we have an excellent board which is riding herd on these commitments. The program is being streamlined and they are being very conscientious, and are not running into some of the troubles we have had in the past.

We have to give him an opportunity to work it out. We have to pay these claims, and if it takes a supplemental we will have to provide it. It is under excellent management now.

Mr. CONTE. The gentleman from Louisiana is absolutely right. He is running a tight and taut ship and we should not penalize him for doing that.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Would the gentleman answer the question I asked the chairman before, when he said to Mr. Mills, the president of OPIC:

> If you people have such a good operation why don't you operate on your own profits? Why do you want to come to Congress for this fantastically high appropriation?

(By unanimous consent, the gentleman from Massachusetts (Mr. CONTE) was recognized for 1 additional minute.)

Mr. CONTE. Mr. Chairman, I pointed out on page 560 that this money which they accumulated had been diverted to other aid programs. This is unfortunate. If they had been allowed to keep all the money they made as a result of these insurance and loan programs, I believe they would not have had to come to the Congress.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I will be glad to yield to the gentleman.

Mr. VANIK. A few moments ago I talked about the ITT financial report for 1971. It specifically stated they expected to get $89,568,000 from OPIC.

OPIC officials have denied making any award, but it seems to me that it is going to require tremendous amount of general funding by the taxpayers to make up the losses. I think we ought to stop and see where we are going. I am very much concerned with the open ended, uncontrollable expenditures of government over which we have no control.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. LONG).

The question was taken; and on a division—demanded by Mr. LONG of Maryland—there were—ayes 12, noes 31.

So the amendment was rejected.

Mr. LONG of Maryland. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Mr. LONG of Maryland. Mr. Chairman, upon advice of counsel, I withdraw the point of order.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

> SEC. 110. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, as amended, may be used to finance the procurement of iron and steel products for use in Vietnam containing any component acquired by the producer of the commodity, in the form in which imported into the country of production, from sources other than the United States.

AMENDMENT OFFERED BY MR. GIBBONS

Mr. GIBBONS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GIBBONS: Page 11, immediately after line 2, insert the following:

"SEC. 111. None of the funds appropriated by this Act for carrying out the Foreign Assistance Act of 1961 shall be used to discharge liabilities under insurance or guaranties issued by the overseas private investment corporation after the date of enactment of this Act."

And renumber the following sections accordingly.

Mr. GIBBONS. Mr. Chairman, this amendment deals with OPIC, a subject which we have just been discussing.

This amendment does not attempt to reduce the appropriation. I would agree with the gentleman from Louisiana, the chairman of the subcommittee, that we have not seen the end of the road in the money that we must put up in the OPIC corporation to finish paying for the investments we have already guaranteed and already insured, but what this amendment seeks to do is to put an end to using taxpayer money to guarantee or insure future foreign investments—the outflow of capital from this country.

Mr. Chairman, I regret that the hour is late and the attendance on the floor is so poor right now, because this is a very important matter; it is one that the Congress must focus its attention upon.

There has been a great deal of change in the world since we developed OPIC. When we went out to rebuild the world after World War II the rest of the world was devastated and we were very prosperous. That condition has changed. Those areas are now prosperous themselves.

As I said, after the end of World War II we were the prosperous nation and everyone else was prostrate. That condition has changed. We are not prostrate, but most of these nations are now able to take care of themselves.

As a deliberate U.S. policy we then decided it would be good to send U.S. capital overseas to help build up these countries and build their factories and make them more productive and create jobs over there.

That time, gentlemen, is over. All of you know for the last 20 years we have had a chronic balance-of-payments deficit. In the last 4 years we have had a disastrous turnaround in our balance of trade.

That is what this is aimed at. I do not believe we should penalize American capital and tell it that it cannot go overseas, but I do not believe we ought to use the American taxpayers' money to subsidize the sending of U.S. capital overseas. That is what my amendment seeks to stop and cut off, not retroactively but in the future.

When this bill becomes law, Mr. Chairman, none of the money appropriated in this bill can be used to guarantee or to insure future investments overseas. It is just a sound business proposition. We need to do it.

I am on the Committee on Ways and Means, as most of you know. As they jokingly say over there, I am the last of the free traders.

But I am not a fool, Mr. Chairman. I know that the time has come to change and change our policy, and I am trying to do it in a sound and constructive way. I want to cut off the subsidizing and sending of U.S. capital overseas.

That subsidizing and sending of U.S. capital overseas has a tendency to drag jobs over there and to return to this country excessive imports. We need to save our capital and continue building up our country. We have a responsibility to carry out overseas, but we should not be using our U.S. capital now to do it. We should not be using our taxes which we levy on people and collect involuntarily to subsidize the outflow of U.S. capital. It hurts our country to do this. We should be neutral in that respect.

I know we have a tremendous obligation which is going to come due some day in the future of contingent liabilities. The gentleman from Louisiana read correctly from the report here.

The gentleman from Louisiana pointed out correctly from the report here the contingent liability of OPIC, now, according to the report, stand about $2.3 billion. The reserve account is about depleted, and it will be depleted further.

I did not vote for the last amendment because I thought—and I agree with the gentleman from Louisiana (Mr. PASSMAN) that it is going to take all of that $85 million, part of which he could use to finish paying these defaulted accounts and these defaulted guarantees, and insurance policies that we have over there. But let us not go on and continue making the same mistakes. Let us call a halt to it right now. Let us change the policy that we have made, and the only way we can change that policy is to change the appropriation of these funds.

The CHAIRMAN. The time of the gentleman from Florida has expired.

Mr. PASSMAN. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Florida (Mr. GIBBONS) and I now yield to the gentleman from Maryland (Mr. LONG) for a question.

Mr. LONG of Maryland. I thank the gentleman for yielding, but is the gentleman questioning me or am I questioning the gentleman?

Mr. PASSMAN. I yielded to the gentleman.

Mr. LONG of Maryland. I have not voted for one single measure that would block the flow of goods into this country providing it was a flow of goods which were produced under competitive conditions, but I wonder how the gentleman can justify a measure like this which has helped to subsidize the export—it is only a part—but it has helped to subsidize the export of $100 billion or $200 billion—depending upon how you look at it—of our capital that could be much better used to solve all of the problems in this country to help build up the job opportunities, and solve the job problems, the income problems, the pollution problems, the school problems, and every other problem.

Mr. PASSMAN. Mr. Chairman, this operation has been in business for 20 years. It was created for the purpose of insuring overseas investments. It was given a new name 2 or 3 years ago when they broadened its authority.

I guess that I have actually been more critical in my examination of OPIC than of almost any other program that is presented to our subcommittee, but, as I have stated earlier, we have a new management; they are doing an excellent job, they are extremely cautious now because we have been so critical of them.

If it is the wish of the Congress not to have an agency to guarantee overseas investments, then we should do it through regular legislation. We should abolish OPIC, give it a decent burial, notify the people that after this year there will be no more OPIC. I think this amendment would be extremely destructive because in all probability there are several hundred applications at this time that are partially completed, and are on the desk of OPIC. No doubt some of these people have standby insurance, started plants overseas, and you just cannot cut off the funds in this manner.

I want to commend the gentleman from Florida for bringing up a very worthy thought, but I think that this is the wrong time and the wrong place to offer the amendment. It ought to be offered to the proper legislative committee, notify them in advance to bring a bill out next year that will abolish OPIC. But let us do it in an orderly manner, and not approach it in a destructive manner, and in a destructive way, especially in view of the fact that it is doing an excellent job. They have a going organization set up and doing business, and there are applications on the desks waiting to be approved.

So I hope that this amendment will be voted down.

As I say, if it is the wish of the House to kill OPIC, then let us do it in the correct legislative manner.

Mr. SHRIVER. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I yield to the gentleman from Kansas.

Mr. SHRIVER. Mr. Chairman, I want to concur in the position stated by the gentleman from Louisiana (Mr. PASSMAN) our chairman of the subcommittee, because this certainly would change the substantive law, and eliminate completely the program—a program that the Committee on Foreign Affairs has spent a long, long time in developing, and which we have had for many, many years and which we changed about 16 months ago.

They are doing the same thing that they have done before, only they are doing a better job of it.

I want to repeat again, as I have said earlier, that every trading country has some similar investment corporation to assist their exporters.

Mr. PASSMAN. That is true.

Mr. SHRIVER. To assist their manufacturers, and to assist their balance of payments policy.

Mr. PASSMAN. That is absolutely true.

I hope the committee will vote down this amendment that the gentleman offers. He is a very, very fine man but to my way of thinking, it is very destructive.

Mr. BURKE of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I yield to the gentleman.

Mr. BURKE of Massachusetts. Mr. Chairman, I have known the gentleman for many, many years. I have been here for 14 years and I will always consider the gentleman a rather prudent and sound man in his judgment. But he seems to have taken a 180-degree turn on this foreign aid matter.

This amendment, which my friend, the gentleman from Florida, has offered here today is a very mild amendment.

I have a bill before the Committee on Ways and Means known as the Burke-Hartke bill, and action like yours is going to force that bill out on this floor next year.

This is just a mild approach to try to stop the imbalance of payments and the imbalance in trade. We had a $3,700,000,000 deficit in trade last year and it is possible that we are going to have a $6 billion or $7 billion trade deficit this year and another devaluation of the dollar overseas.

I would hope that the gentleman here, the gentleman from Louisiana, would show some statesmanship and at least accept this mild amendment that will just plug up the hole a little bit—not too much, but a little bit.

Mr. PASSMAN. Let me say this. This is one of the most destructive amendments ever offered. What you are talking of here is the abolition of a program which has been in business for 20 years. Practically every trade nation has a similar agency. If you do not like it, take it up with the legislative committees. This is not the place where you should just kill an agency.

Mr. Chairman, I hope the amendment is voted down.

Mr. PUCINSKI. Mr. Chairman, I move to strike out the last word and rise in support of the amendment.

Mr. Chairman, I think this is an excellent opportunity for this House to get behind the working men and women in this country. I do not see how anyone could oppose this amendment in view of what the Secretary of Commerce, Mr. Petersen, said yesterday when he pointed out that the balance-of-payment deficit is continuing to grow. There is no relief in sight. We have chalked up a $20.5 billion trade deficit in the last 6 years and the gentleman from Massachusetts just said that this year's deficit alone can exceed $6 billion.

All that this amendment does is that if American companies want to invest in foreign countries and take the risk of that investment, they cannot seek any relief under this program that we are voting today to insure their gamble. It does not say that they cannot gamble, but it says that the taxpayers are not going to cover their bets, if they make a bad decision.

One of the reasons why we have 6 million people unemployed in this country today is because of the exportation of jobs. That has been going on for the last few years. But more and more companies are moving into foreign lands establishing their jobs there.

If you look at France today and see the number of American companies locating business there and destroying American jobs here at home, you then see the wisdom of the amendment that the gentleman from Florida is offering.

All he is saying is—let us not use the taxpayers money to insure these ventures that American corporations are engaging in in foreign markets and destroying American jobs.

It would be my hope that in this present crisis of balance of payments that this House would register and record its concern by joining the gentleman from Florida in his amendment.

Mr. GIBBONS. Mr. Chairman, will the gentleman yield?

Mr. PUCINSKI. I yield to the gentleman.

Mr. GIBBONS. Mr. Chairman, let me explain my amendment a little bit because the gentleman from Louisiana did not thoroughly understand it.

My amendment does not destroy OPIC. My amendment just says that you cannot use the taxpayers' money in a private corporation to insure this investment.

Now that OPIC Corp. will continue to function and it will still continue to collect premiums from people who are seeking to have these private investments insured and guaranteed—but you are just not going to take the taxpayers' money and further subsidize that. That is all we are trying to stop. I am not trying to destroy OPIC, but I am very truthful in my belief that it is time for us to change our policy.

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Illinois.

Mr. PUCINSKI. Would the gentleman agree that one reason why we are seeing this enormous exportation of American jobs—and this is happening all over the country; no one area is hard hit by this; every community is hit by this exportation of American jobs—is we have got this taxpayers' insurance program? What have they got to lose? All the gentleman is saying is if they want to take that risk, fine, but do it with their own money, at least. Does the gentleman expect the American taxpayer to cover these losses where there is a loss that occurs? I submit if we go along with this amendment, we will have made an enormous contribution toward getting some of these big corporations to stay here at home and get our own country's economy going.

We have got a $30 billion deficit this year simply because 30 percent of our working capacity in America is lying idle. They are not working; yet these companies are growing like mushrooms after a rain all over Europe with American-taxpayer dollars.

I think the gentleman has made a very significant contribution here today with this amendment.

Mr. DENT. I want to join the gentleman from Illinois in his remarks. I want to remind all of the Members that if tomorrow we were to stop all of the exportation of goods and all of the importation of goods into the United States, the existing factories in this country would not produce the needs of this Nation. The U.S. Government has for the first time in my last 20 years of experience decided that right now we are at the mercy of the rest of the world in the most strategic materials that we need for not only the existence of the Nation but for the prosecution of any defense of this Nation.

Mr. McEWEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment. Let me say at the outset that I find the arguments made by my friends from Illinois are moving. We are all concerned about the loss of jobs in America, but without the Government participation in OPIC, as the gentleman from Ohio (Mr. SAXBE) has referred to the potential liabilities of OPIC, and they are significant, we might by this amendment jeopardize the existence of OPIC.

There was a recent article in the Wall Street Journal on one of our companies' dissatisfaction with the amount of money it received from OPIC on the expropriation of their property in Chile. I understand the motive of my dear friend from Florida in offering this amendment, but what it would do would not only affect what we are speaking of in the exporting of jobs, but it would stop the investments that bring in the raw materials that are needed for jobs in this country.

In Chile, for example, we know that the principal cases we hear about there involve mines. Now, certainly those were not exported jobs. These were materials that we needed, that we could bring into this country. In the I. T. & T. case, we have telephones in Chile, telephones I am sure the record would show were made in America, and exported down there and installed in that country.

Mr. GIBBONS. Mr. Chairman, will the gentleman yield?

Mr. McEWEN. I yield to the gentleman from Florida.

Mr. GIBBONS. The mines we are talking about in Chile are not the kind of things that can now be insured. Substantive legislative action a few years ago prohibited OPIC from engaging, as shown on page 26 of the report, in loans for mining and in the extractive operations, so we could still get their raw materials. We have the kind of things that the gentleman from Louisiana has talked about, and Mr. SHRIVER has talked about. We have the Export-Import Bank, and all of those other things that are needed to support our export industry.

What I am trying to do here is cut out the taxpayers subsidy of capital going overseas. I am trying to be neutral. I am not trying to penalize capital; I am trying to be very evenhanded about the whole thing. I am not trying to help hurt our trade balance; I am not trying to hurt our ability to get raw materials; but I am trying to stop the positive policy of subsidizing the export of the capital that we strive so hard to build up.

Mr. McEWEN. Mr. Chairman, I would say to the gentleman, if he is right, and he may be, I do not think as it has been said before, that this is the time or the place in this appropriation bill to take this up. This is a matter that should be considered and should have extensive hearings in the legislative committee.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. McEWEN. I yield to my chairman.

Mr. PASSMAN. Mr. Chairman, I thank the gentleman for yielding. I am certainly prepared to consider legislation to abolish OPIC. It was created by the Congress and has been operating for 20 years. If we want to abolish it, then we should introduce legislation. In all probability we would not abolish it. But this was created primarily for the overseas investments. We cannot just come along and abolish an agency, because of a small percentage of loans. It was created to provide insurance. This is in the original legislation. In section 248, entitled "Report to the Congress," it says:

> Reports to the Congress.—(a) After the end of each fiscal year, the Corporation shall submit to the Congress a complete and detailed report of its operations during such fiscal year.
>
> (b) Not later than March 1, 1974, the Corporation shall submit to the Congress an analysis of the possibilities of transferring all or part of its activities to private United States citizens, corporations, or other associations.

We are only 17 months away from having them submit a proposition to have it transferred. I think since we have had this program for 20 years and they have so many applications pending, we should not eliminate the program in an appropriation bill. I hope on that basis and on the basis of sound argument the Members will vote this amendment down.

Mr. BURKE of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. McEWEN. I yield to the gentleman from Massachusetts.

Mr. BURKE of Massachusetts. Mr. Chairman, there is a historic event taking place today with the gentleman from Florida offering this amendment. He is known as a "free trader" and he is coming in with a very mild amendment which does not contain all the things the chairman of the committee has said.

Mr. CONTE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is really unfortunate. I am sorry that the people in charge of this program have not done a better job in preparing some of the Members with some of the information on this subject, but if the Members of this House will read the RECORD and read the hearings they will place this in proper perspective. There is a red herring being dragged over this issue. If amendment was going to help American jobs I would be 100 percent for the amendment, but I suggest the Members read page 565 of the hearings. This is from the head of the agency who says:

> Our programs help reduce the risks of private investment in developing nations, making them more competitive with Europe and Japan as sites of production and markets for our industry. The evidence is rapidly piling up that overseas investments contribute to employment at home and substantially assist our balance of trade and payments. A study directed by Robert Stobaugh, of Harvard University, recently estimated that some 600,000 jobs in the United States exist because of U.S. direct foreign investment in manufacturing alone. Peter Peterson now Secretary of Commerce, estimates that 78 percent of the sales of U.S. manufacturing affiliates abroad are made locally, 14 percent to third countries, and only 8 percent are exported to the United States. The 8 percent figure shrinks to less than 5 percent when one omits imports of cars from Canada under the United States-Canadian auto agreement.

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Illinois (Mr. PUCINSKI).

Mr. PUCINSKI. Mr. Chairman, is that the same Peter Peterson who was formerly president of Bell & Howell which has plants all over the world.

Mr. CONTE. Mr. Chairman, that is the Secretary of Commerce.

On page 558, again at the top of that page, it says:

> OPIC is also helping the United States by assisting in the economic development of countries of Asia, Africa, and Latin America.

Note, it is not Europe. It is not Japan.

> Over half of the world's people live in these countries. They are the great selling places of tomorrow, a potential already being realized today in those which have experienced rapid economic growth in the past decade.
>
> Our private investments in these countries not only build U.S. export markets for the future; they are essential to maintain a competitive position for U.S. companies in present markets or to produce competitively for international sales.
>
> Many of the known reserves of industrial minerals and important sources of other critical materials are to be found in the presently less-developed nations. U.S. private investment expands production of these materials needed by U.S. domestic industry.

Mr. VANIK. One of the things which concerns me is that every day I read the financial papers and I am astounded by another tremendous American investment, not in the underdeveloped countries; not in Latin America, but investments in Japan and in Europe.

Now, in just the past year there have been hundreds of millions of American dollars provided by the American automobile industry to buy into Japanese industry. This is precisely what is going on.

Mr. CONTE. I agree. The gentleman and I agree. We are not apart on this thing.

Mr. VANIK. OPIC guarantees that.

Mr. CONTE. OPIC guarantees loans in developing nations and only in developing nations. That is what I say, there is a red herring being dragged over this issue.

I agree with you, and I would be over here fighting for the gentleman from Florida's amendment if it was in Japan and if it was in Europe.

Mr. VANIK. Well, excepting that the original money gets in Japan and is transferred to another country.

Mr. CONTE. Give me that again.

Mr. VANIK. If the investment is made, the capital is transferred to Japan and then reinvested.

Mr. CONTE. No, this is going to countries in Africa which desperately need it; countries in Latin America; countries in Asia, that is what we are talking about.

I hope the amendment is defeated.

Mr. HALEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, and Members of the House, eventually the chickens come home to roost. You have been exporting jobs to foreign countries; you have been robbing the taxpayers of the United States for 20-some-odd years. The thing is finally catching up with you, and now you do not like the situation, because you have built plants in Japan; you have given most anyone who wanted to take the taxpayers' money something, so you have taken the jobs away from the people of the United States by this program.

Some of these days, the roof is going to fall in on you, if it has not already.

Mr. GIBBONS. Will the gentleman yield?

Let me say what my amendment does not do. I appreciate the gentleman yielding to me again, but I am not abolishing OPIC. I am just saying that OPIC should use the funds it generates within its own business; the funds it generates in its own investments, the people who seek insurance, to go out and get their work done.

I am asking our Government to be neutral in this matter of exportation of capital. That is all I am asking. OPIC will continue to go on and perhaps it should go on. It has certainly gone a long time to liquidate a lot of investments that have been made. They have transported capital out of the United States, so I think this is a very modest amendment, a very mild amendment, a very constructive amendment.

Mr. PUCINSKI. I think that the really depressed area of the world today is right here in our country. Maybe the time has come to start thinking about our own country.

It is no surprise that the stock market acts the way it does. They see the future. There are some pretty grim predictions lying ahead economically.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. HALEY. I yield to the gentleman from Pennsylvania.

Mr. DENT. I should like to give a few facts. The gentleman from Massachusetts is making the same speech we have heard for 30 years.

Just to show how much the increase in our exports is on these things Mr. Peterson and others have said we should do and have done, in 1960 imports were $16.2 billion, and the imports into the United States, the rate at June 30, 1972, are $53.8 billion.

So all of these efforts we have made somehow or other do not come out at the top like they start at the bottom.

Somewhere along the line, whether Members think any more today of what I say than they have in the past 15 years, the facts are here to see. The gentleman from Florida said it as plainly and as properly as it can be said. The chickens have come home to roost.

I just saw the latest import from Japan. It ought not even be allowed on the road. It is 6 feet, $6\frac{7}{10}$ inches long, carries four passengers, sells for $1,400, has a two-cylinder motor in it, and it is already on the U.S. highways. It is dangerous. At less than $1,500 they will put one on every watch chain in America within a year and a half or 2 years. Every kid in the country old enough to get a license will be driving one.

Mr. PASSMAN. Mr. Chairman, could we reach an agreement on time on this bill, say 30 minutes?

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

Mr. LONG of Maryland. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

MOTION OFFERED BY MR. PASSMAN

Mr. PASSMAN. Mr. Chairman, I move that all debate on this amendment close in 5 minutes.

The CHAIRMAN. The question is on the motion offered by the gentleman from Louisiana.

The motion was agreed to.

The CHAIRMAN. Members will be recognized for approximately 45 seconds each.

The Chair recognizes the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Chairman, I take this time to ask the chairman of the committee if he can tell me what the outward limit is of the contingent liability under the OPIC program? What is, under present law, the limitation on the contingent liability that may be funded by the corporation?

Mr. PASSMAN. It is $2.3 billion.

Mr. VANIK. And how much is now committed?

Mr. PASSMAN. That is the total commitment as of this date.

Mr. VANIK. And there is no liability beyond $2.3 billion?

Mr. PASSMAN. So far as I know. This is from the record of the certified facts. I assume that is correct.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Chairman, I am concerned about jobs and I am concerned about exports. I merely said there was a red herring here being dragged across this issue.

The exports we are worried about are from Japan and from Europe and from the other developed countries. This does not affect underdeveloped countries.

I respect the opinion of my good friend from Illinois, though I differ in this issue.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. PUCINSKI).

Mr. PUCINSKI. Mr. Chairman, I have pointed out this is a good debate. I think this is an important amendment.

I happen to feel very strongly about these jobs after what happened in the city of Chicago. This amendment is a step toward stopping the exportation of American jobs. I am not impressed with the argument these insurance payments are made only in developing countries. These are the same companies that have plants in both European nations as well as in developing countries. I urge the adoption of the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. BURKE).

(By unanimous consent, Mr. BURKE of Massachusetts and Mr. DENT yielded their time to Mr. GIBBONS).

The CHAIRMAN. The gentleman from Florida (Mr. GIBBONS) is recognized.

Mr. GIBBONS. Mr. Chairman, I appreciate this time. I do not know what I am going to do with all this time, because I have made this speech so many times.

I am going to ask for record tellers on this, because I think it is important.

I am not seeking to abolish OPIC; I am merely seeking to be very even-handed with this matter of what happens to American capital.

I believe that the policy in the past was perhaps good. We should have exported some American capital, but it has gone on too long, and the Government does not need to come in there and keep putting taxpayer money into it to make it possible to export capital. It can still be exported and guaranteed by OPIC, but it would be done as OPIC intended it to be done, as a private corporation and not as a Government-subsidized corporation.

I would hope this amendment would be adopted.

I want to expand world trade. There is nothing in this that would hurt world trade.

There is nothing in here that would hurt the American worker. This is a sound, constructive, and mild amendment; it is not a meat-ax approach to any program here. But it does say the time has passed when we can afford to use taxpayer dollars to subsidize the outflow of private capital that does have some effect in decreasing the opportunity for employment here in this country.

And that is all my amendment does. It is a very simple and straightforward amendment.

I have tried to inform everybody about it before I brought it up, and I will be willing to answer any questions anybody may have to ask about the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr. Chairman, I rise in support of the amendment of the gentleman from Florida (Mr. GIBBONS).

I think it is an excellent amendment. At the very least, it would be a first step toward accomplishing something we should have started to do a long time ago, and that is stop pouring out billions and billions and billions of dollars merely because—and let us face it—there are prominent campaign contributors and other power groups that think they can make more money overseas or, if they make it overseas, can keep it and escape our tax laws one way or the other. We have plenty of incentives, believe me—we have plenty of incentives—for people to take this money overseas, and we do not need this added subsidy.

The CHAIRMAN. The Chair recognizes the gentleman from Louisiana (Mr. PASSMAN) to close debate on this amendment.

Mr. PASSMAN. Mr. Chairman, let us put this matter in proper perspective.

OPIC operates only in developing countries. In all probability, a very large amount of all the insurance involved is in Latin America.

If you do not like the operation, there is a way to put it out of business, but let us do it in the right way and not pass an amendment that would completely abolish the operation of one of our Federal agencies in an appropriations bill.

I am repeating, Mr. Chairman. These guarantees only apply in developing countries, and a good part of that is in Latin America.

I hope the amendment will be voted down.

If the Members who spoke for abolishing it continue this interest, of course, they should communicate with the legislative committee and the agencies involved.

Mr. GERALD R. FORD. Will the gentleman yield?

Mr. PASSMAN. I yield to the gentleman.

Mr. GERALD R. FORD. Mr. Chairman, I strongly agree with the gentleman from Louisiana. The amendment should be defeated.

Mr. CULVER. Mr. Chairman, I rise—with some reluctance—in opposition to this amendment. I share some of the misgivings expressed on this floor about the operations and authority of OPIC.

However, on balance, I feel that this amendment is an unwise legislative solution carried out through the appropriations process. The issues raised by the Gibbons amendment are genuine ones, and I welcome the initiative the distinguished Member from Florida has taken in bringing them to our attention. Nonetheless, the issues are not narrowly technical ones and they reach into several areas of foreign policy and our relations with other nations. Their proper consideration requires full examination and, therefore, I believe it highly important that the Foreign Affairs Committee first undertake an oversight review of the work of OPIC. From such a study we can better determine whether this amendment or a variant thereof ought to be incorporated in a subsequent appropriation or by recasting the legislation which created this Corporation.

As chairman of the Subcommittee on Foreign Economic Policy, I can assure the House that such a review ranks high in our priorities. Certainly for my own part I shall make every effort to see that the House has before it a body of recommendations by which we can responsibly legislate in this area.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Florida (Mr. GIBBONS).

The question was taken; and on a division (demanded by Mr. GIBBONS) there were—ayes 39, noes 32.

TELLER VOTE WITH CLERKS

Mr. PASSMAN. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. PASSMAN. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. DENT, MCEWEN, PASSMAN, and LONG of Maryland.

The Committee divided, and the tellers reported that there were—ayes 141, noes 167, not voting 123, as follows:

[Roll No. 380]

[Recorded Teller Vote]

AYES—141

Abzug
Adams
Addabbo
Alexander
Andrews, Ala.
Archer
Ashbrook
Begich
Bennett
Bergland
Biaggi
Boland
Brademas
Brasco
Brinkley
Broyhill, Va.
Burke, Mass.
Burleson, Tex.
Burton
Carney
Chisholm
Clancy
Collins, Tex.
Colmer
Conover
Crane
Daniel, Va.
Daniels, N.J.
Davis, Ga.
Delaney
Dellums
Denholm
Dent
Donohue
Dow
Downing
Drinan
Duncan
Edwards, Calif.
Flood
Flowers
Fulton
Fuqua
Galifianakis
Gaydos
Gibbons
Grasso
Gray
Griffin
Gross
Haley
Hanley
Hansen, Wash.
Harrington
Hawkins
Hechler, W. Va.
Helstoski
Henderson
Hicks, Mass.
Hicks, Wash.
Hillis
Howard
Hull
Ichord
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Karth
Kastenmeier
Koch
Kyros
Long, La.
Long, Md.
McCollister
Madden
Martin
Mathis, Ga.
Mazzoli
Miller, Ohio
Mills, Ark.
Minish
Mink
Mitchell
Mizell
Mollohan
Montgomery
Mosher
Myers
Natcher
Nedzi
Nichols
Nix
Obey
O'Konski
O'Neill
Perkins
Pickle
Pike
Powell
Price, Ill.
Pucinski
Quillen
Randall
Rarick
Reuss
Roberts
Rodino
Roe
Rogers
Roncalio
Rostenkowski
Roush
Roy
Runnels
Ruth
St Germain
Sarbanes
Satterfield
Scherle
Scheuer
Seiberling
Shipley
Sisk
Smith, Calif.
Snyder
Staggers
Steed
Stephens
Stokes
Stubblefield
Sullivan
Taylor
Thone
Tiernan
Vanik
Whitten
Wydler
Yates
Yatron
Young, Fla.
Zablocki

NOES—167

Albert
Anderson, Ill.
Arends
Ashley
Aspinall
Barrett
Biester
Bingham
Bolling
Bow
Bray
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burke, Fla.
Burlison, Mo.
Byrne, Pa.
Cabell
Caffery
Camp
Carlson
Carter
Casey, Tex.
Cederberg
Celler
Chamberlain
Cleveland
Collier
Conable
Conte
Corman
Cotter
Coughlin
Culver
Davis, Wis.
de la Garza
Dellenback
Dennis
Dickinson
du Pont
Eckhardt
Edwards, Ala.
Erlenborn
Eshleman
Fascell
Findley
Fish
Fisher
Foley
Ford, Gerald R.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Garmatz
Gettys
Gonzalez
Goodling
Green, Pa.
Gude
Hagan
Halpern
Hamilton
Hammerschmidt
Hanna
Harsha
Harvey
Hastings
Hathaway
Heckler, Mass.
Heinz
Hogan
Holifield
Horton
Hosmer
Hutchinson
Jarman
Johnson, Pa.
Jones, Ala.
Kazen
Keith
King
Kyl
Landgrebe
Latta
Lent
Lloyd
McCloskey
McEwen
McFall
McKay
McKevitt
McKinney
Macdonald, Mass.
Mahon
Mailliard
Mallary
Mann
Mathias, Calif.
Matsunaga
Mayne
Meeds
Melcher
Michel
Moorhead
Morgan
Moss
Passman
Pelly
Pettis
Poage
Podell
Preyer, N.C.
Price, Tex.
Purcell
Quie
Rees
Rhodes
Robinson, Va.
Robison, N.Y.
Rooney, Pa.
Rosenthal
Roybal
Sandman
Schneebeli
Schwengel
Scott
Shriver
Sikes
Slack
Smith, Iowa
Smith, N.Y.
Spence
Stanton, J. William
Stanton, James V.
Steele
Steiger, Ariz.
Steiger, Wis.
Stratton
Stuckey
Teague, Calif.
Teague, Tex.
Thomson, Wis.
Udall
Van Deerlin
Vander Jagt
Waggonner
Ware
Whalen
Whalley
White
Whitehurst
Widnall
Williams
Winn
Wolff
Wright
Wylie
Wyman
Young, Tex.
Zion

NOT VOTING—123

Abbitt
Abernethy
Abourezk
Anderson, Calif.
Anderson, Tenn.
Andrews, N. Dak.
Annunzio
Aspin
Badillo
Baker
Baring
Belcher
Bell
Betts
Bevill
Blackburn
Blanton
Blatnik
Boggs
Byrnes, Wis.
Byron
Carey, N.Y.
Chappell
Clark
Clausen, Don H.
Clawson, Del
Clay
Collins, Ill.
Conyers
Curlin
Danielson
Davis, S.C.
Derwinski
Devine
Diggs
Dingell
Dorn
Dowdy
Dulski
Dwyer
Edmondson
Eilberg
Esch
Evans, Colo.
Evins, Tenn.
Flynt
Ford, William D.
Gallagher
Giaimo
Goldwater
Green, Oreg.
Griffiths
Grover
Gubser
Hall
Hansen, Idaho
Hays
Hébert
Hungate
Hunt
Jacobs
Jonas
Keating
Kee
Kemp
Kluczynski
Kuykendall
Landrum
Leggett
Lennon
Link
Lujan
McClory
McClure
McCormack
McCulloch
McDade
McDonald, Mich.
McMillan
Metcalfe
Mikva
Miller, Calif.
Mills, Md.
Minshall
Monagan
Murphy, Ill.
Murphy, N.Y.
Nelsen
O'Hara
Patman
Patten
Pepper
Peyser
Pirnie
Pryor, Ark.
Railsback
Rangel
Reid
Riegle
Rooney, N.Y.
Rousselot
Ruppe
Saylor
Schmitz
Sebelius
Shoup
Skubitz
Springer
Symington
Talcott
Terry
Thompson, Ga.
Thompson, N.J.
Ullman
Veysey
Vigorito
Waldie
Wampler
Wiggins
Wilson, Bob
Wilson, Charles H.
Wyatt
Zwach

So the amendment was rejected.

The CHAIRMAN. The Clerk wlil read.

The Clerk read as follows:

FOREIGN MILITARY CREDIT SALES

For expenses not otherwise provided for, necessary to enable the President to carry out the provisions of the Foreign Military Sales Act, $450,000,000: *Provided*, That of the funds appropriated under this paragraph, up to $300,000,000 may be allocated to Israel.

AMENDMENT OFFERED BY MR. PASSMAN

Mr. PASSMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PASSMAN: Page 11, line 22, after paragraph, strike out "up to $300,000,000 may" and insert "not less than $300,000,000 shall".

Mr. PASSMAN. Mr. Chairman, I do not think it is necessary to debate this item inasmuch as recent supporting assistance, military credit sales, and military assistance are closely related. I thought they should conform to what the House did earlier, and I hope that the amendment will be adopted.

As all Members know, I have been one of the greatest supporters of aid to Israel over the years. The country is doing a fantastic job with the resources available to her. I, therefore, felt because of my feelings toward this great country I should offer this amendment.

Mr. SHRIVER. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I yield to the distinguished gentleman from Kansas.

Mr. SHRIVER. Mr. Chairman, this relates to military credit sales and Israel. The minority is in agreement and accepts the amendment.

Mr. LONG of Maryland. Mr. Chairman, I rise in support of this amendment. It is obvious the chairman has offered this because the language that was inserted as a result of the Long amendment passed, and the gentleman from Louisiana (Mr. PASSMAN), like the Supreme Court, in the words of Peter Dooley "follows the election returns."

Mr. PASSMAN. Mr. Chairman, I understand the gentleman's problem very well.

Mr. DOW. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I yield to the gentleman from New York.

Mr. DOW. Mr. Chairman, I accept this amendment, too. I came in with two amendments which tightened up the funding for Israel in my hand.

Mr. PASSMAN. Does the gentleman mean he supports the amendment?

Mr. DOW. And both of the amendments were snatched from me by other Members. I feel as if I have snatched defeat from the jaws of victory.

Mr. PASSMAN. I understand the gentleman from New York has problems but I must say I am certainly as pro-Israel as any Member in this body.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. PASSMAN).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

ASSISTANCE TO REFUGEES IN THE UNITED STATES

For expenses necessary to carry out the provisions of the Migration and Refugee Assistance Act of 1962 (Public Law 87–510), relating to aid to refugees within the United States, including hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, $145,000,000: *Provided*, That funds from this appropriation shall be used to reimburse the Secretary of State to cover the costs incurred by the Department of State in connection with the movement of refugees from Cuba to the United States.

Mr. GROSS. Mr. Chairman, I move to strike the next to the last word.

Mr. Chairman, I take this time to ask the chairman of the committee where the $100 million item may be that deals with population growth. I assume that means the supplying of contraceptives. I do not know whether it finances abortions or not, but where is the $100 million to be found in the bill?

Mr. PASSMAN. On page 3 of the bill.

Mr. GROSS. I see. I thank the gentleman.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

INVESTMENT IN INTER-AMERICAN DEVELOPMENT BANK

For payment by the Secretary of the Treasury of (1) the third annual installment for the United States subscription to the paid-in capital stock of the bank; (2) the second installment of the United States subscription to the callable capital stock of the bank, as authorized by the Act of December 30, 1970

(Public Law 91-599) and (3) the second installment of the United States share in the proposed replenishment of the Fund for Special Operations, $418,380,000, to remain available until expended.

AMENDMENT OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Long of Maryland: On page 14, line 2, after the word "Operations," strike out "$418,380,000" and insert in lieu thereof "$211,760,000."

Mr. LONG of Maryland. Mr. Chairman, the purpose of this amendment, as my previous amendments have been, is to cut the appropriation for this multilateral institution back to last year's appropriation. I can see that people are in a hurry here tonight. I can see that the Republicans have decided to support foreign aid and spend this country even worse into bankruptcy—if a country can go bankrupt—than we were before. With the Republicans calling the time, there is not much hope of on economy cut here tonight, but I offer it nevertheless. In support of this cut I want to quote our chairman, Otto Passman:

> I believe under the so-called multilateral progams, and there were many of them at the committee, unless the Congress knows when the money is obligated, to what country, for what purpose, and in what amount, then we do not have the right of detailed examination as we have on bilateral programs. We have lost control. I do not believe that the Congress or the country wants this kind of program if they understood it.

Many of the Communist nations have dipped into it, including Cuba. I will give you my own experience in Venezuela last year. I was greeted by our own team down there and by the Venezuelans. They all agree that the United States was not putting a penny of AID into Venezuela. Everyone I talked to agreed with that until I found that we were putting in several hundreds of millions of dollars under the Inter-American Development Bank.

Now, it has been my finding that the people in these countries and the people in the United States do not know where this money is coming from. They do not know it is coming from the United States.

We have a duplicate set of organizations. I agree with Mr. Passman when he said during the hearings that these programs have gotten out of control. The United States has contributed 95 percent of the Inter-American Bank's hard currency since 1960; yet, it has little control over the loans.

Despite U.S. efforts to get controls placed on access to Inter-American Bank funds, the soft loans by the more developed Latin American countries, more than $270 million of these funds were committed to these countries in the 20 months ending December 31, 1971. This is the GAO report.

These programs are bypassing Congress. You are giving up your power over your money; over the taxpayers' money. All I am doing or trying to do is cut the program back to last year.

I followed my chairman all during the session when he inveighed repeatedly, again and again, against these institutions, and then all of a sudden on a markup we find that we are doubling the quantity of money devoted to it.

I hope the amendment passes.

Mr. PASSMAN. Mr. Chairman, I rise in opposition to the amendment.

First, my dear friend from Maryland has a right to change his mind. On February 1, he voted for the authorization of funds for the Bank. He supported the amount in subcommittee just 11 days ago.

I made a recommendation that it be reduced from $836 million at the time down to $418 million; we cut it in half.

All these funds are for Latin America.

Now, Mr. Chairman, we should be realistic. In previous years there have been amendments to increase this amount. We felt somewhat hesitant about such a reduction, but we thought we made a case for it.

I think that is as much as it can be reduced. I certainly hope that the amendment will be voted down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. Long).

The amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

INVESTMENT IN INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment by the Secretary of the Treasury for the replenishment of the resources of the International Development Association, $320,000,000, to remain available until expended.

AMENDMENT OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Long of Maryland: On page 14, line 8, after the word "Association," strike out "$320,000,000" and insert in lieu thereof "$160,000,000."

Mr. LONG of Maryland. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

One hundred twenty-five Members are present, a quorum.

The gentleman from Maryland is recognized for 5 minutes in support of his amendment.

Mr. LONG of Maryland. Mr. Chairman, the purpose of this amendment is, first, to cut back on the IDA. This is another multilateral institution. This is the lending agency that gives 50-year loans at no interest, only a service charge of three-quarters of 1 percent for the first 10 years, a grace period before they pay anything.

This, I feel, is a monstrous giveaway of the taxpayers' money, and I hope very much we can get something done.

This is another economy cut. Of course, it is even more unpopular on the other side of the aisle than it is on my side of the aisle.

Incidentally, my chairman says I have been voting for all these things. What he means, of course, is that I voted for the whole bill. When he says that, of course, he is right, but when I voted for the whole bill I did not vote for every single item in it any more than I believe the Members who are going to be asked to vote for this whole appropriation bill today are going to be held responsible for every single item in it.

I wonder if the chairman wants to give the average Member here the impression that if he votes for this whole bill, he is voting for every single item in it.

Mr. Passman said:

> Let us look at the IDA. They started this operation off at $61 million a year for three years. Then they came in and requested $104 million a year for three years. They presented the same arguments. They jumped up the request to $160 million. They ran that level up for three years. Do you know what they did this year, Dr. Hannah? They jumped up the request to $320 million a year, double what they had last received—up, up, and up.

I quote Mr. Passman again:

> We turned this money over to this international organization. We know not what projects are going to be financed. We do not know when they are going to make the applications. We do not know the amount of the applications. We do not know what countries it is going to go to. There is no provision whereby one dime of this money will ever be returned to the United States Treasury. Do you know that is true, Dr. Hannah?

Asked Mr. Passman—

> Is that correct?
>
> Dr. Hannah. Correct.

Now, $1,112,290,000 has been loaned out over an 11-year period, of which $463 million in cash is in the pipeline, 42 percent.

They do not need this money, any more than my friend from Louisiana needs any money.

I might point out that the other donors have contributed only tidbits—the United Kingdom, 12 percent; France, 5 percent. But 60 percent of the sales go to the former colonies of the European nations, the European countries that have strong trade ties with these people to whom we are giving this money.

So I feel this is a program we can do without for a year, and I hope very much my amendment will be accepted.

The CHAIRMAN. The Chair recognizes the gentleman from Louisiana (Mr. Passman).

Mr. PASSMAN. Mr. Chairman, with reference to responsibilities, any time I cannot be a responsible Member of Congress I will pack up and go home.

When I come to the floor of this House, I am not necessarily representing Otto Passman; I am representing a wonderful subcommittee comprised of some fine men. So I am their spokesman; I am their representative.

Over the years I have been rather consistent in trying to reduce foreign aid. We have been just as successful in reducing foreign aid this year as in prior years.

Now, with respect to the International Development Association, again we have cut this item in half. These people came in and wanted $320 million for fiscal 1972. We politely said "No," and we moved on through conference after conference and we said, "No, we are not going to yield."

We cut out the $320 million, but we

did agree we would fund them $320 million in the regular bill, and that is what we have done.

I am not in love with this particular item, but the Congress and the subcommittee and the full committee said it is a good program and one that we want to have. I represent them, and for that reason I say this should be done and we permit this allowance of $320 million.

Mr. SHRIVER. Will the gentleman yield?

Mr. PASSMAN. I yield to the gentleman.

Mr. SHRIVER. I thank the gentleman for yielding.

I want to state first that on February 1 of this year the House approved an authorization for this amount, the third replenishment in the International Development Agency agreement.

Under that agreement 23 nations have agreed to put money into this fund. Most of them have already done it. They agreed to it back there in February.

So I submit we should proceed and allocate the money here this evening.

Mr. PASSMAN. Does the gentleman agree with my statement that we did cut out $320 million earlier this year?

Mr. SHRIVER. The gentleman is correct.

Mr. PASSMAN. We would not give them a dime more.

Mr. HARVEY. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I yield to the gentleman from Michigan.

Mr. HARVEY. Mr. Chairman, I had intended to express my disapproval of the reduction made by the committee in the funds appropriated for the Inter-American Development Bank. I share the feelings previously expressed by several members of the Committee on Banking and Currency and because time is growing late, I will not repeat what others have said. Needless to say I oppose this amendment.

I do, however, wish to express my disappointment in the action of the Appropriations Committee in failing to include the $100,000,000 for the consolidated special funds for the Asian Development Bank.

It is true that there were no "multilateral negotiations firmly establishing a specific formula," as the committee report makes clear. But other countries have pledged their contributions to the Bank's special funds on the assumption that our contribution would be forthcoming.

Mr. Chairman, I suggest that we should look at the committee report of the Committee on Banking and Currency before the House on February 1, 1972. Nine countries have either contributed or pledged almost $175,000,000. If we put in the full amount that has been suggested as our contribution, our effort would represent only 35 percent of the total.

As of June 30, 1971, the Asian Development Bank had made 21 different loans to 11 different countries. These loans were for many purposes: for irrigation improvement; land development; rubber and oil palm development; power transmission; agricultural development; college expansion; beef cattle development; air transport; and highway projects. All of these are worthy purposes.

It is apparent from reading of the report on the authorizing legislation, before the House on February 1, 1972, that these other countries have acted in reliance on a contribution to this special fund from our country. If I understand the report correctly, these countries and the amount they have pledged or already contributed are:

[Millions of dollars]

Country:	
Australia	$9.75
Belgium	1.80
Canada	25.00
Denmark	2.00
Germany	17.50
Italy	2.00
Japan	100.00
Netherlands	2.20
United Kingdom	14.40

The Appropriations Committee's failure to include the $100,000,000 for the consolidated special funds of the Bank ignores the actions of these other countries, and it ignores also the expressed opinion of the Members of the House. We voted on the authorization of the $100,000,000 on February 1 of this year, and we approved it by a vote of almost 2 to 1—255 to 132. The Asian Development Bank has been supported overwhelmingly by this Congress in past years.

Mr. Chairman, I am concerned because I have been a longtime supporter of the Asian Development Bank. I believe it is the one ray of hope in this very troubled part of the world. If we are ever to solve the problems of Southeast Asia, it can only be done with an institution such as the Bank.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. LONG).

The amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 505. None of the funds herein appropriated for the "International Financial Institutions" and the "United Nations Development Program" shall be available to assist in the financing of any project or activity for which detailed justification is not available to the United States Senate and House of Representatives.

AMENDMENT OFFERED BY MR. VANIK

Mr. VANIK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VANIK: On page 17, after line 12, add the following new section:

"SEC. 506. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, as amended, may be used to provide loans, credits, financial and investment assistance, or insurance guarantees on sales to or investments in any Nation which requires payment above nominal and customary costs for exit visas, exit permits, or for the right to emigrate."

Mr. PASSMAN. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Ohio is recognized for 5 minutes in support of his amendment.

Mr. VANIK. Mr. Chairman, the amendment which I am offering is designed to prohibit the use of any of the funds provided by this act to encourage or assist in developing trade and investment in the Soviet Union until the Soviets end their policy of requiring the payment of a "ransom"—exorbitant fees for the freedom of emigration.

We all know that these fees are being charged on a selective basis; they are being charged on Soviet Jews who are seeking to leave the Soviet Union and—for the most part—to move to Israel.

The fees are nearly impossible to meet. These "ransoms" range from 2,000 rubles to as high as 87,000 rubles, or over $25,000. With the average person in the Soviet Union having an income of 140 rubles a month, it would take most Soviet citizens 10 years or more to be able to save the necessary funds.

The Soviets appear to have instituted these exit requirements this summer—after they felt that they had obtained agricultural and industrial trade agreements with the United States which they so desperately needed. They waited until these agreements had been worked out before imposing these new requirements—requirements which they knew would shock the conscience of the world.

It is obvious that the Soviet economy is desperately in need of a larger quantity of consumer and industrial goods. In particular, they need—desperately—more agricultural products.

It is time, now, as trade breakthroughs are announced, that we draw the line on this moral question. A nation which demands ransom for human beings must not be rewarded with a favored nation trading status or be extended credit and other mechanisms of international trade and investment financing. We must not sell grain and commodities to a Nation which is in the business of selling bodies.

The amendment which I am offering would prohibit the use of the programs of the Overseas Private Investment Corporation from being used to insure investments in the Soviet Union. It would prohibit the use of Export-Import Bank activities—for which this bill permits $7.3 billion in program activities—to assist in the financing and development of trade with the Soviet Union—until such time as the Soviet Union terminates its "ransom" policy.

As we approach a time of negotiation and trade with the Communist world—it is fitting and right for America to insist on some moral conditions to this new relationship.

The American people can never overlook or condone a governmental policy of ransom for human freedom.

We have successfully existed without this trade for more than 30 years. We can certainly wait a little longer and insist upon some standards of human decency on the part of our trading partners.

Therefore, it is the moral duty of this Nation to use all the power at our command to influence the Soviet government to stop its present policy of harassment and persecution.

The acceptance to the amendment which I am offering will give force to the words of our moral concern.

I urge the adoption of the amendment.

The CHAIRMAN. Does the gentleman from Louisiana insist on his point of order?

Mr. PASSMAN. I do, Mr. Chairman.

The CHAIRMAN. The gentleman will state his point of order.

Mr. PASSMAN. The amendment imposes additional duties on the executive branch in that it requires a determination as to what constitutes a payment above normal and customary cost for exit visas, permits, or the right to emigrate. I would not know how this could be determined without imposing additional duties upon the executive branch.

Upon that basis I plead that the point of order should and I hope it will be sustained.

The CHAIRMAN. Does the gentleman from Ohio desire to be heard on the point of order?

Mr. VANIK. I do not feel that the ancient, decadent body of precedent should prevent a Member from making a legitimate and proper amendment to this bill. We should not be restrained in our legislative efforts in dealing with present-day problems by the dead hand of the past.

I ask for a ruling, Mr. Chairman.

The CHAIRMAN (Mr. PRICE of Illinois). The Chair is ready to rule.

The gentleman from Louisiana (Mr. PASSMAN) has raised a point of order against the amendment of the gentleman from Ohio (Mr. VANIK) on the ground that it is legislation on an appropriation bill in violation of the rules.

The Chair has examined the amendment, and finds that it would prohibit use of funds appropriated or made available pursuant to this act, in any nation which requires payment above nominal and customary costs for exit visas, exit permits, or for the right to emigrate. It is apparent to the Chair that someone must make a determination of the "nominal" and "customary" cost, thus imposing additional duties on the executive branch; and therefore in the opinion of the Chair the language constitutes legislation on an appropriation bill. The Chair sustains the point of order.

AMENDMENT OFFERED BY MR. VANIK

Mr. VANIK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VANIK: On page 17, after line 12, add the following new section:

"SEC. 506. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, as amended, may be used to provide loans, credits, financial and investment assistance, or insurance guarantees on sales to or investments in any Nation which requires payment in excess of $50 or its equivalent for exit visas, exit permits, or for the right to emigrate."

Mr. PASSMAN. Mr. Chairman, I reserve a point of order on this amendment also.

The CHAIRMAN. The gentleman from Louisiana reserves a point of order.

Mr. VANIK. Mr. Chairman, I simply want to say that this new language which I have in this second amendment cures I think any objection that there may have been to the previous amendment, and I urge its adoption by this committee.

The CHAIRMAN. Does the gentleman from Louisiana desire to be heard on his point of order?

Mr. PASSMAN. Certainly, Mr. Chairman, if I may be heard on my point of order to this amendment.

Mr. Chairman, I make the same objection as I did previously. All we do is just change a figure. I still say that it would require extra duties on the part of the executive branch.

The CHAIRMAN. Does the gentleman from Ohio desire to be heard on the point of order?

Mr. VANIK. Yes, Mr. Chairman, I do. In response to the gentleman from Louisiana (Mr. PASSMAN), I want to point out that there is nothing to be determined, because this amendment simply says where it exceeds $50 or its equivalent for exit visas, and so forth, and there is no determination at all to be made, and there is nothing calling for anyone to do anything; it is absolutely clear, and I believe also that it is language that without any question cannot be construed as imposing new duties on anyone. It specifically says that where the visas and exit permits cost in excess of $50 or its equivalent, this would apply.

Mr. PASSMAN. If the gentleman would yield, how would you determine whether it should properly be that, or $150, $250, or $350?

Mr. VANIK. I simply state $50.

Mr. PASSMAN. If the gentleman will yield further it still has to be determined by Congress.

The CHAIRMAN (Mr. PRICE of Illinois). The Chair is ready to rule.

This amendment differs from the one on which the Chair has just ruled in that the pending amendment does not contain the words "nominal or customary," words which require interpretation and investigation, and which made the prior amendment unacceptable. The present amendment is straightforward, and would not require an extensive investigation since it is dependent upon a discernible standard, that is, a money limit which is stated in the amendment itself.

The Chair therefore overrules the point of order.

Mr. PASSMAN. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, there is no money in this bill for the Soviet Union, there is none proposed and no such provision has been included. In view of that, no money would be available. It would appear to me that this is a senseless amendment and could create complications.

Of course, I am sympathetic and understanding of the intent, but I do not know why we want to make it any more complicated for the Executive and others in these troubled times that we are going through.

I certainly hope the amendment would be voted down since it would just complicate things possibly beyond our imagination at this point.

Mr. GERALD R. FORD. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I yield to the distinguished gentleman from Michigan.

Mr. GERALD R. FORD. Mr. Chairman, let me say at the outset that I am completely opposed to the imposition of prohibitive fees for the issuance of visas for individuals to leave any country, whether it is the Soviet Union or any other country. I am completely opposed to what I understand is the policy of the Soviet Union today in requiring excessive costs for the issuance of visas for emigration from that country. Therefore, on the substance or intent of the amendment, I cannot object to the amendment offered by the gentleman from Ohio (Mr. VANIK).

But I wonder if we should not recollect that on April 17, 1972, the House of Representatives approved a concurrent resolution, House Concurrent Resolution 471, which in effect expresses the same basic views on the part of the House as are expressed in this pending amendment.

On that occasion we condemned the attitude and actions of the Soviet Government in many ways, but we also expressed our views in reference to the issuance of visas.

Furthermore, the Foreign Assistance Act already contains other provisions—notably in sections 620(f), 620(a)(3) and 620(n)—that have the effect of denying assistance under that act to the U.S.S.R. or other Communist countries. Moreover, the Battle Act—Mutual Defense Assistance Control Act of 1951—prohibits U.S. Government economic or financial assistance to Communist areas, and thereby imposes a general restriction against public financing of transactions with such areas if that financing is on terms which would constitute assistance for purposes of the Battle Act.

So, Mr. Chairman, since we have already passed a concurrent resolution that condemns the attitude and action of the Soviet Union and since existing law already protects the expenditure of funds to a Communist country, I doubt the need for this amendment.

Mr. YATES. Mr. Chairman, I rise in support of the Vanik amendment.

Mr. Chairman, the gentleman from Michigan, the distinguished minority leader, is correct. The House did pass that legislation condemning Soviet restrictions on freedom of emigration, but something has happened since the House passed that resolution, something of extreme importance. I should like to employ the eloquence of the distinguished American author, James Michener, to state my case. In an article that appeared in the New York Times this past Saturday he said:

> Last month the Council of Ministers of the Supreme Soviet quietly passed a resolution calling for additional taxes on any educated Jews wishing to emigrate. The fact that most families cannot assemble the money required for their "ransom," and are thus condemned to a life of harassment, has led well-meaning people in the rest of the world to consider the possibility of collecting some $200 million to effect the ransom of thousands of leading Jewish intellectuals. But distinguished Russian scientists of Jewish origin have told Western friends, "Don't pay this robbery."

> There is one escape. The law establishing the systematic blackmail has not yet been officially promulgated. It is scheduled to be ratified by the Supreme Soviet on Tuesday. If, before that date, a general worldwide protest can be mobilized, the Soviet Government may reconsider. It therefore behooves everyone interested in education, in the intellectual life, in science, in art, and in industry to voice his protest now.

To these I would add the word "inhumanity"—those who are interested in the cause of humanity should protest as well.

I quote further from this article:

> Even though Soviet authorities have since 1970 allowed some like Zand to emigrate, the escape of one Jew infuriates them, because they interpret his departure as a vote against the system. It is for this reason that they now charge distinguished men like Roman Rutman and Benjamin Levich some $35,000 each for permission to go.
>
> We must say no. Every American writer, scientist, artist with a voice must protest this inhuman blackmail. As Rutman says, "We do not want ransom money. We want moral outcry."

"We want moral outcry." That, in effect, is what the amendment offered by the gentleman from Ohio is—a moral outcry, an American protest to an inhumane proposal.

As the gentleman from Louisiana has stated, there is no money in this bill for Soviet Russia. Perhaps it would be better if there were, but there are none. Therefore, the limitation will not be operative. But what this amendment does do clearly is to give this House the opportunity to voice its sentiment, to tell the Soviet Union we abhor its inhuman policy of holding its Jewish citizens for ransom. Do we not want to go on record now as saying we object to this kind of blackmail, we protest this kind of ransom?

This is the critical moment. Let the word go out from the Congress that we believe in the right of free emigration as stated in the Declaration of Human Rights. Let us go on record in opposition to the proposed Soviet action, which violates the Declaration of Human Rights which was signed by the Soviet Union.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Louisiana.

Mr. PASSMAN. I certainly support the purpose of the amendment. I think it would complicate things. Have we not made a sufficient record as of this time to indicate very clearly where we all stand? If this does not actually get the job done, then we can take other action later.

Mr. YATES. I will say to the gentleman that we have not taken action in connection with the proposed Soviet ransom law. We have not taken action to voice our opposition in connection with the ransom that the Soviet Union is attempting to place upon its Jews who want to leave that country.

Mr. PODELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I shall not use all of the time. I would like to concur with the remarks of the gentleman in the well and to point out to the distinguished gentleman from Michigan that if the bill is as it is, and if the bill is as the gentleman states it is—and it is because the gentleman from Michigan yields to no one in his deep concern for the problem of Soviet Jewry—then why should we object to adding one additional word of moral outrage against a country that is deserving of the moral outrage of the entire world?

Recently in Munich we saw 11 Israelis killed, and we decried the action of Arab terrorists, but little was said about one important factor. The Arab terrorists who did this dastardly act in Munich a short time ago were armed by the Soviet Union. It was Soviet machineguns that gunned these people down, including a German policeman and others that were killed there. What is the problem about adding our additional word from the Congress of the United States to let the Soviet Union know that the people of this country, this Congress, will not tolerate the kinds of actions that they perpetrate?

Therefore, I see no reason for not going ahead and approving the amendment.

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. PODELL. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Chairman, I want to associate myself with the remarks of the distinguished gentleman from New York and the distinguished gentleman from Illinois.

Mr. LONG of Maryland. Mr. Chairman, I want to associate myself with the remarks of the gentleman from New York and urge strongly the support of the amendment.

Mr. KOCH. Mr. Chairman, will the gentleman yield?

Mr. PODELL. I yield to the gentleman from New York.

Mr. KOCH. Mr. Chairman, I wish to associate myself with the remarks of the gentleman from New York.

I support and salute the distinguished gentleman from Ohio (Mr. VANIK) for his leadership in offering this excellent amendment. The Soviet Union must know that if it is to engage in barbarism, it will not receive credits and other financial and investment assistance from the United States. I urge the adoption of the amendment. By passage of this amendment the House of Representatives will demonstrate its outrage against Soviet harassment of those Jews who wish to emigrate to Israel.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. VANIK).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk concluded the reading of the bill.

Mr. PASSMAN. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. PRICE of Illinois, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 16705) making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1973, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The SPEAKER. Without objection, the previous question is ordered on the bill and all amendments thereto to final passage.

There was no objection.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MYERS

Mr. MYERS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. MYERS. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. MYERS moves to recommit the bill H.R. 16705 to the Committee on Appropriations.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SCHERLE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 169, nays 141, not voting 120, as follows:

[Roll No. 381]

YEAS—169

Abzug
Addabbo
Alexander
Anderson, Ill.
Arends
Aspinall
Barrett
Biaggi
Biester
Bingham
Blatnik
Boland
Bolling
Bow
Brademas
Brasco
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Buchanan
Burke, Mass
Burton
Byrne, Pa.
Carlson
Carney
Cederberg
Celler
Chisholm
Clark
Conable
Conte
Corman
Cotter
Coughlin
Culver
Daniels, N.J.
Davis, Wis.
Dellenback
Dellums
Dennis
Donohue
Dow
Drinan
du Pont
Edwards, Calif.
Erlenborn
Fascell
Findley
Fish
Flood
Foley
Ford, Gerald R.
Forsythe
Fraser
Frelinghuysen
Frenzel
Fulton
Garmatz

Giaimo
Gonzalez
Grasso
Gray
Green, Pa.
Gude
Halpern
Hamilton
Hanley
Hanna
Hansen, Wash.
Harrington
Harvey
Hathaway
Hawkins
Heckler, Mass.
Heinz
Helstoski
Hicks, Mass.
Hicks, Wash.
Hogan
Holifield
Horton
Hosmer
Howard
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Karth
Kee
Keith
Koch
Kyros
Lent
Lloyd
Long, Md.
McCloskey
McCulloch
McEwen
McFall
McKay
McKevitt
McKinney
Madden
Mahon
Mailliard
Mallary
Mann
Mathias, Calif.
Matsunaga
Mayne
Meeds
Minish
Mink
Mollohan
Moorhead
Morgan
Nedzi
Nix
O'Konski
O'Neill
Passman
Pelly
Perkins
Podell
Preyer, N.C.
Price, Ill.
Pucinski
Quie
Railsback
Rees
Rhodes
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rooney, Pa.
Rosenthal
Roybal
Sarbanes
Scheuer
Schwengel
Seiberling
Shriver
Sisk
Smith, N.Y.
Stanton, J. William
Steele
Steiger, Wis.
Stokes
Stratton
Teague, Calif.
Udall
Vander Jagt
Vanik
Ware
Whalen
Whitehurst
Widnall
Williams
Wilson, Charles H.
Wolff
Wright
Wydler
Yates
Yatron
Young, Tex.
Zablocki
Zion

NAYS—141

Adams
Andrews, Ala.
Archer
Ashbrook
Ashley
Begich
Bennett
Bergland
Bray
Brinkley
Broyhill, N.C.
Broyhill, Va.
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Cabell
Caffery
Camp
Carter
Casey, Tex.
Chamberlain
Clancy
Cleveland
Collier
Collins, Tex.
Colmer
Conover
Crane
Daniel, Va.
Davis, Ga.
de la Garza
Delaney
Denholm
Dent
Dickinson
Downing
Duncan
Eckhardt
Edwards, Ala.
Eshleman
Evans, Colo.
Fisher
Flowers
Ford, William D.
Fountain
Fuqua
Galifianakis
Gaydos
Gettys
Gibbons
Goodling
Griffin
Gross
Hagan
Haley
Hammerschmidt
Harsha
Hastings
Hechler, W. Va.
Henderson
Hillis
Hull
Hutchinson
Ichord
Jarman
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
King
Kyl
Landgrebe
Latta
Lennon
Long, La.
McCollister
Macdonald, Mass.
Martin
Mathis, Ga.
Melcher
Michel
Miller, Ohio
Mills, Ark.
Mitchell
Mizell
Montgomery
Mosher
Moss
Myers
Natcher
Nichols
Obey
Pettis
Pickle
Pike
Poage
Powell
Price, Tex.
Purcell
Quillen
Randall
Rarick
Reuss
Roberts
Rogers
Roncalio
Roush
Roy
Runnels
Ruth
St Germain
Sandman
Satterfield
Scherle
Schneebeli
Shipley
Sikes
Slack
Smith, Calif.
Spence
Staggers
Stanton, James V.
Steed
Steiger, Ariz.
Stephens
Stubblefield
Stuckey
Sullivan
Taylor
Teague, Tex.
Thone
Tiernan
Van Deerlin
Waggonner
Whalley
White
Whitten
Winn
Wylie
Wyman
Young, Fla.

NOT VOTING—120

Abbitt
Abernethy
Abourezk
Anderson, Calif.
Anderson, Tenn.
Andrews, N. Dak.
Annunzio
Aspin
Badillo
Baker
Baring
Belcher
Bell
Betts
Bevill
Blackburn
Blanton
Boggs
Byrnes, Wis.
Byron
Carey, N.Y.
Chappell
Clausen, Don H.
Clawson, Del
Clay
Collins, Ill.
Conyers
Curlin
Danielson
Davis, S.C.
Derwinski
Devine
Diggs
Dingell
Dorn
Dowdy
Dulski
Dwyer
Edmondson
Eilberg
Esch
Evins, Tenn.
Flynt
Frey
Gallagher
Goldwater
Green, Oreg.
Griffiths
Grover
Gubser
Hall
Hansen, Idaho
Hays
Hébert
Hungate
Hunt
Jacobs
Jonas
Keating
Kemp
Kluczynski
Kuykendall
Landrum
Leggett
Link
Lujan
McClory
McClure
McCormack
McDade
McDonald, Mich.
McMillan
Mazzoli
Metcalfe
Mikva
Miller, Calif.
Mills, Md.
Minshall
Monagan
Murphy, Ill.
Murphy, N.Y.
Nelsen
O'Hara
Patman
Patten
Pepper
Peyser
Pirnie
Pryor, Ark.
Rangel
Reid
Riegle
Rooney, N.Y.
Rostenkowski
Rousselot
Ruppe
Saylor
Schmitz
Scott
Sebelius
Shoup
Skubitz
Smith, Iowa
Snyder
Springer
Symington
Talcott
Terry
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Ullman
Veysey
Vigorito
Waldie
Wampler
Wiggins
Wilson, Bob
Wyatt
Zwach

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. Dulski against.

Mr. Rooney of New York for, with Mr. Davis of South Carolina against.

Mr. Annunzio for, with Mr. Rangel against.

Mr. Mikva for, with Mr. Jacobs against.

Mr. Eilberg for, with Mr. Chappell against.

Mr. Reid for, with Mr. Anderson of California against.

Mr. Leggett for, with Mr. Conyers against.

Mr. Murphy of Illinois for, with Mr. Hungate against.

Mr. Monagan for, with Mr. Aspin against.

Mr. McCormack for, with Mr. Landrum against.

Mr. Thompson of New Jersey for, with Mr. Abernethy against.

Mr. Waldie for, with Mr. Abbitt against.

Mr. Pepper for, with Mr. McMillan against.

Mr. Kluczynski for, with Mr. Hall against.

Mrs. Dwyer for, with Mr. Kuykendall against.

Mr. Kemp for, with Mr. Baker against.

Mr. Andrews of North Dakota for, with Mr. Del Clawson against.

Mr. Mills of Maryland for, with Mr. Goldwater against.

Mr. Esch for, with Mr. Snyder against.

Mr. Gubser for, with Mr. Devine against.

Mr. Carey of New York for, with Mr. Hunt against.

Mr. Boggs for, with Mr. Rousselot against.

Mr. McClory for, with Mr. Thomson of Wisconsin against.

Mr. Rostenkowski for, with Mr. Grover against.

Mr. Bob Wilson for, with Mr. Wampler against.

Mr. Murphy of New York for, with Mr. Veysey against.

Mr. Patten for, with Mr. Talcott against.

Mr. McDade for, with Mr. Skubitz against.

Mr. Pirnie for, with Mr. Shoup against.

Mr. Peyser for, with Mr. Schmitz against.

Mr. Bell for, with Mr. Saylor against.

Mr. Mazzoli for, with Mr. McDonald of Michigan against.

Mr. Dingell for, with Mr. Lujan against.

Mr. Clay for, with Mr. Betts against.

Mr. Smith of Iowa for, with Mr. Don H. Clausen against.

Mr. Anderson of Tennessee for, with Mr. Frey against.

Mr. Danielson for, with Mr. McClure against.

Mr. Diggs for, with Mr. Scott against.

Mr. Edmondson for, with Mr. Sebelius against.

Mr. Link for, with Mr. Thompson of Georgia against.

Mr. O'Hara for, with Mr. Bevill against.

Mr. Symington for, with Mr. Blanton against.

Mr. Ullman for, with Mr. Byron against.

Mr. Vigorito for, with Mr. Dorn against.

Mr. Keating for, with Mr. Evins of Tennessee against.

Mr. Hansen of Idaho for, with Mr. Flynt against.

Mr. Nelsen for, with Mrs. Griffiths against.

Mr. Riegle for, with Mr. Abourezk against.

Mr. Ruppe for, with Mr. Metcalfe against.

Mr. Wiggins for, with Mr. Blackburn against.

Mr. Wyatt for, with Mr. Badillo against.

Mr. Zwach for, with Mr. Terry against.

Mr. Patman for, with Mr. Baring against.

Mr. Miller of California for, with Mr. Dowdy against.

Until further notice:

Mr. Hays with Mr. Byrnes of Wisconsin.

Mr. Collins of Illinois with Mr. Derwinski.

Mr. Curlin with Mr. Belcher.

Mrs. Green of Oregon with Mr. Springer.

Mr. Gallagher with Mr. Minshall.

Mr. Pryor of Arkansas with Mr. Jonas.

Mr. ECKHARDT changed his vote from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PASSMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

INTERIM AGREEMENT BETWEEN THE UNITED STATES AND THE UNION OF SOCIALIST REPUBLICS ON MEASURES WITH RESPECT TO LIMITATION OF STRATEGIC OFFENSIVE ARMS

Mr. MORGAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the joint resolution (H.J. Res. 1227) approval and authorization for the President of the United States to accept an Interim Agreement Between the United States of America and the Union of Soviet Socialist Republics on Certain Measures With Respect to the Limitation of Strategic Offensive Arms, with a Senate amendment thereto and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the resolving clause and insert: That the Congress hereby endorses those portions of the Declaration of Basic Principles of Mutual Relations Between the United States of America and the Union of Soviet Socialist Republics signed by President Nixon and General Secretary Brezhnev at Moscow on May 29, 1972, which relate to the dangers of military confrontation and which read as follows:

"The United States of America and the Union of Soviet Socialist Republics attach major importance to preventing the development of situations capable of causing a dangerous exacerbation of their relations . . ." and "will do their utmost to avoid military confrontations and to prevent the outbreak of nuclear war" and "will always exercise restraint in their mutual relations," and "on outstanding issues will conduct" their discussions and negotiations "in a spirit of reciprocity, mutual accommodation and mutual benefit," and

"Both sides recognize that efforts to obtain unilateral advantages at the expense of the other, directly or indirectly, are inconsistent with these objectives," and

"The prerequisites for maintaining and strengthening peaceful relations between the United States of America and the Union of Soviet Socialist Republics are the recognition of the security interests of the parties based on the principle of equality and the renunciation of the use or threat of force.".

SEC. 2. The President is hereby authorized to approve on behalf of the United States the interim agreement between the United States of America and the Union of Soviet Socialist Republics on certain measures with respect to the limitation of strategic offensive arms, and the protocol related thereto, signed at Moscow on May 26, 1972, by Richard Nixon, President of the United States of America, and Leonid I. Brezhnev, General Secretary of the Central Committee of the Communist Party of the Soviet Union.

SEC. 3. The Government and the people of the United States ardently desire a stable international strategic balance that maintains peace and deters aggression. The Congress supports the stated policy of the United States that, were a more complete strategic offensive arms agreement not achieved within the five years of interim agreement, and were the survivability of the strategic deterrent forces of the United States to be threatened as a result of such failure, this could jeopardize the supreme national interests of the United States; the Congress recognizes the difficulty of maintaining a stable strategic balance in a period of rapidly developing technology; the Congress recognizes the principle of United States-Soviet Union equality reflected in the antiballistic missile treaty, and urges and requests the President to seek a future treaty that, inter alia, would not limit the United States to levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union; and the Congress considers that the success of these agreements and the attainment of more permanent and comprehensive agreements are dependent upon the maintenance under present world conditions of vigorous research and development and modernization program as required by a prudent strategic posture.

SEC. 4. The Congress hereby commends the President for having successfully concluded agreements with the Soviet Union limiting the production and deployment of antiballistic missiles and certain strategic offensive armaments, and it supports the announced intention of the President to seek further limits on the production and deployment of strategic armaments at future Strategic Arms Limitation Talks. At the same time, the Senate takes cognizance of the fact that agreements to limit the further escalation of the arms race are only preliminary steps, however important, toward the attainment of world stability and national security. The Congress therefore urges the President to seek at the earliest practicable moment Strategic Arms Reduction Talks (SART) with the Soviet Union, the People's Republic of China, and other countries, and simultaneously to work toward reductions in conventional armaments, in order to bring about agreements for mutual decreases in the production and development of weapons of mass destruction so as to eliminate the threat of large-scale devastation and the ever-mounting costs of arms production and weapons modernization, thereby freeing world resources for constructive, peaceful use.

SEC. 5. Pursuant to paragraph six of the Declaration of Principles of Nixon and Brezhnev on May 29, 1972, which states that the United States and the Union of Soviet Socialist Republics: "will continue to make special efforts to limit strategic armaments. Whenever possible, they will conclude concrete agreements aimed at achieving these purposes"; Congress considers that the success of the interim agreement and the attained of more permanent and comprehensive agreements are dependent upon the preservation of longstanding United States policy that neither the Soviet Union nor the United States should seek unilateral advantage by developing a first strike potential.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. RARICK. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

LEGISLATIVE PROGRAM

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute.)

Mr. GERALD R. FORD. Mr. Speaker, I have asked for this time for the purpose of asking the distinguished majority whip about the program, if any, for the rest of this week and the schedule for next week.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from Massachusetts.

Mr. O'NEILL. We have completed the business of this week. The schedule for next week is as follows:

Monday is District day, and there are no District bills.

On Monday, we have the military construction appropriations for the fiscal year, 1973, subject to a rule being granted.

The Committee on Rules is meeting on Monday morning so it should be available.

For Tuesday and the balance of the week is as follows:

H.R. 16704, the Housing and Urban Development Act of 1972 (subject to a rule being granted);

H.R. 16645, Eisenhower Memorial Bicentennial Civic Center (subject to a rule being granted);

H.R. 166656. Federal Aid to Highways Act (subject to a rule being granted); and

H.R. 1121, Gateway National Seashore (subject to a rule being granted);

The continuing appropriations resolution, fiscal year 1973;

H.R. 9128, container barge service with an open rule and 1 hour of debate;

H.R. 16732, SBIC amendments (subject to a rule being granted);

H.R. 13694, American Revolution Bicentennial Commission (vote on amendments and bill); and

S. 1316, Federal payment for meat inspection (subject to a rule being granted).

Conference reports may be brought up at any time and any further program will be announced later.

Mr. GERALD R. FORD. Mr. Speaker, if the gentleman from Massachusetts will yield, in light of the fact that we were not able to get unanimous consent for the immediate consideration of the Senate version of the SALT agreement bill; is it the plan or is it anticipated that the chairman of the Committee on Foreign Affairs will go to the Committee on Rules on Monday and seek to get a rule and program that, if such a rule is granted?

Mr. O'NEILL. That is correct.

Mr. GERALD R. FORD. I thank the gentleman from Massachusetts.

ADJOURNMENT OVER TO MONDAY NEXT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. GROSS. Mr. Speaker, reserving the right to object, the leaves are starting to fall, and I would like some way or other to know if it is possible to get some information as to when we might expect adjournment sine die.

Mr. O'NEILL. As the gentleman knows, we are quite a considerable distance ahead of the other body at this time, and they have a particular piece of legislation that is quite controversial in nature.

Mr. GROSS. Who has this?

Mr. O'NEILL. The other body. They have a piece of legislation that is quite controversial which could possibly last for days. I would say that our business should be completed much sooner than the business of the other body, and the chances are that we will be waiting around here for them to concur in a sine die proposal.

I would hope that we would be out the week of Columbus holiday.

Mr. GROSS. The week of what?

Mr. O'NEILL. Columbus holiday. That is the week of October 9; I would say some day that week. It looks as though on our side we should be able to be finished with our work, subject to the other body being able to catch up with their workload.

Mr. GROSS. We are being held hostage by the other body.

Mr. O'NEILL. I do not want to comment on what the other body is doing but the gentleman from Iowa made that statement.

Mr. GROSS. Of course, rumors are a dime a dozen in this place at this time. Would there be anything to the rumor that there was a meeting of certain of the leadership held today, and it was generally agreed that there would be a lameduck session of Congress?

Mr. O'NEILL. I have no idea as to whether the Speaker and the minority leader had a meeting of that type or not. If they had, I do not know of it.

Mr. GROSS. I assume the gentleman's request—I did not hear it—was to go over until Monday?

Mr. O'NEILL. It is to go over until Monday, May I add that we are hoping to complete next week's program by Thursday night of next week and make the same type of motion, but if the schedule is not completed, there is a possibility that we would be working Friday of next week.

Mr. GROSS. It is making it awfully difficult for some of us to make any kind of campaign plans. I will say to the gentleman he must realize that. How do we make any kind of decent plans to carry on a campaign? We are all subject to reelection. I am not speaking for myself alone, but certainly I am interested. Here we are carrying out the good old Thursday-to-Tuesday Club. There will be a Monday if a rule is granted, but if a rule should not be granted, I do not know whether we will have a bill even Monday or not, because the bill scheduled for Monday is subject to consideration if a rule is granted.

Mr. O'NEILL. I do not think the gentleman is entirely fair. I think that the Tuesday-to-Thursday Club is a thing of the past.

Mr. GROSS. A thing of the past?

Mr. O'NEILL. Yes.

Mr. GROSS. Well, just have a session tomorrow and pick up anything that is lying around loose, and consider it. And we might try a Saturday.

Mr. O'NEILL. We are trying to take into consideration exactly what the gentleman has in mind. In fact, there are so many who would like to get home for long weekends on both sides. We are considering the campaigns. We appreciate the situation, and we are trying to do the best we can.

Mr. GROSS. A few of us have opposition in the campaign this year, and we would like to take care as best we can of our obligations here, as well as get in a little campaigning. This may be a fine setup for those who have no opposition, but it is not very good for some of us who do have opposition. I just want to voice my protest at this time to this kind of business year after year, and year after year, of coming down here with 15 days or so to campaign, through the courtesy of the leadership of the House, I guess. I do not know whom else to attribute it to.

Mr. Speaker, I withdraw my reservation.

The **SPEAKER.** Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday of next week.

The **SPEAKER.** Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

MRS. JANE LUMPKIN

(Mr. CHAMBERLAIN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. CHAMBERLAIN. Mr. Speaker, it is with profound sorrow that I announce the death yesterday of Mrs. Jane Lumpkin who has served as my personal secretary and receptionist for the past 12 years. Mrs. Lumpkin came to Washington in 1949 after working for private industry in her hometown of Waukesha, Wis. She worked first on the staff of the Congressman representing her home area, the Honorable Glenn R. Davis, and for his immediate successor, the Honorable Donald Tewes. Immediately prior to joining my staff, she had worked 2 years for the Small Business Administration in Washington.

The death of Mrs. Lumpkin yesterday was a deep personal loss to all of us who were privileged to know and work with her. Her warm and cheerful personality, her unfailing good humor, and her understanding of and concern for others made our work and our days go more easily and happily. Jane was that rare person who emitted a light which cheered and warmed others. When we know such a person we draw strength from them far more than we realize, and their loss leaves us truly bereft.

But the loss is far more than personal. Mrs. Jane Lumpkin was a highly efficient secretary, a loyal and reliable aide, and a tremendously valuable worker for that portion of the American people it was her role to serve. There are literally thousands of people today in Michigan's Sixth Congressional District, the area surrounding Lansing, who are in her debt for her swift and dependable attention to their problems. Young men caught in some personal crisis with the military service, veterans, recipients of social security—these were just a few of the kinds of problems which she investigated and helped solve. My files hold hundreds of letters expressing praise of and gratitude for Mrs. Lumpkin's help.

Jane Lumpkin was also our receptionist who opened our office each morning. The warmth and friendliness of her greetings, to coworkers and visitors alike, was genuine, because it came from greatness of heart and nobility of character. She truly loved others. Now, we can, and will continue to draw stength from the memory of our association with her over these past years.

Mrs. Lumpkin resided in Bethesda, Md., with her husband, Mr. James D. Lumpkin, to whom Mrs. Chamberlain and I extend our deepest sympathy, along with other members of her family and her many friends with whom we share this loss.

DEDICATION TO DUTY FORCES CLARENCE E. MILLER TO MISS TESTIMONIAL DINNER

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BROWN of Ohio. Mr. Speaker, life is full of uncertainties. But surely no one leads a more unpredictable existence than we who serve as Representatives in the Congress. At best, we have precious little control over our destinies, and in fact, we are slaves to schedules that we cannot control or even anticipate from 1 hour to the next.

Tremendous efforts and sacrifices were undertaken to prepare to permit the House to work its will on the question of minimum wage legislation at the time we convened today. Members rearranged important engagements and returned from points far and near to be here to answer to the call.

And then as we all know, moments after the opening gavel fell, it was announced that, once again, minimum wage was put off indefinitely, possibly due to a lack of votes pleasing to the chairman of the Labor Committee.

Some had sacrificed more than others to be here for the vote. Some had given up very important engagements, indeed. Next to missing one's own honeymoon there is perhaps no event that a public official is more anxious not to miss than a testimonial dinner being given in his honor.

There was such an auspicious event being held in the 10th District of Ohio today in honor of our good colleague, CLARENCE MILLER. And, of course, CLARENCE had hoped to be there.

Then it was announced the important minimum wage conference would come up for vote immediately after lunch today. Now some of you may not be aware of it, but CLARENCE has not missed a vote since he came to the House nearly 6 years ago. So I am sure that, disappointed as he must have been, CLARENCE probably did not have to anguish very long over that decision before he opted to stay here and do his duty.

So just about the time the CLARENCE MILLER testimonial luncheon was getting underway in Lancaster, Ohio, it was announced here on the floor that the important conference vote was postponed.

Sorry about that, CLARENCE. Better luck next time. But console yourself with the fact that it is this very dedication to duty for which the people of the 10th District of Ohio honor you.

TRIBUTE TO WILLIAM RYAN

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New York (Mr. CELLER) is recognized for 60 minutes.

Mr. CELLER. Mr. Speaker, it is always painful when this great House loses a good and gentle soul. It is always regrettable when it loses an able and dedicated Member. It is always tragic when it loses one of its priceless men of vision.

But what is it, Mr. Speaker, when we lose Bill Ryan? We mourn a kind man, and our loss is painful; we mourn a diligent worker, and that loss is regrettable; we mourn a warrior of ideals, and that loss is eternal.

Theodore Roosevelt was said to have remarked, on one occasion, that most of the world's work is done by people who do not feel well. All of us who knew Bill Ryan in recent years could see the physical toll being taken by his illness. But there was no loss of spirit and no decline in his enormous productivity. He remained an invaluable asset to the Committee on the Judiciary and a loyal servant to the Bill of Rights.

During the years since he first entered this Chamber in 1961, Bill Ryan championed many lonely and unpopular causes. In some instances, those visions were realized during his own lifetime. On the great issues of civil rights legislation, nuclear arms reduction, and Chinese admission to the United Nations, many of his early and almost singular positions have become modern realities. His tireless efforts on behalf of the Lead-Paint Poisoning Prevention Act bore fruit in the last Congress, and his undying commitment to a gateway national urban recreation area will be another of his legacies to the people of New York.

One only regrets that peace in Vietnam, for which Bill Ryan so long worked and ached, was beyond his time. But that peace will come, and his efforts on its behalf will be remembered as a lasting contribution to world peace.

Mr. Speaker, there are those among his colleagues who never agreed with Bill Ryan, and there are many more who agreed with him only on occasion. But, remarkably, every Member accorded him true respect and every Member felt for him genuine affection.

To his wife, Priscilla, and to his four children, I join the House of Representatives in sending my very deepest sympathy.

Mr. O'NEILL. Mr. Speaker, the death of Bill Ryan leaves this Chamber and the Nation diminished in many ways. We are all familiar with his accomplishments in this body, and the extraordinary legal and educational background from which he came. While biographies chronicle the lives of men in terms of their achievements, men are remembered by their colleagues and friends for their personal courage, their integrity, and their forthrightness.

Bill Ryan possessed all of these qualities in abundance. He was a leader in bringing issues before the people of his district and Nation long before they received notoriety in the press or became popular with the electorate. In one of his first acts as a Congressman, he called for the admission of mainland China to the United Nations. At a time when the nuclear arms race was spiraling to new heights, he voiced opposition to unrestricted military spending. And long before the war in Vietnam was criticized by many Americans as an immoral venture, he spoke out against the continued American presence in Southeast Asia.

Even those who disagreed with his political philosophy will agree that he demonstrated the courage of his convictions over and over again on the floor of this House. Whether it was lead-based paint poisoning or low-income housing, Bill Ryan dedicated himself to the legislative task with the full measure of human energy. In every respect, he represented the 20th Congressional District of New York.

Outstanding men are seldom passive in their outlook or their approach. Bill Ryan was, as he termed it himself, an activist. Perhaps the greatest tribute which he received during his lifetime was the overwhelming support which he received from his constituency in his last primary. He was admired and respected by the people who elected him because he consistently and tirelessly brought their views to the fore in Congress.

With the passing of Bill Ryan from the Congress, a force for equality and justice in American life is gone. Through his role as a member of the Judiciary Committee, Bill Ryan was a champion in the movement to obtain greater civil and human rights for all Americans. But to those of us in this Chamber who knew and admired him, and those for whom he waged so many battles Bill Ryan will continue to represent the values of courage and decency by which he lived his family life and public life.

Mrs. O'Neill and the entire O'Neill family join me in expressing sorrow and grief at the loss of William F. Ryan; we extend our heartfelt sympathies to his family and close friends.

Mr. BARRETT. Mr. Speaker, it is with a great deal of sorrow that I rise to eulogize my late friend and colleague, the distinguished gentleman from New York, William Fitts Ryan. I can only say the House of Representatives has lost its most dynamic and determined Member. His unflagging spirit and dedication to the cause of justice made him one of the most outstanding Members that I have had the privilege to serve with during my 28 years in Congress.

Many Members have already spoken of Bill Ryan in terms far more eloquent than I can make today. I believe my distinguished chairman of the Committee on Banking and Currency (Mr. PATMAN) in his statement, best summarized what Bill Ryan was to us:

> The passing of William Ryan has deprived the world of what it needs most. An antidote for hate; he had wisdom to understand, imagination to create, and energy to bring about a world of justice, peace, honor, and mercy. This is the world in which he himself lived and sought to bestow upon mankind.

All of us could see during the past 2 years the ravages that his illness wrought upon him, yet, as we all know, it did little to stop him. His voting record remained as it always was, one of the best in the House. Even during his recent primary campaign, he was always here to vote and to participate in the House proceedings. He was, for me, in many ways the conscience of the House. He spoke out of true feeling to attain peace and justice for all.

Bill Ryan was ahead of his times when he first arrived here in the House in the early 1960's. I have often said that it is unfortunate that many of us did not listen to him more in those days. He was the first Member of this body to raise objections against the disastrous war in Vietnam. It was Bill Ryan who brought to the attention of the Congress, the serious problem of lead-paint disease among young children. It was his drive and determination that moved the Lead-Based Paint Poisoning Prevention Act through the Congress. I worked with him very closely on this piece of important legislation. He saw to it that it was enacted, and as my distinguished colleague of Pennsylvania (Mr. FLOOD) will attest, it was he who saw to it that it was funded.

I have worked closely with Bill Ryan on every piece of housing legislation that this House has considered since Bill arrived in 1961. I think that few Members of the House know as much about our housing problems and our Federal housing and urban development programs than did Bill Ryan. He always testified before our Housing Subcommittee when it was considering legislation and always presented voluminous, well-researched, and constructive proposals to the committee. His interest did not stop at just testifying. He was always there to see that the committee was considering his proposals and always there to offer his support to us at every opportunity. I believe that what made him so loved and respected in this House was his good will, his good spirit, and his respect for other Members. You could disagree with Bill Ryan violently, but you always loved him.

This House has lost its most respected Member. I extend my sincere sympathy to his wonderful family and to his constituents in the 20th Congressional District in New York City.

Mr. ADDABBO. Mr. Speaker, the death of our colleague, the Honorable William F. Ryan, is one which will be felt by this chamber for many years. Few men pass through this House with the notice and impact of a Bill Ryan and millions of Americans have now lost a dedicated and energetic spokesman.

I knew Bill Ryan well and working with him over the past 12 years was an experience filled with surprises and drama. This was a man who thought only of the people he represented—the people of his congressional district and the people all across America who were unrepresented. He was a man with a mission and the mission was to bring a better life to those less fortunate than himself. That mission was far more important to him than any rules or standards of conduct accepted by the established order in Washington, including the Congress. When he believed something needed to be said, Bill Ryan said it regardless of the political consequences.

His career was a most illustrious one. Bill Ryan was talking about the dangers of pollution and the need for environmental standards 12 years ago. He was proposing automobile emission control legislation when few people in this country had devoted a moment's thought to the subject. He was always ahead of his time on the issues and, therefore, a controversial figure, but the record he compiled will live on as a monument to his efforts.

Bill Ryan was a tireless worker as he strived to change the prevailing opinions of this Chamber on many issues—the war, the environment, and human rights, housing, mass transportation and the Nation's underprivileged to name a few. His dedication and hard work won over the admiration and respect of many Members of Congress and the National Government who otherwise might have looked with disapproval on his proposals for a better society.

During the past few years, steady process of increasing respect and admiration for the man reached its peak as Bill Ryan fought out against the illness which finally took him from us. The knowledge that he would not be with us long brought about a most heroic effort to do more for the disadvantaged and compile an even more comely record of achievement as a U.S. Representative. Bill Ryan worked harder than ever before. He fought and won a reelection campaign by winning the hearts and minds of his constituents. He returned to the House this summer as a winner, proud of his victory yet ready to work harder for his supporters.

Now he has been taken from us and as we pay tribute to him today in the House, we recall the many times he addressed us and we will miss the challenge he never failed to place before us. I join in extending my personal sympathies to his family and many friends.

Mr. MIKVA. Mr. Speaker, there are many ways that we can pay tribute to Congressman William F. Ryan. We could talk about his background, about his effectiveness as a legislator, or about the work he did for his district, the 20th District of New York. But if we stopped there, we would not be doing his memory justice, because Bill Ryan will be remembered most of all for his ideas. He was a Member of the House of Representatives for 12 years, and in each of those years, he was out in front—ahead of his colleagues, ahead of his district, ahead of his time.

One of the first things he did when he came to Congress was to vote to cut off funds for the House Un-American Activities Committee. He was only one of a handful then, but partially because of his persistence and determination, that handful grew to more than a 150 on a similar vote this year. In 1961, he was scorned for advocating the recognition of the Peoples' Republic of China. It was another one of those "radical" ideas that Bill Ryan was pushing, people said then, but in 1972 it does not seem radical at all. In 1963 he took the floor of the House to speak out against the war in Southeast Asia. More than a few people scoffed at his pleas to end the war. That was in the first year of the American war in Southeast Asia. Now, we are in the 10th year of that awful war, and no one doubts that Bill Ryan was right, right in 1963, and right up to the week of his death in 1972.

Consumer protection, medical care for the poor, government reform—these were only some of the "radical" areas where Congressman Ryan led the way. History remembers people for their ideas.

Bill Ryan's ideas have insured him of a special niche in this country's annals. We who knew him are the better for his ideas, and generations ahead will benefit even more.

Bill Ryan was an enemy of the status quo. He saw progress as the stuff of government, and it is for that leadership that the country will miss him most. And so will those of us who had the privilege to be his friends.

Mr. OBEY. Mr. Speaker, I would like to join in paying tribute to one of the most decent men I have ever known.

A year ago I was asked what I thought of Bill Ryan and this is what I said:

> Without a doubt the single most obvious quality about Bill is his obvious outrage about injustice. It is easy in the atmosphere of the House to become bland and faceless, but Bill Ryan has never succumbed.
>
> Whether it is Vietnam or poverty or an under-funded program to protect ghetto children against the dangers of lead based paint, Bill's deep feelings for justice and humaneness show through. When Bill takes a position on the floor no one ever has to wonder what his political angle is. The simple fact is that he has none. Bill does what he thinks is right and what he thinks is needed and he does it with a deep sense of caring which ought to shame everyone who has taken the easy path by saying that the system is impossible to move.

Anyone who cares about the promise of America and the integrity of its political system must feel a great sense of loss that Bill Ryan will not be there with us caring and fighting as he has done for so many years. I know I do.

Mr. CAREY of New York. Mr. Speaker, in the death of William Fitts Ryan, New York City has lost a Congressman of courage and the House has lost a distinguished legislator.

Seeking words which I believe would best befit his character, his ability, his courage, and his compassion, I would choose these: William Fitts Ryan was a foremost American, a foremost man. When he had to stand alone, he stood alone. When his voice was crying out and giving from the heart, to speak to the principles in which he believed—principles of peace, of justice, of dignity—it did not matter to Bill Ryan that his was the only voice that spoke; it mattered that the message was sincere and that the issue had to be raised.

Bill Ryan came to this Congress as well prepared as any man who ever entered this Chamber. My colleague from New York (Mr. PIKE) has related to his career of academic distinction.

In the law, as he learned to love the law, Bill Ryan had served with great promise in what some have called the finest law office for justice in our country, the district attorney's office of New York County under District Attorney Frank Hogan. In that office I have learned from many of his colleagues who served with him that he was outstanding, that his knowledge and ability were surpassing.

Hence he came here prepared to know the law, to write the law, and to improve the law for all people.

I do not believe it needs to be stated over and over again that he was a foremost man, because before most of us—in fact, before any of us—he began with one voice to try to teach the people of this country what he believed to be the error of our ways. Whether it be in the organization of our political system, so that more could benefit from that system, he was before most of us. Whether it be on the need for peace—true generation of peace, if you will, a lasting peace—he saw that nonviolence was the road we had to travel. He was, foremost, before most of us.

We worked together in many campaigns in New York City, in New York State, and for this country, and Bill was always on the winning side, no matter how the votes were counted.

I believe we all know now his support of John Kennedy and Robert Kennedy—and he was an early supporter of both—proves he was on the winning side, no matter what was the result of the vote as it was counted.

He was on the winning side, the side that must and will win, on the great issues of our times—on the need for more equality in housing, the need for decent standards in employment, and the application of nondiscrimination to government policies. That became the winning side. It is the law today.

Bill was among the first to raise that issue, before most of us—before any of us, in terms of the amendment he sponsored.

He was unflagging in his determination to seek justice, to see justice triumph through the halls of Congress.

It is quite correct that he had to labor hard to get to a place where he could be effective, but in the Judiciary Committee it is well known that he earned his place in that committee and contributed greatly to the great record of that committee in these later years.

There may be a memorial which we can raise to Bill Ryan. He dedicated his years lately to the Committee on Interior and Insular Affairs, where I served with him, to the hopes that the people of his great city; in fact, the people of our great country who live around the eastern seacoast could participate in great recreational opportunities through the Gateway National Seashore. That is the Ryan bill, and I hope we can expedite consideration of that bill. I recall that on a previous occasion when we lost Representative Clem Miller of California, we provided that when the Point Reyes National Seashore was created, we made appropriate recommendations that it would in some way serve as a memorial to Representative Miller of California. I would hope that in the same way with Gateway that we could do something about it in memory of Bill Ryan. But, no memorial, monument, nothing that we could create here is really going to carry to the children of Bill and Priscilla Ryan—in fact, to all of the children, young people, the elderly, the people of America, the people of New York City, the people of all worlds, the true measure of Bill Ryan. That remains yet to be written. It will be written when all of our people know peace, know justice, eliminate discrimination and fully participate in the dream of America.

Bill died in pursuit of that dream; he did not lose it. Bill Ryan in a real way did not lose his life; he won his most recent battles. The record will show he has won most of his battles for justice even when he was a lonely voice raised in his behalf. I say, he did not lose his life; he gave it away. He gave it to the people of the United States of America. It is ours to honor, to cherish and to remember for the love of God and His peace and His justice and His mercy.

To the Ryan family, Bill's parents, Priscilla, and the children, Helen and I and our family extend our admiration and our sympathy.

Mr. BOGGS. Mr. Speaker, we were saddened last week to learn of the passing of our friend and colleague, Congressman William Fitts Ryan. All of us who knew him admired Congressman

Ryan for his keen intelligence and strong dedication to his beliefs, but most of all for his remarkable courage and stamina in the face of declining health.

Recently I received a copy of a letter sent by Congressman Ryan's constituents to his widow. Because this letter sums up the affection and admiration they felt for this man, I am inserting it, at their request, in the RECORD and calling it to the attention of my colleagues:

> THE COMMUNITY LEAGUE
> OF WEST 159TH STREET, INC.,
> *New York, N.Y., September 19, 1972.*
>
> Mrs. WILLIAM FITTS RYAN,
> *New York, N.Y.*,
>
> DEAR MRS. RYAN: We mourn the loss of our beloved Congressman, William Fitts Ryan because:
>
> He set a standard and kept it high. He found his task and tried very hard to do it. He lent a hand wherever he could. He stuck to the fight (whatever capacity), when he was hardest hit—for he felt it was no time to quit. He gave us inspiration in our struggles throughout the years.
>
> "We do believe that there is no unbelief whoever plants a seed beneath the sod and waits to see it push away the clod—He trusts in God".
>
> For the length of time when he has been a Congressman, whenever we needed his guidance and assistance, help was always provided.
>
> It was in 1962 when we discussed our community drug problem with him. We continued to bring these problems to his attention, i.e. housing problems, the recognition of this area in need of Antipoverty funds. In 1965 when he placed on a city-wide slate his selection as a running mate, Dr. Ann Arnold Hedgman, the first time in New York political history, an Afro American woman, or any woman a selection was made.
>
> His keen sense of humanity which we observed, bringing to the Congress, the area of human needs which only he felt and was brave and courageous enough to bring to the attention of the House of Representatives. He had a sense of feeling for the ordinary and the poor. There were many other such demonstrations of his courage, his conviction, his depth of concern for humanity regardless of race, color or creed.
>
> For these many deeds, we mourn, and we can never forget the epitome of greatness which we had the privilege of experiencing by knowing and working with this hero.
>
> Respectfully yours,
> BETTY CHILDS,
> *President.*

GENERAL LEAVE

Mr. DENHOLM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks and to include therein extraneous matter on the special order given today by the gentleman from New York (Mr. CELLER) on the late Honorable William Fitts Ryan.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

FDA PERMITS CONTAMINATED FOOD TO BE SOLD TO PUBLIC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ASPIN) is recognized for 10 minutes.

Mr. ASPIN. Mr. Speaker, I have learned that 31 percent of the suspected contaminated foods and drugs ordered to be seized by the Food and Drug Administration in 91 cases during fiscal year 1971 was instead sold to the public. These foods and drugs are being sold to the public because both FDA and the Justice Department are simply too slow in seizing defective and potentially dangerous products.

Flour stored in an area infested with rats, ineffective thyroid capsules, and noodles manufactured in unsanitary conditions were apparently sold to the public despite an FDA seizure rule.

In 18 percent of the cases less than 10 percent of the dangerous product was actually removed from the shelves, according to a recent General Accounting Office report.

The Food and Drug Administration clearly lacks the authority which it sorely needs to detain a suspected defective product. Under current law, the FDA must seek a court injunction in order to seize a product which is suspected or known to be defective, but cannot detain a suspected defective product.

In addition, I am aware, Mr. Speaker, that many firms do not cooperate with the FDA and refuse to provide them with data about their food products. More than 3,300 firms have refused to cooperate with FDA inspectors by providing them with information about expected contaminated products. Between 1969 and 1971, 3,300 firms refused requests from FDA inspectors on over 10,000 occasions. Some of these firms are guilty of covering up the fact that they are foisting defective goods upon an unsuspecting public.

In its report, the General Accounting Office concludes:

> FDA's lack of detention authority—coupled with slowness of seizure actions—seriously hampers consumer protection . . . FDA is unable to prevent substantive quantities of products suspected or known to be violative (i.e. defective) from being sold to and consumed by the public.

Mr. Speaker, this situation must be corrected and it is now up to the Congress to give FDA needed authority. Legislation has been introduced in the House that would give FDA total access to records and the ability on its own authority to detain suspected contaminated foods.

Mr. Speaker, in its report the GAO does not identify specific firms which have committed what are, quite frankly, horrendous acts of deception by selling contaminated food and drugs to the public. I have asked the GAO to release a list of the names of the firms involved. The public has a right to know who has been peddling contaminated goods.

ON THE CAPITOL IMPROVEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. SCHWENGEL) is recognized for 10 minutes.

Mr. SCHWENGEL. Mr. Speaker, the Capitol of the United States is the best-loved and most revered building in America. Nathaniel Hawthorne on a visit to Washington, D.C., in 1862, stated that its combination of dignity, harmony, and utility made it a fit embodiment of the highest traits of the Republic. I think that is a noncontroversial view shared by all Members. Not in 1862, or even in 1972, was the Capitol in all respects a completed edifice, but rather an idealization, a forecast, of what it was to become.

As president of the U.S. Capitol Historical Society I am perhaps more aware than some Members of the esthetic crimes committed in our building—its need for restoration, replacement, decoration, and maintenance.

As president of the U.S. Capitol Historical Society I have attempted in concert with the leaders of the Congress, its officers, and outside experts and supporters, to contribute to the proper treatment of America's most important shrine, the latest through a gift from the U.S. Capitol Historical Society of $80,000 for art work in the Capitol. The Capitol is the workshop of the world's most important legislative body and deserves the kind of appropriate artistry that the recent improvement reflects.

Hence, I have serious reservations about some criticisms, limited though they have been, of the improvements, in the Speakers lobby area.

Mr. Speaker, I have personally inspected the rooms and give the Speaker the highest commendation upon having authorized with the support and approval of the minority leader, and officers of the Congress, staff and outside professionals, the changes which have enhanced the beauty of these historic areas and made them more functional. One has only to look at the costly, beautifully decorated ceilings painted by great artists 150 years ago to recognize that these rooms deserve preservation and decoration in keeping with their elegance and value.

From a historical point of view I am convinced that this project will serve well both the Members and posterity. I am supported in that position, by Mr. John Pearce, a noted art historian who has restored such shrines as Decatur House Winterthur, worked on the Williamsburg restorations, and many others of comparable importance. He is a former associate curator of cultural history of the Smithsonian Institution, and former curator of historic properties of the National Trust for Historic Preservation. Mr. Pearce recently visited the lobby as a part of his continuing study of our historic buildings for his classes, lectures, and articles. He praised the careful refurbishing of these areas in a manner consonant with both the historic decoration and the present uses of the areas.

Mr. Pearce points out:

> Though we preservationists have quite rightly very strongly criticized some action taken with regard to the Capitol in the past, we have also recognized the generally excellent care rendered the building and its decorations. In the case of the lobby, for instance, great care has been taken to preserve the painted and tile work decorations original to the area, as well as the woodcarving of the remodeling of 1901. The old and worn furnishings which could not be used have, however, been stored for preservation. Where any items have been needed, as with the furnishings and movable decorations, care and taste have also been exercised so that the furnishings reflect the 18th and 19th century

> history of the institution and at the same time provide the needed setting for the areas of legislative work. The window draperies are of the finest restoration quality available, appropriate to the building and to this very important area and their general shape follows what is known of early draperies for the building.
>
> The original color is not documented so far as I know, but I find the present color and fabric sheen highly appropriate to the old decorations. The very handsome carpet, though not based on a precise historical example, is the finest example I know of a modern decoration completely in harmony with its old setting, drawing its color and pattern from the old tiles of the rooms which originally stood separately from the hall and are now connected to it.

I also include in my remarks the statement of the distinguished Architect of the Capitol, Mr. George White, whose architectural skills and esthetic taste are well recognized:

> The Speaker's lobby and reading room was last decorated about 1901. Historical research reveals that the motif was generated by a policy of acquiring pieces which would accommodate members of all sizes and weights.

No consideration was given to coordination of styles of furnishings, materials, colors, scale, and architecture of the rooms themselves.

Seventy years later, in October 1971, studies were begun with the view of complementing the arched, frescoed, and gilded ceilings, expensive at the time they were executed and priceless today, and the Minton tiles, also heirlooms of rare beauty and value, impossible of duplication or replacement. The need to preserve and beautify, while important, was not the sole incentive for redecorating. More functional furnishings and orderly maintenance were major factors in the considerations of the informal group composed of the Speaker, the minority leader, the Architect, the Parliamentarian, and the Clerk, who reviewed proposals of in-House staff and commercial designers.

The classic Federal concept, eventually agreed upon—18th-19th-century Georgian—reflects the 1850 period when the House wing of the Capitol was originally constructed, and this choice eliminates the massiveness which previously dominated areas extremely long—100 feet in length for both the lobby and the reading room—once three rooms—and relatively narrow—18th- and 19th-century English Chippendale and Queen Anne Georgian ball-and-claw, replaced oversized furniture and wall-mounted hatracks; console tables now provide useable surfaces and are modified copies of a piece now in the Philadelphia Museum.

The 100-foot-long wool rug repeats with unusual accuracy, considering the difficulty of achieving the same color in different materials—and that more than 100 years later—the famous Minton tile floor in the reading room. It contains elements of Kerman and Savonnierie, also borrowing certain of the patterns in the draperies. The medallions placed under the three matching chandeliers accent them and give balance to the room.

Of great functional value to the Members, are the free standing cabinets which house the newspapers, teletypes, and housekeeping equipment, which were designed by one of the foremost cabinetmakers and were constructed and installed by the Clerk's property supply chief's staff as an "in-House" project.

The House has been served appropriately; the heritage of this great body has been preserved. The millions of Americans and foreign vistors who visit the Capitol will see that we have made another step toward satisfying the inspiration which prompted Nathaniel Hawthorne to write many years ago that the Capitol expresses the majesty of our democracy, the spirit of America within and without.

NORTH VIETNAM AND TERRORISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 15 minutes.

Mr. KEMP. Mr. Speaker, for those Americans who are not altogether certain of the mentality, the humanity, or the ideology of the North Vietnamese, let me bring to your attention some of the recent and illuminating comments by North Vietnamese newspapers regarding Arab terrorism.

Nhan Dan, the biggest Hanoi paper, said on September 19:

> The peoples of the Arab countries and the entire peace and justice-loving human race have realized that they must unite in support of the Palestinian people's struggle . . . Public opinion in the world, and the very acts of aggression in the Middle East, have smashed the allegations of the U.S. and the Israeli pirates, who are using the bloody event in Munich to make black white and to sling mud at the just resistance of the Palestinian people. The US—Israeli aggressors are guilty of sabotage of peace. They have caused all the suffering of the nations in the Middle East. They are terrorists. As such, they must be condemned by the whole mankind.

And on September 12, the same paper alluded to the United States-Israeli plot behind the bloody event in Munich:

> At the present international juncture, the recent bloody incident in Munich is eloquent proof of the cruelty and perfidy of the US and Israeli aggressors. The aggressors have availed themselves of the deaths of eleven Israelis, which they deliberately allowed to happen, to massacre hundreds of Arabs whose fatherland has been annexed by the Israelis.

Any reasonable man, any human being with even a passing commitment to civility or the sanctity of human life cannot help but be struck by the callousness, the maliciousness, and the patent condemnation of innocent human suffering by the North Vietnamese. Such ideological fortitude, or commitment, or whatever, simply cannot be overlooked in the context of the struggle of the South Vietnamese people against the North Vietnamese invaders. With an appreciation for the North Vietnamese commitment, not only to Palestinian liberation, but also to worldwide terrorist tactics, one can better understand why the U.S. Government weighs, assesses, and deliberates on North Vietnamese peace overtures with such skepticism.

In the nine-point North Vietnamese peace proposal made this year, point three demands that the United States should stop supporting Thieu/Ky/Khiem so that there may be set up in Saigon a new administration standing for "peace, independence, neutrality, and democracy." To accept such statements in the context of Western or Occidental thought, in light of the North Vietnamese unequivocal support of Arab terrorism would be the height of folly. To submit to a regime which is in the vanguard of world revolution and terrorism, as has been suggested by some in this country, alarms me greatly, as it should alarm any American who values human life and freedom.

Rowland Evans and Robert Novak broached this precise issue in this morning's Washington Post. I commend it; why such commentaries have not appeared with more frequency in the Nation's press is truly perplexing.

NORTH VIETNAM'S ARAB LINE

(By Rowland Evans and Robert Novak)

> Even Hanoi-watchers accustomed to rigid militancy by the North Vietnamese Politburo were stunned last week by its fervent support of Arab terrorism in Munich—ominously revealing the mentality of the men in charge at Hanoi.
>
> One week after Munich, North Vietnam fired a propaganda barrage endorsing the guerrillas' attack on the Olympic Village not equalled outside the Arab world—certainly not in Moscow and Peking. Referring to the Arab assassins as "Palestinian patriots," Hanoi accused Israel and the United States of plotting the Munich massacre to justify retalliation against Arab guerrilla camps.
>
> What makes this so surprising is the possible threat it poses to Hanoi's campaign to influence liberal opinion in the United States and Western Europe against present U.S. policy on Vietnam. Those same liberals, incensed by the terrorist invasion of Olympic Village, could be alienated by North Vietnam's embrace of the Arabs.
>
> In fact, this embrace until now has received no attention in the West. But Hanoi could scarcely have counted on that. Some Hanoi-watchers doubt the North Vietnamese Politburo even contemplated an adverse Western reaction to its pro-Arab propaganda.
>
> Rather, careful students of Hanoi believe its revolutionary ideology is so inflexible that it felt impelled to applaud Arab terrorism no matter what the cost. Such dogmatism supports those pessimists in official Washington who doubt Hanoi will ever settle the war on anything less than its own terms.
>
> The North Vietnamese reaction to the Sept. 5 Munich massacre came Sept. 12 when Israel and West Germany were accused of choosing the "path of hatred and betrayal" by Nhan Dan, the Hanoi party daily. "The recent bloody incident in Munich is eloquent proof of the cruelty and perfidy of the U.S. and Israeli aggressors and the dark design of the Nixon administration and company to wreck peace under the extremely hpyocritical label of humanity and peace," the newspaper continued.
>
> Charging that the U.S. and Israel "deliberately allowed" the murder of Israeli Olympians as a pretext for reprisals, Nhan Dan added: "They planned to whip up a chauvinistic hysteria in Israel and create a false protest movement within the so-called 'civilized world' to vilify the just struggle of the Palestinian people and to threaten and split the Arab countries."
>
> The line was echoed Sept. 13 by the North Vietnamese army newspaper: "Those schemes and act of the aggressors can stamp out the Palestinian resistance movement or break the Arab peoples' will to fight for their fundamental rights."
>
> This unequivocal support for Arab terrorism contrasts sharply with the public dis-

avowal by Moscow and Peking of the Olympic Village raid. "We have never been in favor of such adventurous acts of terrorism," Chinese Ambassador Huang Hua told the United Nations.

But to be in the vanguard of world revolution, the Hanoi Politburo is rigidly allied with the Palestinian guerrillas—an alliance that began in early 1970 when Palestinian guerrilla leader of the Al Fatah was lionized on a visit to Hanoi.

Since then, Hanoi has been insistently anti-Israeli, denouncing Mideast peacemaking efforts and cease fire proposals. Adamantly, against any internationally supervised Vietnam ceasefire, North Vietnam wants no such precedent in the Middle East.

The long love affair between North Vietnamese and Arab revolutionaries has been ignored by Hanoi's apologists in the West many of whom support Israel. But Hanoi's embrace of the Munich terrorists makes this position increasingly less tenable.

Thus, addressing Jewish rabbis Sept. 6 in Los Angeles, Sen. George McGovern compared Arab terrorists in Munich to U.S. bombing of North Vietnam. Visibly aroused, one indignant rabbi asked McGovern how he could possibly compare American air officers with Arab fanatics. McGovern immediately temporized, but the conflict was obvious. Hanoi's newest embrace of Arab terrorism does not make it easier.

NARCOTICS ABUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HALPERN) is recognized for 10 minutes.

Mr. HALPERN. Mr. Speaker, the horrors of narcotics abuse do not respect national boundaries. The world community has become increasingly aware, over the past 5 years, of the danger which opium trafficking presents to Asians, Europeans, and the Americans alike.

I would like to call the attention of my colleagues to certain developments which took place subsequent to the publication by the Foreign Affairs Committee of my study mission report entitled "The International Narcotics Trade and Its Relation to the United States."

The following two items, which were revealed to me through reliable sources, deal respectively with the production and processing of Turkish opium and with a suspected participant in the illicit heroin traffic which makes its way from Marseilles to the streets of the United States by way of South and Central America.

Joseph Marcel Lambert Sauveur, known by nickname "Jeff," is suspected of being a central figure in the Europe-South America dope traffic which is supplying, to a rapidly increasing extent, the habits of America's half-million addicts. Sauveur, born March 20, 1915, in Tilleur, Belgium, now maintains Venezuelan citizenship. He has been involved in the illicit heroin trade since 1943 and his name appears in the case records of Interpol. Sauveur has been suspected of smuggling morphine base—the chief ingredient used in the processing of heroin—from Europe to Buenos Aires—on one occasion secreting in over 50 pounds. His associate and paramour is Hinda Zeligmann, of Metz, France. Jacques Discepolo, Jacques Vincendon, and Armand Attan are three of Sauveur's confederates.

Until this year Sauveur resided in Venezuela but has recently moved back to Belgium. He reportedly frequents the Vesuvio restaurant at Cannes, France. The Vesuvio is owned by the notorious Guerini family and has long been under surveillance as a meeting place for black market agents.

The additional information that I wish to call to the attention of my colleagues concerns certain recent developments in Turkey.

After several months of silence on the issue, prominent Turkish politicians have resumed criticism of the upcoming ban on poppy cultivation, which was agreed upon last June 30 as a way to prevent tons of Turkish-grown opium from making its way, in the form of heroin, to America's half-million addict population. Our State Department agreed at the time to furnish Turkey with $35,000,000 in additional aid to compensate for foreign exchange losses and to finance a farmer-subsidy program. The most important development to date has been the recent introduction of legislation sponsored by 112 Justice Party Senators and Deputies which would permit the resumption of poppy cultivation.

The bill would forbid farmers from incising poppy pods or otherwise extracting opium gum. Instead, the whole poppy plant would be harvested and then turned over to government collection centers. From there, they would be sent to government factories where opium would be removed from the unincised pods and foliage. There is serious doubt, however, as to whether such a policy would succeed in reducing the illicit traffic in Turkish-produced opium.

Prime Minister Melen, on the other hand, seems determined to implement the ban, although he is not alining himself as closely with that policy as had Prime Minister Erim, who resigned on April 15 of this year.

In order to keep as much opium as possible off the illicit market, the Turkish Government on May 29 announced another price increase for opium, the last increase having taken place in November 1971. Prices on both the licit and illict market have risen significantly. As result of the newest price increase, grade A opium having a 13-percent morphine content will be sold to the Government for 220 Turkish lira—TL—instead of the 170 TL paid last year—15 TL=$1. Grade B opium—11 to 12 percent morphine—will bring 200 TL rather than the former 150 TL per kilogram. As was in effect last year, an extra 15 TL per kilogram will be paid for opium gum of either grade which is clean, has bright color, and good odor.

The opium price on the illicit market was 250 to 350 TL per kilogram before the first Government price increase in 1971. In November 1971, following the price hike, illicit opium sold for 500 to 600 TL. A few days before the latest Government increase, villagers estimated the illicit price this year would be well over 1,000 TL per kilogram. Future prices will depend on the amounts of opium stockpiled by villagers over the past several years.

In 1971, a government licensing law for poppy farmers was adopted. The farmer must now state how much opium he expects to produce and the amount of acreage to be used before he can get government authorization to plant his crop. Before the recent licensing law went into effect, villagers did not have to report the number of acres planted. They claim they were able to reserve 500 kilos to 3 tons of illegal raw opium for each ton of legal opium sold to the government. Now, much less can be saved, but they still plan to underestimate the amount of legal production in order to preserve a nest-egg of black market opium.

For years now, smugglers have utilized small pickup trucks or station wagons painted to look like commercial vehicles carrying biscuits, detergents, or ladies' stockings. The smugglers contact their village representative at a local coffeehouse and the word is spread around that the smuggler is available at some nearby location. Sales are almost always consummated outside the village, usually between the end of October and the end of November.

Since this may be the final year of legal production, villagers are very alert to the possibility of being paid in counterfeit money by the smugglers. This is due to the fact that Turkish villagers have traditionally padded their illicit opium with 500 to 750 grams of raisin or plum pulp per 2 kilos of gum. Now may be the time for the smugglers to recoup their losses.

While the authorities have been aware of certain production and smuggling operations in Turkey, a number of processing labs have only recently come to light. Turkish centers for refining illicit raw opium into morphine base have been located in four places: Suhut Village in Afyon Province, Salihli in Manisa Provence, Denizli, and Izmir.

The processing in Suhut is done by villagers on a small scale, while large labs exist in the other three cities which are served by good roads, and are in close proximity to coastal harbors.

In Izmir, the processing actually occurs in the dozens of towns surrounding the port city. The processing plants are set up and operated by slum dwellers who have migrated to the outlying towns.

It is believed that there are no significant processing plants in Istanbul, although there are labs similar to those surrounding Izmir in the greater Istanbul area.

NAIROBI OR BUST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 30 minutes.

Mr. REUSS. Mr. Speaker, last week the Joint Economic Committee's Subcommittee on International Exchange and Payments, conducted hearings on two important current international monetary issues—first, the future role of gold in the international monetary system and, second, intervention by monetary authorities in exchange markets to support particular currencies. Often in the past such intervention has been made possible or facilitated by currency exchanges between central banks. These exchanges, usually referred to as "swaps," are really loans from a strong currency country to another whose money happens to be weak in exchange markets.

Our hearings did not survey the full range of issues that must be resolved before any comprehensive international monetary reform can be accepted. Instead, we were more interested in interim steps that can be taken during the next year or two to strengthen the ad hoc international monetary arrangements that were agreed upon at the Smithsonian Institution last December. We were concerned that the system we now have, despite its shortcomings, work satisfactorily during the period necessary to negotiate fundamental reforms.

We discovered that there are a number of interim measures that can be introduced now not only to help prevent a breakdown in international payment mechanisms during the period of negotiations, but also to help guide the talks toward the type of reform we feel is ultimately desirable.

We do not need to wait for next year's annual International Monetary Fund—IMF—meeting in Nairobi to begin the reform process. Things can be done now—particularly regarding the role of gold and the activities of central banks in exchange markets—that will help speed the reform and assure that member countries of the IMF successfully achieve a consensus.

CHANGING THE ROLE OF GOLD

The functions of gold in the international monetary system have been very substantially circumscribed since 1960. After a rush by foreign central banks to exchange dollars for gold in late 1960, the monetary authorities of seven major industrial countries formed the London Gold Pool the following year to help conserve existing monetary gold stocks. When private demand for gold in the London market was high, the Pool supplied enough of the metal to keep the price near the then $35 per ounce official level. When there was an ample supply of gold in the London market, the Pool purchased. This arrangement worked satisfactorily until early 1968, when private speculative demand for gold became almost insatiable and the members of the Pool were called upon to supply more gold than they were willing to relinquish. As the major participant in the pooling arrangement, these losses of gold reserves fell most heavily upon the United States.

In March 1968, therefore, the members of the Pool gathered in Washington and agreed to suspend operations. A two-tier gold market was established. In one market private purchasers and sellers meet and exchange gold at whatever price happens to be dictated by the convergence of supply and demand. In the other, official monetary institutions continued to exchange gold among themselves in balance-of-payments settlements at the official value of $35 per ounce. The United States continued to maintain the convertibility of foreign officially held dollars into gold. The Pool members also agreed not to buy gold directly from South Africa or on the free market and not to sell it to private parties.

Some European nations, however, wanted South African gold to continue entering the international monetary system. This position was opposed by the United States. After over a year and a half of wrangling about how the output of South African mines would be handled, a compromise was reached under which the International Monetary Fund agreed to buy gold from South Africa whenever the price fell below the $35 per ounce official level or whenever South Africa had a payments deficit. Under this agreement, the IMF purchased $640 million worth of South African gold in 1970 and $138 million worth last year. None, however, has been purchased by the Fund since August 1971.

For about the last year, South Africa's balance of payments has been strong, and gold prices in the free market have remained above the official level. Consequently, South Africa has not been able to meet the criterion for gold sales to the International Monetary Fund. Moreover, the amount of gold it has supplied to the private market has been reduced, since South Africa has not needed to sell its full output in order to meet payments to foreigners. Both the reduction in supply and increasing speculative demand have contributed to pushing the free market price to over $70 an ounce, or nearly double the official value of $38 per ounce. For a few weeks, the private market price of gold fluctuated between $65 amd $70 an ounce, but the price is now dropping.

The high private market price of gold has tended to strain the monetary arrangements devised at the Smithsonian. Soaring gold prices place the exchange value of the dollar under suspicion. Moreover, the high private market price of gold has made official monetary institutions reluctant to use the metal in settling balance-of-payments deficits. Because the value of special drawing rights is also defined in gold, a similar reluctance to use SDR's has emerged. While the proportion of gold in total international monetary reserves has declined from 70 percent in 1950 to 50 percent in 1970, and now stands at below 30 percent, it is not a healthy development to have a significant portion of the world's monetary reserve assets immobilized.

Before August 15, 1971, when the United States continued to maintain convertibility into gold of foreign officially held dollars, it made sense to prohibit central banks from selling gold in the private market. Otherwise, these institutions would have been able to obtain gold from the United States at $35 per ounce and then sell it at a higher price to private purchasers, thus causing an undue drain on U.S. monetary gold. Now, however, the rationale for prohibiting sales of gold in the private market by the monetary authorities no longer exists.

The time has come for the United States to assert its leadership in promoting international monetary reform. We have undertaken some helpful actions in the past few months, such as participating in cooperative arrangements to help the British obtain the currencies they needed to repay their IMF debts. The resumption of limited intervention in exchange markets was a similarly constructive step. But a more forthright initiative on the part of the United States is now called for.

The United States should urge the International Monetary Fund, at its annual meeting here next week, immediate modification of the March 1968 two-tier agreement to permit sales of gold by central banks and the IMF in the free market. The March 1968 agreement is embodied only in a communique issued by the representatives of the former gold pool countries. Approval of a resolution by the IMF Governors would be more than sufficient to alter the terms of the earlier agreement.

Sales of gold in the free market by the International Monetary Fund or by central banks at their own volition would have a number of beneficial effects.

First, such sales would reduce the free market price and therefore help ease the apprehensions that currently exist about the viability of the Smithsonian monetary arrangements. In addition, a lower free market price would make monetary authorities less reluctant to use their remaining gold reserves and their SDR's in international settlements.

Second, sales by central banks—without purchases—would decrease the global stock of monetary gold reserves. A gradual decline in the stock of gold reserves is consistent with and would help advance the long-run U.S. objective of phasing gold out as a monetary reserve asset.

Third, official sales would demonstrate that gold has no immutable intrinsic value. The private price of gold is based on a limited number of transactions in an extremely thin market. This market is protected by the umbrella of the March 1968 two-tier agreement and the December 1969 IMF-South African accord. From 1934 into the 1960's it was the United States which guaranteed the value of gold. More recently this duty has been shared cooperatively among several industrial nations. It is time, now that we have special drawing rights created by the IMF, to begin withdrawing the mantle of official protection over gold.

Fourth, as the largest official gold holder in the world, the United States would profit from a share of the sales in the private market. At the end of July, the United States had $10.5 billion worth of gold, Germany held $4.4 billion worth, France $3.8 billion, Switzerland $3.2 billion, Italy $3.1 billion, the Netherlands $2.1 billion, and Belgium $1.7 billion. All other nations, including Canada and Japan, held less than a billion dollars worth of gold.

In addition to advocating a resumption of official gold sales in the private market, the United States should serve notice that the United States will oppose any renewal of the 1969 agreement on IMF purchases of gold from South Africa. The agreement was for a 5-year duration; therefore, it has little more than 2 years to run.

An end to official gold purchases from South Africa is also consistent with the longrun objective of the United States to phase out gold as a monetary reserve medium. Ultimately, gold should become a commodity like any other. Its value should be determined by the economics of mining and refining it, on one hand, and by demand for industrial and artistic uses and for investment as a personal store of wealth, on the other. But neither the United States nor the International Monetary Fund should be saddled beyond the term of the existing agreement with the responsibility of guaranteeing South Africa's market for that country's chief export commodity.

Finally, the United States should indicate that in a reformed international monetary system, special drawing rights—SDR's—should be accepted for all transactions between the IMF and member countries that now require payment in gold. It is special drawing rights created by the International Monetary Fund and regulated in amount by its members that should become the primary reserve asset in a reformed international monetary system.

In the course of our hearings, we benefited from testimony by Prof. Jacques Rueff, a longstanding proponent of doubling the official monetary value of gold and of reinstituting the gold standard. He argued that increasing the price of gold would be the best way that the United States could repay its liquid dollar debt to foreigners. For example, if the price were doubled, the United States would enjoy a profit of over $10 billion, and other countries who now hold some $28 billion worth of gold would also enjoy a profit equivalent to the value of their current gold reserves. Professor Rueff suggested that other nations make a grant to the United States in the amount of the gold revaluation profit to retire existing liquid dollar assets now held by their central banks and treasuries. The gain on the $6 billion worth of gold held by the IMF and other multilateral monetary authorities would also be put to the same purpose. Thus, in proposing a reverse Marshall plan. Professor Rueff has generously offered to write off some $32 billion worth of outstanding U.S. obligations. In the future, according to his scheme, increased exchange rate flexibility would prevent the United States from once again falling into the position of chronic payments deficits.

While I agree that the United States certainly needs an increased capacity to alter dollar exchange rates in the future, I cannot accept the suggestion that the price of gold be doubled. To do so would re-enthrone gold as the primary international monetary reserve and insure that monetary relations among nations would in the future be subjected to strains just as severe as those we have experienced since the beginning of 1971.

Another witness, Dr. Edward M. Bernstein, testified that:

> There are people who believe that the monetary system will be inherently unstable as long as the monetary price of gold is below its price in the free market. They say that it is necessary to raise the monetary price of gold to $70 an ounce or more. In a world abundantly supplied with reserves, it would be reckless to add another $40 billion to present reserves by raising the price to $70 an ounce. Nor is there any reason to believe that this would end the speculation in gold. The higher monetary price would simply create a new floor for the free market. . . . Moreover, the fact that the monetary price of gold was raised to such an extent would create expectations of a still higher price in the future.

Fred Hirsch of Oxford University, another witness before the subcommittee took sharp issue with those who want to restore gold to its former position in the international monetary system. He argued that—

> The progressive decline in the monetary role of gold in the past 50 years has not been accidental. . . . As a managed reserve unit, SDRs are superior to gold. The use of SDRs is both more efficient and less costly in real terms than use of gold metal as the managed reserve money of the system. . . . A stable international reserve system must be built on a single prime reserve asset such as the SDR.

RESTRICTING INTERVENTION

The swap network among the central banks of the major industrial nations now embodies the potential for drawings of up to $11.7 billion. Although it is unlikely that this full amount could be borrowed at any one time, clearly there is considerable latitude for providing funds to bolster exchange rates that are under attack. The subcommittee's concern was to insure that the swap network would not be used to sustain an exchange rate that is untenable and especially that the network not be employed to prop up an overvalued exchange rate for the dollar. Our interest arose because currency swaps were used in this fashion during the period immediately preceding the introduction of the President's new economic policy last year.

On August 12 and 13, 1971, the Thursday and Friday before the President announced his new economic policy on Sunday evening, the Federal Reserve made drawings under the swap network of more than $2.2 billion. According to existing policy at that time, the Federal Reserve passively borrowed this amount in response to foreign central banks' desires to cover the exchange rate risk on the dollars that these institutions had purchased in exchange markets during the week of August 9 to 13. If the Federal Reserve had refused to participate in these swaps, then foreign monetary authorities would have presented the dollars they had accumulated for conversion into gold. In advance of a Presidential decision to close the gold window, the U.S. authorities had no practical alternative but to comply with foreign requests for U.S. swap drawings. Nevertheless, the swap network did permit and encourage foreign central banks to continue buying dollars in exchange markets when it was obvious that the dollar had become overvalued.

In his testimony before the subcommittee last week, Federal Reserve Board Chairman Arthur F. Burns indicated that the cost to the United States of exchange rate guarantees given under the swap network on dollars held by foreign monetary authorities would amount to approximately $160 million. Members of the subcommittee were concerned—especially in the light of the recent decision by the Treasury and the Federal Reserve to resume exchange market intervention and use of the swap network—that there be no repetition of the events of 1971.

When he appeared before us, Chairman Burns said:

> Swap drawings will not be made for the purpose of providing medium or longer term financing of the U.S. payments deficit. Nor will they be used as a substitute for needed adjustments in basic economic policy.

We received similar assurances from Under Secretary Volcker. He said:

> We have not embarked on any effort to artificially prop up the dollar counter to any basic balance-of-payments trends in the longer run.

He also indicated that U.S. participation in the swap network will be of a different sort than it was last year. He reported:

> The basic initiative will lie with the United States. Foreign exchange will be drawn not in a passive manner after intervention by other countries, but for use in the exchange markets by the U.S. in such amounts and at such amounts and at such times as we believe the market impact will be favorable and help curb unwarranted speculative forces. Thus, the United States maintains full control over the usage of the lines. Drawings would not be made or enlarged to deal with what would be fundamental misalignments in our payments position. In normal and foreseeable circumstances, repayment could be anticipated from a reversal of market flows.

I welcome this change in our own policies regarding the use of the central bank swap network, and regarding intervention in exchange markets to support the dollar. These modifications are consistent with the new determination of this country to protect its own interests in commerce with other nations. I have every confidence that the commitments offered by Under Secretary Volcker and Chairman Burns will be rigorously observed.

CONTINUING DISTRIBUTION OF SPECIAL DRAWING RIGHTS

The initial authority to distribute $9.4 billion of special drawing rights over a 3-year period has now been exhausted. The long-run objective of U.S. international monetary policy should be the establishment of a system having SDR's as the chief reserve medium. For this reason, it is important that the special drawing rights facility not fall into disuse. The IMF Governors at their forthcoming meeting should therefore agree upon an acceptable rate of distribution, perhaps for the remaining 2 years of the first 5-year basic period referred to in the SDR amendment to the IMF article.

The Governors should also devise a mechanism for increasing the amount of special drawing rights that will be made available to developing countries. An explicit link between reserve creation and increased financial assistance to the developing world will be essential to the adoption of any monetary reform package. The sooner this requirement is recognized and acted upon the better—not only from the point of view of the countries who need the funds so that their economies can grow, but also from the point of view of securing prompt agreement on monetary reform.

ON TO NAIROBI

If the United States recommends to the IMF Governors next week that, first, monetary authorities be permitted to sell—but not purchase—gold in the private market, second, the Fund agreement to purchase gold from South Africa not be renewed, and third, distribution of SDR's be continued, we will have taken a major step toward reforming the international monetary system.

Under Secretary Volcker in his testimony expressed the hope that basic agreement could be achieved by the time of the next year's meeting in Nairobi. This should be the objective for the Group of Twenty when they sit down next week to open their discussions. I hope that the governments of all IMF member countries will accept this goal, and urge their negotiators to do everything possible to achieve it.

The essential first task for the 20 negotiators is to agree upon a mechanism for assuring more prompt and more gradual exchange rate adjustment in the future. As rates of inflation and productivity growth differ among countries, the Smithsonian exchange rates will become outdated. If a mechanism is agreed upon, it can be implemented before the process of ratifying a new IMF charter is completed. The international monetary system must remain unified and multilateral; it must not become segmented or deteriorate into bilateral clearing arrangements. The best way to assure such an outcome is to begin working earnestly toward an agreement at the earliest possible date.

Another subject for discussion during next week's annual meetings of the International Monetary Fund and the World Bank ought to be the inclusion of the Soviet Union, the Eastern European countries, and the People's Republic of China in both of these organizations. Yugoslavia has long been a member, and Romania has just applied for membership. These countries are members of the United Nations, and therefore are entitled to full membership in the two affiliated organizations that will be convening here. Trade between the present membership of the Fund and the Bank, and these countries, is certain to increase in the future. To insure harmonious economic relations and to give these countries the benefits and responsibilities of existing institutions, they should be included as members.

ONE FINAL WORD ABOUT IMF PERSONNEL

Recent press reports tell of some unseemly action on the part of the U.S. Government in opposing the reappointment of Pierre-Paul Schweitzer as the Managing Director of the International Monetary Fund. Apparently because Mr. Schweitzer did not subscribe 100 percent to the Treasury's position during the last year, certain U.S. officials have decided he should be ousted.

Mr. Schweitzer has served admirably as the Chief Executive Officer of the International Monetary Fund during the most difficult period since its inception. His prime concern has been the maintenance of international cooperation and monetary stability. He has carefully avoided catering to the viewpoint of any particular Fund member. He has consistently opposed a major uniform increase in the price of gold. He shepherded the difficult negotiations leading to the implementation of the special drawing rights facility. He worked diligently for a compromise on exchange rate realinement. And most recently, he has helped get negotiations on basic international monetary reform underway.

But more is at issue than just the career of an individual. At issue also is the role the IMF will perform in the future. We need an IMF whose recommendations will carry weight with national governments. If every country, such as the United States is doing now, opposes any initiative on the part of the IMF, international monetary cooperation will be impossible.

The administration's reported position that it wants only a today at the IMF is repulsive and stupid. It should be reversed.

FARMERS UNION GRAIN TERMINAL ASSOCIATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Montana (Mr. MELCHER) is recognized for 5 minutes.

Mr. MELCHER. Mr. Speaker, the Farmers Union Grain Terminal Association of Montana, the Dakotas, Minnesota and Wisconsin has long been a spokesman for the wheat farmers of the upper Midwest.

In its current semimonthly publication, the Farmers Union Herald, there is an editorial suggestion that perhaps grain farmers were kept better informed about important developments in their markets a half century ago than they have been recently, in the days of TV, radio and Telstar.

Years ago, farmers could easily obtain world price quotations from Liverpool on corn and wheat, and get world weather and crop reports; what they needed to market their wheat intelligently.

In contrast, for the past several months, farmers have been kept in the dark deliberately by their Government, the Herald charges, and it has cost the wheat farmers dearly.

Because it speaks for thousands of farmers in my area, I include in the RECORD the Herald's editorial, "Keeping Farmers In the Dark on the Wheat Sale," from the September 18 Farmers Union Herald.

KEEPING FARMERS IN THE DARK ON THE WHEAT SALE

Years ago when there really were free markets, any U.S. farmer could easily learn the Liverpool price of corn or wheat as well as world crop conditions seriously affecting price, even though there was no radio, T.V., Telstar or other miracles of modern communications. That is no longer true and for the past several months U.S. grain farmers have been deliberately kept in the dark by their government about the biggest factor they needed to know to act intelligently in selling their grain.

That factor is the huge Russian crop failure which brought about a complete reversal of the much advertised plan to sell them U.S. feed grains as part of a deal to improve relations before the 1972 elections and thus win public and farmer support.

The official U.S. promise, heralded in a multitude of statements, started last Fall with a small purchase of corn, barley and oats. Negotiations this spring were capped by a ten-day conference ending with a lengthy White House explanation that approximately $250 million of feed grains would be bought this year, and maybe a little wheat.

But before farmers could sell any feed grain, the grapevine told of large dealings in wheat futures and in 12 per cent protein wheat, with speculation that Russia was going to feed our wheat or substitute it for lower qualities of her own which she would feed. That talk went on for weeks while U.S. wheat farmers sold both new and old crop wheat at pitifully low prices, the lowest in 28 years in North Dakota in June, for instance Farmers had no knowledge of what really was going on but high government officials and at least some grain traders did know. The true story came out only indirectly weeks and weeks later in mid-August when Moscow dispatches told of brush and peat bog fires raging for weeks as the result of "the hottest and driest summer in more than 100 years." What in plain language spelled major drought had been reported to USDA and probably to other government intelligence offices but not to the U.S. farmers who had the wheat the big firms wanted.

Even when wheat purchases mounted to more than double the feed grain purchases that had been officially indicated, USDA still did not tell farmers what was going on but instead suppressed such information as "controversial," perhaps as hurtful to the grain traders.

If for no other reason than the official nature of the USSR grain deal, the Administration had a clear obligation to give farmers this information, even if it meant admitting that the deal was now due to an Act of God and no longer due to a Presidential election year gambit. Even now, weeks later and after appearances before a Congressional Committee, there is still no clear cut word from Secretary Butz or other responsible officials.

This government policy has cost many wheat farmers dearly, no matter how much it benefited the private grain trade or buyers of wheat. We believe Congress should order proper restitution to all those who lost money because of this deliberate failure. We see no reason why others should get a windfall because our wheat farmers who had the needed wheat were kept in the dark.

PROTEST AGAINST NEW FEES FOR SOVIET JEWS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 5 minutes.

Mr. ST GERMAIN. Mr. Speaker, the Soviet Union's recent decision to increase emigration fees for Jews planning to go to Israel is nothing less than an attempt to blackmail the United States and the world Jewish community and at the same time, block any mass exodus of Soviet Jews to Israel.

There is no way that Soviet Jews could save enough for the required fees from their own meager incomes. Soviet officials have advised American Jews that they can pay the costs imposed on their Russian brethren. Thus, it seems that the Soviet Union is attempting to persuade the world Jewish community to pay ransom for Jews who wish to leave Russia. At the same time, since it is doubtful that even American Jews could raise the large sums required for the new fees, the move is designed to stop any substantial emigration to Israel.

It was no coincidence—considering the protest it would have raised—that the Soviets waited until after the Washington-Moscow wheat deal to demand that Russian Jews pay exorbitant new emigration fees.

I speak out today to indicate the utter seriousness of my concern about this Soviet action and to say that this development has deep implications for future Soviet-American trade relations.

This year about 20,000 Soviet Jews have received permission to emigrate to Israel. It is believed that about 400,000 persons have applied. In a desperate attempt to halt this emigration, the Soviet Government imposed new exit fees based on the applicant's level of education. Previously these fees had been about $1,080 per person. The new fees ranged from $5,000 for those who had not completed high school to $37,000 for those who hold a doctor of science degree. There is no doubt that this law was directed against Soviet Jews, particularly scientists, intellectuals and professional men.

Recent reports make it clear that the situation is even more serious than anyone had thought. Following the announcement of new fees August 3, have come mass arrests, and show trials of those brave enough to protest.

The obvious implications of this kind of harrassment have aroused my opposition to any further trade concessions with the Soviet Union.

Today, I voted for an amendment to the Foreign Assistance Act to prohibit loans, credits or other financial assistance on trade agreements with the Soviet Union until these outrageous exit fees are rescinded.

In addition, I will oppose any effort to grant Russia most-favored-nation status or Export-Import Bank credits, and oppose any extension of Commodity Credit Corp. loans for future trade agreements.

As long as the ransom for Soviet Jews is being demanded, there should be no more "wheat deals." The Soviet's need for foreign currency is well known. There is no doubt that a good portion of the new exit fees will probably be used to pay for the grain which the Soviets will be buying from the United States.

As an American and a Congressman, I say the United States cannot ignore this callous and abusive practice. We cannot permit Russia to trade Jews for wheat.

The Soviets claim these exit fees are justified because the State's investment in the education of each of the emigrants would be forfeited if they left the country. This is nonsense. The Soviet fees are twice as much as the cost of the emigrants' education.

The Soviets also claim their action is intended to end the "brain drain" caused by this emigration. This too is transparently false. Soviet Jews, regardless of their education, often have little opportunity to use their skills as a result of Soviet harassment. They have been fired, demoted, and shipped off to work camps simply for trying to emigrate.

In view of these facts, the true motives of the Soviet Union become clear. These exist fees are simply another example of the Soviet Union's official policy of harassment of its Jewish citizens.

In my opinion the continuation of these policies will depend to a large degree on whether the United States takes a firm stand to demonstrate its outrage.

The Congress cannot agree to enter into trade agreements with a country whose oppressive tactics denigrate the spirit of open trade policies. The United States cannot allow the Soviet Union to make economic gain from human suffering.

ACHIEVEMENTS AND FAILURES OF POSTAL REORGANIZATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. UDALL) is recognized for 10 minutes.

Mr. UDALL. Mr. Speaker, as chairman of the Postal Service Subcommittee, it has been my task over the past several months to try and sort out the achievements and failures of the Postal Reorganization Act, which the Congress passed into law a little over 2 years ago. Since April our subcommittee has conducted an intensive series of oversight hearings. We sought to get the opinions from all parties dealing with the Postal Service—the employees, the managers, the business users, and the general public.

Several major problem areas emerged from the hearings and I must admit a deep concern over some aspects of the performance of the new U.S. Postal Service. But we must also realize that this legislation was something new and very different from anything that had been tried before. So in measuring the accomplishments, we must first decide what yardstick to use for measurement. Should we compare our present situation with some ideal standard of postal service? Or, more realistically, do we compare it with the impending chaos that faced our mail system at the time of the postal reorganization, and with the kind of service we would have today if nothing had been done.

Let us admit candidly where we have fallen short of our goal. The postal service provides a service, and if that service is bad, the public simply will go elsewhere if substitutes are available.

The facts indicate that fewer people are using our postal service. In 1968, for example, the number of pieces of mail handled was up 1.6 percent over the previous year. During the first three quarters of 1972, mail volume was down six-tenths of 1 percent. For a generation one of the certainties of U.S. postal service was the annual increase in volume. One had to go back to the depression years of the 1930's to find a year of declining volume.

A pattern may be emerging, and it is possible, though it is too early to be sure, that these are the first signs of a vicious circle: less volume leads to less revenue which leads to less service which results in even less volume.

And, postal competition is getting tougher. In 1967 United Parcel Service, our major competition for parcels carried, only had 20 percent of the total parcel business. Estimates now give UPS over 50 percent of the parcel deliveries. The number of packages sent through the U.S. mails is down from 664.3 million in 1968 to barely over 500 million for this year.

Utility companies are experimenting with self-delivery of their mail. Large publishers are negotiating with independent delivery companies, and so are direct mail advertisers.

Finally, complaints from both customers and Postal Service personnel have reached a crescendo. But some of this discontent must be listened to with the awareness that mail delivery is like the weather—someone will always complain.

These are some of the negative signs. But, in fairness, there are some positive signs and achievements which suggest a better future.

Political influence has finally been largely eliminated in the personnel policies of the service. People are now truly promoted on what they know—not who they know. Metropolitan area management is being tried, and authority is being delegated to local manager.

The postal service has also carved a unique niche for itself in the annals of bureaucracy: the number of personnel has actually been reduced rather than increased. At the same time, the wages of postal employees have risen as much as 40 percent in the past 4 years.

Most significantly, productivity has shown a small but steady rise. In 1968, 54.9 pieces of mail were handled per man-hour. In 1971 this rose to 57.7 and this year is up to 59.6. These are modestly encouraging figures, suggesting a trend reversal especially when such a result has been achieved with a freeze on hiring personnel.

Obviously, we have fallen short of perfection. Yet 2 years ago we were undoubtedly headed, as former Postmaster General Larry O'Brien put it, on a "collision course with disaster" unless something was done to reverse the spiral of deterioration.

I think we may have stopped the downward slide and I feel that the decline in both the level and quality of service may have finally become arrested and the level of service stabilized.

We should be able to assure customers and taxpayers that, if nothing else, the service will not get worse. The big test, of course, will be to make a start toward improvement.

But the single biggest problem area to emerge from the hearings was the rising costs of mail service—especially to magazine publishers and the serious threat it poses to an important segment of American life. A parade of publishers running the gamut from the smallest magazines to the biggest magazine empires said that the cost squeeze of postal services was rapidly becoming intolerable.

We were warned that further increases would inevitably lead to the death of a great many important but marginal-profit publications. Other publishers felt that they could continue to produce their magazines but might have to either reduce the quality or substantially increase the cost to subscribers. Even those who testified that they could live with the increases insisted that the postal service improve its service so that there would be valid reason for the increases to remain in effect.

But through this welter of testimony the key issues remained. Is this problem of meeting increased mailing costs a life and death matter? Do even the giants of the publishing world, Time, Life, Newsweek, Reader's Digest, and others, truly face an uncertain future if these increases are put into effect?

After careful study I have reached some inescapable conclusions.

As far back as 1967, I commented in this House that a crisis was beginning to build in the area of the cost of mailing magazines. I noted at that time the problem that the small, opinion-molding magazines would have. Magazines like Harper's, Saturday Review, National Review, New Republic, and the entire range of nonprofit quarterlies were, even then, caught in an ever-tightening squeeze of increased production costs and postal costs—CONGRESSIONAL RECORD, volume 113, part 14, pages 18745–18748.

That problem has now become acute. I am convinced that many magazines of small circulation, those with 250,000 circulation per issue or less, will have a difficult time surviving in the coming years. One major reason is surely the increased cost of postal services.

Throughout our history Congress has always believed magazines have a special role in the expansion of our cultural and educational values. This was one of the reasons we created a preferred mailing rate 178 years ago. The assumption was that the general taxpayer would share in the cost of delivering magazines and newspapers in the same way he shares the cost of building the Nation's highways.

The analogy is a good one. The highways are the conduits of commerce, tieing the Nation together economically and socially. Yet no one demands that we should increase highway tolls to the point where our roads are profitable and self-sustaining. Our policy is to keep our roads open for commerce.

In the same way, the mails have become our highway for ideas. Our country and our complicated, many faceted society is tied together through the spreading of information. This applies not only to the mass circulation magazines but also to the smaller publications of churches, labor unions, colleges and scores of other organizations and professional groups. There is no reason for making the cost of using the mails so prohibitive that the commerce of ideas and information is reduced to a trickle.

As I mentioned earlier, I have concluded that many of the smaller magazines may have difficult times ahead and we in the Congress should do what we can to help them maintain the essential goal of freedom of the press as expressed in our Constitution.

In addition to that, it is clear that congressional policy for years has been to foster the continued expansion of all educational and socially valuable institutions in this country. The key to this whole process has been the publishing industry as a whole. I believe that we should continue, in the most positive manner possible, the long-held policy that all magazines and newspapers have a special role to play in our country and that through whatever manner possible, we should encourage such a role.

Congress has generally supported the inexpensive dissemination of newspapers and magazines through low postal rates. We made the value judgment that promotion of the press was a wise means of expending taxpayer funds. For years, publication mail—magazines and newspapers—have been handled at postal rates below cost. This is not a new policy I propose. In the 24 years following World War II the average annual appropriations Congress deliberately appropriated as the public share of second class was $283 million. The appropriation grew as high as $450 million in 1968. These appropriations by Congress were intended to accomplish the objectives of wide diversification of communication media and to insure the availability to all our citizens of readily available and inexpensive reading matter.

The total appropriations we are proposing for second class would amount to little more than $1 per capita population, a small price indeed to guarantee the benefits of the national press to all citizens. This $1 compares to present annual public expenditures for education of $245 for every man, woman and child in the United States now appropriated by local, State, and Federal legislatures.

It is clear, today, however, with the benefit of 2 years of operation under the act and a thorough, reasoned opinion from the Postal Rate Commission that the higher second-class-postal rates, which the postal service and the Postal Rate Commission determined are required by the law, place the Nation's press in a financial dilemma. Although some may be able to adjust to the increases recently approved spread over the transitional periods provided in the act, many may not successfully adapt to the additional postal rate increases that must inevitably follow to cover the increased costs of operating the postal service in the future.

Newspapers and magazines are far too important a communications medium in our society to run that risk. I would rather err on the side of generosity, through increased public support of the Postal Service, than niggardliness, which could seriously injure the press.

As noted earlier, I am particularly concerned about the impact on smaller publications; first, because higher rates fall disproportionately harder on them and, second, because of their extraordinary value to the Nation as organs for the discussion of controversial issues and the expression of minority views. I would quickly add, however, that size is no guarantee of financial survival, nor the only measure of value. Larger publications provide mass communication of information to millions of citizens. And one need only recall the fate of Look, Colliers, and the Saturday Evening Post to realize that the large have problems too. For that matter, an analogy to Penn Central and Lockheed is not inappropriate.

Congress has recently approved hundreds of millions of dollars in guaranteed loans to save these two companies. It has authorized operation of the Nation's passenger railroad system at an annual cost in excess of $500 million. Moreover, Congress has never required full cost recovery from users of the public highways or the national parks. Surely the system through which we exchanged ideas and information merits equal congressional concern and consideration.

Consequently, I am today introducing legislation to amend the Postal Reorganization Act. The first point I wish to make about this legislation is that it will in no way interfere with the rate-setting functions of the Postal Rate Commission. That Commission will continue to set rates for second-class mail as for all other classes. My amendment merely determines how much of the postal rates established by the Commission will be paid by the users and how much by the taxpayers through congressional appropriations.

As you know, the current Postal Reorganization Act provides that Congress, through appropriations, will pay part of the second-class rates over the next 5 to 10 years. For example, Congress has appropriated approximately $230 million for fiscal year 1973 to make up for revenues forgone on second-class postage.

My proposal would accomplish the following:

First. Provide special treatment for small volume publications by providing that the postal rate for the first 250,000 pieces of each issue of a publication shall be only two-thirds of the otherwise applicable rate. The Postal Service estimates that the cost of this proposal in fiscal year 1973 would be $38.4 million.

Second. Spread the full second-class rate increases over a 10-year phasein rather than a 5-year phasein, as we presently do for the nonprofit and other preferential mailers. It is further provided that this 10-year phasing would be achieved through biennial increments until the full rate was reached. The added costs for this would be $17.4 million in fiscal year 1973.

Third. Provide that any rate increase required under the act for nonprofit publications would be borne by sharing one-half by the second-class user and one-half through appropriation. This provision would apply for nonprofit publications starting with the next step increase July 1, 1974, and would apply to any future rate increase. Regular rate second-class publications would bear the full impact of the present average rate increase of 127 percent and its only relief would be that it is phased over 10 years rather than 5 years. If the Postal Service and Postal Rate Commission determine that future rate increases are necessary for regular rate second class in subsequent rate cases, then the 50–50 sharing would apply. The added cost of this proposal would be approximately $1.5 million in fiscal year 1973.

Examples of the nonprofit publications we are speaking of here are religious publications, labor publications, and veterans publications. Rates in each of these categories are going up 400 to 800 percent. It is true that their base rates were low but it was public policy to encourage communications in these worthwhile organizations. When we passed the Postal Reorganization Act we thought 10-year phasein was a sufficient cushion for nonprofit publications. But the tremendous percentage rate increases that have been determined for them are simply overwhelming. Therefore, to provide a further cushion I propose that Congress pick up 50 percent of these future increases.

It will be seen that the added costs of these proposals are not great—about $19 million plus $38.4 million for the special treatment for the small publications. Considering the grave threat posed for the publishing industry and the essential role performed by a free and vital press, I believe it is a price the American taxpayer will willingly meet.

This new structure will still require the second-class users to pay an increasingly larger proportion of their postal costs, with an ever-diminishing burden upon the Treasury; but, it will be done in a more gradual way, avoiding the massive and sudden increases which portend disaster for many publications under the present rate structure.

We also heard extensive testimony concerning the difficulties surrounding the appropriation mechanism contained in the Postal Reorganization Act. The mechanism seems to require advance forecasting of costs and revenues, and also invites the intervention of nonpostal factors on the part of administration officials—especially in the Office of Management and Budget—who have no connection with the Postal Service. More significantly, however, the present mechanism has created difficulty for the Rate Commission, requiring it to second-guess the intentions of the budget experts and the Appropriations Committees. This was not what the Congress had hoped for in postal reform. Consequently, my amendment contains a further provision which will change the mechanism for appropriating funds to the Postal Service. This will remove what has become a political question and a large uncertainty from the deliberative rate making process. This is accomplished by providing that at the beginning of each fiscal year the Secretary of the Treasury will credit to the Postal Service, from moneys in the Treasury not otherwise appropriated, the amounts authorized by the Postal Reorganization Act.

While I believe the problems we address in this legislative proposal are serious enough to require corrective action, I believe our hearings also confirmed that the Congress was on the right track in enacting postal reform. We knew, of course, that the legislation was not perfect and that subsequent reviews would have to be made and corrective action taken. These amendments deal with the only major matters requiring corrective action at this time.

Our subcommittee will, of course, continue its oversight and report to this body whenever we believe action is required.

Mr. Speaker, let me conclude with a few words of caution. I do not believe there is time for this Congress to act on this proposal this year. I do believe that it should be a matter of first priority when the next Congress meets in January. I submit this bill simply as a proposal for study and discussion. As in any piece of legislation, there are many doors through which we must first pass before it becomes law. I am not wedded to every provision of this proposal but believe that something along these general lines should ultimately be enacted.

BOMBING ORDERS BY GENERAL LAVELLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. TIERNAN) is recognized for 5 minutes.

Mr. TIERNAN. Mr. Speaker, the controversy over the bombing orders given by General Lavelle and the possibility that approval was granted by high-ranking officers continues to be investigated by the Senate Armed Services Committee.

It is not the purpose of my remarks today to become involved in the factual issues being investigated by the Senate, but rather to direct my comments to the broader issue which this case illustrates—civilian control of the military.

Senator GOLDWATER has been quoted recently to the effect that he felt that General Lavelle did the right thing in ordering bombing raids in the North in violations of the President's moratorium. According to news accounts, the Senator agreed with the General's actions because an attack on the North was the course he advocated 8 years ago.

Unfortunately, Senator GOLDWATER and General Lavelle have ignored what the Constitution requires and what history has taught us—elected civilian representatives must retain complete control of the military.

Our forefathers had a well-founded fear of monarchs and militarists. Representative government, checks and balances to prevent domination by one branch, and the appointment of the President as Commander in Chief of the Armed Forces, were all designed to protect us from those evils.

Undeniably, this system has served us well. The threat of a military coup in the United States is nil because the principle of civilian control of the military has been rigidly adhered to. That is why President Truman had no choice but to remove General MacArthur during the Korean conflict. It was an unpopular move, but even the slightest encroachment of civilian control is a dangerous precedent. Therefore, General Lavelle and anyone else involved in this affair must be swiftly removed from the military hierarchy. Statements such as those made by Senator GOLDWATER must not be allowed to go unnoticed or unanswered.

The wisdom of our forefathers in establishing civilian control of the military appears self-evident, but occasionally our leaders stray from the course set by the Constitution. It then becomes necessary to remind the Nation of those principles. Take heed, Senator GOLDWATER.

WEST VIRGINIA HUNTING AND FISHING DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia (Mr. STAGGERS) is recognized for 5 minutes.

Mr. STAGGERS. Mr. Speaker, it gives me much pleasure to extend this open invitation to you and all Members of Congress to join me and my fellow West Virginians in celebrating our West Virginia State and National Hunting and Fishing Day.

The Mineral County Wildlife Association, with David H. Brantner at the helm, is hosting the celebration in my home town of Keyser, W. Va., beginning on Saturday, September 23, 1972, the date proclaimed by the President for national recognition of Hunting and Fishing Day.

Participating in the 3-day activities in Keyser are representatives and members of the U.S. Forest Service, U.S. Soil Conservation Service, Westvaco Corp. of Luke, Md., the West Virginia Archery Association, West Virginia Bear Hunters Association, West Virginia Trappers Association, State Future Farmers of America, 4–H, and the Boy Scouts of America.

It will be my honor to participate in the dedication ceremonies together with David Brantner and other members of our Mineral County Association, as well as other National and State officials of organizations interested in conservation and outdoor sports.

Private displays will include hunting and fishing trophies which I understand will encompass the largest display of North American big game in the Eastern United States, antique firearms, reloading equipment, modern fire arms, and fishing equipment. Wildlife paintings of the well known artist, Don Whitlatch, will also be on display, as well as many other items of interest to the great outdoors men, women, and children.

Our celebration will continue through September 24, 1972. It would be an honor and pleasure to have you as our guests in my hometown of Keyser, Mineral County, and our beautiful State of West Virginia.

The dedication ceremony for our first West Virginia Hunting and Fishing Day will be held at the Church-McGee Art Center of Potomac State College, and the exhibits are at the National Guard Armory in Keyser. A sincere welcome to all.

TWO GOOD PARENTS ARE BETTER THAN ONE: ONE GOOD PARENT IS BETTER THAN NONE

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I have introduced a bill today which will grant a child adopted by a single U.S. citizen the same immigrant status as a child adopted by a U.S. citizen and his spouse. Under the present Immigration and Nationality Act, single U.S. citizens are precluded from bringing into the United States as immediate relatives adopted children born in other countries. Aliens with immediate relative status can enter the United States without having to wait for a quota number for visa issuance. However, young aliens adopted by single persons have to wait for this quota number, usually given under the nonpreference classification which is unavailable for many countries because of oversubscription.

In progressive States like New York single people are allowed to adopt children. It is far better that a child have a home with a single parent than to live in an orphanage. Two good parents are better than one; one good parent is better than none.

Our immigration laws should be updated to give the adopted children of single parents the same immigration privileges given to children adopted by married couples; in human terms, it simply is unjust to discriminate against orphaned children the way the law does today.

I urge our colleagues to support this bill removing this form of discrimination against the adopted child of a single parent.

PERSONAL ANNOUNCEMENT

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, my unavoidable absence has resulted in my not being recorded on several rollcall votes taken in the House recently. Had I been present, I would have voted as follows:

Aye on roll 350, adoption of conference report to accompany H.R. 13089, accelerated reforestation of national forests;

Aye on roll 351, adoption of conference report to accompany H.R. 12350, extending programs funded by the Office of Economic Opportunity. There are many important and valuable OEO projects which depended on passage of this bill for their continued existence. Were it not for this fact, I would have voted against the conference report in order to express my extreme disappointment that the conferees deleted provisions passed by both the House and the Senate establishing an independent public corporation to administer legal services programs presently administered by OEO.

Aye on roll 352, final passage of House Resolution 1106 calling for international sanctions against nations sanctioning acts of terror such as the killing of Israeli Olympic athletes in Munich.

No on roll 353, final passage of H.R. 13514, Wheat Research and Promotion Act.

No on roll 357, motion to recommit H.R. 15550, a bill to transfer waterfront property to the city of Alexandria.

No on roll 359, motion to recommit H.R. 16118, amending the Immigration and Naturalization Act.

No on roll 360, adoption of the rule waiving points of order on the conference report accompanying H.R. 15495, military procurement authorization bill.

No on roll 361, adoption of the conference report accompanying H.R. 15495, military procurement authorization bill.

Aye on roll 362, adoption of conference report accompanying H.R. 14896, child nutrition bill.

No on roll 363, adoption of a waiving points of order on H.R. 16593, Department of Defense appropriations bill for fiscal year 1973.

Aye on roll 365, adoption of an amendment to the defense appropriations bill restoring funds for the civilianization of KP.

Aye on roll 366, adoption of an amendment to the defense appropriations bill cutting off all funds for the war in Southeast Asia in 4 months, conditioned on release of POW's and accounting for MIA's.

Aye on roll 367, adoption of an amendment to the defense appropriations bill cutting overall appropriations by 5 percent.

No on roll 370, adoption of an amendment to the Labor-HEW appropriations bill exempting small employers from the Occupational Safety and Health Act.

Aye on roll 371, adoption of an amendment to the Labor-HEW appropriations bill increasing funding for bilingual education.

Aye on roll 372, final passage of the Labor-HEW appropriations bill for fiscal year 1973 (H.R. 16654).

Aye on roll 375, final passage of H.R. 15003, the Consumer Product Safety Act.

Aye on roll 376, adoption of the rule for consideration of H.R. 16705, foreign assistance appropriations for fiscal year 1973.

In connection with the conference report on the military procurement authorization bill, I join with those of my colleagues who have denounced the cynical effort of promilitary forces to use the legitimate defense needs of the State of Israel as a hostage to coerce antiwar Congressmen into voting for the bloated Pentagon budget authorized by the bill. The bill which came out of conference was a distinct improvement over the bill I voted against on June 17 when H.R. 15495 was passed by the House. The conferees deleted funding for an anti-ballistic-missile site in the Washington area and eliminated a $20 million authorization for the Air Force ABRES program for an improved reentry vehicle. Furthermore, the conferees added a provision extending the President's authorization to give military assistance to Israel from September 30, 1972, to December 31, 1973. This provision does not belong in this bill, and it would unquestionably be passed in separate legislation if Congress were to refuse to approve this oversized authorization bill.

My vote against this bill can in no way be considered a retreat from support from the legitimate defense needs of Israel. Rather, it is a protest against continued funding for the war in Southeast Asia and against military waste in programs funded by the bill such as the B-1 bomber, the Trident submarine, and the submarine launched cruise missile system.

WHAT DO WE KNOW ABOUT OUR OWN EDUCATIONAL STANDARDS?

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, there is growing concern among parents that their children really are not being educated by the Nation's schools and that something is going to have to be done if our youth—America's most precious natural resource—is to be truly educated and prepared for a useful place in life.

It is now widely held that some kind of evaluation system is going to have to be devised to actually measure the effectiveness of our educational system. There is no doubt that more children than ever before are being exposed to more knowledge than ever before at a cost higher than ever before. But there are serious misgivings that the process results in a good education.

Simply exposing a child to learning does not assure the child or the Nation that good and useful education of the child will be the end result. While most teachers are deeply dedicated to their work, there are those who just show up for class every day, toss some information in the path of the child, and, at the end of the school year, give the child a passing grade in order to get rid of him, and open the way for the process to be continue next year when other children are taken into the classroom.

There also is the growing fad for frills. The fundamentals of education have changed very little through the years. There are new processes which very obviously assist the child in learning, but there also are costly frills and even ultra-expensive buildings for which the need is questionable. This is no way to provide an education, Mr. Speaker. The task of facing up to the problem of evaluating the productivity of a teacher and the actual progress of the student is not one for Congress. But the Congress should ask questions about these matters before we appropriate funds for education with no real understanding of what is being done in the fields of education.

It is disturbing to note the charge leveled by qualified educators that many high school graduates leave school with little more than a basic seventh-grade education. This is not the fault of the students nor can it be attributed to dullards in the classroom. It can only be attributed to the fact that something went wrong in the delicate balance between the teaching and the learning process and that no accurate measure of each was available in order to properly pinpoint the problem.

I am not suggesting the Federal Government embark on a massive program to monitor every classroom, every student, and every teacher. That would be "Big Brotherism" to an extreme degree.

But I believe it is logical to suggest that money alone cannot and will not cure the ills of education in the United States. We have seen in recent years efforts to buy what we have come to call a "good education." For the past quarter century, we have put $10 into education for every $4 increase in our national wealth. We have hired 12 new teachers for every eight new pupils entering our educational system. Yet there is question that the actual level of education has substantially improved. It is obvious, therefore, that more money and more people are not the only answers. The real answer is the quality of the product. We do not seem to know what we have obtained in the process of seeking a higher level of education.

Perhaps new methods will provide the answers. If so, what are they? Unless we can accurately measure the effectiveness of our educational process, we may stumble blindly along, spending more, and getting less proportionately. Our children will surely fail to meet the challenge of tomorrow if we fail to provide them with the education which they need and for which the taxpayer is footing the bill.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Pepper (at the request of Mr. Mills of Arkansas), for today, on account of official business.

Mr. Mailliard, for next week, on account of official business.

Mr. McClory (at the request of Mr. Gerald R. Ford), from September 20, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Forsythe) and to revise and extend their remarks and include therein extraneous matter:)

Mr. Bell, for 5 minutes, on September 25.

Mr. Schwengel, for 10 minutes, today.

Mr. Kemp, for 15 minutes, today.

Mr. Halpern, for 10 minutes, today.

Mr. Michel, for 10 minutes, today.

(The following Members (at the request of Mr. Denholm) and to revise and extend their remarks and include therein extraneous matter:)

Mr. Gonzalez, for 5 minutes, today.

Mr. Reuss, for 30 minutes, today.

Mr. Melcher, for 5 minutes, today.

Mr. St Germain, for 5 minutes, today.

Mr. Udall, for 10 minutes, today.

Mr. Tiernan, for 5 minutes, today.

Mr. Harrington, for 60 minutes, today.

Mr. Staggers, for 5 minutes, today.

Mr. Dingell, for 60 minutes, on October 3 in tribute to the Honorable Thomas M. Pelly, of Washington.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Culver to revise and extend his remarks prior to vote on Gibbons amendment in Committee of the Whole.

Mr. Passman, to include certain extraneous matter and tables with his remarks made today in the Committee of the Whole on H.R. 16705.

(The following Members (at the request of Mr. Forsythe) and to include additional matter:)

Mr. Zwach in two instances.

Mr. Findley.

Mr. Chamberlain.

Mr. Wyman in two instances.

Mr. Saylor.

Mr. Nelsen.

Mr. Schwengel in two instances.

Mr. Bob Wilson.

Mr. Robison of New York in two instances.

Mr. Mizell in five instances.

Mr. Grover.

Mr. Price of Texas in three instances.

Mr. Landgrebe.

Mr. Eshleman.

Mr. Esch.

Mr. du Pont.

Mr. Scherle.

Mr. Frenzel.

Mr. Hosmer in two instances.

(The following Members (at the request of Mr. Denholm) and to include extraneous matter:)

Mr. Rodino.

Mr. Brademas in six instances.

Mr. Harrington.

Mr. Gonzalez in three instances.

Mr. Rarick in three instances.

Mr. Brinkley.

Mr. Nichols in two instances.

Mr. Evins of Tennessee in three instances.

Mr. Roy.

Mr. Fraser in six instances.

Mr. Jacobs.

Mr. Smith of Iowa.

Mr. Dorn in three instances.

Mr. Obey in three instances.

Mr. Stokes in three instances.

Mr. Adams.

Mr. Dingell.

Mr. Clark in two instances.

Mr. Monagan.

Mr. Johnson of California.

Mr. Dow.

Mr. Mann in two instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 180. An act for the relief of Kuay Ten Chang (Kuay Hong Chang); to the Committee on the Judiciary.

S. 2518. An act for the relief of Anna Kolbiarz-Sala; to the Committee on the Judiciary.

S. 2818. An act to amend the Federal Food, Drug, and Cosmetic Act to prohibit the administration of the drug diethylstilbestrol (DES) to any animal intended for use as food, and for other purposes; to the Committee on Interstate and Foreign Commerce.

S. 2901. An act to amend the Wild and Scenic Rivers Act by designating a segment of the Colorado River in the State of Utah for study as a potential component of the national wild and scenic rivers system; to the Committee on Interior and Insular Affairs.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 6575. An act to amend the Act entitled "An Act to provide for the disposition of judgment funds now on deposit to the credit of the Cheyenne-Arapaho Tribes of Oklahoma", approved October 31, 1967 (81 Stat. 337);

H.R. 7616. An act to amend section 715 of title 32, United States Code, to authorize the application of local law in determining the effect of contributory negligence on claims involving members of the National Guard;

H.R. 8215. An act to provide relief for certain prewar Japanese bank claimants;

H.R. 12207. An act to authorize a program for the development of tuna and other latent fisheries resources in the Central, Western, and South Pacific Ocean;

H.R. 14173. An act for the relief of Walter Edward Koenig;

H.R. 15865. An act for the relief of Richard L. Krzyzanowski;

H.R. 15927. An act to amend the Railroad Retirement Act of 1937 to provide a temporary 20 per centum increase in annuities, to simplify administration of the Act, and for other purposes; and

H.J. Res. 1193. Joint resolution to provide for the designation of the week which begins on September 24, 1972, as "National Microfilm Week."

BILLS PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H.R. 2185. An act to declare that certain federally owned land is held by the United States in trust for the Lac du Flambeau Band of Lake Superior Chippewa Indians;

H.R. 2589. An act to amend section 1869 of title 28, United States Code, with respect to the information required by a juror qualification form;

H.R. 6204. An act for the relief of John S. Attinello;

H.R. 10436. An act to provide with respect to the inheritance of interests in restricted or trust land within the Nez Perce Indian Reservation, and for other purposes; and

H.R. 14974. An act to amend certain provisions of law relating to the compensation of the Federal representatives on the Southern and Western Interstate Nuclear Boards.

ADJOURNMENT

Mr. DENHOLM. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 22 minutes p.m.), under its previous order, the House adjourned until Monday, September 25, 1972, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2353. A communication from the President of the United States, transmitting proposals for 16 additions to the national wilderness preservation system, pursuant to 16 U.S.C. 1132, together with the Eighth Annual Report on the Status of the National Wilderness Preservation System, pursuant to 16

U.S.C. 1136 (H. Doc. No. 92–357); to the Committee on Interior and Insular Affairs and ordered to be printed with illustrations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MILLER of California: Committee on Science and Astronautics. Report on civil aviation research and development: Policies, programs, and problems; (Rept. No. 92–1423). Referred to the Committee of the Whole House on the State of the Union.

Mr. SIKES: Committee on Appropriations. H.R. 16754. A bill making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes; (Rept. No. 92–1424). Referred to the Committee of the Whole House on the State of the Union.

Mr. TAYLOR: Committee on Interior and Insular Affairs. H.R. 8756. A bill to provide for the establishment of the Hohokam Pima National Monument in the vicinity of the Snaketown archeological site, Arizona, and for other purposes; with amendments (Rept. No. 92–1425). Referred to the Committee of the Whole House on the State of the Union.

Mr. TAYLOR: Committee on Interior and Insular Affairs. H.R. 11369. A bill to authorize the Secretary of the Interior to conduct a study to determine the best and most feasible means of protecting and preserving the Great Dismal Swamp and the Dismal Swamp Canal; with an amendment (Rept. No. 92–1426). Referred to the Committee of the Whole House on the State of the Union.

Mr. TAYLOR: Committee on Interior and Insular Affairs. S. 1497. An act to authorize certain additions to the Sitka National Monument in the State of Alaska, and for other purposes; with amendments (Rept. No. 92–1427). Referred to the Committee of the Whole House on the State of the Union.

Mr. PATMAN: Committee on Banking and Currency. H.R. 16732. A bill to amend the Small Business Investment Act of 1958, and for other purposes; with an amendment (Rept. No. 92–1428). Referred to the Committee of the Whole House on the State of the Union.

Mr. PATMAN: Committee on Banking and Currency. H.R. 16704. A bill to consolidate, simplify, and improve laws relating to housing and urban development activities, and for other purposes; with an amendment (Rept. No. 92–1429). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SIKES:

H.R. 16754. A bill making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes.

By Mr. ROGERS (for himself, Mr. Satterfield, Mr. Kyros, Mr. Preyer of North Carolina, Mr. Symington, Mr. Roy, Mr. Nelsen, Mr. Carter, and Mr. Hastings):

H.R. 16755. A bill to amend the Public Health Service Act to improve the program of medical assistance to areas with health manpower shortages, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BELL (for himself and Mr. Hanna):

H.R. 16756. A bill to amend the National Science Foundation Act of 1950 in order to establish a framework of national science policy and to focus the Nation's scientific talent and resources on its priority problems, and for other purposes; to the Committee on Science and Astronautics.

By Mr. CULVER:

H.R. 16757. A bill to amend the Social Security Act to make certain that recipients of aid or assistance under the various Federal-State public assistance and medicaid programs (and recipients of assistance under the veterans' pension and compensation programs or any other Federal or federally assisted program) will not have the amount of such aid or assistance reduced because of increases in monthly social security benefits; to the Committee on Ways and Means.

H.R. 16758. A bill to require States to pass along to individuals who are recipients of aid or assistance under the Federal-State public assistance programs or under certain other Federal programs, and who are entitled to social security benefits, the full amount of the 1972 increase in such benefits either by disregarding it in determining their need for assistance or otherwise; to the Committee on Ways and Means.

By Mr. DELLENBACK:

H.R. 16759. A bill to amend title 38 of the United States Code to provide that one-half of any social security benefit increases provided for in Public Law 92–336 be disregarded in determining eligibility for pension or compensation under such title; to the Committee on Veterans' Affairs.

H.R. 16760. A bill to require States to pass along to public assistance recipients who are entitled to social security benefits at least half of the 1972 increase in such benefits, either by disregarding it in determining their need for assistance or otherwise; to the Committee on Ways and Means.

By Mr. DOW (for himself, Mr. Abourezk, Mrs. Abzug, Mr. Aspin, Mr. Bell, Mr. Burke of Massachusetts, Mr. Celler, Mrs. Chisholm, Mr. Clark, Mr. Conte, Mr. Dellums, Mr. Drinan, Mr. Evins of Tennessee, Mr. Gallagher, Mr. Green of Pennsylvania, Mr. Hanley, Mr. Harrington, Mr. Hathaway, Mr. Howard, Mr. Mitchell, Mr. Mollohan, Mr. Pepper, Mr. Rangel, Mr. Riegle, and Mr. Rodino):

H.R. 16761. A bill to require States to pass along to individuals who are recipients of aid or assistance under the Federal-State public assistance programs or under certain other Federal programs, and who are entitled to social security benefits, the full amount of the 1972 increase in such benefits, either by disregarding it in determining their need for assistance or otherwise; to the Committee on Ways and Means.

By Mr. DOW (for himself, Mr. Roncalio, Mr. St Germain, Mr. Scheuer, Mr. Sikes, Mr. Tiernan, Mr. Van Deerlin, Mr. Wolff, Mr. Yates, Mr. Yatron, and Mr. Zwach):

H.R. 16762. A bill to require States to pass along to individuals who are recipients of aid or assistance under the Federal-State public assistance programs or under certain other Federal programs, and who are entitled to social security benefits, the full amount of the 1972 increase in such benefits, either by disregarding it in determining their need for assistance or otherwise; to the Committee on Ways and Means.

By Mr. FRASER (for himself, Mr. Anderson of Tennessee, Mr. Bell, Mr. Clay, Mr. Fauntroy, Mr. Fulton, Mr. Green of Pennsylvania, Mr. Hamilton, Mr. McKinney, Mr. Macdonald of Massachusetts, Mr. Jones of North Carolina, Mr. Long of Louisiana, Mr. Morgan, Mr. Obey, Mr. Pepper, Mr. Podell, Mr. Preyer of North Carolina, and Mr. Stokes):

H.R. 16763. A bill to amend the Social Security Act to make certain that recipients of aid or assistance and medicaid programs (and recipients of assistance under the veterans' pension and compensation programs or any other Federal or federally assisted program) will not have the amount of such aid or assistance reduced because of increases in monthly social security benefits; to the Committee on Ways and Means.

By Mr. GALIFIANAKIS:

H.R. 16764. A bill to require States to pass along to individuals who are recipients of aid or assistance under the Federal-State public assistance programs or under certain other Federal programs, and who are entitled to social security benefits, the full amount of the 1972 increase in such benefits, either by disregarding it in determining their need for assistance or otherwise; to the Committee on Ways and Means.

By Mr. HATHAWAY:

H.R. 16765. A bill to establish a Commission on Mental Health and Illness of the Elderly, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HOSMER:

H.R. 16766. A bill to amend title 38 of the United States Code to provide that any social security benefit increases provided for by Public Law 92–336 be disregarded in determining eligibility for pension or compensation under such title; to the Committee on Veterans' Affairs.

By Mr. KOCH:

H.R. 16767. A bill to grant a child adopted by a U.S. citizen the same immigrant status as a child adopted by a U.S. citizen and his spouse; to the Committee on the Judiciary.

By Mr. McKAY:

H.R. 16768. A bill to amend title II of the Social Security Act to extend the period during which an individual may be entitled to child's insurance benefits on the basis of full-time student status in any case where the individual involved interrupts his education to perform certain missionary service; to the Committee on Ways and Means.

By Mr. McKINNEY:

H.R. 16769. A bill to amend the Internal Revenue Code of 1954 to reduce the rates of the excise tax on telephone and teletypewriter exchange service for 1973 through 1975 and to eliminate such tax for periods after December 31, 1975; to the Committee on Ways and Means.

By Mr. PEYSER (for himself, Mr. Robinson of Virginia, and Mr. Stokes):

H.R. 16770. A bill to prevent the use of heroin for any drug maintenance program; to the committee on Interstate and Foreign Commerce.

By Mr. PODELL:

H.R. 16771. A bill to provide for the rational financing of education; to the Committee on Education and Labor.

By Mr. SEIBERLING (for himself, Mr. Leggett, Mr. Aspin, Mr. Danielson, Mr. Eilberg, Mr. Dellums, Mr. Helstoski, Mr. Hathaway, and Mrs. Abzug):

H.R. 16772. A bill to provide comprehensive adjustment benefits and services to unemployed workers, and for other purposes; to the Committee on Education and Labor.

By Mr. SEIBERLING (for himself, Mr. Leggett, Mr. Aspin, Mr. Danielson, Mr. Eilberg, Mr. Dellums, Mr. St Germain, Mr. Helstoski, and Mr. Hathaway):

H.R. 16773. A bill to amend the tax and customs laws in order to improve the U.S. position in foreign trade, and for other purposes; to the Committee on Ways and Means.

By Mr. ESCH (for himself, Mr. Brown of Michigan, Mr. Buchanan, Mr. Derwinski, Mr. Drinan, Mr. Eilberg, Mr. Frenzel, Mrs. Griffiths, Mr. Gude, Mr. Harrington, Mr. Hechler of West Virginia, Mr. Helstoski, Mr. Matsunaga, Mr. Mazzoli, Mr. Moorhead, Mr. Murphy of New

York, Mr. Riegle, and Mr. Schwengel):

H.R. 16774. A bill to establish a national adoption information exchange system; to the Committee on Education and Labor.

By Mr. FRASER:

H.R. 16775. A bill to expand the Youth Conservation Corps pilot program, to authorize assistance for similar State programs, and for other purposes; to the Committee on Education and Labor.

By Mr. HOLIFIELD:

H.R. 16776. A bill to amend the Social Security Act to make certain that recipients of aid or assistance under the various Federal-State public assistance and medicaid programs (and recipients of assistance under the veterans pension and compensation programs or any other Federal or federally assisted program) will not have the amount of such aid or assistance reduced because of increases in monthly social security benefits; to the Committee on Ways and Means.

By Mr. HUNGATE:

H.R. 16777. A bill to provide for disclosures designed to inform the Congress with respect to legislative measures, and for other purposes; to the Committee on Standards of Official Conduct.

H.R. 16778. A bill to provide for disclosures designed to inform Congress with respect to legislative measures, and for other purposes; to the Committee on Standards of Official Conduct.

By Mr. McKEVITT (for himself, Mr. Blackburn, Mr. Del Clawson, Mr. Cleveland, Mr. Derwinski, Mr. Gerald R. Ford, Mr. Frenzel, Mr. Mazzoli, Mr. Pike, Mr. Randall, and Mr. Ware:

H.R. 16779. A bill to amend the Social Security Act to prohibit the payment of aid or assistance under approved State public assistance plans to aliens who are illegally within the United States; to the Committee on Ways and Means.

By Mr. PRICE of Texas:

H.R. 16780. A bill to change the formula for calculating the value of wheat marketing certificates and feed grain price support payments; to the Committee on Agriculture.

By Mr. REID:

H.R. 16781. A bill to prohibit tax deductions for expenses incurred in the production or publishing of false advertising; to the Committee on Ways and Means.

By Mr. ROY (for himself, Mr. Rogers, Mr. Kyros, Mr. Preyer of North Carolina, Mr. Symington, Mr. Nelsen, and Mr. Carter):

H.R. 16782. A bill to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROYBAL:

H.R. 16783. A bill to amend the joint resolution establishing the American Revolution Bicentennial Commission, as amended, to create the bicentennial film program; to the Committee on Judiciary.

By Mr. UDALL:

H.R. 16784. A bill to amend title 39, United States Code, with respect to the financing of the cost of mailing certain matter free of postage or at reduced rates of postage, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. FREY (for himself, Mr. Alexander, Mr. Anderson of Illinois, Mr. Archer, Mr. Derwinski, Mr. Fascell, Mr. Forsythe, Mr. Frenzel, Mrs. Heckler of Massachusetts, Mr. Hosmer, Mr. Harrington, Mr. Mailliard, Mr. Pepper, Mr. Robinson of Virginia, Mr. Thone, Mr. Veysey, and Mr. Ware):

H. Con. Res. 708. Concurrent resolution to require a court impact statement in each report of legislation from a committee of either House of Congress to that House; to the Committee on Rules.

By Mr. DANIELSON:

H. Res. 1125. Resolution in support of the U.S. veto of the United Nations resolution on terrorism; to the Committee on Foreign Affairs.

By Mr. FULTON:

H. Res. 1126. Resolution to prohibit any notice of an increase in social security payments from referring to any individual who is a candidate for public elective office; to the Committee on Ways and Means.

By Mrs. GREEN of Oregon (for herself, Mrs. Chisholm, Mrs. Grasso, Mr. Hansen of Idaho, Mr. Perkins, Mrs. Hicks of Massachusetts, and Mrs. Mink):

H. Res. 1127. Resolution to authorize additional investigative authority to the Committee on Education and Labor; to the Committee on Rules.

By Mr. SCHEUER (for himself, Mr. Thompson of New Jersey, Mr. Tiernan, Mr. Vanik, Mr. Vigorito, Mr. Whalen, Mr. Bob Wilson, Mr. Wyatt, Mr. Wydler, Mr. Conable, and Mr. Halpern):

H. Res. 1128. Resolution in support of U.S. veto of U.N. resolution on terrorism; to the Committee on Foreign Affairs.

By Mr. SCHEUER (for himself, Mr. McClory, Mr. McDonald of Michigan, Mr. Macdonald of Massachusetts, Mr. Mailliard, Mr. Metcalfe, Mr. Murphy of New York, Mr. Patten, Mr. Pepper, Mr. Peyser, Mr. Pickle, Mr. Pike, Mr. Podell, Mr. Price of Illinois, Mr. Rees, Mr. Rodino, Mr. Rogers, Mr. Rosenthal, Mr. St Germain, Mr. Sarbanes, Mr. Schwengel, Mr. Sisk, Mr. Steiger of Wisconsin, Mr. Symington, Mr. Thompson of Georgia):

H. Res. 1129. Resolution in support of U.S. veto of U.N. resolution on terrorism; to the Committee on Foreign Affairs.

By Mr. SCHEUER (for himself, Mrs. Coughlin, Mr. Daniel of Virginia, Mr. Daniels of New Jersey, Mr. Derwinski, Mr. Dow, Mr. Duncan, Mrs. Dwyer, Mr. Erlenborn, Mr. Fascell, Mr. Fish, Mr. Fisher, Mr. Frelinghuysen, Mr. Frenzel, Mr. Green of Pennsylvania, Mr. Gude, Mr. Harrington, Mr. Helstoski, Mr. Hillis, Mr. Horton, Mr. Hosmer, Mr. Howard, Mr. Koch, Mr. Kyros, and Mr. Lent):

H. Res. 1130. Resolution in support of U.S. veto of U.N. resolution on terrorism; to the Committee on Foreign Affairs.

By Mr. SCHEUER (for himself, Mrs. Abzug, Mr. Addabbo, Mr. Alexander, Mr. Anderson of Illinois, Mr. Archer, Mr. Aspin, Mr. Bell, Mr. Biester, Mr. Bingham, Mr. Brademas, Mr. Brasco, Mr. Brinkley, Mr. Buchanan, Mr. Burke of Massachusetts, Mr. Byrne of Pennsylvania, Mr. Carey of New York, Mr. Casey of Texas, Mr. Clancy, Mr. Clark, Mr. Collier, Mr. Collins of Illinois, Mr. Conover, Mr. Córdova, and Mr. Cotter):

H. Res. 1131. Resolution in support of U.S. veto of U.N. resolution on terrorism; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROYHILL of Virginia:

H.R. 16785. A bill for the relief of Thomas A. Lucid; to the Committee on the Judiciary.

By Mr. DANIELSON:

H.R. 16786. A bill for the relief of Vincenzo Greco; to the Committee on the Judiciary.

By Mr. HELSTOSKI:

H.R. 16787. A bill for the relief of Martin Tarnowsky and John Tarnowsky; to the Committee on the Judiciary.

By Mr. HOGAN:

H.R. 16788. A bill for the relief of James E. Miller; to the Committee on the Judiciary.

By Mr. MATSUNAGA:

H.R. 16789. A bill for the relief of Rito E. Judilla; to the Committee on the Judiciary.

H.R. 16790. A bill for the relief of Virna J. Pasicaran; to the Committee on the Judiciary.

By Mr. ROY:

H.R. 16791. A bill for the relief of Mrs. Clare McManigal; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

CONVOCATION ADDRESS BY VICE ADM. STANSFIELD TURNER, PRESIDENT, U.S. NAVAL WAR COLLEGE

HON. JOHN O. PASTORE

OF RHODE ISLAND

IN THE SENATE OF THE UNITED STATES

Thursday, September 21, 1972

Mr. PASTORE. Mr. President, we in Rhode Island are very proud of our naval installation. There is an impressive naval tradition relationship between our State, its people, and the Navy. Our new president of the U.S. Naval War College is Vice Adm. Stansfield Turner, and at a recent convocation he made a very impressive and, I think, provocative talk.

I ask unanimous consent that his speech be printed in the Extension of Remarks.

There being no objection, the speech was ordered to be printed in the Record, as follows:

CONVOCATION ADDRESS BY PRESIDENT OF NAVAL WAR COLLEGE

Good morning.

Welcome to distinguished guests and families.

I extend a warm welcome to the students of the 89th session of the Naval War College. You are now the newest matriculants in the oldest Naval War College in the world.

In the Naval Warfare Course, you are 188 strong at the CDR/CAPT level. Fifty percent of you are U.S. Naval Officers. The rest are Army, Air Force, Marine Corps, Coast Guard, State Department, CIA, naval and defense civilians.

In the Command and Staff Course, you are 232 strong at the LT/LCDR level. Two thirds are Navy.

In our two International courses you are 46 strong representing 35 different Navies.

Our total student body is 467.

Our 89th session will have a number of unique characteristics:

1. This is the first year that we have had an academic convocation.

2. This is the first year that we have had United States student participation in the two courses designed for international students. This is a direct reflection of the increasing importance of cooperation with allies under the Nixon Doctrine.

3. This is the first year of our new Naval Staff Course for younger international officers.

4. This is the first year five countries have been represented in our international courses. We welcome Cambodia, Lebanon, Malaysia, Nigeria and Singapore.

5. This is the first time in over 30 years that we have completed a new academic building expressly for the War College. Just behind historic Luce Hall here, our new Spruance Hall is nearing completion.

6. This will be the first time in over 20 years that we have built new family housing for War College students. I am proud, thanks to the efforts of one of my predecessors, Admiral Richard Colbert, that this housing has been specially designed to harmonize with the historic architecture of Newport.

7. This is the first year that we will teach an academic program exclusively for the distaff side.

8. This is the first year that we have provided a text book allowance to our students.

9. This is potentially the finest student body that we have had in many years. At the express direction of the Chief of Naval Operations, the Naval officers in your classes were rigorously screened. Because of this emphasis on quality we have less than our authorized students. You in this new student body are to be congratulated on having been chosen to attend the Naval War College.

10. Finally, and most significantly, this will be a year of major changes in the College's academic program.

Why are we changing our curriculum? First because every academic institution must periodically review whether it is fulfilling its mission. I think that the changes in the issues and problems which the Navy faces today call for changes in what we teach here. The problems we face are increasingly complex. More is demanded of us as officers than ever before. This College in turn must demand more of its students.

Beyond that, I believe that there has been a creeping intellectual devitalization in all of our War Colleges since World War II. I have never met a graduate of any War College who said that he had been intellectually taxed by a War College course of instruction. I am not saying that these men did not find their courses stimulating, time consuming, and worth their year of effort. I am saying that few were challenged to anywhere near the limits of their intellectual capabilities.

Further evidence of our intellectual weakness is the ineffectiveness of our military establishment in answering the questions, criticism and doubts raised against it in recent years. You can be certain that your morning newspaper contains several attacks on the performance or motives of military men. The fact that these questions are growing in crescendo indicates that we are providing convincing responses or taking positions that are credible to others not in uniform. Admittedly, some of the criticism is neither genuine nor constructive and cannot be satisfied.

However, most of it is legitimate and deserves satisfaction. And I would urge that we not fool ourselves into thinking that these voices will be stilled simply by the ending of the conflict in Viet Nam.

Why have we eroded our credibility? One cause is that higher military education has come to substitute prolonged briefings for rigorous intellectual development. This is because almost every aspect of our society today has some impact on national security. Our War Colleges have succumbed to the temptation to add piecemeal to their curricula in a fruitless quest to cover everything of relevance.

Another sample of the ineffectiveness of our military educational system is our increasing reliance on civilians and on "Think Tanks" to do our thinking for us. Do not misunderstand me. These people have done outstanding work for us. We very much need their help and stimulation into the future. We must, however, be able to produce military men who are a match for the best of the civilian strategists or we will abdicate control of our profession. Moreover, I am persuaded that we can be a profession only as long as we ourselves are pushing the frontiers of knowledge in our field.

There are many other symptoms of our professional decline. The War Colleges' reputations have regressed to the point that many officers believe that assignment to any one of them is primarily a year of release from the pressures of set or field duties, a year to "recharge batteries," as the saying goes. As far as I can find, no student in recent years has ever flunked out of this College for academic indifference or incompetence. I consider that either an amazing record, or a false concept of gentlemanly treatment that can only foster intellectual laziness. As of this moment, I can assure you that those who do not perform have no guarantee of a full year at the Naval War College.

Let me now talk directly to this year's student body about the improvements we intend in the College's courses of instruction. Any improvement must support the objective of the Naval War College, which is to enhance the capability of naval officers to make sound decisions in both command and management positions. This means developing your intellect, encouraging you to reason, to innovate, and to expand your capacity to solve complex military problems. To do this the College will emphasize intellectual development and academic excellence.

Now for the specifics. First, we will start by increasing the academic content of our courses and at the same time placing greater emphasis on what you the students do rather than what is done for you. We will expect lots of individual effort in research, in reading, in writing, and in solving case problems.

The first semester, for instance, those of you in the Naval Warfare Course will be assigned about 100 pages of carefully selected reading each week. We will temper this with seminar discussions led by our recently expanded and strengthened faculty. That faculty's purpose is to expose you to areas of knowledge, to make you aware of what you need to probe into on your own, and to help you do so. It is not here to spoon feed anyone.

To the best of my knowledge examinations have never been used here. As far as I can determine this is because our War Colleges hold a false concept that a senior officer is above that sort of thing. Not so in my view. You must prove yourself even more as you move upward. The importance of our knowing all that we can about the men we are going to promote to be Colonels or Captains or Admirals or Generals is much more vital than down at the bottom rung. Thus, we will institute exams this year. We will not employ the usual precise military grading system down to two decimal points. Superior, pass and fail will suffice. We are not interested in establishing a class standing or writing fitness reports based on exams. Additionally, the type of exams we will employ are not subject to precise grading. We will be attempting to uncover ideas and original thinking, not standard solutions or factual answers. We will do so as much to focus your study efforts as to grade you.

We will de-emphasize lectures which are a passive learning experience, and have a low pay-off. We will want you to hear a number of distinguished senior officials but most of our lecturing will be done with our own faculty. Part of creating a more academic atmosphere on this campus will be to involve our own faculty more deeply.

The Naval Warfare Course will also eliminate the associated Master's Degree program with George Washington University. This was a good program academically. Ironically, it was probably one of the most intellectually demanding parts of the curricula of all of our War Colleges. I am not willing, however, to compromise my control of your academic efforts. Surely, we have more than enough to teach you in the time allotted and we must jealously guard our prerogative to do it in the way that our professional needs dictate. I have no concern that this change can really affect any of you in your prospects for promotion. I assure you that fitness reports signed on Naval Warfare students will explain that as a group you were not permitted to participate in a Master's Degree program.

In addition I intend three shifts of emphasis or direction in our curriculum this year, which are at variance with the International Relations degree offered by George Washington University.

First, we will approach the study of strategy through historical cases rather than through international relations or political science. Our courses of instruction have hitherto concentrated too exclusively on the brief period of military strategy since the close of World War II. The domination of this period by only two world powers will likely prove to have been a temporary aberration. The current trend toward a multipolar world would seem to confirm this. Studying historical examples should enable us to view current issues and trends through the broader perspective of the basic elements of strategy. Approaching today's problems through a study of the past is one way to ensure that we do not become trapped within the limits of our own experience. We will not be concerned with history as chronology, but with its relevancy and application to today and tomorrow. We will start with Thucydides' History of the Peloponnesian War. What could be more related to today than a war in which a democratic nation sent an expedition overseas to fight on foreign soil and then found that there was little support for this at home? or a war in which a sea power was in opposition to a nation that was basically a land power. Are there not lessons still to be learned here?

The second shift in emphasis will be away from the broad issues of strategy and international relations into areas of more exclusive concern to the United States Naval officer. In the last 25 years we in uniform have been very aware of the importance of understanding our relationship to the economic, diplomatic and other factors of national strategy. I believe that in the process we have lost some of our ability to offer pure military advice. Few of us in uniform will ever be required to deal in the creation of national strategy. All of us here, however, will influence our military and national strategies. We will do so through the recommendations we will offer and the decisions we will make on how to allocate those scarce national resources that will be entrusted to the military establishment in the years ahead. You and I will formulate the strategy of tomorrow by the way we spend and manage our Defense budget today.

Loosely speaking I refer to this second area as Management. The focus of all of the four courses here will shift in this direction. We are in danger of pricing the United States out of a military capability that is sufficient to be a deterrent. Therefore, under Management we will study cases of choice: choices of weapons characteristics; choices between weapons; choices between weapons and other necessary elements of military power such as personnel; and choices of how to procure and manage military forces. We will deal in only a few representative cases and we will not attempt to cover the full range of military managerial problems.

Rather the cases used will illustrate how to select and weigh the factors relevant to a decision and how to understand the organizational and managerial functions of translating a decision into action. Hopefully, working on a few representative cases will make you better prepared to handle whatever particular decisions or choices you subsequently encounter.

Thirdly, we will also shift emphasis toward the study of the employment of the forces that we procure and manage. I call this section of the curriculum Tactics. Again, we will look at specific tactical cases but, perforce, we will not attempt to cover all types of naval tactics. The emphasis will be on how to solve problems using reasoning that can be applied to whatever cases you encounter after leaving the War College.

Each section of the curriculum, Strategy, Management and Tactics, has a common thread, that of allocating resources. Strategy is the art of allocating total national resources: economic, diplomatic, psychological, military and others to serve our national purposes. Management is the art of allocating scarce financial resources to procure and manage a military force that will support our strategy. Tactics is the allocation of available resources or forces when the action starts. We badly need officers who are capable of handling the trade-offs in each of these fields. The skills of doing this are infinitely more demanding than the allocation of assets in the business world of profit and loss. That makes our job here wonderfully demanding.

This year's shift of emphasis towards a deeper study of strategy on the one hand and towards more attention to management and tactics on the other is really not something new at the Naval War College. They represent a return to our great traditions—to the strategic and historical contribution of men like Mahan; to the tactical and operational studies of men like William Sims, Raymond Spruance, Kelly Turner who were the experts in naval warfare in their day. The idea of hard work is by no means new either. One of our researchers recently dug out the complete course materials for the 1926–27 curriculum. He said that it was a whale of a workload, for students and faculty alike, and that the marginal comments indicated that lots of midnight oil had been consumed back then. I trust that it will be again.

The balance between Strategy, Management and Tactics will vary between the four courses we teach. Our senior courses, the College of Naval Warfare, and the International Naval Command College, will spend more time on strategy. The College of Command and Staff and the International Naval Staff Course will look more toward tactics.

They will all four share common ground in management and I am intent that there be more interchange between all four student bodies. Each can stimulate the others. This is one campus and one basic curriculum with different shades of emphasis.

Speaking of togetherness, I want to amplify my earlier mention of a wives' course. We all know the importance of our wives interest in and support to our careers. Military wives usually become familiar with their husband's areas of professional specialty, if only in self-defense against the foreign language he speaks in acronyms such as ASW, TACAIR, FYDP, and other unintelligible mumbo jumbo. I suspect that it will be more difficult for wives to feel a part of Thucydides' Peloponnesian Wars, case studies of the F–14 or warfare tactics new to her husband. As a pilot project this autumn we are going to offer an exclusively distaff course on strategy and another on anthropology. If they work well and meet a need we will look at expansion in the next term.

Now those of you in the entering classes may well ask, "What is in all of this for me?" This is not the relaxing sabbatical I had hoped for!

My response is that if you are inclined to shy away from a challenge, you are not the kind of officer we want here. All of you here are too capable to afford a year away from the intensity of professional development or from the heat of competition.

Now let's look also at the rewards that you can achieve under the new curriculum. They are considerable. First, I intend to identify those who have the capability to contribute to our profession's intellectual growth. I will make this known as best I can, and particularly to urge your assignment to appropriate responsibilities after you leave this College. If we are to redress the balance of unfavorable public opinion, we must be able to place the intellectual square pegs in the square holes, and those otherwise qualified into holes shaped for them; and many of those are equally important and challenging I would add. We don't all want to be squares (Forgive me).

Second, and far more important, you can have the reward of becoming a more capable and productive officer, but not because you learned a lot of new facts here. If you attempt to make this a prep school for your next duty assignment, you will have missed the purpose of being here. If we trained you for a particular assignment or type of duty, the value of this College would be short lived. We want to educate you to be capable of doing well in a multitude of future duties.

The common ingredient to them will be the ability to make good decisions. Now the essence of decision making is not finding facts—a plebeian chore. Rather it is considering all of the key factors which bear on a decision—and weighing them in a manner that will assist in making the final judgment. Your objective here should be to improve your reasoning, logic and analysis, not to memorize data that will soon be outmoded. Don't look for answers on how to conduct anti-submarine warfare or whatever. Search instead for methods of approaching anti-submarine warfare problems. Learn to discern which facts are trivia and which drive the results.

The new curriculum should leave you with abundant free time without the distractions of musters, coffee-breaks, committee meetings, and lectures. You can run the risk of abusing your freedom, or you can use it for self-development. You are on your own to get your higher education in military decision making during these next ten months. My basic premise is that if we point you in a reasonable direction and just turn you loose, you will conquer every height ahead of you on your own. Always keep in mind that the product which the country desperately needs is military men with the capability of solving complex problems and of executing their decisions. Scholarship for scholarship's sake is of no importance to us. You must keep your sights on decision making or problem solving as your objective. Problems are not solved by standard or pat solutions, especially not in times of such rapid change as we are experiencing.

Here is an academic atmosphere, free of real world responsibilities, you have a particularly valuable opportunity to express thoughts freely and let your imagination roam. We want this year to be built around an uninhibited exchange of ideas, and rank has no monopoly on those. Note that student and faculty name badges emphasize first names and purposely omit rank. From today on also everyone will be wearing civilian clothes to blur rank distinctions.

Mainly, though, I adjure you to take advantage of this opportunity. If you find yourself taxed hard, over-taxed in cases, do not let that discourage you. If we tailored a course to the average student, we would fail to tax those who are most ready to proceed. Remember the related point that course content is secondary. It is the development of habits of thinking that counts. If you cannot cover everything that is assigned, do what you do accomplish well, so that you think creatively. Ploughing through a wealth of material just to absorb it is not what we want or what you need. A modicum of excellence and understanding will far outbalance a plethora of mediocrity and superficiality.

There is, of course, also a danger that we may not challenge some of you to capacity in the standard programs here. If so, it will be up to you to seek out academic opportunity equal to your talents. You can undertake additional independent research projects under the guidance of one of about thirty well qualified tutors we have on campus. Or you may audit the academic program of one of the other courses, no matter which course you are in. Or if you believe that you have exceptional talent and conceive of a particularly demanding project, you can apply to be a Research Associate under our new Research Department and do independent work at the doctoral level. I hope that many of you will take some of these directions.

We in the military establishment have the intellect and the capability to provide the answers demanded of us today. We can tap those capabilities only through hard intellectual endeavor such as you are about to undertake. We are a profession, not a trade. You are going to help us continue to be professionals. You have a unique opportunity for these next ten months. It will be only as productive as you make it for yourselves. Cherish this one golden opportunity and give it all you have.

Your first meeting on Thucydides commences at 1:30. Between now and then all of our facilities are open for you and your families and our guests to visit.

Again, welcome—and good studying.

TESTIMONY FOR BALANCED TRANSPORTATION

HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. ESCH. Mr. Speaker, as one who has worked for a balanced transportation system since coming to Congress I was especially interested in testimony given by the National League of Cities/U.S. Conference of Mayors before the Senate Banking Committee. For those of my colleagues who may not have had the opportunity to review this excellent statement, I am inserting a copy of it in the RECORD:

STATEMENT OF NATIONAL LEAGUE OF CITIES, U.S. CONFERENCE OF MAYORS, AMERICAN TRANSIT ASSOCIATION, INSTITUTE FOR RAPID TRANSIT, RAILWAY PROGRESS INSTITUTE BEFORE THE SENATE BANKING, HOUSING AND URBAN AFFAIRS COMMITTEE, SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS ON S. 3939, FEDERAL-AID HIGHWAY ACT OF 1972

This statement represents the consolidated views of the National League of Cities, the U.S. Conference of Mayors, the American

Transit Association, the Institute for Rapid Transit and the Railway Progress Institute.

We would like to say at the outset that we consider it wholly appropriate that the Senate Banking, Housing and Urban Affairs Committee is hearing testimony regarding the impact on mass transit of provisions of S. 3939, the Federal-Aid Highway Act of 1972. This bill, reported by the Senate Public Works Committee, will have considerable affect upon the financing and administration of the Urban Mass Transportation Assistance Act.

Since this Committee fathered that Act and wrote into it the growth and expansion necessary to achieve balanced urban transportation, it is natural that you have a chance to assess its relationship with the highway program.

We favor the involvement of the highway program in matters of public transportation and would hope that this close cooperation between the two Committees is continued. This is made more convenient by the fact that the 1970 Mass Transportation Assistance Act calls for a two-year updating in funding levels just as the Highway program is authorized on a two-year basis—with such review coinciding. The major point is that what is happening further serves to reflect and underline the fact that urban transportation will always involve both highways and mass transit.

The phase "an idea whose time has come" may be a little overworked these days, but these hearings certainly demonstrate that balanced urban transportation is solidly in that category.

Representing those public and private interests who believe that mass transportation is essential to the future of urban and suburban America, we welcome this opportunity to comment further before this Committee.

When we last testified here, it was on the urban transportation amendments to the 1972 Housing Act. That bill, which passed the Senate 80-1, represented a significant and progressive approach to the problems of urban transportation. It is not necessary to reiterate now the many arguments presented then which justified a program of federal operating subsidies for mass transit.

We are confident that program will be enacted into law and would only point out now that events in transit since we last appeared have underlined the need for such a measure.

As stated above, the 1970 Mass Transportation Assistance Act requests the Administration to report every two years on the need for additional contract authority for the capital grants program. That report was due February 1, 1972. At this Committee's urging, our testimony in February was necessarily incomplete in that we said we would comment later—after Administration proposals—on the need for additional contract authority for the urban mass transit capital grant program.

It has been apparent for some time that if our urban transportation is truly to be balanced, then the major source of transportation funds—the Highway Trust Fund—must contain, in effect, a mass transit option. Thus we must face the details of not opening up the Highway Trust Fund, but of how it is to be used to achieve urban transportation goals. In other words, no one is mounting a raid on the trust fund . . . we are building in flexibility for an urban area to make its highway—mass transit decisions in the best possible way.

However, in adapting the Highway Trust Fund to meet mass transit needs, there are some major considerations which have to be taken into account.

The first consideration is obviously to what extent would highway funds be used for mass transit. Realistically, we believe that only the urban systems section and the provision for utilizing funds in de-designated urban Interstate Highways would provide a source of funds for transit. However, given the highway needs of the nation and the schedule for completion of the Interstate Highway System, realistically there is not enough money in the trust fund alone to begin to meet the needs of transit as well—certainly not if our goal is balanced urban transportation. We will expand later on the degree to which other funds are needed to support current mass transit programs.

The second major consideration lies in the allocation of funds. We believe it is a mistake to rely on the present allocation system of highway funds for funding transit projects. The transit needs of our cities vary greatly—some are merely replacing equipment, others are planning and constructing entire new systems. A blanket distribution of funds, based on population, would not take such needs into account and would result in unwarranted amounts going to some areas while severely hampering the transit efforts of others. If an area is to exercise its option to balance its transportation among transit and highways, the federal government must take into account the differences among localities' plans and systems.

However, our reservations about these specific problems in no way signal a lack of support for the idea of a unified approach to the funding or urban transportation.

The bill reported by the Senate Public Works Committee goes a long way towards meeting most of our concerns. Certainly a most progressive bit of groundwork has been done and it is reasonable now to expect that a general agreement among the various interested parties can be reached.

We have long believed that there is a demonstrable coalition of interests among the highway and transit user. It does not take every energetic research to show that as urban and suburban highways improved and expanded (say, since 1950), transit usage has dropped overwhelmingly—from 17 billion annual passengers to currently, 7 billion. This drop in ridership has led to the increasing bankruptcy of local transit systems with the resulting public takeover and tax support.

Now that the highway program has reached the stage of concentration on the urban systems, the relationship with transit has been brought into sharp public focus. A stark illustration of the problem was recently given by the research department of the Chicago Transit Authority. It calculated that 86% of the people who go to and from downtown Chicago on a typical weekday do so by some form of public transportation. If that 86% had to switch to automobiles instead, it would mean at least 166,000 additional cars would have to be driven and parked downtown each weekday. It would mean that 148 new lanes of expressways would have to be contructed (tripling the current number of lanes); 50 million square feet of parking would then have to be provided which would mean tearing down most of the downtown buildings, constructing three and a half levels of parking space over the area and then rebuilding the skyscrapers and other buildings.

That may be fanciful but it illustrates the dilemma of public officials who must plan for the future of urban transportation. Can we continue to invest precious public funds only in freeway systems—systems which may generate even more dependence on the private automobile—when a properly planned transit system might better serve the mobility of the public? The question is not freeway vs. transit, but how much of each.

That is the question frequently being asked in editorials, public hearings, state houses, and council chambers across the nation. It is that question that the Administration has quite properly addressed itself to, and it is the question which we want to specifically comment on today.

If one of our concerns about using the Highway Trust Fund is not enough funds for transit, what is enough? The key to this is what the states and cities have geared themselves up to spend (along with local matching funds) based on the promise of federal funding as presented in the 1970 Urban Mass Transportation Assistance Act.

Currently, these are pending with UMTA close to $5 billion worth of capital grants projects. Much of this reflects local effort and capacity generated by the contract authority provided in the 1970 Act. A detailed look at this local effort reveals that the states and cities have taxed themselves to provide about $2.7 billion in matching funds over the next 5 years.

In Illinois, the Chicago Urban Transportation District has been created and granted authority to generate revenue bonds of at least $400 million. The state has been granted authority to provide $200 million to finance capital grants.

The State of Massachusetts has approved funding of $125 million of capital grants for transit.

The California legislature has approved earmarking of the sales tax for transit purposes. This will generate about $75 million a year for five years for capital purposes.

Atlanta voters, in a historic bond issue, passed a regional sales tax for transit purposes. This will produce about $483 million of funds for local matching over the next five years.

Minnesota provided authority to the Twin City area to impose additional property taxes. This will produce about $20 million at the local level over the next five years.

The State of Pennsylvania is expected to provide $56.5 million for capital purposes during fiscal 1972. These funds are part of the State general obligation funds. The 1973 request is for $77 million. These funds are to be matched by local funds in requesting Federal funds. Over the next five years at least $250 million in State funds can be expected to be authorized.

For the last three years the city of New York has authorized, from general funds, at least $100 million a year for capital purposes. There remains $270 million in unobligated funds from previously appropriated monies. For the next five years the city can be expected to authorize $50 million a year for matching Federal dollars. This is to be added to the $450 million remaining from the 1967 New York State bond issue authority. Furthermore, the State of New York by special referendum has made available $1 billion for transportation improvements.

The State of Maryland has recently dedicated $900 million in transportation revenues to match federal funds for the next 5 years.

Depending on the final percentage of the Federal share for capital grants, this $2.7 billion in local funds would indicate a demand for between $6 and $8 billion over the next five years. This is in addition to the needs for research and demonstration projects as well as bus replacement—currently estimated at $200 million each.

Obviously these needs must be tempered by the traditional constraint imposed by planning, engineering and construction time tables. However, at the very least it is obvious that these capital needs cannot possibly be met out of existing or projected revenues from the Highway Trust Fund alone.

It would appear at this time that the principle of supporting the bulk of mass transit programs from general revenues is a sound one, even though there is justification for the use of some trust fund monies for transit purposes. A large part of that justification is that the source of about half of the trust fund money is user taxes generated within urban areas. If some of these funds are returned to those jurisdictions for either highway or transit usage, then you are giving the proper degree of flexibility to the local transportation decision makers. Obviously this implies that existing mass transit program will continue to be funded at promised levels. Transit needs and political reality would tend to dictate continued reliance on general revenue funds for the bulk of the various transit programs.

The other element to consider in assessing the need for additional contract authority for the capital grants program is the implication of the pending 1972 Highway Bill. The transit-oriented provision in this bill authorizes $800 million a year for the urban highway system, TOPICS and public transportation purposes, of which $300 million a year is specifically earmarked for transit. The bill further provides that if a locality de-designates Interstate Highway mileage, those funds involved can be spent for public transit purposes.

It is extremely difficult to estimate precisely what affect these provisions would have on the level of funding for transit capital grants proposals. However, aside from these potential funds, transit's demonstrated needs would require a minimum funding of at least $1 billion a year. This is the figure contained in the Administration's budget for FY 1973.

For the five year authorization period, this would mean adding $2.9 billion in contract authority to the $2.1 billion carried over from the 1970 Act. After two years, the urban mass transit needs would be reassessed with the added value of having a record of expenditure resulting from the new provisions in the 1974 Highway Act.

There are four other points that should be considered in connection with the transit amendments and with the provisions pending in the Highway Bill.

The first point is that it is important not to make any distinction between modes in public transportation. Section 142 of the Senate Highway Bill would expand the use of funds generated by the Highway Trust Fund to include the purchase of transit buses. This does not go far enough and, indeed, discriminates against those cities whose transit depends largely on rail systems. An increasing number of the nation's cities provide not only bus transit, but subway and commuter rail service as well. Transit system planning has progressed to the stage where these elements are now integrated with and interdependent on each other. Public funds support all three in most such areas. We feel it is important that such modal integration continue and that the new emphasis on system (rather than project) planning dictates that no distinction be made as to availability of funds.

If Highway Trust Fund monies are now going to finance public transportation, it makes sense to include all modes and not just single out buses. The main point here is that if we want a metropolitan area to have flexibility about using urban transportation funds for both highways and transit, then that flexibility should include the option of using funds for a variety of transit modes. We recognize that the amount to be made available out of the Highway Trust Fund are not large enough to include the expensive needs of rail systems, but we believe this problem can be dealt with more properly by increasing the contract authority under the Urban Mass Transportation Assistance Act.

We understand that an amendment to broaden the usage of Highway Trust Fund monies to include rail as well as bus is beyond the jurisdiction of this Committee. However, as a policy question, we seek your support for an amendment such as that proposed by Senator Cooper in the Committee Report as an individual view. This proposal recognizes, quite properly, that it is the urban systems section of the Highway Bill that contains the funds most likely to be available for transit purposes. This then is where the option to include rail as well as bus should appear.

Second is the question of the amount of the Federal percentage for the capital grants program. The present provision of the Federal share amounting to a ceiling of 66% (with a floor of 50%) has proved difficult on two points: The uncertainty of localities being able to count on the maximum grant, and the question of equity with the highway program.

The Senate-passed transit amendments gave the Secretary of Transportation discretionary authority to provide up to 90% of the Federal share of transit aid projects. The Administration has indicated a preference for funding projects at a uniform 70%. Therefore, in reality any "up to" 90% authorization would come out, in practice, to 70%. This makes the 90% illusory. Rather than relying on such a 90% provision with the justification that it bears a relationship to the Interstate Highway program, it seems to us that a far better case can be made for a mandatory 80% level. Such an 80% uniform Federal share for transit projects truly is in balance with the Federal aid highway program because it is the equivalent to the average share for the Interstate Highway funds in combination with the ABC program funds.

With the Interstate Highway system funded at 90% Federal—and these billions of dollars continuing to be spent over the next several years—and a smaller amount for the ABC system available on a 50% basis, the result has been overall that state and local governments have put up about 20% to get $5 billion a year in Federal Highway funds. The 1972 Highway Bill changes in the funding didn't really affect the Federal share because while the 90% interstate money was cut back by $750 million, the Federal percentage was raised to 70% on the remaining ABC funds. (See Footnote).

Thus if mass transit is to be in real balance with the highway system, the logical place to start is with the Federal share in funding.

Point three relates to the fact that all funds spent for mass transit, whatever their source, should be subject to the standards and criteria established by the administration of the Urban Mass Transportation Assistance Act of 1970. It is necessary to avoid any dual planning or regulations just because the funds may come from the Highway Trust Fund. This will require amendment to Section 9 of the Urban Mass Transportation Assistance Act of 1970 which will allow these funds to be spent for the planning of projects funded by the Highway Act.

The fourth point relates to the administration of the capital grants program. We fear that any proposal that combines transit and highway funding under the Highway Trust Fund alone could presage the virtual dismantling of the Urban Mass Transit Administration. There is no reason why the opening up of the Highway Trust Fund to transit projects should preclude U.M.T.A. from developing a constructive relationship with the Highway Administration—especially if such Highway Trust Fund transit monies serve to complement general revenue funds authorized by the Urban Mass Transportation Assistance Act.

Continued and comprehensive oversight by this Committee on the operations of the Urban Mass Transportation Act and the Urban Mass Transportation Administration to assure that any expansion of eligible uses of Highway Trust Fund monies will be supplemental to, and not in lieu of, Urban Mass Transportation Act funding, and to also ensure that U.M.T.A. and the Federal Highway Administration work together to implement a coordinated and balanced transportation policy utilizing both highway and rail systems.

In conclusion, we believe that the action the Congress will take this year on several proposals affecting urban transportation will cap an eight-year effort to revitalize mass transit—or at the very least to preserve it as a viable alternative to the over-dependence on the private automobile as the primary means of urban mobility.

For the sake of balancing our urban transportation systems between highways and transit, it is fortunate that these financial considerations come when the Interstate Highway System moves toward the final planning stages. It is fortunate, because we are being forced to consider both needs together and the riding public can only benefit by having funds and policy debated in such an atmosphere.

The utilization of highway revenues for mass transportation purposes, as well as the Federal program of operating assistance are both ideas which have been debated and tried at the state and local level. Such state and local programs have worked well as far as they have gone. There is nothing in their experience to signal that comparable Federal programs would be either unfeasible or unjustified. Indeed, if anything, the situation is such that only the Federal government can take the action that will save not only urban transportation, but through it our cities themselves. We are pleased and proud to have a role in this process which we feel will guarantee safe, convenient and economical urban transportation to all who both need and desire it.

Program	Federal share	Local share	Total	Federal share, percent
Highway Act 1970:				
Interstate system	$4.000	$0.444	$4.444	
Other trust fund	1.474	.631	2.105	
Total	5.474	1.075	6.549	85
1972 (Senate bill):				
Interstate system	3.250	.361	3.611	
Other trust fund	2.475	1.060	3.535	
Total	5.725	1.421	7.146	80

REVENUE SHARING

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Thursday, September 21, 1972

Mr. HARRY F. BYRD, JR. Mr. President, I have two editorials dealing with revenue sharing. One editorial is from the Washington Evening Star of September 18; the second is from the Los Angeles Times of September 17.

Last week the Senate passed this $30 billion piece of legislation by a very large vote. There is another side to the case, however. These editorials point out certain facts that I think are important to consider.

I have also prepared a table of deficits in Federal funds and interest on the national debt for the period 1954 to 1973, inclusive. I wish to point out that the interest on the debt—just the interest charges—in the 1 year from 1972, which was the last fiscal year, to this fiscal year increased $1.5 billion. The interest on the $30 billion revenue-sharing figure, which will be about $4 billion over the 5-year period, will further add to the interest charges which taxpayers must bear.

Mr. President, I ask unanimous consent that the two editorials and the table which I have had prepared be printed in the Extensions of Remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REVENUE SHARING

WHERE WILL REVENUES COME FROM?

Wash. Star-News, September 18, 1972, editorial:

". . . The [revenue-sharing] money obviously will represent deficit spending, and it will increase the pressure for new federal taxes.

"We won't belabor the point too much, for it looks as if nothing at this point can stop the revenue-sharing bill. . . .

". . . But it remains a question as to where Uncle Sam will get the revenues to share with the states and cities."

REVENUE SHARING RESERVATIONS

Los Angeles Times, September 17, 1972, editorial:

"Political realities being what they are, revenue sharing could not be enacted without cutting every town in the country in on the deal. The money is spread so thin, as a result, that it will be of only limited benefit in the places where it is most needed.

"Also, under general revenue sharing, no strings are attached; recipient governments can spend the money according to their own scale of priorities. There will, predictably, be cases where the judgments will be open to question.

". . . when President Nixon first proposed federal revenue sharing, it appeared that the program could be paid for without raising federal taxes. That is no longer the case. There have been enormous increases in federal spending and both presidential candidates have proposed yet more increases in the form of massive federal aid to primary and secondary schools.

"The enactment of revenue sharing makes it all the more certain, in fact, that regardless of campaign oratory, whoever is elected President will end up having to ask Congress for higher taxes."

DEFICITS IN FEDERAL FUNDS AND INTEREST ON THE NATIONAL DEBT, 1954–73 INCLUSIVE

[In billions of dollars]

	Receipts	Outlays	Surplus (+) or deficit (−)	Debt interest
1954	62.8	65.9	−3.1	6.4
1955	58.1	62.3	−4.2	6.4
1956	65.4	63.8	+1.6	6.8
1957	68.8	67.1	+1.7	7.2
1958	66.6	69.7	−3.1	7.6
1959	65.8	77.0	−11.2	7.6
1960	75.7	74.9	+.8	9.2
1961	75.2	79.3	−4.1	9.0
1962	79.7	86.6	−6.9	9.1
1963	83.6	90.1	−6.5	9.9
1964	87.2	95.8	−8.6	10.7
1965	90.9	94.8	−3.9	11.4
1966	101.4	106.5	−5.1	12.0
1967	111.8	126.8	−15.0	13.4
1968	114.7	143.1	−28.4	14.6
1969	143.3	148.8	−5.5	16.6
1970	143.2	156.3	−13.1	19.3
1971	133.7	163.7	−30.0	20.8
1972	148.8	177.7	−28.9	21.2
1973[1]	152.6	190.4	−37.8	22.7
20-year total	1,929.3	2,140.6	211.3	241.9

[1] Estimated figures.

Source: Office of Management and Budget and Treasury Department.

Mr. PERCY. Mr. President, the Senator from Virginia has a great deal of wisdom in the area of fiscal responsibility, and I know we will enjoy working together very much, indeed, when we bring up the Roth measure, which would place a ceiling on the Federal budget.

I do not think there is any way we can handle this problem other than to say, "This is the ceiling." I am delighted that the President supports it, and I think we can do what we did in 1968 when the Williams bill was passed and we required, for the first time, a $10 billion cut. That is the way to handle the budget—by controlling expenditures.

Mr. HARRY F. BYRD, JR. I am glad to join my friend from Illinois in putting a limit on expenditures, and I shall be glad to support putting a limit on the debt.

Mr. PERCY. I accept the first offer, and I will consider the second.

CONSTITUTION WEEK

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mrs. GRASSO. Mr. Speaker, during this week we celebrate the 185th anniversary of the signing of the U.S. Constitution.

This is an occasion when each of us should review this document which protects our civil rights and outlines our civil responsibilities.

Since its signing on September 17, 1787, the Constitution has withstood the challenges of time and the impact of new philosophies and concepts of government. Throughout the years, the Constitution has served as the polar star which kept our system of government on course toward the creation of a "more perfect union."

The fact that it remains the oldest written Constitution in active use illustrates the timelessness of its ideals and the foresight of our Founding Fathers. Knowing that an inflexible Constitution could not deal with changing times and circumstances, they drafted a document which established the essential framework for the American Nation. Succeeding generations, while recognizing the permanence of the basic ideals contained in its articles, have added to the document other amendments required to "secure the blessings of liberty to ourselves and our posterity." The fact that only 26 amendments have been ratified until the present indicates that change is made with care and caution.

Mr. Speaker, the greatest potential threats to the liberties expressed in the Constitution are indifference and political expediency. Through indifference to the violation of the rights of some, the treasured rights of all are also threatened. Through political expediency, some might attempt to turn the basic yet fluid framework into a rigid structured monolith. For the sake of the country we must not let either possibility occur.

It is the duty of each citizen to know both his rights and responsibilities under our Constitution. Only then will each of us be assured the rights which we all enjoy. During Constitution Week, I would hope that each person in this Nation, in studying the provisions of this timely, yet timeless cornerstone of our Nation, would contemplate the circumstances of its development and the continuing responsibility of each of us to fulfill its purpose.

For the interest of my colleagues, an editorial and a "Letter to the Editor" on "Constitution Week" from the September 18 edition of the New Britain, Conn., Herald follows:

CONSTITUTION WEEK

Just what relevance does the United States Constitution have in the daily life of an American citizen in today's society? Does it dominate his life, or is it merely a once-important document that launched a country but has now lost most of its meaning?

These are solid questions to ask yourself at anytime, but especially this week which has been proclaimed by federal and state leaders as "Constitution Week." Hardly ever in this nation's history have the rights and responsibilities embodied in the Constitution been more in doubt, more ignored, or held in contempt than they are now.

"We the people of the United States," our forefathers wrote in the Constitution, "in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

But who among us constantly strives for the common good, tranquility and welfare? How many of us are truly interested in achieving a "more perfect union"?

There's a dignity of life written in the Constitution that is somehow lost in today's society. It has been crowded out of our lives by prejudice, deceit, dishonesty and self-righteousness. Freedom of speech, probably our most precious liberty, has come to mean shouting, a drowning out of the other person's opinion. Originally intended to facilitate an easy interchange of ideas and opinions, this right only too often produces a lot of noise, bereft of dignity or respect for contrary views.

Look around: Do you really care what another person thinks, whether that person is your husband, wife, child, co-worker or neighbor? Or do you hold him in esteem merely because he's willing to listen to your views or complaints? Do you accept your responsibility to work with him for a better existence for both of you, and for the other people in your life?

This country's Constitution is still a great and relevant document, but it can't be expected to work on a "grand" scale if person-to-person cooperation and dignity is lacking. Think about it this week: What are you doing to keep your own rights, freedoms and responsibilities alive for yourself and for others?

CONSTITUTION WEEK OBSERVANCE URGED

DEAR EDITOR:

The Esther Stanley Chapter of the Daughters of the American Revolution would like to call attention to the fact that the week of Sept. 27–23, has been designated by an act of Congress and by proclamation of the President, as Constitution Week.

The Federalist Papers were written to explain the Constitution, which was being considered for adoption by the several states of our Nation. Thomas Jefferson called this collection of essays "the best commentary on the principles of government ever written." The Constitution was finally ratified by late 1788, and George Washington became our first President in April, 1789. The U.S. Constitution was a triumph of conservative statesmanship. The framers of this document deserve much credit for the success of our Republic; although this body of men actually lacked faith in the people, they nonetheless composed a document which set up a government structure that could be converted into government by the people without bloodshed. The framers of the Constitution insisted in 1787, and the Constitution insists today, that law is the price of liberty; duty is the price of happiness; social order is the price of individual development; deliberation is the price of wise decision; and Constitutionalism is the price of Democracy.

This being the 185th anniversary of the adoption of the Constitution, we urge all citizens to rededicate this period for thoughtful study and consideration of the events that led to the framing of the Constitution, and of the means of preserving it from those who would destroy or weaken it. In appropriate observance, all residents, merchants and public buildings should display the U.S. flag each day during Constitution Week.

May H. Kloiber,
Chairman of National Defense, Esther Stanley Chapter, DAR.

LEE HAMILTON'S WASHINGTON REPORT ON THE ISSUES FACING AMERICA'S PUBLIC SCHOOLS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. HAMILTON. Mr. Speaker, I include the second in my series of Washington Reports on the issues facing America's public schools:

Washington Report by Congressman Lee Hamilton

The growing crisis over the funding of public schools has fostered efforts to find alternatives for the reform of the present system. Proposals for more equitable school financing fall into three categories (1) reform of the present state-local fund sharing system, (2) assumption by the states of the revenue-raising efforts now exercised by local authorities, and (3) increased federal assistance.

REFORM OF THE PRESENT SYSTEM

The states now provide 40.9 percent of the total, nationwide revenues for secondary and elementary education. However, the methods of distribution are such that serious disparities exist in total school revenues between poor and wealthy school districts. This is mostly due to the political necessity of giving all districts a share of state funds, and consequently the rich districts are made richer while the poor districts do not receive enough to close the gap between them and their wealthy neighbors.

Some of the proposals to modify existing systems of shared state and local funding include:

1. The standardization of property assessment methods and tax rates, which would equalize local tax burdens and have some equalizing effect on revenues in poorer areas where assessments are below the state's average.

2. Adjustment of the state formula for distribution of school funds to equalize per-pupil revenues for all districts.

3. Tying state aid to local tax efforts, in which the state would guarantee a particular level of per-pupil funding to school districts taxing themselves at a prescribed rate. Those choosing to tax themselves at a lower tax rate would receive a proportionately lower level of state support.

4. Create new school district boundaries to equalize financial resources among the school districts.

While the proposals do provide a more equitable method of state and local funding of public education, they ignore some very difficult political realities: (1) the equalization of state distribution of funds would be resisted by the richer districts, whose funds would be given to poorer districts, and (2) the restructuring of school district boundaries would be resisted by richer districts whose resources would be spread over poorer areas.

FULL STATE FUNDING

Giving the states full responsibility for all non-federal educational funding, the approach favored by the President's Commission, would involve two principal tasks: Changes in taxation, and the establishment of an equitable formula for the allocation of funds to school systems.

Changes in taxation almost certainly would involve the reform of property tax to distribute more evenly the tax burden, either by establishing a state-wide taxing rate, or by establishing varying rates to accommodate special educational costs in different school districts. New revenue sources also would be developed, and conceivably, school support could draw on income and sales taxes, revenues, and possibly from value-added taxes.

FEDERAL AID

Federal aid, which now amounts to about 7.1 percent of the total cost of elementary and secondary education, has been directed to special educational needs, such as low income areas, or areas where federal installations decrease the local property tax base.

Expanded federal aid programs could serve to reduce disparities in financial resources among the states, alleviate the disparities in existing state-local funding methods, substitute for local property tax revenues, or be used to induce states to reform their school finance methods.

A number of bills calling for increased federal aid have been introduced in the Congress, but early action is not expected on any of them. Much additional research, reflection and debate is needed before a consensus on the best kind of assistance develops.

VARIOUS ASPECTS OF WHEAT SALE TO RUSSIA AND THE COMPLEXITIES

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. PRICE of Texas. Mr. Speaker, there are those who have bad-mouthed the recently announced U.S. wheat sale to the U.S.S.R. even stooping to the point of maligning the integrity of U.S. Department of Agriculture officials because of alleged questions of timing.

While I am the first to express my belief that the American people are entitled to know the ramifications of large Government transactions which affect the lives and economic well-being of our people, nevertheless the timing of the recent attack on this grain sale can hardly be viewed as anything but political in motivation and may very well jeopardize our chances for future grain transactions and jeopardize an increase in income to the American farmers.

Mr. Speaker, I believe Mr. Dean Parsons, president of the Great Plains Wheat, Inc., in a letter to the editor of the Washington Post of September 14 placed the whole issue of the grain sale in perspective. I wish to have this fine analysis included in the Record at this time:

Various Aspects of Wheat Sale to Russia and the Complexities

You have recently carried various articles and editorials about the U.S. grain sale to Russia. Various aspects of this sale should be pointed out to those not familiar with the wheat industry and the complexity of grain trading.

It is a tribute to American agriculture that the U.S. could supply any one country an estimated 400 million bushels of wheat in one year. Fears that the U.S. could be running out of wheat and protests that the U.S. would even run short appear to be unfounded. Even with the Russian business, U.S. wheat stocks are expected to be about 600 million bushels by the end of June 1973. This does not even begin to consider the 1973 wheat crop, part of which will be available as early as May 1973. With the recent increase in wheat prices, the winter wheat acreage should be substantially expanded this year. Considering the amount of land which could quickly be shifted into the short production cycle of wheat, it is difficult to conceive of the U.S. even being short of wheat.

Much has been made of the export payments for wheat exports, but little light has been shed on how this program works. Exports subsidies, which are but a fraction of the money the wheat sale to Russia will bring into the U.S., do not normally leave this country. Nor do they necessarily become part of the exporter's profit. If an exporter has sold wheat at the equivalent of $1.65 per bushel and he has to cover the wheat on a domestic market which has risen to $1.85 per bushel, he has not pocketed the amount of the subsidy paid over the $1.65. The subsidy accrues to the benefit of the seller of the wheat—a farmer, a farm cooperative, a grain elevator, a grain dealer or a speculator not connected with the grain trade.

In calculating the amount expended for export subsidies, it is also necessary to consider some very important offsetting factors: A large reduction in USDA payments to keep acreage out of production; significant government savings on storage and interest payments if the wheat had remained in grain elevators in the U.S.; and government sales of wheat stocks on the open market at prices higher than those at which it acquired the wheat, thereby making a profit which is used to apply against export subsidies paid.

Without the export subsidy program, the U.S. is hard pressed to compete with monopoly state trading organizations such as the Canadian Wheat Board on sales of this magnitude. The Canadian Wheat Board can, for example, name a price to a customer for an entire quantity, and the price is maintained no matter what else the market does. The Wheat Board also controls and may limit the prices farmers get for their grain. In the U.S., this would be impossible, since the market is free and moves freely in response to buying activity. A seller could suffer incredible losses if he had to sell at a fixed price and had no assurances that the f.o.b. port price would remain relatively unchanged, for this is what the wheat boards of other exporting countries do. Without some sort of assurance, the shipper could not even begin to consider accepting such an order, and the business would be lost to the U.S. If the effort was less than perfect it should be perfected, because otherwise the U.S. will be shunted aside in world trade—and not merely in grain trade—while other governments secure the benefits of international trade for their people.

It must by now be obvious to everyone that the United States must improve its balance of payments and this most logically through an improvement in its balance of trade. Most economists find it difficult to see this improvement coming in trade of industrial products, considering the almost insurmountable competition from countries such as Japan and members of the European Community. More and more we are looking to agriculture to provide the improvement, and the U.S. farmer and the U.S. Department of Agriculture are aware of the responsibility which has fallen to them. Expanded agricultural exports to the Eastern Bloc countries figure large in this effort.

Victims of the unfavorable attention which has been focused on the Soviet sale are two USDA officials who appear to have been more guilty of unfortunate timing than of bad intentions. Those who know Clarence Palmby and Clifford Pulvermacher know they have always been dedicated public servants. To infer a connection in the timing of the sale announcement and their departure from the Department of Agriculture appears to be straying far afield. Mr. Pulvermacher announced over a year ago, well before he had any inkling of this year's sale, that he would retire this year. Mr. Palmby had for months prior to the sale and well before he could have known it would take place or that it would be so large, intimated rather openly that he would soon be leaving the Department of Agriculture. If the USDA made a mistake in judgment it was in not being prepared for the Soviet purchases. The USDA had expected the Soviets to purchase some grains but felt sure it would be feed grains and not wheat. There were also some early indications that the Soviet crops could be short this year, although no one—including undoubtedly also the Soviets—could have guessed very early the extent of the shortfall.

The grain sale to Russia is a positive action and should be applauded, not criticized. It is undoubtedly far better for the wheat farmer, the farm implement manufacturer, all of agribusiness, the people they employ, and the U.S. citizen to see agriculture on a firm basis by putting idle acreage into production and selling on the world markets the produce which is not needed at home.

DEAN PARSONS,
President, Great Plains Wheat, Inc.
WALL, S. DAK.

SOCIAL SECURITY: WHEN A RAISE IS NOT A RAISE

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. FRASER. Mr. Speaker, millions of low-income elderly and disabled people are discovering that they will receive little or no benefit from the 20-percent social security increase, because of cutbacks in other federally assisted programs. More than 50 House Members are now sponsoring legislation to deal with this problem by requiring that the 20-percent increase be disregarded when determining benefit levels for other Federal programs.

The following article from the Minneapolis Star provides a good case example of the need for this measure:

SOCIAL SECURITY: WHEN A RAISE IS NOT

(By Joe Blade)

Along with 29 million other Americans, Mrs. Mary Freed will get a 20-percent increase in her Social Security payments Oct. 3.

Big deal!

Mrs. Freed's monthly check will go up $27 to $162.40. Because of that increase:

Her rent will rise from $26 to $33 on her efficiency apartment administered as public housing in an old building at 1706 Stevens Av.

Her aid-to-the-disabled payments of $22 a month will cease. She will be over the limit ($78 plus rent) that set by the state as the maximum financial aid level.

The medical assistance (medicaid) program will drop her. She will be reinstated, however, as soon as she spends $80.40 on medical costs. Then she would go on medicaid again, but only for six months.

She should spend that amount quickly because she takes medication for diabetes, a heart condition, pains in her legs, a steel ball in her shoulder and, not surprisingly, "nerves."

Her total expenses are going to run at least $42.80 a month more because of that $27 increase in Social Security.

"Why in hell when a person gets to 65 and no good don't they take a person out and shoot him instead of torturing him to death?" she said. "I would if I was running things."

Mrs. Freed is a 65-year-old widow. She is one of millions of Americans who will benefit only slightly or not at all from the largest Social Security increase in history.

The reason: When an electioneering Congress approved the 20-percent boost with an eye on the elderly vote, it failed to make adjustments in other assistance programs.

It is the poorest of America's elderly who face tragedy as a result. It is they who most need extra income from Social Security as well as aid from other programs.

But because those benefits are based on income, they will lose much—or all—of that 20-percent boost. Some will lose the other assistance as well. It works like this:

Old Age Assistance such as aid to the disabled and to the Blind must be cut virtually dollar-for-dollar as the recipient's income increases.

In 1970 Congress exempted $4 of that year's Social Security raise from cuts in Old Age Assistance. There was no such action this year. And that $4 exemption expires on December 31 of this year.

Food stamps will be lost by 1,269 of Hennepin County's 4,359 Social Security recipients who now purchase them. Their income will rise above the maximum of $180 for a single person and $245 for a couple.

Another 2,297 persons will pay more for their stamps. For example, one 72-year-old man whose Social Security is going up $30 to $178.50 a month will pay $26 for $36 worth of stamps. He had been paying $24.

Public-housing rent is fixed at 25 percent of income after deductions for certain expenses. When a tenant's income goes up, a quarter of the increase is added to the rent.

Some tenants may be pushed above maximum incomes of $4,300 for single persons and $5,200 for couples, again figured after certain deductions.

But the extra income will not be a basis for eviction until the tenant's regular two-year eligibility review, promises James Lemley, director of management at the Minneapolis Housing and Redevelopment Authority.

Medicaid, or medical assistance for the poor, will be lost by about 700 of 1,700 Hennepin County Social Security recipients who now receive it.

Almost all of these persons will be returned, welfare department officials believe, after a "spend-down." If six months' income over maximum levels—$145 for individuals and $202 for couples plus a $4 "pass-through" goes for medical expenses, they become eligible for the next six months.

Veterans pensions for impoverished veterans and their dependents also are reduced as income increases. However, the reduction is less then dollar for dollar and is least for recipients with the lowest incomes.

Furthermore, none of these pensions will be changed until the end of the year, giving Congress time to act.

The buck stops with Congress if the rules are to change. The state Legislature could raise the outdated standards in Old Age Assistance, but the Legislature does not convene until 1973.

A variety of bills have been introduced in Congress to eliminate taking back money through one program that was handed out through another.

Minneapolis Rep. Donald Fraser is one of 55 co-sponsors of a bill that would require the entire Social Security increase to be disregarded by other programs.

The problem now is that the November election which was a major cause of the problem, now is so near that Congress may adjourn before cleaning up the conflicts.

EVALUATION OF OUR NATIONAL PRIORITIES THE EIGHTH CONGRESSIONAL DISTRICT OF NEW JERSEY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. ROE. Mr. Speaker, the congressional legislative questionnaire is one of the most important vehicles available to the Members of Congress to reach out and secure a real grassroots, cross-section of views and opinions of our respective constituencies and the exchange of this data among our colleagues here in the Congress has provided a unique and viable sounding board for us to be guided by in developing and passing legislation to meet the critical needs of the people of our country and help shape and direct the destiny of our democracy in domestic and international relations.

Conversely, these legislative questionnaires give our respective constituents an opportunity to analyze and evaluate the goals and achievements of Congress and, in turn, to have their say the American way as to their feelings and recommendations on what we are doing and what we should be doing to respond to their needs and help resolve the major issues of deep and vital concern to all of our people.

The congressional redistricting that has taken place this year has changed the constituency in my district as well as those in many other regions of our country. West Paterson and Little Falls of Passaic County have been placed in the 11th Congressional District of New Jersey; Garfield and Wallington of Bergen County have been placed in my Eighth Congressional District. I am looking forward to receiving the replies to my biannual questionnaire from my newly redistricted constituency, which geographically and statistically speaking may be different than my previous constituency, but this 1972 legislative questionnaire will be the consensus of the people of the Eighth Congressional District of New Jersey which, combined with the responses from the constituencies of all of our respective districts, will provide a highly valuable bellweather to all of us in forming judgments and exercising our responsibilities to all of our people.

I think it is imperative that my colleagues here in the House continue to exchange this valuable data and would suggest that, in addition to sharing our constituencies' evaluations with each other, we by all means must disseminate the results of our legislative questionnaires among the members of our respective governing bodies, State legislators, and all public officials of our communities. As soon as my 1972 Congressional Legislative Questionnaire is ready and the tabulation completed, I will provide the results to the aforementioned officials in order that all of those serving in Government will be privy to the reflections, thoughts, and views of the constituency in the Eighth Congressional District of New Jersey.

The cooperation of the residents of my district in taking the time and effort to study, evaluate, and respond to my legislative questionnaire is indeed deeply appreciated by me and I am proud of their responsiveness, interest, and concern for their government and the critical issues of the day. As a yardstick or measurement of the action taken by this Congress and our achievements in meeting the priorities established by the constituency of my Eighth Congressional District, I am recording here in our legislative journal for comparative purposes the views and observations that I received in response to the congressional legislative questionnaire I provided the residents of my district just prior to the commencement of the 92d Congress. Mr. Speaker, a tabulation by percentages of the responses I received to my previous legislative questionnaire is as follows:

[In percent]

	Yes	No	Undecided
1. Our involvement in Vietnam has now reached the 14-year point. What course should we now pursue?			
(a) Step up military action to defeat North Vietnam and the Viet Cong?	55.4	22.3	22.3
(b) Proceed with gradual withdrawal of our troops leaving the battlefield fighting to the South Vietnamese, but continuing our conference efforts to bring peace to the area?	64.9	16.3	18.8
(c) Should Congress set a definite date for withdrawal of our troops?	25.9	49.8	24.3
(d) Complete withdrawal of our military forces leaving the decision to be reached on the future of South Vietnam to those principally involved—South Vietnam, North Vietnam, and the Viet Cong.	31.4	42.5	26.1
(e) Should the Congress of the United States exercise a stronger partnership with the President in all matters of international involvement or should they, contrary to their explicit responsibility under the Constitution, limit their participation to the singular determinations of the executive branch of the Government?	48.3	17.3	34.4
2. Would you favor enactment of legislation compelling a President to get congressional approval before sending or committing American troops to any foreign land?	54.6	39.4	6.0
3. Should we hold in abeyance further testing and development of the expensive Safeguard antiballistic missile system (ABM) and the multiple war head missiles (MIRV) until an agreement is reached or not reached on arms control at the Strategic Arms Limitation Talks (SALT) being held by the United States and Russia?	35.8	42.1	22.1
4. Should we sharply reduce the size of our troop assignments in Europe and Asia with a 2-fold purpose—placing greater responsibility on other nations to maintain peace in their areas and to make more funds available for our domestic programs?	78.4	15.7	5.9
6. Do you favor the United States selling additional Phantom and Sky Hawk airplanes to Israel?	54.4	30.1	15.5
5. Should the Federal Government be required by law to share national tax revenues with State and local governments?	65.1	19.8	15.1
7. Do you feel voluntary restraints by all sectors of the economy would be sufficient to slow down inflation?	28.8	57.5	13.7
8. As a last resort would you favor wage, price, profit and credit controls?	63.6	25.5	10.9
9. With regard to the environment, do you favor:			
(a) Barring lead in gasoline?	68.2	11.7	20.1
(b) Heavier fines and stricter enforcement of the laws against industrial pollution of our air and water?	91.9	1.2	6.9
11 Do you favor additional scholarships and loans for college students from law-and middle-income families?	65.2	21.3	13.5
10. Do you think that more comprehensive programs of employment training and opportunities, educational opportunities, and improved housing would significantly ease racial tensions in our cities?	50.7	40.4	8.9
12. President Nixon has proposed a welfare plan under which a federally guaranteed income would be available to those on relief and which also provides benefits for the working poor. Do you think the idea is a good one?	43.5	40.9	15.6
13. Would you favor the establishment of a complete volunteer military force and the ending of selective service (the draft) keeping in mind greatly increased salary cost to attract volunteers?	45.2	45.3	9.5
14. Do you favor a system which provides for alternative services (governmental, VISTA Peace Corps, Red Cross) to military service?	50.8	37.7	11.5
15. Should the Federal Government set quotas to limit foreign imports of certain products to protect American industry from foreign competition?	59.6	29.6	10.8
16. In order to meet the financial needs of our own country's domestic priorities, should the Federal Government cut back foreign aid and limit assistance to those countries whose security is considered to be in the vital interest of the United States?	68.4	21.6	10.0
17. Would you favor making it a criminal offense to mail unsolicited or unasked for pornographic advertising to a person—adult or minor?	76.8	17.2	6.0
18. Do you favor election of Presidents by popular vote in place of the present electoral college system?	82.7	11.5	5.8
13. Do you favor a requirement that packages be labeled to show the per unit cost of an item?	84.0	9.0	7.0
20. Do you favor Federal funding for drug abuse education and stricter Federal control?	84.1	10.3	5.6
21. Do you favor additional funding of Federal rehabilitation programs for narcotic addicts?	66.8	21.5	11.7
22. The House recently passed a bill increasing social security benefits by 5 percent and with an escalator clause to keep pace with the cost of living. Do you think this is appropriate and adequate?	62.3	26.3	11.4

PARCEL POST DAMAGE CUT 25 PERCENT

HON. JAMES R. GROVER, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. GROVER. Mr. Speaker, I welcomed the recent announcement made by the U.S. Postal Service which called attention to the fact that parcel post damage has been cut 25 percent.

It is certainly no secret that the American public has become annoyed with the Postal Service's past record of parcel damage. But, as a result of the Postal Reorganization Act, progress is now being made.

I have been told that a new system of parcel post processing centers—the bulk mail network—is scheduled to be in full operation by the end of 1975. This streamlined, mechanized system will handle the Nation's bulk mail volume more efficiently and at a reduced cost.

Meanwhile, the Postal Service has begun to improve parcel post service by eliminating excessive package drops from conveyors and by replacing worn equipment with new mechanized systems. It has been projected that the Postal Service will cut damage to parcels 50 percent by next summer.

I am pleased to call attention to such efforts being made by the Postal Service to improve mail service, especially in the area of parcel post.

TIPPECANOE COUNTY IN INDIANA HAS HIGHEST EDUCATIONAL LEVEL

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 20, 1972

Mr. LANDGREBE. Mr. Speaker, it is my pleasure to bring an editorial on the high educational level of one of the counties in my Congressional District to the attention of my colleagues. I am proud to note the editorial which appeared in the September 11 issue of Lafayette Journal and Courier commends Tippecanoe for having the highest average level of education among all Indiana counties. This is particularly pleasing to me as a member of the Education and Labor Committee and the Select Subcommittee on Education.

In commemoration of this achievement, I insert the editorial into the CONGRESSIONAL RECORD.

HIGHEST IN THE STATE

Tippecanoe County can take deserved pride in its record for education as disclosed by a recent survey by the United States Bureau of Census.

Tippecanoe was rated tops among all of Indiana's counties in the level of education reached with 69.5 per cent of the males 25 and older and 66.5 per cent of the women in that category having completed high school.

The median educational level attained by Tippecanoe County residents was 12.6 years for men and 12.4 for women. And 57 per cent of the males and 40 per cent of the women here between 20 and 49 have completed one or more years of college.

Only Monroe County came close to the Tippecanoe County record, with 67.3 per cent of the men and 64.4 per cent of the women being high school graduates.

The records of these two counties contain a single common denominator and that is, each is the seat of one of the nation's great universities. So the presence of Purdue and Indiana must account for much of the achievement.

Certainly the impressive presence of these big centers of learning carries in its impact a high regard for all education, as well as a better access to it. Thus the luck in our histories that brought these colleges to us has rewarded us handsomely.

There is a further impact from the universities, and that is a generally higher economic level for the entire community in the higher per capita income engendered by its payroll and in the kinds of jobs that the generally higher educational level attracts to a city. This, in turn, has provided the means for better support of education.

The wailings at the high cost of education have grown and some still claim that the investment has not paid off. But an examination of the counties lower in educational achievement will reveal more stinting on educational budgets, and a lower level of the "good life" for the community—not to mention fewer and lower opportunities.

The counties that have been sufficiently impressed with education to support and use it to the maximum of their ability have been the ones to profit most from its product in terms of jobs, income levels, better kinds of jobs, and a more viable community.

So, doubtless, we have Purdue here, and Bloomington has Indiana there, to thank for our records of educational achievement and its rewards. But we also have the resolution of our populaces to thank for backing their appreciation for education with the support they have given it over the year.

With the Census Bureau's confirmation of our educational achievement, we must not allow expediency to tempt us to diminish our regard and support for this fundamental commodity.

PRESIDENTIAL APPOINTEES ARE AN EXTENSION OF OFFICIAL POLICY

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. STOKES. Mr. Speaker, making appointments is perhaps one of a President's most important and most underrated duties. So far as appointments to the judicial system are concerned, they are perhaps his immortality. But while President Nixon's appointments to the courts have been widely noticed, criticized or applauded, little is said about his ambassadorships; and the President's choice of ambassadors leaves much to be desired.

For example, he has sent a Texas oilman to South Africa, a man named John Hurd. The U.S. official line on South Africa is that we are opposed to apartheid, that we would not oppose erosion of apartheid from within. But policy differs from policy statements. Policy is billions of dollars of investments in apartheid-ruled countries. Policy is sending over an ambassador who, according to columnist Jack Anderson, uses black political prisoners to pick up pheasants in his hunting expeditions, and who refers to black Africans as "Nigras."

I have recently learned of another instance in which policy and pronouncements do not match—when we look at the character and behavior of a U.S. ambassador abroad.

The official line on the Paris Peace Talk is that we are doing everything possible to achieve peace through discussion. Policy is sending a peacemaker to Paris who is ignorant, rude, and insensitive.

On September 15, 1972, I received a letter from Mr. Cyrus Eaton concerning his recent trip to Paris. He told me that he had met with representatives of France, Great Britain, the Soviet Union, North Vietnam and the Vietcong Provisional Government. He learned that, "Porter's offensive and belittling attitude posed an insurmountable stumbling block to reaching agreements with the other side." It is an inescapable conclusion that Porter's demeanor amounts to official policy.

When Cyrus Eaton talks about peace, the diplomatic community should give him its full attention. When he says, "Unless Porter is replaced, there is absolutely no hope for the negotiations," then I believe him and this Congress should also. His judgment on questions of this nature is infallible.

Mr. Eaton sent me a clipping, from the September 8 International Herald Tribune, describing Ambassador Porter's rude and disgraceful conduct. And as Mr. Eaton told me—

> Bad as [this report] is, I am told that it is mild compared to what Porter actually said.

The article follows:

[From the International Herald-Tribune, Paris, Sept. 8, 1972]

INSULTS EXCHANGED BY ENVOYS, AT PARIS PEACE NEGOTIATIONS

PARIS, September 7.—U.S. Ambassador William J. Porter today labeled the Viet Cong's Provisional Revolutionary Government "the southern branch of Hanoi's war machine."

He got a prompt, angry reaction from the Communist side at the Paris peace talks.

"Fallacious allegations and empty lies," said the Viet Cong's chief delegate, Mrs. Nguyen Thi Binh, to newsmen at the end of the 158th session.

"An escalation of provocation," said Nguyen Minh Vy, North Vietnam's deputy negotiator, still replacing Xuan Thuy, who is said to be resting on doctor's orders.

Saying the peace conference must deal with facts, Mr. Porter objected to the "pretentiousness of the titles" used by the Viet Cong.

"It would simplify matters here were you to abandon ridiculous pretenses and accept the fact that the world perceives the Viet Cong as the southern branch of Hanoi's war machine—for it is nothing more than that," he said.

At a press briefing, Viet Cong spokesman Ly Van Sau snapped that Mr. Porter "should make another tour of duty in Vietnam to learn the reality, but naturally in certain regions he will need the permission of the Provisional Revolutionary Government."

Mr. Porter said the Viet Cong are not provisional "for they are only the latest embodiment of a conspiracy beginning with the Indochinese Communist party 40 years ago."

"Nor are they revolutionary, for nothing could be more reactionary than to persist in Asia's old miseries of war and oppression," Mr. Porter continued.

MOBILIZATION AND COMBAT

The U.S. chief delegate said the Viet Cong's problem "is its lack of representativity. No one elected it into offices it doesn't fulfill, it administers nothing, and the only programs it carries out are mobilization and combat under external orders."

Mrs. Binh responded that the American program of Vietnamization "is going bankrupt irretrievably" and this had led the United States "from one defeat to another." She said the Saigon army has "proved the inability of its existence without the massive support of U.S. air, naval and logistic forces."

The delegations agreed to meet again next Thursday.

A RARE MAN

HON. JOHN G. DOW

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. DOW. Mr. Speaker, on Wednesday morning, many of my colleagues and I attended the funeral service of a dear friend, and our respected and admired colleague, William Fitts Ryan.

From the moment I received word of his death, I knew that a time would come in which we—his colleagues—would join in eulogy, and I tried from that moment on to extract from Bill's life story that one deed, that one act, that one bold position that would be considered the hallmark of his career. It would be to this that I would address myself today.

On Monday evening, I went to the funeral home in New York City to visit Priscilla and their children and perhaps, in some way, share their burden. But, with the same strength and fortitude that Bill so often displayed, it was Priscilla and the children who were giving comfort to those who came.

Yet, at the funeral service on Wednesday morning, a young man of 21 rose to tell us about his father. The young man, in his own words, managed to speak not only for his mother, his sisters, his grandparents, and friends, but for all those who loved Bill Ryan, for all those who felt a great burden by his death, and for all those who were suffering a deep loss.

I will read the words of William Fitts Ryan, Jr., and I am sure we will all agree that Bill, Jr., speaks for all of us:

EULOGY BY WILLIAM F. RYAN, JR.

My father was a rare man. Rare because in an era of growing cynicism he kept faith. In a time when people were losing their values he strengthened his. When fighting injustice seemed to be passe—he fought harder. Always trying, always straining to the utmost to fight any injustice, inequity, or wrongdoing. He was a perpetual champion of what is best.

Yes, my father was a rare man. A man about whom it could be said he had no price. A man who would not be tempted except by justice.

Integrity never had a more faithful follower than Bill Ryan.

Yes, dad was a rare man, no great backslapper, no great hail fellow-well-met but a man who inspired people, enlarged lives, and created love—love from every kind of people—young and old; rich and poor.

And now he is gone. A short life well-lived. He set a standard—a standard of integrity and courage.

His first congressional vote was for civil liberties—his last against the war in Vietnam. All the votes and congressional activities in between were based on the same sense of justice, the same fundamental decency and integrity which motivated the first and the last.

Throughout his career he not only voted and acted according to his conscience but also never forgot he was his people's servant. Underneath what some saw a powerful and demanding personality was a deep humility and compassion. The sense that he was there to serve not to be served. He had a warm humanitarian's heart; people meant something personal to him; he tried to help those who needed assistance as he sought to aid a friend—he was just plain color blind—he could not see black or white or yellow or brown—he just saw people—human beings; his brothers and sisters in the human family.

In paying their last respects it was the many constituents—the people he served—who gave the greatest witness to his goodness.

I can think of no better way to describe the standard that my father followed than that which is said in the following quotation by Edmund Burke:

"Certainly, gentlemen, it ought to be the happiness and glory of a representative to live in the strictest union, the closest correspondence, and the most unreserved communication with his constituents. Their wishes ought to have great weight with him; their opinions high respect; their business unremitted attention. It is his duty to sacrifice his repose, his pleasure, his satisfactions, to theirs—and above all, ever, and in all cases to prefer their interest to his own. But his unbiased opinion, his mature judgment, his enlightened conscience he ought not to sacrifice to you, to any man, or to any set of men living. These he does not derive from your pleasure—no, nor from the law and the Constitution. They are a trust from providence for the abuse of which he is deeply answerable."

Dad was a rare man and we are grateful to him for coming to us and we will miss him greatly.

FINANCIAL STATEMENT

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. JACOBS. Mr. Speaker, I insert a statement of my financial assets and liabilities:

Equity in conditional sales contract of real estate, 208 E. 29th St., Indianapolis, $4,000.

Store building, 227–235 E. Ohio Street, Indianapolis, $95,000.

House, 207 C St. SE., Washington, D.C., $55,000.

GI endowment insurance—cash value, $6,225.70.

U.S. Government retirement fund—amount paid in with interest, $21,934.64.

Oldsmobile, 1966, F–85—115,000 miles, $350.

Coin collection, $100.

Checking account at U.S. House of Representatives, Sergeant at Arms, $1,008.14.

Savings Account—Indiana National Bank, $5,369.27.

Household and office furnishings, $1,500.

Entitlement to Korean War 10 percent disability compensation, waived while in public office—exact future value unknown.

Great Dane dog—C–5, priceless.

Great Dane pup—U–2—not yet house trained, current liability.

INDEBTEDNESS

Mortgage, Metropolitan Building Association—8 percent, $24,235.36.

STATEMENT CONCERNING BULGARIAN NATIONAL HERO NIKOLA PETKOV

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. CRANE. Mr. Speaker, on September 23 we mark the 25th anniversary of the judicial murder of the Bulgarian national hero Nikola Petkov.

It is especially fitting in 1972, at a time when there is much discussion of "detente," of an "era of negotiation," and of an "end to the cold war," that we consider the real nature of communism and the manner in which it has brutalized so many freedom-loving peoples.

It is important to reflect upon the history of Bulgaria which led to the tragic death of, Nikola Petkov.

After the Communist-inspired Fatherland Front seized the government and the Red army occupied Bulgaria in 1944, the Communists methodically undertook to consolidate their rule. As their control became nearly absolute, an attack was launched on the old Tirnovo constitution, and "popular requests" were trumped up for a new one. In September, 1946, the results of a plebiscite eliminated the monarchy and declared Bulgaria to be a republic. The following month, elections were held for a Grand National Assembly which would enact a new constitution. After the new legislature convened in November, Georgi Dimitrov formed his government.

As far back as July 1954, Nikola Petkov sent a memorandum to the Inter-Allied Control Commission demanding postponement of the elections which the Communists had scheduled for the end of August, 1945. These elections were to involve only one list of candidates, headed by the Communist Party. As a result of the memorandum, the Prime Minister declared that Petkov had resigned, although he never formally did so. In protest, Nikola Petkov and other cabinet ministers broke up the Coalition Government, and thenceforth openly opposed the Communist dictatorship. Upon intervention of the Control Commission, the elections were postponed until November 18, 1945.

In October 1946, Petkov headed the opposition in its election campaign against Communist-Soviet attempts to seize full control of the country. Petkov, after his election, unmasked in Parliament the intentions of the Communists and their leader, Georgi Dimitrov, former Secretary-General of the Comintern. He accused them of being Stalinist agents, and said that their hands were stained with the blood of innocent Bulgarians and that they wanted to make Bulgaria a Soviet province.

For his efforts to keep Bulgaria free and independent, Petkov was charged with conspiracy against the state. He was sentenced to die on the gallows, and was later secretly executed.

Prior to his execution, a Communist representative promised him a pardon if he signed a petition declaring his repentence. Petkov made this reply:

> You are even trying to desecrate my sacred memory. My sentence was passed by your Moscow masters and no one can revoke it. I do not seek mercy from you! I want to die so that my people may be freed sooner.

The Communist leaders of Bulgaria are frank to admit that theirs is a totalitarian state. Vulko Chervenkov, prime minister until 1956, stated that:

> No institution, organization, or person can be above the Politburo and the Central Committee. All important issues of the government of the country must be decided by the Politburo and Central Committee. Those guilty of deviation from this Bolshevik rule must be held responsible and punished.

The government which Nikola Petkov sought to keep free and independent has become nothing more than an instrument of Soviet colonialism and tyranny.

Men such as Nikola Petkov have for many years been attempting to tell those of us in the West what communism is really like. Too often, we have refused to listen.

Brave men and women have shown their opinion of communism by fleeing from it whenever the opportunity has arisen. The Berlin Wall was constructed, in violation of all international law and allied agreements, because the people of East Germany would not, of their own accord, remain in a Communist state. Macao and Hong Kong contain millions of Chinese who have fled from the tyranny of Mao Tse-tung. More than 1 million Vietnamese fled to the South after the Communists took over North Vietnam, and tens of thousands of North Korean soldiers refused repatriation at the end of the Korean war. The Communists do not permit people to vote with ballots, so the people have voted against communism with their feet, the only means available to them.

Those who naively say that communism is not really a danger should review the careers of men such as Nikola Petkov, men who, in their own time, argued against the concept of a "popular" or "united" front with the advocates of tyranny. Such policies did not work then. Bulgaria's enslavement is adequate proof of that fact. Such policies will not work now.

Let us look forward to the day when Bulgaria will once again be free, and when Nikola Petkov will take his rightful place as a national hero who warned his people of the danger of tyranny, but was not heeded. It is my fervent hope that this day will not be too long in coming.

LOU CASSELS OF UPI

HON. WM. JENNINGS BRYAN DORN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. DORN. Mr. Speaker, recently the Columbia State, one of the South's leading newspapers, wrote a splendid editorial commending Lou Cassels.

Formerly senior editor at United Press International, highly distinguished and admired nationally and internationally in the field of journalism, Louis Cassels now resides with his lovely and charming wife, Charlotte, in Aiken, S.C., in my congressional district.

Lou continues to write UPI's "Religion in America" column and is the author of six books and numerous magazine articles. In addition, he teaches journalism at the Aiken branch of the University of South Carolina.

Mr. Speaker, it is a great pleasure to share this warm and outstanding editorial with Lou's many friends in the Congress and throughout the Nation.

The article follows:

The Vigor of Youth

Veteran journalist Louis Cassels favored his United Press International clients the other day with a perceptive commentary on the role played by trees in making this world both habitable and enjoyable.

The arboreal heroes of his article were the "healthy young trees" which consume carbon dioxide and give out oxygen, meanwhile cooling the atmosphere in the process.

We trust that Mr. Cassels, who has returned to his native Aiken County after having made his name in big-time journalism, will permit us to accentuate the "young" in his reference to our leafy friends.

Too often, overly zealous environmentalists and conservationists rush to the defense of every tree which seems threatened by axe, saw, or bulldozer. In most instances, we tend to agree with their efforts to "spare that tree," but it should be noted that the "healthy, young trees" are the ones which contribute to our ecological welfare.

Old trees, or those which have reached that advanced stage of maturity when their magical chemistry has ceased to function, can outlive their usefulness just as do we mortals. And in the very nature of things, it makes sense for them to yield the way to younger trees which, in the process of growth, purify our air, protect our soil, and beautify the countryside.

This is not to suggest that all trees should be felled upon reaching maturity. Many of them serve usefully as ground cover, shade providers, and scenic sights long after they have passed their prime. But mankind is best served by those "healthy young trees" to which Lou Cassels has fittingly paid tribute.

THE NATURE OF NATIONAL SECURITY

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. ASPIN. Mr. Speaker, today Senator George McGovern's national security panel presented its report to Senator McGovern.

The panel has produced an excellent analysis covering the basic principles behind Senator McGovern's alternative Defense budget. This document outlines the principles on which Senator McGovern would orient our Defense Establishment. Specific sections are devoted to the nature of national security; the military budget and national priorities; strategic arms; general purpose forces; military manpower; military procurement; and the conversion of defense production to meet domestic needs.

The report has been prepared by a distinguished group of leaders with special expertise in the defense field. The cochairman of the panel are Paul Warnke, former Assistant Secretary of Defense, Clifford L. Alexander, Jr., a former member of the National Security Council staff, and Herbert F. York, former director of Defense Research and Engineering.

So that my colleagues may become more familiar with the McGovern panel on national security's views, I will be placing in the Record for the next several days chapters of the entire panel's report to the Senator.

The first section, entitled "The Nature of National Security," discusses the basic and fundamental principles upon which national security is based.

I recommend it to my colleagues for their careful study.

I. The Nature of National Security

(Presented by Vice Chairman Clark M. Clifford)

Military power is essential to our national security. But national security does not rest exclusively or even primarily on that military power. To think and act as if it did, in today's world and with today's problems, is delusive and destructive. The Nixon Administration's conceptions of national security and foreign policy reflect this fallacy.

We continue to need military strength to prevent any possibility of attack on our own territory or on allies whose independence contributes to our safety and well-being. But the forces we need for this purpose can be armed and maintained at a cost significantly less than that which we now pay. There must be a new and searching look at the uses and limits of military power, for this is the prerequisite to achieving a new and sensible ordering of priorities and to avoiding the folly of excessive reliance on armed might as an instrument of foreign policy.

Our international influence is best achieved by the attraction our society exerts upon other nations, particularly upon those who now grope for an identity and political form of their own. But unless we find and use the funds that are necessary to deal with our own pressing social, economic and environmental problems, we will be unable to regain the common sense of national purpose, the trust and confidence in each other that are the foundations of our true security. If we cannot again become a society that operates effectively to ensure the health and welfare of all our people, we will cease to attract other nations and thus forfeit our influence.

We cannot cope with our internal problems in the final quarter of the Twentieth Century if we continue to devote the major share of controllable federal revenues to military purposes. Nor are dollar costs alone the most damaging aspect of the present trend. The more ominous consequence of the great increases which will be built into future defense budgets if we embark upon the new, unnecessary weapons programs now proposed by the Nixon Administration is that they can be rationalized only by resort to unreal hypotheses and by evoking baseless fears.

Our mounting domestic difficulties will not go away. If we ignore them because we are transfixed by the remote risks of external aggression and the even more remote danger of penetration by an alien ideology, our national security will indeed be in grave danger. If, instead, we demonstrate the wisdom to take a proportioned view, to maintain those arms and armed forces actually needed to meet any realistic threats to our physical security, we will find the strength to deal with these threats and with our corrosive domestic problems as well.

A sound start toward this objective is to abandon the mindless rhetoric that now dominates much of the debate about military spending. The Nixon Administration suggests that less lavish expenditures would make us a second-rate power and would eliminate our ability to negotiate effectively with our international competitors. It characterized any attempt at significant reallocation of federal funds as a turn toward isolationism that would endanger world peace. Such loose charges rest on an outmoded and unsound concept of the role of military force in the modern world. We are a first-rate power not only because of our military might, but because we combine vast and diversified economic and technical strength with solid yet flexible democratic institutions. We have more than adequate military strength to preserve our status. What we need is to pay more attention to the future of our political and economic institutions. The Nixon Administration, however, continues to burden our economy with inordinate defense expenditures based on its erroneous assumption that mere military power can achieve peace and stability.

Implicit in the Nixon military planning are three outmoded conceptions about our national security and the military power we need to protect it:

1. that it is our responsibility and destiny to undertake *unilaterally* the policeman's role throughout the world;
2. that our military might should play a decisive role in influencing the political development of other nations;
3. that numerical superiority in weapons connotes, in itself, an improvement in national security.

History has given us special responsibilities in Europe and Israel—responsibilities we will never abandon. Nor can we ignore our formal commitments to Japan, Korea and other nations, even though time has altered their significance. Our commitment to NATO is fundamental and should be supported by American forces sufficient both to deter attack and to maintain the sense of confidence in Europe that attack is remote. With our military aid and in the absence of Soviet intervention, Israel has shown the ability to take care of itself. Present developments on the Korean peninsula give hope that this lingering sore may at last be healed. Japan grows steadily more capable of self-defense except against the nuclear threat. If civil or local war should break out elsewhere, we should make manifest our national interest and concern through diplomatic representations, offers of mediation, economic assistance, and support for multilateral peacekeeping initiatives sponsored by the United Nations. But beyond these steps, military restraint by the United States can do far more to restore stability to troubled places than any indulgence in the pernicious notion that through the use of American armed force we can effect a better, more democratic situation.

We have been told by the President that America must remain the "peacekeeper in the Asian world." And in his recent appearance before the Republican Convention's Platform Committee, Defense Secretary Laird urged there be no "abandonment of the nation's role in helping to maintain peace." We have indeed a responsibility to help in maintaining peace. But it is a responsibility that can rarely be discharged by the introduction of American firepower. Long and painful experience suggests that this leads not to peace but to political dependence, agony and devastation for small countries and to the dire risk of confrontation between the nuclear powers. The time has surely come to renounce any American right or duty to use military force in other peoples' internal quarrels. We have no manifest authority from mankind to impose our brand of justice as we see fit.

The second outmoded concept of national security is that American armed forces should play a decisive role in the political development of other nations—in particular, that it can be effective in arresting tendencies toward acceptance of a Communist form of government. There was once a time, following World War II, when the spread of Communism was synonymous, or nearly so, with the spread of Russian power. But that time is long since past. At least since the Sino-Soviet split in 1957, Communist ideology has been increasingly a relative doctrine, showing itself in widely differing forms, usually in countries with rigid socio-economic structures or vast disparities between rich and poor. Manifestations of Communism in the contemporary world are not necessarily related to Soviet or Chinese power. From these facts, we need to derive two policy guidelines: First, the threat to us arises from Soviet, and to a lesser extent from Chinese, power; Communist ideology unconnected to Russian or Chinese power is not a serious threat, however baleful we may regard it. Second, like all other ideas, the Communist idea cannot be suppressed by military force. It can be defeated by a better idea.

Our nation has been slow to recognize these important distinctions. Even after the fragmentation of the Communist movement was far advanced, we feared the spread of national liberation wars in which insurgents (often calling themselves Communists) might, with outside help, overthrow Westward-looking governments. In response we developed doctrines and techniques of counter-insurgency and cast ourselves in the role of shoring up all such governments, no matter how dictatorial or corrupt, because they were faced with internal rebellion that called itself communist. Painful experience has now shown us that where a government sympathetic to the United States cannot maintain a broad base of support, even with our economic and military aid, the intervention of American troops is not o solution to its political problems. *A government that is not safe from its own people cannot be saved by American military force.*

Yet immediately after propounding the ambiguous Nixon Doctrine in Guam in 1969, President Nixon told Thailand's military rulers that America would be proud to stand with that government "against those who threaten it from abroad or from within." And reports from Defense Secretary Laird have in the past listed "political agitation" and "insurgency abroad" as threats our armed forces must be prepared to counter. This year's statement omits any such explicit reference, but we still hear disquieting suggestions of the need to cope with "less sophisticated forces" and "the ever-present danger of modern revolutionary warfare." Such expressions look too much like mirror images of the Brezhnev doctrine by which the Kremlin seeks to justify military intervention in Eastern Europe when internal developments threaten the doctrinal purity of another socialist state. A budget which aims at the capability to meet such objectives is not only excessive—it is incompatible with our national security.

The place for ideological competition is not the battlefield but in the free marketplace of ideas and in the quest for social and economic advances. In that arena we can compete with confidence and pride. Our Declaration of Independence affirmed the right of a people to alter or abolish its form of government. No foreign government should look to us for protection from internal change. Counter-insurgency is neither a workable nor a worthy purpose for the application of American military power.

Our collective security arrangements with certain nations help to prevent the proliferation of nuclear weapons and reduce the danger of war. But the maintenance of these arrangements does not require us to intervene in every local conflict throughout the world in a futile attempt to demonstrate the credibility of American security guarantees. It is a false and dangerous doctrine that every local triumph of revolutionary groups somehow weakens the security of Japan, Israel and Western Europe, and therefore demands our intervention. Indeed as Vietnam has amply demonstrated, undertaking such ventures diverts our energies and attention away from building lasting relationships with our allies and ends up weakening the fabric of international relationships upon which our security ultimately rests.

The third outmoded concept is the attribution of political value to the possession of military hardware far in excess of any practical purpose. Repeatedly, the Nixon Administration has claimed political as distinguished from military value for our profligate defense expenditures. We are told that, regardless of the enduring reality of the strategic balance, the mere appearance of Soviet numerical advantage in any weapons category could have a debilitating effect on our foreign policy and would erode the confidence of our allies. We are, for example, urged to worry about the increased number of sailing hours chalked up by the Soviets in the Mediterranean, and this becomes an argument for adding to an American naval capability there that already dwarfs that of the Soviet fleet.

Where a numerical advantage or disadvantage in any part of the arms arsenal is without military meaning, it can have a political meaning only if we give it one. The present attempt to maintain an American edge across the entire range of weapons grossly distorts our allocation of available resources, yet nothing is added to our national security. The Soviet Union has shown it can endure the fact that we have 16 aircraft carriers and they have none. We can surely endure numerical inferiority in certain weapons categories without danger to our real security. Such asymmetry is explicitly recognized in the Interim Offensive Agreement. Indeed the idea of total symmetry is unreal. Our present strategic deterrent is more than adequate for the present and foreseeable future. It is more than adequate to serve as a basis for further SALT talks that are aimed at further control and reduction of strategic arms. These facts would be quite apparent if the Nixon Administration would simply stop "poor mouthing" our capability and viewing the near-term future with spurious alarm.

This report shows that the current U.S. course is the wrong course. It also outlines a new approach to national security. Those who argue that this new approach means a return to isolationism are deceived by their own narrow definition of our national security and of the policies needed to ensure it. For just as our national security itself means more than military power, so our interest in the world and in the preservation of world order involves much more than foreign bases and troops abroad. A pervasive involvement with other nations in trade, in investment and in monetary arrangements is not isolationism. On the contrary it constitutes the basic fabric of world order. We need strong and ready armed forces, but we also need realistic recognization that our armed forces constitute only a moderate part of our international influence and prestige. Only through such recognition can our defense budget be brought within more reasonable bounds.

The following sections of this paper outline our national security needs and how they can be met. The first deals with this stultifying impact of our present military expenditures on our domestic economy and our domestic programs. Next discussed is the vital issue of Strategic Nuclear Forces and what we need to be sure they are never used. Our requirements for General Purpose Forces are then reviewed in the context of what is necessary to deter or meet any military assault on our vital interests. The key issue of military manpower is considered against the current background of poor morale and an unsatisfactory ratio of combat to support forces. The enormous waste and the urgent need for reform in weapons development and procurement are then detailed.

Finally, this report deals with the question of converting to more peaceful and productive uses those industrial facilities now unnecessarily devoted to production of weapons of war. The Nixon Administration seeks to frighten the workers of America into the belief that our economy cannot stand peace. This Marxist notion that a free economy requires the artificial stimulus of war has no legitimate place in our political debate. The genuine needs of our society can be met only if we muster all available talent and technology. These precious assets should not be squandered on the making of arms that yield us no return.

MARKETING GRAIN

HON. NEAL SMITH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. SMITH of Iowa. Mr. Speaker, admittedly the marketing of grain is a very complicated business and difficult to explain in the few words that most readers are willing to read. Given this situation, it could be expected that editorials going enough to the heart of the situation would not be plentiful. I think two such editorials have appeared in newspapers in recent days and that they should be set forth in the CONGRESSIONAL RECORD to be more readily available to all.

One is an excellent editorial which appeared in the Des Moines Sunday Register of September 17, 1972 and is as follows:

WHAT'S THAT ODOR IN THE GRAIN?

Instead of blustering about a retraction from Senator McGovern for impugning his integrity on the grain deals with Russia, Agriculture Secretary Butz would be well advised to come clean on all the details. Blustering will not remove the suspicion arising from the musical chairs rotation of executives between USDA and the leading grain exporting companies during the time the deals were being made.

There is a strong smell of favoritism in the report by a USDA official Thursday that he was told to inform grain export companies of a change in export subsidy arrangements ahead of the effective deadline. This apparently gave some companies an opportunity to make deals for substantial extra profits.

Butz cannot deodorize this situation by talking about the great benefits to America from large grain sales to Russian—everybody concedes that. But were the benefits dished out evenly or weighted toward the grain companies? Or were honest mistakes made in handling information about the grain deals?

It is clear that many wheat farmers were unable to benefit from the rise in prices caused by the extraordinary sale to Russia. There is doubt that USDA controlled information releases with the farmer's interest in mind. A report by a U.S. agricultural attaché in late June indicating a much shorter Russian grain crop than previously forecast was not released by USDA.

Can the farmer be sure some members of the grain trade, who obviously are on intimate terms with USDA officials, did not have earlier information than the public? Butz said the release of the Russian crop report was held up because it was "confidential", since it came through diplomatic channels. He said its accuracy was doubted and more information was requested. The latter is a good reason, assuming no hints leaked out to the grain trade.

The most questionable part of this affair is the handing out retroactively of juicy export subsidy payments to the grain companies. When USDA finally realized that the world price (as well as the U.S. price) was being jacked up by the grain sales to Russia, it recognized that the export subsidy was no longer needed. But it gave the exporting companies a week to buy grain and still get in on the subsidies—amounting to 47 cents a bushel by that time.

USDA has long had a reputation for integrity in the release of crop report information and in all handling of agricultural information which is of market significance. Elaborate procedures are followed on assuring fairness and avoiding leaks. The recent happenings in the grain trade and its connections with USDA have shaken farmer and public confidence.

Congress needs to dig all the way into this and not be diverted by the undoubted diplomatic and economic advantages of the grain sales to Russia.

Another editorial I would like to call to the Member's attention is from the Washington Post of September 17, 1972, and it is as follows:

WHEAT, DOLLARS, AND A FEW FAVORS

The more the Agriculture Department explains about the Russian wheat sale, the deeper and more disquieting the questions become. Secretary Butz's evangelistic enthusiasm for the wheat deal is not contagious. This massive transaction now raises several different kinds of issues. First there is the pecuniary scandal, in which a few trading companies made large profits through inside information furnished to them alone by the department. Next there is the failure of American trade negotiating strategy, in which our government was misled and exploited by the Russians. They have taken us on a gigantic hayride that will cost the American public some hundreds of millions of dollars in subsidies and higher domestic prices. Finally, as a matter of foreign policy, we have given the Russians commercial advantages that we do not apparently offer to anyone else. It is a gratuitous affront to our regular and reliable trading partners.

In the scandal, a new element has now come to light. On Aug. 24, the department decided that the export subsidy was finally getting too high and it prepared to abandon its policy of matching price rises with subsidy rises. Someone at the top level of the department told a lower official to call half a dozen trading companies and warn them. The official did in fact telephone half a dozen major traders and passed on the message before the market closed that day. Those whom the department neglected to call were, of course, the others who deal on the same market: domestic businesses like the millers and bakers, the grain cooperatives, the farmers and, if Mr. Butz will pardon the expression, the general public.

The generally accepted way for a government agency to announce a change of policy is to tell the news services, and the generally accepted time is after the close of the market. The department ignored both of those rules.

Wheat is bought and sold on a speculative and wildly competitive market where inside information is readily convertible into cash. The public will doubtless hear more about the content of these phone calls when Congressman Purcell of Texas continues his hearings on Monday. But it is already established that the department was feeding valuable information to a few selected middlemen, to the obvious disadvantage of both domestic buyers and the wheat farmers.

More broadly, the wheat deal calls into question the competence of the American negotiators who produced this bargain for the Russian government. The Russians needed to buy the wheat a great deal more than we needed to sell it, but they induced us to shell out well over $100 million in subsidies to entice them. This aspect of the fiasco deserves particular attention, since the administration is now embarking upon further trade agreements with the Russians. In the case of the grain sale, it appears that the people at the top of the department did not fully grasp the meaning of the reports of crop failure from our embassy in Moscow, and the data from the weather satellites. They were persuaded that the Russians mainly wanted to buy feed grain. Instead, Russia went first for wheat and bought one-fourth of the American crop at the low subsidized price.

The Agriculture Department attempts to defend the subsidies by arguing that they are essential to keep our wheat competitive with the world price. As we have said before, the world price this summer was the American selling price. No other nation had wheat for sale in any substantial quantity. This truth is confirmed by the recent announcement of the sale of American wheat to China. The Chinese did not come to the United States to buy it. They went to a French trading company, which came to the United States only after it was unable to buy elsewhere. Our sale to China is also subsidized. China, incidentally, does not suffer a food shortage. It imports wheat because, evidently, it wishes to export its own rice, which it sells at a higher price to earn foreign exchange.

As foreign policy, in the broad sense, the wheat sales are characteristic of the Nixon administration. It has frequently been noted that Mr. Nixon has been much more solicitous, and much more successful, in his dealings with our former adversaries, the Russians and the Chinese, than with our traditional friends and allies. In grain exports, the contrast in our treatment of the Russians and the Japanese is striking.

Congressman Neal Smith of Iowa has pointed out that, in our feed grain sales to Russia late last year, the United States gave the Russians better terms than it was giving the Japanese at that time. In the wheat deal this summer, all buyers presumably got the same price. But the Agriculture Department discriminated in another manner. It held the price low and stable while the Russians were buying. Now that they have bought all they want, the department is letting the price rise. Those who buy steadily, year in and year out, must now pay more. It is an odd way to treat the Japanese at a time when we are berating them for not buying more American products.

Secretary Butz keeps suggesting that this summer's wheat sale opens a vast new market for American grain. Russia is, in fact, a very erratic customer. Russia grows its wheat very far north, where the weather is fierce and the crop fluctuations are extreme. In a bad year like this one, Russia must buy heavily abroad. In a normal year, they buy much less. In a very good year, they put wheat on the world market to compete with ours. Japan, on the other hand, buys American wheat at a constant rate and is, in any normal year, by far our biggest customer for it. Yet it is to the benefit of the Russians that we bend the structure of our subsidies.

THE NATIONAL-DUQUESNE WORKS CELEBRATES 100TH ANNIVERSARY

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. GAYDOS. Mr. Speaker, the National Division of National-Duquesne Works, United States Steel Corp., located in McKeesport, Pa., has just observed its 100th anniversary as a leader in the pipemaking industry of the world.

Its record over the past century is replete with outstanding achievements, not only in the production of pipe and well casings, but in the innovation of new products as well. The National plant's anniversary was the object of public acclaim earlier this month but overshadowing the celebration was the haunting question: What of National's future?

What is in store for this faciity which has given so much to the industrial growth of America over more than half of the Nation's nearly 200-year history? Mr. Edgar B. Speer, president of United States Steel Corp., supplied the answer in his speech at the anniversary dinner.

The future of National, and similar plants, Mr. Speer stated, is closely linked to the ability of the plants to supply superior products vital to solving the growing energy crisis which confronts America. There is not a supply of energy fuels to match the obvious demand for their use. Why?

The fact is, as Mr. Speer so accurately notes, America's expanding industrial might and changing life styles is demanding more and more energy in enormous quantities and the effort to meet this demand is one of the greatest challenges in our history. Part of the ability to overcome this challenge rests with the industries involved, but a part also depends on the wisdom, courage and the initiative of the Congress and the Federal Government.

Mr. Speer points out the Federal Government has been lax in not establishing a national energy policy. The Government does not know where our energy will come from in the future or in what form. He also says the present rate of oil and gas drillings are far too low to meet the growing energy burden.

Supporting his view is the National Petroleum Council. In a projection to 1985, the Council sees only a small increase in the production of domestic oil and an actual decrease in domestic natural gas production. They also see the disturbing picture of America's need for these energy fuels depending to a greater degree on imports, particularly oil imports.

Mr. Speer had some intriguing questions about this projection. He wanted to know if this is really the way our country should go? Is it the only way? Can the Federal Government move to alter the apparent course?

Over the past 20 years, Mr. Speer said the Federal Power Commission, which regulates the price of gas in the field, had done such an effective job of holding down the price that it seriously curtailed the incentive for gas exploration to discover new sources. As a result, our known gas reserves today are at a recent history low.

The Nation faces some serious economic consequences if the Federal Government continues to ignore the growing energy crisis and relies, instead, on imported energy fuels.

Our balance of payments would be affected. It has been predicted imported oil could cause an annual outflow of American dollars at the shattering level of $20 to $25 billion in less than 15 years.

National security also must be considered. I believe it an extremely risky gamble to depend upon sources of energy located thousands of miles from our shores for our national defense. I am sure all of us know that some of these sources are in areas which often become hotbeds of international tension.

American jobs certainly are a factor to be considered. They would be affected by such a policy, not only in industries directly engaged in this work but also in related industries which supply material and services used in developing oil and gas resources.

It appears obvious, then, we must begin concentrating our efforts toward a greater reliance on domestic supplies of energy, not on foreign sources. I believe the National plant and other similar plants in the Nation can do this—provided they are given assurance and assistance through a realistic energy program established by the Federal Government.

From an equipment standpoint, Mr. Speer is confident the National plant could compete anywhere in the world in the production of its products. But, he adds, it would be ironic if National and similar mills would have to operate at an unsatisfactory rate at a time when there is widespread awareness of the energy problem.

Mr. Speer also touched on another issue which has been debated many times in the House. It concerns the trade advantages our Government offers to foreign manufacturers to sell their products here while, at the same time, American manufacturers, one way or another, are prohibited from selling abroad.

As an example, our Government permits casings, tubing, and line pipe to come into our country on an almost-free-trade basis, while our products have no such freedom in other principal markets of the world. Oil country casing, for instance, is produced by the United States, Canada, Mexico, and Argentina. Imports of these products into the United States are subject to a duty of 7½ percent. But our exports to Canada are hit with a duty of 10 percent; to Mexico the duty is 45 percent; and to Argentina it is up to 90 percent.

In addition, as many of us here realize, foreign steel producers often receive generous subsidies from their governments to sell in export markets and the United States is the most attractive of all.

Mr. Speer believes, and I concur, that American workers will fight and win a share of any world market if the fight is fair. Consequently, unfair trade advantages given certain countries should be removed—or we should adopt countervailing duties.

As a steelmaker, Mr. Speer knows full well the damage unrestricted foreign steel imports caused in our domestic industry under the weak voluntary arrangement our State Department negotiated with Japan and Western Europe in 1968. It is not surprising, therefore, that he has reservations about the effectiveness of the 1972 voluntary arrangement under which more than 16 million tons of steel will be shipped into the United States. He rightly assumes this is too much of the American market to put into the hands of foreign competitors.

American steelworkers, who already have lost an estimated 100,000 jobs to foreign imports, will feel the impact again. But, so will the Federal Government since the loss of wages by the steelworkers will be reflected in the loss of revenue derived from the Federal income tax.

Mr. Speer pointed out the combination of high manufacturing costs in our country, combined with the subsidies foreign governments grant their industries, severly hamper our ability to compete for world markets. He said the market for oil country goods outside the United States is over 1.4 million tons, but American companies will ship only about 100,000 tons into this market because of this combination.

The answer lies in a partnership of progress between union, management, and Government. The productivity committee of union-management have made progress in solving their share of the problem. Now it behooves the Federal Government to meet its responsibility, establish an energy policy, equalize trade advantages and take the necessary action to enable the National plant, and others, to meet the pending energy crisis on a pragmatic and economically sound basis.

Mr. Speaker, Mr. Speer is confident the National plant, the American worker and the American steel industry can and will do their part in this fight. It remains only for the Government to act accordingly.

PRICE INTRODUCES BILL TO RAISE FARM INCOME AND AGRIBUSINESS INCOME

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. PRICE of Texas. Mr. Speaker, I have today introduced legislation which would change the formula in the present law for calculating wheat certificate payments and feed grain price support payments for farmers participating in the current wheat and feed grain program.

Under the present law wheat certificate and feed grain price support payments are made in two stages. Wheat support payments, for one, are made in early July and again in December. The total of these payments reflects the difference between the average prices received by the farmers for wheat and feed grains during the 5-month period of July 1 through November 30 and 100 percent of parity price for wheat or $1.35 per bushel in the case of corn and comparable levels for other feed grains.

As a result of the strong demand for grain occasioned by the Russian grain sale, the market prices for wheat and feed grains during the 5-month period of July through November in the case of wheat, for example, have averaged much higher than the market prices earlier in the year.

My bill would change the 5-month July 1 to November 30 period, in the case of wheat, and the October 1 to February 28 period, in the case of corn, to a 9-month period including the month of January 1 to September 30 for calculating the average market prices. This bill would be in effect for this year and next and would encompass the impact of the Russian grain sale.

The purpose of my bill is to spread out over a longer period of time the basis for the calculation of market prices under the price support formula. This process will more accurately reflect the marketing conditions facing grain farmers throughout the year. It will, of course, make the average price received by farmers lower in formula, but it will raise the amount of payments they will receive.

To put it another way, my bill would extend the benefits to all wheat and other grain farmers participating in the program, not just those selling wheat early. It would, of course, benefit the early sellers, too. By using the 9-month period in the formula which is both more equitable and more accurate, all grain farmers would receive greater benefits under the program.

REPORT FROM CONGRESSMAN ED ESHELMAN

HON. EDWIN D. ESHLEMAN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. ESHLEMAN. Mr. Speaker, I will be sending my constituents a newsletter. I am including the contents of that newsletter in the RECORD at this point:

REPORT FROM CONGRESSMAN ED ESHLEMAN

PROPERTY TAXES

In all of the public discussion about the growing tax burden, the property tax has come under heavy fire. For one thing it has more than doubled nationally in the past 10 years. It is also very regressive—placing the heaviest burden on senior citizens, low income families, families with fixed incomes, and farmers.

The reaction against the property tax has been felt in many areas where citizens have rejected new raises in the millage rate. Furthermore, the current system of local property taxes as a source of public school financing is being challenged in the courts and in some cases has been declared unconstitutional.

Therefore, any reasonable plan for tax reform must include some method for helping states relieve their property tax burden. It will do no good to replace the unfair property tax with another tax that is equally unfair. But it is clear that millions of homeowners across the country want something done and expect Congress to act.

IKE ON DEFENSE

Since President Eisenhower's warning about the "military-industrial complex" is so widely quoted these days, I thought you might be interested in another of Ike's statements regarding national defense.

In a special message to Congress in 1960 he said, "that just peace which has always been and which remains our primary and common goal can never be obtained through weakness. The best assurance against attack is still the possession and maintenance of free world strength to deter attack."

CUTTING COSTS

It is not difficult to see that cutting the costs of government means in large part reducing the number of Government employees. Most of the expense of running Government is a matter of paying personnel. For the past several years there has been an effort at the Federal level to reduce the number of employees. The chart at the right shows that Federal civilian employment has been headed downward since 1969.

LINCOLN'S VIEW OF DUTY

Abraham Lincoln had some wise observations on many aspects of public life. His comments on duty seem so appropriate to me that a copy of what he had to say now hangs in my Washington office as a reminder.

Lincoln stated, "If I were to try to read, much less answer, all the attacks made on me, this shop might as well be closed for any other business. I do the very best I know how—the very best I can; and I mean to keep doing so until the end. If the end brings me out all right, what is said against me won't amount to anything. If the end brings me out wrong, ten angels swearing I was right would make no difference."

COMING CONFUSION

"Dear, would you drive down to the store and buy a liter of milk, two meters of muslin, a half-kilo of butter and a demi of Coke? And be sure you keep your speed under seventy kilometers or they'll pick you up."

Someday that's how we'll be figuring things if Congress approves changing over to the metric system within the next ten years.

If it all sounds very confusing just remember that we'll have several years to gradually work into the new system. The problem is if we don't change, the rest of the world will leave us behind. In trade, travel, science and other vital international relationships we will find ourselves outsiders and unable to compete or communicate.

The decision before Congress is whether or not we can afford to run that kind of risk even if we are likely to experience some national confusion for a time.

CHAMBER COMES TO CONGRESS

I'm pictured at the left with members of the Lancaster Chamber of Commerce who came to Washington recently to discuss legislative issues. We met on the Capitol steps and then went inside to begin a series of meetings and discussions.

TWO APPROACHES

There are two ways to approach a problem. One way is to find fault. I prefer finding solutions.

"DOC" MORGAN

Thomas E. (Doc) Morgan (D-Pa.) is my guest columnist in this newsletter. He is a medical doctor who represents Pennsylvania's 26th District and is dean of our congressional delegation. It is the work of the delegation that is the subject of Doc's editorial.

GUEST EDITORIAL

The Pennsylvania congressional delegation steering committee consisting of three Democrats and two Republicans is a bipartisan activity which was initiated by Governor William W. Scranton in 1963. The committee is composed of myself as chairman, and William A. Barrett, Daniel J. Flood, John P. Saylor and Herman T. Schneebeli.

The steering committee reflects the views and serves as the voice of the entire Pennsylvania congressional delegation. It functions continuously as a unit and many times as individuals through its chairman.

Since its formation the Pennsylvania congressional delegation steering committee has become a very effective force in assisting the Commonwealth of Pennsylvania in numerous and varied matters.

In addition to frequent meetings of the steering committee where problems affecting the State of Pennsylvania are discussed, delegation luncheons and dinners are arranged for representatives of the State's business and industry which enable them to discuss with the entire Pennsylvania congressional delegation their problems. These functions have proved beneficial to the economy of our State.

The Pennsylvania congressional delegation composed of twenty-seven House Members and two U.S. Senators is proud of the bipartisan close-knit association which they enjoy in cooperation with the steering committee and which is the envy of other delegations in the United States Congress.

SOME THINGS I HAVE BEEN SAYING

About Congress

At this point, where Congress stands could be summed up this way: There's lots of work to do, and the time to do it is running out.

About gun control

As I have said on many occasions about the rights guaranteed under the Constitution, they are meant to be exercised in a responsible manner. In the case of handguns, it seems to me that this fact means that the purchase of such weapons should be limited to responsible persons. Thus, I could favor legislation that would establish a stringent procedure for assuring that only responsible individuals purchase handguns, but I will not vote for an outright ban of them.

About busing

Letter to a Constituent, August 31, 1972

I have opposed strongly the forced busing concept. There is enough evidence to convince me that the job of providing a quality education for all students, regardless of race, is not something you accomplish with a school bus. Busing suburban children to the inner city or inner city kids to the suburb may be some social planners' idea of good schools, but I can't see that the children involved will end up getting a better education.

About food stamps for strikers

Newspaper Column, August 3, 1972

It has been pretty conclusively proven that availability of food stamps to the families of strikers has enhanced the ability of strikers to hold out for their demands and to this extent the Federal Government, in effect, negates its hope for prompt settlement of work stoppages. In addition, of course, I feel it is grossly unfair for taxpayers to have to foot this bill for those voluntarily not working.

About Vietnam

Letter to a Constituent, June 22, 1972

In regard to our missing and prisoners of war, an acceptable cessation of the war must include both the return of our living and a complete and neutral accounting of all those we believe to be held by the enemy.

About Federal spending

Letter to a Constituent, August 16, 1972

Every American should give some thought to the possibility of higher taxes as he watches Congress go on its spending spree. Sometime, somehow, someone is going to have to pay for all of this, and that someone is going to be the taxpayer. Unless some brakes are put on now, the already overburdened taxpayer is going to get hit up again. And I doubt, and the President doubts, that any of the Federal programs are something that most people want to support with additional taxes.

OLYMPIC TRAGEDY

HON. PIERRE S. (PETE) du PONT

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. DU PONT. Mr. Speaker, I offer for inclusion in the RECORD a letter from the Delmarva Ecumenical Agency. The letter expresses most eloquently the sadness and outrage we all feel about the senseless massacre in Munich.

We must agree that violence does indeed beget violence, and as Governor Carvel suggests in his letter we must rededicate ourselves to the peaceful solution of our problems.

The letter follows:

DELMARVA ECUMENICAL AGENCY,
Wilmington, Del., September 7, 1972.

Hon. PIERRE S. DU PONT,
House of Representatives,
Washington, D.C.

DEAR MR. DU PONT: The Executive Committee of the Delmarva Ecumenical Agency at its monthly meeting at its Executive office in the Blue Hen Mall, Dover, Delaware on September 6, 1972 expressed its shock and deep concern about the massacre of the eleven members of the Israeli Olympic team.

In the Olympic arena dedicated to better understanding and brotherhood this untoward violence is decried as the worst possible way to bring the attention of the world to whatever inequities that may exist.

We pray that this shocking event may have the effect of causing all people of good will to realize that in this world today violence in whatever area begets violence, and we pray that this example may cause us to dedicate ourselves and our future to bring solutions of any and all problems no matter how vexatious they may be.

We express our deep sympathy to the families and friends of all the unfortunate victims.

Sincerely,

ELBERT N. CARVEL,
Chairman.
DONALD E. LEITER,
Executive Director.

CHANGES IN NATIONAL NEEDS AND PRIORITIES

HON. BILL NICHOLS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. NICHOLS. Mr. Speaker, all of us are keenly aware of the problems which result from changes in national needs and priorities. We are also conscious of the responsibility which the Congress has in recognizing, encouraging, and supporting sound and reasonable programs which provide for transition of our engineering and scientific manpower resources which are so vital to our national strength; from defense pursuits to other national needs in civilian and domestic areas as improvements in the international situation and our essential defense commitments permit.

We are also cognizant of the difficulties of local governments in effectively utilizing engineering expertise and results of research which may be applicable in day-to-day operations such as transportation and traffic, communications systems, sanitation and pollution and public safety. More effective application of technology at the local level can assist communities in providing improved public services and better living conditions for people in those communities. Certainly everyone is concerned about harnessing our tremendous technological capability to improve the quality of life and that must be done where people live and work.

Recently, my attention was called to what I feel is an important although small program initiated by my alma mater, Auburn University, with the support of the National Science Foundation. Based on the public service and extension concept which is so inherent in the land-grant university tradition, the school of engineering of Auburn has employed two engineers who were "displaced" from the defense-aerospace programs in Huntsville. After a period of special transition education and training, one of the men was placed with the city of Anniston and the other in Geneva, which has four rather small towns with which the engineer is working. A unique and important aspect of the program is that the university is providing a base of engineering and scientific support by both faculty and students. Such interaction provides very realistic inputs to the education and research programs of the university. This integral relationship also builds into the system an essential component of continuity and renewal.

These two men have successfully completed the transition from defense-aerospace engineering to community engineering and are performing needed and valuable services in their new environment. You will be interested in knowing that one has just bought a new home with the hope that his "conversion" is permanent.

Another project which was undertaken by Auburn University this summer with the city of Montgomery, Ala., involved two faculty members and five students, who worked directly for the city in studying more efficient use of computers, improving vehicle maintenance systems, reviews of municipal codes for subdivision development and land-use planning. Two engineering students and three graduate students in planning were involved and the experience they have gained will be a valuable part of their education. One of the engineering students has expressed an interest in working as an urban systems engineer with the city of Montgomery when he graduates next year.

I wish to take this opportunity to commend the National Science Foundation for supporting these programs which have great potential for accomplishing delivery of technology at the local level to support efforts of Government in providing better services to the public as well as Auburn University for its initiative in developing this dynamic system which serves as a model in our efforts to create better intergovernmental-institutional systems to bring to bear our technological resources, utilizing existing institutions and capability on local problems. Such new programs may contribute substantially to effective focusing of our resources in new directions which changing national priorities indicate are essential to meet public needs.

LET US TAKE ANOTHER LOOK AT REVENUE SHARING

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. BRINKLEY. Mr. Speaker, all of a sudden everyone is predicting a tax increase and using the revenue-sharing bill as a major justification—or as the whipping boy. Well, at least we are now forewarned, and I for one intend to take a new look at this bill when it returns from conference.

Also, what about the social services limitation provision added in conference which penalizes the mentally retarded through omission? The House version had no such limitation provision.

And what about the Federal audit discussions now being bandied about? As a news article in the September 16, 1972, edition of the Washington Post pointed out:

> Cities and states must annually advertise their plans to use the money in local newspapers and report to the Treasury Department, which may audit the books.

What about the rising cry that revenue sharing is fiscal irresponsibility? An editorial entitled "Revenue Sharing Is a Trap," published in the September 17, 1972, issue of the Columbus, Ga., Ledger-Enquirer, presented an excellent discussion on this topic.

The editorial reads:

> PEANUTS FOR WHAT WE PAY OUT: "REVENUE SHARING" IS A TRAP
>
> (By Glenn Vaughn)
>
> My prediction is that we as taxpayers are going to rue the day we stood by and allowed ourselves to be lured into this "revenue sharing" business.
>
> While local elected officials have been wailing about it and no doubt are licking their chops now that both houses of Congress have passed it, we're borrowing ourselves into a trap. It's just another way for our big federal government to get much bigger while at the same time making us all more beholden to it.
>
> This country already is spending $25 billion-plus more per year than it is taking in and "revenue sharing" will add another $6 billion per year in red ink money, greatly intensifying the pressure to raise federal taxes even more.
>
> If Congress were more interested in serving the best interests of the people than in keeping its same tight grip on the purse strings, it could help the hard-pressed local governments by simply reducing federal taxes by an amount equal to what it voted to "share." With that much pressure off, local elected officials could collect their own tax revenues, which is as it should be.
>
> Various public estimates have put Columbus' share of the "revenue sharing" program at about $3.5 million. It pleases me, of course, that a cut in property taxes will be forthcoming. But the fact is that $3.5 million is just a drop in the bucket compared to what we in Columbus pay out each year in federal taxes.
>
> In 1969 we paid $55.7 million in income taxes alone, plus another $37 million in employe-employer Social Security taxes. It's a lot more this year. And there's no telling how many millions our citizens are paying out in corporate taxes, gasoline taxes, excise taxes, liquor taxes, cigarette taxes and so on.
>
> The revenue-sharing plan is advertised as one with "no strings attached." How long, dear reader, do you think that's going to last? And since our system will immediately become dependent upon "revenue sharing," what do you think the "strings" will be when they are attached?
>
> Sen. David Gambrell voted against revenue sharing and this is one time he's solidly in my corner. He said he saw no justification for enacting a program of that magnitude with no restrictions. . . ."
>
> The senator continued: "It does not replace or reorganize existing federal assistance programs under which nearly $30 billion is being spent each year . . . and what is more alarming, no restraints or incentives are contained in the program to encourage careful spending of these funds at the local level. . . ."
>
> It just doesn't make sense to funnel all that money to Washington, through the cumbersome federal bureaucracy and back again. What's really frightening about it is that this is just a small beginning to an entirely new way of life with power centralized in Washington like we've never dreamed about.
>
> Even as big a lump of money as the five-year, $30 billion program is, when sprinkled out over the country it is going to be like gold dust into the wind.
>
> Temporarily, it is going to be a pretty good deal for local elected officials. It seems like having your cake and eating it too when local governments can get public revenue to spend without having to ask their constituents for it. But the euphoria is going to be short-lived because the taxpayers are going to demand the promised property tax cuts in equal measure.
>
> But even at that it is quite obvious we could get a whale of a lot more for our tax dollars if we paid them directly to our local government rather than diverting them through that incredible federal sifter.
>
> When, fellow citizens, are we going to stop kidding ourselves about "federal money?" When are we going to stop allowing ourselves to be deluded by those who are magnanimously sharing our own money with us?

These are valid questions and have now come much clearer into focus. Let us take a fresh look, a close, hard look at that conference report.

TRIBUTE TO ZEAKE JOHNSON OF TENNESSEE FOR HIS DISTINGUISHED SERVICE AS SERGEANT AT ARMS OF THE HOUSE

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. EVINS of Tennessee. Mr. Speaker, as the Honorable Zeake Johnson, Sergeant at Arms of the House, retires after more than 17 years of distinguished and dedicated service, I want to take this means of paying tribute to this outstanding Tennessean.

Zeake Johnson has served the Members of the House faithfully and conscientiously—and has carried out his duties as Sergeant at Arms with diligence and devotion.

Zeake Johnson has been loyal to the traditions of the House of Representatives in his service as Sergeant at Arms. As the guardian of the mace, he has symbolized the parliamentary heritage upon which the House was founded. He has carried out his many duties and responsibilities with honor.

Zeake Johnson was born in Dyersburg, Tenn., on April 2, 1910, and later moved to Jackson, Tenn. He served as Assistant Sergeant at Arms of the House from 1937 to 1942 when he enlisted in the U.S. Coast Guard.

Following his honorable discharge in 1945, he continued his interest in public service. In 1955 he was elected Sergeant at Arms of the House, a position which he has held through succeeding Congresses. In 1968 he was also sergeant at arms of the Democratic National Convention.

Zeake Johnson is a great Tennessean and a great American and as he enters upon his retirement, which is richly deserved, we all wish him the very best of good luck and success for the future.

HIGHWAY INTERESTS SEEK TO SUBVERT AND UNDERMINE ENVIRONMENTAL LAWS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. DINGELL. Mr. Speaker, on Tuesday, September 19, 1972, the other body passed S. 3939, the Federal-Aid Highway Act of 1972.

Included in that bill is section 147 entitled "Termination of Federal-Aid Relationship."

The objective of this section is to undermine and subvert two other acts of Congress which have received widespread citizen support; namely, the National Environmental Policy Act of 1969 and section 4(f) of the Department of Transportation Act.

Section 147 of the Senate bill—and an identical section 13 in H.R. 16656 which was approved on September 13, 1972, by the House Subcommittee on Roads of the Committee on Public Works—would "terminate" all portions of the San Antonio North Expressway as a Federal-aid highway project. This is described in the August 18, 1972, Senate report (S. Rept. 92–1081) on S. 3939 as an "unusual" step.

Indeed, it is not unusual for the highway interests of this Nation to seek to undo the efforts of Congress to protect the public's right to enjoy our parklands, wildlife areas, and a clean and healthful environment. These special interests do not like the fact that our Nation has awakened to the need to protect our environment. They want a free hand to exploit and develop, willy-nilly, in the name of progress.

NEPA has been described as a "full disclosure" law intended to make decisionmaking more responsible. But these special interests dislike such laws because they do not want to disclose their activities and work in a fishblow-like atmosphere that encourages the public to learn more of their plans.

But they are afraid to undertake a frontal attack on NEPA and other environmental laws. So now they seek to chip away at NEPA by carving out exceptions and rendering the law toothless. The San Antonio termination provision of S. 3939 and H.R. 16656 is one of those exceptions. If we allow this exception, they will ask this House to approve another exception in section 139 of H.R. 16656 concerning the Three Sisters Bridge and there will be more, I assure you.

I urge you not to allow this to happen in 1972.

The San Antonio highway was first suggested in the midfifties by the San Antonio City Council. In 1960 the Texas Highway Department recommended two alternate routes for the road—one of which would go through the Brackenridge-Olmos Parklands.

In 1961, a bond issue passed for acquisition of the right-of-way. But, according to our distinguished former colleague, now a Federal judge, Homer Thornberry, "No particular route was specified on the proposition as it appeared on the voters' ballots."

In 1963, the State settled on the park route.

After Congress enacted section 4(f) of the Department of Transportation Act of 1966, which is aimed at preserving our parklands, the San Antonio Conservation Society in 1967 requested that a different route be selected. When their request was denied, the society filed a lawsuit in December 1967.

In January 1968, the then Secretary of Transportation said there had been no approval by DOT for this right of way, and in April 1968 he sought an analysis of the project.

On September 23, 1968, the DOT Secretary gave conditional approval, but it never was effective, because in February 1969 the State refused to accept the conditions.

On December 23, 1969, DOT Secretary John A. Volpe approved two end segments outside the park, but not the middle section in the park, and called for a study of the park section. But in January 1970, the State objected to this approval and in April 1970 refused to make the study.

But on August 4, 1970—after enactment of NEPA—the State reversed itself and agreed to the study if Federal funds would be available immediately for the two end segments.

On August 13, 1970, Secretary Volpe agreed and on August 24, 1970, bids were authorized.

On September 1, 1970, when the citizens learned of this, the lawsuit was revived "claiming they had found out about the Secretary's action only through the newspaper."

The August 18, 1972, Senate report on S. 3939 states—Senate Report No. 92–1081, on page 42:

> The State obtained initial route approval from the Federal Highway Administrator and purchased all right-of-ways and completed all relocation with approximately $7 million in State and local funds prior to the changes in Federal law which now involve it in legal controversy. The Secretary of Transportation approved the letting of construction contracts prior to recent Federal court decisions defining the standard by which the administrative approval was to be reviewed. Thus, the project has twice been caught by changes in Federal law and procedures affecting its completion as a Federal-aid project."

According to our former colleague, Judge Thornberry, the State did not obtain any approval from the Federal Highway Administrator prior to enactment of section 4(f) or NEPA. Moreover, DOT's approval of construction contracts for the two end segments occurred 8 months after NEPA was enacted into law on January 1, 1970, and well after the court case had been filed.

Thus, the project was not "caught," either twice or even once, "by changes in Federal law and procedures."

In the lawsuit—*Conservation Society* v. *Texas*, Civ. No. 30915, Aug. 5, 1971, 2 ERC 1872—Judge Thornberry of the Fifth Circuit Court of Appeals described the parks in question and concluded:

> II. Preservation of Parklands: The Brackenridge-Olmos Basin Parklands are unique park and recreation areas situated at the headwaters of the San Antonio River and surrounded by a densely populated urban area in San Antonio, Texas. The Parklands contain Sunken Gardens, an open air theater, two golf courses, the San Antonio Zoo, picnic areas, nature trails, and many acres of green, open space. While there is a factual dispute concerning the exact number of acres threatened by this proposed expressway, it appears that the expressway will require the use of between 116 and 250 acres of parkland.
>
> III. Noncompliance with the Statutory Law: Our task is simplified greatly to begin with because it is undisputed that the Secretary of Transportation complied with none of the above-quoted statutes in his approval of the two "end segments" of this expressway. No environmental study under N.E.P.A. has been made with respect to these two "end segments," and the Secretary has demonstrated no effort by anyone to examine the section 4(f) "feasible and prudent" alternatives to the route followed by these two "end segments," which come right up to, if not in to, the Parklands from both the north and the south. Thus, it requires no discussion to establish that there has been no compliance with any of the above-quoted statutes.

Moreover, Judge Thornberry said that—

> Section 4(f) "does not authorize" DOT to separate a "project" into "segments." In short the Secretary acted beyond the scope of his authority.

He then said:

> By the Secretary's own admission, he adopted this piecemeal solution in order to defuse a controversial situation by attempting to strike a compromise between those who were determined to build the highway and those who were determined to save the Park. The problem with the Secretary's solution to the controversy is that he misconceived his role. The conflict between Parklands and Highways has *already* been resolved in the Halls of Congress, which is the proper place in our system of Government for priority decisions to be made. And,

as the statutes here in question make clear, parklands and environmental values are considered paramount. *See Citizens to Preserve Overton Park, Inc. v. Volpe,* 401 U.S. at —, 91 S. Ct. at 821–22 [2 ERC 1250] (1971).

But, despite these acts of Congress and Judge Thornberry's decision, DOT and the State seek, through S. 3939 and H.R. 16656, to run roughshod over the public, destroy part of the public's parklands, and ignore the laws of Congress and proper court decisions.

The Sierra Club, comments on this matter in a September 20, 1972, letter to me, as follows:

SAN ANTONIO NORTH EXPRESSWAY

We are opposed to Sec. 113, which would overturn a recent federal court decision and allow a "segment" of a Federal-aid project to be built by state funds, thereby avoiding compliance with federal laws and procedures in constructing the controversial segment of the Federally-aided highway. Such an action is objectionable not only on the merits of the case for the North Expressway but also because it sets a dangerous precedent and amounts to piecemeal dismemberment of federal statutes, most notably section 4(f) of the Department of Transportation Act and the National Environmental Policy Act.

* * * * *

THREE SISTERS BRIDGE

We are opposed to Section 139 because it would deprive both District of Columbia and Virginia citizens of their basic democratic right to judicial review of violations of federal and state law in constructing the Three Sisters Bridge. It would also deprive citizens in all the states of the right to judicial review of any determination which may be deemed to carry out the "mandate" of the Federal Aid to Highways Act. Section 140 would abolish all the provisions of local District of Columbia highway law in relation to all Interstate highway projects, thereby leaving District of Columbia and federal officials free to use any procedures they wish in constructing these massive, destructive highways. We urge you to delete sections 139 and 140.

* * * * *

ENVIRONMENTAL PROTECTION

The rights of citizens and the present environmental protection practices must not be destroyed by the Highways authorization bill. Rights such as NEPA and the requirement that all highways are subject to environmental impact statements and Section 4(f) of the Department of Transportation Act, which protects parks and wilderness areas, must not be circumscribed in any way.

The Congress should not be a party to these attempts in S. 3939 and H.R. 16656 to subvert and undermine NEPA and section 4(f). The House will, by rejecting this attempt, make it clear to the public that its environmental concerns are not more rhetoric and that our environmental laws must be respected and lived up to by Federal agencies and the special highway interests.

When the bill is before the House, a number of my colleagues will formally join me in urging such rejection.

SMALLER TOWNS HIT AGAIN

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. ZWACH. Mr. Speaker, when Congress voted to take the postal service out of politics, we thought we were making progress toward a new era of efficiency and better service.

But almost every day I receive letters in my office complaining about slow delivery and a general deterioration of postal service, especially in our rural areas.

The Atwater Herald, a weekly newspaper in our Minnesota Sixth Congressional District, recently carried an editorial on postal service, which to inform my colleagues, I would like to insert into the Record.

I call attention specifically to the editor's remarks about a differential in postal services between urban and rural areas. As he asks, are not all of our citizens "first class" and should they not be provided with equal first-class postal service?

SMALLER TOWNS HIT AGAIN

For several weeks, the Postal Department has been attempting to realign its organization. This is apparently being done by a variety of methods.

There are two which do strike at the Post Offices in smaller towns very hard.

In communications sent to our local postmaster, there are indications that our service will be trimmed.

Hours of service time during the day is on the top of the list. This means opening the post office counter later in the morning closing it over noon hour and closing early in the afternoon.

Why?

Aren't we in rural Minnesota or rural anywhere, just as important as the people who live in first class post office areas? Aren't our postage rates the same as everywhere in the nation? And, yet the department wants to give us third rate service.

If we must sacrifice on service at our level, then why should we pay the same rates as the first class offices?

I understand, the department wants to cut costs— But, why do it in the smaller offices on service. Are these big sectional centers so efficient?

Another point—Ole Hovey has been a clerk here for twenty some years. Now the department comes along and says you cut to 20 hours a week.

Sure, he is given other alternatives, but in some cases this could mean loss of revenue to a community as well.

I don't buy this cut back in service—we're paying first class—then let's keep what we have.

HIGHWAY TRANSPORTATION ACT

HON. HOWARD W. ROBISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. ROBISON of New York. Mr. Speaker, with the approaching congressional action on the Highway Transportation Act, I felt that many of my colleagues would have more than a passing interest in the September 7 testimony of William J. Ronan before the Subcommittee on Housing and Urban Affairs of the Senate Banking, Housing and Urban Affairs Committee. Mr. Ronan is chairman of the Metropolitan Transportation Authority in New York, which administers a regional commuter railroad system, as well as the New York City subway and bus service. Taken together, this urban transportation system services 7 million people per weekday. Mr. Ronan's testimony follows:

EXCERPTS OF REMARKS BY WILLIAM J. RONAN

Mr. Chairman and members of the Senate Subcommittee on Banking, Housing and Urban Affairs, my name is William J. Ronan. I am President of the Institute for Rapid Transit which includes among its members the public agencies which operate every rail rapid transit system existing in the United States, Canada and Mexico, as well as representatives of metropolitan areas that are planning rail rapid transit systems. Agencies that are members of the Institute also operate the nation's largest urban bus systems. These rail and bus systems serve areas having a population of some 55 million.

I am also Chairman of the Metropolitan Transportation Authority, which is responsible for New York City subway and bus service, and the regional commuter railroad lines. The Authority's daily weekday ridership is almost seven million.

I would like to commend President Nixon, the Congress, Secretary Volpe and the members of this committee for the progress that has been made in recent years by this Congress and the Administration in providing more money and federal resources to aid our urban bus and rail transit systems.

Thanks to this action we have begun to redress the imbalance in transportation financing and resources in our urban areas. However, the disproportionate public investment in highways has persisted.

I would like to discuss briefly two legislative proposals which would provide new initiatives in giving state and local governments the needed flexibility to develop balanced transportation:

First, we think that those provisions of the Senate Bill constituting the proposed Federal-Aid Highway Act of 1972 which would expend the use of highway funds to include bus transit improvements, are a move in the right direction. However, we would like to see these provisions expanded to include other modes of public transport such as street cars, new light rail transit vehicles and people movers—which are very much part of the new urban technology—as well as the more conventional rail transit facilities. The provisions, as they are now proposed, permit funds for trolley buses, as an example—but would not permit trolley cars or other viable transit alternatives now available to our cities. The provisions, as written, do not go far enough and, indeed, handicap those cities whose transit depends largely on rail systems. Transit system planning in these cities has progressed to the stage where it is essential that these elements be integrated. We feel it is vital that such modal integration be encouraged by the Congress and that the new emphasis on system—rather than project—planning dictates that no distinction be made as to availability of funds.

If we want a metropolitan area to have flexibility in using urban transportation funds for highways, rail transit, buses and other new modes of transportation, then that flexibility is dependent upon a broad and nondiscriminatory funding base within the law.

Obviously, the monies which would be made available through the Highway Trust Fund under this bill are not large enough to provide for the needs of rail systems. But, we believe this problem can be dealt with by increasing the contract authority under the Urban Mass Transportation Assistance Act.

Our second proposal relates to the level of Federal assistance for capital improvement projects. The Federal share now fixed for mass transportation projects, has a ceiling of 67 percent (with a floor of 50 percent).

The Senate has already recognized the inequity and inadequacy of the low mass transit assistance levels. Transit amendments in the Senate-passed 1972 Housing Bill would give the Secretary of Transportation discretionary authority to provide up to 90 percent.

However, the lack of a mandatory level of assistance has created uncertainty on the state and local level in planning major projects. We propose a fixed Federal contribution of 80 percent. This follows the precedent of Federal aid in the highway act which has mandatory levels of contribution (90 percent for Interstate projects and 70 percent for other major programs). This 80 percent figure is easily justified in relation to the highway program in that it is the equivalent to the average Federal share for all highway programs.

Both of these proposals which I offered today are further documented in a consolidated statement which has been submitted for the record. I respectfully urge your favorable consideration to insure that mass transit is given its rightful place in our nation's transportation policies and plans for the future growth and development of our cities.

BAD TREND

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. ZWACH. Mr. Speaker, all of us are aware of the continuing trend of the decline in numbers of the family farm and a corresponding increase in the number of giant corporate agricultural production units.

This situation is of prime concern to our newspaper editors in rural Minnesota.

An example of that concern is an editorial by O. B. Augustson, an editor who has long been a well-informed student of the rural scene, in the West Central Daily Tribune of Willmar in our Minnesota Sixth Congressional District.

Mr. Speaker, with your permission, and to inform my colleagues and all of the other people who read the CONGRESSIONAL RECORD, I insert this excellent editorial by Mr. Augustson.

The editorial follows:

BAD TREND

If one walked down the street of an urban city and met one acquaintance after the other, each one would tell of some store going out of business. There would be a number of them—enuf to paint a serious picture. The final exclamation would be—Gracious me, what is happening to our town?

The above is a fanciful scene. But the one we portray now—is not fancy—it is fact. Walking down the street and meeting other folks who tell us that this family farm is going, on the rocks, we hear of one, we hear of two, we hear of too many.

We should be alarmed at this last scene. But strangely enuf we seldom note such alarm. Just as if those loss of family farms means nothing at all. No thought of the future when the loss of such small farms will mean something when they are no more. As a rural banker said some time ago—the family farm is the backbone of our rural town. If one thinks enuf on this subject one would exclaim about that second scene—Gracious me—what is happening to our countryside?

Just now it seems that the wet spring, late seedings etc. may reek havoc with some small farmers and could be curtains for those worst situated. Add to the trend where the family farm goes down the drain. Then gobbled up by the big farmer or even the corporate outfit?

Talked to a friend the other day who had attended the State Fair and like most farmers they visited machinery hill. They were struck with the fact that on the hill the smallest plow exhibited was an eight bottom. Indicate something?

Surely there is something to ponder about by us city folks and the industry which produces our sustenance. Things may not be the same in the distant tomorrow.

CONTRACTS AND GRANTS IN THE NATIONAL HEALTH SERVICE CORPS

HON. BROCK ADAMS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. ADAMS. Mr. Speaker, I rise today to inform this body of a situation which has arisen within the National Health Service Corps; a situation which I protest because the administration has ignored the intent of Congress in administering this program.

In passing the Emergency Health Services Personnel Act, Congress recognized the serious shortage of doctors and medical personnel in many urban and rural areas of this country. The intent of Congress in passing this legislation was to place doctors and medical personnel into these areas to provide direct medical services. This intent seems simple to understand. Doctorless communities need doctors, nurses, dentists, and medical supplies. To meet these needs was the intent of Congress when it passed the legislation which was enacted into law on December 30, 1970.

In July I learned that the Department of Health, Education, and Welfare had determined to use more than $1 million of the National Health Service Corps funds for contracts and grants in management development and manpower planning for doctorless communities.

These contracts follow:

CONTRACTS

HSM 110-72-423: "Problem-Oriented Management Development," $738,900.

HSM 110-72-279: "Identification of Elements of a Range of Rural Health Care Models," $41,409.

HSM 110-72-415: "Developing Health Care Planning for Physicianless Counties in the Mountain States," $26,516.

HSM 110-72-417: "Developing Health Care Planning for Physicianless Counties in the Mountain States," $35,420.

HSM 110-72-298: "Developing Health Care Planning for Physicianless Counties in the North Central Plains," $49,054.

HSM 110-72-418: "Developing Health Care Planning for Physicianless Counties in the Rural South," $69,427.

HSM 110-72-419: "Developing Health Care Planning for Physicianless Counties in the Rural South," $122,633.

This administration claims to be striving to increase health benefits to our citizens, and yet in 18 months HEW has failed to fill the quotas for medical personnel provided by the National Health Service Corps. HEW has succeeded in awarding over $1 million in contracts for management development and planning, and in the same time has managed to get less than one-half of the medical personnel approved by Congress for 144 communities actually on the job.

HEW seems to prefer to be a planning agency rather than an agency which offers direct health care services. In fulfilling this desire, it has turned its back upon the intent of Congress and is using taxpayers' money to meet the whims of the administration rather than meeting the needs of this Nation's citizens for health care. These actions on the part of HEW serve to undermine the National Health Service Medical Corps just as the administration has hindered and undermined the success of the Public Health Service Hospitals by adminsitrative ruling.

As serious, perhaps, is the secrecy surrounding the granting of these $1 million contracts. On the one hand, this administration is crying for community control. On the other hand, the administration is ignoring regional and local planning groups in the granting of contracts for planning from the National Health Service Corps budget and is making contract agreements from Washington, D.C. The regional office of HEW was informed of these agreements after the fact, thus undermining all community control in health planning.

In view of the seriousness of this matter, I have today turned over all relative information to Congressman PAUL ROGERS, chairman of the Subcommittee on Public Health and Environment. His committee will have the opportunity to request an investigation by the General Accounting Office into the propriety of using these funds in this manner.

I inform you today of this situation because such actions by HEW undermine not only the health services of this country, but the very legislative responsibilities of this body.

FORTAS' FORTE

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. SCHERLE. Mr. Speaker, former Supreme Court Justice Abe Fortas has been reappointed to a 10-year term on the Board of Trustees of the Kennedy Center for the Performing Arts. This quasi-governmental institution has spent many millions of dollars on its marble museum of culture. Originally the Center was not supposed to cost the taxpayer anything, but at last count over $40 million in Federal funds had been appropriated to this monument. Its purpose was to provide a place to "develop" our national arts. But it has fallen into fiscal chaos due to cost overruns and mismanagement.

While a trustee does not receive any direct compensation for his duties, there are many side benefits to massage the ego of the entrepreneur. Trustees may use a private box on special occasions, for example. No doubt Fortas, who failed to win confirmation from the U.S. Senate for his nomination as Chief Justice of the Supreme Court, will find this helpful in buttering up prospective law clients.

Maybe it will help to gloss over the fact that he was found unfit to head the High Court. He should not have been reappointed to any position of public trust, but especially not one charged with straightening out questionable finances.

SOVIET JEWRY

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1972

Mr. GUDE. Mr. Speaker, the Soviet Union has a long history indeed of persecution of its Jewish citizens. This has now culminated in our time in the unconscionable act of charging exorbitant fees to those seeking to emigrate from Russia, on the theory that the Government must be reimbursed for its investment in the education of its citizens. Directed primarily at the Jews of Russia who have been applying in ever-increasing numbers for exit visas, this fee can only be described as "ransom money," for the figures involved go as high as $25,000 to $30,000 in some instances.

The plight of Soviet Jewry has rapidly deteriorated over the past few weeks in many other ways as well. There have been a number of arrests of outspoken Jewish individuals, telephone lines have been cut, broadcasts from foreign nations have been jammed, and many prominent persons have lost their jobs on trumped-up charges.

On Thursday, I attended a briefing on his matter by Mr. Leonard W. Schroe-er, who was specifically delegated by Soviet Jews to speak in their behalf. He outlined clearly the demoralizing effects f these recent developments and, in particular, the many ramifications of the mposition of this "head tax" upon the Jewish population of the Soviet Union. He estimated that perhaps 150,000 families are now in the process of applying or exit visas, representing a total of nearly 400,000 individuals. In Moscow lone, it was estimated that nearly 40 percent of those applying would be subject to this excessive—indeed, impossible—tax requirement. For these people, nd many others, such a move represents he end of all hope of ever escaping the depression and harassment that is now clearly a matter of official Soviet policy. Moreover, many young people are now withdrawing from universities, and will ow be subject to military service and may not be able to leave the country for years thereafter.

Mr. Schroeter emphasized most trongly that the Soviet Jewish leaders with whom he visited in Moscow believe hat the only hope of rescinding the tax if massive political and economic pressure can be mounted in the West. Mr. Speaker, this is our task in the U.S. Congress; this is where we may offer real assistance from the American people to he Jewish people of Russia.

It has been announced that the signing of a comprehensive trade agreement with the Soviet Union is expected before the end of this year, and possibly within weeks. We must grasp this opportunity to put the Soviets on notice that we will not trade in commodities with a nation that trades in human lives. Congressional approval of many aspects of these new trade initiatives is necessary for their finalization. Among these are the granting of most-favored-nation status to the U.S.S.R., the extension of Commodity Credit Corporation loans, the extension of Export-Import Bank credits, and modifications in the Overseas Private Investment Corporation regulations.

I feel strongly that we must condition these new trade agreements upon the rescinding of this educational tax. I urge all of my colleagues to repudiate this heinous treatment of Jews, and repudiate it in the strongest manner possible at this time.

REVENUE SHARING

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. BENNETT. Mr. Speaker, I sent a questionnaire to all postal patrons in the district which I represent in the month of May 1971 and of 26,000 and more replies received to the question "Do you favor revenue sharing with the States if it requires increased Federal deficit spending?" 24.6 percent voted "yes" and 66.3 percent voted "no".

Two interesting editorials appeared recently in the Jacksonville, Fla., newspapers. The first is entitled "The Revenue-Sharing 'Gift.'" It appeared in the September 15 Jacksonville Journal. It reads as follows:

THE REVENUE-SHARING "GIFT"

Ever since the mythical Lorelei lured sailors to their deaths by enticing them onto the rocks upon which she dwelt, mankind has been gulled by the idea that some pleasures in life are absolutely free.

And so we see the spectacle of the Congress of the United States passing a "revenue-sharing" bill that is supposed to solve the financial problems of the state and local governments of this land with some more of that "federal" money—which, presumably, springs out of the ground painlessly in Washington.

Both the House and Senate have now approved revenue sharing bills which will send state and local governments some $30 billion in "federal" money during the next five years.

We are assured that this will help stem the upward spiral of state and local taxes. Maybe it will, but it is insane to question those wise men on Capitol Hill and ask them where the money for this largesse is coming from.

Well, we don't have to ask them. It is going to come from the same pockets that would have financed the state and local government tax increases, if they actually did materialize in lieu of a federal revenue sharing bill.

After the bill becomes law, you can expect to see some escalation in the promises of the candidates in this years' Florida elections, because they will have more money to spend and thereby can keep more promises—without the balancing risk of having to raise taxes to finance them.

As for congressional candidates, they will point with pride to the "gifts" they have bestowed on the populace, and will expect votes in return.

But somebody is going to have to pay that $30 billion, and we doubt if it will be the coconut gatherers in Tahiti.

The September 14 edition of the Florida Times Union carried the following editorial entitled "Revenue Sharing: Down to the Wire."

REVENUE SHARING: DOWN TO THE WIRE

Two major tasks remain as the revenue sharing showdown—the House-Senate conference committee to reconcile differences in the separate versions of the plan—comes finally on center stage.

"Finally" because it is now more than three years since President Nixon sent the original proposal, which he often called his "number one" domestic legislative program, to Congress.

The first of these tasks must be resolved in the conference itself: The Senate not merely should, but must, stand fast on the "no strings" provision in its formula for distributing the funds among the states and cities.

The House bill would, in effect, tell the states how to run their own tax affairs (in utter defiance of the spirit of the legislation) of they are to share fairly in the proceeds.

The House bill does this by penalizing those states whose citizens do not choose to enact a state income tax. The Senate bill permits (without any loss of any kind) the citizens of each state to determine freely their own tax structure on state taxes.

There are other differences in the formulas of the separate bills, but this is the most crucial part, the matter of principle on which there can be no compromise. The House's insistence on telling states how they must run their own state tax policies is an intolerable encroachment of the federal government upon the prerogative of state governments.

The second essential task cannot be accomplished by the conference committee, but nevertheless remains an obligation on both houses of Congress.

The principle of revenue sharing, it must be remembered, is to permit state and local officials—rather than supposedly all-knowing bureaucrats in far away Washington labyrinths—to utilize their first-hand knowledge to assess local priorities, device local solutions tailored to local problems.

This principle absolutely does not mean more "deficit spending" as some revenue sharing opponents have claimed: It means rather that the same money will be spent with first-hand knowledge, without staggering bureaucratic overhead; in other words, spent more effectively.

Before revenue sharing, Washington spent this money in a confused welter of categorical and specific grants in aid. Frequently, the Washington specifications for spending did not match the local needs.

Suppose, for example, a community had a downtown section of structurally sound, restorable houses, but the specific federal urban renewal program for restoring houses was out of funds, while the program for razing and building anew had money left.

The community would be faced with the choice of (a) getting nothing or (b) getting what it didn't need and in the process spending much more than necessary to achieve the desired goal.

As the $35 billion (over five years) revenue sharing program comes into being, Congress' obligation—to achieve the principle sought—is to reduce, in like amount, the confused maze of federal programs which formerly served the same purpose (but less effectively).

Indeed, Congress could well find that, as revenue sharing begins working, many of these programs, with their expensive overlapping paper empires, are not necessary at all.

THE CRISIS IN PANAMA BROADENS

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. RARICK. Mr. Speaker, as our Government is negotiating the retrocession of the Panama Canal to the country of Panama, it is well for our people to be kept advised as to the current political climate in that country.

The Panamanian dictator, Brigadier General Torrijos, is a self-appointed chief executive rather than President. And the 505-member Panamanian Congress has no legislative powers except to serve as a rubberstamp for the dictator.

One example of its mode of operation is the recent takeover of a United States, privately owned, light and power company. The company suffered financial hardship because the government refused to pay its bill of some $2.5 million. This led to expropriation by Panama and settlement at $0.30 on the dollar of some $73 million of investment. There remains some question as to when, if ever, the compromised settlement will ever be paid. Apparently, Torrijos is following the leadership of Allende of Chile.

Under this ruthless self-asserted power, calling itself a government, what kind of treatment can we expect if we surrender the Panama Canal?

I include related newsclippings:

[From the Evening Star and Daily News, Sept. 13, 1972]

STRONGMAN GETS BACKING OF NEW PANAMA BODY

PANAMA.—Panama's newly elected constituent assembly bestowed chief executive powers by acclamation yesterday on Brig. Gen. Omar Torrijos, the strongman who assumed power four years ago.

Torrijos, who had said he did not want to be elected president because his time would be taken up in ceremonial duties, will retain control of the 6,000-man National Guard. It is the country's only military force.

The 505-member Assembly of Community Representatives was elected in August. It has no legislative powers, but is meeting to approve a Torrijos-sponsored constitution and to elect a president and vice president.

No title was specified for Torrijos, 42.

He told the assembly he would strive to "decolonize" Panama, a reference to his pledge to wrest control over the Panama Canal Zone from the United States.

PANAMA FORCES BOISE CASCADE TO SELL HOLDINGS

Panama has forced the Boise Cascade Corp. of Boise, Idaho, to hand over its $73 million electric power company in Panama for $22.5 million, it was learned today.

The transfer will involve $1 million in U.S. currency to be paid immediately and the balance early next year, according to an agreement in principle worked out last weekend.

Boise Cascade had been negotiating under the gun for nearly 90 days.

The forced sale drew immediate criticism on Capitol Hill, when Rep. John M. Murphy, D-N.Y., chairman of the Panama Canal subcommittee called it "expropriation 1972 style" and said he plans to hold hearings on pending development loans to Panama.

The State Department declined comment.

Events leading up to the sale began on May 31, when nine Panamanian officials, including the chiefs of the secret police and the National Guard's intelligence unit, walked into the utility's Panama City offices and announced that the government was taking over.

The complaint was that the utility, known as Fuerza y Luz (Power and Light) owed approximately $2.5 million in generator fuel bills to Texaco and Esso. The government claimed it was intervening in the public interest because the oil companies were threatening to cut deliveries, which would cause a blackout in Panama City and Colon.

Boise Cascade, which acquired the utility in 1969, contended that bills were unpaid because the government itself, a big consumer, was approximately $2.5 million in arrears with its electric bills.

At the end of 30 days, however, and with a payment schedule seemingly worked out, the Panamanian government entered a new complaint.

Boise Cascade, it charged, had failed to provide some $50 million in promised new service to suburban areas. It gave the company an Aug. 31 deadline to come up with an "equiptable" selling price. If no agreement could be reached by that time, it declared, the government would have no choice but to take over with no responsibility for payment.

Boise Cascade negotiators, led by company vice president and legal counsel John Clute, got their Panamanian counterparts to extend the deadline one week and, finally, to agree to $22.5 million settlement.

A company spokesman, reached yesterday at the firm's head office, would confirm only that agreement in principle had been reached and that final closing "should take place within a couple of weeks."

Murphy said he will hold hearings on loans to Panama "to see if, as matter of fact, America is going to help Panama pay for the rip-off of Boise Cascade."

Murphy long has been a critic of Panama, and of proposals to negotiate a canal treaty more favorable to Panama.

In the meantime, negotiations for a new canal treaty are at a standstill. Negotiators last met three months ago. The Panamanians returned to Panama City from Washington for "consultation" and to await national elections in both countries.

THE CENTENNIAL ANNIVERSARY OF THE SPARTANBURG HERALD

HON. JAMES R. MANN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. MANN. Mr. Speaker, on September 16, 1972, the Spartanburg Herald in South Carolina, entered its 100th year of service to the Spartanburg area.

The newspaper started as "The Orphan's Friend," published by the Reverend R. C. Oliver to instruct youths at the Carolina Orphan's Home in the art of printing, to earn money to aid in financing their care, and to serve the community as "a desirable paper for the family circle." In 1875, the newspaper was purchased by T. Stobo Farrow, Robert J. Daniel, and H. Bascom Browne and the name was changed to the Spartanburg Herald.

During its 100 years of publication this newspaper has served as the eyes and ears and, as is so often the case with newspapers, the conscience of the community. The Spartanburg Herald has never ceased to be "a desirable paper for the family circle."

Mr. Speaker, on this centennial anniversary I want to congratulate the Spartanburg Herald and the many talented and loyal employees who have contributed to its fine history. The reason for the newspaper's longevity is, I believe, admirably expressed in the following editorial printed by the Spartanburg Herald on its 100th birthday:

CONSTANT REFLECTOR OF THE COMMUNITY

Today's Spartanburg Herald is a special issue taking note of the start of the 100th year of the existence of this publication.

Scattered throughout this edition are reproductions of pages from The Herald from the various decades since the 1870's.

Those pages reflect the tempers of the times, the good and the bad, the bitter and the sweet, the concerns and the actions of Spartans and their neighbors in the world.

The Spartanburg Herald has been primarily a reflector of the times in its news pages. That is the role of the news.

Not reflected so much in the news pages, perhaps, is the conscience of the newspaper and the feeling of community pride and responsibility that goes with the publishing of a responsible journal of events.

The Spartanburg Herald has consistently shown its conscience in its editorial pages—supporting, advocating and urging its readers toward creating a responsible and responsive government, a healthy and thriving business and industry, modern and effective facilities, the finest educational opportunities.

Today's special edition devotes most of its news space to a reflection through pictures and stories of the history of the Spartanburg area community for the past 100 years or more.

This edition mirrors the progress and the pleasures of the years, briefly in many instances, but always with the idea that the citizens of this community, in their time, did aim for the goal of a better community.

So, the story of the start of the 100th year of the Spartanburg Herald is not just the story of a newspaper. It is the story of the community working, playing, learning, praying, building, planning, laughing, crying, hoping . . .

There is a strong sense of rededication in the start of this 100th year of service. The commitment of The Spartanburg Herald to community improvement and the challenge of maintaining a responsible and responsive voice in this community are goals that have not tarnished or faded with the years.

As a vital business in this community. The Herald salutes its other business and industry colleagues. As a vital link in the communication line between citizen and the world arena. The Herald pledges a continuing effort to communicate events as intelligently and as thoroughly as time, talent and space permits.

Finally as a citizen, The Spartanburg Herald salutes all of its readers for their effort in the common goal we all seek—building a better community.

The decades ahead are still the challenge

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,757 American prisoners of war and their families.

How long?

DEDICATION AND ADDRESS AT CAST IRON SOIL PIPE INSTITUTE

HON. BILL NICHOLS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. NICHOLS. Mr. Speaker, the Cast Iron Soil Pipe Institute and its member companies recently dedicated a brand-new research facility in Woodland, Calif. Though this event took place many hundreds of miles from my home State of Alabama, it was a proud day for my State and for the citizens of my congressional district, for we are very proud of the cast iron soil pipe industry. The principal speaker at this dedication was my esteemed colleague, Representative James C. Corman from the 22d District of California. The gentleman said on that occasion that cast iron soil pipe is, among other things, a California industry. This was well said, for this great industry has shed its economic blessings among many States. They are welcome. I begrudge them nothing, so long as no one is allowed to forget that it is Anniston, Ala., and no other place which proudly bears the title "Soil Pipe Capital of the World."

My colleague from California also stated—

> The innovations that will flow from this tower may well revolutionize the plumbing industry.

I would like to add a hearty second to that remark, and to the gentleman's further observation that—

> The cast iron soil pipe industry has never sought to make its future at the expense of the homebuyer or the building owner.

In this time of rapidly deteriorating building standards and plumbing codes; in this decade when so many of our citizens are rightly becoming alarmed that more and more home buyers' dollars are buying less and less construction quality; I proudly salute the Cast Iron Soil Pipe Institute and its member companies for their breadth of vision and faith in the future.

At this point, I would like to include Congressman Corman's excellent address in my own remarks:

Address of Hon. James C. Corman at the Dedication of the New Research Facility of the Cast Iron Soil Pipe Institute, Woodland, Calif., September 15, 1972

Members of the city council of Woodland and the board of supervisors of Yolo County, representatives of the Department of Housing and Urban Development and other Federal agencies, and representatives of the State of California here present, ladies and gentlemen:

I appreciate this opportunity to come up to the district of my good friend and colleague, Congressman Bob Leggett, who asked me in a very special way to convey his personal greetings and his regrets that he could not be here today.

It is indeed a great privilege to be invited to participate here today in this great significant event which marks a new milestone in the progress of a proven, reliable industry, the scene itself is striking, with the new 11-story tower standing out against the background of a fertile, rich agricultural valley, it is a symbol perhaps that, no less than agriculture, the industries which depend on human production can also renew themselves.

Here is the cast iron soil pipe industry, for decades a leader in its field against every type of industrial competitor, thinking new thoughts and dreaming new dreams, looking to the future with confidence. Certainly the taste of success is not new to the cast iron soil pipe institute. This trade association numbers in its membership manufacturing firms which produce over 95 percent of all the cast iron soil pipe and fittings produced in the United States. This industry has long been the acknowledged leader in the production of drain, waste and vent pipe and fittings. There has never been a close second. Only last year, the industry enjoyed its third million-ton sales year in history, according to reliable statistics published by the United States Bureau of the Census.

Once again this year, according to statistics published by the same official source, the industry appears to be on its way to a banner year, this is certainly a record that speaks vitality. It is also an industry willing to change, willing to ask hard questions and to examine its present methods of operation, willing to believe that things can be a great deal better than they are, willing to get up and to try the new when men might have expected that it would sit back and rest upon old laurels.

And yet, as a public servant duly elected by thousands of voters in a certain defined constituency, I know well that I do not discharge my public responsibility by praising an industry simply because it has exercised a little imagination and constructed a new research facility. Given the right kind of motivation—and the hope of dollar profit generally supplies that motivation—anybody can do that.

Anybody with the right amount of brains and money and the right combination of circumstances is capable of gouging the home buying public for the sake of a little extra dollar profit. It does not take great character to manufacture a cheap substitute building material and to place it on the market where either there is no building code or where the local code has been smashed to bits by an over zealous authority from on high. To recognize building codes for what they are and what they can become when rightly used, to recognize the just interest of the home buyer, to resist the temptation to gouge that home buyer—this is what requires a greater measure of moral character.

In my service on the House Subcommittee on Government Procurement and Economic Concentration, I have developed an appreciation for the need to have standards and codes in order to protect the consumer. In the old institution of the local building code, or plumbing code or electrical code, when rightly used, may be found a vast resource for protecting the just interest of the home buyer—if only prospective home buyers would recognize this fact. I really cannot identify myself with the contemporary craze to smash down locally adopted building codes and plumbing codes, and to leave all discretion and all judgment in the hands of a small group of public officials at a higher level.

I believe that local autonomy is very necessary in code matters, so that if a local citizen suffers because of a local official's mistake or misjudgment, then it is the local official who must bear the responsibility for his decision right there on the spot. Otherwise, we are always passing the buck off to someone at a higher level, and assuming that this person at a higher level has performed all the testing and experimentation called for in the public interest—but most of the time this is not the case.

It is a very welcome thing therefore to find in the building industry a group of manufacturers such as the members of the Cast Iron Soil Pipe Institute who throughout a period of rapid change maintain their allegiance and their commitment to the state and local code. Within this context they are not willing to rest complacent on former achievements, but they reach out to the future, ever looking, ever experimenting, for the new discovery that will bring the time tested values of cast iron soil pipe to a new buyer, at a lower price made possible by their own research and experimentation.

I am proud to be here today. I am proud to be part of this industrial event which has so much promise for the future. Cast iron soil pipe is, among other things, a California industry and I am proud of the foundaries and the businesses that make their home in California.

The Cast Iron Soil Pipe Institute and its member companies are re-investing their money to help provide a brighter future for the American home owner. No less than the growers who till the length and breadth of this great valley, they are sowing back some of their profits in the hope of a richer harvest at some future time. This great research tower which we dedicate today may well have a profound effect on building methods all over this great Nation. The innovations that will flow from this tower may well revolutionize the plumbing industry.

The Cast Iron Soil Pipe Institute realizes that, if you want to remain in first place, you have to borrow a little from the present in order to gamble in the future. The Cast Iron Soil Pipe Industry has never sought to make its future at the expense of the home buyer or the building owner. Ladies and gentlemen, your industry deserves to remain in first place. I believe that here today you are taking the essential steps that are necessary to insure that you will remain in first place, provided only you continue to serve the consumer who is the first reason for your effort and the first cause of your success. I can only wish you continued success and share your hope that you will continue in first place for many years to come.

ROLLING WITH THE PUNCHES

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. BOB WILSON. Mr. Speaker, the unofficial "Philosopher in Residence" of the House of Representatives continues to write succinct essays on various facets of our life. He is Joe Machugh, known to most Members these past 20 years as the kindly soul who greets us with a cheery word as we jog from our offices to the House floor. His latest essay has unusual literary merit, particularly in an election year, and I insert it in the appendix as a portion of my remarks:

Rolling With the Punches

(By Joseph V. Machugh)

Were life itself for the most part to consist of smooth sailing, happy landings and striking success of personal pursuits—'twould indeed be an Idyllic existence. However, under such improbable circumstances, beneficiaries of that Utopia might suggest "plight of the poor, little rich boy" reared inside the walled mansion and grounds of the family home—and whose parents had spared the rod and spoiled the child—giving him free and untrammeled reign for his every desire.

Inevitably, sooner or later that life would begin to pall and, as in the instance of our "first parents"—he would look for some new and untried source of stimulation—*without bonds of discipline*—that indispensable ingredient for success of all human conduct—universally resented by millions of the shortsighted but, like other Laws of Nature—imperatively-lasting and inflexible as the force of gravity within the orbit of the Earth's surface.

Everyone has read accounts of infants who have fallen from fairly great heights or of accidental dropping of professional acrobats—none of whom sustained any ill-effects from their respective falls. Explanation of such occurrences: a baby cannot reason and is totally unaware of fact of falling and/or inherent danger to him therefrom. The acrobat has learned *not* to stiffen his body in resistance to the movement of dropping. So, both "roll with the punches" in relative relaxation and thereby fail to emerge as statistics in the area of news reporting.

Isn't there a potent lesson—parable like—in cases of the child and the acrobat? We all agree that life rarely proceeds without ripples or torrents of disturbance. Our innermost and ardently-desired plans oft do go awry, even as our autos break down on most inopportune occasions, i.e., start of vacation or en route to distant destinations. When those exasperating developments occur—the least admirable of our emotions spring into immediate action. Temper, anger and irritability and naturally *seeking to blame someone else* for the distress. And hate rises, too, from those ashes of discontent like Phoenix and in the throes of the victim's displeasure he will be far from remembering a treasured wisdom: "Hate always hurts the hater much more than the hated!"

To profit from the parable—why not emulate the tot and the tumbler in connection with the punches of life's encounters? If, instead of getting angry—he devotes energy and attention to what can be done to remedy the situation, he may find roots of the trouble and perhaps he himself may be able to make necessary, *temporary* adjustments at the scene and lo, they could be "off and away in a jiffy!"

So, too, in connection with vastly more important incidents of the complicated existence in the sophisticated and shrinking World of today. If we would place a brake on our own explosiveness, take time to analyze the situations and seek to evolve corrective approaches—would we not be rolling with those punches? We can be as certain that such obstacles *will* arrive—as we are of death and taxes. Hence, why not promise ourselves *in advance* to be prepared and waste no valuable time in blowing off steam or in allowing it to fester inside to create internal pressures which could be even more harmful to ourselves than a short burst of emotional anger.

Few if any situations, domestic, international—or in between those poles—would not lend themselves readily to application of this simple counsel of wisdom: "Think it through first—and then try to smile back in the face of adversity." Moreover, there are those who have advocated An Eleventh Commandment: "Always preserve a Sense of Proportion—irrespective of what happens!"

In Lives of The Saints we can read about one of them who, after having been spat upon—responded to that shameful insult merely by saying: "Just how important will be this incident in the light of Eternity?" That Saint had wasted none of his emotions in anger; he had done himself no harm; and on the contrary he had strengthened his character immeasurably. Now, place that incident alongside its antithetical opposite: 'An eye for an eye—and a tooth for a tooth!"

For, if the Pen is mightier than the Sword—and Restraint rewards those who practice it—why not start to inculcate in minds of our rising and magnificently adroit youngsters of today—this cardinal Rule of Conduct:

Let's roll with the punches of life whenever they rear their ugly heads—as we may be sure they will do. And then the future World can be at least a wee bit better place in which to live—for having taken time by the forelock and prepared in advance for those repeatedly inevitable adversities.

WHY ROCKY'S NOW FOR NIXON

HON. HOWARD W. ROBISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. ROBISON of New York. Mr. Speaker, an article in the Miami Herald on August 20, 1972, recounts the close working relationship which has developed between President Nixon and Gov. Nelson Rockefeller of my State. Because of my deep admiration and affection for both of these great public leaders, I am pleased—but not surprised—by what the authors term, "the Rockefeller-Nixon thaw." Both have the Nation's future very much in mind, and both are committed to a better America for all its citizens. With the hope that the article, written by Vera Glasser and Malvina Stephenson, might be interesting to many of my colleagues, I now include the full text thereof:

Why Rocky's Now for Nixon—Story Behind Thaw Between Two GOP Giants Involves Henry Kissinger and John Mitchell

(By Vera Glaser and Malvina Stephenson)

New York.—In a political switch which has been quietly building, Gov. Nelson Rockefeller will laud Richard Nixon as a "great innovator" in his nominating speech Tuesday night.

Rocky's tribute will dramatize the thaw between two giants of Republican politics, former rivals for the presidency and ideological foes.

The New York governor's appearance will help brighten a generally dull convention, and his emerging rapport with Nixon is expected to have long-range impact.

In an exclusive interview last week Rockefeller noted the Democrats' recent mandate for change and said, "The President has done more to rethink our relationships and the structure of our institutions at home and abroad than any President we've had."

The story behind the Nixon-Rockefeller thaw is a fascinating personal and political saga. It involves such other towering figures as Presidential assistant for national security Henry Kissinger and former Attorney Gen. John Mitchell.

In addition to giving a glimpse of his nominating speech, the New York governor discussed his personal relations with Nixon, his own future plans, and philosophized about his failure in earlier years to win the nation's highest office.

He hinted he will run for a fifth four-year term as governor in 1974 and appeared cool to taking a Cabinet post.

He shied away from presidential talk for 1976, although a "liberal" type like Rockefeller would have an edge if the big states win their present fight for a change in convention rules.

At 64, Rockefeller is youthful, full of bounce, magnetism and good humor. Had he been able to win his party's nomination in the Sixties, many believe he could have won the White House.

As the director of Nixon's reelection campaign in New York, Rockefeller gives him a "good chance" to win the traditionally Democratic state. He said he has always viewed Nixon as a "progressive." Rockefeller recalled telling a Nixon critic, "Remember, I ran against this man twice. I support him now because he is dealing with the hard, tough realities of today in a clear, constructive way. Others have promised, but he has delivered at the crucial moments."

As an example, Rockefeller cited the recent exodus of Jews from the Soviet Union to Israel, which he has said resulted from Nixon's recent talks in Moscow. Rockefeller not only was instrumental in getting the long-simmering issue on the summit agenda, but gave the Nixon accomplishment world headlines recently during a visit to Jerusalem.

He jabbed at former Attorney Gen. Ramsey Clark for "inconsistency" on his recent trip to Hanoi. Noting that Clark served under President Johnson, Rockefeller said "I don't remember him saying any of those things then, and yet the activities (in Vietnam) were far greater then."

Rockefeller was singled out as the most effective governor in U.S. history and his vast achievements touted in "Megastates of America" by Neil R. Peirce.

"My only regret," the governor chuckled, "is that I didn't have a chance to do it for the country. But that's life."

A long-time friend doubts Rockefeller has "mentally or emotionally" gotten the Presidency out of his system.

Between sessions of the legislature in Albany, Rockefeller works in a modestly furnished Manhattan townhouse near the Museum of Modern Art, filled with treasures he loves. A block away is a small museum of primitive art, where he often lunches. He is a renowned collector of modern art and an amateur photographer.

In addition to the family estate at Pocantico Hills, Rockefeller maintains a Fifth Avenue apartment. He and his second wife, "Happy", entertain there and on quiet evenings romp with their two small sons.

Rockefeller's divorce from his first wife was said to have ruined his chances for the presidency in 1964. He described Happy as a "very, very intuitive, astute person in terms of human values."

On the day Rockefeller was interviewed, he was deeply involved via long distance on two nationally headlined issues.

"I've talked to Washington three times today regarding amendments on revenue sharing in the Senate Finance Committee," he said. Rockefeller is the foremost proponent of the measure to return some federal tax revenues to the states.

Meanwhile, he took urgent calls from GOP state chairman Charles Lanigan in Miami Beach, who was pushing in the convention rules committee for an increase in big-state delegates.

Rockefeller and Nixon are allied on revenue sharing, but disagree on the delegate issue. Conservatives see expanded big-state delegations as a possible block to the Presidential potential of Spiro Agnew.

The Rockefeller-Nixon thaw began early in 1969.

When Nixon offered former Rockefeller aide Henry Kissinger a top White House post, the astonished Kissinger consulted his good friend Nelson, whom he had supported for the Presidency in 1968.

"Take it, of course," Rockefeller advised.

One of Nixon's first Presidential acts was to send Rockefeller on a mission to Latin America. Rockefeller also sits on the Foreign Intelligence Advisory Board.

Thus Kissinger became a bridge between the two men, and to a lesser extent so did New York lawyer John Mitchell. The latter had worked with Rockefeller on state financial matters before becoming Nixon's attorney general.

Beyond the personal relationships, the

Nixon-Rockefeller warmup involves a complex web of mutual interests and political pragmatism.

Rockefeller wants revenue sharing and needs Nixon's help to get it. Nixon, the politician, needs Rockefeller to help carry New York in November.

"They have been very supportive of each other," a Rockefeller aide said.

With a twinkle, the governor recalled that the thaw began "when Nixon was elected President. It really related to the things he has done. I have supported every president—after he got in office—since Roosevelt."

And so, when the governor wants to breakfast with the President, it is easily arranged.

"I don't bother him unless I've got something to say," Rockefeller said. "If he's done something I think is very good, I call him up and congratulate him."

Nixon reciprocates and sometimes calls Rocky for advice.

A few unpleasantnesses have ruffled the water. Rockefeller was said to be furious when Nixon wrote Cardinal Cooke in May, opposing liberalization of abortion laws at a time when the issue was pending in the New York Legislature.

Some say Nixon's choice of Rockefeller, the man he once called a "party divider" and "spoilsport," to nominate him was a bow to the GOP's liberal wing intended to offset the choice of Agnew, darling of conservatives, as Nixon's running mate.

As for his own presidential ambitions, Rockefeller said:

"It is hard for a Republican who can get elected in New York—especially three or four times—to make the noises and take the positions which endear him to people (Republicans) in other parts of the country.

"My trouble is that I feel my responsibilities to those who elected me. Sometimes doing a good job for them is not fully understood in other parts of the country."

He described himself as "better presidential material before I was elected governor than I have been since, because then I hadn't done as many things."

Pounding the table for emphasis, Rockefeller said that senators and congressmen "don't have to do anything in terms of actually carrying things out. They just make statements and vote. This is a lot easier than having the hard, operating responsibilities."

He described himself as "never one who looks backward and regrets what I did or did not do. I've been very fortunate and have had a very exciting, delightful, wonderful life.

"Right now I'm focused on the convention, nominating the President and helping him get elected. Frankly, this is the most important thing I can do for the country."

ASPIN PRAISES NAVY DECISION ON LITTON

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. ASPIN. Mr. Speaker, many Members of this House have been concerned about two large shipbuilding contracts between Litton Industries and the Navy to build 30 DD-963 destroyers and five LHA landing helicopter assault ships.

Some months ago the Defense Contract Audit Agency found that Litton Industries was charging the Navy for work that that corporation was performing on civilian contracts. A little more than $7 million is involved.

Mr. Speaker, I am happy to report today that as a result of a series of negotiations between Litton Industries and the Navy that on August 14, Litton Industries agreed to a $7,137,750 settlement with the Navy.

The Navy, has obviously struck a good bargain and deserves to be congratulated.

DISGRACEFUL OFFICIATING AT THE OLYMPIC GAMES IN MUNICH

HON. FRANK M. CLARK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. CLARK. Mr. Speaker, over the past 2 weeks we have been treated to the grossest type of International athletic behavior imaginable. I refer, of course, to the officiating at the XX Olympiad in Munich, Germany. I had originally intended commenting on the scandalous officiating, after the first week of competition, but the tragedy of the bestial and insane murder of the Israeli athletes rendered the incompetent officiating de minimus. However, in light of the disgraceful behavior by the officials in denying our Olympic basketball team its victory, I feel compelled nevertheless to comment on what can only be termed anti-American officiating at the XX Olympiad.

I would like to quote the oath taken by the officials at the Olympics, which is as follows:

> In the name of all judges and officials, I promise that we will officiate in the Olympic Games with complete impartiality, respecting and abiding by the rules which govern them, in the true spirit of sportsmanship.

After setting the tone of the officiating according to the oath, I would now like to run quickly through some of the events of the Olympics which indicate that the officials have conducted themselves in a manner contrary to their Olympic oath.

In the very first days of the Olympics, Reginald Jones, a 21-year-old middleweight from Newark, N.Y., lost out in a highly incompetent and controversial decision to his Russian opponent, Valerij Tregubov. Reggie Jones hit the Russian with everything but Brezhnev and Podgorney, but still could not get the decision. In my early years, I was a boxer, so I know when you leave your opponent bleeding and crying you have won the fight. Judges from Liberia and Malaysia gave the decision to Jones; a Yugoslavian judge voted for the Russian and two other judges, from Niger and Holland, called it a draw. However, Olympic rules say that a judge calling a draw must state his preference and they then both ruled for the Russian. This decision was so blatant that it touched off a 20-minute demonstration in the Olympic boxing hall. I cite this as an example of what continually befell most of our other Olympic boxers, many of whom came a-cropper of bad decisions so that we ended up only with one gold medal and three bronze medals. Some of those decisions were absolutely unbelievable in their bias and poor judgment.

Again, take the case of Victor Auer, who won a gold medal in rifle. Mr. Auer had equalled the world record with a score of 598 out of a possible 600, which was electronically verified and posted as the official result, the runner-up North Korean scored 595. In the intervening 2 hours, the targets were taken down and examined in a closed door session and contrary to the electronic device it was ruled that the North Korean had shot a record 599 rather than 595, and was belatedly declared the winner. In addition, during the match the North Koreans continually shouted instructions to their shooter which was clearly in violation of the rules of international competition. Does it not seem strange that on this occasion the results of the electronic tabulation were discarded but a day or two later a Swedish swimmer was awarded a gold medal over one of our swimmers in what appeared to be a dead heat when the officials claimed the Swede won by one-two thousandths of a second?

In the diving competition, the judging was so poor that it bordered on an international scandal. For example, one of our divers who finally won a medal was ranked eleventh and twelfth by the Russian judge.

And who could forget Bob Seagren being denied the use of his fiber glass pole in the pole vault for unspecified reasons with the result that all his competitors used the poles they had been jumping with for months and Seagren had to compete with a totally unfamiliar pole. The boy was understandably bitter.

Then there was the case of George Wood being denied a gold medal in the shot-put when his shot hit the Olympic flag record, apparently beating his opponent, only to be told that he lost by a centimeter.

In no instance was an American appeal judged affirmatively during the entire Olympics, including Jim Ryun's fall in the 1,500 meter semifinal heat. Ryun claimed he was fouled but his appeal was denied. Obviously, the holder of the 1,500 meter world record did not just fall down. And imagine denying 16-year-old Rick Demont his gold medal because his asthma medicine contained ephedrine.

And last but not least, was the exhibition on Saturday at the basketball hall between the United States and Russia when the gutsy United States team came from behind to win the game only to be denied their victory and the gold medal by incompetent and viciously unfair officiating. When Doug Collins was driving in for his layup, which would have been the winning basket, he was hit by a football block by one of the Russian thugs. Ultimately, the foul was called, but the player should have been banished from the game for such gross tactics. Fouls were called on our players every time they touched the Russians.

After being knocked unconscious, Doug Collins came back and sank the two clutch free throws which put the Americans ahead. While shooting his last free throw, the Russians called for time out, which was clearly a violation of international rules of competition. At this point, with 1 second left, the officials called time and set the clock back to 3 seconds, allowing the Russians to inbound the ball. The 3 seconds elapsed and the Russians failed to score. The officials then again gave them another 3 seconds and they inbounded the ball. This time, the ball was thrown the length of the court to their Alexander Belov, who knocked one American player down and another American player out of bounds, and then dumped the ball in the basket. The Russian should have been called for traveling and charging, but the Russian team apparently won on this play after being given three chances after the game had ended. Apparently, the officials were determined to give them enough additional time until they could sink the winning basket.

Obviously, our appeal was turned down by the World Basketball Federation and the Olympic Rules Committee, after 14 hours of deliberation. The Brazilian referee refused to sign the scorecard and indicated he would protest along with the United States. The official scorekeeper stated to Howard Cosell on television that the U.S. team had won. Never in all my years of being associated with sports have I seen such unfair, biased, and malicious conduct.

R. William Jones, secretary general of the International Amateur Basketball Federation, and the man who without authority twice ordered the Russian team to be awarded three extra seconds, stated at the awards ceremony:

> But they [the Americans] have to know how to lose, even when they think they are right.

With such an arrogant and biased attitude by this Briton, who was one of the key officials, no wonder the game had such a bizarre ending and one so disastrous to our team.

I was extremely proud that our boys had the good sense and the character to refuse the silver medal. Such acceptance on their part would have been a ratification of a clear wrong. I know it was not easy for them to come away with no medal when they were the best team and when they won the gold medal, but since they won the gold they did the proper thing in not settling for less. So far as I am concerned, those boys are all pure gold.

The entire fabric of officiating and the judging with respect to the American athletes at the XX Olympiad only serves to confirm our suspicion that we really do not have very many friends in the world and that we had better make sure at all times that we are dealing with the other international communities from a position of strength. Such situations as these I have just outlined make one wonder about the wisdom of cutting our defense budget $32 billion as advocated by Senator McGOVERN. The events at the Olympics in Munich should serve as an ample warning to the Americans that unless we continue to maintain a position of national strength in the international community, we will find ourselves getting the short end of the stick.

With respect to the officiating at the Olympics, I can only say: shame, shame.

CHILD CARE: A GROWING PROBLEM

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. BRADEMAS. Mr. Speaker, I would like to insert into the RECORD at this point an article from the August 1972 issue of the AFL–CIO American Federationist entitled, "Child Care: A Growing Problem."

The article was written by Jane O'Grady, the able and respected legislative representative of the Amalgamated Clothing Workers, a union which has pioneered in the development of child care centers.

The article follows:

CHILD CARE: A GROWING PROBLEM

(By Jane O'Grady)

By the end of this decade, the majority of American children will have working mothers. The trend of ever larger numbers of women joining the workforce has changed American society drastically from what it was just a few years ago.

With that change has come the transformation of care for the pre-school and school-age children of working mothers from an isolated, individual problem into a subject of national concern—just as the demise of the family farm a few decades ago contributed to the national willingness to provide for the aged and retired on a stable basis through Social Security.

The official government figures on working mothers are indeed dramatic. In 1950, 22 percent of all mothers worked full- or part-time; in 1970, the percentage has doubled to 42 percent. In 1950, 33 percent of mothers with school-age children (6 to 17 years) were in the labor force; in 1970, more than half (52 percent) of these mothers were working. And, while only 14 percent of the mothers with pre-school children under 6 years worked in 1950, today 32 percent are in the workforce.

Most of these women are working—and will be working in the future—out of economic necessity. They are either the sole support of their households or are supplementing the inadequate earnings of their husbands. But the changing view that women have of their role in society today will also add to the workforce many women who wish to work for the personal satisfaction of using their education, skills and creativity. And current efforts to reduce welfare rolls, particularly by requiring welfare mothers to accept job training and employment, will add further to the numbers of women with children participating in the workforce. Most families receiving Aid to Families with Dependent Children today consist of a mother and children, with no father present. In December 1970, 7 million children were on the AFDC rolls, 2.3 million under 6 years of age. If their mothers are to be sent out into the labor force, some provision for the care of these children will be required.

While the influx of women into the workforce has made the child care problem visible, it has not necessarily helped clarify what kind of child care the nation should be seeking. For analyzing the need for child care solely in terms of the increasing numbers of working mothers runs the risk of inadequate consideration of the range of possible solutions. It becomes all too easy to say simply that places must be found to "park" the children while the mothers are at work. Such a solution leaves out a critical ingredient—the needs of the growing child.

NEED FOR CHILD CARE

Many other changes taking place in American society today form a broader view of the national debate over society's obligations to young children. The urbanization of the American family is one such social change. More and more families are living in the isolating atmosphere of the big cities, which reduce opportunities for close familial and neighborly contacts for children. The heightened mobility of the American family to urban areas and between urban areas increases the extent to which families must rely on their own resources for the early nurturance of their offspring.

Another factor is the nation's attempt, exemplified in the Great Society programs of the 1960s, to eradicate the sources of poverty—ignorance, lack of skill training, poor emotional and physical health. Combined with this focus on the disadvantaged is the growing recognition of the special needs of all children, even from the most affluent families, who suffer emotional disturbance, mental retardation or physical disability and who are in desperate need of personalized care and family support services.

Perhaps most important in this broad view is the recent documentation by psychologists, psychiatrists, educators and medical professionals of the critical significance of the first five years of life. The experiences of children in their pre-school years can become crucial to their future abilities to function as productive adults, the experts tell us.

The circumstances of a rapidly changing society give the issue of child care a wider dimension than the mere need for baby-sitting services while mothers are at work. We are talking about greater and more profound changes in the American family and its pattern of living; about society's responsibilities to its citizens, even down to the youngest child; and advances in educational theory that recognize the importance of learning experiences of the early childhood years. And thus we are talking about child care as playing a significant social role in the well-being and healthy development of the nation's children.

These terms help to dictate the ingredients needed in child care services. While the home and family remain the central focus of the child's life, supplementary developmental services can contribute to the intellectual, social, emotional and physical growth needs of all the nation's children—from infants to teenagers. Such programs can have a constructive influence on children and their families, helping functioning families to lead more satisfying lives, assisting children to become productive adults. A humane concern for the full development of human potential is the reason for a national commitment to the needs of young children.

Licensed day care homes and centers in the United States today have spaces for about 700,000 children. That figure is pitifully small in a nation with 76 million children under 18—32 million of whom have mothers who work.

Whether the potential need is narrowly defined as the pre-school children of working mothers, or the broader need of young children from all walks of life who could benefit from early childhood educational experiences, the 700,000 figure speaks eloquently of the nation's lack of commitment. And more than half of these centers are proprietary ones, operated by people seeking a profit in the business of child care. Since providing quality care is an expensive undertaking, to add a profit on top of that requires that relatively high fees must be charged for the child care service. Consequently, most of the users of these centers are children from relatively affluent families.

PRESENT CHILD CARE PROGRAMS INADEQUATE

On the other hand, for children from welfare families, there are some opportunities, though severely limited, for government subsidy of child care services. Under the Social Security Act and the Economic Opportuntiy Act, the federal government has set up a limited matching grant system with the states to provide day care services for welfare mothers who are working or are in training and who need day care for their children. Headstart, a comprehensive pre-school program for poor children, is perhaps the best publically financed child care program now in operation. At best, however, only 300,000 children are served in full-year (Headstart) programs; 200,000 in summer programs.

In the vast majority of cases, low- to moderate-income families make provision for their children in the best way they can, which usually consists of the free services of another family member or close relative or an outside babysitter at minimal cost. In a distressingly large number of instances, the children from such families are left on their own, or virtually under their own care. While some of these arrangements may be adequate, many of them offer little opportunity to stimulate the growth and development, or even protect the safety, of a young child. For most children with working mothers, TV is the nation's provider of child care service.

Current resources in this country, both private and public, leave a large gap between the very poor who are served—inadequately—by government programs and the more affluent who can pay for costly day care and nursery school services. In between are the families who have too much income to be eligible for the government programs and too little income to afford privately operated child care, even if they could find it available.

LOCAL AND PRIVATE CHILD CARE INITIATIVE

By any standard of measurement, the nation lacks a comprehensive system of developmental child care services. However, some local efforts in the child care field have been undertaken over the years with some success. No doubt, thousands of children and their families have received beneficial services from programs developed and run by church groups, parent cooperatives, local community organizations and business and labor groups. Although no systematic survey of the wide variety of these individual child care efforts is possible, they exist in communities all over the country; many people have contributed many hours, often volunteer hours, to their creation; and they have answered a need and provided a benefit to the limited numbers of children and their families involved. Through the pooling of resources and the use of available facilities, child care reaches a fortunate few in these local community programs.

Industry involvement in child care—what little there is of it—seems to be pragmatically generated in large part by a desire to improve the working potential of the women in its workforce. A happier workforce, with less absenteeism and more production, is often cited by industry leaders as the provocation for providing child care services for the children of their women workers. Some industries, as a consequence, have begun to provide in-plant or nearby facilities, often operated through the private educational groups which have sprung up in the child care field. Most of these facilities require a payment on the part of the participating parents and most are limited to the children of the plant workers. These programs too provide a needed service for the participants.

Union involvement in the field of child care stems from a desire to be of help to their membership in as many aspects of their lives as possible—the trade union philosophy that recognizes the union member as a participant in the larger society with social needs that go beyond an adequate paycheck and good working conditions. Thus child care activities fit logically into the list of services provided to union members over the years—health insurance, pensions, low-cost banking services, low-to-moderate income housing, retiree centers, college scholarships and pre-paid legal services.

Two regional affiliates of the Clothing Workers have developed child care centers. Baltimore began its program in the mid-1960s. Today, in five local areas in Maryland, Pennsylvania and Virginia, this union operates child care facilities for approximately 1,000 children of its members. These centers are staffed by professionals in the field of child care; offer a complete range of developmental services; and charge a minimal fee of $1 per day per child for the service rendered.

In Chicago, the Clothing Workers operates a pilot child care project adjacent to its headquarters, serving 60 children of its members. This center also offers a complete range of educational, social, medical and nutritional services, all free to the participating families. This program in Chicago is being used as a research and demonstration project by other educational institutions and government agencies in the field of child care.

These union-sponsored child care programs are financed through contributions (percent of payroll) by the employers under contract with the respective union organizations. To make this possible, it was necessary to amend the national labor relations law, which keeps a tight check on joint labor-management trust funds by spelling out specifically the fringe benefits such funds may be used to finance. Child care had to be added to the list by congressional action to amend the Taft-Hartley Act. This change in the law opens the way for all unions to make child care, like pensions and health insurance, a subject of collective bargaining with their employers.

Other unions, notably the New York City local of the Teachers, have also developed child care programs for their members as well. The United Federation of Teachers has established an early childhood program in New York under contract with the city Board of Education, designed to provide care and education to the children of teachers returning to teach in poverty areas as well as to serve the needs of the community's children.

The Communications Workers, a union which has over 50 percent women members, is participating in experimental child care centers in Washington, D.C., and in Chicago. It is hoped that these centers will serve as pilots for other CWA installations across the country and in several of CWA's 10 districts, research studies on child care are under way.

NEED FOR FEDERAL COMMITMENT

All of these efforts by private organizations, including the efforts of labor and management, fill an important need in the communities they serve. But while the creativity and resourcefulness may be commendable, even under the best of circumstances these private efforts are not and cannot be the entire answer.

The only answer to the broad problem of early childhood developmental care is a massive federal commitment to the provision of such services for all children. Individual efforts or private group efforts will always be too few, too costly, or too limited.

The national significance of quality child care has not escaped the attention of Congress, where efforts have been made to devise a program which takes into account both the necessity from the influx of mothers into the workforce and the potential of skilled care in the development of pre-school youngsters.

COMPREHENSIVE CHILD CARE BILL OF 1971

For some years, such congressional leaders as Representatives John Brademas (D-Ind.) and Patsy Mink (D-Hawaii) and Sen. Walter F. Mondale (D-Minn.) have recognized the need for a national solution to the crisis in child care. But one of the most concentrated recent efforts ran into a roadblock in December 1971 when President Nixon vetoed the comprehensive child care bill with a rationale that included the implication that such federal action would "lead toward altering the family relationship."

At present, Congress is working on legislation that will accomplish something while neutralizing the political considerations at work last year—in short, picking up the pieces from that veto and trying again. Part of the impetus is from a broadly-based coalition of private organizations which came into existence in early 1971 to promote the bill which Nixon vetoed.

Prominent in this child care coalition were the AFL-CIO, the Ladies' Garment Workers and the Clothing Workers. Other organizations affiliated with the coalition, which numbered 26 in total, include the Auto Workers, the League of Women Voters, the Leadership Conference on Civil Rights, the National Council of Churches, the National League of Cities-U.S. Conference of Mayors and the Washington Research Project Action Council.

These groups adopted a statement of principles for devising federal legislation, including:

That programs must be of high quality, comprehensive and developmental, oriented to the needs of children and available to all children;

That parents must be directly involved in decisions affecting their own children;

That programs must be locally controlled and flexible enough to meet individual community needs;

That programs must be designed to include children with a variety of backgrounds;

That adequate protections must be provided to assure that the needs of minority group and economically disadvantaged children are met; and

That substantial new public funds would be needed to begin to meet the compelling and immediate need for these services.

RENEWED CONGRESSIONAL EFFORT ON CHILD CARE

As the second session of the 92nd Congress got underway in 1972, the renewed effort on child care took the form of a separate piece of legislation worked out in cooperation between the Democratic and Republican sponsors of the 1971 bill. Strong efforts were made to meet the objections expressed by the President in his veto message. Additional hearings were held to accommodate some of the opponents of the legislation. This bill, the Comprehensive Headstart, Child Development and Family Services Act of 1972, emphasizes quality developmental care, with significant parental involvement and local control, as did the 1971 bill. The bill seeks to build on the successful Headstart program and sets free services at an income level below the government-defined poverty level of $4,320 for a family of four.

Under the Senate bill, a state, city or county with a population of 25,000 or more could apply to the Secretary of Health, Education and Welfare to be a sponsor of programs in their locality. This application must include an overall child care program design meeting the requirements of HEW sets up. Upon approval of a program, the Secretary of HEW will designate that state, city or county as a "prime sponsor" of child care programs and will allocate funds based on the number of children to be served.

Once a unit of government has become a prime sponsor, the governor, mayor or county executive will set up a Child and Family

Service Council made up of parents of eligible children and other public members with child service skills to approve an administering agency for the child care program in their areas. At that point, local community groups who wish to operate child care centers—churches, parent cooperatives, unions or business groups—would make application to the designated administering agency. Such an application would indicate the kind of facility, program, staff and operating costs of the proposed center. The child care administering agency will then approve these project applications for the actual operation of child care centers under its jurisdiction.

RECENT SENATE ACTION

Federal funds will pay 90 percent of the operation of such programs; in some instances of need, the federal share can go up to 100 percent. Project applicants will make up the additional 10 percent through public or private funds in the form of cash, goods, services, or facilities, including union or employer contributions.

This bill was debated and passed by the Senate in June 1972 by a vote of 73–12. Attempts were made again by Republicans to reduce parental involvement and increase the size of local communities eligible to sponsor programs. Several modifications in the bill were made during the Senate's deliberations. The principal, and perhaps most controversial, change is the amendment offered by Sen. Peter Dominick (R-Colo.) which would allow the Secretary of HEW total discretion in choosing among competing applicants for prime sponsorship of child care programs. The fear is that political considerations would result in states being selected over local communities to run programs—with a consequent loss in direct parent control and participation by minorities in the running of centers for their children.

With the strong bipartisan effort involved in the child care bill just passed by the Senate, the House may be able to achieve a similar, bipartisan bill. If the House can be persuaded to pass a companion bill to the Senate measure, a new child care bill may be on the President's desk before the November election—perhaps an incentive to a presidential signature.

The shape of the present legislation benefited from the work done in 1971 on the earlier bill, which was introduced in the Senate by Mondale. Through a series of hearings before the Mondale Subcommittee on Children and Youth, a persuasive case was made by professionals in the field of child development as well as concerned representatives of private organizations for the need for federal legislation in this field. After full deliberation in the subcommittee and the full Senate Labor and Public Welfare Committee, the Child Development bill was made part of a bill to extend the life of the Office of Economic Opportunity. On the committee's unanimous recommendation, the Senate adopted this measure in September last year.

HOUSE CONSIDERATION

In the House, a child development bill introduced by Rep. Brademas and 97 other House members was added as an amendment to the OEO extension bill on the floor of the House in September 1971.

The House and Senate bills were similar in many respects. They both established a system of federally funded comprehensive child care services, emphasizing health, educational, nutritional and social developmental components. Both bills gave priority to children from disadvantaged families—for poor families, the services were free; families above low-income levels would pay fees. Both bills included a diversity of programs which could be provided depending on the need for such services in individual localities. This range of programs included those for infants to 14-year-olds; full or part-time care, night care and after-school programs. Both bills emphasized local control of programs through a prime sponsorship mechanism which would have allowed small units of local government to become day care sponsors for their localities. And both emphasized, through participation on local program councils, the involvement of parents in the planning and monitoring of child care programs in their communities. The Senate bill cited a specific funding request of $2 billion; the House bill called for an open-ended authorization of funds.

ADMINISTRATION POSITION

It was clear early in the consideration of this legislation that the Nixon Administration had serious reservations about embarking on a major new social program such as envisioned in the child development bills. The Administration opposition was based in large part on an unwillingness to spend additional federal monies for a program of this magnitude. The Administration had already taken its stand on child care in their welfare reform proposals, which called for $750 million for day care services for the children of welfare mothers who would be required to accept work or training under the terms of the welfare legislation. As a consequence, the Administration made little effort to seriously involve itself in the design of the legislation as it made its way through Congress.

Republican members of both the House and Senate did do battle over some of the provisions of the child care bills. The principal battlefield was the issue of the involvement of the states in the operation of the programs. The proponents of the legislation were strongly opposed to funneling the child care monies into state-run child care operations. States had not shown particular interest or motivation in the child care field under existing legislation; there was no reason to think they would improve appreciably in this repsect with the passage of new child care legislation.

Also, the bill's proponents felt strongly that local sponsorship of programs would permit the best kind of parental participation, another issue which created controversy. Some attempts were made to reduce the parents' role in the planning and operation of child care programs to merely advisory ones. These efforts were largely unsuccessful.

Also at issue was the level at which free services were to be provided. The proponents of the legislation argued strongly that families with incomes that were low but still above the government-defined poverty line should be given an opportunity for free services under this legislation in order to obtain a socially desirable economic mix of children in the centers.

It was at the point of the conference committee meetings to iron out the differences between the House and Senate versions of the bill that Administration displeasure became a serious obstacle. The Republican conferees warned that the bill was in for a veto on the grounds of high cost, too high an income figure for free services and too much local and parent control. The conference finally agreed on a bill, but three of five Senate Republicans and five of six House Republicans did not sign the conference report.

The conference report on the Comprehensive Child Development Act of 1971 retained strong parental involvement in program planning, authorized $2 billion for program operation, allowed localities with populations of 5,000 or more to be designated as prime sponsors and made services free to families of four below the $4,320 income level, with fee schedules established above that income figure. The conference report passed both houses overwhelmingly—and the child care bill went to the White House as part of the renewal of the poverty program.

PUBLIC SUPPORT FOR CHILD CARE

A major effort was mounted by the coalition of private organizations to urge the President to sign the bill, but on Dec. 9, 197 President Nixon vetoed the legislation an issued one of the most controversial veto messages of recent days. In it, he made severa points with regard to the child care program which were hotly disputed by the proponents of the legislation. The Presiden stated in his veto message that the child development legislation had been passed "i the absence of a great national debate upo its merits" and that "neither the immediat need nor desirability of a national child development program . . . had been demonstrated."

Critics of the President's veto were quic to point out that comprehensive child development legislation had been the No. priority recommendation, after thorough discussion and debate, of the participants i the President's own White House Conferenc on Children, representing national organizations with broad constituencies of parents educators, child development experts, minority groups, community groups and churc groups.

The most insidious charge the Presiden leveled was the one about altering the famil relationship, claiming that the bill committed "the vast moral authority of the national government to the side of communa approach." This was said despite the stron emphasis in the legislation on parent involvement in the day-to-day operations o programs and its wholly voluntary character—as opposed to the Administration' alternative in its welfare legislation forcin children into daycare programs while th mothers were required to seek work an training.

An attempt to override the veto by a two thirds vote of the Senate was unsuccessfu but the vote of 51–36 did reflect majorit support for this legislation in spite of th presidential objections — and guarantee that a renewed effort would be made in th second session in 1972, as it has been.

However the new legislative efforts tur out in this session of Congress, the socia pressures and growing concern for full development of the potential of the nation' children will continue to be a major prod t legislators to devise appropriate and responsive social structures. It is no longer a question of whether American families and thei children should have child care services available to them, but whether the child care the do have is good—good for the child, good fo the family and good for the country.

CAR SAFETY

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. FRENZEL. Mr. Speaker, a recen article in the Washington Star-News, by Robert Irvin, disclosed a new and interesting development in the continuin controversy between the air bag and passive restraint. Supporters and detractors of the air bag generally agree that whe these devices are installed in the dash o steering wheel hub, they provide littl or no protection for side impact collisions or secondary crashes.

Allied Chemical Corp., already heavil involved in air-bag development and a major supplier of seat belts has recentl come up with an air belt which woul appear to combine the advantages of the air bag and the belt thus minimizing the limitations of each system used alone The air belt is just what the name suggests, a belt which inflates in a collision. Yet because it is a belt, it continues to provide protection should the inflation mechanism fail.

But any rejoicing over this ingenious invention needs to be tempered by the fact that neither the air belt nor the air bag have been tested and proved to be safe and reliable under normal driving conditions. Unfortunately, the Allstate Insurance Co., in its eagerness to reduce highway fatalities, has, through its advertising, left the mistaken impression that testing to date has conclusively proved the reliability of the air bag. This is simply not the case.

What we do know is that air bags work great on test sleds. These results are definitely encouraging but hardly conclusive. If Americans drove to work or the grocery store on test sleds we could, with complete confidence, order their installation without further delay. But, the automobile operates in a far less controlled and predictable environment. Until we have extensive air bag experience in cars under normal driving conditions, we should not force them upon the driving public. Today we have a couple hundred cars on the road with passenger-side-only air bags but we have no accident experience to evaluate yet. General Motors is expected to equip 1,000 1973 model cars with air bags on the driver side, as well as the passenger side, but there is serious question whether this number of vehicles is a large enough sample to establish reliability prior to installation of all cars built after August 15, 1975, as motor vehicle safety standards presently require.

Dr. Lawrence A. Goldmuntz, Assistant Director of the White House Office of Science and Technology recently stated that if we are willing to accept "a failure rate of less than 1 per 100,000 air bags per year, then it would be necessary to test 120,000 air bags for 1 year." Dr. Goldmuntz concluded that "the fleet tests contemplated are not adequate to demonstrate air bag reliability."

Hopefully, those responsible for testing the various restraint systems, whether it be the air belt, air bag, or something else, will move quickly to provide meaningful testing under actual driving conditions. Unless we move quickly, we will never be able to meet the 1975 deadline for across-the-board installation of these much needed safety devices.

The article follows:

ARE AIR BELTS CAR SAFETY ANSWER?

(By Robert W. Irvin)

DETROIT.—An auto safety device combining the best features of seat belts and air bags has been invented by Allied Chemical Corp.

The device is an inflatable seat belt. The company says preliminary tests indicate it will provide protection as good as, or better than, air bags. In addition, it should be fail-safe and thus less hazardous to use than the controversial air bags.

Allied has not publicly announced the device, which was invented only two months ago and is still in the development stages. But in recent days it was demonstrated to auto firms and federal safety officials. They are enthusiastic, and that is how word leaked out.

It's understood the government wants to put 10,000 in cars as soon as possible for testing, and some auto executives are also eyeing tests in the coming months. But the device is a year or more away from mass production.

Supporters feel the system could result in a long delay of the still unproven air bags, which the government wants to see installed on all 1976 model cars.

The new device operates on the same principle as an air bag—it pops open automatically in a crash.

The air bag pops out of the instrument panel and steering wheel, triggered by an explosive charge, and a person is supposed to be protected by plunging into the gas-filled bag.

The air belts, in contrast, are worn like any other seat belt. The belts are two inches wide and can be made to resemble conventional belts, but they are hollow, like an inner tube or a life vest.

In an accident, a small canister of gas fills the belts until they are 6 inches in diameter. The body is forced against the inflated belts, and this has an effect similar to the air bag, but is considered better.

What's more, the inflated belt keeps a person snugly in his seat and this makes it possible for him to take advantage of the energy-absorbing characteristics of the car itself.

The belt stays inflated long enough to provide protection in a rebound crash, where cars collide more than once, or another car or object is hit after the first one. The belts also provide protection in roll-over crashes. Air bags do not offer the same protection in a rebound or roll-over accident.

I tried the Allied system at the firm's research center in Mount Clemons, Mich., the other day. They had the air belt installed in a seat mounted on one of those impact test sleds used in research laboratories. They didn't fire the sled, they just inflated the belt.

When it is inflated, it presses hard on the chest and midsection. In fact, if it remained inflated, the passenger would have difficulty breathing. But it never stays inflated for more than a quarter or a half second. However, even when it deflates, you still have the belt around you.

That is the fail-safe feature. If, for some reason, the belt doesn't inflate in a crash—through a sensor failure, for example—you still have the protection offered by any lap-shoulder belt.

Or, if the belt should inadvertently inflate, it is not as hazardous as an accidentally inflating air bag would be. This is because an inflated belt does not block the driver's vision.

The fact remains, however, that neither the air bag nor the airbelt has yet been used by a human being in an accident.

What's more, if the air belt were to be used in place of the air bag in 1976, it would require a change in the safety standards. The rules require a passive safety system (something which operates automatically, like air bags). On the other hand, the air belt is like any seat belt—it is an active system. It must be buckled before it does any good.

However, unlike the air bags, all of which go off in a crash regardless of whether all seats are filled, the air belts only operate if they have been buckled.

Allied makes air bags and seat belts, so it is well covered whichever way the industry moves. Through the Jim Robbins Seat Belt Co., it makes millions of belts used in current cars.

Its air bags are being used in hundreds of 1972 model Mercury cars which are now on test around the country. It also expects to provide air-bags for General Motors' planned test of 1,000 new 1973 model Chevrolet cars, with the bags in both the steering wheel and the instrument panel. (Mercury only has the bags in the panel.)

The company says it can build 500,000 air bags a year at its Mount Clemens facility and expects to provide several thousands for the 1974 GM cars. GM is going to sell them as optional equipment on some 1974 models.

Donald G. Radke, president of Allied's automotive products division, talked about prospects for the air belt. "The federal government has asked us to furnish 10,000 quickly and we will sell these to them at a nominal cost," he said.

"If all this jells, we hope to have them installed by the first of the year," Radke said.

He said he believes the air belt, on which Allied has applied for a patent, has a much better change of being accepted than the air bag, and it would be cheaper. He indicated the cost of the belts would be only a third that of the bags.

The important thing, he said, is that the air belt "does the job as well or better than the bags. A postponement of the air bag timetable is what we are hoping for."

Radke said Douglas Toms, head of the National Highway Traffic Safety Administration, "has seen the belts and he is very enthusiastic."

Radke said no one is giving up on bags, but "we see this as an interim system."

TWELFTH ANNUAL SURVEY OF DISTRICT OPINION

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. FINDLEY. Mr. Speaker, I have just concluded my 12th annual survey of district opinion. Perhaps the strongest, although not surprising, reaction was to a question I did not ask. Question 5 asked what Congress should do if additional revenue is needed to close the gap between Federal income and expenditures. Fully one-fourth of those responding penned me a special note stating that, instead of new taxes, they wanted to see cuts in Government spending. Never before has a question prompted so many people to write individual comments.

The three areas most often mentioned as prospects for budget cuts—question 7—are foreign aid, space exploration, and the Vietnam war. Also, most Illinoians want to see the Government payments to farmers cut substantially—question 6. Whether farmers or nonfarmers, the response was overwhelmingly in favor of a limit on farm payments, and most felt the lower the better.

Strong support was shown for President Nixon's initiatives to improve relations with China, the Soviet Union, and Eastern Europe—question 2. In line with this, I have agreed to head Governor Ogilvie's Agricultural Trade Mission to Moscow which leaves tomorrow.

The country remains divided over what to do about those young men who left the United States rather than serve in Vietnam—question 4. After the war has finally been ended and all American soldiers have returned home, perhaps it will be possible to work out a compromise solution which will permit many young men to return to their families in exchange for a substantial period of compulsory service to their country.

The results of the survey follow:

RESULTS OF 12TH ANNUAL SURVEY OF DISTRICT OPINION

	Yes	No	Undecided
1. The Supreme Court has held that busing can be used where needed to bring about racial integration (as distinguished from racial balance) in public schools. Do you consider this a just decision?			
His	2, 167	8, 837	777
Hers	2, 181	8, 364	1, 017
Total	4, 348	17, 201	1, 794
2. In general, do you support the President's moves to improve relations with China, the Soviet Union, and eastern Europe?			
His	10, 546	1, 075	435
Hers	9, 917	1, 171	657
Total	20, 463	2, 246	1, 092
3. Should the President have authority to impose a mandatory settlement on widespread, prolonged strikes in the transportation industry (docks, railroads, trucks, barges, aircraft)?			
His	9, 787	1, 899	333
Hers	9, 937	1, 467	448
Total	19, 724	3, 366	781

	His	Hers	Total
4. Many young men left the country rather than serve in Vietnam. After the United States is out of Vietnam, what should be done with regard to those who wish to return to the United States?			
(a) Let them face criminal penalties now in law	6, 027	4, 062	10, 089
(b) Let them clear their record by 3 years military (or other compulsory Government) service	4, 842	5, 659	10, 501
(c) Grant them amnesty	988	1, 206	2, 194
5. The current Federal deficit will be $40,000,000,000. Last year it was $23,000,000,000. Next year it is forecast at $25,000,000,000. If additional revenue is needed to help close this gap, what should Congress do?			
(a) Increase income taxes	1, 693	1, 186	2, 879
(b) Increase excise taxes (gas, tires, tobacco, liquor, travel)	4, 213	4, 574	8, 787
(c) Establish a new, value-added tax (similar to a national sales tax)	2, 718	2, 176	4, 894
6. At what level do you favor limiting Government farm payments?			
(a) Present $55,000 per crop	575	499	1, 074
(b) $20,000 per farmer	3, 236	2, 405	5, 641
(c) $10,000 per farmer	2, 828	2, 458	5, 286
(d) $5,000 per farmer	3, 920	3, 867	7, 787
(e) No limit	300	297	597
7. Substantial cuts in spending are needed. Where would you cut most?			
(a) Agriculture and rural development	1, 904	1, 276	3, 180
(b) Aid to cities	3, 022	2, 108	5, 130
(c) Anticrime programs	494	323	817
(d) Consumer protection	1, 285	845	2, 130
(e) Education	1, 634	1, 001	2, 635
(f) Foreign aid	10, 663	8, 179	18, 842
(g) Health	419	285	704
(h) Housing	2, 272	1, 682	3, 954
(i) Income security programs	2, 642	1, 876	4, 518
(j) National defense	1, 733	1, 119	2, 852
(k) Natural resources and the environment	817	596	1, 413
(l) Space explorations	7, 981	6, 452	14, 433
(m) Transportation	2, 305	1, 828	4, 133
(n) Vietnam war	7, 983	6, 210	14, 193

OLYMPICS—SIGNS OF OUR TIMES

HON. JAMES R. MANN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. MANN. Mr. Speaker, station WSPA radio and TV, Spartanburg, S.C., a few days ago aired an editorial which, using Munich as a backdrop, called for a universal rededication to the curtailment of crime and terror and the promotion of peace and good will. I join in that call and insert the editorial in the RECORD at this point:

OLYMPICS—SIGNS OF OUR TIMES

Now that the 1972 Olympic Games have gone into the record books, it may be well for all countries involved to take stock and determine what can be done to prevent another Munich.

Certainly, if the countries who participate are not willing to sign a binding compact to do all they can internationally to stop hijacking of airlines and other international terror and murder which is becoming so common, then there is a serious question as to whether the Olympics should continue.

The United States in the United Nations and through diplomatic channels have been trying to get some agreements for cooperative action along these lines but without success. Those countries who are promoting world revolution apparently do not want to work for international law and order and curtail their own espionage activities.

If the Olympics are continued, then WSPA is of the firm opinion that the United States Committee should set up some better screening process. Certainly participants who are not loyal to their country and their government should be excluded and athletes should be selected strictly according to their ability and without favoritism.

WSPA was struck with awe when one Kenyan athlete, winner of a Bronze Medal, stood respectfully at attention while two American athletes, winners of Gold and Silver Medals stood nonchalantly and chatted while the band played the National Anthem of the United States. Had it been the Kenyan who had shown this disrespect to America, it would have been an insult. But when our own representatives show such discourtesy, it was disgraceful. These two Americans in an interview with Howard Cosell of ABC said they knew what they were doing, and one said he could not in good conscience stand at attention during the playing of the National Anthem because of the way his race had been treated in the United States.

The Olympic Committee censured the American Committee and banned these two Americans from further participation in the games and they were right in their action.

The big tragedy of the Munich Olympics, of course, was the murder of members of the Israeli team. WSPA can add nothing to the world condemnation of such a senseless and cruel act.

This kind of terror is spreading; and unless law-abiding nations combine to put an end to hijacking and murder, then it is doubtful if a climate can be provided in Montreal four years from now which would be conducive to the holding of the Olympics.

As a first step in this direction, the people of the United States should put their own house in order.

In recent years the Supreme Court in its decision has shown more concern for those guilty of crime than for the victims of crime. The final blow as the Court's decision on capital punishment. Whenever a court say punishing a murderer by death is "cruel and inhuman" regardless of the guilt and the heinousness of the crime, there can be no law and order in this country.

Before 1976 rolls around, WSPA expresses the hope that all nations, and especially the United States, will have rededicated themselves to curtailment of crime and terror and promotion of peace and good will; otherwise, what could happen in Montreal could dwarf the tragedy and mistakes of Munich.

FACTS OF FAILURE

HON. JOHN S. MONAGAN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. MONAGAN. Mr. Speaker, for the past year, much has been written about the proposed Housing Act of 1972. With the action of the House Banking and Currency Committee on September 19, 1972, reporting H.R. 16704 to the House, the stage is now set for debate on a measure of vital concern to all Americans, particularly residents of urban centers.

Once again articles are appearing, repeating much of what has been written in the past and directly or impliedly critical of the congressional response to date of the administration's proposals or to the facts of the urban crisis, particularly those facts relating to low-income housing. This criticism is tendered notwithstanding the unprecedented time both the Subcommittee on Housing and the Committee on Banking and Currency have spent in both open and closed sessions considering this bill.

During the past year the Subcommittee on Legal and Monetary Affairs of the House Government Operations Committee, which I chair, has been conducting an investigation of the operations of the Department of Housing and Urban Development with emphasis on the operations of the Federal Housing Administration. Our finding of fact in Detroit culminated in a unanimous report of the full committee containing a series of recommendations applicable to Detroit and virtually every major city where inner city scandals and program failures have subsequently been found to exist.

These findings received extensive coverage by the national media. Throughout I have endeavored to bring to the attention of my colleagues a fair representative sampling of journalistic attitudes, representative news coverage, and editorial opinion.

John Herbers of the New York Times, and William Lilley III and Timothy B. Clark of the National Journal, throughout the course of a year-long investigation by the Legal and Monetary Affairs Subcommittee, have written a number of thoughtful, well-balanced articles dealing with the complex and highly technical field of urban housing, both subsidized and nonsubsidized. In addition to viewing the facts of housing failures first-hand as our subcommittee has, they have gone behind the facts in a never-ending search for root causes and have independently concluded that both the executive and the legislative branches have thus far failed to respond to today's urban housing crisis.

I regret that the rules of the House do not permit the printing of both articles in their entirety. I earnestly commend that each of my colleagues endeavor to read both articles:

"Urban Report/Block Grant Transit, Reorganization Plans Languish in Congress" by William Lilley III and Timothy B. Clark, National Journal, volume 4, No. 38, pages 1459–65; and

"Federal Reform Unlikely Despite dal" by John Herbers, New York Times, September 20, 1972, page 1.

I believe it to be significant that both reporters, approaching the issue from somewhat different perspectives, expressed concern that the problems of corruption and manipulation of the Federal Housing Administration have not been dealt with either by the bill as reported out by the committee or by administration initiatives.

The view expressed by our distinguished colleague from Ohio (Mr. ASHLEY) cited by Mr. Lilley, of member concern as to how programs can be administered to avoid scandal is of special significance to the Subcommittee on Legal and Monetary Affairs due to efforts in Detroit and with the Department of Justice to insist upon an accelerated nationwide coordinated effort against widespread criminal activity in virtually every major city. The belated convening of grand juries is not enough. We will continue to press for a response to the full committee recommendations from the Attorney General. It seems appropriate once again to quote from the Capehart hearings concluded in 1955 dealing with FHA graft, profiteering similar in many respects to the current situation.

> It has been frequently said that the best law the mind of man is capable of drafting will not work if incompetently and improperly administered; and that the worst law of the Congress will not result in inequities if properly and competently administered . . .
>
> The general attitude of FHA seems to have been that it was an agency for the builders and for their benefit. While deeply concerned with inducing builders to construct more projects, FHA appears to have been unconcerned in maintaining the standards of integrity and competence required of Government agencies in the public interest. (FHA Investigation—Report of the Senate Committee on Banking and Currency, 84th Congress, 1st Session, January 6, 1955.)

In our consideration of the Housing Act of 1972, have we done all that we can do legislatively to insure that our laws are administered competently, minimizing the risk of corruption from within? Have administrative responses to the current undenied crisis been adequate? Both reporters have clearly challenged the Congress as a whole to consider these and other questions. By pointedly reminding us that the facts of Detroit, New York, Philadelphia, St. Louis, Chicago, will not disappear with the passage of H.R. 16704, certainly none of us should be deluded into believing that we have solved the problems of Detroit and other major cities where abandonment is spreading rapidly. It may well be that the harsh facts of inner city housing problems do not lend themselves to an instant legislative response. Can we, however, as a Congress commit ourselves to the seeking of an approach that can hold out a realistic promise of seeking a solution? Certainly the Subcommittee on Legal and Monetary Affairs is determined to continue to seek out the facts, to make its recommendations, to evalute responses made as to their effectiveness.

The issue before us then, in my judgment, is not so much what the Housing Act of 1972 will do, but what it will not do. I believe that working cooperatively, pooling our committee expertise, we have the resources and will to deal with the facts of failure. That is the challenge of the articles to which I have referred. We must accept that challenge.

JAMES P. "SPOT" MOZINGO

HON. WM. JENNINGS BRYAN DORN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. DORN. Mr. Speaker, South Carolina has lost one of her most distinguished legislators and brilliant members of the legal profession in the untimely passing of the Honorable James P. Mozingo III.

During his 34 years in the South Carolina Senate, "Spot" Mozingo epitomized the highest traditions of that great body. It was my high privilege to serve with him in the South Carolina General Assembly for several years, and over the years he remained a warm personal friend.

Senator Mozingo's contributions to good government in our State are legion. As chairman of the Senate Education Committee, and chairman of the Governor's education committee, he had a crucial role in the fantastic progress our State has made in education.

A graduate of the University of South Carolina Law School, Mozingo served at various times on the board of trustees of that university, of Clemson University and of Winthrop College. He helped develop one of the Nation's greatest road systems through his chairmanship of the senate highways committee.

And as vice chairman of the senate finance committee "Spot" Mozingo supported the sound fiscal policies that have provided our State with one of the highest credit ratings enjoyed by any State in the Nation. Along with Senator Edgar Brown, he was largely responsible for one of the best State governments in the Nation.

James P. Mozingo's keen intellect, unusual knowledge of human nature, persuasiveness in debate and willingness to adopt new and better trial techniques contributed to his status as one of the leading advocates in the legal profession. He was certainly one of the greatest lawyers of our time.

His skill as an attorney was recognized nationally by his service as president of the American Trial Lawyers Association; and he also served as president of the Darlington County Bar Association. In the courtroom as well as in the general assembly, he possessed a keen wit and sense of humor that became legendary.

"Spot" Mozingo came from a distinguished family long active in the public life of Darlington County and South Carolina. Many honors came to him, which he richly deserved, including the new Darlington County office building being named in his honor, and an honorary degree from Clemson University. He was one of our State's best known and most distinguished citizens.

Mr. Speaker, my people join me in extending to Mrs. Mozingo and the entire Mozingo family our deepest sympathy and respect.

THE DECLARATION OF INDEPENDENCE

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. HELSTOSKI. Mr. Speaker, as the American Revolution Bicentennial Commission prepares for the Nation's 200th birthday, it behooves us to pause for a moment to reflect on the past so that we may better understand the present and the future of this great country.

Said Patrick Henry:

> I have but one lamp by which my feet are guided, and that is the lamp of experience. I know no way of judging of the future but by the past.

Our Founding Fathers themselves studied the past and in so doing, they manifested in the Declaration of Independence the belief that all men are created equal, endowed by their creator with certain unalienable rights, that governments are instituted among men deriving their just powers from the consent of the governed, and whenever any form of government becomes destructive to these ends, the people have a right to change their government to insure their safety and happiness.

The belief in these principles derives from antiquity, and to this very day people the world over continue to fight to have these basic rights instituted in their daily lives and countries.

When you consider the men and what they later accomplished, it can be stated without contradiction that never in the history of our country have so many great men with great minds come together—willing to sacrifice everything in order to work for the good of the country—as during our Revolutionary period.

Thomas Jefferson, one of the most outstanding statesmen the world has ever known and who will always be a pillar of history, wrote the Declaration of Independence.

There were 56 men who signed the Declaration of Independence, and it is interesting to note that of these 56, two became Presidents of the United States; three served as Vice Presidents; 11 became Governors; six served as U.S. Senators, and three as Representatives; three served on the Supreme Court; one served as Secretary of State and one as U.S. Treasurer; and two became presidents of universities.

Five of the 56 signers were from New Jersey. These were: Abraham Clark, born in Elizabethtown, N.J., who later served as U.S. Representative from New Jersey from 1791 to 1794; John Hart, born in Stonington, Conn., a farmer by profession who died before independence was won from the British; Francis Hopkinson, born in Philadelphia and a lawyer and jurist by profession, who served as a U.S. district judge from 1789 to 1791. Mr. Hopkinson is credited by some historians as having designed the U.S. flag in 1777. His greatest contribution to the cause of American liberty came in his writings of political satires that helped mold public opinion in favor of the revolutionary cause and the ratification of the Constitution. There was Richard Stockton, born in Princeton, N.J., and a lawyer by profession who was imprisoned by the British during the Revolutionary War—the Stockton homestead in Princeton is now the Governor's mansion; and lastly, there was John Witherspoon, a clergyman by profession who was born in Yester, Scotland. Mr. Witherspoon served as president of the College of New Jersey, which later became Princeton University.

I am indeed proud that such outstanding men from my home State of New Jersey were present and contributed so greatly to the birth of our Nation.

Said Cicero:

> History is the witness that testifies to the passing of time; it illuminates reality, vitalizes memory, provides guidance in daily life, and brings us tidings of antiquity.

As we move forward to celebrate the 200th anniversary of the founding of our Republic, let us reflect on an old document which is as relevant today as the day it was written, and which continues to inspire and guide people everywhere in seeking a better life and world in which to live.

COMPARISON OF GI BILL ALLOWANCES FOR VIETNAM VETERANS AND THOSE OF WORLD WAR II

HON. JOHN P. SAYLOR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. SAYLOR. Mr. Speaker, since the Veterans' Affairs Committees of both Houses of Congress have been considering legislation to increase the monthly educational allowances under the GI bill, there has been much comment about the adequacy of present benefits when compared to educational benefits available to World War II veterans. Members of the other body, in particular, but some of our own as well, have cried for benefits that are comparable to those received by World War II veterans.

Mr. Speaker, let me state categorically that if today's veterans were paid educational benefits on the same basis as their World War II predecessors, about half of them would receive less money than they now receive.

I was shocked, Mr. Speaker, to read in the CONGRESSIONAL RECORD recently that one Member of the other body had labeled Vietnam veterans as "the most shabbily treated veterans in our history." He went on to say:

> Today's veterans are receiving about one-third of the help from Uncle Sam while going to school as their fathers received under similar conditions in the 1940's.

Mr. Speaker, this Member of the other body demonstrates a remarkable ignorance of the law and the facts. His statement simply is not true.

What are the facts?

Because there was and is a legitimate need to evaluate the adequacy of current Vietnam era GI bill education and training benefits in comparison with what virtually everyone assumes to have been the more generous World War II program, the Veterans' Administration has prepared a comparative analysis study of the two programs.

This study notes that four of five college trainees under the current GI bill are enrolled in public schools, many of them paying little or no tuition. A large percentage of these veterans—about half—would receive less monetary benefits if they were paid on the same basis as their World War II predecessors.

A Vietnam era full-time trainee, with no dependents, now receives $1,575 for a 9-month school year—$175 a month for 9 months. This rate would now be significantly higher if the other body had not delayed 5 months before passing a bill to increase GI bill allowances paid by the Veterans' Administration. Back in March, the House approved legislation authorizing an increase in these allowances.

Nonetheless, the allowance now paid a Vietnam era full-time trainee, with no dependents, is higher than the current dollar value of the World War II subsistence allowance—$1,118 in 1971–72 constant dollars—combined **with** the average cost of tuition and fees in public colleges—$367 for the 1971–72 school year.

The current GI bill is more liberal than the World War II program to the extent that it imposes no ceiling on combined earnings and subsistence allowance, as did the World War II program.

Under both programs, trainees generally found it necessary to work, part time or full time, to supplement their Veterans' Administration benefits. The World War II program, however, precluded many trainees from receiving a subsistence allowance, or very little at the most, because the ceiling of $210 on combined earnings and subsistence allowance—$270 for veterans with one dependent, $290 for veterans with more than one dependent—barred or drastically reduced their receipt of subsistence allowance payments.

By contrast, today's Vietnam era GI bill would permit these same veterans to receive full Veterans' Administration allowances, with no reduction because of their earnings. For example, the married veteran with two children, over the course of 36 months of full-time attendance in college, can receive $8,280, with no limit on outside earnings.

In several other respects the entitlement provisions of the current GI bill are more liberal than the World War II program.

At least one of seven Vietnam era veterans receives more months of entitlement than would have been granted for the same service in World War II. These are the veterans who are released after 18 months, but with less than 2 years of service. They receive a full 36 months of entitlement, but would have received less under the World War II program—1-year plus 1 month for each month of service.

Unlimited free entitlement is provided Vietnam era veterans to enable them to complete their high school training or to take special courses which are prerequisite for their selected program of training. Thus, these educationally disadvantaged veterans receive the necessary catch up training, but save their full entitlement to 4 years of college, or 36 months of such other training as they may select.

Under the World War II program, such catchup or remedial training was charged to the veteran's original entitlement, thus reducing the amount remaining for his selected program.

Furthermore, Vietnam era veterans, who are having difficulties with their studies, may receive special tutorial assistance for which the Veterans' Administration will reimburse the cost. Free tutorial assistance was not available to World War II GI bill trainees.

While 7.8 million World War II veterans have cause to remember fondly and gratefully their GI bill education and training assistance from the Veterans' Administration, I think it is abundantly evident from this comparison that the Vietnam era veteran has fared at least as well as his World War II counterpart.

This same Member, Mr. Speaker, said:

> The quality of care in Veterans' Administration hospitals today is perhaps the saddest case of all.

It is most unfortunate that veterans and their families, hearing statements of this nature, must needlessly wonder and worry about the availability and quality of VA hospital and medical care which they need and to which they may be entitled as veterans.

Here are the facts.

The budget for VA medicine has nearly doubled in just the past 3 years, going from $1.4 billion in fiscal 1969 to $2.7 billion in this fiscal year.

Today, the Veterans' Administration has 32 percent more doctors on duty than it did 3 years ago, 16 percent more dentists, 31 percent more nurses, and 20,000 other medical and paramedical personnel.

The length of stay in VA hospitals has been shortened by 3 days in the past 3 years. There have been nearly a thousand new medical units added to the Nation's largest and finest hospital system.

The $155 million budgeted for construction this year is the highest amount in 21 years.

In addition to treating an all-time-high 1 million patients in its hospitals this year, VA medicine will handle 11 million outpatient visits, also a record number.

On an average day in fiscal 1973, there will be 167,000 former servicemen who will need, and who will receive medical care from the Veterans' Administration.

In this fiscal year, the Veterans' Administration is going to add 248 new medical units to its hospital system, including 12 new drug dependence treatment centers, bringing to 44 the total number of centers opened by VA in a little more than a year, thus insuring that VA will care for many more veterans than the 20,000 cared for in fiscal 1972.

I think that the following hard facts not only suggest but compel the use of the term "quality" to describe the Veterans' Administration hospital and medical care program today.

All of VA's 168 hospitals are accredited, and many of them are affiliated with the Nation's medical teaching schools. Nearly one-half of VA's full-time physicians are board-certified specialists, and nearly one-half hold active faculty appointments at medical or dental schools affiliated with VA hospitals.

Additionally, VA hospitals are affiliated with nearly 1,000 graduate departments of psychology, graduate schools of social work, nursing schools, occupational therapy schools, physical therapy schools, pharmacy schools, plus universities, colleges, junior and community colleges, and technical and vocational schools having courses for professional or technical allied health workers.

On any given day, VA medical research investigators are involved in nearly 6,000 research projects. Among the accomplishments, or shared accomplishments of VA medical research, have been the elimination of tuberculosis as a killer disease, the perfection of kidney transplants, the development of portable hemodialysis units for home use, the laser cane for the blind, the heart pacemaker, and most recently, the implanting of nuclear heart pacemakers in two veteran patients at the Veterans' Administration hospital in Buffalo, N.Y.

This year approximately 62,000 persons will be trained in health care delivery by the Veterans' Administration.

Nearly one-third of all physicians now practicing, and approximately one-half of those entering practice each year, have had some or all of their postgraduate training in VA hospitals.

Additionally, the Veterans' Administration contributes directly to the education each year of over 1,000 dental students, over 20,000 basic nursing students, 23 percent of all social work graduates, 32 percent of all dietetic interns, 20 percent of all Ph. D. candidates in clinical psychology, and 25 percent of all pharmacy interns and residents.

It is difficult to understand how anyone familiar with these facts could label the quality of care in VA hospitals as the saddest case of all.

The employment picture for Vietnam veterans has also come in for its share of criticism. Again, what are the facts? In October 1970, President Nixon, in response to charges that the Vietnam veteran was not getting a fair deal in the job market, inaugurated a nationwide campaign to place the returning veteran into productive employment. Under the direction of the President's Jobs for Veterans National Committee, a massive, well-coordinated effort by Federal, State, and local governments, veterans organizations, business, labor, and industry groups, to find training and employment possibilities for returning GI's, was launched. Principally as the result of this program, the Secretary of Labor recently announced that at least 1.3 million Vietnam era veterans had been placed in jobs or entered job training during the 1972 fiscal year.

In July 1971, the unemployment level for Vietnam veterans had reached 8.6 percent. In July 1972, largely as the result of the efforts of the President's Jobs for Veterans Committee, the unemployment figure had been reduced to 7.2 percent. While the jobless rate for veterans still lags slightly behind that of nonveterans, significant progress has been made and will continue.

For the young veteran interested in establishing his own business, the U.S. Small Business Administration recently announced a new program under which Vietnam era veterans will be eligible for business loans, Federal Government contracts and management assistance.

These are some of the special efforts, Mr. Speaker, geared specifically to the Vietnam veteran. In the more established veterans benefit programs—compensation for service-connected disabilities, pension for permanent and total disability that is unrelated to military service, home loan guaranty, hospital and medical care, and survivor benefits, Vietnam era service qualifies under precisely the same criteria as veterans of other wars.

No, Mr. Speaker, I cannot agree with those who say, "This Nation has not delivered in the case of Vietnam era veterans." Our people will forever be indebted to the veterans of all of our Nation's wars, including those who served in Vietnam, and we will continue our efforts to demonstrate our gratitude by perfecting the structure of benefits for veterans of all wars.

BLACK DAY AT MUNICH

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. JOHNSON of California. Mr. Speaker, all of us were shocked and saddened at the outrageous assassination of the Israeli members of the Olympic team.

Historically, the Olympic games have been the ultimate in competitive sports and while the competition among nations has been intense it has been restricted to athletic competition.

As many of my colleagues know, I had an active role in the conduct of the winter Olympics of 1960, which were held in my home county in California at Squaw Valley. There one of the things that impressed me greatly was the spirit of sportsmanship among people of all nations regardless of the intensity of the competition.

This Nation of ours, as was the whole world, was shocked at the violence in Munich earlier this month. The superior court of the State of California for the county of Plumas spoke for all of us when it declared:

The court states that the evening recess shall be in the honor of the following Israel Olympic team members slain while participating in the 1972 Olympics in Munich, Germany:

Moshe Weinberg, Yosef Romano, David Berger, Mark Slavin, Yosef Gottfreund, Eliezer Halfin, Zeev Friedman, Yacov Springer, Andrei Spitzer, Kehat Shur, Amitzur Shapiro.

The court quotes the following in their honor:

> "Do not mourn, do not weep on such a day.
> Off, and back to work, away. Away.
> Plowman, push your plow,
> Sower, sow your seed,
> A thousandfold toil.
> A thousandfold build.
> Ye shall plant, ye shall dig,
> Gather stones, raise a wall,
> Build a road smooth and straight
> For the day of freedom, the day of light
>
> This day's pain paves the way
> For redemption next day.
> Blood of those who fell
> Cries—ah, hear it well—
> Back to work, be brave.
> Save yourselves, and save."

One of the things which makes this a great nation, I believe, is the concern of our people for their fellow man. This concern was demonstrated by the minutes of the court for September 6, quoted above, and I wanted to share this demonstration with my colleagues.

SENATE—*Friday, September 22, 1972*

The Senate met at 9 a.m. and was called to order by Hon. James B. Allen, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, into Thy hands we commend ourselves this day. Let Thy presence be with us to its close. We pray Thee to teach us step by step what we do not know, preserve in us what we do know, correct us when we are mistaken, strengthen us when we fail, preserve us from all falsehood, and cause us to grow in the things of the spirit. Enable us to feel that in doing our work we are doing Thy will, and that in serving others we are serving Thee. Let not our prayers end upon our lips, but send us forth from our prayer with power to work Thy will in the world.

We pray in His name who did Thy will to the very end. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Eastland).

The second assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., September 22, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. James B. Allen, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

James O. Eastland,
President pro tempore.

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

MESSAGE FROM THE HOUSE—ENROLLED BILLS AND JOINT RESOLUTION SIGNED

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution:

H.R. 6575. An act to amend the act entitled "An act to provide for the disposition of judgment funds now on deposit to the credit of the Cheyenne-Arapaho Tribes of Oklahoma," approved October 31, 1967 (81 Stat. 337);

H.R. 7616. An act to amend section 715 of title 32, United States Code, to authorize the application of local law in determining the effect of contributory negligence on claims involving members of the National Guard;

H.R. 8215. An act to provide relief for certain prewar Japanese bank claimants;

H.R. 12207. An act to authorize a program for the development of tuna and other latent fisheries resources in the Central, Western, and South Pacific Ocean;

H.R. 14173. An act for the relief of Walter Eduard Koenig;

H.R. 15865. An act for the relief of Richard L. Krzyzanowski;

H.R. 15927. An act to amend the Railroad Retirement Act of 1937 to provide a temporary 20 per centum increase in annuities, to simplify administration of the act, and for other purposes; and

H.J. Res. 1193. Joint resolution to provide for the designation of the week which begins on September 24, 1972, as "National Microfilm Week."

The ACTING PRESIDENT pro tempore (Mr. Allen) subsequently signed the enrolled bills and joint resolution.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, September 21, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, the Subcommittee on Parks and Recreation of the Committee on Interior and Insular Affairs, the Committee on Finance, and the Committee on Labor and Public Welfare may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar will be stated.

U.S. ARMY

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Army.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

U.S. NAVY

The second assistant legislative clerk read the nomination of Vice Adm. Walter L. Curtis, Jr., to be vice admiral.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

U.S. MARINE CORPS

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Marine Corps.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations in the Air Force, in the Army, in the Navy, and in the Marine Corps, which had been placed on the Secretary's desk.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Chair recognizes the distinguished Senator from Pennsylvania (Mr. Scott).

Mr. SCOTT. Mr. President, I yield back my time.

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Chair recognizes the distinguished Senator from Florida (Mr. Chiles) for 15 minutes.

GOVERNMENT IN THE SUNSHINE

Mr. CHILES. Mr. President, in 1967, when I was a member of the Florida State Legislature, we passed what is referred to as the "Government in the Sunshine Law." I think it has done as much or more than anything else to improve government in Florida. The law is brief and simple, saying that all meetings of government agencies must be in the open.

On August 4, I introduced a bill, S. 3881, which would establish this same kind of sunshine law on the Federal level. The response to this measure has been encouraging. Seven Senators have joined with me in cosponsoring the measure: Senators Proxmire, Stafford, Hart, Tunney, Packwood, Gravel, and Harris.

John W. Gardner, chairman of Common Cause, sent me a letter giving his strong encouragement and calling S. 3881 "undoubtedly one of the most significant and far-reaching proposals to be placed before the Congress in years."

Mr. President, I ask unanimous consent to have Mr. Gardner's letter printed in the Record.

There being no objection, the letter

was ordered to be printed in the RECORD, as follows:

COMMON CAUSE,
Washington, D.C., August 25, 1972.
Hon. LAWTON CHILES,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHILES: Common Cause congratulates you for your introduction of legislation that would open most secret meetings in the Legislative and Executive Branches of the national government. We have strongly supported and advocated this concept since our earliest days and are greatly pleased with the farsighted leadership you have provided on this fundamental issue. As you may be aware, Common Cause was successful in having the 1972 Democratic platform call for the enactment of precisely the kind of legislation you have introduced.

S. 3881 is undoubtedly one of the most significant and farreaching proposals to be placed before the Congress in years. The bill offers a whole new vista to the citizenry. It will increase public knowledge about government and encourage greatly increased citizen participation in their governing institutions. Both the Congress and the Executive Branch, in doing their business more openly, will become far more responsive to the public will. This fundamental change in our governmental processes would go a long way towards arresting the declining confidence of the people in their elected representatives.

We will be happy to provide you every possible assistance in seeking passage of the legislation, including obtaining co-sponsors in the House and Senate, pressing for prompt hearings and working to spotlight the legislation nationally for press and civic attention. We presently enjoy an excellent working relationship with Mr. George Patten of your staff, and will be in touch with him shortly.

You are to be commended for your considerable sensitivity to the concerns of the public and the urgent need to revitalize and reform the government.

Sincerely,
JOHN W. GARDNER.

Mr. CHILES. Mr. President, in Common Cause's Manual for the 1972 congressional elections entitled "Operation Open Up the System," my sunshine bill is referred to in the following way:

> For the first time the public has an adequate, comprehensive piece of legislation dealing with the open meetings question. . . . (pp. 11–12)

I have also received a letter from Dick Fogel, the chairman of the Sigma Delta Chi freedom of information committee. Sigma Delta Chi is the professional journalistic society. Mr. Fogel has also offered his support for the bill.

I ask unanimous consent to have his letter printer in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SIGMA DELTA CHI,
August 29, 1972.
Senator LAWTON CHILES,
U.S. Senate,
Committee on Government Operations,
Washington, D.C.

DEAR SENATOR CHILES: I was delighted to get your letter describing your efforts to have a federal open meeting law adopted.

You may be sure I am anxious to help in any way I might and hope you will call on me.

My files contain a large amount of reference material on the development and adoption of California statutes on the subject, the primary one being the Brown Act. Included are papers acquired during my years as Chairman of the California Freedom of Information Committee and member of the Advisory Council to the State Information Policy Committee of the California Legislature. I also have a file on my testimony in support of the Ketchum Bill which was designed to apply open meeting provisions to the California Legislature.

If any of this would be of use to you please let me know.

On behalf of our society I commend you for your efforts and wish you success.

Yours sincerely,
DICK FOGEL,
Chairman, Sigma Delta Chi
Freedom of Information Committee.

Mr. CHILES. Mr. President, numerous editorials have been published in newspapers throughout Florida, most of which have given wholehearted support to the idea of extending to the Federal level the sunshine law that Florida enacted several years ago.

I ask unanimous consent to have these editorials printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Miami News]

LAWTON CHILES AND GOVERNMENT-IN-THE-SUN

(By Jask Kassewitz)

When the U.S. Senate spent the first week of May in secret debate over classified Vietnam data, freshman Sen. Lawton Chiles, for one, took a dim view of the closed goings-on.

"I do not think the public is going to stand by and allow its business to take place behind closed doors, if, when that business should be open, it is kept closed," said the Florida Senator, who has already shown persuasive talent for a tough job in his first 20 months of service in Washington.

Last week Chiles introduced legislation, patterned after a Florida statute, that would outlaw secret meetings within the congressional and executive branches of government. His only exceptions would be with matters relating to national security and defense, disciplinary proceedings that might adversely affect an individual's reputation and meetings related to a government agency's internal management.

Chiles, concerned with the amount of public business transacted behind closed doors in Washington, admittedly faces a tough road. "One senator told me the other day that he had heard about my bill, and he thought that some check ought to be placed on the executive branch," Chiles said in a telephone conversation yesterday. "But when I told him the bill would also apply to both houses of Congress he backed off pretty fast.

"I am in the process of mailing copies of the bill to my colleagues and inviting co-sponsorship. So far, two Democrats and two Republicans have responded favorably and this is most encouraging. Senators Proxmire (D.-Wis.), Hart, (D.-Mich.), Packwood, (R.-Oreg.) and Stafford (R.-Vt.) have said they will join with me.

"Sen. Abraham Ribicoff (D-Conn.), chairman of the subcommittee on government reorganization, also is interested and he's promised to hold hearings next year. It's too late for 1972. We're recessing for two weeks for the Republican convention and Labor Day, and then hope to adjourn the annual session by Oct. 1.

"My greatest problem will be to get the bill to the Senate floor. That's what happened when we first tried to pass the Sunshine Law in Florida. No one wanted to vote against it but no one was in a hurry to let the bill onto the floor, either."

Senator Chiles takes exception to a report in another newspaper that he opposed the Florida law. "I've always supported it," he said, "although years ago when we first started talking about it I had some reservations. I voted for the provision in the new state Constitution which allows the Senate to meet in secret only to discuss removal of someone from public office. Interestingly enough, the state senate hasn't used that provision since the new Constitution went into effect." (The Florida law has proven highly successful in opening state government doors to public exposure.)

The Senator quickly discovered that secret meetings involve horse-trading on the part of many Congressmen. While 37 per cent of all committee meetings in 1971 were held in executive sessions, 97 per cent of all meetings dealing with the final form of legislation were secret. Chiles also learned that the art of compromise is a vital part of politics: "When it comes time to 'mark up' a bill, quite often a Senator or Representative isn't anxious to let the public know how he voted on a variety of amendments that involve compromise."

The Congressional Quarterly, which helps newspapermen keep an eye on what is going on in Washington, reflects that committees on which Chiles serves are not completely averse to private meetings. The Agriculture and Forestry committee, for example, met 58 times in 1971 with 19, or 33 per cent, closed. The Government Operations committee met 93 times, only nine of which were in secret, while the Joint Congressional Operations Committee met three of nine times in executive session.

It may be that the Senator's desire to have government in the sunshine already is having its effect. If he can persuade the entire Congress to his position, he'll deserve a medal of sorts.

[From the Tampa Tribune, Aug. 7, 1972]

MAKE PUBLIC A PARTNER

Florida and several other states have profited greatly from Government-in-the-Sunshine laws. It follows that the Federal Government would too.

Florida Senator Lawton Chiles has introduced a bill to abolish secret meetings in Congress and the executive branch of government. His bill would exempt discussion of national security and those matters specified by law as confidential. Internal agency business and personnel disciplinary proceedings so would be excluded.

Senator Chiles' proposal to force public business in Washington into the open faces rough going. Traditionally, officials contend that government will be hampered if the public knows too much.

The opposite is true in Florida's experience with its Sunshine Law. Florida citizens are better informed than ever before at all levels of public business. Elected groups such as School Boards or County Commissions are restrained from making secret decisions before official meetings, then rubberstamping them in public. We know of no one person or administrative act which has been hurt by public disclosure.

Secret dealings with officials and contractors and suppliers have been greatly reduced. Just last week a Circuit Court judge in Charlotte County held a contract with a property reappraisal firm was invalid because negotiations were conducted in private by the County Commission.

There have been half-hearted attempts in Washington to open the doors slightly in Congressional committee rooms and there has been a little declassification of bureaucratic documents on the executive side.

But the public still distrusts Big Government. It is suspicious, and rightly so, of behind-the-scenes activities which leave undisclosed the real reasons for legislation or executive decisions.

By passing Senator Chiles' bill, Congress can heed the public's demands that it become more of a working partner in government.

[From the Palm Beach (Fla.) Post, Aug. 29, 1972]

SUNSHINE FOR WASHINGTON

Most freshmen congressmen who come to Washington take little notice of the committee room doors that swing closed so often when the public's business is being transacted. That's the way their state governments operated and the off-the-floor secrecy only seems natural.

But Sen. Lawton Chiles (D-Fla.) has watched Congress conduct from a refreshingly different viewpoint. He came to the Capitol following three years in the Florida Senate under the state's government-in-the-sunshine law. The contrast made such an impression on Sen. Chiles that he recently introduced a federal version of the progressive Florida law.

"Since I came to the U.S. Senate," he told his colleagues in introducing the bill, "I have become very disturbed by the great amount of public business I have found being conducted behind closed doors and by the attitude of secrecy I've seen in our federal agencies. I'm not surprised that people are suspicious of our motives and are losing confidence in their government when they are shut out of the decisionmaking process."

The floor debates and votes that the public is allowed to witness are rarely as important as the action inside the committee rooms. It is here that the fate of bills is initially decided and most changes in legislation are made. Yet, incredibly, 97 per cent of the Senate committee meetings where critical votes were taken on bills in 1971 were closed to the public and press. More than one-third of all congressional committee meetings were held in secret last year.

Sen. Chiles' government-in-the-sunshine bill would require all government agencies, including Congress and regulatory commissions, to open nearly all of their meetings to public scrutiny. Advance notice and transcripts of these meetings also would be mandated. The only closed-door sessions would be those dealing with national security, routine internal management and personnel disciplinary proceedings. But even these understandable exceptions would have to be closely watched for abuses.

Congress has no one but itself to blame for the tarnished public image brought on by powerful committee members wheeling and dealing in secret. It simply is twisted democracy when senators and representatives do not air their debates and votes on public matters in full view of the public.

Florida's experience with open meetings has been a healthy one and the lawmaking process has not been hindered. That would hold true for Congress.

The credibility loss of the executive branch in recent years has made trust one of the big issues of the 1972 campaign and undoubtedly for many campaigns to come. Unless Congress reforms its secretive ways it is likely that many congressional candidates will find themselves in the same credibility gap. Sen. Chiles' federal sunshine bill offers a means of restoring public confidence and it ought to be adopted as quickly as possible.

[From the Miami Herald, Aug. 6, 1972]

A NATIONAL SUNSHINE LAW COULD REVIVE CREDIBILITY

Nothing in the statutes, we are convinced, has made a greater contribution to good government in modern Florida than the state's pioneering Sunshine Law.

Nothing more could improve the quality and revive the credibility of federal government, we are equally convinced, than a national Sunshine Law as proposed by Lawton Chiles, Florida's walking senator, who helped to pass the Florida statute when he was a state legislator.

Sen. Chiles has introduced a federal version of the Sunshine Law in the 92nd Congress. It would eliminate most secret meetings in the legislative and executive branches of government, particularly those in the close-mouthed regulatory agencies which wield such power over individuals and businesses.

Florida's law, which applies to government even down to the level of the village council, has brought the people's business out into the light with remorseless prosecution of those who have disobeyed it. Secret wheeling and dealing is largely a thing of the past. Sunshine, we suggest, is the quantity which has helped to identify the State Legislature as among the top four in the nation.

Every old ink-stained Washington hand knows that gathering information for public consumption is an ordeal. Arrogance has grown with the federal bureaucracy. On the legislative side, as Sen. Chiles points out, 36 per cent of all congressional committee meetings are closed to the public. It is committee, of course, that Congress really legislates.

It took half a dozen years of pushing and hauling to get the Sunshine Law adopted in Tallahassee. Even its opponents (and Sen. Chiles once was one of them) defend it today as a necessary good rather than a political evil.

The first principle of a free society is the "consent of the governed." That consent cannot be obtained in star chambers or the dark cabinets of the political connivers. The breath of freedom is in the fresh air.

As distinct from state affairs, there are areas of federal responsibility which require some confidentiality, although not as much as is often exercised not just to protect state secrets but rather to protect bureaucratic error.

Even within these limitations a federal anti-secrecy law which opens up the people's right to know about their government could become the most vital of all modern governmental reforms.

We wish Sen. Chiles well. He is already booted. Now for the spurs.

[From the Tallahassee Democrat, Aug. 23, 1972]

MORE SUNSHINE NEEDED ON GOVERNMENT ACTIVITY

U.S. Rep. Dante Fascell of Miami has joined Sen. Lawton Chiles in his effort to bring more "sunshine" into activities of the federal government. Fascell takes the position the American people have a right to know what their government is doing.

There is no question about that, but both Congress and the executive branch have been reluctant in the past to take the public into their confidence. The kind of legislation proposed by Chiles and Fascell is much needed.

The government in the sunshine bill which Fascell has introduced in the House is identical to the one previously filed by Chiles in the Senate. It requires that, except in certain instances, all meetings of any federal agency at which any official action is considered or discussed shall be open to the public.

The exceptions apply to matters affecting national security, internal management of an agency, discussions which might reflect adversely on the character or reputation of an individual, and things which are required by law to be kept confidential.

The bills require that all meetings of congressional committees be open to the public, that public notice of meetings be given and that a transcript of all meetings be made available to the public. Cabinet level departments as well as regulatory agencies and commissions would be required to comply.

Since he came to the Senate last year, Chiles says he has become disturbed by the great amount of public business conducted behind closed doors and by the attitude of secrecy in federal agencies. "I'm not surprised that people are suspicious of our motives and are losing confidence in their government when they are shut out of the decision-making process," he says.

Chiles recalls that he functioned under the Florida sunshine law for three years, as a member of the State Senate, and as a result, he says he is totally convinced the lawmaking process was not inhibited or damaged.

We agree with him that closed doors are not necessary to the sound resolution of conflicting views. Florida government and citizens have benefitted from the law, and a national law should be of great benefit to the nation.

The stated aim of the federal sunshine act is to regain public confidence and strengthen the democratic process itself by letting the sunlight in.

The essential point, however, is that the American people have a right to know what their government is doing. And as long as the doors stay closed, there isn't much chance of exercising that right.

[From the Jacksonville (Fla.) Times-Union, Aug. 6, 1972]

A "SUNSHINE LAW" FOR THE NATION

For years congressmen have railed against government secrecy, while conducting secret meetings themselves on matters which had no bearing on national security.

They have zeroed in on secrecy in the executive branch of government. And the source of the outcry has been predictable.

If the Democrats were in the White House, the cry against secrecy came primarily from Republicans. If the Republicans were in the White House, the outcry has been primarily from Democrats.

Yet during all of this time, Congress has had the power to do something about secrecy—both in the Congress and in the executive branch.

In fact, only the Congress can do something which will stand over a period of years. The executive can promulgate rules for the various executive agencies and bureaus but these can be wiped out by a change in the White House.

It has been, therefore, passing strange in an election year to hear the Democrats at their convention in Miami pledge to do away with unnecessary secrecy in government when they have had overwhelming majorities in both houses of Congress for the past 14 years and have failed to take the actions they now say are needed.

In fact so great was the Democratic majority at one time that a party wheelhorse once pokingly suggested on the Senate floor that a Republican be put in the Smithsonian Institution so future generations could see what one looked like.

Florida Sen. Lawton Chiles has introduced a "government in the sunshine" law for the federal government similar to that passed, several years ago, for state government in Florida.

This development is a commendable and refreshing change from the approach taken by others, which was merely sound without action.

We agree with Chiles that the Legislative Reform Act of 1970—designed to open the closed doors of congressional committees—has failed to do so.

His assessment is backed up by reports that the number of closed or executive sessions is as great as it was before passage of the law.

The practices of federal government secrecy have developed over many, many years and are now so imbedded in the federal bureaucracy and in Congress that it will take a strong measure to change what has become an official way of life.

However, it can be done and it should be done.

And the entire governmental process should be the better for it, despite all the arguments that it will suffer.

If the public is privy to the pro and con discussions which precede government decisions, it is much more likely to accept these decisions as being the right ones.

When they are merely served up without prior public discussion, then they are more likely to be suspect.

There are some major difficulties in fashioning a federal law as opposed to a state law because the federal government, and the federal government alone, is engaged in national security matters, and in delicate negotiations with foreign governments.

However these difficulties are not insurmountable. Sensible exceptions can be made in such a measure, with common sense acting as a guide.

While the senators are about this task, they might include penalties for breaches of secrecy in those cases in which they believe secrecy to be essential to the national interest.

A measure such as that proposed by Chiles is long past due. Congress should give it priority attention.

[From the Stuart (Fla.) News, Sept. 7, 1972]

Lawton Chiles Praised for "Sunshine" Attempt

We commend U.S. Senator Lawton Chiles for introducing a Federal "Government in the Sunshine Act" to make the Congress do business out in the open, except on matters that might jeopardize national security. The closed-door policy in Congress is contrary to the spirit of our Constitution and the intent of its framers. The public business should be conducted in public.

[From the Daytona Beach Journal, Aug. 23, 1972]

Florida Lawmakers Seek Federal Level "Sunshine"

If two Florida members of Congress have their way, the national lawmaking body will have to reform itself as the Florida Legislature did a few years ago.

The House and the Senate would have to conduct their business before the eyes of the public, instead of in the recesses of closed committee rooms.

Earlier this month, Sen. Lawton Chiles introduced a Federal Government in the Sunshine Act. Last week, his move was championed in the House as Rep. Dante Fascell of Miami introduced a companion bill there.

Sen. Chiles is a good candidate for moving toward such a reform. He had three years in the Florida Senate under our Government in the Sunshine law. He said he became "totally convinced the lawmaking process was not inhibited or damaged. Closed doors are not necessary to sound resolution of conflicting views. Florida government and citizens have benefited greatly from the law."

He left that open way of governing to go to Washington and become a part again of government in secrecy as it had been practiced so widely in the Florida Legislature prior to the Sunshine law.

Chiles was appalled when he read a Congressional Quarterly report that showed that in 1971 36 percent of all congressional committee meetings were closed; that 97 percent of the Senate committee meetings specifically designated as business sessions—where the critical action and votes on bills were made—were closed to the public and press.

"Even if no hanky panky is going on, the cloak of secrecy heavily implies its possibility," he said.

But there's more than a possibility. Behind the closed doors of the House Rules Committee this Summer, Chairman William Colmer of Mississippi threatened to hold up other vital legislation if the committee did not issue the antibusing legislation this segregationist wanted passed. This was reported by two prying reporters who managed to get an inside track through members who opposed Colmer's methods.

But letting the public in on what is going on in this manner simply is not good enough. "Leaks" can't always be reliable. They are not a substitute for an on the spot newsman.

Says Chiles: "We must open the doors—and windows—and let the disinfecting sunlight in. We can but gain—better lawmaking, greater public confidence, strengthening of the democratic process itself. This is the aim of my Sunshine Act."

That proposed act would require all meetings of government agencies to be open to the public with the exception of matters relating to national security and defense, those now required by law to be kept confidential, strictly internal management problems and disciplinary proceedings which could affect adversely an individual's reputation.

Congressional committee meetings also would be opened, with the same exceptions. Violations could take a committee or an agency into court, just as has been done with government bodies in Florida.

Fascell concurs with Chiles' reasoning, and adds: "The American people have the right to know what their government is doing. It is no wonder that many of our citizens have lost confidence and trust in government, since so many of its official proceedings are held in secret."

We wish these exemplary Florida politicians luck. It would provide quite an honor for this state if they succeed in imposing open government rules at the federal level where abuse is rampant.

[From the Sebring (Fla.) News, Aug. 17, 1972]

Sunshine

Claiming there is need to open doors and gain better lawmaking, better public confidence and a strengthening of the democratic process itself, Sen. Lawton Chiles has introduced a national-government-in-the-sunshine-bill.

The bill would virtually eliminate secret meetings in the Congress and the executive branch of the federal government. Exceptions would be in matters relating to national security and defense, matters required by other law to be kept confidential, meetings related solely to an agency's internal management, and disciplinary proceedings which could adversely affect an individual's reputation.

Chiles said the legislation was adapted from Florida's government in the sunshine bill, which has been highly successful and beneficial to the public.

We applaud the Senator for his action. It is time the people were told many things which have been hidden from them, either by secret meetings or classified material. Too often, we feel, the meetings served selfish interests with favors for the few, or the secrecy covered goofs or improper actions.

[From the Port Lucie (Fla.) Mirror, Aug 24, 1972]

Sunshine in Washington

Efforts of Sen. Lawton Chiles to bring some Florida "sunshine" to Washington, D.C., deserve the support of every member of Congress.

Opening government to the public is so important in these times of credibility confusion that the Congress should lead the way.

A few states, led by Florida's now famous "Government in the Sunshine" law, have passed laws opening government to public inspection. The responsibility rightfully lies with Congress to make open government a national effort, required in every state.

Elected officials have found that the "Government in the Sunshine" law is easy to live with, once they got used to it. Some procedures had to be changed, but the officials who have the best interests of their employers, the people, at heart have, in the main, supported the open meetings-records concept.

Chiles has introduced a bill that would require all meetings of government agencies to be held open to the public, with the exception of meetings related to national security and defense, matters specifically required by law to be confidential, agency internal management, and disciplinary proceedings dealing with an individual's reputation.

Also, the law would require agencies to adopt procedures for advance notice of meetings, Congressional committee meetings would be opened, transcripts of meetings would be made available, and gives the right to the public to sue for court enforcement of the law.

Chiles has experience with the "sunshine" demands. He stated, "I functioned under Florida's Sunshine law for three years in the Florida Senate and am totally convinced the lawmaking process was not inhibited or damaged.

"Closed doors are not necessary to sound resolution of conflicting views," he added.

It would be a bright day if the Congress passed Chiles' bill, a very bright day for America.

[From the Brooksville (Fla.) Sun-Journal, Aug. 22, 1972]

Sunshine and Mr. Chiles

Florida's leading the way toward opening closed doors in Washington and letting the sun shine in.

We were most pleased that our favorite United States senator, Lawton Chiles of Lakeland, took the cue from his service in the Florida senate and introduced a federal "government in the sunshine" bill which would virtually eliminate secret meetings in congress and the executive branch.

Senator Chiles has long been a champion of open government, holding to the theory that the public's business should be public business.

In Florida he helped enact the model "sunshine" law which has opened countless meetings of city and county commissions, school boards, and hundreds of other public bodies to the people these agencies serve.

Senator Chiles knows the Florida "sunshine" law makes for better government, more responsible and more responsive government. He knows it works—and his splendid aim is to make it work on the national government, where secrecy is a way of life.

A companion bill has been introduced in the House of Representatives by Congressman Dante Fascell (D-Miami). We hope that our district's congressman, Rep. Bill Chappell (D-Ocala) will support it.

But, of even more importance, is the swift support Senator Chiles found for his measure from both Democratic candidates for congressman from our new district.

Both candidates for the nomination, State Sen. Bill Gunter of Orlando and Miller Newton of Pasco county, have endorsed the Chiles measure and promised their support of federal "sunshine," if elected.

Perhaps similar statements will be forthcoming soon from the Republican candidates for the office.

"Since I came to the U.S. senate last year," Mr. Chiles said, "I have become very disturbed by the great amount of public business I have found being conducted behind closed doors and by the attitude of secrecy I've seen in our federal agencies.

"I'm not surprised that people are suspicious of our motives and are losing confidence in their government when they are shut out of the decision-making process."

We're proud of Senator Chiles and his efforts. We commend him for standing for right. And we urge him to push with all the vigor at his command to the end that his fine program will be enacted.

[From the Clewiston (Fla.) News, Aug. 24, 1972]

SUNSHINE LAW FOR NATION, TOO

Claiming there is need to open doors and gain better lawmaking, better public confidence and a strengthening of the democratic process itself, Sen. Lawton Chiles has introduced a national-government-in-the-sunshine-bill.

The bill would virtually eliminate secret meetings in the Congress and the executive branch of the federal government. Exceptions would be in matters relating to national security and defense, matters required by other law to be kept confidential, meetings related solely to an agency's internal management, and disciplinary proceedings which could adversely affect an individual's reputation.

Chiles said the legislation was adapted from Florida's government in the sunshine bill, which has been highly successful and beneficial to the public.

We applaud the Senator for his action. It is time the people were told many things which have been hidden from them, either by secret meetings or classified material. Too often, we feel, the meetings served selfish interests with favors for the few, or the secrecy covered goofs or improper actions.

[From the Lakeland (Fla.) Ledger, Aug. 14, 1972]

"SUNSHINE" IN HIGH PLACES

Much of the remainder of this page today is devoted to a statement made by U.S. Sen. Lawton Chiles on the floor of the Senate as he introduced a proposed federal "Government in the Sunshine" law.

Senator Chiles makes an eloquent and convincing argument in favor of the right of a free people to know what their government is doing, and how.

The Senator's bill, patterned after the Florida law, provides for open meetings of all federal governmental agencies and bodies at which official action is considered, discussed or taken, except for actions or discussions relating to national defense and security or where secrecy is required by law.

Quick passage of the Chiles bill is hardly likely, desirable as it is for the public interest.

As the Senator notes in his statement, secrecy has become a byword in government, at all levels, and we cannot foresee wide support for "sunshine" among the officeholders and the bureaucratic agencies of government.

Still, we commend Senator Chiles for introducing the measure and are confident he will push hard for its ultimate adoption.

Actually, if all our elected and appointive officials cared as much for the people they serve as Senator Chiles there would be no need for his bill.

[From the Fort Myers News-Press, Aug 17, 1972]

OPEN THOSE DARK WASHINGTON DOORS

During the past decade roughly four out of every 10 Congressional committee sessions were held behind closed Washington doors.

The example of elected members of the Senate and House conducting "public" business where the public is not allowed is a bad example to set for hired bureaucrats setting their own rules for withholding information. Many citizens are frustrated in dealings with the federal office maze. There is a sense of a lack of communication between many voters and the officials they have empowered through the ballot. Now is a good time to think about opening some of those sealed federal portals.

Sen. Lawton Chiles, D-Fla., is trying to get a little "sunshine" into the federal decision making process. Last week he introduced a campaign to pass a federal open meeting law based on this state's "government in the sunshine law," requiring public bodies in Florida to openly conduct both their business and the preliminary meetings where thought patterns are developed.

The idea that our Congress needs "sunshine" comes as a surprise to many people who, like the emperor worshippers of the Roman Empire, feel national political office holders have risen above mere mortality to the Olympian heights of divinities.

Whether classified as divine or not, the federal decision making process should be open to the public, at least where sensitive national security matters are not being discussed.

Most states have some type of law allowing public inspection of official documents, just as there is a federal freedom of information law regarding the classification of certain documents. About 40 states require at least some public policy-setting meetings to be open to the public. The state attorney general's rulings on the Florida law apply it to many informal meetings between elected officials where they might discuss public policy and form opinions which would be reflected later in official meetings.

The U.S. House of Representatives permitted newsmen to attend its meetings two days after organizing in 1789. The Senate got around to a similar policy six years later. Congressional publication of its official proceedings came in 1834. Yet during the 1960s approximately 40 per cent of committee sessions, where facts were learned and minds were set, still were not open to the public. Nor are they now.

Chiles said his proposed federal law would require regulatory bodies, such as the Interstate Commerce Commission and Civil Aeronautics Board which control freight and passenger rates, to hold open meetings.

The military and the courts would be exempt, as would disciplinary dealings with an employee's character.

It should be great fun to watch the progress of Chiles' proposal—if it is not killed in some closed door session.

[From the Ocala (Fla.) Star-Banner, Aug. 10, 1972]

A FEDERAL SUNSHINE LAW

Wholehearted support from every member of Florida's congressional delegation should be forthcoming now that Sen. Lawton Chiles has introduced a federal government in the sunshine bill that would virtually eliminate secret meetings in the Congress and the executive branch of the federal government.

Since Florida was among the pioneer states in establishing a law requiring public officials to conduct the public's business in the open, it is only appropriate for this state's lawmakers in Washington to support Chiles' legislation.

As we have noted numerous times in recent years, Florida's government in the sunshine law is one of the finest pieces of legislation ever turned out by the legislature.

It not only has brought government out into the open from behind closed doors and pulled shades, it has forced public officials to be more on the alert and cognizant of the issues before them.

It is true there are instances when the Florida law is being violated or circumvented. But the fact still remains, the law has eliminated much of the secret wheeling and dealing of the past.

Congress sorely needs to do something to improve its image with the citizenry. Its credibility, as well as that of the executive branch, definitely should be upgraded.

By curtailing secrecy, by making decisions in the open, the lawmakers could take a giant step toward eliminating suspicion and distrust.

It is essential for the public to believe in the government and to have faith in those who make the decisions that affect the lives of all of us.

This faith and confidence is hard to come by when 36 per cent of all congressional committee meetings over the course of a year are closed.

The cloak of secrecy pulled over any function heavily implies that something is going on that is not in the best interest of the public. Discussion about national security, of course, is the exception.

Sen. Chiles deserves the applause of citizens all over this land. It is indeed refreshing to see a member of Congress recognize the impropriety of conducting the public's business behind closed doors. It is equally pleasing to see Sen. Chiles introduce his legislation.

The task ahead of him is not going to be easy, by any means.

But then it took a long time, far too long, to get the sunshine bill through the Florida legislature. Hopefully, with the full support of his colleagues from Florida, and with members from both Houses it will not take as long to secure approval of the House and Senate.

[From the Jacksonville Journal, Aug. 9, 1972]

FAINT RAYS OF SUNSHINE

There seems to be some hope that the long-criticized habit of federal bureaucrats to label official documents needlessly with "top secret," "secret" and "confidential" stamps is being brought under some sort of control.

But, even if those rubber stamps are stopped in midair, we'd still have administrative agencies taking official action behind doors closed to the public and we'd still have congressional committees holding secret sessions.

It is in these latter two areas that Sen. Lawton Chiles of Florida has taken action, and we wish him success as he tries to get a federal "government in the sunshine law" enacted similar to the law that is already on the books in Florida.

The celebrated case of the Pentagon Papers alerted the American public to the vast tonnage of public records that are hidden from public view by being classified as information vital to national security.

In the aftermath of the publication of the Pentagon Papers, various officials estimated that 20 million pieces of overclassified information are lying unseen in government files. A congressional committee was told that probably one-half of one per cent of that information truly related to national security and thus deserved to be stamped "secret."

As a result of such testimony, the Nixon Administration set up the Classification Review Committee last year. And, last week, the committee reported that, in the past two months alone, 27,348 government employes have lost the right to classify documents as top secret, secret or confidential.

But the classification committee can do nothing about closed-door actions by federal administrative agencies or by congressional committees. It is on these problems that Senator Chiles has focused this attention.

"Since I came to the Senate last year," said Chiles, "I have become very disturbed by the great amount of public business I have found being conducted behind closed doors and by the attitude of secrecy I've seen in our federal agencies."

We hope he gets his law enacted. It should stop such shenanigans as closed-door congressional hearings into the degree to which astronauts have been involved commercially, if at all, during tax financed space missions. We fail to see any justification at all in making such hearings secret.

[From the Pahokee (Fla.) Everglades Observer, Aug. 10, 1972]

WE NEED MORE "SUNSHINE"

U.S. Senator Lawton Chiles has introduced a Federal "Government in the Sunshine" bill which would virtually eliminate secret meetings in the Congress and the executive branch of the federal government.

Exceptions would be in matters relating to national security and defense, matters required by other law to be kept confidential, meetings related solely to an agency's internal management, and disciplinary proceedings which could adversely affect an individual's reputation.

Sen. Chiles said the legislation was adapted from Florida's government-in-the-sunshine bill which was approved in 1967 when he was in the state senate.

"Since I came to the U.S. Senate last year," he said today, "I have become very disturbed by the great amount of public business I have found being conducted behind closed doors and by the attitude of secrecy I've seen in our federal agencies.

"I'm not surprised that people are suspicious of our motives and are losing confidence in their government when they are shut out of the decision-making process."

He added, "All of us know the feelings of alienation and frustration many people have toward government these days. As government has grown, it seems to have gotten further away, out of the reach of people "It's not responsive enough; there's too little communication and understanding and trust."

The Senator said he believes this public discontent is in part due to government secrecy, "in most cases, totally unnecessary secrecy." He concluded the need is now to open the doors and gain better lawmaking, greater public confidence and strengthening of the democratic process itself."

We couldn't agree with Senator Chiles more. He is to be commended for coming up with the legislation on a federal level that Florida has adopted state-wide. We need protection from cloak-room politics at every level of government.

[From the Clearwater (Fla.) Sun, Aug. 16, 1972]

A GOOD BILL

U.S. Sen. Lawton Chiles of Florida is trying to remedy an evil in governmental operations that everybody has talked about for years, but no one does anything about.

He has introduced a federal "Government in the Sunshine" bill which would virtually eliminate secret meetings in the Congress and the executive branch of the federal government.

Only exceptions would be in matters relating to national security and defense, matters required by law to be confidential, meetings related so solely to internal management, and disciplinary proceedings.

Chiles said he adapted the bill after Florida's government-in-the-sunshine law.

It's a good idea; we hope it passes.

[From the Orlando Sentinel, Aug. 11, 1972]

GOVERNMENT SECRECY CRITICIZED

Editor: Re: Aug. 5 story about Sen. Lawton Chiles, he is certainly advocating a law which could prevent the total bankruptcy of our nation.

It seems certain that the vast majority of our nearly tax-defeated citizens in Florida, and throughout the nation, will applaud Sen. Chiles' effort to get passed a "federal government in the sunshine law," which, at least, might prevent some of the backroom financial flim-flamming of America's middle class taxpayers which should have been stopped a century ago.

As Sen. Chiles said in that story, "I am not surprised that people are suspicious of our motives and are losing confidence in their government when they are shut out of the decision-making process." Also, he mentioned the prime cause of our nation's problems when he said, "Public discontent is due in part to government secrecy which, in most cases, is totally unnecessary."

Too often the wishes of the majority are circumvented on behalf of partisan (or personal) goals. Then such goals are cunningly disguised as public needs and Americans have more unnecessary taxes heaped upon them each year.

BARRY CRIM.

DELAND.

[From the Sanford (Fla.) Herald, Aug. 7, 1972]

LAURELS FOR CHILES AND CRANSTON

Public thanks is due two United States Senators who have introduced bills which can do much to assure continuance of the confidentiality right which a free press must have and to shed light on meetings of Federal authorities and congressional meetings.

Senator Alan Cranston of California is the one whose bill consists of a single sentence: "A person connected with or employed by the news media or press cannot be required by a court, a legislature, or any administrative body to disclose before the Congress or any Federal court or agency any information procured for publication or broadcast."

The vigilance of the California Democrat is noteworthy. For he had detected the basic damage to a free press which could come from a Supreme Court ruling that the press does not inherently possess a confidentiality privilege as part of its first amendment rights. The bill, introduced on June 30, should be passed and with such a majority that the message could not be lost.

Florida's own junior Senator, Lawton Chiles, is the legislator who has just introduced a "Government in the Sunshine Act" with which he "seeks to assure the openness of our governmental processes and to restore public confidence in those processes."

Senator Chiles had gone to Washington after having experienced the benefits which the Florida government in sunshine law has bestowed on the people of our State.

Once there he became "very disturbed by the great amount of public business being conducted behind closed doors and by the attitude of secrecy I've seen in our Federal Government agencies."

A legislator of action, the Lakeland Democrat prepared the act which is now before the Senate and bolstered its presentation with a quotation from the famed Supreme Court Justice, Louis Brandeis, who wrote in 1913:

"Publicity is justly commended as a remedy for social and industrial disease. Sunlight is said to be the best disinfectant and electric light the most efficient policeman."

What appears to be the motivation in both of these instances is the sincere desire of the Senators to do what can be done to stop the continuing loss of public confidence in government.

This is a dangerous situation. To remedy it by responsible journalism is the key treatment. Senator Cranston makes such reporting possible.

To bring government processes—wherever possible—out of the shadows, the Chiles prescription, is to restore confidence. Each is important. Together they are unbeatable!

[From the Naples (Fla.) Daily News, Aug. 8, 1972]

MORE "SUNSHINE" EVERYWHERE

Florida's Senator Lawton Chiles wants to eliminate virtually all of the secret meetings now taking place in the congressional and executive committees of the national government. And he has introduced a federal "government in the sunshine" bill which, if approved by the House and Senate, would go a long way in removing what Chiles describes as the "alienation and frustration many people have toward government."

Chiles thinks government is not responsive to the citizenry it represents, fails to let the public in on the public's business, thus planting the seeds for suspicion and lack of confidence.

"Since I came to the U.S. Senate last year." Chiles says, "I have become very disturbed by the great amount of public business I have found being conducted behind closed doors and by the attitude of secrecy I've seen in our federal agencies . . . in most cases, totally unnecessary secrecy."

The Florida senator, who helped pass this state's own sunshine law, does not favor delivering the nation's military secrets to the enemy, wants no part of endangering national security. But he obviously fears big-government control of public information more than he fears the occasional leak of security matter.

Any erosion of the Florida sunshine law is being watched very carefully not only by elected officials like Senator Chiles but by the courts themselves which have been loath to make any exception to the requirement for open meetings. The original complaint against the Sunshine law (approved in 1967) was that the open-meeting requirement would only drive state and local officials into secret pre-conference agreements which then would be formally ratified at subsequent public meetings.

But in a major Florida Supreme Court decision (1969) the justices ruled that such circumvention was contrary to the intent of the legislature, and that the open-door ruling applied to all meetings dealing with the public's business. Thus, the "entire decision-making process" of government is subject to the Florida act, not just formal meetings or voting sessions.

The Florida court's ruling in this case went to the heart of the matter: The public is not only entitled to know the final decision of the governmental body but it is entitled also to know the arguments pro and con that went into the arrival at the decision.

The sunshine law, as it works in Florida, may sometimes inconvenience governmental bodies but one has only to look to neighboring counties to discover that the law has teeth, that it is being applied by the courts as the legislature intended, and that breaches are not considered trivial matters.

Several other states have gone the "sunshine" route and we believe that many more will follow. Senator Chiles is not alone in sensing that the American public wants to know more, not less, about what makes our government tick, and as time goes by the demand for open doors along all government corridors will be more and more insistent. It seems unnecessary even to plead the case.

[From the Winter Haven (Fla.) News-Chief, Aug. 10, 1972]

LET THE SUNSHINE IN

Our own Senator Lawton Chiles has proposed a "Federal Government in the Sunshine" law just as we have in our state. He feels, and rightly so, that the people of the nation are entitled to know about the operation of their government. He feels that entirely too many decisions are being made behind closed doors and that we would have a much better Federal government if they were made out in the open.

Obviously, the only thing that must be done in secrecy is the handling of our national security, and even there a great deal of it could be done before the public. We know for sure that there would be less doubt as to how the government operates and people would have more respect for the government if they knew from day to day just what is going on. It's a great law and should receive the backing of the people of the nation.

[From the Gainesville (Fla.) Sun, Aug. 13, 1972]

A LITTLE DAB WILL DO

Lawton Chiles, who got to the U.S. Senate by tromping the length of Florida on his feet, is now trying to unlock doors with his tongue.

We refer not to a gymnastic feat, but oratory. And it will take a great deal of oratory to charm the doors of the federal government into opening for public inspection.

That is what Senator Chiles wants to do. He has introduced a Government-in-the-Sunshine bill to open federal-level meetings to the public. Amongst the briefcase and satchel toters, this ranks second only to playing spin-the-bottle with an aged hyena.

So that is why Senator Chiles has resorted to oratory, even to quoting former U.S. Justice Louis D. Brandeis: "Publicity is justly commended as a remedy for social and industrial disease. Sunlight is said to be the best disinfectant and electric light the most efficient policeman."

The Chiles Sunshine Law requires Congress and federal agencies (excluding the courts and the military) to conduct meetings in public unless the matter (1) affects the national security, (2) relates to internal management of the committee or agency, (3) reflects adversely on the reputation of an individual, or (4) is already secret under other laws. Just any ordinary citizen can take a closed door compliment to the nearest federal district court—which makes enforcement easy.

Senator Chiles says he got his idea for a federal Sunshine Law from the Florida Sunshine Law enacted in 1967. He freely compares the two favorably.

That is carrying things a bit too far, because the Florida law is brief and tight as a drum with no exceptions to closed meetings—although the Florida Supreme Court has waffled a bit and installed a few semantic shutters.

The Chiles federal-level bill, on the other hand, is loaded with such exceptions as "internal management" and "national security" and matter which "tend to reflect adversely" on any individual. When the Senate Committee on Standards and Conduct probes a Senator caught with his hand in a lobbyist's pocket, you can bet your kingdom that meeting will be closed because it will "tend to reflect adversely." Some senators will go further and argue the "national security" is endangered.

With a law riddled like that, who needs Swiss cheese?

So the comparison between Florida law and the Chiles bill is not really cricket. But the federal government is so secretive that even Swiss cheese is an improvement.

Last year in the Senate alone, 30 per cent of the committee meetings were behind closed doors. Senator Chiles is a member of the Joint Congressional Operations Committee and the Agriculture Committee—both of which met 33 per cent in secret.

In the U.S. House at the other end of the hall, things are worse—with 41 per cent of the meetings secret. Our Second District Rep. Don Fuqua, for example, is a member of the Science and Astronautics Committee (24 per cent secret) and Government Operations (22 per cent secret).

The Chiles bill will not eliminate a great deal of that secrecy. But we are reminded of a Brylcreem television commercial of a decade ago, which proclaimed "a little dab will do ya."

We will settle for that.

[From the St. Petersburg (Fla.) Independent, Aug. 8, 1972]

CHILES TRYING TO PRY OPEN THE NATIONAL DOOR

What the public doesn't know, it can't condemn or praise.

That has been the working policy of the federal government. It emanates from the Congress, where elected, tax-paid officials hide to perform the public's business.

Small wonder, therefore, that the bureaucracy created by Congress and thus further removed from the public feels unobliged to allow public access to its policymaking meetings.

First term U.S. Sen. Lawton Chiles of Florida may be a bit brash with his proposed federal version of a "government-in-the-sunshine" law.

However, a little temerity may be what an encrusted Congress and bureaucracy need to be awakened to the public's displeasure with government in secrecy.

Chiles proposes open meetings for all congressional and bureaucratic sessions, except those dealing with national security and defense, others expressly closed by law, internal management, and disciplinary problems of a federal agency.

His exemptions may be too vague.

But his broadside attempt to open the federal government to public inspection is the first crack of sunlight we've seen in Washington in a long time.

Chiles wisely quotes former Supreme Court Justice Louis D. Brandeis:

"Publicity is justly commended as a remedy for social and industrial disease. Sunlight is said to be the best disinfectant and electric light the most efficient policeman."

An informed electorate is the only sure guarantee of an enlightened democratic society.

But when that electorate's very own business is conducted in secret, the fiber of the republican democracy is shredded.

Particularly appealing about Chiles' proposal is its expression that Congress would open its own doors and then properly assert its control over the bureaucracy by also opening to the public doors to the mass of regulatory agencies that govern our lives—the Interstate Commerce Commission, Federal Trade Commission, Civil Aeronautics Board, Federal Communications Commission and scores of others.

In many ways, Americans are more governed by a series of initials—ICC, FCC, FTC, CAB, and perhaps one day a Department of ETC.—than by the officials they have elected.

True to his campaign pledge, Chiles is seeking to bring government closer to the people.

"Only with such openness can the public judge and express, through its vote or voice, whether governmental decisions are just and fair," he says.

Floridians right now should exact pledges of support for the Chiles measure from every person who seeks election to the Congress.

We would expect members of the current Florida congressional delegation to record their endorsement of federal government in the sunshine.

We see few exceptions to the axiom that the public has a right of free access to the conduct of its own business. Sunshine laws have succeeded in Florida and at least five other states. It's time the principle was applied by our national government.

[From the Boca Raton News, Aug. 6, 1972]

THANK YOU, SENATOR CHILES

If Florida Senator Lawton Chiles has his way, sunglasses may soon become a necessity for our federal officials.

Chiles has introduced a Federal Government in the Sunshine bill, which would virtually eliminate secret meetings in the Congress and the executive branch of the federal government.

His proposed legislation is adapted from Florida's government-in-the-sunshine bill which was approved in 1967.

The Florida senator probably will have major problems getting such legislation approved by his colleagues. We wholeheartedly support the measure and we're hopeful our readers will express their support to their U.S. senators and representatives.

Chiles' timing in introducing the bill is probably the best thing he has going, since our elected federal officials, who have always declared they believe in and support open government, will be forced to either support or reject the Sunshine Law proposal in an election year.

The bill would provide exceptions in matters relating to national security and defense, matters required by other law to be kept confidential, meetings related solely to an agency's internal management and disciplinary proceedings which could adversely affect an individual's reputation.

Those exemptions should give the bill enough flexibility to allow its adoption.

Past proposals calling for "open government" have been shot down by our elected officials, who declare closed meetings are necessary, especially in the area of our national security and defense.

In introducing the legislation, Chiles said, "Since I came to the U.S. Senate last year, I have become very disturbed by the great amount of public business I have found being conducted behind closed doors and by the attitude of secrecy I've seen in our federal agencies.

"I'm not surprised that people are suspicious of our motives and are losing confidence in their government when they are shut out of the decision-making process."

Chiles' words probably will not be popular with his colleagues, but the majority of citizens in this country surely agree with him.

People in this country today feel they are being ignored by the elected officials. That, we think, is why the George Wallace presidential campaign was so successful.

Chiles says government is not responsive enough. He charges there's too little communication, understanding and trust, and he believes a great share of the problem is due to government secrecy. "And," he said, "in most cases, it's totally unnecessary secrecy."

The Sunshine Law has not given Floridians total trust in their elected officials, but it definitely has helped restore honesty to government.

We think a federal Sunshine Law could have the same impact and we salute Sen. Chiles for introducing the bill.

[From the Tampa Times, Aug. 5, 1972]

SUNSHINE IN CONGRESS

Sen. Lawton Chiles made political history a few years ago when he spurned a Cadillac-style campaign for the U.S. Senate seat and chose to walk the roads and residential streets of the state to carry his message to the people.

The voters of the state responded by giving Chiles a thundering majority. His success was so dramatic hundreds of politicians around the nation spent their campaign funds on hiking shoes instead of billboards and prime television time in an effort to follow in Chiles' footsteps.

But now Florida's junior senator has chosen a tougher task for himself—the task of letting a little fresh air and sunshine into the musty committee rooms of the United States Congress.

In a bill filed yesterday, Chiles attempted to pass on the major provision's of Florida's law to the benefit of the people in the United States.

The Chiles bill would require all congressional committees and all federal authorities with the exception of the courts and the military to hold meetings open to the public.

The Florida senator watered down the bill somewhat for the protection of national defense and security, and in certain other highly sensitive areas, but the thrust of the legislation is to give the public a far more open view of the workings of the federal government than is now available.

Not many citizens are familiar with the secretiveness of the federal government in Washnigton. Most would be shocked to know what a vast amount of legislation is sent to the floors of the house and senate from closed committee rooms. Trading of votes for favors, and compromises not necessarily in the public interest are major factors in the wording of new laws.

Matters are considered in secret session that would appear to have no relation to national security. For instance, during the past few days doors were slammed shut by the Senate Space Committee on a hearing into the smuggling of certain contraband items, by astronauts, on the Apollo 15 trip.

Here is a case where taxpayers spent millions to send these men on a moon mission, and from reports there were plans for a tidy private profit by parties still unknown. After a five hour secret session on the matter the committee chairman, Sen. Clinton P. Anderson, would give no indication if any of the information gathered from witnesses would ever be made public.

Another example: A hearing will be held next Tuesday in "closed executive session" of the powerful Senate Public Works Committee on a bill tailored specifically for Texas permitting the state to circumvent federal environmental safeguards in construction of a controversial freeway through scenic urban parkland. A torrent of similar legislation for other areas in the nation is expected to follow.

These are only a few examples of the type of information handled by congressional committees behind a shroud of secrecy.

The Chiles bill is only one step needed in a full code of reform for both the legislative and executive branch of federal government.

Optimism about the passage of Chiles bill in the near future could only come from those unfamiliar with the power of the gerontocrats of Capitol Hill.

It took six years, and the defeat of the Porkchop Gang, to get the sunshine law through the Florida legislature. It may take even longer at the federal level. But the change is necessary if confidence in government is to be restored.

Chiles had the courage to set a new style of campaigning in Florida and sparked a dramatic change in many other states. Perhaps other young progressive senators will be willing to follow his footsteps in support of the national sunshine act.

[From the Miami News, Aug. 8, 1972]

RIGHT TO KNOW

We've always been guided by two principles in this business: The public needs to know what is going on, in and out of government; and public representatives need to communicate freely with the public.

Take the latter first. The U.S. Supreme Court recently said a newspaperman no longer has the right to protect the confidentiality of his source of information. This hits close to the heart of a free press. We feel, of course, the news media need and should have maximum legal protection to meet their responsibilities in a free and open society.

Sen. Alan Cranston of California has introduced a one-sentence bill which would restore the privilege that the Court has seen fit to remove. The bill reads: "A person connected with or employed by the news media or press cannot be required by a court, a legislature, or any administrative body to disclose before the Congress or any federal court or agency any information procured for publication or broadcast."

We subscribe to Senator Cranston's proposal because all other press confidentiality laws (17 states have them) to some degree contain loopholes which could lead to repressive restrictions.

No less important is the bill introduced on Friday by Sen. Lawton Chiles of Florida to open all government processes to public view. Mr. Chiles, who strongly supported a "government in the sunshine" statute when he was in the Florida Senate, would have his legislation apply to all federal regulatory agencies and committees of the Congress, exempting only the judiciary and military.

The senator expresses surprise that so much of the public's business is conducted behind closed doors in Washington. He shouldn't be surprised. The federal agencies have practiced it for years and as recent as February of this year, a survey indicated 36 per cent of all congressional committees were meeting in secret.

Government in the sunshine is being practiced with success in the senator's home state. There is no reason for federal bureaucrats to close the doors when the press and the public show up. If the public is losing confidence in government, it is because of being shut out of the decision making process.

A government that operates in secret is on the road to tyranny.

Mr. CHILES. Mr. President, I have also received quite a bit of mail from Floridians, as well as citizens across the country expressing their interest and support.

Mrs. Dorothy Tomlinson of Madeira Beach, Fla., wrote:

Hope that your government in the sunshine for the U.S.A. legislation is adopted. This law would make it easier for the people to choose their leaders.

Mr. Robert W. Burdick of West Palm Beach told me:

Thank you very much for introducing a federal "government in the sunshine" bill in the Senate. We have needed the introduction of such a bill for a long time . . .

Ethel L. Redditt of Tampa wrote:

Congratulations on your trying to bring the people's business out in the open . . .

Mr. President, I ask unanimous consent to have several examples of the kind of letters I received printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

JACKSONVILLE BEACH, FLA.,
August 16, 1972.

The HON. LAWTON CHILES,
U.S. Senate,
Washington, D.C.

DEAR LAWTON: Just a brief note to let you know how pleased we were to read of your proposing a "Florida in the Sunshine" type bill for our Congress.

I serve on a local hospital board and we have to advise the local press and all concerned in our community of any little meeting that we have. It seems if we have to do this type of thing, there is no reason why the Ways & Means Commitee should not have to do the same, or other Committees that are running our Federal Government.

Thanking you again for the great job you are doing as our Senator.

Very sincerely,
GEORGE E. PHARR, *C.L.U.*

PS: I am enclosing a clipping of the bill I refer to above.

CLEARWATER, FLA.,
August 5, 1972.

DEAR SENATOR CHILES: Would you please send me a copy of your "Gov't in the Sunshine" bill.

I appreciate your efforts for this much-needed reform, and I'm sure that Common Cause and the League of Women Voters here will be interested in supporting your bill.

Thank you.

GERTRUDE DESJARDIN.

DEAR SENATOR CHILES: More power to you in your effort to ban most closed sessions of congressional committees and Federal regulatory agencies. The people are dealing with public business. What have they got to hide?

Sincerely,
Mr. and Mrs. ROBERT E. STEARNS.

BARTOW, FLA.,
August 19, 1942.

Hon. LAWTON CHILES

DEAR SIR: I like the little papers "Lawton Chiles Reports," very much.

This copy has some very pertinent problems.

I like the Sunshine Law very much. I probably will never be in a place to attend any conferences but it gives one a feeling that if I wanted to I could.

I saw in this morning's paper that Rep. Fascell has introduced a bill quite similar to yours. I wish you both success and hope its passage won't be held up 10 years.

I also hope the Mass Transit conference will bring results.

We have visited Disney World from Bartow by bus and it is a nice way to get there.

Yours truly,
Mrs. STANTON LANDER.

Mr. CHILES. Mr. President, I am more convinced than ever that there is little case to be made for any secrecy in Government outside of certain special areas dealing with the national defense and security. Our government in Florida is not perfect now by a long shot—but it sure is more open. I do not suffer under any illusions that a Federal Government in the sunshine law is going to erase every trace of public suspicion. But I do believe it will help enormously to open up our system to the people it is supposed to be serving. This opening up cannot help improving the system itself and begin the slow restoration of the public's confidence in their elected representatives and their government as a whole.

No one can deny the feeling of alienation that so many of our citizens feel today toward their Government. It is a kind of social desease that is still spreading. For a variety of reasons people have become suspicious of a Government they feel is all encompassing and yet out of touch with the people it is supposed to be serving. Many people feel that their public trust is being betrayed.

In fact, a recent study by Arthur Miller, a political scientist from Ohio State University, showed that the American people's trust in their Government dropped nearly 20 percent from 1964 to 1970. Using data provided by the University of Michigan's Survey Research Center, Miller devised a "cynicism scale." He found that over this 6-year period, the broad segment of people who were questioned as to their trust in American institutions answered in ways that clearly indicated distrust, alienation, and cynicism.

Mr. President, I ask unanimous consent to have an article published in the Washington Post on September 10, 1972, concerning the Miller study be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Trust in Government Is Said To Decline—Cynicism Rises

(By H. D. S. Greenway)

The American people's trust in their government dropped nearly 20 per cent from 1964 to 1970, according to Arthur Miller, a political scientist from Ohio State, and public trust among blacks dropped at twice that rate. That segments of the population are alienated from the government is not surprising, Miller said, but he views the rapid degree of change in only six years as "somewhat alarming."

Using data provided by the University of Michigan's Survey Research Center, Miller has devised a "cynicism scale" which he presented Thursday in a paper to the annual meeting of the American Political Science Association here.

Over a six-year period a broad segment of people was questioned as to their trust in American institutions and their answers were rated as to degree of alienation and cynicism. Twenty per cent of those polled in 1964 distrusted the government but by 1970 the figure had risen to 39 per cent.

During the 1964–1966 period public trust among blacks actually rose, according to the "cynicism scale," while public trust among whites began a steady decline. After 1966, blacks began to lose faith in government more rapidly than whites but prior to 1968 blacks still "demonstrated more trust in the government than whites," Miller said. By 1970 a "reversal" had occurred with (56 per cent of all blacks queried mistrusting the government), as compared to 35 per cent among whites.

American cynics can be broken down into "left cynics" and "right cynics" on the Miller index. Blacks comprised 38 per cent of all "left cynics" and 99.7 per cent of all right cynics were white. "One-third of the cynics of the left were under 30," Miller said, while only 12 per cent of rightist cynics were young. In general, however, Miller found far more discontented people over 60 than among the under-30 group.

Cynicism cuts across party lines, but while independents are cynical because they see too little difference between the Democrats and Republicans, blacks are cynical because they see too much difference between the major parties. Blacks perceive the policy gap between parties as "so large that the Republican Party is not a viable alternative, thus, ironically, also resulting in a lack of choice for them."

Increasingly Miller found that Americans are satisfied with neither party and the findings "demonstrate emphatically" that "distrust of the government was related to the dissatisfaction with both parties . . ."

A feeling of inability to influence government was also a prime cause of discontent. "Those who felt they had very little impact on government were the most cynical."

While confidence in the electoral system among whites dropped from 65 per cent to 60 per cent during the six-year period, black trust in elections dropped from 66 to 41 per cent.

Mr. CHILES. Mr. President, I believe a good deal of the growing disenchantment with the Government that the Miller study points out is due to the aura of secrecy that surrounds many aspects of it—in most cases a totally unnecessary aura of secrecy. There is, to my way of thinking, no real reason for the number of closed meetings held by Government boards, commissions, or other agencies. I believe closing the doors to these meetings and shutting out the public automatically makes the public wonder what in the world is really going on behind them.

Now I must admit that at the beginning stages of "Government in the Sunshine" back in Florida, I questioned whether or not we could operate effectively out in the open. Many people shared my feelings. But now, after our Government in the sunshine law has been in effect for several years, we share the same proud conclusion: We can operate just fine. In fact, we can operate better because with those open doors also comes the public's confidence. Business goes on as usual—except business goes on even more effectively. It is the public's business that we are talking about and now at last, in Florida, the public is allowed in on it fully.

Mr. President, most public officials are hard-working, dedicated, individuals. But as honest as they are, they still have difficulty keeping the public's trust, eliminating doubt or suspicion concerning their integrity. Closed doors imply "hanky-panky." The credibility of the majority of honest, hard-working public officials is destroyed by the unnecessary aura of secrecy that surrounds many aspects of Government decisionmaking.

My bill provides for open meetings of all Federal governmental agencies except the courts and the military. In particular, it applies to Federal regulatory agencies and commissions, such as the Interstate Commerce Commission, the Federal Trade Commission, and the Civil Aeronautics Board—which are responsible for serving the public interest. It would apply to the committees of Congress also, which have for too long conducted too much of their business behind closed doors.

Mr. President, I was pleased to see that a plank in the Democratic Party platform for this year is concerned with openness in Government and that legislation has now been approved by a Senate-House conference which would open up meetings of the multitude of so-called advisory commissions. In the Senate this effort was led by Senators Metcalf, Percy, and others. I was glad to join with them in that effort. And I am delighted that some of my Republican colleagues in the Senate have joined me in cosponsoring my sunshine bill. This effort to open up Government to the people is clearly not a partisan issue and I would hope we could work together effectively toward that end.

I am hopeful that hearings will be held on my proposal for sunshine government early next session. And I want to stress that I sincerely hope this whole area will be completely gone into and thoroughly studied. I am and will remain completely committed to the idea of opening up government to the people—the memory of my campaign is still vivid—the memory of listening to the people complain about the "bigness," and the remoteness, the unapproachable nature of big government—how they felt left out and were distrustful of what was going on "inside." But though I am wedded to the idea of sunshine Government I am not wedded to the specific language of my bill—I realize there are problems involved. I am aware that certain exceptions to open meetings have to be made. Exceptions are provided in the bill as written, to include—cases where matters to be discussed include national security, internal management of a committee or agency, or matters which may tend to reflect adversely on the character or reputation of a witness or any other individual. But these exceptions may need expanding, or more precise definition. Complete hearings on this whole area are certainly necessary so that we can have input from everyone involved and come up with the best possible bill.

We must start now—here—to expose our governmental process to the fullest extent possible. We must open the doors and windows and let the disinfecting sunshine in. Our efforts to open up Government to the people can only lead to better lawmaking and greater public confidence in our governmental system.

I am pleased that some of the cosponsors to the bill and other Senators have joined me here this morning to consider some of the issues and problems—as well as challenges involved in Federal "Government in the Sunshine."

Mr. HART. Will the Senator yield?

Mr. CHILES. I yield to the distinguished Senator from Michigan, whom I am delighted to have as a cosponsor on the legislation.

Mr. HART. Mr. President, I join the Senator from Florida in support of S. 3881, a bill he most appropriately has dubbed the "Government-in-Sunshine Act." The Congress has considered this area before. Just in the past several years we have passed the Freedom of Information Act and the Legislative Reorganization Act of 1970—both designed to open up the processes of government to the public.

But these actions are not enough. We still receive complaints that Federal agencies hold back needed information, and certainly the arguments of the past months over classification procedures indicate that the rules are hazy, if indeed they exist at all. And an analysis of the Congress' actions following passage of the 1970 Reorganization Act shows that about one-third of all committee meetings in 1971 were held in secret.

Credibility is surely an overworked word, but describes one attribute that our people are looking for in their Government. In this electronic age of instant communication, secrecy would seem to have no place, except in the most sensitive of areas, which are well-defined in S. 3881. Certainly passage of the bill would help remove suspicions about motives and doubts about integrity existing today. Senator Chiles distinguished public service in heading this effort.

When President Woodrow Wilson addressed the Congress on the great issue of peace, the first of his 14 points was "Open covenants—openly arrived at."

Today in the midst of difficulties abroad and at home, the advice is equally well taken. S. 3881 would enlarge our freedoms and bring increased respect and support to our Government.

I would hope the party caucus in Congress also will be conducted "on the record" and "in the open." Actions by the caucus affect the public's business. We who are members of these caucuses are not operating a fraternity house, we are doing business for and in ways directly affecting these people, the public. The people should know what we are doing or not doing, in committee and in caucuses.

Mr. President, I express appreciation to the Senator from Florida for undertaking leadership in this effort. In addition to his great ability, he brings to us his rather recent experience, specifically his experience in the Florida Legislature during the period in which he served in that body.

Even some of us who have long felt that the doors should be open to permit the public to know what we are doing in our committees and deciding not to do in our committees would be desirable. Nonetheless, I have an uneasy feeling that perhaps we do not recognize what may be very disabling consequences of that action.

The Senator from Florida (Mr. CHILES) can testify from direct experience that opening the doors does not have adverse serious side effects. Those of us who never served in a body where the doors are literally open would not be able to testify.

It is for this reason, among others, that I am delighted that he is giving leadership and that in doing so is rendering a very significant public service.

I share with him the opinion that the committee will permit us very early in the next session to act. I hope and believe we will act prudently.

I would suggest that perhaps, while it is not a function of the Senate by statute, we consider seriously the proposal that our own party caucuses also be open because what we do or decide not to do in a party caucus affects completely the right of the public to know.

We are not a group sitting around in a caucus trying to run a fraternity house, although one gets the uncomfortable feeling that that is the level at which we operate in our caucuses.

We are about the public business and our performance inside a caucus would be more sensitive and likely to be more responsive if that door also was open.

The bill of the Senator from Florida has enough trouble as it is without adding caucuses to it. I welcome the chance to raise that issue, and I thank the Senator.

Mr. CHILES. I thank very much the Senator from Michigan for his remarks.

Again, I appreciate very much his support. I think one of the problems that he raises in the bill is the problem of education. I can remember well in Florida that when we were first taking up the sunshine bill many of us felt—and I was one of those—that we were just not going to be able to operate efficiently if we were to do everything in the open, that we had better hold some things back. I was thinking, as the rest of them were, about the public interest, as it were. I think everybody in this body really thinks mainly about the public interest. But we found that when we did open meetings up, we could operate just as well.

I do not think we will find anybody in Florida in the legislature or basically in government that wants to go back to the old practice, because the side effects of the sunshine legislation are so good that we do not have the leaks that go out to the press. As the Senator knows, we do not now have any secrets in any of these committee meetings. It depends on who leaks the information and how they leak it.

We do not have any secrecy even in our party caucuses, as the Senator knows, because the person leaking it can slant it and often does. That is one of the problems we have. It often proves very embarrassing to Senators and other agencies of government. It happens that way, too.

We would be much better off if those things were public, because if we had a record and if someone were not quoted correctly, he could stand exactly on the record.

Mr. HART. We tend to be very oversensitive and to get mad at the press when we see something reported as occurred in a committee meeting. We ought to get mad at ourselves if the press report is inaccurate, in all probability it is, because we slammed the door in their face.

We would not let them in to see the whole business. Depending on who says what occurred after it is over, that is inevitably the way the press is going to report it.

Mr. CHILES. That often results in public opinion being misguided, because someone is biased or partial and gives his impression of what took place, or his interpretation of an action another Senator took and before long you have a biased public opinion that does not relate to the facts.

Mr. HART. You have a biased public opinion, and a group of Senators, each one looking at another Senator, trying to figure out who is going to distort what he is in the business of doing. That poisons the well.

Mr. CHILES. I hear the remark made as perhaps the Senator does with respect to markup sessions.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

At this time, in accordance with the previous order, the Chair recognizes the Senator from Oregon for not to exceed 15 minutes.

Mr. PACKWOOD. Mr. President, I am delighted to join the distinguished Senator from Florida in the cosponsorship of this measure.

I served in the Oregon Legislature, but I did not have the same experience the Senator from Florida had, because in Oregon such meetings have always been public.

Our constitution in Oregon, which was adopted in 1857, provides:

> The doors of each House (of the Legislature), and of committees of the whole, shall be kept opened, except in such cases as in the opinion of either House may require secresy (sic).

But the custom and usage with respect to the latter clause relating to secrecy never has been used so our meetings always have been open and, therefore, I did not have the Senator's experience where meetings were closed, or wonder what would happen if such meetings had been open to them. As a new legislator I became accustomed to having people present, just as a trial lawyer in open court, and we paid no attention to the fact that people were there listening.

Mr. CHILES. That is true. It did not inconvenience the work done. If it was a markup session people could sit and listen to everything that took place but they did not participate. We took testimony, but certainly there would come a time when public testimony would be closed; you would not hear from the public but they would hear your thoughts and the tradeoffs, and they would know what led to the final votes on the bill, rather than to see an expunged record where the public would not know what happened up to that point. That is what causes suspicion.

Mr. PACKWOOD. The closest State to the State of Oregon is the State of Washington. They had a very powerful rules committee through which all legislation had to be channeled. They would determine in secret session the calendar for the day, and you never knew who voted for a bill or who voted to kill it. They could not understand how any public body could operate in public because they thought that without having the right of being able to shut the people out, the legislators would be afraid to express their opinions.

I keep coming back to the point that once you are used to the banter and the give and take in a closed session, it goes on also in an open session.

Mr. CHILES. I am delighted to have the Senator's experience in Oregon. I am sure things went on just as well in Oregon and with much more public confidence.

Mr. PACKWOOD. It is attributable to the fact that the public knows it has the right to come in. Often they do not exercise that right. Now and then there might be an emotional reaction, but by and large they knew that they could come to the meetings and testify if they wished. They knew they had the right, and that is what was important.

Mr. CHILES. In Florida the sunshine bill opened up all meetings. We found more difficulty in school board meetings in the counties. They are the ones who found no way to operate, in some county and city commissions. Most test cases under the Florida law happened to involve school boards. They had to settle these issues and they had to have votes, and there were a couple of suits that were actually filed for injunctions against that kind of meeting. Now, they carry on their business just as everyone else.

There is one other thing I want to point out. Florida had a legislature that was less than mediocre when I went there in 1959, controlled by special interests. I think we represented more pine trees than people, and everything about it diminished the public confidence. Florida is now rated by the Citizens Committee on State Legislatures, which did a survey, as third or fourth in the Nation. One of the leading things that brought them that rating was the openness brought about by the sunshine bill. Everybody in Florida is proud of that and one of the chief benefits of the sunshine bill was that it opened up public confidence and revitalized public confidence so that more people like to run for the State legislature because it is something not held in great disrepute as it once was, and there is something interesting about participation.

Mr. PACKWOOD. I was glad to hear the Senator's colloquy with the Senator from Michigan (Mr. HART) about what leaks out of a meeting when a meeting is closed, and if something is reported by the press maybe they slant it because they do not know what happened.

In the 3½ years I have been here I do not believe that in any secret session any single thing has even been done in committee that would not have been done if the doors had been wide open and loudspeakers were blaring the proceedings out into the hallways.

Mr. CHILES. I am glad to hear the Senator's experience in that regard. In the time I have been here it has been beyond me why I was in a closed session and what was the reason or the need for the closed session because I never saw anything done that could not have been done in public. It creates a distrust that we bring upon ourselves, when there is no reason for it.

I am certain that there are times when the Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Relations deal with sensitive areas in regard to the national interests of our country, and those meetings should be closed. We certainly are allowing that to happen. I do not touch that, or anything that deals with sensitive security issues. But why in the Committee on Agriculture we close the doors during the markup of a bill is beyond me. It is beyond me why that is necessary because there is nothing secret.

Mr. PACKWOOD. It brings on a feeling of frustration because what you are doing is so important you wish people could hear and see what you are doing because you regard it as of monumental significance. When the doors are open, still no one comes in except one or two people from the press who come to cover it.

Mr. CHILES. That is true. In the Committee on Government Operations we were dealing with the consumer protection bill. From that meeting there came news stories or comments made about the statements of several Senators that were incorrect, and which did a disservice to those Senators. Had the meeting been open so members of the press could have viewed their actions, Senators would never have had the comments made about them that were misinterpreted and which worked a disservice on the Senators and their image because it was not fair.

Mr. PACKWOOD. On two occasions since I have been here, when we had oral yea and nay votes in committee, I had my vote misrepresented in the press. It was not deliberate. I am sure someone asked, "How did the vote go?" and somebody said, "The vote was 9 to 6," and they got the vote mixed and I was shown as being on the opposite side that I actually voted on, because people could not see for themselves.

Mr. CHILES. Those are things that work to the disadvantage when hearings are closed.

Mr. PACKWOOD. I am delighted to have a chance to join the Senator from Florida in cosponsoring the bill.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. CHILES. The Senator from Oregon has the floor.

Mr. PACKWOOD. I yield.

Mr. PROXMIRE. I simply want to commend the Senator from Florida and the Senator from Oregon on the position they have taken that we have a greater public disclosure of our committee sessions, and especially the critical markups.

There are only two reasons I can think of that would justify secrecy: No. 1, where it affects the national security; and, No. 2, where it would affect the reputation of a particular individual when that is to be discussed in detail and where certain information had been brought out that could not yet be confirmed. But the overwhelming majority of markups should certainly be open and public.

The Senator from Oregon (Mr. PACKWOOD) and I serve together on the Banking, Housing and Urban Affairs Committee. I cannot remember a single executive session that could not have been open to the public with greater public understanding and greater public information and I think probably greater public interest.

What I have heard discussed between the Senator from Florida and the Senator from Oregon with respect to misrepresentation of activities of the committee members is true. That committee, like all committees, has considerable pressures imposed on it. There have been reports with respect to members of it that were inaccurate and which unfavorably affected that member. If the press could have participated and heard the discussions and observed the votes on the various amendments—the most critical operation in the whole committee process—this erroneous impression could not have taken place.

The reason we do not do that is the result simply of inertia and because it has not been brought before the Congress for action before. I am so glad that two relatively young Senators have had the initiative and the courage to do this.

Mr. PACKWOOD. I may ask the Senator from Wisconsin a question. How long has he been on the Banking, Housing and Urban Affairs Committee?

Mr. PROXMIRE. Fifteen years.

Mr. PACKWOOD. Can the Senator recall anything the committee ever did that could not have been done in the open?

Mr. PROXMIRE. I certainly cannot. We have no jurisdiction with respect to national security or foreign policy. We have some very limited jurisdiction with respect to emergency stockpiles, and so forth, but that information could be made public. No, I cannot think of any instance whatsoever, including the discussions of confirmations of individuals, because these have been the kinds of discussions which would have been perfectly all right to have made public.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. SYMINGTON. I would join my colleagues from Wisconsin, Florida, and Oregon in protesting the degree of secrecy now characteristic of our Government. In the years I have been in the Senate, it has become ever more clear, especially in the field of national defense, that we have wasted and are wasting literally billions of dollars, much of which is secrecy, primarily because of excess in the nuclear field; secrecy that is wholly unwarranted. There is no reason why the American people should not know more about why this great new force has changed, or should have changed, any informed concept of how to defend the United States. We all know the ease and celerity with which we could use domestically the billions of dollars that could be saved in the defense field and much of that saving could be accomplished if we would eliminate all this unnecessary secrecy.

It is my understanding this is going to be talked about later this morning, but I would join the Senator from Wisconsin (Mr. PROXMIRE) in commending the Senator from Florida (Mr. CHILES) and the Senator from Oregon (Mr. PACKWOOD) for bringing this matter to the attention of the Senate. This whole idea of excess secrecy, whether for patriotic or political or whatever gain, is becoming a curse on the American system.

Mr. PACKWOOD. I appreciate that. If the Senator from Missouri, with the perspective he has because of his background as a former Secretary of the Air Force and now, for years, as a member of the Armed Services Committee, and one of its very distinguished members, believes we could have saved money if we had held open hearings, if he can say that with his experience, if he can say that with the experience he has had, then there certainly could not be, exept in a very few cases, any justification for closing these hearings at all.

Mr. CHILES. Mr. President, I am delighted to have the remarks of the distinguished Senator from Wisconsin and the distinguished Senator from Missouri. I think it points up again that we are operating because of habit and inertia, as the Senator from Wisconsin has pointed out, and the idea that because we have always done it this way, we should continue to. I think the problem is one of education—to have everyone really look at and to weigh the effect of continuing in that habit, continuing in the old way against what we see is the greatest problem facing us in the country today, and that is the alienation of people toward their Government. Anything we can do to change that I think is the major role of one in public office to try to change, and certainly a major role of one in the Senate.

The hallowed tradition of the Senate has been that this body has always been the one that in this country has had the confidence of the people over the years; that it provided for stability, and provided for leadership, and was a check on the executive. I think now we are operating from our past status, perhaps, but we are not challenging today and the problems in the country today, and if the Senate is going to continue to live up to any of that tradition, then it must look at the facts of today and what is the feeling of the vast multitudes of our people.

Mr. PACKWOOD. I think we can look right around here at the way we conduct our business on the floor of the Senate. I can only think of two instances in 3½ years when we closed the doors of the Chamber. One dealt with the ABM question. The Senator from Missouri very ably led the opponents in that debate. We had a closed session then. I can think of one other, in those 3½ years, which was a matter dealing with national security. All other times the sessions of the Senate have been open to the galleries. I do not know why the committees cannot operate that way.

Mr. CHILES. I can recall one closed session which we might have been much better off if it had not been closed.

Mr. ROTH. Mr. President, I wish to commend the junior Senator from Florida for his contribution to open Government. Governmental secrecy is a problem to which I have given considerable thought myself. My efforts have been directed toward establishing a Commission on Executive Secrecy to review classification acts and practices and make recommendation for reforms, and toward providing that meetings of agency and Presidential advisory committees be open to the public.

I think that one of the great merits of S. 3881, the legislation that is being offered by the Senator from Florida, is that it reminds us that secrecy is more than an executive branch problem and that it hides from public view not just documents, but processes of Government as well. S. 3881 would limit secrecy in both the executive and the legislative branches by requiring that all meetings and hearings of governmental agencies and congressional committees would have to be open to the public except for certain reasons defined by law. A further contribution of this legislation is that it requires notice of meetings and provides that transcripts must be available to the public.

I would like to address more specifically the question of congressional secrecy, because too often we in Congress tend to view secrecy in Government—and its attendant credibility gaps—as problems originating with and largely confined to the executive branch. But, this is not true. It has become almost an established rule of thumb that all committee business, except for hearings, be conducted in executive session. This practice closes to the citizens of this country a crucial part of the work of their Congress, because in executive sessions compromises are made, the language of bills is changed, and votes are taken which may determine whether the bill is ever brought to the floor. And, in fact, it is not just the meetings of the committees that are restricted, but almost all other aspects of committee work as well.

There are, of course, reasons why these practices have grown up and been maintained. Legislators feel the need for having a relatively apolitical atmosphere, away from the lobbyists, and conducive to the efficient and objective consideration of legislation. Thus, despite the 1970 Legislative Reform Act, the Congressional Quarterly estimated that last year 97 percent of Senate business meetings were closed to the public.

Unfortunately, committee secrecy opens the opportunity for a number of abuses contrary to the spirit of democratic procedure. A minority in powerful committee positions can sit on legislation they oppose in committee or engage in delaying tactics shielded from the purview of the media and public. Bills can be held in committee almost until they are ready for floor action, telescoping the opportunity available for legislators who are not on the committee to study the legislation. Secrecy may give an advantage to special interest groups who have the resources to keep informed on the proceedings on a bill through friends on the committee staff.

Finally, the use of secrecy provides an opportunity for the selective and biased release of news on committee business through leaks. In a recent case involving a committee on which I serve, supporters of a particular piece of legislation leaked distorted stories about the activities of the opponents to the press. Because the committee had been in executive session, there was no way that the media could corroborate the reports being given to them. I deplore this tactic, even though I was a supporter. This illustrates the possibility that ineffective secrecy may be worse than effective secrecy. The public is not merely uninformed, it is misinformed.

Mr. President, the effective and equitable working of democracy requires an accurately informed electorate. The dilemma of secrecy involves striking a practical balance between this need and the requirements of committee secrecy for certain instances. The bill offered by the Senator from Florida offers four guidelines for which secrecy may be maintained: These are for matters involving national security, the internal management of a committee or agency, the reputation of an individual, and other business for which secrecy is required by law. This is the proper approach. We should define those areas which must be secret and then insist that everything else should be public.

I must confess, however, that I am still unsure what the practical implications of the language of S. 3881 would be. I should like to hear more about how similar legislation has worked out in Florida and California, and I would like to know more about how this legislation would affect the executive departments. I hope therefore that the Committee on Government Operations will expeditiously proceed to have hearings on this legislation as well as other legislation along this line. The issues, however, are extremely complex, and I am not at all certain that the secrecy in Government dilemma can be handled adequately in the Congress without the active participation of experienced members of the executive branch, the media, and the public. This is why in S. 3787 the senior Senator from North Carolina and I proposed a 6-month Commission to deal with executive secrecy thoroughly and make recommendations to the Congress. Maybe such a Commission could be expanded to include the matters that have been so ably presented by the Senator from Florida, should such a course turn out to be desirable.

In closing I wish once again to commend the Senator from Florida for this legislation. It is good legislation, important to the American people and deserving of our utmost attention.

Mr. RIBICOFF. Mr. President, I want to express my personal support for S. 3881 which has been introduced by Senator CHILES. That bill provides that meetings of Government agencies and of congressional committees shall be open to the public. I have long been a supporter of the principle that the operations of government should be opened as fully as possible to the purifying effects of public light. Very often the intricacies of government seem to be hidden behind a veil of confusion simply because critical meetings and sessions of various governmental units are closed to the public. The later reports of what went on at the meeting of any public body are often not complete. Such meetings usually involve good faith attempts to solve the complex problems which public officials in all branches of government face. If the meetings were open to the public we could eliminate all confusion concerning what actually happens and increase public understanding and support for public institutions. This bill will create the vehicle for introducing the purifying effects of public light into all meetings of Federal agencies and congressional committees.

As a member of the Committee on Government Operations I look forward to working with Senator CHILES in drafting and securing passage of this legislation.

I have had the pleasure this session of working with the distinguished junior Senator from Florida on the Committee on Government Operations. His concern for making the machinery of government more responsive to the needs and demands of the individual citizen is quite commendable. His work on legislation to create the Consumer Protection Agency provided wise counsel, and the benefit of his vast experience in government at all levels was invaluable. In the executive committee sessions, as that legislation began to take its final form, his comments and amendments were extremely useful. Much of the strength of that legislation can be traced to his suggestions in those committee sessions. In addition, his support for the underlying concepts of the legislation was helpful in explaining the bill. He is truly an example of the ideal in public officials who are responsive to the expectations of the individual citizens.

The continuous aim of such public officials is to see that the governmental machine functions as smoothly as possible, and equally to try and insure that the public citizen understands how the Government functions. This is essential if the individual citizen is to feel that he has an opportunity to affect the operation of his Government. My hope is to begin to take up hearings on this bill at the earliest opportunity in the coming session and to produce visible results.

The concept which Senator CHILES hopes to bring from his home State to Washington is quite encouraging. I think that it is but another example of ways in which the Federal Government can be improved by practices and procedures developed and tested on the State and local level. I have no doubt that the experience which Senator CHILES has had with open governmental practices in Florida will be of invaluable assistance as we transplant the process to Washington soil. I again congratulate the distinguished Senator from Florida and repeat my enthusiasm as I look forward to working with him in developing this legislation.

I would like to add that the approach which S. 3881 reflects in its attempt to open the operations of government to the public is very much like that which has been developed in S. 3970, which Senator PERCY and Senator JAVITS and I have sponsored. The aim of that legislation is also to make the operations of government more responsive to the public by the creation of a public advocate for consumer interests. I am encouraged that such legislation as these two bills is being developed to make the Government responsive and comprehensible to the public.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Under the previous order, the Chair recognizes the Senator from Wisconsin (Mr. PROXMIRE) for not to exceed 15 minutes.

REPORT OF THE McGOVERN PANEL ON NATIONAL SECURITY

Mr. PROXMIRE. Mr. President, yesterday a group of American citizens supporting Senator McGOVERN's position on defense convened a panel to discuss his defense proposals vis-a-vis the administration's. That panel is made up of a most impressive group of Americans, including Chairman Paul C. Warnke, former Assistant Secretary of Defense; Clifford L. Alexander, Jr., former member of the National Security Council staff; Clark M. Clifford, former Secretary of Defense; Charles L. Schultze, former Director of the Bureau of the Budget; Herbert Scoville, Jr., former Deputy Director, Central Intelligence Agency; Gene La Rocque; Lt. Gen. James M. Gavin, former U.S. Ambassador to France; Floyd Smith, president of the International Association of Machinists and Aerospace Workers; and a number of other very distinguished, outstanding Americans.

I ask unanimous consent that the entire list of the panel members and the report be printed at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. PROXMIRE. Mr. President, the defense policies of the Nixon administration are bringing this Nation to the brink of serious military and financial crisis.

Because of mismanagement and waste, the Pentagon has already priced itself out of some areas of the weapons market. The Pentagon is not able to purchase the kinds and the numbers of weapons required for national defense due to the squandering of billions of dollars on gold-plated, overpriced, and unnecessary gadgets.

Now a similar mess is occurring in the area of military manpower. The administration is abandoning the draft, but it is not abandoning the wasteful and foolish manpower policies that made the draft inefficient as well as inequitable.

As a result, we are fast approaching the time when we will not be able to afford the military manpower that is required for defense. If the present trend continues, we will soon price ourselves out of the manpower market as well as the weapons market.

A basic and thoroughgoing reform of the Department of Defense and of defense policy is needed if we are to avoid the twin catastrophe that confronts us.

There have been many opinions expressed on the distinguished Senator from South Dakota's position on defense. I think much of it has been understood, and some of the criticism has been misguided, but Senator McGOVERN is the only candidate who has set forth, in specific detail, a blueprint of exactly what he thinks is wrong with our operations and has submitted also an alternative proposal.

This is most constructive. It is unfortunate that it has not been given the attention it deserves. Whether one disagrees—and I am sure that, for good reasons, many people, in good conscience, disagree with what Senator McGOVERN has proposed—the fact that he has offered a detailed blueprint I think deserves commendation.

Senator McGOVERN has proposed to reform defense policies while retaining and refining our essential military strength. I believe the kinds of changes that Senator McGOVERN has urged can actually increase our military strength and improve our real national security. I say that although I have also made it clear that I disagree with Senator McGOVERN on some of the specific proposals he has made, I think he cuts too deeply, but I think that can be reconciled, as I shall point out a little later.

When you slice the fat and eliminate the waste in an organization, you do not weaken it—you strengthen it.

Straightening out the procurement mess and shaping up manpower policies will save the taxpayers billions of dollars and contribute to a leaner, tougher Military Establishment.

The problem of cost overruns in weapons has grown steadily worse under the Nixon administration. The C-5A, the F-14, the Cheyenne helicopter, the LHA, the Gama Goat, the B-1 bomber, the Safeguard ABM, and numerous other major programs involving billions of dollars in cost-overruns, technical performance failures, and schedule delays have found safe refuge under the present administration.

Today, we are spending more and receiving less for our procurement dollar than ever before.

The General Accounting Office's report that 77 weapon systems are now estimated to cost $28.7 billion more than was originally planned, and that had the quantities of many of those weapons not been reduced, because of the cost squeeze the overrun would have totaled nearly $40 billion, is a record of unparalleled Government mismanagement.

In the military manpower area, the problem known as "grade creep" together with other inefficiencies threaten to defeat the purposes of an all-volunteer army.

You know, Mr. President, it is a shocking fact that there are more three-star and four-star generals and admirals in uniform today than there were during World War II when there were 12 million persons in the armed services compared to 2.4 million on active duty today. There are 5,000 more colonels, lieutenant colonels, Navy captains, and commanders today than there were in 1945 despite the fact that there are about one-fifth the number of men and women in the armed services today than there were then.

Support combat ratios are equally out of line. According to the Brookings Institution only about 15 percent of the military personnel have a combat job with the primary mission of firing weapons at the enemy. The remaining 85 percent provide support services.

The Military Establishment today is dependent upon gold-plated weapons which cost too much and too often do not work and with a manpower force that is top heavy with top brass.

These are some of the reasons why I believe we are paying more dollars for defense, but receiving less defense for our dollars under the Nixon administration.

What can be done to bring about the changes that are needed to streamline our forces and to enhance national security?

The first priority, in my judgment, is to get the fat out of the system, and to do this we have to make substantial cuts in defense spending. I do not believe we can reform military policy if we continue the lavish, gold-plated, brass-topped spending that makes military excesses possible.

Second, we have to make hard decisions about specific programs. We are not going to improve procurement by floating phrases such as "fly before you buy" at the same time that we shy away from difficult reforms, and do not follow a fly-before-you-buy policy.

We need to restore maximum competition in the awarding of defense contracts, instead of simply "negotiating" them with an elite group of favored giant firms.

The fact is that we now have the smallest percentage of procurement by advertised competitive bidding we have had in 20 years. As Admiral Rickover has testified, negotiated bidding costs an average of 20 percent more than advertised competitive bidding. It is hard to get advertised competitive bidding; you have to break your weapons systems down into smaller components. But it can be done, and the savings can be substantial.

We need to develop prototype weapons whenever feasible and to test and evaluate them before deciding to go ahead with production. The administration has only given lip service to this concept.

The administration has said that they believe in a fly-before-you-buy policy, but they have ignored it in weapons system after weapons system.

The Pentagon ought to be required to follow a strict truth-in-procurement policy. Requests for new weapon programs ought to be accompanied by candid, realistic estimates of their full long-term costs, before Congress is asked to approve and fund them.

We ought to establish a full-time professional corps of program management and procurement officials and make them responsible for the acquisition of weapons, instead of appointing political hacks and rotating military personnel for short tours in the complex business of defense contracting.

You know, what is wrong is that we have people come in to handle our procurement after having served for years at sea with a fleet, or having served in a capacity overseas with the Air Force; they come in and are given the job of being top procurement officials when they do not have the background or the professional expertise. They expect to retire within a few years, and unfortunately, as we have disclosed, a very large proportion go to work in the defense industry itself. Yes, there is both a lack of professional competence and a conflict of interest.

We ought to have complete records and a central inventory of all major weapon programs and an information system so that Congress and the public can know the status of those programs. Problems have often been concealed from Congress and the public until it became too late to do anything but pay for the mistakes.

Just a few minutes ago, the Senator from Oregon and the Senator from Florida were discussing the importance of opening up our legislative program more to the public, and I could not agree with them more. But certainly the procurement situation should be opened up to the public, too, and far more than it has been.

Exhibit 1

Report of the McGovern Panel on National Security

presented by

Co-Chairmen: Paul C. Warnke, former Assistant Secretary of Defense; Clifford L. Alexander, Jr., former member of the National Security Council staff; and Herbert F. York, former Director of Defense Research and Engineering.

Vice Chairmen: Clark M. Clifford, former Secretary of Defense; Charles L. Schultze, former Director, Bureau of the Budget; Herbert Scoville, Jr., former Deputy Director, Central Intelligence Agency; Gene La Rocque, Rear Admiral, U.S. Navy (retired), former Commander, Carrier Task Group, Sixth Fleet; James M. Gavin, Lt. General, U.S. Army (retired), former U.S. Ambassador to France; William Proxmire, United States Senator; and Floyd Smith, President, International Association of Machinists and Aerospace Workers, AFL–CIO.

Executive Director: John Silard.

Executive Secretary: Reuben McCornack.

Advisory Committee: Joel Bergsman, Economist, The Urban Institute; Bill Broydrick, Legislative Assistant to Representative Les Aspin; Adrian S. Fisher, former Deputy Director, U.S. Arms Control and Disarmament Agency; Sanford Gottlieb, Executive Director, SANE; Ross Hamachek, defense analyst, attorney; Richard Kaufman, attorney, economist; Edward King, Lt. Colonel, U.S. Army (retired); Josephine Pomerance, Co-Chairman, Task Force for the Nuclear Test Ban; and Walter Slocombe, attorney.

panel members

The following people have been consulted in the drafting of the Report of the McGovern Panel on National Security and concur in the general conclusions of the report:

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I. The Nature of National Security

(Presented by Vice Chairman Clark M. Clifford)

Military power is essential to our national security. But national security does not rest exclusively or even primarily on that military power. To think and act as if it did, in today's world and with today's problems, is delusive and destructive. The Nixon Administration's conceptions of national security and foreign policy reflect this fallacy.

We continue to meet military strength to prevent any possibility of attack on our own territory or on allies whose independence contributes to our safety and well-being. But the forces we need for this purpose can be armed and maintained at a cost significantly less than that which we now pay. There must be a new and searching look at the uses and limits of military power, for this is the prerequisite to achieving a new and sensible ordering of priorities and to avoiding the folly of excessive reliance on armed might as an instrument of foreign policy.

Our international influence is best achieved by the attention our society exerts upon other nations, particularly upon those who now grope for an identity and political form of their own. But unless we find and use the funds that are necessary to deal with our own pressing social, economic and environmental problems, we will be unable to regain the common sense of national purpose, the trust and confidence in each other that are the foundations of our true security. If we cannot again become a society that operates effectively to ensure the health and welfare of all our people, we will cease to attract other nations and thus forfeit our influence.

We cannot cope with our internal problems in the final quarter of the Twentieth Century if we continue to devote the major share of controllable federal revenue to military purposes. Nor are dollar costs alone the most damaging aspect of the present trend. The more ominous consequence of the great increases which will be built into future defense budgets if we embark upon the new, unnecessary weapons programs now proposed by the Nixon Administration in that they can be rationalized only by resort to unreal hypotheses and by evoking baseless fears.

Our mounting domestic difficulties will not go away. If we ignore them because we are transfixed by the remote risks of external aggression and the even more remote danger of penetration by an alien ideology, our national security will indeed be in grave danger. If, instead, we demonstrate the wisdom to take a proportioned view, to maintain those arms and armed forces actually needed to meet any realistic threats to our physical security, we will find the strength to deal both with these threats and with our corrosive domestic problems as well.

A sound start toward this objective is to abandon the mindless rhetoric that now dominates much of the debate about military spending. The Nixon Administration suggests that less lavish expenditures would make us a second-rate power and would eliminate our ability to negotiate effectively with our international competitors. It characterized any attempt at significant reallocation of federal funds as a turn toward isolationism that would endanger world peace. Such loose charges rest on an outmoded and unsound concept of the role of military force in the modern world. We are a first-rate power not only because of our military might, but because we combine vast and diversified economic and technical strength with solid yet flexible democratic institutions. We have more than adequate military strength to preserve our status. What we need is to pay more attention to the future of our political and economic institutions. The Nixon Administration, however, continues to burden our economy with inordinate defense expenditures based on its erroneous assumption that mere military power can achieve peace and stability.

Implicit in the Nixon military planning are three outmoded conceptions about our national security and the military power we need to protect it:

1. that it is our responsibility and destiny

to undertake *unilaterally* the policeman's role throughout the world;

2. that our military might should play a decisive role in influencing the political development of other nations;

3. that numerical superiority in weapons connotes, in itself, an improvement in national security.

History has given us special responsibilities in Europe and Israel—responsibilities we will never abandon. Nor can we ignore our formal commitments to Japan, Korea and other nations, even though time has altered their significance. Our commitment to NATO is fundamental and should be supported by American forces sufficient both to deter attack and to maintain the sense of confidence in Europe that attack is remote. With our military aid and in the absence of Soviet intervention, Israel has shown the ability to take care of itself. Present developments on the Korean peninsula give hope that this lingering sore may at last be healed. Japan grows steadily more capable of self-defense except against the nuclear threat. If civil or local war should break out elsewhere, we should make manifest our national interest and concern through diplomatic representations, offers of mediation, economic assistance, and support for multilateral peacekeeping initiatives sponsored by the United Nations. But beyond these steps, military restraint by the United States can do far more to restore stability to troubled places than any indulgence in the pernicious notion that through the use of American armed force we can effect a better, more democratic situation.

We have been told by the President that America must remain the "peacekeeper in the Asian world." And in his recent appearance before the Republican Convention's Platform Committee, Defense Secretary Laird urged there be no "abandonment of the nation's role in helping to maintain peace." We have indeed a responsibility to help in maintaining peace. But it is a responsibility that can rarely be discharged by the introduction of American firepower. Long and painful experience suggests that this leads not to peace but to political dependence, agony and devastation for small countries and to the dire risk of confrontation between the nuclear powers. The time has surely come to renounce any American right or duty to use military force in other peoples' internal quarrels. We have no manifest authority from mankind to impose our brand of justice as we see fit.

The second outmoded concept of national security is that American armed forces should play a decisive role in the political development of other nations—in particular, that it can be effective in arresting tendencies toward acceptance of a Communist form of government. There was once a time, following World War II, when the spread of Communism was synonymous, or nearly so, with the spread of Russian power. But that time is long since past. At least since the Sino-Soviet split in 1957, Communist ideology has been increasingly a relative doctrine, showing itself in widely differing forms, usually in countries with rigid socio-economic structures or vast disparities between rich and poor. Manifestations of Communism in the contemporary world are not necessarily related to Soviet or Chinese power. From these facts we need to derive two policy guidelines: First, the threat to us arises from Soviet, and to a lesser extent from Chinese, power; Communist ideology unconnected to Russian or Chinese power is not a serious threat, however baleful we may regard it. Second, like all other ideas, the Communist idea cannot be suppressed by military force. It can be defeated by a better idea.

Our nation has been slow to recognize these important distinctions. Even after the fragmentation of the Communist movement was far advanced, we feared the spread of national liberation wars in which insurgents (often calling themselves Communists) might, with outside help, overthrow Westward-looking governments. In response we developed doctrines and techniques of counter-insurgency and cast ourselves in the role of shoring up all such governments, no matter how dictatorial or corrupt, because they were faced with internal rebellion that called itself communist. Painful experience has now shown us that where a government sympathetic to the United States cannot maintain a broad base of support, even with our economic and military aid, in intervention of American troops is not a solution to its political problems. *A government that is not safe from its own people cannot be saved by American military force.*

Yet immediately after propounding the ambiguous Nixon Doctrine in Guam in 1969, President Nixon told Thailand's military rulers that America would be proud to stand with that government "against those who threaten it from abroad or from within." And reports from Defense Secretary Laird have in the past listed "political agitation" and "insurgency abroad" as threats our armed forces must be prepared to counter. This year's statement omits any such explicit reference, but we still hear disquieting suggestions of the need to cope with "less sophisticated forces" and "the ever-present danger of modern revolutionary warfare." Such expressions look too much like mirror images of the Brezhnev doctrine by which the Kremlin seeks to justify military intervention in Eastern Europe when internal developments threaten the doctrinal purity of another socialist state. A budget which aims at the capability to meet such objectives is not only excessive—it is incompatible with our national security.

The place for ideological competition is not the battlefield but in the free marketplace of ideas and in the quest for social and economic advances. In that arena we can compete with confidence and pride. Our Declaration of Independence affirmed the right of a people to alter or abolish its form of government. No foreign government should look to us for protection from internal change. Counter-insurgency is neither a workable nor a worthy purpose for the application of American military power.

Our collective security arrangements with certain nations help to prevent the proliferation of nuclear weapons and reduce the danger of war. But the maintenance of these arrangements does not require us to intervene in every local conflict throughout the world in a futile attempt to demonstrate the credibility of American security guarantees. It is a false and dangerous doctrine that every local triumph of revolutionary groups somehow weakens the security of Japan, Israel and Western Europe, and therefore demands our intervention. Indeed as Vietnam has amply demonstrated, undertaking such ventures diverts our energies and attention away from building lasting relationships with our allies and ends up weakening the fabric of international relationships upon which our security ultimately rests.

The third outmoded concept is the attribution of political value to the possession of military hardware far in excess of any practical purpose. Repeatedly, the Nixon Administration has claimed political as distinguished from military value for our profligate defense expenditures. We are told that, regardless of the enduring reality of the strategic balance, the mere appearance of Soviet numerical advantage in any weapons category could have a debilitating effect on our foreign policy and would erode the confidence of our allies. We are, for example, urged to worry about the increased number of sailing hours chalked up by the Soviets in the Mediterranean, and this becomes an argument for adding to an American naval capability there that already dwarfs that of the Soviet fleet.

Where a numerical advantage or disadvantage in any part of the arms arsenal is without military meaning, it can have a political meaning only if we give it one. The present attempt to maintain an American edge across the entire range of weapons grossly distorts our allocation of available resources, yet nothing is added to our national security. The Soviet Union has shown it can endure the fact that we have 16 aircraft carriers and they have none. We can surely endure numerical inferiority in certain weapons categories without danger to our real security. Such asymmetry is explicitly recognized in the Interim Offensive Agreement. Indeed the idea of total symmetry is unreal. Our present strategic deterrent is more than adequate for the present and foreseeable future. It is more than adequate to serve as a basis for further SALT talks that are aimed at further control and reduction of strategic arms. These facts would be quite apparent if the Nixon Administration would simply stop "poor mouthing" our capability and viewing the near-term future with spurious alarm.

This report shows that the current U.S. course is the wrong course. It also outlines a new approach to national security. Those who argue that this new approach means a return to isolationism are deceived by their own narrow definition of our national security and of the policies needed to ensure it. For just as our national security itself means more than military power, so our interest in the world and in the preservation of world order involves much more than foreign bases and troops abroad. A pervasive involvement with other nations in trade, in investment and in monetary arrangements is not isolationism. On the contrary it constitutes the basic fabric of world order. We need strong and ready armed forces, but we also need realistic recognition that our armed forces constitute only a moderate part of our international influence and prestige. Only through such recognition can our defense budget be brought within more reasonable bounds.

The following sections of this paper outline our national security needs and how they can be met. The first deals with this stultifying impact of our present military expenditures on our domestic economy and our domestic programs. Next discussed is the vital issue of Strategic Nuclear Forces and what we need to be sure they are never used. Our requirements for General Purpose Forces are then reviewed in the context of what is necessary to deter or meet any military assault on our vital interests. The key issue of military manpower is considered against the current background of poor morale and an unsatisfactory ratio of combat to support forces. The enormous waste and the urgent need for reform in weapons development and procurement are then detailed.

Finally, this report deals with the question of converting to more peaceful and productive uses those industrial facilities now unnecessarily devoted to production of weapons of war. The Nixon Administration seeks to frighten the workers of America into the belief that our economy cannot stand peace. This Marxist notion that a free economy requires the artificial stimulus of war has no legitimate place in our political debate. The genuine needs of our society can be met only if we muster all available talent and technology. These precious assets should not be squandered on the making of arms that yield us no return.

II. THE MILITARY BUDGET AND NATIONAL PRIORITIES

(Presented by Vice Chairman Charles L. Schultze)

Even a society as rich and productive as the United States does not have the materials, machinery and scientific talents we devote to military purposes, the less we have available for building schools, taking vacations, cleaning up pollution, providing health care, or creating more livable cities. Aircraft carriers and nuclear missiles are costly because they use resources which could otherwise be employed to produce needed goods and services. Outlays for military forces represent tax dollars which might have been left in the hands of private citizens to spend on their own needs, or which might have been employed to meet pressing needs for public services. Americans are willing to make the necessary sacrifices to buy the forces required to provide for the nation's security. But no American should be asked to contribute his hard earned tax dollar to financing unneeded weapons and expensive boondoggles.

Overspending on weapons and armies is more dangerous than overspending on peacetime goods. If we build too many schools or develop to many national parks, we may indeed be able to meet less of our other needs than we should. But at least the extra schools and parks are good and useful things. Excessive military spending, however, does not give us more national security than we need. Beyond a certain point, increased military spending sets off another round in the world arms race, at the end of which both we and other nations will have less, not more, security against attack and destruction.

At the present time over 30 cents of every federal tax dollar goes directly into military spending, and another 10 cents is neded to pay the budget costs of past wars (veterans' benefits and interest on the debt). This year (fiscal 1973) the military budget alone will cost the American taxpayer $78 billion—not counting the additional $5 billion paid out for interest and veterans' benefits stemming from past wars. The 78 billion dollar military budget each year:

Amounts to over $1,200 for every family in the United States.

Is twice as much as federal, state and local governments together spend on grade school and high school education and fifteen times what the federal government itself spends on such education.

Would pay *eight times* over what government and industry spend each year to clean up air and water pollution.

The future course of military spending, as planned by the Nixon Administration, will add dramatically to these huge costs. The current crash military program calls for a massive step-up in spending on new weapons in almost every category, from nuclear missiles to aircraft carriers to airplanes. Under these plans military spending will reach $100 billion by 1977, a rise of almost 33 percent in four years.[1] The current Nixon budget provides the first installment for this expansion, by asking Congress for a $7 billion increase in military funds.

The current Administration's military budgets pose, in starkest terms, the choice between buying unneeded military weapons and meeting high priority domestic needs. In spite of a strategic arms treaty, a thawing of cold war hostilities, and its own expressed concerns about "excessive government spending," the Administration has launched a new round of escalating military budgets. What will this unneeded crash military program of the Nixon Administration cost the American people:

The $22 billion *increase* in annual defense spending now contemplated by the Nixon Administration by 1977 equals $350 for each and every family in the United States.

The increase alone could: (i) pay for an allotment of $15 per pupil to improve the quality of education and alleviate the burden of local property taxes devoted to schools; *and* (ii) finance the entire cost of the federal grant program for sewage disposal points; *and* (iii) with the money left over pay for all the costs of the currently proposed revenue sharing program for state and local governments.

Every unneeded B–1 bomber with the Administration proposes to buy will cost $50 million; with the money for just *one* bomber, some 1500 poor and moderate income families could be provided the assistance to own or rent decent housing for thirty years.

Every Trident submarine and every nuclear aircraft carrier will cost over $1 billion apiece—the cost of each one would pay for a new mass transport system for a major city.

Each F–14 fighter plane will carry six air-to-air missiles costing one-quarter of a million dollars apiece, so expensive that they can hardly ever be fired in practice: a load of missiles for a single F–14 would pay for a year's Head Start Program for 1000 disadvantaged children.

Unneeded weapons, excessively complicated, and uncertain to work effectively when the crunch really comes, padded by cost over-runs and expensive gimmickry, do not add to the national security. And because modern weapons have become so costly, every one of them takes a massive toll of the taxpayer, either in extra taxes he must pay or in truly vital public services he must do without.

At the same time that this huge and unnecessary expansion in military spending is being put in motion, the Administration has been wringing its hands over increased domestic federal expenditures, claiming that growth in federal civilian outlays has caused the inflation. While his Secretary of Defense is browbeating Congress for a $7 billion increase in military appropriations, President Nixon vetoes an appropriation bill for health, education and welfare because it contains $1.8 billion more than he recommended. In the words of the Nixon veto message. "Exceeding my budget recommendation by $1.8 billion, this bill is a perfect example of that kind of reckless federal spending that just cannot be done without more taxes or more inflation. . . ." Apparently $1.8 billion for aid to central city schools, mental health, community health grants and medical research is inflationary while a $7 billion increase for piling arms on top of arms is not. (In fact, in the case of school aid and mental health, the original Nixon budget did not even provide enough money to cover the erosion inflicted by inflation.)

The Administration lobbied vigorously and used every influence it could muster to initiate the crash development of the new Trident missile submarine, even before the latest improvements have been completed on existing submarines. The crash nature of the program poses grave risks of bottlenecks and technical failures and huge cost overruns and will add about $2½ billion to the military budget each year for many years to come. Yet, at almost the same time, President Nixon vetoed a child care and child development bill aimed at providing decent day care arrangements for the children of working mothers.

The Administration has given a clear view of where its priorities lie. Through a combination of misguided budgetary and economic policies it incurred a budget deficit of $23 billion in the fiscal year just ended, is well on its way to a record-breaking deficit of over $35 billion this year, and faces the prospect of large deficits in fiscal years 1974 and 1975. At the same time it has committed itself to a major new expansion in the arms race, adding tens of billions of dollars to the budget. Confronted with the deficit-producing consequences of its past economic policies, worried about the political consequences of inflation, but still obstinately committed to major increases in the military budget, it has chosen the only strategy left open. By pressure on Congress, vetoes of civilian appropriation bills, and a constant drumfire of talk about "excessive spending," it first seeks to cut back domestic programs. But knowing deep down that this will not succeed—it is also seeking to blame the Congress for the eventual tax increase which its own military spending will inevitably require—after all the $1.8 billion "saved" by vetoing the HEW appropriation bill is only one-fourth of this year's $7 billion rise in military appropriations.

ARE LARGE DEFENSE BUDGETS NEEDED FOR ECONOMIC PROSPERITY?

Full employment and prosperity do not depend upon large outlays for defense. There is no law of nature or of economics which says that workers producing airplanes must produce those airplanes or nothing else; that returning Vietnam veterans can do nothing else but soldier. Workers are employed because their employer can sell the goods or services they produce. If military procurement is cut, the demand for peacetime goods and services—public and private—must be correspondingly raised to harness the released work forces to meet tangible domestic needs. The federal government has the responsibility and the means to make sure that the necessary peacetime markets are, available, and that adequate transition measures are provided for those whose jobs are affected during the periord of change. When the demand for swords abates, the demand for plowshares can and must be increased.

Time and again over the past three and a half years, the Nixon Administration has blamed rising unemployment and a sagging economy on cutbacks in military spending and lower combat activity in Vietnam. Unemployment is the price of peace, according to this view. It is the same view espoused by Marx and Lenin, who preached that the free enterprise system would collapse without the stimulus of heavy arms spending. This view of free enterprise is just as false coming from a Republican administration as it was coming from Marx and Lenin.

There are two basic elements of a policy to make sure that military budget cutbacks do not lead to unemployment:

1. As fewer dollars are spent on military goods, additional dollars must be promptly channeled into the purchase of peacetime goods. The government has three ways of ensuring that this will happen. First, dollars cut from the defense budget can be used for other high prioritry public needs—better schools, pollution abatement equipment, national park development, urban transit, and the like. Every dollar so devoted will lead to the hiring of women and men by an equal—indeed in most cases by a larger—amount than the corresponding defense dollar. Second, dollars cut from the defense budget can be handed back to the taxpayer in various forms, so the taxpayer can spend the money to buy more of the things he or she needs. Greater demand for automobiles, appliances, clothing, and recreation will lead to higher employment. Third, by pursuing a policy of low interest rates, the government can stimulate the building of houses and an expansion of private investment, both of which lead to greater employment and earnings.

The proper mixture of additional public spending, tax cuts, and monetary ease designed to offset the impact of lower military spending is a subject over which reasonable people can differ. But whatever the combination, the federal government can insure the additional markets for peacetime goods and services which will guarantee productive employment for those previously turning out weapons of war. Indeed, conversion from a war to a peace economy need not be an occasion of unemployment. It can be a welcome opportunity to employ women and men in producing the goods for a peacetime economy to enjoy.

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[1] *Setting National Priorities: The 1973 Budget*, Brookings Institution, Washington, D.C., 1972.

2. An additional set of policies which must be adopted to accompany reductions in military spending encompasses conversion measures for specific localities and particular skills. Even when the government undertakes actions to stimulate overall markets and employment, it will still be necessary to deal with special problems which arise in areas heavily dependent upon defense contracts and among workers with special skills. It is neither fair nor efficient to make a few workers pay all the costs for a conversion program that benefits the entire nation.

Both of these policies require advance planning. It takes time to plan and launch new peacetime public ventures. Monetary policy acts to stimulate housing and investment only after some time lag. Consequently, reductions in military spending and the offsetting measures to stimulate peacetime markets must be carefully scheduled in advance, so that as the one is reduced the other is increased in a timely fashion. Waiting until military spending has been actually cut back before beginning the counter measures is a policy guaranteed to result in unemployment.

The Nixon Administration refuses to engage in such planning. The prior Administration had developed a series of plans for dealing with defense cutbacks, through a special planning committee headed by the then Chairman of the Council of Economic Advisors. The Nixon Administration ignored these plans and did not develop any of its own. As a consequence of neglect by the federal government, hundreds of thousands of defense and aerospace workers—as well as returning Vietnam veterans—have been added to the already swollen ranks of the jobless. For the first time since the United States became an industrial giant, the citizens of a Japanese city (Kobe) have donated a ton of foodstuffs to needy Americans in Seattle. Many of the recipients were unemployed scientists, engineers, and technicians; an estimated 100,000 of these highly-skilled professionals are now needlessly jobless throughout the country.

The response of the Nixon Administration to this situation has been to blame unemployment on the "transition from a wartime to a peacetime economy," while giving no advance notice of layoffs, providing no leadership to the concerned groups, and offering miniscule but highly-publicized retraining programs to a handful of unemployed scientists and engineers. The full burden of layoffs has fallen on the employees and their communities. But it was not the cuts in military and aerospace spending alone that caused the present high unemployment. It was the cuts, combined with an anti-inflation program that sacrificed workers' jobs in an attempt to stabilize prices, and combined with inexcusable refusals to do anything but "rely on the free market economy" and on inadequate unemployment compensation to assist unemployed workers in making the transition to other jobs.

Our plans for insuring a fair and prosperous transition to a less wasteful level of military spending are set forth in a subsequent section of this paper.

There is one special aspect of the military procurement budget which is sometimes used to justify unnecessarily high defense spending. Because there is often a very large scientific and technological component to modern weapons, it is alleged that their production stimulates technological advances and thereby benefits the rest of society. To a limited extent that is true. But production and deployment of technically advanced weapons is an exceedingly inefficient way to provide for civilian technological improvement. If we want to find out something about technically advanced mass transit systems or novel pollution control methods, we are far more likely to do so by devoting research dollars to those specific purposes than by giving dollars to the Pentagon for more overkill in nuclear weapons and hoping that somehow, something with peactime uses may result. The only reason that defense spending seems to benefit civilian technology is that we have been much more willing in the past to lavish money on defense than on civilian research.

Developing a specific program to channel part of those defense dollars into peacetime purposes would not only help meet some of the nation's most pressing problems, it would also provide highly useful employment to scientists and engineers previously engaged in defense production.

CONCLUSIONS

In 1953, President Eisenhower warned that:

"Every gun that is made, every warship launched, every rocket fired, signifies, in the final sense, a theft from those who hunger and are not fed, those who are cold and are not clothed.

"The world in arms is not spending money alone. It is spending the sweat of its laborers, the genius of its scientists, and the hopes of its children . . . This is not a way of life at all, in any true sense. Under the cloud of threatening war, it is humanity hanging on a cross of iron."

Mindful of those warnings, we conclude that:

1. It is now more clear than ever that we must eliminate unnecessary military spending if we are to achieve sustained full employment and true security.

2. Under the current programs of the Nixon Administration the military budget will expand dramatically over the next several years, increasing by $22 billion and reaching $100 billion per year by fiscal 1977.

3. The true cost of that expansion lies in the urgently needed public and private goods and services which will have to be foregone to pay for unneeded weapons and forces.

4. Given the military priorities and budget policies of the Nixon Administration, both inflation and a tax increase will shortly become inevitable.

5. The Administration is seeking to avoid the onus of such an increase by attempting to blame growing civilian expenditures for budgetary problems, which in fact have been created by its military priorities and high-unemployment economic policies.

6. Presidential vetoes of civilian appropriation bills will damage important social programs, but will not "save" enough to avoid the inflation and tax increase towards which Administration policies are headed.

III. STRATEGIC ARMS

(Presented by Vice Chairman
Herbert Scoville, Jr.)

BASIC OBJECTIVES

The overriding objective of the United States strategic arms policy must be to insure that nuclear warfare never breaks out. In the less than thirty years since the destruction of Hiroshima and Nagasaki by two fission bombs dropped by slow propeller-driven aircraft, the United States and the U.S.S.R. each have deployed more than 1,500 strategic ballistic missile delivery systems equipped with several thousand fusion devices that cannot be recalled once launched or intercepted by the other side. This is the chilling reality of the present nuclear age. A strategic nuclear exchange between the U.S.A. and the U.S.S.R. would mean the end of both countries and at least the northern hemisphere as we know it today.

Absolute defense against nuclear attack is impossible, and, given the destructive power of even a few nuclear weapons, a partial defense is of no value. The basic mission of the U.S. strategic forces is thus to prevent devastation by deterring nuclear aggression. This means maintaining the unquestionable ability to absorb a first strike and retaliate with enough force to inflict unacceptable damage in return, thus preventing nuclear war against the U.S. by making it an act of national suicide for the aggressor.

Agreements for arms control—properly negotiated and carried out—are an important step in reaching the basic objective of mutual nuclear deterrence. The SALT agreements—agreements which are based on preparations begun under Democratic leadership but which were delayed by Nixon tactics—could be such a step. By placing formal restraints on certain offensive and defensive strategic nuclear weapons systems, they could make possible further restraints—either informally, through mutual restraint, or formally through SALT II agreement. The Nixon Administratoin, however, seems determined to use the SALT agreements as a hunting license to step up the arms race in all areas not strictly covered by SALT. At best this course of action is a misguided approach to the objectives of the U.S. in the field of strategic arms. At worst, this course of action is a cynical perversion of the purposes of the SALT agreement. In either event, it has the effect of a sabotaging of the major bi-partisan effort to reduce the intensity of the arms race by using it as an excuse for intensifying the arms race. It is tragic that this process was begun before the ink was dry and has continued throughout the process of ratification.

The potential advantage of the SALT agreements is that they recognize the existence of *mutual* deterrence. To support the objective of mutual deterrence, we must not only have the forces necessary for a secure deterrent, but we must adopt a national attitude and program which understands and recognizes the present strength of that deterrent on both sides and does not appear to undercut the security of the Soviet deterrent or to belittle the strength of our own.

Having at last achieved—through SALT—a recognition that world security rests on enduring mutual deterrence, we must not now use the agreement as an excuse for embarking on the development of new weapon systems which can only feed a new arms race and thus undermine enduring mutual deterrence. Take, as one illustration, the Multiple Independently Targetable Re-entry Vehicles (MIRV's). The U.S. originally embarked on its program for developing MIRV's because of a concern that a massive Soviet ABM deployment might neutralize our strategic power and thus erode the security of our deterrent. With ABM treaty in the SALT agreements, this cannot happen. There is therefore no reason for us to develop more advanced MIRV systems. There is every reason for not doing so because this could persuade the Soviets that we are attempting to develop a first-strike capability and threaten the very viability of SALT.

At the same time we should not belittle the strength of our own deterrent. We have recently been subjected to a stream of misleading statements of U.S. weakness or inferiority, based on meaningless numerical comparisons. It may well be that the Soviets see these statements as what they are—crude attempts to blackmail the Congress and the public into approving funds for many additional weapon systems. But should the Soviets take these official statements seriously—a possibility which we cannot exclude—they may believe we have doubts about the credibility of our deterrent—a belief that might encourage adventurism on their part. A graver risk is that this false "calamity—howling" will confuse and alarm our allies. It should stop.

The Nixon Administration gives a variety of excuses for its strategic weapons acceleration. Some of its spokesmen profess their adherence to the concept of nuclear superiority. But nuclear superiority has little meaning when both the U.S. and the U.S.S.R. can kill tens or hundreds of millions of people even after having been subjected to an all out surprise attack. Today, both sides have and can retain strategic parity; at the same time, it is doubtful if either side has or can ever have precise numerical parity. Strategic parity is a situation in which neither can attack the other without receiving a devastating blow in response. In strategic parity neither side can disarm the other by means of a first strike.

Today, both the U.S. and the U.S.S.R. have a parity of this kind. The U.S. has in the neighborhood of 6,000 strategic nuclear warheads which can be used to attack targets in the Soviet Union. More than 3,000 of these can be launched from submarines which are invulnerable for the foreseeable future. As of today, the Soviets have no way of destroying our landbased missile deterrent, and an important fraction of our intercontinental bombers can become airborne, and therefore can evade attack, on very short notice. The primitive Soviet ABM installations cannot significantly reduce the ability of our missile warheads to reach their targets, and the ABM Treaty formally perpetuates this situation. The Russians, who possess a sophisticated offensive missile force, also have a secure deterrent in which they can have confidence. Strategic parity is a fact of life today and will remain so for the foreseeable future.

Other administrative spokesmen attempt to justify sabotaging SALT by citing the necessity of developing weapons with a counterforce capability. This would serve only to increase the risk that our people might be subjected to a preemptive nuclear attack. A serious attempt by the U.S. to develop counterforce weapons for attack on the nuclear weapons of the Soviet Union could only create fears of U.S. aggression since such weapons would be undistinguishable from those needed for a first strike. Moreover, it would violate the underlying assumptions of SALT if we seek to acquire the very weapons that we seek to preclude from the Russian arsenals. This would erode the present state of stable mutual deterrence and diminish U.S. security.

None of the rationalizations for new strategic weapons programs are persuasive. None rest on valid security grounds. This escalation could only disserve the basic objective of stable deterrence.

STRATEGIC FORCES TO MEET THE BASIC OBJECTIVES

Since effective deterrence of nuclear attack on the United States or its allies is the fundamental goal of our strategic plans, the U.S. must maintain an alert, modern, invulnerable strategic force which friend and foe alike will recognize as able to produce unacceptable destruction in a retaliatory attack. Our strategic force should be sufficiently large and varied to insure the invulnerability of the force as a whole to a first strike and its ability to respond and reach selected targets regardless of Soviet defenses. But each separate element of the force need not be invulnerable under every contingency as long as the overall deterrent is not impaired. Procurement of additional weapons, when those we have are enough to destroy the Soviet Union as an organized society, is not required merely because this is permitted by SALT. There are only 219 Soviet cities with a population of over 100,000, most of which can be devastated by a single nuclear warhead. Today we have almost 6,000 warheads and are adding to this number at the rate of three per day.

To match the Soviet Union or any nation weapon for weapon is a blind alley, not the path to security. Military security, not political expediency, should be the criterion for procurement of new weapons. Not a single one of the accelerated strategic weapons programs which the administration has sought since the Moscow Agreements can be defended on security grounds. All of them threaten the gains to peace made possible by those agreements.

The McGovern deterrent will be composed of 41 Polaris-Poseidon submarines, 1,000 land based ICBMs in hardened silos, and 200 intercontinental bombers. These forces can deliver in the neighborhood of 6,000 nuclear weapons on the U.S.S.R. with yields that range from several times to more than 100 times the power of the Hiroshima bomb.

The primary element in our strategic forces is, and should continue to be, the ballistic missile submarines. The present Polaris-Poseidon submarines are invulnerable to antisubmarine warfare (ASW) for the foreseeable future; the very nature of a system which might destroy this submarine deterrent is unknown. In the unlikely event that a new ASW development ever threatened the submarine deterrent, its deployment would require years and would be readily detected long before it threatened a sizeable fraction of our fleet and in ample time to allow for effective counter measures.

The McGovern Polaris-Poseidon force will have a capability of launching more than 4,000 warheads, each with power about 3 to 13 times that of the Hiroshima bomb, and the ABM Treaty has eliminated any concern that the Soviet Union could neutralize this deterrent power. Thus there is no military requirement for installing further MIRV warheads on this force at this time since even a small fraction of the existing force can devastate the Soviet Union. The Polaris-Poseidon fleet should be kept up to date, but the replacement now of these submarines by the new large and expensive Trident submarines is unnecessary when there is no threat to Polaris.

By 1978, when the first Trident would be available under Administration plans, the oldest of the Polaris ballistic missile submarines will have been operational only 18 years, the prime of life for a well-designed naval vessel, particularly one that is capable of extensive modernization and overhaul. Trident would be expensive. This submarine missile system would cost more than $30 billion at a unit cost of $1 billion. Moreover, building it now, when the nature of any possible future threat cannot be foreseen, could even reduce our security. The new and expensive fleet might give a false sense of security because it is not adapted to the actual threat that has arisen. It seems far wiser to wait and see what threat may develop since we will have adequate lead time if any break-through in ASW techniques in fact occurs.

The submarine missile deterrent is now supported by a force of land-based ICBMs and intercontinental bombers, but even if these should become increasingly vulnerable, there is no requirement of expensive replacements or additions. The multi-billion dollar B-1 program would add nothing of significance to our strategic strength. ICBMs and bombers play only a supporting role to the invulnerable submarine force. Furthermore, there is no reasonable scenario by which both the bombers and land-based missiles can be destroyed simultaneously.

ABM defenses of the National Command Authority at Washington, D.C., or of the ICBM site at Grand Forks, both of which are permitted but not required under the ABM Treaty, are of little value to our security. The Washington system would be similar to the Soviet Moscow defense which military authorities generally agree can be easily overwhelmed. The ability of the National Command Authority to operate effectively would not be enhanced by the additional few seconds or minutes which an ABM defense of Washington might possibly provide. The Washington ABM is of no value against the emerging Chinese threat, and at best of very little value against nuclear accidents. Despite its uselessness, the Nixon Administration has proposed to spend $3-$5 billion on its deployment. A Democratic Congress has wisely rejected that proposal. We must no longer seek parity in Russian mistakes. The ABM defense of the Minuteman site is neither necessary nor effective for protecting our deterrent in light of the Moscow Agreements. We should seek a complete ABM ban in future SALT negotiations but, whether or not this is achieved, our ABM program should be concentrated on research on better systems as a hedge against abrogation of the Treaty, rather than on the deployment of expensive hardware for which there is no need. Nor is there need to spend large sums of money for sophisticated systems of bomber defense. Now that we have recognized in the Moscow agreements that there is no workable defense against missiles this kind of expenditure is an exercise in futility.

Research and Development on strategic weapons should be supported on a broad basis so that scientific advances can be used where necessary to assure the maintenance of an effective U.S. deterrent. This objective can be obtained most effectively by a broad-based research program and by the avoidance of the commitment of large sums for final development and procurement of new weapons systems. Our present Defense R & D programs should be recast to give greater emphasis toward developments at the frontiers of science instead of spending large sums on applying technology of the past to unnecessary weapons of the future. This would be the best counter to the dangers of "technical surprise."

Sound strategic planning requires a broad base of solid information on the weapons programs of potential adversaries so that we can estimate not only present, but future capabilities in time to take any required counteraction. U.S. intelligence activities must be carried forward at a level necessary for sound unilateral weapons decisions making; and also to verify that arms limitation agreements do not jeopardize our security. Misleading use of intelligence predictions must no longer be used to inflate our military budgets or panic the country into rash military action.

ARMS CONTROL

Arms control is the most effective and least expensive way of halting nuclear escalation and thus reinforcing the stability of the mutual deterrent. Limiting the Soviet weapons buildup by agreement is far safer than attempting to acquire a capability to destroy these weapons in a nuclear exchange. It also costs less!

The Moscow ABM Treaty placed a useful limit on ABM systems, albeit at a higher level than might have been possible. By itself, this Treaty reinforces a state of mutual deterrence. The ABM Treaty should be supported and, insofar as possible, strengthened by attempting to negotiate a complete ABM ban.

The Interim Agreement on Offensive Weapons places a numerical freeze on landbased ICBM deployments and a ceiling on submarine missiles. The Interim Agreement could be a limited but useful first step provided that both nations exercise restraint in their continuing offensive weapons programs. It should be supported, but on the realistic basis that it, too, reinforces mutual deterrence and not on the unrealistic basis of President Nixon's statement of June 29th, that without the Moscow Agreements the Soviets would, in five years, have had 1,000 ABM's, 1,000 ICBM's, and more than 90 missile submarines. This misleading statement is inconsistent with all predictions as well as his own previous statements and those of other senior administration officials.

The restrictions in the Interim Agreement on replacing old missiles by new ones are quite loose, however, and indeed encourage such a practice. We should avoid this pitfall and instead exercise mutual restraint so that it may be possible to take steps to start controlling the qualitative race on strategic offensive weapons. The loopholes in the Interim Agreement must be closed, and its tacit endorsement of technological competition must be reversed. Arms control agreements must not become the excuse for escalating arms budgets. The administration requests for accelerated strategic weapons programs immediately after signing the Moscow Agreements are inexcusable in this period when our national resources should be committed to our most urgent national needs.

Every effort should be made to achieve control on MIRV's, whose acquisition by the Soviets could, if they were sufficiently accurate and numerous, cause concern that they might be a threat to the landbased portion of our deterrent. Actions taken during the last three years both in negotiations and in our unilateral MIRV deployments, and in particular our widely published plans to develop a hard target MIRV, preclude any meaningful efforts to restrict this potentially destabilizing type of weapon. Restraint in our development programs must be exercised and a realistic proposal for limiting MIRV developments must be put forward. The proposed U.S. development of an advanced accurate MIRV system for destroying hard targets such as missile silos will be of no real use to us and its only an invitation to the USSR to develop a system which at some future date might threaten our Minuteman.

The Chinese cannot for many decades develop strategic forces which could in any way threaten the U.S. deterrent: However, in time, the Chinese can acquire an independent deterrent of their own, and no military action on the part of the United States can prevent this. The best means of restraining Chinese nuclear developments will be in the area of arms control and a primary objective of our strategic policies should be to attempt to open a dialogue with the Chinese in this area.

We should negotiate a comprehensive nuclear test ban, which would not only restrain the never ending qualitative improvements in nuclear weapons, but which, together with the Non-Proliferation Treaty, would also decrease the risks that other nations will acquire them and plunge us all into a nuclear catastrophe. If serious negotiations on a test ban treaty are undertaken the pressures on China and France to join arms control discussions would be greatly increased. Despite major improvements in seismic verification capabilities and greatly decreased requirements for additions to our already large variety of tested nuclear explosives, the Administration has not changed its negotiating position on a comprehensive test ban from that which existed in 1963. The difficulty of reaching agreement for on-site inspections no longer is a reason for not negotiating a test ban. It is now merely an excuse.

The life of our submarine missile deterrent force can best be extended by negotiating controls on antisubmarine warfare techniques and tactics, which have particular application to the destruction of ballistic missile submarines. This would be more effective and far cheaper than building an expensive replacement for Polaris.

The practice of procuring weapons as "bargaining chips" for arms control negotiations must be discontinued. The true bargaining chip is the ability or threat to buy, not the purchase itself, because experience has shown that once the weapons system is acquired it is not likely to be negotiated away. It has been demonstrated by the Moscow Agreements that procuring weapons for negotiating purposes only serves either to increase the levels of the armaments on both sides, or to prevent achieving any limitation at all.

The application of the "bargaining chip" theory by the Nixon administration led to the expensive decision to commence deployment of the Safeguard ABM. As a result, the ultimate treaty permits a limited ABM which neither we nor the Soviets need. The application of the "bargaining chip" theory led to our premature MIRV development. This itself has made it difficult if not impossible to obtain agreement on a general ban on MIRV deployment. It provides a stimulus to a Soviet MIRV deployment which could again spur the nuclear arms race.

We should not make the mistake again.

CONCLUSIONS

(1) The overriding objective of our strategic nuclear policy is to deter any nation from initiating a nuclear attack against the United States or its allies. Our policy must be to obtain this objective through secure mutual nuclear deterrence. Arms control agreements—properly negotiated and carried out—are essential steps in carrying out this policy.

(2) The Moscow SALT agreements are important in that they recognize the existence of secure mutual nuclear deterrence. They should be supported by a policy of mutual restraint in those areas not foreclosed by provisions of the agreement. The agreements should not be sabotaged—as the Nixon administration proposals would do by using them as a "hunting license" for expensive new weapons systems not only rendered unnecessary by the ABM ban but also threatening the continued viability of SALT itself by persuading the Soviets that we are attempting to undermine mutual deterrence.

(3) Nuclear superiority is meaningless when both the U.S. and the USSR have today sufficient weapons to kill tens or even hundreds of millions of people. Today the two nations have a strategic parity of deterrence and this condition will continue for the foreseeable future; however, numerical parity in each type of strategic weaponry is a false goal in light of the wide differences between the two countries in technology and geographic factors.

(4) The Polaris-Poseidon fleet should not be replaced now by the Trident submarine system. This replacement is unnecessary; there is now no serious threat to the security of the Polaris-Poseidon system. This replacement would be expensive, it would cost at least $30 billion; and it could even be dangerous, since its design and deployment, before we know a future threat, could give us a false sense of safety if any unanticipated threat should develop.

(5) The two ABM systems permitted but not required under the SALT agreements do not contribute to our security and should not be developed. Our ABM program should be concentrated on research rather than on deploying expensive systems that we do not need.

(6) Weapons procurement must not become the slave to technological innovation. New weapons systems should be developed only when they implement our basic objective of maintaining a secure nuclear deterrent. Research and development should be pushed on the frontiers of science, but not for replacing today's weapons with yesterday's technology.

(7) A major effort must be made to further our national security through arms control, with particular emphasis on strengthening the Moscow agreements by placing limitations on destabilizing qualitative innovations and by bringing China into arms control discussions. The fallacious "bargaining chip theory—which" has already resulted in an unnecessary and expensive ABM deployment and a treaty permitting ABM systems which neither we nor the Soviets need—must be abandoned.

IV. GENERAL PURPOSE FORCES

(Presented by Vice Chairman Gene La Racque, Rear Admiral, U.S. Navy, retired)

Four of every five dollars in the total defense budget are used to pay for general purpose forces: ground combat divisions of the Army and Marine Corps, tactical aircraft, naval warships (except ballistic missile submarines) and the airlift and sea-lift forces required to support deployment of these elements. We should rely upon general purpose forces to deter conventional aggression by the Soviet Union or China and, should deterrence fail, to defend and counterattack.

Our general purpose force posture is plagued by waste and inefficiency. The United States should have a leaner, tougher military force, but one that is fully adequate to meet American commitments and interests in the 1970's. To do this will require that outmoded concepts and wasteful practices be jettisoned and that a new approach be taken to revitalize America's general purpose military force.

A. A NEW APPROACH TO GENERAL PURPOSE FORCE PLANNING

Planning for today and tomorrow, not yesterday. Significant political changes have taken place in the world during the past decade. Economic growth in Western Europe has continued and there has been clear progress toward a detente between our major NATO allies and the Warsaw Pact countries. At the same time, hostility between the Soviet Union and China has deepened, and a sizeable part of the increase in the Soviet military budget during the late 1960's was used to finance a buildup along its China border. We still need a strong military force to protect our interests against possible Soviet or Chinese aggression. But our assessment of the world-wide "threat"—and the forces needed to meet it—must take account of these and other significant political changes.

Policy must determine forces, not the other way around. Responsible military planning must overcome inertia and the pressures of vested interests in order to eliminate older and less effective weapon systems, excess force units, and surplus bases. The fact that the United States now has some 300,000 troops in Europe 25 years after the end of World War II is not by itself sufficient justification for retaining that number there indefinitely. Nor should we allow existing forces and bases elsewhere to create new political commitments to host countries or to generate pressures for military solutions to essentially political and social problems. We must maintain and deploy forces to meet commitments, not find commitments to justify forces and bases.

Our allies must bear their proper share of the collective burden. Most of our general purpose force expenditures are designed not to protect the continental United States against conventional attack, but to aid other countries in the defense of their own people and territory. United States interests are well served by commitments, such as those to Europe, to Japan and to Israel, and they must be honored. But we must not ignore the capabilities of our allies when we plan our own force structure. Nor should we bear a disproportionate share of the collective defense burden.

In weapons development policies, technology should not become an end in itself, and intraservice rivalries should be curbed. The military services in recent years have shown a tendency to acquire weapons which have been more noteworthy for their technological complexity than their basic military effectiveness. All too often, these excessively complex weapons have performed worse under combat conditions than the less exotic systems they were designed to replace, or the simpler weapons in the enemy's inventory.

Moreover, the high unit costs of these new weapons have a dangerous effect on our force structure. As the Senate Armed Services Committee noted last year:

"If we can afford a permanent force structure of only one-fifth as many fighter aircrafts or tanks as our potential adversaries—because our systems are about five times more expensive than theirs—then a future crisis may find us at a sharp numerical disadvantage."

We must also put an end to wasteful parochialism among the military services in the weapons procurement process. There is no demonstrable reason why each service must have its own close support aircraft, its own heavy lift helicopter, its own early warning and reconnaissance planes, and its own fighter planes. The F–4, for example, has served successfully as the firstline fighter for the Air Force, Navy and Marine Corps. Commonality must not be stressed to the point where important and incompatible capabilities are compromised, but the individual services must complement each other in defending the United States and not just compete with each other for the largest share of the United States defense budget.

Support elements for our combat forces must be in proportion to our combat capability. We have military forces for their combat capability. Support elements are justified only to the extent that they are needed to maintain that capability. At present, however, our military forces have too few fighters and too many rear echelon support, staff, and administrative personnel, and this "teeth-to-tail" ratio is out of balance. We now have assigned to top-level headquarters (corps-level and above) enough manpower to man nine additional Army divisions. This situation has grown worse under the Nixon administration because cuts in support manpower have not kept pace with cuts in combat forces.

Force planning must take account of our mobility and our potential mobilization. Geographical considerations, coupled with our naval power and airlift and sea-life capability, give us a worldwide mobility potential that is vastly superior to that of the Soviet Union or China. There can never be enough forces at any single place where fighting may start to cover every conceivable contingency. Therefore, we should deploy overseas only the forces required to make clear our determination to use military force in defense of our interests, to repel any limited conventional attack and to blunt larger attacks until reinforcements can arrive. To support these active duty forces we need a revitalized and modern mobilization capacity; this would significantly improve our overall capabilities while at the same time it would decrease correspondingly, the size of our more costly active forces deployed in the United States and abroad.

We should continue to dismantle our excessive and anachronistic overseas base and deployment structure. For example, there is no military need for our residual forces in Korea, and our commitment to the security of Japan can be abundantly demonstrated in other ways. Agreement has already been reached with the People's Republic of China to remove the troops in Taiwan. The remote threat of Soviet or Chinese aggression against our Pacific allies can be adequately deterred and, if necessary, repulsed, by our airpower and the Seventh Fleet. The greater part of the more than 125,000 military personnel still engaged in fighting the Vietnam war would, of course, be returned to the United States with the termination of that tragic and misguided involvement.

Planning should recognize the potential for arms control agreements covering conventional, as well as nuclear arms. If the United States limits its forces and deployment only to those it genuinely needs, then it would encourage other nations to exercise similar restraint, because it would be in their own interest. If our restraint is reciprocated by our potential adversaries, the forces genuinely needed by both sides will be able to decline further, and both express and tacit agreements restricting mutual force deployments should become easier to achieve. If this restraint is not matched, further reductions would have to be deferred, but the forces retained would be sufficient to safeguard our interests.

Adoption of these new force planning principles is urgently needed, but they must be carried out in such a way that disruption and dislocation will be minimized both at home and abroad. On the domestic front, this will require an effective program of economic conversion to insure that affected industrial workers and geographic areas do not alone pay the price for restoring a balance to our national priorities. Internationally, changes in forces and deployments will have to be taken gradually and in full consultation with our allies. Through careful planning and consultation, both allies and potential adversaries must be made to understand that a new approach to force planning maintains forces which are fully adequate to meet our international needs and obligations.

B. APPLICATION OF THE NEW PRINCIPLES TO THE DEFENSE POSTURE

Applying these new force planning principles to produce a detailed defense program is an immensely complicated task, and a variety of alternative programs consistent with the principles can be constructed. The following illustrative examples show how these principles might be applied to specific elements of America's general purpose forces.

Tactical Air Capabilities. Increased emphasis should be placed on the most important tactical air missions: battlefield air superiority and close air support. Deep interdiction of logistics and communication lines, the limited effectiveness of which has been amply demonstrated in Indochina, should be relegated to a subordinate role. The ability to meet these high priority tactical air missions can be assured by the development of low cost air superiority aircraft (a lightweight fighter) and close support aircraft (the A–X) designed from the bottom up specifically for these missions.

Naval Forces. We can reduce the number of aircraft carriers in the fleet, while maintaining and in some areas increasing our naval forces devoted to other missions now providing tactical air power. Aircraft carriers have become increasingly vulnerable to new air, surface, and submarine weapons which have been developed during the past decade. In light of this vulnerability and the high costs of sustained carrier operations, the Air Force should have primary responsibility for providing tactical air support to our ground forces. The Navy's principal missions should be to keep sea lanes open and to provide a capability for mobile force projection into areas of critical concern. Since there are now 16 aircraft carriers, six of which (counting one nearly complete) were commissioned since 1960, there is no need for the new aircraft carrier, the CVN–70, which according to the Pentagon, will cost $1 billion. Similarly, the very large naval escort construction program currently underway should be scaled back substantially.

Land Forces. We must give full effect to the increased capabilities which can be achieved through better utilization of our mobilization capabilities and an improvement in our "teeth-to-tail" ratio. It would be possible for us to maintain virtually unchanged combat capabilities at substantially reduced costs if we eliminated unneeded command and support personnel, and returned to a concept of field deployment more spartan than our current overseas American suburbs.

C. OUR COMMITMENTS

Although new conditions will require review of military commitments made in other times and circumstances, the United States will obviously continue, in its own interest, to be associated with various forms of joint defense arrangements in many areas—NATO, Europe, Israel, Japan, Australia, and New Zealand, to name only the most obvious. The ability of forces planned under the guidelines outlined above to meet our commitments in the future is illustrated by consideration of the cases of NATO Europe and Israel.

NATO. The security of Europe is a joint interest and a joint responsibility of the United States and other NATO nations. In the unlikely event of a full-scale war in Europe, the full potential of NATO and the Warsaw Pact forces, including their mobilization potential, would be brought to bear. Accordingly, United States forces deployed in Europe must be sufficient, together with their allied counterparts, to leave no doubt about the seriousness of our military commitment to Europe and to convince the Warsaw Pact that any idea it may have about a "quick victory" or military threats for political purposes is impossible.

The American political commitment to NATO requires a substantial investment of military forces. But there is no legitimate requirement indefinitely to keep the current 319,000 level of European deployment. A reduced number, properly constituted, deployed, and equiped, backed by a revitalized mobilization and re-inforcement capability would do the job as well. Any reduction in U.S. forces in Europe must be preceded by extensive consultations with our NATO allies although the ultimate decision on the redeployment of a sovereign nation's forces must rest with that nation.

NATO forces in Europe must always be capable of effectively blunting any Warsaw Pact advance in its early stages. An improved United States mobilization capability would enable NATO at least to match Warsaw Pact forces in the event of full mobilization capability on each side, even after reductions in U.S. deployed forces in Europe. This balance of conventional military forces, coupled with the risks of nuclear escalation inherent in a major conventional conflict backed by a firm American commitment should be fully sufficient to deter the outbreak of large-scale conventional conflict in Europe.

Israel. We must give full support to Israel's defense of her right to live within secure and defensible borders.

Military equipment. Israel has dramatically demonstrated to the world that, given the necessary tools, she can defend herself against the threats posed by her neighbors, singly or in combination, but Israel must be provided both the credits and military material needed to deter such aggression and to defend herself should hostilities again occur.

American presence. The United States must maintain forces of its own in the Mediterranean to symbolize our resolve to neutralize any threat to Israel's security involving the Soviet Union. Actual use of these forces would be necessary only in the event of direct intervention by Soviet combat forces. Israeli leaders have themselves emphasized their confidence in their ability to cope with local threats without direct United States involvement. Nevertheless, the continued peacetime presence of the Sixth Fleet is essential to signal our interest in the Middle East and to deter Soviet pressure on Israel.

D. WHAT IT MIGHT TAKE TO DO THE JOB

The prospects of a conventional war with the Soviet Union have reduced over time and today they must be considered remote, if not inconceivable, given the terrible risks of escalation of nuclear war. But until there has been a basic change in the nature of international relations, the United States, along with its allies, must continue to have sufficient general purpose forces to give credibility to our support of alliance obligations, both in our diplomatic efforts and, if need be, in warfare. Waste and inefficiency debilitate our forces. We must endeavor to make them "lean" and combat ready.

What are the "threats" that U.S. armed forces manpower must defend against? The Defense Department has postulated the "threat" of Soviet aggression in Europe in these terms:

"While we do not consider aggression by the USSR likely in the present political climate the fact remains that the Soviets have a vital interest in preserving the status quo in Central Europe. A crisis that *could* lead to a conflict *could* arise if the political situation substantially changed in a way which threatened the USSR or its hegemony over Eastern Europe. Such a crisis *could* escalate to hostilities." (emphasis added)

To meet this rather vague and unlikely "threat" the United States is currently keeping 319,000 military personnel on duty in Europe. This is a greater number than we had there immediately prior to the Berlin buildup of 1962. These military people are assigned as follows:

U.S. EUROPEAN MANPOWER LEVELS

	Total manpower	Combat [1]	Support [1]
U.S. Army, Europe:			
Divisions	64,736	27,210	37,526
Division support	89,145	37,440	51,705
Berlin brigade	3,860	1,621	2,239
Missile forces	21,218	8,912	12,306
Strategic intelligence and security	32		32
Other service support	801		801
DOD/joint activities	726		726
Free world support	294		294
General support forces	2,901		2,901
Other commands/agencies	14,678		14,678
Total	198,391	75,183	123,208
Other elements:			
U.S. Air Force	50,000		
U.S. Navy Europe and 6th Fleet	20,000		
Command, intelligence and communication	50,000		
Grand total	318,391		

[1] Computed on the Army division combat to support ratio of 42 to 58 percent.

There are an additional 225,000 military sponsored dependents in Europe. Considering the emergency need to evacuate them, it is important to note that approximately 25% of these dependents are under three years of age.

A smaller amount of U.S. conventional manpower stationed in Europe could actually provide as much "flexibility" as the present force without lowering the nuclear threshold—and at far less cost. However, the present number of GIs stationed in Europe has been termed sacrosanct because of their supposed role as "hostages" and "bargaining chips" in vaguely projected discussions of Mutual Balanced Force Reductions by NATO and the Warsaw Pact. Agreements between NATO and the Warsaw Pact on mutual troop reductions should be pursued, but should not hold up measures to improve the efficiency of U.S. forces by substantially thinning out unneeded non-combat personnel.

In Asia, despite the improving climate in relations between North and South Korea, and a North Korean offer for a mutual reduction of military forces, the U.S. continues to station 40,000 military personnel in South Korea. One infantry division of less than 15,000 men is the principal combat element of this U.S. force. There are few, if any, valid military reasons for continuing (as we have for 22 years) to station an infantry division—backed up by thousands of support troops—in South Korea. The South Korean Army proved its combat effectiveness in the Korean War and more recently in Vietnam. It is nearly twice the size of the North Korean Army and is backed up by a large trained militia. There are no Soviet or Chinese divisions stationed in North Korea. U.S. manpower deployments in South Korea long ago finished their original mission of bolstering South Korea's fighting ability. They now serve no legitimate military purpose in the defense of U.S. National Security and should be withdrawn.

In Southeast Asia the Nixon Administration continues to deploy roughly 125,000 military personnel in support of the armed forces of South Vietnam. U.S. military personnel have been advising and supporting these armed forces since 1956. If after a period of sixteen years of support South Vietnamese forces are still unable to "hack it" on their own, then the time has come to realize that further support and advice would be to no avail and to cease to deploy American military manpower in such a purposeless mission.

CONCLUSIONS

1. Realistic assumptions and principles must be utilized in planning our general purpose force structure. These guidelines include the following:

(a) Policy must determine forces, not vice versa.

(b) Our allies must assume a proper share of our common defense burden.

(c) Forces should be prepared for today's conditions and tomorrow's, not World War II.

(d) Combat-to-support and enlisted-to-officer personnel ratios should be much higher than at present.

2. The application of the current guidelines will enable us to meet our commitments at a reduced cost due to the creation of a lean, hard fighting force with capabilities superior to the current fat military establishment. Specifically:

(a) Reduction in our forces currently stationed in Europe can be achieved without weakening our NATO commitment.

(b) We can and must provide Israel with the military equipment it requires to cope with local threats and at the same time our military presence in the Mediterranean must dramatize our determination to protect Israel's security.

(c) Unneeded and wasteful overseas developments and bases must be eliminated.

V. MILITARY MANPOWER

(Presented by Vice Chairman, James M. Gavin, lieutenant general, U.S. Army, retired)

The cost of manpower is more than half of this year's defense budget. Manpower has been by far the biggest single factor tending to increase military spending. Between fiscal years 1964 and 1973, the Defense Department's budget rose by $25.7 billion. More than 80 percent of this increase, or $20.8 billion, came from increased pay and allowances for military personnel and civilians employed by the military.

This sharp increase in the total *cost* of manpower has occurred despite the fact that during this same period *manpower itself* declined by 326,000 people.

No American can begrudge our fighting man the increases in pay and improvement in conditions which still fail wholly to compensate for the hazards, disruptions—and dedication—of their jobs. But the total costs for military manpower are so high as to suggest that more efficient use of manpower is an important place to find defense budget savings.

TOP HEAVY FORCES

The central problem is that our increasingly costly manpower is not being used efficiently.

Our military forces are growing more and more top-heavy with officers.

This fiscal year one active duty officer or noncommissioned officer is budgeted for each lower-ranking enlisted person (privates, seamen and airmen). At the end of 1969 this ratio was one-to-two.

This year there is one general or admiral for every 1,840 personnel. At the end of 1969 this ratio was one to 2,900.

To maintain these excessive ratios of senior officers, our military forces contain unnecessary layers of command.

The cost of maintaining the headquarters represented by these layers of command throughout the U.S. Armed Forces is $3.8 billion this year.

MEN AND FIGHTING UNITS

There has been a steady decline in manpower efficiency in another sense. Year by year more and more men are required to operate elements of our fighting forces. The Brookings Institution, in its study of the fiscal 1972 budget, found that the total Army manpower per active division had increased by 19 percent since 1964. It found that Navy manpower per ship increased 28 percent, and Air Force manpower per aircraft rose 16 percent during the same period. During this period the ratio of combat to support personnel in each service remained about the same—an indication that, while manpower per unit increased, combat effectiveness did not. The percentages of "combat skill" personnel in each service are:

	Percent
Army	25
Navy	11
Air Force	5
Marines	28

Admiral Moorer told Congress February 17, 1972, that while U.S. ground combat divisions had gone through improvements as to their equipment during the preceding year, ". . . the overall readiness of these forces has temporarily declined." He attributed this decline mostly to "severe personnel turbulence caused by heavier than expected cuts in the FY 1972 personnel strengths." It would be more accurate to say that the decline came from poor management of personnel rather than from cuts themselves.

A Defense Department rationalization has been that increased firepower of weapons enables us to kill massive numbers of people with fewer Americans assigned to combat duty while more Americans are assigned to support. But Vietnam is a vivid demonstration that this formula does not necessarily mean military success. As the numbers of combat soldiers were lowered, we compensated with greater use of weapons of large scale destruction—artillery shells, airborne rockets and bombs—which have killed many civilians, both in North and South Vietnam. But this indiscriminate use of firepower has done nothing to improve the prospects for an effective and accepted government in South Vietnam.

ROTATION

Servicemen in the U.S. military are transferred from post to post far too frequently. This year the Defense Department is budgeting for 87,800 non-productive personnel in transient status between assignments. This is 3.7 percent of total manpower. A further example: In fiscal 1971 the Army made 1,895,000 Permanent Change of Station (PCS) moves among its forces totaling 1,228,000—an average of 1.5 moves per man during the year.

The President's Blue Ribbon Defense Panel recommended in July, 1970, that this unnecessary rotation be reduced. It said:

"Officers and enlisted men are rotated among assignments at much too frequent intervals. It is clear from the evidence that rotation practices which have been followed result in (a) excessive and wasteful cost (b) inefficiencies in management and (c) difficulty in fixing responsibility."

However, except for reduced coming and going from Vietnam, there has been no basic change in the rotation policy throughout the services.

The constant moving about is costly in human terms. Frequent separations hurt family life and morale. Endless rotation brings financial problems which cause skilled personnel to leave active service in search of more stable careers. Too many of the assignments involved in the rotation are ones which military personnel realize have little or nothing to do with defense of their country. This kind of duty dims the prospects of an all-volunteer Army no matter how much the pay. It makes for boredom, idleness, busywork and lack of sense of fulfilling national purpose. It results in low morale, low retention rates of personnel in the services and increased drug abuse in the armed forces.

In many cases the constant change means that military personnel never learn more than the rudiments of their jobs. Sometimes there are more tragic consequences. The Secretary of Defense has allowed the Army to rotate combat commands in Vietnam every six months. This has ensured that a larger number of career officers could get their "tickets punched" with combat command time—essential for promotion. But it also results in less experienced leadership in combat. No doubt some of the 55,000 soldiers killed in Vietnam have paid with their lives for this inexperienced leadership.

JUSTICE

The state of military justice also relates to efficiency of manpower. The U.S. military receives an extra allotment of personnel from Congress to make up for those confined in the stockade and the brig. In fiscal 1972 this allotment was 24,000 men. The figure does not include man-hours lost in non-judicial punishment. Military justice is in dire need of overhauling to make it comparable with civilian systems.

Military justice has never been an adequate resource for legal redress by those in the lower ranks. Far too many of our servicemen view military courts as an instrument for punitive measures, rather than as a forum for a fair, impartial hearing of their legal grievances. Servicemen have too long forfeited their basic constitutional rights. An oath to defend one's country should not warrant an acceptance of second-class citizenship status. Minority servicemen, who have historically represented a disproportionately high percentage of the lower military ranks, have borne the weight of punitive dispensations by the military courts. Black G.I.'s compose 30.6% of those confined in the Army's world-wide stockade facilities, over 54% of those in Air Force confinement facilities, 16.2% of those in the Navy brigs and 21% of those in Marine stockades. Less than 1% of the military lawyers are Black.

There is an undeniable need to redefine, to broaden and protect the constitutional rights of servicemen. Possibly a better system of military justice would result in less manpower being wasted through punishment for offenses which are technical transgressions of military tradition rather than true crimes. More importantly, it would improve manpower efficiency through better morale, and it would correct a serious national shortcoming.

Testimony received before hearings conducted by the Black Congressional Caucus raised serious questions about discriminatory use of pre-trial confinement in the military. The members of the Caucus recommended the establishment of more explicit pre-trial confinement conditions and a complete revision of the uniform code of military justice which would remove from its jurisdiction offenses covered by existing civilian law.

RACISM

Reasoning that racism impairs defense readiness and operations, the official policy directives of the Department of Defense strongly condemns racial discrimination. Much was done in the Kennedy and Johnson years to ensure equality of treatment for all military personnel. Yet the Congressional Black Caucus has reported in its hearings that this policy is sometimes subverted by lower grade commanders and senior non-commissioned officers, the people with whom the G.I. deals most of the time. Mr. Wallace Terry, former Saigon Chief for Time magazine, in testimony revealing findings from a study he conducted in 1969, states:

"Seventy-two percent of the Black enlisted men said that the military treats Whites better than Blacks, forty-eight percent of the officers agree. In the questions of promotion, sixty-four percent of the Blacks felt that Whites are promoted faster than Blacks, forty-five percent of the officers agree. Half of the Black enlisted men and twenty-nine percent of the Black officers believe that Blacks are getting more dangerous duties than Whites. Sixty-one percent of the enlisted men and forty-one percent of the officers believe Whites are winning more medals than Blacks . . ."

According to the Caucus report, Black servicemen represented 12.1% of all enlisted personnel in 1971, but Blacks were vastly overrepresented in the low-skilled combat specialities (16.3% Black) and in the services and supply specialities (19.6% Black). They were far underrepresented in the communications and intelligence specialities (7% Black) and in the electronics equipment speciality (4.9% Black). Only 2.2% of all officers are Black.

Racism also arises in the military's medical operations. The Army makes no provisions for testing Black inductees for Sickle Cell Anemia. There have been instances where those evidencing various forms of the disease have been denied medical discharges. The Air Force, on the other hand, enforces regulations barring personnel who show the sickle cell trait from flying status. Yet, further research is required before it can be adequately determined that having the sickle cell trait alone is a sufficient basis for restricting personnel from flying status.

A disproportionately high number of less than honorable discharges are given to Black G.I.'s. Recent Department of Defense figures show that of the total discharges given Blacks in 1970, 5% were given under conditions other than honorable, as compared to only 3% given to Whites under the same conditions. Thus discriminatory practices continue to plague the minority servicemen from induction through discharge. A growing number of Black veterans have issued complaints charging the Veterans Administration with discriminatory practices in providing technical training and educational opportunities. The under-trained veteran returns to the job market at a disadvantage.

It will be claimed that much progress has been made. But there can be no excuse for any discrimination against those members of minority groups who serve in our armed forces. Awareness of the problem and determination to end it are essential.

DRUG ABUSE

Drug abuse in the armed forces is widespread. In 1970 the Navy and Marine Corps discharged, or took disciplinary action against 12,000 men for drug addiction or drug related offenses. Thirty to forty percent of the addicts serviced by this country's drug rehabilitation and treatment programs are ex-servicemen. There have been over 6,000 drug connected other than honorable discharges issued since the onset of our military involvement in Vietnam. The Department of Defense estimates that a minimum of 300,000 servicemen have become drug users in Vietnam. The Veterans Administration handles less than 500 of the estimated 40,000 ex-servicemen addicts in New York—and V.A. primarily offers methadone treatment.

Congressman Morgan F. Murphy (R-Ill) and Congressman Robert H. Steele (R-Conn) issued a study on the "World Heroin Problem," submitted to the Committee on Foreign Affairs. The study reveals the U.S. military's handling of the drug problem in South Vietnam. The military has launched a four-point program consisting of education, amnesty, rehabilitation and suppression. Materials used in the education program have been criticized as inappropriate and ineffective. The amnesty program promises freedom from punishment in return for accepting medical treatment. Military officials, fearful that the program would provide a vehicle for escaping military duty, have limited the servicemen to one request. In 1971, 3,458 addicts in the service participated in the drug rehabilitation program. The recidivism rate was reported at 25%. However, follow-up and back-up services provided by the program are nominal. Military authorities have no adequate, reliable procedures for early detection of drug addiction. It is estimated that 10 to 15 percent of the Vietnam servicemen below the rank of sergeant are on heroin.

Congressman John Murphy (D-N.Y.) recently stated in a news conference at the National Democratic Club, that "The crisis of drug abuse facing the military is beyond the capacity of the individual services to cope with . . ." In March, 1971, Mr. Murphy introduced a Bill calling for more extensive use of other existing Federal programs for the treatment of G.I. addicts and an end to regulations which require dishonorable discharges for addicts. Much more definitive supports are needed for soldiers who are victims of this dread problem. Under the Nixon administration G.I. drug addiction has reached epidemic proportions.

RESERVES

On August 21, 1970, Secretary of Defense Melvin R. Laird announced a major shift of policy—that National Guard and Reserve units, instead of draftees, would be relied upon to back up active forces in future emergencies. Unfortunately, in their present state of training, equipment and coordination with active forces, these reserves are simply not yet up to that job.

In fiscal 1971, we spent $2.6 billion on the drill pay of 874,344 of these reserve forces. Of that number 720,760 were without prior military obligation. In their first six months they were given basic, advanced or specialist training, then were assigned to part-time training with reserve specialist training, then were asigned to part-time training with reserve units. This part-time training has often been ineffective. Too often men assigned to reserve units are given duties different from the specialties in which they were trained initially. Too often they must train with obsolete equipment under officers not familiar with current military techniques. During the Vietnam buildup, when a million young Americans were being drafted, roughly another million were allowed to remain in paid status in the reserves.

This country is now spending $500 million per year replenishing equipment of the reserves—a totally inadequate level if they are to have a real mission. It makes no sense to spend billions on reserve pay while giving these forces marginal training and hand-me-down weapons. The United States spends more equipping foreign armed forces ($1.4 billion in fiscal 1971) than it does equipping its own reserves.

The Marine Corps' reserve division is considered available for combat within 60 days. But none of the ten National Guard divisions which back up the active forces could be deployed in that time. Some would take six months.

CONCLUSIONS

1. The U.S. armed forces must be made more efficient in their use of manpower by eliminating costly, unproductive and unnecessary uses of personnel

(a) Excessive ratios of officers to enlisted personnel should be reduced. We do not need one commissioned or non-commissioned officer for every enlisted man.

(b) Excessive layers of command designed to employ more top level officers should be eliminated.

(c) The alarming trend in which it takes more and more personnel to man a given combat capability should be reversed.

(d) Excessive rotation of military personnel, which is costly, inefficient and bad for morale, should be reduced.

2. The Defense Department has announced that reserves, rather than draftees, will back up active U.S. forces in a future emergency. But the reserves at present are clearly not up to this job. They are poorly trained and equipped. There is no real plan to coordinate them with active forces. The reserves could be improved, military strength greatly enhanced and money saved through the following steps:

(a) Assign more of the increasingly costly active Army manpower to combat divisions, ready for quick deployment with their own initial support forces.

(b) Organize U.S. Army reserves to be ready to provide longer-term sustaining support for the active divisions—a role now requiring many of the more costly active forces. Such noncombat support roles are frequently similar to civilian skills of reservists. Even with minimal training they could be rapidly mobilized for support roles—more rapidly than they can be for combat roles.

(c) National Guard Forces, which in peacetime are under state jurisdiction, would remain organized to provide back-up combat divisions. But, with active divisions in a higher state of readiness, the Guard divisions could be mobilized under a longer, and more realistic, time schedule than is presently the case.

Such a plan would have many benefits. It would result in greater combat readiness and capability. It would use the costliest manpower where it does the most good. It would give the Army reserves a role within their capabilities. It would put the National Guard on a realistic mobilization schedule. It would involve for the first time true coordination of reserve and active forces. It would save money.

3. Military forces made leaner by increases in efficiency such as those described here will be better fighting forces. Although the rising cost of manpower is such a major force pushing defense budgets up, important savings are possible by eliminating wasteful manpower practices.

4. The present system of military justice must be overhauled to provide our servicemen with rights comparable to civilians. The importance of this transcends the money savings which might result. Servicemen should not become second class citizens when they swear to defend our country.

5. Discrimination in the armed forces, in all its forms, against any race or minority must be rooted out.

VI. Military Procurement

(Presented by Vice Chairman,
Senator William Proxmire)

The procurement of major weapons systems has become characterized by mismanagement and inefficiency. Fat, waste, schedule delays, and performance failures have become the hallmarks of the weapons acquisition process. The present situation is not only costly in terms of dollars that could be better spent elsewhere, it is a direct cause of economic inflation.

Misguided government policies have helped bring about a deterioration of the proper relationship between the Department of Defense and defense contractors. Giant firms often receive special and favorable treatment while medium and smaller sized firms are gradually being driven out of the defense business. The Pentagon feeds on the technological expertise of industry in order to satisfy its appetite for new and unnecessary weapons. Too many giant contractors, on the other hand, end up soaking the public for billions of dollars annually at the same time that their uneconomic practices make them dependent for their very survival upon the Pentagon's indulgence.

More than a decade ago, President Eisenhower in his farewell address noted that the conjunction of an immense military establishment and a large arms industry was new in the American experience and he told Americans that they "must guard against the acquisition of unwarranted influence whether sought or unsought, by the military-industrial complex." Reform of the procurement system should be aimed at restoring a sound partnership between the Pentagon and defense contractors based upon a genuine understanding of the public interest. It will not mean the loss of our defense industry, but rather the development of economically sensible practices by both government and industry—practices that will benefit the two partners and provide for the common defense at a reasonable price.

Under the present system of procurement, the incentives are almost the reverse of what they ought to be. No one is motivated to build reliable weapons at the least possible cost. Pentagon officials constantly strive for weapons that are more sophisticated in the hope that they can do more things. The result is a proliferation of expensive weapons that are burdened with unneeded complexity and "gold plating."

Contractors are also unlikely to reduce costs under current policies. In their efforts to obtain new contracts, they frequently make promises about costs or technical risks that are unjustified. Sometimes these unjustified promises are recklessly transmitted to Congress to expedite appropriation requests.

Government regulations designed to guard against contractor "buy-ins," cost overruns, and other problems are sloppily enforced if at all. The government's contractual rights are often waived or ignored. Instead of trying to manage programs efficiently, cutting costs, taking steps to correct problems and enforcing its rights under the contract, the Pentagon's typical reaction is to pay for all cost overruns, accept late deliveries, and be satisfied with poor performance. Defense management has been transformed into a search for the perfect bailout for each sick weapon program.

As a result, the cost of weapons systems has skyrocketed to astronomical heights and the United States may be pricing itself out of the military market. Unless there are fundamental changes in the way weapons are procured, we must either accept fewer planes, ships, and tanks for the same missions, or devote even more of our resources to national defense.

Some of the procurement problems that have been identified pre-date the Nixon Administration, and a number of currently mismanaged weapon programs originated before President Nixon took office. But since then, the Administration's disregard of experience and seeming indifference to waste have been responsible for a series of procurement disasters that are costing American taxpayers billions of dollars.

The C–5A cargo aircraft program is a classic example of mismanagement and inefficiency in military procurement. Originally, 120 C–5As were supposed to cost $3.4 billion. Because of huge cost overruns, the Pentagon decided it could not afford to buy all the planes it once contended were necessary for national defense. The program was therefore cut back to 81 planes. Now it is estimated that the 81 planes will cost the government $4.5 billion—over a billion dollars more, but for one third fewer planes.

In addition, numerous structural defects have been discovered in the C–5A. Wings have cracked in tests, an engine ripped off a plane while it was preparing to take off, landing gear systems have failed repeatedly, and two C–5As have been totally destroyed in accidents. The Air Force, which has obscured the truth about the defects in this program from the American people, has nevertheless accepted delivery of the C–5As knowing they have numerous major deficiencies and has agreed to pay the entire costs of correcting the deficiencies, as well as the costs of the two planes that were demolished.

More and more American dollars are being used to buy less and less real national security. It is anticipated that the F–14 aircraft will cost $20 million apiece. The original estimate for the costs of this program was $11.5 million each. It is interesting to note that the Soviet Union is able to produce its Mig 21 fighter (in U.S. dollars with U.S. labor costs) for approximately $2 million each. For the same number of dollars, the Russians can put 10 planes in the air against one American aircraft. Although the F–14 is a decade newer than the F–4, there are disturbing doubts about whether it was the right aircraft for us to build in the first place.

Two of the largest shipbuilding programs begun by the Navy in recent years have so many problems and are in such great difficulty that there is a serious question as to when, if ever, either one will be ready for service. The first, called the Landing Helicopter Assault Ship, or LHA, has so far experienced a cost overrun of about $500 million and is at least 24 months behind schedule. The Navy reduced the size of the LHA program from 9 ships to 5 ships and will have to pay the contractor around $100 million for the privilege of changing its mind about the number it believes it wants. Congress has already appropriated a billion dollars for this program and not a single ship has been completed, although work has been under way for several years.

Another large shipbuilding program is the DD–963, a new series of destroyers. Like the LHA, mistakes and mismanagement on this project have reached scandalous proportions. Costs have increased by a billion dollars and undoubtedly will continue to climb. As with so many Pentagon programs, delivery schedules will not be met and the delays could be as much as a year or more.

An Army program called the Gama Goat reveals the irresponsible and careless way tax dollars have been handled by the Nixon Administration. The Gama Goat is a truck that the Army planned to buy for $5,000 apiece to replace an older model that cost $4,100 each. It was supposed to be able to travel over difficult terrain and through water as a carrier for artillery pieces with weapons mounted on it. To perform these tasks, it had to be durable and reliable.

None of the promises made for the Gama Goat have been fulfilled. Its unit cost is now more than $15,000 each and going up. It cannot be used to carry artillery pieces. It is inadequate as a platform for mounted weapons, and when it goes into the water, it sometimes sinks. Numerous components have been found defective and unsafe. Deliveries have been running a year late. The first 4,400 Gama Goats accepted by the Army were too faulty to be used and had to be placed in storage until repairs could be made. The vehicle was supposed to have the capability of completing 10,000 miles without a major failure, but it is so unreliable that the Army had to downgrade this requirement to a mere 75 miles. No private consumer would be satisfied with any new vehicle which had only a 75 mile warranty.

After the expenditures of $400 million and five years of disappointing results in developing the Cheyenne helicopter, the Army was recently forced to cancel what had turned out to be a wasteful and extravagant attempt at constructing a close-support aircraft.

Upcoming programs threaten to repeat the recent miserable performance of the Pentagon. The Army is currently promoting its new SAM–D missile. Original price estimates for the missile program were $2.5 billion, but now, even in the planning stages, the price tag has been increased to $5.2 billion. And, with a realistic assessment of the threat and its utility, SAM–D might well be the kind of weapon that should be scrapped.

The examples of waste, mismanagement, and inefficiency are not unique to the C–5A LHA, DD–963, Gama Goat, Cheyenne, or the SAM–D. It is practically impossible to find a major weapon system with which this Administration has been associated that has not suffered a large cost overrun, important technical deficiencies, or significant delays in scheduled deliveries. The most recent figures prepared by the General Accounting Office show that the costs of 45 major weapons have increased by $36.5 billion over the amount originally planned for those same weapons. These overrun costs would have been even higher if all of the contracted weapons had been built.

It is a shocking fact that the Pentagon itself does not know the complete number of major weapons currently in progress. According to the General Accounting Office, the Pentagon does not maintain a central file on the total number of weapons being acquired or their costs.

The relationship between the Pentagon and the defense industry is characterized by a series of abuses that make a mockery of free enterprise and the contract system of procurement.

Most major contracts are awarded through negotiations between the Pentagon and a select elite of corporate giants rather than through competition. In 1971, only 10.7 percent of the $34.5 billion in defense contracts was awarded competitively, the lowest level of competition in 20 years. The dominance of the big corporation and the lack of real competition adversely affects small business. In 1971, the small business share of defense contracts amounted to only 16.4 percent of the total, the lowest level in eight years.

About $14 billion worth of government-owned land, buildings, and equipment bought and paid for with taxpayer money, has been put into the hands of defense contractors—supposedly so they can be used on defense contracts. Most of this government-owned property is held by the giant firms, and investigations by Congress have disclosed that, instead of being devoted to defense contracts, it is often used without proper authorization on commercial work. Large amounts of equipment are simply hoarded by contractors who have no immediate use for it, while the government buys identical or similar new equipment for others who do need it. The Pentagon does not keep adequate inventories or utilization records for billions of dollars of this government-owned property.

Government-owned property in the hands of defense contractors has become a giant subsidy. It increases defense profits, encourages contractors not to invest their own capital, and permits the large firms to engage in unfair competition against small contractors and against firms who do not have defense contracts.

Profits on many large defense contracts are beyond the level of what is fair and reasonable and can only be categorized as excessive.

An inspection of 146 contracts held by some of the largest defense contractors revealed an average profit rate of 28.3 percent on their capital investment and 56.1 percent on total equity capital. Defense profits of some firms have averaged nearly 100 percent per year on capital investment. These windfall profits are another example of how the present procurement system disserves the public interest.

What can be done to improve the military procurement system?

CONCLUSIONS

1. The first step should be to restore maximum competition in the awarding of defense contracts. This can be accomplished by reversing the trend toward the use of negotiation by breaking out subsystems and components of major weapon systems for competitive bidding and by developing a sound system of competitive prototypes.

2. Whenever prototype development is feasible, each new weapon system should be independently tested and evaluated by a group which is not connected with any of the military services. Independent test and evaluation will reveal early in a program the technical difficulties that exist before a weapon is put into full scale production. New weapons should be selected on the basis of their low price, high military effectiveness and, whenever feasible, on a competitive prototype basis.

3. A strict Truth-in-Procurement policy should be followed. Requests for new programs should be accompanied by candid, realistic estimates of full long-term costs so that Congress and the public will be aware, before approval is given, of the total expenditures that will be required. The needed cost estimating and program analysis capability should be established independent of the program advocates.

4. Program management and procurement are handled today as routine service assignments. A full-time professional corps should be created to deal with these specialized functions.

5. Complete records and a central inventory of all major weapons should be maintained and kept up-to-date.

6. A comprehensive information system should be established to provide Congress and the public with periodic and timely reports of the costs, technical performance and delivery schedules of all major weapon programs.

7. Pentagon experimentation with a "Should Cost" analysis technique has identified potential savings of 30–45% in program costs. This technique for identifying major opportunities for reducing the costs of weapons development and production should be actively implemented and aggressive action taken to realize the potential savings.

VII. Conversion of Defense Production To Meet Domestic Needs

(Presented by Vice Chairman Floyd Smith)

THE PROBLEM

Previous sections of this report have shown that military spending can be cut substantially without diminishing the nation's security and without causing added unemployment. However, in order to achieve this, the Federal Government would have to act to ensure sufficient total demand to provide the necessary jobs, and as a matter of fairness, should assist those individuals and communities affected by the transition. These steps are made particularly necessary by the size and special nature of the industry most directly affected by such a shift in priorities.

One of the by-products of federal policy and expenditures during the cold war and the race to the moon has been the development of a new part of the economy: the defense-aerospace sector. Part military establishment, part private corporation—but all guided by federal policies—the defense-aerospace sector reaches into every corner of the country. By 1971, six million Americans were directly dependent upon military spending for their livelihoods. Of this number, 2.8 million were in the armed forces, one million were civilian employees of the Defense Department, and 2.2 million were directly employed in private industry providing goods and services to the military. Additional millions of citizens were economically dependent upon these six million individuals.

The lives of these Americans are directly affected whenever federal policies change. And changes in spending patterns are frequent. They do not result only from the conclusion of arms control agreements or the winding down of wars. They occur whenever a weapons system or military installation is judged unnecessary or a contract is awarded to one firm rather than to its competitors. The Federal Government has a responsibility to assist those whose lives are disrupted by such shifts in the spending of its funds.

Changing national priorities and an altered international situation have generated opposition to massive defense expenditures and major defense industry layoffs have been experienced in recent years. Yet, since President Nixon took office, the Federal Government has taken only the most limited actions, and has done no planning to cushion the impact of shifts in federal spending on these workers, communities, and industries that have become dependent on federal contracts.

The full burden of layoffs has fallen on the employees and their communities. The unions deeply involved in military-aerospace work see the loss of jobs in this sector as part of a broader design by the Nixon Administration. A statement adopted unanimously by the UAW Conference on Conversion on Feb. 19, 1971, blames the Nixon "game plan" of fighting inflation "not by putting pressure on the corporations that were forcing up prices but by slowing the pace of the economy and, as a result, throwing several million workers—both blue-collar and white-collar—into the streets."

Reginald Newell, Associate Director of Research for the International Association of Machinists and Aerospace Workers, told a conference of metal workers in Bremen, Germany (Jan. 14–15, 1971): ". . . The aerospace workers who have lost their jobs are victims of not just one recession but two. For the planned turndown in defense has coincided with an equally planned cyclical turndown for the economy just at the point when the defense effort started to wane. Jobs were lost in both the defense and non-defense sectors."

THE SOLUTION

The basic requirement for a smooth transition to civilian production is a sound economy with enough jobs nationwide to employ everyone able to work. By contrast with the present situation; this means the creation of millions of new and useful jobs.

The welfare of the worker and his family must be put first in planning and then carrying out this shift to new public priorities. In that regard, it must be recognized that the generation of new jobs takes time. New government programs must be organized. New equipment has to be built and installed. New skills must be developed. While these steps are being taken, special measures will be needed to help affected defense and aerospace workers over the period of transition.

A. NEW JOBS FOR UNMET DOMESTIC AND PUBLIC NEEDS

Reductions in military spending need not mean increased unemployment. In fact, it is possible to achieve full employment—if we will only spend the money necessary to meet our urgent domestic needs. Such jobs, since they will supply goods and services which the American people require on a continuing basis, will provide a much more stable job situation than our defense and aerospace workers have known in the past. No longer will they be subject to the vagaries of defense contracting. They will provide public services and consumer goods for which a growing America has a constant and expanding demand.

Studies prepared for Senator McGovern, based on phased reductions in military spending of $8 billion each year over four years, show *a net gain of 1.5 million jobs during that period*. This calculation is based on the assumption that half the savings would go to civilian government expenditures, one-fourth to personal consumption (through a cut in taxes), and one-fourth to construction.

And a study by the U.S. Bureau of Labor Statistics, *"Post-Vietnam Economy, 1975,"* found that state and local spending for health and education would generate a significantly higher number of jobs per unit of expenditures than military spending.

The shopping list of unmet public needs is so long it would require years of vigorous effort merely to clear away the backlog. As a minimum, we must place high on this shopping list: public transportation, housing, development of new energy sources, air and water pollution control, solid waste disposal and recycling, expansion of recreation facilities, health care, drug abuse prevention and rehabilitation, crime prevention, and meaningful education for Americans of all ages.

If we spend the money necessary to meet these urgent public needs, we will have to construct, equip, staff and maintain new and expanded facilities of unprecedented scope and variety. For example, the Council on Environmental Quality has estimated that the costs of pollution controls to meet current standards in the 1970's will be $287 billion. This is the equivalent of about three years of military spending at today's levels. At that level of activity, we would soon find a shortage, not an excess, of available workers.

Without awaiting the first reductions in military spending, a new Administration would rapidly ask Congress to authorize job-generating programs to begin to meet these needs. As the military budget is cut and tax reforms achieved, additional funds would become available for new public investment.

The backlog of unmet needs offers a new opportunity to introduce long-range planning for economic development. A series of TVA-like regional economic development agencies might be established to share the role of planning with the Federal Government. These regional agencies should begin the process by making an inventory of regional needs, and should become increasingly important as centers of initiative for economic development and local participation.

To meet these needs the Federal Government—as well as regional state and local government units—would have to offer many new contracts to private firms. Defense and aerospace firms would have their chance along with others to bid competitively for these contracts. Defense aerospace companies have achieved technological marvels by pooling the labor of highly skilled men and women, the systems approach in engineering and great productive resources. The same combination can be applied to civilian pursuits. Companies and workers presently engaged in defense and aerospace would thus be able profitably to help meet a growing domestic agenda.

Technical innovations by companies and individuals working in the space program have already found their way into such earth-bound improvements as better kitchen appliances, farm equipment, sewing machines, radios, medical instruments, tools, ships, airplanes, comunications, weather forecasting and storm warning. Firms should now be encouraged to pursue improvements of this kind directly with less reliance upon indirect spinoffs. The special talents and resources already concentrated in the defense-aerospace firms are, for instance, readily transferable to work on environmental pollution problems of all kinds; space satellites can transmit information, analyze weather, identify natural resources and detect corn blight and other dangers in agriculture; quiet, clean and dependable transportation systems are needed, including new types of passenger trains and short and vertical take-off airplanes; traffic control systems for cities, airports, and sea lanes must be developed; production of computerized medical diagnostic systems and intensive care units can absorb the skills of our defense engineers and skilled workers; and the development of new methods of energy production, transport, and storage, particularly in ways that will reduce the environmental impact of our growing energy consumption, can use the best talents of our scientists and engineers.

Federal funds must be invested in research and development in the entire broad range of civilian needs. In addition, the Federal Government should consider support for research with purely commercial applications, especially in the case of smaller firms, and should facilitate the employment of scientific and technical workers by local and state governments.

Some military-oriented firms have already converted part of their production to civilian work. Between 1960 and 1972, for example, TRW Corporation reduced the military share of its business from 75% to about 18% of the total. Its workforce expanded during that period from 20,000 to 75,000. Major contracts on the Bay Area Rapid Transit System (BART) in the San Francisco area are already held by aerospace companies. A California aerospace firm also holds a contract on the Metro subway system in Washington, D.C. Raytheon, a Massachusetts defense contractor, now derives most of its income from the sale of refrigerators, stoves, and the design of chemical plants.

Skills as well as entire enterprises can be transferred to civilian work. One study by the Department of Labor analyzed 127 occupations in which 5,600 workers were employed in the California missile industry. Their conclusion: "The skills employed in 121 of the 127 occupations . . . were found to be transferable without major retraining." Even when the new products do not require the "high technology" that has characterized defense and space production in the past, the individuals involved can quickly make the transition and can soon be producing quality products for the civilian market.

However, defense-aerospace firms have received no guidance or encouragement from the Federal Government, and most of them have not planned for conversion to civilian work. Abraham Ribicoff, chairman of the Senate Subcommittee on Executive Reorganization and Government Research sent a questionnaire to major industries and contractors requesting information on their plans to convert to peacetime pursuits. In a report released in September, 1970, Senator Ribicoff commented: "Most industries have no plans or projects designed to apply their resources to civilian problems. Furthermore, they indicated an unwillingness to initiate such actions without a firm commitment from the government that their efforts will quickly reap the rewards to which they are accustomed. Otherwise, they appear eager to pursue greater defense contracts or stick to proven commercial products within the private sector."

The Federal Government must now make a firm commitment to new priorities and funding in civilian areas that will induce these firms to make the shift.

B. AID TO WORKERS AND COMMUNITIES

Workers and communities in which they live should not be penalized for the past negligence of the Federal Government and of defense managements. Individuals who are laid off must be offered income support, retraining opportunities, continued health insurance and portable pensions until a new job is found. Similarly, the Federal Government should stand ready to guarantee employment to those who are unable to secure work in the private sector.

A very simple but essential means of cushioning the impact of shifts in spending is to provide ample notice to the companies and employees whenever a change can be foreseen. Defense procurement plans could be established—subject to changes in military threats—at least three and possibly five years in advance.

We believe that a combination of full-employment policies and special measures to aid employees and communities during the transition from military to civilian work would, indeed, ease this transition. Our proposals, however, raise a broader question of public policy. If the defense-aerospace employees whose livelihoods are affected by federal policies deserve certain kinds of assistance, should not other workers whose livelihoods are affected by federal policies receive comparable assistance?

A recent precedent has been established through collective bargaining by providing long-term income security for employees thrown out of work on the railroads under the Amtrak system. What, then of the workers who lose their jobs because federal environmental standards are imposed on their employers? Or those displaced by new technology which has been subsidized by the federal government? Or those whose jobs are lost through shifting patterns of world trade? We believe that a single national policy should be formulated to provide assistance to all workers whose livelihoods are adversely affected by major national policy decisions of the Federal Government.

FEDERAL LEADERHIP

The process of converting portions of the defense and aerospace industry to peacetime activities cannot be carried out by the Federal Government alone, nor by one central authority. Private firms, labor unions, civic and educational organizations, professional and trade associations, and state and local governments must be participants in the process. Yet the history of the past two decades should teach us that these groups are reluctant to initiate the required actions without leadership by the Federal Government. That leadership must come from an Administration whose top priority is to provide a meaningful and socially productive job to every American seeking work.

Useful work for all, particularly in helping meet America's public needs, must receive an unstinting commitment on the part of the Federal Government. Evidence of a firm commitment to this goal would come through the creation of a Special Action Group on Peacetime Jobs in the Executive Office of the President. This group would prepare the new approaches and eliminate bureaucratic inertia and indifferences which have plagued the conversion process until now.

LOCAL ACTION NOW

Interested citizens can begin immediately to prepare the way for peacetime conversion. The groundwork should be laid now in local communities across the country.

The single most useful project which can be undertaken locally is a double inventory—an inventory of unmet public needs and an inventory of available defense-aerospace resources. A comparison of the results can suggest the degree to which these domestic needs might be met through conversion of local military-oriented facilities.

How many new classrooms are needed in the community? How many hospitals? Subway cars? Sewage plants? Drug centers?

What kinds of equipment do local defense plants and military installations possess? What kinds of skills? How many workers? How much space? If there are no local military-oriented firms, are the civilian companies involved in meeting the local needs.

Teams of citizens from different backgrounds—labor unionists, engineers, economists, professors, housewives, businessmen, architects, students—can work together, with the aid of local officials, to find this information. Much of it exists in the relevant local government and private agencies. A local delegation can determine whether arms and aerospace industry management is planning for civilian production and encourage such activity.

Whatever information is assembled should be publicized as widely as possible in order to stimulate a community dialogue on peacetime jobs and new priorities.

CONCLUSIONS

1. A small minority of Americans—workers in defense and aerospace industries—must no longer carry the entire burden of achieving new national priorities.

2. The creation of millions of new jobs is the most important step that the Federal Government can take to assure a successful conversion from military to peacetime pursuits.

3. The unique technological capacities of defense and aerospace workers can be shifted to areas of unmet public needs, including housing, transportation, pollution control and health care.

4. The Federal Government must take the leadership in planning for the transition, encouraging firms and communities to develop their own plans as well.

5. Workers must be provided with income support and other forms of assistance during the period of transition.

6. Citizens should begin now, in their local communities, to inventory their needs and resources, to facilitate the process of transition.

GENERAL CONCLUSIONS

For several years now, the size of the defense budget has commanded national attention and sparked Congressional debate. The time has come to face the real issue. This involves more than just the level of military spending; it concerns the meaning of national security itself.

Does our national security rest on the achievement of ever greater military power? Will we be secure as a nation if military expenditures continue to dominate the federal budget? Or does national security depend also on the condition of our nation at home; on the balance between the common defense and domestic tranquillity; on the progress and prospects of all our citizens?

We recognize the need for the military strength that will provide the unquestionable capability to defend ourselves and our interests from physical attack. But we also believe that national security requires a federal budget which does not sacrifice our other vital needs in such areas as health, transportation, housing, pollution control, education, and the other ingredients of a successful society. If the costs of our weapons, our troops and our wars are allowed to bankrupt our ability to provide a decent life for our people at home, then we have military power without national security. The total available for public needs cannot fairly be expanded by adding to the heavy tax burdens of the average American. Today the quality of life for millions of our citizens is steadily eroding while pressing domestic needs are postponed for still another unnecessary or even dangerous weapons system.

Even from the limited military perspective, the Nixon Administration management of our defenses has been marked by failures—the failure to bring about the promised end of the Vietnam War, the failure to achieve efficiency and economy in weapons development and procurement, the failure to make effective use of expensive manpower. But the more basic flaw in the Nixon Administration's military spending policies is that they ignore the larger view of our national security. New weapons ideas are pursued and outmoded armaments are continued in heedless disregard of their practical value. Even worse, billions are squandered on weapons systems we should know to be useless, with the feeble excuse that these will be valuable "bargaining chips" to be traded away in some future international negotiation. The Administration spent billions on an ABM "bargaining chip," although both we and the Russians knew that no existing ABM technology could protect against nuclear devastation. We're left with the ABM build-up, but the billions are gone forever. They could have been used for housing and food, hospitals and roads, and the other goods and services we desperately need at home.

Now, with the initial SALT agreements but a few months old, the Administration wants to buy more "bargaining chips," at a cost of many more billions, in the form of a new nuclear submarine force, a new strategic bomber fleet and new warhead systems. Both we and the Soviets know that nuclear war means annihilation for both our societies, and each side has invulnerable nuclear retaliatory power to assure deterrence. New "bargaining chips" are thus simply more waste of our valuable resources. They don't improve the chances of further agreements. They and the whole "bargaining chip" approach only fuel the competition and tension which make effective agreed controls more difficult.

We need the military power to deter or repel attacks on our own shores and on the countries whose defense is essential to our interests. But we have that necessary military power in abundance. We can retain it under a rational program which builds piece by piece to meet real threats, not imaginary ones. Billions upon billions in our present budget go for types of military capability we do not need and should never use. Billions more go for bases and forces abroad that are excessive, inordinately expensive and unrelated to genuine security requirements.

The time has come to begin a broadened and balanced approach towards national security and national priorities. The papers in this study, prepared by recognized experts and reviewed by a broad-based citizens' panel, have examined from that new perspective the four major areas of U.S. military expenditures—strategic arms policies, general purpose forces, military manpower, and military procurement. The conclusions emerge:

Military strength remains essential, but there are very real limits to the capability of such strength to enable us to attain our international goals of a secure and stable peace.

For the United States, national security and international strength begin at home. Continuation of Nixon military policies will mean vast increases in costs—unjustified by any military needs. These increases, and the excess in current budgets, rob urgent public and private needs.

The objective of our strategic nuclear forces can only be deterrence of nuclear war, which no one could win and against which there is no effective defense. Our strategic deterrent—and our forces are now more than ample for deterrence—must be maintained. But America must also refrain from accelerating the nuclear arms race, as proposed by the Nixon Administration, by programs which are not just unneeded and wasteful, but actually make the strategic balance less stable, and future arms control harder to achieve.

We can maintain the general purpose forces we need for our own defense and assistance to countries, such as Israel, Japan and NATO Europe, to whose defense we are properly committed, at lower cost in dollars and men. To do this we must realistically assess threats and contingencies, insist that allies bear their fair share of the burdens, and stop "gold-plating," and bureaucratic rivalries which are making weapons costs skyrocket.

Our military manpower policies must be fundamentally reformed. Measures such as eliminating top-heavy headquarters, cutting back on overblown support echelons, ending wasteful and disruptive personnel management and relieving pressures for careerism and orthodoxy will not only save money, they will restore morale and pride in service in our military forces.

The sorry and familiar spectacle of uncontrolled waste and profiteering in procurement must be halted. Both the way in which weapons decisions are made and the system of defense procurement contracting and management contribute to the present intolerable waste and both must be corrected.

Finally, a new approach to defense policy must ensure that workers, industries and regions now heavily dependent on defense work not bear unaided the burden of the necessary changes. With proper advance planning—which the Nixon Administration has totally neglected—and switching funds into urgent government and private programs, local unemployment and dislocation can be minimized, and the total number of jobs significantly increased.

Under Nixon, military programs present and planned have expanded far beyond our reasonable needs for weapons and forces, while military efficiency and morale have declined. We call for a new approach which would substitute for inexorably growing military spending a new program which is concrete and cost-effective.

With the elimination of wasteful and dangerous elements in our present budget the United States would still retain more than enough in nuclear forces to prevent any use of foreign nuclear power, and more than enough in conventional forces to protect our vital interests abroad, such as Western Europe and Israel.

The savings generated by this realistic approach would make available from the federal budget a new ordering of national priorities. With the ending of the undue military drain on our resources, the health and happiness of our people at home could be more adequately served through expansion of federal aid in transportation, environment, medical care, environmental protection, education, housing and other vital areas. Workers no longer needed for deadend military production could quickly be put to work producing goods and services that improve the quality of life, not the quantity of death. The domestic areas which should and would receive greater national support would yield new and more secure jobs. The United States can have prosperity with peace and without

> the artificial prop of unnecessary military spending.
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> We offer this report in the hope of fostering the growing national dialogue concerning the proper balance between our military and domestic expenditures and the proper management of our military establishment. The subjects we have analyzed are difficult and not free from controversy. But in the long run we believe that forthright public discussion of these questions will improve our national decision-making process. Such improvement is needed, for the personal security and welfare of millions of Americans are at stake in the achievement of a more balanced national budget, which makes adequate provision for our military strength and yet makes available the dollars and resources needed for a strong society. Both are essential to our national security.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. PROXMIRE. I am happy to yield to the distinguished Senator from Missouri.

Mr. SYMINGTON. Let me congratulate the able Senator from Wisconsin. He, more than anyone, has contributed to informing the public about the unnecessary excess cost of defense spending, including the size of actual cost overruns as against estimates in many areas.

As example, take the main battle tank. Its development was begun and continued without much publicity, as is true of so many other weapons systems. Secrecy was involved. The secrecy was broken. Now the program is scrapped.

Many of us thought the Cheyenne helicopter was unsound because of both cost and mission. We were argued down. Now it has been voluntarily scrapped by the Army, at a cost of over $400 million to American taxpayers.

Most important of all was the fight led by the able Senator from Wisconsin against the anti-ballistic-missile system. Some of us opposed this theoretical masterpiece for many reasons, primarily because of its inability to work as planned, and the ease with which it could be saturated. We objected without success for a long time. Now the entire program, in effect, has been scrapped, but it has cost the American people unnecessarily billions upon billions of dollars.

Mr. PROXMIRE. Mr. President, if the Senator will just yield for a moment, let me say that the Senator from Missouri led that fight. The Senator from Wisconsin was delighted to be among the troops and spear carriers supporting him.

Mr. SYMINGTON. The Senator is kind but not entirely accurate.

This week we entered into discussion of the Trident submarine. For years a new nuclear carrier was rejected on the grounds it cost too much money and was becoming vulnerable. These new Trident submarines cost $400 million apiece more than the most expensive aircraft carrier ever built—10 submarines for $13,500,000,000. The Senator from Wisconsin recently told the Senate that in the Pentagon now the plan is to have 16 of those submarines, not 10. That would be a cost of $21,600,000,000 for 16 ships. Where is that kind of money going to come from?

Here is an interesting aspect of this submarine problem: In the SALT agreements arranged in Moscow by President Nixon and Dr. Kissinger, we agreed on 710 launchers as the maximum number we could have. The Soviets' newest submarines, the Yankee class have only 12 launchers. The Polaris has 16, the planned new Trident 24. Therefore, we are voluntarily agreeing to have eventually less than 30 submarines, as part of our arrangement with the Soviet Union, despite the fact that, as everyone knows, the great advantage of such submarines is the capacity to disperse our nuclear missiles.

I am not as well informed on this subject as the able Senator from Wisconsin, but would ask if, to the best of his knowledge, what I have stated is correct.

Mr. PROXMIRE. The Senator is far better informed than I or almost any other Senator I know of. The Senator is absolutely correct. The point the Senator has made today, and what I think we should recognize, is that what we do to our dispersal situation is very important. If we concentrate on a small number of submarines, the name of the game is becoming more an more to locate the enemy submarines and eliminate them. So we would be far more vulnerable and less effective in providing a believable deterrent against a first strike.

I ask the Senator from Missouri, who is an outstanding expert both on foreign policy and defense policy, if that is not correct.

Mr. SYMINGTON. It is assuredly correct. Based on the 950 launchers we allow the Soviets, it means that, whereas we will be limiting ourselves to 30 submarines, we are allowing them some 80 submarines of latest design.

Mr. PROXMIRE. So it is not only a matter of wasting money but also a matter of having a less effective military force, something that I think has been badly overlooked in assessing the whole McGOVERN approach. He is not interested in enfeebling our force; he wants a stronger force.

Mr. SYMINGTON. The American people have the right to ask why.

Once more, we get back to what was brought up by the Senator from Florida and the Senator from Oregon, this question of unnecessary secrecy. Why is not the security of the United States just as important a matter to all the people of the United States as it is to Members of Congress? I do not question anybody's motives, but why should we be the only ones who know about the reasons for decisions that many of us believe to the point where they could destroy the value of the dollar?

Mr. PROXMIRE. I thank the Senator.

I want to make one more point. I should like to point out that what Senator McGOVERN, has said is that over 3 years he would make this reduction. Each year there would be a reduction in military spending. However, that reduction, it seems to me, would take cognizance of what is going on in the world. It would take cognizance of what the Soviet Union does. Many able people argue that when we go up with our military spending, the Soviet military spending goes up; and they argue that if our military spending went down, perhaps theirs would go down. That may or may not be realistic.

In order to understand what Senator McGOVERN is driving at, you have to understand this point fully. He has made it clear that he would not permit the United States to become a second-class power; he would not permit the United States to become inferior. I think this would safeguard our position and be consistent with his argument. He would like to have us go down to $55 billion, but only if we can be consistent with maintaining full military security.

Mr. HUMPHREY. Mr. President, I am pleased to join with Senator PROXMIRE and other Senators in drawing attention today to the distinguished document on national security produced by a panel of advisers for Senator McGOVERN. This panel represents an assembly of distinguished men and women whose advice and counsel is a credit to the Democratic presidential candidate, as well as to themselves.

I would like to draw particular attention to chapter III of this report, the chapter entitled "Strategic Arms." This chapter, done under the chairmanship of Mr. Herbert Scoville, Jr., focuses on what I consider to be the crucial issues affecting our overall nuclear strategy and negotiating posture for future arms limitation and disarmament agreements. It puts into proper perspective the utility of particular weapons systems for our defense, and the disutility of blind support for any strategic weapons endorsed and designed in the name of American national security. It points out very clearly the underlying principle for successful negotiations in noting the potential advantage of the Moscow agreements.

> The potential advantage of the SALT agreements is that they recognize the existence of mutual deterrence. To support the objective of mutual deterrence, we must not only have the forces necessary for a secure deterrent, but we must adopt a national attitude and program which understands and recognizes the present strength of that deterrent on both sides and does not appear to undercut the security of the Soviet deterrent or to belittle the strength of our own.

I think this brief paragraph summarizes well what this debate is all about. It states how we can place a lid on defense expenditures, how we should evaluate our own defense requirements, and how we can best continue the momentum which is building to halt the arms race and achieve general and complete disarmament.

There is nothing utopian about this desire, and this chapter on strategic arms discusses the realities of what we face in an objective, deliberative manner. It places the emphasis exactly where it should lie—on mutual restraint, to be exercized by all nuclear powers, particularly the Soviet Union and the United States. The emphasis should not be on bargaining chips, if the chips mean rushing headlong into new programs which offer little promise of providing any additional security and, instead, offer much more certainly of a continued destabilizing arms race with the Soviet Union.

For a politically charged season, this document warrants bipartisan review. It warns us of the possible costs of going full steam ahead on such systems as the Trident submarine, the B–1 bomber, or an advanced accurate MIRV system capable of destroying hard targets such as missile silos. The lessons of the past are telling enough for us to realize that these are not chips to bargain away as far as the Russians are concerned. From their point of view they are new, offensive threats, inviting a new comparable response in the Soviet Union's accelerated effort to achieve equality and then superiority in its nuclear arsenal with the United States. Not only are these weapons destabilizing, but their cost is phenomenal. Their production merely promotes on the part of both ourselves and the U.S.S.R. an expanded arms race.

Instead, this report suggests what many of us in the Congress have also been suggesting for some time. It offers the principle that we should substitute for weapons development a concentration of our efforts on negotiating qualitative controls like some arrangement with respect to antisubmarine warfare capabilities, in the next round of SALT. It stresses the importance of concluding a comprehensive test ban as a means of discouraging further proliferation of nuclear weapons to presently nonnuclear countries. The comprehensive test ban would also put a damper on the entire arms race as this report points out so effectively. It is the comprehensive test ban, and preparation for SALT II which are the chips of the MCGOVERN panel report. They are the chips we can and should advance as the most realistic way to obtain arms control agreements. They are the chips that I have urged this Government to hold for some time now.

The panel report discusses other aspects of our national security in considerable depth. It is a document which is worthy of our attention and has been endorsed by Senator MCGOVERN. I commend it to the attention of my colleagues in the Senate and congratulate Senator MCGOVERN for soliciting the advice and recommendations of this most distinguished and respected panel of qualified experts in the field of national security.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. PROXMIRE. My time has expired.

The ACTING PRESIDENT pro tempore. The Senator's time has expired. However, the distinguished Senator from Arkansas has the next 15 minutes, and he can be recognized in his own right.

Mr. FULBRIGHT. I only wish to invite the Senator's attention to an article in today's Washington Post confirming exactly what he said about Soviet spending going up if ours goes up. It is a discussion by Mr. Victor Zorza of the effect of the Jackson amendment. The counterpart of the Jackson school of thought in the Kremlin is saying exactly what was said here in the Senate. We are increasing military spending so they, too, go up. We cannot rely on anything but armed force. They cannot rely on our good will or trust or confidence; and, vice versa, we cannot rely on them.

This confirms what the Senator has said.

Mr. PROXMIRE. I thank the Senator.

Mr. FULBRIGHT. I congratulate the Senator for the exchange he just had with the Senator from Missouri. I have heard them say this before. I think the logic of what they say, both from a financial point of view and from a military point of view, is unanswerable.

The Senator from Missouri and the Senator from Wisconsin have expressed plain commonsense in what they have said about the concentration of so much money in a few Trident submarines, which will obviously be more vulnerable than the smaller submarines. It simply reflects an obsession, a kind of madness or foliede grandeur, to try to prove that we can build the biggest of everything—the biggest submarine. Whether it is good or not, it is the biggest.

Mr. PROXMIRE. If it is not the biggest, it is certainly the most expensive and costly.

Mr. FULBRIGHT. It is both. We build the most expensive buildings, and too often the ugliest, and we are doing it right now, and it is the same in this field. It is a madness that has afflicted us, and we have not yet found the cure.

The Senator from Wisconsin and the Senator from Missouri have stated it in language that is understandable. Why there is not a greater response in this body and in the public is beyond my comprehension.

Mr. SYMINGTON. Mr. President, will the Senator yield on his time?

Mr. FULBRIGHT. I yield.

Mr. SYMINGTON. Let me read into the RECORD at this point remarks made by a well-known and distinguished admiral. He states—and this is much of the whole story, right here—

> The military services in recent years have shown a tendency to acquire weapons which have been more noteworthy for their technological complexity than their basic military effectiveness. All too often, these excessively complex weapons have performed worse under combat conditions than the less exotic systems they were designed to replace, or the simpler weapons in the enemy's inventory.

I say to the Senate that is exactly what I found out when visiting the battle areas in the Vietnam theater: These theoretical engineering geniuses back here designing weapons systems so complex they could not be utilized properly in actual combat.

Mr. FULBRIGHT. The Senator is absolutely correct. One need not go to the battleground. One can watch the wheels fly off the C–5A when it lands in this country. One need not go any place else. They fall off right here, before the television camera. The Senator need not go there to see the F–111 fall out of the skies. They have fallen out of the skies I do not know how many times.

Of course, they were a complete bust, a complete waste of money—$7 or $8 billion between the two. On the C–5A, the overruns alone are somewhere in the neighborhood of $2 billion, if not more. So the Senator need not go very far to see these examples.

Having no useful mission to perform, the technologists are simply trying to demonstrate their dexterity, just to prove they can do something. It reminds me of the old Meccano set—just keep piling it on bigger and bigger, until it collapses.

POLITICAL SPEECHES IN THE SENATE

Mr. FULBRIGHT. Mr. President, I was a little taken back yesterday by the rather vicious attack by the distinguished Senator from Pennsylvania upon those of us who feel it is our duty to present our views in a public forum. The only public forum we can afford is the floor of the Senate. We cannot afford to buy television time, as the Republicans do. We do not have $45 million or $50 million to purchase television time. The only recourse we have is the time on the Senate floor, even though nobody is here to listen.

We have done what we can to put into the public domain basic facts regarding the state of the Nation. For the Senator from Pennsylvania to take offense at this, it seems to me, is a little out of order.

I was previously a little dubious as to whether it was worthwhile to say anything in the Senate, until the Senator from Pennsylvania, indicated that it was getting under his skin, that he did not like it. Therefore, I decided that it was worthwhile to proceed. Whether or not anybody listens is debatable, but the facts are there for the taking by the press or anybody else.

I confess, in the first place, that much of this is not new, the only thing that puzzles me is that, having been in the public domain, having been available, there has not been a greater recognition of its significance.

RECORDBREAKING DEFICITS AND RECORDBREAKING MILITARY BUDGETS

Mr. FULBRIGHT. Mr. President, the Senate is considering a proposed $250 billion ceiling on Government spending in the near future.

I find it highly ironic that the Nixon administration, with its recordbreaking budget deficits, is now talking of a limitation on spending. This administration has consistently worked to increase spending—for the military, for the space program, for bailing out mismanaged corporations, such as the Lockheed Corp., and the Penn Central Corp., and for a host of foolish foreign ventures which I will discuss later, because as I understand it, when the morning hour is over, we will go right on to foreign aid. So I will go into the foreign ventures in greater detail then.

I invite attention to the fact that the House, bemused as it is with the foreign field, just yesterday voted an enormous amount of money for foolish foreign ventures, which will, of course, go to conference, and we will hear more about that later.

President Nixon has, it is fair to say, worked to cut spending in some areas. That is, he has worked in areas of health, education, and community development to restrict expenditures, and also in one area about which I feel particularly sad, and that is public broadcasting. Public broadcasting was one area in which there was some reasonable possibility that the views and facts presented in the Senate could be presented to the public. Public broadcasting has been much more interested in and has given much more time relative to its resources to the presentation of hearings of the Senate and the House and the other activities of Congress than have commercial broadcasters because such programs can hardly find commercial sponsors. It is difficult to get commercial sponsors for coverage of any hearing in Congress. I regret very much that the President vetoed the bill for public broadcasting.

Mr. President, the indisputable fact is that the deficits accumulated under President Nixon are the largest in history except for World War II. Likewise, it is indisputable that the military budget under the Nixon administration is the largest in history and has increased yearly. All this from a man who, 4 years ago, was promising a balanced budget and who now boasts of "winding down" the war in Southeast Asia, of an "era of negotiation" and a "generation of peace," while spending more and more for military purposes and for public relations activities.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a table showing the budget deficits accumulated under the Nixon administration.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

DEFICIT OF FEDERAL FUNDS

(Administrative budget)

Fiscal year:	*Billions of dollars*
1970	—13.1
1971	—30.0
1972	—28.9
1973	*—37.8

* Estimated figure—source: Office of Management and Budget.

Mr. FULBRIGHT. Mr. President, it is the administrative budget—not the so-called full employment budget or any other accounting gimmickry—which is the basis for calculating the national debt, now at about $450 billion. About $110 billion of this total—roughly one-fourth of the national debt—will have been accumulated under the Nixon administration. I might add that the Nixon economists have an extremely poor record in forecasting deficits, having never yet come close to the actual figure. There are many independent experts who feel that the 1973 deficit will exceed $40 billion.

I cite these figures because it is important to understand what the Nixon defict spending is doing to the Nation's financial condition. The one major factor in building these staggering deficits has been the President's insistence on escalating the military budget.

There have been reports this week of studies which show that the military budget will soon reach $100 billion annually, based on current programs of the Nixon administration. In fact, the overall costs for military and military-related programs has already gone well past $100 billion under Mr. Nixon. The Joint Economic Committee has calculated that the fiscal 1973 request for spending authority for military and related expenditures, including veterans' benefits and most of the interest on the national debt, at about $120 billion. Although President Nixon boasts that "only" 32 cents of every budget dollar goes for military purposes, I calculate that actually about 62 cents of every tax dollar goes for military and related expenditures or for the space program.

Let us look at some of the specific effects which Mr. Nixon's policies have had on our lives and our economy.

COST OF THE WAR

On September 13, I spoke at some length in the Senate about the cost of the war in Southeast Asia under the Nixon administration. The figures I cited tell a tragic story.

Since Mr. Nixon became President, almost 20,000 Americans, 89,000 South Vietnamese and 450,000 enemy soldiers have died in the conflict—more dead than the population of five of our States. Since his inauguration, almost 108,000 more American servicemen and 425,000 South Vietnamese have been wounded.

The rolls of the POW's and the MIA's lengthen each day American involvement continues. Seventy-six more Americans have been taken prisoner and 466 more are missing since this administration took office. According to press reports, 84 Americans have been lost over North Vietnam since last March; in all 175 fliers are missing, 72 have been killed, and 55 wounded.

During the Nixon years a total of 3,529 aircraft—fixed wing and helicopter—have been lost in Southeast Asia. Eighty-four aircraft have been lost over North Vietnam since the resumption of the bombing in April. The cost of each F–4 shot down over North Vietnam would pay for an annual salary of $9,000 to 30 schoolteachers.

Ten B–52 sorties would provide $2,000 scholarships to 210 needy students or build a 22-bed nursing home. The cost of an average month's sorties would approximate the administration's attempted cutback of $47 million in the school lunch program last year—a cut that would have reduced the number of students assisted by 600,000.

The $52 million cost of the 105 helicopters lost in the 1971 invasion of Laos equals the cost of 17 local health centers which could each treat 40,000 persons annually.

We spent $400,000 to build "isolation wards" at Con Son Prison in Vietnam, an amount which would have allowed construction of 20 badly needed public housing units for the elderly.

Earlier this year a $445,000 movie theater was opened on the American base at Long Binh, Vietnam. The 20,000 military and civilian personnel there at the time had their choice of more than 100 movies each evening, plus bowling alleys, massage parlors, male beauty salons, swimming pools, 60 bars and vast sports facilities. I do not know what the poor people of Vietnam will do with these luxurious facilities. Contrast this extravagance with the Nixon administration's efforts to cut off all Hill-Burton grants for hospital construction in this country.

Using the executive branch's extremely conservative figures, by the end of the current fiscal year the Nixon administration will have spent more than $54.5 billion on incremental war costs, only slightly less than the amount spent in the Johnson war years, or $260 for every man, woman and child in the United States.

Somehow many Americans have been deceived into believing that our involvement in the war has ended. The President would like the American people to believe that only the 37,000 Americans in Vietnam are involved in the war. In truth there are some 150,000 in the Far East involved, either directly or in support operations. According to the Defense Department, 148,200 members of the Armed Forces received hostile fire pay—combat pay—in June.

The Washington Post has labeled Mr. Nixon the "greatest bomber of all time," a title he justly deserves. During the Nixon years more than 3.7 million tons of bombs and other air munitions—2 tons every minute in recent months—have been used to devastate the people and landscape of Indochina.

Mr. Nixon's overall bomb tonnage can be compared to the 2 million tons dropped by the United States on two continents in World War II, and 1 million tons in Korea, the 33,000 tons used by the British in Malaya. Mr. Nixon's tonnage is the equivalent of 185 Hiroshimas, roughly one a week according to figures compiled by Project Air War.

Every American should know that this war is costing the Nation at least $20 million a day. Thus we spend more on the war in 3 days than all the municipalities and counties in Arkansas combined will receive in a year under the proposed revenue-sharing legislation as approved by a House-Senate conference.

Of course, much of the cost of the Nixon war will be paid for by the children and grandchildren of current taxpayers in the form of interest on the debt, veterans' benefits, and social consequences such as the drug addiction of veterans and resultant crime.

Probably the most devastating impact on the lives of every-day Americans has been the inflation created and nurtured by the war. From January 1969 to June 1972, the consumer price index rose 17.2 percent. Regrettably, many Americans do not seem to realize how much the excessive military spending has contributed to inflation, although every grocery shopper can readily testify to the increased prices.

The pockets of all Americans have been picked by President Nixon's failure to keep his campaign pledge to end the war. When he came to office, the average American worker was earning $118.13 per week, measured in 1967 dollars. By June 1972, the Nixon war and economic policies had reduced workers' real weekly earnings to $108.31. Thus the Nixon policies have taken $10 out of every worker's weekly paycheck.

Of course, as I have frequently stated,

the real cost of the war cannot be measured in dollars or statistics. Prof. Henry Steele Commager comments on this in a review of Richard J. Barnet's book, "Roots of War," in the October 5 issue of the New York Review. Professor Commager, one of our most distinguished historians, writes of the war's cost:

> It includes the tangible burdens like payments on the debt which is saddled on future generations—Nixon's business-minded administration has managed to add some seventy-five billions to that debt in three years—or the increased cost of everything, or the ceaseless waste of the natural resources of the entire globe. It includes impalpable but ultimately more costly things like the waste of talent and of labor on the work of destruction rather than their application to the work of construction; it includes the distraction of the best minds of this and other nations from the tasks of true statesmanship, and the steady deterioration in the quality of life for the majority of the American people, not to mention the Vietnamese; it includes forcing other nations to follow the American example of distraction and waste in sheer self-defense.

OTHER MILITARY COSTS

Mr. Nixon's tragic excesses have by no means been limited to the war in Vietnam. As I mentioned earlier, his overall military budget is the largest in history.

For example, the Center for Defense Information estimates that the United States will provide more than $9.5 billion in military assistance to foreign countries this year. That is about five times as much as the Nixon budget provided for higher education and vocational education combined.

While the Nixon administration has poured billions into dubious military projects, funds for a number of vital domestic programs have been impounded. At the end of fiscal year 1972, the Nixon administration was impounding some $10 billion in fund appropriated by Congress and intended to be spent primarily for domestic development purposes. This administration obviously preferred to put funds into foreign military aid.

Among the funds impounded by the administration have been appropriations for water and sewer systems, rural electrification loans, highway construction, urban mass transit and airport facilities.

Of particular importance in Arkansas is the Farmers Home Administration grant and loan program for water and systems for small communities. Such systems are the backbone of growth for our smaller towns and by aiding their development we can ease the burden on our urban areas. However, for fiscal 1973 the President asked no new funds for FHA water-sewer grants, proposing only to spend a portion of the $58 million impounded in fiscal 1972. In fiscal 1971, only $44 million was allocated by Mr. Nixon from a $100 million appropriation.

In Arkansas alone there are 145 unfunded applications for $35 million in loans and grants. Nationally, an estimated 34,000 towns of under 5,500 population lack adequate water systems and 49,000 lack adequate waste disposal systems. Twenty to 25 million rural Americans lack running water in their homes. Thirty million families are using waste disposal systems that dump untreated effluent into our soil and surface waters.

In comparison with the massive military budget, the $58 million impounded by the administration is miniscule. That is the same amount the administration proposes to spend for research and development on the F–14A—just 1 year of R. & D. on one project. Overall, the F–14 is a $5.3 billion program; 314 are scheduled to be built at a cost of $17 million each. The total current annual budget for the University of Arkansas Medical Center in Little Rock is less than the cost of one F–14.

Each F–14 will carry six air-to-air missiles costing one-quarter of a million dollars each. A load of missiles for a single F–14 would pay for a year's Headstart program for 1,000 children.

In addition to the funds for water and sewer system grants for small communities, the Nixon administration has also impounded funds for the Department of Housing and Urban Development water and sewer grant program for cities. This year the President proposes to spend only $200 million and that comes from funds impounded in fiscal year 1972. Although there is a multibillion dollar backlog of requests for water-sewer grants, the administration wanted to spend $225 million this year for purchase of six Boeing 747 jets for an airborne command post for use by the President and other members of the National Command Authority. However, the Department of Defense already has a sizable fleet of airborne command posts, having spent nearly $600 million for such purposes. The Committee on Appropriations of the House of Representatives recently rejected this request, I am pleased to say, on grounds that it was premature and unjustified.

The Nixon administration has given its strong backing to the C–5A aircraft, which has had a cost overrun approaching $2 billion—almost as much as the total 1972 budget request for the Environmental Protection Agency.

The $36.5 billion overrun on 45 weapons systems under development is equivalent to estimated Federal expenditures for health programs in 1972 and 1973, including medicare and medicaid. The irony is even greater when you consider that health service and medical care in this country are extremely costly and that many of our citizens cannot pay for and do not receive adequate health care.

Although the drug problem is a critical one in our society—heightened by our involvement in Southeast Asia—and although President Nixon claims drug education is one of his highest priorities, the drug education budget for fiscal 1972 in the Office of Education was $13 million—one-fourth the cost of just one C–5A plane.

The administration strongly backs spending $1 billion for another nuclear aircraft carrier, a vulnerable ship which is essentially of an "interventionist" nature. Likewise it wants to build a large number of the Trident—ULMS—submarines at $1 billion apiece. The cost of each one would pay for a new mass transit system for a major city.

But the Nixon administration has made its priorities all too clear. While continuing to increase military expenditures, the President takes pride in having vetoed funds for health, education, and other constructive programs. While we expend billions for overseas military activities, millions of Americans are living blighted lives in urban and rural slums; millions of children are denied adequate education; millions of citizens fail to receive adequate health care; and some Americans even go hungry.

The PRESIDING OFFICER (Mr. HOLLINGS). The time of the Senator from Arkansas has expired.

Under the previous order, the distinguished Senator from Michigan (Mr. HART) is now recognized for not to exceed 15 minutes.

Mr. HART. Mr. President, I will be glad to yield 5 minutes of my time to the distinguished Senator from Arkansas, if he wishes to continue.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 5 additional minutes.

Mr. FULBRIGHT. I appreciate that very much.

I should like to summarize what I have just said simply by saying that the enormous impact of the war, apparently, has not come home to the American people. I say that judging from the reaction to the efforts on the part of some Senators and others to stop the war. The constant reiteration of the seriousness of this condition has not, apparently, gotten through to the American public.

One of the principal reasons, I think, is that the cost of inflation is always a delayed cost. We have seen this occurring in other countries—in practically all the major European countries, Germany and France, particularly, and in Italy, Spain, and other countries—and, for a time, in Japan. That is, the creeping cost of inflation comes on gradually. Its effect may not be dramatic enough at one time to cause any political reaction. It is actually a little bit like taking dope or alcohol. In the process, it is rather pleasant and everyone thinks he is a little bit better off because, more dollars and more money are in his pocket. But the eventual cost has always proved to be disastrous.

That is what I was leading up to earlier. The effect is most serious because it not only undermines the economy of government, but also undermines the confidence of the people in their leaders and in their Government, after they begin to feel and to pay the real price of inflation. It eventually catches up with the poor people and all of those who are on pensions, on retirement, on fixed salaries such as schoolteacher—all these people feel it the most.

People who are not speculators pay the price of the cost of printing the money to pay for arms, as we are now doing. Eventually it has the most evil effect on the poor people. Speculators who can purchase land, stocks, and things of that kind can always protect themselves. They are the kind of people who make enormous contributions to the Republican finance campaign. Inflation means very little to these people. It is sad, but that is the way it is. This undermines the allegiance of a people to their society.

In recent debate here the Senator from Washington (Mr. JACKSON) said that he is primarily interested in the security of the United States, a free enterprise democratic system. I say that the policies he advocates, and those of the Nixon administration are the principal things undermining the security of the country and undermining and discrediting the democratic free enterprise system. These excessive military expenditures are undermining the faith and confidence of the people of this country in their economic and political system.

I think that the evidence is beginning to appear. Certainly the evidence concerning the economic conditions is very clear. We have significant inflation and unemployment in the country.

However, the final effect is the feeling of futility and frustration of the people that they cannot do anything about the situation, that the country is too big, that there is no way to do anything, effective to influence the course of events.

That is certainly true in the Senate itself. Many of us share the feeling much of the time that it is hopeless. The debates on the floor are very rarely over the merits of any measure. The debate simply centers around whether the administration is for or against a proposal.

In the case of the Jackson amendment to the interim agreement, very little was said, except on the part of a few people, about whether this was good or bad and only a few people argued on the merits of the measure. Much of the debate centered around: "Are you sure the President is for it, and if you are sure he is for it, that is enough for me."

This shifts responsibility from ourselves. This is always characteristic of an abandonment of the democratic process. People become so enamored of their leader's thinking, they ignore the merits of the measure. This signifies the beginning of an authoritarian system. And let us not forget, three-fourths of the people in the world today are living under an authoritarian system of government.

I would like to point out that when we come to the foreign aid bill we will see that 25 of the 64 governments to which we give aid are dictatorships. We are giving more aid to dictatorships than we are to democratic countries.

The deterioration of our economy is critical. Inflation, fed by massive military spending and resulting deficits, is undermining our democratic system.

The PRESIDING OFFICER (Mr. HOLLINGS). The time of the Senator has expired.

THE NATIONAL DEFENSE

Mr. HART. Mr. President, as always the Senator from Arkansas has made his point in a very excellent manner. Speaking from the background of his rich experience, his understanding, and sensitivity, he has, I believe, expressed eloquently the concerns that not enough of us share, but which an increasing number of people in the country are coming to share.

Mr. President, I have not found anyone in or out of Congress who wants to make America insecure. I think that everyone seeks to insure the security, of this country. However, there is disagreement as to the definition of security and what is a sound national defense program.

Mr. President, a sound national defense program should be based on these assumptions:

First. Our defense clearly must be strong enough to deter others from starting a war against us and to support commitments vital to the security of our Nation.

Second. Our defense programs should seek to dampen rather than to inflame the costly and dangerous arms race.

Third. Inasmuch as the strength of a nations is no less dependent on the strength of its economy, the well being of its people and the vigor of their spirit, the defense program should divert as little money as possible from unmet domestic needs.

In turn these assumptions rise from three hard, inescapable facts of life.

First, the United States cannot be, if it ever could, a world policeman, nor can it or should it seek to direct political developments of other nations through its military strength.

Second, there is no security in an ever-spiraling arms race, only the growing insecurity resulting from the development and spread of weapons which if used, either by design or accident, could destroy us all.

And third, even with large Federal budget deficits we are depressingly far from providing the necessary Federal support for education, housing, and health, for both people and the environment.

As just one example, perhaps without exception people in this Nation would agree that the Great Lakes are a resource worth saving and improving. However, under this administration's spending priorities, the Federal Government could not fund a $141 million antipollution program for the lakes as recommended by the Environmental Protection Agency, an agency headed by its own appointees.

President Nixon's administration apparently ignores most of these considerations. Let me explain.

In order to discourage other nations from launching a nuclear war we must be able to withstand a first-strike attack with sufficient power remaining to inflict an unacceptable amount of damage on the attacking nation.

At present, our 41 nuclear-powered submarines alone have enough warheads to attack 3,000 separate targets in Russia. In addition, of course, we have strategic bombers and our land-based missiles which can inflict still more damage on the attacker.

In all, we have twice as many nuclear warheads as Moscow.

Yet, the administration, even after negotiating an agreement with the Soviet Union to limit antiballistic missile defense systems to the point of uselessness, wants to spend even more money on still more weapons.

This administration wants to have four times the number of nuclear warheads possessed by Moscow.

This administration wants a new submarine fleet years before the present one can even be considered as obsolete, and a fleet, which will be a less credible defense because it will concentrate our sea-based missiles on fewer submarines.

Perhaps if this Nation had an unlimited amount of money we could honor such requests—folly through it would be—without damage to the effort to make our Nation strong at home.

The fact is, to repeat, we do not have that bottomless bag of money.

Even under the present $78 billion Pentagon budget, 30 cents out of every Federal tax dollar goes to the Pentagon.

That breaks down to $1,200 in taxes for each American family, or to twice the amount of money all levels of government spend on elementary and secondary education, or to eight times what this administration and industry are willing to spend to clean the air and water.

On top of this, the administration wants to pile the costs of unneeded new weapons which may well push the Pentagon budget from $78 billion to more than $100 billion before 1980.

If we take that projection and add to it the President's statement that he plans no tax increase in his next administration, the statement of the former Secretary of the Treasury that there are no Federal tax loopholes to close and the fact of an existing $25 billion budget deficit, we have every reason to fear that the Great Lakes antipollution program—or any other new effort on the domestic front will not be adequately funded during 4 more years under the present administration.

Perhaps one of the more ominous Pentagon programs now underway is the research and development project called ABRES—advanced ballistic reentry system.

This project has been described in various ways, but no matter how named, it cannot help but be viewed by other nations as an attempt to develop a missile with the accuracy to knock out an enemy's retaliatory nuclear forces.

Put another way, this project could easily become a first-strike offensive weapon designed to knock out the enemy's deterrent force.

History reminds us that even the hint of the development of a new offensive weapon sets off a new escalation in the arms race—a race to develop a defense to thwart and an offense to match or exceed the threat of a breakthrough by the other side.

And the result is the world is closer not to security, but to the final explosion of manmade weapons.

So not only is the administration's Pentagon budget excessive at the cost of domestic programs, it could also unsettle the arms race at a time when, because of SALT, this Nation should be doing all it can to reverse the awful march to oblivion.

There are prudent ways to cut back on Pentagon spending.

First, the administration can resist pressure for profits from the defense industry and order only those weapons needed to provide a credible defense. I submit the credibility of our defense is not enhanced by the possession of four times rather than just two times the number of warheads possessed by Moscow nor by adding still more to our overkill capability.

Second, the administration can make clear by the type of weapons it chooses to develop that it wants to reverse, not encourage, the arms race.

Third, it can inject the cost discipline of competition into the defense industry by requiring that bidders develop prototype models, with the contract going to the firm which has the best test model.

This is not a new concept. The Antitrust and Monopoly Subcommittee held hearings in 1968 and 1969 on the question of competition in the defense industry.

At the end of those hearings, the subcommittee recommended the prototype approach to defense procurement, a recommendation then endorsed by the General Accounting Office.

Such an approach has not been implemented even though cost overruns and project failures have continued to mount. One prime example is the case of the C–5A aircraft, where the estimated cost of $3.4 billion for 120 planes has skyrocketed to $4.9 billion for only 81 planes. And tragically, two of the planes have crashed and an engine fell from the wing of a third while still on the ground.

And finally, we can reduce Pentagon spending by prudently cutting back on overseas deployment of U.S. troops, reductions worked out through negotiations and consultation with our allies.

Also, the administration can demand more efficiency of our military. Today the trend seems to be toward a military force top heavy with senior officers.

Today we have more colonels and naval captains for 2.3 million service personnel than we did for a 12 million person force in World War II.

But to bring about this change in policy the Nation needs an administration which recognizes:

That the well-being of a nation's people is as important to the national security as the might of its armaments;

That the arms race diminishes rather than enchances the national security;

That efficiency should be demanded of the Pentagon and the defense industry.

And yes, we need an administration that understands our proper role in international affairs, and, recognizing that we have no vital interest in Vietnam, will end all our involvement in that tragic conflict.

As individuals we would do well to heed these words of President Eisenhower:

> Every gun that is made, every warship launched, every rocket fired, signifies, in the final sense, a theft from those who hunger and are not fed, those who are cold and are not clothed.

And as a nation, which has seen SALT come to reality, let us respond to this challenge with the understanding offered by President John Kennedy after the Nuclear Test Ban Treaty had been reached with the Soviet Union:

> Today we may have reached a pause in the cold war—but that is not a lasting peace. A test ban treaty is a milestone—but that is not the millennium. We have not been released from our obligations—we have been given an opportunity. And if we fail to make the most of this moment—then the shaming indictment of posterity will rightly point its finger at us all.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order the Senator from Minnesota (Mr. Humphrey) is to be recognized at this point.

Mr. ROBERT C. BYRD. Mr. President, I have been called by the Senator's office and asked that the order be vacated. I, therefore, make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The next order is for the Senator from West Virginia, Robert C. Byrd, to be recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the next two orders be reversed in sequence.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania is recognized for not to exceed 15 minutes.

Mr. SCOTT. I thank the distinguished Senator from West Virginia for his courtesy.

THE POLITICAL CAMPAIGN

Mr. SCOTT. Mr. President, I rise because I must, as I have stated on previous occasions, whenever the complaint is made about alleged and sundry crimes and misdemeanors.

It appears to me what is going on is that my colleagues on the other side are in reality bewailing the consequences of their own actions. Everything of which they complain, whether they are even accurate or not—and there is substantial doubt on that score—arises from legislation which this Congress passed and for which most of them voted.

Of course, the junior Senator from South Dakota did not vote, but that is part of his life style. He appeared for about one-fourth of the votes. I will get into that.

But the rest of us have exercised our responsibilities in voting, and the laws have been passed and administered, and conditions have resulted from them.

Ill it becomes us to complain of that which we have created and to bastardize our own progeny.

The Senator from Arkansas, for example, grieves and asserts in the course of his apologia sua juris that the reason for this eerie complot of rhetoric and logorrhea is because they do not have as much time on television as is available to the administration.

Anyone who watches television knows we are already beginning to be inflicted with the television commercials on the other side, and my side has not begun any process of infliction yet. What we have heard has been only from the other side.

As to not having enough money, Senator McGovern has 29 millionaires who have filed so far in support of him. One would assume that among 29 millionaires funds could have been gotten for a little spot of television now and then.

What is the candidate talking about on television? Why, he is discussing drugs and crime. I heard him last night say we have to get on top of the crime problem. Yet when it comes to voting he is on the bottom of the list.

During this very week the Senate has considered and passed bills for the compensation of victims of crime, a convention on narcotic drugs, a provision to provide insurance for law enforcement officers disabled or killed in the line of duty, a bill for the protection of foreign officials in this country, a drug treatment program, a convention for the suppression of the unlawful seizure of aircraft through hijacking, and action pertaining to crimes aboard aircraft.

While he might have been doing something, he was talking. He was keeping his engagements and talking about the credibility gap. He was telling the whole Nation how strong he feels on crime but he was not here to answer the bugle call of Senate responsibility. He was telling the public he wanted to get on top of the drug situation, but it was his colleagues who were meeting the test of their electoral function.

He was saying he worries about drugs and crime, but we worry about George who is is not here to worry about drugs and crimes with us. We grieve at the absence of the Senator. We grieve because we do the work, and our work is made a little more onerous through the absence of a colleague. He has not appeared to testify, so far as I know, in hearings. He has not sponsored a successful bill. He has cosponsored, in absentia, other bills, and from time to time his name has been removed if that cosponsorship proves embarrassing. He has not been here to vote.

So it comes with ill grace not having enough money for television, when the television only portrays nonperformance.

I say to the Senator from Arkansas he does not know how lucky he is, because if there were more television, there would be more displays of the gap between promise and performance. I think this argument of poor mouth is used to conceal poor arguments.

Then we heard something about the war, as we always do from the Senator from Arkansas, one of its early supporters, as was the Senator from South Dakota (Mr. McGovern). But what we do not hear is that last week there was not a single American soldier killed in Southeast Asia in combat, and that compares with 250 to 300 casualties a week at the peak of the war.

And what we hear is complaint of defense spending. Every cent of that defense spending was voted by Congress. In fact, in the 1971 budget, America's priorities were quietly but dramatically reordered, and Congress participated in that. For the first time in 20 years, the money spent for human resource programs was greater than the money spent on defense.

In 1972, spending for defense was increased to carry out the Nation's strategy for peace. But even with this increase, defense spending has dropped from 36 percent of total spending in 1971 to a budget request of 34 percent in 1972, and budget requests for human resources programs continued to rise as a share of the total to 42 percent of total spending in 1972. And for 1973 the budget was 45 percent for human resources and 32 percent for defense spending, a virtual reversal from the previous administration's 1968 budget.

So that the only proper way to look at this is to see whether we are providing well for our domestic needs as we reduce the cost of the Vietnam war from $30 billion a year to $6 billion a year, and as we reduce the number of troops there from 520,000 to 27,000, and as we take the draftees from Vietnam and send no more back, and as we approach a zero draft next year.

These are real accomplishments. These are genuine achievements against the poor mouthing and the bleeding at every pore because there is a poverty in the other camp. It is a poverty which is a poverty of ideas and it is a poverty of issues. Senator McGOVERN is losing that war on poverty every day.

And there is more good news that has just come over the wires in the last 10 minutes:

> The rise in living costs slowed below President Nixon's target goal of 3 percent in the first year of his wage-price control program, the Government reported today.

That is the program Senator McGOVERN was not here to vote for on December 1, last, but it is a program which he says should have begun 2 or 3 years before.

The news from the ticker tape continues:

> In the 12 months ending in August, the first year of the economic stabilization program, the consumer price index rose .9 percent.

That is less than 1 percent—

> This compares with a rise of 4.4 percent in the preceding 12 month period, the Bureau of Labor Statistics said.
>
> The report said living costs in August rose two-tenths of 1 percent, half the previous month's rise.
>
> The Bureau also reported that the average paycheck of some 50 million rank-and-file workers rose to $137.23 a week and that, after allowance for inflation, the past year's increase in purchasing power was the largest of record.

So the working man and woman are making higher salaries than ever in their lives. There are more people employed in America than were ever employed in the history of this country. The pattern for inflation now is not only checked but is being quite obviously won.

These are achievements, these are accomplishments, and they stack up against the complaints and the quivering efforts of the other side to create an impression, contrary to fact, that things are not as good as they could be under the candidate of the opposition. All this steam generated by speakers on the other side will not suffice to push up the long hill the little engine that couldn't.

I yield back my time.

ORDER RESCINDING RECOGNITION OF SENATOR ROBERT C. BYRD

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the special order entered for the distinguished Senator from West Virginia to speak at this time be vacated.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries.

PROPOSED PARTICIPATION OF THE UNITED STATES IN THE INTERNATIONAL EXPOSITION ON THE ENVIRONMENT—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. HOLLINGS) laid before the Senate the following message from the President of the United States, which, with the accompanying papers, was referred to the Committee on Foreign Relations:

To the Congress of the United States:

Pursuant to Section 3 of Public Law 91–269, I am herewith transmitting to the Congress a proposal for participation by the United States Government in the 1974 International Exposition on Ecology and the Environment to be held at Spokane, Washington. This proposal includes a plan prepared by the Secretary of Commerce in cooperation with other interested departments and agencies of the Federal Government, in accordance with Section 3(c) of the referenced law.

On October 15, 1971, I advised the Secretaries of State and Commerce that the Spokane exposition warranted Federal recognition in accordance with Section 2(a) of Public Law 91–269. On November 24, 1971, upon request of the United States, the Bureau of International Expositions in Paris, by unanimous vote, officially recognized the event as a Special Category exposition.

I have determined that Federal participation in this exposition is in the national interest and I fully support the Secretary's plan for such participation. In essence, this plan calls for the construction of a Federal pavilion. The pavilion has been conceived and developed with a view to maximizing residual use benefits to the Federal Government at the conclusion of the exposition.

Congressional authorization is required as a prerequisite to United States participation in a Federally recognized domestic-international exposition. Legislation is also required in order to establish the other authorities necessary to effect the proposed participation, as well as to authorize appropriations. The appropriations necessary to carry out this plan are estimated at $11.5 million.

I urge that the appropriate legislation, which I am transmitting herewith, be given prompt and favorable consideration by the Congress.

RICHARD NIXON.

THE WHITE HOUSE.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. HOLLINGS) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 15 minutes with statements limited to 3 minutes each.

SENATOR GEORGE McGOVERN

Mr. MANSFIELD. Mr. President, I did not hear all the speeches, political and otherwise, which the distinguished Republican leader has just referred to, but it appears to me that Senator McGOVERN must be like Banquo's ghost, because it seems to worry the distinguished leader of the Republican Party in the Senate that Senator McGOVERN is not here. He is out seeing the people, as he should be. He is out trying to tell them what his views are, what he stands for, and what the issues, in his opinion, consist of. I think that anyone who is running for the Presidency of the United States should be out among the people, and not among his colleagues back in Washington, D.C. The people deserve to be informed fully on the issues, so that they will have the opportunity to judge where each candidate really stands.

To listen to the distinguished Republican leader, it would appear that we are living in Utopia—we have no problems, everything has been solved by this administration, and all we should do is not rock the boat.

Well, I am glad to hear that the rate of inflation has been reduced from 4.2 or 4.3 percent to 3 percent over the past year as far as food prices are concerned. I am happy to note that the percentage of unemployment has been reduced from 6.1 to about 5.6. But I am not happy to note that in excess of 5 million Americans are still without jobs.

I am not happy to note that the war in Indochina is still going on, and I do consider it good news and I am grateful and thankful that no Americans were killed in Vietnam last week, because there is always that possibility. I believe there were seven wounded. And then, of course, there are the figures for the South Vietnamese, our allies, and their casualties, I think, number something on the order of 2,000.

We are, as the distinguished Senator

has said, spending $6 billion a year in Vietnam, and that figure has been reduced from a high of $28 billion. But we have dropped more bombs on all of Indochina, by three times, than we did in the Second World War and the Korean war, and that includes all theaters of operation in the Second World War itself.

I am sorry that the distinguished Senator from Arkansas, whose name was called into question, is not here at the moment, but I did hear part of his speech. I thought that his arguments were valid—at least the part I listened to. We do have the war in Vietnam with us. We do have the number of POW's increasing, and we do have no solution in sight.

It is my opinion that, until and unless the war in Vietnam is concluded, there will be no possibility of achieving the kind of stability that we desire, Republicans and Democrats alike, in this country, and begin the healing process of the cancer on the soul of this Nation and on the soul of the body politic in America that this war has been responsible for creating.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ROBERT C. BYRD. Mr. President, I yield my 3 minutes to the distinguished majority leader.

Mr. MANSFIELD. So I wish GEORGE McGOVERN well. I shall support him, to the best of my ability, and with the fullness of my energy. I want him to continue to go out among the people and to do what he can to bring the issues home, because if we are going to have a two-party system in this country, I think the candidates ought to get out and mingle with the people, discuss the issues, and consider the possibility of face-to-face meetings in debate and otherwise. The American people should be permitted to make a valid choice, a rational choice—not purely an emotional choice, based upon the type of direction each candidate wishes to lead this country.

May I say that I have noted with interest that every statement GEORGE McGOVERN makes is immediately covered by the Republican opposition, and if it is not answered in kind, some announcement is made from the White House which takes away some of the publicity which the Democratic candidate seeks to achieve.

I think this in indicative of a well run campaign, a very smooth campaign, and in my opinion an overorganized campaign, because if the Republicans keep up this kind of a campaign, what they are going to do is paint GEORGE McGOVERN as little David with a little slingshot fighting against Goliath and the Philistines. The American people have a liking for the underdog. I would urge the Republicans to keep up the kind of campaign which they have been conducting. It is a great campaign. It is a smooth campaign. It is an efficient campaign. No angles are left uncovered.

But I think that if it continues—and I hope it does—it will mean a very strong boost for GEORGE McGOVERN in the country, and will make him a more formidable contender in the future ratings than is the case at the present time and hopefully will result in his election in the only rating that counts—the rating by the people on election day, November 7, 1972.

Mr. SCOTT. Mr. President, under the morning hour, I want to pay tribute again to the distinguished majority leader for his bravery and his gallantry, because all week we have heard spokesmen here who have epitomized the fact that Senator McGOVERN is away from the Senate and the Senate is running away from McGOVERN. This is the first time all week—and I have been waiting here patiently— that any Senator has had the bravery that the Senator from Montana has. He has served in all branches of the armed services and now embarks on this further perilous road by undertaking the task of indicating his support for the candidate of the opposition. Mr. President, that is gallantry beyond the call of duty.

I do hope, speaking of ghosts, that the candidate of the other side will arrive here on Halloween, and we can then celebrate the return of the spirit and the reunion with the shade, and have the opportunity to see in living color and in the full flesh our missing colleague whose absence we have been so busy deploring.

Finally, as to the casualties of the South Vietnamese, surely no one would argue that those people should not, of their own choice, defend their freedom. To argue that they should not continue on with this war against the vicious, brutal aggressor would be to argue that the South Koreans were not justified in defending their freedom against North Korea, or that the Israelis are not justified in defending their freedom against the Arab aggressors.

Therefore, it seems to me, yes, we must admit that casualties occur; yes, we have to admit that those casualties are serious and we deplore them; but those casualties continue because the enemy is an aggressor against the South Vietnamese, and they are fighting for their freedom and liberty and their self-determination; and we are, of course, relieved of much of that burden because of the Vietnamization of the war and our withdrawal from active combat.

So I would say to our absent colleague, "Come home, George. Come home at least for Halloween, and we will get the pumpkin out and light the candle for you, and we will have some of your colleagues, or at least one of them, make a speech in praise of your efforts."

Mr. MANSFIELD. Mr. President, if no other Senator desires to speak, may I be recognized again?

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. MANSFIELD. Mr. President, I appreciate what the distinguished Republican leader has said about GEORGE coming home on Halloween, which is just about 7 days before election, as I recall; and I thought we had an agreement that we were going to try to get out the first part of next month.

Mr. SCOTT. The Senator has trapped me there.

Mr. MANSFIELD. No; I have not trapped the Senator. But frankly, I have no compunction whatever in working for, endorsing, and supporting fully and enthusiastically the candidacy of GEORGE McGOVERN. He is the candidate of our party, and he has earned that nomination and earned it the hard way. I feel that it takes no bravery and it takes no courage for a Democrat to stand up and be counted in support of the nominee of his party.

I intend to do all that I can to see that Senator McGOVERN is elected; and despite the odds, we will wage the fight, and David will make himself felt against Goliath when the showdown comes on November 7.

Speaking of Vietnam, I cannot bring myself to be reconciled to the fact that since this war started—and it goes all the way back to Democratic administrations; I am not trying to lay the blame on anyone in particular, because there is enough blame to go all the way around—303,387 Americans have been wounded through the 16th of September 1972; 45,857 Americans are dead because of combat; and 10,274 Americans are dead because of noncombat activities. The total death toll is 56,131 Americans. The total casualties are 359,518 Americans through September 16, 1972.

But that is not the whole story. We find, for example, that as far as the total deaths of the other free world forces, those allied with us, are concerned, the number is 5,179. As far as the Republic of South Vietnam is concerned, the total deaths number 178,952. As far as the other side is concerned—the North Vietnamese and the Vietcong, and I assume this includes the Khmer Rouge and the Pathet Lao—the deaths total 992,361.

Mr. President, all of these people are human beings. All of them had the spark of life in them. All of them were entitled to look to a reasonable future regardless of their color, their beliefs, their backgrounds or whatever.

So I would say in conclusion, Mr. President, yes, this is an issue which can be discussed, which has been discussed, and will undoubtedly continue to be discussed. We have good candidates for both parties. The people have to decide, but I would hope the matter would be decided, not in the Senate, but rather by the country.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, I yield to the Senator from Pennsylvania.

Mr. SCOTT. I thank the Senator. I shall be very brief.

Just relating back to the analogy of David against Goliath, it occurs to me that what laid Goliath low was rocks in his head, and I hope my party will be warned by that analogy.

Mr. MANSFIELD. But the rocks came from the slingshot, as I recall.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of items on the calendar beginning with No. 1134, up to and including No. 1140.

The PRESIDING OFFICER. Without objection, it is so ordered.

J. B. RIDDLE

The bill (S. 2300) for the relief of J. B. Riddle was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to J.B. Riddle of Fort Worth, Texas, the sum of $4,800 in full settlement of all his claims against the United States arising out of the displacement and relocation of his business in 1967 in connection with a federally assisted construction project. The said J. B. Riddle is ineligible for relocation payments under the Advance Acquisition of Land Program of the Department of Housing and Urban Development as a result of his reliance on certain misinformation he received from the city of Fort Worth, Texas.

SEC. 2. No part of the amount appropriated in the first section of this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

NATIONAL BETA CLUB WEEK

The joint resolution (S.J. Res. 251) to designate the week which begins on the first Sunday in March of each year as "National Beta Club Week" was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the week which begins on the first Sunday in March of each year as "National Beta Club Week", to recognize the National Beta Club for its dedication to the positive accomplishments of American youth and to encourage the furthering of its goals to promote honesty, service, and leadership among the high school students in America.

NATIONAL LEGAL SECRETARIES' COURT OBSERVANCE WEEK

The joint resolution (H.J. Res. 807) authorizing the President to proclaim the second full week in October of 1972 as "National Legal Secretaries' Court Observance Week" was considered, ordered to a third reading, read the third time, and passed.

DONATIONS OF SURPLUS PROPERTY TO PUBLIC MUSEUMS

The Senate proceeded to consider the bill (S. 164) to amend the Federal Property and Administrative Services Act of 1949 so as to permit donations of surplus property to public museums which had been reported from the Committee on Government Operations with an amendment to strike out all after the enacting clause and insert:

That section 203(j) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(j)) is amended—

(1) by striking out "and (C) public libraries." at the end of the first sentence of paragraph (3) and inserting in lieu thereof "(C) public libraries, and (D) public museums."; and

(2) by adding at the end thereof the following new paragraph:

"(8) The term 'public museum', as used in this subsection, means a museum that serves the general public free and receives its financial support in whole or in part from public funds."

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

DONATIONS OF SURPLUS PROPERTY TO STATE FISH AND WILDLIFE AND OUTDOOR RECREATION AGENCIES

The Senate proceeded to consider the bill (S. 244) to amend the Federal Property and Administrative Services Act of 1949 to permit donations of surplus property to State fish and wildlife and outdoor recreation agencies which had been reported from the Committee on Government Operations with an amendment to strike out all after the enacting clause and insert:

That section 203(j) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(j)) is amended—

(1) by inserting "fish and wildlife protection and conservation, outdoor recreation research development," before "or civil defense" in the first sentence of paragraph (1);

(2) by striking out the last sentence of paragraph (3) and inserting in lieu thereof the following two sentences: "Determination whether such surplus property (except surplus property allocated in conformity with paragraph (2) of this subsection) is usable and necessary for purposes of fish and wildlife protection and conservation or outdoor recreation research development, or for research for any such purpose, in any State, shall be made by the Secretary of the Interior, who shall allocate such property on the basis of needs and utilization for transfer by the Administrator to such State agency for distribution to fish and wildlife or outdoor recreation agencies. No such property shall be transferred to any State agency until the appropriate Secretary has received, from such State agency, a certification that such property is usable and needed for educational, public health, fish and wildlife protection and conservation or outdoor recreation resource development purposes in the State, and until the appropriate Secretary has determined that such State agency has conformed to minimum standards of operation prescribed by the Secretary for the disposal of surplus property.";

(3) by inserting after "Welfare" in paragraph (5) the following: ", the Secretary of the Interior,"; and

(4) by adding at the end thereof the following new paragraphs:

"(8) The term 'fish and wildlife agencies' as used in this subsection, means any department, agency, or instrumentality of any State having responsibility for the administration of laws and programs relating to protection and conservation of fish and wildlife in such State, including, but not limited to, fish and game licensing laws.

"(9) The term 'outdoor recreation agencies', as used in this subsection, means any department, agency, or instrumentality of any State having responsibility for the administration of laws and programs relating to the development of outdoor recreation resources in such State."

SEC. 2. Section 203(n) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(n)) is amended—

(1) by striking out "either such officer" in the first sentence and inserting in lieu thereof "any such officer";

(2) by inserting after "Welfare," in the first and third sentences "the Secretary of the Interior,"; and

(3) by inserting before "or civil defense" in the third sentence "fish and wildlife protection and conservation, outdoor recreation resource development,".

SEC. 3. The first sentence of section 203 (o) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(o)) is amended—

(1) by inserting "and the Secretary of the Interior" after "Welfare"; and

(2) by inserting "or fish and wildlife or outdoor recreation agencies" after "institutions".

Mr. STEVENS. Mr. President, in an effort to improve the quality of life in this Nation, we have made many demands upon State governments. This is particularly true in the area of protection and improvement of our environment. The passage of Senate bill 244 would go a long way toward assisting State governments meet their responsibilities as well as strengthening the Federal-State partnership in this area. This would allow surplus Federal personal property to be donated to State agencies charged with the responsibility of preserving, protecting, and increasing our fish and wildlife population. It would also allow State agencies to receive Federal surplus property to develop outdoor recreational areas.

Fish and wildlife constitute a vital resource to this Nation. It seems to me a matter of commonsense and good judgment to allow these State agencies to receive unused surplus Federal personal property to strengthen and improve this vital resource.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PROGRAM INFORMATION ACT

The bill (S. 718) to create a catalog of Federal assistance programs, and for other purposes was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Program Information Act".

DEFINITIONS

SEC. 2. For the purposes of this Act—

(a) The term "Federal domestic assistance program" means any activity of a Federal agency which provides assistance or benefits, whether in the United States or abroad, that can be requested or applied for by a State or local government, or any instrumentality thereof, any domestic profit or nonprofit corporation, institution, or individual, other than an agency of the Federal Government.

(b) A "Federal domestic assistance program" may in practice be called a program, an activity, a service, a project, or some other name regardless of whether it is identified as a separate program by statute or regulation. A program shall be identified in terms of differing legal authority, administering office, funding, financial outlays, purpose, benefits, and beneficiaries.

(c) "Assistance or benefits" includes but is not limited to grants, loans, loan guarantees, scholarships, mortgage loans and insurance or other types of financial assistance; assistance in the form of provision of Federal facilities, goods, or services, donation or provision of surplus real and personal property; technical assistance and counseling; statistical and other expert information; and service activities of regulatory agencies. "Assistance or benefits" does not include conventional public information services.

(d) "Requested or applied for" means that the potential applicant or beneficiary must initiate the process which will eventually result in the provision of assistance or benefits.

(e) "Administering office" means the lowest subdivision of any Federal agency that has direct operational responsibility for managing a Federal domestic assistance program.

EXCLUSION

SEC. 3. This Act does not apply to any activities related to the collection or evaluation of national security information.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE PROGRAMS

SEC. 4. The President shall transmit to Congress no later than May 1 of each regular session a catolog of Federal domestic assistance programs, referred to in this Act as "the catalog", in accordance with this Act.

PURPOSE OF CATALOG

SEC. 5. The catalog shall be designed to assist the potential beneficiary to identify all existing Federal domestic assistance programs wherever administered, and shall supply information for each program so that the potential beneficiary can determine whether particular assistance or benefits might be available to him for the purposes he wishes.

REQUIRED PROGRAM INFORMATION

SEC. 6. For each Federal domestic assistance program, the catalog shall—

(1) identify the program, including the name of the program, the authorizing statute, the specific administering office, and a brief description of the program and its objectives;

(2) describe the program structure, including eligibility requirements, formulas governing the distribution of funds, types of assistance or benefits, and obligations and duties of recipients or beneficiaries;

(3) provide financial information, including current authorizations and appropriations of funds, the obligations incurred for past years, the current amount of unobligated balances, and other pertinent financial information;

(4) identify the appropriate officials to contact, both in central and field offices, including addresses and telephone numbers;

(5) provide a general description of the application process, including application deadlines, coordination requirements, processing time requirements, and other pertinent procedural explanations; and

(6) identify closely related programs.

FORM OF CATALOG

SEC. 7. (a) The program information may be set forth in such form as the President may determine, and the catalog may include such other program information and data as in his opinion are necessary or desirable in order to assist the potential program beneficiary to understand and take advantage of each Federal domestic assistance program.

(b) The catalog shall contain a detailed index designed to assist the potential beneficiary to identify all Federal domestic assistance programs related to a particular need.

(c) The catalog shall be in all respects concise, clear, understandable, and such that it can be easily understood by the potential beneficiary.

QUARTERLY REVISION

SEC. 8. The President shall revise the catalog at no less than quarterly intervals. Each revision—

(1) shall reflect any changes in the program information listed in section 6;

(2) shall further reflect the addition, consolidation, reorganization, or cessation of Federal domestic assistance programs;

(3) shall include such other program information as will provide the most current information on changes in financial information, on changes in organizations administering the Federal domestic assistance programs, and on other changes of direct, immediate relevance to potential program beneficiaries as will most accurately reflect the full scope of Federal domestic assistance programs;

(4) may include such other program information and data as in the President's opinion are necessary or desirable in order to assist the potential program beneficiary to understand and take advantage of each Federal domestic assistance program.

PUBLICATION AND DISTRIBUTION OF THE CATALOG

SEC. 9. (a) The President (or an official to whom such function is delegated pursuant to section 10 of this Act) shall prepare, publish, and maintain the catalog and shall make such catalog and revisions thereof available to the public at prices approximately equal to the cost in quantities adequate to meet public demand.

(b) There is authorized to be distributed without cost to Members of Congress and Resident Commissioners not to exceed five thousand copies of catalogs and revisions.

(c) There is authorized to be distributed without cost to Federal agencies, State and local units of government and local repositories not to exceed twenty-five thousand copies of catalogs and revisions as determined by the President or his delegated representative.

(d) The catalog shall be the single authoritative, Government-wide compendium of Federal domestic assistance program information produced by the Government. Specialized catalogs for specific ad hoc purposes may be developed within the framework of, or as a supplement to, the Government-wide compendium and shall be allowed only when specifically authorized and developed within guidelines and criteria to be determined by the President.

(e) Any existing provisions of law requiring the preparation or publication of such catalogs are superseded to the extent they may be in conflict with the provisions of this Act.

DELEGATION OF FUNCTIONS

SEC. 10. The President may delegate any function conferred upon him by this Act, including preparation and distribution of the catalog, to the head of any Federal agency, with authority for redelegation as he may deem appropriate.

WOODSY OWL

The Senate proceeded to consider the bill (S. 3947) to prevent the unauthorized manufacture and use of the character "Woodsy Owl," and for other purposes, was announced as next in order.

The Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture and Forestry with amendments Cal. No. 1140, S. 3947, Agriculture and Forestry on page 2, line 22, after the word "or", strike out "name."; and on page 3, after line 15, strike out:

> "This section shall not make unlawful the use of any such emblem, sign, insignia, or words which was lawful on the date of enactment of this Act.

So as to make the bill read:

S. 3947

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture may, under such arrangements and terms and conditions as he deems suitable, establish and collect use or royalty fees for the manufacture, reproduction, or use of the character and name "Woodsy Owl" and the associated slogan, "Give a Hoot, Don't Pollute", originated by the Forest Service, United States Department of Agriculture, as a symbol for a public service campaign to promote wise use of the environment and programs which foster maintenance and improvement of environmental quality.

SEC. 2. The Secretary of Agriculture shall deposit into a special account all fees collected pursuant to this Act. Such fees are hereby made available for obligation and expenditure for the purpose of furthering the "Woodsy Owl" campaign.

SEC. 3. As used in this Act, the name or character "Woodsy Owl" means the representation of a fanciful owl, who wears slacks (forest green when colored), a belt (brown when colored), and a Robin Hood style hat (forest green when colored) with a feather (red when colored), and who furthers the slogan "Give a Hoot, Don't Pollute", which was originated by the Forest Service, United States Department of Agriculture, as a symbol and slogan for a public service campaign and to promote wise use of the environment and programs which foster maintenance and improvement of environmental quality.

SEC. 4. Chapter 33 of title 18 of the United States Code is amended by adding after section 711 a new section to be designated section 711a, as follows:

"§711a. 'Woodsy Owl' character, slogan, or name.

"As used in this section, the name or character 'Woodsy Owl' means the representation of a fanciful owl, who wears slacks (forest green when colored), a belt (brown when colored), and a Robin Hood style hat (forest green when colored) with a feather (red when colored), and who furthers the slogan 'Give a Hoot, Don't Pollute', which was originated by the Forest Service, United States Department of Agriculture, as a symbol and slogan for a public service campaign to promote wise use of the environment and programs which foster maintenance and improvement of environmental quality.

"Whoever, except as authorized under rules and regulations issued by the Secretary of Agriculture, knowingly manufactures, reproduces, or uses the character 'Woodsy Owl', the associated slogan, 'Give a Hoot, Don't Pollute', the name 'Woodsy Owl', or facsimiles or simulations of such character, slogan, or name in such a manner as suggests the character 'Woodsy Owl' shall be fined not more than $250 or imprisoned not more than six months, or both.

"A violation of this section may be enjoined at the suit of the Attorney General upon complaint by the Secretary of Agriculture."

Sec. 5. The analysis of chapter 33 immediately preceding section 701 of title 18 of the United States Code is amended by adding at the end thereof:

"711a. 'Woodsy Owl' character, slogan, or name.".

Mr. SCOTT. Mr. President, reserving the right to object—and I will not object—what is a "Woodsy Owl"?

Mr. MANSFIELD. I think it has something to do with the Forest Service and a campaign to bring about protection of the environment.

Mr. SCOTT. If it is for the ecology or for motherhood or for the flag, I have no objection.

Mr. MANSFIELD. Or for the Republican Party.

Mr. SCOTT. Or for the Republican Party.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, that concludes the call of the calendar.

PUBLIC BROADCASTING: NEW CHIEF, NEW POLICY

Mr. FULBRIGHT. Mr. President, I ask unanimous consent to have printed in the Record an account of an obituary of a fine idea. Only a few years ago, many of us had great hopes that there could be established in this country a nonpartisan, objective, public broadcasting network, worthy of our great country. England, Canada, and Japan, among other countries, have accomplished this goal.

I think that they have fine public broadcasting networks and products as well. Those public broadcasting companies have produced some of the finest films, films which we have rebroadcast having obtained them from those networks in recent years.

It is a great tragedy that our efforts were not more successful—and I refer, of course, particularly to the Presidential veto of the bill we had passed—and the account of the demise of independent public broadcasting will sadden everyone interested in the future progress of our country.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Sept. 21, 1972]

Public Broadcasting: New Chief, New Policy

(By John Carmody)

After two days as chief of the nation's public broadcasting industry, Henry Loomis has announced a tough new policy toward programming, including the controversial area of public affairs.

The new president of the Corporation for Public Broadcasting, who lives in Middleburg, Va., said yesterday that he had "never seen a public TV show." But he laid it on the line: CPB with its hands-off policy on programming, "had tried to duck its responsibility and it wasn't successful."

In a separate session before the PBS board of directors meeting here and in a half-hour, nationwide closed-circuit broadcast with the network's 225 station managers, Loomis said:

The CPB, formerly only a management "umbrella" for public broadcasting, will take a strong role in determining daily program content over the nationwide PBS network.

"Instant analysis" and other public affairs programming techniques that mimic commercial TV practices probably will be dropped.

Long-range financing for public broadcasting will not be pushed for at least several years.

While it eventually should be "much more," funding is currently at a satisfactory level.

"The cultural field" and programs directed at a "specialized" audience, rather than mass audiences, should be stressed.

Loomis' views are virtually identical to those of the Nixon administration and congressional opponents of public TV over the last year. His appointment as CPB president has been expected by industry sources following the takeover of the 15-member CPB board this summer by an administration majority. Former Rep. Tom Curtis of Missouri, a longtime Republican, was named board chairman last month.

Public television programming, particularly in the area of public affairs, has brought criticism in the last year from the administration, Congress and some local station managers.

Loomis said the corporation would at present not actively seek long-range financing, which had been called essential to proper programming by its supporters in the industry and in Congress, where backers were mostly Democrats.

"We'll be trying for that one a couple of years from now," he told the station managers. President Nixon vetoed a two-year funding plan in June.

As Loomis sees it, the industry, founded in 1968, should be pleased with its present 30 per cent annual growth. (The funding is $45 million this year.) "It's possible to get too much too soon," while staff excellence and expertise lags, he told the PBS board.

Following Loomis' appearances yesterday, industry sources took a wait-and-see attitude. They suggested he had not had time to be properly briefed since accepting the $42,500-a-year job, which he starts officially on Oct. 1.

Loomis told a reporter later that when approached about the job following the resignation of John Macy Jr. as CPB president in August, he had asked, "What the hell is it?"

An independently wealthy man, Loomis said he had long regarded his previous service in important posts in the Departments of Defense, HEW, USIA and at the White House during the last 20 years as "nonpartisan."

"I always considered myself what the British call a 'permanent undersecretary,'" he said yesterday. "But four years ago (when Mr. Nixon appointed him to the USIA, where he is currently deputy director), I changed. Mr. Nixon was my guy in 1968 and I feel very strongly about it this election year."

In hinting that the "instant analysis" of major political events will be dropped, he said public affairs programming should only "supplement and enrich" what is offered by commercial networks. He later told a reporter that he was "concerned about the propriety of using public funds to be competitive with commercial networks" in any area of broadcasting.

Loomis asked PBS station managers to do "much more in the cultural field." The role of public broadcasting is to direct programming to a specialized, not a mass audience, he said. An example would be "a program of an excellent cultural nature that is too expensive for the commercial networks to do."

Loomis' remarks yesterday were in line with Nixon administration criticism of public television beginning last October with an attack by Dr. Clay T. Whitehead, director of the Office of Telecommunications Policy.

The CPB was formed in 1968, a year after President Lyndon Johnson successfully backed a public broadcasting bill. Under Macy, the new corporation took over what had been the loose-knit educational TV network and, as PBS, with federal equipment and programming money, grew to the present 225 TV stations and hundreds of public radio outlets.

Last fall, the political roof fell in on Macy. The PBS (and the Ford Foundation) pushed through a public affairs outlet in Washington. The National Public Affairs Center for Television promptly hired liberal correspondents Sander Vanocur and Robert MacNeil at high salaries, which drew even Democratic criticism in Congress.

A series of controversial network shows as well as a marked increase in the PBS national audience attracted further notice for the public network. In June, Mr. Nixon vetoed a two-year $65-million authorization for CPB. Macy, in ill health, subsequently resigned, along with other top CPB aides.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. Allen), laid before the Senate the following letters, which were referred as indicated:

Report on Department of Defense Procurement From Small and Other Business Firms

A letter from the Assistant Secretary of Defense (Installations and Logistics), transmitting, pursuant to law, a report on Department of Defense Procurement from Small and Other Business Firms, for fiscal year 1972 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

Publication of Federal Power Commission

A letter from the Chairman, Federal Power Commission, transmitting, for the information of the Senate, a publication entitled "Typical Electric Bills, 1971" (with an accompanying document); to the Committee on Commerce.

Proposed District of Columbia Tort Claims and Claims Procedure Act

A letter from the Assistant to the Commissioner, the District of Columbia, transmitting a draft of proposed legislation to define the scope of tort liability of the Government of the District of Columbia, and for other purposes (with accompanying papers); to the Committee on the District of Columbia.

Proposed Creation of an International Center

A letter from the Assistant Secretary for Congressional Relations, transmitting a draft of proposed legislation to create an International Center to make sites available for chanceries of foreign embassies in Washington and for a new headquarters for the Organization of American States (with an accompanying paper); to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HRUSKA (for Mr. COOK), from the Committee on the Judiciary, without amendment:

S. 3756. A bill for the relief of Frank P. Muto, Alphonso A. Muto, Arthur E. Scott, and F. Clyde Wilkinson (Rept. No. 92–1200);

H.R. 6467. An act for the relief of Harold J. Seaborg (Rept. No. 92–1205);

H.R. 7946. An act for the relief of Jerry L. Chancellor (Rept. No. 92–1204);

H.R. 10012. An act for the relief of David J. Foster (Rept. No. 92–1206);

H.R. 10363. An act for the relief of Herbert Improte (Rept. No. 92–1209);

H.R. 12099. An act for the relief of Sara B. Garner (Rept. No. 92–1207);

H.R. 12903. An act for the relief of Anne M. Sack (Rept. No. 92–1208);

S. Res. 132. Resolution to refer the bill (S. 2026) entitled "A bill for the relief of the Eriez Magnetics Corporation" to the Chief Commissioner of the United States Court of Claims for a report thereon (Rept. No. 92–1202); and

S. Res. 290. Resolution to refer the bill (S. 3451) entitled "A bill for the relief of the Crown Coat Front Company, Incorporated," to the Chief Commissioner of the United States Court of Claims for a report thereon (Rept. No. 92–1203).

By Mr. HRUSKA (for Mr. COOK), from the Committee on the Judiciary, with an amendment:

S. 3008. A bill for the relief of August F. Walz (Rept. No. 92–1210);

S. 3055. A bill for the relief of Maurice Marchbanks (Rept. No. 92–1211); and

H.R. 11629. An act for the relief of Cpl. Bobby R. Mullins (Rept. No. 92–1212).

By Mr. HRUSKA (for Mr. COOK), from the Committee on the Judiciary, with amendments:

H.R. 11047. An act for the relief of Donald W. Wotring (Rept. No. 92–1213).

By Mr. MAGNUSON, from the Committee on Commerce, without amendment:

H.R. 9501. An act to amend the North Pacific Fisheries Act of 1954, and for other purposes (Rept. No. 92–1201).

Mr. MAGNUSON. Mr. President, H.R. 9501 would amend the International North Pacific Fisheries Act of 1954. It is needed due to the fact that certain provisions of the International Northwest Atlantic Fisheries Act of 1950 are incorporated in the North Pacific Fisheries Act by reference, and some of these provisions have been amended by Public Law 92–87.

Title I of H.R. 9501 would amend the North Pacific Fisheries Act to take these amendments of the Northwest Atlantic Act into account. Thus H.R. 9501 will enable the North Pacific Act to stand alone. There is also clarifying language to transfer fisheries responsibilities from the Department of Interior to the Department of Commerce.

Title II provides for alternate U.S. Commissioners so that the United States will not be at a disadvantage when other nations are represented by their full complement.

The bill would make payment of expenses for a limited number of Commission advisers mandatory, rather than discretionary as at present. Also, Commissioners would be appointed for staggered terms so that not more than one of the Commissioners' terms would expire in any year. The appointments would be for 4-year terms.

By Mr. AIKEN, from the Committee on Agriculture and Forestry, with amendments:

S. 3973. A bill to establish a system of wild areas within the lands of the national forest system (Rept. No. 92–1214).

By Mr. WILLIAMS, from the Committee on Labor and Public Welfare, with an amendment:

S. 3659. A bill establishing a commission to develop a realistic plan leading to the conquest of multiple sclerosis at the earliest possible date (Rept. No. 92–1215).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. BENNETT, from the Committee on Finance:

Darrell D. Wiles, of Missouri, to be a judge of the U.S. Tax Court.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HANSEN (for himself and Mr. MCGEE):

S. 4021. A bill to construct an Indian Art and Cultural Center in Riverton, Wyo., and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. MAGNUSON (for himself, Mr. JACKSON, and Mr. CHURCH):

S. 4022. A bill to provide for the participation of the United States in the International Exposition on the Environment to be held in Spokane, Wash., in 1974, and for other purposes. Referred to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HANSEN (for himself and Mr. MCGEE):

S. 4021. A bill to construct an Indian Art and Cultural Center in Riverton, Wyo., and for other purposes. Referred to the Committee on Interior and Insular Affairs.

INDIAN ART AND CULTURAL CENTER ACT

Mr. HANSEN. Mr. President, today I am introducing legislation on behalf of myself and my distinguished colleague, Mr. MCGEE to construct an Indian Art and Cultural Center on the campus of the Central Wyoming College near Riverton, Wyo.

In my work with the Senate Interior Committee I have the opportunity of listening to testimony and working with various Indian groups from all over the United States.

The social, historic, and cultural contribution of these people deserve the constant and continued recognition of all Americans.

The legislation which I am introducing today will highlight this contribution and will hopefully lead to the realization of several years of intensive, cooperative planning and research with Indian citizens from throughout the mountain area.

As introduced, the bill envisions the establishment of an Indian Art and Cultural Center that would serve the students of Central Wyoming College campus located on the Wind River Reservation in Wyoming.

The proposed center is endorsed fully by the Joint Business Council of the Shoshone and Arapahoe Tribes. In this regard, I ask unanimous consent that a letter endorsing the Indian Arts and Cultural Center to the president of Central Wyoming College be printed at this point in the RECORD.

Mr. President, I am proud to sponsor this legislation with my colleague, Senator MCGEE, and I urge its early approval.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SHOSHONE & ARAPAHOE TRIBES,
Fort Washakie, Wyo., August 22, 1972,

Dr. WALTER PALMBERG,
President, Central Wyoming College,
Riverton, Wyo.

DEAR DR. PALMBERG: Mr. Bob Rowan, Home-School Coordinator, met with the Joint Business Council on August 16, 1972, regarding the building of an Indian Arts and Cultural Center at Central Wyoming College.

The Business Council voted to endorse the Indian Arts and Cultural Center.

However, we would like to request more emphasis on sound educational programs, such as developing a lab, audio visual aids for use in elementary schools; and for this to be built more on the philosophy of quality education rather than just an Indian Arts and Cultural Center.

Sincerely yours,

ROBERT N. HARRIS, Sr.,
Chairman, Shoshone Business Council.
JESSE MILLER,
Chairman, Arapahoe Business Council.

ADDITIONAL COSPSONORS OF BILLS AND JOINT RESOLUTIONS

S. 3659

At the request of Mr. WILLIAMS, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 3659, a bill establishing a commission to develop a realistic plan leading to the conquest of multiple sclerosis at the earliest possible date.

S. 3814

At the request of Mr. TUNNEY, the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Montana (Mr. MANSFIELD), the Senator from Maine (Mr. MUSKIE), and the Senator from Rhode Island (Mr. PASTORE) were added as cosponsors of S. 3814, a bill to amend the Bank Secrecy Act.

S. 3880

At the request of Mr. JORDAN of Idaho (for Mr. SCHWEIKER) the Senators from Minnesota (Mr. MONDALE and Mr. HUMPHREY) were added as cosponsors of S. 3880, the National Diabetes Education and Detection Act.

S. 3989

At the request of Mr. ROBERT C. BYRD, the Senator from Florida (Mr. GURNEY) was added as a cosponsor of S. 3989, a bill to deduct from gross tonnage in determining net tonnage those spaces onboard vessels used for waste materials.

S. 4001

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the names of the following Senators be added as cosponsors of S. 4001, the social security measure which would raise the amount of earned income from $1,680 a year to $3,000 a year before any penalties would be imposed: the Senator from Colorado (Mr. ALLOTT), the Senator from New Hampshire (Mr. COTTON), and the Senator from Arkansas (Mr. FULBRIGHT).

I think this brings the number now to a total of 73 cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AIKEN. Mr. President, I ask unanimous consent that the name of the Senator from Colorado (Mr. DOMINICK) be added as a cosponsor of S. 4001, the social security bill introduced by the Senator from Montana (Mr. MANSFIELD) and myself a couple of days ago.

The PRESIDING OFFICER (Mr. JORDAN of Idaho). Without objection, it is so ordered.

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 296

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, at its next printing, the names of the distinguished senior Senator from Georgia (Mr. TALMADGE) and the distinguished junior Senator from Georgia (Mr. GAMBRELL) be added as cosponsors of Senate Resolution 296, a resolution to designate the Old Senate Office Building as the "Richard Brevard Russell Office Building."

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSUMER PROTECTION—AMENDMENTS

AMENDMENT NO. 1568

(Ordered to be printed and to lie on the table.)

Mr. ALLEN (for himself, Mr. ERVIN and Mr. GURNEY) submitted an amendment intended to be proposed by them jointly to the bill (S. 3970) to establish a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and serve the interests of consumers, and for other purposes.

AMENDMENT NO. 1570

(Ordered to be printed and to lie on the table.)

Mr. ALLEN (for himself, Mr. SPARKMAN, Mr. BAKER, and Mr. BROCK) submitted an amendment intended to be proposed by them jointly to the bill (S. 3970), supra.

FREE ENTRY OF CARILLON FOR MARQUETTE UNIVERSITY—AMENDMENT

AMENDMENT NO. 1569

(Ordered to be printed and to lie on the table.)

Mr. BEALL submitted an amendment intended to be proposed by him to the bill (H.R. 3786) to provide for the free entry of a four-octave carillon for the use of Marquette University, Milwaukee, Wis.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Donald D. Forsht, of Florida, to be U.S. marshal for the southern district of Florida for the term of 4 years, vice Loren Wideman, retired.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Friday, September 29, 1972, any representations or objections they may wish to present concerning the above nomination, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ANNOUNCEMENT OF HEARINGS ON CITY COUNCIL NOMINATIONS

Mr. EAGLETON. Mr. President, the Committee on the District of Columbia will hold a hearing at 10 a.m. on Monday, September 25, 1972 on the nominations of Jerry A. Moore, Jr., Marjorie H. Parker, and Rockwood H. Foster to the District of Columbia City Council. Additionally, the committee will hear testimony on S. 3593, to increase the compensation of members of the City Council, and S. 3966, to authorize a Federal payment for the construction of additional rapid transit facilities. Anyone wishing to testify on any of these matters should contact the staff director of the District of Columbia Committee, Mr. Robert Harris, at 6222 New Senate Office Building.

NOTICE OF HEARINGS ON REGULATION OF THE SECURITIES INDUSTRY

Mr. WILLIAMS. Mr. President, I wish to announce that the Subcommittee on Securities will be conducting hearings on the regulatory structure of the securities industry on October 3 at 10:30 a.m. in room 5302, New Senate Office Building.

If you wish to submit a statement for the hearing record, please contact Stephen Paradise, Committee on Banking, Housing and Urban Affairs, room 5308, New Senate Office Building, telephone number 225-7391.

ADDITIONAL STATEMENTS

SOUTH CAROLINIAN NAMED CONSUMER ADVOCATE OF POSTAL SERVICE

Mr. HOLLINGS. Mr. President, I am pleased to invite the attention of Senators to the recent appointment of Mr. Thomas W. Chadwick, a native of South Carolina, to be Consumer Advocate of the U.S. Postal Service.

Mr. Chadwick attended the University of South Carolina at Columbia. He was a reporter and columnist for the State newspaper at Columbia. He has had extensive government service and has served in a variety of offices in the Postal Service for the past 7 years.

Mr. Chadwick will represent the postal customer and will suggest new methods and techniques for solving postal customer complaints.

I ask unanimous consent that a news release dated September 8, 1972, announcing Mr. Chadwick's appointment, be printed in the RECORD.

There being no objection, the news release was ordered to be printed in the RECORD, as follows:

THOMAS W. CHADWICK

Postmaster General E. T. Klassen today named Thomas W. Chadwick, a veteran postal official and former South Carolina newsman, to be Consumer Advocate of the U.S. Postal Service.

Mr. Chadwick has been instrumental in the organization and production of each of six National Postal Forums—annual meetings designed to foster an exchange of ideas and views between Postal Service management and mail customers—and was Director of the last five.

He succeeds Mr. David Ordway, who was recently appointed Assistant Postmaster General (Product Development).

"With his experience in dealing with the needs of mail customers, especially through our annual Forum, Tom Chadwick is well suited for his new role as 'ombudsman' for mail users," Mr. Klassen said.

"The only thing we in the Postal Service have to sell is service. Tom Chadwick will be an important link with the unrepresented mail user, seeing that we respond to the public's needs."

Mr. Chadwick was born November 28, 1923, in Charleston, S.C. and attended the University of South Carolina at Columbia. He was a reporter and columnist for The State newspaper at Columbia, S.C., and has 10 previous years government service as a press secretary.

He has been with the postal system seven years, serving successively as Special Assistant to the Assistant Postmaster General (Finance and Administration); Deputy Director, Customer Relations Division; Director Complaints Analysis Division; and Manager, Special Projects Division and Director, National Postal Forum.

Since entering postal service, Mr. Chadwick has received awards for Meritorius Service, Superior Accomplishment, and Distinguished Service.

He is married to the former Betty Joyner of Moncks Corner, S.C. They have three children: Alice, 17; Thomas, Jr., 8; and Carlton, 6.

TUNNEY-GURNEY ANTITRUST BILL

Mr. GURNEY. Mr. President, I was pleased to join yesterday with the distinguished Senator from California (Mr. TUNNEY) in cosponsoring legislation which would amend the antitrust laws so as to make more information available to the courts, and to the public, about proposed consent decree settlements of antitrust cases.

Through its history, the Nation has been committed to the ideals of freedom and the free enterprise system. Competition between entrepreneurs at the marketplace has been considered by most to be indispensable to the production of quality goods at the lowest possible prices. Producers and consumers alike benefit when no one company or corporation controls an industry to the extent that competitive producers can be driven out of the market or that prices can be set at arbitrarily high levels.

Just as Government is charged with the responsibility of protecting the rights of individuals in a political and social sense, so, too, does it have an obligation to protect their rights in an economic sense. For this very reason, starting with the Interstate Commerce Act in 1887, antitrust legislation has been passed to protect businessmen and consumers alike from monopolistic practices that act in restraint of trade. The Sherman Act, the Clayton Act, and the creation of the Federal Trade Commission are but a few examples of our efforts to insure that the free enterprise system remains free and competitive.

The need for effective antitrust legislation is just as important today as it ever was, and while the laws on the books have served us well, changing times always leave room for improvement. In recent years we have seen a dramatic increase in the number of conglomerates or holding companies—huge corporations that have interests in a wide range of industries.

There is nothing necessarily wrong with size, per se, and in many cases the industries involved may benefit, but unless a watchful eye is kept on such developments there is a danger that the interests of the public may be done a disservice.

The key here is information, information on what is being contemplated, how it came to pass, what the public impact might be, and how individuals affected might obtain recourse in case of injury. With present-day business dealings more complex than ever, the public has a need for a greater amount of information than ever if its interest is to be best served. And that is exactly what this bill proposes to do—make more information available to all concerned.

Specifically, this bill establishes a specific but reasonable set of standards and guidelines to govern the settlement of antitrust cases and, in particular, the procedure by which consent judgments are entered into. This bill basically expands upon existing law and does not work undue hardship upon any one. In my view, its passage would have the positive effect on enhancing public confidence in the way antitrust cases are being handled.

Basically, the bill can be divided into three sections. The first section would require that any consent decree proposed by the Justice Department must be filed with the court and published in the Federal Register 60 days before it is intended to take effect. At the same time the Department would be required to file a "public impact" statement listing information on the case, the settlement proposed, the remedies available to potential private plaintiffs damaged by the alleged violation, a description of alternative to the settlement, and the anticipated effects of such alternatives.

As it stands now, these consent decrees must be filed with the court 30 days in advance and similar public impact statements are already required in other areas by the National Environmental Protection Act. The extra time and additional information that this bill requires is for the purpose of encouraging and, in some cases, soliciting additional information and public comment that will help the court decide if the consent decree should be granted. To ensure that public comment receives consideration, a further provision requires that the Justice Department file a formal response to it.

As to whether or not the consent decree should be accepted by the court, this bill requires that the decree be accepted only after the court has determined that it is in the public interest. This is a particularly important provision since, after entry of a consent decree, it is often difficult for private parties to recover damages for antitrust injuries. In some cases, the court may find that it is more in the public interest, for this reason and others, for the case to go to trial instead of being settled by agreement.

However, the consent decree is an important and useful tool of law enforcement and it is not the purpose of this bill to undo its effectiveness. Instead, the bill provides that proceedings before the district court in connection with either the decree itself or the required public impact statements are not admissible as evidence against any defendant in any antitrust action nor may they be used as a basis for introduction of the decree itself as evidence. By declining to give it prima facie effect as a matter of law, the consent decree is thereby preserved as an effective tool of law enforcement.

The other sections of the bill raise the penalties for criminal violations of the antitrust laws and improve the appeal procedures in antitrust cases. Both are needed. The present maximum fine of $50,000 is an inadequate deterrent against violations and providing for immediate Supreme Court review of those cases of general public importance can only benefit everyone concerned. If we are to be effective in our efforts to promote free enterprise and discourage monopolistic activity, we must be firm, must be fair, and we must ensure that the public interest—the rights of individuals to buy and sell goods at the marketplace without undue interference—be protected.

THE GAMBRELL-SPARKMAN AMENDMENT TO S. 3337

Mr. GAMBRELL. Mr. President, on September 13, 1972, during the debate on S. 3337, the senior Senator from New York (Mr. JAVITS) asked that additional information be furnished for the RECORD regarding the amendment which I offered on behalf of the senior Senator from Alabama (Mr. SPARKMAN).

Mr. President, I ask unanimous consent to have printed in the RECORD a statement providing additional information concerning this amendment.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT

The Gambrell-Sparkman amendment to S. 3337 does not in any way detract from the additional incentives given to the MESBIC program by that bill. The Committee on Banking, Housing, and Urban Affairs agreed with the Administration that several major changes were necessary to attract more sponsors and more private capital to the MESBIC program, as well as to keep some of the present MESBICs active and viable concerns. There was no dissent from that position expressed during the Committee's consideration of S. 3337.

The amendment offered by Senator Gambrell on behalf of Senator Sparkman and adopted by the Senate on September 13 merely improves the overall legislation.

The amendment has two provisions. First, it would bring more private capital into the SBIC industry by permitting the Small Business Administration to provide leverage beyond the present limitation. Ever since the 1967 Amendments to the Small Business Investment Act were enacted, SBICs with private capital above $3.7-million have been discriminated against, for they have not been able to obtain any leverage on their capital in excess of that amount. By doubling the ceiling, SBICs will be able to leverage their private capital up to about $7-million.

The second part of the amendment would allow smaller SBICs to qualify for the so-called third-dollar leverage if they specialize in making equity investments, rather than straight loans. This third tier of leverage was authorized for the first time in the 1967 Amendments to the Small Business Investment Act, but it was limited to SBICs with private capital above $1-million. The 1967 innovation has served its purpose well, because SBICs are now making more investments and fewer loans now than they were prior to 1967. On the other hand, there is no reason why SBICs with private capital below $1-million should not be given the same inducement to invest, rather than lend, so the Gambrell-Sparkman amendment to S. 3337 provides that all SBICs with private capital above $500,000 should be eligible for third-dollar leverage if they meet the necessary criteria.

Incidentally, S. 3337 as reported from the Committee, allows MESBICs to leverage all their private capital without any ceiling whatever; the Gambrell-Sparkman amendment does not give this privilege to regular SBICs. Under the bill, MESBICs with private capital of $500,000 or more are entitled to third-dollar leverage.

SBA data show that regular SBICs have made far more dollars available to minority businessmen than have MESBICs over the past three years. Regular SBICs have made these loans and investments with a combination of motives—both through hardheaded business decisions and through a desire to bring the disadvantaged into the mainstream of our economic life. Regular SBICs will continue to be the major source of equity capital for disadvantaged businessmen, even after we buttress the MESBIC program through the passage of S. 3337.

Along the same line, it is the larger SBICs which have the staff and financial resources to take on the riskier and more demanding minority investments. For that reason, the Senate action in authorizing additional leverage for these larger SBICs is most relevant to the reason for considering and passing S. 3337: the assistance of the minority and disadvantaged businessman.

The Sparkman-Gambrell amendment will *not* in any way detract from the MESBIC program itself. The heart of S. 3337 relates to the low-cost Federal funding available for MESBICs; the amendment does not give regular SBICs that advantage. Regular SBICs will continue to buy their leverage with an SBA guarantee in the public securities markets and will have to pay the going cost of money. Under S. 3337, MESBICs will receive subsidized loans from SBA and will be able to sell preferred stock to SBA. It is apparent, therefore, that no conflict exists between the two segments of the SBIC program, or between the Administration's MESBIC bill and the Sparkman-Gambrell amendment.

The Senate Banking Committee, incidentally, received testimony in favor of the Gambrell-Sparkman amendment while it was considering S. 3337, so this matter did not come before the Senate without a hearing and without discussion.

To sum up: the amendment to S. 3337 has the potential to assist all types of small business and it augments, rather than subtracts, from the additional incentives given MESBICs under the bill.

MULTIPLE SCLEROSIS—A CHALLENGE TO THE MEDICAL PROFESSION

Mr. ROTH. Mr. President, the disease multiple sclerosis—MS—which is notorious for its uncertainty and incurability, presents a constant challenge to the medical profession in this country. Efforts to discover a cure for this disease deserve a commitment of support from the Congress. This disease, often called the "crippler of young adults," is not contagious, nor could it be termed a "mental" disease. It is a neurological disease—one which impedes the proper performance of such important body functions as walking, talking, seeing, hearing, eating, tying a shoelace, or opening a door. The tragic influence of such an illness has been underscored by a U.S. Public Health Service publication which states that—

> Neurological ailments add up to the leading cause of permanent disability and the third cause of death in the United States.

Mr. President, currently pending before the Health Subcommittee of the Senate Labor and Public Welfare Committee is a measure which, if passed, could assist the medical profession of our country in finding a cure for this dreadful disease. The National Advisory Commission on Multiple Sclerosis Act, H.R. 15475, would establish a body of professionals which would meet, for a period of 1 year, to determine the most effective means of finding the cause of and cure for multiple sclerosis. The Commission would then make a report of its findings, including any legislative recommendations, to be transmitted to the President and the Congress.

This bill is the product of hearings held last May by the House Interstate and Foreign Commerce Committee, which sought to develop legislation leading to the conquest of multiple sclerosis. Six weeks ago, it was passed by the House of Representatives by a voice vote. Should it become public law, the Secretary of the Department of Health, Education, and Welfare would be directed to appoint a nine-member Commission, of which five members would be drawn from the advisory council to the National Institute of Neurological Diseases and Stroke, with the remaining positions filled by qualified public representatives.

As estimated by the House Interstate and Foreign Commerce Committee, this Commission would cost the Federal Government less than $25,000 for its yearlong operation. This initial investment will, hopefully, produce long-term gains for the American public. Since this disease generally strikes young adults between the ages of 20 and 40—an age bracket which continually expands—it is evident that until a cure for MS is found, the overall cost of this disease to the average American taxpayer, in both financial commitment and productivity loss, will continue to rise.

Mr. President, in supporting the formation of this national Commission, I would like to take this opportunity to salute the efforts of the thousands of MS volunteers who annually devote much of their time and energy in helping to achieve victory in the battle against MS. To each of these unselfish individuals, we owe our thanks. I also applaud work done by the many State and local organizations which lead the crusade against this savage crippler. Statewide organizations, such as the Delaware Chapter of the National Multiple Sclerosis Society, to which I am honored to serve as an honorary board member, provide clinical care and consultation to MS patients in need of assistance.

In closing, Mr. President, I strongly urge Senators to join me in support of H.R. 15475. As a result of its passage, millions of Americans might be spared the suffering which accompanies MS.

THE BANK SECRECY ACT

Mr. TUNNEY. Mr. President, for several months now I have spoken out time and time again against the Orwellian tactics of our Government agencies in conducting secret surveillance of the bank accounts of citizens.

I did so because I believe that the Government should not be allowed freely to intrude upon, indeed, trample upon America's banking privacy. For as we all know, a person's political, business, and personal life may be scrutinized in detail by examining his bank account.

For these reasons, in July, I introduced a bill (S. 3814) to amend the Bank Secrecy Act. The Bill would prohibit banks from disseminating financial records to anyone, including the Government, without first obtaining the account holder's consent, or be served with a subpena or court warrant.

Last week, a three-judge district court in San Francisco held unconstitutional a portion of the Bank Secrecy Act. Although the holding was fairly narrow, the words of the court were not:

> Banks have traditionally returned, either directly or through the clearing house, all checks each month to the original drawer of the checks. It would seem reasonable therefore, for the drawer of a check to regard himself as the real owner of his checks, subject only to normal banking processing, and to expect that detailed information shown only on the face of his checks will not be automatically broadcast throughout the vast government bureaucracy without at least some notice, summons, subpena, or warrant in connection with some legitimate pending inquiry.

During the hearings on my bill before Senator PROXMIRE's Financial Institutions Subcommittee, the Government witnesses admitted that they conduct secret monitoring of bank accounts frequently and with the full cooperation of the banks involved. Mr. Lynch of the Justice Department opined that no additional legislation is required because the "conscience" of the investigating agent and the "responsibility" of the bank manager would suffice as "inherent controls."

The constitutional handwriting is on the wall, Mr. President, to use a well-worn cliche. The need for congressional action is very evident. It is imperative that Congress act as quickly as possible to stop the abuses of our law enforcement agencies, while at the same time allowing them the full and adequate means to pursue crime-stopping effectively and constitutionally.

I ask unanimous consent that the complete text of the court's opinion be printed in the RECORD.

I also include as cosponsors for S. 3814 the following Senators: BAYH, CANNON, HUGHES, HUMPHREY, MANSFIELD, MUSKIE, and PASTORE.

There being no objection, the opinion was ordered to be printed in the RECORD, as follows:

[U.S. District Court, Northern District of California]

Fortney H. Stark, Jr., et al., Plaintiffs, vs. John B. Connally, Jr., Secretary of the Treasury of the United States, et al., Defendants. No. 72 1045; The California Bankers Association, Plaintiff, vs. John B. Connally, Jr., Secretary of the Treasury of the United States, et al., Defendants; No. 72 1157)

MEMORANDUM OF DECISION

Before: HAMLIN,* Circuit Judge, EAST and SWEIGERT, District Judges.

Judge SWEIGERT: Plaintiffs in No. 72 1045 include several named individuals who are bank customers, also the American Civil Liberties Association, suing on behalf of itself as a bank customer and also on behalf of such of its numerous members as are also bank customers; also a bank—the Security National Bank. The only plaintiff in No. 72 1157 is the California Bankers Association, suing on behalf of its membership, which comprises all California banks.

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*Judge Hamlin dissents in part.

These plaintiffs seek to enjoin the Secretary of the Treasury from enforcing the provisions of the so-called Bank Secrecy Act, enacted by the Congress on October 26, 1970, to be effective May 1, 1971, and the Regulations issued thereunder on March 31, 1972 (but by their own terms not effective until July 1, 1972) upon the grounds that such enforcement poses grave and irreparable injury to their constitutional rights — their right to freedom from unreasonable search; their constitutional right of privacy; their privilege against self-incrimination; their right to due process as it may affect banks and bank customers, and also the right of private association protected by the First Amendment.

The Bank Secrecy Act (12 U.S.C. 1829b; 31 U.S.C. Secs. 1051–1122) requires banks and similar financial institutions to keep certain records and authorizes the Secretary of the Treasury to require such institutions and persons participating in transactions with such institutions to report financial transactions to the Secretary for the stated reason (Sec. 1051) that such records and reports have a high degree of usefulness in criminal, tax and other regulatory investigations.

The record-keeping provision of the Act is 12 U.S.C. Sec. 1829b—implemented by Treasury Regulation 31 C.F.R. sub-part C, Secs. 103.31–103.37. Section 1829b (b) (c) (d) broadly requires financial institutions to maintain, not only customary ledger card records for commercial and savings accounts, but also to maintain microfilm of all checks, drafts or similar instruments drawn on or presented for payment or received for deposit or collection—an authorization which the Secretary has implemented (Regulation 103.31–103.37) with exceptions only for large accounts involving dividend, payroll or employee and medical benefit checks.

The temporary restraining order heretofore issued in this case has not been directed to the record-keeping provisions of the Act, and since we find no constitutional violation in these record-keeping provisions, as such, we reject plaintiffs' contentions insofar as those portions of the Act are concerned.

Turning, however, to the reporting provisions of the Act, those provisions are contained in Title 31 U.S.C. Secs. 1081, 1082, 1083, 1101 and 1121 and have been implemented by Treasury Regulations 31 C.F.R. Part 103, sub-part B, Secs. 103.21–103.26. These reporting provisions fall into two categories: (1) Those relating to *foreign* financial transactions (Secs. 1101 and 1121), and (2) those relating to *domestic* financial transactions (Sec. 1081).

Since, in our opinion, the reporting provisions relating to foreign transactions present no great problem we will first dispose of plaintiffs' challenges to those provisions.

REPORTING OF FOREIGN FINANCIAL TRANSACTIONS

31 U.S.C. Sec. 1101 (Reports of Exports and Imports of Monetary Instruments) provides in substance that whoever knowingly transports monetary instruments from the United States or into the United States or receives such at the termination of the transportation to the United States in an amount exceeding $5,000 shall file a report in such form and detail as the Secretary may require setting forth certain specified (sub. b) information—with certain qualifications (sub. c) as to common carriers.

Regulation 103.23 (Reports of Transportation of Currency or Monetary Instruments), implementing Section 1101, excepts transfers through normal banking procedures and makes some other exceptions (sub. c).

31 U.S.C. Sec. 1121 (Foreign Transactions) provides in substance that the Secretary of the Treasury, having due regard for the need for controlling export and import of currency and also due regard to avoidance of unreasonably burdening legitimate transactions with foreign financial agencies, shall by regulation require residents of the United States, who engage in any transactions with a foreign financial agency, to maintain records or file reports, or both, setting forth such of the certain stated information as the Secretary may require. (See also, Sec. 1122).

Regulation 103.24, implementing Section 1121, provides in substance that each person subject to the jurisdiction of the United States, having a financial interest in a bank, securities or other financial account in a foreign country, shall report such relationship as required on his federal income tax return.

We are of the opinion that these portions of the Act, dealing with export and import of monetary instruments and with foreign monetary interests or accounts, do not violate any constitutional provision.

First of all, there is the general rule (which must always be the point of departure in cases calling for judicial review of legislation enacted by the Congress), that the wisdom of legislation and the need for it are matters for the Congress to decide and the Courts should not substitute their judgment for that of the Congress. (See, Justice Stewart dissent in *Griswold* v. *Connecticut*, 381 U.S. 479 (1965) at 526. The foregoing reporting provisions of the Act are limited to a narrowly described area of international financial transactions and the Congressional decision falls within the general rule.

The Supreme Court, when dealing with matters of reporting to and surveillance by the executive, has traditionally recognized a distinction between domestic surveillance, on the one hand, and surveillance where foreign nations are involved, pointing out that what might be impermissible in domestic cases may be constitutional where foreign powers are involved. See, *United States* v. *United States District Court*, —— U.S. —— (6/19/72) (slip opinion pp. 10–12; p. 23).

Furthermore, the Act contains procedural protections applicable to its provisions for reporting these foreign transactions. For example, with respect to enforcement of Section 1101, the Act (Section 1105) provides that, if the Secretary has reason to believe that monetary instruments are being transported without reporting or with false reports, he may apply to the Court for a search warrant. Similarly, with respect to enforcement of Section 1121(b) (foreign transactions) that section provides that no person required to maintain records under the section shall be required to produce or disclose the same except with a duly authorized subpoena or summons as may be otherwise required by law.

We conclude that these provisions violate no constitutional guarantee and that, since these provisions, requiring report of certain foreign financial transactions, are clearly separable from provisions pertaining to the reporting of domestic financial transactions, plaintiffs' motion for a preliminary injunction as to the former is denied.

REPORTING OF DOMESTIC FINANCIAL TRANSACTIONS

A more formidable problem is presented by the Act's provisions authorizing the Secretary to require reporting to him by financial institutions, and also by persons participating in transactions with them, of domestic financial transactions.

31 U.S.C. Sec. 1081 (Domestic Currency Transaction-Reports) provides that transactions involving any financial institution shall be reported to the Secretary at such time and in such manner, and in such detail, as the Secretary may require, if they involve the payment, receipt or transfer of United States currency or such other monetary instruments, as the Secretary may specify, in such amounts, denominations, or both, or under such circumstances, as the Secretary shall by regulation prescribe.

Section 1082 provides that the report of any such transaction shall be signed or otherwise made both by the domestic financial institutions involved and by one or more of the other parties thereto or participants therein as the Secretary may require.

Regulation 103.22 (Reports of Currency Transactions), which partially implements these sections, requires financial institutions to report transactions involving currency of more than $10,000.

It will be noted that, although to date the Secretary has required reporting only by the financial institutions and then only of currency transactions over $10,000, he is empowered by the Act, as indicated above, to require, if he so decides, reporting not only by the financial institution, but also by other parties to or participants in transactions with the institutions and, further, that the Secretary may require reports, not only of currency transactions but of any transactions involving any monetary instrument—and in any amount—large or small.

Since, as already noted, the record-keeping provisions of the Act require banks to microfilm all checks, drafts or similar instruments drawn on or presented to or received for deposit or collection by a bank, and since, as noted, the Secretary may require reporting not only by the bank, but also by the other parties to, or participants in, any bank transaction, the required report can include, not only the bank's usual record of its customer's account, but also such information as is disclosed on the face or back of any check, draft or similar monetary instrument—i.e., information concerning the identity of the persons, firms or organizations with whom the drawer has chosen to deal and, further, such additional "detail" concerning the transactions "as the Secretary may require" from both the bank and other parties or participants.

These reporting provisions of the Act must be considered along with other general provisions, e.g., Section 1053 which vests broad power in the Secretary to prescribe such regulations as he may deem appropriate to carry out the purposes of the Act; also under Section 1055 the Secretary may make and revoke exemptions from the Act's requirements as he may deem appropriate; these exemptions may be conditional or unconditional, by regulation or by order or by licensing, and they may relate to particular transactions or to particular parties. The Secretary has broadly implemented these authorizations in his Regulation 103.45, providing that in his sole discretion he may by written order make exceptions or exemptions or impose additional record-keeping or reporting requirements authorized by the statute or otherwise modify the requirements of the regulations.

Further, Section 1061 provides that the Secretary of the Treasury shall, upon such conditions and procedures as he may by regulation prescribe, make any information set forth in the required reports available, for any purpose consistent with the provisions of the Act, to any other federal agency at its request.

The question is whether these provisions, broadly authorizing an executive agency of government to require financial institutions and parties to or participants in transactions with them, to routinely report to it, without previous judicial or administrative summons, subpoena or warrant, the detail of almost every conceivable financial transaction as a surveillance device for the discovery of possible wrongdoing on the part of bank customers, is such an invasion of a citizen's right of privacy as amounts to an unreasonable search within the meaning of the Fourth Amendment.[1]

That there is such a thing as a constitutionally protected "right of privacy" has been recognized by the Supreme Court in such cases as *Griswold* v. *Connecticut*, 381 U.S. 479 (1965); *Katz* v. *United States*, 389 U.S. 347 (1967) and most recently in *United States* v. *United States District Court*, ——— U.S. ——— (June 19, 1972).[2]

In *Katz* v. *United States*, supra, the Supreme Court, holding that government eavesdropping violated the right of privacy upon which a person relied while using an otherwise public telephone booth, said: "The Fourth Amendment protects people, not places. What a person knowingly exposes to the public, even in his own home or office, is not a subject of Fourth Amendment protection. See, *Lewis* v. *United States*, 385 U.S. 206, 210 (1966); *United States* v. *Lee*, 274 U.S. 559, 563 (1927). But what he seeks to preserve as private, even in an area accessible to the public may be constitutionally protected. See, *Rios* v. *United States*, 364 U.S. 253 (1960); *Ex parte Jackson*, 96 U.S. 727, 733 (1877) . . . No less than an individual in a business office, in a friend's apartment, or in a taxicab, a person in a telephone booth may rely on the protection of the Fourth Amendment. One who occupies it, shuts the door behind him, and pays the toll that permits him to place a call, is surely entitled to assume that the words he utters into the mouthpiece will not be broadcast to the world. To read the Constitution more narrowly is to ignore the vital role that the public telephone has come to play in private communication."

Harlan, J., concurring at p. 360–361, concerning what is meant by privacy, added: "My understanding of the rule is that there is a two-fold requirement, first that a person have exhibited an actual (subjective) expectation of privacy and, second, that the expectation be one that society is prepared to recognize as 'reasonable'."

In the recent case of *United States* v. *United States District Court*, ——— U.S. ——— (6/19/72) the Supreme Court, considering a presidential claim of legal right to wire tap telephone conversations (without court approval) when deemed necessary to protect the nation from attempts of domestic organizations to attack and subvert its existing form of government, again unanimously held that the Fourth Amendment shields such a conversation from surveillance; that the government's duty to safeguard domestic security must be weighed against the potential danger that unreasonable surveillances pose to individual privacy; that Fourth Amendment freedoms cannot be properly guaranteed if domestic security surveillances are conducted solely within the discretion of the executive branch without the detached judgment of a neutral magistrate, especially when resort to appropriate warrant procedure would adequatey serve the legitimate purposes of domestic security searches.

In *City of Carmel* v. *Young*, *supra*, the California Supreme Court, citing the principle laid down by the Supreme Court of the United States in *Griswold* v. *Connecticut*, *supra*, held that a statute requiring public officials and candidates for public office to disclose investments in excess of $10,000 although a laudable and proper legislative concern with possible conflicting interests of public servants, was, nevertheless, an invalid intrusion upon the right of privacy protected by the Fourth Amendment.

Does the constitutional principle laid down by the Supreme Court in the above cases apply in the present case where the government claims legal right to maintain routine surveillance, without summons, subpoena or warrant, over the details of citizens' financial transactions with banks and similar financial institutions for the broadly stated purpose of helping executive agencies of the government to investigate, not only tax and criminal matters, but also other unspecified "regulatory investigations"?

At the outset we must note the holdings in this and other circuits that communications between banks and their customers are not privileged communications in the technical sense of that term; that bank customers have no rights in bank records; that such records may be subpoenaed from the bank, even over the objection of the depositor, notwithstanding the fact that the records concern the customer's account; that customers have no standing to object to subpoenas requiring their bank to produce records of the customer's accounts and that the production by the bank of its records under subpoena is not, as to the customer, either a Fourth Amendment illegal search and seizure nor a Fifth Amendment self-incrimination. *Harris* v. *United States*, 413 F. 2d 316 (9th Cir. 1969). See also *Galbraith* v. *United States*, 387 F. 2d 617 (10th Cir. 1968); *Application of Cole*, 342 F. 2d 5 (2d Cir. 1965); *De Masters* v. *Arend*, 313 F. 2d 79, 85 (9th Cir. 1963).

It seems, therefore, that bank customers have no recognizable right to claim invasion of their privacy merely because a government agency, by summons or subpoena, requires a bank to produce the bank's own records pertaining to the customers' financial transactions.

It will be noted, however, that the cases enunciating this rule all involved situations in which (1) the government agency was seeking only the bank's own records of the customer's account, and (2) the government agency was following established procedures for obtaining such records by means of judicial or administrative summons, subpoena or warrant, e.g., 26 U.S.C. Sec. 7602 et seq., and (9) the government agency was seeking records claimed to be relevant and material to a specific matter then under inquiry, i.e., the correctness of a particular taxpayer's return.

In the operation of the domestic financial transaction reporting provisions of the Act here in question, none of these elements are present.

The power of the Secretary under the Act in question to require reports is not limited to the bank's own records or to information based thereon, e.g., the bank's ledger card record of the state of the customer's account or its own deposit slips or passbook entries. As already indicated, the Act goes much further to authorize the mandatory disclosure of information obtainable from microfilming checks and drafts and also detail information required from the parties to and participants in each transaction.

We do not consider it necessary to pass upon the technical question whether customer's checks, as such, become the property of the bank during the banking process. We do note, however, that banks have traditionally returned, either directly or through the clearing house, all checks each month to the original drawer of the checks. It would seem reasonable therefore, for the drawer of a check to regard himself as the real owner of his checks, subject only to normal banking processing, and to expect that detailed information shown only on the face of his checks will not be automatically broadcast throughout the vast government bureaucracy without at least some notice, summons, subpoena or warrant in connection with some legitimate pending inquiry.

Certainly, at least, a bank customer reasonably expects privacy concerning details of his personal financial affairs not shown on either the bank's own records or on the face of the customer's checks and which must be disclosed only by the report required of the bank customer, himself, as a party to or participant in a financial transaction.

It would seem that, within these limitations, and within the meaning of *Katz*, supra, a bank customer does expect a degree of privacy in these matters and that such an expectation is one that society has been prepared to recognize as "reasonable."

As stated by the Supreme Court of California in *City of Carmel* v. *Young*, supra (Burke, J.) (p. 268): "In any event we are satisfied that the protection of one's personal financial affairs and those of his (or her) spouse and children against compulsory disclosure is an aspect of the zone of privacy which is protected by the Fourth Amendment and which also falls within that penumbra of constitutional rights into which government may not intrude absent a showing of compelling need and that the intrusion is not overly broad" . . . "the law must be shown necessary and not merely rationally related to the accomplishment of a permissible state policy. *Griswold* v. *Connecticut*, *supra*, 381 U.S. 479, 497. The breadth of legislative abridgment must be viewed in the light of less drastic means for achieving the same basic purpose. *Shelton* v. *Tucker*, *supra*, 362 U.S. 479."

The Act challenged in our pending case makes no provision for any summons, either judicial or administrative, as the means whereby the Secretary can demand reports from banks and their customers concerning the details of their financial transactions. He is empowered to peremptorily require such reports routinely—automatically—from the banks and from all parties and participants in financial transactions without any procedure whereby either the bank or the customer may in advance test the reasonableness of the demand.

Sections 7602 et seq., of the Internal Revenue Act of 1954 (26 U.S.C.), already above mentioned, establish procedures whereunder the Secretary of the Treasury, for the limited purpose of ascertaining the correctness of an individual's tax return, may summon the person liable or any person having possession or care of books of account relating to the business of that person or any other person, to appear and to produce such records and to give testimony as may be relevant or material to such inquiry.

Under these procedures the ultimate enforcement of the summons can be judicially controlled when challenged either by the bank or by the customer-taxpayer himself as an intervening third party interest whose financial transactions are involved. *Reisman* v. *Coplin*, 375 U.S. 440 (1964).[3]

The Act here in question contains no such procedural safeguards with respect to reporting of domestic transactions as are contained in this existing law whereunder the Treasury is already given ample but orderly opportunity to investigate tax violations by citizens.

Further, the Act presents the question whether there is any reasonable relationship between the end sought to be achieved, i.e., possible assistance to the government in its

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Footnotes at end of article.

investigations of citizens, on the one hand, and on the other hand, the peremptory, sweeping, unsafeguarded reporting provisions which it authorizes the Secretary to require.

There can be no question about the power of Congress to require records and reports from business entities and citizens (*United States* v. *Morton Salt*, 338 U.S. 632 (1950)); *Provided, however*, That any such records or reports bear some reasonable relationship to the matters under inquiry. See *Federal Trade Commission* v. *American Tobacco Co.*, 264 U.S. 298 (1924), where the Court held that "a governmental fishing expedition into private papers on the possibility that they may disclose evidence of a crime, is so contrary to first principles of justice, if not defiant of the Fourth Amendment, that an intention to grant the power to a subordinate agency will not be attributed to Congress unless expressed in the most explicit language" . . . and . . . "access is confined to such documents as are relevant evidence to the inquiry or complaint before the commission. . . ."

In *Shapiro* v. *United States*, 335 U.S. 1 (1948) at 32–33 the Supreme Court recognized that "There are limits which the government cannot constitutionally exceed in requiring the keeping of records which may be inspected by an administrative agency and may be used in prosecuting statutory violations committed by the record keeper himself," adding, "But no serious misgivings that those bounds have been overstepped would appear to be evoked when there is a sufficient relation between the activity sought to be regulated and the public concern so that the government can constitutionally regulate or forbid the basic activity concerned and can constitutionally require the keeping of particular records subject to inspection by the administrator."

Various tests have been formulated to ascertain the reasonableness of a search and seizure, e.g., a search is unreasonable when "it is out of proportion to the ends sought" (*McMann* v. *Securities & Exchange Commission*, 874 F.2d 377, 379 (2d Cir. 1937, J. Learned Hand), "balancing the need to search against the invasion which the search entails." *Camara* v. *Mun. Ct.*, 387 U.S. 523 (1967); "a nexus . . . between the item seized and criminal behavior." *Warden* v. *Hayden*, 387 U.S. 294, 307 (1967).

As compared with the relatively specific and certainly vital national interests involved in *United States* v. *United States District Court*, supra, i.e., subversion of our form of government, which the Supreme Court has held, nevertheless, insufficient to justify invasion without prior judicial approval, of conversational privacy by wire tap surveillance, the stated reason given in the Act now in question, for invasion of bank customers' reasonable expectation of a degree of privacy, i.e., the mere general possibility that such surveillance will help in criminal, taxation and unspecified governmental investigations, is far more vague and far less convincing.

The same may be said of *City of Carmel* v. *Young*, supra, wherein the court held that even such an important and specific subject of legislative concern as conflict of interest among public employees was insufficient to justify an overbroad invasion of one's right of privacy in his financial affairs.

How far-fetched is the relationship between the surveillance authorized by this Act and the general expectation that it may uncover wrongdoing is indicated in its legislative history wherein an Assistant Secretary of the Treasury, testifying before a Congressional Committee stated: "We believe that the imposition of an all-encompassing requirement to photograph all checks drawn on U.S. banks . . . could be impractical, wasteful, and counter-productive. In excess of 20 billion checks are drawn annually in the United States and flow through the banking system and only a small percentage of these are likely to be of use in criminal, tax or regulatory investigations and proceedings." Senate Hearings, p. 178.

Similarly a Commissioner of Internal Revenue testified as follows: ". . . Realistically, however, the creation of a mass of paper beyond our capacity to digest and utilize could have the effect of submerging and making unobtainable information of special interest to us. In other words, a rifle rather than a shotgun may represent the best approach to the problem." House Hearings, p. 68.

Remarkably, the government in its brief (7/13/72, p. 5) seems to recognize these considerations by interpreting the reporting provisions of the Act to mean that: "... Nothing in the statute gives the government any greater right to *access* to bank records than it possessed before. Consequently, *whenever the federal government desires to inspect any bank records kept under the provisions of the new statute, the federal government must resort to using an administrative summons or judicial subpoena as it did in the past.* Upon the issuance of such a summons or subpoena, if the bank customer felt that the use of the summons or subpoena constituted an illegal search and seizure under the Fourth Amendment, that contention could be contested in court in the same manner as it heretofore has been contested." (emphasis added).

Of course, if the government intends to obtain the information contemplated by the reporting provisions of the Act only through use of administrative summons or judicial subpoena, as it has done in the past under existing law, then one may well question the need for this new legislation. However, we must look, not merely to what the government says it intends to do, but to the much broader authorization of the Act itself.

For the reasons above set forth we are of the opinion that the Act in question, insofar as it authorizes the Secretary to require virtually unlimited reporting from banks and their customers of domestic financial transactions as a surveillance device for the alleged purpose of discovering possible, but unspecified, wrongdoing among the citizenry, so far transcends the constitutional limits, as laid down by the United States Supreme Court for this kind of legislation, as to unreasonably invade the right of privacy protected by The Bill of Rights, particularly the Fourth Amendment provision protecting "the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures."

We therefore, deem it unnecessary to consider plaintiffs' claims based upon the Fifth Amendment privilege against self-incrimination, the Fifth Amendment requirement of due process, and the First Amendment protection of freedom of association.

Plaintiffs' motion in the above consolidated cases for a preliminary injunction is granted to the extent of enjoining defendant from enforcing the reporting provisions of the Act concerning domestic financial transactions—but in no other respect.

This Memorandum constitutes the findings and conclusions of the Court within the meaning of Rules 52 and 65 of Federal Rules of Civil Procedure.

Dated: August 4th, 1972.

O. D. HAMLIN,
Circuit Judge.
WILLIAM G. EAST,
District Judge.
W. T. SWEIGERT,
District Judge.

HAMLIN, Circuit Judge, dissenting and concurring:

I concur in that portion of the majority opinion in the above case which upholds the constitutionality of 31 U.S.C. §§ 1101, 1121 and 1122, and the Treasury regulations implementing said sections.

I respectfully dissent, however, from that portion of said opinion which holds that 31 U.S.C. §§ 1081, 1082 and 1083 relating to domestic banking transactions are unconstitutional.

As I see it, there is no essential difference between the statutes covering domestic and those covering foreign banking requirements. The majority opinion refers to no authority which is directly on point. The references therein to cases involving conversational privacy are to me inapposite. Any person or organization using banks for their own purposes does so knowing that the Code sections in question permit access to bank records by the government and reports by the banks concerning those records.

Courts should be slow in finding a Congressional enactment unconstitutional.

In this case, if any hardship result by reason of these statutes, application can be made to Congress for relief.

FOOTNOTES

[1] It will be noted that anyone who refuses to so report does so upon peril of criminal prosecution under Section 1058.

[2] See also, *Doe* v. *McMillian*, 442 F.2d 879 (D.C. Cir. 1971); *York* v. *Story*, 324 F.2d 250 (9th Cir. 1963); *Zimmerman* v. *Wilson*, 81 F.2d 847, 849 (3d Cir. 1936). But see, 25 F. Supp. (1938), aff'd in 105 F.2d 583, 586 (1939); *Dietmann* v. *Time*, 284, F. Supp. 925 (C.D. Cal. 1966); *City of Carmel* v. *Young*, 2 Cal. 3d 259 85 Cal. Rptr. 1 (1970); *Brex* v. *Smith*, 146 Atl. 34 (New Jersey 1969).

[3] It is true that in *Donaldson* v. *United States*, 400 U.S. 517 (1971) the Court limited to some extent the holding of *Reisman* that the customer-taxpayer would have a right to intervene in the summons proceedings, holding that such a right to intervene is not absolute; that for example, there would be no right to intervene when the taxpayer has no proprietary interest in the summoned records (his sole interest being that they presumably contain details of payments to him); that, since he has no other protectible interest by way of privilege or otherwise, he had no absolute right to intervene; that as IRS summons may be issued in connection with a tax investigation if it is issued in good faith and prior to any recommendation for criminal prosecution. But, as pointed out by J. Douglas, concurring (p. 536), a taxpayer would clearly have standing to raise a claim of violator of his constitutional rights if a third party were ordered to produce records belonging to the taxpayer, citing *United States* v. *Kordell*, 397 U.S. 1, 7; and *Reisman* v. *Coplin*, 385 U.S. 440, 445. Further, legislation is now pending in Congress to modify any effect of *Donaldson* by providing that the government, when acting under IRS statutes, must first get the consent of the bank customer or show cause to obtain bank records concerning the customer.

RESPECT FOR FLAG AT OLYMPICS

Mr. SCOTT. Mr. President, a fellow alumnus of Randolph-Macon College, A. Purnell Bailey, and his family recently wrote me a letter reflecting on another disturbing facet of the XX Olympiad. The letter was written to Olympic Boxing Gold Medalist Mr. Sugar Ray Seales. I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

A. PURNELL BAILEY,
McLean, Va., September 10, 1972.
Mr. SUGAR RAY SEALES,
Olympic Gold Medal Winner,
Washington, D.C.

DEAR MR. SEALES: Congratulations on winning a great fight at the Olympics and winning the Gold Medal!

Even more, congratulations on your respect to the flag of our country and to all of us in the United States who supported our Olympic contestants. Your hand over your heart was a symbolic moment of respect to our country, and a word of thanks to all of us who participated in sponsoring our athletes.

Earlier in the Olympics we were distressed at the disloyalty of two contestants who literally "thumbed their nose" at the country which supported them. You had better stuff in you and we are grateful.

We are sending a copy of this letter to the President, to the Olympic officials, to our Senators and Congressmen to express to them our pride and gratitude for you, your loyalty to our country, and for your fine skills.

We are grateful, too, to the excellent station (WMAL–TV in Washington: Channel 7), advertisers, and others who brought us the events as if we were there. We were in Munich and Augsburg a week before the Olympics and wished we could have stayed for the events.

We are PROUD of you, and PROUD of the country to which we give our respect and loyalty!

Our congratulations to your family, too;
Yours cordially,
A. PURNELL BAILEY,
RUTH H. BAILEY,
JEANNE P. BAILEY.

TOWN HALL OF LOS ANGELES

Mr. TUNNEY. Mr. President, in 1937 a group of civic minded men founded Town Hall of Los Angeles. The founders sought to realize through civic education and study the ideals of democracy in an enlightened and harmonious community.

Today, under the outstanding leadership of Rolland D. Headlee, Town Hall continues its dedication to those ideals in a world and Nation grown increasingly complex during the 35 years since Town Hall was founded.

Town Hall maintains an impartial position as an open forum for examining questions of vital interest to the public by providing more than 250 meetings a year for over 6,000 community leaders and concerned citizens of diverse backgrounds.

Town Hall is recognized as the most important public forum in southern California. As one who has been privileged to participate, I can attest that the discussion is frank and open, the questions often difficult and provocative.

For these reasons, and more, the California State Legislature recently commended Town Hall and Rolland D. Headlee for outstanding public service in promoting civic education in Los Angeles and Orange County. I join the State Legislature and members of the California delegation to Congress in commending Town Hall and its executive director.

EXTENDED BENEFITS UNEMPLOYMENT COMPENSATION PROGRAM BARS PAYMENT IN NEW JERSEY AND NINE OTHER STATES

Mr. CASE. Mr. President, I ask unanimous consent to have printed in the RECORD a news release by me relating to the extended benefits unemployment program.

There being no objection, the news release was ordered to be printed in the RECORD, as follows:

NEWS RELEASE

(Senator CASE condemns action of Senate Finance Committee in retaining provision of extended benefits unemployment compensation program which bars payment in New Jersey and nine other States—declares intention to fight action on Senate floor)

As the law is now written—and the Committee has done nothing to change it so far as the immediate future is concerned, it includes a Catch-22 type provision which cuts off benefits in states such as New Jersey solely because their unemployment rate has remained at a persistently high level.

Under the terms of this provision, the 13-week extension of unemployment benefits authorized by this act cannot be paid unless a state has an unemployment rate which is at least 120 percent of the rate prevailing in that state in the corresponding period of the two previous years.

On September 12, I and a number of my colleagues withdrew legislation we had offered to strike this provision of the act on the assurance of the Finance Committee's chairman that we would have his active cooperation in getting this bill through the Congress this session.

The Finance Committee has acted and has included as a rider to H.R. 640, reported yesterday, an amendment which purports to remedy this injustice. By this rider differs greatly from the legislation we earlier had agreed to withdraw at the chairman's behest. It eliminates the 120 percent requirement only for states already receiving these benefits. It does nothing for the ten states, including New Jersey, New York, California, and Connecticut, which recently lost their entitlement because of the 120 percent provision.

The basic objection to the original 1970 act still stands.

The original 1970 act was designed to deal with the then-rapid surge in unemployment. How the jobless would be assisted if the unemployment rate remained on a high plateau simply was not dealt with.

Now we are paying the price of this oversight. Twenty states, all with unemployment rates high enough to otherwise entitle them to these extended benefits, have been triggered out of entitlement solely because of a levelling-off in these rates. Truly, this represents a cruel "Catch-22" logic that I am certain that the Congress never intended.

In my own state of New Jersey, unemployment stands at 7.3 percent of the work force—far above the national average and above the rate of a year ago. Yet, on August 18 of this year, 24,000 workers in my state lost their entitlement to these extended benefits—not because the economic situation is improved, but because conditions have not gotten worse at a fast enough pace to satisfy the requirements of existing law.

Jobless workers in New Jersey have been exhausting their normal state unemployment benefits at a constant rate of 10,000 per month. As in many other states, most will have no other recourse except to go on the welfare rolls—and this at a time when state and local governments across the country literally have their backs against the wall financially. The Federal Government finances 50 per cent of the cost of this program of benefits.

I urge my colleagues to rectify the oversight in the present law and support the amendment which I will offer to strike entirely the "120 percent requirement" of the Federal-State Unemployment Compensation Act of 1970.

AN UNUSUAL WYOMING CORPORATION

Mr. HANSEN. Mr. President, I invite the attention of Senators to an article entitled, 'The Wind River Indians Go into Business," published in the September 17 Empire magazine of the Denver Post.

The article is significant for three reasons. First, it shows that the Indians can be motivated into helping themselves. This bottom-up approach mentioned in the article, whereby the Indians are stockholders as well as the suppliers of crafts, is one which gives the Indians pride in their heritage along with the financial means of experiencing capitalistic growth and profits.

Second, the Nation as a whole will be much better off if operations such as this Wind River Native Crafts, Inc. continues to prosper. This corporation has revitalized the craftsmanship of the Indians of the Shoshone and Arapaho tribes. Indian crafts are an important part of the American heritage which must not be lost as the younger generations grow up in an ever-changing world.

Third, authentic Indian crafts of the quality required by this Wyoming corporation have heretofore been much too sparse. This fact has led several foreign manufacturers to produce Indian items and sell them to unsuspecting tourists as the real thing. As more of these Indian products become available, perhaps Americans will be made aware of the beauty and quality of the authentic items.

I might add that one of the outlets for these native Indian crafts is the Indian Arts Museum of the Colter Bay Visitor Center in the Grand Teton National Park. This visitor center, established through the generosity and interest of Laurence Rockefeller, contains one of the truly outstanding exhibits of Indian native costume pieces, artifacts, and other memorabilia of their earlier culture. During this last July and August it was estimated that more than 2,000 people per day went through the museum, proving it to be one of the most interesting display areas within the Park. Members from both the Shoshone and Arapaho tribes participate by helping with both the Indian Arts Museum and the accompanying Indian craft shop.

Mr. President, I ask unanimous consent that the article about an unusual Wyoming corporation owned by some very unusual stockholders be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE WIND RIVER INDIANS GO INTO BUSINESS

(By Zeke Scher)

Auditors in the Small Business Administration offices in Washington, D.C., alertly discovered last February that something unusual was afoot on the Wind River Indian Reservation of west-central Wyoming.

It was so unusual, in fact, that SBA thought its computers were on the blink. So they checked, and came up with the same results—more than 300 SBA loans on the reservation within three months. And each of them for exactly $250.

Indeed, something very unusual was going on. Shoshones and Arapahos, historical enemies who live at separate ends of the 2.2 million-acre reservation, had joined to form a business corporation that was revolutionizing their crafts industry. And the SBA loans were financing it.

A paleface couple from Chicago, who live on an old allotment within the reservation, hatched the idea. A remarkable 40-year-old Arapaho woman is making it work.

The Chicagoan is Albert Charles Cook, a white-haired, 50-year-old furniture merchandiser who ran out of breath two years ago during the business ratrace. It wasn't the competition; it was the lungs. Emphysema was the problem. Wyoming was the answer.

In February 1970 he and his pretty wife, Elizabeth, moved out of their 61st floor Lake Point Tower apartment and headed for their summer home in the foothills of the Wind Rivers near Burris, Wyo. You know where that is—west of Crowheart, between Fort Washakie and Dubois, just off U.S. 26 and 287. The census lists the population of Burris at 10, but that may be high.

Cook got his first look at western Wyoming in 1965 while buying wood parts at a Riverton furniture plant. He visited a dude ranch at nearby Dubois, and by that fall was owner of a quarter section of Wyoming.

Cook gave a local contractor, Phil Spencer, a free hand in building a summer home on the land. In six months he'd finished a handsome log structure on the upper edge of a bowl-like pasture commanded by a resident bull elk.

For the next four summers the Cooks and their four children—Carolyn, now 18, Frederick, 22, Stephen, 23, and Charles, 25—came west to enjoy Wyoming.

The Cooks are a sociable couple. Soon they were inviting neighbors to dinner. Among them were two Shoshone couples, Herman and Wallace St. Clair and their wives.

Conversation got around to reservation-made crafts—or rather, the lack of them. Cook was surprised he couldn't find any to buy. The St. Clairs mentioned that Bobbie Hathaway, the Wyoming governor's wife, was encouraging the creation of a guild to promote crafts work.

The guild made slow progress. A recent reservation economic report said the guild over a three-year period purchased $6,000 worth of craft goods from members.

After the Cooks became year-round residents in 1970, they got to know more of their neighbors and the neighbors got to know the Cooks. Both Al and Elizabeth had been very active in Illinois civic affairs—PTA, symphony, Scouts, hospitals, politics—and it wasn't natural for them to be sit-at-homes. However, as johnny-come-latelies on an Indian reservation, they weren't about to try and take over.

But in May last year, a question from a group of Indians fell on sympathetic ears: "Can you help us?"

The Cooks felt a properly organized and efficiently run cooperative enterprise—with knowledgeable merchandising—could succeed in promoting the crafts that many of the 4,435 Indians on the reservation were capable of producing in volume. It certainly was needed, what with a 47 per cent unemployment figure.

The Cooks spent many hours talking with tribal leaders and anyone else showing an interest—Congressmen, Bureau of Indian Affairs (BIA), Agriculture Department and a myriad of federal economic development agencies. All offered encouragement but little else. The SBA said it couldn't loan money to a cooperative. That last rebuff rang a bell.

Last July the Cooks checked with the Wyoming Secretary of State's office and drew up articles of incorporation for an enterprise to be known as Wind River Native Crafts Inc. Stanford St. Clair, a Shoshone and rancher at Crowheart, and his Arapaho wife, Leona, helped recruit a board of directors—three Shoshones, three Arapahos, a Bannock and two ex-Chicagoans.

A year ago the document was filed in Cheyenne. Purpose of the new corporation: To do everything necessary to promote, manufacture and sell authentic Indian crafts, such as beaded moccasins, elk hoof bags, war bonnets, claw necklaces, beaded buckskin belts, braid wraps, bolo ties, headbands, dolls and various ceremonial apparel.

Stock in the corporation could be purchased only by craft producers and then only one share each.

With corporate papers in hand, Cook returned to the SBA and asked for a loan of $25,000, if you please. The SBA said no, then maybe. Finally, the federal agency agreed to provide $15,000 if others put up $10,000.

The Wyoming Industrial Development Commission kicked in $2,500. Two Riverton men—publisher Roy Peck and banker Harmon Watt—also loaned $2,500 each as a civic gesture. And so did Albert Cook.

On Oct. 27, with the $25,000 banked, the corporation made its first purchase, a Chevrolet van to reach "stockholders" around the big reservation. The corporation also signed a one-year lease on the former M&R Grocery store building at Crowheart for headquarters.

The Cooks and the St. Clairs got into the new van Nov. 1 and made their first recruiting visits. In two-hour visits to Fort Washakie, Arapahoe and Ethete (pronounced E-th-tee), they got 25 signatures. The word began to spread.

Al Cook was well aware that if the Indians were to be encouraged to produce quality craftwork in volume, they would have to receive compensation promptly. But between production and retail sale would be a lag. The $25,000 would soon be used up before money began to come in. So where could additional funds come from to pay the Indian workers as soon as they brought in their goods?

Between approval of the initial SBA loan and the first sign-ups, Cook and federal officials figured out an ingenious way to finance the operation.

Each crafts producer who agreed to become a stockholder also filled out an SBA application for a $250 loan, to be co-signed by the corporation.

Without the corporate backing, the loans probably would have been rejected as bad risks because most of the Indians had neither assets nor business experience.

As each loan was approved, the money went into the corporation treasury for purchasing crafts from the Indians, promoting their sale and obtaining raw materials for resale to the tribesmen. The corporation agreed to pay off each loan at a rate of $5 a month.

Success of the sign-up campaign amazed the Cooks, the same way Washington SBA officials were surprised by the deluge of $250 loan applications. By Jan. 1, there were 200; by Feb. 15, 300; by July 1, 500.

No one promised to make the Indian craft producers rich. They were to be paid reasonable wholesale prices, which was a lot better than the bottle of whisky or other barter many had been getting. A sure market and instant cash payment were the major incentives.

But there was the capitalistic profit angle too, perhaps a little obscure for the average reservation Indian to grasp. At the end of the fiscal year—next Sept. 30—the board of directors will study the profit and loss sheet. If there is a profit, this will be distributed among the stockholders as in most corporations. However, the dividend to each stockholder will be based on the amount of crafts he's sold to the corporation during the year.

All this sounded fine, but the entire operation depended on some very practical business considerations:

How would craft prices be fixed for the Indian producers?

How would quality standards be set, maintained or raised so the products would be in demand?

How would the crafts be marketed, if and when an inventory was compiled?

Anyone undertaking to appraise the artistry of Arapaho and Shoshone craftwork faced the prospect of an Indian war. Could one Indian tell another Indian that his work was "wrong"? (Indian crafts must not only show good workmanship; they must be right—the way they're supposed to be.) Could an Indian avoid criticism if he happened to set one price for a fellow tribesman and a lower one for a member of another tribe?

(In addition to Shoshone and Arapaho, there are Sioux, Comanche, Bannock, Ute, Navajo, Mescalero Apache and Taos Pueblo Indians who are stockholder-producers.)

The "impossible" job of appraiser was accepted by Leona St. Clair. A 40-year-old enrolled Arapaho, she is married to a Shoshone and is the mother of six. Her paternal grandmother was a Gros Ventre, her mother Arapaho.

Leona took the title of manager and bookkeeper. She circulated a news letter announcing she would buy on a regular schedule; Mondays and Fridays at the shop set up in the Crowheart headquarters; and on successive Wednesdays at the Great Plains Hall in Arapaho, the Community Hall in Ethete and the Rocky Mountain Hall at Fort Washakie.

She met with older women of the tribes and drew up a tentative price list as a guide. She studied the "right" crafts so she could explain the reasons for her prices—or for rejecting items.

"I knew many needed a lot of encouragement," she says. "Some of their work was very poor. At first it took me all day to handle 30 people and explain what was needed to improve.

"Members of the Joint Tribal Council came to me and asked why I was turning people away. I told them I wanted better work and that I would turn down poor work even from the president of the United States."

The job took its toll, emotionally and physically. While Leona appears businesslike, she is highly sensitive to the needs and feelings of the Indians.

"At first I didn't think I could take the pressure," she says. "People would demand a price, I'd explain what I could pay and we would argue. I worried about what would sell, what should I stop buying, what the right price.

"I had terrible headaches and the doctor gave me some pain killers. I determined that I would not let people upset me and I don't argue any more. Now I set a price and it's take it or leave it."

On a recent buying day at the Ethete Community Hall, the line of waiting producers extended some 50 feet, from the end of a long table where Leona sat, to the front door. They came with their products in paper bags or held under shirts, jackets or shawls to protect them from a gentle rain. They ran the gamut in age and appearance, from a few teen-age long hairs to wrinkled and gray senior citizens who usually are the best craftsmen.

As the Indians moved down the table they could select a wide variety of raw materials. These could be deducted from their payments when they reached Leona. She, meanwhile, was pricing, buying, explaining and then writing checks. Leona started at 10 a.m. and didn't get up from the table until 5:30 p.m.

The producers also wanted great patience. Many waited in line for as much as two hours. Some chatted quietly; most stood silently. Waiting children were less patient, running about the hall or even crawling about Leona's feet beneath the table. At noon, Ethete women provided for $1 a meal of boiled dried elk, chokecherry gravy, fried bread and coffee.

By day's end 96 craft producers had received checks totaling $3,769.65.

Each week, Leona's purchases have surpassed the entire three-year total reported by the old guild. At the present rate, the corporation business will total $250,000 in direct payments to the Indians this year. Hopefully, the merchandise can be resold for $500,000, making the corporation the largest local private enterprise other than a few ranch operations.

"I've seen great improvement in workmanship in a very short time," Leona says. "They take more pride in their work. I know they don't like to be rejected in front of the crowd. That's one of the big reasons they're improving."

During *Empire's* visit, only a few bickered with Mrs. St. Clair. "You gave me $5 last time," a woman objected.

"I will give you $4," Leona repeated, ending the debate. Later, Leona rejected a fan made of dyed turkey feathers.

She calmly explained that a good fan must be symmetrical—feathers from the left wing should be on the left, from the right wing on the right and the tail feathers in the center. Eagle feathers are best. It is illegal to deal in them but when a dead eagle is found, the feathers may be used. Ofter these show signs of scorching where a bird has struck power lines.

No plastic is permitted. Real bone (from Italy!) is used in various ceremonial pieces. Beads must be glass. Indian tanned buckskin, rawhide, porcupine quills, elk hoofs, woods, stone arrow points, shells, hair, skins; these are the raw materials. While sinew is preferred in bindings, invisible threads are acceptable.

The finished products are of such increasing quality and beauty that Cook has had little trouble in lining up prestigious outlets, including the Denver Art Museum, Field Museum of Natural History in Chicago, Wyoming State Museum in Cheyenne, Whitney Gallery of Art in Cody, the Indian Arts Museum at Grand Teton National Park, and gift stores in Laramie, Casper, Jackson, Estes Park and Dodge City.

An old friend in Chicago, Bruce Beck, provided Cook and the corporation with a colorful insignia—a red rose next to a blue morning star—which with a fact tag is attached to each item. Photographer Allen Snook has taken a series of vivid transparencies for an upcoming brochure.

For all his efforts and expertise—the United Nations had Cook advise Taiwan on marketing their wood products—he receives no pay. In fact, he can't even get a discount at the Crowheart shop—although Mrs. Cook is one of their best customers. (Stockholders are given 10 per cent off retail when they buy another artist's work, but the Cooks can't become stockholders unless they learn to make items good enough to pass Leona.)

The economic transfusion has had noticeable effects on the reservation. School teachers have commented on the newer and cleaner clothing worn by the children. Families that doubled up in crowded quarters are moving into separate homes. Car payments and other bills are being paid. Among individual Indians the interest rate on savings accounts has become a matter for discussion.

When George Quiver, Old Man of the Arapaho Tribe, told Leona, "What you are doing is good," that meant something. And so did graying Winnie Shot Gun's comment: "You're feeding me."

"If a dividend is paid after September," says Leona, "we will really boom. Most of the Indians don't understand the future dividend prospects."

Good-neighbor Cook feels many of the federal programs flop because they try to build from the top down.

"If Indians are going to run a company they have to know how it's done," he says. "You have to start by building up and establishing a dependable source of goods. They have to understand how society operates.

"We've proposed to the Bureau of Indian Affairs that they survey all the reservations and see what is being produced, find the key people and start the building process—from the bottom up. I can envision corporations like ours in Montana, Utah, Idaho, South Dakota—and we could centralize merchandising for them right here in Crowheart."

Al Cook is breathing easier these days. He's scaling new heights—including those Wind Rivers—and the old emphysema doesn't seem to bother anymore. Good work is heap good medicine.

FAIR LABOR STANDARDS ACT CONFERENCE

Mr. EAGLETON. Mr. President, I noted in the RECORD of September 21, 1972, that there was some discussion in the other body regarding the need for a conference on the Fair Labor Standards Act amendments and the parliamentary situation involved therein. I hope that the other body will be able to resolve its difficulties and that we can get together with them and work out a just and equitable bill. I have always been in favor of the protections offered to workers by the minimum wage legislation and have worked actively for its passage. In going in conference as a Senate conferee I expect to be guided by the Senate's views in regard to this legislation. However, I wish to make it clear that if I am appointed a conferee by the Senate I shall work to obtain a bill agreeable to both Houses.

I noted that during the course of the colloquy in the other body, a colleague of mine from my home State of Missouri indicated that he had voted for a bill similar to the Senate-passed bill because "it did not cover such seasonal employment as the cotton gin operations, which occupy a very special category and a very special situation." Missouri cotton gins operate for a very short time each year but operate for many hours during each of these days that they are in operation. I am informed by those involved in this operation in Missouri that the loss of the overtime exemption will result in an exorbitant increase in ginning costs to the farmers and that such increased costs would be passed on to the consumer.

It is my hope that if and when a conference is held matters such as this can be equitably adjusted in the best interests of all of the people, both of Missouri and the Nation.

SOVIET UNION EMIGRATION FEES

Mr. BEALL. Mr. President, I join today with many other Senators and many of my fellow Americans to protest the recent decision by the Soviet Government to require the payment of exorbitant fees, under the guise of "educational taxes," for the privilege of leaving the Soviet Union.

The imposition of such a barbaric ransom is nothing more than a campaign of extortion perpetrated against a group of people that have suffered too long at the hands of dictatorial suppression. It is a policy which violates the fundamental human right of a person to live where he choses, and, as such, cannot be tolerated by freedom-loving peoples.

Indications are that these fees will reach levels of between $5,000 and $37,000 per emigrant. This amount is in addition to the requirement that emigrants surrender homes and possessions without compensation and must also forfeit pensions and other benefits. Together they form an economic barrier equal in purpoes to the barrier of brick and steel standing in Berlin.

I strongly urge that our country make absolutely clear, in both words and deeds, that the people of the United States will not stand idly by and watch international blackmail being committed. The Soviet Union should be put on notice that, such actions will have a deep and immediate effect on the relations between our two nations that could seriously jeopardize the historic progress made in the last few months. This policy violates all norms of human decency, and I call upon the Soviet Union to end it now.

THE HIGH COST OF NIXON

Mr. MOSS. Mr. President, in 1968 Richard Nixon was accused of using "Madison Avenue" techniques to get himself elected President. Someone, in fact, went so far as to write a book about how Republican strategists had "sold" Nixon to the American people much in the way television ad men used to sell cigarettes.

The name of that book was the "Selling of the President, 1968." It turned out to be a bestseller.

This year, we read daily about the attempts of Nixon strategists to "buy" his reelection. Using the most unscrupulous methods. Maurice Stans and his associates have planned to raise $60 million in an effort to convince the American people that "Nixon is still the one."

With all this concern over the "buying" and "selling" of Mr. Nixon, it might not be a bad idea to judge the Republican Presidency the same way we do any other product.

First of all, let us look at the price tag. Today a loaf of bread costs the American consumer about 30 percent more than it did when Nixon took office. Hamburger has gone up about the same amount.

Then there are other things. Take the cost of home maintenance, for example. It now costs about 35 percent more to get your furnace repaired than it did in January 1969, about 40 percent more to get the average living and dining room painted.

Medical costs have risen too. A visit by a physician today costs 23 percent more than it did when Nixon was inaugurated, a hospital room 41 percent more, an operation 38 percent more.

Just about everything has gotten a lot more expensive. And now the Republicans are talking about starting a national sales tax on top of it.

Then, of course, there is the situation regarding wholesale prices. In the last 9 months, they have risen 5.9 percent. That's not only higher than before the 90 day wage-price "freeze" but the highest in 20 years. That means that retail prices are bound to go up even further in the next few months.

Let us look at some of the other costs we have had to pay for the Nixon Presidency. Future generations, for example, will have to make good on the $90 billion deficit the Nixon administration has rolled up. That is a full 25 percent added to the national debt in less than 3½ years.

Then there are other "hidden" costs. Back in 1969, for example, the United States used to export more goods than it imported. Now, we buy more goods than we sell abroad. This, unfortunately, gets to be expensive. In fact, it has cost our country about 400,000 jobs a year.

That brings us to the biggest cost of the Nixon Presidency. When the Republicans took office, we had "full employment." Now we have the highest jobless rate in a decade. For two million American workers, the Nixon administration has cost them their livelihoods.

All in all, we have paid quite a price to have Richard Nixon as our President. But let us look at the product. For such a steep price we must have really been getting a quality item.

In October of 1968, candidate Richard Nixon said:

> I do not believe that the American people should be forced to choose between unemployment and un-American controls.

Under Nixon, we have had both: the highest national rate of unemployment in 10 years together with the most unprecedented government intervention into the market place in history. On top of it we have had the worst price inflation in 20 years. Prices have, in fact, risen at a rate four times as fast as under the Kennedy-Johnson administrations.

This all brings us to the issue of "fiscal responsibility," an issue the Republicans have been talking about for years. Unfortunately, however, they do not behave in office the way they are fond of preaching out of office. Under Nixon, not only have prices risen at record-high rates, but the Government's own fiscal condition has deteriorated to the point that, 3 years running, the Republicans have rung up the highest deficits since World War II—and there is no relief in sight.

The President has admitted that one of the big reasons for the deficits is the amount of unemployment in the country. So many people are out of work that Government revenues have been chopped to recession levels.

This leads us to the administration's performance in providing jobs these last 3 years. In December of 1970, Congress passed the Manpower Act, a bill which would have created hundreds of thousands of jobs in the public sector. The President vetoed the measure.

In July of the following year, Congress moved again to institute a major public works program aimed at cleaning up the environment and cutting unemployment. Nixon again vetoed the measure. One month later, in fact, he cut Federal manpower levels by 5 percent. And this was a time when unemployment across the country was at its highest.

In terms of his performance in creating jobs, President Nixon has been far more adept at rhetoric, particularly on the subject of the "work ethic." In 1970, for instance, when unemployment rose to 4.9 percent, he blamed it on inflation. We had to cut back on output, he said, to stabilize prices.

In 1971, when unemployment went up to 5.9 percent, he blamed it on the veterans on the job market.

In 1972, at the beginning of this year, when unemployment remained at the 6-percent level, Nixon said there were too many women and young people on the labor market.

In terms of long-term economic reform, President Nixon has denied there is even a need for it. Under his administration, antitrust actions have been subdued even though the giant monopolists maintain prices at the highest level they can get away with. One economist estimated that the monopolistic corporation adds $45 billion a year to consumer costs by his price-setting habits.

On the subject of tax reform, the President's Treasury Secretary says there's no such thing as a "loophole."

The Republicans, however, say they have performed well, in one area of tax policy. They have cut corporate taxes by 15 percent, the greatest business tax cut in history. They have used accelerated depreciation allowances, investment credits, special tax "deferral" benefits for exporting firms, every gimmick in the book, to make things easier for the big corporation. The consumer, the average workingman—they say, does not need any breaks. In fact, they now want to start a new "value-added" or national sales tax to shift a little more of the burden from the corporation onto the individual.

All in all, the American voter never knew what he was bargaining for when he "bought" Richard Nixon back in 1968. And if President Nixon is really being "bought" and "sold" the way it now appears, it might be a darn good time that we all got a refund.

CBS PROMOTES A PHONY PRODUCT

Mr. SCOTT. Mr. President, for the past few days we have called attention to the egregious inaccuracies of the media, particularly TV news programs, in their reporting of the United States-Soviet Union wheat purchase agreement. Without bothering to check the facts, they have given currency to the worst kind of innuendoes and outright falsehoods.

For example, "ABC TV-News" reported that most farmers had sold their wheat before the agreement was announced. In fact, as late as a week later, of the total 1972 crop plus farmer-owned carryover into 1972, 83 percent was still owned by farmers on July 15.

The National Observer for September 23, 1972, contains a long article by Daniel Henninger demonstrating again the carelessness of the media. This time it is CBS radio which reported at face value—perhaps I should say "shilled" a product which was claimed to be an effective substitute for DDT with none of the latter's bad side effects.

In fact, Mr. Henninger demonstrates the claims to be deliberately false. The "inventors" of the product made statements as to their own professional expertise and as to tests made with the product which are shown to be completely without foundation. CBS radio in effect hustled the product on a program designed to help the poor consumer.

The product itself turned out to be an insecticide which has been on the market for over 30 years.

I would suggest that both radio and TV news gatherers take another look at the product they are turning out. They are wasting a very precious ingredient called credibility.

Mr. President, I ask unanimous consent that the article and a letter from CBS promoting the phony product be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

MIX ECOLOGY, DDT, AND HUCKSTER DUST AND OUT COMES EMTEX

(By Daniel Henninger)

Five years ago, says Alan Becker, "a group of concerned business people who wanted to do more than talk" got together to find a replacement for DDT, the highly toxic insecticide that was showing up in birds' eggs, the ocean, and mothers' milk. After much research they found a replacement for DDT and called it Emtex. Becker says Emtex kills pests as effectively as DDT but, unlike DDT, is biodegradable and almost nontoxic to humans.

When the Government banned DDT, on which the agriculture industry had come to rely heavily for pest control, it admitted there was no completely safe DDT substitute. So development of an acceptable replacement for DDT would be surprising and welcome news. Thus when Alan Becker came forward with Emtex, he and his new company, Ecological Manufacturing Corp. (EMC), got a lot of attention.

FABRICATIONS ABOUT EMTEX

Becker spoke of his wonderful new insecticide on the *Barry Farber Show*, an evening talk program carried by WOR Radio in New York City and syndicated to 38 states. Both the Associated Press and United Press International sent out stories on Emtex; UPI called it "the ecology movement's dream product." An interview with "Dr." Alan Becker was carried on July 20 by more than 245 affiliates of the CBS Radio Network. On Aug. 17 Sen. Birch Bayh, Democrat of Indiana, inserted in the Congressional Record several news stories about Emtex and EMC. And on

Sept. 10 the New York Times published a letter from Becker explaining why his product is superior to DDT.

An intensive investigation by The National Observer reveals that many of the assertions made by Becker for himself, his company, and his product—assertions that were given wide distribution by major news organizations—are fabrications. Among The Observer's findings:

Becker has misrepresented his professional background in a securities filing with the U.S. Securities and Exchange Commission (SEC).

To dramatize his contention that Emtex poses no threat to humans, Becker says that 20 volunteer prisoners safely ingested Emtex in a test conducted for EMC at a Pennsylvania prison. The prison's officials told The Observer that no such test was conducted there. A Becker aide confirms this.

Though Becker admits that Emtex is methoxychlor, an old and infrequently used insecticide, he says EMC has improved methoxychlor significantly. But in applying to register Emtex with the Environmental Protection Agency (EPA), the company submitted no original scientific data to support that claim. In fact, all the data that EMC did submit were published prior to 1950—by others. An EPA spokesman says it would be "impossible" for EMC to say truthfully that Emtex is an improved methoxychlor product.

Informed of The Observer's findings, Becker categorically denied them.

Becker says he has received "thousands of letters from MDs and PhDs lauding our work and lending support." Within 60 days, he says, Emtex in aerosol cans will be marketed for use against household pests; he expects to market Emtex to bulk users within six months. He says he is negotiating distributorships with major companies—which he won't identify—in the United States, Africa, and Europe.

In several conversations Becker noted repeatedly that Ecological Manufacturing recently "went public." His letter in the New York Times' Sept. 10 business section, ostensibly rebutting an earlier article by a DDT manufacturer, says his company "is currently using the proceeds from a public stock offering to prepare to manufacture and set up for distribution a refined form of methoxychlor that will be marketed under the trade name of M.T.X." (EMC recently changed its product's name from Emtex to M.T.X. Since it is better known as Emtex, this article will continue to call it that.)

EMC did market 200,000 shares of new common stock at $2.50 a share last July. Evidently bolstered by news stories lauding Emtex, the over-the-counter stock hit $8 before dropping back. Last week it traded at about $5.50 a share.

HIS BACKGROUND SOUNDS GOOD

Those 200,000 new shares are half of EMC's total stock. When those registered shares were sold, Becker and several other persons deposited 200,000 unregistered shares in an escrow account at People's Trust of New Jersey, Hackensack. Becker deposited 146,250 unregistered shares, or 36.6 per cent of EMC's total stock, worth about $800,000 at last week's prices. The escrow agreement stipulates, however, that the escrowed stock may not be sold or transferred until it is registered with the SEC.

In the stock-offering circular that EMC filed with the SEC, Becker lists this position among several he has held:

"Plant manager of Pralex Corporation, Christiansted, St. Croix, U.S. Virgin Islands, where his duties consisted of the starting up of an antibiotic drug manufacturing operation, supervising two manufacturing locations, eight laboratory technicians, 50 production workers, buying of equipment, and the contracting with builders, electricians, and other subcontractors. He was liaison officer with the U.S. Virgin Islands government .and the U.S. Food and Drug Administration."

THE REAL MANAGER DEMURS

When that statement was read to Jack N. Walter, plant manager at Pralex in the Virgin Islands since August 1968, he replied: "That all sounds very, very good. But that's never been the case." Walter says Pralex employed Becker for six months in 1969 as a quality-control laboratory technician. Becker "had no control or authority over anybody else or over any production," says Walter. Contrary to what Becker told the SEC, Walter adds, Pralex has never had more than 15 employes—and certainly never 50—at its St. Croix plant. He fired Becker for incompetence in December 1969.

Walter's statements regarding Becker's position and responsibilities with Pralex are corroborated by Nat Getrajdman, general production manager of Zenith Laboratories, Inc., Northvale, N.J. Zenith hired Becker and sent him to Pralex, a wholly owned Zenith subsidiary. "When this fellow was hired up in New Jersey," says Walter, "he had the people up there believing that he was quite a hot-shot. As it turned out, he talked himself into something he couldn't handle."

Becker replies: "Mr. Walters [sic] was hired to replace me. I broke *him* into the job."

EMC's offering circular states that Becker signed a consent order with the New Jersey Bureau of Securities last January. In a consent order, an alleged offender agrees to stop committing the acts complained of, without admitting guilt. Joseph F. Krupsky, chief of the securities bureau, says Becker was cited for selling unregistered securities of Ecological Manufacturing Associates, Inc., EMC's predecessor company. In signing the order, Becker agreed not to participate in any securities transactions in New Jersey for two years. (EMC is incorporated in New York.)

Becker, who is 29, told The Observer that he holds a doctorate in organic chemistry from New York University. The NYU recorder's office, however, says it has no record of ever issuing any Ph.D. to an Alan Becker.

Still, in several letters to The Observer, George Bernard, manager of press services for CBS Radio, refers frequently to "Dr." Becker. Besides his position at CBS Radio, which sent out Becker's interview to its network affiliates, Bernard is EMC's public-relations director. His letters to The Observer on EMC's behalf were written on CBS Radio stationery.

"PROOF" OF EMTEX'S SAFETY

The *piece de resistance* of Becker's Emtex promotion is his claim to have tested the insecticide orally on the Pennsylvania prison volunteers. According to Becker, 20 volunteers each ingested five milligrams of Emtex (methoxychlor) and within 48 hours excreted 98 per cent of it. The test was supposed to prove Emtex safe not only as an insecticide (it's long been known from tests on animals that methoxychlor is excreted rapidly and is relatively nontoxic) but also as a pharmaceutical or drug—though neither Becker nor anyone else has ever suggested a pharmaceutical use for methoxychlor. Becker also claims to have conducted a similar Emtex-ingestion test on himself and 10 friends.

Becker told The Observer that the testing was done last September at the Medical Research Center in Holmesburg Prison, Philadelphia, by the "University of Philadelphia." The Associated Press story said the test was conducted "under the direction of the Pennsylvania Medical School" and with "the approval of the Food and Drug Administration." Becker says a "Mr. McBride" was his liaison at Holmesburg.

Louis S. Aytch, superintendent of prisons in Philadelphia says his office must approve all tests conducted with prison volunteers. He has no record of tests performed at Holmesburg for Ecological Manufacturing Corp.

The current Directory of American Medical Education has no listing for either a University of Philadelphia or a Pennsylvania Medical School. If either school exists, it is not listed in any of the standard directories of U.S. colleges and universities.

The "Mr. McBride" with whom Becker says his company worked at Holmesburg is Solomon McBride, administrator of Ivy Research Laboratories, Inc., a Philadelphia firm that has tested drugs on volunteers at Holmesburg. McBride has no official connection with the prison. He says Ivy did not conduct tests for EMC, which he says he had never heard of before. However, McBride did recognize the name of Henry C. Nathan, EMC's vice president.

According to Becker, Nathan was in charge of EMC's test program at Holmesburg. When Nathan's name was mentioned to him, McBride said it sounded familiar but he couldn't place it. When told that EMC was once located in Northvale, N.J., McBride recalled that he had dealt with Nathan some years ago at Zenith Laboratories, also of Northvale, when Ivy was testing penicillin for Zenith. This is the same Zenith that hired Alan Becker in 1969 and sent him to the Pralex Corp., also a penicillin manufacturer.

NO RECORD OF A DOCTORATE

Though Nathan lists several past employers in EMC's offering circular, he omits mention of Zenith Laboratories. Getrajdman of Zenith would not discuss Nathan with The Observer beyond confirming that Nathan once worked there.

Among his credentials in Ecological Manufacturing's offering circular, Nathan lists "a Ph.D. from Columbia University (1966.)" The registrar's office at Columbia has a Henry C. Nathan in its files but has no record of a doctorate ever being awarded to him.

Nathan now insists that he is not an officer of EMC, and says the offering circular states that EMC "intends" to hire him. The circular clearly lists him as EMC's "vice president and [a] director." Nathan teaches anatomy and physiology at Hunter College in New York City.

Contradicting Becker, Nathan says Emtex never was tested on the prisoner volunteers. Instead, he says, he spoke to Ivy's McBride by phone about doing such tests, adding that McBride "hasn't done anything for us yet. We haven't given him anything to test. The only thing we gave him was technical information on methoxychlor."

If EMC actually had conducted its test at Holmesburg, of which there is no record or recollection, it would have violated Food and Drug Administration (FDA) regulations, which require that researchers first obtain an "investigational new drug exemption," or IND, before conducting such tests. In January 1971 Becker came to Washington, D.C., to obtain an IND for his prison tests. He didn't get it.

"The Government is ponderous," says Becker. "They are a slow-moving group." EMC performed the test without an IND, says Becker, because, "We have a certain amount of latitude." Becker maintains that Nathan is still trying to get the IND.

As evidence of his dealings with the FDA, Becker refers to a letter from FDA's Dr. Marvin Saife that is imprinted with a reference number, RF–963–I. He also says EMC has been in touch with FDA's Armand Welch, who, as Becker put it, "has to do with paper shuffling."

THE FDA'S SPECIAL FILE

Welch says he directed Becker to Joseph Hackett of the Bureau of Drugs, who told Becker that his application for an IND lacked the name of the test's supervising doctor and a test protocol. Once Becker submitted a complete application, Hackett said, the FDA must, by law, act on it within 30 days. The FDA says it never heard from Becker again. Welch, the "paper shuffler," says the RF number to which Becker referred is part of a system Welch set up several years ago: RF stands for "reject file."

Ecological Manufacturing is also using the U.S. Department of Agriculture (USDA) to promote Emtex. On its own stationery, EMC has printed—under the heading, "USDA APPROVAL"—a USDA release that seems to recommend methoxychlor as a substitute for DDT. Senator Bayh mentioned this "USDA recommendation of the [DDT] substitute" and included the department release in his Congressional Record insertion lauding EMC.

The release calls methoxychlor "one of the *new* chlorinated hydrocarbon insecticides . . ." (emphasis added). Methoxychlor is not new; it has been available for more than 30 years. Asked to identify the release, Becker said it was dated March 24, 1949; it is so identified in the company's offering circular. A close reading of the 23-year-old release indicates that the USDA was recommending methoxychlor only as a substitute for DDT to control flies on dairy cows.

Becker also says that the USDA and "various groups" are working with Ecological Manufacturing to develop Emtex. He identified one of his Agriculture contacts as Dr. Daniel Rosenfeld (*sic*) of "labeling certification." Dr. Daniel Rosenfield of USDA's Food and Nutrition Service says Becker asked him about two years ago for the name of someone who could tell him about pesticide regulation. Nathan says Rosenfield had nothing to do with EMC, that he is "just a friend" with whom Nathan worked years ago at the Union Carbide Research Institute in Tarrytown, N.Y. Rosenfield says Nathan also called him more than two years ago—when Nathan was still with Zenith—to tell him about what apparently was Nathan's work for EMC.

BANKS ASK ABOUT EMTEX

Despite all the favorable, free publicity Emtex has received, EMC has never sold any insecticide. And it cannot sell any until its product labels are registered with the Environmental Protection Agency. Becker says EMC is working with EPA on this. Asked to identify his contacts at EPA, Becker leaves the phone, returns shortly, and says, "I can't lay my hands on the EPA file." Later he says his EPA contact "does not want his name made public at this time."

A spokesman for the Pesticide Regulation Branch of EPA says no one there has dealt personally with Alan Becker, but that several banks have asked EPA for information about Emtex. An Illinois bank had a loan request from a distributor wanting to sell Emtex, the EPA spokesman says. He wouldn't identify the banks. The banks asked whether methoxychlor was a new product; EPA told them no. In fact, the EPA has registrations for more than 100 methoxychlor products.

The spokesman also says the pesticide division has informally asked the Federal Trade Commission (FTC) about the possibility of investigating EMC for fraudulent advertising. The EPA was suspicious of the widespread publicity Emtex has received. A staff member of the FTC's Division of National Advertising says the commission did not act against EMC because the FTC was not aware of any paid advertising by the company.

NEW APPLICATION, OLD DATA

Last week the EPA received an application from Ecological Manufacturing, dated Aug. 15, 1972, for registration of Emtex as an aerosol insecticide and as a commercial insecticide. According to EPA officials, EMC's application makes no reference to a human-toxicity test at Holmesburg Prison. Furthermore, the citations in EMC's supportive data are all dated prior to 1950, which agency officials say would seem to indicate that EMC hasn't conducted any tests of its own on Emtex.

In its stock-offering circular, EMC lists product-testing expenditures of $2,030 between November 1970 and June 1971 and of $82 from June 1971 until last April. Upon hearing the $82 figure, an EPA official laughs: "You couldn't even get abstracts printed for $82." The circular says, however, that Becker and Nathan spent $125,475 for "research and development" before incorporation.

Becker has never denied that Emtex is essentially methoxychlor, an insecticide discovered by the Swiss in the 1930s and sold here for years by E.I. Du Pont de Nemours & Co. But he claims to have improved methoxychlor by purifying it and by turning it into a fine, white, crystalline powder. Because his methoxychlor is over 95 per cent pure instead of the normal 88 per cent, says Becker, less Emtex is required to do the same job.

PURIFICATION ISN'T ENOUGH

Scientists familiar with methoxychlor are skeptical when told of Becker's claims for methoxychlor. None commented on Emtex itself, because none knew exactly what Becker had done to this methoxychlor.

Edward F. Knipling, science adviser to the administrator of the U.S. Agricultural Research Service, says methoxychlor does have specific uses, "but it certainly is not a registered replacement for all uses of DDT before it [DDT] was banned."

Stanley Hall, chief of the research service's chemicals co-ordination laboratory, says it sounds as though Becker may have recrystallized the basic methoxychlor compound, a well-known process that would change the chemical into a fine white powder and push its purity past 95 per cent. Hall says purified material is necessary for aerosols; otherwise the nozzles clog.

Hall doubts that purification would improve the insecticidal properties of methoxychlor, which he deems rather ineffective for pest control. Speaking of Du Pont's experience with methoxychlor, he says: "It's one of those things where Du Pont bet on the wrong horse and carried it along for a good many years. If they had been a small company, they would have gone under."

Methoxychlor "really can't be a replacement for DDT," Hall says, because its chemiical structure is similar to DDT's. Insects that were building up a resistance to DDT are most likely cross-resistant to methoxychlor, he explains. "You couldn't kill houseflies with it."

(CBS Radio)

Inventor of DDT Replacement, Nontoxic to Humans, Heard First, Nationally, on "the Buyer's Scene"

July 24, 1972.

A commercial insecticide as effective as the government-banned DDT, but harmless to humans and pets?

Yes, said Dr. Allan Becker to CBS News Reporter Christopher Glenn during the scientist's first nationwide broadcast interview. Becker, a 29-year-old Ph.D. in organic chemistry, was heard during the Thursday, July 20 CBS News broadcast "The Buyer's Scene"—on the CBS Radio Network.

Becker, President of Ecological Manufacturing Corporation of North Bergen, New Jersey, told Glenn his firm is about to market the product under the trade name of Emtex.

"Emtex," noted Becker, "is a very broad spectrum item. It will kill mice, rats, roaches, lice, ticks, fleas and a vast array of crop infestations. It works also as a fungicide on molds which attack plants."

Becker explained that Emtex, the company's trade name for methoxychlor, is unlike DDT, "which is stored in the body fat. Emtex is excreted in a 48-hour period of time. This," he emphasized, "has been documented through various human toxicology studies."

In discussing the wide-range application of Emtex, Becker said: "This type of product can be used not only agriculturally, but in food processing situations as well as in the home for silverfish, rodent and roach control, with virtually total safety to humans and pets."

Emtex, Glenn reported, is currently used only by exterminators. "The new ban on DDT will change all that, however, and it's for sure that Ecological Manufacturing Corporation has itself a hot product."

BART BEGINS OPERATION

Mr. WILLIAMS. Mr. President, an important advance in our Nation's efforts to alleviate the growing problem of urban traffic congestion was made this month when the Bay Area Rapid Transit—BART—system began operations near San Francisco. As author of the Mass Transportation Act of 1964, and the Urban Mass Transportation Act of 1970, I have closely watched the development of BART, which has been financed with local, State, and Federal funds. According to reports, this new system began operation on September 11 without a single serious hitch, and began immediately to provide San Francisco area commuters with exactly the type of quick and comfortable transportation it had promised.

Although BART's initial operations are limited to a 27-mile segment, it will within 3 years encompass 34 stations throughout the San Francisco metropolitan area. BART's comfortable trains travel at speeds up to 70 miles per hour, providing convenient alternatives for commuters seeking to avoid frustrating traffic jams.

Mr. President, urban planners across the country will be carefully watching BART to see how systems of this type can be used to provide practical means of alleviating traffic congestion and air pollution from automotive exhausts. I ask unanimous consent that an article describing BART's first day of operation be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Sept. 12, 1972]

San Francisco Transit System Opens

(By Wallace Turner)

Oakland, Calif., Sept. 11.—One leg of the Bay Area Rapid Transit district's new system opened to paying passengers today in a nearly flawless display of what electrified rails can provide in what may be their last stand against the automobile.

A segment of the new transit system, stretching from a station nestled between freeways near the Oakland-Berkeley city line to a station that is 27 miles south in what once was a farming community called Fremont, was opened today. When completely in use next year, the system will be 75 miles long.

Still to be opened are lines north to Richmond, scheduled next month; a line east to Concord, early next year, and a line beneath San Francisco Bay and across San Francisco, in mid-1973.

The delays come from a shortage of the specially designed cars and from a need to finish some remaining parts of the San Francisco portion of the system. The system is made up of specially designed equipment, ranging from the rubber supports on the ties to muffle the rails to the "no hands" train controls, which are operated by computers.

ONE MINOR FAILURE

The complicated system for handling passengers, selling tickets and computer control developed only one minor failure, according to Bill R. Stokes, general manager of the line.

Computer control of one train faltered, just as the train was at the Union City station where the main repair yards are located. The train was shunted off and replaced.

The paying customers, who had waited in line for up to an hour or more to get on the trains, got just what had been promised to them.

The trains moved at speeds of up to 70 miles an hour, but starting and stopping was smooth and quiet. The clean cars, with big windows, were comfortable with overstuffed seats.

The automated ticket system worked well, and was backed up by change makers that turned dollar bills into three quarters, two dimes and a nickel. The stations are well-lighted, spacious, and conveniently served with signs.

Construction of the $1.4-billion system started 10 years ago, with funds provided by local property taxes, some Federal grants and state subsidies. But court suits that tested the enabling legislation delayed the effective start of building until about 1965.

200,000 RIDERS EXPECTED

By 1975, BART, as the system is known here, expects to be carrying 200,000 people a day between the 34 stations on the lines.

This traffic will create new patterns of business activity, and the economic benefit of these changes already has been built into some of the construction that has gone on since engineers tentatively established routes and stations.

For example, since 1962, an $11-million shopping center has been built near Fremont Station, which is the southern end of the East Bay line. The land there was in farms, and was bought for as little as 30 cents a square foot; recent sales have been at $7 a square foot.

There also has been a tremendous surge in building activity in San Francisco's financial district, with office towers sprouting throughout the area. Recent property acquisitions in the financial district have been at prices up to $500 a square foot, two and three times the top prices of a decade ago.

TRAIN STARTS AT NOON

The lines of paying passengers began to form today about 11 A.M. The first train left at noon.

About 800 persons were waiting at the McArtur Station, which will be the northern terminal until November, when the line opens into Berkeley and Richmond.

There were loud cheers when the first train pulled out, those aboard congratulated each other. Some wore buttons that said: "I was there. Day One." They had been distributed by A–C Transit, a bus line that will be partially displaced by BART.

Tomorrow will be the first test of the line for commuters. The system will begin operations at 6 A.M. and run until 8 P.M. Monday through Friday only. As more cars become available, service will be expanded, but the system's managers said they wanted to avoid the crowds of sightseers on weekends.

TRIBUTE TO WESTINGHOUSE DEFENSE AND ELECTRONICS SYSTEMS CENTER AEROSPACE DIVISION, OF BALTIMORE, MD.

Mr. BEALL. Mr. President, I wish to pay tribute today to an organization that has done much in its 20 years of existence for its State and its Nation. This year, Westinghouse Defense and Electronics Systems Center Aerospace Division of Baltimore marks two decades of service to its community and country. I want to extend my congratulations to all those connected with Westinghouse as they reach this significant milestone and offer my best wishes for an even more successful future.

As a Marylander, I am well aware of the many major contributions to the economy of my State that Westinghouse has made in recent years. Corporation operations have expanded to a point where more than 10,000 persons are employed at the center.

Nationally, the Defense and Electronic Systems Center provides a valuable cornerstone in the defense of our country, and has been a leader in the entire defense industry.

I commend Westinghouse on this noteworthy event. They have compiled a record of which to be proud.

SALES OF WHEAT TO RUSSIA AND CHINA

Mr. YOUNG. Mr. President, charges, mostly politically motivated, continue to be leveled against the recent sales of wheat to Russia and China. Most of these charges are inaccurate and false. These accusations cannot help being of deep concern to those interested in further expanding badly needed export markets, not only for grains, but other farm commodities.

If the Russians were half as sensitive as we are, they would look elsewhere to buy wheat, other farm commodities, and other things in the future rather than to be subject to all the criticism of this purchase of wheat.

The charges are many and varied. Some claim that Russia needed this wheat so badly that we could have forced them to pressure the North Vietnamese to conclude the war in Vietnam in exchange for the sale of wheat. These critics argue that the Russian wheat crop was down 20 percent and that, if they did not get this wheat from us, they would be in desperate shape.

Russia is normally a wheat exporting country and normally carries a sizable reserve. They are a government that can make their people sacrifice and they could well have gotten along with the wheat they had and what they could have acquired from other exporting countries without this purchase from the United States. Undoubtedly they needed wheat, and they found the U.S. price favorable.

It could hardly be otherwise since the price of wheat in most farm areas had reached the lowest point in May of this year of any time since 1944. It has increased considerably since the Russian sale, but the price is still below what is termed, by Government standards, to be a fair price.

There has been much erroneous propaganda regarding the export subsidy program. A great many people have come to believe that the exporters are the beneficiaries of this export subsidy. Nothing could be further from the truth. Since it goes to make up the difference between the world export price and our now higher domestic wheat price, it is actually the producers who are the beneficiaries.

It is interesting to note that in the last sizable sale of wheat to Russia during the Kennedy-Johnson administration the export subsidy on durum wheat was 84 cents a bushel and on hard red winter wheat it was 65 cents. Much of the wheat for the present sales required a very small export subsidy. The Department of Agriculture placed a ceiling of 47 cents a bushel on the amount of export subsidy that could be paid. This is a far better deal than our previous sale of wheat to Russia.

Much of the propaganda against this wheat sale is designed entirely for political purposes. Some believe that if they can discredit the sale, farmers and consumers will be dissatisfied and President Nixon will lose votes in his campaign for reelection. Nothing could be further from the truth. This sale of wheat has made possible fairer prices for producers at less cost to the Federal Government for farm programs and has greatly increased business for industry. It also improves our deteriorating balance of payments to the rest of the world by approximately $1 billion.

Mr. President, I have before me an editorial entitled "Wheat Sales" published in the September 20, 1972, issue of the Renville County Farmer, at Mohall, N. Dak. This weekly newspaper is right in the heart of the wheat producing area of North Dakota. The editor, Gerald A. Emerson, reflects very accurately and succinctly the reaction of farmers and everyone living in our wheat-producing areas. Since sizable sales of feed grains are involved, no doubt farmers in other areas will be equally relieved with better prices. It is an editorial that I hope Members of Congress, the press, and everyone else will read if they want to get accurate information on how people in the farming areas of the United States feel.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WHEAT SALES

We are glad they sold the wheat to Russia and we think everyone in rural America should be glad. We grow wheat for food. It is not feeding people while it is stored in government warehouses for years on end. In fact, to meet the first export commitment, government grain that had been in storage since 1968 was loaded. There is grain stored in granaries of Towner County that has been held that long. This is depressing to the grain market and depressing to people who so efficiently grow the food.

It seems to be fashionable in an election year to gripe about everything that is done, and cast doubts on the motives of the opposing parties. This is depressing, too. The export houses that have handled these sales are the same ones, and the same method that has been used, under Democrat or Republican administrations for the past 100 years. The government is not equipped to load and sell wheat exports. They never have been and the first delivery had to be NOW.

There may be merit in looking into the possibility of government handling of grain exports in the future as hopefully the export market expands. However, it would mean setting up another bureau, another set of government employees and another possibility for graft. We are not well enough informed on export subsidies to judge. If this would be a savings or not. Cargill says they will not know for a full year if they will make the 1 cent per bushel they hope to clear for their part of the sale.

For what it is worth, we are the only nation which turns these exports over to private enterprise for sale, but this has been done since the beginning of our exporting history and to change it would presumably mean that the entire export industry should be nationalized.

If there has been some hanky-panky with government employees leaving the Department of Agriculture to work for export houses, it should be looked into. However, since this is still a free country where a man can quit one job of his own free will and take another that offers him a better opportunity, it is hard to see how he could be stopped without taking the same freedom away from every other worker.

Sales of farm products to Russia were discussed everyday for months before the Nixon trip, by the news media, as one of the things that it was hoped would be accomplished. That this would affect the prices of grain should have been no surprise to any knowledgeable farmer or farm organization and we doubt the winter wheat farmer with his tens of thousands of granaries rushed his grain to market this summer at the prices he could get then. It just did not make sense.

Certainly the expected good prices for the future in farm products is what is the most important thing now. This could never happen with bulging farm and government granaries with tax monies being eaten up in storage.

We all know that North Dakota farmers are able to grow more wheat if they are allowed to do so and still get a decent price with a decent market. Efficiency is not our problem. Production, with good weather, could be doubled and think what this would mean in the gross income of our state?

Millers who demand a raise in the price of flour to bakers know that flour is aged before it is sold, so they will be selling to the bakers for a long time the flour milled from $1.25 wheat. They would be losing no money to keep the price the same for sometime to come. We all know the cost of wheat has little to do with the cost of bread, for 70 loaves of bread are made from the flour in one bushel of wheat. However, human nature seems to prevail in all segments of the economy and an opportunity to pass the buck is seldom missed.

The projected billion dollar sale will be no small gain for the American taxpayer, in the stability of foreign balance of payments. In addition, payback on grain loans already sealed by the government, which farmers can redeem and sell at 30 cents to 40 cents more a bushel will help both the farmer and the national treasury.

If wheat goes into hungry peoples' stomachs it is certainly better than laying in granaries. For years we considered it good business to give millions of bushels to India just to get it out of the country and no one griped. Now when it is being SOLD everyone is grumbling that the other guy might get a bigger piece of the pie.

COEXISTENCE AND COMMERCE

Mr. CHURCH. Mr. President, Samuel Pisar is a leading American international lawyer and author. A member of the Washington, D.C., California, and London bars, he is the author of a widely read book on East-West trade entitled "Coexistence and Commerce." Mr. Pisar gave the keynote address to the 95th annual meeting of the American Bar Association in San Francisco on August 15, 1972.

In his address, Mr. Pisar suggests a framework of solutions to the permanent—not the transient—problems of economic intercourse between free enterprise and state enterprise societies. Because of the peculiarities of East-West trade, Mr. Pisar urges "a separate and independent system of international regulation—a model code of ground rules specially conceived to mitigate the distortions of direct business dealings and to safeguard the general structure of world commerce as it strains to accommodate the growing phenomenon of total state trading."

I ask unanimous consent that the complete text of Mr. Pisar's address, "Coexistence and Commerce with Russia and China: Ground Rules for East-West Trade," be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

COEXISTENCE AND COMMERCE WITH RUSSIA AND CHINA: GROUND RULES FOR EAST-WEST TRADE

(Keynote address by Samuel Pisar)

Mr. Chairman, fellow members of the Bar, you have honored me with a challenging assignment—to set the stage for today's deliberations on an important and timely issue, an issue which commands not only our professional interest, but also our human conconcern with economic prosperity, with political morality, with international understanding and with peace itself.

What I have to say begins with two toasts, proposed at two fateful moments in our nation's history, by two distinguished members of the Bar. One was uttered by Richard Nixon last May in the Grand Kremlin Palace at a banquet which rivalled in lavishness that offered the President in Peking only three months earlier. To the enthusiastic applause of Soviet Russia's top leadership, the President declared: "Economic cooperation will benefit both our nations. The two largest economies in the world now exist in relative isolation. The opportunity for a new commercial relationship opens up a strong potential for progress to our people."

The other toast was uttered by Alexander Hamilton. In 1787, speaking of East-West trade between George III's England and George Washington's America, he reminded the young republic that "the spirit of commerce has a tendency to soften the manners of men and to extinguish those inflammable humors which so often have kindled into wars." These words express an ethic which is deeply rooted in the United States' tradition. I call this ethic "Coexistence and Commerce."

Amid the doubts that assail us today at home and abroad, we find comfort and safety in the old image of the Yankee trader. We realize that in the long run the best guarantee of our security lies not in our costly and far-flung military arsenal, but in our superior capacity for economic progress, and the human freedoms that go with it. These are America's true weapons, and they are weapons of peace.

In this light it is easier to understand why we have recently reversed 25 years of foreign policy—policy which embargoed all meaningful commerce with Russia, China and their respective allies, policy which removed from our reach a market comprising one third of mankind, policy which our business community, our labor force and our balance of payments can no longer afford.

Today there is a clear realization on both sides that the economic systems of communism and capitalism will survive into the indefinite future. Neither side will voluntarily dismantle its own social structure or overwhelm the other with thermonuclear force. This stalemate between the two contending spheres of our politically divided world holds the relatively cheerful prospect of coexistence and, with luck, cooperation and competition.

A long neglected, complex task of construction now awaits statesmen, businessmen and lawyers on both sides of the ideological barrier: how to devise adequate techniques for commerce between free enterprise societies such as America's, Japan's and Western Europe's and state enterprise societies, such as Russia's, China's and Eastern Europe's. For if East-West trade is to realize its full potential in an improving political climate, the institutional framework within which it is currently conducted must adapt. This conclusion is derived from experience with the negotiation of transactions, the performance of agreements and the adjudication of disputes.

The interest in trade has become genuine and mutual. To the West, economically congested and thirsting for new outlets, the communist world is a vast market not only for the conventional export and import of physical commodities, but also for the more sophisticated forms of patent licensing, direct investments and joint ventures in production, distribution and management. To the East, technologically backward and increasingly consumer-oriented, the capitalist world is a rich store of advanced industrial goods, services and ideas. On both sides, a new breed of pragmatists is experimenting with radically different forms of business intercourse in a world economy that is rapidly becoming transnational and transideological.

The evidence is abundant. More than half a century after the Bolshevik revolution the Soviet Union, which once proclaimed the goal of economic autarky, has embraced world commerce on an unprecedented scale in terms of volume, variety and geography. Western, particularly American, capital and know-how, are being openly courted to help modernize retarded industries and to mine and market the untapped Siberian wealth of gas, oil, lumber, copper and nickel. East European state companies and West European private companies are setting up production ventures in common, with mutual profit as a principal objective. More surprisingly, even China is reversing the course of her foreign trade from the communist camp to the capitalist world.

If these developments augur well for the future of cooperation and peace, they nonetheless focus attention on problems which are deeply embedded in the divergent systems and in the conflicting attitudes which gave them growth.

For decades Western firms have addressed the communist markets on a catch-as-catch-can oasis. Those initiated in the arcane mysteries of the subject have learned of necessity how to improvise solutions to recurrent problems. This is particularly evident with Japanese and West European businessmen who, through experience, have far outdistanced their American counterparts in the East-West commercial arena. But makeshift improvisations can hardly furnish the foundation for a new era of flourishing transideological trade.

The difficulties which plague East-West economic relations are more than a simple emanation of deliberate government policies. Many of the obstacles have sprung up spontaneously from the interaction of two antithetical systems, like weeds in an unhealthy soil. Even if communist and capitalist business organizations religiously observed all the established customs and laws of the international marketplace, and political tensions disappeared with the wave of a magic wand, the institutional and technical problems would remain.

The widespread belief that communist states disregard the sanctity of contractual obligations and the rule of law has been disproved. Both morality and legality are today strongly adhered to, at least in the realm of East-West economic arrangements. In order to gain respectability and acceptance in the preponderantly capitalist setting of world commerce, communist enterprises have made a commendable effort to conform to the standards and practices which have been the common heritage of merchants since time immemorial. Nonetheless, the dissimilarity of Eastern and Western economic structures, the different frames of reference within which domestic and foreign business are conducted, the intrusion of extreme ideological precepts and the absence of a common body of legal principles distort the process of trade in a manner never anticipated by those who have built the ancient foundations of orderly economic life.

The communist nations of Europe and Asia have also fashioned novel institutions. These institutions cannot be judged from the vantage point of our own ideas about economics, property, profit and law. Just as England, in her own time, gave form to a body of practices which gradually acquired universal repute as the lex mercatoria, so the Soviet Union, China and other like-minded nations can justifiably claim the right to forge original methods for the convenient conduct of their foreign trade.

A new source of difficulty arises in the opening field of economic cooperation. To date, only camouflage accommodations have been practicable in this field in order to respect the rigidities of Marxist-Leninist dogma. Thus, profits are euphemistically expressed in terms of royalties or service fees, rather than dividends. The substitute for foreign ownership of socialist means of production is a transfer of title to plant and equipment, coupled with a lease-back arrangement. A semblance of equity control is obtained by means of a carefully drawn management contract. Whenever a transaction is deemed advantageous, the communist partner spares no ingenuity to meet his capitalist partner half-way, and in the process pragmatism somehow triumphs over doctrine. But the development of ideologically compatible devices to sustain the growing shift from traditional commodity trade to more ambitious forms of joint ventures is still in an embryonic and precarious stage.

Obstacles to normal commerce and competition arising from fundamental differences between the two social systems, rather than from lingering political hostility as such, may be illustrated by means of a few representative examples. These examples extend to both the micro-economic and macro-economic levels of East-West relations and demonstrate the need for a wholly new regulatory approach.

The Eastern economy is essentially secretive and unresponsive to normal market forces. A foreigner has no reliable basis for gauging business prospects. Since purchase and production patterns are governmentally decreed, Western firms cannot hope to sell in proportion to real demand unless their products have appropriate priority in the state economic plan.

Further, they cannot effectively outbid competitors from other countries enjoying market access under bilateral commercial agreements or fraternal socialist preference. Even if a private company has confidently submitted the most attractive commercial offer to an Eastern state monopoly, it may be disqualified by an unexplained veto based on national policy considerations. This results from the monolithic structure of the communist systems and the fusion of all economic and political authority under the same roof.

Scarce hard currency and gold reserves push the Eastern monopolies toward strictly balanced trade, tied transactions and compensatory deals, often requiring Western sellers to make unrelated counter-purchase commitments as a condition of placing their orders. Unless the goods received in barter are staple commodities the Western firm is forced either to become the reluctant distributor of unwanted merchandise or to pass up the chance of trade altogether.

Although the communist economies are attempting to decentralize their international dealings, Western traders are still generally required to transact business through intermediary export-import monopolies. As a rule they cannot negotiate directly with end-users of industrial products, plants or technology. They cannot (except in Yugoslavia and Rumania) acquire equity or participate in the profits of local companies. Nor can they, normally, establish representative offices, attend to on-the-spot maintenance of their equipment, hire local help, or utilize many other facilities which are available in an open economy.

The distortions of competition are comparable. To be sure, no cohesive case of mischievous market disruption has so far been made out against the Eastern monopolies. Neither Russia nor China, much less the smaller communist countries, have shown any desire to misallocate their resources to adventurous business forays. But the fact remains that private Western firms find themselves occasionally embroiled in an unequal competitive contest with free-wheeling state enterprises, particularly in the politically sensitive, less developed areas of the world.

Because it is characteristically a large scale exporter and importer with a cavalier attitude toward profit, a state monopoly has a natural propensity to dislocate established patterns of trade even when its motives are economically legitimate. All that is needed is an administrative decision to sell or buy taken at the apex of the governmental trade apparatus, and the flow of goods is automatically pumped into or out of the economy regardless of the interaction between national costs and international prices.

The borderline between healthy competition and harmful disruption is blurred, at best. For example, classical Western safeguards against dumping are ineffectual in their application to communist export monopolies, since costs and prices are arbitrary notions in the East. On the other hand, in a centrally planned economy the issue of anti-dumping controls does not even arise. Were the gates of the U.S.S.R., China or Cuba suddenly thrown open to unimpeded merchandising from abroad, their markets would remain impervious to underpriced or injurious disposal. If the goods are required under the government import plan, the low price is welcomed. If they are not considered essential, they cannot enter in the first place, let alone threaten local industry.

By the same token, in a market system reciprocal most-favored-nation undertakings and tariff reductions usually lead to increased imports. In the case of a planned economy the impact of such arrangements is largely meaningless, since the state alone decides what is to be bought. The protectionism is complete and invisible.

Similar difficulties arise in the negotiation of commercial treaties with communist countries, in the operation of international legal conventions of which they are members and in their participation in various multinational organizations. Global arrangements such as the General Agreement on Tariffs and Trade or the International Monetary Fund cannot accommodate Eastern state trading and Western private trading side-by-side under the normal operation of their existing rules and procedures.

It would be misleading if my bill of complaints were addressed to the Eastern countries alone, and if Western attitudes and practices were depicted as lilly-white. The long-standing legislative and administrative American market and other markets of the West are a matter of public record. So are the discriminatory limitations on exports and credits required by Eastern purchasers. Many of these restrictions and limitations are predicated on political relationales which have long ago lost their validity. Most notable among them are, of course, the United States export controls which withhold the supply of goods and data to Eastern countries because of their presumed strategic significance, notwithstanding the fact that the same goods and data are often readily available from competing Western sources.

Beyond that, entirely conventional institutions and practices are frequently as unacceptable to the communist as to the capitalist side of a transaction. Thus, in the event a commercial dispute requires litigation (and a fair number do), communist enterprises are no less reluctant to submit to the "bourgeois" courts, laws and procedures of the West, than capitalist enterprises are to face the communist courts, law and procedures of the East.

Various proposals have been advanced from time to time with a view to placing the conduct of East-West trade on a more satisfactory footing.

Some authoritative legal scholars, in West and East, believe that the requisite solutions will emerge sponstaneously, because commercial law and practice everywhere tends inexorably away from the strictures of nationalism and ideology, toward conformism. Essentially, they appear to endorse the view of Lord Mansfield, the great eighteenth century judge who, in the best rationalist tradition of his period held that the theoretical foundations of all mercantile rules were nothing more than universal common sense and reason in action—a manifestation of the natural law of mankind.

As a practitioner, my observations prompt me to dissent from this verdict. Experience in the front lines of East-West trade shows that the trend toward universality is more apparent than real, more semantic than conceptual. In practice, that which looks standard and conventional becomes distorted, owing to the deep underlying divergence between the two systems of economic organization.

It has been seriously suggested that a non-communist country could counter the Eastern government monopolies with state corporations of its own, and several have done so. To create an exclusive national channel for the exchange of goods and services, however, would be tantamount to emulating totalitarian trading methods and inviting serious and probably irreversible inroads into a domain, which market economies prefer to leave in private hands. The Frankenstein features of such a monster, effective though it might be as a vehicle for trade and competition with collectivist Eastern economies would be more alarming than comforting to those whom it was designed to protect.

It has also been suggested that communist countries be invited and various global arrangements, multinational organizations, multilateral conventions and uniform laws for the coordination of procedures and practices pertaining to foreign trade. This is, unfortunately, impractical. Progress toward uniformity presupposes an underlying similarity or affinity of institutions. In the absence of a common core of social, economic and juridical concepts the search for uniformity seems futile.

Theoretically, business relations between private firms and state monopolies could be made the subject of separate national laws. A legislature can authoritatively condition all purchases and sales involving wholly planned economies upon compliance with special statutory terms. However, this mode of regulation would yield highly undesirable by-products. Entire branches of law would require piecemeal amendment, with resultant disturbance to the overall legal order.

In the short term, the bilateral treaty remains an unquestionably convenient instrument for the regulation or trade between a government operated and a market oriented economy. Aside from dealings with matters of direct concern to the two states themselves, such treaties can prescribe proper conditions for contractual relationships between private and public enterprises. Through a comprehensive document of this type, the requisite regime could be externally installed without disturbing the logic and unity of locally established practices and laws.

In the ultimate analysis, the peculiarities of East-West trade are unique; the solutions must, therefore, also be unique. For this fundamental reason economic intercourse between free enterprise and state enterprise societies require a separate and independent system of international regulation—a model code of ground rules specially conceived to mitigate the distortions of direct business dealings and to safeguard the general structure of world commerce as it strains to accommodate the growing phenomenon of total state trading. In my opinion, this approach is superior for conceptual as well as practical reasons. It pursues the aims sought through the other approaches without inviting any of their drawbacks—the fear of exclusive trade channels, the impracticality of unified norms, the dislocation of general laws and the fragmentation of bilateral treaties.

It would be neither realistic nor just to demand deep unilateral changes in the Eastern economies or their foreign trade organizations. Crucial to any workable code would be a negotiated exchange of concessions and assurances, with each side giving up something of value to gain something in return. The difficulty of reaching such a settlement cannot be underestimated, but once accomplished, it would be largely self-enforcing. Each country would hesitate to violate any rule, for fear of losing privileges the other rules afforded. Not judicial compulsion, but the expectation of mutual advantage would be the engine of compliance. Such are the intrinsic checks and balances that organized business life can generate for its own protection.

In the near term, it would be a delusion to expect communist and capitalist states to conclude a full-blown convention for transideological trade. But a new opportunity to move toward satisfactory guidelines is provided by the U.S.-Soviet Commercial Commission established last May. The success of future efforts in this forum, jointly undertaken by representatives of the two principal poles of Eastern and Western economic organization, could have exemplary value for all free enterprise and state enterprise countries, and lead to the ultimate goal of a universal charter of fair practices for East-West trade.[1]

IN PROTEST OF SOVIET EXTORTION

Mr. WILLIAMS. Mr. President, within recent weeks we have once again become painfully aware of the insidious practice of discrimination against Jews by the Soviet Government. Soviet authorities have instituted a new system of heavy exit fees ranging from $5,000 to $25,000 for educated Jews who wish to emigrate to Israel. The Soviet Government's convenient excuse has been that the fees are repayment for state-financed education. However, since state education is the only kind available or permissable, it is clear that this new ploy is one of extortion and exploitation.

Concerned individuals throughout the world have condemned this deplorable policy of buying and selling human beings. Sadly enough, this practice has a historical precedent, dating back to the czarist days. In the mid-19th century, Russian serfs were considered commodities, the property of their owners. The price varied, depending on the serf's abilities and education. It is, indeed, ironic that in this case education has become a definite detriment to these modern serfs of the Soviet Government.

It has become clear that more and more Jewish intellectuals and technicians have been applying for exit visas. Reportedly, invitations have been sent to some 80,000 Soviet Jews by Israeli relatives. These invitations are among the conditions for applications to the Soviet passport office for exit permits. More than one-third of the families include at least one professional. In the past, Soviet Jews wishing to emigrate have traditionally been harassed and threatened upon application for permission to emigrate.

Yet this new measure, totally unjustifiable, all but curtails the feasibility of emigration. We cannot and must not stand by and watch fellow human beings be ransomed off for their level of education.

I firmly believe that we must voice our protest loudly as well as show by our diplomatic actions that we view this new policy as revolting and totally unacceptable. I insist that we completely drop the idea of granting most-favored-nation treatment to the Soviet Union until this despicable practice is curtailed. Granting most-favored-nation treatment would indicate a total ignorance and apathy for Soviet discriminatory practices. Future American-Soviet agreements should be based on mutual respect, yet when the Soviet Union persists in disregarding basic human rights and human dignity, there is no basis for respect.

We are a nation which advocates freedom, justice, and human dignity. We cannot degrade ourselves and these ideals by granting trade concessions to the Soviet Union when the very same government flagrantly violates the ideals we cherish. Public outcry has, in the past, influenced the Soviet leaders to alter certain policies. Let us hope that our vocal protest as well as diplomatic actions in this instance will have the same effect, and that those Soviet Jews wishing to emigrate will be able to do so freely rather than for a ransom.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The PRESIDING OFFICER. The time for morning business having expired, morning business is concluded.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed a bill (H.R. 16705) making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1973, and for other purposes, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the following concurrent resolutions, in which it requested the concurrence of the Senate:

H. Con. Res. 672. Concurrent resolution commemorating the 200th anniversary of Dickinson College; and

H. Con. Res. 701. Concurrent resolution commending the 1972 U.S. Olympic team for their athletic performance and Mark Andrew Spitz, in particular, for his unparalleled achievement in the 1972 Olympic games in Munich, Germany.

HOUSE BILL REFERRED

The bill (H.R. 16705) making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1973, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

HOUSE CONCURRENT RESOLUTIONS REFERRED

The following concurrent resolutions were referred to the Committee on the Judiciary:

H. Con. Res. 672. Concurrent resolution commemorating the 200th anniversary of Dickinson College; and

H. Con. Res. 701. Concurrent resolution commending the 1972 U.S. Olympic team for their athletic performance and Mark Andrew Spitz, in particular, for his unparalleled achievement in the 1972 Olympic games in Munich, Germany.

UNFINISHED BUSINESS LAID ASIDE

The PRESIDING OFFICER. Under the previous order, S. 3970 will be laid aside, and it will remain in the laid-aside status until a time later in the day to be determined by the majority leader or his designee.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN ASSISTANCE ACT OF 1972

The PRESIDING OFFICER (Mr. HOLLINGS). Under the previous order, the

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[1] The content and rationale of a proposed charter of fair practices for East-West trade is set forth in chapter 25 of the author's "Coexistence and Commerce" (McGraw-Hill, New York 1970).

Chair lays before the Senate H.R. 16029, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 16029) to amend the Foreign Assistance Act of 1961, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Foreign Relations with an amendment, to strike out all after the enacting clause and insert:

That this Act may be cited as the "Foreign Assistance Act of 1972".

OVERSEAS PRIVATE INVESTMENT CORPORATION

Sec. 2. Section 234(c) of the Foreign Assistance Act of 1961, relating to the Overseas Private Investment Corporation, is amended by striking out "(1) accept as evidence of indebtedness debt securities convertible to stock, but such debt securities shall not be converted to stock while held by the Corporation" and inserting in lieu thereof "(1) in its financing programs, acquire debt securities convertible to stock or rights to acquire stock, but such debt securities or rights shall not be converted to stock while held by the Corporation".

REFUGEE RELIEF ASSISTANCE

Sec. 3. Section 491 of the Foreign Assistance Act of 1961, relating to refugee relief assistance, is amended by striking out "1972" and "$250,000,000" and inserting in lieu thereof "1973" and "$100,000,000", respectively.

ASSISTANCE TO WAR AND FLOOD VICTIMS

Sec. 4. Part I of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new chapters:

"CHAPTER 10—ASSISTANCE FOR WAR VICTIMS IN INDOCHINA

"Sec. 495. Assistance to War Victims in Indochina.—(a) The Congress affirms the willingness of the United States to share the burden for the immediate and postwar relief and rehabilitation of the people and nations of Indochina, including South Vietnam, North Vietnam, Laos, and Cambodia.

"(b) The Congress urges the President to begin immediately the preparation of plans and proposals outlining programs and institutional channels through which the United States Government may support and participate in the postwar relief and rehabilitation of the people and nations of Indochina.

"(c) The Congress further urges the President to solicit the cooperation of other governments in submitting to the United Nations Secretary General a proposal for convening, as soon as practical, an international conference to help determine humanitarian needs among the people and nations of Indochina and to explore approaches to the task of postwar relief and rehabilitation, including the kinds of international arrangements to carry out this task.

"(d) The Congress further urges the President to solicit the cooperation of other governments in submitting to the United Nations Secretary General a proposal to establish as soon as practical an autonomous Fund of the United Nations for Indochina (FUNI) to receive contributions for humanitarian purposes in Indochina and to support the task of postwar relief and rehabilitation under international auspices.

"CHAPTER 11—PHILIPPINE DISASTER RELIEF

"Sec. 497. Philippine Disaster Relief.—Notwithstanding the provisions of this or any other Act, the President is authorized to provide, on such terms and conditions as he may determine, relief, rehabilitation, and reconstruction assistance in connection with damage caused by floods in the Philippines during 1972. Of the funds provided to carry out this part, $50,000,000 shall be available only to carry out this chapter. Such assistance shall be distributed, to the extent practicable, under the auspices of or by international institutions and relief agencies or United States voluntary agencies."

MILITARY ASSISTANCE

Sec. 5. Chapter 2 of part II of the Foreign Assistance Act of 1961, relating to military assistance, is amended as follows:

(1) In section 504(a), relating to authorization, strike out "fiscal year 1972" and insert in lieu thereof "fiscal year 1973".

(2) In section 506(a), relating to special authority, strike out "1972" wherever it appears and insert in lieu thereof "1973".

(3) At the end of such chapter 2, add the following new section:

"Sec. 515. Limitations on Availability of Funds for Military Operations.—No funds authorized or appropriated under any provision of law shall be made available by any means by any officer, employee, or agency of the United States Government for the purpose of financing any military operations in Thailand by any military forces, other than the national forces of Thailand or the United States, unless Congress has specifically authorized or specifically authorizes the making of funds available for such purpose."

SECURITY SUPPORTING ASSISTANCE

Sec. 6. (a) Section 532 of the Foreign Assistance Act of 1961, relating to authorization for security supporting assistance, is amended by striking out "fiscal year 1972 not to exceed $618,000,000" and inserting in lieu thereof "fiscal year 1973 not to exceed $550,000,000".

(b) Chapter 4 of part II of the Foreign Assistance Act of 1961, relating to security supporting assistance, is amended by adding at the end thereof the following new sections:

"Sec. 534. Refugee Assistance in Cambodia.—The President is authorized to provide humanitarian assistance, on such terms and conditions as he considers appropriate, to refugees and war victims in Cambodia. Of the funds appropriated pursuant to section 532 for the fiscal year 1973, not less than $2,000,000 shall be available until expended solely to carry out this section.

Sec. 535. Assistance to South Vietnam Children.—(a) It is the sense of the Congress that inadequate provision has been made (1) for the establishment, expansion, and improvement of day care centers, orphanages, hostels, school feeding programs, health and welfare programs, and training related to these programs which are designed for the benefit of South Vietnamese children, disadvantaged by hostilities in Vietnam or conditions related to those hostilities, and (2) for the adoption by United States citizens of South Vietnamese children who are orphaned or abandoned, or whose parents or sole-surviving parent, as the case may be, has irrevocably relinquished all parental rights.

"(b) The President is therefore authorized to provide assistance, on terms and conditions he considers appropriate, for the purposes described in clauses (1) and (2) of subsection (a) of this section. Of the funds appropriated pursuant to section 532 for fiscal year 1973, $5,000,000 shall be available until expended solely to carry out this section. Not more than 10 per centum of the funds made available to carry out this section may be expended for the purposes referred to in subsection (a)(2) of this section. Assistance provided under this section shall be furnished, to the maximum extent practicable, under the auspices of and by international agencies or United States voluntary agencies.

"Sec. 536. Humanitarian Assistance in South Vietnam.—The President is authorized to provide humanitarian assistance, on such terms and conditions as he considers appropriate, to refugees, civilian war casualties, war orphans, abandoned children, and other persons disadvantaged by hostilities or conditions related to those hostilities in South Vietnam. Of the funds appropriated pursuant to section 582 for the fiscal year 1973, not less than $70,000,000 shall be available, until expended, solely to carry out this section. Of the funds appropriated under section 532 of this Act, including any such funds made available to carry out this section, not less than $18,000,000 shall be allocated for project assistance in South Vietnam for public health services and war victims.

"Sec. 537. Center for Plastic Surgery in Saigon.—Of the funds appropriated pursuant to section 532 for the fiscal year 1973, not less than $715,000 shall be available solely for furnishing assistance to the Center for Plastic and Reconstructive Surgery in Saigon."

TRANSFER BETWEEN ACCOUNTS

Sec. 7. Section 610(a) of the Foreign Assistance Act of 1961, relating to transfer between accounts, is amended—

(1) by inserting immediately after "except that" the designation "(1)"; and

(2) by inserting before the period at the end thereof a comma and the following: "and (2) no funds made available for any provision of part I of this Act may be transferred to, or consolidated with, funds made available for any provision of part II of this Act (including chapter 4 of such part II)".

PROHIBITIONS AGAINST FURNISHING ASSISTANCE

Sec. 8. Section 620 of the Foreign Assistance Act of 1961, relating to prohibitions against furnishing assistance, is amended by adding at the end thereof the following new subsections:

"(x) No assistance, other than training, may be furnished under part II of this Act (including chapter 4 of such part), and no sale, credit sale, or guaranty with respect to defense articles or defense services may be made under the Foreign Military Sales Act, to, for, on behalf of the Governments of Pakistan, India (including Sikkim), Bangladesh, Nepal, Ceylon, the Maldive Islands, or Bhutan.

"(y) None of the funds authorized to be appropriated by this Act may be used to provide any kind of assistance to any foreign country in which a military base is located if—

"(1) such base was constructed or is being maintained or operated with funds furnished by the United States; and

"(2) personnel of the United States carry out military operations from such base;

unless and until the President has determined, and informed the Congress in writing, that the government of such country has, consistent with security, authorized access, on a regular basis, to bona fide news media correspondents of the United States to such military base. The President shall not exercise any special authority granted him under section 614(a) of this Act with respect to this section."

ALLOCATION AND REIMBURSEMENT AMONG AGENCIES

Sec. 9. Subsection (a) of section 632 of the Foreign Assistance Act of 1961, relating to allocation and reimbursement among agencies, is repealed.

LIMITATIONS ON CAMBODIAN ASSISTANCE

Sec. 10. Section 655 of the Foreign Assistance Act of 1961, relating to limitations upon assistance to or for Cambodia, is amended—

(1) by striking out "$341,000,000" and "1972", wherever they appear in subsections (a) and (b) and inserting in lieu thereof "$275,000,000" and "1973", respectively; and

(2) by inserting in subsection (g), after "section", a comma and the following: "or any amendment thereto,".

FOREIGN MILITARY SALES

SEC. 11. The Foreign Military Sales Act is amended as follows:

(1) In section 23, relating to credit sales, strike out "ten" and insert in lieu thereof "twenty".

(2) In section 31(a), relating to authorization, strike out "fiscal year 1972" and insert in lieu thereof "fiscal year 1973".

(3) In section 31(b), relating to aggregate ceiling on foreign military sales credits, strike out "fiscal year 1972" and insert in lieu thereof "fiscal year 1973".

(4) In section 33(a), relating to aggregate regional ceilings, is amended by striking out "$100,000,000" and inserting in lieu thereof "$150,000,000".

EXCESS DEFENSE ARTICLES

SEC. 12. (a) Section 8(b) of the Act entitled "An Act to amend the Foreign Military Sales Act, and for other purposes", approved January 12, 1971, as amended, is amended by striking out "$185,000,000" and inserting in lieu thereof "$150,000,000".

(b) Section 8(e) of such Act is amended by striking out "prior to July 1, 1972".

HOSTILITIES IN INDOCHINA

SEC. 13. Funds authorized or appropriated by this or any other Act for United States forces with respect to military actions in Indochina may be used only for the purpose of withdrawing all United States ground, naval, and air forces and protecting such forces as they are withdrawn. The withdrawal of all United States forces from Vietnam, Laos, and Cambodia shall be carried out within four months after the date of enactment of this Act: Provided, That there is a release within the four-month period of all American prisoners of war held by the Government of North Vietnam and forces allied with such Government, and an accounting of all Americans missing in action who have been held by or known to such Government or such forces.

AZORES AGREEMENT

SEC. 14. Commencing thirty days after the date of enactment of this Act, no funds may be obligated or expended to carry out the agreement signed by the United States with Portugal, relating to the use by the United States of military bases in the Azores, until the agreement, with respect to which the obligation or expenditure is to be made, is submitted to the Senate as a treaty for its advice and consent.

PROHIBITING OGLIGATION OR EXPENDITURE OF FUNDS FOR CERTAIN AGREEMENTS TO WHICH THE SENATE HAS NOT GIVEN ITS ADVICE AND CONSENT

SEC. 15. No funds may be obligated or expended to carry out any agreement entered into, on or after the date of enactment of this Act, between the United States Government and the government of any foreign country (1) providing for the establishment of a military installation in that country at which combat units of the Armed Forces of the United States are to be assigned to duty, or (2) revising or extending the provisions of any such agreement, unless such agreement is submitted to the Senate for its advice and consent and unless the Senate gives its advice and consent to such agreement. Nothing in this section shall be construed as authorizing the President to enter into any agreement relating to any matter, with or without the advice and consent of the Senate.

APPLICABILITY OF SECTIONS 14 AND 15 TO THE EXPORT-IMPORT BANK OF THE UNITED STATES

SEC. 16. The provisions of sections 14 and 15 do not affect the authority of the Export-Import Bank of the United States, in accordance with its established procedures and practices, to consider and act on any application for a guarantee, insurance, extension of credit, or participation in an extension of credit with respect to the purchase or lease of any product by any foreign country, or an agency or national thereof.

ILLEGAL INTERNATIONAL NARCOTIC TRAFFIC STUDY

SEC. 17. (a) It is the sense of the Congress that the control of illegal international narcotic traffic is essential to the well-being of the United States; that illegal international narcotic traffic is now a major enterprise involving complex operations in numerous countries in all parts of the world; and that such traffic continues to take place in countries which receive economic and military assistance from the United States, including assistance to carry out antinarcotic drug programs.

(b) On or before the expiration of the one hundred and eighty-day period following the date of the enactment of this Act, the Bureau of Narcotics and Dangerous Drugs shall prepare and submit to the Congress a report, in two parts, concerning the illegal international narcotic traffic.

(c) The first part of such report shall include a survey of (1) the cultivation and processing of narcotic drugs (which are illegal in the United States) in each country where these operations are known to, or believed by, the Bureau of Narcotics and Dangerous Drugs to occur; (2) the routes of transportation of such drugs to the United States; (3) the means by which such drugs are brought into the United States; (4) the financial and banking arrangements which support such illegal international narcotics traffic; and (5) changes in the international patterns of cultivation, processing, and shipping of such drugs for the United States markets which, in the opinion of the Bureau of Narcotics and Dangerous Drugs, have occurred since calendar year 1969, and an evaluation of those changes.

(d) The second part of such report shall include—

(1) a list of the countries which, in the opinion of the Bureau of Narcotics and Dangerous Drugs, are currently major centers in illegal international narcotic traffic;

(2) a summary of the programs and other actions undertaken by such countries for the suppression of such traffic; and

(3) an evaluation by the Bureau of Narcotics and Dangerous Drugs of the effectiveness of such programs and actions, including reasons for their effectiveness or ineffectiveness.

(e) Each Federal department or agency having the responsibility for the conduct of the foreign affairs of the United States, or for programs and other actions related to the suppression of the illegal international narcotic traffic, shall, upon the request of the Bureau of Narcotics and Dangerous Drugs, make available to the Bureau such information and other assistance as may be so requested.

PUBLIC LAW 480

SEC. 18. Section 104(c) of the Agricultural Trade Development and Assistance Act of 1954, as amended, is amended by striking out the semicolon at the end of such section and inserting in lieu thereof a comma and the folowing: "except that no agreement may be entered into under this subsection (c) unless such agreement has been specifically authorized by legislation enacted after the date of enactment of the Foreign Assistance Act of 1972;".

Mr. FULBRIGHT. Mr. President, the Senate should have a strong feeling of deja vu in considering the bill before it. Twice within the last year the Senate has defeated a foreign aid bill only to see it resurrected. Like Banquo's ghost, it will not down.

So, here we are today with essentially the same foreign aid bill the Senate defeated 2 months ago by a vote of 42 to 48. The bill reported by the Foreign Relations Committee contains all of the provisions in the earlier bill, S. 3390, as it was defeated in the Senate, except that the amounts have been changed in order to hold the line at the level Congress appropriated for the last fiscal year. The Federal funds deficit for the last 3 years is $72 billion and the official estimate for the current year is for $38 billion more. Many say it is likely to reach $45 billion. Thus, we will have had at least $110 billion in deficit spending for these 4 years. There is no justification for adding hundreds of millions more to this burden by increasing military aid programs above last year's level—military aid to foreign countries, may I emphasize.

The bill does not contain any additional authorizations for economic aid other than $100 million for relief and rehabilitation work in Bangladesh. Economic aid programs were authorized for 2 years in the 1971 Foreign Assistance Act. This is a military aid bill. It authorizes a total of $1.45 billion for the three major programs: $500 million for military grant aid, $550 million for supporting assistance or budget subsidies, and $400 million for financing military credit sales. In each case the amount is the same as Congress voted last year—that is, for fiscal 1972.

I ask unanimous consent to have a comparative chart and other pertinent explanatory tables printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. FULBRIGHT. I wish to point out, however, that the $1.45 billion in military assistance recommended in this bill is only about one-fourth of the $5.6 billion military assistance package programed by the executive branch for the current fiscal year. The bill does not include, for example, $2.9 billion or South Vietnam, Laos, and the Korean forces in Vietnam, ship loans of $39.6 million, $450 million in excess equipment at acquisition cost, or most of the costs of supporting the 47 U.S. military missions abroad. When Government cash sales and commercial sales are included, the estimated total flow of arms and supplies abroad this fiscal year adds up to $8.5 billion, almost five times the appropriations to be authorized by this bill.

I will not take the Senate's time to list the policy provisions in the bill. They are detailed in the committee report. With the exception of two provisions added by the committee and a slight revision in Senator BROOKE's amendment, policy provisions are exactly as they were in S. 3390 when it was defeated. Senator BROOKE's amendment, as adopted by the committee, is the revised version he proposed as an amendment to the pending bill. It reflects the Senate's action on his amendment to the military procurement bill in that it requires, as a condition for completion of the U.S. withdrawal from Indochina, an accounting for Americans missing in action in addition to the earlier requirement for the release of U.S. prisoners of war.

The two new substantive provisions

added by the committee would: First, earmark $50 million in appropriations for economic assistance for flood relief and rehabilitation in the Philippines, and second, cut off funds for any country which refuses to allow American newsmen access to military bases, constructed or maintained by U.S. funds, from which U.S. personnel carry out military operations. The latter provision, although general in application, is designed to insure that American newsmen have proper access to U.S.-operated bases in Thailand.

Mr. President, this bill will be no less controversial than the one the Senate finally rejected after 4 weeks of desultory consideration last July. However, every Member should know by now the issues involved in this bill. I hope that those who plan to offer amendments will do so promptly so that the Senate can dispose of this bill—one way or another—without unnecessary delay.

EXHIBIT 1

COMPARATIVE DATA ON FOREIGN AID ITEMS

[In millions of dollars]

Program	Committee recommendation and appropriation fiscal year 1972	Executive branch request	S. 3390 as defeated in Senate	H.R. 16029
1. Grant military assistance	500	780	600	[5] 735
2. Supporting assistance	[1] 550	844	[4] 685	[1] 769
3. Military credit sales	400	527	435	527
(a) Aggregate ceiling	[2] (550)	(629)	[2] (600)	[2] (629)
Total security assistance	1,450	2,151	1,720	2,031
4. Bangladesh assistance	[3] 100	100	100	100
Total security and economic	1,550	2,251	1,820	2,131

[1] $50,000,000 earmarked for Israel.

[2] $300,000,000 earmarked for Israel.

[3] $200,000,000 was appropriated in fiscal year 1972.

[4] $85,000,000 earmarked for Israel.

[5] $5,000,000 for Naval training in the Western Hemisphere.

TABLE 1.—COMPARATIVE DATA ON FOREIGN AID MONEY ITEMS

[In millions of dollars]

Item	Appropriation fiscal year 1972 (or existing law)	Administration request	H.R. 16029	Senate committee recommendation
1. Grant military assistance	500.0	780.0	730.0	500.0
(a) Naval training, Western Hemisphere			5.0	
2. Supporting assistance	550.0	844.0	769.0	550.0
(a) Earmarked items:				
(1) Israel	(50.0)		(50.0)	(50.0)
(2) Refugees, Cambodia			(2.0)	(2.0)
(3) Refugee and humanitarian aid in South Vietnam				(70.0)
(4) Aid to South Vietnamese children			(5.0)	(5.0)
(5) Plastic Surgery Center—Saigon			(.7)	(.7)

$300,000,000 earmarked for Israel.

Item	Appropriation fiscal year 197 (or existing law)	Administration request	H.R. 16029	Senate committee recommendation
3. Military credit sales	400.0	527.0	527.0	400.0
(a) Aggregate credit ceiling	[1] (550.0)	(629.0)	[1] (629.0)	[1] (550.0)
Total security assistance	1,450.0	2,151.0	2,031.0	1,450.0
Bangladesh assistance	200.0	100.0	100.0	100.0
Total security and economic	1,650.0	2,251.0	2,131.0	1,550.0
CEILINGS				
1. Cambodia	341.0		330.0	275.0
2. Excess defense articles	185.0	245.0	245.0	150.0
3. Military and aid sales to Latin America	100.0	150.0	[3] 150.0	150.0

[3] Also exempts cash sales from the ceiling.

TABLE II.—MILITARY AND RELATED ASSISTANCE AND ARMS SALES PROGRAMS, FISCAL YEAR 1973 (EXECUTIVE BRANCH ESTIMATES)

Program:	Amount
1. Military assistance grants	$819,700,000
2. Foreign military credit sales	629,000,000
3. Excess defense articles	[1] 245,000,000
4. Ships loans	39,600,000
5. Security supporting assistance	879,418,000
6. Foreign military cash sales (DOD)	2,200,000,000
7. Commercial sales	722,598,000
8. Military assistance—DOD funded	2,924,700,000
Total military and related assistance and sales	8,460,016,000

[1] Valued at one-third acquisition cost.

TABLE III.—MILITARY AID FUNDED THROUGH THE DEPARTMENT OF DEFENSE BUDGET FOR ALLIED FORCES IN SOUTHEAST ASIA

[n millions of dollars]

	Fiscal year—		
	1971	1972	1973
South Vietnam	1,848.9	1,824.1	2,431.2
Korea	208.2	188.9	133.5
Laos	155.8	240.3	260.0
Thailand	113.0	66.1	([1])
Total	2,325.9	2,339.4	2,924.7

[1] Military aid for Thailand to be funded from the MAP program.

TABLE IV.—MILITARY AND ECONOMIC ASSISTANCE DATA, FISCAL YEAR 1973 PROGRAM REGIONAL SUMMARY

[In thousands of dollars]

	Security programs							
	Military assistance grants	Foreign military credit sales	Excess defense articles [1]	Military service funded	Ship loans [1]	Total military	AID supporting assistance	Total security
Summary, all programs	819,700	629,000	245,000	2,924,700	39,600	4,668,000	879,418	5,537,418
LA	20,300	75,000	2,500		900	98,700		98,700
AFR	17,975	18,500	3,500			39,975		39,975
EUR	10,299		8,000		18,200	36,499	12,500	48,999
NESA	142,952	443,000	68,000		11,000	664,952	90,000	754,952
EA and PAC	542,928	92,500	163,000	2,924,700	9,500	3,732,628	743,800	4,476,428
Other	85,246					85,246	28,200	113,446
Administrative and other expenses, State							4,918	4,918

	Development and humanitarian economic programs							Total military and economic, fiscal year—	
	Agency for International Development								
	Development/humanitarian assistance [2]	Contingency fund and international narcotics control [3]	AID development and humanitarian total	Peace Corps	Public Law 480	International financial institutions [4]	Total economic	1973	1972
Summary, all programs	1,598,976	72,800	1,671,776	72,200	1,099,789	920,000	3,763,765	9,301,183	7,439,099
LA	389,416		389,416	18,913	106,559		514,888	613,588	528,970
AFR	173,209		173,209	23,149	134,310		330,668	370,643	352,838
EUR				10	850		860	49,859	78,247
NESA	347,204	15,000	362,204	7,400	390,976		760,580	1,515,532	1,292,250
EA and PAC	188,857	2,200	191,057	12,352	445,494		648,903	5,125,331	4,036,862
Other	[2] 500,290	55,600	555,890	10,376	21,600	920,000	1,507,866	1,621,312	1,145,470
Administrative and other expenses, State								4,918	4,462

[1] In legal value—at ⅓ acreage class acquisition costs.

[2] Includes AID administrative expenses.

[3] Includes contingency fund and international narcotics control funds.

[4] Includes International Development Association, Inter-American Development Bank, and Asian Development Bank.

MILITARY AND ECONOMIC ASSISTANCE DATA, FISCAL YEAR 1973 PROGRAM BY COUNTRY

[In thousands of dollars]

	Security programs								Economic programs							
			Military programs						Agency for International Development			Other programs				
	Military assistance grants	Foreign military credit sales	Excess defense articles [1]	Military service funded	Ship loans [1]	Total military	AID supporting assistance	Total security	Development/humanitarian assistance	International narcotics control	Total	Peace Corps	Public Law 480	Total economic	Total military and economic fiscal year 1973	Total military and economic fiscal year 1972
Latin America	20,300	75,000	2,500		900	98,700		98,700	389,416		389,416	18,913	106,559	514,888	613,588	528,970
Argentina	550	15,000				15,550		15,550							15,550	16,047
Bolivia	4,873	4,000	500			9,373		9,373	18,214		18,214		9,700	27,914	37,287	50,051
Brazil	988	15,000				15,988		15,988	8,300		8,300	2,625	21,870	32,795	48,783	38,073
Chile	1,114	5,000	200		900	7,214		7,214	850		850	418	4,860	6,128	13,342	13,384
Colombia	778	10,000	100			10,878		10,878	78,600		78,600	1,898	21,730	102,228	113,106	122,061
Costa Rica									1,060		1,060	765	1,026	2,851	2,851	3,336
Dominican Republic	1,435		100			1,535		1,535	11,600		11,600	500	17,705	29,805	31,340	27,115
Ecuador	1,000		300			1,300		1,300	14,543		14,543	1,135	4,889	20,567	21,867	11,364
El Salvador	805		100			905		905	14,150		14,150	483	900	15,533	16,438	10,869
Guatemala	1,736	2,000	200			3,936		3,936	24,350		24,350	765	2,637	27,752	31,688	18,607
Guyana									10,100		10,100		1,780	11,880	11,880	14,072
Haiti									6,000		6,000		1,251	7,251	7,251	4,211
Honduras	734		100			834		834	18,242		18,242	964	972	20,178	21,012	7,689
Inter-American programs									16,880		16,880			16,880	16,880	14,691
Jamaica									10,849		10,849	838	450	12,137	12,137	6,202
Mexico	87	2,000				2,087		2,087							2,087	750
Nicaragua	1,045		100			1,145		1,145	7,500		7,500	516	328	8,344	9,489	14,070
Panama	527		100			627		627	22,295		22,295		1,080	23,375	24,002	17,581
Paraguay	791		200			991		991	7,094		7,094	418	2,712	10,224	11,215	11,645
Peru	820	5,000				5,820		5,820	13,747		13,747	1,766	8,460	23,973	29,793	38,315
ROCAP									27,700		27,700	203	153	28,056	28,056	13,417
Trinidad and Tobago													90	90	90	90
Uruguay	1,460	2,000	500			3,960		3,960	24,500		24,500	92	3,540	28,132	32,092	5,387
Venezuela	870	15,000				15,870		15,870	500		500	1,580		2,080	17,950	18,198
Caribbean regional									20,350		20,350	1,012	426	21,788	21,788	11,342
Economic regional programs									31,992		31,992	2,935		34,927	34,927	35,002
Regional military costs	687					687		687							687	5,231
Near East and South Asia	142,952	443,000	68,000		11,000	664,952	90,000	754,952	347,204	15,000	362,204	7,400	390,976	760,580	1,515,532	1,292,250
Afghanistan	215					215		215	6,720		6,720	1,499	24,100	32,319	32,534	58,293
Ceylon	15					15		15					14,157	14,157	14,172	20,130
Cyprus													3,960	3,960	3,960	3,960
Greece	9,554	55,000	25,500		5,900	95,954		95,954							95,954	81,350
India	234					234		234	99,590		99,590	3,211	172,330	275,131	275,365	197,220
Iran	492					492		492				1,300	1,044	2,344	2,836	7,325
Israel		(5)					50,000	50,000					45,342	45,342	95,342	105,342
Jordan	(5)	(5)	(5)				40,000	40,000	1,200		1,200		3,042	4,242	44,242	48,592
Lebanon	(5)	(5)											5,305	5,305	5,305	14,505
Nepal	29					29		29	1,883		1,883	1,191	630	3,704	3,733	4,208
Pakistan	243					243		243	79,800		79,800		105,358	185,158	185,401	160,615
Saudi Arabia	(5)	(5)														
Southern Yemen													90	90	90	90
Syria													216	216	216	261
Turkey	88,611	15,000	40,000		5,100	148,711		148,711	43,000	15,000	58,000		13,014	71,014	219,725	199,440
Yemen													1,026	1,026	1,026	1,026
Economic regional programs/CENTO									5,011		5,011		1,362	6,572	6,572	6,689
Regional military costs [7]	43,559	373,000	2,500			419,059		419,059							419,059	383,249
Unallocated									110,000		110,000			110,000	110,000	

MILITARY AND ECONOMIC ASSISTANCE DATA, FISCAL YEAR 1973 PROGRAM BY COUNTRY—Continued

	Security programs								Economic programs							
		Military programs							Agency for International Development			Other programs				
	Military assistance grants	Foreign military credit sales	Excess defense articles [1]	Military service funded	Ship loans [1]	Total military	AID supporting assistance	Total security	Development/humanitarian assistance	International narcotics control	Total	Peace Corps	Public Law 480	Total economic	Total military and economic fiscal year 1973	Total military and economic fiscal year 1972
East Asia and Pacific	542,928	92,500	163,000	2,924,700	9,500	3,732,628	743,800	4,476,428	188,857	2,200	191,057	12,352	445,494	648,903	5,125,331	4,036,862
Burma													621	621	621	621
Cambodia	209,541		15,500			225,041	75,000	300,041					30,018	30,018	330,059	246,437
China (Taiwan)	7,642	55,000	46,500			109,142		109,142							109,142	100,762
Hong Kong													126	126	126	126
Indonesia	28,745		4,500			33,245		33,245	123,200		123,200		87,920	211,120	244,365	239,967
Korea	215,710	25,000	33,600	133,500	5,700	413,510		413,510	28,600		28,600	2,194	142,500	173,294	586,804	585,369
Laos			2,000	360,000		362,000	49,800	411,800	870	700	1,570		3,429	4,999	416,799	294,996
Malaysia	181					181		181				2,908	958	3,866	4,047	4,214
Philippines	20,780		3,000		3,800	27,580		27,580	20,565		20,565	1,971	33,800	56,336	83,916	83,629
Singapore													45	45	45	670
Thailand	59,954		4,500			64,454	25,600	90,054	2,145	1,000	3,145	1,568	15,657	20,370	110,424	105,599
Vietnam			53,400	2,431,200		2,484,600	585,000	3,069,600	345	500	846		130,420	131,266	3,200,866	2,352,412
Western Samoa												525		525	525	449
Economic regional programs							8,400	8,400	13,131		13,131	3,186		16,317	24,717	13,532
Regional military costs	375	12,500				12,875		12,875							12,875	8,079
Africa	17,975	18,500	3,500			39,975		39,975	173,209		173,209	23,149	134,310	330,668	370,543	352,838
Botswana									(6)		(6)	692	9,450	10,142	10,142	10,042
Burundi									(6)		(6)		920	920	920	920
Cameroon									(6)		(6)	700	380	1,080	1,080	979
Central African Republic									(6)		(6)		210	210	210	210
Chad									(6)		(6)	481	110	591	591	522
Congo (Brazzaville)													1,800	1,800	1,800	1,800
Dahomey									(6)		(6)	449	390	839	839	775
Ethiopia	12,139		1,000			13,139		13,139	16,550		16,550	1,304	1,134	18,988	32,127	32,099
Gabon									(6)		(6)					
Gambia									(6)		(6)	383	980	1,363	1,363	1,307
Ghana	55					55		55	32,370		32,370	2,345	13,260	47,975	48,030	30,896
Guinea									(6)		(6)		4,970	4,970	4,970	4,984
Ivory Coast									(6)		(6)	826	1,350	2,176	2,176	2,057
Kenya									2,835		2,835	2,351	810	5,996	5,996	5,343
Leosotho									(6)		(6)	299	1,773	2,072	2,072	1,606
Liberia	499		500			999		999	3,709		3,709	2,444	2,390	3,543	9,542	10,408
Malagasy									(6)		(6)		510	510	510	510
Malawi									(6)		(6)	475	180	655	655	656
Mali	50					50		50	(6)		(6)	240	1,580	1,820	1,870	2,418
Mauritania									(6)		(6)		1,170	1,170	1,170	1,170
Mauritius									(6)		(6)	155	1,305	1,460	1,460	1,602
Morocco	(5)	(5)							17,055		17,055	1,056	42,000	60,111	60,111	49,299
Niger									(6)		(6)	629	1,575	2,204	2,204	2,119
Nigeria									23,870		23,870		630	24,500	24,500	25,797
Rwanda									(6)		(6)		360	360	360	360
Senegal	25					25		25	(6)		(6)	721	1,683	2,404	2,429	2,910
Seychelles									(6)		(6)		60	60	60	60
Sierra Leone									(6)		(8)	1,683	1,740	3,423	3,423	3,281
Somali Republic													450	450	450	450
Sudan													180	180	180	45
Swaziland									(6)		(6)	479		479	479	410
Tanzania									6,400		6,400		1,370	7,700	7,770	3,270
Togo									(6)		(6)	704	550	1,254	1,254	1,153
Tunisia	(5)		(5)						3,150		3,150	723	32,140	36,013	36,013	46,969
Uganda									2,530		2,530	441	180	3,151	3,151	5,913
Upper Volta									(6)		(6)	508	3,200	3,708	3,708	3,635
Zaire	455	3,500				3,955		3,955	6,950		6,950	1,012	3,200	11,162	15,117	7,903
Zambia									(6)		(6)		320	320	320	320
Economic regional programs:																
Central West Africa									24,085		24,085			24,085	24,085	29,900
East Africa									1,600		1,600			1,600	1,600	5,805
Southern Africa									8,200		8,200			8,200	8,200	14,435
Africa Regional									21,855		21,855	2,049		23,904	23,904	16,998
Regional military costs [7]	4,752	15,000	2,000			21,752		21.752							21,752	19,802
Self-Help projects									2,050		2,050			2,050	2,050	1,700
Europe	10,299		8,000		18,200	36,499	12,500	48,999				10	850	860	49,859	78,247
Austria	24					24		24							24	13
Iceland													650	650	650	800
Italy					2,600	2,600		2,600							2,600	
Malta							9,500	9,500				10	200	210	9,710	9,709
Portugal	905		2,000			2,905		2,905							2,905	35,177
Spain	9,261		6,000		15,600	30,861	3,000	33,861							33,861	32,374
United Kingdom																3
Regional military costs	109					109		109							109	171

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[1] In legal value—at ½ average class acquisition costs.

[2] Includes AID administrative expenses.

[3] Includes contingency fund and international narcotics control funds.

[4] Includes International Development Association, Inter-American Development Bank and Asian Development Bank.

[5] Classified.

[6] Self-Help funds only.

[7] Includes classified countries.

OTHER PURPOSES OF THE BILL

In addition to authorizing appropriations and other limitations as detailed in Table I, the bill also does the following:

1. provides that all funds authorized or appropriated for United States forces with respect to military actions in Indochina may be used only for the purpose of withdrawing U.S. ground, naval and air forces from Vietnam, Laos, and Cambodia and protecting such forces as they are withdrawn. Withdrawal of all U.S. forces in those countries shall be completed within four months after the date of enactment of the bill provided there is a release within the four-month period of all American prisoners held by the Government of North Vietnam and all forces allied with that government;
2. requires that future agreements with foreign countries relating to U.S. overseas military installations be submitted to the Senate for its advice and consent;
3. prohibits obligation or expenditure of funds to carry out the military base agreement with Portugal until the agreement has been submitted to the Senate in treaty form;
4. impose a $275 million ceiling for fiscal year 1973 on U.S. obligations in, for, or on behalf 1973 on U.S. obligations in, for, or on U.S. air operations and South Vietnamese operations in Cambodia;
5. with the exception of training assistance, it prohibits U.S. Government military assistance or sales to the nations of South Asia;
6. requires specific authorization for the financing of any foreign forces operating in Thailand;
7. prohibits transfer of Agency for International Development development assistance or disaster relief funds for use for military or supporting assistance purposes;
8. prohibits transfer of foreign assistance funds to other agencies except as reimbursement for services rendered;
9. urges the President to initiate planning for postwar relief and rehabilitation in Indochina with emphasis on the United Nations as a channel for assistance;
10. extends the maximum repayment period for military credit sales from ten to twenty years;
11. requires a report to Congress within six months on illegal international traffic in narcotics;
12. requires specific authorization of agreements with foreign countries for use of proceeds from Food for Peace sales as grants for military purposes;
13. earmarks $50 million of funds made available for development assistance to be used for flood relief and related purposes in the Philippines; and
14. prohibits aid to countries which do not provide access to U.S. newsmen to military bases which were constructed or are maintained with U.S. funds and from which U.S. personnel carry out military operations.

GREECE

Mr. FULBRIGHT. Mr. President, there is another item which I think is relevant at this time. It is the question of aid to Greece. There is a substantial amount of money in the bill for Greece.

It has been almost 2 years since the State Department asserted that "the trend toward a constitutional order is established in Greece." Since then a succession of high administration officials have visited Athens and voiced their approval of the military junta. The most recent of these was the Secretary of State who chose the occasion of a visit to Athens to praise the Greek contribution to NATO.

It is not surprising, given the affinity of political philosophy between our present administration and the junta, that military ties between the two governments have been steadily strengthened over the past 3 years. The most recent example of this is the conclusion of an agreement providing for the permanent basing of U.S. naval units in Greek ports.

In light of these developments, it is interesting to note the comments of private American observers about the increasing repression of political freedom in Greece. There recently came to my attention an article on this subject published in the July issue of the Reader's Digest a magazine not noted for being opposed to governments like that in Greece. Usually the articles in that magazine are quite sympathetic to Greece.

The author, David Reed, observes that Greece—

> The country which in classical times gave the world the concept of democracy has become a dictatorship, ruled by a former colonel who, with a handful of other colonels, deposed a parliamentary government in a coup d'etat. Though rightist in outlook the new government shares many of the repressive factors of the Communist regimes of Eastern Europe.

I ask unanimous consent that Mr. Reed's article be printed in the RECORD at the conclusion of my remarks. I urge my colleagues to read it in order to gain a clearer idea of present conditions in Greece.

The **PRESIDING OFFICER** (Mr. GAMBRELL). Without objection, it is so ordered.

(See exhibit 1.)

Mr. FULBRIGHT. Mr. President, in that connection, I also ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a recent article published in the New York Times of September 21, 1972, written by Kathleen Teltsh, entitled "U.N. Unit Said To Report Greeks Violate Human Rights." This article is the most current one I have seen as to the way human beings are being treated by the Government of Greece.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

(See exhibit 2.)

Mr. FULBRIGHT. Mr. President, I think it is worthy of note that in the foreign aid bill, out of 64 countries which receive assistance, 25 are governed by military dictatorships or governments with no open political opposition. I repeat, 25 out of 64 countries. I may say that among the 25 are some of the major recipients of our largess.

It is a rather interesting commentary that here we are, professing to be a democratic country and interested in the preservation of free enterprise and free political institutions. We say that. Our leaders say that. In fact, we profess that we are fighting the war in Vietnam—or rather, I should say, we are slaughtering the defenseless inhabitants of that unfortunate land from 5 miles up with our B–52's—in the name of democracy and free political choice.

Yet in this bill, 25 countries—and that is almost 50 percent—who are recipients of our aid, are nondemocratic countries; that is, they are authoritarian in nature.

I may say, too, that about 80 percent of the aid in this bill is destined for 10 countries, most of which are nondemocratic in nature.

It is an interesting point, if we judge the military aid program against what we are trying to accomplish by spreading military assistance all around the world.

Thus, Mr. President, I think that we should take a new look at the justification for this overall program.

It is my understanding that the distinguished Senator from California wishes to ask me a question or two, and then I intend to offer an amendment.

EXHIBIT 1

[From the Reader's Digest, July 1972]

GREECE: OUTCAST OF EUROPE

(By David Reed)

On Christmas Eve of 1970, Chistos Sartzetakis, the Greek magistrate whose courageous investigation of a political murder was depicted in the multiaward-winning film "Z," was arrested in Athens by Greece's dreaded military police. They had no warrant; the regime that now rules Greece merely suspected that he was involved with an opposition group and wanted him interrogated. Only months later did his family learn what had happened to him. For six days and nights he had been forced to stand at attention, without food. Whenever he started to topple, guards beat him upright. There followed 47 days in solitary confinement before he was transferred to a regular prison. Finally, 11 months after his arrest, he was released.

The Sartzetakis case is typical of Greek justice today. The country which in classical times gave the world the concept of democracy has become a dictatorship, ruled by a former colonel who, with a handful of other colonels, deposed a parliamentary government in a *coup d'état*. Though rightist in outlook, the new government shares many of the repressive features of the communist regimes of Eastern Europe. For Greece's 8.5 million people, all political activity has been banned. Martial law remains in force in the main cities, with suspects often held indefinitely without arraignment or charge. Some political prisoners have, like Sarzetakis, been subjected to torture. Other persons have been forced to live in remote villages under police surveillance. The press has been silenced. A network of informers spies on the nation.

Shadow of Fear. Yet, to the more than two million tourists who flock to view the glories of ancient Greece each year, these ugly aspects are not apparent. There are no tanks in the streets, no soldiers in evidence. The atmosphere is friendly—indeed, almost everyone in Greece, apart from a small minority of communists and other leftists, is strongly pro-West, pro-American.

Prosperity's face is on the land. Last year, the gross national product rose by an impressive 7.6 percent—with inflation held to only three percent. Athens stores bulge with goods and shoppers. In the late evening, the city's *tavernas* are filled as people dine to racy *bouzouki* music.

Under the surface, however, there is a profound malaise. Ordinarily the most voluble of people when it comes to political discussions, Greeks now fall silent when strangers are within earshot. Telephones are assumed to be tapped. Prominent figures of the former parliamentary government say that they are followed by plainclothesmen. When someone disappears, even if only for a few hours, relatives automatically assume that he has been arrested. For good reason: Greeks have drawn prison sentences of up to ten years merely for holding meetings or distributing leaflets.

In one case that no Greek newsman will ever forget, John Kapsis, editor of the now-defunct newspaper *Ethnos*, was given a five-year sentence (he was released after 14 months) for having published a brief interview with John Zigdis, a former cabinet minister, in which Zigdis urged the restoration of parliamentary government. (Zigdis himself got 4½ years.) The men were convicted under a subtle press law that forbids publishing anything which may create public "anxiety."

Prometheus Unbound. When the colonels struck in April 1967, they claimed that they did so "to save the country from communism." But few people in Greece believe that such a threat existed. In actual fact, the colonels had been plotting a takeover for years. Democracy was clearly in trouble, but instead of saving it, the colonels merely finished it off.

For eight years, until 1963, Greece had had a strong and stable parliamentary government under Prime Minister Constantine Karamanlis. After his defeat, however, the country slid into growing chaos. Political strikes and riotous demonstrations erupted almost daily. An election was scheduled for May 1967, which was virtually certain to put the late George Papandreou, a former prime minister, in power. Although Papandreou was a moderate, many people feared that his son and political heir apparent, Andreas Papandreou, would eventually turn Greece into a left-leaning state.

The ensuing colonels' revolt will long be regarded as a masterpiece of its kind. A contingency plan, code-named "Prometheus," had been drawn up by the army general staff to meet a possible national emergency by rounding up communists and other radicals and by taking over key installations such as radio stations and airports. The purpose, of course, was to prevent, not to promote, a coup. But just as Prometheus stole fire from the gods, so the colonels swiped the plan from their superiors. On the night of April 21, the colonels had the signal for Prometheus flashed to police and military units throughout the country. More than 6,000 persons were automatically rounded up, and radio stations and airports were seized. Troops under the colonels' direct command picked up cabinet ministers, politicians and loyalist army officers, and tanks surrounded the palace of King Constantine.

Greece was then introduced to the man who had masterminded the coup—a colonel named George Papadopoulos. Like his fellow conspirators, Papadopoulos came from rural Greece, having been born in 1919 in a hardscrabble village on the Peloponnesian peninsula, the son of a schoolteacher. The only avenue of advancement for a bright country lad lay through the army, and at 18 he was sent to the national military academy. In the mid-1950s, he was one of the organizers of a secret society of junior officers, and his conspiratorial ambitions earned him the nickname "Nasser." Much of his career was spent in the murky world of intelligence. For a time, he served in the Greek equivalent of the Central Intelligence Agency where, among other duties, he maintained vigilance against those who would conspire against the government. It was, some say, like sending a goat to guard the cabbage.

At a press conference after the takeover, Papadopoulos likened Greece to a patient who had to be put under restraint for his own good. "We have a patient lying on an operating table," Papadopoulos declared. "If you do not tie him down, you may lead him to his death rather than to an operation that will make him recover." When several reporters rose at once to ask questions, Papadoupoulos clapped his hands sharply and barked, "Don't force me to restore order!" The reporters sat down. All of Greece, in fact, sat down.

Power and Papadopoulos. At first, a 15-member "revolutionary council," composed almost entirely of colonels who had staged the takeover, ruled the country. Papadopoulos operated behind the scenes as "first among equals." In December 1967, King Constantine, who had opposed the colonels all along, attempted to rally the army for a counter-coup. The effort failed, and the king went into exile in Italy.

Since then, the colonels who lofted Papadopoulos to power have all been eased from positions of direct authority and placed in second- and third-ranking posts. Papadopoulos now is prime minister, minister of national defense, minister of foreign affairs and minister of government policy. In every government office there are photographs of King Constantine and Queen Anne-Marie; in between, there is a slightly smaller photograph of Papadopoulos. (The only exception is Papadopoulos' own office—with a picture of Jesus between the king and queen.)

Shortly after assuming power, Papadopoulos had a new constitution written, which then was submitted to the public in a referendum. Under martial law, no meaningful debate was possible. Amid guffaws from both Greeks and foreigners, the regime announced that 92 percent of the voters had approved the constitution. In any event, it is not taken seriously by the Greeks. The key articles, dealing with civil liberties and parliamentary elections, have never been implemented.

Indeed, Papadopoulos has done a thorough job of tying the "patient" to his operating table. He rules by decree. Most professional associations, such as those of doctors or lawyers, are not allowed to choose their leaders freely. In place of normal political life, Papadopoulos has set up a "consultative committee." In elections held last December, some 10,000 handpicked "electors," all of them beholden to the regime for their jobs, were allowed to select 60 members of the committee. Papadopoulous then personally chose 15 more members. The committee has no right to initiate or reject legislation; it can only chat about government promulgated measures.

Greek labor leaders have been ousted, and government appointees have been installed in their place. While workers theoretically enjoy the right to strike, there has not been a single strike in the five years that Papadopoulos has been in power. "No one would dare," a former union leader says. Universities and lower schools have been brought under the thumb of the government, too, with dissident professors and students having been purged.

Such tactics have led the rest of the world to shun Greece as a political leper. Since the colonels' coup five years ago, only two foreign heads of state—both from African countries—have paid official visits to Athens. At a meeting in 1970 of the Council of Europe—an unofficial but influential forum of opinion—15 governments, most of them members of NATO, accused the Greek regime of "torture and other ill treatment" of political prisoners.* (Certain that it would be expelled, Greece had previously withdrawn from the Council.) In another expression of disapproval, members of the Common Market have "frozen" Greece's application to join.

Consulting the Oracles. Still, Greece remains in NATO, and, at a time of growing Soviet naval penetration in the Mediterranean, her shore facilities are much needed for the American Sixth Fleet. This has caused problems for U.S. policy makers. After the coup, the United States stopped providing heavy weapons to Papadopoulos in an effort to pressure him into restoring civilian rule. But he refused to budge and, to keep the Greek sector of NATO's defenses from falling into disarray, full military aid was resumed in September 1970. When Congress later passed the foreign-aid bill for fiscal 1972, it prohibited military aid to Greece unless the Administration decided that the "overriding requirements of the national security of the United States" justified its continuance. On February 17, President Nixon signed such a statement, thus continuing the program.

It appears that Papadopoulos will be running Greece for a long time to come. His spokesmen maintain that 80 percent of the people support the government. How they arrive at that figure is a mystery, for the regime has never held a free election. It is clear, however, that some Greeks, fed up with former parliamentary squabbling, accept the current government—if only as a lesser evil.

Many of the country's peasant farmers, who account for about half the population, also seem to approve, or at least remain supremely indifferent. Opposition comes mostly from Greece's intellectuals, professional people and middle and upper classes in general; most people arrested these days are democrats or royalists. The regime has little to fear from the left, which is fragmented and weak. And, as the old pro in the game of overthrowing the government, Papadopoulos keeps close watch over the army for any young officer aspiring to spring his own Prometheus on the boss.

Papadopoulos maintains that it is his mission to remake Greek society. Constitutional rule will be restored, he has declared, "when I, the bearer of the people's mandate and of the historic responsibility toward the nation and the armed forces, decide that this can be done safely and usefully for the nation." This does not sound like a man who contemplates an early transfer of power.

EXHIBIT 2

[From the New York Times, Sept. 21, 1972]

U.N. UNIT SAID TO REPORT GREEKS VIOLATE HUMAN RIGHTS

(By Kathleen Teltsh)

UNITED NATIONS, N.Y., September 20.—A United Nations panel, after examining hundreds of letters, has reportedly concluded that a "consistent pattern" of gross violations of human rights appears to exist in Greece.

The letters—many of them said to have been smuggled out of prisons where the writers were confined—describe in detail torture and threats they say were used by security policemen and jailers to elicit "confessions" of treasonous actions against the military-backed Athens Government.

The United Nations panel of five experts, which met for 10 days, was not able to screen all of the 27,000 communications concerning human rights received from a number of countries in the last year.

PANEL CREATED LAST YEAR

The panel—the first United Nations body empowered to examine complaints from individuals or private groups for any pattern of "gross and reliably attested violations of human rights"—was created last year under a United Nations resolution that called for secrecy in the screening of documents.

The conclusions reached so far on Greece, Iran and Portugal—the panel did not complete work on others—were conveyed at closed meetings to the United Nations subcommission on the prevention of discrimination and protection of minorities.

The parent body has instructed the panel to keep its findings "under study" until it meets again next August, which would give the three accused governments a chance to reply—if they wish—to the charges.

The members of the panel were selected on a broad regional basis from the 26 who serve on the subcommission. They are not supposed to be government spokesmen but rather experts serving as private persons. The five are José D. Inges of the Philippines; Ahmed Kettani, Morocco; Antonio Martinez Baez, Mexico; Mrs. Nicole Questiaux, France and Sergei N. Smirnov of the Soviet Union.

Although they met in private and adopted precautions to keep their findings confidential, they were reliably reported to have found a "consistent pattern" of violations committed by Portugal and by Iran, which were accused of arbitrarily arresting hundreds of political dissidents, holding secret trials for them and, in scores of instances, executing them.

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* The frequency of such practices seem to be diminishing because of international scrutiny and the resultant publicity.

However, the most substantial evidence supplied to the panel was on Greece. According to informants, this material included affidavits on recent trials of prisoners as well as the letters.

LAWYER AT ATHENS TRIAL

Included was one communication from a Washington lawyer, George C. Vournas, who witnessed the trial last March in Athens of 17 persons on conspiracy charges. Mr. Vournas wrote: "It was distressing to note that charges of beatings and torture, which all the defendants went through, were taken for granted or considered 'normal procedurer' by the court."

The bulk of the material on Greece was submitted by Prof. Frank C. Newman of the University of California Law School at Berkeley who acted as legal counsel without pay for a group of Americans and Europeans and for four widely respected private organizations active in protecting human rights.

The four are Amnesty International; the International Commission of Jurists; the International Federation for the Rights of Man, and the International League for the Rights of Man. The league had designated Mr. Vournas to observe the Athens trial.

Professor Newman said during a telephone interview that he was "disappointed but not dismayed" by the delay, and maintained that the United Nations was testing a "revolutionary concept" in enabling citizens anywhere to write and level charges against their own governments, calling the governments to account before world opinion.

TORTURE IS REPORTED

The letters and affidavits he submitted included a number written in recent months and in 1971 that he said, showed that abuses were continuing in Greece and that torture continued to be allowed by the military Government, which seized power in a coup in 1967.

A spokesman for the Greek delegation said tonight that the delegation had not tried to break the rule of secrecy surrounding the panel and was unaware of its conclusions. The spokesman, Stephane G. Stathatos, said: "If we receive a communication we will act accordingly."

The Council of Europe, on the basis of its own inquiry in 1969, had also concluded that widespread violations were committed in Greece, including the torture of political prisoners. Greece withdrew from the council before proceedings for expulsion could take place.

Through Professor Newman, the organization known as Amnesty International is known to have submitted communications signed by more than 300 prisoners.

Amnesty International, in one communication to the United Nations, gave the names of 117 prisoners it charged were being held as of last April in seven different facilities under conditions that violated their human rights. The facilities were identified as Aegina, Eptapyrgion, Trikkala, Kergyra, Chalkis and Alikarnassos prisons and Boyati Military Camp.

Other documents also complained of abuses at Averoff Prison in Athens where women prisoners were held, and cited mistreatment of political inmates at Korydallos Prison and elsewhere.

The letters describe prison conditions as "medieval" and note that the International Committee of the Red Cross, before it was ordered out of Greece, had urged the Athens Government to close some facilities as unfit for use. One communication describes Eptapyrgion Prison as a "sunless tomb" where political prisoners are without medical treatment. Another from Kerkyra Prison on the island of Corfu, written in 1972, reports that political prisoners are kept in unheated and windowless cells.

SOLES BEATEN WITH ROD

A communication from Korydallos prison, dated January this year, names the security officers who the writer said had tortured him and administered "falanga"—beatings with a wooden rod on the soles of the feet. It said:

"The interrogation was accompanied by horrible tortures—blows, kicks—hands handcuffed behind the back for 48 hours, starvation for 36 hours, and solitary confinement for 35 days."

Another communication was attributed to a medical student and said he was arrested last October by the Athens security police. It describes his interrogation in these terms:

"They first blindfolded me, took me down the cellar with kicks and cuffs. There they made me undress and tied me to a bench. Someone started to hit me on the soles of the feet with a metal tube, while someone else had tied my genital organ with a nylon thread which he kept pulling."

A communication from Andreas I. Frangias, described as a 53-year-old engineer, says he was beaten repeatedly until he lost consciousness. It says that he repudiated a statement he signed last January because the mistreatment "took away my powers of resistance and the normal use of reason."

The subcommission's decision to put off action means that the five experts will have a heavy backlog to consider in the next 12 months. Communications on human rights matters total 10,000 to 30,000 annually but have been known to run as high as 57,000 in some years. Many reflect organized campaigns to report a relatively small number of abuses.

Informants say that communications have been sent recently charging violations of human rights in Czechoslovakia, in Indonesia, in Bangladesh, Brazil and, most recently, concerning the treatment of Asians in Uganda.

Mr. CRANSTON. Mr. President, I should like very much to ask a question of the Senator from Arkansas, but first want to extend my congratulations to him for his fine work as chairman of the Foreign Relations Committee. In the past there have been many improper and even dangerous international situations which the Senator has brought the attention of this body. I would like to ask him a question about a provision of his committee's bill that relates to one of these situations.

The able Senator from Montana (Mr. MANSFIELD) and I have been particularly concerned because American newsmen have been denied access to American bases in Thailand. They have encountered restrictions there which apparently did not prevail in South Vietnam even at the peak of our war activity there.

Mr. President, in that connection, I ask unanimous consent to have printed in the RECORD an article published in the Los Angeles Times on August 6, 1972, and written by Jack Foisie, entitled "United States-Thailand: A Collusion for Secrecy."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNITED STATES-THAILAND: A COLLUSION FOR SECRECY

(By Jack Foisie)

BANGKOK.—Despite the august pronouncements cited above, there is today almost total denial of any first-hand reporting of the American air war in Indochina by American correspondents.

The news blackout has become almost total because, for the first time in the Vietnam war, almost all U.S. Air Force warplanes are now concentrated at seven massive bases in Thailand. These bases and U.S. Army logistical back-up installations in Thailand, housing some 49,000 American servicemen, continue to be closed to newsmen—for practical reporting purposes—through a collusive arrangement between the Thai and American governments.

The bar to regularized access to U.S. military installations in Thailand was in effect when I first visited Bangkok seven years ago and asked to see U.S. servicemen. The response from American embassy officials then was and still is:

"They are on Thai bases, and you'll have to obtain permission from the Royal Thai government."

In those early years, if one were polite and patient, it was possible to make brief visits in groups or individually to some of the bases. The Thai Foreign Ministry, which processed requests, seemed sympathetic and slightly embarrassed at the incongruity of acting as the gatekeeper for Americans to meet Americans.

The U.S. Embassy was then headed by Ambassador Graham Martin, who had acceded to the Thai control of base press coverage in the first place. The embassy worked it out so that a phone call from its civilian press attaché to his counterpart at the Thai Foreign Ministry, saying that the newsman was "okay," hurried the approval. In this way, visiting columnists with pro-administration views gained immediate admission.

However, since veteran Asian diplomat Leonard Unger became ambassador four years ago, there has been a noticeable decay in those arrangements. The Thai government, always sensitive to criticism from the American Congress and press, has stiffened its attitude toward coverage of U.S. bombing from Thai bases. Since the nation came under full military rule last November, Thai foreign ministry officials say all newsmen's requests must be approved at the highest level, the National Executive Council.

Ambassador Unger's own determination to keep the American presence in Thailand as little publicized as possible has not made it any easier for a resident correspondent to do his job.

As the ranking American in Thailand, Unger has used his authority to keep the military "low profile." There are six American generals presently serving here, and it is extremely difficult to talk to them or their ranking subordinates.

The last Thai-based American general to hold a press "backgrounder" on his own was Joseph Stilwell, when he had the two-star job as head of the American Military Advisory Group. He was popular with the Thai generals, but Ambassador Unger blocked his reappointment despite their request he stay on. Stilwell, not related to Vinegar Joe Stilwell but a good deal like him, went on to Vietnam and earned a third star.

Whatever the difficulty of newsmen in penetrating the American-built, manned and maintained military bases on Thai soil, it was only an irritant so long as the air war was conducted by the 7th Air Force headquartered in Saigon, and with much of its air armada located at South Vietnamese bases which were accessible to newsmen.

However, since President Nixon's pullout of troops from Vietnam, all the high-performance jet squadrons have returned to the United States or moved to Thailand. The B-52 superbomber fleet jams every bit of space at the American-built airport-seaport complex at Utapao-Sattihip in Thailand. Other B-52s must make long flights from Guam to bomb North Vietnam because there is no more space for such planes at Utapao.

Thus, virtually all of the Air Force application of power against enemy targets in North Vietnam, Laos and Cambodia now originates in Thailand.

Despite this now-vital dependence on Thai bases—or perhaps because of it—no strenuous diplomatic effort appears to have been made to arrange with the Thai government for a more realistic method of allowing Thai and foreign correspondents to report the air war originating at American bases here.

American diplomats continue to report they are seeking to persuade the Thais to allow entry to the bases by newsmen on a regularized basis, such as usually applies in every other nation which allows the presence of large American military forces.

Ambassador Unger is said to have taken up the problem directly with Prime Minister Thanom Kittikachorn in recent weeks.

"But every time we think they're close to an agreement, one of the Thai embassies abroad sends back a story from some newsman which upsets them," an American official bemoaned.

This acute regard for Thai sensitivity has not kept Unger from "going to the mat" on other Thai-American issues he apparently considered more important.

Economic pressures, for instance, were brought to bear quickly, firmly and successfully in behalf of the Bangkok landing rights of Pan American Airways and Trans-World Airlines. This was done by diverting free-spending GIs on leave from Vietnam to other dollar-hungry Asian cities.

When it is suggested that the embassy—presumably upon the urging of the State Department and even the White House—might exert similar efforts to "crack the teakwood curtain" around the bases, the usual reply is:

"But that would be assaulting Thai sovereignty. And you know how sensitive they are about that They might even decide to force us out of Thailand."

It is true that on occasion, mostly for internal consumption, high-ranking Thais threaten to send the Americans packing. Air Chief Marshal Dawee Chullasapya, one of the "big five" in the junta government, did so only last month. But he said, with confusing logic, that it was only something to consider if George McGovern were elected President and moved to withdraw American forces from Thailand.

Just as often as the Thais express discontentment with the American presence, their generals express appreciation of the current resumption of American full-scale bombing. The end of any semblance of parliamentary government in Thailand last November resulted, among other reasons, from rising popular desire for an "understanding" with the People's Republic of China, even though it was fostering a low-level but persistent Communist insurgency in parts of Thailand. The generals wanted none of that.

To veteran observers here, it appears that the U.S. government finds the present Thai-American understanding on press coverage at American bases a convenient one, just as for years it chose to limit reporter-access to bases in Laos.

As an Air Force public relations officer said about Nakorn Phanom, a base never opened to newsmen, "when a base is classified secret, it's so easy to keep it secret."

"What if the Thais okayed our entry?" a reporter asked.

"We'd find some other reason for keeping you out," he said.

Mr. CRANSTON. Mr. President, I am therefore gratified to see that the committee bill includes a section prohibiting any foreign country—not just Thailand—from denying access to bona fide American news media correspondents seeking to enter bases maintained or constructed by American funds, and to which Americans are assigned for military operations.

But I would like clarification of the phrase "consistent with security" contained in the language of the bill. Could the distinguished chairman tell me more precisely what the committee had in mind when it approved those particular words?

Mr. FULBRIGHT. If the Senator will allow me, for the purposes of the record, I ask unanimous consent that an excerpt from page 16 be printed in the RECORD. It is the background to this provision as explained in the committee's report.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Access to U.S.-financed bases

This provision adds a new subsection 620(y) to the Foreign Assistance Act, in order to insure that American newsmen have access to overseas base facilities constructed or maintained by United States funds and used by U.S. personnel to carry out military operations. The American public, consistent with security requirements, has a legitimate right to be kept informed about activities conducted from such facilities and they rely on the news media to perform this service.

This provision, though general in scope, results from U.S. newsmen being denied access to bases in Thailand, constructed with the tax dollars of U.S. citizens, which are manned by U.S. military personnel. These bases constitute an increasingly important aspect of our involvement in the Indochina war. As U.S. Air Force contingents have been removed officially from South Vietnam, many of them have been shifted to American-built bases in Thailand, and it is from these bases that the United States now conducts a large part of the air war throughout Indochina.

Because the Thai Government has restricted access to these bases by American newsmen, the American public is in turn denied access to information about our air operations in the war. The Committee finds this situation intolerable and believes that it must be remedied.

This provision is designed to do that. It prohibits furnishing assistance under the Foreign Assistance Act to *any* country which denies American reporters access to military base facilities constructed or supported by United States funds and used by our personnel for military operations. The prohibition is not subject to waiver under Section 614(a) of the Act.

Mr. FULBRIGHT. Mr. President, I should say that initially this provision was restricted to Thailand. Then it was decided, as a result of discussion in the committee, that that was, perhaps, a little too pointed and would not be well received in some circles, so the committee made it general in application. Then it occurred to some Members that there would be countries receiving aid in which nuclear weapons were stored. This "consistent with security" was inserted with the idea that where nuclear weapons were stored, the authorities could decline to allow newsmen to enter that area of the base where the nuclear weapons were stored.

Personally, I think they make a fetish of the matter of nuclear weapons. I think the information ought to be made public. I do not approve of adding the phrase. However, that is the reason it was put in.

I think it gives an "out" which this administration has shown it will take advantage of, in order to refuse access to our overseas base facilities.

This is a wide open escape hatch. And I regret that it is in the bill. However, if the administration would abide by the intent of the committee, it would be all right. I have found them very reluctant to do that when it did not suit their purpose.

Mr. CRANSTON. Mr. President, it seems to me that on too many occasions "the flag of national security" has been used to hide the basic truth about the war in Vietnam, even when our security was not in question at all.

Does the Senator agree that the phrase "consistent with security" was not intended to prevent bona fide American correspondents from portraying an accurate picture of the air war to the American people?

Mr. FULBRIGHT. It certainly was not. Of course, the whole purpose of the amendment was to allow them to report accurately upon the air war going on there. As the Senator knows, and he has already indicated, the occasion for this amendment was the exclusion of our reporters from the Thai bases.

Mr. CRANSTON. It is my understanding that American newsmen had been given free access to the U.S. Air Force bases in South Vietnam even when our large Air Force effort originated from those bases. Clearly, the free access to those bases that was accorded the newsmen constituted no security threat to the war in Vietnam. And similarly there is no reason to expect that any newsmen should be barred from the airbases in Thailand for security reasons.

I trust that we can expect that if this provision becomes law, that would not done. Would that be the understanding of the Senator from Arkansas?

Mr. FULBRIGHT. If they abide by the law, that would be my understanding. However, we have found it very difficult in the past to enforce these restrictions. That language "consistent with security" would cause them to say, "Well, this endangers our security." And, long after the fact, someone will complain and the issue will again be raised. However, in the meantime they will have excluded the newsmen.

Mr. CRANSTON. Mr. President, the Senator has been very helpful in making plain what was and was not meant by the amendment.

Mr. FULBRIGHT. I thank the Senator.

Mr. CRANSTON. I thank the Senator from Arkansas.

Mr. AIKEN. Mr. President, I would like to ask the chairman of the committee a question about what interpretation he puts upon the amendment by Representative VANIK, which amendment was accepted by the House. That amendment would apparently call for the abrogation of our economic agreements with Russia.

The amendment reads:

On page 17, after line 12, add the following new section:

"SEC. 506. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, as amended, may be used to provide loans, credits, financial and investment assistance, or insurance guarantees on sales to or investments in any Nation which requires payment in excess of $50 or its equivalent for exit visas, exit permits, or for the right to emigrate."

I ask the chairman of the committee what interpretation he puts upon that amendment which was approved by the House.

Mr. FULBRIGHT. It is obviously intended to apply to Russia. I do not see how it could have much application other than, as the press said, to have some effect upon the use of credit facilities of the Export-Import Bank, which is not in the pending bill but was in the appropriations bill that the House passed. It is not in this bill.

Mr. AIKEN. Mr. President, does the Senator believe that this would require Russia to pay cash for what it receives from this country?

Mr. FULBRIGHT. I have had only a very limited opportunity to examine the amendment. I thoroughly disapprove of using the foreign aid bill to try to force and cajole a foreign country to change its internal policies. If I can have any influence on it, I shall not accept any such amendment.

Mr. AIKEN. I would say that if this amendment means what some people interpret it to mean, it would also mean that we would likely have no foreign aid appropriation bill this year, other than an extension of the present amount.

Mr. FULBRIGHT. I would think so. I would certainly not myself agree to accepting any such provision. I think it is wrong.

Mr. AIKEN. We have just renewed, after a great deal of trouble and a great deal of delay, economic trade with certain other countries in the world. However, I do not understand that carrying out that trade is contingent upon our taking over their governments and running their business affairs and their political affairs for them.

So if this provision means what some interpret it to mean, we should discontinue much of our economic trade with Russia. Then I would certainly feel that a continuing resolution would be the only route we could pursue. As a matter of fact, I do not approve of all of the provisions in the bill as reported by the Senate committee, as the chairman of the committee well knows. However, I would feel that the Senate should have an opportunity to act upon this type of legislation which would authorize appropriations for foreign aid. Foreign aid is still an important function of our Government.

But if it is to be loaded up with lowdown politics such matters as cancellation of the wheat deal with Russia then it is better to have no bill at all. This action of the House I consider to be primarily political action and harmful to the United States.

Mr. FULBRIGHT. I feel it is inappropriate to the bill. I might say to the Senator from Vermont that there have been other instances in the past, many instances in which various members have sought to use the foreign aid bill to accomplish their own ulterior purposes, which had nothing to do with foreign aid. It is one of the reasons I have become disillusioned with this whole program. I do not believe it is any longer in the interest of the United States to carry on the bilateral foreign aid program, especially military aid, but even in the economic field, except in some very restricted areas.

If we can afford to do anything substantially in assisting other countries it should be done through multilateral organizations, not because I think they are perfect in their operations, but because they insulate the program from this type of effort. They offer better prospects for fending off this type of amendment.

I would also say in view of our financial situation and the deplorable condition of our domestic economy, with inflation, and so forth, it is high time we cut back on all of these efforts and give priority to our own country, which is our strength, and rebuild it and then reconsider foreign aid.

Mr. AIKEN. I appreciate the statement of the Senator about carrying on foreign aid programs through multilateral organizations. I would not give up entirely on bilateral organizations because in some cases they might be wholly advisable. Further than that, I agree with the chairman that there should be a better understanding of the degree of our participation in these programs. I think we should work toward a limit of 25 percent on all these programs for the United States.

We have it now on—I think we have it or hope to—as it applies to the United Nations establishment itself. That purpose should properly be extended to virtually all the multilateral subsidiary programs, but I would not give up entirely the bilateral programs for foreign aid because there are instances, and we do not know when that might arise, when they would be very important.

Mr. FULBRIGHT. I am particularly opposed to military aid. I feel it is wrong for a big and powerful country to inject itself into the military affairs of these smaller and weaker countries. This is a very sensitive subject—the source of their nationalism and independence. If we are going to do anything at all, we ought to help them. This should be done with restraint; help them in their own economic affairs to where they can take care of their own military affairs.

I do not think that is what we are doing. I think we have started here a tremendous military aid and sales operation with vast amounts of money involved, with vast interests, not only of the Pentagon, but manufacturers of arms; it is part of the industrial complex, and they are selling these things like hotcakes or automobiles, without regard to the effect on the recipient country. If we give them these things, and at cheap rates, we create a market we would not otherwise have. I think it is harmful to world peace and to the economy of the countries involved.

In Latin America many countries receive military assistance. It is not a lot individually, but it is substantial in the aggregate. I do not think we have any business giving them any military aid. For a country trying to do its best, I agree with the Senator from Vermont that we could look with favor on economic aid and that that might enable them to maintain some army does not disturb me too much. But we are not directly involved in that. That is where I draw the line. I do not want to give military aid directly.

Mr. AIKEN. We are selling arms to other countries. They do apply to us for military assistance and military equipment. Those who plan to buy it come back to us and say, "If you do not sell it to us at a reasonable price we will get it from some of these peace-loving countries that make quite a lot of business out of making and selling arms."

Another thing we have contended with is that some countries that we sell arms to, and I suppose at reasonable prices, after a while call them secondhand or obsolete and they offer them to other countries. So the sale of arms is quite a big business in the world and it does have political effects as well as economic effects. But as for the countries we have helped to feed themselves, and I think of the food for peace program or Public Law 480 as the rest of the world knows it where we have helped them overcome famine, as a rule have become better customers of ours; their living standard rises and they become better customers of the whole world.

The economy of the world, as a whole, is improving. That is why I am so concerned about the amendment the House approved yesterday. I do not want to see the price of wheat going down 60 cents a bushel, which has been the reasonable increase in the price, but it could if we were forced to cancel the business with Russia and China.

Boeing Aircraft Co. is getting not only substantial orders from Mainland China but from our airlines as well. That is good. Whether more business means that they simply have more money to lose, I do not know. But I do go with most of the ideas of the chairman, not all of them, but particularly on doing more business multilaterally, and at the same time I would reserve the right for bilateral assistance to countries where we alone would be the principal partner.

I thank the Senator.

Mr. FULBRIGHT. I appreciate the comments of the Senator from Vermont, the ranking Republican member of our committee. He gives very serious consideration to these matters. He is greatly experienced in them.

I wish to remind him that a year or so ago we held hearings on arms sales. It is not always other countries that approach us. We have some of the most aggressive arms salesmen in the world, some of them representing private interests, where they acquire these arms from the Government at cheap prices and then peddle them abroad.

In addition, the Defense Department drums up its own trade. They go to these countries and solicit their business; they offer them concessional terms. If they cannot pay for them, they give arms to them. They give these countries easy terms and low interest rates.

I believe this bill extends from 10 to 20 years the repayment period on military credit sales. In other words, it is not just a question of sitting and waiting for other countries to ask for arms; we aggressively seek to sell them arms, and we have done it in the most aggressive way of any nation in the world. We have military missions in 47 countries. These are composed of colonels, majors, generals. They are well financed. There is a lot of money appropriated for those missions. One of their main purposes is to induce the respective countries where they are accredited to buy arms from us, and they succeed in a big way.

I want to call attention to the September 8 issue of the Defense Monitor, from the Center for Defense Information. This organization was recently established under the direction of Rear Adm. Gene R. LaRoque, of the U.S. Navy, a very distinguished admiral who has commanded everything, I think, from destroyers and submarines to aircraft carriers, and a very able man indeed. I have met with him, as many of my colleagues have on various occasions. He is, I think, an extremely intelligent and dedicated man.

This issue of the Defense Monitor is entitled "Military Assistance: Arsenal for Democracy?" I want to read a few parts of it.

I ask unanimous consent that the entire issue be included as a part of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Defense Monitor, Sept. 8, 1972]

MILITARY ASSISTANCE: ARSENAL FOR DEMOCRACY?

DEFENSE MONITOR IN BRIEF

This year the U.S. will provide over $9.5 billion in military assistance to foreign countries.

Prior to 1946, the U.S. gave no military assistance to any foreign nation in peacetime.

Military assistance is supplied in a variety of forms, some of which the public is unaware and the Congress does not debate.

Certain major military assistance programs bypass Congress and do not appear in Administration budgets.

Part of the Food for Peace Program is used to provide funds for weapons.

Military assistance is designed to promote world peace and strengthen the security of the U.S.

Frequently it does neither, U.S. aid sometimes facilitates military conflict and weakens America's security by over-involvement.

The U.S. supplies well over half of all armaments to the nations of the world that are not allied with the USSR.

The U.S. military assistance will go to 64 nations in 1973.

Twenty-five of these nations are governed by the military or permit no open opposition to the government.

Many of these nations contain forces striving for change that may be suppressed with American arms.

The United States will provide about $9.5 billion in various forms of foreign military aid during fiscal year 1973.

This $9.5 billion figure appears nowhere in the Federal Budget, but is the total of 17 separate programs administered by several agencies and financed by various appropriations acts. Two billion of this military assistance appears in the Foreign Assistance bill, and another $3 billion is in the Defense Budget. Over $4 billion of it does not require Congressional authorization and therefore is relatively unknown to the public.

The 17 Military Assistance programs and amounts projected for 1973 appear in Table I. They can be divided into four categories:

Category I includes all the assistance funded by a direct appropriation by the Congress. Category II are funds buried in the Defense Department budget earmarked for the support of countries in Southeast Asia. Funding for Southeast Asia was taken out of the foreign assistance appropriation in 1965 on grounds that it was an integral part of the Vietnam war. Category III involves no budget appropriation and includes cash sales and transfers of military equipment by the Pentagon. The Pentagon runs these programs with little oversight by Congress or by any other Executive Agency, including the State Department. Category IV involves use of money from the Food for Peace program (PL 480). Under the Food for Peace Law, some agricultural commodities are given to foreign countries with no payment. Money that would have been paid the U.S. can be used by recipient countries for purchase of military weapons.

MILITARY AID IS GOING UP

The billions projected for 1973 are nearly three times those listed for military assistance programs in 1965. Major trends are:

Category I—Direct Military Assistance Appropriated:

Grant military aid under the Foreign Assistance program doubled from $400 million in 1969 to $803 million for 1973.

The grant military aid program planned for 1973 includes a five-fold increase in delivery of air defense missiles to foreign countries over 1972—from $5 million to $26 million.

Aircraft deliveries under the grant aid programs are scheduled to double between 1972 and 1973—from $65 million to $121 million. Most aircraft are helicopters and fighters and are for Southeast Asia.

Category II—Military Assistance in Defense Appropriation:

Military assistance to Southeast Asia funded by the military service has increased from $34 million in 1965 to $2.9 billion projected for 1973. This will continue to increase as U.S. troops leave Vietnam.

Category III—No Budget Appropriation Required:

Defense Department cash and credit sales deliveries have increased from $892 million in 1966 to an estimated $2.8 billion in 1972. Sales are often at bargain prices.

Commercial military sales have increased from $274 million in 1965 to a projected $723 million for 1973. Transfer of excess defense articles has gone from $85 million in 1965 to a projected $245 million for 1973.

On a regional basis, the most rapid increases in overall military assistance since 1965 have been in East Asia, due to the Vietnam war.

Defense Secretary Laird, in testifying recently in Congress for assistance said:

"If we are going to reduce the burdens on the United States for free world defense while maintaining our treaty commitments in a period of increasing threats, it can only come from a willingness to support a strong security assistance program."

Mr. Laird does not describe what "increasing threats" exist and/or where they must be met.

TABLE 1—*Various categories of military assistance, fiscal year 1973*

I. Direct military assistance appropriated (Foreign Assistance Act):	
Military assistance program (grant aid)	$803,000,000
Foreign military credit sales	629,000,000
Security supporting assistance	875,000,000
Public safety	7,000,000
Subtotal	2,314,000,000
II. Military assistance in Defense appropriation:[1]	
Military assistance service funded	[2] 2,500,000,000
Military assistance advisory groups, military groups, pay and allowances	272,000,000
International military headquarters	74,000,000
NATO infrastructure (military construction)	48,000,000
Purchase of local currency, above market rates	92,000,000
Subtotal	2,986,000,000
III. No budget appropriation required:	
Excess defense articles[3]	245,000,000
Ship loans[3]	40,000,000
Transfer of defense stocks	106,000,000
Real property transfers	486,000,000
Export-Import Bank military loans	360,000,000
Foreign military cash sales (DOD)	2,200,000,000
Commercial military sales	723,000,000
Subtotal	4,160,000,000
IV. Agriculture appropriation: Public Law 480, part of the Food for Peace program	124,000,000
Total military assistance in 1973	9,584,000,000

[1] Does not include an additional $2,800,000 to Advanced Research Projects Agency (ARPA): $1,800,000 for Project Agile, a counterinsurgency program directed abroad, and $1,000,000 for border surveillance in Korea.

[2] Now $2,900,000,000.

[3] One-third acquisition value.

Sources: Recent congressional publications on foreign and military assistance and defense appropriations; the fiscal year 1973 budget.

MILITARY AID IN PERSPECTIVE

U.S. military assistance presently goes to sixty-four countries.

Some 50,074 US military personnel are employed administering these programs, 27,000 of them abroad.

In contrast to the $9.5 billion US military assistance for 1973, US economic and humanitarian aid will be $3.7 billion.

According to Defense Department figures, which do not include all forms of military assistance, the US during 1950–1970 provided approximately 70 percent of all armaments supplied to neutral nations and those allied to the US.

NO COORDINATED POLICY

In Congress, those military aid programs which come under the Foreign Assistance Act are reviewed by the Foreign Relations Foreign Affairs Committee. Those coming under Defense Department appropriations are handled by the Armed Services Committees. Within the executive branch, the Defense Department administers most military aid programs, but the Agency for International Development handles supporting assistance and the State Department handles export licenses for commercial sale of weapons abroad.

In an attempt to coordinate military assistance programs, a new position of Under-Secretary of State for Coordinating Security Assistance Programs, has been created. However, comprehensive military assistance budgets have not been developed or made available to Congress or the public. The Defense Department did provide Congress this year with listings that accounted for $5.9 billion of the planned military assistance. The listings omitted certain programs—notably sales—that would bring the total to over $9.5 billion.

PURPOSES OF MILITARY AID

After World War II the United States gave military aid to Europe and sent military forces there to contain "Soviet Expansion." This containment policy was extended world-wide, and by the mid-60's the United States had military commitments and/or aid programs with 86 foreign countries.

Today "containment" is no longer the guiding doctrine of American foreign policy, yet much military effort continues to follow the old guidelines. The US retains 192 major and 1,221 minor military facilities overseas. We still station more than 566,000 military personnel in foreign countries, over half of them in Europe. There is a need to bring military policy into line with the new goals of foreign policy expressed by the President. There is a need to reassess our overall military assistance program and the stationing of large numbers of US troops in foreign lands. Certainly, there is a need to reconstruct our military aid programs.

US aid is to "strengthen the security of the United States" but involvement in many places runs directly counter to longrun American interests, such as reduction of world tensions and balance of payments deficits. US security is not improved by arming both India and Pakistan, Jordan and Israel, Honduras and El Salvador. Such involvement earn the emnity of both parties.

Details of the nature of much assistance are classified secret: $508,640,000 goes to the Middle East—Israel, Lebanon, Saudi Arabia and Jordan.

TABLE II.—TOP 10 RECIPIENTS[1]

10 countries	1973 military assistance	1973 non-military aid
South Vietnam	$2,959,900,000	$131,266,000
Laos	438,300,000	4,999,000
Korea	428,600,000	173,294,000
Cambodia	326,525,000	30,018,000
Iran	207,232,000	2,344,000
Turkey	153,303,000	71,014,000
Taiwan	113,374,000	
Thailand	99,686,000	20,370,000
Greece	97,974,000	
Australia	90,000,000	
Secret	530,895,000	
Total, this listing	5,445,789,000	433,305,000

[1] Military assistance for all categories in 1973, but exclusive of cash sales, property transfers, NATO infrastructure and international headquarters, comes to $5,887,496,000. 80 percent goes to 10 countries.

The US provides military assistance to 25 countries governed by the military or with no open political opposition. They are:

China (Taiwan), South Vietnam, Indonesia, Cambodia, Thailand.

Greece, Iran, Jordan, Saudi Arabia.

Spain, Portugal.

Ghana, Libya, Nigeria, Zaire, Ethiopia.

Argentina, Bolivia, Brazil, Ecuador, Guatemala, Nicaragua, Panama, Paraguay, Peru.

CONCLUSIONS

The secrecy surrounding much of our military assistance programs limits informed reasoning by the public and the Congress. The $9.5 billion for Military Assistance in 1973 is egregiously high.

The seventeen different programs are not coordinated to provide a comprehensive picture that can be related to foreign policy objectives.

US military aid programs are in need of revision because the use that many countries make of this assistance is sometimes inimical to world order and US interests.

US Military Assistance to 25 countries with military and dictatorial governments perpetuates these governments and may encourage the formation of other like governments.

The outflow of US arms and military equipment to 64 foreign countries in 1973 sets a poor example to the rest of the world.

Mr. FULBRIGHT. I may say there are some graphs which I assume will not be possible to reproduce, but I think most of it can be. It is important because the bill before us looks quite small in amount. It has only $1.4 billion for military assistance, and it gives the impression to those who read quickly, without bothering to be familiar with the whole gamut of aid, that this is all the military assistance there is. It is no such thing. This is only a very small part of it. I quote from the Defense Monitor:

> The United States will provide about $9.5 billion in various forms of foreign military aid during fiscal year 1973.
>
> This $9.5 billion figure appears nowhere in the Federal Budget, but is the total of 17 separate programs administered by several agencies and financed by various appropriations acts. Two billion of this military assistance appears in the Foreign Assistance bill, and another $3 billion is in the Defense Budget. Over $4 billion of it does not require Congressional authorization and therefore is relatively unknown to the public.
>
> The 17 Military Assistance programs and amounts projected for 1973 appear in Table I. (See page 2) They can be divided into four categories:
>
> Category I includes all the assistance funded by a direct appropriation by the Congress. Category II are funds buried in the Defense Department budget earmarked for the support of countries in Southeast Asia. Funding for Southeast Asia was taken out of the foreign assistance appropriation in 1965 on grounds that it was an integral part of the Vietnam war. Category III involves no budget appropriation and includes cash sales and transfers of military equipment by the Pentagon. The Pentagon runs these programs with little oversight by Congress or by any other Executive Agency, including the State Department. Category IV involves use of money from the Food for Peace program (PL 480). Under the Food for Peace Law, some agricultural commodities are given to foreign countries with no payment. Money that would have been paid the U.S. can be used by recipient countries for purchase of military weapons.
>
> MILITARY AID IS GOING UP
>
> The billions projected for 1973 are nearly three times those listed for military assistance programs in 1965. Major trends are.
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> CATEGORY I—DIRECT MILITARY ASSISTANCE APPROPRIATED
>
> Grant military aid under the Foreign Assistance program doubled from $400 million in 1969 to $803 million in 1973.
>
> The grant military aid program planned for 1973 includes a five-fold increase in delivery of air defense missiles to foreign countries over 1972—from $5 million to $26 million.
>
> Aircraft deliveries under the grant aid program are scheduled to double between 1972 and 1973—from $65 million to $121 million. Most aircraft are helicopters and fighters and are for Southeast Asia.
>
> CATEGORY II—MILITARY ASSISTANCE IN DEFENSE APPROPRIATION
>
> Military assistance to Southeast Asia funded by the military services has increased from $34 million in 1965 to $2.5 billion projected for 1973. This will continue to increase as U.S. troops leave Vietnam.

I may say this goes up so fast that even the Center for Defense Information cannot keep up with it. That figure of $2.5 billion has already been raised within the last few days to $2.9 billion. In fact, all these figures, I may say, are the closest estimates at the time they were prepared. There will be variations as they go through the various committees of the Congress.

I call attention to category 1, which is headed "Direct Military Assistance Appropriated." That word should be "requested," because these are appropriation requests. They have not yet been finally acted upon. These are appropriation requests. These appropriation requests, according to the Defense Monitor, total $2.314 billion. I hope that nothing near such an amount will be appropriated.

Under category 3, I merely wish to comment that no budget appropriation is required. I would explain that in that category are Export-Import Bank military loans, foreign military cash sales—DOD—and commercial military sales, which are carried here by the center for the purpose of giving some perspective on the volume and the magnitude of our involvement in the supplying of military equipment around the world.

The cash sales and the commercial military sales are not aid in the sense of using taxpayers' money. I think there is an element of aid in the sense that they do have the advantage of the know-how and the influence of the Defense Department in the case of cash military sales, which are estimated at $2.2 billion for this fiscal year. The DOD, of course, is the intermediary, it is the middleman, between the manufacturer and the foreign country. They facilitate the sales. They do give assistance, and they are a considerable element of assistance in the time. effort, and so forth, but this type of arrangement does not include the actual granting of money as in the case of category 1, for example, where they are given grant aid, credit sales, and supporting assistance.

I want to read one other paragraph, and then I shall conclude on this matter:

> MILITARY AID IN PERSPECTIVE
>
> U.S. military assistance presently goes to 64 countries.
>
> Some 50,074 U.S. military personnel are employed administering these programs, 27,000 of them abroad.

Think of it: Over 50,000 military personnel, according to the Monitor, are de voted to these various military assistance programs. Think what that costs in time and money.

This issue of the Monitor also contains this interesting comparison:

> In contrast to the $9.5 billion U.S. military assistance for 1973, U.S. economic and humanitarian aid will be $3.7 billion.
>
> According to Defense Department figures, which do not include all forms of military assistance, the U.S. during 1950–1970 provided approximately 70 percent of all armaments supplied to neutral nations and those allied to the U.S.

There is a very striking comment here on the purposes of military aid. I shall read just one part of it:

> U.S. aid is to "strengthen the security of the United States" but involvement in many places runs directly counter to longrun American interests, such as reduction of world tensions and balance of payments deficits, U.S. security is not improved by arming both India and Pakistan, Jordan and Israel, Honduras and El Salvador. Such involvements earn the emnity of both parties

Details of the nature of much assistance are classified secret; $508,640,000 goes to the Middle East—Israel, Lebanon, Saudi Arabia, and Jordan.

The U.S. provides military assistance to 25 countries governed by the military or with no open political opposition.

Mr. President, I think that is an extremely interesting comment by a group of experts.

As Senators know, it has been agreed by unanimous consent that the votes on the Scott amendment and the Stennis amendment will take place at 1:30 on next Tuesday. It is my understanding that in the meantime any other amendments are in order. I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 13, strike out lines 10 and 11, and insert in lieu thereof the following: out "$500,000,000 for the fiscal year 1972" and insert in lieu thereof "$400,000,000 for the fiscal year 1973".

Mr. FULBRIGHT. Mr. President, I offer this amendment to reduce the authorization for military grant aid to $400 million, $100 million less than the amount in the bill as reported by the committee.

In my earlier statement I cited the figures on the budget deficit. They bear repeating because—make no mistake about it—this bill authorizes more deficit spending and an increase in the debt burden borne by every American taxpayer.

In the last 3 fiscal years the Federal Government's deficit, excluding the trust funds, has totaled $72 billion. The deficit for the current fiscal year is officially estimated at $38 billion. Many experts say that it is more likely to be $45 billion. The Federal debt now exceeds $437 billion—more than $2,000 for every man, woman, and child in the United States.

Last year the balance-of-payments deficit set a new record of $30 billion, a record likely to be broken this year, depending to some extent upon the final outcome of the sale of unusually large amounts of wheat, at a very low price relative to the world price, but nevertheless it could have a major effect on the deficit. And in 1971, for the first time since 1888, the Nation had a trade deficit. There will be an even larger trade imbalance this year.

In sum, our Nation's fiscal situation is perilous. This is no time to be giving foreign countries hundreds of millions of arms—arms which in no way enhance security of the American people.

The military aid bill reported by the Foreign Relations Committee would add $1.45 billion to the Federal debt to buy arms and military supplies for 47 countries around the world. But this is not by any means the true picture of what the United States is doing to arm other countries. In this fiscal year, the executive branch proposes to give or sell a total of $8.5 billion in arms, or budget support for arms, to foreign countries, five times the total authorizations proposed by this bill—$5.6 billion of that is in the form of grants or on easy credit terms. This bill, for example, does not contain the authorizations for military aid to South Vietnam, Laos, or the Korean forces stationed in South Vietnam. Nor does it involve the Government's cash sales or commercial sales of weapons.

In fiscal year 1970 Congress authorized and appropriated $350 million for grant military assistance. This bill proposes to authorize $500 million, an increase of $150 million. The Federal deficit in 1970 was $13 billion, one-third the $38 billion estimate for 1973. We have a vast backlog of unmet needs here at home—every Senator knows the great needs of his own State.

I propose that we cut $100 million from the amount this bill proposes to add to the $430 billion deficit in order to devote this money to solving some of our own problems. The security of the American people will not suffer one iota if we cut $100 million from these free gifts of tanks, planes, and guns. But the welfare of our constituents may be advanced by freeing Federal funds for programs that can improve the quality of life here at home.

I might add that my amendment will, in no way, affect Israel, since Israel does not receive military grant aid. And, Senators should realize that adoption of my amendment will still allow $50 million more than Congress appropriated 3 years ago.

Mr. President, I urge that the Senate approve this modest cut in the military grant aid provided in the bill.

CALL OF THE ROLL

Mr. AIKEN. Mr. President, I suggest the absence of a quorum. I think that more than five Senators should be present before action is taken on this amendment.

The PRESIDING OFFICER. Does the Senator suggest the absence of a quorum?

Mr. AIKEN. I suggest a quorum call.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 466 Leg.]

Aiken
Allen
Anderson
Bayh
Beall
Byrd.
  Harry F., Jr.
Byrd, Robert C.
Chiles
Cooper
Cranston
Fulbright
Gambrell
Gurney
Hart
Hruska
Jackson
Jordan, Idaho
Mansfield
Mathias
Montoya
Moss
Pearson
Ribicoff
Roth
Scott
Smith
Stevenson
Young

The PRESIDING OFFICER (Mr. HART). A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names:

Bennett
Bible
Brock
Brooke
Burdick
Cannon
Case
Church
Cotton
Curtis
Dole
Eagleton
Ervin
Fannin
Fong
Gravel
Harris
Hollings
Humphrey
Inouye
Javits
Kennedy
Long
Magnuson
McClellan
McGee
Miller
Nelson
Packwood
Pastore
Percy
Proxmire
Randolph
Schweiker
Spong
Stennis
Stevens
Symington
Talmadge
Tunney
Weicker
Williams

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Iowa (Mr. HUGHES), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PELL), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN) and the Senator from Indiana (Mr. HARTKE) are absent on official business.

Mr. SCOTT. I announce that the Senators from Colorado (Mr. ALLOTT and Mr. DOMINICK), the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Delaware (Mr. BOGGS), the Senator from New York (Mr. BUCKLEY), the Senator from Kentucky (Mr. COOK), the Senator from Michigan (Mr. GRIFFIN), the Senator from Wyoming (Mr. HANSEN), the Senator from Oregon (Mr. HATFIELD), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Arizona (Mr. GOLDWATER) is absent on official committee business on the west coast and also celebrating a wedding anniversary.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senators from Ohio (Mr. SAXBE and Mr. TAFT) and the Senator from Vermont (Mr. STAFFORD) are absent on official business to attend the Interparliamentary Union meetings.

The PRESIDING OFFICER. A quorum is present.

TECHNOLOGY ASSESSMENT ACT OF 1972—CONFERENCE REPORT

Mr. CANNON. Mr. President, I submit a report of the committee of conference on H.R. 10243, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 10243) to establish an Office of Technology Assessment for the Congress as an aid in the identification and consideration of existing and probable impacts of technological application; to amend the National Science Foundation

Act of 1950; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report, which reads as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 10243) to establish an Office of Technology Assessment for the Congress as an aid in the identification and consideration of existing and probable impacts of technological application; to amend the National Science Foundation Act of 1950; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Technology Assessment Act of 1972".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. The Congress hereby finds and declares that:

(a) As technology continues to change and expand rapidly, its applications are—

(1) large and growing in scale; and

(2) increasingly extensive, pervasive, and critical in their impact, beneficial and adverse, on the natural and social environment.

(b) Therefore, it is essential that, to the fullest extent possible, the consequences of technological applications be anticipated, understood, and considered in determination of public policy on existing and emerging national problems.

(c) The Congress further finds that:

(1) the Federal agencies presently responsible directly to the Congress are not designed to provide the legislative branch with adequate and timely information, independently developed, relating to the potential impact of technological applications, and

(2) the present mechanisms of the Congress do not and are not designed to provide the legislative branch with such information.

(d) Accordingly, it is necessary for the Congress to—

(1) equip itself with new and effective means for securing competent, unbiased information concerning the physical, biological, economic, social, and political effects of such applications; and

(2) utilize this information, whenever appropriate, as one factor in the legislative assessment of matters pending before the Congress, particularly in those instances where the Federal Government may be called upon to consider support for, or management or regulation of, technological applications.

ESTABLISHMENT OF THE OFFICE OF TECHNOLOGY ASSESSMENT

SEC. 3. (a) In accordance with the findings and declaration of purpose in section 2, there is hereby created the Office of Technology Assessment (hereinafter referred to as the "Office") which shall be within and responsible to the legislative branch of the Government.

(b) The Office shall consist of a Technology Assessment Board (hereinafter referred to as the "Board") which shall formulate and promulgate the policies of the Office, and a Director who shall carry out such policies and administer the operations of the Office.

(c) The basic function of the Office shall be to provide early indications of the probable beneficial and adverse impacts of the applications of technology and to develop other coordinate information which may assist the Congress. In carrying out such function, the Office shall:

(1) identify existing or probable impacts of technology or technological programs;

(2) where possible, ascertain cause-and-effect relationships;

(3) identify alternative technological methods of implementing specific programs;

(4) identify alternative programs for achieving requisite goals;

(5) make estimates and comparisons of the impacts of alternative methods and programs;

(6) present findings of completed analyses to the appropriate legislative authorities;

(7) identify areas where additional research or data collection is required to provide adequate support for the assessments and estimates described in paragraph (1) through (5) of this subsection; and

(8) undertake such additional associated activities as the appropriate authorities specified under subsection (d) may direct.

(d) Assessment activities undertaken by the Office may be initiated upon the request of:

(1) the chairman of any standing, special, or select committee of either House of the Congress, or of any joint committee of the Congress, acting for himself or at the request of the ranking minority member or a majority of the committee members;

(2) the Board; or

(3) the Director, in consultation with the Board.

(e) Assessments made by the Office, including information, surveys, studies, reports, and findings related thereto, shall be made available to the initiating committee or other appropriate committees of the Congress. In addition, any such information, surveys, studies, reports, and findings produced by the Office may be made available to the public except where—

(1) to do so would violate security statutes; or

(2) the Board considers it necessary or advisable to withhold such information in accordance with one or more of the numbered paragraphs in section 552(b) of title 5, United States Code.

TECHNOLOGY ASSESSMENT BOARD

SEC. 4. (a) The Board shall consist of thirteen members as follows:

(1) six Members of the Senate, appointed by the President pro tempore of the Senate, three from the majority party and three from the minority party;

(2) six Members of the House of Representatives appointed by the Speaker of the House of Representatives, three from the majority party and three from the minority party; and

(3) the Director, who shall not be a voting member.

(b) Vacancies in the membership of the Board shall not affect the power of the remaining members to execute the functions of the Board and shall be filled in the same manner as in the case of the original appointment.

(c) The Board shall select a chairman and a vice chairman from among its members at the beginning of each Congress. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman. The chairmanship and the vice chairmanship shall alternate between the Senate and the House of Representatives with each Congress. The chairman during each even-numbered Congress shall be selected by the Members of the House of Representatives on the Board from among their number. The vice chairman during each Congress shall be chosen in the same manner from that House of Congress other than the House of Congress of which the chairman is a Member.

(d) The Board is authorized to sit and act at such places and times during the sessions, recesses, and adjourned periods of Congress, and upon a vote of a majority of its members, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths and affirmations, to take such testimony, to procure such printing and binding, and to make such expenditures, as it deems advisable. The Board may make such rules respecting its organization and procedures as it deems necessary, except that no recommendation shall be reported from the Board unless a majority of the Board assent. Subpenas may be issued over the signature of the chairman of the Board or of any voting member designated by him or by the Board, and may be served by such person or persons as may designated by such chairman or member. The chairman of the Board or any voting member thereof may administer oaths or affirmations to witnesses.

DIRECTOR AND DEPUTY DIRECTOR

SEC. 5. (a) The Director of the Office of Technology Assessment shall be appointed by the Board and shall serve for a term of six years unless sooner removed by the Board. He shall receive basic pay at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(b) In addition to the powers and duties vested in him by this Act, the Director shall exercise such powers and duties as may be delegated to him by the Board.

(c) The Director may appoint with the approval of the Board, a Deputy Director who shall perform such functions as the Director may prescribe and who shall be Acting Director during the absence or incapacity of the Director or in the event of a vacancy in the office of Director. The Deputy Director shall receive basic pay at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(d) Neither the Director nor the Deputy Director shall engage in any other business, vocation, or employment than that of serving as such Director or Deputy Director, as the case may be; nor shall the Director or Deputy Director, except with the approval of the Board, hold any office in, or act in any capacity for, any organization, agency, or institution with which the Office makes any contract or other arrangement under this Act.

AUTHORITY OF THE OFFICE

SEC. 6. (a) The Office shall have the authority, within the limits of available appropriations, to do all things necessary to carry out the provisions of this Act, including, but without being limited to, the authority to—

(1) make full use of competent personnel and organizations outside the Office, public or private, and form special ad hoc task forces or make other arrangements when appropriate;

(2) enter into contracts or other arrangements as may be necessary for the conduct of the work of the Office with any agency or instrumentality of the United States, with any State, territory, or possession or any political subdivision thereof, or with any person, firm, association, corporation, or educational institution, with or without reimbursement, without performance or other bonds, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5);

(3) make advance, progress, and other payments which relate to technology assessment without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529);

(4) accept and utilize the services of voluntary and uncompensated personnel necessary for the conduct of the work of the Office

and provide transportation and subsistence as authorized by section 5703 of title 5, United States Code, for persons serving without compensation;

(5) acquire by purchase, lease, loan, or gift, and hold and dispose of by sale, lease, or loan, real and personal property of all kinds necessary for or resulting from the exercise of authority granted by this Act; and

(6) prescribe such rules and regulations as it deems necessary governing the operation and organization of the Office.

(b) Contractors and other parties entering into contracts and other arrangements under this section which involve costs to the Government shall maintain such books and related records as will facilitate an effective audit in such detail and in such manner as shall be prescribed by the Office, and such books and records (and related documents and papers) shall be available to the Office and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination.

(c) The Office, in carrying out the provisions of this Act, shall not, itself, operate any laboratories, pilot plants, or test facilities.

(d) The Office is authorized to secure directly from any executive department or agency information, suggestions, estimates, statistics, and technical assistance for the purpose of carrying out its functions under this Act. Each such executive department or agency shall furnish the information, suggestions, estimates, statistics, and technical assistance directly to the Office upon its request.

(e) On request of the Office, the head of any executive department or agency may detail, with or without reimbursement, any of its personnel to assist the Office in carrying out its functions under this Act.

(f) The Director shall, in accordance with such policies as the Board shall prescribe, appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act.

ESTABLISHMENT OF THE TECHNOLOGY ASSESSMENT ADVISORY COUNCIL

SEC. 7. (a) The Office shall establish a Technology Assessment Advisory Council (hereinafter referred to as the "Council"). The Council shall be composed of the following twelve members:

(1) ten members from the public, to be appointed by the Board, who shall be persons eminent in one or more fields of the physical, biological, or social sciences or engineering or experienced in the administration of technological activities, or who may be judged qualified on the basis of contributions made to educational or public activities;

(2) the Comptroller General; and

(3) the Director of the Congressional Research Service of the Library of Congress.

(b) The Council, upon request by the Board, shall—

(1) review and make recommendations to the Board on activities undertaken by the Office or on the initiation thereof in accordance with section 3(d);

(2) review and make recommendations to the Board on the findings of any assessment made by or for the Office; and

(3) undertake such additional related tasks as the Board may direct.

(c) The Council, by majority vote, shall elect from its members appointed under subsection (a) (1) of this section a Chairman and a Vice Chairman, who shall serve for such time and under such conditions as the Council may prescribe. In the absence of the Chairman, or in the event of his incapacity, the Vice Chairman shall act as Chairman.

(d) The term of office of each member of the Council appointed under subsection (a) (1) shall be four years except that any such member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. No person shall be appointed a member of the Council under subsection (a) (1) more than twice. Terms of the members appointed under subsection (a) (1) shall be staggered so as to establish a rotating membership according to such method as the Board may devise.

(e) (1) The members of the Council other than those appointed under subsection (a) (1) shall receive no pay for their services as members of the Council, but shall be allowed necessary travel expenses (or, in the alternative, mileage for use of privately owned vehicles and a per diem in lieu of subsistence at not to exceed the rate prescribed in sections 5702 and 5704 of title 5, United States Code), and other necessary expenses incurred by them in the performance of duties vested in the Council, without regard to the provisions of subchapter 1 of chapter 57 and section 5731 of title 5, United States Code, and regulations promulgated thereunder.

(2) The members of the Council appointed under subsection (a) (1) shall receive compensation for each day engaged in the actual performance of duties vested in the Council at rates of pay not in excess of the daily equivalent of the highest rate of basic pay set forth in the General Schedule of section 5332(a) of title 5, United States Code, and in addition shall be reimbursed for travel, subsistence, and other necessary expenses in the manner provided for other members of the Council under paragraph (1) of this subsection.

UTILIZATION OF THE LIBRARY OF CONGRESS

SEC. 8. (a) To carry out the objectives of this Act, the Librarian of Congress is authorized to make available to the Office such services and assistance of the Congressional Research Service as may be appropriate and feasible.

(b) Such services and assistance made available to the Office shall include, but not be limited to, all of the services and assistance which the Congressional Research Service is otherwise authorized to provide to the Congress.

(c) Nothing in this section shall alter or modify any services or responsibilities, other than those performed for the Office, which the Congressional Research Service under law performs for or on behalf of the Congress. The Librarian is, however, authorized to establish within the Congressional Research service such additional divisions, groups, or other organizational entities as may be necessary to carry out the purposes of this Act.

(d) Services and assistance made available to the Office by the Congressional Research Service in accordance with this section may be provided with or without reimbursement from funds of the Office, as agreed upon by the Board and the Librarian of Congress.

UTILIZATION OF THE GENERAL ACCOUNTING OFFICE

SEC. 9. (a) Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel, and procurement) and such other services as may be appropriate shall be provided the Office by the General Accounting Office.

(b) Such services and assistance to the Office shall include, but not be limited to, all of the services and assistance which the General Accounting Office is otherwise authorized to provide to the Congress.

(c) Nothing in this section shall alter or modify any services or responsibilities, other than those performed for the Office, which the General Accounting Office under law performs for or on behalf of the Congress.

(d) Services and assistance made available to the Office by the General Accounting Office in accordance with this section may be provided with or without reimbursement from funds of the Office, as agreed upon by the Board and the Comptroller General.

COORDINATION WITH THE NATIONAL SCIENCE FOUNDATION

SEC. 10. (a) The Office shall maintain a continuing liaison with the National Science Foundation with respect to—

(1) grants and contracts formulated or activated by the Foundation which are for purposes of technology assessment; and

(2) the promotion of coordination in areas of technology assessment, and the avoidance of unnecessary duplication or overlapping of research activities in the development of technology assessment techniques and programs.

(b) Section 3(b) of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1862(b)), is amended to read as follows:

"(b) The Foundation is authorized to initiate and support specific scientific activities in connection with matters relating to international cooperation, national security, and the effects of scientific applications upon society by making contracts or other arrangements (including grants, loans, and other forms of assistance) for the conduct of such activities. When initiated or supported pursuant to requests made by any other Federal department or agency, including the Office of Technology Assessment, such activities shall be financed whenever feasible from funds transferred to the Foundation by the requesting official as provided in section 14(g), and any such activities shall be unclassified and shall be identified by the Foundation as being undertaken at the request of the appropriate official."

ANNUAL REPORT

SEC. 11. The Office shall submit to the Congress an annual report which shall include, but not be limited to, an evaluation of technology assessment techniques and identification, insofar as may be feasible, of technological areas and programs requiring future analysis. Such report shall be submitted not later than March 15 of each year.

APPROPRIATIONS

SEC. 12. (a) To enable the Office to carry out its powers and duties, there is hereby authorized to be appropriated to the Office, out of any money in the Treasury not otherwise appropriated, not to exceed $5,000,000 in the aggregate for the two fiscal years ending June 30, 1973, and June 30, 1974, and thereafter such sums as may be necessary.

(b) Appropriations made pursuant to the authority provided in subsection (a) shall remain available for obligation, for expenditure, or for obligation and expenditure for such period or periods as may be specified in the Act making such appropriations.

And the Senate agree to the same.

HOWARD W. CANNON,
ROBERT C. BYRD,
Managers on the Part of the Senate.

GEORGE P. MILLER,
JOHN W. DAVIS,
EARLE CABELL,
CHARLES A. MOSHER,
MARVIN L. ESCH,
Managers on the Part of the House.

Mr. CANNON. Mr. President, let me state in summary that, with respect to the conference report there were a few minor and technical changes. The conferees voted to report H.R. 10243 essentially in the form as passed by the Senate.

The minor and technical changes include:

First, clarification of the language in section 4, "Technology Assessment Board," the purpose of which is to limit the delegation of subpena power to Members of the House of Representatives and the Senate, and thus to exclude delegation to the Director of the Office who is a nonvoting member of the board;

Second, adding a subsection to section 7, "Establishment of the Technology Assessment Advisory Council," providing for more flexible use of the advisory council by the board; and

Third, striking section 13, "Effective Date," in its entirety. Since it is anticipated that the passage of H.R. 10243 will occur near the end of the 92d Congress, this change provides for flexibility of timing in the appointment of members to the board by the Speaker of the House of Representatives and the President pro tempore of the Senate as provided for in section 4 of the act.

I ask unanimous consent that the report not be printed as a Senate report.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the conference report.

The report was agreed to.

FOREIGN ASSISTANCE ACT OF 1972

The Senate resumed the consideration of the bill (H.R. 16029) to amend the Foreign Assistance Act of 1961, and for other purposes.

The PRESIDING OFFICER. The pending question is the amendment of the Senator from Arkansas.

The question is on agreeing to the amendment (putting the question).

The amendment was agreed to.

Mr. SCOTT. Mr. President, I ask unanimous consent that I may make a statement at this point for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, I voted "nay" on this amendment, and I would like to make the point that the voice vote does not necessarily express the will of the full Senate. We will have an opportunity to vote on the same issue and others associated with it under the unanimous-consent agreement on next Tuesday. Because of the fact that the quorum call reveals a limited number of Senators present, I would rather have this matter disposed of finally by the full Senate in accordance with the unanimous-consent agreement. Therefore, I did agree to allow the amendment to come up on a voice vote rather than on a record vote at this time; but I do want to stress the fact that I am opposed to it on the merits.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. SCOTT. Mr. President, I suggest the absence of a quorum.

Mr. MANSFIELD. Mr. President, will the Senator withhold that request?

Mr. SCOTT. I withdraw it.

ANNOUNCEMENTS OF APPOINTMENTS TO THE SELECT COMMITTEE TO STUDY QUESTIONS RELATED TO SECRET AND CONFIDENTIAL GOVERNMENT DOCUMENTS

Mr. SCOTT. Mr. President, under the provisions of Senate Resolution 299, August 15, 1972, the joint Senate leadership announces the following appointments to the select committee to study questions related to secret and confidential Government documents: Senator MANSFIELD, chairman, Senators PASTORE, HUGHES, CRANSTON, GRAVEL; Senator SCOTT, cochairman, Senators JAVITS, HATFIELD, GURNEY, and COOK.

CONSUMER PROTECTION ORGANIZATION ACT OF 1972

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be temporarily laid aside, and that the Senate return to the consideration of Calendar No. 1049, S. 3970, a bill to establish a council of consumer advisers.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3970) to establish a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and serve the interests of consumers and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. MAGNUSON. Mr. President, I am very pleased to rise in support of S. 3970, the Consumer Protection Organization Act of 1972. This is a good bill, a sound bill, one which would establish a council of consumer advisers in the Executive Office of the President, establish an independent consumer protection agency, and authorize a program of consumer protection grants in order to protect and preserve the interests of consumers. Similar legislation was considered and passed by the 91st Congress, and I was particularly sad to see it passed over by the House when we adjourned at that time.

There are three main thrusts to the legislation, and I support each of these objectives. The council of consumer advisers would assist in developing the President's consumer policies and would coordinate Federal consumer protection programs. The consumer protection agency would serve as an advocate of the consumer's interest before Federal agencies and the courts. And third, the legislation provides for a revenue program to strengthen the efforts of State and local governments so that better consumer protection services are provided to the American people.

Some may argue that other committees should have jurisdiction over the Consumer Protection Act of 1972. Let us face it: Other than the Committee on Government Operations, only the Senate Committee on Commerce has any reasonable claim to possible jurisdiction over this legislation, and as chairman of the committee I have requested that the legislation not be referred to Commerce. It was referred to us in the 91st Congress. We made our contributions. Those contributions are reflected in the bill now before us.

S. 3970 is a fine bill. It does need some amending language, and the distinguished chairman of the Consumer Subcommittee, Senator Moss, will join with me in offering a number of amendments to improve S. 3970. But that is where it stops. We do not need to have this bill referred to any committee for an unholy burial.

I would offer my congratulations for the fine work that has been done on this bill, particularly the work of Senators RIBICOFF, PERCY, and JAVITS. This is truly a bipartisan effort, one which has been endorsed by both the Democratic and Republican Party platforms, and one which has been a long time in coming. It is a fair piece of legislation; it is a balanced piece of legislation; let us get on with passing the legislation and establishing an organized consumer protection structure in the Federal Government.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHURCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN ASSISTANCE ACT OF 1972

The Senate continued with the consideration of the bill (H.R. 16029) to amend the Foreign Assistance Act of 1961, and for other purposes.

WE SHOULD HOLD THE LINE ON MILITARY AID

Mr. CHURCH. Mr. President, the Nixon administration plans to disburse about $9.5 billion worth of military weapons to foreign governments during this fiscal year. The $9.5 billion is hidden in the Federal budget in 17 different places, administered by several different Federal agencies and financed by various appropriation acts.

It must be emphasized that the bill we are considering today, on which important votes will be taken on Tuesday, represents only a part of the total program, and the smaller part at that. When one totals up the whole military package which the Nixon administration proposes to deliver to foreign governments this year, it amounts to nearly $50 for each man, woman, and child in the United States. Two-thirds of it will be paid for, directly or indirectly, by the American taxpayer, either through outright grants or through subsidized sales to foreign governments.

In view of the immensity of this military assistance program, I hope that the Senate will support the recommendation of the Committee on Foreign Relations to hold the line against further increases this year. In reporting the bill, the committee has taken such a position, and has refused to add the additional $700 million requested by the administration.

Mr. President, Senators should look at the rapid expansion of this program over the past few years before casting their votes for or against the amendments that are going to be offered to increase the amounts in the committee bill. I, myself, have watched the program very carefully through the years, and yet I am startled at how rapidly it has expanded.

For example, Defense Department cash and credit sales, often at a scaled-down price, have increased from $892 million in 1966 to an estimated $2.8 billion in 1972. The transfer of excess defense articles has gone from $85 million in 1956 to a projected $245 million for 1973. U.S. military assistance presently extends to 64 foreign governments. Some 50,074 U.S. military personnel are employed administering these programs, 27,000 of them overseas.

This program, Mr. President, is another example of Federal spending run amuck. With a Federal deficit of $25 billion or more projected for this year, how can we afford to enlarge this giveaway program still further by adopting the increases President Nixon asks?

As matters now stand, every dollar we spend on this program must be borrowed and added to our spiraling national debt.

In this connection, Mr. President, a highly readable synopsis of the military assistance program, in all its different guises, has been presented to us by the Center for Defense Information. It comes in the form of a pamphlet entitled "The Defense Monitor," dated September 8, 1972. I perused it with great interest, and I certainly recommend it to other Members of the Senate. In fact, I think that it is such a valuable summary of the size and scope of the military assistance program for 1973, that I ask unanimous consent that the publishable portions of the pamphlet be printed at this point in the Record.

There being no objection, the pamphlet was ordered to be printed in the Record, as follows:

[From the Defense Monitor, Sept. 8, 1972]

Military Assistance: Arsenal for Democracy?

DEFENSE MONITOR IN BRIEF

This year the U.S. will provide over $9.5 billion in military assistance to foreign countries.

Prior to 1946 the U.S. gave no military assistance to any foreign nation in peacetime.

Military assistance is supplied in a variety of forms, some of which the public is unaware and the Congress does not debate.

Certain major military assistance programs bypass Congress and do not appear in Administration budgets.

Part of the Food for Peace Program is used to provide funds for weapons.

Military assistance is designed to promote world peace and strengthen the security of the U.S.

Frequently it does neither. U.S. aid sometimes facilitates military conflict and weakens America's security by over-involvement.

The U.S. supplies well over half of all armaments to the nations of the world that are not allied with the USSR.

U.S. military assistance will go to 64 nations in 1973.

Twenty-five of these nations are governed by the military or permit no open opposition to the government.

Many of these nations contain forces striving for change that may be suppressed with American arms.

The United States will provide about $9.5 billion in various forms of foreign military aid during fiscal year 1973.

This $9.5 billion figure appears nowhere in the Federal Budget, but is the total of 17 separate programs administered by several agencies and financed by various appropriations acts. Two billion of this military assistance appears in the Foreign Assistance bill, and another $3 billion is in the Defense Budget. Over $4 billion of it does not require Congressional authorization and therefore is relatively unknown to the public.

The 17 Military Assistance programs and amounts projected for 1973 appear in Table I. They can be divided into four categories:

Category I includes all the assistance funded by a direct appropriation by the Congress: Category II are funds buried in the Defense Department budget earmarked for the support of countries in Southeast Asia. Funding for Southeast Asia was taken out of the foreign assistance appropriation in 1965 on grounds that it was an integral part of the Vietnam war. Category III involves no budget appropriation and includes cash sales and transfers of military equipment by the Pentagon. The Pentagon runs these programs with little oversight by Congress or by any other Executive Agency, including the State Department Category IV involves use of money from the Food for Peace program (PL 480). Under the Food for Peace Law, some agricultural commodities are given to foreign countries with no payment. Money that would have been paid the U.S. can be used by recipient countries for purchase of military weapons.

MILITARY AID IS GOING UP

The billions projected for 1973 are nearly three times those listed for military assistance programs in 1965. Major trends are:

Category I—Direct Military Assistance Appropriated:

Grant military aid under the Foreign Assistance program doubled from $400 million in 1969 to $803 million for 1973.

The grant military aid program planned for 1973 includes a five-fold increase in delivery of air defense missiles to foreign countries over 1972—from $5 million to $26 million.

Aircraft deliveries under the grant aid program are scheduled to double between 1972 and 1973—from $65 million to $121 million. Most aircraft are helicopters and fighters and are for Southeast Asia.

Category II—Military Assistance in Defense Appropriation:

Military assistance to Southeast Asia funded by the military services has increased from $34 million in 1965 to $2.5 billion projected for 1973. This will continue to increase as U.S. troops leave Vietnam.

Category III—No Budget Appropriation Required:

Defense Department cash and credit sales deliveries have increased from $892 million in 1966 to an estimated $2.8 billion in 1972. Sales are often at bargain prices.

Commercial military sales have increased from $274 million in 1965 to a projected $723 million for 1973. Transfer of excess defense articles has gone from $85 million in 1965 to a projected $245 million for 1973.

On a regional basis, the most rapid increases in overall military assistance since 1965 have been in East Asia, due to the Vietnam war.

Defense Secretary Laird, in testifying recently in Congress for assistance said:

"If we are going to reduce the burdens on the United States for free world defense while maintaining our treaty commitments in a period of increasing threats, it can only come from a willingness to support a strong security assistance program."

Mr. Laird does not describe what "increasing threats" exist and/or where they must be met.

TABLE I.—*Various categories of military assistance, fiscal year 1973*

I. Direct Military Assistance Appropriated (Foreign Assistance Act):	
Military assistance program (grant aid)	$803,000,000
Foreign military credit sales	629,000,000
Security supporting assistance	875,000,000
Public safety	7,000,000
Subtotal	2,314,000,000
II. Military Assistance in Defense Appropriation: [1]	
Military assistance service funded	2,500,000,000
Military assistance advisory groups, military groups, pay and allowances	272,000,000
International military headquarters	74,000,000
NATO infrastructure (military construction)	48,000,000
Purchase of local currency, above market rates	92,000,000
Subtotal	2,986,000,000
III. No Budget Appropriation Required:	
Excess Defense Articles [2]	254,000,000
Ship Loans [2]	40,000,000
Transfer of Defense Stocks	106,000,000
Real Property Transfers	486,000,000
Export-Import Bank Military Loans	360,000,000
Foreign Military Cash Sales (DOD)	2,200,000,000
Commercial Military Sales	723,000,000
Subtotal	4,160,000,000
IV. Agriculture Appropriation: Public Law 480, Part of the Food for Peace Program	124,000,000
Total military assistance in 1973	9,584,000,000

[1] Does not include an additional $2.8 million to Advanced Research Projects Agency (ARPA): $1.8 million for Project Agile, a counterinsurgency program directed abroad, and $1 million for border surveillance in Korea.

[2] One third acquisition value.

Sources: Recent Congressional Publications on Foreign and Military Assistance and Defense Appropriations; the FY 1973 Budget.

MILITARY AID IN PERSPECTIVE

U.S. military assistance presently goes to 64 countries.

Some 50,074 U.S. military personnel are employed administering these programs, 27,000 of them abroad.

In contrast to the $9.5 billion U.S. military assistance for 1973, U.S. economic and humanitarian aid will be $3.7 billion.

According to Defense Department figures, which do not include all forms of military assistance, the U.S. during 1950–1970 provided approximately 70 percent of all armaments supplied to neutral nations and those allied to the U.S.

NO COORDINATED POLICY

In Congress, those military aid programs which come under the Foreign Assistance Act are reviewed by the Foreign Relations and Foreign Affairs Committees. Those coming under Defense Department appropriations are handled by the Armed Services Committees. Within the executive branch, the Defense Department administers most military aid programs, but the Agency for International Development handles supporting assistance and the State Department handles export licenses for commercial sale of weapons abroad.

In an attempt to coordinate military assistance programs, a new position of Under-Secretary of State for Coordinating Security Assistance Programs, has been created. However, comprehensive military assistance budgets have not been developed or made available to Congress or the public. The Defense Department did provide Congress this year with listings that accounted for $5.9 billion of the planned military assistance. The listings omitted certain programs—notably sales—that would bring the total to over $9.5 billion.

PURPOSES OF MILITARY AID

After World War II the United States gave military aid to Europe and sent military forces there to contain "Soviet Expansion." This containment policy was extended world-wide, and by the mid-1960's the United States had military commitments and/or aid programs with 86 foreign countries.

Today "containment" is no longer the guiding doctrine of American foreign policy, yet much military effort continues to follow the old guidelines. The U.S. retains 192 major and 1,221 minor military facilities overseas. We still station more than 566,000 military personnel in foreign countries, over half of them in Europe. There is a need to bring military policy into line with the new goals of foreign policy expressed by the President. There is a need to reassess our overall military assistance program and the stationing of large numbers of U.S. troops in foreign lands. Certainly, there is a need to reconstruct our military aid programs.

U.S. aid is to "strengthen the security of the United States" but involvement in many places runs directly counter to longrun American interests, such as reduction of world tensions and balance of payments deficits. U.S. security is not improved by arming both India and Pakistan, Jordan and Israel, Honduras and El Salvador. Such involvements earn the emnity of both parties.

Details of the nature of much assistance are classified secret; $508,640,000 goes to the Middle East—Israel, Lebanon, Saudi Arabia and Jordan.

TABLE II.—TOP 10 RECIPIENTS [1]

10 countries	1973 military assistance	1973 non-military aid
South Vietnam	$2,959,900,000	$131,266,000
Laos	438,300,000	4,999,000
Korea	428,600,000	173,294,000
Cambodia	326,525,000	30,018,000
Iran	207,232,000	2,344,000
Turkey	153,303,000	71,014,000
Taiwan	113,374,000	
Thailand	99,686,000	20,370,000
Greece	97,974,000	
Australia	90,000,000	
Secret	530,895,000	
Total, this listing	5,445,789,000	433,305,000

[1] Military assistance for all categories in 1973, but exclusive of cash sales, property transfers, NATO infrastructure and international headquarters, comes to $5,887,496,000. 80 percent goes to 10 countries.

The U.S. provides military assistance to 25 countries governed by the military or with no open political opposition. They are:

China (Taiwan), South Vietnam, Indonesia, Cambodia, Thailand.

Greece, Iran, Jordan, Saudi Arabia.

Spain, Portugal.

Ghana, Libya, Nigeria, Zaire, Ethiopia.

Argentina, Bolivia, Brazil, Ecuador, Guatemala, Nicaragua, Panama, Paraguay, Peru.

CONCLUSIONS

The secrecy surrounding much of our military assistance programs limits informed reasoning by the public and the Congress. The $9.5 billion for Military Assistance in 1973 is egregiously high.

The seventeen different programs are not coordinated to provide a comprehensive picture that can be related to foreign policy objectives.

U.S. military aid programs are in need of revision because the use that many countries make of this assistance is sometimes inimical to world order and U.S. interests.

U.S. Military Assistance to 25 countries with military and dictatorial governments perpetuates these governments and may encourage the formation of other like governments.

The outflow of U.S. arms and military equipment to 64 foreign countries in 1973 sets a poor example to the rest of the world.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield for a question?

Mr. CHURCH. Yes. I am happy to yield.

Mr. HARRY F. BYRD, JR. Will the Senator indicate again the total amount of foreign assistance being sought by the administration?

Mr. CHURCH. Yes.

Mr. HARRY F. BYRD, JR. I believe he compared that with the total amount that was sought a year ago.

Mr. CHURCH. Yes. There are two figures I would call to the Senator's attention. The grand total of weapons to be disbursed, including all categories—that is, outright grants, subsidized sales, cash and commercial sales—comes to $9,584,000,000 for fiscal 1973.

Mr. HARRY F. BYRD, JR. That is a budget request?

Mr. CHURCH. The figures are drawn from the budget requests.

Mr. HARRY F. BYRD, JR. Yes.

Mr. CHURCH. As the Senator knows, part of this is funded through the Defense Department appropriation, part through the food-for-peace program, and part through other facets of the budget. Only $2.314 billion is covered by the direct military assistance program authorized by the pending bill. But the bill, as reported by the Committee on Foreign Relations, is $700 million below the administration's request.

The committee is trying to hold the line by keeping the level of spending at last year's figure, and thus avoid the additional $700 million requested by the administration this year.

Mr. HARRY F. BYRD, JR. I certainly support the committee's position. To get back to the $9.5 billion budget request for fiscal 1973, does the Senator have the figures to indicate how that compares with the total appropriations for military assistance for fiscal 1972?

Mr. CHURCH. It would be larger than 1972, according to my information. The exact figure I do not have presently available. However, I would like to stress that out of the grand total of $9.584 billion projected for fiscal year 1973, approximately two-thirds entails a cost to the Federal Government, either in the form of military grants or subsidized sales, which, as the Senator knows, actually represent a definite burden on the Federal Treasury, inasmuch as the interest charged the recipient country is less than the cost of the money to the United States.

Mr. HARRY F. BYRD, JR. Does the $9.5 billion include economic assistance, or is that separate from the $9.5 billion?

Mr. CHURCH. Economic assistance is separate from the $9.5 billion total military figure. The comparison is as follows: The total amount of U.S. economic and humanitarian aid, as requested by the administration for fiscal year 1973, comes to $3.7 billion; so that our military package is approximately three times as large as our economic package.

Mr. HARRY F. BYRD, JR. To put it another way, in order to ascertain just how much the foreign assistance program is in both its military aspect and its economic aid aspect—the total then is roughly $13 billion, which is being proposed for fiscal year 1973—to the $9.58 billion would be added the $3.7 billion, which would be roughly $13.2 billion for the total bill for economic aid being financed by the taxpayers.

Mr. CHURCH. The grand total, by adding the economic and the military together, would come to approximately $13 billion; but I would point out that part of the military package, contained in the overall figures, includes military cash sales and commercial sales, which are not borne by the taxpayers. So the more accurate figure would be in the neighborhood of $10 to $11 billion, that part involving taxpayer outlays.

Mr. HARRY F. BYRD, JR. I thank the Senator.

Mr. CHURCH. It is a very large figure, indeed.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FANNIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WILLIAMS). Without objection, it is so ordered.

VILLAGE SITE FOR PAYSON BAND OF YAVAPAI-APACHE INDIANS CONFERENCE REPORT

Mr. FANNIN. Mr. President, I submit a report of the committee of conference on H.R. 3337, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. WILLIAMS). The report will be stated by title.

The leigslative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3337) to authorize the acquisition of a village site for the Payson Band of Yavapai-Apache Indians, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report, which reads as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R 3337) to authorize the acquisition of a village site for the Payson Band of Yavapai-Apache Indians, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That (a) a suitable site (of not to exceed eighty-five acres) for a village for the Payson Community of Yavapai-Apache Indians shall be selected in the Tonto National Forest within Gila County, Arizona, by the leaders of the community, subject to approval by the Secretary of the Interior and the Secretary of Agriculture. The site so selected is hereby declared to be held by the United States in trust as an Indian reservation for the use and benefit of the Payson Community of Yavapai-Apache Indians.

(b) The Payson Community of Yavapai-Apache Indians shall be recognized as a tribe of Indians within the purview of the Act of June 18, 1934, as amended (25 U.S.C. 461–479, relating to the protection of Indians and conservation of resources), and shall be subject to all of the provisions thereof.

And the Senate agree to the same.

HENRY M. JACKSON,
QUENTIN N. BURDICK,
PAUL J. FANNIN,
HENRY BELLMON,
Managers on the Part of the Senate.

WAYNE N. ASPINALL,
JAMES A. HALEY,
ED EDMONDSON,
JAMES ABOUREZK,
JOHN P. SAYLOR,
SAM STEIGER,
JOHN N. HAPPY CAMP,
Managers on the Part of the House.

Mr. FANNIN. Mr. President, I am satisfied that the agreement reached by the conference committee on H.R. 3337 is a reasonable compromise, and I move the adoption of the conference report.

The motion was agreed to.

PUEBLO DE ACOMA JUDGMENT BILL—CONFERENCE REPORT

Mr. FANNIN. Mr. President, I submit a report of the committee of conference on H.R. 10858, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 10858) to provide for the disposition of funds appropriated to pay a judgment in favor of the Pueblo de Acoma in Indian Claims Commission docket No. 266, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report, which reads as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 10858) to provide for the disposition of funds appropriated to pay a judgment in favor of the Pueblo de Acoma in Indian Claims Commission Docket Numbered 266, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment.

HENRY M. JACKSON,
QUENTIN N. BURDICK,
PAUL J. FANNIN,
HENRY BELLMON,
Managers on the Part of the Senate.

WAYNE N. ASPINALL,
JAMES A. HALEY,
ED EDMONDSON,
JAMES ABOUREZK,
JOHN P. SAYLOR,
SAM STEIGER,
MANUAL LUJAN,
Managers on the Part of the House.

Mr. FANNIN. Mr. President, I move the adoption of the conference report.

The motion was agreed to.

YAVAPAI APACHE JUDGMENT BILL—CONFERENCE REPORT

Mr. FANNIN. Mr. President, I submit a report of the committee of conference on H.R. 8694, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8694) to provide for the disposition of funds appropriated to pay a judgment in favor of the Yavapai Apache Tribe in Indian Claims Commission dockets Nos. 22–E and 22–F, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report, which reads as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8694) to provide for the disposition of funds appropriated to pay a judgment in favor of the Yavapai Apache Tribe in Indian Claims Commission Dockets Numbered 22–E and 22–F, and for other purposes having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment.

HENRY M. JACKSON,
QUENTIN N. BURDICK,
LEE METCALF,
PAUL J. FANNIN,
HENRY BELLMON,
Managers on the Part of the Senate.

WAYNE N. ASPINALL,
JAMES A. HALEY,
ED EDMONSON,
JAMES ABOUREZK,
JOHN P. SAYLOR,
SAM STEIGER,
MANUEL LUJAN,
Managers on the Part of the House.

Mr. FANNIN. Mr. President, the Senate amendment to H.R. 8694 authorizes the judgment money apportioned to the Payson Band to be used to purchase land to be held in trust by the United States for the Payson Band. This amendment is not needed because H.R. 3337, which authorizes the acquisition of a village site for the Payson Band, as recommended by the committee of conference, establishes a reservation for the Payson Band, with a trust title to the land therein. Therefore, Mr. President, I move the adoption of the conference report on H.R. 8694.

The motion was agreed to.

YANKTON SIOUX JUDGMENT BILL—CONFERENCE REPORT

Mr. FANNIN. Mr. President, I submit a report of the committee of conference on H.R. 7742, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7742) to provide for the disposition of funds to pay a judgment in favor of the Yankton Sioux Tribe in Indian Claims Commission docket numbered 332–A, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report, which reads as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7742) to provide for the disposition of funds to pay a judgment in favor of the Yankton Sioux Tribe in Indian Claims Commission docket numbered 332–A, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "shall be used as follows: 75 per centum thereof shall be distributed in equal per capita shares to each person who is enrolled or entitled to be enrolled on the date of enactment; the remainder may be advanced, expended, invested, or reinvested for any purposes that are authorized by the tribal governing body and approved by the Secretary of the Interior."

And the Senate agree to the same.

HENRY M. JACKSON,
QUENTIN N. BURDICK,
PAUL J. FANNIN,
HENRY BELLMON,
Managers on the Part of the Senate.

WAYNE N. ASPINALL,
JAMES A. HALEY,
ED EDMONDSON,
JAMES ABOUREZK,
JOHN P. SAYLOR,
JOHN N. CAMP,
Managers on the Part of the House.

Mr. FANNIN. Mr. President, I am satisfield that the agreement reached by the conference committee on H.R. 7742 is a reasonable compromise, and I move the adoption of the conference report.

The motion was agreed to.

KICKAPOO INDIANS OF KANSAS AND OKLAHOMA JUDGMENT BILL—CONFERENCE REPORT

Mr. FANNIN. Mr. President, I submit a report of the committee of conference on H.R. 6797, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6797), to provide for the disposition of funds appropriated to pay judgments in favor of the Kickapoo Indians of Kansas and Oklahoma in Indian Claims Commission dockets numbered 316, 316–A, 317, 145, 193 and 318, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report, which reads as follows:

Conference Report

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6797) To provide for the disposition of funds appropriated to pay judgments in favor of the Kickapoo Indians of Kansas and Oklahoma in Indian Claims Commission dockets numbered 316, 316–A, 317, 145, 193, and 318, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 1, 3, 4, 5, 6, and 7, and that the House recede from its disagreement to Senate amendment No. 2, and agree to the same with an amendment as follows: In lieu of the matter inserted by the Senate amendment, insert the following:

(a) The funds divided and credited under section 1 of this Act, and the funds appropriated to pay a judgment recovered by the Kickapoo Indians of Oklahoma in docket numbered 318, including the interest thereon, after the payment of attorney fees and other litigation expenses, shall be used as follows: 75 per centum shall be distributed in equal per capita shares to each person whose name appears on or is entitled to appear on the membership roll of the Kickapoo Tribe of Oklahoma and 90 per centum shall be distributed in equal per capita shares to each person whose name appears on or is entitled to appear on the membership roll of the Kickapoo Tribe of Kansas. If such person was born on or prior to and is living on the date of this Act.

And the Senate agree to the same.

Henry M. Jackson,
Quentin N. Burdick,
Paul J. Fannin,
Henry Bellmon,
Managers on the Part of the Senate.

Wayne N. Aspinall,
James A. Haley,
Ed Edmondson,
James Abourezk,
John P. Saylor,
Sam Steiger,
John N. Happy Camp,
Managers on the Part of the House.

Mr. FANNIN. Mr. President, the House of Representatives receded from its disagreement to all but one of the amendments of the Senate, and I am satisfied that the agreement reached by the conference committee on that one amendment is a reasonable compromise, and I move the adoption of the conference report.

The motion was agreed to.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE U.N. AND THE ISSUE OF TERRORISM

Mr. JAVITS. Mr. President, I ask unanimous consent that an article entitled "Arabs Bid U.N. Defer Terrorism Issue," written by Robert Alden, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Sept. 22, 1972]

Arabs Bid U.N. Defer Terrorism Issue

(By Robert Alden)

United Nations, N.Y., Sept. 21.—The Arab bloc, with the support of a group of African nations, tonight mounted an effort to defer any discussion of the terrorism issue for this session of the General Assembly.

Radha K. Ramphul of Mauritius, after consulting with other members of the African bloc, formally proposed in the General Committee that the issue, proposed for discussion by Secretary General Waldheim, be deferred.

Jamil M. Baroody of Saudi Arabia said that if the terrorism issue was referred directly to the Legal Committee of the General Assembly, as proposed by Mr. Waldheim, the committee "would become a platform of vilification, of acrimony and of bitterness," with members of the committee "marshalling those cases that suit any one state to say how horrible the perpetrators are."

Mr. Baroody said that the entire question should be sent to an ex-officio committee to initiate a study of the various forms of violence and that this committee should report to the next session of the General Assemlby.

But it appeared that the Arab-African bloc did not have the votes to prevent the inclusion of question and Mr. Ramphul asked that the General Committee suspend its meeting until tomorrow so that further consultations could be held with delegations' governments.

After the meeting was suspended, George Bush, representative of the United States said: "I'm confident that we have enough votes for the item to be inscribed on this year's agenda and be referred to the Legal Committee."

The only Western country whose representative spoke in tonight's brief debate on the terrorism issue was France. Louis de Guiringaud, France's delegate, said that his Government would support the inclusion of the question as a matter for the legal committee.

CHINESE EFFORT BLOCKED

Earlier today, a Chinese effort to block the inclusion of Bangladesh's application for United Nations membership on the General Assembly agenda failed.

The effort touched off a sharp debate, however, betwen Huang Hua, China's representative, and Yakov A. Malik of the Soviet Union in the Assembly's General Committee, made up of 25 leaders of the Assembly and its committees.

Last month the Peking delegation, although outvoted in the Security Council 11 to 3, blocked the Bangladesh membership application by using the first Security Council veto since Peking's admission last year.

Today, when the vote came in the committee on a Yugoslav proposal that Bangladesh's application be put before the Assembly, 17 voted in favor, 4 opposed it and 3 abstained. Those voting with China were Guinea, Libya and Mauritania.

The United States voted with the Soviet Union and a broad cross-section of nations in supporting the inclusion of the agenda item.

The General Committee is made up of the 17 vice presidents of the General Assembly, the chairmen of the seven other Assembly committees and the Assembly President, Stanislaw Trepczynski of Poland. Mr. Trepczynski did not participate in either the voting or the debate.

Under the terms of the United Charter, all the General Assembly can do is to resubmit the application to the Security Council for further consideration. China said today, as she has said before, that she will exercise the veto as long as, "in defiance of a Security Council and a General Assembly resolution," Pakistani prisoners of war are not returned by India and as long as Indian troops remain on Bangladesh soil.

Today Mr. Huang said that the "Soviet delegation with ulterior motives did its utmost to carry out obstruction and sabotage in the course of the Security Council discussion of this question."

Mr. Huang said that the effort to inscribe the question on the agenda now was "an attempt by some people to use this issue to exert political pressure on the Chinese delegation and some other state members who are not in favor of admitting Bangladesh in the present circumstances."

"This attempt is certainly of no avail," Mr. Huang said. "This can only show that they are not truly concerned with the admission of Bangladesh to the United Nations, but are trying to use the membership application as a means to reverse the verdict reached in the 26th session of the General Assembly and the Security Council resolution of last year."

Mr. Malik, in a manner that is unusual for him, spoke with a trace of a smile as he replied:

"The Soviet delegation may feel flattered and may feel proud that only it was mentioned by a previous speaker. To re-establish the truth, the admission of Bangladesh was favorably voted on by 11 members of the Council out of 15, including four permanent members.

"It isn't only the Soviet delegation that voted for admission of Bangladesh and it isn't it which forced the other ten to vote.

"If those who think so are serious, we should be proud that we are able to exert pressures on 10 members of the Security Council and force them to vote the way we vote."

Mr. Malik then said that it was the Yugoslav delegation that took the initiative in placing the question for consideration by the General Assembly.

"I can assure those who attach such great importance to the Soviet delegation's influence, that the Yugoslav delegation made its proposal without any participation or influence of the Soviet delegation. I can assure those who doubt this that this is the truth—officially and unofficially."

Those who favored the inclusion of the issue used arguments that paralleled those used by nations that had fought for the membership of Peking in the United Nations.

Augusto Espinosa of Colombia, for example,

> said that the matter was one of principle and that the United Nations could not become an exclusive club barring certain countries.
>
> "I do not believe," Mr. Espinosa said, "that some states should be denied entry into the United Nations because of passing political reasons or because of capricious desires."

Mr. JAVITS. Mr. President, I rise to express satisfaction that the Government of the United States, following the lead of Secretary General Waldheim of the United Nations, joined with other nations in insisting that the terrorism issue be properly inscribed on the agenda of the United Nations General Assembly for this session and not be shunted off to some study committee which would report in the next session.

The Senate showed its views on this question in the vote which was taken yesterday to include antiterrorism authority to the President in the antihijacking bill.

Without any regard to how one stands on the problems of the Mideast, the unlimited murders that have taken place in the world are encompassed within the concept of terrorism because it brings nations and all people and, indeed, the whole world to its knees by this technique which is intended only to seek to intimidate without any thought to reason, law, morality, or human experience. This must be resisted by the whole organized world.

Secretary General Waldheim has recognized that as the principal issue of the United States and has approved its issue as an item on the agenda at once. I hope that the Senate of the United States and other vitally important governments in the world will also do so.

I hope very much that the effort will continue to be unremitting, no matter where the chips may fall. The United Nations is the most appropriate body in the world to consider this matter and to marshal the moral convictions of the world against such barbarism as these terrorist murders.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. RIBICOFF. Mr. President, I commend the distinguished Senator from New York for bringing this to the attention of the Senate. Could the Senator inform me which nations oppose at this time the placing of the terrorism issue on the agenda?

Mr. JAVITS. Mr. President, the statements I have read in the press—and I have read a number of papers on the subject—make it clear that a group of African nations have decided that they want to see the matter deferred and their spokesmen are described as a representative of Mauritius and the representative of Saudi Arabia.

Later on in the article it appears that the United States primarily supported this through our spokesman, George Bush. And the only other speaker, the delegate for France, said that his government would support the inclusion of the issue on the agenda. So, we have yet to hear from other nations.

I am very hopeful that, as Ambassador Bush expressed confidence on the floor that there were enough qualified votes to inscribe the item on the agenda, it will be done.

Mr. RIBICOFF. As I understand the thrust of the Senator's argument, it is that the United Nations has been created so that we might have a peaceful and orderly world, and that these acts of continued terrorism undermine the civilization of the world. No nation, no people, and no part of the world is immune to the terrorist acts taking place at the present time.

Mr. JAVITS. Mr. President, my friend, the Senator from Connecticut (Mr. RIBICOFF), expresses it extremely well. That was precisely my point. I feel that we should encourage our Government, which is obviously taking a position of important support in this matter, to urge that this be done.

My main purpose in rising was to approve the initiative of the Secretary General in seeking to inscribe this item on the agenda promptly at the opening of the session.

Mr. RIBICOFF. Mr. President, I agree with the distinguished Senator from New York that the time has come for worldwide action. And it is only if unanimity and singleness of purpose by all nations of the world is achieved that we will finally deal with these acts of terrorism that strike one nation after another and subject the people of various countries to these acts.

Mr. JAVITS. The Senator makes a point that I would like to emphasize, and that is that it endangers others than those to whom the act may be pointed.

When they begin to send packages containing booby traps through the mail, any mail handler, any innocent person picking up the package, that might not even be addressed to him, is in danger of death; and when they begin to engage in the indiscriminate shooting of Israeli diplomats, and anyone could get hit, how can any nation in the world tolerate that conduct? It is almost inconceivable in the modern world, but it is so.

I am glad the Senator agrees that, where action is taken by the United Nations on a matter so much within its concept, we should encourage it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSUMER PROTECTION ORGANIZATION ACT OF 1972

The Senate continued with the consideration of the bill (S. 3970) to establish a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and serve the interests of consumers, and for other purposes.

Mr. ALLEN obtained the floor.

Mr. MOSS. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. ALLEN. I yield.

PRIVILEGE OF THE FLOOR

Mr. MOSS. Mr. President, I ask unanimous consent that Mr. Edward Merlis of my staff may be permitted on the floor during the time debate is going on on the floor in connection with the series of amendments we have.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, will the Senator yield to me for a unanimous-consent request?

Mr. ALLEN. I yield.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that Mr. Ken McLean of the Committee on Banking, Housing and Urban Affairs may be permitted the privilege of the floor during the debate and vote on S. 3970.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROBABLE CONSIDERATION OF THE SO-CALLED ANTIBUSING BILL

Mr. ALLEN. Mr. President, I hope the Senate will move very rapidly to a vote on this bill. Certainly the Senator from Alabama has no intention of prolonging any discussion of the bill. He does have three amendments on which he plans to make a short statement, taking not more than 30 minutes at the outside on any of his amendments. He hopes that the Senate will dispose of this matter expeditiously in order that it can soon move to a consideration of H.R. 13915, the equal educational opportunity bill, which is the so-called antibusing bill. I am delighted to see the distinguished majority leader in the Chamber at this time because I may wish to explore the various possibilities and the thinking on bringing H.R. 13915 to the floor. We have been promised and we know this action will take place, that the bill will be brought up for consideration by the Senate.

But the Senator from Alabama is very much disturbed by the existence of the two-track system on which the Senate is operating because when we come to Wednesday, according to the plans as outlined in the whip notice, we are going to have the bill we now have in all likelihood as the unfinished business, and then we will have H.R. 1, as the second-track item.

Of course, we know that the position of a second-track item is most precarious, indeed, because it has to be given life again each morning or else it could be wiped out, so that H.R. 13915, even if it comes to the floor of the Senate as a second-track item could not continue to be considered by the Senate unless the right to consider it is renewed each day.

That causes the Senator from Alabama to wonder just what the fate of this bill will be on a second track, and whether it is not going to be well, if we ever dispose of H.R. 1 and the consumer protection bill, to go back to the single-track system operating on the unfinished business.

The Senator from Alabama mentions these things because he does not want to delay consideration of H.R. 13915 and for that added reason he is not going to make any extended speech with respect to consideration of the consumer protection bill.

CONSUMER PROTECTION

Mr. President, I see that the House has now passed their counterpart to S. 3419, the bill that we passed in June that would create an independent consumer protection agency called the Food, Drug, and Consumer Product Agency—FDCPA, for short.

It would appear that we are now going to have at least one independent consumer protection agency created this year, and I am happy to hear it.

I voted for S. 3419, and support its basic principles. For those who support the concept of creating an independent consumer agency under that bill, I urge that they read the report on the bill now before the Senate, S. 3970, that would create another independent bureaucracy, the Consumer Protection Agency or CPA, for short.

You will note that the new Food, Drug, and Consumer Product Agency is to become one of the major, if not the major, targets for attack by the Consumer Protection Agency which would be created under this bill. That is, we voted in June, and the House voted yesterday, to create an independent agency to protect consumers, and now we are being asked to vote to create yet another independent agency and I assume it would be the desire of protecting these very same consumers from the first agency, which has not even moved into its offices yet—to protect these very same consumers—from the first independent agency which has not even moved into its offices yet.

It is hard to believe this body, the greatest Chamber of Government in the world, would seriously consider such a course of action at a time when increasing Federal spending and a burgeoning bureaucracy is running amuck around us.

As I have stated many times, I have no quarrel with the creation of a new Federal Consumer Protection Agency if such an agency will contribute to better and more efficient consumer protection. But S. 3970, in the judgment of the Senator from Alabama, will not create such an agency. This hodgepodge bill was concocted in haste, and its slapdash approach to Government shows through.

Rather than protect the consumer, the agency fashioned by S. 3970 is nothing more—here again in the judgment of the junior Senator from Alabama—than a disruptive force empowered to wander to and fro through the halls of government, and, whenever it takes a mind to, to engage adminstrative agencies in guerrilla warfare.

The rationale for this bill is that the administrative agencies that Congress has created have not treated the American consumer fairly and that this is so because the Congress has failed to properly exercise its oversight functions. Therefore, if we create just one more agency to monitor all the other agencies, then the Congress will only have to oversee the activities of that one agency.

Thus it follows—according to this rationale, not in the judgment of the junior Senator from Alabama—that everyone should benefit from this bill. The Congress will fulfill its duties. The existing administrative agencies, thanks to the generous help of the new agency, will more completely fulfill their functions. The new agency will, of course, benefit most by being born.

But what appears simple in the abstract, we in the Committee on Government Operations have found extremely difficult to fashion. In order to correct the existing errors, assumed, in the workings of administrative agencies, the oversight agency has been empowered, with very few exceptions, to enter into the most minor deliberations of any Federal authority from the most humble unit up to and including the office of the President, I assume. It is said that such authority is necessary in order to correct existing deficiencies. The drafters of this bill have no way of knowing how many Federal agencies are affected and how much they are affected. Right now, there is no way anyone can know. Not until the Commission is appointed and decides for itself which of the many possible Federal agencies' activities it finds attractive, will anyone know how the power delegated to the Consumer Protection Agency will be exercised.

I might state parenthetically I do not know how the certified public accountants feel about this new agency, the CPA, but I do recall when we were working on a pesticide bill in the Senate Committee on Agriculture and Forestry where the term "commercial pesticide applicator" was defined. He had to get a license to go around applying pesticides. There would be literally hundreds, or even thousands, of these commercial pesticide applicators who would be certified. So we heard from the certified public accountants. They did not want the term "commercial pesticide applicator" because, as is the custom with the Federal bureaucracy in creating alphabetical terms, of necessity the term "commercial pesticide applicator" would be shortened to CPA. They wrote protesting it, and we solved the matter by knocking out the word "commercial," and leaving the term just "pesticide applicator."

So I assume the short alphabetical name of this agency will be CPA. I do not know how the certified public accountants feel about that. Possibly they do not object too much, because I have not heard from the committee that they object. But should the CPA—and I am talking about the Consumer Protection Agency—develop a taste for labor-management problems, it can take a bite out of the Federal Mediation and Conciliation Service because consumers are interested in prices and prices are a function of labor costs and resolution of labor-management problems directly affect labor costs. Or, maybe, proceedings of the National Labor Relations Board will whet its appetite. Will the Consumer Protection Agency be a gourmet, or a glutton? We do not know. Perhaps a pinch of FMCS mediation and a dash of NLRB unfair labor practice will sate it. It may have a craving for Federal Communications Commission license renewals. Perhaps its appetite will be satisfied by CAB route designations. If the Consumer Protection Agency develops a thirst, will it slake it on EPA water quality standards? Or will it quench it on USDA milk marketing orders? I do not know. Nobody knows. The guidelines, if they may call them that, do not restrict the agency within any known bounds. The guidelines established in this bill, and I refer Senators to sections 203 and 401(11), are not merely complex but are circular. The guidelines, if Senators will indulge me in the use of that term, can be reduced to just 13 words as the Senator from Alabama sees it: The CPA may intrude in any Federal proceeding or activity of its choice.

Just 13 words is the scope of operation: The CPA may intrude in any Federal proceeding or activity of its choice.

If the CPA thinks or, as the bill says "determines," that a proceeding "may" result in a "substantial" effect on a "substantial" concern "related to" transactions "regarding" a subject of interest, the CPA "may" intervene. That is the so-called guideline established in this bill. Now, some may feel that this requirement to predict a substantial effect on a substantial concern relating to something, regarding something else, makes out a comprehensible guideline. See if you agree. Read sections 203 and 401(11) as they interrelate.

And a comprehensible guideline is what this bill most dearly needs. That is why I supported what has been called the "amicus" amendment in committee. The "amicus" amendment has a certain clarity to it that the present bill lacks. While the CPA could still have an input to the same administrative agencies as in the committee bill, that input is circumscribed by the amicus amendment. The interests of consumers would still be brought into the decisions of all agencies, but without the guerilla warfare approach now present in the bill. Instead of pitting agency against agency, the amicus amendment will grant the Consumer Protection Agency the right to always, on its own determination, bring consumer interests before any Federal agency in a similar, but actually stronger, way than an amicus curiae now presents a view to a court. That amendment provides for a similar input in Federal court proceedings to again assure that the consumers interests are considered at that level. What more is needed? Do we actually have to pit agency against agency in trial by combat? Must we establish a Federal Circus Maximus for diversion? Pit new gladiator CPA bureau against the many existing bureaus? This is not the Roman Senate; this is the U.S. Senate. We have no need to provide for such divergent tactics to entertain the voters.

As I said at the start of my remarks, I have no quarrel with the creation of a new Federal Consumer Protection Agency if such an agency will contribute to a better and a more efficient protection of the American consumer. That is what I favor. Not a new diversion, but a new agency offering representation of the consumer in all areas in which the consumer needs representation.

Mr. President, I call the attention of the Senators to the minority views which I filed in connection with the report on this bill from the Committee on Government Operations, which is on Senators' desks. My minority views appear on pages 95 through 116. I merely call attention to them, and do not at this time ask that they be printed in the RECORD. But I do want to point out a portion of those views, starting on page 95, near the bottom, where I refer to adversary advocates:

> This bill provides for so-called adversary advocacy by the CPA against other Federal agencies and parties before these agencies.
>
> The 20-step theory behind adversary advocacy goes like this:

I capsuled that just a moment ago into 13 words, that "the CPA may intrude in any Federal proceeding or activity of its choice." But, amplifying that capsule statement in my minority views, I point out a 20-step theory behind adversary advocacy, and state that it goes something like this:

> 1. The interests of consumers are often overlooked or not fairly considered by some Federal agencies.

That would be the first assumption we would operate on.

> 2. Congress no longer has the time to properly exercise its oversight functions and correct these deficiencies with specific legislation.

That is leading up to why, in effect, the advocates of the Consumer Protection Agency believe that the bill as reported should be enacted. I might state that I will favor the bill if the amicus amendment to which I have referred is adopted by the Senate. That will be offered at a later time, when we have a few more Senators present than we have now.

> 3. It would be a lot easier if Congress simply created another Federal agency called the Consumer Protection Agency to handle the problem; then we need only worry about our oversight of the oversight agency.

We have to create another Federal agency to look after the matter, and pile another layer of bureaucracy on the mushrooming Federal bureaucracy that we now have.

> 4. Because we—

That is, Congress—

> do not have the time to properly exercise our oversight functions, we of course cannot possibly know where consumers are having problems.
>
> 5. Therefore—

I submit the advocates reason—

> We should grant this new Federal oversight agency the power to enter as of legislative right the deliberations of any unit which exercises any Federal authority, from the most minor bureaucratic offices to the President's Office.

Or so it would seem. I might state parenthetically that Congress, of course, is exempt from this provision, but not the other Federal agencies. If we are going to have it, I would be glad to see Congress put under it as well.

> 6. Because we cannot possibly know what such "Federal agencies" would be covered by such power, we cannot possibly know what all their various rules of practice and procedure are.
>
> 7. Therefore, the simple way to cope with this problem is to order, by statute, all such "Federal agencies" to change their rules of practice and procedure in conformity with the extraordinary rights of the Consumer Protection Agency, after consultation with the Agency. See section 203(c).
>
> 8. We do not know what this will do to the thousands of various covered "Federal agencies" with or without rules of practice . . . but it will sure shake things up quickly, and that is what is needed.

According to the consumer advocate theory and approach.

> 9. Because we do not know what these affected "Federal agencies" are, we cannot possibly know what they do.
>
> 10. Therefore, we should delegate to the Consumer Protection Agency the responsibility of predicting whether the deliberations of these "Federal agencies"—

I state parenthetically, these anonymous Federal agencies—

> may eventually result in a substantial effect upon consumers. See sections 203(a), (b).
>
> 11. Whatever these "Federal agencies" are, one thing is certain—we cannot trust them because they are in the clutches of vested interests.

That, the junior Senator from Alabama submits, must be a part of the reasoning of the advocates of the approach envisioned in this bill.

> 12. Therefore, we should change current administrative law to allow the Consumer Protection Agency not only to order its way into these "Federal agencies," but to assign itself any desired available participatory status; otherwise, these agencies will keep the consumer units out or not give them the major role in their proceedings. See section 203(a).
>
> 13. Also, as a consequence of not knowing what these "Federal agencies" are, we must write the bill broadly enough to encompass everything these unknown units might do.

That is the scope of the bill.

Mr. ERVIN. Mr. President, will the Senator yield for some questions along a line appropos to what he is now saying?

Mr. ALLEN. I would be very happy to yield to my distinguished colleague from North Carolina. I do not know that I can answer the questions. I hope the Senator will be prepared to answer his own questions if the Senator from Alabama is unable to do so.

Mr. ERVIN. Will the Senator from Alabama accept my assurance that I can ask rhetorical questions?

Mr. ALLEN. Yes, I know the Senator can.

Mr. ERVIN. Is it not true that lines 11 to 16 on page 41 of the bill define a Federal agency as follows?

> "Federal agency" means "agency," as defined by section 551 of title 5, United States Code, and shall include any wholly owned Government corporation and, unless otherwise expressly provided by law, shall include any Federal agency established after the date of enactment of this Act;

Is that not a correct reading of the definition of what a Federal agency is?

Mr. ALLEN. Yes.

Mr. ERVIN. I ask the Senator from Alabama if he knows what this means, inasmuch as it refers to an agency as defined by section 551 of title 5 of the United States Code. I ask the Senator from Alabama if section 551 of title 5 of the United States Code does not start this way in defining what a Federal agency is:

> For the purpose of this subchapter, "agency" means each authority of the Government of the United States, whether or not it is within or subject to review by another agency.

We think of HEW, for example, as a Federal agency. But is it not true that HEW is subject to many divisions and that those divisions are subject to many subdivisions?

Mr. ALLEN. The Senator is correct.

Mr. ERVIN. Therefore, when one thinks about any power this measure might give the consumer advocate to interject himself into the affairs of HEW, it gives the consumer advocate the power to inject himself into the affairs of more divisions and subdivisions of HEW than the human mind is almost capable of understanding. Is that not true?

Mr. ALLEN. There would be a great deal of them.

Mr. ERVIN. I ask the Senator from Alabama if this bill, in addition to giving the consumer advocate the power to intervene in regulatory proceedings, gives him the power to intervene in the activities of any Federal agency which, in the judgment of the Administrator, can affect any substantial consumer interest?

Mr. ALLEN. The Senator is correct.

Mr. ERVIN. Does not the definition of consumer interests cover almost the entire phase of all activities?

Mr. ALLEN. Yes.

Mr. ERVIN. And the needs of all the people of the United States?

Mr. ALLEN. It is very, very broad. I might say, for the benefit of the distinguished Senator from North Carolina, that one amendment that the junior Senator from Alabama has would add to the various definitions of what consumer interest is, this added section. This amendment will be called up later:

> On page 42, line 16, at a new paragraph (g)

And it defines as a substantial consumer interest the availability of nearby public school facilities for the education of children of renters or purchasers of residential property, and protection of such children from the delays and dangers inherent in any forced busing of such children to schools outside the neighborhood of their residence.

So it is certainly a vital and substantial interest to a person who wants to buy or sell, or to be a tenant or a landlord of a piece of property, to be informed that the children in that neighborhood have to be bused many miles away to another school.

The theory of the amendment would be that the nonprofit group of parents and students would be such an entity as would have a right to call upon the CPA for protection in this matter and have CPA represent them in court in opposition to these busing decrees. So that is certainly substantial interest, it seems to the Senator from Alabama.

Mr. ERVIN. Is the Senator from Alabama capable—I use the word advisedly and in spite of my high respect for the erudition of the Senator from Alabama—of giving the Senator from North Carolina any idea as to the number of different agencies and divisions of agencies, and subdivisions of divisions of agencies that this bill would authorize the administrator to inject himself into?

Mr. ALLEN. It would be in the multiple thousands, I think this would be a safe statement.

Mr. ERVIN. The Administrator is given vast powers to protect the interests of consumers, and the interests of consumers, as defined on page 41 and page 42 of the bill, are as follows:

> (11) "interest(s) of consumers" means the substantial concerns of consumers, related to any business, trade, commercial, or marketplace transaction, but not including Government sales to foreign governments, regarding—
>
> (A) the safety, quality, purity, potency, healthfulness, durability, performance, repairability, effectiveness, dependability, availability, or cost of real or personal property, tangible or intangible goods, services, or credit;
>
> (B) the preservation of consumer choice and a competitive market;
>
> (C) the prevention of unfair or deceptive trade practices;
>
> (D) the maintenance of truthfulness and fairness in the advertising, promotion, and sale by a producer, distributor, lender, retailer, or supplier of such property, goods, services, and credit;
>
> (E) the availability of full, accurate, and clear information and warnings by a producer, distributor, lender, retailer, or supplier concerning such property, goods, services, and credit; and
>
> (F) the protection of the legal rights and remedies of consumers;

Does the Senator from Alabama has a vivid enough imagination to imagine anything that is excluded from that definition?

Mr. ALLEN. It seems to be pretty all-encompassing.

Mr. ERVIN. The protection of legal rights and remedies of consumers is a pretty broad field in itself, is it not?

Mr. ALLEN. The Senator is correct.

Mr. ERVIN. It certainly encompasses all the procedures and all the courts and assistance for the administration of justice.

Mr. ALLEN. That is true.

Mr. ERVIN. So he can do anything to protect the substantial right of any consumer, and the 210 million people of the United States are all consumers, are they not?

Mr. ALLEN. Yes. They try to be.

Mr. ERVIN. And they do a lot of consuming.

Mr. ALLEN. Yes; they do.

Mr. ERVIN. Does not this definition I have just read to the Senator from Alabama encompass all areas of the lives of the 210 million people that the Senator from Alabama can imagine?

Mr. ALLEN. From the cradle to the grave; yes.

Mr. ERVIN. I thank the Senator.

Mr. ALLEN. I thank the distinguished Senator from North Carolina for his questions and his answers and his participation in this colloquy.

Mr. President, going on with the analysis of the theory of the advocates of the approach provided by this bill to the problem of consumer protection:

> 13. Also, as a consequence of not knowing what these "Federal agencies" are, we must write the bill broadly enough to encompass everything these unknown units might do.
>
> 14. Therefore, the Consumer Protection Agency should be allowed not only to intrude into any formalized proceeding, such as a milk market order, but also to intrude into *anything else* that the employees of these unknown "Federal agencies" might do, even their most inconsequential activities. See sections 203(a), (b) and 401(4).

Mr. President, I say this and say it again, disclaiming this as being the theory of the Senator from Alabama and that it must be the theory of the advocates of the legislation.

> 15. Even though we allow consumer protection agents to intrude into these other governmental units with more power, and probably more money for this purpose, than any other person, these unknown agencies are still not to be trusted.
>
> 16. Therefore, we should grant the consumer protection agents automatic standing to appeal to the courts any action that they disagree with, as well as any action which the consumer agents requested be taken, but was not taken, by the unknown fellow "Federal agencies." See sections 204(a), 401(3).
>
> 17. This will not only provide an impressive club at the administrative level to get things done the way the Consumer Protection Agency wishes, it will be a safeguard if the host agency is foolish enough to decide the "wrong" way.

The wrong way being a way different from the way the consumer protection agent wanted the matter decided.

> 18. Because we may be covering millions of Federal activities, it is unreasonable to assume that the consumer protection agents will be able to represent their special interests the way other lawyers do in all the important deliberations.
>
> 19. Therefore, it would be much easier to allow these consumer agents to merely review the Federal Register for notices of final actions taken after proceedings which they missed, and force the forum agency to hold a new set of hearings to allow the consumer agents to oppose the action. See section 204(b).
>
> 20. Then, if the forum Federal agency still decides to take the action with which the consumer agents disagree, the Consumer Protection Agency will take them to court. See section 204(a).

Mr. President, I make these opening remarks to follow them up later with the introduction of three amendments and that is all the amendments the Senator from Alabama will offer.

One amendment will be the "amicus" approach. The next amendment would define what a substantial consumer interest is, making as a consumer interest the fact that children of purchasers or renters of real estate might be required to be bused far away from their homes, making that property less valuable and imposing a hardship on the children of the occupants of those dwellings. This would define that as a substantial consumer interest—and I do not know what could be more substantial as a consumer interest than where children are going to have to go to school if their parents rent a house in a different neighborhood.

The other amendment is one which would exempt the Tennessee Valley Authority from the operation of the provisions of this act, inasmuch as it is exempt from the operation of a score or more other Federal acts and regulatory bodies.

Those are the amendments that the Senator from Alabama plans to offer. He would much rather have before the Senate at this time the so-called antibusing legislation which the leadership has promised to bring up. But, as the Senator from Alabama pointed out, the intricacies of procedures here in the Senate are such that if the bill is placed on the so-called second track, it would have to plead for its life, or its existence, or do penance before the Senate each day. So that it will be necessary, somewhere down the line, to call a halt to the two-track system so that these bills can be taken up by the Senate one at a time, considered by the Senate, and let the Senate take final action with respect to the bill and then go on to something else.

As it will be now, on Wednesday next the Senate will have before it two immovable bills, H.R. 1 and the Consumer Protection Agency bill, which will probably be still pending at that time, inasmuch as Monday and Tuesday will be devoted to still another bill, the foreign aid appropriation bill. So that this bill before us now will not have a great deal of discussion on it between now and Wednesday next.

So, we will have two immovable bills pending before the Senate with no chance to bring up the antibusing legislation on any such system. So, it may be necessary for those of us who want to see H.R. 13915 come before the Senate, to insist that we go back to the one-track system, with only one piece of unfinished business pending before the Senate at one time.

In that way, we can be assured, if the leadership does bring the bill before the Senate as it has promised to do—and I feel no doubt whatsoever that the leadership will do that—that it will give us an opportunity to have the antibusing legislation before the Senate as the unfinished business, and the Senate will have to face up to its responsibility to take action on this important piece of legislation which is much more important, Mr. President, than the bill we are considering now.

Here we are, whiling away the Senate's time with a total of five Senators present on the floor, when we could have the antibusing legislation before us.

It is therefore going to be the determination of the Senator from Alabama, the Senator from North Carolina (Mr. ERVIN), who is on the floor, the Senator from Florida (Mr. CHILES) who is on the floor, the Senator from Idaho (Mr. JORDAN) who is now the Presiding Officer of the Senate, and the Senator from Connecticut (Mr. RIBICOFF) who is on the floor, and all other Senators interested in this antibusing legislation, to do everything we can from a parliamentary point of view to see that this measure comes before the Senate and is acted upon before final adjournment of Congress.

Mr. President, the rules of the Senate are made to be used. They will be used in such a manner as will bring the antibusing legislation bill before the Senate for action.

Mr. President, I yield the floor.

QUORUM CALL

Mr. RIBICOFF. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. JORDAN of Idaho). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. AIKEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSUMER PROTECTION ORGANIZATION ACT OF 1972

The Senate continued with the consideration of the bill (S. 3970) to establish a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and serve the interests of consumers, and for other purposes.

AMENDMENT NO. 1561

Mr. MOSS. Mr. President, I call up my amendment No. 1561 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 23, line 8, after the word "proceeding", insert the following: "against the person to whom the interrogatory is addressed."

Mr. MOSS. Mr. President, I intend to present a series of amendments. Before I begin I wish to compliment the chairman of the subcommittee and manager of the bill, the Senator from Connecticut (Mr. RIBICOFF) for the excellent work that has been done in the Committee on Government Operations on preparing this bill and presenting it to the Senate.

I believe that it represents a need that we have felt for a long time, the need for a consumer advocate or protection agency. As a member of the Committee on Commerce, and chairman of the Consumer Subcommittee, I have been involved in this effort for some time, and so have like committees in the House, and we have had bills before us.

In this instance, the bill that was fashioned after hearings by the Government Operations Committee would normally have come to the jurisdiction of the Commerce Committee, and to that extent, to the subcommittee, because of the jurisdiction we exercise in matters of consumers and commerce, but because of the time factor in this session of Congress and the need to move this matter through, the Commerce Committee did not assert any jurisdiction and gladly approved of the sending of the bill to the floor, but with the understanding that we would examine it carefully and present any amendments we felt were necessary to strengthen or clarify the bill, and that is the purpose of the amendment I present at this time.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. MOSS. I am glad to yield.

Mr. RIBICOFF. I thank the distinguished Senator from Utah for his gracious comments. Every consumer in this country—210 million people—owes a debt of gratitude to the continuous and steadfast leadership of the Senator from Utah in protecting, in so many ways, the interests of the American people.

In behalf of the entire committee, too, I want to take this opportunity to thank the Senator from Utah, the Senator from Washington (Mr. MAGNUSON), and the members of the Commerce Committee, with whom we have had such excellent cooperation always on matters affecting the American consumer. This is an opportunity for me to express my personal gratitude and that of our committee to the Senator from Utah and the members of the Commerce Committee.

Mr. MOSS. I thank my colleague from Connecticut, and I agree with him that there has been the greatest of cooperation and communication between the committees, and we have, indeed, been working to the same end.

Mr. President, addressing myself to amendment No. 1561, which has been stated, in section 207(b) the Administrator of the Consumer Protection Agency is authorized, under certain conditions, to obtain information from persons in the business community in order to effectively advocate the consumer interest. The Administrator is not permitted to exercise his information gathering power as prescribed in section 207(b) if the information sought "is for us in connection with his intervention in any pending agency proceeding." The stated purpose of this provision is to eliminate the possibility that the Administrator would be provided with two opportunities for discovery, one through section 207 and the other through the discovery proceeding of the host agency. This double discovery potential might be unfair to the other parties in the proceeding.

While the purpose of this provision is laudable, the language in the statute is too broad. By the terms of the statute the Administrator is prohibited from obtaining information from anyone if that information is to be used when intervening in a pending agency proceeding. Thus, if the discovery rules of the agency do not permit information to be gathered from a third party not participating in the proceeding, the Administrator is without authority to gather information. It may be that the third party has very important information in his possession which would be useful in advocating the consumer interest. For example, in a Federal Trade Commission proceeding against a finance company, the Administrator may want to inquire as to certain banking practices. The discovery authority of the Federal Trade Commission does not extend to the banking community. Under the terms of paragraph (2) (C) of section 207(b) the Administrator might not be able to gather useful information from the banking community when intervening in FTC rulemaking or adjudicatory proceeding affecting finance companies.

While this was not the intent of the language, it is a possibile result. Therefore, the provision should be amended to narrow the limitation on information gathering when that information is to be used in connection with an intervention in any pending agency proceeding. The language proposed accomplishes this purpose by narrowing the limitation so as to provide that 207(b) discovery powers are not to be used when the Administrator is intervening in any pending agency proceeding "against the person to whom the interrogatory is addressed."

Mr. RIBICOFF. Mr. President, I have discussed this amendment with the ranking minority manager of the bill (Mr. JAVITS) and the chairman of the committee (Mr. ERVIN), and this amendment is satisfactory to all of us and it is acceptable.

The PRESIDING OFFICER. The question is on the adoption of the amendment.

The amendment was agreed to.

AMENDMENT NO. 1563

Mr. MOSS. Mr. President, I call up my amendment No. 1563.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk read the amendment, as follows:

On page 33, line 14, after the word "Operations" delete the word ", and to such other committees as the Senate may deem appropriate" and insert in lieu thereof the following: "and to the Committee on Commerce".

Mr. MOSS. Mr. President, this is simply a matter of clarifying the jurisdictional question. As I pointed out in my opening remarks, the Committee on Commerce has general jurisdiction in matters of commerce and in consumer matters. In fact, a bill of similar nature to that we are discussing today was originally handled in the Committee on Commerce in the 91st Congress.

So, in the interest of time, at this time, as I said, we agreed to present only clarifying amendments, and we believe that in order to make it clear that the jurisdiction of the Committee on Commerce would attach, this language should be added to the bill at this point.

Mr. RIBICOFF. Mr. President, this amendment, too, has been discussed with the Senator from New York (Mr. JAVITS) and the Senator from North Carolina (Mr. ERVIN), and we all find it acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 1563) of the Senator from Utah.

The amendment was agreed to.

AMENDMENT NO. 1565

Mr. MOSS. Mr. President, I call up my amendment No. 1565.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 17, line 23, after the word "and" insert the word "may"; on line 24 delete the word "to".

On page 18, line 1, after the word "wherever" insert the words "he determines that"; on line 4 after the word "arose" insert a semicolon and delete the comma after the word "or".

Mr. MOSS. Mr. President, this amendment simply clarifies the language in section 204 to insure that the Administrator has discretion as to whether or not he intervenes in the review or enforcement of a Federal agency action in which he has intervened or participated. It is important to make sure that the Administrator is not required to intervene. That was not the intent of the Government Operations Committee as explained in their report. But the language needs some clarification. Therefore, I have offered these clarifying amendments. I ask unanimous consent that they be considered en bloc, since they are on several lines.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, this amendment, too, is acceptable to the managers of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 1565) of the Senator from Utah.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 1566

Mr. MOSS. Mr. President, I call up my amendment No. 1566.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 24, line 19, after the word "subject" insert the word "only".

Mr. MOSS. Mr. President, the purpose of this amendment is to insure that the limitations on disclosure in section 208 are exclusive and that no other limitations in other laws apply. This is a technical amendment to make certain that the Administrator's authority to disclose information to the public is no narrower than that prescribed in the information disclosure section of S. 3970.

Mr. RIBICOFF. Mr. President, this amendment, too, is acceptable to the managers of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 1566) of the Senator from Utah.

The amendment was agreed to.

Mr. MOSS. Mr. President, the RECORD will show that there are two other amendments which the Senator from Washington (Mr. MAGNUSON) and I have presented, but apparently there will be necessity for some discussion on those amendments, and I believe it is the desire of the manager of the bill that they not be called up at this particular time. I shall await a time when he thinks it is propitious for them to be called up, but I did want to serve notice that we do have two amendments still pending.

I express my appreciation to the Senator from Connecticut to the other Senators who have participated in this matter in helping to reach a number of small clarifying matters that our committee felt could better be done in this way on the Senate floor than by taking the time to assume jurisdiction and then report the bill back to the Committee on Government Operations. I think it has worked out very expeditiously this way.

Mr. President, I yield the floor.

Mr. RIBICOFF. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1568

Mr. ALLEN. Mr. President, I call up my amendment No. 1568.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. ALLEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 14, line 7, strike out all over to and including line 16 on page 18, and insert the following, and renumber the succeeding sections and cross references:

REPRESENTATION OF CONSUMER INTERESTS BEFORE FEDERAL AGENCIES AND COURTS

SEC. 203 (a). Whenever the Administrator determines that the interests of consumers may be affected substantially by the results of any—

(1) Federal agency proceeding which is subject to the provisions of sections 553, 554, 556, or 557 of title 5, United States Code, or which is conducted on the record after opportunity for an agency hearing; or

(2) Proceeding in a court of the United States involving the review or enforcement of a Federal agency action,

upon a timely filing of such determination in writing with the Federal agency or court, he may, as of right, orally or in writing, present to responsible officials in such proceeding or activity such relevant information in his possession as he deems necessary to enable the Federal agency or court to give due consideration to such interests of consumers.

(b) Whenever the Administrator determines that the result of any Federal agency activity to which subsection (a) does not apply and of which the Administrator has knowledge or receives notice pursuant to section 204 may substantially affect the interests of consumers, he may as of right participate for the purpose of representing the interests of consumers in such activity. In exercising such right, he may in an orderly manner and without causing undue delay—

(1) present orally or in writing to responsible agency officials relevant information in his possession, including briefs and arguments based upon such information; and

(2) have an opportunity equal to that of any person outside the agency to participate in such activity by presenting relevant information in his possession. Such participation need not be simultaneous, but should occur within a reasonable time.

(c) Each Federal agency shall review its rules of procedure of general applicability, and, where necessary, after consultation with the Administrator, issue additional rules consistent with subsections (a) and (b) of this section. Such additional rules shall provide for the orderly and effective participation by the Administrator in agency proceedings and activities which may substantially affect the interests of consumers.

(d) Whenever the Administrator determines that it would be in the interests of consumers to do so, he may request or petition a Federal agency to initiate a proceeding or activity or to take such other action as may be within the authority of such agency. If the Federal agency declines so to act, it shall promptly notify the Administrator in writing of the reasons therefore and such notice shall be a matter of public record.

(e) Upon a written petition to represent an interest of consumers by a substantial number of persons or an organization representing a substantial number of persons, the Administrator shall, within a reasonable period of time notify the principal sponsors of such petition of any action he has taken pursuant to his authority and, if he declines to represent such interest, shall provide a written statement of the reasons therefor.

(f) The Administrator is authorized to participate, in any State or local agency or court proceeding, except a criminal proceeding, to the same extent and in the same manner as he is authorized to participate in any Federal agency or court proceeding, provided the Administrator determines that the result of such proceeding may substantially affect the interests of consumers and such participation has been requested in writing by any of the following:

(1) the Governor of a State or any official designated by him for such purpose;

(2) an agency or official duly authorized by a State to represent the interests of consumers before any State or local agency or court; and

(3) the State or local agency or court conducting the proceeding.

(g) Each Federal agency is authorized and directed, prior to taking final action as a result of a proceeding or activity in which the Administrator has presented information, to—

(1) make available to the Administrator all written data, views and arguments presented, including any transcript of testimony and exhibits, together with all papers, requests or other relevant and material information filed in or developed pursuant to such proceeding or activity, and

(2) permit the Administrator, within such reasonable time as shall be permitted by rules of practice and procedure promulgated by the Federal agency, to file written comments with respect to such data, views and arguments concerning the interests of consumers that may be affected substantially by such action.

(h) The Administrator may, as of right, petition any Federal agency for rehearing or reconsideration of any agency action in which he participated, if the right to petition for rehearing or reconsideration is available by law to any person. Such agency shall act upon such petition within sixty days, except where otherwise expressly provided by statute.

(i) Except as provided in this section, the Administrator shall not intervene or otherwise participate in any Federal, State or local agency or court proceeding or activity or in connection with any judicial review of any Federal, State or local agency action, nor shall the Administrator be designated as a party in any such proceeding or activity; however, nothing in this section shall be construed by any court or agency as affecting the discretion or statutory right of any such agency or court to permit any person, class of persons or Federal agency other than the Agency, to initiate, intervene, or otherwise participate in any proceeding of a Federal, State or local agency or court.

On page 23, at line 7, strike "intervention" and insert therefor "participation".

On page 30, strike lines 13 through 18, strike in its entirety subsection (b) of section 210 and reletter the succeeding sections accordingly.

On page 31, line 14, strike the words "intervened or".

On page 31, line 17, strike the words "intervention or".

On page 31, line 22, strike "203(e) or".

On page 32, at line 4, strike the words "intervention in any proceeding" and insert in lieu thereof the words "participation in any proceeding or activity".

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FANNIN). Without objection, it is so ordered.

ORDER FOR RECESS FROM MONDAY NEXT UNTIL 8:15 A.M. ON TUESDAY, SEPTEMBER 26, 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business on Monday next, it stand in recess until the hour of 8:15 a.m. on Tuesday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS NELSON, MUSKIE, HART, BAYH, AND TUNNEY, ON TUESDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on Tuesday next, following the remarks of the two leaders under the standing order, the following Senators be recognized, each for not to exceed 15 minutes, and in the order stated:

Senators NELSON, MUSKIE, HART, BAYH, and TUNNEY.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO LAY BEFORE THE SENATE ON TUESDAY THE FOREIGN AID BILL, AND FOR NO MORNING BUSINESS TO BE TRANSACTED ON THAT DAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on Tuesday next, at no later than 9:30 a.m., the Chair lay before the Senate the foreign aid bill, and, by virtue of the fact that the Senate will meet following a recess, that there be no morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FANNIN). Without objection, it is so ordered.

LIMITATION OF TIME ON SAFE DRINKING WATER ACT OF 1972 (S. 3994)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 1100 (S. 3994)—a bill to assure that the public is provided with an adequate quantity of safe drinking water, and for other purposes—is called up and made the pending business before the Senate, there be a time agreement thereon, in the usual form, with 1 hour of debate on the bill to be equally divided between the Senator from Virginia (Mr. SPONG) and the Senator from Alaska (Mr. STEVENS), and 1 hour on any amendment in the first degree, to be equally divided between the mover of the amendment and Mr. SPONG, and one half-hour on any amendment to an amendment or amendment in the second degree, debatable motion, or appeal, to be divided in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS KENNEDY, CRANSTON, MAGNUSON, RIBICOFF, ROBERT C. BYRD, AND SCOTT ON MONDAY, SEPTEMBER 25, 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, following the remarks of the distinguished Senator from Maryland (Mr. BEALL), the following Senators be recognized, each for not to exceed 15 minutes and in the order stated: Mr. KENNEDY, Mr. CRANSTON, Mr. MAGNUSON, Mr. RIBICOFF, Mr. ROBERT C. BYRD, and Mr. SCOTT.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY, SEPTEMBER 25, 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the remarks of Senators under the orders aforementioned on Monday there be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements limited therein to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO LAY UNFINISHED BUSINESS, H.R. 16029, BEFORE THE SENATE ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, at the conclusion of the routine morning business on Monday, the Chair lay before the Senate the Foreign Assistance Act, H.R. 16029.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. FANNIN). The Chair, on behalf of the Vice President, in accordance with Public Law 84–689, appoints the following Senators to be delegates to the North Atlantic Assembly to be held in Bonn, Germany, November 18–24, 1972: Senators SPARKMAN, SYMINGTON, CANNON, NELSON, HOLLINGS, EAGLETON, BENTSEN, COOPER, JAVITS, CASE, SCHWEIKER, and STEVENS; and the following Senators to be alternates to the same conference: Senators JACKSON, PELL, KENNEDY, MCINTYRE, TUNNEY, MILLER, BELLMON, and COOK.

ORDER THAT UNFINISHED BUSINESS BE SET ASIDE ON MONDAY

The PRESIDING OFFICER. The Chair would like to say that it is the understanding of the Chair that there is no order to set aside the unfinished business on Monday.

Mr. ROBERT C. BYRD. I thank the Chair. I thought I had already taken care of that.

Mr. President, I ask unanimous consent that at the conclusion of the routine morning business on Monday, the unfinished business be temporarily laid aside and that the Senate proceed to the consideration of H.R. 16029, an act to amend the Foreign Assistance Act of 1961, and that the unfinished business remain in a temporarily set-aside status until a time during the day to be designated by the distinguished majority leader or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I think that about wraps it up for today.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for Monday is as follows:

The Senate will convene at 9 o'clock a.m. After the two leaders have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes, and in the order stated: Messrs. BEALL, KENNEDY, CRANSTON, MAGNUSON, RIBICOFF, ROBERT C. BYRD, and SCOTT.

At the conclusion of the orders for the recognition of Senators on Monday, there will be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements limited to 3 minutes.

When morning business is closed, Mr. President, the Chair will lay before the Senate, under the order previously entered, H.R. 16029, an act to amend the Foreign Assistance Act of 1961, and for other purposes. Amendments are in order, and yea-and-nay votes thereon could occur. The unfinished business will be temporarily laid aside until an hour during the day to be decided upon by the distinguished majority leader or his designee, at which time action on the unfinished business, S. 3970, a bill to establish a Council of Consumer Advisers in the Executive Office of the President, will be resumed by the Senate.

The pending question when the unfinished business, S. 3970, is resumed on Monday, will be on the adoption of amendment No. 1568 by the distinguished Senator from Alabama (Mr. ALLEN).

I am informed by the distinguished author of that amendment, Mr. ALLEN, that there will be a yea-and-nay vote on the amendment. Senators, therefore, are alerted to the fact that yea-and-nay votes, in all likelihood, will occur on Monday.

At least one amendment to the consumer advisers bill will be voted on on Monday, the amendment I have just referred to, by Mr. ALLEN, and other amendments to that bill may be called up requiring yea-and-nay votes thereon.

Conference reports, of which there are several yet to be called up before adjournment sine die, can be called up at any time, they being privileged matters and, of course, yea-and-nay votes can occur thereon.

ADJOURNMENT TO MONDAY, SEPTEMBER 25, 1972, AT 9 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 o'clock a.m. on Monday next.

The motion was agreed to; and at 3:35 p.m. the Senate adjourned until Monday, September 25, 1972, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate September 22, 1972:

DISTRICT OF COLUMBIA COUNCIL

The following-named persons to be members of the District of Columbia Council for the terms indicated:

For the remainder of the term expiring February 1, 1974:

Rockwood Hoar Foster, of the District of Columbia, vice Henry K. Willard, resigned.

Marjorie Parker, of the District of Columbia, vice Margaret A. Haywood, resigned.

For the term expiring February 1, 1975:

Jerry A. Moore, Jr., of the District of Columbia; (reappointment).

U.S. NAVY

Vice Adm. Frederic A. Bardshar, U.S. Navy, for appointment to the grade of vice admiral, when retired, pursuant to the provisions of title 10, United States Code, section 5233.

U.S. ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be general

Gen. Ralph Edward Haines, Jr., [redacted] Army of the United States (major general, U.S. Army).

U.S. NAVY

Vice Adm. Harold G. Bowen, Jr., U.S. Navy, for appointment to the grade of vice admiral, when retired, pursuant to the provisions of title 10, United States Code, Section 5233.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 22, 1972:

U.S. ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. John Russell Deane, Jr., [redacted] U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Donald Harry Cowles, [redacted] U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Elmer Hugo Almquist, Jr., [redacted] U.S. Army.

The following named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Stanley R. Larsen [redacted], Army of the United States (major general, U.S. Army).

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Phillip Buford Davidson, Jr., [redacted] U.S. Army.

U.S. NAVY

Vice Adm. Walter L. Curtis, Jr., U.S. Navy, for appointment to the grade of vice admiral, when retired, pursuant to the provisions of title 10, United States Code, Section 5233.

U.S. MARINE CORPS

The following-named officers of the Marine Corps for permanent appointment to the grade of major general:

Harry C. Olson
Ralph H. Spanjer
Fred E. Haynes, Jr.
Lawrence F. Snowden
Ross T. Dwyer, Jr.
Joseph C. Fegan, Jr.
Leslie E. Brown

The following-named officers of the Marine Corps for permanent appointment to the grade of brigadier general:

William G. Joslyn
Donald H. Brooks
Charles D. Mize
Norman W. Gourley
Paul G. Graham
William R. Quinn
Harvey E. Spielman
Andrew W. O'Donnell

IN THE AIR FORCE

Air Force nominations beginning Frederick H. Barnes, to be lieutenant colonel, and ending Gene A. Allen, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on September 5, 1972.

IN THE ARMY

Army nominations beginning Irma V. Bouton, to be lieutenant colonel, and ending Richard J. Williams, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on September 6, 1972.

IN THE NAVY

Navy nominations beginning David H. Acton, to be ensign, and ending Philip M. Lightfoot, Jr., to be captain, which nominations were received by the Senate and appeared in the Congressional Record on September 5, 1972;

Navy nominations beginning David S. Ailes, to be captain, and ending Eugene M. Riddick, to be commander, which nominations were received by the Senate and appeared in the Congressional Record on September 6, 1972; and

Navy nominations beginning David D. Abelson, to be lieutenant, and ending William C. Jarrett, to be commander, which nominations were received by the Senate and appeared in the Congressional Record on September 6, 1972.

IN THE MARINE CORPS

Marine Corps nominations of John Caldwell, to be second lieutenant, and Clarence U. Gebsen, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on August 15, 1972; and

Marine Corps nominations beginning Vincent A. Albers, Jr., to be colonel, and ending William A. Tate, to be colonel, which nominations were received by the Senate and appeared in the Congressional Record on September 6, 1972.

EXTENSIONS OF REMARKS

ADDRESS BY SENATOR PERCY—ISRAEL DINNER OF STATE IN NEW YORK

HON. JACOB K. JAVITS

OF NEW YORK

IN THE SENATE OF THE UNITED STATES

Friday, September 22, 1972

Mr. JAVITS. Mr. President, my attention has been brought to the excellent address delivered by the distinguished Senator from Illinois (Mr. PERCY) on April 30 before the Israel Dinner of State in New York City. Because Senator PERCY's remarks are most pertinent, I ask unanimous consent that they be printed in the RECORD:

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY U.S. SENATOR CHARLES H. PERCY

I am honored to be on the same platform with your distinguished guests Mr. and Mrs. Joseph Mazer, Mr. and Mrs. Maxwell Rabb, and General Haim Laskov (former Chief of Staff of the Israeli Army). I also thank him for his gracious introduction.

Just a few minutes ago in the audience, because of being in black tie, I suppose, I was mistaken at one table for the maitre d'. I was thanked very much for the dinner. I promised the table to convey their praise and mine to the dinner committee and all of you who helped organize this wonderful evening.

We are here this evening because each of us has tried to communicate one of the truly great stories in human history—the story of Israel. We have the job of continuing to transmit that story, and I wish that everyone in this country could have heard General Laskov's brilliant analysis tonight of the situation in the Middle East. I would like to place his speech in the CONGRESSIONAL RECORD. If he could furnish a copy to me, we could, in that way, share it with my colleagues in the Senate. [Senator Percy placed General Laskov's speech in the RECORD on June 5, 1972].

The job of communicating is always difficult. I recall an anecdote about Biblical days, about an unfortunate Christian scheduled to be sacrificed to the lions. As the Christian neared the center of the arena, he fell to his knees to pray. Then a lion entered and charged to the center of the arena, and it, too, dropped on its knees to pray. The Christian looked in wonderment. His prayers had been answered. He said, "Ah! At last we've begun to communicate." The lion looked at him and said, "I don't know what you're doing, but I'm saying grace."

I think one thought has been communicated to the group of one hundred men who sit in the United States Senate. They understand the need to support Israel in its determined effort to remain free and sovereign. I think we owe great credit for this to the distinguished Senator from New York, one of my close friends and one of the most brilliant men to have graced the Senate, Jack Javits. He, together with Abe Ribicoff from Connecticut, has eloquently communicated the idea and a sense of purpose and dedication to those of us in the Senate.

You may recall that in the spring of 1970 a number of actions undertaken by the Soviet Union endangered the military balance in the Middle East. Not only did the Soviet Union substantially increase the number of its military personnel in Egypt, it also allowed Russian pilots to fly combat planes over the country. In a joint letter, 78 Senators urged Secretary Rogers to provide Israel with additional aircraft to counter the reckless Soviet escalation. We noted in the letter that the United States' decision to hold in abeyance the sale of additional jets to Israel had failed to encourage reciprocal restraint on the part of the Soviet Union. I believe such a strong indication of support for Israel helped the President in his subsequent decision to sell the additional aircraft to Israel. I also believe it was a decision the American people solidly supported.

Support for Israel in the government is built on a foundation of support in the private sector. Our honored guests tonight, the Joseph Mazer family and the Max Rabb family, have shown the power of combining the industrial and the educational might of this country with the industrial and educational power in Israel. I think their efforts as individuals, and individual families demonstrate how we can all work to bind the two countries together. I think their actions represent the essence of how we do things in this country. We do not always work through government. Government can reinforce and back up our private efforts. But first we have to decide what to do ourselves, we have to make the commitment ourselves.

This evening in tribute to Mr. and Mrs. Joseph Mazer and family, and to Mr. and Mrs. Max Rabb and family, I would like to pledge on behalf of the Percy family to purchase an additional $10,000 in State of Israel Bonds. I make this commitment through the Chicago chapter, because if I made the investment here in New York, David Zysman (Executive Director, Greater Chicago Committee, State of Israel Bonds) would not let me come back home. Nonetheless, my own family makes this pledge as a tribute to the Mazers and the Rabbs in honor of what they have accomplished in support of Israel.

Israel stands today because so many Americans like yourselves are committed to its freedom. All our contributions are expressions of that commitment. This absolutely unyielding insistence and the determination of the American people have ensured the United States' help in providing the necessary weapons for Israel's defense.

Now Israel faces another challenge in making a home for thousands of Jewish immigrants from the Soviet Union and other communist nations. As the invitation for this evening's dinner points out, this immigration begins a new and dramatic chapter in Israel's history. I believe we in America have a great opportunity to help make this new chapter a joyous one. In 1966 I talked with Russian officials in Moscow about this problem. In the past six years I have continued those talks with the Soviet Ambassador to the United States, Mr. Dobrynin. In 1970 I also talked with President Ceausescu of Romania about this problem. Though these and other contacts have not brought a completely satisfactory response from the communists some progress has been made. We must, however, keep up the pressure.

We can well ask the question, why should this be done, why should we continue to help Israel? I have no confusion at all about my primary responsibility which is to the security and well-being of the United States of America. Our actions must always be governed by what is best for our country. But this great land of ours is not an island. Its fortunes depend not on itself alone, or on its own resources, but rather on the state of the world and on the welfare of responsible nations in the world.

There is an interdependence among free nations, and I maintain it is in our national interest to assist free men when they are threatened by external forces. No nation has been subject to a greater threat than Israel. Israel's neighbors have threatened to drive the Israeli people into the sea. In response Israel has never asked for a single soldier from any other country. Israel has not asked for charity. It has asked only for the right to purchase weapons for its own defense.

I support Israel's aspirations for peace and security not only because it is in our national interest to do so, nor because Israel is a democracy, nor because Israel is a western outpost in a hostile region, nor even because Israel blocks Soviet dominance in the Middle East. All of these are important reasons to support Israel, but to me they are not the most compelling. The most compelling reason to support Israel is that it is the right thing to do; it is the moral thing to do. In this case, it is clear what is right and what is wrong. There is no question who is right and who is wrong when a group of hostile nations threaten to drive the people of a free nation into the sea.

Over a period of two decades, I've done what I could to serve the free people of Israel. I can recall my outrage when as the Chairman of the Board and Chief Executive Officer of Bell and Howell, I was officially notified that the company would be boycotted in all Arab states if we continued to ship products to the government of Israel.

I called the Egyptian ambassador to my office. I told him right to his face that we couldn't care less about how much business his government or any other government did with us if they interfered with the free movement of goods through the world. That was a moral issue. I think you could have put the amount of business we did with Israel in the palm of our hand compared with what we were doing with the Arab states. But we simply refused to accept the Arab terms. In fact, we increased our trade with Israel in every way we could and encouraged the construction of plants there.

We have also been able to do what I consider good business for this country by liberalizing the export-import bank policy on credits for Israel—a country which has never defaulted on a penny of debt anyplace. And in the Senate I have approved every request for arms made by the state of Israel because I have felt that every single request has been necessary for its defense.

The Israeli people have never demanded nearly as much from another nation as they have of themselves. I remember an experience I had on one trip to Israel when I met a young girl on the side of the road who was in the army. My brother-in-law and I were driving with two other men to Jerusalem. We had a five passenger car, and we saw a group of hitch-hikers at the intersection. There were four or five men and one girl, all in uniform. We stopped the car and said, "Gentlemen, we don't want to discriminate against males, but it's obvious we only have one seat, and we would find it far more pleasant traveling with the young lady than the rest of you fellows." They understood.

I talked to this young girl, who was 19, and I asked her what it was like to be in the army. She said to me, "I love being in the army." I asked why. "Well," she said, "first of all, my parents are very orthodox and very strict, and I find more freedom in the army. But secondly, there are seventy million of them, and two and one-half million of us, and I feel proud to serve my country in any way I can." That young girl was my guest the night of our Israel Bond dinner last year in Chicago and it was a great thrill to introduce her to a Chicago audience because I have received a great deal of inspiration from her and I have told that story to my family and every friend who would listen to me.

As far as a report on what's happening, as you know, Foreign Minister Abba Eban said two weeks ago in Washington that "We in Israel have lost our first place in the hierarchy of international tensions." But no one could be happier about this fall from stardom than Abba Eban. We can all hope that the reduction in tension will lead to negotiations.

I personally urged President Nixon and Dr. Kissinger to place the problems of the Middle East high on the agenda of discussion at the Soviet summit. We must do what we can to make certain that the ceasefire, now in its 23rd month, continues. We must also do what we can to promote sensible negotiations that will bring an end to this tension.

Unlike Southeast Asia, where we poured 145 billion dollars, 55 thousand American lives, and 300 thousand casualties, the tension in the Middle East seriously endangers world peace. We all have a stake in finding the road to a lasting peace in the Middle East.

As far as the United States is concerned, some of us who have met regularly with Secretary Rogers feel very strongly about what we can and what we cannot do. I do not think it's possible for any outside power, no matter how friendly or how sincere it is in its desires, to impose terms on Israel. I believe that only the parties involved in the conflict can be the partners in such a peace. As far as the United States is concerned, I adhere to my position that Israel should not be pressured to make specific concessions she feels might endanger her future security. Israel must decide for herself what concessions she can afford to make and what she requires in return. Our role should be to do everything we can to remove impediments to serious negotiations, and I believe this Administration has been making strenuous efforts toward this end.

The remaining problem that we must deal with involves the plight of the Soviet Jews who want to immigrate to Israel. In the past few years the rate of immigration has risen unbelievably fast. If the present 1972 rate remains the same for the rest of this year, a total of 24,000 Soviet Jews will arrive in Israel by next January. That is eight times the number of Soviet Jews who were allowed to immigrate to Israel in 1969. Before 1969, immigration into Israel from the Soviet Union was virtually zero.

Israel is eager to accept these tens of thousands of refugees. Further, Israel is not saying we just need skilled workers, we just need doctors, we just need other technical people. Instead, Israel encourages any and all of those who wish to share in its freedom to come. It accepts the old, the sick, and the unskilled. In my mind that is further proof of the human decency and compassion which motivates the remarkable people of Israel. Even under siege, they open their arms to share what they have with others.

Now we must match that sense of decency by contributing what we can to help Israel bear the burden of immigration.

Israel's bond investments play a vital role. They are an important part of the economic life line between the United States and Israel. They help maintain a stable and growing economy which is needed to provide the homes, jobs, education and other services necessary to sustain the Israeli citizens. But I think government also has a role to play. I intend to support fully the 85 million dollars of American assistance to help Israel resettle these new immigrants.

I intend to fight for those funds on the Senate floor. I will do so because on my last visit, a year ago, I spent some time with the officials who administer the program for the people entering Israel. If those who enter have no clothes, they are clothed. If they have no capital resources, they are given help to get started. If they have no skills, they are given the opportunity to develop skills. This is an expensive process, but it is an investment in the dignity and promise of human beings. No human beings on earth have risen to the challenge more rapidly than the immigrants who have come to Israel. Rapidly and swiftly they have moved into the main stream of the economy and social life of Israel.

The message must go forth clearly to the world. Soviet Jews in the Soviet Union must be allowed to immigrate. The process has begun and we must do all we can to encourage it.

Those who remain in the Soviet Union must be given the full rights of citizenship. They must be allowed to practice their religion and to maintain their traditions. And those Soviet Jews imprisoned because they tried to practice their religion must be set free. I suggest to the Soviet officials themselves that they could find no greater symbol of decency and compassion than to allow Soviet Jews to practice their religion and maintain their traditions without harassment.

I would like to conclude with a prayer that I believe can be applied universally to all oppressed people in the world who seek freedom. It is a Talmudic prayer, older than the Christian era itself:

"Grant us peace, Thy most precious gift, O Thou eternal source of peace, and enable Israel to be its messenger unto the people of the earth. Bless our country that it may ever be a stronghold of peace, and its advocate in the council of nations. May contentment reign within its borders, health and happiness within its homes. Strengthen the bonds of friendship and fellowship among the inhabitants of all lands. Plant virtue in every soul and may the love of Thy name hallow every home and every heart. Praised be Thou, O Lord, Giver of Peace."

This beautiful prayer sums up our hopes, for America, for Israel and for the whole world. It should stand as our ideal. It should inspire our efforts. It should be the goal of life.

Shalom!

THE CONSTITUTION THREATENED BY FEDERAL JUDGES

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. RARICK. Mr. Speaker, the recent Federal court decision in Illinois ordering the State Electoral Board to place the name of Communist Party candidates on the November ballot is clearly indicative of the ridiculous extent to which unelected Federal judges will circumvent commonsense in the law to invent constitutional crises.

Reportedly, the Federal court in a 2 to 1 decision held the State election code requirement that prospective candidates swear to a loyalty oath was unconstitutional. Obviously, a Communist Party political candidate must be a Communist Party member and cannot honestly swear to uphold and defend the Constitution and laws of the country to which he is sworn to destroy.

The Constitution of the United States requires that every elected as well as appointed official must take an oath to support and defend the Constitution, laws of the United States, and the laws of a State if a local official. How then can a political candidate if he is elected ever take office if he refuses to swear or affirm by this oath?

The mere fact that it is highly improbable that any Communist will ever be elected to a position in the United States does not avoid the precedent that these shortsighted Federal judges have created in their ruling that prospective political candidates cannot be required to take a loyalty oath.

The judges' ruling is as big a sham to the voters as is the Communist doctrine that it's comrades can only bind themselves to the materialistic goals and directives of the Communist international.

I include a newsclipping at this point:

[From the Washington Post, Sept. 22, 1972]

A panel of three federal judges ordered the Illinois State Electoral Board to place the names of Communist Party candidates on the November election ballot, but denied ballot spaces to the Socialist Party.

Judge Walter J. Cummings of the 7th U.S. Circuit Court of Appeals and Judge Abraham L. Marovitz of U.S. District Court held the Illinois election code requirement that prospective candidates swear to a loyalty oath was unconstitutional. A third judge dissented.

The judges ruled against granting ballot spaces to the Socialist Party because its candidate for President, Linda Jenness, 31, was under the age of 35 as required by the U.S. Constitution to hold the office of President.

NATIONAL HUNTING AND FISHING DAY

HON. WM. JENNINGS BRYAN DORN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. DORN. Mr. Speaker, it was a special pleasure to sponsor and support the legislation which officially designated this Saturday, September 23, as National Hunting and Fishing Day. Congress established this day to recognize the health and recreational aspects of hunting and fishing, and to call attention to hunting and boating safety. This National Hunting and Fishing Day 1972 also calls on us to give special attention to the proper stewardship of all our wildlife and natural resources.

No group in America is more interested in conservation and in clean water than the hunter and the fisher. As a farmer, and as a hunter, I have personally spent much of my life setting out the trees, the grass and the ponds which are so vital for wildlife preservation and environmental improvement.

Hunting and fishing provide splendid recreation, a therapy from the tensions of everyday life. Millions of hunters own firearms, which they treat with the greatest care. These are good citizens who believe in America and believe in the constitutional right to own firearms for recreation and self-protection. Yes, you hear much concerning new firearms laws. But hunters and fishers know that Federal firearm regulation and confiscation would be the first step to dictatorship. Terrorists and hoodlums, gangsters and drug traffickers will never obey any gun laws. You would have gun bootlegging and black-marketeering on a scale never before seen. The average law-abiding citizen would be placed at a disadvantage.

As we observe Hunting and Fishing Day 1972, we in the Congress must take care not to rush into enacting legislation that would penalize millions of law-abiding firearms owners without really getting at the criminal element.

Ownership of firearms by law-abiding citizens is a deterrent to crime. The way to reduce crime committed with guns is through strict law enforcement and the passing of laws that will require severe criminal sentences when a gun is used to commit a crime.

REVITALIZED RAILROADS

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. PICKLE. Mr. Speaker, as one of the cosponsors of the Surface Transportation Act of 1971, I think that the Congress should be aware of the bill's importance. It is not only the large, teeming urban giants that depend on railroads, but also the farmer, the rural town, and medium-sized cities, which are the link between the farm and million-plus cities.

The Surface Transportation Act of 1971 has become the Surface Transportation Act of 1972. The 92d Congress is coming to a close. The Senate has passed a bill aiding our transportation system. I do hope that some action can be taken by the House before we adjourn. This legislation is vital.

Mr. Speaker, to demonstrate that concern for the Nation's transportation system is widespread, I place in the RECORD an editorial from the Lubbock, Tex., newspaper, the Avalanche-Journal:

REVITALIZED RAILROADS DEPEND UPON CONGRESS

It should be obvious to any unbiased observer that the Surface Transportation Act of 1971, now being considered by Congress, can open the way for revival of an industry which has been driven to the brink of chaos, by inflation, over-regulation, discriminatory taxation and other problems beyond control of business-managed, tax-paying private enterprise.

Regulated water carriers, truck lines and railroads have joined unanimously in supporting remedial action provided in the Transportation Act. It's not just self-interest. An indication of the overriding concern for the public interest which brought the competing carriers together can be seen in a summary presented to reporters at a press briefing about the proposed legislation.

It states: "The most productive farm—or mine—or factory—would be spinning its wheels without adequate transportation to move materials and goods to the places where they are needed. And without efficient transportation—a total system capable of doing all parts of the total job at the lowest possible cost—the price of everything we use, wear or eat would be affected.

"About 20 cents of every dollar spent in this country goes for transportation. And if we're talking about freight transportation, it's 10 cents of every dollar."

The economy of Texas literally is totally dependent on the ability of these carriers to operate efficiently and profitably. There simply is no way in which all the agricultural products and manufactured goods produced in the State could be consumed in Texas.

Without an adequate transportation system, Lubbock would be on its way back to a prairie village. Manufacturing and agricultural centers here are located a long distance from the principal markets they serve.

This is good legislation. It speeds up the regulatory processes so freight movers are more quickly able to respond to new opportunity and changing economic conditions. It provides a limited amount of Government financial assistance through loans, to be repaid fully, with interest, so the carriers can obtain funds to implement new technology which is already available.

The bill should be passed this year.

McKEESPORT: TUBE CITY

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. GAYDOS. Mr. Speaker, a full century of production of pipe used around the world is being celebrated this month by a facility of United States Steel Corp. which gave the city of McKeesport, Pa., the nickname of the "Tube City."

This facility is the National Division of the National-Duquesne Works of United States Steel Corp. Built in 1872, it has supplied the best in pipe for oil wells, pipelines, buildings, and even construction machinery for 100 years. Today, it represents a combination of modern equipment operated with traditional pride in workmanship and high quality.

It was on September 13, 1872, that the first furnace was put into operation at this plant and the occasion was marked by a 100th anniversary banquet last week at the Youghiogheny Country Club near McKeesport. More than 250 persons attended the dinner, including many civic leaders and steelworkers, as well as corporation representatives.

The production of pipemaking in McKeesport began just 2 years after John H. and Harvey K. Flagler, makers of iron boiler tubes in Massachusetts, decided to locate along the banks of the Monongahela River in 1870. They purchased a partially rebuilt plant formerly used to make rope and the "National Tube Works" came into being. In 1891, the "Tube Works" was consolidated with four other iron and steel plants and became the "National Tube Works Co." In 1899, a further consolidation with 13 other major tube and pipe producers occurred and finally, on March 1, 1901, National Tube became part of the United States Steel Corp.

Today, the products of the National plant can be found practically anywhere in the world. National is represented in the famous "Big Inch" and "Little Inch" pipelines of World War II. It is part of the world's deepest oil well—30,050 feet—part of pipelines and wells in Alaska and the deserts of the Middle East, and it can be found beneath the waters of the Gulf of Mexico and in the North Sea.

National has pioneered the production of sizes, end finishes and grades of casing which have become standards for the world to follow. It has been a leader in the implementation of environmental improvement devices. The first wet scrubber for removing dust from sinter plants was developed there. This method was ahead of its time, according to officials, and may prove to be the ultimate in this application for cleaning air. A problem involving removing oil and mill scale was solved at National by installing a huge water treatment device on the banks of the river to intercept all waste water from the plant. The system, officials say, now is recognized by the State as meeting all of the latest requirements for the Mon River and puts National in the lead in water purification of this type.

John P. Ely, general superintendent of National-Duquesne Works, noted that while the products of National have achieved an international reputation, the key ingredient for the plant's success has been its employees.

At the present time there are 2,009 living pensioners from the National plant. The aggregate total of their service amounts to 68,869 years, or an average of 34 years per man. However, 84 of those men have individual service records of 50 years or more.

Mr. Ely said in paying tribute to the men of National—

> Our employees have been instrumental in developing new processes, techniques and products for the pipeline and well drilling industry. Without the dedication of the people who man the equipment, National would never have been able to enjoy this centennial celebration.

In line with the recognition of National's past success of the past century, Mr. Edgar B. Speer, president of United States Steel Corp., used the occasion of the plant's 100th anniversary to announce a multimillion-dollar expansion program which will enable National to continue to be a leader in the world's pipe industry.

Mr. Speer revealed that a pending energy crisis facing the United States has made it necessary for wells to be drilled deeper and deeper into the earth to tap new sources of fuels. This must be done, the corporation executive emphasized, if the supply of fuels is to meet the ever-increasing demand for energy in America. Consequently, National plant, which introduced deep well casings capable of withstanding pressure at depths of 30,000 feet—or nearly 6 miles—will be concentrating its efforts to expand and improve the capabilities of this line.

Mr. Speaker, the men of National plant and of the "Tube City," McKeesport, Pa., have played a vital role in the industrial life of our Nation for more than half of its nearly 200-year history. It is with great pride, therefore, that I join in the tribute to these pipemakers of Pennsylvania. I congratulate them, Mr. Speer, Mr. Ely and the others for an outstanding record of past accomplishments, and I wish them the best of success for the second century of operations at the National plant, National-Duquesne Works, United States Steel Corp., in McKeesport, Pa.

DISTRICT OF COLUMBIA TEACHERS' STRIKE—A STUDY IN ENVIRONMENT

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Mr. RARICK. Mr. Speaker, the much publicized District of Columbia's teachers' strike has served one useful purpose. Many TV viewers in the Washington, D.C., Maryland, and Virginia area have been entertained by views of what are educators in our Nation's Capital and their antics and some of their vocabulary used in interviews.

I dare suggest that public opinion in this area has now been solidified as to the cause of the educational crisis among the children of the District of Columbia; for example, why the average District of Columbia high school graduate has a comparable educational ability to a ninth grade student nationwide. Or, to put it otherwise, people may understand why the average 18- or 19-year-old high school graduate in the District school system compares favorably with the educational training or ability of the average 15-year-old in the rest of our country.

If those interviewed who portray themselves as District of Columbia teachers and spokesmen for the salary increase are the educational leaders or are even typical stereotypes of teachers in the District, then little wonder that the children are not being educated. In fact, they probably do not even know they live in America. In fact, many taxpayers, rather than having been made sympathetic for a raise, will be forced to conclude that many of the District of Columbia teachers are either overpaid or are unqualified to teach at all.

The average American who is aghast at what now passes itself off as the teachers' corps in our Nation's Capital should realize that this did not just happen, but rather is the result of concentrated efforts to gain control of the minds of our children through the concerted efforts of extremist liberal leaders, Federal judges, and extremist groups.

As recently as this May, the Board of Education in the District of Columbia voted to extend job protection to homosexual teachers. In fact, the board chairman said the adopted resolution reaffirms our commitment to nondiscrimination, but we need to go further—we need to open the schools to discussion of the realities of life.

That the resolution or the chairman's comment places the District of Columbia schools in the posture of an advocacy role for homosexuality is undecided.

In early 1971, militant members of the Washington Teachers' Union protested the action of a District of Columbia principal in tearing down a "Free Angela Davis" slogan and picture from the union bulletin board. In fact, according to local news reports, the Washington Teachers' Union was selling posters and "Free Angela" buttons for between $0.25 and $1 at its downtown headquarters. This was the same Angela Davis who is an avowed Communist and who is now on exhibition tour in the Soviet Union and other Communist countries as a Communist hero advocating overthrow of the United States.

Such being the case for education in the District of Columbia, certainly many of the children would be better off at home with their parents or playing in the schoolyard than receiving the indoctrination from the crowd of activists seen on the TV screens.

What next from the misguided liberals and opinion molders for Washington, D.C., which the American people have the right to expect will be a model city? Home rule for the District—so long as the taxpayers outside the District foot the bill for this experiment in progressive living?

I include several related news clippings:

[From the Washington Evening Star, May 24, 1972]

District of Columbia Schools Adopt Gay Rights Policy

(By Lynn Dunson)

The District Board of Education last night approved what is believed to be the nation's first nondiscrimination policy which would extend more job protection to homosexuals employed in the system.

Franklin E. Kameny, the gay activist who ran for D.C. nonvoting delegate last year, was jubilant over the board's decision. "I feel it was the only action the board could have taken that would have been consistent with fundamental American principles," Kameny said.

By a vote of 3 to 4, a majority of the board present over-rode Supt. Hugh J. Scott's recommendation that the action was "unnecessary" since homosexuals are covered by the same equal employment and "affirmative action" policies that cover all employes in the school system.

Discussion of the resolution was brief, but sharply divided.

Strongly opposed to adoption of the resolution, Mattie G. Taylor, called the proposal "almost absurd" and expressed fear that it would place the schools in an "advocacy role."

"At no time has there been any allegation, charge or finding of fact of any discrimination . . . based solely on the sexual orientation or an employe," she asserted.

But Hilda Mason reflected, "After my long struggle for the liberation of my (black) people, I cannot sit and deny any person his constitutional rights. When you deny a person the right to a job, you deny him the right to live."

There have been no reported cases of dismissal solely because of homesexuality.

Board Chairman Marion S. Barry said the resolution "re-affirms our commitment to nondiscrimination, but we need to go further—we need to open the schools to discussion of the realities of life."

Voting for the measure were Martha S. Swaim, Mrs. Mason, Kemp and Barry. Voting against were Mrs. Taylor, Evie Washington and Bardyl Tirana.

In other business adopted a report showing that all elementary schools were in compliance with the Wright equalization degree as of May 2.

Teachers Protest Action on Poster

(By Robert F. Levey)

One day last week, a Washington elementary school principal walked into the teachers' lounge and tore down from the Washington Teachers' Union bulletin board a poster that bore the slogan, "Free Angela Davis," superimposed over a picture of Miss Davis.

That action, ordered by the principal's supervisors in the city school administration, led to a formal grievance filed this week by the union.

The union contends that the principal violated the union contract, which guarantees the union's right to place anything that is "union business" on its bulletin boards.

The administration, according to Supt. Hugh Scott, contends that "it is time to test just what 'union business' means."

The union had unanimously approved a resolution at its January meeting to lead a local fund-raising effort that would "guarantee due process for a beautiful black sister, Angela Davis."

Miss Davis, an avowed Communist and revolutionary, is awaiting trial in California on charges that she bought guns that were later used in a Marin County court house kidnapping in which three persons, including a judge, were fatally shot.

Shortly after its January meeting, the union began to pin up large Davis posters on its bulletin boards in most of the city's schools, according to Charles Cheng, union vice president.

Most boards are in teacher lounges, where students are not permitted and could not have seen the posters, Cheng said.

The union also began selling posters and "Free Angela" buttons for between 25 cents and $1 at its downtown headquarters. Proceeds have gone to the D.C. Area Committee to Free Angela Davis. So far, about $150 has been collected, sources said.

"We're not going off on some wild radical trip," Cheng said. "After all, Angela is one of us. She's an AFT (American Federation of Teachers) member in California. And this local here has been involved in antiwar and social issues for a long time."

Scott said in a telphone interview yesterday that he had asked the D.C. corporation counsel to study the union's contract to see if "a poster like this would be protected."

Scott said in a telephone interview yester- the order for the one poster to be taken down and that he has "mixed feelings" about the charges against Miss Davis.

He added, however, that he "fully supports the judgment" of Dorothy L. Johnson, assistant superintendent for elementary education, who he said gave the order.

[From the Washington Post, June 5, 1971]

School Chief Eases Pupil Plan Stand

(By Lawrence Feinberg)

Washington School Supt. Hugh J. Scott, under pressure from the school board, yesterday dropped much of his opposition to key parts of the Clark reading mobilization plan.

In a series of written proposals, Scott told the board his goal for next year is that city students stop falling further behind the national norms and that they make one month's progress, as measured by standardized tests, for each month in school.

Presently, the average gain here is about three-fourths the national rate.

The plan developed by psychologist Kenneth B. Clark and endorsed by the board last year proposed norms within one year, a goal Scott resisted as "unrealistic."

The new proposal is thus a compromise, but goes further than Scott had agreed to before.

In addition to this compromise, Scott said yesterday that he wanted to continue nearly full ability mixing in elementary school classrooms next year, give standardized tests to all students, and end automatic promotions regardless of achievement, starting next June, at grades three, six and nine.

The superintendent had also been hesitant earlier on these points.

Because Washington's students are now so far behind, Scott's goal of month-to-month normal achievement would not bring the system up to national norms, the goal suggested by Clark.

But if it were accomplished, city students would be doing much better than in the past. By eighth grade, the average reading achievement in D.C. is now equivalent to sixth-grade standards nationwide.

Previously, Scott had said it was "simplistic" to establish any definite achievement goal, but board members had pressed him to set a target by which they and the public could judge progress in the school system.

In letters sent yesterday, the board announced eight community hearings on Scott's proposals in different parts of the city between June 21 and 28. The board is expected to take final action on the proposals in mid-July, about one year after it adopted the Clark reading plan.

Although Scott's recommendations moved close to Clark's yesterday in several important areas, the superintendent made no mention of Clark's proposal to pay teachers partly according to the achievement gains of their students.

As he said last month, Scott indicated that instead of using incentives to get results as Clark proposed—with few specific directions—he would give clear instructions to teachers on how their classrooms should be organized.

(Later yesterday the board instructed Scott to develop a plan to base teacher pay at least in part on student gains, as part of its plan to comply with U.S. Judge J. Skelly Wright's recent spending equalization order.)

Scott also proposed setting up an inspection system to see that his suggestions for a "model classroom" is in fact being followed. As Clark recommended, Scott's classroom model places heavy emphasis on the basic skills of reading and mathematics.

On grouping, Scott asked for nearly a full mixture of students of all ability levels in every classroom in grades one through six. His proposal does not discuss grouping in the junior high schools, although the Clark plan provided for full mixing through ninth grade.

Last month Scott proposed a system of narrow ability grouping with no more than one year's spread of achievement in each classroom. After this drew criticism from board members, Scott suggested that each room contain about two-thirds of the range in any grade.

His proposal yesterday gives each room about five-sixths of the range, producing, for example, a spread of about four years in achievement in some sixth grade classrooms.

Last month, Scott said he agreed with Clark's insistence that there be definite standards for promotion from grade to grade, but when questioned by the board he said it would be "unrealistic" to enforce them next year.

Yesterday, however Scott said he wanted to apply "minimum standards," which he did not spell out, next June in grades three, six and nine.

In response to criticism by the board, Scott said he wants to continue giving standardized tests to all students in grades one through nine as proposed by Clark. In May, the superintendent had said these tests, which compare the achievement of Washington students with those around the country, should be phased out.

He said then that they should be replaced by special tests, based only on Washington's curriculum, but yesterday Scott said that both the standardized and special tests should be given.

GIVING THINGS TRADE AND TECHNICAL PRIDE OF PLACE

HON. JACOB K. JAVITS

OF NEW YORK

IN THE SENATE OF THE UNITED STATES

Friday, September 22, 1972

Mr. JAVITS. Mr. President, the recently enacted higher education bill (Public Law 92–318) refers in a number of places to "postsecondary education" rather than to "higher education." This represents the recognition that while education after high school for many young Americans represents additional schooling in academic or professional channels, many others find their schooling in the occupations. American education must not be strangled by "degrees" or become mired in the bog of credentialism.

The importance of technical education was highlighted by an address by New York State's distinguished commissioner of education, Ewald B. Nyquist, delivered at the annual banquet of the eighth annual conference of the National Association of Trade and Technical Schools held in Washington, D.C. Commissioner Nyquist indicated some fresh approaches to education being taken in New York which merit attention.

I ask unanimous consent that his address be printed in the Record.

There being no objection, the address is ordered to be printed in the Record, as follows:

Giving Things Trade and Technical Pride of Place

(By Ewald B. Nyquist)

Mr. Chairman, Ladies and Gentlemen, I think you should know that I come here after spending a long winter of discontent. State legislatures concerned with fiscal fitness are not healthy for Commissioners of Education and other living things.

Physically I feel a little like the man who was asked to give the address at the annual meeting of the American Psychiatric Association. After dinner he was asked to lie down and say a few words.

I am sometimes reminded of H. L. Mencken's definition of a Puritan. He is a person who has a sinking feeling that somebody, somewhere, is having some fun. And thinking about the shape our society is in, with its rudderlessness, a society tending to become unglued, where poverty, prejudice, pollution, social injustice, and the war prevail, when everybody seems to go to bed angry at night and when love seems to be the only really taboo four-letter word—I have been fond of saying that if Moses came down from Mt. Sinai today, the two tablets he would be carrying would probably be aspirins. And what the young people seem to be saying to me is that this would be a far, far better world if we adults obeyed just two of the Ten Commandments—any two.

Some time ago, your Executive Director, William Goddard, called and tempted me with the prospect of speaking to you this evening, and, in addition, as he put it, of acquiring some gilt by association with your organization. He didn't say how guilt (gilt) was spelled. Well, you know what temptation is. Temptation is something which a woman runs away from but which a man crawls away from, slowly, hoping it will overtake him.

Mr. Goddard said he needed a banquet speaker to round out the rest of his program, and graciously wound up his invitation by saying that my being here would serve the same purpose as the presence of the body at an Irish wake: It's absolutely essential for having the party, but you don't expect it to do very much.

Mr. Goddard said your program committee wanted me in particular because I was the only person they could think of who could speak more clearly than he thinks, who could live verbally beyond his intellectual means, and who had delusions of adequacy that he could meet every issue with an open mouth.

I don't know what Mr. Goddard does in your association, but I'll wager that his role is something like that of the woman who went to church one day with her husband. Out loud, the man prayed: "Oh, Lord, make me successful and please keep me humble. His wife, kneeling beside him, chimed in with a somewhat corrective plea: "Oh, Lord, You make him successful, I'll keep him humble."

To keep the dialogue symmetrical, I told Mr. Goddard that, as a general officer in your association, he reminded me of the time when three English brigadier generals and an enlisted man, all strangers to each other, happened to get into the same compartment in a train going to London. After a moment, they decided to introduce themselves. "Well," said the first, "I am a brigadier general, I am retired, I am married, I have two sons, and they are both very successful." The second one followed with, "I, too, am a brigadier general, I am retired, married, I also have two sons, and both are brilliantly successful." And the third had a parallel history. "I am also a brigadier general, I am retired, I am happily married, and have two sons who have already reached distinction." They waited a moment and then turned condescendingly to the enlisted man who introduced himself: "I am a sergeant, I am still on active duty, I am not married, I have two sons, and both are brigadier generals."

In a subsequent letter, I asked Mr. Goddard what he wanted me to talk about, what problem he wished me to address my remarks to. He replied by saying that I reminded him of the Miss Universe contest which eventually boiled down to three voluptuous candidates. Discerning no difference in their prepossession and physical data, the judges finally elected to pick the winner on the basis of the answer to a problem, namely, if you were cast on an island in the middle of the ocean alone with twenty men, what would you do. The American girl answered: "I would find the handsomest man in the group, win his affections, and have him protect me from the rest of the men." The English girl said: "I would find the strongest man in the group and win his affections, and then help him rule the island." The third girl, from France, said: "Gentlemen, I know what the question is, but what's the problem?"

Well, I am delighted to see so many of you at this trade and technical love-in.

I am going to talk this evening about some things we are doing in the State of New York that, hopefully, may lie within your orbit of interest or at least not in your zone of indifference.

First, let me describe briefly the educational system we have in our State. James Thurber, my favorite humorist, once replied, in answer to the question "How's your wife?" by asking, in turn, "Compared to what?" So, let me tell you what we are and what we do.

In 1784, influenced by English and French ideologies, the people of New York State created a unified system of education known as The University of the State of New York, not to be confused with the State University of New York, our operating university. The State Constitution guarantees the existence of The University of the State of New York as a separate, non-political, corporate entity, and as a fourth branch of government. Thus, it has the protective autonomy of constitutional status. This system, headed by the Board of Regents, and whose administrative arm is the State Education Department, is the oldest, continuous state educational administrative agency in America. Its purpose is to enlarge and improve educational, professional and cultural opportunities in New York State. I happen to be President of The University of the State of New York, as well as Commissioner of Education.

The University of the State of New York comprises all the private and public colleges in the State, as well as private, public and parochial, and some proprietary schools, museums, libraries, historical societies, and other kinds of educational institutions or agencies. The State is the campus of The University. Education in its broadest sense is its business. It is the overarching constitutional concept giving orderliness, coherence, direction, and character to the educational enterprise of the State. It symbolizes the seriousness with which education has traditionally been viewed by our citizens. It is the system by which we make a *mesh* of things in New York.

The Regents are authorized to establish Rules and Regulations which will carry into effect the laws of the State relating to education, including requirements for degrees and the licensing by examination of all professions in the State except Law. They incorporate private colleges and, indeed, they award the degrees to graduates of these colleges for the first few years of their existence.

The University of the State of New York now needs to make more deliberate and extensive use of all the educational resources of its campus—the State. To the formally recognized educational establishment, we must add the potential of radio and television, the church, research laboratories, performing art centers, all proprietary business, trade and technical schools, historical societies, public libraries, and museums. We need to make better and wider use of correspondence study and computer-assisted instruction; of industrial, commercial, governmental, and military training programs; of the experience people gain through programs like VISTA and the Peace Corps, and through travel, both at home and abroad. While most think of a college or university as a community resource—which it surely is—we must expand our thinking to view the community as an educational resource. The tremendous educational potential of the State viewed as the community of The University of the State of New York will enable the Board of Regents to expand educational opportunity for anyone who is willing to make the necessary investment of time and effort. Education has become a social condition. Learning is going on everywhere and everyone from two to toothless should be learning in an era when we have a knowledge economy within a society that has shifted to a mental base.

On my recommendation, the New York State Board of Regents, governing board for all of education in New York State, issues from time to time position papers on important educational issues. The recent position paper on occupational education describes a total system of occupational education in New York State, which includes in the public sector a widespread network of area programs at the secondary level and a complementary system of two-year colleges. (I might, parenthetically, say here that Sid Marland, U.S. Commissioner of Education, has no monoply on career education.) Let me quote from that paper:

"Residents of New York State also have access to a broad selection of occupational programs outside the public educational system, the most important of which are various State and federally-assisted remedial manpower training programs; programs offered by private educational institutions, such as trade and business schools; and specialized programs offered by labor unions and by employers, including government agencies, businesses and industries, and hospitals."

We view the private sector as an essential component in the delivery of educational services to people and particularly the private trade, technical and business schools for their output of trained manpower for New York State.

Private trade and technical schools in our State have parity of esteem with all other types of educational resources in our State, whether public or non-proprietary. We do not have the attitude that one finds in some states which resembles what a pompous Church of England cleric said to his nonconformist colleague one day: "We are both doing God's work, you in your way and I in His."

Since 1937, when the first private trade school law was enacted, your kinds of schools have been a part of the total educational system of the State under the Board of Regents and my Department.

In New York State, as in most states, laws regulating private schools were enacted to solve a problem, to curb abuses which existed at the time. With effective implementation of state laws, widespread abuse disappears and the major mission becomes one of providing educational leadership, both at the State level and among the private schools. The State function is to help private schools continually to upgrade and improve their educational offerings and thereby provide a service to the people of the State of New York. What we do, we do for them. If we can help the schools to move to a higher plane of educational effectiveness in the process, that is an added outcome.

Do we still have problems with private schools? Yes, we do, but they are limited to a very small number of schools or kinds of schools. But, somehow, there is more noise, more bad press about this minority and not very much about the constructive educational effort of the vast majority of the proprietary trade and technical schools.

I am sure you are aware that building a reputation as a good school takes a lot longer than building a reputation as a good restaurant. When you ask people to invest their time and money, there must be public confidence in your product. It takes time for an enrollee to examine your product and it takes results, both from your graduates' point of view and that of the prospective employers of your graduates.

Let me talk for a moment about the roles of government and voluntary accrediting agencies.

First, they must be complementary and not competitive. They must co-exist. The State's function is to establish minimums for *all* private schools, then encourage and counsel the schools to exceed those minimums. As we are successful, we keep raising the minimums just so you cannot rust in peace.

It is up to the State agency to help you to do your best for the students you train and educate. Under a mandatory licensing law, we must assist you in meeting at least *minimum standards,* you who have identified a job need in the market place and who are willing to make the business investment. We want your educational enterprise to be an educational and financial success. It is also our responsibility to help you grow and to do an increasingly better job in meeting the objectives which both you and your students have. The function of your accrediting commission is to work in concert with State agencies toward the same goal. Unlike the case of the State agency with a mandatory licensing law, your accreditation criteria should be established at much higher than State minimums, and, being voluntary, you can be more selective. But you cannot just cream off the better schools in the country and create an exclusive club. You have a responsibility not just to the large corporately owned schools which can afford the measurement process. You also must provide the leadership and assistance to the small individually-owned schools which also provide an essential service in a more limited occupational and geographic area.

Accreditation, using that term broadly, becomes essential when those in charge of an important activity cannot uniformly be trusted to maintain a minimum level of quality in the performance of their function, whether that function be the education of people, the provision of services, or the manufacture of some product. Controls then become necessary, either self-imposed, or as a matrix of standardization inflicted and enforced from without.

Controls usually come in the form of mandated compliance with minimum standards with status as the reward. This is not surprising in our society. This kind of development is a direct derivative of our Anglo-Saxon heritage of establishing minimums, below which people and institutions, under pain of fine, forfeiture of freedom, or deprivation of status or privilege, must not be permitted to go. In our society, no one has a right to be as bad as he wants to be.

But there is a leadership, cutting-edge function which engines of quality control or instruments of accreditation can also carry. It is one of encouraging institutions to go beyond established minimums and of providing guidance and consultation to that end. Such a leadership function derives from the Greek tradition of posing ideals and establishing criteria of excellence in order to raise aspirations and the prevailing level of intellectual or service expectations. The best accrediting agency tries to work, not by mandate nor by compulsion, but by pointing to a better way.

The Greek notion of excellence permits an institution truly to be itself, to become all it is capable of being, in short, to fulfill its own capacity along individual lines of excellence. And these lines can legitimately differ because excellence, in my view, can and should be ubiquitous. You remember John Gardner's famous dictum: If we do not learn to honor excellence in plumbing as well as excellence in philosophy, neither our pipes nor our theories are going to hold water.

The concern of an accrediting organization must be, not to restrict its accredited list, but to enlarge it by doing everything possible to aid institutions in becoming worthy of inclusion in it, but since a professional association is responsible for accreditation, it must handle it honestly. Shoddiness must be identified, and, hopefully, lifted from its dismal plain. Until it is, it must not be tolerated or encouraged by public recognition. The accrediting agency must be determined, at the same time, to use accreditation as a constructive force. Accrediting should be designed to help some institutions accelerate the process by which they achieve quality and maintain competence; for others it is a matter of making better, institutions already adjudged to be good.

As a State Education Department, we welcome the support of your organization, because if we are working for better education and training for the students who attend your schools, and we are, then our goal is the same. Philosophically, I believe in the concept of voluntary evaluation by one's peers; but I also know that a responsible State must be concerned about all the schools and their students, not just the better ones.

This year, after many years of effort, we have a revised private school law recently signed by the Governor. One of the significant changes is that in the field of private business schools we have switched from voluntary to mandatory registration. As a State, we could no longer serve the best interests of the people of the State of New York by registering (or accrediting) 45 business schools who meet voluntary standards, and pretend that the other 150 non-registered and, therefore, non-regulated, business schools did not exist or were of no concern to us. A voluntary, qualitative measuring system, however laudable, just does not do the whole job that needs to be done.

In the area of private trade and technical schools, it has been a different story. The 1937 private trade school law, however forward-looking for its time, is now obsolete. It served its purpose well, but times have changed, and our new legislation was written to meet our circumstances today and for the foreseeable future.

This legislation was drafted with the help of private school associations. At this time, I would like to express my appreciation to the National Association of Trade and Technical Schools for the invaluable advice of your legal counsel, Bernie Ehrlich, who worked with our staff in developing the bill. Even though this new legislation is more explicit in terms of what to do when things go wrong, the whole philosophy has been changed. So many states recently have passed laws to correct problems with private schools that became so bad because the states ignored their responsibility in this area. Much of the legislation passed in some states tends to be punitive in character. We believe that in New York we have long since passed this outmoded philosophy.

The legislation recently enacted in our State contains four sections: the first uses the approach that all private schools must be licensed unless they are specifically exempt. I will not go into the specific exemptions here, except to mention that we have exempted those business schools which must meet the new and mandatory registration requirements.

The second section defines what constitutes a business school. A business school whose program does not meet the definition must be licensed under the more general section applying to all occupational schools. The section for registered private business schools contains some specific requirements that apply only to business schools.

The third part of the new law contains private school standards which apply to both licensed schools and registered private business schools. It authorizes the promulgation of Commissioner's Regulations with regard to such considerations as advertising, student contracts, educational programs, school plant, and financial stability of the school and its ownership.

This section outlines in detail the procedure to be followed for hearings and enforcement procedure. We no longer have the simplistic black or white, legal or illegal, conduct of a school. We have provided for correcting things that are contrary to the provisions of the law without having to resort to the drastic action of withdrawing a license or registration for relatively minor and correctable infractions.

Of most significance to schools outside of New York State, as well as New York schools, is the fourth section which provides for private school agents certificates. If out-of-state salesmen to recruit students from New York are used, they must have an agent's certificate. In issuing a certificate to an agent, consideration will be given to two things: good moral character of the applicant and the use of fair and ethical practices in the presentation of the school's offerings. There is provision for bonding of the agent or the school or schools he represents. It is important to note that courses contracted for by agents who have not been issued an agent's certificate are not valid or enforceable contracts under the law.

While this law is not effective until July 1, 1973, we would welcome your advice and assistance in the revision of our Regulations of the Commission on Education which are scheduled to be completed for Board of Regents consideration in the early fall.

We consider private vocational schools our partners in the business of education, and our legislation is designed to help our partners in the business. What we all want is satisfied consumers—educated people with marketable skills, able to cope with the demands of living today and tomorrow.

Now, let me turn to another topic.

Much progress has been made in breaking away from traditional on-campus, one-institution avenues to degree work. More remains to be done.

The nation has grown and prospered in the past because many people have been rewarded for what they know, rather than for how they learned it.

It is ironic that the social and economic mobility of these people is being threatened and thwarted today in part by the growing emphasis on possession of credentials presumptively attesting to intellectual competence and acquisition of skills. We are a strongly credentialed and academically oriented society with a degree fixation, and it will be some time before employers will have the courage to hire people on the basis of what they know, rather than on what degree and diplomas they hold.

As college instruction has shifted to a central concern of society, and as a greater degree of education is required to operate economic, political, and social institutions in a post-industrial world that is so knowledge-dependent, it is not surprising that increased attention should be paid to the formal credentials of those who aspire to positions of influence and power.

If attendance at a college is the only road to these credentials, however, those who cannot, or have not, availed themselves of this route, but have acquired knowledge and skills through other sources, will be denied the recognition and advancement to which they are entitled. The nation cannot afford such waste, nor should it tolerate such inequity. The costs of traditionalism are too high.

Confident that appropriate assessment techniques can be developed to recognize the knowledge and attainments of people who are either wholly or partly self-educated through independent study, job experience, informal course work, or otherwise, and who constitute an abundant new nontraditional learning force in our society, we are now intensely engaged in developing plans to have the New York State Board of Regents award undergraduate associate and baccalaureate degrees to those who are able to demonstrate that they possess knowledge and abilities equivalent to those of a degree recipient from a New York State college or university, regardless of how the candidates have prepared themselves, or where they acquired their knowledge, in a day when learning takes place in a variety of places and education has becomes a social condition, a life-long period of growth rather than just a visible facility on campus. This is the idea of the external degree. You don't have to go to college at all to get a degree. Education is no longer limited in practice or theory to what goes on in the formal classroom.

Hopefully, success in this venture will stimulate other colleges and universities to use their great resources in expanding their own programs for innovative extension of educational opportunity. At the very least, heretofore sacrosanct ancient guild practices and curricular rigidities will be loosened. Taboo or not taboo, that is the question. I know it is forcing clarification of what a degree is supposed to represent.

This humane proposal will open up our educational system and create further options for our people, young and old. I expect to see a substantial number of high school graduates within this decade, taking this route toward acquiring an undergraduate degree.

The idea of the external degree is a radical suggestion, precisely because it is rooted in common sense.

Several years ago I began to look for ways to relate the vast amount of learning that people acquire outside the formal classroom or school shop to our society's credential system. The approach that was taken was that it didn't really matter how you learned something if you could demonstrate the fact that you knew it. Out of this grew our College Proficiency Examination Program. This is a system of examinations based upon what is generally expected to be learned in the more universal college courses. In the process many colleges and universities agreed to grant advanced credit for successful passing of these examinations. The College Board College Level Examination Program has developed this concept on a national basis.

I announced the Regents External Degree program in the Fall of 1970 at my inauguration as Commissioner of Education and President of the University of the State of New York. Since that time, committees of outstanding scholars and administrators from institutions of higher education have been meeting to put together degree requirements for an Associate in Arts and a Bachelor of Science in Business Administration external degree. We have also begun work on a new external degree in nursing, in an effort to increase the number of trained nursing personnel in the State. The business administration and nursing degrees will not be available until late 1973 or early 1974, but we will award our first Associate in Arts degrees within a few months, and I want to speak briefly about this aspect of our efforts.

The Associate in Arts Regents External Degree will comprise 60 credits of college-level work, 48 of which must be in the arts and sciences. The subject matter content of the degree and the academic standards which a degree recipient must attain are traditional, or conservative if you prefer, and reflect the requirements of existing two-year college programs in our State. What is new or innovative is the *process* by which one obtains a degree. There are no age or New York residence requirements for this program, and a high school diploma is not required. Degree requirements may be met by (1) transcript course work from any regionally accredited college or university or from the United States Armed Forces Institute, (2) by acceptable scores on College Proficiency Examinations offered by our Department or by national testing agencies, (3) by a process we refer to as "special assessment," or (4) by a combination of these means. Through "special assessment," we will validate any college-level knowledge, however obtained, by using faculty panels in the appropriate subject matter. Based on the results of such an assessment, candidates will be awarded credit toward Regents External Degree requirements, particularly in those areas for which we have no acceptable standardized proficiency tests.

The Regents External Degree program is designed to provide an alternate, though rigorous, route to a college degree for those who have prepared themselves, in whole or in part, on their own. We believe that what a person knows is infinitely more important than how he learned it, and for this reason, no classroom attendance will be required. We hope to encourage colleges and universities to be more open and flexible in recognizing academic attainment, and to provide for easy entry, exit, and re-entry as an individual moves, through various means of preparation, to a college credential. In the future, we hope to recognize for credit not only courses taken in accredited institutions of higher learning, but also post-secondary work done through correspondence, industrial, military, and other instructional programs. To date we have had over 15,000 inquiries about the Regents External Degrees. With the interest and assistance of all engaged in educational endeavor, we will create a college degree program of high quality, which will be of value not only to degree candidates but also the academic community and the public at large.

And now for some brief concluding remarks on another topic.

As many of you are aware, the New York State Board of Regents approved a policy in the Fall of 1971 authorizing degree-granting powers for proprietary post-secondary institutions offering two-year programs. I would like to take a few moments to suggest some of the benefits we have derived from the *way* in which this process evolved and to indicate the very positive nature of our first year's experience.

First, members of our staff worked very closely with representatives of the proprietary schools in developing a set of general guidelines under which this policy would be implemented. This has led to a very functional working relationship between the Department and our newest constituents among degree-granting institutions.

Secondly, the Regents chose not to create a degree designation exclusively for the use of proprietary institutions, but to add one more, an Associate in Occupational Studies, which is also available to any non-profit degree-granting institution wishing to qualify for that title. Interestingly, we already have such use at two private junior colleges and inquiries in process from 23 public two-year colleges. The degree itself *requires* no general education component, as do the other associate degrees, but recognizes competence in an occupational concentration.

It is important to remember that we in New York State do not grant degree powers on an institution-wide basis, but rather to individual programs which are registered (or accredited by) the Education Department. This means in the present case, that many proprietary schools have sought degree powers for only one or two of their programs while the remainder result in a certificate or diploma. This permits the institution to maintain its philosophical integrity and intent to serve students with a variety of opportunities.

Let me summarize our first year's results. We now have 19 proprietary schools approved for degree powers in at least one program. These range from the American Academy of Dramatic Arts to Bryant and Stratton Business Institute. Incidentally, in almost all of our accrediting visits, we have included as a team member a faculty representative from public two-year colleges with expertise in the particular program area being evaluated. This has been of tremendous value in communicating the practical implications of our new policy.

Secondly, we have succeeded, I think, in giving more appropriate recognition to proprietary schools as a viable alternative choice for post-secondary education in New York. This for me is a most important accomplishment, but it is even more meaningful to the thousands of students who enroll annually in these schools.

We are now doing an evaluation of where we have been in this first year so that we can amend and modify our operating guidelines in the light of experience. I'm sure that we will find a number of areas where we need to improve our service, but the important point is that we have begun to address ourselves to broadening the classical definition of "higher education" and this alone has opened options and opportunities for many more of our citizens.

I have said on many occasions that our educational system is much too academically oriented. As I have already pointed out, we are also a highly credentialed society; we give much more attention to degrees and diplomas than to what a person knows and can do. The two are not always the same. We must give increased emphasis and prestige to vocational and semi-professional technical careers; to the worthiness of occupations in the trades and to handcraftsmanship, to the notion, too, that a gifted plumber is more worthy than a foolish philosopher, and I am very much in support of closer relationships between business, industry and the formal educational system. Guidance and counseling in our schools are too much distorted in favor of academic credentialism. Not everyone needs to go on to an A.B. degree. We do need to give occupational education a more lofty pride of place, and I believe that liberal arts can be taught mechanically, and mechanics liberally.

Education surely is learning how to live a life—a sensitive, creative, compassionate, humane life, but it is also learning how to make a living.

Just as the Hebrew sages have claimed that man does not live by bread alone—thus emphasizing to us that we live by ideals and spiritual renewal and values—so have they also remarked that where there is no bread there is no Torah—thus reminding us that we must also be practical, that there are practicalities which must limit our idealists.

Let me close as I began with an only remotely relevant story. It is the story of the Englishman who came to this country to study our intensely technological society. One day he spent the entire time with the IBM Company.

From the beginning of his visit to the end, all he saw was room after room of countless machines, with blinking lights and whirring machinery, disgorging coded data at the press of magical buttons, attended by only one or two human beings.

At the end of the day, dizzy with the mechanized nature of everything, he got on the elevator to go down and say farewell to the management. The elevator was crowded. All occupants were men except for one good-looking, shapely, young woman at the rear of the elevator cab. The Englishman stood at the front facing the door. As the elevator descended, all was quiet until suddenly the silence was pierced with a high-pitched scream from the woman. Without turning around, the Englishman was overheard to say:

"Thank God, there are still some things they do by hand."

The head of a private school was once asked what had become of his last director of studies. "He left us as he came," he replied, "fired with enthusiasm." I hope you leave here *fired with enthusiasm* to support us in the things I have discussed this evening.

I am proud to be associated with you.

ILLINOIS AGRICULTURAL TRADE MISSION TO U.S.S.R.

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. MICHEL. Mr. Speaker, I want to call the attention of my colleagues to an article appearing in the Chicago Tribune entitled "Farm Delegation Off to Moscow Tomorrow."

This delegation is Governor Ogilvie's agricultural trade mission to the Soviet Union, headed by my good friend and colleague, Congressman PAUL FINDLEY. The group includes Illinois Director of Agriculture Gordon L. Ropp, Illinois Agricultural Association President Harold Steele, and other prominent representatives of Illinois agriculture.

Their mission is to sell Illinois farm products to the Soviet Union, and they will be working not only for immediate sales, but for long-term markets as well.

As the Tribune article points out, Illinois is the top agricultural export State and the efforts of this 15-member delegation will mean a great deal to our farms, businesses, and our whole State economy.

But, perhaps even more important is the significance of this trip with respect to our international relations with the U.S.S.R. A lasting peace and productive interchange between two powerful nations can be developed and enhanced through trade as well as through official diplomatic channels, and this unique mission being undertaken by our State may make a real contribution in this way. I commend Governor Ogilvie, Congressman FINDLEY, and the members of this delegation and am confident of the success of their mission.

The article follows:

[From the Chicago Tribune, Sept. 21, 1972]

FARM DELEGATION OFF TO MOSCOW TOMORROW

(By Richard Orr)

Farmers have taken their products to market for centuries, but a group of Illinois farmers and trade specialists will embark tomorrow on a unique and historic marketing project which could have significant impact on the state's economy.

Their mission: To sell Illinois farm products to the Soviet Union, which suddenly has become a booming new billion-dollar market for American agriculture.

The project is Gov. Ogilvie's agricultural trade mission to Russia, the first delegation of its kind from any state. The 15-member team is scheduled to leave at 3 p.m. tomorrow from O'Hare Airport for Moscow for a week of negotiations with Soviet officials in the ministries of foreign trade, agriculture, and procurement.

CARRIES NIXON LETTER

It's leader, United States Rep. Paul Findley [R. Ill.], a member of the House Agriculture Committee, will carry a letter of introduction from President Nixon. Other prominent members include Gordon L. Ropp, a dairy farmer of Normal, McLean County, who is Illinois director of agriculture, and Harold B. Steele, Princeton, Bureau County, a hog producer who is president of the Illinois Agricultural Association [Farm Bureau], representing 200,000 member families.

A unique aspect of the mission is that it presents a group of individual farmers, marketing experts, and state officials acting on behalf of private interests to engage in foreign trade, which in Russia is a state monopoly conducted almost exclusively by government organizations. All except four public members of the delegation are paying their own expenses, which means the mission will cost Illinois taxpayers less than $6,000.

That includes the cost of shipping a live Illinois pig, which the group hopes to present to the Soviet Premier Alexei Kosygin as Exhibit A to demonstrate the high quality of Illinois farm products. The pig, a 215-pound Hampshire barrow raised by Mr. and Mrs. Francis Callahan and their daughter, Colleen, of Milford, Iroquois County, was grand champion at the recent Illinois State Fair.

"The job of the governor's farm trade mission will be to capture every bit of extra business that we can, including the No. 1 share of the President's $750 million grain sale agreement with the Soviet Union, as well as all sales beyond that agreement," said Ogilvie.

TOPS IN EXPORTS

Illinois is the top agricultural export state, with $758 million of foreign sales in fiscal 1972, nearly 10 per cent of the nation's record $8 billion of farm exports. On the basis of its share of total United States farm production, an additional $80 million to $150 million of agricultural exports should accrue to Illinois from Russian purchases estimated at close to one billion dollars for the current fiscal year, according to trade experts.

The impact of farm exports on the state's economy is reflected in the fact that foreign sales amount to about a fourth of the nearly $3 billion of total annual sales of Illinois farm products. The 123,000 farms which produce these products and the related industries which provide them with supplies and services make up $13-billion industrial complex which accounts for four of every 10 jobs in the state.

The main products the trade delegation will offer the Russians are soybeans and soybean meal, corn and other live stock feed grains, wheat, breeding cattle and hogs, and broiler chicken production. The mission is seeking not only immediate sales but, even more important, to establish firm contacts for future sales.

Prospects for finding a long-term agricultural market in Russia are based both on the warming trend in United States-Soviet trade relations and on the current Soviet five-year program, now in its second year, to increase the protein content of the Russian diet by 25 per cent. To achieve this the Russians have set ambitious production goals, projecting a 27-per cent increase by 1975 for both meat and eggs and a 19 per cent increase for milk.

Such goals will require substantial expansion in Soviet herds of beef and dairy cattle and hogs, and in poultry flocks.

This in turn requires more feed for herds and flocks—mainly corn and other feed grains and soybean meal—a high protein supplement which is a major growth stimulant in live stock rations.

Illinois is the leading producer of soybeans and the second biggest producer of corn, as well as a relatively big producer of wheat, purebred live stock, and other commodities. The trade delegation is prepared not only to offer these products in both quantity and quality, but also to offer the Soviets technical assistance in such areas as improved live stock nutrition and animal bloodlines.

A member of the mission, Philip Bradshaw of Griggsville, Pike County, president of the Illinois Pork Producers Association, explained that tho the Russians appear to have ample technical knowledge of hog production facilities, they lack sufficient information about swine nutrition.

"This prevents them from getting hogs to market within five or six months, as most

American hog producers do," said Bradshaw. "We are prepared to help them with this problem, and we also plan to give them a list of names and addresses of leading Illinois hog breeders where they can buy top breeding stock."

SALES ARE NOT PARAMOUNT

Ropp cautioned that the results of the mission should not be judged solely on the amount of immediate sales contracts it may negotiate. One of the main purposes, he said, is to "acquaint the Russian people with the fact that we do have high quality merchandise in agricultural products and can deliver a long-lasting supply to meet their requirements."

Other mission members include Harold Kuehn, Du Quoin, president of the American Soybean Association; Robert Gilmore, De Kalb, a director of the National Livestock Feeders Association; Dwight Davis, director of foreign trade for the Illinois Agricultural Association, Bloomington; John P. Doherty, vice president of operations for Illinois Grain Corporation, an I. A. A. marketing affiliate; Prof. Richard Feltner, head of the University of Illinois department of agricultural economics; George Bicknell, executive vice president of Farmers' Export Co., Kansas City, Mo.; Ken Hartweg of Funk Seeds International, Inc., Bloomington; Jim Stewart, De Kalb, Inc., Statesville, N.C., poultry division of De Kalb Ag Research, Inc., De Kalb, Ill.; James F. Seeley, assistant to Ogilvie in the state's Washington office; Robert Osborn, export officer in the Illinois trade office in Brussells, Belgium; and James C. Tippett, I. A. A. news service director.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 1972

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,757 American prisoners of war and their families.

How long?

HOUSE OF REPRESENTATIVES—*Monday, September 25, 1972*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Jesus said:

I am the light of the world; he that followeth me shall not walk in darkness, but shall have the light of life.—John 8: 12.

O God, our Father, in whose spirit we live and move and have our being, we thank Thee for the arrival of a new day and for the awakening of mind that comes to us as we respond to the summons to be truehearted and wholehearted, faithful and loyal in our service to our country.

By the power of Thy spirit permeating our personalities help us to conquer all pettiness, all bitterness, all unworthy desires, and all unkind attitudes. Strengthen us to put first that which is first—Thy kingdom of justice, truth, and love. From the summit of this high endeavor, may we enter more fully into the life of our Nation and our world.

Lead us, our Father, in the paths of peace;
Without Thy guiding hand we go astray,
And doubts appall and sorrows still increase;
Lead us through Christ, the true and living way.

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills and a joint resolution of the House of the following titles:

H.R. 9032. An act to provide for the disposition of funds appropriated to pay a judgment in favor of the Havasupai Tribe of Indians in Indian Claims Commission docket No. 91, and for other purposes;

H.R. 9135. An act to amend the act of August 19, 1964, to remove the limitation on the maximum number of members of the board of trustees of the Pacific Tropical Botanical Garden;

H.R. 10486. An act to make the basic pay of the master chief petty officer of the Coast Guard comparable to the basic pay of the senior enlisted advisers of the other armed forces, and for other purposes;

H.R. 13697. An act to amend the provisions of title 14, United States Code, relating to the flag officer structure of the Coast Guard, and for other purposes; and

H.J. Res. 807. Joint resolution authorizing the President to proclaim the second full week in October of 1972 as "National Legal Secretaries' Court Observance Week."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills and a joint resolution of the House of the following titles:

H.R. 14424. An act to amend the Public Health Service Act to provide for the establishment of a National Institute of Aging, and for other purposes;

H.R. 14891. An act to amend title 14, United States Code, to authorize involuntary active duty for Coast Guard reservists for emergency augmentation of regular forces; and

H.J. Res. 1263. Joint resolution authorizing the President to proclaim October 30, 1972, as "National Sokol U.S.A. Day."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3337) entitled "An act to authorize the acquisition of a village site for the Payson Band of Yavapai-Apache Indians, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6797) entitled "An act to provide for the disposition of funds appropriated to pay judgments in favor of the Kickapoo Indians of Kansas and Oklahoma in Indian Claims Commission dockets Nos. 316, 316–A, 317, 145, 193, and 318."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7742) entitled "An act to provide for the disposition of funds to pay a judgment in favor of the Yankton Sioux Tribe in Indian Claims Commission docket No. 332–A, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8694) entitled "An act to provide for the disposition of funds appropriated to pay a judgment in favor of the Yavapai Apache Tribe in Indian Claims Commission dockets Nos. 22–E and 22–F, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 10243) entitled "An act to establish an Office of Technology Assessment for the Congress as an aid in the identification and consideration of existing and probable impacts of technological application; to amend the National Science Foundation Act of 1950; and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10858) entitled "An act to provide for the disposition of funds appropriated to pay a judgment in favor of the Pueblo de Acoma in Indian Claims Commission docket No. 266, and for other purposes."

The message also announced that the Senate had passed bills and joint and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 164. An act to amend the Federal Property and Administrative Services Act of 1949 so as to permit donations of surplus property to public museums;

S. 244. An act to amend the Federal Property and Administrative Services Act of 1949 to permit donations of surplus personal property to State fish and wildlife and outdoor recreation agencies;

S. 555. An act to authorize the establishment of an older worker community service program;

S. 718. An act to create a catalog of Federal assistance programs, and for other purposes;

S. 2280. An act to amend sections 101 and 902 of the Federal Aviation Act of 1958, as amended to implement the Convention for the Suppression of Unlawful Seizure of Aircraft and to amend title XI of such Act to authorize the President to suspend air service to any foreign nation which he determines is encouraging aircraft hijacking by acting in a manner inconsistent with the Convention for the Suppression of Unlawful Seizure of Aircraft and to authorize the Secretary of Transportation to revoke the operating authority of foreign air carriers under certain circumstances;

S. 2300. An act for the relief of J. B. Riddle.

S. 2567. An act to facilitate prosecutions for certain crimes and offenses committed aboard aircraft, and for other purposes;

S. 3327. An act to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, health care resources, and the establishment of a Quality Health Care Commission, and for other purposes;

S. 3716. An act to amend the Public Health Service Act to provide for continued assistance for health facilities, health manpower, and community mental health centers;

S. 3947. An act to prevent the unauthorized manufacture and use of the character "Woodsy Owl," and for other purposes;

S.J. Res. 236. Joint Resolution to authorize and request the President to proclaim the week beginning October 15, 1972, as "National Drug Abuse Prevention Week";

S.J. Res. 251. Joint resolution to designate the week which begins on the first Sunday in March of each year as "National Beta Club Week"; and

S. Con. Res. 90. Concurrent resolution commemorating the 200th anniversary of Dickinson College.

The message also announced that the Vice President, pursuant to Public Law 84-689, appointed Mr. Sparkman, Mr. Symington, Mr. Cannon, Mr. Nelson, Mr. Hollings, Mr. Eagleton, Mr. Bentsen, Mr. Cooper, Mr. Javits, Mr. Case, Mr. Schweiker, and Mr. Stevens as delegates; and Mr. Jackson, Mr. Pell, Mr. Kennedy, Mr. McIntyre, Mr. Tunney, Mr. Miller, Mr. Bellmon, and Mr. Cook as alternate delegates, on the part of the Senate, to the North Atlantic Assembly to be held in Bonn, Germany, November 18-24, 1972.

REQUEST FOR PERMISSION TO CONSIDER A CONTINUING RESOLUTION THIS WEEK

Mr. MAHON. Mr. Speaker, I ask unanimous consent that it may be in order on any day this week after Tuesday to bring in a continuing resolution for consideration.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. GROSS. Mr. Speaker, reserving the right to object, when is it proposed to make a copy of this continuing resolution available?

Mr. MAHON. It is available now. It has just been introduced. It is precisely and identically the continuing resolution which we now have, extended to the 14th day of October.

That is the only thing involved; just a change of date from September 30 to October 14. It seems to be the most practical thing to do under the circumstances at this point.

Mr. GROSS. It seems to me setting that firm date finalizes and crystallizes the fact that we are not likely to get out of here until the 14th of October.

Mr. MAHON. I believe it does indeed, probably. Certainly there is no hope we could finish this week, which is when the present resolution expires. Five of the regular annual appropriation bills for the current fiscal year 1973 remain to be finalized. And there are some supplemental items and items deferred from the regular bills that must be disposed of. Perhaps we could finish next week.

Mr. GROSS. Under those circumstances, Mr. Speaker, I am constrained to object. I do object, Mr. Speaker.

The SPEAKER. Objection is heard.

CONFERENCE REPORT ON H.R. 7742, JUDGMENT FUNDS OF YANKTON SIOUX TRIBE

Mr. ASPINALL submitted the following conference report and statement on the bill (H.R. 7742) to provide for the disposition of funds to pay a judgment in favor of the Yankton Sioux Tribe in Indian Claims Commission docket No. 332-A, and for other purposes:

Conference Report (H. Rept. No. 92-1430)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7742) to provide for the disposition of funds to pay a judgment in favor of the Yankton Sioux Tribe in Indian Claims Commission docket numbered 332-A, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "shall be used as follows: 75 per centum thereof shall be distributed in equal per capita shares to each person who is enrolled or entitled to be enrolled on the date of enactment; the remainder may be advanced, expended, invested, or reinvested for any purposes that are authorized by the tribal governing body and approved by the Secretary of the Interior."

And the Senate agree to the same.

Wayne N. Aspinall,
James A. Haley,
Ed Edmondson,
James Abourezk,
John P. Saylor,
Sam Steiger,
John N. Camp,
Managers on the Part of the House.
Henry M. Jackson,
Quentin N. Burdick,
Paul J. Fannin,
Henry Bellmon,
Managers on the Part of the Senate.

Joint Statement of the Committee on Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H.R. 7742, to provide for the disposition of funds to pay a judgment in favor of the Yankton Sioux Tribe in Indian Claims Commission docket numbered 332-A, and for other purposes, submit this joint statement in explanation of the effect of the language agreed upon by the managers and recommended in the accompanying conference report.

The Senate amendment required 50% of the judgment to be distributed per capita, and permitted the balance to be used for any purpose authorized by the Tribe and approved by the Secretary of the Interior. The Tribe originally wanted 100% of the money to be so distributed, but agreed to a compromise of 75%, which was adopted by the Committee of Conference.

Wayne N. Aspinall,
James A. Haley,
Ed Edmondson,
James Abourezk,
John P. Saylor,
Sam Steiger,
John N. Camp,
Managers on the Part of the House.
Henry M. Jackson,
Quentin N. Burdick,
Paul J. Fannin,
Henry Bellmon,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 8694, JUDGMENT FUNDS OF YAVAPAI APACHE TRIBE

Mr. ASPINALL submitted the following conference report and statement on the bill (H.R. 8694) to provide for the disposition of funds appropriated to pay a judgment in favor of the Yavapai Apache Tribe in Indian Claims Commission dockets Nos. 22-E and 22-F, and for other purposes:

Conference Report (H. Rept. No. 92-1431)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8694) to provide for the disposition of funds appropriated to pay a judgment in favor of the Yavapai Apache Tribe in Indian Claims Commission dockets numbered 22-E and 22-F, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment.

Wayne N. Aspinall,
James A. Haley,
Ed Edmondson,
James Abourezk,
John P. Saylor,
Sam Steiger,
Manuel Lujan, Jr.,
Managers on the Part of the House.
Henry M. Jackson,
Quentin N. Burdick,
Paul J. Fannin,
Henry Bellmon,
Managers on the Part of the Senate.

Joint Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H.R. 8694, to provide for the disposition of funds appropriated to pay a judgment in favor of the Yavapai Apache Tribe in Indian Claims Commission dockets numbered 22-E and 22-F, and for other purposes, submit this joint statement in explanation of the effect of the language agreed upon by the managers and recommended in the accompanying conference report.

The Senate amendment authorizes the judgment money apportioned to the Payson Band to be used to purchase land in Coconino, Yavapai, Navajo, or Gila Counties, with the title taken in the name of the United States in trust for the Payson Band. The amendment is not needed because H.R. 3337, as recommended by the Committee of Conference, establishes a Reservation for the Payson Band, with a trust title to the land therein.

WAYNE N. ASPINALL,
JAMES A. HALEY,
ED EDMONDSON,
JAMES ABOUREZK,
JOHN P. SAYLOR,
SAM STEIGER,
MANUEL LUJAN, JR.,
Managers on the Part of the House.
HENRY M. JACKSON,
QUENTIN N. BURDICK,
PAUL J. FANNIN,
HENRY BELLMON,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 10858, JUDGMENT FUNDS OF THE PUEBLO DE ACOMA

Mr. ASPINALL submitted the following conference report and statement on the bill (H.R. 10858) to provide for the disposition of funds appropriated to pay a judgment in favor of the Pueblo de Acoma in Indian Claims Commission docket No. 266, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 92–1432)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 10858) to provide for the disposition of funds appropriated to pay a judgment in favor of the Pueblo de Acoma in Indian Claims Commission docket numbered 266, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment.

WAYNE N. ASPINALL,
JAMES A. HALEY,
ED EDMONDSON,
JAMES ABOUREZK,
JOHN P. SAYLOR,
SAM STEIGER,
MANUEL LUJAN, JR.,
Managers on the Part of the House.
HENRY M. JACKSON,
QUENTIN N. BURDICK,
PAUL J. FANNIN,
HENRY BELLMON,
Managers on the Part of the Senate.

JOINT STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill, H.R. 10858, to provide for the disposition of funds appropriated to pay a judgment in favor of the Pueblo de Acoma in Indian Claims Commission docket numbered 266, and for other purposes, submit this joint statement in explanation of the effect of the language agreed upon by the managers and recommended in the accompanying conference report.

The Senate amendments prohibit a per capita distribution of any part of the judgment money. The amendments are unnecessary because the Tribe does not plan to make a per capita distribution. The Secretary of the Interior is hereby directed not to approve any change of plan with respect to a per capita distribution without first obtaining the concurrence of the Committees on Interior and Insular Affairs of the House of Representatives and the Senate.

WAYNE N. ASPINALL,
JAMES A. HALEY,
ED EDMONDSON,
JAMES ABOUREZK,
JOHN P. SAYLOR,
SAM STEIGER,
MANUEL LUJAN, JR.,
Managers on the Part of the House.
HENRY M. JACKSON,
QUENTIN N. BURDICK,
PAUL J. FANNIN,
HENRY BELLMON,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 6797, JUDGMENT FUNDS OF THE KICKAPOO INDIANS OF KANSAS AND OKLAHOMA

Mr. ASPINALL submitted the following conference report and statement on the bill (H.R. 6797) to provide for the disposition of funds appropriated to pay judgments in favor of the Kickapoo Indians of Kansas and Oklahoma in Indian Claims Commission dockets Nos. 316, 316–A, 317, 145, 193, and 318:

CONFERENCE REPORT (H. REPT. No. 92–1433)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6797) to provide for the disposition of funds appropriated to pay judgments in favor of the Kickapoo Indians of Kansas and Oklahoma in Indian Claims Commission dockets numbered 316, 316–A, 317, 145, 193, and 318, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 1, 3, 4, 5, 6, and 7, and that the House recede from its disagreement to Senate amendment No. 2, and agree to the same with an amendment as follows: In lieu of the matter inserted by the Senate amendment, insert the following:

"(a) The funds divided and credited under section 1 of this Act, and the funds appropriated to pay a judgment recovered by the Kickapoo Indians of Oklahoma in docket numbered 318, including the interest thereon, after the payment of attorney fees and other litigation expenses, shall be used as follows: 75 per centum shall be distributed in equal per capita shares to each person whose name appears on or is entitled to appear on the membership roll of the Kickapoo Tribe of Oklahoma and 90 per centum shall be distributed in equal per capita shares to each person whose name appears on or is entitled to appear on the membership roll of the Kickapoo Tribe of Kansas, if such person was born on or prior to and is living on the date of this Act."

And the Senate agree to the same.

WAYNE N. ASPINALL,
JAMES A. HALEY,
ED EDMONDSON,
JAMES ABOUREZK,
JOHN P. SAYLOR,
SAM STEIGER,
JOHN N. HAPPY CAMP,
Managers on the Part of the House.
HENRY M. JACKSON,
QUENTIN N. BURDICK,
PAUL J. FANNIN,
HENRY BELLMON,
Managers on the Part of the Senate.

JOINT STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill H.R. 6797, to provide for the disposition of funds appropriated to pay judgments in favor of the Kickapoo Indians of Kansas and Oklahoma in Indian Claims Commission dockets numbered 316, 316–A, 317, 145, 193, and 318, submit this joint statement in explanation of the effect of the language agreed upon by the managers and recommended in the accompanying conference report.

The Senate amendments provide for a per capita distribution of 75% of the judgment funds by both the Kickapoo Tribe of Oklahoma and the Kickapoo Tribe of Kansas. The Committee of Conference retained the 75% provision for the Oklahoma Tribe, but provided for a 90% distribution by the Kansas Tribe. This corresponds to the wishes of the two Tribes.

WAYNE N. ASPINALL,
JAMES A. HALEY,
ED EDMONDSON,
JAMES ABOUREZK,
JOHN P. SAYLOR,
SAM STEIGER,
JOHN N. HAPPY CAMP,
Managers on the Part of the House.
HENRY M. JACKSON,
QUENTIN N. BURDICK,
PAUL J. FANNIN,
HENRY BELLMON,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 3337, AUTHORIZING ACQUISITION OF VILLAGE SITE FOR PAYSON BAND OF YAVAPAI-APACHE INDIANS

Mr. ASPINALL submitted the following conference report and statement on the bill (H.R. 3337) to authorize the acquisition of a village site for the Payson Band of Yavapai-Apache Indians, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 92–1434)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3337) to authorize the acquisition of a village site for the Payson Band of Yavapai-Apache Indians, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"That (a) a suitable site (or not to exceed eighty-five acres) for a village for the Payson Community of Yavapai-Apache Indians shall be selected in the Tonto National Forest within Gila County, Arizona, by the leaders of the community, suoject to approval by the Secretary of the Interior and the Secretary of Agriculture. The site so selected is hereby declared to be held by the United States in trust as an Indian reservation for the use and benefit of the Payson Community of Yavapai-Apache Indians.

"(b) The Payson Community of Yavapai-Apache Indians shall be recognized as a tribe of Indians within the purview of the Act of June 18, 1934, as amended (26 U.S.C. 461–479, relating to the protection of Indians and conservation of resources), and shall be subject to all of the provisions thereof."

And the Senate agree to the same.

Wayne N. Aspinall,
James A. Haley,
Ed Edmondson,
James Abourezk,
John P. Saylor,
Sam Steiger,
John N. Happy Camp,
Managers on the Part of the House.
Henry M. Jackson,
Quentin N. Burdick,
Paul J. Fannin,
Henry Bellmon,
Managers on the Part of the Senate.

Joint Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H.R. 3337, to authorize the acquisition of a village site for the Yayson Band of Yavapai-Apache Indians, and for other purposes, submit this joint statement in explanation of the effect of the language agreed upon by the managers and recommended in the accompanying conference report.

The Senate amendment provides for the selection of a village site for the Payson Band by the leaders of the community "in cooperation with" the Secretary of the Interior and the Secretary of Agriculture, rather than "subject to approval by" the two Secretaries, as provided in the House bill. The amendment recommended by the Committee of Conference restores the House language.

The Senate amendment provides that title to the village site will be held by the United States in trust for the Payson Community. The land is declared to be a new Indian Reservation, and the Payson Community is recognized as an Indian Tribe. The House bill provides for a conveyance in fee, rather than in trust, and does not recognize the Payson Band as a Tribe for the purposes of Federal Indian programs. The amendment recommended by the Committee of Conference accepts the Senate provisions, except for the Senate provision authorizing an appropriation to purchase lieu lands to replace national forest lands conveyed to the Indians.

Wayne N. Aspinall,
James A. Haley,
Ed Edmondson,
James Abourezk,
John P. Saylor,
Sam Steiger,
John N. Happy Camp,
Managers on the Part of the House.
Henry M. Jackson,
Quentin N. Burdick,
Paul J. Fannin,
Henry Bellmon,
Managers on the Part of the Senate.

JUDGMENT FUNDS OF THE DELAWARE TRIBE OF INDIANS, ET AL.

Mr. ASPINALL. Mr. Speaker, I ask for unanimous consent to take from the Speaker's desk the bill (H.R. 14267) to provide for the disposition of funds appropriated to pay a judgment in favor of the Delaware Tribe of Indians in Indian Claims Commission docket No. 298, and the Absentee Delaware Tribe of Western Oklahoma, et al., in Indian Claims Commission docket No. 72, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 3, line 18, strike out "99" and insert "90".

Page 3, line 20, strike out "1" and insert "10".

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 166, DESIGNATING STRATIFIED PRIMITIVE AREA A PART OF THE WASHAKIE WILDERNESS

Mr. JOHNSON of California submitted the following conference report and statement on the bill (S. 166) designating the Stratified Primitive Area as a part of the Washakie Wilderness, heretofore known as the South Absaroka Wilderness, Shoshone National Forest, in the State of Wyoming, and for other purposes:

Conference Report (H. Rept. No. 92–1435)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 166) to designate the Stratified Primitive Area as a part of the Washakie Wilderness, heretofore known as the South Absaroka Wilderness, Shoshone National Forest, in the State of Wyoming, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendment to the text of the bill, and agree to the same with an amendment as follows: In lieu of the matter inserted by the House amendment insert the following:

That, in accordance with subsection 3(b) of the Wilderness Act of September 3, 1964 (78 Stat. 891), the area classified as the Stratified Primitive Area, with the proposed additions thereto and deletions therefrom, comprising an area of approximately two hundred and eight thousand acres as generally depicted on a map entitled "Washakie Wilderness—Proposed," dated June 15, 1967, revised September 12, 1970, which is on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture, is hereby designated for addition to and as a part of the area heretofore known as the South Absaroka Wilderness, which is hereby renamed as the Washakie Wilderness.

Sec. 2. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and a legal description of the Washakie Wilderness with the Interior and Insular Affairs Committees of the United States Senate and the House of Representatives, and such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made.

Sec. 3. The Stratified Primitive Area addition to the Washakie Wilderness shall be administered as a part of the Washakie Wilderness by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

Sec. 4. The previous classification of the Stratified Primitive Area is hereby abolished.

Sec. 5. (a) Within the area depicted as the Special Management Unit on the map referred to in section 1 of this Act, the Secretary of Agriculture shall not permit harvesting of timber or public or private vehicular use of any existing road, and shall not construct or permit the construction or expansion of any road in said Special Management Unit. The Secretary shall administer said unit in accordance with the laws, rules, and regulations relating to the national forests especially to provide for nonvehicular access recreation and may construct such facilities and take such measures as are necessary for the health and safety of visitors and to protect the resources of said unit: *Provided, however,* That this section shall not affect such vehicular use and maintenance of existing roads as may be necessary for the administration of said unit by the Secretary of Agriculture.

(b) The Secretary of Agriculture shall initiate a continuing study of the Special Management Unit and at the end of the five-year period following the enactment of this act shall recommend to the President and the Congress what he considers to be the area's highest and best public use.

(c) As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and legal description of the area referred to in subsection (a) with the Interior and Insular Affairs Committees of the United States Senate and the House of Representatives, and such description shall have the same force and effect as included in this Act: *Provided, however,* That corrections of clerical and typographical errors in such legal description and map may be made.

Harold T. Johnson,
Morris K. Udall,
Teno Roncalio,
John Kyl,
Sherman P. Lloyd,
Managers on the Part of the House.
Alan Bible,
Frank Church,
Lee Metcalf,
Clifford P. Hansen,
Mark O. Hatfield,
Managers on the Part of the Senate.

Joint Statement of the Committee of Conference

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill S. 166, to designate the Stratified Primitive Area as a part of the Washakie Wilderness, heretofore known as the South Absaroka Wilderness, Shoshone National Forest, in the State of Wyoming, and for other purposes, submit this joint statement in explanation of the effect of the language agreed upon by the managers and recommended in the accompanying conference report.

The House amendment consisted of striking all after the enacting clause and substituting in lieu thereof new text which varies from the Senate bill in one significant way. The Senate version designates an area of approximately 35,000 acres, referred to as the DuNoir area, as a Special Management Unit and excludes this area from wilderness, but provides special language to guide its future management. The House amendment included this area as wilderness. The Department of Agriculture took the position that the DuNoir area should not be designated as part of the wilderness, and also opposed the special management provisions of the Senate bill.

Thus, the conferees faced two distinct issues. First, to determine whether the DuNoir unit qualifies as wilderness under section 2(c) of the Wilderness Act, and secondly, whether designation as wilderness is the most desirable disposition of this area.

Testimony given the House committee led to its conclusion that the DuNoir area is qualified and should be designated as wilderness. The presence of minor remnants of early human occupancy in the form of stub roads and remains of an old camp, and evidence of minor selective timber harvest in the area decades ago did not, in the opinion of the House committee, disqualify the area. This evidence of past human activity in the area is minor and superficial, and is of a transitory nature, rapidly fading under the restorative powers of natural forces.

The conferees were unable, on the basis of information available at this time, to reach agreement on whether the DuNoir area should be included within the Washakie Wilderness. Hence, the conferees have agreed to accept the Senate's language on interim special management of this area until such time as the Congress, after further consideration, makes a final judgement on the ultimate disposition of this important area. In order to provide the information on which to base a final decision, the conferees have added language directing that the Secretary of Agriculture conduct further studies of the DuNoir and surrounding area and provide recommendations, at the end of five years, to the President and the Congress on the highest and best use of this area. This action provides the Forest Service the opportunity to study in detail all options, including wilderness, and make recommendations on the highest and best use of the area.

In conducting this study, the conferees intend that the agency provide for full public participation in accordance with section 3(c) of the Wilderness Act. Until Congress has acted further on the matter, the area is to be administered under the provisions of Section 5, which are intended to preserve the area in its present condition and provide for necessary protection and public use.

HAROLD T. JOHNSON,
MORRIS K. UDALL,
TENO RONCALIO,
JOHN KYL,
SHERMAN P. LLOYD,
Managers on the Part of the House.

ALAN BIBLE,
FRANK CHURCH,
LEE METCALF,
CLIFFORD P. HANSEN,
MARK O. HATFIELD,
Managers on the Part of the Senate.

AIR TRAGEDY IN CALIFORNIA

(Mr. MOSS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. MOSS. Mr. Speaker, yesterday afternoon in my district in the city of Sacramento a plane crashed on takeoff into an ice cream parlor full of small children who were there in most instances for the celebration of a birthday. Twenty-two persons were killed and numerous persons were injured.

The plane operating at that time was an F-86 Sabrejet, privately owned, operating under an experimental license issued by the Federal Aviation Administration.

I have called upon the FAA for an immediate justification for the issuance of this experimental license to operate a military-type aircraft by civilians.

I can conceive of no legitimate objective to be achieved through the issuance of that type of experimental certification.

I have, furthermore, called upon the Department of Defense to tell me how that particular plane, a type not normally available to civilians, was sold through Canada and became operational here in the United States. Unless I receive satisfactory responses, Mr. Speaker, I intend to seek the support of this House in having the appropriate committees undertake an immediate and thorough investigation.

CONFERENCE REPORT ON H.R. 10243, TECHNOLOGY ASSESSMENT ACT OF 1972

Mr. MILLER of California submitted the following conference report and statement on the bill (H.R. 10243) to establish an Office of Technology Assessment for the Congress as an aid in the identification and consideration of existing and probable impacts of technological application; to amend the National Science Foundation Act of 1950; and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 92-1436)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 10243) to establish an Office of Technology Assessment for the Congress as an aid in the identification and consideration of existing and probable impacts of technological application; to amend the National Science Foundation Act of 1950; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Technology Assessment Act of 1972".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. The Congress hereby finds and declares that:

(a) As technology continues to change and expand rapidly, its applications are—

(1) large and growing in scale; and

(2) increasingly extensive, pervasive, and critical in their impact, beneficial and adverse, on the natural and social environment.

(b) Therefore, it is essential that, to the fullest extent possible, the consequences of technological applications be anticipated, understood, and considered in determination of public policy on existing and emerging national problems.

(c) The Congress further finds that:

(1) the Federal agencies presently responsible directly to the Congress are not designed to provide the legislative branch with adequate and timely information, independently developed, relating to the potential impact of technological applications, and

(2) the present mechanisms of the Congress do not and are not designed to provide the legislative branch with such information.

(d) Accordingly, it is necessary for the Congress to—

(1) equip itself with new and effective means for securing competent, unbiased information concerning the physical, biological, economic, social, and political effects of such applications; and

(2) utilize this information, whenever appropriate, as one factor in the legislative assessment of matters pending before the Congress, particularly in those instances where the Federal Government may be called upon to consider support for, or management or regulation of, technological applications.

ESTABLISHMENT OF THE OFFICE OF TECHNOLOGY ASSESSMENT

SEC. 3. (a) In accordance with the findings and declaration of purpose in section 2, there is hereby created the Office of Technology Assessment (hereinafter referred to as the "Office") which shall be within and responsible to the legislative branch of the Government.

(b) The Office shall consist of a Technology Assessment Board (hereinafter referred to as the "Board") which shall formulate and promulgate the policies of the Office, and a Director who shall carry out such policies and administer the operations of the Office.

(c) The basic function of the Office shall be to provide early indications of the probable beneficial and adverse impacts of the applications of technology and to develop other coordinate information which may assist the Congress. In carrying out such function, the Office shall:

(1) identify existing or probable impacts of technology or technological programs;

(2) where possible, ascertain cause-and-effect relationships;

(3) identify alternative technological methods of implementing specific programs;

(4) identify alternative programs for achieving requisite goals;

(5) make estimates and comparisons of the impacts of alternative methods and programs;

(6) present findings of completed analyses to the appropriate legislative authorities;

(7) identify areas where additional research or data collection is required to provide adequate support for the assessments and estimates described in paragraph (1) through (5) of this subsection; and

(8) undertake such additional associated activities as the appropriate authorities specified under subsection (d) may direct.

(d) Assessment activities undertaken by the Office may be initiated upon the request of:

(1) the chairman of any standing, special, or select committee of either House of the Congress, or of any joint committee of the Congress, acting for himself or at the request of the ranking minority member or a majority of the committee members;

(2) the Board; or

(3) the Director, in consultation with the Board.

(e) Assessments made by the Office, including information, surveys, studies, reports, and findings related thereto, shall be made available to the initiating committee or other appropriate committees of the Congress. In addition, any such information, surveys, studies, reports, and findings produced by the Office may be made available to the public except where—

(1) to do so would violate security statutes; or

(2) the Board considers it necessary or advisable to withhold such information in accordance with one or more of the numbered paragraphs in section 552(b) of title 5, United States Code.

TECHNOLOGY ASSESSMENT BOARD

SEC. 4. (a) The Board shall consist of thirteen members as follows:

(1) six Members of the Senate, appointed by the President pro tempore of the Senate, three from the majority party and three from the minority party;

(2) six Members of the House of Representatives appointed by the Speaker of the House of Representatives, three from the majority party and three from the minority party; and

(3) the Director, who shall not be a voting member.

(b) Vacancies in the membership of the Board shall not affect the power of the remaining members to execute the functions of the Board and shall be filled in the same manner as in the case of the original appointment.

(c) The Board shall select a chairman and a vice chairman from among its members at the beginning of each Congress. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman. The chairmanship and the vice chairmanship shall alternate between the Senate and the House of Representatives with each Congress. The chairman during each even-numbered Congress shall be selected by the Members of the House of Representatives on the Board from among their number. The vice chairman during each Congress shall be chosen in the same manner from that House of Congress other than the House of Congress of which the chairman is a Member.

(d) The Board is authorized to sit and act at such places and times during the sessions, recesses, and adjourned periods of Congress, and upon a vote of a majority of its members, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths and affirmations, to take such testimony, to procure such printing and binding, and to make such expenditures, as it deems advisable. The Board may make such rules respecting its organization and procedures as it deems necessary, except that no recommendation shall be reported from the Board unless a majority of the Board assent. Subpenas may be issued over the signature of the chairman of the Board or of any voting member designated by him or by the Board, and may be served by such person or persons as may be designated by such chairman or member. The chairman of the Board or any voting member thereof may administer oaths or affirmations to witnesses.

DIRECTOR AND DEPUTY DIRECTOR

Sec. 5. (a) The Director of the Office of Technology Assessment shall be appointed by the Board and shall serve for a term of six years unless sooner removed by the Board. He shall receive basic pay at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(b) In addition to the powers and duties vested in him by this Act, the Director shall exercise such powers and duties as may be delegated to him by the Board.

(c) The Director may appoint with the approval of the Board, a Deputy Director who shall perform such functions as the Director may prescribe and who shall be Acting Director during the absence or incapacity of the Director or in the event of a vacancy in the office of Director. The Deputy Director shall receive basic pay at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(d) Neither the Director nor the Deputy Director shall engage in any other business, vocation, or employment than that of serving as such Director or Deputy Director, as the case may be; nor shall the Director or Deputy Director, except with the approval of the Board, hold any office in, or act in any capacity for, any organization, agency, or institution with which the Office makes any contract or other arrangement under this Act.

AUTHORITY OF THE OFFICE

Sec. 6. (a) The Office shall have the authority, within the limits of available appropriations, to do all things necessary to carry out the provisions of this Act, including, but without being limited to, the authority to—

(1) make full use of competent personnel and organizations outside the Office, public or private, and form special ad hoc task forces or make other arrangements when appropriate;

(2) enter into contracts or other arrangements as may be necessary for the conduct of the work of the Office with any agency or instrumentality of the United States, with any State, territory, or possession or any political subdivision thereof, or with any person, firm, association, corporation, or educational institution, with or without reimbursement, without performance or other bonds, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5);

(3) make advance, progress, and other payments which relate to technology assessment without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529);

(4) accept and utilize the services of voluntary and uncompensated personnel necessary for the conduct of the work of the Office and provide transportation and subsistence as authorized by section 5703 of title 5, United States Code, for persons serving without compensation;

(5) acquire by purchase, lease, loan, or gift, and hold and dispose of by sale, lease, or loan, real and personal property of all kinds necessary for or resulting from the exercise of authority granted by this Act; and

(6) prescribe such rules and regulations as it deems necessary governing the operation and organization of the Office.

(b) Contractors and other parties entering into contracts and other arrangements under this section which involve costs to the Government shall maintain such books and related records as will facilitate an effective audit in such detail and in such manner as shall be prescribed by the Office, and such books and records (and related documents and papers) shall be available to the Office and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination.

(c) The Office, in carrying out the provisions of this Act, shall not, itself, operate any laboratories, pilot plants, or test facilities.

(d) The Office is authorized to secure directly from any executive department or agency information, suggestions, estimates, statistics, and technical assistance for the purpose of carrying out its functions under this Act. Each such executive department or agency shall furnish the information, suggestions, estimates, statistics, and technical assistance directly to the Office upon its request.

(e) On request of the Office, the head of any executive department or agency may detail, with or without reimbursement, any of its personnel to assist the Office in carrying out its functions under this Act.

(f) The Director shall, in accordance with such policies as the Board shall prescribe, appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act.

ESTABLISHMENT OF THE TECHNOLOGY ASSESSMENT ADVISORY COUNCIL

Sec. 7. (a) The Office shall establish a Technology Assessment Advisory Council (hereinafter referred to as the "Council"). The Council shall be composed of the following twelve members:

(1) ten members from the public, to be appointed by the Board, who shall be persons eminent in one or more fields of the physical, biological, or social sciences or engineering or experienced in the administration of technological activities, or who may be judged qualified on the basis of contributions made to educational or public activities;

(2) the Comptroller General; and

(3) the Director of the Congressional Research Service of the Library of Congress.

(b) The Council, upon request by the Board, shall—

(1) review and make recommendations to the Board on activities undertaken by the Office or on the initiation thereof in accordance with section 3(d);

(2) review and make recommendations to the Board on the findings of any assessment made by or for the Office; and

(3) undertake such additional related tasks as the Board may direct.

(c) The Council, by majority vote, shall elect from its members appointed under subsection (a)(1) of this section a Chairman and a Vice Chairman, who shall serve for such time and under such conditions as the Council may prescribe. In the absence of the Chairman, or in the event of his incapacity, the Vice Chairman shall act as Chairman.

(d) The term of office of each member of the Council appointed under subsection (a)(1) shall be four years except that any such member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. No person shall be appointed a member of the Council under subsection (a)(1) more than twice. Terms of the members appointed under subsection (a)(1) shall be staggered so as to establish a rotating membership according to such method as the Board may devise.

(e)(1) The members of the Council other than those appointed under subsection (a)(1) shall receive no pay for their services as members of the Council, but shall be allowed necessary travel expenses (or, in the alternative, mileage for use of privately owned vehicles and a per diem in lieu of subsistence at not to exceed the rate prescribed in sections 5702 and 5704 of title 5, United States Code), and other necessary expenses incurred by them in the performance of duties vested in the Council, without regard to the provisions of subchapter 1 of chapter 57 and section 5731 of title 5, United States Code, and regulations promulgated thereunder.

(2) The members of the Council appointed under subsection (a)(1) shall receive compensation for each day engaged in the actual performance of duties vested in the Council at rates of pay not in excess of the daily equivalent of the highest rate of basic pay set forth in the General Schedule of section 5332(a) of title 5, United States Code, and in addition shall be reimbursed for travel, subsistence, and other necessary expenses in the manner provided for other members of the Council under paragraph (1) of this subsection.

UTILIZATION OF THE LIBRARY OF CONGRESS

Sec. 8. (a) To carry out the objectives of this Act, the Librarian of Congress is authorized to make available to the Office such services and assistance of the Congressional Research Service as may be appropriate and feasible.

(b) Such services and assistance made available to the Office shall include, but not be limited to, all of the services and assistance which the Congressional Research Service is otherwise authorized to provide to the Congress.

(c) Nothing in this section shall alter or modify any services or responsibilities, other than those performed for the Office, which the Congressional Research Service under law performs for or on behalf of the Congress. The Librarian is, however, authorized to establish within the Congressional Research Service such additional divisions, groups, or other organizational entities as may be necessary to carry out the purpose of this Act.

(d) Services and assistance made available to the Office by the Congressional Research Service in accordance with this section may be provided with or without reimbursement from funds of the Office, as agreed upon by the Board and the Librarian of Congress.

UTILIZATION OF THE GENERAL ACCOUNTING OFFICE

Sec. 9. (a) Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel, and procurement) and such other services as may be appropriate shall be provided the Office by the General Accounting Office.

(b) Such services and assistance to the Office shall include, but not be limited to, all of the services and assistance which the General Accounting Office is otherwise authorized to provide to the Congress.

(c) Nothing in this section shall alter or modify any services or responsibilities, other than those performed for the Office, which the General Accounting Office under law performs for or on behalf of the Congress.

(d) Services and assistance made available to the Office by the General Accounting Office in accordance with this section may be provided with or without reimbursement from funds of the Office, as agreed upon by the Board and the Comptroller General.

COORDINATION WITH THE NATIONAL SCIENCE FOUNDATION

SEC. 10. (a) The Office shall maintain a continuing liaison with the National Science Foundation with respect to—

(1) grants and contracts formulated or activated by the Foundation which are for purposes of technology assessment; and

(2) the promotion of coordination in areas of technology assessment, and the avoidance of unnecessary duplication or overlapping of research activities in the development of technology assessment techniques and programs.

(b) Section 3(b) of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1862(b)), is amended to read as follows:

"(b) The Foundation is authorized to initiate and support specific scientific activities in connection with matters relating to international cooperation, national security, and the effects of scientific applications upon society by making contracts or other arrangements (including grants, loans, and other forms of assistance) for the conduct of such activities. When initiated or supported pursuant to requests made by any other Federal department or agency, including the Office of Technology Assessment, such activities shall be financed whenever feasible from funds transferred to the Foundation by the requesting official as provided in section 14 (g), and any such activities shall be unclassified and shall be identified by the Foundation as being undertaken at the request of the appropriate official."

ANNUAL REPORT

SEC. 11. The Office shall submit to the Congress an annual report which shall include, but not be limited to, an evaluation of technology assessment techniques and identification, insofar as may be feasible, of technological areas and programs requiring future analysis. Such report shall be submitted not later than March 15 of each year.

APPROPRIATIONS

SEC. 12. (a) To enable the Office to carry out its powers and duties, there is hereby authorized to be appropriated to the Office, out of any money in the Treasury not otherwise appropriated, not to exceed $5,000,000 in the aggregate for the two fiscal years ending June 30, 1973, and June 30, 1974, and thereafter such sums as may be necessary.

(b) Appropriations made pursuant to the authority provided in subsection (a) shall remain available for obligation, for expenditure, or for obligation and expenditure for such period or periods as may be specified in the Act making such appropriations.

And the Senate agree to the same.

GEORGE P. MILLER,
JOHN W. DAVIS,
EARLE CABELL,
CHARLES A. MOSHER,
MARVIN L. ESCH,
Managers on the Part of the House.

HOWARD W. CANNON,
ROBERT C. BYRD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 10243) to establish an Office of Technology Assessment for the Congress as an aid in the identification and consideration of existing and probable impacts of technological application; to amend the National Science Foundation Act of 1950; and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The amendment of the Senate struck out all after the enacting clause in the House bill and substituted new language. The Committee of Conference agreed to accept the Senate amendment with certain amendments and stipulations proposed by the conferees.

The substantive changes made by the Senate amendment, together with further amendments and modifications by the Committee of Conference, are as follows:

SECTION 2

Language in the Declaration of Purpose was altered slightly for clarification. No substantive changes were made.

SECTION 3

With regard to the initiation of assessment activities by the Office of Technology Assessment (OTA), the House bill authorized such initiation (1) by the chairman of Congressional committees acting for themselves, the ranking minority member, or upon the request of a majority of the committee, or (2) by the Technology Assessment Board (The Board). The Senate amendment authorized the Director of the Office to take similar action, but only in consultation with the Board. In this, the Managers on the part of the House concurred, believing that the Director will be in a particularly favorable position to ascertain the need for certain assessments well in advance of the time when they become critical issues the Congress must face. This factor of timing was considered by the conferees to be of marked importance.

The House bill stipulated that all assessments and findings of the Office should eventually be made available to the public except where national security or the Freedom of Information Act might be violated. The Senate amendment placed this decision at the discretion of the Board on the grounds that the Congressional committees for whom the assessments were made conceivably would need the option of whether or not to publish. The House conferees concurred.

SECTION 4

The make-up of the Technology Assessment Board in the House bill consisted of 10 members of Congress, 5 from each House, to be appointed by the Speaker of the House of Representatives and the President Pro Tempore of the Senate, 3 from the majority party and 2 from the minority party. The Senate amendment provided that the Board consist of 13 members, 6 from each House appointed as previously described, 3 from the majority party and 3 from the minority party. The Senate amendment also added the Director of the Office as a non-voting member of the Board. The House conferees agreed. Since the OTA is intended to be an independent office within the Legislative Branch designed to serve all committees and all members, the make-up of the policy-making board should be bipartisan. The addition of the Director will guarantee that he is privy to all Board actions without permitting him to share in the making of policy for the OTA.

The Senate amendment added a routine provision empowering the Board to sit and act at such places and times as are ordinarily authorized the various committees of the Congress. It also authorized the Board, but only the Board, to subpena witnesses and materials upon the approval of a majority of the Board members. House conferees recommended that subpenas should not be issued over the signature of anyone who is not a voting member of the Board. This action was designed to assure that the subpena power could not be transferred to the Director or any person not an elected member of Congress. The Senate conferees concurred in the House position.

SECTION 5

The House bill authorized the pay level for the Director of the Office at Level II of the Executive Schedule and the pay level of the Deputy Director at Level III of the Executive Schedule. The Senate amendment lowered these scales for the Director to Level III ($40,000) and for the Deputy Director to Level IV ($38,000). The Managers on the part of the House concurred with this amendment since the original levels would have placed the Director on the same pay scale as members of Congress, who are the employers of the Director and his staff.

SECTION 6

In the House bill, provisions concerning audit of parties entering into contracts with the Office and the securing of information from executive departments were described as functions of the Director. The Senate amendment placed these functions under the Office as a whole. The House conferees concurred in this change.

The Senate amendment added a clause authorizing the head of any executive department or agency to provide personnel assistance to the OTA in the event of such need. The House conferees concurred in this addition.

The House bill provided that OTA employees be subject to the provisions of Title 5 of the United States Code governing appointments in the competitive service, classification, and pay rates. The Senate amendment deleted this section on the grounds that these provisions of the Code do not apply to employees of the Congress. The House conferees concurred in this view. The intent of the conference is to have OTA staff considered as Congressional Staff.

SECTION 7

The Senate amendment established a new Technology Assessment Advisory Council in order to assist the Board. It was considered that such a Council, composed largely of members of the public, was essential since the bill as passed by the House had eliminated any public members from the Board itself. The Council, which is composed of 10 members from the public who are selected by the Board, plus the Comptroller General and the Director of the Congressional Research Service of the Library of Congress, would undertake reviews and recommendations concerning OTA activities, under the Senate amendment.

The Managers on the part of the House concurred in the need for the Council, but recommended that the Council should also be empowered to undertake such additional related tasks as the Board might direct. In this, the Managers on the part of the Senate agreed.

SECTION 8

The Senate amendment eliminated a number of specific services to be provided by the Congressional Research Service of the Library of Congress which the House bill had included. The Managers on the part of the House concurred in this change, since the language deleted imposed detailed functions on the Congressional Research Service which should be left to the discretion of the Board.

SECTION 9

The House Act specified that certain supporting services be provided to the OTA by the General Accounting Office upon agreement between the Comptroller General and the Board. The Senate amendment added a clause authorizing the Comptroller General to establish within GAO such additional administrative and organizational entities as might be considered necessary in carrying out this function.

Managers on the part of the House recommended the deletion of this clause. While similar language had been approved by the House in regard to services to be provided by the Congressional Research Service, House conferees pointed out that the Congressional Research Service provides services exclusively to the Congress while the functions of the General Accounting Office are much broader. Therefore, the inclusion of the additional authority with regard to the General Accounting Office might go beyond the intent of the Act. The Managers on the part of the Senate concurred with the House view.

SECTION 10

No change was made in this section. However, the conferees emphasize that the language in this Act amending the National Science Foundation Act of 1950, as amended, which is designed to stimulate liaison between the OTA and the National Science Foundation, is not intended to restrict the discretion of the National Science Foundation in deciding whether or not to support programs requested by either the OTA or other agencies.

SECTION 11

No change other than minor rephrasing aimed at clarification.

SECTION 12

The House bill provided authorization for the OTA not to exceed $5 million in the aggregate for fiscal years 1973 and 1974. The Senate amendment followed this provision but provided for continuing authorization after that time. The Managers on the part of the House concurred in the Senate Amendment.

House conferees considered that it would be unwise to require authorization each year for any entity within the Legislative Branch. To do so could mean a considerable delay in moving the annual Legislative Appropriation Act through the Congress. The imposition of such a burden, which does not presently exist, on the appropriation process for the Legislative Branch, has therefore been avoided.

SECTION 13

The House bill contained no specific provision for an effective date. The Senate amendment added a new section which would have made the Act effective and the appointment of members of the Board mandatory within 60 days of the final approval of the Act.

Managers on the part of the House disagreed with this section. Since it is anticipated that the passage of this Act will occur near the end of the 92nd Congress, deletion of this section provides for flexibility of timing in the appointment of Members to the Board by the Speaker of the House of Representatives and the President Pro Tempore of the Senate as provided in Section 4 of the Act. Managers on the part of the Senate concurred with the House position and this section was deleted.

GEORGE P. MILLER,
JOHN W. DAVIS,
EARLE CABELL,
CHARLES A. MOSHER,
MARVIN L. ESCH,
Managers on the Part of the House.
HOWARD W. CANNON,
ROBERT C. BYRD,
Managers on the Part of the Senate.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS TO FILE CONFERENCE REPORT ON WATER POLLUTION CONTROL ACT AMENDMENTS

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the managers have until midnight Monday, September 25, 1972, to file the conference report on S. 2770, the Water Pollution Control Act Amendments of 1972.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS TO FILE REPORT ON FEDERAL AID HIGHWAY ACT AMENDMENTS

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the Committee on Public Works have until midnight Monday, September 25, 1972, to file the report on H.R. 16656, the Federal-Aid Highway and Highway Safety Act Amendments of 1972.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PRO- OR ANTI-CONSERVATION?

(Mr. SIKES asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SIKES. Mr. Speaker, I am today extending my remarks in the body of the RECORD in an effort to clarify the confusion created by Field and Stream magazine when a recent issue of that publication purported to catalog Congressmen as being proconservation or anticonservation. The ratings given Members by Field and Stream contain so many surprises that it has been the subject of much comment—little of it favorable—on Capitol Hill. The measures on which Field and Stream based its ratings are even more surprising. They comprise measures which have little association with conservation and left out most of those which are considered by Members of Congress to be key conservation measures. I trust that my comments may help to bring this situation into truer perspective.

RELEASE OF AMERICAN PRISONERS OF WAR

(Mr. DRINAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DRINAN. Mr. Speaker, three American prisoners of war hopefully will be leaving Hanoi very shortly. These are the first three prisoners of war to be released in over 3 years. These gentlemen have made it known in writing to the President that they desire to return immediately to their families and not to be recommitted to military authorities. I think this request is a reasonable one and should be granted.

Apparently the U.S. military authorities desire to assume total custody of these individuals for an unspecified period of time.

Therefore, Mr. Speaker, I call upon the President, in a spirit of bipartisanship, not to interpose military pressures on these men as they are being released. I also call upon the Secretary of Defense not to reiterate his claims about the alleged implications of the Geneva Convention concerning these prisoners of war. I request the Secretary to release these individuals through civilian channels.

These claims about the Geneva Convention are without merit as a matter of law, but more critically they will in all probability render it extremely difficult to have further efforts to release our prisoners of war from Hanoi.

SOVIET WHEAT DEAL

(Mr. VANIK asked and was given permission to address the house for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. VANIK. Mr. Speaker, in yesterday's newspapers the American people got another glimpse of the "messy" Soviet wheat deal.

Four hundred million bushels of wheat were sold to the Soviets at about $1.63 per bushel—most of which was purchased by exporters at $1.25–$1.35 per bushel—a handy profit of about 33 cents per bushel times 400 million, or $132 million.

In addition, the exporters got an export subsidy of between 14 cents to 47 cents per bushel, averaging 31 cents per bushel the subsidy totals $124 million.

The combined profit on this deal could reach $256 million.

The grating insult occurs in the efforts of the exporters to qualify for treatment as DISC corporations and avoid income taxes on these fat profits.

This transaction and the manipulations which surround it are vivid evidence of the incredible degree of selfish influence on public decisions. Our task is to bring the details into the open—so that the taxpayers can estimate their cost.

COST OF FACELIFTING THE SPEAKER'S LOUNGE

(Mr. GROSS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. GROSS. Mr. Speaker, when the fog lifted this morning and visibility became almost unlimited, lo and behold there were the cost figures for the facelifting that was recently given to the Speaker's lounge, otherwise known to some as the retiring room.

According to the Clerk's Office, the period furniture—what period is uncertain—cost $65,750, the window draperies $21,715, and the specially woven 75-by-9 rug, with its ankle deep tuft, cost $31,650.

According to the Architect's Office, the crystal chandeliers cost another $44,862 or a minimal grand total of $163,977.

Mr. Speaker, this should effectively doom for the foreseeable future any further conversation in the House of Representatives about a limitation on spending.

APPOINTMENT OF CONFEREES ON S. 3507, DEVELOPMENT OF LAND AND WATER RESOURCES OF THE NATION'S COASTAL ZONES

Mr. LENNON. Mr. Speaker, I ask unanimous consent to take from the

Speaker's table the bill (S. 3507) to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zones, and for other purposes, with a House amendment thereto, insist on the House amendment, and agree to the conference requested by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina? The Chair hears none, and appoints the following conferees: Messrs. GARMATZ, LENNON, DOWNING, MOSHER, and PELLY.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
September 22, 1972.

Hon. CARL ALBERT,
The Speaker, House of Representatives.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 10:20 a.m. on Friday, September 22, 1972, and said to contain a message from the President transmitting to the Congress a proposal for participation by the United States Government in the 1974 International Exposition on Ecology and the Environment to be held in Spokane, Washington, in 1974.

With kind regards, I am,

Sincerely,

W. PAT JENNINGS,
Clerk, House of Representatives.
By W. RAYMOND COLLEY.

PARTICIPATION BY THE U.S. GOVERNMENT IN THE 1974 INTERNATIONAL EXPOSITION ON ECOLOGY AND THE ENVIRONMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 92-358)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together wth the accompanying papers, referred to the Committee on Foreign Affairs and ordered to be printed, with illustrations:

To the Congress of the United States:

Pursuant to Section 3 of Public Law 91-269, I am herewith transmitting to the Congress a proposal for participation by the United States Government in the 1974 International Exposition on Ecology and the Environment to be held at Spokane, Washington. This proposal includes a plan prepared by the Secretary of Commerce in cooperation with other interested departments and agencies of the Federal Government, in accordance with Section 3(c) of the referenced law.

On October 15, 1971, I advised the Secretaries of State and Commerce that the Spokane exposition warranted Federal recognition in accordance with Section 2(a) of Public Law 91-269. On November 24, 1971, upon request of the United States, the Bureau of International Expositions in Paris, by unanimous vote, officially recognized the event as a Special Category exposition.

I have determined that Federal participation in this exposition is in the national interest and I fully support the Secretary's plan for such participation. In essence, this plan calls for the construction of a Federal pavilion. The pavilion has been conceived and developed with a view to maximizing residual use benefits to the Federal Government at the conclusion of the exposition.

Congressional authorization is required as a prerequisite to United States participation in a Federally recognized domestic-international exposition. Legislation is also required in order to establish the other authorities necessary to effect the proposed participation, as well as to authorize appropriations. The appropriations necessary to carry out this plan are estimated at $11.5 million.

I urge that the appropriate legislation, which I am transmitting herewith, be given prompt and favorable consideration by the Congress.

RICHARD NIXON.

THE WHITE HOUSE.

PROVIDING FOR CONSIDERATION OF H.R. 16754, MILITARY CONSTRUCTION APPROPRIATIONS, 1973

Mr. COLMER, from the Committee on Rules, reported the following privileged resolution (H. Res. 1132, Rept. No. 92-1437), which was referred to the House calendar and ordered to be printed:

H. RES. 1132

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 6 of Rule XXI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 16754) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes, and all points of order against said bill are hereby waived.

Mr. COLMER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1132 and ask for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read the resolution.

The SPEAKER. The question is, Will the House now consider House Resolution 1132?

The question was taken; and—two-thirds having voted in favor thereof—the House agreed to consider House Resolution 1132.

The SPEAKER. The gentleman from Mississippi (Mr. COLMER) is recognized for 1 hour.

Mr. COLMER. Mr. Speaker, I yield the customary 30 minutes to the gentleman from California (Mr. SMITH), pending which I yield myself such time as I may consume.

Mr. Speaker, this is a simple resolution and I shall treat it as such.

The resolution makes in order the consideration of the military construction bill, H.R. 16754.

The rule would provide for the waiving of points of order, and particularly of the 3-day rule because of the lack of authorization.

The bill was passed by the House some time ago and was passed by the Senate subsequently and is now in conference.

This rule simply makes in order the consideration of that bill, clause 6, rule XXI, to the contrary notwithstanding and waives points of order against the bill because of lack of authorization.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER. The gentleman from California (Mr. SMITH) is recognized.

(Mr. SMITH of California asked and was given permission to revise and extend his remarks.)

Mr. SMITH of California. Mr. Speaker, once again the Committee on Rules is attempting to help the House expedite its work with the hope that we will finish up and be able to adjourn in the not too distant future.

This rule, House Resolution 1132, waives the 3-day rule which is clause 6 rule XXI, and also waives all points of order because, as stated by the gentleman from Mississippi, the authorization is not final. Both bodies have passed the bill, but it is still in conference.

It is my understanding from the testimony before the Committee on Rules this morning that the conferees have agreed on all items with the possible exception of one which is the Trident submarine.

I am also informed that there is no money in this bill over and above anything authorized and the Trident matter is not in it.

The only other matters that are in it are those that passed the House and Senate and are in agreement in the conference report which should reach us very shortly.

Mr. Speaker, I urge the adoption of House Resolution 1132 so that we may proceed with consideration of House Resolution 16754, the military construction bill.

COMMITTEE ON RULES—PERMISSION TO FILE REPORTS

Mr. COLMER. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. HALL. Mr. Speaker, reserving the right to object, may I ask my distinguished colleague, the gentleman from Mississippi, what the Committee on Rules might contemplate filing by midnight tonight? Does this include that which the Committee on Rules has acted, or plans to act on during this remaining day of their terminal activity, as announced by the gentleman?

Mr. COLMER. If I understood the first part of the gentleman's question which is—what bills we propose to file during the day? In response to that, the bills are: H.R. 16645, the so-called Eisenhower Memorial Bicentennial Center Civic Center, H.R. 1121—the Gateway National Seashore in the States of New York and New Jersey and House Joint Resolution 1227—the SALT agreement with the Senate amendments to be considered hopefully today, if the two-thirds vote is obtained

Mr. HALL. Mr. Speaker, I thank the gentleman for his response. Let me phrase the latter part of my first question another way, in the hope that perhaps we can have a good meeting of the minds, as we so often do. Is it contemplated that the Committee on Rules would further meet today and possibly add to this list if your request for unanimous consent is granted?

Mr. COLMER. I am sorry. There is conversation going on here, and I did not hear that question.

Does the gentleman want to know whether the committee proposes to meet further today? Was that his request?

Mr. HALL. And submit the results of their actions over this unanimous-consent request.

Mr. COLMER. It is not the purposes at least presently of the Committee on Rules to meet today. It meets tomorrow on certain other bills. Does that answer the gentleman's question?

Mr. HALL. Mr. Speaker, that does answer my question, and I appreciate the position the gentleman is in with the leadership and with the pressure of the various committee chairmen, to say nothing of the various members pets. I would simply point out that it does no good to object to a unanimous-consent request to take up at any time the continuing appropriations bill, in one 5-minute period of our session, and then in the next grant authority to file any rule until midnight tonight that the committee might hear during the balance of the day. The gentleman has answered my question.

Mr. COLMER. Very well.

Mr. HALL. I would like to know this. Is it the purpose of the chairman of the Committee on Rules when he said they are going to meet tomorrow, which I believe is the regular meeting day, to take up any additional bills that have been filed by midnight tonight which he announced here last week is the cutoff date, except for rare emergencies?

Mr. COLMER. Let me say in response to the gentleman from Missouri that at the present moment I have not seen the additional bills that have been reported. There is no intention, therefore, to have such a hearing tomorrow on such bills. However, tentatively the program for the Committee on Rules tomorrow is to hear the housing bill on application for a rule, and also the potato bill that we have been hearing considerable about.

Mr. HALL. I am satirically glad that bill got in before the emergency clause was involved, Mr. Speaker. I appreciate the gentleman's statement. I know that potatoes are not an emergency except in time of famine. But anyway I am glad they are getting that bill in. I see no objection to the gentleman's request.

Mr. COLMER. Mr. Speaker, if the gentleman will yield further——

Mr. HALL. I will be glad to yield further.

Mr. COLMER. There was one bill I did not mention, and that is a reclamation bill out of the Committee on Interior and Insular Affairs. I do not have the number at the moment.

Mr. HALL. Is it listed on this week's program?

Mr. COLMER. I am having trouble hearing.

Mr. HALL. Is it listed on this week's intended program—the reclamation bill?

Mr. COLMER. I have no knowledge of its programing position on the floor; but it will be heard on application for a rule.

Mr. HALL. Mr. Speaker, I yield to the gentleman from Iowa.

Mr. GROSS. Did I understand the distinguished gentleman from Mississippi to say that he is asking permission to have until midnight tonight to file a rule on a bill to provide for a $65 million convention center in the District of Columbia, when the District of Columbia does not even have the money to pay its school teachers any kind of salary increase and they are on strike?

Mr. COLMER. Mr. Speaker, in response to my friend, the gentleman from Iowa, I would say that is one of the bills that was reported by the Rules Committee this morning and it is the intention to file that today under the unanimous-consent request.

Mr. GROSS. I just say to the gentleman I find almost incredible that clearance would be given on a bill which would be offered to construct in the District of Columbia a $65 million convention center, with an initial $14 million in Federal funds, when on every hand this same District government pleads poverty. This tops them all.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. HALL. Mr. Speaker, further reserving the right to object and in view of the statement of my colleague, the gentleman from Mississippi, I shall not object, but I simply want to say that I hope after consultation we can bring up the continuing appropriations resolution, without adding to the gentleman's burdens, and in the interest of expediting the business of the Congress. This would be provisional of course upon the gentleman "holding the line" on a plethora of requests for rules to the best of his ability.

Mr. COLMER. I thank the gentleman.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. SMITH of California. Mr. Speaker, before the gentleman moves the previous question, I yield myself such additional time as I may use.

Mr. Speaker, I think I made a misstatement in the presentation of this resolution when I said there was no money in this bill for the Trident. I believe there is some planning money in it for the Trident but I am advised now that it is dependent upon what the authorization conference comes out with.

I would appreciate it if the gentleman from Florida (Mr. Sikes) would make a statement which sets forth the correct situation.

Mr. SIKES. Mr. Speaker, will the gentleman yield?

Mr. SMITH of California. I yield to the gentleman from Florida.

Mr. SIKES. Mr. Speaker, there is planning money, $13 million, carried in this bill for the Trident program. It is planning money and line item authorization for it is not required. Planning for military construction is permanently authorized under 31 U.S.C. 723. There is also in the bill $3.5 million for initial construction, primarily land acquisition. That is the item which according to our information is still in disagreement in the conference. It is my understanding that if it should not be authorized it could not be spent for the Trident program. It would be available for reprograming, for other action, if the Defense Department were to come back to the Congress for that.

Mr. SMITH of California. Mr. Speaker, I appreciate the gentleman's explanation. I would not in any way want to mislead the House of Representatives.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. COLMER. I yield to the distinguished majority leader.

Mr. BOGGS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I asked the gentleman to yield to me so there will not be any misunderstanding with respect to the reply of the distinguished gentleman from Mississippi, the chairman of the Rules Committee, to the gentleman from Missouri (Mr. Hall). There are bills, and as a matter of fact some of them are listed on the whip notice for this week, that are subject to rules being granted that are very important bills. I would not want the Record to indicate the gentleman's reply was an exclusive reply. For instance, the highway bill is considered a must bill. The debt ceiling limitation, of course, is a must bill, and there may very well be others. I would like for the Record to show that.

Mr. COLMER. Mr. Speaker, in response to the majority leader, permit me to repeat I had some difficulty a moment ago because of colloquies around here in understanding the import of the gentleman's question, but certainly it was not my intention to answer and I do not think the Record will show that I said that was the exclusive calendar in any way. As a matter of fact if the majority leader and other interested Members will refer to the letter that the Rules Committee instructed me to send out to the chairmen of the various committees, there was a deadline set for tonight on the proposition of receiving applications for new legislation.

The only exception to that would be matters of great urgency and of genuine emergency nature. It is the purpose of the chairman of the Committee on Rules to follow that out in a faithful manner. That does not exclude the debt limit, which I understand is a matter of emergency. So far as the highway bill is concerned, I understand that we will receive that by midnight, and if not then, it is a question of whether or not that is an emergency.

Mr. BOGGS. Mr. Speaker, let me say that the chairman and the members of the Rules Committee have been most cooperative with the leadership. I certainly do not want to give the impression of complaining. I want the RECORD to show that there are other bills which have to be considered. I would say further that I share the desire of a vast majority of the Members on both sides of the aisle to complete the work of this session as expeditiously as possible, so I am certainly not trying to delay the agenda of this Congress.

I would also like to add, however, that there may very well be situations that could arise that would require rules on certain conference reports that may come back from the other body.

Mr. COLMER. Mr. Speaker, those are also provided for in the provisions made by the Committee on Rules and contained in the letter, a copy of which the gentleman has, I hope, received.

Mr. BOGGS. I thank the gentleman.

Mr. COLMER. If the gentleman will permit me, he referred to getting the work of the Congress out and adjourned as expeditiously as possible. It is my understanding that it is the purpose of the leadership, including the gentleman from Louisiana, the majority leader; the Speaker; the minority leader; and leaders on the other wing of the Capitol, to get this Congress adjourned sine die by the 15th of October.

I want to repeat what I have said repeatedly, that I think that an early adjournment of this Congress is for the best interests of the membership and, God knows, to the best interests of the country.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WYDLER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 276, nays 15, not voting 139, as follows:

[Roll No. 382]

YEAS—276

Abbitt
Abernethy
Adams
Alexander
Anderson, Ill.
Andrews, Ala.
Andrews, N. Dak.
Archer
Arends
Ashley
Aspin
Aspinall
Barrett
Begich
Belcher
Bennett
Bergland
Biester
Boggs
Boland
Bolling
Bow
Brademas
Brasco
Bray
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Broyhill, N.C.
Broyhill, Va.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Byrne, Pa.
Caffery
Carey, N.Y.
Carlson
Carney
Carter
Casey, Tex.
Cederberg
Chamberlain
Clancy
Clark
Clausen, Don H.
Cleveland
Collier
Collins, Tex.
Colmer
Conable
Conover
Conte
Corman
Crane
Culver
Curlin
Daniel, Va.
Daniels, N.J.
Davis, S.C.
Davis, Wis.
Dellenback
Denholm
Dent
Devine
Dickinson
Donohue
Downing
Duncan
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Eshleman
Evins, Tenn.
Fascell
Fisher
Flood
Foley
Forsythe
Fountain
Frelinghuysen
Frey
Fuqua
Gaydos
Gibbons
Goldwater
Gonzalez
Goodling
Gray
Green, Pa.
Griffin
Griffiths
Grover
Gude
Haley
Hamilton
Hammerschmidt
Hanley
Hansen, Wash.
Harsha
Harvey
Hathaway
Hays
Heckler, Mass.
Henderson
Hicks, Mass.
Hicks, Wash.
Hogan
Holifield
Horton
Hull
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, N.C.
Karth
Kazen
Keating
King
Kluczynski
Koch
Kyl
Kyros
Landgrebe
Landrum
Latta
Lennon
Long, La.
Long, Md.
McCollister
McCulloch
McDade
McDonald, Mich.
McFall
McKay
McKevitt
McKinney
Madden
Mahon
Mallary
Mann
Martin
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Metcalfe
Miller, Ohio
Mills, Ark.
Mills, Md.
Minish
Mink
Mitchell
Mizell
Mollohan
Montgomery
Morgan
Moss
Murphy, Ill.
Myers
Natcher
Nedzi
Nelsen
O'Hara
O'Neill
Passman
Patman
Pelly
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Podell
Powell
Preyer, N.C.
Price, Ill.
Purcell
Quie
Quillen
Randall
Rarick
Rees
Reuss
Rhodes
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Ruppe
Sandman
Sarbanes
Satterfield
Scherle
Scheuer
Schneebeli
Schwengel
Sebelius
Shipley
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Snyder
Springer
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stubblefield
Stuckey
Sullivan
Taylor
Teague, Calif.
Terry
Thompson, N.J.
Thone
Tiernan
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Waggonner
Waldie
Wampler
Ware
Whalen
Whalley
White
Whitehurst
Whitten
Widnall
Williams
Wilson, Charles H.
Winn
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—15

Abzug
Clay
Dellums
Diggs
Drinan
Gross
Hall
Harrington
Hawkins
Hechler, W. Va.
Kastenmeier
Nix
Rangel
Riegle
Stokes

NOT VOTING—139

Abourezk
Addabbo
Anderson, Calif.
Anderson, Tenn.
Annunzio
Ashbrook
Badillo
Baker
Baring
Bell
Betts
Bevill
Biaggi
Bingham
Blackburn
Blanton
Blatnik
Brown, Ohio
Buchanan
Byrnes, Wis.
Byron
Cabell
Camp
Celler
Chappell
Chisholm
Clawson, Del
Collins, Ill.
Conyers
Cotter
Coughlin
Danielson
Davis, Ga.
de la Garza
Delaney
Dennis
Derwinski
Dingell
Dorn
Dow
Dowdy
Dulski
du Pont
Dwyer
Edmondson
Erlenborn
Esch
Evans, Colo.
Findley
Fish
Flowers
Flynt
Ford, Gerald R.
Ford, William D.
Fraser
Frenzel
Fulton
Galifianakis
Gallagher
Garmatz
Gettys
Giaimo
Grasso
Green, Oreg.
Gubser
Hagan
Halpern
Hanna
Hansen, Idaho
Hastings
Hébert
Heinz
Helstoski
Hillis
Hosmer
Howard
Jacobs
Jones, Ala.
Jones, Tenn.
Kee
Keith
Kemp
Kuykendall
Leggett
Lent
Link
Lloyd
Lujan
McClory
McCloskey
McClure
McCormack
McEwen
McMillan
Macdonald, Mass.
Mailliard
Melcher
Michel
Mikva
Miller, Calif.
Minshall
Monagan
Moorhead
Mosher
Murphy, N.Y.
Nichols
Obey
O'Konski
Patten
Pirnie
Price, Tex.
Pryor, Ark.
Pucinski
Railsback
Reid
Roncalio
Rooney, N.Y.
Roy
Runnels
Ruth
St Germain
Saylor
Schmitz
Scott
Seiberling
Shoup
Smith, N.Y.
Spence
Steele
Symington
Talcott
Teague, Tex.
Thompson, Ga.
Thomson, Wis.
Vander Jagt
Veysey
Wiggins
Wilson, Bob
Wolff

So the resolution was agreed to.

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Derwinksi.
Mr. Rooney of New York with Mr. Halpern.
Mr. Blatnik with Mr. Baker.
Mr. Celler with Mr. Kemp.
Mr. Bevill with Mr. Keith.
Mr. Nichols with Mr. Spence.
Mr. Murphy of New York with Mr. Lent.
Mr. Moorhead with Mr. Coughlin.
Mr. Teague of Texas with Mr. Gerald R. Ford.
Mr. Wolff with Mr. Pirnie.
Mr. Hébert with Mr. Saylor.
Mr. Addabbo with Mr. Smith of New York.
Mr. Biaggi with Mr. Byrnes of Wisconsin.
Mr. Cabell with Mr. Dennis.
Mr. Chappell with Mr. Frenzel.
Mr. Davis of Georgia with Mr. Steele.
Mr. Dulski with Mr. Ashbrook.
Mr. Fulton with Mr. Blackburn.
Mr. Jones of Alabama with Mr. Brown of Ohio.
Mr. Helstoski with Mr. Esch.
Mr. Delaney with Mr. Conyers.
Mr. Dorn with Mr. Betts.
Mr. Jones of Tennessee with Mr. Erlenborn.
Mr. Dingell with Mr. Bell.
Mr. Garmatz with Mr. Findley.
Mr. Patten with Mrs. Dwyer.
Mr. Giaimo with Mr. du Pont.
Mr. Reid with Mr. Fish.
Mrs. Grasso with Mrs. Chisholm.
Mr. Runnels with Mr. Thompson of Georgia.
Mr. Monagan with Mr. Gubser.
Mr. Mikva with Mr. Michel.
Mr. Macdonald of Massachusetts with Mr. Wiggins.
Mr. Leggett with Mr. Bob Wilson.
Mr. Howard with Mr. Scott.
Mr. Anderson of California with Mr. Shoup.
Mr. Anderson of Tennessee with Mr. Camp.
Mr. Hanna with Mr. Railsback.
Mr. Roncalio with Mr. Price of Texas.
Mr. St Germain with Mr. Hastings.
Mr. Roy with Mr. Mosher.
Mrs. Green of Oregon with Mr. McClory.
Mr. William D. Ford with Mr. Heinz.
Mr. Evans of Colorado with Mr. Buchanan.
Mr. Danielson with Mr. McEwen.
Mr. Cotter with Mr. Del Clawson.
Mr. Jacobs with Mr. McCloskey.
Mr. Flowers with Mr. Talcott.
Mr. Pucinski with Mr. Veysey.
Mr. Flynt with Mr. McClure.
Mr. Blanton with Mr. Hansen of Idaho.
Mr. Link with Mr. Vander Jagt.
Mr. Symington with Mr. Ruth.
Mr. Hogan with Mr. Schmitz.
Mr. Gettys with Mr. O'Konski.
Mr. Dow with Mr. Mailliard.
Mr. Melcher with Mr. Lloyd.
Mr. Bingham with Mr. Hillis.
Mr. Baring with Mr. Badillo.
Mr. Abourezk with Mr. Hosmer.
Mr. Kee with Mr. Kuykendall.
Mr. Byron with Mr. Minshall.
Mr. McCormack with Mr. Thomson of Wisconsin.

Mr. de la Garza with Mr. Gallagher.
Mr. Edmondson with Mr. Pryor of Arkansas.
Mr. Fraser with Mr. Collins of Illinois.
Mr. Miller of California with Mr. McMillan.
Mr. Galifianakis with Mr. Dowdy.

Messrs. STOKES, CLAY, and DELLUMS changed their votes from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MAKING IN ORDER CONSIDERATION OF CONTINUING APPROPRIATIONS

Mr. MAHON. Mr. Speaker, I ask unanimous consent that it may be in order any day this week after Tuesday to consider a joint resolution for the continuing appropriations beyond September 30.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 15883, EXPANDED PROTECTION OF FOREIGN OFFICIALS

Mr. DONOHUE. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 15883) to amend title 18, United States Code, to provide for expanded protection of foreign officials, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. HALL. Mr. Speaker, reserving the right to object, may I compliment my friend, the gentleman from Massachusetts on due process in our legislative order procedures.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts? The Chair hear none, and appoints the following conferees: Messrs. Celler, Donohue, and Smith of New York.

MILITARY CONSTRUCTION APPROPRIATIONS, 1973

Mr. SIKES. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 16754) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to 2 hours, the time to be equally divided and controlled by the gentleman from Michigan (Mr. Cederberg) and myself.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Florida (Mr. Sikes).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole on the State of the Union for the consideration of the bill H.R. 16754, with Mr. Adams in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Florida (Mr. Sikes) will be recognized for 1 hour, and the gentleman from Michigan (Mr. Cederberg) will be recognized for 1 hour.

The Chair recognizes the gentleman from Florida (Mr. Sikes).

Mr. SIKES. Mr. Chairman, let me explain the circumstances under which the bill H.R. 16754 comes to you as the last of the regular appropriation bills. First, let me hasten to state that this is not the committee's desire. Our hearings were completed on April 27. We have been waiting for several months for an authorization which we do not yet have.

Both the House and Senate have passed the Military Construction Authorization Act for 1973. Conferees have been meeting for some time. It is my understanding that agreement has been reached on all but one item, the Trident program. We feel that we must get on with the military construction appropriation bill in order to minimize as much as possible delays in the construction program itself.

Fortunately, we have had the close cooperation of the members and staff of both the House and Senate Armed Services Committees, and I am glad to report that the chairmen of both committees have indicated they have no objection to the appropriation bill being reported to the House without further delays. The authorization action involves deletion or addition of approximately 90 individual items, and we have taken the tentative actions of the conference committee into account in the bill now before you.

Now let me attempt to clarify the funding picture. NOA recommended for the fiscal year 1973 program is $2,278,675,000. This compares with $2,145,335,000 provided in fiscal year 1972. The original fiscal year 1973 budget estimate requested $3,017,800,000 for military construction. A significant change was made in the original budget subsequent to the SALT talks agreement and a reduction of $356,416,000 was made, all of it in the Safeguard program.

The revised fiscal year 1973 budget estimate was then $2,661,384,000. The authorizing committees have deleted $135,649,000. This may be subject to a slight modification depending on their action on Trident. Your committee recommends a further deletion of $247,060,000.

Now let me move quickly to state that we are not cutting this bill by a quarter-billion dollars. We have been able to apply the savings in the Safeguard program from previously funded programs to the current budget. The Safeguard program in operation at the time of the SALT talks agreements involved previous appropriations of $805 million. Now work is to continue on only one base at Grand Forks, construction of which will be completed in July of next year at a cost of $283 million. There will be substantial costs to cancel out the project under construction at Malmstrom and some costs at other sites. All of this can be accomplished from previously appropriated funds and approximately $165 million is left over to be applied to the fiscal year 1973 construction program. In addition to this, there are other funds from prior year budgets, including family housing, which total about another $50 million. This also is applied to this year's funding program.

Now let me tell you exactly where we stand on each of the services. The revised fiscal year 1973 budget request for Army was $619,200,000. The authorization was cut $34,618,000. The net reduction in specific projects by the Appropriations Committee is $14,318,000. Provided in the bill for the Army after making adjustment for carryover funds which were allocated from Safeguard is $405,264,000.

The Navy revised budget is $554,200,000. The authorization was cut $23,673,000. We appropriated $29,656,000 less and there is recommended in the bill $500,871,000.

The revised request for Air Force is $357,200,000. This was reduced $57,435,000 through authorization processes. Your committee made additional cuts of $51,391,000, of which $19 million is the new defense office building at Bolling Field, a defense project rather than an Air Force project. The total recommended for the Air Force is $248,374,000.

In addition, of course, there are the defense agencies, the Army National Guard, the Air National Guard, the Army Reserve, the Naval Reserve, and the Air Force Reserve, all of which have been increased somewhat over previous budgets.

Family housing in the revised budget was $970,784,000. It was reduced $16,527,000 in authorization, and increased $13,305,000 by this committee. The total carried in the bill for family housing is $967,562,000.

Thus you will note that we are, in toto, $133,340,000 above last year's budget, but we are $382,709,000 below the revised fiscal year 1973 budget request.

The committee has provided no funds related to the war in Southeast Asia.

The committee has for a number of years sought to improve family housing facilities and bachelor housing for military personnel. These are very important to morale and retention. We have, in addition to the normal budget activities which are entrusted to us, explored the need for legislation which can provide better housing programs. The House Banking and Currency Committee has been cooperative in this regard and in housing bills from that committee there has been language to insure the availability of section 236 housing for the families of lower income enlisted personnel. This has been an item of particular need because these young people, many of whom have families, are not eligible for on-base family housing. Serious hardship has resulted.

This emphasis on family housing has been a long time in coming but it now is here. More and more there is a realization that military families at all levels also have a right to live in acceptable, attractive, clean and modern housing. A happy family is important to a strong military organization and good housing helps to insure happy families.

In terms of the construction which this bill will allow in support of family housing, adequate bachelor quarters and facilities modernization, we feel another great step forward has been taken and that efficiency and morale will benefit accordingly.

Those of us who have a part to play in the appropriation of funds for family housing are pleased at the progress which has been made in recent years. In 1969, Department of Defense housing requests totaled only about 2,000. This year's requests total nearly 12,000 housing units.

Approximately $220 million of prior year money in military construction and family housing is applied to the fiscal year 1973 program. This helps to insure substantial increases in family housing construction, from 9,862 units approved in fiscal year 1972 to 11,938 in fiscal year 1973. Likewise, we have allowed increases requested for improvements and for maintenance of family housing. We have kept the level of family housing minor construction at that approved last year, which represents an increase over the budget.

For bachelor housing, there is an increase of $154 million over last year. Most of this is in the Army's program. The remainder of this increase is for the Marine Corps. The Army this year has initiated a very vigorous, and I think very much needed, program to update both its family housing and barracks facilities. I know that in the past they have recognized the need to replace their World War I barracks. They also have much the largest family housing shortage of any of three services.

In part, this is due to the great change in force levels to which the Army is subjected. In times of emergency it escalates more rapidly and to a higher level than any of the other services, but it also suffers percentagewise the greatest reductions when normal times approach. This makes it difficult to plan meaningful construction programs on installations which will be permanent.

The Secretary of the Army discussed at length with us the Army's needs for an adequate housing program and the difficulties of achieving it. Their most optimistic goal is to accomplish much of the needed replacement in the next 5 years to 10 years. In any case, there remains a requirement for substantial amounts to be spent in this area for many years.

There are substantial appropriations in the bill for pollution control—$155 million, an increase of $25 million over last year. This largely will bring the services into compliance with standards as they existed in 1970, as specified by Executive Order 11507. Obviously, there will be increasing requirements for expenditures as tighter standards are set.

There are sizable increases allowed for the Navy. Although the Navy does not have a big increase for bachelor housing or family housing this year—they have had substantial program increases in each of these areas for the last 2 years—there are a great many types of facilities for which they have requested and for which the committee is recommending increases. Some of these are in unglamorous areas such as updating water, electrical power, or steam utilities, things which must eventually be done.

Others are related to new morale programs such as the cold iron program which will allow more ships to shut off their powerplants while in port. This allows more efficient repair of the ships and allows the men more time with their families or for off-duty activities while the ships are in port. As I mentioned before, the Navy is hopeful of initiating first phases of construction in support of Trident—such as land acquisition. And as I stated, this will depend in part on the Senate conferees on the authorizing bill. In any case, we have included $13 million to allow planning which does not require authorization and $3.5 million for initial construction.

We have allowed increased funding which was authorized for Reserve facilities to allow the Reserves to better house and maintain their new equipment and their people. The status of the Reserves is quite critical at this time. Force levels are dropping. The pressure of the draft is off and this has removed one of the principal incentives for young men to enlist in the Reserve components. By upgrading facilities, we hope to improve the desirability of service in the Reserves.

For years the committee has been concerned with the overconcentration of defense activities in the Washington area. Understandably everyone wants to be as close to the throne as possible, so there is a strong trend to move commands and people into or near the Capital. The merchants like this. It gives them business. The news media enjoy additional advertising. Consequently our efforts to decentralize do not arouse enthusiasm.

However, it does not make sense to continue to add to the congestion which is becoming so very pronounced around the Nation's Capital. In these days of instant communication there is no requirement for various military activities to be side by side with the parent command. It should not be overlooked that this concentration of military activities in the Nation's Capital adds to its vulnerability as a target in the event of war.

The committee's efforts have been successful at least to the extent that the Office of the Secretary of Defense has said that no less than 2 million square feet of administrative space currently occupied in Washington will be relocated. The total of such administrative space in and around Washington is 23 million square feet. So this is only a beginning. The committee is disturbed by long delays in compiling lists for relocation. It was to be made public by mid-May of this year but it has not yet been annnounced. We expect more positive efforts in this area.

There continues to be speculation on base closures. This was discussed to some extent when the authorization bill for military construction was on the floor. Our subcommittee makes a very careful and studied effort to stay abreast of this situation. It is not possible to obtain actual lists of anticipated closures because such lists have not been compiled. Rumor not withstanding.

There is speculation that there will be base closures after the election and in my opinion this will happen. Mr. McGovern is basing his campaign in part on reductions in military strength. Mr. Nixon is under constant pressure to divert money for defense to domestic requirements. Base closures eliminate considerable costs. There will inevitably be screenings to determine if there are bases which can be eliminated.

The committee always queries service witnesses exhaustably in an effort to spot weak bases which are more likely to be on closure lists. We take into consideration all the facts that are given to us when we approve the listings of projects which are before you. Those included in this bill are at bases for which the committee has been assured there will be a long-time requirement and we are told by witnesses that there are no construction items in this bill at bases which are likely to be closed.

In summary, I believe the committee has done a prudent job in looking at the program this year. We have made cuts, but we have sought to avoid crippling the Services' construction programs or slowing their efforts to meet the challenges posed by the termination of induction.

Finally, let me express my very great appreciation to members of the subcommittee for their constant untiring efforts to develop a good bill. They have been loyal and hard working. I have never found a group that is more cooperative, more willing to devote full effort to the committee's responsibilities. My appreciation must also be extended to the staff members for they have done a very, very fine job, all of them.

Mr. GROSS. Will the gentleman yield?

Mr. SIKES. I yield to my distinguished friend, the gentleman from Iowa.

Mr. GROSS. I thank my distinguished friend, the gentleman from Florida, for yielding.

I note with interest the information contained in the report on pages 11, 12, and 13, concerning the closing—perhaps I should say "prospective" closing—of military installations.

I want to commend the committee for keeping a close eye on this and say that I would hope it will continue to do so. I think the gentleman knows that I have raised the question a number of times in the past few years and was somewhat disturbed by the statement made by Mr. Packard when he left the Department of Defense, his statement being to the effect that it was one of the disappointments of his time in the Pentagon that he had not been able to bring about the closing of more unneeded military installations.

I certainly hope that by next year there will be more closings for obviously, in view of all the publicity that has been given and the statements made by Mr. Packard when he left the Pentagon, there is room for economy in this area in the military establishment.

Mr. SIKES. As my distinguished friend knows, there have been a substantial number of base closures over the past few years. As I stated in my own remarks, I anticipate that there may be additional closings after the coming election.

Mr. GROSS. Yes. I heard the gentleman's remarks and I appreciated them. Will the gentleman indulge me for a moment on a question concerning community impact assistance as it is set forth on page 6 of the report? Does community impact assistance take into consideration so-called impacted school aid?

Mr. SIKES. Yes. If the gentleman will yield, it does take that money into consideration. The Safeguard impact needs for which we have previously appropriated funds in this bill are for communities which are seriously affected and for which there is no more money available under the regular programs. They are generally small communities which are greatly affected, by the Safeguard construction program. They have, very simply, been unable to cope with the requirements for additional community services. The appropriations provided by this committee heretofore have covered a rather broad spectrum of such help, not duplicating that which has already been taken care of in the HEW and other bills. Since there has been a significant change in the Safeguard program the community assistance funds appropriated for Grand Forks are substantially all that will be required. There can be some recoupment of funds which have been provided for other places and which will not be used because of the cutback in the Safeguard program at those locations.

Mr. GROSS. Then, the $17 million figure is the amount that was appropriated in prior years?

Mr. SIKES. That is correct.

Mr. GROSS. And covers only missile sites. Is that correct?

Mr. SIKES. That is correct.

Mr. GROSS. Now I understand.

Mr. SIKES. They are the ones that have the serious problems. No other sites are included.

I yield to the distinguished gentleman from California.

Mr. JOHNSON of California. I thank the gentleman for yielding.

I have been contacted by several organizations and individuals as it relates to the proposal affecting the depot aircraft overhaul facility at McClellan Air Force Base at Sacramento, Calif. There was an item in the budget for the depot overhaul facility calling for an amount of $7,798,000. As I understand it, that was deleted. I would like to have the chairman of the subcommittee give me an explanation of the reasons why it was deleted and if it was merely set aside for consideration at a later date, because this general facility is the Air Force depot overhaul facility, and if we are going to stay abreast of the other four establishments throughout the United States, naturally we have to have an updated facility to meet the cost of our operations here if we are going to be competitive with the other bases.

Mr. SIKES. Let me commend my distinguished friend for his interest in this base. Of course, it is a very legitimate interest.

The committee did give very careful consideration to the project. It was not eliminated per se. We do not eliminate projects. We defer projects for which we feel there is not adequate support or justification. I assure him we went into this case very carefully. We realize it does have considerable support. Nevertheless, it is not, in our opinion, one that has had sufficient justification. The committee has an open mind. If additional more effective arguments are presented by the Air Force in connection with this and other items related to those of this bill, the committee will certainly take those into consideration at a later time.

I yield to my distinguished colleague on the subcommittee.

Mr. McKAY. Mr. Chairman, I would like to add to the explanation by the chairman relative to this question. In the committee's hearings on page 456, Mr. SIKES asked of Colonel Murrow:

> **Can you continue to operate in the existing facilities?**
>
> **Colonel MURROW. Yes, sir. We can continue to operate in existing facilities but at a very inefficient and uneconomical level.**

However, the committee found that this project would have added an additional 100,000 square feet of space above that currently in use. We could not justify that amount of additional space for maintenance.

They are able to operate and the savings that the Air Force had originally assumed were overstated. The investigation staff of the committee looked into this. The Air Force estimated a savings investment of ratio of 2.55 whereas the investigative staff noted that this was only 1.82. The investment would have been amortized over a 7-year period. We felt it was not warranted at this time in light of the fact that they could still use the existing facility.

Mr. SIKES. The gentleman is very helpful, and I appreciate his assistance.

The CHAIRMAN. The time of the gentleman from Florida has again expired.

Mr. SIKES. Mr. Chairman, I yield myself 2 additional minutes.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. SIKES. I yield to the distinguished gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, I thank the distinguished chairman of this very important subcommittee for yielding me this time, and I wish to congratulate the gentleman and his colleagues for a very excellent job done under what I know to be adverse and difficult conditions.

Mr. Chairman, I merely rise to ask one simple question concerning the reduction or elimination of Safeguard, and we have been reading about the increased vulnerability with the Yankee-type Soviet submarines patroling the Atlantic coast. Does this in any way jeopardize our defense?

Mr. SIKES. The elimination of the Safeguard sites does add to the difficulty of defending our country, but this comes as a part of the SALT talks agreement, and we in the Committee on Appropriations had no choice but to conform to the agreements and to the action taken in the authorization bill.

Mr. GONZALEZ. I would like to point out for the attention of my colleagues that the distinguished chairman, the gentleman from Florida (Mr. SIKES) has been very outspoken and very clear in what he has said, and I regret very much that his voice, plus that of the late and lamented Mendel Rivers were not listened to as much as I wish they had been.

Mr. SIKES. Mr. Chairman, I thank the gentleman from Texas. The gentleman has touched on something that is extremely important, and in the very limited time I have left let me remind my colleagues in the Committee of the Whole that it has been only a few short days since Russian planes were found to be patrolling our coast out of bases in Cuba. That is something which requires our careful thought. We know Russian submarines have been active in Caribbean waters. Now their airplanes are operating out of Cuba. Yes, there is danger to America's security in what is taking place—serious danger.

Let me spell out what actually happened in the recent incident of Russian aircraft flying in close proximity to the eastern coast of the United States. We have long known about the threat from Russian submarines off our coast. Now there are Russian aircraft which constitute a threat of danger to our cities and our defense establishments. This situation certainly should alert us to the continuing need for an adequate air defense force and to weaknesses which will result from the SALT talks limitations.

For the benefit of the House, let me relate the actual facts of the flights of Russian aircraft along our coast.

On 5 and 6 September 1972, four Soviet TU-95D—Bear—long-range reconnaissance aircraft arrived in Cuba.

This type aircraft is assigned to Soviet Naval Aviation and cannot carry weapons. Their mission is primarily reconnaissance but with a capability to pass targeting data.

They were picked up inbound by NORAD's Greenland, Iceland, United Kingdom radar link.

On 9 and 11 September 1972, two of these Bear D aircraft each flew round robin 12-hour reconnaissance missions from Jose Marti International Airport at Havana.

These aircraft were tracked by the radar site at Key West. Naval interceptors from the U.S.S. *Forrestal* intercepted and escorted them. Their proximity to the Atlantic coast was about 160 nautical miles east of Cape Hatteras.

The aircraft undoubtedly made the long flight from Russian bases across the polar ice cap all the way to Cuba. Presumably without refueling. They have been serviced from a Cuban base and presumably this is the Jose Marti Air Base.

The significant thing is that the Soviets now are practicing worldwide deployment of military aircraft and that the Soviets are placing special emphasis on Cuba and their plans both for bases for aircraft and for submarines.

Mr. GONZALEZ. I thank the gentleman.

The CHAIRMAN. The time of the gentleman from Florida has again expired.

Mr. SIKES. I yield such time as he may require to the gentleman from Utah, a very able member of our subcommittee.

Mr. McKAY. I thank my distinguished chairman.

Mr. Chairman, I think that the military construction appropriations bill recommended by the committee represents a sound compromise. We have been responsive to the need to reduce spending. We have deferred construction projects about which there was any doubt in our minds as to their need or their long-term usefulness. I wish that all of the expenditures of the Federal Government received the same exhaustive review by the executive branch and the Congress which these projects do.

The appropriations bill recommends dollar reductions totaling $247,060,000. However, the committee was able to recapture $165,000,000 of the $805,000,000 appropriated for Safeguard in previous fiscal years. This allowed us to reduce the new money for military construction, Army, by that amount. So, our actual cut, with respect to individual projects, was $82,600,000. This is on top of the sizable cuts which the authorization act is expected to make in this year's program. We expect the reduction as a result of our action and that on the authorizing bill to be $382,709,000 or 14 percent of the revised budget request.

On the other hand, we must provide adequate facilities for military personnel even if money is tight. We must modernize much of our essential maintenance and operating plant if we expect the military services to operate in an efficient and effective manner in the coming years. So we have to balance the investment we make today against the savings we hope to make tomorrow. Incidentally, the committee's investigation staff did a series of excellent studies in this area. These are printed in our hearings. They should result in better cost analyses of construction projects by the military departments.

We have provided what we felt were the essential modernization projects and people oriented projects. We have allowed a substantial increase in construction over last year's level. The increase of $133,340,000 shown in the report table does not tell the whole story, because there are Safeguard funds and funds received from NATO and other balances from prior years which are available to help finance the fiscal year 1973 program. I feel that the program we have allowed for fiscal year 1973 is well justified, and we have looked at it project by project.

There is another aspect of construction and that is maintenance, which is of major concern to me. The costs of maintenance are going up. The dollars for maintenance are being spread thinner. In many places we may be wasting money by maintaining old World War II wooden barracks which should be torn down and replaced. Yet the people have to live in them and there is not enough money to replace them all soon. On the other hand, I have seen cement block buildings which were said to be unsuitable for laboratory space and in need of replacement. Why? Because the roof leaked. They were not getting enough maintenance money to fix the roof. So we get caught both ways. I am convinced that the answer is to keep working on an orderly program to replace and modernize military facilities. This is what we recommend in this bill and that is why I request your approval of it.

Mr. CEDERBERG. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are here today considering this bill on military construction. As I see it, this bill has three objectives.

One is, you can ask the question: does it provide sufficient funds for the facilities that are necessary to carry on the training missions of our military establishment?

Second, does it carry within it sufficient funds to upgrade and provide proper facilities to assure combat readiness of our military forces?

And third, are we providing sufficient funds here to be sure that the personnel in our military services are provided with sufficient housing, sufficient barracks, and sufficient military hospitals, and so forth?

I think that we in the subcommittee do the best job we can in trying to make a positive determination in all of these areas because we believe very seriously it is necessary that we do have adequate facilities for our people.

Lest anyone feel that we are spending too much money, let me just say this—we are not providing in every area all of the funds that I believe could be adequately used for some of the services, but we do have a gradual upgrading of these facilities and I think we are making progress in the area of military housing. If we expect to have a military service that is going to be all-volunteer, then I believe the personnel of the services and their families are entitled to these kinds of facilities.

The gentleman from Florida who is the chairman of our subcommittee has gone into all of the details of this legislation and it really is not necessary to restate them.

I would just like to call to your attention one item here on which we may have some slight difference of opinion. That is the so-called defense office building which has been deleted again. I have been one who has felt for many years—ever since this was approved by the Committee on Armed Services many years ago when Mendel Rivers of South Carolina was the chairman—that we should have gone ahead with it. The cost was far less than it would be today. In addition to that, we have the facilities and the land available at the Bolling Air Force Base and I only regret that we did not use it.

I think the time is going to come when we may be required to look into the advisability of building this office building.

I will have to admit that the longer we delay, the less attractive it looks to us from the cost point of view.

The Department of Defense has now come to the conclusion that if this office building is built, the defense intelligence agency, which has been needing a building and has been wanting to move out of Arlington Hall for some time, will move into this installation, as will certain Marine installations and the Marine headquarters.

I think this is an attractive part of it in itself.

So I just want to say so far as I am concerned, I think we should have built this building and I think there are some legitimate grounds upon which we could build it today even though the cost is getting a little bit out of hand.

The gentleman from Florida has adequately talked about the reserve forces and the necessity to be sure that they are upgraded. If we are going to have an all-volunteer military service and if we are going to have to reduce the number of people in our military, we are going to have to have a better Ready Reserve—and this requires facilities and it requires the money to build them.

But, by and large, in looking over all of the requirements of the services, I think our subcommittee has done an adequate job to try to provide those things that are necessary and in the best interest of the country and in the best interest of the people who serve us in the military forces—and that is fundamentally the mission that we have.

Mr. SIKES. Mr. Chairman, may I ask my distinguished colleague, the gentleman from Michigan, if he has any further requests for time?

Mr. CEDERBERG. Mr. Chairman, I have no further requests for time.

Mr. SIKES. Mr. Chairman, I yield to my distinguished friend, the gentleman from Maryland (Mr. Long) such time as he may require.

Mr. LONG of Maryland. Mr. Chairman, I rise in support of this bill. It is a responsible bill. Increase is only about 6 percent above the previous year, a reasonable increase in view of the cost inflation and the pressure from our various defense agencies for more and imprint installation. I want to commend the chairman.

Mr. SIKES. I thank the gentleman very much.

Mr. VAN DEERLIN. Mr. Chairman, I direct attention to page 20 of the committee report on this bill, and a line item indicating a transfer of Navy property ostensibly valued at $702,000 for property presently held by private owners, to assure a noise buffer zone adjoining Miramar Naval Air Station, in San Diego.

I judge from the tabulation on page 20 that the committee feels it is approving a land swap in which the parcels to be exchanged are of equal value. If so, I refer the committee to a colloquy between myself and the gentleman from Texas (Mr. FISHER) when the authorizing bill was before us several weeks ago.

I pointed out on that occasion that the prospective land deal was negotiated through the Naval Facilities Command in San Diego, rather than the Real Estate Division, as is normally done. It provides for exchange of 155 acres of Navy land for a total acreage of 230 owned by the Christiana Oil Corp., 138 acres; the San Diego Unified School District, 69 acres; and the city of San Diego, 23 acres.

Independent appraisals have shown the value of the private lands involved in the exchange to be about $760,000, rather than the $702,000 indicated in the committee report. Similar appraisal of the Navy land indicates a value of more than $2 million—triple the amount being traded for.

Clearly, if such a swap were consummated on a pretense of equal value, the Government would be dispensing windfall profits to commercial speculators. Christiana Oil Corp. is the owner of a housing development firm, Tierra Santa. A glance at maps of the area show that the developers would wind up owning all four corners of a future major freeway interchange less than 10 minutes from downtown San Diego.

Let me warn my colleagues—especially colleagues of the Appropriations Committee—that this intended land deal contains the makings of full-blown scandal. It will bear the closest watching.

Mr. Chairman, I intend to join in that surveillance.

Mr. LONG of Maryland. Mr. Chairman, under the leadership of the distinguished gentleman from Florida (Mr. SIKES) we have reported out a $2.3 billion military construction appropriation bill.

Highlights of the bill include: First, $155.3 million to combat air and water pollution; second, $121.8 million for Reserve component military construction—including $1.6 million for a six-unit Reserve center in Owings Mills, Md., and a $487,000 National Guard facility in the Gunpowder area of my district; and three, an increase of $119 million over the fiscal 1972 appropriation for family housing—which will provide 11,938 much needed housing units.

I am pleased to have participated in the development of this bill.

However, I want to reiterate my regret that we had to include in the bill $2,610,000 for 100 units of family housing at Fort Huachuca, Ariz. This expenditure would not have been necessary if the Army had not moved the U.S. Army Intelligence School from Fort Holabird, Md., to Fort Huachuca, Ariz. My 1970 investigation of this move brought out that the Army had failed to take into consideration the housing and water shortages, the high construction costs, and potential personnel recruitment problems.

This year a General Accounting Office report and a House Armed Services Investigations Subcommittee confirmed the results of my investigation and brought out that the Army had concealed internal recommendations and reports adverse to the move and had failed to reveal the grand design for a massive Army intelligence center in the Arizona desert community.

If the information which I have detailed and the information contained in the General Accounting Office report had been available before the intelligence school opened in Arizona, Congress would have had a good chance of preventing this costly move. Instead, the taxpayers are stuck with the bill for an expensive transfer for which there was no real military justification.

The Armed Services Subcommittee, under the able chairmanship of the gentleman from New York (Mr. PIKE) has directed the Secretary of the Army to—

> Fix responsibility for the misleading information supplied to the Subcommittee on Military Construction Appropriations concerning the Fort Huachuca water and housing resources.

And to—

> Examine the Intelligence Center concept and determine whether, from the standpoint of economy and efficiency, it should be established at Fort Lewis, Wash., or some other suitable location.

However, the 100 units of family housing provided in this bill will reduce the Huachuca housing deficit from 669 to 569 units. In view of the recommendations stated above, I raised the issue of congressional approval of family housing at Fort Huachuca during the House debate on the fiscal year 1973 military construction authorization bill. In a colloquy with a member of the Armed Services Committee, Mr. DANIEL of Virginia, I expressed my hope that—

> The Armed Services Committee would in future years cast a very cold eye on any proposal to provide the 569 additional housing units there, in view of the tremendous housing shortage for the military which exists worldwide.

Mr. DANIEL responded in part that—

> The gentleman may be assured that the committee would look with a jaundiced eye upon any attempt to construct 569 housing units at that location.

In closing, I want to call attention to the statement which appears in the Appropriations Committee report on the military construction bill, which says in part:

The committee reiterates its comments on the Army's poor management and lack of judgment in its handling of the decision to move certain intelligence activities to Fort Huachuca, Ariz. The activities which have relocated to Fort Huachuca, such as the Army Intelligence School, have added to an already serious housing shortage in that area, thereby causing hardship to the personnel involved. In addition, there is a potentially serious water shortage at Fort Huachuca. The committee expects the Army fully to explain its proposed solutions to these and related problems if additional construction is to be requested at Fort Huachuca.

Mr. PICKLE. Mr. Chairman, I shall vote for H.R. 16754. My actions since I came to the House of Representatives have consistently been in support of providing the best for our Military Establishments. We must keep our defenses in top shape. Having the muscle to deter aggression includes having modern equipment and facilities. As the committee report noted, this is even more important as the Nation moves toward an all-involuntary military and toward a reliance on our Reserve components.

It is pleasing to see that this bill has moneys for adequate housing—both bachelor and family. It is pleasing to see that moneys for adequate facilities for our strategic bomber forces are included in this bill. It is pleasing that many bases in Texas are due for needed construction, including a security police facility for Bergstrom Air Force Base located in my district in Austin, Tex.

I note that $155.3 million is included for pollution control. I agree that our military should be in the forefront of the fight for a clean environment. Bergstrom AFB has been allocated $254,000 for water pollution abatement. I know that the people of Travis County will commend this money for clean water.

I am not pleased, however, that there is no money in this bill for a new commissary at Bergstrom AFB. On May 31, 1972, I testified before the Armed Services Committee and pointed out the need for such a facility. Although there is no money for the commissary this year, I have been advised by members of the Armed Services Committee and staff that the commissary for Bergstrom AFB will probably be recommended in next year's budget. Furthermore, I have been advised that the need for a commissary at Bergstrom is so well-recognized that the project has been given a high priority number for next year.

I hope that this is true because the present commissary is housed in two old, dilapidated frame World War II warehouses. Not only is the persent facility unsatisfactory by initial design—it was designed to be a warehouse, not a store—it is also unsatisfactory in that it contains less than one-eighth the floor space required to accommodate the volume of sales and customers served. The design and condition of these buildings is such that they cannot be upgraded, they must be replaced. Replacement facilities would cost approximately $1.6 million. The present facility serves approximately 7,000 active duty military and over 2,000 retired military personnel who live in the Austin area. The total number of military personnel and their families using the commissary is estimated to be in excess of 17,000. Dollar volume of monthly sales is in excess of $1 million.

Under Air Force standards, a commissary should contain 72,048 square feet if it has the sales volume of Bersgtrom. However, the Bergstrom commissary only contains 9,000 square feet.

This is why I take this opportunity to note the need for a new commissary at Bergstrom, while commending the Armed Services Committee and Appropriations Committee for a job well done on moneys for military construction in fiscal year 1973.

We have a first-class base at Bergstrom. Year after year Bergstrom takes the lead in air and ground operations. Next year, let us replace Bergstrom's second-class commissary.

Mr. SIKES. Mr. Chairman, I have no further requests for time, and ask that the Clerk read.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

MILITARY CONSTRUCTION, AIR FORCE

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, and facilities for the Air Force as currently authorized in military public works or military construction Acts, and in sections 2673 and 2675 of title 10, United States Code, $248,-374,000, to remain available until expended.

AMENDMENT OFFERED BY MR. SIKES

Mr. SIKES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SIKES: On page 2, line 24, under the heading "Military Construction, Air Force", strike out "$248,370,-000" and insert "$250,483,000".

Mr. SIKES. Mr. Chairman, the committee has taken a very hard look at all of the items for which appropriations were requested in this bill. As a result of our action and that of the authorizing committee, the Air Force budget request has been cut by more than $100 million if we include the Defense office building—and more than $80 million in strictly Air Forces projects. The Air Force has made a strong case for the restoration of some of these funds and has submitted evidence to show a more significant need for some of the projects than was available at the time of our mark up. Among the projects are two in particular which they consider to be of highest priority. These are navigator training aids facility for $815,000 at Mather Air Force Base, Calif., and airmen dormitories for 288 men at Davis-Monthan Air Force Base, Ariz., at a cost of $1,294,000.

The first item is required to permit the design, fabrication, and maintenance of refined training devices at the Air Force Navigator Training Aids Center at Mather. At present this activity is being conducted in an old World War II wooden frame structure which is inadequate for the purpose.

At Davis-Monthan, the committee had deleted the airmen dormitories on the assumption that a Titan mission of the Strategic Air Command would be phasing out as a result of the strategic arms limitation agreement. The Air Force has informed us that their projections indicate long-term utilization of this facility in spite of the SALT limitation agreement. In view of the difficult housing situation in the Tucson area for military personnel, I feel that it is prudent to reinstate this project.

I therefore offer an amendment to increase the funds allowed for military construction, Air Force to accommodate these two items.

I yield to my good friend, the gentleman from Michigan, the ranking member of the committee.

Mr. CEDERBERG. Mr. Chairman, the minority is in agreement with this amendment, and we recognize the importance of these additions.

Mr. SIKES. Mr. Chairman, I ask for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. SIKES).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk concluded the reading of the bill.

Mr. SIKES. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with an amendment, with the recommendation that the amendment be agreed to and that the bill as amended do pass.

The motion was agreed to.

Acordingly the Committee rose; and the Speaker having resumed the chair, Mr. ADAMS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 16754) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes, had directed him to report the bill back to the House with an amendment, with the recommendation that the amendment be agreed to and that the bill as amended do pass.

Mr. SIKES. Mr. Speaker, I move the previous question on the bill and the amendment thereto to final amendment thereto to final passage.

The previous question was ordered.

The SPEAKER. The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SCHERLE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 292, nays 13, not voting 125, as follows:

[Roll No. 383]

YEAS—292

Abbitt
Abernethy
Adams
Alexander
Andrews, Ala.
Andrews,
  N. Dak.
Archer
Arends
Ashley
Aspin
Aspinall
Baring
Barrett
Begich
Belcher
Bennett
Bergland
Biester
Bingham
Boggs
Boland
Bolling
Bow
Brademas
Brasco
Bray
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Byrne, Pa.
Caffery
Camp
Carlson
Carney
Carter
Casey, Tex.
Cederberg
Chamberlain
Clancy
Clark
Clausen,
  Don H.
Clay
Cleveland
Collier
Collins, Ill.
Collins, Tex.
Colmer
Conable
Conover
Conte
Corman
Crane
Culver
Curlin
Daniel, Va.
Daniels, N.J.
Davis, S.C.
Davis, Wis.
de la Garza
Dellenback
Denholm
Dennis
Dent
Devine
Dickinson
Diggs
Donohue
Downing
Duncan
Eckhardt
Edwards, Ala.
Eilberg
Eshleman
Evins, Tenn.
Fascell
Fisher
Flood
Foley
Forsythe
Fountain
Frelinghuysen
Frey
Fuqua
Gaydos
Gibbons
Goldwater
Gonzalez
Goodling
Gray
Green, Pa.
Griffin
Griffiths
Gross
Grover
Gude
Haley
Hall
Hamilton
Hammer-
  schmidt
Hanley
Hansen, Wash.
Harsha
Harvey
Hastings
Hathaway
Hays
Heckler, Mass.
Heinz
Henderson
Hicks, Mass.
Hicks, Wash.
Hogan
Holifield
Horton
Hull
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, N.C.
Karth
Kazen
Keating
Keith
King
Kluczynski
Koch
Kyl
Kyros
Landgrebe
Landrum
Latta
Lennon
Lent
Long, La.
Long, Md.
McCollister
McCulloch
McDade
McDonald,
  Mich.
McFall
McKay
McKevitt
McKinney
McMillan
Macdonald,
  Mass.
Madden
Mahon
Mallary
Mann
Martin
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Miller, Ohio
Mills, Ark.
Mills, Md.
Minish
Mink
Mizell
Mollohan
Montgomery
Morgan
Moss
Murphy, Ill.
Myers
Natcher
Nedzi
Nelsen
Nix
O'Hara
O'Neill
Passman
Patman
Pelly
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Podell
Powell
Preyer, N.C.
Price, Ill.
Pryor, Ark.
Purcell
Quie
Quillen
Railsback
Randall
Rarick
Rees
Reuss
Rhodes
Riegle
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Rooney, Pa.
Rostenkowski
Roush
Rousselot
Roybal
Ruppe
Sandman
Sarbanes
Satterfield
Scherle
Schneebeli
Schwengel
Sebelius
Shipley
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Snyder
Spence
Springer
Staggers
Stanton,
  J. William
Stanton,
  James V.
Steed
Steele
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Sullivan
Taylor
Teague, Calif.
Terry
Thompson, N.J.
Thone
Tiernan
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waldie
Wampler
Ware
Whalen
Whalley
White
Whitehurst
Whitten
Widnall
Williams
Wilson,
  Charles H.
Winn
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zion

NAYS—13

Abzug
Dellums
Drinan
Edwards, Calif.
Harrington
Hechler, W. Va.
Kastenmeier
Metcalfe
Mitchell
Rangel
Rosenthal
Scheuer
Zwach

NOT VOTING—125

Abourezk
Addabbo
Anderson,
  Calif.
Anderson, Ill.
Anderson,
  Tenn.
Annunzio
Ashbrook
Badillo
Baker
Bell
Betts
Bevill
Biaggi
Blackburn
Blanton
Blatnik
Buchanan
Byrnes, Wis.
Byron
Cabell
Carey, N.Y.
Celler
Chappell
Chisholm
Clawson, Del
Conyers
Cotter
Coughlin
Danielson
Davis, Ga.
Delaney
Derwinski
Dingell
Dorn

Dow
Dowdy
Dulski
du Pont
Dwyer
Edmondson
Erlenborn
Esch
Evans, Colo.
Findley
Fish
Flowers
Flynt
Ford, Gerald R.
Ford,
William D.
Fraser
Frenzel
Fulton
Galifianakis
Gallagher
Garmatz
Gettys
Giaimo
Grasso
Green, Oreg.
Gubser
Hagan
Halpern
Hanna
Hansen, Idaho
Hawkins
Hébert
Helstoski
Hillis
Hosmer
Howard
Jacobs
Jones, Ala.
Jones, Tenn.
Kee
Kemp
Kuykendall
Leggett
Link
Lloyd
Lujan
McClory
McCloskey
McClure
McCormack
McEwen
Mailliard
Melcher
Michel
Mikva
Miller, Calif.
Minshall
Monagan
Moorhead
Mosher
Murphy, N.Y.
Nichols
Obey
O'Konski
Patten
Pirnie
Price, Tex.
Pucinski
Reid
Roncalio
Rooney, N.Y.
Roy
Runnels
Ruth
St Germain
Saylor
Schmitz
Scott
Seiberling
Shoup
Smith, N.Y.
Symington
Talcott
Teague, Tex.
Thompson, Ga.
Thomson, Wis.
Veysey
Waggonner
Wiggins
Wilson, Bob
Wolff

So the bill was passed.

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Gerald R. Ford.
Mr. Hébert with Mr. Saylor.
Mr. Rooney of New York with Mr. Byrnes of Wisconsin.
Mr. Dulski with Mr. Mailliard.
Mr. Moorhead with Mr. Smith of New York.
Mr. Celler with Mr. Michel.
Mr. Blatnik with Mr. Anderson of Illinois.
Mr. Addabbo with Mr. Betts.
Mr. Howard with Mr. Derwinski.
Mr. Biaggi with Mr. Erlenborn.
Mr. Jones of Alabama with Mr. Pirnie.
Mr. Waggonner with Mr. McClory.
Mr. Murphy of New York with Mr. Kemp.
Mr. Wolff with Mr. Hosmer.
Mr. Helstoski with Mr. O'Konski.
Mr. Anderson of California with Mr. Ashbrook.
Mr. Carey of New York with Mr. Conyers.
Mrs. Grasso with Mrs. Dwyer.
Mr. Cotter with Mr. Esch.
Mr. Mikva with Mr. Halpern.
Mr. Hawkins with Mrs. Chisholm.
Mr. Byron with Mr. Fish.
Mr. Nichols with Mr. Hansen of Idaho.
Mr. Bevill with Mr. Shoup.
Mr. Teague of Texas with Mr. Talcott.
Mr. Reid with Mr. Bob Wilson.
Mr. Runnels with Mr. Del Clawson.
Mr. Giaimo with Mr. Bell.
Mr. Garmatz with Mr. Minshall.
Mr. William D. Ford with Mr. McClure.
Mr. Evans of Colorado with Mr. Blackburn.
Mr. Dingell with Mr. du Pont.
Mr. Chappell with Mr. Gubser.
Mr. Davis of Georgia with Mr. Veysey.
Mr. Monagan with Mr. Coughlin.
Mr. Danielson with Mr. Ruth.
Mr. Hanna with Mr. Buchanan.
Mr. Anderson of Tennessee with Mr. Scott.
Mr. Leggett with Mr. Price of Texas.
Mr. Jones of Tennessee with Mr. McEwen.
Mr. Melcher with Mr. Kuykendall.
Mr. Delaney with Mr. Baker.
Mr. Dorn with Mr. Findley.
Mr. Patten with Mr. Wiggins.
Mr. Pucinski with Mr. Lujan.
Mr. Fulton with Mr. Hillis.
Mr. Flynt with Mr. Thomson of Wisconsin.
Mr. Flowers with Mr. Schmitz.
Mrs. Green of Oregon with Mr. Mosher.
Mr. Gettys with Mr. Lloyd.
Mr. Kee with Mr. McCloskey.
Mr. Seiberling with Mr. Frenzel.
Mr. Link with Mr. Thompson of Georgia.
Mr. Symington with Mr. Badillo.
Mr. Cabell with Mr. McCormack.
Mr. Blanton with Mr. Miller of California.
Mr. Edmondson with Mr. Fraser.
Mr. Roncalio with Mr. Hagan.
Mr. Galifianakis with Mr. St Germain.
Mr. Gallagher with Mr. Roy.
Mr. Abourezk with Mr. Jacobs.

Mr. SCHEUER changed his vote from "nay" to "yea."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SIKES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

PERSONAL EXPLANATION

Mr. HEINZ. Mr. Speaker, on rollcall No. 382 I am recorded as absent. I was unavoidably detained, being on my way back from my district. Had I been present, I would have voted "yea."

PERSONAL EXPLANATION

Mr. CAMP. Mr. Speaker, on rollcall No. 382 I am recorded as absent. I, too, was on my way back from my district and was unavoidably detained. Had I been here, I would have voted "yea."

PROVIDING FOR AGREEING TO SENATE AMENDMENT TO HOUSE JOINT RESOLUTION 1227, APPROVAL OF INTERIM AGREEMENT BETWEEN UNITED STATES AND UNION OF SOVIET SOCIALIST REPUBLICS

Mr. COLMER, from the Committee on Rules, reported the following privileged resolution (H. Res. 1133, Report No. 92–1438) which was referred to the House Calendar and ordered to be printed:

H. Res. 1133

Resolved, That immediately upon the adoption of this resolution the joint resolution (H.J. Res. 1227) approval and authorization for the President of the United States to accept an Interim Agreement Between the United States of America and the Union of Soviet Socialist Republics on Certain Measures with Respect to the Limitation of Strategic Offensive Arms, together with the Senate amendment thereto, be, and the same is hereby, taken from the Speaker's table to the end that the Senate amendment be, and the same is hereby, agreed to.

Mr. COLMER. Mr. Speaker, I call up House Resolution 1133 and ask for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read the resolution.

The SPEAKER. The question is, Will the House now consider House Resolution 1133?

The question was taken; and (two-thirds having voted in favor thereof) the House agreed to consider House Resolution 1133.

Mr. COLMER. Mr. Speaker, I yield the customary 10 minutes to my good friend, the gentleman from California (Mr. SMITH). Pending that, I yield such time as I may consume to myself.

Mr. Speaker, this resolution has for its purpose the expediting of the so-called SALT Agreement. The Senate added a certain amendment to the resolution which would permit the President to accept an interim agreement between the United States of America and the Union of Soviet Socialist Republics, and was a measure with respect to the limitation of strategic offensive arms.

The Senate placed an amendment on this resolution, which is generally referred to, as I understand, as the Jackson Amendment. That amendment requires equality in future agreements, especially on missiles.

The chairman of the Foreign Affairs Committee of the House speaking for that committee advised your Committee on Rules that this amendment was acceptable to that committee. Therefore, Mr. Speaker, in order to avoid further delay and in order to avoid another long debate possibly in the other body, this resolution, if adopted, would take from the Speaker's table the House bill, together with the Senate amendment, pass it, and send it on to the President. It is just that simple.

I might add for emphasis this resolution is a little different from the ordinary resolution in that respect—and I say this for the benefit of such Members who have inquired about it—that once this resolution is adopted, that is the end of the ball game, as it were.

Mr. Speaker, I reserve the remainder of my time.

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, once again the Rules Committee is attempting to cooperate with the work of the House of Representatives in expediting bills so that eventually we can adjourn. As stated by the distinguished chairman of the Committee on Rules (Mr. COLMER) this is a rather unique procedure. It has happened on a few occasions before, but not very often. It is in accordance with the rules, but we do not do it very often. I think we did it on the civil rights bill.

In any event, on the adoption of House Resolution 1133, as Mr. COLMER stated, that is the end of the ball game. House Joint Resolution 1227, as amended by the Senate, will be taken from the Speaker's table, and the Senate amendments will be agreed to and that particular vote—yes or no—will depend upon the passage of this measure.

Mr. Speaker, this is a very important resolution. There has been considerable delay on it up to date, and if we have to go to conference now, we could have much more delay.

According to the information before the Rules Committee, it is very important that we get this matter approved immediately.

Further, I understand the U.S.S.R. are unwilling to resume SALT negotiations until Congress has approved the interim agreement as provided for in this resolution.

Mr. Speaker, I urge adoption of House Resolution 1133.

Mr. Speaker, I reserve the balance of my time.

Mr. COLMER. Mr. Speaker, I yield 5 minutes to the gentleman from Louisiana (Mr. RARICK).

Mr. RARICK. Mr. Speaker, seeking peace through arms limitation talks may be the noblest of our undertakings. But an interim agreement between the parties—a benchmark of progress in negotiations, is not talks. It is a scorecard, and in this instance the grade shows we are losing the game. The agreement before us, seeking our approval, does not show we are winning or are even tied. It shows that we have lost even an equality of limitation with our adversary. By approval of this resolution we are asked to sanction our country as a second-rate world power. This is but a Gulf of Tonkin resolution in reverse.

Let me ask: "Is the agreement binding?" "Is it enforceable?" "What are the safeguards?" The answer to each is negative. We are asked to accept only the good faith of the party's signatories and the authority by which they act.

What is the record of faithful performance by the Communist Party of the Soviet Union to its commitments?

According to the 1958 report of the American Bar Association's Special Committee on Communist Treaties, of the 52 major treaties and agreements entered into, the Soviet Union has broken 50. Fifty broken promises out of 52. This is a bankrupt record of deceit and undependability.

A more recent report by the Senate Judiciary Committee reports that the Soviets have failed to honor 24 of the 25 summit agreements.

The people we represent are being asked to trust the Communist negotiators or their Secretary, Leonid Brezhnev, who signed the agreement not as an elected leader of the Russian people, but as General Secretary of the Central Committee of the Communist Party of the Soviet Union. Were President Nixon to have signed the agreement as head of the Republican Party of the United States, would all Americans feel bound?

Not one suggestion has been made as to enforcement—possibly because no provision can be negotiated for inspection. The Soviets refuse. Their refusal can only be interpreted as an indication that they intend good faith and compliance only so long as beneficial to their goals. There being no inspection, no enforcement mechanism, and no signature of a representative head of state, what we are asked to agree to is at most a unilateral agreement by which our country pledges not to constitute a threat to Soviet imperialism. The Soviets for 5 years can go about other business.

The Marcos government of the Philippines yesterday announced suspension of constitutional government and proclaimed martial law to protect that country from Communist terror and subversions. Who knows how serious the threat? Which of our allies will next fall victim to Communist aggression?

What power or respect in international politics can a nation maintain which voluntarily assigns its people to a second-rate position? And more importantly, what respect—what pride—can such a nation expect from its own people?

I, too, have heard the talk—that the Senate amendments improve the bill; that this is the best we can get out of a bad situation. I only ask that you do not be misled by the rhetoric. I am sure that Senator JACKSON did the best he could under the circumstances, but read the amendments, including Mr. JACKSON's. It does nothing—it has no teeth. At most, it is more quotable persuasion to disarm the unsuspecting American people.

Mr. JACKSON's amendment is not even applicable until after the end of the 5-year interim arms limitation moratorium, or until 1977. And even then, what does the Jackson amendment provide? It reads:

Urges and requests the President—

Whoever he may be in 1977—

to seek a future treaty that, inter alia, would not limit the U.S. to levels of international strategic forces inferior to the limits provided for the Soviet Union.

The Senate passed the amendment and in so doing admitted that the agreement reduces our country to inferior status with the Soviets. Yet, while admitting the agreement was not fair nor equal to the American people, did not seek equal treatment until after 5 years—if we are still around.

The administration in agreeing to the admendment must have understood that they bought too quickly and got the short end of a one-sided bargain.

I cannot cast my people's vote for any agreement that is unfair and not at least equal to the treatment given their principal adversary—the Soviet Union.

I hope that the action taken by this body is right, because if not, it will be too late to correct it.

I urge defeat of the resolution.

Mr. COLMER. Mr. Speaker, I yield such time as he may consume to the chairman of the Committee on Foreign Affairs (Mr. MORGAN).

Mr. MORGAN. Mr. Speaker, I urge concurrency by the House in the amendments adopted in the Senate to House Joint Resolution 1227, giving congressional approval to the agreement on strategic offensive arms signed in Moscow last May.

I do so in the interests of expediting the initiation of the second phase of the Strategic Arms Limitation Talks—SALT—between our Nation and the Soviet Union.

When the President sent his message asking for this congressional approval he expressed the hope that action could be completed by September 1 in order that the second round of talks could begin in October.

We are now 25 days beyond that deadline. As a result, there seems to be little prospect of talks beginning next month. If instead of accepting the Senate language, we were to go to conference, there would almost certainly be an additional delay, perhaps a protracted one.

The decision to accept the Senate language has not been an easy one. The bill was heavily amended on the Senate floor to include a great deal of additional language. Some of the Senate language is repetitious. Some of the Senate langauge lacks clarity. Some of the Senate language appears less than grammatical.

Ideally, of course, legislation of this importance should be marked by clear and concise expressions of congressional will. In order to recast the language, however, it would be necessary to go to conference with the Senate and thereby risk further delays.

On Thursday and Friday, the senior members of the Committee on Foreign Affairs and I made an attempt to achieve an informal understanding with the chairman of the Senate Foreign Relations Committee on language which might be acceptable to all concerned. When it was not possible to arrive at mutually agreeable language under informal conditions and an extended conference appeared likely, the decision reluctantly was made to accept the Senate version.

I know there are some who will object to this decision on the grounds that it seems to make this body a "rubber stamp" for the other body. You may be assured that this problem was given full and agonizing consideration.

When the institutional interests of this body were matched against the tremendous importance of achieving some measure of control over strategic offensive weapons, the choice seemed clear.

The interests of our national safety and security must come first.

A significant factor in international relations is momentum. Considerable momentum had been built up between the United States and the Soviet Union toward limiting strategic offensive weapons systems when the interim agreement was signed in May 1972.

That was 4 months ago. With each passing week, some of the dynamism has been lost, particularly as the interim agreement was being hotly debated in the other body.

Senior officials of our Government have viewed the situation in Congress with growing concern as the days have slipped away without any final on the interim SALT agreement. They fear that if further time is lost, it could seriously affect chances of achieving expeditiously a more permanent agreement with the Soviets.

Given this situation, it is my belief that our responsibilities demand swift action. That is why the House is being asked today to accept the Senate amendments to House Joint Resolution 1227.

Moreover, with the exception of section 2, none of the language added by the Senate has any legal effect.

Section 2 is the operative clause by which the Congress authorizes the President to approve on behalf of the United States the interim agreement on offensive strategic arms concluded between the United States and the Soviet Union.

The Senate language in section 2 is virtually identical to the operative clause in the House version of House Joint Resolution 1227.

The other sections added by the Senate merely express the "sense of Congress" on the subject of arms control and future negotiations.

Section 1 provides congressional endorsement of portions of the Declaration of Basic Principles of Mutual Relations Between the United States of America and the Union of Soviet Socialist Republics signed by the President and General Secretary Brezhnev in Moscow. Those portions relate to the dangers of military confrontation between our two nations and the responsibility of both to avoid attempting to gain unilateral advantage.

Section 4, added by the Senate, puts the Congress on record as not only favoring limitation of strategic weapons but eventual reduction of arms through Strategic Arms Reduction Talks—SART—with the Soviets and other nations.

Section 5, also added by the Senate, expressed the sense of Congress that the success of any comprehensive arms control agreement depends on preservation of U.S. policy that neither side should develop a first strike potential.

I deliberately have left discussion of section 3 of the amended bill until last since it has been the most controversial. That section embodies the amendment offered by the junior senator from Washington (Mr. JACKSON) which was the subject of extended debate in the Senate.

Within that section, the sentence which became the focal point of discussion was:

> The Congress recognizes the principle of United States-Soviet Union equality reflected in the anti-ballistic missile treaty, and urges and requests the President to seek a future treaty that, inter alia, would not limit the United States to levels of inter-continental strategic forces inferior to the limits provided for the Soviet Union.

This language has been subject to varying interpretations. The author of the amendment has had his interpretation. Other Senators who supported it have theirs.

The administration has indicated its approval of the Jackson amendment, but not necessarily its endorsement of all the interpretations given to the amendment. In a press conference on September 16, Dr. Henry Kissinger said:

> We have no difficulty whatever, indeed we agree with the proposition, that any agreement that may be made in the field of strategic arms limitation must be based on the principle of equality, and indeed, I believe we will have no difficulty getting Soviet agreement to this as an abstract principle.

Dr. Kissinger continued by saying that the difficulty with such a proposition is to define equality:

> How do you relate various weapons systems to each other when the weapons on both sides have been developed, at least to some extent, according to different criteria and with a different mix? So this is a problem that will have to be carefully and thoughtfully addressed. Secondly, the first round of SALT concentrated primarily on quantitative limitations. It may well be that in some of the early phases of SALT II this will be the case.
>
> Yet, as one looks ahead in the more distant future, one has to recognize that the strategic balance now can be upset perhaps more decisively by qualitative changes than by quantitative changes.

There is no one in the Congress, I believe, who would argue that the United States should ever accept an "unequal" treaty to limit strategic arms with the Soviet Union. In order for any arms control treaty to be acceptable and successful, there must be equality on both sides of the strategic balance.

To narrow the concept of "equality" to include only numerical equality of launchers and warheads, however, is to oversimplify the complexities involved in achieving a stable nuclear balance and to overlook the problem of dealing with changes brought about by qualitative improvements in weaponry.

I also want to assert that in no sense does any of the language accepted by the House bind the hands of our negotiators at SALT II. Our negotiating team did an outstanding job in achieving the interim agreement; they now deserve a free hand from the Congress to achieve a more permanent agreement with the Soviets.

Once an agreement has been reached, it can be brought before the Congress for approval or disapproval. It is at that point that we properly may work our will.

In that regard, I wish to note that House acceptance of the word "treaty" in line 13 of the amended bill does not mean that our members believe that an agreement achieved at SALT II should be submitted to the Congress in the form of a treaty, which would be sent only to the Senate for approval.

Many in this body believe that the House must also have the opportunity to pass on any major arms limitation agreements to result from the SALT negotiations.

Section 33 of the Arms Control and Disarmament Act requires that arms limitation actions must be approved by Congress, either through a treaty or "by further affirmative legislation by the Congress of the United States."

That section would appear to give the President a choice of submitting an agreement on arms control either to the Senate as a treaty, or to both Houses for approval through passage of a joint resolution.

Although the choice lies with the President, it is to be hoped that he will recognize the legitimate interests of the House of Representatives in a future arms control agreement with the Soviet Union and submit any such accord to both Houses of the Congress.

In closing, let me remind the Members of this body about what we are voting on today.

We are not voting on the Jackson amendment or any other amendment which was added in the other body. We are voting on whether the President should accept the interim agreement on strategic offensive weapons.

A vote against House Joint Resolution 1227, as amended, is not a vote against the Jackson amendment, it is a vote against the interim agreement. It is a vote against the earnest attempt to gain some measure of control over weapons which could destroy this planet—and our Nation with it.

Therefore, I urge my colleagues—regardless of their feelings about any of the language added by the other body—to vote in favor of House Joint Resolution 1227, as amended.

Mr. SMITH of California. Mr. Speaker, I yield to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

Mr. FRELINGHUYSEN. Mr. Speaker, I, to, rise in support of this resolution.

I should like to point out to the House that over 5 weeks ago, on August 18, the House approved the interim agreement on strategic offensive arms, by a vote of 329 to 7. By today's vote on this resolution, we are simply accepting certain language that was added by the Senate to that approval.

Ideally I prefer the language of the resolution as it was approved by the House last month. Certainly there could have been some editing of the language added by the Senate. Had there been sufficient time for a leisurely conference, we might have come up with some minor modifications of langauge, but arguments over language could be as complex and lengthy as arguments over matters of principle.

I favor passage of this resolution because I am convinced that in no way does the language added by the Senate change the import of what the House has already done by our approval of the interim agreement. Nothing of consequence has been added, but the language might be considered as a clarification of the attitude of Congress towards the interim agreement, and toward future agreements which it is the hope we can reach with the Soviet Union.

I agree with the chairman of our full commitee that time is important. It is high time, at the end of this session, that we get this particular problem behind us, so I strongly urge support of this resolution.

Mr. DENNIS. Mr. Speaker, when the SALT agreement on the limitation of strategic offensive arms was first before the House I expressed my support, and coupled that expression with the statement that I favored the addition to the treaty of the amendment proposed by Senator JACKSON in the Senate.

I am pleased that by the action we take here in adopting the rule today we agree to and concur in the Senate version of this agreement which contains Senator JACKSON's amendment. The operative part of that amendment reads as follows:

> The Congress recognizes the principles of U.S.-Soviet Union equality reflected in the antiballistic missile treaty, and urges and requests the President to seek a future treaty that, that interalia, would not limit the U.S. to levels of inter-continental strategic forces inferior to the limits provided for the Soviet Union; and the Congress considers that the success of these agreements and the attainment of more permanent and comprehensive agreements are dependent upon the main-

> tenance under present world conditions of vigorous research and development and modernization program as required by a prudent strategic posture.

This is highy important and in my view, desirable language and I am very glad, as an American, that we accept and adopt this agreement with Senator JACKSON's amendment as an integral part thereof.

Mr. ZABLOCKI. Mr. Speaker, I want to join the distinguished chairman of the Committee on Foreign Affairs, Mr. MORGAN, in commenting on House acceptance of House Joint Resolution 1227, as amended—legislation which gives congressional approval to the interim agreement on strategic offensive arms signed in Moscow last May.

The joint resolution which the House sent to the Senate was a precise and concise one-paragraph resolution which authorized and approved the President's acceptance of the agreement. The version as returned from the other body is loaded down with amendments.

Although none of the added amendments have the power of law, since they express only the sense of Congress, their total effect is a measure which lacks clarity, conciseness, and, indeed, the dignity befitting so important a subject as strategic arms control.

My first inclination was that the House should request a conference with the Senate in order to "clean up" the language of their bill. When informal efforts for that purpose with the Senate did not prove to be possible and the likelihood of a protracted conference increased, the prospect of further delay made today's acceptance of the Senate version seem a preferable course of action.

At the same time, House acceptance should not be taken as an indication that the House desires no further role in approving a permanent strategic arms limitation agreement.

I firmly believe that the President should submit any future agreement which may result from the SALT negotiations to both Houses of Congress for approval.

On September 14, I inserted into the RECORD a list of 20 important international accords which had been submitted to both Houses of Congress for approval. Those precedents went back only to 1934.

Since that time I have obtained additional material on precedents for House action from earlier periods in our Nation's history.

For example, the annexation of Texas in 1845 was accomplished by a joint resolution approved by both Houses. When the Senate failed to give its consent to the ratification of the treaty with Texas by which the latter had been annexed, President Tyler sent a special message to the House pointing out that:

> The power of Congress . . . is fully competent in some other form of proceeding to accomplish everything that a formal ratification of the treaty could have accomplished.

The annexation of Hawaii in 1898, similarly was accomplished through the adoption of a joint resolution by both Houses.

Termination of World War I with Germany was also accomplished by action of both bodies. After the Senate rejected the Treaty of Versailles in 1919, joint resolutions declaring a state of peace were introduced in both Houses. Wilson vetoed one in May 1920 but Harding, his successor, called Congress into special session after his inauguration and invited Congress "to establish a state of technical peace without further delay" and promised his approval of "a declaratory resolution of Congress to that effect." Such a resolution was passed in June 1921, and signed by Harding on July 2, 1921.

Of particular interest in the present context is the Washington Arms Limitation Treaty of 1922. To carry out the terms of that treaty the Committee on Naval Affairs reported out a bill in 1922 which authorized the President "to make such disposition as in his judgment may be proper of any capital ship of the Navy." The floor debate turned on the necessity of this provision. It was argued by Mr. Tucker, a member of the Foreign Affairs Committee, that the Constitution specifically grants to the whole Congress the power "to provide and maintain a navy" (art. I, sec. 8, c. 13) and "to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States" (art. IV, sec. 3, c. 2). Since the treaty touched on the maintenance of the Navy—and Government property—the President was unable to carry out the treaty without the authorization of Congress, Tucker argued.

Both Houses apparently accepted that argument, as did the President, and the resolution became law on July 1, 1922.

While all these precedents help establish a role for Congress in approving any future SALT agreement, the last one appears particularly useful.

Since the Constitution provides for the Congress to "raise and support Armies" and "to provide and maintain a Navy" and to exercise authority over the disposition of property, there is a good case for asserting that the House must give its formal approval to any arms limitation or reduction agreement since any such agreement would affect one or more of those constitutionally given powers.

At the same time, however, I do not believe it is necessary to assert such a claim formally. Section 33 of the Arms Control and Disarmament Act requires that arms limitation actions must be approved by Congress, either through use of the treaty power or "by further affirmative legislation by the Congress of the United States."

Thus, it would appear that the act gives the President a choice of submitting an agreement on arms control either to the Senate as a treaty, or to both Houses for approval.

When the President chose to send the interim agreement on offensive weapons to both Houses, he set a precedent of seeking authorization from this body.

That procedure I submit should be maintained in the future, even if a follow-on agreement is of more than an interim nature. It is difficult to conceive of a SALT agreement which would be truly "permanent" since our objective as stated in House Journal Resolution 1227, as amended, is to work toward strategic arms reduction talks—SART. Thus any strategic arms limitation agreement must be considered of a less-than-permanent nature.

These conditions bolster the position that, having given its approval to the present interim SALT I agreement, the House should have the opportunity to make its will known on a SALT II agreement.

It is my sincere hope that the President will take note of these sentiments—which I believe are shared by many in this body—if and when the time comes for further congressional action on strategic arms control.

GENERAL LEAVE

Mr. COLMER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks in connection with this resolution.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. COLMER. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. RARICK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 308, nays 4, answered "present" 2, not voting 116, as follows

[Roll No. 384]

YEAS—308

Abbitt
Abernethy
Abzug
Adams
Alexander
Anderson, Ill.
Andrews, Ala.
Andrews, N. Dak.
Archer
Arends
Ashley
Aspin
Aspinall
Baring
Begich
Belcher
Bennett
Bergland
Biester
Bingham
Boggs
Boland
Bolling
Bow
Brasco
Bray
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Byrne, Pa.
Cabell
Caffery
Camp
Carey, N.Y.
Carlson
Carney
Carter
Casey, Tex.
Cederberg
Celler
Chamberlain
Clancy
Clark
Clausen, Don H.
Clay
Cleveland
Collier
Collins, Ill.
Collins, Tex.
Colmer
Conable
Conover
Conte
Corman
Culver
Daniel, Va.
Daniels, N.J.
Davis, Ga.
Davis, S.C.
Davis, Wis.
Dellenback
Dellums
Denholm
Dennis
Dent
Devine
Dickinson
Diggs
Donohue
Downing
Drinan
Duncan
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Esch
Eshleman
Evins, Tenn.
Fascell
Fish
Fisher
Flood
Foley
Forsythe
Fountain
Frelinghuysen
Frey
Fuqua
Gaydos
Gibbons
Goldwater
Gonzalez

Goodling
Gray
Green, Pa.
Griffin
Griffiths
Gross
Grover
Gude
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Wash.
Harrington
Harsha
Harvey
Hastings
Hathaway
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Henderson
Hicks, Mass.
Hicks, Wash.
Hogan
Holifield
Horton
Hull
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, Ala.
Jones, N.C.
Karth
Kastenmeier
Kazen
Keating
Keith
King
Kluczynski
Koch
Kyl
Kyros
Landrum
Latta
Lennon
Lent
Long, La.
Long, Md.
McCollister
McCulloch
McDade
McDonald, Mich.
McFall
McKay
McKevitt
McKinney
McMillan
Macdonald, Mass.
Madden
Mahon
Mallary
Mann
Martin
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Metcalfe
Michel
Miller, Calif.
Miller, Ohio
Mills, Ark.
Mills, Md.
Minish
Mink
Mitchell
Mizell
Mollohan
Montgomery
Morgan
Mosher
Moss
Murphy, Ill.
Myers
Natcher
Nedzi
Nelsen
Nix
O'Hara
O'Neill
Passman
Patman
Pelly
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Podell
Powell
Preyer, N.C.
Price, Ill.
Pryor, Ark.
Purcell
Quie
Quillen
Railsback
Randall
Rangel
Rees
Reuss
Rhodes
Riegle
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
Sandman
Sarbanes
Satterfield
Scherle
Scheuer
Schneebeli
Schwengel
Sebelius
Shipley
Shriver
Sikes
Sisk
Slack
Smith, Calif.
Smith, Iowa
Snyder
Spence
Springer
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steele
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Sullivan
Taylor
Teague, Calif.
Teague, Tex.
Terry
Thompson, N.J.
Thone
Tiernan
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Waldie
Wampler
Ware
Whalen
Whalley
White
Whitehurst
Whitten
Widnall
Williams
Wilson, Charles H.
Winn
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—4

de la Garza
Landgrebe
Rarick
Stuckey

ANSWERED "PRESENT"—2

Crane
Rousselot

NOT VOTING—116

Abourezk
Addabbo
Anderson, Calif.
Anderson, Tenn.
Annunzio
Ashbrook
Badillo
Baker
Barrett
Bell
Betts
Bevill
Biaggi
Blackburn
Blanton
Blatnik
Brademas
Buchanan
Byrnes, Wis.
Byron
Chappell
Chisholm
Clawson, Del
Conyers
Cotter
Coughlin
Curlin
Danielson
Delaney
Derwinski
Dingell
Dorn
Dow
Dowdy
Dulski
du Pont
Dwyer
Edmondson
Erlenborn
Evans, Colo.
Findley
Flowers
Flynt
Ford, Gerald R.
Ford, William D.
Fraser
Frenzel
Fulton
Galifianakis
Gallagher
Garmatz
Gettys
Giaimo
Grasso
Green, Oreg.
Gubser
Hagan
Halpern
Hansen, Idaho
Hawkins
Hébert
Helstoski
Hillis
Hosmer
Howard
Jacobs
Jones, Tenn.
Kee
Kemp
Kuykendall
Leggett
Link
Lloyd
Lujan
McClory
McCloskey
McClure
McCormack
McEwen
Mailliard
Mathias, Calif.
Melcher
Mikva
Minshall
Monagan
Moorhead
Murphy, N.Y.
Nichols
Obey
O'Konski
Patten
Pirnie
Price, Tex.
Pucinski
Reid
Roncalio
Rooney, N.Y.
Roy
Runnels
Ruth
St Germain
Saylor
Schmitz
Scott
Seiberling
Shoup
Skubitz
Smith, N.Y.
Symington
Talcott
Thompson, Ga.
Thomson, Wis.
Veysey
Wiggins
Wilson, Bob
Wolff

So the resolution was agreed to.

The Clerk announced the following pairs:

Mr. Derwinski for, with Mr. Crane against.

Mr. Gerald R. Ford for, with Mr. Rousselot against.

Mr. CRANE. Mr. Speaker, I have a live pair with the gentleman from Illinois (Mr. Derwinski). If he had been present he would have voted "yea." I voted "nay." I withdraw my vote and vote "present."

Mr. ROUSSELOT. Mr. Speaker, I have a live pair with the gentleman from Michigan (Mr. Gerald R. Ford). If he had been present he would have voted "yea." I voted "nay." I withdraw my vote and vote "present."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The Senate amendment, concurred in, reads as follows:

Strike out all after the resolving clause and insert:

That the Congress hereby endorses those portions of the Declaration of Basic Principles of Mutual Relations Between the United States of America and the Union of Soviet Socialist Republics signed by President Nixon and General Secretary Brezhnev at Moscow on May 29, 1972, which relate to the dangers of military confrontation and which read as follows:

"The United States of America and the Union of Soviet Socialist Republics attach major importance to preventing the development of situations capable of causing a dangerous exacerbation of their relations . . ." and "will do their utmost to avoid military confrontations and to prevent the outbreak of nuclear war" and "will always exercise restraint in their mutual relations," and "on outstanding issues will conduct" their discussions and negotiations "in a spirit of reciprocity, mutual accommodation and mutual benefit," and

"Both sides recognize that efforts to obtain unilateral advantage at the expense of the other, directly or indirectly, are inconsistent with these objectives," and

"The prerequisites for maintaining and strengthening peaceful relations between the United States of America and the Union of Soviet Socialist Republics are the recognition of the security interests of the parties based on the principle of equality and the renunciation of the use or threat of force.".

Sec. 2. The President is hereby authorized to approve on behalf of the United States the interim agreement between the United States of America and the Union of Soviet Socialist Republics on certain measures with respect to the limitation of strategic offensive arms, and the protocol related thereto, signed at Moscow on May 26, 1972, by Richard Nixon, President of the United States of America, and Leonid I. Brezhnev, General Secretary of the Central Committee of the Communist Party of the Soviet Union.

Sec. 3. The Government and the people of the United States ardently desire a stable international strategic balance that maintains peace and deters aggression. The Congress supports the stated policy of the United States that, were a more complete strategic offensive arms agreement not achieved within the five years of the interim agreement, and were the survivability of the strategic deterrent forces of the United States to be threatened as a result of such failure, this could jeopardize the supreme national interests of the United States; the Congress recognizes the difficulty of maintaining a stable strategic balance in a period of rapidly developing technology; the Congress recognizes the principle of United States-Soviet Union equality reflected in the antiballistic missile treaty, and urges and requests the President to seek a future treaty that, inter alia, would not limit the United States to levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union; and the Congress considers that the success of these agreements and the attainment of more permanent and comprehensive agreements are dependent upon the maintenance under present world conditions of a vigorous research and development and modernization program as required by a prudent strategic posture.

Sec. 4. The Congress hereby commends the President for having successfully concluded agreements with the Soviet Union limiting the production and deployment of antiballistic missiles and certain strategic offensive armaments, and it supports the announced intention of the President to seek further limits on the production and deployment of strategic armaments at future Strategic Arms Limitation Talks. At the same time, the Senate takes cognizance of the fact that agreements to limit the further escalation of the arms race are only preliminary steps, however important, toward the attainment of world stability and national security. The Congress therefore urges the President to seek at the earliest practicable moment Strategic Arms Reduction Talks (SART) with the Soviet Union, the People's Republic of China, and other countries, and simultaneously to work toward reductions in conventional armaments, in order to bring about agreements for mutual decreases in the production and development of weapons of mass destruction so as to eliminate the threat of large-scale devastation and the ever-mounting costs of arms production and weapons modernization, thereby freeing world resources for constructive, peaceful use.

Sec. 5. Pursuant to paragraph six of the Declaration of Principles of Nixon and Brezhnev on May 29, 1972, which states that the United States and the Union of Soviet Socialist Republics: "will continue to make special efforts to limit strategic armaments. Whenever possible, they will conclude concrete agreements aimed at achieving these purposes"; Congress considers that the success of the interim agreement and the attainment of more permanent and comprehensive agreements are dependent upon the preservation of longstanding United States policy that neither the Soviet Union nor the United States should seek unilateral advantage by developing a first strike potential.

RESIGNATION OF THE SERGEANT AT ARMS

The SPEAKER laid before the House the following communication from the Sergeant at Arms:

Washington, D.C.,
September 25, 1972.

Hon. Carl Albert,
Speaker of the House,
House of Representatives,
Washington, D.C.

Dear Mr. Speaker: On June 30, 1972, pursuant to the provisions of the Legislative Reorganization Act of 1946, as amended, (2 U.S.C. 75–1(a)), you appointed me to act and to exercise temporarily the duties of Sergeant-at-Arms of the House of Representatives, effective July 1, 1972.

Since the Democratic Caucus has nominated a candidate for the Office of Sergeant-at-Arms, I hereby tender my resignation effective midnight Sepetmber 30, 1972.

In my leave-taking, I want to thank you, Members of the House, and to say that words cannot adequately express my feelings of gratitude and fulfillment for the privilege that has been mine to serve the House of Representatives as Sergeant-at-Arms.

Sincerely,

Zeake W. Johnson, Jr.,
Sergeant-at-Arms.

ELECTION OF SERGEANT AT ARMS

Mr. TEAGUE of Texas. Mr. Speaker, I offer a privileged resolution (H. Res. 1134) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 1134

Resolved, That Kenneth R. Harding of the Commonwealth of Virginia be, and he is hereby chosen Sergeant at Arms of the House of Representatives, effective on October 1, 1972.

The resolution was agreed to.

A motion to reconsider was laid on the table.

SWEARING IN OF THE SERGEANT AT ARMS

The SPEAKER. Will the Sergeant at Arms-elect present himself at the bar of the House and take the oath of office?

Mr. Kenneth R. Harding, the Sergeant at Arms-elect, presented himself at the bar of the House and took the oath of office.

SENATOR McGOVERN'S CREDIBILITY GAP

(Mr. ARCHER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ARCHER. Mr. Speaker, the credibility gap which Senator McGovern has created for himself seems to grow ever wider as his campaign for the Presidency develops.

Recently one of my constituents forwarded to me a copy of a letter from Senator McGovern to Mr. Frank D. Register, executive director of the National Association of Retail Grocers. Mr. Register had previously written a letter to the Senator requesting that he reconsider his announced position endorsing Caesar Chavez and the lettuce boycotts.

Senator McGovern's reply demonstrates not only an incredible lack of knowledge as to the facts surrounding the lettuce boycott, but also a callousness and lack of concern for the problems which face the retail grocers in America.

Mr. Chairman, I believe that Senator McGovern's response demonstrates the character of this man who would be President—this man who has been termed, perhaps quite erroneously, the most decent man in the Senate.

For the Record, I submit Mr. Register's letter and the reply from Senator McGovern and point out his ominous threat of a police state.

National Association
of Retail Grocers
of the U.S., Inc.,
Oak Brook, Ill., May 22, 1972.

Senator George McGovern,
Senate Office Building,
Washington, D.C.

Dear Senator McGovern: In yesterday's news telecasts, you were shown endorsing Caesar Chavez and the lettuce boycotts.

I would suggest that you consider this position carefully from a number of standpoints. Under existing law, such boycotts are clearly illegal. Secondly, the pattern established in the grape boycotts was one of damage and destruction to innocent third parties—in this instance, retailers who have no way of knowing who is right in a labor dispute many miles away. Thirdly, such tactics, if successful, result in increased costs which mean increased prices, a subject which I know is of concern to you.

Sincerely,

Frank D. Register,
Executive Director.

U.S. Senate,
Washington, D.C., June 1, 1972.

Frank D. Register,
Executive Director, National Association of Retail Grocers of the U.S., Inc., Oak Brook, Ill.

Dear Mr. Register: Thank you very much for your recent letter.

You should know, Mr. Register, that I have competent legal advice and you need not worry about me on that score.

Your reference to innocent third parties was intriguing to say the least. If you are suggesting that retail grocers are under any definition of the term "innocent," I would be surprised. It may interest you to know that I am fully aware of the monopoly meat and other commodity pricing practices of the chain stores. I am also aware of rate of return on your investment.

You may be sure, Mr. Register, that when I am President suits will no longer be brought by stockmen, egg producers and others, but by the Attorney General of the United States.

With every good wish, I am

George McGovern.

CLARENCE D. PALMBY, A TRUE PROFESSIONAL

(Mr. MAYNE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MAYNE. Mr. Speaker, Clarence D. Palmby was Assistant Secretary of Agriculture for International Affairs and Commodity Programs for 3½ years from January 1969 to June 1972. He was uniquely qualified for this high post by reason of 8 years' service as Chief Executive Officer of the U.S. Feed Grains Council from 1961–69. He brought outstanding qualities of character, ability, and experience to Government service and made a tremendous contribution to the Department, the American farmer, and the American consumer during his very distinguished tenure of office. Among other achievements, he played a leading part in the development of the Food and Agriculture Act of 1970. He was a true professional in the finest sense of the word and used his intimate knowledge of all facets of the grain industry to our country's great advantage and with conspicuous national success.

Mr. Palmby elected to retire from public life and submitted his resignation to Secretary Butz on May 23.

Thereafter, he accepted a position as corporate vice president for market planning and development with the Continental Grain Co.

On September 19, 1972, Mr. Palmby readily and voluntarily appeared before the Subcommittee on Livestock and Grains to testify concerning his own activities before and after leaving Government service and Continental's role in the sale of grain to Russia. His testimony on that occasion was consistent with the high professional standards he has always set for himself and very much in keeping with what those who know him have come to expect from Clarence Palmby.

It is my opinion as one member of the subcommittee that he answered our questions fairly and fully, giving us much-needed information very few of us had previously possessed concerning the production, marketing, and distribution of grain in this country and abroad. This is an extremely complicated business about which there has been a good deal of irresponsible, uninformed writing and loose talk in recent weeks.

All members of the subcommittee, the Congress, and others who may be interested in the true facts of this historic transaction should read and carefully consider the testimony of Clarence D. Palmby, which will follow at this point in the Record:

Statement by Clarence D. Palmby, Corporate Vice President for Market Planning and Development—Continental Grain Co., New York, Before the Subcommittee on Livestock and Grains on the House Committee on Agriculture on September 19, 1972

I appreciate the opportunity to appear before the Subcommittee on Livestock and Grains of the House Committee on Agriculture. Accompanying me is Sheldon L. Berens, Vice President and General Counsel, Continental Grain Company.

To again appear before this Subcommittee, which has worked long and hard for the betterment of U.S. agriculture, reminds me of past appearances before the distinguished members of this committee. I recall vividly many painstaking hours I worked with the Committee as a government official in developing the Agriculture Act of 1970. Thus, it is a renewed thrill for me to again appear before the members of the Subcommittee in my new position as Vice President of Continental Grain Company, a position which I have held since June 8, 1972.

I also vividly recall testifying before this Subcommittee and the Subcommittee on Department Operations of the House Committee on Agriculture on December 8, 1971, on what I then referred to as a history-making grain export sale by U.S. exporters to the Soviet Union. I mentioned at that time that the U.S. feed grain exports to Russia opened up a brand new market for U.S. grains, and at a time when Russia and many of the East European countries had established huge goals for increased livestock production.

I look upon my appearance before the Subcommittee today as an opportunity in the true American system to familiarize the Subcommittee with my own activities during the last few months I served as Assistant Secretary of Agriculture and to further explain the role of Continental Grain in consummating additional grain sales to the Soviet Union. I also wish to describe my responsibilities in Continental Grain and to further illustrate the role of the private grain sector in selling grain to overseas buyers.

In order to best familiarize members of the Subcommittee of the history making developments in exporting grain, I wish to review in a concise manner some of my own personal thinking regarding the promotion of trade between the U.S. and countries that have been at least partially economically and politically isolated from the U.S. for the past twenty-five years.

As was related to the Subcommittee on December 8 when I explained the feed grain sale last Fall to the Soviet Union, I related that after having family involvement in the Vietnam tragedy in 1965 and 1966, that I was firmly convinced that nations with conflicting political goals have a greater chance to build a peaceful world through channels of trade than through confrontation. Perhaps because of this experience, I have been deeply dedicated to our Government doing everything possible to build improved trade channels with the Soviet Union and the People's Republic of China. It is because of this firm conviction, that I was proud to have the opportunity to join Continental Grain on June 8, and I am particularly pleased to represent the company in these hearings. I am pleased because President Michel Fribourg, as well as key executives with Continental Grain, have had a long history of trade with East European countries, including the Soviet Union. Perhaps one thing that has impressed me above everything else since joining Continental Grain, is the great emphasis that has been placed upon proper execution of contract terms. I am convinced that proper execution on the part of Continental through the years has created a trustworthy reputation for Mr. Fribourg and Continental Grain, particularly in that area of the world. In order to best familiarize the members of the Subcommittee of my activities involving the Soviet Union during the last several weeks in my capacity as Assistant Secretary of Agriculture, I will with your permission trace those activities in chronological order.

As has been related to you, I did accompany Secretary Butz to Moscow on April 8, 1972. As was announced at that time, Secretary Butz was traveling to the U.S.S.R. at the invitation of the Minister of Agriculture, Matskevich.

It is to be remembered that Minister Matskevich had viisited the U.S. in December of 1971 at the invitation of Secretary Butz. This matter was related to the members of the Subcommittee when I appeared before you on December 8, 1971. It was also announced prior to the departure of Secretary Butz to Moscow, that I would head a small negotiating team and would meet with representatives from the Ministry of Foreign Trade. Representatives of the U.S.D.A. had been invited by the Minister of Foreign Trade to describe the CCC Credit Program (GSM-4). Others from the U.S.D.A. and the Department of State accompanied Secretary Butz and myself, and this is matter of public record.

I spent a portion of my time while in the U.S.S.R. during this trip with Secretary Butz and Minister Matskevich. I accompanied them on a trip to the Crimea. At that time, we did visit the Ukraine and several farms in the area. It was quite apparent to us at that time that the area was badly in need of germination moisture. It was also obvious that some of the winter wheat stands were sparse, but it should be noted that Secretary Butz and I had never visited the Ukraine before. I, for one, was in no position to judge the degree of abnormality with the winter kill or the lack of germination moisture. It is worth repeating that Secretary Butz did state in his concluding press conference prior to his departure from Moscow, which received world-wide attention, that it was obvious to him that a sizable portion of the winter wheat crop in the Soviet Union was ruined and that germination moisture in the Ukraine was badly needed.

On April 11, Secretary Butz opened negotiations with the Senior Deputy Minister of Foreign Trade, Minister Kuz'min. I am referring to the negotiations which were later to be chaired by myself as U.S. delegate, having to do with the CCC Credit Program. Consequently, after the opening ceremonies, I, together with assistance from my colleagues from U.S.D.A. and the Department of State, described the CCC Credit Program and the manner in which it had been operated since 1948. We made particular mention that the CCC line of credit which we were prepared to offer to them against a commitment to buy grain, was a non-concessional type of credit line, in that the maximum credit period would be three years with interest at 6⅛% (somewhat higher than the cost of money to CCC at that time). The U.S. delegation offered to extend a line of credit with maximum exposure over a three year period (the $750 million credit over a three year period actually would provide for a purchase of about $250 million grain annually, provided purchases were made on a regular basis). The U.S. delegation further stated that they would expect repayments to be made annually on a twelve-month basis, together with accrued interest up to that date. While traditionally CCC has referred to this program as being a three year credit program, in actual practice with the demand for annual repayment schedule, it is an 18 month credit program. If my memory serves me correctly, and on this point I am a bit hazy, but I believe the U.S. delegation stated that at least $200 million of grain would need to be bought over the first twelve months to effectuate the line of credit.

The U.S. offer was refused outright. The Soviet delegation stated that the 6⅛% interest and the short period for credit exposure was nothing more than an offer of a commercial nature. The U.S. delegation agreed. The Soviets countered by saying they may be receptive to buying grain from the U.S., if the U.S. would be in a position to offer ten-year credits at a low rate of interest, such as 2%. I advised the Soviet group that no such authority existed, nor did I give the group any indication that the Executive Branch of the Government would be receptive to seek such authority from the Congress.

The U.S. and Soviet delegations met for the second time on April 12. The provisions as outlined earlier were again reviewed, and again the Soviets stated that the CCC Credit Program was completely unacceptable.

I, along with my colleagues from U.S. Government, returned to Washington on April 14.

I had no further conversation with any representatives of the Soviet Union on any subject whatsoever until May 9.

On May 9, with a few minutes notice, Deputy Minister of Foreign Trade, Alkhimov, requested a meeting with me in the U.S.D.A. I was informed that he, along with other representatives of the Soviet Union, were in Washington meeting with representatives of the Department of Commerce on the subject of lend lease settlement and other matters. I, along with Deputy General Counsel from the U.S.D.A. and others, met for about one hour with Minister Alkhimov. The Minister opened the conversation by saying that he wanted to be sure he understood how the GSM-4 or CCC Credit Program operated. He made it specifically clear at several times during the conversation that the request for information should not be interpreted as reflecting interest on the part of the Soviets to purchase grain, or to purchase grain on credit from the U.S. He again repeated that the 6⅛% interest and the three year maximum period was completely unsatisfactory to the Soviets. He again asked whether longer terms, with lower interest rate financing from government could be made available. I queried the Minister and his colleagues as to whether the Soviets might buy grain from the U.S. sometime in the future. He stated that he had no idea. In that he was not a representative of the Ministry of Agriculture, he was not particularly familiar with the Soviet grain requirements and that undoubtedly future grain requirements in the Soviet would largely be determined by crop conditions as they developed during calendar year 1972. This was the last conversation I had with the Soviets regarding CCC credit, grain matters, or any other item.

On May 12, I informally advised Secretary Butz that I wished to resign from my official position to return to private life. Secretary Butz was scheduled to take a few days rest the week following, and I wanted him to be informed of my decision to ask to be relieved of my official responsibilies.

On May 23, I submitted my resignation to Secretary Butz, with the request that he forward my formal resignation to President Nixon with the further request that I be relieved of my duties before June 8.

On May 23 through 29, I was on vacation in Minnesota.

From May 30 through June 7, I was back on official duty in my office, and engaged only in clean-up work. I considered no policy matters.

On June 7, my resignation was accepted, effective immediately.

June 8, I joined Continental Grain Company. In Continental Grain Company, I have the title of Corporate Vice President for Market Planning and Development. I look upon my duties primarily as being of a longer term nature, than of one of being involved in day-to-day operations. It is to be recalled that I was Chief Executive Officer for eight years of the U.S. Feed Grains Council from 1961–69, during which time I did develop many contacts in many nations of the world and familiarized myself with the grain, feed, and livestock industries of many countries. In many ways, my work with Continental Grain at this time is not unlike the work performed in that former capacity.

It has been stated that I visited with the Russian delegation in Washington the weekend of July 1. Please keep in mind that Mrs. Palmby and I continued to reside in Arlington, Virginia until early August. Consequently, I was at home in Arlington on Sunday, July 2. During the noon and afternoon of July 2, I accompanied Mr. Ziv (who had arrived in Washington on July 2) of Continental's office in Paris to Alexandria, Virginia. Our guests were Mr. Kalitenko and Mr. Goldobenko, two members of the Russian buying mission. I had never met Mr. Kalitenko or Mr. Goldobenko until that day. In that Mr. Ziv, Continental's representative, had never visited Washington before, he and the Soviets requested me to give them a tour of historical spots. As stated, I took them to lunch in Alexandria and did show them historic spots of interest in Washington, D.C. I repeat that I had never met these gentlemen before that day, and at no time did we mention the agricultural situation in the Soviet Union or the U.S., nor the grain industry in either country, nor any other official subject. I would hasten to state that a Sunday spent in this manner was not untypical of my activities during eight years with the U.S. Feed Grains Council and during three and one half years as Assistant Secretary of Agriculture for International Affairs in the U.S. Government.

Much has been said about my involvement in this transaction between Continental

Grain and the Soviet Union. Many of the comments are completely untrue. I am referring particularly to the statements that an agreement had been reached in Moscow with the Soviets in April of 1972. Any such statement is an outright lie. I categorically state I took no active part in Continental's commercial negotiations with the Soviets.

Still other statements have been made that I somehow or other had prior knowledge of the Soviet's intention to purchase grain from the U.S., and promptly carried that information to my new employer. This also is an outright lie. Consistent with these positive assertions on my part, I wish to share with members of the Subcommittee an example of the comments I made during the Winter months of 1972.

March 31—Mason City, Iowa.

"Uncertain crop conditions exist this year not only in the U.S.S.R. but also in the East European countries. Virtually all countries in the area have been affected by similar freeze and snow-cover problems. Again, we do not know what the ultimate effect will be. But it appears that the U.S.S.R.-East European region could be a large net grain importer in 1972–1973 for the second consecutive year."

During several press briefings, I summarized my views regarding the possibility of the U.S. selling additional grain to the Soviet Union in 1972. As an example, at a question-answer period following an address to the New York Commodity Club on May 18, 1972, and during my well-covered final press conference in the U.S.D.A., Washington, D.C. on June 7, I stated that in my opinion the Soviet Government officials would sometime in the future, possibly August or September, make some policy decisions regarding their grain requirements. I stated that there were probably three general options that would receive consideration by the Soviet policy makers, the options being as follows:

1. The Soviets may decide to continue to maintain per capita caloric intake over the next twelve months for their people at about the present level without much regard to improved quality of diet. If this option were to become policy, grain import requirements would be X amount depending upon 1972 crop out-turn.

2. The Soviets may decide to continue to expand livestock, poultry, and dairy production as announced in their Five Year Plan commencing January 1, 1970. If this were to become policy, their grain requirements from outside sources would undoubtedly be X amount plus, again depending on 1972 crop out-turn.

3. The Soviets may decide to ask their citizens to go through a "belt tightening period". If this option were to become policy, the grain requirements from outside sources would naturally be quite a different figure.

Finally, if the members of the Subcommittee will bear with me, I wish to review the role of the U.S. Government in the wheat export business, as well as the role of the private exporter.

On many occasions, both as a public official and as an interested observer on the outside, I have fully realized that countries such as Canada and Australia who sell wheat to the outside world through wheat boards, can enter into long time commitments at fixed prices. In that there is no such central government or quasi-government entity in the U.S., for which I am eternally grateful, the same type of mechanism simply does not exist. Machinery to accomplish the same goal does exist, and in this most recent huge sale to the Soviet Union, the machinery was used. This recent 400 million bushel sale made by the exporters to the Soviet Union on general assurance from U.S.D.A. officials that a net export price would be maintained through the payment of equalization payments, is a forthright example of how the private sector and the U.S.D.A. can use the marketing machinery to accomplish the very thing that Canada and Australia has been doing for years.

THE ROLE OF CONTINENTAL GRAIN COMPANY

Now I turn to Continental Grain Company's role in the events in which this Subcommittee has expressed such understandable interest. Although, as I have said, I did not negotiate the commercial transaction, at the request of the President of our Company I have assembled the main facts from other officers who did. The basic facts are simple and involve no government secrets or conflicts of interest. So that the members of this Subcommittee may be informed of the manner in which Continental developed the contract to sell grain to the Soviet Union, I wish to explain the happenings in chronological order.

First, a reminder of the pertinent commercial background. Continental is an American company engaged in worldwide grain merchandising with private and governmental customers and suppliers in many countries. Over the past decade it has successfully developed marketing opportunities with the Soviet Union and has been the major supplier of U.S. grains to the Soviet Union.

Continental first learned of the presence in the United States of the Soviet grain purchasing representatives by a telephone call on Thursday, June 29, 1972, directly from officials of Exportkhleb, the Soviet state trading organization responsible for grain imports, requesting to see us.

The top executives of the Company were at a conference in Europe at this time, and returned immediately upon receipt of this news. A representative of Continental then met in Washington with the Soviet officials on Friday evening, June 30th. It was at this meeting on June 30th that Continental first learned of the interest on the part of the Soviet Union in purchasing grains. The Exportkhleb officials requested Continental to make appropriate offers on Monday, July 3rd.

These negotiations now shifted to New York City and took place intensively from the afternoon of July 3rd through the afternoon of July 5th, when Continental and the Soviets signed a contract in preliminary form. The total quantity of wheat we sold to Exportkhleb on July 5th was 4 million tons, subsequently increased by another 1 million tons, to a total of 5 million tons by July 11th, when definitive contracts were signed by the parties.

These sales concerned primarily hard winter wheat and also included durum wheat from any origin and white wheat and hard wheat from the Pacific Northwest.

In these negotiations, in addition to wheat, Continental sold to the Soviet Union 4½ million tons of feed grains, including some non-U.S. origin optional with the seller.

These contracts called for Soviet payment to be made to Continental in U.S. dollars, cash as shipped, and were in no way contingent on the Soviet's obtaining U.S. Government or other third party credit. The first indication that any officials of Continental had perceived that other Soviet officials in the U.S. were concurrently negotiating with the U.S. Government for establishment of a CCC line of credit, came from the Russians themselves at the conclusion of their purchasing negotiations with us. At their request, we made provision in the contract for the documentation and other mechanics of sale and payment in the event the buyer obtained financing.

It should be emphasized that whether or not payment was made through CCC credit lines arranged by the buyer, Continental's prices would have been the same as it receives cash against shipping documents in either case.

Because of the unusual interest surrounding these transactions, let me say that our contract prices for the wheat were *very close* to the then prevailing export prices for U.S. wheat as ascertained by U.S. Government officials responsible for administering the export marketing program. In response to our inquiry, they had advised us that for the foreseeable future they wished to stabilize world wheat prices in the $1.63 to $1.65 range prevailing over the past two years through the usual export equalization payment formula. In good faith reliance upon this established policy and government program, Continental had then entered into its 5 million ton wheat commitment to the Soviet Union.

To sum up, I wish to repeat that Continental had no advance knowledge of the proposed Government-to-Government credit agreement of July 8, either from me or from any other source, nor did Continental know until June 30th that the Soviet Union was interested in buying U.S grains. The Company's market conduct bears this out. We cite the fact that against wheat sales to various destinations made prior to July 1, 1972, Continental had already registered 11.5 million bushels for export equalization payments, the last quantities being taken during June at levels ranging from 5 to 8 cents per bushel, to cover sales of approximately similar amount. Further, against purchases of cash wheat and futures contracts made during July, Continental took further subsidies totaling 55 million bushels at 13 and 15 cents between the 12th and 20th of July. This was done in order to minimize the risks that the Company was taking from this large commitment.

The really sharp advance in domestic wheat prices occurred during the first part of August after it became generally known that representatives of Exportkhleb suddenly had returned to the U.S. and in more private transactions had made additional purchases. Continental continued to buy in the domestic market at advancing levels and also continued registering corresponding subsidy, as evidenced by the fact that the Company registered 50 million bushels between August 9 and 15 at levels ranging from 31 cents to 36 cents. During the week of August 24, the domestic market advanced to about $2.10—FOB Gulf, but CCC did not follow on the subsidy rate, keeping to a 38 cent subsidy, to yield a net export price of $1.72. There has been precedent for CCC not following daily fluctuations of the domestic markets with their subsidy levels, particularly when domestic markets are extremely volatile.

On Thursday, August 24, we received a call from Mr. Pence of the Department of Agriculture, inviting us to a meeting with other grain exporters to be held the next afternoon, Friday, August 25, for a briefing on new export wheat policy. He advised us that the net price of U.S. wheat exports would no longer be maintained at the old levels, but he gave no details of what the new policy would be. We had no knowledge at that time that the Department would announce the next day, August 25, an increase of its subsidy rate to 47 cents for export sales made prior to August 24. We made no wheat export sales on August 24, 1972.

When the details of the August 25th announcement became known, Continental was faced with a situation that certainly did not portend so-called "windfall profits", as Continental still did not own about 70 million bushels of domestic wheat needed to cover export commitments already made long before August 24. During the week of August 28, Continental purchased about 70 million bushels of wheat in the cash and futures markets at the prevailing price levels. The Company at the end of that week registered for the 47 cents subsidy on 71 million bushels. The cost of Continental's purchases of the cash portion of this wheat will probably exceed $2.10 per bushel FOB Gulf ports. Since it took approximately the same quantity of hard wheat subsidy at 47 cents, resulting in a net export price of $1.63 or higher, any suggestion of excess profits is amply demonstrated to be totally *false* in the light of commercial reality.

Gentlemen, it is obvious to me from this recital of facts that only lack of understanding can explain the continuation of the wholly unjustified attacks which have been levied on these private grain sales to the Soviet Union. Reasonable men might differ on what *should* be government policy or programs in the agricultural field, but that is very different from the shameful defamation characteristic of the criticism to date.

Accordingly, for its leading role in this complex and historic billion dollar trade, for its taking large financial risks in the best tradition of American private enterprise, for its bringing huge amounts of foreign-owned dollars home to American to offset our national payments deficit, for its providing jobs and income for all sectors of the agricultural and transportation industries, and, most of all, for its enhancing prospects of world peace through world trade, I am proud to be associated with Continental Grain Company. Like other members of the agribusiness community, Continental Grain takes justifiable pride in this splendid achievement for American agriculture and commerce.

Again, I thank you, Mr. Chairman and honorable members of this Subcommittee, for this fair opportunity to tell my side and Continental's side of this wholly honorable story.

I welcome your questions.

CONVERTING THE NATION'S TECHNOLOGY

The **SPEAKER** pro tempore (Mr. McFALL). Under a previous order of the House, the gentleman from California (Mr. BELL) is recognized for 10 minutes.

Mr. **BELL**. Mr. Speaker, I rise today in support of the National Science Policy and Priorities Act of 1972, which I introduced into the House of Representatives last week.

There has been enough talk and discussion about the need to alter America's priorities. This bill does something about it.

For too long we have directed many of the best minds in the Nation to develop weapons of war, while neglecting the problems of peace.

For too long we have considered the massive unemployment of our scientists and engineers caused by fluctuating Federal budgets to be unchangeable and irremediable.

For too long we have been forced to fund huge projects of limited practical value merely for fear of the unemployment which would result from cancellation.

We as a nation cannot afford to let America's technical and scientific expertise lie fallow, to force our scientists and engineers to leave their professions, and to discourage today's students from entering scientific careers. The Government's thoughtless and callous lack of planning has created the crisis we have today. It is now the Federal Government's responsibility to direct our scientific expertise and manpower into useful, productive, and responsible channels.

American society has always been technologically oriented. Yet the technological advances which have done the most for the United States and in which Americans take the greatest pride are not the Gattling gun nor the "smart" bomb; they are innovations which have improved the quality of our lives, such as the telephone and the automobile. We need a strong defense, certainly, but we need more than security if America is to continue to offer a life worthy of her heritage.

The bill I have introduced is designed to encourage the innovation of technologies addressed to the quality of our everyday lives. Projects would be funded for research and development in such areas as health care, transportation, housing, nutrition, education, public safety, and communications. And because American society is so technological, we must continue development of new methods to control the disadvantageous effects of existing technologies: The pollution of our air and water; the depletion of our energy resources; and the disintegration of our urban centers.

The need is seemingly infinite. If we can successfully accomplish this conversion of our technological resources, we will free ourselves of the patterns of thought which foster inaction in the change of the Nation's priorities, and we will free ourselves of the terrible waste of technological unemployment. There really can be no if about the enactment of this measure or its equivalent. The Congress must pass legislation and pass it soon, if we are to build both a healthier society and a sound economy based on the productive utilization of our scientific and technological resources.

Briefly, the National Science Policy and Priorities Act of 1972 creates a new agency, the Civil Science Systems Administration, within the National Science Foundation. The CSSA will perform research, design, testing, evaluation, and demonstration of civil science systems capable of providing improved public services in areas of direct benefit to all our citizens here and now. The program will be carried out through contracts and grants to industry, universities, nonprofit organizations, and other agencies. This concept is very similar to the modifications I proposed last year to H.R. 34. The current bill authorizes $795 million to fund these projects over the next 3 years.

Other titles in the bill provide for a definition of national science policy, pension plan reform, and funds for retraining programs and much-needed local government hiring of unemployed technicians. Yet the CSSA is the heart of this legislation, and should become a dramatic focus for applied science in the 1970's.

Under the leadership of Senator KENNEDY, the National Science Policy and Priorities Act of 1972 received an overwhelming bipartisan endorsement in the Senate. It deserves the support of every Member of this House.

A 92D CONGRESS REPORT

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. MADDEN), is recognized for 30 minutes.

Mr. MADDEN. Mr. Speaker, the 92d Congress is now approaching adjournment. It has been my policy before the end of each session of Congress to give my constituents in the First Congressional District of Indiana a factual report of our legislative record.

In this session of Congress a great number of bills pertaining to our economy, social problems, environment, inflation, education, health, et cetera were greatly restricted due to our continued involvement in the Southeast Asia war. Almost 4 years ago at the beginning of the 91st Congress we had great hopes that with President Nixon's inauguration we were going to see the rapid termination of our involvement in that unfortunate embroilment in Southeast Asia, 10,000 miles away from our shores.

The Nation became entranced in the fall of 1968 when the President as a candidate based his platform on his "secret" plan to end the Vietnam war, if elected in November of that year.

Over the last 4 years, the Congress has made a remarkable record of progress in enacting domestic legislation. I wish to emphasize some of the more important accomplishments on legislation which the Congress has enacted.

EDUCATION

During the last 4 years the Congress enacted two major education bills which would have benefited millions of our American youth in providing school construction and educational expansion, so badly needed especially in highly congested urban areas. Legislation pertaining to our schools, and colleges, was enacted but far short of the Nation's needs.

The President vetoed the two major education bills which were enacted by the Congress although 4 years ago he said:

> My economy program will not curtail educational expansion.

PUBLIC WORKS

The Congress enacted two major public works bills which would have greatly improved transportation facilities and traffic congestion in metropolitan areas and other needed transportation projects over the Nation. One of these bills was known as the emergency job public works legislation. These projects would have given employment to many of our idle workers. The President vetoed both major public works bills.

HOSPITAL CONSTRUCTION

Legislation was also passed for additional hospital construction and expansion which was vetoed. A long-delayed bill to expand medical education to create more family doctors was vetoed by the President.

HOUSING

Four years ago the President promised to expand our housing program to accommodate millions of families in ghettos and in substandard homes. It is estimated that in 1969, the President's first year in office, approximately half a million less houses were constructed than the last year of the Johnson administration. The building of homes has been greatly curtailed and unemployment increased in the building and construction trades.

NATIONAL DEBT

One of the President's outstanding criticisms of the previous administrations was our large national debt. Four years ago the President promised to decrease the national debt. In 3½ years the national debt has been increased over $86 billion. When the President took office in January 1969, our national debt was $364 billion. Today it has increased to $465 billion. There is now pending before the Congress a request by the President to increase the national debt another $15 billion which will total $465 billion. It is also estimated that the interest on this national debt is costing the American taxpayers approximately $21 billion annually.

UNEMPLOYMENT

The President's promise to expand employment proved to be a myth. Today over 2 million more are unemployed than in January 1969. It is also estimated that if the part-time workers over the Nation were included with the unemployed it would total approximately 8 million.

ANTIPOLLUTION

Many other popular legislative programs President Nixon campaigned for in 1968 were secretly opposed by the White House lobby when they were debated on the floor of Congress. As an example: In 1970 President Nixon recommended $214 million in his budget to combat air and water pollution. The Congress passed the antipollution bill in 1967. That law called for $1 billion to curb pollution in 1970. Against White House opposition, Congress increased the President's antipollution budget to $600 million for 1970.

The administration also refused to spend millions already authorized and appropriated for environmental protection. Congress appropriated three times more than the President requested for sewage treatment assistance alone. It opposed original pure drinking water legislation.

It opposed the goal of clean auto engines by 1975.

The administration has opposed new requirements for the FDA to monitor food against harmful pollutants.

In short, it is a record of out-and-out opposition—a refusal to make industry clean up the air we breathe and the water we drink.

HEALTH

As for health, the administration's record is equally indefensible. It has been written for posterity in President Nixon's veto of four major health bills over 3½ years—one for each year of the President's term. The utter neglect for health needs was demonstrated first by his veto of $1.26 billion in funds that were to be used in large measure for the Nation's health needs back in 1970. The major Hill-Burton hospital construction bill was next vetoed, and but for the willingness of Congress to override the President's rejection, millions more for health facilities would have been lost.

In December of 1970, the President again showed his opposition to health needs by vetoing the bill that would have provided $233 million for medical schools and hospitals—and most recently he vetoed this year's added appropriations for the entire HEW health program. It has been only in the face of total administration opposition that Congress has endeavored to provide for those needs.

TAX LOOPHOLES

As ranking majority member of the House Rules Committee, I have been fighting for tax reform over the last 10 years. The House of Representatives passed the first major tax reform legislation in 25 years. The House of Representatives reduced the 27½-percent tax bonanza, enjoyed by big oil companies, down to 20 percent. The House enacted a number of other sections in the tax reform bill which made reductions in fabulous tax loopholes. The powerful tax loophole lobby succeeded in curbing major reductions and the Congress must continue to fight to completely restore fairness and equity in our Federal tax laws.

In all, the 1969 Tax Reform Act implemented $6.6 billion in tax reforms and $9.1 billion in cuts, mostly for taxpayers in the lower and middle income brackets.

The law included a 5-percent reduction in all tax brackets, a low-income allowance to remove 21 million poor families from the tax rolls and an increase in the personal exemption to $750.

WELFARE PROGRAM FOR INDUSTRY AND BUSINESS

The President also insisted on a welfare program for big business and industry. He recommended a 10-percent tax credit for business and industry on the theory that it would help employment and restore prosperity. He succeeded in getting a 7-percent tax credit concession through the Congress to purchase equipment, machinery, and so forth, which was nothing more than another tax break for corporations that were reaping fabulous profits. It is estimated that this 7-percent tax credit bonanza was pushed through last year for new equipment when most companies were using only 75 percent of their present capacity.

Tax reform and a more equitable distribution of the tax burden is simply not the policy of the Nixon administration. Last spring the President and his tax advisers were very enthusiastic about inaugurating a value-added tax. This was nothing more than a super sales tax in disguise. The value-added tax would be an extra burden on the consumer because it would tax a product all the way from its origin and processing right down to the retail store and the purchaser.

CRIME AND DRUGS

Unfortunately, Attorney General John Mitchell, head of one of Wall Street's largest law firms and manager of the President's campaigns, was very lax in the enforcement of the epidemic of crime and drugs over the Nation. Besides his arduous duties as Attorney General it has been generally known that he is the real intellectual sparkplug behind all operations of the Federal Government, both when Attorney General and also since he relinquished the post. I do hope now Attorney General Kleindienst will devote all his time in enforcing the Federal crime and drug laws.

Considering the administration's failure to curb inflation, unemployment, and the rapid rise in the cost of living, it became necessary for the Congress to help our elder citizens, the unemployed, and part-time workers over the Nation.

This summer the Congress passed legislation which increased social security payments by 20 percent. The bill passed the Congress over the strenuous opposition of the powerful White House lobby.

INFLATION

During the first 11 months of the Nixon administration inflation rapidly increased. In December 1969 Congress passed a price control bill which gave the President absolute power to immediately curb the rise in living costs—including wages, prices, rents, interest, and so forth.

This anti-inflation bill was signed by the President and lay dormant in his office for 22 months. Almost 2 years later, in August 1971, the President announced his celebrated "90-day freeze" which proved to be a failure. He then substituted phase II and appointed a price control committee, the majority of which was composed of big business members. The failure of phase II to curb price rises is already familiar to the American buying public.

On September 18, 1972, the Hammond Times of Hammond, Ind., an administration-supporting newspaper, on its editorial page stated:

> But it is a fact that Nixon avoided controls until late last year instead of invoking them the moment he moved into the White House. The buck still stops at the President's desk.

OLDER AMERICANS

In 1965 Congress finally won a long struggle to enact a program to provide medicare for the aged through the social security system. Two major increases in social security benefits were enacted between 1961 and 1968. Numerous revisions were made to expand coverage and liberalize eligibility requirements for the elder folks.

I have in this report mentioned housing, a 20-percent social security increase, hospital expansion, health legislation, and so forth, which includes provisions in addition to other special programs and legislative benefits for our 20 million pioneer citizens of the Nation.

VETERANS

The last two sessions of Congress have cooperated 100 percent in passing legislation benefiting veterans of all wars, most of these bills having been sponsored by its various veterans' organizations through the Nation. As a veteran and a member of the American Legion, I am proud of my record on supporting veterans' legislation.

DAYLIGHT SAVING TIME LAW

This session of Congress enacted the first major amendment to the Federal daylight saving time law which allowed

Lake County and five other northwest Indiana counties to turn their clocks to central daylight time each year. The opposition to this amendment to the daylight time law was powerful. With the aid of the entire Hoosier congressional delegation we amended the Federal time law and Lake County can enjoy similar time with the adjoining Chicago and Illinois cities 6 months of the year.

The progressive record of the 91st and 92d Congresses ranks far ahead of many former sessions in which I have served the First Congressional District of Indiana.

In this report I could mention several more long-delayed accomplishments of the Congress which I hope to convey to my constituents later. White House vetoes and opposition pressures prevented many legislative programs which could have restored employment, curbed inflation and prevented our economy from sinking further into a more serious depression.

CANAL ZONE SITUATION INVITES ANOTHER INVASION?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 10 minutes.

Mr. FLOOD. Mr. Speaker, the latest significant reports from the Isthmus are that the newly elected 505 member Assembly of Community Representatives of Panama on September 11, adopted a resolution charging that the Canal Zone was being "occupied arbitrarily" by the United States and requesting the Executive Branch of the Panamanian Government to "reject" the $1,930,000 annuity now paid to it by the United States. The stated purpose of this resolution, which was adopted in the presence of Omar Torrijos, chief of government and Commandant of the National Guard, and his figurehead Provisional President Lakas, is to picture U.S. occupation of the Canal Zone to the "entire world" as "annoying to national dignity" of Panama. Unless explained with adequate historical background this Panamanian action can be misleading.

Under the 1903 Treaty with Panama the United States acquired the grant in perpetuity of all the rights, powers, and authority of full sovereignty over the Canal Zone to the entire exclusion of the exercise by Panama of any such sovereign rights, power, or authority

The purpose of the grant was to induce the United States to construct an Isthmian Canal at Panama instead of at Nicaragua and to enable its efficient maintenance, operation, sanitation, and protection. The purchase price for this territorial grant was $10,000,000, which was a greater sum than those for either the Florida or Alaska purchases.

In addition, to obtaining the grant of sovereignty en bloc over the Canal Zone, the United States secured title to all privately owned land and property in the Zone territory from individual property owners, making it our most costly territorial acquisition, estimated in 1964 to have cost $144,568,571. It is, in effect, a vital U.S. Government reservation. The total cost of the canal enterprise, including defense activities, from 1904 through June 30, 1971, was $5,695,745,000.

At the time of acquisition of the Canal Zone the plans of our Government called for the use of the Panama Railroad for the construction of the canal and its subsequent operations. One of the financial obligations of this railroad was an annual payment of $250,000 to Colombia. The United States undertook to acquire full control of the railroad and assumed the obligation in the 1903 Treaty to pay the annuity to Panama instead of Colombia. This payment is not a rental for the Zone, which was not a lease but a grant of sovereignty in perpetuity.

Because of the devaluation of the gold dollar in 1934, the original obligation of $250,000 was increased to $430,000—a justifiable adjustment payable from canal tolls.

In the 1955 Treaty, the annuity was increased by $1,500,000 to a total of $1,930,000 but the Congress required that this increase be borne by the State Department budget, which had sponsored it, and not from toll revenues. Now, as previously stated, the Panamanian Assembly of Community Representatives, which does not have legislative powers, has sought to have Panama reject this payment.

Some 14,000 non-U.S. citizens, largely Panamanians, are employed in the Canal Zone. The total annual income injected into Panamanian economy from these and other U.S. sources in 1971 was more than $168,092,000. Such income is never mentioned by Isthmian agitators who seem to think that if they continue their campaigns of vilification and intimidation long enough our Government will cede what they demand. Experience has shown that each concession has led to greater demands.

To illustrate, current treaty provisions authorize "expansion and new construction" for the existing canal but our present negotiators, on Panamanian demands, have included its major modernization in the current treaty proposals. This places the United States in the ridiculous situation of negotiating for rights already possessed and endangers the plans for such modernization for which legislation is now pending in both House and Senate.

Enactment of the proposed legislation will be an act of sovereignty that will revitalize the Isthmus, give much additional income to Panama, end agitation by Panamanian extremists, and serve notice on the world that the United States intends to meet its treaty obligations for the operation of an Isthmian canal.

Mr. Speaker, it will be recalled that on a number of occasions I predicted invasions of the Canal Zone, the illegal planting of Panama flags therein, and other acts of violence. Any satisfaction that I may have had because of having been right were sterile ones, but those predictions did serve to warn proper authorities of the dangers.

Commandante Torrijos on at least two occasions has threatened to stage another invasion of the Canal Zone unless major concessions are given to Panama. Because of weakness and timidity on the part of our our officials, the situation on the Isthmus has not improved and radical leaders have been emboldened by their success in expropriating the Panama Light & Power Co., a U.S. owned property.

As is well known, Communist agents are already established in the Panama Goverment. Also known by informed Panamanians, Torrijos is being guided and advised by the Communist Party of Panama, which, as long ago as March 11, recommended that the Panamanian Government reject the annuity when the new "people's assembly" is installed. The assembly took that action on September 11.

Have our highest officials made public statements asserting our just rights, power and authority for which we have solemn treaty obligations? They have not; and the resulting situation invites what may be a massive silent invasion of the Canal Zone by Panamanian mobs in the early hours of some morning. Should such an operation be undertaken let us not be taken by surprise, but be prepared to meet it.

In these general connections, let us not forget that the U.S. Government official who first erroneously described the Canal Zone as "occupied territory" was Alger Hiss, an identified member of the Communist Party in the State Department. House Doc. No. 474, 89th Congress, p. 152.

As additional partial documentation for the foregoing remarks, I quote a recent editorial from The New York Times and a news story from the Star & Herald, a leading Panama newspaper.

[From The New York Times, Sept. 15, 1972]

Protest in Panama

Panama's newly-elected Assembly has no genuine legislative power, and its demand that the Government spurn the $1.9 million paid annually by the United States for use of the Canal Zone is thus merely an expression of popular opinion. However, this is no reason to take lightly the resolution, which charges that the Canal Zone is being "occupied arbitrarily," particularly when this action is viewed in context with other recent events in Panama.

The 505-member Assembly had been chosen last month in Panama's first election in four years, ostensibly to revamp the Constitution and to elect a President and Vice President. There had been no indication that its first action would be to adopt the toughly-worded resolution, asking "the entire world" to note that the Canal Zone "has not been purchased or conquered or annexed or ceded or rented, or its sovereignty been transferred by the Republic of Panama to the United States . . ."

This sentiment is, however, in line with the increasingly nationalistic actions and statements of the Government, controlled since the ouster of President Arnulfo Arias in 1963 by Gen. Omar Torrijos, head of the National Guard. At least twice during four years in power, General Torrijos has threatened to march on the Canal Zone unless major United States concessions were forthcoming. His Government in June seized the Panama Power and Light Company, 90 per cent owned by an American firm.

Negotiations on a new treaty to replace the pact of 1903, under which the United States built the Canal, have been marking time for six months. Even when serious talks resume, probably after the United States Presidential election, the American negotiators will be caught, as always, between two sets of pressures.

If they make concessions on sharing control of the Zone which the State Department and most Latin American governments deem reasonable, they will run into fierce opposition from a powerful bloc in Congress determined to retain exclusive United States jurisdiction in the Zone and the "perpetuity" provision of the 1903 treaty.

"In the modern world," Deputy Assistant Secretary of State Robert Hurwitch told a House subcommittee last year, "we can no longer look upon a sovereign enclave in the territory of another country in perpetuity as a secure environment in which to operate a canal." Until that basic fact makes greater headway with the latter-day "Manifest Destiny" men in Congress, United States troubles with Panama are certain to increase.

[From the Star & Herald, September 12, 1972]

NEW ASSEMBLY REJECTS PC ANNUITY—EXECUTIVE URGED TO TURN DOWN ANNUAL PAYMENT

The Assembly of Community Representatives convened yesterday and immediately approved a resolution calling for the rejection of the $1,930,000 annuity paid by the United States for the Panama Canal.

The resolution, in the form of a request to the executive branch, said the rejection of the annuity would make "the entire world aware that the strip of Panamanian soil known as the Panama Canal Zone, has not been purchased, nor conquered, nor annexed, nor ceded, nor leased, nor its sovereignty transferred by the Republic of Panama to the United States of America, but has been arbitrarily occupied as a result of the unilateral interpretation and application of the 1903 treaty which is offensive to national dignity."

It was approved by a standing vote applause by the 505-member assembly in the presence of President Demetrio B. Lakas and National Guard Chief Brig. Gen. Omar Torrijos and other high government officials and invited dignitaries, including the Diplomatic Corps, U.S. Ambassador Robert M. Sayre was in the audience.

Panama and the United States are negotiating a new Panama Canal treaty. Gen. Torrijos, who is the top figure in the Revolutionary Government, has made recovery of Panamanian jurisdiction over the 647-square mile U.S. controlled Canal Zone the major Panamanian demand.

The resolution was introduced by Hermelinda Fuentes, one of two representatives ejected from the Canal Zone. For the Aug. 6 balloting for the new Assembly, the Canal Zone was divided by Panama's Electoral Tribunal into two "corregimientos" or communities, one the Pacific Side and the other the Atlantic Side.

Panamanian residents in the Zone—all employees of the Panama Canal organization and their dependents—voted in special precincts in the cities of Panama and Colon.

The resolution noted that "the fundamental objective of the Republic of Panama in the negotiations with the United States of America for a new canal treaty is to secure the end of the colonial status of the Canal Zone, so that that portion of our territory reverts to full Panamanian jurisdiction clearly and convincingly."

The Assembly's installation session was held in the Nuevo Panama Gymnasium, which has a seating capacity of about 10,000 persons. There were student delegations, some of which shouted slogans—a number of them anti-U.S.—read by leaders holding sheets of paper. The galleries for the public were nearly empty.

The first order of the business when the Assembly convened at 10 a.m. was the swearing in of the officers. At a preparatory meeting Sunday night, the Assemblymen elected Elias A. Castillo of Panama City's Chorrillo community, as Chairman. Castillo a law student in the University of Panama received 185 votes in secret balloting by the 470 members present. Five others were nominated for the chairmanship. Each provincial delegation elected a vice-chairman, as follows: Arsenio Trotman, Bocas del Toro; Cesar Pardo, Cocle; Anastasia Mitre Delgado, Colon; Juvencio Valdes, Chiriqui; Julio C. Quintana, Darien; Octavio Huertas, Herrera; Iturbide Gonzalez, Los Santos; Norberto Dominguez, Panama; Javier Herrera, Veraguas, and Arcadio Martinez, San Blas.

Castillo was sworn in by the Acting Chairman, Javier Herrera, and in turn took the oath from the vice-chairmen.

Castillo then called a recess while an Assembly commission formally notified President Lakas that the Assembly was in session. The Chief Executive, accompanied by his deputy, Arturo Sucre, Gen. Torrijos and his deputy, Col. Rodrigo Garcia, cabinet members and officers of the General Staff of the National Guard.

In a brief address, Chairman Castillo said the installation of the new Assembly meant the "definitive death of the enemies of the revolutionary process." He added.

"This National Assembly of Community Representatives recognizes, as all the people have done already, Gen. Omar Torrijos as its top leader. This post the General has earned for his continuous striving with the people, because he knows how to interpret their aspirations, for his patriotic position in the face of the existence of the colonial enclave known as the Canal Zone . . ."

President Lakas responded, stressing Gen. Torrijos' leadership and the unity that has developed between the National Guard and the people.

Noting that the Assembly's immediate task is to consider a proposed new Constitution for the nation, the President urged the members to discharge their duty "with a high sense of responsibility and patriotism."

The Assembly has 30 days in which to consider the new Constitution and on the final day it will elect the new President and Vice-President of the Republic.

President Lakas concluded saying: "I am not well known by you, because my oath of loyalty, work and honesty have limited my field of action to the capital and most of the time inside the Presidential Palace. I have God as witness that I have served my country in its internal and external interests. You will determine my legal destiny, but I decided my personal destiny four years ago when I made up my mind to take up arms with my brothers, these young military officers, for the good of our people."

Immediately after the Chief Executive spoke, Miss Fuentes asked for the floor, announcing she was introducing a resolution—the one urging the rejection of the Panama Canal annuity.

She called for a standing vote of approval, saying no Panamanian would remain seated once the text of the resolution was read.

As soon as the text was read, all the members of the Assembly stood up, applauding.

The session was then adjourned until 8 a.m. today.

The 505 desks for the members of the Assembly were arranged in the court of the gymnasium. Most of the Assemblymen were in shirtsleeves. Each represents a "corregimiento," the country's smallest political unit. The membership is made up principally of residents of rural areas, including representatives of Indian reservations. Some members are university students. There are 32 women in the Assembly.

ON REVENUE SHARING

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, I have expressed apprehension regarding the soundness of the bill throughout the consideration of the revenue sharing proposal. This apprehension is emphasized in the comments made by the Governor of Florida, the Honorable Reubin O'D. Askew in telegrams to me and other Members of the Florida delegation and in a letter to Chairman MILLS. Both of these I submit as a part of my remarks:

TALLAHASSEE, FLA., *Sept. 15, 1972.*

Congressman BOB SIKES,
Washington, D.C.:

It is crucial to Florida's program that following be added to social service provision in conference report: "All services provided directly by State welfare agencies according to their current social services State plan shall be excluded from the 90 percent current recipient limitation."

REUBIN ASKEW,
Governor of Florida.

SEPTEMBER, 14, 1972.

Hon. WILBUR D. MILLS,
Chairman, House Ways and Means Committee, Washington, D.C.

DEAR CHAIRMAN MILLS: Pursuant to our conversation today I understand that you will include in the Revenue Sharing Bill a provision that will insure that states, such as Florida, with coordinated, state administered social service systems will not have to fragment their statewide programs because of direct Federal funding to local governments for social services. The following is some proposed language for the bill which might be used to overcome the problem we discussed:

Add "All social service funds provided under this act shall be administered by the single state agency designated responsible for the administration of state plans under titles I, IV, X, XIV, or XVI of the Social Security Act. The local governmental utilization of these funds shall be pursuant to social security act provisions and regulations."

I agree that a specific appropriation is required for social service expenditures and I urge that you place this limitation at $3,500,000,000.

Sincerely,

REUBIN O'D. ASKEW,
Governor, State of Florida.

The Washington Evening Star of September 18, 1972, expressed the serious reservations of a great many sound thinking Americans in an editorial entitled "Sharing What Revenue?" I offer it also for printing in the RECORD:

SHARING WHAT REVENUE?

The federal budget is running so far in the red that, at present tax rates, it will be along about 1977 before the federal government has some disposable money to start new programs.

For all that, the Congress is well on its way to passing a revenue-sharing bill, one that will pass along more than $30 billion to state and local governments over the next five years. The money obviously will represent deficit spending, and it will increase the pressure for new federal taxes.

We won't belabor the point too much, for it looks as if nothing at this point can stop the revenue-sharing bill. It has the inevitability of a glacier on the move. President

Nixon long ago gave it his support, which he is not about to change in the middle of an election year. The House passed the bill in June. The Senate, by a vote of 63–20, passed a similar measure last week. How could they dare not to? With great expectations, governors, mayors and county commissioners have been waiting for the money so long they had begun to count the cash as already theirs. Some of them even had budgeted it for the current fiscal year.

Since the two versions of the bill differed on several important points, the opportunity was there for the House-Senate conference committee to make the legislation more palatable. On balance, the conferees fumbled the opportunity.

The Senate, moving to halt a runaway program for welfare-related social services, had attached the program to revenue sharing and had stipulated a $1 billion ceiling. Something like that was essential, for without it, the federal government would have been obligated to spend on social services alone nearly $5 billion this year. It also promised to ease the task of redrafting the big HEW–Labor appropriations bill, which President Nixon recently vetoed as too expensive, largely because it included the unchecked social-services subsidies. Conferees from the House, which did not address the problem in its own revenue-sharing measure, did go along with the Senate, as they should have. But then the conferees casually raised the subsidy limit from $1 billion to $2.5 billion, more than twice the amount the administration considers fiscally defensible.

On a second point of major difference, the Senate had changed the House-approved formula for distributing revenue-sharing money to favor rural states over large, industrialized states and, within the states, to favor central cities over suburbs.

Revenue sharing is certain to become a fixed part of government operations. But it remains a question as to where Uncle Sam will get the revenues to share with the states and cities.

We, in Florida, have yet another reason to be disturbed about revenue sharing. We cannot enjoy benefits comparable to those in some States because of the fact that we do not have a State income tax. For good reasons, Florida has avoided this form of taxation and our people would be very reluctant to accept it. Obviously if revenue sharing becomes an actuality there will be pressure on Florida to accept a State income tax so that we would not be discriminated against in revenue sharing. Very probably the cost to the people of Florida in direct taxes for a State income tax would exceed the amount to be derived from revenue sharing. It is a tricky and an unhappy situation. For all of these reasons I shall vote against revenue sharing.

CONSERVATION RATINGS

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, in a recent issue of Field and Stream, Members of Congress were rated by that publication on their contributions to conservation. Through the years, Members of Congress become typed as proconservation or indifferent to conservation. However, this pattern is not apparent in Field and Stream's listing. In fact it contains so many surprises that it has been the subject of much comment—little of it favorable—on Capitol Hill. The ratings were surprisingly low for many Members of Congress who have given strong support to programs which generally have been considered important to conservation.

In an attempt to get a better feel for the organization which had issued harsh ratings on many Congressmen who have been considered friends of conservation, I examined the flyleaf of the publication. I found that Field and Stream is the property of Columbia Broadcasting System. This fact, I think, helps to show the lay of the land. For instance, CBS has taken hostile viewpoints to activities which many genuine conservationists support. CBS has in no sense been a friend of the Nation's sportsmen. CBS has also been a strong proponent of antigun legislation. This also helps us to understand the reason for editorial comments in Field and Stream which took an extreme view on some congressional actions which were intended to strengthen conservation programs and to help the sportsman. All of this despite the fact that Field and Stream labels itself America's No. 1 sportsmen's magazine.

Perhaps the biggest surprise is in the selection of bills on which Field and Stream rated Congressmen for their support of conservation. In the main, they are strange measures on which to evaluate interest in conservation.

First is the SST vote. It is a little hard to understand how a vote for or against the SST affects conservation and sportsmen's interests in America.

Then there is Cannikin—the Aleutian Islands atomic test. It was considered essential to the security of America. It provided information on atomic testing not available in any other way. There have been no indications of serious damage to the environment. Nevertheless, a vote for Cannikin is, according to Field and Stream, a vote against conservation.

There is the District of Columbia Metro amendment. Whatever in the world this could have to do with national conservation is a little hard to figure.

The Reuss water pollution amendment is included. It was substantially a rewrite of the Senate water pollution bill which the House considered unworkable and unrealistic and most of which was dropped in conference. Members who voted against this amendment were not voting against water pollution control. They were voting for what they believe is a sounder program.

There was a bill to permit AEC to issue temporary licenses. The House felt strongly enough about this to approve it 285 to 78. Field and Stream says all 285 were wrong.

In the Senate, of all things, a vote for confirmation of Secretary Butz is considered anticonservation. The defeat of an amendment deleting the alcohol tax provision from the Revenue Act is called anticonservation.

One interesting point in connection with Field and Stream's list of "conservation" measures is the fact that most of them were soundly defeated by the Congress. I question that the judgment of Field and Stream is better than that of a majority of the Members of Congress who must deal with facts, not fancies.

The measures which I have discussed are not all of those on which Members of Congress were scored, but they are typical of the ones used to provide a rating of perfect to near-perfect for most of the liberals of the House, and a very low rating for most of the moderates and conservatives. Could it be true that this points back to the ownership of Field and Stream?

In the same time frame, Congress had before it many bills which are considered important to conservation. Some of the Members who were given low scores by Field and Stream have been active in the passage of these needed and useful conservation measures which were not included in Field and Stream's listing.

A partial listing of these bills follow. In the minds of impartial conservationists they are sufficiently important to have been included in or used instead of Field and Stream's list.

The list follows:

FORESTRY

Cooperative forestry management, Public Law 92–288.

National forest reforestation fund, H.R. 13089, Conference report pending.

WATER QUALITY

Water pollution control, S. 2270, passed Senate.

Ocean dumping, H.R. 9727, in conference.

Saline water conversion program, Public Law 92–60.

FISH AND WILDLIFE

Marine Mammal Protection Act, H.R. 10420, in conference.

Bald eagle penalties, H.R. 12186, passed House.

Prohibition on shooting animals from aircraft, Public Law 92–159.

PESTICIDES

Federal Environmental Pesticide Control Act, H.R. 10729, passed House.

Toxic Substances Control Act, S. 1478, passed Senate.

PUBLIC LANDS

Coastal zone management, S. 3507, in conference.

PARKS, MONUMENTS, RECREATION, AND WILDERNESS

Buffalo National River, Public Law 92–237.

Lincoln Home Historic Site, Public Law 92–127.

Oregon Dunes, Public Law 92–260.

Pine Mountain Wilderness, Public Law 92–230.

Cedar Keys Wilderness, Public Law 92–364.

South San Francisco Bay Wildlife Refuge, Public Law 92–330.

Tinicum Marsh Environmental Center, Public Law 92–336.

Sycamore Canyon Wilderness, Public Law 92–241.

Lincoln Back Country, Public Law 92–395.

Washakie Wilderness, S. 166, in conference.

Sawtooth National Recreation Area, Public Law 92–400.

MISCELLANEOUS

Interstate compacts, S. 907, passed Senate.

National environmental data bank, H.R. 56, in conference.

Volunteers in national forests, Public Law 92–300.

Why were measures like these excluded? They have much wider popular support than the list used by Field and Stream. Most observers would feel they should have been substituted for the Field and Stream selections. In any event, they are more logical contenders for the label of true conservation measures.

Let us be charitable and say Field and Stream just used poor judgment. I am reluctant to say they do not know any better. Congressmen are accustomed to harsh treatment from "experts" who preempt for themselves the exclusive right to judge performance. It is not new for us to be rated by handicappers who measure our work against their views and not in light of the interests of the public. Fortunately, campaigns are decided by separate constituencies who consider the issues in their entirety and who are not bound by the one-sided views of the handicappers.

After all, Congress has been around much longer than Field and Stream or CBS.

BICYCLES IN NEW YORK

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, the State Department of Transportation in New York has developed a 60-page master plan for the State's transportation in the coming two decades. Unfortunately, the department in making its plans has overlooked one significant and increasingly popular form of transportation, the bicycle. Nowhere does the plan mention bicycles and consequently, no provisions are made for bicycle transportation development.

This year the country, including New York, has experienced a boom in bicycling. By the end of the year, an estimated 11.5 million bicycles will have been sold. Funding for the construction of bicycle paths and facilities has been included in the Senate Federal-Aid Highway Act, and in a number of States like California, Oregon, and Washington authorization has been given for using State highway funds for bikeways.

Last month Philip J. Burke, the director of public affairs of the Bicycle Institute of America, testified at a hearing on New York's transportation master plan. With more than 6 million bicycles in New York State he suggested that the omission of bicycles from the master plan was a "grave error." I agree with Mr. Burke that bicycles should be included in the plan. In the bicycle we have an important transportation resource—it is a cheap, healthful, nonpolluting alternative for short-distance transportation. Many people now ride bikes to and from work even under hazardous conditions; many more would do so if exclusive bike lanes were available. Last May I sent a questionnaire to my constituents in which a question concerning bicycling was included—49 percent of the respondents indicated that if exclusive bike lanes and parking facilities were provided, they would ride a bike to work; this compared to 7 percent of the respondents who said that they presently ride a bike to work.

Mr. Speaker, the public's enthusiasm for bicycles is clear. It is time for the Congress and for States like New York to give bicyclists their fair share of the road.

At this time I would like to insert for printing in the Record the text of Philip Burke's testimony of August 17, 1972 on New York's master transportation plan.

STATEWIDE MASTER PLAN FOR TRANSPORTATION, WESTCHESTER COUNTY CENTER, N.Y., AUGUST 17, 1972

My name is Philip J. Burke and I am Director of Public Affairs of the Bicycle Institute of America. The Institute is a trade association which represents 85% of the American bicycle industry, including the principal manufacturers and distributors of bicycles.

It is a disappointment to us to note that no where in the Statewide Master Plan for Transportation is there a single mention of the bicycle or bikeways. This has to be a grave error. The Master Plan is being drawn up against the backdrop of an enormous boom in bicycles. America is the greatest producer of bicycles in the world. Official estimates call for sales of nearly 11.5 million this year. In New York State alone there are nearly 4 million bicycles and approximately 6 million cyclists. With adult sales expected to reach 50 percent of that 11.5 million this year, it is obvious that the number of bikes and cyclists in New York is going to continue to grow. Yet, no where in the Master Plan is the bicycle considered as a safe, clean, sensible means of transportation for young and old alike.

Right now in America, it is estimated that there are 73 million cyclists and they will be buying more bicycles than automobiles for the first time since before World War I.

New York State is apparently not unaware of the bicycle boom. Just this year in Albany, the legislature passed a bill into law, sponsored by Assemblyman Chester Hardt, authorizing the construction of bike and foot trails in conjunction with state- and federally-funded projects. Governor Rockefeller signed the law and said on doing so, "Bikes don't pollute, they are inexpensive to own and operate and they provide good exercise besides having the potential for saving the taxpayers of this state a great deal of money in highway maintenance and repair."

In the light of the Governor's words and the fact that there are more bicycles in New York State than in many foreign countries, it is almost impossible to understand how the cyclists of this great State can be ignored in the Master Plan.

We feel it is very important to note at this time that the federal government and various state governments are actively engaged in passing legislation supporting the national bikeway movement not to mention the eventual possibility of a national safety standard for the bicycle.

Right now, the Public Works Committee of the Senate is considering a proposal by Senator J. Caleb Boggs of Delaware to provide $10 million dollars from the highway trust fund for bicycle trails. Every state will be entitled to a share of these monies.

In California, Oregon and Washington and all over, individual states have authorized the use of federal Highway trust funds for bikeways and even cities are recognizing the necessity for bikeways and legislation is either passed or pending. But no where in the Statewide Master Plan is their a provision for bikeways.

With these staggering facts in mind, it is incredible that the four million New Yorkers currently enjoying the bicycle for recreation and transportation are to be left out. Our surveys reveal that millions of New Yorkers ride bicycles in commuting and shopping, not to mention for the obvious reasons of recreation and physical fitness.

Recently the State of California authorized $75,000 for a study of bikeways and I have the results here. I will leave with you a copy of *Bikeway Planning Criteria and Guidelines* which should become the bible for those interested in developing bikeways systems.

New York cyclists would love to support the Master Plan, but it is impossible when there isn't the slightest mention of the bicycle, although it is a viable means of transportation. In these times of rising air and sound pollution, the bicycle surpasses all known means of transportation for safe, quiet and clean travel. Obviously the bicycle is not a polluter and it provides its user with a quick, physically rewarding means of transportation.

It is incomprehensible to us how a Master Plan with a 20-year life span can ignore the bicycle when the federal government and many states are embracing the bicycle. Bicycle legislation is people legislation. It isn't designed for special interests. It is for citizens of all ages. Other states are saying Yes to bicycles and New York State, so often in the forefront of innovative action, is unfortunately dragging its heels in this case. Wisconsin has a 320-mile statewide bikeway which sees thousands of riders per year. Even in cities like Chicago there are full-fledged bicycle routes for commuting and pleasure and similar commuter cycling facilities have been provided in San Francisco and Milwaukee and many other cities, large and small. In Davis, California, 18,000 of the 24,000 residents use bicycles for daily transportation. And yet here in the Empire State the Master Plan for Transportation ignores the bicycle as if it were the plague. This is difficult to understand especially when Secretary of Transportation Volpe has so strongly urged inclusion of bicycles in all master plans.

I have attended other open hearings on this Master Plan and have heard many citizens and governmental officials, suggest that you go back to the drawing boards to amend this plan. Well right here in New York you have many members of the Bicycle Institute who can lend expert assistance in redrafting. In fact three major manufacturers in America, Chain Bike Corporation, Iverson Cycle Corporation, and H. P. Snyder Manufacturing Company, Inc., make their homes in the Empire State.

New York can be proud of the importance it plays in the production of the bicycle not to mention the many wholesalers and retailers who sell bicycles. All of these organizations are also prepared, along with the Bicycle Institute, to offer guidance in bikeways and provide any technical data that is required. In other states there are already in existence bicycle systems from which valuable information can be gleaned. The Federal Government seems to want a national trail system and naturally the legislation will provide funds which will be granted to individual states to build bikeways and as I noted earlier the Hardt bill makes this possible by law. In the light of these facts how can New York draft a Master Plan for transportation and leave out the bicycle.

We're sure the millions of New York cyclists could easily support a master plan which incorporates a sensible bikeway system. We further suggest, in the light of recent estimates which call for a 30 percent upsurge in sales after a 30 percent sales increase last year, that more and more adults will be riding a bike. They know a bike is not a toy. It is a safe, sensible means for transportation and they want safe, sensible routes over which to pedal. The bicycle is here to stay. It will not go away simply because you choose to ignore it. You must include provision for bicycle transportation in the Master Plan.

I am taking the liberty of leaving with you today recent bikeway material along with a copy of these remarks.

Thank you.

PUBLIC BROADCASTING BILL

(Mr. VAN DEERLIN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. VAN DEERLIN. Mr. Speaker, when the House and Senate accepted President Nixon's veto of the public broadcasting bill not long ago, it was at least partly on the promise that Mr. Nixon, if returned to office, would have a long-range financing plan for public broadcasting on its way to Congress early in 1973.

Comes now the newly appointed president of the Corporation for Public Broadcasting, Henry Loomis, with a statement which is at best equivocal and, at worst, evidence of still another broken promise.

In a report on events of Mr. Loomis' first 9 days in office, carried by the Washington Post of last Thursday, September 21, the corporation's new boss was quoted as saying that long-range financing for public broadcasting will not be pushed "for at least several years."

With a feeling of disbelief and mild shock, I obtained from CPB offices Mr. Loomis' precise answer to a question on this subject, as carried on a closed-circuit radio conference last Wednesday with public broadcasting stations across the country. Here is the unedited transcript:

> Q. What would be your prediction for long-range financing legislation in 1973?
>
> A. Honest answer is, damned if I know. My guess is that it is going to take a while to settle down before we can determine exactly what we want, what we mean by long term. Does long-term mean 2 years, does it mean 5 years? It certainly cannot mean permanent, nothing in this world is permanent. And my guess is that probably we will be concentrating on other things this first year and it would be better to try for that one a couple of years from now, but that is just a personal sort-of feeling, without knowing too much about it.

The promise of administration plans for permanent financing—or long-range financing, if Mr. Loomis strains at the word "permanent"—goes back more than 2 years, and has stemmed from a number of administration spokesmen.

Testifying before our House Commerce Committee in May of 1970, the newly appointed FCC Chairman, Dean Burch, said the plan would be ready for consideration by that 91st Congress.

President Nixon himself referred to the imminence of a financing plan in his budget message of January 1971, saying:

> Legislation will be proposed to provide an improved financing arrangement for the Corporation.

He was talking about fiscal 1972, now 3 months behind us.

On May 13, 1971, in a written response to the House Appropriations Committee, the Director of the White House Office of Telecommunications Policy, Dr. Clay T. Whitehead, wrote:

> As the President indicated in his budget last January, we will be submitting legislation for improved financing of public broadcasting this year. The drafting of the bill is now in its final stages, and I expect it will be referred to the Congress by July. It will be long-term financing.

Both Chairman Burch and Dr. Whitehead were before our House subcommittee last February 3. Mr. Burch said:

> The Commission would like to stress . . . the importance of obtaining for the Corporation at the earliest possible time a permanent financial base not dependent upon the annual appropriations process.

And Dr. Whitehead affirmed the intent in these words:

> We expect to solve this problem before the end of fiscal 1973.

Committee members were not pleased by these delays—but the promise of an administration bill by the end of the fiscal year next June seemed to offer a new deadline, if the present administration is still in power.

But even this promise apparently goes out the window, unless some White House spokesman undertakes to counter the impression Henry Loomis has left.

His views on corporation financing were not the only chilling points raised by Mr. Loomis during his first week on the job. It seems that for the top staff leadership in public broadcasting, the President has chosen a man who had not been interested enough before his appointment to watch a single program on an educational station. This strikes me about the same as selecting, to coach the Washington Redskins, someone who detests football. Let us hope for some avid on-the-job training.

By unanimous consent, I include John Carmody's full article on Mr. Loomis, from last Thursday's Washington Post:

PUBLIC BROADCASTING: NEW CHIEF, NEW POLICY

(By John Carmody)

After two days as chief of the nation's public broadcasting industry, Henry Loomis has announced a tough new policy toward programming, including the controversial area of public affairs.

The new president of the Corporation for Public Broadcasting, who lives in Middleburg, Va., said yesterday that he had "never seen a public TV show." But he laid it on the line: CPB, with its hands-off policy on programming, "had tried to duck its responsibility and it wasn't successful."

In a separate session before the PBS board of directors meeting here and in a half-hour, nationwide closed circuit broadcast with the network's 225 station managers, Loomis said:

The CPB, formerly only a management "umbrella" for public broadcasting, will take a strong role in determining daily program content over the nationwide PBS network.

"Instant analysis" and other public affairs programming techniques that mimic commercial TV practices probably will be dropped.

Long-range financing for public broadcasting will not be pushed for at least several years.

While it eventually should be "much more," funding is currently at a satisfactory level.

"The cultural field" and programs directed at a "specialized" audience, rather than mass audiences, should be stressed.

Loomis' views are virtually identical to those of the Nixon administration and congressional opponents of public TV over the last year. His appointment as CPB president has been expected by industry sources following the takeover of the 15-member CPB board this summer by an administration majority. Former Rep. Tom Curtis of Missouri, a longtime Republican, was named board chairman last month.

Public television programming, particularly in the area of public affairs, has brought criticism in the last year from the administration, Congress and some local station managers.

Loomis said the corporation would at present not actively seek long-range financing, which had been called essential to proper programming by its supporters in the industry and in Congress, where backers were mostly Democrats.

"We'll be trying for that one a couple of years from now," he told the station managers. President Nixon vetoed a two-year funding plan in June.

As Loomis sees it, the industry, founded in 1968, should be pleased with its present 30 per cent annual growth. (The funding is $45 million this year.) "It's possible to get too much too soon," while staff excellence and expertise lags, he told the PBS board.

Following Loomis' appearance yesterday, industry sources took a wait-and-see attitude. They suggested he had not had time to be properly briefed since accepting the $42,500-a-year job, which he starts officially on Oct. 1.

Loomis told a reporter later that when approached about the job following the resignation of John Macy Jr. as CPB president in August, he had asked, "What the hell is it?"

An independently wealthy man, Loomis said he had long regarded his previous service in important posts in the Departments of Defense, HEW, USIA and at the White House during the last 20 years as "nonpartisan."

"I always considered myself what the British call a 'permanent undersecretary,'" he said yesterday. "But four years ago (when Mr. Nixon appointed him to the USIA, where he is currently deputy director), I changed. Mr. Nixon was my guy in 1968 and I feel very strongly about it this election year."

In hinting that the "instant analysis" of major political events will be dropped, he said public affairs programming should only "supplement and enrich" what is offered by commercial networks. He later told a reporter that he was "concerned about the propriety of using public funds to be competitive with commercial networks" in any area of broadcasting.

Loomis asked PBS station managers to do "much more in the cultural field." The role of public broadcasting is to direct programming to a specialized, not a mass audience, he said. An example would be "a program of an excellent cultural nature that is too expensive for the commercial networks to do."

Loomis' remarks yesterday were in line with Nixon administration criticism of public television beginning last October with an attack by Dr. Clay T. Whitehead, director of the Office of Telecommunications Policy.

The CPB was formed in 1968, a year after President Lyndon Johnson successfully backed a public broadcasting bill. Under Macy, the new corporation took over what had been the loose-knit educational TV network and, as PBS, with federal equipment and programming money, grew to the present 225 TV stations and hundreds of public radio outlets.

Last fall, the political roof fell in on Macy. The PBS (and the Ford Foundation) pushed through a public affairs outlet in Washing-

> ton. The National Public Affairs Center for Television promptly hired liberal correspondents Sander Vanocur and Robert MacNeil at high salaries, which drew even Democratic criticism in Congress.
>
> A series of controversial network shows as well as a marked increase in the PBS national audience attracted further notice for the public network. In June, Mr. Nixon vetoed a two-year $65-million authorization for CPB. Macy, in ill health, subsequently resigned, along with other top CPB aides.

PROBLEMS OF SENIOR CITIZENS

(Mr. PRICE of Illinois asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, I take this time to report to the Congress my findings on recent contacts I have had with over 10,000 senior citizens in my congressional district. I do so because of the interest the current 92d Congress has shown and the positive action it has initiated and taken on issues of vital importance to our maturing Americans.

While we can be proud of this record, I submit this report because it underscores the fact that our work is not finished and it will not be finished until every American has decent income, sound housing, and good medical care. We can learn from the experiences, unfortunately all too bitter in too many instances, of these fellow citizens of what remains to be done.

We should and we can act on their comments. To do otherwise ignores the commitment we have to these men and women who have contributed so much to this Nation.

The problems the senior citizens in the Madison-St. Clair County area have stressed in their responses are in the areas of incomes—which are too small—health care—which is too expensive and inadequate—and housing—which is either insufficient, deteriorating, or unfairly taxed. For those of us who have concerned ourselves with the problems of our senior citizens, these problems are not altogether surprising. I feel, however, that the direct comments of the elderly are instructive as to the scope of these problems.

A mood of loneliness and despair is all too pervasive in the senior citizen. A widow from Madison, Ill., writes:

> Your letter was like a new lease on life. I had begun to think we older people were forgotten by everyone.

A retired Federal employee and World War I veteran expressing his feelings about how senior citizens are treated states:

> You are old now—we don't need you.

Another widow from the area responds:

> We sometimes wonder if our government really even cares about our welfare and our living conditions.

Surely we can do better than this. Surely our senior citizens are entitled to more than feelings of despair and hurt.

The most prevalent concern expressed is the lack of income, the high cost of living and the unfair tax burden on individuals with fixed incomes.

A widow comments:

> We have been neglected and are very lonely. They expect us to be satisfied and happy on small incomes. We have needs of the same as they do of money to buy a place to live in and to eat in order to live.

Another elderly lady writes:

> I have to buy at least 4 pounds of hamburger to get it for 79¢ a pound, but if I buy 1 pound I have to pay 98¢ a pound. That's almost 20¢ more a pound, and everything else the more you buy, the less you pay. With a limited budget most people cannot have the things they want.

A retired couple, commenting on the problem of limited income and inflation, noted:

> We have worked for 50 years and when we were going to retire we started making plans and a budget of how much it would cost us to live. Well, we retired 5 years ago. We pay 3 times as much for food as we did the first year. Utilities, taxes, hospital insurance and everything else has gone up since we retired. You see it did not do much good to plan on our retirement.

A 73-year-old widow from St. Clair County observes:

> I have been left alone since my husband passed away. I had to sell my home. I could not keep it up. I think they should put a stop to these hospitals and nursing homes raising their prices. All they want is the money; they don't care about the old people any more and you don't get the care for the money you are paying. We were raised to respect old people but they sure don't now days.

And in the most advanced technocratic society in the world, a retired couple from Freeburg writes:

> When we moved into this house in 1927 our taxes were $59, now they are $290. We do not have or never did have a telephone or car and we never go anywhere.

Their plea about higher taxes is not unique. An 83-year-old man who had more than $6,000 in medical bills laments:

> All we get is higher taxes.

A 78-year-old widow notes:

> My greatest problem is that of property taxes. Why do I have to pay over $400 per year.

An 83-year-old retired railroader concerned about his pension and cost of living complains:

> What hurts most is taxes and food prices. There shouldn't be a sales tax on groceries or things that you have to have to live.

Especially concerned about taxes are widows who depend on social security. Not only do they receive reduced benefits they also are denied head of household status for tax purposes. As a Granite City widow puts it:

> Taxes are outrageous for widows.

Another aspect of this problem is the income limitation placed on social security recipients, many of whom need additional income to exist and many of whom do not receive dividends or other forms of financial support excluded from the income limitation. A working widow writes:

> I am drawing my social security (deceased husband's). Since I've already earned $1680 this year, the balance of 1972, September thru December, I'll be paying back quite a sum—plus the fact that social security tax is being deducted from my salary. It doesn't seem quite fair.

A very disturbing problem which Congress has begun to consider in earnest, the issue of pension reform, has been brought to my attention several times in my contacts with the senior citizens. Unfortunately, congressional efforts have met with resistance.

A retired teamster shares his all too common experience with a private company pension. It is not unique. I have had many complaints about the lack of protection of workers' investments in company pension plans:

> I really think these pension plans are misleading and very unfair. I took an early pension when I was 54. When I am 65 the pension will be cut from $125 to $80. That is just at an age when pensions should be increased instead of cut. These are set pensions. Wages and prices have doubled since I retired and are still going up but in the future I will get a big cut. Why?

A retired boilermaker writes:

> I wanted to tell you for some time about protection of private pensions and unfair pension restrictions. The -------- company has an unfair rule in their pension that when you sign up for medicare they take $80 to $85 off your monthly pension. This is not fair after a man gave them the best years of his life.

As one possible pension reform, a retiree suggests:

> Older people on pensions should not be obliged to pay income taxes on the annuity or pension plans that they earned and became participants of during their working years. Legislation is needed erasing our liability for income taxes insofar as and to the extent that our income is derived from pensions.

In the area of health care, the elderly are especially concerned about better coverage and lower costs. A 67-year-old pensioner recommends:

> I think the medicare program should be reviewed, particularly in the case of extended illness where coverage is very limited and financial aid is sadly lacking and causes a burden for people on fixed incomes. Health programs should be carefully reviewed and changes made to benefit the aged. Another thing is the exorbitant cost of drugs, which the older are in greater need as sickness is more prevalent.

A retired minister, married 65 years, writes of his sad experience in trying to care for his wife:

> I couldn't take care of my wife; she is in a nursing home. It costs me $600 a month. My finances are nearly exhausted. A law should be passed to have medicare pay the bill the same that is sent into them.

A retired teacher observes:

> Health insurance premiums are becoming too high compared to benefits accrued and costs against benefits are out of proportion. Medicare policies need adjusting on benefits. One of the biggest needs for retired people is protection against fraud; false salesmen and taking unfair advantages of retired people.

A 78-year-old widow is concerned about the confusion over medicare regulations. As a result she loses needed protection.

> I think medicare should be open so that people who did not understand it could get in on both A and B plans. The hospital part

> was very beneficial to me. But sure could have used doctor coverage. I was told that I couldn't get into that part of medicare unless they would reopen it.

A senior citizen housing resident tells of her and her friends' experiences in purchasing medication:

> We have drugstores within walking distance and all of us have different charges for the same medicine. Why can't medicare take care of dental work also.

Another elderly woman writes of her difficulty in meeting the medicare deductible:

> I don't understand why we have to pay the first $50 for doctor or hospital fees, plus every month we pay a premium just like ordinary insurance. There just isn't enough money to go around.

Clearly the Congress must come up with a more efficient and expanded health care system. As one observer noted:

> We can afford to go to the moon, but we can't afford to send an old man to the doctor.

The need for housing is cogently summed up by an elderly lady from St. Clair County:

> I am very disappointed about the lack of senior citizen housing. The elderly people are deserving of some consideration. They have worked all their lives and they are deserving of some breaks. I think that people over 65 should have some tax breaks, especially real estate and personal.

Mr. Speaker, it concerns me gravely that today in America we have fellow citizens who do not have what is rightfully theirs: a life of fulfillment and freedom from want. As fellow human beings they deserve more than to be cast aside and put in the ash heap because of their age. Surely America can do better than this. If this is to be a nation of compassion and justice, life-giving and full of promise for all, then we must see to it that our elderly live their lives with the respect and opportunity they seek.

So that the senior citizens in the St. Clair-Madison County area know that their comments have been brought to the attention of the Congress I am sharing this report with them together with an undated report on congressional action on programs of vital interest to them.

In closing, Mr. Speaker, let me reiterate that one mark of a nation's greatness is the well-being of her people. For America to lay claim to such greatness she must treat all her people with fairness and consideration. Our mature Americans are one of an important group that has been often neglected in the past by this Nation.

That neglect of these 20 million Americans who are 65 years of age or older and the fastest growing group in this country today is giving way, fortunately, to an increased awareness of the special needs and problems of these fellow citizens. But awareness is only part of the solution. We must continue to translate this awareness into action until our senior citizens live in the dignity and security they have earned and they deserve.

HOW IMPORTS STIFLE EMPLOYMENT

(Mr. LANDRUM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. LANDRUM. Mr. Speaker, Mr. O. R. Strackbein, who has devoted a lifetime to the study of our trade with other nations, has delivered a speech in the last part of August which, in my opinion, will be interesting reading to all Members concerned about our import-export policy. His introductory remarks may prove cleverly enlightening as well as interesting:

HOW IMPORTS STIFLE EMPLOYMENT

(By O. R. Strackbein)

We as a country could produce a fifth or less of our total output of goods today and yet enjoy full employment: if our productive processes should revert suddenly to a much lower technological level. Several times as many workers would be required than now to produce each unit of output.

To be sure, we would have a lesser variety of goods and a very scanty quantity of the nonessential goods to which we have become accustomed. We would subsist on the necessities, perhaps wheat, corn, potatoes, a few vegetables, such as beans and cabbage. For meat we would rely on poultry, fish, and pork. A few rare milk cows would supply the favored few with milk. As for beef we could revert to a per capita consumption of a few pounds of lean meat per year, not marbled steaks cut from grain-fed steers.

For clothing each person would have one or two changes of simple and durable attire, mended and patched; and for housing we would revert to the ruder but perhaps more durable cabins and huts that were the mainstays of our pioneers. Oxen, horses, mules, boats and barges, slow railroads and a scattering of trucks and hardy automobiles would fill our transportation needs; and we could do without most telephones.

Our few dollars earned in return for ten hours of hard work per day, six days per week, would barely buy for us the necessities that would keep us alive. Yes, we could have full employment; in fact, everyone capable of turning a hand must toil long hours to avoid falling behind in filling our minimum needs. Unemployment, the plague of our system, would be banished.

We need not think of the luxuries that today many take for granted, the nonessentials that bring us ease and comfort, excess weight and often discontent. We could easily do without air-conditioning, for example and, of course, without refrigerators and bathtubs. We do not need mechanical dishwashers, nor driers, electric and gas ranges, washing and clothes-drying machines, nor electric irons and fans, carpeting and linoleum. Quite surely we could survive without radio, television, motion pictures, record players, recorders, wigs and guitars. Except for a desire for useless speed we could bypass the aeroplane, the automobile. Our children do not need to be smothered in toys, pacifiers and other distractions, nor need they be bundled in superwarm sweaters, jackets, galoshes. Only in cold weather do they need shoes or wraparounds. They can also do without candy. Our women could do with fewer gowns, as they now do without hats; fewer oddly turned and styled shoes. Perfumery, sprays and cosmetics are frills and mirrors of vanity, not necessities.

We could indeed survive without a clutter of newspapers, magazines and their advertisements that only stir up desires that could not, in any event be filled. If other peoples can be regarded as an example, we could revert to the scarcity level of per capita consumption that prevails for the hundreds of millions of people in Asia. There can be little doubt that we could make do with some 90% less of goods that merely cater to our secondary desires, comfort, convenience and ease, or to our sense of beauty or our craving for variety, new experiences and our dedication to movement, speed and excitement.

Biologically we do not need those goods and services that other people in much greater numbers than our 200 million, do not have the means to have and enjoy.

To repeat, we could conceivably revert to low enough a level of productivity to assure full employment even if our consumption of goods and services were slashed 90% from present levels. For such a negative miracle we need only roll back our technological advancement to the level of most of mankind. Our per capita gross national product in 1969, for example, was $4,600; that of India, $84.

Would we wish to take that course?

We, of course, may or may not be the happier for all our relative affluence. It is possible that we can also boast of more psychiatrists per capita than most of the rest of the world. Yet, on balance, it seems that the answer to the question might tip in our favor. A possible test, without an international poll, might hint at the answer. The peoples who live at or near the subsistence level might be asked whether, if they had the choice, they would elect to exchange their lot for ours. In turn we might be asked: if the reverse opportunity presented itself, would we elect to exchange our lot with those who dwell at the subsistence level.

Even in an uncertain world the answer seems quite certain.

Assuming that the preference would lean to our side, a more relevant question to the purpose of this analysis, would be what made the difference between our productive level and the retarded pace until recently of even the other more advanced industrial countries, not to mention the ⅔ of mankind who subsist at the level of bare essentials.

This difference may or may not have a meaning. There are those indeed who hold that the productive system we developed is not a blessing but a veritable curse upon man, and will sink mankind. They see this system as oppressing the human spirit and worthy of nothing so much as a complete overturn and redirection.

Whatever may be said of these bitter assessments, we do not find in them the explanation of the difference that in time sent the lagging countries in eager pursuit of our economic system, despised as it may be in some quarters.

First off, it must be said, the difference lay not simply in our rapid technological development. After all, the Industrial Revolution antedated our great industrial departure by a century or more. Moreover, some of our inventions and discoveries did not cause a sudden blooming of production. The steam engine, the telephone, electric lights, not even the automobile, although making important contributions, did not of themselves launch our unique system of production.

Indeed the system was never pre-blueprinted. There was no comprehensive vision before the fact. We did not know from decade to decade what our destination was to be; and of course, we do not yet know what lies in wait.

Nevertheless several attitudes and courses of action became accepted as guides as we moved "forward". Those who studied the trends and were affected by them, and who gained the ear of the public and of the national legislature pressed basic policies in particular fields, such as anti-monopolization of production and commercial enterprise. One early result was the Sherman Anti-Trust Act of 1890.

This was a basic commitment of national policy, vital to the course we were to follow to mass production which was only in the bud.

Yet, the background of our canvas was much broader. We have to accept as given certain mental dispositions that guided us. By religion, by pragmatic observation, and by origin of our early European stock we were toil-willing, rough and ready. This disposition is now called the "work ethic"—held a blessing by many and a curse by some. We were little conscious of it at the time. We were what we were and we did what we did, no doubt with abundant deviation, what we were supposed to do, determined to an extent by a search for a better life than what we had left behind. In this framework private aspirations were free to seek far horizons.

Among other heritages were the profit motives and private ownership of the instruments of production. Individuals, depending on their endowments, vision and energy, could become veritable empire-builders in so richly endowed a land. The gateways were open wide and inviting to men of strength, ambition and, of course, greed. Great exertion could lead to great bonanzas.

However, invocation of another element, namely, the democratic form of government, insured the fashioning of restraints on the excesses that otherwise might have left the public interest destitute. The Sherman Act was followed within decades by the Clayton Act, the Federal Trade Commission and Robinson-Patman Acts, all against monopoly.

These laws attested to the concern for preservation of our system for the greater benefits of all the people.

Yet, not all the components so far mentioned accounted for what was to follow. Many of these constituents were indeed indispensable to the new system. We may still add general commercial honesty, credit financing, education, administration of justice, as other ingredients. However, we had these in common with European and other countries. For differentiation from them we needed something yet more decisive.

This was discovered over a period of time, much as a slow dawn rising out of the dark. As we were making great strides toward mass output of goods, it became evident through the overcast as it were, that mass production needed *mass consumption* as a corollary if mass production was to survive.

An early token of recognition came from Henry Ford when he instituted the $5-per-day wage. Mass production could sharply reduce the cost of his product, but what would it avail him if he built hundreds of thousands of cars if only a few potential consumers could buy them?

Here was the real key to what was to unfold later. *Mass production must be matched by mass consumption.* In that equation lay the dreams of a new line of prospectors for bonanzas richer by far than the golden nuggets and silver lodes of the West! Great industries could be envisioned and brought into being!

Why was this formula not visible to the Europeans and the Orient? The Europeans were trussed in a traditional attitude toward wages, inherited from the feudalistic serf-philosophy of the ruling classes. Wages were to be kept as low as possible. This view long had the support of foremost British economists.

The recognition of the vital link between production and consumption did not, for all that, represent an instant awakening even in this country. Furious battles, principally verbal and political, raged over the issue in the United States; but in time the connection became all but self-evident.

Employee compensation became recognized in this country as the veritable embodiment of an expansive market for the goods and services that could aspire to fill it.

Technology assured more and more production at lower and lower costs. Higher wages, in keeping with higher productivity per man-hour, would assure absorption of the goods streaming from the production lines. Indeed the formula became quite simple: invent or discover a new product for which a potential demand exists because of human needs, desires or fancies; patent it, finance its development, test the market and move into mass production if the public response suggests it; bring down the cost within range of the mass pocketbook. The national market then becomes a reality. The patent-owner, however, knows that when his patent runs out other producers will enter the field. Since he cannot get a new monopoly he seeks to reach the mass market through cost reduction before the gates are flung open for competition. This is always a crucial stage.

The spectacle of a bonanza awaiting a successful pursuit of the formula became almost commonplace. Every human desire was assayed like so much raw ore to test the potential demand for some device or material that might gratify it. Human desires, it was surmised, were indefinitely expansible and therefore offered a national market for anything that had the credentials to cater to it. The surmise was ratified by successive experiences.

Yet a desire by itself was not sufficient. Two conditions must be conjoined to precipitate sales. The price must be low enough to meet the condition of the popular pocketbook and the thicker that pocketbook the brighter the outlook. While a mass of people is necessary for a great market the mass does not of itself make a good market unless it is backed by good income. Otherwise China should be the greatest market in the world.

Money-backed demand, in turn, comes from production. Mass production, backed by good wages, creates the necessary purchasing power to move the goods.

Yet, increased purchasing power does not greatly expand the demand for the *necessities*. As long as people are alive they already consume nearly all the necessities they can use. There is only one stomach per person and it is soon filled. It cannot hold several meals at the same time; but while there are only two feet, any number of shoes can be worn in sequence. Also, one body can wear an endless number of changes of dress, gowns, suits, ornaments and accessories. It is in this field of goods, consumable over and beyond the essential, that an economy flourishes, assuming that it is irrigated by adequate consumer income.

Here then lies the great difference that marked our departure from other industrial economies. By virtue of its discovery of the formula here described the United States became the unsung pioneer in the quest for material abundance in the world. Thus incidentally was Marxism outflanked.

After World War II the war-battered nations, weary, distracted and torn, sought means of recovery and rehabilitation. The United States loomed as the source of the productive power that had swung the tide of battle. Those of the leading industrial countries that were still capitalistic were impressed with our productive prowess, and moved to adopt our system. We extended a willing hand.

The Marshall Plan and its sequelae after a decade or two brought a veritable procession of nations toward mass production, and a dismantling of some national compartments that stood in the way of mass markets. Veritable miracles of rising productivity were performed in the next few decades.

Before long we were confronted with something we had not yet encountered at home in the ominous form it now loomed before us. Not only had the phoenix risen; it was about to overshadow us with its wings. Production expanded so greatly the industrial countries became hungry for foreign markets for their surplus output. They had not yet fully implemented the worker-payroll side of the equation.

With the third decade after World War II their goods invaded our market with a cost advantage that we could not overcome. Their higher productivity joined to still lagging wages pressed heavily on our market with a competitive bite for which, within the confines of our trade policy, we had no effective medication. We had all but dismantled our tariff. Many of our industries looked overseas seeking havens of cheaper production costs. If they could not export to many markets they could at least sell to them from within. The *multinational corporation* became a newcomer to our economic dictionary.

Now there loomed a real dilemma. To remain competitive in the domestic market against the eager imports we must refurbish out our own much vaunted efficiency. Apparently we were being badly outpaced, or at least undersold and therefore outpaced, if the wage-differential was left out of account. The pressure mounted. Yet there was really only one way to reduce costs substantially, and that was through labor displacement by ever more productive machinery. This follows from the widely unknown fact that in this country employee compensation plays a major role in corporate costs of production. The proportion is from 75%–80% (average). No substantial cost reductions can be made without reducing the payroll.

The dilemma is sharper and more intractable than is usually realized, ensconsing a veritable paradox. How, for example, achieve full employment through forced labor displacement?

We have before us the towering fact that we created the mass market precisely by the route of throwing people out of work through mechanization. Why can we then not meet import competition in the same way? A fair question, and it demands an answer.

While mechanization caused unemployment at home, the widened consumer acceptance of the product at the lower prices achieved led in a few years to more jobs. Fortunately the disruption through displacement was not simultaneous among the various industries. Different products were in different stages of development. Displacements in one industry were more than offset by expansion of others that had already met the market test and gained a national market.

Had our economy, however, been based simply on the production and consumption of necessities expansion could have found no footing. A reaper and threshing combine might displace workers, and thus reduce the cost of wheat flour, but the displaced workers would remain displaced because consumers would not eat more bread, cake or biscuits.

If ours were an economy based simply on the production of necessities the impact of imports could be measured quite readily. If we should produce 1½ billion bushels of wheat per year and imported 100 million bushels, the displacement could be determined without too much difficulty. Should imports, however, rise to ½ billion bushels or more our wheat farmers would become deeply alarmed. A third of our wheat farmers would face ruin and many farm workers would be displaced, just as surely as farm machinery displaced them; and with no more assurance of finding reemployment.

Nevertheless the harm would be small compared with the effects imports may produce in the area of *nonessential* goods. Wheat-growing has no growth potential to be snuffed out, remotely comparable to that attributable to the invention and development of products that do have a great growth potential, such as had electric lights, telephones, automobiles, refrigerators, radios, and scores of other products. Such products may indeed proliferate to an embarrassing degree, but meantime unlike wheat or corn, they may generate tens of millions of new jobs.

Import competition that simultaneously and on a wide front strikes an economy such as ours, which depends only slightly on the market for *necessities*, may produce a devastating effect, depending on the particular products, their stage of development in this country or their susceptibility to further development if already established, and, of course, on the price of the imported product.

Low-cost imports may indeed defuse one potential growth industry after another or drive them overseas if the imports are not impeded by patent protection or other form of restriction.

The job recoupment and augmentation that followed domestic cost reduction, as described above regarding the nonessentials, leading to greater employment, cannot occur if imports have the right of way, and can head off the patent owner here in his own market. To be sure, if the market is not yet saturated consumption will increase as cheaper imports can be bought, but the added employment that once occurred here now largely takes place abroad. Employment in the industry here either remains static or goes backward. Meantime more new workers come on the scene. The displaced workers as in the case of the farm workers remain displaced because little or no increase in consumption of the *domestically-produced* product occurs. Thus imports that hinder our own developmental progress as a job breeder through new products and new industries, repeat the job disaster of the great production miracle of our agriculture during the past generation. The seven or eight million farm workers who were displaced by farm technology remained unemployed because cost reductions did not beget greater per capita consumption for reasons already noted.

Not only were the farm workers evicted but our agriculture did not hire its share of the added workers coming from population growth. Had the remainder of our economy—the part devoted to the production of nonessentials—not boomed and so absorbed many of the displaced workers we would have been swamped by unemployment.

Whereas our economy was rescued from the ruin that would have been visited upon it by the "miracle" of agricultural productivity by our other economy, i.e., that devoted to the nonessentials, there is no such escape from the usurpation of our market for the nonessentials themselves by imports. We do not have a third world of production, much as some economists point to the service occupations as providing such a haven.

To be sure, patent-holders may save themselves by setting up production abroad or licensing foreign use of the patents; but that does not restore to the domestic front the benefits that accrued to it in terms of employment when the development of the product and its increasing production took place here. The lower costs achieved abroad and the importation of the cheaper goods will, of course, increase domestic consumption, as already noted but American labor is left behind, as are the prospects of full employment.

In this respect imports that head off the development of domestic growth industries, and innovations applied to established products, produce the same effect as the displacement of farm workers by technology. While in the case of imports domestic consumption may increase because of the lower prices and an elastic demand, the growth factor is skimmed of the top by imports, and the market potential for the *domestic* product is reduced to the same flat level as the market for essential agricultural products. The great employment potential of our patent system is thus vitiated. The employment value that resides in elasticity of demand for nonessential goods is transferred abroad. We have left to us the flat land of employment stagnation.

If we have no stomach for a retreat to the drab subsistence level of life or even very far from the present enjoyment of nonessential goods we must look to our home front and restore the conditions that led to the development of mass production and mass consumption. What other course will lead to jobs for millions of new workers? Retreat from foreign investment is not imperative nor a heavy rollback in imports; but until foreign wages catch up with the newly achieved foreign productivity, thus providing the basis for adequate mass consumption abroad, we will be outflanked by our own progeny—that is, unless we adjust to the new reality.

CONSUMERISM AS A CAMPAIGN ISSUE

(Mr. DELLUMS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DELLUMS. Mr. Speaker, perhaps no other issue has more wide ranging appeal than that of consumerism. In the interest of aiding candidates who wish to discuss consumerism on a substantive rather than purely rhetorical basis the Congressional Action Fund has prepared the following fact paper on consumer hazards and major reform proposals. All those running for office would be wise to acquaint themselves with the facts on the problems facing the American consumer today and what remedies are in sight.

The paper follows:

CONSUMERISM

NOTE.—This chapter was prepared by Stephen D. Brown, a student at the University of Wisconsin (Madison) and staff assistant to Ralph Nader. Editorial assistance was provided by Ellie Stengel, a staff member with Consumer Union in Washington, D.C.

"Consumers, by definition, include us all. They are the largest economic group in the economy, affecting and affected by almost every public and private economic decision. Two-thirds of all spending in the economy is by consumers. But they are the only important group in the economy who are not effectively organized, whose views are often not heard." (President John F. Kennedy, *Special Message on Protecting the Consumer Interest,* March 15, 1962).

A candidate for public office will find consumerism an important campaign issue. If properly publicized and presented, it will evoke wide appeal, for there is general agreement on the need for safer automobiles, improved household appliances or higher quality food products. A strong voice representing consumer interests is a strong voice before any electoral group.

CONSUMER HAZARDS

The following statistics[1] relate to consumer products, defined by the National Commission on Product Safety (1970) as, "including all retail products used by consumers in or around the household, except foods, drugs, cosmetics, motor vehicles, insecticides, firearms, cigarettes, radiological hazards, and certain flammable fabrics."

Overview: Each year twenty million Americans are injured seriously enough to require medical treatment or be disabled for a day or more, in their homes, as a result of incidents connected with consumer products. Of the total, 110,000 are permanently disabled, 585,000 are hospitalized and 30,000 are killed. A significant number could be spared if more attention were paid to hazard reduction. The annual cost to the nation of product-related injuries exceeds $5.5 billion according to the NCPS study.

The role of specific products is, however, difficult to define. The estimated 6,200 killed by home fires and 1,300,000 injured by burns received at home leaves open the question of cause: matches, stoves, wiring, fabrics, or cigarettes? Home-falls kill about 12,000 a year and injure 6,900,000, but again the precise causes are uncertain: high heels, loose treads, rough floors, flimsy ladders, worn stairs, slippery floors, torn carpets, alcohol?

Every hour of the day, on the average, household hazards in America kill three victims. For every one they kill, more than 1,000 suffer injuries. The injuries restrict activities of about half of the victims and force a third of these to take to bed to recover. A tenth of the bedridden require hospital care. Injuries around schools and vacation homes or in recreational areas add to these numbers substantially.

Injuries at home account for more than half of the total that do not involve transportation. The total injured at home is more than four times as many as those injured on highways, more than twice as many as those injured at work. Deaths on highways, however, are double those at home.

The most dangerous years are below age 15. Approximately 7,000 children under 15 die each year in home accidents—a death toll higher than that of cancer and heart diseases combined. More than 2 million children every year are injured while using bicycles or playground equipment.

In the lowest income groups, household risks injure far more women than men, but above middle-income, men are injured more. About a third of the deaths from household hazards occur in kitchen and living-dining areas. Stairs account for about 1 in every 20 deaths from household hazards, and slightly fewer deaths occur in the bathroom. Falls figure in half of these deaths, fires or suffocation in a third, poisoning in about 1 in 20.

The following statistical summary of injuries associated with consumer products is based on HEW estimates:

INJURIES PER YEAR

Appliances (including burns from ranges, coffeepots, vaporizers, irons, sun and heat lamps and other sources, and injuries from wringer washers and other appliances), 500,000.

Cooking devices (including burns from skillets, pressure cookers, and injuries from other cooking devices), 150,000.

Kitchen gadgets and serving utensiles (including knives), 500,000.

Home furnishings (including beds, chairs, tables, stools, sofas, venetian blinds), 500,000.

Home fixtures (including windows, stairs, tubs and showers, doors—including glass doors, hot water in bathrooms), 2,500,000.

Yard and garden equipment (including mowers), 500,000.

Recreational equipment (including swings, slides, seesaws, stationary equipment, bicycles, tricycles, mobile equipment, skates, winter sports, baseballs, footballs, basketballs, other balls, camping, fishing, poisoning from airplane glue, hobby equipment, toys), 8,000,000.

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[1] Unless otherwise indicated, these statistics were released by the NCPS under the title "Final Report of the National Commission on Product Safety," June 1970 (Gov't Printing Office).

Incinerators: burns from, 50,000.

Flammable liquids (including gasoline, lighter fluid, poisoning from lighter fluid, kerosene, turpentine), 125,000.

Heating devices (including burns from furnaces, hot water heaters, room heaters, floor furnaces), 175,000.

Home workshops (including power saws, power drills), 125,000.

Home tools (including ladders, saws, hammers), 750,000.

Laundering, cleaning, polishing products (incl. poisonings from soaps, detergents, cleaners, bleach, disinfectants, deodorizers, furniture polish, lye and corrosives), 250,000.

Flame producing devices (burns), 75,000.

Clothing injuries other than burns, 200,000.

Cosmetics (incl. perfume, toilet water, lotions and creams), 60,000.

Personal use items (incl. shaving equipment), 50,000.

Pesticides (incl. poisoning from insecticides, rodenticides), 75,000.

Containers (incl. cans and jars, bottles), 250,000.

Total injuries, 14,985,000.

Statistics about selected consumer products (investigated by the NCPS):

Architectural Glass: The glass door is a classic example of a product which predictably will be "misused". Every year about 150,000 victims of broken windows, doors, or glass walls discover that what they can't see *can* hurt them. About 100,000 walked through glass doors last year, probably believing the space to be open. If the doors had been safety glazed (tempered glass, or molding on a wire mesh, or lamination on a plastic core), most of the serious injuries would not have occurred.

Color Television Sets: Among the 85 million TV sets in the United States in 1969, including about 20 million color sets, about 10,000 sets caught fire. Most of the fires were in color sets: the incident rate for color versus monochrome was found to be on the order of 40 to 1. The reason for the higher rate of fires in color sets is that they require up to and sometimes more than 25,000 volts. If conductors in the set are not well insulated, the high-voltage forces a short circuit. Resistance to this flow of current builds up temperature to the flaming point.

Fireworks: Fireworks each year cause from 5,000 to 15,000 injuries and some 25 deaths. About 90% of the injuries occur from personal-use fireworks; others result from public display and homemade fireworks. About 43% of the persons injured are said to be between the ages of 10 and 20.

Glass Bottles: Insurance companies reported more claims related to glass bottles than to any other consumer product. Some 5,000 to 7,000 injuries are reported annually. In 1968 bottlers filled more than 30 billion glass containers. (The figure is much higher in 1972.) Of the 430 closed cases on bottle injuries reported by insurers, 80% required medical treatment, many times involving loss of vision, disfigurement, or permanent disability.

High-Rise Bicycles: 70% of bicycles sold in 1968 were high-rise styles (*i.e.*, bikes with raised handlebars). Collisions between bicycles and automobiles alone caused 800 deaths and 38,000 injuries in 1968 (a significant increase from 1967). The Public Health Service estimates that bicycles are associated with approximately 1 million injuries each year, including 120,000 fractures and 60,000 concussions. High-rise styles, with only 45% of the total riders, accounted for 57% of the injuries. (National Safety Council.)

Household Chemicals: Because young children are curious, household chemicals pose a major hazard. Children may suffer chemical burns (from strong detergents) and furniture polish may produce chemical pneumonia if even a small quantity gets into the lungs. Based on tabulations of the Nat'l. Clearinghouse for Poison Control Centers, ingestions of potentially harmful household substances range from 500,000 to 1 million a year.

Infant Furniture: In cribs and playpens, too much space between slats can be a death trap for children who catch their heads in the opening, which admits the body but not the skull. Most of the victims are less than 5 years old. 60% of the injuries were of the head or face (lacerations, contusions, and abrasions). Ill-designed highchairs, play chairs, or dressing tables increase an infant's chances for a bad fall. 1,750,000 infants, or just under half of all current births, will annually sustain at least one bad fall during their first year of life. Skull fracture, nerve damage, and permanent brain injuries have been observed. (Study by Dr. Harvey Kravitz, Northwestern University Medical School.)

Ladders: From 125,000 to 200,000 injuries and 400 to 600 deaths are caused annually by falls from ladders. A NCPS survey of closed insurance claims ranked ladders high among categories of hazardous products: stepladders were eighth, straight ladders 11th. Some studies show ladders accounting for as much as 12% of fatal falls in the house. (NCPS Hearing, Dr. Edward J. Fairchild testimony.)

Power Tools: 125,000 do-it-yourselfers are injured each year from power tool hazards. 75% of victims of powersaw accidents experience severe lacerations mostly to the hands and 11% amputations, usually fingers. In addition to the danger of lacerations is the hazard of severe shock from improper insulation within the tool or the wall socket (where a three-pronged plug with ground wire is needed for full safety).

Protective Headgear: 70% of the 1,359 motorcycle deaths in 1965 resulted from head injuries. Football players in the United States annually suffer from 250,000 to 500,000 brain concussions during play. Of these, 5,000 to 10,000 have serious effects at once. Approximately one player of every six suffers a concussion. Each year, head injuries kill about 15 players.

Rotary Lawn Mowers: Each year the estimated rate of injury is about 150,000 (HEW estimates). About 70% of the injuries from power mowers are lacerations, amputations, and fractures that result from the cutting and crushing action of the fast whirling blade. In addition, there are high-velocity ejections of wire, glass, stones, and debris that can puncture vital body parts.

Toys: U.S. Public Health Service estimates that toys injure 700,000 children each year; another 500,000 a year are injured on swings and 200,000 on slides. Injuries from toys often result from predictable misuse. But statutory law has been no more successful than common law in reducing undue risks in toys. The Federal Hazardous Substances Act doesn't provide for mandatory standards of safety for toys or for proscriptive restraint of hazards before the toys are marketed. Nor has the Act been vigourously enforced.

Other Categories:

Lead Paint: responsible for more than 100 deaths and substantial mental retardation every year among children who eat flakes of paint in old buildings.

Eyeglasses: safety glasses would prevent 90% of the eye injuries at home and at school. Of more than 160,000 school-children who suffer eye injuries each year, 20,000 are hurt wearing ordinary crown-glass lenses on the playground.

Swimming pools: Yearly drownings are approaching 1,000 in the home backyard swimming pools.

Boats: there are nearly 10 million recreational boats in the United States, and in 1967, 4,113 accidents took the lives of 1,312 users.

Cosmetics: injure 60,000 persons (mostly women) annually so seriously as to restrict activity for one day or require medical attention. Injuries include skin eruptions, loss of hair, severe allergic reactions, burns, itching, and lacerations.

There are also social costs of injuries, "including actual millions of dollars unrealized as income taxes as a result of preventable deaths and injuries: $446 million in public expenditures representing 1.7 percent of the current expenditures for health care. Injuries caused 2.1 percent of hospital admissions, filling 18,782 beds for acute care, a number equal to the annual construction of such beds at a capital expenditure of $600 million. The loss to society is tremendous." (Senator Percy in the *Congressional Record*, vol. 118, pt. 17, p. 21852.)

1. Senator Hart[2] talks about needless consumer spending:

At least 10%, and perhaps as much as 30% to 40% of all consumer spending is wasted on excessively priced and deceptively advertised products, and improperly performed and unneeded services.

Deceptive labeling costs an estimated $14 billion (11% of all grocery shopping) in overspending.

Monopolistic pricing costs consumer $45 billion a year.

Automobile repair and maintenance, improperly done, unneeded, or not done at all, costs the consumer $8 to $10 billion per year.

Oil import quotas have increased the cost of fuel oil by an estimated $5 to $8 billion.

Unnecessary insurance coverage (duplicated by more than one policy) costs the consumer an estimated $1 to $3 billion per year.

2. Senator Hart's subcommittee has estimated that 11% of total consumer spending represents overspending which does not include criminal price fixing, lack of product innovation and inflation.

3. $1 billion is spent annually on worthless or misrepresented medical devices and drugs. $300 million is spent annually on worthless arthritis remedies such as "alfalfa tea," "radiation" treatments, copper bracelets, etc. (Testimony of Virginia Knauer, Director, President's Office of Consumer Affairs; before Senate Commerce Committee, December 1969.)

4. The Office of Consumer Affairs [in the New Executive Office Building] receives over 2,000 complaints per month. The FTC receives 1,200 per month. But the White House has no authority to adjust complaints and the FTC may only issue cease and desist orders. (Senate Commerce Committee hearings on Consumer Protection Agency, December 1969 and February 1970.)

MAJOR PROPOSALS

The need to reverse this record of consumer neglect is clear. The Congress is currently considering four major proposals to safeguard consumer interests: the Consumer Product Safety Commission bill which establishes an independent federal agency to represent consumers; no fault legislation which would apply the requirements now in effect in Florida and Massachusetts to the nation as a whole; the Consumer Products Warranties and FTC Improvement Act designed to protect the buying consumer; and the Consumer advocate bill which would establish an ombudsman post within government to represent consumer interests in all agencies and departments—much as the General Accounting Office does in matters of auditing.

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[2] Testimony before Senate Antitrust and Monopoly Subcommittee, March 7, 1970.

A brief description of each proposal is presented below, with arguments pro and con:

Consumer product safety commission

Pressure is strong to create an independent Federal regulatory agency which would take the place of the Food and Drug Administration. A Senate bill, S. 3419, was approved by the Senate on June 21st by a vote of 69 to 10. Under Title 1, the bill creates an independent Food, Drug and Consumer Product Agency which would establish and enforce regulations to protect consumers against adulteration, misbranding and illegal distribution of food, drugs, devices and cosmetics and against injury from the use of hazardous consumer products when such hazards could be reasonably eliminated or minimized. The Agency would have the authority to set product safety standards with provision for public comment and judicial review, and independent testing labs would be able to contract with the Agency to conduct product safety studies.

Title II transfers all functions of the FDA to the Agency, thereby abolishing the FDA. Title III deals with product safety and authorizes the agency to ban products whose risks could not be made reasonable by establishing safety standards and having products taken off the market which do not conform to established standards. Private citizens would be allowed to bring suits in certain cases to seek injunctions against manufacturers not complying with established standards, or to recover damages. Civil and criminal penalties for violations of existing standards would be set. The importation of any product which does not meet standards comparable to those set for domestically produced consumer products is prohibited. Title VI requires labeling, including warnings, of cosmetics. Under Title V, manufacturers must conduct pre-marketing screening tests for all products that might contain toxic or corrosive substances, and established a registration mechanism for such products.

Under the House bill, H.R. 15003, which is similar to S. 3419, the independent agency would have jurisdiction over consumer products only, excluding food and drugs which are left within FDA. H.R. 15003 also has a somewhat broader definition of "trade secret", or that information protected from public scrutiny.

Opinion differs on a number of features of the legislation. Consumer advocates want an independent Federal regulatory agency while the Nixon Administration, business and industry groups want consumer protection programs to remain in HEW. They also want business to be guaranteed a voice and impact in setting safety standards, whereas consumer advocates would permit the commission to set standards and decide for itself whether or not to use industry standards. In the matter of enforcement, the Nixon Administration wants the Justice Dept. to handle all legal battles and wants no criminal penalty provisions. Consumer advocates want the Agency to be empowered to bring civil suit or criminal action against violators of its consumer product safety standards. The advocates are in favor of a broader scope of coverage for the agency than is the White House. The former want the commission to have control over food, drugs, and consumer products (as in S. 3419), while the latter wants its jurisdiction restricted to consumer products alone (as in H.R. 15003).

No fault

The rising cost of auto insurance has engendered wide-spread public support for reform of the fault-based system and no fault auto insurance is the leading approach being considered in state legislatures and in Congress. No fault has attracted the support of a variety of prominent consumer, labor, and business groups [list] and is being opposed primarily by [list].

Proponents believe that the existing system needs prompt overhauling, that no fault would provide the broadest coverage combined with lowest rates, and that the states have shown that they are unlikely to act. A large number of lawyers are in state legislatures, many of whom engage in, or are sympathetic to those who engage in accident litigation. Opponents argue that the subject is so complex that the states should test various solutions before a national plan is imposed. They challenge predictions of rate reductions and predict higher premiums instead. In addition they contend that the rights of automobile victims would be curtailed and that the proposal is designed to benefit stock insurance companies.

In the House, hearings were completed in 1971 before the Commerce and Finance Subcommittee of the House Interstate and Foreign Commerce Committee, but the bill is given little chance of committee mark-up or floor passage this session of Congress.

In the Senate, S. 945 was reported by the Commerce Committee on June 20, 1972 but was indefinitely tabled by a vote on the floor. Under S. 945, benefits would be paid to automobile accident victims regardless of fault and lawsuits are preserved only in those situations producing serious injury. It would require states to adopt a no fault insurance plan meeting minimum federal standards and to put such a plan into effect within two years of enactment of the national bill. If a state refuses, the federal no fault requirements automatically would become effective. The state would, however, still regulate the federally established plan.

Consumer Product Warranties and FTC Improvement Act

S. 986, the Consumer Product Warranties and FTC Improvement Act, passed the Senate on November 8, 1971.

A large volume of consumer complaints deals with the problem of repairs and consumer dissatisfaction with coverage under warranty. Warranty legislation was introduced to meet four basic needs: 1) the need for consumer understanding of terms of warranties, 2) the need for minimum warranty protection, 3) the need for assurance of warranty performance, and 4) the need for better product reliability.

S. 986 provides for both full and partial warranties for a product as long as they are cleared independently. Products of $5.00 or more in value must carry an easily understandable warranty explaining the conditions and duration of its terms, and a disclaimer of implied warranties is prohibited. Suppliers offering full warranties must repair or replace malfunctioning or defective products within a reasonable time and without charge. Customers may bring suit in state courts, or in Federal courts if the total damages are $10,000 or more. Violation of the warranty law is a violation of the FTC Act. Therefore, regular FTC procedures (cease and desist orders) could be applied to violators. The bill also authorizes the FTC or the Justice Department to seek a permanent injunction to keep the warrantor from making a deceptive guarantee.

In the House, a bill similar to S. 986, H.R. 4809, has been introduced and is awaiting mark-up by the House Interstate and Foreign Commerce Committee.

Proponents and opponents of the legislation argue about the breadth of warranty coverage. Consumer advocates say that it should cover all warranties, written and oral, regardless of the value of the product. The Nixon Administration says that only written warranties should be covered.

Included in this legislation are provisions which would broaden the powers of the FTC. The FTC jurisdiction would be expanded to cover all acts and practices "affecting interstate commerce", and the FTC would have the authority to seek preliminary injunctions to stop unfair or deceptive practices. In addition, the agency would be authorized to issue substantive rules that would have the force and effect of law, rather than serving merely as guidelines to industry. It would be allowed to initiate civil lawsuits to recover penalties from any firm knowingly engaged in unfair or deceptive practices, and to seek penalties up to $10,000 for violation of cease and desist orders, rather than referring cases to the Justice Department.

Consumer advocates and the White House differ on two central issues. Consumer advocates argue that the FTC should have rule-making powers and that the FTC should be empowered to go into court to enforce the FTC orders and subpoenas. The White House argues, with the agreement of business, that the FTC should not have rule-making powers, that each item should be handled on a case-by-case basis. The White House also wants the enforcement power to be in the hands of the Justice Department exclusively rather than in the hands of the FTC.

Consumer Protection Agency (or the consumer advocate bill)

This bill is often confused with the Consumer Product Safety Act. However, the provisions of this act are to empower a "roving" consumer ombudsman and advocate to represent consumer interests in *all* Federal departments and regulatory agencies. This is not to be confused with the Consumer Product Safety Act which sets up a *new* Federal regulatory agency, like the FTC, FCC, or ICC.

On November 14, 1971, the House passed H.R. 10835 which establishes a Consumer Protection Agency with an Administrator and Deputy-Administrator appointed by the President and confirmed by the Senate. It authorizes the Agency to represent consumers in formal proceedings conducted in other Federal agencies, and provides for intervention as a party in any non-punitive adjudicative proceeding. In punitive proceedings, it may participate as *amicus curiae*. The agency may also intervene in or institute a court review of a proceeding by another Federal agency in which it had participated, and in certain instances, intervene in a situation in which it did not participate.

The Senate bill, S. 1177, reported by the Government Operations Committee, is much like the House bill with several exceptions. The Administrator has the right to participate in informal, as well as formal, hearings in Federal departments and agencies and all Federal agencies must give advance notice to the Administrator of informal hearings. In addition, the Administrator has the right to go to court to enforce his authority to intervene in informal proceedings. He also has independent discovery powers and may conduct his own investigations.

The issue of participataion in informal hearings is one on which opinion is sharply divided. Consumer advocates argue that this right is a necessity for adequate consumer representation. The White House says that the requirement is "superfluous" and "an unmanageable burden". Consumer advocates and the White House also differ on the issues of enforcement powers and discovery power. The former say that the Administrator must have the right to go to court to enforce his authority to intervene in informal hearings and that independent discovery power is necessary. The latter would withold the power to enforce and to make independent discovery investigations adding that such discovery power will encourage "free-wheeling investigations".

PROBLEMS OF WELFARE REFORM

(Mr. DELLUMS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DELLUMS. Mr. Speaker, one of the most pressing problems facing the country today is welfare reform. Yet probably no other problem has been so obscured by self-serving rhetoric and conscious demagoguery.

There are two ways to approach the problem of welfare. One way is to assume that the cost of the welfare program is the main drain on the country's resources, and that the corruption caused by welfare is the main cause of the country's sickness. Many people who should know better have adopted this approach for reasons of their own.

The alternate approach is to accept the goal of caring for the old, the sick, and all our fellow citizens who through forces beyond their control are unable to compete in the fierce battle for survival that the rest of us are so proud of winning. We accept this goal not in the grudging spirit of patronizing charity, but to avoid the shame of indifference and denial.

This approach concentrates on the people that we do not want to lose. It is opposed to the approach of increasing people's sense of being cheated by those whom, outrageously, we think of as luckier than we are, because they do not have to work.

To those of my colleagues who still remember the original ideals of the welfare program and the hope that this Nation could be a real community, I offer the following analysis, prepared by staff members of the congressional action fund. It avoids rhetoric and concentrates on some of the hard questions of welfare reform. It is an important contribution to the job of creating a decent and humane system of welfare.

WELFARE REFORM

NOTE.—This chapter was assembled by CAF staff from materials supplied by Professor Lee Bawden of the University of Wisconsin (Who Are the Poor), by Henry Aaron of the Brookings Institution (Federal Welfare Programs), by Professor James Lyday of the University of Minnesota (Analysis of H.R. 1), and by Jodie Allen of the Urban Institute (Section IV).

WHO ARE THE POOR?

Each of us has in our mind a picture of "the poor". One may think of him as a Black in the ghetto of a big city, another may have the picture of a white alcoholic on Skid Row, and yet another may think of a mother left by her husband to raise a large brood of kids. But the poor cannot be stereotyped: poor people come in all sizes, shapes, and colors, and it is revealing and sometimes surprising to find out who they are.

While the percent of blacks who are poor is more than twice that of whites, three out of every four poor persons in the United States are white.[1]

Actually, the highest percent of "incidence" of poverty occurs among "the original Americans." A 1964 survey revealed that 74 percent of families living on Indian and Eskimo reservation had incomes under $3,000.

The aged make up a disproportionate share of the poor. The incidence of poverty among households headed by a person over 65 years of age is three times that of households headed by a person under 65. Also, persons living alone are three times more likely to be poor than those who are part of a family. It is an indictment against our old-age programs to find that every other person over 65 years of age and living alone is poor.

Households headed by a female are also more prone to be poor: nonwhite households are more than twice as likely—and white households more than three times as likely—to be poor than if headed by a man.

It is common belief that people in the central cities have the greatest likelihood of being poor, but evidence refutes this. In 1964 it was found that the incidence of poverty was 29 percent on farms, 23 percent in rural towns and small cities and only 17 percent in the central cities, and a low seven percent in the suburbs. Of all the people classified as poor in the United States in 1964, a surprising 40 percent of them lived in farm and rural nonfarm areas and only 30 percent resided in cities over 50,000.[2]

A study of the work habits of the poor is also quite revealing. In 1967, 29 percent of the poor were in households headed by an aged (over 65) or disabled person. As expected, this group had a low rate of labor force participation. Another 28 percent of the poor lived in households headed by a female younger than 65. Despite the fact that many had preschool children, that the AFDC program then discouraged working by imposing a 100 percent tax on earnings, and that in many areas full-time wages for untrained women are less than the AFDC payments, nearly one-fourth of the women held full-time jobs and over a third worked part of the time.[3] Thus, less than one half did not work at all.

The remaining 43 percent of the nation's poor in 1967 lived in households headed by an able-bodied male less than 65 years of age. It is surprising to find that over 60 percent of these lived in households in which the male worked full time, and another 35 percent were in households in which the head worked part of the time. This leaves only five percent of the poor but able-bodied male heads less than 65 years of age who did not work at all in 1967.[4]

While the poor can be found with all levels of education, they are in general less well educated than the nonpoor. In fact, two thirds of poor family heads have no more than eight grades of education, while in the general population only one-third have not advanced beyond the eighth grade.

Today the poor number 25.5 million. Together with middle and lower-middle income Americans they receive benefits from the four major federal welfare programs: cash assistance, housing subsidies, food stamps or agricultural goods, and Medicaid/Medicare. Last year 13.8 million people received cash assistance, 2.5 million housing subsidies, 10 million food or food stamps, 18.2 million Medicaid benefits, and 16.5 million Medicare.

FEDERAL WELFARE PROGRAMS

Cash assistance

Public assistance, born in 1935 along with the social security system, was originally aimed at helping widowed mothers bring up their families during the Great Depression. But AFDC grew steadily during the post-war period and began serving families of a different sort: increasingly, the father was absent because of divorce, desertion, or separation. By 1971 only 14 percent of AFDC families were headed by widows or contained an incapacitated male; 76 percent were headed by women who had been divorced, deserted, separated, never married, or were otherwise living apart from their children's fathers. The remaining 10 percent were intact families.

Housing assistance

Since 1937 the United States has provided subsidized housing for low income families. The number of such families has always been vastly larger than the number of subsidized units. As late as 1970, 7.2 million families had incomes of $4000 per year or less, but only 695,515 low rent public housing units were available for occupancy, and only 69 percent were occupied by households with incomes below $4000.

Those welfare recipients who reside in federally assisted housing receive large additional subsidies. The average benefit under the homeownership and rental assistance programs is about $1000. The median rent supplement payment was $936 in 1969. The average benefit in low rent public housing was $803 in 1966.

Medical assistance

In 1971, 17 million people in 48 states and the District of Columbia were eligible for subsidized medical care under the Medicaid program. Most also receive cash public assistance. Under Medicaid, the federal government pays at least half and the states pay the rest of the cost of medical care for selected groups provided that the states offer certain basic medical services. These services must include inpatient hospital care, outpatient hospital services, other laboratory and X-ray services, skilled nursing home services for people 21 or older, home health services to those eligible for skilled nursing home services, and physician services.

Food assistance

Two federal programs provide low income families with free or subsidized food. Food stamps were available 10.5 million people in March, 1971; more than half also received public assistance; more than four million people eligible for food stamps because of low income were not receiving public assistance. Federal budget outlays for food stamps reached $1.6 billion in fiscal year 1971 and will reach $2.3 billion in 1973.

The older, but less important, commodity distribution program provides free food to many low income households in many areas not served by food stamps. Begun in 1935, commodity distribution served four million people in 36 states in March, 1971.

ANALYSIS OF PRESIDENT NIXON'S WELFARE REFORM PROPOSAL: H.R. 1

Under H.R. 1, the Old Age Assistance, Aid to the Blind and Aid to the Disabled programs become one program to be paid for and operated by the federal government. Basic eligibility is not significantly altered under the new program. Individuals who are eligible will be guaranteed that their total income will not fall below $130 a month. (Increasing to $150 a month in two years.) Couples who are eligible will similarly be guaranteed a minimum income of $195 per month (rising to $200 the following year). Some positive incentives to secure earned income are provided by exempting from the base upon which benefits are computed the first $60 of earnings per month, and one third of any additional earnings. (Slightly larger incentives are provided the blind and disabled.) *There is little controversy surrounding these provisions of the bill.*

The remainder of the bill is dedicated to welfare reform and is specified in the bill as "family programs". Simply stated welfare assistance among the rest of the population is restricted to those families containing minor children (less than 18 years old or less than 22 if remaining in school) whose behavior and income fall within the limits perscribed by H.R. 1.

These potentially eligible families are divided into two groups. Workers (or potential workers) are provided assistance under a program administered by the Department of

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Labor. This program is called "Opportunities for Families". The second group of families where no family member is eligible for employment (at the present time) receives benefits under the title "Family Assistance Plan". The benefits and income eligibility conditions for both groups (Opportunities for Families and Family Assistance Plan) are identical. The only substantive difference is that the program administration is split between the Department of Labor and the Department of Health, Education and Welfare and those who are enrolled under the Department of Labor are classified as potentially employable, while those paid by HEW supposedly should not or cannot find work.

Maximum family benefits under both Opportunities for Families and the Family Assistance Plan are specified as equal to $800 per year for the first two family members, $400 for the next three members, $300 for the next two members, and $200 for the next member. The maximum benefit for a family of eight or more persons would be $3600. Benefits would be paid monthly and would be reduced in accordance with the following schedule:

1. No family would be eligible for benefits if its assets exceeded $1500 plus a home and household goods and personal effects whose value did not exceed a "reasonable amount". (What a reasonable amount is, is of course anyone's guess.)

2. The first $60 per month ($720 per year) of earnings are exempt from computation.

3. Earnings in excess of the first $60 per month will reduce benefits by ⅔ of such earnings.

4. No benefits would be paid if the amount payable is less than $10 per month.

In addition to these requirements there are a large number of limiting provisos in the bill. These provisos relate to the earnings of children, benefits which may be paid by state agencies, definitions of earned as opposed to unearned income, etc. Many of these special provisions have a substantial impact on the distribution of benefits under the bill. The effects of five major provisions of the bill will be described in the next section "What is the matter with H.R. 1?"

What is wrong with H.R. 1?

1. H.R. 1 will reduce the incentive to work, and increase the reliance on investigation and compulsion rather than increasing the number of jobs and increasing the financial rewards for self-support.

After the first $720 of earnings, program benefits are reduced by 72¢ for each dollar of earnings. (67¢ as required by H.R. 1 and 5¢ Social Security tax.) As earnings rise, other taxes are included as well. At $3800 the family of four begins to pay income taxes—14¢ on the dollar. The tax on additional income is now 86¢ on the dollar (67¢ H.R. 1 plus 5¢ Social Security plus 14¢ income tax). Furthermore H.R. 1 allows the state to tax earnings above the federal break-even point at a 100 percent tax rate. If states do this then for each dollar of earnings the worker is now losing a dollar of assistance and is paying 5¢ to Social Security and 14¢ in income tax. Thus, for working more and making a dollar more the effect will be to reduce his take home pay by 19¢.

2. The basic payment level is not only substantially below the poverty level, but it is too low to permit the existing mess of welfare programs to be abolished without seriously reducing the incomes of many people.

The basic payment level for a family of four with no other income under H.R. 1 is $2400 a year. In 28 of the 50 states payment levels are higher than this amount. Therefore millions of people will be made worse off by the reform, or the existing system must be retained, or states must add on to the payments made under H.R. 1. (The payment in Connecticut is $4020 and New Jersey $4169. All other states have basic payment for a family of four of less than $3800.)

3. Single persons and couples are not covered by the bill. An effect of this exclusion is the provision of a "first baby" bonus.

The only groups excluded from the protection of H.R. 1 are single persons and couples not otherwise eligible for Social Security benefits. The reason such people were excluded was financial—including such persons would add to the cost of the program. One effect of this exclusion is that a couple with no income and no children gets no assistance, but if they have a baby, they will receive $2000 per year. The central point is that needy people are excluded from coverage and that such exclusion encourages poor people to have children.

4. The work requirements of H.R. 1 are financially meaningless, socially irresponsible, and economically dangerous.

The administration has estimated that at least one person in each of 2.6 million families will be required to register for employment and training under H.R. 1. Some families will have more than one registrant. The bill provides full funding for only 200,000 jobs for these registrants. In the second year the federal government will provide for only 75 percent of the cost of providing these jobs; after three years—50 percent and in the fourth year nothing. The bill contains only 400,000 training slots and the WIN program provides a good example of how effective the Labor Department is in training programs for people on welfare. As of December 31, 1970, of 511,000 AFDC recipients found appropriate for WIN training only five percent got jobs following completion of the WIN program. Even if the program of jobs and training was a great success, the bill requires over two million people to register with the Department of Labor for jobs, without even pretending to provide jobs or training for such persons.

Thus with an unemployment rate which continues to hover around six percent (and has continued to do so for nearly three years), the administration proposes that millions of persons be compelled to register for work—but has no plan to put them to work. The work compulsion segments of H.R. 1 are a fraud and the administration knows they are a fraud.

The work requirements are therefore meaningless because they will not increase employment—since jobs are not created by edicts which say that people must work. The work requirements are socially irresponsible because in talking about work requirements the general public will assume that something meaningful will be done to assure such employment. They are economically dangerous because such provisos are supported as is this one by guarantees that substandard wages (persons are required to accept jobs which pay 75 percent of the minimum wage—$1.20 an hour) are perfectly acceptable—even desirable. The key to economic adequacy for families as for nations does not lie in cutting the wages of those at the bottom. Currying to such sentiments is the mark of a contemptible program.

5. The administration's plan for operating H.R. 1, includes retention of state and local welfare programs, federalization of most of the local bureaucracy, (75,000 according to administration estimates given before the Senate Finance Committee), enlarging the existing iinvestigative and verification systems, dividing the administration of the program between HEW and the Labor Department, and retention of parts of the food stamp and commodity distribution program.

The effect of these and other similar administrative provisions of the bill guarantee that almost every repressive, inefficient, costly and bureaucratic part of the existing welfare structure will be retained in the new system. This is not reform. This is disease.

OTHER REFORM PROPOSALS: A $3,600 AND A $5,500 GUARANTEED INCOME

This section explores the extent to which negative income plans can be relied upon to solve the poverty problem in the United States. The redistributional implications of two alternative income maintenance plans, one with a poverty level guarantee and the other with a $5,500 guarantee, are considered. The distribution of benefits under each of these plans is compared against the incidence of new taxes required to finance them, and new transfer positions are computed by income class and family size. The magnitude of income redistribution in the middle and upper income ranges is shown to be substantial under both of the plans. (Under the $5,500 plan 52 percent of beneficiaries have current incomes of $6,000 or more and receive some 46 percent of total gross benefits; 44 percent of beneficiaries under the $3,600 plan have incomes above $6,000 and receive 25 percent of the benefits.) Comparing this distribution of benefits against the surtax distribution required to finance it, it is seen that, given the structure of the positive and negative tax system, a substantial amount (18 percent under the $5,500 plan and 15 percent under the $3,600 plan) of the redistribution implied is lateral, i.e., from small to large families with the same total income. The total amount of redistribution affected under either plan, however, is probably of far greater significance. The cost of the $5,500 plan would exceed current welfare costs by some $71 billion and would require imposition of a 78 percent surtax on federal personal income taxes to finance it. The $3,600 plan would cost $25 billion and require a 28 percent surtax.

The basic characteristics of the plans considered are shown in Table 1. For both plans benefits are reduced by 50¢ for each dollar of earnings above $720 (the "disregard" is assumed to cover unavoidable work-related expenses). The break-even point is thus $7920 for a family of four under the $3600 plan and $11,720 under the $5500 plan. Except for Public Assistance, benefits are reduced dollar for dollar for all sources of unearned income including unemployment compensation. Social Security, and veterans pensions as well as property income.[5] Current Public Assistance benefits are ignored in computing income maintenance entitlements for a given family. However, such benefits are then subtracted from the new transfer payments, which are computed so that only net costs of the income maintenance plan over and above current welfare costs are shown in the estimates.

The computations employ the provisions for personal exemption and minimum standard deductions effective under current law in 1971. Since the Current Population Survey does not require reporting of realized capital gains, an imputation of 15 percent of the sum of property and self-employment income is made in computing taxable income. A further and more important adjustment must be made to account for the fact that the income surveys conducted by the Bureau of the Census generally account for only about 89 percent of comparable total money incomes aggregates, such as those which can be derived from the personal income series prepared by the Office of Business Economics. However most of the underreporting is known to be property income (CPS estimates of wage and salary income are 97 percent of those computed by OBE). Since the "missing" property income can be assumed to be primarily concentrated in the upper income classes, its exclusion should not significantly affect net program costs. However, on the tax

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Footnotes at end of article.

revenue side, the effect of the underreporting is to understate projected personal income tax revenues by almost $12 billion out of a total projected revenue figure of about $93 billion in 1971. Because of the difficulty of imputing the underreported income to families on the basis of their reported incomes and characteristics, adjustment has been made by simply reducing the program costs by the amount of surtaxes which the missing taxes would have generated had they been included in the computations.[6] The result of this procedure is that, even ignoring induced effects, the amount of net transfer implied by the $3600 plan is understated by about nine percent and by about 12 percent for the $5500 plan. Nonetheless the amount of the redistribution accounted for is still of sufficiently great magnitude to be of considerable interest.

Footnotes at end of article.

TABLE 1.—GUARANTEE LEVELS AND UPPER LIMITS OF COVERAGE ALTERNATIVE INCOME MAINTENANCE PLANS ($3,600 AND $5,500)[1]

	$3,600 plan		$5,500 plan	
Family size	Basic guarantee	Break-even income[2]	Basic guarantee	Break-even income[2]
1	$1,125	$2,970	$1,675	$4,070
2	2,250	5,220	3,350	7,420
3	2,925	6,570	4,425	9,570
4	3,600	7,920	5,500	11,720
5	4,275	9,270	6,575	13,870
6	4,950	10,620	7,650	16,020
7	5,625	11,970	8,725	18,170
8	$6,300	$13,320	$9,800	$20,320
9	6,975	14,670	10,875	22,470
10 plus	7,650	16,020	11,950	24,620

[1] Basic characteristics of plans: $3,600 plan—$1,125 basic payment for each of 1st 2 family members, $675 payment for incremental family members. $5,500 plan—$1,675 basic payment for each of 1st 2 family members, $1,075 payment for incremental family members.

Benefit reduction formulae (tax rates)—both plans. 50 percent on earned income above $720. 100 percent on all unearned income except current public assistance benefits. 0 percent on public assistance and the 1st $720 of earned income.

[2] Earned income above Federal income taxes paid. Families with total family income in excess of the break-even point may thus be eligible for some payment because of the income tax deduction. Families with total incomes in excess of the break-even point may also be eligible for benefits if they currently receive public assistance benefits superior to those provided under the plans considered.

As shown in Table 2 the cost of transfers unde the $5,500 plan would be some $70.7 billion exclusive of current welfare costs of almost $3 billion and estimated administrative costs of some $2 billion. The plan would distribute benefits to some 34 million recipient units comprising about half the population of the United States. This huge cost is, of course, hardly surprising because the basic guarantee is, as observed earlier, superior to the earnings of a large part of the labor force. Given the estimated federal personal income tax revenues of some $93 billion in 1971, a surtax of 78 percent would be required to finance the plan—so that, for example, a taxpayer now paying a marginal tax of 35 percent of income would instead pay 62 percent on his last dollar of income. Looking at the distribution of coverage and gross benefits (i.e., benefits before imposition of the surtax) across income class, it is seen that close to half of the recipient families are in income classes not commonly thought of as poor. Fifty-two percent of beneficiaries have incomes of $6,000 or more and these families receive 46 percent of the total gross benefits; 36 percent of beneficiary families have incomes of $8,000 or more and receive about 30 percent of the total transfers. The average benefit per family remains relatively constant across the middle income ranges because, given the structure of the plan, the incremental income is offset by the increasing density of large families in the covered population in higher income brackets.

Table 3 shows the distribution of gross benefits by family size. As would be expected, given that the benefit levels are adjusted for family size, a disproportionate amount of the gross benefits under the plan are received by relatively large families. Thus, while families of five or more account for only 30 percent of recipient families they receive 51 percent of total benefits. Families of seven or more, while only eight percent of the caseload, command 20 percent of the payments.

TABLE 2.—DISTRIBUTION OF COVERAGE AND GROSS BENEFITS AND AVERAGE FAMILY BENEFITS BY INCOME CLASS, $3,600 AND $5,500 INCOME MAINTENANCE PLANS

	$3,600 plan					$5,500 plan				
Total family income	Percent of families[1]	Cumulative percent of families	Percent of gross benefits	Cumulative percent of gross benefit	Average benefit per family	Percent of families[1]	Cumulative percent of families	Percent of gross benefits	Cumulative percent of gross benefit	Average benefit per family
	[2]18,566		[2]24,908,000			[1]34,022		[2]70,653,000		
Negligible or $0	3.2	3.2	5.1	5.1	$2,168	1.7	1.7	2.7	2.7	$3,273
$1 to $999	9.1	12.3	9.8	14.9	1,450	5.0	6.7	5.7	8.4	2,367
$1,000 to $1,999	13.6	25.8	13.7	28.6	1,358	11.0	17.7	9.1	17.5	1,725
$2,000 to $2,999	11.6	37.4	12.7	41.3	1,470	8.8	26.5	9.1	26.6	2,161
$3,000 to $3,999	9.2	46.6	12.6	53.9	1,835	8.1	34.5	9.1	35.7	2,339
$4,000 to $4,999	10.1	56.7	11.5	65.4	1,517	6.9	41.4	9.1	44.8	2,740
$5,000 to $5,999	9.6	66.3	9.7	75.1	1,350	7.0	48.4	8.9	53.7	2,627
$6,000 to $6,999	8.1	74.4	7.8	82.9	1,299	7.2	55.6	8.3	62.0	2,409
$7,000 to $7,999	7.7	82.1	5.9	88.8	1,022	8.4	64.0	8.0	70.0	1,985
$8,000 to $8,999	7.2	89.3	4.7	93.5	873	7.9	71.9	7.8	77.8	2,034
$9,C00 to $9,999	4.5	93.8	2.9	96.4	858	6.6	78.5	6.2	84.0	1,968
$10,000 to $10,999	3.0	96.8	1.6	98.0	732	6.2	84.7	5.1	89.1	1,694
$11,000 to $11,999	1.7	98.5	1.1	99.1	843	5.0	89.7	4.1	93.2	1,715
$12,000 to $12,999	.6	99.1	.4	99.5	887	3.2	92.9	2.0	95.2	1,313
$13,000 to $13,999	.4	99.5	.2	99.7	800	2.5	95.4	1.8	97.0	1,470
$14,000 to $14,999	.3	99.8	.2	99.9	750	1.9	97.3	1.3	98.3	1,379
$15,000 to $19,999	.2	100.0	.1	100.0	1,125	2.5	99.8	1.6	99.9	1,313
$20,000 and over	0	100.0	0	100.0	973	.2	100.0	.1	100.0	1,438
Total families	100.0	100.0	100.0	100.0	1,342	100.0	100.0	100.0	100.0	1,077

[1] Unrelated individuals are counted as 1 person families. [2] In thousands.

TABLE 3.—DISTRIBUTION AND COVERAGE AND GROSS BENEFITS BY FAMILY SIZE $3,600 AND $5,500 INCOME MAINTENANCE PLANS

	$3,600 plan				$5,500 plan			
Family size	Percent of families[1]	Cumulative percent of families	Percent of gross benefits	Cumulative percent of gross benefits	Percent families[1]	Cumulative percent of families	Percent of gross benefits	Cumulative percent of gross benefits
	[2]18,566		[2]24,908,000		[2]34,022		[2]70,653,000	
1	14.2	14.2	6.0	6.0	13.4	13.4	4.9	4.9
2	21.8	36.0	15.0	21.0	23.3	36.7	14.1	19.0
3	15.1	51.1	13.4	34.4	16.3	53.0	13.3	32.3
4	15.0	66.1	14.4	48.8	17.2	70.2	16.6	48.9
5	13.5	79.6	14.9	63.7	13.2	83.4	16.8	65.7
6	9.4	89.0	12.5	76.2	8.4	91.8	13.5	79.2
7	5.2	94.2	9.1	85.3	4.2	96.0	8.6	87.8
8	2.7	96.9	5.7	91.0	2.0	98.0	5.0	92.8
9	1.5	97.4	3.7	94.7	1.0	99.0	3.0	95.8
10 plus	1.6	100.0	5.4	100.0	1.0	100.0	4.1	100.0
Total families	100.0		100.0		100.0		100.0	

[1] Unrelated individuals are counted as 1 person families.

[2] In thousands.

The $3600 plan, while it provides a basic guarantee considerably inferior to current poverty standards, is still a program of imposing magnitude. Financing the plan from the current tax base would require the imposition of a 28 percent surtax to meet the estimated new transfer cost of $25 billion plus administrative overhead. Nonetheless, the amount of redistribution effected would still be less than that currently carried out through the Social Security program, which, in 1969, transferred some $27 billion from wage and salary earners to aged and disabled retirees and survivors of covered workers.

As shown in Table 2, even with the lower guarantee there is a considerable amount of benefit leakage into the middle income classes. Forty-four percent of beneficiary families have incomes of $6000 or better and receive about 25 percent of the benefits. Eighteen percent have incomes of $8000 or more and receive 11 percent of total benefits. It is, of course, fully realized that much of the leakage into higher income brackets is justified by the notion that larger families have greater needs than smaller ones and hence are deserving of transfer support even if their income substantially exceeds popular notions of poverty. Preservation of work incentives through the tapering of benefits explains the residual leakage. But this of course is merely to reiterate the premises upon which the income maintenance plans considered were constructed. There is still a question whether such redistributional plans, in operation, are consonant with popular notions of equity and how such plans might be integrated into a society in which wage income is related to productivity rather than to family need (i.e., size).

The problem is put into sharper focus when we consider both sides of the coin, i.e., the benefit distribution and the corresponding revenue raising. Table 4 shows the distribution of coverage and net benefits by income class when incremental benefits are reduced by the surtax required to finance them. The net benefits as well as the number of net beneficiaries have, of course, declined since, for many families, what the assistance office gives with one hand, the Internal Revenue Service will now take with another. The effect is most pronounced in the $5500 plan where recipient units drop 17 percent and benefits by 15 percent as the result of the larger number of positive taxpayers covered by the plan and their relatively larger positive tax payments.

TABLE 4.—DISTRIBUTION OF NET BENEFITS BY INCOME CLASS $3,600 AND $5,500 PLANS

Income class	$3,600 Plan					$5,500 Plan				
	Number of net benefits families[1]	Cumulative percent of net benefits families	Percent of net benefits	Cumulative percent of net benefits	Average net benefit families	Number of net beneficiary families[1]	Cumulative percent of net benefits families	Percent of net benefits	Cumulative percent of net benefits	Average net benefit per family
Number in thousands	[2]17,196	------------	[2]23,688,000	----------------------------		[2]28,231	------------	[2]59,845,000	----------------------------	
Negligible or more	3.4	3.4	5.4	5.4	$2,168	2.1	2.1	3.2	3.2	$3,272
$1 to $999	9.8	13.2	10.3	15.7	1,450	6.0	8.1	6.7	9.9	2,367
$1,000 to $1,999	14.6	27.8	14.5	30.2	1,359	13.2	21.3	10.7	20.6	1,725
$2,000 to $2,999	12.3	40.1	13.3	43.4	1,489	10.5	31.8	10.7	31.3	2,148
$3,000 to $3,999	9.8	49.9	13.1	56.5	1,832	9.1	40.9	10.4	41.7	2,420
$4,000 to $4,999	10.8	60.8	11.6	68.1	1,478	7.9	48.8	10.1	51.8	2,719
$5,000 to $5,999	9.5	70.3	9.5	77.7	1,386	8.2	57.0	9.4	61.2	2,445
$6,000 to $6,999	8.2	78.5	7.6	85.2	1,266	7.9	64.9	8.4	69.6	2,236
$7,000 to $7,999	7.0	85.5	5.4	90.6	1,059	7.1	72.0	7.5	77.1	2,256
$8,000 to $8,999	5.5	91.0	4.1	94.7	1,017	7.8	79.8	7.0	84.1	1,888
$9,000 to $9,999	4.1	95.1	2.4	97.1	794	5.5	85.3	5.2	89.3	1,973
$10,000 to $10,999	2.5	97.6	1.3	98.3	701	5.4	90.7	3.9	93.2	1,510
$11,000 to $11,999	1.2	98.8	.9	99.2	1,029	3.3	94.0	2.9	96.1	1,835
$12,000 to $12,999	.4	99.2	.3	99.6	1,039	2.0	96.0	1.3	97.4	1,358
$13,000 to $13,999	.3	99.5	.2	99.8	792	1.6	97.6	1.1	98.5	1,414
$14,000 to $14,999	.2	99.7	.1	99.9	824	1.1	98.7	.7	99.2	1,475
$15,000 to $20,000	.1	99.9	.1	100.0	1,208	1.1	99.8	.8	99.9	1,508
$20,000 and over	(3)	100.0	.0	100.0	760	.1	100.0	.1	100.0	1,241
Total families	100.0	------------	100.0	------------	1,378	100.0	------------	100.0	------------	2,120

[1] Unrelated Individuals are counted as 1 person families.

[2] In thousands.

[3] Less than 0.1 percent.

TABLE 5.—DISTRIBUTION OF NET BENEFITS AND LOSSES BY INCOME CLASS AND FAMILY SIZE

[Dollar amounts in millions]

Income class	Family size						Sum of net benefits	Sum of net losses	Ratio losses/ benefits
	1 to 2	3 to 4	5 to 6	7 to 8	9 and over	Total			
$3,600 plan:									
Negligible to $999	$1,957.23	$1,080.50	$474.08	$163.31	$46.12	$3,721.24	$3,721.24	0	0
$1,000 to $2,999	2,367.77	2,158.01	1,244.12	570.23	210.55	6,550.69	6,566.73	$16.05	(1)
$3,000 to $4,999	458.04	1,998.65	1,650.85	908.31	574.29	5,590.14	5,846.19	256.04	.04
$5,000 to $6,999	—619.10	1,023.80	1,562.24	834.51	561.95	3,363.39	4,048.08	684.69	.17
$7,000 to $8,999	—1,088.19	—263.51	1,136.31	608.98	309.66	703.26	2,244.10	1,540.83	.69
$9,000 to $10,999	—1,087.91	—884.82	113.23	348.24	244.22	—1,267.04	868.11	2,135.15	2.46
$11,000 to $12,999	—950.28	—1,023.25	—363.44	89.32	177.26	—2,069.38	292.51	2,362.89	8.08
$13,000 to $14,999	—839.42	—1,032.83	—465.18	—63.89	58.15	—2,343.14	70.61	2,413.75	34.18
$15,000 to $19,999	—1,421.83	—2,002.36	—832.58	—174.94	—1.05	—4,432.74	29.47	4,462.21	151.42
$20,000 to $24,999	—728.80	—1,142.00	—542.24	—110.77	—21.47	—2,545.28	.76	2,546 04	3,350.05
$25,000 and over	—1,550.91	—2,302.81	—1,291.10	—235.19	—59.34	—5,439.35	0	5,439.39	-------------
Total	—3,503.38	—2,390.60	2,686.29	2,938.16	2,100.32	1,830.79	23,687.81	21,857.02	.92
$5,500 plan:									
Negligible to $999	3,205.17	1,665.57	738.50	256.41	72.13	5,937.79	5,937.79	0	0
$1,000 to $2,999	5,769.39	3,707,96	2,029.77	930.09	338.72	12,777.91	12,810.24	33.24	(1)
$3,000 to $4,999	1,743.30	4,340.09	3,106.37	1,586.10	972.01	11,747.89	12,305.11	557.23	0.05
$5,000 to $6,999	—556.28	3,679.63	3,567.22	1,688.25	1,031.24	9,410.04	10,643.36	1,233.32	0.12
$7,000 to $8,999	—2,645.73	2,506.27	3,900.37	1,475.11	657.13	5,893.15	8,671.44	2,778.30	0.32
$9,000 to $10,999	—2,985.05	—326.59	2,951.14	1,182.70	575.99	1,393.15	5,390.40	3,992.20	0.74
$11,000 to $12,999	—2,609.93	—2,211.56	1,111.64	810.40	529.18	—2,370.24	2,515.93	4,886.17	1.94
$13,000 to $14,999	—2,305.46	—2,829.43	—224.02	524.82	310.74	—4,523.35	1,075.97	5,599.33	5.20
$15,000 to $19,999	—3,905.01	—5,492.99	—2,076.65	34.01	269.48	—11,171.16	457.49	11,628.65	25.42
$20,000 to $24,999	—2,001.64	—3,136.47	—1,487.37	—283.18	17.22	—6,891.44	36.86	6,928.30	187.95
$25,000 and over	—4,259.55	—6,324.62	—3,545.98	—645.94	—160.85	—14,936.93	0	14,936.93	-------------
Total	—10,550.77	—4,421.14	10,070.98	7,558.74	4,613.01	7,270.83	59,844.61	52,573.77	.88

[1] Number less than 0.01 percent.

Of most interest is Table 5 which show, by income class and family size, the distribution of both net losses and net benefits under each plan. As is immediately apparent there is a sizeable amount of redistribution going on under both plans not only downward across income classes but also horizontally within each income class from larger to smaller families. Furthermore, some of the net losers, even under the $5,500 plan, are far from wealthy (e.g., single persons earning between $3,000 and $4,000 and couples earning from $4,000 to $5,000) whereas families of size 10 or more remain net beneficiaries up to $25,000 of income. Looking at family size redistribution alone, it is seen that under both plans families of four or less lose disposable income in the aggregate while those with five or more members gain. The last three columns of Table 5 show the amount of such horizontal redistribution within income classes.[7] Thus under the $5,500 plan small sized families with incomes between $4,000 and $4,999 experienced net losses of some $432 million while larger sized families received net benefits of $6.1 billion. The loser families thus paid some seven percent of the costs of providing benefits to the gainer families. In the income class between $10,000 and $11,000 almost all (93 percent) of the income redistribution is horizontal. From this viewpoint, it is seen that only above that income level do net losers begin to contribute to downward redistribution. Thus computed, the total amount of horizontal redistribution occurring under each of the plans is $3.8 billion under the $3,600 plan or 15 percent of total transfers and $12.7 billion under the $5,500 plan or 18 percent of total transfers.[8] Although the overall pattern of redistribution is, as one would expect, predominantly downward in the income distribution, there are some interesting practical consequences of this horizontal shift.

Let us suppose that eventually, as logic might suggest, the two tax systems—positive and negative—are integrated so that for each pay period a worker receives a check which, depending upon his income class and family size, has either been reduced by his net positive tax liability or increased by his net negative tax entitlement. This situation would arise under the $5,500 plan where worker A earning about $7,000 a year and with a wife and no children would receive an annual pay check some $370 lower than he received before, while his coworker earning the same nominal wage for the same work would, if he had two children, receive in effect an annual net bonus of about $1,800 and, if he had three, of about $2,900. To the extent that some people such as worker A may, perhaps increasingly as time goes on, regard the number of children one has a discretionary matter, (not totally unlike other consumption choices such as how many cars to own) they may well feel not a small bit "cheated".

Of course opposition to this horizontal redistribution is not likely to compare in magnitude with that directed against the imposition of a 78 percent surtax on middle and upper income families. If one seriously considers the establishment of a minimum income guarantee even approaching the $5,500 level, clearly some method must be found to reduce the total magnitude of the redistribution. The following alternatives might be considered:

1. Restrict benefits for additional family members, at least above the lowest income levels. This would, of course, require careful attention to avoiding "notches," or income reversals, as the family member bonus is phased out.

2. Minimize interregational redistribution by retaining area differentials in welfare standards. A good deal of the redistribution impiled by a national income maintenance standard occurs between high wage regions, such as the North, and low wage areas, such as the South. For example, under Family Assistance about 43 percent of the families covered will live in the South. Most of this regional imbalance is, of course, due to the fact that persons in the South are, in a real sense, poorer. However, a single national guarantee level is still inequitable because it provides a superior standard of living to those living in areas where the real cost of living is lower. There are however, both practical and theoretical problems in defining geographic welfare differentials. The current welfare system makes a rough adjustment for such differences by allowing each state to develop its own needs standard. Furthermore each state is allowed to decide what proportion of that need standard it can afford to pay. The result is that, despite compensatory matching formulae for the poorer states, federal dollars distributed very unevenly among equally poor people, with a disproportionate amount going to the richer states which have, typically, not only higher needs standards but more resources to meet them. To the extent that variations in state standards exceed cost-of-living differentials, the current system provides at least a prima facie incentive for the poor to migrate to states—typically urban states—where welfare standards are higher. If they are unable to obtain jobs in these areas, their migration may not only aggravate urban congestion but, further, raise true welfare costs (over and above the previously unmet need) by the real increase in the cost of living in an urban situation. The establishment of a national welfare standard should reverse this incentive.

The actual and potential impact of income maintenance on migration is not well understood, however. But there are other reasons for arguing against geographic welfare differentials. The most important is that it is very difficult to establish needs standards which reflect true differences in the cost of living. For example, it may be argued that the most commonly used cost of living indices reflect primarily differences in average purchasing power and the quality of available goods (particularly housing) rather than true economies of location.[9] Furthermore, on the basis of the data we do have, it appears that there is at least as great variation in living costs within geographical areas as among them, so that the use of conventional state boundaries to demarcate welfare standards is not justifiable.[10] Nonetheless given the unlikelihood of reducing welfare standards in the present high-payment states, the pressure by these states for maintenance of federal sharing in these benefits, and the extremely high cost of providing comparable benefits nationwide, it seems realistic to assume that state-by-state welfare differentials will persist. However, an increasing proportion of the difference may be provided in the form of in-kind benefits and services tailored by states and localities to their varying needs, with cash benefits increasingly financed and administered from the federal levels.

3. Replace most if not all other government transfer programs by a single integrated income maintenance program. This result can be achieved indirectly by offsetting other transfer income dollar-for-dollar against the income maintenance benefit. The imposition of the "100 percent tax" on other transfer income, given an income maintenance program of substantial level and coverage, should severely diminish working class support for work-related transfer programs such as unemployment insurance, workmen's compensation, and even Social Security inasmuch as, within broad income ranges, there would be no net benefit accruing from the contributions of such programs. However, the net cost saving from such integration would not be as large as might be imagined because, for much of the population, we would simply be substituting one form of transfer for another. However, savings would result from minimizing the leakage of benefits to relatively affluent families, which occurs under programs which are not specifically tailored to total family need.

There is of course an appealing neatness about abolishing the current hodge-podge of income maintenance programs, with their varying types of inequity and inadequacy, and replacing them by a smoothly tapered, fully integrated system. There is also perhaps a danger in such a move. Most of our income maintenance systems—such as Social Security, Unemployment Insurance, and Workman's Compensation—are still clearly tied to the maintenance of work effort and productivity. For this very reason they in large part serve the working class. In fact, under these programs, this very restriction of benefits to persons with stable earning histories has given impetus to the broadening of the public assistance type of coverage to those who, for one reason or another, can't make it in the world of work.

There is simply no way of accurately measuring the economic and social effects of shifting the emphasis in income maintenance programs from the notion of self-protection to that of guaranteeing minimum need satisfaction. The issue will no doubt be debated for many years to come. In any case, it is unlikely that the problems of providing an adequate level of living for the nation's poor can be solved through a single structural reform of our income maintenance system. As the needs of the poor are diverse so must the tools to meet them be, and it is likely that, despite the realization of much-needed reform in national income maintenance programs, we will continue to place partial reliance on a variety of categorical and in-kind programs—including social services; housing, health, and day care subsidies; emergency and special needs cash assistance; and wage-related subsidy and manpower programs for the employable poor.

FOOTNOTES

[1] Unless otherwise indicated, data are for 1967. Many of the statistics in this section are taken from the 1969 *Economic Report of the President*, Chapter 5 of the Annual Report of the Council of Economic Advisors, pp. 151–179.

[2] President's National Advisory Commission on Rural Poverty, *The People Left Behind*, U.S. Government Printing Office, May, 1968, p. 3.

[3] Worked "part of the time" means held a full-time job part of the year or a part-time job all or part of the year.

[4] Wilbur J. Cohen, "A Ten-Point Program to Abolish Poverty", *Social Security Bulletin*, December, 1968.

[5] The ultimate effect of this 100 percent tax on all sources of transfer income other than income maintenance would, given a relatively high benefit level, be to drive these other programs out of existence since few, if any of them, provide comparable benefits, especially for large families, and no net advantage would accrue to the majority of their recipients. However, taxing such benefits at 50 percent or zero percent would raise program costs by several billion dollars.

[6] Thus in the $5500 plan the net cost is some $70.7 billion in transfers plus an estimated $2.0 billion in administrative costs. Assuming tax revenues of $93 billion in 1971 the required surtax to meet this cost is 78 percent rather than the 89 percent surtax needed tp generate the required revenues from the reported tax base.

[7] The first of the three columns is the sum, computed on a family by family basis, of the

benefits in excess of new taxes received by all families, within a given income class, whose benefits exceed their surtaxes. The "sum of net loss" column is similarly computed for all net loser families. The sums of the two columns are not equal because of the unreported income problem discussed earlier.

[8] The amount of horizontal transfer is computed as the sum of all net losses for income classes in which net benefits exceed net losses, plus the sum of all net benefits for income classes in which net losses exceed net benefits.

[9] See "Area Cost of Living Differentials" in The President's Commission on Income Maintenance Programs, Background Papers. pp. 87–93.

[10] *Ibid.*

NATIONAL CITIZEN DAY

(Mr. MILLER of Ohio asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILLER of Ohio. Mr. Speaker on September 17 I was privileged to attend the 34th annual National Citizen Day Observance in Columbus, Ohio. This cooperative community program is sponsored by patriotic, civic, religious, education, and service organizations to honor our newly naturalized citizens. One of the new citizens, Mario Rolando Diaz, spoke simply, but eloquently, about what it was like to live in the Cuba he left and what he has come to feel about his new home in America. His words would give us pause to reflect upon a way of life and the freedoms we so often take for granted.

Fellow Americans.

It is indeed a great honor for me to give the response for the New Citizens.

My native land is Cuba and I was forced to leave it because there was no freedom there. Most of the Cuban believed in a man said he was a democrat and made many promises for better living and free elections in 18 months (he has almost 14 years). I am going to make everybody the same he said, and certainly he did it—he made everyone equal, but in the lowest level of poverty and hunger.

When my wife and I arrived in this great country, we had nothing but the clothes we were wearing. As you know, when you decide to abandon a communist country. You must leave them all your properties—your home, furniture, car, bank account, everything you own; the only thing you can take with you are your clothes because they can't send you here nude, and your brains, over which they have no control.

We started a new life here, with the generous help of the American people. That is why we have become citizens of the most generous nation of the world, "One Nation Under God, Indivisible, with Liberty and Justice for All."

We are able to appreciate all of this because of our sad experience of having lived in a communist system. Against our will.

We are proud to be American citizens. During the preparation period we learned many things, not only our rights, but also we learned our duties and responsibilities and we shall continue studying to learn more about our new country, its ideals, achievements and goals, and realize contributions we as new citizens can make toward all of this.

In that way we think we can repay your generous hospitality and the privilege of being an American and will be able to help to preserve the dreams of peace and security of our country.

God bless America.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. PATTEN (at the request of Mr. O'NEILL), from Wednesday, September 20, through Friday, September 29, on account of official business (House delegation to Interparliamentary Union Conference).

Mr. HOSMER at the request of Mr. ARENDS), for the week of September 25, on account of attendance at the International Atomic Energy Conference at Mexico City.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. MADDEN, for 30 minutes, today.

(The following Members (at the request of Mr. MAZZOLI) and to revise and extend their remarks and include extraneous matter:)

Mr. GONZALEZ, for 5 minutes, today.

Mr. FLOOD, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. VAN DEERLIN.

Mr. MADDEN.

Mr. McKAY to extend his remarks immediately following Mr. SIKES on the bill, H.R. 16754.

Mr. SIKES and to include extraneous matter and tabulations on the bill, H.R. 16754.

Mr. DELLUMS and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $467.50.

Mr. DELLUMS and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $722.50.

(The following Members (at the request of Mr. HOGAN) and to include extraneous matter:)

Mr. MINSHALL in two instances.

Mr. SNYDER.

Mr. BLACKBURN.

Mr. SHRIVER in two instances.

Mr. WYMAN in two instances.

Mr. McDADE.

Mr. CÓRDOVA.

Mr. NELSEN.

Mr. ARCHER.

Mr. SPRINGER in two instances.

Mr. ARENDS.

Mr. KEATING.

(The following Members (at the request of Mr. MAZZOLI), and to include extraneous matter:)

Mr. DENT.

Mr. BEGICH in two instances.

Mr. REUSS.

Mr. MANN in six instances.

Mr. GRIFFIN in two instances.

Mr. NATCHER.

Mr. GONZALEZ in three instances.

Mr. RARICK in three instances.

Mr. EVINS of Tennessee in two instances.

Mr. RODINO.

Mr. ROY.

Mr. FLOOD in two instances.

Mr. ZABLOCKI.

Mr. HUNGATE.

Mr. HANNA in three instances.

Mr. STOKES in two instances.

Mr. WOLFF.

Mr. BINGHAM in two instances.

Mrs. MINK.

Mr. PRICE of Illinois.

SENATE BILLS, JOINT AND CONCURRENT RESOLUTIONS REFERRED

Bills, joint and concurrent resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 164. An act to amend the Federal Property and Administrative Services Act of 1949 so as to permit donations of surplus property to public museums; to the Committee on Government Operations.

S. 244. An act to amend the Federal Property and Administrative Services Act of 1949 to permit donations of surplus personal property to State fish and wildlife and outdoor recreation agencies; to the Committee on Government Operations.

S. 555. An act to authorize the establishment of an older worker community service program; to the Committee on Education and Labor.

S. 718. An act to create a catalog of Federal assistance programs and for other purposes; to the Committee on Government Operations.

S. 2280. An act to amend sections 101 and 902 of the Federal Aviation Act of 1958, as amended to implement the Convention for the Suppression of Unlawful Seizure of Aircraft and to amend title XI of such Act to authorize the President to suspend air service to any foreign nation which he determines is encouraging aircraft hijacking by acting in a manner inconsistent with the Convention for the Suppression of Unlawful Seizure of Aircraft and to authorize the Secretary of Transportation to revoke the operating authority of foreign air carriers under certain circumstances; to the Committee on Interstate and Foreign Commerce.

S. 2300. An act for the relief of J. B. Riddle; to the Committee on the Judiciary.

S. 2567. An act to facilitate prosecutions for certain crimes and offenses committed aboard aircraft, and for other purposes; to the Committee on Interstate and Foreign Commerce.

S. 3327. An act to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, health care resources, and the establishment of a Quality Health Care Commission, and for other purposes; to the Committee on Interstate and Foreign Commerce.

S. 3716. An act to amend the Public Health Service Act to provide for continued assistance for health facilities, health manpower, and community mental health centers; to the Committee on Interstate and Foreign Commerce.

S. 3947. An act to prevent the unauthorized manufacture and use of the character "Woodsy Owl," and for other purposes; to the Committee on the Judiciary.

S.J. Res. 236. Joint resolution to authorize and request the President to proclaim the week beginning October 15, 1972, as "National Drug Abuse Prevention Week"; to the Committee on the Judiciary.

S.J. Res. 251. Joint resolution to designate the week which begins on the first Sunday in March of each year as "National Beta Club Week"; to the Committee on the Judiciary.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4383. An act to authorize the establishment of a system governing the creation and operation of advisory committees in the executive branch of the Federal Government, and for other purposes;

H.R. 7614. An act to amend titles 5, 10, and 32, United States Code, to authorize the waiver of claims of the United States arising out of certain erroneous payments, and for other purposes;

H.R. 9032. An act to provide for the disposition of funds appropriated to pay a judgment in favor of the Havasupai Tribe of Indians in Indian Claims Commission docket numbered 91, and for other purposes;

H.R. 9135. An act to amend the Act of August 19, 1964, to remove the limitation on the maximum number of members of the board of trustees of the Pacific Tropical Botanical Garden;

H.R. 10486. An act to make the basic pay of the master chief petty officer of the Coast Guard comparable to the basic pay of the senior enlisted advisers of the other Armed Forces, and for other purposes;

H.R. 13697. An act to amend the provisions of title 14, United States Code, relating to the flag officer structure of the Coast Guard, and for other purposes;

H.J. Res. 135. Joint resolution to authorize the President to issue a proclamation designating the week in November of 1972 which includes Thanksgiving Day as "National Family Week";

H.J. Res. 807. Joint resolution authorizing the President to proclaim the second full week in October of 1972 as "National Legal Secretaries' Court Observance Week"; and

H.J. Res. 1232. Joint resolution designating, and authorizing the President to proclaim, February 11, 1973, as "National Inventors' Day".

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on September 22, 1972, present to the President, for his approval, bills and a joint resolution of the House of the following titles:

H.R. 6575. An act to amend the act entitled "An act to provide for the disposition of judgment funds now on deposit to the credit of the Cheyenne-Arapaho Tribes of Oklahoma," approved October 31, 1967 (81 Stat. 337);

H.R. 7616. An act to amend section 715 of title 32, United States Code, to authorize the application of local law in determining the effect of contributory negligence on claims involving members of the National Guard;

H.R. 8215. An act to provide relief for certain prewar Japanese bank claimants;

H.R. 12207. An act to authorize a program for the development of tuna and other latent fisheries resources in the Central, Western, and South Pacific Ocean;

H.R. 14173. An act for the relief of Walter Eduard Koenig;

H.R. 15865. An act for the relief of Richard L. Krzyzanowski;

H.R. 15927. An act to amend the Railroad Retirement Act of 1937 to provide a temporary 20 per centum increase in annuities, to simplify administration of the act, and for other purposes; and

H.J. Res. 1193. A joint resolution to provide for the designation of the week which begins on September 24, 1972, as "National Microfilm Week."

ADJOURNMENT

Mr. MAZZOLI. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 16 minutes p.m.), the House adjourned until tomorrow, Tuesday, September 26, 1972, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2354. A letter from the Assistant Secretary of Defense (Installations and Logistics), transmitting a report on Department of Defense procurement from small and other business firms for fiscal year 1972, pursuant to section 10(d) of the Small Business Act, as amended; to the Committee on Banking and Currency.

2355. A letter from the Commissioner of the District of Columbia, transmitting a draft of proposed legislation to define the scope of tort liability of the government of the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

2356. A letter from the Acting Assistant Secretary of Commerce for Administration, transmitting the report for fiscal year 1972 on Commerce Department commissary activities outside the continental United States, pursuant to 15 U.S.C. 1514(b); to the Committee on Interstate and Foreign Commerce.

2357. A letter from the Chairman, Federal Power Commission, transmitting a copy of the publication entitled, "Typical Electric Bills, 1971"; to the Committee on Interstate and Foreign Commerce.

2358. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a draft of proposed legislation to authorize the creation of an international center to make sites available for chanceries of foreign embassies in Washington and for a new headquarters for the Organization of American States; to the Committee on Public Works.

2359. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, dated August 25, 1972, submitting a report, together with accompanying papers and illustrations, on Pascagoula River Basin, Miss. and Ala., requested by resolutions of the Committees on Public Works, U.S. Senate and House of Representatives, adopted March 14, 1961, and June 7, 1961 (H. Doc. No. 92–359); to the Committee on Public Works and ordered to be printed with illustrations.

2360. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, dated September 1, 1972, submitting a report, together with accompanying papers and illustrations, on Pearl River Basin, Miss. and La., requested by resolutions of the Committee on Rivers and Harbors, House of Representatives, adopted June 6, 1939, and Committee on Public Works, House of Representatives, adopted June 30, 1960 (H. Doc. No. 92–282); to the Committee on Public Works and ordered to be printed with illustrations.

2361. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, dated May 11, 1972, submitting a report, together with accompanying papers and an illustration on Perry County Drainage and Levee Districts Nos. 1, 2, and 3, Missouri, authorized by the Flood Control Act approved July 24, 1946 (H. Doc. No. 92–360); to the Committee on Public Works and ordered to be printed with an illustration.

2362. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, dated April 14, 1971, submitting a report, together with accompanying papers and illustrations, on Spring River and tributaries, Mo., Kans., and Okla., requested by resolutions of the Committees on Public Works, U.S. Senate and House of Representatives, adopted May 24, 1963, and May 8, 1964 (H. Doc. No. 92–361); to the Committee on Public Works and ordered to be printed with illustrations.

2363. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, dated May 30, 1972, submitting a report, together with accompanying papers and an illustration, on Little River Inlet, N.C. and S.C., requested by a resolution of the Committee on Public Works, U.S. Senate, adopted September 23, 1965, and two resolutions of the Committee on Public Works, House of Representatives, adopted October 5, 1966, and October 19, 1967 (H. Doc. No. 92–362); to the Committee on Public Works and ordered to be printed with an illustration.

2364. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, dated October 2, 1970, submitting a report, together with accompanying papers and an illustration, on Point Place, Toledo, Ohio, requested by a resolution of the Committee on Public Works, House of Representatives, adopted October 5, 1966 (H. Doc. No. 92–363); to the Committee on Public Works and ordered to be printed with an illustration.

2365. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, dated December 6, 1971, submitting a report, together with accompanying papers and illustrations, on Edwards Underground Reservoir, Guadalupe, San Antonio and Nueces Rivers and tributaries, Texas, authorized by section 209 of Public Law 86–645, approved July 14, 1960 (H. Doc. No. 92–364); to the Committee on Public Works and ordered to be printed with illustrations.

2366. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, dated March 1, 1972, submitting a report, together with accompanying papers and illustrations, on Virginia Beach, Va., requested by a resolution of the Committee on Public Works, House of Representatives, adopted April 14, 1964 (H. Doc. No. 92–365); to the Committee on Public Works and ordered to be printed with illustrations.

2367. A letter from the Administrator of Veterans' Affairs, transmitting two reports of the Veterans' Administration for fiscal year 1972 on programs for the sharing of medical facilities and for exchange of medical information, pursuant to 38 U.S.C. 5057; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr ASPINALL: Committee of conference. Conference report to accompany H.R. 7742 (Rept. No. 92–1430). Ordered to be printed.

Mr. ASPINALL: Committee of conference. Conference report to accompany H.R. 8694 (Rept. No. 92–1431). Ordered to be printed.

Mr. ASPINALL: Committee of conference. Conference report to accompany H.R. 10858 (Rept. No. 92-1432). Ordered to be printed.

Mr. ASPINALL: Committee of conference. Conference report to accompany H.R. 6797 (Rept. No. 92-1433). Ordered to be printed.

Mr. ASPINALL: Committee of conference. Conference report to accompany H.R. 3337 (Rept. No. 92-1434). Ordered to be printed.

Mr. JOHNSON of California: Committee of conference. Conference report to accompany S. 166 (Rept. 92-1435). Ordered to be printed.

Mr. MILLER of California: Committee of conference. Conference report to accompany H.R. 10243 (Rept. No. 92-1436). Ordered to be printed.

Mr. COLMER: Committee on Rules. House Resolution 1132. A resolution waiving points of order against H.R. 16754. A bill making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes (Rept. No. 92-1437). Referred to the House Calendar.

Mr. COLMER: Committee on Rules. House Resolution 1133. A resolution providing for agreeing to House Joint Resolution 1227. Joint resolution approving the acceptance by the President for the United States of the Interim Agreement Between the United States of America and the Union of Soviet Socialist Republics on Certain Measures With Respect to the Limitation of Strategic Offensive Arms (Rept. No. 92-1438). Referred to the House Calendar.

Mr. DELANEY: Committee on Rules. House Resolution 1135. A resolution providing for the consideration of H.R. 1121. A bill to provide for the establishment of the Gateway National Seashore in the States of New York and New Jersey, and for other purposes. (Rept. No. 92-1439). Referred to the House Calendar.

Mr. O'NEILL: Committee on Rules. House Resolution 1136. A resolution providing for the consideration of H.R. 16645. A bill to amend the Public Buildings Act of 1959, as amended, to provide for the construction of a civic center in the District of Columbia, and for other purposes (Rept. No. 92-1440). Referred to the House Calendar.

Mr. PERKINS: Committee on Education and Labor. H.R. 12006. A bill to amend the Longshoremen's and Harbor Workers' Compensation Act, and for other purposes; with an amendment (Rept. No. 92-1441). Referred to the Committee of the Whole House on the State of the Union.

Mr. POAGE: Committee on Agriculture. S. 1316. An act to amend section 301 of the Federal Meat Inspection Act, as amended, and section 5 of the Poultry Products Inspection Act, as amended, so as to increase from 50 to 80 percent the amount that may be paid as the Federal Government's share of the costs of any cooperative meat or poultry inspection program carried out by any State under such sections; with amendments (Rept. No. 92-1442). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLATNIK: Committee on Public Works. H.R. 16656. A bill to authorize appropriations for construction of certain highways in accordance with title 23 of the United States Code, and for other purposes; with an amendment (Rept. No. 92-1443). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BEGICH:

H.R. 16792. A bill to promote the development within the United States and foreign countries of American arts and handcrafts; to the Committee on Interstate and Foreign Commerce.

H.R. 16793. A bill to prohibit the use of certain small vessels in U.S. fisheries; to the Committee on Merchant Marine and Fisheries.

By Mr. CLANCY (for himself and Mr. DEVINE):

H.R. 16794. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of police officers and firefighters killed in the line of duty; to the Committee on the Judiciary.

By Mr. DUNCAN:

H.R. 16795. A bill to amend the Internal Revenue Code of 1954 to permit the authorization of means other than stamps on containers of distilled spirits as evidence of taxpayment; to the Committee on Ways and Means.

By Mr. FOLEY:

H.R. 16796. A bill to authorize the Secretary of Agriculture to develop and carry out a forestry incentives program to encourage a higher level of forest resource protection, development, and management by small nonindustrial private and non-Federal public forest land owners, and for other purposes; to the Committee on Agriculture.

H.R. 16797. A bill to provide for the participation of the United States in the International Exposition on the Environment to be held in Spokane, Wash., in 1974, and for other purposes; to the Committee on Foreign Affairs.

By Mr. HANLEY:

H.R. 16798. A bill to amend section 1033 of the Internal Revenue Code of 1954 to provide that the sale of livestock shall be treated as an involuntary conversion where the taxpayer sold such livestock solely on account of the destruction of the barn or other facility used to house such livestock; to the Committee on Ways and Means.

By Mr. LENT:

H.R. 16799. A bill to establish a program to assist individuals and State and local governments in economically depressed areas; to the Committee on Public Works.

By Mr. McDADE:

H.R. 16800. A bill to amend the Internal Revenue Code of 1954 to provide that taxpayers shall not be required to reduce the amount of casualty loss deductions by the amount of reimbursement anticipated from the cancellation of certain Federal loans made in the case of certain disasters; to the Committee on Ways and Means.

By Mr. NIX:

H.R. 16801. A bill to amend title 18 of the United States Code to provide rules for the treatment of prisoners in Federal correctional institutions; to the Committee on the Judiciary.

By Mr. REID (for himself, Mrs. ABZUG, Mr. ADDABBO, Mr. BINGHAM, Mr. CONYERS, Mr. CORMAN, Mr. DELLUMS, Mr. DIGGS, Mr. DRINAN, Mr. EDWARDS of California, Mr. EILBERG, Mr. FRASER, Mr. FULTON, Mr. GREEN of Pennsylvania, Mr. HALPERN, Mr. HARRINGTON, Mr. HATHAWAY, Mr. HAWKINS, Mr. HECHLER of West Virginia, Mr. HELSTOSKI, Mrs. HICKS of Massachusetts, Mr. KASTENMEIER, Mr. KOCH, Mrs. MINK, and Mr. MITCHELL):

H.R. 16802. A bill to strengthen and expand the Headstart program, with priority to the economically disadvantaged, to amend the Economic Opportunity Act of 1964, and for other purposes; to the Committee on Education and Labor.

By Mr. REID (for himself, Mr. MOLLOHAN, Mr. MURPHY of New York, Mr. NIX, Mr. RANGEL, Mr. RODINO, Mr. ROSENTHAL, Mr. SCHEUER, Mr. SEIBERLING, Mr. STOKES, Mr. THOMPSON of NEW JERSEY, and Mr. WOLFF):

H.R. 16803. A bill to strengthen and expand the Headstart program, with priority to the economically disadvantaged, to amend the Economic Opportunity Act of 1964; and for other purposes; to the Committee on Education and Labor.

By Mr. ROBERTS:

H.R. 16804. A bill to rename the Mineola dam and lake as the Carl L. Estes dam and lake; to the Committee on Public Works.

By Mr. ROGERS:

H.R. 16805. A bill to amend Public Law 91-508 to limit the disclosure of bank records by financial institutions, and for other purposes; to the Committee on Banking and Currency.

By Mr. YOUNG of Florida:

H.R. 16806. A bill to amend title 38 of the United States Code to provide that one-half of any social security benefit increases provided for by Public Law 92-336 be disregarded in determining eligibility for pension or compensation under such title; to the Committee on Veterans' Affairs.

H.R. 16807. A bill to require States to pass along to public assistance recipients who are entitled to social security benefits at least half of the 1972 increase in such benefits, either by disregarding it in determining their need for assistance or otherwise; to the Committee on Ways and Means.

By Mr. MAHON:

H.J. Res. 1306. Joint resolution making further continuing appropriations for the fiscal year 1973, and for other purposes; to the Committee on Appropriations.

By Mr. BURLISON of Missouri:

H.J. Res. 1307. Joint resolution providing for a special deficiency payment to certain wheat farmers; to the Committee on Agriculture.

By Mr. SEIBERLING:

H. Con. Res. 709. Concurrent resolution on the need for national commitment to find a system for settling international disputes without war; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DOW:

H.R. 16808. A bill for the relief of Howard Lindberg; to the Committee on the Judiciary.

By Mr. GUDE:

H.R. 16809. A bill conferring jurisdiction upon the U.S. Court of Claims to hear, determine, and render judgment upon the claim of Calvin O. Schofield; to the Committee on the Judiciary.

By Mr. HOWARD:

H. Con. Res. 710. Concurrent resolution extending the greetings and felicitations of Congress to the American Public Health Association on the occasion of the 100th anniversary of its founding; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

285. The SPEAKER presented a petition of the Board of Representatives, Dutchess County, N.Y., relative to legislation proposed by Hon. HAMILTON FISH, to amend the National Housing Act, which was referred to the Committee on Banking and Currency.

SENATE—*Monday, September 25, 1972*

The Senate met at 9 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Lord, our Father, Almighty and Everlasting God, who hast safely brought us to the beginning of this day, defend us in the same with Thy mighty power, and grant that this day we fall into no sin, neither run into any kind of danger; but that all our doings may be ordered by Thy governance, to do always that which is righteous in Thy sight, through Jesus Christ our Lord.

O Lord God, who hast called us, Thy servants, to ventures of which we cannot see the ending, by paths as yet untrodden, and through perils unknown, give us faith to go to our tasks with good courage in the sure knowledge Thy hand is leading us and Thy love supporting us.

We pray in the Redeemer's name. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, September 22, 1972, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the calm of the legislative calendar, under rule VIII, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the District of Columbia Committee; the Interior and Insular Affairs Subcommittee on Parks and Recreation; and the Labor and Public Welfare Subcommittee on Education be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDENT pro tempore. The nomination on the Executive Calendar will be stated.

U.S. TAX COURT

The second assistant legislative clerk read the nomination of Darrell D. Wiles, of Missouri, to be a judge of the U.S. Tax Court for a term expiring 15 years after he takes office.

The PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed; and without objection the President will be immediately notified of the confirmation of this nomination.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to and the Senate resumed the consideration of legislative business.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Maryland (Mr. BEALL) is now recognized not to exceed 15 minutes.

(The remarks Mr. BEALL made on the introduction of S. 4023 are printed in the Routine Morning Business section of the RECORD under Statements on Introduced Bills and Joint Resolutions.)

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the senior Senator from Massachusetts (Mr. KENNEDY) is recognized for not to exceed 15 minutes.

Mr. KENNEDY. Mr. President, I ask unanimous consent that a member of the staff of the Health Subcommittee of the Committee on Labor and Public Welfare, Dr. Larry Horowitz, be permitted on the floor during the transaction of routine morning business today.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADMINISTRATION'S OPPOSITION TO RECENT HEALTH LEGISLATION

THE NIXON HEALTH RECORD

Mr. KENNEDY. Mr. President, last week the Senate passed three landmark pieces of health legislation: The HMO bill, which provides a real alternative to traditional fee-for-service solo practice; the DES bill, which bans this known cancer-causing substance from cattle feed; and the Health Facilities, Manpower, and Community Mental Health Centers Act, which extends and improves the authorities for eight vitally important health programs.

Astonishingly, the Nixon administration has opposed each and every one of these measures. In fact, the administration has opposed each of the last 11 pieces of health legislation considered by the Senate Subcommittee on Health. In testifying against all this legislation, the administration has effectively:

Opposed the improvement of our medical libraries;

Opposed the provision of doctors to doctorless counties;

Opposed the provision of more money for hospital construction and modernization;

Opposed the banning of a known cancer-causing substance from our food supply;

Opposed the strengthening and expansion of our community mental health centers program;

Opposed the training of allied health personnel;

Opposed the expansion of our communicable disease control programs.

This is a record of negativity unparalleled in recent times.

In 1969 President Nixon admitted that the Nation faced a massive health-care crisis which, if not met in the "next 2 or 3 years," would cause "a breakdown in our medical care system which could have consequences affecting millions of people throughout the country." The administration is willing to suffer those consequences. I am not; my Democratic colleagues are not. And even my Republican colleagues in the Senate broke with the President and joined with us to pass the three health bills last week by overwhelming majorities.

But this administration has done more than just oppose the passage of new health legislation. The President has set unprecedented records by vetoing two of the last three health appropriations bills—appropriations for all the existing health programs. Richard Nixon's latest veto message accused the Congress of fiscal irresponsibility. Yet it is the President's proposed budget which is irresponsible. His budget would not allow the maternal and child health service to provide care for one additional mother or child; would not permit one new comprehensive neighborhood health center to be opened; would continue services to only 2½ percent of the mentally retarded children in this country.

Is his really the kind of fiscal responsibility the American people want? I think not. I think the people recognize that this veto, like its predecessor, represents a desperate attempt on the part of the President to pay for the enormous costs of his tragic bombing policy in Vietnam. I do not think this Nation is prepared to pay for bombs with the dollars needed to assure the health of their children. I do not believe the Nation's children, the mentally retarded, the poor, the old and the sick ought to pay for the bombing of Vietnam. It is more than the Nation's spirit that has been drained by the continuation of this war.

We in the Senate will continue to try our best to reorder this Nation's priorities. We will continue to pass health legislation with or without administration support, and we will continue to appropriate whatever funds are necessary to solve the health care crisis. We have no alternative. No one else is looking after the health interests of the men, women, and children of America.

Mr. President, in the health field, as in so many other fields, this administration's programs favor the strong over the weak, big business and organized medicine over the individual citizen. The President's health program is little more than a windfall for the insurance industry. The President would provide a patchwork of new insurance coverages for selected groups of Americans. It is a program which totally excludes one out of five Americans. But his program ignores the necessity to increase our capacity to provide care; it ignores the urgent need to establish quality control mechanisms in our health care system; it ignores the fact that the same bankrupt institutions that cannot keep up with the payment of benefits today would have an added burden placed upon them by this program. Instead of providing an incentive for doctors to practice in rural and inner-city areas, President Nixon's program would start a gold rush of insurers into these areas.

I say the health insurance industry has been a catastrophic failure in America. I say the average citizen should not have to mortgage his future because he did not read the fine print in his insurance policy. I believe that the $14 million insurance companies paid out in 1970 to hospitals and physicians could have been better spent; it could have been used as leverage to change the system, to develop quality standards, to provide incentives to develop new and better ways to deliver health care. Mr. President, the health of our people is far more important than the health of the insurance industry. That is why I have proposed a system of national health security: to help reorder our priorities.

I want hospitals to be primarily concerned with the patient's illness, not with the status of his insurance coverage. I want every parent in this country to know that his child can get whatever health services he needs—no father ought to ask himself if his sick child can get by without seeing a doctor because of the expense involved.

With Richard Nixon's record of support of, and faith in, the bankrupt insurance industry, it is little wonder that the Price Commission has allowed insurance company price increases of up to 55 percent.

Mr. President, when Richard Nixon took office, he asked to be judged by deeds, not words. Here are some of his deeds in the health field:

First, the first Nixon budget cut medical research by 20 percent and resulted in the closing of 19 research centers.

Second, he closed a proposed measles vaccination program in spite of predictions of a serious recurrance in 1972–73. The last epidemic of rubella resulted in more than 25,000 deaf children.

Third, he vetoed two of the last three health appropriations bills. That veto said, in effect:

That $8 million additional dollars was too much to spend on a program to control the diseases that account for half of all the deaths in this country—heart disease, cancer, and stroke;

That $3 million additional dollars was too much to spend for vaccination programs in spite of their proven effectiveness;

That $35 million additional dollars was too much to spend to control the diseases affecting the working men and women of this country—the occupational hazards like the dreaded black lung disease;

That $46 million additional dollars was too much to spend to look after the health needs of new infants and their mothers, as well as the elderly.

Mr. President, this is a sorry record, indeed. Perhaps if all the sick in this country could band together and contribute to his campaign, Mr. Nixon would take their problems more seriously. But pregnant women, children, the elderly the retarded, millions of middle-income working Americans, and the poor, have no Dita Beard to lobby on their behalf and they cannot expect the same favors as granted to ITT.

Dr. Stanley Yolles, a former Assistant Surgeon General and Director of the National Institute of Mental Health, a veteran of 30 years Government Service to both Republican and Democratic administrations, accused the Nixon Administration, at the time of his resignation, of a "lack of commitment to supporting mental health services for children; curtailment of research support and mental health professionals; substitution of rhetoric for monetary support in Federal drug abuse and alcohol control programs, and the introduction of partisan, political consideration in the appointment of individuals to scientific positions."

Mr. President, the American people are not deceived by Mr. Nixon's rhetoric. They will judge by what they see and experience—and what they see and experience are rising doctor bills, rising hospital bills, inadequate insurance coverage, epidemics of venereal disease, a proliferation of drug abuse, and a bankrupt administration, unable or unwilling to meet these problems. They will see all these things and then they will judge and their judgment will be that by his own standards, Mr. Nixon's health program is a dismal failure.

Mr. President, in the brief time that is remaining I would like to go over some of the statements that were made by the President in his 1971 health message to Congress, and to compare those statements with his actions in the health field.

In the health message of 1971 President Nixon said:

> We must reaffirm, and expand the Federal Commitment to biomedical research.

The facts are that this administration, in its first year in office cut medical research by 20 percent, which resulted in the closing of 19 research centers.

President Nixon said:

> I am announcing today a comprehensive national health insurance program to provide adequate health insurance for the American people.

The fact is, that a careful review of his health insurance proposal reveals that it excludes 1 out of every 5 Americans. If a person is married and poor but does not have children, he is excluded from the program.

President Nixon said:

> We must immediately cut down on the 14,000 deaths and more than 2 million disabling injuries which result each year from occupational illnesses and accidents.

We passed legislation to permit thousands of new inspectors to be placed in the mills and factories of this country, and only 400 of them are there now. We can afford to have 150,000 men in Southeast Asia to look after the security of the South Vietnamese, but we cannot afford to put the required number of men in the plants of this country to look after the health and safety of this Nation's workers who toil in our plants and factories. In addition, the appropriations bill vetoed by the President contained $35 million earmarked for diseases affecting workers, including the dreaded black lung disease.

President Nixon said:

> When we talk about health programs we should not forget our efforts to protect the Nation's food and drug supply.

The fact is the administration just recently opposed the banning of the known cancer-causing substances, DES, from the Nation's food supply. What kind of protection is that?

The President's health message went on:

> Barriers to development of HMO's include archaic state laws which prohibit or limit the group practice of medicine in 22 states.

Yet, on August 14 the administration changed its view and opposed the preemption of restrictive State laws. The department spokesman said, "Conceptually, the new policy position is a major retreat."

So in his health message he pledged to do something about restrictive health laws, but on August 14, he backed away from that commitment.

Quoting again from the 1971 health message:

> The Federal Govt. should supplement these efforts by supporting out patients clinics in areas which still are underserved. These units can build on the experience of the Neighborhood Health Centers.

The fact is that the President's proposed budget would not allow one additional neighborhood health center to be opened. These facilities reach out into the rural as well as the urban areas to provide comprehensive health services. On the one hand the President said these are the kinds of facilities that should be used as models for the delivery of health care, but on the other hand his proposed budget would allow no new centers to be built in spite of the need for them in this country.

Mr. President, you find these contradictions throughout. On the one hand, there is the President's message on health, and when the time comes for appropriations to implement that message an entirely different song is sung. No one knows that better than the distinguished Senator from the great State of Washington.

Quoting again from the health message:

> It is important that we produce more health professionals and that we educate more of them to perform critically needed services.

But once again the administration's actions were contradictory. The President vetoed legislation to provide more family doctors for this Nation. That was in spite of the overwhelming support of the bill in the Senate and House.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. MAGNUSON. To my mind, the false sense of priorities involved——

The PRESIDING OFFICER. The Senator's 15 minutes have expired.

Mr. CRANSTON. Mr. President, I yield 1 minute of my time to the Senator from Washington.

The PRESIDING OFFICER. The Senator from California yields 1 minute of his time to the Senator from Washington.

Mr. MAGNUSON. The priorities are misplaced. The point is that even if these figures could be disputed, I know, and the Senator from Massachusetts and the Senator from California know, we are meeting only about one-third of the real needs of the people. There is no argument when there is an overkill of defense weapons, but there is a big argument when there is an underkill on the health and education needs of the American people. That is the best way I can describe it—an overkill on one side and an underkill on the other. I would say we are not meeting at least 40 percent of the needs of the people, after listening to all the witnesses and all the testimony, in the field of health, education, and welfare.

Mr. KENNEDY. As I understand it, the President said the vetoed bill provided an additional $2.1 billion for HEW—what was the final appropriation?

Mr. MAGNUSON. The final figure was $30.5 billion. I will put the figures in the Record.

Mr. KENNEDY. The vetoed bill was $2.1 billion over his request. Yet we are exporting over $5 billion in military equipment a year. This was $2.1 billion over the request.

Mr. MAGNUSON. They choked on this $2.1 billion down there at the same time we are talking here about a bill on foreign aid which provides for more than that amount—which may be needed, too. I do not object to that, but they do not choke on the fact that—the figures are a little elusive, depending on whom one believes down there—we spend at least $1 billion a month, not a year, but a month, chasing little people in black pajamas all over Southeast Asia. This is what I mean by priorities.

Mr. KENNEDY. I hope we will have a chance to talk a little more about that later.

I thank the Senator from California for yielding.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the Senator from California is recognized for 14 minutes, having yielded 1 minute to the Senator from Massachusetts.

NIXON ADMINISTRATION'S FAILURE TO PROVIDE FOR VETERANS MEDICAL NEEDS

Mr. CRANSTON. Mr. President, the distinguished Senator from Massachusetts (Mr. Kennedy) has clearly articulated the critical state of federally supported health programs—a subject he knows so thoroughly and feels so deeply. The Senator from Washington (Mr. Magnuson), by his comments, has brought his very great expertise and compassion to bear, also, on this most vital subject.

I rise to address the critical state of one component of the Nation's health system—the Veterans' Administration system of hospitals and clinics—and the Nixon administration's resistance to building up this system to meet the increasing pressures placed upon it by the growing numbers of veterans from previous conflicts now needing medical care, and the large numbers of veterans from the present conflict in Southeast Asia requiring intensive hospital care or rehabilitation.

When we discuss health programs and the deficiencies of the Nixon administration in meeting national needs, we must not overlook one of the major national resources in health care—the Veterans' Administration system of hospitals and clinics.

The Veterans' Administration's 167 hospitals and 202 clinics have been attempting to provide quality care to the Nation's veterans under extremely difficult conditions. These difficult conditions have been created primarily by the budgetary restrictions and personnel ceilings mandated by the administration.

The first hint of the disastrous policies which this administration would follow was dropped in 1969 when the administration recommended a reduction in the fiscal year 1970 budget request of the Johnson administration of some $70 million. This cut would have meant a reduction of 3,600 in the number of personnel helping disabled veterans in VA hospitals.

Congress met this shortage by appropriating a substantially increased amount over the President's request, and by adopting a supplemental appropriation which brought total budget authority for medical programs up to $1.6 billion in that year.

The next year, fiscal year 1971, following this positive action by Congress, the administration proposed a budget for VA medical care of $1.7 billion, trumpeted as a record amount for this purpose. However, investigation by the Subcommittee on Veterans' Affairs, which I then chaired, and a very careful scrutiny of the budget, indicated that actually, it was at best a standstill budget. And that it was indeed a regressive one.

This proposed administration figure was still $50 million below the level estimated as necessary for fiscal year 1971, a full year previously, by the VA's own medical experts. Since the time those estimates had been put together, the demands for care and the cost of providing it had inflated beyond all expectation. Congressional action resulted in a final appropriation for fiscal year 1971 of over $1.9 billion.

Again in fiscal year 1972, the administration's budget requests were seriously below need. The fiscal year 1972 request for the medical care item, although nominally $124.7 million more than appropriated for the previous fiscal year, was in no way a step ahead. About half of the proposed increase would have been eaten up by inflation on fixed charges on capital items, such as utility charges. Half of the remaining $60 million or so in the President's request would have been largely eroded by realization of a higher average salary per employee than had been budgeted.

Congress again met the issue squarely and enacted an increase of more than $200 million, enabling the VA to provide an adequate level of care to the Nation's veterans for 1 more year.

By fiscal year 1973, as a result of congressional initiatives and over the administration's stanch protests, some $376 million had been added over this administration's requests for medical care for veterans.

With the funds included in this years' 1973 appropriation, the amount added is now over $450 million—almost a half billion dollars—and this effort could culminate by the end of 1973 in an increase of about 20,000 health care workers in VA medical facilities since fiscal year 1971.

Had the administration been successful in maintaining its limited recommended level of funding, this increase in personnel would have been impossible. It should be emphasized that a principal deficiency in VA hospitals had been a gross lack of staff prior to congressional efforts to increase staffing. This inadequacy had come at a time when the VA was trying to activate some 150 badly needed specialized medical services—such as intensive care units, coronary care units, open heart surgery units, pulmonary function units, and more spinal cord injury centers—all of which require intensive staffing, which drains off staff available for the core hospital.

The VA hospitals had an overall staff-to-patient ratio of less than 1.5 to 1, as compared to staffing ratios of about 2.7 to 1 for community hospitals.

This serious deficiency in staff-to-patient ratios was all the more alarming when more and more of the VA patient population included veterans of the Southeast Asia conflict.

This war in Southeast Asia, with relationship to the wounds suffered by the men serving there, is totally different from any other war we have fought. New, modern destructive devices range from high caliber rifles which inflict shattering wounds to light caliber weapons and new types of mines and other traps used in close combat and guerrilla warfare. These new weapons are creating wounds that are unprecedented in their destructive and crippling nature.

At the same time, now, with helicopters to lift fallen men from battle the moment they have fallen, and fly them in a matter of minutes to field hospitals, these men receive medical care far earlier, after they are wounded, than in prior wars. And they receive better care, due to new medical advances and wonder drugs which were not available before.

For these reasons, more badly wounded men—10 percent more—are surviving this war than ever before in the history of any war we have fought.

These courageous men require intensive care, creating a greater demand for staff and specialized equipment.

And it was in the face of this demand and the existing low levels of staffing in 1970, 1971 and 1972 that the Nixon administration consistently fought our efforts to provide funds to live up to our obligation to our wounded and disabled veterans.

The slow but steady growth in the numbers of personnel in VA hospitals is a step ahead, but still not fully adequate in relation to the need. Nevertheless, these steps would not have been taken without the consistent support provided by the congressional leaders in the House and Senate responsible for overseeing the Veterans' Administration budget and program. I would like at this time to bring this body's attention to the outstanding leadership provided by the distinguished Senator from Rhode Island (Mr. PASTORE) in gaining increased appropriations for the Veterans' Administration each year of the last four, and in being consistently agreeable to suggestions and recommendations made for greater, funding for the VA medical program. Support for the health needs of veterans has been supported in Congress by Democrats and Republicans alike. Republican Senators and Representatives have been just as unwilling as their Democratic colleagues to follow the nonleadership of President Nixon.

The growth of the VA medical care system in the last 3 years has been accomplished only by continual diligence and persistence on the part of Congress.

The administration tried to stifle Congressional funding efforts by bureaucratic controls: By issuing directives limiting the average daily census allowed in VA hospitals, and ordering a rollback in the average grades of General Schedule employees of the VA.

DAILY CENSUS CUTBACK

In 1971 OMB ordered a reduction in the average daily patient census of over 5,000 veterans. At that time, I agreed philosophically with the VA objection to the census minimum that such a requirement might run counter to sound medical judgment. Indeed I firmly believe the admission or discharge of a patient to a VA hospital is properly left to a physician's professional judgment.

But that same principle supported, indeed demanded, we set a census minimum in the law to prevent the census cutback ordered by the Office of Management and Budget.

For it was in order to save money and cut back the VA that the OMB arbitrarily required this rollback to 79,000 from a cumulative projected census of about 84,500 for fiscal year 1971.

No medical judgment was ever involved in this OMB decision.

Quite the opposite.

OMB's effort was totally contrary to medical judgment.

When, during fiscal year 1971, physicians were left to decide how best to handle admissions and discharges of sick veterans, the VA cumulative average daily census through April 1971 was running at 84,647—far above the fiscal year 1971 budget estimate of 83,000.

During that period, the VA was experiencing an almost unprecedented level of demand, as evidenced by record high monthly hospital applications and actual admissions and the highest waiting list for domestic VA hospitals in 4 years. That is why the VA fiscal year 1972 budget submission to the OMB was premised on an average daily census of 84,371, not 79,000.

And that is why a minimum census requirement, such as the Congress inserted in the appropriations act was—quite regrettably—absolutely necessary.

Otherwise, this census cutback would have been implemented by closing beds and wards.

EFFECT OF AVERAGE GS GRADE ROLLBACK

Mr. President, another OMB effort to frustrate the effectiveness of congressional initiatives was implementation of an OMB bulletin which directed the VA to achieve an average grade reduction of general-schedule employees by January 10 of a grade by June 30, 1972. This was followed by OMB Bulletin No. 72–5 directing fixed reductions in full time personnel and total employment ceilings. On the latter, the VA was, by and large, given the benefit of the doubt, but the effect of the grade rollback requirement was alarmingly eroding the quality of patient care.

The present rollback has already caused unacceptable chaos and damaged morale. It arbitrarily forced the hiring of untrained personnel at lower GS levels when trained professionals and technicians were available to hire. It caused turnover—requiring new training costs and patient care disruption for replacements—or resentment among those denied long overdue promotions. It resulted in serious depression of advancement opportunities for the lower-paid patient care personnel, especially trainees promised upgrading opportunities in good faith when hired. It lead to wholesale abuse of civil service job classification standards and temporary appointments and promotions.

It widened the disparity between GS and the wage board grades—the latter not included in the OMB bulletin. It placed restrictions on filling openings at high levels for assistants and deputies. If eliminated the policy of assigning tasks from title 38—excepted positions to GS positions. And finally, it resulted in the overall slowing down in the filling of positions while the impact on the grade level is calculated and replacements are sought at far lower GS grades with lower commensurate skills than the individual being replaced.

This is a bleak picture for the veteran patient who finds himself in the care of more and more unskilled trainees rather than experienced health care workers and who has to remain in the hospital extra days while waiting longer for X-ray and laboratory results.

Yet this was the administration's approach, and again, the only hope for the veterans was in action by the congressional appropriations committees' directing that this circular not be implemented in fiscal year 1973.

Is this administration's penny-pinching, short-sighted approach what the people of the United States want for their veterans? I say "No."

I say they want them to have the finest level of medical care possible—the level of care which the dedicated personnel of the Veterans' Administration hospitals are fully capable of giving if they are provided with the supporting personnel and the necessary equipment, medicines, and physical facilities to do so.

They have been hindered in these efforts by arbitrary and heartless decisions by this administration. Congress has tried in every way possible to insure they have the funds, equipment, medicines, and facilities necessary to provide the first-quality, compassionate care our nation's veterans deserve, and which I am sure all Americans believe they must be provided.

Congress can be counted on to continue to be vigilant to achieve this crucial goal. We must not let our high obligation to our Nation's war wounded be relegated to a low priority, as this administration has consistently sought. Instead, it must be our highest priority.

The PRESIDING OFFICER (Mr. GAMBRELL). The Senator's time has expired. Under the previous order, the Senator from Washington (Mr. MAGNUSON) is recognized for not to exceed 15 minutes.

THE LABOR-HEW APPROPRIATION VETO

Mr. MAGNUSON. Mr. President, I first want to compliment the Senator from Massachusetts and the Senator from California on their very keen analysis of the matter of priorities in this country, particularly as it relates to the HEW veto.

By any measure, the Labor-HEW bill is impressive. A $29.6 billion dollar measure can be equally confusing and we can easily lose sight of what is really at stake.

The Labor-HEW appropriation sets forth the Federal share, or support, for hundreds of State and local health and education programs.

The Congress approved increases in the 1973 levels of funding in that vetoed bill. The Congress approved increases in those State and local health services and education programs in very specific areas.

By his veto, the President alone decreed that our Nation would not increase those services or expand the coverage and participation in those programs.

For a moment, let me set the record straight and cite a few examples of what that veto means in just the health field.

First. Approximately 150,000 fewer school-aged, handicapped children would be served and 1,500 fewer teachers of the handicapped would be trained.

Second. Approximately 30,000 crippled children would not receive medical services.

Third. Six hundred fewer physicians would be trained in the new specialty of family medicine.

Fourth. About 10,500 nursing students would be turned away when they seek scholarship aid to continue their education.

Fifth. Grants which would produce an additional 560 first-year places in medical and related schools would not be funded because the President's budget requested zero for medical school construction grants—even though there is a continuing shortage of 50,000 doctors right now.

Sixth. Grants which would produce an additional 1,650 first-year places in nursing schools would not be funded again because the President's budget requested zero for nursing school construction grants—even though the shortage of nurses may be even greater, as I have pointed out, than the shortage of doctors.

Seventh. Hospitalization costs for migrant farm workers and their families would not be funded.

Eighth. Construction of 4,000 hospital beds in eight public health centers and 46 new general hospital projects would not be funded because the President's budget requested zero for hospital construction grants.

Ninth. Construction of 2,400 beds in about 40 nursing homes and chronic disease projects would not be funded because the President's budget requested zero for long-term care construction grants.

Tenth. Modernization of 4,000 hospital beds in 55 Hill-Burton projects would not be funded because the President's budget requested zero for hospital modernization.

Eleventh. Construction of the experimental children's hospital in Washington, D.C. would be crippled by the loss of a special $12 million experimental hospital grant because the President's budget requested zero for this important facility—which, when successfully proven, would provide a model that could be replicated throughout the Nation.

Twelfth. The initiation of a "Life Plan" in the area of kidney disease that could result in saving the lives of 10,000 to 20,000 Americans each year who now die because of the lack of life-saving kidney machines would not become a reality.

Thirteenth. Twenty-five new specialized care units for premature babies would not be established—even though this new development provides a promising way of reducing infant mortality.

Fourteenth. Additional research funds for sudden infant death—or crib death—would not be made available to the National Institutes of Health.

There are literally hundreds of cases in which this happens, and we do not know enough about it yet to find out just how we can prevent it.

Fifteenth. Approximately 250 fewer doctors and nurses would be sent into medically underserved areas of our Nation where the existing health manpower is inadequate or nonexistent. Money was provided for the emergency Health Service Corps, but not enough.

Sixteenth. About 225,000 men, women, and children who might otherwise be helped in local community mental health centers, drug-abuse treatment centers, alcoholic treatment centers, and through the maternal and child health programs will not be able to receive such assistance.

I could go on and on and on. This is just a partial list of the health programs involved in that Labor-HEW bill that was vetoed.

These are just a few of the vital health programs, important to millions of Americans, that will not be expanded because of that veto.

An overwhelming majority in Congress determined that these programs should be expanded and these health services made available. By his veto, the President decreed otherwise.

Because of that veto, those shortages in health manpower will continue, those additional health services will not be rendered, and much additional biomedical research will not be conducted.

This is what President Nixon's veto of the original 1973 Labor-HEW Appropriations Act really means in human terms for millions of our fellow citizens.

Let us talk now about the money element. Chairman George Mahon of the House Appropriations Committee said:

> I would hazard the prediction that the annual appropriation bills, for fiscal 1973 at this session, will total perhaps $2 to $3 billion less than the related appropriation requests.
>
> Nine regular appropriation bills for fiscal 1973, plus the Disaster Relief appropriation bill, making 10 of the bills for 1973 have already been signed into law. At this moment, in bills signed into law, we are $322 million above the President's budget requests.
>
> But, the Defense Appropriation bill, which is $4.3 billion below the budget, and foreign aid, which is some $967 below the requests, have yet to reach final Congressional action.
>
> Passage of these bills, at such levels below the President's requests, would leave us almost $5 billion below his budget.

This is where priorities come in, and I do not understand anyone with any sense of priorities who could complain about an increase in health, education, and welfare, particularly in the health field, when we are going to be $5 billion below the total budget.

As I said earlier to the Senator from Massachusetts, this false sense of priorities seems to be almost a fetish with certain people in this administration. We can spend all this money on foreign aid, and I suppose some of it should be spent. We can spend all this money on Vietnam, about a billion dollars a month, as I said before, chasing little people in black pajamas all over Southeast Asia.

Perhaps that procedure meets with the approval of many. But when we have certain capacities and capabilities in this country and when we are going to have a budget that is $5 billion under the Presidents' request over-all, and inasmuch as Congress lowered the President's budget over the last 3½ years or 4 years some $12 billion, I cannot see all this concern over an additional $1.7 billion to meet the human needs of this country.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. KENNEDY. The Senator from Washington was the architect of the emergency Health Personnel Act to provide medical personnel to underserved areas. I am sure the Senator recalls that, because he was active in its development.

Does the Senator recall that in the 1971 health message the President said:

> We will mobilize a new National Health Service Corps made up of largely public spirited young professionals in areas which are now plagued by critical manpower shortages.

I recall—and I wish the Senator would refresh my recollection if I am incorrect—that, first of all. The President never asked for funds for this program the first year, and then he asked for inadequate funds.

Mr. MAGNUSON. Yes.

Mr. KENNEDY. They delayed getting it started. Then they opposed legislation extending the program in testimony before the Senate Health Subcommittee. Finally, when they sent some health personnel into the field, they sent them only to communities with a sound financial base rather than to the areas which were most underserved. There is nothing in the law about communities needing to have the ability to pay for these services in order to qualify for the program.

We realize that there are about 140 counties in this country that have no physicians whatever. This legislation was intended to send needed health manpower into these underserved areas. I know that this is a program in which the Senator from Washington is particularly interested. I would like to hear his views on this.

Mr. MAGNUSON. I have a deep interest in it, because I authored the original bill, with the help of the Senator from Massachusetts and others. There are still going to be very few of these people.

It seems to me that their sense of priorities downtown was all wrong, because we intended it to go—and that is the legislative history—in those places that needed it the most and where, in some cases, they could not pay any fees or could pay just a little. That rule has been violated. There is no question about it.

They delayed the program 18 months. Now they say we are going into some places, but they cut the money again on that, and severely limited the number of doctors, nurses and others who can serve.

One can pick up a paper almost every week in any given area and find how happy the people are in certain areas—in the ghettos or in the poor rural communities that finally have a doctor show up. The Emergency Health Service Corp. are dedicated people, and they know how to handle these problems. This increase is cut out in this bill.

This is typical of the problems we face with human need programs. The Congress, over and over again, tries to meet these needs—with sound legislation and with more adequate appropriations—especially in the health manpower field. That is the keystone of getting to the problems in the delivery of health care in our Nation.

Mr. KENNEDY. That is one of the classic examples of the President saying one thing—that he wants a vital national health service corps, and doing another—he actually vitiated the effect of the program and opposed its extension.

I recall, as the Senator from Washington does, all the publicity on the war on cancer. The Senator will remember that legislation was initially developed by the Senator from Texas. The Senate Health Subcommittee held hearings. We acted on the legislation. The administration blocked its enactment until the President put in his own program; and then we had all the publicity about that down at the White House as if Congress was never involved. Yet the vetoed HEW appropriation bill contained $60 million additional for the war on cancer over the President's proposed budget. The vetoed bill contained $65 million additional for the heart and lung institute over what the President wanted. Does the Senator not agree that there is an inconsistency here? The statements made at the pen-signing ceremonies are always glittering, but the behind the scenes activity is always quite different.

Mr. MAGNUSON. There seems to be no consistency between what they say and all the publicity which people seem to believe but then when the budget comes up they cut the things they are talking about. They ought to have a stereo machine with two loudspeakers, one for this side and one for the other side. That might serve their purposes better.

Over the last 4 years the President has asked for appropriations for $95 million but Congress, sensing the true priorities, granted $99 million. That is a $4 billion increase in 4 years. I suppose the Pentagon spills that much money every month, do they not? They must. I am not complaining about Defense appropriations at all but I am complaining about the sense of priorities.

They say this is inflationary. It is not inflationary. It is the reverse. I never knew that educating kids became inflationary. If we do not educate them, then it will be inflationary, or if we do not give them adequate health care they need it will cost more in the long run. We had a good bill.

I deplore the fact that everyone says they are all for these things but it is Congress which has done the overwhelming amount of work to increase these funds. Many people over on the House side voted for the increases, and on the other side of the aisle in the Senate, too, but then they also voted to sustain the President's veto. That is the height of inconsistency in this very important field of human needs.

Mr. President, I ask unanimous consent to have printed in the RECORD some fact sheets with comparison on the vetoed bill and the new House bill, for the benefit of the Senate.

There being no objection, the fact sheets were ordered to be printed in the RECORD, as follows:

FACT SHEET

THE VETOED BILL

Conference Total—With Comparisons

The total new budget (obligational) authority for the fiscal year 1973 recommended by the Committee of Conference, with comparisons to the fiscal year 1972 amount, the 1973 budget estimate, and the House and Senate bills follows:

New budget (obligational) authority, fiscal year 1972	$27,403,058,000
Budget estimates of new (obligational) authority fiscal year 1973 (including $1,449,310,000 not considered by the House	28,776,633,500
House bill, fiscal year 1973	28,603,179,500
Senate bill, fiscal year 1973	31,354,930,500
Conference agreement	30,538,919,500
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1972	+3,135,861,500
Budget estimates of new (obligational) authority (as amended) fiscal year 1973	+1,762,286,000
House bill, fiscal year 1973	+1,935,740,000
Senate bill, fiscal year 1973	−816,011,000

THE NEW HOUSE BILL

The new House bill totals $29,603,448,500, a decrease of $935,471,000 from the vetoed bill, and $835,815,000 more than the budget request. In developing a new measure to replace the vetoed bill, the House started with the *original* 1973 reported House bill and reduced the four largest increases over the budget contained in that bill by 12½ percent.

In addition, the new House bill includes four line items considered by the Senate, but not in the House in the original House-reported bill. These items, which are the same as the budget request, are Work Incentives, Grants for Developmentally Disabled, Special Benefits for Disabled Coal Miners and Corporation for Public Broadcasting.

The new House bill, in effect, ignored the amendments, changes and increased amounts of the Senate and all the agreements reached in conference on the original bill.

CONGRESS CUTS NIXON BUDGET REQUESTS BY $12.7 BILLION IN 4 YEARS

Is it logical when, on the one hand, the President claims spending for Health, Education and Welfare beyond his own request is excessive, reckless and inflationary, but similar (and far greater) expenditures for Defense or Foreign Assistance apparently are not inflationary or excessive.

Since the President so obviously dominates the headlines, hardly allowing Congressional pleas to be heard, the American public conceives the President as a one-man task force trying to curb a wasteful, spendthrift Congress.

But the truth of the matter is that it is the Congress that has cut inflation by curbing presidential budget requests by $12.7 billion from 1970 through 1973.

In four years the President has asked for $297.1 billions for Defense, but Congress wisely curbed this spending spree to $281.5 billion—a saving of $15.6 billion.

For HEW, the President asked for appropriations of $95 billion over 4 years, but Congress (sensing the country's true priorities far better than the President) granted $99.4 billion, an increase of $4.4 billion over the aggregate four years' requests.

For Foreign Aid, the President asked for $16.1 billion, but Congress granted $13.2 billion—a saving of $2.9 billion.

So, with a combined savings of $18.5 billion from Defense and Foreign Aid, Congress rightly sensed urgency in HEW and used $4.4 billion of this total savings for human resources needs. When all other departments of government were considered over the 1970–73 period, another $1.4 billion was utilized for such areas as Agriculture and Interior, thus leaving an overall savings of $12.7 billion in the four-year period.

The PRESIDING OFFICER (Mr. STEVENSON). Under the previous order, the distinguished Senator from Connecticut (Mr. RIBICOFF) is recognized for 15 minutes.

Mr. RIBICOFF. Mr. President, I have listened with great interest to the statements just made by the two distinguished Senators from Massachusetts and Washington, as well as the distinguished Senator from California (Mr. CRANSTON), and I cannot help agreeing with and complimenting them for their leadership in this very important field of health.

THE NIXON BAND-AID FOR HEALTH CARE

Mr. RIBICOFF. Mr. President, if, as Ralph Waldo Emerson said, "Health is our first wealth," this Nation has become poorer in the last 4 years under the administration of Richard Nixon.

The promises of the 1968 Republican platform were empty rhetoric. The Republicans blamed the Democrats in 1968 for rising health care costs. Yet in the first year alone of the Nixon administration, hospital costs increased 16 percent, doctors fees went up 9 percent, and overall medical costs went up at an annual rate of 7.2 percent—faster than all other consumer goods and services.

In 1968 Candidate Nixon pledged that no American should be denied adequate medical treatment and that all Americans should have equal access to the health care system. Yet the Nixon health insurance bill provides a lower level of services to the poor than to the nonpoor.

In his 1971 health message to Congress, President Nixon pledged that he would restructure the health care system so that it would be organized for efficiency. Yet he opposed a bill which I and 25 other Senators introduced to create a separate Department of Health. This measure, which would have streamlined the Federal health effort by bringing existing health programs under one roof and paved the way for implementation of a comprehensive health insurance system, was ignored by the Nixon administration.

In February of 1971 President Nixon said to the Nation that:

> Not only is health more important than economic wealth, it is also its foundation.

Why then was the Nixon 1971 budget request for health so inadequate that the Senate Appropriations Committee was forced to report that: "For the second successive year, the Committee must express grave concern about the apparent downgrading of health as reflected by the Budget request"?

Why did President Nixon in 1970 oppose S. 2264 which authorized funds for major programs of control and vaccination for communicable diseases such as tuberculosis, tetanus, rubella, polio, veneral disease, and measles?

Why did President Nixon in December of 1970 pocket-veto S. 3418, which was designed to increase the number of family physicians?

Why was the Nixon 1972 budget request for health programs so miserly that the House Appropriations Committee called it "a step backward for research on all diseases and disabilities that afflict man" and the Senate committee called it a lackluster, pedestrian document that does not rise to the readily identifiable opportunities for pressing the fight against disease and disability.

Why did Nixon veto critical appropriations for HEW health programs for both fiscal 1970 and 1973?

The answer to all these questions is clear. The President wants to take political credit for health care legislation but he does not want to provide funds to meet America's health care needs. The administration has consistently proposed health legislation less extensive in scope than Congress has passed. Yet it continually attempts to take the credit for more comprehensive bills that pass Congress.

The 1972 GOP platform takes credit for the most comprehensive health manpower legislation ever enacted. Yet the President's budget request was far below the congressional authorization. The platform proudly boasts of its innovative experiments such as health maintenance organizations. Yet the comprehensive HMO legislation developed by the Health Subcommittee under the leadership of the distinguished Senator from Massachusetts (Mr. KENNEDY) has been bottled up in committee by administration opposition.

The Republican administration takes credit for legislation dealing with cancer, sickle-cell anemia, heart, blood vessels, lungs and kidneys, and mental retardation. Yet in each case it was due to Democratic initiative, leadership and follow-through against Republican opposition that these bills were enacted into law.

In the medicare area, the administration has quietly obstructed efforts to expand and improve the program. The Finance Committee recently approved a provision under which the costs of drugs would be assured by the medicare program instead of by the senior citizens. The administration opposed this provision.

The administration also approved of changes in the medicare program which would increase the health cost burden on the senior citizen. Under present medicare law the patient does not have to pay a coinsurance or daily hospital charge until he has been in the hospital for 60 days. H.R. 1 begins this coinsurance at the 31st day. The administration, in testimony before the Finance Committee, callously characterized this change as a step in the right direction. Throughout consideration of H.R. 1 the administration has opposed constructive changes to the medicare and medicaid program.

Structuring the American medical system to make it responsive to the needs of consumers as well as doctors, hospitals and insurance companies is a long term project. It cannot be done overnight. But the President's haphazard and neglectful approach to meeting America's health care needs does not even begin to shape a future in which good health care can be readily available to all citizens.

Mr. President, one of the greatest needs of the American people—health care—is being neglected. I am at a loss to understand why, in the face of this record, the American public is not aware of accomplishments of the 92d Congress under Democratic leadership in spite of the failure of the President to bring forth the necessary leadership in this most important field of health.

Mr. KENNEDY. Mr. President, will the distinguished Senator from Connecticut yield?

Mr. RIBICOFF. I am pleased to yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I had an opportunity to review the National Health Service Corps legislation with the Senator from Washington. He was the original sponsor of that bill. I think that the Senate would be enormously interested in the comments of the Senator from Connecticut, especially since he has been a very distinguished Secretary of HEW in the past. When the Senator from Connecticut points out deficiencies in the administration's health policies, it carries much greater weight than when other Senators point them out.

I can remember—and I would be interested in the reaction and response of the Senator from Connecticut on this matter—when the Carnegie Commission report on the plight of the Nation's medical schools came out. It showed that some of our most outstanding medical schools were working under tremendous economic burdens. Johns Hopkins, one of the oldest and finest medical schools in the country, had been forced to expend capital from its endowment, and was perilously close to having to close down.

The Carnegie Commission made important recommendations. And eventually we provided good legislation. The legislation was funded. The Congress provided funds above what the President requested. And then we found out this year there were 22 medical schools getting less money than they were under the old formula.

It seems to me that once again we have the President and the administration making statements and comments about how they are advancing new ideas with respect to helping out the medical schools, and putting their tag on various pieces of legislation and getting credit for that legislation, but not meeting the problems at all. The medical schools are experiencing a serious financial crisis; and the Nation has a serious shortage of health manpower. There are thousands of young people who would like to go to medical schools in this country but who cannot gain admission because of a lack of positions. And yet we import thousands of graduates from medical schools of other countries. The administration has not begun to solve this crisis.

I wonder if this kind of situation is not distressing to the Senator from Connecticut and does the Senator not wonder how we can ever begin to meet our health crisis when we have this serious manpower shortage and an underfunding of health manpower programs?

Mr. RIBICOFF. Mr. President, it is not only distressing. It is a question of what to do to meet the critical health care needs of 16 million people. Every segment of American society has these needs—rich and poor, black and white, northern and southern.

The Senator from Massachusetts has been the leader of this fight in the Congress and in the country. In reviewing the Senator's accomplishments, I consider it ironic that the administration has opposed the last 11 pieces of health legislation considered by the Senator's Health Subcommittee.

If I may go over and catalog some of these with the Senator: Is it not true that the administration opposed the Senator's proposal for improving the medical libraries?

Mr. KENNEDY. The Senator is correct. One of the great medical libraries here is the Lister Hill Medical Library. They have a marvelous program for expanding medical libraries all over the country to keep them up to date with the advances in biomedical research. But the administration opposed this legislation.

Mr. RIBICOFF. Did not the administration oppose the proposal of the Senator to provide doctors to doctorless counties?

Mr. KENNEDY. The Senator is correct. When that legislation passed 3 years ago, the President never requested the funding for it. Then there was inadequate funding. Then, when they finally started to send the doctors out, they sent them to the richer counties rather than to the poorer counties and violated very clearly the mandate of the legislation.

Mr. RIBICOFF. And did they not also oppose the provision for appropriating more money for hospital construction?

Mr. KENNEDY. The Senator is correct. The President's budget contained not 1 cent for new medical school construction.

Mr. RIBICOFF. And the administration also opposed the ban on cancer causing substances in the food supply.

Mr. KENNEDY. The Senator is again correct. I am glad that the Senate has taken action on this matter. However, we had absolutely no kind of support from the administration in the banning of DES.

Mr. RIBICOFF. What happened to the Senator's proposal to strengthen and expand community health mental centers in this Nation?

Mr. KENNEDY. The administration was opposed to it in spite of the fact that there is an urgent need for an expansion of this program.

Mr. RIBICOFF. Mr. President, what about the program to expand the communicable diseases programs which are so important to every child and adult in this country?

Mr. KENNEDY. The administration again opposed that program and ignored the warnings of a rubella outbreak for 1972 and 1973. The last epidemic resulted in deafness in 25,000 children in this country. And the funds we are talking about are a mere $3 million above the President's requests.

The PRESIDING OFFICER (Mr. Stevenson). The time of the Senator has expired.

Mr. ROBERT C. BYRD. Mr. President, may I be recognized under the previous order for not to exceed 15 minutes?

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I yield the Senator 5 minutes.

Mr. RIBICOFF. Mr. President, I thank the distinguished assistant majority leader.

Mr. President, I ask the Senator from Massachusetts if it is not true that the President's proposed budget would not permit the opening up of new neighborhood health centers.

Mr. KENNEDY. The Senator is correct. And that is despite the extraordinary success of that program. When you travel to our cities, and even to some rural areas, you see these centers and you are amazed at how effective they are. They are doing the job. They are one of the major developments we have seen in the whole field of improving health care delivery. The President's budget would not allow one new comprehensive health center to be opened.

Mr. RIBICOFF. Is it not true that the President's proposed budget would not allow maternal child health care service to provide care for one additional child or mother?

Mr. KENNEDY. The Senator is correct, and that is despite the fact that the need will increase this year, and despite the fact that the effectiveness of the program is universally accepted.

Mr. RIBICOFF. Mr. President, I close with asking the distinguished Senator a philosophical question. Why is it that the country seems unaware of these facts and this sorry record?

Mr. KENNEDY. That is an important question. The reasons are complex. There has been a great deal of hoopla about the position of the administration, a great deal has been made of the President's 1971 health message. And I am sure the Senator is familiar with it. We read the President's health message and there is hardly a line in it with which we would disagree. However, when we look beyond the health message to its implementation, we see that very little has been accomplished. Unfortunately, this administration has been extremely successful in misleading and duping people into believing that the health message of the President was going to be implemented and was going to meet the health needs of this country. But as the Senator from Washington (Mr. Magnuson) pointed out, in the long and unpublicized appropriations hearings the administration made it clear that they would not follow through. Unfortunately the full record is not understood and comprehended by the American people. But they will see that the health care crisis continues. In 1968, 55 percent of all interns in this country came from foreign countries, only 75 percent of the slots were filled and more than half were filled by foreign graduates. What does that say about the President's health manpower programs?

Do we not have young, qualified Americans who want to be doctors in this Nation? Why do we have to be taking thousands of foreign-trained residents? They should be back in their countries, in the third world, and other places.

Why can we not have a program to train young Americans who have the ability and the humanitarian concern to be good doctors? I do not think most Americans realize that 55 percent of those being trained as house staff are foreigners.

Mr. RIBICOFF. What compounds the tragedy is that this is depriving nation after nation of its needed medical personnel, where health conditions are often abysmal. So we deprive not only our Nation of its health needs but also the world of the attention it must have to have a healthy and decent life.

Mr. KENNEDY. The Senator is correct. We have the facilities, but we do not have the programs. I think this is a real tragedy. We do have the young people who are committed and we have the expertise to develop the program. The schools want to provide the slots for these Americans but we do not have the commitment to do so. It is important that the American people understand the situation which exists.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. ROBERT C. BYRD. Mr. President, does either Senator wish additional time?

Mr. RIBICOFF. I wish to make just one more comment.

Mr. ROBERT C. BYRD. I yield 5 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. RIBICOFF. It becomes very obvious that there is a tremendous gap between words and deeds. It is so easy to send a position paper or a message to Congress and to have the American people assume that those words are actions. But under the Nixon administration, unfortunately, we find year after year that that rhetoric is never transformed into action. It is the job of the President to be teacher, leader, and advocate before the entire Nation; President Nixon has failed in this task. I would hope that even in the face of this discouragement to the American people because of the lack of leadership from the White House that the distinguished Senator from Massachusetts will continue persistently in his crusade for better health for the American people. I am positive in the long run it is efforts of men like the Senator from Massachusetts (Mr. Kennedy), the Senator from Washington (Mr. Magnuson), and those of us who help in this fight that will assure that the health needs of this country are met. Anyway, it is unfortunate that the leadership for improving health needs does not come from the White House, which is where it should come from. But, since it has been forfeited, it is up to us to continue the fight because the fight must go on.

Mr. KENNEDY. I thank the Senator from Connecticut for his comments and for his statement this morning.

Before we finish I would like to quote the President once again. He said:

> Nations, like men, are judged in the end by things they hold most valuable.

I agree with that. The tragic indictment of Richard Nixon is that the health care crisis has a low priority in his administration.

Mr. RIBICOFF. I thank the distinguished assistant majority leader for granting us additional time.

Mr. ROBERT C. BYRD. Does the Senator from Massachusetts wish additional time?

Mr. KENNEDY. No.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask that the remaining time allotted to me be vacated, and that the time allotted to the distinguished Republican leader (Mr. Scott) be vacated.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements limited therein to 3 minutes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks that Mr. Roth made at this point when he introduced S. 4024, to amend the Internal Revenue Act, are printed in the Record in the Routine Morning Business section of the Record under Statements on Introduced Bills and Joint Resolutions.)

The PRESIDING OFFICER. Is there further morning business?

ORDER FOR RECOGNITION OF SENATOR SCOTT TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the orders for the recognition of Senators on tomorrow, previously entered into, the distinguished Republican leader (Mr. Scott) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Subsequently, this order was modified to provide for the Senate to recess until 9 a.m. tomorrow.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

FOREIGN ASSISTANCE ACT OF 1972—UNFINISHED BUSINESS LAID ASIDE

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate H.R. 16029, which the clerk will state.

The assistant legislative clerk read as follows:

> A bill (H.R. 16029) to amend the Foreign Assistance Act of 1961, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the unfinished business (S. 3970), to establish a Council of Consumer Advisers in the Executive Office of the President, and for other purposes, will be temporarily laid aside and remain in a laid-aside status until a time to be determined by the majority leader or his designee.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a renewal of the period for the transaction of routine morning business for not to exceed 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE DETERIORATING POSTAL SERVICE

Mr. MATHIAS. Mr. President, I received a letter on September 14 of this year from the Greater Baltimore Chamber of Commerce inviting me to attend a luncheon meeting to hear the Secretary of Commerce, the Honorable Peter G. Peterson. The Letter was mailed in Baltimore, the Nation's seventh largest city, on September 1. Thirty-five miles and 13 days later, the letter arrived in my office. I searched my mail and found that my experience was not unusual. Constituent complaints about the mail abound 1 year after the Postal Service initiated service standards to "assure service to the American people."

One constituent, a businessman in Cecil County, wrote:

> I am attaching two items which indicate a postal cancellation date of September 7 and 9, yet both were received by us this morning, September 15. Both items reached the post office in Rising Sun this morning, so the delay had to be between the point of mailing and Rising Sun.
>
> We have been watching the mail carefully each day and it is quite clear to us that we receive entirely too many letters which from four to nine days, whether carrying regular postage or air mail postage.

A Baltimore businessman complained that the Postal Service is costing him money in two ways, by, one, charging higher rates and, two, through slow service which drives his customers away. He said:

> It is not often that we plague our elected officials with business problems, but in this particular case I am sure our problem is reflected in thousands of instances in Maryland and elsewhere.
>
> This complaint has to do with abominable mail service and is particularly detrimental to tax paying businesses like ours.
>
> We use "postage will be paid" cards as a means of encouraging customers to buy, a matter of making things easy for them to send orders in.
>
> Customers everywhere want good service, no matter what type of business, and we get reprimanded, as well as ignored, because many customers say we do not give good service and they buy elsewhere. They have a hard time believing that it takes five to ten days for a letter or postcard to travel twenty-five hundred miles from Baltimore.

A Baltimore rabbi wrote to complain that it takes 4 to 5 days for mail to reach Baltimore from New York. He called attention to a special delivery letter the Postal Service took 14 days to deliver and a copy of a telegram mailed in downtown Baltimore which was not delivered to him in northwest Baltimore until 3 days later.

The U.S. Postal Service was created to modernize and improve mail service in this Nation. Clearly, it has not met its congressional mandate.

The mail seems to be slower in arriving than at any time in my memory. I want to know why. Why has the very instrument Congress created to expedite the mail clogged it? Why does it take 13 days for a letter to travel 35 miles and 14 days for a special delivery letter to get from New York to Baltimore? Why must businessmen pay higher postal rates and receive increasingly poorer service?

These questions must be answered. I am today referring these cases to the chairman of the Post Office and Civil Service Committee and asking the Postmaster General to meet with me at the earliest possible date so I can examine the practices and procedures employed by the U.S. Postal Service.

It seems to me that the Postal Service has had sufficient time to shake the bugs out of new programs. Perhaps the programs are so full of bugs that we need to throw them out and start over again. I am prepared to take all necessary steps to see that mail is delivered within a reasonable time.

The public expects Congress to take every possible action to correct its child which has gone astray. If it takes an investigation then we must order one; if legislation is needed we must pass it and if one step is not enough we should pledge to take both.

Public frustration with the mail is all too apparent. As one constituent asked:

> If it only took six days to create the universe, why does it take 14 for a letter to get from Baltimore to Washington.

The somewhat wry question deserves an answer.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the period for the transaction of routine morning business be extended an additional 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order Nos. 1141 through 1144, consecutively.

The PRESIDING OFFICER. Without objection, it is so ordered.

PEAR MARKETING ORDERS

The bill (H.R. 14015) to amend section 8c(2), section 8c(6), section 8c(7)(C), and section 8c(19) of the Agricultural Marketing Agreement Act of 1937, as amended was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–1194), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXPLANATION

> H.R. 14015 would amend the marketing order law to authorize marketing orders for pears for canning or freezing. At present, orders cannot be made applicable to fruits or vegetables for canning or freezing, except in the case of olives, grapefruit, cherries, cranberries, certain apples, and asparagus. The bill also permits market promotion for the canned or frozen product under an order applicable to any commodity for canning or freezing; and makes it clear that paid advertising could be provided for pears for canning or freezing and the product thereof.

The bill would require a favorable vote of two-thirds of the growers voting or two-thirds of the volume of pears represented by the vote in each State of the production area. The bill would also require that processors and producers have equal representation on any agency selected to administer the marketing order.

With one minor exception this bill is identical to S. 1241 introduced on March 6, 1971. Hearings were held on S. 1241 and H.R. 14015 on September 17, 1972.

NEED FOR LEGISLATION

Under present law there are six commodities for canning or freezing that are eligible for marketing order programs, as noted above. The committee feels that producers of pears for canning or freezing should also be given the opportunity to establish a marketing order program.

The other changes proposed by this bill would give producers of pears and other commodities better marketing tools to sell high quality produce to the consuming public.

COST ESTIMATE

In accordance with section 252 of the Legislative Reorganization Act of 1970, the committee reports it is in agreement with the cost estimates submitted by the Department of Agriculture. Annual costs to the Department for administering a marketing order established under this legislation would approximate $25,000 for each of the next 5 years, according to the Department.

RELEASE OF CERTAIN LAND TO THE STATE OF OREGON

The bill (H.R. 4634) to direct the Secretary of the Army to release on behalf of the United States a condition in a deed conveying certain land to the State of Oregon to be used as a public highway was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–1196), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of this bill is to authorize and direct the Secretary of the Army to release on behalf of the United States certain land-use restrictions with respect to a proposed right-of-way of approximately 60 by 340 to 400 feet, constituting a portion of a 233.91-acre parcel of land in Clackamas County, Oreg., heretofore conveyed by the United States to the State of Oregon for military purposes pursuant to the act of August 1, 1956 (70 Stat. 793), so that the State may convey this right-of-way to Clackamas County for use as a public highway. This bill as it passed the House of Representatives contained the technical amendments recommended by the Secretary of the Army in his letter of June 16, 1971, which is set forth later in this report.

BACKGROUND OF THE BILL

The proposed release involves the lands of Camp Withycombe, formerly the Clackamas National Guard target range, located in Clackamas County, 9 miles southeast of Portland, Oreg. This facility, comprising 233.91 acres of land with improvements, was conveyed to the State or Oregon by deed executed by the Secretary of the Army, dated November 9, 1956, pursuant to the act of August 1, 1956 (70 Stat. 793). Both the act and the deed made the conveyance subject to certain reservations, restrictions and conditions, to wit: (1) reserved to the United States all minerals, oil, and gas with rights-of-entry; (2) the property is to be used only for military purposes, and if not so used, title thereto shall revert to the United States with all improvements and without compensation; and (3) in event of national emergency or declaration of war, the Secretary of Defense may reoccupy and use the property without payment. Camp Withycombe has, since its establishment, been used for National Guard purposes and currently is utilized by the Oregon National Guard for military academy operations in small unit tactics, a firing range, and storage depot.

FISCAL DATA

Enactment of this legislation will not involve the expenditure of any Federal funds.

PROPERTY CONVEYED TO COLUMBIA MILITARY ACADEMY

The bill (H.R. 16251) to release, the conditions in a deed with respect to certain property heretofore conveyed by the United States to the Columbia Military Academy and its successors was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–1197), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to release the provisions and conditions contained in the deed of conveyance from the Assistant Secretary of War dated May 10, 1904, to the Columbia Military Academy and its successors of record in book 105, page 495, register's office, Maury County, Tenn., and to vest fee simple title to the property, free of such provisions and conditions in the Columbia Military Academy.

EXPLANATION OF THE BILL

The property involved comprises approximately 67 acres of land near Columbia in Maury County, Tenn., acquired by the United States in 1888 for the establishment of the Columbia Arsenal. The purchase price of $15,250 was paid by citizens of Maury County. In 1901 the arsenal was abandoned.

The act of April 23, 1904 (33 Stat. 296) authorized and directed the Secretary of War to convey the Columbia Arsenal property to "Columbia Military Academy, an educational corporation organized under the laws of the State of Tennessee, and its successors," with the proviso that the estate shall continue so long as the property shall be used for educational purposes only and in conformity with other terms of the act including the following:

(*a*) The Secretary of War shall have visitation privileges and the right to prescribe the military curriculum of the school; upon failure of the school to comply with rules and regulations prescribed by the Secretary or other terms of the act, the Secretary is authorized to declare the estate has determined and the property shall revert to the United States, in which event the Secretary of War is authorized to take possession of the property on behalf of the United States.

(*b*) The United States shall have the right to use the property for military purposes at any time upon demand by the President of the United States.

The above-mentioned deed of conveyance to Columbia Military Academy, issued pursuant to this act and described in the bill, contained these provisions and terms.

Since the establishment of Columbia Military Academy in 1905 the school has maintained the original buildings on the property, and has invested well over $1 million in additional buildings, such as classroom buildings, gymnasiums, and dormitories. Presently, improvements to some of the structures are urgently needed. Due to the fact that the property is not owned by the school under the terms of the original conveyance, no collateral can be offered on loans to improve the facilities.

The Department of the Army has no requirement for use of the former Columbia Arsenal property. To the contrary, authority has existed since 1928 for the extinguishment of all rights therein reserved to the United States. By the act of May 26, 1928 (45 Stat. 766), the Secretary of War was authorized to sell to the Columbia Military Academy all rights reserved to the United States in the deed of May 10, 1904, and the act of April 23, 1904, for a consideration not less than the appraised value of the land alone.

This statute was repealed by the act of July 3, 1930 (46 Stat. 1009) which substantially restated the 1928 act, and reduced the purchase price to a sum of $10,000. Due to the school's financial difficulties, a sale was never consummated. However, the authority to sell still exists.

FISCAL DATA

Enactment of this bill will not entail any expenditure by the Federal Government.

U.S. CONSENT TO THE ARKANSAS RIVER BASIN COMPACT, ARKANSAS-OKLAHOMA

The Senate proceeded to consider the bill (S. 3316) to grant the consent of the United States to the Arkansas River Basin compact, Arkansas-Oklahoma, which had been reported from the Committee on the Judiciary with amendments on page 2, line 8, after the word "two", to strike out "State" and insert "States"; and on page 6, line 18, after the word "other", strike out "State." and insert "State: *Provided, however*, That nothing contained in this Compact or its ratification by Arkansas or Oklahoma shall be interpreted as granting either State or the parties hereto the right or power of eminent domain in any manner whatsoever outside the borders of its own State."; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby given to the Arkansas River Basin compact, Arkansas-Oklahoma, 1970, as ratified by the States of Arkansas and Oklahoma as follows:

"ARTICLE I

"The major purposes of this Compact are:

"A. To promote interstate comity between the States of Arkansas and Oklahoma;

"B. To provide for an equitable apportionment of the waters of the Arkansas River between the States of Arkansas and Oklahoma and to promote the orderly development thereof;

"C. To provide an agency for administering the water apportionment agreed to herein;

"D. To encourage the maintenance of an active pollution abatement program in each of the two State *States* and to seek the further reduction of both natural and man-made pollution in the waters of the Arkansas River Basin; and

"E. To facilitate the cooperation of the water administration agencies of the States of Arkansas and Oklahoma in the total development and management of the water resources of the Arkansas River Basin.

"ARTICLE II

"As used in this Compact:

"A. The term 'State' means either State signatory hereto and shall be construed to include any person or persons, entity or agency of either State who, by reason of official responsibility or by designation of the Governor of that State, is acting as an official representative of that State.

"B. The term 'Arkansas-Oklahoma Arkansas River Compact Commission,' or the term 'Commission' means the agency created by this Compact for the administration thereof.

"C. The term 'Arkansas River Basin' means all of the drainage basin of the Arkansas River and its tributaries from a point immediately below the confluence of the Grand-Neosho River with the Arkansas River near Muskogee, Oklahoma, to a point immediately below the confluence of Lee Creek with the Arkansas River near Van Buren, Arkansas, together with the drainage basin of Spavinaw Creek in Arkansas, but excluding that portion of the drainage basin of the Canadian River above Eufaula Dam.

"D. The term 'Spavinaw Creek sub-basin' means the drainage area of Spavinaw Creek in the State of Arkansas.

"E. The term 'Illinois River Sub-basin' means the drainage area of Illinois River in the State of Arkansas.

"F. The term 'Lee Creek Sub-basin' means the drainage area of Lee Creek in the State of Arkansas and the State of Oklahoma.

"G. The term 'Poteau River Sub-basin' means the drainage area of Poteau River in the State of Arkansas.

"H. The term 'Arkansas River Sub-basin' means all areas of the Arkansas River Basin except the four sub-basins described above.

"I. The term 'water-year' means a twelve-month period beginning on October 1, and ending September 30.

"J. The term 'annual yield' means the computed annual gross runoff from any specified sub-basin which would have passed any certain point on a stream and would have originated within any specified area under natural conditions, without any man-made depletion or accretion during the water year.

"K. The term 'pollution' means contamination or other alterations of the physical, chemical, biological or radiological properties of water or the discharge of any liquid, to result in a nuisance, or which renders or is likely to render the waters into which it is discharged harmful, detrimental or injurious to public health, safety, or welfare, or which is harmful, detrimental or injurious to beneficial uses of the water.

"ARTICLE III

"A. The physical and other conditions peculiar to the Arkansas River Basin constitute the basis of this Compact, and neither of the States hereby, nor the Congress of the United States by its consent hereto, concedes that this Compact established any general principle with respect to any other interstate stream.

"B. By this Compact, neither State signatory hereto is relinquishing any interest or right it may have with respect to any waters flowing between them which do not originate in the Arkansas River Basin as defined by this Compact.

"ARTICLE IV

"The States of Arkansas and Oklahoma hereby agree upon the following apportionment of the waters of the Arkansas River Basin:

"A. The State of Arkansas shall have the right to develop and use the waters of the Spavinaw Creek Sub-basin subject to the limitation that the annual yield shall not be depleted by more than fifty percent (50%).

"B. The State of Arkansas shall have the right to develop and use the waters of the Illinois River Sub-basin subject to the limitation that the annual yield shall not be depleted by more than sixty percent (60%).

"C. The State of Arkansas shall have the right to develop and use all waters originating within the Lee Creek Sub-basin in the State of Arkansas, or the equivalent thereof.

"D. The State of Oklahoma shall have the right to develop and use all waters originating within the Lee Creek Sub-basin in the State of Oklahoma, or the equivalent thereof.

"E. The State of Arkansas shall have the right to develop and use the waters of the Poteau River Sub-basin subject to the limitation that the annual yield shall not be depleted by more than sixty percent (60%).

"F. The State of Oklahoma shall have the right to develop and use the waters of the Arkansas River Sub-basin subject to the limitation that the annual yield shall not be depleted by more than sixty percent (60%).

"ARTICLE V

"A. On or before December 31 of each year, following the effective date of this Compact, the Commission shall determine the stateline yields of the Arkansas River Basin for the previous water year.

"B. Any repletion of annual yield in excess of that allowed by the provisions of this Compact shall, subject to the control of the Commission, be delivered to the downstream State, and said delivery shall consist of not less than sixty percent (60%) of the current runoff of the basin.

"C. Methods for determining the annual yield of each of the sub-basins shall be those developed and approved by the Commission.

"ARTICLE VI

"A. Each State may construct, own and operate for its needs water storage reservoirs in the other State: *Provided, however,* That nothing contained in this Compact or its ratification by Arkansas or Oklahoma shall be interpreted as granting either State or the parties hereto the right or power of eminent domain in any manner whatsoever outside the borders of its own State.

"B. Depletion in annual yield of any sub-basin of the Arkansas River Basin caused by the operation of any water storage reservoir either heretofore or hereafter constructed by the United States or any of its agencies, instrumentalities or wards, or by a State, political sub-division thereof, or any person or persons shall be charged against the State in which the yield therefrom is utilized.

"C. Each State shall have the free and unrestricted right to utilize the natural channel of any stream within the Arkansas River Basin for conveyance through the other State of waters released from any water storage reservoir for an intended downstream point of diversion or use without loss of ownership of such waters: *Provided, however,* That a reduction shall be made in the amount of water which can be withdrawn at point of removal, equal to the transmission losses.

"ARTICLE VII

"The States of Arkansas and Oklahoma mutually agree to:

"A. The principle of individual State effort to abate manmade pollution within each State's respective borders, and the continuing support of both States in an active pollution abatement program;

"B. The cooperation of the appropriate State agencies in the States of Arkansas and Oklahoma to investigate and abate sources of alleged interstate pollution within the Arkansas River Basin;

"C. Enter into joint programs for the identification and control of sources of pollution of the waters of the Arkansas River and its tributaries which are of interstate significance;

"D. The principle that neither State may require the other to provide water for the purpose of water quality control as a substitute for adequate waste treatment;

"E. Utilize the provisions of all Federal and State water pollution laws and to recognize such water quality standards as may be now or hereafter established under the Federal Water Pollution Control Act in the resolution of any pollution problems effecting the waters of the Arkansas River Basin.

"ARTICLE VIII

"A. There is hereby created an interstate administrative agency to be known as the 'Arkansas-Oklahoma Arkansas River Compact Commission.' The Commission shall be composed of three Commissioners representing the State of Arkansas and three Commissioners representing the State of Oklahoma, selected as provided below; and, if designated by the President or an authorized Federal agency, one Commissioner representing the United States. The President, or the Federal agency authorized to make such appointments, is hereby requested to designate a Commissioner and an alternate requesting the United States. The Federal Commissioner, if one be designated, shall be the Chairman and presiding officer of the Commission, but shall not have the right to vote in any of the deliberations of the Commission.

"B. One Arkansas Commissioner shall be the Director of the Arkansas Soil and Water Conservation Commission, or such other agency as may be hereafter responsible for administering water law in the State. The other two Commissioners shall reside in the Arkansas River drainage area in the State of Arkansas and shall be appointed by the Governor, by and with the advice and consent of the Senate, to four-year staggered terms with the first two Commissioners being appointed simultaneously to terms of two (2) and four (4) years, respectively.

"C. One Oklahoma Commissioner shall be the Director of the Oklahoma Water Resources Board, or such other agency as may be hereafter responsible for administering water law in the State. The other two Commissioners shall reside within the Arkansas River drainage area in the State of Oklahoma and shall be appointed by the Governor, by and with the advice and consent of the Senate, to four-year staggered terms, with the first two Commissioners being appointed simultaneously to terms of two (2) and four (4) years, respectively.

"D. A majority of the Commissioners of each State and the Commissioner or his alternate representing the United States, if they are so designated, must be present to constitute a quorum. In taking any Commission action, each signatory State shall have a single vote representing the majority opinion of the Commissioners of that State.

"E. In the case of a tie vote on any of the Commission's determinations, order, or other actions, a majority of the Commissioners of either State may, upon written request to the Chairman, submit the question to arbitration. Arbitration shall not be compulsory, but on the event of arbitration, there shall be three arbitrators:

"(1) One named by resolution duly adopted by the Arkansas Soil and Water Conservation Commission, or such other State agency as may be hereafter reponsible for administering water law in the State of Arkansas; and

"(2) One named by resolution duly adopted by the Oklahoma Water Resources Board, or such other State agency as may be hereafter responsible for administering water law in the State of Oklahoma; and

"(3) The third chosen by the two arbitrators who are selected as provided above.

If the arbitrators fail to select a third within sixty (60) days following their selection, then he shall be chosen by the Chairman of the Commission.

"F. The salaries and personal expenses of each Commissioner shall be paid by the Government which he represents. All other expenses which are incurred by the Commission incident to the administration of this Compact shall be borne equally by the two States and shall be paid by the Commission out of the 'Arkansas-Oklahoma Arkansas River Compact Fund,' initiated and maintained as provided in Article IX(B)(5) below. The States hereby mutually agree to appropriate sums sufficient to cover its share of the expenses incurred in the administration of this Compact, to be paid into said fund. Disbursements shall be made from said fund in such manner as may be authorized by the Commission. Such funds shall not be subject to the audit and accounting procedures of the States; however, all receipts and disbursements of funds handled by the Commission shall be audited by a qualified independent public accountant at regular intervals, and the report of such audit shall be included in and become a part of the annual report of the Commission, provided by Article IX(B)(6) below. The Commission shall not pledge the credit of either State and shall not incur any obligations prior to the availability of funds adequate to meet the same.

"ARTICLE IX

"A. The Commission shall have the power to:

"(1) Employ such engineering, legal, clerical and other personnel as in its judgment may be necessary for the performance of its functions under this Compact;

"(2) Enter into contracts with appropriate State or Federal agencies for the collection, correlation, and presentation of factual data, for the maintenance of records and for the preparation of reports;

"(3) Establish and maintain an office for the conduct of its affairs;

"(4) Adopt and procure a seal for its official use;

"(5) Adopt rules and regulations governing its operations. The procedures employed for the administration of this Compact shall not be subject to any Administrative Procedures Act of either State, but shall be subject to the provisions hereof and to the rules and regulations of the Commission: *Provided, however,* All rules and regulations of the Commission shall be filed with the Secretary of State of the signatory States.

"(6) Cooperate with Federal and State agencies and political subdivisions of the signatory States in developing principles, consistent with the provisions of this Compact and with Federal and State policy, for the storage and release of water from reservoirs, both existing and future within the Arkansas River Basin, for the purpose of assuring their operation in the best interests of the States and the United States;

"(7) Hold hearings and compel the attendance of witnesses for the purpose of taking testimony and receiving other appropriate and proper evidence and issuing such appropriate orders as it deems necessary for the proper administration of this Compact, which orders shall be enforceable upon the request by the Commission or any other interested party in any court of competent jurisdiction within the county wherein the subject matter to which the order relates is in existence, subject to the right of review through the appellate courts of the State of situs. Any hearing held for the promulgation and issuance of orders shall be in the county and State of the subject matter of said hearing;

"(8) Make and file official certified copies of any of its findings, recommendations or reports with such officers or agencies of either State, or the United States as may have any interest in or jurisdiction over the subject matter. Findings of fact made by the Commission shall be admissible in evidence and shall constitute prima facie evidence of such fact in any court or before any agency of competent jurisdiction. The making of findings, recommendations, or reports by the Commission shall not be a condition precedent to instituting or maintaining any action or proceeding of any kind by a signatory State in any court, or before any tribunal agency or officer, for the protection of any right under this Compact or for the enforcement of any of its provisions;

"(9) Secure from the head of any department or agency of the Federal or State government such information, suggestions, estimates and statistics as it may need or believe to be useful for carrying out its functions and as may be available to or procurable by the department or agency to which the request is addressed;

"(10) Print or otherwise reproduce and distribute all of its proceedings and reports; and

"(11) Accept, for the purposes of this Compact, any and all private donations and gifts and Federal grants of money.

"B. The Commission shall:

"(1) Cause to be established, maintained and operated such stream, reservoir or other gaging stations as may be necessary for the proper administration of this Compact;

"(2) Collect, analyze and report on data as to stream flows, water quality, annual yields and such other information as is necessary for the proper administration of this Compact;

"(3) Continue research for developing methods of determining total basin yields;

"(4) Perform all other functions required of it by the Compact and do all things necessary, proper or convenient in the performance of its duties thereunder;

"(5) Establish and maintain the 'Arkansas-Oklahoma Arkansas River Compact Fund,' consisting of any and all funds received by the Commission under the authority of this Compact and deposited in one or more banks qualifying for the deposit of public funds of the signatory States;

"(6) Prepare and submit an annual report to the Governor of each signatory State and to the President of the United States covering the activities of the Commission for the preceding fiscal year, together with an accounting of all funds received and expended by it in the conduct of its work;

"(7) Prepare and submit to the Governor of each of the States of Arkansas and Oklahoma an annual budget covering the anticipated expenses of the Commission for the following fiscal year; and

"(8) Make available to the Governor or any State agency of either State or to any authorized representative of the United States, upon request, any information within its possession.

"ARTICLE X

"A. The provisions hereof shall remain in full force and effect until changed or amended by unanimous action of the States acting through their Commissioners and until such changes are ratified by the legislatures of the respective States and consented to by the Congress of the United States in the same manner as this Compact is required to be ratified to become effective.

"B. This Compact may be terminated at any time by the appropriate action of the legislature of both signatory States.

"C. In the event of amendment or termination of the Compact, all rights established under the Compact shall continue unimpaired.

"ARTICLE XI

"Nothing in this Compact shall be deemed:

"A. To impair or affect the powers, rights or obligations of the United States, or those claiming under its authority in, over, and to the waters of the Arkansas River Basin;

"B. To interfere with or impair the right or power of either signatory State to regulate within its boundaries of appropriation, use and control of waters within that State not inconsistent with its obligations under this Compact.

"ARTICLE XII

"If any part or application of this Compact should be declared invalid by a court of competent jurisdiction, all other provisions and application of this Compact shall remain in full force and effect.

"ARTICLE XIII

"A. This Compact shall become binding and obligatory when it shall have been ratified by the legislature of each State and consented to by the Congress of the United States, and when the Congressional Act consenting to this Compact includes the consent of Congress to name and join the United States as a party in any litigation in the United States Supreme Court, if the United States is an indispensable party, and if the litigation arises out of this Compact or its application, and if a signatory State is a party thereto.

"B. The States of Arkansas and Oklahoma mutually agree and consent to be sued in the United States District Court under the provisions of Public Law 87–830 as enacted October 15, 1962, or as may be thereafter amended.

"C. Notice of ratification by the legislature of each State shall be given by the Governor of that State to the Governor of the other State, and to the President of the United States, and the President is hereby requested to give notice to the Governor of each State of consent by the Congress of the United States.

"IN WITNESS WHEREOF, the authorized representatives have executed three counterparts hereof such of which shall be and constitute an original, one of which shall be deposited with the Administrator of General Services of the United States, and one of which shall be forwarded to the Governor of each State.

"Done at the City of Little Rock, State of Arkansas, this 16th day of March, A.D., 1970.

"FOR ARKANSAS: S. KEITH JACKSON, Committee Member; JOHN LUCE, Committee Member.

"FOR OKLAHOMA: GLADE R. KIRKPATRICK,

"FOR ARKANSAS: S. KEITH JACKSON, Committee Member.

"Approved: TRIGG TWICHELL, Representative, United States of America.

"Attest: WILLARD B. MILLS, Secretary."

SEC. 2. In order to carry out the purposes of this Act, and the purposes of article XII of this compact consented to by Congress by this Act, the congressional consent to this compact includes and expressly gives the consent of Congress to have the United States of America named and joined as a party litigant in any litigation in the United States Supreme Court, if the United States of America is an indispensable party to such litigation, and if the litigation arises out of this compact, or its application, and if a signatory State to this compact is a party litigant, in the litigation.

SEC. 3. The right to alter, amend, or repeal this Act, is expressly reserved.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–1198), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant the consent of the United States to the Arkansas River Basin compact, Arkansas-Oklahoma.

STATEMENT

In a letter to the Committee on the Judiciary, the Honorable John L. McClellan, who introduced the bill for himself, Mr. Bellmon, Mr. Fulbright, and Mr. Harris, said:

The Senate Committee on the Judiciary has before it S. 3316, a bill to grant the consent of the United States to the Arkansas River Basin compact, signed on behalf of the States of Arkansas and Oklahoma on March 16, 1970.

S. 3316 is of vital importance to the citizens of Arkansas and Oklahoma. The ratification of the pact between the States marks another stage in our efforts to enhance the development of the Arkansas River Basin and to protect the total environment of the entire region. The compact not only provides for the equitable apportionment of the waters of the Arkansas River between Arkansas and Oklahoma, but also encourages the maintenance of active antipollution controls to further reduce natural and manmade pollution in the Arkansas River Basin.

Under these circumstances, I am certain that you will agree that prompt and favorable action should be taken by the committee on this important legislation.

In a favorable report on the bill, the Department of Justice, in a letter to the committee dated September 19, 1972, said:

This is in response to your request for the views of the Department of Justice on S. 3316, a bill to grant the consent of the United States to the Arkansas River Basin compact, Arkansas-Oklahoma.

Congress, by the act of August 11, 1955, 69 Stat. 184, granted its consent to the States of Arkansas and Oklahoma to negotiate and enter into a compact to protect from pollution, and to apportion equitably, the waters of the Arkansas River flowing between those two States, and directed the participation in these negotiations of a representative of the United States. Pursuant to this act, on March 16, 1970, the compact was executed by the State representatives and approved by the representative of the United States.

The State of Arkansas ratified this compact draft through its Act No. 16, 1971, approved January 26, 1971.

The State of Oklahoma ratified the interstate compact draft through H.B. No. 1326, approved April 24, 1971. This ratification, however, carried the following amendment:

"SECTION 2. AMENDMENT-RATIFICATION

"This ratification is subject to the State of Oklahoma and the State of Arkansas, acting through their duly authorized compact representatives, amending said 'Arkansas River Basin compact' in the particulars as set forth hereinafter, and further, the ratification of said amendment of said compact by the Legislature of the State of Arkansas. Said amendment being expressed as follows:

"The following language shall be added to Article VI, Section A of said compact, to-wit: '*Provided however,* That nothing contained in this compact or its ratification by Arkansas or Oklahoma shall be interpreted as granting either State or the parties hereto the right or power of eminent domain in any manner whatsoever outside the borders of its own State.'"

The Arkansas River Compact Committee unanimously approved the Oklahoma amendment as an appropriate clarification statement in the compact. The Federal member of the committee was formally advised that the Federal agencies had no objections to this amendment.

The State of Arkansas adopted the State of Oklahoma's amendment to the Arkansas River compact draft through Act No. 40, approved February 17, 1972.

Section 1 of the bill would grant the consent of the Congress to the compact set forth therein. The compact provides for cooperation between the States in abatement of water pollution within the Arkansas River Basin and makes apportionments between the States of the waters of the Arkansas River Basin by specified subbasins. The compact creates a permanent commission composed of commissioners representing each State and requests the President of the United States to designate a commissioner and an alternate representing the United States. It provides that the Federal commissioner, if one is designated, shall be the presiding officer, without vote, of the commission. In further regard to the United States the compact disclaims any impairment or effect upon the powers, rights, or obligations of the United States, or those claiming under its authority, in, over, and to the waters of the Arkansas River Basin.

Section 2 of S. 3316 provides:

"SEC. 2. In order to carry out the purposes of this Act, and the purposes of article XII of this compact consented to by Congress by this Act, the congressional consent to this compact includes and expressly gives the consent of Congress to have the United States of America named and joined as a party litigant in any litigation in the United States Supreme Court, if the United States of America is an indispensable party to such litigation, and if the litigation arises out of this compact, or its application, and if a signatory State to this compact is a party litigant, in the litigation."

Article XII of the compact referred to in section 2 makes the inclusion of such provision in the congressional consent act a condition precedent to the compact's becoming operative.

The consent of the United States to be sued as set forth in this bill is similar to the consent to suit contained in section 107(b) of the River and Harbor Act of 1966, 80 Stat. 1405, 1415, consenting to the Arkansas River Basin Compact between Kansas and Oklahoma, and to the consent to suit contained in section 2 of the Act consenting to the Kansas-Nebraska Big Blue River Compact (P.L. 92–308, June 2, 1972).

The purpose of this provision is to insure the compact's enforceability between the States by preventing the dismissal of an original action between the States on the jurisdictional ground of the indispensability of the United States. Accordingly, the waiver of sovereign immunity from suit of the United States is limited to suits in the Supreme Court of the United States arising out of the compact with a signatory State as a party litigant and the United States an indispensable party. Under these circumstances the Department of Justice has no objection to this provision.

The Department of Justice has no objection to the enactment of S. 3316, subject to amendment of article VI, section A of the compact set out therein (p. 6, 1. 17–18) to reflect the amendment made by the States in ratification of the compact. As amended that section reads:

"A. Each State may construct, own and operate for its needs water storage reservoirs in the other State, provided, however, that nothing contained in the Compact or its ratification by Arkansas or Oklahoma shall be interpreted as granting either State or the parties hereto the right or power of eminent domain in any manner whatsoever outside the borders of its own State."

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

The Committee on the Judiciary in recommending approval of the compact is of the view that the compact does not affect any obligations owed Indian tribes by the United States, nor does it impair the legal rights of Indian tribes or individual Indians residing within the Arkansas River Basin.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

REPORT ON GRANTS VESTING TITLE TO CERTAIN EQUIPMENT

A letter from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a report on grants vesting title to certain equipment, for fiscal year 1972 (with an accompanying report); to the Committee on Aeronautical and Space Sciences.

PROPOSED FLOOD DISASTER PROTECTION ACT OF 1972

A letter from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation to expand the national flood insurance program by substantially increasing limits of coverage and total amount of insurance authorized to be outstanding and by requiring known flood-prone communities to participate in the program, and for other purposes (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

REPORT ON COMMISSARY ACTIVITIES OUTSIDE THE CONTINENTAL UNITED STATES

A letter from the Acting Assistant Secretary for Administration, Department of Commerce, transmitting, pursuant to law, a report on the Department of Commerce on commissary activities outside the continental United States, during the fiscal year 1972 (with an accompanying report); to the Committee on Commerce.

REPORTS ON SHARING OF MEDICAL FACILITIES AND FOR EXCHANGE OF MEDICAL INFORMATION

A letter from the Administrator of Veterans Affairs, transmitting, pursuant to law, reports on Sharing of Medical Facilities and Exchange of Medical Information, for the fiscal year 1972 (with accompanying reports); to the Committee on Veterans' Affairs.

FALL TERM OF SUPREME COURT

A letter from the Chief Justice, Supreme Court of the United States, informing the Senate that the Court will open the October, 1972 term on October 2, 1972; ordered to lie on the table.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A resolution adopted by the board of selectmen, town of Brookline, Mass., relating to the death of 11 athletes at the 20th Olympiad; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations, without amendment:

S. Con. Res. 97. Concurrent resolution in behalf of prisoners of war and missing in action (Rept. No. 92–1216).

By Mr. STEVENS, from the Committee on Commerce, with an amendment:

S. 3358. A bill to prohibit the use of certain small vessels in United States fisheries (Rept. No. 92–1217).

By Mr. HUGHES, from the Committee on Armed Services, without amendment:

S. 2738. A bill to amend titles 10 and 37, United States Code, to provide for equality of treatment for military personnel in the application of dependency criteria (Rept. No. 92–1218).

By Mr. ROBERT C. BYRD (for Mr. BENT-

SEN), from the Committee on Armed Services, with amendments:

H.R. 3817. An act to amend titles 10, 32, and 37, United States Code, to authorize the establishment of a National Guard for the Virgin Islands (Rept. No. 92–1223).

By Mr. McCLELLAN, from the Committee on Government Operations, without amendment:

H.R. 12807. An act to amend the Federal Property and Administrative Services Act of 1949 in order to establish Federal policy concerning the selection of firms and individuals to perform architectural, engineering, and related services for the Federal Government (Rept. No. 92–1219).

By Mr. BROCK, from the Committee on Government Operations, with amendments:

H.R. 9676. A bill to authorize the conveyance of certain lands of the United States to the State of Tennessee for the use of the University of Tennessee (Rept. No. 92–1220).

By Mr. HRUSKA, from the Committee on the Judiciary, without amendment:

H. Con. Res. 701. A concurrent resolution commending the 1972 United States Olympic team for their athletic performance and Mark Andrew Spitz, in particular, for his unparalleled achievement in the 1972 Olympic games in Munich, Germany (Rept. No. 92–1225); and

H.J. Res. 1304. A joint resolution authorizing the President to proclaim October 1, 1972, as "National Heritage Day" (Rept. No. 92–1226).

By Mr. LONG, from the Committee on Finance, with an amendment:

H.R. 640. An act to amend the Tariff Schedules of the United States to permit the importation of upholstery regulators, upholsterer's regulating needles, and upholsterer's pins free of duty (Rept. No. 92–1222).

By Mr. LONG, from the Committee on Finance, with amendments:

H.R. 9463. A bill to prohibit the importation into the United States of pre-Columbia monumental and architectural sculpture, murals, and any fragment or part thereof, exported contrary to the laws of country of origin, and for other purposes (Rept. No. 92–1221).

By Mr. LONG, from the Committee on Finance, with additional amendments:

S. 3598. A bill to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans (Rept. No. 92–1224) (Together with minority and additional views.)

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. ROBERT C. BYRD (for Mr. Williams), from the Committee on Labor and Public Welfare:

Colston A. Lewis, of Virginia, to be a member of the Equal Employment Opportunity Commission;

Christopher M. Mould, of the District of Columbia, to be an associate director of ACTION; and

Kay McMurray, of Illinois, to be a member of the National Mediation Board.

By Mr. COOK, from the Committee on the Judiciary:

Thomas R. Holsclaw, of Kentucky, to be a member of the Board of Parole.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated.

By Mr. BEALL (for himself, Mr. Case, Mr. Dominick, Mr. Eagleton, Mr. Goldwater, Mr. Gravel, Mr. Hatfield, Mr. Hughes, Mr. Humphrey, Mr. Javits, Mr. Mathias, Mr. Metcalf, Mr. Randolph, Mr. Scott, and Mr. Schweiker):

S. 4023. A bill to direct the Secretary of Transportation to make a comprehensive study of a high-speed ground transportation system between Washington, D.C., and Annapolis, Md., and a high-speed marine vessel transportation system between the Baltimore-Annapolis area in Maryland and the Yorktown-Williamsburg-Norfolk area in Virginia, and to authorize the construction of such systems if such study demonstrates their feasibility. Referred to the Committee on Commerce.

By Mr. ROTH (for himself and Mr. Boggs):

S. 4024. A bill to amend the Internal Revenue Code of 1954 to disregard children's benefits received by an individual under the Social Security Act in determining whether that individual is a dependent of a taxpayer. Referred to the Committee on Finance.

By Mr. INOUYE:

S. 4025. A bill to designate the Federal office building to be constructed in Honolulu, Hawaii, as the Prince Jonah Kuhio Kalanianaole Federal Building. Referred to the Committee on Public Works.

By Mr. CRANSTON (for himself, Mr. Hruska, Mr. Tunney, and Mr. Scott):

S.J. Res. 269. A joint resolution authorizing the procurement of an oil portrait and marble bust of former Chief Justice Earl Warren. Referred to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOUTIONS

By Mr. BEALL (for himself, Mr. Case, Mr. Dominick, Mr. Eagleton, Mr. Goldwater, Mr. Gravel, Mr. Hatfield, Mr. Hughes, Mr. Humphrey, Mr. Javits, Mr. Mathias, Mr. Metcalf, Mr. Randolph, Mr. Scott, and Mr. Schweiker):

S. 4023. A bill to direct the Secretary of Transportation to make a comprehensive study of a high-speed ground transportation system between Washington, D.C., and Annapolis, Md., and a high-speed marine vessel transportation system between the Baltimore-Annapolis area in Maryland and the Yorktown-Williamsburg-Norfolk area in Virginia, and to authorize the construction of such systems if such study demonstrates their feasibility. Referred to the Committee on Commerce.

Mr. BEALL. Mr. President, for myself and 14 other Members of the Senate, I introduce the Bicentennial Advanced Technology Transportation System Demonstration Act. The Senators cosponsoring this measure with me are Mr. Case, Mr. Dominick, Mr. Eagleton, Mr. Goldwater, Mr. Gravel, Mr. Hatfield, Mr. Hughes, Mr. Humphrey, Mr. Javits, Mr. Mathias, Mr. Metcalf, Mr. Randolph, Mr. Schweiker, and Mr. Scott.

This bill authorizes the Secretary of Transportation to undertake a feasibility study of a combined and coordinated land and water transportation system consisting of a tracked air cushion vehicle (TACV), or other high-speed ground transportation system, operating between Washington, D.C., and Annapolis, Md., and a surface effect ship, or other high-speed marine transportation system, operating between the Baltimore, Annapolis area in Maryland and the Yorktown-Williamsburg-Norfolk area in Virginia. This demonstration project in the Nation's Capital area will provide the highest visibility for the type of advanced intermodal transportation systems available to move large numbers of people at high speeds.

At the same time it will link these most historically significant areas of our country at the time of the bicentennial celebration. Since time is of the essence if this innovative transportation system is to be operational for the bicentennial observances, the bill also authorizes the construction of the system if the study demonstrates its feasibility, and if the Secretary recommends the establishment of all or part of the system. The study, which is to be completed no later than 9 months after the bill's enactment, will determine the feasibility, social advisability, environmental impact, and economic practicability of the vehicles.

During this investigation study, the Secretary is expected to consult with the appropriate State and local governments. Since Maryland would be heavily involved and has already expressed its interest and support for this project, Maryland certainly should be consulted each step along the way in its development. I hasten to point out that although construction is authorized if the study proves the project's feasibility, Congress would still have the final say through the appropriations process.

The Washington area this summer on a number of occasions has suffered under a blanket of pollution resulting in a number of "emergency alerts" for the area. Each occasion, the pollution was pushed away to the great relief of the area's residents. In addition, traffic congestion continues to plague our citizens as they inch their way to and from work. Both these pollution incidents and the daily highway congestion drive home the need to accelerate our search for alternative and better ways of moving citizens, particularly in metropolitan areas.

In 4 years the Nation will celebrate its 200th birthday. During this bicentennial celebration the Washington area will play host to millions of Americans and foreign visitors who will come to the Capital City.

The bicentennial events and the transportation needs of the Nation combine to give us a unique opportunity to create a transportation showplace that will provide the many visitors to the Capital area with an exciting means of seeing the historical cities and sights of the region, as well as the opportunity to provide a practical demonstration of a technologically advanced transportation system which will attract national and international attention and recognition and demonstrate to the world that the United States will continue its leadership in the world of tomorrow.

The principal focus of the high-speed ground transportation system study between the Nation's Capital and Maryland's charming capital of Annapolis will be the tracked air cushioned vehicle—

TACV—although the Secretary is authorized to examine the feasibility of other surface transportation systems as he deems desirable.

The TACV is an electrically powered, high-speed vehicle capable of speeds 150 miles per hour or more and has a passenger capacity of 60 or more. The TACV vehicle has two power or propulsion systems. The first forces air downward against a fixed track and is a levitation device which allows the vehicle to float a fraction of an inch above the guideway. This enables the vehicle to have a cushioned, virtually vibration-free operation. The second power system provides the forward thrust. The TACV vehicle can operate on a fixed track on a guideway which can be located at ground level; raised as with a viaduct or pylons; or below ground.

The Department of Transportation and the other transportation agencies around the world are placing great emphasis on the development of the TACV as the ground vehicle of the future. The French developed the initial technology and have one 70 seat vehicle in operation on a 13-mile viaduct test track near Orleans. A number of American firms are developing prototypes and the United States is presently constructing a TACV test site in Pueblo, Colo.

The technology for the TACV is considered to be at hand and only engineering application problems need to be solved. It is generally agreed, however, that if TACV is to be a viable alternative in a comprehensive urban transportation system, demonstration projects must be carried out. What better place to carry out the project than in the Nation's Capitol area? What better time to do the project than during the Nation's observation of its 200th birthday? By such a demonstration the American public and our foreign visitors will see and we will test the desirable characteristics of the TACV vehicle, such as ride quality, noise level, and safe high-speed operation.

In addition, data such as the performance, reliance, safety, construction, ability, and environmental impact of the vehicle will be provided by a practical demonstration. As previously indicated, the TACV will operate between Washington, D.C., and Annapolis, Md. The vehicle could begin in the city or perhaps at a Metro subway station such as at the new town of Fort Lincoln, or Ardmore, or New Carrollton, a growing transportation center, and then speed down the median strip of Route 50 to Annapolis.

I ask unanimous consent that a recent article on New Carrollton be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. Gambrell). Without objection, it is so ordered.

(See exhibit 1.)

Mr. BEALL. Mr. President, these examples I cited are not meant to specify the stops or the route for the feasibility study, for this will be the function of the study. It does represent some of the suggestions of individuals and the AFL–CIO Maritime Committee which has devoted considerable time and attention to this endeavor.

The second part of this proposal calls for a feasibility study of a surface effect ship or other high-speed marine vessel operating between the Baltimore-Annapolis area in Maryland and the Yorktown-Williamsburg-Norfolk area in Virginia.

Mr. President, when we examine many of the Nation's largest cities, we find that many areas are located on harbors or major waterways. This really is not too surprising when we consider that during the period when many of America's cities were evolving, water transportation was the predominate mode of transportation.

As a matter of fact, 60 percent of the population of the country live adjacent to water and nine out of the 15 largest cities are coastal. Many transportation experts feel our waterways have the potential for helping to solve our transportation problems and that they could play a major role in easing the traffic problems of the commuter. If such were the case, it may be possible to use free waterways rather than build more expensive freeways.

They are also many experts who believe that we are on the threshold of revolutionary developments in marine transportation, both for cargo and passenger purposes. In addition, these developments are of the utmost interest to military.

The second part of the feasibility study will concentrate on the surface effect vessel, hydrofoils, and other high-speed marine transportation. The surface effect ship includes hovercraft and sidewall craft which employ cushions of air to produce lift. The hydrofoils depend on dynamic fuel lift and are either surface or fully emerged.

There is a growing interest in this area both in the United States and throughout the world. I will discuss a number of vessels under development as well as some that have been in operation to date. This is not an exhaustive examination but merely attempts to convey to my colleagues a feeling for present developments and activity.

First, military experts foresee these developments resulting in a new family of oceangoing vessels operating at speeds of 100 knots or more. This compares with the speed of 40 knots of a modern destroyer. The military has already tested air cushion vehicles in Vietnam and elsewhere. I ask unanimous consent that articles dealing with this military interest be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. BEALL. Mr. President, turning now to domestic developments, both the Bell Aerospace Corp. and the Airjet General Corp. have developed prototype vessels. These experimental vessels are capable of speeds of 80 knots.

Bell has constructed the *Voyageur* vessel, a high-speed multipurpose air cushion vessel. Two of these vessels have been constructed and are currently completing engineering and certification tests on Lake Ontario, near Toronto.

The *Voyageur* has a basic flat bed which permits addition of superstructure and equipment to meet various needs, including the addition of a passenger cabin which would give the vessel a capability of carrying 144 passengers.

Boeing has also developed a most interesting and attractive marine vessel called the jetfoil, an advanced hydrofoil which the company's literature heralds as a "new dimension in transportation." The jetfoil would be a cruise speed of 45 knots and a capacity of 250 commuter passengers or 190 passengers with luggage. Boeing says its jetfoil is safe, comfortable, and a "good neighbor" since noise and pollution levels are well below the strict pollution levels set for 1975 cars. The company's literature even assures that the jetfoil "leaves no wake to destruct the shorelines or small boats."

The British Rails Hovercraft Co., Seaspeed, has been operating 30 minute regular runs to the Isle of Wight and across the English Channel using giant car ferry types. The latter has become profitable. Other vessels are being used on oil and seismic surveys.

The British Corp. is now producing a craft which in basic form will accommodate 170 passengers and 34 cars. Variations on this model will be capable of handling 256 passengers and 30 cars or a straight commuter type vessel carrying 605 passengers.

Mr. President, the trip from Annapolis down the Chesapeake Bay will surely be an unforgettable experience. It is hoped that pollution-free buses will pick up the visitors after they have disembarked in the Virginia area and transport them to historic Williamsburg. In addition, it is hoped that express buses connections will be provided to the Eastern Shore.

Few would deny that we desperately need breakthroughs in the transportation area. A TACV operating between the District of Columbia area and Annapolis in conjunction with a high-speed marine vessel between the Baltimore-Annapolis area and the Williamsburg area will permit American citizens and our many foreign visitors to travel in the transportation of tomorrow to these historic sights, after which they will be allowed to walk in and enjoy the rich history and heritage of this Nation.

Mr. President, I suspect there are some who will feel that it is preposterous to have marine and land vessels traveling at such lightning speeds. It is interesting to note that textbooks up to shortly before the Civil War never made reference to metal vessels. Why? Everyone knew that iron would not float and that even if it would, its effect on the compass would be fatal. Furthermore, iron could not withstand the corrosion and fouling of the hostile marine environment. These arguments all fell by the wayside as the first argument against the nonfloatability of iron was demonstrated a fallacy.

Today even with our achievements in space and other scientific endeavors, I am certain that one could list a string of arguments why this marine-land transportation system will not succeed. But it is risky business to bet against our

Nation and its scientific community. Indeed, the history of our country chronicles the accomplishment of what was thought to be impossible.

I believe that the transportation needs of this country and the upcoming celebration coincide to provide us with an opportunity to push developments of this technologically advanced land-water transportation system. I strongly urge early and favorable action on this measure, and I am certainly encouraged by the great interest and support given by Senators thus far, as indicated by the large number of my colleagues who have consented to cosponsor the legislation.

Mr. President, before closing, I want to thank the AFL–CIO maritime committee for advancing this forward-looking and imaginative proposal. I want to give special thanks to Mr. Hoyt Haddock and Mr. Joseph Salzano who have devoted countless hours on this project.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 4023

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Bicentennial Advanced Technology Transportation System Demonstration Act".

SEC. 2. (a) For the purpose of providing the millions of citizens of the United States and foreign nations who will visit the national capital area during the Bicentennial of American Independence celebration with a pleasant, efficient, and unique way of seeing the historic cities and sights of such area and providing practical demonstrations of technologically advanced transportation systems which will attract national and international attention and recognition and demonstrate to the world that the United States will continue its leadership in the world of tomorrow, the Secretary of Transportation is hereby authorized and directed to make an investigation and study for the purposes of determining the feasibility, social advisability, environmental impact, and economic practicability of—

(1) a tracked air cushioned vehicle or other high-speed ground transportation system between Washington, D.C. and Annapolis, Maryland, with appropriate intermediate stops, and

(2) a surface effect vessel or other high-speed marine transportation system between the Baltimore-Annapolis area in Maryland and the Yorktown-Williamsburg-Norfolk area in Virginia.

(b) In conducting such investigation and study, the Secretary—

(1) shall consult with appropriate Federal, State, local, and District of Columbia agencies; and

(2) may enter into contracts or other agreements with public or private agencies, institutions, organizations, corporations, or individuals without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

(c) The Secretary shall report the results of such investigation and study together with his recommendations, to the President and the Congress no later than nine months after the enactment of his Act.

SEC. 3. If after carrying out the investigation and study pursuant to section 2, the Secretary of Transportation recommends the establishment of either the transportation system described in subsection (a)(1) or (a)(2) of such section or both such systems, he may, to the extent funds are appropriated for the purpose of this section, enter into such contracts and other arrangements as necessary for the construction and operation of such system or systems, except that the system described in such subsection (a)(1) may not be constructed unless the State of Maryland furnishes the necessary rights-of-way, to the extent such rights-of-way are presently owned by such State within existing highway alignments or acquired by such State with funds authorized under this Act and determined useable for such system by the Secretary of Transportation.

SEC. 4. There are authorized to be appropriated such amounts as are necessary to carry out the provisions of this Act.

EXHIBIT 1

METRO IS COMING TO MARYLAND: NEW CARROLLTON—PROSPECT MODERN TRANSPORTATION CENTER—1976

The New Carrollton (formerly Ardmore) Metro station offers a unique opportunity for a sophisticated transportation center, in combination with the relocation of the Penn Central Metroliner Hispeed station, coordinated feeder bus service and adequate parking facilities.

The entire New Carrollton Metro alignment on the Maryland side is under final design, including the stations at Cheverly, Landover and New Carrollton. Construction is expected to begin in 1973, with operations scheduled to commence in 1976.

The Federal Railroad Administration has approved design funds for design of a new Metroliner station facility adjacent to the New Carrollton Metro station. The design will be performed by the same firms under contract with WMATA for Metro's station design and the station will conform to Metro's design standards.

The New Carrollton station will be located east of the Penn Central Railroad tracks approximately one-half mile northeast of John Hanson Highway or approximately halfway between the John Hanson Highway and the Capital Beltway. The station will have a 600-foot long center platform.

A mezzanine containing fare equipment will be located under the platform near the center. Two access points are proposed; one southeast of the station and the other northwest of the railroad tracks. The two access points will be connected to the mezzanine by a pedestrian tunnel. Three escalators will connect the mezzanine to the platform.

Automobile passenger loading areas, bus facilities and auto parking lots will be located adjacent to both access points. Each will have six bus bays, a 30-space kiss-and-ride facility including space for taxicabs, and approximately 500 parking spaces.

The WMATA 1990 traffic forecast projects that approximately 18,800 people would be using the New Carrollton station daily, with 3,000 entering or leaving the station during the peak hour.

Extensive street improvements are necessary to insure efficient, safe, and convenient pedestrian and vehicular circulation both in the immediate area of the station and throughout its service area. Both the Prince George's Department of Public Works and the State Highway Administration will be involved in construction of new roadways in the area, as well as improvements to existing road (see map). Although it will be a difficult task, every effort is being made to assure that these necessary roads are constructed in time for the opening of the New Carrollton line.

The New Carrollton line will be the first of the four Metro alignments to serve Prince George's County. Total projected daily ridership in 1990 originating at the three Maryland stations on the line is 40,000.

EXHIBIT 2

TRIAL RUNS FOR A 100-KNOT NAVY

PROTOTYPES, SOON TO BE TESTED AT 80 KNOTS, PRESAGE LIGHTNING-FAST LOW-COST FLEETS

Destroyers fast enough to outrun torpedoes and able to dart out of the path of surface-to-surface missiles. Aircraft carriers that can move through the water so quickly that their planes are able to take off almost straight up.

It sounds like science fiction. But a fleet of such naval ships may eventually come from sea trials, soon to begin of two experimental craft built by Bell Aerospace Corp. and Aerojet-General Corp. for the U.S. Navy.

The 100-ton aluminum vessels, called surface-effects ships (SES) are neither air-cushion vehicles nor hydrofoils, but descendants of both. They should be able to "fly"—skimming across the water on giant air bubbles—at almost 80 knots. This would be about double the top speeds of present-day Navy ships and theoretically could be maintained even by surface-effects craft as big as aircraft carriers.

The trick is in the design. A conventional air-cushion vessel has a flexible skirt all around its hull to hold its air cushion in place, while the SES has a skirt only fore and aft. Protruding down from each side of a surface-effects ship's hull are solid wall-like extensions that stay partially submerged even when the ship is "flying."

These solid extensions, the Navy says, give a surface-effects ship far greater lateral control than is possible for any air-cushion vessel. And because an SES hull is able to lift almost completely out of water, the ship has a speed potential close to 100 knots.

A hydrofoil can approach this speed but can not be built as large as an SES, Navy designers say.

STREAK

The speed of surface-effects ships, according to Admiral Elmo R. Zumwalt, Jr., Chief of Naval Operations, will give the Navy a major advance in fast-reaction ferrying of troops and supplies. And the surface-effects ship could go a long way toward neutralizing Russia's 3-to-1 lead over the U.S. in submarines.

Submarines have always been difficult to locate and attack, Zumwalt points out. And recent advances in hull design and propulsion have made subs as fast as, or faster than, most surface ships.

The SES, however, may restore the speed advantage to the surface fleet. And it has another big plus that will appeal to Congress.

With construction costs of big Navy ships escalating astronomically—the price tag on a conventional aircraft carrier is now approaching $1-billion—Zumwalt sees the surface-effects vessels also as an opportunity to direct the Navy back to smaller, swifter, hard-hitting ships that should be able to be built in large numbers at comparatively low cost.

COUSINS

The Bell and Aerojet surface-effects ships appear similar, but they do have basic design differences. Aerojet's version is 82 ft. long and 42 ft. wide, somewhat larger than Bell's 77-ft. length and 35-ft. width. But the greatest difference between the craft is in the type of propulsion system they use.

Aerojet's ship has four 3,500-hp. Avco Lycoming marine gas-turbine engines to draw water in through inlets and shoot it under pressure out of a nozzle at the rear of the craft to provide thrust. This eliminates the need for propellers. The same engines drive three fans which create the craft's air bubble.

The Bell design is more conventional. It has three 4,500-hp. Pratt & Whitney marine gas turbines to drive two semi-submerged high-efficiency propellers. But it also carries three smaller engines to create its air bubble.

The Aerojet craft cost $18-million to build, according to the Navy, and the Bell SES cost $14-million.

After builder's trials, the Navy intends to take over both ships for further testing. If the concept still looks good, the next step will probably be to order the design and development of a 2,000-ton experimental ship. If that craft proves out, still larger sizes will be attempted.

"From what we know now, we see no barrier to the size of this type of ship," says Rear Admiral William H. Livingston, director of the Navy's Air, Surface & Electronic Warfare Research Div.

"In fact, some design calculations show efficiency rising with increase in size," Livingston continues. "But we are not now visualizing surface-effects ships larger than 10,000 tons. And at 10,000 tons, the use of nuclear propulsion begins to look attractive for the SES."

THE 100-KNOT NAVY

(By Larry L. Booda)

"Almost all Navy missions can be enhanced by the use of Surface Effect Ships because they can go faster."

That is Rear Admiral William H. "Tag" Livingston talking. He is referring to a whole new family of oceangoing vessels that offer greater maneuverability and speeds up to 125 knots. Compared with the current top speed of a modern destroyer, something on the order of 40 knots that represents a quantum jump in performance.

SESs, as the surface effect ships are referred to in the Navy, combine features of hydrodynamics and aerodynamics, bringing together some of what is best from the minds of naval architects and aeronautical engineers. Test craft have already reached the speed of 80 knots. Prototypes now being built show promise of surpassing the 100 knot mark. The gap to the 125 knot goal is closing rapidly.

Admiral Livingston, director of the Air, Surface and Electronic Warfare Division under the directorate of research and development under the Vice Chief of Naval Operations, isn't alone in his enthusiasm. Two other officials even higher up sounded equally enthusiastic in their testimony, regarding the upcoming high speed Navy, before congressional committees.

One type of vessel under development is the hydrofoil, a craft whose underwater "wings" mounted on struts lift the hull clear out of the water. Admiral Elmo R. Zumwalt, Chief of Naval Operations, appeared recently before the Senate Committee on the Armed Services.

He stated, "We have deployed two patrol gunboats to the Mediterranean to trail Soviet missile ships operating within range of our major combatant ships. . . For the future we are developing plans for a Patrol Hydrofoil Missile (PHM) boat to carry out the same surveillance mission plus an attack mission. Planned initial procurement is Fiscal Year 1973. Releasing destroyers for more essential duties, these hydrofoil boats will trail enemy missile ships operating within missile range of our major units and will attack them if they attack our ships."

REVOLUTIONARY PROPORTIONS

He added that the use of patrol gunboats and hydrofoils will permit optimum use of the inadequate number of destroyers the Navy will have during the 1970s in strike carrier task forces and major escort forces.

The second and third kinds of vessels being developed by the Navy are also lumped under the SES category. One is the Air Cushion Vehicle (ACV) and the other is the Captured Air Bubble (CAB). Both make use of an air cushion created by fans, holding the craft completely above the water in the case of the AVC and with only sidewalls submerged in the case of the CAB.

Admiral Zumwalt had this to say about the SES, "I regard it as a potential development of revolutionary proportion. If, as it appears to be possible, we can produce ships up to many tons and capable of high speeds, we will have, to a great measure, nullified the submarine torpedo threat against such ships. (Ed. There is virtually no hull underwater to hit.) Accordingly, I have singled out this development for special consideration. The Fiscal Year 1972 budget requests funding for contractor and governmental test and evaluation of two 100 ton craft and for procurement of long lead time propulsion items for a military experimental prototype of larger displacement."

Hydrofoils weighing 60 tons have already been tested in the Southeast Asian Theater, the same committee was told by Dr. Robert A. Frosch, Assistant Secretary of the Navy for Research and Development. Craft of 150 tons and even larger are being developed, he also said. He suggested the use of ACV's for moving men and equipment ashore in amphibious operations and other applications as well. Their high speed will reduce exposure to enemy fire and thus reduce casualties, he stated.

Dr. Frosch calls the hydrofoil a surface interceptor. He told the committee, "Hydrofoil developments have progressed through operational evaluation to the stage where combined NATO operations can demonstrate the tactical impact of a craft which can have long endurance remote from its support but which can get up and intercept, at speed, hostile ships in coastal waters."

Probable missions to which these craft seem likely to be assigned cannot be talked about specifically, but it can be stated that the capabilities of hydrofoils and SESs cover a wide spectrum including antisubmarine warfare, mine and anti-mine warfare, surface warfare, patrol, underwater demolition and sea-air-land team support, interdiction of many kinds, missile launching, both air and surface, and amphibious assault.

A conventional ship such as a destroyer or cruiser operating at higher speeds uses most of its power simply pushing water aside. Almost all ships are of this type and are called "displacement" vessels. A cruiser, for instance, can typically make 16 knots cruising on two of its eight boilers. Doubling the number, to four, thus doubling the horsepower produced, the ship can then make 24 knots. Adding two more for a total of six, boosts the speed to 29 knots. All eight boilers perking away can add *only* three more knots for a total of 32.

Admiral Livingston cited another example. A destroyer of standard configuration can make 27 knots producing 15,000 horsepower. Doubling the horsepower to 30,000 enables the ship to cruise at only 32 knots.

Thus it was apparent to naval architects that some other ways to achieve higher speeds on the surface of the ocean had to be found. Fortunately, World War II produced a quantum jump in the technologies needed to develop faster vessels. Aeronautical engineering created lighter weight, stronger frames that could be adapted to other uses.

It was the hydrofoil that attracted first interest. Simply put, the hydrofoil resembles an aircraft wing, its cross section profile typically humped in the upper surface to create lift, for both air and water are fluids, with water being 800 times denser than air. Thus the hydrofoil is really a water wing.

Research on this approach was started in 1947 by the former Bureau of Ships, but it remained on the back burner until 1960 when serious development of a vessel was begun. As with all subsequent vessels of this type, the first version, the SEALEGS, appears to be a normal boat while sitting in the water and cruising at low speed. Its hull differs little from other boats. But when extra power is added, the entire hull is gradually lifted from the water, the water wings remaining just under the surface, offering less resistance to the water than the hull.

The United States is somewhat behind the rest of the world, both Western and Iron Curtain, in hydrofoil development and use; many rivers and lakes in Europe already boast hydrofoil service. One of the fanciest, a streamlined vessel that could have come out of a James Bond movie, plies between Palomares, Spain, and Tangier, Morocco, across the Strait of Gibraltar.

Responsibility for hydrofoil development rests with the Ship Systems Command. The control office is located at the Naval Ship Research and Development Center. Carderock, Md., William Ellsworth is Acting Test Director for Hydrofoils. This office is also responsible for a portion of the ACV development being pursued by the Navy.

ATTRACTING GREATEST ATTENTION

Complicating the organizational setup, is a Navy-Department of Commerce Joint Surface Effect Ship Project Office (JSESP) also located at Carderock. It too is developing ACVs. Some of the confusion should disappear, however, on July 1st when the Department of Commerce is scheduled to withdraw. NAVY was told by a Commerce spokesman that Commerce's Maritime Administration for the next few years will concentrate on building up the Merchant Marine using current ship technology rather than pursuing systems that show little immediate promise of successful application.

Four hydrofoils are attracting the greatest attention at present. Perhaps the flashiest are the TUCUMCARI, a highly maneuverable craft built by the Boeing Aircraft Corp., and the FLAGSTAFF, built by the Grumman Aerospace Corp. Both of these 58 and 67 ton craft were shipped to South Viet Nam in August, 1969, where they were assigned to the Market Time Forces based in Da Nang. They were given missions designed to test their capabilities in rough water and their quick reaction time when needed. The TUCUMCARI is now on tour of NATO countries demonstrating its capabilities.

The two craft rotated five day duty periods, with one on a "ready alert" status and the other in a standby or upkeep status. Patrols lasted six to ten hours and covered from 190 to 270 nautical miles. They proved their worth by operating in sea states as high as five. (Ed. A five force sea state has nine foot waves.) Thirty-seven per cent of these operations were made in such seas—operating at speeds of 37 to 50 knots, even when heavy rains and high winds restricted visibility. Of the time they spent at sea the two craft spent 342 hours "foilborne," or up out of the water, logging 14,843 miles in that condition at an average speed of 43.5 knots.

That there is enthusiasm for hydrofoils as patrol craft is understandable after this demonstration. One result of this operation will be the 160 ton PHM mentioned by Dr. Frosch, if it is funded in the next fiscal year.

Much more than simply designing the hydrofoils is involved in development of the craft, however. Propulsion, for instance, must include greater power in smaller packages. For such higher power requirements the gas turbine has been found ideally suited and has been applied to every hydrofoil and SES intended for high speed missions. Hydrodynamics engineers, in fact, have found themselves faced with the water equivalent of supersonic speeds, a phenomenon known as cavitation. They have learned to take advantage of this condition in both the foil design and supercavitation propellers, (a propellor that revolves so fast that it creates a bubble shaped void around the blades that is almost a vacuum).

The most interesting form of propulsion being applied to several new vessels is the waterjet. Taking a note from the page of gas turbojets in which gas is forced in one direction to make a reaction in the opposite direction, the waterjet does the same thing with the fluid that is 800 times as dense—water. The system is operational in the TUCUM-

CARI and seems to point to even greater successes and applications in the future.

Rounding out the hydrofoil stable are the 120 ton HIGH POINT, built by Boeing and the 320 ton PLAINVIEW, built by Grumman, the largest craft of this type in the world. Both are undergoing extended testing.

FLEXIBLE SKIRTS VS. HARDWALLS

It wasn't until 1958 that serious attention was focused on the more exotic Surface Effect Ships (SES). In that year the Office of Naval Research and the Bureau of Ships conducted experiments with four small air cushion vehicles. SESs operate, as stated earlier, by creating a cushion of air created by gas turbine powered fans with the cushion being trapped by one of two methods. In one, the Air Cushion Vehicle (ACV), the air is held by a flexible skirt extending down from the hull. The ACV, therefore, rides completely clear of the water and land. The bigger the ACV the higher the waves and land obstacles it can surmount. Propellers provide their forward propulsion. In operation these crafts are a spectacular sight, for the escaping air creates spray on all sides until forward speed is attained.

By 1963, the largest-to-that-time ACV made its appearance. Under contract to the Bureau of Ships, the Bell Aircraft Co. produced the 35 ton SKMR-1, or HYDROSKIMMER. This writer had the privilege of "flying" the craft at Buffalo, N.Y. The SKMR-1 demonstrated that she could readily take off from land or water, travel as fast as 70 knots over mildly rough water and easily come back on land.

ONE MILLION CHANNEL PASSENGERS

On the other side of the Atlantic the ACV originated with a patent issued in 1955 to an Englishman, Christopher Cockerell. The Bell effort paralleled that of the British and in 1963 that company entered into a technical and licensing agreement with Hovercraft Development, Ltd., now the British Hovercraft Corp. Between the two companies 90 transport ACVs are operational in the world today. One type, the MOUNTBATTEN, has ferried more than 1 million passengers and 230,000 vehicles across the English Channel since 1968. In the United States an experimental passenger service was operated across San Francisco Bay under auspices of the Department of Transportation.

On the military side, Bell manufactured six 10-ton ACVs designated the SK-5 which were tested in the Mekong Delta area of South Viet Nam by the U.S. Navy and U.S. Army. Their missions covered a wide range in the many waterways and marshes of that area.

As the 1960s progressed the Department of Commerce interest increased. To achieve economy of effort, President Lyndon B. Johnson decreed, in March of 1966, that JSESPO be formed to combine the talents of the Navy and Commerce. The work was to include, he stated in his order, "Research on an ocean-going surface effects vessel capable of skiming over water at speeds of more than 100 knots." JSESPO was created June 20, 1966.

As research progressed, still another kind of SES showed promise. This type, called the Captured Air Bubble (CAB) vehicle, features two straight fore-and-aft sides making it look like a deep hulled boat rectangular in shape. Since they have no curvature and are thin, the sides can slice through water with a minimum drag. In addition to the sidewalls, a forward and aft hinged trapdoors, help capture the air cushion but give with the waves. The CAB, because it loses much less air than the ACV, requires only one-third as much power to maintain the cushion.

TODAY'S ACV'S AND CAB'S

Enough has been learned to this date to know that hydrofoils will be able to act as sea surface interceptors but will be limited in sizes to less than 200 tons. They do, however, offer long endurance, or long time on station in addition to high speed when needed.

The ACV appears to be ideal for landing troops—actually disembarking them on land, not grounding them on the beach edge; thus offering the enemy a ready target. As the next logical step in this program, the Navy has let contracts of $1,950,000 each to the Bell Aerospace Co. and Aerojet General Co. to build two 160 ton air cushion Amphibious Assault Landing Craft (AALC) apiece. The AALC C150 as it is designated, will offer 1,700 square feet of cargo space capable of taking up to 75 tons of supplies on pallets or a 60 ton battle tank. Major differences in the approaches of the two companies are in the types of skirts employed, the number of propellers and number of lift fans.

It is the Captured Air Bubble system however, which seems to have the brightest future as far as the Navy is concerned. Not only could it fit many diverse roles but its hard sidewall design lends itself to much larger sizes. Dr. Frosch told NAVY that, from what has been learned so far, vessels in the 4,000 to 5,000 ton range are possible.

But to prove this technology beyond a doubt a new project is underway, again with contracts to Bell and Aerojet-General. Each company is building a 100 ton model 78 feet long and a half as wide.

After testing of these two SESs, due to be completed sometime in 1972, the next step the Navy will follow will be construction of a multi-thousand ton development test ship, according to James Decker, JSESPO's project director. He and others connected with the project believe in progressing logically, but are highly optimistic about the future of the captured air bubble approach.

Recently Bell received the hull of its model from Levingston Shipbuilding, Orange, Tex. At a ceremony at its Michoud, La., plant, the principal speaker, Representative F. Edward Hébert, (D-La.), Chairman of the House Committee on the Armed Services, noted a 100 knot speed capability and said, "When I say to you that I envision these ships as being in our fture Navy before the '80s, I do not think I am using hyperbole for effect or stretching my own imagination. This is your future Navy."

By Mr. ROTH (for himself and Mr. BOGGS):

S. 4024. A bill to amend the Internal Revenue Code of 1954 to disregard children's benefits received by an individual under the Social Security Act in determining whether that individual is a dependent of a taxpayer. Referred to the Committee on Finance.

Mr. ROTH. Mr. President, the bill I am about to introduce on behalf of myself and the senior Senator from Delaware (Mr. BOGGS) will no doubt seem insignificant when compared to the other legislative efforts on which the Congress embarks. Ours will not set a grand and new policy for the Nation, nor will it appreciably shift any existing policy. The bill is only six lines in length, and I doubt seriously that it will merit mention, much less headlines, in any of today's great journals or papers.

What Senator BOGGS and I hope our bill will do is help a few people.

Before I describe this legislation, I would like to tell the Members how I happened to draft this six-line bill.

On May 10, 1972, I received a letter from a constituent, Mrs. Marian Coverdale, of Houston, Del. And, if there is no objection, I would like to read this letter:

DEAR SENATOR ROTH: I am writing in an appeal for help in my problem with Internal Revenue Service. This is my story.

My husband died in 1968, leaving me with four children, ages 17 yrs., 15 yrs., and twins 2½ years. I applied for and received Social Security benefits for these children. However, I still claimed them as dependents on my Income Tax return. The problem is this: They are checking my Income Tax Return for the year 1970, because they say that since they received Social Security benefits I cannot claim them as dependents. Now, this seems a little ridiculous to me because anyone can tell you that Social Security benefits will not contribute enough income to keep an individual alone.

This is all I receive and I have never asked for anything else as far as medical, dental, or anything. I have continued to work every day, which necessitates babysitting money, which I am now wondering if it was a wise choice. My husband, being a heart patient, did not obtain the mortgage fee insurance he should have had. As a result of this, I had to give up the home we had built. I have made personal loans when the going became rough and have done the last and final thing I can do. I have sold my furniture to pay bills. I have nothing else to sell. I have borrowed the limit I feel I can repay.

The Internal Revenue Service notified me that I must substantiate that I had contributed more than Social Security benefits towards the keeping of these children. This I have tried to do as you will see by the enclosed. Cancelled checks are all I have to prove anything, since I had no idea that there was any question that I could claim them for dependents. They will not accept what I have given them as proof. I did not submit copies of cancelled checks for the whole year, but picked different months to try to show them what I had given them was correct. I do not know what else I can do. I do not know that I think I should be allowed some credit for working every day and using this money to keep my family in a home, food, clothing, heat, medication, etc.

There are only a few alternatives that I can think of: No. 1—Send all the bills pertaining to the children's upkeep to IRS, No. 2—Have the children put in a home and let them receive the Social Security on which they must be kept, No. 3—Quit work, apply for additional benefits and let the taxpayers keep all of us, or No. 4—Find the deepest river and highest bridge and take a flying leap and let the State worry about keeping the children. What would you suggest?

I only have ten days to come up with more proof for IRS, but I really at last am at my wit's end. I only know that it takes all I make plus what they receive to keep a roof on their heads, clothes on their back, food in their stomachs, insurance, and medication when they are ill.

Please help me. I gave you support, now try to give me some.

Sincerely yours,

MARIAN A. COVERDALE,

HOUSTON, DEL.

I would note that Mrs. Coverdale's total earnings for 1970 were $3,710; of this, the Internal Revenue Service was going to demand a tax of $433. If it is not clear from her letter why Mrs. Coverdale was going to be required to pay this money, let me briefly explain.

Mrs. Coverdale's children were receiving monthly social security benefits, because of the death of their father. Under the present law, these payments must be considered as the child's contribution to his own support. In order to legally claim the children as dependents, Mrs. Coverdale, in effect, had to prove that she contributed more money to the support of the children than they received from the

Social Security Administration. The fact that the monthly benefits were not enough for a family of five to live on is immaterial. The fact that Mrs. Coverdale could refuse to work and receive public assistance—which would certainly cost the Government more than $433—is immaterial. And the fact that most people in Mrs. Coverdale's situation simply do not have canceled checks and receipts—much less from 9 years past—is immaterial. Ironically, if Mrs. Coverdale were richer and able to put the social security payments in some sort of savings account for her children, she would not have been confronted with the problem; if the money is saved instead of spent it is not considered the child's contribution to his own support. But, unfortunately for Mrs. Coverdale, since she and her children had to spend the money in order to live Mrs. Coverdale was dunned by the Internal Revenue Service.

Simply out of curiosity, Mr. President, I called the Delaware State agencies to find out whether Mrs. Coverdale and her family would be eligible for public assistance if she were to quit work. Without providing her name, I asked what forms of assistance a widow with four children—aged 17, 15, twins 2½—could receive if she and the children were already receiving $2,400 per year in social security. I also asked what the approximate annual value of this assistance would be. This, Mr. President, is what I learned:

Mrs. Coverdale would receive cash assistance payments of $67 per month, or $804 per year; since some of her children are under 6 years of age, Mrs. Coverdale would be exempt from the "training or employment" requirement. But even though not required to do so, she could opt to receive job training, in which case the Government would pay for child care for the twins aged 2. The approximate weekly cost for such child care is $35; therefore the annual cost of child care for Mrs. Coverdale's children would be $3,640. In addition, she and the children would be eligible for medicaid payments. Assuming an average monthly cost of $5 per child, the value of this service would be $240 per year. And, lastly, the Coverdale family would be eligible for free food commodities, with an average annual value of $697. In short, Mr. President, if Mrs. Coverdale had chosen not to work, she and her children would have cost our taxpayers $5,381 per year, above and beyond the social security payments. Instead, Mrs. Coverdale chose to work, for which we demanded $433 in income tax.

I should point out that ultimately Mrs. Coverdale was able to prove that the children were dependents and she was not required to pay the $433. But having learned her lesson in tax year 1970, Mrs. Coverdale no longer even attempts to claim the children. It is easier to have the taxes withheld than to fight the Internal Revenue Service each year.

Frankly, Mr. President, I consider this one of the most outrageous and discriminatory abuses I have ever encountered. I object not only to the fact that Mrs. Coverdale might be required to pay taxes in a situation like this, but the fact that she can be harassed and intimidated in such a manner. Mrs. Coverdale's only crime was to work. Mrs. Coverdale, of her own volition and because she thought it her duty as a citizen, did exactly what we spend billions of dollars trying to encourage: An honest days work. And for this we taxed her and we harassed her.

I will not belabor this point any further, Mr. President. I believe I have made the object of my bill clear enough: It is to help the Mrs. Coverdales of our country. My bill makes a simple, easy to understand amendment to the Internal Revenue Code. The amendment reads as follows:

> (f) Child's Social Security Benefits.—For purposes of subsection (a), child's insurance benefits received by or on behalf of an individual under section 202(d) of the Social Security Act shall not be taken into account in determining whether the individual received more than half his support from the taxpayer.

Mr. President, this is a simple amendment; I hope that, as such, it can be expeditiously acted upon by the Finance Committee, to which I assume it will be referred, so that we can correct this situation as soon as possible.

By Mr. INOUYE:

S. 4025. A bill to designate the Federal office building to be constructed in Honolulu, Hawaii, as the Prince Jonah Kuhio Kalanianaole Federal Building. Referred to the Committee on Public Works.

Mr. INOUYE. Mr. President, I have the honor today to introduce a bill which would designate the new Federal office building to be constructed in Honolulu as the Prince Jonah Kuhio Kalanianaole Federal Building.

Prince Kuhio was a popular political figure who was first elected to the 58th and the nine succeeding Congresses as the delegate from the Territory of Hawaii. The memory of his long and distinguished service is still respected in today's Hawaii, decades after his untimely death in 1922.

He was born in Koloa, Kauai, on March 26, 1871, and attended the Royal and Punahou Schools in Honolulu. He also studied for 4 years at St. Matthew's College in California and attended the Royal Agricultural College in England. He later graduated from a business college in the United Kingdom.

In 1884 he was created a prince by royal proclamation of the existing monarchy of Hawaii. He began his public service in the Hawaii Department of the Interior, in which he served with great distinction.

Later Prince Kuhio was to show the cosmopolitan interests that have always characterized Hawaiians. After the monarchy was overthrown, he traveled to Africa and served in the British Army in the Boer War, the same conflict which launched the career of the then unknown Winston Churchill.

There are few, if any, other individuals in the history of the Congress who have enjoyed such a colorful and productive career. I believe that it would be appropriate to honor the man who gave so much of his time to his country and to his people by naming the new Federal building after him. It would be a meaningful remembrance on our part.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 4001

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the names of the distinguished Senator from Alabama (Mr. ALLEN) and the distinguished Senator from Arizona (Mr. GOLDWATER) be added as cosponsors to the social security bill (S. 4001), seeking to raise the earned income of social security retirees from $1,680 to $3,000 a year, introduced by the distinguished Senator from Vermont and the Senator from Montana now speaking.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 4012

At the request of Mr. SCOTT, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of S. 4012, a bill to make additional immigrant visas available for immigrants from certain foreign countries, and for other purposes.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 145

At the request of Mr. CASE, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of Senate Resolution 145, urging the Voice of America to make broadcasts in Yiddish into the Soviet Union.

SURFACE MINING REGULATION ACT OF 1972—AMENDMENTS

AMENDMENT NO. 1571

(Ordered to be printed and to lie on the table.)

Mr. STEVENSON submitted amendments, intended to be proposed by him to the bill (S. 630) to provide for the cooperation between the Secretary of the Interior and the States with respect to the future regulation of surface mining operations, and for other purposes.

FOREIGN ASSISTANCE ACT OF 1972—AMENDMENT

AMENDMENT NO. 1572

(Ordered to be printed and to lie on the table.)

Mr. CANNON submitted an amendment, intended to be proposed by him, to the bill (H.R. 16029) to amend the Foreign Assistance Act of 1961, and for other purposes.

AMENDMENT NO. 1573

(Ordered to be printed and to lie on the table.)

Mr. SCOTT (for himself and Mr. McGEE) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 16029), supra.

AMENDMENT NO. 1574

(Ordered to be printed and to lie on the table.)

Mr. CHURCH. Mr. President, I submit an amendment which I intend to offer as a substitute for the amendment by the minority leader, Senator Scott, that will be voted on tomorrow.

Senator Scott's amendment would increase the military aid authorizations in this bill by $370 million—a 27-percent increase. He wants to take $1.75 more out of the pockets of every American citizen in order to buy arms for foreign countries—arms which do not, in any way, enhance the security of the United States. My amendment provides only for an increase in supporting assistance of $35 million which would be earmarked for Israel. This would bring the amount of supporting assistance for Israel back to the level contained in the bill earlier defeated by the Senate, $85 million. The taxpayers would thus be spared an additional $335 million in deficit spending.

In the 1970 fiscal year, Congress appropriated $815 million for the military programs involved here. This bill already contains $535 million more than Congress thought was justified in 1970. Adoption of the Senator from Pennsylvania's amendment would result in a 110-percent increase above the 1970 level. Do Senators really think that the American taxpayers should go $335 million deeper in debt to pour more arms into Taiwan, Thailand, Greece, Korea, and Indonesia? If the American people had an opportunity to vote on the question, I have no doubt what they would decide.

For the 1970 fiscal year, there was a budget deficit of $13 billion. This year it is officially estimated at $38 billion, a threefold increase in 3 years. The debt is now $437 billion and $72 billion of that was incurred in the last 3 Nixon years. If we cannot hold the line in Congress on spending for foreign aid, where can it be held?

I wish to make it clear that the authorizations in this bill are only about one-fourth the $5.6 billion military assistance package proposed by the executive branch for the 1973 fiscal year. It does not include, for example, $2.9 billion for South Vietnam, Laos, and the Korean forces in Vietnam, or ship loans, or the value of excess arms given away, or the costs of supporting 47 military aid missions abroad. The total flow of U.S. arms abroad is estimated at $8.5 billion, when Government cash sales and commercial sales are included. The United States is in the arms export business in a bigger way than all other nations combined.

I ask unanimous consent to have printed in the Record after my remarks certain pertinent tables.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CHURCH. Mr. President, I do believe that an additional $35 million in supporting assistance for Israel is fully justified; so did the full Senate when my original amendment was adopted by a vote of 54 to 2 on June 23. Although the Senate should restore the full funding level approved earlier for Israel, there is no justification for restoring the other money amounts to the earlier levels. The Senate defeated the bill concerning the amounts now sought to be restored by the Senator from Pennsylvania. The Committee on Foreign Relations has already been too generous in allowing funding at the fiscal 1972 levels. It seems that the foreign aid bill is like the proverbial cat with nine lives—the Senate cannot seem to kill it, no matter how hard it tries.

I hope that the Senate will adopt my amendment and save the taxpayers $335 million in foreign aid.

I ask unanimous consent that the text of the amendment be printed in the Record at this point.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Amendment No. 1574

In lieu of all of the language proposed by Mr. Scott insert the following:

On page 14, strike out lines 7 and 8 and insert in lieu thereof the following: "to exceed $618,000,000, of which not less than $50,000,000 shall be available solely for Israel" and inserting in lieu hereof "fiscal year 1973 not to exceed $585,000,000, of which not less than $85,000,000 shall be available solely for Israel."

EXHIBIT 1

COMPARATIVE DATA ON FOREIGN AID ITEMS

[In millions]

Program	H.R. 16029 as amended	Scott amendment	Church substitute
1. Grant military assistance	$400	$600	$400
2. Supporting assistance	[1] 550	[1] 685	[2] 585
3. Military credit sales	400	435	400
(a) Aggregate ceiling	[3] (550)	[3] (600)	[3] (550)
Total security	1,350	1,720	1,385
4. Bangladesh assistance	100	100	100
Total security and economic	1,450	1,820	1,485

[1] $50,000,000 earmarked for Israel.

[2] $85,000,000 earmarked for Israel.

[3] $300,000,000 earmarked for Israel.

Military and related assistance and arms sales programs, fiscal year 1973 (executive branch estimates)

	Amount
Military assistance grants	$819,700,000
Foreign military credit sales	629,000,000
Excess defense articles	[1] 245,000,000
Ships loans	39,600,000
Security supporting assistance	879,418,000
Foreign military cash sales (DOD)	2,200,000,000
Commercial sales	722,598,000
Military assistance—DOD funded	2,924,700,000
Total military and related assistance and sales	8,460,016,000

[1] Valued at one-third acquisition cost.

Military aid funded through the Department of Defense budget for allied forces in Southeast Asia:

[In millions of dollars]

	Fiscal year— 1971	Fiscal year— 1972	Fiscal year— 1973
South Vietnam	1,848.9	1,824.1	2,431.2
Korea	208.2	188.9	133.5
Laos	155.8	240.3	360.0
Thailand	113.0	66.1	(1)
Total	2,325.9	2,339.4	2,924.7

[1] Military aid for Thailand to be funded from the MAP program.

ADDITIONAL STATEMENTS

FEDERAL FLOOD RELIEF IN PENNSYLVANIA

Mr. SCOTT. Mr. President, I think we can all be proud of the tremendous job being done by Frank Carlucci and all the other officials working on Federal flood-relief in the Commonwealth of Pennsylvania. I ask unanimous consent that an article entitled "Frank Carlucci, Good Samaritan of Flood Area," published in the September 20 Philadelphia Inquirer, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Frank Carlucci: Good Samaritan of Flood Area

(By Howard S. Shapiro)

Wilkes-Barre.—Frank Carlucci's job is a disaster—called Agnes.

Despondent people come to his office with problems and requests. Some of them cry.

He walks out on the street, they grab him by the arm. "Mr. Carlucci, I have to talk to you . . ." and the problems pour forth.

He sees the signs of despair on the streets where he was raised.

Affixed to the dirty and broken glass windows of empty storefronts are signs saying: "The valley with a heart—comin' back better than ever!"

It is almost three months since the Susquehanna River inundated the Wyoming Valley, and about one month since the Federal government set out to rescue its local image.

Enter Carlucci. The slim-framed 41-year-old director of the Federal Office of Management and Budget had been working on flood relief planning from his Washington office, but in hard-hit Wilkes-Barre, the residents saw only mass confusion at the Federal level.

Housing and Urban Development Secretary George Romney had come to survey the damages in August, and the residents gathered to survey George Romney. No one was pleased.

Add to this the complaints that President Nixon was receiving from Wyoming Valley folks. Federal trailers were standing around with no one to hook them up to sewage, water and electrical outlets.

The streets looked more like landfills. Living conditions, some residents said, were little better than conditions at massive relief centers during the onslaught a month before.

REPORT ON FLOOD CLEANUP

Here is a progress report on the flood cleanup in the Wyoming Valley:

HOUSING

Three-fourths of 13,816 homeless families are in winterized shelters.

LOANS

Small Business Administration has approved $145.1 million in loans to 17,272 individuals and 532 businesses.

STORES

About 15 percent of more than 1,000 stores have reopened.

AID

U.S. has spent or contracted for $350 million in assistance to help clean up damage estimated at $1 billion.

So it is not hard to understand why Frank Carlucci was called off a Washington tennis court one August day to answer a phone call from Presidential adviser John Erlichman. "The President thinks you ought to go up there," Erlichman said.

Carlucci was returning home.

Since his arrival, Carlucci has oiled the bearings for Wilkes-Barre's huge Office of Emergency Preparedness setup.

As of this week, the office has approved

17,493 Small Business Administration loans and dispersed money to 12,487 of the applicants.

This adds up to $119.5 million in home loans and $11 million in business loans.

So far, the Carlucci staff has placed 10,000 Wyoming Valley families in emergency temporary housing—mobile homes and campers—and is working to find homes for about 3,500 more families.

Now, Carlucci is turning his efforts largely toward a mini-repair program, in which the Army Corps of Engineers will try to get as many people as possible back to their homes by cold weather.

"The first thing we had to deal with," Carlucci says, "was getting people out of their attics and into temporary housing. Then we went through the hookup phase, and we still have some problems there, with bottled gas supply.

Now, when we talk about temporary housing, I try to pull together all the aspects of living in a trailer park—transportation, recreation and so forth."

Carlucci says he looks forward to working with state Secretary of Community Affairs William Wilcox, who last week was appointed by Gov. Milton Shapp to a similar post on the state level.

"We can bring in the resources. We can help restore the community. But not without working with the state and local governments. Mr. Wilcox and I have laid out a course of action for our staffs. That doesn't mean, of course, that there still won't be differences of views.

Carlucci's efforts have been well publicized, in the Wyoming Valley media, and residents seem more aware of Federal efforts in the area. The President's envoy spends much of his time meeting with the residents.

"We know that he was sent here to try to alleviate our problems," says Mrs. Samuel Bosch, a member of the Flood Victims Action Council, the group spearheaded by fiesty Min Matheson, the woman who orally assaulted Romney during his turbulent trip here last month.

"I think he's probably doing more than any one man can do under the circumstances," noted Mrs. Bosch, who headed a committee which met with Carlucci.

"But we don't know how much he can actually do for us. Some of our big problems have to be settled by legislation."

Those undoubtedly include the government's mortgage relief program, which some homeowners feel is unfair. Those eligible for SBA loans are to be given $5,000 "forgiveness," and the government's detractors complain that the fixed amount has nothing to do with the amount of loss.

And many residents of Kingston, a largely Jewish bedroom community across the river from Wilkes-Barre, apparently have some complaints about President Nixon's visit a week ago. Mrs. Bosch says certain residents were disappointed because Nixon chose to visit the flood-smashed community on Rosh Hashanah, one of Judaism's holiest days.

The action council also felt that Nixon's stopover at Scanlon Field was superficial, since that is the trailer park where Carlucci holds his public meetings and is most well-known.

Alfred H. Ackerson, a retired banker who welcomed Nixon into his Scanlon Field trailer last week, says Carlucci's takeover brought a noticeable change.

"Before he came, the runaround here was terrific," says Ackerson, who lost all his belongings in the flood. No one gave you any kind of answer. You got the brush off. When he came, though, there was a big change in planning and results, in getting trailer sites and getting equipped."

"I think there has been a change," echoes Mrs. Doris McCloskey, a 38-year-old widow who lives with her three daughters, and a dog and cat, in a trailer at the huge Barnum Park trailer camp.

Carlucci's job demands that he be a jack of several trades, a kind of Renaissance relief chief. To the thousands of Wyoming Valley citizens who suffer depression because of near-total losses, he offers psychological guidance.

To those who come with questions about the government, he is the top bureaucrat. He must feel at ease during discussions about home improvements, community affairs, urban renewal, finance and a host of other areas affecting a community which must start rebuilding, almost from scratch.

CAN WE DO BETTER?

Mr. STEVENSON. Mr. President, there are few men whose ideas about U.S. policy toward the United Nations are more authoritative or incisive than Richard Gardner's. Recently, the American Assembly published a monograph by Professor Gardner entitled "The United States and the United Nations: Can We Do Better?" I share Professor Gardner's view that we can and must do better, and I believe that his article is essential reading for anyone interested in international cooperation.

I ask unanimous consent that a summary of Professor Gardner's paper be printed in the Record.

There being no objection, the monograph was ordered to be printed in the Record, as follows:

The American Assembly

Richard N. Gardner, former Deputy Assistant Secretary of State for International Organization Affairs who now holds the Henry L. Moses chair of Law and International Organization at Columbia University, said that "the time has come to supplement balance of power politics with world order politics."

Gardner's program was set forth in a monograph issued today by The American Assembly of Columbia University. Among his recommendations:

The strengthening of the United Nations and other international organizations concerned with the common problems of mankind should be "the central preoccupation of U.S. foreign policy from here on in."

The United States should take a more "principled" approach to foreign policy by limiting its use of armed force to circumstances clearly permitted by the United Nations Charter and by submitting disputes to which it is a party to third-party judgment.

A "world order bargain" should be made with developing countries under which developed countries would provide more aid and developing countries would cooperate more fully in efforts to protect the environment and curb population growth.

U.N. decision-making procedures should be revised so that key decisions are taken in small committees with "weighted representation" for large and middle powers.

The United States should use future meetings with Soviet and Chinese leaders to urge their cooperation in measures to strengthen the U.N.'s peacekeeping and peacemaking role.

The United States should cooperate in new initiatives to resolve the U.N.'s financial problems, including a package settlement to pay off the U.N.'s debts and remove contested items from the regular budget.

The United States should seek advice and assistance from international agencies in dealing with domestic problems such as crime, urbanization and mass transportation.

An Under Secretary of State for Multilateral Affairs should be appointed to coordinate U.S. policy in all multilateral organizations, regional as well as global, economic as well as political.

The U.S. Missions to the United Nations in New York and Geneva should be upgraded and strengthened by bringing in top level experts from outside the government.

A "world-wide competitive examination" should be offered to attract outstanding young people to serve with the U.N. Secretariat.

A "Naders Raiders for World Order" should be established to lobby on behalf of stronger U.S. support for international organizations.

The United States should provide adequate security for U.N. delegates and put up its promised share for the enlargement of the U.N.'s Headquarters in order to assure that the U.N. stays in New York City.

Professor Gardner declared that the United States was "beginning to default on its multilateral commitments all across the board." As examples he cited the failure of the United States to pay its share of the budget of the International Labor Organization and of contributions to multilateral development insitutions as well as its importation of chrome from Rhodesia in violation of an embargo for which the United States voted in the Security Council. He also warned against efforts to place an immediate 25% limit on all U.S. contributions to U.N. agencies. As a result of these and other actions, he declared, "the United States is now on a collision course with the very international agencies in whose future it has an important stake."

Professor Gardner warned of "a widespread tendency for U.N. members to pay lip service to the United Nations, while at the same time pursuing their short-term interests, often at its expense. This has always been true of the Soviet Union. What is distressing, however, is that it has become increasingly true of other members, including the United States. Our country occasionally asked itself how the United Nations could help it to do what it had decided to do in Viet Nam; we never seriously asked ourselves how we might conform our Viet Nam policies to our U.N. commitments."

"The lack of a principled approach, of any serious attempt to articulate and live by consistent interpretations of the U.N. Charter and international law, is one of the most depressing aspects of present U.S. foreign policy. Our senior policy makers, like those in most other countries, ask only what the U.N. can do for them, not what they can do for the United Nations—or for the building of a civilized system of world order."

While commending the Nixon Administration's quest for a new world power balance, Professor Gardner questioned whether "balance of power alone is good enough."

"By itself, balance of power politics has not brought peace in the past. It is not likely to do so in the future unless accompanied by institutional arrangements to accommodate the interests of the competing power centers. Moreover, countries outside the five centers of power will demand—and rightly so—a fair measure of participation in the world political process."

"Furthermore, the balance of power concept by itself is manifestly inadequate in the face of the unprecedented situation in which mankind now finds itself. If follows that from now on a central preoccupation of U.S. foreign policy should be not just the development of a precarious power balance but the building of effective international machinery to manage mankind's common problems."

Professor Gardner argued that changes in U.S. domestic politics as well as changes in the world setting make a new foreign policy imperative: "Forced to choose between interventionism and isolationism, the American people will eventually choose isolationism. Multilateralism is therefore the only chance in the long run to sustain a positive U.S. role in the world."

"One of the most important but least appreciated functions of the United Nations is in influencing the political process within member states toward more cooperative and outward-looking policies. In a certain sense, the United Nations constitutes an 'alliance of doves,' in which the outward-looking members of national governments can reinforce one another in their struggle with more inward-looking members of their national administrations."

"For an American President wishing to gain domestic support for substantial cuts in the military budget and a greater investment in economic and social programs at home and abroad, the United Nations represents a resource of enormous potential. It can help us to reorder our national priorities, to turn our country around.

"A U.N.-oriented foreign policy could give us a new sense of national purpose—an opportunity for recommitment to some fundamental principles of justice and human dignity which, at an earlier and happier stage in our existence, we perceived as essential elements of our behavior as a free people.

"Increasing numbers of Americans, particularly young Americans, are raising questions about the justice of our domestic and political order. At present these Americans are mainly looking inward. But a U.N.-oriented policy could help us put these concerns in a global context."

Professor Gardner conceded that there were "hard questions of feasibility" involved in his new foreign policy approach. But, he argued, "we will not know the limits of the possible until we really try." He called upon the President to put "the same kind of political effort behind U.N. peacekeeping and peacemaking proposals that was invested in the struggles for the ABM and the SST."

The Gardner monograph, entitled *The U.S. and the U.N.: Can We Do Better?* was originally written as background for an American Assembly which met last April at Arden House, Harriman, New York, to consider the current crisis in the U.N.

The American Assembly is a national educational organization in public affairs founded at Columbia by Dwight Eisenhower in 1950.

THE NATIONAL ENERGY CRISIS

Mr. BELLMON. Mr. President, the national fuels and energy study being conducted pursuant to Senate Resolution 45 under Interior and Insular Affairs Committee leadership has been making steady progress. Since its inception in mid-1971 we have held 31 days of hearings on 18 energy-related topics as a part of our study.

One of our most active members in the study has been the junior Senator from Wyoming (Mr. HANSEN). He has demonstrated not only an interest in the matter of our national energy crisis, but has also shown an in-depth knowledge of the subject equal to or superior to any member.

His sophisticated grasp of the issues and wisdom in perceiving solutions to the problem was recently revealed in a brilliant speech presented before a conference for corporation executives on the energy crisis, sponsored by the School of Advanced International Studies of the Johns Hopkins University. I highly commend it to the Senate as the most incisive analysis of our energy crisis I have ever seen. I request unanimous consent that Senator HANSEN's presentation be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

TALK BY SENATOR CLIFFORD P. HANSEN

I want to begin on an optimistic note. Optimism, I know, is as scarce a commodity these days as some of the fuels we have been hearing about. But I think it is worthwhile to state at the outset my belief that this nation can and will work out a set of coherent energy policies which will meet its needs for fuels that are abundant, secure, and environmentally acceptable.

I speak, of course, as a legislator committed to the belief that a democratic society can reach rational decisions which involve compromises among varied, and sometimes directly conflicting, interests. At the same time, I should add that I claim to be a realist as well as an optimist. As a realist, I would say that the United States *does* have an energy crisis, that it will get worse before it gets better, and that we have much to do if we are to achieve a coherent energy policy.

The nature and causes of the present crisis have already been spelled out for us in yesterday's session. Let me, however, summarize my own view of the crisis before indicating the steps I believe the U.S. government should take, first to mitigate its impact and then to develop both short and long-term solutions.

One serious consequence of our energy crisis is that we will be forced to rely on petroleum hydrocarbons to meet the bulk of our escalating energy needs well into the 1980's. A major difficulty flowing from such reliance is that a growing portion of our crude oil requirements will almost certainly have to come from foreign sources, particularly the Middle East.

These factors give rise to three major problems.

First, our overseas supplies may be interrupted. A resumption of intensified military hostilities in the Middle East could erupt at any time. Should such events occur we will be increasingly vulnerable particularly because our dependence on Middle Eastern crude is on the increase. The danger will be compounded because we have already lost most, if not all, of our cushion of spare U.S. producibility which formerly enabled us to survive crises—and even to supply our allies —in an emergency.

Second, even without a new military crisis or a politically motivated "cut off" of our supply of Middle Eastern crude, our projected dependence on foreign crude could result in a U.S. balance-of-payments deficit of serious proportions—an estimated $25 billion in 1985.

Third, our status as a global power may be jeopardized in a world where the Soviet Union and Communist China will remain virtually self-sufficient in energy supplies while the United States moves closer to the unenviable position of Western Europe and Japan in becoming a have-not nation in terms of oil.

These are the major problems as I see them as related to the petroleum sector of our energy economy. Now let me suggest the measures that I believe should be taken to solve them.

First, the problem of supply interruption. I think this danger is real. Apart from the possibility of a Middle East flare-up, any one of the top five nations in the Organization of Petroleum Exporting Countries will soon be able to cause an oil shortage in the Western world by cutting off supplies, and any two will be able to cause a major crisis. Our major offshore supplier, Venezuela, belongs to OPEC.

In this situation, some form of security storage of oil stocks will become a necessity for the United States in the next few years. I believe we should consider a policy under which stocks of crude oil and petroleum products equal, for example, to between 60 and 90 days of imports would be stored. These stocks would be located in the areas which are dependent on foreign supplies and therefore more vulnerable if overseas supplies are cut off. Obviously, such a program will be expensive and will face objections from people who like to use oil but do not want it as their neighbor. But it may well be essential to our national security. We may also wish to establish stand-by reserves of other energy sources, such as coal.

Associated with such planning should be a high priority reevaluation of contingency plans related to an emergency petroleum and petroleum product allocation system. We cannot afford to be caught defenseless should a cut off of Middle Eastern crude occur.

Second, the balance of payments problem. I see no way to avoid some increase in U.S. deficits from oil imports over the next decade, particularly in view of OPEC's demonstrated ability to obtain price increases, its as yet unresolved demand for participation in producing operations and its likely continuation of a hard line policy encouraged by its monopoly position of world crude oil supplies.

Nevertheless, I believe there is one way in which this deficit can be substantially reduced—through the construction of a large fleet of U.S.-flag tankers which would at least keep our oil transportation dollars within the United States. As you may know, I recently spoke out *against* a bill which would have mandated the use of U.S.-flag tankers to bring 50% of crude oil imports into the United States. This approach, I am convinced, is not the right way to go about the problem. It would not only be contrary to existing international agreements but would encourage other countries to retaliate in kind. Instead, I believe we can strengthen our security and balance-of-payments position by modifying the 1970 Merchant Marine Act to permit an expanded program of subsidized construction in U.S. shipyards. Vessels built under such a program would still have to be competitive with those of other nations in operating costs. At the same time, as I say, the dollars for their operation would stay in the U.S.

In this connection, I should add that the use of large tankers presupposes the existence of terminals to accommodate them. Largely due to environmentalist pressures, there are presently no deep-water terminals on the East Coast, where they are most needed. Instead the oil industry is being forced to consider building its deep-water terminals in Eastern Canada or the Bahamas, necessitating costly transshipping of oil to East Coast ports which will inevitably raise consumer prices, and causing yet a further drain on our balance of payments. I would hope that we in the Congress can find ways to encourage construction of deep-water facilities on the East Coast that will meet national needs. Such means should be designed and implemented following a specific assessment of need and national security requirements.

The situation is the same if we look at refinery capacity. Absolutely no new refineries are being built on the East Coast, where they are most needed. As a result, we are being faced with a number of disagreeable choices: export refinery capacity to Canada or the Bahamas, bring in foreign crude to Gulf Coast refineries for later transshipment of product up the East Coast, or actually import far more foreign products, besides residual fuel, than we do at present. We must ensure that suitable incentives are available to encourage the construction of additional East Coast refinery capacity and that we solve genuine environmental problems so that construction can proceed. If no steps are taken to correct the situation, we face the prospect of diminishing national security, added expense to the consumer, and mounting balance of payments outflows.

Let me now turn to my third point—the threat to this country's status as a world power resulting from increased dependence on foreign oil. This problem, of course, will only be solved when our nation is again in substantial control of its energy supply, and this may not happen again until after 1985. at the earliest. But there is much we can do, first to mitigate our dependence on foreign oil in the short-term, and second to lay the foundations now for a future viable energy position.

In the short term, we can take at least three steps:

We can begin construction of the trans-Alaska pipeline, which the Secretary of the Interior has approved on the basis of three years' exhaustive study;

We can decontrol the wellhead price of natural gas; and

We can intensify both offshore and onshore drilling.

On natural gas, it is pleasant to note that we are at last making some headway. The Federal Power Commission's decision to ease price controls over sales of gas from newly discovered fields or extension of existing ones is to be welcomed.

At the same time, we shall not be able to reverse the decline in gas reserves, which followed the shortsighted 1954 Supreme Court decision that natural gas producers were subject to regulation, until the Natural Gas Act on which the decision was based is clarified. With six other Senators, I have introduced a bill which would end FPC regulation of well-head prices by amending the act so that it will very clearly *not* apply to these prices. This, I believe, is one major step in the right direction.

On offshore drilling, I would commend only that, according to the geologists, the Outer Continental Shelf is one of the greatest remaining sources of new petroleum deposits open to us, and offers the best and quickest hope for finding substantial new reserves. The Department of the Interior's draft environmental impact statement on the sale of offshore leases in the Gulf of Mexico makes a good case for offshore drilling, and I believe that the oil industry has gone a long way in meeting reasonable environmental criteria for offshore drilling off the Louisiana, Texas and California coasts.

There are three other fuel sources which must be developed for our long-term self-sufficiency, and on which we need to begin taking action now. I refer to shale, coal, and nuclear power.

Shale development is a course which I have consistently advocated. I introduced a bill into the Senate in 1968 calling for lease sales in Colorado, Utah, and my own state of Wyoming. In 1970, the Interior Department had completed a shale development plan, incorporating many features of my bill, under which lease sales would have started this year. No progress, of course, has been made in the development of oil from shale although, as I stated in my bill.

"The oil shale deposits located in the Green River formation of Colorado, Utah, and Wyoming contain the greatest known fossil fuel energy resource in the world and that this energy resource and associated minerals found in it are of vital importance to the future economic well-being and security of the United States."

Clearly, it is time for the Congress to consider oil shale development again and, in fact, the Senate Interior Committee has held hearings and the Development of Interior subsequently announced a new oil shale leasing program.

A recent draft environmental statement covers a proposal to make available for private oil shale development as many as six 5,120 acre leases on Federal lands in Colorado, Utah and Wyoming.

Coal is another major U.S. resource which could provide us with ample energy supplies. But it failed to develop significantly in the Sixties for several reasons including over-optimistic nuclear forecasts, stringent safety regulations, and sulfur restrictions. In 1972, air-quality standards are still effectively barring large volumes of high-sulfur coal from the market, particularly from use in power plants which have turned to residual fuel oil. In the absence of economical stack gas control, it would therefore seem important that we exercise caution in setting sulfur-control standards. The expanded use of low-sulfur coal from the Western states is particularly a possibility if we are realistic about pollution levels.

Exploitation of coal reserves for conversion to liquid or gasified fuels will, of course, require the creation of a new large-scale industry, necessarily a long-term proposition. The Department of the Interior has, in fact, recently broken ground for a coal gasification pilot plant in Pennsylvania, and others are being funded by the American Gas Association and the Office of Coal Research.

These developments, obviously, should be encouraged. In particular, we in Congress can help a great deal by setting environmental standards, particularly for strip mining, which will insure that land is restored as far as possible to its former state after mining and will give the industry the go-ahead to continue operations with an assurance that it will not be hampered by continuing lawsuits.

Nuclear power, I believe, has an increasingly brighter future as we find improved solutions to the problems of thermal heating and the disposal of radioactive wastes. By 1985, nuclear power should supply as much as 35% of the consumption of our electric utilities and 13% of our primary energy supply for all purposes.

In this development, I believe Congress can play a major role by helping establish criteria for plant siting, atomic waste disposal, and safe handling of radioactive materials. Such criteria, while setting high standards of environmental protection, would speed nuclear plant construction by eliminating long-drawn-out lawsuits in which each case is decided independently.

I have sketched a mix of energy sources which should restore to us substantial control of our energy supply in the 1980's. In the meantime, our path will at best be difficult. Contrary to our previous experience, we shall not be able to serve as an energy backstop for Western Europe, but will more and more be in competition with Western Europe and Japan for available crude oil supplies. We will, however, share a common interest in promoting peace and stability in the Middle East, in encouraging the growth of new reserves in countries outside the Middle East, and in working together through such agencies as the Organization for Economic Cooperation and Development to coordinate our energy policies. Other options for improved consumer country cooperation also should be explored.

And I might amplify my ideas of the Federal role in speeding up U.S. recovery of energy independence. Consistent with our national security needs, I believe in the fullest possible play of free market forces in determining the price and end-use of any one of our energy resources.

Also, I favor the tax credit route including depletion allowance for all minerals over any Federal subsidy role.

If we mean what we say about speeding up domestic exploration and development then the Federal government should do everything possible to make it easier and less expensive for more companies and individuals to participate in that effort, especially on Federal lands both off and on shore.

I would suggest a leasing system which would more adequately stimulate offshore exploration efforts than the present OCS bonus bid system which requires such large cash investment for a hunting license. Actually, I believe, the Treasury would receive a greater aggregate of revenues in the long run from royalty payments resulting from increased oil and gas production under a revised leasing system than under continuation of the present bonus bid system.

And while the Office of Management and Budget is always on the hunt for instant and easy Treasury revenues, the priority now should be shifted to a balance between the need to realize an appropriate return on leased public resources and the need to stimulate increased exploration and development.

And in any Federal effort toward conservation of energy, I would favor higher consumer prices as a restraint on rapidly expanding demands which could concomitantly help improve the generation of capital. According to a recent financial analysis of the petroleum industry by Chase Manhattan Bank, the industry is not earning enough to generate sufficient capital to meet the nation's energy needs.

In my opinion, any punitive tax assessment for energy conservation or pollution control as proposed by some will be more costly to the consumer in the long run than higher product prices because such a tax mechanism fails to stimulate the generation of needed capital which in turn would result in even greater pressure to raise prices. Our nations energy consumers should not be burdened with the double cost of higher taxes and higher prices.

Further, even if such taxes were imposed and the federal government were compelled by law to allocate the resulting revenues toward expanded energy programs, I don't think there is any comparison as to the probable relative efficiency of government VS. industry in the effective expenditure of such funds. In other words, I am a strong believer in the carrot rather than the stick in Federal land and tax policies.

Although the program I have just outlined is far from comprehensive, I do believe it contains some of the essential fundamentals of a national energy policy. It is my hope that the implementation of many of these measures will be soon forthcoming. For, by definition the longer that necessary remedies remain unimplemented, the more intense our energy crisis becomes.

GOVERNMENT IN THE SUNSHINE

Mr. TUNNEY. Mr. President, a democratic form of government, such as ours, is a system which derives its authority from, and places its trust in, the people comprising this great Nation. As the people are sovereign, so are they empowered to obtain information regarding the operations and activities of their government. If an elected representative of the citizenry fails to respond to requests for information regarding matters of state, then the electorate may replace him. In the case of the Federal bureaucracy, those seeking documentary materials and records may petition for them under the Freedom of Information Act. Enacted in 1966, this statute provides the public with both an administrative procedure and court redress to otbain particular items from agency files.

But documentary accounts of governmental action are secondary sources of information for the citizenry. They constitute a record of what has transpired and while that statement of proceedings may be available to the public, the actual meeting might very well have been closed to all except those participating in the deliberations. To the end that many more meetings of executive branch offices and congressional committees might be open to the public, I am proud to cosponsor, with Senator CHILES and other distinguished Senators, S. 3881.

GOVERNMENT IN THE SUNSHINE

In 1913 Supreme Court Justice Louis Brandeis wrote:

> Publicity is justly commended as a remedy for social and industrial disease. Sunlight is said to be the best disinfectant and electric light the most efficient policeman.

Thus, in the spirit of these words of the late Justice, the Florida Legislature passed an open hearing law in 1967 called the Government in the Sunshine Act. A member of the State senate at the time of the enactment of this legislation, Senator CHILES is now seeking to establish a similar guarantee of open meetings at the Federal level. In introducing his bill early last month he commented:

> Since I came to the Senate last year, I have become very disturbed by the great amount of public business I have found being conducted behind closed doors and by the attitude of secrecy I have seen in our Federal Government agencies. I am not surprised that people are suspicious of our motives and are losing confidence in their government when they are shut out of the decision-making process.

I join with Senator CHILES in recognizing a mounting crisis of confidence and torment of secrecy in the public mind due to restrictions regarding the observation of governmental deliberations. In 1953 California pioneered the practice of mandatory open meetings with the passage of the Brown Act, which required public deliberations by all local government agencies. The State attorney general has ruled that this statute applies, as well, to legislative bodies of chartered cities.

The language of the Brown Act specifies that all public entities in California "exist to aid in the conduct of the people's business" and declares all meetings of a local legislative body or agency to be "open and public," with no conditions on attendance by the public and with provisions requiring fair notice of the time and place of such meetings, regardless of whether the session is extraordinary or not. There is evidence to indicate that practices now exist at the Federal level which warrant the enactment of legislation similar in scope and purpose to the Brown Act.

SECRECY AT THE FEDERAL LEVEL

One of the main thrusts of the Legislative Reorganization Act of 1970 was to bring committee proceedings under public scrutiny. The act indicated that Senate committee business meetings were to be open to the public, except during bill markup and voting sessions. It also provided that Senate committees could close their business meetings by a majority vote of the panel members. The Congressional Quarterly Service recently reported that:

> Ninety-seven percent of those Senate committee meetings specifically designated in the daily digest as business session—organizing, marking-up, voting, briefing sessions—were closed to the public.

Like the Senate, the House of Representatives may also, by a majority vote of the members of a committee, close a panel's business meetings. Excluding the meetings of the Appropriations Committee because subcommittee markup sessions were not reported in the CONGRESSIONAL RECORD, the Congressional Quarterly Service tabulations indicated that 79 percent of the House committee sessions listed as business deliberations were held behind closed doors.

The Congressional Quarterly Service reported that on the whole congressional committees held approximately one-third of their 1971 meetings in private.

> Thirty-six percent of all congressional committee hearings and meetings were held behind closed doors in 1971. This marked a decrease from the 41 percent reported in 1970, but matched the secrecy score for 1969. The pattern of the past few Congresses has been to hold more open meetings in the first session than in the second.

In the Senate, one committee held 118 of 150 meetings—70 percent—in private; another closed 52 of 104 sessions—50 percent; a third met 55 of 127 times—43 percent—behind closed doors during 1971.

In the House, the Appropriations Committee had 36 of 455 meetings—8 percent—in public, a marked contrast to the record of the previous year when all of the panel's sessions were listed in the Daily Digest as closed. But another committee closed 69 of 111 meetings—62 percent—and a third held 70 of 150 sessions—47 percent—behind closed doors.

The question which these statistics raises concerns the propriety of holding so many sessions in secret. Certainly those committees considering matters of defense and foreign policy will find it necessary to hold executive sessions on occasion, but there must be some consideration; indeed, some statutory requirement that careful thought be given to the frequency of such sessions. Secret deliberations should occur as rare exceptions and even in those instances efforts should be made to release the meeting transcript as soon as possible.

While statistics on open and closed meetings within the executive branch are not available, there is evidence to indicate that opportunities for observing departmental and/or agency deliberations are few. The Administrative Conference of the United States, which has the responsibility for developing model administrative mechanisms and procedures, has offered two formal suggestions which, if adopted by the executive offices, would go far toward assuring public access to meetings. Conference Recommendation No. 1, adopted on December 10, 1968, urges the establishment of uniform and adequate physical facilities for "public and evidentiary hearings each year in cities throughout the country." The adoption and implementation of this proposal would circumvent the possibility of closed meetings to the public for lack of space to accommodate observers.

Recommendation No. 28 of the conference, which was adopted on December 6, 1971, calls for public participation in administrative hearings. "The recommendation encourages agencies to allow persons whose interest or views are relevant and not otherwise represented to participate in administrative proceedings." The term "participate," as expressed in this proposal, could be read to include observation of the proceedings. The provisions S. 3881 would, however, guarantee the opportunity to gain entry to such meetings and to do so without any requirement of establishing just cause to observe.

During the course of omnibus hearings this year on U.S. Government information policies and practices, the House Foreign Operations and Government Information Subcommittee heard testimony on advisory committee meeting practices. In a study of 1,940 separate and distinct advisory committee meetings and hearings held by 68 different departments and agencies, 996 meetings—51 percent—were open to the public. However, "although many of the advisory committees hold open meetings, they indicated no procedure for notification to the public of these meetings. If the public is not informed of an open meeting, the meeting is for all practical purposes 'closed.'"

In this particular study of executive branch advisory committees, not only were the meetings generally held in secret, but records on the sessions were sorely lacking. It was reported that only 31 percent of the surveyed meetings were held with transcripts prepared. However, of the 1,940 gatherings studied, in only 26 percent of the cases was a transcript available to the public. In 71 percent of the cases minutes were prepared but these accounts were of uneven quality as records of transpired events.

In only 41 percent of the total number of cases were the minutes available for public scrutiny. It was also discovered that in only 8 percent of the cases studied were final votes of the advisory committee members recorded and made public as required by the Freedom of Information Act [5 U.S.C. 552(a)(4)]. As those conducting the study of the advisory committees concluded:

> In the day-to-day operations of the close to 2,000 advisory committee meetings and hearings, the agencies have either misinterpreted or chosen to ignore existing statutes enacted to provide the public with greater access to information. The agencies have failed to adequately document their procedures, findings, and conclusions.
>
> There appears to be, if not a deliberate attempt to restrict disseminating information, no concentrated effort on the part of the agencies to insure public participation in their activities. This is evident from the lack of adequate procedures to inform the public of these meetings, and the closing of many of these meetings.

Indeed, the attitudes which prevailed among these committees with regard to closed sessions was that in the absence of any requirement that their deliberations be open, the sessions would be held in secret.

It is, of course, difficult to determine to what extent these advisory committees reflect the behavior of the bureaucracy as a whole in terms of open or closed meetings. It should be noted, however, that these units are an extension of the departments and agencies which they serve, and it must be observed that their parent bodies have apparently done nothing to discourage such secrecy or to encourage open deliberations. Some will also recall that no unit of the Executive went on record in support of the Freedom of Information Act when it was under discussion. A secretive Congress may not long be tolerated by the electorate, but what recourse has the citizen against the secrecy of the bureaucracy?

CONTROLLING EXCESSIVE SECRECY

S. 3881, is a responsible and necessary attempt to make secrecy in government the exception rather than the rule. Neither the Congress nor the executive branch should regard secrecy as part of the normal policymaking or administrative process. If closed deliberations are to be tolerated, the subject matter of such sessions must be specific and of a privileged nature. Similarly, like the Freedom of Information Act, S. 3881, sets forth specific exemptions to the mandatory open meeting rule. Excepted from the general requirement of public sessions are discussions involving national security, the internal management of an agency, matters which might tend to reflect adversely on the character or reputation of an individual who is subject to any proposed or potential sanction by an agency, or matters which are required by specific statutory authority to be kept confidential. Such provisions safeguard the security of the Nation, the rights of individuals, and the sanctity of law.

It should be noted as well that this legislation not only "does not authorize closed meetings or the withholding of information from the public except as specifically stated" but also "is not authority to withhold information from Congress." Indeed, it is not the intention of this bill to impede the flow of information from the executive branch to the Congress, but to encourage the transmittal of data.

Careful provision is made that full transcripts of both executive branch and congressional deliberations be promptly made available for public inspection and copying. This provision would supercede the authority of the Clerk of the House to withhold any records of the House of Representatives which might exist only in transcript form or which are less than 50 years old and have not yet been made public, unless such records might be exempted under the provisions of this legislation.

It also supersedes any authority which the Administrator of the General Services Administration might have to withhold such House records as are in his possession unless they fall within the exemption of the legislation. Such authority was originally granted to the Clerk of the House and the Administrator of General Services by House Resolution 288.

Actions contrary to the provisions of this legislation may be challenged in the district courts of the United States. Such disputes may be resolved by declaratory judgments or injunctions.

Without reservation, I join the Senator from Florida in urging the passage of S. 3881. Secrecy in government can be tolerated only if the representatives of the people have the mandate and the trust of the public for accomplishing behind closed doors that which can be resolved in no other way. Excessive secrecy is anathema to both the democratic system of government and the concept of popular sovereignty. If we are truly a government for, of, and by the people, then the business of state must be conducted before the eyes of the citizenry. Governmental deliberations must be open to observation, must be recorded thoroughly and accurately, and must be available to succeeding generations in such documentary form. As these are the intentions of this legislation, so I urge its enactment.

THE 25TH ANNIVERSARY OF TEMPLE ISAIAH, WEST LOS ANGELES, CALIF.

Mr. TUNNEY. Mr. President, I congratulate Temple Isaiah, of West Los Angeles, Calif., on its 25th anniversary, October 20, 1972.

Because the Senate will soon recess, I am several weeks premature in making this statement. But the tribute is well-deserved, and it is better to make it early so that I may advise my colleagues of the accomplishments of Temple Isaiah.

In its quarter century, Mr. President, Temple Isaiah has fashioned an impressive record and reputation. The Temple has, since its inception, consistently adhered to an "open door policy," conforming to the highest ideals in Judaism, which welcomes and assists the stranger regardless of race, creed, color, or social status. It has taken dynamic and appropriate social action in the struggle for civil rights on behalf of the underprivileged, and it has actively participated in programs of ecumenism, promoting the spirit of brotherhood among all creeds on behalf of the general welfare of the community.

Under the auspices of Temple Isaiah and at the instigation of its leader, Rabbi Albert M. Lewis, the Robert J. Green Contact Center was established for the treatment of emotionally disturbed youth and the elderly in the community without regard to race, creed, or color. I understand that Temple Isaiah has evolved an impressive and creative experimental religious education program known as "Rishonim," a corps of young parateachers who teach the adolescent and foster a "living Judaism," integrating the highest ethical precepts of their religion into the daily life style of hundreds of young people.

Temple Isaiah has been in the forefront of two international social struggles which are urgent, not only to the Jewish people of this country, but to all of us who believe in human dignity and individual rights.

First, the temple has consistently supported the State of Israel and made substantial contributions to the welfare of its people. Secondly, Temple Isaiah has taken action in giving moral encouragement and keeping alive the hopes of freedom-loving Jews of Russia who wish to leave that country in order to practice their religion, and its members and clergy have attempted to expedite their exodus from totalitarian restrictions and oppression.

Accordingly, Mr. President, I believe that no one in this body will disagree that Temple Isaiah deserves our commendation and respect. To Rabbi Albert M. Lewis, to the temple officers and members, I extend congratulations on this occasion and best wishes for an equally successful future.

SURVEILLANCE IN A FREE SOCIETY

Mr. BROCK. Mr. President, the role of internal surveillance of citizens in a free society is dubious from the outset. In certain special circumstances, and then only under adequate judicial and due process safeguards, limited intelligence-gathering activities may be justified. However, each authorized incursion on an individual's right to privacy takes us deeper into that dangerous gray area where the objective of surveillance must be measured against our most treasured rights as individuals.

Such a determination of merit clearly enters the murky realm of how far any government can go in information collection before it emerges as a totalitarian state, and I say, not far at all—without the risk exceeding any possible benefit. Intelligence activities within the U.S. military have increased dramatically in the recent past—increased in my opinion beyond the danger point.

In a democracy, official data-gathering of personal information should be the exception rather than the rule. Federal investigations of recent activities lead one to the unmistakable conclusion that past administrations have far exceeded the prudent and judicious course in exercising surveillance authority. Reports indicate that intelligence officials had accumulated a massive amount of material on private citizens, much of which is in no way related to the security or defense of this country. In December, 1970, it was estimated that Army intelligence had reasonably current files on the political activities of at least 100,000 citizens unaffiliated with the Armed Forces. This was the understatement of the year. Incredibly, more recent information reveals dossiers on millions of our citizens, much of which information was based upon nothing more than heresay.

Mr. President, for whatever intention, statist paranoia, technological innovation in information retrieval, bureaucratic "do something" psychology, or simply excessive zeal, such actions threaten the most basic freedoms guaranteed by democracy.

As representatives of the rights of free citizens, Congress must act to prevent further abuse of Government authority.

Mr. President, I commend the distinguished Senator from North Carolina (Mr. ERVIN) on his attempt to air this issue. I ask unanimous consent that an editorial entitled "Unlawful Job, Poorly Done," published in the Chattanooga Times, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

UNLAWFUL JOB, POORLY DONE

In recent years, Army Intelligence officers have accumulated data on civilians who by no stretch of the imagination could be considered proper subjects for military investigation. The extent to which these snooping operations were carried out is just now being revealed by a Senate committee probe.

It is alarming, even though the military categorically asserts the program has ended, not only because unwarranted dossiers were compiled but also because there is no assurance the files have been destroyed.

Sen. Sam Ervin, D-N.C., chairman of the judiciary sub-committee handling the inquiry, writes in its report that both civilian and central military control over the surveillance activities was completely nonexistent.

The committee expressed surprise, if not dismay, at the sheer volume of raw intelligence data that had been gathered. One Army headquarters unit in Texas had 190 linear feet of dossiers and file cards dealing with individuals and organization, and it was only one of 350 such record centers.

The most damning commentary was contained in the committee's notation that the collection of the data was occasionally defended on the grounds of necessity. It added:

"Yet it appears that the vacuum cleaner approach of collecting all possible information resulted in great masses of data on individuals which was valuable for no legitimate (or even illegitimate) military purposes.

"These vast collections of fragmentary, incorrect, and irrevelant information—composed of vague conclusions and judgments and of overly detailed descriptions of insignificant facts—could not be considered 'intelligence' by any sense of the word."

It was a job done poorly; worse, it was one which was outside the military's purview and contrary to Americans' understanding of inviolable rights of individuals.

FUNDS NEEDED FOR MARCH AIR FORCE BASE, RIVERDALE, CALIF.

Mr. TUNNEY. Mr. President, the House Appropriations Committee has just reported the fiscal year 1973 military construction bill. I am very deeply disturbed about projects which have been excluded by the Committee.

March Air Force Base, in Riverdale, Calif., has been in desperate need of improvements for many years. This year, the military construction authorization bill included $4.5 million for additional facilities to be built for the March AFB Hospital. The present outpatient facility serves approximately 75,000 military personnel and their dependents, in addition to an estimated 40,000–50,000 retired personnel in its service area. Additional hospital space is a critical requirement which can only be satisfied by the addition of a new wing to the present building.

The reason given for the denial of these funds in that report is that the future of many Air Force bases is suspect. Thus the committee deleted operational or maintenance projects for which there is no guarantee of timely or long-term usage, or which do not result in significant savings or benefits. Yet the Department of Defense has informed me that they have no plans to close March, and additionally that they do not favor the action taken by the committee.

Mr. President, it appears that the House Appropriations Committee is taking upon itself the determination of which military facilities may be shut down in the future. I do not consider this policy to be a wise one. The Department of Defense should be contacted for their views on issues such as this, just as the Congress should be consulted before major policy decisions affecting foreign policy are made by the executive department. On this particular issue of March AFB, the Air Force has assured me that they are not envisioning taking the action implied by the House Appropriations Committee. And yet badly needed improvements are being denied to March and other bases through the country, on the evaluation of the House Appropriations Committee only.

I have again written to Senator MANSFIELD and additionally to Senator MCCLELLAN, urging them to reverse the House action on March AFB Hospital. I am prepared to fight for reinstatement of the funds on the Senate floor, if this proves to be necessary. I sincerely hope that it will not. But I wanted to bring to the attention of this body the general action of the House Appropriations Committee, as the underlying implications are indeed disquieting.

SURVEY BY SOUTHWEST BEHAVIORAL INSTITUTE, FLAGSTAFF, ARIZ.

Mr. FANNIN. Mr. President, during the spring and summer of 1971, the Southwest Behavioral Institute, located in Flagstaff, Ariz., conducted a survey of Navajo and Hopi parents who had children attending either public, private, or BIA elementary and secondary schools on the Navajo and Hopi Reservations and, in particular, the Window Rock School District at Fort Defiance, Ariz.

To insure the success of this survey, a number of important steps were taken. First, throughout the survey area, various Indian groups were asked to recommend Indian people to administer the questionnaire. Second, a number of meetings were held with Indian groups to determine what areas of interest and concern should be included in the questionnaire itself.

The interviews were conducted in the homes of the parents, who were chosen at random and represented approximately 10 percent of the parents in the area surveyed.

The primary purpose of this survey was to:

First. Determine what parents desired of public education on the reservation.

Second. Identify the significant values of the parents as they relate to education.

Third. Modify and strengthen the school program in a manner consistent with the research findings.

The results of this survey have confirmed many of our notions concerning Indian education and have raised some doubts about others. These results have important implications for future policy direction in the administration of Federal Indian education endeavors and, therefore, should be reviewed by Congress.

Mr. President, I ask unanimous consent that the results of this survey be printed in the RECORD.

There being no objection, the survey was ordered to be printed in the RECORD, as follows:

	Total reservation—520 interviews						Window Rock District—91 interviews					
	No answer		Yes		No		No answer		Yes		No	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
1. Do you know your child's teacher?	8	1.5	236	45.4	276	53.1	1	1.1	52	57.1	38	41.8
2. Would you want to know your child's teacher better?	11	2.1	466	89.6	43	8.3	2	2.2	79	86.8	10	11.0
3. Has the teacher ever visited you at home?	8	1.5	81	15.6	431	82.9	1	1.1	7	7.7	83	91.2
4. Would (or did) you like the teacher to visit your home?	17	3.3	446	85.8	57	11.0	1	1.1	70	76.9	20	22.0
5. Have you ever visited your child's classroom?	8	1.5	239	46.0	273	52.5	1	1.1	41	45.1	49	53.8
6. Would you like to visit your child's classroom (again)?	31	6.0	439	84.4	50	9.6	5	5.5	73	80.2	13	14.3
7. Does the teacher do a good job of teaching?	49	9.4	448	86.2	23	4.4	3	3.3	81	89.0	7	7.7
8. Is the teacher interested in the tribe and its culture?	154	29.6	326	62.7	40	7.7	15	16.5	70	76.9	6	6.6
9. Does the child's teacher speak Navajo/Hopi?	65	12.5	86	16.5	369	71.0	6	6.6	14	15.4	71	78.0
10. Do you think the teacher should speak Navajo/Hopi?	49	9.4	253	48.7	218	41.9	5	5.5	41	45.1	45	49.5
11. Who do you think would make the best teacher for your child? (Yes=Indian) (no=other)	170	32.7	103	19.8	247	47.5	34	37.4	22	24.2	35	38.5
12. Do teachers grade your child at school?	17	3.3	495	95.2	8	1.5	3	3.3	88	96.7		
13. If yes, do you think the grades help your child learn?	25	4.8	475	91.3	20	3.8	2	2.2	84	92.3	5	5.5
14. Should children be given a failing grade if they don't study?	23	4.4	415	79.8	82	15.8	3	3.3	81	89.0	7	7.7
15. Does the teacher treat your child fairly?	38	7.3	452	86.9	30	5.8	5	5.5	81	89.0	5	5.5
16. Should the teacher have a college degree?	26	5.0	473	91.0	21	4.0	2	2.2	87	95.6	2	2.2
17. Would you want your child to become a teacher?	63	12.1	422	81.2	35	6.7	13	14.3	72	79.1	6	6.6
18. Does the school teach the Navajo/Hopi way of life?	100	19.2	140	26.9	280	53.8	10	11.0	19	20.9	62	68.1
19. Do you want them to?	35	6.7	386	74.2	99	19.0	8	8.8	56	61.5	27	29.7
20. Does the school teach your child Navajo/Hopi religion?	55	10.6	80	15.4	385	74.0	9	9.9	9	9.9	73	80.2
21. Would you like them to?	38	7.3	266	51.2	216	41.5	10	11.0	27	29.7	54	59.3
22. Do you want a local medicine man to be employed by the school to teach religion?	48	9.2	191	36.7	281	54.0	5	5.5	16	17.6	70	76.9

	Total reservation—520 interviews						Window Rock District—91 interviews					
	No answer		Yes		No		No answer		Yes		No	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
23. Does the school teach your child about Navajo/Hopi history?	55	10.6	264	50.8	201	38.7	7	7.7	56	61.5	28	30.8
24. Do you think they should?	21	4.0	454	87.3	45	8.7	2	2.2	80	87.9	9	9.9
25. Do you think school has taught your child to be ashamed of his past?	31	6.0	97	18.7	392	75.4	5	5.5	13	14.3	73	80.2
26. Do you want the school to teach your child to read and write the Navajo/Hopi language?	19	3.7	417	80.2	84	16.2	3	3.3	63	69.2	25	27.5
27. Does your child speak Navajo/Hopi at home?	12	2.3	381	73.3	127	24.4	7	7.7	56	61.5	28	30.8
28. If no, do you feel badly about your child not speaking Navajo/Hopi at home?	398	76.5	23	4.4	99	19.0	62	68.1	5	5.5	24	26.4
29. Do you think the school discourages your child from speaking Navajo/Hopi at home?	47	9.0	59	11.3	414	79.6	7	7.7	10	11.0	74	81.3
30. Do you want the schools to teach science to your child?	7	1.3	475	91.3	38	7.3	3	3.3	87	95.6	1	1.1
31. Do you want the schools to teach your child some vocational trade?	7	1.3	493	94.8	20	3.8	1	1.1	86	94.5	4	4.4
32. At what grade should this begin?												
No answer	47	9.0					7	7.7				
Grades 1–6	91	17.5					10	11.0				
Grades 7–9	285	54.7					55	60.5				
Grades 10–12	97	18.7					19	20.8				
33. Does the school teach arts and crafts?	35	6.7	408	78.5	77	14.8	2	2.2	78	85.7	11	12.1
34. Would you like the school to teach it more?	16	3.1	459	88.3	45	8.7	3	3.3	78	85.7	10	11.0
35. Does the school teach your child to behave properly?	27	5.2	444	85.4	49	9.4	3	3.3	80	87.9	8	8.8
36. If no, in what ways does your child misbehave? (Results in pt. II of final report.)												
37. Does the school ever punish (or spank) your child?	34	6.5	148	28.5	338	65.0	4	4.4	22	24.2	65	71.4
38. Do you think they should?	43	8.3	323	62.1	154	29.6	7	7.7	35	38.5	49	53.8
39. Do you think the school is too easy on the child and lets him misbehave?	41	7.9	176	33.8	303	58.3	4	4.4	20	22.0	67	73.6
40. Does the school get your permission for your child to participate in extra-curricular activities?	20	3.8	404	77.7	96	18.5	6	6.6	69	75.8	16	17.6
41. Should they?	18	3.5	473	91.0	29	5.6	5	5.5	79	86.8	7	7.7
42. Do you approve of weekend and after school social functions such as dances, parties, and field trips?	50	9.6	319	61.3	151	29.0	5	5.5	54	59.3	32	35.2
43. Do you think the school has too many such activities?	39	7.5	157	30.2	324	62.3	7	7.7	25	27.5	59	64.8
44. Is the yellow bus system adequate?	53	10.2	380	73.1	87	16.7	8	8.8	69	75.8	14	15.4
45. If no, in what way? (Results in part II of final report.)												
46. Is the bus safe?	63	12.1	411	79.0	46	8.8	9	9.9	72	79.1	10	11.0
47. Is the school lunch program adequate?	20	3.8	426	81.9	74	14.2	2	2.2	83	91.2	6	6.6
48. If no, in what way? (Results in pt. II of final report.)												
49. Do you think your child should have to attend school every day?	4	.8	509	97.9	7	1.3	3	3.3	87	95.6	1	1.1
50. Should your child be suspended from school after he misses over 5 days?	28	5.4	129	24.8	363	69.8	5	5.5	32	35.2	54	59.3
51. If no, what should the school do after 5 misses? (Results in pt. II of final report.)												
52. Has the attendance officer ever visited your home?	6	1.2	140	26.9	374	71.9	2	2.2	31	34.1	58	63.7
53. Was he helpful	216	41.5	148	28.5	156	30.0	24	26.4	40	44.0	27	29.7
54. If no, why not? (Results in pt. II of final report.)												
55. Is it any easier for you around the house when your child stays home from school?	28	5.4	160	30.8	332	63.8	3	3.3	31	34.1	57	62.6
56. Do you let your child choose the school he wants to attend?	12	2.3	196	37.7	312	60.0	1	1.1	44	48.4	46	50.5
57. Do you think school should prepare your child to live on the reservation	29	5.6	372	71.5	119	22.9	4	4.4	57	62.6	30	33.0
58. Should the schools prepare him to live off the reservation	31	6.0	333	64.0	156	30.0	6	6.6	58	63.7	27	29.7
59. Do you want your child to go beyond high school	10	1.9	501	96.3	9	1.7	1	1.1	88	96.7	2	2.2
60. What type of school? (Yes=vocational school—2-year)	296	56.9	224	43.1			64	70.3	27	29.7		
60. What type of school? (Yes=4 year college)	96	18.5	424	81.5			12	13.2	79	86.8		
61. Would you want your child to attend an all-Indian college	32	6.2	287	55.2	201	38.7	3	3.3	46	50.5	42	46.2
62. Do BIA schools prepare children for college better than public schools	115	22.1	70	13.5	335	64.4	22	24.2	13	14.3	56	61.5
63. If yes, why? (Results in pt. II of final report.)												
64. Does your school have a school board	55	10.6	434	83.5	31	6.0	3	3.3	85	93.4	3	3.3
65. If not, should it have a school board	328	63.1	188	36.2	4	.8	63	69.2	28	30.8		
66. Does the school board control the school	89	17.1	384	73.8	47	9.0	5	5.5	79	86.8	7	7.7
67. If no, who does? (Results in pt. II of final report.)												
68. Do you think that non-Indians run the school	58	11.2	244	46.9	218	41.9	11	12.1	46	50.5	34	37.4
69. If yes, should they	190	36.5	178	34.2	152	29.2	27	29.7	43	47.3	21	23.1
70. Have you ever talked with a school board member	15	2.9	156	30.0	349	67.1	1	1.1	31	34.1	59	64.8
71. If not, why not? (Results in pt. II of final report.)												
72. Do you think they are interested in your ideas and opinions?	122	23.5	300	57.7	98	18.8	12	13.2	49	53.8	30	33.0
73. If no, why not? (Results in pt. II of final report.)												
74. Where does the school board get the money to run the school? (Results in pt. II of final report.)												
75. Does the school board publish how they spend the school money?	65	12.5	108	20.8	347	66.7	10	11.0	41	45.1	40	44.0
76. Should they publish this?	42	8.1	462	88.8	16	3.1	8	8.8	79	86.8	4	4.4
77. Do you pay for your child's education?	24	4.6	124	23.8	372	71.5	5	5.5	17	18.7	69	75.8
78. Are all the school board members Navajo/Hopi?	98	18.8	71	13.7	351	67.5	7	7.7	5	5.5	79	86.8
79. Should they be?	63	12.1	170	32.7	287	55.2	7	7.7	30	33.0	54	59.3
80. Does the tribe control what goes on at the school?	101	19.4	160	30.8	259	49.8	11	12.1	32	35.2	48	52.7
81. Should the tribe control the schools?	59	11.3	253	48.7	208	40.0	7	7.7	35	38.5	49	53.8
82. Is your school administrator a Navajo/Hopi?	64	12.3	112	21.5	344	66.2	2	2.2	4	4.4	85	93.4
83. Should he be a Navajo/Hopi?	76	14.6	266	51.2	178	34.2	10	11.0	36	39.6	45	49.5
84. Who is the superintendent of your school? (Yes=name given)	204	39.2	316	60.8			9	9.9	82	90.1		
85. Have you ever attended a PTA meeting?	20	3.8	95	18.3	405	77.9	2	2.2	25	27.5	64	70.3
86. If no, why not? (Results in pt. II of final report.)												
87. Do you attend school activities such as sporting events, etc.?	12	2.3	244	46.9	264	50.8	2	2.2	44	48.4	45	49.5
88. Would you like to participate more?	33	6.3	274	52.7	213	41.0	5	5.5	38	41.8	48	52.7
89. If yes, why don't you? (Results in pt. II of final report.)												
90. Does your child help interpret English for you?	17	3.3	270	51.9	233	44.8	3	3.3	47	51.6	41	45.1
91. Would you like to be able to speak English better?	21	4.0	451	86.7	8	9.2	3	3.3	78	85.7	10	11.0
92. Do you feel you are the last to know what's going on at the school?	27	5.2	273	52.5	220	42.3	4	4.4	24	26.4	63	69.2
93. Do you think education makes students think they are better than other people?	48	9.2	190	36.5	282	54.2	9	9.9	39	42.9	43	47.3
94. Do you need your children to take care of you when you are old?	36	6.9	376	72.3	108	20.8	5	5.5	64	70.3	22	24.2
95. All in all, do you think your child is attending one of the better schools on the reservation?	35	6.7	447	86.0	38	7.3	2	2.2	82	90.1	7	7.7
96. If no, what changes need to be made to make it better? (Results in pt. II of final report.)												

97. Of the following, which school is best for your child?

	Number	Percent	Number	Percent
BIA	45	8.7	5	5.5
LDS	12	2.3	1	1.1
Public	288	55.4	55	60.4
BIA Bordertown	11	2.1	3	3.3
Mission	42	8.1	2	2.2
No answer	119	22.9		
Other	3	.6	3	3.3

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that morning business again be closed.

The PRESIDING OFFICER. Without objection, morning business is again concluded.

FOREIGN ASSISTANCE ACT OF 1972

The PRESIDING OFFICER (Mr. STEVENSON). Under the previous order, the Senate will resume the consideration of H.R. 16029, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 16029) to amend the Foreign Assistance Act of 1961, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARTKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER (Mr. ALLEN). The amendment will be stated.

The legislative clerk read as follows:

On page 17, line 25, strike out the quotation marks.

On page 17, after line 25, add the following:

"(z) No assistance shall be furnished under this Act (other than chapter 8 of part I, relating to international narcotics control), and no sales shall be made under the Foreign Military Sales Act or under title I of the Agricultural Trade Development and Assistance Act of 1954, to Thailand. This restriction may be waived when the President determines that the government of Thailand has taken adequate steps to carry out the purposes of chapter 8 of part I of this Act, relating to international narcotics control."

Mr. HARTKE. Mr. President, the amendment which I have sent to the desk concerns a problem which is of increasing importance to the United States of America and all of its citizens. It was emphasized on September 18 of this year when the White House issued a statement to the International Narcotics Control Conference. At that time he emphasized the difficult problem that is confronting the United States concerning the question of drug control. He said at that time:

> As we all know, the global drug control program is enormously difficult and does not lend itself to immediate or simplistic solution. Nevertheless, looking back over the three years since I declared total war on drug abuse and labeled it America's public enemy number one, I think the depth of our national commitment is clear.

The President further states he will not hesitate to act against those countries and their leaders who are involved in supplying narcotics to the United States. Mr. Nixon also stressed that France, Paraguay, Laos, Thailand, and Turkey are a few examples where the work of American officials from Ambassadors on down in partnership with law officials produced important breakthroughs. As I will elaborate later serious questions have been raised concerning the scope of those breakthroughs.

Mr. President, I call upon the Senate to adopt my amendment which provides for the suspension of all military and economic aid to Thailand unless it is proved that the Thai Government has taken adequate steps to carry out the purposes of chapter 8 of part 1 of the Foreign Assistance Act.

Mr. President, the Veterans' Administration has demonstrated conclusively to the Committee on Veterans' Affairs, of which I am the chairman, that the drug problem has seriously affected veterans. It was reported that some 75,000 veterans a year out of approximately 1 million are addicted to narcotics. When this report was issued the Director of the Veterans' Administration, stated that the report was an exaggeration and that there were less than 50,000 military personnel a year returning from Vietnam who are heroin addicts. This means that in the very least in the next 5 years there will be a quarter of a million heroin and narcotic addicts who have returned from Southeast Asia. This is just one of the many reasons why I advocate affirmative action to end the heroin traffic in Southeast Asia.

The Hartke amendment is identical to a proposal introduced by Representative WOLFF of New York and cosponsored by 85 Members of the other body. It was adopted by the House and is incorporated in section 7 of the House-passed version of H.R. 16029, the bill now pending before the Senate.

This support clearly indicates a commitment on the part of many legislators to act against the increasing traffic in heroin which is originating in Southeast Asia. Nevertheless, there have been few inroads in limiting the massive drug traffic in that part of the world.

I approve the President's recent statement in which he warned that he would suspend all economic and military assistance to regimes failing to cooperate with efforts by the United States to end once and for all this monstrous evil. But the fact is, the Nixon administration has failed to use the power Congress gave for that purpose. I refer to section 481 of the Foreign Assistance Act which gives the President sole discretion to make a determination that the Government has failed to take adequate steps to suppress dangerous drugs. The President alone decides what shall constitute "adequate steps" and he need justify his decision to no one.

We have previously argued on the floor of the Senate that section 481 was, in and of itself, sufficient authority to do what needed to be done. In other words, it was argued that the President has this authority. However, we are presently faced with a paradoxical situation which seems to be the trademark of this administration. On the one hand they are calling for the action which my amendment proposes to implement, yet we have seen little affirmative action.

The Hartke amendment would modify present law to provide that aid to Thailand be terminated until the President makes a definitive finding that Thailand has taken the necessary steps to comply with chapter 8 of the Foreign Assistance Act relating to international narcotics control.

My amendment rather than being of a substantive nature is a procedural amendment which shifts the burden of proof to the administration to make a positive finding that the necessary steps have been taken to suppress the narcotics trade.

It can be argued, and I think the chairman of the Committee on Foreign Relations would argue, that the President has this authority and could so act at the present time. But we are a coequal branch of Government, and in view of the fact that there is hard evidence that the Thai Government has not acted substantively to end the narcotics traffic then it is incumbent upon this body to act.

Mr. President, I am of the opinion that the Senate can not stand idly by in the face of the evidence before us. The failure of the President to act means we have a continuation of a serious drug problem.

No action has been taken by President Nixon in spite of the evidence that Thailand serves as the major conduit for the transhipment of opium produced in Southeast Asia.

Let us look briefly at the situation in Thailand. Several congressional study missions have returned to the Congress with reports that Thailand serves as the major conduit for drug traffic in the Southeast Asia region. As a result of these investigations, we have learned that opium-bearing caravans continually bring substantial amounts of raw opium and some refined morphine derivative down to Bangkok for shipment to Hong Kong. An NBC television camera crew photographed such a caravan within the past 6 months.

After the opium reaches the port of Bangkok, it is placed aboard Thai-registered fishing trawlers. These trawlers can carry about 3.3 tons of opium per voyage. Until last year, these trawlers operated only during the summer months. Currently, they carry their deadly cargo year round. There is enough opium on each ship to supply 6 percent of the annual U.S. demand for heroin.

From Bangkok, the 11-trawler fleet sails to Hong Kong where they unload the opium onto junks in Chinese Communist waters. These junks are then able to slip into Hong Kong unmonitored. The opium is then refined and shipped to the United States. This has come to be known as the "Thai connection."

I am informed that American intelligence and narcotics personnel are aware of high-level official complicity in the Thai drug trade. Not only do our people have the names of those involved, but they also have positive identification of the Thai trawlers which carry the opium to Hong Kong.

Our military action in Southeast Asia might be more appropriately directed toward some of those Thai trawlers rather than our present targets.

We have been told repeatedly that the Thai Government is cooperating in our efforts to stem the drug traffic. It is shocking that with this so-called cooperation of the Thai Government and its security personnel resulted in the seizure of only 97 pounds of heroin and 645 pounds of opium during all of 1971.

Other serious questions have been raised concerning the degree of Thai cooperation. For example, last March the Thai Government announced it had burned 26 tons of opium. This was hailed as evidence that Thailand was "cooperating" in efforts to stop the flow of heroin. Yet, no official statement or press release mentioned the fact that about $1 million of American funds were involved in this so-called seizure.

If the United States did buy up opium and assure its destruction, the action might be defended. But according to the Bureau of Narcotics and Dangerous Drugs, all we did was inspect part of it before it was burned. Meanwhile, it was the Thais who collected it, tested it at the time of collection, and ultimately destroyed it.

The matter of heroin and Thailand is not a new problem. It was not discovered yesterday, although some administration officials act as if it was. Nelson Gross of the State Department testified on June 9 that—

> We have no evidence that there is any present heroin refinery working in either Laos or Thailand in the northern area or in the area of Bangkok in the south.

Three days after he made that statement, completely acting as though nothing was going on, the State Department issued a report detailing the seizure of such refineries in the very areas where Gross said none existed. The problem has been there and no one will benefit by trying to cover it up.

Mr. President, I am deeply troubled that our Government seems to be satisfied with telling the people that progress is being made, when it is not, and that not enough of an effort is being made to achieve progress in our antidrug efforts.

Such efforts to hide the truth from the American public on the critical issue of heroin traffic are highly undesirable and counterproductive.

It is time to make drug information available to the public and to put the necessary pressure on the Thai Government to take definitive action against drug smuggling. Only by the kind of direct action which the Hartke amendment proposes will we serve notice, not only to Thailand, but to other nations of the world as well, that halting the flow of heroin into this country is our No. 1 priority.

Last week, President Nixon said that he considers keeping dangerous drugs out of the United States just as important as keeping armed enemy forces from landing in the United States. I agree. That is the reason why I introduced the pending Hartke amendment, in order to force the Nixon administration to end all aid to Thailand, making it a congressional mandate.

The administration can, under the amendment, resume aid, but first it must prove to the Congress that Thailand has indeed taken all necessary measures to end this deadly traffic—no such proof now exists.

We must act now to end the widespread suffering which heroin addiction causes in our society, both for the user and the victims of drug-related crimes. We must cut off the supply at its source.

The way to do it is to adopt the amendment which is before the Senate at this time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CHILES). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FULBRIGHT. Mr. President, this amendment was, of course, offered to the Senate before and was defeated in the Senate by a vote of 68 to 22. The law already has a provision which is a little different from this amendment in the burden of proof, in that the matter is pretty much left up to the President, whereas in this case aid is suspended unless the President makes a positive finding. There is a shift in the burden.

The difficulty is that the law as it stands applies to all countries, whereas this amendment is applicable only to Thailand. I have no objection to applying it to Thailand, but I think it should be made applicable to Laos, Vietnam, and Burma, for example.

I might also say that this amendment is in the House bill, and if we go to conference it will be in conference. If we put it in the bill here, it will not be in conference. I think if we were to have this type of provision, it should be made generally applicable to all countries. That would be my principal objection to the amendment. We are all in favor of the thrust of it, which is to do anything effective we can to stop the illegal drug traffic. How effective this amendment would be as opposed to the existing law, I am not at all sure. But I am prepared to go ahead and vote on the amendment, if no other Senator wishes to speak on it.

Mr. HARTKE. Mr. President, will the Senator yield for a question?

Mr. FULBRIGHT. I yield.

Mr. HARTKE. I quite agree; as I said before, there is no question of the provisions of the present law. Nor is there any question that this type of amendment was previously defeated in the Senate. However, neither of those facts is justification for rejecting the amendment at this time. The fact is that the President stated he is in favor of terminating economic assistance to those countries who contribute to our drug problem.

Furthermore, the former Deputy Director of the Bureau of Narcotics and Dangerous Drugs says that this region of Southeast Asia, the so-called Golden Triangle, has the potential to replace Turkey as the major supplier of heroin to illicit markets in this country. I understand that the chairman of the Foreign Relations Committee is saying that the amendment should apply to all countries, but the fact is that we are providing practically no aid to Laos and very limited aid to Burma.

Mr. FULBRIGHT. What does the Senator mean, no aid to Laos?

Mr. HARTKE. Would the distinguished chairman of the Foreign Relations Committee advise me of the amount of aid provided for Laos in the pending bill?

Mr. FULBRIGHT. Perhaps it is a little amount to the Senator, but it is more than $400 million for this fiscal year.

Mr. HARTKE. If it would make it more palatable to the chairman of the Foreign Relations Committee, I would have no objection to modifying the amendment to include Laos.

Mr. FULBRIGHT. Laos receives assistance from funds authorized in this bill as well as from funds available in the regular DOD budget.

For fiscal 1973 it is scheduled to receive a total of $416.7 million. Last year it received $294.9 million. It amounts to a lot of money.

Incidentally, the Laotian Prime Minister is now paying the members of his Parliament $5,000 for their votes; did the Senator see that in the paper? Our aid is helping him to pay for those votes.

Mr. HARTKE. The chairman knows I have no sympathy for those dictatorial regimes and those regimes which are——

Mr. FULBRIGHT. I do not know what the Senator thinks he is going to accomplish. The President says he is against it. He has plenty of authority under existing law, if he is really against it, to cut off aid in Thailand or anywhere else.

Mr. HARTKE. I understand that. But in the face of hard evidence the President has failed to act, when the President fails to act I do not think the Senate can stand by idly.

Mr. FULBRIGHT. What makes the Senator think that if we put his amendment in, the President will act? He issues these little billets-doux to the Committee on Foreign Relations all the time, and then does whatever suits him. It is not difficult to have one of these little papers prepared and sent up. They do it all the time.

Mr. HARTKE. I am not willing to surrender quite that easily to the administration.

Mr. FULBRIGHT. I am not surrendering; I am stating a fact. It happens all the time.

Mr. HARTKE. The fact is that at the present time there has to be a finding by the President that there is a violation in terms of compliance, but that is not an affirmative finding. The way the bill is drafted, it is negative. The Hartke amendment shifts the burden to the President to make a definitive finding. That is not the case in the present law.

Mr. FULBRIGHT. Yes, he has to send up a finding and say, "I find Thailand is doing everything it reasonably can," under the Senator's amendment.

Mr. HARTKE. That is right.

Mr. FULBRIGHT. Does the Senator think it is difficult for him to do that?

Mr. HARTKE. I think it puts the President in a position where he may well make a definitive statement which is absolutely controverted by the facts.

Mr. FULBRIGHT. Does the Senator think he has any difficulty doing that?

Mr. HARTKE. I understand the point the Senator is making, but I do not believe we should surrender our authority to the President and in essence imply that we are completely ineffective in requiring the President to be truthful with the American people——

Mr. FULBRIGHT. The way to do it is to cut off the funds.

Mr. HARTKE. I am willing to do that.

Mr. FULBRIGHT. The Senator's amendment would make more sense if he would just leave out the last sentence.

Mr. HARTKE. The fact is that I still would like to have the President make that finding. If we have the President make the finding, then we have the President in a position in which his finding may well be controverted by the evidence. I think that is a much stronger case.

Mr. FULBRIGHT. Why not modify it to make it applicable to all countries, then?

Mr. HARTKE. Would the Senator agree to accept it if I did that?

Mr. FULBRIGHT. It would make it a lot better amendment. I do not like to agree to it, in the face of the Senate's recent vote. I frankly have no objection to it, though I do not think it is any great step forward. But if we are going to do it at all, it ought to be applicable to all countries.

The Senate just voted on this question 2 or 3 months ago, and defeated such a proposal by a vote of 68 to 22.

Mr. HARTKE. If the chairman of the Committee on Foreign Relations would find it possible to agree to the amendment by making it applicable to all countries and not just Thailand, I am willing to modify the amendment. The reason I have stressed Thailand is that it is presently the principal conduit for the shipment of opium in Southeast Asia.

Mr. FULBRIGHT. Well, that shifts, though. We shifted it from Turkey by paying them millions not to grow poppies. Now each of them will come along in turn; that is a great incentive for other countries to start growing it, because if they grow enough, they think we will pay them millions not to grow it. This is a good way to make money, carrying this absurdity to its logical conclusion, we may, I say facetiously, start growing it in Arkansas, and see if they will pay us to quit. It is a fairly easy way to make money, you see.

Mr. HARTKE. Let me say to the chairman that if he would find it acceptable to amend the amendment to such an extent that it would apply to all countries in addition to Thailand, the Senator from Indiana certainly finds no objection to that kind of provision.

Mr. FULBRIGHT. Well, if the Senator will modify it to apply to all countries, it will be the same as existing law except, as the Senator says, the President is put under the burden of making an affirmative finding. I would have no disposition to oppose it, and also I might say that on that ground it is different from the one that was defeated and from the provision in the House bill. Therefore, it would be in conference and we could resolve it then.

So I have no objection to that.

Mr. HARTKE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARTKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, I ask unanimous consent to modify my amendment.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

Mr. HARTKE. Mr. President, I send to the desk a modification of my amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment, as modified, will be stated.

The assistant legislative clerk proceeded to read the amendment, as modified.

Mr. HARTKE. Mr. President, I ask unanimous consent that reading of the amendment, as modified, be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment, as modified, will be printed in the RECORD.

The amendment, as modified, is as follows:

> On page 17, line 25, strike out the quotation marks.
>
> On page 17, after line 25, add the following:
>
> "(z) No assistance shall be furnished under this Act (other than chapter 8 of part I, relating to international narcotics control), and no sales shall be made under the Foreign Military Sales Act or under title I of the Agricultural Trade Development and Assistance Act of 1954, to Thailand, Laos, Burma, Cambodia, and South Vietnam. This restriction may be waived when the President determines that the governments of Thailand, Laos, Burma, Cambodia, and South Vietnam have taken adequate steps to carry out the purposes of chapter 8 of part I of this Act, relating to international narcotics control."

Mr. HARTKE. Mr. President, what the amendment does, in substance, is to extend the jurisdiction of the restriction in this fashion: Whereas the origin amendment applied only to Thailand, this amendment, as it is now drafted, applies to Thailand, Laos, Burma, Cambodia, and South Vietnam. In other words, it deals only with those countries in Southeast Asia.

I have discussed this matter with the chairman of the Committee on Foreign Relations. I think this modification will accomplish our purpose of directing attention toward the "Golden Triangle," which has the potential to replace Turkey as the chief supplier of heroin and dangerous drugs to the United States. In this manner, we have really covered the entire area. If it becomes necessary at a later date to expand these aid restrictions to other countries, then we have established a precedent in the Senate to support such action.

Mr. FULBRIGHT. Mr. President, I think this is a great improvement over the original language, because it is made applicable to all the countries in Southeast Asia that are identified with the drug traffic. As the Senator properly said, this is the principal source of the supply, both to our soldiers in South Vietnam and to this country.

I am prepared to take the amendment to conference. As I have already stated, the amendment is quite similar to existing law, but it does put an onus upon the President to make an affirmative finding if the aid is not to be discontinued. So I think it is an improvement over the existing law.

The PRESIDING OFFICER. Is there further discussion of the amendment? If not, the question is on agreeing to the amendment, as modified, of the Senator from Indiana.

The amendment, as modified, was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the privilege of the floor be granted to Mr. Basil Condos during the consideration of the amendment I am about to offer.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment, as follows:

At the end of the bill insert a new section as follows:

"SEC. 19 (a) The Congress finds and declares—

"that the purpose of United States involvement in South Vietnam—self-determination for the people of that nation—has been frustrated by actions of the Thieu regime, including the abolition of hamlet elections, newspaper censorship, and the arrest and torture of President Thieu's political opponents;

"that continued United States military and economic assistance to the Thieu regime, coupled with the United States failure to condemn the repressive acts of that regime, creates the impression that the United States supports the forcible imposition of totalitarian rule in South Vietnam; and

"that rapid and total elimination of the United States military presence in Indochina is fully consistent with our expressed interest in promoting self-determination for the people of South Vietnam.

"(b) The United States shall refrain from supporting or appearing to support actions whereby the Government of South Vietnam attempts to discourage legitimate opposition by abridging the right to vote, freedom of the press, or other individual liberties.

"(c) The President shall use all available leverage, including the withholding of assistance authorized by this Act, to implement the policies set forth in this section.

"(d) On January 1, 1973, and at semiannual intervals thereafter, the President shall report to the Congress on any and all action he has taken to implement the policies set forth in this section; *Provided*, That no such reports shall be required after the termination of all United States military assistance to South Vietnam.'

Mr. STEVENSON. Mr. President, when the United States intervened in the Indochina war, it changed the character of that conflict. What began as guerrilla warfare finally became a high-technology war of electronic battlefields and laser bombs. While professing to Vietnamize the war, we Americanized it.

In thus transforming the war, we have helped give the South Vietnamese a landscape desiccated by herbicides and pocked by bomb craters. We have helped give them abandoned hamlets and teeming slums and a deadly war the Thieu regime cannot win.

And, it appears, we are also giving the South Vietnamese people a military dictatorship.

Three months ago President Thieu rammed a bill through the national assembly giving him the power to rule by decree. A distinguished journalist—Harry Bradsher of the Washington Star—reported that the U.S. Embassy in Saigon supported Thieu's efforts to get the power to rule by decree. It seems this report has never been denied.

Thieu has wasted no time in using his power to install all the machinery of a full-blown police state.

He has transferred from civilian authorities to military authorities the power to control food distribution; to check private residences both at day and night time; to detain elements considered dangerous for the national security or public order; to prohibit strikes and demonstrations or meetings harmful to the national security and public order, and to censor printed matter.

He has transferred from civilian courts to military courts the power to try demonstrators, strikers, and ordinary civilian offenders.

He has abolished hamlet elections, decreeing that hamlet officials will be appointed instead by military province chiefs under his direct control.

He has decreed that the public prosecutor may invade the headquarters of a political party "to protect public order and the national security."

He has instituted a press censorship decree so repressive as to be condemned by an international association of newspaper publishers. The decree makes it a crime to publish any unfavorable statement about Thieu, even if the statement is true. It requires a $46,000 deposit as a precondition of publication, a requirement which has forced at least 10 papers to shut down in less than 2 months. Only last week the editor of a paper which has continued to publish was convicted of violating the press censorship decree. The crime was printing widely known, unclassified statistics about U.S. bombing of Indochina. The penalty was a year in jail.

Mr. President, I ask unanimous consent that an article published in the Washington Post on September 23, 1972, entitled "Saigon Newspaper Punished" be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. CHILES). Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENSON. Mr. President, he has decreed that "special punitive measures will be applied against unlawful acts that seriously harm the national security and public order." Reports from Saigon indicate that the "special punitive measures" includes mass arrests, imprisonment of 8-year-old children, and torture of women.

Mr. President, I ask unanimous consent that an article published in the New York Times on August 13, 1972, entitled "Saigon Torture in Jails Reported," be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. CHILES). Without objection, it is so ordered.

(See exhibit 2.)

Mr. STEVENSON. Mr. President, it is now clear that we are witnessing nothing less than a ruthless and systematic campaign to destroy or silence legitimate opposition in total disregard of the popular will and of individual liberties. It is equally clear that the Thieu regime could not conduct its campaign of repression—and indeed could not exist at all—without massive military and economic assistance from the United States.

We assert that our purpose in South Vietnam is to promote freedom and self-determination for the people of that nation. Our client subverts that purpose in a calculated effort to consolidate power for himself and a small clique of generals, landowners, and profiteers. And our only response is an embarrassed silence or a feeble attempt by the Department of State to say that these are internal matters for which we are not responsible. In at least one case—abolition of the hamlet elections—the Department of State acted as an apologist for the Thieu regime by suggesting that its action was a temporary expedient occasioned by the North Vietnamese offensive, but the fact is that Thieu did not abolish hamlet elections until after the offensive had run its course.

Mr. President, it will not do to shrug off Thieu's reign of terror as an internal matter. We supported Thieu in the rigged election of 1967; we conducted political polls and propaganda campaigns for him in 1969 and 1970; we continued our massive support of his regime while he drove his opponents out of the presidential election in 1971—all in the name of freedom and self-determination.

If Mr. Nixon had chosen to permit the people of South Vietnam a choice, they might have elected General Minh in 1971 He, and even a popularly elected Thieu could have governed with public support, and, in the case of Minh at least, made peace. In either event, the United States could have declared its purpose fulfilled and gone home. But the administration failed once again to perceive that morality and self-interest can coincide. It permitted its puppet then, as it does now, to pull the strings and play the tune of which the people of Vietnam die.

The Thieu regime is corrupt and tyrannical. It rules by force because it cannot rule by popularity. It is the principal obstacle in the way of a negotiated settlement. Both sides have made it clear that they cannot and will not coexist peaceably. Yet, the Nixon administration insists upon propping up this dictatorship in derogation of everything it says we have fought for, and to the detriment of the negotiated settlement which it says it seeks.

If the United States is to harmonize its action in Indochina with its rhetoric, the initiative will have to come from the Congress. And President Thieu has given us a clear choice.

The United States can no longer be for both the Thieu regime and the people of South Vietnam. It must either actively and, if necessary, publicly oppose Thieu's repressive policies, or abandon any pretense that its support of Thieu promotes self-determination.

Mr. President, Thieu's actions point up the tragic irony of our Vietnam policy: we say we oppose the imposition of a Communist government on the people of South Vietnam, yet we aid and abet Thieu's imposition of a police state on the people of South Vietnam. The longer we fight to preserve the difference between a "free" South Vietnam, and a "totalitarian" North Vietnam, the less of a difference there is to preserve.

Last month Mr. Thieu expressed the belief that South Vietnam was experiencing too much democracy too soon. He has acted consistently with his beliefs. It is time that we did the same, and for that reason I hope that this amendment will be agreed to.

The amendment simply declares that the purpose of U.S. involvement in South Vietnam—self-determination—has been frustrated by the repressive actions of the Thieu regime and that continued U.S. support for that regime creates the impression that the United States supports its imposition of totalitarian rule in South Vietnam. The amendment then states that the United States shall refrain from supporting Vietnamese attempts to intimidate legitimate opposition and that the President shall use all available leverage to end the repressive acts of the Thieu regime and report on his progress semiannually to the Congress. The amendment is consistent with the sentiment of many in this Chamber, including myself, that the best way to promote self-determination in South Vietnam is to leave South Vietnam. That consistency is made explicit in the amendment.•

I would hope very much that the chairman would agree to accept it.

EXHIBIT 1

SAIGON NEWSPAPER PUNISHED

(By Thomas W. Lippman)

SAIGON, Sept. 22.—The business manager of an opposition newspaper was sentenced to a year in prison by South Vietnam's military court to day because the paper printed year-old statistics on the tonnage of U.S. bombs dropped in Indochina.

It was the first case considered by the court under the stringent new press law issued Aug. 4 by President Nguyen Van Thieu's government.

The newspaper, Dien Tin, published by a supporter of Thieu's chief political rival, Duong Van (Big) Minh, was found guilty of printing an article "harmful to the national security" and of "sowing confusion among the people." The paper was fined one million piastres, about $2,300.

The prison term, which could have been up to five years, was imposed on Vo Thi Suong, 32, a woman about whom almost nothing is known except that she is apolitical and had nothing to do with the paper's contents or editorial policy.

The editor and publisher, Hong Son Dong, is a close associate of Minh, who until his withdrawal from the race, was Thieu's leading opponent in last year's presidential election.

But as a member of the South Vietnamese Senate, Dong is immune from prosecution. The press law stipulates that in such a case, a paper's business manager must face the court.

Miss Suong was allowed to remain free while her conviction is being appealed to South Vietnam's Supreme Court, but was required to post a bond of 1 million piasters with the court in the meantime.

Neither she nor Sen. Dong could be reached for comment. But her lawyer, Bui Chnanh Thoi, had plenty to say.

The sentence was "not logical," he said, because the terms of the laws are "very ambiguous" and contain no definition of what is "harmful to the national security."

He also said that the offending issue of the paper, that of August 16, had been confiscated before it appeared on the streets.

"Since readers could not read the article, how could the paper be harming the national security and sowing confusion among the people?" he asked.

He said he believed the punishment was intended more as a warning for the future than as a realistic sentence for a genuine offense.

That view of the case was hardly a surprise, since the government has made clear that the press law was intended to put some newspapers out of business, which it did, and curb the contents of others, which it has also done.

The offending article was based on a statistical analysis of the U.S. bombing campaigns entitled "The Air War in Indochina," published by the Center for International Studies of Cornell University. It first appeared in print a year ago, is widely available and used as a reference work here, and is largely based on public documents and the Pentagon Papers.

Its conclusions are critical of the air campaign. But persons familiar with the Dien Tin article said it contained only the statistics, not the conclusions.

In general, Saigon newspapers are permitted to print only the war news distributed by the South Vietnamese army's Psychological Warfare Department.

EXHIBIT 2

SAIGON TORTURE IN JAILS REPORTED

(By Sydney H. Schanberg)

SAIGON, SOUTH VIETNAM, Aug. 12.—Documents smuggled out of South Vietnamese prisons and extensive interviews with former prisoners paint a picture of widespread torture of people jailed by the Saigon Government since the North Vietnamese offensive started four and a half months ago.

Here is a sampling of the prisoner's accounts:

"Nguyen Thi Yen was beaten unconscious with a wooden rod. Later, when she revived, she was forced to stand naked before about 10 torturers, who burned her breasts with lighted cigarettes."

"Trinh Dinh Ban was beaten so badly in the face that the swelling shut and infected his eyes. The police drove needles through his fingertips and battered him on the chest and soles of his feet until he was unable to move."

"Vo Thi Bach Tuyet was beaten and hung by her feet under a blazing light. Later, they put her in a tiny room half flooded with water and let mice and insects run over her body."

STORIES ARE TYPICAL

These particular accounts are said to describe the torture of three student leaders still being held in South Vietnamese jails on suspicion of being Communist sympathizers. The accounts in these documents and many others obtained by this correspondent were purportedly written by prisoners—and in some cases by sympathetic guards—and then smuggled out.

The three accounts are typical of the stories told in the other documents and in the interviews about the treatment of the thousands of students, workers, peasants, women and children arrested by the national police and military authorities in the "pre-emptive sweeps" made in the search for Communist sympathizers and agents since the North Vietnamese Army began its offensive.

Some of the documents reached this correspondent through friends of prisoners or critics of the Government to whom the papers had been passed. Some of the interviews were also arranged this way. Additional information was gathered on the basis of other leads.

There is no way to verify the accounts of torture first hand, for the Saigon Government refuses to allow journalists to visit its prisons, which it calls "re-education centers." A formal written request was denied.

All of those interviewed said their names could not be used because they feared police reprisals.

REPORTS ARE SIMILAR

As with the smuggled documents, it is impossible to corroborate the accounts given by former prisoners in interviews. But although one cannot establish after the fact that the welts and scars visible on their bodies were inflicted by the police, the widespread reports bear out the prisoners' version.

Government officials and pro-Government legislators defend the recent repressive measures by arguing that the survival of South Vietnam is at stake. Critics reply that only the Government of President Nguyen Van Thieu, not South Vietnam, is at stake.

"Necessity requires us to accept a flexible view of the law," said one official. "You wouldn't wait until the Vietcong agent pointed his gun at your back before you handcuffed him, would you? Legal aspects do not count when there is a question of survival involved."

The victims obviously feel differently. Here, for example, is part of an account given by a woman who was interrogated intensively but not beaten in a police detention center in Saigon and then released:

"When you were being interrogated, you could hear the screams of people being tortured. Sometimes they showed you the torture going on, to try to frighten you into saving what they wanted you to say.

"Two women in my cell were pregnant. One was beaten badly. Another woman was beaten mostly on the knees, which became infected.

"One high school student tried to kill herself by cutting both wrists on the metal water taps in the washroom, but she failed. They had tortured her by putting some kind of thick rubber band around her head to squeeze it. It made her eyes swell out and gave her unbearable headaches.

"One girl was so badly tortured that the police left her in a corridor outside the interrogation room for a day—so that other prisoners would not see her condition."

This was a typical story of those interviewed. Some said that water had been forced down their mouths until they nearly drowned. Others told of electric prods used on sensitive parts of the body, of fingernails pulled out and of fingers mashed.

Several of the informants said they had discovered, while in prison, a sardonic saying by the police—"Khong, danh cho co."—"If they are innocent, beat them until they become guilty."

The accounts of the informants indicated that the worst torturing took place while prisoners were being interrogated in police centers—before they were transferred to prisons such as Con Son and Chi Hoa. Con Son is South Vietnam's biggest civilian penitentiary, situated on Con Son, an island 140 miles southeast of Saigon. Chi Hoa, the country's second largest prison, is in Saigon.

The informants said that most of the torture and interrogation took place between 10 P.M. and 3 A.M. They said some of the prisoners, under torture or fearing torture agreed to become police agents to win their release.

NAMES ARE GIVEN

Some of the documents purportedly smuggled out of the prisons gave the names of five persons who had been tortured to death recently in jail, and said this was only a part list. The documents listed Buu Chi and Nguyen Duy Hien, students from the Hue area who were said to have died in Con Son. Also listed were Ta Xuan Thanh, Dinh Van Ut and Bui Duong of Saigon, who were said to have died in Chi Hoa.

It is impossible to tell, without Government cooperation, how many thousands have been arrested since the North Vietnamese offensive began. Most foreign diplomats think the figure is well over 10,000. One American source said that slightly over 15,000 people had been jailed and about 5,000 released later. But whatever the exact figures, it is clear that thousands remain in prison and that arrests continue.

The bulk of the arrests have been in the Mekong Delta south of Saigon and in the extreme north. Many students were seized in Hue, some of them reportedly while working in refugee centers.

LITTLE DISTINCTION INDICATED

It is also impossible to tell how many of those arrested really have Communist connections and how many are simply opposed to the Government of President Thieu, because the police seem to make little distinction. There is a third category of prisoners as well—people who were apparently seized at random and who committed no crime. They just happened to have been in the wrong place.

Critics of the Government say that each district administration has been given a quota of arrests and that local officials have been trying to meet the quotas quickly with little regard for legal niceties.

According to one document, purportedly written by a sympathetic jailer, an old woman has been imprisoned in Con Son because one of her sons is regarded as a Communist sympathizer and is in hiding. Her four other sons are in the South Vietnamese Army. She wants to write them about what had happened to her, the jailer said, but she has forgotten their military addresses and the prison authorities will not help her communicate with them.

FAMILY LINKS ONE CAUSE

This woman seems to be typical of many of those arrested recently. They were picked up because they have relatives who are active Vietcong or suspected of having some link with the Communists. But according to the Vietnamese officials themselves, most families in South Vietnam have a relative or relatives "with the other side" and the Government would have to arrest millions if it were to apply this criterion across the board.

Nguyen Van Thong, a pro-Government member of the lower house and chairman of the committee that deals with police and prison legislation, said in a recent interview that the Government should have carried out these arrests a lot earlier. Though Mr. Thong acknowledged that some innocent people had undoubtedly been arrested, he said "These people will sooner or later get out of jail."

Legal form, rarely observed with fidelity at any time in South Vietnam's recent history, has clearly been abandoned since the enemy offensive began. On the one hand, President Thieu continues to declare that the back of the North Vietnamese drive has been broken, yet on the other he has been using his recently granted special powers to narrow civil liberties further.

LAWS SEEM TO BE IGNORED

Although no Government edict has been issued, the normal laws governing the rights of the accused appear to have been virtually suspended. Often those arrested are reportedly not told the charge against them nor allowed to consult a lawyer. Prisoners are sometimes kept for months and years without a hearing or trial. Often the police will not acknowledge that they are holding a particular person so his family is unable to locate him.

In a sense, many of these people and their cases simply disappear—except for reports that leak out clandestinely.

The same jailer at Con Son who purportedly wrote of the old woman with four sons in the army also was said to have given the following description of an area of the prison holding 1,500 people from Hue and other northern areas:

"I was horrified to find that the place was full of women and old people and more than 50 children under 9 years old. None of them knew why they had been brought here. In general, their arrests had happened like this: Village officials would come and call them to the village headquarters. Once they were there, the officials would tell them falsely that they had to be evacuated, presumably because of near-by fighting. And then they would find they had been deported to Con Son."

This prison made headlines two years ago when the treatment of hundreds of prisoners jammed into small cells known as "tiger cages" was publicized by two American Congressmen on a fact-finding tour of Vietnam. The Congressmen managed to enter the "tiger cage" area over the objections of both the South Vietnamese warden and his American adviser.

Although the United States is the major provider of aid to the South Vietnamese police and prison system, the American mission here refuses to discuss the situation on the record, contending that it is entirely a South Vietnamese program.

AIRLINE ROLE CHARGED

According to authoritative sources, however, Air America, the airline operated in Indochina for the Central Intelligence Agency, has been used to transport arrested people to Con Son.

The two top American advisers to the South Vietnamese on police and prison matters—Michael G. McCann and Theodore D. Brown, director and deputy director, respectively, of the American mission's public-safety directorate—do not deny the widespread torture or the use of Air America; they simply refuse to comment. Requests for interviews with both men were rejected.

A high American source, who granted an interview but insisted on anonymity said that being outside the situation "I cannot affirm that tortures don't take place" and he acknowledged that "all kinds of deplorable things may well be going on." But he argued that some of those arrested were known anti-government and Communist activitists who had been involved in terrorist incidents—"and who aren't exactly the nice college kids next door."

Critics of the Government describe what has been happening recently as a police-state operation. And while repressive tactics are not so obvious on the streets of Saigon and other cities as they apparently are in the jails, there have been disquieting signs of intimidation.

The police set up checkpoints from time to time in Saigon, on the pretext of searching people and vehicles for weapons or explosives destined for terrorist activities. But on the several occasions this correspondent has stood close by and watched these searches, it appeared that the checkpoints were often no more than means of shaking down Vietnamese for money or goods.

Despite these tactics, there has been little protest.

Mr. FULBRIGHT. Well, Mr. President, the Senator from Illinois has made a very fine statement. There is nothing in it with which I do not agree. He is quite right about the course of the war in Vietnam, that it has been turned into an American war; that it started out, as he said, as a guerrilla and civil war and since we took over it has become a tragic story, with the gradual elimination of all aspects of democracy in South Vietnam, all of which has been reported fully in the press. I am not at all sure the amendment will be persuasive on the President because I assume that he will take the position that he is presently doing all he can to assure self-determination in South Vietnam—at least his published statements have been to that effect.

But, in any case, I personally approve of the thrust of the Senator's amendment which is that we should not continue to support totalitarian rule in South Vietnam and that we should end our occupation there. I certainly agree that the way to promote self-determination in South Vietnam is for the United States to remove all of its forces and come home.

So, I am prepared to accept the amendment.

The PRESIDING OFFICER (Mr. CHILES). The question is on agreeing to the amendment of the Senator from Illinois (Mr. STEVENSON).

The amendment was agreed to.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the name of the Senator from Minnesota (Mr. HUMPHREY) be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, I thank the distinguished Senator from Arkansas (Mr. FULBRIGHT) for his support.

MOTION TO RECONSIDER A PREVIOUS VOTE

Mr. FULBRIGHT. Mr. President, on last Friday the Senate agreed to an amendment of mine on lines 10 and 11 of page 17 of the bill. I did not at that time move to reconsider that action of the Senate. I deferred to the members of the minority staff and told them that we would not act until this noon.

I understood that the minority leader would be back by noon. I would like at this time to move to reconsider the vote by which my amendment on lines 10 and 11 of page 13 of the bill was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER (Mr. TUNNEY). The question is on agreeing to the motion to table.

Mr. AIKEN. Mr. President, I suggest the absence of a quorum.

Mr. FULBRIGHT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FULBRIGHT. Mr. President, is that in order when a motion to table is being considered?

The PRESIDING OFFICER. A quorum call is in order if there is no further debate.

Mr. AIKEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. AIKEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AIKEN. Mr. President, I tried to find out where the leadership is at this moment. I am unsuccessful in finding out anything. As far as I am concerned, I do not feel that I should hold up the work of this session any longer than is absolutely necessary. It has been held up too long already with these great inspiring speeches which take place every morning when no one is in the gallery and no one on the floor.

Under these circumstances, if there is no one interested in this legislation, as far as I am concerned, the Senate may have a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. [Putting the question.]

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE SCOTT AMENDMENT TO H.R. 16029

Mr. FULBRIGHT. Mr. President, tomorrow the Senate is scheduled to vote on the Scott amendment to the foreign aid bill. That amendment would increase the money amounts in the bill by a total of $370 million. It would tack on an additional: $200 million for military assistance; $135 million for supporting assistance or budget subsidies; and, $35 million for military credit sales.

The bill now contains $1.35 billion for these programs. I believe this amount is overly generous and no increase is warranted.

In 1970, at the outset of the Nixon doctrine, Congress approved only $815 million for these same programs, or $535 million less than is in the bill as it now stands. The Scott amendment would serve to double the 1970 appropriation. I hope it will be defeated.

Mr. President, Senators should be aware that the amounts proposed in the bill, although substantial in themselves, are in fact but a fraction of the total military aid and arms sales program proposed for this fiscal year. The price tag on the entire package is $8.4 billion. A breakdown of this multibillion program is contained in the committee's report and I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Military and related assistance and arms sales programs, fiscal year 1973 (executive branch estimates)

	Amount
Military assistance grants	$819,700,000
Foreign military credit sales	629,000,000
Excess defense articles	[1] 245,000,000
Ships loans	39,600,000
Security supporting assistance	879,418,000
Foreign military cash sale (DOD)	2,200,000,000
Commercial sales	722,598,000
Military assistance — DOD funded	2,924,700,000
Total military and related assistance and sales	8,460,016,000

[1] Valued at one-third acquisition cost.

Mr. FULBRIGHT. Mr. President, my opposition to the pending amendment stems in large part from knowing that the additional $370 million, like most of the money already in the bill, will be used, either directly or indirectly, in a manner contrary to our own values and objectives.

The Foreign Assistance Act of 1961, as amended, states, for example:

> The Congress declares that the freedom, security, and prosperity of the United States are best sustained in a community of free, secure and prospering nations.
>
> * * * * *
>
> The Congress declares, therefore, that it is not only expressive of our sense of freedom, justice and compassion, but also important to our national security that the United States, through private as well as public efforts, assist the people of less-developed countries in their efforts to acquire the knowledge and resources essential for development and to build the economic, political and social institutions which will meet their aspirations for a better life, with freedom, and in peace.
>
> * * * * *
>
> The Congress declares that it is the policy of the United States to support the principles of increased economic cooperation and trade among countries, freedom of the press, information, and religion. . . .
>
> * * * * *
>
> Maximum effort shall be made, in the administration of this Act, to stimulate the involvement of the people in the development process through the encouragement of democratic participation in private and local governmental activities . . .
>
> * * * * *

And so it goes, Mr. President, one pious statement after another.

But what is the reality? Where is the "community of free, secure, and prospering nations"? What ever became of our effort to help the poorer nations build "economic, political, and social institutions which will meet their aspirations for a better life, with freedom and in peace"? Where have we supported "freedom of press, information"? And what ever happened to the "maximum effort to stimulate the involvement of the people in the development process through the encouragement of democratic participation in private and local government activities."?

Mr. President, the reality of foreign aid is that all of these hopes, all of these dreams have gone aglimmering, and no amount of money can alter the situation or breathe new life into the corpse of foreign aid.

One has only to pick up the daily newspaper to appreciate how bankrupt this program has become. For example, Friday's Washington Post carried a front-page story entitled, "Lao Regime Said To Bribe Opposition." The article reads:

> The Laotian government used Treasury funds this week to bribe legislators to end their six months opposition to Prime Minister Souvanna Phouma, highly knowledgeable diplomatic sources disclosed today.

Or, there is the story from the Evening Star of August 14 entitled, "Diplomats Charge 'Big Steal' of Laotian AID Funds." This article points out:

> Diplomats here (Vientiane) are highly critical of the American AID mission and the Lao Government for failing to take meaningful steps to halt corruption and mismanagement in the foreign exchange funds established to stabilize the Lao economy.
>
> The fund consists of more than $25 million, of which the U.S. contributed more than $16 million.
>
> Diplomats here call the effort "the big steal" and claim the fund almost totally goes to the powerful Laos Mandarinate, the Sawanikone family, and a handful of Chinese businessmen.

Mr. President, the United States provides direct budget subsidies to the Laotian treasury with cash grants from supporting assistance. This year Laos is scheduled to receive a total U.S. aid package costing $417 million. This will bring the total amount of our aid to Laos since 1946 to over $2 billion.

Similarly discouraging are the reports coming out of Cambodia. Since the resumption of aid to that nation in 1970, the United States has provided $372 million in military grant aid alone. Another $225 million is scheduled for this fiscal year. Despite these efforts, the performance of the Cambodian Army has been disappointing at best and, according to an article in the Washington Post of September 4, "Cambodia's Soldiers Still Quit Fighting at Dinnertime." The Sun of August 19 carried a report entitled, "In Cambodian Army Corruption Thwarts AID." In this report we learn.

> There is hardly a battalion or brigade command post without a gleaming white or pearl Mercedes parked among the olive-drab military vehicles.

Adding credibility to this observation is the list of Cambodian imports financed by cash grants from the United States. Looking at some of the items on the list, one wonders if there is any relationship between Cambodia's imports and the needs of a country suffering the ravages of war; some of the items on the list include the following:

Air-conditioning equipment and repair parts	$65,407.97
Brewery supplies (bottle tops)	19,465.00
Cellophane tape	10,340.44
Cigarette manufacturing materials	702,994.66
Garden hose	138,221.45
Office machines:	
Accounting machines	46,998.88
Adding machines	59,780.16
Calculators	126,110.00
Duplicating machines and accessories	36,896.63
Typewriters	436,470.77
Pen refills (4,000,000)	82,330.00
Plumbing fixtures (color)	9,991.28
Soft drink manufacturing equipment and material	1,011,903.58
Television sets	17,120.00
Time magazine	5,850.00
Toothpaste	5,483.14

Finally, there is Vietnam. The stories are both endless and taxing on the imagination: "Saigon Declares End of Elections on Hamlet Level"; "United States Admits End of Viet Hamlet Vote"; and "Vietnam: Democracy Was Very Disorderly."

And, for the sake of variety, there are any number of additional selections, each as morbid as the other: "United States to Train Taiwanese in Submarines"; "United States Will Pay $9 Million on Malta Rent"; "Greece's Jet Purchase Worries Turkish Regime"; and, "United States Drops Piasters from Heaven on North Vietnam."

Each of these articles portrays, in one way or another, various aspects of the aid program—a program akin to a diplomatic pork barrel, dispensing graft and corruption from the Plain of Jars to the jungles of the Amazon.

If we accept the Scott amendment, we will simply be perpetuating a hoax—as cruel a hoax as was ever foisted on the taxpayers of this country and on people around the world who once had faith in us and "the American dream."

If we reject the amendment, as we ought to, then at least we will be holding the line and serving notice that we recognize the aid program for what it is and not for what we hoped it would be.

The military aid program has become a dead end road. We must turn back.

On July 24, just a few short weeks ago, the Senate defeated a foreign aid bill with the same money amounts as proposed by the Scott amendment. I hope the Senate will render the same judgment. this time. I hope the pending amendment will be defeated.

Mr. President, I ask unanimous consent that all of the material I have mentioned be inserted in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

COMMODITIES APPROVED FOR FUNDING UNDER U.S. GRANTS AGREEMENT (THROUGH MAR. 10, 1972)

	$20,000,000 agreement	$50,000,000 agreement
Air-conditioning equipment and repair parts [1]		$65,407,97
Aircraft engines [1]		5,470.40
Aluminum sheets	$68,703.10	
Automotive equipment:		
Batteries [1]	237,128.97	126,065.74
Passenger vehicles (autos and station wagons) [1]		115,038.54
Repair parts [1]	71,895.14	299,706.21
Tires and tubes [1]	486,678.25	
Tractors, bulldozers, fork lifts, and repair parts	24,332.69	315,482.97
Trucks and trailers	169,831.16	544,743.19
Battery chargers		10,542.20
Bicycle parts [1]	146,448.00	
Bicycle tires and tubes [1]	24,600.00	
Brewery supplies (bottle tops) [1]	19,465.00	
Carbowax		19,223.52
Cellophane tape		10,340.44
Cement	232,539.00	
Chrome and nickle plating materials		22,607.50
Cigarette manufacturing materials	360,519.82	342,474.84
Compressors and repair parts		13,792.17
Copper wire		25,779.36
Cotton fabrics		623,023.00
Diesel engines and repair parts		21,472.13
Dry cell battery manufacturing equipment and materials	650,631.38	
Electric motors and blowers		25,430.00
Fire extinguishers		23,653.51
Fluorescent tubes, starter and ballasts	140,957.98	55,889.42
Freezers (commercial)		166,405.50
Freon gas		6,114.00
Garden hose	138,221.45	
Gasoline engines, 4-cycle, 1 cylinder	462,275.37	6,158.10
Gasoline pumps and repair parts		62,278.30
Generators and repair parts		117,556.23
Glutamic acid (flavor intensifying season)	211,703.21	
Glycerine		34,010.43
Hand tools (mostly files and hacksaw blades)	5,398.00	127,159.66
Homogenizer and repair parts		1,489.00
Industrial chemicals [2]	578,860.12	317,308.44
Isopropyl alcohol, etc		27,399.83
Lactose		14,244.30
Magnetic tape [1]		7,682.00
Nonfat dry milk		1,445,961.00
Office machines:		
Accounting machines		$46,998.88
Adding machines	$59,780.16	
Calculators		126,110.00
Duplicating machines and accessories	30,356.63	6,540.00
Typewriters	260,480.77	175,995.00
Padlocks		5,158.45
Paper products:		
Cardboard	152,456.58	
Duplex board	63,640.50	
Duplicating paper	158,604.88	14,852.40
Kraft paper	30,480.00	
Manifold paper	90,411.90	
Newsprint	469,475.35	
Labels	57,075.00	
Waxed cartons	11,482.91	
Writing paper	421,647.00	
Paraffin wax	49,363.20	
Pen refills (4,000,000)		82,330.00
Petroleum products	7,950,448.20	
Pharmaceutical filtering machine		7,888.53
Photographic supplies		71,502.02
Plumbing fixtures (color)		9,991.28
Polyethylene/polypropylene/polystyrene	431,125.83	389,728.40
Polyvinyl	158,718.90	
Printing ink	25,602.80	
Pumps	$9,648.93	$17,441.00
Sewing machines (household)	315,360.00	
Soft drink manufacturing equipment and materials	186,521.96	825,381.62
Spectrophotomer		5,680.16
Steel hoops and sheets		22,278.62
Sugar, raw		2,000,000.00
Sugar, refined		1,446,240.00
Television sets		17,120.00
Textile equipment, dyes and bleaches	255,835.37	444,149.43
Time magazine		5,850.00
Tinppate		883,277.00
Toothpaste		55,483.14
Transmission belts	14,778.91	
Voltage regulators	5,387.00	
Welders		10,384.43
Welding rods		57,368.75
Total	15,238,872.42	11,727,659.10

[1] Includes commodities not eligible for financing under U.S. commodity import program for Vietnam.

[2] Includes chemicals for glass, leather, petroleum, plastic, rubber, soft drink, and textile industries.

Sources: Subcommittee compilation from AID's paid vouchers and purchase authorization U.S. economic assistance for the Khmer Republic (Cambodia). Committee on Government Operations, House of Representatives. House Report No. 92–1146. June 16, 1972.

[From the Washington Post, Sept. 22, 1972]

LAO REGIME SAID TO BRIBE OPPOSITION

(By D. E. Ronk)

VIENTIANE, Sept. 21.—The Laotian government used treasury funds this week to bribe legislators to end their six-month opposition to Prime Minister Souvanna Phouma, highly knowledgeable diplomatic sources disclosed today.

Sums paid to members of the National Assembly to support Souvanna were not specified, but some sources indicated they could have ranged up to $5,000 for each of 15 or more legislators. However, these bribes are only the latest in a growing list of such payments this year, the sources said.

Sudden changes in the assembly's voting pattern, the sources said, came after Gen. Vang Pao, commander of the U.S.-supported irregular forces in northeastern Laos, hand-delivered the bribes to legislators.

Vang was chosen as the conduit after assemblymen said they would not accept the funds from Minister of Finance Sisouk Champassak, a central figure in the current political crisis, according to these sources.

Sisouk, who is also acting defense minister, is heir apparent to Souvanna and is supported by the major powers, including the United States, the Soviet Union and China. It was through Sisouk that government opponents in the assembly attacked Souvanna, creating the crisis.

Money used to end the crisis did not come directly from U.S. aid funds, according to the sources. They suggested, however, that Western countries, which provide a good share of Laos' operating funds, indirectly financed the payoffs. The United States is the largest contributor, providing $50 million annually in non-military aid.

U.S. Embassy officials here have been keeping a close watch over political developments since the assembly went into session. The root of the crisis was an effort by Vientiane's Sananikone family, Laos' richest, to move its members into key economic slots in the government.

To accomplish this objective, the Sananikone family called for an end to the decade-old tripartite government system that has rightists, neutralists and left-wing Pathet Lao members holding ministerial portfolios.

By ending the tripartite government, the Sananikones and their allies could claim a number of portfolios.

Souvanna has said that he would not remain as prime minister if the tripartite systems ends. Thus, political maneuvering in the assembly during the past few months virtually paralyzed the government.

The Sananikone family and its allies, led by Assembly President Phoui Sananikone, sought through legislative maneuvers to topple the Cabinet, and possibly force a dissolution of the tripartite system. Souvanna resisted by skillful counter-measures and plain stubbornness, the sources said.

The assembly had refused to consider in recent weeks the 1972–73 budget, demanding that Souvanna appear with his Cabinet for a showdown. In response, Souvanna carried on with last year's budget and refused to shuffle his Cabinet, thus avoiding a confrontation.

However, Souvanna may have to reconstitute his Cabinet anyway, since a number of ministers either wish to leave their posts or are seeking diplomatic positions abroad, the sources said.

With one third of the assembly's 60 members currently being on various junkets abroad, Souvanna apparently decided to try to break the deadlock by the simple expedient of payoffs to a majority of assembly members present in the capital, the sources said.

They said that Souvanna could be expected to present his Cabinet shortly. It is expected to be quickly approved along with the national budget.

[From the Evening Star and Daily News, Aug. 14, 1972]

DIPLOMATS CHARGE "BIG STEAL" OF LAOTIAN AID FUNDS

(By Tammy Arbuckle)

VIENTIANE.—Diplomats here are clearly critical of the American AID mission and the Lao government for failing to take meaningful steps to halt corruption and mismanagement in the foreign exchange operations fund established to stabilize the Lao economy.

The fund consists of more than $25 million, of which the U.S. contributed more than $16 million.

Diplomats here call the effort "the big steal," and claim the fund almost totally goes to the powerful Laos mandarinate, the Sananikone family, and a handful of Chinese businessmen.

One diplomat described the attitude of the donor nations other than the United States—Britain, France, Australia and Japan—as, "the British treasury feels they need this program like they need a hole in the head, the French and Japanese are squirming to get out of it, and the Australians will follow the British lead."

Diplomats are upset because the fund is for the third time in 10 months running low because they say, of the dollar-hungry Lao elite and Chinese businessmen, and they have no intention apart from the United States of contributing further.

The main complaint about the fund is that it allows the Chinese to import into Laos cheaply by giving them dollars at 600 Lao kip to one, but the merchants do not pass the benefit on to the Lao. Instead, they sell goods at a minimum of 850 Lao kip to the dollar.

There are no price controls effectively enforced by the Lao government because the whole situation is enmeshed in Laos internal politics. The power-hungry Sananikone family is giving the merchants police protection and encouraging them to raise prices at the expense of fellow Laotians, Finance Minister Sisouk Na Champassak says.

Their objective, according to other Laotians, is to eliminate Sisouk as a serious contender for the premiership when Souvanna Phouma steps down, and install as premier their own man, Works Minister Ngon Sananikone. This elimination can be achieved by runing Sisouk fiscal policies which, of course, is also the U.S. view of how best the aid money should be used.

At the same time, the Sananikone purses become heavier as the leading commercial family in Laos lives off U.S. financial support program, deals with the Chinese and smuggling of luxuries from Laos back into Thailand.

What incenses diplomats most is the failure of U.S. Aid Director Charles Mann to put pressure on Sananikones through the fund. Mann reportedly spends his efforts in raising more money for the fund through economic juggling of U.S. AID moneys instead of cutting it off or increasing the kip-dollar exchange rates, thus soaking up surplus kip and saving the fund's money.

Diplomats assess the U.S. mission as knuckling under to political pressure from the Sananikones, a pressure which is applied by that rightist family by threatening neutralist Souvanna Phouma's position as premier, a position the U.S. judges imperative for Souvanna to retain if there is ever going to be a political accommodation with Laos Communists with honor of some sort.

"The Sananikone have been smelling money and they are not going to let go now," diplomats said. A measure suggested to stop the drain on the U.S. and other donor nations is to stop the fund from allowing the kip-dollar ratio, to rise out of sight, and to put the Sananikone's and the merchants out of business by stopping their high profits. Merchant profiteers would leave Laos and by ceasing to tie the kip to the U.S. dollar, a tie imposed by Americans themselves, price stability could be obtained for ordinary Laos.

Sources note that in certain Laos concerns where proprietors have not felt it necessary to convert their kip profit into dollars, prices remained steady. Sources say much of Laos' imports are unnecessary luxuries which the country only buys because of the U.S. AID policy of soaking up kip with imports in the first place.

The U.S. Embassy fears the Sananikones would retaliate with a coup against Souvana, but diplomats say the U.S. could prevent this because it pays the army. The Lao budget deficit, which equals the amount of the exchange fund, would be overcome by paring war costs from it and putting them into U.S. military aid, where the money is not stolen, and the U.S. could avoid the blame from ordinary Lao for the cost of living mess.

Diplomatic disgust stems not just from the fact that the FEOF doesn't work, but from revelations of FEOF corruption in the Lao vernacular press.

Vientiane's prestigious Satlao newspaper this week revealed the fund is losing $3,000 per week because government officials are drawing money for holidays abroad, ostensibly for medical treatment by forcing physicians to falsify documents.

Also, the Lao commission which oversees documentation for imports takes 10 percent rakeoff from merchants to process their papers quickly, a tariff which the merchants pass on to the Lao consumer.

[The Baltimore Sun, Aug. 19, 1972]

IN CAMBODIAN ARMY—CORRUPTION THWARTS AID

(By Arnold R. Isaacs)

Phnom Penh, Cambodia—Despite massive American aid, the Cambodian Army, after 2½ years of war, is still far from an effective fighting force.

Its defenders say no more could be expected of an Army that has expanded, under wartime conditions and facing a better-armed and more experienced enemy, from a parade-ground force of 35,000 to a current strength, at least on paper, of 220,000.

$2,000 A SOLDIER

Critics charge that incompetent, corrupt leadership at all levels has prevented United States aid from doing much good, has cost needless lives, and has robbed Cambodia's soldiers of their most precious asset—a fervent, if naive, desire to drive the North Vietnamese and Viet Cong from their territory.

U.S. military aid has added up to an estimated $390 million since the Cambodians first went to war, wearing sneakers and riding soft-drink trucks, in March, 1970. This amounts to nearly $2,000 for every soldier.

GUNS FALL SILENT

But the U.S. has not been able to imbue effective leadership or the type of organizational ability that modern war requires.

"The officer corps is no damn good," tartly remarked a Western diplomat. And it seems clear that the offensive spirit of 1970 has all but vanished.

At a forward Cambodian position along Highway 1 to Saigon, the Army's 105-mm. howitzers fell silent after a single enemy recoilless rifle round slammed into the earthworks around the command post. "If we don't shoot," an officer said, a little sheepishly, they don't shoot."

The decline in morale reflects the course of a war which Cambodians entered with unrealistically hopeful expectations and which has now dragged on for 2½ years with no major victories at all.

HODGE-PODGE OF WEAPONS

"They were naive," one foreign observer said. "They thought the Americans were the same Americans of 1963, that they would rain down money, soldiers, and so on. They didn't know Americans have changed since 1963."

Although a large measure of U.S. aid goes to supply small arms and ammunition, units in the field still carry a bewildering hodge-podge of weapons.

At one battalion headquarters at the front line along Highway 1, 47 miles southwest of Phnom Penh, the troops were armed with four different weapons requiring three different types of ammunition—American M–16's, obsolete M–1 carbines, Soviet and Chinese AK–47's, and Chinese semi-automatic rifles. The Russian and Chinese arms are left over from the prewar days when the two Communist powers sent supplies to Prince Norodom Sihanouk's regime.

If the creaky supply system works—and it is a big if—Cambodian units in the field usually seem to have enough firepower. There is virtually no supply system for anything else, however. Except when they are actually in combat, and often not even then, troops are not issued rations. Instead they are given a little more than 15 cents a day in addition to their regular pay to buy food, cigarettes, soap and other daily necessities.

It is a system that sends cash, rather than supplies, down the chain of command, and it invites corruption. The number of officers living in expensive villas and driving late-model luxury cars is evidence that the invitation is often accepted. There is hardly a battalion or brigade command post without a gleaming white or pearl Mercedes parked among the olive-drab military vehicles.

No one knows how many "ghost soldiers" there are—names kept on the rolls so officers can collect their pay—but some unofficial estimates are that the Army's actual strength is nearly 50,000 less than its strength on paper. Late last year, the high command announced it was conducting a census to determine how many men were actually serving, but no results were ever announced.

There is no system of allotments for soldiers' families, and as a result, wives and children camp as close to Army positions as they can, even at the front lines.

"They have no choice," an officer explained, waving at the clusters of flimsy shacks along Highway 1 just outside his position. "If they cannot be with their husbands, how can they get money to eat? And besides, it is cheaper for the soldier, too, to eat with his family."

Some unit commanders, trying to clear their areas of civilians, attempt on their own to send money back to the families, but this is rarely possible.

The presence of civilian dependents inevitably slows down military operations. They often become casualties when positions come under attack—at the route 1 command post, one lieutenant had been trying for a week to lead his company out to recover the body of his wife. The pace of a unit on the march is slowed to the walking speed of the children.

The dependence of military units on local markets means the Cambodian Army is largely tied down to the main roads and populated areas, since they usually have no supplies to operate in open country. As a result, in the contested regions, Communist forces have virtually free movement through the countryside, avoiding only government enclaves around the principal towns.

It is not only food that soldiers must buy on the local markets. There are not enough uniforms to go around, or boots—one commander reported being issued 600 pairs of new American cambot boots for his brigade but, he said, most were too large for the slight Cambodian soldiers and were useless.

A thriving black market, supplied partly from stolen American supplies and partly from uniforms and other material sold across the border by the far better-equipped South Vietnamese, fills the gap, but at considerable cost to the Cambodian soldier.

"This cost me 700 riels," one soldier said, pointing at his American fatigue uniform. The sum is equivalent to about $4. "And the boots," he went on, "1,300." Luckily, he grinned, he could wear large boots—if he had to buy a smaller size, which is in greater demand, he would have had to pay even more.

The amount comes to more than half a private's monthly pay, which is based on 2,500 riels and may go up to 4,000 with family allowances.

[From the Washington Post, Sept. 4, 1972]

CAMBODIA'S SOLDIERS STILL QUIT FIGHTING AT DINNERTIME

(By Thomas W. Lppman)

PHNOM PENH, CAMBODIA.—Two years after it first confronted the reality of modern warfare, the army of Cambodia remains a poorly trained and ill-equipped organizaton unable to seize the initiative in its struggle against North Vietnam.

Cambodian officials, ordinary soldiers and foreign analysts interviewed here agreed that corruption, inefficiency and political interference pressure from the Communists, have hindered the army's development into an effective fighting force and may have prevented it altogether.

There is also a widespread feeling that this is a war Cambodia does not want and cannot win, no matter what the army achieves and that the country is at the mercy of international forces it cannot control. Under those circumstances it is difficult to sustain the army's morale.

Even Chang Song, the spokesman for the army high command, wrote the other day that "The Khmer Republic is locked in a battle in which she has all to lose and nothing to gain."

Although it is accepted by military and diplomatic sources here that the North Vietnamese have no intention of trying to capture Phnom Penh, it is also agreed that they can do pretty much what they want in the rest of the country.

Six of the seven principal highways linking Phnom Penh with the provinces are cut, at distances ranging from 25 to about 100 miles from the capital. On one of them, Highway 5, Communist troops have blown up two bridges and seized control of the road at three other places, cutting off Phnom Penh from its rice supplies in Battambang province. The seventh major highway Route 4 to the seaport of Kompong Som, is open only to military convoys.

IN VIETNAM'S IMAGE

Phnom Penh lives with the nightly rumble of artillery. The countryside looks more and more like Vietnam, dotted with ruined towns, shattered bridges and abandoned farms. Except for the capital and its environs, already heavily attacked by rockets once this year, and the province of Battambang in the Northwest, Communist troops hold or are threatening most of the country.

Almost everything north and east of a line formed by Highways 6 and 7 remains in North Vietnamese hands and there is no prospect that the Cambodians can get any of it back on their own.

In what some sources viewed as an effort to discourage participation in Sunday's National Assembly elections, the estimated 43,000 North Vietnamese troops and 30,000 Khmer Rouge, or local guerrillas, have staged a new round of heavy attacks in central and southeastern Cambodia for the past month. The army has had its hands more than full coping with them.

A major counteroffensive last December in an attempt to clear Highway 6 and link up with the town of Kompong Thom ended in disaster, and no more such efforts are likely. The army's role is now entirely defensive and even in that task it has relied heavily on South Vietnamese and U.S. support.

"In my 18 months here," a Western military analyst said in an interview, "I have seen no situation where the Cambodians were able to clear major opposition on their own. In a major difficulty, they do not have the capacity to save themselves."

The best recent example of his point was the battle for the ruined provincial town of Kompong Trabek, 45 miles to the southeast, where the Cambodians were confronted by tanks for the first time in the war. It took a two-week effort by South Vietnamese rangers, in addition to heavy U.S. air support, to clear the North Vietnamese out.

The victory claimed by the Cambodians was more symbolic than real anyway, because there is nothing left of the town and the enemy is still in control of the countryside beyond it.

BRIDGE REPAIRS

The bridge that carries Highway 1 into the town was blown up during the fighting. A dozen Cambodian soldiers in their undershorts were swimming around in the river there last week trying to build a temporary footbridge out of rope, logs and bamboo poles. The army had no engineering unit available to put in a vehicular bridge—a task that the South Vietnamese routinely accomplish almost over night.

The most optimistic appraisal of Cambodian military performance encountered here this week was that of a high-ranking member of the 74-man U.S. Military Equipment Delivery Team. All team members incidentally, wear civilian clothes as part of the effort to avoid any show of U.S. military involvement here. The officer said he "would not want to say they're a juggernaut," and predicted "tough times over the next few months," but said that "in the end they will come out of it."

Even that officer, however, said that "they can't whip North Vietnam" and are dependent on political and military developments they cannot control.

LONG JOURNEY

No one doubts that the Cambodian army has come a long way from the 32,000-man force that existed when Prince Norodom Sihanouk was overthrown and war with North Vietnam erupted in 1970. It was, as Chang Song put it, "a parade ground army" that was "obsolete, under-sized and eccentrically equipped."

Authoritative figures on the current strengh of the army are hard to obtain. The Cambodian put it at 200,000 and increasing. The gloomiest Western analysts say it peaked at less than that a year ago and has now dropped to about 125,000. The Americans use a figure of 170,000.

WEAPONS GRABBAG

At the start of the war, the army was equipped with some Chinese weapons and a grabbag of leftover French, British and American weapons from World War II. As its early battles with the North Vietnamese showed, it deserved its reputation as a "shower shoe army" unprepared for fighting. Over the past two years the United States has supplied most of the soldiers with 16-mm. rifles and has set a goal of making the army a fully equipped light infantry. That means no heavy artillery and no tanks but all the other accoutrements of modern warfare. Mortars, grenades, communication equipment, automatic weapons and antitank guns.

The United States had also tried to set up the army's first real training program, although members of the U.S. team here are barred from participating in any such exercise and the training is done abroad. Uniforms, boots and personal gear such as helmets and canteens are still in short supply. Then Cambodian soldiers standing in a group will be wearing ten different outfits, ranging from crisp new camouflage fatigues to U.S. leftovers from Vietnam with the name and insignia of the original GI owner still on them. Some will have canteen, knife and entrenching tool, others will not. And there are still soldiers wearing shower shoes on duty.

DEEPER TROUBLES

The army's real troubles, however, go far deeper than appearance. They include:

Lack of training and absence of administrative talent. Cambodia has no basic combat training facility as it is known in the United States. Its soldiers are sent to South Vietnam, Thailand, Australia, Indonesia, the United States and other countries for training. Because the army had to expand so quickly and fight at the same time, there are still units in the field that have not been trained at all. As for the officers, "some of them are tough," a high-ranking American said, "but others aren't worth the powder to blow them up."

Manpower and recruitment problems. There is no draft. All soldiers are volunteers. The official reason is that none is necessary because the ranks are kept filled by young anti-communist patriots. Others say many young men join because their fields and villages are gone and they need jobs. The most pessimistic say that a draft would be unenforceable because of governmental ineptitude and would be useless anyway since the country has neither the equipment nor the money to handle any more soldiers. As it is, boys of 13 and 14 are common in the ranks and there are reliable reports that recruitment has dwindled to a trickle.

Primitive logistical support and living conditions. The soldiers' families live with them in the field. "You can imagine what that means when the enemy artillery starts coming in," one analyst said. Since neither living quarters nor food are provided, the soldiers and their families spend a lot of their time constructing huts and foraging for food. "You ought to see them when 5 P.M. comes," said a diplomat who has spent time with field units. "They stop fighting because they have to catch chickens and start their cooking fires."

Pay roll corruption. The monthly salary for an ordinary enlisted man starts at 2,500 riels, about $15 at the official rate of exchange. But delivery of the cash is erratic. Several soldiers interviewed on payday were grumbling because they had not received their money and their families needed food. There have been reports of entire battalions leaving the front in such incidents.

Several reliable sources also said that commanders, who distribute the payrolls, withhold news of deaths and desertions so they can draw for themselves the money intended for those troops.

One well-informed American familiar with the military situation said that such tales should be taken "with a grain of salt," but optimism about most things here appears to be higher at the U.S. embassy than anywhere else.

GENTLE PEOPLE

In addition there remains the fact that the Khmers are basically a gentle, superstitious and unwarlike people, far more confirmed in their Buddhist beliefs than the Vietnamese, to whom war is an alien occupation. The euphoria that swept the country with the overthrow of the monarchy two years ago has long since evaporated and an air of lassitude has returned.

There is a wide range of opinion here about what the North Vietnamese objectives are in their current campaign. Among those mentioned are hampering the elections, solidifying their control over base areas used by their troops in South Vietnam, stirring new antiwar sentiment in the United States and bringing the current Cambodian government to its knees in an attempt to gain Khmer Rouge representation, if not domination, in Phnom Penh.

But whatever the objectives are, everyone except the Americans and the leaders of the government seem convinced that the Cambodian army can do little to keep them from being achieved.

[From the New York Times, Sept. 7, 1972]

Saigon Decrees End of Elections on Hamlet Level—Under New System Nearly All of Country's Officials Will Be Appointed

(By Craig B. Whitney)

Saigon, South Vietnam, Sept. 6.—The South Vietnamese Government, by executive decree, has abolished popular democratic election of officials at the most basic level—in the country's 10,775 hamlets.

Under the new system, which is going into effect now and will be completed within two months, nearly all the country's administrative officials—from the province chiefs down to the hamlet level—will be appointed.

The decree ends six years of popular election at the grassroots level of the hamlets. It was issued, without publicity, on Aug. 22 by Premier Tran Thien Khiem. It orders the 44 province chiefs, who are military men appointed by President Nguyen Van Thieu, to reorganize local government and appoint all hamlet officials and finish the job in two months.

AIDES TO BE APPOINTED

The new system calls for either two or three officials in each hamlet, depending on its population. There are the average Vietnamese citizens' closest contact with his government—the men he complains to, goes to when he needs help, or hears from when the Government wants to enforce its laws.

At the next highest level, the village—villages in Vietnam are administrative groupings of hamlets, not villages in the American or European sense of the word—village chiefs and their staffs have been elected by provision of the South Vietnamese Constitution. But now, according to the Premier's decree, their deputies and staffs will no longer be elected. They, too, will be appointed by the province chiefs.

In the space of a few months—since President Thieu began ruling by decree in June—he has centralized power in his hands and through men appointed by him, to a degree unknown in Vietnam since the Americans came here in strength in the nineteen-sixties and gave South Vietnam the forms of democratic government and popular elections.

Since 1967, the country has been governed by an elected President and a two-chamber legislation. President Thieu, who ran alone last Oct. 3 and won 94.3 per cent of the vote for his second term, controls a majority of the legislators in both houses but has been ruling by decree since June 27. On that night he wrested from the Senate authority to govern by fiat for six months in the fields of security, defense, economy and finance.

But it is clear, from this latest decree as well as from earlier ones by President Thieu that placed restrictions on the South Vietnamese press and stiffened the penalties for common crimes and for dereliction of duty, that the forms of democratic government are being weakened at a time when the United States is pulling troops out and, correspondingly, losing influence here.

SPEECHES NOT TRANSLATED

President Thieu has been saying as much in recent speeches, which his Government has not been translating into English or disseminating to the foreign press.

For example, on Aug. 11, in a speech in Quinhon, capital of Binhdinh Province, which the United States Government monitored and then translated into English, he said:

"I have never denied independence and democracy. As President of South Vietnam I have always observed democracy. However, if I [may speak as] a citizen, I must complain that our Government has allowed us to enjoy too much democracy too soon. This is like—if you will excuse me for my comparison—a small baby that is given an overdose of medicine or like a weak person who takes up physical exercise so that his health cannot endure.

"I have always respected the people's democratic rights and freedoms as basically outlined in our Constitution. However, these rights and freedoms must be properly practiced, such as simultaneously respecting the Constitution and responding to the demands of our nation."

"WE ARE TOO COMPLACENT"

"The Communists try to infiltrate our anti-Communist political parties, which are strong and which they cannot topple," Mr. Thieu said. "The Communists try to infiltrate our anti-Communist religions and our political parties. The Communists are now spending money buying newsmen, publishing newspapers and taking advantage of the disorderly and broad democracy and freedom in the south. When an election is held, the Communists try to benefit from it."

In a key passage he told his audience "Our political parties are still in small number and are not united; second, we are too complacent and are often disunited, and third, the most important is our disorderly democracy. Our democracy presents many gaps."

Mr. Theiu has often cited the extraordinary situation created by the Communist offensive, which began at the end of last March, as justification for restrictive measures. But the move to abolish election of hamlet officials and centralize local administration under the appointed province chiefs was in preparation even before the offensive.

An American Government interpretation of the Premier's decree says, for example, "These changes have been in the wind for the past several months" and were noted by the Americans in reports of Feb. 28 and March 7.

It says, of the effect of the decree on the only local officials who will continue to be elected, "The village chief, though still elected, will be in a much less commanding position since the officials who work under him will now be appointed by the province chief."

The province chiefs appointed by the President are military men—usually colonels—who owe their jobs to Mr. Thieu's patronage and are personally loyal to him. Often they do not even come from the provinces they serve. Last year Mr. Thieu said he intended to gradually put into effect the popular election of province chiefs beginning in 1972 but this has not happened.

"GUIDELINES" ALSO ISSUED

Along with the decree, Premier Khiem also issued to the country's province chiefs "general guidelines for the explanation and implementation" of it. It says, in the American Government's translation, "In sum, the administration in villages and hamlets is advanced but not quite adequate, and it doesn't satisfy the needs of the nation in the present phase of the struggle against the Communists."

"You must use your authority as fixed in Articles 3 and 6 of the new decree to screen the ranks of village and hamlet officials including hamlet chiefs because now they will be appointed by you. You must release those who are unqualified, negative, or who have bad behavior.

"In choosing which village officials and hamlet chiefs to keep," the Premier's explanation says, "you have to consider his anti-Communist achievements, services and training courses in national or local training centers.

"Especially to cope with the present situation, if localities don't have enough personnel and there are no civilian candidates after the screening, I will approve the use of popular forces, regional forces [militia] including lieutenant officers, in the village and hamlet administration."

The changes in the village administrations—there are 2,130 villages in South Vietnam—limit the number of officials per village to a maximum of eight, including the elected village chief.

The decree also provides that, where there is a police station in a village, the police chief will assume the function of the formerly elected deputy village chief for security, an important post because it includes such powers as determining who in the village may be a Communist sympathizer or a member of the Vietcong.

The Premier drew on Article 70 of the Constitution for his authority to issue the new decree. It provides that "the organization and regulation of local administration shall be prescribed by law."

Premier Khiem's explanation to his province chiefs says that, since the promulgation of such a law was still pending, a draft having been sent to the National Assembly, he was now issuing a decree superseding the one in 1966, which established the election of hamlet and village officers.

The Premier's measure goes beyond instructions that President Thieu issued to the province chiefs a few weeks ago. Then he told them that they could replace elected village and hamlet chiefs at their discretion.

The reason, according to American officials, was the discovery during the offensive this year that many locally elected hamlet chiefs were in fact Communists, who voluntarily provided valuable assistance to enemy forces.

[From the Washington Post, Sept. 8, 1972]

United States Admits End of Viet Hamlet Vote

(By Stanley Karnow)

The Nixon administration has confirmed with apparent embarrassment that South Vietnamese President Nguyen Van Thieu has abolished the electoral process in his country's more than 10,000 rural hamlets.

Reacting to the Thieu decision, which effectively ends six years of democratic activity in South Vietnam's lowest administrative levels, U.S. State Department spokesman Charles W. Bray III said yesterday that the United States was not consulted in advance about the move. He added that the U.S. government is "not responsible for the internal affairs" of foreign states.

But another U.S. official, who declined to be identified, described the decree as "a step backward in terms of representative institutions" in South Vietnam.

The Saigon government's decision, which was issued without publicity by Premier Tran Thien Khiem on Aug. 22 and revealed yesterday by the New York Times, seemed to rebut assertions by Thieu that he has "always observed democracy."

The move also dealt a blow to contentions that the Thieu regime is encouraging "self-determination" while the Communist threaten totalitarian rule.

Bray speculated at his press briefing yesterday that the North Vietnamese offensive against the south was "a major factor in prompting Thieu to put an end to hamlet elections.

"The North Vietnamese are using a whole range of unconventional warfare," Bray said. "I assume that in view of this present danger, the South Vietnamese felt constrained to do what they could to provide stability at the extreme local level of the country."

Bray expressed the hope that "the restrictions adopted in this emergency could be relaxed" when the situation in South Vietnam is "somewhat more normal."

Other U.S. sources voiced the belief that Thieu may have made his move because he anticipates the possibility of a cease-fire and is "trying to put himself in a better position."

While acknowledging that the decree would tarnish Thieu's public image internationally, one of these sources suggested that conditions on the ground inside Vietnam would probably not change.

The source explained that hamlet chiefs in areas under Saigon government control have tended to be elected if they enjoy the favor of senior province officials rather than on the basis of popular choice.

Under the new system which is going into effect, nearly all of South Vietnam's administrative officials will be appointed. The decree orders the country's 44 province chiefs, all of whom are officers responsible directly to Thieu, to reorganize local government and appoint hamlet officials.

Elections will no longer take place in villages, which are groupings of hamlets. Village chiefs were formerly elected but, like their counterparts at the hamlet level, they will henceforth be appointed by province chiefs.

Thieu, who won re-election in October in an uncontested election, has been ruling by decree since June 27. Within recent months, he has been tightening restrictions on press freedoms.

During the past few weeks, while denying that he is seeking to stiffen his rule, Thieu has explained that South Vietnam cannot afford an excess of democracy. In a speech delivered on Aug. 11 in the Binhdinh province capital of Quinhon, for example, he said:

"I must complain that our government has allowed us to enjoy too much democracy too soon. This is like . . . a small baby that is given an overdose of medicine or like a weak person who takes up physical exercise so that his health cannot endure."

Thieu went on to argue that the Communists were infiltrating South Vietnamese political parties, religious groups and newspapers. "When an election is held," he added, "the Communists try to benefit from it."

[From the New York Times, Sept. 10, 1972]

VIETNAM: DEMOCRACY WAS VERY DISORDERLY

(By Craig R. Whitney)

SAIGON.—"I abide by democratic principles," President Nguyen Van Thieu told a military audience here recently, "but the more open is democracy, the more disorderly it is, and the more fissures it will leave open to Communist penetration."

Over the past two months, President Thieu, who has been governing by decree since he pushed a special-powers bill through the South Vietnamese senate after curfew late one night in June, has been moving to cement those fissures.

His latest move was becoming apparent last week. Officials began putting into effect another executive decree which gives President Thieu's hand-picked province chiefs the power to appoint and dismiss all the previously elected officials of the 10,775 hamlets in the countryside. The effect was to abolish popular elections at the most basic local level and thus further reduce citizen participation in the democratic processes.

For the South Vietnamese peasant, hamlet officials are the closest governmental contact in his everyday life. He goes to them when he needs governmental assistance, permission or advice; and he hears from them when the Government needs taxes, professions of loyalty or information.

An American diplomat observed of the development, "The American-inspired democracy building era is all over." But to many, he was slightly off the mark: What is all over is the era of United States control over the war machine the Americans created in Vietnam.

Democracy is a Western concept not familiar to any Oriental society. President Thieu, it seems clear now, only put up with it as long as he had to when the Americans were so numerous, so generous, and therefore so powerful here. Now that they are leaving, he is confident that his benefactor, President Nixon, will be re-elected, no matter what happens in Vietnam, and so he is moving to rid the country of "disorderly democracy" because, to him, it is dangerous.

The official reason given by the decree on appointment of hamlet officials was "to unify the chain of command." This it does, since the lines of authority in the country now flow uninterrupted down from President Thieu through the province chiefs he appoints to the village and hamlet officials they name.

The decrees on the hamlets and rule by executive fiat were only the latest signs that the forms of democratic * * * previous decrees, but the plan to do away with election of hamlet officials was in the works as early as last February, before the offensive started.

The only people who really were embarrassed by all of this are American officials who have been pretending that South Vietnam is a democracy. It never was before the Americans arrived and never was when they were here in force. But, presumably to try to win some semblance of popular support for the war at home, the Johnson and Nixon Administrations in the 1960's portrayed it as democracy abuilding and forced upon the military regime the forms, if not the substance, of a freely elected civilian government.

A senior American in Saigon has occasionally described the South Vietnamese constitution, adopted in 1966 and 1967, as "grafted" onto Vietnamese society by the Americans. It has a bicameral legislature, a supreme court, and a popularly elected president—all only on paper. For these institutions have all been superfluous since Mr. Thieu's election last fall. In that election, Gen. Duong Van Minh and former Vice President Nguyen Cao Ky refused to run because they believed Mr. Thieu was rigging the elections against them. Mr. Thieu engineered a 94.3 per cent victory for a second four-year term.

On things Vietnamese and political at least, Mr. Thieu now cares so little for American opinion that he did not even inform the United States in advance of his decision to decree democracy in the hamlets out of existence, according to the State Department in Washington. "We have a free hand now, finally," one South Vietnamese palace adviser told a visitor recently.

Why get rid of even the pretense of democracy? Mr. Thieu explained, in a speech on Aug 11, before the decree was promulgated: "If our country were a secure, peaceful and properous country like the United States, all of our democratic rights and freedoms could be fully observed without any trouble at all. However, our country is still on the path of development and the Communists are blocking our way and interfering everywhere. We can find them everywhere, under our beds, under our ancestors' altars, behind our backs, and even among our ranks."

[From the Arkansas Gazette, Mar. 19, 1972]

UNITED STATES TO TRAIN TAIWANESE IN SUBMARINES

WASHINGTON.—Taiwanese sailors will start submarine training in the United States this month in what may be a prelude to the Taiwan navy's acquiring its first United States built submarine.

The move could arouse protests from senators that any new forms of military aid to the Chiang Kai-shek government could endanger United States relations with Communist China.

Pentagon officials said the Taiwanese had asked the United States for a submarine to be used in training.

The Taiwan government has not asked for any combat submarines, officials said.

Defense authorities said the matter has been under consideration for some time but that no final decision has been made on providing an old diesel-electric boat as "a target submarine for training purposes."

However, disclosure that 82 Chinese Nationalist naval officers and enlisted men will start 26 weeks of training at the United States Navy's submarine school in New London, Conn., March 27 suggests that the request will be approved.

Officials said such a craft could be taken out of mothballs and sold to Taiwan as surplus, or it could be loaned to the Taiwan government.

Specialists said the loan approach would require congressional authorization, and it was recalled that back in 1970 Senate opposition blocked the Nixon administration's proposed loan of three submarines to Taiwan.

Under this year's military aid program, the administration requested a total of $67.5 million in outright grants and "excess defense stocks" for Taiwan, with another $45 million in military sales credits.

The training of Chinese Nationalist sailors in operation of a diesel-electric submarine was described by the Pentagon as "solely to help improve the defense capability of the Republic of China military forces."

Pentagon officials said there was no friction between the Defense and State Departments over the question of providing a training submarine.

State Department sources indicated they were opposed to providing any combat submarines.

Authorities said United States submarines of the Seventh Fleet used to serve as training targets for Chinese surface craft during exercises, but that this no longer is the case.

While Nationalist China does not yet own a submarine, Defense Secretary Melvin R. Laird reported to Congress last month that the Chinese Communist navy has more than 40 diesel-powered attack submarines, most of Soviet make.

Recently, United States intelligence received reports of a new submarine of Chinese design based in Shanghai.

[From the Washington Post, Mar. 28, 1972]

UNITED STATES WILL PAY $9 MILLION ON MALTA RENT

The United States will pay about $9 million of the annual $36 million rental to retain British bases on Malta and is also considering economic aid for the Mediterranean island, State Department officials said yesterday.

Both innovations in American policy for Malta were justified by U.S. officials on grounds that continued Western use of Malta's naval and other facilities is necessary to deny the possibility that the Soviet Union or its allies will gain access to them.

In months of bargaining with the British, Malta's Prime Minister Dom Mintoff dangled the implied threat that he would turn to the Soviet Union if his terms were rejected. The United States and other NATO nations agreed to pay a share of the cost.

State Department press officers Charles W. Bray said that in addition to the U.S. share of the base fees, Washington agreed "to send a survey team to Malta to examine the possibility of whether the United States might play a useful role in providing economic assistance on a bilateral basis."

[From the Washington Post, Apr. 1, 1972]

GREECE'S JET PURCHASE WORRIES TURKISH REGIME

(By Dan Morgan)

IZMIR, TURKEY, March 31.—Turkish officials say they are concerned that Greece's purchase of 36 U.S. F-4 Phantom jets could put their country at a disadvantage in the event of new tensions over Cyprus.

There is fairly widespread concern in Ankara that the purchase, announced yesterday in Washington, could upset the military balance between NATO allies Greece and Turkey, which went to the brink of war over Cyprus in 1964 and in 1967.

Turkey does not feel economically strong enough to compete in the arms race with the wealthier Greek regime and the United States has made clear that it will not give away Phantoms as part of the military assistance program.

This has placed Ankara under pressure from some Turks who believe that the military potential of both sides weighs as a political factor in the dispute.

Both Greece and Turkey have been pressing for a settlement that would enable Greeks and Turks on Cyprus to end their long standing differences.

MAIN PROTECTOR

Despite the presence of a U.N. peacekeeping contingent on Cyprus, most of the minority Turkish look to the Turkish army as their main protector.

In military terms, Greece's possession of the F–4 will enable it to support Greek army units in Cyprus with long-range aircraft that are overwhelmingly superior to anything the Turks can muster. The estimated $5 million per plane is generally seen as prohibitively high.

NATO headquarters has been pressing both countries to modernize their air forces as a deterrent to the Soviet buildup on the southern flank of the alliance.

Lt. Gen. Richard H. Ellis, commander of the 6th Allied Tactical Air Force in Izmir, said today that the Greek purchase was "great" from a military standpoint.

"They need an aircraft that can do the job for the competition they're up against," he said. "We'd like to have F–4s for Turkey too. But it's a matter of economics."

The United States maintains a single squadron of its own Phantom aircraft in southern Turkey. American defense strategists contend that the Soviet naval buildup in the Mediterranean could make U.S. air power vulnerable by exposing the U.S. carriers to a quick knockout punch by Moscow's missile-firing cruisers. They maintain that local issues such as Cyprus cannot take precedence over the broader NATO requirements.

U.S. officials said yesterday Greece would pay about $2.5 million down on each plane, with the remainder financed through a credit under the foreign military sales act.

NATO REQUIREMENTS

The NATO military requirements for Greece and Turkey are set by the organization's defense council, in which the United States has a predominant voice and from which France is absent.

While cheaper modern aircraft, such as the French Mirage and the F–5 clear weather fighter, are also available, American officials say the "logical" weapon with which to satisfy the NATO recommendation is the Phantom.

Greece has been stepping up its purchase of equipment as the American program of outright gifts has declined. For instance it has supplied itself with Huey helicopters, French AMX–30 medium tanks and now Phantoms in this fashion.

PRESSURE FOR MODERNIZATION

Turkey's armed forces have been placed at a disadvantage by the NATO pressure for modernization because of the country's weaker economic position. It also lacks a significant local arms industry.

Turkey's armed forces are almost totally supplied with U.S. and, to a lesser degree, West German equipment. Turkey's per capita income is about half Greece's but it spends a larger proportion of its national income on defense. Turkish sources also contend that the U.S. aid to Greece is greater than appears on paper.

Gen. Ellis said military relations between Greece and Turkey were "very healthy." Next month, a Turkish air squadron will go to Greece for exercises. Earlier this year, Greek and Turkish units under the NATO command staged joint maneuvers in Thrace.

[From the New York News, Sept. 15, 1972]

UNITED STATES DROPS PIASTERS FROM HEAVEN ON NORTH VIETNAM

SAIGON, Sept. 14.—American planes are showering North Vietnam with counterfeit currency in a new move in the Vietnam war, it was disclosed today.

The bogus North Vietnamese notes, printed in several denominations, are being dropped as part of stepped-up psychological warfare operations.

A similar project, proposed during the administration of Lyndon Johnson, was turned down. Instead a crude photo facsimile of a North Vietnamese piaster on one side of a leaflet with a propaganda message on the other side was authorized.

The new drops are radically different. They consist of exact copies of North Vietnamese banknotes which could easily pass for the real thing. Attached to each note is a stub bearing a propaganda message which urges that North Vietnam spend its money for peaceful purposes instead of financing the war against South Vietnam.

Millions of counterfeit notes have been dropped, with more on the way. In time, they could disrupt North Vietnam's already shaky economy and create plenty of headaches for the Hanoi regime.

The Communists have launched a drive urging the people to destroy the notes. But money, falling from the heavens, may prove too great a temptation for the North Vietnamese peasants.—Joseph Fried

DEFENSE DEPARTMENT RAINMAKING PROJECT IN THE PHILIPPINES

Mr. FULBRIGHT. Mr. President, the Philippines were recently struck by devastating floods and the Committee on Foreign Relations, responding to the disaster, authorized $50 million for disaster relief and rehabilitation efforts in the pending bill.

In the last few days the General Accounting Office sent to the committee a report on their investigation of the military assistance program in the Philippines. Unfortunately the GAO report is classified. However, the State Department is being asked to sanitize it in order that the valuable GAO findings can be made public.

Because this bill contains $50 million for flood relief I bring to the Senate's attention an interesting unclassified excerpt from the Department of Defense comments on the GAO's report. The Defense Department described a research program for rainmaking which began in 1969 and was carried out by the U.S. Navy and Air Force in the Philippines.

During the course of Gromet II, as the rainmaking project was called, "personnel of the Philippines Air Force and Weather Bureau were trained to carry on such a program in future years."

The results were described this way:

> Gromet II was a successful project in all respects. The desired research data was collected by DOD, and the drought in the Philippines was alleviated, resulting in a considerable increase in agricultural production. In 1970, those PAF (Philippines Air Force) and PHIL weather personnel trained during Gromet II conducted their own PHIL-funded program which resulted in an agricultural product increase estimated at approximately $50 million.

I ask unanimous consent that the entire text of this section of the Defense Department's comments be printed in the RECORD.

One would assume that with such success the program was probably continued and expanded. It raises the interesting question of whether there is a connection between the experimental rainmaking program initiated by the Defense Department and the flood disaster in the Philippines this summer.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GAO REPORT DATED SEPTEMBER 18, 1972, "MILITARY ASSISTANCE AND COMMITMENTS IN THE PHILIPPINES," APPENDIX II, PAGE 67

b. (U) Rainmaking Project—The United States Air Force (USAF) provided personnel and equipment to assist the Government of the Philippines rainmaking project. The project grew out of a request from the Government of the Philippines to the State Department for assistance in alleviating a drought situation in the Philippine Islands. The Department of State, in turn, requested DOD assistance, and on 19 April 1969 the Chairman of the Joint Chiefs of Staff, in CM–4128–69, reacted to a 17 April 1969 SECDEF memorandum and directed implementation of the program with USAF as DOD executive agent. Since the actual cloud seeding operations involved both USAF and U.S. Navy (USN) resources and required coordination with the Department of State, the American Embassy, Manila, provided overall direction. Scientific direction of the project was provided by the USN.

(U) The Department of Defense Environmental Research Center prepared and executed a research project in the Philippines known as GROMET II. Two USAF C–130 aircraft were used to perform the actual seeding under supervision of Environmental Research Center personnel from the Naval Weapons Center. During the course of the seeding experiments, personnel of the Philippines Air Force and Weather Bureau were trained to carry on such a program in future years. The project was carried out as a phase of an already on-going DOD Environmental Research Project involving the use of nucleating agents to stimulate precipitation.

(U) Gromet II was a successful project in all respects. The desired research data was collected by DOD, and the drought in the Philippines were alleviated, resulting in a considerable increase in agricultural production. In 1970, those RAF and PHIL weather personnel trained during Gromet II conducted their own PHIL-funded program which resulted in an agricultural product increase estimated at approximately $50 million.

Mr. FULBRIGHT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, would the distinguished chairman of the Committee on Foreign Relations be willing to answer a couple of questions?

Mr. FULBRIGHT. Yes.

Mr. HARRY F. BYRD, JR. First, I would like to commend the Committee on Foreign Relations for inserting in its report, just as it did last year, a table showing the number of countries to which foreign assistance will be given. It adds up to about 88 different countries. There are 22 countries in Latin America, 16 countries in the Near East and South Asia, 13 countries in East Asia and the Pacific, and 37 countries in Africa.

The point I wish to raise with the distinguished chairman of the Committee on Foreign Relations is the total foreign assistance bill. As I read the figures on the top of table IV, which is a summary of all programs, the next to the last figure on the right is: "Total Military and Economic, Fiscal Year—1973" and the figure is $9.3 billion.

Is that the budget request? Is that what is being sought by the administration or is that the amount the committees recommended?

Mr. FULBRIGHT. It is the amount requested by the administration.

Mr. HARRY F. BYRD, JR. Then, the figure in the extreme righthand column of $7.4 billion for fiscal year 1972, I take that to mean that that is what was provided, namely approved by the Congress.

Mr. FULBRIGHT. That is what was provided.

Mr. HARRY F. BYRD, JR. Provided by Congress?

Mr. FULBRIGHT. Yes. The Senator can say that this year's request is $2 billion more than Congress approved last year.

Mr. HARRY F. BYRD, JR. The request this year is $2 billion more than the figure approved last year?

Mr. FULBRIGHT. The Senator is correct. That is one of the things I object to. I do not think it should be going up; I think it should be going down.

Mr. HARRY F. BYRD, JR. I thank the Senator. I concur in his point. I thank the Senator for clearing that up for us. I do not think we can justify a $2 billion increase in foreign assistance.

Mr. FULBRIGHT. I might say that on page 7. There is an explanation of table IV. It makes it clear that the table gives information concerning foreign military aid programs proposed for 1973, both in this and other bills, as well as data on economic assistance programs.

Mr. President, I ask unanimous consent that the explanation from the committee report be inserted at this point.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

EXPLANATION FROM COMMITTEE REPORT

Table IV gives information concerning foreign military aid programs proposed for FY 1973, both in this and other bills, as well as data on economic assistance programs. This table is included in order to give members of the Senate a more detailed picture of the major elements in the foreign aid program. But it should be noted that this table is not all inclusive. It does not, for example, contain the major costs of supporting military assistance missions abroad, support for international military headquarters, U.S. costs of the NATO infrastructure, the value of property transferred to South Vietnam, and other items adding up to hundreds of millions more in foreign assistance.

Mr. HARRY F. BYRD, JR. Many of the items mentioned by the Senator from Arkansas a moment ago are very indirect costs.

Mr. FULBRIGHT. It depends on your definition of "aid."

Mr. HARRY F. BYRD, JR. This table purports to list as comprehensively as possible the direct cost of foreign assistance, as I understand it.

Mr. FULBRIGHT. The Senator is correct. It is awfully hard to draw these distinctions very clearly. There are always gray areas, but we do the best we can.

Mr. HARRY F. BYRD, JR. This includes economic assistance as well as military assistance.

Mr. FULBRIGHT. The Senator is correct.

Mr. HARRY F. BYRD, JR. And it does not include military sales.

Mr. FULBRIGHT. Only credit sales; not commercial or cash sales.

Mr. HARRY F. BYRD, JR. I thank the Senator.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. ROBERT C. BYRD. Mr. President, I will shortly suggest the absence of a quorum. Prior to that time I wish to state that if other Senators have additional amendments to be called up today they would certainly be in order, and the leadership would hope that Senators would come to the floor and call them up. Otherwise, in a short time the leadership will ask that the pending measure be set aside and that the Senate turn to consideration of the unfinished business.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 3987—UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, it being my understanding that this request has been cleared on both sides of the aisle, I ask unanimous consent that at such time as S. 3987, a bill to replace the Vocational Rehabilitation Act, is called up and made the pending question before the Senate, it be subject to the following time agreement, under the usual form: that there be 1 hour on the bill, to be equally divided between Mr. Cranston and Mr. Javits; that time on any amendment, debatable motion, or appeal be limited to 20 minutes, to be equally divided and controlled, under the usual form.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistance legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILL

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, and he announced that on September 21, 1972, the President had approved and signed the act (S. 2969) to declare title to certain Federal lands in the State of Oregon to be in the United States in trust for the use and benefit of the Confederated Tribes of the Warm Springs Reservation of Oregon.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. Tunney) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE—ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills and joint resolutions:

H.R. 4383. An act to authorize the establishment of a system governing the creation and operation of advisory committees in the executive branch of the Federal Government, and for other purposes;

H.R. 7614. An act to amend titles 5, 10, and 32, United States Code, to authorize the waiver of claims of the United States arising out of certain erroneous payments, and for other purposes;

H.R. 9032. An act to provide for the disposition of funds appropriated to pay a judgment in favor of the Havasupai Tribe of Indians in Indian Claims Commission docket numbered 91, and for other purposes.

H.R. 9135. An act to amend the act of August 19, 1964, to remove the limitation on the maximum number of members of the Board of Trustees of the Pacific Tropical Botanical Garden;

H.R. 10486. An act to make the basic pay of the master chief petty officer of the Coast Guard comparable to the basic pay of the senior enlisted advisers of the other Armed Forces, and for other purposes;

H.R. 13697. An act to amend the provisions of title 14, United States Code, relating to the flag officer structure of the Coast Guard, and for other purposes;

H.J. Res. 135. Joint resolution to authorize the President to issue a proclamation designating the week in November of 1972 which includes Thanksgiving Day as "National Family Week";

H.J. Res. 807. Joint resolution authorizing the President to proclaim the second full week in October of 1972 as "National Legal Secretaries' Court Observance Week"; and

H.J. Res. 1232. Joint resolution designating, and authorizing the President to proclaim February 11, 1973 as "National Inventors' Day."

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore.

CONSUMER PROTECTION ORGANIZATION ACT OF 1972

Mr. ROBERT C. BYRD. Mr. President, in accordance with the order entered on Friday, I ask that the pending measure, the Foreign Assistance Act, now be laid aside and that the Senate resume the consideration of the unfinished business, S. 3970.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant lgeislative clerk read the bill by title, as follows:

> A bill (S. 3970) to establish a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and serve the interests of consumers, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX BENEFITS FOR GRAIN EXPORTERS

Mr. HARRY F. BYRD, JR. Mr. President, the press reports that grain exporters are pressing the Treasury Department for a ruling that would free them from taxes on half the profits made from the sale of wheat to the Soviet Union. If the Treasury rules favorably for the exporters, they would also pay no taxes on half the profits they made on wheat sales to other countries.

Mr. President, this is a very complex matter. It has to do with a provision in last year's statute permitting the establishment of so-called DISC's—Domestic International Sales Corporations—to handle receipts from exports.

I have not had a chance to study that phase of the tax law in detail recently, but I would hope that the Treasury Department would proceed very carefully before permitting tax benefits on the sale of grain to foreign countries. Increased sales of grain, in recent weeks, particularly to the Soviet Union, have meant that there have been tremendous profits made. I have no evidence to suggest that they were not proper profits. I do know that the taxpayers have paid substantial subsidies.

For example, on June 30 there was a 1-cent Federal subsidy on wheat exports. Three weeks ago, that subsidy had climbed to 47 cents per bushel. On September 15, it was 25 cents a bushel. As of last Friday or Saturday, the subsidy was eliminated. But undoubtedly there have been tremendous profits made on the huge sales of grain to Russia.

I think it is important that those businessmen who participated in those sales—and I do not charge there is anything wrong with such sales—pay their appropriate share of taxes to the Federal Government. As I mentioned earlier, the tax law in regard to the Domestic International Sales Corporation is a very technical and complex matter. The Treasury Department apparently has some leeway in how it interprets the law.

Without expressing any precise view, because I do not feel that I have reviewed recently enough the details of it to suggest a precise ruling from the Treasury, I do hope that the Treasury Department will proceed very slowly and very carefully before, in effect, forgiving, or, to put it another way, making it possible for these grain exporters to pay an income tax on only half of their profits.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistance legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSUMER PROTECTION ORGANIZATION ACT OF 1972

The Senate continued with the consideration of the bill (S. 3970) to establish a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and serve the interests of consumers, and for other purposes.

Mr. RIBICOFF. Mr. President, we have before us the amendment offered by the distinguished Senator from Alabama, which is referred to as the "amicus" amendment.

The Allen amendment would bar the Consumer Protection Agency from appearing as a party before any Federal agency or court. The CPA would be limited to the mere role of amicus curiae—regardless of how vitally consumer interests might be affected by the outcome of a case. Instead of allowing the CPA to be a vigorous advocate, the amicus amendment would allow the CPA only to review data submitted to Federal agencies by other parties and to comment upon that data. Unlike the parties to the case, the CPA could not present its own witnesses, cross-examine other witnesses, or invoke any of the host of other rights enjoyed by parties in an administrative proceeding. In addition, the CPA would be barred from appealing any administrative decision to the courts, but could only seek reconsideration by the very agency which rendered the decision in the first place.

This amendment has been described by its supporters as a "compromise amendment." But the only thing this amendment compromises is the vital interests of consumers in having an effective spokesman.

Following is a short analysis of the major arguments made by proponents of the so-called "amicus compromise amendment:"

> 1. That the amendment would give the CPA "more power" in rulemaking and informal activities.
>
> Answer: There is absolutely no need to give the CPA the "last word" in these two areas. What the CPA needs is to have the right to participate as a party where necessary to protect consumer interests, to submit comments in notice-and-comment rulemaking proceedings, and to participate in informal activities. The amendment attempts to make the CPA appear to be "more than equal" to other parties in one trivial respect as a justification for making the CPA drastically less than equal to parties in many vital respects.
>
> 2. That the CPA ought to have "less power" in adjudicatory proceedings.
>
> Answer: Adjudications are often as important to consumers in the development and elaboration of general standards as are rulemaking proceedings. Some agencies, such as the FTC, for example, use adjudication rather than rulemaking as a means for developing statements or standards of general applicability. In addition, it is in adjudication that broad principles are applied in particular cases. If rules that have been announced are not enforced, or if rules are interpreted loosely in adjudicatory proceedings, those rules are unlikely to be respected in the future. It is essential that the CPA have the authority to be a party in adjudications.
>
> 3. That the CPA should be allowed only to seek rehearing at the agency level and not be allowed a judicial appeal.
>
> Answer: The amendment supposedly aims to avoid one government agency challenging another agency in court which the proponents argue has occurred in only "extremely rare instances."

This argument—as well as the whole rationale for the amendment—are flatly contradicted by a study recently submitted by the administrative law section of the American Bar Association to the ABA House of Delegates. The study urged approval of CPA intervention as a party in adjudicatory proceedings before the courts. The study stated:

> Inter-agency litigation over the validity of administrative action has been commonplace since the early days of the Federal administrative process (the study cites dozens of cases) . . .
>
> The interests asserted by the challenging agency have in some cases been proprietary . . . In other instances the challenging agency has sought to litigate pure policy differences . . . In neither type of dispute has the multiplicity of governmental parties appeared to create any difficulties for the courts, which indeed, have welcomed the presentation of all sides in the complex and important matters frequently involved . . .
>
> We therefore conclude that no new problems, either doctrinal or practical, are presented by the proposal to give the CPA the right to initiate or intervene in proceedings for judicial review of other agencies' actions.

Furthermore, existing law explicitly empowers a number of Federal agencies to intervene before other agencies and appeal the other agencies' actions in the courts. A good example is the Agricultural Adjustment Act which authorizes the Secretary of Agriculture to appear before the ICC and appeal ICC orders. See 7 United States Code 1291.

Every Federal agency already has the inherent authority—in the absence of statutory authority—to initiate or intervene in judicial review proceedings involving the actions of other Federal agencies. The ABA study documents this fact in great detail.

Mr. President, it would be a mockery to limit the CPA—whose purpose is to be an advocate—to the status of amicus curiae when all other agencies can become parties.

The amicus amendment, by denying the CPA the rights of a party, would prevent the CPA from effectively representing the interests of consumers.

The amicus, or so-called "friend of the consumer" amendment, would nullify the basic authority of the CPA, the right to intervene and participate in agency proceedings and activities.

A party in an administrative proceeding has many critical rights under the Administrative Procedure Act that an amicus curiae does not have. Among these are rights to: First, appearance and presentation of evidence; second, submission of rebuttal evidence; third, cross-examination of witnesses; fourth, participation in consultations by the presiding employee with other persons or parties; fifth, notice of agency actions and those of other parties; sixth, hearing and decision on the record; seventh, discovery authority; eighth, submission of proposed findings, conclusions and exceptions to any proposed agency decision; and, ninth, appellate review as of right.

An amicus curiae is merely an interested outsider who can ordinarily do no more than submit a written brief, or at most, make a single oral argument, generally at the discretion of the host agency or court.

Most Federal agency proceedings are highly technical and may involve extensive presentation of evidence, argument, and counter-argument. Without having the option to introduce evidence, cross-examine witnesses, and present argument on all aspects of a case, the CPA could not effectively develop its case. The amicus amendment would deny the CPA all these rights in every case.

The bill already provides that the CPA will intervene as a party only where party status is necessary for the protection of consumers.

Section 203(a) of S. 3970 expressly provides that the CPA is to "refrain from intervening as a party unless he—Administrator—determines that such intervention is necessary to represent adequately the interests of consumers." This determination will be subject to judicial review in the manner accorded by law together with all other aspects of the administrative proceeding.

The bill gives the CPA strong incentives to participate in agency proceedings only to the extent necessary. The CPA should not, however, be cut off from the right to become a full party if it determines that such status is necessary to protect consumer interests. It might make this determination, for example, where it has factual evidence it feels must be introduced, where it feels it necessary to cross-examine a witness, or to use agency discovery authority.

The committee should not adopt a rigid rule denying the CPA party status, but should allow it to make its degree of participation fit the facts and circumstances of each case.

Further, section 203 specifically provides that the CPA, upon intervening or participating "shall comply with the rules of practice and procedure governing the conduct thereof." Every agency has a set of rules which, together with the Administrative Procedure Act, establish the procedures to be followed in its proceedings. The CPA will abide by these rules. The host agency retains complete authority to conduct the proceeding in a fair and orderly manner.

Restriction of the CPA to amicus curiae status would not be a grant of authority at all.

Every Federal agency can already be an amicus or seek party status in proceedings of any other agency.

The amendment would also be contrary to the trend of recent agency and court cases which have expanded the intervention rights of third parties—including consumers. Recent cases have significantly increased the ability of the third parties to intervene in agency proceedings. See for example, *NWRO* v. *Finch*, 429 F. 2d 725, 737 (D.C. Cir. 1970). In the FTC's proceeding against Campbell Soup, a group of law students was permitted to intervene in a false advertising case and granted the right to discovery, presentation of evidence, and oral and written argument, with respect to the sufficiency of the remedy. For further discussion, see Comment, Public Participation in Federal Administrative Proceedings, April 1972 University of Pennsylvania Law Review; Public Participation in Administrative Hearings, Administrative Conference of the United States, Committee on Organization and Procedure, November 1971.

The amicus approach has already been considered and rejected three times.

In 1970, the committee unanimously approved S. 4459, the prior version of this bill, which authorized CPA intervention as a full party in agency proceedings. At that time, the committee considered and dismissed the amicus amendment as inadequate. The bill later passed the Senate, 74 to 4.

Last year, in approving similar legislation establishing a Consumer Protection Agency, the House decisively defeated by a vote of 240 to 149 the amendment to limit the agency to amicus status only. The amendment had earlier been rejected in committee, 26 to 9. The Senate Government Operations Committee defeated it 10 to 5.

Representative CHET HOLIFIELD, chairman of the House Government Operations Committee which reported the House bill establishing a Consumer Protection Agency, characterized the amicus bill in these words:

> To limit the CPA's advocacy role to amicus curiae alone . . . would tie one of the Administrator's hands behind his back and make him come, hat in the other hand, to plead the consumer's cause.

This statement was also endorsed by Representative FRANK HORTON, the ranking Republican on the Government Operations Committee.

Finally, in nearly 2 months of detailed discussion between the administration and the subcommittee staff, there was no suggestion by any administration spokesman of support for the amicus curiae amendment.

At the hearing on the predecessor bill, S. 1177, last November, Mrs. Virginia Knauer, Special Assistant to the President, testifying for the administration, and Roger Cramton, chairman of the Administrative Conference of the United States, the Agency designated by Congress to oversee the Federal administrative process, endorsed full party status for the CPA in cases before other agencies.

I hope and trust, Mr. President, that the full Senate, when it comes to a vote on the Allen amicus amendment, will reject it.

Mr. ALLEN. Mr. President, I wish to go into detail in explaining this amendment, a proposal that has become known as the amicus amendment because its philosophy is based upon the positive and persuasive role that an amicus curiae—friend of the court—has played in American advocacy.

This bill contains some very complex provisions having to do with administrative law, and the amicus amendment would modify these provisions.

Due to the complexity of the subject, however, the bill in general, and the amicus amendment in particular, have become the subjects of much confusion and consternation.

There are those, particularly nonlawyers not familiar with the amendment, who are of the opinion that the amicus amendment is a sham. They think it would limit the role of the Consumer Protection Agency merely to the powers of an amicus curiae.

They are wrong, as we shall see. Amicus advocacy as proposed in this amendment would be far stronger than amicus curiae advocacy, and far stronger than the present bill in certain proceedings.

There are those, particularly businessmen who wish to see no new CPA created to oversee their overseers, who greatly fear the amicus amendment. They feel that it is too liberal.

GENERAL PRINCIPLES OF AMICUS ADVOCACY

The goal of the amicus amendment is to achieve the most effective and comprehensive form of Federal consumer advocacy with the least amount of disruption.

Its philosophy is rooted in the positive nature of an amicus curial who assists and guides a forum without being disruptive.

It is also felt that this approach is more consistent with that of a Federal agency.

All Federal agencies, in my opinion, should be considered as part of one government. To create one Federal agency to attack its sister agencies—as, I submit, the present bill creating the Consumer Protection Agency would do—is a dangerous and unnecessary experiment in splitting the Government into opposing forces.

The amendment would provide for forceful CPA advocacy in the same Federal agency proceedings and activities in which the CPA could act as an advocate under the present version of the bill.

This is essentially any Federal deliberation of the CPA's choice. The exceptions, such as the activities of the Central Intelligence Agency, are few.

Such a broad-brush approach to consumer advocacy is consistent with the pervasiveness of the interests of consumers.

But this very pervasiveness contemplates CPA advocacy into areas of which we know little, if anything.

Therefore, full party opponent advocacy—as proposed in this bill now without the amendment we have offered—calls for us to legislate an attack on the unknown through the discretionary power of the CPA.

Consumer advocates under the amicus amendment would, at least for a trial period, be used to assist and forcefully guide other Federal agencies in the protection of the interests of consumers in millions of unknown deliberations covered by the bill.

We anticipate that after a year or two of such experience, the CPA—not Mr. Ralph Nader nor Mrs. Virginia Knauer or the Chamber of Commerce—will come back to the Senate and the House and propose for itself additional and appropriate powers in identifiable areas. Indeed, the bill provides for this in section 202(b)(6).

As the committee reports on this bill clearly demonstrates, we now have no idea where the CPA is going or what it is going to do when it gets there.

The amicus amendment will provide for a positive consistency in CPA advocacy.

MORE EFFECTIVE IN RULEMAKING

The amendment would make the CPA advocacy powers more effective in the great majority of the Federal processes now covered.

That is, in rulemaking—which includes rulemaking—and all informal activities, the amicus amendment has more clout than the present bill.

As Roger Cramton, then chairman of the Federal Administrative Conference, said during the hearings on the House bill:

> Rulemaking is probably the part of the administrative process that [the CPA Administrator] should be most interested in, because it has the most general impact. It is the most important from this point of view and also the one in which consumer interests, as such, very rarely participate in the form of supplying comments or making oral argument if a public hearing is held.*

Federal agency rulemaking proceedings under the advocacy sections of this bill far outnumber the adjudications covered by those sections.

With few exceptions, the rulemaking proceedings covered by the present subsection 203(a) would be conducted through nonadversary procedures such as proposals in the Federal Register with an invitation for written comment by interested persons, or nonadversary hearings very much like a congressional hearing.

Similarly, the CPA would be limited to this form of written or oral comment in the "activities" of Federal agencies under subsection 203(b). It would present written or oral views, or, if persons outside the forum agency participate in such activities, be allowed roughly equal time to state its views on the matter in question.

MORE EFFECTIVE AMICUS PROCEDURE

Under the amicus proposal, the CPA would also, as a matter of unchallengeable right, be able to present the same written or oral comments in both rulemaking under subsection 203(a) and in Federal agency activities under subsection (b) of section 203.

In addition, however, the CPA would be able to have the last word, if it wanted it, in all proceedings and activities.

That is, the amendment provides that prior to the forum agency's taking any final action—including inaction—on the matter at issue, it must give the CPA the right to file written comments with respect to all data, views, and arguments presented. This is found in amendment subsection 203(g).

Such an approach is consistent with treating the CPA as an integral part of the Government, rather than an opponent of the Government.

That is one of the main issues on which I disagree with the concept of this Consumer Protection Agency legislation, and that is that it would create a superagency to regulate and control the regulator. As I have stated earlier, it would be the concept of the Senator from Alabama that we need one Federal Government, not a group of agencies whose function it is to oversee and then a superagency, a superlevel of bureaucracy set over the regulators. That is what the Consumer Protection Agency legislation does, and it is that concept that the amicus amendment seeks to change.

Mr. GURNEY. Would the Senator from Alabama yield for a question?

Mr. ALLEN. Yes, I would be delighted.

Mr. GURNEY. That is one thing that puzzles the Senator from Florida, too, for as I understand it, one of the chief reasons for setting this thing up is that present regulatory agencies either are not doing the job well and ought to be policed, or else this agency ought to be sort of a watchdog over them to prod them to do their job better.

As I understand it—and this is the question I am asking—the new agency is going to be set up in the same fashion as the old agencies were. In other words, the President is going to appoint the commissioners, as well as the administrator. As I understand it, that is the way all the other regulatory agencies, or most of them, were established.

Mr. ALLEN. The Senator is correct.

Mr. GURNEY. The President appoints the commissioners or the agency head, if it is an independent agency like NASA. So my question concerns these regulatory agencies. I understand there are now over 30 that involve themselves with consumer interests and consumer matters. If they are not doing their job correctly, what assurance will we have that another agency appointed in similar fashion is going to correct all the evils that we now have? Will the Senator inform this Senator how that is going to work?

Mr. ALLEN. It is a mystery to the Senator from Alabama, just as it is to the distinguished Senator from Florida, to have another regulatory body placed on top of the echelon of bureaucracy that we already have. The Senator will recall that here in the Senate some months ago we passed consumer products agency legislation, and the Senator from Alabama assumes that this Consumer Protection Agency would have jurisdiction to more or less oversee the activities of this Consumer Products Agency which was created just the middle of this year. So that is the reason the amicus approach seems more logical to the Senator from Alabama, so that we have an agency that would advise and inform and help and give constructive criticism to the whole agency and and thus enable it to do its job, rather than to be advisory to the agencies that we already have in the Government.

Mr. GURNEY. Mr. President, if the distinguished Senator will yield further, was there anything in the testimony, in the hearings conducted on this bill, or in the report to indicate why this Agency would be effective when other agencies were not effective? What super clairvoyance will this Agency have that others do not have?

Mr. ALLEN. That is something I feel that possibly the advocates of the bill would research rather than the Senator from Alabama because he does not see that this superagency would be more effective than agencies we already have charged with the duty of looking after the consuming public generally.

Mr. GURNEY. The distinguished Senator from Alabama mentioned the Agency that we created earlier, which has to do with consumer product safety. Let us pursue that for just a moment. I think probably the one product in this Nation that kills more people and injures more people every year is the automobile.

My recollection is that the deaths caused by automobiles are somewhere in the neighborhood of 50,000 people killed each year in the United States. I cannot remember the number of people injured, but that number definitely is greatly in excess of the 50,000 figure. So obviously there is something unsafe about an automobile. Should the Consumer Protectection Agency enforce any and every possible safety device for automobiles, regardless of cost? Could such safety measures be taken to such an extreme that low- and medium-income families could not afford automobiles?

Might this not be taken to such an extreme that economical family travel by wheel would be virtually eliminated?

Mr. ALLEN. The Senator from Alabama would doubt if they would want to go back to the state of civilization as it existed before the wheel was invented because that was invented some thousands of years ago, although I understand that there are populations throughout the world that have not progressed up to the wheel stage, but I do not believe anybody would seriously recommend that we go back to civilization as it existed prior to the wheel.

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*See p. 498, House Hearings (1971).

Mr. GURNEY. I agree with the Senator. The reason I posed that rather dramatic question was to illustrate that there is another item involved in the matter of product safety, and that is the element of expense. In other words, if the safety of a product is to be improved, usually it is going to cost more. Some consumers would like to see the product made more safe, there is no question about it. Other consumers, if I read the reaction of consumers in my State of Florida correctly, would prefer to run the risk of the old product rather than to pay a substantially increased price for a product made more safe.

I would ask this question of the distinguished Senator from Alabama. Would that not be a matter the Consumer Protection Agency would want to get involved in, and if it did, whose interest would it protect?

Mr. ALLEN. Very definitely that would be an area in which the product safety legislation would be concerned. Very defintiely that would be an area that they would take note of and take action in.

Mr. GURNEY. As I understand it, if the Consumer Protection Agency were confronted with such a situation, it would have to make a determination of what interest it would represent—the consumer who wanted more safety or the consumer who wanted a product with less cost. Is that correct?

Mr. ALLEN. Yes. I certainly hope it would be with the consumer. They would have to represent one group or the other. It might be difficult to decide which group to represent.

Mr. RIBICOFF. I wonder if the distinguished Senators would allow me to intervene at this time.

Mr. GURNEY. Yes, indeed.

Mr. RIBICOFF. I am following the colloquy with interest. Let me point out the type work I think is necessary for this Agency.

The Washington Post this morning published an article by Morton Mintz, entitled "Abuses Hamstring FDA." I wish to read a few quotations from the article:

> A large share of the defective products that the Food and Drug Administration tries to take off the market ends up being sold to the public, the General Accounting Office has found.
>
> The GAO, reviewing 91 seizures by the FDA in fiscal 1971, found that 69 per cent of the total amount of defective merchandise actually was removed from the market. But the remaining 31 per cent apparently was sold.

The article goes on to give many examples. These examples indicate to me one of the reasons we need a consumer advocate. I agree with my distinguished colleagues from Florida and Alabama that we have many consumer programs and agencies. And I am worried by the very multiplicity of these Government agencies. At the present time we have at least 76 consumer programs in the Government. There may be more. There are some 30 agencies, as the Senator from Florida indicated, that are involved in administering these 76 programs. What has been so troublesome over the years is that the agencies that are supposed to protect the consumer fail to do their jobs, and end up being spokesmen for the industry they are supposed to regulate.

I think this country could use an agency that would cut through the maze of Federal agencies and legal technicalities and be an effective spokesman for 210 million consumers; to ride herd, if you will, to supervise all these agencies we have put into existence.

Perhaps it would be better to take all of those agencies and combine them into one. I have felt for a long time that health and consumer protection programs would function more smoothly if authority were consolidated.

The other day, one member of our committee, the distinguished Senator from Delaware (Mr. ROTH) made a proposal that received the unanimous approval of the Government Operations Committee. At Senator ROTH's suggestion, the committee mandated the staff to conduct a thorough inventory of all Federal programs—none of us understands all the programs that exist. Not even the Office of Management and Budget knows them all.

With Government so fragmented and responsibility so diffused, we need a consumer advocate to make Government agencies responsive to the needs of consumers.

The fact is that 210 million consumers today do not have a voice either in court or before the Federal bureaucracy. That is why I feel an agency such as this is necessary.

It is true, as the distinguished Senator from Alabama said, that the President would still appoint the administrator and the agency commissioner. Whether they will be any better than the commissioners he appoints to other Federal regulatory agencies I do not know. It will all depend on the President's commitment to consumers. My feeling is that an agency like this will put a President on the spot. This will be a consumer agency. The President and the country will be watching the caliber of man or woman who will be chosen to run this agency. I look upon this agency as a burr under the saddle of all the complacent agencies charged with protection of the consumer. We find today that the regulators are not regulating anything, and the public suffers. If the President is interested in consumer activities, then this agency will be meaningful. If the President of the United States, at any given time is not interested in the consumer, then this will be just another agency.

Critics of the bill have also asked several times: Will we have guerrilla warfare among agencies? I do not think so. I do not think the President of the United States will have agencies working under his jurisdiction that are competing destructively with one another. There will either be comity between those agencies or the President will clean house and a lot of heads will roll.

Congress is saying to the President of the United States, "We are putting this responsibility on your shoulders. We are making the term of the commissioners co-terminus with your term of office. They will come in when you come into office, and they will go out when you go out of office. So you either mean that you will protect the rights of consumers or you do not mean it."

It is my feeling that the consumer agency we seek to put into being at *this* time will be an agency that will truly be the advocate for the public. This CPA will have no regulatory authority, so it will not develop an overly close relationship with those whom they are supposed to regulate.

I believe thiis Agency is the most important one we could put into business, or put into existence, on behalf of the consumer. Without this Agency, much of the work we have done to protect the consumer is a facade and a charade.

I hope the Senate will adopt the bill we have before us now.

Mr. President, I ask unanimous consent that an article by Morton Mintz, entitled "Abuses Hamstring FDA," which appeared in this morning's Washington Post, be inserted in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ABUSES HAMSTRING FDA

(By Morton Mintz)

A large share of the defective products that the Food and Drug Administration tries to take off the market ends up being sold to the public, the General Accounting Office has found.

The situation can pose "a serious health problem," the GAO said in a report on the problems created for the FDA by a lack of authority to get access to needed records (except for prescription medicines), to detain suspect products from interstate shipment and to take the steps necessary to force recall of foods and other products found to be adulterated, misbranded or illegally marketed.

The GAO, reviewing 91 seizures by the FDA in fiscal 1971, found that 69 per cent of the total amount of defective merchandise actually was removed from the market. But the remaining 31 per cent apparently was sold.

The GAO report said that in the period mid-1968 through mid-1971 a total of 3,300 firms refused to co-operate with more than 10,000 requests by FDA inspectors. In about 7,900 cases companies denied the inspectors access to information in their records, the report said.

The GAO, the investigative arm of Congress, urged remedial legislation, citing examples of existing abuses such as these:

The FDA had received several complaints that a liquid drain opener caused skin burns; one consumer said she had suffered serious facial scarring when a container of the product exploded when she poured it into the kitchen drain. Her eyeglasses prevented possible permanent blinding.

The FDA, finding that the label carried an inadequate warning, asked the manufacturer for the shipping records that would show if the product was shipped across state lines and was consequently in the agency's jurisdiction. The firm refused to co-operate.

(The GAO, as is customary, named none of the companies involved in such cases. Rep. Les Aspin, a Wisconsin Democrat, has asked the GAO to identify them.)

FDA inspectors at a processing plant found walnuts that were filthy and contaminated with bacteria from feces. The company refused to provide shipping data, forcing the FDA to obtain evidence of contamination in another state where it removed 36 cases of walnuts. But the delay and the firm's recalcitrance "exposed consumers to needless risk," the GAO said.

The FDA asked a bakery for records on coconut pies made with eggs supplied by a firm known to have had other eggs contaminated by salmonella, which can cause illness and even death. Inspectors also asked for the bakery's quality control records that were supposed to show the results of testing the pies for salmonella. This was especially important because pies made with possibly contaminated eggs already had been distributed. The bakery denied the FDA access to all of its records.

Mr. GURNEY. Mr. President, will the Senator yield at this point?

Mr. RIBICOFF. I yield back the floor.

The PRESIDING OFFICER. The Senator from Alabama has the floor.

Mr. ALLEN. Mr. President, I shall yield briefly, but I would hope the distinguished Senators would interrupt their colloquy shortly in order that I may be able to finish my remarks, and then have the colloquy come later, and possibly the Senator from Alabama will withdraw from the colloquy at that time.

I might state that the Senator from Alabama is anxious to dispose of this legislation in order that we will have an opportunity to go ahead and bring up for action H.R. 13915, the Equal Educational Opportunities Act, possibly known as the antibusing legislation. The Senator from Alabama feels that the more time spent discussing this measure, the less time there will be to discuss the antibusing legislation, on which he places a much higher priority than the pending legislation.

Mr. RIBICOFF. Mr. President, if the Senator will yield, I have always felt that when a measure is before the Senate it should be voted on. I understand the anxiety of the Senator from Alabama to have that proposal voted on before we adjourn. I would hope the Senator from Alabama would use his great influence on other Members of this body who feel the same way to allow us, within the next few days, vote on some of his amendments to the pending legislation. I fear that we may have the makings of a filibuster, although I cannot accuse anyone of that at the present time. There are those who would like to see his antibusing proposal die before we adjourn, just as there are those in this body who would like to see this proposal die before we adjourn. I hope we will all have the opportunity to vote on this proposal as well as the proposal by the Senator from Alabama.

Mr. ALLEN. I appreciate very much the statement by the distinguished Senator from Connecticut that he would like to see a vote on the antibusing legislation. The Senator from Alabama takes that to mean that the Senator not only is going to use his efforts in prevailing upon like-minded Senators with him to allow the measure to come up for a vote, but that his vote will be cast in favor, not necessarily of the legislation, but in bringing the bill up for consideration and resulting in a vote on the legislation.

Mr. RIBICOFF. May I say to the distinguished Senator from Alabama that, while I will vote opposite to the distinguished Senator from Alabama on that issue, I personally would not delay a vote on that or participate in a delay on that or any other measure. I think that one of the failures of the U.S. Senate, is the fact that we delay the opportunity for the Senate to express its will and to stand up and be counted on every measure before us. I believe it is the obligation of a U.S. Senator, no matter how difficult and no matter how unpleasant it may be to him or how much he disagrees with it, to have the courage to vote on every measure, no matter how controversial, whether it helps him or hurts him. That goes whether it is consumer legislation, whether it is about the Vietnam war, or whether it has to do with the problems of busing. There could be no greater credit to the Senate as an institution if all of us would agree that, after adequate and reasonable debate, we have an opportunity, even a duty, to vote on every measure that comes before us as a body.

Mr. ALLEN. I thank the distinguished Senator from Connecticut for his statesmanship. Even though the distinguished Senator from Connecticut says he will vote opposite to the way the Senator from Alabama is going to vote on this particular bill, the Senator from Alabama would like to remind the distinguished Senator from Connecticut that the Senator from Alabama has, on more than one occasion, voted with the distinguished Senator from Connecticut on his efforts to provide a unitarian rule, a single rule for North and South, with regard to desegregation of the public schools.

Mr. RIBICOFF. That is correct. The problem of developing a truly national policy for providing equal educational opportunity has been overlooked in this country. Public debate has instead centered on the explosive and controversial issue of busing. My proposal for a uniform policy for desegregating the schools in our metropolitan area has received important support from the distinguished Senator from Alabama and other Senators from every section of the Nation. Unfortunately it has not yet met the approval of a majority of the Senate. If the President of the United States and other Senators from the North as well as the South had joined us in our efforts to treat both de facto and de jure segregation the same, we would not be in the fix we are in now. We would be able to defuse this emotional issue and begin developing solutions to this great problem.

I can assure the Senator from Alabama that, while I disagree with his proposal on busing, I will not participate in a filibuster designed to present a vote on it. Every issue a Senator believes important should be voted on if that Senator so wishes. In addition, every Senator should have an opportunity to vote on an issue a fellow Senator deems important.

Mr. ALLEN. I thank the Senator. I may say that possibly the legislation that has been referred to as the antibusing legislation may well have a misnomer, because it provides guidelines for the courts to use in desegregating a public school, and it merely suggests the order of priority of different methods to be used by the courts in their orders. It does provide busing may be used to transport children to the next school offering the same grade and course of study that they are receiving in their present school. So this would be a rule applicable to North and South.

The Senator from Alabama would hope that the distinguished Senator from Connecticut would give most careful consideration to this bill, because the Senator from Alabama believes that it is not too different from the views of the distinguished Senator from Connecticut on the proposition of providing a single rule for desegregation of schools applicable in the North and in the South.

That is one of the great strengths and one of the great virtues of the legislation we seek to bring up, H.R. 13915.

Mr. RIBICOFF. The difference, of course, is that my proposal called for orderly progress over a number of years in order to defuse the emotion of the moment and permit us to have a society where all people could live together.

I hope there will be opportunity afforded for the Senator from Alabama and those who oppose him to explore the issue, emotionally, perhaps, but intellectually as well, to determine what course we must follow in the future.

Although he opposes the legislation now before us, the Senator has assured me that as far as his amendments are concerned, he is ready to vote at any time. I know that the Senator from Alabama and I could reach an agreement in a matter of minutes as to when the votes will be taken on his amendments. Unfortunately that point of view does not have the support of other Members of the Senate. That, as I say, is unfortunate. I would like to finish this matter and every other piece of legislation now before us before November 7. I think we are entitled, in one way or another, to close up shop by election day, at least, and not to return here as an ineffective lame-duck Congress.

Mr. ALLEN. I thank the Senator from Connecticut, whom I greatly admire.

I yield to the distinguished Senator from Florida.

Mr. GURNEY. Mr. President, I shall be very brief, so that the Senator from Alabama can proceed with his statement.

I wish to join the Senator from Alabama and the Senator from Connecticut in expressing the hope that the Senate leadership will bring the antibusing bill onto the floor for debate and vote in the near future. I could not agree more with the Senator from Alabama that it has a very high priority, and I think it should have been brought on before this particular measure. It was on the calendar before this bill, and certainly as an issue it is one of greatest priority.

In the almost 4 years I have been a Member of the U.S. Senate, I have received tens of thousands of individual communications from the State of Florida on the matter of busing. I cannot remember 10 communications from people from Florida on the matter of consumer protection. So certainly, as far as the people of the State of Florida are concerned, the matter of busing has a much higher priority.

In view of the remarks of the distinguished manager of the bill, the Senator from Connecticut, I did want to mention an article on whether or not this super agency would be a sort of catalytic factor in determinations of consumer interest.

An article published in one of the Washington newspapers very recently—in the Sunday Star and Daily News of August 13, 1972—written by Jeffrey St. John, who is a commentator for CBS radio and television and a columnist for the Copley News Service, made some interesting observations on a similar agency many years ago. I quote from his article:

> Few realize that the CPA concept was tried during the early days of the FDR New Deal and was as big a disaster as that predicated for the current CPA proposals.
>
> Set up with the old NRA, it was directed by Hugh S. Johnson, who later conceded in his memoirs that it was "a blunder in setting up a Consumer Advisory Board as I did."
>
> General Johnson also conceded that the board was a factor in "increased prices to consumers"—in addition to FDR's monetary policy, price fixing in agriculture, and state and federal taxing policies.
>
> "The board representing consumers," Johnson added, "should not have been set up exclusively in NRA where it felt a duty to 'Make A Record' and attack every code on general principles without regard to other influences affecting prices . . ."

So we have had a similar device in operation many years ago, during the 1930's. That was only an advisory board on consumers, and yet the man who set it up, General Johnson, who was as well known in Government circles as anyone in our generation, serving as he did in his most important role during the New Deal days, admitted that he had made a serious blunder because the very thing happened that both the distinguished Senator from Alabama and the Senator from Florida are afraid may happen with this one: This advisory board was so obsessed with protecting consumers' interests that it attacked all the other NRA actions that had to do with consumers, and thereby raised consumer prices, in the opinion of General Johnson.

Now, what we have before us is an agency with far greater power than this old advisory board ever had. If it did not work then, it seems to me it is doubly, trebly, or many times more certain that it will not work now.

I thank the Senator for permitting me to speak.

Mr. RIBICOFF. Mr. President, if the Senator from Alabama will indulge me to answer the Senator from Florida, for whom I have the highest respect, the problem raised by the Senator was subject to consideration by the American Bar Association at its annual meeting just concluded last month, I believe in San Francisco. I read from the report of its section on administrative law:

> We have carefully reconsidered the desirability of giving the Consumer Protection Agency any authority at all to seek judicial review of other agencies' action. We conclude that interagency litigation over the validity of administrative action has been commonplace since the early days of the administrative process; that no new problems, either doctrinal or practical, are presented by the proposal to give the Consumer Protection Agency the right to initiate or intervene in proceedings for judicial review of other agencies' actions; and that the feasibility and desirability of inter-agency litigation should accordingly be recognized in this statutory context as well. The legal analysis supporting our conclusion is spelled out in the attached Second Interim Report of the Consumer Protection Committee of the Administration Law Section.

I ask unanimous consent, Mr. President, that this report and the second interim report of the consumer protection committee of the American Bar Association on this subject be printed in the RECORD at this point.

There being no objection, the reports were ordered to be printed in the RECORD, as follows:

AMERICAN BAR ASSOCIATION SECTION OF ADMINISTRATIVE LAW

RECOMMENDATION

The Section of Administrative Law recommends the adoption of the following resolution:

Whereas, the House of Delegates has directed the Section of Administrative Law to preserve the gains made by adoption of the Administrative Procedure Act as the law of the land; and

Whereas, the purpose of the Administrative Procedure Act, as expressed in the title thereof, is "to improve the administration of justice by prescribing fair administrative procedure"; and

Whereas, fairness requires that the interests of consumers be adequately represented by administrative proceedings which may substantially affect such interests; and

Whereas, pursuant to the action of the House of Delegates at the 1972 Midyear Meeting, the Section has reconsidered its views in light of the suggestions advanced by the Solicitor General of the United States in the course of debate on the floor of the House of Delegates;

Now therefore, be it resolved: That the Chairman of the Section is directed to cause the Congress of the United States and the appropriate Committees thereof to be notified:

(a) that the American Bar Association supports in principle the enactment of Title II of H.R. 10835, 92d. Cong., 1st Sess. ("The Consumer Protection Act of 1971"), as passed by the House of Representatives on October 14, 1971:

(b) that the ABA recommends the inclusion therein of a provision which would confirm and make explicit the authority of the new Consumer Protection Agency to institute judicial review proceedings under the Freedom of Information Act if another Federal agency invokes the exceptions in that Act so as to preclude public disclosure of information such other agency has supplied; and

(c) that the ABA opposes the inclusion therein of any provision which would, under any circumstances, make special findings by a reviewing court a prerequisite to the Consumer Protection Agency's institution of or intervention in judicial review proceedings.

REPORT

At the suggestion of the Solicitor General, we have carefully reconsidered the desirability of giving the Consumer Protection Agency any authority at all to seek judicial review of other agencies' action. We conclude that inter-agency litigation over the validity of administrative action has been commonplace since the early days of the administrative process; that no new problems, either doctrinal or practical, are presented by the proposal to give the Consumer Protection Agency the right to initiate or intervene in proceedings for judicial review of other agencies' actions; and that the feasibility and desirability of inter-agency litigation should accordingly be recognized in this statutory context as well. The legal analysis supporting our conclusion is spelled out in the attached Second Interim Report of the Consumer Protection Committee of the Administrative Law Section.

We have also considered the implications of the recent Supreme Court decision in *S & E Contractors, Inc.* v. *United States*, 40 U.S.L. Week 4410 (April 24, 1972). In that case, the Wunderlich Act (40 U.S.C. Sec. 321–22) and the standard provisions of Government procurement contracts were held to preclude refusal by the General Accounting Office to approve payment on an award rendered in a contract dispute by the contracting Federal agency, and also to preclude relitigation by the Department of Justice when the contractor sues in the Court of Claims to recover on the award.

Not only did the decision apparently respond to the unique problems faced by contractors in dealing with the Government as customer, however, the Court made it perfectly clear that even these factors were considered merely as a guide in interpreting the particular statute involved and that Congress would have been perfectly free to promulgate a different rule. We therefore conclude that the reasons for allowing the Consumer Protection Agency to seek judicial review of other agencies' decisions, as expressed in the attached Committee Report, are in no way called into question by the *S & E* case.

The Section of Administrative Law endorses in principle Title II of the "Consumer Protection Act of 1971." We believe it will materially improve the administrative process by facilitating agency consideration of important interests—those of the consumer as defined elsewhere in the bill (Sec. 304 (4)-(5)). We also applaud the bill's utilization of the scheme of the Administrative Procedure Act as the frame of reference for defining the role of the Consumer Protection Agency.

We recommend, however, that the bill explicitly provide for judicial review of administrative agency action in two situations not presently included in it.

First, we believe there should be no room for doubt that the judicial-review provisions of the Freedom of Information Act are available to the Consumer Protection Agency when another agency invokes one of that statute's exceptions, pursuant to Sec. 209(a) (2) of the bill, so as to preclude public disclosure of information supplied by the other agency.

Private persons seeking the same information from the transmitting agency could obtain review of a decision to withhold it. In a dispute over applicability of a Freedom of Information Act exception, a Consumer Protection Agency assertion that disclosure should be allowed is at least as likely to be meritorious as the position of a private person seeking disclosure. Thus, review of the transmitting agency's contrary determination should be available to the Consumer Protection Agency just as it would be to the private person. Allowing such review if fully consistent with the limited reason for allowing a transmitting agency to forbid disclosure by the Consumer Protection Agency on Freedom of Information Act grounds, i.e., to prevent the Consumer Protection Agency from serving "either purposely or inadvertently as a conduit for information which would not otherwise be made available to the public" (H.R. 95–542, 92d. Cong., 1st Sess. 26 (1971)).

Second, we believe that the Consumer Protection Agency should not be required to satisfy a reviewing court as to preliminary matters before being permitted to institute or intervene in a judicial review proceeding, whether or not the Agency was a party to the administrative proceeding below. The inclusion of such a requirement in Sec. 204 (d) of the bill, which requires findings of adverse effect and inadequate representation in cases where the Agency was not a party below, should be deleted.

The preliminary-findings requirement seems to thwart the purpose of the bill in granting the Agency *any* authority to seek review in such cases, i.e., to make it necessary for the Agency to file *pro forma* papers in administrative proceedings so as to secure its right to review in the event the final agency action is adverse to consumers. Avoiding the need to satisfy a reviewing court as to preliminary matters would be just such an undesirable incentive to *pro forma* participation or intervention.[1]

Under the bill as presently written, moreover, Sec. 204(d) reviewing-court findings would arguably be required on review of fine/penalty/forfeiture adjudications where the Agency has merely filed briefs or argued as *amicus* pursuant to Sec. 204(c). If the reviewing-court findings requirement has any significance at all, it would thus hamper Agency efforts to obtain judicial relief from administrative action in such cases where the interests of consumers have been adversely affected.

The preliminary reviewing-court findings required by Sec. 204(d), finally, relate to the "standing" of the Agency to seek judicial review. The trend in recent decisions has been to minimize the role of such barriers to review and to focus attention on the merits of the challenge to administrative action. As amended on the floor of the House, the new Act would allow the Agency to institute judicial review proceedings where it had not been a party below only "to the extent that a right of review is otherwise accorded by law" (CONGRESSIONAL RECORD, vol. 117, pt. 28, p. 36209), thus insuring that generally-applicable doctrines of ripeness and standing will govern. No more stringent criteria should apply merely because it is the Agency rather than a private person which seeks review.

Respectfully submitted,
MILTON M. CARROW, *Chairman.*
Dated: August, 1972.

CONSUMER PROTECTION COMMITTEE SECOND INTERIM REPORT—MARCH 1972

In October 1971 the Council adopted a resolution which endorsed in principle Title II of H.R. 10835 (92d Cong.), the House-passed bill to create a Consumer Protection Agency. The resolution further suggested certain amendments strengthening the authority of the proposed Agency to seek judicial review of other agencies' decisions. At the 1972 ABA Midyear Meeting, the House of Delegates referred the resolution back to the Council for further consideration, after the Solicitor General unexpectedly suggested that we had inadequately examined the extent to which one agency of the Federal Government can or should appear in court against another.

This Second Interim Report, prepared by the Chairman of the Consumer Protection Committee, spells out the understanding upon which the Committee originally recommended the resolution adopted by the Council. We adhere to our views, and recommend that the Council do likewise.

SUMMARY

Inter-agency litigation over the validity of administrative action has been commonplace since the early days of the Federal administrative process. In some instances, such litigation has been expressly authorized by statute. Elsewhere, the right to seek judicial review of other agencies' action has been asserted as inherent in the challenging agency's authority to carry out its own statutory mandate.

The nominal posture of the challenging agency may vary. Sometimes the litigation has been between co-defendants in a judicial review proceeding brought by a private party. In other cases, the challenging agency has intervened as plaintiff or petitioner in a privately-initiated review proceedings. And in some instances, the review proceeding has been initiated by the challenging agency itself.

The interests asserted by the challenging agency have in some cases been proprietary, *i.e.,* involving the Government's financial interests. In other instances the challenging agency has sought to litigate pure policy differences, such as over the proper role of competition in a regulated industry. In neither type of dispute has the multiplicity of Governmental parties appeared to create any difficulties for the courts, which indeed have welcomed the presentation of all sides in the complex and important matters frequently involved.

The agency unable to secure the services of the Department of Justice in such a conflict has readily obtained legal representation from its own General Counsel. Several major agencies are expressly authorized by statute thus to defend their own actions independently of the Justice Department, in the Supreme Court as well as in the lower courts. Where no such statute obtains, the Solicitor General has simply authorized agency lawyers to conduct the litigation on behalf of their respective "clients".

We therefore conclude (a) that no new problems, either doctrinal or practical, are presented by the proposal to give the Consumer Protection Agency the right to initiate or intervene in proceedings for judicial review of other agencies' actions, and (b) that the feasibility and desirability of interagency litigation should accordingly be recognized in the context as readily as elsewhere.

DISCUSSION

1. Present Federal law provides a clear statutory precedent for allowing the Consumer Protection Agency to seek judicial review of other agencies' decisions. Section 201 of the Agricultural Adjustment Act of 1938 (52 Stat. 36, 7 U.S.C. § 1291) authorizes the Secretary of Agriculture not merely "to make complaint to the Interstate Commerce Commission with respect to rates, charges, tariffs, and practices relating to the transportation of farm products, and to prosecute the same before the Commission" (§ 201(a), 7 U.S.C. § 1291(a)), but also "to invoke and pursue original and appellate judicial proceedings involving the Commission's determination" (§ 201(b), 7 U.S.C. § 1291(b)). The provision was apparently intended as a vehicle for relieving farmers of exorbitant and discriminatory freight rates, which were thought by many members of Congress to be a significant cause of the economic depression then afflicting African agriculture (see generally the debates on the Act in 82 Cong. Rec.)

Section 201 may have been inspired by a provision in earlier legislation setting up what became the Bituminous Coal Consumers' Counsel (see 82 Cong. Rec. 1199 (remarks of Rep Mapes)). The original Bituminous Coal Conservation Act of 1935 (49 Stat. 991) had authorized the National Bituminous Coal Commission to participate in administrative proceedings before the ICC relating to the transportation of coal, although unlike the Agricultural Adjustment Act the coal statute was silent as to subsequent judicial review (§ 18, 49 Stat. 1007). This right of participation before the ICC had been extended by the Bituminous Coal Act of 1937 (50 Stat. 72) to the Coal Commission's office of consumer's counsel (§ 16, 50 Stat. 90), which had been created by the 1935 legislation to represent the consuming public in proceedings before the Coal Commission.[1]

Pursuant to the judicial review authorization in Section 201(b), the Secretary of Agriculture has repeatedly attacked a wide variety of ICC orders viewed as contrary to the interests of farmers. Typical cases include *Benson* v. *United States,* 281 F. 2d 34 (D.C. Cir. 1960) (Secretary filed suit to review ICC order denying reparations to cotton shippers, and took appeal from adverse district court decision); *Sec'y of Agriculture* v. *United States,* 350 U.S. 162 (1956) (Secretary intervened as plaintiff in suit to review ICC order approving exoneration-from-liability provisions in rail tariffs, and took appeal from adverse district court decision); *Sec'y of Agriculture* v. *United States,* 347 U.S. 645 (1954) (Secretary intervened as plaintiff, "acting on behalf of the affected agricultural interests" (347 U.S. at 647), in suit to review ICC order approving railroad charges for unloading, and took appeal from adverse district court decision); *East Texas Motor Freight Lines, Inc.* v. *Frozen Food Express,* 351 U.S. 49 (1956) (Secretary intervened as plaintiff in suit to review ICC order enjoining uncertificated carriage of allegedly nonexempt agricultural products, and defended favorable decision on appeal); *ICC* v. *Inland Waterways Corp.,* 319 U.S. 671 (1943) (Secretary intervened as plaintiff in suit to review ICC order setting rail rates for grain and defended favorable district court decision on appeal); *McLean Trucking Co.* v. *United States,* 321 U.S. 67 (1944) (relying on § 201, Secretary intervened as plaintiff in suit to review ICC order approving motor carrier merger, and took appeal from adverse district court decision).

Each of the foregoing cases, like many others in which the Secretary challenged ICC action, involved not only the Secretary and the ICC as parties, but also the United States as the statutory defendant (28 U.S.C. § 2322), represented by the Department of Justice (28 U.S.C. § 2323), in suits to review ICC orders.[2] In some instances, the Justice Department sided with the Secretary against the ICC (*East Texas Motor, supra; Sec'y of Agriculture* v. *United States,* 350 U.S. 162, *supra*). In others, the Justice Department took no position (*Sec'y of Agriculture* v. *United States,* 347 U.S. 645, *supra; ICC* v. *Inland Waterways Corp., supra*). Where the Justice Department has declined to support the Secretary, the latter has usually been represented by the General Counsel of his own Department.[3]

Another statute authorizing judicial review of agency action at the instance of another government agency is the Bank Merger Act of 1966 (80 Stat. 7, 12 U.S.C. § 1828(c)), which authorizes antitrust suits against bank mergers approved by the Comptroller of the Currency, the Federal Reserve Board, or the Federal Deposit Insurance Corporation. Although such suits technically arise under the antitrust laws, the Supreme Court has indicated that they are in the nature of judicial review proceedings (*United States* v. *First City National Bank,* 386 U.S. 361, 366–67 (1967)) indeed, under the terms of the statute. The function of the court in such suits is to "review de novo the issues presented" in the prior administrative proceedings (12 U.S.C. § 1828(c)(7)(A)), and the agency which granted approval is authorized to intervene as a defendant in support of its order (12 U.S.C. § 1828(c)(7)(D)).

Numerous proceedings have been initiated under this statute by the Justice Department in the name of the United States. In each instance the banking agency involved has vigorously opposed the Justice Department both at trial and on appeal to the Supreme Court. Examples include *United States* v. *First City National Bank, supra* (Justice Department filed suit and took appeal from adverse district court decision, which was defended by Comptroller of the Currency); *United States* v. *Phillipsburg National Bank & Trust Co.*, 399 U.S. 350 (1970) (same); *United States* v. *First National Bancorporation, Inc.*, 329 F. Supp. 1003 (D. Colo. 1971), *prob. juris. noted*, 40 U.S. L. Week 3398 (1972) (same).

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[1] The provision in Sec. 204(d) requiring the Agency in some situations to move for reconsideration at the administrative level before seeking review does not, in our view, jeopardize its right to seek review when it was not a party below. It is our understanding that all agencies would be required to entertain such reconsideration motions notwithstanding that the Agency was not previously a party. Otherwise, we would oppose the reconsideration requirement on the ground stated in text above.

Footnotes at end of article.

2. While the Agricultural Adjustment Act was the first statute expressly to authorize the initiation of judicial review proceedings by one federal agency against another, litigation between agencies over the validity of orders entered by one of them has been authorized by statute ever since 1911 in a procedural context differing only in form. The Urgent Deficiencies Act (28 U.S.C. § 2321–25) provides, *inter alia*, that all actions to review orders of the ICC shall be brought "by or against the United States" (28 U.S.C. § 2322),[4] which shall be represented by the Justice Department (28 U.S.C. § 2323).[5] The ICC is authorized, however, to appear as a party in such a judicial review proceeding (ibid.), and to defend its order "unaffected by the action or nonaction of the Attorney General therein" (*ibid.*). Over the years similar provisions have been enacted to govern proceedings for review of certain orders entered by the Atomic Energy Commission, the Federal Communications Commission, the Federal Maritime Commission, the Maritime Administration, and the Secretary of Agriculture (28 U.S.C. §§ 2344, 2348).[6]

The Justice Department has consistently maintained that, in this as in all types of Government litigation, its duty differs from that of counsel for a private litigant in that if the Department is persuaded of the invalidity of the agency order in question its public responsibility requires it to so advise the court.[7] Such a course has frequently been taken at least since *Pennsylvania R. Co.* v. *ICC*, 235 U.S. 708 (1914) (Justice Department supported ICC below but took a neutral position in the Supreme Court) and *Assigned Car Cases*, 274 U.S. 564 (1927) (Justice Department opposed ICC throughout the litigation).

The result has been vigorous litigation between the Justice Department and the agencies subject to this procedure, on matters as varied as railroad mergers (*Baltimore & O. R. Co.* v. *United States*, 386 U.S. 372 (1967)); rate competition between railroads and coastwise water carriers (*ICC* v. *New York, N.H. & H.R. Co.*, 372 U.S. 744 (1963));[8] harmonization of the Administrative Procedure Act with procedural provisions of the Interstate Commerce Act (*Pan-Atlantic Corp.* v. *Atlantic Coast Line R. Co.*, 353 U.S. 436 (1957)); exclusive-dealing discounts in ocean freight rates (*FMB* v. *Isbrandtsen Co.*, 356 U.S. 481 (1958)); applicability of the APA prohibition against *ex parte* contracts in certain FCC rule making proceedings (*Sangamon Valley Television Corp.* v. *United States*, 269 F. 2d 221 (D.C. Cir. 1959)); and segregation in railroad dining cars (*Henderson* v. *United States*, 339 U.S. 816 (1950)). In virtually each instance[9] the agency has been represented by its General Counsel or a member of his staff, and the court has resolved the intra-Governmental dispute as readily as one between private parties.

The concept of litigation between agencies which nominally are codefendants has met with no disfavor in the courts. To the contrary, one court has expressly stated (*Consolidated Truck Service, Inc.* v. *United States*, 144 F. Supp. 814, 820 (D.N.J. 1956)) that:

"We can perceive no reason why a Department or a Cabinet Officer, charged with duties of decision by Congress may not express views in accordance with judgment and conscience. The writ of Mark, iii, 25 does not run in this case." [10]

Before Congress, the Justice Department has steadily urged the preservation of its right to litigate against other agencies in judicial review proceedings, despite agency allegations that the procedure is "embarrassing" or otherwise unseemly. As recently as 1970, Deputy Attorney General Kleindeinst wrote (*Hearings on Judicial Review of Decisions of the ICC Before the Subcommittee on Improvements in Judicial Machinery of the Senate Judiciary Committee*, 91st Cong., 2d Sess. 8–9):

"Still applicable is the following objection to legislation to remove the United States and the Attorney General from suits to set aside Commission orders expressed by the then Deputy Attorney General William P. Rogers in an April 11, 1955 letter to the Director of the Bureau of the Budget:

"'* * * The overall legislative plan now is and should be to create a check and balance between the Commission and the Attorney General in such fashion as to give double protection to the people of the United States.'"

The Justice Department's testimony in the cited hearings explicitly recognized the particularly important role of "double protection" when the representation of consumer interests is involved (*id.* at 12):

"Mr. COMEGYS (Deputy Ass't Att'y Gen., Antitrust Division). * * * Transportation affects the economy. It also affects the consumer. There is no independent consumer counsel within the Interstate Commerce Commission. Therefore, it is important that the United States bring an independent view to bear on the conduct of this litigation at all levels."

3. Even in the absence of explicit statutory authorization, numerous federal agencies (sometimes represented by the Justice Department and sometimes not) have sought judicial review of other agencies' decisions. Their right to do so has regularly been asserted by the Justice Department, and been confirmed by the Supreme Court.

The seminal case is *United States* v. *ICC*, 337 U.S. 426 (1949). The Department of the Army (represented by the Justice Department) had sought reparations from certain railroads, alleging discrimination vis-a-vis other shippers. The district court had dismissed the Army Department's appeal from an adverse ICC decision, on the ground that the United States (in whose name the proceeding was being conducted) was statutorily required to be named as defendant in the review action and that a suit by the United States against itself could not be maintained. The Supreme Court reversed, holding that "courts must look behind names that symbolize the parties to determine whether a justiciable case or controversy is presented" (337 U.S. at 430).

The inherent right of Government agencies to protect the proprietary interests of the United States by seeking judicial review of other agencies' decisions had previously been recognized in *United States* v. *Public Utilities Commission*, 151 F. 2d 609 (D.C. Cir. 1945), where the Justice Department filed suit in the name of the United States to review an electric power rate order of the District of Columbia PUC. Subsequent instances include *United States* v. *ICC*, 352 U.S. 158 (1956) (controversy similar to that in *United States* v. *ICC*, 337 U.S. 426, *supra*); *Western Air Lines, Inc.* v. *CAB*, 347 U.S. 67 (1954), and *Delta Air Lines, Inc.* v. *Summerfield*, 347 U.S. 74 (1954) (Postmaster General, represented by Justice Department, petitioned for review of CAB orders setting mail pay rates); *Secretary of the Army* v. *FPC*, F. 2d 496 (D.C. Cir. 1969) (Secretary, represented by Justice Department, petitioned for review of FPC order disclaiming regulatory jurisdiction over natural gas sales to military post); *American Trucking Associations, Inc.* v. *FCC*, 377 F. 2d (D.C. Cir. 1966), *cert. denied*, 388 U.S. 943 (1967) (Administrator of General Services, acting in name of United States but represented by GSA lawyers, petitioned to review FCC order approving radio common carrier rates.[11]

4. In *Far East Conference* v. *United States*, 342 U.S. 570 (1952), the Supreme Court ruled that a Justice Department petition to review a Federal Maritime Board order on antitrust grounds would be justified by the position of the United States as a shipper of ocean freight. Even where no proprietary interests are involved, however, but only differences in policy, the Justice Department has relied upon the proprietary cases as establishing a right to seek judicial review.

Thus, when the Justice Department filed suit in the name of the United States to review on antitrust grounds the ICC order approving the Great Northern/Northern Pacific railroad merger, it asserted that "the government's right to maintain this action, even though it is in form of a suit by the United States against the United States, is clearly established by *United States* v. *Interstate Commerce Commission*, 337 U.S. 426, 430–32" (Brief for the United States, p. 85, *United States* v. *United States*, 296 F. Supp. 853 (D.D.C. 1968), *aff'd*, 396 U.S. 491 (1970)). Similarly, the Justice Department has cited *United States* v. *ICC* as well as confession-of-error cases as showing that intra-Governmental litigation on policy matters "in fact, of course * * * is far from unique" (Reply Brief for Appellant United States of America, p. 6, *Pacific Far East Line, Inc.* v. *FMB*, 275 F.2d 184 (D.C. Cir.), *cert. denied*, 363 U.S. 827 (1960) (Justice Department, in the name of the United States, intervened as plaintiff in suit to review FMB order on antitrust grounds).

The principal rationale invoked by the Justice Department to justify challenges in court by one agency to the decisions of another has been, however, that "government agencies have standing to protect the interests committed to their jurisdiction by participating in administrative proceedings or challenging administrative action even without express statutory authority for those specific acts" (Mem. in Support of Motion for Stay, p. 31, *United States* v. *FCC*, No. 21147, D.C. Cir., *dismissed as moot*, Jan. 23, 1968) (Justice Department took appeal in name of United States from FCC order approving transfer of ABC's broadcast stations to ITT as part of ITT/ABC merger). In that case, as in its suit to review the ICC order, approving the Great Northern/Northern Pacific railroad merger, the Justice Department relied upon "the authority of the Attorney General to protect the interests of the public in competition * * * as an independent basis for suit" (*ibid.*; Brief for the United States, p. 85, *United States* v. *United States*, 296 F. Supp. 853 (D.D.C. 1968), *aff'd*, 396 U.S. 491 (1970)).[12] Substantially the same argument had been advanced twenty-five years earlier, specifically as to a Consumers' Counsel, in *Associated Industries of N.Y. State, Inc.* v. *Ickes*, 134 F. 2d 694 (2d Cir.), *vacated as moot*, 320 U.S. 707 (1943).

In *Associated Industries*, the Government urged that individual consumers of coal had no standing to seek review of an order of the Interior Department's Bituminous Coal Division (successor to the National Bituminous Coal Commission, see note 1 *supra*) setting minimum prices for coal. The argument was (a) that if the Coal Consumers' Counsel had standing to assert consumer interests on review, his standing must be exclusive so as to protect his authority to forego judicial review on behalf of consumers, and (b) that the Consumers' Counsel did have standing, even though the statute nowhere so provided, because "being designated by § 2(b) [of the Coal Act] to represent the Consumers' interest in 'any proceeding before the [Coal] Commission,' he is necessarily, by clear implication, * * * a

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Footnotes at end of article.

'person aggrieved', for purposes of court review within the meaning of [the Act's general judicial review provisions]" (134 F. 2d at 708) (Frank, J.)[13]

The Second Circuit rejected the Government's claim of exclusivity, on the ground that "anyone possessing or representing a consumer's interest, is a 'person aggrieved', and accordingly, if he is a party to the Commission proceedings, entitled to seek court review" (*id.* at 709). There was no hint of disagreement with the Government's reliance on the same theory to show that, despite the lack of explicit statutory authorization for the Consumers' Counsel to pursue the interests of consumers beyond the administrative level, he was nevertheless empowered to seek judicial review.

The *Associated Industries* opinion was subsequently cited by its author in *Isbrandtsen Co.* v. *United States,* 96 F. Supp. 883 (S.D.N.Y. 1951) (3-judge court), *aff'd by an equally divided court,* 342 U.S. 950 (1952), as authority for the Secretary of Agriculture to intervene as plaintiff in a suit to review a Federal Maritime Board decision even though no statute explicitly so provided. In conjunction the court cited Section 203(j) of the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended, 7 U.S.C. § 1622 (j)), which authorizes the Secretary to "assist in * * * obtaining equitable and reasonable transportation rates and services and adequate transportation facilities for agricultural products and farm supplies by making complaint or petition to the Interstate Commerce Commission, the Maritime Commission, the Civil Aeronautcs Board, or other Federal or Sate transportaton regulatory body * * *". Unlike the Agricultural Adjustment Act of 1938, however, the 1946 statute makes no provision for judicial review at the instance of the Secretary.

It is therefore clear, we think, that the inherent-power rationale for allowing one agency to seek judicial review of another's decisions was accepted by the court in *Isbrandtsen*. And Judge Frank's reference to his prior *Associated Industries* opinion is further evidence that the Second Circuit in the latter case has entertained a similar view.

In *United States ex. rel. Chapman* v. *FPC,* 345 U.S. 153 (1953), the Supreme Court explicitly upheld the right of the Secretary of the Interior to petition for review of an FPC order granting a hydroelectric plant construction license even though no statute so provided. While declining to state its reasons, the Court indicated no disagreement with the inherent-power test which had been applied by the court below, *i.e.,* whether the challenging agency is "able to point to some special interest for which he is charged with responsibility that may be adversely affected by the decision attacked" (191 F. 2d 796, 800 (4th Cir. 1951)).[14]

In numerous other instances, both before and after that decision, the Supreme Court has similarly entertained challenges to agency orders initiated in the lower courts by other agencies despite the lack of an express enabling statute. Examples include *Vinson* v. *Washington Gas Light Co.,* 321 U.S. 489 (1944) (OPA filed suit to review D.C. Public Utilities Commission rate order); *ICC* v. *City of Jersey City,* 322 U.S. 503 (1944) (OPA intervened as plaintiff in suit to review ICC rail passenger fare order); *North Carolina* v. *United States,* 325 U.S. 507 (1945) (same); *FMB* v. *Isbrandtsen Co.,* 356 U.S. 481 (1958) (Secretary of Agriculture intervened as petitioner in proceeding for review of FMB order); *Udall* v. *FPC,* 387 U.S. 428 (1967) (Secretary of Interior petitioned to review FPC order granting hydroelectric plant construction license).

5. A remaining issue, and one possibly troubling the Solicitor General, may be the extent to which the Consumer Protection Agency should be free to litigate outside the Justice Department's control. The issue has occasionally arisen as to proposed legislation affecting other agencies, with the Justice Department usually insisting that its role as lawyer for the Government should be exclusive. But Congress has frequently declared otherwise, as the foregoing text demonstrates.[15] Even where no statute explicitly so authorizes, moreover, a number of agencies (*e.g.,* the FCC, the FTC, the SEC) conduct their own court of appeals litigation through their own lawyers despite the general provisions of 28 U.S.C. §§ 516 and 518 reserving the conduct and supervision of litigation to the Justice Department. See *FTC* v. *Dean Foods Co.,* 384 U.S. 597 (1966), where the Supreme Court endorsed this practice as proper. And in the Supreme Court the Solicitor General has frequently authorized agencies to litigate through their own lawyers when he determines not to support them. For examples, in addition to many of the cases cited herein, see *Purolator Prods., Inc.* v. *FTC,* 389 U.S. 1045 (1968); *Standard Oil Co.* v. *FTC,* 340 U.S. 231 (1951).

CONCLUSION

Against this history of inter-agency judicial review litigation, it would be difficult to argue that fundamental principles are infringed by the proposal explicitly to authorize the Consumer Protection Agency to seek judicial review of other agencies' decisions. To the contrary, it is probable that the courts would recognize the standing of the Agency to seek review even in the absence of statutory provision therefor.

The Consumer Protection Agency proposal is in substance identical, moreover, to the existing provision for review of ICC orders at the instance of the Secretary of Agriculture. That procedure has apparently worked well to protect the interests of farmers for almost 35 years. We perceive no reason why the use of a similar procedure to protect the interests of consumers would not be equally workable.

Nor would any problem in fact arise in determining the proper role of the Justice Department in such interagency review litigation. As in the cases cited herein, an agency which the Justice Department is unwilling to support can readily be authorized to litigate through its own lawyers. This procedure has worked well in the past, and there is no reason to suppose it would not work here.

The desirability of this practice where agencies are in dispute was spelled out by a former Acting Solicitor General in *Stern, "Inconsistency" in Government Litigation,* 64 *Harv. L. Rev.* 759, 768–69 (1951). It was noted that "even where the ultimate authority over litigation policy rests in the Attorney General and Solicitor General, the most orderly course may not be the best course. Many of the administrative agencies are important policy-making bodies. Not even the President has authority to tell them how to decide particular cases. They are not subject to the supervisory authority of the Department of Justice. "In such cases, determination by the judiciary is often more satisfactory than an effort by the Department of Justice to force its own views on the disagreeing agency, by refusing to present the agency's position to the courts. The Attorney General has no authority to give binding legal advice to the independent agencies. Only the judiciary has authority to give the conclusive answer to the question in dispute."

We believe this view is sound. We believe it applies to the proposed Consumer Protection Agency as well as to the agencies before which the new Agency would appear, just as it was in fact applied to officers such as the Secretary of Agriculture, the Secretary of the Interior, or the Director of Economic Stabilization in the cases cited herein. As a recent study concluded (Note, *Government Litigation in the Supreme Court: The Roles of the Solicitor General,* 78 *Yale L. J.* 1442, 1466 (1969)):

"The fact that * * * policy disagreements involve intra-government conflict should not alter the appropriateness of the court's assuming the responsibility for resolution. * * *

"Where an issue has reached the court, the presentation of the conflict within the Executive, and certainly between the Executive and the regulatory commissions, may encourage more informed decisionmaking by the court."

FOOTNOTES

[1] In 1941 the Bituminous Coal Consumers' Counsel was established as an independent agency in the Executive Branch to carry on the work of the former office of consumers' counsel in the Coal Commission (55 Stat. 134), which was then being performed by a Division in the Office of the Solicitor of the Interior Department pursuant to Executive Reorganization Plan No. II of 1939 (53 Stat. 1431). Participation in ICC proceedings was thus among the functions of the Coal Consumers' Counsel and his predecessors from 1935 until the expiration of the Bituminous Coal Act in 1943 (57 Stat. 84).

[2] The statute speaks of the Attorney General. In the Supreme Court, however, the United States is represented by the Solicitor General (28 C.F.R. § 0.20(a)). References hereafter to the Justice Department should therefore be read to include not merely the Attorney General and his subordinates but also the Solicitor General insofar as Supreme Court proceedings are involved.

[3] In *McLean Trucking, supra,* the Attorney General sided with the Secretary in the district court and formally took no position in the Supreme Court. Lawyers supplied by the Antitrust Division were among those representing the Secretary on appeal, although the complaint filed by the Secretary as plaintiff in the district court had been signed only by the Acting Solicitor of the Department of Agriculture.

[4] The reference to actions "by" the United States may have been intended to cover actions to *enforce* ICC orders, which are provided for in the same section as review actions (28 U.S.C. § 2321).

[5] See note 2 *supra.*

[6] The procedure has also been made applicable to judicial review of certain orders of the Secretary of the Interior (50 U.S.C. § 167h(b)).

[7] *E.g.,* Reply Brief for the United States, p. 1, *Maintenance of Way Employees* v. *United States,* 221 F. Supp. 19 (E.D. Mich.) *aff'd.* 375 U.S. 216 (1963).

[8] In this case the Attorney General took an appeal from a district court decision overturning an ICC order but reserved the right to part company with the Commission, and ultimately argued that the ICC order was erroneous.

[9] See note 3 *supra* as to the unusual situation in *McLean Trucking Co.* v. *United States,* 321 U.S. 67 (1944).

[10] The cited verse reads, "And if a house be divided against itself, that house cannot stand" (King James).

[11] The United States was also named a respondent in the review petition, as required by statute (see p. 8 *supra*).

[12] See also Brief for Appellant United States of America, pp. 12–13, *Pacific Far East, Inc.* v. *FMB, supra* ("* * * intervention [by the United States as a plaintiff in suit to review FMB order] was deemed necessary in order to permit the United States to protect its 'interest' in assuring that fullest consideration be given to these basic competitive factors").

[13] The Attorney General had previously given a formal opinion to the Secretary of the Interior that the question whether the Consumers' Council had standing to seek review "can be finally determined only by the

courts" and that, if called upon to appear in a review proceeding initiated by the Consumers' Council, "it would be my purpose not to oppose the position of the Consumers' Counsel but only to collaborate in the full and free presentation of the issues to the court for its assistance in resolving any doubts that might be suggested concerning the right of the Consumers' Counsel to the relief sought" (Letter dated Feb. 3, 1938, from Att'y Gen. Cummings to the Secretary of the Interior, in *Hearings on Interior Department Appropriation Bill for 1939 Before the Subcommittee of the House Appropriations Committee,* 75th Cong., 3d Sess., Pt. I, at 78 (1938)).

[14] The same test was applied by the D.C. Circuit in holding that the Civil Aeronautics Administration, the prosecutor in pilot license revocation proceedings before the Civil Aeronautics Board, could not seek judicial review of Board decisions favorable to the pilots (*Lee* v. *CAB,* 225 F.2d 950 (D.C. Cir. 1955) ("When one government agency has been found to have standing to seek review of another government agency's action, the two agencies have had different interests * * *. We have found no case in which agency action has been reviewed on the application of an official whose function is to prosecute claims in and for the same agency.")

[15] See also § 4(a) of the National Labor Relations Act, 49 Stat, 451, as amended, 29 U.S.C. § 154(a) ("Attorneys appointed under this section may, at the direction of the [National Labor Relations] Board, appear for and represent the Board in any case in court"); § 20(c) of the Natural Gas Act, 52 Stat. 832, 15 U.S.C. § 717s ("The [Federal Power] Commission may employ such attorneys as it finds necessary * * * to appear for or represent the Commission in any case in court); § 213(c) of the Federal Power Act, 49 Stat. 861, 16 U.S.C. § 825m(c) (same).

Mr. RIBICOFF. The committee concluded that:

> No new problems either doctrinal or practical, are presented by the proposal to give the Consumer Protection Agency the right to initiate or intervene in proceedings for judicial review of other agencies' actions, and (b) that the feasibility and desirability of inter-agency litigation should accordingly be recognized in this context as readily as elsewhere.

So, while I recognize there is a difference of philosophy and opinion as to whether this should or should not be done, we do have precedents for it, and we do have two groups which have given this matter much more exhaustive study than any of us, who have indicated that the proposal is proper and should be recommended.

Mr. GURNEY. Mr. President, will the distinguished Senator from Alabama yield for a unanimous-consent request?

Mr. ALLEN. I yield.

Mr. GURNEY. Mr. President. I ask unanimous consent that two staff members, Peter Chambless and George Beal, be permitted to be on the floor during the debate on the consumer protection bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I commend the distinguished senior Senator from Florida (Mr. GURNEY) for his comments and colloquy and the contributions he has made in pointing out the dangers inherent in this legislation. I want to commend him also on the hard work that he did in the Committee on Government Operations over a period of months, in seeking to make this bill less objectionable, and remove some of the bugs from the legislation, in order that the committee might send to the floor a bill that he could support and that the Senator from Alabama could support in this area. Certainly I want to commend highly the distinguished senior Senator from Connecticut (Mr. RIBICOFF) for his dedication to this concept of a Consumer Protection Agency and the many hours, weeks, and months that he has put in working toward getting legislation passed that would set up a Consumer Protection Agency.

Simply because the Senator from Alabama does not agree with the distinguished Senator from Connecticut does not lessen my admiration for the distinguished Senator from Connecticut (Mr. RIBICOFF) who is so effective in this field and in so many other fields of legislation. The Senator from Alabama greatly admires and respects the distinguished Senator from Connecticut.

I continue with my remarks in connection with the pending amicus amendment.

Such an approach—that is, the giving of the CPA the right to file written comments with respect to all data, views, and arguments presented before the agency—is consistent with treating CPA as an integral part of the Government rather than as an opponent of the Government, which the distinguished Senator from Florida pointed out is embraced in the concept of the proposed legislation. But it is also consistent with the goal of giving the CPA the most powerful and effective advocacy that would be appropriate.

AVOIDING PROBLEMS IN ADJUDICATIONS

The remaining area of Federal agency process covered by the bill, adjudication—which includes licensing—accounts for far fewer proceedings than does rulemaking.

The point is that, actually, there would be a greater field of operation for the CPA under the amicus concept than under the bill pending before the Senate.

The remaining area of Federal agency process covered by the bill, adjudication—which includes licensing—accounts for far fewer proceedings than does rulemaking.

This is because rulemaking is essentially quasilegislative and of general applicability. Adjudication is essentially quasijudicial and of specific applicability—often applicable only to one person or company.

It is in formal adjudications on the record, a very limited area considering the scope of Federal agency process, that the term "intervene as a party" is appropriate for adversary advocates; in rulemaking, the term "participate" is used more often, and you will note that the present bill so segregates these terms.

Under the present section 203 of the bill, the CPA would be given the right to assign itself whichever advocacy status it felt appropriate, from full party opponent down to filing a written comment, and to make use of the forum agency's discovery process—subpoenas, and so forth—no matter what status the CPA chose for itself.

This would vary considerably existing law under which the forum agency has discretion to exclude entrants as well as to assign them whatever status deemed appropriate under the relevant law.

As Senator ERVIN stated so well in the committee report:

> This represents a vast amount of unprecedented discretion, similar to a football fan having the discretionary right to come off the sidelines, whenever he sees the need, and order the quarterback to allow him to play at any of the positions the interloper sees fit to play. All this, of course, in the praiseworthy interest of winning the game. Certainly, that is a most appropriate analogy.

It is in relation to adjudications that most Federal agencies objected or expressed reservations to the bill's advocacy powers. See, for example, the letters from the Federal Trade Commission, Justice Department, Food, and Drug Administration, Comptroller of the Currency, Federal Home Loan Bank Board, Federal Mediation and Conciliation Service, National Labor Relations Board and Pay Board which I have inserted in the RECORD from time to time.

Mr. President, in order to conserve time, I ask unanimous consent to have printed at this point in the RECORD the text of my minority views with respect to the bill, as contained in committee report 92–1100, starting on page 99 and continuing through to page 116.

There being no objection, the minority views were ordered to be printed in the RECORD, as follows:

THE AMICUS AMENDMENTS

An amendment was offered in Committee that was not only consistent with the Democratic plank, but, in my opinion, would have resolved the major problems contained in the bill. The amendment was defeated in Committee, but it should be given serious attention on the floor.

It was called the "Amicus" amendment by some, because it would have attempted to grant the Consumer Protection Agency a type of advocacy based on the positive powers enjoyed by an amicus curiae ("friend of the court") when he appears before a court.

A less powerful version of this amendment was offered during the debate on the House-passed Consumer Protection Agency bill, H.R. 10835. At that time, Congressman Benjamin Rosenthal of New York, a supporter of a House amendment which would have made their bill more like the one reported here, stated that the weaker House version of an Amicus Amendment was more desirable for consumers than the bill that passed that chamber.[1]

Mr. Rosenthal, of course, preferred his amendment which was actively supported by Mr. Ralph Nader, but ranked the Amicus Amendment as second best. Both Mr. Rosenthal's and the Amicus Amendment failed in the House. But it would appear that Mr. Rosenthal, an acknowledged advocate for consumer causes, considered even the weaker House version of an Amicus Amendment as on a middle ground between the House-passed bill and the bill reported by the Senate Government Operations Committee.

The Senate Amicus Amendment would allow the Consumer Protection Agency to participate in any of the deliberations subject to advocacy under the reported bill, those of administrative agencies and courts at Federal, State and local levels.

In these deliberations, however, the amendment provides the Consumer Protection

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[1] See CONGRESSIONAL RECORD, vol. 117, pt. 128, pp. 36197–36198.

Agency with a status consistent with that of a Federal agency, not that of a party opponent.

The Consumer Protection Agency, under the Amicus Amendment, would act as a Congressional delegate to forcefully assist—not oppose—current agencies in giving the interests of consumers appropriate consideration, and to identify areas in need of restructuring or additional consumer advocacy power.

The Amicus Amendment provides that the Consumer Protection Agency would, first be allowed to comment in writing or orally in any Federal proceeding or activity of its choice. It would do this, however, in much the same manner as an amicus curiae, instructing the agency or court on the appropriate law and advocating a position favorable to the interests of consumers.

Secondly, administrative forums, prior to taking action resulting from a deliberation in which the Consumer Protection Agency appeared, must give the consumer agents an opportunity to review and comment upon all submitted data, views and arguments upon which the forum agency will make a decision.

Thirdly, if the forum agency still proposed to take final action that in the opinion of the consumer agents was inconsistent with the interests of consumers, the Consumer Protection Agency would have an unchallengeable right to invoke that forum's provisions providing for an administrative rehearing or reconsideration.

Thus, the Amicus Amendment attempts to perfect the administrative process, rather than subvert it in the Judicial Branch, forcing Federal judges to make public policy.

We envision that the Consumer Protection Agency will return to Congress shortly with recommendations for increasing its powers in areas needing stronger advocacy. It is at that point that Congress will be able to ascertain what specific agencies, if any, should be subjected to different forms of advocacy.

SURVEY OF AFFECTED AGENCIES

In the months that the Subcommittee and Committee have been considering the technicalities of this bill, I have asked selected major Federal agencies to list for me those of their proceedings or activities that would be subject to Consumer Protection Agency intrusion under this bill.

The response was shocking. I have introduced into the Congressional Record copies of some of these answers, many of which go beyond my request for a list of proceedings and point out the severe dangers of this bill.

To illustrate with just a few examples, a legal opinion from the Justice Department stated that the powers "pose a threat that the orderly and effective dispatch of the public business in the public interest might be significantly disrupted."

The Federal Mediation and Conciliation Service expressed the fear that federally administered collective bargaining could be severely hampered.

The Comptroller of the Currency expressed serious concern over the fact that consumer protection agents would have access to sensitive data developed in bank examinations. The Tennessee Valley Authority advised that intervention in its Board's activities would be contrary to the public interest; and, the Federal Trade Commission thought that the proposed intervention in its adjudications would be inappropriate.

The list could go on. In the responses received from 36 Federal agencies that were reprinted in the Congressional Record, there are described in detail 1,308 proceedings and activities subject to intrusion under the bill, and thousands more described generally by such comments as "everything we do." Over the recent recess I have received more responses describing hundreds of additional Federal actions that will be affected by the bill, and even these show just the iceberg tip. In short, under the bill, the potential for administrative mischief is limitless.

One need only read a few of these responses to realize the overwhelming lack of knowledge that exists concerning the impact of this bill on the administration of our laws. The letter from the Department of Agriculture, alone, lists hundreds of agricultural proceedings and activities which are little known to many, but nonetheless subject to disruption under the bill at the discretionary whim of the Consumer Protection Agency.

For those who have not read any of the responses from Federal agencies, I shall append a relatively short one received from the Environmental Protection Agency.

You will note that the EPA response is based upon a reading of a June 20 print of this bill, as were most responses. Let me hasten to point out—as a reading of this response in conjunction with the reported bill will demonstrate—that none of the subsequent changes made in Committee affect the unchallengeable discretion of the Consumer Protection Agency to intrude into the described proceedings.

For example, most, if not all, of the described EPA activities could and do have the effect of increasing the prices consumers pay in the marketplace for countless goods and services. This is a substantial concern of consumers, and the bill provides the Consumer Protection Agency with unchallengeable discretion to intrude in such proceedings and take the EPA to court, if it wishes, to protect that interest. The EPA, of course, will be one of the Federal agencies required by this bill to change its rules of practice to allow for intrusion by consumer protection agents.

THREAT TO FREE COLLECTIVE BARGAINING

The EPA is a Federal agency that is often in the public spotlight, and, therefore, it is no surprise to many that its important activities have a substantial effect on the interests of consumers in the areas of purity, quality, healthfulness and safety of products bought in the marketplace, not to mention the cost and availability of such products.

But there are many Federal agencies that perform equally important functions in relative obscurity. We have no idea how many of these agencies exist, but my survey has disclosed a few of them, including the Federal Mediation and Conciliation Service (FMCS).

The FMCS is active in Federally-mediated collective bargaining situations between management and labor. It prefers to perform its vital functions without fanfare, because it is such fanfare that makes its negotiation efforts difficult.

One need only be reminded of the recent dock strikes as well as past and pending attempts to further unionize the lettuce growing portion of the agriculture community to realize the major impact collective bargaining negotiations have upon the interests of consumers.

Vital issues of tremendous concern to the economy of the country and safety and comfort of its public often are resolved in such negotiations. Management may say that a second or third man in the train cab is wasteful featherbedding and should not be allowed in the interests of keeping passenger costs down; labor will say that the extra personnel represent a safety factor, protecting passengers.

The atmosphere in these negotiations is often tense, and could become further charged, if not completely disrupted, by the entrance of a third negotiator such as the Consumer Protection Agency.

For those who are not familiar with the intricacies of this complicated bill, here is how the Consumer Protection Agency will be able to intrude into collective bargaining activities of the FMCS:

1. The FMCS, obviously, is a Federal Agency. See section 401(a) of the bill.
2. The collective bargaining activities of the FMCS, being part of its authorized responsibilities, therefore are "agency activities" under the bill. See section 401(4).
3. The Consumer Protection Agency makes a discretionary determination that the result of the collective bargaining activities of the FCMS "may substantially affect the interests of consumers." See section 203(b).
4. It bases this determination on a discretionary finding that consumers have substantial concerns in relation to the costs they have to bear in the marketplace for goods and services and for preservation of consumer choice and a competitive market, all of which "may" be affected substantially by the outcome of the collective bargaining. See sections 401(11), 203(b).
5. The FMCS or labor and management officials cannot challenge the Consumer Protection Agency's determinations, findings or right to enter into the negotiations. See section 210(e)(1).
6. After having used its unchallengeable power to intrude, the CPA must, if it asks for it, be given "an opportunity equal to that of any person outside the agency (FCMS) to participate in such activity." See section 203(b)(2).
7. No one can challenge this right to participate equally with representatives of labor and management. See section 210(e)(1).

It should be noted that the same Consumer Protection Agency rights would apply to conferences between the President and his advisers on whether to invoke the Taft-Hartley Act to provide a cooling off period during a strike, or to negotiations that could lead to any Federal consent order.

The Director of the FCMS has indicated in a letter to me that he is appalled at the prospects under this bill as they relate to his agency. He has asked that FCMS be specifically excluded.

A copy of the FCMS letter is also appended to these views for study by those who are concerned with the continued viability and preservation of American collective bargaining.

We, of course, cannot exempt FCMS under this broad brush bill, because it is only one of many Federal agencies the activities of which vitally concern the interests of consumers. To so exempt FCMS would start a landslide of similar requests.

We could, however, provide the Consumer Protection Agency with Amicus advocacy across-the-board, and await its recommendations as to which particular Federal agency activities deserve to be subject to more aggressive intrusion.

ARBITRARY EXEMPTION ATTEMPTS

One of the major difficulties I have with this bill is that we must trust in the judgment of three as of yet unknown commissioners as to what is, or is not a Federal proceeding that "may" result in a substantial impact upon the interests of consumers.

My concern here is that we are mandating arbitrariness. If there is any doubt about this, one need only look at the majority views as to what proceedings may or may not substantially affect the interests of consumers.

The majority says, for example, that a rise in the price of steel may affect substantially the interests of consumers of automobiles. Therefore, we are to assume that a Price Commission or Pay Board proceeding that could result in such a price rise would be subject to CPA intrusion. One easily can see the causative relation between the result of the proceeding and the consumer marketplace transaction.

But then, the majority makes the arbitrary blanket statement that "NLRB cases . . . are beyond the jurisdiction of the CPA." Even the law department of the NFL–CIO admits the NLRB proceedings would be subject to CPA intrusion because they might result in a substantial impact on the prices consumers pay. The AFL–CIO submitted a legal opinion on the matter which was included in the hearings on the House-passed bill.[2]

Has no one on the majority heard of a secondary boycott or the charges made by both General Motors and the United Auto Workers concerning, on the one hand, sabotage by workers that results in unsafe and higher priced cars, and, on the other hand, about harassment by management which results in such actions? Does the majority have no idea of what an NLRB unfair labor practice proceeding involves, or is there some reason to protect labor unions and not management?

The majority also arbitrarily says that Environmental Protection Agency proceedings involving water quality standards "are beyond the jurisdiction of the CPA," yet says that intervention in food plant inspections is covered as well as the use in those plants of unsafe additives. Does the majority think that all Americans get their water free, or that no food plant uses water to prepare its product? Does the majority think that water pollution control devices do not cost producers money which is added to the price of consumer goods—such as automobiles? The EPA, in its letter to me, recognizes this; who convinced the majority otherwise?

The majority says that Equal Employment Opportunity Commission proceedings "are beyond the jurisdiction of the CPA," yet says that a proceeding to determine whether a Federal inspector took a bribe is within the jurisdiction of the CPA.

Where was the majority when we debated the EEOC bill and the Equality of Rights Constitutional amendment? What happened to all the arguments about how discrimination in commerce depresses the economy to the detriment of consumers?

The majority says that Federal Communications Commission license renewal proceedings "are beyond the jurisdiction of the CPA," yet Civil Aeronautics Board route designation proceedings are subject to CPA intrusion. What is the rationale for this? What does the majority mean, then, when it lists "such important areas of consumer concern as the preservation of consumer choice and a competitive market" as interests of consumers which must be protected by CPA intrusion into agency proceedings and activities?

The majority says that the above described proceedings are exempted because "they do not involve marketplace transactions," and are therefore not interests of consumers.

There is no such criterion for exemption from CPA intrusion in the bill, nor one that remotely resembles this test. If the majority can so misread a bill that it has just drafted, what will the CPA do? How will our three fallible human commissioners interpret this faulty "legislative history"? The message they will receive is clear: Do what you darn well please in interpreting this bill?

INCOMPREHENSIBLE GUIDELINES

If the majority would look closely at sections 203 and 401(11) of the bill, they will see that the test of CPA intrusion is not simply whether proceedings or activities "involve marketplace transactions," but is a complex and circular set of guidelines that can be reduced to 13 words: The CPA may intrude in any Federal proceeding or activity of its choice.

In determining whether a proceeding or activity "may" result in an impact on consumer interests, the CPA will not attempt to determine if a marketplace transaction is "involved" (unless it relies on the majority views and ignores the bill). All the CPA has to do is issue an unchallengeable (see section 203) that the proceeding or activity "may" affect "substantially" the "substantial concerns" of consumers "related to" a series of transactions "regarding" an all-inclusive laundry list of possibilities.

Before going into the laundry list, let me repeat for clarity's sake this convoluted and meaningless portion of the CPA guidelines we are about to vote on. The CPA, before intruding, must make an unchallengeable prediction prior to a fact-finding proceeding or activity that this proceeding or activity under sections 203 and 401(11)—

1. "May" result in a—
2. "Substantial" effect on a—
3. "Substantial concern"—
4. "Related to" a series of transactions—
5. "Regarding" an all-inclusive subject.

How one predicts a "substantial effect" on a "substantial concern" "relating to" something "regarding" something else is beyond me. But one thing is sure, that concern cannot, as the majority says, be limited to a case that "involves" a marketplace transaction.

Section 401(11) says that the concerns of consumers to be protected by the CPA must "relate to" (not involve) "any business, trade, commercial, or marketplace transaction," (not just marketplace transaction), and these affected, related concerns must be "regarding" any one of the following:

1. safety,
2. quality,
3. purity,
4. potency,
5. healthfulness,
6. durability,
7. performance,
8. reparability,
9. effectiveness,
10. dependability,
11. availability, or
12. cost of—

a. real property,
b. personal property,
c. tangible goods,
d. intangible goods,
e. services, or
f. credit,

As well as:

13. preservation of consumer choice,
14. preservation of a competitive market,
15. prevention of unfair or deceptive trade practices,
16. maintenance of truthfulness and fairness in the

a. advertising,
b. promotion, and
c. sale by a—

(i) producer,
(ii) distributor,
(iii) lender,
(iv) retailer, or
(v) supplier of—

all of the property, goods, services, and credit mentioned above,

As well as—

17. Availability of full, accurate, and clear information and warnings concerning all of the above, and, finally,
18. Protection of the legal rights and remedies of consumers.

Thus, the question is not what is included in this confusing mess, but what could possibly be excluded. And the answer, of course, is that nothing is excluded if the CPA says it is included—the bill provides, and the majority views state, that such a determination by the CPA is unchallengeable. See section 210(e)(2).

If there is any doubt about the overextension of CPA's scope of authority, look at the one example the majority gives in an attempt to explain in some detail how this intrusion power works. They did not choose the Food and Drug Administration, or the Federal Trade Commission or any of a host of Federal agencies well known to consumers. They choose the Commodity Credit Corporation in the Department of Agriculture which deals extensively with exports of commodities by American companies to foreign buyers. Where is the marketplace transaction involved here that is not involved in EPA water quality standard setting?

ALL-INCLUSVE SCOPE OF AUTHORITY

The circumlocution in Section 401(11) becomes partially significant in relation to the informal deliberations subject to CPA intrusion under Section 203(b).

Section 203(b) provides that—

"Whenever the Administrator determines that the result of any Federal agency activity [other than a formal proceeding,] of which the Administrator has knowledge or receives notice, may substantially affect the interests of consumers, he may as of right participate for the purpose of representing the interests of consumers in such activity. In exercising such right, he may in an orderly manner and without causing undue delay * * * (1) present orally or in writing to responsible agency officials relevant information, briefs and arguments; and (2) have an opportunity equal to that of any person outside the agency to participate in such activity. Such participation need not be simultaneous, but should occur within a reasonable time."

Section 401(4) of the bill defines "agency activity" to mean "any agency process, or any phase thereof, conducted pursuant to any authority or responsibility under law, whether such process is formal or informal, but does not mean any particular event within such process."

Even a cursory examination of these provisions makes it abundantly clear that the Consumer Protection Agency has been given unprecedented authority to participate, as of right, in virtually every activity and operation of virtually every executive branch department and agency, including regulatory agencies and wholly owned Government corporations.

The only exceptions are activities of the Federal Bureau of Investigation, Central Intelligence Agency, National Security Agency and the national security and intelligence functions of the Defense Department and the Office of Emergency Preparedness.

In responding to my survey of selected agencies, the Justice Department expressed considerable concern over the fact that its prosecutorial responsibilities were "activities" subject to CPA intrusion. The Justice Department's reply said:

"The bill's definition of "agency activity" in section 401(4) fails to set any reasonable limits on areas of possible intervention by the Administrator * * *. In our view, this definition is at best imprecise, and implementation of Section 203(b)'s mandate under it would cause great problems for administrative agencies in general, and particularly for the Department of Justice in performing its prosecutorial functions. Since the Department would appear to be a "Federal agency" within the meaning of Section 401(9), the Committee Print would guarantee the Administrator the right to participate in decisions concerning whether or not particular cases should be filed, settled, or appealed. No other Government official has that right at present, and for good reasons. The exercise of prosecutorial discretion is a delicate and sensitive task, best left to the branch of government chosen by Congress to conduct litigation involving the interests of the Federal Government. See 28 U.S.C. 516. * * * Section 203(b), however, would unnecessarily grant a statutory right to such participation, and, coupled with Section 203(d)'s requirement that Federal agency's declinations to act in response to the Administrator's requests must be justified by a public written statement setting forth the reasons therefor, could require disclosure of the various sensitive matters, often told to the Department in confidence, underlying the decision. * * *"

The Secretary of Transportation also expressed concern regarding Section 203(b), as follows:

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[2] See 1971 House hearings, at 257–258.

"The other major category of activities which would be subject to intervention under section 203(b) of the legislation is also rather difficult to establish with any degree of certainty. The proposed definition of 'agency activity' is so general as to encompass a wide range of activities under the many statutes which the Department administers* * *.

"Applying to the proposed bill a literal construction, it appears to us that section 203(b) thereof cuts across virtually every activity of this agency, formal or informal, that does not fall within its formal rulemaking or adjudicative functions."

Numerous other activities of component agencies of the Department of Transportation, which would be affected by Section 203 (b) are set forth in the Congressional Record, July 25, 1972, pp. 25184–25187.

Federal departments and agencies are faced each day with the making of decisions in complex matters involving the rights of individual members of our citizenry. Although these proceedings are considered informal, the rights and interests involved are just as important to these persons as are those which are the subject of formal proceedings.

The interminable and costly delays which the public now endures in connection with both formal and informal Federal department and agency proceedings and activities are too well known to require documentation. Section 203(b) would add an additional barrier which would serve to further delay the final determination of the issues involved. By allowing the Consumer Protection Agency to participate fully as of right, in these informal activities and proceedings, the decision-making process of Federal departments and agencies might conceivably come to a grinding halt.

It is not my intention to propose that the Consumer Protection Agency be barred from participation in such activities, in a proper case. However, the determination of what is a proper case, and the time and manner of participation, must be either left to the discretion and judgment of the Federal department or agency which has the statutory responsibility for the conduct of such activities or the role of the CPA made more positive as was suggested by the Amicus amendment. To provide otherwise would be productive of nothing but mischief and the continuous disruption of the orderly processes of government.

HIDDEN SUPPLEMENTAL APPROACHES

There are approaches other than adversary advocacy that can be taken to perfect the consumer's right to participate in Governmental decisions that affect him.

The Comptroller General issued a legal opinion on July 24, 1972, to the Federal Trade Commission holding that the FTC could expend taxpayers' money to pay the costs of participants who are legally indigent (not necessarily without money themselves, possibly belonging to a protectionist group without adequate funds for the purpose.)

Two seldom-discussed provisions of this bill would, by statute, take that GAO opinion and expand it to cover all "Federal agencies," and all potential special interest participants—consumerists, environmentalists, taxpayers, women's liberationists, etc.

Section 405 would require all "Federal agencies" to greatly expand the public's right to participate in their proceedings, including the waiving of financial requirements where appropriate for participants who would suffer a financial burden. Section 403 applies specifically to the transscripts of public agency proceedings and the production or search for documents. It requires all "Federal agencies" to provide such transcripts at cost to anyone requesting them, and to reduce or waive, where appropriate, the costs charged for the document production or searches.

Perhaps one of the reasons these sections have not been very much discussed is the fact that they pertain to matters far beyond the interests of consumers, although they also concern the interests of consumers.

In any case, these provisions provide us with an indication that there may be viable alternatives to improve Governmental consumer protection efforts. The attempted perfection of public participation proposed in these provisions could be considered consistent with the type of advocacy proposed under the Amicus Amendment. But one has to wonder whether it is consistent with the adversary advocacy mandated in the reported bill, an advocacy that may discourage further public participation.

CPA, NYCFA VERSUS EPA, EDF, UHRCFA

Let us take a hypothetical example based on a recent case that has been in and out of administrative agencies and the courts for more than nine years—and is still unresolved.[3] The Federal Power Commission is conducting a proceeding to determine whether it would be appropriate to construct a power plant on the Hudson River to prevent an impending power shortage on the East Coast. The FPC, of course, is tax funded to take action in the public interest, including the interests of consumers of power on the East Coast.

The Environmental Protection Agency intervenes in the proceeding to object to the proposed construction on the grounds that it may create an ecological imbalance. The EPA, of course, is tax funded to take action to preserve the public's special interest in its environment.

The Consumer Protection Agency intervenes on behalf of East Coast power consumers, saying that they need the power and that construction of the plant will prevent a rise in power rates. The CPA, under the reported bill, would be tax funded to take action to represent the special interests of consumers, including their interests in fairly priced and available power

A local branch of the Environmental Defense Fund now steps in to take the side of the EPA against the CPA, pointing out that the branch was a balance of $12.00 in the bank account, and therefore is legally indigent and in need of tax funds to participate adequately in the FPC proceeding.

A New York City branch of the Consumer Federation of America, sensing a possible imbalance to the FPC hearing record on which a decision must be made, takes up the cudgels and demands tax funds to support CPA against the EPA and EDF.

This enrages the Upper Hudson River Branch of the Consumer Federation of America whose members are primarily consumers of recreational facilities that would be inundated if the power plant were sited as proposed. They demand to participate at government expense to support the EPA and EDF and oppose the CPA and the NYCCFA.

Four years after the introduction of voluminous environmental impact reports and consumer impact reports, the FPC comes to a decision that should have been reached in less than two years.

It decides not to allow construction of the plant at this time. In other words, it decides against CPA and NYCCFA and in favor of EPA, EDC and UHRCFA.

Does the process stop there? Not on your life. The reported bill would give the CPA statutory authority to take any Federal agency to court and, once again, challenge its fellow agency in the Judicial Branch.

Therefore, a suit is filed, CPA v. FPC, with taxpayers paying for the attack, the defense and the courts' time and expenses. EPA, EDF and UHRCFA intervene on behalf of FPC at taxpayer expense, and NYCCFA and Consolidated Edison Company of New York (the power company) intervene on behalf of CPA.

The Justice Department has decided to use its Government lawyers to defend FPC, rather than to support CPA which must use its own government lawyers to appeal the action. But CPA manages to convince the Department of Interior to intervene on its behalf and against the FPC, EPA, EDF and UHRCFA, thus evening the score up a bit.

What does the court do? If it is smart, it will probably remand the case for further consideration by the FPC, thereby avoiding the issue for another six years as happened in the case on which this hypothetical is based. If this bill is passed, the hypothetical will no longer be hypothetical insofar as CPA is concerned, inasmuch as intervention by the new agency would be a definite possibility, if not a reality.

SUMMARY

I have stated on the Senate floor several times this year that I am basically in favor of the establishment of a Consumer Protection Agency to instill new vigor in Governmental efforts to protect consumers.

It would be disappointing to me to have to vote against such a bill. In 1970, I voted with reluctance against a bill that would have created and independent Consumer Protection Agency.

That dissenting vote has been vindicated. The Committee on Government Operations, after a thorough review of the 1970 bill, rejected and completely rewrote its major provisions because they were fraught with dangers and inadequacies.

But there is little solace in the vindication when I know that we have reported a bill which will have to undergo complicated major surgery by the full Senate at one of its busiest times. Never mind that its purposes are allegedly beneficent. Its potentialities have the seeds of malignancy which it would be folly to ignore.

This bill, as presently written, will do violence to the administrative process, and I cannot do in my legislative capacity that which will shame me afterwards in my private capacity.

* * * * *

The letters from the Environmental Protection Agency and the Federal Mediation and Conciliation Service, referenced above, follow, together with the letter from the Department of Justice.

ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., August 18, 1972.

Hon. JAMES B. ALLEN,
Committee on Government Operations,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLEN: This is in response to your letter of July 26, 1972 requesting our comments on how S. 1177, a bill to establish an independent Consumer Protection Agency (CPA), would relate to the Environmental Protection Agency (EPA). You specifically requested information as to which of our proceedings or activities would fall within the purview of Sections 203 and 204 of the proposed legislation. Our comments on this legislation refer to the Committee Print of S. 1177, dated June 20, 1972.

Section 203 of S. 1177 provides that the CPA may intervene or participate in each of three kinds of agency procedure or activity provided only that CPA finds, in its discretion, that that procedure or activity "may substantially affect the interests of consumers." These categories are, first, "any Federal agency proceeding which is subject to the provisions of section 553, 554, 556, or 557 of title 5, United States Code," second, "any Federal agency proceeding . . . which is conducted on the record after opportunity for an agency hearing," and third, "any Federal agency activity to which . . . [the above two categories do] not apply". According to the statute, " 'agency activity' means any agency process, or any phase thereof, conducted pursuant to any authority or responsibility under law, whether such process is formal or informal, but does not mean any particular event within such process".

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[3] See Federal Power Commission Project No. 2338, 28 FR 2757, March 20, 1963; 33 FPC 428 (1965); Scenic Hudson Preservation Conference v. FPC, 354 Fed 2nd 608 (2nd Cir—1965), *Cert. den.*, 384 U.S. 941 (1966), 453 Fed 2nd 463 (2nd Cir—1971).

The first category might allow CPA participation in all EPA rulemaking under 5 U.S.C. § 553 and in all EPA adjudications under 5 U.S.C. § 554.

The Administrative Procedure Act describes a "rule" as including "an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy". 5 U.S.C. § 553 requires all EPA rules, except those relating to agency management or to grants and contracts, to be published in the Federal Register, and we interpret the Act as allowing CPA participation in the formulation of any rules that must be published.

The most significant grant or rule-making authority to EPA is contained in the Clean Air Act, 42 U.S.C. § 1857 *et seq*. Under Section 107 of that statute, the Administrator is authorized to establish air quality control regions throughout the country, and, under Sections 108 and 109, to set both primary and secondary air quality standards for any pollutant. States must then submit implementation plans for achieving these standards for the air quality control regions over which they have jurisdiction. On approval by the Administrator, a plan becomes enforceable under Federal law pursuant to Section 113.

Under Section 110, if the Administrator finds any plan inadequate to attain these standards, he can, and must, disapprove it and issue a new plan himself. In addition, the Administrator may set emission standards for new stationary sources of air pollution, Section 111; for hazardous air pollutants, Section 112; for aircraft, Section 231; and for new motor vehicles, Section 202. Pursuant to Section 211, he may regulate or ban any additive in motor fuel. Under Section 114, he has broad power to set rules to require polluters to keep records and submit to various kinds of inspections, and in Sections 206–208, which concern new motor vehicles, this power is especially detailed. There is a limited authority in Section 202 to extend the date for compliance with automobile emission standards.

Under Section 10(c) of the Federal Water Pollution Control Act, 33 U.S.C. § 1151 *et seq.*, the Administrator has the power to set water quality standards for a State that has failed to do so itself. Under Section 11 and Executive Order 11548, (35 F.R. 11677) he has authority to regulate the discharge of oil, and under Section 12 and Executive Order 11548, the power to designate hazardous water pollutants. He also must, pursuant to Section 13(b), prescribe perfomance standards for toilets on ships and boats.

Under Section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 135d, the Administrator may set standards and procedures for the registration of pesticides, and under Section 406 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 346, he may set maximum levels for pesticide residues on food. Finally, under Section 209 of the Solid Waste Disposal Act, 42 U.S.C. § 3254(c), EPA may set guidelines for the disposal of solid waste which are binding on Federal agencies through Section 210. Any rule-making activity under any of these statutory provisions might be subject to CPA intervention.

S. 1177 might also allow CPA intervention in any agency proceeding which is conducted on the record after opportunity for an agency hearing, both by its explicit language and through its reference to 5 U.S.C. § 554, which governs such proceedings. EPA conducts such hearings in connection with the cancellation of pesticide registrations or the refusal to register pesticides under Section 4 of the Federal, Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. § 135b, and if a standard for pesticide residues on food is challanged, pursuant to Section 408 of the Food, Drug, and Cosmetic Act, 21 U.S.C. § 346a.

The provision in S. 1177 for intervention in other agency activity" would allow CPA participation by oral and written argument and to such extent as any outside person might participate in any other EPA activity provided that the CPA determined that it had some connection with consumer welfare. This language, taken literally, might allow CPA participation at any stage of any EPA enforcement proceeding; in planning for future EPA standards and for future EPA regulatory and testing policy; in decisions on how EPA spends its research funds; and in setting standards for making EPA grants for any purpose and in deciding to make any award under those standards. In addition, EPA has the responsibility under Executive Order 11574, (35 F.R. 19627), for advising the Corps of Engineers on when permits to discharge matter into the waters of the United States would be consistent with water quality standards, and the responsibility under Section 309 of the Clean Air Act to commend on the effect of actions by other Federal agencies on matters within its areas of expert knowledge. Since such advice and comments might affect the interests of consumers, CPA participation would also be possible here.

I hope that this information will adequately demonstrate to you and the Government Operations Committee the extent to which the activities of the Environmental Protection Agency would be affected by the operation of the proposed CPA. If I may be of any further assistance, please so advise.

Sincerely yours,
WILLIAM D. RUCKELSHAUS,
Administrator.

FEDERAL MEDIATION AND CONCILIATION SERVICE,
Washington, D.C., June 19, 1972.
Hon. JAMES B. ALLEN,
Committee on Rules and Administration,
U.S. Senate, Washington, D.C.

DEAR SENATOR ALLEN: This is in reply to your letter of June 6, 1972 regarding S. 1177 and its possible effect on the Federal Mediation and Conciliation Service.

In response to your two categories of inquiries our response is as follows:

1. Formalized proceedings

It does not appear that the activities of the FMCS fall within the purview of the Administration Procedures Act (5 U.S.C., sections 553, 554, 556 or 557) or within the scope of sections 203(a) or 401(5) of the proposed legislation.

In general, the activities of the FMCS center on the following:

A. Informal mediation efforts which are not subject to the Administrative Procedures Act. Such activities are not "conducted on the record after opportunity for agency hearing * * *" in the language of section 203(a).

B. Arbitration matters concerned with establishing the procedures for the administration of the National Roster of Arbitrators and related activities.

2. Informal activities

Since its inception in 1947, the Service has insisted on maintaining in the strictest confidence all case files and information disclosed in the course of its labor-management collective bargaining activities. Outside persons are permitted no participation in or access to this information. The acceptability of FMCS personnel as third party neutrals is founded upon this confidentiality. It, in turn, permits that candor by the parties which is so essential to the avoidance of labor disputes and the successful settlement of such disputes as do arise.

I have serious concern insofar as the proposed legislation may be interpreted in a way so as to grant the Consumer Protection Agency rights to intervene in these delicate negotiations. If this legislation were so interpreted, there is no doubt that S. 1177 would have an adverse impact on the mission of the Service.

In light of the possible future implications of this proposed legislation, it is respectfully requested that the Service be excluded from the provisions of S. 1177.

Thank you for this opportunity to state the position of the Federal Mediation and Conciliation Service on this important matter.

Sincerely,
J. CURTIS COUNTS,
Director.

OFFICE OF THE
DEPUTY ATTORNEY GENERAL,
Washington, D.C., July 20, 1972.
Hon. JAMES B. ALLEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLEN: This is in response to your letter to the Solicitor General concerning the activities of this Department which would be affected by S. 1177, the Consumer Protection Organization Act of 1972. At the request of Mr. Charles Mitchell of your staff, this letter expresses generally the views of the Department of Justice on S. 1177 (June 14, 1972 Committee Print).

In the Department's view, the proposed Agency's powers of advocacy and intervention in Federal administrative agencies' decision-making are too broad, and pose a threat that the orderly and effective dispatch of the public business in the public interest might be significantly disrupted. For this reason, the Department strongly prefers the more narrowly drawn provisions governing the propoed Agency's interventionary powers which are contained in H.R. 10835 as it passed the House of Representatives last year. A comparison of provisions of the Committee Print and H.R. 10835 in this important area may help illuminate some of our concerns.

Section 203(b) of the Committee Print gives the Administrator the power to participate in any "Federal agency activity" which may substantially affect the interest of consumers. The bill's definition of "agency activity" in Section 401(4) fails to set any reasonable limits on areas of possible intervention by the Admnistrator:

" 'Agency activity' " means any agency process, or any phase thereof, conducted pursuant to any authority or responsibility under law, whether such process is formal or informal, but does not mean any particular event within such process[.]"

In our view, this definition is at best imprecise, and implementation of Section 203 (b)'s mandate under it would cause great problems for administrative agencies in general, and particularly for the Department of Justice in performing its prosecutorial functions. Since the Department would appear to be a "Federal agency" within the meaning of Section 401(9), the Committee Print would guarantee the Administrator the right to participate in decisions concerning whether or not particular cases should be filed, settled, or appealed. No other Government official has that right at present, and for good reasons. The exercise of prosecutorial discretion is a delicate and sensitive task, best left to the branch of government chosen by Congress to conduct litigation involving the interests of the Federal government. See 28 U.S.C. § 516. This is not to say that the views of the Administrator should not be heard by those exercising this discretion. At present, the views of administrative agencies on matters involving the regulatory statutes they enforce are actively sought by the Department as a matter of course. There is no reason to think that the Department would not be equally eager to hear and consider the views of the Administrator when prosecutorial decisions are being made which appear to involve the interests of consumers. Section 204(b), however, would unnecessarily grant a statutory right to such participation, and, coupled with Section 204 (d)'s requirement that Federal agency's declinations to act in response to the Administrator's requests must be justified by a public written statement setting forth the reasons therefor, could require disclosure of the various sensitive matters, often told to the Department in confidence, underlying the decision. At the very least, therefore, the Department would urge that the provisions of the bill be made inapplicable to prosecutorial or appeals decisions made by appropriate officers of the Department.

The Department is also opposed to the broad reach of Section 204(a) of the bill, which gives the Administrator "standing to obtain * * * judicial review of any Federal agency action reviewable under the law and to intervene as of right as a party in any civil proceeding in a court of the United States involving the review or enforcement of a Federal agency action, if he intervened or participated in the Federal agency proceeding out of which the action arose or, if he did not so intervene or participate, the court finds that the result of such action may substantially affect the interests of consumers."

It is unclear whether this provision will permit the Administrator, without the authorization of the Solicitor General, to file a petition for a writ of certiorari in cases in which he has become a party. With certain narrow statutory exceptions (see 28 U.S.C. 2323, 2350), it is a well-settled practice of many years standing that only the Solicitor General appears for the federal government in the Supreme Court. One aspect of this practice is that agencies, including independent agencies, cannot seek Supreme Court review without the authorization of the Solicitor General. This practice, we believe, rests upon sound considerations of public policy. We think it would create serious problems for all government litigation before the Supreme Court if the Administrator were singled out to permit him to present his own cases to the Supreme Court without the authorization and supervision of the Solicitor General. The interests that the Administrator would represent, important as they are, seem no less important than the interests represented by many other government agencies; and the policy considerations that require those agencies to appear in the Supreme Court through the Solicitor General are, in our judgment, equally applicable to the Administrator of the Consumer Protection Agency.

In contrast to the unfettered grant of authority to the Administrator to obtain judicial review and to intervene as a party in a court proceeding involving the review or enforcement of a Federal agency action, we note that there is no provision in the Committee Print comparable to H.R. 10835's Section 204 (c)(2), which allows the Administrator to appear as *amicus curiae* in other actions to which the United States or any Federal agency is a party. We believe that the Administrator's authority (or lack of it) to participate in judicial proceedings not involving the review or enforcement of Federal agency action should be specifically set forth.

The Committee Print's grant of compulsory information gathering powers to the Administrator also seems excessively broad. Both the Committee Print and H.R. 10835 authorize the Administrator to use in any Federal agency proceeding to which the proposed Agency is a party to all types of compulsory process and discovery devices available to any party to the proceeding under the terms of the statute governing the agency conducting the proceeding. There is no difficulty with this provision, for it only guarantees that the Administrator, after intervention, will have the same rights to discovery and to the use of the host agency's compulsory process as all other parties to the proceeding. But the Committee Print goes further, and extends in Section 203(e) these same rights to the Administrator whenever he is participating in any Federal agency "activity". Given the great latitude of the bill's definition of agency "activity", which has been previously noted, granting such rights to the use of compulsory process and other discovery devices in advance of any agency proceeding would give the Administrator an advantage not afforded any other person or official, and would jeopardize the host agency's ability to regulate effectively in the public interest. Moreover, such powers do not appear necessary for the new Agency to perform its advocacy function, since Section 207(c) would guarantee the Agency's access to all information in the hands of other Federal agencies, and since all the powers in question would become available to the Agency as soon as a formal proceeding had been commenced.

For similar reasons, the Department would recommend the deletion of Section 207(b) of the Committee Print in its entirety. In essence, Section 207(b) would give the Administrator the right to compel any person who is engaged in a trade, business or industry affecting commerce and whose activities substantially affect what the Administrator determines to be the interests of consumers to answer interrogatories under oath "concerning such activities and other related information." The Department regards this proposal as unsound and unnecessary. The proposal is unsound, because it is at odds with the basic premise of the legislation, which, as we understand it, is that the interests of consumers need more adequate representation in the processes of Federal administrative agency decisionmaking. To our knowledge, the proposed Agency has never been intended to be a wide-ranging investigative agency, empowered to scrutinize the business practices of any person or business entity whose activities might affect the interests of consumers. Section 207(b) would give to the Administrator, who would have no substantive regulatory responsibilities, interrogatory authority far in excess of that possessed by any other Federal official, department or agency similarly situated. The grant of such authority is also unnecessary, for by virtue of the discovery procedures made available to the Administrator in any agency proceeding by Section 203(e), and Section 207(c)'s guarantee of access to information already in the possession of other agencies, the Administrator already has all the information gathering powers he would reasonably need to give consumer interests the high quality of representation and advocacy that they deserve.

The Department of Justice is opposed to the enactment of S. 1177 in its present form.

Sincerely,

RALPH E. ERICKSON,
Deputy Attorney General.

PROPOSED AMICUS ALTERATION IN POWER

Mr. ALLEN. Mr. President, the amicus amendment would apply the same criteria to adjudications as it does to rulemaking and Federal agency "activities"—it would allow the CPA, as a matter of unchallengeable right to present orally or in writing its case, then, prior to final agency action, allow the CPA the opportunity to make comments based upon the data, views, and arguments presented.

All adjudications under subsection 203(a), it should be noted, will be record proceedings, since a hearing on the record is required by the Administrative Procedure Act.

This approach is more consistent with the "One Government" approach favored by some members of the committee; yet the "last word" opportunity provides a more effective means of advocacy than would be enjoyed by any of the parties to the adjudication proceeding.

It would also avoid the specter of the Government presenting two prosecutors—with potentially differing views—in a sanction-oriented adjudication, or of the Government—that is, the CPA—being cross-examined and impeached.

ADMINISTRATIVE APPEALS, RATHER THAN BURDENING THE COURTS

The amicus amendment provides, as a matter of unchallengeable right, that the CPA may seek an agency rehearing or reconsideration of an action if any person could seek such action. From a one-government point of view, this is far more effective and far less disruptive than the present bill which does not provide for this power as a matter of right.

Granting the CPA the automatic right to seek judicial review of Federal actions, as does present section 204, will result in "United States against United States" court cases. This is not administration of the laws as required by the Constitution, but a division of the Government that must be resolved by the overburdened courts. This not only is going to make for multiplicity of agencies; it is going to make for a multiplicity of lawsuits for a judiciary that is already overburdened. We hear that complaint from the Justices of the Supreme Court—the Chief Justice in particular—and we see it from the fact that we provide for the appointment of dozens upon dozens of additional Federal district judges.

So that the courts very definitely are overburdened; and we see that in the crime statistics, from which the case is made that the overburdened courts delay justice and delay the imposition of penalties on those who violate the laws. This, of course, would add many hundreds, if not thousands, of cases to an already overburdened judiciary.

If it can be avoided, it should be. In the extremely rare instances in which this has happened, the courts have usually been divided and have often expressed not only their confusion, but their annoyance over the fact that the executive branch could not administer the law with one voice.

Grave problems relating to due process, equal protection, and realistic court burdens should be considered by the Judiciary Committee before any such proposal is enacted.

Has no one read Mr. Chief Justice Burger's state of the judiciary speech August 14, 1972, calling for such a "judicial impact" report on legislation of this type?

The issue is adequate consumer representation in the Federal agency process, and all efforts to assure such representation would best be made toward improving the administrative process rather than challenging it.

Once Congress takes the unprecedented step of granting one Federal agency authority, as a matter of right, to challenge the actions of another court, the whole principle of Federal agency expertise comes into question.

At present, the courts generally consider the actions of Federal agencies as being clothed with congressionally ordained expertise.

Two Federal agencies clothed with such congressionally ordained expertise—one in the public interest, the other in the special consumer interest—would result in considerable judicial turmoil.

And out of this turmoil will come judge-made law. We already have too much of that.

DEMOCRATIC PLATFORM

There is an interesting plank in the Democratic platform that I might point out. Even the liberal Democratic platform does not endorse CPA advocacy in the Federal courts or CPA appeals of Federal agency actions.

This is appropriate, because, again, the issue is perfecting the administrative forums of the Government, not challenging these or taking other steps that would further burden the courts with duplicative efforts.

Under the present section 204 of the bill, all court appearances as of right by the CPA will be in the presence of another Federal agency, and the CPA would be allowed to have a role of full party litigant.

In instances where the CPA would be seeking judicial review, it would be the CPA versus another Federal agency, thus raising the issue whether such intergovernmental fighting would best be resolved outside the court.

In all other court proceedings under the bill, the issue must involve the review or enforcement of a Federal agency action.

Thus, the CPA will be on the side of the Federal agency if it did not seek judicial review. Such a case, for example, would be CPA plus IRS versus John Q. Citizen—a duplication in Federal efforts if full advocacy is envisioned for both the CPA and the forum agency concerned.

SUGGESTED MANDATORY AMICUS CURIAE APPROACH

The amicus amendment does not say that the CPA should never appear in court. On the contrary, it envisions a comprehensive and effective role for the CPA in the courts.

The amendment would grant the CPA, as a matter of unchallengeable right, authority to present, orally or in writing, an amicus curiae argument to assist the court in any determination involving the review or enforcement of any Federal agency action which, in the unchallengeable opinion of the CPA, might result in substantially affecting the interests of consumers. That is the approach that would seem to me to be more logical, to assist the Federal agency involved with the expertise it has as a Consumer Protection Agency rather than to take on an adversary role against the sister Federal agency.

The CPA need not have participated in the Federal agency action in order to present its views on the matter in court, and the court cannot refuse to admit the CPA.

I use "CPA" here, as I pointed out the other day in discussing the bill, but I do not know whether we have had any protests from the certified public accountants on the use of the "CPA" term. When we had the same term in the Committee on Agriculture and Forestry, when it was working on the pesticide bill, we did receive protests from the certified public accountants on the use of the term "commercial pesticide applicator—CPA" because they did not want to be confused with the term "commerccial pesticide applicator." I do not know what their views will be in confusing them with the "Consumer Protection Agency." But in our Federal bureaucracy, we are so prone to reduce everything down to alphabet soup that we will have the certified public accountants confused with the CPA—Consumer Protection Agency. Whether they will take offense at that is a matter of opinion, I assume. I would feel that the certified public accountants would possibly object more than the Consumer Protection Agency would.

This would appear preferable, from a "One Government" viewpoint, to having a CPA attack its sister agencies or duplicate their efforts as full party litigants.

This would also enable the CPA to effectively conserve the valuable time of its advocates and avoid placing an unnecessary burden on the courts.

POACHING PRIVATE RIGHTS

The Federal Government should concentrate more on doing for its citizens what they cannot do for themselves, rather than patronizingly poaching private rights, thereby depleting them.

We can guard, perfect, and expedite the exercise of private rights, but we should not make the mistake of thinking that we do this by letting the Government exercise these rights either by proxy or by predilection.

The private right to challenge the actions of the Federal Government is a measure of the liberty of this country. Extending that right of challenging the Government, to the Government itself, in an area as broad and unchartered as the "interests of consumers," will lead to an erosion of that liberty and a division of that Government. This is extending to the Government itself a right that should repose in the individual citizen. The Government has enough rights already. Let us not give it still more rights for the Federal agencies to fight among themselves.

I am surprised that many proponents of this bill cannot see the distinction between citizens exercising privately the legal rights given to them by the Constitution or Congress, and the Government itself attempting to exercise these rights in the name of those citizens for whom the rights were defined.

There is a proportion of the American citizenry which vocally disagrees with the current way the country is handling the situation in Vietnam. This is their right, and, to them, at least equal to the rights of consumers that all would like to see protected.

But who, other than the most zealous proponents of this bill, seriously could support creating an independent Peace Protection Agency with absolute discretion to attack the Government in a Federal—or possibly a Hanoi—forum?

SUMMARY

Let me briefly summarize the major provisions of the amicus amendment.

This is a middle-of-the-road trial period approach that is consistent with providing a new and untried agency the opportunity for healthy growth and an orderly progression of powers, rather than responsibilities beyond its initial capabilities.

First. The amicus amendment would allow CPA advocates to enter, as a matter of unchallengeable right, all agency and court proceedings covered by the present bill. No restriction on that.

Second. The amendment would allow the CPA to make an initial argument in any other agency's deliberations in much the same manner as an amicus curiae. That is, the CPA would not become embroiled in the day-to-day, month-to-month, and year-to-year legal infighting of an agency proceeding.

Third. Instead, under the amendment, the CPA would be allowed as a matter of right to make the final comment on the whole record and to suggest a course of action.

Fourth. There would be no right of appeal, but the CPA would have the unchallengeable right to petition for an agency rehearing if anyone else could.

Fifth. The CPA would be authorized to enter as of right any court proceeding covered by the present bill. But it would not enter as an unnecessary and burdensome party litigant; it would enter as a friend of the court, an amicus curiae.

OTHER ADVOCACY PROVISIONS OF BILL UNCHANGED

All other rights and duties in sections 203 and 204 of the present bill remain substantially unchanged. Thus, under the present bill:

First. Subsection 203(c) relating to rules of practice would remain unchanged except for the substitution of the word "participation" for the word "intervention."

Second. Subsection 203(d) relating to CPA petitions for Federal action would remain unchanged.

Third. Subsection 203(e) relating to full party use of discovery powers would be deleted as inappropriate.

Fourth. 203(f) relating to petitioning the CPA for action would remain unchanged.

Fifth. Subsection 203(g) relating to advocacy in State and local proceedings would remain unchanged except for a clarification to the effect that the CPA's advocacy must be in the same general manner as in Federal proceedings.

Sixth. Subsection 203(a), relating to formal agency proceedings, and section 204, relating to CPA activities in courts, would be dealt with—as mentioned in detail earlier—in one subsection of the amendment, new 203(a).

Seventh. Subsection 203(b) of the present bill relating to informal activities would be treated separately as mentioned earlier under amendment subsection 203 (b).

Mr. President, this is the so-called

amicus amendment. In the judgment of the Senator from Alabama, it would greatly improve the entire concept of the bill. And it would improve it to such an extent that the Senator from Alabama would be willing to support the bill if the amendment were agreed to. If the amendment were not agreed to, the Senator from Alabama would feel that it would be his duty to vote against the bill.

Mr. President, I yield the floor.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House insisted upon its amendment to the bill (S. 3507) to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zones, and for other purposes, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Garmatz, Mr. Lennon, Mr. Downing, Mr. Mosher, and Mr. Pelly were appointed managers on the part of the House at the conference.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H.R. 14267) to provide for the disposition of funds appropriated to pay a judgment in favor of the Delaware Tribe of Indians in Indian Claims Commission docket numbered 298, and the Absentee Delaware Tribe of western Oklahoma, and others, in Indian Claims Commission docket numbered 72, and for other purposes.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 15883) to amend title 18, United States Code, to provide for expanded protection of foreign officials, and for other purposes; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Celler, Mr. Donohue, and Mr. Smith of New York were appointed managers on the part of the House at the conference.

CONSUMER PROTECTION ORGANIZATION ACT OF 1972

The Senate continued with the consideration of the bill (S. 3970) to establish a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and serve the interests of consumers, and for other purposes.

Mr. BROCK. Mr. President, on September 15 I received a "Dear Colleague" letter which places in issue several questions on S. 3970, the Consumer Protection Organization Act.

This "Dear Colleague" letter is a voluminous brief. I could spend an hour or two merely reading its 14 legal-size pages of mostly single-spaced copy.

I do not propose to do that. Instead, I should merely like to list the major points contained in this brief, and present some clarifying observations on them. If this brief foreshadows what we are to expect in the way of consumer advocacy, I think we can expect some rather serious problems ahead.

First, the brief states that one of the major amendments to be proposed for this bill will be the amicus amendment, and that the administration opposes the amicus amendment.

This information must have originated in a personal conversation with a representative of the administration, because I have never heard of Presidential antagonism toward the Senate amicus amendment.

What I have heard, and read, are the public statements by the administration in opposition to the Senate bill without substantial modification.

Second, the "Dear Colleague" brief tells us that both the Democratic and Republican party platforms support the establishment of a Consumer Protection Agency.

I do not feel that this statement is correct in its entirety. Neither platform supports CPA appeals of Federal actions to the overburdened courts. Neither platform supports CPA intervention in the proceedings of the overburdened Federal courts. Neither platform supports CPA intervention in State agency proceedings. Neither platform supports CPA intervention in local agency proceedings. Neither platform supports CPA intervention in the State court proceedings. Neither platform supports CPA intervention in local court proceedings. I am told that these subjects were discussed by the platform committees, but they would not come out in support of them.

In fact, the following language appears in the Republican plank, after citing support for the creation of the CPA. And I quote: "We oppose punitive proposals which are more antibusiness than proconsumer." I am told that this language refers to the unamended bill we now have before us.

By the way, I, too, support the creation of a CPA—let me make that clear—but I cannot support all of the radical powers proposed in this bill.

Third, the brief says that this bill will have no effect on the jurisdiction or authority of any Federal department or agency.

This is clearly wrong. Let me give you page and verse on several of the hundreds of ways this bill will affect jurisdiction and authority.

The bill would, and I quote, "abolish" one entire agency and all of the titles of its employees. See section 105. The Agency is the President's Office of Consumer Affairs which was created by authorized Executive order and which is headed by Virginia Knauer.

I understand that many of the more avid supporters of this bill outside this Chamber do not respect Mrs. Knauer's capabilities, and indeed have called for her resignation because she opposes many of the provisions of this bill. But I cannot see how we can constitutionally fire a Presidential adviser and strip her of her title, even if the more zealous supporters of this bill wish us to do so. We cannot "abolish" Mrs. Knauer, like it or not.

I might say for myself that I have found Mrs. Knauer to be a person of enormous ability, dedication, and integrity—a person who is constantly dedicated to the consumers and to the public interest.

The bill requires that the President of the United States issue consumer impact reports. See section 101.

The bill would require all Federal agencies to issue consumer impact statements. See section 402.

The bill would explicitly strip the Office of Management and Budget of several of its powers, as to OMB's actions under the Federal Reports Act—see section 404—and as to its actions in relation to agency budget requests—see section 202(b).

The bill would subject Federal agencies to the unchallengeable CPA orders for copies of any desired information in their files, with certain few exceptions. See section 207(c).

The bill would require Federal agencies to change their rules of procedure to accommodate a series of unprecedented powers about which many agencies have publicly been alarmed. One need only read the Justice Department opinion on this bill's disruptive advocacy powers to find a refutation of the claim that this bill will not affect any agency's authority.

The bill even goes beyond consumer protection and would force all Federal agencies to restructure all proceedings of whatever public nature to allow for increased public participation, including participation at taxpayers' expense—on any issue. See section 405.

The list could go on and cover the length of the bill. But by now it should be clear that the brief is clearly in major error.

Fourth, the brief says that the CPA, under this bill, would not be able to compel any agency to take any action.

Among the many actions that the CPA will be able to force other agencies to take are the following:

It can force Federal agencies to allow for unprecedented and far-reaching CPA rights to participate in both formal proceedings and internal deliberations under sections 203 and 210(e) (1) (A).

It can force Federal agencies to change its rules of practice in accordance with these unprecedented rights under sections 203(c) and 210(e) (1) (A).

It can force agencies to go to court. See section 204.

It can force agencies to give it general or specific notice about its actions and proposed actions under section 205.

It can force Federal agencies to hand over any desired documents in its files, with certain few exceptions under section 207(c).

It can force Federal agencies to issue consumer impact reports under section 402.

The brief says that, as a safeguard, the CPA will not be able to overrule, veto or impair any Federal agency's final determinations.

No party can overrule an agency's final determinations. Only a court can do that. The CPA is given automatic standing to get a court to overrule such determinations. See section 204.

Therefore, saying that this is a safeguard, is like saying, "Don't worry about that madman with an ax—he's too weak to do anything without the aid of the ax which I supplied him with."

Sixth, another safeguard listed in the brief is that the CPA must conform to the rules of procedure of the agency holding a proceeding in which the CPA intrudes.

Discretely not mentioned is the little detail concerning the fact that all such agencies must rewrite these rules of procedures in consultation with the CPA to accommodate far-reaching intrusion powers; and, if the CPA does not like the way these rules are written, it can take the other agency to court under sections 203(c), 204, 210(e)(1)(A).

Again, the brief tells us that, to prevent arbitrary, capricious or vindictive intervention, the determination by the CPA that there is a substantial interest of consumer at stake would be subject to "ultimate" judicial review if there is prejudicial error.

Here the brief is saying in very sophisticated and misleading language something like the following:

> I will give an ax to someone who may turn out to be a madman. But don't worry, I will tell him only to swing at people whom he thinks are acting so as to affect the interests of consumers. If you get your head split open and you can prove this injury to a court *after the fact*, and you can also prove that you were doing nothing that substantially affected the interests of consumers, we'll tell the CPA that it shouldn't have swung on you.

That is, the bill does indeed provide for so-called ultimate judicial review.

But ultimate judicial review means, under section 210(e)(1)(B), that a party improperly affected by the CPA intrusion can get court relief only after the proceeding is entirely over—which may be years—and only on the grounds that there was prejudicial error as a result of this intervention.

This right would only apply to a full, formal party in a formal adjudication—if you were not a party and you unexpectedly got the ax, too bad. If the proceeding was informal, too bad.

Eighth, the brief observes that "antitrust law today often frustrates industry self-regulation" and that in many instances the consumer interest in maximizing safety—through self-regulation—would clearly outweigh the consumer interest in seeing that the antitrust laws are enforced to the letter. In such cases, the CPA would use its extraordinary powers to aid businesses.

What the brief is saying is that, if the CPA agrees with a voluntary action that violates the antitrust laws, it will help business violate the law and get away with it. How egalitarian can you get?

Mr. President, when you think about this, you have to realize that the CPA could probably be successful in such a shocking move. It has far more discretionary powers than the Justice Department or the FTC which it would be attacking if they dared attempt to enforce the letter of the law as they are supposed to.

Ninth, the brief predicts that the amicus amendment would destroy the capability of CPA to intervene and participate effectively in the administrative process.

The proper question does not concern the capability of the CPA but is: Will consumer interests be fully and adequately represented under the amicus amendment? The answer is "Yes." Full and complete input of concern of the consumer would be permitted, and the CPA would be permitted in every Federal agency proceeding to comment on all data, views, and arguments of all other persons. The CPA would be authorized expressly to have the last word—to comment after all other persons have completed their presentations.

What this boils down to is this: Is this bill to protect the interests of consumer by assuring that their views are considered? Or, is this bill to protect the interests of a Federal CPA to disrupt orderely procedures?

Tenth, the brief observes that an amicus curiae is merely an interested outsider who can ordinarily do no more than submit written briefs, or at most make a single argument, generally at the discretion of the last agency or court.

This statement is irrelevant, but perhaps of interest to first year law students. Defining amicus curiae does not explain the amicus amendment. The amicus amendment would permit, at the discretion of CPA: first, presentation of evidence; second, rebuttal; third, notice of agency action; fourth, an agency hearing and decision on the record; fifth, independent investigation powers; and sixth, submission of the entire record for final summary comments by CPA prior to closing the record.

The CPA can therefore adduce evidence, petition the agency to make discovery, and make full and complete final arguments to the agency. If the action is appealed, the CPA may as of right, not at discretion at the court, submit all relevant and material information for the court's consideration of the interests of consumers.

Eleventh, the brief says that most Federal agency proceedings are highly technical and the CPA must be given authority to effectively develop its case.

The amicus amendment would permit CPA to submit highly technical information and make highly technical arguments and to make them last. What this present bill authorizes is intrusion by a thinly spread CPA into highly technical agency proceedings to develop its expertise at the cost of orderly procedure.

Twelfth, the brief states that determinations by CPA that intervention as a party is necessary to represent adequately the interests of consumers will be subject to judicial review.

This is not a correct interpretation of the language of the bill as I read it. Section 210(e)(2) prevents any effective review of CPA determination by saying, and I quote:

> A determination by the Administrator that the result of any agency proceeding or activity may substantially affect the interests of consumers or that his intervention in any proceeding is necessary to represent adequately the interests of consumers shall not be a final agency action.

Thirteenth, the brief says that the bill gives the CPA strong incentives to participate in agency proceedings only to the extent necessary.

The bill also contains a limited budget coupled with unbridled authority to intercede in agency activities. The budget not being coextensive with the authority, there is a built-in temptation for CPA to opt for controversial visibility rather than persuasive representation in order to make a name and justify more funds. No agency should be so tempted.

Fourteenth, the brief indicates that the amicus amendment would not provide a grant of authority at all since every Federal agency can already be an amicus.

Every Federal agency can now be an amicus curiae at the discretion of the host agency. The amicus amendment removes that discretion and permits participation by CPA on its own unchallengeable determination while at the same time increasing CPA participation, over that of an amicus curiae.

Fifteenth, the brief says that the amicus amendment is contrary to the trend of increasing ability of third parties to intervene in agency proceedings.

The writers apparently desire to coopt the rising ability of consumers to represent themselves. They would displace private representation of consumers by sheer inertia. The amicus amendment would compliment these private representatives, who in their area of expertise, better represent the interests of consumers than could any Federal agency—CPA included. It would not, as required by the present bill, replace them or beat their ears back if they dared oppose the CPA.

Sixteenth, the brief says that the amicus approach has already been considered and rejected three times.

CPA-type legislation has been considered in every Congress since Senator Kefauver, from my own State, introduced such a bill in 1959. Continued rejection of CPA-type legislation is no argument against the need for such legislation. Similarly, past rejection of a different amicus-type approach to a different bill does not argue against acceptance of this new amicus amendment by this Senate now.

Seventeenth, the brief says that the amicus amendment would bar the CPA from appealing any administrative decision to the courts, limiting it to seek only a rehearing by the very agency which rendered the decision in the first place.

This is all any other person can now do in the many administrative proceedings which are "committed to agency discretion." This bill is intended, so its supporters say, not to change the rights of parties in those proceedings. CPA should be in like position. However, CPA is authorized under the amicus approach to participation in any court involving review or enforcement of Federal agency action. The amicus amendment requires an agency or a reviewing or enforcing court to admit and to consider consumers interests whenever CPA decides that their interests may be affected substantially.

Eighteenth, the brief exclaims that what the CPA needs is the right to participate as a party.

We are not considering a bill to aid CPA. We are considering a bill to aid and protect the consumer. The consumers' needs are under consideration. And, what the consumer needs is an input into the administrative process, so that his views and his needs are heard and considered.

Nineteenth, the brief says that the amicus amendment attempts to make CPA appear "more than equal" in one trivial respect in justification for making CPA less than equal to parties in many vital respects.

The right to have the last word, to make the final comments on all the evidence, all the data, all the exhibits and all the testimony of all parties is not a trivial right. The amendment preserves approximate parity for CPA in all other respects and in addition grants the significant right to "get in the last word." All this with minimum disruption.

Twentieth, the brief says that every Federal agency already has the inherent authority to initiate or intervene in judicial review proceedings.

If the drafters of the brief really believe this, then why are these writers so exercized? If the CPA is limited to amicus powers, the Council of Consumer Advisers which is created in title I of this bill has, in their words—

> The inherent authority—in the absence of statutory authority—to initiate or intervene in judicial review proceedings involving the actions of the Federal agencies.

If the writers really believe this, then why consider this bill? Let us merely ask Mrs. Knauer, FDA, FTC, and so forth, to start exercising their inherent authority to attack other agencies or each other.

This bill is a complicated one. There are many differences of opinion as to the best approach to the protection of the consumer's interest.

I question, in all candor, whether or not the bill as it now stands would be in the interest of the consumer. I question whether or not it will in fact do the reverse of the function for which it is designed—and that is to raise the cost for the purchasing requiring the necessities of life, for the people most in need of help, the low-income people of this country.

Too often, the Federal Government has, in its desire to be helpful, created more problems than it has solved. The difficulty that exists in this bill is that the interests of the consumer are not the interests of a special interest group, but the interests of all Americans. We are all consumers. To the extent that we are protected by the agency, good. To the extent that we protect the right of appeal, that is good. But to the extent that we create ever-increasing numbers of agencies of government and ever-increasing bureaucracies to impose on us as individuals, we jeopardize the basic freedoms of the people of this country.

Mr. President, in the Sunday Star, James J. Kilpatrick had a particularly penetrating analysis of the consumer protection bill which he characterized as an unwise delegation of power.

Mr. Kilpatrick points out that in the great arena of public affairs, the name of the game is power—how it is won, how it is used, how it is restrained. This sound doctrine was voiced in the Virginia convention of 1788 by Patrick Henry: power always to be distributed sparingly, on the assumption that bad men will use it badly, for it is likely that they will.

Mr. Kilpatrick feels that this sound doctrine had been forgotten by the advocates of the Consumer Protection Organization Act. In their eagerness to restrain the exercise of power by business they are creating another machine of even greater power. They are creating a super-bureau above all other bureaus. Mr. Kilpatrick recognizes that there might be some value in creating some sort of consumer agency, as independent as the General Accounting Office, with a responsibility to complain, to exort, or to dramatize on behalf of the best interests of consumers. But he warns against the creation of a czar with super powers over all other agencies and bureaus.

As I have stated before, I feel that a consumer agency should be created. However, I agree completely with James J. Kilpatrick and Patrick Henry that if our liberties are to be protected, then Federal power must be limited. Such limitations are contained in the amicus amendment offered by the distinguished Senator from Alabama (Mr. Allen).

I request unanimous consent that the Kilpatrick editorial be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Sunday Star, Sept. 24, 1972]

Consumer Bill: Unwise Delegation of Power

(By James J. Kilpatrick)

Columnists and editorial writers, as members of our tribe are well aware, sometimes fall into a kind of lordly omniscence. With equal authority we pronounce upon public schools today and public power tomorrow. We are into everything that matters, but when it comes down at last to the question of power, the answer, of course, is: Non est. There is none.

The Congress this month is warming up to pass a bill that covers the same sweeping universe. The bill (S. 3970) would create a new Consumer Protection Agency, with authority to pronounce upon everything that matters. But there is this vital difference: The CPA would have power.

I have said it a hundred times and would say it a thousand more: In the great arena of public affairs, the name of the game is power—how it is won, how it is used, how power is restrained. The sound doctrine was voiced in the Virginia Convention of 1788 by one of Patrick Henry's anti-Federalist band: Power ought always to be distributed sparingly, on the assumption that bad men will use it badly, for it is likely that they will.

That sound doctrine has been forgotten by advocates of this Consumer Protection Organization Act. In their eagerness to restrain one exercise of power—the power of big business—they are creating another machine of even greater power. Their proposed Consumer Protection Agency is like nothing we have seen before. The CPA, potentially, is a government on top of a government, a super-bureau above all bureaus.

The wonder is that good men, experienced in the ways of bureaucracy, could be breathing legislative life into this Frankensteinian monster. An explanation lies in the nature of the problem.

In recent years, or so the Congress apprehends, consumerism has become a secular religion. Ralph Nader is its high priest, the women's clubs serve at the altar. Voters may otherwise be identified as Catholics or blacks or farmers or veterans, but whatever they may be, they also are consumers. The unwarranted assumption prevails that as such, they all are members of the same universal church. Politically speaking, consumerism has to be served.

Beyond politics is the problem itself, and the problem is real. In the day of the village blacksmith, standing beneath his chestnut tree, the consumer had an easier time: If the shoe didn't fit, he could lead the horse back. Responsibility was direct and a customer's recourse was immediate. Obviously, nothing of the sort obtains today. The TV set probably was made in Japan; responsibility is blurred; everything seems out of focus.

But a proper answer is not to be found in the drastic relief proposed by this bill. Consumers are not mere beads on a string. Their interests are not identical. It is absurd to suppose that the bureaucrats who would man the CPA would be one whit wiser, more skilled, or more efficient than the bureaucrats who now serve in, say, the Federal Trade Commission or the Food and Drug Administration. These new masters would simply have more power.

It will be denied, of course, but the proposed CPA is potentially the largest of all agencies. It would have to be expert in everything—in aeronautics, in oil and gas, in milk and tomatoes, in fabrics, drugs, safety belts, public parks, banks, bonds, boats. It would have power to intervene in every regulatory proceeding, formal or informal, of every existing agency. The bill invites chaos.

There might be some value in creating a kind of super-editorial writer, as independent as the General Accounting Office, with a responsibility to complain, to exhort, to dramatize, to publicize, and generally to make noise in what might be conceived to be the consumer's interest: an official Ralph Nader. But to vest such a critic with power—the power proposed in the pending bill—is to create a czar. No thoughtful consumer would buy it.

Mr. BROCK. Mr. President, let me say again that I think should be of concern to every Member of this body and to the American people at large. Time and again in recent years Congress has seen a problem and has tried to respond to it by the delegation of power—administrative, legislative, judicial power. In some instances we have delegated power that the Congress itself does not have under the Constitution. But whether or not Congress has it, Congress is the people's branch. Nobody in any agency is selected by the people or is responsible to them. Too often I think Congress has embarked upon a program of coercion, of force, and excessive exercise of power, all to the derogation of some basic and essential freedoms of all Americans.

It concerns me that in this particular Congress we debated a bill not too many months ago in which Congress was going to delegate the right to a fieldman of an agency, absolutely to shut down a business, lock, stock, and barrel, if he did not like the way they were hiring, firing, or promoting. The businessman had virtually no protection, and neither did the employees.

That particular section was stricken by an amendment of the Senator from Colorado. But every so often, in this body, we come up against this particular issue.

How much power is necessary to protect people, and how much power can be delegated to any executive, any administration, or any enforcer, without abrogating the essential rights and responsibilities of free men, without damaging or even placing in jeopardy the rights and responsibilities that we have under the Constitution?

I think this bill has a desirable objective. It has the advantage of great public support in terms of its goals. But I question whether the American people really want another agency which can compete with existing agencies. I feel my constituents in Tennessee would ask me, if I did not make an effort to improve the bill, "Why did you not make an effort to improve the existing agencies that have regulatory powers? If there is a problem with FDA, why not change the FDA regulatory powers? If there is a problem with FTC, why not change the regulatory powers of the FTC? Why create a condition whereby we are going to have the United States as a litigant over and over again in the Federal courts, which are already overburdened?"

Where does the citizen stand? To whom does he listen? Time after time, when we talk with young people, we find a sense of frustration because of a feeling of the institutionalization of life in this country. There is a feeling that things have gotten out of hand. People do not know where to turn for an honest answer.

What we are dong here is creating new problems as well as compounding old ones. Are we not creating a situation where, by law, an agency can go in and intervene with another agency in the legitimate function of exercising its supervisory and regulatory authority? Where does the citizen look for help in that kind of situation? Where does the small businessman get relief with that kind of proceeding?

Under the bill as written without the amicus amendment there is no place for the small businessman to go. He can go to the courts, of course, after the fact, after the damage is done, perhaps after he is out of business; and then perhaps he would have little opportunity to pursue the relief.

It seems to me that in our zeal to protect the rights of consumers, we must not forget to protect the most fundamental right of all, the right of men to their freedom.

Mr. GURNEY. Mr. President, will the Senator yield for a question?

Mr. BROCK. I am glad to yield.

Mr. GURNEY. First of all, I commend the Senator on his most thorough analysis of this bill, and on calling attention to the many dangers and pitfalls that lie in it. I think this is about the most thorough analysis I have heard of this very comprehensive bill, and it does point out what may happen if an extreme consumer partisan is appointed to administer this agency. I certainly think that we have to realize that the strongest partisan who can be found for consumers would probably be put in charge of this agency.

I would like to ask the Senator this question: He pointed out that in his opinion, the amicus amendment would permit the CPA to fully and adequately represent consumer interests. I certainly agree with him on that point. I wonder if the amicus approach would not perhaps enable the administrator to better represent consumer interests.

I bring up this situation: Again and again we find conflicting consumer interests in areas of great interest around the country. For an example, let us take the power problem with which we are confronted. We have a power crisis in the United States today, as everyone knows. There are blackouts in some areas. Everyone in Government who has anything to do with the power situation is concerned with whether we are going to be able to construct enough powerplants to satisfy the needs of this country. These needs are now increasing at about 10 percent a year. In my own State of Florida the increase is even more rapid than that, because we are a much faster growing State than much of the rest of the country.

But we have conflicting interests here. Suppose, for example, that a powerplant is to be built in a certain area—there is one now under consideration for the city of Philadelphia. My understanding is that the Atomic Energy Commission selected a site there, and the citizens who live near that site brought a court suit, saying they did not want it there, even though they were going to be consumers and would ultimately benefit from the power output of the plant, whenever it is built.

We have, of course, the whole environmental ecology problem. When a powerplant site is selected, the ecologists, all fair minded as far as their interests are concerned, usually raise the question of damage to the ecology.

For example, again in Florida, our newest atomic powerplant has been held up in its final construction and initial operation for years, because of an ecology controversy.

We have a conflict of interest with ecologists, we have a conflict of interest with citizens who may live in an area where an atomic plant is planned, and we have the very heavy consumer interest of those people who want the power to use in their homes, their businesses, their hospitals, and for all the many other uses for which power can be utilized.

It seems to me that under this bill, as it is presently drawn, the CPA can represent one of those interests, but cannot represent the other interests. Would the Senator from Tennessee care to comment on that? Is that true under this bill?

Mr. BROCK. The Senator is absolutely right. As a matter of fact, to take the analogy or the illustration one step further, let us assume that the Environmental Protection Agency finds that adequate adherence has not been given in the issuance of the impact statement in the building of the powerplant. The Consumer Protection Agency could agree, or could also disagree, and intervene on behalf of the proponents of the powerplant and say, "We are going to build it whether you like it or not," with the full force and power of the Federal Government behind it in the form of this consumer agency, which would have far greater powers than any other agency, including the Environmental Protection Agency.

So, with this bill, without the amendment, there is no way to prejudge or predict where they are going to define the consumer interest. Will they define it in the area of protecting the environment? Will they define it to mean power at a lower rate, or will they define it, on the contrary, to mean power at a higher rate? They could, for example, intervene with the rate fixing agencies and say, "We think your rate is inadequate to provide for proper research and development." There is no limit. They define what they mean by the consumer interest, and there is virtually no limit on that authority to do a self-definition job.

Mr. GURNEY. As I understand the Senator's example, if the power company went to the CPA and said, "We want you to intervene on our behalf," and the CPA looked at it and said, "Well, they do have a proper case there, so I'll intervene on their behalf," and if they did so, and if a week later the ecologists come in to the CPA and said, "No. We want you to intervene on our behalf," my understanding is that, since the CPA has already intervened on behalf of the power company, they cannot intervene in behalf of the ecologists. Is that correct?

Mr. BROCK. Of course.

Mr. GURNEY. Under the amicus approach, as I understood it, when the amendment was offered in the committee, the CPA would intervene in such a situation and give all the arguments on behalf of a consumer. There is no reason in a case such as that why he could not give the views of the power company, the manufacturer of the electricity, the ecologists, or even the people who ultimately are most concerned, those who want to use the electricity. All these people who do have conflicting interests could have their viewpoints presented by the CPA under the amicus amendment.

Is that the Senator's understanding of the amendment?

Mr. BROCK. Absolutely.

Let me make two points in response to the Senator's questions, which are excellent.

First, I should like to read one paragraph from a letter from the Chairman of the Federal Power Commission with respect to the effect on the consumers of this legislation as written:

> The authority which this bill would confer upon the Consumer Protection Agency, if improvidently exercised, could substantially hamper effective regulation by this Commission under both the Federal Power and Natural Gas Acts by postponing finality of decision in matters of pressing public concern. The power to seek judicial review even on the absence of such intervention or participation could impose another layer of regulation upon this Commission and impair its effectiveness to the detriment of the public.

That is signed by John N. Nassikas, Chairman of the Federal Power Commission.

I point out that what we are trying to do with the amicus amendment is to create a different kind of intervention, a higher quality, what we would refer to as the last-word approach. I believe it provides a more effective means of advocacy be done by any parties to the ajudication proceeding.

As the Senator points out, under the amicus approach, all points of view that respondingly relate to the consumer interest must be taken into account, not just one. Those interests are not always the same. Quite often they are not.

It could be in the interest of more power to prevent blackouts, as opposed to the interests of higher prices or in the interests of ecology or in the interests of the environment. They are conflicting, and they all should be considered.

We simply cannot take a one-stance approach to the decisions of Government.

This approach of the amicus amendment would also avoid the specter of the Government presenting two prosecutors with potentially two different views, or the Government being cross-examined and impeached, in fact.

The compromise we are offering provides, as a matter of unchallengeable right, the CPA with a reconsideration of an action where any person could seek such action. From an administrative point of view, this is far more effective and far less disruptive than the present bill, which does not indicate this power.

Granting the CPA the right to seek judicial review of Federal actions will result in the "United States against United States" court cases. This is not administration of the law but a division of the Government that must be resolved by the courts. If it can be avoided, it should be.

In the extremely rare instances where this has happened, the courts have usually been divided and have expressed not only their confusion but also their annoyance over the fact that the executive branch could not administer the law.

I think that is exactly the kind of problem we are creating here, with the bill as it is presently written, without the thrust and effect of the amicus amendment.

What we, in contrast, are trying to do with the amicus amendment is to offer every right of intervention, every right of representation to consumers' interests, but broadly stated; not selected consumers—all consumers. In other words, the agency would be mandated to represent not a group who happened to have political power at a given point in time, but every citizen of this country, in the broadest possible way, in their total, long-term national interest, as consumers. That, to me, is a far more effective type of representation than that which is proposed in the bill.

Mr. GURNEY. I would agree with the distinguished Senator from Tennessee. That was my understanding of what the goal of the proponents and authors of the proposed legislation was originally. But it seems to me that the final product is entirely different.

Is it the understanding of the Senator from Tennessee, as it is mine, that the creation of the CPA—including the creation of powers given to it in the proposed legislation—not only authorizes it to represent whatever special consumer interest presents a complaint or a cause or a request for action, but mandates that such representation shall be of an advocacy nature.

My profession was that of a lawyer before I came to Congress. As I understand the word "advocate," an advocate, a lawyer on behalf of a client, is supposed to do everything within his power to make sure that his client's will prevails, using all his wisdom, all the tools at his command, in an effort to try to win for his side, his client, his cause.

Therefore, it seems to me that the Senator is absolutely correct, that in the creation of this super agency, as he has described it—and I think that is an excellent word to use—we are indeed creating a creature of Congress whose mission as spelled out, is to go out and harass Government agencies that are involved with consumers' interests, on the part of whatever consumer presents a cause to the CPA.

Is this the Senator's understanding?

Mr. BROCK. Absolutely.

There is one thing many people fail to realize about this bill. One of the things we do in Congress is to put a good label on every bill. Everybody says, "I'm for a consumer bill," and, of course, they are. We all are. Or they say, "I'm for a health bill or an education bill." Then we cover up some rather specific language in the bill with that label.

We talk about our interest in the consumer. The fact is that this bill, as it is written, really has no impediment to becoming a big business bill.

If this agency wanted to, there is no reason in the world why it could not intervene totally on behalf of industry, in an effort to raise prices on natural gas or oil or other regulated commodities, because the logic of the case—and it is a case that can be made—on the part of industry is that "If we do not get higher prices, we won't have a profit for exploration. We have a fuel crisis. We have to develop more resources. We have to find those resources. In the interests of consumers we have to have consumers temporarily pay a higher price for electricity, gas, heating oil, and the like."

There is no reason in the world why they could not submit a statement to the CPA, as it is proposed, and say, "We are concerned about consumers. We are trying to help consumers over the long term. Now we expect you to go to court and fight the State commisions which are impeding our growth and progress and our ability to develop energy resources by setting unrealistically low prices." There is no reason why the agency cannot do exactly that because that is what they have been created to do, to represent the interest of the consumer. It may be a vested interest or a special interest, or a group of business interests, but there is no preclusion of that kind of activity whatsoever. There is no reason to think that could not happen. It might, in the long term, but my constituents in Tennessee do not think so and they resent it very much.

Mr. GURNEY. The Senator mentioned his constituents in Tennessee. That raises this point, which has puzzled me about the bill. It seemed to me that we in the United States often go off on this crusade or that crusade, when perhaps a crusade is not warranted at all.

I am reminded of a few years ago, when in many parts of this country, everyone began digging holes in the ground for bomb shelters. I had friends who came back from a trip to Europe at that time, when everyone in this country was busy digging holes in the ground like a woodchuck. They said to me, "What has happened? We spent 3 months in Europe and everyone over there is going about their business. No one is concerned about war or an atomic attack from the Russians. What in the world is the United States doing digging holes in the ground for bomb shelters?"

Well, as we all know, after a year or so of that curious activity, everyone forgot about bomb shelters and used the holes in the ground for a separate bedroom or a separate living room.

I wonder, perhaps, whether we are not going off on that same sort of tangent on this consumer bill.

With that as a preface, I should like to ask the distinguished Senator from Tennessee if he has had much mail from back home requesting him to introduce a consumer protection bill and asking him to vote for such a bill, with correspondents verbally wringing their hands that something must be done to protect them from the plans and schemes of business to do them in with bad products? Has he had that sort of request from home?

Mr. BROCK. If I may respond to the Senator from Florida, let me say that I have had virtually no mail at all advocating this kind of legislation. I have had a flood of mail in opposition to it from small businessmen and attorneys who are terrified at the implications inherent in this possible exercise and grant of authority. They fear very much that there are no safeguards, no protections built in for the small person in this country, be he a worker or a small businessman. That is the case.

I was interested in the Senator's remarks about crusades. I was reading, just over the past few days, a historical study of the first crusade, back in 1095. I was reading a double account of it. One account concerned the people who were the inhabitants of the area around Jerusalem and their viewpoint of what ultimately became a holy war. Every time they killed a number of crusaders, they felt that they had gotten themselves closer to their kind of heaven and had sent so many more souls; that is, crusaders, to hell.

When I read the account of the crusaders, obviously, they had a somewhat different perspective. They went into this particular community, talked at some length about how the infidels had destroyed women and children, ruthlessly raped, multilated, maimed, kidnaped, and killed these holy Christian women. So when they took a little town and in that particular exercise, they had proceeded to overwhelm the garrison, they proceeded to multilate, maim, and murder somewhere on the order of 1,100 or 1,200 infidels, whom the crusaders felt they had sent speedily on their way to their predestined place in Hades and had, of course, gained for themselves one further step up the ladder into heaven. That is what happened in the crusades of those times. We forget that there may be two points of view.

That is perhaps true on this particular legislation. In the interest of the consumer, we might unwittingly push the price of goods and services beyond the reach of the small consumer, the impoverished family, those who live on $3,000, $4,000, or $5,000 a year. We can end up creating a government of chaos, a government of conflict. We can create a great force, a great influence to regulate, because we can take to court any agency anytime someone disagrees. The FTC can have its regulations, which a chairman can sign into law, and all of a sudden we have a climate and a condition in which prices go up, stretching the basic prices of commodities beyond the reach of low- and middle-income families, and yet there is no effective regulation because we are all tied up in the United States against the United States cases in the courts.

I cannot imagine anything more deleterious to the consumer than that, with such a condition and climate in this country. No matter what a bill is labeled or what the intent is, if the effect is to damage the rights and prerogatives of freedom, we have created a problem, a monster.

Mr. GURNEY. I have to agree with the distinguished Senator from Tennessee in his analogy of the Crusades causing so much mischief. It is an excellent example. It had been my impression of the Crusades from a study of history back in high school and in my early years of college that these were, indeed, tremendous movements on behalf of Christianity and did the world a very considerable amount of good. But then, this year, I read James Michener's story about the Crusades—perhaps the Senator did, too. I understand that Mr. Michener is one of the most accurate historical novelists that we have today, and his assessment of the Crusades is quite a bit different from what I gathered from my history books back many years ago. It fits precisely into the reasoning the Senator from Tennessee has mentioned today.

Mr. BROCK. He is one of the great authors of our time. It is rather intriguing, in reading this particular material that I had in analyzing the Crusades, that they did not call them Crusades until after the first one. It was a different thing then. It did not become a holy war until after. The fact is, the church in those days did not believe in violence. It was steeped in early Christian religion which said, "Thou shalt not kill." And it adhered to that principle until this particular time, in the late eleventh century. But a funny thing happened. When they had to collect all the men together to go out on the first Crusade, they had to create a system of management to leave behind some method of maintaining the farms so that they would continue their productivity, and they had to create a new type of commerce in order to operate the weapons of war and to finance the war, and there had to be new monetary and credit systems evolved which would afford them the opportunity to engage in a crusade, in order to capitalize on their endeavors. All of this created such a tremendous economic climate that it became sort of nice. It was a pretty productive thing for everyone. So it became a holy war, and then it became a crusade, which may or may not describe the essence of human nature at that particular time.

But it illustrates a problem we have today. We may be working in the reserve condition here. We may have a crusade to protect the interests of the consumer, which will ultimately destroy his interests and will destroy his opportunity to engage in the marketplace in the production of the necessities of life.

Mr. GURNEY. The Senator's point is well made. In the article which I mentioned earlier today, which was the Sunday Star and Daily News, published on August 13 is an article about consumerism by Jefferson St. John, a news commentator for radio and television, and also a writer.

He points out that during the New Deal days we actually had devices similar to the CPA, which we are creating in the pending bill. It was a Consumers' Advisory Board.

Gen. Hugh Johnson, who was in charge of the NRA, was a very important man under President Franklin Delano Roosevelt. He admitted in his memoirs that "I made a blunder in setting up a Consumer Advisory Board as I did."

General Johnson also conceded that the board was a factor in "increased prices to consumers"—in addition to FDR's monetary policy, price fixing in agriculture, and State and Federal taxing policies.

"The board representing consumers," Johnson added, "should not have been set up exclusively in NRA where it felt a duty to 'Make a record' and attack every code on general principles without regard to other influences affecting prices." That is analogous to the point the Senator was making.

The Senator stated that the Crusade accomplished a great deal of mischief, probably the greatest cruelty and killing and maiming in the history of the world, all in the name of Christianity.

It seems that a similar distortion occurred under the guise of consumer protection. We may be accomplishing the reverse of what we are attempting to do. We may protect them so that the goods and services would cost them a good deal more than if we had done nothing.

I am of the same view as the Senator. I am not opposed to creating the CPA as such. The CPA can engage in consumer protection. As a matter of fact, we have protected those interests through such agencies as the Food and Drug Administration, the National Trade Commission, and other departments and agencies of the Government. I think there are 39 of them involved in consumer protection.

This Senator—and I know full well the Senator from Tennessee shares my views—feels that he is not opposed to protecting the consumers. However, we are opposed to going overboard on protectionism by setting up a CPA Administrator and giving him the power to actually hamstring the process of Government and the process of trade.

As I say, we have amended it 58 times in order to try to improve it during the mark-up in the full committee. That was because it was such a bad bill. However, there is still much in it that should be changed in order for us to accomplish the mission we set out to do, to protect the consumers.

It seems to me that the amicus approach is the desirable approach. I think after we make a start on it, we will find that it will work, because it will indeed bring all viewpoints of the various consumers together. We do have these conflicting viewpoints of the various consumers. Even if it would not accomplish all of the missions we think it will, it seems to me that it would be far better first to take a step toward this new approach of a super agency, rather than to suddenly compete in the final race of the Olympic games without any prior preparation.

As I see the Senator's viewpoint, which reflects mine, we ought to give it a chance through the amicus approach before we set up this advocate agency that will go charging out among the various Government agencies trying to make a record. As Gen. Hugh Johnson said, a Consumer Advisory Board usually generated more problems than it solved.

Neither the Senator from Tennessee nor I see any compelling urge from our respective States. However, it seems to me that the proponents of this bill are trying to sell the idea that consumers all over the United States are clamoring for this bill, clamoring for some kind of protection to protect them from the evils of the manufacturers, the producers, and business interests in the country.

Mr. President, I was rather amazed here to receive some letters recently. I wish I had received these letters earlier, but I think people are just waking up to what is in the bill. Here are some people who are waking up to it. I know that the Senator from Tennessee would be interested in these letters, because he has farming interests in his State, as I do in mine.

I have a letter from the American Farm Bureau Federation. They represent 2 million members. That is a lot of consumers in this country. Believe me, farmers are very price conscious. They have been for some time at the low end of the totem pole so far as the increase in profits and a share of the increase in the economy in this country is concerned.

I will read portions of the letter. It reads in part as follows:

> We submit that the delegations of power granted to CPA to intervene in agriculture alone are extraordinarily far reaching and comprehensive. The activities of many other agencies, such as those of the Department of Labor, Food and Drug Administration, Interstate Commerce Commission, Department of Transportation and many other agencies also would be of direct consequence to farmers.
>
> The enactment of the bill in its present

> form inevitably would entail administrative delays at every step of affected procedures. The costs of attorney fees and other costs in and out of government would be substantial. Government agencies would be ensnailed in new "red tape" and procedural complications.

This letter goes on and makes other arguments.

This is an organization representing 2 million members. They would like us to do something about correcting some of the inequities in the bill.

Here is a letter from the National Grange. We do not have many Grange people in Florida. However, where I grew up, in Maine, we had many of them. Perhaps the Senator from Tennessee has many of them in his State. At any rate, the Grange people sent a letter to me about this bill.

It reads in part:

> The National Grange for many years past has supported consumer protection legislation and in particular in the last several years proposals to create within the federal governmental structure an agency whose sole purpose is to protect the interest of the consumer whenever it may be affected by federal government action or inaction.

The opening paragraph of the letter states that this organization is consumer minded and they actually support the concept of the bill. However, in the next paragraph they go on to say:

> We are firmly convinced, however, that S. 3970 goes too far and that it would disrupt the orderly process of administration of federal laws, result in damaging delays in necessary government regulation and on balance harm rather than help consumer interests.

They continue:

> Taking into considertaion past activity of consumer activist groups in the Nation and the current climate of challenge of almost every Government action, we fear that CPA would use its powers to the utmost and create havoc in established Federal procedures, including rule-making, rate-making, licensing and adjudication proceedings, and informal actions of various agencies. Delay and additional cost to the Government and interested parties would be considerable.

I would ask the Senator this question. They are correct, are they not, that the CPA can go into rulemaking, ratemaking, licensing, and adjudication proceedings, and even informal actions of various agencies.

Mr. BROCK. Without any question whatsoever, the Senator is correct.

Mr. GURNEY. Mr. President, I would say that there are 600,000 members of the National Grange throughout the country, and they do not want the bill. They say so in no uncertain terms in this letter.

Here is another letter entitled "Action Bulletin."

I was particularly interested to get this letter. It is not addressed to me. It is addressed to members of the National Council of Farmers Cooperatives. We have a great many cooperatives in Florida, and I am sure that the State of Tennessee does, too.

Cooperatives are particularly common in our great citrus industry. I suspect most of the fertilizing and marketing of the whole Florida industry is done through cooperatives who are members of this council. Here is what they say. This is an action bulletin or quotation from the national office:

> In the legislative rush of the waning weeks of the 92nd Congress, a seriously anti-agriculture Bill threatens to become law. This Bill is S-1177, designed to create an independent Consumer Protection Agency at the Federal level.
>
> Farmer cooperatives generally support legislation of benefit to consumers. However, this Bill would cause havoc with the effective operation of the USDA and its varied agricultural programs. A similar Bill has already passed the House (H.R. 10835), and the Senate Bill's passage is fast moving toward reality. It must be amended to protect agriculture's interests.

There are 6,500 cooperatives throughout the United States that belong to this council. My information is that this represents about 3 million local farmers, scattered throughout the Nation. Thus, we have letters from nearly 6 million people who are all consumers in this country, very active and important consumers, and they apparently think very little of this bill in its present form.

I wish to ask the Senator from Tennessee if it is his feeling, too, that the farmers in the great State of Tennessee, if they know about this legislation, are apt to view it with considerable alarm.

Mr. BROCK. I would say that that is the understatement of the year. I am delighted that the Senator from Florida brought this matter up. One of the more interesting letters I have is a copy of the letter from Richard Lyng, who is Assistant Secretary of Agriculture, to the Senator from Alabama. I would not dream of taking the time of the Senator or this body to read the 31 pages of activities that are listed by the Department of Agriculture which could be adversely affected by the passage of this legislation. It covers every single farm program we have on the books. There are 31 typed pages listing those areas which can be covered and adversely so in the interest of the farmers under this bill. That is the kind of joint franchise that has been suggested we grant this new agency. It is an incredible franchise and frankly the farmers in my State, those who have become familiar with this legislation, without exception express grave and serious concern over some changes.

The thing that bothers me most, and it was alluded to in the excellent minority views submitted by the Senator from Alabama, attached to the committee report, is that I am not sure whether Congress should not start all over on this bill. It is difficult to amend because we are creating amendments which may or may not consider all the ramifications. We adopted some 58 amendments in committee, if I remember correctly. That suggests the kind of bill we were handed in the first place. There were the standard problems incorporated in that original legislation.

I personally support the amendment of the Senator from Alabama because I think it is a step in the right direction. But I really question whether or not that amendment is in itself sufficient to remedy the inequities of this particular legislation. Perhaps it would help if I remind this body of a letter to the then chairman of the Committee on Government Operations, the Senator from Arkansas (Mr. McClellan), from Ralph Erickson, Deputy Attorney General, which was received on July 28, 1972. I wish to read just a few relevant paragraphs:

> In the Department's view, the proposed Agency's powers of advocacy and intervention in Federal administrative agencies' decision-making are too broad, and pose a threat that the orderly and effective dispatch of the public business in the public interest might be significantly disrupted. For this reason, the Department strongly prefers the more narrowly drawn provisions governing the proposed Agency's interventionary powers which contained in H.R. 10835 as it passed the House of Representatives last year. A comparison of provisions of the Committee Print and H.R. 10835 in this important area may help illuminate some of our concerns.

It goes on to define agency action in section 401(4) and states that it fails to set any reasonable limits on areas of possible intervention by the Administrator:

> "Agency activity" means any agency process, or any phase thereof, conducted pursuant to any authority or responsibility under law, whether such process is formal or informal, but does not mean any particular event within such process [.]

I go back to the quotation of the Attorney General:

> In our view, this definition is at best imprecise, and implementation of Section 203 (b)'s mandate under it would cause great problems for administrative agencies in general, and particularly for the Department of Justice in performing its prosecutorial functions.

The letter goes on to say:

> The Department is also opposed to the broad reach of Section 204(a) of the bill, which gives the Administrator "standing to obtain * * * judicial review of any Federal agency action reviewable under law and to intervene as of right as a party in any civil proceeding in a court of the United States involving the review or enforcement of a Federal agency action, if he intervened or participated in the Federal agency proceeding out of which the action arose or, if he did not so intervene or participate, the court finds that the result of such action may substantially affect the interests of consumers."

It goes on to state:

> In contrast to the unfettered grant of authority to the Administrator to obtain judicial review and to intervene as a party in a court proceeding involving the review or enforcement of a Federal agency action, we note that there is no provision in the Committee Print comparable to H.R. 10835's Section 204(c)(2), which allows the Administrator to appear as *amicus curiae* in other actions to which the United States or any Federal agency is a party. We believe that the Administrator's authority (or lack of it) to participate in judicial proceedings not involving the review or enforcement of Federal agency action should be specifically set forth.

He goes on to state:

> The Committee Print's grant of compulsory information gathering powers to the Administrator also seems excessively broad. Both the Committee Print and H.R. 10835 authorize the Administrator to use in any Federal agency proceeding to which the proposed Agency is a party all types of compulsory process and discovery devices available to any party to the proceeding under the terms of the statute governing the agency conducting the proceeding.

Again, he states:

> For similar reasons, the Department would recommend the deletion of Section 207(b) of the Committee Print in its entirety. In essence, Section 207(b) would give the Administrator the right to compel any person who is engaged in a trade, business or industry affecting commerce and whose activities substantially affect what the Administrator determines to be the interests of consumers to answer interrogatories under oath "concerning such activities and other related information." The Department regards this proposal as unsound and unnecessary. The proposal is unsound, because it is at odds with the basic premise of the legislation, which, as we understand it, is that the interests of consumers need more adequate representation in the processes of Federal administrative agency decision-making. To our knowledge, the proposed Agency has never been intended to be a wide-ranging investigative agency, empowered to scrutinize the business practices of any person or business entity whose activities might affect the interests of consumers.

He goes on and on. There is no limit to the grant of discretionary power, carte blanche, without any protection on the individual. It seems to me we run the terrible risk of jeopardizing of the interests of small business and the consumer, as well.

Mr. GURNEY. Mr. President, will the Senator yield for a unanimous-consent request at this time?

Mr. BROCK. I yield.

Mr. GURNEY. Mr. President, on behalf of the Senator from New Hampshire (Mr. COTTON), I ask unanimous consent that Mr. Arthur Pankopft, of the minority staff of the Commerce Committee, be granted the privilege of the floor during the consideration of the consumer protection bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The GURNEY. The Senator from Tennessee mentioned the Justice Department, and, of course, that brings to mind lawyers and the law profession. I understand this bill starts out with an authorization of $15 million the first year, and then $20 million the second year, and then $25 million the third year. Is it the Senator's understanding that a goodly amount of authorized, and then, of course, later appropriated, money will be devoted to the hiring of lawyers to staff the CPA?

Mr. BROCK. Of course. I am sure the money would go for that purpose.

Mr. GURNEY. My calculation of a rundown of lawyers' salaries indicates that perhaps $20,000 a year would be paid for the employment of literally hundreds of lawyers under the authorization and appropriations which this bill will eventually set up and generate from the Appropriations Committee. It would also be my feeling that once the lawyers get on board, their main mission in carrying out the edicts of this law will be to intervene in the informal proceedings, and later the formal proceedings, of the agencies, and then later the court proceedings either AB initio or else on appeal from what happened before.

Is it not the Senator's understanding that the hundreds of lawyers who would be employed would be doing that?

Mr. BROCK. Yes. Perhaps I have a certain bias on this, and I make no derogation of the contribution of lawyers to the legislation enacted by Congress, who, I think, comprise perhaps two-thirds of the membership of both bodies. However, as I said, if we get a lawyer's employment act through Congress such as this, there are going to be quite a few who are going to be well compensated for their contributions, and perhaps they may have something at heart other than the interests of those for whom we purport to act.

Mr. GURNEY. I would have to agree with the Senator that the bill is certainly going to be cheered from one end of the land to the other by lawyers, because it does constitute a splendid employment act for lawyers.

Mr. BROCK. We are doing as much for them in this one as we did for the tax attorneys in the 1969 tax code provisions.

Mr. GURNEY. I think the Senator has a point there.

The thing that disturbs me, however, is that I wonder if we are not setting up, at least in this Senator's opinion, based on experience gained from action in Florida, something akin to the legal department of the OEO. We have had a lot of experience with the OEO in the State of Florida. I think it is a fair thing to say that our experience has been that while the OEO lawyers acted in good faith, there is no question that they did stir up unnecessary litigation in Florida, went out looking for it, went out looking for clients, trying to get law business, in order to carry out their mission.

I can see that this same thing is going to happen with this kind of agency, where we have one, two, three or 400 lawyers—and I would think the CPA eventually could have as many as that. I think some of them are going to come into that agency in a crusading form or fashion, using the same words we used before, and I think they are going to find ways and means of carrying out their mission of advocating as hard and as fast and as much as they can in the name of the consumers.

Mr. BROCK. That is correct.

After these 500 or 1,000 or 2,000 attorneys, or whatever number it will be—and it will be the maximum number possible—can the Senator imagine what would be the case, if, after they had gone through an investigation of the FTC and the FDA, and the ICC, and all the other agencies, and did not find any problems? They would then come to us and say, "Well, you need to continue hiring us, because we need to exercise oversight over them, but, as a matter of fact, these agencies are doing a pretty good job?"

To think they would do that is living in a dream world. As a matter of fact, for them to justify their existence, as every bureaucrat must, they have got to come in with a very controversial report. They have to say, "The agencies are doing an abominable job, and all you have to do is give us more power and more money and perhaps more men to straighten them out." That is how the bureaucracy grows. That is the nature of the beast. Not once will you have an agency come in here and say, "We will solve the problem if you will straighten out FDA or FTC and let them be regarded as a consumer advocate"—which is the thing we should have done in the first place.

If we do not agree with agency decisions, then we should examine into that agency. If we are going to create a new agency here, why not start abolishing other agencies? But that is not proposed. All that is proposed is to put one more patch on the quilt, and back it with a lot of power that has never been granted to any other agency in the history of the country. We are going to do that, and we are going to give them, by definition, the motivation to seize upon the most controversial questions they can in order to justify their existence. I think that is one of the poorest ways to go about solving the problems of this country, and it is a rather dangerous way.

Mr. GURNEY. I am going to have to agree with the Senator.

I would like to pursue the lawyer role a little more, since I brought it up. It does bother me. As I pointed out earlier, I am a lawyer myself, and I understand how an advocate, when he has a case, wants to win. That is why I think the amicus approach is so much better than the approach in the bill. With the amicus approach, the CPA comes in and is able to present all the views it wants to present on behalf of the consumers—and there could be as many conflicting consumer interests, of course, as two or three or four. But after it had presented its views, either in an informal procedure or a formal procedure, or even in a court action, that would be the end of its participation under the amicus amendment. As I see it, it would be able to expose all the issues that it needed to expose as far as the consumer was concerned.

Mr. BROCK. The Senator is entirely correct. I appreciate his contribution and his thoughts in this matter. I think he is one of the most skilled members of the committee, and he has done as much research on this legislation, insofar as its effect on the consumer and the interest of the consumer are concerned, as anyone, and I commend him for that work.

Mr. President, I yield the floor.

Mr. GURNEY. Mr. President, continuing the point that was under discussion with the distinguished Senator from Tennessee, it seems to me this amicus approach would be far better, because at the presenting of the views of the consumer—in some cases the many conflicting views—proceedings would terminate, and a decision could be reached. I can see all kinds of reasons, if the Administrator of the Consumer Protection Agency is given the power that is presently in the bill to intervene as an advocate, why he would be completely motivated to delay and appeal, and why great mischief could be done. Such delay might even be used as an implied threat, even as it has by other agencies.

Suppose, for example, we had some agricultural matter under consideration involving fresh products of some sort—tomatoes, perhaps, or some other perishable items.

Decisions on these matters are needed very quickly, because, if they are not made quickly, the perishable product perishes and is no longer of any value to the producer or the consumer.

Under this bill, if we give the Consumer Protection Agency the full rights of advocacy, it can intervene, it can delay the proceeding, and then, of course, great harm, great mischief, and great damage will be done as far as perishable products are concerned.

The same thing, of course, could be true in many other areas. I use again the example of the power crisis which we have in our country. This is a crisis that no one can overexaggerate. It goes to the very heart of the ability of the citizens of our Nation to function, using the power that is consumed in the home and using the power that is consumed in industry. This country is a power-oriented country, and we could hardly survive for a single day without the full benefit of many forms of power. We are now in a mammoth power crisis all over the country. All of our experts in this field are having meetings and holding hearings, trying to come up with decisions on how to overcome this great power crisis.

The only way it can be overcome, of course, is to proceed with the construction of powerplants, whether they be atomic plants, coal-powered plants, oil-powered plants, or plants utilizing any of the other kinds of fuels that are presently used in the production of power.

But, we have serious delays in powerplant construction. Many of these are due to lawsuits filed against power companies trying to build atomic powerplants. These lawsuits are on behalf of particular interests—some consumer interests and some just people who do not want the powerplants in their neighborhoods.

Suppose we were to enact the bill we have before us. I do not think there is any question but that the particular area of power production will be one of the first in which the CPA will be requested to intervene on behalf of the consumers. I anticipate that requests will be made of the CPA by every type of consumer, by the power companies, by the ecological interests, by the conservationists, and by the direct consumers themselves, every one with interests conflicting. Certainly I can foresee no other issue where the CPA would be compelled to intervene more quickly than in this kind of an issue.

The administrator may intervene in informal proceedings or, perhaps later, in a formal proceeding before the Federal Power Commission, the Atomic Energy Commission, or some other agency that may be involved with this particular issue.

The CPA will go in, for example, to the formal proceeding, and make its case on behalf of whomever requests its services. Let us say it is the ecological interests. The CPA will have to advocate that the powerplant not be built, because it will be injurious to ecological interests. The ecologists may have a perfectly viable case.

After the formal proceeding, should it go against the ecologists and in favor of, for example, the Atomic Energy Commission, the Consumer Protection Agency would be under a duty, in its role of advocate, to appeal from such a decision on the agency level.

Appeals take a long time. I do not know where this particular appeal would go. I suppose it would go to the Federal district court first, and then to the circuit court of appeals. It might even go as far as the Supreme Court of the United States.

If it follows that route, which it well could, it may be that years will intervene between the time when the CPA intervenes in the proceeding, and the time when final adjudication is made by the court of final jurisdiction. In the meantime, the powerplant in question will be held up, and one of the effects undoubtedly will be a severe shortage of power.

These are things that can happen if we follow the route that is spelled out in the bill. That is not to say, and none of us who are pointing out the pitfalls in this bill are trying to say, that consumers should not be protected. We agree that they should. But our feeling is that we ought to take the first step along the amicus route, to permit the CPA to present the views of the consumer at various levels of consumer interests, and present those views fully, so that whoever is hearing the particular matter, be it the agency or be it the Federal court, will be fully informed of the consumer interests.

It seems to me it is far wiser to proceed in that fashion, because the one thing of which we are absolutely sure in this very complex subject of consumer interests, is that there are indeed many varying kinds of interests, some of which are completely opposed to each other. Agencies and courts have got to find for one interest or the other, in some sort of a compromise, perhaps, but they cannot find all for one and all for the other.

That certainly is true in all of the consumer safety problems, and we have many of them today. Of course we should continue to proceed diligently in the area of consumer safety, and we are so doing. We passed the consumer product safety bill that has been alluded to by various speakers here not too long ago. But every time you talk about consumer safety, you necessarily have to go on to discuss the expense involved in consumer safety, because it always is involved.

I do not know how many car owners I have heard express to me the fact that they wished the car manufacturers would not add this device or that device under the guise of safety, because they do not want to pay the additional cost that device involves.

I think an excellent example of this is the shoulder safety strap. Every car manufactured in America has the shoulder safety straps now. That legislation went into effect some 3 years ago. There is no question but that it is an excellent device. There is no question that it protects the lives of passengers, and not only their lives, but of course their safety from injury.

Yet as we drive home tonight, when we close up shop here in the U.S. Senate, I will wager you can watch 10,000 cars pass on any particular road out of Washington, and you will not find a baker's dozen of the drivers of those cars using the shoulder strap. They do not want to be bothered. Yet the cost of that shoulder strap goes to the consumer, at very considerable expense. I am not arguing whether or not we should have passed legislation requiring the strap to be there. I am simply saying that whenever we make a requirement like that, we are increasing cost.

Senators could send out a questionnaire to people who own cars, asking "Would you rather have the shoulder strap or the money it cost to put it on, whatever that may be," and I am sure Senators would receive the overwhelming response the money is preferred to the shoulder strap.

So we do have a number of conflicting interests here; and where we have conflicting interests that must be weighed, it seems to me that the correct way of going about that is through an amicus approach rather than by requiring the consumer advocate to advocate the position of whatever consumer may come before him at any particular time.

Mr. BROCK. Mr. President, will the Senator yield?

Mr. GURNEY. I yield to the Senator from Tennessee.

Mr. BROCK. Is it the Senator's interpretation of the bill as currently written that in the interests of automobile safety, for example, there are certain powers granted to agencies of the Government to insist on certain safety devices in automobiles? The Senator is familiar with that?

Mr. GURNEY. Yes, that is true.

Mr. BROCK. Now, if this agency felt those devices were improper or inadequate, then it could intervene and require the agency to more vigorously apply standards. Is that not so?

Mr. GURNEY. That is indeed so. The Consumer Protection Agency, as I see it, is set up to do exactly that, if the request is made to it to intervene in that particular subject.

Mr. BROCK. That is correct. I do not know if the Senator has ever seen figures of what it would cost to build a totally safe automobile.

Mr. GURNEY. No.

Mr. BROCK. I have seen figures ranging from an absolute low, for the cheapest type of four-wheel transportation with a motor, of $15,000 to as much as perhaps $75,000 per car.

The Consumer Protection Agency could decide that consumer protection does not relate to cost, but relates to safety only. It could then insist on every possible safety device being incorporated, to the extent that nobody could buy a car. I think that is somewhat stretching the definition of consumer protection, but I think that is possible under this bill.

Mr. GURNEY. I would answer the Senator by saying that it certainly is possible under the bill, as I understand the bill. When we were discussing it in the many markup sessions, that is exactly what we decided the Consumer Protection Agency could do, if it were requested by a consumer to look into that particular product safety question. That is what it is being created for.

As a matter of fact, as I see it, as long as a viable issue has been raised, concerning something that truly ought to be looked into, he would have a duty under this bill to do exactly that.

Mr. BROCK. Just to pursue the point, one of the more interesting stories I have seen came out of the State of California which has had for a very long time the most stringent antipollution requirements on automobiles in that State, they have eliminated, by and large, the more dangerous and noxious sulfuric dioxide emission from cars. If I recall correctly, all of a sudden they now find that the pollution being created in the Los Angeles basin is coming from nitrous oxides, which were not covered under the process of pollution control.

That is the sort of thing that is the danger of the involvement of this nontechnical agency, with agencies that do have an expertise and are supposed to look at the overall element of the problem. As the bill is written today, and as the Senator has pointed out so cogently, the agency could consider an element of consumer protection, a particular interest, a particular group, a particular segment of thought, but it is not required to look at the overall interests of the consumer or at the long-term affects of its actions on the consumer.

The danger I see in something like this is in just exactly that kind of occurrence, where the agency simply does not take into consideration the long-term effect. For example, with the catalytic converters that are programed for introduction in 1975 we are increasing the consumption of gasoline to the point where it is going to cost another 3 to 5 or 6 miles per gallon to drive an automobile with these various devices incorporated, and we are pouring out what they think now are nontoxic gases, but we do not know for sure. The state of the art has not reached the point at which we can tell for sure whether they are nontoxic in terms of the potential ecological imbalance that could be created.

I think the danger is that with all the thrust and desire that is inherent in a new agency to prove itself and make its mark, to demonstrate its effectiveness and its need for more funds and more manpower and more power the next time around, this could result in some very unfortunate decisions coming out that could have long-term implications.

Again, this demonstrates the need for an amendment which requires the agency to look at something more than the narrow interests of one consumer, one group of consumers, or one special interest group. It seems to me that the amendment offered by the Senator from Alabama does that. It would effectively create a condition whereby the agency would have to consider all elements of the proposal, long term and short term, special interests, vested interests, consumers; but all these taken collectively are the interests of the American people. They simply cannot be separated, as Congress often does in its legislation. We say that we must take into consideration the overall implications of the action of this agency.

The support the Senator and I have given to the amicus approach is warranted because it does mandate an overview and an overall analysis of the problem which is important to us.

Mr. GURNEY. The Senator mentioned the California experience with pollution laws. It seems to me that we have perhaps a more dramatic example of where the CPA could intervene in the area of pollution.

As the Senator will recall, Congress passed last year a very strong air pollution bill. The air pollution bill requires the automobile industry to eliminate almost entirely the emissions—that is, the pollution emissions—from automobile engines by 1975. There is a wide difference of opinion as to whether the automobile industry is going to meet this requirement. As a matter of fact, my recollection is that sometime this year one of the automobile companies appealed to the Environmental Protection Agency and asked for an extension of time.

Mr. BROCK. That is correct.

Mr. GURNEY. I think, too—I wish the Senator would correct me if he recalls—that the Environmental Protection Agency denied their request.

Mr. BROCK. That is correct.

Mr. GURNEY. Let us say this bill was law when that request was made by the automobile company. Let us say that when the request was made, the United Automobile Workers, representing hundreds of thousands of automobile workers, requested the CPA to intervene in that action on their behalf, saying, "We want you to intervene because we think that if this deadline of 1975 is enforced by the EPA, we are going to be out of jobs." I cannot imagine a more viable consumer interest than that. As I understand, under this bill the CPA would be bound to entertain that complaint. Certainly, that is not a frivolous complaint, because some experts in this country feel that the deadline cannot be reached. And if the deadline cannot be reached and this law is not extended, many people are going to be out of jobs.

Suppose the CPA comes in, in its fierce advocacy manner, in this proceeding; and says, "No, Mr. Administrator of EPA, you cannot enforce this deadline. You have to extend it another year. There are hundreds of thousands of men's jobs depending upon this, and whether they have bread in their homes or whether they have homes, because they must meet their mortgage payments, depends on whether they have jobs. So you have to extend this deadline." As I understand it, the CPA might get in there and argue their position fiercely.

Let us say that the EPA decided against the request of the automobile industry and the request of the CPA. As I understand this bill, the CPA would have every right to appeal that to the Federal district court, and if the Federal district court went against him he could go to the Circuit Court of Appeals and right on up to the Supreme Court. Is that not the Senator's understanding of what would be happening if this had been law when that request was made?

Mr. BROCK. Yes. That raises two problems. One is the delay inherent in this kind of proceeding to achieve any result, and second—although I would admit that the Senator has chosen a difficult analogy for me, because I happen to believe that something should have been done a long time ago——

Mr. GURNEY. I might say that I agree with the Senator on that.

Mr. BROCK. The industry has been somewhat less than truly responsive in doing an adequate job. It could have done a much better job.

But let us take the illustration the Senator presented and take it one further step. Let us say that the industry comes to the CPA and they say, "If you force us to go to the standards by 1975, we are going to have to put $100 million into a catalytic converter and the retooling that accompanies that. Granted the fact that we can do that, and it may just barely meet the standards, if you will allow us to spend that $100 million in the development of the single cylinder engine, or some other type of breakthrough, by 1976 we will have a car that is 99 percent emission free from now on, at a much lower cost to every consumer and with much higher effectiveness; but if you make us put the $100 million into a catalytic converter we are not going to be able to come up with the development of the Wankel engine until 1980."

That is a qualitative decision. It is subjective, but it is terribly difficult to make. There are strong arguments for going either way. The industry may come in to the CPA and urge the CPA to take a system. But in the long run it may be more important for the environment, as well as the economy, that we go an alternative route. We could have two agencies of government coming into court, because that is where it must be resolved ultimately, one making the determination and the other appealing it.

Every time this has happened, the courts have been confused, but more than that, they have been resentful of the inability of this Government to make a decision and stand by it. There should be one standard for the agencies and the courts. That is the kind of problem we are creating here. It is absolutely ridiculous.

Mr. GURNEY. The Senator's illustration is an excellent one. That is precisely the point I was making with the illustration I started out with. The whole point of the matter—the Senator's illustration as well as my own—it seems to me, buttresses the fact that we are giving the CPA vast power to influence vast social changes, economic changes, and scientific changes that we should better leave with the agencies we have set up specially to do that job.

Mr. BROCK. That is what they are for——

Mr. GURNEY. That is what they are for; yes.

Mr. BROCK. They have all the technical expertise in the world. If they do not have enough, let them come to Congress and we will appropriate more money. We have been very generous in that regard.

Mr. GURNEY. I would think that would be the sensible way to do it, too.

Another thing that troubles me about the bill is the grants portion in here. On page 33 of the bill, title III is entitled "Consumer Protection Grants."

There are established planning and program grants. Several pages are in that section. Also, there is provided for these grants, $20 million for fiscal year ending June 30, 1974, and that is doubled to $40 million for the next year.

As I understand this planning and grant business, we are telling the States we have several million dollars for them, if they will go about planning consumer protection within their own States.

Now, does not the Senator feel that with this sort of money, and also with this sort of guideline in the bill about how the consumer should be protected, it is very likely that the States will eventually create a very similar kind of consumer protection agency in every one of the 50 States, modeled along the very same lines as the Consumer Protection Agency in this bill? Is that not a fair assumption to make?

Mr. BROCK. Yes. I think it is. Again, this raises two points. First, if there is any possible power that is—and I do not know whether there is—left out of this bill, what we are saying to the States is, "We will finance you to find it, and use it to whip the consumer, if you deem it necessary to, on the local level."

Finally, I do not know of another example in Federal legislation where we create an agency of Government and allow it to define its own area of jurisdiction so broadly in the interest of the consumer in this case, and then empower it to intervene in a State decision, local decision, State court, or local court. I know of no parallel in government today. Does the Senator?

Mr. GURNEY. No; I do not. I do not at all. It seems to me that if we enact this bill in its present form, we will not really protect the consumer but we will overprotect him, and in that overprotection, we will damage him in his pocketbook very seriously. There is no way, in my mind, that we can set up this sort of system without its costing the producer of goods a great deal more to become involved in all of the various transactions, hearings, and product changes which would result. Eventually of course, who will pay, but the poor old consumer. We will really hurt him far more under this sort of circumstance, than if we went about it in some reasonable way, such as the amicus way, where his viewpoint could be presented and should be presented. Everyone on the committee, including those of us opposed to the bill in this present form, are for adequate representation of the consumer.

This kind of protection would be sensible and reasonable and one that not only the U.S. Government, but also the consumer who is the ultimate person to be considered, could afford.

I would certainly hope that the Senate in time that we will be considering this bill, would look very carefully at its specific provisions, and its pitfalls. I would certainly hope the Senate would consider the approach of the amicus amendment, and, hopefully, when this amendment is offered, will be able to support the distinguished Senator from Alabama (Mr. ALLEN) and others who are in favor of it.

I yield back the floor, Mr. President.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the amendment of the Senate to the joint resolution (H.J. Res. 1227) approving the acceptance by the President for the United States of the Interim Agreement Between the United States of America and the Union of Soviet Socialist Republics on Certain Measures With Respect to the Limitation of Strategic Offensive Arms.

QUORUM CALL

Mr. RIBICOFF. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BUCKLEY). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER VACATING ORDERS FOR RECOGNITION OF CERTAIN SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask uanimous consent that orders recognizing the following Senators on tomorrow be vacated: Mr. NELSON, Mr. MUSKIE, Mr. HART, Mr. BAYH, and Mr. TUNNEY.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR HUGHES AND SENATOR KENNEDY TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the recognition of the two leaders under the standing order, the following Senators be recognized, in the order stated, and each for not to exceed 15 minutes: Mr. HUGHES and Mr. KENNEDY.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR ROBERT C. BYRD AND SENATOR SCOTT TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the remarks by Mr. KENNEDY tomorrow, the junior Senator from West Virginia (Mr. ROBERT C. BYRD) be recognized for not to exceed 5 minutes, and that he be followed by the Republican leader (Mr. SCOTT) for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR FOREIGN ASSISTANCE ACT TO BE LAID BEFORE THE SENATE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the orders for the recognition of Senators tomorrow, the Chair lay before the Senate the Foreign Assistance Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT ON H.R. 10729, AN ACT TO AMEND THE FEDERAL INSECTICIDE BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as H.R. 10729, an act to amend the Federal insecticide bill, is called up and made the pending question before the Senate, it be under a time agreement in the usual form, as follows: 1 hour on the bill, to be equally divided between Mr. TALMADGE and the Republican leader or his designee, time on any amendment in the first degree to be limited to one-half hour, and time on any amendment in the second degree, debatable motion, or appeal, to be limited to 20 minutes, to be divided and controlled in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GAMBRELL. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes, I yield to my distinguished friend and colleague from Georgia (Mr. GAMBRELL).

ORDER OF BUSINESS

Mr. GAMBRELL. If I understand correctly, the consumer protection bill remains the unfinished business at the present time, subject to taking up the foreign aid bill in the morning after the preliminary speeches, as the Senator has outlined them, and after the foreign aid bill is disposed of, in accordance with the previous order, voting at 1:30 p.m. and thereafter, the unfinished business will remain the Consumer Protection Act.

Mr. ROBERT C. BYRD. It will remain that bill as far as tomorrow is concerned, yes.

Mr. GAMBRELL. I would like to ask the distinguished Democratic whip if there are any other measures which have been scheduled for a time certain or a day certain to be the first track or second track items other than the Consumer Protection Act.

Mr. ROBERT C. BYRD. No other measures have been so scheduled as of this hour. I should say, however, that the distinguished majority leader has indicated that it is his intention, certainly when I last talked with him about the program, to have H.R. 1, the welfare bill, come up on Wednesday.

Mr. GAMBRELL. No order has been taken on H.R. 1?

Mr. ROBERT C. BYRD. No order has been entered.

Mr. GAMBRELL. I would like at this time to reassert, for the attention of the leadership and the distinguished Democratic whip, who is representing the leadership on the floor, the concern of a number of us with reference to H.R. 13915, the so-called antibusing legislation, which measure covers a number of equal educational opportunity provisions. The distinguished junior Senator from Alabama (Mr. Allen) has on numerous occasions expressed his concern for the scheduling of that measure, and the leadership has indicated a sensitivity to that concern, as has been expressed by a number of other Senators.

The Senator from Alabama (Mr. Allen) has addressed a letter to Senator Mansfield and other members of the leadership and circulated that letter among the Members of the Senate, reconfirming his deep concern that the scheduling of a number of so-called pieces of "must" legislation may result in a deferral of the very important bill, H.R. 13915, to the point where it could not receive adequate consideration and might not, in fact, have an opportunity to be debated and voted on before adjournment sine die.

I might say, for myself, if the Senator will yield further, that I share in the concern that has been expressed. I have not so stated because other Senators were very ably expressing that concern, but it seems to me that where we have scheduled a bill, such as the Consumer's Protection Agency, on which no agreement seems to be possible at the present time, and where a long debate is possible, and the same kind of debate may occur on H.R. 1, when and if it should be scheduled, that we are simply deferring to an independent later time debate on H.R. 13915.

I might say, for myself, without lessening the importance of the Consumer Protection Act, or even the welfare reform bill, that, in my own consideration, there is no issue that has burned hotter in my State or has burned hotter on the floor of the Senate or this Congress than the busing issue.

The welfare issue is certainly one of tremendous concern, but even it, as the distinguished whip knows, is one where there are at least three corners, and the debate may follow off into any one of several directions, whereas on the busing issue, I think we can settle down to two sides, and it can come, if Senators are reasonable, to an up-and-down vote on H.R. 13915, and we can get the matter disposed of.

So I would urge on the leadership their sincere and dedicated consideration that H.R. 13915 might be scheduled at the earliest possible time, and not be deferred after other matters that might be equally controversial, but possibly not so urgently in need of solution as that particular problem.

I thank the majority whip for indulging me in these comments, and hope he will convey these sentiments to the majority leader and to the minority leader and urge them not to—what was previously described by Senator Scott—waffle on this issue. It is of too deep a concern, I think, to waffle at this juncture.

I thank the Senator.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Georgia (Mr. Gambrell).

The very distinguished majority leader (Mr. Mansfield) is well aware of the sentiments that have been expressed by the distinguished Senator from Georgia and others. The leadership is in possession of the letter written by the distinguished Senator from Alabama (Mr. Allen) to which the distinguished Senator from Georgia (Mr. Gambrell) has just referred. I am confident that the majority leader, and may I say that I likewise, appreciate the concern and the interest that have been expressed.

I am positive that the discussions within the leadership with respect to the scheduling of this measure and other measures will continue. As earlier indicated, it is the intention at some point to call up the antibusing bill, and I know that the majority leader will certainly do what he says he will do. With that, I think I shall have to close. I am confident there will be some discussion tomorrow about this very subject and others.

I cannot assure the able Senator of any more than that. The leadership will take his expression of concern under advisement, and hopefully some way will be found to negotiate the programing of this measure and the other very important measures which have to be acted upon before Congress adjourns sine die.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9 a.m. After the two leaders have been recognized the following Senators will be recognized in the order stated, and each for the time stated:

Mr. Hughes, for not to exceed 15 minutes, Mr. Kennedy for not to exceed 15 minutes, Mr. Robert C. Byrd for not to exceed 5 minutes, and Mr. Scott for not to exceed 10 minutes.

At the conclusion of the order for the recognition of Senators on tomorrow, the Senate will proceed to the consideration of the foreign aid bill, H.R. 16029. The pending question at that time will be on the amendment by Mr. Scott, and debate on that amendment will be followed by debate on the amendment by Mr. Stennis to delete the amendment by Mr. Brooke.

At the conclusion of the debate at 1:30 p.m., the votes will occur on the amendment by Mr. Scott and the amendment by Mr. Stennis in that order.

If other amendments are offered at that time, they will be in order, but there will be no time for debate thereon. Immediately after the vote on the Scott amendment and the Stennis amendment—and any other amendment that may then be offered, without debate—a vote will occur on final passage of the bill.

Upon passage of H.R. 16029, the Foreign Assistance Act, the Senate will resume consideration of the unfinished business, S. 3970, a bill to establish a Council of Consumer Advisers, to establish an independent Consumer Protection Agency, and for other purposes. The pending question will be on the adoption of the amendment by the distinguished junior Senator from Alabama (Mr. Allen).

Yea-and-nay votes will occur on tomorrow. The first yea-and-nay vote will come at 1:30 p.m. That will be a 15-minute rollcall, and on each succeeding vote thereafter, until the foreign aid bill is disposed of, each rollcall vote will be limited to 10 minutes.

There may be yea-and-nay votes on the consumer bill during the late afternoon, and it may be that the distinguished majority leader or his designee would want to call up other bills—on which time agreements have been reached—in the late, late afternoon of tomorrow, depending on the circumstances and the situation at that time.

RECESS UNTIL 9 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 9 a.m. tomorrow.

The motion was agreed to; and (at 4:41 p.m.) the Senate took a recess until tomorrow, Tuesday, September 26, 1972 at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate September 25, 1972:

DIPLOMATIC AND FOREIGN SERVICE

Edward W. Mulcahy, of Arizona, a Foreign Service officer of class one, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Chad.

Kenneth Franzheim II, of Texas, now serving as Ambassador Extraordinary and Plenipotentiary of the United States of America to New Zealand, to Western Samoa, and to Fiji, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United

States of America to the Kingdom of Tonga.

William R. Crawford, Jr., of Pennsylvania, a Foreign Service officer of class two, to be Ambassador Extraordinary and plenipotentiary of the United States of America to the Yemen Arab Republic.

U.S. COURTS

H. Emory Widener, Jr., of Virginia, to be a U.S. circuit judge, Fourth Circuit vice Albert V. Bryan, retired.

Kevin Thomas Duffy, of New York, to be U.S. district judge for the southern district of New York, vice Irving Ben Cooper, retired.

Robert J. Ward, of New York, to be a U.S. district judge for the southern district of New York, vice Frederick Van Pelt Bryan, retired.

James C. Turk, of Virginia, to be a U.S. district judge for the western district of Virginia, vice H. Emory Widener, Jr.

DEPARTMENT OF JUSTICE

James N. Gabriel, of Massachusetts, to be U.S. attorney for the district of Massachusetts for the term of 4 years, vice Joseph L. Tauro.

CONFIRMATION

Executive nomination confirmed by the Senate September 25, 1972:

U.S. TAX COURT

Darrel D. Wiles, of Missouri, to be a judge of the U.S. Tax Court for a term expiring 15 years after he takes office.

EXTENSIONS OF REMARKS

IMF-WORLD BANK MEETS TODAY

HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. HANNA. Mr. Speaker, the annual meeting of the International Monetary Fund and World Bank begins today here in Washington, D.C. On September 13, I expressed my thoughts as to the most advantageous course for U.S. policy in this important meeting. I found this morning's Washington Post article on the subject to be most worthwhile reading. I want to call it to the attention of my colleagues:

IMF, WORLD BANK TO DISCUSS RICH-POOR NATION RELATIONS

(By Robert E. Hunter)

Today, the World Bank and the International Monetary Fund begin their annual joint meeting in Washington. The crisis in the international trading and monetary system is, properly, first on the agenda. But second on the agenda is an even more intractable problem: the future efforts of poor countries to develop, and of relations between the "rich" countries—representing a quarter of the world's people—and the rest.

Uppermost in the mind of every official from the developing world this week will be the failure by the rich countries to meet the internationally-agreed target for Official Development Assistance (ODA)—that is, economic aid channeled through individual governments and international institutions. The target is .7 per cent of Gross National Product; the achievement is only .35 per cent, while the United States itself now stands at .32 per cent and falling, as compared to over 1 per cent under the Marshall Plan.

For anyone interested in development, or in relations between rich and poor countries, these figures are familiar—and distressing. But the Bank-Fund meeting will also have to face another set of concerns. As observers in growing numbers are now aware, many poor countries are failing to achieve the more important goals of development despite record achievements in growth of GNP: over 5 per cent for the developing world as a whole during the 1960s. Once the touchstone of economic faith, growth alone is now recognized as inadequate. This is especially so in the face of a phenomenal increase in unemployment in poor countries, fueled by the population explosion, and a steadily worsening distribution of incomes between rich and poor in most developing countries.

To many poor countries, these problems seem insuperable. Yet for others, wisdom and ingenuity are already beginning to pay off. In the United States, we tend to ignore some near-miracles of social and economic development in places like Taiwan, South Korea, and China, because the nature of their governments leaves much to be desired by our standards. In Taiwan, for example, a whole new set of strategies for development has virtually eliminated unemployment, stopped the drift of workers to urban slums, drastically reduced population growth, increased export earnings to a level second in Asia to Japan, and made possible a relative equality in income distribution that is rivaled by few rich countries, and certainly not by the United States.

Whether experience in these countries will have wide application elsewhere is not yet clear. But there is hope in employment-generating policies that stress the use of labor rather than capital; in population policies that stress the importance of a rise in living standards as an incentive for limiting family size; and in efforts to promote more equal distribution of incomes, not as the enemy of economic growth, but as an essential part of it. Indeed, greater social and economic justice is required if there is to be any real development at all.

Officials who discuss these themes at the Bank-Fund meeting this week will be well-received—by the poor. But there will be continued resistance by the rich to the necessary corollary; that targets for ODA have to be met, and that some way has to be found to help poor countries sell the products they make in world markets. With the flurry of concern about the overall international economic system, coupled with the general trend toward protectionism in the rich countries, these points will probably be lost. But they underpin any real hopes for a constructive political and economic relationship between rich and poor countries. Some experts are even predicting that efforts by rich countries to restructure the monetary and trading system may fail to get the necessary ratification if the world's developing countries continue to be frozen out.

The United States may meet some special criticisms this week. It is true that Congress is now close to appropriating the first third of our $760 million commitment in replenishments funds for the International Development Association (IDA)—the arm of the World Bank that makes loans on softer terms. But the three years covered by the replenishment started in July 1971, only now are we getting around to taking the steps that will let the whole system come into operation. This time, it is other rich countries that will be raising eyebrows, as they wonder about the value of their commitments to IDA—and other forms of development assistance—if the world's richest country is so reluctant to play its part. Moreover, some of these same countries are still smarting at our decision to abandon general untying of aid—i.e. freeing bilateral aid loans from the requirement that they be spent in the lending country. We arm-twisted these countries into negotiating on an untying program in 1970–71, then reneged on our part as a result of the New Economic Policy of August 1971.

No decisions are likely to be taken this week on any of these matters, although a tone will be set. In many ways, this will be unfortunate. In one way, at least, this is also ironic: that on the issues of job creation and income redistribution, the rich, and particularly the United States, have much to learn from some of the developing countries.

U.S. FOREIGN TRADE

HON. RUSSELL B. LONG

OF LOUISIANA

IN THE SENATE OF THE UNITED STATES

Monday, September 25, 1972

Mr. LONG. Mr. President, on Saturday, September 23, I had the privilege of speaking at the launching of the SS *Tillie Lykes* at Quincy, Mass. On that occasion I understook to state in simple terms what I thought would be necessary if this Nation is to restore a favorable balance in its international payments and regain its position of strength and leadership among the nations of the world.

I ask unanimous consent that my remarks on that occasion be printed in the Extensions of Remarks.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR RUSSELL LONG

Mr. Chairman, distinguished officials of Lykes-Youngstown, and General Dynamics, Ladies and Gentlemen:

It is a special honor for me to be here to congratulate Frank Nemec and Joe Lykes for the vision, the leadership, and the faith in their own good judgment that led to the production of this great ship the *Tillie Lykes*. We of Louisiana are enormously proud of the Lykes family history of leadership in the American Merchant Marine. New Orleans is their home office and we regard them as ours.

As an American I am grateful to you men and women of the Quincy Shipbuilding Division for the months of hard work that it took to build this great national asset.

If we conduct ourselves wisely and do those things we should be doing, then we will see this Nation and its working men and women building a great many more great vessels like this one until America's merchant marine is again number one on the high seas.

As chairman of a Merchant Marine Subcommittee, I assure you that I will be working to bring that about as long as I hold that position.

But there is an even larger task to which you and I must dedicate ourselves. We must bring an end to a trade policy which is destroying the leadership of the United States, dissipating our wealth, bankrupting us among the family of nations, and denying millions of American workers their jobs.

Put in very simple terms this Nation must quit buying from other nations more than we are selling to them for the simple reason that we cannot keep it up, and we cannot afford it.

Anybody who keeps buying more than he is selling over a long period of time will end up broke and deeply in debt. That is exactly what has been happening to Uncle Sam year after year.

Since 1950 we have had a deficit in our

international balance of payments of $70 billion.

To some of our State Department people left over from the old foreign aid programs, it is difficult to think of Uncle Sam as a debtor who cannot afford what he is buying. They hate to turn in their Santa Claus costumes, but we will have to tell them that this Nation can no longer afford to play Santa Claus to the whole wide world. Therefore we have no need for all the Santa Claus helpers. They will have to go to work, too.

It will come as a shock to our Japanese friends who have become accustomed to doing their selling here and their buying some where else to be told that if they cannot arrange to buy from us, we can no longer afford to buy from them.

It was such an attitude among Yankee traders of the past that made America the richest nation on the face of the earth.

The new policy can be called "protectionist", "restrictionist" and a lot of other names that do not sound very good, but it will be very good news to American working men when we have millions of good jobs more than we have today.

Furthermore they should quit acting like a Gulliver tied down by a bunch of Lilliputians. The things that must be done to restore America's strength and restore a favorable balance of trade do not require the consent of a lot of foreign countries as some would suggest.

We do not have to have anybody's permission. All we have to do is exactly what anybody else would do if he were in our position.

Shipping is a good example of what I have in mind.

We should insist that a higher and higher percentage of U.S. trade move in American bottoms until we are hauling somewhere near half of it.

We should keep all our shipyards going ahead full speed, and build more shipyards if need be until we have caught up.

In other areas where we are capable of producing our own requirements such as steel, textiles, and shoes we should put quotas on those imports and assign the quotas to countries which buy as much from us as we buy from them.

If we do what I am advocating, we can expect to hear a lot of howls from foreign nations especially those who have been benefiting the most from policies which were making us poor. But they will respect us for having the courage to look after our own Nation, and in the end they will admit that they would have done the same thing had they been in our place.

The christening of this great ship is a good time to make up our minds that we will see to it that Americans will be going a lot more of this kind of thing in the future.

VOTE ON SALT AGREEMENT

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mrs. ABZUG. Mr. Speaker, there was considerable confusion surrounding today's vote to concur in the Senate amendments to the joint resolution approving the SALT agreement, and I am taking this extension of remarks to explain my vote.

Last Thursday, the distinguished chairman of the Foreign Affairs Committee asked unanimous consent to concur in the Senate amendments to this resolution. Objection was made, and the matter was put off at that time. Subsequent to that time, Chairman MORGAN obtained from the Rules Committee a resolution concurring in the Senate amendments on the part of the House. This afternoon, without its having appeared on the official calendar or the whip notice, and without any other sort of advance warning, this resolution was brought before the House. After only a brief bit of debate, the roll was called for its final passage.

I and all of my colleagues who support the SALT agreement, but oppose the reservations attached in the Senate, thought that the resolution was to send the House version of the bill—one without any reservations—to a conference with the Senate bill. Accordingly, I and these numerous individuals voted "aye." Had I known of the actual nature of this item, I would have voted "nay."

BANDLESS WAGON FOR McGOVERN

HON. WILLIAM L. SPRINGER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. SPRINGER. Mr. Speaker, there must be a serious intellectual split in this year's upcoming elections.

Never in my experience in politics have I seen the rift so great and it has been something of a peculiar shock to find that the rift is the greatest among sitting Members of Congress with reference to the McGovern-Shriver ticket.

The National Observer, in its September 30 issue has an article by James M. Perry, Washington correspondent for the Observer, titled, "It Is a Bandless Wagon for McGovern-Shriver." This article is based on the results of 56 correspondents and three of its staff writers.

This detailed canvass of 477 Democratic candidates shows that of 426 candidates for the House, 212 or 49.9 percent support the McGovern-Shriver ticket unequivocally and for the record. Another 55 support the ticket but with deep reservations.

Of the 18 candidates for Governor, 9 or 50 percent support the ticket unequivocally and for the record. Four more support the ticket but with deep reservations.

Of the 33 candidates for the Senate, 17—only 51.5 percent support the ticket without qualification and for the record. Five more support it with important reservations. Thus of the 477 Democratic candidates for Congress in the House and Senate, 49.9 percent support McGOVERN-Shriver without any public qualifications. This is an interesting article because of the differences of many sitting Democrats with the head of this ticket. However, not in my time have I seen a split so wide. I think Mr. Perry's detailed article is quite informative and I am sure all of my colleagues will want to read this interesting analysis.

The article follows:

OBSERVER CANVASS FINDS—IT'S A BANDLESS WAGON FOR McGOVERN-SHRIVER

(By James M. Perry)

If the 477 Democrats running for the Senate, the House of Representatives, and for governor could elect the next President of the United States by secret ballot, right now, George McGovern might lose.

Using 56 of its correspondents and three of its staff writers, The National Observer has canvassed all of these Democratic candidates—and things are that bad for George McGovern and Sargent Shriver.

Highlights of the survey:

Of 426 candidates for the House (the Democrats are not fielding candidates in eight districts and there's a vacancy in New York, 212—or 49.8 per cent—support the ticket unequivocally and for the record. Another 55 support the ticket, but with deep reservations.

Of 18 candidates for governor, 9—50 per cent—support the ticket unequivocally and for the record. Four more support it with serious reservations.

Of 33 candidates for the Senate, 17—only 51.5 per cent—support the ticket without qualification and for the record. Five more support it with important reservations.

BOTTOM OF THE WELL

Thus, of the 477 Democratic candidates, 238 support McGovern and Shriver without public qualification. That's 49.9 per cent—practically the same as among House candidates. But even this losing figure may be deceptive, because many of the candidates who support the ticket on the record express strong and sometimes angry reservations about it off the record.

First, though, two caveats:

One. It is traditional in some parts of the country, and most especially the South, for Democratic candidates to run "independent" campaigns. Notes correspondent Jack Wardlaw from New Orleans: "I can recall few if any instances in which Louisiana or Mississippi candidates appeared with or openly campaigned for Truman, Stevenson, Kennedy, Johnson, or Humphrey in a year in which they themselves were seeking election."

Two. The Observer's canvass may have caught McGovern's fortunes at their nadir. Notes Missouri Rep. William L. Hungate, in a sentiment that was repeated less dramatically by about a dozen other candidates:

"I expect McGovern's stock to start moving up any day now. You can't fall out of the bottom of a well."

It is fair to presume, then, that the ticket's support among these candidates would improve in almost direct correlation to the ticket's improvement in the Gallup and Harris polls. Most politicians, after all, know a coattail when they see one.

This too can be said: No ticket in recent history, with the possible exception of Goldwater's, has fared so badly with the people who should support it best.

"Why are you doing this?" asked Rep. Charles H. Wilson of California. "I would assume you are getting a very adverse reaction. Right now we all hate the son of a bitch [McGovern]," Wilson said the canvass should be made a week or so before the election, when things might look better.

But he made the survey's key point with these words:

"I think McGovern's the poorest candidate we've ever had running for the President on the Democratic ticket. He was my eighth or ninth choice. Right now, in my district, he's doing very poorly."

It is precisely because the ticket is perceived by these Democrats as doing so poorly that so many refuse to support it openly and enthusiastically. Of the 50 states surveyed, not one reported things going well for the ticket. Even in Rhode Island, the most Democratic state in the nation, Senator Claiborne Pell is running an essentially independent campaign. In a state carried by Humphrey with almost 70 per cent of the vote in 1968, McGovern trails Nixon two to one.

RUNNING SCARED

Pell reports that the only negative comment he gets when he walks the streets and goes to coffee houses is about McGovern. He's running scared.

As a gauge of the disenchantment with the ticket, The Observer survey shows that 30 of the Democratic candidates do not support McGovern and are willing to say so publicly. And 61 of the candidates, despite prodding, refuse to say where they stand.

The Observer survey did turn up candidates—perhaps 50 in all—who support the ticket with unbridled enthusiasm. But these candidates come largely from liberal, usually urban districts where a Democrat can't lose or from conservative, usually rural districts where a Democrat can't win.

In New York, 15 of the 39 House candidates are enthusiastic; in Pennsylvania, 6 of 25; in New Jersey, 1 of 15.

And then there are candidates such as Guy Hatfield, who is running for the House from northwestern Arkansas. He's a retired movie stunt man, running against Republican incumbent John Paul Hammerschmidt. "Absolutely" for McGovern, he says. "Backing the ticket without reservation." He predicts McGovern will carry Arkansas because of the "shameful way Nixon has acted."

Then there's Morris Coover, running for the House in western Kansas. "I'm happy with the ticket," he says. He thinks McGovern will carry western Kansas.

And Mike Vinich, president of a corporation that operates a saloon in Hudson, Wyoming (population 300). Vinich is running for the Senate against Republican Clifford Hansen. He admits McGovern's prospects are "kind of bleak" in Wyoming, but he supports the ticket. "You bet," he says, "all the way."

Teno Roncalio, Wyoming's only congressman, supports the ticket too. "I can live with McGovern," he says. "He's my candidate and I won't shrink from him." Roncalio is a party man and a realist.

Black congressmen such as Bill Clay of Missouri and Parren Mitchell of Maryland have no trouble with the ticket, and they're behind it. Other blacks, though, are not happy. In California, Ronald V. Dellums is seeking his second term in the House. In his first try, he won with a new kind of coalition, pretty much the same kind that was supposed to work for McGovern nationally. But he doesn't see it working the same way, not yet.

The Rev. Andrew Young, who was an aide to the late Martin Luther King, Jr., is seeking election to the House from the Fifth District in Georgia, which includes most of Atlanta.

AS HELPFUL AS DILLINGER?

"I'm supporting the McGovern-Shriver ticket," he says, "but you might call it cautious support. When I hear them talk, I support them. But when I hear other people describe their positions, I'm not so enthusiastic. The executive and legislative branches are separate, and I'm running for Congress."

More typical of Georgia politicians is Democratic Rep. W. S. "Bill" Stuckey, Jr., of the candy family. "Will Rogers never met George McGovern," Stuckey says. "I'm going to leave that bird alone. He'll do as much for Georgia as John Dillinger did for Chicago." Put Stuckey down as a candidate who does not support his ticket.

If one knows something about any candidate's district, he usually can guess what the candidate's attitude might be about George McGovern. Take Districts One and Two in Illinois.

District One is largely black, located on Chicago's South Side. The congressman, Ralph Metcalfe, is black.

District Two embraces District One on three sides, but 60 per cent of its voters are white: Lithuanians, Greeks, Irish, Italians. The congressman, Morgan Murphy, is white.

CANDIDATES MEASURE THEIR WORDS

Easy guesses. Metcalfe says, "I'm a strong supporter of the ticket." Murphy says he endorses the ticket but won't campaign for it. He doesn't agree with McGovern on amnesty and defense cuts, nor do most of the white voters in his district.

Some districts are part rural, part urban, or part liberal, part conseravtive. That kind of situaiton can tear the candidate apart. Take Warren P. Henegar, owner of a 200-acre farm in Monroe County, Indiana, and Democratic candidate for the House seat held by Republican John T. Myers. Both Indiana University, at Bloomington, and Indiana State University, at Terre Haute, are in the Seventh District, and thousands of their students are working for McGovern. But in other parts of the district the ticket isn't popular at all. So, Henegar says, he has to be careful what he says to whom, and where. He's candid, and probably a loser.

Candidates who normally should be for McGovern are not—because of the districts they're running in. Thomas R. Harkin, the congressional staff member who exposed those "tiger cages" in South Vietnam in 1970, is running for Congress from Iowa's Fifth District against conservative Republican William Scherle. Says Harkin.

M'GOVERN: PERCEIVED AS RADICAL

"McGovern's put a lot of doubt in people's minds and there's nothing I can do about it. I can't spend my time explaining McGovern. Quite frankly, I'm not tooting his horn. He's got to save himself.

"My views are not much different from McGovern's. I favor amnesty to those who for conscientious reasons left the country. I get that across. But people's perception of McGovern's stand is that it's something radical. He's got a big problem. If the election were held today, he'd lose in a landslide."

In some districts Democrats back away from McGovern because of his positions on specific issues. In Alaska, for example, the Democratic candidate for the Senate will not support him until he explains more satisfactorily his position on the controversial oil pipeline.

In Michigan most Democrats are running as hard as they can to keep up with their constituents' concern about school busing for racial integration. Daniel S. Cooper. House candidate in Michigan's 18th District, says he's "violently opposed to busing. And he doesn't think much of amnesty for draft evaders either. He's not sure he wants McGovern to come campaigning in his district.

"But if he wants to send someone like Paul Newman. I'd be delighted."

MICHIGAN IS NO HOTBED

Michigan, a key state for the ticket, probably produces less enthusiastic support for McGovern by the candidates than any other major state.

"He's wrong on amnesty, he's wrong on Vietnam, he's wrong on welfare, he's wrong on defense," says James Edward McNamara, House candidate from the 11th District. "Say," he adds, "how long do you want to make this list?"

One of Michigan's Democratic congressmen, who supports the ticket with some reservations on the record, practically froths at the mouth off the record.

"McGovern's staff," the congressman says, "is the only one in political history which could possibly be more incompetent than George Romney's. As far as I know, two of my constituents want McGovern, and I've heard rumors about a third.

"I thought McGovern was riding the wave of the future and I voted for him at the convention. But it's only a ripple, and I wish we could go back and pick someone else—anyone else. I think this election will be such a landslide that Alf Landon would come out ahead."

His rhetoric may be inflamed, but his situation is not. Dozens of Democratic candidates who support the ticket publicly agonize over it privately.

A California congressman, a liberal, says publicly he supports McGovern "wholeheartedly," and that's how he is marked down in the survey. "But frankly," he says, "If we can go off the record, I wish to Christ I knew what his platform is. It changes from day to day."

Some Democrats don't want to talk to reporters publicly or privately. Correspondent Robert Collins tried to discover if Missouri Rep. James W. Symington supports the ticket. He asked Symington, through an aide. Back through the same aide came the "answer," a typewritten statement that read:

"Secrecy is the watchword of this Administration. It prefers monitoring the citizen to informing him. The American people need and want a government that respects them and will level with them. The Nixon-Agnew Administration has found it either undesirable or impossible to provide such government. A McGovern-Shriver administration could and would provide it."

Collins asked whether the aide had passed on the right questions to Symington. The aide said he had, and his was the answer. Put Symington on the roster of Democrats who will not state their position about the ticket.

BIG-STATE PROSPECTS POOR

Otto Passman of Louisiana, like so many other Southerners, is on that same list. All he will say is: "Nixon is the greatest President this country ever had." He keeps his seniority and eats his cake.

But Louisiana is lost to the ticket. And Missouri, where the problem is compounded by the Eagleton affair, doesn't look promising.

For McGovern, the key states are the big ones: New York, California, Illinois, Pennsylvania, Michigan, Ohio, Texas, and New Jersey. And, with the possible exception of New York and California, prospects are poor—at least if these candidates are to be believed.

In Ohio, for example, 9 of 21 candidates for the House openly support McGovern, but only 2 support him with real enthusiasm.

Robert Whealey, a 42-year-old history professor at Ohio University at Athens, is running for Congress in the 10th District because of his interest in McGovern.

"It's a funny thing," he says. "I joined the McGovern club in February, and the other members talked me into running. Since May [the primary] our paths have parted more and more and I am becoming less identified with McGovern. I put on bumper stickers by myself at the county fairs and hand out my own literature. It's peculiar. The issues on my literature match McGovern's 99 per cent. But people tell me, 'We agree with you and we'll vote for you, but we can't stand McGovern.'"

ALONE IN NEW JERSEY

Conservative Democrat Wayne Hays of Ohio's 18th District agrees with McGovern on hardly anything: "If it wasn't for him," says Hays, "I wouldn't even be in a contest this year." Hays has called the party's platform a program for "sex, dope, and queers."

More typical is James Ruppert, candidate in the Eighth District, "I'm not going to talk against the nominee," he says. "At the same time, I'm not going to make statements that will align me with the McGovern candidacy."

New Jersey is special. There, Democrats are worried about a double landslide—one for Nixon over McGovern, one for Republican Sen. Clifford Case over Paul Krebs, the Democratic candidate. Practically the entire party has walked out on McGovern, except for Arthur J. Lesemann, Democratic candidate against Republican William B. Widnall in the Seventh District.

Frederick Bohen, a *magna cum laude* graduate of Princeton and former White House assistant now on leave from the Ford Foundation, is running for the House against Republican Peter Frelinghuysen. Bohen sounds as though he might be a McGovern partisan. He isn't. He's running his own "independent" campaign, and he isn't anxious "to identify as a McGovern candidate."

NEEDED: A FEW SAMARITANS

Some Democratic candidates seem almost bemused by what's happening to them. Shirley S. Garrett is a former history professor running for Congress in a south-central district of Pennsylvania. "There are Democrats around here who from my point of view have a hysterically inaccurate idea of what McGovern is saying. Why, I find myself viewed as a dangerous radical."

Ms. Garrett, if she loses, can return to a book she's writing about Chinese-American relations and to her work in forming a women's liberation movement.

It's not so simple for other candidates, especially the incumbents.

They like their work—their jobs, anyway—and many of them believe the candidacy of George McGovern threatens them. So they're bailing out. They're waffling and quibbling. They're looking the other way.

They're not helping their own candidate, who needs their help right now. If he got that help, maybe he'd come up in the polls and then these candidates wouldn't feel so threatened.

With friends like these . . .

"MR. YMCA" HAS SOME BUSY RETIREMENT PLANS

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. SNYDER. Mr. Speaker, I have the honor and privilege of representing a fine Christian gentleman named Willard Wade of Ft. Mitchell, Ky. He has devoted practically his entire life to service in the YMCA and has been an inspiration and guide to countless young men. Mr. Wade is retiring from active YMCA work this week, Mr. Speaker, and I would like to share with my colleagues an article which appeared concerning him in the August 9, 1972, edition of the Kentucky Post.

Willard Wade is owed the gratitude of the people of northern Kentucky and, in a real sense, the people of our Nation as a whole. For it is only through the selflessness and character of people like Willard Wade that the moral fiber of our young people is formed and channelled into virtue and good citizenship. So it is that Willard Wade makes for a strong America, a free America—a better America.

I can only add to this my personal best wishes and thanks for a great life of service—which I am sure, knowing Willard Wade and his record, does not stop now.

The article follows:

[From the Kentucky Post, Aug. 9, 1972]

"MR. YMCA" HAS SOME BUSY RETIREMENT PLANS

(By Bob Fogarty)

Willard L. Wade, "Mr. YMCA" to thousands of northern Kentuckians, will embark on a new way of life about Oct. 1.

Wade, 69, will retire officially on that date.

He's spent 49 years in YMCA work, most of them as director of the former Covington YMCA and more recently the Tri-County YMCA.

"There will be time to do some traveling, some gardening," mused the silver-haired Ft. Mitchell resident in his office in the Covington YMCA, renamed after him.

"I'm going to take a rest and make some plans. After all, I've been away from my wife on YMCA work four or five night a week for many years."

Wade, 69, has some creative ideas for the future. But he doesn't want to discuss them until they jell.

One thing he wants to make clear. Without the active participation of many volunteers, and a dedicated board of directors, the tremendous expansion of the YMCA would have been impossible.

"A great many persons have helped by their dedication to the YMCA and its great program," he said.

Although today's youth may have changed, and certainly the world has changed, the Y's basic mission remains largely the same, Wade said.

"Young people are trying to build their own ideas, and there's a tendency to break away from the establishment," he said.

"The YMCA can help tie them to home, family, church and government."

As examples of helpful Y programs, Wade points to HiY clubs in high schools and the Youth in Politics Program.

The latter he described as an experiment in "Christian democracy at work." It encourages civic and community interests in high school.

"Youth needs the leadership of agencies such as the YMCA and the churches," Wade declared. "In many cases and in many areas, the family leadership has fallen down."

Even Wade did not foresee, however, the tremendous competition for money and time that the past few years have brought.

Neighborhood swim clubs and other enterprises have been factors in the delay in completing one of Wade's pet ideas, the family camp next to popular Camp Ernst in Boone County.

Wade still hopes he will see completion—and perhaps offer a helping hand in it—of this cherished plan.

But the retiring director is being very careful not to get involved in anything that properly will become the concern of the new director, George Edmiston, Danville, Va., general director.

Wade complimented the local YMCA directors in selecting Edmiston, who will move to northern Kentucky in mid-September.

TRADE IN THE CONTEXT OF "U.S.A. AND THE SOVIET MYTH"

HON. DANIEL J. FLOOD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. FLOOD. Mr. Speaker, as our business interests plunge into the prospects for trade with the Soviet Union, they would do well to brief themselves on the background of this state, its nature, and multinational system and its basic motivations.

A work which furnishes rich insights and informative content for this purpose is the current book "U.S.A. and the Soviet Myth," authorized by Dr. Lev E. Dobriansky, professor on the Soviet economy at Georgetown University, Washington, D.C.

The chapter on "The Russian Trade Trap" should provide ample warnings of the road we are traveling. The following reviews of the work in the "Social Justice Review," the "New Guard," "the Ukrainian Quarterly," "America's Future," and the "Anti-Communist Book Club," just a few of the work's many reviews, are indicative of the book's thought-provoking qualities in this phase of recycled U.S.-U.S.S.R., trade:

The reviews follow:

[From the Social Justice Review]

BOOKS

Dobrinsky, Lev E., *U.S.A. and the Soviet Myth*. The Devin-Adair Company: One Park Avenue, Old Greenwich, Conn. 06870, 1971. Pp. ix + 274. $6.50.

Even today, years after the passing of the great African and Asian empires of the Western powers the very word "colonialism" can move those among us who are of a liberal-to-left political persuasion to a mood of angry indignation. Curiously, however, all their finely honed moral concern is conspicuous by its absence when the subject of present *Russian* colonial subjugation of Ukrainians, Byelorussians, Georgians, and others arises.

Indeed, it is rarely understood (or admitted, at any rate) here that the U.S.S.R. is not a nation at all but is rather a Russian colonial empire and nothing more. It is the great merit of Professor Dobriansky's brilliantly devastating analysis that it underscores the essentially imperio-colonialist character of the U.S.S.R.

While the more politically perceptive American will appreciate the true nature of Central Europe to Moscow, he is perhaps less likely to comprehend that within the primary empire which is the U.S.S.R. itself there is an even more oppressive Russian imperial structure. He is even less likely to comprehend that it is aggressive Russian expansionism behind a facade of Communist ideology, that really threatens the free world including the United States today. Professor Dobriansky clearly exposes the true nature of this Russian expansionist menace with its roots deep in the dark soil of Tsarist times. He does not, as no doubt some misguided critics will charge, minimize or deny the role of Communist ideology here. To the contrary, he points up how it is very effectively exploited for expansionist purposes by the Machiavellian power clique in the Kremlin.

One other line of criticism (again mistaken) may perhaps be anticipated: that the author is possessed of a Russophobe bias originating in his Ukrainian antecedents and present organizational connections. An honest and careful reading of *U.S.A. and the Soviet Myth* sustains no such charge. Though he clearly shows that the majority of the so-called "Russian" people in the U.S.S.R. are in reality non-Russians (Byelorussians, Georgians, Turkestani, Ukrainians, etc.) and very logically demonstrates that any effective free world policy must therefore contemplate ultimate liberation not merely for satellite peoples like Czechs, Germans, Hungarians, and Poles, *but also the political and territorial dismemberment of the primary Russian empire itself,* he throughout distinguishes the pernicious structure of the expansionist Russian state from the Russian people. Indeed, one might well wish that everyone who had written about say Germany in the 1930's and 1940's had been so scrupulous about distinctions.

In conclusion, this is a truly indispensible book for anyone who would understand world affairs and particularly U.S.-U.S.S.R. relations today. The price of failure to understand here will be much too high. As the author himself expresses it: "In this struggle for keeps, lest we delude ourselves, the only alternative to victory over Soviet Russian imperio-colonialism . . . is disastrous defeat for ourselves."

MICHAEL F. CONNORS.

A View on the Nature of Bolshevism

At the time that Senator Muskie was touring the Soviet Union in a quest for mutual understanding, Professor Lev Dobriansky's *USA And the Soviet Myth* (Devin-Adair, 1971) was being published. The Senator would have been better advised to stay home and read Dr. Dobriansky's latest book rather than continue his well publicized tour.

Dr. Lev E. Dobriansky, YAF national advisor and head of Captive Nations Committee, with this book continues his efforts to enlighten the American people as to the real nature of the Soviet Union, its ultimate goals and its fatal weaknesses.

The history of Russia he writes, is largely the history of the Russian empire. Even from the time of Muscovy, its rulers held the notion of state greatness, and followed a messianic mission of world redemption through world domination. Throughout its history Russian rule was typified by totalitarian despotism and tyranny, and even included the practice of leader worship. It was also characterized by an expanded bureaucracy and it followed a foreign policy of concessions when expedient. Russian Communism has proved to be just the third ideological rationale for Russian imperialism, building upon the legacy established by the "Third Rome" ideology and "Pan-Slavism." Communism, writes Dr. Dobriansky, has only magnified and refined the collectivist economic instruments for a more extensive state political control. He notes that even Karl Marx had referred to Russian foreign policy as changeless—a policy aimed towards world domination.

The USSR is today as in Tzarist times a multinational state which incorporates in itself at least twelve separate national entities. Lenin, prior to his successful coup had recognized this multi-national character and agitated for the independence of these nations. However, once in power, he quickly reestablished the Russian empire by conquering these nations, some of which had already been recognized by several western powers as well as by his own government.

It is these states that compose the Soviet Union's greatest strength and also its greatest weakness. The peoples of the captive nations now comprise 60% of the Soviet Union's total population. By language, history, culture and religion, these nations are as different from each other as, in Dr. Dobriansky's words, "the French are from the Germans or the Spanish, or the Chinese from the Japanese." Dr. Dobriansky stresses that the key to the destruction of the Soviet empire is the universal force of nationalism which, although presently held in check, is still felt in these captive nations as elsewhere.

He notes that it is through the economic exploitation of these captive areas that the USSR has been able to build an economy second only to the U.S. The Ukraine, the largest non-Russian nation both in Eastern Europe and in the Soviet Union, is a world leader in iron-ore and wheat. With a population of over 40 million people and a militantly anti-Russian history, Dr. Dobriansky looks to this captive nation as the primer for the nationalistic break-up of the Soviet empire. With its strategic location within the USSR, its importance would skyrocket with any direct conflict between the US and the Soviet Union.

THE SOVIET WORLD STRATEGY

Dr. Dobriansky views the policy of the Soviet Union as a global "troika strategy." Its three essential components are the continuance of a deceptive "peaceful coexistence" policy towards the West, allowing time for material, especially *The Vulnerable Russians* (Pageant, N.Y., 1967). It represents a strong case for a new policy directed towards the Soviet Union. *USA And The Soviet Myth* is a refreshing change from the literature of the detente and should be on the reading list of all those who seek a more realistic view of Soviet-American relations.

Royal M. Wharton.

"U.S.A. and the Soviet Myth"

(By Lev E. Dobriansky)

In his introduction to the book, Congressman William G. Bray of Indiana describes the contents as "strong medicine, carefully compounded." He goes on to say, of the struggle for the world, "We need only retain our own strength, and exploit the weaknesses of our enemies." Dr. Dobriansky, in his best book to date, does indeed sound a warning for the West, together with a prescription for eroding away the power of the Communist World.

The first five chapters deal with the nations held captive by Moscow, with emphasis on Ukraine. Chapters 6 and 7 discuss Captive Nations programs in the United States, Chapters 8 and 9 analyze diplomatic traps in dealing with Moscow, and the last chapter outlines the objectives and achievements of the Ukrainian Congress Committee of America. The author cites examples of the shocking lack of knowledge in high circles about the nationality problem of the USSR. Typical was a piece in the Washington *Evening Star*, July 23, 1963: "Strangely enough, the ideology that holds the Soviet Union together is not communism, but the 'Mother Russia' concept. For 'Mother Russia' is the common pride of White Russians, Ukrainians and Georgians . . ." One might as well say that Bohemia is a source of pride to the Slovaks, or Serbia to the Croats. I am sending this book to the author of that article, in the hope that he will read it with care.

Dr. Dobriansky not only details the nature of Muscovite imperialism and the appalling ignorance about the USSR, which persists among well-educated people in this country, but he also prescribes approaches to some solutions. His final chapter deals with the work of the Ukrainian Congress Committee of America, as it seeks to "exploit the weaknesses of our enemies." He cites in particular two major accomplishments: The Captive Nations Week Resolution (Public Law 86–90) passed by Congress in 1959, and the Shevchenko Statue of Liberty in Washington, D.C. These achievements, and many others besides, are not only attributable to UCCA, but to Dr. Dobriansky personally, who has worked tirelessly, especially with leading Congressmen over the years, to keep the Captive Nations concept in the foreground.

The author describes valuable contributions of the UCCA in supporting the cause of self-determination throughout the world, including Vietnam. *The Ukrainian Bulletin* of April 1–15, 1965, urged President Johnson to support and encourage psycho-political warfare waged by the Government of South Vietnam against North Vietnam, "warning the captive people of that Communist satellite that their aggressive communist masters will eventually meet their doom." Also cited is UCCA support of President Johnson's actions in 1965 to prevent a Communist take-over of the Dominican Republic.

Dr. Dobriansky points out that wishful exaggeration of the Sino-Soviet ideological split and "polycentrism" in Eastern Europe "cannot overshadow the blunt facts of predominant Soviet Russian power in the Red Empire." Our enemy in the Caribbean is not really Castro or Cuba, but the USSR. The same is true in the Middle East and Southeast Asia, Egypt and Syria, without the USSR, pose no serious threat to Israel. Ho Chi-minh and his successors, long-time adherents of Moscow, retain their power and threaten their neighbors only through massive Soviet aid.

The recent crackdown in Poland, coming on top of the Soviet invasion of Czechoslovakia and the previous rape of Hungary prove the author's point. Moscow is not about to acquiesce to "liberalization" or "national communism." The declaration of the Brezhnev Doctrine is the best proof of Soviet intentions, a declaration which was inspired as much by Western timidity and inaction as by Brezhnev's confidence in dealing with Dubcek and other deviationists.

Perhaps the most important contribution of the Captive Nations concept is that it has turned Moscow's propaganda about the dangers of imperialism against itself. Present-day discussions of imperialism (even at the United Nations) should turn away from considerations of Western policies long since abandoned to present-day Soviet policies, both with respect to the nations captive in the USSR, and to the countries in Central Europe, Southeast Asia, the Middle East and the Caribbean.

Not to be overlooked is the work of UCCA in developing and maintaining far-flung Free World contacts: "With its American identity and Ukrainian background resources, it has contacts with scholarly, cultural, political, religious and other groups, both Ukrainian and non-Ukrainian, throughout the world."

Nor is it generally recognized that a cardinal principle of UCCA's educational policy "is the outright rejection of any common guilt on the part of the unvested and oppressed Russian people for the crimes and aggressions of the government in Moscow." The vast majority of the Russian people, "cannot be confused with the exploiting New Red Class and the twelve million Communist Party members, their families and relatives who have a stake in Soviet Russian totalitarian rule and imperial dominion."

UCCA's educational goal is to intensify "the perennial force of national self-determination in its genuine and true sense." The same people who call for self-determination in Asia, Africa and Latin America seldom if ever apply the same doctrine to the much older nations of Ukraine, Byelorussia or Georgia.

The potential for Free World psycho-political warfare is there; it remains only to be utilized. The author has spelled it all out very clearly indeed.

Dr. Dobriansky appropriately dedicates his latest book to Dr. Roman Smal-Stocki, "Patriot, Scholar, Christian and Friend of All the Captive Nations."

The book contains an excellent selected bibliography and index.

I congratulate my colleague and friend Lev Dobriansky and the Ukrainian Congress Committee of America for producing this volume. It deserves the widest possible readership in government circles, the media, and the Academy.

Anthony T. Bouscaren.
Le Moyne College.

Truth About Soviet Imperialism

"U.S.A. and the Soviet Myth" by Lev. E. Dobriansky, 274 pages, Devin-Adair, Old Greenwich, Conn., $6.50.

We have heard a great deal of late, especially from our "cooperators with communism" who have taken it upon themselves to declare the Cold War at an end, about the "myth" of monolithic communism—that we now have nothing to fear from communism because it is no longer one big, happy family. They overlook the fact that no matter how much the members of the family fight among themselves, when it comes to the assault on the United States, to hurting her in every way possible with the ultimate purpose of destroying her, they close ranks.

But there is a real myth which hardly anyone takes the trouble to explore and explode—the myth of a homogeneous, united Soviet Russian people. Because it is a myth, once it is recognized as such it contains within it great possibilities for the rest of the world to free itself from the menace of imperialist Russian communism.

It is of this myth, its meaning and possibilities particularly for the United States, that Lev. Dobriansky writes so informatively and with such great perception in this very important book. Dr. Dobriansky is the author of the famous Captive Nations Week Resolution and a leader in the effort to help in freeing those unhappy lands in Eastern and Central Europe from Soviet rule. He is Director of the Institute on Comparative Political and Economic Systems at Georgetown University, and a foremost authority on communist imperialism and the Cold War.

Dr. Dobriansky stresses a fact (with the documentation to back it up) of which not only millions of Americans but even far too many of their leaders seem to be unaware—that there is no such thing as the commonly expressed "200 million Russian people" who supposedly make up the Soviet Union. Dr. Dobriansky says there aren't "200 million Russians in the Universe, let alone in 'Russia.'" The USSR comprises within its imperialist borders about 125 million non-Russian people, and they are as much captives of the communist empire as are the peoples of the captive nations. They are non-Russians who live in the Ukraine, White Ruthenia, Georgia and other non-Russian nations which had regained their independence in the early years of the communist take-over in Russia and then had their independence destroyed when they were forcibly annexed into the USSR.

In failing to recognize this fact, and adding to the failure complacence about the fate of the Eastern and Central European captive nations outside the borders of the USSR, we fail to recognize the real threat which the world faces and which Dr. Dobriansky brilliantly details—Soviet Russian imperio-colonialism. In other words, the USSR, with its usual use of reverse language, constantly (and, sadly, often successfully) imputes to the West and particularly to the United States that of which it is itself the modern epitome: an imperial power roaming the world in order to bring all peoples under its system of communist colonial slavery. Dr. Dobriansky says that is the tremendous threat we must recognize, because it is only a powerful United States which stands in the way of the achievement of these imperial aims.

He believes there is hope for countermanding these imperial aims in the plight, if properly handled, of those millions upon millions of captives of the present Soviet empire—and he details some of the ways in which it can be handled. But we first must comprehend the truth and stop deluding ourselves with sentiments such as former President Johnson, in all good faith, once expressed, that "the common interests of the people of Russia and the United States are many—and this I would say to the people of the Soviet Union: There is no American interest in conflict with the Soviet people anywhere." Dr. Dobriansky declares that "Whoever wrote this for the President should have been fired. Too much is at stake to tolerate such gross incompetence." And he does not hesitate to pinpoint the penalty for self-delusions and failure to recognize the truth: "In this struggle for keeps . . . the only alternative to victory over Soviet Russian imperio-colonialism . . . is disastrous defeat for ourselves. The historical dynamics of our time disallow any middle ground."

ROSALIE GORDON.

"U.S.A. AND THE SOVIET MYTH"

(By Lev E. Dobriansky)

"In this struggle for keeps . . . the only alternative to victory over Soviet Russian imperio-colonialism is disasterous defeat for ourselves. The historical dynamics of our time disallow any middle ground."

Here, in a penetrating analysis of America's foremost adversary, Dr. Dobriansky gives expert data which explains the dangers of our current policy of "peaceful coexistence" with our enemy.

The author shows how many American leaders have ignored the imminent danger to U.S. security. His chapters deal with such issues as—

"The Russian Problem"
"Seeing Russia in Toto"
"The ABCs on Russia and the USSR"
"U.S. Illusions on the Captive Nations"
"The Russian Trade Trap"

Dr. Dobriansky pointedly demonstrates that today's Soviet government has never stopped following Czarist ideas of expansion. The Russians have thrust westward into Europe, eastward to the Pacific and south to the Middle East, Africa and even South America.

The United States and Russia are on a collision course today because only a powerful America is capable of stopping the Kremlin conspirators from carrying out their designs of world-wide empire.

There is nothing new about the Russian urge for domination over others. Even in the 12th and 13th centuries, the Dutchy of Moscow (originally founded by invading Vikings from Scandinavia) began conquering and absorbing neighboring states.

Russian expansion itself started long ago with attacks on Lithuania and other Baltic states. Today 1/6 of the total area of the globe is under direct Russian control and the Russian empire straddles the globe from the Baltic to the Sea of Japan.

Unlike the United States, an association of freedom-loving peoples, Russia has long been a despotic dictatorship dominated by a relatively small number of Russians who rule over Ruthenians, Ukrainians, Estonians, Latvians, Georgians, and more than 100 other separate nationalities which are captives of the Red Empire.

Dobriansky pays special attention to the role of these Captive Nations. He effectively argues for freeing the Captive Nations including The Ukraine—as a key to dismantling the Russian Empire.

These peoples and lands cannot be compared with American states such as Pennsylvania and Wyoming, because they are truly conquered nations. Some of these nations, including The Ukraine, regained a brief independence following World War I—until they were once again forcibly annexed into the Soviet Russian Empire.

Dr. Dobriansky makes an ironclad case for the fact that Soviet Russia's empire building and imperial ambitions are an implacable foe of the U.S.A. He points out the absolute necessity for a policy towards the Soviet Union based on realistic facts rather than wishful State Department thinking. He further points out that if America could work for the independence of the Captive Nations of the USSR, the Russian colossus might eventually be brought to its knees. As Dobriansky explains, these non-Russian nations in the USSR are of crucial, strategic importance in the overall patterns of power distribution in the world.

This is a disturbing book. But it is one that had to be written. For the first time, it points out why the Russians, no matter how friendly they may try to appear are determined to eliminate the United States as an obstacle on their path to world domination.

CUBA TRIES TO IMPOSE UNHAPPY FATE ON PUERTO RICO

HON. JORGE L. CÓRDOVA

RESIDENT COMMISSIONER FROM PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. CÓRDOVA. Mr. Speaker, the recent effort of the Cuban delegation to the United Nations, to enlist U.N. support of Cuba's effort to impose their own unhappy fate on a Puerto Rico which knows much better inevitably attracted much publicity. But our news media did not reveal to the people of the United States the ludicrous gaffes of Cuban delegate Alarcón in his speech on that occasion.

We now learn of these gaffes from the following item published on the editorial page of the Quito, Ecuador daily El Tiempo, on September 21 under the byline of Carlos Alberto Montaner:

> The Cuban delegate, Ricardo Alarcón committed two chilling blunders in the midst of an improvised, fiery, fearful, moving, gloomy speech:
>
> "The hour has come for the freedom of this country, exploited, tyrannized, dominated by foreigners, whose life-blood empties in the Caribbean, Cuba . . . that is, pardon me, Puerto Rico (general laughter)."
>
> Then, hurriedly, he mentioned a list of Puerto Rican martyrs. A name foreign to Puerto Rico slipped in: Boitel. Boitel had been one of the student leaders in the underground struggle against Batista. He had been Alarcón's friend. And a few days before the speech, he had died in Havana after eleven years in prison as a result of recent tortures (he weighed 89 pounds). Probably Alarcón will hereafter be forbidden to improvise even a funeral oration. He has a dangerous subconscious.

Ecuador's daily, and journalist Montaner, deserve our gratitude for making known the well-deserved embarrassment of the Cuban intermeddler in the affairs of Puerto Rico. Puerto Rico has overwhelmingly expressed its support of our association with the United States. The 1967 referendum on the question showed slightly over 60 percent supporting the present status, 39 percent voting for statehood, and less than 1 percent for independence. Puerto Rico not only rejects, as it has always rejected, any notion of separation from the United States, but we particularly reject and resent any outside meddling in our affairs. If our present status is to be changed in any respect, it will be changed upon Puerto Rican initiatives, with the support of the people of Puerto Rico. And I can assure you it will be changed only in the direction of closer association with the United States, and not of separation from the United States. We can do without the advice of the unfortunate masters of our unfortunate neighbor in the western Caribbean.

REPORT ON SHRIVER LEGISLATION IN 92D CONGRESS

HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. SHRIVER. Mr. Speaker, it has been my practice to report to my constituents in the Kansas Fourth District on legislation which I have sponsored in the Congress. This is to highlight for the people I represent the status of bills and resolutions that may be of major interest. During the 92d Congress I sponsored some 100 bills and resolutions. Many of the proposals they contain have become law. Following is a brief summary on some of the legislative accomplishments to which I can point in this Congress:

House Joint Resolution 198, lowering voting age to 18 in local and State elections. Received the necessary two-thirds votes of the House and Senate and submitted to the States as a constitutional amendment. It has been ratified and is now in effect.

House Joint Resolution 270 to allow nondenominational prayer in schools and public buildings. Considered by the House but failed to receive necessary two-thirds vote.

H.R. 4191 to provide for program of Federal revenue sharing with local and State governments. Passed by House and Senate. Conference report completed by House-Senate committee, and expected to be enacted prior to adjournment.

H.R. 4258 to provide for an additional source of financing for the rural telephone program. Enacted into law.

H.R. 4416 to cut off economic and military aid to countries which fail to take appropriate steps to stem the tide of narcotic drugs flowing from their countries into the United States. Adopted as part of foreign aid authorization and implemented by President Nixon.

H.R. 4453 providing for implementation of an all-volunteer army. Individual actions such as military pay hike and civilization of "KP" adopted as part of Selective Service extension and 1973 Defense appropriations bill.

H.R. 5064, the Rural Development Act to revitalize rural and small towns through new areas of authority to Farmers Home Administration and Soil Conservation Service. Enacted into law.

H.R. 6064 providing for increases in social security benefits, including automatic cost-of-living increase, increased earnings limitation and widow's benefits. Across-the-board increase in monthly benefits and cost-of-living provision adopted as part of debt limitation bill. Further consideration necessary for improvement of other inequities.

H.R. 6792 to establish a student loan marketing association to help higher education students in securing financial assistance. Enacted as part of Omnibus Education Amendments of 1972.

H.R. 12891 to exempt employers having less than 25 employees from the Occupational Safety and Health Act. Hearings underway. Amendment adopted by House of Representatives to Labor-HEW appropriations bill which exempts such firms from inspection. Pending in Senate.

WE'RE IN THE BIG LEAGUES NOW

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. BEGICH. Mr. Speaker, as the world series of 1972 approaches, I wonder how many baseball fans in the Chambers this afternoon know what Tom Seaver, New York Mets; Rich Hand, Cleveland Indians; Steve Dunning, Cleveland Indians; Dave Roberts, San Diego Padres; Rich Monday, Chicago Cubs; Curt Motton, Milwaukee Brewers; and Chris Chambliss, Cleveland Indians, all have in common? Or what two teams made semipro history last month in Wichita, Kans., by meeting for the second year in a row to battle out the National Baseball Congress championship?

It is another Alaskan first, and one of the great success stories in baseball. The players were, at various times, members of the two NCAA-sanctioned semiprofessional teams in Alaska—the Alaska Goldpanners of Fairbanks, and the Glacier Pilots of Anchorage. Those two teams also made history in August when the Goldpanners beat the Pilots by a score of 3 to 2 in the final game of the 32-team double elimination tournament to become the champions of the National Baseball Congress again.

Alaskan teams have dominated the tournament since 1962: The Goldpanners never ranked lower than fourth place nationally and the Glacier Pilots clinched the national championship in their very first year of existence—1969. This year they fielded impressive teams, including such players as "Bump" Wills, the son of Los Angeles Dodgers shortstop Maury Wills, and Roy Smalley, son of Roy Smalley who played with the Chicago Cubs, the Milwaukee Braves, and the Philadelphia Phillies from 1948 to 1958.

Both teams are NCAA sanctioned summer baseball teams gathered from the top collegiate teams of the United States. Recruiting commences in January of each year. Candidates are carefully screened and scouted, with only outstanding prospects who are looking for a future in organized baseball being selected for the final roster. In accordance with NCAA summer baseball regulations, all players are employed in various jobs throughout the community in which they play. They work 40 hours a week in addition to playing daily games. Salaries range upward from $600 per month, and they find themselves working in jobs ranging from clerking to engineers' helpers. Players are placed in jobs by order of seniority in the program and job experience. Baseball proficiency has nothing to do with job placement. Employment has always been at a 100-percent level as local merchants are always eager to supply this type of support to the program. Players live as members of families during their summer stay in Alaska, and there is always a long list of families—especially those with sons in local youth baseball programs—anxious to have a Goldpanner or Pilot as a "summer son."

A highlight of the season in Fairbanks is the Midnight Sun Game, played on June 21—the longest day of the year. The nearly 22 hours of sunlight enable the teams to start play at 10:30 p.m., with the sun just beginning to set in the north, and continue through to the game's conclusion as the sun is rising. Regulation baseball is played right through the hour of midnight without benefit of artificial lighting, and since the traditional game began in 1906 it has never been called on account of darkness.

Both the Pilots, under the direction of manager Paul Dreese, and the Goldpanners, with Jim Dietz and Bill Arce at the helm, are justifiably proud of their successful season, and their accomplishments during the championships. Congratulations to the Alaska Goldpanners and the Glacier Pilots—Alaska's finest.

ROSTER

ALASKA GOLDPANNERS

Kurt Wittmayer, Crawford High.
Jim Selisker, Lower Columbia U.
Mark Lucich, Stanford U.
Manny Estrada, Mt. San Antonio.
Gene Delyon, Santa Clara U.
Steve Swisher, Ohio University.
Rod Boone, Stanfard U.
Mike Kenneth, Glendale Community College.
Jay McDowell, Valparaiso U.
Rand Rasmussen, San Fernando Valley.
Kerry Dineen, U. of San Diego.
Rod Laub, San Diego State.
Dan Cunningham, Oregon State.
Bruce Robinson, La Jolla High.
Jim Umbarger, Azizona State.
Dave Winfield, U. of Minnesota.
Walt Kaczmarek, Santa Clara U.
Dan Grimm, Fresno State.
Rusty Gerhardt, Clemson U.
Clif Holland, Canada Junior College.
Dan Shaw, Stanford U.
Mickey Robinson, Claremont.
Greg Kessler, Saddleback Junior College.
Jackson Todd, University of Oklahoma.
Jay Smith, Florida Southern.

GLACIER PILOTS

Elliott Taylor (Bump) Wills, Arizona State.
Mike Pereira, Santa Clara U.
Jack Brushert, Champman College.
Mickey Aguirre, Stanford U.
Dave Oliver, Cal-Poly at San Luis Obispo.
Guy Krause, University of Oregon.
Glen Johnson, Stanford U.
Roy Smalley, University of Southern Cal.
Johnny Sain, Arizona State.
Jim McGhee, Panola Jr. College.
Marty Rice, Florida State.
Dale Hrovat, Arizona State.
Lee Pelekoudous, Arizona State.
Bob Dipietro, Stanford U.
Ruben Garcia, Texas Tech.
Greg Cochran, Arizona State.
Curran Percival, Chapman College.
Steve Kelley, Santa Clara U.
Ed Stonefelt, Chapman College.
Dave Hasbach, Miami of Ohio.
Roy Hyer, LSU—New Orleans.
Dick Bradley, Kansas University.
Ed Bernard, Tulane University.
Doug Ault, Texas Tech.
John Baker, Chapman College.
Clint Myers, Arizona State.
Mark Merdes, San Diego Mesa.
Phil Convertino, Santa Clara U.
Howard Bellamy, (none).
Creighton Miller, Chadron State.

CENTENNIAL FARM

HON. MELVIN PRICE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. PRICE of Illinois. Mr. Speaker, I am pleased to announce to my colleagues that the Illinois Department of Agriculture has found through its centennial farm program that the oldest tract of Illinois farm land owned by the same family is the 40-acre tract owned since 1804 by the Howard Ittner family of Belleville in the 27th Congressional District. I am proud as I am sure the Ittners must be.

Mr. Speaker, if there is no objection, I would like the following article from the

Illinois Agricultural Association Record to be printed in the RECORD.

The article follows:

ST. CLAIR COUNTY FARM BUREAU FAMILY OWNS OLDEST "CENTENNIAL FARM"

The Illinois Department of Agriculture, through its "Centennial Farm" program, has determined that the oldest family farm in Illinois is owned by a Farm Bureau family in St. Clair County—the Howard Ittner family of Belleville.

The 40-acre tract near Swansea has been owned by the same family since 1804, when it was acquired by Ittner's great-grandfather, Adam Badgley, under "squatter's rights" provision of the old Homestead Act.

Counting Mrs. Richard Kurtz of Belleville and her sons, Howard and James, for whom the farm has been placed in a trust, six generations are represented in ownership of the farm since 1804.

Badgley acquired 160 acres under the Homestead Act and later increased the size of the farm to 400 acres. According to historical records maintained by Mrs. Kurtz, Badgley raised wheat, corn, beans and produce and was the first farmer in the state to haul produce to the Illinois Governor's office in Springfield. Badgley was also a Baptist minister, justice of the peace, and a school director in the Belleville area.

Badgley constructed a small log house at the farm site, and gradually expanded acreage for farming by clearing the land of trees and brush. Mrs. Kurtz said that the log house was used until 1841 when it was burned down by Indians while the Badgleys were on a trip to Springfield to pay taxes. Badgley replaced the log house with a frame structure which served the family for two decades.

The farm passed from Badgley to a son, Austin Badgley, and then to his daughter, Nellie Badgley, who was Ittner's mother.

Ittner farmed the property until 1935 when he started work for the Federal Reserve Bank in St. Louis. Although most of the original acreage was sold through the years, the 40-acre tract has remained in the same family. The farm is presently rented to Cletus Lanter who raises grain there.

More than 2,500 Centennial Farm applications have been received by the Department of Agriculture. The Ittner farm was the oldest certified by the Centennial Farm program as of September 1.

To qualify for the Centennial Farm program, a certain section of farmland must have been owned by the same family for 100 years or more. Farms certified by the program receive a Centennial Farm sign to post on the farm.

SOUTH AFRICA GIVES STAMP OF APPROVAL TO ADMINISTRATION'S ABANDONMENT OF EQUAL OPPORTUNITY GUIDELINES

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. STOKES. Mr. Speaker, the President's elimination of equal opportunity guidelines has begun to have repercussions in the international arena. This adds an important new perspective to the entire question of quotas in Federal programs.

On September 2, 1972, the Johannesburg, South Africa Star printed an article headed, "No Rush of Negro Diplomats for SA." In this article, the South African reporter perceived the President's action in terms of his country's own self-interest, a self-interest that can only be characterized by the South African policy and practice of apartheid.

The first line of the news article was:

> In a decision that has some bearing on the assignment of black diplomats to South Africa, President Nixon has banned hiring quotas for Negroes and other minorities in all branches of the Federal Government.

The reporter went on to state that—

> This means the State Department cannot meet the demands of Congressman Charles Diggs and others to alter the racial composition of the diplomatic staff in South Africa to reflect the racial composition within the United States.

When a country like South Africa—the most repressive country on the face of this earth—begins to see U.S. policy in terms of its own self-interest, then it is incumbent upon our Government to examine its policies very closely. It is not too late for the administration and the American Jewish community to take a closer look at what the elimination of quotas will mean—not only in the domestic sphere, but in the international realm as well.

The article that appeared in the Johannesburg Star follows:

NO RUSH OF NEGRO DIPLOMATS FOR SA

WASHINGTON.—In a decision that has some bearing on the assignment of Black diplomats to South Africa, President Nixon has banned hiring quotas for Negroes and other minorities in all branches of the Federal Government.

The Public Service Commission has ordered a review in all Federal Government departments to ensure that no quotas are in effect.

The President's decision, taken in an attempt to woo Jewish voters away from the Democratic Party, reverses a trend established under the Democrats towards giving minorities their "fair share" of Government jobs.

Instead, he is insisting on merit as a criterion for all appointments. While this automatically bars discrimination on grounds of race, sex, religion and so forth, it cuts across the clamour from Negroes against the fact that they hold so few of the top Government jobs.

This means the State department cannot meet the demands of Congressman Charles Diggs and others to alter the racial composition of the diplomatic staff in South Africa to reflect the racial composition within the United States.

Under a system of strict merit, the chances of appointing more Blacks to South Africa are fairly small.

In addition the President's order raises some question about the department's decision a few years ago to exempt Black candidates from the Foreign Service admission examinations, a step taken when earlier efforts to increase the number of Black officers foundered because so few Black candidates passed the exams.

For cultural reasons alone the number of Blacks in the Foreign Service would grow very slowly under a strict merit system such as the President has laid down, while the rules governing specific appointments would reduce the prospect of many Blacks being chosen to go to South Africa.

PUBLIC ADMINISTRATION REVIEW

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. SCHMITZ. Mr. Speaker, yesterday I presented to you a brief history and assessment of the planning, programing, and budgeting system—PPBS—now being adopted by more and more governmental agencies at the Federal, State, and local levels of government. Today I would like to bring to your attention excerpts from an article by Stanley B. Botner of the University of Missouri, appraising 4 years of PPBS, which appeared in the July-August 1970 issue of "Public Administration Review." This article spells out the imprecision and failures of PPBS in a dozen different ways, yet despite its obvious limitations and inadequacies, the conclusion is giving that PPBS is precisely what the President needs to "serve effectively." It is beyond my understanding how these "experts" could arrive at such a conclusion, based on their own evidence.

The article follows:

FOUR YEARS OF PPBS: AN APPRAISAL

(By Stanley B. Botner)

When President Johnson issued his 1965 order introducing the planning-programing-budgeting system (PPBS) in civil agencies, some hailed the action as a breakthrough in the decision-making process. According to the more optimistic, PPBS would provide a rational basis for allocating resources among competing programs. Techniques utilized in the Department of Defense could be applied to "soft" programs such as health and welfare, it was thought, and DOD specialists were imported to assist in effecting the fiscal renaissance. However, the Bureau of the Budget and the agencies are still struggling to comply with the order more than four years after its issuance.

My aim is to assess the impact and effectiveness of PPBS to date, to suggest factors which have hindered more fruitful implementation, and to describe recent actions to correct some of the deficiencies cited.

RESULTS DISAPPOINTING

In mid-1968 the Bureau of the Budget undertook to determine if policy analysis is performed differently than it was before the advent of PPBS. BOB researchers conducted a study of the implementation and utilization of PPBS by 16 domestic federal agencies. Their findings led them to conclude that most agencies do not perform the planning, programming, and budgeting functions much differently than they did before the introduction of PPBS.

An assessment of the impact to date of PPBS must also include consideration of its effectiveness as an instrument of the Bureau of the Budget in discharging its responsibilities to the President in the formulation of the federal budget. An analysis of the results of recent studies, discussions with Budget Bureau and other officials, and testimony before congressional subcommittees leads one to conclude that PPBS has thus far been rather ineffectual as a presidential staff tool.

McKinsey and Company, Inc., a management consultant firm engaged by the Bureau of the Budget to design an "integrated system development effort," reported in 1969 that "the basic mechanism for planning, programming, budgeting, and execution exists today."

There are too many issues, often of marginal interest, typically poorly analyzed, and often submitted too late to be of practical value.

The key Spring Preview step

a. Lacks solid input . . .

b. Does not systematically take a cross-agency view of the program

c. Produces only spotty programming guidance to set up subsequent budget formulation.

The existinig inability to move smoothly among the varied, but valid views of the budget has produced an intolerable situation. Gaps, overlaps, and confusion permeate attempts to relate these structures (e.g., PPB, appropriation, functional).

PROBLEMS AND DEFICIENCIES

While some worthwhile results have been achieved with PPBS to date, the system has failed to fulfill the expectations of its more ardent proponents. Why is this so? What are some of the deficiencies and problems which have been encountered?

With the benefit of hindsight, it appears that PPBS was introduced in civilian agencies abruptly, on too large a scale, and without adequate advance preparation and study. Former Secretary of Commerce John T. Connor described the introduction of Cabinet members to PPBS:

The Cabinet members were called together early one morning without any prior preparation and, after a brief summary by Budget Director Schultze, ordered to put it into effect promptly. There was no meaningful discussion of whether or not it would be applicable throughout the Federal Government, even if successfully applied in Defense.

Mr. Connor commented further that "the timing turned out badly as the Vietnam War financial demands made a shambles out of any reasonable priority system."

In issuing his sweeping across-the-board order to implement PPBS, President Johnson acted against the wishes of some Budget Bureau officials who favored slow and careful development of PPB conceptual tools. They urged the President to limit the new system at first to five or six agencies which had demonstrated some degree of competence in program planning. On the other hand, at least one of those who shared some of the qualms reported by Professor Gross has come to the view that the President's instincts were right. This former BOB official now feels that the surest way to introduce a major innovation in a mammoth bureaucracy and make it stick is to have it pushed across the board from the top. Nevertheless, on balance it would seem that a period of study, experimentation, and refinement of technique prior to actual implementation by civilian agencies would have helped to eliminate much of the confusion accompanying the installation of PPBS. It might also have increased the probability of ultimate success.

DOD MODEL INAPPLICABLE

Another problem resulted when techniques utilized in the Department of Defense did not prove readily transferable to the civilian sector. As one budgetary authority stated:

"Clearly, in most areas of Federal activity. the Defense model of PPBS could be helpful only in peripheral ways. Most would have to develop their own blueprints, adapted to their own subject matter, their own power structure, their own environment, and their own culture."

As an example, consider the difficulty encountered by the civilian agencies in developing meaningful measures of effectiveness or criteria for evaluation. The experience in the DOD proved of little value here. It is one thing to quantify the benefits from the application of a stated volume of firepower to a specified target. It is quite another to quantify the benefits to the individual, his family, and society generally of a program to rehabilitate alcoholics, particularly if one considers the impact of intervening causative factors.

An official of the Department of Agriculture told the author:

"Perhaps the principal problem which has confronted us in the implementation of the PPBS has been the development of means to measure the tangible and intangible benefits, in terms of dollars and cents, which result from the investigation phases of our operations."

Another USDA official commented:

"If in your search . . . you discover some device which can isolate and quantify outputs such as the deterrent force of individual regulatory activities, I would be most pleased to have your findings."

Those who have endeavored to develop criteria for evaluation would probably agree with William Gorham, former Assistant Secretary (Program Coordination), Department of Health, Education, and Welfare, that "it is going to take many years to develop the kinds of output measures we need to understand what we are getting for our money."

Indeed, PPB techniques are not yet, and may never be, sufficiently sophisticated to support what the Jackson Subcommittee termed "the exaggerated hopes of some that PPB would enable the Executive Branch to identify national goals with precision, determine which goals are most urgent, and measure exactly the costs and benefits of alternative policies. . . ." As BOB Director (and economist) Robert P. Mayo told the Proxmire Subcommittee:

". . . we are limited . . . by our inability to develop output measures that permit inter-category comparisons of benefits. For better or for worse, we have no generally agreed-upon way of deciding quantitatively whether the Nation benefits more by providing greater dignity for the aged (and less financial burden on their families) or by training disadvantaged persons in their early 20's or by making our airways safer or by reducing crime."

Mr. Mayo said also:

"I am fully committed to the use of economic analysis as an aid in making budget decisions. At the same time, I would insist—as would anyone who understands our form of government—that economic analysis can never be the sole determinant of budget decisions."

Former BOB Deputy Director Phillip S. Hughes cited certain difficulties in implementing PPBS:

The data base is inadequate.

Federal programs are multipurpose in nature.

Most analysts are trained and oriented in a particular discipline, each with a specific set of assumptions, methodology, and jargon.

Systematic program evaluation was intended to provide a base for and to help unite the two traditional channels for decision making in allocating resources: the formulation of the President's legislative program and the traditional budget process. Instead, there has been a tendency for program evaluation to become a third decision-making channel more and less parallel to the other two.

Top level officials, "under tremendous pressures to respond to short-term crises," are prone to ignore or defer consideration of long-range problems.

Other difficulties in applying PPB techniques have been reported by the Proxmire Subcommittee. They include:

Scarcity of trained personnel of secondary returns

Application of PPBS by some agencies only to new (and not older) programs

Inconsistencies among the agencies in application of discount rates and inclusion

Lack of a broad, cross-agency program structure. . . .

INADEQUATE BOB LEADERSHIP AND GUIDANCE

More fruitful implementation of PPBS has been hindered, too, by inadequate leadership and technical guidance from the Bureau of the budget. One high-ranking department official used the term "lack of resolution" in describing BOB's effort. Two years after the President's 1965 order, a staff summary of the work of a BOB study group revealed "disagreement and confusion over the definition of PPBS" within the Bureau. The Steering Group also cited the need for more top management attention than in the past, and called for the focusing of attention upon:

Defining the nature and purpose of PPB and building some consensus as to what the system is intended to achieve; and

Integrating the PPB system with the related systems of financial management and the budgetary process.

CHANGING EMPHASIS

The effectiveness of BOB has been hindered by failure to keep pace with its increased responsibilities and basic changes in the nature of those responsibilities. Major new, social legislation, growing interrelationships between federal programs and agencies, and between federal, state, and local programs and agencies, as well as the basic shift in emphasis from budget review and preparation to program planning and evaluation, have had a dramatic impact. As the Steering Group reported: "These changing emphases are more than a matter of style—a way of making decisions. They are matters of substance—the making of *different* decisions."

A corollary of the basic shifts in the nature and scope of BOB responsibilities is an increase in the number and significance of external demands. One factor responsible for this increase is what the Steering Group termed "an increasing Presidential orientation of the activities of the Director." An indicator of the increase in another external demand upon the Director is the fact that he testified at an annual average of nine congressional hearings during the period of 1958–65, whereas in 1966 he testified at 22 such hearings. The marked increase in external demands means, of course, that the Director and other top officials of the Bureau have less time to devote to internal problems.

A lack of consistency and coordination of effort, reported the Steering Group, has too often characterized the interrelationships among top BOB management, the offices, and divisions. For example, it was found that "Divisions often fail to coordinate with each other in dealing with problems of a multi-Division nature."

The budget has not only become more complex, said the Steering Group, it has also become cumbersome and bulky and "encumbered with elaborate detail associated with object classifications." Agency officials who were interviewed cited in BOB's "apparent obsession with trivia and failure to address the major substantive problems."

Almost 60 per cent of the BOB staff indicated to the Steering Group that on-the-job training was "fairly inadequate, quite inadequate, or does not exist." The BOB was urged to analyze such programs as PPBS for training requirements and to carry out adequate training "to insure staff understanding and implementation of objectives."

CORRECTIVE ACTIONS

Since the report of the Steering Group, the Bureau of the Budget has taken a number of steps to correct the deficiencies cited. These include the establishment of an Office of Executive Management, which has been assigned responsibility for developing solutions to management problems created by increasingly complex and interrelated programs. As former Budget Director Charles L. Schultze told the Jackson Subcommittee:

". . . the priorities for attention right now are not so much on the individual agencies but on the growing number of programs where agencies overlap and the question is how to get systems for managing programs where more than one agency is involved. So our priorities are to take a look at such things as foreign affairs management, manpower programs, and urban ghetto problems, where a number of agencies are involved, and see how to get systems to handle these multi-agency problems.

To help correct a shortage of professional personnel, Budget Director Mayo requested an increase in appropriations in fiscal 1970 to permit the restoration of 39 essential positions lost due to the employment limitation provisions of the Revenue and Expenditure

Control Act of 1968, and the addition of 13 positions to support the expanded development of management information systems. In his statement to a House Appropriations Subcommittee, Mr. Mayo said that he was "particularly struck by the fact that the Bureau has fewer regular employees authorized now than it had 20 years ago, when obviously the budget was much smaller."

In January 1969, the Program Evaluation Staff of the Budget Bureau was supplanted by, or upgraded to, a full-fledged Office of Program Evaluation, headed by an assistant director who reports to the Director. Further, to permit more effective utilization of PPB analyses performed by the agencies, the Budget Bureau, according to former Deputy Director Hughes, is "revitalizing our program evaluation work so that it ties in more closely with the real and current world of the budget preparation cycle."

In keeping with BOB's objective of increasing the amount and quality of program evaluation and analysis used in policy planning, 85 major policy issues were identified for the fiscal 1971 planning and budgeting cycle. (An issue qualifies as a major one if the results of its analysis might have a budgetary impact of $50 million or more in fiscal 1971 and/or $500 million during the next five years or an equivalent social impact. An example: Effectiveness of the social services provided to public assistance recipients.) To insure evaluation of major issues, at least one BOB staff member was assigned to each issue to provide liaison with and assistance to the agency or agencies conducting the analysis. BOB Assistant Director Carlson reported to the Proxmire Subcommittee that analysis of three-quarters of the major issues was progressing satisfactorily, and "the results of the analysis have been and are being fed into the decisionmaking process."

In a further effort to improve program evaluation and planning, BOB has initiated four experimental projects:

1. The *Program Overview Project,* designed to summarize what is known and unknown about costs, outputs, benefits, and beneficiaries of all federal programs.

2. *Regional Expenditure Analysis,* a project to portray the geographical distribution of federal program expenditures with key economic and demographic characteristics.

3. A *Public Expenditure Model,* an attempt, using linear programming, "to show the total of benefits and distribution of benefits to recipients by selected characteristics so that with given alternative priorities we can identify those programs that best achieve those priorities."

4. The *Social Achievement Indicators Project,* the intent of which is "to select those statistical series which reflect social well-being and relate them to categories of public expenditures."

Recognition of the need for more timely, comprehensive, and systematic information led to the establishment in the Budget Bureau of another new unit, the Management Information Systems Staff. Headed by Walter W. Haase, this unit has as its objectives the automation of the budget preparation process to the extent practicable, and the development of an improved information system to strengthen the planning, programming, and budgeting processes. A rolling budget system is also being developed "to update the budget throughout the year so that it becomes a dynamic financial plan and can be used to support decision making on a year round basis."

BOB officials are hopeful that the study conducted by McKinsey and Company, Inc., will result in the identification of ways to integrate PPB methods with the more traditional appropriation budgeting processes. Another objective is to "strengthen both agency and Bureau ability to perform program and budget reviews and analyses in goal-oriented terms, both within and across agency lines. . . ."

Among the basic questions answers to which the McKinsey study is designed to provide:

How should the Executive Branch strengthen its planning, evaluating, and decision-making processes, particularly within the Executive Office of the President, to capitalize upon coordinative power of modern information technology?

What common denominator can be used to provide the information necessary to conduct the multiple perspective reviews of the Bureau of the Budget and yet obviate the present necessity for preparing what in effect are two separate budgets, one in program terms and another in traditional appropriation format?

Will it be necessary to develop a governmentwide program structure to resolve this "crosswalk" problem?

How elaborate and what should be the substantive content of an improved information system to support the recommended changes which result from the resolution of these questions? . . .

The authors of the *Federalist* envisioned that the private interest of every individual would act as a sentinel over the public rights. Instead, the present budgetary process operates to the advantage of certain groups able to bring disproportionate influence to bear on the outcome of that process.

The implementation of PPBS, despite present limitations, can help correct the shortcomings of the pluralistic process by which scarce resources are allocated—and misallocated. Allen Schick and others have detailed why there are unfavorable outcomes from the way politics works in the United States, and why the pluralists have exhibited little interest in "who gets what."

Despite warnings by those referred to by Schick as "cariacaturists" that PPBS poses an ominous threat to the American political system, precisely the opposite view would seem more realistic. That is, PPBS provides the means by which the imbalances and injustices of the present system can be corrected, to an extent, at least, and within the framework of that system.

For the most part, it is to the President that we must look to represent the general interest of the citizen as consumer and taxpayer. As former BOB official William M. Capron has stressed, others at the federal bargaining table are special interest representatives. If the President is to serve effectively as a counter weight to the special interests in the bargaining process, he must be informed. He needs the kind of information that is developed from analyses that reflect the important interactions, the indirect as well as the direct costs, and which is objective in the sense that alternative ways of accomplishing program objectives are considered. In short, the President needs precisely the kind of information PPBS has the potential to provide.

DR. WILLIAM S. MIDDLETON

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. TEAGUE of Texas. Mr. Speaker, we in Washington are wont to use rather freely the words "great" and "distinguished." I hope that most of the time when we describe men in the world today, who have reached a degree of success, that the terms are truly descriptive.

Yet, all of us know when we are in the presence of greatness, and I think it can be said without fear of contradiction, that those who have known him feel that way about Dr. William S. Middleton, former chief medical director of the Department of Medicine and Surgery of the Veterans' Administration. Dr. Middleton served with more than distinction in the position I have just mentioned. He also served as dean of the Medical School of the University of Wisconsin and prior to that as a teacher.

I have yet to meet a physician who had the good fortune to study under Dr. Middleton who did not describe him as the best teacher he ever had. Here is a man whose feet are firmly planted on the ground, but whose concept of medicine and service to his fellow man always reached upward. Here is a man who has taken seriously all his days the oath of Hippocrates.

Dr. Middleton's middle initial stands for Shainline, but it could well stand for service—service to his fellow man and in particular to the veterans of this country. He served in World War I as a doctor and in World War II as a distinguished surgeon. He serves the veterans of Madison, Wis., each working day at the VA hospital in that city, where he teaches medical students and cares for the veterans who are in that hospital.

Recently Dr. Middleton was in Washington to dedicate the new research building of the Washington VA Hospital. This soon to be 83-year-old young man delivered an extemporaneous address of marked quality and insight which I include as a part of my remarks:

REMARKS BY WILLIAM S. MIDDLETON, M.D.

Mr. Administrator, Mr. Deputy, Mr. Chief Medical Director, Senator Adkins, Friends of Veteran Medicine, all—it is indeed an honorary privilege and pleasure to be with you on this occasion.

However, mingled with this feeling of elation I experience an unusual sense of nostalgia. My first contact with this particular organization was at Mt. Alto. Mt. Alto was physically, as you recall, an institution that had been derived from a girls' school. I am not reflecting on the organization or reformation, but rather turned into a hospital it was characterized by many tunnels, channels, hallways, tiny rooms, attic rooms and in an expression before the House Committee on Veterans' Affairs on one occasion I referred to the fact that it was glued together, held together by chewing gum and paint and there was little more than that to it physically.

Professionally, however, it was a very superior organization and it was my refuge for eight years for clinical refreshment and stimulation. Our Hospital Director first was Dr. Rose and then Dr. Thomas Ready who were ever mindful of my physical welfare. As a matter of fact, on one occasion Dr. Rose told me that my annual physical, supplemented by X-rays, showed a change off the hilum of the left lung which was very suggestive and that I should come back on Tuesday next which was a matter of five days. I spent this time in re-arranging my private affairs—only to find that there had been a perfectly normal change in a certain blood vessel off the left hilum. In that interval I deferred some 15 years of plans I had made.

We had a splendid staff and Dr. Kaplan was always and most gracious and helpful Chief of Staff, with the Chief of Medicine, Dr. Sol Katz, the best read and most encyclopedic knowledge of medical literature that

I have ever encountered. He had as his associate Ed Freis, whose honors have been announced by the Administrator. The other men like Dr. Sun, Dr. McFarland, all most stimulating and I had a feeling constantly of an elation, if you please, that came from the relief of administrative duties by having contact with the patients every Thursday afternoon. On one occasion at an administrative meeting I announced the fact that I had worked all week for the afternoon that was given me on Thursday at Mt. Alto. Harvey Higley called me back to his office after the meeting and said, "Bill, you couldn't have been serious when you said that." I said, "Chief, I was never more serious in all my life." And so it was a very heartening experience.

There comes in clinical medicine certain minor tasks which you can soon pass by because they are overshadowed by other experiences. The occasion of January 10, 1963, is firmly engraved in my mind. On that occasion, Sol Katz, ever kindly and gracious, introduced me to a patient for my clinic who had pleurisy with effusion on the right side only to find out that this obvious pathology had overwhelmed and overcome the evidence of a situs inversus completus. That means all the organs were on the wrong side of the body. I can give you all the physical findings if you wish. Clinical medicine is indeed an humbling experience, if you follow me.

Research is a state of mind. In the very recent past, it was looked upon with some indulgence and tolerance by the public. This has given way to adulation. The participants in research were "squares" in moments past, only now to be revered in practically every level of society. I cite this because research had humble beginnings. Research of itself, a search for the truth, is a matter that will bring a leveling to participants. For example, Joseph Leidy, who was one of the last of the great natural scientists in this country, with a grant of $220.00 and a microscope costing $50.00 wrote a masterpiece "Fresh Water Rhizopods of North America." The Curies, working in a shed behind the School of Physics on the Rue Lhomond in Paris discovered radium. We had a guest in our midst, one Willem Einthoven in 1924 in Madison, the man who developed electrocardiography. He was shown the best that we had which was rather meager and then brought into the basement laboratory of Physiology. He took off his waistcoat and then took off his dickey, and he said, "Now dis is home."

I am indicating to you that the search for truth had humble beginnings. To have tremendous grants of monies, to have the National Government Foundations heaping great largess upon the scientific world is not yet the answer. Actually, you cannot buy brains and ideas, you may only implement them. And I charge you that this is a very important element for our scientific world to realize; for our public to realize because researchers are so importantly unrelenting in such endeavors. It imposes upon the scientific world, therefore, the responsibility of reporting to the public, reporting to these agencies of support just how they are moving and in what direction.

Do not misunderstand me, I am all for wings for the spirit but I do feel that there is an important element in this relationship that imposes upon science and scientists the necessity of making known their results to the public. I am impressed too by the fact that in this life we frequently hear expressed the fact that basic sciences are for individuals with unusual talents, unusually inspired outlooks, and that it does not have a paying dividend, that they must apply the science to that for which we seek answers and returns. Actually, in effect, we know that not infrequently the basic science is the step by which only the application of the science to practice can be obtained.

This takes on a very important aspect when we consider the various vaccines for poliomyelitis, infantile paralysis. The fundamental work was done by Enders and the application by Salk and Sabine. Salk and Sabine received wide acclaim in the public press and public notice in this country; Enders received the Nobel Prize. We depend upon research for the advancement of medicine and the way would be very dim as to progress in medicine and very blurred without the light of research. Accordingly, it behooves us to realize that in this particular area of human endeavor, there is a promise of the future so eloquently outlined by our Administrator.

Returning to the local scene, it is obvious that the American public, through its legislative bodies, has drawn itself abundantly behind medical research. There were a total of 176 projects outlined in the VAH Washington report in 1972. We have had the clear notice of the work of Dr. Freis in Hypertension which is, from a clinician standpoint, one of the most important contributions made in recent years to our knowledge of this important subject of arterial hypertension (high blood pressure).

Dr. Pipberger, working in the same institution, was responsible for the application of computer automation to the interpretation of electrocardiogram, a very important contribution. We have continuing studies here that start, we will say, with Dr. Recant's work on the pro-insulin, something that precedes the development of insulin. There is work by Dr. Janicki who developed certain areas of our knowledge of the tuberculin derivatives. Dr. Cohn has as recently as the 15th of August 1972, reported on the injection of sodium nitroprusside intravenously in the patients with myocardial infraction. And we can go through a host of various contributions. I would like to think too, of my good friend, Hy Zimmerman, who is so well acquainted with the liver that he speaks its own language all the way from the capsule of Glisson down to the ultimate hepatocyte.

So we have in our own midst men and women who are regularly contributing to the advancement of knowledge. A quotation from Hansen I think is pertinent here: "Indeed there is a Pegasus for science as there is for the arts; and he like his mate, spreads his wings only when he feels on his flanks the thighs of one who is appointed by the gods to ride him."

Thank you.

TRIBUTE TO EDWARD WARD "NED" CARMACK, JR.—DISTINGUISHED TENNESSEE ATTORNEY, BUSINESSMAN, AND JOURNALIST

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. EVINS of Tennessee. Mr. Speaker, I want to take this means of paying a brief but sincere tribute to the late Edward Ward "Ned" Carmack, Jr., of Murfreesboro, Tenn., an outstanding attorney businessman, and distinguished journalist, and twice a candidate for the U.S. Senate.

I was deeply shocked and saddened to learn recently of the passing of this great American, a member of a famous Tennessee family—famous for its courage, leadership, and dedicated public service.

Ned Carmack was my esteemed friend, and he will be greatly missed by his countless friends in Murfreesboro, Rutherford County, and throughout the State of Tennessee.

A monument to Edward Ward Carmack, father of Ned Carmack, stands in front of the Capitol of the State of Tennessee in Nashville. These are the eloquent words inscribed on the statue of this great orator, statesman and senator, written by him as a pledge to the South:

Pledge to the South

The South is a land that has known sorrows. It is a land that has broken the ashen crust and moistened it with tears, a land scarred and riven by the plow share of war and billowed with the graves of her dead, but a land of legend, a land of song, a land of hallowed and heroic memories.

To that land every drop of my blood, every fiber of my being, every pulsation of my heart is consecrated forever.

I was born of her womb. I was nurtured at her breast, and when my last hour is come, I pray God that I shall be pillowed upon her busom and rocked to sleep within her tender encircling arms.

Because of the interest of my colleagues and the American people in men like Ned Carmack, I place in the Record herewith an editorial and news story from the Nashville Tennessean concerning his life and career.

The editorial and article follows:

[From the Tennessean, Sept. 19, 1972]

Ned Carmack, Politician, Editor, Dies

Murfreesboro.—Edward Ward (Ned) Carmack Jr., 73, an attorney, businessman, newspaper editor-publisher and twice a candidate for the U.S. Senate, died yesterday at his home here after an apparent heart attack.

The body is at Woodfin Memorial Chapel here. It will be transferred tomorrow to Oakes and Nichols Funeral Home, Columbia, Tenn., where services will be at 2 p.m. tomorrow.

Burial will be in Rose Hill Cemetery in Columbia.

Son of the former Tennessee congressman, U.S. senator and newspaper editor who was assassinated in 1908 only a few months after becoming editor of the Tennessean, Carmack was a native of Columbia.

He was educated at Columbia Military Academy, Vanderbilt University, Cumberland University and the University of Chicago.

Admitted to the bar about 1920. Carmack practiced law and began his newspaper career in Birmingham where he worked for two years before returning to Tennessee as owner, editor and publisher of the Murfreesboro News Journal.

He then opened his law practice in Murfreesboro and Columbia and was active in Democratic politics prior to his own campaigns. Carmack campaigned in support of the Tennessee Valley Authority and made the first speeches for TVA in mass meetings in the state.

An early advocate of cheap electric power for rural districts who helped bring Rural Electrification Administration lines to his section of Middle Tennessee, Carmack fought efforts by Tennessee U.S. Sen. Kenneth McKellar to bring TVA under control of McKellar's congressional subcommittee.

Many years, later, in 1964, Carmack was praised as the man who did "most of the spade work for Percy Priest Dam—a project that a U.S. Corps of Engineers spokesman once said was 'hopeless.' "

A veteran of World War I, Carmack tried vainly to enlist in every branch of the U.S. armed services at the beginning of World War II. He was turned down, however, because of an injury he suffered in an automobile accident in 1938 which caused him to withdraw from his first attempt for the Democratic nomination to the U.S. Senate.

In 1942, he waged his first full race to capture the Senate seat his father held from 1901 until 1907. That race, against U.S. Sen. Tom Stewart who was strongly backed by the Shelby County political juggernaut of E. H. (Boss) Crump, became one of the State's most famous campaigns.

Carrying a statewide majority of 15,000 votes over Stewart going into Shelby County, the tally in that county alone was a 34,000-vote majority for Stewart which gave him the election.

An inveterate enemy of Crump, Carmack always claimed that the 1942 election was "stolen" from him by Crump. Although he was defeated again in 1946 by Sen. McKellar, Carmack enjoyed his sweetest political triumph in 1948. While he was not a candidate, he was actively involved with the forces of Gordon Browning and Estes Kefauver who defeated Crump candidates for governor and U.S. senator.

Like his famous father, Carmack took his politics seriously. He hated graft or any kind of dishonesty in public office, and even in his later years was quick to attack what he considered corruption in government.

While a successful writer, publisher-editor, lawyer and businessman, Carmack felt he had not achieved his goal as a public servant, and he never forgot his failure to gain a seat in the U.S. Senate where his father had served.

"I offered the people the best I had," he said in his later years, "and they chose somebody else. So be it."

Though the end came peacefully for Carmack, his life was colorful, shadowed by the violent death of his father. His high-ceilinged home on Murfreesboro's East Main Street was filled with period furniture, with busts and loving cups and other mementoes of his father, who met his death at the hands of Duncan and Robin Cooper on a Nashville street in 1908.

Carmack was living with his mother in Columbia at the time of the assassination, and though but a boy at the time, he had a vivid memory of his father's death.

"I had heard my father make a speech," he recalled last year, "and he looked mad and sounded mad. But when I saw him in his coffin, he had a peaceful face."

Robin Cooper, who did the actual shooting of Carmack, later was beaten to death by a person or persons unidentified to this day. Carmack knew every detail of this affair. He could and would discuss it at length.

Carmack never hesitated to take up the cause of someone he felt had suffered an injustice. Shortly after World War II, in the "Mink Slide" race trouble at Columbia, he strongly argued the case of the defendants, though powerfully opposed by the popular prejudices of the times. He regarded Columbia as his home town at that time, he said and he wanted to see justice done there.

In semi-retirement for the past two years, Carmack's health had been failing for about a year.

Mrs. Carmack, the former Charlotte Lochridge of Columbia, died in 1968. There are no immediate survivors.

[From the Tennessean, Sept. 20, 1972]

MR. CARMACK WILL BE MISSED

Mr. Edward Ward (Ned) Carmack Jr. is dead at 73 after a long and colorful career that embraced the fields of law, journalism, politics and real estate development.

Mr. Carmack's father was a United States Senator and brilliant newspaperman, perhaps the most famous Tennessean at the turn of the century. An advocate of prohibition and a nationally known orator, he was shot down on a Nashville street in 1908, while serving as editor of the Tennessean. His statue today stands at the entrance to the grounds of Tennessee's State Capitol.

Although his life was shadowed by his father's tragic death, "Ned" Carmack made a name for himself as a foe of corruption in government as a loyal Democrat and as an able businessman. He failed to achieve his goal of a seat in the U.S. Senate, stopped short of victory by the Crump political machine in Memphis, but he made lasting friends throughout the state.

In his later years Mr. Carmack contributed to various charities, and one of these is the memorial library in Gallatin, that bears his family name, near the spot where his father was born. The Carmack Library is a living memorial, as impressive in its way as the bronze monument honoring the elder Carmack.

Aggressive, loyal, able and intense, a believer in causes and in men, "Ned" Carmack over the years made contributions to his county and state. He will be missed.

A SALUTE TO 4-H

HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. NATCHER. Mr. Speaker, October 1 marks the beginning of a week's celebration of National 4-H Week and I wish to take a moment to commend this fine organization for its salutary accomplishments. During this week its members will hold fairs and set up exhibits to demonstrate 4-H's many and varied activities; they will conduct special recognition programs and banquets honoring prominent State and local personalities; and they will perform public services such as aiding the handicapped and improving the surrounding areas by removing litter and other unsightly debris. These are but a few of the numerous activities that will transpire during National 4-H Week.

Dissatisfaction with the rigid academic approach to education led to the beginning of 4-H and to the evolution of the club's rationale of learning by doing. During the latter part of the 19th century people began to feel that practical experience was needed to supplement classroom academics. As volunteers set up demonstrations and provided practical instruction outside the classroom, people rapidly realized its worth. In the beginning the instruction was primarily agriculture-oriented, but this is not the case today. The 4-H has expanded its scope to extend from the rural farm areas to the ghettos of the inner-city. Youth all over learn to deal with the problems of their respective areas. As 4-H members, these boys and girls are instilled with a sense of responsibility and a decisionmaking ability which enable them to better cope with a more complex life later on.

The 4-H operates under the guidance of the Cooperative Extension Service of the State Land-Grant Universities and the U.S. Department of Agriculture. Adult volunteers and professional 4-H agents who are members of extension services run by land-grant colleges, teach boys and girls in an informal atmosphere. Its annual budget of about $75 million consists of Federal, State, and county appropriations. Private contributions amounting to $35 million supplement the budget and help support the Club's activities.

The 4-H has reached beyond the borders of the United States to some 82 countries and has a membership of about 3.5 million. The 4-H International allows for exchanges ranging from 6 weeks to 1 year giving the participant an opportunity to learn new skills and techniques and to study other youth programs around the world. Exposure to different cultures and customs provides him with insight and an appreciation for people and nations unlike his own.

I am very proud to say that the 4-H clubs in the Second Congressional District are doing very well. Just this past May, a Spencer County youth dedicated the Kentucky Room at the National 4-H Center in Washington, D.C. In addition, the State leaders and members have raised $50,000 to help the center with its building programs.

Mr. Speaker, 4-H has come a long way since its humble beginnings around the turn of the century. I wish this splendid organization every success and hope that it continues to expand its influence so that even more people may benefit from its host of worthwhile activities and relevant programs.

PRESIDENT NIXON'S VISIT TO WILKES-BARRE, PA.

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. McDADE. Mr. Speaker, recently President Nixon took time from his rigorous schedule to visit the Wilkes-Barre area and personally inspect the Federal flood relief operations. This area, as we all know, was particularly hard hit by the effects of Hurricane Agnes.

The President's visit served to lift not only his own spirits but those of northeastern Pennsylvania as well. It served to reaffirm the commitment of the Government to rebuild the homes and the lives of thousands of flood victims. The impact of his visit is most effectively expressed in the attached editorial from WDAU-TV, channel 22, in Scranton. I commend it to the Members' attention:

A WDAU-TV EDITORIAL

SEPTEMBER 9, 1972.

President Nixon came to the devastated Wyoming Valley today in a surprise and remarkably informal visit that clearly sent the spirits of flood victims soaring.

The trip may have been unique in the modern history of presidential travels. Mr. Nixon arrived virtually unheralded, accompanied by only one key member of his staff and without the huge security and press contingents that are ordinarily part of a presidential entourage.

As a result, the President was able to walk easily among the people listening to their concerns and offering words of encouragement. The impact was impressive. Tears of gratitude were frequently evident. And, forgetting their own problems, the response of many people was to wish the President well in carrying out his enormous responsibilities.

Although it is obvious the President took pains to see that his visit would not be construed as political—at one point he expressed annoyance when a car emblazoned with Nixon signs came into view—it is in a way too bad that today's memorable moments did not have full blown coverage because they showed something about America that gets precious little attention these days.

We hear much about the ills of our society—rampant cynicism, the irreverance of the young and the decline of self-reliance.

What we saw today was a fierce pride in the American system and a stirring respect for the office of President.

Mr. Nixon told the crowd that the government will help but that it must be the spirit and work of the people that ultimately will result in a brand new, better community—and they cheered.

The President's visit was undoubtedly occasioned at least in part by the counsel that his presence would provide a much-needed morale boost for the stricken area.

We believe that counsel proved to be correct but after his warm welcome here and his first hand view of the gritty determination of the people, we suspect the President left the Wyoming Valley considerably buoyed in spirit himself.

HOUSE SELECT COMMITTEE ON CRIME

HON. RAY J. MADDEN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. MADDEN. Mr. Speaker, the House Select Committee on Crime closed 3 days of hearings in Chicago, Ill., on Saturday. The hearing created wide publicity and interest by the startling testimony and revelations exposing the drug traffic in Chicago and vicinity.

The committee opens 3 days of hearings in San Francisco beginning Thursday of this week.

Newspapers, radio, and television reported the testimony of many witnesses including high school students.

Mr. Speaker, I submit several news items which appeared in the Chicago press during the 3 days of hearings.

[From the Chicago Tribune, Sept. 23, 1972]

THE DRUG HEARINGS ON TV

Current hearings about the high school drug scene are being broadcast live from the studios of WTTW [Channel 11] by the House Select Committee on Crime. Rep. Claude Pepper of Florida, chairman of the committee, and WTTW are doing something that has not been done before—combining official congressional hearings with a TV studio setting.

The broadcasts [which end today] have provided an immediate, arresting insight into a corrosive and spreading evil. WTTW credits our Robert Wiedrich's Tower Ticker column with alerting them to the fact that hearings would be held in Chicago. The station offered its studio and Mr. Pepper accepted. We applaud the use of every medium for publicizing the insidious and serious nature of the drug abuse epidemic.

Teen-agers testifying at the hearings reported that their schools have done little to fight drug abuse. Schools are ill prepared to cope with lawlessness and slow suicide in their halls and washrooms. One girl's explanation, that "kids are taking drugs because of problems at home and in school," explains nothing. Millions of other kids have faced problems without becoming addicts and pushers. Teachers look the other way, we're told, because they don't "understand" drugs. But one does not have to "understand" this folly to discourage it and to try to prevent indulgence in it.

Rep. Pepper wants to appropriate a billion dollars to fund a school counter-attack on drugs. We suspect that the sight on TV screens of teen-agers who have already gone the whole route to a drug rehabilitation center, and are willing to tell others of their experience, is a deterrent worth a good many salaries. What is needed is an end to the desire and willingness to turn to drugs and to the appalling apathy of parents and teachers. We are not at all sure that this end can be bought with money.

[From the Chicago Tribune, Sept. 23, 1972]

DALEY SAYS CITY WILL ACT TO CUT SCHOOL DRUG USE

(By Thomas Powers and Edward Schreiber)

Mayor Daley told four members of the United States House Select Committee on Crime yesterday that he would act to set up a major program to cut drug use among students in Chicago schools once the committee can make recommendations.

Daley met in his office with the four congressmen before they resumed hearings here. Witnesses at the hearings further detailed wide use of drugs in the city's schools, lack of understanding of the problem by teachers and parents, and how lack of funds has prevented a significant drug abuse program in the schools.

WILL SCHEDULE MEETING

Daley told the congressmen, according to a spokesman, that once the recommendations are received he would schedule a meeting of police and school officials to plan action.

He told them he would name Frank Sullivan, an administrative assistant, as liaison man to work with the committee and local officials in setting up an effective program.

Meeting with the mayor were United States Representatives Claude Pepper [D., Fla.], Charles R. Rangel [D., N.Y.], James R. Mann [D., S.C.], and Morgan Murphy [D., Ill.].

CONCERNED OVER SITUATION

Pepper, the committee chairman, said Daley expressed grave concern over the school drug situation, and pledged he would do everything he could to combat it.

Yesterday was the second day of three days of hearings being conducted in studios of Station WTTW, Channel 11, at 5400 N. St. Louis Av.

Typical of the testimony was that of Clarence B. Becker, drug abuse coordinator of the city schools' Area C, which includes all of the city north of Madison Street. He said only $2,000 of federal money is allocated for the year in this area for drug abuse education and training—about 25 cents per teacher for the area's 8,000 teachers.

STONED EVERY DAY

"Kids come to school stoned every day," Becker said. "There is acceptability of drugs, availability of drugs, and pressure to use them."

He said one girl, a daughter of a teacher, took vitamin pills "because she wanted classmates to think she was taking drugs."

He said "straight kids" are afraid to leave glasses of milk or soda pop unwatched because they must guard against someone dropping drugs into the glasses. Some girls no longer will go on blind dates or to parties for fear of being drugged, he said.

GEAR TOWARD PARENTS

Becker said drug abuse education should be directed to parents, as well as students and teachers, so parents will be capable of detecting initial signs of drug use.

"You can't wait until the kids are hooked," he said. "Then it is too late."

Most parents simply don't know much about the drugs, he said.

[From the Chicago Daily News, Sept. 23, 1972]

HOUSE DRUG PROBE MAY COME BACK TO CHICAGO—3-DAY HEARINGS ENDING UP

(By Edmund J. Rooney)

Sen. Claude Pepper (D.-Fla.) said Saturday he is considering bringing the House Select Committee on Crime back to Chicago for a thorough investigation of the link between politics and organized crime. He might bring them back this year or sometime next year," the committee chairman said.

Pepper and three other committee members met Friday with Mayor Richard J. Daley.

The mayor, following the meeting pledged the "full resources" of the city in the fight against drug abuse and Pepper said he was "most happy" with Daley's response to the hearings.

However, one of the points receiving heavy emphasis at the Friday session of the hearings was that there are few federal or local resources to combat the problem.

Patrick O'Malley, vice president of the Chicago Teachers Union, told the committee that about $80,000 in federal funds, or 10 cents a student, had been allocated to Chicago for the fight against drugs.

"It is ridiculous to ask somebody to administer a drug abuse program with that kind of money. It wouldn't keep a day camp open a week," O'Malley commented.

Clarence B. Becker, drug abuse co-ordinator for the Chicago School Board's Area C, which runs north from Madison St., said the area was going to get about $2,000 in federal funds for a teacher training program on drug abuse.

"That comes to 25 cents per teacher for the 8,000 teachers in the area," Becker pointed out.

The teachers union came in for some criticism from the committee for a lack of initiative in combating the problem.

"The teachers' union ought to make it a part of its contract that sufficient funds be allocated for drug abuse programs in the training of teachers," said Rep. Charles Rangel (D-N.Y.).

Both Rangel and Rep. Morgan Murphy (D-Ill.) expressed disbelief at O'Malley's contention that many teachers do not want to get involved in the drug problem for fear of being subjected to lawsuits.

O'Malley said the teachers reason that if they make an allegation concerning drug use to either law enforcement officials or parents, they will lay themselves open for legal countercharges.

Rangel and Murphy said that in their careers as attorneys they had never heard of such a problem.

MISSISSIPPI: A CHANGE STATE

HON. CHARLES H. GRIFFIN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. GRIFFIN. Mr. Speaker, Mississippi has entered a fast changing pace with a new and stimulated economy. The rapid industrial growth over the past few years has contributed to a better life for all Mississippians. Yet, even with this great industrial development, Mississippi remains a State with a very clean environment.

The State is now more than ever beginning to realize its great potential and more and better opportunities for her people. The year 1972 has been a year of expansion and prosperity and the future promises even more.

A recent article in the Natchez Mississippi Democrat cited some of the figures of increased growth and expansion that has already occurred this year. I would like to include a copy of that article in my remarks:

MISSISSIPPI: CHANGE STATE

"Mississippi, the State of Change," is the new slogan adopted by the state government.

The harbinger of this change has been the fantastic growth of Mississippi's industrial economy. On every front, Mississippi is the state where more is happening faster. Industrial growth has more than kept pace with that of the rest of the nation, a fact which has never been more evident than now in 1972.

The year 1972 will undoubtedly be the best year for industrial growth in the state's history. Latest industrial industries through the first 9 months show 149 new and expanded industries, producing a total of 14,088 new jobs and a capital investment total of $821.6 million. The top 12 months on record, prior to 1972, was 1966 for a total of 232 new and expanded industries; 1968 with a total of 15,764 jobs and 1965 for a total investment of $286.3 million.

Those who would doubt that Mississippi's economy is "marching on" should read the most recent report of the Bureau of Economic Analysis of the U.S. Department of Commerce. This report projects economic data through the year 1990. Mississippi is projected to lead the nation in per capita personal income growth from 1969–1990, with a 104 per cent rate of growth—while that of the United States is projected at just 81 per cent.

Signs of this fantastic growth are all around. The Industrial Development Department of the Mississippi Agricultural and Industrial Board received 91 inquiries from industrialists interested in the state for the period Jan. 1–June 30. This compared with a total of 112 for the entire year of 1971. The board's industrial representatives made 20 trips outside the state, during the same six-month period, carrying the Mississippi story to other sections of the nation.

The formation and implementation of the Small Business Assistance Department (SBAD) of the A&I Board will do much to strengthen the economic security of Mississippi by providing the small businessman with advice and financial assistance.

Several gigantic facilities have located or expanded in the state in 1972, producing employment for thousands of Mississippians. Among the largest are General Motors, Packard Division, Clinton; Gulf States Canners, Clinton; Mississippi Power & Light Nuclear Plant, Port Gibson; Masonite Corporation, Laurel; Piper Industries, Jackson; Weyerhaeuser, Bruce; Pennzoil, Pascagoula; and United Cement at Artesia. These eight industries alone represent some $740 million in investment and better than three thousand jobs.

Another industry Mississippi is proud of is the Shellar Globe Superior Southern Division in Kosciusko. The company recently announced an expansion which it says will be the equivalent of two new plants, employing 400 persons each. The more than 800 additional personnel will bring the plants employment level to more than double that of 1971.

And, the gigantic Litton Ship Systems of Pascagoula is bringing into the state nearly 1,500 high salaried engineers and their families. A stellar fact to keep in mind is, Mississippi has accomplished all of this, and still remains one of the last polluted states in the nation.

Through the use of the state's BAWL bond plan, Mississippi has virtually completed the swing from agriculture to industry. Therefore, the addition of employment in business or industry means the addition of a new worker, not merely the switch from farm work to non-farm work. While the rest of America struggles in vain to reduce joblessness, Mississippi's unemployment rate is one of the lowest in the nation. A new milestone in the state's economic progress was passed in the first six months of 1972, when more than 200,000 workers were reported in manufacturing. Manufacturing earnings were also at a record level.

It took almost 140 years for manufacturing employment to reach 100,000. The second 100,000 came relatively fast—only 17 years. Hours and earnings also continue to reflect a growing economy in Mississippi.

No longer just at a crossroads, Mississippi stands firmly planted on a road that leads only upward.

WOMEN'S RIGHTS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. CLAY. Mr. Speaker, August 26, 1972, marked the 52d anniversary of the extension of the right to vote to American women. The 52 years since that historic event have witnessed the continuing struggle of women to realize the full measure of their rights of citizenship.

Today, more than a half century later, women are still being denied the full and free access to opportunities for personal happiness and growth. In education, in employment, in a multitude of areas, women continue to hold an inferior status, despite the fact that they comprise 51 percent of the population.

August 26, 1972, did nonetheless, mark a hopeful event for the future of the women's movement. As of this date, some 20 States had ratified the Equal Rights Amendment, providing equality of rights under the law.

Mr. Speaker, this event was recorded in the city of St. Louis, by the local news media, in the form of a televised editorial on women's rights. KMOX–TV broadcast this editorial, which proclaimed that the dual legal system denying equal protection to women, must be abolished. This editorial deserves the thoughtful consideration of our national leaders, and thus I commend it to my colleagues.

The editorial follows:

WOMEN'S RIGHTS

On August 26, 1920, the Nineteenth Amendment to the Constitution was declared ratified by 36 states. That Amendment specified that "The right of citizens of the United States to vote shall not be denied or abridged . . . on account of sex." At long last, the right of women to the franchise had become a part of the Constitution.

As of today, 20 states have ratified the proposed Twenty-seventh Amendment—the so-called Equal Rights Amendment for women. It reads, in part: "Equality of rights under the law shall not be denied or abridged on account of sex . . ." Therefore, it is appropriate that tomorrow, August 26, 52 years after ratification of the Nineteenth Amendment, be observed as Women's Rights Day.

The National Organization for Women, called NOW for short, is emphasizing that approval by the legislatures of 18 more states is still required before this proposal can become the law of the land. In our own state of Missouri, the constitutional change has languished in committee with insufficient House members interested enough to bring it to the floor for a full chamber vote.

We are weary of hearing the tired old arguments of what happens to motherhood, will there be no separate restrooms, and how can men be prosecuted for rape if the Twenty-seventh Amendment is adopted. The real issue is the abolition of our dual legal system which applies one set of laws to men and another to women—usually to the detriment of women.

There should be fully equality for 51 percent of the nation's population—who are women. This traditional inequity must be corrected.

THE GREEDY WAR

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mrs. ABZUG. Mr. Speaker, the American people are continually being asked by the Nixon administration to support our activities in Indochina on the basis of "democracy" and "freedom." But every day new evidence appears as to the truly repressive nature of the dictatorship of President Thieu. The elimination of an effective opposition, the stifling of freedom of the press, and finally, the elimination of local elections at the town and hamlet level must make it clear to every American that the White House is perpetuating a hoax of horrendous proportions on the American people.

The corruption of the Saigon administration has been fully documented in a recently published book. Entitled "The Greedy War," it was written by the British journalist James Hamilton-Paterson and details the Vietnamese experiences of Cornelius Hawkridge.

To give you some idea of the nature of the overwhelming corruption in South Vietnam, its high level support and approval, and what it costs, I commend to your attention a review of the book published in the September 11 Nation magazine.

The review follows:

THE GREEDY WAR

(By Fred J. Cook)

Mr. Cook, a long-time contributor to the Nation, is the author of many books, including the recently published The Nightmare Decade: The Life and Times of Senator Joe McCarthy (Random House).

The most damning document to come out of the war in Vietnam has now struggled into the light in this election year. It was indeed a struggle: the disclosure were squelched for years by the highest arms of the American bureaucracy; the pith of the message was ignored by the Senate subcommittee, headed by Abraham Ribicoff, which exposed the PX scandals; the revelations were verified by one of Life's top journalists—and pushed aside in favor of the incident on the bridge at Chappaquiddick; the truth set forth was too much for major American publishing houses, and in the end was published in Great Britain, coming to the American market on the rebound through the David McKay Company.

This bombshell is The Greedy War, a 278-page book written by the British journalist James Hamilton-Paterson and detailing the Vietnamese experiences of Cornelius Hawkridge, a dedicated anti-Communist who spent seven and a half horrible years in Russian and Hungarian prison camps before escaping to the United States. Hawkridge and Hamilton-Paterson call the war greedy and the contents of this book fully justify the epithet. Hawkridge was born in Transylvania, the son of a Hungarian mother and a British father, a colonel in the Hungarian police force. His passionate hatred of communism and the Russians led him into protests and guerrilla actions—and into those long years in prison. He came to America believing all the dogmas of the cold war and eager to aid as a security officer in what he considered a holy crusade.

The Dominican upheaval in 1965, in which Hawkridge could not find the Communists President Lyndon B. Johnson assured us we were opposing, was the first disillusionment. Then came Vietnam. Hawkridge's first day in the field there in 1966 was a shocker. He had his nose rubbed immediately in the stinking squalor of the refugee camps of Qui Nhon. More than 2,000 refugees were living in paper shacks built largely of discarded American packing cases. Three contaminated wells provided the only drinking water. There were no sanitary facilities. "The inmates defecated between the rows of paper homes and the slow seep of ordure crept up the pulp walls." Hawkridge asked a priest what had happened to all the USAID. "Stolen," the priest said simply. "It's taken by the Vietnamese Government."

Hawkridge soon discovered that virtually everything was being stolen. Only the smallest trickle of supplies and war materiel being shipped to Vietnam in such prodigious, multibillion-dollar amounts ever reached their intended destinations. The Qui Nhon marketplace, an area of a good-sized block next to the refugee camp, was stocked with "C-rations, K-rations, drink, clothing, guns, cannons, shells, cases of grenades, television sets, washing machines . . . the mounds seemed limitless." So Hamilton-Paterson writes describing Hawkridge's discoveries. "Wondering what limits there were he asked a Vietnamese stallholder whether he could buy a tank. Tanks are a bit difficult right now, this man admitted, but how about some armored personnel carriers? Or helicopters, of course. Or how about a heavy-duty truck?"

What the hell goes on? Hawkridge thought. And he rushed to tell American authorities what he had found. They were bland, uninterested. Washington, in its holy-crusade delusion, had concluded agreements with the South Vietnamese that tied the hands of any security agent who tried to put an end to the national pastime—wholesale looting. Two provisions were critical: trucks could be driven only by South Vietnamese drivers; and only South Vietnamese police could make arrests. Even if an American security agent like Hawkridge trapped hijackers in the act, he was forbidden to lay a finger on them; he had to call in the South Vietnamese police. And when they arrived, they simply collaborated in the looting.

Here, in capsule form, are some of the things Hawkridge learned and some of his experiences:

South Vietnam all but sank into the sea under the weight of the tons of black-and-white television sets, radios, spin driers, untaxed diamonds and other commodities produced by a society of conspicuous consumption and shipped off to Vietnam to win what must be one of the most curious wars in history.

The port of Qui Nhon was clogged with shipping, a fleet that spread out to the horizon. Some of the ships waited for months to unload; meanwhile small boats plied out to them in the night and sometimes in the day; and so, when they finally reached a pier, some 60 per cent of their cargoes had vanished.

The United States shipped enough cement into South Vietnam to pave the entire nation, but there was a chronic shortage of cement to extend airfield runways and erect facilities. And the Vietcong always had a superabundance with which to build their individual bomb shelters.

On one occasion a truck containing several hundred TV sets was hijacked, tracked down in Tu Duc and turned over to the South Vietnamese police. Hawkridge went to reclaim this U.S. property, but was told he would have to get a Vietnamese driver to take the truck away. By the time he had found a driver, the truck had been stripped of its contents right in the police compound.

One night Hawkridge was following a hijacked truck, mystified because the Vietnamese were ripping open packages in disgust and tossing them into ditches at the roadside. Hawkridge kept stopping and picking up the packages. They were a consignment of aircraft parts for fighter squadrons at Bien Hoa. When Hawkridge arrived at the air base, he was hailed almost as a savior because several jets had been grounded for lack of spare parts.

Another time, Hawkridge chased a hijacked truck right into a compound belonging to the South Vietnamese Security Police. The panicked driver sped across the compound, forgetting there was a river on the other side, and braked to a halt at the last second with the front wheels of his truck hanging precariously over the river bank. Whereupon the South Vietnamese police from the veranda of the police station sprayed a hail of bullets at Hawkridge's pickup truck; and Hawkridge rolled out of the vehicle, grabbed his AK-47 rifle and swept the veranda with such a storm of fire that the police of our friendly ally fled for their lives.

In January and February 1967, Hawkridge's curiosity was aroused by the flights of light planes that came in nightly to Tan San Nhut, Saigon's airport. He sneaked up to one plane, snatched one of the small packets with which it was loaded, had its contents analyzed and found they were raw opium. He discovered that a lot of the drug traffic was being handled by Air America, the Central Intelligence Agency's "private airline."

And everywhere there was a colossal currency manipulation. For a premium, Indian money-changers were glad to convert Military Payment Certificates, intended for use at PXs on American bases, into dollars; then the dollars could be converted into more MPC's, these again into dollars in a never-ending round. Hawkridge tested the system by kiting $1,000 into $5,000 in one day; he traced his canceled checks to a bank in Hong Kong completely owned by Chinese, an indication that some proceeds were being siphoned off into China. Finally, one of the Indian money-changers admitted to him, proudly and a bit shyly, that his family was among the richest in the world, now worth $2 billion—and if the war would only continue for a few years longer, his family would be *the* richest.

That is only a sampling of the disclosures in *The Greedy War*. Perhaps never in history has a major power, itself riddled with corruption and afflicted with decadence, been so thoroughly taken to the cleaners by Asian past masters of corruption and decadence. Cornelius Hawkridge, the dedicated anti-Communist, followed the spoor of hijacked goods and war materiel clear across Vietnam to the Cambodian border, and he came to one inevitable conclusion: all of the military's talk about bombing the Ho Chi Minh Trail to cut off supplies to the south was poppycock. The Vietcong could and did get everything it needed right out of Saigon and South Vietnam, because the kindly Americans were supplying both sides in this war.

Incredulous, desperate, Hawkridge tried to stir the lethargic American eagle to action. There were 5,000 CIA agents in Vietnam; military police and military intelligence agents swarmed in their additional, unnumbered thousands. It was impossible for us not to know what was happening. But to make certain we did know, Hawkridge bombarded the whole chain of command with a stream of letters documenting his discoveries point by point. His letters flowed into the American Embassy in Saigon, into Gen. William C. Westmoreland's office, into the State and Defense Departments in Washington. For years, this went on; and no one, on any level, ever indicated that the mail had been delivered.

After all of this, Senator Ribicoff's subcommittee bestirred itself early in 1970. Hawkridge, crippled from a car accident, suffered after he returned to the States, testified in secret session for hours. Committee aides became impatient because he insisted on detailing the full story of a totally corrupted war. This, obviously, was a dish too redolent to set before the American public; it might have blown some persons' minds. And so Hawkridge was never called at the public hearings.

Still Hawkridge persisted. He got Life interested in his story; and in 1970 the magazine sent Hawkridge and Frank McCulloch, former head of its Saigon bureau and one of its most respected journalists, out to South Vietnam to see if conditions were still as bad as Hawkridge had found them earlier. Hawkridge soon learned that nothing had changed. Qui Nhon was just as it had been in 1966, its refugee camps just as sordid, its markets crammed with looted American goods of every description, its money-changers doing business larger than ever.

McCulloch at first got a different picture. He was received warmly by Ambassador Ellsworth Bunker and other high American brass. They fed him the official line: yes, it was true matters in Vietnam had gotten a little out of hand a few years previously; security had not always been perfect; a few unscrupulous individuals had taken advantage. But the American high command had been fully aware of these deficiencies; it was taking vigorous action; matters had been corrected, and the situation was much better now. It was a good snow job that McCulloch came away convinced.

Then Hawkridge took him in tow, introduced him to "black market alley" in Saigon, demonstrated the technique of the money-changers, and then went on to the Property Disposal Office. Here there were literally acres of land crammed with a mountain of American vehicles that had been stolen, wrecked, stripped of all disposable parts. Crushed trucks, tanks, armored personnel carriers were stacked in "a gigantic graveyard of the taxpayers' money." McCulloch climbed on the mountain of twisted steel and said: "It's the damnedest thing I've ever seen."

He and Hawkridge returned to the United States and composed an expose that should have shattered the last vestiges of national complacency. Their article was shown in advance to Senator Ribicoff and praised by him. But then came Chappaquiddick, and Life became more interested in burying the political future of Teddy Kennedy than in exposing the corrupted war in Vietnam. McCulloch came to Hawkridge "haggard and depressed." Of the article, he said: "It's been butchered. . . . Huge chunks have been cut out and what's left is as bloodless as a decapitated corpse. . . . I've a good mind to take my name off it: that's not my work any longer. Everyone will think I've been pussyfooting."

Still determined to get the truth to the American public, Hawkridge approached the book publishers. The head of one large house was ecstatic; there was talk of a $15,000 advance—but in a day or two, everything changed; this enthusiastic publishing house suddenly wanted nothing to do with Hawkridge. This experience was repeated, and repeated again, until Hawkridge became convinced that America's supposedly free press was too craven to handle his story. So he went to England and got his book published there. It comes to us now as a ricochet from over the water—with an introduction written by Frank McCulloch himself. This is more than a book; it is a national document. And, if it is read widely enough, officials all the way up to the White House level will be squirming for years.

THE 14TH OBSERVANCE OF CAPTIVE NATIONS WEEK

HON. DANIEL J. FLOOD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. FLOOD. Mr. Speaker, we have all observed the success of the 1972 Captive Nations Week in this country and abroad. Since the 14th observance of the week last July, reports on the activities of our citizens have appeared in the various media and in our own Record.

This is all to the good because it reflects the continuing vibrancy of our American moral conscience toward those deprived of national freedom and independence. It is with this in mind that I bring to the attention of my colleagues these additional examples of the past Captive Nations Week observance:

First, proclamations by Gov. Milton J. Shapp of Pennsylvania and Mayor Frank A. Sedita of Buffalo, N.Y.; second, an account in the America newspaper on the Buffalo observance, and third, the declaration of the rally in the Republic of China and its message to the people of the captive nations:

The articles follow:

Proclamation—Captive Nations' Week—July 16–22, 1972

The Captive Nations' Week Committee of the Commonwealth of Pennsylvania has designated the week of July 16–22, 1972, as Captive Nations' Week in Pennsylvania.

Many of the groups supporting the captive nations' week in the Commonwealth consist of members who have a first-hand knowledge of the situation in these countries and many others who have friends and relatives in these nations.

Therefore, I, Milton J. Shapp, Governor of the Commonwealth of Pennsylvania, in recognition of the concern of our citizens with the plight of residents of these countries and in recognition of the need to support the values of freedom and justice, do hereby proclaim the week of July 16–22, 1972, as Captive Nations' Week in Pennsylvania.

Given under my hand and the Great Seal of the State, at the City of Harrisburg, this fifteenth day of July, in the year of our Lord one thousand nine hundred and seventy-two, and of the Commonwealth the one hundred and ninety-seventh.

Milton J. Shapp,
Governor.

Proclamation

Whereas, the aggressive and overtly hostile policies of Russian and Chinese Communists have led to subjugation and enslavement of a large number of once free and independent nations; and

Whereas, ample proof exists that these unwilling captives are desiring liberty and independence from their captors and have proven, time and time again, their dissatisfaction with their fate; and

Whereas, the powerful deterrent these nations constitute with their passive as well as active resistance by checking and hampering the grandiose ambitions of the Communist imperialists has been recognized by many experts; and

Whereas, the United States is committed to defend freedom and peace with justice all over the world because by such stand the preservation of our own hard-won freedom is being guaranteed; and

Whereas, the freedom aspiring peoples of the Captive Nations know that the United States is the stronghold of human decency with a deep dedication toward helping others to achieve a sovereign life and is willing to aid others at a great cost to her as shown in Vietnam; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86–90 establishing the third week of July of each year as Captive Nations Week, urging the citizens of our great country to observe said week with appropriate prayers, activities and rallies and expressing their moral support for the just aspirations of captive peoples to attain a full measure of freedom and independence,

Now, therefore, I, Frank A. Sedita, Mayor of the City of Buffalo, do hereby proclaim July 17–23, 1972 as "Captive Nations Week" and call upon the citizens of Buffalo to join with their fellow citizens in observing this week with appropriate prayers for the deliverance of the oppressed and subjugated nations the world over.

Buffalo Observes Captive Nations Week

Buffalo, N.Y.—In Buffalo, by the initiative of the Buffalo Branch of the UCCA headed by Mr. Wasyl Sharvan, a separate Captive Nations Committee was formed to coordinate the activities for the observance of the Captive Nations Week which was held from July 16–22. Dr. Nestor Procyl headed the committee as active chairman, while Erie County Executive Hon. Edward Regan presided as honorary chairman. Members of the committee included representatives from 9 captive nations: Ukraine, Albania, Bulgaria, Croatia, Estonia, Hungary, Latvia, Lithuania and Poland.

Erie County Executive Hon. Edward Regan as well as Hon. Frank Sedita—Mayor of Buffalo, signed Proclamations, in the presence of ethnic group representatives, designating the week of July 16–22 as Captive Nations Week in Buffalo.

On Sunday, July 16, services were held commemorating the perilous plight of the captive nations people and during the week, the national flags were displayed.

Through the efforts of Mr. Kobryn, a Ukrainian member of the Kiwanis Club, the Ellicott Room in the Buffalo Athletic Club was secured, where on Wednesday, July 19 at 12 noon, a Captive Nations Luncheon was held. Attending the luncheon were Hon. Edward Regan and Prof. Anthony Buscaren of LeMoine College in Syracuse—who delivered the main speech. A short program of entertainment was also included.

Telegrams with greetings and congratulations were received from Congressman Kemp and Congressman Smith in which they assured of their continued support for this great humanitarian cause.

Declaration of the Mass Rally of the Republic of China in Support of "Captive Nations Week"

Campaigns supporting the "Captive Nations Week" Movement are now being carried out vigorously throughout the world in the face of a countercurrent of appeasement. Activities in the Republic of China are aimed at "consolidation of free world unity against Communist aggression." All the people of the nation are striving for a great unity of anti-Communist forces throughout the world, including all the Chinese at home and abroad and behind the enemy line on the mainland, so that our fights can be positive and effective for the liberation of our mainland compatriots and for the attainment of freedom for entire mankind.

Our 700 million brethren on the Chinese mainland have been wretchedly oppressed and enslaved under Maoist tyranny for more than two decades, but strenuous struggle and vehement opposition also have been continuous. This being the case, although "Captive Nations Week" was initiated by the U.S. Congress and signed into law by President Eisenhower 13 years ago, we of the Republic of China feel even more vitally concerned with and strongly influenced by the movement because of our heavy responsibility. Seriously affected by the perverse views of appeasement, the United States has gone back on the lofty ideal of the movement that it started. However, we people of the Republic of China have conscientiously responded to the call of the age for national and world salvation, pledged ourselves as pioneers in the fight for freedom and defenders of the citadel against tyranny, and earnestly and continuously endeavored to uphold justice.

Of all the Communist regimes, the one in Peiping has been most tyrannically ruthless in enslaving people and undermining world peace. But appeasers today regard the Chinese Communists as the chief object to negotiate peace. This attitude not only amounts to the abandonment of the "Captive Nations Week" goal but also has been thrown the world into a confused state of disintegration, thus giving the Communist forces. encouragement for further aggressive moves.

We must point out that the foolhardy rampancy of appeasement has very obviously and damagingly resulted in the loss of the dignity of the United Nations Charter, the forfeiture of the international function for sanction against aggressors, and the rupture and collapse of the freedom camp in the East and West that had been built at the exorbitant cost of two world wars. Negotiations with the Communists have, instead of promoting peace, fanned up aggression and escalated wars. Pacification has, instead of stopping violence, brought about even more skyjacking, kidnapping, massacre, dope-trafficking, infiltration and subversive activities. Because of the lamentable changes in world situation, free people today must all the more gallantly shoulder their heavy responsibility for the shaping of future course.

In view of the present dark clouds and adverse world situation, this Mass Rally appeals to all those who are unwilling to be enslaved by the Communists to unite solidly in a brave struggle.

We call upon all the nations and peoples of the world who love freedom and justice to bolster their belief that freedom will ultimately replace slavery and justice will triumph over viciousness. Struggle in unity must continue. Free nations must consolidate their formation, strive to turn the tide of appeasement, positively support the captive people's anti-Communist struggle for freedom and survival, and put a decisive end to Communist forces of aggression and enslavement. By playing up the strength of belief in freedom and justice against slavery and aggression, we shall win a glorious victory for freedom.

We advise those nations that have been misled into talking and dealing with Communist regimes that, instead of allowing themselves to be tempted by temporary benefit, they must think in terms of mankind's long-term fortune and misfortune. No nation should be allowed to go astray in its search for new policy lines. All policies must be based on prudent considerations for national security and people's freedom. No secret talks with Communist regimes should be conducted. The dignity and interest of all the concerned democratic nations must be respected. The Communist pressure to form coalition government must be resolutely rejected. Vigilance must be high against Communist schemes to divide and conquer free nations. All efforts must be exerted for an increasingly stronger unity of the freedom camp.

We call on all the enslaved people behind the Iron Curtain, especially those on the Chinese mainland, to heed the fact that because of its accumulation of crimes, Communist tyranny is now detested by all mankind. The Communist system is at the end of its tether. Not even the international Communists' lastditch smiling-face struggle or the appeasers' foolish conducts as Communist accomplices can save the Red bloc from its internal and external difficulties and from its fate of destruction. People behind the Iron Curtain in the West are struggling for liberalization and independence against slavery and dictatorship. Likewise, the people of the Chinese mainland are engaged in a widespread revolutionary movement against Maoist and Communist tyranny. For this reason, we call upon all the enslaved people to stage further anti-Communist revolutionary uprisings to wrest from the Communist regimes all the freedoms and at the same time join hands with the freedom forces outside for concerted action to win victory for man's freedom and write a brilliant page of history.

We who are assembled at this Mass Rally are acutely aware to the supreme significance of support for the enslaved peoples' struggle to gain freedom. We are also aware of our responsibility as citizens of the Republic of China to have our nation and our world. Under President Chiang Kai-shek's call for an all-out anti-Mao national salvation campaign to complete another Northward Expedition and accomplish another reunification, we are determined to carry out our sacred mission of national recovery and reconstruction and fight to the very end for man's freedom and world peace. This we solemnly pledge and declare.

MESSAGE TO THE PEOPLE OF CAPTIVE NATIONS

Friends behind the Iron Curtain: When the world situation undergoes a drastic change as a result of the development of the triangular conflict among the United States, the Soviet Union and Red China, you who are living behind the Iron Curtain must be very much concerned about the new policy of the United States. The United States as a leading nation of the free world has since World War II maintained military allies around the Iron Curtain and carried on a "containment policy" against Communist nations in Europe, Asia and Latin-America. It announced its "liberation policy in 1959 through Congressional action, pledging assistance to the freedom struggle behind the Iron Curtain. However, it cannot be understood why President Richard Nixon should advocate substituting negotiation for confrontation and then made visits to Peiping in February and Moscow in May. President Nixon's new policy may already have been utilized by the Communists in their propaganda behind the Iron Curtain in an attempt to cheat you and discourage your anti-Communist struggle. The truth is that President Nixon's new policy has neither changed the United States basic anti-Communist position as stipulated by Congress, nor will it adversely affect the determination of the people behind the Iron Curtain for freedom. Just as President Nixon himself remarked, the "containment policy" has not only failed to tear down the Iron Curtain, but escalated world tensions and deepened the schism between the people behind the Iron Curtain and the free world. Now, he brings forward the "open the Iron Curtain" policy in order to open communication between the two parts of the world and finally bring down the curtain. The policy involves certain risks but will facilitate the free world's assistance to your struggle for freedom. This is why Mr. Nixon, before his visits to Peiping and Moscow, repeatedly assured the free nations that he would maintain existing relations with all the allies. On July 15, the eve of the "Captive Nations Week" in the United States, Mr. Nixon issued his "Captive Nations Week" statement, reaffirmining the world the Congress action mentioned above and proclaiming his unwavering confidence in the "liberation" of all the enslaved peoples behind the Iron Curtain." This fully convinced us that, no matter how the United States government has changed its diplomatic tactics, its basic anti-Communist position remains unchanged. The Communists maintain their totalitarian rule by means of depriving the people of their freedom, expand their armed forces by exploiting the people, subvert free nations by creating turbulences and seize neighboring states by armed forces. They particularly attempt to subvert the United States as a superpower of the free world in order to clear the way for communizing the whole world. All people in the free world, including the United States, as well as those behind the Iron Curtain, have a clear view of these basic contradictions which have already been translated into bloody facts. Consequently, it is not possible for the United States to give up its basic anti-Communist policy.

The "Captive Nations Week" movement was initiated by the United States. Through active promotion by free nations, especially the Republic of China, the movement has at present won the support of more than 70 nations. We believe that it will continue expending until all Communist tyrannies have been eliminated from the earth. Ever since Nixon's visit to Peiping in last February, revolts have been repeatedly reported from the Chinese mainland and large numbers of Chinese people have fled to freedom from behind the Iron Curtain everyday. This is the fruit of Nixon's "opening the Iron Curtain" policy and also a good example of the enslaved people's hectic struggle for freedom. Similar facts of this kind are reported everyday by broadcasts of the "Voice of Free China," the "Voice of Free Europe" and the "Voice of America."

Today, on July 20, 1972, representatives of all civic organizations in the Republic of China held a "Mass Rally in Support of the Struggle for Freedom of the People Behind the Iron Curtain" at the Dr. Sun Yatsen Memorial Hall in the wartime capital Taipei. Congressman Floyd Spence of the United States has especially traveled to Taipei to participate in the rally and other "Captive Nations Week" activities, including tours of the offshore islands, Kinmen and Matsu. The "Captive Nations Week" is simultaneously held in many cities in Europe, North America, Latin-America, Africa, Australia and Asia in support of the captive people's struggle for freedom. Therefore, we pledge that you are not alone in your struggle against the Communist tyranny behind the Iron Curtain and hope that you will not be duped by the Communist propaganda and that you will take advantage of the present opportunity to get into contact with the supporting move of the free world and persist to fight to the end for freedom and against Communism and the Communist tyranny. At last, let us all shout: Long Live the Victory of Freedom! Long Live the Victory of Anti-Communist Struggle!

KU CHENG-KANG,
Chairman, Mass Rally in Support of Captive Nations Week and for Consolidation of Free World Unity Against Communist Aggression.

SOME THOUGHTS ON TRANSIT

HON. LIONEL VAN DEERLIN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. VAN DEERLIN. Mr. Speaker, in two bills scheduled for floor action this week, we shall be considering steps to beef up urban transit systems, as an alternative to more autos, more freeways, more congestion, and more poisonous air. Direct assistance to local transit systems is contained in the Housing and Urban Development Act of 1972, and additional encouragement could follow with appropriate action on the Federal-Aid to Highways Act.

Will people give up auto travel if public transit is made pleasant and reasonable? The State of California hopes so—to which end the State legislature imposed an additional gasoline tax earmarked for transit assistance. Initial results in my home city of San Diego are heartening. A passenger can now ride as far as he pleases for 25 cents on buses of the publicly owned San Diego Transit Corp. And the riders are coming back in droves.

One of the newly lured bus customers is Larry Boodry, of the San Diego Evening Tribune. Mr. Boodry lives in Imperial Beach, near the Mexican border. He described his commuting adventure last week in an editorial page column which contained some useful suggestions for improvements yet to be achieved:

WEEK ON A BUS: A FLIRTATION DOES NOT MAKE A LOVE AFFAIR

(By Larry Boodry)

I wish I could say that it was due to an overwhelming urge to do my bit for the suffering environment, but that would strain my credibility among friends who know better.

Actually a sick car and the unrelenting necessity of making a living prompted my week-long flirtation with the busses of the San Diego Transit Corp.

And while the relationship was brief, it was not casual.

Tormented, probably, would be the word.

Habits hardened by 30 years behind a steering wheel do not bend easily to the demands of rigid routes and schedules.

But I was listening a fews weeks ago when transit board chairman Richard Silberman promised a new look for the bus system with more attractive fares and more responsive service.

He has delivered on the former at least.

The round-trip fare for the 15-mile trip from Imperial Beach to downtown San Diego has dropped from $1.80 to 50 cents.

Just considering gas and oil and disregarding such speculative items as depreciation, repairs, licenses and insurance, I have to believe that I spend about $7 a week for the privilege of fighting freeway traffic through the bottleneck on Interstate 5 at Chula Vista's E Street. In addition, I must count on a downtown parking fee of at least $3.75 for five days.

My week with the bus system saved me something like $8.25—which amounts to about $35 a month—or more than $400 a year.

But if the bus company and I are going to embark on a lasting romance, the service must separate itself from some of the bad habits that have tarnished its image with the auto-owning public.

Conversation with the nice people at the bus stops does not compensate for inconvenient schedules. My town, I understand, suffers in part because of the reluctance of city officials to enter into wholehearted participation in an essential subsidy.

As an interested bystander, I can take an objective view of the impasse. As a bus rider, however, all I knew was that I must tumble out of bed before day light to catch the "6:53," which deposited me at 4th and Broadway at the time I was accustomed to leaving home.

The return trip was worse. My first day, I was dumped on Imperial Beach's Palm Avenue at 6:30 p.m., still a mile away from my dinner table.

When a printed schedule of South Bay routes finally became available for study, I was able to cut an hour off my 12-hour absence from home by utilizing a San Ysidro route and enlisting the cooperation of my patient wife to pick me up.

But more than wasted time complicates bus travel. Just as transit company publicity has proclaimed, the reduced fares have increased the number of riders.

The near forgotten cry of "Please move to the back of the bus" has been revived by harassed drivers. Seats are at a premium, much to the chagrin of oldtimers among the riding public.

"Everybody's riding the bus now," is a frequently heard complaint from the hardy group of regulars who like the new fares but take a dim view of the increased patronage.

And although it is considered impolitic to be critical of our enlightened youth these days, there should be more effort to control bands of rowdy school children who make bus riding intolerable for the weary working stiff.

Above all, however, the loss of mobility is most distressing to the suddenly de-wheeled driver. There is no stopping in Chula Vista on the way home for a loaf of bread, a quart of milk—or the badly needed auto part that made the bus suddenly necessary.

Still, it was while moving through Chula Vista that it became apparent that the goals of the transit firm's board of directors no longer are remote. Service to that South Bay community is convenient and frequent, despite a recent complaint from that city's council.

Pledged improvements are being made.

When the lure of the monetary saving of bus transportation is supplemented with the promised express service and more realistic schedules, there will be more of us leaving our cars at home—even healthy ones.

RICHARD N. GARDNER POINTS THE WAY TO A NEW BRETTON WOODS

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. REUSS. Mr. Speaker, the September issue of the Banker contains an interesting article by Prof. Richard L. Gardner which outlines a 10-point plan for the reform of the international monetary system. Professor Gardner's plea that America finally choose between national egoism and its professed goal of an open-world economy is especially timely as the annual IMF conference opens today in Washington.

Richard Gardner is the Henry L. Moses Professor of Law and International Organization at Columbia. He has served in two administration: As Deputy Assistant Secretary of State for International Organization Affairs under Kennedy and move recently as a member of President Nixon's Commission on International Trade and Investment Policy. He is well known as the author of Sterling-Dollar Diplomacy: The Origins and the Prospects for Our International Economic Order.

The article follows:

TOWARD A "NEW BRETTON WOODS"—THE POLITICS OF INTERNATIONAL MONEY

(By Richard N. Gardner)

The reform of the international monetary and trading system is now the most urgent item on the diplomatic agenda of the west. The next two years are likely to be decisive. Unless we can arrive at a mutually agreed programme for reform by the end of 1974 at the latest, I believe we will face a series of increasingly serious currency crises and the splitting up of the industrialized countries into antagonistic trading blocs. At the very least, this would make it much more difficult for all our countries to realize their economic and social objectives; it would poison our political relations; and it could even produce a world depression of the dimensions of 1929.

The convertibility of the U.S. dollar into gold, which was an essential element in the post-war monetary system, was ended on August 15, 1971. The Smithsonian Agreement of December established a new set of exchange rates, but left the world without any satisfactory system for financing international settlements and adjusting imbalances in national payments.

Such a state of affairs cannot last long. It is highly unstable, as the recent currency disturbances have confirmed. Europe and Japan will not be willing to live indefinitely under a dollar standard, financing U.S. payments deficits without limit by purchasing dollars at existing exchange rates. At some point these countries will stop supporting the dollar in the exchange market, in which case the Smithsonian Agreement on parities will collapse, or they will impose stringent controls on dollar inflows. In the end they may even do both.

There is no way, in short, that the present dollar standard can be reconciled with the professed aim of western governments for stable exchange rates and freedom of trade and payments. Everything in logic and experience indicates that one cannot have free trade and payments and stable exchange rates without a mutually acceptable method of settling international accounts and a thorough-going harmonization of domestic monetary and fiscal policy. This is true for the European Community of 10 and it is equally true of the wider community of Europe, the United States and Japan.

THE UNITED STATES AND MONETARY BLOCS

Yet our governments persist in the illusion that they can have their cake and eat it, too. The United States is reluctant to negotiate for an end to the dollar standard because it is reluctant to give up the unique degree of independence from external discipline which the dollar standard gives to US domestic and international policies. Yet this reluctance to give up the dollar's privileged position is pushing the west into monetary and trading blocs—the very objective which the United States wishes to avoid.

The surplus countries of Europe and Japan are no less inconsistent in their policies. They want the dollar to be convertible, but they are reluctant to accept the responsibilities of surplus countries to appreciate their currencies and liberalize their trade in the interests of maintaining external balance. In other words, they want to substitute a truly international standard for the dollar standard, but in practice they drive the United States further into economic nationalism.

What is to be done? It is difficult to do justice in a few pages to a subject of such extraordinary complexity, but the following may serve to indicate the main elements of a programme we should aim to put in motion during the next two years.

A 10-POINT PLAN

1. The dollar would be phased out of its role as a reserve currency over a suitable transitional period of, let us say, five years. Thenceforth new reserves would be issued exclusively in the form of SDRs, in amounts appropriate to assure noninflationary economic expansion, as determined by international agreement. The dollar could retain, however, its role as a key currency for transaction purposes and for intervention in the exchange markets.

2. Out standing dollar balances in the hands of governments and central banks—now about $60 billions—would be transferred to the International Monetary Fund (except for modest amounts which governments might wish to retain for intervention in the exchange markets). In return for these dollars the present holders would receive an issue of SDRs, bearing an appropriate rate of interest, and the United States would pay off its dollar indebtedness to the Fund over a period of 50 years. Monetary gold held by governments and central banks would also be paid in to the IMF in return for SDRs.

3. Once the transition period was completed the United States would undertake the same obligation to support its currency in the exchange market under Article IV of the IMF Articles as every country. In other words, it would settle its international accounts on a current basis by using SDRs or borrowing from the IMF within the limits of its quota.

4. Similar arrangements to those described above would be made to phase out what remains of the reserve function of the pound sterling.

5. To assure that the United States and other countries were not forced into deflation and mass unemployment by the necessity of balancing their international accounts within too limited a period of time, an adequate amount of international liquidity would be made available. In addition to the SDRs issued annually to assure a suitable growth in world reserves, there would be a doubling of IMF quotas from the present $30 billions to at least $60 billions. The additional liquidity would be made available on condition that a borrowing country was pursuing policies leading to the restoration of external balance.

6. Clear 'rules of the game' would be established to assure timely adjustments in the balance-of-payments policies of both surplus and deficit countries. When the reserves of a country increased or decreased by a specified amount in a specified time period there would automatically take place a review of its economic policies. The review would focus primarily on the causes of the increase or decrease, the impact of the increase or decrease on the functioning of the international economy, and the prospects for

the continuance of the increase or decrease. As a result of this review, the country concerned could be asked to make appropriate changes in its domestic or international economic policies or adjust its exchange rates, or both. Failure to comply with these recommendations within a reasonable time would result in sactions—in the case of a surplus country, a uniform surcharge applied against its exports by other countries; in the case of a deficit country, the withholding of both multilateral and bilateral credit facilities.

7. Europe, the United States and Japan would enter into a comprehensive agreement providing for the settlement of their present trade differences in agreed stages over a period of years. The agreement would provide for the gradual elimination of tariff barriers over 25 years or less (thus eliminating discrimination against the US by the enlarged European Community as a result of arrangements with its overseas affiliates and the European neutrals); the progressive suppression of non-tariff barriers; and the gradual reduction of agricultural protectionism in Europe and the United States. In recognition of European political realities the timetable could be very long; but to make such an agreement acceptable to the US a firm commitment would be made now to phase out within a generation the Community's common external tariff and agricultural price supports. Considering that the average age of European farmers is in the late 50s, such a commitment does not seem unreasonable. Its logic is clear enough from the US point of view: one can live with a toothache for a while if one knows for sure that it is coming out eventually.

8. Agreed principles would be drawn up to deal with short-term and long-term capital movements. Problems resulting from the operations of multinational companies and from national attempts to regulate them would be the subject of regular consultation and negotiation in an appropriate international body, perhaps the OECD.

9. The United States, Europe and Japan would commit themselves to a long-term programme to assist the developing countries. This programme would include the progressive establishment of one-way free trade by developed countries on behalf of the developing countries both on industrial and primary products and the investment by the developed countries of at least 1 per cent of national GNP in developing countries through aid or foreign investment. To this end, a suitable proportion of SDRs would be directly to multinational financial agencies for lending to the developing countries.

10. International economic institutions would be re-formed and strengthened to be equal to the task of managing this ambitious programme. The members of the Group of 10 have finally agreed, as this writer among others urged several years ago that a "Group of 20" should be created in the IMF with a composition similar to the present executive board but with representation by finance ministers or central bank governors. This new group, which should meet at least once every three months, would eliminate the excessive representation of the European Community currently prevailing in the Group of 10, would assure fair participation by the developing countries, and would draw upon the staff of the IMF, which would thus be restored to its intended position of primacy in international financial policy-making. The existing IMF quotas and voting rights of Japan and the continental European countries would be increased to assure them of a participation appropriate to their economic power.

EUROPEAN INTEGRATION

This 10-point plan, directed towards effective economic co-operation between Europe, the United States and Japan, is in no way inconsistent with simultaneous progress toward European monetary integration. On the contrary, the achievement of a common European monetary policy and eventually of a common European curency could simplify the achievement of the programme which has been outlined above.

Progress toward European monetary unification might make possible a common 'float' of European currencies against the dollar. But a European 'float', to be acceptable to Europe and the United States, could not be entirely free, but rather would have to be regulated in accordance with some mutually agreed guidelines. Moreover, such an arrangement, if it were not to lead to an unacceptable degree of capital controls between the United States and the European Community, would still have to be accompanied by the measures mentioned above, including measures to assure some degree of harmonization of domestic monetary and fiscal policy between the nations on the two sides of the Atlantic.

TIME FOR DECISION

No doubt this programme will be regarded by many as 'unrealistic'. It probably is when viewed against current political attitudes. It is much easier for political leaders to go on doing what they have been doing in recent years—proclaiming ambitious economic ends while resolutely resisting the means essential to achieve them. But that kind of 'realism' has brought us from one crisis to another, and will continue to do so.

A BOLD INITIATIVE IN 1973?

What are the prospects that political attitudes in key countries will evolve sufficiently in the next few years to make agreement possible on the programme described herein? Not excellent, admittedly, but not hopeless either. On the European side, official opinion in Britain and Italy, at least, has already moved far towards acceptance of key elements in this programme. On the American side, the statement of Arthur Burns in Montreal on May 12, while equivocal on the future reserve role of the dollar and hesitant on accepting too great a limitation on US domestic freedom of action, did reflect a flexibility in US thinking not previously apparent. When one considers the rapid shifts in US foreign economic policy over the past decade—some retrogressive but some also extremely constructive—a bold initiative on international money reform in the direction advocated here is a very real possibility in the first or second year of the next Presidential term.

In international economic affairs, as in other areas, we need a large dose of courage and integrity. Let us adopt the means adequate to achieve our proclaimed objectives, or let us at least have the honesty to acknowledge that we are obliged by timidity and national egoism to abandon the goals of an open world economy we have proclaimed since the end of the Second World War. The time has come to choose.

THE INVISIBLE THREAT

HON. JOHN H. DENT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. DENT. Mr. Speaker, I would like to commend to my colleagues the following article from Steel Facts, summer 1972, a publication of the American Iron and Steel Institute. It is entitled, "The Invisible Threat," and describes the economic dilemma created in Latrobe, Pa., by unfair foreign competition permitted by our antiquated trade policy.

Latrobe is one of the truly outstanding communities of our Nation, and I am proud to represent its people in Congress. It is best known for being the home of Arnold Palmer, but it is also the home of thousands of other citizens who are no less important and who are imbued with a community spirit worthy of emulation.

The people of Latrobe are doing all they can to sustain their economic lifeblood, but the time has long since passed when the U.S. Government should revise its basic trade philosophy and stop creating economic crises throughout communities of the country such as Latrobe.

The article follows:

THE INVISIBLE THREAT

IMPORTS BECLOUD LIFE FOR STEEL TOWN

There's a foreign car dealership just outside Latrobe, Pa. on Route 30. But in the town itself, you rarely see a foreign car of any make.

At The Hub, Latrobe haberdasher John Lattanzio says, "I won't sell anything imported. My customers won't buy imported clothing."

The union local at the town's largest single employer is aggressively promoting a "Buy American" campaign in its publications. So is Vince Quatrini, editor of Latrobe's daily paper, *The Bulletin*.

It's not that Latrobe's citizens are anti-foreign. They just feel threatened, and they are trying to fight back the best way they can.

For in the past few years, imports have become a very serious personal problem to Latrobers. "Imports have cost this town 500 jobs," claims Chris Moersch, president of the local Chamber of Commerce. This is because Latrobe is a steel town—a very special kind of steel town.

Latrobers proudly proclaim their home "the tool steel capital of the world" with considerable justification. The two biggest employers in town—Latrobe Steel Company and Teledyne Vasco—produce close to half the high-speed tool steel made in the U.S.

TOOL STEELS ARE SPECIAL BREED

Tool steels are very special products. They are made and sold not by the ton, but by the pound. They are the basic raw materials for the tools and dies which in turn make most industrial machinery and equipment. Tool steels are also absolutely vital to national defense.

Tool steel producers are constantly pushing back the frontiers of technology. Their stock in trade is innovation—superior types of steels, better ways to make these steels faster and purer.

Vacuum melting of steel and most types of high grade tool steel were first developed in the United States, according to local steel executives.

This constant innovation requires constant investment. One Latrobe steelmaker has, over the past decade, invested twice its 1960 net worth on new plant and equipment.

Residents of the area are actively aware of the importance of their steel industry to our society. A bit of local lore is a proud boast: Latrobe was number three on Nazi Germany's priority bombing list in World War II.

The town's tool steel mills have encouraged the development of related industries; tool and diemakers, casting plants, steel fabricators and steel industry equipment suppliers and other high-technology production facilities. As a result, one of every two Latrobe workers earns his living in metals and metalworking.

The men who work in the mills are particularly proud of the products they make.

"I'm contributing my part to men going to the moon," one told a visitor.

Today, fewer people work in the mills than in past years. For Latrobe is just beginning to pull itself out of a bleak two-year recession.

FUTURE MAY BE BRIGHTER

Business is picking up at the mills. Both Latrobe Steel and Teledyne Vasco report orders on the increase. And both companies are beginning to recall men who have been laid off—some for as long as two years.

But, like the memory of a bad dream, what has happened over the past 24 months is still very vivid to Latrobers, and they are hoping that the present glimmer of better times is not just a mirage.

The problem struck with dramatic swiftness. Just four years ago, employers in the town were talking about "scraping the bottom of the local labor barrel." Last year, the town's unemployment rate was running between 11 and 12 percent—double the national average.

Actually, there were early warnings of what was to come. Between 1964 and 1970, tool steel imports nearly doubled, siphoning off practically all the normal growth in domestic tool steel markets. And when the economy began to slow down, tool steel imports didn't.

In 1970, while domestic mill shipments of these metals fell 22.5 percent, imports were increasing their share of the U.S. market from 12 to 17 percent. In certain key product areas, that share was much higher. According to Ralph A. Nauman, executive vice president of Teledyne Vasco, imports have been accounting for nearly one out of every three pounds of high speed tool steel sold in the nation.

Last year tool steelmakers suffered a double blow: the recession got worse, and the bottom dropped out of their vital aerospace market. The result was another drop of 11.7 percent in sales.

Every industrial town in the country was hurt to some degree by the recession. But, according to Latrobe Steel's president Marshall Schober, "imports added to a rather serious situation and made it critical."

At one time, his firm—the town's largest single employer—had to lay off a quarter of its total work force.

Teledyne Vasco says its employment was similarly affected.

Substantial jobless benefits and unemployment compensation did help cushion the shock for many Latrobers. Local retail sales fell during the recession, but not as much as might have been expected had these benefits not existed.

MUNICIPAL GOALS MET

Latrobe mayor Anthony Angelo reports the city felt the pinch through lower receipts from the local work tax and assessments. However, he says, the municipal government was still able to continue its urban renewal and housing code enforcement programs—ambitious undertakings for such a relatively small community—and other public works projects. He also said that despite depressed conditions, the Community Chest hit its $128,250 goal last year.

But the harder times definitely had their effect—even on the young. Attendance at the high school prom, for instance, was only half what it used to be because parents felt they couldn't afford the added expense.

More serious was the increase in automobile and appliance repossessions, or the threat of foreclosure of home mortgages.

Despite improvement in economic conditions, local residents are still apprehensive about the future. "My husband has been one of the lucky ones," said Mrs. Jack Watkins, whose husband is working—but no longer at a steel mill.

The loss of five hundred potential jobs because of imports has a big impact on Latrobe, since the population of the borough itself is less than 12,000, and only 35,000 persons live in the Latrobe trading area.

The job squeeze especially affects recent high school grads. Traditionally, Latrobe's industry—particularly its steel companies—have tried to provide a job for every graduate who wants one. But until more economic slack is taken up, new hirings will be almost nil.

"I'm pretty worried," says Mrs. Joseph Spillar. She's been looking for a job for some time, without success. Right now, her husband has a minimum-wage job because he can't find anything better. Recently, this young couple went job-hunting in West Virginia, but returned to the Latrobe area in discouragement.

Ralph Lattanzio, John's son, and a college bound senior, feels that many of his high school classmates are joining the military service because of the scarcity of jobs in Latrobe.

The current situation galls Latrobers, since they have deep pride in their town, its achievements and their own achievements.

Nestled in a valley amid the foothills of the Alleghenies, Latrobe is surrounded by relics of the mid-18th century frontier. Just a few miles away, a band of Colonial militia under George Washington fought the first battle of the French and Indian War.

Much of the frontier spirit lingers on in the determined pride and self-reliance of Latrobe's citizens.

They built a modern, full service 350-bed hospital without a cent of tax money. The non-profit group, Latrobe Foundation, has built parks in the town, and is now constructing a multipurpose community center. Local industry played a leading role in these efforts. Through Latrobe's Chamber of Commerce, 600 educationally deprived residents have gained the equivalent of a full high school education during the past four years.

INDUSTRY EFFORTS RECOGNIZED

The people appreciate local industry attempts to build a better town, and respect efforts to deal with current problems. "I'll back this company to the hilt," said Elmer Valko, a bar mill operator at Latrobe Steel. "They're doing everything anyone could possibly do under the circumstances." What does he feel is the reason for his company's recent problems? "I blame it on imports."

His boss, Latrobe's president Marshall Schober, is also annoyed. He reports his company has spent $34 million since 1964 on "front-to-rear renovation." Now, he says, it has "the finest rolling mill in the world for specialty steels." It also doubled the world's vacuum induction melting capacity at one crack through the building of one single installation. "Our troubles are not for want of taking a gamble," he says.

But there are some matters over which a company—or industry—has no control. Most specialty steel companies take a wait-and-see attitude toward the question of whether parties to the new voluntary arrangement restricting foreign steel exports to the United States will keep their promises. Many feel it should be extended to other countries—for example, Sweden, which is not a party to the arrangement, accounted for half of last year's high speed tool steel imports.

Foreign governments favor their industries more than does our own, Schober indicates. He reports that his firm was contacted by the French government to develop a new type of high strength steel for the Mirage fighter plane. After Latrobe developed the steel, the French gave the production contract to one of their own companies.

CALL FOR COOPERATION

Theodore J. Pynos, president of the United Steelworkers of America local at Latrobe Steel, is campaigning for his union to get other national unions' support of the tool steel industry. "It's going to have to be union and company working together against imports," he says.

"If other countries subsidize their industry, this takes bargaining power away from us. If our industry is solid, we can make a more fair and equitable contract to all parties concerned.

"If imports take our jobs," Mr. Pynos concludes, "they take our schools and our homes. We have our lives tied up here."

The impact of imports is not unique to the city of Latrobe. It has been felt in Texas, Indiana, southern California and other regions where steel operations have been sharply curtailed. And although the threat hangs over the entire industry, steelmen are determined to meet and overcome it.

MARKETING EFFORTS OF U.S. EXPORTERS

HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. HANNA. Mr. Speaker, one of the points constantly made by knowledgeable traders and friends of the United States around the world is the lack of intelligent application of U.S. marketing efforts. Instances and demonstrations of their point are legion. We do not approach our potential markets on the basis of the realities of the particular marketplace, but rather on our own experience at home. The effort to tailor our sales approach to foreign tastes, requirements or cultural quirks seem too much for our exporters. We can no longer enjoy this luxury. Sure we have some unreasonable barriers that must come down, but we must make a more concerted effort to do the obvious in our marketing efforts in order to convince the rest of the world of our serious concern over our trade deficit. The article below is a clear cut example of some of our problems and illustrates the need to more effectively address ourselves to them.

The article follows:

[From the Asahi Evening News, Sept. 14, 1972]

U.S. TRADERS CAN RELIEVE TENSION HERE

(By John M. Lee)

An American businessman visiting Tokyo recently was struck by the sight of thousands of young Japanese surging through the streets in well-fitted jeans. At last, he thought, export success. Good old American blue jeans had conquered another nation.

Unfortunately, he was wrong. American manufacturers had indeed sent their jeans to Japan, but they were too big for the slim-hipped Japanese.

FASHIONED TROUSERS

Whereupon local manufacturers took to importing only the denim from the United States and fashioning their own trousers.

But so much of the jeans appeal lay in the fact they were American that Japanese makers devised labels in English on the order of Rodeo or Big Tex., using foreign sizes like W–28 and L–30, stamped it Made in U.S.A. and scored a huge success.

The only difficulty came when a Japanese Government agency accused the companies of fraudulent labeling. It should be made clearer, the Government said, that only the cloth was made in America.

This story is often told in Japan to illustrate the bruited ineptitude of the American businessman abroad. Much of the blame for Japan's disruptive trade surplus over the United States—a surplus approaching a record $4-billion this year—lies with the failure of American export efforts, the Tokyo argument goes. The charge has some justification.

U.S. ECONOMIC WONDER

The U.S. domestic economy is the economic wonder of the world, and American businessmen must be pardoned if they find themselves totally absorbed at home.

Foreign trade is the lifeblood of island nations like Japan and Britain. It used to be a matter of almost trivial concern for the United States until soaring prices, shortages, poor quality, slackening innovation, general lassitude or whatever turned an almost casual trade surplus into a worrisome trade deficit.

The natural tendency was to blame someone else, and Japan was the scapegoat.

The Japanese, of course, are far from blameless. Only recently have they awakened to the fact that you can't go on picking off someone else's markets for cars or cameras or toys or television sets, whether in the U.S. or Brazil or Italy, without inviting retaliation.

The acknowledged superiority of many Japanese products both in quality and in price is no excuse. In trade, there must be a quid pro quo.

Over the last two years, Tokyo has faced up to the facts of life. Largely as the result of prodding—and then, bludgeoning—by Washington, the Japanese Government has moved to liberalize its restrictions on imports and foreign investment in Japan and to permit greater outflows of Japanese capital. The ball is now back in the other court, the Japanese says.

FREEST TRADE NATION

An expert on American trade with Japan, James C. Abegglen, president of the Boston Consulting Group, recently expressed the view that Japan was well on her way to becoming the freest trading nation in the world.

"The perception of Japan by Western businessmen generally is of a highly protected market," he said, then added with a sting: "Japan's protection now arises much more from the failure of European and American exporters to undertake appropriate marketing investments than formal trade barriers."

He offered the opinion that the Japanese market was about as open as that of West Germany or the United States.

However, the Japanese still seem reluctant to make it too easy. The Japanese internal distribution system is a maze of middlemen, each taking his cut and pushing import prices much higher than expected.

Then there is a lot of mumbo-jumbo about the mysteries of the East, the quaintness of the customs, the impenetrability of the language—presumably all intended to frighten off the foreigners.

NOT EASY MARKET

Japan is not an easy market. But it is a consumer market of more than 100 million people with enormous potential, and it seems that the American businessman really must make more of an effort to penetrate it. It seems unreasonable to ask the Japanese to handicap themselves indefinitely with export quotas on their steel or cars or textiles because of shortcomings on the U.S. side of the Pacific.

The problem is increasingly urgent and increasingly political as the United States-Japanese partnership looks more and more like a rivalry.

One of the most unfortunate aspects is the rising anti-Japanese sentiments being heard from American business, labor and political leaders.

Japanese businessmen working in New York detect racist overtones, and they are expressing concern.

U.S. FLAG "MADE IN JAPAN"

Subway riders in New York are currently being treated to a poster campaign by the International Ladies Garment Workers Union depicting an American flag with the caption "Made in Japan."

The copy starts out: "Has your job been exported to Japan yet? If not, it soon will be."

Then there is a Buy American appeal to save jobs.

Such a campaign was foreshadowed—perhaps even foreordained—by the jingoistic Administration campaign last year to retrieve the parlous American trade and monetary position.

The Japanese, uncertain what new weapon Washington might unveil next, have been visibly alarmed. They have resorted to a number of gimmicks intended to reduce their trade surplus to a more manageable $2 billion and avert the wrath of Washington.

"EMERGENCY" PURCHASES

These schemes include the hiding of embarrassingly large foreign trade reserves in special accounts, "emergency" purchases of American goods and the dispatching of Japanese businessmen to help their American counterparts do better in their exports.

Some argue that the upward revaluation of the yen last December is slowng Japan's export growth, that revived business expansion in Japan is sucking in more U.S. goods and that a better trade balance is on the way.

Others see little prospect of the major turnaround Washington wants and note that some Japanese businessmen are already conceding the possibility of further yen revaluations, perhaps fairly frequent changes in small steps.

American frustration with Tokyo has a lot to do with trade. Greater success—and greater effort—by American exporters could help relieve this tension.

GIFT OF NATURE TRAIL FOR THE VISUALLY HANDICAPPED BY THE AMERICAN LEGION AUXILIARY, DEPARTMENT OF MARYLAND

HON. PAUL S. SARBANES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. SARBANES. Mr. Speaker, I wish to bring to the attention of my colleagues the outstanding public service recently rendered to the State of Maryland by the women of the Department of Maryland, American Legion Auxiliary. Through the generous donation by these ladies of the necessary funds—some $5,500—the Maryland Department of Forests and Parks has constructed the Braille Trail in the McKeldin Area of the Patapsco State Park. This is Maryland's first State park nature trail designed for the visually handicapped and is, I am informed, only the seventh of its kind in the United States. It incorporates the better features of these other existing trails, with many innovations designed to make it the best in the Nation.

Circling some 1,700 feet through natural woodlands, this newly constructed trail winds up and down gentle grades, and is accessible to visitors from a parking area, permitting them to leave and reenter their cars or buses without the hazard of crossing roadways. Rest and play areas have been made available at various points on the trail and hopefully, in the near future, there will be a petting zoo and a fragrance garden.

Nylon guide ropes, strung between rustic supports, guide the handicapped to eighteen scenic stops. Each stop is equipped with a waist high lectern on top of which is a description of the area, printed in both large clear type and in Braille. At seven of the stops, speakers, activated by pressing a button, and featuring a taped narration by Galen Fromme, well known newscaster on Baltimore's WBAL radio, give a more detailed description of the natural area.

For example, listen to this description of the natural area at one of the stops:

> Several feet in front of the station the ground slopes down 150 feet to a stream which cascades over rocks and curves back and forth. Beginning 500 yards to your left is a natural spring which flows in front of you to the right. Can you hear the running water?
>
> If you were to draw a line from the top of your head across the hollow to the ridge on the other side, the line would touch the trees 50 feet above ground. Most of the trees are 80 to 90 feet tall.

Or to this description at another stop:

> This shelter has benches where you can sit down, rest, and think about nature. Listen for the sounds of the forest—the birds, the wind through the trees, the noise that forest animals make running across the leaf-covered ground.
>
> Reflect on what you have sensed. Do you feel closer to nature? What can you do to help preserve the environment in which we all are a part? When you're ready to leave, follow the rope around the shelter on your way to the next station.

Mr. Speaker, the American Legion Auxiliary Nature Trail for the Handicapped is easily reached from U.S. route 40 or I-70 from their intersection with the Marriottsville Road, north to the park entrance. Within the park, signs direct the visitor the short distance to the trail.

The ladies of the Auxiliary who have been intimately involved in making this outstanding project possible are Mrs. F. Ambrose Price, president of the Department of Maryland, American Legion Auxiliary; Mrs. Louise Kendrick, chairman, and Mrs. David Wade, vice chairman of the Community Service Committee; and Mrs. Earle R. Poorbaugh, past department president and the project chairman. I know my colleagues join me in saluting these officers and all of the members of the American Legion Auxiliary for their efforts to make this a better world for those less fortunate. Such clear examples of a commitment and desire to help our fellow man are indeed a lesson and an inspiration for us all.

THE INTERRELIGIOUS CONSULTATION ON JAPANESE-AMERICAN RELATIONS

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mrs. MINK. Mr. Speaker, 40 representatives of religious groups in Japan and the United States spent 5 days in Honolulu, Hawaii, in June 1972, discussing United States-Japanese relations and how they can help their respective nations develop new patterns of cooperation. Called the Inter-Religious Consultation on Japanese-American Relations, the participants represented four major world religions—Buddhism, Christianity, Judaism, and Shintoism—and 21 denominations and sects. The meeting was sponsored by the Japanese Committee of the World Conference of Religion for Peace and the United States Interreligious Committee on Peace.

At the conclusion of the consultation, participants adopted the "Honolulu Declaration" and the "Resolution on Indochina." Because of possible interest in this subject among my colleagues. I am pleased to insert the text of the resolutions as well as an explanatory account of the consultation at this point in the RECORD:

INTERRELIGIOUS CONSULTATION ON JAPANESE-AMERICAN RELATIONS

Forty representatives of religious groups in Japan and the U.S. spent five days in Honolulu in June, 1972, discussing strains in Japanese-American relations and how they can help their respective nations develop new patterns of cooperation. Called the Inter-Religious Consultation on Japanese-American Relations, the participants represented four major world religions—Buddhism, Christianity, Judaism, and Shintoism—and 21 denominations and sects. The meeting was sponsored by the Japanese Committee of the World Conference of Religions for Peace (WCRP) and the U.S. Inter-religious Committee on Peace. Some of the participants from both countries had cooperated inter-religiously since 1968 when a one-day meeting on Japanese-American relations was held in Kyoto and in 1970 when the World Conference on Religion and Peace was convened also in Kyoto.

At the conclusion of the Consultation, participants adopted the "Honolulu Declaration," a major statement on Japanese-American relations. Six of many major points included:

1. "We encourage the governments and people of Japan and the U.S. to take steps to preserve the social climate that guarantees the free expression and practice of religion within each society."

2. We recognize that "the maintenance of friendly economic relations may require sacrifices on the part of our respective nations." Japan may need to "review the domestic pricing and foreign trade policies so as to avoid dumping goods at unjustifiable low prices in overseas markets." The U.S. may need to "provide for the orderly conversion of domestic industries which can no longer compete with goods which are priced fairly but produced more efficiently in other countries."

3. The military-industrial complex in the U.S. and a huge industrial complex (Zaibatsu) in Japan . . . "tend to combine to result in the exploitation of economically weaker nations." The present "U.S.-Japanese economic practices, both independently of each other and jointly.

THE HONOLULU DECLARATION

All religions are concerned with the nature of ultimate reality and the relation of men to that reality and to each other. In turn, each religion has its own sacred writings and perception of reality. Across history, religions have seldom encountered each other in depth. When they have met, the encounter has not usually been beneficient. We acknowledge and repent of the many instances, including the present, where religion has been divisive—a cause of conflict and even war.

A mutual interpenetration of the religious communities in many parts of the world is growing in intensity as communication becomes more readily available. We are compelled by various religious imperatives to work to make this encounter result in human helpfulness rather than competitive self-assertion. We believe that such cooperation will not only make religion more relevant to the world in which we live, but also help us to understand each other better.

To that end, we members of religious communities in Japan and the U.S. agree to work together. Specifically we pledge:

to reassert that there is in the world a higher spiritual presence than man, either individually or collectively, and that this higher presence expresses itself as love and compassion in both individual and social life.

to open our religious communities to members of various faiths so as to encourage dialogue, share our spiritual insights, and foster understanding.

to cooperate in seeking solutions to the grave and massive problems facing men today, one of the greatest being the management of conflict to avoid violence and war.

to minimize and, if possible, to eliminate those antagonisms engendered in men by differences in their faith.

to spell out in the most qualitative and quantitative terms possible what peace and human welfare are, and then to encourage businessmen, industrialists, labor leaders, professional people, and government officials to ask how their lives and work can serve to promote this peace and human welfare.

1. Religious and cultural relations

We religious leaders convened at this Consultation recognize the many tragic failures in our histories which represent our lack of love and respect for each other. We offer sincere repentence for these failures. We repent for our personal failures to love each other as human beings and for our failures as two societies that have caused tremendous suffering to each other. We affirm continued repentence as that part of religious life which reaffirms our commitment to the realization of the ideals of peace and justice.

We encourage the governments and people of Japan and the U.S. to take steps to preserve the social climate that guarantees the free expression and practice of religion within each society. We also encourage the governments of both countries to prevent the establishment of any form of religious expression that limits religious freedom. We appeal to the people of all religious convictions or none to work toward keeping all of the institutions of society responsible for the religious freedom of all people.

While problems of the denial of religious freedom continue to exist within the U.S. and Japan, and the religious organizations in both countries continue to remain vigilant, we are concerned also about the denial of religious freedom in many parts of the world today. We request our respective governments, and all members of the U.N., to revive long-dormant efforts to adopt a Declaration Against Religious Intolerance and, ultimately, a covenant against religious discrimination parallel to that adopted some years ago against racial discrimination.

The increasing attention being devoted in many countries to peace research is encouraging. There should be a conscious effort to incorporate peace education at all levels of the educational system in our respective nations and in all countries with a view to developing in oncoming generations a concern for waging peace rather than war. We commend Japan for its recent establishment of the Japan Foundation and its program for international student exchange.

We live in a time when, as a result of the improvement in communications and transportation, our planet is shrinking physically even while it is expanding intellectually and spiritually. As we move toward world unity, the richness of life can and should be enhanced by the diversity of cultures, races, and religions.

2. Economic and social relations

The significance of Japanese-American economic relations can hardly be exaggerated. The U.S. is Japan's most important trading partner; next to Canada, Japan is the largest trading partner of the U.S. Total trade between the two countries will soon reach the $10 billion level. Their national economies are two of the largest in the world. Obviously, the economic policies of the two nations have tremendous consequences for good or for ill. Japan and the U.S. alike need to recognize their respective economic significance, so that they may regard each other as equals and so they may act with a true sense of world responsibility.

In many respects, the vigor and confidence of Japan's economic life is affected substantially by the condition of the American economy. While for the U.S. the relationship with Japan does not bulk as large proportionately, nonetheless it is a major factor. The people and government of each of the two countries are necessarily sensitive to any development in the policies of the other which may affect them. Therefore, the people, leaders, and government of each nation must come to understand the problems and needs of the other so that no major action is taken without advance consultation and careful consideration of the effects of such action on the life of the other.

The religious bodies of both nations ought to be aware of the difficulty of mutual understanding of economic-related events between the people of both countries, due to different economic structures and cultural backgrounds. Thus we need to recognize the necessary role of promoting the communication flow between the two countries, particularly concerning economic events and situations.

This concern for the people and life of the other nation should not be limited to public officials with governmental responsibility, but should extend to all who possess economic power: industrialists and stockholders, labor leaders and union members, exporters and importers, farmers and merchants.

We recognize that the maintenance of friendly economic relations may require sacrifices on the part of our respective nations. Japan may need to review its domestic pricing and foreign trade policies so as to avoid "dumping" goods at unjustifiably low prices in overseas markets. The U.S. may need to provide for the orderly conversion of domestic industries which can no longer compete with goods which are priced fairly but produced more efficiently in other counties, and, by so doing, ease pressures for restriction of imports.

There exists a "military-industrial complex" in the U.S. and a huge industrial complex (Zaibatsu) in Japan. In the U.S. this has produced the institutionalization of the military in American life. In Japan this has produced adverse influences on the maintenance of the basic principles of democracy and peace declared in the Japanese Constitution. Moreover, these complexes tend to combine to result in the exploitation of economically weaker nations. This phenomena in the U.S. has also resulted in inflationary pressures, distortion of normal research and development, and could in time threaten normal democratic processes. Vast private corporations can at times exert political and economic pressures adverse to the maintenance of good relations between states. We also are concerned lest huge, multinational corporations may become irresponsible in their policies and prove to be difficult for both national governments and international agencies to restrain.

We members of this Consultation and our co-religionists are not simply religious citizens of Japan and the U.S. We are, first of all, human beings with a deep commitment to the well-being of every member of the human race and therefore are deeply concerned about the ecological abuses and the misallocation of our interdependent natural resources on this earth which is the possession of all men. This sense of identity with all mankind is accompanied by a strong concern for justice, for freedom, and for the human rights of any who may be oppressed.

We are called to work through our religious structures, through secular institutions, and through governmental action for the self-fulfillment and self-development of individuals and nations everywhere. We feel a keen sense of responsibility to see that such economic power as we may possess or be able to influence is used to free persons imprisoned by poverty, ignorance, disease, and injustice.

Specifically, we shall press our respective nations and governments to channel increased development assistance through U.N. and other multilateral agencies, both regional and worldwide. We shall also urge that such assistance be designed to benefit the great masses of people in the developing world rather than to result simply in an increase in Gross National Product or a reenforcement of the power and wealth of privileged groups. Moreover, we recommend to our respective nations and governments a policy of restraint and generosity in regard to investments in developing countries so that the principles of self-determination and self-development may be respected. In instances of nationalization or of renegotiation of investment terms, considerations of equity should take into account earlier unequal bargaining power, past rates of profit, and the need to raise the living standards of the working people in the developing nations. We need to recognize that present U.S.-Japanese economic practices, both independently of each other and jointly, tend to increase the gap between the developed and developing world and limit the opportunities of the self-development of the peoples in the Third World.

3. Political and security relations

Fundamental changes in Japanese-American relations have followed the two surprise announcements of the U.S. Government in the summer of 1971 involving her relations with the Peoples Republic of China and the devaluation of the dollar. Japan is now in a period of transition from dependency on the U.S. in foreign policy matters to greater independence. Japan has become one of the major powers in a new, multi-power structure that has replaced the old cold war, bipolar situation. Japan clearly intends to play this new role.

The emergence of Japan as an independent power in the international community is a welcome and wholesome development. However, this brings to both Japan and the U.S. the necessity of defining various new alternatives and courses of action in the political and military (strategic) field. As religionists, and as men and women of peace with justice, we recognize that Japanese-American relations may be at their lowest ebb since shortly after World War II because of these recent events. At the same time there is recognition on both sides that the long-range interests of the two countries are not in conflict.

In the light of this new situation:

We urge the restoration of mutual trust between the U.S. and Japan as an immediate matter for both governments as well as other states in the international community.

We commend Japan's peace Constitution which has formally renounced war as a means of achieving her objectives. Japan also has made the choice not to develop her highly-sophisticated nuclear capability for military purposes. It is to be hoped that other nations which have not already done so may follow her example. As religionists, we urge the world community not to consider nuclear capability as the hallmark of great nations.

We strongly urge Japan to continue this course and abstain from development of nuclear weapons. The U.S. and other nuclear powers should, in turn, complete the nuclear test-ban treaty and cease underground testing. If this cannot be done in agreement with other nations, it should be undertaken unilaterally by the U.S. The discontinuance of the arms race among the big powers is essential to the solution of the problems facing humanity. The cost of military armaments is an economic waste of the greatest magnitude ($200 billion annually). Disarmament could provide billions of dollars for anti-pollution, urban renewal, housing, mass transportation, education, and health programs.

We agree that to prevent conflict between nations, the establishment of a framework of world order is essential. The difficulty of achieving this within the present structure of the U.N. is recognized, but efforts should be exerted toward this end. The U.N. is the best instrument we have for this purpose.

We urge that, as rapidly as practicable, the U.S.-Japan Security Treaty and other such bilateral and regional military alliances be transformed into global security agreements administered by the U.N. This, it is recognized, will call for basic changes in the structure of the U.N. and the establishment of a peace-keeping force to replace existing security arrangements.

We suggest that, in full recognition of Japan's new status as a major power in her own right, she be given semi-permanent membership on the U.N. Security Council.

In some measure, all of the above actions require the relinquishment of a small portion of national sovereignty. Today national sovereignty constitutes the major obstacle to the establishment of the full effectiveness of the U.N., including a peace-keeping force.

War has long since become outmoded as an instrument of government policy. Civilization as we know it will not survive a Third World War. Man now possesses a power he cannot use without destroying himself.

We must clearly recognize that Japan's future role in the Pacific will be determined by the Japanese and that pressure from the U.S. Government is certain to be counterproductive. The key to constructive relations between our two countries is trust and confidence. Such trust must be nurtured by frequent consultations between two governments which treat each other as equals.

The religious community in both countries has an obligation to assist in the cultivation of responsible and responsive attitudes to this end, not only in our two countries but in the world.

RESOLUTION ON INDOCHINA

Further developing the Resolution on Vietnam adopted at the World Conference on Religion and Peace held in Kyoto, Japan, in 1970, we the participants of the Inter-religious Consultation on Japanese-American Relations have found in our discussions that the war in Indochina compounds the problems of Japan-U.S. relations in the political, economic, and social spheres. Therefore we resolve the following:

Sharing the sufferings of the Indochinese people and the traumatic pain of the American people and recognizing our own implication in the mass slaughter and destruction in Indochina, we have confirmed our determination to act, in all possible ways, in order to bring peace with justice to Indochina.

We urge that religious bodies participate now more than in the past as non-governmental observers and mediators at every stage and every forum in ending the war in Indochina and making the peace.

1. To the United States

We appeal to the President of the U.S. and to the American people to realize fully that the prolonged war in Indochina has been a crime against humanity, and to take immediate and unconditional steps to halt hostilities and withdraw all American forces from Indochina and surrounding areas.

We call upon the President of the U.S. to halt immediately all bombing in Indochina. The present action of the U.S. Government in escalation of the air war is actually a recommitment of military forces and an expansion of the war.

We call upon the Congress of the U.S. to cease providing any funds for the support of all military activities in Indochina and surrounding areas no later than December 31, 1972.

We call upon the leadership of the U.S. to cease all efforts to control the results of the political settlement of the Vietnam War, leaving such political determination in the hands of the Vietnamese.

We call upon the U.S. to make a substantial contribution to assist victims of the war and to reconstruct Indochina under U.N. or other international auspices.

2. To Japan

We strongly protest against the policy which makes Japan act in complicity with the U.S. in the Indochina war and strongly urge it to take immediate actions to bring peace and justice to Indochina.

Through the reversion of Okinawa on May 15, 1972, the military bases in the island, serving the American war effort in Indochina as forward and logistic bases, are now to be regulated under the provision of the U.S.-Japan Security Treaty. This means that the role and function of Japan have assumed renewed importance in permitting American bases there to be used directly or indirectly for the Indochina War, and the nature of the Security Pact has been altered in substance.

The military procurements from Japan continue to be used in Vietnam and the activities of Japanese industry as the "merchants of death" have been indicted by all people who seriously seek peace. We must, however, call special attention to the fact that, through the reversion of Okinawa, the Japanese involvement in the Indochina War has been drastically deepened. We strongly demand that the Japanese Government and its financial leaders halt any assistance and involvement in the war.

We plead with the people of Japan to understand fully these factors described above, and we call upon the Government and relevant industries to make a radical reformation of their present policies.

3. To the Democratic Republic of Vietnam and the United States

We plead with the governmental leaders of the Democratic Republic of Vietnam and the U.S. to agree immediately to the release of all prisoners of war at the earliest date and no later than December 31, 1972.

4. To the United Nations

We commend U.N. Secretary General Kurt Waldheim for his recent demand that the Security Council attempt to end the war in Indochina. We urge him to convene the Security Council on this issue under his prerogative in Article 99 of the U.N. Charter.

5. To the Peoples of Indochina

To the long-suffering peoples of all Indochina, we ask their forgiveness, for we have long sinned against them. We representatives of religious communities in both the U.S. and Japan continue our solidarity with the Buddhist, Christian, and other religious communities in the Republic of Vietnam, the Democratic Republic of Vietnam, Laos, and Cambodia. We keep them in our thoughts and we look forward to the time, too long delayed, when we may again work with them.

4. "The emergence of Japan as an independent power in the international community is a welcome and wholesome development." Japan also has "made the choice not to develop her highly-sophisticated nuclear capability for military purposes."

5. "We urge the world community not to consider nuclear capability as the hallmark of great nations." In full recognition of Japan's new status as a major power in her own right, we suggest that "she be given semi-permanent membership on the U.N. Security Council."

6. "We urge that, as rapidly as practicable, the U.S.-Japan Security Treaty and other such bilateral and regional military alliances be transformed into global security agreements administered by the U.N." We must clearly recognize that "Japan's future role in the Pacific will be determined by the Japanese and that pressure from the U.S. Government is certain to be counter-productive."

Although not part of the initial agenda of the Consultation, the Indochina War soon appeared as a major factor preventing better Japanese-American relations. Accordingly, a special committee was appointed to draft a text of a resolution on the Indochina War. This resolution made the following points:

We have found "in our discussions that the war in Indochina compounds the problems of Japan-U.S. relations."

"The prolonged war in Indochina has been a crime against humanity" and we appeal to the President "to take immediate and unconditional steps to halt hostilities and withdraw all American forces from Indochina and surrounding areas."

"We call upon the leadership of the U.S. to cease all efforts to control the results of the political settlement, leaving such political determination in the hands of the Vietnamese."

"We strongly protest against the policy which makes Japan act in complicity with the U.S. in the Indochina War and strongly urge it to take immediate actions to bring peace and justice to Indochina." The Japanese Government and related industries should "make a radical reformation of their present policies" vis-a-vis the Indochina War.

U.N. Secretary-General Kurt Waldheim should "convene the Security Council on this Indochina issue under his prerogatives in Article 99 of the U.N. Charter."

"To the long-suffering people of all Indochina, we ask their forgiveness, for we have long sinned against them and we representatives of religious communities in both the U.S. and Japan continue our solidarity with the Buddhist, Christian, and other religious communities" in Indochina.

Consultant-experts for the meetings included Prof. Yoshiaki Iisaka of Gakushuin University in Tokyo; Dr. Everett Kleinjans, Chancellor of the East-West Center in Honolulu; Prof. Shuyu Kanaoka of Tokyo University in Tokyo; Prof. Kozo Yamamura of the University of Washington and the East-West Center; and Dr. Alfred Bloom, Mr. Robert Wargo, and Prof. Yasumasa Kuroda of the University of Hawaii. Also acting as a Consultant was Prof. James W. Morley, Director of the East Asian Institute of Colombia University, who was unable to attend.

The Consultation received greetings from U.S. Ambassador Robert S. Ingersoll of Tokyo, Hon. Tamio Kora, the Japanese Consul-General in Honolulu, and Archbishop Angelo Fernandes of New Delhi, President of the World Conference of Religion for Peace.

The following denominations and sects were represented at the Consultation: Buddhist: Rissho Kosei-kai, Myodo-kai, the Buddhist Churches of America, Hommon-Butsuryu Sect, and Shingon Sect; Christian: Roman Catholic, United Church of Christ in Japan, United Methodist Church, United Church of Christ, United Presbyterian Church, Unitarian Universalist Association, Christian Science, Society of Friends, and Church of Jesus Christ of Latter Day Saints; Judaism: Reformed; Shintoism: Konko-kyo, Misogi-kyo, and Shrine Shinto; and the miscellaneous religions: Tenri-kyo, Zenrin-kai, and Itto-en.

Rev. Nikkyo Niwano, a Buddhist of Tokyo, and President of Rissho Kosei-kai, and Dr. Dana McLean Greeley, a Christian of Boston, and President of the International Association for Religious Freedom (IARF), were elected co-chairman of the Consultation. Co-secretaries were Dr. Homer A. Jack of New York, Secretary-General of the World Conference of Religion for Peace, and Rev. Yasuo Katsuyama, Under-Secretary-General of the Japanese Committee of the World Conference of Religion for Peace.

The Consultation Steering Committee, in addition to the officers, consisted of Rev. Yasuyoshi Sakata, a Shintoist in Tokyo; Rev. Toshio Miyake, a Konko-kyo leader of Osaka; Rev. Yoshiaki Iisaka, a Protestant professor in Tokyo; Mr. Herman Will, a Methodist layman in Washington; Msgr. Edward G. Murray, a Catholic clergyman in Boston; and Miss Ruth Harris, a Methodist church executive in New York. Chairmen of the three workshops were Rev. Sakata, Rev. Miyake, and Dr. A. William Loos, a Christian clergyman who is President of the Council on Religion and International Affairs in New York City. Rev. Miyake was chairman of the special committee which drafted the resolution on Indochina.

Religious institutions represented by participants (who attended in their personal capacity), included the Temple of Understanding of Washington, the Council on Religion and International Affairs of New York, the Institute for Religion and Social Change of Honolulu, the International Interreligious Fellowship of Osaka, the Japan Religions League, the Union of New Religious Organizations in Japan, and Church Women United (of the U.S.)

The full list of participants (delegates and observers) follows:

Rev. Daijiro Ai, Itto-en, Kyoto.

Dr. Abraham K. Akaka, Christian, United Church of Christ, Honolulu.

Prof. Robert T. Bobilin, Christian, United Methodist Church, Honolulu.

Rev. Kyoji Buma, Christian, United Presbyterian Church, New York City.

Mrs. Patricia Chamberlain, Christian, Honolulu.

Mr. Finley P. Dunne, Jr., Christian, Washington.

Dr. Dana McLean Greeley, Christian, Unitarian Universalist, Boston.

Miss Ruth Harris, Christian, United Methodist Church, New York City.

Prof. Yoshiaki Iisaka, Christian, United Church of Christ in Japan, Tokyo.

Hon. Howard Palfrey Jones, Christian Science, Palo Alto.

Prof. Shuyu Kanaoka, Buddhist, Shingo Sect, Tokyo.

Mr. Adney Y. Komatsu, Christian, Church of Latter Day Saints, Honolulu.

Mr. Herbert K. H. Lee, Christian, Honolulu.

Dr. A. William Loos, Christian, United Church of Christ, New York City.

Mr. Charles J. Mills, Christian, Connecticut.

Rev. Toshio Miyake, Shintoist, Konko-kyo, Osaka.

Rev. Keisho Motoyama, Buddhist, Buddhist Churches of America, Palo Alto.

Msgr. Edward G. Murray, Christian, Roman Catholic, Boston.

Rev. Genjun Nishimura, Buddhist, Hommon-butsuryu Sect, Osaka.

Rev. Nikkyo Niwano, Buddhist, Rissho Kosei-kai, Tokyo.

Rabbi Julius T. Nodel, Jewish, Reform, Honolulu.

Rev. Takazumi Rikihisa, Zenrin-kai, Tsujushino.

Rev. Paul B. Robinson, Christian, United Church of Christ, Honolulu.

Rev. Keiji Sahara, Buddhist, Osaka.

Rev. Yasuyoshi Sakata, Shintoist, Misogi-kyo, Tokyo.

Rev. Nitaro Sasahara, Itto-en, Kyoto.

Archbishop Seiichi Shirayanagi, Christian, Roman Catholic, Tokyo.

Mr. William Sullivan, Christian, Society of Friends, Honolulu.

Rev. Seiji Takai, Shintoist, Shrine Shinto, Honolulu.

Mr. Herman Will, Christian, United Methodist Church, Washington.

Rev. Susumu Yoshida, Tenri-kyo, Honolulu.

SALT AGREEMENTS

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. BINGHAM. Mr. Speaker, House Resolution 1133 was brought up earlier today without notice. It was not included in the program for this week announced last Thursday and it was not included in the calendar for today. No printed copies were available. It was discussed briefly, while most Members, including myself, were off the floor, and was then passed by a vote of 306 ayes, 4 nays, and 2 present.

I believe that many Members voted for this resolution, as I did, under the misapprehension that its effect was once again to support the House position on this matter; namely, a simple approval of the interim agreement on offensive arms, resulting from the SALT talks—this was the effect of House Joint Resolution 1127 which the House passed 329 to 7, on August 18.

I would have voted against House Resolution 1133 today if I had understood that it constituted a surrender by the House of its position in favor of the version of House Joint Resolution 1127 as it passed the Senate. That version included unnecessary verbiage and stated certain views with which I sharply disagree. I think it can safely be said that many other Members were opposed to the Senate amendments and believe, as I do, that the matter should have gone to conference in the usual fashion.

Only four votes were cast against House Resolution 1133 today. These were all cast by Members who are entirely opposed to the interim agreement. Hence, this total of four negative votes wholly fails to reflect the very considerable sentiment in the House in opposition to the Senate amendments.

I must say, Mr. Speaker, that I think the procedure that was followed today was most unfortunate. As you well know, it is utterly impossible for Members, with all the various obligations that press upon them, to stay on the floor at all times. Certainly on a matter of this importance the fact that House Resolution 1133 was to be brought up should have been made known ahead of time so that Members could familiarize themselves with its contents and be prepared to oppose it in debate and with their votes if so inclined.

GUN CONTROLS

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. ARCHER. Mr. Speaker, there can be no doubt that we are all genuinely concerned over the rise in crime in America as well as the use of firearms in the commission of many crimes.

Senseless acts of violence were once again brought to our national attention last spring by the tragic attempt on the life of Gov. George Wallace. As a result of such appalling criminal activity, Congress is again being urged to pass a strict gun control law. Arguments are being presented on both sides of this important issue, but there is one question which is being overlooked in many quarters, "Will such controls really work?" This question must be carefully and thoroughly considered by each one of us.

For years, the British thought they had the answer—laws severely restricting the possession of firearms. Recent surveys indicate, however, that the British experiment has not been a success. That failure should cause us to pause before proceeding further.

If we, as representatives of all the people, cannot be assured that stricter "gun control" laws will disarm the criminal element, how can we possibly proceed to deny honest ctiizens the means to protect themselves, their businesses, and their families?

The September 15 issue of National Review contains an informative article by Miss M. F. Harvey recounting the recent results of the British experience in gun control. Miss Harvey has also written a series of articles on the abolition of capital punishment in Britain for the Boston Herald Traveler. I commend the article to the attention of my colleagues:

THEY HAVE GUN CONTROLS IN ENGLAND

(By Miss M. F. Harvey)

The attempted assassination of George Wallace has put the issue of "gun control" back on page one—coincidentally, at a time when capital punishment is widely believed to be on the way out. The experience of Britain, which has no capital punishment and lots of gun control, is instructive in this double context. In 1957, when the British revised their traditional, and very stern, homicide laws, the murderer who killed with a gun was still liable to be hanged; but the murderer who used less direct methods was more likely than before to be guilty of "non-capital" murder (meaning there'd be no death penalty for him) or he might even be let off with a short prison term for manslaughter. So what happened? The number of murders with guns declined, but there was a marked increase in the number of killings by beating, kicking and other means.

Obviously, it is not necessary to have a gun to commit murder. But political crackpots, as well as common criminals, find that guns are handier and more efficient than other weapons. Indeed, the possession of a firearm can be so valuable to a criminal that he will go to great lengths to obtain one. How, then, is the robber or would-be killer "deterred" from getting his hand on such a weapon, and from using it?

For many years, the British thought they had the answer. Unless you were a farmer, a sportsman, a soldier or a policeman on special duty, it was illegal to possess firearms. Since no law will make all citizens law-abiding all of the time there were always, each year, a certain number of "firearms offenses" in Britain. The interesting development in recent years, however, is that firearms have become virtually uncontrollable in Britain, despite the fact that gun-control laws have become more sophisticated and penalties for violations are far more severe.

For example, in 1940–44 only eight hundred persons were "proceeded against" for firearms violations in England and Wales, on a yearly average. More than a decade later, in 1956, the figure was still under nine hundred. Throughout this period, the penalties imposed by the old Firearms Act of 1937 were relatively light—mostly fines or a few months' imprisonment. But during the early 1960s firearms offenses increased so markedly that the 1937 Act was revised and, in 1965, heavier fines were supplemented by up to ten years' imprisonment if guns were used in the course of a serious crime or to resist arrest. By 1965 the number of persons proceeded against for firearms offenses had increased to 2,880; the figure had climbed to an unprecedented 5,275 by 1970.

The failure of the 1965 Firearms Act to control the illegal possession and use of guns in Britain became apparent during a period when all serious crimes in England—including homicides—were increasing at a staggering rate. When did this increase start, and why?

Let us first note that there was relatively little change from 1946 to 1956. The average total of all indictable offenses remained only slightly above 470,000 for those years. But by 1960, only three years after passage of the 1957 Homicide Act, indictable offenses were up to 743,713—and homicides (excluding vehicular homicides) had increased from a per capita rate of 1.8 convictions per million to 2.9 per million. By 1965, there was no doubt that Britain was experiencing the most shocking crime wave in her history—indictable offenses were up to 1,333,882 for that year alone.

But statistics did not prevent the "humanists" and the doctrinaire leftwingers in Britain's Labor Party from voting the complete abolition of capital punishment. They argued that nonapplication of the death penalty (as modified in 1957) really had nothing to do either with the new increases in firearms offenses or with the remarkable increase in crime generally. Apparently, the Labor Party hoped the more severe penalties in the 1965 Firearms Act would help prevent murder by gun, just as they hoped murder wouldn't increase once the death penalty—already weakened by the 1957 law—was no longer on the books.

WHAT REALLY HAPPENED?

In 1965 the homicide rate in Britain (combining convictions for both murder and non-vehicular manslaughter) had increased to 3.95 per million and it increased again to at least 5.8 (possibly higher) in 1970. Now it is hard for anyone to argue that a murder has occurred—in Britain or anywhere else—simply because the penalty for murder has been lessened. Not even the wisest judge or jury, or the cleverest defense lawyer or prosecuting attorney, can know *exactly* what has gone on in the mind of the murderer. If he claims that his crime was unpremeditated, perhaps he's talked himself into believing this even if the judge and jury decide that the evidence is all against him. It is extremely difficult, however, to argue that armed robberies—whether or not they end in murder—are unpremeditated.

In every armed robbery, there is a certain amount of planning on what sort of weapon to obtain and how to use it. How, then, would most people judge the evidence if it could be shown that, with every step toward the weakening and eventual abolition of the death penalty in Britain, armed robberies increased along with homicides?

In the October 1971 issue of the British Police Federation's monthly magazine, *Police,* Chief Inspector Colin Greenwood, a firearms expert from Yorkshire, published just such a study. He showed that, in the metropolitan area of London, armed robberies from the end of World War II up until 1956 were relatively few (between 130 and 138 per year). But following the 1957 Homicide Act, the incidence of armed robberies in London increased as did homicides generally in England. By 1965, when the Labor government decided to abolish completely the death penalty for murder, armed robberies in London numbered 702; by 1969, the last year of Greenwood's study, they had jumped to nine hundred fifty. The use of firearms in these robberies—rather than other weapons such as iron coshes or knives, increased from nineteen cases in 1956 to 272 cases by 1969. And a report just released shows an appalling increase of 42 per cent in murders in 1971 over the year before—177 murders in 1971 as against 106 in 1970.

There is no way to explain why conviction figures both for murder and manslaughter increased so steeply after 1957—along with armed robberies, firearms offenses, and annual figures for all indictable offenses known to the police—without noticing that, until 1957, the killing of another human being, whether in cold blood, in a robbery or in the heat of personal passion, always meant a "murder" trial and, except in cases of insanity, a strong probability that the killer would hang. After passage of the 1957 Homicide Act, criminals stayed away from guns—and kicked or bludgeoned or knifed their victims to death—only until it became clear that even to kill someone with a gun in Britain no longer meant that you would have to hang for murder. Your lawyer might now plead manslaughter: If he failed, there was now always an appeal. And it is still that way in Britain, for even with the death penalty completely removed from the books, you can appeal to have your murder conviction changed to "attempted murder" or "wounding with intent"—even though the victims are all dead—and be out of prison again in two or three years.

The failure of gun controls in Britain is probably the best evidence available anywhere in the world to demonstrate that it is only capital punishment—the criminal's fear of "judicial homicide"—which deters the predators in human society from taking the lives of innocent victims if they are strong enough, are armed with firearms, and know they won't die for the murder they have committed. These British figures are relatively unknown in the U.S. They would have had relevance in the congressional debate on gun control that followed in the wake of the Wallace assassination attempt.

LIFE IN A COMMUNIST CIVILIZATION

HON. BEN B. BLACKBURN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. BLACKBURN. Mr. Speaker, during my three terms in the House I have heard many people extol some of the virtues of the Communist system of government and infer that the United States should not continue its policy of trying to contain the expansion of communism. I think that the precious freedoms we now have would never survive under any form of communism. This has been proven to be true throughout the world.

Recently, the Wall Street Journal carried a book review regarding life in a Communist civilization. I would like to commend to the Members of this body that they either read this review or the book itself, because of the insight it would give them in debating the effects of a Communist civilization upon individuals.

The Wall Street Journal article follows:

THE BOOKSHELF

(By Edwin McDowell)

A well-known story in Warsaw tells of a new prisoner being asked by his cell mates what sentence he received:

"Ten years," he replied.

"For what?"

"For nothing."

"You're lying. For nothing they give at most five years."

That is just one of the many tales that Leopold Tyrmand sprinkles throughout his witty primer on Communist civilization, "The Rosa Luxemburg Contraceptives Cooperative" (Macmillan, $5.95, 287 pages).

Author Tyrmand, a Polish liberal who was imprisoned by both the Nazis and Russians, admits at the outset that his book abounds with intentional hyperbole of an existing reality.

For he insists that hyperbole is truer than a hundred objective treatises, since how else can one objectively explain a legal system in which the prosecutor is always right? How can one objectively describe the institution of a political police whose raison d'etre is to create culprits where none exist?

How else can one objectively examine the morality of people who build careers by hunting down and destroying the slightest manifestation of free thought, while abroad they deliver speeches about their struggle for freedom and the independence of the human spirit—and their Western listeners believe what they say?

Mr. Tyrmand, who came to America in 1966, acknowledges that his attitude toward communism—his hatred of the evil it contains and his fear of its metaphysical power to hold more and more evil—is the result of his life under communism.

He unapologetically depicts it as an unrelieved system of terror, one that erodes individual dignity and depraves those who try to coexist within it. "Never in the history of the human race," he writes, "have social conditions brought out so many of the worst features of human nature, so much mutual hatred, organized crime, intensified coercion, and cutthroat indifference of man toward man."

Yet his book, despite its somber theme, is never shrill. Even when his opinion is never in doubt, his sprightly sense of humor prevents it from lapsing into an angry monotone.

Take his description of the ubiquitous secret police, who he says act as the conscience of communism. Terroristic they may be, but they are the only area of life under communism that fuctions effectively, he insists and in terms of ingenuity, functionality and utility, they are the most perfect product of communism.

Thus if a security officer kills a citizen by mistake, in pursuit of his mission "to keep the sacred fires of love for the party alive in the citizens' souls," the police will tell the family that the slain man was a CIA agent—"even if he were deaf, dumb, and legless from birth. The man who killed him will receive a decoration for vigilance in the fight against the enemies of the people. . . ."

There are the blatant Orwellian lies in which day is depicted as night, right is wrong, good is bad, and history is rewritten to conform to the latest Party dogma. But there are also the ever more subtle lies, so that the Communist artist who wants to paint a picture "must take into consideration what his picture will mean to the Party, the government, the trade unions, schoolchildren, the approaching anniversary of Lenin's birthday, the ministry of industry if he wants to paint a steel mill, or the ministry of agriculture if he intends to paint a strawberry."

The composer who calls his symphony "Holiday of Spring" can win at most an artistic success, but if he calls it "Holiday of the Revolution" or "Cantata of Lenin," he will be showered with awards and continual performances on the radio and in the concert hall.

Mr. Tyrmand spoofs the elaborate names devised supposedly to express working class affirmation of life and the Communist system, names such as "The Happiness of the People" "Cooperative for the Sanforizing of Fabrics," or the "Happy Future Workshop of Wooden Buttons." The book's title derives from the name proposed for a Rumanian cooperative devoted to the manufacture of prophylactics, a proposal ultimately rejected for the more orthodox title, "Workers' Solidarity" cooperative.

The book is a Whole Earth Catalogue for trying to cope with life under communism. It gives practical advice for talking on the tapped telephones, explains where to mail letters with the flickering expectation that they might be delivered after they are read by the authorities, dispenses advice on how to try to coexist with the Kafkaesque bureaucracy, and explains how and whom to bribe under a suffocating system that is a paradise for operators and opportunists.

Like a Polish Parkinson, author Tyrmand formulates whimsical principles, laws and edicts on everything from the virtue of informing on family and friends to the absolute necessity for Communist regimes to run up 99.89% election victories (since a 99.87% vote would be greeted by the regime's subjects as s sure sign that the Communists had lost).

Yet sandwiched between his ripostes and deft verbal thrusts, the message is unmistakable that communism, which seized power in the name of the worker, subjugates the worker more efficiently than any social system of our time. It has imposed a system of glaring injustice and ethical deterioration, putting a premium on pettiness and meanness.

The author acknowledges that much of his description of life under communism differs from periodic optimistic reports in the Western press. Yet he insists that only someone who has lived under communism, who has experienced first hand the spiritual and physical degradation of life in a thoroughly regimented society, can separate appearances from reality.

And one of the few times he departs from a generally wry assessment is to criticize the gullibility of a West that is taken in by glittering promises and by such "notorious professional nonconformists" as Ehrenburg, Yevtushenko and others who express not the slightest contrition at having served the Stalinist evil, but instead demand recognition, respect, and sympathy for no longer serving evil.

The overall impact of this book adds up to a phantasmagoric chamber of horrors, a vision of *Schrecklichkeit* every bit as bad as that described by Alevander Solzhenitsyn. It is a tribute to the author's skill that, perhaps because he felt a straight-forward account would be too much for some readers to accept, he is able to infuse even this dreadful subject with a persistent sense of humor.

WOMEN SHOULD APPLY TO WHITE HOUSE FELLOWS PROGRAM

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. FRASER. Mr. Speaker, the President recently announced a national search for outstanding young men and women to serve as 1973–74 White House fellows.

The White House fellows program, originated in 1964 and funded by tax moneys and contributions from major foundations is a Cabinet-level program to provide exposure to top levels of Government for 15 to 20 individuals. The fellowship consists of a year of Government service in Washington, D.C., at salaries of up to $27,289. Fellows serve on the White House staff, with members of the President's Cabinet, and with Federal agency heads.

Although the program is open to all individuals between the ages of 23 and 36 except civil service employees, the program has been consistently dominated by men. This year only one of the 17 fellows is a woman. In the program's 8-year history less than 8 percent of the participants have been women, and rarely has a married woman been accepted.

The President's Commission on White House fellows blames this lack of female fellows on a dearth of applicants; less than 10 percent of the applications have been filed by women. The Commission admits that it has "not reached the potential female applicants or that for some reason those who are qualified simply are not applying." Not until last year were there any efforts to recruit women.

All Members of Congress should encourage qualified young people in their districts, particularly women, to apply to the fellowship program. Application forms and additional information can be obtained from the President's Commission on White House Fellows, the White House, Washington, D.C. 20500. The deadline for applications is December 15.

The Commission asks that the fellows "give promise of providing the kind of leadership that will influence the shape of our society for many years to come." Women must not be excluded from the White House fellows program. They constitute one-half of the leaders and shapers of our society.

IN GERMANY: THE END OF ASSIMILATION

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 22, 1972

Mr. HALPERN. Mr. Speaker, we have just completed the high holiday period marking the beginning of the Jewish year 5733. The 10 days between the holy days of Rosh Hashanah—the New Year—and Yom Kippur—the Day of Atonement—are a time of deep contemplation. The individual ponders the events of the past year and prepares himself for the future. Remembrance is one of the key themes as Jews the world over recall what has occurred to them individually and as a people.

This particular new year began on a very tragic note with the massacre in Munich, Germany, of 11 members of the Israel Olympic team. As we recall this barbaric act, we are reminded once again of similar events of 30 years ago in that same part of the globe.

A very moving article in the New York Times of Sunday, September 3, describes the impressions and emotions of a traveler as he visited the places where the holocaust of the Second World War took place. Stephen Birnbaum was in Germany on a business trip. On Yom Kippur, he felt compelled to visit a synagogue for the first time in 18 years. He had begun to experience self-consciousness in being in that country and his emotions were intensified as he saw the remnants of Regensburg's Jewish community, many still bearing the tattoos of the death camps on their arms, struggling to raise the necessary quorum of 10 men for prayer. In his own words, "I closed my prayer book, sat back and cried." He was unable to remain an "assimilated Jew" any longer.

I believe that this article is well worth our attention during this season. So that we too may recall the past and weigh the future at this start of the new year 5733, I submit it in its entirety into the RECORD:

IN GERMANY: THE END OF ASSIMILATION

(By Stephen Birnbaum)

I think of myself as an assimilated Jew. I say that without any particular pride or passion, but merely to provide a perspective for what follows. It was because I consider myself assimilated that I was able to plan a business trip to West Germany last fall without ever thinking twice. It was a trip of more than 2,000 miles through much of the country and I can honestly say that I regarded it as just another job. I left New York on the first night of Rosh Hashanah, 5732.

A flight that leaves New York in the early evening lands in Frankfurt am Main at dawn. Dulled though one's senses might be so early in the day, the impression the Frankfurt airport makes is strong and irresistible. Miles of rubber-clad corridors, with large windows and chrome and aluminum walls and railings, present a strikingly austere and sterile appearance, like something out of Stanley Kubrick's "2001." The poured-concrete buildings are starkly simple, and at dawn there are few signs of activity.

I was surprised by the informality of German immigration and customs procedures, which were, I thought, rather atypical for a country known for strict adherence to rules and discipline. Passports weren't checked or stamped; luggage wasn't inspected. This struck me as odd, but not quite as odd as the fact that I was entering Germany on the second day of the Jewish New Year.

At the exit gate a West German corporate executive who would serve as my driver and guide throughout my stay in Germany was waiting. We would be together constantly for the next 10 days. He was tall and erect, an imposing figure of about 60. Subtract 32, I suddenly thought, and that would make him about 28 at the start of World War II. I found myself wondering what military unit he'd been a part of, and my attitude became hostile. It was an automatic and unreasoning response, yet one I wouldn't shake for most of my stay in Germany. For whatever reason, I perceived my guide-to-be as an instant enemy, and my reaction to him surprised me. After all, I'm a thoughtful and reasonable man. I don't judge people irrationally, and besides, I'm a totally assimilated Jew.

The guide—I'll call his Hans—didn't help things much with his greeting. "Birnbaum," he said, "that's a German name, isn't it? Means pear tree. Tell me, do your people come from Germany?"

It didn't seem worthwhile to explain that while my father's roots were undeniably German, my ancestors had joined a 13th-century Jewish migration to Poland. After all, the move, though made seven centuries before, hadn't saved my father's parents and five sisters from Hitler. So I replied, "Yes, they came from Germany."

"It must have been *difficult* for them during the war," said Hans in clipped, crisp tones.

I nodded, at a loss for an answer. Suddenly my grandparents, my aunts and their husbands, their unknown numbers of children, were real to me. I had been about 6 years old when my parents learned of their deaths and I had never seen any of them. I had never even thought about them before but now I was trying to imagine what they had been like. It had been two steps onto German soil and just a few words from the first German I had met to evoke this reaction. Talk about consciousness raising....

My musings were interrupted by Hans. "But that is all over now," he said, "it is all forgotten. It is all in the past, and we must live for today. Let us now concentrate on enjoying the beauty of today's Germany."

My ears heard and my mind actually agreed. This was, after all, supposed to be a rather pleasant business trip. But there was something rumbling in the pit of my stomach, something I couldn't control.

The uneasiness I experienced in that first conversation with Hans was shunted to the back of my mind once I got involved in my work, for business in West Germany is conducted in much the same way as in Akron or Atlanta. And in Frankfurt, a totally rebuilt, modern city, generally indistinguishable from most major American cities, everyone I met spoke English.

A PLEASANT INTERLUDE

From Frankfurt my schedule took Hans and me through the beautiful Rhine valley. Medieval castles, high above steep vineyards and the bustling river, made the stretch of road from Mainz to Cologne a more than pleasant interlude.

Once in Cologne, I was off to the mammoth ANUGA Fair, a biannual event that caters to West Germany's thriving hotel and restaurant business. For nine days the good burghers of Hamburg and the beer barons of Bavaria inspect every conceivable type of sausage, strüdel and sauerkraut. For me the fair was a long series of meetings.

The meetings were fine but my local interpreter gave me a bit of a jolt. He resembled nothing so much as a character from the cast of an English drawing room comedy, the one who bounds in from stage left, handsome and blond, wearing impeccable whites, raquet in hand, and asks, "Tennis anyone?" The interpreter was blond and wore a perfectly pressed white suit and though a little past the age of a male ingenue, was no less enthusiastic. "I am Guntar," he exclaimed. "I speak perfect English. I learned it in a prisoner of war camp." His smile was dazzling.

I shook my head in disbelief. How is it possible to make that statement out loud, I wondered, much less with obvious pride? He actually seemed proud to have been a prisoner; after all, hadn't he learned English? Why wasn't he even a little bit ashamed or self-conscious? I didn't expect breast beating and the rending of his garments, but did he have to come on this way? I ended up being embarrassed, and I didn't understand the feeling at all.

From Cologne we rode through the Ruhr valley with its huge factories and mills whose predecessors had once fueled the German war machine. From there we traveled along the rolling plains of Westphalia, passing an endless succession of spotless farms, all with austere red brick farmhouses. Then north to Emsland, to a small village not far from the cold North Sea coast, where I was invited for my first meal in a German home.

The home could hardly have been called typical. Though very much in the regional style of architecture, it was more than 500 years old. It was, however, fully restored, for restoration was a great hobby of my host. Long hallways led to large, drafty chambers, and if I had heard the cry of "Off with his head!" it would not have seemed the least incongruous. Dinner was formal and restrained, with somber servants bringing course after course. Cigars and lethally strong brandy followed, and they in turn, were followed by a tour of the house.

As we walked along, old suits of armor stood rigidly at attention. Coats of arms and ancient standards hung forlornly from the walls and ceilings. We made our way through a narrow passageway and finally entered a long hall hung with large oil paintings. "This was my great-great-grandfather," said my host, pointing to a portrait of an archduke of somewhere or other. Next came a couple of counts, a baron or two and some miscellaneous civil dignitaries of apparently unquestioned importance. Then he pointed over my shoulder. "And that," he said, with obvious pride, "is my father."

The portrait was not as large as some of the others but it was no less impressive. The father stared out at his son with steely blue eyes and a fiercely determined jaw. His resoluteness was what the artist had primarily attempted to capture, and he had succeeded. Here was a man of bearing and purpose. The artist had missed nothing, right down to the highlights on the lacquered brim of the black military cap and the shining silver SS initials on the collar.

I felt my dinner rising and uttered silent, grateful thanks that I was able to keep it down. I was speechless. What am I doing here? I thought. What am I doing calmly breaking bread with the son of a Gestapo officer and then casually taking a tour of the "family album" I found it absolutely impossible to remain in the house a moment longer.

My exit was clumsy and confusing. I'm sure my host still thinks that all Americans are quite mad, but my need for air was such that I gave no thought to good manners. Once out of the house, I shook with anger. It was uncontrollable. Five days in Germany had uncovered an identity I had labored a lifetime to minimize. I was a Jew; there was no getting away from it. And I felt a Jew's anger, a Jew's frustration. Assimilation or not, I was in a rage.

VICTIM OF HOSTILITY

Until that night I had been focusing all my undefined belligerence on Hans. A nice man by any objective standard, he nevertheless evoked my initial uneasiness at the airport, and so I had directed my hostility at him. Nothing downright mean, mind you, but I just was not very friendly. Fortunately our driving sessions between stops were relatively short, and conversational necessities were few. But he tended to aggravate the strained atmosphere by laughingly referring to himself every so often as an "old militarist."

I felt so disquieted after the painting episode that I decided to eliminate scheduled visits to Hamburg and Berlin. They were stops that were not essential to my trip and I had neither the heart nor the stomach for them. But passing them up meant a 375-mile drive from the northwesternmost area of West Germany to Regensburg in the southeast, and a full day in the car with Hans.

The trip itself was pleasant enough; the West German autobahns are among the best roads in Europe. And the conversation, surprisingly, was equally pleasant. Hans was something of a local historian, and he spoke knowledgeably about the towns and cities through which we passed. He also spoke happily about his job and proudly about his wife and children.

After a while our conversation shifted to politics and suddenly Hans did not sound quite so much like an "old militarist." Though Eastern European Communism seemed a real threat to him, he turned out to be not the least interested in having West Germany raise a larger army. In fact, the notion of a larger German Army seemed to worry him more than the Communists.

"Have you read Albert Speer's book about the war?" I asked, apropos of nothing. He hadn't. He had, however, heard of the book written by Hitler's personal architect and later Minister of Armaments, and was anxious to read it. "I knew Speer," he said pensively, "and I like him very much. He was a very able man." Then he paused a moment, reflected, and added, "He saved my life."

Hans had been working in a factory during *Kristallnacht*, in November, 1938, when an orgy of window smashing, arson, property destruction and murder victimized Jews all over Germany. Hans's maternal grandmother was Jewish, and under German law Hans was, therefore, a Jew. He was among thousands arrested that night, and was slated to go to a labor camp, and probably a concentration camp and gas chamber later on. Speer personally intervened and undoubtedly saved his life, not out of any particular compassion for Jews but because Hans's technological expertise was too valuable for the fatherland to lose. Speer protected Hans all through the war by destroying the evidence of his Semitic forebears.

Some "old militarist!" My surprise was total. Suddenly I had what almost seemed like a coreligionist riding next to me, and the saying about feeling more comfortable with your "own" proved to be quite accurate. Hans had probably never seen a Jewish service in his life, or spoken to more than two Jews, but to me he was now a kindred soul. In the space of three minutes my whole attitude had changed. I now felt I could ask him to help me with a project I'd been considering since early morning.

"Tomorrow we'll be in Regensburg," I said, "and it is Yom Kippur."

He nodded, and apparently I didn't need to explain the meaning of the holiday to him—that it was the Day of Atonement. "There is a temple in Regensburg," he said, anticipating my next question. "Do you wish to go?"

"Yes," I said. "Can you arrange it for me?" He nodded, then fell silent until we reached Regensburg some hours later.

We arrived in the city shortly before sundown, and Hans barely had time to call and ask permission to attend the services and to get directions. They were more than happy to have me. Regensburg is old, with ruins dating back more than 2,000 years, and its position at the point where the Danube River becomes navigable has made it a center of commerce for centuries. The streets are narrow and winding, and there are many dark alleyways. We decided to try to find the temple before going to bed that night, anticipating some difficulty. But we found it barely a block from the city's main commercial thoroughfare.

I hadn't been in a synagogue for more than 18 years, and in the morning, with the services scheduled for 9:30, I presented myself promptly at 9:25. The only other person in the synagogue was the cleaning woman. She looked at me and I returned her stare. We said nothing. After a few moments she tucked her dust cloth into an apron pocket, lifted her broom and left the room. Now I was totally alone.

The synagogue was very small and appeared to be fairly new. It was simplicity itself, its clear rectangular lines broken only by a raised platform at the front. On the front wall was the enclosure that held the rolled scriptures. The only decorations in the room were two velvet and brocade cloths on the side walls, rescued from the ruins of synagogues built over a century ago. Beside each were small cards attesting to their origin. There were perhaps a hundred folding chairs arranged neatly in rows, with a small section at the back of the room separated from the rest by a low, movable screen. Apparently the Jewish Orthodox tradition of separating the sexes was still being observed in spirit.

For about 15 minutes I remained alone. Then two old men entered and nodded to me. Between their halting English and my nearly nonexistent German I was able to determine that one of them had taken Hans's call the night before, and that they were expecting me. They seemed unusually glad that I had come. Their happiness, however, did not preclude a reproving look as they handed me a black paper skullcap and indicated the top of my head. I put it on a little ashamedly.

The two men moved to the front row and each put down a paper parcel he had been carrying. Each parcel contained slippers and an embroidered velvet bag. The men unlaced their shoes, placed them neatly under their chairs and put on the slippers. Then they placed the small velvet bags on their laps. I knew those bags well, and for an instant I was an 8-year-old boy again, sitting beside my father in temple. His velvet bag had been blue with gold embroidery and it had held the prayer shawl he had received from his father as a boy in Poland.

TRAGIC SOUVENIRS

One of the old men was looking at me. Without warning or comment, he pushed up his left sleeve. There, on his forearm, was a concentration camp tattoo consisting of indelible blue numbers, a mark of horrors seen and survived. His companion also rolled up a sleeve, revealing his own tragic souvenir. When they were sure I had seen, they let their sleeves fall back into place, and in the same matter-of-fact manner unzipped their velvet bags and took out their prayer shawls.

Now a bent old man shuffled slowly into the room, much older even than the two who had preceded him. They all exchanged holiday greetings, and then the old man was introduced to me. He, too, rolled up his sleeve to reveal his own blue numbers, then moved to the other side of the hall where he took a long white cotton caftan from a paper parcel and slipped it over his worn blue suit. He also changed from street shoes to slippers.

It was now 10 o'clock, and there were but four of us in the temple. Then an old woman arrived, followed by another. They exchanged greetings and retired to their prescribed section at the back of the hall. Neither of them greeted any of the men, and the men did not acknowledge them.

Ten minutes later a single man arrived, followed by another with his teen-age son. The son and I were the only persons in the room under the age of 60. Each new arrival was introduced to me, and every one (with the exception of the teen-age boy) went through the sleeve-rolling ritual. The tattoos seemed to be a bond between them, a symbol of tragedy shared.

At 10:25 two more men arrived, one of whom was introduced as the rabbi. He was a shopkeeper in the city. Conversation had switched from German to Yiddish, becoming animated with the entrance of each new arrival. But after a while the talk ceased and the old men stood around toeing the carpet. It was an hour after the services had been scheduled to begin. Then something suddenly dawned on me: They didn't have a minyan, the quorum of 10 men needed to hold a Jewish service. On Yom Kippur morning, the holiest day in the Jewish calendar, they couldn't find 10 men for a service. No wonder they had been glad to hear from Hans that I would be coming.

THE 10TH MAN

Names were mentioned as those assembled searched their minds for someone to summon so the service could be held. Then came a collective sigh of relief as a figure appeared in the doorway. Enter the 10th man.

Unlike the others, who wore navy blue suits, the new arrival was dressed in brown. His suit was of British cut, with a nipped-in waist and flared trousers. He must have been the same age as the rest, but his deep tan contrasted sharply with their sallow complexions. He wore highly polished brown boots, a pink shirt and a wide red tie. Large gold links shone at his cuffs, and a star sapphire sparkled on his pinky. The rabbi rushed to greet him warmly. They were obviously not strangers. After they had exchanged greetings in Yiddish, the rabbi brought him over to me. "From America," said the rabbi, pointing first to one of us, then the other. The new arrival sat down beside me.

The rabbi reached over to one of the chairs and picked up a prayer book. Already the bent old man in the caftan had gone to the lectern and was beginning to pray. The rabbi opened the prayer book to the proper page, pointed to a passage, then handed the book to me. He then moved onto the raised platform at the front of the room.

"Ben Mandel, Plainfield, New Jersey," said the man sitting beside me. We shook hands. As the service droned on around us, we spoke, and it seemed that Ben, like myself, was there more to be present than to pray. He told me about his new home in Plainfield, his business, and about the hotel he owned not far from where I once lived on the West Side of Manhattan. We talked about why he had left Manhattan for the suburbs: the dirt, the violence, Mayor Lindsay. Then I asked, "How do you happen to be in Regensburg?"

"I was liberated here," he replied. Then he rolled up his suit and shirt sleeve to reveal his own set of numbers on his left arm. They stood out starkly despite his tan. "I come from a small town not far from here," he said. "First my brother and I were sent to a labor camp. That was in the late thirties. When Hitler decided that he didn't even want Jews as laborers in his precious Germany, we were shipped to Auschwitz. The two of us were sent there with our sister. She died in the camp."

He paused for a moment. It appeared he hadn't told this story in a long time and it was hard for him.

"We were just lucky. If the Allies had arrived a few days later, I would be fertilizing the fields. They liberated us in Regensburg, and we lived here for a while. Then my brother decided to go to Israel, and I went to America. I can't complain. I've done very well. So every year I visit my brother in Tel Aviv for Rosh Hashanah and spend a week there with him and his family. Then I come here for Yom Kippur.

"It helps me remember how lucky I've been. It makes me remember how it was. Besides, there aren't many Jews left here, just these few old men. Once 10,000 Jews lived in the area, now they can hardly make a minyan on Yom Kippur. Imagine."

The bent old man held firmly to his lectern as he rocked back and forth. The other members of the congregation, all wrapped in silk prayer shawls with long fringes, rocked with him, reciting the ancient prayers.

I closed my prayer book, sat back and cried.

Germany is not the place for an assimilated Jew to visit if he expects to stay assimilated.

CURRENT EFFORTS TO SECURE RELEASE OF THREE AMERICAN PRISONERS OF WAR

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. DRINAN. Mr. Speaker, three American prisoners of war, Navy Lt. Markham L. Gartley, Navy Lt. Norris A. Charles, and Air Force Maj. Edward K. Elias, are about to leave Hanoi, North Vietnam, on their way back to the United States.

Whatever the purpose of the North Vietnamese Government in releasing these men, it is important to bear in mind certain aspects of this matter:

First. Under the Geneva Convention and the established traditions of warfare, the Government of North Vietnam was under no obligation to release these men while hostilities are still in progress.

Second. While this is not the first release of American POW's since the war began, it is the first release in over 3 years.

Third. Whatever their legal obligation to the military authorities, the men being released, having been in captivity for periods ranging from 4 years to 5 months, have already rendered a greater service to their country than the vast majority of their fellow citizens and are entitled to gratitude and special consideration on the part of their Government.

Both the history of past releases and stories appearing in the newspapers today suggest that an effort will be made by U.S. military authorities to assume custody of the men for an extensive period of medical examination and debriefing at the earliest possible opportunity following their departure from North Vietnam.

I believe that for a number of reasons it would be more appropriate to permit the men a period of rest and recuperation immediately upon their arrival in the United States before requiring them to return to military control. The men have made such a request to the President in writing.

Such a gesture of reciprocity on the part of the U.S. Government might help to create the climate of goodwill and cooperation which is so desperately needed if the stalled peace negotiations are to get off dead center.

The men richly deserve the opportunity to relax with their loved ones before returning to military control. Satisfactory arrangements could no doubt be worked out to provide them with whatever medical attention they might need during this period through civilian channels.

Even the appearance of pressure on the men by the military authorities following their release would almost certainly jeopardize the release of other prisoners of war and should therefore be avoided at all costs. Hanoi has made this abundantly clear.

Like all Americans, I welcome these gallant men back to our shores and rejoice with their families at this unexpected reunion. I urge the President and the Secretary of Defense to treat the return of these men in a manner befitting the sacrifices they have endured for all of us while taking advantage of the diplomatic opportunity opened up by their release.

I therefore call upon the President, in a spirit of bipartisanship, not to interpose military pressures on these men as they are being released. I also call upon the Secretary of Defense not to reiterate claims about the alleged implications of the Geneva Convention on release through civilian channels. Those claims are without merit as a matter of law, but more critically they render extremely difficult all efforts to obtain the release of prisoners of war.

Mr. Speaker, I insert in the RECORD at this point the statement made in New York today on this issue by Bishop Moore, Rabbi Brickner, and Bishop Gumbleton. I endorse their position without reservation and urge all others in this House, regardless of party, to do so.

The statement follows:

PRESS RELEASE, NEW YORK CITY, SEPTEMBER 25, 1972

The following statement was issued here by the Right Rev. Paul Moore Jr., Bishop of the Episcopal Diocese of New York; Rabbi Balfour Brickner, Director of Interreligious Affairs, the Union of American Hebrew Congregations; and the Most Rev. Thomas J. Gumbleton, Bishop of the Roman Catholic Archdiocese of Detroit. Each was acting in a personal capacity. A copy of the statement was sent to President Nixon.

Three American pilots who have been in North Vietnamese captivity for periods ranging from four years to five months, are in Hanoi waiting return to the U.S. The North Vietnamese Government, which was under no legal duty to release these men prior to the end of the war, has asked for assurances that they be allowed to return via civilian aircraft, and in the company of the American civilian delegation who went to Hanoi last week to bring them back. This group includes the mother of one man and the wife of another.

The Administration answered this request by dispatching to the Vientiane airport where it was thought the men were to arrive on Saturday, a party of high level American diplomats led by the American Ambassador to Laos. A military medical evacuation plane was also standing by on the airfield ready to take the men away.

Furthermore, Defense Secretary Laird has declared that he would "advise" the men to return through military channels and that the type of release envisaged by the North Vietnamese is unacceptable to the U.S. Mr. Laird also made the totally baseless charge that a return through civilian channels would be a violation of the Geneva Convention. Article 117 of the Geneva Convention on the treatment of prisoners of war does not prohibit the return of repatriated prisoners to active military duty. However, the contention makes no requirement concerning the manner of release, where such release is not the product of negotiation between two hostile powers.

All of this has occurred in the face of a clear warning by the North Vietnamese that such interference would jeopardize possible future releases.

It may be difficult for the Administration to accept the fact that the very nation against which it is waging a war of extermination of unparalleled ferocity is capable of acts of good will and humanity. But those Americans whose sense of compassion has not yet been obliterated by this long and brutal war, must surely feel that these and future prisoners of war should be allowed to return to this country by whatever means.

We therefore urge the President to instruct the Secretary of Defense to refrain from any planned or actual interference with the impending return of the three men who are now released and ready to leave North Vietnam as well as any prisoners who might be released in the future.

SWEET ADELINES CELEBRATE 25TH ANNIVERSARY

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. ASPIN. Mr. Speaker, recently I introduced a resolution calling upon the President to recognize the week of April 8 through 14, 1973, as "National Barbershop Harmony Week." I introduced this legislation largely as a measure of recognition for the 35th anniversary of the Society for the Preservation and Encouragement of Barbershop Quartet Singing in America.

Recently I learned that the Sweet Adelines, a women's barbershop harmony organization with an international membership of over 20,000, is celebrating its 25th anniversary this year. This organization has chapters in all 50 States, as well as Canada and England, with one active club in my hometown of Racine, Wis.

The 25th anniversary convention of the Sweet Adelines is being held in Salt Lake City next month, and I think it only appropriate that this group be recognized in connection with my resolution to honor this native American musical form by the designation of "National Barbershop Harmony Week" next April.

PHILIPPINES AND THE COMMUNIST CRISIS IN THE FAR EAST

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. RARICK. Mr. Speaker, while the Congress agrees to limit our military defenses to a secondary role under the interim SALT Agreement and we send wheat to Russia to feed its army and technical know-how to develop its industrial might—all in the name of pursuing the peace—it is well to review the latest Communist activities to appreciate the true meaning of the Communists' quest for peace.

President Marcos of the Philippines has suspended the Constitution of that country and declared martial law. Reportedly, increased Communist bombings and other terrorist activities prompted Marcos to take this action to protect his nation from the threat of Communist subversion.

President Nixon's recent visit to Red China, a rebuff to Japanese Premier Sato, forced him to resign to save face. Now his replacement, Premier Kakuei Tanaka, as if to repay our undiplomatic blunder or to imitate our mellowing attitude toward communism, starts his visit to Red China today. Proposed transferral of the Japanese Embassy from Taiwan to Peiping must also be regarded as a sign of new independence of U.S. policy.

West Germany having already entered into a nonaggression treaty with Moscow will continue courting communism. Foreign Minister Scheel has announced that he will visit Peiping next month.

It appears the present U.S. leadership has advanced the cause of world communism more in the past 1 year than communism has been able to accomplish on its own since the Roosevelt era.

I ask that related news clippings follow my remarks:

[From the Washington Star and Daily News, Sept. 23, 1972]

Philippines Placed Under Martial Law

The Philippines proclaimed martial law, closed down major newspapers and radio stations and cut communications with the outside world today for the first time since gaining independence from the United States 26 years ago.

The drastic measures came amid unrest caused by the country's worst summer floods in history and a growing wave of bombings and terrorism culminating in an unsuccessful attempt to assassinate the defense secretary yesterday.

An expected broadcast by President E. Marcos was not heard by evening. Philippine radio stations still on the air played uninterrupted music.

Sketchy reports filtering out of the troubled nation indicated the military appeared to be playing a subdued role and martial law was not being enforced in Cebu and Mindanao, from 350 to 600 miles south of Manila.

Government sources said Marcos signed the martial law decree transferring power to local military commanders late yesterday. But other reports said the proclamation was dated Thursday, and had been prepared before Defense Secretary Juan Ponce Enrile and his aides escaped unscathed from shots fired into Enrile's car by unidentified gunmen who fled.

A Manila police spokesman said three senators of Marcos' opposition, the Liberal party, and a newspaper columnist were arrested, but gave no reason.

(Passengers arriving in Hong Kong today from Manila aboard a Cathay Pacific air flight said Manila was calm when they left, United Press International reported. German businessman Hartey Burmester said there was little traffic and that Filipinos were not allowed to leave the country. Hong Kong merchant Dennis Yuen said he saw nothing unusual except for extra police and armed troops at the Manila airport. John Dawson, an English tourist, said he did not see too many soldiers on the street but there were army men in front of the government offices. Otherwise the situation was calm.)

Gunshots were reported on the campus of the state university, where classes were ordered suspended. The university has been a center of leftist activity.

Marcos, whose second term as president ends next year, has warned recently of increasing Communist terrorism. He said in a speech last week that martial law might be needed to combat it.

Police without warning shut down all of Manila's newspapers and all major radio and television stations before there was any announcement of martial law. Employees of The Associated Press, whose Manila office is in the Manila Times Building, were ordered home without explanation.

USE CABLES, PHONES

With access blocked to normal circuit, AP newsmen used commercial cable and telephone to report developments until the government cut those channels. Shortly before the cutoff, AP Correspondent Lynn C. Newland cabled New York that there would be no communications for 24 hours.

The American Telephone & Telegraph Co. said the Philippine government had ordered that calls to Manila be refused.

A report reaching Singapore before the cutoff said Marcos used a special police force called Metrocom to close newspapers and radio stations and that the martial law proclamation covered 12 principal regions, including greater Manila.

Bombings and other terrorist activity in the Manila area have killed one person and wounded at least 20 others in the last two months. Gunfighting and other violence, crime, political turmoil and corruption have long been commonplace in the Philippines.

The arrested senators were identified as Ramon Mitr, Ramon Diokno and Benigno Aquino Jr. The columnist was Maximo Soliven of the Manila Times.

[From the Washington Post, Sept. 25, 1972]

Marcos Takes Over Airlines and Utilities in Emergency

Manila, September 24.—President Ferdinand E. Marcos has ordered a military takeover of the three national airlines and all major utilities in the Philippines to guard against possible Communist action in the wake of the imposition of martial law, it was disclosed today.

A letter of instruction to Defense Secretary Juan Ponce Enrile released here said that the takeover was necessary to prevent any disruption of vital public services "in view of the present national emergency."

Marcos announced the proclamation of martial law last night in response to what he called an existing Communist rebellion "enjoying the active and material support of a foreign power."

He also announced sweeping national reforms to build a "new society" and the arrest of suspected Communist conspirators, including several prominent politicians and newsmen.

Included in the takeover were the Philippine Air Lines, Air Manila, Filipinas Orient Airways, the Manila Electric Co., the Philippine Long Distance Telephone Co., the National Waterworks and Sewerage Authority and the Philippine National Railways.

At the same time, the government announced restoration of domestic air services and the transmission of cables and telegrams within the country and to international points after a brief interruption. International flights were reported normal except for a ban on unofficial Filipino travelers.

Government officials reported that life in the island nation was proceeding normally despite the imposition of martial law and a midnight to 4 a.m. curfew. There were no signs of panic as thousands of civilians strolled through the city this morning.

The emergency measures forced the closing, at least temporarily, of most newspapers and radio and television stations. Only one daily newspaper, one television station and 3 radio stations were allowed to resume operations.

Foreign correspondents were asked to submit dispatches for clearance by the Information Department before transmission. A National Broadcasting Co. television crew was detained briefly after taking pictures without authorization.

Information Secretary Francisco S. Tatad told a news conference that in the first day of martial law, there were no serious incidents. He also said no major crimes were reported yesterday.

"This is perhaps a unique day in our history and if it continues, perhaps we can say we are moving towards a new society," he said.

Tatad said that Marcos today held his first Cabinet meeting since martial law was declared and that the president ordered his key officials to dismiss all "corrupt and incompetent" civil servants.

[From the Washington Star and Daily News, Sept. 25, 1972]

Marcos Began Martial Law Before Shooting, Aide Says

Tokyo.—The speaker of the House of Representatives of the Philippines, Cornelio T. Villereal, said here today that President Ferdinand Marcos had decided to declare martial law long before the incident that was reported earlier to have instigated the proclamation.

Villereal told newsmen that the imposition of martial law had been studied for a long time, had been decided on, and was in effect on Thursday, well before the ambush of Secretary of National Defense Juan Ponce Enrile on Friday evening.

Initial news dispatches from Manila indicated that Marcos had declared martial law after an attack on Enrile as he was riding in a car on his way home. Enrile and others with him were reportedly unhurt.

But Villereal said the ambush had no connection with the president's decision. Rather, he said, Marcos had made the decision earlier because of "excesses" in the exercise of Filipino freedom and the "pattern of subversion" that had developed there.

Villereal arrived here last night with a delegation of Filipino congressmen on a good-will mission to the Soviet Union, Britain, France and the United States.

OTHERS IN DELEGATION

Others in the delegation attending the news conference were Marcelino R. Veloso, majority floor leader; Joaquin R. Roces, assistant majority floor leader; Nicanor E. Yniquez, chairman of the Committee on Foreign Affairs, and Carmelo Z. Barbero, senior minority member of the Committee on Foreign Affairs.

Villereal also disclosed that the decision to impose martial law had been made by Marcos alone, without consultation with the National Security Council or with the opposition party.

Barbero, a member of the opposition Liberal party, said that martial law had come as "a complete surprise" to his party.

The speaker indicated that he expected martial law to last five or six months, but said that he could not make an accurate prediction as to when it would be lifted. He said that he hoped that "normalcy could be restored" in that time.

Villereal, however, said he could not guarantee that the presidential election scheduled for next fall would be held. Marcos, now in his second term, cannot succeed himself. Barbero said, "We hope there will be an election because we think we will win it."

Villereal said that between 20 and 30 critics of the government, including Sen. Benigno Acquino, a leader of the Liberal party and possible presidential nominee, had been "invited" into military custody.

SUBVERSION CHARGES

Veloso said those arrested had been charged with subversion and "undermining the integrity of the Republic of the Philippines." He indicated that they would be tried either in civil or military courts.

Barbero expressed his personal support of Marcos' action.

Roces said that he did not think it would be necessary to call upon the Southeast Asia Treaty Organization, of which the United States is a member, for help even though Marcos has accused an unnamed foreign power of supporting subversives in the Philippines.

Villereal agreed, defending the imposition of martial law as necessary "To protect the citizenry of the country from being molested by lawless elements." He said the Philippines wanted foreign investors and foreign travelers to be safe there.

Veloso contended that suspension of the Filipino press and the censorship of foreign newsmen in the Philippines was required because of the "increasing tempo of efforts to destroy the country."

Villereal contended that "freedom, once it exceeds the limitations of freedom, becomes license."

"It is in the free press," Villereal asserted, "that the enemies of the republic ride on." He said that newsmen, several of whom were in military custody, had fanned a desire to overthrow the government. The Philippine constitution, he said; "is not lacking in forethought in curbing excesses of freedom."

MORE REFORM POSSIBLE

The speaker denied that the imposition of martial law was an admission by Marcos that his administration was unable to govern the nation, despite having been in power for seven years. But he agreed that Marcos had not done all he could have to bring about order and reforms.

Roces conceded that "democracy has not been working as well as it should" and that land reform, the disarming of private armies, and other reforms had been delayed by resistance and a lack of resources.

In Manila, the government announced that 53 prominent Filipinos, including two provincial governors, six members of Congress and seven newspapermen, have been arrested in the Manila region since martial law, the Associated Press reported.

Press Secretary Francisco Tatad provided the first official confirmation of the arrests over the single television channel still operating. All but selected media outlets have been closed and news being sent abroad is censored, AP said.

AP quoted Tatad as saying four of the prominent persons detained had subsequently been released. Besides politicians critical of Marcos and journalists, those held included leading left-wing intellectuals.

Others still under detention include Sen. Jose Diekne, member of the civil liberties union; and Sen. Ramon Mitra, another prominent member of the opposition, AP reported.

A palace official said the announced arrests covered only the Greater Manila area, suggesting that more have been made in the provinces.

[From the Washington Post, Sept. 25, 1972]

PEKING GIVES TANAKA'S VISIT TOP PRESS PLAY

(By John Burns)

PEKING.—When the date of President Richard Nixon's visit to China was announced the People's Daily reserved space for the item at the bottom of its front page.

But Thursday, when it announced that the visit of Japan's Premier Kakuei Tanaka would begin on Monday, the paper threw aside its reserve and accorded the item pride of place at the top of the page.

By giving bigger play to the Tanaka story, the editors of the Communist Party journal were giving expression to a feeling that has been palpable wherever Chinese have gathered in the past few days—that the prospect of rapprochement with Japan is even more exciting and dramatic than the pursuit of detente with the United States.

To the ordinary Chinese, the Nixon visit was a spectacular but remote event. He may have grasped its political significance, but he could scarcely feel touched by it in a personal way, for America and Americans have always been a distant and relatively unknown quantity to him.

The same cannot be said of Japan and the Japanese, whose enroachment on Chinese territory began toward the end of the last century and culminated in the brutal occupation of 1931–45 during which 10 million Chinese are said to have died.

Tanaka will be treading ground that was first cleared by the United States and using it to accomplish at a single stroke what it may yet take the Americans several years to do—the establishment of diplomatic relations.

If all goes according to plan, Tanaka's visit will leave the United States as the only major nation in the world, apart from West Germany, which does not yet recognize Peking.

Bonn's foreign minister, Walter Scheel, is expected to take the plunge himself when he visits Peking next month, leaving Mr. Nixon alone with his pledge that he will never abandon his friends on Taiwan.

It was only a little over a year ago that Mr. Nixon sent the Japanese reeling with his dramatic announcement—uncommunicated to them in advance—that he would visit Peking.

By that initiative, Mr. Nixon put in train a fundamental realignment of the relations between the great powers. This, in turn, necessitated a realignment between the two great states of Asia.

What was once said of America and Britain—that they were two nations divided only by a common language—could be paraphrased and reapplied to China and Japan in respect to their cultures, which remain very similar despite centuries of separation and hostility.

Ever since the eighth century, when itinerant Japanese scholars carried home the influence of China's Tang Dynasty, Japanese culture has owed much to China. Japan's prized Pagodas and palaces, its religion, its social customs, even its written language are borrowed from the mainland. Only their spoken languages are totally different.

Over the centuries, the two countries drew apart and there was little contact until Japan's industrial revolution in the 1946 Century turned it outward. Eager for empire, Japan soon fell in with the Western plunder of China, then a helpless giant.

For the Japanese, the Tanaka visit provides an opportunity to expiate the guilt feelings that derive from the militarist adventures of the past. It will also remove a dark cloud that has been hanging over Japan ever since it began its phenomenal postwar rise to economic domination of Asia.

The worry has been that failure to reach accommodation with China could lead Japan to new hostilities with the vastly superior military power of China.

With diplomatic relations, the Japanese will not only be able to put those fears behind them, but they can look forward to consolidation of trade relations which already net them more than a quarter of China's $4.5 billion annual imports.

The greatest beneficiary of all is likely to be Tanaka personally. For him, there could be no better way of launching the campaign for the parliamentary elections expected later this year.

BETTER HEALTH CARE IMPORTANT TO ALL

HON. WILLIAM R. ROY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. ROY. Mr. Speaker, better health care is of importance to all Americans. I found the following article most helpful in understanding the current situation. It offers some solutions which deserve our attention.

The article follows:

HEALTH CARE

(By W. F. G. Ayer)

(NOTE: The author of this chapter, W.F.G. Ayer, is a graduate of Wesleyan University in pre-medical studies. He is currently writing a major paper on the use of paramedical personnel in health care.).

The crisis in American medicine, which was predicted as long as twenty years ago, has sprung full-blown on the American political scene. Over a thousand bills on health were introduced in Congress in 1970 alone, and there are several major health care bills pending which would make massive changes in the financing and structure of American medicine. Acute manpower shortages, skyrocketing costs, inadequate care of millions, and lack of accountability by the vast medical establishment are the symptoms which demand action. This essay focuses on a few major areas: manpower problems, proposals to reorganize medical delivery, the costs and financing of medical care, and the proposals currently under consideration for restructuring the financing of medical care. There are no overweening villains or apocalyptic solutions in looking at health care, but there is a critical need for a national health policy that will take a comprehensive approach toward assuring the right to medical care for every American.

MANPOWER NEEDS

Almost all experts in the health care field acknowledge a shortage of health care personnel in the most skilled classes. HEW estimates a present shortage of 50,000 doctors and 200,000 skilled nurses. The Carnegie Commission on Higher Education, in a detailed look at the problem, called for a doubling of medical school places by the end of the decade. Walter Bornemeir, past president of the AMA, called even this estimate short-sighted, and predicted that at the current growth rate, manpower shortages in medicine will not be abated until the 1990's. At the same time, 15,000 qualified students are turned away from American medical schools each year, and increasing numbers of young Americans are attending medical schools in Mexico, and Europe.

But these general figures do not take into account the most critical problem, the increasing shortage of primary medical manpower. Forty years ago, there was one primary physician for every 700 people in the U.S. Taking present totals of the three major primary care classifications in office-based practices, 51,000 G.P.'s, 10,000 pediatricians, and 23,000 internists, the ratio of primary care physicians is now roughly one to every 2,500 people. Between 1963 and 1970 alone, the number of general practitioners dropped 20%. All told, less than a third of physicians are in these three basic medical fields which are most in demand. At the same time, there is an acknowledged surplus of surgeons, estimate at three times the necessary number by the current President of the American Association of Family Practice. Almost 20,000 physicians are currently engaged in research or administration rather than direct patient care. These trends continue as only 15% of medical school graduates are currently entering primary practice, with the other 85% opting for the higher-paying, less time-intensive specialties.

The decline of primary manpower has led to the growing use of hospital emergency rooms for illnesses which could just as easily be treated in a physician's office. Aside from providing inadequate care with little follow-up, emergency-room treatment results in inefficient utilization of hospital resources which are designed for critical and chronic care. In 1970, over 39 million outpatient visits were recorded in community hospitals, and these figures are increasing.

For others, especially in rural areas, manpower shortages have meant the lack of any physicians. Currently, only 3.8% of the nation's doctors are located in the most rural areas where over 10% of the nation's population lives. In 1970, there were 132 counties, covering 4% of the total area of the U.S. with no practicing physicians, and hundreds of small towns suffering the same fate. In some inner city areas, the ratio of all private physicians is only 1 to every 1,200 persons.

The medical profession has taken belated recognition of the shortage of primary manpower by creating a new specialty in family practice and encouraging the growth of Departments of Family Practice in medical schools. Yet, despite the recognition of the shortage, less than a third of medical schools now have such programs. The Family Practices Act, which would have authorized 225 million dollars for the creation of such departments was pocket-vetoed by President Nixon in 1971, and over the last year only 9 of the 96 programs applying for existing Federal grants in these areas were funded by the Nixon Administration.

What is urgently needed in the area of physician manpower is an increased output of physicians. Present federal efforts, which provide construction and planning grants and bonuses for new medical school places, should be supplanted by direct intervention in planning for future physician needs and construction of medical educational facilities using total federal funds. In addition, the implementation of plans to build medical schools which would place exclusive emphasis on family practice and primary care, are espoused by such medical experts as Dr. Albert Proger (former President of the Tufts University Medical Center) should be studied. Current emphasis in most medical schools is almost irreversibly devoted toward the training of specialists, and completely new institutions could go a long way towards reintroducing preventive and comprehensive care to American medicine.

The problem with increasing the supply of physicians is nevertheless long-term. Construction or expansion of medical school facilities is costly and takes long periods of time. Current emphasis should be placed in two directions—upgrading existing manpower, and attempting to organize medical practice on a more efficient basis so that the existing physicians can more effectively meet the needs of America's population. One major idea along this line has been the development of auxiliary personnel to increase physician productivity. The concept involves the training of existing personnel, for example ex-military medics, and already-trained nurses. Pilot projects, at Duke University, the University of Colorado, and the University of Washington have shown that the pediatric nurse-practitioner with two years of training can effectively double for a pediatrician in such routine matters as "well-child" care. Physicians' assistants in general practices, by treating the most minor cases, can decrease the work-load of the doctor by 25% to 40%. Recently, multi-phasic screening, which involves the administration of a wide number of tests at a single time by paramedics to replace the administration of medical histories and physicals, has been introduced as a point of referral for the patient in lieu of a primary physician.

The importance of these programs cannot be underestimated. They provide the primary practitioner with the same sort of backup which is available in hospital practice, where a wide range of auxiliary personnel from radiology technicians to obstetrical nurse/midwives remove much of the routine duties from the physician's schedule.

For the 3.4 million non-physician health workers they offer the sort of career motivation that has been lacking in medicine, the absence of which has been largely responsible for high turnover rates among auxiliary personnel, and partially responsible for the fact that 600,000 nurses, three times the estimated shortage, have presently left the labor force.

In this area of concern, there are three major and immediate needs for federal action. First is the dramatic need for change in medical licensure laws, which frequently limit the services which auxiliary personnel can perform. Licensure laws should be uniform, to allow for geographical mobility of medical personnel, should be based on a flexible performance-based set of criteria rather than the rigid educational requirements presently enforced, and should be subject to revision on a yearly basis to take notice of the rapidly changing needs of modern medicine.

Secondly, the government should provide strong financial encouragement for programs which provide upward mobility in the health professions, at least equal to the amount which is spent on training physicians. At present, the training of the upper 10% of the medical hierarchy receives at least ten times as much money as development of the lower 9/10 of the health professions and many health workers presently receive their training from commercial schools rather than accredited institutions. Training grants should provide aid to the students, as well as to specific programs, since many auxiliary workers come from the lower economic classes and are dependent on their current incomes. Thirdly, government must provide initiative for the reorganization of medical practice in the form of comprehensive care facilities to extend the use of auxiliary personnel outside of its traditional hospital base. Effective use of paramedical personnel is dependent on the reorganization of medical care on a far more rational basis than the current solo-fee-for-service practice.

REORGANIZATION OF MEDICAL CARE

The need for reorganization of medical care is acknowledged by the public and experts alike. A 1971 Harris poll revealed that 77% of the American public favored the establishment of neighborhood health clinics where all a family's health needs could be served at one time. Most physicians agree that preventive and comprehensive care, which have been neglected due to the decline in primary practitioners and increasing emphasis on specialized treatment, is long overdue for a major renaissance. Furthermore, it has been shown that reorganization can increase the quality of care by providing settings more conducive to continuous care, more consultations among specialists, and better opportunities for continuing medical education. And, finally, reorganization can cut costs dramatically.

The organizational model central to most of the major health insurance plans, and which Nixon has emphasized as the cornerstone of his health policy is the prepaid group practice, a.k.a. Health Maintenance Organization or comprehensive health Care Corporation. Based on the experience of such independent programs as the Kaiser-Permanente Health Plans, which began in California in the late 40's and have expanded to Washington, Colorado, Ohio, Oregon, Washington, and Hawaii, the HMO consists of a group of doctors, administrators, and auxiliary medical personnel who contract to provide almost all health services for a given population on a pre-paid capitation basis. There are currently about 75 large-scale plans operating and approximately 300 in various stages of planning. Among the positive advantages of such organizations are:

(1) Decreased utilization of hospital facilities, resulting in dramatic cost savings. Recent figures comparing standard Blue Cross/Blue Shield with group practices in terms of rates of hospital utilization show that HMO's can reduce hospitalization by up to 60%. Sample statistics comparing Blue Cross/Blue Shield and sample HMO's in same areas are presented below.

ANNUAL HOSPITAL DAYS/THOUSAND PERSONS COVERED

	Blue Cross/ Blue Shield	Group
District of Columbia, Virginia and Maryland	830	430
New York	800	570
California	715	395
Oregon	930	290
Washington	760	335
Hawaii	1,000	515

In addition, HMO's have cut optional operations such as appendectomies, tonsillectomies, and hysterectomies by up to 60%.

(2) Increased efficiency, due to organizational savings in billings, increased use of auxiliary personnel, and most recently such ideas as multi-phasic testing.

(3) Continuous care on a 24-hour basis 7-days a week for emergencies, with centralized record-keeping and immediate access to patient records in emergencies.

(4) Cost savings of 20 to 30% of total medical bills over fee-for-service medicine.

Despite the considerable advantages of HMOs, they have not increased proportionately over the last 15 years. The major reasons behind the lack of expansion of organization changes along these lines are:

(a) Extensive opposition by the medical profession, incorporated in legal restrictions on group organizations, denial of hospital privileges to doctors affording prepaid care, and restrictions on incorporation laws.

(b) Difficulty in organizing efficient HMOs. The minimum population size for an effective practice is estimated at 25,000 to 50,000 in a relatively small geographical area, with a specific financial commitment. Present HMOs have begun for the most part through the action of large unions, with organizational resources and large amounts of money available for financing initial capital construction programs.

(c) Lack of sufficient incentives for physicians to participate. Although the pre-paid group can offer elimination of administrative burdens, more regular hours and predictable schedules, and a fixed income, financial rewards in many private practices are far higher than in group practice, and the traditional fee-for-service method of practice is ingrained in the consciousness of many older physicians.

In addition, there is significant variation in the performance of existing HMOs. Access to hospital facilities is perhaps the key factor in setting up an HMO. The major need of efficient HMOs is control over its own hospital facilities, if the dramatic savings are to be realized. Both the Health Insurance Plan of Greater New York and the Group Health Associates of Washington, D.C., have found it impossible to gain significant control of hospital facilities, with resulting expenditures estimated at 30% higher than necessary. Hospitals by and large have hesitated to surrender any control of their facilities to outside groups, when they can be reimbursed at their full costs by private insurers and government without being forced to economize.

In addition, it is necessary that HMOs have their own intermediate-care facilities to offer the care that is the major factor in reducing hospitalization and increasing efficiency. Plans which offer only payment of physicians' bills or access to a number of small groups have not achieved the sort of efficiencies that larger, more centralized, units can achieve.

Nixon's HMO proposals are backed by far more rhetoric than money. For the original proposals, less than 50 million dollars was budgeted for direct spending. The bulk of the money takes the form of guaranteed loans to cover construction costs and initial operating losses. The call for 100 HMOs, each with approximately 50,000 subscribers, would cover less than 3% of the population. The distinction between "medically undeserved areas", which will receive half of the funds, and other areas is an acknowledgment of the two-class system of medical care. The separation of facilities for rural areas and inner-city residents will probably perpetuate present inequalities in service, since no provisions are made in the bill to lure doctors, money, and medical resources into these areas.

There are no incentives for hospitals or fee-for-service practitioners to aid in the development of HMO's, and there are no provisions to attempt regional cooperation and efficiency in medical care, except for the provision that state and regional planning offices are to be consulted. Finally, the Nixon proposals do not alter current methods of financing; the costs of enrolling in a prepaid group, which can go as high as $600/year for a family will be far beyond the reach of the lower middle class, unless some changes in financing are assured.

More substantial HMO proposals are embodied in the Kennedy-Griffiths bill, relying on a complete change in financing mechanisms, far greater levels of budgetary authority for planning and construction, and strong financial incentives for physicians to participate.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,757 American prisoners of war and their families.

How long?

DURWARD GORHAM HALL

HON. LESLIE C. ARENDS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. ARENDS. Mr. Speaker, Thursday, September 14, was the 62d birthday of our distinguished colleague, Durward Gorham Hall, of Missouri, who is affectionately known to us as "Doc" Hall. Regretfully, in view of the legislative business then pending, there was not sufficient time for all of us to make appropriate comments. A birthday of "Doc" Hall is not just an ordinary occasion, for "Doc" Hall is by no means an ordinary man.

No one of us—certainly not I—could do justice to the man and the occasion within the 1-minute speech rule. For that matter, we could not be certain but that "Doc" Hall himself would object to each of us asking unanimous consent to proceed for 1 minute. He most likely would insist on the regular order and that we get on with the scheduled business of the day. And we well know "Doc" Hall is not disposed to grant unanimous consent to anything unless he first knows the why's and wherefor's.

I will now say to him publicly what I said to him privately: "Congratulations and best wishes on your 62d birthday, and may you have many more."

Birthdays are supposed to be joyous occasions, but some of the joy of "Doc" Hall's 62d birthday has been muted by the knowledge that he is retiring. We can hardly be expected to be in a gala mood on his birthday when he gives his age as one of the reasons for his retirement. He is 62 years young in his capacity for hard work and knowledge of today's problems and vision of tomorrow. He is old only in his wealth of experience and mature wisdom. Maybe a younger man will be chosen to fill his seat in this body who will prove himself knowledgeable. But it is one thing to have the facts and quite another to have the understanding that only experience can bring to evaluate the facts.

To be sure, no one of us is indispensable. But there will never be another "Doc" Hall. We all know the contribution he made on this floor. No one could be more diligent in attendance, except possibly our friend and colleague, the gentleman from Iowa (Mr. Gross). No two Members have had a more detailed knowledge of the bills, major and minor, brought before us. And no two Members have a more complete knowledge of the rules of procedure, as they have demonstrated on countless occasions. They not only know the rules; they know how to apply them to advantage.

There have been occasions when some of us have been annoyed that "Doc" Hall would voice an objection to a unanimous-consent request, or that he would insist upon a quorum. But we must admit that "Doc" Hall did not ask of us any more than he asked of himself. He made it his business to know what was pending and what was proposed, and he made it his business to be on the floor when the House was transacting the people's business.

It has been my privilege to serve for many years on the Armed Services Committee with "Doc" Hall. And he has been as diligent in the work of our committee as he has been on the floor of the House. Whether the fact that he is from Missouri has had anything to do with it, I do not know; but "Doc" Hall takes the legendary Missouri attitude of "show me." He wants the facts not just someone's conclusions or opinion, recognizing that we can often honestly arrive at different conclusions on the same set of facts. And it must be said of "Doc" Hall that he respects opinions of others, however contrary to his own, so long as they have some basis in fact.

"Doc" Hall's contribution to the work of our Armed Services Committee is beyond measure. It has always been of a constructive nature. Understandably, being an accomplished physician by profession, he gave special attention to the medical care needs of our service personnel. Needless to say, the bill (H.R. 2), which the President signed last Thursday, to provide for the establishment of an Armed Forces University for the training of doctors and nurses, will stand as a monument to his tireless efforts.

One of the most rewarding experiences for me was to be a guest speaker for "Doc" Hall in his congressional district. The people he represents love and respect him. He is their very own. He is not only their very own Congressman; he is their very own doctor. He is more than just a part of them. In their love of God and country, in their self-reliance and fortitude, in their rugged individualism and their neighborliness, "Doc" Hall is one of them in the fullest sense.

All this found expression in the inspiring speech which "Doc" Hall delivered on this floor as a part of our Flag Day ceremonies. In that moving speech last June "Doc" Hall said:

> In this so-called era of "relevance" such traditional words as duty, honor, country, sacrifice, patriotism and dedication are off-times considered to be "old hat" or out style.

And he went on to point out that while "relevance is important in today's world, there is still room for reverence to the flag that remains constant in representing principles of freedom and justice."

When I heard those words of "Doc" Hall, I could not but recall my visit to his district and how impressed I was with the solid, stable, forthright people he represents. I could not but reflect on the lines from Stephen Vincent Benet's epic poem, "John Brown's Body", where he describes the people of the Ozark area:

> They are our last frontier.
> But when the last moonshiner buys his radio,
> And the last, lost wild-rabbit of a girl
> Is civilized with a mail-order dress,
> Something will pass that was American
> And all the movies will not bring it back.

"Doc" Hall and the people he represents are the descendents of these rugged, self-reliant, self-sufficient pioneers. When "Doc" Hall leaves this Congress something will also pass that was American, in the finest, truest scene. He will be greatly missed by all who were privileged to know him. I will miss him much more than he can possibly realize. No one can take his place. I wish for him always the very best in his well-deserved retirement.

FRELIMO DESERVES U.S. SUPPORT

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. STOKES. Mr. Speaker, for 450 years the Portuguese Government has maintained an iron hand over the internal affairs of its African colony, Mozambique. But in the past 8 years, the Mozambique Liberation Front, Frelimo, has succeeded in driving a wedge into this colonial anachronism. For this, Frelimo deserves the unqualified support of the U.S. Government; instead, as is the case with so many liberation battles throughout the world, our Government is on the side of the oppressor.

Today I rise to salute Frelimo on the eighth anniversary of its courageous war for independence. In tribute to the occasion, I pledge to continue to oppose American support of Portuguese military and economic exploitation in Africa, and I urge my colleagues to join me.

Under the colonialist system, 95 percent of the Mozambicans have remained illiterate; medical care has been practically nonexistent; Mozambicans have been robbed of their land; and they have been forced to work on Portuguese plantations or in the mines of South Africa. In this Portuguese colony, no opposition to the ruling regime is tolerated and peaceful resistance is met with armed reprisals.

But Frelimo has freed one-third of the country from its metropolitan power. The lives of the 1 million Mozambicans, who live in the liberated sections of Mozambique, have improved considerably. Food production is increasing; education and medical services are being offered; and a democratic political system has been instituted.

Clearly, in consonance with our own Declaration of Independence and Constitution and in accord with our avowed principles, we belong on the side of Frelimo. We should be giving the organization the support it needs to continue its battle against oppression. Instead, the U.S. Government has thrown its weight to the last major colonial power in Africa. Since 1966, the Portuguese national airline has purchased five 707's, two 727's and two 747's from Boeing—at a cost of $112,008,000. The Export-Import Bank paid $34,599,000 toward purchase of those planes. Portuguese officials openly admit that the planes are used for transporting troops to Africa.

Last year, the Government granted a license to Bell Helicopter to sell five helicopters to the Portuguese Government for use in the Cabora Bassa Dam area; this region has been under attack from the Mozambique Liberation Front. The President's recent Azores pact guarantees a $436 million loan to Portugal, ostensibly to permit the stationing of American troops at Lajes Field. NATO officials have admitted, albeit reluctantly, that the base has no strategic value whatsoever to the United States or to Europe.

Furthermore, it has recently come to light that U.S. Army experts in West Germany are actually training Portuguese officers in guerrilla warfare. It has been known for some time that the NATO Defense College trains Portuguese officers regularly.

I urge my colleagues and the administration to join me in commemorating the Mozambique Liberation Front's 8-year-old fight for freedom and human rights by reassessing our commitments in Africa. We must begin to acknowledge what it will cost us to remain on the side of an oppressive and desperate colonial power.

OBJECTIVE POLITICAL REPORTING

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. SCHMITZ. Mr. Speaker, being now actively engaged in a nationwide campaign, all too often I am confronted with examples of politically biased reporting or still more commonly, selective omission of individuals or political parties about which certain persons in the media do not wish to comment. This is a particular problem with regard to the American Party whose standard I now bear. Therefore I was especially pleased to find one national news magazine, U.S. News & World Report, providing thoroughly fair and completely objective coverage of the American Party campaign in a story printed in its September 25 issue. I present this particular report to you as an example of the kind of journalism we have the right to expect, but too rarely find, in American politics:

FOR WALLACE'S OLD PARTY: A NEW LEADER, A BRISK BID FOR VOTES

While Democrats and Republicans dominate the headlines in the race for the Presidency, the third party once headed by Governor George C. Wallace is mounting its own aggressive campaign.

Standard-bearer for the American Party—as the new "conservative" coalition is known is Representative John G. Schmitz of California—until recently a Republican.

By mid-September he had spoken in 15 States, including New York, Michigan, Illinois, Wisconsin, Florida, Texas and California. He has set visits later in at least 15 more States.

Mr. Schmitz already has won a place on the ballot as a presidential nominee in some 30 States. Despite limited funds and a small staff, his backers are trying to boost that number to 40.

NO ILLUSIONS

The Congressman makes clear that he entertains no illusions of upsetting Richard Nixon. But he has told campaign audiences that he expects to outdraw Democrat George McGovern and to get more than the nearly 10 million votes recorded for Governor Wallace in 1968.

Many observers, including some closely allied with Mr. Schmitz, predict he will receive only about half that many votes. Even such a total, his associates say, would assure the organization a permanent place in U.S. politics.

The American Party was formed in 1969, a consolidation of several "conservative" groups and the American Independent Party. The latter, with Governor Wallace as its '68 nominee, won the electoral votes of five States.

Mr. Schmitz, 42, was nominated for President at the American Party's National Convention in Louisville in August. The move came after Mr. Wallace said he would not run during his period of recuperation from bullet wounds suffered in an assassination attempt.

DEFEATED FOR REELECTION

The congressional district which Mr. Schmitz represents includes San Clemente, official residence of Richard Nixon. Mr. Schmitz's term in Congress, however, is ending. He was defeated in the Republican primary for renomination to a second term. Then, when he was chosen as the American Party's nominee, he became affiliated with that group.

The Congressman generally is regarded as an "ultraconservative" in politics. He is a member of the John Birch Society, as is his group's vice presidential nominee, Thomas J. Anderson, 61, a writer and publisher whose home is in Pigeon Forge, Tenn.

Some key members of the Wallace movement in 1968 now are working for Mr. Nixon. But the Governor had declined, as of mid-September, to specify whether he would endorse any presidential candidate. Mr. Schmitz is trying to hold the Alabamian's constituency, and his stands on many issues are the same as those of the Governor.

Representative Schmitz favors a crackdown on welfare programs, a cut in federal spending to reduce taxes, and restrictions on the power of the courts.

On Vietnam, he has approved the mining of Haiphong harbor, and as President, he says, he would lay down these terms: "If all prisoners of war are not back in American hands within 90 days, Ho Chi Minh's successors will find one Marine division and one Green Beret group knocking on those prison doors."

OPPOSES TRADE WITH REDS

Mr. Schmitz opposes busing of school children to achieve racial balance, abolition of the draft, trade with Communist countries. He has criticized President Nixon for visiting Peking.

Prior to his election to Congress, Mr. Schmitz was a member of the California State Senate. His home is in Santa Ana. Born in Milwaukee, Wis., he is a member of the Roman Catholic faith, a former Marine pilot and one-time college instructor. He is married and has seven children.

Winner of many awards, Mr. Schmitz in 1972 was chosen "Man of the Year" by the Congress of Freedom, and was rated "No. 1 Congressman" in a poll of 100,000 members of the National Economic Council, Inc.

Leaders of the American Party point out that they are looking mainly to the future. Says one of them:

"We are building organizations in many States so that the party will be strong in 1976. The old Democratic coalition is falling apart, and we doubt that the Democratic Party will recover from the disastrous campaign of Senator McGovern this year. We believe in the two-party system—the Republican and American Party system."

With his 1972 campaign aim limited, Mr. Schmitz hopes to put the emphasis on racking up a respectable popular vote rather than electoral votes.

For the long pull, the American Party has a bigger goal: not just to become a strong third party—but to be a dominant force in American politics.

THE NIXON EDGE

HON. WILLIAM L. SPRINGER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. SPRINGER. Mr. Speaker, the Christian Science Monitor issue of Monday, September 18, has an interesting editorial under the Monitor's View.

The title of the editorial is "The Nixon Edge" which is an excellent analysis of the President's overwhelming edge at this point of the campaign. The thing that has completely fooled everyone including myself is the lead the President has taken with women voters, among under-30 voter, and trade union members.

It would appear at this time that the President's edge is even greater than Lyndon Johnson had over Goldwater in 1964.

The testimony which was rendered by Lou Harris before a Senate subcommittee indicated that the trend is irreversible because people have already made up their minds about how they are going to vote.

I think this gives us an idea of how people are making up their minds early when one of the candidates has been outside of the mainstream of this country's thinking. This is the only reasonable conclusion that one can come to when the indication of the polls all seem to be approximately the same. I am sure many of my colleagues will find this article interesting and it is attached herewith:

THE NIXON EDGE

The significant fact about the presidential race is Mr. Nixon's overwhelming edge.

The latest Harris poll has the incumbent ahead of his rival by a 63 to 29 percent margin. The latest Gallup poll also showed a 34 percent lead, 64–30. This lead holds up in almost every important category of voter. By sex, where Mr. Nixon had scored less well among women voters, he now maintains his 63–29 percent lead. Among under-30 voters, he leads George McGovern by a 52–42 percent. He leads among trade union members by a surprising 56–34 percent. Another traditionally Democratic category, the Roman Catholic vote, has reversed a 2 percent McGovern lead in May to a 62–27 percent Nixon margin.

But this powerful Nixon lead in the polls, greater even than the edge Lyndon Johnson held over Barry Goldwater in 1964, means both less and as much as it appears to mean.

Obviously it gives Mr. Nixon a margin that can hardly be closed in the six or seven weeks that remain in the campaign. In May Mr. McGovern had a far smaller handicap, a seven-point poll spread. But even though Mr. McGovern will surely recover at some stage in the remaining days of the campaign, it will be a matter of too little too late.

Still, a Republican win, even by a landslide, will also mean less than Republicans might hope.

If one thinks back to the Johnson landslide of 1964, and how the Democrats came apart at the seams by 1968, a landslide in 1972 does not necessarily signify a shift to Republicanism in the population. The cold fact is that the characteristic American voter is now the independent, not the party-bound voter. And this group, more easily won over by centrist policies, is also more quickly lost.

The Nixon strength also does not show the decisively conservative swing in the electorate that many have been claiming is under way. If by conservatism one means a desire for social stability, for less adventurous commitment abroad, then one can say there is a yearning to ease up and consolidate, which are "conservative" characteristics.

But what about in economics? Are not wage and price controls, and a Congress edging toward a revolutionary income maintenance program submitted by the White House, distinctly "liberal" oriented?

True, in such social issues as busing and open housing many voters are calling for a halt. But even this must be seen as a reaction to the dominantly liberal desegregation trend of the past two decades, which is still occurring.

In foreign affairs, can a United States which is on speaking and trading terms with the two Communist powers, China and the Soviet Union, be said to be on a "conservative" course?

What has happened in the past four years is that the center of the American voting public has continued its slow progressive shift. Mr. Nixon has made certain bold moves, to be sure: his Moscow and Peking openings, the wage-price freeze. But he appears to have been careful to move only when assured the majority of voters would confirm the sensibleness of what he had done.

Whether one agrees with every zig or zag or standing pat of Mr. Nixon, one cannot argue that he has not shown a sensitivity to the pace of change which the public will tolerate. In contrast, the McGovern image is that the departures for the country may be too sudden. This may be an unfair rap for the Senator from South Dakota. But it's the image he's been stuck with.

Looking ahead then, if Mr. Nixon is reelected, even a landslide margin will not necessarily indicate a downhill course through the next four years in office. The American electorate is fluid. If it is touch and go with inflation again, if there is any backsliding from such progressive legislation as environmental control and welfare reform and medical cost reduction, a sane and prudent-sounding Democrat can reverse this November's Republican advantage, come 1976.

ALASKA AIR NATIONAL GUARD WEEK

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. BEGICH. Mr. Speaker, this month marks the 20th anniversary of the establishment of the Alaska Air National Guard. In recognition of its outstanding service during times of emergency and its continuing role in the development and safety of the State, Gov. William A. Egan has designated the week of September 24 through September 30, 1972, as Alaska Air National Guard Week. I would like to join with the Governor in paying tribute to this fine agency and enclose, for the attention of my colleagues, a copy of his proclamation.

PROCLAMATION—ALASKA AIR NATIONAL GUARD WEEK

The Alaska Air National Guard is a valuable State/Federal agency.

The Alaska Air National Guard has performed missions of mercy and public assistance to the residents of Alaska during such emergency times as the 1964 Earthquake, the Fairbanks Flood, the Bethel Flood, the Standard Oil Fire, the Gold Rush Hotel Fire, the Capital Airlines Crash, and numerous others.

The men and women of the Alaska Air National Guard are constantly and diligently practicing and learning their skills to be of even further service to Alaska and our Nation.

This month represents the end of the twentieth year of such service to the Territory, the State, the Nation, and our people.

Therefore, I, William A. Egan, Governor of Alaska, proclaim the week of September 24 through September 30, 1972, as

ALASKA AIR NATIONAL GUARD WEEK

and urge all Alaskans and visitors to join in commemoration of the deeds of service and heroism which our "Guardsmen" have performed, and to review the great part the Air Guard has played in the development and safety of our State.

I direct the attention of Alaskans to the celebration at Kulis Air National Guard Base in Anchorage at the time set aside, from 11:30 a.m. until 1:30 p.m. on Sunday, the 24th day of September, 1972.

Dated this 12th day of September, 1972.

WILLIAM A. EGAN, *Governor*.

SETTING THE RECORD STRAIGHT ON AID HOUSING

HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. HANNA. Mr. Speaker, as a result of an article by columnist Jack Anderson on July 23 of this year, a great deal of confusion exists about the housing investment guaranty program of AID. This program has improved the quality of housing for thousands of families in underdeveloped countries—particularly in Latin America—which could not obtain good housing without American private financing being made available. The successful operation of this pilot program in Latin America has now, with congressional approval, been expanded to include Africa and Asia.

This housing progrm in AID may be one of the greatest accomplishments of this country under the general umbrella of "foreign aid." Thousands of units of housing have been built and occupied by people of underdeveloped countries who previously were poorly housed. This has been accomplished without the use of the American taxpayers' dollar. The program succeeds because the role of the U.S. Government is not to build houses but to remove the barriers and make private capital available in previously unattractive markets.

This program, Mr. Speaker, deserves the continued support of the Congress. In order to set the record straight, I am inserting the press release by the Department of State which answers the questions raised by the Anderson column;

COPY OF STATE DEPARTMENT PRESS RELEASE REGARDING ANDERSON COLUMN

Possible Question: What can you say about these allegations of conflict of interest involving the AID housing guaranty program in the Jack Anderson column of Sunday?

Answer: The main thrust of Mr. Anderson's comment in this regard seems to be that Mr. Baruch is affiliated, in his private cpacity, with a federal savings and loan association which is a member of the National League of Insured Savings Associations, while at the same time administering AID's contracts with that organization.

Mr. Baruch revealed the existence of his outside employment as President of Lincoln Federal Savings and Loan Association at the time of his employment with this Agency in 1965. The Agency did not feel at that time that Mr. Baruch's continued holding of that outside position comprised a conflict of interest with his duties in the administration of the Agency's housing guaranty program, and no facts have been brought to the Agency's attention since then which have indicated that any conflict of interest has arisen. Further, with respect to the administration of the Agency's contracts with the National League of Insured Savings Associations, this Agency's Office of General Counsel looked into that matter in detail following a suggestion by former Senator John J. Williams of Delaware in October 1969 that Mr. Baruch's administration of this contract relationship might be improper. Our General Counsel found at that time that there would be no violation of conflict of interest regulations as long as Mr. Baruch's savings and loan association received no benefits in the housing guaranty program and as long as neither it nor Mr. Baruch took part in the management of the National League activities.

Possible Question: Doesn't the fact that secretarial help is furnished by the National League of Insured Savings Associations indicate conflict of interest, or at least improper relations between the League and AID?

Answer: We do not feel that this constitutes any conflict of interest. On the other hand, we agree that it is not a desirable management practice and those individuals will no longer be working in the Agency's offices. Two of the three secretaries in question are no longer working at the housing office and the third will be retiring at the end of this week.

VOTING RECORD

HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 1972

Mr. SHRIVER. Mr. Speaker, while the work of this 92d Congress continues I want to take this opportunity to report to the people of the Kansas Fourth District on my voting record. There already have been nearly 400 recorded votes on legislation in the U.S. House of Representatives during the first and second session of this Congress. During this second session to date I have maintained a voting attendance record of 95 percent, and my total voting attendance record for the first session was 95.3 percent. In my 12 years in the House, I have accumulated a 94-percent voting attendance record.

For the first time this Congress has operated under a new reform procedure, which I supported, providing for recorded teller votes on many amendments to bills. There have been approximately 200 teller votes in the two sessions of the present Congress.

Since coming to Congress in 1961, I have been recorded upon nearly 2,000 yea-and-nay votes. It is not practical, nor does space permit, a listing of every vote cast by me in the 92d Congress. However, I herewith present a listing on some of the more important bills:

LEGISLATION SUPPORTED BY CONGRESSMAN SHRIVER

I voted in favor of the following bills:

Omnibus Education Amendments of 1972 providing expanded support to colleges and universities, junior colleges and for vocational education, and including increased student financial aid and anti-busing provisions.

To provide increased manpower for the health professions.

Strengthening the National Cancer Institute and other National Institutes of Health to conquer cancer as soon as possible.

Advance the national attack against heart, blood vessel, lung and blood diseases by enlarging authority of the National Heart and Lung Institute.

General revenue sharing providing over $5 billion to local and state governing bodies to help return power to the people.

Revenue Act of 1971 reducing individual income taxes and eliminating certain excise taxes.

Extend Economic Stabilization Act to assist in the fight against inflation.

Treatment and rehabilitation program in the Veterans Administration for servicemen, veterans and ex-servicemen suffering drug abuse or drug dependency.

Increase educational training benefits for Vietnam veterans.

Water Pollution Control Act.

Create public service jobs for unemployed person during times of high unemployment.

To delete funds for Labor Department inspection of small business firms with 25 employees or less under provisions of Occupational Safety and Health Act.

To assist elementary and secondary schools, community agencies and other public and nonprofit private agencies to prevent juvenile delinquency.

To strengthen and improve the Older Americans Act of 1965.

LEGISLATION OPPOSED BY CONGRESSMAN SHRIVER

I voted against the following legislation:

1972 Foreign Aid authorization Act.

Providing increased U.S. contributions to the Asian Development Bank.

Increased U.S. participation in the International Development Association.

To establish an Office of Technology Assessment for the Congress.

To give House Administration Committee authority to act without House action on certain allowances to members, officers and standing committees.

Public assistance to mass transit bus companies in the District of Columbia.

HOUSE OF REPRESENTATIVES—*Tuesday, September 26, 1972*

The House met at 12 o'clock noon.

Bishop James K. Mathews, bishop, Washington Area United Methodist Church, offered the following prayer:

Eternal God, Ruler of all nations and Father of all humankind, acknowledging our dependence upon You and our accountability before You, let us live today: Thankful for Your kindness, renewed by Your forgiveness, empowered by Your goodness.

We would live in the present age where You, too, are at work. Help us not to escape into another age, for easy answers to easy problems our fathers found as perplexing in their time as ours are for us today.

May we, then, do what must be done in such a way that our children will not need to undo our deeds, nor have to do them because we have failed to act wisely, in accord with your purposes, and the needs of society. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On September 21, 1972:

H.R. 2. An act to establish a Uniformed Services University of the Health Sciences and to provide scholarships to selected persons for education in medicine, dentistry, and other health professions, and for other purposes;

H.R. 7375. An act to amend the statutory ceiling on salaries payable to U.S. magistrates.

H.R. 10670. An act to amend chapter 73 of title 10, United States Code, to establish a survivor benefit plan, and for other purposes; and

H.R. 12638. An act for the relief of Sgt. Gary L. Rivers, U.S. Marine Corps, retired.

On September 23, 1972:

H.R. 9222. An act to correct deficiencies in the law relating to the crimes of counterfeiting and forgery; and

H.J. Res. 1193. Joint resolution to provide for the designation of the week which begins on September 24, 1972, as "National Microfilm Week."

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 4634. An act to direct the Secretary of the Army to release on behalf of the United States a condition in a deed conveying certain land to the State of Oregon to be used as a public highway;

H.R. 14015. An act to amend section 8c(2), section 8c(6), section 8c(7)(C), and section 8c(19) of the Agricultural Marketing Agreement Act of 1937, as amended; and

H.R. 16251. An act to release the conditions in a deed with respect to certain property heretofore conveyed by the United States to the Columbia Military Academy and its successors.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 3316. An act to grant the consent of the United States to the Arkansas River Basin compact, Arkansas-Oklahoma.

FREE LETTER MAIL AND AIR TRANSPORTATION MAILING PRIVILEGES FOR MEMBERS OF U.S. ARMED FORCES

Mr. DULSKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 3808) to amend title 39, United States Code, as enacted by the Postal Reorganization Act, to provide additional free letter mail and air transportation mailing privileges for certain members of the U.S. Armed Forces, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, strike out all after line 2 over to and including "Section" in line 23 on page 2 and insert "That section".

Page 2, lines 24 and 25, strike out "as enacted by the Postal Reorganization Act (84 Stat. 756 and 757; Public Law 91–375),".

Page 3, line 5, strike out "five" and insert "15".

Page 3, line 6, strike out "sixty" and insert "60".

Page 3, line 12, strike out "and".

Page 3, after line 12, insert:

"(2) parcels not exceeding 70 pounds in weight and 100 inches in length and girth combined, which are mailed at any such Armed Forces post office; and

Page 3, line 13, strike out "(2)" and insert "(3)".

Page 3, line 13, strike out "five" and insert "15".

Page 3, line 14, strike out "seventy" and insert "70".

Page 3, lines 14 and 15, strike out "one hundred" and "100".

Page 3, line 19, after "2." insert: "Section 3401 of title 39, United States Code, is amended by—

"(1) redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f); and

"(2) inserting the following new subsection "(c)":".

Page 3, line 19, strike out all after "2." over to and including line 14 on page 4.

Page 4, after line 14, insert:

"(c) Any parcel, other than a parcel mailed at a rate of postage requiring priority of handling and delivery, not exceeding 30 pounds in weight and 60 inches in length and girth combined, which is mailed at or addressed to any Armed Forces post office established under section 406(a) of this title, shall be transported by air on a space available basis on scheduled United States air carriers at rates fixed and determined by the Civil Aeronautics Board in accordance with section 1376 of title 49, upon payment of a fee for such air transportation in addition to the rate of postage otherwise applicable to such a parcel not transported by air. If adequate service by scheduled United States air carriers is not available, any such parcel may be transported by air carriers other than scheduled United States air carriers."

Page 4, strike out all after line 14 down to and including the second line following line 17.

Amend the title so as to read: "An Act to increase the size and weight limits on military mail and for other purposes."

The **SPEAKER.** Is there objection to the request of the gentleman from New York?

Mr. **GROSS.** Mr. Speaker, reserving the right to object, I should like to obtain a very brief explanation of the bill.

Mr. **DULSKI.** Mr. Speaker, will the gentleman yield?

Mr. **GROSS.** I yield to the gentleman from New York.

Mr. **DULSKI.** Mr. Speaker, on October 4, 1971, by a voice vote, the House passed H.R. 3808, which provided for additional free letter mail and extended air transportation privileges for certain members of the Armed Forces.

The Senate approved the bill on June 16, with amendments, resulting in two substantive changes in the bill. They are as follows:

It deleted that provision which would have extended the free letter mail privilege to all servicemen stationed outside the 48 contiguous States. Present law limits this privilege only to servicemen assigned to combat areas. The estimated cost of this provision—eliminated by the Senate—was $5 million.

In view of the fact that there have been recent generous increases in pay benefits for the military, I am inclined to agree with the Senate action in this regard.

The Senate also revised those provisions in the bill relating to transportation of parcels by air to and from overseas areas.

The House-passed bill would have reenacted the so-called PAL provisions of former title 39, which were inadvertently left out of the Postal Reorganization Act of 1970, and in addition, would have extended the size and weight limitations. It would have permitted the mailing of parcels not exceeding 70 pounds in weight and 100 inches in length and girth combined to and from overseas areas upon payment of surface rates plus a fee to cover the additional costs of air transportation.

The Senate version reenacts the former PAL provisions, but does not increase size and weight limitations which remain at 30 pounds and 60 inches length and girth combined.

The Senate also agreed to increase the size and weight limitations of parcels to be transported by air on a space available basis—SAM—by further amendments as follows:

First. It would permit air transportation of incoming parcels mailed at overseas APO's, which do not exceed 70 pounds and 100 inches length and girth combined; and

Second. It would also permit air transportation of outgoing parcels mailed to overseas APO's, which do not exceed 15 pounds and 60 inches.

The Senate report indicates that different standards were necessary since the Postal Service was not physically equipped at the present time to handle the larger parcels at its facilities which process outgoing mail. We have had discussions with representatives from the Postal Service and are satisfied that this is the case.

I might add at this point, in order to dispel any confusion which may arise in the future, that the Senate report incorrectly indicates that all incoming parcels of increased size and weight can be mailed under the PAL provisions. This is not the case under the bill, since incoming parcels more than 30 but less than 70 pounds and more than 60 but less than 100 inches are permitted only under the so-called SAM provisions.

In view of the fact that the Senate has substantially adopted the House position relative to the necessity of airlifting military mail parcels of increased sizes and weights, I see no purpose in opposing the Senate amendments to H.R. 3808.

Mr. Speaker, I strongly urge concurrence with the Senate amendments.

I include the following:

H.R. 3808

FREE MAIL

As passed the House

Extended free letter mail privileges of servicemen in combat areas to all servicemen outside the 48 States.

As passed the Senate

Deleted.

SAM[1]

As passed in the House

SAM transportation privileges to combat areas for news publications extended to include any APO outside the 48 States.

As passed in the Senate

Retained.

Not in House Bill:

Incoming Parcel Mail: Extended present limits of 5 lbs. and 60 inches in length and girth to 70 lbs. and 100 inches.

Outgoing Mail: Extended 5 lbs. limit to 15 lbs. and retained size limitation of 60 inches in length and girth.

PAL[2]

As passed in the House

Reenacted PAL provisions and also extended limitations from 30 lbs. and 60 inches to 70 lbs. and 100 inches.

As passed in the Senate

Reenacted PAL provisions with amendments.

Struck the extended weight and size limitations (70 lbs.—100 inches) and retained the former limitations of 30 lbs. and 60 inches.

Mr. **GROSS.** Mr. Speaker, will the gentleman yield?

Mr. **DULSKI.** I yield to the gentleman.

Mr. **GROSS.** It is not my purpose to take time on this bill, because I believe I can support it. This is a bill which was approved by the House Post Office and Civil Service Committee and among other things it provided the free mail privilege to all servicemen overseas. The Senate limited the free mail privilege to servicemen in combat areas; is that not correct?

Mr. **DULSKI.** That Senate amended the House bill eliminated the extension of the free letter mail privilege and made several adjustments in the authority to mail parcels.

Mr. **GROSS.** At any rate, that is the legislation now pending before the House, and the limitation on free mail will result in saving in Federal funds in the handling of mail for servicemen.

Mr. **DULSKI.** That is right.

Mr. **GROSS.** Mr. Speaker, I withdraw my reservation.

The **SPEAKER.** Is there objection to the request of the gentleman from New York?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

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[1] SAM—Provides that parcels are afforded surface transportation within the 48 contiguous states and air transportation, on a space available basis, outside the 48 states upon payment of surface rates.

[2] PAL—Provides that parcels are afforded worldwide air transportation, on a space available basis, upon payment of surface rates plus a fee to cover adidtional costs of air transportation.

GENERAL LEAVE

Mr. DULSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3808.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

SOVIET-AMERICAN TRADE RELATIONS

(Mr. WHITEHURST asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. WHITEHURST. Mr. Speaker, a new era seems to be dawning in Soviet-American trade relations. While I welcome increased commerce between our two countries, it seems clear that the Soviet Union has been the supplicant because of its crop failure this year.

Ordinarily, I would not favor driving a hard bargain with another country by taking advantage of an economic disaster which has befallen it. However, when that nation is pursuing an inhumane policy, extracting what amounts to a ransom from a portion of its people who wish to emigrate, then I think that our own Government ought to use its economic leverage on behalf of defenseless and helpless human beings who seek only to live out their lives in peace and dignity, free from persecution.

Just over a generation ago, the most vile genocide was practiced in Central Europe while the free world stood by and wrung its hands. We in the West cannot again ignore the cries for help. No sacrifice in blood is required of us, and very little in treasure. Can we do less than withhold a commercial advantage for the sake of thousands of Russian Jews who are being held for a false and distorted debt claimed by the Soviet Government?

Mr. Speaker, I believe that this Congress should pass a resolution insisting that no trade advantages be granted the Soviet Government until its policy of requiring educational ransom is formally repealed.

CALL OF THE HOUSE

Mr. ARENDS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 385]

Abourezk
Anderson, Ill.
Anderson, Tenn.
Badillo
Baring
Betts
Bevill
Biaggi
Blanton
Blatnik
Byrnes, Wis.
Byron
Clark
Clay
Conyers
Crane
Dellums
Derwinski
Devine
Dorn
Dow
Dowdy
Dwyer
Edmondson
Eilberg
Erlenborn
Evans, Colo.
Findley
Frenzel
Galifianakis
Gallagher
Garmatz
Gettys
Giaimo
Grasso
Green, Oreg.
Griffiths
Gubser
Halpern
Hébert
Heckler, Mass.
Hosmer
Howard
Hunt
Jonas
Jones, Tenn.
Kuykendall
Latta
Lujan
McClory
McCloskey
McCormack
McCulloch
McDonald, Mich.
McMillan
Macdonald, Mass.
Mailliard
Minshall
Mitchell
Monagan
O'Hara
O'Konski
Patten
Pelly
Peyser
Pike
Pirnie
Powell
Pryor, Ark.
Pucinski
Reid
Rhodes
Rooney, N.Y.
Runnels
Saylor
Scheuer
Schmitz
Sikes
Springer
Stokes
Symington
Teague, Calif.
Teague, Tex.
Thompson, Ga.
Thomson, Wis.
Wiggins
Wilson, Charles H.
Wolff
Wylie
Yatron
Young, Tex.

The SPEAKER. On this rollcall 339 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON H.R. 12652, COMMISSION ON CIVIL RIGHTS

Mr. CELLER submitted the following conference report and statement on the bill (H.R. 12652) to extend the life of the Commission on Civil Rights, to expand the jurisdiction of the Commission to include discrimination because of sex, to authorize appropriations for the Commission, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 92–1444)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12652) to extend the life of the Commission on Civil Rights, to expand the jurisdiction of the Commission to include discrimination because of sex, to authorize appropriations for the Commission, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 2, 3, 4, 5, 6, 7, and 10.

That the House recede from its disagreement to the amendments of the Senate numbered 8 and 9, and agree to the same.

EMANUEL CELLER,
JACK BROOKS,
WILLIAM L. HUNGATE,
WILLIAM M. MCCULLOCH,
EDWARD HUTCHINSON,
Managers on the Part of the House.
PHILIP A. HART,
ROMAN L. HRUSKA,
HUGH SCOTT,
HIRAM L. FONG,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12652) to extend the life of the Commission on Civil Rights, to expand the jurisdiction of the Commission to include discrimination because of sex, to authorize appropriations for the Commission, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

Amendments numbered 1 through 7: Delete technical renumbering changes proposed by the Senate and appropriate only if amendment numbered 10 had been retained.

Amendment numbered 8: Authorizes Civil Rights Commission appropriation for fiscal year 1973 of $5,500,000, as proposed by the Senate, instead of $6,500,000, as proposed by the House.

Amendment numbered 9: Authorizes annual Civil Rights Commission appropriation for fiscal years 1974 through 1978 of $7,000,000, as proposed by the Senate, instead of $8,500,000, as proposed by the House.

Amendment numbered 10: Senate recedes.

EMANUEL CELLER,
JACK BROOKS,
WILLIAM L. HUNGATE,
WILLIAM M. MCCULLOCH,
EDWARD HUTCHINSON,
Managers on the Part of the House.
PHILIP A. HART,
ROMAN L. HRUSKA,
HUGH SCOTT,
HIRAM L. FONG,
Managers on the Part of the Senate.

PERSONAL ANNOUNCEMENT

(Mr. MIKVA asked and was given permission to insert his remarks at this point in the RECORD.)

Mr. MIKVA. Mr. Speaker, I regret that I was necessarily absent when the House voted on several matters recently. Had I been present I would have voted as follows:

"Yes" on rollcall No. 372, final passage of H.R. 16654, fiscal year 1973 appropriations for the Departments of Labor and HEW;

"No" on rollcall No. 370, adoption of an amendment to H.R. 16654 exempting certain employers from the safety and health requirements of the Occupational Safety and Health Act;

"Yes" on rollcall No. 371, adoption of an amendment to H.R. 16654, increasing funds for bilingual education;

"Yes" on rollcall No. 375, final passage of H.R. 15003, the Consumer Product Safety Act;

"Yes" on rollcall No. 376, adoption of the rule for consideration of H.R. 16705, foreign aid appropriations for fiscal year 1973;

"No" on rollcall No. 380, adoption of an amendment to the foreign assistance appropriations bill (H.R. 16705) ending guarantees of private overseas investments;

"Yes" on rollcall No. 382, adoption of the rule for consideration of H.R. 16754, military construction appropriations for fiscal year 1973;

"Yes" on rollcall No. 383, final passage of the military construction appropriations bill;

"Yes" on rollcall 384, final passage of House Joint Resolution 1227, approving the interim SALT agreement with the U.S.S.R.

PERMISSION TO FILE CONFERENCE REPORT ON S. 2770, WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972

Mr. JONES of Alabama. Mr. Speaker, I ask unanimous consent that the managers have until midnight tonight, September 26, 1972, to file the conference report on S. 2770, the Water Pollution Control Act Amendments of 1972.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

SECOND ANNUAL REPORT ON HEALTH MATTERS COVERED BY FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Education and Labor:

To the Congress of the United States:

I am pleased to submit to you the second annual report on health matters covered by the Federal Coal Mine Health and Safety Act of 1969, Public Law 91–173.

The report covers the implementation of the health program carried out by the National Institute for Occupational Safety and Health of the Department of Health, Education, and Welfare. The report provides a compendium of coal mine health research, medical examinations of coal miners, and other activities of 1971.

It is encouraging to note that, in 1971, the Department of Health, Education, and Welfare completed the first round of medical examinations of coal workers required in the act. Many of the X-rays taken in the examination have been completely processed and those miners with abnormal chest conditions have been notified of these conditions and of their rights under the act.

A comprehensive research program, which has as its basic objective the determination of the development and progression of coal workers' pneumoconiosis, continued in 1971 along the lines established in 1970. Significant progress was made in 1971 toward the attainment of this goal.

I commend this report to your attention.

RICHARD NIXON.

THE WHITE HOUSE, *September 26, 1972.*

PROVIDING FOR CONSIDERATION OF H.R. 1121, GATEWAY NATIONAL SEASHORE, NEW YORK AND NEW JERSEY

Mr. DELANEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1135 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1135

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1121) to provide for the establishment of the Gateway National Seashore in the States of New York and New Jersey, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and all points of order against said substitute are hereby waived for failure to comply with the provisions of clause 7, Rule XVI. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 1121 the Committee on Interior and Insular Affairs shall be discharged from the further consideration of the bill S. 1852, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 1121 as passed by the House.

The SPEAKER. The gentleman from New York is recognized for 1 hour.

Mr. DELANEY. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. SMITH), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1135 provides an open rule with 2 hours of general debate for consideration of H.R. 1121 to establish the Gateway National Seashore. It shall be in order to consider the committee substitute as an original bill for the purpose of amendment and, because the substitute would not be germane to the original bill, points of order are waived for failure to comply with clause 7 of rule XVI. After passage of H.R. 1121, the Committee on Interior and Insular Affairs shall be discharged from further consideration of S. 1852 and it shall be in order to move to strike all after the enacting clause of the Senate bill and amend it with the House-passed language.

The purpose of H.R. 1121 is to establish a national seashore in the States of New York and New Jersey to be known as the Gateway National Seashore. This unit of the national park system will provide a recreational area for more than 20 million people within a four-State region and 2 hours travel time. The prime recreation resource in the area is its beaches.

The total size of the area is 26,172 acres, of which 403 acres are privately owned. The city of New York owns approximately 16,980 acres; the State of New York owns approximately 2,090 acres; New Jersey owns approximately 2,962 acres; the Federal Government owns 3,737 acres.

About $11,450,000 are authorized for land acquisition and $92,813,000 are authorized for development of the recreation area.

There is no comparable recreation area at the present time.

Mr. Speaker, I urge the adoption of the rule in order that the legislation may be considered.

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the distinguished gentleman from New York (Mr. DELANEY) has explained the rule precisely in accordance with the manner and in the way I understand it. Accordingly I associate myself with his remarks. I will not take additional time from that standpoint.

I might add or emphasize that there is some controversy on this housing that is being built on Floyd Bennett Field, in that area and, as has been indicated, as I recall, there are no sewers or streets or lighting at the present time.

I simply mention this so the Members can be prepared from that standpoint.

There are four provisions in this bill that are subject to a point of order, in view of clause 7, rule XVI.

The original bill was amended—and it comes in as a substitute in the nature of an amendment. There are four parts therein which are in violation of clause 7, rule XVI. These are section 2(d), authorizing housing on Floyd Bennett Field; section 3(c), which permits the Secretary of the Interior to cooperate with the Secretary of the Army on Corps of Engineers projects; the third is 3(d), which provides that the Secretary of Interior may cooperate with the Secretary of Transportation on operating airway facilities.

Section 4 sets up a new advisory committee. All points of order were waived as to clause 7, rule XVI, to cover these matters.

At this time, Mr. Speaker, I yield 3 minutes to the distinguished minority leader (Mr. GERALD R. FORD).

(By unanimous consent, Mr. GERALD R. FORD was allowed to speak out of order.)

FOREIGN AID APPROPRIATION BILL

Mr. GERALD R. FORD. Mr. Speaker, last Thursday during our consideration of the foreign aid appropriations the gentleman from Ohio (Mr. VANIK), with the very best of motives and intentions, offered an amendment to bar any funds to finance or guarantee investments in any country which charges its citizens more than $50 for the right to emigrate.

The gentleman and others argued eloquently that by adding this language the House would utter a "moral outcry" against the reprehensible practice of the Soviet Union in forcing its Jewish citizens to pay as much as $25,000 ransom—more than most people in Russia can legally earn or save in a lifetime—for an exit permit to emigrate to Israel or any other country. After very brief debate the amendment was agreed to by voice vote.

Both the distinguished chairman of the subcommittee handling the bill, Mr. PASSMAN, and I cautioned at the time that the amendment was badly drawn and unnecessary, although we were wholly sympathetic with its symbolic purpose. It has now turned out that the amendment was actually harmful to the very cause its sponsors sought to help. The State of Israel, among other governments friendly to us, charges a travel tax of $140 plus 10 percent of travel ticket costs for persons leaving the country. So this well-meaning but hastily considered floor amendment would, if concurred in by the Senate, have the effect of cutting off all the funds and assistance we voted for Israel in this year's foreign aid appropriation.

In this rare instance the other body

appears to have saved us from our folly. The Senate subcommittee considering foreign aid appropriations, upon learning the facts, deleted this provision, and I trust the conferees on the part of the House will go along. I would say that there are other proper ways for this body and the Congress to express our disgust and disapproval of such shameful Soviet exploitation of its Jewish citizens.

Mr. DELANEY. I yield 1 minute to the gentleman from Ohio (Mr. VANIK).

(By unanimous consent Mr. VANIK was allowed to speak out of order.)

VANIK AMENDMENT

Mr. VANIK. Mr. Speaker, I would like to take this time to speak out of order and address myself to the comments just made by the minority leader (Mr. GERALD FORD).

Mr. VANIK. Mr. Speaker, I violently disagree with the distinguished gentleman from Michigan (Mr. GERALD FORD), and his interpretation of the Vanik amendment to the foreign aid bill adopted by the House of Representatives last Thursday evening. This amendment was designed to prohibit trade credits and loans to any nation charging an excessive visa fee on emigrating citizens. The amendment was designed to manifest America's indignation at Soviet policy in selling liberty to departing citizens at prices up to $37,000.

The adoption of this amendment was telegraphed immediately to the Kremlin, which desperately needs American wheat and other commodities.

I question the interpretation of the State Department which contends that the amendment would deprive aid to nations which impose a travel tax on their citizens. A travel tax is imposed by many nations to protect their balance of payments and to discourage tourism by their own citizens. In the legislative history on this bill, the amendment is applicable only where there is an exorbitant and discriminatory visa charge on a citizen who departs for permanent residence in another nation.

I am shocked that the administration is nitpicking on this issue and has no plan of its own with which to attack the Soviet visa extortion devise. Apparently the administration is more concerned with protecting the wheat deal with the Soviets than ending the barter in human lives.

In this situation, the administration is on the wrong side, and so is the gentleman from Michigan.

I will urge the Senate to adopt the amendment. If necessary, language can be added to accommodate the travel tax issue.

In any event, Congress must not pass by any opportunity to demonstrate to the Soviet Union our moral outrage at present Soviet emigration visa policies.

Mr. DELANEY. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. DENT).

(By unanimous consent, Mr. DENT was allowed to speak out of order.)

EXORBITANT EMIGRANT VISAS CHARGED BY RUSSIA

Mr. DENT. Mr. Speaker, I notice that the minority floor leader stated that he hoped the conferees would agree with the Senate. This brings to mind the fact that we have been held up in our attempt to get the minimum wage to a conference by the argument that the Members of the House conferees must be those who voted with the majority in the House, and that that position must be upheld by the conference.

Now, if that argument is correct for one, why ought it not be good for the other? If we are to be held to a position taken by the House on the minimum wage bill, then why is the minority leader not insisting that the House Membership be held to the same position on this particular bill we have been discussing?

The SPEAKER. The time of the gentleman from Pennsylvania has expired.

Mr. DELANEY. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the resoluton.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON RULES TO FILE REPORTS

Mr. DELANEY. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from New York.

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 16645, DWIGHT D. EISENHOWER MEMORIAL BICENTENNIAL CIVIC CENTER ACT

Mr. O'NEILL. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1136 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1136

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 16645) to amend the Public Buildings Act of 1959, as amended, to provide for the construction of a civic center in the District of Columbia, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Public Works now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervention motion except one motion to recommit with or without instructions. After the passage of H.R. 16645, it shall be in order in the House to take from the Speaker's table the bill S. 3943 and to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 16645 as passed by the House.

The SPEAKER. The gentleman from Massachusetts (Mr. O'NEILL) is recognized for 1 hour.

Mr. O'NEILL. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1136 provides an open rule with 1 hour of general debate for consideration of H.R. 16645 to amend the Public Buildings Act. The resolution provides that it shall be in order to consider the committee substitute as an original bill for the purpose of amendment and, after passage of H.R. 16645, it shall be in order to take S. 3943 from the Speaker's table, move to strike all after the enacting clause of the Senate bill, and amend it with the House passed language.

The primary purpose of H.R. 16645 is to amend the Public Buildings Act to provide for the construction of a civic center in the District of Columbia to be named for President Eisenhower. The bill further provides for the naming of a number of Federal buildings throughout the United States in honor of the Members of the 92d Congress who are deceased or retiring at the end of this session. Also, the new FBI Building would be named for J. Edgar Hoover; the HEW South Building would be named the Mary Switzer Memorial Building, after the former Administrator of Social and Rehabilitation Services at HEW; the Federal Building in Wilkesboro, N.C., would be named after the late Federal District Judge Johnson J. Hayes.

The site of the civic center is in northwest Washington bounded by Eighth Street, H Street, 10th Street, New York Avenue, and K Street. It will cover approximately 10 acres. The Commissioner of the District of Columbia is authorized to develop, construct, operate and maintain the center and to enter into purchase contracts therefor. The purchase contract may not extend more than 30 years of the date of acceptance. Title shall vest in the District.

A maximum of $14 million is authorized to be appropriated to the District to ease its financial burden during the initial years of the project and it is stated that no additional funds will be recommended. Such funds as necessary are authorized to be appropriated from the District of Columbia budget.

In addition, the legislation extends for 2 years the act passed in the 91st Congress which provided office space and staff for the use of former Speaker McCormack.

Mr. Speaker, I urge the adoption of the rule in order that the legislation may be considered.

The SPEAKER. The Chair recognizes the gentleman from Tennessee (Mr. Quillen).

Mr. QUILLEN. Mr. Speaker, the gentleman from Massachusetts (Mr. O'Neill) has ably explained the purpose of the rule and the provisions of the bill.

I merely want to state that I am one of the cosponsors of this measure.

Mr. Speaker, House Resolution 1136 provides a 1 hour open rule, making in order the consideration of H.R. 16645, the Dwight D. Eisenhower Memorial Bicentennial Civic Center Act. The rule makes the committee substitute in order as an original bill for the purpose of amendment. After passage of the bill in the House, the rule then makes it in order to insert the House passed language in the Senate bill.

The purpose of the bill is to authorize the District of Columbia government to construct a civic center in downtown Washington, to be named in honor of President Dwight David Eisenhower. In addition, the bill names new or planned Federal buildings in honor of either deceased or retiring Members of Congress. The bill also extends for an additional 2 years the provisions of House Resolution 1238 of the 91st Congress, enacted into law by the Supplemental Appropriations Act of 1971, which gives Speaker McCormack office space in Boston.

The bill authorizes the Commissioner of the District to provide for the development, construction, operation, and maintenance of the center in Northwest Washington—an area bounded by Eighth Street, H Street, 10th Street, New York Avenue, and K Street. The Commissioner is authorized to enter into purchase contracts which may not extend beyond a 30-year period from the date of acceptance of the center. The center will house an exhibit area of at least 300,000 square feet as well as multiple meeting rooms, but does not contain a sports arena as earlier considered.

The 26 Members having Federal buildings named after them are: William Colmer, H. Allen Smith, Mr. Abbitt, Mr. Abernethy, Mr. George Andrews, Mr. Aspinall, Mr. Belcher, Mr. Betts, Mr. Bow, Mr. Celler, Mr. Garmatz, Dr. Hall, Mr. Hull, Mr. Jonas, Mr. Keith, Mr. Lennon, Mr. McMillan, Mr. Miller, Mr. Philbin, Mr. Poff, Mr. Rivers, Mr. Watts, Mr. Ellender, Mr. Mundt, Mr. Prouty, and Mr. Russell.

The report contains six letters, including one from the President, Mayor Washington, District of Columbia Council, et cetera, all in favor of this legislation.

Federal appropriations are authorized at a maximum of $14 million to ease the financial burden of the District budget during the initial years of the project.

Mr. Speaker, I urge the adoption of the rule and the passage of the bill.

Mr. Speaker, I have no further requests for time and yield back the balance of my time.

Mr. O'NEILL. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 9128, CONTAINER BARGE SERVICE

Mr. O'NEILL. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1121 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 1121

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9128) to confer exclusive jurisdiction on the Federal Maritime Commission over certain movements of merchandise by barge in foreign commerce. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Merchant Marine and Fisheries now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and all points of order against said substitute for failure to comply with the provisions of clause 7, Rule XVI are hereby waived. At the conclusion of such consideration the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Massachusetts (Mr. O'Neill) is recognized for 1 hour.

Mr. O'NEILL. Mr. Speaker, at the conclusion of my remarks, I yield 30 minutes to the gentleman from California (Mr. Smith).

Mr. Speaker, House Resolution 1121 provides an open rule with 1 hour of general debate for consideration of H.R. 9128, container barge service legislation, and it shall be in order to consider the committee substitute as an original bill for the purpose of amendment. Because the committee substitute amends the Shipping Act of 1916 and the original bill did not, points of order are waived for failure to comply with clause 7 of rule XVI regarding germaneness.

The purpose of H.R. 9128 is to confer to the Federal Maritime Commission jurisdiction over merchandise being moved by barge in foreign commerce.

The Commission would have exclusive jurisdiction over rates and charges for the transportation of containerized cargo moving between points in the United States under certain conditions: First, the cargo is moving between a foreign country or noncontiguous State or possession and the United States. Second, the cargo is being transported on a through bill of lading between such points. Third, the barge transportation within the United States is furnished by a terminal operator as a substitute in lieu of a direct vessel call by a common carrier by water. Fourth, the terminal operator is a State, municipality or other public agency subject to the jurisdiction of the Maritime Commission. Fifth, the terminal operator complies with the regulations of the Commission for the operation of the barge service.

The legislation will result in no costs to the Government.

Mr. Speaker, I urge the adoption of the rule.

Mr. Speaker I now yield to the gentleman from California.

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may consume.

The distinguished gentleman from Massachusetts (Mr. O'Neill) have explained the rule in detail. It is in accordance with my understanding of the rule and the reason for which we waived the points of order. I concur in his remarks and associate myself with him.

In addition thereto, the main problem we are trying to solve has to do with container barge shipments that go from San Francisco up to Sacramento, Calif., a distance of some 79 miles. There seems to be jurisdictional conflict between the Federal Maritime Commission and the Interstate Commerce Commission. This simple little bill is presented for passage in order to take care of that particular instance, and any others which may happen to follow in that category.

Mr. Speaker, I urge the adoption of the rule.

Mr. O'NEILL. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GATEWAY NATIONAL SEASHORE, NEW YORK AND NEW JERSEY

Mr. TAYLOR. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1121) to provide for the establishment of the Gateway National Seashore in the States of New York and New Jersey, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from North Carolina.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 1121, with Mr. Thompson of New Jersey in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from North Carolina (Mr. Taylor) will be recognized for 1 hour, and the gentleman from Kansas (Mr. Skubitz) will be recognized for 1 hour.

The Chair recognizes the gentleman from North Carolina.

Mr. TAYLOR. Mr. Chairman, I yield 10 minutes to the gentleman from Colorado (Mr. Aspinall).

Mr. ASPINALL. Mr. Chairman, it is a pleasure to appear before the House to present the bill—H.R. 1121—which would establish the Gateway National Urban Recreation Area in the States of New York and New Jersey.

BACKGROUND

COMMITTEE WORK

This legislation is the outgrowth of years of work by many people and many hours of work by the members of the Committee on Interior and Insular Affairs—and by the members of the Subcommittee on National Parks and Recreation in particular.

Field hearings were conducted on this measure and related proposals in New York City last year and additional public hearings were held in Washington. There have been numerous conferences with interested persons in an effort to work out a sound, constructive legislative proposal. The bill before you represents the product of those efforts.

BRIEF EXPLANATION OF THE BILL

Mr. Chairman, H.R. 1121 begins a relatively new concept for the national park system. Its objective is to provide significant, nearby outdoor recreation opportunities for the millions of people living within the Newark-New York metropolitan region. Within 2 hours of some part of this proposed recreation complex, 20 million people live.

If approved as recommended, the recreation area would comprise a total of 26,172 acres of land and water. Much of the area is submerged land or marshland with natural values which will interest schoolchildren, the casual visitor, and ecologists.

It is important to note, however, that the area also includes several beachfront properties which will be highly suitable for massive outdoor recreation use. Public beaches in the area are extremely crowded during hot summer seasons. In fact, the mayor of New York City told us that on a hot summer Sunday Coney Island, alone, would have a million visitors. This far exceeds the carrying capacity for that relatively small waterfront area and certainly precludes a pleasant outdoor experience. If H.R. 1121 is enacted, the beach front available to the public will nearly double and some of the finest clean, sandy beaches in the entire region will be opened for public use and enjoyment.

The ocean beaches are suitable for swimming; however, the water quality along the bayside areas will not permit direct water contact activities at the present time. The city of New York under the leadership of Mayor Lindsay and the other communities nearby are making a major effort to clean up the waters of this area and they are hopeful that sometime in the foreseeable future the beaches along Staten Island and on the north shore of Jamaica Bay can be safely used for swimming purposes. In the meantime, these open areas must be preserved and protected from other uses which might preclude forever their use for recreation purposes. Until that time, the members of the committee firmly believe that recreational uses of the lands themselves will be significant.

LANDOWNERSHIP

The interesting feature about this important legislation is that practically all of the lands directly involved are already in public ownership. Much of the area is owned by the city of New York and will be donated to the Federal Government for the purpose of creating this recreation area. About 3,700 acres are presently in Federal ownership. Most of these Federal lands are under the jurisdiction of the Department of Defense, but many of these holdings are no longer needed for defense purposes. Only about 403 acres of land in the entire project are privately owned, and of those only 90 acres are to be acquired.

COST

This brings us to the question of the cost of this project. For land acquisition, the bill authorizes the appropriation of $11,450,000 which will be used primarily to acquire the 90-acre beachfront on the ocean side of the Breezy Point Cooperative. Under the terms of the bill, State and city lands would be acquired by donation only, and title to the Federal lands would be transferred without transfer of funds.

I might say at this point that title to the Federal lands would shift immediately to the Secretary of the Interior under the terms of the legislation, but the present agency would retain a right of use and occupancy of the lands which are deemed essential to its current mission. In other words, it is not the intent of this legislation to upset the current uses of any of the existing Federal lands, but it is intended that when they are no longer essential to present needs that they will be used as a part of this recreation complex. We hope that a large portion can be converted to recreation uses in the next few years.

POSSIBLE AMENDMENTS

Mr. Chairman, I am advised that some amendments may be offered to this legislation. Naturally, it will be my job to represent the committee and to argue for the bill which it recommended. I understand, however, that the provision in the bill which authorizes the Secretary to make available up to 350 acres of land at the Floyd Bennett Field area to the State of New York for a housing development is quite controversial and that an amendment will be offered to delete that provision from the bill. There may be a few other amendments offered, but I am not aware of the details concerning them and will discuss them as they arise.

CONCLUSION

Mr. Chairman, probably no one worked harder for this proposal than our late colleague from New York, Mr. Ryan. Along with many other people, he dreamed of a major recreation facility within reach of the city's poor and underprivileged and he found the place which he thought would accomplish this objective in the Gateway proposal. He liked the concept of an urban recreation area and he succeeded in convincing his colleagues on the committee that the Staten Island unit should be included in the program. While I know he was proud of the bill which the committee reported, he was even happier to know that the program which he had sponsored would become the gateway to happiness for millions of children, young people, and adults in the New York City area just as it had been the gateway to opportunity for millions of immigrants who came through New York Harbor.

This is a large bill and it is an important bill, but I believe that the committee has ironed out most of the difficult details. In general, I believe that it enjoys broad public support. I feel that the legislation merits the favorable consideration of the House and I urge its approval in the form recommended by the committee.

Mr. SANDMAN. Mr. Chairman, will the gentleman yield?

Mr. ASPINALL. I am glad to yield to the gentleman from New Jersey.

Mr. SANDMAN. Mr. Chairman, you say that the committee dealt at great length with the situation involved here. Of course, I am interested in this as it affects the State of New Jersey.

Was there any consideration given by your committee to take into this National Park setup the great Hackensack Meadows, 25,000 acres right on the boundary between the two States all the way up to the city of Hackensack?

Mr. ASPINALL. To the best of my knowledge, I have never heard that brought up as a part of the proposal. Some other members of the committee may have, but I will yield to my chairman of the subcommittee (Mr. TAYLOR).

Mr. TAYLOR. I thank the gentleman for yielding. I might state that the administration did not recommend including this area. No witness appeared before the committee recommending including the area. It was not included.

Mr. SANDMAN. Which administration is the gentleman referring to; State or Federal?

Mr. TAYLOR. I am referring to the Federal administration.

Mr. SANDMAN. No one from New Jersey, I understand, appeared before your committee to testify in regard to the Hackensack Meadows?

The CHAIRMAN. The time of the gentleman from Colorado has expired.

Mr. TAYLOR. Mr. Chairman, I yield 3 additional minutes to the gentleman from Colorado.

Mr. ASPINALL. Mr. Chairman, I yield to the gentleman from North Carolina.

Mr. TAYLOR. Mr. Chairman, we would state that no witness, to my recollection, appeared before the committee recommending the inclusion of this area.

Mr. SANDMAN. Mr. Chairman, I have several other serious questions. We are dealing here with one of the largest shipping centers, and we are continually plagued with dredging problems when vessels will require some 75 feet of depth.

Has any consideration been given by the committee as to where the dredge fill is going to be placed if it cannot be placed in these areas, which will become park areas?

Mr. ASPINALL. Mr. Chairman, to the best of my knowledge, we have never taken into consideration this question, because nobody saw fit to come before our committee or asked to appear before our committee and bring it to our attention.

Mr. SANDMAN. Mr. Chairman, do you not think this is a very risky thing, to take all of the areas where we can possibly put dredge fill from the Hudson River, which is one of the largest commercial rivers in the world. I do not know why we are going to have it there if we cannot conduct the world's commerce up the Hudson River.

Mr. ASPINALL. I might say to my colleague, I would have been glad to listen to him if he had asked, if he had shown any interest while we were considering the legislation in our committee.

Mr. SANDMAN. I was never aware your committee was holding committee hearings on this, or I certainly would have been there.

I think it is very premature at this time, with as little as we know about what is going to happen in this particular area, to promiscuously throw thousands of acres into a national park.

I am all for a national park. Some 25,000 acres that could have been available in the Hackensack Meadows were not even considered. They are certainly a lot more available than this territory, and this should be taken up before we pass this bill.

Mr. ASPINALL. If my colleague will permit me to respond, I do not object to his statement except for the use of two words. The word "promiscuously" is not in order and the word "willy-nilly" is certainly not in order.

Everybody in the New York-New Jersey area who knows anything about this proposal, knows that this area has been under consideration for years, as I stated in the first part of my statement. Anybody who sits in the Congress and says that he does not know that this legislation is even being considered, is not informing himself.

Mr. SANDMAN. How can the gentleman say we do not have a grave problem here, when the committee has never considered what is going to happen when it is necessary to deepen the Hudson River?

Mr. ASPINALL. I am not in informed authority on such values on that part of America, but I was working with experts for the past several years on this matter and they never brought this to our attention.

I believe the Subcommittee on National Parks and Recreation has done its duty, and there should not be a direction of any unfair statement against them relative to such matter.

Mr. SKUBITZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, 100 years ago—the Congress enacted legislation creating Yellowstone National Park—the first National Park in the world.

In that Congress first laid down the criteria for selecting areas that should be set aside as national parks.

They should, said the law, be large and spacious, and they should contain scenic values, scientific values, and national values.

Since the enactment of that law, times have changed and people have changed.

For example, 100 years ago four out of five people lived in rural areas. Today 70 percent of our population reside in urban areas.

To meet the needs of people our concepts must change.

Hence, since the enactment of the Yellowstone act many new parks have come into being. They are in some respects a far cry from the original Yellowstone concept.

We have created national seashores, riverways, national recreation parks. All of them to meet the needs of people particularly for people living in crowded urban areas. After all, parks are for people.

The record has been good—but not good enough—to meet the demands of a burgeoning and mobile population. More recreational areas are needed.

Gateway National Recreation Area is an effort to provide an outdoor recreation area for those millions of people living in greater New York.

The proposed Gateway National Urban Recreation Area is in keeping with the President's program to foster the creation of open space areas with recreational opportunities in and near the large metropolitan areas of the Nation. In May 1969, the Department of the Interior undertook a study of the New York Harbor area to identify the available urban recreation resources. This study showed a most pressing need for open space recreation opportunities in the New York metropolitan area.

The proposed Gateway National Urban Recreation Area envisions the use of Federal resources and management to create a wide variety of year-round recreational, educational and other cultural opportunities in a natural environment to serve a metropolitan area of more than 14 million people.

The Committee on Interior and Insular Affairs in proposing the establishment of Gateway National Urban Recreation Area is creating a new unit and a new era for our national park system.

The proposed Gateway National Urban Recreation Area contains 26,172 acres of land and water comprised of five basic units, with some 11 miles of oceanfront beaches suitable for swimming and other direct contact water-oriented activities and approximately 19 miles of bayside shoreline with future potential for water-oriented activities.

The five basic components of the proposed Gateway National Urban Recreation Area are as follows:

First. The Jamaica Bay unit. This is the largest unit of the area comprising some 15,680 acres. The unit is considered an ecological treasure. It will be retained in a relatively natural state for the enjoyment of fishing, boating, nature observance, hiking, riding trails, and picnic areas. A peripheral shoreline can be developed for swimming with the improvement in water quality in the area. In the Floyd Bennett Field area of this unit, there will be more intensive development of land-based recreation facilities suitable to the housing to be developed in this area and the adjacent Broad Channel community.

Second. The Breezy Point unit. This unit contains 2,892 acres of land and water. This unit will be intensively developed to provide outstanding water-based recreation opportunities including beach centers, and hiking trails, picnic areas, and other facilities to develop the areas back from the beaches, such as the historical interpretation of coastal defenses at Fort Tilden.

Third. The Sandy Hook unit. This unit is 4,650 acres in size and provides 6.4 miles of ocean beach and 6.6 miles of shoreline on the bay on the New Jersey side of the recreation area. This unit will be developed primarily for swimming and bathing. In addition, its historical and natural value will be preserved through the development of hiking trails, picnic shelters, sanctuary facilities, and an environmental study center.

Fourth. The Staten Island Unit. This unit comprises 2,930 acres of land and water and contributes 7.4 miles of shoreline. This unit will be developed for walking and bicycling trails, boating and fishing, picnic facilities, and cultural and historic opportunities.

Fifth. The Hoffman and Swinburne Islands Unit. These islands add 11.5 and 2.5 acres to the area respectively and are not intended for intensive development. These islands will afford the opportunity for boat visitors to dock and enjoy a panoramic view of the New York Harbor.

These five units comprising the Gateway National Urban Recreation Area will involve a minimum of land acquisition since most of the area is already in public ownership. Land acquisition costs are estimated at not more than $11,450,000 for approximately 90 acres of ocean beach front property. Development of public facilities in the recreation area will require substantial investment and the development costs are estimated at $92,813,000.

H.R. 1121, as amended and reported by the Committee on Interior and Insular Affairs, after describing the units comprising the National Urban Recreation Area, sets forth in section 2 the land acquisition policies to be applicable in this recreation area. Section 3 of the bill sets forth the administrative authority of the Secretary of the Interior and section 4 establishes an advisory board. Section 5 of the bill contains the appropriation authorizations for the recreation area.

The need for such a park is apparent when one realizes that the New York beaches experience 50 million visitor-user days annually with space limited to 10 square feet per person, whereas the Federal standards recommend 58 square feet per person.

We need more parks that can be enjoyed by people on a daily—or at least weekly basis. The time has come for a reappraisal of all our parks and recreation areas—State and national.

National parks are fine for those who have an opportunity to visit them once or twice in a lifetime. Seashores are fine for those who live near the coasts—but they are only names—to those who live in the central part of our country.

What is needed today is a whole layer of regional parks oriented to the needs of people—in all parts of our country.

I urge my colleagues to support the passage of H.R. 1121 as amended and reported by the Committee on Interior.

Mr. TAYLOR. Mr. Chairman, I yield myself 5 minutes.

Mr. ADDABBO. Will the gentleman yield?

Mr. TAYLOR. I will be glad to yield to the gentleman from New York.

Mr. ADDABBO. Mr. Chairman, I take this opportunity to commend the chairman of the full committee and the chairman of the subcommittee on all the personal work they have put into this particular bill. We know that the chairman of the full committee and the chairman of the subcommittee and their committee members personally inspected the entire Gateway National Park.

This bill has been before this Congress for almost 2 years, and extensive hearings were held both in New York and here in Washington, so that every Member had an opportunity to express his view, and I wish to commend the committee for keeping in the bill the provision which will prevent the further expansion of the Kennedy Airport into the Jamaica Bay.

Mr. CAREY of New York. Mr. Chairman, will my colleague yield to me?

Mr. TAYLOR. I yield to the gentleman from New York.

Mr. CAREY of New York. I thank the gentleman for yielding.

Mr. Chairman, I just wish to rise and commend the chairman of the subcommittee on which I served for about 10 years as a member of the Committee on Interior and Insular Affairs.

This park and recreation area for New York City is long overdue. I am pleased that the committee leadership brought this legislation to the floor in this form. This park will be a great asset to the country.

I want to say also that our late and beloved colleague, William Fitts Ryan, in his last remaining months in this Congress sought and fought to get this legislation to the floor.

I commend the committee for a job well done. I hope we can get the bill passed today and make available this area which I have enjoyed for many years and which should be available for the enjoyment of all of the people of New York, New Jersey, and the Nation.

Mr. ADDABBO. Mr. Chairman, I rise in support of H.R. 1121, to establish the Gateway National Recreation Area. During the 91st and 92d Congresses, I sponsored versions of the Gateway National Park bill because I recognized the unique recreational value of the more than 20,000 acres of land and water at the entrance to New York Harbor.

More than 20 Members of the New York and New Jersey congressional delegations joined in cosponsoring this important legislative measure to protect areas including Jamaica Bay, Breezy Point Beach, and Sandy Hook. None of our colleagues was more interested in this bill nor more active in seeking support for its early passage than the late Member from New York, the Honorable William Fitts Ryan. It is therefore quite fitting and appropriate for us to take this opportunity to recognize his efforts by renaming this national recreational complex "the William Fitts Ryan National Park."

I want to commend the House Committee on Interior and Insular Affairs for its outstanding work in forming and shaping this major piece of legislation which will when enacted benefit literally millions of people in the New York metropolitan area and surrounding areas. The distinguished chairman of the committee is to be praised for his knowledgeable approach to this proposal and for scheduling a number of days of public hearings, both in New York and Washington, D.C., for the purpose of hearing all civic organizations, public officials, and many other interested witnesses who testified on the legislation.

My only regret was the last minute addition of the provision exempting 350 acres for housing. I oppose this provision as it is the luxury housing taking away funds from the city in other needed areas. I will support the amendment to be offered by my colleague, Congressman BRASCO, to strike this exclusion.

I believe this proposal will best serve the recreational and conservation interests of the more than 15 million people who live in within a 2-hour drive of this unique area of our Nation.

This bill will also prevent future proposals for expanding Kennedy International Airport thereby posing a threat to the recreational enjoyment of future generations. The people immediately adjoining this area have long suffered from air and noise pollution by reason of operation of Kennedy Airport and I believe they are now entitled to some future hope and help as to the surrounding ecology and environment.

Mr. Chairman, this proposal has bipartisan support in the House of Representatives and has broad community support in the New York-New Jersey communities which border the area. Civic organizations have endorsed the proposal without reservation and I hope this widespread support will encourage this subcommittee to act favorably and swiftly to protect this valuable resource from the threatened destruction of pollution and lack of a master plan for its maintenance.

This is clearly a national concern and a proper Federal responsibility for protecting an area this large and developing a plan which will serve millions of Americans for years to come. It has been estimated that more than 500,000 people a day would be able to use the facilities of Gateway—swimming, boating, fishing, and other recreational and cultural activities. The potential is so vast and so important that only a Federal undertaking can assure success.

The legislation authorizes the Secretary of the Interior to acquire all lands and water within the area by donation, purchase, or exchange with all State or locally owned lands to be acquired only by donation including proposed open park areas such as Spring Creek Park and excluding residential areas such as Broad Channel and Breezy Point Cooperative.

This area includes some of the most valuable and unique recreational lands in the northeast part of our Nation. The horrors of water pollution have already destroyed literally thousands of acres of this natural resource. We have an opportunity to act now in order to prevent further destruction and to assure that future generations will be able to enjoy this legacy.

The Department of the Interior has endorsed the concept of establishing a Gateway National Recreation Area and this legislation is consistent with the President's environmental message to the Congress.

Mr. Chairman, this legislation is important now and as much land as possible must be included. The second World Conference on National Parks pointed out the shortage of national parks and the possibility of future rationing based on approaching the stage of overuse.

Mr. Chairman, I urge my colleagues in the House to support H.R. 1121 as a most important proposal for the protection of valuable resources of our Nation and for the benefit of our future generations.

Mr. SKUBITZ. Mr. Chairman, I yield 10 minutes to the gentleman from New York (Mr. TERRY).

Mr. TERRY. Mr. Chairman and Members of the House, but for the grace of God, Bill Ryan would be standing before us today as the last remaining member of the New York delegation to serve this 92d Congress as a member of the Committee on Interior and Insular Affairs that has exhaustively gone over this proposal.

And I pay tribute to him for the work that he has done in the past several years, the times that he came down here of recent date when really his health did not permit it, not only in connection with this measure, but other matters. The last time I talked to him was just before the Labor Day recess, and we talked about this very measure.

Most of my colleagues have wondered why I, as an upstate New Yorker, have taken an interest in this, which appears to be a New York City problem essentially. At the outset, I would like to note that the Gateway shoreline is more than a New York concern, or a New York State concern, for that matter. For the 13 years that I have had the pleasure of serving as assistant secretary to the Governor, and a member of the State legislature, the problems of New York City and the problems of upstate New York have become very intertwined. In my mind, there is a national interest involved. The Gateway National Seashore Urban Recreation Area will serve 10 percent of the population of this country.

I note further that this upstate Member has been cognizant that for too many years our Nation's waterfronts, which are in fact national treasures, have been looted.

What has happened in the city of New York is virtually no different than what has happened elsewhere in the Nation. An area which should be an esthetic ecological delight unfortunately assaults our vision. Rather than seeing cloud-filled skies and natural wetlands, we look today at the abused waterfronts, sometimes used as a refuse and garbage dumping grounds, and at other times utilized for such misplaced land uses like noxious industries which pollute our streams and blot out the horizons.

Gateway is a part of a new concept in planning within the National Park System. It is an urban recreation area. And as the distinguished chairman, the gentleman from Colorado (Mr. ASPINALL) together with the other members of the committee who worked so hard on this, has said, this is a new concept calling for the funding of a much-needed recreation area for those living in urban centers. This is an important aspect of the situation that has been neglected in the past, the providing of recreation spots for the masses of people gathered within the inner cities. Gateway is one of the solutions for the people of New York and New Jersey.

Gentlemen, when I think of Gateway many thoughts crop up in my mind. I think of recreation, of conservation, and of other improvements which form a park-like environment at the doorstep of a totally new residential community.

I think of taking a bay which is very badly polluted today and, as the distinguished chairman of the subcommittee, the gentleman from North Carolina (Mr. TAYLOR) noted, that perhaps today you might sail a boat on it, but that some day we are hopeful to bring it back and convert it into a recreational reservoir for the delight of millions where pleasure craft as well as people can enjoy this very water and, yes, so that they can provide ways to carry this out properly.

To me a shoreline is a proper place for beautiful beaches, a place where the water is safe and attractive for bathing, a location that will delight every fisherman's heart and line.

Looking beyond Gateway as a recreational resource, this upstater recognizes that New York City housing needs must be answered. I am distant enough from the scene to be able to separate the forest from the trees, recognizing that almost every local New York Representative, regardless of political persuasion, must recognize in his heart that the housing needs of the people must be answered.

I am astute enough to realize that there will be local community opposition to housing even where there is a concept of a total new residential community sponsored and built by private corporations for moderate-income families.

In today's supercharged, polarized atmosphere, local constituents fight against the unknown new neighbor with vehemence and vengeance regardless of from what race, creed, color, or national origin they spring. Theirs is the philosophy of "Pull up the ladder, Mac, we are on board now."

I state for the record that, as I view this as a total community, it will be a model for future generations to emulate, a place of pride for every resident and every neighbor.

That is, it will be an entirely self-contained new community with housing and infrastructure necessary to support the housing, including schools, health, day-care centers, cultural, recreational, shopping, and waste-disposal facilities as well as police and fire services.

The new community will require no services from the surrounding community and will not, therefore, impose any strain on existing facilities.

It will be a high-quality, low-density development including scaled high-rise and townhouse garden apartments.

It will have an internal vehicular traffic circulation system interrelated with an improved surrounding road system which will help all residents of the area.

Designwise, it will utilize acoustical considerations in placement and shapes of buildings and the use of materials.

It will not only give full ecological consideration to both a superior Floyd Bennett Field environment, but it will also upgrade the surrounding natural environment.

It will offer a substantial boost to our State's economy due to an aggregate construction cost reaching a magnitude of $1.2 billion over a 10-year period. This can be translated into approximately 12,000 new jobs per year involving the construction and related industries, and an additional 5,000 permanent service-related jobs in the shopping centers and other employment opportunities per year after the project is completed.

It will offer an assist to the New York City tax base by generating $20 million in annual taxes.

In addition, many of the public facilities will be given to the city of New York without cost. Yes—the continued maintenance—of $20 million in taxes coming into the city of New York as a result of this new project in the dimension of $1,200 million.

My fellow Representatives, New York City's housing inventory has been described as critically short—and it is getting consistently worse.

This Representative has empathy not just for the people of my area of Syracuse, but for people of New York City and the State of New York.

I am interested in seeing that our aged, our handicapped, our returning Vietnam veteran, our young, our newly employed and the newly wedded youngsters have housing.

At this point in time sufficient objections have not been advanced as to why the 350-acre reservation at Floyd Bennett Field should not be constructed for a population of 60,000 residing in 17,500 units. It is an opportunity that cannot be missed, large enough in scale to make a difference, and with a land price low enough to make it feasible.

The gentleman from North Carolina talked about a cost of $11 million to acquire the land along Breezy Point—yes, but offset by $8 million to the net cost of just over $3 million to the Federal Government for the development of this facility, 95 percent of which is owned by the Government to be donated by this source.

In addition by the fact that it is vacant land, no relocation hardships will be foisted upon families or businesses.

Why do I take an interest in Gateway? Out of a compassion for how people will live in their homes, and how their homes will set into a surrounding environment. This is what causes me to press on for a Gateway National Urban Recreation Area containing an entirely new community.

Mr. Chairman, there is a definite need for both recreation and housing in New York and the surrounding area. Within a 2-hour travel distance from the proposed Gateway beaches live some 20 million people in some 35 counties of four States: New York, Pennsylvania, New Jersey, and Connecticut.

The Gateway proposal as reported by the House Interior and Insular Affairs Committee will not only give the people of the New York-New Jersey area a much needed recreation site but it will also give the New York City residents a chance to recoup some of the disastrous housing losses as well.

The Gateway proposal, as reported before you now, should be kept intact and we should discuss the question of naming it for our late and beloved colleague, Mr. Ryan, and discuss the overall aspects.

But, let me urge you to defeat any amendment to remove that housing.

Mr. Chairman, I yield to the gentleman from New York (Mr. ROSENTHAL).

The CHAIRMAN. The time of the gentleman has expired.

Mr. TERRY. I ask for 1 additional minute for the purpose of responding.

Mr. SKUBITZ. Mr. Chairman, I yield 1 additional minute to the gentleman from New York.

Mr. ROSENTHAL. Mr. Chairman, I wholeheartedly suppport the bill for Gateway National Seashore. I want to commend the committee for the very good, diligent, and arduous work they have done. The passage of this bill, I think, will be a magnificent accomplishment on the part of the House of Representatives in giving to the people in this area, some 20 million people who will use these facilities, a remarkable opportunity to take advantage of the natural opportunity that exists. I do hope that all of the Members, without exception, will support the amendment by Mr. MURPHY of New York to name this park after our late, beloved colleague, William F. Ryan, who did so much to bring this piece of legislation to fruition. This will be a unique opportunity on our part to make the House of Representatives a part of this magnificent accomplishment.

Mr. TAYLOR. Mr. Chairman, I yield 10 minutes to the gentleman from New York (Mr. BRASCO).

(Mr. BRASCO asked and was given permission to revise and extend his remarks.)

Mr. BRASCO. Mr. Chairman, I rise in support of H.R. 1121, a bill establishing the Gateway National Seashore in the States of New York and New Jersey, and I urge its adoption with one exception—that is the portion of the legislation allowing the Secretary of the Interior to exclude from the park 350 acres in the Floyd Bennett Field unit for the purpose of constructing 17,500 State-sponsored middle-income units of housing for more than 60,000 residents.

At the appropriate time, I will offer an amendment to delete that portion of the bill and to restore all of Floyd Bennett Field into the national park network.

I want to make two points perfectly clear at the outset. This is not an antihousing amendment, in the sense that it is an antipeople amendment; for the same State is presently constructing some 6,000 units of low-, moderate-, and middle-income housing in the Spring Creek area of my district—a site less than 2 miles away from Floyd Bennett Field. Point No. 2: The Floyd Bennett unit in its entirety lies in my congressional district, and this amendment affects no other congressional district.

Why then do I oppose housing at this site? First, while it is true that New York City is in need of additional housing stock, it is equally true that New York City is in dire need of recreational areas. There are alternate sites for housing, but no alternate site for the national park.

Second, housing is completely incompatible with the park, and further, it is geographically and economically unsound to build a housing development at that location.

Floyd Bennett Field is completely unimproved. There are no sewers, no sidewalks, no curbs, and no streets. There are no schools, medical facilities, or houses of worship. Floyd Bennett Field is totally filled land, with water 8 feet below the surface, making construction costs, according to reliable estimates, more than $100 per room.

Transportation facilities in the area are virtually nonexistent, for Floyd Bennett Field is about 12 miles from the center of Manhattan, and the nearest subway station is 4 miles from the site. A single bus route now serves the area.

Since the people of the State of New York have long since rejected the transportation bond issue, no locally financed improvements can be expected in the foreseeable future. Further, since this location is surrounded by existing neighborhoods, any attempt to build surface highways for transportation would of necessity destroy thousands of units of existing housing.

The proposed housing development is less than 5 miles away from Kennedy International Airport, and it lies directly beneath the major noise abatement flight pattern approaching and departing the airport. This approach is the product of a long and intense effort on the part of the Federal Aviation Administration, the airlines, and the Port of New York Authority to develop a pattern for aircraft using Kennedy Airport, which would give the residents of the adjacent communities maximum relief from jet noise.

Approximately 35 percent of the operations at Kennedy use this approach and departure pattern. Last year, there were more than 110,000 operations over Floyd Bennett—an average of more than 300 per day at altitudes of 1,000 to 1,800 feet on approach and 1,200 to 2,500 feet on departure.

If a housing development is built on that site, the airport will be faced with the decision of changing the flight pattern. Due to the high density of population in other communities surrounding the airport, no acceptable change could be made—thus creating the atmosphere for the curtailment of airport operations and eventually threatening the very existence of the airport, which is desperately needed for the economic life of New York City.

Floyd Bennett Field is in what is known as a "one 3" noise level area, for the noise rate there exceeds 80 dB(A) 60 minutes per 24 hours.

Under these guidelines, as they were reiterated by Under Secretary of Housing and Urban Development Richard Van Dusen, in a colloquy before the Appropriations Committee when they were considering appropriations for HUD, the intention here is to avoid using Federal subsidies to put housing in places where occupants will be subjected to pollution of any kind, whether it be the result of flood damage or noise.

Therefore, Federal subsidies needed to build this development, which will cost more than $1 billion to complete, will be nonexistent. Assuming that the State of New York could complete construction without Federal funds, noise pollution levels would run the same, and it seems ludicrous to me that if the Federal Government will not invest Federal moneys under these circumstances, we, as an arm of the Federal Government, would even consider authorizing the construction of 17,500 housing units under the same circumstances.

We would be literally jamming this proposal down the throats of local government and local communities who are vehemently opposed to it, when there are hundreds of more appropriate alternate sites on which the State could build. I speak of the deteriorated communities of New York City: of Brownsville, parts of East New York, Manhattan, South Bronx, where people are begging that their neighborhoods be rebuilt, neighborhoods which already have sewers, sidewalks, curbs, streets, schools, medical and transportation facilities.

At this point, let me explain who is for this housing development and who is against it.

For the development, we have the State of New York and its housing commissioner.

Against the housing proposal, we have the administration of the city of New York, the president of the Borough of Brooklyn, the president of the Borough of Queens, the Brooklyn Chamber of Commerce, the Queens Chamber of Commerce, all local, State, and Federal officials representing the surrounding areas. The Air Transport Association, representing all domestic airlines, the coordinator of the central Brooklyn model cities program, the environmental groups—including the Sierra Club, the National Wildlife Federation, the Wilderness Society, and the Audubon Society. All of the residents in the surrounding areas of Brooklyn and Queens, represented by dozens of civic associations who have come to Washington to express their strong opposition to the housing proposal.

Mr. Chairman, I request permission to insert in the Congressional Record at this point correspondence from the sources I have referred to.

With all of this opposition, one would logically ask, "How have we come to this point?"

The answer, my colleagues, is very simple. In this proposal, the needs and wishes of the people are being subverted to the desires of large builders, who would be the only ones to gain from such a proposal.

I ask you to adopt my amendment not only as a reflection of my desires, and the desires of the people already mentioned, but also as a reflection of your own desires. For as a member of the Banking and Currency Committee, that recently passed a housing bill which will be considered shortly by this House, I have received numerous requests from Members on both sides of the aisle to make every effort to insure that the building of federally assisted programs throughout the country would not be done without the complete consultation and participation of local government and local residents.

This was your request, and the committee made every effort to comply. And I am sure that on the House floor, there will be further movements along these lines.

Now, you are asked to support a bill containing a provision which bypasses, in a very harsh and brash way, local government and community participation. This is diametrically opposed to what you stand for and what I stand for.

If they do it in my district, can they and will they do it in yours? I urge you to support an amendment which I believe is based in logic and in equity.

Thank you.

Mr. TAYLOR. Mr. Chairman, I would like to state that the housing language was not in the bill when it was approved by the National Parks Subcommittee. It was added when the bill was being considered by the full Committee on Interior and Insular Affairs, and submitted by the gentleman from New York (Mr. Terry).

I voted against the housing amendment at that time. I believe now we can have a viable park even with the housing amendment. However, I think we will have a better park if the Brasco amendment is adopted to strike out the housing provisions. I will support the Brasco amendment.

Mr. BRASCO. I thank the gentleman.

Mr. Chairman, I certainly do not want to leave the well before I commend Chairman Aspinall and Chairman Taylor and the entire committee, because a great portion of this park is in my congressional district. I suppose they saw more of me than they would like to see in the future because of this. I thank them for their courtesy and their diligent efforts in behalf of this legislation.

Mr. SKUBITZ. Mr. Chairman, I yield 10 minutes to the gentleman from New Jersey (Mr. Sandman).

Mr. SANDMAN. Mr. Chairman, we talk about the environment, which is a popular subject today. Of course everybody wants to turn the entire country into a park. That is a popular thing to talk about.

It would seem to me when we do this we should look at the whole picture and study what we are doing.

I should like to call to your attention that this particular area happens to be the largest commerce area in the whole world—not in the country but in the whole world.

When I was a member of the State senate in New Jersey I had the privilege of sponsoring a bill which created the New York Port Authority's ability to build the World Trade Center in New York, to the tune of $600 million, none of which is being paid by the taxpayers but which is being paid on a revenue basis by the New York Port Authority

The river which creates the world commerce happens to be the Hudson River. This river today is not nearly deep enough to facilitate the deep-draft vessels we are told we will have to have. Yet almost all of the area where spoil would normally be put is now to become a part of the park system, and once it becomes a part of the Federal registry it will be guarded night and day by those people who have taken over the front pages and in most States have taken over the power of the State in the name of ecology.

I can predict, my friends, that once this becomes a part of the park system these people will stop the dredging of the Hudson River in key places where it needs dredging.

Let us talk about what we are going to do with the Hudson River. Down where I live we have a beautiful area we would like to preserve. We have interests from all over the world who try to turn this into an oil port down on the Delaware Bay, between the States of Delaware and New Jersey. They are talking about building a massive oil pipeline buoy to facilitate 350,000-ton freighters that cannot go up the Hudson River, that cannot go up the Delaware River, that cannot go up any other river today in the Northeast, where the metropolitan population is.

There are no oil fields within 100 miles of the place they want to put the oil terminal, and everybody today is pleased to let them do it, because the oil companies want to do it and the oil companies are strong enough to do almost anything they want.

We are told the land already has been acquired to do this particular kind of thing.

If we are going to do something to facilitate world commerce, if we are going to fill the World Trade Center, with two of the biggest buildings in the world, costing $600 million, if we are going to build up commerce which is going to give jobs to more than 200 million Americans, it would seem to me there should be some planning done in that direction.

I have tried to find out from this authority: "What have you done? What do you plan to do? How do you plan to deepen the Hudson River?"

Now, we have heard the chairman of this committee say that no discussion whatever was had about deepening the Hudson River when this came before the committee, and I can understand that to be true.

Secondly, and more important there is no argument against the fact that it has to be deepened.

Where can you put the fill, if you take away all the areas where the fill is presently being put? I would like to have someone answer that question. Nobody has thought about that one yet.

If we are talking about parks—and I am a great believer in parks—I would like this committee to consider 22,000 acres in New Jersey which is all in sight of the Empire State Building—where there is not a single person who lives on it—known as the Hackensack Meadow. Why did no one offer the Hackensack Meadow as a part of this great park?

The Governor of New Jersey, of course, wants to build a sports complex there and a couple of racetracks. I am not sold on the idea as good for the State, and I do not know where the ecologists were when they were thinking of this plan. Nobody has said anything about it yet, and I guess nobody will.

There is a piece of land as large as all the land you are taking in this bill, and no one has said a word about it.

Another project in New Jersey which affects New York and Pennsylvania is the Tocks Island Reservoir. We have opposition to the Tocks Island Reservoir, which is needed for all of those States for water control as well as water supply, because it is taking 15,000 acres of land and putting it into a reservoir and they say we should not do that.

But, on the other hand, the people who say we should not do that are willing to turn the Hackensack Meadow, 22,000 acres of it, into a sports arena complex consisting of some racetracks and some sports facilities. This does not seem, to me, to make sense; it is not consistent.

The only possible thing we have to hang our hats on in this bill happens to be on the bottom of page 11, carried over on to page 12, down through and including line 7. It does give some authority to the Army for the sake of the development of water resources and for navigational purposes in conjunction with the Secretary of the Interior to do certain things. It does not say what; I think that it should be spelled out.

I think that this bill needs an amendment that would pertain to what you do when you come to the time when you want to deepen the Hudson River.

I would like to be for this bill. I am in favor of the park system that you are trying to promote. But all of the land that you hope to turn into a park, my friends, happens to be polluted. If you think there is any wildlife, if you think there is anything that is nourishable in the Raritan Bay, I would like to know what it is. The whole thing is contaminated for the taking of shellfish, and so are the surrounding areas.

If we are going to do something about cleaning that up. Let us do it. Let us do it with a long-range plan; let us do it with a bill that does allow improvement by way of that dirty word, "dredging."

This is an incomplete piece of legislation, because it does not provide for those things which are most sorely needed. The shipping channel from the Atlantic Ocean to New York Harbor must be deepened and it must be maintained—let us provide for it.

Mr. TAYLOR. Mr. Chairman, I yield myself 1 minute.

I would like to point out that this bill came to the Congress as an executive communication. During the hearings, Mr. William Cronin, the chief of the Legislative Services, testified for the Army. His testimony did not present any problem concerning dredging. He said nothing about the problem of disposal of dredged materials being created, and no other witness testified before the committee concering a problem of this type.

Mr. Chairman, I now yield 5 minutes to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Chairman, I support the Gateway project in concept and have for some time. I take this time however, to bring to the attention of the committee a serious conflict which is included in this bill both within the committees of the Congress and also within the agencies of the Federal Government.

I have learned only this morning that the legislation which the distinguished Committee on Interior and Insular Affairs finally approved and which is before us now is different from the legislation that was originally discussed in the committee. I learned that the proposal contained in this bill before us actually flies in the face of the original recommendation of the Department of the Army in three specific instances.

What we have in this bill, if it is not amended, is legislation which would turn over active Army installations to the Secretary of the Interior who then would operate those installations and allow the Army to remain on them at his sufferance.

Not only is this an absurd policy as far as the Defense Department is concerned, but it also flies in the face of the rules and regulations of the House of Representatives, which gives to the Committee on Armed Services the authority to determine whether property now under the control of the Defense Department shall be declared excess or not.

In other words, if this bill is not amended, as I propose to amend it, then we will have flouted the authority of the Committee on Armed Services in our own body.

I can say that the chairman of our committee was deeply disturbed this morning when he discovered what had happened in this bill.

Just to be specific, there are four areas included in this bill which are still operational in the armed services and which have not been approved for release by the service involved. In the case of three of these areas the Army is on record as strongly opposing, as does the chairman of our committee, their release to the Interior Department. These are Fort Tilden, Fort Hancock, and Fort Wadsworth.

Let me read to you from the committee report exactly what the Army has said about each of these three installations. On page 26 there is a paragraph referring to the Fort Tilden section of this bill. The concluding sentence of that paragraph says:

> The Secretary of Defense has determined and has advised the Secretary of the Interior that Army operational requirements preclude the release of any lands now remaining at Fort Tilden.

On page 27, in the second paragraph on that page, with regard to Fort Hancock;

> The Department of the Army has a continuing requirement for the remaining 433 acres of land at Fort Hancock to meet the needs of the Nikes Hercules mission, Army Reserve activities, the First United States Army recreational area, and family housing units. Also, the Department of the Navy will continue to require facilities it now uses at Fort Hancock for the training of Naval Reserve units dedicated to the operation of the defense system of New York Harbor and for installation and operation of the Inshore Undersea Warfare Defense System (formerly Harbor Defense Unit) of the Port of New York should mobilization be so directed.

Finally, on page 28, the top paragraph on that page with regard to Fort Wadsworth, it says:

> It is emphasized, however, that no portion of Fort Wadsworth can be relinquished at the present time and some portions of the installation will not become excess to military requirements within the foreseeable future.

Not only that, but with regard to Floyd Bennett Field, which has already been discussed by my colleague, the gentleman from New York (Mr. BRASCO) with regard to proposed housing, the Committee on Armed Services deliberated at great length with regard to the status of Floyd Bennett Field, and finally determined that all of Floyd Bennett Field except 95 acres could be determined to be surplus to the requirements of the Navy. That 95 acres, incidentally, involved housing for servicemen in that area, as well as maintenance facilities. This bill as presently written would take all of the acreage at Floyd Bennett Field for the recreational area, including these 95 acres, contrary to the specific action of our committee.

The CHAIRMAN. The time of the gentleman from New York has again expired.

Mr. TAYLOR. Mr. Chairman, I yield 3 additional minutes to the gentleman from New York.

Mr. STRATTON. I thank the distinguished chairman of the committee for yielding me this additional time.

So we have four areas, as I have said three of which the Army says they need, and one of which the Committee on Armed Services, under authority established by this House and by statute, has determined should remain under control of the Department of Defense. This bill would transfer all four areas to the Secretary of the Interior in accordance with the provisions of section 2(b) on page 8.

Then the Secretary of the Interior could tell the Army and the Navy how long they could continue to use these properties, for such reasonable periods, etcetera, etcetera, etcetera. Well, this to me is ridiculous and in violation of the rules of this House.

Mr. Chairman, I therefore propose to offer, with the concurrence and full approval of the chairman of our full committee and on behalf of the committee, an amendment at the proper time which would delete the provisions of section 2 (b) and insert in place thereof a provision which would simply say that without concurrence of the agency having custody thereof no Federal property within the jurisdiction of the seashore could be transferred to the administrative jurisdiction of the Secretary of the Interior.

Mr. KING. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I am happy to yield to my distinguished friend, the gentleman from New York (Mr. KING).

Mr. KING. Mr. Chairman, the gentleman in the well is the Chairman of the Subcommittee that handles real estate for the Army, the Navy and the Air Force, and so forth, and he does a very effective job. It is my pleasure to serve on that committee with him. We have reviewed many, many requests where property becomes surplus and usually goes to the General Services or one of the other departments. As I recall, Floyd Bennett Field was discussed a great many times in the committee.

Mr. STRATTON. That is correct.

Mr. KING. And after careful consideration by the gentleman in the well and by the committee it was determined that it would be turned over. But were there ever any hearings at all or any discussion as to these other forts and other Army posts in the area that they were to be turned over to anyone?

Mr. STRATTON. I must say to the gentleman that there were not any. The Army specifically—as I have already indicated here—has said that it cannot turn these properties over because they are actively being utilized, and in the case of Fort Wadsworth are going to continue to be utilized into the foreseeable future.

So what this bill would do would be to take active Army installations and turn them over to the Secretary of the Interior. And that, of course, is absurd. Not only that, but let me say to the gentleman from New York, who is a distinguished member of our subcommittee, that my amendment has the support of the administration, and therefore, I hope that it will be accepted by both sides.

Mr. KING. There is more that we can say on the matter, if it comes to that point. I hope the committee will review your amendment and understand what you are driving at and agree to it so that we will not have to get into a fight here.

Mr. STRATTON. I hope the gentleman will also take some time under the 5-minute rule so that we can discuss this matter at length.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman.

Mr. MURPHY of New York. I have appeared before the gentleman's Subcommittee on Real Property Disposal of the Armed Services Committee. In past years they had relocated from the Miller Field area, that is included in this bill, to the Fort Wadsworth area and the U.S. Army Reserve and the Naval Reserve training installations in an effort to consolidate in one piece of Federal property those Army activities that were Reserve activities.

The CHAIRMAN. The time of the gentleman has expired.

Mr. TAYLOR. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. MURPHY of New York. The reason for the change in location of the Reserve training facility from Miller Field to Fort Wadsworth was to keep Miller Field unencumbered of new construction with the idea of having Miller Field free of expensive construction so that it would be ideal for recreational purposes.

But as we analyze the military properties in New York, I hope full recognition is taken of the fact that Fort Wadsworth and Fort Hamilton are basically military complexes located in the same geographical position and the U.S. Army was disposed to take Fort Wadsworth off their disposal list this year, which is a move that I had recommended over the years. If there is military property disposal in New York I have recommended that the consolidated bases be maintained together and the outlying bases be the ones disposed of, for obvious communication purposes.

Mr. STRATTON. The gentleman's position is absolutely sound and this is precisely what our committee has tried to do.

We recognize that there has been an excess of property in the hands of military agencies. We made Floyd Bennett Field available for this seashore purpose and we did consolidate other installations as the gentleman has suggested.

But to turn this new installation at Fort Wadsworth over to the control and operation of the Secretary of the Interior at this time would be insane, in my judgment.

In fact, on page 31 of the report, Secretary Froehlke says in a letter reproduced there that his recommendation is that—

> After the enactment of the Gateway National Recreation Area, orderly transfer of these areas to the Department of the Interior will be proposed as soon as the missions now assigned to this installation are either relocated or phased out if there is no longer any national defense requirement for them.

Mr. TERRY. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman.

Mr. TERRY. Mr. Chairman, the 350 acres referred to here for turning over by sale to the State of New York is nowhere involved with respect to military properties that you just talked about.

Mr. STRATTON. I cannot answer that question absolutely because——

The CHAIRMAN. The time of the gentleman has expired.

Mr. STRATTON. Mr. Chairman, will the distinguished chairman of the subcommittee yield me 3 additional minutes to respond to the gentleman from New York?

Mr. TAYLOR. Mr. Chairman, I yield to the gentleman 3 additional minutes.

Mr. STRATTON. I am not certain as to whether the 95 acres which we ordered retained overlap in any regard the 350 acres desired by the State of New York for housing purposes.

Mr. TERRY. I know the Flatbush area in the northwest corner of that piece, I have land there. I do not see why this comes as such a surprise because as my colleague, who just leaned over, said that time and time again from the standpoint of inspection by the committee of more recent date I have been——

Mr. STRATTON. I do not want to yield to the gentleman further to discuss that particular point.

I do believe that the 95 acres I have referred to are in the northern portion of the field rather than on the part adjoining Flatbush Avenue.

Mr. TERRY. Not the area we are talking of?

Mr. STRATTON. That is my understanding.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman.

Mr. WYDLER. I do not want to pursue this matter further, but I think we should have it very clearly defined where the Army area is going to be in relation to these 350 acres because the proposal for the 350 acres is going to bring 60,000 people into that Army area and even necessary plants could greatly affect the Army's use of the area that it will retain.

I think from your point of view and from the point of view of the Army, they know exactly how that development for 60,000 people is going to affect the use of the Army installation.

Mr. STRATTON. Let me say, I support the Brasco amendment and I would agree thoroughly with the gentleman's position.

As a matter of fact, our committee looked into this subject and we released these areas with the understanding that they would not be used for housing. But we have no authority to put that requirement specifically into our formal decision.

So the Brasco amendment is in full accord with the thinking of our subcommittee.

Mr. WYDLER. I thank the gentleman.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman.

Mr. GROSS. Should the military installations be taken over by the Secretary of the Interior, thereby stopping the use of them, who would put up the money to relocate these facilities?

Mr. STRATTON. The gentleman has raised a very good question. I honestly do not know whether this is one that the Interior Committee has gone into, I certainly would not be in a position to answer that question.

Mr. GROSS. It would cost probably several hundreds of millions of dollars to relocate these three military installations?

Mr. STRATTON. Exactly. There is no question about it. The gentleman from Iowa, of course, always reads the reports in great detail, and the gentleman, I am sure, has noted that in the case of several of these installations the development costs have been enormous—several millions of dollars—so that obviously the taxpayers would have to pay all of these costs over again, if they were to be disposed of.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. TAYLOR. Mr. Chairman, I yield 1 additional minute to the gentleman. Will the gentleman yield to me?

Mr. STRATTON. I yield to the gentleman from North Carolina.

Mr. TAYLOR. I should like to state that there was on intention by the committee to relocate these facilities and place them somewhere else. The whole intention was that they be continued to be used by the military so long as they are needed and then become a park. Perhaps the language we have in the bill does not spell that out fully, and we have no objection to spelling it out fully.

Mr. STRATTON. I think the gentleman's attitude certainly is sound, and I think the simplest way to handle this matter is to accept the amendment which I will offer at the proper time.

Mr. SKUBITZ. I yield 1 minute to the gentleman from New York (Mr. TERRY).

Mr. TERRY. I should like to ask the gentleman from New York the names of the individuals who reported this information, since we, as members of this committee, who have been studying this for 2 years, have gone to the Department of Defense and the Department of the Interior and the Office of Management and Budget to discuss this measure in its present language several months ago. The Committee on Interior and Insular Affairs reported this bill on June 14, more than 3 months ago.

I have no objection to the amendment by the distinguished chairman of the subcommittee that we consent to the gentleman from New York's and member of the Armed Services Committee amendment, but I believe that it comes at an inopportune time.

Mr. STRATTON. I would simply say to the distinguished gentleman from New York that the views of the Secretary of the Army are contained not in just one letter but in two letters which are in the subcommittee's report, and which I read specifically. Those, as I understand it, were the views which the Army presented to the committee, and that, at the end of the committee's hearings and discussions with the Army, a new bill was substituted in place of the bill originally under discussion, and for some reason or other the Army was not aware of that.

Mr. SKUBITZ. Mr. Chairman, I have no further requests for time.

Mr. VANIK. Mr. Chairman, I rise in support of H.R. 1211, a bill to create a 26,000-acre national park and recreational area in the heart of our Nation's largest urban complex. The creation of this park at the mouth of New York Harbor will preserve, forever, this open space for the enjoyment of milions. It will make available for public recreation about 11 miles of ocean-front beach which is suitable for swimming or other water-oriented activities. As our new systems of water pollution treatment become effective, an additional 19 miles of bayside shoreline will be opened up for swimming and recreational use.

This bill is landmark legislation. It is the first time that the Federal Government has made its resources and energies available for the creation of a major park in the midst of an urban area. This park will be a park, an open space, a place of beauty and solitude for millions who will probably never be able to visit some of the great national parks in the Western United States.

It is fitting that we are considering in this Congress this bill which was first introduced by our late colleague, Congressman William Ryan of New York. All his life he worked for the people—and the creation of this park will be a living and lasting memory to his spirit.

Last year, it was my privilege to submit testimony in support of the Gateway National Park to the Senate Interior Committee.

My particular interest in the park lies in the concept of national parks "where the people are." This bill sets the framework for Federal assistance in other urban areas, to help these urban areas preserve open spaces and places of historical and recreational interest.

In particular, there is a fantastic potential for the creation of a national recreation area in the open and unspoiled land that lies along the Cuyahoga River and old Ohio Canal between Cleveland and Akron, Ohio. Some 21 Members of the House have joined with me in sponsoring H.R. 7673, "The Ohio Canal and Cuyahoga Valley National Historical Park and Recreation Area." This bill would create a network of three separate but interrelated park and open-space areas for the use of Ohioans and all persons traveling in the State.

The three parks can be summarized as follows:

First. A park along the Cuyahoga River and old Ohio Canal stretching between Route 17 in southern Cuyahoga County and the northern city limits of Akron in Summit County.

This park will preserve some of the last remaining beautiful open land which lies between these two major Ohio cities. It is expected that portions of the canal will be restored and a regular "operating canal boat ride" can be provided for visitors.

The development of the beautiful wooded park is being coordinated with a major Army Corps of Engineers project currently underway to clean up the Cuyahoga River itself.

Second. Portions of the Cuyahoga River stretching upstream from the eastern city limits of Cuyahoga Falls to its headwaters in Geauga County would be designated as a recreational river under the provisions of the Wild and Scenic Rivers Act passed by Congress in 1968. Such a designation means that such portions of the river shall be preserved in a free flowing condition and "that it and its immediate environment shall be protected for the benefit and enjoyment of present and future generations."

Third. The right-of-way along the old Ohio Canal extending south of Akron through Summit, Stark, and into Tuscarawas Counties shall be preserved, new parks along the Tuscarawas River will be developed and an operating canal boat ride developed for the enjoyment of visitors.

The concept of the Gateway National Seashore must be extended to potential parks such as the one I have just described.

In reading the Interior and Insular Affairs' Committee's excellent report on this bill, I was struck by the applicability of that report to the Cuyahoga Valley situation. For example, in commenting on the legislation, Secretary of the Interior Morton wrote the committee:

> This Department believes that the quality of urban life is one of the most pressing problems facing our Nation today. It is our policy to foster the creation of open space areas with recreational opportunities in and near large metropolitan areas. Meeting the recreation needs of our urban populations is an undertaking that must involve government at all levels. While primary responsibility for local, community, and district parks should be in municipal governments, there are special instances where the direct involvement of the Federal Government is necessary to provide adequate protection of resources and to assure that the recreation potential of these resources is developed in such a manner that the areas are accessible to all income groups.
>
> As the President noted in his Message on the environment of February 8, "the acquisition and development of open space, recreation lands and natural areas accessible to urban centers is often thwarted by escalating land values and development pressures". In that same message, President Nixon announced a "comprehensive effort to preserve our national environment and to provide more open spaces and parks in urban areas where today they are often so scarce".

In justifying the bill, the committee report states:

> Unlike some of the Nation's more remote areas, this recreation complex can be a place for all people and can serve the recreation needs of huge crowds if properly developed and administered. Since there is no comparable recreation area in existence at the present time which can serve as a model, the Committee is recommending that the area be designated as a national urban recreation area. In the future, comparable areas will undoubtedly be proposed and considered for other major metropolitan regions where the need for outdoor recreation opportunities is the greatest and where the only hope would be the acquisition, development, and operation of open areas by the Federal Government.
>
> The combination of circumstances at Gateway presents an ideal opportunity for this Federal venture. Here, a significant, relatively compact, outdoor recreation resource land base remains available. The area is relatively free of intensive developments which would otherwise bar its use for recreation purposes forever.

These are exactly the reasons that the Cuyahoga Valley park is needed—and needed soon. I hope, Mr. Chairman, that the concept of urban park legislation which we are considering today will be extendend in the next Congress to include areas such as the Cuyahoga Valley between Cleveland and Akron.

Mr. DANIELS of New Jersey. Mr. Chairman, I rise in support of H.R. 1121 to create the Gateway National Recreation Area in southern New Jersey-New York Harbor. This project will afford New Jersey and New York residents with access to prime recreation facilities.

In past years we have concentrated many of our national recreation resources too far from people. But too many of them are in areas of the country which are inaccessible to most Americans. We need, within an hour's distance, facilities for relaxation, for recreation, a place to escape from the tensions of daily urban life. These areas must be close at hand. In urban areas they must not be dependent on the automobile but must provide an escape from traffic jams and pollution.

I regret, therefore, the decision of the committee to drop from the bill a proposal to include Liberty Park and the Statue of Liberty in the Gateway project. It seems most logical to take advantage of this nearby land which is available now. I have been informed, however, that the Office of Management and Budget is so adamantly opposed to the inclusion of Liberty Park that it has threatened to suspend funding and development of the Gateway project if it is included. OMB's position that it would be too expensive to integrate Liberty Park into Gateway, because of the distance is simply shortsighted and without foundation. Liberty Park is no farther from Hoffman-Swinburne Island than Sandy Hook is from Breezy Point. Furthermore, a ferry service connecting the Statue of Liberty with the rest of the proposed Gateway area is a logistical recreational attraction. Indeed, this very day, President Nixon dedicated a new museum at the Statue of Liberty. for reasons of its own, threatened that inclusion of Liberty Park will jeopardize its funding of the rest of the Gateway project, I have been convinced that pressing the issue at this time would not be in the best interests of New Jersey and New York residents. It is unfortunate that the administration has taken this shortsighted approach and I am sure that they will regret depriving millions of people from a unique recreational opportunity.

Mr. BOLAND. Mr. Chairman, I support the Gateway National Seashore Act (H.R. 1121).

This bill is considered to be a major breakthrough in recreation planning in that it will be the first Federal recreation area in the heart of an urban complex. The Gateway Urban Rrecreation Area will consist of five basic units totaling over 26,000 acres in the States of New York and New Jersey. Because this is the first urban recreation park program, it will bring the national park program closer to the people than ever before. For the first time, 20 million people who live in the densely populated New York-New Jersey metropolitan area will have easy access to their own national recreation area. Because there is no other such recreation area now in existence, the Gateway National Seashore will provide a model for future projects on other comparable areas.

We must support this bill (H.R. 1121) for it provides Congress with the opportunity to provide a national outdoor recreation area for the use and enjoyment of the people living in one of the most congested areas of our country.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That in order to preserve and protect for the use and enjoyment of present and future generations an area possessing outstanding natural and recreational features, the Gateway National Urban Recreation Area (hereinafter referred to as the "recreation area") is hereby established.

(a) The recreation area shall comprise the following lands, waters, marshes, and submerged lands in the New York Harbor area generally depicted on the map entitled "Boundary Map, Gateway National Urban Recreation Area," numbered 951–40017 sheets 1 through 3 and dated May, 1972:

(1) Jamaica Bay Unit—including all islands, marshes, hassocks, submerged lands, and waters in Jamaica Bay, Floyd Bennett Field, the lands generally located between highway route 27A and Jamaica Bay, and the area of Jamaica Bay up to the shoreline of John F. Kennedy International Airport;

(2) Breezy Point Unit—the entire area between the eastern boundary of Jacob Riis Park and the westernmost point of the peninsula;

(3) Sandy Hook Unit—the entire area between Highway 36 Bridge and the northernmost point of the peninsula;

(4) Staten Island Unit—including Great Kills Park, Miller Field in its entirety, Fort Wadsworth, and the waterfront lands located between the streets designated as Cedar Grove Avenue, Seaside Boulevard, and Drury Avenue and the bay from Great Kills to Fort Wadsworth;

(5) Hoffman and Swinburne Islands; and

(6) All submerged lands, islands, and waters within one-fourth of a mile of the mean low water line of any waterfront area included above.

(b) The map referred to in this section shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, Washington, District of Columbia. After advising the Committees on Interior and Insular Affairs of the United States House of Representatives and the United States Senate in writing, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to make minor revisions of the boundaries of the recreation area when necessary by publication of a revised drawing or other boundary description in the Federal Register.

SEC. 2. (a) Within the boundaries of the recreation area, the Secretary may acquire lands and waters or interests therein by donation, purchase or exchange, except that lands owned by the States of New York or New Jersey or any political subdivisions thereof may be acquired only by donation.

(b) Federal property within the boundaries of the recreation area is hereby transferred without consideration to the administrative jurisdiction of the Secretary for administration as part of such area, subject to the continuation of such existing uses as may be permitted by the Secretary for such reasonable periods as may be agreed upon with the head of the agency formerly having jurisdiction over the property.

(c) Within the Breezy Point Unit (1) the Secretary shall acquire an adequate interest in the area depicted on the map referred to in section 1 of this Act to assure the public use of and access to the entire beach. The Secretary may enter into an agreement with any property owner or owners to assure the continued maintenance and use of all remaining lands in private ownership as a residential community composed of single-family dwellings. Any such agreement shall be irrevocable, unless terminated by mutual agreement, and shall specify, among other things:

(A) that new construction will be prohibited on any presently undeveloped lands between the line of existing dwellings and the beach area to be acquired by the Secretary;

(B) that all construction commencing within the area, including the conversion of dwellings from seasonal to year-round residences, shall comply with standards to be established by the Secretary;

(C) that additional commercial establishments shall be permitted only with the express prior approval of the Secretary or his designee.

(2) If a valid, enforceable agreement is executed pursuant to paragraph (1) of this subsection, the authority of the Secretary to acquire any interest in the property subject to the agreement, except for the beach property, shall be suspended and the Secretary is authorized to designate, establish, and maintain a buffer zone on Federal lands separating the public use area and the private community.

(3) The Secretary is authorized to accept by donation from the city of New York any right, title, or interest which it holds in the parking lot at Rockaway which is part of the Marine Bridge project at Riis Park. Nothing herein shall be deemed to authorize the United States to extinguish any present or future encumbrance or to authorize the State of New York or any political subdivision thereof to further encumber any interest in the property so conveyed.

(d) Within the Jamaica Bay Unit, (1) the Secretary may accept title to lands donated by the city of New York subject to a retained right to continue existing uses for a specifically limited period of time if such uses conform to plans agreed to by the Secretary, and (2) the Secretary may accept title to the area known as Broad Channel Community only if, within five years after the the date of enactment of this Act, all improvements have been removed from the area and a clear title to the area is tendered to the United States, and (3) the Secretary is further authorized to exclude from the boundaries of the recreation area a tract of not more than three hundred and fifty acres adjacent to Flatbush Avenue in the Floyd Bennett Field Unit; said tract to be made available under other applicable provisions of law, to the State of New York for housing and related facilities: *Provided*, That if construction of said housing project now contemplated has not commenced within five calendar years after the passage of this Act, said three hundred and fifty acres will be included in the Gateway National Urban Recreation Area.

SEC. 3. (a) The Secretary shall administer the recreation area in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), as amended and supplemented. In the administration of the recreation area the Secretary may utilize such statutory authority available to him for the conservation and management of wildlife and natural resources as he deems appropriate to carry out the purposes of this Act: *Provided*, That the Secretary shall administer and protect the islands and waters within the Jamaica Bay Unit with the primary aim of conserving the natural resources fish, and wildlife located therein and shall permit no development or use of this area which is incompatible with this purpose, except as provided in subsection 2(d).

(b) The Secretary is authorized to enter into cooperative agreements with the States of New York and New Jersey, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.

(c) The authority of the Secretary of the Army to undertake or contribute to water resource developments, including shore erosion control, beach protection, and navigation improvements, on land and/or waters within the recreation area shall be exercised in accordance with plans which are mutually acceptable to the Secretary of the Interior and the Secretary of the Army and which are consistent with both the purpose of this Act and the purpose of existing statutes dealing with water and related land resource development.

(d) The authority of the Secretary of Transportation to maintain and operate existing airway facilities and to install necessary new facilities within the recreation area shall be exercised in accordance with plans which are mutually acceptable to the Secretary of the Interior and the Secretary of Transportation and which are consistent with both the purpose of this Act and the purpose of existing statutes dealing with the establishment, maintenance, and operation of airway facilities: *Provided*, That nothing in this section shall authorize the expansion of airport runways into Jamaica Bay or air facilities at Floyd Bennett Field.

(e) In the Sandy Hook and Staten Island Units, the Secretary shall inventory and evaluate all sites and structures having present and potential historical, cultural, or architectural significance and shall provide for appropriate programs for the preservation, restoration, interpretation, and utilization of them.

SEC. 4. (a) There is hereby established a Gateway National Urban Recreation Area Advisory Commission (hereinafter referred to as the "Commission"). Said Commission shall terminate ten years after the date of the establishment of the recreation area.

(b) The Commission shall be composed of eleven members each appointed for a term of two years by the Secretary as follows:

(1) two members to be appointed from recommendations made by the Governor of the State of New York;

(2) two members to be appointed from recommendations made by the Governor of the State of New Jersey;

(3) two members to be appointed from recommendations made by the mayor of New York City;

(4) two members to be appointed from recommendations made by the mayor of Newark, New Jersey; and

(5) three members to be appointed by the Secretary to represent the general public.

(c) The Secretary shall designate one member to be Chairman. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(d) A member of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibility under this Act upon vouchers signed by the Chairman.

(e) The Commission established by this section shall act and advise by affirmative vote of a majority of the members thereof.

(f) The Secretary or his designee shall, from time to time, consult with the members of the Commission with respect to matters relating to the development of the recreation area.

SEC. 5. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not more than $11,450,000 for the acquisition of lands and interests in lands and not more than $92,813,000 (July, 1971 prices) for development of the recreation area, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in the construction costs as indicated by engineering cost indices applicable to the type of construction involved herein.

Mr. TAYLOR (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

AMENDMENT OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. MURPHY of New York: Page 7, line 12, strike out "in its entirety" and insert "(except for approximately 26 acres which are to be made available for public school purposes),".

Mr. MURPHY of New York. Mr. Chairman, at the outset I would like to congratulate the chairman of the full committee and the chairman of the subcommittee and the ranking minority members and the members of the committees for a tremendous move for the benefit not only of the citizens of the east coast of the United States but particularly for those who reside in the New York metropolitan area. This bill certainly represents a position and tangible movement toward parks for the people.

The Miller Field area of this park that the committee decided to include in its boundary map warrants inclusion in the bill and I support completely the committee action in June of this year that included the area known as Miller Field. I must relate to you briefly some history of this land. Three years ago Miller Field was an Army air base, it had been declared excess for military purposes, and it had been turned over to the General Services Administration for disposal.

During that 3-year period I involved myself in a colloquy as to the use of that land. Finally, after many months, in fact, years of negotiations with the General Services Administration and the city of New York, 26 acres of Miller Field was set aside for the building of a high school, a public high school in this particular area of New York City, an area of New York City where no land is available for school construction.

At present the young children who go to high school in this area sometimes eat lunch at 9:30 in the morning because of the three shifts that are necessary for them to complete their education. It is almost impossible for them to field an athletic team because of the shifting of young men and women in the classrooms at all hours of the morning, afternoon, and evening.

The city agreed, the Department of Health, Education, and Welfare agreed, the General Services Administration agreed and the Congress agreed that 26 acres of Miller Field should be set aside for a high school.

There was some disagreement on other areas of Miller Field, but in this southwestern corner that the map showed the 26 acres should be set aside for the high school, there was no disagreement.

Unfortunately the city of New York did not move quickly enough with the Department of Health, Education, and Welfare and with the General Services Administration to have 26 acres taken out of the map of Miller Field. Consequently the committee in June included all of Miller Field in the Gateway National Park, including this 26 acres. The chairman said he did not feel it would be proper to override the judgment of the committee to revise the map and exclude this 26 acres by correspondence with the Department of the Interior and GSA. We therefore have really an administrative problem of setting aside this 26 acres that all Government agencies had agreed upon. Already budgeted in the public school educational program is this high school which is set aside in such a congested and necessary area.

This particular 26 acres does not encroach on the seashore areas nor the central areas that are so necessary for recreation of the people of this community. I certainly hope that the committee in its wisdom will agree to amend this map so that the 26 acres in the southwest area known as Miller Field can be removed from the map of Gateway Park for the specific purpose of going into that public school educational requirement.

Mr. TAYLOR. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from North Carolina.

Mr. TAYLOR. Mr. Chairman, Miller Field is shaped like a football field of some 200 acres. Where is the 26 acres located which the gentleman desires for a school project?

Mr. MURPHY of New York. The east end of Miller Field fronts on New York Bay. The west side almost fronts on a major thoroughfare known as Hylan Boulevard, a commercial development area. The 26 acres is on the west portion in the southerly corner.

Mr. TAYLOR. On the back side away from the waterfront?

Mr. MURPHY of New York. Away from the waterfront; that is correct.

Mr. TAYLOR. It is on the end and the corner of the field farthest from the waterfront?

Mr. MURPHY of New York. The gentleman is correct. The gentleman's amendment just exempts the area from the bill.

Mr. TAYLOR. Does the gentleman have any assurance that the Federal Government will convey this property for the school purposes?

The Federal Government has already committed itself in writing; the mayor of New York has accepted in writing, but unfortunately the commissioners did not get to the governmental agencies in the early part of this year. In June the committee included the entire area in its map, or this site would not have been included.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. MURPHY of New York. Mr. Chairman, I ask an additional 1 minute.

Mr. TAYLOR. Mr. Chairman, I would just like to state that in view of the gentleman's explanations and statements, I have no objection to this amendment. To some extent I think it was an oversight on the part of the committee.

Mr. MURPHY of New York. I thank the chairman.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, initially I was not opposed to this amendment. I thought it was an oversight. Now, we begin the process of emasculation. First of all, we take out 26 acres for a school. Soon, another amendment to take out housing projects will be introduced then will come the Stratton amendment, which will change the entire meaning of the bill.

I say this for this reason: The total acreage is 27,000 acres: 16,980 are owned by the State of New York; 4,900 acres are owned by New York and New Jersey. This is a total of 22,000 acres that are owned by the State of New York and the State of New Jersey, which can only be added to the recreation area if donated.

If we accept the Stratton amendment, 4,000 acres which are now owned by the Federal Government can only be added to the area if the agencies which now own the land concur.

The CHAIRMAN. The time of the gentleman from New York has again expired.

Mr. MURPHY of New York. Mr. Chairman, I ask unanimous consent to proceed for 1 additional minute.

Mr. SKUBITZ. Mr. Chairman, if the 4,000 acres owned by the Federal Government can only be added if the agencies concur, there can be no park. Why should a State donate land when the Federal agencies themselves refuse to give up the land?

Mr. MURPHY of New York. If I may say this to the gentleman, the thrust of the Stratton amendment has nothing to do with this conveyance.

Mr. SKUBITZ. I agree with you.

Mr. MURPHY of New York. This conveyance is Federal land, Federal land for the last 90 years. What it is going to do is move this public land into a public use that had already been agreed upon by all of the agencies involved with the exception of the county.

The CHAIRMAN. The time of the gentleman from New York has again expired.

Mr. SKUBITZ. Mr. Chairman, I ask unanimous consent that the gentleman may continue for 1 additional minute.

Mr. SKUBITZ. Mr. Chairman, what I am saying to the gentleman from New York is that this is the first nickel-and-dime operation on this particular bill. The next one will be the Brasco amendment, which is to cut out the housing project in the bill, which this committee considered in its wisdom and decided should be included. Add the Stratton amendment which says that federally owned land shall not be taken without the consent of the agency, will only encourage the States to refuse to donate their lands.

Mr. Chairman, I oppose the amendment.

Mr. MURPHY of New York. I can only say in response that the purpose of the use of the 26 acres is for an educational purpose. The lands are conveyed free. The other amendments to which the gentleman referred, to take housing out, has nothing to do with free transferral. This is for public use. It is vital to this community.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. MURPHY).

The question was taken; and on a division (demanded by Mr. SKUBITZ) there were—ayes 27, noes 4.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. STRATTON

Mr. STRATTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. STRATTON: On page 8, beginning on line 13, strike out everything down through line 20 and insert the following:
>
> "(b) With the concurrence of the agency having custody thereof, any Federal property within the boundaries of the recreational area may be transferred without consideration to the administrative jurisdiction of the Secretary for administration as part of the seashore."

Mr. STRATTON. Mr. Chairman, I have already explained the purpose of this amendment. I do not believe there is any great need to go over it again.

I might simply make, however, some small response to the points the gentleman from Kansas (Mr. SKUBITZ) raised a moment ago with the gentleman from New York (Mr. MURPHY). The bill as now drafted does not suggest that the recreational area is going to begin operating in those very areas where the Army is already operating. The bill does recognize that the Army and the Navy can continue to operate in these four areas until their functions have been transferred. So we are not really excluding a lot of Federal acreage from the recreational area as a result of my amendment; we are simply following orderly procedure, so that when something is being used for a military purpose and, as the Secretary of the Army indicates, will probably continue to be used for that purpose into the foreseeable future, then the title ought to remain in the Army.

I might also point out to the gentleman that actually the Federal Government has given up already a very substantial amount of acreage. The gentleman was suggesting that as a result of my amendment and the amendment offered by the gentleman from New York (Mr. MURPHY), the Federal Government would not be giving up anything, only the States. But all of Floyd Bennett Field, with the exception of 95 acres, has been given up. All the other military installations listed in the report, except the three I mentioned, are also being given up: Highlands Army Air Defense Site, Manhattan Beach, Naval Ammunition Depot Earle, and Fort Hamilton; these are all being given up.

Mr. ASPINALL. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I am glad to yield to the distinguished chairman.

Mr. ASPINALL. I should like to say to my friend from New York that we never considered those areas. Those areas are not in the provisions of the bill. The gentleman is correct about the three areas referred to, but these other areas were such that we adhered to the wishes of the Department of Defense.

Mr. STRATTON. I stand corrected by the chairman.

Let me say, however, that I have had some preliminary discussions with the distinguished gentleman from Colorado, the chairman of the full committees, and as I understand it the only real problem with my amendment concerns several beach areas at Fort Tilden, I believe, and possibly Fort Wadsworth. I believe the answer to this concern is that the orderly procedure which we followed in our committee with regard to making parts of Camp Pendleton in California available for recreational purposes would be to leave title to these beaches in the hands of the Defense Department and then allow the Defense Department to propose leasing them for recreational purposes. That is what was done very successfully in the case of Camp Pendleton.

I can say, as chairman of the Real Estate Subcommittee, that I am sure our committee would very favorably consider such a recommendation. Then, as I say, we would be following the normal and orderly procedures in having the appropriate committees of the Congress deal with each specific proposal.

Mr. KING. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to my friend from New York.

Mr. KING. I rise in support of the gentleman's amendment.

The gentleman in the well (Mr. STRATTON) chairs an important subcommittee. I have the pleasure of serving with him. He is always careful as are we all to protect the interest of the American taxpayer whose funds created these installations. We jealously guard the jurisdiction of the Defense Department over them and their disposal.

I cannot agree that these defense areas should be turned over to the Interior Department without a hearing before the gentleman's subcommittee. If it is surplus we will release it. If it is not, we will not, I can assure you.

I support the gentleman's amendment.

Mr. MURPHY of New York. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from New York.

Mr. MURPHY of New York. Will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from New York.

Mr. MURPHY of New York. When we speak of Fort Wadsworth and Fort Hamilton and Fort Tilden of course, we are talking about what were formerly coast artillery bases. Fort Wadsworth being the oldest continually manned installation in North America. It has flown the flags of three countries.

In today's military requirement or at some time in the future this real estate itself may not be necessary. In my testimony before the committee earlier this year I stated: Because of the historical significance, the beautiful scenic outlook and impact on the area, at such time as the military does not have a role for this property it should then revert to this Gateway National Park for public uses.

Mr. STRATTON. This was the statement of the Secretary of the Army, of course, but he did indicate in the case of Fort Wadsworth that they saw the probability that certain parts of that area would be required into the foreseeable future.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. McCLURE, and by unanimous consent, Mr. STRATTON was allowed to proceed for 3 additional minutes.)

Mr. McCLURE. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. Yes, I will yield to the gentleman.

Mr. McCLURE. I thank the gentleman for yielding.

As has been suggested, there is a great deal more to Fort Wadsworth that is significant for this proposed park than just the beach areas. I think one of the things that impressed the committee when we visited that area was the historic significance of Battery Weed, which is indeed one of the oldest fortifications, which overlooks the Narrows and the approaches to the harbor, and if the installation in this case is not needed at the present time, and if the amendment is adopted, I hope there will be a continuing guideline for the Department of Defense for the early and expeditious transfer of those portions of Fort Wadsworth which are not now necessary for military purposes, which would be a substantial portion of the fort.

Mr. STRATTON. Mr. Chairman, of course I cannot speak for all the members of our committee, but I can assure the gentleman, as the chairman of the subcommittee, that I will do all I can to see that any request referring to areas which the Army declares to be excess will be promptly considered by our subcommittee.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman.

Mr. DON H. CLAUSEN. I want to join in the comments that were made by my friend, the gentleman from Idaho (Mr. McCLURE) because of the similarity which exists between Fort Wadsworth in the East and the Fort Point Museum that we established previously out in the Golden Gate area of San Francisco.

I would hope the gentleman in the well would give very serious consideration to this, because here we see an excellent opportunity to advance a parallel situation on both sides of the United States.

Mr. STRATTON. I think the situation is very similar between these two, as the gentleman has indicated.

AMENDMENT OFFERED BY MR. ASPINALL AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. STRATTON

Mr. ASPINALL. Mr. Chairman, I offer a substitute amendment.

The Clerk read as follows:

Substitute amendment offered by Mr. ASPINALL for the amendment offered by Mr. STRATTON: Page 8, line 13, strike out all of subsection (b) and insert:

"(b) Except for such beachfront areas not exceeding 300 feet from the mean high tide at Fort Tilden and Fort Hancock which shall be transferred to the Secretary of the Interior upon his request for the purposes of this Act, any Federal property within the boundaries of the recreation area may be transferred without consideration to the administrative jurisdiction of the Secretary for administration as a part of the recreation area by the agency having custody thereof."

Mr. ASPINALL. Mr. Chairman, the only difference between the language of the amendment offered by the gentleman from New York (Mr. STRATTON) and myself has to do with the first provision of the proposed substitute:

> Except for such beachfront areas not exceeding 300 feet from the mean high tide at Fort Tilden and Fort Hancock which shall be transferred to the Secretary of the Interior upon his request for the purposes of this Act, any Federal property within the boundaries of the creation area may be transferred without consideration to the administrative jurisdiction of the Secretary for administration as a part of the recreation area by the agency having custody thereof.

The reason I asked for this time is that we have an understanding here in the committee as to what is really involved as far as the recreational benefits from these beach areas are concerned. Most certainly our committee did not wish to transgress on the jurisdiction of the Committee on Armed Services.

We thought we had paid our respects to the report of the Secretary of Defense. In fact, we did not consider most of the matters that the Secretary of Defense took exception to in his report on this bill.

What we are trying to provide for the people of this area is recreational benefits consisting primarily of beach fronts. At the present time these beach fronts referred to in this substitute amendment are used by the military. The military can have their guests, but they are not public beaches.

If my friend from New York (Mr. STRATTON) could assure me, as I think he attempted to do in the explanation he gave on his amendment, that the Committee on Armed Services of the House of Representatives would consider this matter immediately upon the request of the Secretary of the Interior so that these areas could be leased or turned over, whichever is more appropriate, for the use of the public rather than for the use of the military alone, I would appreciate that assurance.

Mr. STRATTON. Will the gentleman yield?

Mr. ASPINALL. I will be glad to yield to the gentleman.

Mr. STRATTON. I will certainly give the chairman of the full committee my personal assurance—and I think I can also speak for the Committee on Armed Services—that we would very promptly entertain any request by the Army for any lease arrangement for these beach areas and I feel certain we would approve it very promptly. This was our procedure, for example, in connection with the beach areas at Camp Pendleton which President Nixon wanted to make available for public use in California. The Marines indicated to us that from time to time they needed some of those areas for landing operations and were therefore reluctant to transfer title to the State of California. But at the request of our committee they did agree to a lease arrangement, and those beaches are now available to the people of California.

I feel sure that our subcommittee and the full committee would approve of a similar arrangement with regard to the beaches in this area.

Mr. ASPINALL. As one who is familiar with this area, I wonder if my colleague knows of any present situations such as those he referred to on the west coast.

Mr. STRATTON. I certainly do not know of any such operations. I think there may be some areas which may occasionally be used as enlisted men's beaches for recreational purposes, but I see no reason why this usage would interfere with the use of the rest of the beaches by the general public.

Mr. ASPINALL. With that assurance, Mr. Chairman, I ask unanimous consent to withdraw my substitute amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. GROSS. Mr. Chairman, I move to strike the next to the last word.

Mr. Chairman, I have been concerned by the "without consideration" provisions in all of these amendments and in the bill. May we assume from that the Federal Government never paid for any portion of the lands acquired for the military installations involved in this takeover?

Mr. ASPINALL. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I will be delighted to yield to the gentleman from Colorado.

Mr. ASPINALL. Mr. Chairman, I am certain my friend, the gentleman from Iowa, understands the situation as well as I do, but it is the general law that whenever an agency of the Government is through with the use of a particular piece of property, Federal property, then it is turned over as excess to its needs, and then another agency of the Government is given the opportunity to come in and secure that property if its proposed use is correct, without any payment whatever. Is that not correct?

Mr. GROSS. I am not on the committee, and I am not fully conversant with the law. I know there is a fair market value provision in any number of bills that come from the Committee on Interior and Insular Affairs, and on occasion they have been put in the bills on the floor of the House. I just wonder whether all of this property was taken originally by the Federal Government or purchased by the Federal Government. In Iowa we cannot acquire Federal property without paying for it. I have no knowledge of any Federal property we have obtained without paying fair market value for it. I would think it ought to be the same on the eastern seaboard, as well taken care of as they are by the Federal Government.

Mr. ASPINALL. Mr. Chairman, will the gentleman yield further?

Mr. GROSS. I yield to the gentleman.

Mr. ASPINALL. It is my understanding that even in the State of Iowa if there is no Federal agency that wishes some property that has been declared excess to the uses of another Federal agency, all that they have to do is to make their request, and they do not have to make any contribution in return.

Mr. GROSS. I thank the gentleman, but I am afraid I still do not know the answer to the question I asked a few moments ago: if these military installations are turned over, and if the Stratton amendment should not be adopted, who is going to put up the very substantial amount of money that would be required to relocate them? Was that given any consideration by the committee that wrote the provision in the bill which the gentleman from New York (Mr. STRATTON) seeks to remedy?

Mr. ASPINALL. Will the gentleman yield further?

Mr. GROSS. I yield further to the gentleman from Colorado.

Mr. ASPINALL. It is my understanding that these will be declared as surplus to the needs of the Defense Department, and that there will not be any other properties that will be constructed in lieu of these properties.

Mr. GROSS. But under the terms of this bill without the amendment there could be a taking of the military property there now?

Mr. ASPINALL. A taking of the property?

Mr. GROSS. Yes.

Mr. ASPINALL. The property automatically reverts.

Mr. GROSS. The bill as it stands transfers control to the Secretary of the Interior and the military will exist on the property, in part, at least, by suffrance of the Secretary of the Interior, not the Secretary of Defense, and the former could circumscribe activities, particularly with respect to military personnel to the point that the bases would be closed and relocated. Then who would put up the money to relocate the installations?

Mr. STRATTON. Mr. Chairman, will the gentleman from Iowa yield?

Mr. GROSS. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, I would like to say to the gentleman that if my amendment is accepted then those properties could be subject to the usual routine procedure that we carry out in our committee with regard to all surplus property, or a property that is declared surplus by the Defense Department, as to whether they should be sold at public auction, or transferred to some other agency.

Mr. GROSS. Through the GSA, is that correct?

Mr. STRATTON. If a property is declared excess to their needs, or those of any other agency, then it would go to the GSA. Or under title X procedures it could be transferred to another agency.

Mr. GROSS. I certainly support the gentleman's amendment.

Mr. STRATTON. Mr. Chairman, I ask unanimous consent to correct a typographical error in my amendment to strike out the last word in the amendment "seashore" and substitute the words "Recreational area".

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

In the amendment offered by Mr. STRATTON, the final word of the final sentence in the amendment, strike out the word "seashore" and insert "Recreational Area".

The CHAIRMAN. Without objection, the modification will be made accordingly.

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. STRATTON), as modified.

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. TERRY. Mr. Chairman, I demand tellers.

Tellers were refused.

So the amendment, as modified, was agreed to.

PARLIAMENTARY INQUIRY

Mr. MURPHY of New York. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I rise to make a parliamentary inquiry at this point.

The CHAIRMAN. The gentleman will state it.

Mr. MURPHY of New York. Mr. Chairman, I have three amendments at the desk.

One amendment is parliamentarially to be offered in the House. The other two amendments are conforming amendments of the bill.

The amendment, in effect, would revise the title of the bill so that the bill would be called the William Fitts Ryan Gateway National Urban Recreation Area in the States of New York and New Jersey.

Mr. Chairman, I would ask unanimous consent when I offer that amendment in the Whole House that the other two conforming amendments be considered at that time.

The CHAIRMAN. The gentleman may offer the amendments, that is his three amendments to the text of the bill at this point, and ask unanimous consent that they be considered en bloc.

Does the gentleman care to do so?

AMENDMENTS OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Chairman, I make that request, that the three amendments, which I offer, be considered en bloc.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. MURPHY of New York: Page 6, line 16, immediately after "the" insert "William Fitts Ryan".

Page 11, line 2, immediately after "the" insert "William Fitts Ryan".

Page 13, line 1, immediately after "a" insert "William Fitts Ryan".

The CHAIRMAN. Is there objection to the request of the gentleman from New York (Mr. MURPHY)?

There was no objection.

The CHAIRMAN. The gentleman from New York is recognized for 5 minutes in support of his amendment.

Mr. MURPHY of New York. Mr. Chairman, legislation coming up within the next 2 weeks will be naming Federal buildings and other national lands after 30 Members of this body, some who are still sitting in this body. I think we have ample precedents and we all know and understand the tremendous contribution and the great work that Congressman Ryan did to bring this legislation to its rightful enactment into law.

He labored under the most trying physical circumstances, particularly in the last 6 months and we, his colleagues, knew of his work and sacrifice in the face of the handicaps he faced.

For his courage alone we are justified in our action but when we add to it his determination, great honesty, and diligence, we are vindicated in our judgment.

Mr. BURTON. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman.

Mr. BURTON. Mr. Chairman, I would like most earnestly to commend the gentleman now in the well.

Every Member of this body is aware of the enormous contribution that our departed colleague, William Fitts Ryan, made to the public dialog and debate.

I can think of no more fitting action by this body than to reflect tangibly our stated sorrow—by recognizing Congressman Ryan's contribution and leadership with reference to this landmark urban recreation area legislation.

We would honor ourselves if we recognized the last act literally in a political sense of this dear, departed colleague of ours—despite political pressures in terms of an election and despite a very serious physical illness. The effort expended by our colleague, Mr. Ryan, in bringing to fruition this hope of the millions of people on the east coast must be recognized by the adoption of the amendment proposed by our colleague from New York (Mr. MURPHY).

I heartily congratulate him.

I urge with every possible ounce of conviction and persuasion that I may possess that our colleagues give recognition to this gentle soul who has passed to his everlasting reward.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to the dean of the New York delegation (Mr. CELLER).

Mr. CELLER. Mr. Chairman, I gladly endorse the amendment offered by my distinguished colleague from New York paying a tribute of honor and respect to Bill Ryan who has gone to his last reward.

Bill was a quiet, most effective Member of the House. He was tireless in his efforts to bring about the fruition of this Gateway National Park. I joined with him several years ago in this effort and was very happy to work under his leadership.

I think the Members may remember Mark Anthony in his oration said:

> The evil that men do lives after them; the good is oft interred with their bones.

That will not be the case with Bill Ryan. His good will not be interred with his bones. That will be especially so if we name the park after him. Future generations will view with adoration his wonderful efforts on the floor of the House, and more particularly his work in establishing this park.

Mr. ADDABBO. Mr. Chairman, I rise in support of the amendment.

I wish to join with my colleague from New York in asking that this House now name this park in memory of a great colleague Bill Ryan, a man who lived a life for people, who believed in the environment and its protection. I believe this commemoration will be a fitting tribute to his great works on behalf of the Nation and, most importantly, all people.

Mr. KOCH. Mr. Chairman, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from New York.

Mr. KOCH. Mr. Chairman, many Members of Congress attended the funeral of our colleague, Bill Ryan. Bill Ryan's son, William Fitts Ryan, Jr., delivered a brilliant and moving eulogy. One line in particular stood out when he said:

> My father was a rare man.

Yes, Bill Ryan was a rare man, a rare Member of Congress, and a unique individual. This Congress would honor itself by honoring his memory. I rise in support of the amendment to name the Gateway National Seashore after this rare man.

Mr. CAREY of New York. Mr. Chairman, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from New York.

Mr. CAREY of New York. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, as one who came to the Congress with Bill Ryan in 1961, I recognized his many great qualities, his commitment to his ideals, and his devotion in particular to this park. I think it is a most fitting way in which to remember Bill Ryan. I hope those who visit the park in future generations will inquire about the greatness this man brought to Congress and how he performed here. In this way they will get more out of the park than sheer enjoyment. If they look into the naming of this park, it will stand as a monument to all the ideals with which Bill Ryan was identified: Decency, integrity, equality, and above all, the preservation of the kind of quality living people of a city may have. Gateway will add to the quality of life in New York City, and therefore it should properly be named for the man who gave new quality to life in New York City throughout his career.

Mrs. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. ADDABBO. I yield to the gentlewoman from New York (Mrs. ABZUG).

Mrs. ABZUG. Mr. Chairman, I am pleased to join with my colleague the gentleman from New York (Mr. MURPHY) in urging the adoption of this amendment to name the Gateway National Seashore after Congressman William F. Ryan.

Bill Ryan cared a great deal about recreation and worked for many years to make a reality this first national park in an urban area. His concern for recreation and its availability to all the people as but a part of his concern for the quality of life for the people of his district, his city, and his Nation.

I believe that we should honor his commitment and ability, not only in the field of recreation, but also in the fields of peace and social justice by naming this great new park after him. The people for whom Bill Ryan fought so hard will look with great favor upon this House if it takes this opportunity to pay tribute to his work and his dedication.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Chairman, I too rise in support of the amendment. I think it is most fitting indeed that this kind of tribute and permanent memorial be instituted for our friend, the late gentleman from New York, Bill Ryan. He was a man of extraordinary courage and extraordinary dedication, a man who perhaps will be more appreciated after his death than he was at times during his life. His dedication to and his work for this project is well known. I think it is highly suitable that we make this gesture to perpetuate his good name in the New York area.

Mr. BRASCO. Mr. Chairman, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from New York (Mr. BRASCO).

Mr. BRASCO. Mr. Chairman, I rise in support of the amendment.

As the Member in whose district a great portion of this park lies geographically I had an opportunity to work with Bill Ryan very closely and I can attest at first hand to his energetic and conscientious dedication to the development of the park. I believe his colleagues could think of and could perform no greater tribute to Bill Ryan than to name the park after him, the park which was a creation of his and something he dreamed of. Let it bear his name.

Mr. PODELL. Mr. Chairman, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from New York (Mr. PODELL).

Mr. PODELL. Mr. Chairman, I too, would like to join my colleagues in supporting this amendment which will truly make the park a memorial to a great and dedicated public servant.

Mr. Chairman, this afternoon the House of Representatives approved an amendment naming the proposed Gateway National Seashore the William Fitts Ryan Gateway National Seashore. It was the right thing to do and Gateway is a fitting memorial to a man whose interests were with the people, first, last, and always.

The late Congressman initiated the project and worked relentlessly to make it a reality. It is pure irony that he is not here to see his work come to fruition.

It is appropriate that Bill Ryan's memorial be bright, a thing associated with the better things of life. Still a young man at his untimely death, Mr. Ryan was a leader often described as "ahead of his time." That was true. Much of what he advocated was novel, ahead of its time. He did the right thing by instinct, and was relentless in its pursuit. Some critics said he saw things as 100 percent right or 100 percent wrong, would not compromise, could not be induced to relax and found it difficult to delegate authority.

To that his response was, "Is that criticism?"

Because of this dedication to what he believed in, Bill collected a lot of lumps along the way. Some saw him as an outsider and told him so, but to no avail. He spoke out of conviction and sincerity. He was uniformly respected for it.

Beyond that tribute, the genuine respect of his colleagues naming Gateway in his honor will cause millions of people who use those facilities to recall the Congressman, and the dedication he brought to making the national seashore possible.

Mr. GRAY. Mr. Chairman, I move to strike the last word.

Mr. RANGEL. Mr. Chairman, will the gentleman yield?

Mr. GRAY. I yield to the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Chairman, I thank the gentleman from Illinois for yielding.

Mr. Chairman, I rise in support of the amendment. Renaming the Gateway National Seashore in honor of the late Congressman from New York, William Fitts Ryan, is an extremely fitting tribute to a man who labored long and hard to make this proposal a reality. His vigorous support of this project was an inspiration to me, and I am sure for the rest of the New York delegation as well.

The death of my beloved friend and colleague from New York will be a great loss to our home State, the Congress, and the Nation.

The love and respect he was accorded by the residents of his district, whether they be black or white, Protestant or Catholic, Jewish or gentile, Spanish-speaking or English-speaking, was the best testimony to the success with which this man dedicated his life to making the words "equal justice under law" a reality for all New Yorkers and all Americans.

The coalition for progress he welded together stands as a model of what each of us in public service and every American must achieve in order to solve the critical problems facing us as a nation and as a community.

Bill Ryan was a pioneer in the struggle for peace in Southeast Asia, as well as in the battle for action on behalf of this Nation's poor, especially the young. We have lost a spokesman for peace. We have lost a spokesman for the future of our children. I have lost a close personal friend and mentor and the people of New York, the House and the Nation have lost a man of conscience.

Mr. GRAY. Mr. Chairman, as chairman of the Subcommittee on Public Buildings and Grounds it has been the feeling in our committee for a long time that the prestige, dedication, and great work of the Members of this body should be perpetuated. We have brought for House consideration a bill to name 29 Federal buildings throughout the United States after deceased and retiring Members of Congress. I believe this gesture today on the part of the New York delegation to name the Gateway Park after our late and beloved colleague Bill Ryan is certainly a fitting memorial to his dedication and service. There are ample precedents I could cite. I will not take the time to do it now but hope that this amendment can pass unanimously.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New York (Mr. MURPHY).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. BRASCO

Mr. BRASCO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BRASCO: Page 10, line 16, after "United States," change the comma to a period and delete the remainder of subsection 2(d).

Mr. BRASCO. Mr. Chairman, this amendment would delete that portion of the legislation which allows the Secretary of the Interior to exempt some 350 acres in the Floyd Bennett Field unit to be developed as a State housing unit which would consist of 17,500 units of housing, residing in which would be a little more than 60,000 residents.

At the outset, I want to make two points absolutely clear. I made this statement in general debate, and I think it is worth repeating. This is not an antihousing amendment in the sense that it is antipeople. The city of New York is planning to construct in my district in Brooklyn some 6,000 units of low-, moderate-, and middle-income housing located on Pennsylvania Avenue and Flatlands Avenue in the Spring Creek area of my district.

Further, I want to make it absolutely clear, and I am sure those people who spoke in behalf of naming the park for our late beloved Member, Bill Ryan, understand very clearly that Bill was not anti anything; Bill in committee voted against housing at Floyd Bennett Field.

The next point I want to make absolutely clear is that the area known as Floyd Bennett Field lies in my congressional district and does not affect the district of any other Member.

A third point is that the Senate has already passed this particular legislation, and in that legislation the entire unit of Floyd Bennett Field is in the Gateway Park without any exemption for housing.

I suggest at this time to my friends in the committee that inasmuch as we approved just previous to this amendment, two amendments taking out in excess of 100 acres for other purposes, it would be most appropriate to put these 350 acres back into the park.

The reasons that I oppose housing at Floyd Bennett Field are based in logic and equity. Yes, I will be the first one to agree that New York is short of good housing stock, but it is equally true that New York is short and in desperate need of recreational facilities for its inhabitants. We can always find alternate sites for housing, and I will show you in my remarks that there are, indeed, alternate sites for housing, but there are no alternate sites for a national park.

Certainly, housing is completely incompatible with a park. It is geographically and economically unsound to bring housing to Floyd Bennett Field.

Floyd Bennett Field is completely unimproved property. There are no sewers, no streets, no curbs, no medical facilities, no schools, no places of worship, no transportation facilities.

The city of New York, at least its residents, have long since rejected the State transportation bond issue, and we can expect to get no help locally for the financing of additional transportation facilities. As a matter of fact, that area is served now by one bus route. The nearest subway stop is more than 4 miles away from the site.

There is an additional problem with the aspect of jet noise. I am sure all of you have received letters from the Air Transport Association which represents all the domestic airlines. They are vehemently opposed to the placement of housing at the Floyd Bennett Field, and they are opposed for a very logical reason.

As a result of the hue and outcry from people of the surrounding area, they developed a very unique pattern of approach and takeoff that would have most of the landings and takeoffs right over Floyd Bennett Field. Their statistics as compiled by the FAA require right now that 35 percent of the arrivals and departures at Kennedy Airport use that airspace over Floyd Bennett Field.

Some of them come in as low on approach as 1,000 feet, and going off, some 2,000 feet in departure. They are deeply concerned that if you put 60,000 residents at Floyd Bennett Field, the hue and cry again will cause them to curtail operations at Kennedy Airport, and indeed possibly suffer the closing of the airport.

I think that is the most economic point for the city of New York to be concerned about.

The CHAIRMAN pro tempore (Mr. PRICE of Illinois). The time of the gentleman from New York has expired.

(By unanimous consent, Mr. BRASCO was allowed to proceed for 5 additional minutes.)

Mr. BRASCO. Mr. Chairman, I saw, not too long ago, residents of the surrounding area go with baby carriages onto the runways at Kennedy Airport to protest the jet noise. Kennedy Airport and its facility have been hauled into court in a Federal suit with respect to this noise problem. If they are forced to change the present delicately balanced pattern with respect to approach and departure, they say, very simply that: One, it cannot be done; and two, it threatens the airport.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. BRASCO. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. So that I have a clear understanding of what the gentleman is stating, can he tell me who is the authority he refers to when he says "they"? Is the gentleman talking about the FAA?

Mr. BRASCO. I will be glad to answer. I am talking about the Air Transport Association, from whom I have a letter. It has been sent to the entire membership. I will include it with the statement. As I understand it, they represent the domestic airlines. Their statistics and compilations have come from the FAA.

Mr. DON H. CLAUSEN. Has this been verified with the FAA?

Mr. BRASCO. Has this been personally verified? Yes; on previous occasions it has. I have been involved in the jet noise problem since long before the development of proposed housing at Floyd Bennett Field. This has been verified. That is how we developed this approach.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. BRASCO. I yield to my distinguished colleague from New York.

Mr. CELLER. I understand from personal examination that there is available in New York City today potential large-scale development sites which involve a range of over 50,000 family units. With the vast land available, why should they pick on this Gateway Park?

Mr. BRASCO. If my friend will allow me to proceed, I want to make that point right now.

Who is for housing at Floyd Bennett Field? One individual and one individual alone, the State Commission of Housing.

Who is against housing at Floyd Bennett Field, which is supposed to be a gift to the city of New York and to the people of New York?

My friends were very correct when they spoke about the mayor of the city of New York working since 1966 for this National Gateway complex. They were correct when they said that we took a helicopter ride around the area of the park at the courtesy of the Mayor to promote the quick passage of this bill. But the mayor of the city of New York himself is vehemently opposed to placing housing at Floyd Bennett Field.

More importantly, the Borough President of Brooklyn is opposed to placing housing at Floyd Bennett Field. Every local legislator, Federal, State, and city. in the surrounding area opposes it.

The people of that community came down here, and I dare say visited many of the Members of Congress, to tell them about their vociferous objection to this particular development.

One point I want to make now, which is most important, gets back to what the gentleman from New York (Mr. CELLER) alluded to. We have with us today in the Halls of Congress a man by the name of Horace Morancie, the deputy director of the Brooklyn model cities program. He came to my office today. I have a letter from him, as well as others which will go into the RECORD. His letter voices strong objection against the building of housing at Floyd Bennett Field.

He does say, with good logic, that right now in the central Brooklyn model cities they have a possibility of more than 20,000 units of housing to be built at Brownsville, East New York, and portions of Bedford-Stuyvesant. That is a commitment we should have made long ago, without getting involved in the development of more than $1.2 billion for this particular project, which cannot work and which the people do not want.

Mr. RANGEL. Mr. Chairman, will the gentleman yield on the question of commitment?

Mr. BRASCO. I yield to the gentleman from New York.

Mr. RANGEL. Is the gentleman suggesting to this body that if his amendment is passed, the Federal funds will be available to fulfill these alternate sites?

Mr. BRASCO. Yes, I am.

Mr. RANGEL. Would the gentleman share with us this private knowledge that he has?

Mr. BRASCO. Excuse me. I did not hear the gentleman.

Mr. RANGEL. Could the gentleman share with us the nature of the commitment?

Mr. BRASCO. Well, I always like to share things with my distinguished friend and colleague from New York.

I cannot share any secret knowledge, but the basis of what Mr. Morancie and the borough president and the mayor and all the local officials are concerned about regarding the housing is that if we tie up the Federal funds which must be tied up to this project, which will cost in excess of $1,200,000, those projects which are presently in the pipeline—and I might suggest my friend, the gentleman from New York, has two in his own district—will not be fulfilled.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. BRASCO was allowed to proceed for 2 additional minutes.)

Mr. BRASCO. Mr. Chairman, let me say this in closing.

I ask you to adopt my amendment not only as a reflection of my desires, and the desires of the people already mentioned, but also as a reflection of your own desires. For as a member of the Banking and Currency Committee, that recently passed a housing bill which will be considered shortly by this House, I have received numerous requests from Members on both sides of the aisle to make every effort to insure that the building of federally assisted programs throughout the country would not be done without the complete consultation and participation of local government and local residents.

This was your request, and the committee made every effort to comply. And, I am sure that on the House floor, there will be further movements along these lines.

Now, you are asked to support a bill containing a provision which bypasses, in a very harsh and brash way, local government and community participation. This is diametrically opposed to what you stand for and what I stand for.

If they do it in my district, can they and will they do it in yours? I urge you to support an amendment which I believe is based in logic and in equity.

Mr. RANGEL. Will the gentleman yield?

Mr. BRASCO. I yield to the gentleman.

Mr. RANGEL. On the question, if we support your amendment and agree with this, as provided in this legislation, what commitment does the gentleman have that he can share with us today that these funds will be used to develop the sites we are interested in?

Mr. BRASCO. Well, let me say this: I have spoken personally with the mayor of the city of New York, I have spoken with Mrs. Donanzio of the city planning commission, who is here today, I have spoken to Mr. Horace Morancie, all of them having been here today, and with the borough president of Brooklyn in my own district, and with the Committee on Banking and Currency, which has jurisdiction over banking, and as a matter of fact, when the housing bill hits the floor, I will offer an amendment making it a priority that we go into these areas I am talking about. The areas I am talking about are not Dresden, Germany, 1945; they are part of my district in 1972. This is where we should be putting housing, not on Floyd Bennett Field.

Mr. TERRY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, every Member of this House has more important things to do than listen to a dialogue between Members of the New York delegation as to what should happen to 350 acres of land, and I am not so certain that much of this problem was not cleared up by the amendment by the gentleman from New York (Mr. STRATTON) which was adopted with the concurrence of the gentleman from New York who just answered to this.

And I want it clear on that, that section 2(a) on page 8 was amended by adding a new section (b): With the concurrence of the agency having custody thereof any Federal property within the boundaries of the recreation area may be transferred without consideration to the administrative boundaries of the Secretary for administration as part of the recreation area.

I think that clearly put with the Secretary of the Interior the right to dispose of that land as he sees fit, and I want that very definitely on the record.

Returning to some of the points that were covered—and all of them can be answered, and many of them are erroneous—I think the best way is to quote from a letter from the Governor of the State of New York, in which he laid stress to the fact that they heartily endorse the Gateway National Urban Recreational Area and would take no steps to jeopardize or diminish the benefits which this long-needed recreation area will promise.

It stated further: But the city of New York is in desperate need of housing, because of the desperate deterioration of its housing stock. The city is losing 50,000 units to abandonment each year.

Hundreds of thousands of units are inadequate and need replacement. The proposal of the State to develop the housing for 17,500 families is what we are talking about here. Housing on Floyd Bennett Field will have only 350 acres out of 1,282 acres, and what we are talking about is this amount out of a total of 26,000 in the entire William Fitts Ryan Gateway National Urban Recreational Area facility. This is only a small incursion and it will not diminish it in any way.

How many baseball diamonds can be built on one particular project? We are talking about the northeast corner of these lands, which will serve so much to benefit people in these middle-income families. The Floyd Bennett site is ideal for a "new-town in-town" concept. The State proposes to develop them in that way. It will give us an opportunity properly to plan the roads and schools and shopping and educational facilities.

Quite to the contrary, Members of the House, from what the last speaker said to you, these will be included within a bond issue to be floated by the developing agency and then turned over by that agency to the city of New York. So it will not cost the taxpayers of the city of New York anything.

What we are talking about here is an internal development, one and a half miles from the closest center at the present time across the bay. We are only talking about 17 percent of this new 350-acre site in order to properly space and locate all of the facilities so as to assure the maximum amount of recreation, landscaping, and so forth.

The State in only 6 years developed a similar community at Co-op City.

Our colleague, Mr. Biaggi, told you what kind of an outstanding development that is. It is located in his district. It provides housing for 15,500 families who are living there and who are upgraded as a result of this. This project does not take care of low-income families but takes care of middle-income families. That is what we are talking about here.

But as a result, as you step down the line, it relieves the inferno which we have burning in New York today and the need to create proper and adequate housing for all of our people.

Mr. Chairman, I am now quoting from a letter from the governor of the State of New York in refutation of the statements earlier made:

> No vacant sites of nearly equal size are now available nor can they be made available without undertaking the impossible task of relocation.
>
> Middle-income families concerned over security would not have moved where their schools and their shopping centers and recreational facilities were not located in the project area, and we have to provide all of these facilities necessary today. We require a site the size of that which we are requesting at Floyd Bennett Field. You cannot do it with these small pieces.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Terry was allowed to proceed for 5 additional minutes.)

Mr. SEIBERLING. Will the gentleman yield?

Mr. TERRY. I yield to the gentleman.

Mr. SEIBERLING. Could you not put an awful lot of housing in Central Park if that were turned over to a developer?

Mr. TERRY. Yes. But we are talking here about $8 million in value of land out in the Brooklyn area, whereas if you did it in Central Park, the land cost for the developer would be absolutely astronomical and price you out of the market.

Mr. SEIBERLING. But the point is do they not need open space in Brooklyn the same as they do in Manhattan?

Mr. TERRY. Oh, yes. But we are talking about land right across the road from this particular site which is 1,230 acres of city park which exists today. Only a small portion of that is really used, because the golf course is there and the rest is seldom used. I have been there on a number of occasions myself. It is not that much used today. But when we develop the whole complex of this area, the William Fitts Ryan Gateway National Urban Recreation Area, we will be talking about generating the facilities, the transportation facilities, to bring the people there.

We are talking about 65,000 people coming into this area; they will need transportation on a 12-month basis, and this would make feasible the extension of a subway line to this project, which is assured by the same Commissioner to which the gentleman from New York (Mr. Brasco) referred earlier. This project will not be undertaken unless the transportation problem is resolved.

One other thing that I should like to point out to those people who were not on the committee, and perhaps have not had the opportunity to read through the bill that thoroughly, is that we have—and I say "we" under the committee—have 5 years in which to develop it. If it fails to develop it, if it does not work out, it comes back to the Secretary. This is merely a bill that gives the right for 5 years.

We are merely talking about giving it over for sale, and for $8 million to buy it back in the event that it does not work out, if there are objections by local zoning, and it cannot be worked out. But many of these properties, as you will note right here, require long-term working out.

Mr. BRASCO. Mr. Chairman, will the gentleman yield?

Mr. TERRY. I will yield to the gentleman at the conclusion of my remarks in the same manner that I did not interrupt the gentleman.

We are talking about providing civic, recreational, and other community facilities, and this new community will not cost the city of New York any capital construction money. The cost of these facilities will be borne by the State-created development agency, very similar to what we have done in Battery Park, the Battery Park Authority, and Co-Op City; we are talking about ground rents that will be charged for housing and for rental facilities and these revenues will meet the cost for paying in the same manner as for Battery Park, the 100-acre new community, to guarantee construction of low and medium housing. The work timing is favorable. And this is the same man, the commisisoner of housing, that we talk about here.

Mr. Brasco said in 1966 that Mayor Lindsay was advocating that this be turned over as a recreational area. Let me quote from a letter from the commissioner of planning in the city of New York at that time, and that is the commissioner of planning who today is objecting on behalf of Mayor Lindsay, and let me quote from a letter by Donald H. Elliott, chairman of the city planning commission, dated October 25, 1967, in which he stated, and this has not changed today, that—

> Floyd Bennett Field offers an excellent opportunity to build in excess of 20,000 units of housing and supporting community and commercial facilities. In our judgment, this housing would be marketable at a broad range of economic levels. Construction could be timed so as not to undermine other areas in the city.

So, despite what has been said to you, this is a feasible project, and one which will greatly assist.

Another point that has been made is one in connection with air patterns.

Mr. PODELL. Mr. Chairman, will the gentleman yield?

Mr. TERRY. As soon as I finish this one point I will yield.

I have here in front of me for your inspection the air routes of the Kennedy Airport, and outlined here in red it shows that this is not within zone 3, but within zone 2, and perfectly plausible for construction today.

The CHAIRMAN. The time of the gentleman from New York has again expired.

Mr. CELLER. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I wholeheartedly support the amendment offered by my colleague, the gentleman from New York (Mr. Brasco).

I want to say to the members of the Committee—who knows best what is necessary or what is essential or what is efficacious for New York City? Who knows better than the Members from New York? We are in somewhat of an expert position to tell you Members from other parts of the country what is worthwhile for New York.

I want to indicate to you beyond peradventure of doubt that we need more and more recreation land in the city of New York for our teeming millions. If you go to Coney Island or to Brighton Beach, you see the seashore there with myriads of people, and particularly on Saturday and on Sundays. We need to siphon off from those ocean washed shores those who seek recreation by having a park like the Gateway National Seashore Park which is not far distant from Coney Island or from Brighton Beach.

I fear that if we do not adopt this amendment, the Gateway National Park will be, in a way, commercialized. It will be commercialized by real estate interests.

The conception of recreation is of paramount interest and should be of the highest degree of importance to every member of this Committee and more particularly of paramount importance to the

Members from New York City who want to care for the denizens of that great metropolis, who need recreation from the asphalt jungles.

I do not think most of you Members know what it means to live during the hot summer on the asphalt streets of Brooklyn or of Manhattan or of the Bronx or of Queens. It is an intolerable situation. So this is a need for the teaming hot and bothered millions—and I repeat that term, because it is most expressive, the teeming millions—it is a need for the teeming millions of people to get recreation and surcease from the turmoil and from the heat of summer in places like the Gateway National Park.

If we do not adopt this amendment, we create a dangerous precedent—we chip off from the Gateway National Park a considerable amount of acreage for commercial housing. That sets up a precedent. Next year, and in the next 5 years, they will chip off some more from the Gateway National Park. Finally, the whole conception of the Gateway National Park will have been blown away like a puff of smoke.

Can you imagine what would happen to New York City if we did not have Central Park? Can you imagine what would happen to Brooklyn if we did not have the great Prospect Park? I am sure that the arguments you are hearing now against the setting up of the Gateway National Park in the interest of real estate are similar to the arguments that were advanced against the setting up of Central Park way back in the middle part of the last century. Those arguments, you may remember, led Boss Tweed to serve a prison term because he sought to prevent the establishment of a park and thereby to line his own pockets. He went to jail.

I know from the history of Brooklyn that those arguments were delivered years ago against the setting up of the great Prospect Park of Brooklyn, that wonderful recreation center, in my own borough. I am quite sure they were not dissimilar to the arguments that you are hearing now. They argue that we are only going to take a slice or a portion of the Gateway National Park. In those early days they argued they were only going to take a portion of the proposed Central Park and the proposed Prospect Park.

But, as public spirited citizens, then said, "No, you shall not lay selfish hands on that land—we need that land for Brooklyn—we need that land for the recreation of the Brooklyn citizenry." Today we need every stitch of that land called the Gateway National Park for the recreation of our millions of people in New York City and elsewhere.

Finally, just one more thing. I want you to know that the parks are the very lungs of great populations in the cities. We want to keep those lungs strong and healthy. We will do it by voting for this amendment offered by my distinguished colleague, the gentleman from Brooklyn. Keep Gateway intact.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman.

Mr. ADDABBO. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York (Mr. Brasco). The amendment before the House would preserve the true character of H.R. 1121, a bill to establish a national park to protect a unique conservation and recreation area. The amendment would prevent the construction of luxury housing on a site to be preserved as a national area for all Americans.

Mr. Chairman, this legislation is important now and as much land as possible must be included. Today's New York Times reported that the Second World Conference on National Parks pointed out the shortage of national parks and the possibility of future rationing based on approaching stage of overuse.

The overcrowding results from increase in population, income, easy transportation, and leisure.

Rationing has already become a reality at 37 national parks in our country, either in turning people away due to lack of accommodation, or in the experimental reservations systems. National parks are for the people. Passage of the Gateway bill will best serve the interests of more than 15 million people who live within a 5-minute to 2-hour drive of this unique area.

Part of the Gateway National Park area was originally within my congressional district and I am personally familiar with the vast natural resources of the area. Following the recent congressional redistricting, the area became part of the district now represented by our colleague from New York (Mr. Brasco), the sponsor of the amendment now under debate. He knows the significance of the plan supported by our State's Governor to build luxury housing adjacent to a national park site. What better site for those who can afford it to view the beauty of a national recreation area?

I ask you instead to consider how unfair that kind of proposed housing development would be in light of the urgent needs for other kinds of housing in other areas in New York and need for maximum recreational acreage.

Mr. Chairman, we cannot authorize the construction of seaside apartments for the upper-income while millions continue to live in substandard housing. The Brasco amendment recognizes that inequity and would prevent the development of luxury housing on the national park property. We cannot afford to spend tax dollars on the streets, sewers, transportation and housing for the wealthy seashore apartment dweller while other districts in New York which desperately need help go without basic human needs.

In addition to the type of housing involved in the proposed State plan, I would point out to my colleagues that the very environmental considerations which lead to the Gateway bill, dictate against the construction of any kind of housing at this site. The area in question is near or under flight paths for aircraft landing at Kennedy Airport. The aircraft noise zone is considered intolerable and incompatible with housing of any kind. It should be declared a buffer zone for this reason.

The area already suffers from air and noise pollution which has been declared a national problem by the Federal Government. We must not compound that problem by authorizing more housing at the site.

These reasons which I have cited have also been the reasons why other city officials including the mayor of the city of New York, have opposed the housing plan. There are other sites—more suitable sites—available throughout the city for housing and those sites should be used to provide housing for those in need and those in middle-income brackets, not for the wealthy who already have access to seashore housing.

I urge my colleagues to vote for the Brasco amendment.

Mr. KOCH. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman.

Mr. KOCH. Mr. Chairman, I rise in support of the Brasco amendment. Today the members of the New York delegation met with State Commissioner Charles J. Urstadt, City Planning Commissioner Donald H. Elliott, Brooklyn Borough President Sebastian "Sam" Leone, and others to discuss the merits of the plan to build housing at Floyd Bennett Field. Commissioner Elliott made it very clear that Federal 236 moneys which New York State proposes to use to build housing at Floyd Bennett could far better be used to complete the many projects already planned and in the pipeline which the city is unable to either undertake or complete because of a lack of Federal funds. It was pointed out by both Commissioner Don Elliott and Borough President "Sam" Leone that this project will be far more costly than the developments planned by the city.

They pointed out that in addition to the immediate costs in constructing the housing on this undeveloped site, hundreds of millions of dollars would have to be expended to build sewage lines and sewage plants, schools, and mass transportation, not now existing. They further pointed out that these very vital services do exist in those parts of the city in which the city plans to build housing. Mr. Horace Moranci, who is the head of the model cities program in Brooklyn, told the New York delegation that building housing at Floyd Bennett would be at the expense of building housing in central Brooklyn which desperately needs it.

Commissioner Urstadt let the cat out of the bag when he admitted that in order to provide transportation to Floyd Bennett he would have to recommend the resurrection of the Cross Brooklyn Expressway. That very expressway has been opposed by the people of Brooklyn for many years and ultimately killed by the State legislature because of local opposition. Were that expressway revived, it would mean that good homes would be destroyed, thousands of people adversely affected, and the whole borough irreparably damaged.

Mr. Chairman, I am for housing in New York City: low, moderate and middle, all of which are desperately needed. When we vote against using Floyd Bennett Field for housing and support the Brasco amendment to include Floyd Bennett in the Gateway Park, we will be allowing the city of New York to use the 236 moneys allotted to it for constructing new housing in those areas of the city which desperately need it and need it now. And we will be providing additional park acreage for the generations of New Yorkers to come.

Mr. WYDLER. I thank the gentleman.

Mr. Chairman, I have a message for the Members here. I have the greatest respect for the gentleman from New York (Mr. TERRY) and I think he has presented his case for the proposal as best as it could possibly be presented, but there should be borne in the minds of this Committee a full awareness of what they are doing as a deliberative legislative body in planning to put 60,000 people in the worst—and I say this without any reservation—the worst jet-noise-affected area in our country. The very site that has been chosen to house 60,000 people is an area over which 110,000 jet aircraft flew last year. Any man with any sense realizes that people living in that kind of area are going to demand that the planes be taken away. They are not going to stand for such a situation once they move in. We all know what is going to happen.

That is why the Air Transport Association, whom I rarely agree with on jet noise, has written and stated that they do not want this to take place. They know it will result in the closing of Kennedy Airport or the curtailment of its operations or, more likely, a diversion of flights over Nassau County. I do not think that is the kind of action that this Congress should take.

I am going to close by just pointing out one fact to the Members, which makes this proposal in my mind almost incredible. The plan for this proposal is put forth in a booklet calling it a total residential community. It tells you they are going to have housing there. It tells you they are going to have hospitals there. It tells you they are going to have schools there. This is a B, jet-noise area as rated by HUD. The HUD rules do not allow the construction of schools in B noise areas, so this would be a total community without any schools. That gives you the kind of idea we have here. It should be totally rejected by this Committee.

Mr. RANGEL. Mr. Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from New York.

Mr. RANGEL. If I understand, these houses are supposed to be built by the private sector which involves billions of dollars. Is the gentleman telling me that these builders are willing to invest this type of money, knowing that no schools will be located in the area we are concerned with?

Mr. WYDLER. I do not think they know it, and it is a fact they may be hearing here for the first time, but it is a fact.

Mr. RANGEL. I understand they are going forward with Federal funding for part of this building, and there are 23 Federal agencies who have to look at the area and determine the noise factor before it can be done.

Mr. WYDLER. The only way it could be done would be to change the existing regulations. The only way to change them would be to make them fit this project. I do not think that is something we should be considering here.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RANGEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I appreciate the argument and certainly if this is going to happen I would certainly be in support of the amendment, which I am not. But it seems to me if the standards have already been set by existing law and regulation that the private sector or the Federal Government cannot build housing here if they are in violation of existing law, then basically what the gentleman is saying is they cannot build if the condition of air pollution is as the gentleman presently described it.

Mr. WYDLER. That is correct. I hold in my hand the land use compatibility report put out by HUD. Under zone B they say one of the types of buildings not allowed in zone B areas, and that is Floyd Bennett Field, is schools.

Mr. RANGEL. If they cannot build, then there is absolutely no need for the amendment.

Mr. WYDLER. I think there is a need for the amendment because we want to make it absolutely clear that this Congress will not be a part of this type of proposal.

Mr. SEIBERLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, although I am not a member of the New York delegation, I happen to have lived for 7 years in New York and I married a Brooklyn girl, so I am quite familiar with the area, and Floyd Bennett Field, in particular.

I think this amendment is of great interest to every Member of this House who comes from an urban area and who is concerned with preserving open space in and around the cities. The 350 acres they are talking about is more than one-third of the total land area of Floyd Bennett Field. If that one-third goes, then the next move will be to develop the other two-thirds. Then we will lose 1,100 acres of land, which is very scenic land, with great recreational potential. Unlike housing, which can be built in many places, you just are not going to get any more land around New York City.

Anybody who has lived any time in New York City knows that one of its most desperate needs is open space. I happened to sit yesterday next to one of our most distinguished scientists, a Nobel Prize winner, at lunch. He runs, jogs for exercise, and he says he has visited every major city in the world and that only in the United States is it hard to find in the major cities, a place where a person can get out and get some of that kind of exercise. What a commentary.

Mr. Chairman, every time we try to preserve the open space around one of our great cities, the developers come in and try to take the choicest land for private gain. The people of New York need this land desperately for recreation. This bill is pioneer legislation. It will provide a precedent for the future. If we allow this important acreage to be excluded, then the next time there is a similar piece of legislation here, there will be similar pressure, and they will cite this precedent as the reason why the Congress should go along with the developers.

Mr. Chairman, I urge adoption of the amendment.

Mr. TERRY. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from New York (Mr. TERRY).

Mr. TERRY. Mr. Chairman, does the gentleman have any figures to dispute the statement which I made earlier that there are 50,000 housing units abandoned in the city of New York each year over the past 6 years?

Mr. SEIBERLING. I have no basis for disputing those figures. I will say that, assuming the figures are correct, they indicate a need to build good new housing in the areas in which housing is deteriorating.

Mr. TERRY. Can the gentleman build on an individual basis? We are talking about building economically here on land and for which the State of New York has offered to pay $8 million, which would provide an economical way of building housing to the tune of $1.2 billion. It will be a whole concept, a town within a town, and will not be biting off a bite of the apple at one point at a time, but it will go to the core and create some 17,500 units.

Mr. SEIBERLING. New York City does not need more people; the people who are there need better housing, but they also need more open space.

Mr. LENT. Mr. Chairman, I rise in support of the amendment offered by Mr. BRASCO for two basic reasons.

First of all, I do not believe that this body should countenance the imposition of a large publicly supported housing development of the scope contemplated without the concurrence of the community affected. In this case, this is being done in Brooklyn, to the district represented by Mr. BRASCO. The lessons should be obvious to all of my colleagues: The next development could be imposed upon your districts.

If we have any respect for each other, or for the offices we hold, we should honor the wishes of the community and the wishes of Mr. BRASCO.

Second, my own district in Nassau County would be adversely affected by this housing development because of its proximity to John F. Kennedy International Airport.

Presently, the Floyd Bennett Field is uninhabited. Present noise abatement procedures and flight patterns call for some 300 jet flights daily to overfly Floyd Bennett at altitudes between 1,000 and 3,000 feet. This is called the Canarsie approach, and it accommodates 35 percent of the flights in and out of John F. Kennedy Airport.

Thus, to a substantial degree, the Canarsie approach alleviates the jet-noise problem for the residents of Nassau and Queens Counties surrounding the Kennedy Airport.

If Floyd Bennett is developed with high-rise apartments, something which would violate the current external noise exposure standard for new construction set by HUD, a very substantial revision of flight patterns for Kennedy Airport will have to be made by the FAA. The result will certainly be to direct more flights over Nassau and Queens Counties, which are presently densely populated.

This is unacceptable. Congress should not knowingly invite the opportunity for thousands of low- and middle-income families to make their homes in an area of excess jet noise.

But, neither should Congress permit the building of a housing project beneath a primary flight pattern knowing that such construction will divert the assault of jet noise to hundreds of thousands of suburban homeowners in Nassau and Queens Counties who already are enduring more than their fair share.

This housing project does not make sense, and the amendment should be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BRASCO).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. TERRY. Mr. Chairman, I demand tellers.

Tellers were refused.

Mr. TERRY. Mr. Chairman, I demand a division.

The question was taken; and on a division (demanded by Mr. TERRY) there were—ayes 76, noes 13.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. HOWARD

Mr. HOWARD. Mr. Chairman, I offer two amendments and ask unanimous consent that they be considered en bloc.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. HOWARD: Page 12, immediately after line 25 insert the following:

"(f)(1) Notwithstanding any other provision of law, the Secretary may provide such services and facilities, including the purchase or rental of ferry services and docking facilities, as he deems necessary or desirable for access to the recreation area. The Secretary may provide such services and facilities directly, or by negotiated contract with public and private agencies or persons without advertising and without securing competitive bids. The Secretary shall make every effort to provide public access to the recreation area by means of mass transit and water transportation in order to minimize the impact of automotive transit on the environment within the recreation area and to increase the opportunities for access by the populations of nearby urban areas.

"(2) The Secretary of Transportation is authorized and directed to assist the Secretary in developing a plan for a water-based rapid transit demonstration project designed to provide rapid and economical transportation to the areas established by this Act."

Page 14, line 14, immediately after "lands" insert the following: ", not more than $30,000,000 to carry out the purposes of section 3(f) (relating to the establishment of ferry services and docking facilities),".

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey that the amendments be considered en bloc?

Mr. HALL. Mr. Chairman, reserving the right to object, I did not fully understand where the one amendment ended and the other amendment began, which the gentleman asks unanimous consent be considered en bloc.

The CHAIRMAN. Without objection, the Clerk will rereport the second amendment.

The Clerk reread the second amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey that the amendments be considered en bloc?

Mr. HALL. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. HALL. Mr. Chairman, I make a point of order against the first amendment, and I will reserve the point of order if the gentleman would like to be heard.

The CHAIRMAN. The gentleman from Missouri reserves a point of order against the amendment.

Mr. HOWARD. Mr. Chairman, the reason why I asked the amendments be considered en bloc is that they are so interrelated. The one amendment provides for an activity which the Secretary of the Interior and the Secretary of Transportation would have in relation to this act, and the second amendment provides the funds for the implementation of that action. I feel it would not be practical to have one without the other.

Mr. Chairman, the record of this Congress will go down in history and be looked back upon with great pride in relation to the legislation we have before us today. I wish to commend the committee for bringing out this bill.

We have had great national parks and national seashores created throughout this Nation, mostly preserving the great areas where the population is small, in the West, the Midwest, and the South. But in this legislation, Mr. Chairman, the committee has taken one of the most populous areas of the United States, where we have a precious little amount of natural area, and has stated that this shall be preserved and this shall remain for the utilization and enjoyment of the people of that area as well as the people throughout the country.

There are not many areas of sand dunes, holly forests, and wildlife areas available to the people in the New York and New Jersey area.

But with the creation of the Gateway National Park, Mr. Chairman, we will have a national park, a beautiful national park, which I have been told is within a 2-hour driving distance of 23 million Americans.

Mr. Chairman, the people should be able to use this to its fullest. However, we have a difference between this urban national park and our more rural national parks, and that is access. For many of the parks throughout this country, unless it is relatively easy to get to them, there are not an awfully lot of people going there each day.

But this national park, in the New York-New Jersey metropolitan area, is in an area where the roadways are congested, where the rail lines are congested and where there is no easy highway access.

The Department of the Interior, looking toward the establishment of this park, agreed and stated in its program that there would be mass transportation facilities available to be used by the people in getting to this facility. They would be able to use the ferryboat system across the New York Bay and across Sandy Hook Bay to be able to get to the Sandy Hook portion of this park.

This was included in this legislation before the other body.

Mr. Chairman, the bottom of this park, which is in my district, in the Sandy Hook area in Monmouth County, is in the middle of a very old, very quaint, and very historic part of America, going back to the Revolutionary days.

The roads are not adequate to handle the traffic that we have now. They cannot be widened to any great degree without doing great damage to the heritage of this great area.

So I feel that it is most important that the people have access to this park, access which cannot be provided to them by an automobile and by a highway. A ferryboat system is the answer to the problem and I would hope Members of the Committee would agree to this.

It is only permissive legislation. It says that the Secretary of Interior may investigate and may enter into contracts to be able to see that the people can get to the park.

One final point, Mr. Chairman: This is considered a national park for urban people. Many of the people who live in this urban area, the people in Newark, the people in Jersey City, and the people in New York City, many of them do not have automobiles. Many of them find it is very difficult even to get out of the city.

By accepting this amendment, we will be able to provide that there will be public transportation. They will be able to take a bus, they will be able to take a trolley to get down to the docks and they will be able to utilize the ferry boat system and go to the park and get back.

So I am hopeful the committee will complete the work that has been done. Do not create the Gateway National Park and then strangle it at the same time without due regard to the problem of access of the people.

So I hope the committee will accept this permissive legislation and that the Secretary of Interior and the Secretary of Transportation will be able to consider mass transit facilities to enable the people to use the great national park project.

POINT OF ORDER

The CHAIRMAN. The gentleman from Missouri (Mr. HALL) is recognized on his point of order. Does the gentleman wish to press his point of order?

Mr. HALL. I do press my point of order, Mr. Chairman.

Mr. Chairman, I would say for the benefit of the Chair that this point of order is obviously based on mandating others not involved in the bill under consideration, implementing regulations and devices which would call upon the Treasury of the United States in a manner not contemplated by the bill itself.

Mr. Chairman, I would point out further that repeatedly the phrase, "notwithstanding any other provision of law and without limitation," is used in order to provide the service that the gentleman from New Jersey (Mr. HOWARD) visualizes.

By the gentleman's own admission, it provides appropriation in a legislative act and, indeed, directs another Secretary, other than the one referred to as the "Secretary" in the bill, hereinafter and before as mentioned and stipulated under "definitions," to perform certain functions not encompassed in the bill under consideration.

For these reasons, I say that it is direction not contemplated; it is without the jurisdiction of this Committee, in the ordinary review and surveillance of this Committee or of the Department mentioned as the principal operator of this bill; and is an appropriation on a legislative bill.

The CHAIRMAN. Does the gentleman from New Jersey desire to be heard further on the point of order?

Mr. HOWARD. I do, Mr. Chairman.

Mr. Chairman, I hate to debate with the gentleman from Missouri (Mr. HALL) on his point of order.

I would say, No. 1, this amendment that is being considered now is legislation which was in the entire bill as it passed the other body, so it certainly has a basis for being in the bill.

The gentleman from Missouri stated that it mandates the Secretary to do certain things. I would state several times in the amendment it states that "the Secretary may" and again "the Secretary may", and so forth. So there are no mandatory provisions in there.

As to the point of order that the gentleman made about amounts of money being appropriated, it does not appropriate anything. This is an authorization bill. The amount in the second amendment, should this amendment carry, is contained in a list in section 5 on page 14, which says that there are hereby authorized to be appropriated. This amendment authorizes and does not appropriate money. Therefore I feel the point of order should not be sustained.

The CHAIRMAN (Mr. THOMPSON of New Jersey). The Chair is prepared to rule.

The Chair has read the gentleman's amendment and has listened to the arguments with respect to it.

It is indeed a broad amendment conferring a general discretionary authority to provide transportation services and facilities, including but not limited to, the purchase or rental of ferry services and docking facilities, if the Secretary deems them necessary or desirable for access, the Chair presumes, to the recreational areas involved. It is not necessarily limited to transportation within the recreation area.

Further, in section 2 of the amendment the authorization is given to the Secretary of Transportation to develop a plan for water-based transit demonstration projects and so on, which would seem to the Chair to involve the jurisdiction of a committee other than the Committee on Interior and Insular Affairs.

The Chair recognizes the gentleman's argument that some of this language is in the Senate bill, but he must rule that amendments offered at this point must be germane to the committee amendment in the nature of a substitute to the House bill and that the gentleman's amendment is not confined to the authority conferred in section 3 of the committee amendment.

The Chair therefore sustains the point of order.

PARLIAMENTARY INQUIRY

Mr. HOWARD. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HOWARD. If the last five lines of this amendment, the part known as section 2, which deals with other jurisdictions, were deleted from the amendment, would the amendment at that time be germane?

The CHAIRMAN. The Chair is unable to rule in advance on these matters. However, his ruling was not based solely on the last five lines but, also, on the broadness of the language in the first section of the amendment.

Mr. HOWARD. In the first section as well?

The CHAIRMAN. Yes.

Mr. HOWARD. I thank the Chairman.

AMENDMENT OFFERED BY MR. SANDMAN

Mr. SANDMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. SANDMAN: Page 12, line 2, after "improvements," insert "pertaining to the deepening of the shipping channel from the Atlantic Ocean to the New York harbor,".

Mr. SANDMAN. Mr. Chairman, I shall not take the full 5 minutes. I intended to offer three amendments today, but I am going to offer only this simple amendment. The amendments that would have embodied the takeover of the Hackensack meadows cost about $500 million. I did not want to destroy this act with that. So this amendment is a very simple one that only pertains to dredging.

I yield to the chairman of the subcommittee.

Mr. TAYLOR. I thank the gentleman for yielding.

Mr. Chairman, both Chairman ASPINALL and I have seen this amendment, and we have no objection to it, so we are willing to accept it.

Mr. SKUBITZ. Mr. Chairman, I have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. SANDMAN).

The amendment was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. THOMPSON of New Jersey, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 1121) to provide for the establishment of the Gateway National Seashore in the States of New York and New Jersey, and for other purposes, pursuant to House Resolution 1135, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. O'KONSKI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 350, nays 4, not voting 76, as follows:

[Roll No. 386]

YEAS—350

Abbitt
Abernethy
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, Ala.
Andrews, N. Dak.
Annunzio
Archer
Arends
Ashley
Aspin
Aspinall
Badillo
Baker
Barrett
Begich
Belcher
Bell
Bennett
Bergland
Biester
Bingham
Blackburn
Boggs
Boland
Bolling
Bow
Brademas
Brasco
Bray
Brinkley
Brooks
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Byrne, Pa.
Byron
Cabell
Caffery
Camp
Carey, N.Y.
Carlson
Carney
Carter
Casey, Tex.
Cederberg
Celler
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins, Ill.
Collins, Tex.
Colmer
Conable
Conover
Conte
Conyers
Corman
Cotter
Coughlin
Crane
Culver
Curlin
Daniel, Va.
Daniels, N.J.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dennis
Dent
Dickinson
Dingell
Donohue
Downing
Drinan
Dulski
Duncan
du Pont
Dwyer
Eckhardt
Edwards, Ala.
Edwards, Calif.
Esch
Eshleman
Evins, Tenn.
Fascell
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frey
Fulton
Fuqua
Gaydos
Gibbons
Goldwater
Gonzalez
Goodling
Gray
Griffin
Grover
Gubser
Gude
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Harvey
Hastings
Hechler, W. Va.
Heinz
Helstoski

Henderson
Hicks, Mass.
Hicks, Wash.
Hillis
Hogan
Holifield
Horton
Howard
Hull
Hungate
Hunt
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, Ala.
Jones, N.C.
Karth
Kastenmeier
Kazen
Keating
Kee
Keith
Kemp
King
Kluczynski
Koch
Kyl
Kyros
Landgrebe
Landrum
Leggett
Lennon
Lent
Link
Lloyd
Long, La.
Long. Md.
McCloskey
McClure
McCollister
McDade
McEwen
McFall
McKay
McKevitt
Macdonald, Mass.
Madden
Mallary
Mann
Martin
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Michel
Miller, Calif.
Miller, Ohio
Mills, Ark.
Mills. Md.
Minish

Mink
Mitchell
Mizell
Mollohan
Montgomery
Moorhead
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nix
Obey
O'Hara
O'Konski
O'Neill
Passman
Pelly
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Podell
Powell
Preyer, N.C.
Price, Ill.
Price, Tex.
Pryor, Ark.
Purcell
Quie
Quillen
Railsback
Randall
Rangel
Rees
Reuss
Riegle
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Roybal
Ruppe
Ruth
St Germain
Sandman
Sarbanes
Satterfield
Scherle
Scheuer
Schneebeli
Schwengel
Scott
Sebelius

Seiberling
Shipley
Shoup
Shriver
Sisk
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Springer
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steele
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Sullivan
Symington
Talcott
Taylor
Teague, Calif.
Terry
Thompson, N.J.
Thomson, Wis.
Thone
Tiernan
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waggonner
Wampler
Ware
Whalen
Whalley
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H.
Winn
Wyatt
Wydler
Wyman
Yates
Young, Fla.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—4

Ashbrook
Gross

Hall

Rarick

NOT VOTING—76

Abourezk
Anderson, Tenn.
Baring
Betts
Bevill
Biaggi
Blanton
Blatnik
Broomfield
Byrnes, Wis.
Clay
Derwinski
Devine
Diggs
Dorn
Dow
Dowdy
Edmondson
Eilberg
Erlenborn
Evans, Colo.
Findley
Ford, Gerald R.
Frenzel
Galifianakis

Gallagher
Garmatz
Gettys
Giaimo
Grasso
Green, Oreg.
Green, Pa.
Griffiths
Hagan
Halpern
Hathaway
Hawkins
Hays
Hébert
Heckler, Mass.
Hosmer
Jones, Tenn.
Kuykendall
Latta
Lujan
McClory
McCormack
McCulloch
McDonald, Mich.
McKinney

McMillan
Mahon
Mailliard
Mikva
Minshall
Monagan
Nichols
Patman
Patten
Peyser
Pirnie
Pucinski
Reid
Rhodes
Rooney, N.Y.
Runnels
Saylor
Schmitz
Sikes
Teague, Tex.
Thompson, Ga.
Waldie
Wolff
Wright
Wylie
Yatron

So the bill was passed.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Gerald R. Ford.

Mr. Rooney of New York with Mr. Rhodes.

Mr. Monagan with Mr. Erlenborn.

Mr. Reid with Mr. Mailliard.

Mr. Runnels with Mr. Broomfield.

Mr. Eilberg with Mr. Lujan.

Mr. Bevill with Mr. Wylie.

Mr. Biaggi with Mr. Peyser.

Mr. Wolff with Mr. Halpern.

Mrs. Grasso with Mr. McDonald of Michigan.

Mr. Patton with Mr. Pirnie.

Mr. Mikva with Mr. Derwinski.

Mr. Nichols with Mr. Betts.

Mr. Blatnik with Mr. Minshall.

Mr. Hawkins with Mr. Yatron.

Mr. Hays with Mr. Devine.

Mr. Sikes with Mr. Findley.

Mr. Teague of Texas with Mr. Frenzel.

Mr. Waldie with Mr. Hosmer.

Mr. Dorn with Mr. Byrnes of Wisconsin.

Mr. Garmatz with Mr. Kuykendall.

Mr. Giaimo with Mr. McKinney.

Mr. Green of Pennsylvania with Mr. Saylor.

Mr. Dow with Mr. Baring.

Mr. Gettys with Mr. Latta.

Mrs. Green of Oregon with Mr. McClory.

Mrs. Griffiths with Mrs. Heckler of Massachusetts.

Mr. Blanton with Mr. Thompson of Georgia.

Mr. Hathaway with Mr. McCulloch.

Mr. Wright with Mr. Schmitz.

Mr. Anderson of Tennessee with Mr. McMillan.

Mr. Diggs with Mr. Dowdy.

Mr. Clay with Mr. Gallagher.

Mr. Jones of Tennessee with Mr. Edmondson.

Mr. Evans of Colorado with Mr. Hagan.

Mr. Galifianakis with Mr. Pucinski.

Mr. McCormack with Mr. Mahon.

Mr. Patman with Mr. Abourezk.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

TITLE AMENDMENT

The SPEAKER. The Clerk will report the amendment to the title.

The Clerk read as follows:

Amend the title so as to read: "A bill to establish the Gateway National Urban Recreation Area in the States of New York and New Jersey, and for other purposes."

SUBSTITUTE AMENDMENT FOR THE TITLE AMENDMENT OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Speaker, I offer a substitute amendment for the title amendment.

The Clerk read as follows:

Amend the title so as to read: "A bill to establish the William Fitts Ryan Gateway National Urban Recreation Area in the States of New York and New Jersey, and for other purposes."

The substitute amendment for the title amendment was agreed to.

The title amendment, as amended, was agreed to.

The SPEAKER. Pursuant to the provisions of House Resolution 1135, the Committee on Interior and Insular Affairs is discharged from the further consideration of the bill S. 1852.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. TAYLOR

Mr. TAYLOR. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TAYLOR moves to strike out all after the enacting clause of S. 1852 and insert in lieu thereof the provisions contained in H.R. 1121, as passed, as follows:

That in order to preserve and protect for the use and enjoyment of present and future generations an area possessing outstanding natural and recreational features, the William Fitts Ryan Gateway National Urban Recreation Area (hereinafter referred to as the "recreation area") is hereby established.

(a) The recreation area shall comprise the following lands, waters, marshes, and submerged lands in the New York Harbor area generally depicted on the map entitled "Boundary Map, Gateway National Urban Recreation Area," numbered 951–40017 sheets 1 through 3 and dated May, 1972:

(1) Jamaica Bay Unit—including all islands, marshes, hassocks, submerged lands, and waters in Jamaica Bay, Floyd Bennett Field, the lands generally located between highway route 27A and Jamaica Bay, and the area of Jamaica Bay up to the shoreline of John F. Kennedy International Airport;

(2) Breezy Point Unit—the entire area between the eastern boundary of Jacob Riis Park and the westernmost point of the peninsula;

(3) Sandy Hook Unit—the entire area between Highway 36 Bridge and the northernmost point of the peninsula;

(4) Staten Island Unit—including Great Kills Park, Miller Field (except for approximately 26 acres which are to be made available for public school purposes), Fort Wadsworth, and the waterfront lands located between the streets designated as Cedar Grove Avenue, Seaside Boulevard, and Drury Avenue and the bay from Great Kills to Fort Wadsworth;

(5) Hoffman and Swinburne Islands; and

(6) All submerged lands, islands, and waters within one-fourth of a mile of the mean low water line of any waterfront area included above.

(b) The map referred to in this section shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, Washington, District of Columbia. After advising the Committees on Interior and Insular Affairs of the United States House of Representatives and the United States Senate in writing, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to make minor revisions of the boundaries of the recreation area when necessary by publication of a revised drawing or other boundary description in the Federal Register.

SEC. 2. (a) Within the boundaries of the recreation area, the Secretary may acquire lands and waters or interests therein by donation, purchases or exchange, except that lands owned by the States of New York or New Jersey or any political subdivisions thereof may be acquired only by donation.

(b) With the concurrence of the agency having custody thereof, any Federal property within the boundaries of the recreational area may be transferred without consideration to the administrative jurisdiction of the Secretary for administration as part of the recreational area.

(c) Within the Breezy Point Unit, (1) the Secretary shall acquire an adequate interest in the area depicted on the map referred to in section 1 of this Act to assure the public use of and access to the entire beach. The Secretary may enter into an agreement with any property owner or owners to assure the continued maintenance and use of all remaining lands in private ownership as a residential community composed of single-family dwellings. Any such agreement shall be irrevocable, unless terminated by mutual agreement, and shall specify, among other things:

(A) that new construction will be prohibited on any presently undeveloped lands between the line of existing dwellings and the beach area to be acquired by the Secretary;

(B) that all construction commencing within the area, including the conversion of dwellings from seasonal to year-round residences, shall comply with standards to be established by the Secretary;

(C) that additional commercial establishments shall be permitted only with the express prior approval of the Secretary or his designee.

(2) If a valid, enforceable agreement is executed pursuant to paragraph (1) of this subsection, the authority of the Secretary to acquire any interest in the property subject to the agreement, except for the beach property, shall be suspended and the Secretary is authorized to designate, establish, and maintain a buffer zone on Federal lands separating the public use area and the private community.

(3) The Secretary is authorized to accept by donation from the city of New York any right, title, or interest which it holds in the parking lot at Rockaway which is part of the Marine Bridge project at Riis Park. Nothing herein shall be deemed to authorize the United States to extinguish any present or future encumbrance or to authorize the State of New York or any political subdivision thereof to further encumber any interest in the property so conveyed.

(d) Within the Jamaica Bay Unit, (1) the Secretary may accept title to lands donated by the city of New York subject to a retained right to continue existing uses for a specifically limited period of time if such uses conform to plans agreed to by the Secretary, and (2) the Secretary may accept title to the area known as Broad Channel Community only if, within five years after the date of enactment of this Act, all improvements have been removed from the area and a clear title to the area is tendered to the United States.

SEC. 3. (a) The Secretary shall administer the recreation area in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), as amended and supplemented. In the administration of the recreation area the Secretary may utilize such statutory authority available to him for the conservation and management of wildlife and natural resources as he deems appropriate to carry out the purposes of this Act: *Provided*, That the Secretary shall administer and protect the islands and waters within the Jamaica Bay Unit with the primary aim of conserving the natural resources, fish, and wildlife located therein and shall permit no development or use of this area which is incompatible with this purpose, except as provided in subsection 2(d).

(b) The Secretary is authorized to enter into cooperative agreements with the States of New York and New Jersey, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.

(c) The authority of the Secretary of the Army to undertake or contribute to water resource developments, including shore erosion control, beach protection, and navigation improvements, pertaining to the deepening of the shipping channel from the Atlantic Ocean to the New York harbor, on land and/or waters within the recreation area shall be exercised in accordance with plans which are mutually acceptable to the Secretary of the Interior and the Secretary of the Army and which are consistent with both the purpose of this Act and the purpose of existing statutes dealing with water and related land resource development.

(d) The authority of the Secretary of Transportation to maintain and operate existing airway facilities and to install necessary new facilities within the recreation area shall be exercised in accordance with plans which are mutually acceptable to the Secretary of the Interior and the Secretary of Transportation and which are consistent with both the purpose of this Act and the purpose of existing statutes dealing with the establishment, maintenance, and operation of airway facilities: *Provided*, That nothing in this section shall authorize the expansion of airport runways into Jamaica Bay or air facilities at Floyd Bennett Field.

(e) In the Sandy Hook and Staten Island Units, the Secretary shall inventory and evaluate all sites and structures having present and potential historical, cultural, or architectural significance and shall provide for appropriate programs for the preservation, restoration, interpretation, and utilization of them.

SEC. 4. (a) There is hereby established a William Fitts Ryan Gateway National Urban Recreation Area Advisory Commission (hereinafter referred to as the "Commission"). Said Commission shall terminate ten years after the date of the establishment of the recreation area.

(b) The Commission shall be composed of eleven members each appointed for a term of two years by the Secretary as follows:

(1) two members to be appointed from recommendations made by the Governor of the State of New York;

(2) two members to be appointed from recommendations made by the Governor of the State of New Jersey;

(3) two members to be appointed from recommendations made by the mayor of New York City;

(4) two members to be appointed from recommendations made by the mayor of Newark, New Jersey; and

(5) three members to be appointed by the Secretary to represent the general public.

(c) The Secretary shall designate one member to be Chairman. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(d) A member of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibility under this Act upon vouchers signed by the Chairman.

(e) The Commission established by this section shall act and advise by affirmative vote of a majority of the members thereof.

(f) The Secretary or his designee shall, from time to time, consult with the members of the Commission with respect to matters relating to the development of the recreation area.

SEC. 5. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not more than $11,450,000 for the acquisition of lands and interests in lands and not more than $92,813,000 (July, 1971 prices) for development of the recreation area, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in the construction costs as indicated by engineering cost indices applicable to the type of construction involved herein.

Amend the title so as to read: "An Act to establish the William Fitts Ryan Gateway National Urban Recreation Area in the States of New York and New Jersey, and for other purposes."

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to establish the William Fitts Ryan Gateway National Urban Recreation Area in the States of New York and New Jersey, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 1121) was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Arrington one of its clerks, announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 99. Concurrent resolution authorizing the printing of additional copies of the Senate report to accompany H.R. 1, the Social Security Amendments of 1972.

ADDITIONAL LEGISLATIVE PROGRAM

(Mr. BOGGS asked and was given permission to address the House for 1 minute.)

Mr. BOGGS. Mr. Speaker, I take this time to announce to the House that in addition to the consideration of the continuing appropriation resolution, House Joint Resolution 1306, the House will also consider on tomorrow H.R. 16012, the reclamation project authorization. The latter bill has an open rule with 1 hour of debate.

CONFERENCE REPORT ON H.R. 14370, REVENUE SHARING

Mr. ULLMAN, on behalf of Mr. MILLS of Arkansas, filed the following conference report and statement on the bill (H.R. 14370) to provide payments to localities for high-priority expenditures, to encourage the States to supplement their revenue sources, and to authorize Federal collection of State individual income taxes:

CONFERENCE REPORT (H. REPT. No. 92–1450)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14370) to provide payments to localities for high-priority expenditures, to encourage the States to supplement their revenue sources, and to authorize Federal collection of State individual income taxes, having met after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 11, 14, and 21.

That the House recede from its disagreement to the amendments of the Senate numbered 4, 5, 6, 7, 8, 9, 10, 12, 13, 15, 16, 17, and 18, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I—FISCAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

Subtitle A—Allocation and Payment of Funds

SEC. 101. SHORT TITLE

This title may be cited as the "State and Local Fiscal Assistance Act of 1972".

SEC. 102. PAYMENTS TO STATE AND LOCAL GOVERNMENTS.

Except as otherwise provided, in this title, the Secretary shall, for each entitlement period, pay out of the Trust Fund to—

(1) each State government a total amount equal to the entitlement of such State government determined under section 107 for such period, and

(2) each unit of local government a total amount equal to the entitlement of such unit determined under section 108 for such period.

In the case of entitlement periods ending after the date of the enactment of this Act, such payments shall be made in installments, but not less often than once for each quarter, and, in the case of quarters ending after September 30, 1972, shall be paid not later than 5 days after the close of each quarter. Such payments for any entitlement period may be initially made on the basis of estimates. Proper adjustment shall be made in the amount of any payment to a State government or a unit of local government to the extent that the payments previously made to such government under this subtitle were in excess of or less than the amounts required to be paid.

SEC. 103. USE OF FUNDS BY LOCAL GOVERNMENTS FOR PRIORITY EXPENDITURES.

(a) IN GENERAL.—Funds received by units of local government under this subtitle may be used only for priority expenditures. For purposes of this title, the term "priority expenditures" means only—

(1) ordinary and necessary maintenance and operating expenses for—

(A) public safety (including law enforcement, fire protection, and building code enforcement),

(B) environmental protection (including sewage disposal, sanitation, and pollution abatement),

(C) public transportation (including transit systems and streets and roads),

(D) health,

(E) recreation,

(F) libraries,

(G) social services for the poor or aged, and

(H) financial administration; and

(2) ordinary and necessary capital expenditures authorized by law.

(b) CERTIFICATES BY LOCAL GOVERNMENTS.—The Secretary is authorized to accept a certification by the chief executive officer of a unit of local government that the unit of local government has used the funds received by it under this subtitle for an entitlement period only for priority expenditures, unless he determines that such certification is not sufficiently reliable to enable him to carry out his duties under this title.

SEC. 104. PROHIBITION ON USE AS MATCHING FUNDS BY STATE OR LOCAL GOVERNMENTS.

(a) IN GENERAL.—No State government or unit of local government may use, directly or indirectly, any part of the funds it receives under this subtitle as a contribution for the purpose of obtaining Federal funds under any law of the United States which requires such government to make a contribution in order to receive Federal funds.

(b) DETERMINATIONS BY SECRETARY OF THE TREASURY.—If the Secretary has reason to believe that a State government or unit of local government has used funds received under this subtitle in violation of subsection (a), he shall give reasonable notice and opportunity for hearing to such government. If, thereafter, the Secretary of the Treasury determines that such government has used funds in violation of subsection (a), he shall notify such government of his determination and shall request repayment to the United States of an amount equal to the funds so used. To the extent that such government fails to repay such amount, the Secretary shall withhold from subsequent payments to such government under this subtitle an amount equal to the funds so used.

(c) INCREASED STATE OR LOCAL GOVERNMENT REVENUES.—Not State government or unit of local government shall be determined to have used funds in violation of subsection (a) with respect to any funds received for any entitlement period to the extent that the net revenues received by it from its own sources during such period exceed the net revenues received by it from its own sources during the one-year period beginning July 1, 1971 (or one-half of such net revenues, in the case of an entitlement period of 6 months).

(d) DEPOSITS AND TRANSFERS TO GENERAL FUND.—Any amount repaid by a State government or unit of local government under subsection (b) shall be deposited in the general fund of the Treasury. An amount equal to the reduction in payments to any State government or unit of local government which results from the application of this section (after any judicial review under section 143) shall be transferred from the Trust Fund to the general fund of the Treasury on the day on which such reduction becomes final.

(e) CERTIFICATES BY STATE AND LOCAL GOVERNMENTS.—The Secretary is authorized to accept a certification by the Governor of a State or the chief executive officer of a unit of local government that the State government or unit of local government has not used any funds received by it under this subtitle for an entitlement period in violation of subsection (a), unless he determines that such certification is not sufficiently reliable to enable him to carry out his duties under this title.

SEC. 105. CREATION OF TRUST FUND; APPROPRIATIONS.

(a) TRUST FUND.—

(1) IN GENERAL.—There is hereby established on the books of the Treasury of the United States a trust fund to be known as the "State and Local Government Fiscal Assistance Trust Fund" (referred to in this subtitle as the "Trust Fund"). The Trust Fund shall remain available without fiscal year limitation and shall consist of such amounts as may be appropriated to it and deposited in it as provided in subsection (b). Except as provided in this title, amounts in the Trust Fund may be used only for the payments to State and local governments provided by this subtitle.

(2) TRUSTEE.—The Secretary of the Treasury shall be the trustee of the Trust Fund and shall report to the Congress not later than March 1 of each year on the operation and statuts of the Trust Fund during the preceding fiscal year.

(b) APPROPRIATIONS.—

(1) IN GENERAL.—There is appropriated to the Trust Fund, out of amounts in the general fund of the Treasury attributable to the collections of the Federal individual income taxes not otherwise appropriated—

(A) for the period beginning January 1, 1972, and ending June 30, 1972, $2,650,000,000;

(B) for the period beginning July 1, 1972, and ending December 31, 1972, $2,650,000,000;

(C) for the period beginning January 1, 1973, and ending June 30, 1973, $2,987,500,000;

(D) for the fiscal year beginning July 1, 1973, $6,050,000,000;

(E) for the fiscal year beginning July 1, 1974, $6,200,000,000;

(F) for the fiscal year beginning July 1, 1975, $6,350,000,000; and

(G) for the period beginning July 1, 1976, and ending December 31, 1976, $3,325,000,000.

(2) NONCONTIGUOUS STATES ADJUSTMENT AMOUNTS.—There is appropriated to the Trust Fund, out of amounts in the general fund of the Treasury attributable to the collections of the Federal individual income taxes not otherwise appropriated—

(A) for the period beginning January 1, 1972, and ending June 30, 1972, $2,390,000;

(B) for the priod beginning July 1, 1972, and ending December 31, 1972, $2,390,000;

(C) for the period beginning January 1, 1973, and ending June 30, 1973, $2,390,000;

(D) for each of the fiscal years beginning July 1, 1973, July 1, 1974, and July 1, 1975, $4,780,000; and

(E) for the period beginning July 1, 1976, and ending December 31, 1976, $2,390,000.

(3) DEPOSITS.—Amounts appropriated by paragraph (1) or (2) for any fiscal year or other period shall be deposited in the Trust Fund on the later of (A) the first day of such year or period, or (B) the day after the date of enactment of this Act.

(c) TRANSFERS FROM TRUST FUND TO GENERAL FUND.—The Secretary shall from time to time transfer from the Trust Fund to the general fund of the Treasury any moneys in the Trust Fund which he determines will not be needed to make payments to State governments and units of local government under this subtitle.

SEC. 106. ALLOCATION AMONG STATES.

(a) IN GENERAL.—There shall be allocated to each State for each entitlement period, out of amounts appropriated under section 105(b)(1) for that entitlement period, an amount which bears the same ratio to the amount appropriated under that section for that period as the amount allocable to that State under subsection (b) bears to the sum of the amounts allocable to all States under subsection (b).

(b) DETERMINATION OF ALLOCABLE AMOUNT.—

(1) IN GENERAL.—For purposes of subsection (a), the amount allocable to a State under this subsection for any entitlement period shall be determined under paragraph (2), except that such amount shall be determined under paragraph (3) if the amount allocable to it under paragraph (3) is greater than the sum of the amounts allocable to it under paragraph (2) and subsection (c).

(2) THREE FACTOR FORMULA.—For purposes of paragraph (1), the amount allocable to a State under this paragraph for any entitlement period is the amount which bears the same ratio to $5,300,000,000 as—

(A) the population of that State, multiplied by the general tax effort factor of that State, multiplied by the relative income factor of that State, bears to

(B) the sum of the products determined under subparagraph (A) for all States.

(3) FIVE FACTOR FORMULA.—For purposes of paragraph (1), the amount allocable to a State under this paragraph for any entitlement period is the amount to which that State would be entitled if—

(A) ⅓ of $3,500,000,000 were allocated among the States on the basis of population,

(B) ⅓ of $3,500,000,000 were allocated among the States on the basis of urbanized population,

(C) ⅓ of $3,500,000,000 were allocated among the States on the basis of population inversely weighted for per capita income,

(D) ½ of $1,800,000,000 were allocated among the States on the basis of income tax collections, and

(E) ½ of $1,800,000,000 were allocated among the States on the basis of general tax effort.

(c) NONCONTIGUOUS STATES ADJUSTMENT.—

(1) IN GENERAL.—In addition to amounts allocated among the States under subsection (a), there shall be allocated for each entitlement period, out of amounts appropriated under section 105(b)(2), an additional amount to any State (A) whose allocation under subsection (b) is determined by the formula set forth in paragraph (2) of that subsection and (B) in which civilian employees of the United States Government receive an allowance under section 5941 of title 5, United States Code.

(2) DETERMINATION OF AMOUNT.—The additional amount allocable to any State under this subsection for any entitlement period is an amount equal to a percentage of the amount allocable to that State under subsection (b)(2) for that period which is the same as the percentage of basic pay received by such employees stationed in that State as an allowance under such section 5941. If the total amount appropriated under section 105 (b)(2) for any entitlement period is not sufficient to pay in full the additional amounts allocable under this subsection for that period, the Secretary shall reduce proportionately the amounts so allocable.

SEC. 107. ENTITLEMENTS OF STATE GOVERNMENTS.

(a) DIVISION BETWEEN STATE AND LOCAL GOVERNMENTS.—The State government shall be entitled to receive one-third of the amount allocated to that State for each entitlement period. The remaining portion of each State's allocation shall be allocated among the units of local government of that State as provided in section 108.

(b) STATE MUST MAINTAIN TRANSFERS TO LOCAL GOVERNMENTS.—

(1) GENERAL RULE.—The entitlement of any State government for any entitlement period beginning on or after July 1, 1973, shall be reduced by the amount (if any) by which—

(A) the average of the aggregate amounts transferred by the State government (out of its own sources) during such period and the preceding entitlement period to all units of local government in such State, is less than,

(B) the similar aggregate amount for the one-year period beginning July 1, 1971.

For purposes of subparagraph (A), the amount of any reduction in the entitlement of a State government under this subsection for any entitlement period shall, for subsequent entitlement periods, be treated as an amount transferred by the State government in such State.

(2) ADJUSTMENT WHERE STATE ASSUMES RESPONSIBILITY FOR CATEGORY OF EXPENDITURES.—If the State government establishes to the satisfaction of the Secretary that since June 30, 1972, it has assumed responsibility for a category of expenditures which (before July 1, 1972) was the responsibility of local governments located in such State, then, under regulations prescribed by the Secretary, the aggregate amount taken into account under paragraph (1)(B) shall be reduced to the extent that increased State government spending (out of its own sources) for such category has replaced corresponding amounts which for the one-year period beginning July 1, 1971, it transferred to units of local government.

(3) ADJUSTMENTS WHERE NEW TAXING POWERS ARE CONFERRED UPON LOCAL GOVERNMENTS.—If a State establishes to the satisfaction of the Secretary that since June 30, 1972, one or more units of local government within such State have had conferred upon them new taxing authority, then, under regulations prescribed by the Secretary, the aggregate amount taken into account under paragraph (1)(B) shall be reduced to the extent of the larger of—

(A) an amount equal to the amount of the taxes collected by reason of the exercise of such new taxing authority by such local governments, or

(B) an amount equal to the amount of the loss of revenue to the State by reason of such new taxing authority being conferred on such local governments.

No amount shall be taken into consideration under subparagraph (A) if such new taxing authority is an increase in the authorized rate of tax under a previously authorized kind of tax, unless the State is determined by the Secretary to have decreased a related State tax.

(4) SPECIAL RULE FOR PERIOD BEGINNING JULY 1, 1973.— In the case of the entitlement period beginning July 1, 1973, the preceding entitlement period for purposes of paragraph (1)(A) shall be treated as being the one-year period beginning July 1, 1972.

(5) SPECIAL RULE FOR PERIOD BEGINNING JULY 1, 1976.—In the case of the entitlement period beginning July 1, 1976, and ending December 31, 1976, the aggregate amount taken into account under paragraph (1)(A) for the preceding entitlement period and the aggregate amount taken into account under paragraph (1)(B) shall be one-half of the amounts which (but for this paragraph) would be taken into account.

(6) REDUCTION IN ENTITLEMENT.—If the Secretary has reason to believe that paragraph (1) requires a reduction in the entitlement of any State government for any entitlement period, he shall give reasonable notice and opportunity for hearing to the State. If, thereafter, he determines that paragraph (1) requires the reduction of such entitlement, he shall also determine the amount of such reduction and shall notify the Governor of such State of such determinations and shall withhold from subsequent payments to such State government under this subtitle an amount equal to such reduction.

(7) TRANSFER TO GENERAL FUND.—An amount equal to the reduction in the entitlement of any State government which results from the application of this subsection (after any judicial review under section 143) shall be transferred from the Trust Fund to the general fund of the Treasury on the day on which such reduction becomes final.

SEC. 108. ENTITLEMENTS OF LOCAL GOVERNMENTS.

(a) ALLOCATION AMONG COUNTY AREAS.—The amount to be allocated to the units of local government within a State for any entitlement period shall be allocated among the county areas located in that State so that each county area will receive an amount which bears the same ratio to the total amount to be allocated to the units of local government within that State as—

(1) the population of that county area, multiplied by the general tax effort factor of that county area, multiplied by the relative income factor of that county area, bears to

(2) the sum of the products determined under paragraph (1) for all county areas within that State.

(b) ALLOCATION TO COUNTY GOVERNMENTS, MUNICIPALITIES, TOWNSHIPS, ETC.—

(1) COUNTY GOVERNMENTS.—The county government shall be allocated that portion of the amount allocated to the county area for the entitlement period under subsection (a) which bears the same ratio to such amount as the adjusted taxes of the county government bear to the adjusted taxes of the county government and all other units of local government located in the county area.

(2) OTHER UNITS OF LOCAL GOVERNMENT.—The amount remaining for allocation within a county area after the application of paragraph (1) shall be allocated among the units of local government (other than the county government and other than township governments) located in that county area so that each unit of local government will receive an amount which bears the same ratio to the total amount to be allocated to all such units as—

(A) the population of that local government, multiplied by the general tax effort factor of that local government, multiplied by the relative income factor of that local government, bears to

(B) the sum of the products determined under subparagraph (A) for all such units.

(3) TOWNSHIP GOVERNMENTS.—If the county area includes one or more township governments, then before applying paragraph (2)—

(A) there shall be set aside for allocation under subparagraph (B) to such township governments that portion of the amount allocated to the country area for the entitlement period which bears the same ratio to such amount as the sum of the adjusted taxes of all such township governments bears to the aggregate adjusted taxes of the county government, such township governments, and all other units of local government located in the county area, and

(B) that portion of each amount set aside under subparagraph (A) shall be allocated to each township government on the same basis as amounts are allocated to units of local government under paragraph (2).

If this paragraph applies with respect to any county area for any entitlement period, the remaining portion allocated under paragraph (2) to the units of local government located in the county area (other than the county government and the township governments) shall be appropriately reduced to reflect the amounts set aside under subparagraph (A).

(4) INDIAN TRIBES AND ALASKAN NATIVE VILLAGES.—If within a county area there is an Indian tribe or Alaskan native village which has a recognized governing body which performs substantial governmental functions, then before applying paragraph (1) there shall be allocated to such tribe or village a portion of the amount allocated to the county area for the entitlement period which bears the same ratio to such amount as the population of that tribe or village within that county area bears to the population of that county area. If this paragraph applies with respect to any county area for any entitlement period, the amount to be allocated under paragraph (1) shall be appropriately reduced to reflect the amount allocated under the preceding sentence. If the entitlement of any such tribe or village is waived for any entitlement period by the governing body of that tribe or village, then the provisions of this paragraph shall not apply with respect to the amount of such entitlement for such period.

(5) RULE FOR SMALL UNITS OF GOVERNMENT.—If the Secretary determines that in any county area the data available for any entitlement period are not adequate for the application of the formulas set forth in paragraphs (2) and (3)(B) with respect to units of local government (other than a county government) with a population below a number (not more than 500) prescribed for that county area by the Secretary, he may apply paragraph (2) or (3)(B) by allocating for such entitlement period to each such unit located in that county area an amount which bears the same ratio to the total amount to be allocated under paragraph (2) or (3)(B) for such entitlement period as the population of such unit bears to the population of all units of local government in that county area to which allocations are made under such paragraph. If the preceding sentence applies with respect to any county area, the total amount to be allocated under paragraph (2) or (3)(B) to other units of local government in that county area for the entitlement period shall be appropriately reduced to reflect the amounts allocated under the preceding sentence.

(6) ENTITLEMENT.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the entitlement of any unit of local government for any entitlement period shall be the amount allocated to such unit under this subsection (after taking into account any applicable modification under subsection (c)).

(B) MAXIMUM AND MINIMUM PER CAPITA ENTITLEMENT.—Subject to the provisions of subparagraphs (C) and (D), the per capita amount allocated to any county area or any unit of local government (other than a county government) within a State under this section for any entitlement period shall not be less than 20 percent, nor more than 145 percent, of two-thirds of the amount allocated to the State under section 106, divided by the population of that State.

(C) LIMITATION.—The amount allocated to any unit of local government under this section for any entitlement period shall not exceed 50 percent of the sum of (i) such government's adjusted taxes, and (ii) the intergovernmental transfers of revenue to such government (other than transfers to such government under this subtitle).

(D) ENTITLEMENT LESS THAN $200, OR GOVERNING BODY WAIVES ENTITLEMENT.—If (but for this subparagraph) the entitlement of any unit of local government below the level of the county government—

(i) would be less than $200 for any entitlement period ($100 for an entitlement period of 6 months), or

(ii) is waived for any entitlement period by the governing body of such unit,

then the amount of such entitlement for such period shall (in lieu of being paid to such unit) be added to, and shall become a part of, the entitlement for such period of the county government of the county area in which such unit is located.

(7) ADJUSTMENT OF ENTITLEMENT.—

(A) IN GENERAL.—In adjusting the allocation of any county area or unit of local government, the Secretary shall make any adjustment required under paragraph (6)(B) first, any adjustment required under paragraph (6)(C) next, and any adjustment required under paragraph (6)(D) last.

(B) ADJUSTMENT FOR APPLICATION OF MAXIMUM OR MINIMUM PER CAPITA ENTITLEMENT.—The Secretary shall adjust the allocations made under this section to county areas or to units of local governments in any State in order to bring those allocations into compliance with the provisions of paragraph (6)(B). In making such adjustments he shall make any necessary adjustments with respect to county areas before making any necessary adjustments with respect to units of local government.

(C) ADJUSTMENT FOR APPLICATION OF LIMITATION.—In any case in which the amount allocated to a unit of local government is reduced under paragraph (6)(C) by the Secretary, the amount of that reduction—

(i) in the case of a unit of local government (other than a county government), shall be added to and increase the allocation of the county government of the county area in which it is located, unless (on account of the application of paragraph (6)) that county government may not receive it, in which case the amount of the reduction shall be added to and increase the entitlement of the State government of the State in which that unit of local government is located; and

(ii) in the case of a county government, shall be added to and increase the entitlement of the State government of the State in which it is located.

(c) SPECIAL ALLOCATION RULES.—

(1) OPTIONAL FORMULA.—A State may by law provide for the allocation of funds among county areas, or among units of local government (other than county governments), on the basis of the population multiplied by the general tax effort factors of such areas or units of local government, on the basis of the population multiplied by the relative income factors of such areas or units of local government, or on the basis of a combination of those two factors. Any State which provides by law for such a variation in the allocation formula provided by subsection (a), or by paragraphs (2) and (3) of subsection (b), shall notify the Secretary of such law not later than 30 days before the beginning of the first entitlement period to which such law is to apply. Any such law shall—

(A) provide for allocating 100 percent of the aggregate amount to be allocated under subsection (a), or under paragraphs (2) and (3) of subsection (b);

(B) apply uniformly throughout the State, and

(C) apply during the period beginning on the first day of the first entitlement period to which it applies and ending on December 31, 1976.

(2) CERTIFICATION.—Paragraph (1) shall apply within a State only if the Secretary certifies that the State law complies with the requirements of such paragraph. The Secretary shall not certify any such law with respect to which he receives notification later than 30 days prior to the first entitlement period during which it is to apply.

(d) GOVERNMENTAL DEFINITIONS AND RELATED RULES.—For purposes of this title—

(1) UNITS OF LOCAL GOVERNMENT.—The term "unit of local government" means the government of a county, municipality, township, or other unit of government below the State which is a unit of general government (determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes). Such term also means, except for purposes of paragraphs (1), (2), (3), (5), (6)(C), and (6)D of subsection (b), and, except for purposes of subsection (c), the recognized governing body of an Indian tribe or Alaskan native village which performs substantial governmental functions.

(2) CERTAIN AREAS TREATED AS COUNTIES.—In any State in which any unit of local government (other than a county government) constitutes the next level of government below the State government level, then, except as provided in the next sentence, the geographic area of such unit of government shall be treated as a county area (and such unit of government shall be treated as a county government) with respect to that portion of the State's geographic area. In any State in which any county area is not governed by a county government but contains two or more units of local government, such units shall not be treated as county governments and the geographic areas of such units shall not be treated as county areas.

(3) TOWNSHIPS.—The term "township" includes equivalent subdivisions of government having different designations (such as "towns"), and shall be determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes.

(4) UNITS OF LOCAL GOVERNMENT LOCATED IN LARGER ENTITY.—A unit of local government shall be treated as located in a larger entity if part or all of its geographic area is located in the larger entity.

(5) ONLY PART OF UNIT LOCATED IN LARGER ENTITY.—If only part of a unit of local government is located in a larger entity, such part shall be treated for allocation purposes as a separate unit of local government, and all computations shall, except as otherwise provided in regulations, be made on the basis of the ratio which the estimated population of such part bears to the population of the entirety of such unit.

(6) BOUNDARY CHANGES, GOVERNMENTAL REORGANIZATION, ETC.—If, by reason of boundary line changes, by reason of State statutory or constitutional changes, by reason of annexations or other governmental reorganizations, or by reason of other circumstances, the application of any provision of this section to units of local government does not carry out the purposes of this subtitle, the application of such provision shall be made, under regulations prescribed by the Secretary, in a manner which is consistent with such purposes.

SEC. 109. DEFINITIONS AND SPECIAL RULES FOR APPLICATION OF ALLOCATION FORMULAS.

(a) IN GENERAL.—For purposes of this subtitle—

(1) POPULATION.—Population shall be determined on the same basis as resident population is determined by the Bureau of the Census for general statistical purposes.

(2) URBANIZED POPULATION.—Urbanized population means the population of any area consisting of a central city or cities of 50,000 or more inhabitants (and of the surrounding closely settled territory for such city or cities) which is treated as an urbanized area by the Bureau of the Census for general statistical purposes.

(3) INCOME.—Income means total money income received from all sources, as determined by the Bureau of the Census for general statistical purposes.

(4) PERSONAL INCOME.—Personal income means the income of individuals, as determined by the Department of Commerce for national income accounts purposes.

(5) DATES FOR DETERMINING ALLOCATIONS AND ENTITLEMENTS.—Except as provided in regulations, the determination of allocations and entitlements for any entitlement period shall be made as of the first day of the third month immediately preceding the beginning of such period.

(6) INTERGOVERNMENTAL TRANSFERS.—The intergovernmental transfers of revenue to any government are the amounts of revenue received by that government from other governments as a share in financing (or as reimbursement for) the performance of governmental functions, as determined by the Bureau of the Census for general statistical purposes.

(7) DATA USED; UNIFORMITY OF DATA.—

(A) GENERAL RULE.—Except as provided in subparagraph (B), the data used shall be the most recently available data provided by the Bureau of the Census or the Department of Commerce, as the case may be.

(B) USE OF ESTIMATES, ETC.—Where the Secretary determines that the data referred to in subparagraph (A) are not current enough or are not comprehensive enough to provide for equitable allocations, he may use such additional data (including data based on estimates) as may be provided for in regulations.

(b) INCOME TAX AMOUNT OF STATES.—For purposes of this subtitle—

(1) IN GENERAL.—The income tax amount of any State for any entitlement period is the income tax amount of such State as determined under paragraphs (2) and (3).

(2) INCOME TAX AMOUNT.—The income tax amount of any State for any entitlement period is 15 percent of the net amount collected from the State individual income tax of such State during 1972 or (if later) during the last calendar year ending before the beginning of such entitlement period.

(3) CEILING AND FLOOR.—The income tax amount of any State for any entitlement period—

(A) shall not exceed 6 percent, and

(B) shall not be less than 1 percent,

of the Federal individual income tax liabilities attributed to such State for taxable years ending during 1971 or (if later) during the last calendar year ending before the beginning of such entitlement period.

(4) STATE INDIVIDUAL INCOME TAX.—The individual income tax of any State is the tax imposed upon the income of individuals by such State and described as a State income tax under section 164(a)(3) of the Internal Revenue Code of 1954.

(5) FEDERAL INDIVIDUAL INCOME TAX LIABILITIES.—Federal individual income tax liabilities attributed to any State for any period shall be determined on the same basis as such liabilities are determined for such period by

the Internal Revenue Service for general statistical purposes.

(c) General Tax Effort of States.—

(1) In general.—For purposes of this subtitle—

(A) General tax effort factor.—The general tax effort factor of any State for any entitlement period is (i) the net amount collected from the State and local taxes of such State during the most recent reporting year, divided by (ii) the aggregate personal income (as defined in paragraph (4) of subsection (a)) attributed to such State for the same period.

(B) General tax effort amount.—The general tax effort amount of any State for any entitlement period is the amount determined by multiplying—

(i) the net amout collected from the State and local taxes of such State during the most recent reporting year, by

(ii) the general tax effort factor of that State.

(2) State and local taxes.—

(A) Taxes taken into account.—The State and local taxes taken into account under paragraph (1) are the compulsory contributions exacted by the State (or by any unit of local government or other political subdivision of the State) for public purposes (other than employee and employer assessments and contributions to finance retirement and social insurance systems, and other than special assessments for capital outlay), as such contributions are determined by the Bureau of the Census for general statistical purposes.

(B) Most recent reporting year.—The most recent reporting year with respect to any entitlement period consists of the years taken into account by the Bureau of the Census in its most recent general determination of State and local taxes made before the close of such period.

(d) General Tax Effort Factor of County Area.—For purposes of this subtitle, the general tax effort factor of any county area for any entitlement period is—

(1) the adjusted taxes of the county government plus the adjusted taxes of each other unit of local government within that county area, divided by

(2) the aggregate income (as defined in paragraph (3) of subsection (a)) attributed to that county area.

(e) General Tax Effort Factor of Unit of Local Government.—For purposes of this subtitle—

(1) In General.—The general tax effort factor of any unit of local government for any entitlement period is—

(A) the adjusted taxes of that unit of local government, divided by

(B) the aggregate income (as defined in paragraph (3) of subsection (a)) attributed to that unit of local government.

(2) Adjusted Taxes.

(A) In General.—The adjusted taxes on any unit of local government are—

(i) the compulsory contributions exacted by such government for public purposes (other than employee and employer assessments and contributions to finance retirement and social insurance systems, and other than special assessments for capital outlay), as such contributions are determined by the Bureau of the Census for general statistical purposes,

(ii) adjusted (under regulations prescribed by the Secretary) by excluding an amount equal to that portion of such compulsory contributions which is properly allocable to expenses for education.

(B) Certain Sales Taxes Collected by Counties.—In any case where—

(i) a county government exacts sales taxes within the geographic area of a unit of local government and transfers part or all of such taxes to such unit without specifying the purposes for which such unit may spend the revenues, and

(ii) the Governor of the State notifies the Secretary that the requirements of this subparagraph have been met with respect to such taxes,

then the taxes so transferred shall be treated as the taxes of the unit of local government (and not the taxes of the county government).

(f) Relative Income Factor.—For purposes of this subtitle, the relative income factor is a fraction—

(1) in the case of a State, the numerator of which is the per capita income of the United States and the denominator of which is the per capita income of that State;

(2) in the case of a county area, the numerator of which is the per capita income of the State in which it is located and the denominator of which is the per capita income of that county area; and

(3) in the case of a unit of local government, the numerator of which is the per capita income of the county area in which it is located and the denominator of which is the per capita income of the geographic area of that unit of local government.

For purposes of this subsection, per capita income shall be determined on the basis of income as defined in paragraph (3) of subsection (a).

(g) Allocation Rules for Five Factor Formula.—For purposes of section 106(b)(3)—

(1) Allocation on basis of population.—Any allocation among the States on the basis of population shall be made by allocating to each State an amount which bears the same ratio to the total amount to be allocated as the population of such State bears to the population of all the States.

(2) Allocation on basis of urbanized population.—Any allocation among the States on the basis of urbanized population shall be made by allocating to each State an amount which bears the same ratio to the total amount to be allocated as the urbanized population of such State bears to the urbanized population of all the States.

(3) Allocation on basis of population inversely weighted for per capita income.—Any allocation among the States on the basis of population inversely weighted for per capita income shall be made by allocating to each State an amount which bears the same ratio to the total amount to be allocated as—

(A) the population of such State, multiplied by a fraction the numerator of which is the per capita income of all the States and the denominator of which is the per capita income of such State, bears to

(B) the sum of the products determined under subparagraph (A) for all the States.

(4) Allocation on basis of income tax collections.—Any allocation among the States on the basis of income tax collections shall be made by allocating to each State an amount which bears the same ratio to the total amount to be allocated as the income tax amount of such State bears to the sum of the income tax amounts of all the States.

(5) Allocation on basis of general tax effort.—Any allocation among the States on the basis of general tax effort shall be made by allocating to each State an amount which bears the same ratio to the total amount to be be allocated as the general tax effort amount of such State bears to the sum of the general tax effort amounts of all the States.

Subtitle B—Administrative Provisions

Sec. 121. Reports on Use of Funds; Publication.

(a) Reports on Use of Funds.—Each State government and unit of local government which receives funds under subtitle A shall, after the close of each entitlement period, submit a report to the Secretary setting forth the amounts and purposes for which funds received during such period have been spent or obligated. Such reports shall be in such form and detail and shall be submitted at such time as the Secretary may prescribe.

(b) Reports on Planned Use of Funds.—Each State government and unit of local government which expects to receive funds under subtitle A for any entitlement period beginning on or after January 1, 1973, shall submit a report to the Secretary setting forth the amounts and purposes for which it plans to spend or obligate the funds which it expects to receive during such period. Such reports shall be in such form and detail as the Secretary may prescribe and shall be submitted at such time before the beginning of the entitlement period as the Secretary may prescribe.

(c) Publication and Publicity of Reports.—Each State government and unit of local government shall have a copy of each report submitted by it under subsection (a) or (b) published in a newspaper which is published within the State and has general circulation within the geographic area of that government. Each State government and unit of local government shall advise the news media of the publication of its reports pursuant to this subsection.

Sec. 122. Nondiscrimination Provision.

(a) In General.—No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under subtitle A.

(b) Authority of Secretary.—Whenever the Secretary determines that a State government or unit of local government has failed to comply with subsection (a) or an applicable regulation, he shall notify the Governor of the State (or, in the case of a unit of local government, the Governor of the State in which such unit is located) of the noncompliance and shall request the Governor to secure compliance. If within a reasonable period of time the Governor fails or refuses to secure compliance, the Secretary is authorized (1) to refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) to exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d); or (3) to take such other action as may be provided by law.

(c) Authority of Attorney General.—When a matter is referred to the Attorney General pursuant to subsection (b), or whenever he has reason to believe that a State government or unit of local government is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

Sec. 123. Miscellaneous Provisions.

(a) Assurances to the Secretary.—In order to qualify for any payment under subtitle A for any entitlement period beginning on or after January 1, 1973, a State government or unit of local government must establish (in accordance with regulations prescribed by the Secretary, and, with respect to a unit of local government, after an opportunity for review and comment by the Governor of the State in which such unit is located) to the satisfaction of the Secretary that—

(1) it will establish a trust fund in which it will deposit all payments it receives under subtitle A;

(2) it will use amounts in such trust fund (including any interest earned thereon while in such trust fund) during such reasonable period or periods as may be provided in such regulations;

(3) in the case of a unit of local government, it will use amounts in such trust fund (including any interest earned thereon while in such trust fund) only for priority expenditures (as defined in section 103(a)) and will pay over to the Secretary (for deposit in the general fund of the Treasury) an amount equal to 110 percent of any amount expended out of such trust fund in violation of this paragraph, unless such amount is promptly repaid to such trust fund (or the violation is otherwise corrected) after notice and opportunity for corrective action;

(4) it will provide for the expenditure of amounts received under subtitle A only in accordance with the laws and procedures applicable to the expenditure of its own revenues;

(5) it will—

(A) use fiscal, accounting, and audit procedures which conform to guidelines established therefor by the Secretary (after consultation with the Comptroller General of the United States),

(B) provide to the Secretary (and to the Comptroller General of the United States), on reasonable notice, access to, and the right to examine, such books, documents, papers, or records as the Secretar may reasonably require for purposes of reviewing compliance with this title (or, in the case of the Comptroller General, as the Comptroller General may reasonably require for purposes of reviewing compliance and operations under subsection (c)(2)), and

(C) make such annual and interim reports (other than reports required by *section* 121) to the Secretary as he may reasonably require;

(6) all laborers and mechanics employed by contractors or subcontractors in the performance of work on any construction project, 25 percent or more of the costs of which project are paid out of its trust fund established under paragraph (1), will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5), and that with respect to the labor standards specified in this paragraph the Secretary of Labor shall act in accordance with Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c);

(7) individuals employed by it whose wages are paid in whole or in part out of its trust fund established under paragraph (1) will be paid wages which are not lower than the prevailing rates of pay for persons employed in similar public occupations by the same employer; and

(8) in the case of a unit of local government as defined in the second sentence of section 108(d)(1) (relating to governments of Indian tribes and Alaskan native villages), it will expend funds received by it under subtitle A for the benefit of members of the tribe or village residing in the county area from the allocation of which funds are allocated to it under section 108(b)(4).

Paragraph (7) shall apply with respect to employees in any category only if 25 percent or more of the wages of all employees of the State government or unit of local government in such category are paid from the trust fund established by it under paragraph (1).

(b) WITHHOLDING OF PAYMENTS.—If the Secretary determines that a State government or unit of local government has failed to comply substantially with any provision of subsection (a) or any regulations prescribed thereunder, after giving reasonable notice and opportunity for a hearing to the Governor of the State or the chief executive officer of the unit of local government, he shall notify the State government or unit of local government that if it fails to take corrective action within 60 days from the date of receipt of such notification further payments to it will be withheld for the remainder of the entitlement period and for any subsequent entitlement period until such time as the Secretary is satisfied that appropriate corrective action has been taken and that there will no longer be any failure to comply. Until he is satisfied, the Secretary shall make no further payments of such amounts.

(c) ACCOUNTING, AUDITING, AND EVALUATION.—

(1) IN GENERAL.—The Secretary shall provide for such accounting and auditing procedures, evaluations, and reviews as may be necessary to insure that the expenditures of funds received under subtitle A by State governments and units of local government comply fully with the requirements of this title. The Secretary is authorized to accept an audit by a State of such expenditures of a State government or unit of local government if he determines that such audit and the audit procedures of that State are sufficiently reliable to enable him to carry out his duties under this title.

(2) COMPTROLLER GENERAL SHALL REVIEW COMPLIANCE.—The Comptroller General of the United States shall make such reviews of the work as done by the Secretary, the State governments, and the units of local government as may be necessary for the Congress to evaluate compliance and operations under this title.

And the Senate agree to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with the following amendments:

Strike out the matter proposed to be stricken out by the Senate amendment, on page 35 of the House engrossed bill strike out lines 1 through 6, and in lieu of the matter proposed to be inserted by the Senate amendment insert the following:

(1) The period beginning January 1, 1972, and ending June 30, 1972.

(2) The period beginning July 1, 1972, and ending December 31, 1972.

(3) The period beginning January 1, 1973, and ending June 30, 1973.

(4) The one-year periods beginning on July 1 of 1973, 1974, and 1975.

(5) The period beginning July 1, 1976, and ending December 31, 1976.

(c) DISTRICT OF COLUMBIA.—

(1) TREATMENT AS STATE AND LOCAL GOVERNMENT.—For purposes of this title, the District of Columbia shall be treated both—

(A) as a State (and any reference to the Governor of a State shall, in the case of the District of Columbia, be treated as a reference to the Commissioner of the District of Columbia), and

(B) as a county area which has no units of local government (other than itself) within its geographic area.

(2) REDUCTION IN CASE OF INCOME TAX ON NONRESIDENT INDIVIDUALS.—If there is hereafter enacted a law imposing a tax on income earned in the District of Columbia by individuals who are not residents of the District of Columbia, then the entitlement of the District of Columbia under subtitle A for any entitlement period shall be reduced by an amount equal to the net collections from such tax during such entitlement period attributable to individuals who are not residents of the District of Columbia. The preceding sentence shall not apply if—

(A) the District of Columbia and Maryland enter into an agreement under which each State agrees to impose a tax on income earned in that State by individuals who are residents of the other State, and the District of Columbia and Virginia enter into an agreement under which each State agrees to impose a tax on income earned in that State by individuals who are residents of the other State, or

(B) the Congress enacts a law directly imposing a tax on income earned in the District of Columbia by individuals who are not residents of the District of Columbia.

On page 36, line 23, of the House engrossed bill, strike out "July 1, 1972" and insert: "January 1, 1973".

And the Senate agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with the following amendments:

On page 37, line 9, of the Senate engrossed amendments, strike out "104(d)" and insert: "107(b)".

On page 37, line 11, of the Senate engrossed amendments, strike out "109(b) 110(b)" and insert: "104(b) or 123(b)".

And the Senate agree to the same.

Amendment numbered 19: That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows:

On page 40, line 20, of the Senate engrossed amendments, strike out "one or more" and insert: "at least 2".

And the Senate agree to the same.

Amendment numbered 20: The committee of conference reports amendment numbered 20 in disagreement.

AMENDMENT TO TITLE

That the House recede from its disagreement to the amendment of the Senate to the title of the bill, and agree to the same with an amendment, as follows:

Amend the title so as to read: "An Act to provide fiscal assistance to State and local governments, to authorize Federal collection of State individual income taxes, and for other purposes."

And the Senate agree to the same.

W. D. MILLS,
AL ULLMAN,
JAMES A. BURKE,
MRS. GRIFFITHS,
JACKSON E. BETTS,
HERMAN T. SCHNEEBELI,
JOEL T. BROYHILL,
Managers on the Part of the House.

RUSSELL B. LONG,
CLINTON P. ANDERSON,
HERMAN E. TALMADGE,
WALLACE F. BENNETT,
CARL CURTIS,
Managers on the Part of the Senate.

JOINT EXPLANATION STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14370) to provide payments to localities for high-priority expenditures, to encourage the States to supplement their revenue sources, and to authorize Federal collection of State individual income taxes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

Amendment Numbered 1: The bill as passed the House contained a title I consisting of three subtitles: subtitle A (relating to local government high-priority assistance), subtitle B (relating to State tax supplements), and subtitle C (relating to general provisions).

Senate amendment numbered 1 struck out the text of subtitles A and B of title I and inserted in lieu thereof a subtitle A relating to allocation and payment of funds both to the States and to local governments, and a subtitle B relating to supplementary grants to State and local governments.

The House recedes with an amendment under which a new subtitle A and a new subtitle B of title I are substituted for both the provisions of the bill as passed the House and as passed the Senate. The principal differences in substance between the text of the bill as it would be under the action recommended in the accompanying conference report (referred to in this statement of managers as the "conference agreement") on the one hand, and the House bill and the Senate amendment on the other hand, are explained below, in the order in which the provision concerned appears in the conference agreement.

Subtitle A—Allocation and Payment of Funds

SEC. 101. SHORT TITLE.

Section 101 of the conference agreement provides that title I of the bill may be cited as the "State and Local Fiscal Assistance Act of 1972".

This short title is the short title which was provided for the bill by section 1 of the House bill. Section 101 under the Senate amendment provided that title I of the bill was to be cited as the "Revenue Sharing Act of 1972".

SEC. 102. PAYMENTS TO STATE AND LOCAL GOVERNMENTS.

Section 102 of the conference agreement provides for the payment out of the trust fund created by section 105 of the bill of the entitlements to the State governments and to local governments. In the case of entitlement periods ending after the date of the enactment, payments are to be made in installments, but not less often than once for each quarter, and, in the case of quarters ending after September 30, 1972, are to be paid not later than 5 days after the close of each quarter. There are some cases, however, where payment within this period is impossible because data are not available or because some action must be taken before the payments are made. In such cases the payments shall be made after the 5-day period as soon as it becomes possible to obtain such data or when such other action is taken. For example, it may not be possible to obtain sufficient data initially to make the division of payments in some county areas between Indian tribes and other units of local government, in which case partial payments may be made promptly on the basis of such information as is initially available with the remaining amounts paid as the necessary data are obtained. Similarly it is understood that in some States it may be necessary for the State governments to enact enabling legislation before local governments may receive assistance funds. The payments may be initially made on the basis of estimates.

For the corresponding provisions of the House bill, see section 101 (relating to payments to local governments) and section 121 (relating to payments to States). For the corresponding provisions of the Senate amendment, see section 103 (relating to payments to State and local governments).

SEC. 103. USE OF FUNDS BY LOCAL GOVERNMENTS FOR PRIORITY EXPENDITURES.

Section 103(a) of the conference agreement provides that funds received by units of local government pursuant to their entitlements under section 108 of the bill may be used only for priority expenditures. As defined in section 103(a), the term "priority expenditure" means only—

(1) ordinary and necessary maintenance and operating expenses for—

(A) public safety (including law enforcement, fire protection, and building code enforcement),

(B) environmental protection (including sewage disposal, sanitation, and pollution abatement),

(C) public transportation (including transit systems and streets and roads),

(D) health,

(E) recreation,

(F) libraries,

(G) social services for the poor or aged, and

(H) financial administration; and

(2) ordinary and necessary capital expenditures authorized by law.

The House bill (see section 102) contained a similar provision which set forth a list of "high-priority expenditures" which were the only expenditures for which the local governments could spend their entitlements. This list contained the items for public safety, environmental protection, and public transportation listed under subparagraphs (A), (B), and (C) of item 1 of the preceding paragraph, and limited capital expenditures to expenditures for sewage collection and treatment, refuse disposal systems, and public transportation (including transit systems and street construction). The House bill also contained a provision (see section 102(b) of the House bill) under which a State could by law exclude any category of items from the list of "high-priority expenditures" under certain prescribed circumstances. The conference agreement does not include this provision for excluding categories of items.

The Senate amendment contained no limitations on the purposes for which a local government could expend its entitlements under the bill.

Section 103(b) of the conference agreement authorizes the Secretary of the Treasury to accept a certificate of compliance with section 102(a) unless he determines that the certificate is not sufficiently reliable to enable him to carry out his duties under title I of the bill.

SEC. 104. PROHIBITION ON USE AS MATCHING FUNDS BY STATE AND LOCAL GOVERNMENTS.

Section 104 of the conference agreement provides that no State government or unit of local government may use, directly or indirectly, any part of the funds it receives under subtitle A of title I of the bill as a contribution for the purpose of obtaining Federal funds under any law of the United States which requires such government to make a contribution in order to receive Federal funds.

This provision is the same in substance as section 109 of the Senate amendment.

The House bill (see section 101 thereof) contained a provision that a unit of local government was not to treat funds it received under the bill as a contribution made from non-Federal funds for purposes of any formula provided by a law of the United States under which non-Federal funds must be made available in order to receive Federal funds.

Section 104(e) of the conference agreement authorizes the Secretary of the Treasury to accept a certificate of compliance with the prohibition on the use of amounts as matching funds unless he determines that the certificate is not sufficiently reliable to carry out his duties under title I of the bill.

SEC. 105. CREATION OF TRUST FUND; APPROPRIATIONS.

Section 105(a) of the conference agreement creates a trust fund to be known as the "State and Local Government Fiscal Assistance Trust Fund". The Trust Fund is to remain available without fiscal year limitation.

Section 105(b)(1) of the conference agreement provides for the appropriation to this Trust Fund, out of amounts in the general fund of the Treasury attributable to the collection of the Federal individual income taxes not otherwise appropriated—

(1) for the period beginning January 1, 1972, and ending June 30, 1972, $2,650,000,000;

(2) for the period beginning July 1, 1972, and ending December 31, 1972, $2,650,000,000;

(3) for the period beginning January 1, 1973, and ending June 30, 1973, $2,987,500,000;

(4) for the fiscal year beginning July 1, 1973, $6,050,000,000;

(5) for the fiscal year beginning July 1, 1974, $6,200,000,000;

(6) for the fiscal year beginning July 1, 1975, $6,350,000,000; and

(7) for the period beginning July 1, 1976, and ending December 31, 1976, $3,325,000,000.

Section 105(b)(2) of the conference agreement provides for appropriations for certain adjustments necessitated by the provisions of the allocation formulas as they relate to noncontiguous States. The amounts appropriated for this purpose are—

(1) for each of the six-month periods beginning January 1, 1972, July 1, 1972, and January 1, 1973, $2,390,000;

(2) for each of the fiscal years beginning July 1, 1973, July 1, 1974, and July 1, 1975, $4,780,000; and

(3) for the period beginning July 1, 1976, and ending December 31, 1976, $2,390,000.

The House bill (in section 104) appropriated amounts for payments to the local governments which were at the level of $3,500,000,000 for each 12 month period of the five-year program, and appropriated (see section 123 of the House bill) amounts for payments to the States which began at an annual rate of $1,800,000,000 for the first entitlement period of the five-year program and then increased at the annual rate of $300,000,000 for each of the remaining periods after the first full year.

The Senate amendment (in section 104) appropriated amounts for the payment of State and local entitlements and also contained (see section 121) appropriations for supplemental payments to the State and local governments.

The comparison of the appropriations made by section 105(b) of the conference agreement, by the House bill, and by the Senate amendment for each period of the five-year program is shown by the following table (all amounts are shown in millions of dollars):

	Conference agreement	House bill	Senate amendment[1]
Period:			
Jan. 1 through June 30, 1972	2,652.39	2,650	2,652.39
Fiscal year beginning—			
July 1, 1972	5,642.28	5,450	5,954.78
July 1, 1973	6,054.78	5,750	6,754.78
July 1, 1974	6,204.78	6,050	7,054.78
July 1, 1975	6,354.78	6,350	7,354.78
July 1 through Dec. 31, 1976	3,327.39	3,325	3,827.39
Total	30,236.40	29,575	33,598.90

[1] These amounts are based on (1) the appropriations contained in sec. 102 of the Senate amendment as limited by sec. 104(a) thereof, and (2) the appropriations contained in sec. 121(a) of the Senate amendment.

SEC. 106. ALLOCATION AMONG STATES.

Section 106 of the conference agreement provides for the allocation to a State for each entitlement period on the basis of whichever of two formulas yields the greater amount for that State for that period. The first of these formulas is the three-factor formula which was contained in section 104(b) of the Senate amendment. This formula multiplies the population of the State by its general tax effort, multiplies this product by the relative income of the State, and then compares the resulting product for the State with the sum of the products similarly determined for all of the States.

The second of these formulas is based on the House bill. The House bill (see sections 103(a) and 122) in effect provided a five-factor formula under which the annual rate at the start of the program was (1) $3,500,000,000, divided among the States one-third on the basis of population, one-third on the basis of urbanized population, and one-third on the basis of population inversely weighted for per capita income, and (2) $1,800,000,000, divided among the States one-half on the basis of individual income tax collections by State governments and one-half on the basis of the general tax effort of the State and local governments.

The conference agreement also contains a provision (in section 106(c)) for those States in which civilian employees of the United States Government receive an allowance under section 5941 of title 5 of the United States Code. At present, these allowances are applicable only in the case of Alaska and Hawaii. Under the conference agreement, in determining whether any such State is to receive its allocations for any entitlement period under the three-factor formula or the five-factor formula, the amount allowable to it under the three-factor formula is increased by that percentage of increase which is applicable in the case of such State under such section 5941. Section 105 (b) (2) of the conference agreement also sets up a separate appropriation for each entitlement period at the level of $4,780,000 for each full fiscal year. This special appropriation will be available for payment to any State to which such section 5941 applies if for the entitlement period the allocation to the State is determined under the three-factor formula rather than under the five-factor formula.

This is similar to a provision contained in the Senate amendment (see section 104(f)). There was no comparable provision in the House bill.

SEC. 107. ENTITLEMENTS OF STATE GOVERNMENTS.

Division between States and local governments.—Section 107(a) of the conference agreement provides that of the amounts allocated to each State for any entitlement period—

(1) the State government is entitled to one-third, and

(2) the remaining portion is to be allocated among the units of local government of that State.

This is the same division between the States and local governments as was contained in section 104(c) of the Senate amendment.

Under section 123(a) of the House bill, the States were to receive $900,000,000 for the period beginning January 1, 1972, and ending June 30, 1972, $1,950,000,000 for the fiscal year beginning July 1, 1972, $2,250,000,000 for the fiscal year beginning July 1, 1973, $2,550,000,000 for the fiscal year beginning July 1, 1974, $2,850,000,000 for the fiscal year beginning July 1, 1975, and $1,575,000,000 for the period beginning July 1, 1976, and ending December 31, 1976.

Maintenance of State efforts.—Section 107 (b) (1) of the conference agreement provides that for any entitlement period beginning on or after July 1, 1973, the entitlement of any State government is to be reduced by the amount by which—

(1) the average of the aggregate amounts transferred by the State government (out of its own sources) during the entitlement period and the preceding entitlement period to all units of local government in the State, is less than

(2) the similar aggregate amount for the one-year period beginning July 1, 1971.

The substance of this provision is the same as the substance of the provision contained in section 104(d) of the Senate amendment. The House bill (see section 122(e)) contained a similar requirement that the State maintain the level of transfers to the local governments, but under the House bill—

(1) the first period for which a reduction in entitlement could be made was the entitlement period beginning July 1, 1972, and

(2) the comparison for any entitlement period was made on the basis of the transfers during such period (rather than, as under the Senate amendment and the conference agreement, on the basis of the average of such transfers during the current entitlement period and the immediately preceding entitlement period).

New taxing authority.—Section 107(b) (3) of the conference agreement provides that if a State establishes to the satisfaction of the Secretary of the Treasury that after June 30, 1972, one or more local governments in such State have had conferred upon them new taxing authority then the aggregate amount of State transfers for the base period (the one-year period beginning July 1, 1971) is to be reduced by an amount equal to the larger of—

(1) the amount of the taxes collected by reason of the exercise of the new taxing authority by the local governments, or

(2) the amount of the loss of revenue to the State by reason of the new taxing authority being conferred on the local governments.

The substance of this provision is the same as the substance of section 104(d) (3) of the Senate amendment. There was no comparable provision in the House bill for new taxing power conferred on local governments.

Section 107(b) (3) of the conference agreement also makes it clear that for purposes of this provision no amount is to be treated as collected by a reason of the exercise of new taxing authority by local governments if the new taxing authority is an increase in the authorized rate of tax under a previously authorized kind of tax, unless the State is determined by the Secretary of the Treasury to have decreased a related State tax.

SEC. 108. ENTITLEMENTS OF LOCAL GOVERNMENTS

Allocation among county areas.—Section 108(a) of the conference agreement provides for the allocation among the county areas of a State on the basis of the same three-factor formula which is used under section 106(b) (2) of the conference agreement as the first of the two alternative formulas for determining the allocations among the States. Thus, the amount allocated to a county area within a State is to bear the same ratio to the amount to be allocated among the units of local government within a State as—

(1) the population of that county area, multiplied by the general tax effort factor of that county area, and further multiplied by the relative income factor of that county area bears to,

(2) the sum of such products for all county areas within that State.

This is the formula for allocation among county areas contained in section 105(a) in the Senate amendment. Under the House bill (see section 203(b)) the allocations among the county areas were made on the same basis as the allocations among the States were made under the House bill. That is to say, amounts allocated among the States on the basis of population were allocated among the county areas on the basis of population; amounts allocated among the States on the basis of urbanized population were allocated among the county areas on the basis of urbanized population; and amounts allocated among the States on the basis of population inversely weighted for per capita income were allocated among the county areas on the basis of population inversely weighted for per capita income.

Allocations to county governments.—Under section 108(b) (1) of the conference agreement, the county government's share of the county area's allocation is to be determined by the ratio which the adjusted taxes of the county government bear to the adjusted taxes of the county government and all other units of local government located in the county area. This is the same allocation formula as was used for county governments in the House bill (see section 103(c) (1)) and in the Senate amendment (see section 105(b) (1)).

Allocations to municipalities, etc.—Under section 108(b) (2) of the conference agreement, the allocations among the units of local government located in the county area (other than the county government and township governments) are to be made, out of amounts not allocated to the county government or to township governments, on the basis of the three-factor formula. That is to say, this allocation is to be made on the basis of population multiplied by general tax effort and multiplied again by the relative income factor.

This method of allocating among such units of local government is the method used in the Senate amendment (see section 105 (b) (2)). Under the House bill (see section 103(c) (2)) the allocation among the units of local government (other than the county government) was made (1) on the basis of population, in the case of allocations to the county area based on population, (2) on the basis of population inversely weighted for per capita income, in the case of amounts allocated to the county area on that basis, and (3) in proportion to the amounts allocated to the unit under the two preceding methods, in the case of amounts allocated to the county area on the basis of urbanized population.

Allocations to township governments.—Under section 108(b) (3) of the conference agreement there is set aside for allocation to the township governments within any county area an amount based on the ratio which the adjusted taxes of the township governments bears to the adjusted taxes of the county government, the township governments, and all other units of local governments in the county area. This amount set aside for township governments is then divided among the township governments on the basis of the three-factor formula described above in connection with section 108(b) (2) of the conference agreement.

The substance of this provision is the same as section 105(b) (3) of the Senate amendment. Under the House bill (see section 103 (c) (3)) the amount set aside for township governments was determined on the same basis as in the conference agreement (that is, on the basis of their respective adjusted taxes), but the amount so set aside was then divided among the township governments on the same basis as applied under the House bill in the case of divisions among municipalities.

Indian tribes and Alaskan native villages.—Section 108(b) (4) of the conference agreement contains a provision for allocating part of the county area allocation to the recognized governing body of an Indian tribe or Alaskan native village where that recognized governing body performs substantial governmental functions. This allocation is to be made on the basis of population.

This provision is based on section 104(e) of the Senate amendment. Under the Senate amendment, one-fourth of one percent of the amount available for allocation among the States under section 104 of the Senate amendment was to be set aside for allocation and payment to Indian tribes, bands, groups, pueblos, communities, and Alaskan native villages which performed governmental functions. Under this provision, the Secretary of the Treasury was to prescribe regulations for dividing the funds, which regulations were to reflect the policies contained in subtitle A of the bill.

The House contained no provision comparable to section 108(b) (4) of the conference agreement.

Rule for small units of government.—Section 108(b) (5) of the conference agreement provides that if the Secretary of the Treasury determines that the data available with respect to units of local government with a population not in excess of 500 in any county area are not adequate for the application of the three-factor formula set forth in section 108(b)(2) of the conference agreement, he may allocate the amount available for allocation to such units solely on the basis of the ratio of their population to the population of the municipalities located in the county area. This authority applies equally to allocations under section 108(b)(3) among township governments, permitting a substitution of population for the three-factor formula where data as to township governments with population not in excess of 500 are inadequate.

Maximum and minimum per capita entitlement.—Section 108(b)(6)(B) of the conference agreement provides that, in general, the per capita amount allocated to any county area or to units of local government (other than a county government) within a State for any entitlement period is to be not less than 20 percent, and not more than 145 percent, of two-thirds of the per capita amount allocated to the State under section 106 of the conference agreement.

This provision for a maximum and minimum per capita entitlement is in substance the same as the provision contained in section 105(b)(4)(B) of the Senate amendment. There was no comparable provision in the House bill.

Optional formulas for allocations among county areas, municipalities, etc.—Section 108((c) of the conference agreement provides that a State may by law provide for the allocation of funds among county areas, or among units of local government (other than county governments)—

(1) on the basis of population multiplied by the general tax effort factor,

(2) on the basis of population multiplied by the relative income factor, or

(3) on the basis of a combination of these two factors.

Any such optional formula is to apply uniformly throughout the State and to apply for the remainder of the five-year program. Also, any such formula is to provide for allocating all of the amount to be allocated among the county areas of the State, or all of the amount to be allocated among the units of local government of the State (other than the county governments, and other than the Indian tribes and Alaskan native villages to which section 108(b)(4) of the conference agreement applies).

This provision is the same in substance as section 105(c) of the Senate amendment.

The House bill (see section 103(d)) contained different special allocation rules. These included rules that the State could by law (1) provide that relative taxes were to be taken into account in allocating among county areas, (2) provide that relative taxes were to be taken into account in allocating below the county level, (3) vary (within prescribed percentage limits) the amounts to be allocated under each of the applicable factors among county areas, and (4) provide that certain amounts had to be used for area-wide projects. These special allocation rules of the House bill are not contained in the conference agreement.

SEC. 109. DEFINITIONS AND SPECIAL RULES FOR APPLICATION OF ALLOCATION FORMULAS.

Section 109(a) of the conference agreement provides definitions for the terms "population", "urbanized population", "income", and "personal income". The terms "population", "income", and "personal income" have the same meanings as used in both the House bill and the Senate amendment. The term "urbanized population" has the same meaning as used in the House bill.

Section 109(a) also provides rules relating to the dates for determining allocations and entitlements and defining intergovernmental transfers of revenue. Such section also provides that the data used shall be the most recently available data provided by the Bureau of the Census or the Department of Commerce, as the case may be. Where the Secretary of the Treasury determines that the data are not current enough or not comprehensive enough, he may use additional data, including data based on estimates, as may be provided for in regulations. These rules are substantially the same as contained in both the House bill and the Senate amendment.

Subsections (b), (c), (d), (e), and (f) of section 109 of the conference agreement set forth the factors necessary for application of the 3-factor and 5-factor allocation formulas contained in the conference agreement for allocations among States and for application of the formulas contained in the conference agreement for allocations to units of local government. These are the income tax amount of a State; the general tax effort amount of a State; the general tax effort factor of a State, county area, and unit of local government; the relative income factor of a State, county area, and unit of local government; and the adjusted taxes of units of local government. These are substantially the same as the rules contained in the House bill with respect to the 5-factor formula and in the Senate amendment with respect to the 3-factor formula and the formulas for making allocations to local governments.

Section 109(g) of the conference agreement sets forth the rules for applying the factors in the 5-factor formula. These are the same as the rules contained in the House bill.

Subtitle B—Administrative Provisions

SEC. 121. REPORTS ON USE OF FUNDS; PUBLICATION.

Section 121 of the conference agreement requires each State government and unit of local government which receives funds under the bill to submit a report to the Secretary of the Treasury, after the close of each entitlement period, setting forth the amounts and purposes for which funds received during the entitlement period have been spent or obligated. Such section also requires each State government and unit of local government which expects to receive funds under the bill for any entitlement period beginning on or after January 1, 1973, to submit a report to the Secretary of the Treasury, before the beginning of the entitlement period, setting forth the amounts and purposes for which it plans to spend or obligate the funds which it expects to receive.

Section 121 of the conference agreement also requires each State government and unit of local government to publish a copy of each report referred to in the preceding paragraph in a newspaper which is published within the State and has general circulation within the geographic area of the government making the report, and to advise the news media of the publication of these reports.

This provision, except for the beginning date, is the same as section 107 of the Senate amendment. The House bill did not contain any similar provision.

SEC. 122. NONDISCRIMINATION PROVISION.

Section 122 of the conference agreement provides that no person in the United States shall, on the ground of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or any activity funded in whole or in part with funds made available under the bill. This section is substantially the same as section 106 of the House bill and section 108 of the Senate amendment, except that the House bill applied only to local governments.

SEC. 123. MISCELLANEOUS PROVISIONS.

Section 123(a) of the conference agreement provides that, in order to qualify for any payment under the bill for any entitlement period beginning on or after January 1, 1973, a State government or unit of local government must establish, to the satisfaction of the Secretary of the Treasury, that it will—

(1) establish a trust fund and deposit all payments received under the bill in that trust fund,

(2) use amounts in its trust fund within such reasonable periods as may be provided in regulations,

(3) in the case of a local government, use amounts in its trust fund only for priority expenditures,

(4) expend amounts received under the bill only in accordance with the laws and procedures applicable to the expenditure of its own revenues,

(5) use fiscal, accounting, and audit procedures conforming to guidelines established by the Secretary of the Treasury, provide access to and the right to examine books, documents, papers, or records required for purposes of reviewing compliance with the bill, and make reports (other than reports required by section 121) as the Secretary may reasonably require,

(6) comply with the provisions of the Davis-Bacon Act in the case of construction projects 25 percent or more of the costs of which are paid out of funds received under the bill,

(7) pay wages to individuals whose wages are paid in full or in part out of funds received under the bill at rates which are no lower than the prevailing rates of pay for individuals employed in similar public occupations by the same employer, if, with respect to any category of employees, 25 percent or more of the wages paid to all employees of the government concerned in that category are paid from funds received under the bill, and

(8) in the case of the governing body of an Indian tribe or Alaskan native village, expend funds received under the bill for the benefit of members of that tribe or village residing in the county area from the allocation of which it received such funds.

The committee of conference expects that, insofar as possible, guidelines established by the Secretary of the Treasury with respect to fiscal, accounting, and audit procedures (see item (5) of this paragraph) will permit State and local governments to use the fiscal, accounting, and audit procedures used by them with respect to expenditures made from revenues derived from their own sources.

Section 105 of the House bill contained provisions similar to the items enumerated in the preceding paragraph, other than items (4) and (8), but the House bill applied only with respect to local governments. Section 110 of the Senate amendment contained provisions similar to the items enumerated in the preceding paragraph, other than items (3) and (8).

Section 123(b) of the conference agreement authorizes the Secretary of the Treasury to withhold payments from any State government or unit of local government which he determines has failed to comply substantially with any provision of subsection (a) or any regulation prescribed thereunder until such time as he is satisfied that appropriate corrective action has been taken and there will no longer be any failure to comply. This provision is substantially the same as section 105(b) of the House bill and section 110(b) of the Senate amendment, except that the House bill applied only with respect to local governments.

Section 123(c) of the conference agreement directs the Secretary of the Treasury to provide for such accounting and auditing procedures, evaluations, and reviews as may be necessary to insure that expenditures of funds received under the bill comply fully with the requirements of the bill. Such section also directs the Comptroller General of the United States to make such reviews of the work as done by the Secretary, State governments, and units of local government as may be necessary for the Congress to evaluate compliance and operations under the bill. This section is substantially the same as section 105(c) of the House bill and section 110(c) of the Senate amendment, except that the House bill applied only with respect to local governments.

Amendment Numbered 2: The bill as passed by the House provided that if a law is enacted imposing a tax on income earned in the District of Columbia by nonresidents of the District, then the entitlements of the District of Columbia under the bill are to be reduced by an amount equal to the net collections from such tax. Senate amendment numbered 2 eliminated this provision.

The House recedes with amendments. Under the conference agreement, this provision of the House bill is restored but is not to apply if the District of Columbia enters into agreements with both Maryland and Virginia providing reciprocal taxation of nonresidents who are residents of the other State. The House provision is also not to apply if a nonresident income tax on income earned in the District of Columbia is directly imposed by a law enacted by the Congress.

Amendments Numbered 3, 4, and 5: These are technical and clarifying amendments. The House recedes on amendment numbered 3 with clerical amendments and recedes on amendments numbered 4 and 5.

Amendments Numbered 6 and 10: The bill as passed by the House adds a new subchapter to the Internal Revenue Code of 1954 which provides for Federal collection of the individual income taxes imposed by those States which enter into an agreement with the United States under the new subchapter. In order to qualify for Federal collection, the State individual income tax law must meet certain requirements set forth in the new subchapter. In general, the State income tax must either be a tax based on the individual's taxable income as defined in section 63 of the Internal Revenue Code of 1954 or a tax which is a percentage of Federal income tax liability. In either case, certain adjustments in computing taxable income or Federal income tax liability are required and certain other adjustments are permitted.

Under the bill as passed by the House, one of the permitted adjustments was an adjustment for a nonrefundable credit for general sales taxes. Senate amendments numbered 6 and 10 eliminate this permitted adjustment. The House recedes.

Amendments Numbered 7, 8, 13, 15, 16, 17, and 18: These are technical and clerical amendments. The House recedes.

Amendment Numbered 9: Under the bill as passed by the House, in order to qualify for Federal collection, one of the required adjustments is that taxable income, as determined for Federal income tax purposes, must be increased for State tax purposes by an amount equal to the interest on State and local bonds which is exempt from Federal income tax under section 103(a)(1) of the Internal Revenue Code of 1954. In the case of a State income tax based on a percentage of Federal liability, this adjustment is required in computing Federal liability for purposes of the State tax. Under the bill as passed by the House, this adjustment applied with respect to the interest on obligations of the State imposing the tax and its political subdivisions as well as obligations issued by other States and their political subdivisions.

Under Senate amendment numbered 9, the adjustment must be made for interest on obligations issued by another State and its political subdivisions, but is required for interest on obligations issued by the State imposing the income tax and its political subdivisions only if the interest is, under the law of that State, subject to the individual income tax. The House recedes.

Amendments Numbered 11 and 14: Under the bill as passed by the House, among the requirements which must be met by a State individual income tax on nonresidents in order to qualify for Federal collection are that such tax applies (1) only to wage and other business income derived by an individual from sources within the State and (2) only if 25 percent or more of the individual's total wage and other business income is derived from sources within the State.

Amendment numbered 11 increased the 25 percent requirement to 50 percent in the case of certain employees engaged in interstate transportation. Amendment numbered 14 provided that, for withholding purposes, an employer could rely on a declaration filed by an employee in determining whether this 50 percent requirement for transportation employees was met. The Senate recedes.

Amendment Numbered 12: Under the bill as passed by the House, once a State individual income tax qualified for Federal collection, any change made by the State in its individual income tax law must be enacted before September 1 of a calendar year in order to be effective for taxable years beginning in that calendar year. Amendment numbered 12 changes the September 1 date to November 1. The House recedes.

Amendment Numbered 19: Under the bill as passed by the House, the new Internal Revenue Code provisions providing Federal collection of State individual income taxes are to become effective on January 1, 1974, or, if later, on the first January 1 which is more than one year after the first date on which at least 5 States having residents who in the aggregate filed 5 percent or more of the Federal individual income tax returns filed during 1972 have notified the Secretary of the Treasury or his delegate of an election to enter into an agreement for Federal collection. Senate amendment numbered 19 eliminated the 5-State requirement, but retained the 5 percent of Federal individual income tax returns requirement.

The House recedes with an amendment which provides that (in addition to the 5 percent requirement) at least two States must enter into agreements for Federal collection before the new Internal Revenue Code provisions become effective.

Amendment Numbered 20: In this amendment, the Senate added a new title III to the bill, which provided for the limitation of Federal funding for social services under State public assistance plans approved under titles I, X, XIV, and XVI, and part A of title IV, of the Social Security Act.

The Senate amendment provided that:

(a) Effective January 1, 1973, all authority for funding social services under programs of Aid to the Aged, Blind, and Disabled would be repealed;

(b) Effective January 1, 1973, Federal matching for social services under programs of Aid to Families with Dependent Children would be limited to—

(1) 75 percent matching for child care (limited to child care needed to enable a member of the family to work or to take job training, or to provide necessary supervision for a child whose mother is dead or incapacitated);

(2) 75 percent Federal matching for family planning services;

(3) Services necessary to enable AFDC recipients to participate in the Work Incentive Program (for which 90 percent matching would apply as under present law; funding of these services has been limited to the amounts appropriated); and

(4) Emergency social services, for which 50 percent matching will apply rather than 75 percent as under present law.

(c) Not more than 12½ percent of all Federal funds for child care and family planning services could go to any one State;

(d) Beginning July 1, 1973, no State could receive, for any fiscal year, more Federal funds for child care and family planning services than its share of $600,000,000 based on its proportion of urbanized population in the United States;

(e) For the period between July 1 and December 31, 1972, the State welfare agency would receive 75 percent of the cost of child care and family planning services and in addition would receive the higher of (1) its share of $500,000,000 distributed among the States on the basis of urbanized population, or (2) 75 percent of the cost of providing social services between July and December, 1972, excluding the cost of any new social services provided after August 9, 1972, and also excluding the cost of any expansion of ongoing social service programs after August 9, 1972.

The amendment would not apply to Puerto Rico, Guam, and the Virgin Islands, which are already subject to an appropriation ceiling under the Social Security Act.

This amendment is reported in technical disagreement. The managers on the part of the House will offer a motion to substitute, for the matter contained in the Senate amendment, the matter set forth below, and the managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

TEXT OF SUBSTITUTE

The substitute, referred to above, would add a new title III to the bill which would read as follows:

TITLE III—LIMITATION ON GRANTS FOR SOCIAL SERVICES UNDER PUBLIC ASSISTANCE PROGRAMS

SEC. 301. (a) Title XI of the Social Security Act is amended by adding at the end thereof the following new section:

"LIMITATION ON FUNDS FOR CERTAIN SOCIAL SERVICES

"SEC. 1130. (a) Notwithstanding the provisions of section 3(a) (4) and (5), 403 (a)(3), 1003(a) (3) and (4), 1403(a) (3) and (4), or 1603(a) (4) and (5), amounts payable for any fiscal year (commencing with the fiscal year beginning July 1, 1972) under such section (as determined without regard to this section) to any State with respect to expenditures made after June 30, 1972, for services referred to in such section (other than the services provided pursuant to section 402(a)(19)(G)), shall be reduced by such amounts as may be necessary to assure that—

"(1) the total amount paid to such State (under all of such sections) for such fiscal year for such services does not exceed the allotment of such State (as determined under subsection (b)); and

"(2) of the amounts paid (under all of such sections) to such State for such fiscal year with respect to such expenditures, other than expenditures for—

"(A) services provided to meet the needs of a child for personal care, protection, and supervision, but only in the case of a child where the provision of such services is needed (i) in order to enable a member of such child's family to accept or continue in employment or to participate in training to prepare such member for employment, or (ii) because of the death, continued absence from the home, or incapacity of the child's mother and the inability of any member of such child's family to provide adequate care and supervision for such child;

"(B) family planning services;

"(C) services provided to a mentally retarded individual (whether a child or an adult), but only if such services are needed (as determined in accordance with criteria prescribed by the Secretary) by such individual by reason of his condition of being mentally retarded;

"(D) services provided to an individual who is a drug addict or an alcoholic, but only if such services are needed (as determined in accordance with criteria prescribed by the Secretary) by such individual as part of a program of active treatment of his condition as a drug addict or an alcoholic; and

"(E) services provided to a child who is under foster care in a foster family home (as defined in section 408) or in a child-care institution (as defined in such section), or while awaiting placement in such a home or institution, but only if such services are needed (as determined in accordance with criteria prescribed by the Secretary) by such child because he is under foster care,

not more than 10 per centum thereof are paid with respect to expenditures incurred in providing services to individuals who are not recipients of aid or assistance (under State plans approved under titles I, X, XIV, XVI, or part A of title IV), or applicants (as defined under regulations of the Secretary) for such aid or assistance.

"(b) (1) For each fiscal year (commencing with the fiscal year beginning July 1, 1972) the Secretary shall allot to each State an amount which bears the same ratio to $2,500,000,000 as the population of such State bears to the population of all the States.

"(2) The allotment for each State shall be promulgated for each fiscal year by the Secretary between July 1 and August 31 of the calendar year immediately preceding such fiscal year on the basis of the population of each State and of all of the States as determined from the most recent satisfactory data available from the Department of Commerce at such time; except that the allotment for each State for the fiscal year beginning July 1, 1972, and the following fiscal year shall be promulgated at the earliest practicable date after the enactment of this section but not later than January 1, 1973.

"(c) For purposes of this section, the term 'State' means any one of the fifty States or the District of Columbia."

(b) Sections 3(a) (4) (E), 403(a) (3) (D), 1003(a) (3) (E), 1403(a) (3) (E), and 1603(a) (4) (E) of such Act are amended by striking out "subject to limitations" and inserting in lieu thereof "under conditions which shall be."

(c) Section 403(a) (5) of such Act is amended to read as follows:

"(5) in the case of any State, an amount equal to 50 per centum of the total amount expended under the State plan during such quarter as emergency assistance to needy families with children."

(d) Sections 3(a), 403(a), 1003(a), 1403(a), and 1603(a), of such Act are amended, in the matter preceding paragraph (1) of each such section, by striking out "shall pay" and inserting in lieu thereof "shall (subject to section 1130) pay."

(e) The amendments made by this section (other than by subsection (b)) shall be effective July 1, 1972, and the amendments made by subsection (b) shall be effective January 1, 1973.

Under the substitute, Federal matching for social services under programs of aid to the aged, blind, and disabled and aid to families with dependent children would be subject to a State-by-State dollar limitation, effective beginning with fiscal year 1973. Each State would be limited to its share of $2,500,000,000 based on its proportion of population in the United States. Child care, family planning, services provided to a mentally retarded individual, services related to the treatment of drug addicts and alcoholics, and services provided a child in foster care could be provided to persons formerly on welfare or likely to become dependent on welfare as well as present recipients of welfare. At least 90 percent of expenditures for all other social services, however, would have to be provided to individuals receiving aid to the aged, blind, and disabled or aid to families with dependent children. Until a State reaches the limitation on Federal matching, 75 percent Federal matching would continue to be applicable for social services as under present law.

Under the substitute, services necessary to enable AFDC recipients to participate in the Work Incentive Program would not be subject to the limitation described above; they would continue as under present law, with 90 percent Federal matching and with funding of these services limited to the amounts appropriated. In addition, the conference substitute incorporates the provision of the Senate bill reducing Federal matching for emergency social services from 75 percent to 50 percent.

The conference substitute directs the Secretary of Health, Education, and Welfare to issue regulations prescribing the conditions under which State welfare agencies may purchase services they do not themselves provide.

The conferees were told that the Secretary of Health, Education, and Welfare has issued new regulations which require reporting of how social services funds are used. The conferees expect the Secretary to have available detailed information on how social service funds are being spent and on their effectiveness.

Amendment Numbered 21: This amendment added a new title to the bill which directed the Joint Committee on Internal Revenue Taxation to undertake a comprehensive examination of real estate tax administration and the property tax and to report back to the Congress by June 30, 1973. The Senate recedes.

Amendment to Title: The bill as passed by the House had the following title: "An Act to provide payments to localities for high-priority expenditures, to encourage the States to supplement their revenue sources, and to authorize Federal collection of State individual income taxes." Under the Senate amendment the title of the bill was "An Act to provide for sharing with State and local governments a portion of the revenues derived from Federal individual income taxes, and for other purposes." Under the conference agreement the title of the bill is "An Act to provide fiscal assistance to State and local governments, to authorize Federal collection of State individual income taxes, and for other purposes."

W. MILLS,
AL ULLMAN,
JAMES A. BURKE,
MRS. GRIFFITHS,
JACKSON E. BETTS,
HERMAN T. SCHNEEBELI,
JOEL T. BROYHILL,
Managers on the Part of the House.

RUSSELL B. LONG,
CLINTON ANDERRSON,
HERMAN E. TALMADGE,
WALLACE F. BENNETT,
CARL CURTIS,
Managers on the Part of the Senate.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO FILE REPORT ON H.R. 16810, PUBLIC DEBT LIMIT INCREASE, UNTIL MIDNIGHT WEDNESDAY

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means may have until midnight Wednesday, September 27, 1972, to file a report on the bill (H.R. 16810) to provide for a temporary increase in the public debt limit and to place a limitation on expenditures and net lending for the fiscal year ending June 30, 1973, along with any separate and/or dissenting views.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

Mr. GROSS. Mr. Speaker, reserving the right to object to what date did the gentleman ask permission for?

Mr. ULLMAN. Until midnight Wednesday, September 27.

Mr. GROSS. This Wednesday; tomorrow?

Mr. ULLMAN. That is right.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

AUTHORIZING PRINTING OF ADDITIONAL COPIES OF SENATE REPORT TO ACCOMPANY H.R. 1

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent for the immediate consideration of Senate Concurrent Resolution 99.

The Clerk read the Senate concurrent resolution as follows:

S. CON. RES. 99

Resolved by the Senate (the House of Representatives concurring), That there be printed five thousand additional copies of the Senate report to accompany H.R. 1, the Social Security Amendments of 1972, of which two thousand copies shall be for the use of the Senate Committee on Finance, one thousand five hundred copies shall be for the use of the Senate Document Room, and one thousand five hundred copies shall be for the use of the House Document Room.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

Mr. HANSEN of Idaho. Mr. Speaker, reserving the right to object, I ask the gentleman if he will explain the purpose of the concurrrent resolution to the House.

Mr. BRADEMAS. If the gentleman will yield, I will be glad to explain to my colleague from Idaho.

Mr. HANSEN of Idaho. I yield to the gentleman.

Mr. BRADEMAS. The purpose of this resolution is to take into account the need of the Senate Finance Committee for additional copies of their report on H.R. 1. Were we not to print these reports concurrently, there would be a considerable additional cost.

Mr. HANSEN of Idaho. I thank the gentleman for his explanation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

ANNOUNCEMENT REGARDING SCHEDULE ON SENDING MINIMUM WAGE BILL TO CONFERENCE

(Mr. DENT asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DENT. Mr. Speaker, I wish to make an announcement to the House that, pursuant to the heated debate on the floor, and the promises made by our committee on the minimum wage bill wherein we promised to give the Members of the House a 48-hour notice of the taking up the motion to send the minimum wage bill to conference, that, pursuant to that promise to the House, I wish to advise the House that we intend to make the motion next Tuesday.

I also wish to advise the House that we have conferred with the various views and the persons who hold those views on the minimum wage bill, and will continue to do so until we bring the motion up on Tuesday.

Mr. QUIE. Mr. Speaker, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Speaker, I would ask the gentleman from Pennsylvania if it is the intention to bring it up as the first order of business on Tuesday, or after the other business, or what is the intention?

Mr. DENT. Mr. Speaker, I will say to the gentleman from Minnesota that we will decide that after we consult with the ranking member on the committee.

Mr. QUIE. Mr. Speaker, I thank the gentleman.

CONTAINER BARGE SERVICE

Mr. DINGELL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9128) to confer exclusive jurisdiction on the Federal Maritime Commission over certain movements of merchandise by barge in foreign commerce.

The SPEAKER. The question is on the motion offered by the gentleman from Michigan (Mr. DINGELL).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 9128, with Mr. THOMPSON of New Jersey in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Michigan (Mr. DINGELL) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. MOSHER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to urge passage of H.R. 9128, a bill that would resolve the question whether the Interstate Commerce Commission or the Federal Maritime Commission has regulatory jurisdiction over the movement of containers and containerized cargo by barge between U.S. ports where it is not practical for an ocean container vessel to call at both ports.

The bill would vest in the Federal Maritime Commission exclusive regulatory jurisdiction over rates and charges for the transportation of containers and containerized cargo moving by barge between points in the United States where the following conditions are met:

The container or containerized cargo is moving between a point in a foreign country or a noncontiguous State, territory or possession, and a point in the United States;

The container or containerized cargo is being transported on a through bill of lading between a point in a foreign country or a noncontiguous State, territory or possession, and a point in the United States;

The transportation by barge between points in the United States is furnished by a terminal operator as a service substitute in lieu of a direct vessel call by a common carrier by water transporting the containers or containerized cargo;

The terminal operator is a State, municipality, or other public body or agency subject to the jurisdiction of the Federal Maritime Commission; and

The terminal operator is in compliance with the rules and regulations of the Federal Maritime Commission for the operation of the barge service.

It is clear that the bill is very limited in scope. Subject to the stringent conditions I have outlined above, the bill would vest in the Federal Maritime Commission exclusive jurisdiction over this one small segment of containers moving in international or the noncontiguous trades in order to insure that this innovative concept is not frustrated by interposing the regulation of the Interstate Commerce Commission in what is essentially a nondomestic movement.

As a senior member of both the Interstate and Foreign Commerce Committee and the Merchant Marine and Fisheries Committee, I am aware that the problem to be resolved by H.R. 9128 required a balancing of the equities as to whether the Federal Maritime Commission or the Interstate Commerce Committee should regulate this type movement. I am in complete agreement with the finding of the Interstate Commerce Commission that, to a limited extent, operations of the specific type performed by the Port of Sacramento through its Container Barge Service have no more than a de minimis effect on interstate or foreign commerce as regulated by the ICC. The Interstate Commerce Commission could foresee no adverse effects to the public or the inland water carriers if the Congress were to remove such operations from their jurisdiction and place them entirely in the hands of the Federal Maritime Commission. I am in complete agreement.

The bill would vest this jurisdiction in the Federal Maritime Commission. I am pleased to inform the House that not only does the Interstate Commerce Commission not object, but that the language of H.R. 9128, as reported by the committee, is generally the language proposed by the Interstate Commerce Commission to resolve this problem.

The bill was ordered reported, unanimously, by the committee. The reported bill is endorsed by both the Federal Maritime Commission and the Interstate Commerce Commission. Further, the Office of Management and Budget advises that they have no objection to the enactment of H.R. 9128. Therefore, I strongly urge the House to support H.R. 9128.

Mr. Chairman, there are other members of the committee that would like to speak in support of this legislation.

Mr. Chairman, I would like to attach the following letters on the subject bill.

EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, D.C., August 4, 1972.

Hon. EDWARD A. GARMATZ,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the comments of the Office of Management and Budget with respect to H.R. 9128, a bill "To confer exclusive jurisdiction on the Federal Maritime Commission over certain movements of merchandise by barge in foreign commerce."

For the reasons expressed by the Federal Maritime Commission in its report to you on this bill, the Office of Management and Budget would have no objection to the enactment of H.R. 9128.

Sincerely,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

FEDERAL MARITIME COMMISSION,
August 4, 1972.

Hon. EDWARD A. GARMATZ,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This refers to your request of July 27, 1972, for the views of the Federal Maritime Commission with respect to H.R. 9128 as ordered reported out by the Merchant Marine and Fisheries Committee on July 27.

H.R. 9128 as reported would vest in the Federal Maritime Commission exclusive regulatory jurisdiction over the transportation of containers or containerized cargo moving by barge between points in the United States provided the following conditions are met:

(a) The cargo is moving between a point in a foreign country or a noncontiguous State, territory or possession and a point in the United States.

(b) The transportation by barge between points in the United States is furnished by a terminal operator as a service substituted in lieu of a direct vessel call by the common carrier by water transporting the containers or containerized cargo.

(c) The containers or containerized cargo are being transported on a through bill of lading between a point in a foreign country or a noncontiguous State, territory or possession and a point in the United States.

(d) The terminal operator is a State, municipality, or other public body or agency subject to the jurisdiction of the Federal Maritime Commission.

(e) The terminal operator is in compliance with the rules and regulations of the Federal Maritime Commission for the operator of the barge service.

The Federal Maritime Commission is the agency charged by the Congress with the responsibility of regulating, among other things, the waterborne foreign and domestic offshore commerce of the United States. In the discharge of these responsibilities the Commission has jurisdiction over common carriers by water serving these trades and persons carrying on the business of forwarding or furnishing wharfage, dock, warehouse, or other terminal facilities in connection with such common carriers by water. Such persons are required to file with the Commission tariffs setting forth rates and charges pertaining to the transportation of property and rules and regulations affecting such rates and charges, and to comply with the Shipping Act, 1916, and other pertinent shipping statutes and the Commission rules and regulations issued pursuant to such statutes.

The Interstate Commerce Commission has jurisdiction over the domestic movement of property in interstate commerce and in the foreign or domestic offshore commerce but only insofar as such transportation takes place within the United States. Where the movement between points in the United States is by water that portion which precedes transshipment on an outbound movement or follows transshipment on an inbound movement is subject to Interstate Commerce Commission regulation. This results in some cases in subjecting the movement to unnecessary and fragmented duplication of regulation. Thus, in a through shipment from a point in California to a foreign country the cargo may be transported by motor carrier to the part of Sacramento where it is loaded on a barge, transported downstream to the port of San Francisco where it is transferred to an ocean-going common carrier and thence overseas to final destination. Under the present regulatory scheme, in accordance with interpretation of the Interstate Commerce Act, that movement is first subject to Interstate Commerce Commission regulation, thence Federal Maritime Commission jurisdiction (over the port of Sacramento as a terminal operator)—upon being loaded on the barge and transported to San Francisco the movement would again be subject to Interstate Commerce Commission jurisdiction. At San Francisco the Federal Maritime Commission once again would take over and the balance of the transportation would then be governed by the shipping statutes. As inbound movement between the same two points would reverse this procedure.

This fragmentation would be avoided under H.R. 9128. The Interstate Commerce Commission would relinquish jurisdiction at the port of Sacramento and the entire movement beyond the port would be subject to the exclusive jurisdiction of the Federal Maritime Commission in these instances where the conditions heretofore specified are met, thereby removing unnecessary obstacles to newly developing water services.

It is our understanding that the Interstate Commerce Commission also endorses H.R. 9128 as ordered reported by your Committee.

Sincerely,
HELEN DELICH BENTLEY, *Chairman.*

EXECUTIVE OFFICE
OF THE PRESIDENT,
Washington, D.C., August 4, 1972.

Hon. EDWARD A. GARMATZ,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the comments of the Office of Management and Budget with respect to H.R. 9128, a bill "To confer exclusive jurisdiction on the Federal Maritime Commission over certain movements of merchandise by barge in foreign commerce."

For the reasons expressed by the Federal Maritime Commission in its report to you on this bill, the Office of Management and Budget would have no objection to the enactment of H.R. 9128.

Sincerely,
WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Missouri for a question.

Mr. HALL. I appreciate my friend, the gentleman from Michigan, yielding for a point of information.

The gentleman mentioned considerable changes and adjustments that have been made in the bill since it was originally introduced.

Have there been any changes made since it was listed under suspension of the rules on August 7.

Mr. DINGELL. To the best of my knowledge, the bill was reported on August 7 with an amendment in the nature of a substitute, and that is the bill before us today, without any change since the time the bill was reported to the House.

Mr. HALL. Will the gentleman yield further?

Mr. DINGELL. I yield to the gentleman.

Mr. HALL. It is a fact, of course, that House Resolution 1121 did pass and it was considered under due process and orderly procedure according to the House rules today and does waive points of order in this bill. I shall not discuss this at this time. But, it waives points of order against the substitute for failure to comply with the provisions of clause 7, rule XVI.

Mr. DINGELL. The gentleman is correct on that point also.

Mr. HALL. This in itself, of course, is adequate reason for its ordinarily not being listed under the rule of suspension. I want to compliment the committee on bringing this needed bill out through due and orderly process within the procedures of the House even though it was necessary to waive all points of order. I think the bill should be supported.

Mr. DINGELL. I thank my friend from Missouri.

Mr. MOSHER. Mr. Chairman, I join in supporting H.R. 9128, a bill designed to clarify the agency jurisdiction between the Federal Maritime Commission and the Interstate Commerce Commission as it relates to the Port of Sacramento container barge service.

Under present law, the Interstate Commerce Commission extends generally to water carriers operating between points in the United States and to other forms of transportation. The jurisdiction of the Federal Maritime Commission extends generally to water carriers operating in foreign commerce and certain associated domestic activities. At times, there exists a "gray area" where this authority overlaps. This is particularly acute with the advent of new concepts of cargo movement such as the container barge service of the Port of Sacramento.

At the present time, an ocean carrier container vessel calling at the Port of San Francisco has two options available to it if the carrier has cargo destined for the Port of Sacramento, a landlocked port approximately 79 miles inland from San Francisco. First, the container vessel itself can journey up river, assuming proper vessel draft, and discharge its cargo in Sacramento. Second, the ocean carrier can utilize the "Container Barge Service" provided by the Port of Sacramento by transferring its container cargo destined for that port within the Port of San Francisco and having it barged up river.

The need for enactment of this legislation is simple but should be more readily understood by the citing of an example. Assume that a container vessel is moving on a through bill of lading from Tokyo to Sacramento, and can deliver its cargo under the two options previously mentioned. Under appropriate statutory law, the Federal Maritime Commission would have regulatory jurisdiction over the rate of the ocean common carrier from Tokyo to Sacramento, and also would have jurisdiction over the ocean terminals at San Francisco and Sacramento. However, if container cargo is offloaded from the ocean carrier in San Francisco and transferred to the Container Barge Service of the port of Sacramento for movement to that port, such movement and its rates would be subject to the regulatory jurisdiction of the Interstate Commerce Commission.

Under the very narrow circumstances described by the gentleman, this bill would avoid duplication of regulatory authority by vesting jurisdiction for this one small segment of the entire cargo's movement from Tokyo to Sacramento in the Federal Maritime Commission. Enactment of the legislation would materially benefit the port of San Francisco by encouraging the increased call of container vessels and would assist the port of Sacramento in the movement of such container cargo destined for delivery in Sacramento.

I wish to strongly indicate that the jurisdiction vested in the Federal Maritime Commission by this legislation would not, in any way, adversely affect the statutory and continued jurisdiction of the Interstate Commerce Commission in regard to their other regulatory activities. FMC jurisdiction would relate solely to rates and charges for the barging or affreighting of containers by barge between points in the United States in accordance with the narrow provisions of this bill.

Your committee has been most diligent in drafting the legislation to meet the express concerns of the agencies involved, and has provided for adequate protection of the respective commercial entities engaged in this type of water carrier transportation by drafting the legislation in accordance with the recommended amendments of the Interstate Commerce Commission in their July 24, 1972 letter and obtaining the concurrence of the Federal Maritime Commission. Thus, the two principal agencies affected concur in the bill. I know of no opposition to the legislation, and I urge its immediate passage.

Mr. DINGELL. Mr. Chairman, I yield 5 minutes to my friend and colleague, the gentleman from California (Mr. LEGGETT), the author of the bill who has worked very hard for its passage.

Mr. LEGGETT. Mr. Chairman, I want to compliment the chairman of the subcommittee, the gentleman from Michigan (Mr. DINGELL) on his expertise in handling this legislation at all stages of the hearings. At times it got rather sticky, but as finally resolved, it is without conflict and it has the full support of all the executive agencies of Government.

It conforms existing contracts operative on the west coast and it costs no money.

I think it will help our trade position both in the West and nationally.

Mr. Chairman, I rise to urge passage of H.R. 9128, a bill that for certain very limited purposes would vest in the Federal Maritime Commission exclusive regulatory jurisdiction over the movement of container and containerized cargo by barge on the inland waters of the United States.

Mr. Chairman, the bill before us is especially significant because the Interstate Commerce Commission, who would normally assert jurisdiction over such a water movement, endorses the legislation.

The genesis of this legislation was the advent of the container vessel in international trade. These fast, highly productive vessels cannot afford to call at more than one or two ports on one leg of a voyage. Usually, these are the larger ports on each coast of the United States. Other ports are bypassed.

The Port of Sacramento, located 79 miles up river from San Francisco, was losing business, and came up with an innovative solution to the problem. The port instituted what they call a Container Barge Service. This service consists of a tug and barge that transports containers between Sacramento and the San Francisco Bay area. As a result, a container vessel with cargo for Sacramento can either proceed up river to that port, or transfer the containers to the Container Barge Service at San Francisco.

The container barge service is offered to ocean carriers only. The shipper pays the ocean carrier the freight rate for the movement to or from the Port of Sacramento, and the ocean carrier absorbs the cost of the container barge service from this rate. The obvious advantage to the ocean container vessel is that the charge of the container barge service is usually less than the vessel cost of a direct call to the Port of Sacramento.

H.R. 9128 would obviate the problem that arose as to whether the Federal Maritime Commission or the Interstate Commerce Commission should have regulatory jurisdiction over the container barge service, and similar substitute service in lieu of a direct vessel call.

For example, in the movement of a container from Tokyo to Sacramento:

It is settled that the Federal Maritime Commission has jurisdiction over the rate of the ocean common carrier from Tokyo to Sacramento.

It is settled that the Federal Maritime Commission has jurisdiction over the ocean terminals at San Francisco and Sacramento.

Therefore, the sole question was whether the Federal Maritime Commission or the Interstate Commerce Commission should have regulatory jurisdiction over the container barge service water movement between San Francisco and Sacramento that is provided so that the ocean common carrier does not have to proceed up river to Sacramento, and similar substitute service in lieu of a direct vessel call at a port.

The Port of Sacramento filed a petition for a declaratory order with the Interstate Commerce Commission, and on June 5 of this year the ICC found that the Interstate Commerce Act required a finding that the container barge service was subject to their jurisdiction. However, in that decision, the Interstate Commerce Commission recognized that, to a limited extent, operations of the specific type performed by the Port of Sacramento through its container barge service have no more than a de minimis effect on interstate or foreign commerce as regulated by them. Within those limits the Interstate Commerce Commission could foresee no adverse effects to the public or the inland water carriers if the Congress were to remove such operations from their jurisdiction and place them entirely in the hands of the Federal Maritime Commission. The Interstate Commerce Commission went on to propose statutory amendments to the Interstate Commerce Act and the Shipping Act of 1916 in order to vest this jurisdiction in the Federal Maritime Commission. The Interstate Commerce Commission endorsed such legislation.

H.R. 9128, as reported by your committee, is the amendment to the Shipping Act of 1916 proposed by the Interstate Commerce Commission in its June 5 decision, with certain minor amendments cleared with that Commission.

The bill is very limited in scope and would vest in the Federal Maritime Commission exclusive regulatory jurisdiction over rates and charges for the transportation of containers or containerized cargo moving by barge between points in the United States only where all of the following conditions are met:

The container or containerized cargo is moving between a point in a foreign country or a noncontiguous State, territory or possession, and a point in the United States.

The container or containerized cargo is being transported on a through bill of lading betwen a point in a foreign country or a noncontiguous State, territory or possession, and a point in the United States.

The transportation by barge between points in the United States is furnished by a terminal operator as a service substitute in lieu of a direct vessel call by a common carrier by water transporting the containers or containerized cargo.

The terminal operator is a State, municipality, or other public body or agency subject to the jurisdiction of the Federal Maritime Commission, and

The terminal operator is in compliance with the rules and regulations of the Federal Maritime Commission for the operation of the barge service.

The legislation would specifically provide that the terminal operators providing such service shall be subject to the provisions of the Shipping Act of 1916. Section 2 of the bill would require the Federal Maritime Commission to promulgate rules and regulations for such barge operations within 120 days after enactment.

Mr. Chairman, vesting in the Federal Maritime Commission exclusive jurisdiction over this one small segment of containers moving in international or the noncontiguous trades will insure that this innovative concept is not frustrated by interposing the regulation of the Interstate Commerce Commission in what is essentially a nondomestic movement. And let me repeat: the Interstate Commerce Commission and the Federal Maritime Commision endorse H.R. 9128, as reported by your Committee. I strongly urge the House to support this legislation.

Mr. CLARK. Mr. Chairman, I rise to urge passage of H.R. 9128, a bill that would resolve the question whether the Interstate Commerce Commission or the Federal Maritime Commission has regulatory jurisdiction over the movement of containers and containerized cargo by barge between U.S. ports where it is not practical for an ocean container vessel to call at both ports.

The problem arose with respect to the Container Barge Service instituted by the Port of Sacramento. Sacramento is located 79 miles upriver from San Francisco, and the Container Barge Service gives deep sea container vessels the option to:

Proceed up river to Sacramento, or

Transfer the containers at San Francisco; the movement between Sacramento and San Francisco handled by a tug and barge provided by the Port of Sacramento.

The Federal Maritime Commission is the agency charged by the Congress with the responsibility of regulating, among other things, the waterborne foreign and domestic offshore commerce of the United States. In the discharge of these responsibilities, the FMC has jurisdiction over common carriers—by water—serving these trades and persons carrying on the business of forwarding or furnishing terminal facilities in connection with such common carriers by water.

The Interstate Commerce Commission has jurisdiction over the domestic movement of property in interstate commerce and in the foreign or domestic offshore commerce but only insofar as such transportation takes place within the United States. Where the movement between points in the United States is by water that portion which precedes transshipment on an outbound movement or follows transshipment on an inbound movement is subject to Interstate Commerce Commission regulation.

As has been pointed out, this situation results in some cases in subjecting the movement to unnecessary and fragmented duplication of regulation. This fragmentation would be avoided under H.R. 9128.

H.R. 9128 is very limited in scope and would vest in the Federal Maritime Commission exclusive regulatory jurisdiction over rates and charges for the transportation of containers or containerized cargo moving by barge between points in the United States only where all of the following conditions are met:

The containers or containerized cargo is moving between a point in a foreign country or a noncontiguous State, territory, or possession, and a point in the United States.

The container or containerized cargo is being transported on a through bill of lading between a point in a foreign country or a noncontiguous State, territory, or possession, and a point in the United States.

The transportation by barge between points in the United States is furnished by a terminal operator as a service substitute in lieu of a direct vessel call by a common carrier by water transporting the containers or containerized cargo.

The terminal operator is a State, municipality, or other public body or agency subject to the jurisdiction of the Federal Maritime Commission, and

The terminal operator is in compliance with the rules and regulations of the Federal Maritime Commission for the operation of the barge service.

The legislation would specifically provide that the terminal operator providing such services shall be subject to the provisions of the Shipping Act of 1916. Section 2 of the bill would require the Federal Maritime Commission to promulgate rules and regulations for such barge operations within 120 days after enactment.

I strongly urge the House to support this legislation.

(Mr. MOSS (at the request of Mr. DINGELL) was granted permission to extend his remarks at this point in the RECORD.)

Mr. MOSS. Mr. Chairman, I rise to urge passage of H.R. 9128. Although not a member of my distinguished colleague's committee, I am well aware of the problems faced by smaller ports in the United States, and strongly support the bill.

The Port of Sacramento originated this innovative solution to the problem of being bypassed by ocean container vessels. They instituted so-called container barge service, which is nothing more than a barge service to move containers between Sacramento and the San Francisco Bay area. The service is offered only to the ocean carrier. The port is the agent of the ocean carrier. The sole purpose of the service is so that these large productive vessels need not make the trip upriver to call at Sacramento. With the container barge service, the ocean vessel can drop off containers at San Francisco and they will be barged up to Sacramento.

As the Federal Maritime Commission now has jurisdiction over the rate of the ocean common carrier to Sacramento and the terminals at San Francisco and Sacramento, it would make no sense to interpose the jurisdiction of the Interstate Commerce Commission for the movement between San Francisco and Sacramento. Both the Federal Maritime Commission and the Interstate Commerce Commission agree.

The container barge service offered by the Port of Sacramento will not be the only substitute service offered by other smaller ports in the future. However, the proposed legislation is tightly drawn, and will insure that the jurisdiction conferred upon the Federal Maritime Commission for such substituted service does not conflict with the activities of the Interstate Commerce Commission. The language of H.R. 9128, as reported, is generally the language proposed by the Interstate Commerce Commission.

I strongly urge the House to support this legislation, not only for the benefit of the Port of Sacramento, but for all of the other smaller ports in the United States.

Mr. PICKLE. Mr. Chairman, will the gentleman from Michigan (Mr. DINGELL) yield?

Mr. DINGELL. I yield to the gentleman from Texas for a question.

Mr. PICKLE. I assume that the ICC and the Maritime Commision have resolved the differences that were raised at the time the bill was introduced between the two bodies, as to which would have jurisdiction. Is there accord now between the two agencies?

Mr. DINGELL. The gentleman from Texas is correct.

The Interstate Commerce Commission has indicated to the committee, advising it that it has no objection to the passage of the bill in the form that it was reported by the committee.

We also have a clear statement in writing from the Federal Maritime Commission indicating that they support the bill, as reported as amended.

The Bureau of the Budget has submitted on behalf of the entire executive department a statement that there is no objection on the part of the administration to the enactment of the bill, as being in conformity with the present program.

Mr. PICKLE. This bill in no way conflicts with the barge bill that the Congress passed recently—last year, I believe?

Mr. DINGELL. I am familiar with the bill to which the gentleman from Texas refers, and I make him the assurance that this bill does not in any way conflict with that piece of legislation.

Mr. PICKLE. If I may ask the gentleman one other question. Do the shippers under this bill file a tariff with the Maritime Commission showing at what rate they will be charged for the movement of goods on the barges?

Mr. DINGELL. That is true. They send a direct bill of lading, and the tariff shows the charges from the point of origin to the final point where the substitute barge service on containerized goods or containers finally terminates.

Mr. PICKLE. I thank the gentleman from Michigan.

Mr. Chairman, we have no further requests for time on this side.

Mr. MOSHER. Mr. Chairman, there are no further requests for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the amendment in the nature of a substitute printed in the bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Shipping Act, 1916, as amended (46 U.S.C. 801–842), is amended by inserting a new section 3 to read as follows:

SEC. 3. Notwithstanding part III of the Interstate Commerce Act, as amended (49 U.S.C. 901 et seq.), or any other provision of law, rates and charges for the barging or affreighting of containers or containerized cargo by barge between points in the United States, shall be filed solely with the Federal Maritime Commission in accordance with rules and regulations promulgated by the Commission where: (a) the cargo is moving between a point in a foreign country or a noncontiguous State, territory, or possession and a point in the United States, (b) the transportation by barge between points in the United States is furnished by a terminal operator as a service substitute in lieu of a direct vessel call by the common carrier by water transporting the containers or containerized cargo under a through bill of lading, (c) such terminal operator is a State, municipality, or other public body or agency subject to the jurisdiction of the Federal Maritime Commission, and (d) such terminal operator is in compliance with the rules and regulations of the Federal Maritime Commission for the operation of such barge service. The terminal operator providing such services shall be subject to the provisions of the Shipping Act, 1916."

SEC. 2. Within 120 days after enactment of this Act, the Federal Maritime Commission shall promulgate rules and regulations for the barge operations provided herein.

Mr. DINGELL (during the reading). I ask unanimous consent that the amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. The question is on the amendment in the nature of a substitute.

The amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. THOMPSON of New Jersey, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 9128) to confer exclusive jurisdiction on the Federal Maritime Commission over certain movements of merchandise by barge in foreign commerce, pursuant to House Resolution 1121, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

SALE OF SECOND-HAND MILITARY EQUIPMENT TO LATIN AMERICAN COUNTRIES

(Mr. GAYDOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GAYDOS. Mr. Speaker, James Foster, a Scripps-Howard staff writer, reported recently that the United States is running into difficulties in selling secondhand military equipment to Latin American countries—even at "almost scrap prices."

Rather than buying from us, the Latin Americans are filling the order books of West European suppliers, Mr. Foster learned. In fact, West European sales reportedly have totaled $1.2 billion over the past 5 years compared to $250 million for us.

Mr. Foster explains:

> The swing away from U.S. goods—new or used—is accelerating as the Europeans, trying to nourish their own economies, become more and more competitive.

Mr. Foster tells of U.S. offers in used warships, planes, weapons, and so forth, even discounted in price to "1 cent on the dollar," being spurned while our neighbors to the south, chiefly Venezuela, Brazil, and Argentina, prefer buying from Europeans. Our orders remain far under the $100 million limit set by Congress on annual arms sales to Latin America.

This appears to me to be another of the many, many instances in which this country and its taxpaying citizens are continuing to play the sucker role. We annually give the Latin Americans scores of millions of dollars in foreign aid—largely with no strings attached. This money goes to support the governments which, as we learn from Mr. Foster, elect to deal with Europeans for the used arms they want. These Europeans, in turn, are finding this Latin American market, in the words of Mr. Foster, a handy way to "nourish their own economies"—a purpose of marked interest to us with our big deficit in foreign trade.

It is not difficult to extend this situation to the point where, with our foreign aid funds going to Latin America, we, indeed, are subsidizing the Latin American arms purchases in Europe. Without our gift dollars they would not have had anything like $1.2 billion to spend on weapons over the past 5 years.

How long are the American people going to stand for arrangements such as this? More pointedly, how long is the Congress going to bow to White House requests by continuing to vote the hard-earned tax money of our constituents for these "patsy" games? The time certainly is here, in view of our worsening position in the world's business affairs, for us to cut through the doubletalk of the "giveaway" advocates and look first to the American interest.

CHIPPEWA FLOWAGE PROJECT, NORTHERN WISCONSIN

(Mr. OBEY asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. OBEY. Mr. Speaker, I am introducing in the House today legislation which will provide for the Federal recapture of the so-called Chippewa flowage project in northern Wisconsin. The bill also provides for the return of about 6,000 acres of land to the Lac Courte Oreilles Indian Reservation.

The Chippewa flowage, located on the Chippewa River in Sawyer County, Wis., is a 17,000-acre reservoir. It was created when the Northern States Power Co., built a dam across the river, having received a license from the Federal Power Commission to do so in 1921. The company obtained a 50-year license to operate the dam for the regulation of water flow to assure that there would be an adequate supply of water at several Northern States Power hydrogeneration plants downstream. That license expired on August 8, 1971, and the company has been operating the project under a 1-year license from the FPC.

The flowage is beautiful, highly regarded for its undeveloped lands and recreational opportunities. Some of the best fishing in Wisconsin is to be found within its boundaries. And almost all of the birds and animals indigenous to northern Wisconsin—including the bald eagle and the osprey—can be found in the area.

While the flowage covers 17,000 acres during spring and summer, it shrinks considerably in winter, when the dam is opened at various times to stabilize the river flow for hydrogeneration and flood control purposes. By March the flowage shrinks to 2,000 acres or less. The water level may drop anywhere from 11 to 21 feet, and over the past 10 years these winter drawdowns have averaged 16 feet.

It is not known yet whether the constant yo-yo rise and fall of water level creates significant environmental problems, because appropriate studies are only now being conducted. It is known that during the winter drawdown period there is a limited habitat available for fish.

Significantly, the flowage ranks as Wisconsin's third largest lake. It embraces 125 islands and touches 106 miles of shoreline, of which 92 percent remains in an undeveloped state of natural wilderness. The question is: Will this beautiful area stay undeveloped?

Mr. Speaker, more and more people have the time, the resources and the need to find a place where they can get away from it all. When they find one, the place grows roads, trailers, campers, cottages, and motor boats. Where the people go, so goes development.

Chicago, Milwaukee, Madison, and Minneapolis-St. Paul are all within easy automobile reach of the Chippewa flowage. With pressure like that, it is imperative that we act while we can to keep the area unspoiled, and that is why I am introducing legislation today providing for Federal recapture of these lands. This legislation—identical to a bill introduced in the Senate by Senator GAYLORD NELSON of Wisconsin—would require that these lands be kept in their natural state.

Federal recapture is possible under the Federal Power Act.

Under that act, when the license for a power project expires, the FPC is authorized to hold hearings on an application for license renewal. If the FPC then decides that the Federal Government ought to recapture a project, it recommends this course of action to the Congress. Since 1964 there have been 64 projects subject to recapture, but in none of them did the FPC actually recommend recapture.

If the FPC decides in favor of relicensing, however, it must stay its order for relicensing for 2 years if any Federal agency has recommended recapture. Congress is thus given an opportunity to examine the matter itself. After 2 years, if Congress has not authorized a Federal takeover, the new license becomes effective.

An important fact to remember when considering the future of the Chippewa flowage is that the Federal Power Act also authorizes the FPC to issue licenses for power transmission on Indian reservations, if licensing will not interfere with the purposes for which the reservation was created. This permitted some 6,000 acres of Lac Courte Oreilles Indian Reservation lands to be included when the flowage was created.

When the dam was built, 525 acres of this land were flooded. A Lac Courte Oreilles burial ground and rice field were flooded then and remain flooded today.

The tribe has filed a petition with the FPC opposing the issuance of a license to Northern States Power or any other applicant to operate the flowage for hydroelectric power production. The tribe wants recapture and the return to the tribe of all Flowage project lands within the Lac Courte Reservation.

The FPC has ordered that public hearings on the license renewal application be held in Wisconsin within the vicinity of the project. Meanwhile, two other Federal agencies recommend recapture:

First. The Department of Agriculture recommended to the FPC 4 years ago that the project—exclusive of the dam and Flowage lands lying within the Lac Courte Oreilles Indian Resrevation—be recaptured by the Federal Government and placed within the Chequamegon National Forest.

Second. The Department of the Interior concurred with the USDA recommendation in a letter to the FPC of last February 29, in which it said:

> Activities of the present licensee, Northern States Power Company, of the leasing, or cabin and resort sites, building of docks, boat landings, and the creation of access roads are, in some cases, not consistent with the highest and best use of the area for the common public good. Uncontrolled development of recreational activities could adversely affect the Flowage wilderness.

Now the Department of the Interior has agreed with the position of the Lac Courte Oreilles Tribe and recommends that the Federal Government recapture for the tribe all project lands lying within the reservation. Interior has said:

> It is the position of the Secretary of the Interior that the interest of the public in the preservation of the environmental values of the Flowage and the protection of the land base of the Lac Courte Oreilles Band should take precedence over the issuance of a license to operate the project for downstream power production. The administration of the project lands by the Departments of the Interior and Agriculture would result in protection of both the Indians' and the public's interest in the project and is commensurate with the intent of Congress in providing for the recapture of power projects.

Mr. Speaker, it is important that the Chippewa flowage area be recaptured by the Federal Government if its continued existence in a wilderness state is to be guaranteed. Pressures for the development of recreational areas are great, certainly in this area of northern Wisconsin. While Northern States Power—to its credit—has resisted such pressures in the past, there is no guarantee that, with a change in management or personnel, it will continue to do so.

Moreover, this Nation's interest in preserving areas like the Chippewa flowage should not be dependent upon the good judgment or good will of a private firm. In my opinion we in the Congress have an obligation to preserve those few attractive, unspoiled areas that are left, and it is for this reason that I am introducing legislation today to recapture this unique wilderness area.

This legislation would return to the Lac Courte Oreilles Indians lands originally taken from them, provided the tribe restricts development and utilization of the Flowage shoreline.

The Council on Environmental Quality and Bureau of Outdoor Recreation are directed by the bill to determine the Federal agency which shall manage this land, and the Council is further directed to decide how that land ought to be managed so its wilderness and recreational attributes are best promoted.

Mr. Speaker, I am hopeful the House will give this legislation careful consideration. Its passage would insure the continuation in its natural state one of the most beautiful areas in northern Wisconsin.

EQUAL STICKER TIME

(Mr. MOORHEAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOORHEAD. Mr. Speaker, the White House has made available for political campaign purposes mailing lists obtained from the Department of State. These are very exclusive lists because the Department of State does not make available gummed mailing labels for political purposes—except to the White House. I am referring to some campaign propaganda mailed out September 15 to thousands of college professors and other intellectuals interested in international relations by Mr. Leo Cherne, a vice chairman of a group called Democrats for Nixon. Mr. Cherne, a Key Biscayne neighbor of President Nixon, failed to identify himself as part of the Nixon campaign apparatus in his letter, however. He also, in the course of his condemnation of Senator McGOVERN's Vietnam proposals, did not reveal that he had been decorated by the Government of Vietnam.

I am sure that Senator McGOVERN, who never travels under false colors, would like to reply to Mr. Cherne's spurious allegations that the Senator, if elected President—and I quote—"would abruptly terminate the humanitarian programs for refugees, orphans, injured children, even emergency shipments of food." That charge is an evil lie.

Now here is what I suggest. In all fairness, I think the White House ought to give Senator McGOVERN "equal sticker time" to make a mailing of his own to the thousands of Americans on the State Department mailing lists. Then perhaps truth and common decency will prevail.

Mr. Speaker, I have in my hand photostated copies of two mailings by Mr. Cherne to Prof. Daniel G. Partan, professor of law at Boston University. They use identical symbols appearing on labels used on two State Department mailing lists which contain Professor Partan's name. The State Department also confirmed that the labels had been made available to the White House.

SOVIET JEWS

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. BELL) is recognized for 5 minutes.

Mr. BELL. Mr. Speaker, the world has witnessed in recent weeks the most blatant effort by the Soviet Union to restrict the travel of Soviet Jews to Israel. This latest pronouncement requiring the payment of enormous emigration fees is an unjust and discriminatory act which represents a denial of fundamental human rights.

For far too long we, in this country, have accepted the official anti-Semitic policy of the Soviet Government and have done little to condemn it except to voice an occasional protest. We are now confronted with the unique opportunity of being able to bargain with the Soviet Government, a bargain that would exchange wheat, grain, and machinery for the rights and lives of human beings. We must be willing to make a full commitment to this cause, a commitment that would deny the Soviets of needed materials if they refuse to recognize the immorality of their actions and change their emigration policy. We must stand firm in our position of being willing to deny granting the Soviet Union the status of a "most favored nation."

Mr. Speaker, I have writen the following letter to Secretary General Leonid Brezhnev apprising him of the possible economic ramifications if this unjust emigration policy continues. I urge each of my colleagues to join me in writing Secretary General Brezhnev demanding that the Soviet Union immediately discontinue all discriminatory policies directed against Soviet Jews.

I would now like to read this letter into the RECORD.

WASHINGTON, D.C.,
September 26, 1972.

LEONID BREZHNEV,
Secretary General, Central Committee of the Communist Party, The Kremlin, Moscow, U.S.S.R.

DEAR SECRETARY GENERAL BREZHNEV: I am writing this letter to express my deep concern over the recently announced policy of the Soviet Union requiring emigration fees for Soviet Jews desiring to establish residency and citizenship in the state of Israel. Speaking as a private citizen of the United States and as an elected representative to the Congress of the United States it is imperative that I voice my firm opposition to this suppressive policy.

In recent years the Soviet Union and the United States have evidenced a recognition of the need to develop harmonious relations in the interest of world peace. For years third party countries had to impress on our two nations the necessity for mutual cooperation. Our relations have only recently matured to the point where our countries no longer must be prodded and coaxed to meet with one another, where fear is no longer the hallmark of our relations, but instead, where our relations are now founded on the concepts of mutual respect and trust. Both of our countries have worked hard to attain this level of trust and respect, and we cannot permit our arbitrary actions to jeopardize this new found understanding.

There is a severe danger that any attempt to refine our relations and develop trade agreements will be adversely affected by your country's enunciated emigration policy. I, for one, will be forced to do all within my power to prevent the Soviet Union from gaining the status of "most favored nation" as long as this blatantly anti-Semitic policy remains.

Mr. Secretary General, it is imperative that we not expose our people to a world in which tension thrives and distrust prevails. Both the governments of the United States and of the Soviet Union have the tremendous responsibility of insuring world tranquility. We must not permit our governments to adopt official policies which clearly impose unjust and cruel restrictions on certain religious, ethnic or racial groups. The current hostilities in Uganda demonstrate the danger and the probable consequence of such a discriminatory policy. It is no excuse that injustice and discrimination exist throughout the world. We, as citizens and representatives of the two most powerful and influential countries in the world, cannot allow our countries to conform their laws and policies to what are clearly inhumane, unjust and immoral standards. I ask you, therefore, as a man whose responsibilities and accountabilities are among the greatest of any man on earth, to reevaluate your emigration policy to permit those of the Jewish faith to travel to and reside in the land of their religious and historic origin.

I firmly urge you to give this matter your personal and immediate attention.

Respectfully,

ALPHONZO BELL,
U.S. Congressman.

ABORTION RIGHTS BILL PROPOSED BY THE HONORABLE BELLA ABZUG

The SPEAKER. Under a previous order of the House, the gentleman from Maryland (Mr. HOGAN) is recognized for 1 hour.

Mr. HOGAN. Mr. Speaker, last May 2 the Congresswoman from New York (Mrs. ABZUG) attracted special attention to herself when she had the equivalent of a long proabortion book inserted into the CONGRESSIONAL RECORD. The insertion amounted to 139 pages of material, mostly in small type, in support of a bill she was introducing, her so-called Abortion Rights Act of 1972. This bill of Representative ABZUG's, if enacted, would establish the right of a woman, anywhere in America, to have an abortion any time she wanted one for no other reason than that she wanted one. The bill frankly abandons any pretense of health or therapeutic benefits for the woman; its effect would be simply to forbid the United States or any State to interfere in any way with what the Congresswoman from New York asserts is the constitutional right of any female to terminate a pregnancy that she does not wish to continue. The language of the bill is so absolute on the matter of this alleged constitutional right of females—though if the existence of such a right is so obvious, one wonders why a bill establishing it is necessary—that by its passage the Congress would apparently remove from the State the very authority even to regulate abortions otherwise considered legal.

In her backup material inserted into the Congressional Record, Representative Abzug includes lengthy legal briefs and journal articles not only justifying completely elective abortion but claiming that the Congress by itself has the authority to prohibit the United States or the States from restricting or regulating it. She includes the full text, down to detailed citations and footnotes, of virtually every significant court decision which might tend to establish the aims she has in view. She neglected to include any of the available and representative material which might have cast considerable doubt on her thesis.

All this massive documentation may or may not convince a majority of the Congress to support her bill. The principal effect it has had to date has been to change the procedure on insertions into the Congressional Record. It is unfortunate, however, that a controversy over the sheer volume of material inserted by Representative Abzug, distracted attention from the substance of her arguments and their supporting documentation. The American taxpayer should not have to subsidize the printing of repetitious documents which derive from and quote each other to such an extent that their full texts are of no possible interest to anybody but specialists or legal scholars. Nevertheless, the cost of this extravagance is small compared to what the cost would be to human rights and to the rule of law in America if this abortion rights bill were ever enacted into law.

In this bill Congresswoman Abzug is proposing a virtual legal and constitutional revolution under the guise of upholding the supposed right of a woman. By means of this bill, she is proposing that entire categories of human beings—in this case, the unborn—be declared outside the protection, or even of the interest, of the law.

Thus it is important that the substance of her bill be considered and understood. The 1972 national political conventions have demonstrated that abortion on demand is now a national political issue, even if more heat than light was generated on the issue in Miami Beach. At any rate, the issue is not going to go away. Right-to-life proponents everywhere are now carefully scrutinizing the stands of candidates and parties. On the other side, typical of the efforts of proponents of abortion on demand are the efforts of the so-called Woman's National Abortion Action Coalition—WONAAC—which is mobilizing to lobby for enactment of this legislation. WONAAC plans, for example, an international tribunal in New York on October 21–22 at which this women's organization, in my opinion totally unrepresentative of the average woman, will function simultaneously as prosecutor, judge, and jury in hearing evidence about crimes against women who have suffered as a result of present abortion and contraceptive laws. Apparently this self-constituted tribunal will not hear any evidence about the crimes against children committed as a result of legalized abortion; more than 400,000 unborn children have been destroyed in New York alone in little more than 2 years of legal abortion on demand.

WONAAC, of course, is only one of the many organizations now agitating for abortion-on-demand, abortion as a woman's alleged right. The tempo, intensity and shrillness of proabortion agitation has been increasing. At the same time the proabortionists are no longer getting things their own way in the courts and in the State legislatures, as initially seemed to be the case when the big drive for legalized abortion started about 5 years ago. It is true that legalized abortion has made impressive gains in America, but there are also many signs that a new trend against legalized abortion is growing, particularly where the dreadful results of legalized abortion are becoming manifest to the public consciousness, as in New York.

Up to now, Mr. Speaker, abortion has probably been little more than a word for most Americans. The fact that the killing of a living child is always involved in any abortion has not been clearly understood. Nor has it been clearly understood that abortions are no longer being done for true medical reasons determined by a physician; they are being sought and performed at the request of women who do not wish to continue a pregnancy, to use Representative Abzug's words. Where the law still requires a medical reason, one is usually fabricated, usually the mental health of the woman. With unprecedented semantic flexibility some medical men are even managing to consider the distress of a woman who finds herself pregnant when she does not want to be pregnant a new form of mental illness justifying an abortion. Other semanticists in the medical profession are now prepared to consider any economic, social, or personal inconvenience whatever that might be involved in the bearing of a child a matter of health.

Such semantic gymnastics are considered justified today pending the full legalization of abortion-on-demand, everywhere which the antilife forces say is now favored by a growing majority of Americans. The U.S. Commission on Population Growth and the American Future, for example, claimed in early 1972 that 50 percent of all Americans favored the removal of legal restrictions on abortions. A later Gallup poll found 64 percent of respondents agreeing with the statement that the decision to have an abortion should be made solely by a woman and her physician. The reason such polls as these cannot be taken as true measures of public opinion is that the questions are not framed in a way which brings out what the public is actually being asked to agree to. For more serious studies of public opinion have long shown that, where Americans tend to favor or tolerate abortion, they do so because it is assumed that there is some reason for the abortion, such as a medical reason. To ask, as the Gallup poll does, whether an abortion should be a matter between a woman and her doctor, implies that there is some medical reason involved. Otherwise what is the point of the doctor being involved? Do not doctors deal with medical matters by definition? Most Americans have not yet grasped that some doctors are now prepared to do abortions whether or not any medical reason is involved. The way the Gallup poll question is framed actually conceals the fact that the public is being asked to endorse Representative Abzug's position that abortion should simply be a woman's "right," overriding all other considerations whatever, including the possibility that the woman herself can be gravely harmed by the performance of an abortion.

Similarly, to ask, as the U.S. Population Commission's poll asked, whether or not legal restrictions should be removed from the performance of abortions, might suggest to the average person that there are legal restrictions on abortions believed medically necessary to save a woman's life. The fact is that there are not, and never have been in America, legal restrictions on abortions performed to save a mother's life.

In order to ascertain the true state of public opinion on abortion-on-demand—the long-stated goal of the abortion lobby, as well as the aim of Representative Abzug's bill—the pollsters should in simple honesty ask the public: "Do you think a woman should have a right to have killed by abortion any child she does not want to carry to term?" Or, to use a sample of one of actual arguments employed before the Supreme Court included in Representative Abzug's copious documentation, pollsters should ask whether laws should be repealed which condemn women to share their bodies with another organism against their will, to be child breeders and rearers against their will.

The average American might well wonder how the law has condemned any woman against her will. Did the law make her pregnant? Should women—or men—be exempted by the law from taking the consequences of their own acts? Should women—or men—be freed from the responsibility for those dependent upon them? The unborn child is dependent upon his mother in a unique way. Incidentally, this argument against women sharing their bodies with another organism destroys at one stroke another favorite argument of the proabortionists; namely, the abortion involves only the woman's right to control her own body.

It is incredible that any rational legal or constitutional system could admit such principles as that people are no longer responsible for the consequences of their own acts, or that the lives of some can be snuffed out for the convenience of others. It taxes one's faith in the American legal system to realize that such arguments could be brought into any court of law, let alone into the Supreme Court of the United States. But the legal brief just quoted goes on to argue before the Supreme Court that laws forbidding the wanton destruction of unborn children by abortion impose on women a form of cruel and unusual punishment forbidden by the eighth amendment to the Constitution. Most American women will be surprised to hear that the power and privilege of motherhood which women possess is any such thing. There is little doubt that if Americans understood exactly what abortion is, and what the abortionists are claiming for it—and what BELLA ABZUG'S bill would impose by law—they would scarcely be disposed to favor it in anything like the numbers claimed in some of these polls.

The most careful in-depth study of public opinion on abortion, published in 1971 by an avowed proponent of liberalized abortion, Dr. Judith Blake of the University of California, found, in fact, that no less than 80 percent of all Americans were against simple abortion-on-demand. Dr. Blake concluded from her study that abortion-on-demand would never become established through legislative action, if public opinion alone were the inspiration of such legislative action. Personally, she felt that abortion-on-demand would have to be imposed on America by sympathetic courts.

And, in fact, it is dismaying the degree to which the courts have been taken in by the proabortion arguments and mentality, denying to the unborn child the equal protection of the laws guaranteed by the Constitution, while ruling in favor of a woman's supposed right to destroy her unborn child which is, of course, nowhere mentioned in the Constitution. Representative ABZUG has included most of these court decisions in her documentation; they make melancholy reading. Similar decisions continue to appear declaring that the abortion laws of still other States are unconstitutional. Unless one reads each of these decisions in turn, it is hard to realize the extent to which they derive completely, and in almost mechanical fashion, from the same two or three innovative court decisions which first advanced the novel thesis that the State is unable to forbid by law the killing of the unborn by abortion. It is disconcerting to see the courts striking down the abortion laws in State after State, but all it proves is that some judges are slavishly prepared to follow other judges, like so many sheep plunging over a cliff.

In fact, of course, sufficient legal and constitutional principles exist to enable any court to uphold not only the State's right, but its obligation, to afford legal protection to the lives of the unborn. Other courts, both State and Federal, have upheld traditional abortion statutes as strictly constitutional. Most recently, in July 1972, the Indiana Supreme Court found the argument that there is—

> A State interest in protecting what is, *at the very least* (emphasis added), from the moment of conception, a living being and potential human life, both valid and compelling.

The wonder would be, in a democracy founded on the proposition that the first of all unalienable rights is the right to life, as the Declaration of Independence says, that State and U.S. courts could not uphold laws which protect the life of the unborn child.

The ultimate resolution of the abortion issue in the courts is far from clear, however. Proabortion forces have made a major investment in the courts; they command legal talent of the most skillful kind; this has undoubtedly been responsible for getting before the Supreme Court itself the proposition, absurd on its face, that only a woman and not also a child is involved in abortion. A ruling, or perhaps a series of rulings, by the Supreme Court will undoubtedly be necessary before much of the legal confusion that has been generated by the abortion issue can be cleared up.

In the meantime, in the State legislatures, the proabortion forces are no longer achieving the successes they achieved during the first 2 or 3 years of their nationwide drive to relax or repeal State abortion laws. Except in Florida, where the legislature was constrained by still another court decision which would have left the State without any law—exactly the situation Representative ABZUG desires for the country as a whole—no permissive abortion laws have been enacted in any State since 1970.

Instead laws are being passed reinstating the earlier restrictions on abortion which were originally in force in all the 50 States. In 1972, probably reacting to the casual and callous slaughter of hundreds of thousands of infants since abortion-on-demand was legalized in New York in 1970, the legislatures of both New York itself and of neighboring Connecticut reenacted statutes strictly forbidding abortion except in cases of a direct physical threat to the life of a mother. In Connecticut, the legislature acted to restore a law which had been thrown out by a Federal court; in New York, the legislature was reversing its own action of 2 years ago, after intense citizen pressure, which, according to the proabortion New York Times, actually clogged the legislative halls in Albany until the law was passed. In Pennsylvania, where the State law has also been under court challenge, the legislature has similarly voted new restrictive legislation. In Massachusetts, the legislature voted for a constitutional amendment explicitly recognizing the right to life of the unborn child. Meanwhile intensive efforts by the abortion lobby resulted in permissive abortion legislation being introduced, which, however, failed to pass in some 13 States during the 1972 legislative sessions.

Clearly, the legislators in all these States have been getting the message from their constituents that noisy proabortion groups do not represent informed American opinion on the abortion issue. Indeed the massive, active sentiment against abortion which has been rapidly developing at the grass roots all over the country is one of the most remarkable political phenomena of recent times. This antiabortion sentiment has been generated among those who have come to realize what abortion really is—the killing of a living child.

Mr. Speaker, once this conviction takes hold a person, he will no longer be passive on the subject of abortion; he will actively work against it. As the education of the American people about abortion continues, and many right-to-life groups are now busily engaged in this educational task, it is to be expected that more and more citizens and voters will express themselves against abortion.

While proabortionists have made considerable gains in the courts, they are still unsure whether they can finally achieve their goal of abortion-on-demand all over America through the courts. Meanwhile, in spite of the polls, public opinion is not going for them as far as the State legislatures are concerned. After their early successes, they have failed to get any more permissive laws enacted and in some legislatures their gains are even being rolled back. Their goal is to bypass both the courts and the State legislatures, and try for a national abortion-on-demand law through the U.S. Congress. This is the light in which Representative BELLA ABZUG'S so-called abortion rights bill must be viewed. It is an attempt to make and end run around the obstacles the antilife people are finding in their path in the courts and the State legislatures.

Mr. Speaker, it is therefore necessary to examine at this point the legal and constitutional basis on which Representative ABZUG takes her stand. Basically, the Representative from New York (Mrs. ABZUG) rests her case for an alleged woman's constitutional right to abort a pregnancy on a 1965 Supreme Court decision, Griswold against Connecticut. This Supreme Court decision overturned a Connecticut law forbidding the use of contraceptives by married couples. On the face of it, such a decision would scarcely establish any right to have an abortion—any more than the Constitution itself provides for any such right. What the decision, according to the court, did establish was a general constitutional right to privacy which, though not specifically mentioned among the rights enumerated in the Constitution, could reasonably be assumed to be among those unenumerated constitutional rights possessed by all Americans. The Supreme Court overturned the Connecticut birth control statute because it violated the right to privacy of married couples.

Now it would be hard to argue against a constitutional right to privacy, particularly today when some of the very same people who are promoting abortion on demand are also advocating direct Government intervention in the procreative habits of Americans on the grounds of a supposed need for population controls. Once they succeed in establishing elective abortion as a private matter, presumably these population controllers will then move on to try to establish compulsory abortion as a public matter. The hypocrisy of such a proceeding is clear.

However desirable and even necessary a constitutional right to privacy is, however, there is nevertheless some doubt about whether the Supreme Court can simply decree that a particular unenumerated right such as the right to privacy is indeed constitutional. In the Griswold against Connecticut case both Justices Black and Stewart vigorously dissented from the majority of the Court on the grounds that the right of Americans to privacy should be safeguarded by appropriate and specific legislation enacted by the legislative branch. Even the majority of the Supreme Court could not agree which provision of the Constitution guaranteed a right to privacy, and three different majority opinions were written in the case. The majority did agree that there was such a right to privacy, however, and that is where the matter stands at the moment.

It remains to be seen how a constitutional right to privacy would apply to abortion. It is surely unlikely that the Supreme Court would allow parents privately to kill their own children in the exercise of their own right to privacy. But that is what abortion would involve. While the law has not traditionally cloaked the unborn with all the same rights as persons who have been born, it is also true that it was in the past unnecessary for the law to do so. The rights of the unborn were not under attack as they are today. No well-financed lobby existed to persuade courts and legislatures that the protection which the law did afford to the unborn should be thrown out and the rights of the unborn disregarded. Abortions were only performed by physicians for what were believed to be serious medical reasons affecting the life of the mother—in contrast to the attitude of many physicians today who apparently believe that because, technically, relatively safe abortions can be performed, doctors should therefore be legally able to perform them. Abortions for convenience were considered in the past criminal abortions, as, in my opinion, they should be so considered in any ethically sane society.

Today, however, elements of American society apparently do not see it that way. Representative ABZUG, along with the lawyers upon whom she depends for her prolix supporting documentation, holds, quite simply, that the right to privacy affirmed by the Supreme Court in Griswold against Connecticut includes the right of a woman to elect to destroy any child she might conceive. Yet nowhere in this Supreme Court decision can the faintest suggestion be found that the right to privacy would prevent the State from forbidding or regulating abortion by law. In his concurring opinion in Griswold against Connecticut, Mr. Justice Goldberg declares that, in determining which rights not enumerated in the Constitution are nevertheless so fundamental that they are entitled to constitutional protection, the court must look to the traditions and conscience of our people to determine whether a principle is so rooted there as to be ranked as fundamental. Can the right of a woman to elect abortion be found anywhere in the traditions and conscience of our people? Has such a right ever been asserted, or even imagined, throughout all of American history until today? Until the abortion lobby started its drive against abortion laws a few years ago, all 50 States consistently forbade abortion except in narrow, strictly medical circumstances.

The proabortionists, of course, citing the slenderest evidence, allege that these abortion laws were intended only to protect the woman from the effects of unsterile surgery. If that were the case, why were there not laws against all surgery, equally unsterile, instead of merely against abortion?

The fact is, that prior to the present day, abortion was universally understood to be the killing of a child, or at any rate a potential child; and the moral wrong of destroying a potential child was as real as the moral wrong as destroying an actual child. The first mention of abortion in English law refers to it flatly as homicide. Neither the fact that the precise moment when an embryo became a person was not understood scientifically nor the fact that abortion laws assigned penalties less strict than the penalties for other types of homicides can detract from the essential point that the unborn child has traditionally been accorded legal status and protection. Unborn children have traditionally had the right to sue in tort, inherit, have guardians appointed for them, et cetera. After all, from a legal point of view, there are different degrees of homicide, too.

Undoubtedly most of the legislators of the 19th century who voted in most of the American abortion laws assumed they were providing adequate protection for the unborn, and never dreamed of a time when people would seriously argue that the rights, indeed the very existence, of living human beings were irrelevant to the issue of a woman's alleged rights. Now that science has established that each individual human life begins at conception, it would be logical for the law to move toward a greater degree of protection for the unborn, and toward stricter penalties for the violation of the child's right to life by abortion. This is a task toward which the various State legislatures, and the Congress as far as the District of Columbia is concerned, should be addressing themselves by positive protective legislation, rather than merely dealing with the issue as the proabortionists have framed it, namely, in terms of whether or not the rights which the unborn child already enjoys under the law should be removed in favor of a woman's right to choose.

It is all the more incumbent upon the legislative branch of the State and Federal governments to face up to their responsibilities because too many courts are dealing with the abortion issue entirely on the terms put forward by the proabortionists. Following Griswold against Connecticut primarily, these courts are holding that, because couples have a constitutionally protected right to prevent conception, they also have the right to destroy the child after he is conceived if their preventive measures fail. This is an astounding argument, of course, but most of the court decisions overturning abortion laws are based on precisely this reasoning. The effect of these court decisions is actually to go beyond guaranteeing married couples the right to privacy in preventing conception; by giving to the woman alone the right to choose whether or not to continue a pregnancy, they also effectively nullify the father's rights to his children since in exercising her right to get an abortion she can effectively ignore the father's wishes in the matter. Thus the interpretation which the courts are giving to Griswold against Connecticut in extending it to cover abortion, evacuates the father's parental rights while supposedly guaranteeing his constitutional rights in matters of the privacy of his home, family, or married life. This is the weird logic of abortion on demand. It is logic which Representative BELLA ABZUG's so-called abortion rights bill would translate into the law of the land.

A Federal judge in Illinois, dissenting in one of the recent court cases which adopts the logic of abortion as merely another and especially effective method of contraception, has spoken pertinently if not definitively on the manner in which State laws restricting abortion are being thrown out by the courts:

> To support their conclusion that the people of Illinois have exceeded the proper bounds of legislative interest, the majority [of the court] primarily rely on the rationale of the Supreme Court in *Griswold* v. *Connecticut*, 381 U.S. 479, 85 S. Ct. 1678. 14 L. Ed. 2d 510. But *Griswold* held only that a statute which forbade the use of contraceptives by married couples violated their rights to privacy. In writing the opinion of the Court, Mr. Justice Douglas indicated that the Connecticut statute was 'unnecessarily broad' and prevented activities which might otherwise be subject to state regulation (381 U.S. 485 S.Ct. 1678). The more thorough concurring opinion, written by Mr. Justice Goldberg, stressed that there was in that case no showing that the statute was necessary to accomplish a permissible state interest.
>
> In this case, however, there is in my opinion a valid and permissible state interest—the protection of human life or at least the protection of potential human life in the fetus. In my opinion the statute in question is no broader than is necessary to accomplish this valid and permissible state interest, even though it does not distinguish or provide exceptions, as my brothers would prefer, for those which are "defective" or "intensely unwanted," or have not matured to "the first trimester of pregnancy."
>
> In citing *Griswold*, the majority concludes: "We cannot distinguish the interests asserted by the plaintiffs in this case from those asserted in Griswold." In other words, in their views, there is no distinction that can be made between prohibiting the use of contraceptives and prohibiting the destruction of fetal life, which as explained above may reasonably be construed to be human life. I find this assertion incredible. Contraception prevents the creation of new life. Abortion destroys existing life. Contraception and abortion are as distinguishable as thoughts or dreams are distinguishable from reality.
>
> As for myself I am confronted with and bound by the plain facts before us. The people of Illinois have a legitimate and sufficient interest in protecting fetal life to support the statute here considered. I find nothing in the Court's teachings in *Griswold* to the contrary.
>
> No individual right or freedom is ever advanced in this country through an unwarranted intrusion of the judiciary into the proper province of the legislature. Indeed, in these days of pressure groups regularly seeking from courts that which only legislatures can only properly give, constitutional government is weakened each time courts place their personal philosophical views above the law.
>
> I would grant the motion of the defendants for summary judgment and leave the

plaintiff's cause where under the Constitution it belongs—in the Illinois Legislature.

Mr. Speaker, it is to be hoped that the Congress, except where it legislates directly as in the District of Columbia, will also leave the question of abortion where it belongs—in the legislatures of the 50 States. I am confident that the Congress will reject Representative ABZUG's so-called abortion rights bill as well it should be rejected.

U.S. SOVEREIGNTY OVER CANAL ZONE AND PANAMA CANAL—MORE INFORMATION

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 10 minutes.

Mr. FLOOD. Mr. Speaker, in an address in this House on August 2, 1972, on the subject "U.S. Sovereignty Over Canal Zone and Panama Canal—Not Negotiable," I quoted a July 26, 1972, letter from the Secretary of the Army stating that the Department of State had sent a diplomatic note to the Panamanian Government regarding its alleged actions relative to the conduct of elections in the Canal Zone.

I have now received a letter from the Department of State quoting the substantive part of the May 3, 1972, note of our Embassy in Panama to the Foreign Minister of that country. The note emphasizes the State Department's understanding that the Panamanian Cabinet Decree concerning voting does not represent any effort by the Government of Panama to assert authority in the Canal Zone contrary to international agreements in force between our two nations.

Because the indicated letter quoting the May 3, 1972, note forms an important part of the record concerning the voting incident and should be generally available, I quote the entire letter as part of my remarks:

DEPARTMENT OF STATE,
Washington, D.C., August 24, 1972.

Hon. DANIEL J. FLOOD,
House of Representatives,
Washington, D.C.

DEAR MR. FLOOD: I am pleased to reply to your letter to Secretary of State Rogers of August 1 in which you inquired about a diplomatic note concerning the establishment of electoral districts in the Panama Canal Zone.

As you know from Deputy Under Secretary of the Army Koren, several newspaper articles in Panama gave erroneous interpretations of the Decree of the Panamanian Government which established those electoral districts. Our subsequent examination of the Decree revealed that it in no way affected United States treaty rights. Thereupon we instructed our Embassy in Panama, with the concurrence of the Department of the Army, to dispatch a Note affirming our understanding that treaty rights were not affected.

The text of the substantive portion of the Embassy's note of May 3, 1972, to the Foreign Minister follows:

"We note that Your Excellency's Government has, consistent with the agreements in force between our two nations, designated polling places for the use of such Panamanian citizens at locations within the Republic of Panama outside the Canal Zone. We have traditionally encouraged both Panamanian and United States citizens residing in the Canal Zone to vote in their respective elections.

"As you know, the United States has, as a measure of cooperation with the Government of Panama, long maintained the policy that persons in the Canal Zone should not interfere in the internal politics of the Republic of Panama. In accordance with this policy, individual U.S. agencies in the Canal Zone have established regulations respecting the conduct of political activities of their employees. One such regulation provides that a Panamanian citizen employee elected or appointed to hold office in the Government of Panama may not concurrently be employed by the Panama Canal agencies. One purpose of this provision is to avoid allegations that a conflict of interest exists between the duties of such a person as an employee of the United States Government and his duties as an officer of the Government of Panama. We assume that the application of this policy and the above-described regulation will continue to be satisfactory to Your Excellency's Government.

"My Government understands that the aforementioned Cabinet Decree does not represent any effort by the Government of Panama to assert authority in the Canal Zone contrary to international agreements in force between our two nations. My Government will endeavor to avoid any misinterpretation of this decree on the part of interested persons and authorities in the United States, and is confident that Your Excellency's Government will do likewise."

I hope that this will be helpful to you. Please continue to call on me whenever you believe I might be of assistance.

Sincerely yours,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

INTERSTATE SMUGGLING OF CIGARETTES

The SPEAKER. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, I wish to advise the House that Subcommittee No. 1, Immigration and Nationality, Committee on the Judiciary, will hold hearings on H.R. 12184, a bill to eliminate racketeering in the sale and distribution of cigarettes and to assist State and local governments in the enforcement of cigarette taxes. These hearings will be held in room 2237 Rayburn Office Building at 10:30 a.m. on Thursday, September 28. Testimony will be heard from Members of Congress, representatives from the Department of Justice and representatives from various States which are vitally interested in this problem.

The legislation would prohibit the transportation of contraband cigarettes in interstate commerce and would make it a felony punishable by a fine of up to $10,000 and/or imprisonment for not more than 2 years.

PERSONAL EXPLANATION

The SPEAKER. Under a previous order of the House, the gentleman from New Jersey (Mr. HOWARD) is recognized for 5 Minutes.

Mr. HOWARD. Mr. Speaker, on Monday, September 25, 1972, I was necessarily away from House business because of a trip I made to St. Louis as a member of the House Subcommittee on Flood Control and Internal Development.

I have been serving as chairman of a special investigation into our growing energy crisis and went to St. Louis to tour a project sponsored by the city of St. Louis and Union Electric of St. Louis in conjunction with the Environmental Protection Agency.

Although I was unable to be on the floor during consideration of H.R. 16754, the Military Construction Appropriations Act of 1973, I was paired with Mr. SCOTT. However, had I been present I would have voted in favor of this important legislation which include a $1.7 million appropriation for a very important project for Fort Monmouth in my district.

I also would have voted in favor of House Joint Resolution 1227.

PROTECTION FOR WORKERS ON GOVERNMENT CONTRACT CHANGES

The SPEAKER. Under a previous order of the House, the gentleman from Alaska (Mr. BEGICH) is recognized for 5 minutes.

Mr. BEGICH. Mr. Speaker, today, I am introducing a bill which addresses itself both to a specific Alaskan problem, and to a problem which is well known throughout the country. The problem is one which occurs when a Government contract change occurs, and the new contractor brings a totally new set of wages, conditions and other factors to the job. Included may be a wage structure which actually results in a lower wage for those working on the job which is the subject of the contract.

Recently, this occurred in Alaska, at a NASA tracking station near Fairbanks. The contract changed from one large corporation to another, and the new contractor brought with it a set of different, and lower, wage rates. The result was that, of the employees who would be working for the new contractor, only about 70 percent would either receive a raise or remain at the same salary. The other 93 percent were asked to take cuts ranging from 5 percent to over 30 percent.

Quite frankly, some of these cuts were not occasioned by anything more than different pay policies by the new contractor. Still, the workingman must not be the victim of such a change. We all know that we come to depend on a constant salary, and make our decisions based on that level we are entitled to earn.

I might add that the immediate and understandable response of the employees was to seek union representation. The net result of the entire situation was confusion and concern which did not work to the benefit of important objectives of the contract in the first place.

The bill I am introducing today, which has been introduced in the Senate by Senators GURNEY and WILLIAMS, would prevent wage losses in a turnover of contractors on a government job. In regular Federal employment, a wage loss such as I described in Alaska would not occur, and I see no special reason that the same standard should not apply to Government contracts.

I commend this legislation to the attention of my colleagues and urge that you join me in seeking its early consideration. Thank you.

SAN PEDRO Y SAN PABLO

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. FUQUA) is recognized for 5 minutes.

Mr. FUQUA. Mr. Speaker, San Pedro y San Pablo is the name given one of the first of nine missions established in the Apalachee Province of Florida as the Spanish moved westward across our State in the 1630's.

This site is now a part of the grounds of the home of the distinguished comptroller of the State of Florida, the Honorable Fred O. (Bud) Dickinson, Jr.

The reason I wanted to mention this particular site here today is that it was recently entered on the National Register of Historic Places and as such is considered to be of national significance in the history of this Nation.

This is a tremendous program, giving recognition for the first time to those places and sites which are worthy of preservation and recognition for time to come.

Might I add a particular note of recognition to the Tallahassee Democrat and Mrs. Hallie Boyles of that paper's staff for their untiring efforts over the years to point out the need for historical preservation. They have reason to be proud of the fact that we have seen a large number of sites in their area given this recognition this year.

Comptroller Dickinson was one of our State's finest legislators and has rendered equal service as a member of our State cabinet. He is to be commended for his great interest in preserving this and other sites for preservation.

I share the pride which Comptroller Dickinson feels in this honor and commend all those responsible for one of the finest programs that we have embarked upon in historical preservation.

This was the site of the San Pedro y San Pablo de Patali Mission, one of the first of nine missions established in Apalachee Province during the westward expansion of the Spanish from St. Augustine in the 1630's.

The Patali Mission was part of the chain of 18 Spanish missions established across the top of Florida. Built in the early 1640's, it was destroyed during the last battle of the Spanish to control western Florida. On June 23, 1704, British soldiers and Yamassee Indians from the Charleston, S.C., area attacked. The mission was consumed by fire and the Spanish were decisively defeated. About 17 captives were taken and soon afterward tortured to death in the Patali plaza. Thus, the Apalachee Province was lost to Spain.

The ruins of the mission were unearthed by workmen when Florida Comptroller Fred O. Dickinson, Jr., moved his home from Tallahassee to this site in 1971. Subsequent excavations have revealed the remains of two churches, a convent, a cooking building, and a cemetery.

The remains of some 64 individuals were found in the 60- by 80-foot cemetery. The dead were buried facing west, toward the setting sun.

Indian ceramics previously unknown in the area were uncovered in the graves—perhaps the most important discovery, for they are evidence of the association of one or more allied tribes with the Apalachee in the area. The allied tribes include the Chatot, Chines, Amacanos, and the Yamassee.

The excavations also proved that what is known today as the Old St. Augustine Road is really a combination of roads built in 1779 and 1823. The original road connected missions from St. Augustine to Tallahassee between 1633 and 1704.

WHITE HOUSE RERUN

The SPEAKER. Under a previous order of the House, the gentleman from Rhode Island (Mr. TIERNAN) is recognized for 5 minutes.

Mr. TIERNAN. Mr. Speaker, yesterday morning's New York Times contained an editorial entitled "White House Rerun" which I would commend to my colleagues reading. It describes yet another facet of the battle by the Office of Telecommunications Policy to usurp the authority of congressionally established bodies in the making of communications policy.

In his latest gambit OTP Director Clay T. Whitehead has admonished broadcasters to improve the rerun situation or he will explore whatever regulatory recommendations are in order.

Certainly there is every reason to be concerned about the rerun situation when 60 percent of prime time programming has been seen before—and this at a time of unprecedented profit levels in the broadcasting industry.

What the editors of the New York Times correctly concern themselves with, however, is the appropriateness of a White House staffer, heading an office created by executive fiat without the consent of Congress and not responsible to its elected officials, attempting to make policy in an area where Congress has created an independent regulatory authority. To quote the editorial:

> There may well be a case for a better balancing of original and repeat broadcasts in entertainment shows; summer reruns have indeed stretched back to early spring. But the proper forum for study and possible rulemaking should be the Government agency designated by law and Congress for this purpose, the Federal Communications Commission. The agency with the licensing and rulemaking authority can and must conduct hearings before taking drastic steps that, in effect, tell stations what the proper mix should be in programming.

The question as I see it is whether broadcasting policy, with its tremendous impact on the life of every American, will be made on the basis of a public record, or behind the closed doors of the plush suites at the Office of Telecommunications Policy. Not even the huge salaries that OTP workers receive can make up for the vigorous and open competition of ideas that at least theoretically must characterize the proceedings of regulatory agencies.

A good example of this closed decision-making system can be seen in recent OTP activity relating to cable television. In a series of secret off-the-record meetings with the interests involved the White House Office pushed through a compromise agreement which took everyone into account except the public. As a result we have an intricate series of rules governing the growth of what could be a revolutionary communications technology designed primarily to protect powerful economic interests.

A trend in the direction of tight-fisted control by OTP is clear. Only recently it sacrificed public broadcasting so that Congress would understand that OTP had clout and expected to be listened to.

As another example I would cite disclosures that the President would like to replace Federal Communications Commission Chairman Dean Burch with someone who would be more responsive to direction by the White House. This is understandable since Chairman Burch, unlike the vast majority of Nixon appointees, has distinguished himself as an outstanding regulator by consistently rejecting industry propaganda and party politics in favor of the public interest as he sees it.

Mr. Nixon has made it clear that Clay Whitehead speaks for the administration. Consequently, it is he who must answer the charge made by the editorial that OTP has operated to the detriment of the public interest.

I include a copy of the editorial in the RECORD at this point:

[From the New York Times, Sept. 25, 1972]

WHITE HOUSE RERUN

Once again the White House broadcasting czar, Clay T. Whitehead, has raised political implications in a statement about what American TV viewers ought to be watching. Previously he had let it be known that the stations would be better off not putting on controversial subjects and also that public service activities ought to be localized, meaning that major documentaries on the issues of the day could be ignored. Now Mr. Whitehead is worried about the increased number of reruns in prime time—the second or umteenth showing of the family, situation, medical and similar half-hour or hour shows.

The networks maintain that the high cost of producing entertainment programs necessitates repeats, enables viewers to see a program they may have missed or want to see again, and, indirectly, provides the wherewithal for the less profitable coverage of news and information broadcasts. The White House counters by saying that the networks increase their profits through reruns, harm the Hollywood studios as well as actors and craft unions suffering from unemployment, and open the door further for importation of programs from abroad (mainly Great Britain).

There may well be a case for a better balancing of original and repeat broadcasts in entertainment shows; summer reruns have indeed stretched back to early spring. But the proper forum for study and possible rulemaking should be the Government agency designated by law and Congress for this purpose, the Federal Communications Commission. The agency with the licensing and rulemaking authority can and must conduct hearings before taking drastic steps that, in effect, tell stations what the proper mix should be in programing. The F.C.C. represents the public interest and the television viewers rather than the networks and the unions.

The suspicion exists that California unions and votes—and not TV viewers and programs—are the first consideration in the White House statement. If the President felt otherwise, he would hardly have vetoed the modest two-year appropriation for the Corporation for Public Broadcasting and caused the despair and resignation of its leadership. The first remarks about the diminished role of public broadcasting by the President's new head of the C.P.B., Henry Loomis, give little hope for bold programming in news, documentaries or entertainment in this election year.

DOESN'T CONGRESS WANT TO KEEP ANY POWER?

The SPEAKER. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 30 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, it has been decided in the last few hours that the Ways and Means Committee on which I have been proud to serve these many years will accede to the President's request and include in the debt ceiling legislation soon to be before this House a spending ceiling of $250 billion this fiscal year. At first, the concept of a spending ceiling legislated by Congress and signed into law by the President cannot but appeal to anyone concerned with inflation and its toll. There is no question but that certain Federal programs, in fact almost all Federal programs, have been growing like Topsy and seem to have nowhere to go but up. Mind you, these Federal programs are growing because Congress and the President have passed and signed legislation to authorize them to grow and provide the necessary funding. Anyone who has ever tried to get a bill through Congress knows that Congress does not move swiftly or recklessly in 99 out of 100 cases and one must, therefore, conclude that all this is going on after the most thorough examination, review and deliberations in the various authorization committees of both Houses, on the floor of both Houses, and in the executive departments that recommend the program funding levels; and then again in the various appropriation subcommittees of both Houses, the full Appropriations Committees of both Houses, the floor of both Houses, and finally in the White House. In other words, months of review have gone into these programs—cross-examination of Government department witnesses with each program having to defend itself—in fact, lately the cry has been that Congress has been taking more and more time each year in getting through the budget and that continuing resolutions and delayed funding have become the order of business in the last few years.

In other words, what I am saying is that spending has been authorized and appropriated only after all the various and numerous programs competing for the funding available have been thoroughly reviewed and justified themselves for a piece of the pie. Sure, there are constituencies which are vitally interested in particular programs and wage a continuing lobbying effort for the continuance and increased funding of any given program. But there are also lobbying groups and vitally interested constituencies behind new programs that are competing with existing programs for the funding available. What it all boils down to is a matter of priorities as the various authorization committees see them and as this House in passing authorizing legislation sees them. And then, we all have a second crack at determining a particular year's actual level of funding when we go through the appropriations process. If Congress is not about its proper business in reviewing priorities and establishing priorities after considering executive department recommendations then I do not know what Congress' true business really is. We, the Representatives of the people, having raised the revenues, have incumbent upon our shoulders the responsibility to pick and choose the various competing programs, to determine what the real problems facing this Nation are, in 1972 and 1973, and then what funds are available to channel into the most worthwhile programs.

All right. What has happened is that we have been overspending. We have been trying to fund that little bit extra each year and in the process, we have raised the national debt and we have, no doubt, contributed to inflation. The solution apparently is—and in its very simplicity, it is bound to be attractive—if Congress cannot discipline itself and exercise restraint, put a legal clamp on the funds that can be spent this fiscal year, whatever Congress appropriates.

Mr. Speaker, before we all break a leg to rush up the aisle in the next few days to endorse this simplistic concept which, when tried before, has never worked, we would do well to examine some of the implications in what we would be doing. At the same time we have been hearing the hue and cry over inflation and spiraling costs of Government, there has also been another cry across the land over Congress' increasing abdication of responsibility.

Students of government argue that Congress is no longer an equal partner in governing but has increasingly become little more than a rubber stamp and a weak sister to the other two branches. I thought that if the tragic war in Southeast Asia had taught this House a lesson in the past decade it was what can happen when Congress abdicates its responsibilities and its right to be consulted as an equal partner in the field of foreign affairs and the conduct of war. I had gained the distinct impression in the past few months that even those who still could not bring themselves to vote for an immediate end to the war, felt that they would never again allow themselves to be put in a position where they were forced to make such a difficult choice, where they felt so powerless to influence the course of events or where they had to support an unpopular war out of loyalty to the President even though they had never had a chance to declare it or to determine whether our national interests really required our involvement in Southeast Asia.

Or take another area which has been a source of disgruntled feelings of late. I refer to the impounded funds controversy which has been swirling through this Congress since its start. Studies have been made, speeches have been given, special orders have been taken, all to focus attention on another area where the executive department seems to be encroaching on congressional power. While those in the executive department can point to a silence in the Constitution on the question of whether the executive must spend every penny Congress appropriates and can cite past instances under previous administrations in recent years where funds have been impounded, there can be no denial that the practice has become more a way of life and reached higher figures than ever before in our history. As far as I am concerned in the very consistency with which funds have been impounded, in the very fact that it has become a way of life for the executive, the impounding controversy has its most serious implications. At any given time every Member here has been frustrated over the dollar amounts involved and impounding's impact on a particular program as it affects his district; but important as this concern is, it does not begin to approach the concern we all should feel over the long-range constitutional implications of impounding as a daily tool of government.

Mr. Speaker, we have witnessed in the past several years the growth of a new center of power in our Government. I am referring, of course, to the Office of Management and Budget. When the proposal was made to consolidate the budget authority and its management in one advisory office in the White House, there were few Members of Congress, I am sure, who felt that this was more than a routine Government reorganization bill which would tidy up some loose ends and give a sense of direction and control to the Chief Executive Officer in our Government, the President, over the far-flung bureaucracy. But the OMB has not stopped here. Not satisfied with establishing its suzerainty over the executive department, the OMB has decided to act as a super review agency over decisions of Congress and in the process, we are witnessing a shift of power from Congress to the executive.

If our Constitution enshrines any role in the political process as the prerogative of Congress, the representative bodies in our Government, it is the power of the purse strings, power to raise and collect revenue, and power to determine how those moneys should be spent. What we are witnessing increasingly, however, is that after Congress decides, its decisions are reviewed by that new super agency, the OMB. An agency over which Congress has no control seems to be exercising quite a bit of control over Congress. Now, I know that one can never be precise about such matters as this and one can search the Constitution in vain for clear lines between the executive and Congress, but one would have to be positively blind not to see the intent of our Founding Fathers in framing the Constitution was to give the power of determining national priorities and channeling the limited funds available to Congress, not the executive. One would also have to be insensitive to tradition to see that this is the way it has worked, by and large, for the nearly two centuries we have been in business. One would also have to be extremely naive not to see the clear trend in the last 4 years or the last decade goes against the spirit and I would argue, the letter of the Constitution. Carried to its logical and absurd conclusion, we could theoretically be faced with the situation where the executive department chooses not to spend a single penny on what Congress deems to be the national priorities.

To some extent, Congress has been an unwitting participant in this erosion of authority in allowing too much leeway to Government departments in determining priorities within certain areas and permitting funds to be allocated as deemed appropriate. What has happened is that this discretion has in many cases, left the Government departments at the local level and filtered upward to that new center of power, the OMB, with the resulting irony that discretion originally intended by Congress to be exercised by an agency in the field familiar with local needs and conditions has been absorbed by that most bureaucratic of all agencies, tucked away in the Executive Office Building, the OMB. The fact of the matter is, Mr. Speaker, that the OMB and its bookkeeping mentality with its double entry approach to things is not capable of either appreciating or reflecting genuine human needs where they exist. This Congress is and has this responsibility. We have no business abdicating authority such as this to a bank of calculators and computers whose sole criteria in allocating funds are ledgers and bookkeeping. We were elected to represent people and their problems, to respond to them when help was needed. The more decisions we defer to the OMB the more we are abdicating our responsibilities to the people we were elected to represent.

What is the problem? Are the decisions too difficult to make or the political risks too great? Have we decided we would rather have the tough decisions made for us by some backroom computers and when the electorate faces us, we can simply commiserate with them and say, "the decision was not ours to make, but rather the OMB's?" The decision is ours to make and not the OMB's, and anything to the contrary constitutes abdication of power.

If this Congress wants to do something about inflation, then we could do it ourselves, program by program. And I am convinced we should be doing more about inflation. But stop passing the buck, depreciated as it is these days, to the OMB. If we want to have a $250 billion ceiling this fiscal year, then it is up to us to make the cuts where they must be made, to tell the voters, to tell our constituents what we have done and if it displeases them, we will be the first to know. That is what we were elected to do. If the voters make it clear to us they do not want to see programs cut back, and the majority feeling is for deficit spending, then we might legislate differently. I know the same ones who want to control inflation and put a lid on spending are the same people who will be the first to write to you when their favorite program of Government spending is cut back. Everyone wants somebody else's favorite program to be reduced as long as their own is left untouched. But this is the way it has always been in a democracy. This is the way it has been for the last 200 years. And if you cannot take the heat, then stay out of the kitchen. If these problems and dilemmas are too great for any Representative in this House, then he should resign his seat rather than resign his authority to a Federal agency. He should abdicate his position rather than abdicate his responsibility to a Federal agency.

Mark my words, in voting to put a ceiling on spending without specifying where the cuts are to be made or where they are not to be made, Congress is abdicating its power. Congressional authority is being further eroded. The executive department will be stronger tomorrow because of it. The agency which has become a past master at impounding will become the supreme master of Government spending. The emergency will not be lifted next month or next year. We could well be establishing a precedent today which will characterize the next decade or more of government. We are creating today another Henry Kissinger in the executive department, a new czar—only this time over all Government spending. Now, when Congressmen return home to their districts they can tell their constituents to write to the OMB to see how much money will be available for their constituents' problems this fiscal year. Congress can act, but the OMB has the final decision. If the sound of this bothers anybody here, it should because without being melodramatic and without exaggerating one iota, we will be taking one step further down the road to government by decree, rather than by law; government by an all-powerful executive, rather than by representative Government. Dictatorship, no matter how benevolent, is not what this Government was supposed to be.

One of the reasons I fought hard to have periodic reviews of requested increases in the national debt was because I felt that the national debt was getting out of control.

In other words, Government spending had to be subjected to greater scrutiny. I also felt it was a way for Congress to become actively involved every 3 or 4 months in budget review and economic planning. It was a way of examining what the OMB and the Council of Economic Advisers were up to, how accurate the administration's forecasts were, and how successfully they were managing the Nation's economy on a day-to-day basis. We considered the national debt early this session, we considered it again in June and now, we meet to consider it again. In my opinion, however, we will be defeating our whole purpose of riding herd on the managers of our economy by attaching this insidious, nefarious rider to this latest debt increase.

It is not bad enough we are giving the administration a comfortable cushion to operate the economy for the next few months. We are now giving the OMB power to control spending. Between the cushion we will be giving them with the debt ceiling and the power to keep spending below $250 billion, I think we are going to be in for a new era of phony statistics, slight of hand, and mirror tricks. We are going to be hearing such glowing reports about keeping within the debt ceiling and cutting back deficits that anyone is going to look good managing our economy. If you give somebody a $250 billion margin to play with and they only get us a further $10 billion in debt, they are bound to look good when you consider how badly they might have done. This kind of freedom of maneuver and margin of error goes far beyond the bounds of prudent generosity in my opinion.

I do not think that anyone here need worry about this problem much before November. I do not think we are going to see any big cutbacks in any of these programs before election day. But wait until after the election and you will have only yourself to blame. Yesterday I offered in committee several amendments to the spending ceiling, providing that no expenditure cuts shall be made in the areas of social security, aid to the blind, disabled, and aged, medicare and medicaid, child welfare, health, education, and veterans benefits. Mr. Speaker, everyone of my efforts met with failure. The mood was: Give it to them, no strings attached.

Mr. Speaker, I intend to testify before the Rules Committee against the bill as presently drawn up and in view of the serious constitutional questions involved, I doubt whether I will be able to support this latest increase in our national debt. Mr. Speaker, what more power do we have to give the President. The President already has the power to make the budget requests. The President already has the power to veto both any authorization bill and any appropriation bill. Mr. Speaker, the President is already impounding funds, whether he has the authority or not, and now Congress is prepared to add yet another ring of authority to the monarch's fingers and give him legislative authority to determine which programs will be fully funded and which programs will be substantially reduced. Are not there any committee chairmen left who feel capable of wielding power? Are not there any Members left in this House who feel they would like a say in what programs get what money? Are not there any Members left who are concerned about implications and what the future has in store?

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. BURKE of Massachusetts. I shall be happy to yield to the gentleman from Iowa.

Mr. GROSS. Would the gentleman state to the House what ceiling the committee fixed?

Mr. BURKE of Massachusetts. They fixed a ceiling of $250 billion.

Mr. GROSS. $250 billion?

Mr. BURKE of Massachusetts. Yes.

Mr. GROSS. Was any effort made in committee to reduce that amount? I do not think I understand the point.

Mr. BURKE of Massachusetts. I made an effort, as a result of the testimony on the part of the administration that they would only need up to $225 billion, to cut it to $225 billion. But unfortunately I did not get enough votes.

Mr. GROSS. The gentleman tried to reduce it to $225 billion, is that correct?

Mr. BURKE of Massachusetts. Actually, this spending ceiling gives them a big, fat cushion, from $18 billion to $25 billion, to play with. This concerns me in addition to the other concerns which I will explain later in my statement.

Mr. GROSS. I thank the gentleman for his response. I am glad that someone on the committee made the effort to reduce the amount, because, as I said, I know nothing sacred about $250 billion.

In order to stop inflation in this country, we are going to have to cut below—in my opinion—below $250 billion. It will be done voluntarily, or it will be done involuntarily some day in the not too distant future.

Mr. BURKE of Massachusetts. I thank the gentleman. I want to point out, in the committee I publicly pointed out that this part of the bill is a hoax and a fraud and a joke.

Mr. DUNCAN. Mr. Speaker, would the gentleman yield?

Mr. BURKE of Massachusetts. I yield to the gentleman from Tennessee.

Mr. DUNCAN. At the committee hearing, did you not object to any type of spending ceiling?

Mr. BURKE of Massachusetts. I did not object to any. I tried to write into the bill some specifics and retain what congressional power we have always had under the Constitution.

Mr. DUNCAN. I was a member of the committee, and I do not recall any vote having been taken to reduce the amount from $250 billion to $225 billion.

Mr. BURKE of Massachusetts. If the gentleman will consult with the staff of the committee, he will find that that motion was made and it was voted on.

Mr. DUNCAN. Thank you.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. BURKE of Massachusetts. I am happy to yield to the gentleman from Ohio.

Mr. VANIK. I believe the gentleman has touched on what is really the most important part of his objection and our objection to the legislation reported out by the committee today. What this amounts to is a conveying over of a tremendous body of the responsibility of this Congress under the Constitution, turning it over carte blanche to a President who will then have the power to do as he sees fit. Can he cut back social security?

Mr. BURKE of Massachusetts. Yes, he can cut social security.

Mr. VANIK. Can he cut out the 20-percent increase going into the mails in October?

Mr. BURKE of Massachusetts. Yes.

Mr. VANIK. Could he cut it out in December?

Mr. BURKE of Massachusetts. Yes.

Mr. VANIK. Could he cut out veterans' benefits?

Mr. BURKE of Massachusetts. Yes.

Mr. VANIK. Is he in a position to cut out disability benefits to people getting disability benefits under government programs?

Mr. BURKE of Massachusetts. Yes.

Mr. VANIK. In view of these tremendous powers that the President is given by the Congress, carte blanche, by this proposal, what can we expect? Will he respect the need to provide for human needs in this country, or will he look out for those who hold we should spend on buildings and pay out money for concrete and material and other things under contracts? What is he likely to do with this tremendous conveyance of authority by the Congress of the United States to the Executive?

Mr. BURKE of Massachusetts. Actually, what we are doing is giving the President the same powers of a monarch. He is going to have complete and explicit control over everything. Congress is going to be a debating society.

Mr. VANIK. This will be certainly a rubber stamp.

Mr. BURKE of Massachusetts. Yes.

Mr. VANIK. Once Congress gives these authorities to the President he can just do as he pleases with the whole spectrum of Federal expenditures, with one exception. I believe one exception is provided in the bill; that is, that he cannot provide more than is appropriated in a given year within a given department.

Mr. BURKE of Massachusetts. That is right, but he has up to a $25 billion cushion there to play with.

Mr. CORMAN. Mr. Speaker, will the gentleman yield?

Mr. BURKE of Massachusetts. I am happy to yield to the gentleman from California.

Mr. CORMAN. So far as the actual limit on expenditures is concerned for any one department, that is not in the bill. The fact of the matter is he has approximately $260 billion in the pipeline left over from last year, so there is no realistic limit as to what he can spend in any department. He really has total authority to make whatever expenditures he wants within the $250 billion limitation.

I want to thank the gentleman for calling this to the attention of the House. I hope serious consideration will be given to this bill before it comes to the floor.

Mr. VANIK. Mr. Speaker, will the gentleman yield further?

Mr. BURKE of Massachusetts. I am happy to yield to the gentleman from Ohio.

Mr. VANIK. In the recollection of the distinguished member of the Ways and Means Committee, my colleague from Massachusetts, in our hearings and in our discussions of this legislation does he recall ever a comparable piece of legislation to give to the Executive powers comparable to those contemplated by this legislation?

Mr. BURKE of Massachusetts. In my 14 years in the Congress I do not remember anything like it. I am a student of government. I have studied the Congress back to the early days. I know of no legislation which ever gave to the President of the United States such far-reaching powers, unless it was the powers he was granted during wartime. This goes far and above even those powers, because it gives a life and death say over every dollar appropriated by the Congress.

Mr. VANIK. Is it not true that this same legislation gives the President this power specifically, notwithstanding any other law enacted by the Congress of the United States?

Mr. BURKE of Massachusetts. Oh, yes.

Mr. VANIK. Does this affect future laws?

Mr. BURKE of Massachusetts. It makes a shambles out of all the bills that will be passed this year and in early next year, the first 6 months of next year.

Mr. VANIK. Will the gentleman yield further?

Mr. BURKE of Massachusetts. Yes, I will yield to the gentleman.

Mr. VANIK. I concur in the need for a spending limitation, and I think it is the sort of thing that should be done by the Congress early in the session, so we can put an overall limitation on what we do related to the income and revenue expectations of the Government. But it seems to me that Congress, under the Constitution, has the responsibility of fixing the priorities, and I think that an expenditure ceiling should be made to apply proportionately to all the appropriation actions of the Congress so that each appropriation receives the same percentile cut that every other one does, and so that the actions of the Congress in establishing priorities are not completely ignored or overlooked by the executive.

Mr. BURKE of Massachusetts. That is correct.

It is amazing under this bill to contemplate such prospects—in fact, I am shocked to see it come as far as it has—and, of course, we did not have too much time for the public hearings and not too much time for consideration.

It is my opinion that we have acted too hastily and we have jumped into a real hornet's nest here, and this may be something that will be discussed in our universities and colleges in years to come if it becomes law, because it is a complete abdication of power on the part of Congress, and it makes this place a debating society.

Why, we could pass legislation expending as high as $350 billion, and every Member of this House could vote for it and look very good voting for all the spending bills. What they would be doing is whetting their appetities, like they did on the revenue sharing, and it grew disproportionately, it "grew like Topsy" it grew like a big snowball, and it finally developed to the point where it went through. In this way all they are doing here is, they are setting up a system where they are going to whet the appetites of people all over the country, where they are going to have these projects, they are going to have a dam built in this area, a flood control program or the building of a Federal building or something else. And after it goes through, the Congress can pass it, the President can sign it, and some little fellow back there in the Budget Bureau can say, "No, it cannot be spent."

In other words, this man who is behind the scenes——

Mr. VANIK. Unelected.

Mr. BURKE of Massachusetts (continuing). Unelected, unanswerable to anybody will be making this decision after a year or so this man will disappear from the scene.

Mr. VANIK. Will the gentleman yield?

Mr. BURKE of Massachusetts. I will yield to the gentleman.

Mr. VANIK. He can probably get a job

with a grain company or an exporter of grain, or move on to some other area.

Mr. BURKE of Massachusetts. There will be plenty of places open to him, because he is going to have more power than any man in this Government ever had.

Mr. HOGAN. Mr. Speaker, will the gentleman yield?

Mr. BURKE of Massachusetts. Yes, I will be glad to yield.

Mr. HOGAN. I am amused by the colloquy that is going on between my two distinguished colleagues, but I might point out that unless something has happened in the last few days that I did not hear, both the Senate and the House are controlled by the other party, by the Democratic Party, who ought not to now be regretting giving power to the President of the opposite party.

Now, to consider that the President is going to take milk away from babies and cut social security and medicare seems a little bit ludicrous. The President is going to express the same kind of consideration for the people of the country as he always has, but your criticism of the President now has been transferred to some boy in the Budget Bureau.

Mr. BURKE of Massachusetts. The trouble with you, my good friend—and I like you very much, because you are a very intelligent Member and one of the ablest Members of the House—is that you are reading the polls every day.

Now, does the gentleman want to give all this power to the opposite candidate to Mr. Nixon if he is elected?

Mr. HOGAN. I do not think it has anything to do with it.

Mr. BURKE of Massachusetts. Oh, yes, it does. He will have the power if he is elected that this bill will give him.

Is the gentleman in favor of giving Mr. Nixon's opponent the same power you are giving him in this bill? Is that what the gentleman is saying here today?

I am against giving it to either one of them.

Mr. HOGAN. What I am saying is that both Houses in Congress are concerned——

Mr. BURKE of Massachusetts. Why does not the gentleman answer my question? Are you in favor of giving this power to the opponent of Mr. Nixon if the people elect him?

Mr. HOGAN. Not being a member of the committee, I am not familiar with the legislation.

Mr. BURKE of Massachusetts. Of course, that is a nice way out, but that is what the bill does. The bill gives the President the power.

I am against either one of them getting that power, and I would like to know from you: Is the gentleman willing to give this power to Mr. Nixon's opponent?

Mr. HOGAN. When the bill comes to the floor, if I consider it is good legislation and should be passed, I recognize this authority is going to be given to the President of the United States regardless of his party affiliation. Again I point out that I hope most Members make their decision on that basis rather than on something else.

Mr. BURKE of Massachusetts. I am against giving this power either to Mr. McGovern or Mr. Nixon. You evaded the answer and said that you will read the bill over. You injected yourself into this debate. This bill here gives the President complete despotic power.

Mr. HOGAN. Will the gentleman yield further?

Mr. BURKE of Massachusetts. Yes. I yield to the gentleman.

Mr. HOGAN. Then we might say this gives the President, Mr. McGovern, if that be the case, the power to cut social security.

Mr. BURKE of Massachusetts. That is right.

Mr. HOGAN. And to do all of those other things?

Mr. BURKE of Massachusetts. And to cut the Defense Department by 35 percent. Are you in favor of that?

Mr. HOGAN. No, I am not.

Mr. BURKE of Massachusetts. Then, if you are not, you had better vote against the bill.

Mr. HOGAN. I thank the gentleman.

Mr. VANIK. Will the gentleman yield?

Mr. BURKE of Massachusetts. I yield to the gentleman.

Mr. VANIK. This proposal is labeled as an inflation-controlling device, and we are concerned about what the Executive will do with this power. Let us look at the record. The Executive has already built into the inflation stream some items that were put in by executive decree or executive assignment or by executive inaction, which will add a $20 billion impact to next year's inflation.

I want to refer to the $7.7 billion increase in natural gas which is going to occur next year because of a Federal Power Commission order which will pretty much eliminate Federal control of pricing in the natural gas field. You might call this the Connally concession.

I want to direct the gentleman's attention to a proposal of a projected $3 billion increase in the cost of oil next year which will follow the increase in the cost of natural gas.

I want to direct the gentleman's attention to a 3-cent-per-gallon gasoline price increase resulting from administrative acquiescence to a proposal to eliminate discounting, which will raise the cost of gasoline 3 cents per gallon for 90 billion gallons of gasoline that we consume every year. That looks like another $2.7 to $3 billion packed onto the inflationary spiral. A government thinking about people would never let this happen.

I want to direct the gentleman's attention to the wheat deal where we are imposing a Soviet bread tax on every single American of at least 3 cents per loaf. In my community better bread made by bakers not under controls has already risen 5 or 6 cents per loaf. This will cost the consumers of America $350,000,000 in increased bread prices, along with the wheat export subsidy of $124 to $143 million along with a grain program subsidy of $1,100,000,000. The Russians are coming. The Russians are coming. There goes our bread.

I want to direct the gentleman's attention to the bilking the consumer is taking on milk purchases. The milk producers kicked in $666,000 to a special campaign fund and as a result they will get $300 million or $400 million back in the form of increased milk prices. The milk tax will cost the consumers of America 2 cents per quart for every quart of milk they buy.

And now they are thinking of a value-added tax—which is a tax on family life. The tax burden is multiplied by each dependent.

I say to the gentleman that the way to approach the inflation problem is primarily in the area of consumer prices. I am very much afraid indeed of what the Executive will do with this power. If I am to measure his actions by the treatment of these other special privilege groups in our economy, and the treatment they have had, then I am indeed very much worried as to what will happen to the American people in the exercise of the power given in this bill.

I think every Member of Congress ought to be very acutely aware of this great power that is sought under this proposal. There is a dangerous precedent being made here. There is certainly no indication that the consumer interests of America and the plight of the general citizens will be safeguarded in the exercise of this tremendous grant of power. The expenditure ceiling will not be used to cut back fat contracts. This power will not be used to cut back loans and grants to mismanaged companies. This power will not be used to cut back subsidies made to big contributors. It will be used to cut service to people.

Mr. BURKE of Massachusetts. I want to thank my good friend from Ohio for his excellent statement here today.

I would like to remind my good friend on the other side of the aisle of 1948. You know that was a great year. The polls were going the way they are right now. Dewey was to be elected, and Congress appropriated three times as much money for the inauguration ceremony as they ever had before. They were going to have the biggest day on Inauguration Day for Dewey. The flags would be flying and the bands would be out and everyone would enjoy it. But who enjoyed it? Harry Truman. Harry Truman enjoyed it. And listen. That can happen again this year just as sure as you are standing there today, irrespective of what the polls indicate. George McGovern is on the ballot, and I think he has a good chance to be elected, and if he does, every one of you fellows on your side of the aisle will jump off the top of this building if this bill goes through.

Mr. HOGAN. Mr. Speaker, will the gentleman yield?

Mr. BURKE of Massachusetts. I will be happy to yield to the gentleman from Maryland.

Mr. HOGAN. Mr. Speaker, my observations had nothing to do with the proposals, but it just seems to me the height of irresponsibility for us to complain about spending in the executive branch. I have not been here as long as either of my colleagues, but I have been here long enough to see a repetitious pattern for virtually every bill which comes before the Congress. The President proposes, the Committee of the House increases the President's request; it goes over to the other body and the other body increases the House provision. It comes back again and we end up compromising on a spending proposal which is in excess of the House version, and way in excess of the President's original request.

So it seems to me a little bit hypocritical to criticize the President for spending when it is this body which authorizes and appropriates money. And that is why we have the big spending problem in the country.

Mr. BURKE of Massachusetts. I am sure my good friend, the gentleman from Maryland, knows the Government and its procedures, and what the gentleman is telling us is this: that Congress should not legislate, the President should not exercise his veto power, the President should not exercise the authority he has been using in freezing funds or withholding funds; that he needs all this power in addition to the power he already has.

Our Founding Fathers set up this Government with a great deal of wisdom, and they gave the President the power of the veto. It takes a two-thirds vote to override that veto. And if the President wants to be President, and he is in the White House, he should assume that power any time he believes that an appropriation bill is too high. He has the authority to do it. But he does not want to do it that way. Instead he would like to have a bill come down to the White House and he can sign it. Then he can look just as popular as some of the Members who spend all the money that he is talking about, and the people back home will think the money is going to be spent.

Then a little fellow back there in the Bureau of the Budget, some little fellow that nobody knows will say, "No, you cannot spend it because the ceiling is set at $250 billion."

Let us be realistic. We have either got a representative form of government or we have not, and if we cannot run this Government under the procedures that were set up by our Founding Fathers then we should abolish the legislative branch of the Government. Irrespective of all the spending bills that we have sent in, there is no bill that the President has to sign into law, because he has the right to veto that bill, and it takes a two-thirds vote of the Members to override that veto. But under this bill here, as it is proposed, the bill can go through, he can sign it, and then that little fellow in the Budget Director's office can say, "No." That is not the U.S. Government as I understand it, it is a government of a dictatorship; more than that, it is actually setting up a monarchy in this Government because you are giving one man the life and death say over every dollar that is appropriated. I do not believe that any man deserves that kind of power, irrespective of who he is, and even if our good President could walk on the water I would not give him that power.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. BURKE of Massachusetts. I yield to the gentleman from Ohio.

Mr. VANIK. I just want to say that I think the gentleman from Massachusetts put his finger on the really critical issue here, and that is, is this legislation to substitute for the veto authority of the President?

He vetoed a large bill here, the Labor-HEW bill, and we had to come back. And he has had the power to veto every appropriation bill that was submitted to him by the Congress. He has all of the power he needs to hold the spending of this country to $250 billion, or any other figure. All he had to do was veto the bills that were out of line with his estimates and projections on spending. And that would be the appropriate and constitutional way. I do not think we ought to go around the veto by giving him this power.

Mr. BURKE of Massachusetts. The truth of the matter is that this President has been the biggest spender that this country has ever had.

There has never been as much waste and extravagance and fat in the various items down there that they have spent money on. It is interesting to note that the debt in this country has gone up over $150 billion—$150 billion in a little over 3½ years.

No President since World War II has ever raised the debt that high.

Here is the debt limit coming in here again—and what do they do—they hand out this bill here that they say is going to solve all the problems. It is a sham. It is a hoax on the public. You might as well abolish the whole House and abolish the press gallery because there would be no reason for those gentlemen to be up there once this bill is passed. All the power is going to be down at the White House. The press will not even have to cover the activities of the Senate. There is no point in it—because this legislation makes it meaningless—it puts all the powers right in the White House.

It is something unheard of and it is the most shocking proposal that I believe has ever come before the Congress.

Mr. CORMAN. Mr. Speaker, will the gentleman yield?

Mr. BURKE of Massachusetts. I yield to the gentleman from California.

Mr. CORMAN. I would like to point out to the gentleman that so far as the appropriation bills are concerned, this year the Appropriations Committee have done a pretty good job. They have appropriated less in gross amount of money than the President asked for.

One of the troubles has been that we have circumvented the Appropriations Committee.

But aside from that, the $250 bililon expenditure ceiling is a hoax.

I supported the gentleman's motion in committee to reduce it below that figure. I think we need more money than we have to spend, but I do not think we can justify the $25 billion deficit which is planned by this administration for this year. The allegation of the administration is that if we keep expenditures at $250 billion, we do not need a tax increase. That is great between now and November 7. But how can we say, when we are not meeting our public needs and when we are $25 billion in the red that we are not going to have a tax increase next year? We are going to have it no matter who is in the White House.

Mr. BURKE of Massachusetts. The gentleman and I know, being on the House Ways and Means Committee, and the gentleman from Ohio knows that there are plans and studies being made right now by the Treasury for a tax increase. We know this is all in the works down there.

I wish that our candidates for public office would be a little bit more honest The gentleman from Wisconsin (Mr. BYRNES), the ranking member of our committee, says he does not see how a tax increase can be avoided. He is one highly respected member of our committee who is very knowledgeable—and I have never heard him make any reckless statements—but he says that he does not see how it can be avoided. We hear administration spokesmen saying that in all probability there will be no tax increases. We know they are working on tax increases.

If it is the added value tax, you know what that will mean to the average fellow—he is going to get hit three ways from Sunday, and he will have to pay for it.

Mr. CORMAN. I think there is no question about the fact that we are going to have more taxes paid in this country. The big issue is who is going to pay? Will it be heaped on the backs of the consumers with a Federal sales tax or a value added tax or will we eliminate some of the tax shelters and the tax loopholes and broaden the income tax base and require everybody to pay some reasonable amount of their income in taxes?

OPEN THE HIGHWAY TRUST FUND TO MASS TRANSIT

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, Congressman FRANK BRASCO and I will be working in the next week to gain support for amendments that will be offered on the floor to the Federal aid-highway bill to open the highway trust fund to mass transit. We expect the bill will be considered by the House next week.

Earlier this week the Public Works Committee reported out a bill providing $7 billion annually for highway construction. Even while almost doubling the present $4.5 billion highway program, the committee's bill continues the singular purpose of the highway trust fund: Highway construction and highway safety and beautification programs. Furthermore, because the Interstate System is almost complete, the committee now recommends that we start building what might be called "a second generation Interstate Highway System": 10,000 miles in new highways to supplement the Interstate System.

The committee bill allocates $800 million annually for the Federal-aid urban highway system. Congressman BRASCO and I will be supporting an amendment to allow municipal transportation agencies in urbanized areas to use their share of this $800 million for whatever urban transportation capital projects—highways or mass transit—they deem necessary to meet the needs of their communities. In the Senate this provision, known as the Cooper-Muskie amendment, was accepted by a vote of 48 to 26.

Another important provision in the Senate bill, not included in the committee bill, is that allowing for a review of controversial segments of the Interstate System still not constructed. Should it be determined that a particular segment should not be built, the money allocated for its construction would be made available to the locality for mass transit or other modes of transportation needed to solve its transportation problems. There are approximately 30 urban segments of the Interstate System that have become the subject of intense controversy. Some of these segments, like the Cross-Brooklyn Expressway and the Lower Manhattan Expressway, would cost as much as $100 million a mile to construct, and both have been rejected by the citizens of New York and the State legislature.

Last year Congressman BRASCO and I introduced legislation, H.R. 4571, to create a national transportation trust fund combining the highway, mass transit, and airport programs. Only when localities have one source of transportation funding, namely, a single trust fund, will they be given a real choice in determining what form of transportation to construct. It is time that the Congress act to provide some of this needed flexibility in the Federal aid-highway bill.

PENSION REFORM BILL GUTTED WITH ADMINISTRATION HELP

(Mr. DANIELS of New Jersey asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DANIELS of New Jersey. Mr. Speaker, the recent parliamentary maneuvering which resulted in the Javits-Williams Pension Reform being referred to the Senate Finance Committee is far from being in the public interest.

A useful and highly desirable piece of legislation with bipartisan support has been sent to its graveyard. The most reliable observers have charged that the rereferring of the bill was the work of chamber of commerce lobbyist joining forces with Nixon administration staffers.

The Senate Labor and Public Welfare Committee spent 2½ years and $1 million in considering this measure. In a few short days the Senate Finance Committee knocked out the most meaningful sections of the bill, vesting, portability, insurance and a funding supplement. In effect they have left no bill at all.

On December 8, 1971, President Nixon sent a message to the Congress urging that a pension reform bill be promptly enacted into law. We who had fought for reform thought reform was on the way.

Unfortunately, as they do in many areas the Nixon administration talks out of both sides of its mouth. Left holding the bag were millions of Americans who still have no assurance that the pension plans which they purchase with their hard earned wages will be worth anything when the time comes for retirement.

Mr. Speaker, those who know me in this House realize that I almost never speak harshly about anyone. I prefer to discuss issues rather than personalities and always have felt that honey is a more effective weapon than vinegar.

Candor, however, requires me to say, harsh as it may sound, that the President has sold out 50 million working men and women by gutting the pension reform bill. There are thousands of residents of Hudson County who have much to lose if this bill does not pass in its original reform. Even today the principal sponsors, the able Senators from New York and New Jersey (Messrs. JAVITS and WILLIAMS) are working to obtain passage of the reform bill. Millions of American working men and women say: Right on.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. ERLENBORN (at the request of Mr. GERALD R. FORD), from September 26, on account of official business.

Mrs. GREEN of Oregon (at the request of Mr. ULLMAN), starting September 25, for indefinite period, on account of illness.

Mr. HALPERN (at the request of Mr. GERALD R. FORD), from September 25, on account of illness.

Mr. MCCULLOCH (at the request of Mr. ARENDS), for today and balance of the week, on account of attendance at International Atomic Energy Conference at Mexico City.

Mr. GRAY (at the request of Mr. O'NEILL), for the balance of this week, on account of death in family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HOGAN) and to revise and extend their remarks and include extraneous matter:)

Mr. BELL, for 5 minutes, today.

Mr. WYMAN, for 60 minutes, on September 28.

Mr. HOGAN, for 60 minutes, today.

(The following Members (at the request of Mr. MAZZOLI) and to revise and extend their remarks and include extraneous matter:)

Mr. FLOOD, for 10 minutes, today.

Mr. RODINO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. BEGICH, for 5 minutes, today.

Mr. FUQUA, for 5 minutes, today.

Mr. TIERNAN, for 5 minutes, today.

Mr. BURKE of Massachusetts, for 30 minutes, today.

Mr. HOWARD, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. CLARK (at the request of Mr. LEGGETT), to extend his remarks following Mr. LEGGETT on H.R. 9128.

(The following Members (at the request of Mr. HOGAN) and to revise and extend their remarks and include extraneous matter):

Mr. BROOMFIELD.
Mr. SPRINGER.
Mr. HALPERN in three instances.
Mr. SCHWENGEL.
Mr. DELLENBACK.
Mr. NELSEN.
Mr. CONTE in three instances.
Mr. WYMAN in two instances.
Mr. VEYSEY.
Mr. TALCOTT in three instances.
Mr. MATHIAS of California.
Mr. BOB WILSON.
Mr. STEIGER of Wisconsin.
Mr. DUNCAN.
Mr. ASHBROOK in three instances.
Mr. KEATING.
Mr. KEITH.
Mr. GUDE in two instances.
Mr. WHALEN.
Mr. PRICE of Texas.
Mr. WIDNALL.
Mr. EDWARDS of Alabama.
Mr. HANSEN of Idaho.

(The following Members (at the request of Mr. MAZZOLI) and to revise and extend their remarks and include extraneous matter:)

Mr. BADILLO in two instances.
Mr. BEGICH in two instances.
Mr. ROY.
Mr. FLOOD.
Mr. DRINAN.
Mr. GONZALEZ in three instances.
Mr. RARICK in three instances.
Mr. MURPHY of New York in two instances.
Mr. WALDIE.
Mr. REES in two instances.
Mr. DANIELS of New Jersey.
Mr. PODELL in three instances.
Mr. JOHNSON of California.
Mr. TIERNAN.
Mr. WRIGHT.
Mr. ROYBAL.
Mr. EDWARDS of California.
Mr. DORN in two instances.
Mr. PICKLE in two instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 3316. An act to grant the consent of the United States to the Arkansas River Basin compact, Arkansas-Oklahoma; to the committee on Interior and Insular Affairs.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4634. An act to direct the Secretary of the Army to release on behalf of the United States a condition in a deed conveying certain land to the State of Oregon to be used as a public highway.

H.R. 14015. An act to amend section 8c(2), section 8c(6), section 8c(7)(C), and section 8c(19) of the Agricultural Marketing Agreement Act of 1937, as amended;

H.R. 14267. An act to provide for the disposition of funds appropriated to pay a judgment in favor of the Delaware Tribe of Indians in Indian Claims Commission Docket No. 298, and the Absentee Delaware Tribe of Western Oklahoma, and others, in Indian Claims Commission Docket No. 72, and for other purposes;

H.R. 16251. An act to release the conditions in a deed with respect to certain property heretofore conveyed by the United States to the Columbia Military Academy and its successors; and

H.J. Res. 1227. Joint resolution, approval and authorization for the President of the United States to accept an Interim Agreement Between the United States of America and the Union of Soviet Socialist Republics on Certain Measures With Respect to the Limitation of Strategic Offensive Arms.

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills and joint resolutions of the House of the following titles:

On September 25, 1972:

H.R. 4383. An act to authorize the establishment of a system governing the creation of operation of advisory committees in the executive branch of the Federal Government, and for other purposes;

H.R. 7614. An act to amend titles 5, 10, and 32, United States Code, to authorize the waiver of claims of the United States arising out of certain erroneous payments, and for other purposes;

H.R. 9032. An act to provide for the disposition of funds appropriated to pay a judgment in favor of the Havasupai Tribe of Indians in Indian Claims Commission docket No. 91, and for other purposes;

H.R. 9135. An act to amend the Act of August 19, 1964, to remove the limitation on the maximum number of members of the board of trustees of the Pacific Tropical Botanical Gardens;

H.R. 10486. An act to make the basic pay of the Master Chief Petty Officer of the Coast Guard comparable to the basic pay of the senior enlisted advisers of the other Armed Forces, and for other purposes;

H.R. 13697. An act to amend the provisions of title 14, United States Code, relating to the flag officer structure of the Coast Guard, and for other purposes;

H.J. Res. 135. A joint resolution to authorize the President to issue a proclamation designating the week in November of 1972 which includes Thanksgiving Day as "National Family Week";

H.J. Res. 807. A joint resolution authorizing the President to proclaim the second full week in October of 1972 as "National Legal Secretaries' Court Observance Week"; and

H.J. Res. 1232. A joint resolution designating, and authorizing the President to proclaim February 11, 1973, as "National Inventors' Week."

On September 26, 1972:

H.R. 4634. An act to direct the Secretary of the Army to release on behalf of the United States a condition in a deed conveying certain land to the State of Oregon to be used as a public highway;

H.R. 14267. An act to provide for the disposition of funds appropriated to pay a judgment in favor of the Delaware Tribe of Indians in Indian Claims Commission docket No. 298, and the Absentee Delaware Tribe of Western Oklahoma, and others, in Indian Claims Commission docket No. 72, and for other purposes; and

H.J. Res. 1227. A joint resolution, approval and authorization for the President of the United States to accept an Interim Agreement Between the United States of America and the Union of Soviet Socialist Republics on Certain Measures With Respect to the Limitation of Strategic Offensive Arms.

ADJOURNMENT

Mr. MAZZOLI. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 43 minutes p.m.), the House adjourned until tomorrow, Wednesday, September 27, 1972, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2368. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, dated May 12, 1972, submitting a report, together with accompanying papers and an illustration, on modification of Cache River Basin feature, Mississippi River and tributaries project, Arkansas, pursuant to the provisions of the Fish and Wildlife Coordination Act, approved August 13, 1958 (H. Doc. No. 92–366); to the Committee on Public Works and ordered to be printed with an illustration.

2369. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, dated March 28, 1972, submitting a report, together with accompanying papers and an illustration, on modification of the west Tennessee tributaries feature, Mississippi River and tributaries project (Obion and Forked Deer Rivers), pursuant to the provisions of the Fish and Wildlife Coordination Act, approved August 12, 1958 (H. Doc. No. 92–367); to the Committee on Public Works and ordered to be printed with an illustration.

2370. A letter from the Acting Administrator of General Services, transmitting a prospectus proposing the construction of a Federal office building and parking facility in Columbus, Ohio, pursuant to Public Law 92–313; to the Committee on Public Works.

2371. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report on grants in which title to equipment was vested under 42 U.S.C. 1892, during fiscal year 1972, pursuant to 42 U.S.C. 1493; to the Committee on Science and Astronautics.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CELLER: Committee of conference. Conference report to accompany H.R. 12652 (Rept. No. 92–1444). Ordered to be printed.

Mr. TAYLOR: Committee on Interior and Insular Affairs. H.R. 10751. A bill to establish the Pennsylvania Avenue Bicentennial Development Corporation, to provide for the preparation and carrying out of a development plan for certain areas between the White House and the Capitol, to further the purposes for which the Pennsylvania Avenue National Historic Site was designated, and for other purposes; with an amendment (Rept. No. 92–1445). Referred to the Committee of the Whole House on the State of the Union.

Mr. TAYLOR: Committee on Interior and Insular Affairs. H.R. 15716. A bill to establish the Glen Canyon National Recreation Area in the States of Arizona and Utah; with an amendment (Rept. No. 92–1446). Referred to the Committee of the Whole House on the State of the Union.

Mr. COLMER: Committee on Rules. House Resolution 1137. A resolution providing for the consideration of H.R. 16012. A bill to authorize the Secretary of the Interior to construct, operate, and maintain various Federal reclamation projects, and for other purposes (Rept. No. 92–1447). Referred to the House Calendar.

Mr. TAYLOR: Committee on Interior and Insular Affairs. H.R. 3986. A bill to authorize the establishment of the Longfellow National Historic Site in Cambridge, Mass., and for other purposes; with an amendment (Rept. No. 92–1448). Referred to the Committee of the Whole House on the State of the Union.

Mr. CELLER: Committee on the Judiciary. Senate Joint Resolution 247. Joint resolution extending the duration of copyright protection in certain cases. (Rept. No. 92–1449). Referred to the House Calendar.

Mr. MILLS of Arkansas: Committee of conference. Conference report to accompany H.R. 14370 (Rept. No. 92–1450). Ordered to be printed.

Mr. COLMER: Committee on Rules. House Resolution 1138. Resolution to amend the Rules of the House of Representatives with respect to House consideration of certain Senate amendments, to provide for the Delegates from Guam and the Virgin Islands, and for other purposes (Rept. No. 92–1451). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MILLS of Arkansas (for himself, Mr. Schneebeli, and Mr. Bow):

H.R. 16810. A bill to provide for a temporary increase in the public debt limit and to place a limitation on expenditures and net lending for the fiscal year ending June 30, 1973; to the Committee on Ways and Means.

By Mr. MILLS of Arkansas (for himself and Mr. Schneebeli):

H.R. 16811. A bill to make permanent the existing temporary provision for disregarding income of social security and railroad retirement recipients in determining their need for public assistance, and to provide that no individual presently eligible for medical assistance under a State plan approved under title XIX of the Social Security Act shall lose such eligibility by reason of the recent 20-percent increase in social security benefits; to the Committee on Ways and Means.

By Mr. MILLS of Arkansas (for himself and Mr. Vanik):

H.R. 16812. A bill to amend section 707 of the Social Security Act to extend for 1 year the existing authorization of grants for the expansion and development of undergraduate and graduate programs in social work; to the Committee on Ways and Means.

By Mr. BROYHILL of Virginia:

H.R. 16813. A bill to amend section 122 of the Internal Revenue Code of 1954; to the Committee on Ways and Means.

By Mr. BEGICH:

H.R. 16814. A bill to amend the Service Contract Act of 1965 to revise the method of computing wage rates under such act, and for other purposes; to the Committee on Education and Labor.

By Mr. CONABLE:

H.R. 16815. A bill to amend the Internal Revenue Code of 1954 with respect to the deduction for moving expenses; to the Committee on Ways and Means.

By Mr. EILBERG (for himself, Mr. Flood, Mr. Gaydos, Mr. Hogan, Mr. Moorhead, Mr. Murphy of Illinois, and Mr. Yatron):

H.R. 16816. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide increased assistance to correctional programs, to establish more detailed guidelines for such programs, and to create a streamlined administration of such assistance; to the Committee on the Judiciary.

By WILLIAM D. FORD:

H.R. 16817. A bill to amend the Elementary and Secondary Education Act of 1965 to provide financial assistance to the States for improved educational services for handicapped children; to the Committee on Education and Labor.

By Mr. FRASER:

H.R. 16818. A bill to amend the District of Columbia Teachers' Salary Act of 1955 to increase salaries, to provide certain revisions in the retirement benefits of public school teachers, to authorize the District of Columbia to fix pay for fire, police, and school personnel, to set rates for taxes, fees, and licenses in the District of Columbia, and to authorize a Federal payment to the District of Columbia, and for other purposes; to the Committee on District of Columbia.

By Mr. FRASER (for himself, Mr. Tiernan, Mrs. Green of Oregon, Mr. Blatnik, Mr. Scheuer, Mr. Flowers, Mr. Edwards of Alabama, Mrs. Hansen of Washington, Mr. Dellums, Mrs. Mink, Mr. Adams, Mr. Whalen, Mr. Duncan, Mr. Van Deerlin, Mr. Eilberg, Mr. Fuqua, Mr. Mathis of Georgia, and Mr. Diggs):

H.R. 16819. A bill to amend the Social Security Act to make certain that recipients of aid or assistance under the various Federal-State public assistance and medicaid programs (and recipients of assistance under the veterans' pension and compensation programs or any other Federal or federally assisted program) will not have the amount of such aid or assistance reduced because of increases in monthly social security benefits; to the Committee on Ways and Means.

By Mr. HAWKINS:

H.R. 16820. A bill to require States to pass along to public assistance recipients who are entitled to social security benefits the 1972 increase in such benefits, either by disregarding it in determining their need for assistance or otherwise; to the Committee on Ways and Means.

By Mr. KEE:

H.R. 16821. A bill to provide payments to States for public elementary and secondary education and to allow a credit against the individual income tax for tuition paid for the elementary or secondary education of dependents; to the Committee on Ways and Means.

By Mr. KING:

H.R. 16822. A bill to require States to pass along to public assistance recipients who are entitled to social security benefits the 1972 increase in such benefits, either by disregarding it in determining their need for assistance or otherwise; to the Committee on Ways and Means.

By Mr. MATHIAS of California:

H.R. 16823. A bill to authorize the Secretary of the Interior to participate in the planning, design, and construction of outdoor recreational facilities in connection with the 1976 Winter Olympic games; to the Committee on the Interior and Insular Affairs.

H.R. 16824. A bill: National Commission on the Olympic Games; to the Committee on the Judiciary.

By Mr. OBEY:

H.R. 16825. A bill to take over a project in the State of Wisconsin pursuant to section 14 of the Federal Power Act; to the Committee on Interstate and Foreign Commerce.

By Mr. RAILSBACK:

H.R. 16826. A bill to amend title 23 of the United States Code, to provide for the Federal funding of land and easement acquisitions and the construction and improvement of necessary roads and scenic viewing facilities in order to develop a national scenic and recreational highway program; to the Committee on Public Works.

By Mr. REID:

H.R. 16827. A bill to amend the Internal Revenue Code of 1954 to permit an exemption of the first $5,000 of retirement income received by a taxpayer under a public retirement system or any other system if the taxpayer is at least 65 years of age; to the Committee on Ways and Means.

H.R. 16828. A bill to allow a credit against Federal income tax for State and local real property taxes or an equivalent portion of rent paid on their residences by individuals who have attained age 65; to the Committee on Ways and Means.

By Mr. ROBINSON of Virginia:

H.R. 16829. A bill to amend the Occupational Safety and Health Act of 1970 to provide additional assistance to small employers; to the Committee on Education and Labor.

By Mr. VANDER JAGT:

H.R. 16830. A bill to amend the Public Health Service Act to direct the Secretary of Health, Education, and Welfare to study the feasibility of broadening the purposes of the Uniformed Services University of the Health Sciences to train civilian physicians to serve in medically underserved areas; to the Committee on Interstate and Foreign Commerce.

By Mr. WIDNALL:

H.R. 16831. A bill to expand the national flood insurance program by substantially increasing limits of coverage and total amount of insurance authorized to be outstanding and by requiring known flood-prone communities to participate in the program, and for other purposes; to the Committee on Banking and Currency.

By Mr. BLATNIK (for himself, Mr. Jones of Alabama, Mr. Grover, Mr. Kluczynski, Mr. Cleveland, Mr. Wright, Mr. Don H. Clausen, Mr. Gray, Mr. Schwengel, Mr. Clark, Mr. Snyder, Mr. Edmondson, Mr. Zion, Mr. Johnson of California, Mr. McDonald of Michigan, Mr. Dorn, Mr. Hammerschmidt, Mr. Henderson, Mr. Mizell, Mr. Roberts, Mr. Terry, Mr. Kee, Mr. Thone, Mr. Howard, and Mr. Baker):

H.R. 16832. A bill authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes; to the Committee on Public Works.

By Mr. BLATNIK (for himself, Mr. Anderson of California, Mr. Caffery, Mr. Roe, Mr. Collins of Illinois, Mr. Begich, Mr. McCormack, Mr. Rangel, Mr. James V. Stanton, and Mrs. Abzug):

H.R. 16833. A bill authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes; to the Committee on Public Works.

By Mr. CAMP:

H.R. 16834. A bill to amend section 219 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to provide that certain persons displaced prior to January 2, 1971, by the Kaw Lake project of the Army Corps of Engineers may receive assistance under sections 202, 203, and 204 of such act; to the Committee on Public Works.

By Mr. CLARK:

H.R. 16835. A bill to amend the tariff and trade laws of the United States to encourage the growth of international trade on a fair and equitable basis; to the Committee on Ways and Means.

By Mr. FISH:

H.R. 16836. A bill to require local governmental approval for section 235 or 236 housing; to the Committee on Banking and Currency.

By Mr. FLOOD:

H.R. 16837. A bill to amend the Internal Revenue Code of 1954 so as to exclude from gross income amounts of disaster relief loans canceled pursuant to laws of the United States; to the Committee on Ways and Means.

By Mr. FULTON:

H.R. 16838. A bill to amend title 38 of the United States Code in order to extend to veterans of peacetime service between World War II and the Korean conflict the same hospital and domiciliary care benefits as are available to post-Korean conflict peacetime veterans; to the Committee on Veterans' Affairs.

By Mr. McCLURE:

H.R. 16839. A bill to amend title II of the Social Security Act to increase to $2,000 the amount of outside earnings permitted a beneficiary each year without any deductions from his benefits thereunder, and to provide for further increases in such amount to reflect future rises in the cost of living; to the Committee on Ways and Means.

H.R. 16840. A bill to amend title II of the Social Security Act to increase to $3,000 the amount of outside earnings permitted a beneficiary each year without any deductions from his benefits thereunder, and to provide for further increases in such amount to reflect future rises in the cost of living; to the Committee on Ways and Means.

By Mr. MATSUNAGA:

H.R. 16841. A bill to provide that the Federal building to be constructed in Honolulu, Hawaii, shall be named the "Prince Jonah Kuhio Kalanianaole Building"; to the Committee on Public Works.

By Mr. PRICE of Texas:

H.R. 16842. A bill to restrict travel in violation of area restrictions; to the Committee on the Judiciary.

By Mr. ROONEY of Pennsylvania (for himself and Mr. Schneebeli):

H.R. 16843. A bill to amend chapter 26 of title 49 of the United States Code to provide that compressed gas cylinders shipped in interstate commerce be inspected in the United States; to the Committee on Interstate and Foreign Commerce.

By Mr. SEIBERLING:

H.R. 16844. A bill to amend the Railroad Retirement Act of 1937 to provide that an individual shall be considered to have completed the minimum service required to qualify for a retirement annuity under the provisions of that act if he or she had at any time in the past completed the minimum service required to qualify for a retirement annuity under the corresponding provisions of law in effect at that time; to the Committee on Interstate and Foreign Commerce.

By Mr. VEYSEY:

H.R. 16845. A bill to amend the Social Security Act to make certain that recipients of aid or assistance under the various Federal-State public assistance and medicaid programs (and recipients of assistance under the veterans' pension and compensation programs or any other Federal or federally assisted program) will not have the amount of such aid or assistance reduced because of increases in monthly social security benefits; to the Committee on Ways and Means.

By Mr. PURCELL (for himself and Mr. Pickle):

H.J. Res. 1308. Joint resolution providing for a special deficiency payment to certain wheat farmers; to the Committee on Agriculture.

By Mr. STEELE:

H. Con. Res. 711. Concurrent resolution calling upon all parties to the 1949 Geneva

Convention Relative to the Treatment of Prisoners of War to insure respect for that convention by persuading North Vietnam to fulfill its obligations under the convention; to the Committee on Foreign Affairs.

By Mr. COLMER (for himself, Mr. SISK, Mr. BOLLING, Mr. YOUNG of Texas, Mr. SMITH of California, and Mr. LATTA:

H. Res. 1138. A resolution to amend the Rules of the House of Representatives with respect to House consideration of certain Senate amendments, to provide for the Delegates from Guam and the Virgin Islands, and for other purposes.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BLACKBURN:

H.R. 16846. A bill for the relief of George E. Ray; to the Committee on the Judiciary.

By Mr. FISHER:

H.R. 16847. A bill for the relief of George A. Simeral; to the Committee on the Judiciary.

By Mr. GUDE:

H.R. 16848. A bill for the relief of Dimitrios K. Angelopoulos; to the Committee on the Judiciary.

SENATE—*Tuesday, September 26, 1972*

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty and Eternal God, who hast been our guide and companion, our refuge and strength in all our yesterdays, may the memory of Thy great goodness inspire us to enter faithfully, courageously, and industriously upon the duties of this new day. Cleanse us of all that is base and ugly, that with pure hearts and steadfast devotion we may never fail Thee nor break faith with our better selves. Shed Thy holy light upon the work of Thy servants here that in their solemn deliberations, in hours of tedious toil, in testing moments they may be guided by Thy mind and spirit. May they hear the voice of the people but always obey the voice of the divine. By Thy continual presence give them the will to champion whatsoever things are true, whatsoever things are honest, whatsoever things are just, whatsoever things are pure, whatsoever things are lovely, and whatsoever things are of good report.

We pray humbly in Jesus' name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 26, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Monday, September 25, 1972, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Commerce Committee, the Veterans' Affairs Committee, and the Subcommittee on Internal Security of the Committee on the Judiciary be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the calendar, beginning with No. 1147 up to and including 1149, then Nos. 1160 and 1161.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ERIEZ MAGNETICS CORP.

The resolution (S. Res. 132) to refer the bill (S. 2026) entitled "A bill for the relief of Eriez Magnetics Corp." to the Chief Commissioner of the U.S. Court of Claims for a report thereon, was considered and agreed to, as follows:

Resolved, That the bill (S. 2026) entitled "A bill for the relief of the Eriez Magnetics Corporation", now pending in the Senate, together with all accompanying papers, is hereby referred to the Chief Commissioner of the United States Court of Claims. The Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due from the United States to the claimant.

CROWN COAT FRONT CO., INC.

The resolution (S. Res. 290) to refer the bill (S. 3451) entitled "A bill for the relief of the Crown Coat Front Co., Inc.," to the Chief Commissioner of the U.S. Court of Claims for a report thereon, was considered and agreed to, as follows:

Resolved, That the bill (S. 3451) entitled "A bill for the relief of the Crown Coat Front Company, Incorporated" now pending in the Senate, together with all the accompanying papers, is hereby referred to the Chief Commissioner of the United States Court of Claims; and the Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due from the United States to the claimant.

FRANK P. MUTO, ALPHONSO A. MUTO, ARTHUR E. SCOTT, AND F. CLYDE WILKINSON

The bill (S. 3756) for the relief of Frank P. Muto, Alphonso A. Muto, Arthur E. Scott, and F. Clyde Wilkinson, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in the administration of subchapter III (relating to civil service retirement) of chapter 83 of title 5, United States Code, and subject to sections 8334(c) and 8339(h) of such title, Frank P. Muto, Alphonso A. Muto, Arthur E. Scott, and F. Clyde Wilkinson shall be deemed to have rendered creditable service during such periods as they were employees of the Democratic or Republican Senatorial Campaign Committee prior to October 2, 1962.

(b) The Civil Service Commission shall accept the certification of the President of the Senate, or his designee, concerning the service of, and the amount of compensation received by, the individuals named in subsection (a) of this section.

(c) An individual receiving credit for service for any period referred to in subsection (a) of this section shall not be granted credit for such service under the provisions of the Social Security Act.

SYSTEM OF WILD AREAS WITHIN THE NATIONAL FOREST SYSTEM

The Senate proceeded to consider the bill (S. 3973) to establish a system of wild areas within the lands of the national forest system, which had been reported from the Committee on Agriculture and Forestry with amendments, on page 6, line 21, after "(3)", strike out "If, on the basis of representations received under provisions of section 103(c) the Secretary determines that measures are required for sanitation, health, and safety of the visiting public or for the protection of natural resources, such measures shall be of a rustic, primitive nature." and insert "Subject to existing private rights there shall be no commercial enterprise and no permanent road within any wild area designated by this Act and, except as necessary to meet the minimum requirements for the administration of the area for the purpose of this Act (including measures required in emergencies involving the health and safety of persons within the area), there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area.";

On page 7, line 11, after "(4)", strike out "Subject to existing private rights, the use of motorized equipment or aircraft shall be limited to measures required to protect the health and safety of persons using the area, and the control of fire, insects, and diseases, subject to such conditions as the Secretary deems desirable."; and insert "Within wild areas designated by this Act the use of aircraft or motorboats, where these uses have already become established, may be permitted to continue subject to such restrictions as the Secretary of Agriculture deems desirable. In addition, such measures may be taken as may be necessary in the control of fire, insects, and diseases, subject to such conditions as the Secretary deems desirable.";

On page 11, line 11, after "Sec. 202.", strike out "The administration, protection, and management of the Sipsey Wild Area shall be by the Secretary of Agriculture as a part of the national forest system and the Bankhead National Forest and shall be in accord with the provisions of title I of this Act."; and insert "The administration, protection, and management of the Sipsey Wild Area shall be by the Secretary of Agriculture as a part of the national forest system and the Bankhead National Forest and shall be in accord with the provisions of title I of this Act, except that the management plan for the Sipsey Wild Area shall provide that there shall be no commercial enterprise and no permanent road within such area and, except as necessary to meet minimum requirements for the administration of the area for the purpose of this Act (including measures required in emergencies involving the health and safety of persons within the area) and that there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area.".

So as to make the bill read:

S. 3973

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The National Forest Wild Areas Act of 1972".

TITLE I

STATEMENT OF FINDINGS AND ESTABLISHMENT OF A WILD AREA SYSTEM

SEC. 101. (a) Congress hereby finds that there is a need for a system of Federal lands in the Eastern United States which can provide present and future generations with primitive recreation opportunities in a spacious, scenic, natural, and wild setting removed from activities and highly developed works of man and similar to the experiences provided by the national wilderness preservation system; the national forest system represents a major federally owned land area in the Eastern United States; few areas of the national forest system located in the Eastern United States, which were acquired largely from private ownerships, meet the criteria set forth for wilderness by the Wilderness Act of 1964 (78 Stat. 890; 16 U.S.C. 1131) because of the past works of man; and that many such national forest areas have been restored or are in the process of restoration to a near natural condition and appear predominantly primitive and undisturbed in character.

(b) In accord with these findings there is hereby created a system of federally owned national forest wild areas designated by Congress within the national forest system, east of the one hundredth meridian to be managed by the Secretary of Agriculture (hereinafter referred to as the "Secretary") as a part of the national forest system. Areas designated under this Act shall be known as wild areas and shall be administered to restore, maintain, and protect the natural, primitive, and wild character of the areas for public use and enjoyment for primitive recreation, scientific, and educational purposes by present and future generations of the American people. No area shall be designated as a wild area except as provided for in this Act or a subsequent Act.

DEFINITION

SEC. 102. The term "wild area" as used in this Act is an area of outstanding beauty; is primarily primitive and natural in character although man and his works may have been present or are present, and wherein the marks of man's activities are subject to restoration to the appearance of a predominantly primitive and natural condition; is large enough so that the primitive and natural values can be preserved; and the area provides outstanding opportunities for public use and enjoyment in a primitive setting.

ESTABLISHMENT OF AREAS

SEC. 103. (a) The Secretary shall study and, from time to time, submit to the President areas which in his judgment meet the requirements of this Act and are suitable and desirable for "wild area" classification. Prior to the submission of any such area the Secretary shall make a specific determination that the area recommended for "wild area" classification does not meet the criteria for wilderness as set forth in section 2(c) of the Wilderness Act of September 3, 1964 (78 Stat. 891, 16 U.S.C. 1131(c)). The President shall advise the United States Senate and the House of Representatives of his recommendations with respect to the designation as a "wild area" of each area submitted. Each recommendation of the President for designation of an area as a "wild area" shall become effective only if so provided by an Act of Congress.

(b) Each proposal shall be accompanied by a report, including maps and illustrations, showing among other things the area included within the proposal, the characteristics which make the area a worthy addition to the system; the current status of landownership and use in the area; the reasonably foreseeable potential uses of the land and water which would be enhanced, foreclosed, or curtailed if the area were included in the wild area system.

(c)(1) Prior to submitting any recommendations to the President with respect to the suitability of any area for designation as a "wild area" the Secretary shall:

(A) give such public notice of the proposed action as he deems appropriate, including publication in the Federal Register and in a newspaper having general circulation in the area or areas in the vicinity of the affected land;

(B) hold a public hearing or hearings at a location or locations convenient to the area affected. The hearings shall be announced through such means as the Secretary deems appropriate, including notice in the Federal Register and in newspapers of general circulation in the area: *Provided,* That if the lands involved are located in more than one State, at least one hearing shall be held in each State in which a portion of the land lies;

(C) at least thirty days before the date of a hearing advise the Governor of each State, the governing board of each county, parish, town, and municipality in which the lands are located, the governing board of each appropriate substate multijurisdictional general purpose planning and development agency that has been officially designated as a clearinghouse agency under Office of Management and Budget Circular A-95, and the governing board of each appropriate established environmental protection district, and Federal departments and agencies concerned, and invite such officials and Federal agencies to submit their views on the proposed action at the hearing or by no later than thirty days following the date of the hearing.

(2) Any views submitted to the Secretary under the provisions of (1) of this subsection with respect to any area shall be included with any recommendations to the President and to Congress with respect to such area.

(d) Any modification or adjustment of any wild area shall be recommended by the Secretary after public notice of such proposal and public hearing or hearings as provided in subsection (c) of this section. The proposed modification or adjustment shall then be recommended with map and description thereof to the President. The President shall advise the United States Senate and the House of Representatives of his recommendations with respect to such modification or adjustment and such recommendations shall become effective only in the same manner as provided in subsections (a) and (b) of this section.

ADMINISTRATION

SEC. 104. (a) The Secretary shall administer units of the wild area system in accord with the following provisions:

(1) Primitive, natural, and wild conditions will be restored, maintained, and protected to provide for public use and enjoyment for recreation, scientific, and educational purposes in a natural setting free from the activities and highly developed works of man, wherein natural attractions prevail in an atmosphere of spacious solitude.

(2) Public use shall be permitted consistent with the ability of the area to support such use and retain its primitive, natural, and wild characteristics.

(3) Subject to existing private rights there shall be no commercial enterprise and no permanent road within any wild area designated by this Act and, except as necessary to meet the minimum requirements for the administration of the area for the purpose of this Act (including measures required in emergencies involving the health and safety of persons within the area), there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area.

(4) Within wild areas designated by this Act the use of aircraft or motorboats, where these uses have already become established, may be permitted to continue subject to such restrictions as the Secretary of Agriculture deems desirable. In addition, such measures may be taken as may be necessary in the control of fire, insects, and diseases, subject to such conditions as the Secretary deems desirable.

(5) No timber harvesting shall be permitted.

(6) No grazing of domestic livestock shall be allowed except riding stock where permitted.

(7) No commercial services shall be allowed except those necessary to achieve the purposes of the Act.

(b) The Secretary shall prepare a management plan for each unit of the wild area system in accordance with the Act, utilizing a multidisciplinary approach and providing for appropriate public involvement.

ACQUISITION

SEC. 105. (a) Within areas of the wild area system, the Secretary may acquire by purchase with donated or appropriated funds, by gift, exchange, condemnation, or otherwise, such lands, waters, or interests therein as he determines necessary or desirable for the purpose of this Act. All lands acquired under provisions of this section shall become national forest lands.

(b) In exercising the change authority granted by subsection (a) of this section, the Secretary may accept title to non-Federal property for federally owned property located in the same State, of substantially equal value, or if not of substantially equal value, the value shall be equalized by the payment of money to the grantor or to the Secretary as the circumstances require.

(c) The head of any Federal department or agency having jurisdiction over any lands or interests in lands within the boundaries of any wild area is authorized to transfer to the Secretary jurisdiction over such lands for administration in accordance with provisions of this Act.

MINERALS

SEC. 106. Subject to existing valid claims, federally owned lands within units of the wild area system are hereby withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing or disposition of mineral materials.

SEC. 107. The Secretary shall permit hunting, fishing, and trapping on the lands and waters under his jurisdiction within wild areas in accordance with applicable Federal and State laws; except that the Secretary may issue regulations designating zones where and establishing periods when no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment. Except in emergencies, any regulations pursuant to this section shall be issued only after consultation with the wildlife agency of the State or States affected.

SEC. 108. The Secretary shall cooperate with the States and political subdivisions thereof in the administration of wild areas and in the administration and protection of lands within or adjacent to the wild area owned or controlled by the State or political subdivisions thereof. Nothing in this Act shall deprive any State or any political subdivision thereof of its right to exercise civil and criminal jurisdiction within the wild area, or of its right to tax persons, corporations, franchises, or other non-Federal property, including mineral or other interests, in or on lands or waters within the wild area.

SEC. 109. The Secretary is authorized to make such rules and regulations as he deems necessary to carry out the purposes of this Act.

TITLE II

ESTABLISHMENT OF THE SIPSEY WILD AREA WITHIN THE BANKHEAD NATIONAL FOREST, STATE OF ALABAMA, AND FOR OTHER PURPOSES

SEC. 201. Congress hereby finds that the Sipsey Area of the Bankhead National Forest, as described herein, is an area of national forest land which, although one subject to the works and activities of man, has been restored or is in the process of restoration to a predominantly primitive and natural condition, appears predominantly primitive and undisturbed in character, and is chiefly valuable for the purpose of providing present and future generations primitive recreation opportunities in a spacious, scenic, natural, and wild setting, removed from activities and highly developed works of man. In order to provide permanent protection and enhancement of the resource values which contribute to public enjoyment of said area, and to provide an equal or greater degree of protection than could be afforded if the area were qualified and part of the national wilderness preservation system, there is hereby established the Sipsey Wild Area within the Bankhead National Forest, State of Alabama. The Sipsey Wild Area shall consist of approximately twelve thousand acres as shown on a map entitled "Proposed Sipsey Wild Area" dated September, 1972, which is on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture and to which is attached and hereby made a part thereof a description of the exterior boundaries. The Secretary may by publication of a revised map or description in the Federal Register correct clerical or typographical errors in said map or description.

SEC. 202. The administration, protection, and management of the Sipsey Wild Area shall be by the Secretary of Agriculture as a part of the national forest system and the Bankhead National Forest and shall be in accord with the provisions of title I of this Act, except that the management plan for the Sipsey Wild Area shall provide that there shall be no commercial enterprise and no permanent road within such area and, except as necessary to meet minimum requirements for the administration of the area for the purpose of this Act (including measures required in emergencies involving the health and safety of persons within the area) and that there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

NATIONAL COMMISSION ON MULTIPLE SCLEROSIS ACT

The Senate proceeded to consider the bill (S. 3659) establishing a commission to develop a realistic plan leading to the conquest of multiple sclerosis at the earliest possible date, which had been reported from the Committee on Labor and Public Welfare with an amendment on page 5, after line 14, insert a new section, as follows:

EXPENSES OF THE COMMISSION

SEC. 7. The expenses of the Commission shall be paid out of funds otherwise available to the President.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Commission on Multiple Sclerosis Act".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress hereby finds and declares—

(1) that multiple sclerosis is a disease characterized by degeneration within the brain and spinal cord and by loss of motor and sensory functions;

(2) that this disease, known as the "great crippler of young adults," generally makes its first appearance in the very prime of life, between the ages of twenty and forty, already affects great numbers of Americans, and will begin to afflict an even greater number as our young adult population expands;

(3) that the cause of multiple sclerosis is unknown and there is neither a preventive nor a cure for the disease; and

(4) that the determination of the most effective program for discovering causes, cures, and treatments deserves the highest priority.

(b) It is the purpose of this Act to establish a national commission—

(1) to determine the most productive avenues of exploration toward researching the possible causes and cures for this disease; and

(2) to make specific recommendations concerning the utilization of national resources for that purpose.

ESTABLISHMENT OF COMMISSION

SEC. 3. There is hereby established a commission to be known as the National Commission on Multiple Sclerosis (hereinafter in this Act referred to as the "Commission").

SEC. 4. (a) The Commission shall be composed of eleven members appointed by the President from among individuals with a demonstrated interest in achieving, through research, practical means for preventing or arresting the further progress of multiple sclerosis within the shortest possible time, with a knowledge of the prerequisites for productive research and development, and with a grasp of the forces motivating greater productivity, as follows:

(1) six members from the public; and

(2) five members from the medical community.

(b) The President shall designate one of the members of the Commission to serve as Chairman and one to serve as Vice Chairman.

(c) Six members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

(d) Each member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation. Each member of the Commission who is not otherwise employed by the United States Government shall receive $100 per day (including travel-time) during such time as he is actually engaged in the performance of his duties as a member of the Commission. Each member of the Commission shall be allowed travel expenses and a per diem allowance in the same manner as prescribed for persons employed intermittently in the Government service under section 5703(b) of title 5, United States Code.

DUTIES OF THE COMMISSION

SEC. 5. (a) It shall be the duty of the Commission to make a thorough and complete study and investigation of current research in the field of multiple sclerosis and related neurological diseases to determine the most productive avenues of approach toward finding causes, cures, and treatments for multiple sclerosis, including recommendations with respect to the need for enactment of new legislation or the revision of existing legislation. Such study and investigation shall give particular emphasis to funding needs and the means by which the Federal Government can best participate in this effort.

(b) The Commission shall transmit to the President and to the Congress a final report not later than one year after the date of enactment of this Act, and shall cease to exist thirty days after submitting its report.

SEC. 6. (a) In order to carry out the provisions of this Act, the Commission is authorized to—

(1) make expenditures;

(2) hold hearings;

(3) take testimony orally or by deposition;

(4) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates; and

(5) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

(b) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and urged to furnish to the Commission, upon the request of the Chairman or Vice Chairman, such information, services, personnel, and facilities as the Commission deems necessary to carry out the provisions of this Act.

EXPENSES OF THE COMMISSION

SEC. 7. The expenses of the Commission shall be paid out of funds otherwise available to the President.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar will be stated.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

The second assistant legislative clerk read the nomination of Colston A. Lewis, of Virginia, to be a member of the Equal Employment Opportunity Commission for the term expiring July 1, 1977.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

ACTION

The second assistant legislative clerk read the nomination of Christopher M. Mould, of the District of Columbia, to be an Associate Director of ACTION.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NATIONAL MEDIATION BOARD

The second assistant legislative clerk read the nomination of Kay McMurray, of Illinois, to be a member of the National Mediation Board for the remainder of the term expiring July 1, 1974.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

BOARD OF PAROLE

The second assistant legislative clerk read the nomination of Thomas R. Holsclaw, of Kentucky, to be a member of the Board of Parole for the term expiring September 30, 1978.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

HELP FOR VICTIMS OF CRIME

Mr. MANSFIELD. Mr. President, there is a thoughtful editorial published in the Christian Science Monitor for September 22, 1972, entitled "Help for Crime's Victims."

It indicates the need for legislation of this sort and gives credit where credit is due, to the distinguished Senator from Arkansas (Mr. MCCLELLAN) who put the case well in presenting this legislation, using these words:

> Our system of criminal justice must in some measure compensate those who are wronged as well as punish those who are wrongdoers.

Mr. President, I ask unanimous consent to have the editorial printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

HELP FOR CRIME'S VICTIMS

If the federal government assumes responsibility, as it does, for the innocent victims of natural disaster—such as the thousands made homeless in the Middle Atlantic states by Hurricane Agnes, or the New England fishermen whose business has been washed out by the "red tide" of poisonous algae—why should it not compensate the innocent victims of crime?

There is a good case to be made for government assumption of this responsibility. It is being made in the form of a bill, just passed by the Senate, which would pay the victims of violent crime from $100 to $50,000 for costs incurred in such attacks. The bill would cover medical or burial costs, loss of earnings, rehabilitation, child-care costs, and similar expenses.

In favor of such a proposal, it can be argued that while the government is not responsible for nor can it prevent natural disasters, it has elected to help the victims of such calamities. But crime prevention is a constitutionally ordained responsibility of government. Under its police powers, is government not much more responsible to the victims of crimes which it has failed to prevent, than to the victims of natural disasters?

Countering this argument is the obvious concern over how much this new undertaking would cost the taxpayer. Companion to that is the fear, expressed by administration officials among others, that it would open the door to fraud. As for the first objection, the cost of such a program (for which the Senate bill asks $15 million the first year) could in itself be an incentive for the government to push even harder on crime control, which is after all the central and root issue. The second objection derives from the same philosophical gulf between those who favor and those who oppose welfare programs on grounds that there are always some chiselers looking for a free ride. That is lamentably true, as there are always goldbrickers in the armed services, and dunderheads in the public schools. But we do not decommission the Army nor close the school doors because of the tiny minority who do not carry their own weight.

England, Australia, New Zealand, and Canada have already recognized the basic justice of this idea and passed laws helping crime victims. Closer to home, so have nine states. And the legislation introduced by Senator McClellan recognizes and encourages such state laws by providing that $10 million of the first year's proposed cost would go to pay 75 percent of the costs incurred by the states for this purpose.

The crime compensation bill has been tacked on to a larger omnibus anticrime bill in such manner as to bypass the usual House floor debate—where it might have gotten short shirt—and will shortly go to a joint House-Senate conference committee. With all the current emphasis on increasing violence and the more wildly recognized need for crime prevention, as evidenced in the omnibus legislation of which this bill is a part, there is need for a balance that includes crime's victims. Senator McClellan put the case well in these words: "Our system of criminal justice must in some measure compensate those who are wronged as well as punish those who are wrongdoers."

OUR PRISONERS OF WAR AND MIA'S

Mr. MANSFIELD. Mr. President, our hearts are torn, because of the plight U.S. prisoners of war and U.S. MIA's find themselves in at the present time.

There has been a good deal of discussion in the press about the POW's and I ask unanimous consent that two editorials, one from the Los Angeles Times entitled "The POW's Are a False Issue," and the other from the Baltimore Sun entitled, "War Prisoners or Political Pawns?" both published today, be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Sept. 24, 1972]

THE POW'S ARE A FALSE ISSUE

It has been a pathetic picture, the three American prisoners of war, promised release from North Vietnam, paraded before cameras and in and out of interviews, two of them accompanied by families, their agonized reunions exploited. And then flown off to China. They speak with the nervous caution of men long used to silence, still unsure of their freedom, knowing that they have been chosen out of no respect for international conventions but solely to perpetuate a war of propaganda.

By official American count, they are three from among 537 American prisoners of this undeclared war, and that is to say nothing of the 1,254 missing in action.

No matter how one judges this war, they are tragic figures, all of the prisoners. They have been denied the norms that a civilized world has developed for its uncivilized behavior. Hanoi has rejected international inspection of its camps, confirmation of the prison lists, even the regular exchange of mail. And Hanoi has also refused the return of its own sick and wounded, or any plan that would shift all prisoners to neutral territory and international supervision.

The prisoners have been made pawns of peace by both sides, a central issue of four years of negotiations.

President Nixon has insisted that American troops will remain until the prisoners are freed. Congressional foes of the war dared schedule the suspension of funds only on a timetable four months after the release of the prisoners. And the North Vietnamese, quick to appreciate the apparent American sensitivity, now use the prisoner release to try to make more tempting each demand at the negotiating table. So the prisoners become an issue that prolongs the war.

It is a false issue. Mr. Nixon has long since reduced the American combat capability in Indochina to a point where American troops couldn't do anything about the prisoners even if they wanted to. There isn't even the wherewithal, it appears, for another absurdity like the Son Tay raid that found only an empty prison camp in November of 1970. The American capability today is limited to inflicting the punishment of naval and aerial bombardment which have yet to pound any political flexibility into Hanoi.

So the shrillness of the American voices reflects in some sense a helplessness. But the scene is not helped by its domestic political extensions, including the weekend exchanges between Sen. George McGovern and Secretary of Defense Laird.

It seems quite evident that the people of the United States are not impressed with the propaganda exercise that Hanoi is unfolding with the encouragement of a handful of American activists.

The prisoner issue is not likely to be resolved before the war is ended. The prisoners are of value to North Vietnam only to the extent that the United States accepts them as part of a negotiating package. The most likely way to end the lonely incarceration of the prisoners is to end the American military role in Indochina.

[From the Baltimore Sun, Sept. 24, 1972]

WAR PRISONERS OR POLITICAL PAWNS?

The way in which American prisoners of war in North Vietnam are being dangled on political strings, like puppets, is disgraceful. These are human beings—these men who have already suffered severe and unique hardship in the service of the United States, and their families in this country who have suffered their own kind of hardship. It is inhuman for governments or special interests to treat them as mere instruments of propaganda or policy, to be manipulated (so far as possible) before cameras and microphones and to be kept in suspense as to when and how they are actually to be released. The spectacle of the past week in North Vietnam is calculated to play upon the emotions and sympathies of all Americans, and no doubt it has, but it also should create a feeling of indignation and outrage.

If North Vietnam wishes to release selected prisoners of war, primarily to show that it accords them fair treatment, it seems to us that this should be done decently and with some respect for the men, their families and the sensibility of the American people. Hanoi adds nothing to its case by dealing through private groups of anti-war Americans, by encouraging the prisoners to utter empty platitudes before they are released and by arousing in other prisoners of war a hope that at some point they too may be singled out for favor.

The United States government, responsible for the fact that the men are prisoners of war, has a primary obligation now to show its concern for the men and their families, to welcome their release and to do everything possible to assure their safe and swift return. And this fact must be kept in mind: the way to bring about the release of all the prisoners of war is to end the war.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The distinguished Republican leader is recognized at this time.

AMNESTY FOR DESERTERS AND DRAFT EVADERS

Mr. SCOTT. Mr. President, just in the interest of truth, I should like to note the inaccuracy of a television commercial that is appearing from time to time and in speeches made by the same person, the candidate of the opposition, who continually asserts that he is in favor of a general amnesty for draft evaders, although he adds, "but not for deserters."

Candidate McGovern goes on to say that President Coolidge provided amnesty after World War I, and President Truman after World War II, and so forth.

Well, Mr. President, that is not accurate. It is not even close to being accurate. It is wrong. It is incorrect. It is misleading. It is exactly the opposite of what happened.

There is no precedent for general amnesty for wartime draft evaders. During World War I there was no amnesty for draft evaders. In 1924, President Coolidge pardoned about 100 men who had deserted from the Armed Forces after the war. Then, 15 years after the armistice, President Roosevelt granted amnesty and restored citizenship to World War I draft evaders who had been prosecuted and who had served their sentences.

In 1947, after World War II, President Truman pardoned 1,523 out of 15,805 who had violated draft laws during the war. After the Korean war there was a total absence of amnesty.

I think that Candidate McGovern owes it to the people of this country in the interest of fair campaign practices, in the interest of truth in advertising, in the interest of truth in packaging, and in the interest of truth in labeling, to tell the people of this country that he has made a woeful and grievous mistake and that some benighted member of his staff has again wrongly advised him.

There never was general amnesty. I cited the only occasions on which it occurred. We ought to stop hearing this story that I have heard, "I am only doing what other people have done who were President from time to time."

So, Mr. President, from time to time I will issue mild abjurations to Candidate McGovern to try to stick more closely to the path of accuracy, which will bring a little more comfort for him than the rocky road of deviation.

QUORUM CALL

Mr. MANSFIELD. Mr. President, may I be recognized?

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER TO PRINT "JOURNEY TO CHINA" AS A SENATE DOCUMENT

Mr. MANSFIELD. Mr. President, while the distinguished minority leader and I were in China, it was requested that we not issue a formal report at that time. As the Senate will recall, we did make a report to the Senate and, because of the request made, we did not issue a printed report at that time. At this point, there is no longer any need to refrain from doing so.

Therefore, on behalf of the distinguished Republican leader and myself, Mr. President, I ask unanimous consent that the reports which we made to the Senate be incorporated in a Senate document and entitled "Journey to China."

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Chair recognizes the distinguished Senator from Iowa (Mr. Hughes) for not to exceed 15 minutes.

THE WAR UNDER PRESIDENT NIXON

Mr. HUGHES. Mr. President, today is the 1,345th day of the war under President Nixon—a period almost exactly as long as that from Pearl Harbor to V–J Day. Three decades ago, it seemed to us that the carnage and horror of World War II was lasting a lifetime. Now in a few more days, our still-undeclared war in Indochina will have outlasted the war with the Nazis and the Japanese. And there is still no end in sight.

It is true that the nature of the war has changed. Last week, for the first time since March 1965, there were no reported American battlefield deaths in Vietnam. The combined U.S. casualty count of five noncombat deaths, four men missing or captured and seven wounded was the lowest since 1961.

This, of course, does not mean that our involvement in the killing has stopped. The mechanized destruction by American forces continues from the skies and from the seas. Although all combat units have been withdrawn and there are only 36,000 U.S. soldiers still stationed in South Vietnam, there are about five times that number all told, including Air Force personnel in Thailand and elsewhere and naval personnel offshore.

On this day when the Senate will be once again voting on whether or not this war should be ended, it is worth asking, as we have in the past, what has been the cost of prolonging this war?

We know that one third of the people of the nations of Indochina have been driven from their homes. Over a million people have been killed in total. Countless hundreds of thousands have lifetime scars and disabilities as reminders of this unending war.

We know about these horrors, but they

have been going on so long that they have become ordinary and our ability to feel pain and outrage has become strangely numbed.

When this war began and our involvement began, the pages who are now on the Senate floor were little children. And it may be that as we continue with this war that some who are little children today may be pages on the Senate floor as the debate goes on years from now, unless we realize what is happening.

There are costs in this war that we have not heard much about, hidden costs that will takes years to evaluate and generations to correct, no one really knows. One such cost that has received insufficient attention, in my judgment, is the damage this war has done to the physical strength, the morale, and the spirit of our armed services. Our people have, in the past, been motivated to fight in wars for defense of country and for high purposes of humanity, defending the freedoms of the world for many Americans. For many Americans, both ingredients are lacking in this war. Emotional problems, racial tensions, boredom and drug abuse have become problems to the armed services of unprecedented seriousness.

Two years ago, the American people became alarmed, almost overnight, about drug abuse in the armed services—particularly heroin addiction in Vietnam. There was apprehension, not only about the infestation of the armed services with the drug plague, but the prospect of adult drug dependents by the thousands being released, uncured of their addiction, into the mainstream of civilian society which, even without this influx, has not yet found out how to cope effectively with the drug problem in America.

Despite optimistic pronouncements from the administration and the military, I regret to state that, in my judgment, the fears that people had 2 years ago are now being borne out to an extent far beyond what is generally known. The urine testing program, put into effect by the armed services a year ago, in addition to its useful purposes, is emerging as an instrument for getting undesired personnel out of the armed services and violating the right to privacy of veterans and others. Efforts to cut off or control the opium traffic flowing out of the Golden Triangle area into the hands of American servicemen have simply not been successful by any realistic appraisal.

While all of the pressure of this great Nation was on the countries of the Middle East to stop this great opium traffic into our great Nation, the Golden Triangle of Indochina, where we spent tens of thousands of lives, was the area developing as the bread basket of opium supply flowing into this Nation. And it is still pouring into this Nation, despite the statements of the President.

I will wait with interest for sanctions to be taken against any nation in this Golden Triangle area by this President as long as this war and this conflict goes on, regardless of the amount of opium coming into this country from that area.

I want to make it plain that I am not talking about the quality or courage of the men in our Armed Forces. I am talking about what a war which so many believe to be morally wrong and not in our national interest does to the spirit of our fighting men, as well as to the attitudes of the American people about the military.

The Army we sent to Vietnam mirrored many of the domestic problems which we have been unable to solve because of the continued drain of that war—drugs, racial tensions, sagging morale, and the loss of a sense of real purpose. In some units, discipline collapsed. There were fraggings by enlisted men and, reportedly, counterfraggings by officers. Some units refused to follow orders into battle—not out of cowardice, but more commonly because of a lack of trust in newly arrived commanders, who did not have the ability to lead.

Recently, as you know, we have seen the case of a four-star general who conducted his own private war over North Vietnam in disobedience of orders and falsified the official reports. In addition to raising profoundly serious questions about the ability of the military command to control its own personnel, it poses an even more basic question of the breakdown of civilian control over the military. I must say the way this matter was reported and handed to the American people was deceptive.

This breakdown in our command and control system is perhaps the most demoralizing development in our armed services since My Lai. It is part of what this war has done to the state of our Armed Forces and the integrity of our national defense.

The vast majority of us have from time to time served as members of our armed services, and have fought in wars our country was forced to fight, and we regret seeing the public attitude changed to where people mistrust totally a military that must, in the interest of this Nation, be maintained at a moderate and decent level for the good of the world and the best interests of this Nation. And we regret to see the contributions that this war has brought against a military which was forced to fight because of political decisions, but has helped continue a war because of things Presidents have been unable to accomplish.

Are we locked into 4 more years of this in search of victory or peace on our own terms?

In many ways, this is a war without victors, only survivors.

Widows and orphans still have to eke out a living while the war goes on. Rice still has to be planted, if the farmers are not afraid to venture out to their paddies.

"Victory" means the recapture of the piles of rubble once known as An Loc or Quang Tri. Such "victories" are as empty as the villages and hamlets which were caught in the crossfire of this devastating war.

Reporters on the scene say that the war is stalemated and likely to stay that way for some time. Meanwhile, the United States plans to pour several billion dollars into Vietnamization and shows no sign of reducing our bombing, which now is about 100,000 tons of munitions each month.

This administration, like the previous one, has been unable to end this war. In fact, it has enlarged the war in many respects as the President tried one "decisive military action" after another, each one without the success he promised the American people.

As Craig Whitney of the New York Times wrote last Sunday, the invasion of Cambodia did not succeed in cutting off supplies. Nor did the invasion of Laos. Nor did the massive bombing of last winter. And we have the admission of Air Force officials that even the renewed bombing of the North and the mining of the harbors stopped only about half to three-quarters of the supplies from getting through—not nearly enough to have a decisive impact on the war.

At each stage of this long war, the decisionmakers have been mesmerized by predictions of victory if only one more thing were tried. And each of the predictions, literally and figuratively, has turned to ashes.

The war policy has not worked. Is it not time we tried a peace policy?

No one can believe that we are still in Vietnam in order to save democracy, for President Thieu has defied his own Constitution and has smashed the last semblance of a free press or local democracy.

Rather, we seem to be trying to save face—to salvage a reputation which long ago was tarnished by our involvement in this war. So we continue the war—at a daily cost of $20 million, with an average of one American killed, missing or captured each day.

We have bought time—time for the South Vietnamese to build the fourth largest armed force in the world, time for the Saigon regime to perfect its instruments of repression.

And at what cost to the United States? Twenty thousand more American deaths; 100,000 more wounded; 40 percent more men listed as POW's or MIA's; and $68 billion more in war spending since January 1969.

This war has gone on far too long. Now is the time for the Congress to enact a peace policy which will bring this war to an end.

If we do not take this step, then we are signing a blank check for 4 more years of war.

Four more years. Who would have thought, 4 years ago, that boys in junior high school would be risking their lives in Indochina 4 years later? And if current policy is continued, who can honestly guarantee that boys in junior high school today will not be at war in Southeast Asia 4 years from now?

When this war is over—if it ever ends, and I believe it will—we will probably look back more in sorrow than in anger; more in wonder at how we could ever have tolerated it so long.

In the long perspective of history, we will see how much this war diverted us from our traditional good works for other nations, how much it weakened our standing as the defender of freedom and democracy in the world.

We will also see how much it divided

our own people and created mistrust toward our Government.

Those costs may never be fully known—and the damage could be irreparable for years to come. Even among our children, as a recent survey shows, cynicism has replaced idealism; anger has replaced trust; fear has replaced hope. The military we should admire and respect has been brought under question time and time again.

And, side by side with the bomb craters in Indochina, we have the craters of neglect here in America. Suffering people and worthwhile programs have been shunted aside while we fought in Vietnam.

This is the legacy of Vietnam. Unless we act today to end this war, we may be locking ourselves in for 4 more years of tragedy beyond description at home and abroad.

Mr. President, I suggest the absence of a quorum.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. HUGHES. I am happy to yield to the Senator from Montana.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Chair recognize me at this time, inasmuch as I have a 5-minute order.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized for the purpose of yielding a portion of his time to the Senator from Montana.

Mr. ROBERT C. BYRD. I yield to the distinguished majority leader.

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

Mr. MANSFIELD. Mr. President, I have listened with great interest to what the Senator from Iowa has just said. As the Senator said there will be no victors in this war, only survivors.

The Senator also stated that in the years to come when this war is over with, and it will be over with some day, we will look back upon. it with sorrow, and anger, and grief because of the Americans who have lost their lives in a war in which we had no business, in an area in which we had no interest, and in a cause which has brought about division, dissention, and discontent at home.

The one thing which weighs most heavily on my mind, and has from the very inception of this conflict, is the fact that we have lost in excess of 55,000 Americans; 56,131 Americans have died in Vietnam and Indochina since the first of January 1961 through the 16th of September 1972, and 303,387 have been wounded, for a total casualty list of 359,518 Americans. And what did they die for? Why were they wounded? What was the cause? I have never been able to satisfy myself that there was any legitimate reason, and I certainly do not agree with anyone who says that the Gulf of Tonkin resolution gave any President of the United States the right to interfere on the scale that we have in Southeast Asia.

As the only remaining living signatory to the Southeast Asia Treaty, I want to say unequivocally, despite what others have said, that that treaty did not give this Nation the right to intervene as it did in the affairs of Laos, Cambodia, and Vietnam.

I think that the Senator from Iowa has performed, as always, a real service to the Senate and the Nation in baring his soul, his feelings about this tragic war. The war may go on for 4 more years; I believe there was a statement in one of the North Vietnamese newspapers just several days ago which indicated that fact. In the course of this war we have questions coming up which reflect upon the Armed Services of this Nation, specifically the U.S. Army, which is a proud organization, but which, I think, must be rehabilitated, rejuvenated, and reconstructed. There is My Lai, Song Tri, the latest incident of unauthorized bombing.

The Senator and I served as enlisted men in two different wars. If we had disobeyed orders, if we had gone beyond the ken of our superior officers, I think the Senators knows what would have happened to us. We would have had no recourse to a congressional committee. I think it is well, due to the initiative of the Senator from Iowa and the sergeant from his home State of Iowa, that this matter had been laid out, not so much to find a scapegoat, but to reassert again the chain of command, which will be subordinate—and I repeat that word subordinate—to civilian controls, as the Constitution dictates. There are no if's, and's or but's.

This is an area which affects all of us. It is not a Democratic issue. It is not a Republican issue.

All of us, in some way, in some fashion, are at fault in this situation, but we have not paid the price in this Chamber. Young men who had nothing to say about it have paid the price. Today our POW's are increasing in numbers as the bombing of the past 4 or 5 months continues and is stepped up. Today we look at the war against a sixth-rate nation on which, in addition to Laos, Cambodia, and South Vietnam, we have dropped more than three times the total amount of bomb tonnage that was dropped in all theaters in the Second World War and during the Korean war. And the end is not in sight. The people still suffer and the people still pay.

I want to get this war out of my memory, if I can—which I doubt. I want to see it brought to an end so that we can take care of our own problems and face up to the needs of our own people.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired. The Senator from Massachusetts (Mr. KENNEDY) yielded 2 additional minutes to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I have finished my remarks.

Mr. HUGHES. Mr. President, I thank the distinguished Senator from Montana—the Senator from Massachusetts has agreed to yield me the 2 minutes—for his participation, actually a great conclusion to what I had previously said. It is obvious that we have shared the agony of the war in our hearts and our inability and frustration to do something conclusive in the Congress of the United State. I think just as obvious is the devastating effect the war has wrought not only in Indochina, but, ironically, so many problems for the military itself.

So many debates have taken place in the brief time I have been in the U.S. Senate on this subject that it is difficult to recall them all. So many things have been said that are so similar. Yet we go on. I do hope that this may be the day when we can begin the end by exercising the constitutional right of this body to end the war in Southeast Asia.

I thank the Senator from Massachusetts for yielding.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Chair recognizes the distinguished senior Senator from Massachusetts (Mr. KENNEDY) for not to exceed 15 minutes, less the time he yielded to the distinguished Senator.

THE PRESIDENT'S WAR IN INDOCHINA

Mr. KENNEDY. Mr. President, the most important issue before the American people this year is President Nixon's war—and our country's massive contribution to the daily bloodbath that continues to sweep over the people and villages of Indochina. It is a tragedy which the President promised to end, but a tragedy whose end is not in sight.

The rhetoric of this administration has been a rhetoric of peace—of leaders approving "decisive" military ventures and "sanctuary operations" to end the war, of "new optimists" talking about pacification gains, and of generals telling us the enemy is on the run. But no amount of old rhetoric or new promises by this administration can cover a simple fact—the last 4 years have only produced war and more war, which tears the fabric of our society and numbs the spirit of our Nation—1969 brought a secret airwar over Laos; 1970 brought a senseless invasion of Cambodia; 1971 brought sanctuary operations into Laos and 1972 brought the mining of Haiphong Harbor, and the unprecedented airwar over North Vietnam.

The American people were led to believe that all of these ventures, and more, would shorten the war. Some of these ventures were even labeled "decisive"—in terms of bringing the peace. But these military gambits, cloaked in a rhetoric of peace, have failed in their purpose. They have failed to shorten the war—let alone end it. And that is the dismal record of the administration's policy toward the Indochina war.

So the war drags on—amid reports from the White House which emphasize the administration's unending willingness to continue the war, and contribute some more to the bloodbath sweeping over the countries of Indochina.

We have become accustomed to the rhythm of violence in Vietnam and Indochina—to the dual cadence of death and destruction in the field—to the unlimited commitments from both sides to bomb and rocket, and kill and maim, even more.

In fact, so much violence and so many tragedies have assaulted our sensibilities in recent years—violence and tragedies often carried out in America's name—that many of us have become immune to what is happening in Indochina. We forget the plight of the innocent victims of this conflict, while we continue the massive bombing of their villages. We hardly notice when our President pledges an unlimited air war over Indochina, or when field reports, describing pitiful conditions, appear in our press. In the Miami Herald of August 23—the very day President Nixon accepted his renomination—Peter Arnett, a respected correspondent for the Associated Press, made this report from Quang Tri. He said:

> Both sides are systematically destroying this once-pleasant riverside community of palm-shaded streets and historic sites where 80,000 Vietnamese lived. It is an orgy of destruction that has no parallel in the Vietnam war.
>
> The subtleties that once made the Vietnam war different—the "limited" approach by the United States to the Viet Cong "insurgency", the "counterinsurgency" programs aimed at winning back "the hearts and minds" of the people—all have been swept aside.

Mr. President, as the war continues and escalates—as we try to do from the air what we could not do from the ground—nearly every aspect of our national policy and view is being swept aside. Instead of reports from the White House optimists about progress in "pacification" and "return to village" programs, we see the greatest movement of refugees, and the highest civilian casualty rate in the history of the war.

We no longer hear the President speak much of ending the war—but simply of setting goals of peace, for which "we will do our very best to reach." And so the war drags on—with an incredible and needless cost in life and spirit and dollars.

Since the renewed airwar over Indochina early this year, at least 100 American planes have been shot down over North Vietnam alone—and over 100 U.S. airmen are now captured or missing—bringing to a total of nearly 550 the number of GI's added to the prisoner of war and missing in action lists since early 1969. And the American people know today, that while spokesman for the administration assure us again and again about their concern for these men—the administration has no plan for their early return, because they have no plan for ending the war.

Other statistics also tell the story of the administration's promise of peace. Since 1965, nearly 7 million tons of bombs have been dropped over Indochina. This is over 10 times the tonnage dropped during the Korean war, and over 3 times the tonnage dropped during all of World War II. The bulk of this tonnage over Indochina has been dropped since 1969. In North Vietnam, where the administration is conducting one of the most intensive bombing campaigns in our Nation's history, the full impact of the bombing upon the civilian population is not fully known. We do know, however, that not all American bombs are "smart bombs"—indeed, most of them are not. We also know, from countless eye-witness reports, about the destruction that our bombs have brought—not only to military targets, but also to hospitals and churches and schools and heavily populated civilian areas. And we know that there has been "carpet bombing" by B–52's spreading destruction from 36,000 feet. Such missions have been flown over Haiphong, reportedly hitting the city market and workers' quarters.

Most attention in recent months has focused on the massive air war over North Vietnam. But there has also been a step-up in the bombing of the South. In fact, the number of U.S. air strike sorties over South Vietnam far exceeds those over North Vietnam. In the South they increased from 416 in January to some 14,855 in May—and since then have approached some 12,000 a month.

Moreover, in the single month of July, American B–52 bombers reportedly flew 900 missions over South Vietnam—or 111 missions more than were flown during all of 1971. Each mission is composed of at least three planes, each capable of carrying 30 tons of bombs.

Given the intensive airwar over North and South Vietnam—let alone Laos and Cambodia—is it any wonder, Mr. President, that American officials in Saigon report that civilian war casualties in South Vietnam have at least doubled in recent months? Is it any wonder that South Vietnam is experiencing the largest refugee movement in the history of the war? Is it any wonder that combatant casualties are high on both sides, and that American pilots are being downed at an alarming rate? Is it any wonder that American visitors to North Vietnam tell of civilian war victims and death?

These facts, and more, contrast sharply with the administration's rhetoric that the war is still winding down—and that the only bloodbath which should concern Americans is the highly speculative bloodbath of the future.

This so-called bloodbath argument is as old as the Indochina war itself. It was used in the early 1950's by the French as an excuse to cover their war to regain their former colony. For example, the March 12, 1950, edition of the New York Times carries this headline: "Danger of Blood Bath Seen." It quotes Leon Pignon, then French High Commissioner in Vietnam, as saying that "withdrawal of French forces from Indochina would plunge the country into a bloodbath."

So there is little new about the bloodbath argument to prolong the war. And it is being used again today, just as cynically, to cover up our renewed bombing of the north and our contribution to the escalating violence and human tragedy throughout Indochina.

Over the years, the adminstration's bloodbath argument to prolong the war has been based upon very questionable historical evidence. The record indicates that the argument is based first upon reports of a bloodbath occurring in North Vietnam after the Geneva Accords of 1954. Recent evidence suggests, however, that these reports were both exaggerated and misinterpreted, creating a sort of bloodbath myth perpetuated in a book apparently written under CIA auspices.

Second, the argument is based upon the conclusions of two U.S. Government-sponsored studies conducted in 1970. The first study, which was quoted repeatedly in speeches of Vice President AGNEW in 1970, was undertaken by a Pentagon-sponsored Rand Corp. social scientist, Stephen T. Hosmer. His study was entitled "Vietcong Repression and Its Implications for the Future." The second study was conducted by Douglas Pike, an employee of the U.S. Information Agency and author of the book "Viet-Cong." His study was published in February 1970, under Government auspices, and entitled "The Vietcong Strategy of Terror."

Although both Hosmer and Pike elaborate at length on the fear of a bloodbath, with Hosmer providing a figure of 100,000 people likely to face reprisals, nonetheless, both outline circumstances which would work against such a bloodbath. Pike even admits that only a "decisive Communist victory" would carry the threat of reprisals involving mass slaughter.

No one seriously argued in 1970, nor do they know, that any such decisive victory was, or is, about to occur. It was clear then, as it is now, that negotiations could prevent such an outcome. In fact, the Hosmer study concluded, in part, that the political requirements of the Vietcong and North Vietnamese after a complete U.S. withdrawal from South Vietnam, would tend to dictate a policy of less repression, not more.

But the true tragedy is that the bloodbath toll predicted in 1970—if the war were ended—has been more than tripled by the on-going battle—in just 2 years. Since the administration raised the specter of a bloodbath in the summer of 1970, by official count, this is what the actual human toll has been: Over 3,100 American GI's have died in combat—hundreds more are missing in action—47,574 South Vietnamese soldiers have been killed—1,062 allied troops are dead—and 196,841 North Vietnamese and Vietcong have been reported killed. In short, to avoid a possible bloodbath of perhaps 100,000 people, in only 2 years 248,577 combatants alone have died.

In addition, close to 100,000 South Vietnamese civilians have been killed, as well as tens of thousands of men, women, and children in Laos and Cambodia and North Vietnam. Nearly 1,800,000 South Vietnamese have become refugees, losing their homes and their land, forced to join the ranks of countless thousands of new war victims throughout other areas of Indochina.

As many as 400,000 lives, by official count—have been sacrificed on the altar of the bloodbath argument, which this administration continues to propogate. This is the reality of the bloodbath argument, and it is graphically outlined in a table, which I ask unanimous consent be printed at this point in the RECORD.

There being no objection, the table

was ordered to be printed in the RECORD, as follows:

2 Nixon years: The reality of the bloodbath argument (August 1970 to August 1972)

	Bloodbath predicted
Nixon administration predictions in August 1970 of possible reprisals	[1] 100,000
	Actual Bloodbath (2 years)
Statistics of the actual human toll caused by the war since August 1970:	
Deaths:	
G.I.'s killed	3,100
South Vietnamese Army killed	47,574
Allied killed	1,062
North Vietnamese/Vietcong killed	196,841
South Vietnamese civilian war dead	90,000
Laos civilian war dead	2,700
Cambodian civilian war dead	970
North Vietnamese civilian war dead	(?)
Total deaths [2]	342,147
Refugees:	
South Vietnamese refugees	1,800,000
Laos refugees	500,000
Cambodian refugees	1,600,000
North Vietnamese displaced civilians	(?)
Total refugees	3,900,000

[1] At various times administration spokesmen have used figures for the "predicted bloodbath" that run into the millions. On May 8, 1970, the President told a press conference, ". . . if we withdraw from Vietnam and allow the enemy to come into Vietnam and massacre the civilians there by the millions, as they would . . ." However, Vice-President Agnew used the 100,000 figure, along with other administration spokesmen, drawing upon the Rand Corp. study for its basis.

[2] All statistics are from Department of Defense, U.S. AID, or Subcommittee on Refugees studies.

Mr. KENNEDY. We hear a great deal in 1970 about the potentiality of a bloodbath in which 100,000 might be killed. Well, since then 347,000 have been killed and 1.8 million South Vietnamese are refugees, and over 500,000 Laotians, and 1.6 million Cambodian refugees have been created, with no accounting of the North Vietnamese civilians displaced, although the number would be in the hundreds of thousands, I believe.

Without including them, we have 3.9 million refugees created since August 1970 and 342,000 people have been killed.

Mr. President, we simply can no longer allow the specter of a highly questionable bloodbath of the future to blind us from the real bloodbath that is going on today. This bloodbath started long ago—and we are still part of it—and it will continue daily so long as the war continues, and so long as we delay in ending our participation in it, and in undertaking the necessary negotiations to stop it.

Such a negotiated settlement should include provisions to protect and provide sanctuaries for all those who fear for their lives under whatever political settlement is finally achieved in Vietnam. The safety and right of asylum for South Vietnamese citizens can be secured only through a negotiated settlement.

And there is ample precedent for such provisions—within the historical context of Indochina and elsewhere. We all know, for example, that the right of refuge and population regroupment was agreed to in the Geneva accords of 1954, which ended the first Indochina war. And in similar wars, no less bloody and impassioned than Vietnam—such as Algeria, or even Nigeria—the issue of protecting former opposition groups and the civilian population was guaranteed in the arrangements which followed the war, and, in the main, were satisfactorily carried out.

In Algeria, for example, there were hundreds of thousands of colonials, and with all the threats about the potentiality of a bloodbath there, they were able to make adjustments and to protect the colonials. Even in Nigeria, where there was the most bitter of tribal disputes, which had been going on for hundreds of years, with all the potential for a bloodbath, it was successfully prevented; and during that conflict we know the enormous losses that were suffered—over a million people, mostly children, died of starvation.

Even in Bangladesh, with all the passions that were built up there, especially toward the Biharis who had worked closely with the Pakistanis—about 1,400,000 of them in a country of 75 million—while there have been some tragic incidents, nonetheless, the threatened bloodbath there has been prevented.

In these three situations, in three of the most emotional situations one could imagine, involving tribal conflicts going back hundreds of years, bloodbaths were prevented.

So, Mr. President, let us end the bloodbath argument and see it for the hoax it is: An excuse which has allowed this administration to prolong the agony of Vietnam and to maintain and escalate a policy of war.

We can only face this truth when we also clearly face the fact that we are today substantially contributing to the rising toll of war victims throughout Indochina. This fact is documented in our Government's cables from the field, from official studies, and from 7 years of hearings and study by the Judiciary Subcommittee on Refugees—all underscore the point that American bombs and American supplied ammunition create refugees and civilian casualties just as well as North Vietnamese and Vietcong action.

Yet, American complicity in the tragedy of this bloody war is consistently minimized by the administration. It takes a picture of a napalmed little Vietnamese girl running across our television screens before we fully realize that we still provide the napalm and all the other bombs which continue to drop on the people of Indochina. It takes a news story such as this, published in a recent issue of Time magazine, to remind us that American bombs kill civilians and create refugees. The Time article reports:

> The U.S. maintains that civilians are not being bombed in the delta. But last week Tom Fox of Time's Saigon bureau paid a visit to Dinh Tuong Province. He found that in fact the bombing has claimed numerous civilian casualties. When they heard Fox inquiring about the bombing more than a dozen other patients came forward to offer the names of civilians and villages that have been struck. "The bombs are falling everywhere, and the civilians are getting killed," one woman said.

Almost as proof of how the rhythm of violence affects the people of Vietnam today, as in the past—and of how indiscriminate it is, as both sides engage in rocketing and bombing—there appeared recently a series of articles about "massacres" in South Vietnam. The facts behind these reports suggest not only the complexity of the violence, or that both sides engage in it, but simply that the bloodbath today is more real than that speculated for the future.

One "massacre" report concerned North Vietnam atrocities in Bong Son in Binh Dinh Province. The report was published by the New York Times on August 4. This, in turn, was counterbalanced by a dispatch in the Christian Science Monitor of August 5, telling of the killing and looting in Bong Son by South Vietnamese armed forces, while they were retaking the town. Obviously, the people of Bong Son, like so many Vietnamese, were caught in the crunch of violence from both sides.

Mr. President, none of us holds any brief for violence in Indochina—from either side. We ought to condemn all the violence, and all those who support the continuation of violence, under whatever name or for whatever excuse—including the highly speculative bloodbath of the future.

And we do not have to overstate America's role in this tragic war—nor do we have to understate the very ugly contribution of the North Vietnamese to the ongoing tragedy—to call the administration's bloodbath argument what it is: A whitewash and a deliberate effort to disguise the bloodbath of today which our military policies are helping to prolong.

The bloodbath argument is a cynical hoax upon the American people. It is political rhetoric that clouds the hard choices we face in negotiating a peace that will end the war—and finally end America's status as a prisoner of this war.

Mr. President, I ask unanimous consent to have printed in the RECORD a number of recent press articles relating to my comments here today.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 11, 1972]

(By Laurence Stern)

THE CONVOY OF DEATH

Last week in Saigon, newsmen were briefed by American officials on the "Convoy of Death"—an alleged attack by North Vietnamese ambush teams on a retreating column of unarmed refugees from Quangtri during the Communist capture of that city at the end of April. As reported by the official briefers, the incident falls into the category of atrocity. The claim was that 1,000 to 2,000 defenseless civilians were killed in the attacks on April 29–30.

And within the past few days The New York Times has carried two dispatches from its able Saigon correspondent, Joseph B. Treaster, on reports from refugees and estimates of "allied intelligence officials" that some 250 to 500 civilians were executed by the Communists during their three-month occupation of northern Binhdinh Province in South Vietnam's central coastal region.

These reports are bound to invoke the memory of the Hue massacre and the specter of a future Communist "blood bath" that high administration figures claim could accompany a political settlement of the Vietnamese conflict. The "blood bath" theory has long served as a potent argument against trying to come to terms with Hanoi and the Southern Front on a formula for sharing the power in Saigon.

The new reports also come on the heels of North Vietnam's protests, condemned by the administration as propaganda, against American bombing of the Red River Valley dike system and other non-military targets.

So, the decibels of accusation and counter-accusation are rising both above and below the DMZ as the Paris talks flounder on. If the past is any guide, there are undoubtedly elements of the true, the false and great gobs of the unknown in the charges of both sides. Furthermore, as the international climate grows increasingly shrill so will the possibilities of reasonable inquiry be drowned out by the noise.

The "Convoy of Death" story was challenged in some important respects by Associated Press correspondent Holger Jensen, who reported that half the victims of the April 29–30 attacks were South Vietnamese troops battling their way out of besieged Quangtri—and not just unarmed civilians. He puts his maximum estimate of those killed, soldiers and civilians, at 600, less than a third of the officially-claimed toll.

This is not to say that the killing of civilians fleeing with the South Vietnamese army and ranger units is an attractve piece of heroism, and more than the bombing of civilians in retaliatory American strikes is a pardonable misdemeanor.

But when government spokesmen on either side begin to moralize about the outrages of the enemy's troops it is time to raise the antennas of skepticism rather than to join the parade, as this war has repeatedly taught us.

The reports from Binhdinh Province deserve even closer attention. For there is little doubt that the "bloodbath" demonologists in the administration and elsewhere will soon begin banging the kettle drums.

In his dispatches on the Communist occupation of northern Binhdinh, an entrenched Vietminh and then Vietcong stronghold, Treaster carefully separates what the refugees said from the assertions of "allied intelligence officials."

Those refugees who chose to escape from the Communist zones spoke of heavy political indoctrination, of execution of Saigon government functionaries and of conscript hard labor in the service of the Communist troops. The chief targets, Treaster was told, were the agents of the Saigon government; hamlet and village chiefs, police and militiamen. It is the mirror image of conditions when territory is under Saigon control and the suspected Vietcong cadre and infrastructure becomes the chief target for "neutralization" under the Phoenix program.

Some Washington officials closely concerned with Vietnam matters feel it is too early to judge how representative a picture it is of the Communist occupation of northern Binhdinh. Individual refugees have their own motives for running, whether from ideology, bombs or artillery. Each has a limited perspective on something far bigger than anyone's individual perceptions.

"What this tells me more than anything is that the White House sees little possibility of a negotiated settlement," said one such source. His point was that when the conference table is bare the war of rhetoric waxes strongly.

[From the Christian Science Monitor, Aug. 5, 1972]

How the Fight Went in Bong Son

(By Daniel Southerland)

Bong Son, Vietnam.

South Vietnamese troops have succeeded in recapturing this town on the central coast which was held by the Communists for more than three months. But the manner in which the troops moved back in has served further to undermine confidence in the Saigon government.

Bong Son was one of three district towns in northern Binh Dinh Province that were lost to the North Vietnamese in April, early in the Communist offensive. Two of the three towns have now been recaptured.

The government attack into Bong Son two weeks ago met only light resistance. But in retaking the town, the government forces destroyed much of it with artillery and air strikes. Then the troops commenced to loot the town—an action that seems automatically to follow the government's recapture of territory.

Finally, the government brought several thousand refugees from Bong Son back to the town, telling them that it was now under government protection—safe and secure. This turned out to be totally untrue. Government control extended only a short distance outside Bong Son. Soon after the refugees had returned to their battered homes here, the North Vietnamese counterattacked. For three days in a row, they poured artillery fire into the town; the North Vietnamese aim appeared to be to rout the government troops, mainly through heavy shelling, just as they had done in April. But inevitably the shells also struck civilians, killing and wounding scores of refugees. One shell hit a truck loaded with refugees.

So once again the people left Bong Son. It will be harder to bring them back next time.

On the military side of the picture, the performance of the government troops in the face of the counterattack ranged from poor to fairly good.

AN ERROR IN TACTICS

Government officers made one disastrous mistake. They concentrated their artillery next to the bridge on the south side of Bong Son. This gave Communist gunners a lucrative target at an easily pinpointed location.

"It was one of those things you just don't do," said an American adviser afterward.

With South Vietnamese howitzers that had been captured earlier, the North Vietnamese blasted the government artillery positions, knocking out 12 guns along with sizable quantities of ammunition.

A panicky company of government regulars tried to flee southward across a railroad bridge. But officers at the south end of the bridge turned them around.

Several soldiers belonging to the Popular Forces, the lowest paid and most lightly equipped of the government forces, leaped out of their positions and ran when they made contact with a handful of North Vietnamese soldiers in the streets of Bong Son. Four were wounded in the back.

To prevent a general retreat, the government's district chief, Lt. Col. Duong Trieu Thanh, set up two machine guns near the main bridge and warned that if any more soldiers tried to flee the town, they would be mowed down by the machine guns.

When a group of government cadres who had returned to the town got into jeeps and started to drive off, a police lieutenant pointed his submachine gun at them and told them that he would shoot them if they tried to leave. They climbed out of the vehicles and took cover in trenches.

Colonel Thanh attempt to make an example of the four men who had been wounded while fleeing. He pointed out to the other Popular Force soldiers that none of the soldiers who had held fast in their positions when the street fighting occurred had been injured. Only those who fled were wounded.

SKILL EXHIBITED

On the bright side of the picture for the government forces, one battalion of regular troops maneuvered with considerable skill while under fire. Fast action by officers, including the district chief, prevented what could have become a rout.

But the government hold on Bong Son still seems tenuous. During this correspondent's visit to the town, a steady stream of U.S. jets bombed areas only a mile or so to the west of the town. District Chief, Thanh warned that it was not safe to go more than 300 to 400 meters to the west of the main road.

With the Regular Army handling security just outside Bong Son and with most of the town's population gone, Colonel Thanh, as the local governor, has little to do at the moment other than assist refugees moving through the town. He also seems to be doing everything he can to prevent further looting by the government troops.

MOTORBIKES IMPOUNDED

This correspondent watched while the colonel on two occasions, stopped soldiers who were attempting to leave the town on stolen motorbikes. He personally asked for ownership papers and when these were not forthcoming, he impounded the motorbikes.

The diminutive colonel also discovered that drivers who were supposed to be moving refugees to the south in government trucks were collecting fees to transport refugee belongings. The colonel ordered a stop to this. He also reprimanded government rural development cadres, and arrested one of them, when he found that they, too, were trying to collect fees from refugees.

"This is just one of the many wars I've got to fight," the colonel said.

[From the Baltimore Sun, Aug. 8, 1972]

Massacre of Civilians Reported

Washington.—A State Department spokesman said yesterday that U.S. military advisers and other eyewitnesses estimated 1,000 to 2,000 South Vietnamese died last April 29 to 30 in what was described as "a deliberate North Vietnamese Army massacre of helpless civilians."

The action was said to have taken place near the My Chanh River bridge on Route 1 when thousands of refugees fleeing from Quang Tri were caught in the open by Communist artillery fire.

WOMEN AND CHILDREN

A State Department press officer, John King, said the estimates of deaths were probably closer to the higher figure of 2,000 noncombatants, composed mainly of women, children and older people.

He said another column of refugees was caught five days earlier a few miles south of Quang Tri April 24. He gave no estimates of the casualties in the earlier incident.

According to official reports received by the State Department, Maj. Donald L. Price and Maj. Robert F. Sheridan of the U.S. Marine Corps said they had seen the civilians brought under fire by 130-mm. artillery shells fired over their heads with delayed-action fuses.

The two Marine advisers said that "literally shredded the refugee column."

"It was the worst sight I have ever seen," Major Sheridan reported. "It was a massacre."

[From the Washington Star and Daily News, Aug. 9, 1972]

Reporter Disputes United States on Massacre

(By Holger Jensen)

SAIGON.—Hundreds of South Vietnamese were killed trying to escape from Quang Tri City before its fall. The slaughter was indiscriminate, by definition a massacre.

But from evidence at the scene and in the aftermath, the action April 29–30 was not "a deliberate North Vietnamese army massacre of helpless civilians," as State Department spokesman John King described it.

The carnage suggested a cold-blooded North Vietnamese resolve to stop all traffic on Highway 1, in callous disregard of civilian targets. But there was no evidence of a deliberate intent to single out the civilian refugees.

More than half the victims were South Vietnamese soldiers, and Washington's estimate of 1,000 to 2,000 dead seems inflated.

200 TO 600 DEAD LIKELY

Interviews with survivors of the massacre and an inspection of the death site indicate 200 to 600 dead.

North Vietnamese forces surrounded Quang Tri and cut Highway 1, its southern escape route to Hue, a week before the fall of the province capital. South Vietnamese marines who tried to reopen the highway fought their way to within 8 miles of Quang Tri. Three convoys of South Vietnamese troops and civilians tried to flee southward on Highway 1 between April 24 and 30. They were ambushed by North Vietnamese forces entrenched on both sides of the highway, 4 to 8 miles southeast of Quang Tri.

This correspondent was with South Vietnamese marines who fought their way to the southernmost ambush site April 30. Wounded survivors who passed the advancing marines said their convoy had been hit by mines, mortars, rocket grenades and small-arms fire from North Vietnamese dug in as close as 20 yards to the roadway.

MIXED WITH SOLDIERS

According to the State Department, the North Vietnamese used antipersonnel artillery shells with fuses set for air bursts, which "shredded the refugee column" with sprays of shrapnel.

But frontline witnesses reported no air bursts before April 30—they would have killed troops of the enemy's own ambush force as well as the fleeing South Vietnamese.

Air bursts were fired by the North Vietnamese April 30 and May 1 and many civilians were hit. By then the civilians were intermingled with South Vietnamese rangers fighting their way out of Quang Tri.

The full savagery of the slaughter did not become apparent until two months later, when Saigon's paratroopers returned to the scene. This correspondent was with the paratroopers.

Hundreds of wrecked vehicles and corpses littered a 4-mile stretch of Highway 1. Four out of five vehicles were military—jeeps, trucks, tanks, armored personnel carriers, artillery pieces and ambulances. Civilian vehicles included buses, motorcycles and bicycles.

Civilian and military vehicles were jumbled so close together it was obvious the North Vietnamese could not fire on one without hitting the other. The concentration of wreckage at certain points also indicated panic on the part of the South Vietnamese.

Convoy drivers appeared to have been so intent on fleeing Quang Tri they continued to drive into withering fire even after lead vehicles were hit and the highway was blocked.

Graves registration workers found 186 civilians dead at ambush sites. Of these 76 were claimed by relatives. The other 110 were buried in a mass ceremony at Phong Dien on Aug. 1.

TROOP TOLL UNCLEAR

It is not known how many military dead were recovered. South Vietnamese officials did not announce the military toll, and informants only knew of a burial service for unidentified soldiers. It appears, however, that most of the victims were soldiers because most of the wrecked vehicles were military.

Several hundred bodies are believed to have been destroyed by decomposition over a two-month period in Quang Tri's searing dry season and through napalm strikes by American planes to prevent the enemy from using South Vietnamese military equipment at the ambush sites.

Bulldozers that cleared the highway at the start of Saigon's counteroffensive piled unrecognizable remains in heaps along with the wreckage of vehicles. Some of these were destroyed when the gasoline tanks exploded.

All this would seem to account for a maximum estimate of 600 dead. This is based on inspection by this reporter, interviews and the accounts of other experienced field reporters.

One American here who says he contributed to the report asserts he clearly informed the State Department that 100–200 civilians had been killed in the ambushes. He could not explain how the figure had risen to 1,000 to 2,000 except to say: "There must have been a screwup somewhere along the line."

[From the Baltimore Sun, Aug. 8, 1972]

In Vietnam, Reprisals Explode After Bombs

(By Joseph Kraft)

WASHINGTON.—"Don't you think we know that every family in the South has worked with the Saigon government? Don't you think we know that almost all the young men fight in the Saigon armies? Don't you think we see the dangers of a bloodbath?"

That comment was made to me by a North Vietnamese official in Hanoi a couple of weeks ago, and I was reminded of it by the recent news that the Communists had murdered several hundred South Vietnamese officials in Binh Dinh province.

For the fact is that a gruesome round of bloody reprisals is becoming practically inevitable as the Vietnam war winds to its close. It can be averaged only by deliberate arrangement. But while Hanoi says it wants to make such arrangements, the attitude of Saigon and Washington is in doubt.

The reason reprisals are so likely is that the war in Vietnam is not a classic fight between two countries, as President Nixon would like us to believe. In such a war, the end would see each country go back to its own territory.

The fighting in Vietnam, however, is much more like a civil war. Families are divided, and villages, provinces, and cities. As a result, especially furious passions formed in the United States by the Civil War or in India by partition—have been generated.

The object of the fighting, moreover, is not to win territory. It is to gain the support of the local population.

In pursuit of such support, South Vietnam and the United States have launched the famous pacification program, pushing out administrative control from Saigon to the remote countryside. One feature of pacification is the so-called Phoenix program, designed to eliminate—sometimes by assassination—suspected Communists.

Much of the American bombing of South Vietnam fits into the same pattern. The purpose is not to eliminate enemy soldiers or strong points. It is to deny the enemy access to the local population. It is a means of using terror to kep people from living in areas where the enemy would be bound to penetrate.

Against the combination of pacification and bombing, the Communists have used classic tactics. They have moved in the fashion of the resistance forces that fought the Nazis in occupied Europe.

They have struck out by terror—including judicial murder, sometimes—against those co-operating, or collaborating, as they like to call it, with the central government. That explains the murders now uncovered in Binh Dinh province.

The upshot is a cycle of violence. The more pacification spreads and the more bombing is conducted, the more the Communists are prone to use terror tactics against South Vietnamese officials.

Measuring respective guilt in meting out portions of blame within this cycle of action and reaction would defy the wisdom of Solomon. Perhaps all that can be said in these circumstances, is that to talk about morality is, on either side, a shameful hoax.

The Communists have shown a consistent interest in such damage-control measures. Virtually all their peace packages contain some provision for preventing reprisals. When I was in Hanoi, foreign minister Nguyen Duy Trinh indicated the North Vietnamese wanted to arrange a settlement in slow stages, put into effect over several years, so that passions could be eased.

To be sure, all the North Vietnamese suggestions for limiting reprisals imply first a change of regime in South Vietnam. It is impossible for Washington and Saigon to meet these suggestions on the terms posed by the other side.

But it is not enough for Washington and Saigon simply to beat their breasts about Communist atrocities. Since one stroke of violence leads to the next, Washington and Saigon have an obligation to act in a way that limits, rather than promotes, violence. They have an obligation to come forward with proposals that minimize the danger of reprisals.

This obligation is particularly heavy on the United States. For one matter in which we are all agreed is that, except for American intervention, the war would have been over long ago.

[From the New York Times, July 5, 1972]

Quangtri Villagers Tell of Fleeing Bombing

(By Sydney H. Schanberg)

PHUDUONG, SOUTH VIETNAM, June 29.—They had lived for nearly two months under North Vietnamese occupation, but, they say, it was the constant pounding by American bombs and shells, not Communist rule, that finally drove them to desperation and to escape.

So the South Vietnamese rice farmers slipped out of the village at midnight, and, for 11 terror-ridden hours, walked and ran south along the coast until they found themselves in friendly hands.

They were shelled on the way by one of the American ships that roam along the coast in search of targets. One family was wiped out by the barrage—the husband and a child killed on the spot, and the mother and another child badly wounded and left behind.

"One hundred shells fell, there were explosions all around us," said Ho Ngu, whose family of six was part of the exodus. "We threw ourselves to the ground. Dirt and rocks fell all over us. We did not know if we were wounded until afterward, when we began to feel our backs and legs and found no blood. We were lucky."

JUST BEFORE COUNTEROFFENSIVE

Fifteen other families—a total of 70 people—were in the group that escaped from

Communist-occupied Quangtri Province about a week ago. They fled just before a South Vietnamese force began a counteroffensive to try to recapture Quangtri, the country's northernmost province, which had fallen on May 1.

Mr. Ngu and others in his group recounted their life under the North Vietnamese and their night of escape to a visitor in this village about three miles northeast of Hue, where they are living with hundreds of others in a makeshift refugee camp in the compound of an elementary school.

The members of Mr. Ngu's group, which came from Haique Village in Quangtri, said they did not know that Government troops had abandoned the province until North Vietnamese troops appeared.

"No one gave us any warning," said Ho Vong, an old man with wispy chin whiskers and teeth lacquered black according to local custom, "so there was no way to run."

SOME WERE VIETCONG

He shook his head in bewilderment as he related how the village officials fled without telling anyone of the collapse of the South Vietnamese troops—without even telling their own families, which they left to fend for themselves.

The refugees said that nearly all the Communist soldiers who entered their village were North Vietnamese—they could tell by their accent—but that a few were local Vietcong guerrillas "we had known before."

The Communists moved into the houses and the farmers moved into bunkers they dug in the paddy fields. Almost immediately bombing by B–52's and shelling began. The bombardment was so intense, the refugees related, that the Communists were too busy trying to stay alive to organize the village politically and give propaganda lectures.

"There was so much shelling and bombing that there was no time to do anything to us, good or bad," said another old man, Le San.

The one thing the North Vietnamese did do was ask the villagers to surrender their Government identification cards. Many got away with telling the Communists their cards had been lost or burned during the bombing, but others gave up the cards—and now face the bureaucratic struggle of getting new ones so they can qualify for refugee aid.

YOUNGSTERS PUT IN MILITIA

The lack of organizing by the North Vietnamese was apparently typical only in areas where the allied barrage was overwhelming. Refugees who have escaped from other areas or have been freed by the recent counteroffensive report that the Communists confiscated their rice, marshaled all boys and girls into an armed militia, made villagers work as forced laborers and held continual indoctrination sessions.

In Haique the peasants could stand it no longer after four or five days of the bombing and shelling and tried to flee, but the North Vietnamese told them it was safer to move to the next district north, Trieuphong, because the bombardment was less severe there.

Some of the villagers stayed, but most walked several miles north to Trieuphong, where they lived in a village about six miles east of Quangtri City, the province capital.

There they stayed in the houses of villagers who had been organized by the North Vietnamese and were frequently called out to indoctrination meetings at night. The Haique people, because they were not permanent residents, were not asked to attend the meetings and were generally ignored both by the local people and by the Communists.

"The people did not say anything about what went on at these meetings," Mr. Ngu reported, "and we did not ask any questions for fear they would suspect us as spies for the Government."

TRIPS BACK FOR RICE

The groups lived on rice they had brought with them. When that was gone some men trekked back to their village and cut more.

There was bombing and shelling, but it was not as fierce as that at Haique. The people dug bunkers again and spent much of their time in them, but several villagers were killed anyhow. They often heard tanks rumbling nearby but never saw them.

After nearly two months they decided that their only hope lay in escape to the south. "We knew that as long as we stayed," Mr. Vong related, "our lives could be counted in minutes, because wherever the North Vietnamese are, the Americans will bomb all the time."

They decided they would leave at the first pause in the bombardment on June 22. It came at midnight.

They started down the sand flats, carefully keeping between the shore, where they thought the Communists would have sentries, and the hamlets farther inland, which they felt were likely targets.

Only an hour after they left, they came under shelling. After that the fear of being detected kept them running or walking fast until first light, when a helicopter hovered over them and the pilot waved them south in a friendly way.

FOUR FAMILIES JOINED GROUP

Their number had grown to about 90, for they had met four families escaping from other villages.

Late in the morning they came upon an advance element of about 100 South Vietnamese marines and began to feel safer. The marines gave them some dry rice, passed some money among the children to cheer them up and directed the group to Huongdien, a district town in South Vietnamese territory.

They reached the town after dark, having walked nearly 20 miles. They spent the night there and the next morning were carried by boat to a port near Hue and then by road to the refugee camp.

Living conditions here are poor. The rations are meager and many of the children have skin diseases and bronchial ailments. The most common sound is a deep, racking cough.

Stoicism is also common among these people who have been uprooted so many times by the war.

"Temporarily we just need food and lodging," said Mr. San, his wizened face showing nothing but dignity, "so we can live on until the day when we can go back to our village."

[From Time magazine, Sept. 11, 1972]

DINH TUONG: HELL IN A SMALL PLACE

The South Vietnamese are no strangers to bombing. Since 1966, an estimated 65% of all American bombs have been dropped on the South, making the mighty B–52 an object of dread and fear. The giant bombers, silent and invisible at 30,000 ft., are first announced by the whistling of scores of falling bombs. On contact, the strike shakes the earth for miles around, raising a holocaust of dust, smoke and debris. Well-dug-in guerrillas can frequently survive an attack, but a peasant in his field has little chance.

Though most attention in recent weeks has focused on the air war over North Viet Nam, there has also been a dramatic step-up in the bombing of the South. In the single month of July, American B–52 bombers flew 900 missions over South Viet Nam—111 missions more than were flown in all of 1971. For the first time the big B–52s flying out of Thailand's Utapao Air Base are striking the heavily populated Mekong Delta. With ARVN forces deployed elsewhere to counter the North Vietnamese offensive and unable to cope with the growing enemy threat in the Delta, the U.S. has apparently decided on a policy of massive and calculatedly destructive airpower as a substitute for manpower.

The most heavily hit region of the current campaign has been Dinh Tuong province, where 600,000 Vietnamese, mostly small farmers, are crammed into a tiny area one-third the size of Rhode Island. In the past two months, American planes have flown more than 125 missions over Dinh Tuong—an average of more than two a day. Each mission is composed of anywhere from three to 36 B–52s; each plane is loaded with 30 tons of bombs. A few of the victims at present in Dinh Tuong Hospital:

A 14-year-old peasant boy is rushed into the emergency room. Half of his left arm has been blown away and the other half is wrapped in a blood-dripping bandage. Three hours earlier, he had been walking his family's water buffalo in an open field when B–52 bombs rained down near by.

Bui Van Si, a 58-year-old rice farmer, was cutting rice with ten other men in Sam Giang district several weeks ago. About 11 a.m. several B–52s dropped bombs in the field. Eight of the men were killed outright. Only Si and one other made it to the hospital. "I heard nothing," he says. "Then the loud, shaking sound of the falling bombs. I dived. The others were killed instantly."

Le Van Du, 12, resembles an Egyptian mummy, wrapped from head to foot in bandages. The boy's father says that there had been fighting in the area three days before, but after the soldiers passed, he allowed his son to leave the house. The boy was walking in a field near home when the bombs fell.

The U.S. maintains that civilians are not being bombed in the Delta. But last week Tom Fox of TIME's Saigon bureau paid a visit to Dinh Tuong province. He found that in fact the bombing has claimed numerous civilian casualties. When they heard Fox inquiring about the bombing, more than a dozen other patients came forward to offer the names of civilians and villages that have been struck. "The bombs are falling everywhere, and the civilians are getting killed," one woman said.

Officials do not categorize each kind of "war-related" casualty that enters the hospital, so no accurate count of bombing victims is possible. But a spot check by the head nurse revealed that patients from eleven different civilian bombing incidents—many involving multiple deaths—were recovered in two of the hospital's largest wards. To be sure the bombing victims represent only part of the war casualties. Others are suffering from mortar wounds. Communist-fired B–40 rockets and AK–47 rifles; some do not know what hit them.

But the B–52 bombing adds an entirely new dimension to the fighting in the Mekong Delta. A high-ranking U.S. military official, who refused to be named, said that he knew of "no B–52 civilian casualties"—though he later admitted that there might be a few. His office is right across the street from the hospital. The officer insisted that intelligence for the plotting of B–52 raids was good, then added, incredibly, that the North Vietnamese and Viet Cong had recently broken contact in the province, and that no one really knew where they were. In the American effort to eliminate this elusive, wandering enemy—numbering 5,000 by the officer's estimate—the bombs are dropping night and day on the friendly Vietnamese of Dinh Tuong, who can only do their best to stay out of harm's way.

[From the Christian Science Monitor, Aug. 16, 1972]

U.S. REPORT RAPS SAIGON ON CASUALTIES—CIVILIAN LOSSES BLAMED ON SOUTH VIET ORDERS

(By Daniel Southerland)

SAIGON.—An official report to the U.S. mission here indicates that indiscriminate bombing and naval gunfire may have caused unnecessary civilian casualties in a populous coastal province, reliable sources say.

The report, the sources say, indicates that the South Vietnamese, during their counteroffensive into the Northern part of Binh Dinh Province, have frequently called in U.S. bombs and naval gunfire on targets which were not carefully identified.

The report came from the headquarters of CORDS for Military Region II. CORDS is the U.S. organization which supports the South Vietnamese "pacification" effort. The initials stand for Civil Operations and Rural Development Support.

Other accounts reaching the U.S. mission here speak of South Vietnamese Army commanders wanting vengeance for earlier defects and deliberately ordering air strikes because they considered people in the northern part of Binh Dinh to be pro-Communist.

American military authorities in Saigon say privately that they have found no evidence to substantiate reports on the misuse of American air strikes and naval gunfire in Binh Dinh. But other sources say that many of the areas where indiscriminate strikes have occurred have not yet been secured by the South Vietnamese.

Thus it would be difficult at this point to come up with evidence of civilian casualties. The point which seemed clear in the CORDS report was that air strikes and naval gunfire were being used indiscriminately by the South Vietnamese—so indiscriminately that unnecessary civilian casualties may have occurred.

At any rate, the CORDS report was taken seriously enough for the U.S. military command in Saigon to send an investigatory team to Binh Dinh last week. An American general headed the team.

Aside from Gia Dinh Province, which surrounds Saigon, Binh Dinh—with nearly a million people—is the most heavily populated of South Vietnam's 44 provinces.

When the North Vietnamese took over the northern three districts of the Province last April, some of the people fled the fighting. But the majority—an estimated 150,000 people—chose to stay behind or were prevented from fleeing. They remained under Communist occupation for more than three months.

SAIGON RECAPTURE INCOMPLETE

In late July, the South Vietnamese launched a counter-offensive into northern Binh Dinh. They have recaptured two of the three district capitals which were lost to the Communist. But many hamlets in the countryside of northern Binh Dinh are still under Communist control.

Impressions gathered by this correspondent during a recent trip to Binh Dinh tended to support the reports indicating that the South Vietnamese have been using air strikes and artillery in an indiscriminate manner there.

When this reporter asked a U.S. adviser to the South Vietnamese Army why the North Vietnamese retreated from some areas of nothern Binh Dinh, he replied:

"The NVA (North Vietnamese Army) pulled back under the threat of heavy bombing."

"EVERY VILLAGE AND HOUSE"

"They knew that we would bomb every village and every house," the adviser said.

Another adviser remarked that the American Army units with which he had worked used air strikes "when we had specific targets with which we were in contact. I've never seen air support used like this before," the adviser said, speaking of the South Vietnames counteroffensive into northern Binh Dinh.

The South Vietnamese, he said, "call it in all the time."

[From the Miami Herald, Aug. 23, 1972]

BOTH SIDES DESTROYING CITY—PINCERS OF WAR LEVEL QUANG TRI

(By Peter Arnett)

QUANG TRI, VIETNAM.—As efficiently as a heel grinds out a smouldering cigaret, so have the South Vietnamese, their American Allies and the North Vietnamese crushed the life from Quang Tri City.

Both sides are systematically destroying the once-pleasant riverside community of palm-shaded streets and historical sites where 80,000 Vietnamese lived. It is an orgy of destruction that has no parallel in the Vietnam war.

The vistas of tumbled, broken homes, of steel rods stricking grotesquely from twisted concrete walls, of hollow-eyed, crouching men are from earlier wars. Quang Tri today is Seoul in 1950, Cassino in 1944, the towns and villages of Europe wiped out in World War I.

But while Quang Tri is the first Vietnamese city to be methodically leveled, it will probably not be the last if the war continues.

The subtleties that once made the Vietnam war different—the "limited" approach by the United States to the Viet Cong "insurgency," the "counter-insurgency" programs aimed at winning back "the hearts and minds" of the people—have been swept aside.

When the South Vietnamese counteroffensive moved into gear late in June, the North Vietnamese rolled out their 130mm guns. The South Vietnamese wheeled in their heavy weaponry.

The United States held off its war planes for a few weeks but now uses them when the South Vietnamese ask for them. One leveled the province chief's headquarters and his garden full of ancient Chan statutes with a 3,000-pound smart bomb 10 days ago. Other smashed a wide gap in the northwest corners of the old Citadel with seven smart bombs last week.

Today Quang Tri settles into the earth, flattened like a matchbox under the wheels of a locomotive.

The awesome power of the belligerents is apparent on the roads north to Quang Tri.

A curtain of white sand, raised by strong winds from across the salt flats, shrouds the carcasses of trucks and ambulances alongside Highway 1. The North Vietnamese systematically destroyed these scores of convoy vehicles making a frantic dash when the city fell May 1. The shifting sands uncover, then cover again, the bones of those who died.

The infrequent drivers, all military, rush by nervously, an eye on the naked hills that loom high to the west, home for the big enemy guns that helped ravage the convoy.

Farther along, the retaliatory power of the United States is visible. Craters from repeated B52 strikes march through the town of Hai Lang, crisscrossing villages and roads. The holes 30 feet across are half filled with brackish water.

Not a church or a pagoda stands in a region noted for its piety; farmers working the salty Quang Tri soil had to believe in something to live.

A few who fled the bombing are allowed back into the war zone. They fill empty sand bags with broken crockery and pieces of family mementos, then hitch a ride back south to the refugee camps.

American advisers call the last stretch to Quang Tri City "the great Gobi Desert." Vehicles mire in the deep sand. The wreckage of tanks of both sides sit alongside waterholes or beside sandbanks.

A pall of black smoke hangs over the city, like that over an American industrial town in the days before anyone bothered about pollution. But here the only industry is war.

The South Vietnamese marines inside Quang Tri have taken well over 1,000 casualties in 25 days at a conservative estimate, their American advisers say. The Vietnamese paratroopers before them were relieved because of crippling casualties.

No one wants to go forward or back, only to crouch under a wall and listen for the boom of a distant gun firing, and the crump as the shell screams into the city. At least 1,000 shells boom into Quang Tri every day, they say. And that is not counting the shelling and air strikes launched against the North Vietnamese.

At any one time that enemy might number 600 men at most, the marines say. Some sit inside the walled Citadel in the northern part of the city, reportedly with enough food and other supplies for two years, left behind in May by the fleeing South Vietnamese infantry.

The North Vietnamese also hold five strongpoints in the south of the city, formerly moated forts for headquarters elements of the South Vietnamese Army. The defense include stout demonstration bunkers built by the U.S. Marines three years ago.

If progress can be measured by 10 yards advance today, then back five tomorrow, or a whole block gained by a battalion in three weeks after taking 200 casualties, then the South Vietnamese are making progress in Quang Tri.

If the enemy measures progress by delaying the government advance for a few days at the cost of no one knows how many dead then Hanoi no doubt is satisfied.

Young officers graduating from the Thu Duc Officers' School near Saigon fear going north to Quang Tri. The war is so fierce there, they say, that man could not survive to live out his true destiny.

But the officers still go north from Saigon to Quang Tri, just as the other officers come south from Hanoi. Their destiny seems to be to die in a dead city.

[From the New York Times, Sept. 1, 1972]

U.S. AIDES IN VIETNAM SEE AN UNENDING WAR

(By Craig R. Whitney)

SAIGON, SOUTH VIETNAM, Aug. 31.—Two weeks after Henry A. Kissinger's surprise visit to Saigon, high-ranking American officials here are talking privately not of a breakthrough in the peace talks, but rather, of the possibility of unending war.

The main issue now in Paris, it is clear from recent interviews there, is the Communist demand that the Government of President Nguyen Van Thieu be eliminated as part of a peace settlement. The American and South Vietnamese insist that this would be next to surrender.

A senior American official here, who consented to an interview not attributable to him by name, said that the allies have conceded as much as they can on the political issue. Last Jan. 25, President Thieu offered to resign five months after an agreement and one month before new presidential elections, but the Communists have rejected the proposal because the present Saigon administration would remain in power in the interim.

HOPE FOR CONCESSION

Since there is little evidence that the Communist side is softening its position, many Saigon officials feel the only chance of a breakthrough on the political issue lies in still another concession by the Americans and South Vietnamese.

There was widespread speculation when Mr. Kissinger, President Nixon's adviser for national security, arrived here on Aug. 16 that he might be here to talk President Thieu into such a concession. Mr. Kissinger talked with Mr. Thieu for two hours on Aug. 17 and for four hours on the 18th, and the South Vietnamese leader has never seemed more confident of continued American backing of his policy of "four nos"—one of which is no imposition of a coalition government with the Communists in the south.

According to one American who should know because he sees Mr. Thieu frequently, Mr. Thieu is confident that Senator George McGovern poses no real threat to President Nixon's re-election and Mr. Thieu is not even making contingency plans in case the Democratic nominee wins and implements an immediate bombing halt and troop withdrawal.

NIXON AND THE ELECTION

Some officials at the South Vietnamese Embassy in Washington have professed some uneasiness about what Mr. Nixon might do as Election Day approaches to defuse the war as a political issue. But conversations with other Vietnamese in Paris and here in Saigon left this correspondent with the impression that the Nixon Administration was trying its best to allay these vague fears, as it did before the Nixon trips to Moscow and Peking.

In interviews in Washington, some American officials speculated that it might not be necessary to continue the current sustained bombing of North Vietnam, or the mining of its ports, much beyond October. They expect the North Vietnamese offensive to have run out of most of its steam by then.

But President Nixon said last Tuesday that he would not reduce or stop the bombing during the election campaign unless the prospects for a negotiated settlement improved. Any easing of military pressure on the North would cause a crisis of confidence in the Saigon Government unless it were fully explained in advance, and in the last week there has been a series of intense bombing raids around Hanoi and Haiphong.

Indeed, in a speech on Aug. 3, Mr. Thieu said that he thought it necessary to "keep up relentless bombing" of North Vietnam for another six or seven months, but—directing his remarks at Washington—"if our allies are determined, peace will be restored in Indochina. If they lack determination, the Communists will revert to their half-guerrilla, half-conventional warfare, and the war will go on in Indochina forever."

Air Force officers here feel that such a statement implies stronger faith in the effectiveness of bombing than even they have.

One of Mr. Thieu's close Vietnamese advisers in the Presidential Palace said, last week, "as far as I know, Mr. Thieu and Mr. Kissinger reviewed all aspects of the Vietnam problem—but mainly they worked out a coordination of actions by both governments in this sensitive electoral period in the United States."

The adviser also said that the allies still expect the North Vietnamese to launch a series of powerful military offensives before the end of this year, and "in this context, any talk about such things as a cease-fire or a compromise is futile, if not deceiving."

AIDE VISITED DELTA

One of Mr. Kissinger's aides, David A. Engel, took a trip down to the northern Mekong delta, where North Vietnamese forces had been infiltrating Dinhtuong Province, to get an assessment of the situation there, according to Embassy officials. But Mr. Kissinger stayed in Saigon the whole time he was here, and most of his consultations were with Ambassador Ellsworth Bunker and General Frederick C. Weyand, the officials say.

What they told him is unknown. But what high Administration officials in Saigon and Washington have been telling newsmen, in background sessions, is that, as one American intelligence specialist said the other day, "I can't imagine why the other side would feel ready to give up at this point. Our faithful sources say the word is to continue, and even under the bombing they can get enough supplies to keep going for a long, long time, even at the current relatively high level of battlefield activity."

The intelligence specialist pointed out, for example, that it would take only 20 daily truckfulls of heavy 130-mm. artillery shells to enable the North Vietnamese to keep up their heavy shelling of Quangtri city, just below the demilitarized zone. "They drive by night and hide by day, and getting that many trucks past the bombing is no problem," the officer said. "You can't completely interdict the flow."

DISAGREE WITH ROGERS

All military sources here are unanimous in predicting that even if the level of conflict subsides after the fall, the conflict can be carried on by the kind of widespread guerrilla activity that has already begun in recent weeks, with commando attacks on large military installations and with reported attempts to cut some of the principal roads to Saigon.

The sources disagree totally with Secretary of State William P. Roger's recent prediction of a negotiated settlement of the war before or soon after the November elections. Last week the State Department, too, diluted Mr. Roger's prediction, saying that it should, rather than a prediction, be called an expression of hope.

[From the Washington Post, Sept. 12, 1972]

Cornell Author Disputes North Vietnamese Bloodbath

(By George C. Wilson)

A charge by President Nixon and others that the North Vietnamese murdered up to 500,000 of their own people when they took over the country in the 1950s is a "myth," according to a study circulated yesterday by Cornell University.

The charges are dispatched in a 59-page essay by D. Gareth Porter, a 30-year-old research associate at Cornell's international relations of East Asia project. Cornell's project office, in sending out the report, said it deserves "immediate, widespread public attention" because of Mr. Nixon's frequent references to the alleged bloodbath in North Vietnam.

"This bloodbath myth is the result of a deliberate propaganda campaign by the South Vietnamese and U.S. governments to discredit" North Vietnam, Porter says in summarizing the paper he researched in South Vietnam and at Cornell. Porter has been a critic of the Vietnam war.

The prime source for President Nixon, author Bernard Fall and others in describing the alleged massacre during the North Vietnamese land reform from 1953 to 1956 is a book guilty of "gross misquotation" and "fraudulent documentation," Porter alleges.

The book Porter cites is entitled, "From Colonialism to Communism," By Hoang Van Chi. Chi's book—published in 1964—was financed and promoted by such U.S. agencies as the Central Intelligence Agency, according to Porter.

Chi, now a course chairman in Southeast Asia orientation at the State Department's Washington Training Center, was at Ft. Bragg, N.C., lecturing and could not be reached for comment yesterday.

The National Security Council cited Chi's book as one of President Nixon's sources for declaring on April 16, 1971, "I think of a half a million, by conservative estimates, in North Vietnam who were murdered or otherwise exterminated by the North Vietnamese after they took over from the South . . ."

The President added at that same news conference that "if the United States were to fail in Vietnam, if the Communists were to take over, the bloodbath that would follow would be a blot on this nation's history from which we would find it very difficult to return . . ."

Asked by Porter to document the President's "half a million" figure, the National Security Council quoted Chi as writing the following: "Theguilt complex which haunted the peasants' minds after the massacre of about 5 per cent of the total population . . ." The National Security Council added on its own that "5 per cent of the total population of North Vietnam at that time would be about 700,000."

"Mr. Chi offers no justification for this allegation" that 5 per cent of the North Vietnamese population was murdered, asserts Porter, "but he suggests at one point that most of the deaths were those of children who starved 'owing to the isolation policy.' "

Charges Porter: "This is yet another of the many wholly unsubstantiated charges put forth by Mr. Chi, for there was no such policy of isolating families, even of those landlords sentenced for serious crimes during the land reform . . .

"Yet it is mainly on the basis of Mr. Chi's totally unreliable account, the intention of which was plainly not historical accuracy but propaganda against" North Vietnam, says Porter, "that the President of the United States himself has told the American people that 'a half a million' " people were exterminated.

In contrast to CIA's description of Chi as a "former Vietminh cadre" who could thus be expected to have firsthand knowledge of the land reform program, Porter asserts that Chi was never a party member before leaving the North for South Vietnam in 1955.

"Mr. Chi was himself a relatively wealthy landowner," Porter claims on the basis of an interview with Chi. Thus, he argues, Chi could not be expected to give an unbiased account of the land reform program.

Western authors like Fall, says Porter, suffered a "critical" shortcoming because they could not read Vietnamese and thus could not research the original documents the North Vietnamese used to communicate with their own cadre. Fall and others, therefore, had to rely on Saigon and U.S. government summaries of the North Vietnamese material or on authors like Chi. (Porter reads Vietnamese and said in an interview that this enabled him to study documents that went to North Vietnamese cadre from party leaders.)

In an attempt to show the danger relying on summaries and other secondary sources, Porter charges Chi distorted a North Vietnamese party (Lao-dong Party) slogan by saying it included the phrase, "liquidate the landlords." There was no such phrase, Porter asserts. Instead, he alleges, the slogan said: "Abolish the feudal regime of land ownership in a manner that is discriminating, methodical and under sound leadership."

He charges Chi also mistreated Gen. Vo Nguyen Giap's speech of Oct. 29, 1956, on land reform. Giap, according to Chi's translation, said the party "executed too many honest people" and came to regard torture as normal practice.

Comparing the Vietnamese original text of Giap's speech with the Chi and Porter translations (which Porter said other scholars and Vietnamese corroborated), Porter alleges that "Mr. Chi's translation is one of his most flagrant abuses of documentary eivdence."

Donald Brewster is the National Security Council staffer (on loan there from AID who discussed the source of Mr. Nixon's bloodbath figures with Porter. Brewster told The Washington Post yesterday that real and literal meanings of Communist statements are sometimes two different things.

Brewster added that the sources he cited for Porter "are not the totality" of the material the White House relied upon. Also, said Brewster, it is the trend that is most important, not specific figures. In that sense, he said, the trend of Communist actions, such as North Vietnamese assassinations in

Hue, shows fears of a bloodbath in South Vietnam are indeed well founded, just as President Nixon has stated.

Porter himself said in an interview that he has filed for conscientious objector status and would decline to serve in the military in the Vietnam war. He is on a year-long fellowship, $5,000 for the academic year, in pursuit of his doctorate at Cornell's East Asia research center.

[From the Washington Post, Sept. 13, 1972]

FIGURE ON NORTH VIETNAM'S KILLING "JUST A GUESS," AUTHOR SAYS

(By George C. Wilson)

"It was just a guess, an estimate that nobody could figure," said the author of a book the White House has cited in documenting President Nixon's charge that the North Vietnamese massacred "half a million" people while imposing land reform in the 1950s.

Hoang Van Chi, author of "From Colonialism to Communism," said in an interview yesterday that he arrived at a figure in that range by projecting countrywide the experience in his own North Vietnamese village of about 200 persons. He said about 10 people died there from Communist persecution, one from execution and the rest by such "other means" as imposed starvation.

He said he used that 5 per cent rate in his village, plus what he learned from others in North Vietnam, as the basis for declaring in his 1964 book that there was a "massacre of about five per cent of the total population" in North Vietnam.

President Nixon's National Security Council, in listing Chi's book as one source for Mr. Nixon's massacre figures, said that 5 per cent of the North Vietnamese population when Chi made his estimate "would be about 700,000" people.

Mr. Nixon has cited the massacre figure of "half a million" in making the case for continued United States support of the South Vietnamese government. On April 16, 1971, he said: "I think of a half a million by conservative estimates in North Vietnam who were murdered or otherwise exterminated by the North Vietnamese after they took over from the South . . ."

More recently, on July 27, President Nixon said from 1954 to 1956 in the North Vietnamese Communists' "so-called land reform program 50,000 were murdered, assassinated." Mr. Nixon added that the Catholic Bishop of Danang told him in 1956 that "there were at least a half million who died in slave labor camps in North Vietnam."

D. Gareth Porter, a research associate at Cornell University's International Relations of East Asia Project, charged in a paper distributed by the university on Monday that "careful investigation" showed such bloodbath charges were "a myth." Chi's book was "the central piece" in "a deliberate propaganda campaign by the South Vietnamese and U.S. governments to discredit" the North Vietnamese government, Porter claimed.

Donald Brewster of the National Security Council staff said Chi's book was only one of several sources used in making the "half a million" estimate. Porter claimed some of the other sources cited by the council appeared to be drawn from Chi's work.

Chi himself, a course chairman at the State Department's Washington Training Center and lecturer in Asian affairs, made these points yesterday in responding to Porter's attacks on his credentials and scholarship:

CIA sponsorship. Chi said he thanked the Congress for Cultural Freedom in the foreward to his book for its financial assistance but had no way of knowing back then that Central Intelligence Agency money went to the organization. "Porter tried to link me to the CIA," complained Chi.

"Wealthy" landowner charge. Porter charged that Chi could not be impartial in discussing land reform in North Vietnam because he was a "relatively wealthy landowner" before leaving there for the South in 1955. Chi said he had sold off the acreage he had inherited and was down to 2.7 acres in the North in 1953.

A man with that little land, said Chi, is not a wealthy landowner. Besides, he said, Communist Party members all the way up to and including Ho Chi-minh owned more land than he did in North Vietnam at the time of land reform.

"I'm for redistribution of land," said Chi, "but against the method that was applied" in North Vietnam. He said he was considered a revolutionary in the Vietminh resistance against the French but was not a formal member of any Communist Party.

Translations. Porter accused Chi of distorting North Vietnamese policy statements and slogans by inaccurately translating them into English for his book. Chi conceded he had not stuck to the literal translation in all cases because he was trying to impart the true meaning—the one that mattered. "I should have added a footnote" explaining that, Chi said.

His experience on the ground in North Vietnam influenced his translations, and, he argued, made them more meaningful to the reader trying to perceive what was really going on.

"I deplore the case of many scholars who try to understand communism by reading documents," Chi said. "You cannot read books on communism and know it. You have to live under a communist regime to know it."

Declaring that his book was printed in both Vietnamese and English, Chi said Vietnamese who have read both versions would have complained if his translations were inaccurate. He said he had received no such complaints.

Porter in his paper charged Chi had mistranslated a basic Communist slogan in discussing the party's takeover of North Vietnam. "I report what I hear," said Chi, "not what they put in documents."

"I stick to my view," said Chi, "that land reform (in North Vietnam) was a pretext for a mass purge. I'm for land reform for South Vietnam. I left North Vietnam for the way land reform is practiced."

"Some of my family died from starvation," he said in discussing the persecution in North Vietnam during land reform. "I'm not very firm about the figure" of how many were purged "because it was only an estimate." Chi said since his book came out, a defector has estimated 300,000 North Vietnamese were purged during the land reform campaign.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. FULBRIGHT. I agree with the Senator completely that the blood bath issue is a phony one. What he has said is entirely correct, and justified on the basis of history.

I note that this morning's newspaper says again that the North Vietnamese are willing to settle on the basis of a neutral South Vietnam. What does the Senator think about that, relative to the President's position on maintaining the war, continuing the war, because he has asserted that the North Vietnamese insist upon the communization of South Vietnam as their goal?

I have never believed that they have insisted on that. There has been much evidence that they do not, and that they would be satisfied with a neutral, non-Communist government.

As the Senator knows, this morning's paper has an account of that. How does he feel about it? Does that indicate to him that there is any desire for a blood bath, if they make such an offer for a neutral South Vietnam?

Mr. KENNEDY. Certainly a neutralization of South Vietnam would be in our interest, and the adjustments and accommodations to bring that about, I think, would certainly be consistent with the idea of preventing the much talked about blood bath.

Outrageous incidents have taken place on both sides. No one is condoning the accounts of atrocities in North Vietnam, and no one should be justifying the Phoenix program which has been a part of our strategy in South Vietnam. We are so quick to condemn violence on the other side, and yet we have had, as a part of our whole program, the assassination of local villagers suspected to be Vietcong.

The Senator is quite correct in suggesting by his question that neutralization would be absolutely consistent with our interest, and I believe with the interests of the people in the South.

I am interested in the reaction of the chairman of the Committee on Foreign Relations, and I would be interested to know how he is able to explain to his constituents—because I have problems in explaining to mine—how we can have a President of the United States sitting in Peking, listening to "America the Beautiful," raising a glass of champagne with the Chinese leaders, talking about new rapprochements with the Chinese, and doing the same thing with the Russians; I thought they were supposed to be the threat to the potential security of this country. But we are trying to reach some kind of accord with them.

How does the Senator from Arkansas explain to his constituents that the North Vietnamese, by contrast, pose some kind of threat to the people of Arkansas? Maybe the Senator could help me, because then I might be able to explain it to the people of Massachusetts.

Mr. FULBRIGHT. All I can say is that this administration, under the leadership of President Nixon, has done the greatest job of hoodwinking the American people that I ever saw, because his policy has no relationship to the truth. It is utterly inconsistent with what he does by going to Peking and Moscow.

I approve of his going to Peking and Moscow, but that is absolutely inconsistent with what we are doing by continuing the war in Vietnam.

All this business about a blood bath is utterly inconsistent with the facts. What I cannot understand is the American people being taken in by this kind of public relations job. There is no reason whatever for continuing the war. The blood bath argument is completely phony.

This offer that they will accept a neutral government destroys the last argument of the administration, that the North Vietnamese demand that we turn over to them the Government of South Vietnam directly as a part of the negotiation. This is what has been said in the last year. I do not believe it is true. I do not think they demand that we turn over the Government. I do think they demand that Thieu not continue as the President, and that there be at least a neutral government, which will then, in due time, be able to determine its own future.

About 5 years ago, the Committee on Foreign Relations had a study made of this concept of neutrality and its possible application to Southeast Asia. That study, by some distinguished scholars, indicated that this concept could play a very constructive role in the settlement of the Vietnam issue. That was 5 years ago—or more than 5 years ago; it was about 1966 or 1967. But now, after all this time, it is interesting that it is being revived, and I think what the Senator is saying about the bloodbath is as obvious as the nose on your face. There is no prospect of that in light of history, providing we do not push it to the very end, we continue this war right down to the line, continue our own bloodbath, then you always inspire retaliation and you continue on both sides. That is the way to get a bloodbath, the way we are doing it, without the possibility of negotiating a settlement.

Mr. KENNEDY. The Senator is mindful, as chairman of the Committee on Foreign Relations, of how emotions of war and hate were built up in other situations, such as Algeria, Pakistan, Nigeria, and Biafra, especially in Pakistan-Bangladesh situation where the emotions, the intensity of feelings, were just as strong as in Vietnam. Yet, they were able to work out adjustments, at least to date, and no bloodbath has occurred. We cannot give any assurance that the Biharis will not be in trouble in Bangladesh in the future, but at least to date they have been able to bring an end to the violence in those situations.

Does the Senator see any reason why similar kinds of adjustments and negotiations could not be worked out to provide refuge for those people in South Vietnam and countries of Southeast Asia emigrating to the United States, if there were those who wanted to do so?

Mr. FULBRIGHT. The Senator is correct. I agree with him. The refuge for those leaders who would wish to emigrate, of course, can be provided. I do not think that is a problem.

Mr. KENNEDY. Would that be less expensive than continuing the war?

Mr. FULBRIGHT. That is correct. And it would save many lives. Most of the people do not want to emigrate—that is the ordinary people—and they will not be bothered, in my opinion, if a settlement could be worked out along the lines of the French settlement. As the Senator has pointed out, there was no bloodbath. That whole myth has been exploded.

Several recent articles and a book published recently, going deeply into that subject, indicate conclusively, I think, that there was no bloodbath, nor was there any failure to return the prisoners. The President falsely stated that issue, as the Senator knows, and it has been exploded. All the French prisoners of war were returned. A few native soldiers were not accounted for.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Chair recognizes the distinguished minority leader, the Senator from Pennsylvania (Mr. SCOTT), for not to exceed 10 minutes.

TWO POINTS OF VIEW ON VIETNAM

Mr. SCOTT. Mr. President, the general public is well aware of many situations which seem to escape Senators. This is really remarkable, because we are supposed to be leaders of public opinion rather than followers, coughing in the dust of those who have moved ahead of us by the millions.

We go on endlessly, day after day, impugning the judgment of the American people, three-fourths of whom have said—and said again and again—that they believe that the way in which the President is bringing an end to this war is the proper way. Nevertheless, Senators who should know better repeat over and over the endless myths about how they suffer over this unpopular war, as if no one else suffers. Everyone suffers. It is a miserable and an unpopular war.

There are two points of view, basically. There are those who say that no progress is being made or the war will go on forever, and who nevertheless say, because they are so friendly with the opposition, that by the mere lift of a finger, if they were in power, they would get the prisoners of war back virtually overnight. How they would accomplish these miracles at the same time they expect the war to continue for years or forever is never explained.

I said there are two points of view, and I think this is what they are:

First, there is the point of view of the people like myself who say that we inherited in this administration a most unpopular situation. We inherited the situation in which two previous Presidents had taken us into what proved to be a very bloody and lengthy war. They had entered it with the best intentions, with promises to go anywhere and to assume any burden in the joint defense of freedom, and these two Presidents rallied the American people to support a venture in Indochina. The people went along, and Congress went along.

Then this administration came in, not with a secret plan—no such statement was ever made—not with a mysterious formula, but with a statement by the President that he would bring about an end to the war. This he has valiantly sought to do, and, so far as ground combat action is concerned, he has in fact done. That is proved by the decrease in casualties, by the absence of ground troops, and by the withdrawal of all combat soldiers, Armed Forces. It has been proven by the ending of the draft.

Reference has been made to students who were in junior high schools when the war began and who have to serve now overseas. They do not have to serve at all, not unless they volunteer. Nobody has to be in Vietnam, save by their own deliberate choice by becoming a part of the armed services. But what has happened is that, by this point of view, this President has undertaken to bring an end to the war.

They say no progress is being made but that ignores the fact that the North Vietnamese only this week again have modified their negotiating position.

For a long time North Vietnam insisted that the Government of South Vietnam be constituted out of the three groups and then they insisted that they, in effect dominate the selection of all three groups; so all the three factions making up a coalition government would, in fact, be chosen through the exertion of the will of the North.

Now they say they have made some progress. They say one-third of those can be chosen through the will of the South. That is the best way to shorthand it—the will of the South. The South Vietnamese can pick one-third of the people to govern their own country and the North Vietnamese will pick two-thirds. That is where we are now.

But there are people who argue that that is fair. There are people who argue the enemy's side, who say that is just or that is right. Well, that is nonsense. That is one side of the argument.

Inheriting a war, ending it, removing our forces, ending the draft as compassionately as we possibly can, not contending with anyone that we are not grieving for those who have been lost or those who have been wounded; grieving, however, for the South Vietnamese, at least as much as for the North Vietnamese, remembering to grieve for those who were our allies, and respecting the right of those people to seek freedom: this is the point of view that I share.

What is the other point of view? The other point of view is that through some mysterious way we got into the war, that some mysterious forces are keeping us there, and that all we have to do to get out is to adopt some kind of resolution or amendment and walk away and leave.

What that masks is something else again. What that masks is not merely a surrender. What it masks is an unreality. It masks the unreality that by walking out we do not do a thing about the prisoners of war. We settle for three and leave the rest there. It masks, then, this unreality of having no solutions, but of asking the American people to reverse their 3-to-1 judgment that the administration is doing the right thing and opt instead for the optimistic and unrealistic judgment that if we are just nice to the North Vietnamese and we say to them that we will stop all military action in the air and on the sea, that they, in turn, will then agree to release the prisoners. But these people who make that argument do not go far enough. They do not say what they will do about South Vietnam. They mask that by saying it is a corrupt military government which, in effect, means that any government outside of the United States and Western Europe and the Commonwealth has to be a corrupt government because it is not a democratic government. They continue: because it is a corrupt government, let them die, let them swelter in their own blood, let them be lost to the Communists, let them, after all, be free—for what? Free to die, free to die alone, free to die without defense, free to die without those who promised to go in here and give them support.

Mr. President, I think it is time to penetrate the lack of logic of that point of view. The American people have long since penetrated it. They know that this is not President Nixon's war. They know that this is a war the American people got into under two other Presidents with the American people supporting them. They know that Members of the Senate of both parties supported it. There were some who did not. The distinguished majority leader has a record of being consistent throughout, for which we all praise and respect him. There were many others who were not. Only two Senators voted against the Gulf of Tonkin resolution.

Thus, I think that we should call on some councils of realism. We should say to ourselves, "How do we get out? By condemning Thieu's government?" As if we are so good and they are so bad and therefore they should be allowed to die alone and unprotected. That is a non sequitur, the kind of curious non sequitur which flourishes and fertilizes itself within the Senate. But it is not the truth. It is not the fact. It is not the way things are.

So, Mr. President, it seems to me that we should rally around the administration that is ending the war. We should consider what the late Senator Vandenberg recommended.

> Let politics end at the water's edge.

We should go back to our bipartisan foreign policy where Congress without regard to its politics has supported Presidents over the year without regard to their politics when they were engaged in wars overseas.

We do not get out of the burden of guilt for this war by saying it is unpopular. We do not get out of the burden of guilt over the war by saying that some other government is bad. We are only going to get out of the war the way we are getting out of it, and I submit that is the only course open to us.

The PRESIDING OFFICER (Mr. HOLLINGS). The time of the Senator from Pennsylvania has expired.

FOREIGN ASSISTANCE ACT OF 1972

The PRESIDING OFFICER (Mr. HOLLINGS). Under the previous order, the Chair now lays before the Senate H.R. 16029, which the clerk will state.

The legislative clerk read as follows:

> H.R. 16029, to amend the Foreign Assistance Act of 1961, and for other purposes.

The PRESIDING OFFICER. Under the previous unanimous-consent agreement, the Chair now lays before the Senate amendment No. 1573, as modified, by the Senator from Pennsylvania (Mr. SCOTT), which the clerk will state.

The legislative clerk proceeded to read the amendment.

Mr. SCOTT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. FULBRIGHT. Mr. President, reserving the right to object, I did not hear the request. Could it be repeated, please?

Mr. SCOTT. I asked unanimous consent that further reading of the amendments be dispensed with and that they be considered en bloc.

Mr. FULBRIGHT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Arkansas will state it.

Mr. FULBRIGHT. What amendments are being referred to, Mr. President? I did not understand what was going on.

The PRESIDING OFFICER. The clerk was reading amendment No. 1573 as modified, which is a series of amendments——

Mr. FULBRIGHT. For the moment, I object, simply in order to inform myself as to what is being proposed. I did not anticipate a request of this nature at this stage.

The PRESIDING OFFICER. The clerk will continue to read the amendment.

The legislative clerk read the amendment in full, as follows:

> On page 14, in line 7, immediately after the figure $618,000,000" insert a comma and the words "of which not less than $50,000,000 shall be available solely for Israel".
>
> On page 14, in line 8, strike out the figure $550,000,000" and insert in lieu thereof "$685,000,000, of which not less than $85,000,000 shall be available solely for Israel".
>
> On page 18, in lines 20 and 21, strike out "fiscal year 1972" and "fiscal year 1973" and insert in lieu thereof "$400,000,000 for the fiscal year 1972" and "$435,000,000 for the fiscal year 1973", respectively.
>
> On page 18, in lines 23 and 24, strike out "fiscal year 1972" and "fiscal year 1973" and insert in lieu thereof "$550,000,000 for the fiscal year 1972" and "$600,000,000 for the fiscal year 1973", respectively.
>
> At the end of the bill, insert the following new section:
>
> "MILITARY ASSISTANCE AUTHORIZATION
>
> "SEC. 19. Notwithstanding any other provision of this Act, there is authorized to be appropriated to the President to carry out the purposes of part II of the Foreign Assistance Act of 1961, as amended, in addition to funds otherwise available for such purposes, not to exceed $200,000,000 for the fiscal year 1973. Amounts appropriated under this section are authorized to remain available until expended.".

The PRESIDING OFFICER. These amendments, under the unanimous-consent agreement, will be considered under controlled time, with the time to be equally divided between the Senator from Pennsylvania (Mr. SCOTT) and the Senator from Arkansas (Mr. FULBRIGHT).

Who yields time?

Mr. SCOTT. Mr. President, I yield myself 10 minutes at this time.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 10 minutes.

Mr. SCOTT. Mr. President, my amendment would restore the authorizations——

Mr. FULBRIGHT. Mr. President, will the distinguished Senator from Pennsylvania yield?

Mr. SCOTT. I yield.

Mr. FULBRIGHT. After informing myself, I have no objection to the amendments being considered en bloc.

Mr. SCOTT. I thank the Senator.

Mr. President, I renew my request and ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

Mr. SCOTT. Mr. President, my amendment would restore the authorizations for grant military assistance, foreign military sales and security supporting assistance to the levels previously set by the Senate several weeks ago.

These are—as I have advised my colleagues, along with my cosponsor the Senator from Wyoming (Mr. MCGEE) by letter of September 25, 1972, which sets out the details—$600 million for military assistance; $435 million of new obligational authority for foreign military sales with an aggregate ceiling of $600 million; and $685 million for security assistance with $85 million earmarked for Israel.

Mr. President, last Friday the Senator from Arkansas (Mr. FULBRIGHT) offered an amendment reducing the authorization for grant military assistance from the $500 million in his committee's bill to $400 million. Because Senators were alerted that there would be a vote on my amendment to increase this authorization today, and because only about two-thirds of the membership of the Senate were present at the time—that is, presently in the city—I did not ask for a rollcall vote. I made it clear at that time, and repeat again, that I did not consider the sparsely attended voice vote—by, I believe, only three Senators present in the Chamber—by which that amendment was adopted as necessarily reflecting the will of the Senate.

In order to overcome the parliamentary problems occasioned by the voice vote on the Fulbright amendment, I have drafted the section of my amendment increasing the authorization for grant military assistance by $200 million as a new section to the bill. This was rendered necessary by the action of Senators yesterday.

Mr. President, as my distinguished colleagues are well aware, the merits of these authorizations have been debated at great length over the last several months. This bill was on the floor of the Senate for 6 weeks.

These levels I am proposing are the ones we have already debated and agreed to. I point that out—they have already been agreed to by the Senate once before. They would increase the authorization levels reported from the Foreign Relations Committee by $270 million but are still well below the amounts requested by the administration, and are, in fact, well below the amounts passed by the House of Representatives. My amendment will permit us to fund these programs at marginally adequate levels. No useful purpose would be served by reopening still another acrimonious debate over these funding levels. I cannot understand why a majority of the Foreign Relations Committee voted at this late date to reduce authorization levels already set by the Senate 60 days ago. Mr. President, in my view it is time to fish or cut bait. It is time to pass this legislation with the numbers and amounts we previously agreed upon and to take this bill to conference.

Mr. President, I ask unanimous consent that my letter to my colleagues, together with the attached chart, be printed at this point in the RECORD. This chart states the levels in millions of dollars as voted by the Senate in S. 3390, as proposed in the Scott-McGee amendment, as reported by the Foreign Relations Committee, and as passed by the House of Representatives.

There being no objection, the letter and chart were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., September 25, 1972.

DEAR COLLEAGUE: We would like to call your attention to an amendment which we are co-sponsoring to the Security Assistance Authorization Bill. The amendment simply restores the levels in the Senate bill previously acted upon prior to the inclusion of the Brooke Amendment. The levels which the Senate approved are modest. They are, for example, far below the authorization and appropriation bills passed by the House of Representatives. (See attachment)

You will note that, as compared with the latest recommendations of the Committee, the Scott-McGee amendment would authorize: $600 million in military assistance against the most recent proposal by the Chairman of $400 million; $685 million in supporting assistance of which $85 million is earmarked for Israel against the Committee proposal of $550 million with $50 million earmarked for Israel, $435 million for foreign military credit sales compared with $400 million now proposed by the Committee.

Sincerely yours,

GALE MCGEE,
U.S. Senator.
HUGH SCOTT,
U.S. Senator.

SECURITY ASSISTANCE AUTHORIZATION BILL

[In millions]

Levels	As voted by the Senate in S. 3390	As proposed in the Scott-McGee amendment	As reported by the Foreign Relations Committee	Fulbright amendment	As passed by the House of Representatives
Military assistance	600	600	500	[1] 400	730
Supporting assistance	685	685	550		769
(Earmarked for Israel)	(85)	(85)	(50)		(50)
Military sales	435	435	400		527
(Aggregate credit ceilings)	(600)	(600)	(550)		(629)

[1] Adopted by Senate Sept. 22 by voice vote.

Mr. SCOTT. Mr. President, having discussed the whole bill generally, I would like to comment on the motion to strike the section of the bill which contains the end-the-war amendment. I hope that this motion to strike will prevail for a number of reasons. First, it is near the end of the session, and it is difficult to get another bill through the committee and on the Senate floor. This is the second time around. The House of Representatives has been remarkably patient with us.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER (Mr. HOLLINGS). The Senate will be in order. The Senator from Pennsylvania may proceed.

Mr. SCOTT. Mr. President, I would not want to jeopardize this bill another time, because every time we do so it seems to shrink in the laundering process which it goes through in the committee.

I would hope that we could accept the bill with the figures we want to restore. I hope that we can adopt the motion to strike, because if the so-called end-the-war amendment remains in the bill, the bill may be defeated. Many of us may be forced to vote against it. And again that will leave us with a continuing resolution as the only basis on which to proceed.

It is unfortunate that the Senate is forced to act on a continuing resolution instead of facing up to its obligations and responsibilities on each of these bills.

Therefore, if we strike this section under the Stennis amendment, and if we increase the funds, the bill can go to conference. I am satisfied it will come out of the conference on a reasonably adjusted basis so that the President can accept the bill. All the people of the world and our own people who are especially involved in administering this amount will then be able to proceed with some certainty and some assurance as to what they are doing and as to what the policy of the United States is and, hopefully, will continue to be.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. FULBRIGHT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FULBRIGHT. Mr. President, what is the situation regarding the time between now and the vote?

The PRESIDING OFFICER. The Senator from Pennsylvania has 43 minutes remaining. The Senator from Arkansas has 51 minutes remaining.

Mr. FULBRIGHT. Mr. President, I was not quite clear about the situation. Is all time between now and 1:30 divided equally between the Stennis amendment and the Scott amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. SCOTT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SCOTT. Mr. President, are we required to use up the 43 minutes and the 51 minutes, respectively, before we go into the use of the time on the Stennis motion to strike? Does that become a matter of priority?

The PRESIDING OFFICER. It would take unanimous consent to do otherwise.

Mr. SCOTT. That was my thought.

Mr. FULBRIGHT. So that the time now would run continuously on the Scott amendment until exhausted and then on the Stennis amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. FULBRIGHT. How about any other amendments that may be offered or pending? How is time allocated on them?

The PRESIDING OFFICER. There is no time for any other amendment. No other amendments will be in order until 1:30 this afternoon.

Mr. GURNEY. Except by unanimous consent.

Mr. SCOTT. Except by unanimous consent.

The PRESIDING OFFICER. The Senators are correct, except by unanimous consent.

Mr. FULBRIGHT. Mr. President, under the unanimous-consent agreement, as I understood it, we would proceed to vote without debate on all other amendments, following immediately after the Scott, Stennis amendments. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. FULBRIGHT. So that if another amendment is offered, there will be no time for debating it?

The PRESIDING OFFICER. The Senator is correct.

Mr. FULBRIGHT. Mr. President, that is a very efficient way to dispose of amendments.

The PRESIDING OFFICER. That is the unanimous-consent agreement of the Senate.

Mr. FULBRIGHT. Mr. President, I was not quite clear about it.

Mr. SCOTT. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SCOTT. Mr. President, I think this would be helpful. I understand that the Senator from Florida (Mr. GURNEY) has an amendment to offer. If the Senator from Arkansas and the Senator from Pennsylvania agree and a unanimous-consent request is granted, the amendment may be offered and disposed of by a voice vote during this period of debate on the Scott-McGee amendment. May that be done?

The PRESIDING OFFICER. By unanimous consent.

Mr. SCOTT. Mr. President, I yield 5 minutes of my time to the Senator from Florida (Mr. GURNEY) to pose a unanimous-consent request and to offer a motion.

Mr. GURNEY. Mr. President, I ask unanimous consent that it may be in order for me to offer an amendment at this time.

The PRESIDING OFFICER. The Senator from Florida ask unanimous consent that his amendment be in order at this time. Is there objection? The Chair hears none, and it is so ordered.

Mr. GURNEY. Mr. President, I send an amendment to the desk, which I offer to the bill, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

> On page 13, line 9, after "(1)", insert "(A)".
>
> On page 13, between lines 11 and 12, insert the following:
>
> (B) At the end of section 504, add the following new subsection:
>
> "(c) There is authorized to be appropriated to the President for the support of regional naval training activities in the Western Hemisphere, in addition to funds otherwise available for such purposes, $2,500,000 for the fiscal year 1973. Amounts appropriated under this subsection are authorized are to remain available until expended."

The PRESIDING OFFICER. Five minutes have been yielded to the Senator from Florida.

Mr. GURNEY. Mr. President, the amendment is self-explanatory. That is why I wanted the clerk to read it.

What we are doing here is putting $2.5 million into the bill to develop naval training facilities at Key West, Fla., involving mainly naval personnel from the Latin American countries and training them in naval duties.

The State Department is strongly in favor of the amendment, and the Navy Department is in favor of the amendment.

There is a provision in the House bill which would authorize $5 million for this very project. We are suggesting, and the amendment provides, one-half of that amount.

I would hope that the Senator would approve the amendment.

Mr. President, I yield at this time to my colleague, the junior Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. CHILES. Mr. President, I thank my colleague for yielding.

I am delighted to join with him in offering this amendment which covers a project included in the House version of the bill.

Mr. President, Senator Gurney and myself are introducing an amendment to the Foreign Assistance Act which would authorize the appropriation to the President for the support of regional naval training activities in the Western Hemisphere, in addition to funds otherwise available for such purposes, $2.5 million for the fiscal year 1973. This amendment was offered in the House by Congressman Fascell and was included in the House-passed version of this bill.

Mr. President, I believe we can all recognize the importance of increasing the ability of our Latin American allies to assume an increasing share of the burden of defending the Western Hemisphere. The additional funds our amendment authorizes would allow the Navy to establish and operate an inter-American training center which would do just that.

With the phasing out of diesel submarines, the Key West, Fla., U.S. Naval Station was at the top of the list for base closures. It became necessary that new missions for this station be found. The funds this amendment would authorize would allow the establishment and operation of a training center which could capitalize on the U.S. Navy's recent experiences in the coastal and river areas of Southeast Asia which would be of exceptional value to our hemispheric allies. It would provide for a consolidation of Latin American naval training activity currently conducted at various other locations in the United States. It would be a single and easily accessible facility, offering courses specifically designed to meet the demonstrated training needs of Latin American navies, taught in Spanish and Portuguese. In addition to other courses, civic action, inshore and near-shore operations, small craft operations and maintenance would be taught at the center in the students' native language. It would offer an attractive means of offsetting an existing training deficiency. I see the establishment of the proposed Inter-American Training Center at the U.S. Naval Station in Key West as the utilization of present facilities in a way that is perfectly consistent with our national security, a utilization which would serve to enhance relations between the United States and her allies.

I believe, along with Senator Gurney and Congressman Fascell, that the establishment of an Inter-American Naval Training Center at Key West would be the first step in the Defense Department's turnaround in attitude toward this base. The Center has the strong support of the Department of Defense, the Department of the Navy, the Department of Representatives, and the full House of Representatives.

A letter dated June 30, 1972, from the Assistant Secretary of Defense, Lawrence S. Eagleburger, stated:

> It is planned that this center would provide appropriate instruction in small craft operation and maintenance, inshore warfare and public works construction techniques (civic action).
>
> The US Naval Station, Key West, Florida, affords an ideal combination of location, environment, and adaptable facilities available for the establishment of an IATC as a tenant activity.

And in a letter to Congressman Robert L. F. Sikes of Florida, the Secretary of the Navy, John W. Warner, stated:

> I feel that the Inter-American Training Center will make a positive contribution to the Nixon Doctrine by preparing Latin American navies to assume a greater share of any mutual defense efforts.

Mr. President, the Department of Defense appropriations bill, which passed the House September 14, 1972, contains $880,000 for the Navy's military personnel to be connected with the Center. I have received assurances through Congressman Fascell that $2.5 million for fiscal year 1973 will be included in the House foreign operations appropriations—this amount will be for training, equipment, curriculums, and other operational costs of the Center.

This amendment is already in the House version and I believe firmly that it merits the Senate's favorable consideration.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida.

Mr. FULBRIGHT. Mr. President, I yield myself whatever time I shall require.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. FULBRIGHT. Mr. President, this project is a new project to utilize the facilities at Key West to train Latin-American naval personnel.

I do not like to be in the position of opposing the Senators from Florida on a local project in their State which, as such, is not offensive. However, I do object on principle to bringing into the foreign aid bill a local project like this. It would be the same if it were in Louisiana, or Arkansas.

My reason is that the foreign aid bill, in my opinion, has long outlived its usefulness. There was a time in the days of the Marshall Plan when Europe was on its back and we thought with reason, I think, that there was a great danger of the collapse of Western Europe.

I supported foreign aid then. However, I have not supported the foreign aid concept encompassed in this bill on military assistance for a number of years now, 6 or 7 years, because I think it has outlived its purpose. It is now abused. It leads to corruption. It is a bad bill. I do not wish to be in a position of being a party to adding to it domestic projects such as this which inevitably create pressure on Representatives and Senators of those States to support the bill. That is the nature of our political system.

I cannot in good conscience accept the amendment. I have to oppose it. It is in the House bill. Whether it will stay in conference I do not know.

If this were a project to build something they want in Florida, something in a domestic bill, I would not raise any question about it, but on the Foreign Aid bill my position is to kill it or cut it back as much as possible. We have reduced it in committee below the budget request. Overall, this bill carries about the same amount as last year. I am trying to hold the line at the level of last year. It is still more than was approved in 1970 for example.

It is bad policy to be increasing this amount in the face of our great needs. So I cannot accept the amendment, as much as I regret opposing the two Senators from Florida. It is a small amount, $2.5 million. But it would start a training center, and then it will be increased to $5 million and then $20 million. When foreign aid is involved there is no limit to the amount of money these projects ultimately cost.

Yesterday, I placed in the Record a table showing how much is in the overall military assistance and arms sales program request for 1973. The executive branch estimates $8.460 billion. It is incredible the amount of money we dispose of in this kind of legislation. It sort of has a vague appearance to it and people vote without going over it with a fine tooth comb.

If this were presented in the regular order through the Committee on Public Works, where there would be witnesses and hearings, and authorization, and then we would come to the appropriation, it would be proper.

I try to get a little public works money for Arkansas now and then, but we are put through hearings, testimony, authorizations bills, appropriation bills, but there is no assurance we will get it. We are asked, "Was this in the budget? Was this approved by OMB?"

I ask the Senator from Florida if this was approved by the Office of Management and Budget. Does the Senator know what they say when we put a project in public works that has not been approved by OMB? That is sacrilege. The Senator from Washington recently got millions in assistance for Israel. There had been no hearings, not a word of testimony. It was approved by the Senate. I think six colleagues joined me in opposing it. There were no hearings whatever. Imagine trying to get hundreds of millions for the State of South Carolina, I say to the present occupant of the chair (Mr. HOLLINGS), without hearings, with not one word of testimony, but just on the word of the Senator from Washington.

This is so modest, I am embarrassed to oppose it. It is only $2.5 million. But it is the same principle. OMB has not approved it, and there have been no hearings. Is that correct?

Mr. CHILES. I do not think so, but the Senator talked about the problems of getting projects for the State of Arkansas. I wonder if the problem is not more a problem of a place to put more projects because of the good work the Senator has done, with the other Senator from Arkansas. Is not the problem that you have run out of places to put them? There are no more rivers or other places to put the projects, instead of the problem of getting funds.

Mr. FULBRIGHT. I appreciate the Senator's compliment, but he is quite misinformed. There is nothing in Arkansas that is even comparable to the outskirts of Cape Kennedy. There are two small air bases. There was a program for the Arkansas River. That took 15 years. In that 15 years it has averaged less than $150 million a year. Florida gets that much every week. Florida has a half dozen bases that cost more than that. It took 15 years to build the Arkansas River project.

However, I do not regret that. When I look around the United States, I see many States are overpopulated with all kinds of goodies. Many of the problems result from too many people.

There was a story in the newspapers that in Morro Bay, Calif., there are so many people they do not want more people coming in.

There was another interesting story this morning concerning the Common Market. The report was that in Norway they wished to preserve some of the life style of Norway and they do not want to develop more factories and more installations and have more growth. That shocked the people in the Common Market. What the Norwegians are saying in their wisdom is: "We do not want all this progress merely to show greater GNP. We do not want a greater GNP based on more garbage disposals, sewage, and police protection.

It is a new idea. It raises a serious question about the value of GNP.

In answer to the Senator's question, I am not disturbed that we do not have as many projects in Arkansas as they have in the State of Florida, such as Disneyland. I understand Howard County in Maryland declined to give a permit to build a Disneyland-type project there. The Senator probably heard about that. It is very interesting what happened to that proposal. And, I believe, the State senator from Prince Georges County in Maryland is introducing a bill on this same subject.

So I appreciate the Senator's compliment but I can assure him that we are not covering up Arkansas with concrete and factories.

I regret that I must oppose this because I have great respect for the Senators from Florida, but they have put this on a bill which they know I feel very strongly about. The money in the bill is a waste of my constituents' money and it undermines the prestige and influence of the United States.

I just cannot bring myself to agree to accept this project on this bill. I would vote for it if it were put in public works, or even on the military bill. Then, I would vote for it. I keep thinking we will get rid of this kind of foreign military assistance some day.

Mr. President, I thought this article would be proper to bring to the attention of Senators.

Mr. GURNEY. Mr. President, if the Senator will yield, I wonder if we could dispose of the amendment before the Senator gets on to the general argument of the bill.

Mr. FULBRIGHT. I do not think you can dispose of it without unanimous consent, without consideration of the whole Senate, and I cannot give unanimous consent.

The PRESIDING OFFICER. The amendment was called up by unanimous consent.

Mr. SCOTT. The amendment is pending.

Mr. FULBRIGHT. That is interesting. When did the Chair put the question?

The PRESIDING OFFICER. When the Senator from Florida asked unanimous consent to call it up.

Mr. FULBRIGHT. Well, I was here. I did not hear it at all. I thought all the Senator did was yield to the Senator to discuss the matter. I guess I should have been more awake. These unanimous-consent requests are made so quickly. It is my fault. I did not hear it. I did not know that was the procedure.

Well, then, is it before the Senate?

The PRESIDING OFFICER. That is the pending question.

Mr. FULBRIGHT. What is the procedure under the unanimous-consent agreement? Was the unanimous-consent request given to vote on it?

The PRESIDING OFFICER. Only 5 minutes were yielded before it was to be put to a vote.

Mr. FULBRIGHT. I am not ready to yield for a vote.

Mr. GURNEY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GURNEY. As I understood it, and as I also understood the agreement I had with the manager of the bill—and I discussed it with the Senator from Pennsylvania (Mr. SCOTT) in order to get him to yield—while the manager of the bill did not agree with the amendment, he did not object to bringing it up by unanimous consent. So I brought it up by unanimous consent and asked for its immediate consideration. As I understand the parliamentary situation, debate would be had for 5 minutes before the vote.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the Chair made it clear that no other amendment could be brought up before 1:30 except by unanimous consent, and there was no time provided for debate on this particular amendment.

Mr. FULBRIGHT. I understood the Senator could bring it up and it could be voted upon after the others, without debate. I made that inquiry. I thought that was the procedure that was being followed. The Senator, of course, could discuss it and explain it on the time yielded by the leader.

The PRESIDING OFFICER. He could have done it, but the request was otherwise.

Mr. FULBRIGHT. I had completely misunderstood. I thought it was going to be voted on after the other amendments. I did not hear the unanimous-consent request. It must have happened so rapidly. I did not know the Senator made a unanimous-consent request for its immediate consideration.

Mr. GURNEY. Mr. President, I call for the regular order.

The PRESIDING OFFICER. The question is on the amendment.

Mr. FULBRIGHT. Mr. President, I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. FULBRIGHT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. FULBRIGHT. My time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on the adoption of the amendment. [Putting the question.]

The amendment was agreed to.

Mr. GURNEY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SCOTT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Pennsylvania.

Who yields time?

Mr. FULBRIGHT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Arkansas will state it.

Mr. FULBRIGHT. In case there is no Senator who wishes to debate at this time, what is the parliamentary situation?

The PRESIDING OFFICER. Time will be charged equally to both sides.

Mr. FULBRIGHT. But if neither side wishes to continue the debate at this time, what happens?

The PRESIDING OFFICER. The time must be used or yielded back. The time is now running for debate on this particular amendment. Either side can yield time.

Mr. FULBRIGHT. Which side is being charged this particular time?

The PRESIDING OFFICER. To the Senator from Arkansas on his parliamentary inquiry.

Mr. FULBRIGHT. Is time for a parliamentary inquiry charged to me?

The PRESIDING OFFICER. It is.

Mr. FULBRIGHT. How about a quorum call? Is that charged to me?

The PRESIDING OFFICER. If the Senator has yielded his own time, as he did just a moment ago.

Mr. FULBRIGHT. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator from Arkansas has 31 minutes remaining.

Mr. FULBRIGHT. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, I may explain that apparently I was talking privately with the Senator from Pennsylvania when the unanimous-consent request was put, so it was my fault for not being alert to it. I did not anticipate it was about to be put. I thought it had been agreed that other amendments would be voted on after the voting at 1:30.

As I said, my reasons for opposing it are not because of the merits of the project, but that it should not be made a part of the foreign aid bill.

Mr. President, I ask unanimous consent that there be inserted in the RECORD at this point an article by Mr. D. E. Ronk in the Washington Post, entitled "Lao Regime Said to Bribe Opposition."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GENERAL VANG PAO IMPLICATED: LAO REGIME SAID TO BRIBE OPPOSITION

(By D. E. Ronk)

VIENTIANE, September 21.—The Laotian government used treasury funds this week to bribe legislators to end their six-months opposition to Prime Minister Souvanna Phouma, highly knowledgeable displomatic sources disclosed today.

Sums paid to members of the National Assembly to support Souvanna were not specified, but some sources indicated they

peace I recognized we might not succeed in

or more legislators. However, these bribes are only the latest in a growing list of such payments this year, the sources said.

Sudden changes in the assembly's voting pattern, the sources said, came after Gen. Vang Pao, commander of the U.S.-supported irregular forces in northeastern Laos, hand-delivered the bribes to legislators.

Vang was chosen as the conduit after assemblymen said they would not accept the funds from Minister of Finance Sisouk Champassak, a central figure in the current political crisis, according to these sources.

Sisouk, who is also acting defense minister, is heir apparent to Souvanna and is supported by the major powers, including the United States, the Soviet Union and China. It was through Sisouk that government opponents in the assembly attacked Souvanna, creating the crisis.

Money used to end the crisis did not come directly from U.S. aid funds, according to the sources. They suggested, however, that Western countries, which provide a good share of Laos' operating funds, indirectly financed the payoffs. The United States is the largest contributor, providing $50 million annually in nonmilitary aid.

U.S. Embassy officials here have been keeping a close watch over political developments since the assembly went into session. The root of the crisis was an effort by Vientiane's Sananikone family, Laos' richest, to move its members into key economic slots in the government.

To accomplish this objective, the Sananikone family called for an end to the decade-old tripartite government system that has rightists, neutralists and left-wing Pathet Lao members holding ministerial portfolios.

By ending the tripartite government, the Sananikones and their allies could claim a number of portfolios.

Souvanna has said that he would not remain as prime minister if the tripartite * * * States has made it clear it would not back any government not headed by Souvanna or Sisouk. Thus, political maneuvering in the assembly during the past few months virtually paralyzed the government.

The Sananikone family and its allies, led by Assembly President Phoui Sananikone, sought through legislative maneuvers to topple the Cabinet, and possibly force a dissolution of the tripartite system. Souvanna resisted by skillful counter-measures and plain stubbornness, the sources said.

The assembly had refused to consider in recent weeks the 1972–73 budget, demanding that Souvanna appear with his Cabinet for a showdown. In response, Souvanna carried on with last year's budget and refused to shuffle his Cabinet, thus avoiding a confrontation.

However, Souvanna may have to reconstitute his Cabinet anyway, since a number of ministers either wish to leave their posts or are seeking diplomatic positions abroad, the sources said.

With one-third of the assembly's 60 members currently being on various junkets abroad, Souvanna apparently decided to try to break the deadlock by the simple expedient of payoffs to a majority of assembly members present in the capital, the sources said.

They said that Souvanna could be expected to present his Cabinet shortly. It is expected to be quickly approved along with the national budget.

Mr. FULBRIGHT. The article is very interesting. It reads:

The Laotian government used treasury funds this week to bribe legislators to end their six-months opposition to Prime Minister Souvanna Phouma, highly knowledgeable diplomatic sources disclosed today.

Sums paid to members of the Nationalist Assembly to support Souvanna were not specified, but some sources indicated they could have ranged up to $5,000 for each of 15 or more legislators.

It is very interesting how the money provided for in this foreign aid bill is used abroad. We have stories in the press this morning from the IMF and the International Bank that we are not giving enough money to assist the underdeveloped countries. Well, I can see how it would be very difficult to give them enough money to do them much good if the money is used to bribe the opposition forces in these countries. That is a very good example of one of the uses to which money provided in this bill will be put.

Mr. President, I wish to go to another matter, since there is so little in the foreign aid bill that any one here wants to talk about. I am not particularly anxious to talk about it, myself, because it has been talked about so long and is such a frustrating subject that I want to refer to a few other matters.

(The comments by Mr. FULBRIGHT on foreign policy and foreign involvement are printed in another part of the RECORD by unanimous consent.)

Mr. FULBRIGHT. Mr. President, a few moments ago the Senator from Pennsylvania had some comments about the statements that are being made in the Senate, and pleading for a return to the bipartisan policies of the days of Senator Vandenberg.

It so happens that during the period of Senator Vandenberg there was general agreement about most of the important issues of that particular day. During World War II, there was not any serious disagreement or view that that war was a tragic mistake. I think that the great majority of the people certainly did not think that Hitler was not the kind of menace, the kind of danger which warranted the intervention of this country in World War II. Whether or not that will be the long view of history no one knows, but even up to now I think there are few people who feel that we could have stood by and done nothing, in view of the threat that Hitler presented to the world.

It is true, as I have just said, that the present war was inherited by this administration. It was inherited to a great extent by the preceding administration. It was a small war, but a war had been going on. In fact, the first intervention, in a sense, goes back into the late 1940's and early 1950's, when our Government, contrary to its traditions, took the side of the colonial powers, in this case France, and gave it assistance to control its colonies.

So the intervention goes back a long way, and each succeeding administration, in a sense, inherited the war, or the elements which finally resulted in the war.

I think that is beside the point. The Senator from Pennsylvania started out by setting up a strawman, and said there was no secret plan. Well, I do not know that anyone has said there was a secret plan, but the President made it quite clear that his policy was to stop the war, and just for the record, I wish to reiterate some of the statements made by

President Nixon 4 years ago when he began his campaign for the Presidency. These are the words of President Nixon:

> If in November this war is not over after all of this power has been at their disposal, then I say that the American people will be justified to elect new leadership and I pledge to you the new leadership will end the war and win the peace in the Pacific and that is what America wants.

On another occasion in announcing the invasion of Cambodia 2 years ago, the President said this:

> During my campaign for the Presidency, I pledged to bring Americans home from Vietnam. They are coming home. I promised to end this war. I shall keep this promise. I promised to win a just peace. I shall keep that promise.

Then, on October 9, 1968, in bidding for election, the President said:

> Those who have had a chance for four years and could not produce peace should not be given another chance.

I think the record should be clear that to say that he never said there was a secret plan is not the point. He did make a clear pledge to end the war, intimating he had a plan, at least he had a policy, to end the war and certainly he has not ended it yet, up to this day.

I would call it setting up a straw man, to say that he never had a secret plan.

Mr. President, I ask unanimous consent to have printed in the RECORD other selections from statements of President Nixon, giving the dates and places of the statements, relating to the question which I have just discussed.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A SELECTION OF STATEMENTS BY PRESIDENT NIXON ON ENDING THE VIETNAM WAR, 1968–1971

March 5, 1968—Speech at Hampton, New Hampshire: "If in November this war is not over after all of this power has been at their disposal, then I say that the American people will be justified to elect new leadership and I pledge to you the new leadership will end the war and win the peace in the Pacific and that is what America wants."

August 8, 1968—Acceptance Speech at Republican National Convention: "And I pledge to you tonight that the first priority foreign policy objective of our next Administration will be to bring an honorable end to the war in Vietnam."

March 25, 1969—Address to the National Association of Broadcasters: "I will tell you, looking toward the future, I think we are going to achieve that objective of a peace that will be one that will not just be for the year or two years, but for the foreseeable future in the Pacific and in the world—that kind of peace."

May 14, 1969—Address to the Nation on Vietnam: "With all of the moral authority of the office which I hold, I say that America could have no greater and prouder role than to help to end this war in a way which will bring nearer that day in which we can have a world order in which young men can grow up in peace and friendship. . . . In my campaign for the Presidency, I pledged to end this war in a way that would increase our chances to win true and lasting peace in Vietnam, in the Pacific, and in the world. I am determined to keep that pledge. If I fail to do so, I expect the American people to hold me accountable for that failure."

July 26, 1969—Statement Upon Arrival in Manila, Philippines: "If peace is to come from Asia—and I emphasize this point—the United States will play its part and provide its fair share. But peace in Asia cannot come from the United States. It must come from Asia. The people of Asia, the Government of Asia—they are the ones who must lead the way to peace in Asia."

September 18, 1969—Address to the General Assembly of the United Nations: "We in the United States want to end this war, and we are ready to take every reasonable step to achieve that goal. But let there be no question on this one fundamental point: In good conscience we cannot, in the long-term interests of peace we will not, accept a settlement that would arbitrarily dictate the political future of South Vienam and deny to the people of South Vietnam the basic right to determine their own future free of any outside interference."

October 31, 1969—Letter to Georgetown University Student Randy J. Dicks:

"One of the first acts of my Administration was to review, exhaustively and comprehensively, every aspect of the nation's policies in Vietnam. We have drastically altered the policies we inherited. We are on the road to peace.

"That road is not easy. It is not simple, but I am convinced it is the right one. There is no problem to which I have given more of my time and thought. For nine months, we have worked every day for a just end to a conflict which has been building for more than eight years."

November 3, 1969—Address to the Nation on Vietnam:

"At the time we launched our search for peace I recognized we might not succeed in bringing an end to the war through negotiation. I, therefore, put into effect another plan to bring peace—a plan which will bring the war to an end regardless of what happens on the negotiating front.

"I am sure you can recognize from what I have said that we really only have two choices open to us if we want to end this war.

"'I can order an immediate, precipitate withdrawal of all Americans from Vietnam without regard to the effects of that action.

"'Or we can persist in our search for a just peace through a negotiated settlement if possible, or through continued implementation of our plan for Vietnamization if necessary—a plan in which we will withdraw all of our forces from Vietnam on a schedule in accordance with our program, as the South Vietnamese become strong enough to defend their own freedom.

"'I have chosen this second course.'

"I have initiated a plan which will end this war in a way that will bring us closer to that great goal to which Woodrow Wilson and every American President in our history has been dedicated—the goal of a just and lasting peace."

February 18, 1970—"United States Foreign Policy for the 1970's: A New Strategy for Peace": The President's Report to the Congress: "A just peace in Vietnam has been, and remains, our goal. The real issues are the nature of that peace and how to achieve it . . . Abandoning the South Vietnamese people . . . would jeopardize more than lives in South Vietnam. It would threaten our long-term hopes for peace in the world. A great nation cannot renege on its pledges . . . My trip through Asia last summer made the fact more vivid to me than ever. I did not meet a single Asian leader who urged a precipitate U.S. withdrawal . . . To seek a just peace, we pursued two distinct but mutually supporting courses of action: Negotiations and Vietnamization. We want to achieve an early and fair settlement through negotiations. But if the other side refuses, we shall proceed to strengthen the South Vietnamese forces. This will allow us to replace our troops on an orderly timetable . . . On May 14 . . . I also indicated that we seek no bases in Vietnam and no military ties, that we are willing to agree to neutrality or to unification of Vietnam if that is what the South Vietnamese people choose . . . I look forward to the day when I shall not have to report on the problems of ending a complex war but rather on the opportunities offered by a stable peace, when the men and nations who have fought so long and so hard will be reconciled."

April 30, 1970—Address to the Nation on Cambodia:

"A majority of the American people, a majority of you listening to me, are for the withdrawal of our forces from Vietnam. The action I have taken tonight is indispensable for the continuing success of that withdrawal program.

"A majority of the American people want to end this war rather than to have it drag on interminably. The action I have taken tonight will serve that purpose.

"We take this action not for the purpose of expanding the war into Cambodia, but for the purpose of ending the war in Vietnam and winning the just peace we all desire. We have made and we will continue to make any possible effort to end this war through negotiations at the conference table rather than through more fighting on the battlefield.

"During my campaign for the Presidency, I pledged to bring Americans home from Vietnam. They are coming home. I promised to end this war. I shall keep that promise. I promised to win a just peace. I shall keep that promise. We shall avoid a wider war. But we are also determined to put an end to this war."

July 1, 1970—Address to the Nation on Cambodia: "America's purpose in Vietnam and Indochina remains what it has been—a peace in which the peoples of the region can devote themselves to development of their own societies, a peace in which all the peoples of Southeast Asia can determine their own political future without outside interference."

February 25, 1971—United States Foreign Policy for the 1970's: Building for Peace: The President's Report to the Congress: "If winding down the war is my greatest satisfaction in foreign policy, the failure to end it is my deepest disappointment. We will not be content until all conflict is stilled. This sentiment was the driving force behind our proposal for a cease fire."

February 25, 1971—Address to the Nation on Vietnam: "Our eventual goal is a total withdrawal of all outside forces. But as long as North Vietnam continues to hold a single American prisoner, we shall have forces in South Vietnam. The American prisoners of war will not be forgotten by their Government. I am keeping my pledge to end America's involvement in this war."

April 7, 1971—Address to the Nation on Indochina Policy: "I am often asked what I would like to accomplish more than anything else while serving as President of the United States. I always give the same answer—to bring peace—peace abroad, peace at home for America. . . . Every time I talk to a brave wife of an American POW, every time I write a letter to the mother of a boy who has been killed in Vietnam, I become more deeply committed to end this war, and to end it in a way that we can build a lasting peace."

April 30, 1971—News Conference: "They indicated they wanted the war to end now, that they wanted peace. That, of course, is what I want. It is what everybody in this room wants and it is what everybody in this nation wants. . . . My responsibility is to bring peace, but not just peace in our time, but peace in their time. I want peace not just for us, but peace for our children, their children."

Mr. FULBRIGHT. Mr. President, I do not know that I care to continue the discussion now, in view of the fact that there is so little interest in debate on this foreign military assistance program. I can, of course, only say that I do oppose, I will oppose, the effort of the Senator from Pennsylvania to increase the amount in the bill.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SCOTT. Mr. President, I yield myself 3 minutes.

What is difficult to understand is why there would be a reduction of these figures after they were fully debated and agreed upon by the Senate only about 60 days ago.

We are certainly, for the most part, restoring the funds which we have already passed upon affirmatively. We have not reached the amount requested by the administration at all. We have not reached the amount set by the House of Representatives.

This is a moderate and reasonable attempt to arrive at a median solution of a problem that has plagued us most of the year.

I would hope that at this time we would be able to agree to support this amendment, so that we may, at long last, dispose of this bill.

Mr. President, I suggest the absence of a quorum, with the time to be taken out of my time.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Hollings). Without objection, it is so ordered.

Who yields time?

Mr. SCOTT. Mr. President, I ask unanimous consent, after consultation with the distinguished manager of the bill, that the Senate stand in recess——

Mr. STENNIS. Mr. President, will the Senator from Pennsylvania kindly withhold that, just so I may——

Mr. SCOTT. Could I state what I intend to do, and I will not make it in the form of a request?

Mr. STENNIS. Of course.

Mr. SCOTT. Mr. President, I intend to suggest, and yield myself 1 minute for that purpose, that the Senate stand in recess until the time expires on the amendment of the Senator from Wyoming (Mr. McGee) and myself and that the Senate reassemble at the point when the time for the motion to strike is reached. But, if the Senator from Mississippi wishes to make use of this time——

Mr. STENNIS. If the Senator from Pennsylvania will yield, what time would it expire?

Mr. SCOTT. Mr. President, will the Chair advise us on that?

The PRESIDING OFFICER. Forty-one minutes remain on this amendment.

Mr. STENNIS. If I could be recognized when we come back in.

Mr. SCOTT. Of course.

RECESS UNTIL 11:48 A.M. TODAY

Mr. SCOTT. Then, Mr. President, I ask unanimous consent that the Senate stand in recess for the period consumed by the remainder of the time allotted on this amendment and that upon return of the Senate, the distinguished Senator from Mississippi (Mr. Stennis) be recognized on his motion to strike a section of the bill.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Pennsylvania? The Chair hears none, and it is so ordered.

At 11:07 a.m., the Senate took a recess until 11:48 a.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. Harry F. Byrd, Jr.).

The PRESIDING OFFICER. The Senate will receive a message from the President of the United States.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Geisler, one of his secretaries.

REPORT ON HEALTH MATTERS COVERED BY THE FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. Harry F. Byrd, Jr.) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Labor and Public Welfare:

To the Congress of the United States:

I am pleased to submit to you the second annual report on health matters covered by the Federal Coal Mine Health and Safety Act of 1969, Public Law 91–173.

The report covers the implementation of the health program carried out by the National Institute for Occupational Safety and Health of the Department of Health, Education, and Welfare. The report provides a compendium of coal mine health research, medical examinations of coal miners, and other activities of 1971.

It is encouraging to note that, in 1971, the Department of Health, Education, and Welfare completed the first round of medical examinations of coal workers required in the act. Many of the X-rays taken in the examination have been completely processed and those miners with abnormal chest conditions have been notified of these conditions and of their rights under the act.

A comprehensive research program, which has as its basic objective the determination of the development and progression of coal workers' pneumoconiosis, continued in 1971 along the lines established in 1970. Significant progress was made in 1971 toward the attainment of this goal.

I commend this report to your attention.

Richard Nixon.

The White House, *September 26, 1972.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. Harry F. Byrd, Jr.) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

FOREIGN ASSISTANCE ACT OF 1972

The Senate continued with the consideration of the bill (H.R. 16029) to amend the Foreign Assistance Act of 1961, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, I yield myself 15 minutes, or so much thereof as I may use, and I yield to the Senator from Louisiana for 1 minute.

SENATE CONCURRENT RESOLUTION 99—TO AUTHORIZE THE PRINTING OF ADDITIONAL COPIES OF THE REPORT ON H.R. 1

Mr. LONG. Mr. President, I submit a concurrent resolution, and ask for its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated.

The legislative clerk read as follows:

S. Con. Res. 99

Resolved by the Senate (the House of Representatives concurring), That there be printed five thousand additional copies of the Senate Report to accompany H.R. 1, the Social Security Amendments of 1972, of which two thousand copies shall be for the use of the Senate Committee on Finance, one thousand five hundred copies shall be for the use of the Senate Document Room, and one thousand five hundred copies shall be for the use of the House Document Room.

Mr. LONG. Mr. President, this concurrent resolution would authorize the printing of 5,000 additional copies of the Senate report to accompany H.R. 1, the Social Security Amendments of 1972, of which 2,000 copies shall be for the use of the Senate Committee on Finance, 1,500 copies shall be for the use of the Senate document room, and 1,500 copies shall be for use of the House document room.

This bill is being reported today, and in view of its breadth and importance, we anticipate a widespread demand for the committee reports. I cleared this action, or at least I understand it has been cleared, with the acting chairman (Mr. Cannon) and the ranking minority member (Mr. Cook) of the Committee on Rules and Administration.

In view of the urgent need for additional copies, and the savings which would result from the printing of all copies at one time, they have graciously agreed to interpose no objection. It is estimated that the printing of these 5,000 additional copies will cost $6,250.

Mr. President, I ask unanimous consent that the Committee on Finance have until midnight tonight to file the report on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the resolution.

The resolution (S. Con. Res. 99) was agreed to.

FOREIGN ASSISTANCE ACT OF 1972

The Senate continued with the consideration of the bill (H.R. 16029) to amend the Foreign Assistance Act of 1961, and for other purposes.

Mr. STENNIS. Mr. President, how much time do I have on the bill?

The PRESIDING OFFICER. The Senator from Mississippi has 48 minutes remaining.

Mr. STENNIS. I yield myself 15 minutes, or as much thereof as I may use.

Mr. President, under the unanimous-consent agreement, we now have time allotted on the amendment, which is—

> On page 19, line 11, to strike all down to and including line 24, and renumber the succeeding sections accordingly.

It would strike from the bill the section of the bill as reported by the committee that in effect cuts off the funds for the support of the war in Southeast Asia, after a certain period of time, including other conditions.

It is the so-called Brooke amendment, sometimes called the Cranston amendment; and originally, in somewhat different language, it was the Mansfield amendment. We have voted on this amendment many times in the last 2 years or more, in one form or another. The last time was in August of this year, and the amendment was agreed to by a very close vote.

The amendment was a part of the military procurement bill; and in the conference on the bill, the Senate conferees solidly supported the amendment. I had voted against it, on the Senate floor but I took the points that had been made in its favor, and I tried to analyze the situation. It was a measure of the Senate at that time, and I vigorously supported that side of the argument.

By unanimous consent of all the conferees—I thought it was important—we invited the two distinguished authors of the amendment to come in and make a special presentation, which they did in a very fine way. The matter was fully considered at several sittings of the Senate and the House conferees, and we tried to get them to accept other language that modified the Senate position somewhat, trying to meet their arguments to a degree; but we never were able to make any headway with the House conferees. I speak with admiration for these gentlemen, not critically. They had just had a vote in the House of Representatives on an identical measure, and there the amendment failed by 50 votes. They did not stand on that alone.

I am reviewing this matter now because the situation is the same as it was then, even though we are closer to the election.

The House took the position, further, that a part of this language is already in the law, having been adopted last year as permanent law.

They were unyielding on that and on their vote in the House of Representatives.

Since then, both bodies have approved the procurement bill by overwhelming votes, and we have moved on. But the same matter has come up again in the House of Representatives, virtually the same language, on a different bill; and even though the attendance was not quite as high, the vote at that time was a margin of 48 of those who were opposing the amendment. In other words, it was killed by about the same margin—proportionately, even by a larger margin. That was about 10 days ago.

Now we are back here, in the same Chamber, with the same language, but on a different bill and with a somewhat different situation, in that twice the House of Representatives in the last very few weeks has refused by sizable margins to go along with this amendment.

Nothing is ever hopeless, and I do not think that is enough reason to defeat this amendment now, but I think it is very definitely a major part of the background. It is a point that goes along with other valid points to make a solid case in dropping this matter now, for this year, anyway.

We are not going to get an amendment of this kind adopted and written into law within 6 weeks from today. Six weeks from today there is going to be a presidential election, in which the war will not be the only issue, by any means, but it will be a tremendous factor, with respect to its background, and thinking of the people. I am going to discuss later, to be frank about it, whether or not I think the President has really tried—I am not getting into the campaign now—to bring this war to a conclusion. The people must think that he has, or there would be different votes in the Senate and in the House of Representatives, and there would be a different attitude about it in the campaign.

Mr. President, let me make clear that my amendment is a simple motion to strike this amendment entirely, to leave it out of the bill.

If this were a clear-cut choice as to whether or not we were going to end the war—that is, to continue the war or end the war—all of us, I am sure, would favor ending the war. There is no doubt about that. I think the vote would be unanimous, if that was the only consideration—just stopping the war or continuing the war. But there are other considerations, major considerations, and I am just going to mention a few. I have mentioned most of them before, along with others.

The President of the United States, under our form of government, has the power and the responsibility of leading negotiations, determinations, proposals, propositions, and all kinds of plans and preparations for trying to bring a war to a conclusion—any war, whether it is a declared war or not. That is where the power lies. That is where the responsibility lies. As I said from the beginning, let us not relieve him of that one bit.

We are not a negotiating team. Congress cannot be the voice of the Government in this field. We have some responsibility; I do not say that we are entirely free of it. But, the Constitution gives the President of the United States the responsibility of being the voice and the spokesman and the power of the Government in this field.

With all deference, every time we try to do more than our part, or try to direct the President, it encourages our enemies because it is well-known to them, of course, and no one knows the situation—where the power and responsibility lie—better than they; so that when we try to override the President or give him directions, mandates, or special instructions to the point of cutting off funds, we are encouraging the enemy to hold out for terms—not to aid and abet the enemy in the way that treason is defined, of course not—but as a practical matter and in the practical affairs of life it is inescapable when we try to override the President or to cripple him in his power in this matter, there is no way to avoid the conclusion that it encourages the enemy. That is where the gravest concern lies. I see us coming in here to do that very thing. I have said before that I think we are creating a precedent here that will plague us for many decades to come, even for the Senate again to approve the amendment that is in the bill. We are flirting with potentials that will come back to haunt us and place obstacles in our path and in the path of future Presidents—not in terms of an individual President when I refer to the President, as we are talking about eternal principles in our form of government. We are talking about the basic principles of human nature.

I submit we should be content with advising the President, even advising him publicly. We do not have to agree with him on matters, but when it comes to the proposition of cutting off funds, when we say that we are not going to let him have $1 after a certain time, or after certain conditions, when we are at war and Americans are still being called upon to risk their lives, that, I think, is a great error.

I conclude by saying that we should keep that responsibility on the President of the United States and not give him a way out and not water down his power and responsibility by trying to assume it ourselves.

No one knows better than our adversaries that we cannot do that, that we cannot vest ourselves with the power of the President, the power of being the spokesman for the United States.

I am not encouraged to believe that this war will necessarily end in a few days, a few weeks, or a few months. I do not know, but I believe that we are up against the toughest enemy we have ever faced. It has been proved over and over, month after month, and year after year, in our dealings with the North Vietnamese that they are determined, dogmatic. They have turned down over and over and over propositions that have been made to them, and they have turned them down with contempt. They are carrying on a remarkable war. They are fighting in an effective way against tremendous odds. They are willing to pay the price—that is, they are paying the price.

I have raised the question here about the power of the President and now I raise the question: Is the President really trying?

If I did not think he was trying and doing everything within his power and the ingenuity of his own mind and that of his advisers, certainly I would not be here taking this position with reference to the amendment in the bill. We have to have someone trying, someone showing discretion, ability, and judgment along with it.

During the 4 years that he has been in the White House, he and his advisers have been seeking, searching, and trying to carry this thing on. In the same 4 years I have had some special responsibilities in the Senate with relation to legislation on the war, and the military in general, and I know that offers have been made and negotiations have been carried on over and over and over again, privately and publicly, to bring the war to a conclusion, offers which have been considered most generous—even extraordinarily generous around the world by our friends and those who are not our friends.

I have been told many times, and I believe it is true, that in the capitals of the nations of the Western world and those allied with us elsewhere, the terms the President has offered to North Vietnam are almost uniformly considered very generous indeed. I am further told, and I believe it is true, that even in the council chambers of nations not friendly to us, the same opinion prevails, that through the President we have offered terms which are generous and about as far as they think we could go and retain our self respect. I believe that is true. I believe that the President has been trying. I believe that he has done everything a self-respecting head of a nation can do, and everything that a self-respecting people can do or would want their President to do.

As I say, I am not thinking in terms of President Nixon. I am thinking in terms of the Chief Executive of the United States in facing this grave problem. I know that it has plagued him. I know the hard decisions he has had to make, but he has been willing to make them. I know something about how these decisions have borne down on him. Everyone who has observed him closely knows that, and how it and the other decisions he has had to make have plagued him.

I am sorry it has gone on so long—but the casualties are now down to zero—last week no casualties were reported, no lives were lost last week, the first time since 1965.

Mr. AIKEN. Mr. President, will the Senator from Mississippi yield?

Mr. STENNIS. I yield.

Mr. AIKEN. I do not know whether the Senator has pointed this out or not, but the enemies of the President, when they quote the number of killed and wounded in Vietnam during the past 4 years, always include the year 1968 when most of the casualties took place, when the casualties were running in the number of Americans killed at over 300 a week during that time, and for 2 or 3 months after President Nixon took office. Then the casualties began to decrease, until at the present time they are down to virtually zero—no fatalities, certainly no greater than they would be if we had that same number of military personnel at home or in other parts of the world. So that I believe it is very unfair to blame the present President for the fatalities which occurred the year before he was elected to office. However, that seems to be the order of the day, to blame him for everything. And, as far as I can see, the public is not responding to that type of campaign very well.

Mr. President, I do think that the RECORD ought to show that the bulk of these charges about losses occurred before the present President took office or in the first few months since he took office. Since then they have been diminishing.

Mr. STENNIS. Mr. President, I thank the Senator for his contribution to the debate. The figures that he is citing are correct. And he has spoken well for them.

Mr. AIKEN. Mr. President, I want it understood that I am not blaming President Kennedy or President Johnson for actions which they took.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. STENNIS. Mr. President, I yield myself an additional 5 minutes.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for an additional 5 minutes.

Mr. AIKEN. Mr. President, every time they made an error in judgment and things became worse, they thought they were taking steps which would bring the war to an earlier conclusion.

Mr. STENNIS. Mr. President, I thank the Senator from Vermont again. I agree with what the Senator has said. I am not arguing this matter in terms of any individual President. Neither was the Senator from Vermont.

That is a matter of executive power and executive good faith. However, this amendment does not say that it advises and counsels with the President or that it is a sense of the Senate or of Congress. This amendment cuts off the money. And under those conditions it leaves the President powerless to act, because he cannot carry on affairs of this kind without the money.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. STENNIS. I yield.

Mr. AIKEN. Mr. President, may I add one other thing? At the time that previous Presidents took action which resulted in an expansion of the war, they are wholeheartedly supported by most of the Senators who are now earnestly condemning President Nixon and even President Johnson.

Mr. STENNIS. Mr. President, I thank the Senator from Vermont very much.

As I say, this is the most drastic form of legislation that we could possibly pass. This has never been done in the history of our Nation. No provision like this has been enacted in the almost 200 years now of our Nation's history. No Congress has acted in this manner when our men were being sent into battle. And our men are being sent into battle now.

I have been holding hearings concerning our pilots and all of the things they are up against. Our men are being sent into battle today, this very hour. Now we are talking about cutting off the funds and thus paralyzing the President of the United States who is the only force and the only power in our Constitution that is authorized to speak and negotiate for us on this subject matter.

Let us keep the record straight here on what we are fighting over. It is not a matter of stopping this war today. We are fighting over a principle here of constitutional government. Where is the responsibility? By all means if the Congress were to cut off the funds and tie the President's hands, as I said a moment ago, that action will plague us for a long, long time.

There are now new charges even after we discussed the matter a week ago. The elections are 6 weeks away, and this matter is being aired to no end. And I am not arguing that campaign now. However, we are going to have a decision made by the people as to who the President will be for the next 4 years. That decision will be rendered 6 weeks from now, and there will be a clearing of the atmosphere. There will be a decision of the people themselves. This is not the only issue. However, it is a major part of it.

I think that, if for no other reason, we could well wait until that decision is in before we resort to this drastic step of cutting off this money that would apply, if the amendment becomes law, not only to the man who is President during this 4-year term, but also to the man who will serve for the next 4 years beginning next January 20.

I plead with the Senate to reconsider here the points we have made in the past when we did vote for the cut-off-the-funds amendment by almost the slimmest possible majority, whereas now, under these new facts, we have a different situation. I believe that this cut-off-the-funds amendment should be stricken from the bill and we should let it lie at least until after the election.

Mr. President, I yield back whatever time I had yielded to myself and I yield the floor.

Mr. CRANSTON. Mr. President, I yield myself such time as I may need.

The PRESIDING OFFICER (Mr. TUNNEY). The Senator from California is recognized.

Mr. CRANSTON. Mr. President, I agree with the distinguished Senator from Mississippi on one point, that the presidential election is now at hand. And in many ways the basic decision on this point over our involvement in the Vietnam war has passed to the arena of the presidential election. However, since this body has now gone very firmly on record in a series of votes in favor of cutting off the money in order to get us out of the war, it seems to me that it would be very unfortunate if, on the eve of this election, we were to take an action that seemed to indicate a change in our feeling about this war and about the necessity of cutting off the funds as a way to assure that we get out of that war.

Mr. President, it is obvious that the people do have a clear-cut choice in the presidential election. A vote for the incumbent President will leave in office a man whose policies have not gotten us out of the war and show no indication of doing so.

A vote for his challenger is a vote for a man who has made a commitment to get us out of the war within 90 days after he takes office.

Mr. President, the Senator from Mississippi stated that to vote for the Brooke amendment to keep this provision in and not to vote for the Stennis amendment to get it out of this legislation would cause the North Vietnamese to be stubborn and unyielding in the negotiations.

I ask what sign there is of any indication that the North Vietnamese are willing to negotiate seriously. I ask what signs there are that the present military action and the bombing is in any way leading them toward meaningful negotiations.

I see no such signs. I have heard no one in an authoritative position who commented on the matter cite any such signs. There is no indication that the bombing is breaking their morale. There is no indication that the bombing in like wars has broken the morale of any other country at any other time. There is no sign now that the present bombing is breaking their ability to carry on militarily.

I think that the only sign we have is that the bombing has not reduced their ability to carry on the offensive effectively in South Vietnam. Quite recently there were reports in the newspapers indicating that the intelligence agencies confirm that there is no sign that the bombing is breaking their morale or their ability to fight on and on and on.

Recently unnamed "high Air Force officials" were cited in the newspapers as stating that they believe that under the present circumstances of the present military involvement of our Nation in that war, we nonetheless face at least 2 or 3 more years of the North Vietnam war, even if the present scale bombing continues.

President Nixon was thereafter asked in a press conference if he felt there might be 2 or 3 years more of bombing. He said, "No, that's ridiculous." Unfortunately, due to the way press conferences are carried on no one was able to follow up with a question as to why it is ridiculous. So I ask: Why is it ridiculous that the war might go on 2 or 3 years more under the President's present policy?

There is no sign based on reports from within the administration except the one that it might be going on for 2 or 3 more years. If we fail to act and the people fail to bring about a change in the election to the President's policy, we may face everlasting involvement in a never-ending war in Southeast Asia.

Mr. President, that is why it is important for us to maintain the Brooke amendment in this bill. The Senator from Mississippi said that the Brooke amendment leaves the President powerless to act. The President has had more than 3½ years to act and he has not found a way to end our involvement in the war in Southeast Asia. Therefore, it is up to us to take action; it is up to us to act since, with the power to act, he has failed to act.

The Senator from Mississippi said this never has been done before; never has Congress acted in this way to bring about an end to the war. Let me point out also that never before in the history of our land have we been involved in such an everlasting, tragic, costly war; costly in terms of blood, and costly in terms of treasure. We face an unprecedented situation and that is why it is necessary that we take unprecedented action.

Finally, let me comment on the Senator's remark that our self-respect is involved, that we have gone about as far as self-respect can permit us to go.

I say that self-respect requires us to end our involvement in the bloody mess in Southeast Asia. I believe our sense of self-respect has been done great damage by our involvement in this endless, destructive bombing that has killed so many civilians, as well as now and then reaching military targets.

We, the mightiest nation on earth, are inflicting on the Vietnamese people the heaviest bombing in the history of mankind. I believe the effect of this immoral action has a great deal to do with the failure of our country to recognize the immorality of so many acts that are occurring in our land at the present time.

Let me stress that nothing I say attacking our ruthless bombing in Southeast Asia excuses in any way or avoids recognizing the ruthlessness of the other side in this war, the ruthless killing afflicted upon South Vietnam and upon Americans by the North Vietnamese and the Vietcong.

But I say self-respect requires us to at least end the American part in the killing, even though Southeast Asians may go on killing themselves after we extract ourselves.

It is for this reason that I and others have expressed on the floor of the Senate and across this country the hope that the Stennis amendment will fail and the Brooke amendment in the bill will be sustained.

Mr. BROOKE. Mr. President, I yield myself as much time as I may need.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. BROOKE. Mr. President, the amendment in the bill is a very simple amendment. It is an amendment which the Senate has supported on several different occasions. The Senate has worked its will, and has assumed its constitutional responsibility to act in the important issue of war and peace.

This amendment provides solely that there shall be a withdrawal of all our American forces—land, air, and naval forces—from Indochina, South Vietnam, Cambodia, and Laos, within 4 months from the date of enactment, conditioned only upon the return of American prisoners of war and an accounting for our missing in action.

The amendment was first added to the foreign military assistance bill. This was the first time that the Senate had voted to cut off funds for the war in Indochina, conditioned solely on return of all American prisoners of war. But the foreign military assistance bill was defeated, and with it the so-called antiwar amendment.

After the defeat of the foreign military assistance bill I attached the same amendment to the military procurement bill. Again, after a very lengthy debate and notwithstanding 12 procedural votes of the Senate, the Senate then voted to cut off funds for the war in Indochina, conditioned again upon the return of American prisoners of war and an accounting of our missing in action.

The military procurement bill was passed by the Senate and went to conference with the House. I find no fault whatsoever, as I have said on this floor before, with what I believe to be the outstanding job of the chairman of the Committee on Armed Services and the Senate conferees in conference with the House. By an unprecedented move the Senate and House conferees invited my distinguished colleague from California (Mr. CRANSTON) and me to appear before the conference and to argue our case. This was done, Mr. President, because there were few members of the Senate conference who had voted in favor of this amendment. It was in a sense of fair play, and recognizing the responsibility of the Senate conferees to reflect the will of the Senate, that we were enabled to appear before the conferees.

There were few, if any, conferees on the House side who were in favor of this amendment. Furthermore, just prior to the conference there had been a vote in the House on an amendment which was not even as strong substantively as is this amendment, and it was defeated. Hence, the House conferees felt very strongly that they had a mandate from the House which prohibited them from working out any reasonable and acceptable compromise language with the Senate conferees. And so, Mr. President, this amendment was deleted, deleted in its entirety from the conference report.

Feeling as strongly as I do, and feeling as strongly as many of my colleagues do about this amendment, I then filed the same amendment. It was referred to the Committee on Foreign Relations to be considered by its chairman and its members, and to be included in this present foreign military assistance bill.

I wrote to the chairman of the committee and received a response from him that he would personally support the amendment and do all that he could to see that it was reported in the bill which, in fact, is the case. The amendment is now a part of the bill.

The distinguished chairman of the Committee on Armed Services has never been in favor of this amendment personally, and I understand that and I respect his right, certainly, to disagree or hold his very strongly felt views. And so he comes before the Senate now with a motion to strike this amendment from the bill.

That, in capsule form, Mr. President, is the history of the amendment.

Now, I have listened to the debate,

to the statements made by the distinguished proponent of this motion to strike, and by my colleague the Senator from California (Mr. CRANSTON), who has done such yeoman service in behalf of this legislation. I do not intend to get involved in any discussion of the politics of the day. The fact is that we are now engaged in a presidential election and the war has become, as we might reasonably expect, an issue in this campaign. Rather, Mr. President, the measure before us transcends all partisan politics. The Senate has adopted it on several occasions. There is no change in it. The language is identical. It is the same amendment which the Senate has voted on before, and voted on favorably.

The circumstances in Indochina have not changed substantially, though there are fewer troops than there were there when the amendment was first adopted. I believe there were some 46,000 troops there at that time. I believe there were close to 39,000 troops at the time the amendment was adopted the second time. I believe there are now some 36,000 troops, none of which, as we are told, are combat troops, all of which are support troops, supporting the South Vietnamese Army.

Mr. President, there can be no dispute about the Congress' constitutional responsibility on questions of war and peace. This question has been debated and debated, and I think even the proponent of the motion to strike would agree. If I recall correctly, on more than one occasion, he has personally said that he recognizes and respects the Congress' constitutional responsibility in this area.

So I do not propose to debate that constitutional responsibility. I think that it is there, that it has always been there, that the founders of this country and the writers of the Constitution intended that it be there. I think we would all hope and pray that it would always be there. For no matter who the President of the United States happens to be, never do we ever want to vest in any one man the sole authority to declare and to conduct war, and to have full responsibility for the extrication of American forces from war.

But, Mr. President, the war rages on, even though there have been serious and very welcome decreases in the casualty lists that have come in from Southeast Asia. Just last week it was reported that there was not one single American death from combat in a week. I think that was later corrected to read one, with five killed in noncombat related incidents. But despite the decline in casualties, we are still risking the lives of 36,000 land troops and untold thousands of naval and Air Force troops that are still in Indochina. We are still losing pilots. We are still losing American planes. Killing is still going on in Southeast Asia. And even though I commend the President for what he has done in the deescalation of the violence of that war and in bringing troops home, I still believe the time is long past when we should bring back all our troops from Indochina, conditioned only upon the return of all American prisoners of war and an accounting of our missing in action.

I have no brief for the exchange of the three prisoners who are now flying back from prison camp and are expected to be in New York on Thursday, though I certainly commend the fact that they are coming home, and welcome them back. I think we all should welcome them back. Very obviously the manner in which it is being done is propaganda. But these are American men who were risking their lives and who have been in prison camp in Vietnam. All Americans, and certainly the President of the United States, are grateful for their return and welcome their return to our shores.

Mr. President, how long, again I ask, must we keep our forces in Indochina, in order to give the South Vietnamese an opportunity to defend themselves? Mr. President, this could go on for months, and conceivably for years, and we would still be stalemated in a war in Southeast Asia, a war which we made the mistake of getting into in the first instance, and a war in which bombing and killing is still continuing, and which at any moment might escalate rather than deescalate. At this very moment they are over there talking about an attack on Saigon. Some papers have allegedly been found that might indicate that the next move on the part of the North Vietnamese would be to attack the city of Saigon, where there are thousands of Americans, both military and civilian, at this moment, whose lives would be in jeopardy if such an attack were in any form or fashion successful.

There are risks in our continued presence there. There are risks to American planes every time they get airborne and drop their bombs on Vietnam. There are risks that the crews will be shot down and killed. There are risks that they will be shot down and be captured and remain for long periods of time in North Vietnamese prison camps.

In short, I am saying we have given Vietnamization all the time that they could reasonably ask for, and if they cannot do it now, query: Will they ever be able to do it?

It seems to me that a reasonable, conscionable course of action now would be to say to them, "Give us our prisoners of war, account for our missing in action, and we will get out of Indochina."

What are the risks we take by such a course, Mr. President? It has been suggested that this is a dangerous thing for the United States of America to do. Why is it a danger, Mr. President? I believe the contrary is true. There is no danger for us to leave Indochina at this time. There is no risk to the 36,000 troops that we have there in pulling them out, with the superior airpower we have to cover their withdrawal.

We have planes, we have ships, we have just about everything conceivable that any army or any nation could need and use in the proper and protective withdrawal of its forces.

So, Mr. President, there is no risk as such. Then why do we not do it? Why have we not done it? Why are we staying in Indochina?

If I might venture a guess—and I hope that it is an educated guess—it is because of the inability of the North Vietnamese and the United States of America to agree on a political solution in Southeast Asia. We have simply failed to agree on some type of coalition government which would take over until such time as there are free elections.

We have said that we would not get out and let the Communists take over the South Vietnamese Government. The North Vietnamese have said that there will be no successful negotiations as long as President Thieu is at the head of that government. And even now, we are told that Mr. Kissinger is having his 17th or perhaps 18th series of talks with the North Vietnamese in an attempt to bring about a negotiated peace.

I know of no one in the Senate or in Congress who has ever been opposed to a negotiated peace. We have all wanted a negotiated peace. We have prayed for a negotiated peace. We have all been hopeful, no matter on which side of the aisle, that Dr. Kissinger and the President would be successful in negotiations to bring about an end to the war.

Of course, it would be the best solution. But, Mr. President, it has not happened. There has been no negotiated peace, though we are constantly being told that there will soon be one. There may be one today, and I hope that there is. But if there is not, what do we do, continue to have the 18th, the 19th, the 20th, and maybe the 67th conference?

How long have the Paris peace talks been going on? What is the bottleneck? Why can we not come to some agreement with the North Vietnamese and end the war?

I have given what I suspect is the reason, but the important thing, Mr. President, is that we are tired of this war. It is not our war. It never should have been our war, and we should get out of there just as soon as we possibly can. Four months certainly is a reasonable time. It is more time than is necessary to withdraw 36,000 troops. We have withdrawn more troops in a less period of time than 4 months.

It has nothing to do with the outcome of the American presidential elections, because the 4 months would not begin to run until the date of enactment of the bill. Even if we passed it today, which we should, it still has to go to conference with the House of Representatives. We do not know what the outcome of that will be. But if we look back at the history of conferences on this particular amendment, we can reasonably expect that it will be unsuccessful. I am not naive about that; I know what our chances are in the House of Representatives at the present time. I disagree with their position, but I understand it.

Then why press this amendment? We press the amendment because it is important to the American people and the world to know that at least the Senate of the United States recognizes its responsibility and has the courage of its convictions, and has stood up for them again and again and again. Yes, even if it is a hundred times, we have to vote on it. We must let the Senate vote its will and pass this amendment. We must say to the world that we want to get out, and we are now only concerned about the return of our American prisoners of war and an accounting for our missing in action.

Mr. President, we ought not to be fooled about what comes first, the release of the prisoners or the withdrawal of the troops. These are matters that governments work out. This amendment is clear. It starts at the date of enactment. Money can be used only for the withdrawal of troops. During that period of time, presumably, the North Vietnamese could release 100 prisoners, say, in the first month, and we could withdraw 5,000 or 6,000 troops. Maybe in the next month the North Vietnamese would not release any prisoners of war. We are not duty bound, the President is not duty bound, to withdraw any troops at that time. There is flexibility for both the North Vietnamese and the United States, and during that period of time they could work out the logistics of how many prisoners would be released and how many troops would be withdrawn.

Add to that, Mr. President, the fact that our President is committed to the continued withdrawal of American forces from Southeast Asia. It is to his credit that he has been living up to that commitment, because he has been withdrawing our troops from Southeast Asia to the point where they are down now to 36,000. But those are only the troops in South Vietnam, Mr. President. There is still the air war. There is still the Navy. The bombing still goes on. And what we are trying to do by this amendment is bring an end to that war as quickly as we can. If the President is able to do it more quickly, fine. We commend him, and we will be eternally grateful, as will millions of Americans and millions of people around the globe who have long wanted an end to this war in Southeast Asia.

Mr. President, I have recited the history of this amendment and explained the purposes of it and the mechanics of it. I am very hopeful that each and every U.S. Senator who stood on this floor not too many weeks ago when his name was called—49 of us, Mr. President—and voted "yea" on this amendment, will do so again. At that time, we sat here for hours as there were procedural attempts to reverse the outcome of that initial vote. But 49 men of strong convictions were not moved. I hope that these 49 men will act upon those convictions again. I implore them to show the same courage and commitment again. There is no change in the amendment. Therefore, when the rollcall comes on the motion to strike the amendment from the bill, we should vote "no" on that motion and leave this amendment in the Foreign Military Assistance Act, so that we can take it to conference. For who knows, something could happen which would produce a change of heart, a change of course, a change of direction in the House of Representatives.

In conclusion, Mr. President, for those who believe that to vote against this motion is to vote against the President, let me say that we are not opposing the President. We are sharing the burden with the President.

I do not believe that the votes we have had in the past have in any way adversely affected President Richard Nixon.

I support him, personally. I intend to vote for him. I think he has been an excellent President, even though I have disagreed with him on several occasions. We do not agree with everyone on everything. He certainly does not agree with me on everything. I certainly would not be on this floor today making a speech advocating and urging the defeat of the Stennis amendment, which, in effect, is a rejection of the so-called Brooke amendment, if it were for the purpose of adversely affecting Richard Nixon or in any form or fashion being critical of his administration.

So my amendment is not political. But, Mr. President, this war is above partisan politics. It must be above politics. It is a matter of life and death, a matter of peace and war. I strongly urge defeat of the Stennis amendment.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BROOKE. I am very pleased to yield.

Mr. JAVITS. Mr. President, I am brought to my feet by the observations of the Senator, by respecting his support of the President and the consistency of that support with the position he has now taken in the amendment which has been so widely known as the Brooke amendment.

I shall vote for the Brooke amendment. The Senator knows that, and I am sure the Senate knows that, as it has been my consistent position for a long time. But I have been faced time and again with this question, which is always asked in a challenging way: "How can you support the President of the United States if you take this position on Vietnam?"

In my judgment, I see no consistency whatever, for the following reasons:

First, the reason stated by the Senator. If we, as Senators of the United States, representing our people here, using our judgment and conscience in the interests of our people, agreed always with the President, we would be his apologists, not his advocates, and we could not possibly do that under our own oath of office. That is very evident.

But there is a deeper point than that which I should like to make with the Senator. I feel that if we are going to be pulled out of this war with a minimum of resentment and recrimination in this country, with the least danger of a reaction in this country which would be almost as divisive as the Vietnam war itself, only President Nixon can do it. His credentials now are so high with the American people that I think it is our duty to get him to extricate us from this quagmire which is Vietnam; and that is why I think it is so salutary and so useful to have a congressional declaration. This is the way in which, in collaboration between Congress and the President, the decision can be made and implemented—I use the latter words with great force—by a President whose credentials and whose standing with the country are so high that we will have a minimum of recrimination and aftermath if he does it. I believe that he should be persuaded, as this is by all odds the right course.

One last point. As a member of the Committee on Foreign Relations and as one who is deeply concerned with the foreign policy of the country, I am appalled by the capability which we are leaving in Southeast Asia, as the Senator has vividly described, to be drawn back in a massive way. We have got ourselves committed there, and we are simply engaging in a kind of euphoria if we think that the pullout of our troops on the ground and a zero casualty rate—which we have, thank God—are any insurance against reinvolvement. So long as American resources are committed there, even in an air or naval war, so long as there is extensive American personnel on the ground, we can be reinvolved at any time.

It took only 19,000 advisers, which President Kennedy put in, in order to bring in the 600,000 troops which President Johnson put in. The same is true today, and we have many more than 19,000 advisers there right now.

Second, I point out, again as one with a particular responsibility for foreign policy, that the armament and equipment which are being burned up in Vietnam and which are deployed there were not made with mirrors. They were drawn down from the Mediterranean, from the Indian Ocean, from the Atlantic, and from many other parts of the world. Those who oppose us in the world, in terms of the values of freedom, know it just as well as we do. They know exactly where we are drawn down and by how much. They know exactly how much they can poke and pry in the Middle East and in the South Atlantic and every other place in the world, based upon what we have been compelled to reduce in the way of our resources. In my judgment, this is a very dangerous situation, a very provocative situation, to the kind of dictatorships we face in the world.

For all those reasons, Mr. President, I see that our only course as intelligent men of conscience—and a course entirely consistent with support of the President, as I have explained—is to support the Senator's amendment and to do our utmost to defeat the effort to strike it.

Mr. BROOKE. Mr. President, I thank my distinguished colleague, the Senator from New York (Mr. JAVITS), who has certainly spoken with a loud and clear voice on this very vital question and who has been so helpful in the Committee on Foreign Relations and in the Senate in our attempt for adoption of this amendment in the past. I am very pleased that he has joined in this colloquy today in order to pinpoint the consistency with the course we propose and the course that the President of the United States has followed.

The Senator from New York and I are both particularly concerned with the lives involved, the lives of the men who are in Southeast Asia. And the lives of the Vietnamese people certainly are very, very important to us as well. They are human beings and they have suffered, I am sure, more than we have suffered in this long turmoil that has taken place in their land. But I am sure that the Senator also shares my concern for the economics of the war. It is still costing us billions of dollars annually, even at the present lower level of involvement. Literally billions of dollars are being spent in this war, money that could be used to solve some of the problems that cry out for solution here at home.

This war continues to go on. As the Senator from New York has well pointed out, we could be reinvolved in this war at any time. As I said earlier, for example, if there is an attack upon Saigon, where there are thousands of Americans at the present time, I am sure that we will not sit idly by and let the North Vietnamese massacre Americans, nor should we sit idly by. But that is the risk we take by being there. I hope that the North Vietnamese are not foolish enough to make an attack upon Saigon at the present time and escalate the war and cause us to be further involved or reinvolved in that war. But that is a chance we are taking every day we remain there.

It seems to me that the fewer troops we have there, the greater the risk really is; 36,000 troops, none of them combat troops, are certainly not able to engage in any meaningful combat activity in South Vietnam. Those 36,000 troops, as I understand from the best information I have been able to receive from the Pentagon, are support troops for the South Vietnamese. This means that we are risking the lives of 36,000 Americans, hoping and praying that, at some time—and no one has put a time on it at all—the South Vietnamese will be able to stand up and defend themselves. I do not know how long that will be. All I am saying is that it is a possibility that it could go on for months and years. All that means is that the risks that come with it—the possibility of loss of lives, the tremendous expenditures of our resources—could continue if we do not make the decision to get out of Indochina and to get our prisoners of war back and to get an accounting to give to our people of our MIA's.

Thus, Mr. President, I reiterate, I hope, and urge, and pray, that the Senate will defeat the Stennis motion to strike this amendment from the Foreign Military Assistance Act of 1973.

Mr. STENNIS. Mr. President, how much time remains, please?

The PRESIDING OFFICER (Mr. STEVENSON). The Senator from Mississippi has 23 minutes remaining and the Senator from Arkansas has 5 minutes remaining.

Mr. STENNIS. Mr. President, on my time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STEVENSON). Without objection, it is so ordered.

Mr. STENNIS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Mississippi has 7 minutes remaining.

Mr. SCOTT. Mr. President, will the Senator from Mississippi yield me 3 minutes?

Mr. STENNIS. Mr. President, I yield the Senator from Pennsylvania 3 minutes.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 3 minutes.

Mr. SCOTT. Mr. President, the amendment submitted as a substitute to my amendment by the Senator from Idaho (Mr. CHURCH) is the use of the same tactic that was used once before. And it is being used by one who has announced himself as against the foreign aid bill. He desires to defeat the entire bill. A vote for his amendment may well be a step toward that end since, if the amendment of the Senator from Idaho were adopted all it would do would be to adopt the part of my amendment that would restore certain funds for Israel, and strike out the restoration of all other funds. The purpose is to defeat the restoration in my amendment by removing from that amendment any additional aid to Israel. Senators will feel that they should vote for the amendment of the Senator from Idaho. If the Senator from Idaho acts as he has in the past, he will vote against the entire bill.

However, Senators who want the bill and think they will get something by voting for the amendment of the Senator from Idaho, will find that in due course the Senator from Idaho will vote to defeat the bill. They will achieve exactly the same purpose by supporting a motion to table the substitute of the Senator from Idaho because by tabling it they will get the same opportunity to vote increased funds for the State of Israel in my amendment plus restoration of the other funds.

When the Committee on Foreign Relations met last week it did not give the same careful consideration—in fact, it gave no consideration—to the sums of money which had been carefully considered and voted on when the bill was first sent to the floor of the Senate. This second time around—and I see one of the Senators from the committee in the Chamber, and other Senators who were there recall—about all that was done was a determination to get the bill on the floor somehow, never mind the figures, and "then we can dispose of it one way or another." So this second time I think this arbitrary cut does not represent the intent of the Senate; it does not represent the intent of the Senate 60 days ago; and it does not represent the intent of the Senate now.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. SCOTT. I thank the Senator from Mississippi. I hope Senators vote to table the substitute motion.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. SCOTT. I have no time remaining.

Mr. STENNIS. I have only a few minutes.

Mr. BROOKE. I yield 1 minute to the Senator from Kentucky.

Mr. COOPER. Mr. President, I wish to comment on what the Senator from Pennsylvania said. It is correct that the bill which was before us earlier in the session had been considered item by item by the Committee on Foreign Relations, and decisions made by the committee on the provisions of the bill.

The bill which is now before us had, I suppose, about 2 hours of discussion, and maybe 3. There was no actual consideration in depth and decisions made on various provisions of the bill. We decided in the short time left we would vote it out and to bring it before the Senate for the Senate consideration and action.

I am not bound, and none of us in committee is bound by any of the positions taken in the bill, even the inclusion of the Brooke amendment.

Mr. SCOTT. I thank the Senator.

Mr. BROOKE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Massachusetts has 4 minutes remaining. Who yields time? The time running will be equally charged against opposing sides.

Mr. STENNIS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Mississippi has 3 minutes remaining.

Mr. STENNIS. Mr. President, I yield myself 1 minute. I wish to reserve 2 minutes in order to close.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, I point out that this provision states that all this must be done within 4 months, provided that during that 4 months there is a release of all American prisoners. I pose this question: One month passes and no prisoners are released; 2 months pass and no prisoners are released; 3 months pass and no prisoners are released; 3 months and 15 days pass and no prisoners are released; 3 months and 25 days pass and no prisoners are released. Then, 3 months and 28 days pass, prisoners are released, and there are 2 days remaining. The President of the United States in 2 days would have to get all forces withdrawn from all of Indochina. It just illustrates how impossible and impractical the proposal is, and I say with all deference that this amendment is unworkable and it is a delusion. It cannot possibly work.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. STENNIS. Mr. President, I yield the floor.

Mr. BROOKE. Mr. President, this is an amendment in the bill which the Senate has voted on favorably twice before. There is no change in the amendment at all. There is no delusion whatever. If the North Vietnamese do not return the American prisoners of war and give us an accounting of our missing in action, then all bets are off and the President has entire flexibility and does not have to withdraw our American troops. He can withdraw American troops at the rate he decides. He already has established his own rate of withdrawal. There is nothing in this amendment which mandates the President to withdraw those remaining 36,000 troops at any particular point. He has entire flexibility so far as the withdrawal of the troops and he can negotiate, as I said earlier, for the withdrawal of American forces and for the return of our prisoners of war, something that will go on between the two nations.

So I think the Senate again has an opportunity to exercise its constitutional responsibility to vote on an antiwar amendment. Irrespective of what its fate may be in conference, it is incumbent upon the Senate to stand up and courageously vote, as it has in the past, to end the war in Vietnam.

I yield 2 minutes to the Senator from Oregon.

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. HATFIELD. Mr. President, it is hard to know how to enliven the American conscience to the continuing tragedy and horror of this war.

We read or hear routinely of B–52 raids conducted over South and North Vietnam. But what does that mean? A typical B–52 mission inundates more than a square mile with high explosives in a few seconds time. Normal life in that area has no chance of being sustained. It has been estimated that four such B–52 missions are the approximate equivalent of the atomic bomb we dropped on Hiroshima.

We have been averaging about 16 such B–52 missions each day. Further, more than half of our total bombing in Indochina consists of B–52 saturation bombings. These are not smart bombs. They are deadly, blind, indiscriminate bombs. The other bombs we drop are often tragically indiscriminate in the targets that bear their explosive power.

We are told that such bombing is done in order to save lives. But in the name of saving lives, thousands upon thousands have been lost.

If it is American lives we want to save, then they can all be brought home in a matter of a few weeks—as could have and should have been done long ago.

We are told we bomb to get our prisoners of war back. But our bombing creates more prisoners each day. Since the resumption of the heavy bombing over North Vietnam on May 8, over 100 more Americans have been added to the rolls of those missing in action or taken prisoner.

In truth, we are bombing to support a military dictator and his regime. Remember that President Thieu was reelected in a one-man election reminiscent of the political process in Communist countries. His chief opponent from his previous election has been a prisoner because he was for peace. Thousands of South Vietnamese students and others suffer in prison because they oppose the government. And in recent weeks that regime has taken censorship of the press to even new extremes, and have abolished all local elections. That is the regime we are bombing for.

The statistics give some measure of the scope of destruction and suffering we are inflicting on Indochina. We have dropped over 14 million tons of explosives on that area. That is 70 times the total of all the bombs, including the atomic bombs, that we dropped on Japan in World War II. Further, half of all those explosives have been used on Indochina since the beginning of 1969, when the current administration took office.

According to Department of Defense figures, over a million soldiers have died in this war. One million. And the majority, by far, have been soldiers of North Vietnam. The counters at the Defense Department do not keep as careful a tabulation of civilian deaths. The best estimates indicate that 400,000 have died in South Vietnam alone, which is where the majority of our bombs have fallen during this war. No one can say for sure how many tens of thousands have died in North Vietnam, Cambodia, and Laos.

And then there are the hundreds of thousands who are wounded, and the millions who have been made refugees.

American casualties have dramatically decreased. But Asian casualties continue. And as long as we continue our bombing, more Asians will perish.

The blood bath is now. And those concerned about a future bloodbath need to reread their history books. Recent historical articles point out that there is no precedent in the history of North Vietnam for the kind of daily bloodbath occurring now.

It is true that as of September 1, there were only 39,000 Americans in South Vietnam. But there are a total of 134,000 Americans on the lands and seas of Southeast Asia prosecuting this war. And we have heard nothing about when our aircraft carriers will come home, when our pilots will come home, and when the Americans at airbases in Thailand will come home.

On the day before the Cambodian invasion the first amendment to cut off funds for the war was introduced in the Senate. In September of 1970, that amendment, which I had the opportunity to coauthor and cosponsor, received the support of 39 Senators. By next June, 42 Senators agreed with that proposition, and voted for such an amendment. And after many more months of debate, a majority of the Senate agreed to cut off funds for war. For the Senate to turn its back on that decision now would be a tragic reversal of a historical movement that has begun to restore Congress' constitutional authority over this war.

In conclusion, I would remind the Members of the Senate of what Capt. George Alan Rose, a flier who was shot down over North Vietnam and captured on June 21 of this year, said, as recorded in yesterday's Post in an interview with Richard Dudman in North Vietnam:

> I would like for all the Americans to ask themselves where this country has gone in the last four years, in the war, in the economy, and in the eyes of the world, and ask them if they can tolerate another four years of this . . . I'm sure if they'll—if they read about the war and all the problems that are facing America to come together and time for a change our course, towards peace and good will to all mankind.

Mr. STENNIS. Mr. President, I yield 1 minute to the Senator from Kentucky. May we have quiet, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. STENNIS. Mr. President, I yield 2 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. COOPER. Mr. President, I recognize the deep feeling of the Senator from Massachusetts and all those who are associated with him. Many times in the past I have been associated with them in the introduction of similar amendments and amendments which I sponsored. But, as I said in the last debate, these amendments offered as so-called end-the-war amendments and received by and believed by the people as such—by providing conditions before they can become effective are in fact prescriptions for continuing the war. In fact, they go further. They are authorizations for continuing the war. I have come to the conclusion that they are not end-the-war amendments, but prescriptions, authorizations to continue the war. They offer no substantial hope for the release of the prisoners of war.

It is my view that the North Vietnamese will not seriously negotiate until after our presidential election in the hope that Senator McGovern will be elected and that he will accede to all the requests of the North Vietnamese. I have no doubt that they are mistaken—that President Nixon will be reelected and the North Vietnamese will be required to negotiate with President Nixon. If they were sensible they would negotiate now.

Under these circumstances, I think the President of the United States, who has the power of negotiating, and who has made offers to withdraw all forces upon release of our prisoners has a much better opportunity to end the war than these conditional illusory amendments. I have come to the belief that they are illusory amendments. In explanation, I ask unanimous consent to have printed in the Record, the discussion by the Senator and myself in the Brooke amendment, and an amendment which I had previously offered on July 24, a prior discussion on July 19, and later on August 2.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Congressional Record, July 19, 1972]

FOREIGN ASSISTANCE ACT OF 1972

Mr. Cooper. Mr. President, I send to the desk an amendment to S. 3390 and ask unanimous consent that the reading of the amendment be dispensed with, but that the amendment be printed at this point in the Record.

The Acting President pro tempore. The amendment will be received and printed, and will lie on the table; and, without objection, the amendment will be printed in the Record.

The amendment (No. 1325) reads as follows:

"On page 10, beginning with line 18, strike out all down through line 18, on page 11, and insert in lieu thereof the following:

"Sec. 12. (a) Funds authorized or appropriated by this or any other Act for United States forces with respect to military actions in Indochina may be used only for the purpose of withdrawing all United States ground, naval, and air forces from Vietnam, Laos, and Cambodia and protecting such forces as they are withdrawn. The withdrawal of all United States forces from Vietnam, Laos, and Cambodia shall be carried out within four months after the date of enactment of this Act.

"(b) It is hereby declared to be the policy of the Congress that negotiations be continued with the Government of North

Vietnam for a cease fire, to secure the return of all United States prisoners of war held by the Government of North Vietnam and its allies and an accounting of those missing in action, and to seek an end to all hostilities in Indochina."

Mr. Cooper. Mr. President, I have sent to the desk an amendment to section 12 of S. 3390, the section known as the Mansfield amendment.

I offer the amendment with some regret for I can recall only one occasion when I have been separated from Senator Mansfield on the war in Vietnam. He has been consistent, utterly conscientious, and without any partisan consideration in his efforts to enlist the Congress in its necessary and constitutional duty to assist in bringing the war in Southeast Asia to a close. He has believed, as he has said so often, that the Congress and the Executive should work together to that end.

But, Mr. President, I have held always and have so stated on the Senate floor in speeches and by way of amendments that the participation of the United States in the war can only be ended by negotiation, or by the total withdrawal of U.S. forces, without conditions, except that they must be protected as they are withdrawn.

What I say now is not intended to question in any way the purposes of those who have introduced and fought for legislative enactments to deny funds for our continued participation in the war. I have never questioned their purposes.

But amendments have been introduced and which have received a great deal of popular support in the country have included a condition precedent—the condition that our forces shall not be withdrawn until there is an agreement to release our prisoners of war or until their release is actually accomplished.

On one hand these amendments have provided that all funds shall be denied except for the withdrawal of our forces. Then in contradiction, they provided implicitly that funds for our participation in the war shall continue, that the United States will continue to fight in Vietnam from other countries, from the air, or from the seas, until our prisoners are released.

I can understand that it is difficult for the Congress to support an amendment which does not have the usual prisoner-of-war condition. It can be said that an amendment without such a provision indicates a lack of concern for those who have fought and who are held by North Vietnam in violation of the Geneva Convention and human decency.

But we must face this issue—how can the release of our prisoners be brought about? Our continued fighting has not secured their release. It is evident that we cannot by force, cause North Vietnam and its allies to release the prisoners. We must look for other ways. It seems to me that there are, at minimum, two prospects for their release.

The first prospect, is that their release will be secured by negotiations. President Nixon has made a serious and responsible proposal to North Vietnam to end the fighting, for the withdrawal of all our forces in 4 months, and the release of prisoners of war. North Vietnam, if it truly desires peace, ought to negotiate seriously and substantively so that agreement will be reached.

If negotiations are not successful, I see no hope of the release of our prisoners and the ending of the war except by the withdrawal of our forces. When our forces are withdrawn, I think it reasonable to believe that, as has occurred in past wars, our prisoners will be released. With our forces withdrawn, the good offices of many countries and of world opinion will urge upon North Vietnam this international and humane duty. Experience has shown that no country will intervene in a serious way on behalf of our prisoners as long as American forces are fighting in Vietnam.

These are the means, as I see it, to move toward the release of the prisoners and the ending of the war. First and most important is negotiations and the success of the negotiations now taking place in Paris. The second way I suggest for which my amendment calls, is the assurance of withdrawal of our forces.

The amendment establishes a period of 4 months from its enactment for withdrawal of U.S. forces and the end of our participation in the war. This is the same period of time which the President proposed in his speech of May 8. It would give time for safe and orderly withdrawal. It would give time for the necessary adjustments and preparation that South Vietnam must make. If this can be accomplished earlier, it will be all for the good.

It will be argued that to propose such an amendment, or to approve it, may undercut or hinder negotiations now taking place in Paris. I do not think this is correct. The amendment presents to North Vietnam the assurance that the Congress can give, as the President has given, that our forces will be withdrawn. No reason would remain for North Vietnam to hold our prisoners as hostages.

The amendment I offer is more direct than the amendments which have been proposed in past years. They have provided for the withdrawal of all our forces conditional upon the release of the prisoners. It is a condition which North Vietnam can accept or reject, one which enables them to hold our prisoners as hostages upon their terms.

This amendment is consistent with the national commitments resolution which the Senate adopted by a large majority. It is consistent with the War Powers Act initiated by Senator Javits and which the Senate approved by a large majority. I think it is clearly constitutional.

The amendment is consistent with amendments which, with others, I have introduced in the past. All but one were approved by the Senate. None of these amendments carried any conditions which would nullify its purpose.

I want to say that it is my desire to assist President Nixon in his continuing efforts to withdraw American forces, to bring the war to a close, and to secure the release of our prisoners of war. He has reversed past policies. He has done his best. As I said earlier in this statement, he has made an exceedingly fair proposal to North Vietnam, and if North Vietnam desires peace and will negotiate seriously, the war can be ended.

I do not believe that this amendment or any amendment can promise absolutely the release of our prisoners of war. I do not believe that any individual can promise the release of our prisoners of war. I can only say that, in my view, negotiations and withdrawal offer the best chance to secure their release.

The purpose of this amendment is to propose to the Congress such a course of action. It expresses a view that the Congress and the President should join in the policy of withdrawing our military forces completely from South Vietnam, Laos, and Cambodia, and cease military action from other countries and from the sea. It would give the people of those countries a chance to live in some kind of peace, and an opportunity to establish their own governmental systems and relations. It will save lives and provide a better chance for the release of our prisoners of war and their return to their families.

Mr. Mansfield. Mr. President, will the Senator yield?

Mr. Cooper. Mr. President, I yield to the distinguished majority leader.

The Presiding Officer. (Mr. Pastore). The Senator from Montana is recognized.

Mr. Mansfield. Mr. President, I want to commend the distinguished Senator from Kentucky, than whom there is no more conscientious Member of this body, for the forthright proposal which he has just presented to the Senate for consideration.

As he states, if a solution could be found, "It would give the people of those countries a chance to live in some kind of peace, and an opportunity to establish their own governmental systems and relations. It will save lives and provide a better chance for the release of our prisoners of war and their return to their families."

As long as the war goes on I would say the chances of the release of our prisoners of war and recoverable MIA's remain remote. This is a proposition which faces up to the situation very directly, again to quote from the Senator's remarks:

"The amendment I offer is more direct than the amendments which have been proposed in past years."

There is no question about that.

Furthermore, the Senator states, and again I quote him:

"I do not believe that this amendment or any amendment can promise absolutely the release of our prisoners of war."

I would be prone to agree with that. As I understand the distinguished Senator's amendment, what he is offering is a two-prong proposal. One prong is in line with the President's suggestion that within a 4-month period, it may be that negotiations can bring an end to this horrible war. In that respect, may I quote a remark made by Dr. Henry Kissinger on his return from his latest trip to China, in which he said:

"We expect that when the war is finally settled it will be through direct negotiations between the North Vietnamese and American negotiators."

The other prong is withdrawal with no ifs, ands, or buts, but on the supposition that if our withdrawal is complete, then, as a matter without absolute guarantee, our prisoners would stand a better chance to be released.

I may say to my distinguished colleague, while I appreciate his kind words about me in the beginning of his remarks, and we have been together on many facets of the Vietnam situation seeking a solution, it would be my present intention to stick with the proposal contained in the foreign aid bill and to change the date from August 1 to October 1. But I want to assure the distinguished Senator that should that proposal now incorporated in the Foreign Aid Act be nullified, diluted, or killed, I would give most earnest and serious consideration to this direct and clear-cut proposal which seeks to bring about an end to the war in Southeast Asia.

I commend the distinguished Senator for making this suggestion and for giving to the Senate his reasons therefor.

Mr. Cooper. Mr. President, I thank the distinguished majority leader for his remarks. I, too, recall the long association we have had together in Congressional action to end the war in Vietnam.

I recall in 1954 when it was proposed that the United States should intervene in the war in South Vietnam after the fall of Dienbienphu, the majority leader and I spoke against that intervention. Since that time we have joined in amendments and in many efforts concerning an end to the war.

I would like to say that it has been a matter of concern to me for many years that amendments which have been offered to halt the war in Vietnam and which called for the withdrawal of forces—have provided in the same amendment conditions, precedent, including the condition that prisoners must be released. The effect of such conditions, of course, has been to vitiate the amendments.

The Presiding Officer. The Senator's time has expired.

Mr. Cooper. Mr. President, will the Senator yield to me for 2 additional minutes?

The Presiding Officer. Under the previous order the period for the transaction of routine morning business is now in order, for not to exceed 30 minutes, with remarks therein limited to 3 minutes.

Mr. Mansfield. Mr. President, I have asked unanimous consent and I believe it has been granted, that the unfinished business to be laid before the Senate immediately after the time allotted to the Senator from Kentucky.

The Presiding Officer. The Senator is correct.

Foreign Assistance Act of 1972

The Presiding Officer. The Chair lays before the Senate the unfinished business, S. 3390, which will be stated by title.

The assistant legislative clerk read as follows:

"A bill (S. 3390) to amend the Foreign Assistance Act of 1961, and for other purposes."

Mr. Mansfield. Now, the Senator from Kentucky may speak as long as he wishes.

Mr. Cooper. I shall be brief.

The Presiding Officer (Mr. Hart). The Senator from Kentucky is recognized.

Mr. Cooper. Mr. President, as I noted before, what has concerned me and concerned me a great deal, is that amendments called "end the war amendments," provided for denial of funds to continue the participation of American forces in the war and conversely, and in contradiction, included the provision that our participation should continue until our prisoners of war were released.

Of course, the effect of the precondition was to vitiate the end-the-way amendments.

The amendment I offer today does not contain any preconditions for withdrawal. It simply states that the United States shall withdraw its forces from South Vietnam in 4 months from the enactment of this bill; that it shall not continue its participation in the war in Indochina; it means the end of our participation in the war. If this course were followed, we would have a better chance, perhaps the only chance other than through negotiations, to obtain the release of our prisoners.

Mr. President, I shall speak later on this amendment. I intend to press the amendment to a vote.

[From the Congressional Record,
July 24, 1972]

Foreign Assistance Act of 1972

AMENDMENT NO. 1325 AS MODIFIED

Mr. Cooper. Mr. President, I call up my amendment. I had proposed it as an amendment to the section 12 of the bill, known as the Mansfield amendment. But I can say I think I will speak only 10 or 12 minutes. I ask Senators to read amendment No. 1325 I offer to S. 3390, which reads as follows:

"On page 10, beginning with line 18, strike out all down through line 18 on page 11, and insert in lieu thereof the following:

"Sec. 12. (a) Funds authorized or appropriated by this or any other Act for United States forces with respect to military actions in Indochina may be used only for the purpose of withdrawing all United States ground, naval, and air forces from Vietnam, Laos, and Cambodia and protecting such forces as they are withdrawn. The withdrawal of all United States forces from Vietnam, Laos, and Cambodia shall be carried out within four months after the date of enactment of this Act.

"(b) It is hereby declared to be the policy of the Congress that negotiations be continued with the Government of North Vietnam for a cease-fire, to secure the return of all United States prisoners of war held by the Government of North Vietnam and its allies and an accounting of those missing in action, and to seek an end to all hostilities in Indochina."

This is the change: On page 10, beginning with line 18, strike out all down through line 18, on page 11, and insert a new section, section 13, and new language. Then the language remains the same as in the amendment which I offered on July 19, 1972.

The Presiding Officer (Mr. Hansen). The amendment will be stated.

The assistant legislative clerk read as follows:

"On page 10, beginning with line 18, strike out all down through line 18 on page 11, and insert in lieu thereof the following new section 13:

"Sec. 13. (a) Funds authorized or appropriated by this or any other Act for United States forces with respect to military actions in Indochina may be used only for the purpose of withdrawing all United States ground, naval, and air forces from Vietnam, Laos, and Cambodia and protecting such forces as they are withdrawn. The withdrawal of all United States forces from Vietnam, Laos, and Cambodia shall be carried out within four months after the date of enactment of this Act."

Mr. Cooper. Mr. President, I yield myself 10 minutes.

The Presiding Officer. The Senator from Kentucky is recognized for 10 minutes.

Mr. Cooper. Mr. President, my amendment No. 1325, as modified, to S. 3390, was submitted on July 19. Its text and the statement I made at the time are printed in the Record on pages 24317–24319. I ask unanimous consent that it again be printed in the Record.

(There being no objection, the excerpt was ordered to be printed in the Record, as follows:)

Foreign Assistance Act of 1972

Mr. Cooper. Mr. President, I send to the desk an amendment to S. 3390 and ask unanimous consent that the reading of the amendment be dispensed with, but that the amendment be printed at this point in the Record.

The Acting President pro tempore. The amendment will be received and printed, and will lie on the table; and, without objection, the amendment will be printed in the Record.

The amendment (No. 1325) reads as follows:

"On page 10, beginning with line 18, strike out all down through line 18, on page 11, and insert in lieu thereof the following:

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Mr. Cooper. Mr. President, I have sent to the desk, an amendment to section 12 of S. 3390, the section known as the Mansfield amendment.

I offer the amendment with some regret for I can recall only one occasion when I have been separated from Senator Mansfield on the war in Vietnam. He has been consistent, utterly conscientious, and without any partisan consideration in his efforts to enlist the Congress in its necessary and constitutional duty to assist in bringing the war in Southeast Asia to a close. He has believed, as he has said so often, that the Congress and the Executive should work together to that end.

But, Mr. President, I have held always and have so stated on the Senate floor in speeches and by way of amendments that the participation of the United States in the war can only be ended by negotiation, or by the total withdrawal of U.S. forces, without conditions, except that they must be protected as they are withdrawn.

What I say now is not intended to question in any way the purposes of those who have introduced and fought for legislative enactments to deny funds for our continued participation in the war. I have never questioned their purposes.

But amendments have been introduced and which have received a great deal of popular support in the country have included a condition precedent—the condition that our forces shall not be withdrawn until there is an agreement to release our prisoners of war or until their release is actually accomplished.

On one hand these amendments have provided that all funds shall be denied except for the withdrawal of our forces. Then in contradiction, they provided implicitly that funds for our participation in the war shall continue, that the United States will continue to fight in Vietnam from other countries, from the air, or from the sea, until our prisoners are released.

I can understand that it is difficult for the Congress to support an amendment which does not have the usual prisoner-of-war condition. It can be said that an amendment without such a provision indicates a lack of concern for those who have fought and who are held by North Vietnam in violation of the Geneva Convention and human decency.

But we must face this issue—how can the release of our prisoners be brought about? Our continued fighting has not secured their release. It is evidence that we cannot by force, cause North Vietnam and its allies to release the prisoners. We must look for other ways. It seems to me that there are, at minimum, two prospects for their release.

The first prospect, is that their release will be secured by negotiations. President Nixon has made a serious and responsible proposal to North Vietnam to end the fighting, for the withdrawal of all our forces in 4 months, and the release of prisoners of war. North Vietnam, if it truly desires peace, ought to negotiate seriously and substantively so that agreement will be reached.

If negotiations are not successful, I see no hope of the release of our prisoners and the ending of the war except by the withdrawal of our forces. When our forces are withdrawn, I think it reasonable to believe that, as has occurred in past wars, our prisoners will be released. With our forces withdrawn, the good offices of many countries and of world opinion will urge upon North Vietnam this international and humane duty. Experience has shown that no country will intervene in a serious way on behalf of our prisoners as long as American forces are fighting in Vietnam.

These are the means, as I see it, to move toward the release of the prisoners and the ending of the war. First and most important is negotiations and the success of the negotiations now taking place in Paris. The second way I suggest for which my amendment calls, is the assurance of withdrawal of our forces.

The amendment establishes a period of 4 months from its enactment for withdrawal of U.S. forces and the end of our participation in the war. This is the same period of time which the President proposed in his speech of May 8. It would give time for safe and orderly withdrawal. It would give time for the necessary adjustments and preparation that South Vietnam must make. If this can be accomplished earlier, it will be all for the good.

It will be argued that to propose such an amendment, or to approve it, may undercut or hinder negotiations now taking place in Paris. I do not think this is correct. The amendment presents to North Vietnam the assurance that the Congress can give, as the President has given, that our forces will be withdrawn. No reason would remain for North Vietnam to hold our prisoners as hostages.

The amendment I offer is more direct than the amendments which have been proposed in past years. They have provided for the withdrawal of all our forces conditional upon the release of the prisoners. It is a condition which North Vietnam can accept or reject, one which enables them to hold our prisoners as hostages upon their terms.

This amendment is consistent with the national commitments resolution which the Senate adopted by a large majority. It is consistent with the War Powers Act initiated by Senator JAVITS and which the Senate approved by a large majority. I think it is clearly constitutional.

The amendment is consistent with amendments which, with others, I have introduced in the past. All but one were approved by the Senate. None of these amendments carried any conditions which would nullify its purpose.

I want to say that it is my desire to assist President Nixon in his continuing efforts to withdraw American forces to bring the war to a close, and to secure the release of our prisoners of war. He has reversed past policies. He has done his best. As I said earlier in this statement, he has made an exceedingly fair proposal to North Vietnam, and if North Vietnam desires peace and will negotiate seriously, the war can be ended.

I do not believe that this amendment or any amendment can promise absolutely the release of our prisoners of war. I do not believe that any individual can promise the release of our prisoners of war. I can only say that, in my view, negotiations and withdrawal offer the best chance to secure their release.

The purpose of this amendment is to propose to the Congress such a course of action. It expresses a view that the Congress and the President should join in the policy of withdrawing our military forces completely from South Vietnam, Laos, and Cambodia, and cease military action from other countries and from the sea. It would give the people of those countries a chance to live in some kind of peace, and an opportunity to establish their own governmental systems and relations. It will save lives and provide a better chance for the release of our prisoners of war and their return to their families.

Mr. COOPER. Mr. President, if the amendment is approved, it will strike out the language of section 12, on pages 10 and 11, known as the Mansfield amendment, and insert in lieu thereof the language of my amendment.

As I said on July 19, it is with regret that I differ with the distinguished majority leader, as we have seldom disagreed on issues concerning the war in Vietnam, have joined in amendments, and I hold his views in the highest respect.

But we have come to the critical time, when a fundamental question concerning U.S. participation in the war, must be squarely faced and voted upon. It is the question whether we shall support amendments whose language and purpose call unconditionally for ending our participation, or continue the support of so-called end the war amendments, whose conditions actually prescribe continued U.S. participation in the war.

A number of conditional amendments, some term "end the war" amendments, have been offered, and voted on in the Senate and some have received wide support throughout the country. I do not question the purpose of anyone who has offered or fought for these amendments. They have had value, certainly symbolic value, but I have come to the conclusion that they have held out hopes to the people of our country, which by their very terms could not be realized.

These amendments provide on one hand that our forces must be withdrawn by a certain date, and deny the use of funds except for withdrawal. But, conversely, and in contradiction, they include conditions precedent which must be accepted by the North Vietnamese and their allies.

Among these conditions is the condition that a cease fire must be agreed to by North Vietnam, or that an agreement to release, or the actual release of all American prisoners of war, must be accomplished. Some have added other conditions such as that satisfactory arrangements must be made for the evacuation of South Vietnamese who fear for their safety in the event of a North Vietnamese occupation.

Mr. President, I must say that I assume that the fear of the South Vietnamese is justified.

Mr. PASTORE. Mr. President, will the Senator yield for a question? I have to go to the markup session of a bill.

Mr. COOPER. Mr. President, I am glad to yield to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, in reading the amendment, particularly with reference to section 12(b), I do not see that as a condition precedent to section 12.

Mr. COOPER. The Senator is talking about my amendment?

Mr. PASTORE. That is correct.

Mr. COOPER. Section (b) would express the sense of the Congress.

Mr. PASTORE. But does the Senator mean by the amendment that we will shut off the money and withdraw our troops?

Mr. COOPER. We would withdraw in 4 months and end all participation in the war.

Mr. PASTORE. Whether or not the prisoners of war are withdrawn?

Mr. COOPER. Yes. I will address myself to the question of the Senator from Rhode Island later.

Mr. PASTORE. Mr. President, that is all I want to know.

Mr. COOPER. Mr. President, these conditions are humane in purpose. But, amendments including them do not call absolutely for the cessation of U.S. participation. They leave to North Vietnam the decision to accept or reject the conditions and upon North Vietnam's terms, and thus whether U.S. participation shall continue.

The McGovern-Hatfield, the Case-Church, the Cannon amendments, and others have prescribed one or more of these conditions. Paragraph (a) of section 12, of the amendment offered by the majority leader. Senator MANSFIELD, provides for absolute withdrawal of U.S. forces by a time certain without any condition. But I oppose the Mansfield amendment because its paragraph (b) would authorize and I emphasize "authorize," the continued shelling, strafing, and bombing of South and North Vietnam by U.S. forces from the seas, and by aircraft flying from territories outside Vietnam, unless and until North Vietnam and its allies agree to a cease fire, and the release of U.S. prisoners of war.

These amendments are a prescription for continuing U.S. participation in the war. They are not "end the war" amendments.

I will now address myself to the question which the Senator from Rhode Island raised, and I think very properly.

I know it is very difficult for any Member of the Congress to support an amendment which does not include the usual provision that agreement for the release, or the actual release of American prisoners must be secured. It can be said, and believed, that without such a provision, that we have no corner for, and that we are forsaking our fellow Americans held by North Vietnam under conditions in violation of the Geneva Convention and elemental human decency.

I face that problem because I have received letters upon that very issue. I want to face it today and ask the Senate to face it also.

We must face the question of our responsibility to assist in ending the war and the question of finding the best means to secure the release of American prisoners. We must ask what are the opportunities for their release and what is humane for them. I have said always that negotiations are the best means to secure their release, for the ending of all fighting and for settlement of the problems of Indochina. President Nixon has made a serious, a responsible and a humane proposal to North Vietnam to end the fighting. North Vietnam, if it truly desires peace—and in the whole course of the war, I have seen no evidence on its part that it desires peace—can negotiate seriously so that an agreement will be reached.

But absent such an agreement through negotiations, I see no prospect for the release of American prisoners and the ending of the war except by ending our participation in the war.

As for the release of American prisoners, continued fighting has not accomplished and will not accomplish their release. It only results in more American prisoners of war held by North Vietnam. It is more reasonable that when the war is ended, when our participation is ended, that as in past wars, our prisoners will be released. The help of many countries and of world opinion would urge upon North Vietnam this international and humane duty. As I said on July 19, this amendment and no other amendment can guarantee the release of our fellow Americans. No individual, no candidate for President can promise their release. I only urge that unless negotiations are successful, the end of our participation in the war offers a better chance for their release than exists today.

It is argued that this amendment will undercut the negotiations now taking place in Paris. I do not think so. If the North Vietnamese desire to end the war on the very favorable terms offered by President Nixon, they will do so, amendment or no amendment. If they have determined to withhold a decision until after the coming election, they will do so. I do not want my statement to be political, but I must say that the platform of the Democratic Party is ambiguous and ambivalent on the prisoner of war provision, and suggests that the ending of U.S. participation and the release of American prisoners shall be concurrent—the usual condition, which means nothing. I do not know the exact position of its nominee except that his past amendments provide that the release of prisoners of war must be accomplished if the U.S. participation in the war is to be ended. The argument that an amendment will undercut negotiations can always be used and could be a prohibition against ever debating or supporting such amendments.

I do know that Senator MCGOVERN in his speech in Miami, the Democratic nominee said:

"Within 90 days of my inauguration, every American soldier, every American prisoner will be out of the jungle and out of the cell and back home in America where they belong."

That does not state a clear-cut position. And as I have said earlier, no individual, no candidate for President can promise or guarantee that the prisoners will be released.

I must say that I have voted for past amendments of the majority leader, Senator Mansfield, which included the prisoner-of-war condition. But I have determined that this condition will never accomplish the end of our participation in the war. I could not and will not vote for the current Mansfield amendment because its paragraph (b) would authorize the continuance of our participation in the war.

After the massive invasion of South Vietnam by North Vietnam in March of this year, I opposed any amendments concerning Vietnam except with conditions proposed by President Nixon because I considered that our forces were in grave danger and that President Nixon alone could act to protect our forces and negotiate. But that time has passed and I suggest that the 4 months—the same period proposed by the President but under different conditions—provides time for orderly and safe withdrawal of our forces and for South Vietnam to prepare for our withdrawal.

The President has reversed past policy. He has removed practically all U.S. forces from South Vietnam. I hope very much that his negotiations will succeed.

But the Congress has its responsibility to assist in bringing the war to a close.

We have the awesome task of determining the best way to secure the release of our prisoners of war. We have not been able to secure their release. We will not be able to secure their release by continuing the fighting.

For this reason, Mr. President, to bring this issue to a decision, I have offered my amendment.

Mr. SPARKMAN. Mr. President, I yield 2 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PASTORE. Mr. President, I have felt for a long, long time we should get out of Vietnam, lock, stock, and barrel. There is no question about its urgency. But we have this very difficult question of American prisoners of war. As I read this amendment, the release of our prisoners of war is not a condition of the withdrawal of American troops.

What is going to happen here if we withdraw all of our troops in 4 months, as the first part of this amendment provides, and only then we enter negotiations. Suppose we meet the same situation we have met over the past years in Paris, where they talk and talk and talk and those prisoners rot in their cells.

Mr. President, I cannot buy this kind of an amendment.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield 1 minute to the Senator from Massachusetts.

Mr. BROOKE. I submitted an amendment to provide for the withdrawal of all American troops from Indochina, conditioned upon the release of American prisoners of war. This is a perfecting amendment to the amendment offered by the senior Senator from Kentucky. I offer it because I agree with the distinguished senior Senator from Rhode Island that we should not be placed in position of having to ask for our prisoners of war after the fact. Under the amendment of the Senator from Kentucky, we would have no guarantee that we would get our prisoners of war back.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BROOKE. Mr. President, will the Senator yield to me for 2 additional minutes.

Mr. SPARKMAN. I yield 2 minutes to the Senator from Massachusetts.

Mr. BROOKE. My amendment to the Cooper amendment would strike out section (b) of the Cooper amendment and insert in lieu thereof,

"*Provided*, There has been a release of all American prisoners of war held by the Government of North Vietnam or any government allied with them."

Mr. PASTORE. That condition is satisfactory, but this idea that we are going to take the North Vietnamese on good faith and after we have withdrawn our forces have them tell us to go straight to Hades and have those American prisoners of war rot in those North Vietnam cells—I would be the last one to vote for this amendment.

Mr. BROOKE. To my knowledge, we have never had an antiwar amendment that did not provide for the return of our prisoners of war, and I do not think we should have one now. As I stated, I have submitted my amendment to the amendment of the Senator from Kentucky.

Mr. COOPER. Mr. President, the Senator from Rhode Island and the Senator from Massachusetts have, by their arguments, confirmed the issue I have presented to the Senate. It is a fact that previous amendments with conditions have not ended the war. They are not end the war amendments; they are amendments which by their terms continue the war.

They have not been able to secure the release of American prisoners of war. I was in World War II for 4 years, and spent nearly 2 years in Europe. American prisoners were released after the war.

I would like someone to explain how we will secure the release of American prisoners when the bombing, strafing, and shelling of North Vietnam and the war continue.

Mr. PASTORE. Mr. President, the Senator is talking about World War I and World War II. But we won those wars. We have not won this one. If we follow the course that is suggested here these prisoners will rot in those cells. The Senator cannot make that comparison.

Mr. COOPER. Let us not continue the pretext that we are trying to end the war, by these contradictory, conditional amendments then, and raise false hopes among our people.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. COOPER. I yield 3 minutes to the Senator from New York.

Mr. BROOKE. Mr. President, will the Senator yield to me for one question?

Mr. COOPER. I yield.

Mr. BROOKE. I just ask the question in reverse. How are we going to get our prisoners out of Vietnam prison camps if we pull out of Southeast Asia?

Mr. COOPER. Does the Senator think we secure their release by continued fighting? All I am saying is that the record shows prisoners are released after a war is ended, and my amendment offers a better chance.

Mr. BROOKE. But the incentive for them to release American prisoners of war is removed once we pull all our troops from Southeast Asia. As long as we have the troops there, they will have an incentive to release American prisoners of war as a quid pro quo. It is something to be worked out between the two governments, but once we march out, sail out, or fly out, leaving our prisoners in those camps, what assurance do we have that they will release them?

Mr. COOPER. What does the Senator propose we do?

Mr. BROOKE. I propose we say to the North Vietnamese that we will take all of our troops from Southeast Asia, as my distinguished colleague proposed in the amendment, provided there is a release of all prisoners of war.

Mr. COOPER. We passed the Mansfield amendment with similar language and nothing happened—no prisoner has been released.

Mr. BROOKE. We never passed it.

Mr. COOPER. Mr. President, I yield 3 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I understand the difficulty Senators have with an amendment like the amendment of the Senator from Kentucky, and I understand the grave problems we have as Senators with the deep, humane feelings that animate so many breasts in our country, including the Senator from Kentucky and me, with regard to prisoners of war.

But I think the amendment which the Senator from Kentucky (Mr. COOPER) offered is an honest amendment because it recognizes facts instead of illusions and theories.

The fact is that we have always been ruined on the rocks of prisoners of war. Ever since the President put us on that wicket we have been stalemated.

The President made a liberal offer for settlement but it has not brought about a settlement or the release of our prisoners of war. The North Vietnamese themselves have said that if we would withdraw our forces they would release our prisoners of war, so it is one contract they have made in advance which the world has a good chance to observe.

Second, I say to Senators again that we have had 50,000 killed and over 250,000 casualties, we have had this country disrupted as never before, we have had tremendous inflation, seriously imperiling the economic foundations of our country, all because of the Vietnam war.

There must be in the consciences of Senators who are not running in 1972—as the Senator from Kentucky and I are not running in 1972—some evaluation as to the total future position of our country in terms of our security everywhere. Where do Senators think those enormous armaments are coming from? From other parts of the world? Where do Senators think the enormous defense bill is coming from?

We have stretched the fabric so it will cover the responsibility of the United States.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. JAVITS. I shall yield to the Senator shortly, but not yet.

Therefore, it seems to me we have to evaluate our position, as deeply troubled as we are, as deeply troubled as all of us are, and as to whether this is not the only way to face it.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. COOPER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 15 minutes remaining.

Mr. COOPER. Mr. President, I yield 3 additional minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 3 additional minutes.

Mr. JAVITS. Mr. President, what we have to do is to evaluate our position. I am trying to evaluate now whether we can face this position in the approximate future in any other way or whether we lose so much time going on forever, and whether Senator COOPER's proposal might not be as good as the suggestion of the Senator from Rhode Island or the Senator from Massachusetts on prisoners of war.

This may not be the only way to do it in the proximate future. I think we all owe a debt of gratitude to Senator COOPER because of his unique situation at a time when we are discussing this matter and he is making us face the true reality. The true reality is that running the risk which Senator Pastore in his usual, eloquent, colorful way pictured, the super responsibility of the United States is nonetheless to get out because of what Vietnam has done, is doing, and will continue to do in this country.

In my judgment I shall vote with the Senator from Kentucky because I think at long last we are at the moment of truth.

Mr. President, You either want to win the Vietnam war and stop giving illusory conditions that it can be ended on conditions, or you do not. I know what my decision is, but I do not quarrel with any Senator who thinks the other way. I hope he is right. I think we are facing the moment of truth and the greater responsibility of the United States is to get out of Vietnam. I believe that serves everybody—the prisoners of war, their families, and our country.

Mr. BROOKE. Mr. President, the Senator knows I have the greatest respect for him and for the Senator from Kentucky. I know that the amendment of the Senator from Kentucky is an honest amendment, as my distinguished colleague from New York has said. He has said that this is the moment of truth. But the truth is that there are perhaps thousands of American prisoners of war resting in North Vietnamese prison camps at this time. The Senator's amendment would ask us to pull out all of our troops from Southeast Asia——

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. BROOKE. May I have 2 minutes?

Mr. SPARKMAN. Mr. President, I will yield 2 minutes, but I will have to stop at that point.

Mr. BROOKE. Pull out all of our troops in Southeast Asia with the hope that the North Vietnamese would release our prisoners of war. He says it is an illusion if we do anything else other than adopt the Cooper amendment at this time.

Now, the fact is that the U.S. Government is being asked to take, on good faith, what the North Vietnamese will do after we have removed our American troops from all of Southeast Asia. It very well may be that the North Vietnamese may release our prisoners of war, but if they do not release our prisoners of war, what is our option? What is our alternative? What have we got left? We have absolutely nothing left with which to deal with the North Vietnamese other than, as the distinguished Senator from New York has said, world opinion. We do not know that world opinion means that much to the North Vietnamese.

I have voted for every antiwar amendment that has come on the floor of the Senate. I have sponsored some. I have cosponsored others. It grieves me to have to vote against an antiwar amendment, but I cannot, in good conscience, vote for an antiwar amendment which leaves it to good faith on the part of the North Vietnamese to release American prisoners of war. I just cannot do it. And I do not think it is the question as put by my distinguished colleague from New York at all. It is not an illusion. We are not asking too much to say to them, "Return our prisoners of war and we will pull all of our troops out of Southeast Asia." I think it is a good bargain, and I think it is a bargain which they would expect the U.S. Government, in all good conscience, to make.

Mr. PASTORE. Mr. President, will the Senator yield me some time?

Mr. SPARKMAN. Mr. President, will the Chair advise me how much time I have left?

The PRESIDING OFFICER. The Senator from Alabama has 24 minutes remaining.

Mr. SPARKMAN. I yield 2 minutes to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, the Senator from Massachusetts asks what we have left. We have something left—the shame of America. The argument is made that this is an honest amendment. I do not dispute its honesty; it is the judgment that I dispute. The Senator from New York said the President made a very generous offer. Yes, but in his offer he has always proposed a cease-fire. When the offer has been made it has been conditioned on the release of American prisoners of war.

That is what we are trying to do with the amendment of the Senator from Massachusetts.

I am for withdrawing from Vietnam. I am for withdrawing from Vietnam tomorrow. But make the condition, not upon a cease-fire, but upon the release of American prisoners of war. Why? Because this is not America's war. It is the war of the Vietnamese; since it is their war, it is a civil war. If North Vietnam wants to fight South Vietnam, let the North fight the South, but American boys should not die in the process.

All I am saying is that if we want to rescue our American prisoners of war, then make the withdrawal solely and strictly conditioned on the release of American prisoners of war.

Mr. SPARKMAN. Mr. President, I yield 2 minutes to the Senator from Vermont (Mr. AIKEN).

Mr. AIKEN. Mr. President, I think everyone here knows how much I would like to cooperate with my colleague from Kentucky, because we have both been consistent in wanting our disengagement in Southeast Asia at the very earliest opportunity and at the very earliest feasible moment.

It appears that 4 years ago we had in South Vietnam 543,500 military men. Today we have 43,500. Last week there were eight Americans killed in South Vietnam. There were 57 Americans murdered in New York City. So it looks to me as if we have something to do here at home.

Last Friday a dispatch that I fear many people did not see came over the wires. The substance of this report was to the effect that Hanoi authorities had stated the United States would be permitted to withdraw from Indochina only after we had thrown out the government in Saigon and helped establish one which was more compatible to the policies of North Vietnam.

Although this dispatch was only a news report, I have some reasons to believe it was a correct statement of the Hanoi position. There is no question in my mind that the North Vietnamese intend to hold American prisoners hostage until we have complied with their demand, which is to overthrow the government of Saigon and disarm the people of that country, or leave it to the government which we would establish there, suitable to them, to disarm the people of that country.

I think they have been encouraged by the prospects that if they can continue the war possibly as much as 90 days after the inauguration of the next President, they will then be able to secure compliance with their terms. I do not think we should encourage any prolongation of the war or give them false encouragement.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. SPARKMAN. Mr. President, I yield 1 minute to the Senator from Vermont.

Mr. AIKEN. We have had different statements from the candidates for the Presidency so far. About 15 minutes ago I read a United Press news item that:

"Senator GEORGE MCGOVERN today said his pledge to keep a residual force in Thailand if North Vietnam refuses to release U.S. prisoners is only a 'gesture' and he acknowledged that it probably would not force Hanoi to release the POW's."

I do not think we should encourage the continuation of the war in this way. I think there is a possibility that if the Senate stands firm there will be some more feasible way of bringing our involvement over there to an end. I do not think we can stop the fighting among them over there. They have been doing it for 200 or 300 years and I do not think we can stop it now. Regardless of who the next Preident may be, I do not think we will be able to do it then.

I believe that our best recourse now would be to leave the situation with our Government, which I understand will have another secret meeting with the North Vietnamese within the next few days. Let us see what will happen. But I feel very strongly that unless this country does back our Government at this time, there is no prospect for success at a secret meeting or any other kind of meeting, and that the North Vietnamese will hold our prisoners not only until next spring but for an indefinite period beyond, if they think that by so doing they can get all their terms complied with. I believe these are much better prospects of ending our involvement if we can end this encouragement to continue the war.

Much as I would like to support Senator COOPER I do not feel that approval of his amendment would enhance the coming of peace in Indochina.

Mr. SPARKMAN. Mr. President, I yield 5 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I believe that the pending amendment requiring complete and unconditional withdrawal from Vietnam within 4 months if the war has not been brought to an end by negotiation is an extremely unwise and irresponsible proposal. I urge my colleagues to consider all the implications of this amendment most carefully as I believe that sound reasoning based on the best interest of the United States in securing a lasting peace in Southeast Asia will lead this body to reject this amendment. In my judgment, rejection of this amendment by the Senate is imperative for the following reasons.

First, this amendment completely undercuts the President's well thought out and thus far successful program to achieve a just peace in Vietnam. In 1968, American troops in Vietnam reached a level of 549,000. By August of this year there will be 39,000 American troops in Vietnam. The President has succeeded in removing more than one-half million men from Vietnam.

In addition, the United States is now spending less than one-third of the 1968 budget figure for our Vietnam effort. It is also noteworthy that no draftees are currently being sent to Vietnam and that draft calls for 1972 have averaged less than 5,000 men a month. It is also gratifying that American casualties have been drastically reduced. Even with the present North Vietnamese invasion considered, our casualties have been reduced by 95 percent from the level we reached in 1968. This outstanding record of reducing American involvement in Vietnam deserves the support of the Congress rather than an irresponsible attempt to second guess the President and thus torpedo his extremely effective program for Vietnam.

Second, the pending proposal has no guarantee whatsoever that American prisoners of war now held by North Vietnam will be returned. The President has pointed out that, even though the French withdrew completely from Vietnam, there are still thousands of French servicemen completely unaccounted for. Neither the President nor the Congress can afford to leave the fate of our POW's up to the discretion of the North Vietnamese Government.

Third, this amendment would leave our loyal allies, the South Vietnamese, completely at the mercy of an aggressive, cruel and totalitarian enemy. We are fighting in Vietnam to prevent Communist aggression from succeeding. The sacrifices of the American people on behalf of this important goal must not be in vain.

Fourth, President Nixon has stated time and again that the goal of his administration is to create a lasting and just peace. Were we to merely bring an end to any American involvement in military hostilities in Vietnam, yet create a situation which results in new aggression, new wars, and new demands on the American people and the American conscience to halt these new acts of Communist expansionism, we would have sacrificed much and gained nothing. Peace requires strength and the willingness to use that strength to defend world peace against those who would disturb it. Peace requires that an end to the Vietnam war discourages new aggression in its wake.

Fifth, and last, this amendment would signal a new and dangerous retreat into isolationism and away from the position of leadership of the forces of liberty and of peace in today's troubled world. If the United States heeds the voices of those who counsel retreat, surrender, and acquiescence then the entire free world will be at the mercy of powerful totalitarian and imperialistic nations. Our retreat from world leadership would create a vacuum which would not go long unfilled. A stable peace for the world and an optimistic future for the humanitarian ideals for which the United States has always stood require our leadership and our sacrifices. Vietnam has put us to the test. I believe our Nation has the mettle to survive this test.

Mr. SPARKMAN. Mr. President, I yield 3 minutes to the Senator from Ohio.

Mr. TAFT. Mr. President, I think the position in which the Senate finds itself today demonstrates the unwisdom of putting conditions upon the event of peace in Vietnam. I want to commend the distinguished Senator from Kentucky for, I think a very honest approach to the problem. I think it is not surprising also that the Senator from Massachusetts has indicated that if we go the direct route or the absolute route that is proposed by the amendment of the Senator from Kentucky, the enemy would feel that they absolutely must go ahead and start to prescribe conditions.

The distinguished Senator from Vermont, with whom I find myself very much in agreement, has indicated that he feels that an additional condition may well be put upon any termination of the war, and he certainly is in a position to know as well as any of us whether or not that is the case. Very delicate negotiations are going on. The President wants to end this war as much as anyone does. Unfortunately, the circumstances of our own political life seem to indicate that the chances of that perhaps may not be too good because of the way in which the issues have been drawn between the parties in this country and in the current political situation.

I wonder why the North Vietnamese would settle at this time, if they felt that there is a chance for the success of the opposition to the President getting into office, and that under those conditions they would be able, perhaps, to demand such conditions as the removal of the Saigon government with our cooperation and our support.

I feel that we have to act, in these circumstances, with great restraint in the Senate, leaving the President the broadest unconditional power to try to work for peace. That is the direction in which I think success lies, and the only direction in which I think success lies at this point. Creating doubts and encouragement in the heart of our enemy by the debate in this body today, I think, is a disservice to the prospects of peace, and I hope we will end up with no such encumbrance in this bill whatever.

Mr. COOPER. Mr. President, I yield 3 minutes to the Senator from Illinois.

Mr. PERCY. Mr. President, I intend to vote for the Cooper amendment, as I have voted for every amendment in an attempt to bring an end to American military involvement in the Vietnam war. In good conscience I cannot do otherwise. The war continues to take its toll of American lives. The number of Americans taken prisoner continues to rise. Thousands upon thousands of Vietnamese civilians are added to the rolls of the war dead and the war wounded every month. Despite the best efforts of President Nixon to end the war by negotiation, no end is yet in sight.

Negotiations between the North Vietnamese and the United States have been underway since May 9, 1968. Since that time officials of two administrations have counseled that Congress should not act to end American involvement in the war, because congressional action might hamper the executive branch in negotiating a settlement. But it is now 4 years later. Twenty thousand more Americans have died in Vietnam. No settlement has been achieved. Therefore Congress has a duty to share responsibility and to do what it can, and more than it has done before, to bring our men home.

I share the concern of all Americans that the prisoners should be released and the missing fully accounted for. But we have seen that having more than 500,000 American troops in Vietnam did not secure their release and accounting, and it is highly unlikely that having 46,500 American troops—our current strength—in Vietnam will accomplish what 500,000 troops could not accomplish. Nor can we be optimistic that the bombing of North Vietnam today will be any more effective in obtaining prisoner release than did the bombing from February 1965 through March 1968.

Our best hope of obtaining the release of our imprisoned men and an accounting of the missing must be in ending American involvement in the war. Then the North Vietnamese and the Vietcong would have no reason to deny further these simple humanitarian actions. To do so would bring the condemnation on Hanoi of the entire world community.

Since July 4, 1966, I have worked for peace in Vietnam. After an in-depth, on-the-ground assessment of the American involvement in Vietnam in December 1967, I said:

"I am more firm than ever in my conviction that we cannot win this war for the South Vietnamese. We can help, but ultimate victory—military, economic, political and social—must be won by them."

Last year I voted that the American military involvement should be ended by December 31, 1971. Today, by my votes, I reaffirm my conviction that the United States should end this tragic involvement and that Congress has an obligation to help bring this about.

Mr. SPARKMAN. Mr. President, I yield 30 seconds to the Senator from California.

PRIVILEGE OF THE FLOOR

Mr. CRANSTON. Mr. President, I ask unanimous consent that two members of my staff, Mr. Murray Flander and Miss Ellen Frost, be permitted the privilege of the floor during the consideration of all Vietnam amendments.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. COOPER. Mr. President, I intend to yield back the remainder of my time in a few moments, but first I will respond to some arguments against my amendment that have been made.

First, I speak to the argument made by one of my closest and dearest friends in the Senate, Senator AIKEN, for whom I have the greatest respect: He believes that negotiations may be successful this time, and therefore we should should not do anything which might upset those negotiations. I hope with all my heart—as all of us do—that negotiations will be successful, because that is the best way to end the war, stop the fighting, and get the prisoners home. I support the President's efforts, but I have pointed out that if the North Vietnamese desire to end this war, the amendment will not influence them.

When we make an effort to discharge our constitutional duty, we are faced with the argument that it will upset negotiations. If we accept this argument for all times, we will have placed upon ourselves a condition, a prohibition which would forbid us from ever exercising our constitutional responsibility.

I will not spend much time answering Senator THURMOND's suggestion that somehow this may be giving some service to the North Vietnamese. I have never believed that North Vietnam desired peace. They are the aggressors. I have no sympathy or support for them in any way. But I have sympathy for our own prisoners of war and concern for this country.

To my good friend, the Senator from Massachusetts (Mr. BROOKE), who proposes to offer an amendment, to my amendment which, if approved, would weaken it, with his condition, to the same amendments we have had throughout the years, and which have accomplished nothing, I have this to say to inform him of its purpose, because it seems to be misinterpreted: My amendment would stop the fighting in every area—from the sea, on the land, from the sky—it would withdraw our forces within 4 months, the time which the President has suggested, from Cambodia, Laos, and South Vietnam. It does not provide for withdrawing our fleet from the seas or our forces from Southeast Asia, other than South Vietnam, Laos, and Cambodia.

If after our withdrawal, the prisoners were not released the President and Congress should decide to take action to secure the release of the prisoners, there is nothing in my amendment to prevent that from being done. I make this point, however: If action were taken, it would be done constitutionally, with the assent of Congress, and not by the determination of the Executive alone.

I have presented the case. I hope that the Senator will not offer his amendment. I would like to see the Senate vote up or down my amendment. I hope that it would approve, and say that, so far as the Senate can have an influence, we want to end participation in the war, to bring our forces out within 4 months, in a reasonable and secure time, and with a better opportunity of securing the release of American prisoners. Past amendments have never secured the release of prisoners and never will, in my opinion. I have said that my amendment and no amendment can guarantee their release. No man, no candidate for President, and no President can guarantee it. My amendment has the strength of saying that, after all these years, the loss of life, the divisions in our country, we will look the issue in the face and we will make a decision on my proposal.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. COOPER. I yield.

Mr. BROOKE. I think that the distinguished Senator from Kentucky has made a great contribution by offering his amendment. Very honestly, Mr. President, I want to vote for the Senator's amendment. As I have said, I have voted for every antiwar amendment that has come to the floor of the U.S. Senate. But I propose my amendment to the Senator's amendment because I do not believe that we should leave the return of our prisoners of war to the good faith of the North Vietnamese.

The Senator's amendment has made a contribution. It is the first time we have had any amendment on this floor which has called for the withdrawal of American forces not only in Vietnam but also in Thailand, Laos, and Cambodia.

Mr. COOPER. Not Thailand.

Mr. BROOKE. Cambodia and Laos. For the first time. So it is an extension of all the amendments that heretofore we have been asked to vote upon. That, in itself, is something for which we in the Senate should be grateful and for which I am sure the American people would be grateful, because it would speed up not only an end to the war in Vietnam but also a disengagement of

American forces in Laos and Cambodia as well.

Mr. COOPER. Mr. President, can the Senator secure time from the other side? The time remaining is almost gone.

Mr. BROOKE. May I have 1 minute?

Mr. SPARKMAN. I yield 1 minute to the Senator from Massachusetts.

Mr. BROOKE. The only fault I find with the Senator's amendment is that it does not provide for the return of American prisoners of war. I think the Senator's amendment would have a greater chance of adoption by this body if it did provide for the return of American prisoners of war.

I do not know how many of my colleagues will vote for the Cooper amendment. I do not know how many would vote for the Cooper amendment as amended. But I certainly believe that more Senators would vote for the Cooper amendment with the provision that there be a return of American prisoners of war than not. So the voice of the Senate would be loudest if it did have in the amendment a provision for the return of American prisoners of war. I think that is what the distinguished Senator from Kentucky wants, and I quite agree with him that the legislative branch of the Government does have a joint responsibility with the executive branch of the Government in the conduct of this war. We have been saying that time and time again—with the McGovern-Hatfield amendment, with the Mansfield amendment, with the Cooper-Church amendment with all the amendments we have been asked to vote upon. But all of them, to my knowledge, have contained some provision for the return of American prisoners of war.

Mr. COOPER. The Cooper-Church amendment had no such condition, either with respect to Cambodia or the one we voted on last year for withdrawal from Vietnam.

Mr. BROOKE. I stand corrected, if the Cooper-Church amendment did not have a provision for the return of American prisoners of war. But the other amendments certainly did. I think that the amendment I propose, Mr. President, would strengthen the Cooper amendment. I hope that, rather than asking me to withdraw my amendment or not offer my amendment, the distinguished Senator from Kentucky (Mr. COOPER) would accept it, because I do not think it differs much from the spirit and the letter of the amendments he has sponsored, cosponsored, and voted for in the past.

Mr. PASTORE. Mr. President, will the Senator from Massachusetts yield?

Mr. BROOKE. I yield.

Mr. PASTORE. Does the distinguished Senator from Massachusetts know of anything new at the peace talks whereby an official proposal was made by the U.S. Government to withdraw by a time certain which withdrawal was predicated solely and strictly on the release of our American prisoners of war?

Mr. BROOKE. I do not.

Mr. PASTORE. Is that not what we are trying to do with this amendment?

Mr. BROOKE. That is it exactly.

Mr. PASTORE. And that is the reason why, then, this is a new thought. We get the argument that we have tried everything—but not this. So I say, try this.

Mr. BROOKE. I agree with my colleague from Rhode Island. The Senator from Kentucky has misunderstood the purpose of my amendment when he says that it completely wipes out the force of his amendment. It does not do that at all. His amendment will be strengthened by it. I hope that he will seriously consider accepting my amendment to provide for the return of the American prisoners of war. If North Vietnam has good faith and if we have good faith, certainly the executives of those two Governments can get together and work out the logistics of the return of our prisoners of war and the withdrawal of our forces from Cambodia, Laos, and Vietnam. This is a matter of logistics. We do not need to worry about those negotiations. But we do have to make it a condition precedent to withdrawal of our forces that we make provision for the return of our American prisoners of war.

Mr. KENNEDY. Mr. President, will the Senator from Kentucky yield me some time?

Mr. COOPER. I promised to yield to the Senator from New Jersey——

The PRESIDING OFFICER (Mr. HANSEN). The Chair would inform the Senator from Kentucky that 2 minutes remain to him.

Mr. COOPER. How much time have I got remaining?

The PRESIDING OFFICER. Two minutes.

Mr. KENNEDY. Mr. President, will the manager of the bill be willing to yield me some time?

Mr. MANSFIELD. Mr. President, I will be glad to yield 3 minutes to the Senator from Massachusetts under the bill after the Senator from Kentucky (Mr. COOPER) has completed his remarks.

Mr. COOPER. Mr. President, I promised to yield first to the Senator from New Jersey (Mr. CASE).

Mr. KENNEDY. Mr. President, after the Senator from New Jersey has been recognized, I will be entitled to 3 minutes as yielded to me by the distinguished majority leader—is that correct?

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. I thank the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 2 minutes.

Mr. CASE. Mr. President, I thank the distinguished Senator from Kentucky for yielding me this time. He has rendered a great service to all of us. He has caused us again to consider what American policy in Indochina should be. I shall support his amendment, and I shall also vote against the amendment which the Senator from Massachusetts (Mr. BROOKE) is considering introducing, if he has not already done so.

Mr. President, it is true that the Case-Church amendment did include the prior condition of an agreement for release of prisoners of war. But I want to say frankly to the Senate that the purpose of this precondition was to prevent the absence of such a condition from being used as an argument against an amendment which people wanted to vote against for fundamental reasons. We did not include the precondition because we thought it was necessary to bring the war to an end. I do not think any preconditions are necessary. I have come to the conclusion that the Cooper amendment gives me a chance to vote for what I have always thought was the purest expression of my own views.

Now we shall be considering an amendment offered by the distinguished Senator from Massachusetts (Mr. BROOKE). In consideration of his amendment, we shall see whether Members of the Senate want a precondition, and whether the absence of such a precondition would be disabling insofar as passage of the Cooper amendment itself goes.

The PRESIDING OFFICER. The time of the Senator from New Jersey has expired.

Mr. CASE. Mr. President, may I have 1 more minute from whomever has got some time?

Mr. SPARKMAN. I yield to the Senator 1 minute.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 1 additional minute.

Mr. CASE. The Senator from Kentucky is absolutely right when he says we are not abandoning our prisoners of war or those missing in action. If they are not released when our troops are withdrawn from the three Indochinese countries, we shall still have forces in that region which can be, so far as the Senator from New Jersey is concerned, and should be applied in whatever manner and in whatever degree and to whatever extent necessary to accomplish the release of our prisoners of war and the accounting for those missing in action. But in the meantime, we will no longer be sanctioning the slaughter of innocent people. That is the primary advantage of the course of action that the Cooper amendment would bring about.

It is time we took this action in Congress because it seems it will not be taken otherwise.

I am very grateful to the Senator from Kentucky for giving us this chance.

Mr. SPARKMAN. Mr. President, may I say that the Senator from Massachusetts is recognized on my time. How much time did the Senator want?

Mr. KENNEDY. Three minutes.

Mr. SPARKMAN. I yield 3 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 3 minutes.

Mr. KENNEDY. Mr. President, I think the Senator from Kentucky has explained fully and adequately the reasons for his amendment. For many years, he has been one of the most articulate, sensitive, and outspoken opponents of the war in Vietnam. I commend him for the important amendment he has brought before the Senate today, and I hope that it will be accepted.

Mr. President, although there are perhaps few times when I have disagreed with my distinguished colleague from Massachusetts, I disagree with him here this afternoon.

By voting for the Cooper amendment, I do not vote to turn my back on the hundreds of American prisoners of war in North Vietnam. To the contrary, I believe the amendment offers the best opportunity we have to bring them home. I believe that the amendment offered by the Senator from Kentucky will bring our American prisoners back home far more rapidly than the conditions which have been established by the administration for a Vietnam settlement—conditions like a guarantee that the Thieu government will remain in power, or a cease-fire throughout Indochina, or many of the other conditions the administration seeks to impose.

Mr. President, I do not see how we advance the cause of the American prisoners of war by killing more Americans in Vietnam.

The President says he wants to end the war. He says he is concerned about our American prisoners of war. There are over 450 American prisoners in North Vietnam. But in the first 3 years of this administration, 20,000 Americans have been killed in Vietnam. The casualty toll is climbing every day. Thousands more Americans have been wounded, and hundreds of thousands of Vietnamese civilians have been killed or maimed. And each day the killing goes on, more American fliers are taken prisoner.

We need a new avenue to end the war and bring the American prisoners home. For nearly 4 years, we have been negotiating in Paris to reach these goals, and we have not succeeded. I believe the amendment offered by the Senator from Kentucky offers us the most hopeful chance we have to reach our goals. As he has clearly stated, if this step does not succeed, we will still have at our disposal whatever steps the Senate and Congress and the President wish to take to insure that our prisoners will actually be released.

No one can be sure that the Cooper amendment will succeed in bringing the prisoners home, but it offers us a new and hopeful opportunity. One thing we do know, however, our American prisoners of war are not coming home under the present policy. The Cooper amendment will stop America's involvement in the killing in Indochina, and it will give us a very real chance to bring the prisoners home. I hope that the amendment of the Senator from Kentucky will be adopted.

Mr. TUNNEY. Mr. President, I support the amendment of my able colleague from Kentucky. That amendment poses to the Congress for the first time the stark issue of whether we in the Congress will take unto ourselves the responsibility for imposing a quick and unconditional end to the American involvement in the Vietnam war.

We must accept that responsibility. We have tried through almost every conceivable means to end this ghastly war. We have voted upon a variety of measures. We have protested the bombing. We have decried the destruction. But we have not succeeded in ending this military adventure.

We should enact the strongest legislation possible. It must be unequivocal and unambiguous. We must create still any effective laws which will force the President to get the message that the American people want out of Vietnam.

The Washington Post this morning editorialized against the Cooper amendment. It stated that:

"The Senate cannot undo the bombing and the mining and the Cambodian and Laotian "incursion" and all the rest of Mr. Nixon's three-and-a-half-year performance in the conduct of our Vietnam war effort—including some 20,000 American dead. . . . He does not need Congress to tell him that the great majority of Americans expect that promise [to end the war] to be kept."

It appears, however, that the President does need the Congress to tell him that America wants out of Vietnam. It appears that the President, in the absence of legislation forcing him to act will not make good that promise.

While the Senate admittedly cannot undo the tragedy of Indochina, it can act effectively to deter more of the same. What can we expect in the future from a policy which has ordered in the past 3 years more bombs dropped upon Indochina than have ever been dropped in any other presidential term in history? Congress must act to stop that policy.

I for one, Mr. President, have little confidence that, in the absence of strong congressional action, the policy will soon be changed. It is imperative that the strongest possible action be taken. The Cooper amendment provides us with that opportunity. I shall support it.

Mr. TOWER. Mr. President, what the amendment before us seeks to achieve—an end to our involvement in the Vietnam war and the release of American prisoners of war held by Hanoi is unexceptionable. We all want that. But it is imperative that we consider carefully how likely this unilateral legislative approach is to achieve these purposes.

It may be helpful for us to try and put ourselves in the other side's place—to consider the view from Hanoi. How do the North Vietnamese see the situation that now confronts them?

First of all, Hanoi must feel deeply disturbed by the strength of South Vietnamese resistance to their vaunted offensive. The massive invasion is in deep trouble—despite the fact that no U.S. forces are now engaged in ground combat. Hanoi has been forced to commit almost its last reserves to hold Quang Tri, the only provisional capital it succeeded in seizing.

Beyond this, Hanoi must see the measures we have taken to interdict movement of military supplies into the north and from the north to the battlefields as casting serious doubt on their ability to continue their offensive with any hope of achieving military success. Hanoi must also, as a result, be impressed with U.S. determination to continue to support South Vietnam's resistance to their military initiatives.

Looking to their own resources for continuing this increasingly useless blood-letting, the leaders in Hanoi must find further cause for doubt and concern. Neither Moscow nor Peking gives any evidence of being willing to continue unlimited support to Hanoi's ambitions in the South. Indeed, there seems to be some reason to believe both are counseling a negotiated end to hostilities.

Under these circumstances, what can be running through the mind of Le Duc Tho, Hanoi's principal negotiator in Paris? Where can he see prospects for achieving a breakthrough for his masters in Hanoi? I regret to say that he can see those prospects only in the deliberations of this body. Only if we decide to give him unilaterally what he is in Paris to negotiate can he possibly see a light at the end of the tunnel.

And this, I fear, would be precisely the effect of our passage of the amendment before us. Hanoi would suddenly be guaranteed the very aims it seeks. The abrupt unconditional departure of U.S. forces from Vietnam and the inevitable demoralization of South Vietnam. What impulse to negotiate would still motivate Le Duc Tho? None that I can see.

It is likely that, following this incredible achievement of their main aims by our decision in this Chamber Hanoi's leaders would, as the sponsors of this amendment apparently believe, then magnanimously release our prisoners? I rather doubt it. It is far more likely that the desire to humiliate a beaten foe would prevail.

Does anyone seriously believe that Hanoi would do any less than return joyfully to the assertion of its maximum demands now that victory had fallen so unexpectedly in its lap? I, for one, do not. And I am not prepared to abandon the prospect of a serious negotiation of an end to the war and to rely upon an incredibly naive prospect of North Vietnamese generosity.

I shall vote for the Stennis amendment to strike the Mansfield provision and I believe every sensible and thoughtful Member of this body should join me in support of it.

Mr. SPARKMAN. Mr. President, I yield back my time.

AMENDMENT NO. 1327 AS MODIFIED

Mr. ALLEN. Mr. President, I call my amendment and ask that it be stated and that it receive immediate consideration.

The PRESIDING OFFICER (Mr. WEICKER). The amendment will be stated.

The legislative clerk read the amendment as follows:

"In lieu of language proposed to be inserted by the Senator from Kentucky (Mr. COOPER), insert the following:

"That it is the sense of the Congress that at a time certain, not later than four months following the establishment of an internationally supervised cease-fire throughout Indochina and the return of all American prisoners of war and an accounting of Americans missing in action in Indochina, a complete withdrawal of all American forces from Vietnam shall be accomplished."

Mr. ALLEN. Mr. President, I submitted this amendment last week. It was printed as amendment No. 1327. It has had to be changed on account of the change in the parliamentary situation.

I yield myself 7 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 7 minutes.

Mr. ALLEN. Mr. President, this language is, in effect, the President's language in his speech and offer of May 8.

I do not favor the amendments that the distinguished Senator from Massachusetts (Mr. BROOKE) plans to offer. I do not favor the language of the amendment of the distinguished Senator from Kentucky (Mr. COOPER), nor do I favor the language of the committee substitute which embraces the original Mansfield amendment.

Mr. President, let us analyze the language of the committee substitute which is the original Mansfield amendment as to the withdrawal from South Vietnam. No preconditions whatsover are set. Withdrawal must be made by August 31. How in the world is that going to be done? They would have to fight their way out of South Vietnam if they ever were to come out of there.

Mr. President, as to the second phase of the Mansfield amendment—and I call it that even though it comes to us as a part of the committee substitute—there is a provision for withdrawal from all of Indochina. There is a cease-fire proposal, not on the entire front, but a cease-fire as between American troops and the troops of North Vietnam and of the Vietcong. In effect, that is a separate peace. And I could not support that proposal.

We are not engaged in a war with the South Vietnamese. We owe it to the South Vietnamese to see the matter to a successful conclusion.

If we have a cease-fire with North Vietnam and with the Vietcong, what else could we expect than that the South Vietnamese would turn on us if the battle were to continue between North Vietnam and South Vietnam.

Then we have the condition about the release of the prisoners of war and the accounting for the missing in action. I call attention to the fact that these conditions apply, not the withdrawal from South Vietnam, not to a cessation of hostilities in South Vietnam, but both of those conditions are predicated upon or have to do with the withdrawal from all of Indochina.

Now as to the amendment of this distinguished Senator from Kentucky which this language is offered as a substitute to, that amendment provides for a withdrawal from Vietnam, from Laos, and from Cambodia within 4 months without any preconditions whatsoever. It does provide for going on with the efforts to get a cease-fire and to go on with the efforts to achieve peace and to go on with the efforts to get the return of our prisoners of war. However, that is not a precondition. And if we withdraw from South Vietnam and have not been able to accomplish or obtain a peace and have not been able to get a cease-fire, with our troops there and not being able to get our prisoners of war with our troops there, how in the world will we get them released after we have pulled out?

If there was ever a time when unity in this country was absolutely essential, now is the time. We are engaged in a presidential election, and there is certainly a tendency on the part of many to seek to divide some of our people. However, here is an opportunity for the Senate to stand behind the President and not run off in three or four different directions as the Mansfield effort, the Cooper effort, and the Brooke effort would do.

Mr. President, by the adoption of this amendment we stand foursquare behind the President of the United States in the offer he has made to the North Vietnamese.

If this amendment is adopted as a substitute for the Mansfield amendment, which is now incorporated in the substitute, it would follow that the people of the United States, and certainly the Senate itself, are united behind the President.

This exact language was adopted by the House Foreign Relations Committee in the military authorization bill, I believe, just before the recess for the Democratic Convention. This would be in line with the sentiment of the House. It would be in line with the President's recommendations. It would show unity on the part of the Senate and unity on the part of Congress behind the President.

I believe it would contribute a great deal toward the success of the secret and open peace negotiations now underway in Paris.

Mr. President, I reserve the remainder of my time.

Mr. PASTORE. Mr. President, may I have 4 or 5 minutes?

Mr. MANSFIELD. Mr. President, I yield the Senator from Rhode Island 5 minutes.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 5 minutes.

Mr. PASTORE. Mr. President, I think we are losing sight of the very root of this controversy. The question here is, is it America's war or not America's war? Apparently the administration has decided that this is not America's war, because we have had a policy of withdrawing.

Some people have been critical of the fact that the withdrawal has been too slow. Other people have been critical of the fact that the withdrawal has not been completed. However, presumably—and I think it has to be understood by all—the American policy with respect to Vietnam is to withdraw our troops.

The reason we mined Haiphong and began the bombing of the north again is the incursion of the north into the south. That was the justification for it. Now, whether that judgment was wise or unwise is not the question before us today.

What is it we are met with? We are met here with two extremes. One extreme is on the amendment of the Senator from Kentucky who is saying: "Let us withdraw all of our troops in 4 months in the hope" and that is what it is, "that through negotiations we can get a general cease-fire and can bring our prisoners of war back home."

I do not know who is looking into what crystal ball. I do not know how it is that all of a sudden we can trust the North Vietnamese in this month of July more than we could have a month or a year or 2 years ago.

All we know is that we have been in Paris trying to negotiate peace on the terms of the President. And those terms have not worked. The terms of the President are contained in the sense of the Senate resolution now being proposed by the Senator from Alabama. That has not worked up to now. It is my judgment that it will work in the future.

Against that we have the proposition of the Senator from Kentucky who goes to the other extreme. He says: "Let us forget any conditions precedent. Let us agree to withdraw and maybe through negotiations—maybe through negotiations—we can get a cease-fire or at least we will get the return of our American prisoners of war."

That is where we stand now. What does the Senator from Massachusetts try to do? He is trying to innovate he has new propositions. It is new because this administration has never said that we will withdraw completely from Southeast Asia if our prisoners of war are returned. To date we have never made that proposition.

We have always tied our deal with it to a cease-fire. What is wrong with a cease-fire? We all hope that we can get a cease-fire and that the conflict can come to an end. However, Thieu and Ky have told us time and time again: "You Americans won't stop us. We are going to keep on fighting." So we are at the mercy of Saigon and the Government of South Vietnam as to whether we will continue.

What are we being told by North Vietnam? North Vietnam has told us time and time again: "You will get out lock, stock, and barrel, or it is no soap."

That is what we are up against. What does this all amount to? Take a good look at it. Here we are. We are hoping and praying that if we withdraw our troops in 4 months, maybe through possible negotiations the North Vietnamese will, release our prisoners of war.

What does that do to that poor woman whose husband has been agonizing in a North Vietnamese jail? What will she think of us? The minute she picks up the paper tomorrow morning, she finds out that our American Government, the Senate of the United States, is saying: "Let's get out of South Vietnam and let's take our chances on whether or not North Vietnam has compassion enough to send our prisoners of war back."

Why, if I had a son in a prison in North Vietnam, I would think America had betrayed him, in doing such a dastardly thing.

That is all we are saying here today, that is all we are saying: let us trust North Vietnam to return our prisoners of war in the hope that the North Vietnamese are people of good faith—that they are people of conscience and that they will return our imprisoned Americans home.

That may be all right for you and for me. We have no one immediately at stake. But I wish we could take a plebiscite among wives whose husbands are there and mothers whose sons are there. I wish we could see their reaction when they pick up the paper tomorrow and read that we declared in the Senate this afternoon, "Go ahead and withdraw the troops and maybe Hanoi will be kind enough to send the prisoners home." That would bring a shadow of shame on the conscience of America.

Mr. COOPER addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky has no further time remaining.

Mr. ALLEN. The Senator from Montana is in control of the time in opposition on my amendment.

The PRESIDING OFFICER. The time is to be controlled by the mover of the amendment or the majority leader.

Mr. MANSFIELD. Mr. President, I yield 15 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. COOPER. Mr. President, I oppose the amendment proposed by the distinguished Senator from Alabama. He is very forthright in his statement. But for the same reasons I have given before I oppose it.

I also say to my friend from Rhode Island that he is very eloquent and he touches our hearts, as he intends to touch the hearts of the American people.

The Senator asks what we gain. We gain an end to the fighting. We gain, as the Senator from New Jersey Mr. CASE, has said, the opportunity to save American lives. We would gain a foreclosure of more prisoners of war being taken. We would gain an end of the slaughter of human life in Indochina. We could gain again the unity of the American people.

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, I appreciate the remarks of the distinguished Senator from Rhode Island in pointing out the need to defeat the Cooper amendment. He did not say he was for the substitute amendment that has been offered by the junior Senator from Alabama, but one might conclude that.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. ALLEN. If I may, I would like to finish, and then I shall be glad to yield to the Senator from Rhode Island.

Mr. PASTORE. Very well.

Mr. ALLEN. But he did make a great argument in favor of the adoption of the substitute amendment because it is quite obvious from remarks of the distinguished Senator from Rhode Island that the amendment offered by the distinguished Senator from Kentucky does not fill the bill.

This language that is being substituted is going to boil down, in effect, to a sense of the Senate resolution, no matter what language is agreed to. We know that is true from a practical point of view. So what we are doing, if we do adopt the substitute amendment is to adopt the proposals of the President of the United States in this matter which gives us an opportunity not to go off and chase every will-o'-the-wisp that Senators think of as conditions to impose or nonconditions not to impose.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. COOPER. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. ALLEN. But it gives us an opportunity to stand foursquare behind the President of the United States. In my mind at this time that is something this Senate should do.

I, therefore, urge the Senate to agree to the substitute amendment.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. ALLEN. I yield the Senator such time as may be required.

Mr. SCOTT. Mr. President, I express my appreciation to the distinguished Senator from Alabama for having offered this amendment. It is representative of what the President has offered in good faith. It is representative of what we are presenting through negotiators in Paris. It is representative of the American will to get out of Vietnam, and to get out as soon as we can, consistent with our obligation to our prisoners of war and our missing in action.

It is an amendment which expresses the belief of the country and I would, therefore, like to see it as the sense of the Senate, as it has been expressed as the sense of the House. In this way we are expressing a unifying desire on the part of the American people. They desire that we move together, both executive and legislative, to perform that which is our clear duty, namely, to find the most feasible way by which opinion can be mobilized and by which action can be implemented to remove us from involvement in a war which has gone on too long, and which all Americans want us to bring to an end as honorably as we can.

Mr. MCCLELLAN. Mr. President, will the Senator yield?

Mr. ALLEN. I yield to the Senator from Arkansas.

Mr. MCCLELLAN. The last two lines of the amendment referred to a complete withdrawal of all American forces from Vietnam shall be accomplished.

Mr. ALLEN. That is what the President said, with these two conditions.

Mr. MCCLELLAN. That includes the Air Force?

Mr. ALLEN. Yes.

Mr. MCCLELLAN. It does not include a withdrawal of them from Indochina. They could be stationed anywhere else and be engaged in the fighting over there.

Mr. ALLEN. That is what the amendment provides and that was the subject of the President's address to the Nation.

Mr. MCCLELLAN. Is that identical to the previous Mansfield amendment passed here?

Mr. ALLEN. I do not believe the previous Mansfield amendments have called for a cease-fire. I could be mistaken. This is, in effect, as far as the President has ever gone in this regard.

Mr. MCCLELLAN. I wish to say to the distinguished Senator from Alabama that I support generally this amendment. I do not know that I would want to go further, though, and withdraw all of our forces from Indochina. Under the proper conditions I would want to withdraw our forces. I think I shall support the amendment.

Mr. ALLEN. I thank the Senator.

Mr. President, I yield such time as I have remaining to the distinguished Senator from Mississippi.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. STENNIS. Mr. President, I hate to use all of the Senator's time. I understand this is a complete substitute for the Cooper amendment.

Mr. ALLEN. The Senator is correct.

Mr. STENNIS. I have consistently opposed all of these amendments. Last year we had one voted on the draft bill and the Military Procurement Act. I was opposed to it but I represented Senator MANSFIELD as best I could in conference and brought back something.

The basis for my opposition is that Congress has no negotiating power. That power rests with the President. We have no negotiating team.

This does express the sense of Congress. It is not an invasion of the executive branch. It is counsel and advice. Certainly it is near enough to what the executive has proposed so as not to cripple, hinder, embarrass, or blockade him in these sensitive, delicate negotiations going on now.

No one knows what they will bring, but we all pray they will bring something.

So in that sentiment, as a chance for the Senate to express itself within the confines of what I think are its powers, and not derogating or in any way limiting or embarrassing the Executive or encouraging the enemy. I am going to vote "Aye" for the substitute for this amendment.

Mr. ALLEN. I thank the distinguished Senator from Mississippi.

The PRESIDING OFFICER. There are 8 minutes remaining to the majority leader or his designee.

Mr. BROOKE. Mr. President, I have a perfecting amendment to the Cooper amendment which I think takes precedence before a vote on the substitute amendment.

Mr. ALLEN. Mr. President, a point of order. I believe this substitute is not amendable.

Mr. BROOKE. Mr. President, I have a perfecting amendment to the Cooper amendment, which I think takes precedence over the substitute amendment.

Mr. CANNON. Mr. President, a parliamentary inquiry. Has all time expired?

The PRESIDING OFFICER. No, it has not. The point the Chair has been trying to make is that there are 7 minutes remaining to the majority leader or his designee. Is all time yielded back?

Mr. ALLEN. Mr. President, a point of order. I ask for the yeas and nays.

Mr. PASTORE. Mr. President, will some Senator yield me some time for a parliamentary inquiry?

Mr. MANSFIELD. Ask the Senator from Kentucky. He has the time.

Mr. PASTORE. Will the Senator yield?

Mr. COOPER. I yield.

Mr. PASTORE. Mr. President, is it true that the amendment of the Senator from Massachusetts would be a perfecting amendment and therefore would take precedence over the substitute?

Mr. ALLEN. Mr. President, a point of order.

The PRESIDING OFFICER. If the Senator from Massachusetts offered a perfecting amendment to the amendment by the Senator from Kentucky, then it would be in order and would take precedence over the amendment of the Senator from Alabama.

Mr. ALLEN. Mr. President, a point of order. This is not a perfecting amendment which I have introduced; it is a substitute amendment. If it were a perfecting amendment, the amendment could be perfected, whether it be a perfecting amendment or a substitute to the Cooper amendment, but in my judgment it could not be because it is not a perfecting amendment.

The PRESIDING OFFICER. That is exactly the reason why the perfecting amendment to the amendment by the Senator from Kentucky would take precedence over the amendment of the Senator from Alabama.

Mr. ALLEN. It is not a perfecting amendment, I may point out.

The PRESIDING OFFICER. The Chair is discussing the amendment of the Senator from Massachusetts.

The Senator has the right, in other words, to bring about perfecting language prior to the vote on the susbtitute amendment by the Senator from Alabama.

The Chair recognizes the Senator from Nevada.

Mr. CANNON. Mr. President, I send to the desk a perfecting amendment to the amendment of the Senator, on behalf of myself, the Senator from Minnesota (Mr. HUMPHREY), and the Senator from California (Mr. CRANSTON).

The PRESIDING OFFICER. If the Senator from Nevada will suspend, does the Senator from Kentucky yield back his time?

Mr. COOPER. I would like to ask if this amendment is offered to the amendment 1325, which I offered. I yield myself 2 minutes. Is this an amendment to the amendment 1325, which I offered?

Mr. CANNON. I would like to have the amendment stated. Then I shall be glad to explain it.

The PRESIDING OFFICER. The Chair understands that the Senator from Kentucky has not yielded back all of his time, so the amendment of the Senator from Nevada would not be in order until such time.

Mr. COOPER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. COOPER. Is the amendment of the Senator from Nevada an amendment to the amendment I offered, amendment No. 1325?

The PRESIDING OFFICER. The Senator from Kentucky is inquiring as to whether the amendment of the Senator from Nevada is an amendment to his amendment. Would the Senator from Nevada care to respond?

Mr. COOPER. I made a parliamentary inquiry. Is it?

The PRESIDING OFFICER. There has been no amendment offered yet by the Senator from Nevada. The Senator from Kentucky has control of the time. He still has some 4 minutes remaining.

Mr. CANNON. Mr. President, if the Senator from Kentucky would yield me some time, I shall be glad to explain it.

The PRESIDING OFFICER. The Senator from Kentucky has 4 minutes.

Mr. COOPER. I yield 3 minutes to the Senator from Nevada.

Mr. CANNON. Mr. President, the perfecting amendment which I propose to offer to the amendment of the Senator from Kentucky would strike out section 13(a) of the Senator's amendment No. 1325 and insert in lieu thereof the following:

"Notwithstanding any provision of this or any other Act, all United States military forces, including combat and support forces, stationed in South Vietnam, shall be withdrawn in a safe and orderly manner from South Vietnam 90 days after the date of enactment of this act. No funds shall be authorized, appropriated, or used for the purpose of maintaining any United States military forces, including combat and support forces in South Vietnam 90 days after the date of enactment of this act. The provisions of this subsection shall not be effective unless there shall have been entered into an agreement providing for the release of all United States prisoners of war held by the Government of North Vietnam and forces allied with such Government and an accounting for all Americans missing in action who have been held by or known to such Government or such forces."

That issue has not been voted on today during the parliamentary maneuvering. I may say this gets to the point the Senator from Rhode Island was making and give us an opportunity to vote on whether we want to provide for the prisoners of war by an agreement to get them back rather than turning around and saying we are going to walk off.

I am remaining firm on the POW language; I cannot support legislation to bring the war to an end that does not provide effective protection for our prisoners of war and those missing in action. Once before this country made the mistake of not demanding a full accounting of our men prior to the cessation of hostilities in North Korea. This failure resulted in the nonaccountability of 389 men. Eighteen years later North Korea still refuses to discuss the fate of these men, although evidence exists that they were prisoners from that conflict. We must not become so impatient and propose withdrawal legislation that offers no measure of protection for the release of prisoners and the accountability of those missing.

The amendment that I offer here today makes our withdrawal from South Vietnam contingent upon an agreement for the release of our prisoners and accounting of our missing.

The PRESIDING OFFICER. The time of the Senator from Nevada has expired. The Senator from Kentucky has 1 minute remaining.

Mr. COOPER. I yield the 1 minute to the Senator from Montana.

Mr. MANSFIELD. Mr. President, it is my intention when the opportunity offers itself to vote for the substitute offered by the Senator from Kentucky. I think he has faced up to the issue in a clearcut fashion. If we want to end the war, this is the ultimate step for doing it and goes beyond anything which we have attempted to do in this body up to this time.

There always have been precedents, there always have been conditions, but the prisoners of war are increasing, the number of casualties is increasing, the costs are increasing and there is no end in sight.

It has been said that the Congress has no negotiating power. That is right. But the distinguished Senator from Kentucky said, "But the Congress has the responsibility to assist in bringing the war to a close,"and for this reason I am glad the Senator has offered this amendment.

The purpose of these amendments, substitutes, perfecting, secondary, or whatnot amendments, is not to embarrass the President, is not to impair his ability or to hinder his efforts, but to work, if we can, in tandem with him. After all, in the field of foreign policy there is a duality of responsibility between the executive and the legislative.

I shall support the substitute offered by the Senator from Kentucky because I believe he is facing up to this issue honestly and squarely.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. CANNON. Mr. President, I offer a perfecting amendment, which is at the desk, in behalf of Senator HUMPHREY, Senator CRANSTON, and myself. I ask unanimous consent that the amendment not be read—I have already read it—and that I may yield to the Senator from Rhode Island.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The amendment will be printed in full in the RECORD.

Mr. CANNON's amendment is as follows:

"Strike Section 13(a) of Amendment 1335 and insert in lieu thereof 'Notwithstanding any provision of this or any other Act, all United States military forces, including combat and support forces, stationed in South Vietnam, shall be withdrawn in a safe and orderly manner from South Vietnam 90 days after the date of enactment of this act. No funds shall be authorized, appropriated, or used for the purpose of maintaining any United States military forces, including combat and support forces in South Vietnam 90 days after the date of enactment of this Act. The provisions of this subsection shall not be effective unless there shall have been entered into an agreement providing for the release of all United States prisoners of war held by the Government of North Vietnam and forces allied with such Government and an accounting for all Americans missing in action who have been held by or known to such Government or such forces.'."

Mr. PASTORE. Mr. President, the amendment of the Senator from Nevada meets the objection I had raised, and I would be honored to have my name added as a cosponsor.

Mr. CANNON. I thank the Senator very much. I will be delighted to have the Senator from Rhode Island as a cosponsor.

Mr. PASTORE. This is conditioned on an agreement that the American prisoners of war will be released, and that that agreement is carried out?

Mr. CANNON. The Senator from Rhode Island is correct. I am delighted to have him as a cosponsor.

Mr. MILLER. Mr. President, will the Senator yield for a question?

Mr. CANNON. I yield.

Mr. MILLER. The thing that disturbs me about the Senator's amendment is that it is operative on the basis of a mere agreement. What happens if the agreement is not carried out promptly?

Mr. CANNON. Well, I must admit that this does not go so far as the actual release, which some people would desire; but at least we have to have some good faith in negotiating, to try to get our people out. We have said to them, "If this amendment goes through, we will get out in 90 days' time, if you will enter into an agreement for the release of our prisoners."

This is much more conservative than the position of the Senator from Kentucky, who would have us withdraw and hope we will get some kind of agreement at a later date. This makes it contingent upon an agreement. That is a point that does not satisfy everyone, I must say, but we must have some attempt to make some movement in the face of the impasse which lies before us.

Mr. MILLER. Will the Senator yield further?

Mr. CANNON. I yield.

Mr. MILLER. I understand this is something more meaningful than merely an outright withdrawal, but my question still is, what happens if the agreement to which the Senator's amendment refers is not carried out? That gets us into the amendment that the Senator from Alabama was seeking to put in here as a substitute, which means that not only is there an agreement, but it is carried out.

This is the trouble that I have: What happens, may I ask my friend from Nevada, if the agreement is not carried out?

Mr. CANNON. Mr. President, this is simultaneous. If we get an agreement, we remove our troops. I think we would have the body of world opinion with us. We have the opportunity to get some movement in a very difficult situation, in which there is no movement now, simply because we say, "You must make the release now."

Mr. MILLER. But what happens if that agreement is not carried out?

Mr. CANNON. Then the provisions here for ending the expenditure of funds and the withdrawal of our troops would not be self-executing. It is concurrent.

Mr. MILLER. May I suggest that I do not believe there is any contingency in the Senator's amendment which indicates that if the agreement is breached all bets are off. That is what I am getting at; if the agreement is breached, does the Senator say the intention then is that the appropriation is contingent?

Mr. CANNON. I think the statement is quite clear. the amendment says:

"The provisions of this subsection shall not be effective unless there shall have been entered into an agreement providing for the release of all United States prisoners of war held by the government of North Vietnam and forces allied with such government."

Mr. PASTORE. Mr. President, will the Senator yield on that point?

Mr. CANNON. I yield.

Mr. PASTORE. If we can withdraw all our troops, air, land, logistic, combat, what have you, in 90 days, to be sure they can release our prisoners in 90 days. If they slow down, we slow down. After all, we are not fools.

Mr. MILLER. And what happens, may I ask, if that agreement is not carried out?

Mr. PASTORE. We are still there.

Mr. MILLER. That is not what the amendment says.

Mr. PASTORE. That is implied in this arrangement.

Mr. MILLER. Then I think it would be well to make it clear, as a matter of legislative history and preferably in the amendment, that if that agreement for the return of the prisoners is breached, the troops will not be out and the appropriations will not cease. That is not what I understand is in the amendment.

Mr. CANNON. I think that is what is implied in the amendment.

Mr. MCCLELLAN. Mr. President, will the Senator yield?

Mr. CANNON. I yield.

Mr. MCCLELLAN. If it is implied and intended that way, why not say so?

Mr. CANNON. This is a perfecting amendment, which is not subject to amendment at this point, as I understand the parliamentary situation.

Mr. MCCLELLAN. The Senator would have a right to amend his own amendment.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. CANNON. I yield.

Mr. KENNEDY. Following the line of reasoning the Senator from Rhode Island has suggested, where are we going to draw the line? What if North Vietnam does not release the last 10 American prisoners? Are we going to say that where we had three aircraft carriers there before we will keep just one cruiser there in the future? Suppose they fail to give an accounting for the Americans missing in action in Laos? Will we keep bombing with one jet from Thailand? How can we talk realistically about a phased withdrawal from Indochina, keyed to the return of the prisoners?

This is a point that demonstrates the wisdom of the amendment of the Senator from Kentucky. It is a clear statement of policy by Congress, free of the confusing conditions we have tried to impose for too long.

Mr. PASTORE. Mr. President, if the Senator will yield, this shows how confused we are getting. We are beginning to talk out of both sides of our mouths. A short while ago we said we were willing to act even without an agreement. Now we have an agreement put in there, and they say this is not safe enough.

Mr. KENNEDY. The question is whether we are establishing the best way to end the killing and get the prisoners back. The administration insists that there must be major conditions for American withdrawal. The President says we need three conditions: a ceasefire, a guarantee of survival for the Government of South Vietnam, and the return of the prisoners. We have lost 20,000 Americans trying to achieve that, have spent $70 billion trying to achieve that, and we have not ended the war, we have not brought the prisoners home.

Now the question comes down to the proposal of the Senator from Kentucky. Since years of conditions have not worked, why not try the amendment he is proposing? If that does not bring the prisoners home, we shall still have whatever opportunities exist, but at least we can stop American involvement in the killing.

Several Senators addressed the Chair.

Mr. CANNON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Nevada has 8 minutes remaining. There are 15 minutes remaining to the majority leader or his designee.

Mr. CANNON. I yield 2 minutes to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, in answer to my distinguished friend from Massachusetts, there is no one on this floor who has more admiration and respect for him than I have. The fact remains that the fly in the ointment has always been the condition of a ceasefire. I do not think Hanoi wants a ceasefire, and they have us caught in the middle. The minute the President takes that proposition out of his proposal, I think he will get somewhere. We keep saying "ceasefire," but Thieu does not want to end the war. Hanoi does not want to end the war. We ought to get out, and not be caught in the middle.

Mr. CANNON. We took the cease-fire out of this.

Mr. PASTORE. Yes, we took the cease-fire out of it.

Mr. CANNON. The second part of the amendment of the Senator from Kentucky states our policy with respect to the attempt to negotiate a cease-fire.

I yield 1 minute to the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, we also have removed from this amendment any reference at all to the composition of the Government of South Vietnam, and the cease-fire provision has been eliminated. The composition of the Government of South Vietnam has been eliminated. The whole purpose of this amendment has been for us at least to indicate, as the Congress of the United States, two things: number one, our total withdrawal from South Vietnam; second, that that be conditioned on the release of the prisoners.

It seems to me Congress has that much of an obligation to those men who are prisoners of war through no fault of their own, and this is a reasonable proposition. It does not go as far as many would want. It goes far enough, at least, to indicate a policy on the part of this body.

Mr. BROOKE. Mr. President, will the Senator yield for a question?

Mr. CANNON. I yield for a question.

Mr. BROOKE. Mr. President, I think the perfecting amendment of the Senator from Nevada answers the objection I had to the Cooper amendment, namely, that it provides for the release of the American prisoners of war. Does the Senator include the withdrawal of American forces from Laos and Cambodia as well as from South Vietnam?

Mr. CANNON. My amendment as such does not. The Senator from Kentucky states, in his second paragraph, which is not changed by my perfecting amendment:

"It is hereby declared to be the policy of the Congress that negotiations be continued with the Government of North Vietnam for a cease-fire, to secure the return of all United States prisoners of war held by the Government of North Vietnam and its allies and an accounting of those missing in action, and to seek an end to all hostilities in Indochina."

Mr. BROOKE. But it does not include Laos and Cambodia?

Mr. CANNON. It does not specifically. The Senator from Kentucky can answer that better.

Mr. BROOKE. Does the Senator's amendment include sea and air forces as well as land forces?

Mr. CANNON. All forces.

Mr. BROOKE. All forces, but it is limited to Vietnam?

Mr. CANNON. Limited to South Vietnam.

Mr. MCCLELLAN. Mr. President, will the Senator from Alabama yield me 2 minutes?

Mr. SPARKMAN. I yield 2 minutes to the Senator from Arkansas.

Mr. McClellan. I want to ask a question of the Senator.

We are talking about what the Senator's amendment implies. Does it in any way imply that we will retain any forces over there until this agreement is carried out?

Mr. Cannon. The amendment says that we would get our forces out and we will not provide funds for our forces after a period of 90 days, "provided you enter into an agreement for the release of our prisoners."

Mr. McClellan. Suppose there is an agreement but no prisoners have been released at the end of 90 days. Then what happens? We are out?

Mr. Cannon. Then this provision would not apply.

Mr. McClellan. We are already out.

Mr. Cannon. I do not think we are going to get completely out if we do not have some movement toward an agreement.

Mr. McClellan. I do not know. That requires them to get our forces out if they have an agreement.

The point I am making is that you can have an agreement. I do not have a great deal of confidence in their promises. I do not take their word for it. I cannot.

If they promise it, then we are bound—the President is bound—by the Senator's amendment to take the forces out within 90 days, whether they perform any thing or not, and I cannot agree with that.

Mr. Humphrey. Mr. President, will the Senator yield?

Mr. Cannon. I yield.

Mr. Humphrey. This only applies to the forces of South Vietnam. Other forces are in the area, but this relates to the forces of South Vietnam, in relation to the prisoners of war.

Mr. McClellan. I would like to get all our forces out, if we are going to make a deal. I think we all want to get out of there. But this only confuses it, in my judgment.

I thank the Senator for yielding.

The Presiding Officer. Who yields time?

Mr. McGee. Mr. President, will the Senator from Alabama yield to me?

Mr. Sparkman. How much time does the Senator desire?

Mr. McGee. Two minutes.

Mr. Sparkman. I yield 2 minutes to the Senator.

Mr. McGee. Mr. President, I cannot fail to observe, as I listen to all sides, how really spasmodic and confused we have become as a body. We are not in Paris; we are not in Hanoi; we are not in Saigon. We have a negotiating team there. The problems that even the negotiators on the spot have must be compounded many times over by the ambiguities that have pervaded this body during this dialog.

I think it ought to say one thing to each of us in turn, and that is we, the Members of the United States Senate, are not going to negotiate anything. The very most we are going to do is to confuse and compound the simple effort that is underway.

We are all hoping to get out of there. We want to get out of there with all the honor we can retain. But we are not achieving it with the kind of shotgun approach we are trying here this afternoon. I say that with respect to all my colleagues, with all the perfecting and imperfect amendments we have submitted.

For that reason, I think we ought to do better by the kind of leadership we require in a Republic as diverse and as complicated as ours, with our size and our responsibilities, and at this very late date in this question, to try to be more restrained while we hope desperately and urgently that we will arrive at a successful termination. We are not going to end it here on this floor, and for that reason we ought not complicate the problems of those who are trying to end it.

The Presiding Officer. Who yields time?

Mr. Brooke. Mr. President, will the Senator yield?

Mr. Sparkman. I yield 2 minutes to the Senator.

Mr. Brooke. Mr. President, when I offered a perfecting amendment to the Cooper amendment, I did so only for the purpose of including in that amendment a provision for the return of all American prisoners of war. I applauded and was very grateful for the fact that Senator Cooper had extended the withdrawal area of all American forces from Southeast Asia not only to South Vietnam but to Laos and Cambodia as well.

This is the first time that the Senate has been called upon to vote on that particular issue. It is an important issue, because we are concerned with more than South Vietnam. We are concerned with Laos and Cambodia as well. That is the great contribution that I think the distinguished senior Senator from Kentucky has made in his amendment.

In good conscience, I could vote for that amendment if only it provided for the return of American prisoners of war. It does not matter to me whether it is upon release or upon an agreement, as the Senator from Nevada has stated. But I do believe that we should have a vote on that particular issue as framed by the Senator from Kentucky.

I would like to support the Senator from Nevada, but I would prefer to see us stand up and vote, and vote affirmatively for the withdrawal of all American forces from Southeast Asia, which would include Laos and Cambodia as well as South Vietnam. That is contained in the Cooper amendment. The only addition that I would suggest thereto is that we provide for the return of American prisoners of war.

I do not question the good faith of the North Vietnamese. I do not know what they will do. But neither do the opponents, who say that we should give good faith to the North Vietnamese. I do not believe that we should say that we are going to bring back our forces, until we are assured that we have the return of the American prisoners of war. Therefore, I offered a perfecting amendment to the Cooper amendment which I think would be the strongest amendment we could vote upon in this session of the Senate.

I would like to support the amendment of the Senator from Nevada. But I am concerned that it restricts itself to South Vietnam, and I think we are beyond South Vietnam at this time.

If the Senator from Nevada would accept an amendment to his amendment—if he can do it—to include Laos and Cambodia as well, coupled with the agreement on the return of the prisoners of war, then I think it is an amendment that should be accepted by the Senate.

Mr. Tunney. I cannot support an amendment which will impose more stringent conditions upon American withdrawal from Vietnam.

The way to insure the release of our prisoners is to terminate our involvement in Vietnam. Attaching conditions upon our withdrawal will not enhance the goal of the return of our POW's and MIA's.

Accordingly, I shall oppose the change suggested by my distinguished colleague from Nevada. It will weaken the congressional mandate to leave Vietnam. Accordingly, I am convinced that it will prolong the ultimate return of our POW's. I believe that it is a counter-productive suggestion.

Mr. Sparkman. Mr. President, I am prepared to yield back the remainder of my time.

Mr. Magnuson. Mr. President, will the Senator yield me a minute and a half?

Mr. Sparkman. I yield.

Mr. Magnuson. I am a little confused about whether the purpose of this amendment, as amended, deals only with ground troops.

Mr. Cannon. If the Senator is directing that statement to me, no, the amendment does not deal only with ground troops.

Mr. Magnuson. It deals with the Navy and the Air Force?

Mr. Cannon. U.S. military combat and support forces.

Mr. Magnuson. Because "withdrawing the Navy" is a pretty loose term. It depends upon where the President orders the Navy to be. The Navy may be cruising up and down the coast of South Vietnam, perhaps not doing anything, unless we stop the appropriation from being used for any purpose of bombardment. That is what bothers me. You can get the ground troops out, every last one of them. But what about the Air Force and the Navy? You cannot move them out. You can just stop any appropriation from being used for bombardment. Is that correct?

Mr. Cannon. Under this amendment, it would be possible, if the forces were not in South Vietnam, to have troops in other areas.

Mr. Magnuson. I am talking about the Navy and the Air Force.

Mr. Cannon. The Navy is in international waters.

Mr. Magnuson. The Navy could be any place they wanted to be. The Senator is not going to abolish the bases for the Air Force in the Philippines or in Guam.

Mr. Cannon. No.

Mr. Magnuson. That is what I wanted to get clear.

Mr. Cannon. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. Cooper. Mr. President, will the Senator yield me 10 seconds?

Mr. Sparkman. I yield 30 seconds to the Senator.

Mr. Cooper. Mr. President, I oppose this amendment, for the reasons I have stated before.

Mr. Sparkman. Mr. President, I yield back the remainder of my time.

Mr. Cannon. I yield back the remainder of my time.

The Presiding Officer. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Nevada. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative desk called the roll.

Mr. Robert C. Byrd. I announce that the Senator from Louisiana (Mr. Ellender), the Senator from Georgia (Mr. Gambrell), the Senator from North Carolina (Mr. Jordan), and the Senator from South Dakota (Mr. McGovern) are necessarily absent.

I further announce that, if present and voting, the Senator from Georgia (Mr. Gambrell) would vote "yea."

Mr. Griffin. I announce that the Senator from South Dakota (Mr. Mundt) is absent because of illness.

The result was announced—yeas 40, nays 55, as follows:

[No. 293 Leg.]

YEAS—40

Anderson, Bayh, Bentsen, Bible, Brooke, Buckley, Burdick, Byrd, Robert C., Cannon.

Chiles, Cook, Cranston, Fong, Hatfield, Hollings, Hughes, Humphrey, Inouye, Jackson, Long.

Magnuson, Metcalf, Mondale, Montoya, Muskie, Packwood, Pastore, Pearson, Pell, Randolph, Ribicoff.

Schweiker, Spong, Stafford, Stevens, Stevenson, Symington, Taft, Talmadge, Williams.

NAYS—55

Aiken, Allen, Allott, Baker, Beall, Bellmon, Bennett, Boggs, Brock, Byrd, Harry F., Jr.

Case, Church, Cooper, Cotton, Curtis, Dole, Dominick, Eagleton.

Eastland, Ervin, Fannin, Fulbright, Goldwater Gravel, Griffin, Gurney, Hansen, Harris, Hart.

Hartke, Hruska, Javits, Jordan, Idaho, Kennedy, Mansfield, Mathias, McClellan, McGee, McIntyre, Miller.

Moss, Nelson, Percy, Proxmire, Roth, Saxbe, Scott, Smith, Sparkman, Stennis, Thurmond, Tower, Tunney, Weicker, Young.

NOT VOTING—5

Ellender, Gambrell, Jordan, N.C., McGovern, Mundt.

So Mr. Cannon's amendment was rejected.

The Presiding Officer. The question recurs on the amendment of the Senator from Alabama.

Mr. Brooke. Mr. President, I call up my perfecting amendment to the Cooper amendment and ask that it be stated.

The Presiding Officer. The amendment will be stated.

The legislative clerk read as follows:

Strike out paragraph (b) and insert in lieu thereof the following:

"(b) provided that there has been a release of all American prisoners of war held by the Government of North Vietnam or any Government allied with them."

Mr. Brooke. Mr. President, this is a very simple amendment. The amendment provides that the American prisoners of war be released prior to the withdrawal of all American Forces from Vietnam, Laos, and Cambodia.

We have debated this amendment, even though the amendment has not been called up, for a good part of the afternoon. And I believe that my colleagues are well aware of what the amendment does.

Mr. President, let me first say that I commend the distinguished Senator from Kentucky for having introduced his amendment which calls for the withdrawal of all American Forces from Vietnam, Laos, and Cambodia within 4 months after enactment.

Mr. President, we have had many dates set in the amendments offered before the Senate. The first, I believe, was the Hatfield-McGovern amendment which called for a withdrawal of American Forces in the fall of 1971.

I believe the second was another amendment calling for withdrawal of forces by December 31, 1971.

The first Mansfield amendment called for withdrawal of American Forces by August 31, 1972: the modified amendment set a date of October 1, 1972.

The Cooper amendment provides for withdrawal of all our forces within 4 months after enactment. If we had enactment in the latter part of August, which is realistically the first that we could have enactment, it would mean that the American forces would not be withdrawn from Vietnam, Laos, and Cambodia until the beginning of 1973, long after the election is over, and many, many years too long after the start of this war in South Vietnam and Southeast Asia.

Mr. President, the only fault I found with the Cooper amendment was that it did not provide for the withdrawal of American prisoners of war. I do not believe that we can afford to allow our American prisoners of war to stay in North Vietnamese prison camps dependent upon the good faith of the North Vietnamese to permit their release. It is as simple as that. Maybe they are acting in good faith. Maybe they will return the American prisoners of war. However, the risk is just too great to take.

I do not believe that the North Vietnamese expect us to take such a risk. I believe that they would expect us more if there were a provision included in the measure, so that the leaders of the North Vietnamese could get together with our President and negotiate as to how we would withdraw the troops and how many prisoners would be let out, and so forth.

The fact is that once we give up the presence of our troops in Southeast Asia, we have nothing to bargain with and nothing to negotiate for. And we cannot be assured that the American prisoners will be returned to us.

As my very able and distinguished friend, the Senator from Rhode Island, said on the floor, I do not want to see the Senate go on record as voting to withdraw our forces and leave husbands, fathers, and sons of American wives, mothers, and children in North Vietnamese prison camps dependent upon the good faith of the North Vietnamese.

Mr. President, that is the sole reason for perfecting amendment to the Cooper amendment. I ask the distinguished Senator from Kentucky to consider it, because I think he has a good amendment if he would only provide for the release of American prisoners of war.

My amendment does not call for an agreement nor any negotiations. It sets as a condition precedent that we will get back our prisoners of war before we withdraw all of our forces from Southeast Asia.

I want to make this celar. My amendment provides for withdrawal from South Vietnam, Laos, and Cambodia, as set forth in the amendment of the distinguished Senator from Kentucky. If there are any questions on the amendment I will be pleased to answer them. I think we have had enough debate on it. All I am asking is that the Senate vote favorably on the withdrawal of our forces, conditioned on returning American prisoners.

The Presiding Officer. Who yields time?

Mr. Cooper. Mr. President, I yield myself 3 minutes.

The Presiding Officer. The Senator from Kentucky is recognized for 3 minutes.

Mr. Cooper. Mr. President, we are back at the very point where we were when I called up the amendment about 2½ hours ago.

The Senator is correct in his statement as to the purpose of the amendment. The amendment I have offered has no condition. It provides that in 4 months after the enactment of the bill all U.S. forces in Laos, Cambodia, and South Vietnam would be withdrawn, and our participation in the war, whether from the air, from other territories, or from the sea, or from the land would end. The issue is drawn clearly. I am sure every one of us has great concern for the prisoners of war, for their families, their fathers, mothers, wives, and children. All of us have been visited by them and all of us have talked to them. Many live in my State.

I offered the amendment, as I argued in my opening statement, for two purposes. One purpose was to determine whether the Senate was ready to vote for the ending of the war, the end of our participation in the war. We have never done so. Always a condition precedent has been included in an amendment, which denied the objective which the amendment proposed. I thought we should face that issue by an amendment without conditions.

The second issue is the release of prisoners of war. We can move in this circle for years by saying we will not withdraw until our prisoners of war are released, and the fighting goes on, the slaughter goes on, and the killing goes on, and more and more prisoners of war are taken.

I did not see anything about the good faith of the North Vietnamese. I do not have any regard for them. I have considered them the aggressors in the war from the very beginning. I do not have any regard for the Government of North Vietnam, that many in this country have expressed.

But, Mr. President, there are, as of July 8, 518 prisoners of war, according to the Department of Defense, and 1,243 missing in action. The prisoners have not been released and they will not be released and no accounting of the missing will be made while we are engaged in war. It is a matter of commonsense.

Is it inhumane to seek some other way to secure this release? I have said negotiation is the best way and I support the President. The North Vietnamese will do what they want to do. If this fails, I think moving out is the only chance we will have to get our prisoners of war back. We cannot guarantee it.

But what we have done has not brought them back to their families and children. We should know that as long as we are shelling, strafing, and bombing, they will not be returned.

I urge the defeat of this amendment. I thank Senator Javits, Case, Percy, Kennedy, and Mansfield for supporting me in this matter.

Mr. Brooke. Mr. President, I am certainly aware that the distinguished senior Senator from Kentucky is as much concerned about the lives of the American prisoners of war as any man or woman in the Senate, or in the United States, or elsewhere. That is not the question at all. We are concerned, about the return of American prisoners of war. The question before us is: What is best? What can we do to assure that American prisoners of war will be returned? Do we take all of our troops out of South Vietnam, Laos, and Cambodia, and then say that because we have done that the North Vietnamese are duty bound to return our prisoners? Maybe they are; maybe they will; but do we want to leave it to chance? Should we leave it to chance? Can we take this chance with the lives of those men who are resting in North Vietnamese prison camps? Can we in good conscience do that?

My able colleague from Rhode Island said it is not question of honesty; it is a question of judgment. Is that the best judgment?

I have heard many other Senators argue today, and my own senior Senator from Massachusetts said, "What can we do? It has not worked so far."

Maybe it has not, but that does not mean that it will not work. This is the first time, as pointed out today, that we have ever said to the North Vietnamese that we would withdraw all American forces from South Vietnam, Laos, and Cambodia if they will return every American prisoner of war. It is the first time. We do not know whether they will accept or not. But why should we give up everything we have, until we have explored the possibility of such an agreement?

We always talk about our good faith. Why do we not ask about the good faith of the North Vietnamese? Both parties must have good faith. We could not ask for a better quid pro quo than that.

This amendment states "all land, all sea, and all air forces." That is everything—out of three countries, South Vietnam, Laos, Cambodia. It does not say anything about the Thieu government, or a ceasefire. It says all we want is the return of all, every American prisoner of war.

Mr. President, I ask: Is that too much to ask of the enemy, the North Vietnamese? I think the answer is obvious. Of course it is not too much to ask. It is just a question of judgment.

If my distinguished colleague could give us assurance that if we pull out all of our forces from these three countries we could have a return of our prisoners of war, I would not be arguing for my perfecting amendment. But he cannot. I cannot give him an assurance either that we will get our prisoners of war back based on the offer contained in my amendment.

I agree with my distinguished colleague. We have a responsibility, as well as the Executive, to make known our views on this war. I think we should have done so long ago. I think we should have been out of Vietnam a long time ago. As I said earlier, and some Senators present now were not then in the Chamber, I have voted for every antiwar amendment that has been on the floor of the Senate. I just voted for the Cannon amendment even though I did not think it went far enough, because I thought it might have a chance of passage, and at long last the Senate would have gone on record stating its position on this disastrous war in Southeast Asia.

But this is a simple amendment. As I said in my opening remarks, if we agree to the Cooper amendment, and I hope and pray we do, and I will vote for it. I hope it will have added on to it the simple provision for the return of American prisoners of war.

I think my distinguished colleague voted for a similar amendment before, because that amendment was contained in the McGovern-Hatfield amendment. I cannot see how the distinguished Senator from Kentucky can fail to vote favorably on this amendment when consistently he, himself, has called for the return of American prisoners of war.

I cannot understand it, Mr. President. I hope he changes his mind, because I would like to see him support this amendment. I would like to see him accept this amendment. But be that as it may, I trust the Senate will accept this amendment, because I think the Senate wants to go home tonight having said to all the American people that we will not at any time pull out all of our forces until we are assured that every American prisoner of war has been returned.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. BROOKE. I yield.

Mr. HUMPHREY. Is it not true that the bill, as reported by the Committee on Foreign Relations, on page 11, reminds us that the involvement of the U.S. military forces, land, sea, or air for the purpose of maintaining, supporting, or engaging in hostilities in or over Indochina shall terminate after—line 8—"the release of all United States prisoners of war held by the Government of North Vietnam and forces allied with such government?"

So the Senator's amendment relates to what was the considered judgment of the Foreign Relations Committee itself. It also relates to practically every move we have approved in the Senate, including the Mansfield amendment a year ago, including the so-called Vietnam Disengagement Act. So the Senator's amendment is consistent with determined efforts in this body to get a cessation of our involvement in all of Indochina on the one hand, and the removal of all our forces, but also a release of our prisoners of war?

Mr. BROOKE. I thank the distinguished Senator from Minnesota for calling the attention of the Senate to that provision of the Foreign Relations Committee bill. I do not recall any time when the Senate has acted otherwise. I would like to see us get out of Southeast Asia—land, sea, and air. But we have never voted to do so without first getting assurances that we would have the return of our prisoners of war.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. BROOKE. I yield.

Mr. ALLEN. I notice that in the question that the Senator from Minnesota propounded to the Senator from Massachusetts it was with respect to section 12(b), providing that one of the conditions for withdrawal of U.S. military forces from Indochina would be the release of U.S. prisoners of war; but he neglected to mention that it also contains two other conditions. One is a ceasefire between U.S. forces and the Vietcong and North Vietnam, and the other is an accounting for all Americans missing in action who have been held by or known to such government of such forces. But the amendment offered by the distinguished Senator from Massachusetts does not contain these two additional preconditions to withdrawals from Indochina: does it?

Mr. BROOKE. I thank the Senator from Alabama for calling that to my attention. I think the Senator from Minnesota was merely addressing his remarks to the amendment before us. The language of the committee bill does go further, and includes conditions not included in my amendment. The Senator from Minnesota was only calling attention to the fact that the Foreign Relations Committee did include in the bill a reference to the return of all prisoners of war.

Mr. ALLEN. Plus the two other preconditions.

Mr. BROOKE. Yes; but that is not before us in this amendment.

WHY MUST WE SNATCH DEFEAT FROM THE JAWS OF VICTORY?

Mr. DOLE. Mr. President, I rise to express my opposition to the pending amendment. This provision is in conflict with the much broader proposals advanced by our President, proposals which, if accepted, would provide a cessation of killing and warfare throughout Indochina. However, the pending amendment offers no solution for the peoples of Southeast Asia. It merely requires unilateral American withdrawal from Vietnam, and cessation of all support for our friends in Indochina—giving Hanoi no incentive whatsoever for the release of American prisoners of war and MIA's.

Mr. President, we have seen this plan presented on several occasions in recent years, but never has it appeared at a more unfortunate time than today. It is presented to this body in the place of a generous and comprehensive peace offer set forth by our President. In this context, the amendment has the appearance of an attempt to embarrass the President at the expense of orderly American disengagement from Vietnam.

LET US CONSIDER THE CONSEQUENCES OF OUR ACTIONS

Mr. President, crucial to our discussion of legislation requiring American withdrawal from Vietnam and Indochina are consequences which the legislation will have upon both American policies and the area in question. Permit me to analyze the consequences which will most likely arise if we follow the course set by our President on one hand, or that set by the pending amendment on the other.

President Nixon intends to bring about complete American withdrawal from Vietnam in the context of a peace settlement extending to the entirety of Indochina. He has offered Hanoi attractive terms in exchange for a cease-fire. He has committed himself to withdraw American troops within 90 days of the cease-fire and return of our prisoners. The return of our prisoners and accounting for our MIA's would be a crucial element to such a settlement. This accounting and cease-fire would be confirmed by an international agency or organization.

The acceptance and compliance with these modest terms would leave the North Vietnamese and South Vietnamese free to negotiate a political settlement to the war. The outcome of these negotiations would be an essentially Vietnamese solution to a Vietnamese problem. President Thieu has acted to assure South Vietnamese self-determination by pledging to step down from the Presidency, permitting the South Vietnamese people to exercise a fresh mandate as to who will be his successor and deal with the North in the development of an Indochinese political settlement.

What would be the effect of the amendment before us? It would have us withdraw our remaining forces unilaterally, a simple act, requiring no commitment whatsoever of the Communists in return. Having deserted the South Vietnamese at the very point when they have held a vicious and massive invasion by a more numerous and heavily armed foe, we would then proceed unilaterally to negotiate a cease-fire with that foe's puppet representatives. We would not feel worthy to look to Hanoi as the source of overt aggression, but rather to that small band of "chicken thieves" in the South, their Vietcong supporters, who are now so weak as to have been quite inactive during the present invasion. Indeed, they were so weak as to have even given the lie to General Giap's vaunted doctrine of revolutionary warfare, which calls for the "people" to rise up in the cities during "set piece battles." Failure of this doctrine will have caused some wonderment among the faithful of General Giap. But, nevertheless, we would somehow find these pillars of popular strength and in effect make our peace with them.

Our prisoners would be truly made hostages by this amendment. But, that is not all. The amendment would not insure our prisoners' release, even after our men had been withdrawn. That is to say, the amendment assumes they would be released. The pending amendment would gratuitously terminate all American air-sea activity in the entirety of Indochina, giving the North Vietnamese "open season" in Cambodia. Thailand, Laos, Malaysia, and South Vietnam. This amendment proposes that we abandon our allies on a subcontinent, and not content with this, it proposes that we desert our prisoners and MIA's in return for a nonexistent commitment that Hanoi would negotiate the issue. Why should they do so? They would have us on the run, but not by military prowess. They lost that throw decisively. But they know that if the United States gives in at the very point that our allies appear to be within reach of self-sufficiency, why could they not suppose that we would not give in to further demands?

One needs to look no further than the plight of 85,000 Pakistani prisoners of war, who are being held "ransom" to a political settlement today, more than 9 months after the "cease-fire" in that war. The Senator from Kansas is not persuaded that we could expect the North Vietnamese to be any more magnanimous than the Indians. Indeed, they would be much less so. We cannot remove all incentives from our position at the negotiations in Paris. If we did, the American prisoners in Hanoi and elsewhere would then truly be deserted hostages, left utterly at the mercy of an enemy whose respect for prisoners of war and the obligations of international law is virtually nonexistent.

THIS IS A POOR ALTERNATIVE TO THE PRESIDENT'S PROPOSAL

The pending amendment comes as an alternative to the President's own comprehensive peace plan. Its timing is close enough to the deliberations on the strategic arms limitations agreements to create uneasiness among those nations whose security is linked to our policies. Finally, the amendment comes before us at a time when the North Vietnamese are still pressing a massive invasion upon the people of the south, an invasion which has been supplied with overwhelming amounts of heavy, sophisticated offensive Russian equipment, equipment which is far more poweful than what we had provided the South Vietnamese.

THIS BILL WEAKENS THE POLITICAL FRAMEWORK FOR "SALT"

We are now at a stage in our dealings with the Russians when it is more important than ever that we act responsibly. A move such as is proposed here, which would undercut the President's withdrawal policy in Vietnam, could hardly contribute to the credibility of our diplomacy in the eyes of the Russians.

Our President has taken tremendous strides in his quest for a more peaceful world. He has achieved increased understanding and agreements with nations which have been our adversaries for the past 25 years. This body has given him every encouragement in these undertakings. It has thereby helped him to take first steps toward healing problems which he inherited from recent history. The Senator from Kansas is disturbed by the apparent unwillingness of many Members of this body to encourage our President in his efforts to terminate a war, which he also inherited. Particularly, since he has demonstrated his determination to eliminate direct American involvement.

THIS AMENDMENT WOULD BE AN INVITATION TO FURTHER DEMANDS

Mr. President, the pending amendment would weaken the negotiating position of the United States in Paris and in other forums. If we were to unilaterally withdraw, we would be showing weakness to an enemy which respects only strength. We would be opening wide the door for further unilateral concessions and demand for such concessions. Perhaps Hanoi's next demand will be for "war crimes" trials of American officers, or reparations. We cannot permit ourselves to be maneuvered into such a position.

THE CREDIBILITY OF OUR FOREIGN POLICY WOULD BE UNDERMINED

The language of the pending amendment would have serious consequences for the conduct of American foreign policy far beyond Vietnam. It would set a precedent which would undermine the commitments of the United States and undercut the Nixon doctrine, which is the basis of our future relationships with friendly nations of the developing areas of the world. The Nixon doctrine in Asia and throughout the world must be sustained by the credibility of our policies in Vietnam. If we are forced to cut short our effort to sustain the South Vietnamese in their struggle against a powerful, Soviet-supplied invasion, how are we to convince other nations of the region or the world that we will honor our commitments to them? In so much as Russian armaments have provided the North Vietnamese invaders with superior firepower and force, the United States is bound by the spirit of the Nixon doctrine to equalize the contest by the use of our air and sea forces, until the South Vietnamese can meet the new threat, through their continued improvement, and the attrition of the enemy's advantages in the area of heavy armaments.

THE WORLD IS WATCHING OUR POLITICAL WILL TO ACHIEVE PEACE

The world is watching carefully as we choose our course in Vietnam. Our choice on the pending amendment is between orderly application of our declared foreign policy and departure from this policy in favor of short-term domestic political expediency.

The Russians will be watching us, weighing our resolution to remain strong in the post-summit environment. They will be watching for advantages which could serve their interests in the longer run. Weakness in Vietnam could suggest to them the likelihood of dispute and indecision in the event of future local conflicts in which our interests are involved. The proxy war which the Russians have sustained against us has been a political windfall for them.

The Japanese, now at a cross-roads themselves, will be watching our behavior, thinking of their own defenses and political and economic interests. Our performance in Vietnam will suggest the value and consistency of our commitments to them.

The Chinese are watching us with cool anxiety, for they, more than many nations, believe they have cause to fear the Russians. They would be discomforted by inconsistent American behavior and weakness, perhaps almost as much as they would welcome a Communist victory in Vietnam itself.

In the Middle East, too, the consistency and resolve of the United States will be examined. For if we lack the internal resolve to pursue an honorable and orderly withdrawal from Vietnam, what comfort could the moderate Arabs or Israelis draw from our assurances?

Europe, and especially Germany, will also be watching our behavior on the Vietnam withdrawal question. If we choose the path set forth in this amendment, it will not be lost on the Europeans that the Members of this body who now press to undercut the President's policies in Southeast Asia also are the persistent advocates of unilateral American withdrawal of forces from NATO. The Europeans have seen the pall of isolationism fall over the United States before. They would sense the erosion of our political resolve. They would foresee the possibilities of trade barriers and protectionism. At a time when Germany has made dramatic moves toward better relations with the Soviet Union and the nations of Eastern Europe, a strong sign of inconsistency and weakness on the part of the United States would have disastrous effects. The memories of America's isolationist part would be evoked, and prospects for Russian concessions leading to mutual, balanced, force reductions—MBFR—in Europe would be reduced accordingly. "Ostpolitik" in Europe is a policy based upon calculated risk and strong American support. Should Germany sense a weakening of American resolve, her position will be dramatically weakened vis-a-vis the U.S.S.R., and the political reactions will scarcely be to our liking.

The nations of the world are watching the United States, for the stability of the international scene depends to a large extent upon the consistency of our foreign policy The Senator from Kansas strongly believes that the pending amendment is clearly inconsistent with our foreign policy and that it would be harmful to American interests in Asia and elsewhere. The advances of modern technology have boosted communications to an extent to which the actions of a major nation anywhere on earth can have serious repercussions. We live on a shrinking planet and no longer can afford the luxury of capricious behavior.

STRENGTH AND CONSISTENCY ARE INDISPENSABLE COMPONENTS OF A SUCCESSFUL FOREIGN POLICY

The lesson of history is that success favors the nation which behaves with consistency of purpose. It also shows us that political consensus and a will to use strength when necessary are also consonant with national survival and success. The language of the pending amendment departs from our policy by giving an enemy something for nothing. It removes our troops while asking nothing in return. Further, it would leave the subcontinent at the mercy of Hanoi by pulling out our aid, sea, and air support for the free nations of the region, while not even requiring that they release our men held as prisoners of war and account for those who are missing in action.

The perils of such a policy reach even beyond the question of deserting our POW's or our friends on a subcontinent. The pending amendment would undermine the overall credibility of U.S. foreign policy by undercutting the President's own proposals and directly strengthening the hand of the enemy in Hanoi.

Mr. President, the language of the amendment before this body comes at a most unfortunate time. We have just begun to resolve our adversity with the Russians. Our friends in South Vietnam show signs of vast improvement and of turning back the invasion from the North. We have enjoyed a year of unprecedented successes in establishing a credible foreign policy for both now and the foreseeable future. These successes have, at least in part, been due to respect which our erstwhile adversaries in the international picture have shown for President Nixon's consistency of purpose and credibility. And in no small measure, the respect shown to President Nixon has arisen from his capacity to keep the United States strong in both a political and military sense. Strength and resolution of purpose made the President's journeys for peace possible. They led to arms limitation agreements. We cannot afford to be weak in the face of seeking a settlement to the Vietnam war. The pending amendment would be no less than an admission of weakness and a declaration of no confidence in our President at a time when he most deserves our confidence.

Mr. Brooke. Mr. President, I would like to take this opportunity to clarify one point regarding my amendment to the Cooper amendment. Questions have been raised, by my colleagues and by members of the press, as to when the Cooper amendment, as amended, would take effect.

I intended to change nothing in section (a) of the original Cooper amendment. As I said in debate on the amendment, the 4-month period during which funds could be used only for withdrawal, or protection of the withdrawal, of American forces from Indochina, would begin on the date of enactment. I have only imposed the condition that, during the time when our troops were being withdrawn, comparable provision should be made for the return of American prisoners of war.

As I explained earlier in the colloquy on my amendment, the details of the return of our prisoners and the withdrawal of our troops could be worked out by the executives, the leaders, of the United States and the North Vietnamese, and their allies. But I want to make it absolutely clear that my intent in proposing the amendment, was that the troops would be withdrawn and the prisoners returned simultaneously.

Mr. Sparkman. Mr. President, I yield back my time.

Mr. Brooke. Mr. President, I yield back my time.

I ask for the yeas and nays.

The yeas and nays were ordered.

The Presiding Officer. All time having expired or having been yielded back, the question recurs on the amendment of the Senator from Massachusetts to the amendment of the Senator from Kentucky. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. Robert C. Byrd. I announce that the Senator from Louisiana (Mr. Ellender), the Senator from Georgia (Mr. Gambrell), the Senator from North Carolina (Mr. Jordan), and the Senator from South Dakota (Mr. McGovern) are necessarily absent.

I further announce that, if present and voting, the Senator from Georgia (Mr. Gambrell) would vote "Yea."

Mr. Griffin. I announce that the Senator from South Dakota (Mr. Mundt) is absent because of illness.

The results was announced—yeas 63, nays 32, as follows:

[No. 299 Leg.]

YEAS—63

Allott, Anderson, Baker, Bayh, Bennett, Bentsen, Bible, Boggs, Brock, Brooke, Buckley, Burdick, Byrd, Harry F., Jr.

Byrd, Robert C., Cannon, Chiles, Cook, Cotton, Cranston, Curtis, Dole, Dominick, Fannin.

Fong, Griffin, Gurney, Hansen, Hartke, Hatfield, Hollings, Humphrey, Inouye, Jackson, Jordan, Idaho, Long, Magnuson.

McClellan, Metcalf, Miller, Mondale, Montoya, Moss, Muskie, Packwood, Pastore, Pearson, Pell, Percy.

Proxmire, Randolph, Ribicoff, Schweiker, Spong, Stafford, Stevens, Stevenson, Symington, Taft, Talmadge, Thurmond, Tower, Williams, Young.

NAYS—32

Aiken, Allen, Beall, Bellmon, Case, Church, Cooper, Eagleton, Eastland, Ervin, Fulbright.

Goldwater, Gravel, Harris, Hart, Hruska, Hughes, Javits, Kennedy, Mansfield, Mathias, McGee.

McIntyre, Nelson, Roth, Saxbe, Scott, Smith, Sparkman, Stennis, Tunney, Weicker.

NOT VOTING—5

Ellender, Gambrell, Jordan, N.C., McGovern, Mundt.

So Mr. Brooke's amendment to Mr. Cooper's amendment was agreed to.

The Presiding Officer. The question recurs on agreeing to the amendment of the Senator from Alabama.

Mr. Allen. Mr. President. I ask unanimous consent that the amendment be read again.

The Presiding Officer. Is there objection? The Chair hears none, and it is so ordered. The amendment will be stated.

The assistant legislative clerk read as follows:

"In lieu of language proposed to be inserted by the Senator from Kentucky (Mr. Cooper) insert the following:

"That it is the sense of the Congress that at a time certain, not later than four months following the establishment of an internationally supervised cease-fire throughout Indochina and the return of all American prisoners of war and an accounting of Americans missing in action in Indochina, a complete withdrawal of all American forces from Vietnam shall be accomplished."

Mr. Humphrey. Mr. President, a parliamentary inquiry.

The Presiding Officer. The Senator will state it.

Mr. Humphrey. As in the first reading of the amendment, the clerk mentioned "the amendment of the Senator from Kentucky (Mr. Cooper) "Does that mean the amendment of the Senator from Kentucky as amended by the Brooke amendment?

The Presiding Officer. That is correct. It would be the amendment of the Senator from Kentucky as amended by the amendment of the Senator from Massachusetts (Mr. Brooke).

Mr. Humphrey. Mr. President, a further parliamentary inquiry.

The Presiding Officer. The Senator will state it.

Mr. Humphrey. As I understand, the Allen amendment is a substitute for the Cooper amendment as amended.

The Presiding Officer. That is correct. As amended by the amendment of the Senator from Massachusetts.

The question is on agreeing to the amendment of the Senator from Alabama. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. Robert C. Byrd. I announce that the Senator from Louisiana (Mr. Ellender), the Senator from Georgia (Mr. Gambrell), the Senator from North Carolina (Mr. Jordan), and the Senator from South Dakota (Mr. McGovern) are necessarily absent.

I further announce that, if present and voting, the Senator from South Dakota (Mr. McGovern) and the Senator from Georgia (Mr. Gambrell) would each vote "nay."

Mr. Griffin. I announce that the Senator from South Dakota (Mr. Mundt) is absent because of illness.

The result was announced—yeas 45, nays 50, as follows:

[No. 300 Leg.]

YEAS—45

Aiken, Allen, Allott, Anderson, Baker, Beall, Bellmon, Bennett, Boggs, Brock, Buckley, Byrd, Harry F., Jr., Byrd, Robert C., Cotton, Curtis.

Dole, Dominick, Eastland, Ervin, Fannin, Fong, Goldwater, Griffin, Gurney, Hansen, Hruska, Jackson, Jordan, Idaho, Long, McClellan, McGee.

Miller, Pearson, Roth, Saxbe, Scott, Smith, Sparkman, Stafford, Stennis, Taft, Talmadge, Thurmond, Tower, Young.

NAYS—50

Bayh, Bentsen, Bible, Brooke, Burdick, Cannon, Case, Chiles, Church, Cook, Cooper, Cranston, Eagleton, Fulbright.

Gravel, Harris, Hart, Hartke, Hatfield, Hollings, Hughes, Humphrey, Inouye, Javits, Kennedy.

Magnuson, Mansfield, Mathias, McIntyre, Metcalf, Mondale, Montoya, Moss, Muskie, Nelson, Packwood, Pastore.

Pell, Percy, Proxmire, Randolph, Ribicoff, Schweiker, Spong, Stevens, Stevenson, Symington, Tunney, Weicker, Williams.

NOT VOTING—5

Ellender, Gambrell, Jordan, N.C., McGovern, Mundt.

So Mr. Allens's amendment was rejected.

The Presiding Officer (Mr. Chiles). The question now recurs on agreeing to the amendment, as amended, of the Senator from Kentucky (Mr. Cooper).

All those in favor will say "aye"—

Several Senators requested the yeas and nays.

The yeas and nays were ordered.

The Presiding Officer. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. Robert C. Boyd. I announce that the Senator from Louisiana (Mr. Ellender), the Senator from Georgia (Mr. Gambrell), the Senator from North Carolina (Mr. Jordan), and the Senator from South Dakota (Mr. McGovern) are necessarily absent.

I further announce that, if present and voting, the Senator from South Dakota (Mr. McGovern) and the Senator from Georgia (Mr. Gambrell) would each vote "yea."

Mr. Griffin. I announce that the Senator from South Dakota (Mr. Mundt) is absent because of illness.

The result was announced—yeas 50, nays 45, as follows:

[No. 301 Leg.]

YEAS—50

Anderson, Bayh, Bentsen, Bible, Brooke, Burdick, Cannon, Case, Chiles, Church, Cook.

Cranston, Eagleton, Fulbright, Gravel, Harris, Hart.

Hartke, Hatfield, Hollings, Hughes, Humphrey, Inouye.

Javits, Kennedy, Magnuson, Mansfield, Mathias, Metcalf, Mondale, Montoya, Moss, Muskie, Nelson.

Pastore, Pearson, Pell, Percy, Proxmire, Randolph, Ribicoff, Schweiker.

Spong, Stafford, Stevens, Stevenson, Symington, Talmadge, Tunney, Williams.

NAYS—45

Aiken, Allen, Allott, Baker, Beall, Bellmon, Bennett, Boggs, Brock, Buckley, Byrd, Harry F., Jr.

Byrd, Robert C., Cooper, Cotton, Curtis, Dole, Dominick, Eastland, Ervin, Fannin, Fong, Goldwater.

Griffin, Gurney, Hansen, Hruska, Jackson, Jordan, Idaho; Long, McClellan, McGee, McIntyre, Miller, Packwood, Roth.

Saxbe, Scott, Smith, Sparkman, Stennis, Taft, Thurmond, Tower, Weicker, Young.

NOT VOTING—5

Ellender, Gambrell, Jordan, N.C., McGovern, Mundt.

So Mr. Cooper's amendment, as amended, was agreed to.

Mr. Mansfield. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. Javits. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

[From the Congressional Record, Aug. 2, 1972]

Military Procurement Authorizations, 1973

AMENDMENT NO. 1347, AS MODIFIED

The Presiding Officer (Mr. Roth). Under the previous order, there will now be 2 hours of debate on the amendment of the Senator from Massachuetts (Mr. Brooke), to be equally divided between and controlled by the Senator from Massachuetts (Mr. Brooke) and the manager of the bill (Mr. Stennis).

The amendment will be stated.

The assistant legislative clerk read as follows:

"In lieu of the language proposed to be inserted by the amendment of the Senator from California, Mr. Cranston, numbered 1349, insert the following:

"Sec. —. Funds authorized or appropriated by this or any other Act for United States forces with respect to military actions in Indochina may be used only for the purpose of withdrawing all United States ground, naval, and air forces from Vietnam, Laos, and Cambodia and protecting such forces as they are withdrawn. The withdrawal of all United States forces from Vietnam, Laos, and Cambodia shall be carried out within four months after the date of enactment of this Act: *Provided,* That there is a release within four months period of all American prisoners of war held by the Government of North Vietnam and all forces allied with such Government."

Mr. Cooper. Mr. President, I did not intend to enter this debate, but because of the question being asked the distinguished Senator from Massachusetts (Mr. Brooke) and the answers given, illustrates the dilemma of so-called end the war amendments with conditions precedent such as the Brooke amendment. The amendment which I offered last week and which has now been incorporated in the amendment of the distinguished Senator from Massachusetts (Mr. Brooke) provided for the unconditional withdrawal of all forces not only ground forces in Vietnam but in Laos and Cambodia and also our naval and air forces from the war, starting immediately upon the enactment of this bill. In short, it meant to get all the way out, to end U.S. participation in the war.

Now the attacks being made on the amendment of the Senator from Massachusetts from all sides, indicates the uncertainty of its meaning. I respect his deep feelings and his convictions. But the fact stands out, that the war will not be ended and no one gets out of the war under this amendment. The amendment is designed to end the war; yet he is forced to convince Senators that his amendment does not stop the fighting. It not only tells the President that he can continue to fight through the 4 months, but also after the 4 months have expired. If our prisoners of war have not been released, the Senator's amendment would authorize the continuation of the use of the mighty power of this country to bomb from the air and from the sea to continue the war. The amendment goes far—it implicitly authorizes the war.

The Senator and the Senate cannot have it both ways. That is the point I tried to make last week. I am not complaining about the defeat of my amendment. The Senate did not want it. I can understand their humane reasons.

But it cannot be argued that an amendment which provides explicitly that no funds shall be used except for the purpose of withdrawing all forces and that not a cent shall be spent from the time of the enactment of this bill for any purpose except to withdraw, authorize the continuation of the war. We cannot against that language say, "Yes, Mr. President. Our forces can continue to fight, to bomb, to strafe, and to shell for the next 4 months without any hindrance and from then on without and hindrance unless our prisoners are released."

I believe we would have a better chance to get the prisoners released if our participation in the war is ended.

I have great respect for my good friend Senator BROOKE. However, I do not agree with his interpretation of that portion of his amendment which I wrote. I think his amendment proposes something that we have not done before. We are proposing an authorization to the President to continue the war although we have complained about it all the time.

That is the defeat of so called end-the-war amendments. On the other hand, they give the impression that the Senate is voting to end the war, and then by adding a condition authorize its continuance.

Mr. MILLER. Mr. President, I believe there is a serious omission in the bill in the way the Senate has perfected it. I call up my amendment which is at the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

At the end of the bill, as amended, add the following:

"Notwithstanding any other provisions of this Act the withdrawal of United States forces from Vietnam, Laos, and Cambodia shall not be completed until there has been an accounting for United States servicemen missing in action by the Government of North Vietnam or any government allied therewith."

EXPLANATION OF A VOTE

Mr. COOPER. Mr. President, I have voted "no" on the Miller amendment for the same reason I voted "no" on the Brooke amendment, because it adds an additional condition precedent which vitiates the so-called "end of the war" amendment. I much prefer President Nixon's policy—as he can negotiate and can end the war—to these conditional amendments which raise hopes among the people which cannot be fulfilled.

THE SCOTT AMENDMENT

Mr. FONG. Mr. President, I rise to support the amendment of the distinguished senior Senator from Pennsylvania and to commend him for taking the initiative to restore realism and common sense into our country's military assistance programs.

Mr. President, as the ranking Republican member on the Foreign Operations Subcommittee of the Senate Appropriations Committee, I would be derelict in my duties if I did not speak out against the drastic and ill-advised cuts that the Foreign Relations Committee made in the President's requests of $780 million for grant military assistance programs; $844 million for supporting assistance programs; and $527 million for military credit sales. I firmly believe that the members of the Foreign Relations Committee have cut the President's request far too much—that they have been pennywise and pound foolish in their actions.

According to the committee's recommendations, they want to reduce funds for grant military assistance from the President's request of $780 million to $500—a reduction of $280 million or 35.9 percent. By a voice vote of the Senate on Friday, this sum was further reduced to $400 million—a reduction of $380 million or a whopping 48.7 percent. Such a drastic cut in the President's program is most irresponsible and untimely. However, while the amendment before us is designed to trim the fat from the grant military assistance program, it is meant to do it in a reasonable way. It will reduce the President's request to the level that was in the Senate bill 3390, which was defeated in this body several months ago. It will reduce the amount for grant military assistance from $780 million to $600 million—a reduction of $180 million or 23 percent. Such a cutback, I believe, is both substantial and, at the same time, reasonable.

Mr. President, in the field of supporting assistance, the Foreign Relations Committee has recommended a reduction in the President's request from $844 million to $550 million—a reduction of $294 million or 34.8 percent. The pending amendment hopes to increase the sum to $685 million. Such an amount will still reflect a cut of $159 million or 18.8 percent from the President's budget request.

Finally, Mr. President, the committee is recommending to the Senate that we cut the military credit sales program from $527 million to $400 million—a reduction of $127 million or 24.1 percent. The Scott amendment is designed to increase the recommended amount from $400 million to $435 milllion. Such a modest increase is still $92 million or 17.5 percent below the President's request.

Should the Senate, for some irrational or irresponsible reason, decide to reject the Scott amendment, and withdraw into a fortress America, I foresee great difficulty in the President being able to carry out the Nixon Doctrine to make the world a better and safer place to live.

Everyone of us is well aware that the grant military assistance program is the core of the Nixon doctrine. If fully implemented, it will allow the United States to withdraw American forces from around the world by enabling our friends and allies to field armed forces which can bear an increasing share of the common defense burden. For the first time since the conclusion of the Second World War, we can look to our allies to bear the primary burden of meeting nonnuclear threats to the peace and survival of the free world.

The millions we authorize and appropriate for these grant military assistance programs save billions of dollars for the American taxpayers. It is conservatively estimated that it costs $10,000 a year to keep an American soldier overseas, but only $500 a year to train and equip a foreign soldier to take his place.

Mr. President, the Scott amendment will also restore funds for supporting assistance programs from the Committee's recommended level of $550 million to $685 million. Although this is still a reduction of $159 million from the President's request of $844 million, it will at least give our country a continuing and viable program. Such an amount would give us the resources to provide the economic support which allied and friendly governments in Southeast Asia need to allow them to carry on with the primary burden of their own defense as our involvement in Vietnam winds down.

Funding at this higher level would also assure continued stability in the Middle East by promoting the economic viability of Israel and Jordan. There is no question in my mind that restoring these programs to respectable levels is not only justified but in our Nation's best interests.

Likewise, our military credit sales program is designed not only to assist and bolster the defense requirements of our allies, but to encourage the purchase of military hardware from U.S. manufacturers as against European or Soviet arms dealers.

Furthermore, the military credit sales program is just that—a credit program allowing our allies to purchase badly needed defense articles on credit. It is not a giveaway or grant program. All the money appropriated in this field is repaid to the U.S. Treasury in due time.

Mr. President, now is not the time to undercut President Nixon's peace plan. His administration has demonstrated that it has the capacity and foresight to devise new policies to meet the challenges of the 1970's. The administration's new policies in Asia and elsewhere are working and producing the climate for future successes in man's quest for a more peaceful and stable world order. Failure to provide the President with the bare minimum in resources to continue this progress for a better world could seriously jeopardize all the accomplishments of the past few years.

Although the funds in this amendment are still $431 million or 20 percent less than what the President requested for the above-mentioned programs, I believe that it restores a substantial portion of the drastic cuts that were made by the Foreign Relations Committee. Without the increases contained in the Scott amendment, the President's peace initiatives would wither on the vines and be totally ineffective in meeting our security needs around the world.

I personally believe that the President's request should be restored by a larger amount. However, I am satisfied that the sums contained in the Scott amendment are reasonable and adequate enough to meet the urgent needs for the current fiscal year.

I strongly urge my colleagues to support the Scott amendment to increase the funds for our military assistance programs to a more realistic level.

Mr. DOLE. Mr. President, I support the amendment proposed by the distinguished Senators from Pennsylvania and Wyoming to restore funding for security assistance programs. Many Senators and many Americans hold strong views about the foreign assistance program. We have expressed them in Senate debate and taken our stands when voting on different elements of the foreign assistance bill.

Insofar as program funding levels are

concerned, it should be recognized that the Senate has previously supported the figures in this amendment. No new reasons have been brought forward to support additional reductions in these authorizations, but the need for adequate support for these programs is still critical.

Security assistance programs are vital to the operation of the President's foreign policy which places primary reliance on the ability of our friends and allies to maintain their own strong defenses. With strong allies, the risk of aggression against them is reduced, and so is the danger of direct American involvement in defending them against aggression should it come.

The Senators from Pennsylvania and Wyoming have made a very clear case for the need to provide adequate support for our security assistance program. They are in effect restating the Senate's own position on the matter as expressed earlier in S. 3390.

I would point out that the funds specifically earmarked for Israel take on even greater significance in light of the recent increase in terrorist hostility against the Israelis.

The United States, through President Nixon's foreign policy, is actively pursuing a generation of peace for all the peoples of the world. The security assistance program is a basic element in that policy, and I urge the Senate to adopt the Scott-McGee amendment to fully restore the funding authorization which this body has previously approved.

THE STENNIS AMENDMENT

Mr. FULBRIGHT. Mr. President, I urge the Senate to reject the amendment offered by the Senator from Mississippi.

Last year the Senate went on record three times in favor of complete withdrawal of all U.S. forces from Indochina within a fixed time, conditioned only on the release of American prisoners of war. It approved the Mansfield amendment as an amendment to the Draft Extension Act by a vote of 61 to 28, as an amendment to the Defense Authorization Act by a vote of 57 to 38, and as a provision in the foreign assistance bill.

This year the Senate went a step farther. On two occasions it voted to cut off funds for continuation of U.S. involvement in the war. The Senate, which is often long on talk and short on action, in effect put its money where its mouth was. By adopting Senator BROOKE'S amendment to the earlier foreign aid bill by a vote of 50 to 45 and to the military procurement bill by 49 to 47 it declared a clear national policy for Indochina: If American prisoners of war are released and the missing in action accounted for, U.S. involvement in the war—land, sea, and air—will be ended within 4 months. The amendment seeks only to establish a national policy for Indochina where responsibility is shared jointly by Congress and the President.

Perhaps the war will continue indefinitely after U.S. forces leave. No one can foresee the final military or political outcome in the area. But the continued involvement of our forces works to prevent the operation of natural political factors that might result in a settlement between the parties. And it assures the continued imprisonment of captured Americans.

Mr. President, five times within a period of little more than a year the Senate has voted to approve the basic policy set forth in the Brooke amendment. I am not optimistic that we can work out a meaningful compromise on the amendment in conference, get it through the House, and then get the President to sign it into law. There are many formidable obstacles between the Senate's adoption—again—of the Brooke amendment and its enactment into law. But the Senate should do its duty; it should not base its action on what the House or the President may or may not do.

I hope that the Senate will stand by its earlier decisions and reject the Stennis amendment.

Mr. KENNEDY. Mr. President, I oppose final passage of this measure reluctantly because it contains items of merit and value. However, the bulk of the bill represents another unwise extension of the view that national security is based solely on military force.

For this measure, with its $1.8 billion in military assistance and credit sales, including $585,000 for South Vietnam in security assistance and $150,000 worth of surplus weapons, is only part of the vast package of foreign military assistance proposed by this administration this year.

The administration proposed to grant or subsidize $8.5 billion in military assistance and arms to 63 foreign nations. And of those nations, 25 are controlled by military dictatorships or authoritarian regimes.

The bill as it now stands, therefore, is only one part of the total package of foreign military aid that this administration has endorsed. And it demonstrates again the distorted priorities of this administration. For it has requested nearly $2 billion more this year to be distributed to foreign nations than in fiscal year 1972 at the same time that the President has righteously vetoed a health, education, and welfare appropriations measure for being inflationary. I think it is far more in the Nation's interest to expend our resources on our citizens' health and welfare than on arming other nation's military forces.

Under this bill and others, Vietnam receives over $3 billion in direct military assistance from the United States. In addition, the United States is expending over $10 billion for U.S. forces in Indochina.

And despite the billions in foreign military aid and the billions spent in Vietnam, U.S. soldiers still brave enemy fire in Indochina and American fliers still risk being shot down by enemy rockets.

It was to end the fighting in Indochina and to return our prisoners of war that the Foreign Relations Committee had approved a cutoff of funds for Indochina after 4 months provided that U.S. prisoners of war are returned during that time period and an accounting of men missing in action is also given.

However, the administration succeeded in deleting that provision and it was that vote above all others which represents to me a justification for opposing this foreign military aid legislation.

Clearly, my vote does not represent opposition to all foreign military assistance. Some nations, such as Israel, richly deserve our support. In addition, the bill contains amendments which I introduced which provide refugee assistance in Bangladesh, South Vietnam, and Cambodia as well as authorizing postwar refugee planning throughout Indochina. All of these items could have been funded in separate legislation if we had been successful in defeating this measure.

However, the bill as it stood on final passage, represented an incentive to continue the fighting in Indochina and to continue a narrow view of foreign policy that assumes mounting military expenditures by the United States and by other nations will produce a peaceful world. I reject that view and, therefore, I voted against this bill.

Mr. DOLE. Mr. President, once again the Senate has before it the substance of another so-called end the war amendment. There have been many of them over the course of the past few years. They have been worded differently; they have mentioned different dates, different periods, different conditions. They have all pretended to be a means for the Senate or the Congress to put an end to the Indochina conflict. But none of them have brought about any positive progress toward peace. None of them have decreased the pace of the war. None of them have reduced the casualties inflicted on the American servicemen in Indochina.

I would point out that it is the President who is Chief Executive of our Nation. The President makes our foreign policy and conducts our diplomatic relations with other countries. The President is the Commander in Chief of the Armed Forces.

Congress does have a voice, a role to play in the affairs and policy of the U.S. Government, but the Congress is not the President, and it does not have nor does it share his constitutional powers and responsibilities in military and foreign policy.

The President has these powers and responsibilities, and he is aware of them. The American people are aware of them, too. And they know that the President, not the Senate or the House, has brought more than half a million servicemen home from Indochina. They know that the President, not Congress, has reduced American battle deaths to the lowest levels in 7 years, and that last week no Americans lost their lives in combat. The American people can see that the President's policies and decisions, not empty congressional resolutions and amendments, have made this progress possible.

These amendments serve no purpose. President Nixon is ending the war, the war he inherited when he took office. These amendments do not contribute to his efforts for peace, they do not enhance his efforts to bring the war to a close. To the contrary, any effect they might have on his policies would certainly be negative. And it would seem that they might place the Congress in the somewhat questionable position of hindering, criticizing, and carping at the highly popular and effective policy which the President is pursuing.

So I commend the Senator from Mississippi (Mr. STENNIS) for his efforts to remove this so-called end the war language from the foreign assistance bill and urge the Senate to approve his motion to strike this portion of the bill.

Mr. BAYH. Mr. President, amidst the countless tragedies which stand out after more than a decade of U.S. errors and miscalculations in Vietnam there is a great irony. The ostensible reason for the sacrifice of 55,000 American lives and the injury of more than a quarter of a million GI's has been to provide an opportunity for the South Vietnamese to have a democratic government. But South Vietnam, under the ruthless dictatorship of President Nguyen Van Thieu, continues to move farther and farther from democracy toward oppressive totalitarianism.

Within the past month, we have had three more examples of the techniques employed by Thieu to sustain himself in power—at the expense of political freedom. As we look at these three examples, it is important to remember that they are but the latest in a series of such acts and that Thieu's reprehensible conduct is indirectly condoned by our Government as long as U.S. air power is used to sustain him in office.

The first example is President Thieu's decree doing away with the popular election of officials in South Vietnam's 10,000 hamlets. When hamlet elections were instituted several years ago, they were hailed as evidence of South Vietnamese progress toward democracy. Their abolition, then, strikes one as clear evidence of progress away from democracy. What this means is that at the local level the foundation for democracy has been destroyed, with the inevitable result that any attempt to build an open society on that foundation will be doomed to failure.

Under the new plan the hamlet officials will be appointed by province chiefs beholden to Thieu. It is as if all the cities and towns in this country were to be run by persons appointed by governors who, in turn, were appointed by the President. This is certainly a means of solidifying one's power, and probably is what we should expect from a President who assured his reelection by devising rules which left him the only candidate in the presidential election.

The second recent example of President Thieu's wanton use of his undue power, has been the overt attacks on Senator McGOVERN in the government-controlled media, especially television and radio. This has included harsh personal attacks on Senator McGOVERN, labeling him a "mad dog" and "traitor," and represents unconscionable interference in the domestic affairs of the United States. It reminds one of 1968 when President Thieu deliberately undermined peace negotiations until after our presidential election. President Thieu would have been the one to yell loudest had the United States attempted to make his reelection contingent on a true contest, yet he has shown no hesitation to jump into our presidential race. It cannot be forgotten, either, that this improper behavior is being subsidized by U.S. aid dollars.

The third example concerns a new law which requires newspapers to post a $50,000 bond with the government, the bond to be lost if the newspaper is seized twice because of government censorship. Since such undemocratic censorship is commonplace and many newspapers are seized on a regular basis this law left open the possibility of repeated losses of $50,000 bonds. The result has been that several newspapers, including the two leading opposition newspapers in Saigon, have had to shut down. This is an ingenious device for silencing a free press, and it is a not very subtle example of the totalitarian schemes which Thieu is using to increase and solidify his power base. It, too, can be expected of a regime which copes with opposition by incarcerating political prisoners.

What we are increasingly left with, Mr. President, is a regime in South Vietnam which is no more free than the regime in North Vietnam. Yet our Government perpetuates the Thieu regime with the extensive and expensive use of massive air power.

The steadily rising use of bombing as a means of preventing the collapse of the Thieu government must be cited time and again, lest the reduction in U.S. personnel in South Vietnam somehow delude the American people into thinking we are getting out of this war. Rather than end American involvement in Vietnam, as this administration promised it would, it has merely rolled back the clock 7 years to 1965 when, prior to the U.S. troop buildup in South Vietnam, U.S. air support was the means of sustaining various Saigon governments.

The bombing policy has lowered the number of U.S. casualities, but it must not be forgotten that more than 20,000 American lives have been lost since the present administration took office. Nor can it be forgotten that bombing sorties inevitably increase the number of Americans missing in action and the ranks of American prisoners of war. The increased bombing this year has resulted in 120 additional U.S. MIA's and more than 50 more POW's.

And despite the record number of bombing attacks in all parts of North and South Vietnam, the North Vietnamese and Vietcong are sustaining their positions on the battlefield. This is important to note, Mr. President, because it proves a point made by the State and Defense Departments in the so-called "Kissinger papers"—National Security Study Memorandum No. 1—assembled in 1969. The point is that bombing has always been of limited effectiveness in this war because it increases markedly the North Vietnamese resolve not to yield to the Americans and is irrelevant to the basic political nature of the struggle. This reality has been borne out by recent visitors to North Vietnam who report no substantial weakening of Hanoi's position.

What we need, Mr. President, instead of U.S. bombing raids to prop up Thieu's dictatorship, is a willingness to get out of this war conditioned only upon the release of U.S. POW's, something which could be reasonably expected once we set a date for the end of our involvement. Those who call this proposal unworkable are deluding themselves. First of all, we cannot know if it is unworkable if it is not tried, and setting a withdrawal date seems like a small price to pay to find out if North Vietnam will release our POW's. Moreover, all the experience of past wars and all solid information coming this way suggest that such a plan would probably work.

But the Nixon administration is unwilling to try this approach because of its mistaken commitment to President Thieu. Here, then, is the reason we are not out of this war, and here, then, is the reason that Americans continue to languish in North Vietnamese prison camps. Our Government wants to strike an agreement, something the other side can never do, which would practically guarantee the perpetuation of the corrupt dictatorship of Nguyen Van Thieu. To do this, we pay in American lives, a truly inconceivable waste in human life. The Thieu regime is not worth the life of a single GI; sustaining totalitarianism is a shameful way to throw away our Nation's young, our Nation's dollars, and our Nation's spirit.

This loss of spirit reaches into the very depths of our national conscience. The controversy surrounding General Lavelle and the alleged unauthorized bombing of North Vietnam is a perfect example—like Mylai before it—of how Vietnam has poisoned our society and rendered us insensitive to acts which previously would have horrified the Nation. The public loss of confidence in our institutions of government is not confined solely to the military, but it permeates our entire society with the constant erosion of our national spirit and purpose. Vietnam and its legacy will remain in the American bloodstream until we purge ourselves of this poison that has seeped deeply into our national life.

In his 1972 state of the world message, in an effort to justify the continued U.S. involvement in Vietnam, President Nixon said:

> South Vietnam has made remarkable progress building toward democracy in the midst of war.

He said this despite the fact that President Thieu ran unopposed for reelection last year, and despite the fact that the man who ran second to Thieu in his earlier election remains in jail, a political prisoner 5 years after the election.

The fact is, as President Thieu's recent activities have reminded us that South Vietnam is moving away from—not toward—an open democratic society. To suggest otherwise is to deny reality and to gamble American lives in the foolish game of saving face.

Mr. President, I request unanimous consent to include in the RECORD at this point an article from Monday's New York Times which explains in some detail how President Thieu has assumed greater and greater control of his government in recent months.

There being no objection, the article

was ordered to be printed in the RECORD, as follows:

Thieu's Rule Tighter Since Enemy's Drive

(By Craig R. Whitney)

SAIGON, SOUTH VIETNAM, September 24.—President Nguyen Van Thieu has come out of the 1972 Communist offensive more powerfully in control of the machinery of Government here than ever before. But he seems to be less than sure of his own political strength and popularity among the people of his country.

Faced with both political and military problems of vast magnitude over the last six months, Mr. Thieu has dealt with both of them in the same way—by the direct exercise of personal power, dispensing with the encumbrances of American-inspired democratic institutions and governing instead through the army.

In the view of most American observers of the process and many Vietnamese, the 48-year-old President has so firmly established his power that he has left no room for an effective non-Communist opposition.

In fact, to outward appearances at least, the opposition has given up. Former Vice President Nguyen Cao Ky is living in opulent unemployment at Tansonnhut Air Base; General Duong Van Minh is spending his time at cocktail parties and receptions.

"Thieu has checkmated all the moves of the opposition," said one of General Minh's supporters, Ly Qui Chung, a member of the House of Representatives. "It is not possible to take power without the Americans."

One senior American official here said: "There's no sense in people at home kidding themselves. Thieu is the only man around,"

Other Americans here are less enthusiastic about this than that official. But all of them agree there is no non-Communist alternative in sight.

HE MASTERS THE MILITARY

No South Vietnamese leader has ever mastered so firmly the country's military machine and its governmental administrative apparatus, which is also largely controlled and staffed by military officers.

No one since Ngo Dinh Diem's assassination in 1963 has become so independent of American control or influence while at the same time remaining so dependent on American support. Because he is confident that the support will continue—so confident that his national television and radio stations have been broadcasting blistering attacks on Senator George McGovern—he pays less attention these days to what the Americans want, even though the United States could theoretically cause his instant downfall by withdrawing its military, economic and moral support.

The fragility of this dependent relationship is apparent in the central role here of Ambassador Ellsworth Bunker, the only American official who sees Mr. Thieu frequently. Many Vietnamese regard the Ambassador as their President's alter ego, and a sudden departure by Mr. Bunker would be taken by politicians here as a sign that American support of Mr. Thieu could no longer be taken for granted.

Ambassador Bunker, who has been here since 1967, hoped to go home after the Presidential election here, last October, but after that turned into a one-man race, he stayed. Now, according to people close to him, he does not count on being able to leave until early next year.

LESS INFLUENCE ON THIEU

Yet, in recent months, either Mr. Bunker has not tried to exercise influence with President Thieu on critical issues such as politics or else Mr. Thieu has not listened to him as much as he used to.

Which is the case, it is impossible to tell, since when the two men meet they are usually alone. But Mr. Bunker is known to have been disappointed when President Thieu did not go out of his way to insure a contested election last October, and last month the President did not consult the Americans when he took the important step of abolishing elections of hamlet and village officials.

Since late June, Mr. Thieu has been bypassing the elected National Assembly, even though he controls a majority in both of its houses, and has been governing by decree in the fields of national defense, finance and economy. Last Wednesday, during a trip to the northern front, he told reporters that he would not ask for an extension of his authority to rule by decree when it runs out at the end of December.

Instead, he is working to further solidify his control of the Assembly. According to one Cabinet minister, he has asked several Government officials to run for the 56-member Senate in the election next September. His supporters now have 29 seats there.

HIS REMOVAL DEMANDED

Because of his controlling position in the South Vietnamese administration machinery, President Thieu's removal from the political scene has become the key demand of the Vietnamese Communists for a negotiated settlement of the war.

His American patrons, who deal with the North Vietnamese at the talks in Paris, have so far rejected this as an unacceptable precondition that would be tantamount to helping impose a Communist government on the South.

Mr. Thieu opposes that unconditionally, believing that to compromise with the Communists is to be defeated by them.

And in recent months he has taken steps with the effect of hedging against the possibility that the Americans might some day concede more politically than they have already in offering, last January, to have him step down one month before internationally supervised, nationwide elections.

HIS MEASURES OUTLINED

Since the North Vietnamese offensive began in late March, Mr. Thieu has taken these steps:

He has imposed martial law, allowing the national police to arrest suspected Communists or Communist sympathizers and detain or release them at will, without trial.

He has ruled by decree in the fields of national security and economy since the end of June.

He has closed all but two of Saigon's opposition newspapers by requiring publishers to deposit $47,000 with the national treasury.

He has decreed that most officials of villages and hamlets should not be elected but be appointed by the province chiefs, who are military men appointed by the Government.

He has replaced all but two of the South Vietnamese Army's division commanders with his own men, many of whom are considered to be more competent leaders than their predecessors. The replacements have gone a long way toward eliminating the independent warlordism that used to hamper the authority of all Saigon administrations and that established Mr. Thieu, himself a former general, in indisputable control of the army.

He has increased the penalties for a variety of common crimes such as robbery, assault and hijacking, has placed most of them under the jurisdiction of special military courts and has threatened severe punishment for corrupt officials or those who try to bribe them.

ACCEPTED FATALISTICALLY

Whatever the average Vietnamese citizen thinks of these measures—and there has been no organized or vocal opposition to them—the American establishment here regards some of them, such as the virtual closing down of the press, as "stupidly unnecessary," as one official put it, but fatalistically accepts them.

"Talking about making him 'broaden his political base' is an American concept that has no relevance here," one American said American officials did not make such statements in the nineteen-sixties, when they were giving South Vietnam a democratic form of government and when they thought they needed the support of American public opinion.

President Thieu does not seem to think he needs such support. He appears convinced that President Nixon will be reelected and will continue to support him. He makes little visible effort to win popularity among his people, nor does he often talk to the foreign press here. Last Wednesday he made some impromptu remarks to American and European reporters in Quangtri; it was the only time this year that he had granted an interview to resident correspondents.

Mr. Thieu said then: "I do not need to be a dictator." But he clearly feels that for South Vietnam in the midst of a war, democracy is dangerous. He has achieved control, therefore, not by appeals to the electorate, but rather by careful and methodical placement of people of unquestioned loyaltly to him in all the key positions of government.

A COUSIN IS POWERFUL

One of his most powerful advisers, for example, is 30-year-old Hoang Duc Nha. His title, press secretary and secretary to the president, is deceptive. He is a cousin of President Thieu and has had a hand in naming many high officials in the government—often friends or former classmates of his at the Lycee Yersin in Dalat, where he studied in the nineteen-fifties before going to the University of Pittsburgh in 1966.

Mr. Thieu was commandant of the Vietnamese military academy in Dalat at that time and adopted Mr. Nha as a sort of surrogate son. Mr. Nha's brother, Col. Hoang Duc Ninh, is commander of the 44th Special Zone in the Mekong Delta and is reliably reported to be on the promotion list to take over command of the army's Seventh Division soon.

The two other most powerful officials in the Government—Premier Tran Thien Kheim and Lieut. Gen. Dang Van Quang—were trusted associates of Mr. Thieu through his years in the army. Mr. Khiem and he were both company commanders in the French Army in the early nineteen-fifties. General Quang, the President's special assistant for military and security affairs, used to have a reputation for corruption but is believed to be the figure through whom Mr. Thieu has consolidated his mastery of the army.

"Khiem is described by everyone as one of the Thieu's real friends, but I don't know how much real influence he has," said one American official who follows Vietnamese political developments. Another man—a Vietnamese and a Cabinet officer—said recently: "Oh, no, that guy has no friends."

HIS STYLE IS REMOTE

Mr. Thieu's style of government is remote. He seldom makes a public appearance. He has, in the course of the offensive, made several visits to exposed field positions to raise the morale of his troops—acts of considerable courage for a man in his position. Wednesday, he even came under shelling during his visit to the Quangtri front. And on Friday he made a tour of the northern Mekong Delta area, where Communist pressure has also been increasing in recent weeks.

But rarely does he venture among his civilian constituents or make a public speech. He waited for several weeks after the beginning of the enemy offensive last spring to proclaim a state of national emergency and to mobilize the population against the Communist attack, preferring instead to deal with the offensive more directly by issuing orders to field commanders by radio-telephone.

Seldom, either has he expressed the philosophy that leads him to govern as he does, but in a speech on August 11, in Quinhon, he gave this exposition:

"The Communists dare to do everything," he said. "When I was young, in 1945, I went to the Maquis to co-operate with the Vietcong in resisting the French. I was deceived by them for several months. From that moment on, for 20 years, I have been fighting Communism.

"THERE IS NO HALF WAY

"The Communists have only one dogma. We must follow them or die. There is no half way. There is no neutrality. If we concede territory to the Communists, we will lose it and the people. If we agree to a coalition government, our 17 million people will be forced to follow the Communists.

"If we adopt neutrality, Communist-style neutrality, this means that we will tie our own hands and let the Communists eat us. And if we allow the Communists to operate openly in South Vietnam, we will lose the country. Because I have carefully thought about these four ways of losing our country to the Communists, I have advanced my four no's policy.

"I will continue to defend my four no's until death."

By "four no's," Mr. Thieu means no neutrality, no coalition government, no concession of territory and no open operations by the Communists permitted in the South.

"Our Government has allowed us to enjoy too much democracy too soon," he continued. "Every freedom must be recognized to the extent consistent with the situation of our nation.

"If our country were a secure, peaceful and prosperous nation like the United States, all our democratic rights and freedoms could be fully observed without any trouble at all," he said. "But our country is still on the path of development, with the Communists blocking our way and interfering with all our activities. We can find the Communists everywhere, under our beds, under our ancestors' altar, behind our backs and even among our ranks."

CHAU STILL IN JAIL

Mr. Thieu has been merciless with nationalists whom he has suspected of dealing with the Communists or of trying to build a middle way. One of the best-known, a former officer of the House of Representatives—Tran Ngoc Chau—has been kept in jail on charges of collaborating with the Communists even though the special military court that tried him was declared unconstitutional by the Supreme Court two years ago and his sentence was annulled.

His brother was identified as a Communist agent and Mr. Chau's crime was passing messages from him to the presidency.

A senior American adviser, the late John Paul Vann, called Mr. Chau "the greatest Vietnamese patriot I have ever known."

GAPS IN DEMOCRACY

"When an election is held," Mr. Thieu told his audience in Quinhon, "the Communists try to benefit from it. Indeed, after a country becomes Communist, its people can never topple its Communist leaders. In the countries which are pro-Communist, in Africa and South America, if their armed forces are abreast of the situation and take timely action, they will be able to overthrow their leaders. In the South here our political parties are small and disunited, we are too complacent, and most important, our democracy is disorderly, it presents many gaps."

The reason Mr. Thieu is anxious to close those "gaps" at this time is that both he and his ineffectual opposition see the coming years as the final confrontation with the Communists, after which they expect either some sort of compromise or a concession of defeat by one side or the other.

"The closer we get to the end, the worse things look for us," said Ly Qui Chung. "We are getting close to the end, with the rapprochement of the great powers, but we can't continue the war this way. The United States can't continue to support a regime incapable of standing by itself."

SAVING ITS ENERGIES

Another opposition figure, Ho Nghoc Nhuan, said: "What we in the opposition—and we believe most of the people—want is the departure of Mr. Thieu. Unfortunately for us, that is what the 'other side' wants, too."

So because the opposition has no other way of bringing about the change it wants under a presidential system so completely controlled by Mr. Thieu, the opposition is lying low and saving its energies for the "post-Thieu" phase they believe will come one day. That, everyone agrees, is not any time soon. Mr. Thieu believes that the current fighting will go on at least through next year and that the only way to ultimate peace is by military victory on the battlefield.

In a speech in Hue on Wednesday, he said: "We strongly reaffirm that any peace solution should start with an end to armed aggression and the withdrawal of all Communist troops and cadres to the North. The army should keep up the initiative and develop the present victories to wipe out the enemy. We will be able to do it and we will achieve total victory."

Mr. GAMBRELL. Mr. President, on the day I was named U. S. Senator for Georgia, I was asked what I considered to be the No. 1 problem facing the country. On that occasion, I stated that the war in Southeast Asia was that problem. I stated—

> The war is draining the strength of our country, materially, spiritually and emotionally in such a way that we cannot get on with the solution of other serious problems with which we are faced.

To a large extent, this continues to be the case nearly 2 years later.

Last June, when the so-called Mansfield amendment was offered, I supported it. While refusing to place any mandatory requirements upon the President, I felt it important to urge him to announce to the world that the United States would withdraw from the war, if we could get our prisoners back, and if a cease-fire could be achieved. President Nixon and his administration opposed the adoption of this resolution, and although it passed the Senate, it was defeated through resistance in the House.

Some 7 months later, President Nixon disclosed that a proposal substantially along the lines of the Mansfield resolution had been privately offered to the North Vietnamese within a few weeks after the Senate vote on the subject. This offer received no response from the North Vietnamese for many months and subsequently was answered with a demand for a political capitulation by the South Vietnamese Government.

In my way of thinking, we would have been much better off for this offer to have been made publicly, before the world, so that the obstinate and contentious conduct of the North Vietnamese in dealing with it would have been apparent.

However, all of that is now in the past, and the United States has effectively "withdrawn" from ground combat in Southeast Asia. Last week it was reported that our forces suffered no ground combat casualties for the first time since 1965. In addition, the Government of South Vietnam has demonstrated an important degree of self-sufficiency in having conducted national elections last October, and with our air support and military material furnished by us, in successfully conducting the defense of the northern provinces during the past 6 months.

So far as I am concerned, in the present circumstances, there remains only one additional consideration of our complete withdrawal from Southeast Asia, and that is to get our prisoners of war back. As was the case when the Mansfield amendment was proposed, I think it important that we state positively, before the world, our determination in this respect, so that the responsibility for our continued military presence in Southeast Asia rests solely, clearly, and heavily upon the North Vietnamese. Should they refuse a clear-cut offer by us to withdraw upon return of the prisoners, then I would certainly favor a continued presence by U.S. forces in the Indochina area, continuation of our bombing, and continuation of our mining of their harbors.

If they want to end our active role in this war, they can deliver our prisoners of war back to us. I can think of nothing more reasonable and straightforward on our part.

In order to make our determination to withdraw as clear cut as possible, I support the Brooke-Cranston amendment when it was previously voted upon, and will do so again today. If its substance is offered to the North Vietnamese and they reject it, we will have a free hand to continue our limited but flexible participation in the defense of South Vietnam.

If on the other hand, the North Vietnamese elect to return our prisoners of war in exchange for an immediate termination of our role in the Indochina war, we could withdraw and I feel sure that news of this development would be received with a great sense of joy and relief throughout our country.

Mr. President, I do not see how this country could lose if the policy of the Brooke-Cranston amendment were to be followed.

As for the foreign aid bill itself, I plan to vote against it whether the "end the war" resolution is retained or not. The increased spending sought by the Nixon administration through the Scott amendment will result in an increase in the amount of foreign aid spending over last year's bill which I opposed.

Furthermore, the military assistance spending authorized by this bill, is in addition to more than $8 billion in foreign military assistance provided under other Government programs. The American people ought to know what an enormous part of our Federal budget for "foreign aid" goes out under departments other than the Department of State.

While I can see the value of some of our foreign assistance programs, both economic and military, I have supported drastic cuts in all of them; first, in recognition of our own budgetary limitations; and second, in an effort to require other countries in the world to support and defend themselves.

I see no sense or benefit in borrowing money for the purpose of giving it away, particularly when the gifts are to those who should long ago have become able to support themselves.

Thus my vote on final passage of the foreign assistance act will be in the negative.

Mr. STENNIS. Mr. President, in the time remaining, I would like the clerk to read the amendment to tell us what section in the bill it refers to.

The PRESIDING OFFICER. All the time of the Senator has expired.

The Senate, under the unanimous-consent agreement, will now proceed to vote on the Scott amendment.

Mr. CHURCH. Mr. President, I send to the desk, under the rule, an amendment in the nature of a perfecting amendment to the Scott amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment, as follows:

On page 1, in lieu of the language proposed to be inserted in lines 6 and 7, insert "$585,000,000," of which not less than $85,000,000 shall be available solely for Israel".

On page 1, beginning with line 8, strike out through line 14 on page 2.

Mr. CHURCH. Mr. President, I ask unanimous consent——

Mr. SCOTT. Mr. President, I move that the amendment be tabled.

Mr. CHURCH. If the Senator will withhold that for a moment, I ask unanimous consent that a brief explanation of the amendment appear in the Record.

There being no objection, the explanation was ordered to be printed in the Record, as follows:

September 26, 1972.

Explanation of Church Substitute for Scott Amendment

The Church Substitute would add a total of $35 million to the pending bill for the purpose of increasing supporting assistance to Israel from $50 million to $85 million. Thus the Church substitute earmarks for Israel the same amount as provided by the Scott amendment. But, unlike that amendment, the Church substitute leaves unchanged the rest of the spending levels in the bill.

Total Increase under Church Substitute: $35 million—earmarked for Israel.

Total Increase under Scott amendment: $370 million (of which $35 million is for Israel).

Mr. CHURCH subsequently said: Mr. President, I ask unanimous consent that the names of the following Senators may be added as cosponsors of the amendment that I offered to the amendment of the Senator from Pennsylvania (Mr. Scott). The Senators are Senators Kennedy, Hart, Muskie, Tunney, Cranston, and Chiles.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMINICK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMINICK. I would like to know if the Church amendment is a substitute for the Scott amendment or is an amendment to the Scott amendment.

The PRESIDING OFFICER. The Church amendment is a perfecting amendment to the Scott amendment.

Mr. DOMINICK. It is not a substitute?

The PRESIDING OFFICER. That is correct.

Mr. DOMINICK. If it is adopted, we can still vote on the Scott amendment, as amended?

The PRESIDING OFFICER. That is correct.

Mr. DOMINICK. I thank the Chair.

Mr. SCOTT. Mr. President, a further parliamentary inquiry so that we may have this entirely clear. If the Church amendment is adopted, in which the $35 million is restored to the bill, does the vote then recur on the Scott amendment restoring the funds in the bill as stated in the Scott amendment, in addition to the $35 million?

The PRESIDING OFFICER. The question would recur on the Scott amendment as amended. The Chair does not interpret the effect of the amendment.

Mr. SCOTT. Then, may I again propound a parliamentary inquiry? If the Church amendment should be adopted, would a vote on the Scott amendment as perfected by the Church amendment, if the Scott amendment were adopted, result in the restoration of the funds obtained in the Scott amendment, as perfected?

The PRESIDING OFFICER. The clerk will read the amendment showing its effect on the Scott amendment.

The legislative clerk read as follows:

On page 1 of the Scott amendment, in lieu of the language proposed to be inserted in lines 6 and 7, insert "$585,000,000, of which not less than $85,000,000 shall be available solely for Israel."

On page 1, beginning with line 8, strike out through line 14 on page 2.

Mr. SCOTT. Mr. President, a further parliamentary inquiry. Then the effect of the so-called perfecting amendment is that it would perfect the Scott amendment out of business; in other words, it would remove all the features out of the Scott amendment except the $85 million. Is that correct?

The PRESIDING OFFICER. The Chair cannot interpret the effect of the amendment.

The question is on the motion of the Senator from Pennsylvania to lay on the table the amendment of the Senator from Idaho as a perfecting amendment to the Scott amendment.

Mr. FULBRIGHT and Mr. ROBERT C. BYRD requested the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays are ordered, and, under the previous unanimous-consent agreement, this rollcall will last for 15 minutes, and the rest for 10 minutes.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the negative). Mr. President, on this vote I have a pair with the distinguished Senator from Virginia (Mr. Spong). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would change my vote to "yea." Therefore, I withdraw my vote.

Mr. HARTKE (after having voted in the negative). Mr. President, on this vote I have a pair with the distinguished Senator from Ohio (Mr. Saxbe). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Minnesota (Mr. Humphrey), the Senator from South Dakota (Mr. McGovern), the Senator from Montana (Mr. Metcalf), the Senator from Virginia (Mr. Spong), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. Jordan) and the Senator from Wyoming (Mr. McGee) are absent on official business.

I further announce that, if present and voting, the Senator from South Dakota (Mr. McGovern) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senators from Ohio (Mr. Saxbe and Mr. Taft) and the Senator from Vermont (Mr. Stafford) are absent on official business to attend the Interparliamentary Union meetings.

The pair of the Senator of Ohio (Mr. Saxbe) has been previously announced.

The result was announced—yeas 47, nays 40, as follows:

[No. 467 Leg.]

YEAS—47

Aiken
Allen
Allott
Baker
Beall
Bellmon
Bennett
Boggs
Brock
Brooke
Buckley
Cannon
Cook
Cooper
Cotton
Curtis
Dole
Dominick
Ervin
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hatfield
Hruska
Jackson
Javits
Jordan, Idaho
Mathias
McClellan
Miller
Packwood
Pearson
Percy
Roth
Schweiker
Scott
Smith
Sparkman
Stennis
Stevens
Thurmond
Tower
Weicker
Young

NAYS—40

Anderson
Bayh
Bentsen
Bible
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Church
Cranston
Eagleton
Eastland
Edwards
Fulbright
Gambrell
Gravel
Harris
Hart
Hollings
Hughes
Inouye
Kennedy
Long
Magnuson
McIntyre
Mondale
Montoya
Moss
Muskie
Nelson
Pastore
Pell
Proxmire
Randolph
Ribicoff
Stevenson
Symington
Talmadge
Tunney

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Hartke, against.
Mansfield, for.

NOT VOTING—11

Humphrey
Jordan, N.C.
McGee
McGovern
Metcalf
Mundt
Saxbe
Spong
Stafford
Taft
Williams

So Mr. Scott's motion to lay Mr. Church's amendment on the table was agreed to.

Mr. MANSFIELD. Mr. President, for the information of the Senate, I think the votes from now on will require only 10 minutes.

Mr. SCOTT. And, Mr. President, there are three more votes to come, as I understand it.

Mr. MANSFIELD. That is correct.

The PRESIDING OFFICER (Mr. Stevenson). The question now recurs on agreeing to the amendment of the Senator from Pennsylvania.

Mr. FULBRIGHT. I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the negative). On this vote I have a pair with the Senator from Virginia (Mr. Spong). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." After having voted in the negative, I would vote "yea." Therefore, I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Minnesota (Mr. Humphrey), the Senator from South Dakota (Mr. McGovern), the Senator from Montana (Mr. Metcalf), the Senator from Virginia (Mr. Spong), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. Jordan), and the Senator from Wyoming (Mr. McGee) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey) and the Senator from South Dakota (Mr. McGovern) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senators from Ohio (Mr. Saxbe and Mr. Taft) and the Senator from Vermont (Mr. Stafford) are absent on official business to attend the Interparliamentary Union meetings.

The result was announced—yeas 56, nays 32, as follows:

[No. 468 Leg.]

YEAS—56

Aiken
Allen
Allott
Anderson
Baker
Beall
Bellmon
Bennett
Boggs
Brock
Brooke
Buckley
Cannon
Cook
Cooper
Cotton
Curtis
Dole
Dominick
Eastland
Edwards
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hartke
Hollings
Hruska
Jackson
Javits
Jordan, Idaho
Long
Magnuson
Mathias
McIntyre
Miller
Mondale
Montoya
Moss
Packwood
Pearson
Percy
Ribicoff
Roth
Schweiker
Scott
Smith
Sparkman
Stennis
Stevens
Thurmond
Tower
Weicker
Young

NAYS—32

Bayh
Bentsen
Bible
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Church
Cranston
Eagleton
Ervin
Fulbright
Gambrell
Gravel
Harris
Hart
Hatfield
Hughes
Inouye
Kennedy
McClellan
Muskie
Nelson
Pastore
Pell
Proxmire
Randolph
Stevenson
Symington
Talmadge
Tunney

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, for

NOT VOTING—11

Humphrey
Jordan, N.C.
McGee
McGovern
Metcalf
Mundt
Saxbe
Spong
Stafford
Taft
Williams

So Mr. Scott's amendment, as modified (No. 1573), was agreed to.

The PRESIDING OFFICER. The question now is on the amendment of the Senator from Mississippi, which the clerk will state.

The assistant legislative clerk read the amendment, as follows:

> On page 19, line 11, strike all down to and including line 24, and renumber the succeeding sections accordingly.

Mr. STENNIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STENNIS. The amendment as now refers, does it not, to section 13 on page 19?

The PRESIDING OFFICER. The Senator is correct.

Mr. STENNIS. To strike it out.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Mississippi. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. COOK (when his name was called). On this vote I have a pair with the Senator from Ohio (Mr. Taft). If he were present and voting, he would vote "yea;" if I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. STEVENS (when his name was called). On this vote I have a pair with the Senator from Ohio (Mr. Saxbe). If he were present and voting, he would vote "yea;" if I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Minnesota (Mr. Humphrey), the Senator from South Dakota (Mr. McGovern), the Senator from Montana (Mr. Metcalf), the Senator from Virginia (Mr. Spong), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. Jordan), and the Senator from Wyoming (Mr. McGee) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey), the Senator from South Dakota (Mr. McGovern), the Senator from New Jersey (Mr. Williams), and the Senator from Virginia (Mr. Spong) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senators from Ohio (Mr. Saxbe and Mr. Taft) and the Senator from Vermont (Mr. Stafford) are absent on official business to attend the Interparliamentary Union meetings.

The respective pairs of the Senators for Ohio (Mr. Saxbe and Mr. Taft) have been previously announced.

The result was announced—yeas 45, nays 43, as follows:

[No. 469 Leg.]

YEAS—45

Aiken
Allen
Allott
Anderson
Baker
Beall
Bellmon
Bennett
Boggs
Brock
Brooke
Buckley
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cooper
Cotton
Curtis
Dole
Dominick
Eastland
Edwards
Ervin
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hruska
Jackson
Jordan, Idaho
Long
McClellan
Miller
Packwood
Roth
Scott
Smith
Sparkman
Stennis
Talmadge
Thurmond
Tower
Weicker
Young

NAYS—42

Bayh
Bentsen
Bible
Burdick
Cannon
Case
Chiles
Church
Cranston
Eagleton
Fulbright
Gambrell
Gravel
Harris
Hart
Hartke
Hatfield
Hollings
Hughes
Inouye
Javits
Kennedy
Magnuson
Mansfield
Mathias
McIntyre
Mondale
Montoya
Moss
Muskie
Nelson
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Stevenson
Symington
Tunney

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Cook, against.
Stevens, against.

NOT VOTING—11

Humphrey
Jordan, N.C.
McGee
McGovern
Metcalf
Mundt
Saxbe
Spong
Stafford
Taft
Williams

So Mr. Stennis' amendment was agreed to.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STENNIS. Mr. President, I move to lay that motion on the table.

Mr. PASTORE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the motion to table the motion to reconsider. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. STEVENS (when his name was called). On this vote I have a pair with the Senator from Ohio (Mr. Saxbe). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. MANSFIELD (after having voted in the negative). On this vote I have a pair with the Senator from Virginia (Mr. Spong). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Minnesota (Mr. Humphrey), the Senator from South Dakota (Mr. McGovern), the Senator from Montana (Mr. Metcalf), the Senator from Virginia (Mr. Spong), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. Jordan), and the Senator from Wyoming (Mr. McGee) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senators from Ohio (Mr. Saxbe and Mr. Taft) and the Senator from Vermont (Mr. Stafford) are absent on official business to attend the Interparliamentary Union meetings.

The pair of the Senator from Ohio (Mr. SAXBE) has been previously announced.

The result was announced—yeas 45, nays 42, as follows:

[No. 470 Leg.]

YEAS—45

Aiken
Allen
Allott
Anderson
Baker
Beall
Bellmon
Bennett
Boggs
Brock
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Cook
Cooper
Cotton
Curtis
Dole
Dominick
Eastland
Edwards
Ervin
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hruska
Jackson
Jordan, Idaho
Long
McClellan
Miller
Packwood
Roth
Scott
Smith
Sparkman
Stennis
Talmadge
Thurmond
Tower
Weicker
Young

NAYS—42

Bayh
Bentsen
Bible
Brooke
Burdick
Cannon
Case
Chiles
Church
Cranston
Eagleton
Fulbright
Gambrell
Gravel
Harris
Hart
Hartke
Hatfield
Hollings
Hughes
Inouye
Javits
Kennedy
Magnuson
Mathias
McIntyre
Mondale
Montoya
Moss
Muskie
Nelson
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Stevenson
Symington
Tunney

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Mansfield, for.
Stevens, against.

NOT VOTING—11

Humphrey
Jordan, N.C.
McGee
McGovern
Metcalf
Mundt
Saxbe
Spong
Stafford
Taft
Williams

So the motion to table the motion to reconsider was agreed to.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on final passage.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The VICE PRESIDENT. The question is on the engrossment of the committee amendment, as amended, and third reading of the bill.

The amendment, as amended, was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

The VICE PRESIDENT. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered, and the Clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS (when his name was called). On this vote I have a pair with the Senator from Ohio (Mr. SAXBE). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I withhold my vote.

Mr. MANSFIELD (after having voted in the negative). On this vote I have a pair with the Senator from Virginia (Mr. SPONG). If he were permitted to vote, he would vote "nay." If I were permitted to vote, I would have voted "nay," after having voted in the negative. Therefore, I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Virginia (Mr. SPONG), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) and the Senator from North Carolina (Mr. JORDAN) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senators from Ohio (Mr. SAXBE and Mr. TAFT) and the Senator from Vermont (Mr. STAFFORD) are absent on official business to attend the Interparliamentary Union meetings.

If present and voting, the Senator from Ohio (Mr. TAFT) would vote "yea."

The pair of the Senator from Ohio (Mr. SAXBE) has been previously announced.

The result was announced—yeas 46, nays 41, as follows:

[No. 471 Leg.]

YEAS—46

Aiken
Allott
Baker
Beall
Bellmon
Bennett
Bentsen
Boggs
Brock
Brooke
Buckley
Cannon
Case
Cooper
Cotton
Dole
Dominick
Eastland
Edwards
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Jackson
Javits
Mathias
Miller
Moss
Muskie
Packwood
Pastore
Pearson
Percy
Ribicoff
Roth
Schweiker
Scott
Smith
Sparkman
Stennis
Thurmond
Tower
Weicker
Young

NAYS—41

Allen
Anderson
Bayh
Bible
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
Church
Cook
Cranston
Curtis
Eagleton
Ervin
Fulbright
Gambrell
Gravel
Harris
Hart
Hartke
Hatfield
Hollings
Hruska
Hughes
Inouye
Jordan, Idaho
Kennedy
Long
Magnuson
McClellan
McIntyre
Mondale
Montoya
Nelson
Pell
Proxmire
Randolph
Stevenson
Symington
Talmadge
Tunney

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Mansfield, against.
Stevens, against.

NOT VOTING—11

Humphrey
Jordan, N.C.
McGee
McGovern
Metcalf
Mundt
Saxbe
Spong
Stafford
Taft
Williams

So the bill (H.R. 16029) was passed.

Mr. SCOTT. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GRIFFIN. Mr. President, I move to lay that motion on the table.

Several Senators requested the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider the vote by which the bill was passed. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS (when his name was called). On this vote I have a pair with the Senator from Ohio (Mr. SAXBE). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. MANSFIELD (after having voted in the negative). Mr. President, on this vote I have a pair with the Senator from Virginia (Mr. SPONG). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea," even though I have already voted in the negative. Therefore, I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Rhode Island(Mr. PELL), the Senator from Virginia (Mr. SPONG), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. JORDAN), and the Senator from Wyoming (Mr. MCGEE) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senators from Ohio (Mr. SAXBE and Mr. TAFT) and the Senator from Vermont (Mr. STAFFORD) are absent on official business to attend the Interparliamentary Union meetings.

The pair of the Senator from Ohio (Mr. SAXBE) has been previously announced.

The result was announced—yeas 48, nays 38, as follows:

[No. 472 Leg.]

YEAS—48

Aiken
Allott
Anderson
Baker
Beall
Bellmon
Bennett
Bentsen
Boggs
Brock
Brooke
Buckley
Cannon
Case
Cooper
Cotton
Curtis
Dole
Dominick
Eastland
Edwards
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hruska
Jackson
Javits
Long
Mathias
Miller
Packwood
Pastore
Pearson
Percy
Ribicoff
Roth
Schweiker
Scott
Smith
Sparkman
Stennis
Thurmond
Tower
Weicker
Young

NAYS—38

Allen
Bayh
Bible
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
Church
Cook
Cranston
Eagleton
Ervin
Fulbright
Gambrell
Gravel
Harris
Hart
Hartke
Hatfield
Hollings
Hughes
Inouye
Jordan, Idaho
Kennedy
Magnuson
McClellan
McIntyre
Mondale
Montoya
Moss
Muskie
Nelson
Proxmire
Randolph
Stevenson
Symington
Talmadge
Tunney

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Mansfield, for.
Stevens, against.

NOT VOTING—12

Humphrey
Jordan, N.C.
McGee
McGovern
Metcalf
Mundt
Pell
Saxbe
Spong
Stafford
Taft
Williams

So Mr. GRIFFIN's motion to lay Mr. SCOTT's motion to reconsider on the table was agreed to.

FOREIGN POLICY AND FOREIGN INVOLVEMENT

(The following proceedings, which occured during the debate on the Foreign Assistance Act of 1972, are printed at this point in the RECORD by unanimous consent.)

Mr. FULBRIGHT. Mr. President, by coincidence, in the Washington Post on September 24, two very significant books were reveiwed, and I ask unanimous consent that both of the reviews be printed in the RECORD.

Both reviews are extremely well written, one by Mr. Victor Navasky and the other by Mr. Richard Walton.

There being no objection, the book reviews were ordered to be printed in the RECORD, as follows:

LUCE AND HIS EMPIRE—REVIEW

(By Victor S. Navasky)

When Henry Luce suffered a heart attack in February 1958, some nine years before he died, it was reported instead that his influenza had escalated into pneumonia. "News of his heart attack, it was felt, might affect Time stock adversely," explains W. A. Swanberg, biographer of Hearst and Pulitzer, in his excellent new biography, *Luce and His Empire*.

As everybody knows and as Swanberg documents in devastating and engaging detail, playing fast-and-Luce with the truth was an integral part of the system. In the words of one old Timer, "My writing was sent on to editors who rewrote it completely, turned it into sausage meat, so to speak, and then stuffed it into the magazine." Luce answered critics of Time's lack of objectivity by pointing out,

> I am a Protestant, a Republican and a free-enterpriser, which means I am biased in favor of God, Eisenhower and the stockholders of Time, Inc.—and if anybody who objects doesn't know this by now, why the hell are they still spending 35 cents for this magazine?

So it was altogether fitting and proper on the possible eve of his meeting with the God that he prayed to every morning while solo-riding the 36 floors to his office, that Time, Inc.'s spokesmen should reflexively place the interests of its shareholders ahead of any sissy commitment to so-called facts.

In fact, although no new journalist he, Henry Luce was on numerous occasions the opponent of mere objective fact ("the hell with objective facts," he once said), favoring a more long-range notion of truth. After the Eisenhower-Nixon landslide of 1952, for instance, he told the Union Club that the American press "shared the guilt on the loss of China to the Communists and the ensuing murders of fourteen millions by them, because the press had given the correct objective fact that the Chiang regime was corrupt and had failed to give the more vital value judgment that corrupt as it was, it was infinitely to be preferred over the Communist."

Luce's theory of the More Vital Value Judgment has, in the abstract, much to be said for it. But in the concrete, of course, it presents some problems. For one thing, how many Americans would spend 50 cents for "Time, the Weekly Vital Value Judgment Magazine"? For another, there is the tendency to permit Luce-values to infect Luce-vision. Consider, for example, Luce's prediction (as revealed in one of the many previously unpublished memos unearthed by the author, who had access to many confidential Lucepress files) that, "After Chiang Kai-shek has landed and maintained himself for three months on the mainland, the Communist menace to Asia will be finished and the whole of Asia will turn anti-Communist."

As a matter of fact, consider Luce's and his magazines' Vital Value Judgments on any number of the major men and issues and events of our time: on fascism ("The moral force of fascism," predicted Luce, "appearing in totally different forms in different nations, may be the inspiration for the next general march of mankind"); on Mussolini ("The outstanding national moral leader in the world today is Mussolini," Luce told a group of Rochester businessmen in March of 1928); on Hitler (Time dismissed Winston Churchhill's warnings against Hitler and Naziism as the "verbal postures" of electioneering); on Munich (Time praised the pact, saying it was easy for those not threatened to criticize); on McCarthy (contrary to popular mythology, the Lucepress gave McCarthy more support than opposition throughout his career," concludes Swanberg. As late as 1952 Luce said, "If you find even one Red under the bed—or in the State Department you disqualify the term witch-hunt." He began to lose patience with McCarthy only after he hired Harvey Matusow, who charged "76 hardcore reds" on Time's staff, which Swanberg notes was just about as reliable as Matusow's charge that there were 126 dues-paying Communists on the Sunday staff of The New York Times, which actually consisted of 93 employees).

The Lucepress was anti-U.S. recognition of the U.S.S.R. long after it had been recognized by other major powers including Italy and Germany; its misleading and incessant propaganda over the so-called fall of China laid the foundations for the McCarthy era and contributed in a profound way to our involvement in the Vietnam war. As Swanberg demonstrates in brilliant detail, "In . . . Vietnam . . . the Lucepress had led, not followed, the nation into war.

. . . It was the propagandist voice of one man, not elected to office, speaking to fifty million people weekly. Not only was Time wrong on Vietnam, but it tampered with the copy of and lost the services of its field correspondents who were right (even as it had lost the services of Theodore White some years earlier for being right about the corruption of and lack of popular support for Chiang).

A lesser man might have had his faith in his ability to render Vital Value Judgments shaken by such a record, but not Henry Robinson Luce. He had, after all, survived life as a missionary's son in China, as a stammerer at Hotchkiss, as a Yalie Daily heeler and eventual managing editor, as a student in English 40 in competition with his partner-rival Briton Hadden (who was elected Chairman of the News), Stephen Vincent Benet, Thornton Wilder and Walter Millis; and a second marriage as husband to the editor-playwright-congresswoman-beauty, Clare Booth Luce (who on being asked whether Luce was leaving her for Lord Beaverbrook's 24-year-old granddaughter, Lady Jean Campbell, replied that if Luce married Lady Jean, "That I would marry Lord Beaverbrook and become my husband's grandmother"). Moreover, he had outlived Hadden and gone on to preside over the Lucepress with its 50,000,000 readers. In that capacity, at his peak, speculates Swanberg, Luce was "not entirely without justification in feeling that he was the best-informed man on earth." Anyway, far from harboring self-doubts in his last years, as Time drama critic Louis Kronenberger noted,

> . . . when he expressed an opinion or came forth with an idea, he clearly expected to be agreed with; and should agreement be less than total, he was honestly surprised. There was nothing of the dictator involved, only of the sovereign—of, say, Queen Victoria.

This is more than a penetrating biography of Luce, giving a richer and more vivid picture of the Lucepress than we have had from the battalion of biographers, memorists, alumni-novelists, and even the official historian, who have come before, and yet it is less than a serious or systematic exploration of the critical issues it raises. Swanberg makes abundantly clear that the Luce newsmachine recycled facts into propaganda. But what *is* the middle ground between illusory objectivity and camouflaged opinion? If it is something called "fairness" how is that achieved and what is the criteria for recognizing it? *Is* group journalism inherently irresponsible? Was news-slanting from the right an accidental or necessary-to-the-success part of the Time formula?

Could there have been a left-wing Luce in the thirties, forties and fifties—a liberal Time, Life and/or Fortune that would have spoken to 40 or 50 million Americans? What has been the impact of Time on American journalism? On overseas perspective on America? What, for that matter, has been the impact of Newsweek on Time? Will a Luce-less Time/Life/Fortune empire respond to the whims of some future or perhaps present presslord, or is there some more profound journalistic principle at work in the interstices of the machinery and bureaucracy Luce created?

We know that after Luce's death the Lucepress abandoned the Vietnam war but we know that *before* Luce's death Time had abandoned the near anti-Semitism and paranoid anticommunism of the Laird Goldsborough and Whittaker Chambers eras. Was this primarily a matter of personnel, a response to the post-cold-war years, an inevitable-if-gradual assertion of the truth-value which lies at the core of the profession, a victory for the liberals who have populated Time Inc.'s middle and upper management levels, a generational phenomenon, or what? I wish that Swanberg had had the room or inclination to deal directly and in depth with matters like these, but never mind. He has avoided Timeglib and given us an honest book. No student of journalism can afford not to read this illuminating study, no reader of Time should be allowed to forgo it and no detractor will want to.

When T. S. Mathews, a trusted but tortured Time managing editor, selected a friend of Whittaker Chambers to review the former foreign news editor's controversial book, *Witness*, he took the reviewer (who like himself was the son of an Episcopal bishop) to early communion at the Church of St. Mary the Virgin on 47th Street, where they prayed that the review would be a worthy one. I'm not sure what plans if any Time Inc. has for reviewing *Luce and His Empire*, which is unquestionably not the book they expected when they let Swanberg into the files. But that being the case, perhaps this time the wiser course of action might be for the reviewer to forgo communion, write his review and then, if necessary, resort to confession.

HOW CHINA WAS "LOST"

(By Richard J. Walton)

John Paton Davies has written an absolutely superb book. Anyone who appreciated Barbara Tuchman's splendid *Stilwell and the American Experience in China* will find this at least as fascinating. Indeed, it is even more illuminating of the compound of ignorance, illusion and dogma that led to the horror of Vietnam.

Davies, of course, is one of the Foreign Service officers whose careers were sacrificed by the Eisenhower-Dulles administration in a futile, and self-defeating, attempt to propitiate the insatiable Joe McCarthy and his cohorts. The irony is awful. What Davies and the others wanted to do was intended to keep China out of Stalin's camp, what the self-righteous anti-Communists did inevitably drove Mao into Stalin's arms. In short, the terrible agony of Korea and Vietnam *might* have been avoided if, instead of substituting doctrine for reality, the United States had faced the facts in China. This has long been clear but never have I read an account that so certainly documents it.

There is no trace of bitterness or of self-justification in Davies' memoir, an achievement as rare as it is welcome. Indeed, he doesn't even mention his mistreatment. He simply tells what happened during his long years in China in a graceful, literate prose that is balanced, ironic and often amused. These pages stand alongside the very best of George Kennan's and make me wonder again why America so often prefers the mediocre to the first-rate, why excellence is discarded and the inferior person rewarded for each disaster with the opportunity, seldom refused, for still greater disaster.

Davies' book is consistently superior. His reporting from China as a young Foreign Service officer is very good both in form and content, but it is his service as Joseph Stilwell's political officer that is of major historical importance. He dealt not only with Stilwell but with Roosevelt, Hopkins, Chiang, Soong, Hurley, Wedemeyer, Wallace, Willkie, everyone of importance to the war in Asia, and he discusses them all with cool appraisal, few of them admiringly. His perception of the chaos of war makes you wonder how anyone ever wins, and his picture of the Byzantine dealings and double-dealings, the posturings of the political and military potentates is almost as funny as it is melancholy.

But above all, Davies saw at the outset what was going on in China. It was clear to him that Chiang Kai-shek, despite his heroic image in the United States, was very little interested in fighting the Japanese but regarded the war as a providential opportunity to strengthen himself for the postwar struggle with the Communists. Thus, he drove every American who had to deal with him up the wall. But as Davies perceived, Chiang's slippery refusal to reform his corrupt and incompetent government—he was fearful that reform would weaken his grasp on so ephemeral an instrument—was the cause of his eventual downfall. Chiang's refusal to give Stilwell the authority to remake the Nationalist armies inevitably made those armies, despite their vast superiority in numbers and arms, ineffectual in combating the Communists who, for the first time in Chinese history, were identifying the governors with the interests of the governed. The uncritical support of Chiang by his idolators in the United States contributed not to his triumph but to his defeat.

Early in the war Davies and other realistic observers recognized that the trend was in Mao's favor and against Chiang. They advocated that the U.S. not tie itself to a sinking ship of state but take steps to develop a relationship with Mao that would keep him away from Stalin. For their part, Mao, Chou and other Communist leaders wanted to deal with the United States; they were not at all eager to fall into Stalin's grip. Their nationalism counted for more than their communism.

As Davies and his colleagues pointed out in their accurate reports, only America could keep the Chinese Communists from becoming Russian satellites. Stalin knew that too. He would have preferred a divided China (that long-disputed border)—which is why he supported Chiang—but he also knew that Mao would have no choice but to turn to him if the Americans supported a doomed Chiang. That, of course, is exactly what happened. As the war against Japan ended, the U.S., despite protestations that it was doing no such thing, intervened on the side of Chiang. China was "lost" not because the U.S. aided the Communist but because it refused to have anything to do with them. Thus, the course of history was changed; thus, the Korean and Vietnam wars. The final irony is the visit to both Peking and Moscow of that quintessential anti-Communist of yesteryear, Richard Nixon.

In his reports, which he quotes in detail, Davies foresaw all this, and because he and his colleagues wrote so perceptively, honestly and accurately, they ended up in disgrace, just as, decades later, young men who opposed an obscene war languished in jail or exile, while those who prosecuted the war occupied seats of honor and power.

Perhaps it is some consolation to Davies and others so injured that history has vindicated them. This book is an invaluable inside look at one of the most momentous chapters of American and world history.

Mr. FULBRIGHT. It is extremely interesting and coincidental that on the same day, the review of the book entitled "Luce and His Empire" by W. H. Swanberg appears right next to a review of a book called "Dragon By the Tail," by John Paton Davies, Jr., the review being written by Richard J. Walton. This review is headlined "How China Was 'Lost'."

If you read these two reviews together—they are extremely well done, and I am sure the books are now available—recounting two of the most significant historical discussions of the background to the policy that has led us to the tragic and disastrous condition in which we find ourselves today, in which we are bogged down in a land war in Asia which has cost us already, I expect, about $200 billion; and there is no end in sight.

We wonder how we got in this situation? The Senator from Pennsylvania, a moment ago, was saying we inherited the war, that this administration inherited it. It did inherit it. The preceding administration inherited many of the elements of the war, and the elements go back, and are traced in these two books, back in the 1930's, the 1940's, and through the years.

The review of Mr. Luce's book is a fascinating one, because all of us who have been in public life are aware of the tremendous influence that Time magazine and its affiliates, Fortune and others, have had upon the public opinion of this country.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. FULBRIGHT. I yield myself such time as I may require.

How that fits in with the book by Mr. John Paton Davies is that it so happens that Mr. Davies was one of the principal victims of the propaganda which appeared, over the years, in the Luce publications. Davies was not the only one, but he is a classic example of the persecution of our most intelligent Foreign Service officers by the kind of propaganda which Luce and Time magazine so efficiently used, and which so effectively poisoned the mind of America for some 30 years.

I think it will be very interesting to Senators to see these two books, and especially these reviews, presented together.

I also ask unanimous consent to have printed in the Record another book review, written by Mr. Walter Clemons, of the book entitled "Luce and His Empire" by Mr. Swanberg. It is a little different type of review, published in Newsweek magazine, but it is all about the same book.

There being no objection, the book review was ordered to be printed in the Record, as follows:

CITIZEN LUCE

(By Walter Clemons)

"I am going to get into the fourth form . . . I must. I will. And God has, is, and will help me. Just take my 100% in Algebra. It was all God." Even as a schoolboy, W. A. Swanberg observes, Henry Luce exhibited "a formidable familiarity with God" that was to sustain him throughout his journalistic career. Born in China in 1898, he inherited from his Presbyterian missionary father the "mischief-making politico-theological doctrine . . . that God had given America His particular blessing and had entrusted the nation to spread not only Christianity but democracy." Missionary zeal, Swanberg suggests, was the force that propelled Luce.

Both as biography and as corporate history, "Luce and His Empire" is riveting. As a scholarship boy at Hotchkiss with a nervous stammer, young Harry Luce entered into uneasy friendship with the more brilliant and popular Briton Hadden, against whom he was pitted for seven years at prep school and Yale. When these two founded Time in 1923, a cheeky, 28-page rewrite of world events lifted from the previous week's newspapers, Hadden was the journalist ("For him, no joy could surpass that of polishing his own—or someone else's—copy into lines that crackled") while journalism was for Luce only one of several possible paths to power and public office. One of the surprises of Swanberg's history is Luce's resistance as late as 1935, long after economy was a factor, to forming his own newsgathering organization. "Time is a rewrite sheet," insisted Luce, to whom facts were secondary to opinion-shaping.

Hadden and Luce were millionaires by 30. But the partners, "lashed together in triumph," were in fundamental disagreement. Fortune magazine, which Luce first called Power, was his creation, as Time had been Hadden's, and a vehicle for separating himself from Hadden within their organization. Hadden's death due to blood poisoning in 1929 resolved their conflict just as Time entered a period of success unaffected by the Great Depression, and Luce hit his stride as missionary-ideologue-propagandist.

We have largely forgotten what '30s Luce journalism was like, and Swanberg provides eye-popping specimens. Time's Foreign News under Laird S. Goldsborough viewed Hitler with good-humored indulgence, backed Franco and ridiculed the resistance of "savage and illiterate" Ethiopian "blackamoors" to Mussolini's 1934 invasion. Fortune devoted an entire 1934 issue to Italy under the "brilliant" Duce: "Other nations falter or reel hysterically in search of unity. Italy is calm and united under the emblem of common strength and effort which is Fascism . . . With uplifted hearts and Augustan pride the wops are unwopping themselves."

MANIA

By this time Luce was also embarked on what Swanberg calls "the supreme but futile effort of his life." The Christianization of China under Chiang Kai-shek was "a dream that glowed like the Grail. It represented the consummation of the work his father and mother had begun when they sailed for China in 1897." Luce's infatuation with the Chiangs was irreverently known as "Harry's mania" among his colleagues. Swanberg argues that by putting Chiang on Time's cover a record seven times between 1927 and 1948, by tireless lobbying on his behalf, Luce was the prime mover in U.S. support for the Kuomintang. In furnishing scapegoats for the "loss of China," he further suggests, "probably more than any other single force, the Lucepress channeled the groping and disorganized emotions of American distress into McCarthyism."

Swanberg is both amusing and humane about Luce's personality: his relentless curiosity, his humorlessness, his absentmindedness about food and dress (the first Mrs. Luce once called his secretary to ask, "Would you see if Mr. Luce is wearing one brown shoe and one black?"—he was). Working for Luce could be nerve-racking; at luncheons Luce would pick out a hapless staffer and fire questions at him until he became absorbed in his own thoughts and lapsed into a monologue, "dreadfully boring but better than being on the witness stand." A summons to his office for quick answers to tough questions was known as the Terror, the Rack or the Last Judgment.

"For some godam reason Republicans can't write," the conservative Luce replied when asked why he had so many liberals on his staff. He drove some of the best of them away during the '40s, notably John Hersey and Theodore White, and at a dinner in 1952 for the entire Time staff, many of whom had supported Stevenson against the Boss's choice, Eisenhower, he delivered a swaggering, resentful speech: "I introduce myself to you as your boss . . . I guess that means I could fire any of you . . ."

His lonely, irritable last years were brightened by experiments with LSD, in which his wife, Clare, joined him.

Good as it is, "Luce and His Empire" is disfigured by polemic. While Swanberg says it would be "excessive" to say that without Luce there would have been no China Lobby, no Sen. Joseph McCarthy, no national hysteria over Asian Communism, in effect he seems to attribute every national mistake in more than three decades to Luce's unascertainable power over the American mind. A portentous purple passage worthy of Time at its Lucest describes "the Luce-press . . . permeating the atmosphere with an informational smog so expertly generated that for a time the only smarting eyes and protesting lungs seemed those of a few discerning Democrats, radicals, collegians and labor leaders." Swanberg rhetorically asks "how much of the cost to America in its staggering decay of democracy, law, national unity and spirit" can be laid to Luce's journalism, then leaves the question hanging. Once he even allows himself to call Vietnam "his war"—that is, Luce's.

In indicting Luce for the manipulation of opinion, his biographer should be above reproach. When the German Der Spiegel referred to Luce as one of the U.S.'s seven most powerful men, Swanberg comments: "That business of being among the seven most powerful must have interested Luce. Who in hell were the other six?" And who in hell, a reader may wonder, is the authority for that last sentence? Swanberg here invents a sentiment for Luce in the style of the notorious unidentified bystander in Time stories who used to speak conveniently for the management. I don't admire Luce any more than Swanberg does. I'm only sorry to see Swanberg resorting to some of Luce's techniques.

Mr. FULBRIGHT. It is a very fascinating observation about how it is that we find ourselves in this extremely serious foreign policy situation.

Mr. President, does the Senator from Pennsylvania wish to take the floor at this time? I was going to comment rather loosely upon some of his previous remarks, but I do not wish to inconvenience the Senator.

Mr. SCOTT. No, I have no objection. The Senator can go right ahead and be loose, and I shall be back in a moment.

Mr. FULBRIGHT. Perhaps, since the Senator is leaving the floor, I should reserve these remarks until he returns, so I shall delay just a moment.

Since I was speaking of "Luce and His Empire," it is rather interesting that in the insertion I put in the Record yesterday at page S15787, it will be noted that among the commodities approved for funding under U.S. grant agreements with Cambodia through March 1972, Time magazine was one of the commodities which the foreign aid bill helped to pay for, to send into Cambodia.

There are many other things: air-conditioning equipment, of course, and battery chargers and all kinds of accounting machines, padlocks, brewery supplies, bottle tops—$19,000 worth of bottle tops—cellophane tape, cigarette manufacturing materials is a very minor one, garden hose, adding machines, calculators, typewriters, pen refills—4 million pen refills for the 7 million people in Cambodia. Colored plumbing fixtures, and so on. I presume that it is a sort of self-perpetuating empire we build: We put so much money into these countries under the aid bills that then they are in a position to order colored plumbing fixtures from the United States as in the case of Cambodia, where I am sure they are great status symbols.

So there are many other things besides bribes to opposition legislators that this bill will pay for, and we ought to be very proud of the great contributions we make to the societies of these various countries, especially in Southeast Asia.

(This marks the end of the proceedings which occurred during the debate on the Foreign Assistance Act of 1972 and which by unanimous consent were ordered to be printed at this point in the Record.)

CONSUMER PROTECTION ORGANIZATION ACT OF 1972

The PRESIDING OFFICER (Mr. Roth). Under the previous order, the Chair now lays before the Senate the unfinished business, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 3970) to establish a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and serve the interests of consumers, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration. The Senator from Montana is recognized.

Mr. MANSFIELD. Mr. President, I yield to the Senator from Alabama without relinquishing my right to the floor.

VISIT TO THE SENATE BY MEMBERS OF THE SWEDISH RIKSDAG

Mr. SPARKMAN. Mr. President, I would like to introduce a distinguished group of visitors to the U.S. Senate. This lady and these gentlemen are participants in a study visit to the United States and Canada and are members of the Committee on Constitutional Matters of the Swedish Riksdag.

I might say they came in just as we started on this series of votes on the foreign assistance bill, so they have had quite a remarkable experience, I think, in seeing how Senators vote.

I present: Mr. Erik Adamsson, Mr. Erik Nelander, Mr. Allan Hernelius, Mrs. Gunbjörg Thunvall, Mr. Karl Boo, Mr. Hilding Johansson, Mr. Holger Mossberg, Mr. Mårten Werner, Mr. Olof Svensson, Mr. Bertil Fiskesjö, Mr. Gusti Gustavsson, Mr. Björn Molin, Mr. Martin Olsson, Mr. Bernt Nilsson, and Mr. Åke Wictorsson.

[Applause, Senators rising.]

RECESS

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the Senate stand in recess in order that my colleagues may have the opportunity to greet these distinguished foreign visitors.

The PRESIDING OFFICER. Without objection, the Senate will stand in recess subject to the call of the Chair.

Whereupon, at 2:49 p.m., the Senate took a recess subject to the call of the Chair.

The Senate reassembled at 2:54 p.m. when called to order by the Presiding Officer (Mr. Roth).

PROGRAM

Mr. AIKEN. Mr. President, may I ask the majority leader what the schedule is for the rest of the day, the rest of the week, the rest of the month, and possibly the rest of the year?

Mr. MANSFIELD. Mr. President, the question raised is too all-encompassing, but I believe the pending business now is S. 3970. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. MANSFIELD. It is the intention of the joint leadership on tomorrow to call up H.R. 1 and make it the first track in legislation.

We hope, also, that it will be possible to get to the rivers and harbors bill this week.

The pension bill is in a state of limbo at the present time. We do not know what the situation is.

It is anticipated that the foreign assistance appropriations bill will be reported to the full committee probably on Wednesday, that the Labor-HEW appropriations will be reported on Monday or Tuesday to the full committee, and that the Defense appropriations will be reported to the full committee on Thursday of this week.

Military construction appropriations will come up next week.

Supplemental appropriations will come up the week after that.

The debt ceiling will come in there, and there will be conference reports in the meantime.

Somewhere in between these measures, H.R. 13915 will be called up.

Mr. AIKEN. I thank the majority leader. Hopefully, all the work he has laid out may be accomplished in less time than he has indicated.

Mr. MANSFIELD. I hope so.

Mr. ALLEN. Will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. ALLEN. Reserving the right to make comment, if I say, I would like to point out to the distinguished majority leader that the practice of maintaining a second track, as the Senators from Alabama has pointed out to the distinguished majority leader, could well prevent the Senate from being given an opportunity to vote on H.R. 13915.

Mr. MANSFIELD. It is the intention of the joint leadership to put the so-called equal educational opportunity bill on the first track when it is called up.

Mr. ALLEN. Does the Senator mean by "first track" the unfinished business, which would come from its having been once the pending business?

Mr. MANSFIELD. The Senator is correct.

Mr. ALLEN. It is the intention of the leadership to make the equal educational opportunity bill the pending business at a time when there is no unfinished business?

Mr. MANSFIELD. The Senator is correct.

Mr. ALLEN. So that it could then move to the status of unfinished business?

Mr. MANSFIELD. The Senator is correct.

Mr. ALLEN. If the distinguished majority leader would bear with the junior Senator from Alabama one moment more, could the distinguished majority leader give the junior Senator from Alabama and those who are greatly interested in this measure some indication of what would be left for consideration by the Senate at the time this bill is made the unfinished business?

Mr. MANSFIELD. No, I cannot. It would depend on what the situation is at the time. It could be the debt ceiling. It could be an appropriation bill. It could be a continuing resolution. It could be a number of bills. But the Senator need have no concern that there will not be enough, at least in the leadership's opinion, to make sure that the leadership is not attempting an end run around the proponents of this measure.

Mr. ALLEN. Then, "must" legislation will be on the Calendar, and by must legislation, the junior Senator from Alabama means legislation that must of necessity pass the Senate prior to sine die adjournment. Must legislation will be on the Calendar at the time the equal educational opportunity bill is made the unfinished business?

Mr. MANSFIELD. Yes. It would come from the listing of the legislation I have just given the Senate.

Mr. ALLEN. But some must legislation would be back of this bill?

Mr. MANSFIELD. Yes. The Senator is correct.

Mr. ALLEN. I thank the distinguished majority leader for that assurance. At a somewhat later date, then, the majority leader could be a little more specific, could he not, in all likelihood, on this point?

Mr. MANSFIELD. Yes, indeed. As the Senator knows, the joint leadership has indicated that it will endeavor to give him and the Senate sufficient notice.

Mr. ALLEN. I thank the distinguished majority leader for the cooperation he has given us in connection with this matter and his firm assurances that we will be given an opportunity to have this matter considered by the Senate as the unfinished business before the Senate, so that it could not be cut off by the plea of one Senator.

Mr. MANSFIELD. Yes, and before sine die adjournment.

Mr. ALLEN. I thank the Senator.

Mr. President, I ask unanimous consent to have printed in the Record a letter addressed by me to the distinguished majority leader on September 25, 1972, in connection with H.R. 13915.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., September 25, 1972.

Re H.R. 13915.

Hon. Mike Mansfield,
Majority Leader, U.S. Senate,
Washington, D.C.

Dear Senator Mansfield: I greatly appreciate the Joint Memorandum of understanding between you and Senator Scott which was inserted in the Congressional Record on September 15, 1972, and also the statements that you made in colloquy with me on that occasion, all having to do with the scheduling for consideration by the Senate of the Equal Educational Opportunity Bill, H.R. 13915. The Joint Leadership has a tremendous responsibility in scheduling legislation, especially in the closing days of a Congress, and I recognize and appreciate this.

H.R. 13915 is a most important piece of legislation that directly affects school children throughout the nation, the quality of education they receive and their health and welfare. Millions of people throughout the country, in my judgment, place this piece of legislation at or near the top in priority of all the measures now pending before the Congress.

In looking forward and considering the possible order of scheduling of the remaining legislation, it occurs to me that by use of the two track system, any bill which is not the unfinished business, but on the second track, is in daily jeopardy, for it would have to have its life or pendency before the Senate renewed each day by unanimous consent. Thus, if H.R. 13915 is presented on the second track, one Senator could, on any day, prevent further consideration of the measure on the next day. Such a situation would make it impossible for a practical standpoint to bring the bill to a vote.

I would like to see the two track system continue if it would expedite the business of the Senate. However, if its continued use would jeopardize full consideration and a possible vote on the merits of H.R. 13915, then I respectfully submit that I would like to see an end put to the use of the two track system for the remainder of this session.

If we could be sure that H.R. 13915 will be made the unfinished business (either by making it the pending business at a time when there is no unfinished business or by the leadership moving to supplant the unfinished business with this measure), at a time when there are several "must" bills remaining on the Senate calendar, this would prevent the measure being withdrawn from Senate consideration by one Senator desiring to do so, and it is the only way to assure a fair chance of a vote thereon.

I hope that an agreement can be reached whereby H.R. 13915 will move to *unfinished business* status at an early date. In my judgment, such action on the part of the leadership would be in line with your memorandum and the colloquy following it.

Respectfully,

James B. Allen.

Mr. MANSFIELD. Mr. President, I now yield to the Senator from Nebraska (Mr. Hruska).

EXTENSION OF LIFE OF THE COMMISSION ON CIVIL RIGHTS—CONFERENCE REPORT

Mr. HRUSKA. Mr. President, I submit a report of the committee of conference on H.R. 12652, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. Roth). The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12652) to extend the life of the Commission on Civil Rights, to expand the jurisdiction of the Commission to include discrimination because of sex, to authorize appropriations for the Commission, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report, which reads as follows:

Conference Report

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12652) to extend the life of the Commission on Civil Rights, to expand the jurisdiction of the Commission to include discrimination because of sex, to authorize appropriations for the Commission, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 2, 3, 4, 5, 6, 7, and 10.

That the House recede from its disagreement to the amendments of the Senate numbered 8 and 9.

Philip A. Hart,
Roman L. Hruska,
Hugh Scott,
Hiram L. Fong,
Managers on the Part of the Senate.

Emanuel Celler,
Jack Brooks,
William L. Hungate,
William M. McCulloch,
Edward Hutchinson,
Managers on the Part of the House.

Mr. HRUSKA. Mr. President, this bill is designed to extend the life of the Commission on Civil Rights, to expand its jurisdiction in some respects, and to authorize appropriations for the Commission's work.

In all, 10 amendments were considered in the conference. Seven were technical and consisted chiefly of renumbering amendments. The Senate receded on all seven of those amendments.

On amendments 8 and 9, the House receded. The amendments authorized appropriations for the fiscal year 1973 in the amount of $5.5 million, and in the case of fiscal years 1974 through 1978 in annual amounts of $7 million. The House figures in those instances were $6.5 million and $8.5 million, respectively. But the House receded on those two amendments.

Amendment 10 consisted of title II, which was a bill for the protection of the constitutional rights of Government employees. That was one of the chief subjects of discussion during the course of the conference sessions. The parliamentary difficulties which would have been encountered, had that amendment been retained in the other body, would have been quite difficult. There would have been obstacles of a substantial nature at this late hour in the congressional session which might have worked even a greater hardship than they normally would.

It was chiefly out of deference, and not a shortage of conviction on the part of some of the conferees, that the Senate did recede on that amendment, and proceeded to reach an agreement.

Mr. President, I ask unanimous consent that the requirement to print the conference report as a Senate report be waived.

The PRESIDING OFFICER (Mr. Roth). Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I should like to make one observation with respect to the conference report. I cannot agree to it, but I should like to thank the conferees on the part of the Senate who participated in the conference for the fact that they stood by the Senate amendment which consisted of title II until it became apparent to them that if they continued to do so it might jeopardize passage of the legislation entirely and then, and then only, the Senate voted to recede on title II.

This title is one that I hope to get passed in the next session. It embodies what is called the civil rights of Federal employees. I think it is legislation of great importance. It has passed the Senate several times, the last two times without opposition. Thus far, we have been unable to get the House to take action on it. The Senate conferees stood as long as they reasonably could for the position of the Senate and I want to thank them for doing so.

Mr. JAVITS. Mr. President, may I ask the Senator from Nebraska a question? Could we know how the money authorization for the commission stands?

Mr. HRUSKA. Yes. For fiscal year 1973 the House has asked $6.5 million. The Senate version was $5.5 million. The House receded, so the $5.5 million is authorized for this current fiscal year.

For fiscal years 1974 through 1978, the House version was $8.5 million. The Senate version was $7 million—the latter figure prevailed, the House having receded.

Mr. JAVITS. In each case, the Senate figure prevailed.

Mr. HRUSKA. That is correct.

Mr. JAVITS. Does the Senator know whether the agency itself or the commission itself is restive, or that they indicated any opposition?

Mr. HRUSKA. The commission itself?

Mr. JAVITS. Yes.

Mr. HRUSKA. I think it would be safe to say that the Commission on Civil Rights would have preferred the higher figure but the wisdom of the conference was that it should not be so.

Mr. JAVITS. What I meant was, did they react in any way?

Mr. HRUSKA. No, not since the conference.

Mr. JAVITS. Not since the conference. May we know how that compares with what they got in fiscal 1972?

Mr. HRUSKA. I do not have that exact figure available to me right now, but it is an increase.

Mr. JAVITS. The Senator does not know how much, or what the amount is, or anything else? If the Senator would not mind, I should like to find out, so if the Senator would indulge me, it will take only a few minutes, I should like to suggest the absence of a quorum.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HRUSKA. Mr. President, I yield further to the distinguished Senator from New York (Mr. Javits).

Mr. JAVITS. Mr. President, I have ascertained that the figure for 1972, according to the veto of the appropriation bill for HEW, et cetera, was $4,820,000. And the same figure is contained in the so-called new HEW appropriations bill.

I regret that the lowest figure was accepted. I think that the work of the commission is critically important. However, in view of the fact that the commission itself has not seen fit to utter any particularly decided complaint and that the figures exceed $7 million annually and $5.5 million for the first year and exceed the figures provided in the appropriations bill, I shall interpose no further objection.

The PRESIDING OFFICER (Mr. Roth). The question is on agreeing to the conference report (putting the question).

The conference report was agreed to.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in recess until 9 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS BELLMON, CHURCH, MOSS, AND BAYH TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, following the remarks of the two leaders tomorrow under the standing order, the following Senators be recognized, each for not to exceed 15 minutes and in the order stated: Senators Bellmon, Church, Moss, and Bayh.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR ROBERT C. BYRD AND SENATOR SCOTT TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the aforementioned orders, the following Senators be recognized tomorrow for not to exceed 10 minutes: Senators Robert C. Byrd and Scott.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE PROGRAM

Mr. ROBERT C. BYRD. Mr. President, for the information of the Senate, at some time in the afternoon the leadership may, depending on the movement with respect to S. 3970 at that time, decide to take up any one or more of the following measures, on each of which there is a time limitation agreement:

H.R. 10729, an act to amend the Federal Insecticide, Fungicide, and Rodenticide Act.

S. 3987, the Vocational Rehabilitation Act.

S. 3994, a bill to assure that the public is provided with an adequate quantity of safe drinking water.

Mr. President, I just state this as a possibility so that Senators will not feel that all the yea-and-nay votes have been completed for today and that there will be no more. It is possible, even likely, that there could be other yea-and-nay votes today.

Mr. ALLEN. Mr. President, will the Senator yield for a moment?

Mr. ROBERT C. BYRD. Yes. I yield gladly.

Mr. ALLEN. Do I understand that the distinguished and able assistant majority leader mentioned the possibility that the leadership would call up on tomorrow H.R. 10729?

Mr. ROBERT C. BYRD. No. Either the Senator misunderstood or I misspoke myself. I said there was a possibility, later on today, that the leadership would call it up.

Mr. ALLEN. I did misunderstand and thank the Senator. There is a chance, then, that the bill will be called up and there has been a compromise reached on it. It will take only a short time to pass the bill. Possibly later on this afternoon it will be brought up, then?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. I thank the distinguished and able assistant majority leader.

CONSUMER PROTECTION ORGANIZATION ACT OF 1972

The Senate continued with the consideration of the bill (S. 3970) to establish a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and serve the interests of consumers, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

Mr. ERVIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOSS. Mr. President, I urge the rejection of the amicus amendment. It has been discussed to death. It has been voted down by the Government Operations Committee in executive session. It was defeated by a vote of 240 to 149 in the House during its consideration of the Consumer Protection Agency bill. Let us now give this amendment the fitting burial it deserves, and join with those who have previously considered the amicus amendment and rejected it.

Mr. RIBICOFF. Mr. President, I ask for the yeas and nays on the pending Allen amendment.

The yeas and nays were not ordered.

Mr. RIBICOFF. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HANSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, I ask unanimous consent that during the debate and the vote on the pending bill, a member of my staff, Miss Joann Reed, be given the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, I move to lay the pending Allen amendment on the table.

I ask for the yeas and nays.

The PRESIDING OFFICER. There is not a sufficient second.

CALL OF THE ROLL

Mr. ERVIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 473 Leg.]

Allen
Bayh
Byrd, Robert C.
Cannon
Cook
Cooper
Eastland
Ervin
Hansen
Hart
Hruska
Hughes
Javits
Magnuson
Mansfield
Moss
Muskie
Pastore
Pearson
Percy
Randolph
Ribicoff
Roth
Smith
Sparkman
Stennis
Talmadge
Young

The PRESIDING OFFICER. A quorum is not present.

Mr. MANSFIELD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names:

Aiken
Allott
Anderson
Beall
Bellmon
Bennett
Bentsen
Bible
Boggs
Brooke
Burdick
Byrd, Harry F., Jr.
Case
Chiles
Church
Cotton
Cranston
Curtis
Dole
Dominick
Edwards
Fannin
Fong
Fulbright
Gambrell
Gravel
Gurney
Harris
Hartke
Hatfield
Hollings
Inouye
Jackson
Jordan, Idaho
Kennedy
Long
Mathias
McClellan
Miller
Mondale
Montoya
Nelson
Packwood
Proxmire
Schweiker
Stevens
Stevenson
Symington
Thurmond
Tower
Tunney
Weicker

The PRESIDING OFFICER. A quorum is present.

Mr. RIBICOFF. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Alabama. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Missouri (Mr. Eagleton), the Senator from Minnesota (Mr. Humphrey), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Rhode Island (Mr. Pell), the Senator from Virginia (Mr. Spong), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. McGee) and the Senator from North Carolina (Mr. Jordan) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), and the Senator from New Jersey (Mr. Williams) would each vote "yea."

Mr. COTTON. I announce that the Senators from Tennessee (Mr. Baker and Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Arizona (Mr. Goldwater), the Senator from Michigan (Mr. Griffin), and the Senator from Pennsylvania (Mr. Scott) are necessarily absent.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senators from Ohio (Mr. Saxbe and Mr. Taft) and the Senator from Vermont (Mr. Stafford) are absent on official business to attend the Interparliamentary Union meetings.

The result was announced—yeas 49, nays 31, as follows:

[No. 474 Leg.]

YEAS—49

Anderson
Bayh
Bentsen
Bible
Boggs
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Cook
Cranston
Ervin
Fulbright
Gravel
Harris
Hart
Hartke
Hatfield
Hollings
Hughes
Inouye
Jackson
Javits
Kennedy
Magnuson
Mansfield
Mathias
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Smith
Stevens
Stevenson
Symington
Tunney

NAYS—31

Aiken
Allen
Allott
Beall
Bellmon
Bennett
Byrd, Harry F., Jr.
Cooper
Cotton
Curtis
Dole
Dominick
Eastland
Edwards
Fannin
Fong
Gambrell
Gurney
Hansen
Hruska
Jordan, Idaho
Long
McClellan
Miller
Sparkman
Stennis
Talmadge
Thurmond
Tower
Weicker
Young

NOT VOTING—20

Baker
Brock
Buckley
Eagleton
Goldwater
Griffin
Humphrey
Jordan, N.C.
McGee
McGovern
McIntyre
Metcalf
Mundt
Pell
Saxbe
Scott
Spong
Stafford
Taft
Williams

So the motion to table Mr. Allen's amendment (No. 1568) was agreed to.

Mr. ERVIN. Mr. President, I move to reconsider the vote by which the amendment was laid on the table.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. Roth). The question is on agreeing to the motion to table the motion to reconsider the vote by which the Allen amendment was laid on the table.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Missouri (Mr. Eagleton), the Senator from Oklahoma (Mr. Harris), the Senator from Minnesota (Mr. Humphrey), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Rhode Island (Mr. Pell), the Senator from Virginia (Mr. Spong), the Senator from New Jersey (Mr. Williams), the Senator from South Dakota (Mr. McGovern), and the Senator from New Mexico (Mr. Montoya) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. Jordan) and the Senator from Wyoming (Mr. McGee) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), and the Senator from New Jersey (Mr. Williams) would each vote "yea."

Mr. COTTON. I announce that the Senator from Colorado (Mr. Allott), the Senators from Tennessee (Mr. Baker and Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from Arizona (Mr. Goldwater), the Senator from Michigan (Mr. Griffin), the Senator from Illinois (Mr. Percy), the Senator from Pennsylvania (Mr. Scott), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senators from Ohio (Mr. Saxbe and Mr. Taft) and the Senator from Vermont (Mr. Stafford) are absent on official business to attend the Interparliamentary Union meetings.

If present and voting, the Senator from Illinois (Mr. Percy) would vote "yea."

The result was announced—yeas 45, nays 30, as follows:

[No. 475 Leg.]

YEAS—45

Anderson
Bayh
Bentsen
Bible
Boggs
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Cook
Cranston
Fulbright
Gravel
Hart
Hartke
Hatfield
Hollings
Hughes
Inouye
Jackson
Javits
Kennedy
Magnuson
Mansfield
Mathias
Mondale
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Smith
Stevens
Stevenson
Symington
Tunney

NAYS—30

Aiken
Allen
Beall
Bellmon
Bennett
Byrd, Harry F., Jr.
Cooper
Cotton
Curtis
Dole
Dominick
Eastland
Edwards
Ervin
Fannin
Fong
Gambrell
Gurney
Hansen
Hruska
Jordan, Idaho
Long
McClellan
Miller
Sparkman
Stennis
Talmadge
Thurmond
Weicker
Young

NOT VOTING—25

Allott
Baker
Brock
Buckley
Eagleton
Goldwater
Griffin
Harris
Humphrey
Jordan, N.C.
McGee
McGovern
McIntyre
Metcalf
Montoya
Mundt
Pell
Percy
Saxbe
Scott
Spong
Stafford
Taft
Tower
Williams

So the motion to table the motion to reconsider the vote by which the Allen amendment was laid on the table was agreed to.

Mr. TOWER. Mr. President, I cannot support the present legislation to create yet another agency of government and to endow it with extraordinary powers to intervene in and to hamper the commerce of this country, almost at will. Our Government has already moved very much too far in the direction of trying to be all things to all men. We do not as a people and a nation want to create "wrap-around" government, which would take away from the individual the basic responsibility for looking after his own interests—which would, in fact, deprive him of the right to manage his own interests. Yet, step by step, Congress has continued to create new agencies and new programs which are gradually leading us to "wrap-around" government, and this bill is another major step in that direction.

In addition to general philosophical objections to expanding the Federal Government's control over people and over commerce any further than it has already been expanded, there are numerous other objections to be made in regard to this legislation. Upon close examination one can see that the citizen has a lot more at stake in life and in government than merely his consumer interests. He is also an employee or employer, and as such depends on the strength of the economy to provide this basic source of family income. As he moves forward in life and accumulates a little capital for retirement, he also becomes an investor, from which activity the second major source of family income derives. He is also a student at some time in his life, perhaps a soldier for some length of time; the citizen may be a housewife, a teacher, a Southerner, an appreciator of art or nature—the various identifying facets of the individual lives, personalities, and interests of our citizens are simply more numerous than we can possibly imagine. Should each such interest of our citizens be represented in government by a special agency, which can tie up the functioning of the general government representing all interests of the people in order to maximize the influence of one interest on a government decision?

How can we justify the creation of an omnipotent agency that can tie up and even direct the functioning of the general government, unless we assume that we cannot govern ourselves, and that we have to have a Ralph Nader agency to actually tell us how to run the Government and what interests of the people to take into consideration in governing? This is the very essence of congressional authority; we write the laws, we give the general government its charge to administer the laws we write in a way that takes into consideration all interests of the American people, and we oversee the results of these efforts and modify our directions to the Government accordingly. We do not need and cannot justify the creation of such an all-powerful agency to intervene in the governing process on behalf of merely one aspect of our citizens' interests, in derogation of all their other many interests.

Let us take a brief example of what a single-purpose orientation on the part of a totally powerful agency like this could mean to the proper formulation of Government policy. The Federal Power Commission is charged with the regulation of our energy supplies to the extent that they move across State borders, and its authority includes the setting of rates on the sale of natural gas at the wellhead. Even though this particular agency is not analogous to the Consumer Protection Agency, it acted for years as though it was faced with the intervention of a CPA, due to the extreme popular pressure to keep utility rates low. This is a well-recognized "gut" consumer interest; everybody wants to pay as little for utilities as is possible, and this is a cause that is constantly being championed by the so-called consumer advocates as against the requests for rate increases of the firms responsible for supplying energy to the consumer.

So the FPC, in responding to this heavy popular pressure, and, no doubt, heavy congressional pressure from States in the less temperate climes to keep rates low, made decisions on natural gas rates over the years that were compatible with this short-run consumer interest, but which were inimical to the long-range interests of the American people in having adequate and reasonably priced supplies of natural gas over the long run. In short, the FPC acted as most agencies will have to do when they are faced with the CPA, and that is to cave in to the shortrun consumer goal of trying to keep goods and services at minimum prices and maximum quality, rather than at prices and qualities that market forces determine will give the consumer the most for his money. Governmental decisions based on shortrun consumer interests will in most instances paradoxically result ultimately in a reduction in supplies and quality of the goods and services in question. New and improved supplies will be called forth then only after a substantial increase in capital outlay is made to offset the economic disruption involved in the corruption of the market system with the short-sighted, solely consumer-oriented governmental action.

This type of unsound governmental policy action is going to be the continuing result of creating a Consumer Protection Agency with such tremendous powers as are contained in this bill. I recommend to the Senate for careful consideration the views of the learned Senator from North Carolina (Mr. Ervin) in the committee report on S. 3970, wherein he details the nature of the administrative and philosophical nightmare we would create with this Agency. It would be one thing if we were merely seeking to create an advisory body for the purpose of filing comments with the various departments and agencies of Government as to the impact of various proposed policy actions on shortrun consumer interests. But to establish a consumer agency that can actually prevent the Government from acting in policy matters or in individual cases in the way it sees fit after taking into consideration all of the interests of the people of this country, seems to me to be entirely unworthy of our principles and assumptions of government.

MARCOR AND ITS MONTGOMERY WARD SUBSIDIARY SUPPORTS CONSUMER PROTECTION AGENCY BILL, S. 3970

Mr. PERCY. Mr. President, as I said on the Senate floor last week, during consideration of the Consumer Protection Organization Act of 1972, the lobbying effort directed at this bill from various segments of the business community has been the most intensive and at the same time ill-founded as any I have encountered in my 6 years in the Senate.

From the simple epithets such as "superagency" to concerns about this "dreadful legislation" to statements that the bill constitutes "the most serious threat to free enterprise and orderly government ever to be proposed in Congress" the charges abound. Precisely where some of these allegations came from I guess we will never know, although the last is a direct quote from the so-called Business Responsiveness Kit authored by the Grocery Manufacturers of America. That national trade association says that it supports the concept of consumer advocacy underlying the bill but has nevertheless proposed a crippling "amicus" amendment—presently the subject of what seems to be an extended debate on the floor of the Senate—which would cut the heart out of the bill. The National Association of Manufacturers is less disingenuous. It says that it opposes the legislation outright and views as the best means of killing it in a motion to refer the bill to either the Agriculture, Banking and Housing, or Judiciary Committees—take your pick—none of which has any legitimate claim to jurisdiction.

From the outset I believed that the concept of a voice for consumers before Federal agencies and courts, whose decisions so critically affect issues of health and safety and economic injury to consumers, was an idea whose time had come. There are just too many instances where a few impervious manufacturers of goods or suppliers of services are permitted by the regulatory agencies which we have set up to protect the consumer to instead ignore his interest, sneer at his complaint, slam the door to his inquiries, run him around in circles, or else batter or badger him to the point that he would have been better off if he had not gotten involved in the first place.

We have many fine and dedicated individuals in these agencies just as we have many outstanding businesses and responsible business leaders throughout the country. But it is the exceptions—and the instances I cited on the Senate floor last week are but a very few—which cry out for a strong consumer advocate to make sure that the fundamental rights of every consumer are preserved and safeguarded.

My own thoughts on this are not entirely shared by many of my former associates within the business community. I have been literally told that I am out of my mind for not only supporting but actively sponsoring this bill. But fortunately that view is not shared by all. Indeed, some, like myself, believe that the erosion of consumer confidence in some goods and services produced by our economy is attributable to the consumer being booted around once, no, many times, too often.

With this background, let me say that it was a breath of fresh air, having been approached by many chief executive officers, chairmen of the board, and general counsels who often had to concede that they hadn't even read the bill, to find a number of responsible and concerned executives who undertook, at my urging, to let me know specifically what their legitimate concerns were as found in earlier versions of the bill, and to make definitive suggestions for improvement. My intent from the beginning was to assure that, in establishing an agency of the Federal Government to represent the interests of consumers, we would not at the same time do damage to the solid free enterprise base which underlies our economy nor to the orderly processes by which this Government carries out its business. Accordingly, I have welcomed and supported refinements in the bill in subcommittee, in committee, and will continue to do so on the Senate floor, where such improvements reflect a sensitivity to these principles.

I am pleased to announce here on the floor of the Senate a major business firm in this country, one whose contributions to this bill have been responsible as well as substantial, believes as I do that this legislation is in the best interests of consumers yes, but also of the business community itself. Marcor, the parent company, and Montgomery Ward, its subsidiary, have communicated to me their outright endorsement of this legislation and their fervent hope that the Senate will "pass into law the Consumer Protection Agency bill this year so as to strengthen protection for consumers and public confidence in business now." Mr. Leo Schoenhofen, chairman and chief executive officer of Marcor, goes on to say:

> There is a growing body of opinion that sees a close correlation between the belief of numerous consumers that they don't yet have adequate protection in some important circumstances and today's less than optimum public confidence in business, the declining interest of some talented young people in business careers and other ills that currently plague the market place. Because we believe a fair and effective Consumer Protection Agency law would be a positive step toward correcting some of these problems and because we believe it would advance the vital cause of providing all Americans with fair and effective consumer protection, we are pleased to announce our support for Senate passage of S. 3970 now in accordance with the principles set forth in this letter.

I could not agree with him more in this nor in his observation that "what's good for the consumer is not only good for business, it's the best for business." I guess what Mr. Schoenhofen really is saying is that the media who have reported so excellently on the need for such legislation, and that I and my very able cosponsors Senator ABRAHAM RIBICOFF of Connecticut and Senator JACOB JAVITS of New York who have sought to advance it in the Senate—that we have not been reckless. That we are not about to cause the downfall of the Republic. In short, that we are not out of our minds.

For a major American firm to recognize this and to be willing publicly to express its support for what it believes to be right—notwithstanding what I am sure have been and will be immense pressures from within the business community—is no small thing. It takes real guts.

I am pleased to report on this development, and I anticipate that other outstanding firms and businessmen will similarly recognize their own vital interests in this legislation and the interests of their customers.

Let me also add that throughout, Marcor's participation in this effort was approved in the executive suite by chairman of the executive committee Tom Brooker, Montgomery Ward President Ed Donnell, and by Leo Schoenhofen and Peter Jones. As you may know, Mr. Brooker is chairman of President Nixon's 108-member National Business Council for Consumer Affairs, although his views on this legislation are entirely his own and do not represent a position of the Council. This participation, carried out so ably by Pat Head and Harry McPherson here in Washington, sets a standard that counsel for other companies would do well to emulate. Indeed, I am hopeful that upon its establishment the CPA itself, in representing the interests of consumers, will be as conscientious and effective.

Now we must get on with the business of this legislation in the Senate, recognizing the press of other important legislative items in these closing days before adjournment and the need to resolve differences in a House-Senate conference. I hope that the small minority of Senators who might vote against the bill will not by procedural stalls try to prevent the full Senate from working its will on the merits of the measure, which it did less than 2 years ago in approving similar legislation by an overwhelming vote of 74 to 4. With Senate passage of a Consumer Protection Agency, the House having already approved the concept, the American consumer can soon be represented in court and before regulatory agencies by highly trained professionals voicing his interests. That is a cause which every American—and I believe every responsible American business—can and should champion.

Mr. President, I should like to add only one further point:

It is possible to build into a piece of legislation creating a new agency such as the Consumer Protection Agency virtually every check and balance needed to provide fairness, equity, and justice to both producer and consumer and still have inequity and injustice because of the lack of judgment exercised by the Administrator himself.

The key to the success of this legislation under the Nixon administration or any successive administration will be in the wisdom of the President with his appointive powers and the wisdom of the Senate with its confirmation powers to select a man of impeccable integrity and endowed with sufficient wisdom, experience, and knowledge to fairly, equitably, and justly administer the Consumer Protection Agency within the framework of the free enterprise system.

We are all agreed that we wish to strengthen, improve upon, and perpetuate this economic system that has contributed immeasurably to making us the most wealthy nation on earth. We wish to preserve and to the extent necessary restore the faith of the American consumer in this system.

An Administrator that is insensitive to the consumer or unjust to the producer will do a grave injustice to the intent and purpose to this bill as conceived by its supporters.

I have no doubt that as a result of experience in administering the provisions of the bill we will find ways in which it can be improved as time goes on but this bill as it stands today is the product of the best thinking that could be given to the bill in hearings and markup sessions in both the Senate and House that have been carried on over a period of several years.

The time for this idea has arrived—that is why the Government Operations Committee of the Senate by an overwhelming vote has in effect said let us enact this legislation now into law without further delay.

The Congress of the United States and particularly the Government Operations Committees of the Senate and House will exercise all oversight responsibility within their authority that they feel necessary and proper to insure that the law is implemented and carried out in accordance with the intentions of Congress and as ranking minority member of the Government Operations Committee I will look upon this as a major responsibility to be shared with my colleagues.

STATEMENT OF PRESIDENT NIXON AND SECRETARY SHULTZ BEFORE THE IMF-IBRD ANNUAL MEETING

Mr. JAVITS. Mr. President, the President's position that the United States is now ready to begin to take a leadership role in the upcoming reform of the international monetary system as amplified by Treasury Secretary Shultz is most welcome and portends well for the future stability and growth of our own economy and those of the free world. The time has come to treat the reform of the world economic system including trade, investment, and monetary problems as a matter of the highest urgency before the ties linking the countries of the free world suffer irreparable strains.

Also, it is my hope that when the nations of Western Europe meet at the European summit in mid-October they, too, will build upon the foundation which has now been laid by the President and Secretary Shultz. The future course of the free world and whether the free world again will evolve toward an open trading system as contrasted with restrictive, inward looking trading blocs rests as much with Western Europe—and with Japan—as it does with the United States.

As the negotiations for the reform of the international monetary system get underway, it is imperative that all countries accept certain basic principles. These include:

First. That surplus nations have as great an obligation to the effective functioning of the international economic order as well as deficit nations and that the adjustment procedure must be applied to both surplus and deficit nations. In this respect I do not foresee any great obstacle to the U.S. Congress granting the President of the United States reasonable flexibility in making changes in the par value of the dollar should the President request such flexible authority.

Second. That trade is inherently linked with monetary matters and that you cannot negotiate one without the other. Money is the medium of exchange for goods and the attempt to treat monetary problems in the abstract without consideration to the flow of goods is an impossibility. Trade adjustments will affect the need and nature of future monetary adjustments just as changes in the par value of any currency have a direct and immediate effect on trade.

Third. Gold can no longer be the base of the new international monetary system—it is a commodity and should be relegated to the status of other commodities over a suitable transition period. Let gold continue to serve as the medium that symbolically links man and wife and not as the medium in which the value of currencies is defined. Only the productive strength of nations should serve as the standard of value of their currencies. The world knows that the productive strength of the United States cannot be measured on a fragile cross of gold.

Fourth. The link between future SDR creation and development assistance can serve as the emancipation proclamation of the developing world. This link is clearly the means for integrating the developing world into the mainstream of trade and commerce and it is my prediction that if this integration does not take place at an accelerated pace over the short term, that the industrialized world will have jeopardized its own future prosperity and well-being. Better income distribution within societies leads to stronger societies and more sustained economic growth, as the United States and Western European examples make clear. Similarly, better income distribution among societies through the means of future SDR creation will lead to a stronger world trading and monetary system, accelerated world economic growth, and reduced tensions among nations.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had agreed to the amendments of the Senate to the bill (H.R. 3808) to amend title 39, United States Code, as enacted by the Postal Reorganization Act, to provide additional free letter mail and air transportation mailing privileges for certain members of the U.S. Armed Forces, and for other purposes.

The message also announced that the House had passed a bill (H.R. 16754) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes, in which it requested the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution:

H.R. 4634. An act to direct the Secretary of the Army to release on behalf of the United States a condition in a deed conveying certain land to the State of Oregon to be used as a public highway;

H.R. 14267. An act to provide for the disposition of funds appropriated to pay a judgment in favor of the Delaware Tribe of Indians in Indian Claims Commission Docket Numbered 298, and the Absentee Delaware Tribe of Western Oklahoma, and others, in Indian Claims Commisison Docket Numbered 72, and for other purposes; and

H.J. Res. 1227. Joint resolution approval and authorization for the President of the United States to accept an Interim Agreement Between the United States of America and the Union of Soviet Socialist Republics on Certain Measures With Respect to the Limitation of Strategic Offensive Arms.

The enrolled bills and joint resolution were subsequently signed by the Acting President pro tempore (Mr. ALLEN).

HOUSE BILL REFERRED

The bill (H.R. 16754) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

NATIONAL HERITAGE DAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 1304, which has been cleared on both sides of the aisle.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

Calendar No. 1171 (H.J. Res. 1304), a joint resolution authorizing the President to proclaim October 1, 1972, as "National Heritage Day."

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the joint resolution (H.J. Res. 1304) was ordered to a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from West Virginia may proceed.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, it is my understanding, after having discussed the matter with the distinguished Senator from North Carolina (Mr. ERVIN) and the distinguished Senator from Nebraska (Mr. HRUSKA), that there will be no more rollcall votes on the unfinished business today inasmuch as no amendment is ready to be called up by either of those Senators.

It is my further information from them that it would be their intention to discuss the bill for the remainder of this day.

FEDERAL ENVIRONMENTAL PESTICIDE CONTROL ACT OF 1972

Mr. ROBERT C. BYRD. Mr. President, I therefore, ask unanimous consent that the unfinished business be temporarily laid aside and that the Senate proceed to the consideration of H.R. 10729, a bill to amend the Federal Insecticide Act.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

Calendar No. 922 (H.R. 10729) a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes.

The PRESIDING OFFICER. Is there objection to the requests of the Senator from West Virginia? The Chair hears none and it is so ordered.

The Senate proceeded to consider the bill which had been reported from the Committee on Commerce with amendments.

AGRICULTURE AND FORESTRY AND COMMERCE

The amendments of the Committee on Commerce are as follows:

On page 69, line 6, after the word "in", strike out "substantial" and insert "unreasonable"; on page 72, line 2, after the word "environment", strike out the semicolon and insert a comma and "including the protection of the health of farmers, farmworkers, and others who may come in contact with such pesticides or pesticide residues;"; in line 10, after the word "environment", strike out "; or" and insert "including the protection of the health of farmers, farmworkers, and others who may come in contact with such pesticides or pesticide residues; or"; in line 16, after the word "causes", strike out "substantial" and insert "unreasonable"; on page 76, line 18, after the word "any", where it appears the second time, strike out "substantial" and insert "unreasonable"; on page 77, after line 4, strike out:

"(bb) Substantial Adverse Effects on the Environment.—The term 'substantial adverse effects on the environment' means any injury to man or any substantial adverse effects on environmental values, taking into account the public interest, including benefits from the use of the pesticide.

And in lieu thereof, insert:

"(bb) Unreasonable Adverse Effects on the Environment.—The term 'unreasonable adverse effects on the environment' means any risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide, including the availability of alternative means of pest control.

On page 78, after line 24, strike out:

"(D) if requested by the Administrator, a full description of the tests made and the results thereof upon which the claims are based, except that data submitted in support of an application shall not, without permission of the applicant, be considered by the Administrator in support of any other application for registration:

And insert:

"(D) a full description of any tests offered in support of the application and the results thereof:."

In line 11, after the word "consideration", strike out the semicolon and insert a colon and "*Provided further*, That the Administrator shall not rely on test results submitted pursuant to this subsection unless he determines that (i) the tests were conducted in accordance with applicable Federal, State, or local law and (ii) participation in the tests was the result of a free, voluntary, and informed choice by each participant;".

On pages 80, line 4, after the word "information.", strike out "Except as provided by section 10, within 30 days after the Administrator registers a pesticide under this Act he shall make available to the public the data called for in the registration statement together with such other scientific information as he deems relevant to his decision."; on page 81, line 11, after the word "without", strike out "substantial" and insert "unreasonable"; after line 12, strike out:

The Administrator shall not make any lack of essentiality a criterion for denying registration of any pesticide.

On page 83, line 8, after the word "cause", strike out "substantial" and insert "unreasonable"; in line 19, after the word "restrictions,", strike out "substantial" and insert "unreasonable"; in line 21, after the word "applicator,", insert "farmer, farmworker, or other person who may come in contact with the pesticide or pesticide residues,"; on page 84, line 14, after the word "cause", strike out "substantial" and insert "unreasonable"; on page 85, line 3, after the word "prevent", strike out "substantial" and insert "unreasonable"; on page 86, line 22, after the word "certification", strike out the period and insert "and the competence of an individual shall include the ability to undertake such measures as the Administrator may by regulation require to protect the health of farmers, farmworkers, and others who may come into contact with such pesticides or pesticide residues."; on page 89, line 16, after the word "cause", strike out "substantial" and insert "unreasonable"; in line 23, after the word "avoid", strike out "substantial" and insert "unreasonable"; on page 90, line 23, after the word "have", strike out "substantial" and insert "unreasonable"; on page 91, line 7, after the word "regarding", strike out "substantial" and insert "unreasonable"; on page 92, line 16, after the word "pesticide", insert "and has given notice of such suspension order to the registrant. Prior to issuing such suspension order, the Administrator, if necessary to determine if an imminent hazard exists, may conduct an expedited hearing in accordance with paragraph 2 of this subsection. Following any such suspension order, the procedures of subsection (d) of this section with respect to the Administrator's notice of his intention to cancel the registration or change the classification of a pesticide shall be held in an expeditious manner.

At the top of page 93, strike out:

"Except as provided in paragraph (3), the Administrator shall notify the registrant prior to issuing any suspension order. Such notice shall include findings pertaining to the question of 'imminent hazard'. The registrant shall then have an opportunity, in accordance with the provisions of paragraph (2), for an expedited hearing before the Agency on the question of whether an imminent hazard exists.

"(2) Expedite hearing.—If no request for a hearing is submitted to the Agency within five days of the registrant's receipt of the notification provided for by paragraph (1), the suspension order may be issued and shall take effect and shall not be reviewable by a court. If a hearing is requested, it shall commence within five days of the receipt of the request for such hearing unless the registrant and the Agency agree that it shall commence at a later time. The hearing shall be held in accordance with the provisions of subchapter II of title 5 of the United States Code, except that the presiding officer need not be a certified hearing examiner. No party other than the registrant and the Agency shall participate except that any person adversely affected may file briefs within the time allotted by the Agency's rules."

After line 23, insert:

"(2) Expedited hearing.—Any expedited hearing held prior to a suspension order shall consist of the oral and written presentation of data or arguments in accordance with such conditions or limitations as the Administrator may make applicable thereto. The right to subpoena documents shall be granted to any party whenever the Administrator considers it appropriate. Any interested person may intervene in such proceeding and participate fully as a party."

On page 94, after line 12, strike out:

"(3) Emergency order.—Whenever the Administrator determines that an emergency exists that does not permit him to hold a hearing before suspending, he may issue a suspension order in advance of notification to the registrant. In that case, paragraph (2) shall apply except that the order of suspension shall be in effect pending the expeditious completion of the remedies provided by that paragraph and the issuance of a final order on suspension."

At the beginning of line 22, strike out "(4)" and insert "(3)"; in line 23, after the word "suspension", strike out "following a hearing"; on page 95, line 3, after word "appeals.", strike out "Any order of suspension entered prior to a hearing before the Administrator shall be subject to immediate review in an action by the registrant or other interested person with the concurrence of the registrant in an appropriate district court, solely to determine whether the order of suspension was arbitrary, capricious or an abuse of discretion, or whether the order was issued in accordance with the procedures established by law. The effect of any order of the court will be only to stay the effectiveness of the suspension order, pending hearing before the Administrator. This action may be maintained simultaneously with any administrative review proceeding under this section."; on page 96, line 1, after the word "objections.", strike out "Upon a showing of relevance and reasonable scope of evidence sought by any party to a public hearing, the Hearing Examiner shall issue a subpena to compel testimony or production of documents from any person. The Hearing Examiner shall be guided by the principles of the Federal Rules of Civil Procedure in making any order for the protection of the witness or the content of documents produced and shall order the payment of reasonable fees and expenses as a condition to requiring testimony of the witness. On contest, the subpena may be enforced by an appropriate United States district court in accordance with the principles stated herein." and insert "All public hearing authorized by this subsection shall consist of the oral and written presentation of data or arguments in accordance with such conditions or limitations as the administrator may make applicable thereto. The right to subpena documents shall be granted to any party whenever the Administrator considers it appropriate. Any interested person may intervene in such proceedings and participate fully as a party."; in line 25, after the word "hearing.", insert "Each such committee shall include qualified scientists not more than one-third of which shall have an economic interest in the chemical industry. None of the members of such committee shall have any economic interest in the pesticide which is the subject of referral."; on page 100, at the beginning of line 25, strike out "for distribution or sale" and insert "or used"; on page 101, line 2, after the word "devices,", strike out "packaged, labeled, and released for shipment,"; in line 8, after the word "held", strike out "for distribution or sale" and insert "or used"; on page 104 line 3, after the word "General.", insert "Copies of any communication, document, report or other information received by the Administrator from any manufacturer or sent by the Administrator to any manufacturer shall be made available to the public upon identifiable request, and at reasonable cost, unless such information may not be publicly released under the terms of subsection (b) of this section."; after line 14, strike out:

(b) DISCLOSURE.—*Notwithstanding any* other provision of this Act, the Administrator shall not make public information which contains or relates to trade secrets or commercial or financial information obtained from a person and privileged or confidential, except that, when necessary to carry out the provisions of this Act, information relating to formulas of products acquired by authorization of this Act may be revealed to any Federal agency consulted and may be revealed at a public hearing or in findings of fact issued by the Administrator.

And, in lieu thereof, insert:

"(b) DISCLOSURE.—

"(1) The Administrator or any officer or employee of the Environmental Protection Agency or any committee referred to in subsection (d) of section 6 of this Act shall not disclose any information which the Administrator determines concerns or relates to a trade secret referred to in section 1905 of title 18, United States Code, except that such information may be disclosed by the Administrator—

"(A) to any other Federal department, agency, or official for official use if such department, agency, or official requests such information and has a reasonable need for such information;

"(B) to committees of Congress having jurisdiction over the subject matter to which the information relates;

"(C) in any judicial proceeding under a court order formulated to preserve the confidentiality of such information without impairing the proceeding;

"(D) if relevant in any proceeding under this Act, except that such disclosure shall preserve the confidentiality to the extent possible without impairing the proceeding; and

"(E) to the public in order to protect its health, after the manufacturer of any product to which the information pertains has been given notice and an opportunity, for a period of 15 days following such notice, to comment in writing or to discuss in closed session the matter relating to the disclosure of such information, if the delay resulting from such notice and opportunity for comment or discussion would not be detrimental to the public health.

In no event shall the names or other means of identification of injured persons be made without their express written consent.

"(2) Nothing contained in this section shall be deemed to require the release of any information described by subsection (b) of section 552 of title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

"(c) Any communication from a person to the Administrator or any other employee of the Environmental Protection Agency concerning a matter presently under consideration in a rulemaking or adjudicative proceeding in the Environmental Protection Agency shall be made a part of the public file of that proceeding unless it is a communication entitled to protection under subsection (b) of this section.

"(d) In the event of a dispute between any manufacturer who has submitted information in support of a registration and the Administrator as to whether such information constitutes, a trade secret not subject to disclosure, then such dispute shall be submitted to the Attorney General of the United States for his determination which shall be final. In any such dispute, the determination of the Attorney General shall be rendered within 30 days of submission to him, and shall be communicated to the Administrator and to the manufacturer in writing.

On page 107, after line 12, strike out:

"(a) IN GENERAL.—No regulations prescribed by the Administrator for carrying out the provisions of this Act shall require any private applicator to maintain any records or file any reports or other documents.

At the beginning of line 17, strike out "(b)"; on page 114, line 7, after the word "causes", strike out "substantial" and insert "unreasonable"; on page 116, at the beginning of line 2, strike out "$1,000" and insert "$10,000"; on page 17, line 23, after the word "Act,", strike out "Agency refusals to cancel or suspend registrations or change classifications not following a hearing and other"; on page 118, line 4, after the word "of", strike out "any order issued by the Administrator following a public hearing," and insert "(1) any cancellation order, suspension order, or order to change classifications, (2) any agency refusal to cancel or suspend registrations or change classifications, or (3) any other order issued by the Administrator following a public hearing, "; at the beginning of line 14, strike out "order, a petition praying that the order be set aside in whole" and insert "order or refusal, a petition praying that the order or refusal, be set aside in whole"; in line 20, after the word "order", insert "or refusal"; in line 21, after the word "Code", insert "or, if there were no proceedings, the relevant documents of which his record is comprised"; in line 25, after the word "order", insert "or refusal"; in line 26, after the word "order", insert "or refusal"; on page 119, line 4, after the word "order", insert "or refusal"; in line 10, after the word "order", insert "or refusal"; after line 20, insert a new section, as follows:

"SEC. 16. CITIZEN CIVIL ACTIONS.

"(a) Except as provided in subsection (b) of this section, any person may commence a civil action for injunctive relief on his own behalf whenever such action constitutes a case or controversy—

"(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of (1) any requirement under section 3(a) of this Act, (2) any condition of registration imposed by the Administrator, (3) a suspension or cancellation order under section 6 of this Act, or (4) the prohibition against misuse of a pesticide under section 12(a) (2) (H) of this Act, or

"(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary with the Administrator. Any action brought against the Administrator under this paragraph shall be brought in the District Court of the District of Columbia.

The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, over suits brought under this section.

"(b) No civil action may be commenced—

"(1) under subsection (a) (1) of this section—

"(A) prior to 60 days after the plaintiff has given notice of the violation (i) to the Administrator, and (ii) to any alleged violator of the regulation or order, or

"(B) if the Administrator or the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with the regulation or order, but in any such action any person may intervene as a matter of right;

"(2) under subsection (a) (2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator.

Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

"(c) In any action under this section, the Administrator or the Attorney General, if not a party, may intervene as a matter of right.

"(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate.

"(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any other statute or under common law to seek enforcement of any regulation or order or to seek any other relief.

"(f) For purposes of this section, the term 'person' means an individual, corporation, partnership, association, State, municipality, or political subdivision of a State or any agency of the Federal Government.

"(g) When any actions brought under this subsection involving the same defendant and the same issues of violations are pending in two or more more jurisdictions, such pending proceedings, upon application of the defendant reasonably made to the court of one such jurisdiction, may, if the court in its discretion so decides, be consolidated for trial by order of such court, and tried in (1) any district selected by the defendant where one of such proceedings is pending; or (2) a district agreed upon by stipulation between the parties. If no order for consolidation is so made within a reasonable time, the defendant may apply to the court of one such jurisdiction, and such court (after giving all parties reasonable notice and opportunity to be heard) may by order, unless good cause to the contrary is shown, specify a district or reasonable proximity to the applicant's principal place of business, in which all such pending proceedings shall be consolidated for trial and tried. Such order of consolidation shall not apply so as to require the removal of any case the date for trial of which has been fixed. The court granting such order shall give prompt notification thereof to the other courts having jurisdiction of the cases covered thereby.

On page 123, at the beginning of line 1, change the section number from "16" to "17"; in line 7, after the word "purchaser", strike out the period and insert a comma and "except that (1) a statement which complies with paragraphs (A) through (E) of section 3(c) (1) shall be submitted in support of any such pesticide to the Administrator, (2) such pesticide shall be subject to section 8, and (3) no pesticide may be exported unless the Administrator determines that the export of such pesticide will not result in unreasonable adverse effects on the environment of the United States. If the Administrator determines that such adverse effects will result, any person adversely affected by such determination shall have the same remedies as provided for registrants in section 6."; after line 18, strike out:

"(b) CANCELLATION NOTICES FURNISHED TO FOREIGN GOVERNMENTS.—Whenever a cancellation of the registration of a pesticide becomes effective, the Administrator shall transmit through the State Department copies of each notice of cancellation of a registration of a pesticide to the governments of other countries and to appropriate international agencies.

And, in lieu thereof, insert:

"(b) NOTICES FURNISHED TO FOREIGN GOVERNMENTS.—Subject to section 10 of this Act, the Administrator shall furnish to the government of the foreign nations to which any pesticide may be exported (1) a notice of the availability of the statement required under sections 3(c) (1), (2) all labels approved under section 3, and (3) all orders of suspension and all notices of cancellation or change in classification issued pursuant to section 6.

On page 125, at the beginning of line 24, change the section number from "17" to "18"; on page 126, at the beginning of line 5, change the section number from "18" to "19"; at the beginning of line 23, change the section number from "19" to "20"; on page 127, at the beginning of line 18, change the section number from "20" to "21"; on page 128, at the beginning of line 5, change the section number from "21" to "22"; at the beginning of line 16, change the section number from "22" to "23"; on page 129, at the beginning of line 13, change the section number from "23" to "24"; in line 14, after the word "State", insert "or local government: in line 15, after the word "device", strike out "in the State" and insert "within its jurisdiction"; in line 18, after the word "State", insert "or local government"; after line 21, strike out:

"(c) A State may provide registration for pesticides formulated for distribution and use within that State to meet specific local needs if that State is certified by the Administrator as capable of exercising adequate controls and if registration for such use has not previously been denied, disapproved, or canceled by the Administrator. Such registration shall be deemed registration under section 3 for all purposes of this Act, but shall authorize distribution and use only within such State and shall not be effective for more than 90 days if disapproved by the Administrator within that period.

And, in lieu thereof, insert:

"(c) A State may recommend registration for pesticides formulated for distribution and use within that State to meet specific local emergency needs. If such State is certified by the Administrator as capable of preventing unreasonable adverse effects on the environment from the use of such pesticides by adopting procedures similar to those contained in this Act, and if registration for such use has not previously been denied, disapproved, or canceled by the Administrator, such recommendation shall be deemed registration under section 3 for all purposes of this Act consistent with this section. Copies of all data pertaining to registration shall be forwarded to the Administrator, but the registration under this section shall not be effective for more than 90 days unless extended by the Administrator or unless the pesticide is registered by him in accordance with section 3 of this Act.

On page 130, at the beginning of line 23, change the section number from "24" to "25"; on page 132, at the beginning of line 14, change the section number from "25" to "26"; at the beginning of line 21, change the section number from "26" to "27"; at the beginning of line 22, strike out "There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act for each fiscal year ending June 30, 1972, June 30, 1973, June 30, 1974, and June 30, 1975." and insert "There is authorized to be appropriated to carry out the provisions of this Act not to exceed $15,000,000 for the fiscal year ending June 30, 1972, not to exceed $15,000,000 for the fiscal year ending June 30, 1973, not to exceed $25,000,000 for the fiscal year ending June 30, 1974, and not to exceed $35,000,000 for the fiscal year ending June 30, 1975."

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. Mr. President, I will not object, of course. I just wonder whether the parliamentary situation is such that upon the completion of action on the bill which is now being called up, we would without any further proceedings return to the unfinished business.

Mr. ROBERT C. BYRD. Mr. President, in response to the query of the senior Senator from New York, which is a very appropriate one, I ask unanimous consent that the unfinished business remain in a temporarily laid-aside status until the close of business today.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. JAVITS. It would then be restored.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. JAVITS. I thank the Senator.

The PRESIDING OFFICER. The Chair points out that debate on this measure and amendments thereto is controlled.

Mr. ROBERT C. BYRD. Mr. President, would the Senator from Georgia (Mr. TALMADGE) yield me 1 minute.

Mr. TALMADGE. Mr. President, I yield 1 minute to the acting majority leader.

Mr. ROBERT C. BYRD. Mr. President, I ask the distinguished senior Senator from Georgia whether it is his intention to ask for the yeas and nays on passage of this bill, and if so, would he ask for the yeas and nays now while we have a sufficient number of Senators present.

Mr. TALMADGE. Mr. President, this is a bill of major importance, a bill which has been considered not only by the Committee on Agriculture and Forestry, but also by the Committee on Commerce, with some differences of opinion which have been resolved. It will be necessary to go to conference with the House.

Under those conditions, I think the yeas and nays should be ordered, and I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. TALMADGE. Mr. President, with reference to the pending bill, the Senator from Alabama (Mr. ALLEN), the chairman of the subcommittee who handled this matter, has done a magnificent job for 10 months. When the bill came before the Committee on Agriculture he held hearings not once but twice, and every witness who desired to be heard was heard. Many of the issues were highly controversial. He resolved those issues, in my judgment, in the national interest. The committee reported the bill to the Senate without a single dissenting vote.

Then, the bill was sent to the Committee on Commerce, inasmuch as they had some jurisdiction, since it covered in some degree fish and wildlife, which is under the jurisdiction of the Committee on Commerce. They added 63 amendments to the bill. Most of those amendments had been rejected by the Committee on Agriculture and Forestry.

During the long period of time of negotiations between the two committees, which lasted for virtually 2 months, the Senator from Alabama and the general counsel and first officer of our committee, Mr. Harker Stanton, did a yeoman job. I do not know of any staff work in the last 15½ years that I have been in the Senate that has been as efficient and effective as that which Mr. Stanton did on behalf of the Committee on Agriculture and Forestry. In that effort the Senator from Alabama (Mr. ALLEN) worked with him daily, and in my judgment they have worked out a very fine bill. I hope the Senate will agree to it.

I yield now so much time as he may desire to the Senator from Alabama, who did such an outstanding job on this bill.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, I thank the chairman of the Committee on Agriculture and Forestry, the distinguished Senator from Georgia (Mr. TALMADGE), for his kind remarks. I would be less than candid if I did not say that each and every step that was taken by the subcommittee and by the staff of the committee was referred to the distinguished chairman of the committee, the distinguished Senator from Georgia (Mr. TALMADGE), for his advice and counsel. Without his help and assistance, and his wise counsel and advice, this compromise could never have been agreed to.

Mr. President, I extend my deep appreciation to the distinguished Senator from Georgia for the help and cooperation that he gave to reaching this compromise.

Now, Mr. President, reiterating what the distinguished chairman said, this bill was first referred to the Committee on Agriculture and Forestry and was reported to the Senate with a substitute by the Committee on Agriculture and Forestry; and the very same day it was reported it was referred by unanimous consent to the Committee on Commerce to exercise its jurisdiction over the bill.

Mr. President, at this time there are pending at the desk amendments offered by the Committee on Commerce.

Mr. President, I ask unanimous consent that notwithstanding the fact that the committee amendments have not been agreed to, it be in order to offer a complete substitute for the whole bill; and that if the substitute should be agreed to all of the committee amendments be considered as having been withdrawn.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection, and it is so ordered.

Mr. ALLEN. Mr. President, I offer the amendment on behalf of myself and Senators HART, AIKEN, BEALL, BELLMON, CANNON, CHILES, COTTON, CURTIS, DOLE, EASTLAND, EDWARDS, HARTKE, HUMPHREY, INOUYE, JORDAN of North Carolina, MCGOVERN, MAGNUSON, MILLER, MOSS, NELSON, PACKWOOD, PASTORE, SPONG, STEVENSON, TALMADGE, TUNNEY, and YOUNG.

Mr. President, these sponsors of this compromise amendment constitute all the members of the Committee on Agriculture and Forestry and a majority of the members of the Committee on Commerce.

The PRESIDING OFFICER. If there is no objection, the amendment will be stated by title, and because of its length will not be printed in the RECORD at this point.

The assistant legislative clerk read as follows:

> The Senator from Alabama, for himself and others, proposes a substitute amendment in lieu of the amendments proposed by the Committee on Agriculture and Forestry and the Committee on Commerce.

Mr. MILLER. Mr. President, I would like to take this opportunity to commend the Senator from Alabama (Mr. ALLEN) and the Senator from Michigan (Mr. HART) for their diligent efforts in reaching the compromise bill which is now before us. As ranking Republican on the full Agriculture Committee, I know that the Subcommittee on Agricultural Research and General Legislation, under its able chairman, the Senator from Alabama, spent a lot of time and study on this highly complex legislation. And I also know of the long hours that Mr. Harker Stanton, staff director and general counsel of our committee, his assistants, and their counterparts on the Committee on Commerce have spent in drafting language that can be agreed upon by a majority of the Senate. These people also merit our thanks.

On February 8, 1971, President Nixon asked for a pesticide bill in his message on the environment. Subsequently a bill was adopted by the House, and hearings were held immediately thereafter by our Committee on Agriculture and Forestry. The bill, with amendments was then favorably acted upon by the full committee. It was then re-referred to the Committee on Commerce. We have now reached the time for consideration by the full Senate, and I would but repeat the admonition of President Nixon in his letter of April 24 to the chairman of our committee (Mr. TALMADGE):

> It is important that the momentum now built up for action on this problem during this Congress not be lost. I am writing to express the hope that your Committee will seek and obtain early floor action to provide the Environmental Protection Agency with the tools it needs to regulate pesticides in the public interest.

Mr. ALLEN. Mr. President, I send to the desk and I ask unanimous consent to have printed in the RECORD at this point an explanation of H.R. 10729 as it appeared in the original report of the Committee on Agriculture and Forestry.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SHORT EXPLANATION

This bill completely revises the Federal Insecticide, Fungicide, and Rodenticide Act.

At the present time, this Act prohibits interstate commerce in unregistered pesticides, and permits registration only when if used as directed or in accordance with commonly recognized practice the pesticide is not injurious to man, vertebrate animals, or desirable vegetation. It does not prohibit the misuse of any registered pesticide, nor does it regulate pesticides moving only in intrastate commerce.

The new bill would—

(A) regulate the use of pesticides to protect man and his environment; and

(B) extend Federal pesticide regulation to actions entirely within a single State.

The major provisions would—

(1) prohibit the use of any pesticide in a manner inconsistent with its labeling. (Section 2(a) (2) (G)) No pesticide could be registered or sold unless its labeling was such as to prevent any injury to man or any substantial adverse effect on environmental values, taking into account the public interest, including benefits from its use. (Sections 2(q) (F), (G), and (H) and 3).

(2) require pesticides to be classified for general or restricted use. Restricted use pesticides could be used only by or under the supervision of certified applicators or subject to such other restrictions as the Administrator may determine. (Section 3(d)) This should not be construed as a limitation of the broad authority described in item (1). The House Committee report (page 15) indicates that the Administrator should not set up a system for use only by permit approved in writing for each application by a pest management consultant; but that general or seasonal licenses, permits, or other similar forms of approval may be required.

(3) extend the Act to all pesticides by including those distributed entirely within a single State. (Section 3.)

(4) strengthen enforcement by—

(a) requiring the registration of all pesticide producing establishments, and regular submission by them of production and sales-volume information; (Section 7)

(b) authorizing entry of establishments and other places where pesticides are held for sale or distribution and inspection and sampling of pesticides and devices; (Section 9)

(c) authorizing stop sale, use, or removal orders and seizure; (Section 13)

(d) providing for civil and increased criminal penalties; (Section 14)

(e) authorizing cooperation with State; (Sections 21 and 22)

(f) improving procedures governing registration and cancellation actions by combining scientific review and public hearings and requiring all questions to be submitted for scientific review at the outset of the hearing; (Section 6)

(5) give applicants for registration proprietary rights in their test data. (Section 3(c) (1) (D)

(6) authorize the Administrator to—

(a) establish pesticide packaging standards to protect children and adults and for other purposes; (Section 24(c) (3)

(b) regulate pesticide and container disposal; (Section 18)

(c) issue experimental use permits; (Section 5)

(d) conduct research on pesticides and alternatives and monitor pesticide use and presence in the environment. (Section 19)

(7) provide for certification of applicators by the States under a program approved by the Administrator. In addition, the States would be authorized to issue conditional registrations for pesticides intended for local use; and States could impose greater regulation on a pesticide than that of the Federal Government. (Sections 4 and 23)

(8) limit appropriations to carry out the Act to the period ending June 30, 1975.

GENERAL EXPLANATION OF H.R. 10729

This bill provides for the more complete regulation of pesticides in order to provide for the protection of man and his environment and the enhancement of the beauty of the world around him.

Pesticides affect the food man eats, the water he drinks, the air he breathes and the flora and fauna that surround him and provide him with beauty, recreation, and inspiration. They are necessary to keep his home free from vermin, to protect him from diseases spread by insects, rats, and other vectors, protect his possessions from termites and other destructive insects, and beautify his lawns and parks.

Pesticides are essential to man's food supply both as to quality and quantity. A generation ago consumers could expect to find occasional worms in apples and more frequent worms in sweet corn. Today we are blessed with wholesome, attractive, pest-free foods, processed, packaged, and marketed under clean and sanitary conditions. We have an abundance of food at reasonable prices.

Farm Production has increased by 156 percent since the 1935–39 period notwithstanding the fact that approximately 50 million acres were retired from production in 1970. And this level of production has been achieved in spite of the fact that the farm population has decreased from about 30 million persons to about 9.4 million persons.

More than 200 million persons in the United States, and many more millions throughout the world, now depend upon these farms and farm operators for most of their food and fiber. All of us are consumers. As consumers we all benefit from the increased efficiency and use of modern technology in the production and marketing of farm products.

When we go to market we can choose from over 6,000 different food items including fresh, frozen, canned, concentrated, dehydrated, ready-mixed, ready-to-serve, or in heat-and-serve form. Today, farmers feed over 70 million more persons in this country than they did in the late thirties. Consumers are now required to devote less of their income for a wider variety and higher quality of food than they did before. In 1972, only 15.8 per cent of disposable income was spent on food as compared to 23 per cent in earlier years. Compare this to 30 per cent in Europe . . . 50 per cent in the Soviet Union . . . and as high as 90 per cent in many other countries.

American food is the best buy in the world. Pesticides are important in the preservation of natural beauty. As examples of the unpleasant effects caused by insects in the absence of effective pesticides, the following are quoted from a pamphlet on the gypsy moth published by the Department of Agriculture in April of this year.

"Gypsy moths have been in this country since 1869, when imported specimens escaped during experiments being performed by a Massachusetts naturalist. Extensive Federal-State efforts confined gypsy moth destruction to New England, New York and Pennsylvania for many years. But, in 1958, concern over the possibility of environmental contamination caused a switch from large-scale spraying of DDT to limited application of less persistent insecticides.

"In recent years, gypsy moth populations have built up to alarming levels, with spread occurring throughout much of the Northeast and into parts of the South. The nearly 2 million acres of trees defoliated in 1971 doubled the acreage stripped in 1970, was six times more than in 1969, and was twelve times more than recorded in 1968.

"The gypsy moth is a European insect and is one of the world's worst forest pests. They are harmless in the moth stage, but as caterpillars feed on the leaves of forest, shade, ornamental and fruit trees. A single complete defoliation can kill some softwood trees; two or more defoliations can kill many types of hardwoods.

* * * * *

"Gypsy moth infestations leave their mark on urban and suburban areas, as well as forests. Caterpillars cover sidewalks and get into water reservoirs, stores, homes and swimming pools. They make parks and other outdoor recreational facilities temporarily unusable and lower property values with tree-killing defoliations."

While appropriate pesticides properly used are essential to man and his environment, many constitute poisons that are too dangerous to be used for any purpose. Others are dangerous unless used extremely carefully, and some may have long lasting adverse effects on the environment. Some may be taken up in the food chain and accumulated in man and other animals. Improperly used they may endanger bees and other useful insects, birds, and other animals and their food supply. Pesticides may cause injury through accidental ingestion, inhalation or deposit on the skin. Pesticides therefore have important environmental effects, both beneficial and deleterious. Their wise control based on a careful balancing of benefit versus risk to determine what is best for man is essential.

At present the Federal Insecticide, Fungicide and Rodenticide Act provides for the labeling of pesticides with appropriate directions for their use and cautions and warnings. If a pesticide is such that when used in accordance with its label or common practice it is injurious to man, other vertebrates, or useful plants, it cannot be registered under the Act and cannot be sold or distributed in interstate commerce. If a chemical is registered and it subsequently appears that under the foregoing criteria it should not have been registered, its registration may be cancelled; and in case of imminent hazard its registration may be immediately suspended pending the completion of cancellation proceedings.

But there is no prohibition at present against the misuse of a registered pesticide. There also is no control under the Act for pesticides distributed entirely within a single state. The provisions of H.R. 10729 are needed to correct these and other deficiencies in the law in order to provide effective control. Some of the major changes provided for by the bill are as follows:

(1) *Restrictions on use.*—Section 12(a)(2)(G) prohibits the use of any pesticide in a manner inconsistent with its labeling. Section 2(q) designates a pesticide as misbranded in certain circumstances, one being that when used in accordance with its label or commonly recognized practice it causes any injury to man or any substantial adverse effects on environmental values, taking into account the public interest, including benefits from the use of the pesticide. Section 3(d)(1)(C) provides that if the pesticide, when used in accordance with its label or commonly recognized practice, may cause, without additional regulatory restrictions, any injury to man or any substantial adverse effects on environmental values, taking into account the public interest, including benefits from the use of the pesticide, it shall be classified for restricted use and subjected to additional restrictions. If it is so classified because of a determination that the acute dermal or inhalation toxicity of the pesticide presents a hazard to the applicator or other persons it would be required to be applied only by or under the direct supervision of a certified applicator. If it is so classified for any other reason, it would either be required to be applied only by or under the direct supervision of a certified applicator, or subject to such other restrictions as the Administrator may determine. By comparing these provisions with each other and with existing law, it can be seen that (1) they provide for a more finely tuned control of pesticides which will more easily permit their beneficial use and prevent their misuse; and (2) few pesticides which are now registered would be classified for restricted use. Since the present criteria for registration, the criteria for registration under the bill, and the criteria for restricted use classification under the bill are essentially similar, except for the provision for additional restrictions in connection with classification for restricted use, it follows that currently registered pesticides were at the time of registration found to be safe based on present criteria without the imposition of such additional restrictions. The Committee understands that EPA is engaged in upgrading its criteria (as to safety and effectiveness) for the registration of pesticides and expects to use the revised criteria for the classification of existing pesticides under the new Act. Also because of research and other information being accumulated on the risks and benefits associated with pesticides, this will warrant some pesticides being placed in the restricted category. The effect of classification for restricted use therefore is to provide for additional regulatory restrictions, additional to those on the label, which will make the pesticide safe to use and thereby bring it within the criteria for registration. The difference between restrictions in use shown on the label and additional regulatory restrictions imposed on restricted use pesticides is that the additional restrictions may more easily be changed as conditions warrant, and that in many cases it would be more appropriate to control the use or the making available for use of a pesticide through general regulations than through its labeling. In order to change the restrictions on the label or labeling, the Administrator might have to start cancellation proceedings. Regulatory restrictions may be changed promptly by issuing a new regulation or by exercising authority provided for in the existing regulation. The additional regulatory restrictions thus constitute a tighter form of control.

Section 12(a)(2)(F) makes it unlawful to make for use or use any restricted use pesticide contrary to such regulations, and section 12(a)(2)(G) makes it unlawful to use any registered pesticide in a manner inconsistent with its labeling. By prohibiting the misuse of pesticides, these provisions protect the environment and also prevent the growth of commonly recognized practices which would require the cancellation of registration of a pesticide, thereby assuring the continued use of pesticides in a manner designed to protect and improve the environment.

(2) *Extension to actions entirely within a single state.*—The existing law prohibits the sale or distribution of unregistered pesticides in interstate commerce. Section 3 of the bill would extend this prohibition to any commerce so that pesticides produced and sold in a single state would be subject to federal registration and all of the prohibitions of the Act.

(3) *Strengthening enforcement, proprietary rights in test data, and additional authorities.*—All of these provisions are designed to provide for tighter control of pesticide registration and use to insure protection to man and the environment. Registration of pesticide producing establishments will aid the Administrator in tracking down violations and accidental discharge or spillage. Stop sale, use, or removal orders and seizures will provide immediate means for preventing the use of dangerous pesticides. Improved procedures for registering and cancelling registration will speed desirable pesticides to the market and speed the removal of undesirable pesticides. Giving applicants proprietary rights in their test data will encourage applicants to spend the money necessary to test their products fully and assure their safety. Requiring subsequent applicants to make their own tests will serve as a double check on the original test procedures and either provide double assurance that the products are safe or show up their shortcomings.

HISTORICAL BACKGROUND

The use of chemicals in agriculture began with the trend toward intensive farming in the mid-19th century. Cultivation of specialized crops created imbalances in nature which provided insects and other pests ideal conditions in which to multiply.

As an example, the Colorado potato beetle in 1850 lived on local plants and maintained a balanced population in its natural environment. When the early settlers planted potatoes, the beetles were furnished a vast new supply of food. They multiplied. They became a pest to the new settlers and spread eastward to other potato fields as a result of their own population pressure. Nothing was effective against this new pest until the arsenic compound, Paris green was applied.

By the latter half of the 19th century, United States agriculture was well on the way toward becoming a commercial production industry. Progressive scientific farming was promoted by the founding of the land-grant colleges, the agricultural experiment stations, and the creation of an extension-education system. These institutions, together with the United States Department of Agriculture, made up an extremely effective organization of applied research, informational and demonstration programs, and consulting services for farmers.

As a result of these developments in which the increasing use of chemical pesticides played an important role, most of U.S. food supplies and substantial quantities of food for export are now produced by fewer than 5 percent of the population.

FEDERAL INSPECTION ACT OF 1910

As early as 1910 the distribution and use of chemical pesticides reaches a level which required Federal regulation for the protection of users, consumers and the general public. Federal regulation of pesticides began with the enactment of the Federal Insecticide Act of 1910, although State regulation was undertaken in some States at an even earlier date.

The Federal Insecticide Act of 1910 prevented the manufacture, sale or transportation of adulterated or misbranded insecticides and fungicides and authorized regulation of sales of insecticides and fungicides.

As the number and variety of chemical pesticides manufactured and used increased, individual States increased the scope of their regulations. In 1946 the Council of State Governments developed a uniform insecticide, fungicide and rodenticide act for the consideration of and adoption by the individual States. At the same time the Congress began holding hearings on proposed more comprehensive Federal legislation.

FIFRA ENACTED

In June 1947, the Insecticide Act of 1910 was repealed and replaced by the Federal Insecticide, Fungicide and Rodenticide Act. By this time great changes had occurred in the field of chemical pesticides, or economic poisons. New plant materials and synthetic chemicals developed through both private and publicly-financed research had greatly increased the number of pesticides available and widened the scope of their usefulness. DDT and herbicides were becoming increasingly important.

The 1947 Act required:

1. The registration of economic poisons or chemical pesticides prior to their sale or movement in interstate or foreign commerce.

2. The prominent display of poison warnings on labels of highly toxic pesticides.

3. The coloring or discoloring of dangerous white powdered insecticides to prevent their being mistaken for foodstuffs.

4. The inclusion of warning statements on the label to prevent injury to people, animals and plants.

5. The inclusion of instructions for use to provide adequate protection for the public.

6. That information be furnished the administrator of the Act with respect to the delivery, movement, or holding of pesticides.

This Act was designed to work in harmony with the uniform State insecticide, fungicide and rodenticide act which was adopted in many States.

MILLER AMENDMENT

In 1954 pesticide regulations were expanded further by an amendment to the Food and Drug Act authorizing its administrator to set tolerance limits for the residues of pesticides on foods.

This provision, known as the "Miller amendment," requires the pretesting of a chemical pesticide before it can be used on food crops. The manufacturer is required to provide detailed data to demonstrate to the administrator of the Federal Pesticide Act (FIFRA) that the chemical is useful to agriculture and how much residue, if any, will remain in or on a food crop after application.

The manufacturer must also supply scientific data on the toxicity of the chemical to warm-blooded animals. It is from these data and from their own research that the Federal Food and Drug Administration sets a tolerance or maximum amount of residue which may legally remain in or on the food crop when it is marketed.

1959 AMENDMENTS

After 1947 several new types of agricultural chemicals, generally referred to as nematocides, defoliants, desiccants, and plant regulators were developed and acquired widespread commercial use. Nematocides were used to control nematodes, or very small eelworms which attack the roots of plants. Defoliants were found useful to make leaves drop from plants to facilitate mechanical harvesting of the crop. Desiccants also were found useful in drying plant tissues to facilitate harvesting the crop. And, plant regulators were found useful under some conditions in regulating the growth processes of plants.

In 1959 the 1947 Act was again amended to include these products under the general regulatory provisions for economic poisons on chemical pesticides.

INCREASING CONCERN IN THE 1960'S

In the early 1960s increasing public concern regarding the longer run public health and ecological effects of some of the chemical pesticides led to the creation of a Presidential Scientific Advisory Committee which made a number of recommendations in its 1963 report.

It concluded among other things that,

1. Monitoring programs to obtain systematic data on pesticide residues should be expanded.

2. Federal research programs concerned with pesticides should be expanded and coordinated.

3. A broad educational program emphasizing the hazards in the use of pesticides should be undertaken.

It also recommended amendments to existing pesticide legislation to:

1. Eliminate "protest" registrations.

2. Require each pesticide to carry a license number identification, and

3. Include fish and wildlife as useful vertebrates and invertebrates under the Federal Pesticide Act.

It was the consensus of that committee that mankind must continue to fight insects and other pests in the most efficient manner possible, and that an integrated program involving chemicals was absolutely necessary.

1964 AMENDMENTS

In 1964, amendments to the Federal Insecticide, Fungicide and Rodenticide Act of 1947 were adopted which, as recommended, eliminated protest registration and authorized each pesticide to carry a license number identification. The 1964 amendments also expedited procedures for suspending the marketing of previously registered pesticides which were found to be unsafe.

At that time, the Departments of Agriculture, Interior and Health, Education, and Welfare entered into an interdepartmental agreement, which among other things established procedures for resolving any differences they might have with respect to the licensing and regulation of new pesticides.

The appropriate use of chemical pesticides and the adequacy of existing regulations has continued to be widely discussed in the public forum. Various committees of both the House and the Senate have held hearings, studied the problem, and issued reports on pesticides and public policy and deficiencies in the administration of the Federal Insecticide, Fungicide and Rodenticide Act.

Two years ago the Department of Health, Education, and Welfare appointed a commission on pesticides and their relationship to environmental health. Over 5,000 references to published and ongoing scientific research were reviewed and evaluated by this Commission. It made a number of recommendations in November 1969, which were considered by all agencies involved in regulations and research relating to pesticides and their use.

CREATION OF ENVIRONMENTAL PROTECTION AGENCY

A year later, President Nixon proposed a reorganization of the agencies of the Federal Government dealing with pesticides to more effectively deal with the problems in this area. In December 1970, he transferred the pesticide and pure food regulatory staffs located in the Departments of Agriculture, Interior, and Health, Education, and Welfare to a new Environmental Protection Administration.

PESTICIDE LEGISLATION PROPOSED

In February 1971, the President submitted the legislative recommendation which along with other proposals before the Committee became the basis for this bill.

COMMITTEE DELIBERATION

The Subcommittee on Agricultural Research and General Legislation held open hearings on four bills, S. 232, S. 272, S. 660, and S. 745, all of which deal with pesticide regulations, during the period March 23–26, 1971. All who wished to testify were provided an opportunity. Statements were presented to the subcommittee by a total of 70 witnesses. A number of other letters, statements, reports, and recommendations were also formally furnished the Committee in connection with the hearings.

Subsequently, on March 7 and 8, 1972, additional open hearings were held on a House passed pesticide bill, H.R. 10729, and a Committee Print thereof prepared especially for this purpose. At this time a total of 89 witnesses presented statements. As in the previous hearings additional papers were also made available to the Committee.

A list comprising 86 typewritten pages of all amendments proposed to H.R. 10729 and reasons therefor was prepared for subcommittee consideration. Subsequently Committee Print No. 2 was prepared illustrating a number of suggestions for amendments to the bill. The subcommittee, in executive session considered all of these, as well as other amendments. Most were accepted and are shown below:

AMENDMENTS RECOMMENDED BY THE SUBCOMMITTEE

(1) delete "pesticide" from "certified pesticide applicator" to avoid confusion with certified public accountants (CPA's);

(2) give EPA discretion as to the necessity for the physical presence of a certified applicator;

(3) define "imminent hazard" to include a situation involving hazard to survival of an endangered species;

(4) define "ingredient statement" to require all pesticides to show the name and percentage of each active ingredient and the total percent of inert ingredients;

(5) require the establishment registration number to be shown on the label (rather than on accompanying labeling);

(6) classify a pesticide as misbranded if "when used in accordance with the requirements of the Act or commonly recognized practice" it causes substantial adverse effects on the environment;

(7) exclude non-toxic, vitamin-hormone products not intended for pest destruction from the definition of "plant regulator";

(8) leave the determination of what is a trade secret to the courts (rather than the Administrator);

(9) add to the provision for proprietary rights in test data a proviso permitting the Administrator to refer to any applicant's test data in evaluating the adequacy of another applicant's test data;

(10) give the Administrator discretion to give an applicant more than thirty days to make corrections;

(11) permit "other interested persons with the concurrence of the registrant" to contest the denial, cancellation, or suspension of registration, or a change in classification, where the registrant fails to do so;

(12) authorize the Administrator to require pesticide packaging and labeling for restricted use to be clearly distinguishable from packaging and labeling for general use;

(13) make restricted classification depend in part on the hazards involved in the use of a pesticide "in accordance with a commonly recognized practice";

(14) make it clear that EPA can withdraw its approval of a state certification plan;

(15) allow the Administrator to permit continued sale or use of a pesticide whose registration is cancelled where not inconsistent with the purposes of the Act;

(16) require submission of all scientific questions "at the outset of the hearing" to prevent delays through additional references while the hearing is proceeding;

(17) provide for entry by EPA of any place where pesticides or devices are held for distribution or sale (as well as manufacturing establishments);

(18) permit the Administrator (rather than the President by executive order in emergency conditions) to exempt federal or state agencies;

(19) require the Administrator to solicit the views of the Secretary of Agriculture before publishing regulations;

(20) authorize the Administrator to utilize the cooperative state extension services in providing information to farmers;

(21) make it clear that a state may provide registration to meet specific local needs (subject to disapproval by the Administrator);

(22) give the Administrator discretion as to which provisions of section 2(q)(1) (definition of misbranded) or section 7 (registration of establishments) shall be applicable to any class of device;

(23) extend the appropriation authority for the Act one year to fiscal 1975; and

(24) prohibit EPA from charging fees, other than reasonable registration fees.

Four amendments were passed for submission to the full Committee for its deliberation without subcommittee recommendation as follows:

Amendment 1, would authorize third parties to petition for cancellation or suspension and obtain judicial review. There were three alternative proposals:

(A) NACA proposal would make registration prima facie evidence of compliance for all purposes, provide for cancellation in contested cases only on the basis of scientific data not considered at time of registration, strike the provision for hearings initiated by the Administrator, and provide for judicial review in such cases in the district court;

(B) Hart-Nelson Amendment No. 1010 provided for review in such cases in the circuit court, prohibited stay of an agency action unless the party seeking the stay was likely to prevail and would suffer irreparable harm;

(C) EPA proposed appeal to the circuit court and indicated that the Hart-Nelson provision for a stay duplicated that already in the bill. EPA recommended an alternative version.

Amendment 2 would strike out the provision for indemnities to owners of pesticides for which registration is first suspended and then cancelled.

Amendment 3 would provide for citizens' civil actions for injunctive relief against the United States, the Administrator, or any other person. EPA suggested an alternative which would (i) limit it to cases against producers, applicators, and the Administrator; (ii) specify venue in the district in which the violation occurred, or in the case of suits against the Administrator, the District of Columbia; (iii) strike the provision for citizen intervention in U.S. suits and provide for intervention by the U.S. (rather than the Administrator) in citizens suits; and (iv) provide for consolidation of like citizen suits.

Amendment 4 would strike the provisions of section 3(d)(1)(C) authorizing the Administrator to impose restrictions other than the requirement that the pesticide be applied by or under the direct supervision of a certified applicator.

Committee Print No. 3 was then prepared showing all of this action and was used by the full Committee as a basis for its deliberations.

The full Committee considered the bill submitted by the subcommittee on June 7, 1972.

The amendments recommended by the subcommittee were adopted and decisions were made on the four amendments presented by the subcommittee without recommendation.

With respect to Amendments No. 1 and No. 4 the full Committee adopted compromise proposals as follows:

The compromise proposal for Amendment 1—

(a) makes registration prima facie evidence of compliance only as long as no cancellation proceedings are pending;

(b) continues the present clear criteria (compliance with the Act) for cancellation proceedings;

(c) provide for the initiation of cancellation proceedings either by notice of intent to cancel, or notice of intent to hold a hearing (so that the Administrator may have the benefit of more information before he decides to cancel);

(d) provides for hearings on suspensions except in emergency situations;

(e) provides for judicial review by the court of appeals in all cases where there has been an administrative hearing and by the district court in all cases where there has not been an administrative hearing; and

(f) makes it clear that any person who will be adversely affected by an order may obtain judicial review.

Before adopting this compromise proposal, the Committee considered all of the numerous amendments submitted to clarify the procedure for judicial review, third-party participation in the administrative decision-making process, and the grounds which permit the Administrator to cancel a registration before a five-year period. The procedures adopted carry forward the language of present law by which the Administrator cancels where a substantial question exists. Under present practice third-parties may request the Administrator to review new data and determine whether formal proceedings should be commenced. The Committee action permits persons adversely affected to continue to be able to request review of the status of a registration and adversely affected persons, like users, also to participate in the administrative process. The language "adversely affected" is in present law and the Committee has rejected the House language which refers to "interested persons" so as to avoid any implication of desiring to change present law.

The Committee has determined that the Administrator should be able to call a hearing when he believes it useful rather than issue a notice of intent to cancel. Such a procedure permits the Administrator to initiate formal review without placing a stigma on a product when he is not convinced that the registration should be cancelled. It also permits the Administrator to proceed without automatically cancelling if no specific request for a hearing is received.

After a hearing judicial review on petition by any person adversely affected is properly lodged in the courts of appeals, since an adequate record exists for such review. Where, however, the Administrator has determined no substantial question of safety exists which warrants formal review, and thus has refused to hold a hearing, review should be by a district court since there is no record for the court of appeals.

The Committee has also provided for expedited hearings on questions of suspension so that the procedure will be analogous to cancellation. Where a suspension action is taken prior to a hearing, a district court could stay the suspension pending the Administrator's determination after a hearing except such stay shall be dissolved at the time the Administrator issues a decision. If, after the hearing, the Administrator determines to suspend, the order becomes effective and any district court restraining order is dissolved, and the power to stay the Agency's order shall rest with the courts of appeals.

The Committee has also endorsed the House bill which eliminates the two-step procedure in present law requiring review by a scientific advisory committee followed by a public hearing. The House bill substitutes a procedure whereby at the start of a public hearing relevant questions of scientific fact are referred to a Committee of the National Academy of Sciences as part of the hearing procedures.

The compromise proposal for Amendment 4 leaves the Administrator with broad power to impose such regulatory restrictions as may be necessary, but gives any person adversely affected by such regulations 60 days to petition the court of appeals for review of such regulations.

The Committee adopted Amendment No. 2 and turned down Amendment No. 3. In addition it considered several minor amendments adopting several including technical amendments.

In connection with striking the indemnity provisions the Committee felt that with the tighter regulation provided by the bill, suspension and cancellation should rarely be necessary; and that on such rare occasions it should be possible to permit existing stocks to be used up in a safe manner. In this connection the Committee considered the following letter from Mr. David D. Dominick, Assistant Administrator, E.P.A., outlining the method to be used by EPA in cancelling registration:

Environmental Protection Agency,
Washington, D.C., May 10, 1972.

Hon. Henry Bellmon,
U.S. Senate,
Washington, D.C.

Dear Senator Bellmon: You may recall that during our discussion of H.R. 10729, the proposed legislation for the regulation of pesticides, you were concerned that EPA have the flexibility to continue a registration for use during a growing season, even though we have determined after a hearing that the registration should be cancelled.

I believe our present authority under H.R. 10729 is sufficiently flexible to permit an orderly phase-out where farmers have relied on a pesticide for use during an upcoming growing season. It is open to registrants and user groups to raise at the hearing any question bearing on the benefits of using a product. Any showing of need for a pesticide during an upcoming season would be relevant and the statute would permit us to issue an order that would result in a label use for a given season or period of time or indeed in a certain geographical location. It would be our policy to invoke this flexibility on a showing by affected groups that the particular chemical were needed for the growing season.

While I am reasonably confident that we have such flexibility, (see the attached memorandum), I think a few words to this effect in the Senate Committee Report could nail the situation down.

On a related subject, this matter underscores the importance for broad public participation in our regulatory process. As the law stands at present, users and interested groups, like environmentalists, have standing to participate in our decisions. The House bill has changed the language in the present act. It is our view that this change in language does not create a change in substance in view of the case law which does not suggest that courts view these two phrases differently. While we do not believe a change back to the original FIFRA language is required, the Committee may wish to include language in the Committee report which would clarify what we believe to be the case.

Sincerely,

David D. Dominick,
Assistant Administrator for Categorical Programs.

The Subcommittee recommended and the full Committee approved the following comments:

1. A number of witnesses recommended amendments to specifically require the labeling to bear directions and warnings to protect farmers and others coming into contact with pesticides or residues; prohibit use of test data unless the tests were legal and voluntary; specifically mention danger to farmers and others coming in contact with pesticides or residues as a ground for restricted use classification; and specifically

require certified applicators to have the ability to guard against such danger. The bill, as reported by the Committee, provides complete safeguards to protect farmers and others coming into contact with pesticides or residues. It does so in general terms that are very broad and cover much more than would be covered by the proposed amendments. The Committee felt that by specifically mentioning particular areas protected by the general provisions, there might be some suggestion that the general provisions should be construed to cover less than actually intended. Section 2(j) of the bill defines "environment" to include all men, whether they come into contact with the pesticides or pesticide residues, or not. Sections 2(q)(1)(F), (G), and (H) and 3(c)(6)(C) are designed to protect all men. The Committee believes there can be no question about the matter, but takes this occasion to emphasize that the bill requires the Administrator to require that the labeling and classification of pesticides be such as to protect farmers, farm workers, and others coming in contact with pesticides or pesticide residues.

2. A number of witnesses supported amendments to—

(1) add a new definition, defining "unreasonable adverse effects on the environment",

(2) provide for use of the new definition in section 3(c)(5)(C) providing for approval of registration, and

(3) strike out the last sentence of section 3(c)(5) which prohibits denial of registration because of "lack of essentiality".

The Environmental Protection Agency advised the Committee that it would construe the new definition to have exactly the same meaning as that for "substantial adverse effects on the environment" in section 2(bb) of the bill, that adoption of the new definition would require additional changes throughout the bill, and that striking out the last sentence of section 3(c)(5), which prohibits denial of registration because of "lack of essentiality", would make no difference in the manner in which the bill was carried out. With respect to lack of essentiality, EPA said:

> We believe the present language of section 3(b) is preferable since it states Agency policy. Where two products pose that same degree of risk and are equally necessary and effective, one should not be registered in preference to the other. Of course, where the same control can be achieved more safely than with a product which is being examined, the definition of "substantial adverse effects" in section 2(bb) would itself mandate consideration of the alternatives.

Consequently the Committee did not adopt these amendments.

3. Dr. Ralph E. Heal, Executive Secretary of the National Pest Control Association, raised the following question at the Committee's hearings on this bill:

> At the hearings on S. 745 last year, our Association asked for an amendment that would permit enough flexibility in interpretation of label instructions to permit our industry to control certain minor pests legally under circumstances where no pesticide had been registered for the control of that pest. H.R. 10729 provides wording that could be interpreted as giving this flexibility, when it says, "Section 12(a)(2)(G). It shall be unlawful for any person to use any registered pesticide in a manner inconsistent with its labeling." The Report of the House Committee on Agriculture, No. 92–511, discussed the interpretation of "inconsistent," recommending that it be applied in a common sense manner (page 16, item 11). The illustration used, however, dealt with concentration of pesticide rather than species of pest to be controlled.
>
> We again ask your consideration of this question. A preliminary check has shown that we have no effective pesticide registered for the following pest problems:
>
> Honey bees nesting in a house.
>
> Book lice in a home.
>
> Strawberry root weevil invading a home.
>
> Springtails in an office.
>
> Box elder bug invading a house.
>
> Carpenter bees in the siding of a house.
>
> Bamboo borer in furniture.
>
> Fungus beetles in a home.
>
> Elm leaf beetles invading a home.
>
> Wax moths from abandoned honey comb in a wall.
>
> The blood sucking cone nose budg.
>
> Undoubtedly there are many more. We cannot expect a manufacturer to go to the expense of registering a product for the control of minor and occasional pests such as these. But these pests can be controlled by pesticides that have been registered for control of other pests in comparable locations or environments. It would be helpful in the cause of permitting us to be a law-abiding industry if it were recognized that such a use of a pesticide would not be "inconsistent" with its labeling. If we can help in any way in formulating such a clarification we would want to do so.

This bill would regulate the use of a pesticide for the first time. It is not the intention of the Committee to prohibit any use which is in no way harmful, and which has only beneficial effects on man and his environment. The Committee considered an amendment to the bill to assure that such use would not be prohibited, but concluded that this was a matter which would have to be left to the good sense of the Administrator, the manufacturers, and the users. It is the hope of the Committee that by proper administration of the labeling requirements and administrative interpretations of the law and the labels approved by him, the Administrator will be able to make it clear to users that such uses are not prohibited. Further, it is the belief of the Committee that the use of the word "inconsistent" should be read and administered in a way so as to visit penalties only upon those individuals who have disregarded instructions on a label that would indicate to a man of ordinary intelligence that use not in accordance with such instructions might endanger the safety of others or the environment. Thus, for example, it would be expected that use of a general, unrestricted pesticide registered for use on enumerated household pests to exterminate a pest not specified on the label would not be inconsistent with the labeling. On the other hand, the use of even a general use pesticide in a manner inconsistent with a specified caution or restriction on the label should be considered inconsistent with the labeling. For example, the use in the home of a general use pesticide labeled "for use outdoors" or "not for use in enclosed areas", would be prohibited under this provision.

4. The Senate Committee considered the decision of the House Committee to deprive political subdivisions of States and other local authorities of any authority or jurisdiction over pesticides and concurs with the decision of the House of Representatives. Clearly, the fifty States and the Federal Government provide sufficient jurisdictions to properly regulate pesticides. Moreover, few, if any, local authorities whether towns, counties, villages, or municipalities have the financial wherewithal to provide necessary expert regulation comparable with that provided by the State and Federal Governments. On this basis and on the basis that permitting such regulation would be an extreme burden on interstate commerce, it is the intent that section 24, by not providing any authority to political subdivisions and other local authorities of or in the States, should be understood as depriving such local authorities and political subdivisions of any and all jurisdiction and authority over pesticides and the regulations of pesticides.

5. Sec. 164.31(c) of the rules of procedure which were proposed and published in the Federal Register of January 22, 1972, would authorize any witness testifying in a review proceeding under the Act to record his testimony for subsequent televising or broadcasting. The Committee disapproves of this provision. The review proceedings authorized by section 6 are adjudicatory in nature. As such they are subject to the various statutory and constitutional provisions relating to adjudicatory hearings. The purpose of the hearings is to provide a record of competent scientific evidence for the consideration of the Administrator in making his decision as to whether or not a registration should be granted or denied. The obligation is on the Administrator to make this decision based upon the record as a whole and not upon any one part of the record. Televising or broadcasting is of necessity related to just one portion of a witness' testimony. It would of necessity exclude any cross-examination or other testimony which would raise a question as to the qualifications of the witness or the validity of this testimony.

The rule published on May 11, 1972, did not include the provision discussed above, and the Committee does not approve of their inclusion at any later date.

Mr. ALLEN. Mr. President, the Committee on Agriculture and Forestry worked long and hard on this bill. On March 23, 24, 25, and 26, 1971, its Subcommittee on Agricultural Research and General Legislation held hearings on S. 232, S. 272, S. 660, and S. 745. The subcommittee heard all witnesses who wished to testify and a total of 70 witnesses presented statements. The committee carefully analyzed all bills and made detailed comparisons of S. 660 and S. 745 with existing law. On March 7 and 8, 1972, the subcommittee held hearings on H.R. 10729 and again heard all witnesses that wished to testify. A total of 89 witnesses presented statements. Many helpful suggestions were made. Hundreds of amendments were proposed. All of them were carefully considered by the subcommittee and the committee. Several committee prints were made of S. 745 and H.R. 10729 to illustrate a number of these amendments. The committee included in its recommended amendment to the Senate all those amendments proposed by witnesses which it deemed meritorious.

Mr. President, this bill does two things. First, it provides for regulating the use of pesticides, as distinguished from their labeling and interstate distribution. Second, it extends pesticide regulation to intrastate commerce.

At present, the Federal Insecticide, Fungicide, and Rodenticide Act prohibits interstate commerce in unregistered pesticides. It permits registration only when, if used as directed or in accordance with commonly recognized practice, the pesticide is not injurious to man, vertebrate animals or desirable vegetation. The Administrator of the Environmental Protection Agency, who administers this act, is required to refuse to register any article if it does not appear to him that it complies with all of the provisions of the act. He may cancel the registration of any pesticide under the same circumstances. Directions for the use of the pesticide and the cautions and warnings which must appear on its label are subject to his approval. The Administrator, therefore, now has the power to keep harmful pesticides off the market and the power to see that adequate directions and cautions are on the label setting out the manner in which the pesticide should be used.

The Administrator does not, however, now have any power to see that the directions are followed. This bill would provide that authority by making it unlawful to use any registered pesticide in a manner inconsistent with its labeling. This provision gives the Administrator complete control over the use of any pesticide. He must refuse to register it unless its labeling complies with the requirements of the act and it will perform its intended function without unreasonable adverse effects on the environment. In order to comply with the requirements of the act, the labeling must contain such directions, cautions, and warnings as the Administrator finds adequate to protect health and the environment. The bill would require those directions, cautions, and warnings to be followed.

In order to provide for a more finely tuned control of pesticide use, the bill provides further for the division of pesticides into general use pesticides and restricted use pesticides. Pesticides classified for restricted use could be applied only by or under the direct supervision of a certified applicator or subject to such other restrictions as the Administrator might provide by regulation. Suppliers would be prohibited from making restricted use pesticides available for use other than in accordance with such regulation. This would provide for very tight control. The sale of restricted use pesticides could be limited to certified applicators who had proved their ability to use them properly and who faced loss of certification if they used them contrary to regulation. Restrictions imposed by regulation could be changed by the Administrator from time to time as he deemed necessary, relaxing the regulation where that could be safely done so as to make the benefits of the pesticide more easily obtainable, or tightening restrictions where that action appeared necessary to protect health and environment. It is anticipated that only the more dangerous pesticides would be classified for restricted use.

The other major change made by the bill is to extend it to all pesticides intended for use in the United States. Present law applies only to those distributed in interstate commerce. These two changes give the Administrator practically plenary power to assure that every pesticide in the country is properly labeled with adequate cautions and directions and restricted, wherever necessary, to use by trained applicators.

In addition to the two major changes discussed above, the bill would completely revise the Federal Insecticide, Fungicide, and Rodenticide Act. It would strengthen enforcement by:

First, requiring the registration of all pesticide producing establishments and regular submission by them of information;

Second, authorizing entry, inspection, and sampling at places where pesticides are held for sale;

Third, authorizing stop sale, use, or removal orders and seizure.

It would authorize the Administrator to establish packaging standards to protect children and adults from accidental injury. It would authorize the Administrator to regulate pesticide and container disposal, to issue experimental use permits, to conduct research, and to monitor pesticide use and presence in the environment.

It would prohibit the Administrator from considering data submitted in support of one application from being considered in support of any other application for registration unless a reasonable share of the cost of producing the test data to be relied upon is paid by the second applicant. The cost of testing a product to determine the pests for which it is effective, the commodities on which it can be safely used, and the proper method of application may be very great. If the product is not patentable or if the patent protection has expired, there is nothing at present to prevent a competitor from registering a similar product and establishing efficacy and safety through use of the first applicant's data.

The bill would limit appropriations to carry out the act to the period ending June 30, 1975. This would make a review of this legislation necessary prior to that date.

Mr. President, pesticides serve many purposes. They include insecticides, fungicides, rodenticides, herbicides, and nematocides. They are important to the cleanliness and sanitation of our homes, restaurants, hospitals, food processing plants, and other places. They are important to forests, to soil conservation, and to our water supplies which in turn are so dependent upon good forest and soil management. They contribute to the quantity and quality of our food supply from the seed intended for planting to the serving placed on the table. During all stages of production and processing, our food supply must be protected from insects, rodents, weeds, and fungus. Production is helped through the use of plant regulators, defoliants, and dissicants. All of these are necessary to assure the farmer of a bountiful harvest and the consumer of adequate supplies of attractive and nutritious foods at reasonable prices.

However, pesticides do not constitute an unmitigated blessing. The attributes which make them useful and necessary also make them dangerous. A poison which is capable of killing an insect or a rodent may, if not properly used, kill or cause serious injury to useful insects, pets, wildlife, or man. Defoliants improperly used may defoliate useful plants, and herbicides improperly used may kill desirable vegetation. Some pesticides may be too dangerous to use under any circumstances. Others may be used only with the greatest care. In almost all cases, they should be used in accordance with carefully prepared directions and cautions.

It is the purpose of this bill to regulate the use of pesticides so as to obtain their benefits and avoid their dangers; provide a bountiful food supply; protect our forests, parks, and homes from attack by insects, rodents, and other pests; protect our health from pest-carried diseases, and at the same time protect our food supply, wildlife, and health from the harmful effects which can be caused by misuse of pesticides.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point an explanation of the compromise substitute for the text of H.R. 10729.

There being no objection, the explanation was ordered to be printed in the RECORD, as follows:

EXPLANATION OF COMPROMISE SUBSTITUTE FOR THE TEXT OF H.R. 10729

Mr. President, at the same time that the Committee on Agriculture and Forestry reported this bill I asked that it be referred to the Committee on Commerce. That Committee reported the bill on July 19 with a number of amendments; and since that date the two Committees have been trying to work out the differences between their respective recommendations. There never was any basic difference in purpose; and an amendment in the nature of a substitute has been prepared resolving all of the differences.

DESCRIPTION OF AGRICULTURE AND COMMERCE COMMITTEE STAFFS, SUBSTITUTE FOR TEXT OF H.R. 10729

The substitute consists of the amendment recommended by the Committee on Agriculture and Forestry, plus—

(1) Commerce Committee Amendment No. 1 (registration criteria), with technical modifications. This amendment represents no change in substance, but does constitute a slight clarification in language.

(2) a substitute for Commerce Committee Amendment No. 2 The substitute retains the exclusive use of data provision recommended by this Committee; but provides in addition for a mandatory licensing system under which permission to use test data in return for a reasonable share of the cost of producing the data would be required.

(3) a substitute for Commerce Committee Amendment No. 3. The substitute would prohibit any member of a scientific advisory committee from having a financial or other conflict of interest with respect to any matter considered by such committee. This appears to be in accord with existing general government policy.

(4) a substitute for Commerce Committee Amendment No. 5 (exports). The substitute would—

(A) make producers of pesticides and devices for export subject to section 8 (which authorize the prescription of books and records requirements), and

(B) prohibit the exportation of pesticides prepared for export in accordance with the foreign purchaser's directions if such export would result in adverse effects to the environment of the United States.

Unlike the Commerce Committee Amendment, this provision correctly makes the producers, rather than the pesticides, subject to the recordkeeping requirements; retains and expands the Agriculture Committee provision requiring notice to foreign governments of pesticides banned in the United States; provides a penalty for exportation contrary to its provisions; would require the Administrator, in determining whether export of a pesticide should be banned, to consider whether such a ban would merely shift production to foreign countries (i.e., whether the ban would actually result in any protection to the environment of the United States); and would not require pre-clearance unless the pesticide was one which the Administrator by regulation had listed as one "likely to result in adverse effects on the environment of the United States". The Commerce Committee amendment would have prohibited exportation of even the most innocuous pesticide packed in accordance with the purchaser's directions until such export had been cleared by the Administrator. The listing of any pesticide as "likely to result in adverse effects" would be subject to judicial review.

(5) a substitute for Commerce Committee Amendment No. 6 (confidentiality). The substitute would—

(A) keep the Agriculture Committee provision requiring submission of all test data requested by the Administrator;

(B) delete the Agriculture Committee provision requiring the Administrator to make the data called for in the registration statement and other scientific information available to the public within thirty days after registration;

(C) prohibit the disclosure of information or data received or sent pertaining to applications for registration until thirty days prior to registration (or at registration if an emergency or the public health requires that registration not be delayed), and require such data to be made available to the public at that time. If the Administrator determined during such thirty day period on the basis of substantial new evidence or evaluations of data earlier received that the pesticide did not meet the requirements for registration he would have to give the applicant notice of that fact within such period, thereby initiating denial of registration proceedings.

(D) require written communications between the Administrator and any person to be made available to the public upon identifiable request and at reasonable cost; but only subject to such conditions as will not unreasonably interfere with administration of the Act, paragraph (C) above, or the prohibition against disclosure described in paragraph (E) below. The Commerce Committee amendment on this point would have required oral communications to have been made public, would have been limited to communications between the Administrator and "manufacturers", would not have been conditioned on non-interference with administration, and would not have been limited as described in (C) above.

(E) prohibit disclosure of trade secrets, confidential financial information, or commercial information the disclosure of which may give a competitor a competitive advantage, except to other federal officials, in judicial proceedings, in proceedings under the Act, and to any other person in order to protect the public health. The Administrator's decision to release any information which the registrant or applicant believed to be protected from disclosure would be subject to judicial review by declaratory judgment.

(6) a substitute for Commerce Committee Amendment No. 7 (citizens' suits). The substitute would provide for citizens' suits only against the Administrator for failure to perform non-discretionary acts or failure to investigate and prosecute violations. Unlike the Commerce Committee amendment, citizens' suits would not be authorized against manufacturers, distributors, users, and other persons; and the amendment does not provide for the payment of attorney's and expert witness fees and other litigation costs.

(7) a substitute for Commerce Committee Amendment No. 9 (inclusion of farmworkers in term "man"). The substitute contains none of the Commerce Committee provisions, but instead make it an unlawful act to use any pesticide in tests on human beings without disclosure of foreseeable consequences and voluntary participation.

(8) a substitute for Commerce Committee Amendment No. 11 (suspension). The substitute contains none of the Commerce Committee provisions, but instead (1) provides that a court stay of a suspension order issued without a hearing shall continue in effect until the Administrator's final decision without respect to cancellation or change in classification, instead of only until the Administrator's hearing on the suspension; and (2) permits participation by other parties (in addition to the Administrator and registrant) in a suspension hearing conducted prior to suspension of registration.

(9) a substitute for Commerce Committee Amendment No. 15 (specific authorization). The substitute would authorize appropriation for fiscal 1973, 1974, and 1975 not to exceed, respectively, $40 million, $52 million, and $64 million (in lieu of the Commerce Committee figures of $15 million, $25 million, and $35 million.

(10) minor amendments of a technical nature.

(11) a provision for screening imported agricultural commodities to determine pesticide residues that are excessive under the Federal Food, Drug, and Cosmetic Act.

Commerce Committee amendments 4 (penalties), 8 (hearing structure), 10 (authority of local governments to regulate the use of pesticides), 12 (authority of states to register pesticides), 13 (record-keeping by private applicators), and 14 (right of entry) are not included in the substitute.

As part of the agreement with respect to a substitute it was agreed that the following should be included in the legislative history of the bill:

TRADE SECRETS

(1) Information that constitutes a trade secret, financial information which is privileged or confidential, or commercial information the disclosure of which gives a competitor a competitive advantage with respect to the proprietor of the information should be protected from disclosure except under those circumstances enumerated in subsection (c) (1).

General approval is given to "trade secret" as incorporated in the Restatement of Torts.

In determining whether given matter constitutes a trade secret, consideration shall be given to—

(a) the extent to which the data is independently known to outsiders or is used by outsiders for similar purposes;

(b) the extent to which it is known by insiders;

(c) the extent of the measures taken by an owner to guard its secrecy;

(d) value of the data to the owner and others, including the extent to which, if used in conduct of a business, it would confer a competitive advantage on said owner;

(e) the amount of effort or money expended in developing the data; and

(f) the ease or difficulty with which the data could properly be acquired or duplicated by others.

Deliberation has been given to those circumstances under which it may be proper to release trade secrets. Those instances are set forth in subsection (c) of section 10. In all instances the disclosure shall be done in such a method as to guard the secrecy of the data as much as possible and insure it will not fall into the hands of a competitor.

LEGISLATIVE INTENT WITH RESPECT TO SECTION 3(C) (1) (D)

The change back to section 3(c) (1) (D) as reported by the Agriculture Committee with additions has essentially 2 purposes:

(1) To authorize the Administrator to require a description of *all* relevant tests and their results and

(2) To prevent unnecessary repetitive testing by subsequent applicants.

Thus, all data either voluntarily submitted hereunder or required to be submitted by the Administrator may be used by the Administrator in making determinations of the adequacy of the test data submitted in connection with other applications. As concerns use of such data in *support* of *another* application without permission of the originator of the test data, however, it is recognized that in certain circumstances it might be unfair or inequitable for government regulation to require a substantial testing expense to be borne by the first applicant, with subsequent applicants thereby gaining a free ride. On the other hand, unnecessary duplicative testing would represent a wasteful, time-consuming, and costly process resulting in a substantial misallocation of resources. Thus it was decided that fairness and equity require a sharing of the governmentally required cost of producing the test data used in support of an application by an applicant other than the originator of such data. If no agreement can be reached, the Administrator is vested with authority to determine the reasonable share of the cost of the test data used, including subsequent reallocations upon requests for use of such data by additional applicants.

Mr. ALLEN. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Michigan (Mr. HART).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HART

It is my pleasure to rise in support of the substitute measure we are considering. Clearly it is a great step forward from the existing Federal Insecticide, Fungicide and Rodenticide Act, and it is my sincere hope that we will be able to pass it this year. Credit should go to many for the bill we have before us. The Senate Agriculture Committee has done a remarkable job in improving upon the bill sent over from the House. The distinguished Chairman of the Committee (Mr. TALMADGE) and the distinguished Chairman of the Subcommittee on Agricultural Research and General Legislation (Mr. ALLEN) are to be congratulated for their efforts in committee and for their willingness to discuss with members of the Committee on Commerce certain proposed amendments which that committee found desirable. The substitute measure incorporates several of the features of those amendments in what I think most would regard as a highly workable compromise. A testimony to that description may be found in the wide range of support that the initial announcement of this measure has received. It seems to me essential that we make all efforts to keep that support alive and add to it with the purpose of insuring that the bill reported back from the imminent House-Senate Conference resembles the one we consider today to the greatest extent possible.

Certainly the Administration deserves much of the credit for the emergence of this legislation this year. Many of the basic elements of the compromise bill stem from the legislation as originally proposed by the Environmental Protection Agency. Throughout our deliberations on the bill the Administration has repeatedly stressed the need for legislation this year. While I would agree with various Administration spokesmen that legislation is in fact needed, I would hope that they would agree with me that the particular legislation which best serves our needs is the legislation now before the Senate. We have indications that the Administration will support this bill. We would greatly welcome such support at the earliest possible time with the hopes that it will increase the chances for survival of the main features of the bill in conference.

The distinguished Senator from Alabama, Mr. ALLEN, has ably described the basic elements of our bill. It has been a pleasure for me to work with him throughout the development of this legislation, and I look forward to continued joint effort on our part in support of the concepts agreed on. The bill takes important strides in the control of the use of pesticides, the regulation of intrastate shipments and sale of pesticides, control of exports of pesticides which may inflict unreasonable harm on the environment, the protection of farmworkers from involuntary risks, and the promotion of citizen participation in the regulatory process through comment before administrative agencies and litigation in the courts. It is a tough but fair bill which I would urge my colleagues to enact quickly and work for diligently in conference.

Mr. ALLEN. Mr. President, I would like to acknowledge the effective and diligent work done by the Senator from Michigan (Mr. HART); the Senator from Wisconsin (Mr. NELSON), who is going to speak in just a moment; and the Senator from Illinois (Mr. STEVENSON). Their efforts have contributed so much to the development of this bill. The Senator from Wisconsin prepared his own bill on this subject, S. 660, and the Committee on Agriculture and Forestry took much time on that bill and from the testimony of the Senator from Wisconsin (Mr. NELSON) and the amendments he proposed with the Senator from Michigan (Mr. HART), in developing the amendment recommended by the committee to the Senate.

Subsequent to the time this bill was reported by the Committee on Agriculture and Forestry, the Senators I just mentioned continued in their effort to work for a cleaner environment, for the banning of exports that might adversely affect the environment, and for protection of the farmworkers. Through their efforts and the efforts of other Senators on the two committees, we have been able to present a good bill to the Senate today. I am hopeful the bill will receive the unanimous support of the Senate, and I feel that this is an example of what can be accomplished by the diligent efforts of the staffs of the two committees seeking a reasonable compromise on this very delicate subject.

Without the help and hard and dedicated work of Mr. Harker Stanton, from the Committee on Agriculture and Forestry; Mr. Leonard Bickwit and Mr. Michael Brownlee, from the Committee on Commerce; Mr. Bernard Nash, from the Committee on the Judiciary; and the work of the Environmental Protection Agency, starting with Mr. William D. Ruckelshaus, Mr. David Dominick, Deputy Administrator, Mr. Steadman Overman, Mr. Kenneth Wood, and Mr. Charles Fabricant, all of whom made considerable input into the compromise that has been reached, on this bill, we would not have reached this accomplishment.

I must say that it is a much better bill than came out of the Senate Committee on Agriculture and Forestry. As fine a bill as we all felt that was, we believe that the amendments that have been proposed by the distinguished Senator from Wisconsin (Mr. NELSON), the distinguished Senator from Michigan (Mr. HART), and the distinguished Senator from Illinois (Mr. STEVENSON), have made this bill a much better bill, a bill which will protect better the environment, but which will also protect the farmer and those engaged in agriculture in the use of pesticides, and guarantee them the right properly to use pesticides in the tremendous jobs they have of providing the necessary food and fiber for this country and for much of the free world.

I would also like to commend the chairman of the Committee on Commerce, the Senator from Washington (Mr. MAGNUSON). Through his efforts and those of the chairman of the Committee on Agriculture, the Senator from Georgia (Mr. TALMADGE), the two committees worked together very closely in working out a compromise that I feel should be acceptable to all the divergent interests concerned with this legislation.

So it has been a spirit of compromise that has brought about the agreement that we are submitting to the Senate at this time.

At this time I would like to yield to the distinguished Senator from Wisconsin (Mr. NELSON), who has contributed so much to the reaching of this agreement.

Mr. NELSON. I thank the distinguished Senator from Alabama.

Mr. President, it is not necessary for me to describe each of the provisions of this bill, because they have been clearly presented by other Senators who are members of either the Agriculture Committee or the Commerce Committee. I would like to say, however, that this is a historic piece of legislation. For the first time, we have before us a bill that has come out of the Committee on Agriculture and Forestry and also has been reported by the Commerce Committee, which establishes a rational procedure for the testing, marketing, and controlling the use of pesticides. It is a step that has been long overdue. In this country and in other countries we have been indiscriminately admitting into the marketplace chemicals for pest control and herbicides for controlling plant life without having any knowledge of the implications of their use.

The Committee on Agriculture and Forestry, its chairman, Mr. TALMADGE and the Senator from Alabama (Mr. ALLEN), have put in long hours on this bill. So have the Senator from Michigan (Mr. HART) and the Commerce Committee spent long hours on this bill. Now, these two committees, together with their staffs, have reached an agreement on a piece of legislation which will probably turn out to be as significant as any environmental legislation that has previously been considered by this Congress. So I wish to commend those Senators and their staffs who have worked so hard on reaching this agreement, and finally producing an effective and sensible bill for the rational control and use of herbicides and pesticides.

Mr. President, a little over a decade ago scientists began raising questions about the environmental damage and human health hazards posed by the unrestricted use of chemical pesticides. At that time anyone calling for improved regulatory programs and controls before toxic pesticides became pervasive in our environment was branded as a "nut."

Like the warnings of Rachel Carson in her 1962 book, "The Silent Spring," expressions of concern about the indiscriminate use of toxic and dangerous chemicals in pest control were dismissed out of hand. It was simply stated that you cannot halt the march of progress. It was further argued that because the possible dangers were not proven, they should not be given serious consideration.

The French writer Jacques Ellul claims that there is a "technological imperative" which is the dominating force of our age:

> Everything which is technique is necessarily used as soon as it is available, without distinction of good or evil. This is the principal law of our age.

Such a law is not inevitable. Technical possibility can and must be incorporated with human and ethical judgments in making decisions about proceeding from laboratory possibility to societywide application. Nowhere is the need for anticipatory investigate and regulatory mechanisms more appropriate than in the field of toxic and persistent pesticides control.

The record is now abundantly clear that a single strategy of pest control through the use of chemical pesticides has been an economic, environmental, agricultural and public health failure. Not only have we saturated the environment with many toxic poisons that endanger a wide spectrum of living organisms including birds, animals and marine creatures but continued massive use of certain chemicals threaten the production of some crops.

Six years after I introduced the first legislation in Congress to limit the use of DDT, and now after administrative proceedings that extended for some 15 months, we are finally able to anticipate an end to the irrational and excessive use of this persistent chemical. By the end of this year a ban on all uses of DDT except for some very restricted specific uses and for public health needs becomes effective.

The need for rational control and sensible use of pesticides is compelling. Each year this country produces 1 billion pounds of chemical pesticides. This means a production of 5 pounds of pesticides for every American in this country. At this level we are now facing immediate as well as unknown long-term ecological damage. At this level we are now facing reports that pesticides were involved in the deaths of about 200 people in 1970.

If projections from existing production rates are correct, we must also face the prospect that by 1985 the production of pesticides in this country will approximate 6 billion pounds. To regulate and control toxic and long-lasting chemicals, we are still dependent upon Federal law that has not been updated for 25 years.

The Federal Insecticide, Fungicide, and Rodenticide Act of 1947 requires only that pesticides must be registered before they move in interstate commerce. This authority basically deals with registration and labeling requirements. It has no authority to deal with the actual use or misuse of these chemicals. It does not regulate pesticides moving solely in intrastate commerce. As recent experience has shown, any administrative actions that are undertaken under this law to remove a pesticide from the market are not only exceedingly complex and lengthy, they are also undertaken after distributions in the market and use in the environment.

Instead of continuing to wait for tragic evidence of pesticide dependence and misuse to force itself upon our consciences, we must institute the legal scientific, and administrative framework to search for hard information and knowledge about pesticides and pest control before these toxic substances become widely used. Passage of H.R. 10729 will indicate that we are finally prepared to impose sensible rules and guidelines for the marketing and use of pesticides.

This January the Senate approved a bill which I introduced last year to establish a 5-year national field demonstration program in integrated pest control. Under the provisions of S. 1794, all the various methods of pest control—biological, physical, as well as chemical—are integrated into a program to best suit the climate and crop conditions in particular agricultural areas.

Now we are considering and debating another major piece of pesticide legislation. H.R. 10729 seeks to modernize the Federal Insecticide, Fungicide, and Rodenticide Act and give the Environmental Protection Agency the proper administrative tools to both regulate the entry of new pesticides into the market and oversee the actual use and application of these pesticides once they have been registered with EPA.

Both S. 1794 and H.R. 10729 bear the personal mark and reflect the diligent efforts and support of Senator James Allen and the Agriculture Committee. Both of these measures were shaped by Senator Allen in his Subcommittee on Research and General Legislation and his contributions to these two major pieces of pesticides legislation have been significant.

H.R. 10729 also was referred to the Commerce Committee where the efforts of Senator Hart contributed additional substance to the legislation before us. In reporting H.R. 10729 to the Senate on July 19, 1972, the Commerce Committee proposed 15 amendments. As a cosponsor with Senator Hart of a majority of these amendments it is my opinion that these provisions give important additional authority to the Environmental Protection Agency to protect the environment and the public from the misuse of unnecessary or dangerous pesticides.

The package of amendments now before us reflect a reasonable compromise agreement between the Agriculture Committee and the Commerce Committee. Each participant in this agreement may have some reservations about particular provisions that have been added or about particular provisions that have been deleted.

No one should have any doubt, however, that this agreement marks a major and significant improvement over present authority to control pesticides. No one should have any doubts about the concern for environmental quality which is expressed in this bill with the addition of the Agriculture/Commerce package of amendments.

H.R. 19729, as amended by the Agriculture/Commerce agreement, would provide:

First, that all pesticides moving in interstate or intrastate commerce be registered with EPA;

Second, that EPA may deny or remove a registration upon a showing of "unreasonable" risks to the environment—including man—in registering a pesticide;

Third, that EPA would be authorized to classify pesticides for general use, or restricted use by qualified applicators, depending upon the hazards;

Fourth, that EPA may cancel registrations following administrative review, and may summarily suspend registrations in the case of an imminent hazard;

Fifth, that establishments producing pesticides be registered with EPA;

Sixth, that the Administrator may issue stop-sale, use, removal, and seizure orders with respect to any pesticide in violation of the act;

Seventh, that citizens be authorized to bring injunctive suits against EPA for failing to perform mandatory duties or for failing to investigate allegations of misuse;

Eighth, that farmworkers be protected from involuntary pesticides experiments; and

Ninth, that EPA may prohibit the export of pesticides under certain conditions and will provide foreign governments of all important decisions on pesticides regulations.

I think it is particularly important that the Agriculture/Commerce agreement reflects the substance of nine of the 11 amendments which Senator Hart and I introduced on March 7, 1972. Thus, H.R. 10729, as amended by the Agriculture/Commerce amendments, would contain provisions—

First, that would change the standard of registration of a pesticide from no "substantial adverse effects" on human beings or on the environment to no "unreasonable adverse effects" thereby requiring an assessment of the social costs and the social benefits of any pesticides application;

Second, that the test data submitted by manufacturers in support of a pesticide registration will be made available to the public 30 days before a decision to register a pesticide becomes effective;

Third, that test data shall be available to manufacturers who are willing to share the costs;

Fourth, that if a pesticide is likely to be used differently than indicated by the label with possible adverse environmental effects, it would be classified for restricted use by certificated applicators:

Fifth, that members of scientific advisory committees shall have no financial or other conflict of interest;

Sixth, that would not offer any indemnity to manufacturers whose pesticides are removed from the market by cancellation or suspension of their registration;

Seventh, that citizens suits would be allowed for the enforcement of the act;

Eighth, that would provide that the public would have a right to participate in most suspension procedures; and

Ninth, that would give EPA the authority to control exports of pesticides under certain conditions and also require the Administrator to inform foreign governments of important decisions in domestic pesticide regulation.

Mr. President, I ask unanimous consent that several editorials commenting on this legislation which were printed in the New York Times, the Washington Post, and the Sheboygan Press be printed at this point in the Record.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the New York Times, July 16, 1972]

New Law for Pesticides

Soon after its return this week the Senate is scheduled to take up a revised pesticide control bill, one of the most important—and controversial—items on its agenda. If the legislation is to serve the interests of the environment, at home and abroad, the Senate bill will have to prevail over its feeble counterpart in the House of Representatives. And if it is to be a really major contribution, it will have to include the strengthening amendments added by Senators Nelsen of Wisconsin and Hart of Michigan.

Even the basic Senate bill is superior to the House version, which would require pesticide manufacturers to file only minimal information and would, in effect, relieve them of having to prove that a product is both safe and necessary before it can be registered. Even worse, it would indemnify manufacturers for financial loss, should the Government feel compelled to rule a noxious chemical off the market.

Among the Senate amendments, which await only formal approval by the Commerce Committee, three are outstanding. One would require a manufacturer applying for registration of a product to report all its test data to the Environmental Protection Agency and to insure that no pertinent information be hidden from public disclosure on the ground that it is a "trade secret."

Another would permit citizen suits against both manufacturer and the E.P.A. for alleged failure to perform a mandatory duty in connection with the registration process. And a third would require that foreign nations and international agencies be fully warned of the danger of those pesticides which the United States bans at home but allows to be exported. A terrifying example is the fungicide used to treat grain shipments intended for seed, which has caused the deaths of hundreds of Iraqis who unwittingly used the seed for bread.

These and a dozen other strengthening amendments will be treated as a block on the Senate floor. If they are approved, opponents will have to chip away at them one by one, which should be difficult. If they are voted down *en bloc*, then their proponents will have to reintroduce them one by one, which will be even harder.

Congressional environmentalists will need all the public backing they can get for the floor fight and for the conference committee battle to follow.

[From the Washington Post, March 12, 1972]

The Need for Pesticide Control

No one who has enjoyed the bounty of farmers have done well in supplying the nation with food. The production rate since 1940 is phenomenal; according to the Department of Agriculture, the production of 17 major crops in 1969, if produced with the average yields of 1940, would have required almost 300 million acres more land than was actually used—a land area equivalent in size to the states of Texas, New Mexico and Arizona. One reason many of these farmland miracles have occurred is the wide application of pesticides, the highly toxic chemicals that include insecticides, herbicides, fungicides, rodenticides, fumigants and a small sea of related products. An estimated one billion pounds of pesticides are produced annually, about five pounds for every American.

The trouble with these pesticides is that not only are pests destroyed but so also are large parts of the environment and wildlife. Russel E. Train, chairman of the Council on Environmental Quality, has noted that in 1970 pesticides were involved in the death of about 200 people in the United States: those are the acute effects, saying nothing about chronic effects which take years or even generations to become apparent. The list of ecological damage caused by pesticides is long, starting with at least six million fish killed in one recent year. That these sad and tragic conditions exist may be traced to a number of causes, including a weak law passed by Congress in 1947, lax enforcement by the Department of Agriculture and a chemical industry not always overly concerned with questions of health and ecology.

The question of how to control the use and abuse of pesticides is expected to be settled in this session of Congress. Exhaustive hearings have been held, indicating once again the complexity of protecting the public's health and its environment when issues of technology and profits are concerned. The House has already passed a pesticide control bill. But despite some useful sections it is generally weak and hardly a major improvement over existing law. The nation's pesticide makers support the bulk of the House approach, and it is small wonder why. Among other things, the bill provides indemnification for chemical firms suffering losses as a result of owning a pesticide that was suspended as hazardous. As Senator Nelson has pointed out, suspending a pesticide is similar to other recalls in the marketplace—of defective cars or poisonous soups, for example. The government does not hand over money to these manufacturers for their hazards. So why the chemical makers?

Another weakness—one pointed out by David Dominick of the Environmental Protection Agency—is that EPA, in registering a pesticide, would not be allowed to look at test information already submitted by other manufacturers; thus, as Mr. Dominick points out, the House bill can "afford additional economic protection, foster monopoly, and it may tend to restrict pesticide business to large manufacturers."

A Senate Agriculture subcommittee is at work on legislation and will conclude hearings shortly. Senators Hart and Nelson have offered a series of amendments—ones largely supported by environmental and conservation groups—that are needed if real, rather than cosmetic, control is to be had. One amendment, for example, provides for citizen suits, allowing a citizen to enforce compliance when the government fails to act against a violator. Another amendment—also involving the public—asks that the facts about a pesticide be made available when application is made by the manufacturer to EPA; thus, its registration could be contested by the public and the scientific community.

As with the current struggle to get a clean water bill through Congress, immense effort goes into the process. Once these environmental laws are passed, the public will be forced to live with them for some time to come. Unless strong controls against pesticides are made now, the Congress might as well not have bothered. Twenty years ago, there was a certain innocence about spraying the land to get rid of bugs; but we know better now. Our land and ourselves are being poisoned, too.

[From the New York Times, Mar. 20, 1972]

For a Noisy Spring

Two major bills for improving the environment are approaching legislative crises that will determine whether they are to be mere gestures or serious advances. A revised pesticide control law passed by the House will have to be greatly strengthened in the Senate if it is to afford more than weak protection against toxic substances that kill not only insects and fungi but fish, birds and mammals as well, including humans. The other measure of doubtful future is a water pollution control bill that left the Senate in robust health four months ago only to emerge enfeebled last week from the House Public Works Committee.

An especially strange concept embedded in the committee's approach to pesticide control is the novel provision that if a noxious chemical is ruled off the market, its manufacturer must be indemnified. David Dominick of the Environmental Protection Agency characterized the idea, rather too mildly, as "a bad precedent." Why should taxpayers be asked to compensate toy manufacturers for removing inflammable dolls from the market or soup makers for calling in poisoned cans?

Another House provision, concerning test data, would foster monopoly and restrict pesticide business to large manufacturers; still another would sanction a pesticide so long as it was safe if used as directed regardless of how dangerous it might be when misused.

Going beyond E.P.A.'s laudable recommendations to knock out these unsound proposals, Senators Nelson of Wisconsin and Hart of Michigan would provide for class action suits when Government fails to protect the public against dangerous pesticides. They would require that full information on these chemicals be made available at the time they are registered. For these and Mr. Dominick's objectives the Senators should be encouraged to make this a far from Silent Spring.

[From The Sheboygan (Wis.) Press, May 11, 1972]

Those Pesticides

Last November, the House approved legislation known as the Federal Environmental Pesticides Control Act.

It would require all pesticides to be registered with the Environmental Protection Agency and would set up general and restricted use categories. Only agency-certified applicators would be authorized to use restricted pesticides. The legislation also provides for indemnity payments to manufacturers of pesticides whose registrations were cancelled by EPA because the substances were found to be hazardous.

A Senate Agriculture Subcommittee has the bill under consideration. It is possible that after some amendments have been accepted, final action on the measure will be taken before the end of the current session.

Senator Gaylord Nelson of Wisconsin and Senator Philip A. Hart of Michigan have introduced 11 amendments. Their proposals include toughening the registration criteria, requiring that manufacturers' test data be made public before registration, classifying more pesticides for restricted use, and eliminating the provision requiring indemnity payments to manufacturers. Senator Adlai Stevenson III of Illinois is the sponsor of an amendment to help protect farmers and laborers exposed to pesticides. It has been estimated that as many as 800 workers are killed and more than 80,000 injured annually by agricultural chemicals.

Federal laws on the use of pesticides have undergone little change since 1947. Linda Billings of the Sierra Club contended at a subcommittee hearing that there is need for a profound and complete overhaul in the way this country deals with pesticides. Weldon Barton of the National Farmers Union testified that "there's something of a balance you have to strike between protection of the environment and continued food production." Then, there is the following assertion by John M. Stackhouse of the National Agricultural Chemicals Association:

"Pesticides are registered on the basis of a lot of work and a lot of scientific information. They're being criticized on the basis of a lot of emotion."

Without doubt, much emotion is involved. The debate started a decade ago with publication of Rachel Carson's "Silent Spring." The argument in this book was that many pesticides had unknown and cumulative effects on plants, animals and humans. A few years later scientists discovered harmful buildups of DDT and other chemicals in birds and fish and that Americans carry in their bodies an average of 12 parts per million of pesticide residues. This is nearly twice the level allowed for most foods in interstate commerce.

This is frightening, of course, but the fact remains that a great many Americans are living to a ripe old age and that the life span has been increasing. There is also the estimate by the Department of Agriculture that without pesticides there would be a 30 per cent drop in crop production and a 25 per cent loss of livestock. If that should happen, the resulting increase in food prices probably would have a greater adverse effect on the health of many Americans than the amount of pesticide residue in their systems.

Stricter controls over the use of pesticides undoubtedly are needed. Manufacturers are turning out one billion pounds of pesticides each year—five pounds for every American. The problem is to provide the needed controls without drastically cutting production. One possibility is that out of the current debate will come greater reliance on such control methods as insect predators, sterilization, pest diseases and the development of crop strains that are more resistant to pests. Thus, the sometimes heated debate could serve as a spur for such efforts.

[From the Washington Post, July 21, 1972]

Controlling Pesticides

As if the weather wasn't hot enough already, a heated debate is expected soon on the Senate floor on the need for pesticide control. Unless total inertia takes over, Congress is likely to produce pesticide legislation this session. Last winter, the House acted; although its bill had useful sections it was generally weak and no great advance over existing law. There is no denying that pesticides have caused many farmland miracles by killing off destructive insects, pests, herbs, fungi and rodents. Along with the miracles, however, tragedies have occurred also. Chairman Russell E. Train of the Council on Environmental Quality reports that in 1970 pesticides were involved in the death of about 200 people. Ecological damage has been intense, not to mention long-range risks that take years, even decades, to run their course.

The Senate Agriculture Committee approved a bill that is superior to the House bill. It rejects, for example, indemnification for chemical companies suffering cash-register losses when a pesticide is banned as hazardous. This was a wise decision; why should an industry be paid for its mistakes? Despite this improvement and others in the Senate bill, additional strictness is needed. Senators Hart, Nelson and Stevenson have offered a series of amendments that are fair and logical, and would go far to protect farm workers, the food supply and the environment. These amendments have been adopted by the Commerce Department. One amendment, for example, would allow for the first time adequate control of pesticides sold to foreign countries. A fear exists that although DDT has been banned in the United States, its export to foreign nations may one day return to haunt us. Another amendment would require the Environmental Protection Agency to disclose nontrade secret information submitted by a manufacturer before approval of a pesticide is given. Currently, the public is cut off from such facts; thus, the public cannot contest the registration of a pesticide until after the fact. A third amendment would allow citizens to bring suit against violators of the law and against the EPA for failure to perform mandatory duties.

The Senate debate will be watched closely, not only by the chemical industry but also by a large number of conservation, environmental, consumer, labor and farm groups. In the past, the latter bloc was not especially attentive to possible pesticide dangers. But now the dangers are no longer merely possible; many are actual. The Senate has an excellent chance to do what the House has not: control the use of pesticides and forbid their abuse.

The **PRESIDING OFFICER.** Who yields time?

Mr. **ALLEN.** Mr. President, I will say to my distinguished chairman that I yield back to him such time as remains of the time allotted to me.

Mr. **TALMADGE.** Mr. President, I yield back the remainder of my time.

Mr. **AIKEN.** Mr. President, I yield back the remainder of my time.

The **PRESIDING OFFICER.** All time having been yielded back, the question is on agreeing to the amendment in the nature of a substitute (putting the question).

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. **TALMADGE.** Mr. President, a parliamentary inquiry.

The **PRESIDING OFFICER.** The Senator will state it.

Mr. **TALMADGE.** I believe the yeas and nays have been ordered; have they not?

The **PRESIDING OFFICER.** The Senator is correct.

Do Senators yield back their time?

Mr. **TALMADGE.** I yield back the remainder of my time.

Mr. **AIKEN.** Mr. President, I yield all time on this side.

The **PRESIDING OFFICER.** All time has been yielded back.

ORDER TO PROCEED TO S. 3987, A BILL TO REPLACE THE VOCATIONAL REHABILITATION ACT

Mr. **ROBERT C. BYRD.** Mr. President, I ask unanimous consent that, upon the disposition of H.R. 10729, on which the Senate is about to vote, the Senate proceed to the consideration of S. 3987, a bill to replace the Vocational Rehabilitation Act.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR JAVITS TOMORROW

Mr. **ROBERT C. BYRD.** Mr. President, I ask unanimous consent that on tomorrow, immediately following the remarks of the able Senator from Indiana under the order previously entered, the distinguished Senator from New York (Mr. Javits) be recognized not to exceed 15 minutes.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

FEDERAL ENVIRONMENTAL PESTICIDE CONTROL ACT OF 1972

The Senate continued with the consideration of the bill (H.R. 10729) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes.

Mr. **TUNNEY.** Mr. President, only in the last few centuries has man made more than a trivial impact on the biological events of the world. But in that time, through his technology, he has taken from nature what cannot be replaced and created wastes which cannot be absorbed into natural cycles. This must be taken into strong consideration while discussing the whole question of pesticide legislation.

H.R. 10729 addresses the control and use of pesticides and ways to prevent their misuse. Clearly, we can approach solutions in the United States by enacting strong and workable guidelines; but the use of pesticides in foreign countries is, to a very great extent, not within our control, nor should it be. The fact, however, remains that we do import vast quantities of agricultural commodities. Since we are talking about the same American consumer, whether he is eating domestic or imported food—and often he does not know—he should be guaranteed equal protection.

In order to provide that protection I offered to the committees an amendment to the Federal Insecticide, Fungicide, Rodenticide Act which will require the Secretary of Agriculture and the Secretary of Health, Education, and Welfare to initiate and carry out an intensive quality control screening system at the ports of entry and in the market basket to detect pesticide residues.

This screening will complement the existing monitoring program already in operation by the respective departments. I believe additional screening for quality control of imports reaching the American table is necessary for several reasons.

Just as DDT accumulates in the physical environment, that and other chlorinated hydrocarbons and organophosphates accumulate in man and animal—in varying degrees. It is unknown, at present, exactly what this accumulation ultimately means but it is clear that we cannot afford to risk public health for the sake of questionable expediences. In short, any positive approach to a solution of pesticide contamination of our environment must be predicated on a total knowledge of all sources of contamination. Imported agricultural commodities are a factor and must be considered as such. Accordingly we must define as precisely as is statistically possible the quality of all commodities including imports which ultimately comprise the American diet.

The General Accounting Office, in its report of February 18, 1972, recognized the problem of pesticide residues in imported meats and made very specific recommendations to Congress for better inspection and improved methods of adminstration regarding that inspection. According to their report, many plants in foreign countries were inspected only once in a 10-month period. Their report stated, and I quote:

> United States consumers may not have been adequately safeguarded from imported meat and meat products processed under unsatisfactory conditions.

The Food and Drug Administration views pesticide residues a "worrisome threat to the food supply."

Mr. President, based on information I have received from highly qualified specialists, including veterinary public health officials, toxicologists, and physicians, I believe that much of the meat, poultry, citrus, coffee, and other agricultural commodites imported by the United States contain dangerous levels of pesticide residues.

Given even normal agricultural application of pesticides—and this is something which varies from country to country because of different environmental considerations, disease control and other variables—it is clearly fallacious to believe that the products we import are not contaminated to some degree or other. And it is precisely that degree with which I am concerned and precisely that degree which I believe we do not know. Tables published by the Food and Drug Administration show that dangerous pesticides are present in samples taken by their inspectors and those samples contain in almost every case higher levels of residue than do domestic samples. Many countries which export to the United States do not have laws regulating the use of pesticides, and in those which do, they are often not enforced. Latin America, alone, exports 480 million pounds of fresh and cooked meat to this country, and many of those countries do not even have laboratories capable of performing the necessary assays to determine pesticide residue levels.

In addition, the amendment requires that to the degree practicable, additional research shall utilize data on consumption patterns at different socioeconomic levels.

I believe this is very important. The Department of Agriculture itself has reported that one of the problems of lower cost processed meat has been pesticide residue.

Consumptive patterns are changing in the United States. More and more people are looking for substitutes for red meat—in many cases the substitute being processed meat. The Department has never statistically sampled imported processed meat, for example, and this was one of the specific recommendations made by the GAO.

Therefore, the obvious conclusion is that although we do know that residues are present in imports we do not know as much as we should.

I believe that foreign countries want to meet U.S. standards because they are, of course, interested in the welfare of their own citizens, as well as their need for export markets. Obviously, the necessary equipment is expensive and technicians to perform analyses require extensive training. Other national budgets may not be able to make that a priority, but the U.S. consumer is statutorily guaranteed inspection equal to U.S. standards. U.S. monitoring systems have, in the past, been instrumental in the enactment of pesticide legislation in other countries. For example, in 1968 Argentina banned the use of dieldrin and heptachlor specifically because of problems with export shipments to the United States.

Therefore, qualitative knowledge of pesticide residues in imported products will allow the United States to contribute useful and informative data at the international level. And in this respect, I am talking specifically about U.S. contributions to the Codex Alimentarius—an international body concerned with food standards for direct and indirect food additives such as pesticides or drug residues.

International harmonization of standards is sure to have greater importance as more and more knowledge of the problem is known. For developing countries, this knowledge will aid in establishment of food legislation that provides adequate standards for consumer protection as well as assisting in the promotion of their exports.

Mr. PACKWOOD. Mr. President, as a cosponsor of the compromise measure worked out by the Senate Agriculture and Forestry Committee and the Commerce Committee, I want to express my appreciation to the members of those committees for their perseverance in developing the pesticide amendments we are voting on today.

This package has evolved through much agony, deliberation, argument, reflection, and compromise. Each has had to give some.

Effective pesticide legislation is an essential part of our environmental efforts here in the Senate. In my opinion the House has deserted the ship, and forced upon this Congress and the Nation an inadequate and weak bill. We have a chance to improve upon that sad picture, and while the compromise proposal before us may in some instances fall short of our high goals at the outset, I believe it deserves our wholehearted support as an important corrective step in the control and use of pesticides.

It is my hope that the Senate will approve the compromise today, and that the Senate conferees will hold steadfastly to the Senate version, particularly as it deals with registration criteria, indemnities, judicial review of all actions, prohibition on exports, citizen suits against the Administrator, availability of test data, and exclusive use of data.

As the sponsor of the administration proposal, S. 745, last year, I was dismayed with the setback handed us by the House. S. 745, in my opinion, was a good bill.

Senator NELSON also introduced strong legislation, S. 660. Both of these measures were given consideration by the Agriculture and Forestry Committee, along with the House-passed measure. Indeed, Senator ALLEN consented to hold additional hearings this year in order to give any concerned parties opportunity to comment upon the House bill.

Senator HART is to be commended for his efforts to improve upon the House bill, by working closely with the Agriculture and Forestry Committee.

There has been much time and effort spent on bringing forth the compromise we have before us today; and I hope that all within this Congress and in the administration who are sincerely concerned about our quality of life, will close ranks and stand firm on the Senate improvements.

Mr. DOLE. Mr. President, I wish to thank the Senator from Alabama (Mr. ALLEN) and members of the staff of the Committee on Agriculture and Forestry and the Committee on Commerce for their diligent efforts in compromising the two very different bills that emerged from the committees.

PRESERVES FARM USES

The bill now before us is of some historic significance in that it is sponsored by nearly all the members of the two committees. It has the general support of farmers and environmental groups as well.

The bill, which was conceived nearly 20 months ago in President Nixon's message on the environment, is a true product of the American way of government in that all viewpoints have been considered and melded together into a piece of legislation that we can all live with.

ENVIRONMENTAL PROTECTION

For the first time the Federal Government will have the tools to protect our environment from the abuses of unsafe pesticides while at the same time make available safe and efficacious products to enable our farmers to continue to supply an abundance of food and fiber at reasonable prices.

Mr. President, I will not attempt to reiterate here the specifics of this bill which have been so thoroughly explained by the Senator from Alabama. I would urge swift passage by the Senate of this landmark legislation in order that we may go to conference with the other body and send a final bill to the President for his signature at an early date.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Missouri (Mr. EAGLETON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Rhode Island (Mr. PELL), the Senator from Virginia (Mr. SPONG), the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) and the Senator from North Carolina (Mr. JORDAN) are absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. WILLIAMS), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. FULBRIGHT), and the Senator from Virginia (Mr. SPONG) would each vote "yea."

Mr. COTTON. I announce that the Senator from Colorado (Mr. ALLOTT), the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Illinois (Mr. PERCY), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senators from Ohio (Mr. SAXBE and Mr. TAFT) and the Senator from Vermont (Mr. STAFFORD) are absent on official business to attend the Interparliamentary Union meeting.

The Senator from Kentucky (Mr. COOPER), the Senator from Florida (Mr. GURNEY), and the Senator from North Dakota (Mr. YOUNG) are detained on official business.

If present and voting the Senator from Kentucky (Mr. COOPER), the Senator from Florida (Mr. GURNEY), the Senator from Illinois (Mr. PERCY), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 71, nays 0, as follows:

[No. 476 Leg.]

YEAS—71

Aiken
Allen
Anderson
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Boggs
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Cook
Cotton
Cranston
Curtis
Dole
Dominick
Eastland
Edwards
Ervin
Fannin
Fong
Gambrell
Gravel
Hansen
Hart
Hartke
Hatfield
Hollings
Hruska
Hughes
Inouye
Jackson
Javits
Jordan, Idaho
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
Miller
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Smith
Sparkman
Stennis
Stevens
Stevenson
Symington
Talmadge
Thurmond
Tunney
Weicker

NAYS—0

NOT VOTING—29

Allott
Baker
Brock
Buckley
Byrd,
Harry F., Jr.
Cooper
Eagleton
Fulbright
Goldwater
Griffin
Gurney
Harris
Humphrey
Jordan, N.C.
McGee
McGovern
McIntyre
Metcalf
Mundt
Pell
Percy
Saxbe
Scott
Spong
Stafford
Taft
Tower
Williams
Young

So the bill (H.R. 10729) was passed.

Mr. ALLEN. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House of Representatives and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. TALMADGE, Mr. ALLEN, Mr. HART, Mr. MOSS, Mr. MILLER, Mr. DOLE, and Mr. WEICKER conferees on the part of the Senate.

Mr. ALLEN. Mr. President, I ask unanimous consent that the bill as passed by the Senate be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

H.R. 14015. An act to amend section 8c(2), section 8c(6), section 8c(7)(C), and section 8c(19) of the Agricultural Marketing Agreement Act of 1937, as amended; and

H.R. 16251. An act to release the conditions in a deed with respect to certain property heretofore conveyed by the United States to the Columbia Military Academy and its successors.

REHABILITATION ACT OF 1972

The PRESIDING OFFICER. Pursuant to the previous order, the Chair lays before the Senate S. 3987, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3987) to replace the Vocational Rehabilitation Act, to extend and revise the authorization of grants to States for vocational and comprehensive rehabilitation services, to authorize supplementary funds for vocational and comprehensive rehabilitation services to severely handicapped individuals, to expand special Federal responsibilities and research and training with respect to handicapped individuals, to establish an Office for the Handicapped within the Department of Health, Education, and Welfare, and for other purposes was announced as next in order.

The Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare with amendments:

On page 1, line 3, after the word "and", strike out "title" and insert "titles";

On page 2, in the table of contents following line 2, strike out "Sec. 1. Short title.";

On page 3, in the table of contents following "Section 303. Training.", insert "Sec. 304. Reports.";

On page 6, line 22, after the word "by", strike out "five," and insert "ten,";

On page 7, line 2, after the word "by", strike out "thirty." and insert "sixty.";

On page 17, line 6, after the word "vocational", strike out "and" and insert "or";

On page 21, line 12, after "(5)", insert "(A)";

In the same line, after the word "the", strike out "plan," and insert "plans,";

At the beginning of line 22, strike out the word "provided," and insert "provided and the outcomes and service goals, and the time within which they may be achieved, for the rehabilitation of such individuals,";

On page 22, at the beginning of line 1, strike out "individuals;" and insert "individuals and shall not be inconsistent with priorities and outcome and service goals for serving handicapped individuals established in regulations prescribed by the Secretary;";

After line 4, insert:

(B) provide satisfactory assurances that no such comprehensive services shall be paid for with funds under this title unless maximum efforts have been made to secure grant assistance, in whole or in part, from other sources to pay for such services;

On page 23, after line 18, strike out:

(9) provide, at a minimum, for the provision of the vocational rehabilitation services specified in clauses (1) through (5) of subsection (a) of section 103, except that reimbursement may be sought from appropriate State or Federal programs or private insurers for services provided under clause (4) of such section, and the remainder of such services specified in such section after full consideration of eligibility for similar benefits under any other program, and provide that an individualized written rehabilitation program meeting the requirements of section 102 of this Act will be developed for each handicapped individual, and that such services will be provided under the plan in accordance with such program;

And, in lieu thereof, insert:

(9) provide, at a minimum, for the provision of the vocational rehabilitation services specified in clauses (1) through (3) of subsection (a) of section 103, and the remainder of such services specified in such section after full consideration of eligibility for similar benefits under any other program, except that, in the case of the vocational rehabilitation services specified in clauses (4) and (5) of subsection (a) of such section, such consideration shall not be required where it would delay the provision of such services to any individual;

(10) provide that an individualized written rehabilitation program meeting the requirements of section 102 will be developed for each handicapped individual, and that vocational and comprehensive rehabilitation services will be provided under the plan in accordance with such program;

On page 24, at the beginning of line 24, strike out "(10)" and insert "(11)";

At the top of page 25, insert "(including periodic estimates of the population of handicapped individuals eligible for services under this Act in such State, specifications of the number of such individuals who will be served with funds provided under this Act and the outcomes and service goals to be achieved for such individuals in each priority category specified in accordance with clause (5) of this paragraph, and the service costs for each such category).";

At the beginning of line 13, strike out "(11)" and insert "(12)";

At the beginning of line 23, strike out "(12)" and insert "(13)";

On page 26, at the beginning of line 4, strike out "(13)" and insert "(14)";

At the beginning of line 10, strike out "(14)" and insert "(15)";

At the beginning of line 13, strike out "(15)" and insert "(16)";

At the beginning of line 21, strike out "(16)" and insert "(17)";

On page 27, at the beginning of line 4, strike out "(17)" and insert "(18)";

At the beginning of line 21, strike out "(18)" and insert "(19)";

On page 28, at the beginning of line 9, strike out "(19)" and insert "(20)";

In line 11, after the word "clause", strike out "(15)" and insert "(16)";

On page 29, in line 10, after the word "that", insert "such further payments will be reduced, in accordance with regulations the Secretary shall prescribe or that";

On page 35, line 24, after "1973,", insert "and for each fiscal year thereafter with respect to such portion of the appropriations under subsection (a) of section 100 for such fiscal year as does not exceed $700,000,000,";

On page 36, after line 20, strike out:

(2) For the fiscal year ending June 30, 1974, and for each fiscal year thereafter each State shall be entitled to an allotment of the amount equal to its allotment under paragraph (1) for the fiscal year ending June 30, 1973.

On page 37, at the beginning of line 1, strike out "(3)" and insert "(2)";

In the same line, after the word "fiscal", strike out "year" and insert "years";

In the same line, after the word "ending", insert "after";

In line 2, after "1974," strike out "and for each fiscal year thereafter";

In line 4, after the word "paragraph", strike out "(2)" and insert "(1)";

In line 8, after the word "appropriated", insert "in excess of $700,000,000";

In line 17, after the word "appropriated", insert "in excess of $700,000,000";

On page 38, line 9, after the word "clause", strike out "(17)" and insert "(18)";

On page 61, line 6, after "GS-18," strike out "step one" and insert "under section 5332 of H.R. 5, United States Code,";

On page 89, after line 4, insert a new section, as follows:

REPORTS

SEC. 304. The Secretary shall include in the annual report to the Congress required by section 404 a full report on the research and training activities carried out under this title and the extent to which such research and training has contributed directly to the development of methods, procedures, devices, and trained personnel to assist in the provision of vocational and comprehensive rehabilitation services to handicapped and severely handicapped individuals under this Act.

On page 95, line 2, after the word "vocational", insert "and comprehensive";

In line 4, after the word "fiscal", strike out "year" and insert "year,";

After the amendment just stated strike out "and shall" and insert "(2)";

At the beginning of line 10, strike out the word "services." and insert "services, and (3) include a detailed evaluation of services provided with assistance under part C of title I of this Act.";

On page 96, line 18, after "501.", insert "In selecting personnel to fill all positions in the Office, the Secretary shall give special emphasis to qualified handicapped individuals.";

On page 99, line 25, after the word "this", strike out "Act." and insert "Act and references to such vocational Rehabilitation Act in any other provision of law shall, 90 days after such date, be deemed to be references to the Rehabilitation Act of 1972.";

On page 100 in line 21, after the word "Handicapped", insert "and the Chairman of the President's Committee on Mental Retardation";

In line 23, after the word "as", strike out "an";

In the same line, after the word "ex officio", strike out "member" and insert "members";

In line 24, after the word "Interagency", strike out "Committee" and insert "Committee, and the Secretary of

Health, Education, and Welfare shall serve as Chairman of the Committee.";

And at the top of page 103, insert:

(f)(1) The Secretary of Labor and the Secretary of Health, Education, and Welfare are authorized and directed to cooperate with the President's Committee on Employment of the Handicapped in carrying out its functions.

(2) There are authorized to be appropriated for salaries and expenses of the President's Committee on Employment of the Handicapped $1,000,000 for the fiscal year ending June 30, 1973, and $1,250,000 for the fiscal year ending June 30, 1974.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 1 through 9 and titles I through VI of this Act, with the following table of contents, may be cited as the "Rehabilitation Act of 1972".

TABLE OF CONTENTS

Sec. 2. Declaration of purpose.
Sec. 3. Rehabilitation Services Administration.
Sec. 4. Advance funding.
Sec. 5. Joint funding.
Sec. 6. Definitions.
Sec. 7. Allotment percentage.
Sec. 8. Audit.
Sec. 9. Special funding consideration.

TITLE I—VOCATIONAL AND COMPREHENSIVE REHABILITATION SERVICES

PART A—GENERAL PROVISIONS

Sec. 100. Authorization of appropriations.
Sec. 101. State plans.
Sec. 102. Individualized written rehabilitation program.
Sec. 103. Scope of vocational rehabilitation services.
Sec. 104. Nonduplication.

PART B—BASIC VOCATIONAL AND COMPREHENSIVE REHABILITATION SERVICES

Sec. 110. State allotments.
Sec. 111. Innovation and expansion grants.
Sec. 112. Client advocacy.
Sec. 113. Experimental appeal projects.

PART C—SUPPLEMENTARY FUNDS FOR VOCATIONAL AND COMPREHENSIVE REHABILITATION SERVICES TO SEVERELY HANDICAPPED INDIVIDUALS

Sec. 120. State allotments.
Sec. 121. State programs.
Sec. 122. Payments to States.

TITLE II—SPECIAL FEDERAL RESPONSIBILITIES

Sec. 200. Grants for construction of rehabilitation facilities.
Sec. 201. Vocational training services for handicapped individuals.
Sec. 202. Loans and loan guarantees for modernization and construction of rehabilitation facilities.
Sec. 203. Annual interest grants for mortgages for rehabilitation facilities.
Sec. 204. Special projects and demonstrations.
Sec. 205. National Center for Deaf-Blind Youths and Adults.
Sec. 206. Rehabilitation Centers for Deaf Individuals.
Sec. 207. National Centers for Spinal Cord Injuries.
Sec. 208. Grants for services for end-stage renal disease.
Sec. 209. Rehabilitation services for older blind individuals.
Sec. 210. National Advisory Council on Rehabilitation of the Handicapped.
Sec. 211. State advisory councils.
Sec. 212. General grant and contract requirements.

TITLE III—RESEARCH AND TRAINING

Sec. 300. Declaration of purpose.
Sec. 301. Authorization of appropriations.
Sec. 302. Research.
Sec. 303. Training.
Sec. 304. Reports.

TITLE IV—ADMINISTRATION AND PROGRAM AND PROJECT EVALUATION

Sec. 400. Administration.
Sec. 401. Program and project evaluation.
Sec. 402. Obtaining information from Federal agencies.
Sec. 403. Authorization of appropriations.
Sec. 404. Reports.
Sec. 405. Sheltered workshop study.

TITLE V—OFFICE FOR THE HANDICAPPED

Sec. 500. Establishment of Office.
Sec. 501. Function of Office.
Sec. 502. Authorization of appropriations.

TITLE VI—MISCELLANEOUS

Sec. 600. Effect on existing laws.
Sec. 601. Federal Interagency Committee on Handicapped Employees.
Sec. 602. Architectural and Transportation Barriers Compliance Board.
Sec. 603. Employment under Federal contracts.
Sec. 604. Nondiscrimination under Federal grants.

DECLARATION OF PURPOSE

SEC. 2. The purpose of this Act is to provide a statutory basis for the Rehabilitation Services Administration, to establish within the Department of Health, Education, and Welfare an Office for the Handicapped, and to authorize programs to—

(1) develop and implement comprehensive and continuing State plans for meeting the current and future needs for providing vocational rehabilitation services to handicapped individuals and to provide such services for the benefit of such individuals;

(2) evaluate the rehabilitation potential of handicapped individuals;

(3) develop, implement, and expand comprehensive rehabilitation services to supplement vocational rehabilitation services for severely handicapped individuals so that they may, as appropriate, (A) prepare for and engage in gainful employment, or (B) improve their ability to live with greater independence and self-sufficiency;

(4) assist in the construction and improvement of rehabilitation facilities;

(5) develop new and innovative methods of applying the most advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems and develop new and innovative methods of providing rehabilitation services to handicapped individuals through research, special projects, and demonstrations;

(6) initiate and expand services to groups of handicapped individuals (including the homebound and institutionalized) who have been underserved in the past;

(7) direct the conduct of various studies and experiments to focus on long neglected problem areas;

(8) promote and expand employment opportunities in the public and private sectors for handicapped individuals and to place such individuals in employment;

(9) establish an independent system of client advocacy; and

(10) provide assistance for the purpose of increasing the number of rehabilitation personnel and increasing their skills through training.

REHABILITATION SERVICES ADMINISTRATION

SEC. 3. (a) There shall be in the Department of Health, Education, and Welfare a Rehabilitation Services Administration which shall be administered by a Commissioner. The Commissioner shall carry out and administer all programs and direct the performance of all services for which authority is provided to the Secretary under titles I through III of this Act.

(b) There shall be within such Administration a Division of Research, Training, and Evaluation, which shall be responsible for carrying out programs and projects under title III of this Act. There shall be within such Division a Center for Technology Assessment and Application, which shall be responsible for developing and supporting, and stimulating the development and utilization (including production and distribution of new and existing devices) of innovative methods of applying advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems, and for administration of the activities described in section 302(b)(2). Such Division shall be directed by an Assistant Commissioner appointed by the Secretary, who shall be a person of outstanding medical or technological achievement and learning and shall carry out his responsibilities in consultation with the National Science Foundation and the National Academy of Sciences, and shall be assigned at least ten full-time positions, five of whom shall be professionals of qualifications similar to the Assistant Commissioner.

(c) The Secretary shall take whatever steps are necessary to insure that funds appropriated pursuant to this Act, as well as unexpended appropriations for carrying out the Vocational Rehabilitation Act (29 U.S.C. 31–42), are expended only for the programs, personnel, and administration of programs carried out under this Act.

(d) In order to carry out the purposes of this Act—

(1) the number of positions authorized by section 5108(a) of title 5, United States Code, and assigned to the Rehabilitation Services Administration, is increased by ten, and

(2) the authorized level of full-time personnel, or the equivalent, assigned to the Rehabilitation Services Administration to carry out duties related to the administration of this Act, is increased by sixty.

ADVANCE FUNDING

SEC. 4. (a) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

(b) In order to effect a transition to the advance funding method of timing appropriation action, the authority provided by subsection (a) shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

JOINT FUNDING

SEC. 5. Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this Act, where funds are provided for a single project by more than one Federal agency to an agency or organization assisted under this Act, the Federal agency principally involved may be designated to act for all in administering the funds provided.

DEFINITIONS

SEC. 6. For the purposes of this Act:

(1) The term "Act", except where the context otherwise requires, means sections 1 through 9 and titles I through VI of this Act.

(2) The term "comprehensive rehabilita-

tion services" means vocational rehabilitation services and any other goods (including aids and devices) or services that will make a substantial contribution in helping a handicapped or severely handicapped individual to improve his ability to live independently or function normally with his family and community.

(3) The term "construction" means the construction of new buildings, the acquisition, expansion, remodeling, alteration, and renovation of existing buildings, and initial equipment of such buildings, and the term "cost of construction" includes architects' fees and acquisition of land in connection with construction but does not include the cost of offsite improvements.

(4) The term "establishment of a rehabilitation facility" means the acquisition, expansion, remodeling, or alteration of existing buildings necessary to adapt them to rehabilitation facility purposes or to increase their effectiveness for such purposes (subject, however, to such limitations as the Secretary may determine, in accordance with regulations he shall prescribe, in order to prevent impairment of the objectives of, or duplication of, other Federal laws providing Federal assistance in the construction of such facilities), and the initial equipment for such buildings, and may include the initial staffing thereof.

(5) The term "evaluation of rehabilitation potential" means, as appropriate in each case:

(A) a preliminary diagnostic study to determine that the individual has a substantial handicap to employment, and that vocational or comprehensive rehabilitation services are needed;

(B) a diagnostic study consisting of a comprehensive evaluation of pertinent medical, psychological, vocational, educational, cultural, social, and environmental factors which bear on the individual's handicap to employment and rehabilitation potential including to the degree needed, an evaluation of the individual's personality, intelligence level, educational achievements, work experience, vocational aptitudes and interests, personal and social adjustments, employment opportunities, and other pertinent data helpful in determining the nature and scope of services needed;

(C) an appraisal of the individual's patterns of work behavior and ability to acquire occupational skill, and to develop work attitudes, work habits, work tolerance, and social and behavior patterns suitable for successful job performance, including the utilization of work, simulated or real, to assess and develop the individual's capacities to perform adequately in a work environment:

(D) any other goods or services provided for the purpose of ascertaining the nature of the handicap and whether it may reasonably be expected that the individual can benefit from vocational rehabilitation services or comprehensive rehabilitation services,

(E) referral and client advocacy;

(F) the administration of these evaluation services; and

(G) (i) the provision of vocational rehabilitation services or the provision of comprehensive rehabilitation services to any individual for a total period not in excess of eighteen months for the purpose of determining whether such individual is a handicapped individual, a severely handicapped individual, or neither a handicapped individual nor a severely handicapped individual; and (ii) an assessment, at least once in every ninety-day period during which such services are provided, of the results of the provision of such services to an individual to ascertain whether any of the determinations described in subclause (i) may be made.

(6) The term "Federal share" means 85 per centum except that such term shall mean 80 per centum for the purposes of part B of title I of this Act, and that with respect to payments pursuant to section 110 (b) to any State which are used to meet the costs of construction of those rehabilitation facilities identified in section 103(b) (2) in such State, the Federal share shall be the percentages determined in accordance with the provisions of section 200(b)(3) applicable with respect to that State.

(7) The term "handicapped individual" means any individual who (A) has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment and (B) can reasonably be expected to benefit from vocational or comprehensive rehabilitation services.

(8) The term "local agency" means an agency of a unit of general local government or of an Indian tribal organization (or combination of such units or organizations) which has an agreement with the State agency designated in section 101(a)(1) to conduct a vocational rehabilitation program under the supervision of such State agency in accordance with the State plan approved under section 101. Nothing in the preceding sentence of this paragraph or in section 101 shall be construed to prevent the local agency from utilizing another local public or private nonprofit agency to provide vocational or comprehensive rehabilitation services: *Provided*, That such an arrangement is made part of the agreement specified in this paragraph.

(9) The term "nonprofit", when used with respect to a rehabilitation facility, means a rehabilitation facility owned and operated by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and the income of which is exempt from taxation under section 501 (c) (3) of the Internal Revenue Code of 1954.

(10) The term "rehabilitation facility" means a facility which is operated for the primary purpose of providing vocational rehabilitation and comprehensive rehabilitation services to, or a workshop which is operated for the primary purpose of providing gainful employment for, handicapped individuals, and which provides singly or in combination one or more of the following services for handicapped individuals: (A) Vocational and comprehensive rehabilitation services which shall include, under one management, medical, psychological, social, and vocational services, (B) testing, fitting, or training in the use of prosthetic and orthotic devices, (C) prevocational conditioning or recreational therapy, (D) physical and occupational therapy, (E) speech and hearing therapy, (F) psychological and social services, (G) evaluation of rehabilitational potential, (H) personal and work adjustment, (I) vocational training with a view toward career advancement (in combination with other rehabilitation services), (J) evaluation or control of specific disabilities, (K) orientation and mobility services to the blind, and (L) extended employment for the severely handicapped who cannot be readily absorbed in the competitive labor market: *Provided*, That all medical and related health services must be prescribed by, or under the formal supervision of, persons licensed to prescribe or supervise the provision of such services in the State.

(11) The term "Secretary", except when the context otherwise requires, means the Secretary of Health, Education, and Welfare.

(12) The term "severely handicapped individual" means any handicapped individual whose ability to engage in gainful employment, or whose ability to function normally and independently in his family or community, is so limited by the severity of his disability that vocational or comprehensive rehabilitation services appreciably more costly and of appreciably greater duration than those vocational or comprehensive rehabilitation services normally required for the rehabilitation of a handicapped individual are required to improve significantly either his ability to engage in gainful employment or his ability to function normally and independently in his family or community.

(13) The term "State" includes the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands, and for the purposes of American Samoa and the Trust Territory of the Pacific Islands, the appropriate State agency designated as provided in section 101(a)(1) shall be the Governor of American Samoa or the High Commissioner of the Trust Territory of the Pacific Islands, as the case may be.

(14) The term "vocational rehabilitation services" means those services identified in section 103 which are provided to handicapped individuals under this Act.

ALLOTMENT PERCENTAGE

SEC. 7. (a) (1) The "allotment percentage" for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that (A) the allotment percentage shall in no case be more than 75 per centum or less than 33⅓ per centum, and (B) the allotment percentage for the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands shall be 75 per centum.

(2) The allotment percentages shall be promulgated by the Secretary between July 1 and September 30 of each even-numbered year, on the basis of the average of the per capita incomes of the States and of the United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning July 1 next succeeding such promulgation.

(3) The term "United States" means (but only for purposes of this subsection) the fifty States and the District of Columbia.

(b) The population of the several States and of the United States shall be determined on the basis of the most recent data available, to be furnished by the Department of Commerce by October 1 of the year preceding the fiscal year for which funds are appropriated pursuant to statutory authorizations.

AUDIT

SEC. 8. Each recipient of a grant under this Act shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grants, the total cost of the project or undertaking in connection with which such grant is made or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such records as will facilitate an effective audit. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of any grant under this Act which are pertinent to such grant.

SPECIAL FUNDING CONSIDERATION

SEC. 9. In making grants under this Act, the Secretary and the Commissioner of the Rehabilitation Services Administration, as appropriate, shall give special consideration to the need for services in such States as he determines would have received a greater allotment of funds under part B of title I of this Act for fiscal years beginning after June 30, 1973, if the formula in subsection (a)(1) of section 110 had been applied to compute such allotment. The Secretary shall include in the annual report required by section 404 the results of such computation for each State and the special consideration afforded as a result of such computations.

TITLE I—VOCATIONAL AND COMPREHENSIVE REHABILITATION SERVICES

Part A—General Provisions

AUTHORIZATION OF APPROPRIATIONS

Sec. 100. (a) In order to make grants to States under parts B and C of this title (except for purposes of section 111) to assist them in meeting costs of vocational and comprehensive rehabilitation services, and in carrying out State plans under section 101, there is authorized to be appropriated $900,000,000 for the fiscal year ending June 30, 1973; $1,150,000,000 for the fiscal year ending June 30, 1974; and $1,350,000,000 for the fiscal year ending June 30, 1975. Of the amounts appropriated for each such fiscal year under this subsection, 15 per centum in each such year shall be available only for the provision of vocational and or comprehensive rehabilitation services to the severely handicapped in accordance with part C of this title.

(b) For the purpose of making grants under section III, relating to grants to States and public nonprofit agencies to assist them in meeting the costs of projects to initiate or expand services to handicapped (especially severely handicapped) individuals, there is authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1973, $60,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 for the fiscal year ending June 30, 1975.

STATE PLANS

Sec. 101. (a) For each fiscal year in which a State desires to participate in programs under this title, a State shall submit to the Secretary for his approval an annual plan for vocational and comprehensive rehabilitation services which shall—

(1) (A) designate a State agency as the sole State agency to administer the plan, or to supervise its administration by a local agency, except that (i) where under the State's law the State agency for the blind or other agency which provides assistance or services to the adult blind, is authorized to provide vocational and comprehensive rehabilitation services to such individuals, such agency may be designated as the sole State agency to administer the part of the plan under which vocational and comprehensive rehabilitation services are provided for the blind (or to supervise the administration of such part by a local agency) and a separate State agency may be designated as the sole State agency with respect to the rest of the State plan, and (ii) the Secretary, upon the request of a State, may authorize such agency to share funding and administrative responsibility with another agency of the State or with a local agency in order to permit such agencies to carry out a joint program to provide services to handicapped individuals, and may waive compliance with respect to vocational and comprehensive rehabilitation services furnished under such programs with the requirement of clause (4) of this subsection that the plan be in effect in all political subdivisions of the State;

(B) provide that the State agency so designated to administer or supervise the administration of the State plan, or (if there are two State agencies designated under subparagraph (A)) to supervise or administer the part of the State plan that does not relate to services for the blind, shall be (i) a State agency primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of handicapped individuals, (ii) the State agency administering or supervising the administration of education or vocational education in the State, or (iii) a State agency which includes at least two other major organizational units each of which administers one or more of the major public education, public health, public welfare, or labor programs of the State;

(2) provide, except in the case of agencies described in clause (1) (B) (i)—

(A) that the State agency designated pursuant to paragraph (1) (or each State agency if two are so designated) shall include a vocational rehabilitation bureau, division, or other organizational unit which (i) is primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of handicapped individuals, and is responsible for the vocational rehabilitation program of such State agency, (ii) has a full-time director, and (iii) has a staff employed on such rehabilitation work of such organizational unit all or substantially all of whom are employed full time on such work; and

(B) (i) that such unit shall be located at an organizational level and shall have an organizational status within such State agency comparable to that of other major organizational units of such agency, or (ii) in the case of an agency described in clause (1) (B) (ii), either that such unit shall be so located and have status, or that the director of such unit shall be the executive officer of such State agency; except that, in the case of a State which has designated only one State agency pursuant to paragraph (1), such State may, if it so desires, assign responsibility for the part of the plan under which vocational and comprehensive rehabilitation services are provided for the blind to one organizational unit of such agency and assign responsibility for the rest of the plan to another organizational unit of such agency, with the provisions of this clause (2) applying separately to each of such units;

(3) provide for financial participation by the State, or if the State so elects, by the State and local agencies to meet the amount of the non-Federal share;

(4) provide that the plan shall be in effect in all political subdivisions, except that in the case of any activity which, in the judgment of the Secretary, is likely to assist in promoting the vocational rehabilitation of substantially larger numbers of handicapped individuals or groups of handicapped individuals the Secretary may waive compliance with the requirement herein that the plan be in effect in all political subdivisions of the State to the extent and for such period as may be provided in accordance with regulations prescribed by him, but only if the non-Federal share of the cost of such vocational rehabilitation services is met from funds made available by a local agency (including, to the extent permitted by such regulations, funds contributed to such agency by a private agency, organization, or individual);

(5) (A) contain the plans, policies, and methods to be followed in carrying out the State plan and in its administration and supervision, including a description of the method to be used to expand and improve services to severely handicapped individuals; and in the event that vocational and comprehensive rehabilitation services cannot be provided to all eligible handicapped individuals who apply for such services, show the order to be followed in selecting those to whom vocational and comprehensive rehabilitation services will be provided and the outcomes and service goals, and the time within which they may be achieved, for the rehabilitation of such individuals, which order of selection shall place special emphasis on severely handicapped individuals and shall not be inconsistent with priorities and outcome and service goals for serving handicapped individuals established in regulations prescribed by the Secretary;

(B) provide satisfactory assurances that no such comprehensive services shall be paid for with funds under this title unless maximum efforts have been made to secure grant assistance, in whole or in part, from other sources to pay for such services;

(6) (A) contain the plans, policies, and methods to be followed in providing vocational and comprehensive rehabilitation services in accordance with part C of this title to severely handicapped individuals, including a description of the quality, scope, and extent of services which are provided, and

(B) provide satisfactory assurances to the Secretary that the State has studied and considered a broad variety of means for providing services to severely handicapped individuals including, but not limited to, regional and community centers, services to homebound and institutionalized individuals, half-way houses, and patient-release programs, where such programs are appropriate and beneficial;

(7) provide for such methods of administration, other than methods relating to the establishment and maintenance of personnel standards, as are found by the Secretary to be necessary for the proper and efficient administration of the plan, including provision for the establishment of a client advocacy system as required in section 112 of this Act;

(8) contain (A) provisions relating to the establishment and maintenance of personnel standards, which are consistent with any State licensure laws and regulations, including provisions relating to the tenure, selection, appointment, and qualifications of personnel, and (B) provisions relating to the establishment and maintenance of minimum standards governing the facilities and personnel utilized in the provision of vocational and comprehensive rehabilitation services, but the Secretary shall exercise no authority with respect to the selection, method of selection, tenure of office, or compensation of any individual employed in accordance with such provisions;

(9) provide, at a minimum, for the provision of the vocational rehabilitation services specified in clauses (1) through (3) of subsection (a) of section 103, and the remainder of such services specified in such section after full consideration of eligibility for similar benefits under any other program, except that, in the case of the vocational rehabilitation services specified in clauses (4) and (5) of subsection (a) of such section, such consideration shall not be required where it would delay the provision of such services to any individual;

(10) provide that an individualized written rehabilitation program meeting the requirements of section 102 will be developed for each handicapped individual, and that vocational and comprehensive rehabilitation services will be provided under the plan in accordance with such program;

(11) provide that the State agency will make such reports in such form, containing such information (including periodic estimates of the population of handicapped individuals eligible for services under this Act in such State, specifications of the number of such individuals who will be served with funds provided under this Act and the outcomes and service goals to be achieved for such individuals in each priority category specified in accordance with clause (5) of this paragraph, and the service costs for each such category), and at such time, as the Secretary may require to carry out his functions under this title, and comply with such provisions as he may find necessary to assure the correctness and verification of such reports;

(12) provide for entering into cooperative arrangements with, and the utilization of the services and facilities of, the State agencies administering the State's public assistance programs, other programs for the handicapped, veterans programs, manpower programs, and public employment offices, the Social Security Administration (Department of Health, Education, and Welfare), the Vet-

erans' Administration, and other Federal, State and local public agencies providing services related to the rehabilitation of the handicapped;

(13) provide satisfactory assurances to the Secretary that, in the provision of vocational rehabilitation and comprehensive rehabilitation services, maximum utilization shall be made of public or other vocational or technical training facilities or other appropriate resources in the community;

(14) provide that vocational rehabilitation and comprehensive rehabilitation services provided under the State plan shall be available to any civil employee of the United States disabled while in the performance of his duty on the same terms and conditions as apply to other persons;

(15) provide that no residence requirement will be imposed which excludes from services under the plan any individual who is present in the State;

(16) provide for continuing statewide studies of the needs of handicapped individuals and how these needs may be most effectively met (including the State's needs for rehabilitation facilities) with a view toward the relative need for services to significant segments of the population of handicapped individuals and the need for expansion of services to severely handicapped individuals;

(17) provide for (A) periodic review and reevaluation of the status of handicapped individuals placed in extended employment in rehabilitation facilities (including workshops) to determine the feasibility of their employment, or training for employment, in the competitive labor market, and (B) maximum efforts to place such individuals in such employment or training whenever it is determined to be feasible;

(18) provide that where such State plan includes provisions for the construction of rehabilitation facilities—

(A) the Federal share of the cost of construction thereof for a fiscal year will not exceed an amount equal to 10 per centum of the State's allotment for such year,

(B) the provisions of section 212 shall be applicable to such construction and such provisions shall be deemed to apply to such construction, and

(C) there shall be compliance with regulations of the Secretary designed to assure that no State will reduce its efforts in providing other vocational and comprehensive rehabilitation services (other than for the establishment of rehabilitation facilities) because its plan includes such provision for construction;

(19) provide satisfactory assurances to the Secretary that the State agency designated pursuant to paragraph (1) (or each State agency if two are so designated) and any sole local agency administering the plan in a political subdivision of the State will take into account, in connection with matters of general policy arising in the administration of the plan, the views of individuals and groups thereof who are recipients of vocational or comprehensive rehabilitation services (or, in appropriate cases, their parents or guardians), working in the field of vocational rehabilitation, and providers of vocational and comprehensive rehabilitation services; and

(20) provide satisfactory assurances to the Secretary that the continuing studies required under clause (16) of this subsection, as well as an annual evaluation of the effectiveness of the program in meeting the goals and priorities set forth in the plan, will form the basis for the submission, from time to time as the Secretary may require, of appropriate amendments to the plan.

(b) The Secretary shall approve any plan which he finds fulfills the conditions specified in subsection (a) of this section, and he shall disapprove any plan which does not fulfill such conditions. Prior to such disapproval, the Secretary shall notify a State of his intention to disapprove its plan and he shall afford such State reasonable notice and opportunity for hearing.

(c) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of the State plan approved under this section, finds that—

(1) the plan has been so changed that it no longer complies with the requirements of subsection (a) of this section; or

(2) in the administration of the plan there is a failure to comply substantially with any such provision;

the Secretary shall notify such State agency that no further payments will be made to the State under this title (or in his discretion, that such further payments will be reduced, in accordance with regulations the Secretary shall prescribe or that further payment will not be made to the State only for the projects under the parts of the State plan affected by such failure), until he is satisfied there is no longer any such failure. Until he is so satisfied, the Secretary shall make no further payments to such State under this title (or shall limit payments to projects under those parts of the State plan in which there is no such failure).

(d) If any State is dissatisfied with the Secretary's action under subsection (b) or (c) of this section, such State may appeal to the United States district court for the district where the capital of such State is located and judicial review of such action shall be on the record in accordance with the provisions of the Administrative Procedure Act.

INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM

SEC. 102. (a) The Secretary shall insure that the individualized written rehabilitation program required by section 101(a)(9) of this Act in the case of each handicapped individual is developed jointly by the vocational rehabilitation counselor or coordinator and the handicapped individual (or, in appropriate cases, his parents or guardians), and that such program meets the requirements set forth in subsection (b) of this section. Such written program shall set forth the terms and conditions, as well as the rights and remedies, under which goods and services will be provided to the individual.

(b) Each individualized written rehabilitation program shall be reviewed on an annual basis at which time each such individual (or, in appropriate cases, his parents or guardians) will be afforded an opportunity to review such program and renegotiate its terms. Such program shall include, but not be limited to, (1) a statement of long-range rehabilitation goals for the individual and intermediate rehabilitation objectives related to the attainment of such goals, (2) a statement of the specific vocational and comprehensive rehabilitation services to be provided, (3) the projected date for the initiation and the anticipated duration of each such service, (4) objective criteria and an evalation procedure and schedule for determining whether such objectives and goals are being achieved, and (5) a detailed explanation of the availability of the client advocacy system established pursuant to paragraph (7) of subsection (a) of section 101.

(c) The Secretary shall also insure that (1) in developing and carrying out the individualized written rehabilitation program required by section 101 in the case of each handicapped individual primary emphasis is placed upon the determination and achievement of a vocational goal for such individual, (2) a decision that such an individual is not capable of achieving such a goal is made only in full consultation with such individual (or, in appropriate cases, his parents or guardians), and only upon the certification, as an amendment to such written program, that the evaluation of rehabilitation potential has demonstrated beyond any reasonable doubt that such individual is not then capable of achieving such a goal, and (3) any such decision shall be reviewed at least annually in accordance with the above procedure and criteria.

SCOPE OF VOCATIONAL REHABILITATION SERVICES

SEC. 103. (a) Vocational rehabilitation services provided under this Act are any goods or services necessary to render a handicapped individual employable, including, but not limited to, the following:

(1) evaluation of rehabilitation potential, including diagnostic and related services, incidental to the determination of eligibility for, and the nature and scope of, services to be provided, including, where appropriate, examination by a physician skilled in the diagnosis and treatment of emotional disorders, or by a licensed psychologist in accordance with State laws and regulations, or both;

(2) counseling, guidance, referral, placement, and client advocacy services for handicapped individuals, including follow-up, follow-along, and other postemployment services necessary to assist such individuals to maintain their employment and services designed to help handicapped individuals secure needed services from other agencies, where such services are not available under this Act;

(3) vocational and other training services for handicapped individuals, which shall include personal and vocational adjustment, books, and other training materials, and service to the families of such individuals as are necessary to the adjustment or rehabilitation of such individuals: *Provided*, That no training services in institutions of higher education shall be paid for with funds under this title unless maximum efforts have been made to secure grant assistance, in whole or in part, from other sources to pay for such training;

(4) physical and mental restoration services, including, but not limited to, (A) corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition which is stable or slowly progressive and constitutes a substantial handicap to employment, but is of such nature that such correction or modification may reasonably be expected to eliminate or substantially reduce the handicap within a reasonable length of time, (B) necessary hospitalization in connection with surgery or treatment, (C) prosthetic and orthotic devices, (D) eye glasses and visual services as prescribed by a physician skilled in the diseases of the eye or by an optometrist whichever the individual may select, (E) special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the treatment of individuals suffering from en-stage renal disease, and (F) diagnosis and treatment for mental and emotional disorder by a physician or licensed psychologist in accordance with State licensure laws;

(5) maintenance, not exceeding the estimated cost of subsistence, during rehabilitation;

(6) interpreter services for the deaf, and reader services for those individuals determined to be blind after an examination by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select;

(7) recruitment and training services for handicapped individuals to provide them with new employment opportunities in the fields of rehabilitation, health, welfare, public safety, and law enforcement, and other appropriate service employment;

(8) rehabilitation teaching services and orientation and mobility services for the blind;

(9) occupational licenses, tools, equipment, and initial stocks and supplies;

(10) transportation in connection with the rendering of any vocational rehabilitation service; and

(11) telecommunication, sensory, and other technological aids and devices.

(b) Vocational rehabilitation services, when provided for the benefit of groups of individuals, may also include the following:

(1) in the case of any type of small business operated by severely handicapped individuals the operation of which can be improved by management services and supervision provided by the State agency, the provision of such services and supervision, alone or together with the acquisition by the State agency of vending stands or other equipment and initial stocks and supplies; and

(2) the construction or establishment of public or nonprofit rehabilitation facilities and the provision of other facilities and services which promise to contribute substantially to the rehabilitation of a group of individuals but which are not related directly to the individualized rehabilitation written program of any one handicapped individual.

NONDUPLICATION

SEC. 104. In determining the amount of any State's Federal share of expenditures for planning, administration, and services incurred by it under a State plan approved in accordance with section 101, there shall be disregarded (1) any portion of such expenditures which are financed by Federal funds provided under any provision of law other than this title, and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds.

PART B—BASIC VOCATIONAL AND COMPREHENSIVE REHABILITATION SERVICES

STATE ALLOTMENTS

SEC. 110. (a) (1) For the fiscal year ending June 30, 1973, and for each fiscal year thereafter with respect to such portion of the appropriations under subsection (a) of section 100 for such fiscal year as does not exceed $700,000,000, each State shall be entitled to an allotment of an amount bearing the same ratio to the amount appropriated under subsection (a) of section 100 for allotment under this section as the product of (1) the population of the State and (2) the square of its allotment percentage (as described in section 7) bears to the sum of the corresponding products for all the States. The allotment to any State (other than Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands) under the first sentence of this subsection for any fiscal year which is less than one-quarter of 1 per centum of the amount appropriated under section 100(a), or $2,250,000, whichever is greater, shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotments to each of the remaining such States under the first sentence of this subsection, but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than that amount.

(2) For the fiscal years ending after June 30, 1974, each State shall be entitled to an allotment, in addition to the allotment to which it is entitled under paragraph (1), of an amount equal to—

(A) ⅔ of the product obtained by multiplying—

(i) the excess (if any) of the total amount appropriated in excess of $700,000,000 for such year for allotment under this section over the total amount so appropriated for the fiscal year ending June 30, 1973, by

(ii) the quotient obtained by dividing the population of such State by the population of all the States, plus.

(B) ⅓ of the product obtained by multiplying—

(i) the excess (if any) of the total amount appropriated in excess of $700,000,000 for such year for allotment under this section over the total amount so appropriated for the fiscal year ending June 30, 1973, by

(ii) the quotient obtained by dividing the allotment percentage of such State by the sum of the allotment percentages of all the States.

(b) For each fiscal year the Secretary shall pay to each State an amount equal to the Federal share (determined as provided in section 6(6) of the cost of vocational and comprehensive rehabilitation services under the plan for such State approved under section 101, including expenditures for the administration of the State plan, except that the total of such payments to such State for such fiscal year may not exceed its allotment under subsection (a) of this section for such year and such payments shall not be made in an amount which would result in a violation of the provisions of the State plan required by clause (18) of section 101(a), and except that the amount otherwise payable to such State for such year under this section shall be reduced by the amount (if any) by which expenditures from non-Federal sources (except for expenditures with respect to which the State is entitled to payments under section 111) during such year under this title are less than expenditures under the State plan for the fiscal year ending June 30, 1972, under the Vocational Rehabilitation Act.

(c) For the purpose of determining the amount of payments to States for carrying out this section with respect to expenditures under State plans approved under section 101, and for carrying out section 111, the non-Federal share shall, subject to such limitations and conditions as may be prescribed in regulations of the Secretary, include contributions of funds made by any private agency, organiaztion, or individual to a State or local agency to assist in meeting the costs of construction or establishment of a public or nonprofit rehabilitation facility, which would be regarded as State or local funds except for the condition, imposed by the contributor, limiting use of such funds to construction or establishment of such facility.

(d) Whenever the Secretary determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this title, he shall make such amount available for carrying out the purposes of this title to one or more other States to the extent he determines such other State will be able to use such additional amount during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this Act, be regarded as an increase of such State's allotment (as determined under the preceding provisions of this section) for such year.

(e) The method of computing and paying amounts pursuant to subsection (a) shall be as follows:

(1) The Secretary shall, prior to the beginning of each calendar quarter or other period prescribed by him, estimate the amount to be paid to each State under the provisions of such subsection for such period, such estimate to be based on such records of the State and information furnished by it, and such other investigation, as the Secretary may find necessary.

(2) The Secretary shall pay from the allotment available therefor, the amount so estimated by him for such period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which he finds that his estimate of the amount to be paid the State for any prior period under such subsection was greater or less than the amount which should have been paid to the State for such prior period under such subsection. Such payment shall be made prior to audit or settlement by the General Accounting Office, shall be made through the disbursing facilities of the Treasury Department, and shall be made in such installments as the Secretary may determine.

(f) From the amount allotted to each State under this section, each State shall set aside 1 per centum of such allotment for the purpose of establishing and maintaining the State Advisory Council required by section 211(b), and shall expend from the sums so set aside such amount as is needed to cover the costs of such activities, but in no event more than $150,000 or less than $50,000. Amounts so set aside and unexpended shall be available for carrying out the plan approved under section 101.

(g) No payment may be made from an allotment under this part relating to any cost with respect to which any payment is made under any other part or title of this Act.

INNOVATION AND EXPANSION GRANTS

SEC. 111. (a) (1) From the sums available pursuant to section 100(b) for any fiscal year for grants to States to assist them in meeting the costs described in paragraph (2) of this subsection, each State shall be entitled to an allotment of an amount bearing the same ratio to such sums as the population of the State bears to the population of all the States. The allotment to any State under the preceding sentence for any fiscal year which is less than $50,000 (or such other amount as may be specified as a minimum allotment in the Act appropriating such sums for such year) shall be increased to that amount, and for the fiscal years ending June 30, 1973, and June 30, 1974, no State shall receive less than the amount necessary to cover 90 per centum of the cost of continuing projects assisted under section 4(a) (2) (A) of the Vocational Rehabilitation Act, except that no such project may receive financial assistance under both the Vocational Rehabilitation Act and this Act for a total period of time in excess of three years. The total of the increases required by the preceding sentence shall be derived by proportionately reducing the allotments to each of the remaining States under the first sentence of this section, but with such adjustments as may be necessary to prevent the allotment of any of such remaining States from thereby being reduced to less than $50,000.

(2) From each State's allotment under this section for any fiscal year, the Secretary shall pay to such State or, at the option of the State agency designated pursuant to section 101(a) (1) (A), to a public or nonprofit organization or agency a portion of the cost of planning, preparing for, and initiating special programs under the State plan approved pursuant to section 101 to expand vocational and comprehensive rehabilitation services, including programs to initiate or expand such services to severely handicapped individuals, or of special programs under such State plan to initiate or expand services to classes of handicapped individuals who have unusual and difficult problems in connection with their rehabilitation, particularly handicapped individuals who are poor, and responsibility for whose treatment, education, and rehabilitation is shared by the State agency designated in section 101 with other agencies. The Secretary may require that any portion of a State's allotment under this section, but not more than fifty per centum of such allotment may be expended in connection with only such projects as have first been approved by the Secretary. Any grant of funds under this section which will be used for direct services to handicapped individuals or for establishing or maintaining facilities which will render direct services to such individuals must have the prior ap-

proval of the appropriate State ageny designated pursuant to section 101.

(b) Payments under this section with respect to any project may be made for a period of not to exceed three years beginning with the commencement of the project as approved. Payments with respect to any project may not exceed 90 per centum of the cost of such project. The non-Federal share of the cost of a project may be in cash or in kind and may include funds spent for project purposes by a cooperating public or nonprofit agency provided that it is not included as a cost in any other federally financed program.

(c) Payments under this section may be made in advance or by way of reimbursement for services performed and purchases made, as may be determined by the Secretary, and shall be made on such conditions as the Secretary finds necessary to carry out the purposes of this section.

(d) Whenever the Secretary determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this section, he shall make such amount available for carrying out the purposes of this section to one or more other States which he determines will be able to use additional amounts during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for purposes of this Act, be regarded as an increase of such State's allotment (as determined under the preceding provisions of this section) for such year.

CLIENT ADVOCACY

SEC. 112. (a) The Secretary shall set aside out of funds appropriated under section 100 such sums as may be necessary, but no less than 1 per centum of the funds appropriated, to establish a system of client advocacy for each geographical area in which programs or projects are being carried out with funds under this Act. Such client advocacy systems shall be funded directly through the State agency administering the State plan under this Act and shall function in the capacity of an ombudsman to seek to resolve as quickly and amicably as possible any complaints presented by clients or client applicants.

(b) Persons carrying out functions under the client advocacy systems shall not be employees, present clients, or in any way under the supervision of rehabilitation programs, projects, or facilities in connection with which they are performing client advocacy. Such persons shall be afforded prompt and reasonable access to responsible policymaking and administrative personnel in the State agency or agencies and the regional and central offices of the Rehabilitation Services Administration in order to resolve client complaints as quickly and effective as possible.

(c) Each client advocacy system shall submit an annual report through the State agency designated pursuant to section 101 to the Secretary on the operation of the system during the previous year, including such recommendations for legislative and administrative changes as are deemed appropriate in light of such operation, a description of each case in which a satisfactory resolution of the complaint was not achieved, and a uniform statistical tabulation of all cases handled. A copy of each such report shall be submitted to the appropriate committees of the Congress annually by the Secretary, together with his evaluations of such systems conducted during the preceding year and with a summary of, and commentary on, the individual reports submitted, including appropriate recommendations.

(d) In setting up client advocacy systems under this section, each State agency shall insure that maximum efforts are made to enter into cooperative arrangements with institutions of higher education to secure the services in such systems of graduate students who are undergoing clinical training activities in the fields of law, social services, rehabilitation counseling, psychology, education, and health and other related fields.

(e) No client or client applicant in any way assisted with funds under this Act shall be denied access to the appropriate client advocacy system or in any way threatened or discouraged from presenting complaints to such system. If the Secretary finds that a willful violation of this subsection has occurred, he may, in accordance with, and subject to, the procedures, rights, and remedies specified in subsection (c) of section 101, suspend or limit payments under this title, as provided in such subsection (c), to the State in connection with the facility in which such violation has occurred.

EXPERIMENTAL APPEAL PROJECTS

SEC. 113. (a) The Secretary may, in ten representative geographical areas, provide for the conduct of various types of client appeal and review systems, including the following:

(1) close examination of the present appeals system as carried out on a statewide basis in a State with a relatively small population;

(2) a system of appeals from actions of one rehabilitation facility to a panel of caseworker/counselor peers from other such facilities;

(3) a system of appeals to designated Federal officials at a regional office of the Department of Health, Education, and Welfare; and

(4) a system of appeals to one rehabilitation facility from actions of another such facility.

(b) The Secretary shall submit to the appropriate committees of the Congress within two years after the date of enactment of this Act a report on the results of each experiment carried out under this section, including the costs and personnel entailed in each, and an evaluation of the existing varieties of appeal systems throughout the United States.

PART C—SUPPLEMENTARY FUNDS FOR VOCATIONAL AND COMPREHENSIVE REHABILITATION SERVICES TO SEVERELY HANDICAPPED INDIVIDUALS

STATE ALLOTMENTS

SEC. 120. (a) From sums appropriated to carry out the provisions of this part for each fiscal year, each State shall be entitled to an allotment of an amount bearing the same ratio to such sums as the product of (1) the population of the State, and (2) its allotment percentage (as described in section 7) bears to the sum of the corresponding products for all of the States. The allotment to any State under the preceding sentence for any fiscal year which is less than $150,000 shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotments to each of the remaining States under the preceding sentence, but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than that amount.

(b) Whenever the Secretary determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this section, he shall make such amount available for carrying out the purposes of this section to one or more of the States which he determines will be able to use additional amounts during such year for carrying out such purpose. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purpose of this title, be regarded as an increase in the State's allotment (as determined under the preceding provisions of this section) for such year.

(c) Amounts allotted to a State under this part shall be available only for expenditure for the provision of vocational and comprehensive rehabilitation services under this title for a severely handicapped individual, to the extent that (A), for the fiscal year ending June 30, 1973, the cost of the purchase and provision of such services (including counseling) for such individual, because of the severity of his handicap, as determined in accordance with regulations which the Secretary shall prescribe, exceeds an amount equal to 200 per centum of the average cost per individual of the purchase and provision of such services for all handicapped individuals rehabilitated in the State in question during the preceding fiscal year under the Vocational Rehabilitation Act and (B) for subsequent fiscal years, the cost of the purchase and provisions of such services (including counseling) for such individual, because of the severity of his handicap, as determined in accordance wtih regulations which the Secretary shall prescribe, exceeds an amount equal to 200 per centum of the average cost per individual of the purchase and provision of such services for all handicapped individuals rehabilitated in the State in question during the preceding fiscal year with funds allotted under section 110 and section 120.

(d) Not more than 10 per centum of the total funds allocated to any State under this section and section 110 shall be expended for the purpose of providing comprehensive rehabilitation services.

(e) In the event that the Secretary, based upon estimates submitted to him by each State, determines that, for the fiscal year ending June 30, 1973, a State will not be able to utilize the amount available to it under the provisions of subsection (a) of this section, he shall reallocate such amount as provided under subsection (b) of this section and if, after such reallocation, amounts remain which he determines cannot be utilized under such subsection (b), such amounts shall be available for carrying out the purposes of subsection (d) of section 110 of part B of this title, and such amount shall be in addition to any other amounts made available for the purposes of subsection (d) of section 110.

STATE PROGRAMS

SEC. 121. As a condition for receiving grants under this Act for the fiscal year ending June 30, 1973, a State must submit within 180 days after the date of enactment of this Act an amendment to its plan submitted to the Secretary under section 101 or under section 5 of the Vocational Rehabilitation Act (29 U.S.C. 35) which includes a program for provision of vocational and comprehensive rehabilitation services to severely handicapped individuals. A State shall also include such a program in its plan under section 101 submitted for each subsequent fiscal year. Such program shall (1) designate the State agency or agencies administering the State plan for vocational rehabilitation as the agency or agencies to administer funds provided under this part; (2) describe the quality, scope, and extent of the services being provided; (3) demonstrate that the State has studied and considered a broad variety of means for providing vocational and comprehensive services to severely handicapped individuals, including but not limited to, regional and community centers, halfway houses, services to homebound and institutionalized individuals, and patient-release programs, where such programs are appropriate and beneficial; (4) be approved or disapproved under the criteria and procedures provided with respect to the State plan submitted under section 101; and (5) conform to such other requirements as the Secretary by regulation may prescribe.

PAYMENTS TO STATES

SEC. 122. From each State's allotment for a fiscal year under section 120, the State shall be paid the Federal share of the expenditures incurred during such year under its State plan approved under section 102. Such payments may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Secretary may determine.

TITLE II—SPECIAL FEDERAL RESPONSIBILITIES

GRANTS FOR CONSTRUCTION OF REHABILITATION FACILITIES

SEC. 200. (a) For the purpose of making grants and contracts under this section for construction of rehabilitation facilities, initial staffing, and planning assistance, there is authorized to be appropriated $35,000,000 for the fiscal year ending June 30, 1973; $40,000,000 for the fiscal year ending June 30, 1974; and $45,000,000 for the fiscal year ending June 30, 1975. Amounts so appropriated shall remain available for expenditure with respect to construction projects funded or initial staffing grants made under this section prior to July 1, 1977.

(b) (1) The Secretary is authorized to make grants to assist in meeting the costs of construction of public or private nonprofit rehabilitation facilities. Such grants may be made to States and public or nonprofit organizations and agencies for projects for which applications are approved by the Secretary under this section.

(2) To be approved, an application for a grant for a construction project under this section must conform to the provisions of section 212.

(3) The amount of a grant under this section with respect to any construction project in any State shall be equal to the same percentage of the cost of such project as the Federal share which is applicable in the case of rehabilitation facilities (as defined in section 645(g) of the Public Health Service Act (42 U.S.C. 291o(g)), in such State, except that if the Federal share with respect to rehabilitation facilities in such State is determined pursuant to section 645(b) (2) of such Act (42 U.S.C. 291o(b) (2)), the percentage of the cost for purposes of this section shall be determined in accordance with regulations prescribed by the Secretary designed to achieve as nearly as practicable results comparable to the results obtained under such subparagraph.

(c) The Secretary is also authorized to make grants to assist in the initial staffing of any public or nonprofit rehabilitation facility constructed after the date of enactment of this section (whether or not such construction was financed with the aid of a grant under this section) by covering part of the costs (determined in accordance with regulations of the Secretary) of compensation of professional or technical personnel of such facility during the period beginning with the commencement of the operation of such facility and ending with the close of four years and three months after the month in which such operation commenced. Such grants with respect to any facility may not exceed 75 per centum of such costs for the period ending with the close of the fifteenth month following the month in which such operation commenced, 60 per centum of such costs for the first year thereafter, 45 per centum of such costs for the second year thereafter, and 30 per centum of such costs for the third year thereafter.

(d) The Secretary is also authorized to make grants upon application approved by the State agency designated under section 101 to administer the State plan, to public or nonprofit agencies, institutions, or organizations to assist them in meeting the costs of planning rehabilitation facilities and the services to be provided thereby.

VOCATIONAL TRAINING SERVICES FOR HANDICAPPED INDIVIDUALS

SEC. 201. (a) For the purpose of making grants and contracts under this section, there is authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1973; $35,000,000 for the fiscal year ending June 30, 1974; and $40,000,000 for the fiscal year ending June 30, 1975.

(b) (1) The Secretary is authorized to make grants to States and public and nonprofit organizations and agencies to pay the Federal share of the cost of projects for providing vocational training services to handicapped, especially severely handicapped, individuals in public or nonprofit rehabilitation facilities.

(2) (A) Vocational training services for purposes of this subsection, shall include training with a view toward career advancement; training in occupational skills; related services, including work evaluation, work testing, provision of occupational tools and equipment required by the individual to engage in such training, and job tryouts; and payment of weekly allowances to individuals receiving such training and related services.

(B) Such allowances may not be paid to any individual for any period in excess of two years, and such allowances for any week shall not exceed $30 plus $10 for each of the individual's dependents, or $70, whichever is less. In determining the amount of such allowances for any individual, consideration shall be given to the individual's need for such an allowance, including any expenses reasonably attributable to receipt of training services, the extent to which such an allowance will help assure entry into and satisfactory completion of training, and such other factors, specified by the Secretary, as will promote such individual's capacity to engage in gainful and suitable employment.

(3) The Secretary may make a grant for a project pursuant to this subsection only on his determination that (A) the purpose of such project is to prepare handicapped, especially severely handicapped, individuals for gainful and suitable employment; (B) the individuals to receive training services under such project will include only individuals who have been determined to be suitable for and in need of such training services by the State agency or agencies designated as provided in section 102(a) (1) of the State in which the rehabilitation facility is located; (C) the full range of training services will be made available to each such individual, to the extent of his need for such services; and (D) the project, including the participating rehabilitation facility and the training services provided, meet such other requirements as he may prescribe in regulations for carrying out the purposes of this subsection.

(c) (1) The Secretary is authorized to make grants to public or nonprofit rehabilitation facilities, or to an organization or combination of such facilities, to pay the Federal share of the cost of projects to analyze, improve, and increase their professional services to handicapped individuals, their management effectiveness, or any other part of their operations affecting their capacity to provide employment and services for such individuals.

(2) No part of any grant made pursuant to this subsection may be used to pay costs of acquiring, constructing, expanding, remodeling, or altering any building.

LOANS AND LOAN GUARANTEES FOR MODERNIZATION AND CONSTRUCTION OF REHABILITATION FACILITIES

SEC. 202. With respect to the carrying out of the program under part B of title VI of the Public Health Service Act (42 U.S.C. 291j–1) to guarantee loans to nonprofit private agencies and to make loans to public agencies for the modernization or construction of nonprofit rehabilitation facilities, the Secretary shall, with respect to such facilities which are rehabilitation facilities as defined in section 6, assure compliance with all the requirements set forth in section 212.

ANNUAL INTEREST GRANTS FOR MORTGAGES FOR REHABILITATION FACILITIES

SEC. 203. (a) To assist States and public and nonprofit agencies to reduce the cost of borrowing from other sources for the construction of rehabilitation facilities, the Secretary may, subject to the provisions of section 212, make annual interest grants to such agencies.

(b) Annual interest grants under this section with respect to any rehabilitation facility shall be made over a fixed period not exceeding forty years, and provision for such grants shall be embodied in a contract guaranteeing their payment over such period. Each such grant shall be in an amount sufficient to reduce by 3 per centum the net effective interest rate otherwise payable on the loan: *Provided*, That the amount on which such grant is based shall be approved by the Secretary.

(c) (1) There are authorized to be appropriated to the Secretary such sums as may be necessary for the payment of annual interest grants in accordance with this section.

(2) Contracts for annual interest grants under this section shall not be entered into in an aggregate amount greater than is authorized in appropriation Acts; and in any event the total amount of annual interest grants which may be paid pursuant to contracts entered into under this section shall not exceed $1,000,000 with respect to contracts entered into prior to June 30, 1973; $2,000,000 with respect to contracts entered into prior to June 30, 1974; and $4,000,000 with respect to contracts entered into prior to June 30, 1975.

(3) Not more than 15 per centum of the funds expended under this section may be used within any one State in any one fiscal year.

SPECIAL PROJECTS AND DEMONSTRATIONS

SEC. 204. (a) (1) For the purpose of making grants under this section for special projects and demonstrations (and research and evaluation connected therewith), there is authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1973, $100,000,000 for the fiscal year ending June 30, 1974, and $150,000,000 for the fiscal year ending June 30, 1975.

(2) Of the amounts appropriated pursuant to paragraph (1) of this subsection, 10 per centum, but in no event more than $10,000,000, in each such fiscal year shall be available only for the purpose of making grants under subsection (c) of this section, and there is authorized to be appropriated in each such fiscal year such additional amount as may be necessary to equal, when added to the amount made available for the purpose of making grants under such subsection, an amount of $10,000,000 to be available for each such fiscal year.

(b) The Secretary shall make grants to States and public and nonprofit organizations and agencies for paying part of the cost of special projects and demonstrations (and research and evaluation in connection therewith) (1) for establishing facilities and providing services which, in the judgment of the Secretary, hold promise of expanding or otherwise improving rehabilitation services to handicapped individuals, especially severely handicapped individuals, and (2) for applying new types or patterns of services or devices (including opportunities for new careers for handicapped individuals and for other individuals in programs serving handicapped individuals).

(c) The Secretary is authorized to make grants to any State agency designated pursuant to a State plan approved under section 101, or to any local agency participating in the administration of such a plan, to pay the full cost of projects or demonstrations for the provision of vocational and comprehensive rehabilitation services to handicapped individuals who, as determined in accordance with rules prescribed by the Secretary of Labor, are migratory agricultural workers or seasonal farmworkers, and to members of their families (whether or not handicapped) who are with them, including maintenance and transportation of such individuals and members of their families where necessary to the rehabilitation of such individuals. Maintenance payments under this section shall be consistent with any maintenance payments made to other handicapped individuals in the State under this Act. Such grants shall be conditioned upon satisfactory assurance that in the provision of such services there will be appropriate cooperation between the grantee and other public and private nonprofit agencies having special skills and experience in the provision of services to migratory agricultural workers, seasonal farmworkers, or their families. This subsection shall be administered in coordination with other programs serving migrant agricultural workers and seasonal farmworkers, including those under title I of the Elementary and Secondary Education Act of 1965, section 311 of the Economic Opportunity Act of 1964, the Migrant Health Act, and the Farm Labor Contractor Registration Act of 1963.

(d) The Secretary is authorized to make contracts or jointly financed cooperative arrangements with employers and organizations for the establishment of projects designed to prepare handicapped individuals for gainful and suitable employment in the competitive labor market under which handicapped individuals are provided training and employment in a realistic work setting and such other services (determined in accordance with regulations prescribed by the Secretary) as may be necessary for such individuals to continue to engage in such employment;

(e)(1) The Secretary is authorized, directly or by contract with State vocational rehabilitation agencies or experts or consultants or groups thereof to provide technical assistance (A) to rehabilitation facilities, and (B), for the purpose of removal of architectural barriers, to any public or private agency or institution.

(2) Any such experts or consultants shall, while serving pursuant to such contracts, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the pro rata pay rate for a person employed as a GS–18, under section 5332 of H.R. 5, United States Code, including traveltime, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

NATIONAL CENTER FOR DEAF-BLIND YOUTHS AND ADULTS

SEC. 205. (a) For the purpose of establishing and operating a National Center for Deaf-Blind Youths and Adults, there is authorized to be appropriated $5,000,000 for construction, which shall remain available until expended, and $800,000 for operations for the fiscal year ending June 30, 1973; $1,200,000 for operations for the fiscal year ending June 30, 1974; and $2,000,000 for operations for the fiscal year ending June 30, 1975.

(b) In order—

(1) to demonstrate methods of (A) providing the specialized intensive services, and other services, needed to rehabilitate handicapped individuals who are both deaf and blind, and (B) training the professional and allied personnel needed adequately to staff facilities specially designed to provide such services and training to such personnel who have been or will be working with deaf-blind individuals;

(2) to conduct research in the problems of, and ways of meeting the problems of rehabilitating, deaf-blind individuals; and

(3) to aid in the conduct of related activities which will expand or improve the services for or help improve public understanding of the problems of deaf-blind individuals; the Secretary, subject to the provisions of section 212, is authorized to enter into an agreement with any public or nonprofit agency or organization for payment by the United States of all or part of the costs of the establishment and operation, including construction and equipment, of a center for vocational rehabilitation of handicapped individuals who are both deaf and blind, which center shall be known as the National Center for Deaf-Blind Youths and Adults (hereinafter in this section referred to as the "Center").

(c) Any agency or organization desiring to enter into such agreement shall submit a proposal therefor at such time, in such manner, and containing such information as may be prescribed in regulations by the Secretary. In considering such proposals the Secretary shall give preference to those proposals which (1) give promise of maximum effectiveness in the organization and operation of the Center, and (2) give promise of offering the most substantial skill, experience, and capability in providing a broad program of service, research, training, and related activities in the field of rehabilitation of deaf-blind individuals.

REHABILITATION CENTERS FOR DEAF INDIVIDUALS

SEC. 206. (a) For the purpose of making grants and contracts for the expansion and improvement of vocational and comprehensive rehabilitation services for deaf individuals (through the establishment of centers or other means), there is authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1973; $7,500,000 for the fiscal year ending June 30, 1974; and $10,000,000 for the fiscal year ending June 30, 1975. Funds appropriated pursuant to this subsection shall remain available until expended.

(b) In order to—

(1) demonstrate methods of (A) providing the specialized services needed to rehabilitate and make maximum use of the vocational potential of deaf individuals, and (B) training the specialized professional and allied personnel required adequately to staff facilities designed to provide such services and training personnel who have been or will be working with such individuals;

(2) conduct research in the nature and prevention of the problems of such deaf individuals and in the rehabilitation of these individuals; and

(3) improve the understanding of the general public, employers in particular, of both the assets and problems of such deaf individuals,

the Secretary, subject to the provisions of section 212, is authorized to make grants to or contracts with any public or nonprofit agency or organization for payment by the United States of all or part of the costs of the establishment and operation, including construction and equipment, of one or more centers for the vocational rehabilitation of deaf individuals whose maximum vocational potential has not been achieved, which shall be known as Rehabilitation Centers for Deaf Individuals.

(c) Any agency or organization desiring to receive a grant or enter into a contract under this subsection shall submit a proposal therefor at such time, in such manner, and containing such information as may be prescribed in regulations by the Secretary. In considering such proposals the Secretary shall give preference to those proposals which (1) give promise of maximum effectiveness in the organization and operation of a Rehabilitation Center for Deaf Individuals, and (2) give promise of offering the substantial capability in providing a broad program of service and related research, training, and other activities in the field of rehabilitation of deaf individuals whose maximum vocational potential has not been achieved.

(d) For the purposes of this section, the Secretary shall prescribe regulations to—

(1) provide a means of determining the population of deal individuals whose maximum vocational potential has not been achieved;

(2) insure that, in carrying out the purposes of this section, provision has been made for coordination between the agency or organization receiving funds under this section on the one hand, and the State and local educational agencies in the area to be served on the other; and

(3) provide that an advisory board, comprised of qualified professional and expert individuals in the fields of rehabilitation and education of deaf individuals, be appointed to assure proper functioning of a Center established under this section in accordance with its stated objectives and to provide assistance in professional, technical, and other related areas; and that at least one-third of the members of such board shall be deaf individuals.

(e) To be eligible to receive vocational or comprehensive rehabilitation services under this section, a deaf individual must be sixteen years of age or older, must have reached the age at which the compulsory school attendance laws of the State in which he resides are no longer applicable to him, and must be an individual whose maximum vocational potential (as defined in regulations which the Secretary shall prescribe) has not been achieved.

(f) Programs carried out under this section shall be coordinated with programs carried out by the Bureau of Education for the Handicapped within the Office of Education in order to achieve a consistent education and rehabilitation philosophy, to provide for continuity of services and program purpose, and to avoid unnecessary duplication or overlap of programs.

NATIONAL CENTERS FOR SPINAL CORD INJURIES

SEC. 207. (a) For the purpose of establishing and operating National Centers for Spinal Cord Injuries, there is authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1973; $25,000,000 for the fiscal year ending June 30, 1974; and $30,000,000 for the fiscal year ending June 30, 1975. Funds appropriated under this section shall remain available until expended.

(b) In order—

(1) to help form a national network of centers with special competencies in providing prompt, complete vocational and comprehensive rehabilitation services and acute medical care to individuals with spinal cord injuries;

(2) to assist in meeting the costs of such services to such individuals;

(3) to encourage and assist the study and development of methods for the provision of such services; and

(4) to develop new methods of achieving cooperation with and among community and other public and nonprofit organizations concerned with the problems of spinal cord injury;

the Secretary, subject to the provisions of section 212, is authorized to enter into an agreement with any public or nonprofit private agency or organization to pay all or part of the costs of the establishment and operation, including construction and equipment, of centers to carry out the purposes of this subsection, which centers shall be known as National Centers for Spinal Cord Injuries.

(c) Any agency or organization desiring to enter into such an agreement shall submit a proposal therefor at such time, in such manner, and containing such information as may be prescribed in regulations by the Secretary. In considering such proposals the Secretary shall provide an opportunity for submission of comments by the State agency administering the State plan under section 101, and shall give preference to those proposals which (1) give promise of maximum effectiveness in the organization and operation of National Centers for Spinal Cord Injuries, and which includes provisions to—

(A) establish, on an appropriate regional basis, a multidisciplinary system of providing vocational and comprehensive rehabilitation services, specifically designed to meet the special needs of individuals with spinal cord injuries including, but not limited to, acute medical care and periodic inpatient or outpatient followup;

(B) demonstrate and evaluate the benefits to individuals with spinal cord injuries served in, and the degree of cost effectiveness of, such a regional system;

(C) demonstrate and evaluate existing, new, and improved methods and equipment essential to the care, management, and rehabilitation of individuals with spinal cord injuries;

(D) demonstrate and evaluate methods of community outreach and advocacy for individuals with spinal cord injuries in areas such as housing, transportation, recreation, employment, and community activities;

and (2) give promise of offering substantial skill, experience, and capability in providing a comprehensive program of services and related activities in the field of rehabilitation of individuals with spinal cord injuries.

GRANTS FOR SERVICES FOR END-STAGE RENAL DISEASE

SEC. 208. (a) For the purpose of providing services under this section for the treatment of individuals suffering from end-stage renal disease there is authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1973; $25,000,000 for the fiscal year ending June 30, 1974; and $30,000,000 for the fiscal year ending June 30 1975. Funds appropriated under this subsection shall remain available until expended.

(b) From sums available therefor for any fiscal year, the Secretary shall make grants to States and public and nonprofit organizations and agencies for paying all or part of the cost of projects for providing special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the rehabilitation of individuals suffering from end-stage renal disease.

(c) Payments under this section may be made in advance or by way of reimbursement for services performed and purchases made, as may be determined by the Secretary, and shall be made on such conditions as the Secretary finds necessary to carry out the purposes of this section.

REHABILITATION SERVICES FOR OLDER BLIND INDIVIDUALS

SEC. 209. (a) For the purpose of providing rehabilitation services to older blind individuals, there is authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1973; $20,000,000 for the fiscal year ending June 30, 1974; and $30,000,000 for the fiscal year ending June 30 1975. Of the amounts appropriated in each such fiscal year under this subsection, at least 10 per centum in each such year shall be available only for projects authorized under subsection (h) of this section.

(b) (1) For each fiscal year each State shall be entitled to an allotment of an amount bearing the same ratio to the amount authorized to be appropriated by subsection (a) of this section for meeting the costs described in paragraph (2) of this subsection, as the product of (A) the population of the State, and (B) its allotment percentage (as described in section 7 of this Act) bears to the sum of the corresponding products for all the States. The allotment to any State under the preceding sentence for any fiscal year which is less than $50,000 shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotments to each of the remaining States under the preceding sentence, but with such adjustments as may be necessary to prevent the allotment of any of such remaining States from being thereby reduced to less than that amount.

(2) The Secretary shall pay to each State an amount equal to the Federal share of the cost of rehabilitation services furnished to older blind individuals under a plan of such State approved under section 101, including the cost of any rehabilitation services furnished by the designated State vocational rehabilitation agency or agencies, except that the total of such payments to such State for such fiscal year may not exceed its allotment under paragraph (1) for such year. The cost of rehabilitation services provided under this section shall not include any amounts paid by another public or private agency for the provision of rehabilitation services.

(c) For the purpose of this section, the term "older blind individuals" means individuals, age 55 and older, whose severe visual impairment makes gainful employment less readily attainable in the light of current employment practices.

(d) No payment may be made from an allotment under this section with respect to any cost with respect to which any payment is made under any other provision in this Act.

(e) The Secretary shall approve that portion of a State plan which contains a program for rehabilitation services for other blind individuals if in addition to the general requirements of section 101, it—

(1) contains the plan, policies, and methods to be followed in providing services under the State plan for rehabilitation of older blind individuals and in the administration and supervision of such services, and, in case rehabilitation services cannot be provided all older blind individuals who apply for such services, set forth the order to be followed in selecting those to whom such services will be provided;

(2) contains provisions relating to the establishment and maintenance of personnel standards and the establishment and maintenance of minimum standards governing facilities and personnel utilized in the provision of rehabilitation services for older blind individuals consistent with the provisions of the State plan, and;

(3) provides for cooperation by the State agency with other public and private agencies concerned with blind or older individuals and joint undertakings to further the effectiveness of rehabilitation services for older blind individuals.

(f) If the Secretary determines that a State agency has failed to comply substantially with the provisions of this section, he shall discontinue payments under this section in the same manner and on the same basis as he is required by section 101(c)(2) to discontinue payments under sections 110, 111, and 120 of this Act and judicial review of such action shall be available in the same manner as is provided in section 101(d).

(g) The provisions of section 212 shall apply to assistance provided under this section, unless the context of such provisions indicates to the contrary.

(h) In order—

(1) to demonstrate methods of (A) providing the specialized intensive services, as well as other services, needed to rehabilitate older blind individuals, and (B) training the professional and allied personnel needed to provide such services;

(2) to conduct research in the problems of, and ways of meeting the problems of rehabilitating older blind individuals; and

(3) to aid in the conduct of related activities which will expand or improve the services for, or help improve public understanding of, the problems of older blind individuals;

the Secretary is authorized to make grants to and contracts with public and nonprofit agencies for payment by the United States of all or part of the cost of projects to carry out the purposes of this subsection.

NATIONAL ADVISORY COUNCIL ON REHABILITATION OF THE HANDICAPPED

SEC. 210. (a) There is established in the Department of Health, Education, and Welfare a National Advisory Council on Rehabilitation of the Handicapped (hereinafter referred to in this section as the "Council") consisting of twenty members appointed by the Secretary without regard to civil service laws. Such twenty members shall be leaders in fields concerned with rehabilitation or in public affairs, and ten of such twenty shall be selected from among leading medical, educational, or scientific authorities with outstanding qualifications in the rehabilitation of handicapped individuals. Eight of such twenty members shall be persons who are themselves handicapped or who have received vocational rehabilitation services. Each such member of the Council shall hold office for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor is appointed shall be appointed for the remainder of such term and except that, of the members first appointed, five shall hold office for a term of two years, and five shall hold office for a term of one year, as designated by the Secretary at the time of appointment. None of such members shall be eligible for reappointment until a year has elapsed after the end of his preceding term. The Council shall meet not less than four times a year at the call of the Chairman, who shall be selected from among its membership by the members.

(b) The Council shall—

(1) provide policy advice and consultation to the Secretary on the planning (including determination of priorities), conduct, and review of programs (including research and training) authorized under this Act;

(2) review the administration and operation of vocational rehabilitation (including research and training) programs under this Act, including the effectiveness of such programs in meeting the purposes for which they are established and operated and the integration of research and training activities with service program goals and priorities, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this Act) to the Secretary for annual transmittal to the Congress;

(3) advise the Secretary with respect to the conduct of independent evaluations of programs (including research and training) carried out under this Act; and

(4) provide such other advisory services as the Secretary may request.

(c) (1) Adequate technical assistance and support staff for the Council shall be provided from the Office for the Handicapped, the Rehabilitation Services Administration, or from any other Federal agency, as the Council may reasonably request.

(2) There is authorized to be appropriated for the purpose of carrying out clause (1) of this subsection $100,000 for the fiscal year ending June 30, 1973, and $150,000 for each of the two succeeding fiscal years.

(d) The Council shall review the possible duplication among vocational rehabilitation programs and other programs serving handicapped individuals within the same geographical areas and shall make annual reports of the extent to which unnecessary duplication or overlap exists, together with its findings and recommendations, to the Secretary for submission to the Congress. In making these reports, the Council shall seek the opinions of persons familiar with vocational rehabilitation and the employment of persons who have received vocational and comprehensive rehabilitation services in each State as well as persons familiar with labor, business and industry, education and training, health, and manpower programs.

(e) Members of the Council, while attending meetings or conferences thereof, or otherwise serving in business of the Council, or at the request of the Secretary, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

STATE ADVISORY COUNCILS

SEC. 211. (a) Any State which receives assistance under this Act for any fiscal year ending after June 30, 1973, shall, with the aid of amounts set aside pursuant to section 110(f), established and maintain a State Advisory Council, which shall be appointed by the Governor, or, in the case of a State in which members of the State board which governs vocational rehabilitation are elected (including election by the State legislature), by such board.

(1) The State Advisory Council shall include as members persons who are familiar with problems of vocational rehabilitation in the State and the administration of vocational rehabilitation programs, and who are experienced in the education and training of the handicapped; persons who are representative of labor and management, including persons who have knowledge of the employment of persons who have received vocational rehabilitation services and employment of the handicapped; and individuals who are handicapped and who are receiving or who have received vocational rehabilitation services and who shall constitute a majority of the total membership of the State Advisory Council.

(2) The State Advisory Council, in accordance with regulations prescribed by the Secretary, shall—

(A) advise the Governor and the State agency on the development of and policy matters arising in the administration of the State plan submitted pursuant to this Act;

(B) advise with respect to long-range planning and studies to evaluate vocational rehabilitation programs, services, and activities assisted under this Act; and

(C) prepare and submit to the Governor through the State agency having authority over vocational rehabilitation programs, and to the National Advisory Council on Rehabilitation of the Handicapped established pursuant to section 210 of this Act, an annual report of its recommendations, accompanied by such additional comments of the State agency as that agency deems appropriate.

(b) Not less than one hundred twenty days prior to the beginning of any fiscal year ending after June 30, 1973, the appointing authority under subsection (a) of this section shall inform the Secretary of the establishment of, and membership of, its State Advisory Council. The Secretary shall, upon receiving such information, certify that each such council is in compliance with the membership requirements set forth in subsection (a)(1) of this section.

(c) Each State Advisory Council shall meet within thirty days after certification has been accepted by the Secretary under subsection (b) of this section and select from among its membership a chairman. The time, place, and manner of subsequent meetings shall be provided by the rules of the State Advisory Council, except that such rules must provide that each such council meet at least four times each year, including at least one public meeting at which the public is given the opportunity to express views concerning vocational rehabilitation.

(d) Each State Advisory Council is authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to enable them to carry out their functions under this section.

GENERAL GRANT AND CONTRACT REQUIREMENTS

SEC. 212. (a) The provisions of this section shall apply to all projects (including annual interest grants) approved and assisted under this title. The Secretary shall insure compliance with this section prior to making any grant or entering into any contract or agreement under this title, except projects authorized under sections 201, 208, 210, and 211.

(b) To be approved, an application for assistance for a construction project under this title must—

(1) contain or be supported by reasonable assurances that (A) for a period of not less than twenty years after completion of construction of the project it will be used as a public or nonprofit facility, (B) sufficient funds will be available to meet the non-Federal share of the cost of construction of the project, and (C) sufficient funds will be available, when construction of the project is completed, for its effective use for its intended purpose;

(2) provide that Federal funds provided to any agency or organization under this title will be used only for the purposes for which provided and in accordance with the applicable provisions of this section and the section under which such funds are provided;

(3) provide that the agency or organization receiving Federal funds under this title will make an annual report to the Secretary, which he shall summarize and comment upon in his annual report to the Congress submitted under section 404;

(4) be accompanied or supplemented by plans and specifications in which due consideration shall be given to excellence of architecture and design, and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project), and which comply with regulations of the Secretary relating to minimum standards of construction and equipment (promulgated with particular emphasis on securing compliance with the requirements of the Architectural Barriers Act of 1968 (Public Law 90–480)), and with regulations of the Secretary of Labor relating to occupational health and safety standards for rehabilitation facilities; and

(5) contain or be supported by reasonable assurance that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by payments pursuant to any grant under this section will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with Davis-Bacon Act, as amended (40 U.S.C. 276a–276a5); and the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

(c) Upon approval of any application for a grant for a project under this section, the Secretary shall reserve, from any appropriation available therefor, the amount of such grant determined under this title. In case an amendment to an approved application is approved, or the estimated cost of a project is revised upward, any additional payment with respect thereto may be made from the appropriation from which the original reservation was made or the appropriation for the fiscal year in which such amendment or revision is approved.

(d) If, within twenty years after completion of any construction project for which funds have been paid under this section, the facility shall cease to be a public or nonprofit facility, the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility.

(e) Payment of grants or reservation of funds made pursuant to this title may be made (after necessary adjustment on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Secretary may determine.

(f) A project for construction of a rehabilitation facility which is primarily a workshop may, where approved by the Secretary as necessary to the effective operation of the facility, include such construction as may be necessary to provide residential accommodations for use in connection with the rehabilitation of handicapped individuals.

(g) No funds provided under this title may be used to assist in the construction of any facility which is or will be used for religious worship or any sectarian activity.

(h) If any funds provided under this title will be used for providing direct services to handicapped individuals or for establishing facilities which will provide such services, such services must be carried out in a manner not inconsistent with the State plan approved pursuant to section 101.

(i) Prior to making any grant or entering into any contract under this title, the Secretary shall afford reasonable opportunity to the State agency or agencies designated pursuant to section 101 to comment on such grant or contract.

TITLE III—RESEARCH AND TRAINING

DECLARATION OF PURPOSE

SEC. 300. The purpose of this title is to authorize Federal assistance to States and public and other nonprofit organizations to—

(a) plan and conduct research, demonstrations, and related activities in the rehabilitation of handicapped individuals, and

(b) plan and conduct courses of training and related activities designed to provide increased numbers of trained rehabilitation personnel, to increase the levels of skills of such personnel, and to develop improved methods of providing such training.

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. (a) In order to make grants and contracts to carry out the purposes of this title, there is authorized to be appropriated:

(1) For the purpose of carrying out section 302 of this title, $75,000,000 for the fiscal year ending June 30, 1973, $100,000,000 for the fiscal year ending June 30, 1974, and $150,000,000 for the fiscal year ending June 30, 1975, of which 15 per centum, 25 per centum, and 25 per centum of the amounts appropriated in the first, second, and third such fiscal years, respectively, shall be available for the purpose of carrying out activities under section 302(b)(2) of this Act.

(2) For the purpose of carrying out section 303 of this title, $50,000,000 for the fiscal year ending June 30, 1973, $75,000,000 for the fiscal year ending June 30, 1974, and $100,000,000 for the fiscal year ending June 30, 1975.

(b) Funds appropriated under this title shall remain available until expended.

RESEARCH

SEC. 302. (a) The Secretary is authorized to make grants to and contracts with States and public and nonprofit organizations, including institutions of higher education, to pay part of the cost of projects for the purpose of planning and conducting research, demonstrations, and related activities which bear directly on the development of methods, procedures, and devices to assist in the provision of vocational and comprehensive rehabilitation services to handicapped and severely handicapepd individuals under this Act. Such projects may include medical and other scientific, technical, methodological, and other investigations into the nature of disability, methods of analyzing it, and restorative techniques; studies and analyses of industrial, vocational, social, psychological, economic, and other factors affecting rehabilitation of handicapped individuals; special problems of homebound and institutionalized individuals; and related activities which hold promise of increasing knowledge and improving methods in the rehabilitation of handicapped and severely handicapped individuals.

(b) In addition to carrying out projects under subsection (a) of this section, the Secretary is also authorized to make grants to pay part or all of the cost of the following specialized research activities:

(1) Establishment and support of Rehabilitation Research and Training Centers to be operated in collaboration with institutions of higher education for the purpose of providing coordinated and advanced programs of research in rehabilitation, and training of rehabilitation research personnel including, but not limited to, graduate training. Grants may include funds for services rendered by such a center to handicapped individuals in connection with such research and training activities.

(2) Establishment and support of Rehabilitation Engineering Research Centers to (A) develop innovative methods of applying advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems through planning and conducting research, including cooperative research with other public and private organizations, designed to produce new scientific knowledge, equipment, and devices suitable for solving problems in the rehabilitation of handicapped individuals and for reducing environmental barriers, and to (B) cooperate with the Office for the Handicapped and State agencies designated pursuant to section 101 in developing systems of information exchange and coordination to promote the prompt utilization of engineering and other scientific research to assist in solving problems in the rehabilitation of handicapped individuals.

(3) Conduct of a program for spinal cord injury research in support of the National Centers for Spinal Cord Injuries established pursuant to section 207 which will (A) insure dissemination of research findings among all such centers, (B) provide encouragement and support for initiatives and new approaches by individual and institutional investigators, and (C) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts, in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among spinal cord injury investigators.

(4) Conduct of a program for international rehabilitation research, demonstration, and training for the purpose of developing new knowledge and methods in the rehabilitation of handicapped individuals in the United States, cooperating with and assisting in developing and sharing information found useful in other nations in the rehabilitation of handicapped individuals, and initiating a program to exchange experts and technical assistance in the field of rehabilitation of handicapped individuals with other nations as a means of increasing the levels of skill of rehabilitation personnel.

(c) The provisions of section 212 shall apply to assistance provided under this section, unless the context indicates to the contrary.

TRAINING

SEC. 303. (a) The Secretary is authorized to make grants to and contracts with States and public and nonprofit organizations, including institutions of higher education, to pay part of the cost of projects for training, traineeships, and related activities designed to assist in increasing the numbers of personnel trained in providing vocational and comprehensive rehabilitation services to handicapped individuals and in performing other functions necessary to the development of such services.

(b) In making such grants or contracts, funds made available for any year will be utilized to provide a balanced program of assistance to meet the medical, vocational, and other personnel training needs of both public and private rehabilitation programs and institutions, to include projects in rehabilitation medicine, rehabilitation counseling, rehabilitation social work, physical therapy, occupational therapy, speech pathology, and audiology, rehabilitation nursing, workshop and facility adminstration, prosthetics and orthotics, psychology, specialized personnel in services to the blind and the deaf, recreation for the ill and handicapped, and other fields contributing to the rehabilitation of the handicapped, including homebound and institutionalized individuals. No grant shall be made under this section for furnishing to an individual any one course of study extending for a period in excess of four years.

REPORTS

SEC. 304. The Secretary shall include in the annual report to the Congress required by section 404 a full report on the research and training activities carried out under this title and the extent to which such research and training has contributed directly to the development of methods, procedures, devices, and trained personnel to assist in the provision of vocational and comprehensive rehabilitation services to handicapped and severely handicapped individuals under this Act.

TITLE IV—ADMINISTRATION AND PROGRAM AND PROJECT EVALUATION

ADMINISTRATION

SEC. 400. (a) In carrying out his duties under this Act, the Secretary shall—

(1) cooperate with, and render technical assistance (directly or by grant or contract) to States in matters relating to the rehabilitation of handicapped individuals;

(2) provide short-term training and instruction in technical matters relating to vocational and comprehensive rehabilitation services, including the establishment and maintenance of such research fellowships and traineeships, with such stipends and allowances (including travel and subsistence expenses), as he may deem necessary, except that no such training or instruction (or fellowship or scholarship) shall be provided any individual for any one course of study for a period in excess of two years, and such training, instruction, fellowships, and traineeships may be in the fields of rehabilitation medicine, rehabilitation nursing, rehabilitation social work, rehabilitation psychology, rehabilitation counseling, physical therapy, occupational therapy, speech pathology and audiology, prosthetics and orthotics, recreation for ill and handicapped individuals, and other specialized fields contributing to vocational rehabilitation; and

(3) disseminate information relating to vocational and comprehensive rehabilitation services, and otherwise promote the cause of rehabilitation of handicapped individuals and their greater utilization in gainful and suitable employment..

(b) The Secretary is authorized to make rules and regulations governing the administration of this title and titles V and VI of this Act, and to delegate to any officer or employee of the United States such of his powers and duties under such titles, except the making of rules and regulations, as he finds necessary to carry out the provisions of such titles. Such rules and regulations, as well as those prescribed by the Commissioner of the Rehabilitation Services Administration under titles I, II, and III of this Act, shall be published in the Federal Register, on at least an interim basis, no later than ninety days after the date of enactment of this Act.

(c) The Secretary is authorized (directly or by grants or contracts) to conduct studies, investigations, and evaluation of the programs authorized by this Act, and to make reports, with respect to abilities, aptitudes, and capacities of handicapped individuals, development of their potentialities, their utilization in gainful and suitable employment, and with respect to architectural transportation, and other environmental and attitudinal barriers to their rehabilitation including the problems of homebound, institutionalized, and older blind individuals.

(d) There is authorized to be included for each fiscal year in the appropriation for the Department of Health, Education, and Welfare such sums as are necessary to administer the provisions of this Act.

(e) In carrying out his duties under this Act, the Secretary shall insure the maximum coordination and consultation, at both national and local levels, with the Administrator of Veterans' Affairs and his designees with respect to programs for and relating to the rehabilitation of disabled veterans carried out under title 38, United States Code.

PROGRAM AND PROJECT EVALUATION

SEC. 401. (a) (1) The Secretary shall measure and evaluate the impact of all programs authorized by this Act, in order to determine their effectiveness in achieving stated goals in general, and in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such programs. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.

(2) In carrying out his responsibilities under this subsection, the Secretary, in the case of research, demonstrations, and related activities carried out under section 302, shall, after taking into consideration the views of State agencies designated pursuant to section 101, on an annual basis—

(A) reassess priorities to which such activities should be directed; and

(B) review present research, demonstration, and related activities to determine, in terms of the purpose specified for such activities by subsection (a) of such section 302, whether and on what basis such activities should be continued, revised, or terminated.

(3) The Secretary shall, within 12 months after the date of enactment of this Act, and on each April 1 thereafter, prepare and furnish the appropriate committees of the Congress a complete report on the determination and review carried out under paragraph (2) of this subsection, together with such recommendations, including any recommendations for additional legislation, as he deems appropriate.

(b) Effective after June 30, 1973, before releasing funds for the programs and projects covered by this Act, the Secretary shall develop and publish general standards for evaluation of the program and project effectiveness in achieving the objectives of this Act. He shall consider the extent to which such standards have been met in deciding, in accordance with procedures set forth in sections 101 (b), (c), and (d), whether to renew or supplement financial assistance authorized under any section of this Act. Reports submitted pursuant to section 404 shall describe the actions taken as a result of these evaluations.

(c) In carrying out evaluations under this title, the Secretary shall, whenever possible, arrange to obtain the specific views of persons participating in and served by programs and projects assisted under this Act about such programs and projects.

(d) The Secretary shall publish the results of evaluative research and summaries of evaluations of program and project impact and effectiveness no later than ninety days after the completion thereof. The Secretary shall submit to the appropriate committees of the Congress copies of all such research studies and evaluation summaries.

(e) The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with assistance under this Act shall become the property of the United States.

OBTAINING INFORMATION FROM FEDERAL AGENCIES

SEC. 402. Such information as the Secretary may deem necessary for purposes of the evaluations conducted under this title shall be made available to him, upon request, by the agencies of the executive branch.

AUTHORIZATION OF APPROPRIATIONS

SEC. 403. There is authorized to be appropriated such sums as the Secretary may require, but not to exceed an amount equal to one-half of 1 per centum of the funds appropriated under titles I, II, and III of this Act or $2,000,000, whichever is greater, to be available to conduct program and project evaluations as required by this title.

REPORTS

SEC. 404. Not later than 120 days after the close of each fiscal year, the Secretary shall prepare and submit to the President and to the Congress a full report on the activities carried out under this Act. Such annual reports shall include (1) statistical data reflecting, with the maximum feasible detail, vocational and comprehensive rehabilitation services provided handicapped individuals during the preceding fiscal year, (2) specifically distinguish among rehabilitation closures attributable to physical restoration, placement in competitive employment, extend or terminal employment in a sheltered workshop or rehabilitation facility, employment as a homemaker or unpaid family worker, and provision of comprehensive rehabilitation services, and (3) include a detailed evaluation of services provided with assistance under part C of title I of this Act.

SHELTERED WORKSHOP STUDY

SEC. 405. (a) The Secretary shall conduct a study of the role of sheltered workshops in the rehabilitation and employment of handicapped individuals, including a study of wage payments in sheltered workshops. The study shall incorporate guidelines which are consistent with criteria provided in resolutions adopted by the Committee on Labor and Public Welfare of the United States Senate or the Committee on Education and Labor of the United States House of Representatives, or both.

(b) The study shall include site visits to sheltered workshops, interviews with handicapped trainees or clients, and consultations with interested individuals and groups and State agencies designated pursuant to section 101.

(c) Any contracts awarded for the purpose of carrying out all or part of this study shall not be made with individuals or groups with a financial or other direct interest in sheltered workshops.

(d) The Secretary shall report to the Congress his findings and recommendations with respect to such study within eighteen months after the date of enactment of this Act.

TITLE V—OFFICE FOR THE HANDICAPPED

ESTABLISHMENT OF OFFICE

SEC. 500. There is established within the Office of the Secretary in the Department of Health, Education, and Welfare an Office for the Handicapped (hereinafter in this title referred to as the "Office"). The Office shall be headed by a Director, who shall serve as a Special Assistant to the Secretary and shall report directly to him, and shall be provided such personnel as are necessary to carry out the functions set forth in section 501. In selecting personnel to fill all positions in the Office, the Secretary shall give special emphasis to qualified handicapped individuals.

FUNCTION OF OFFICE

SEC. 501. It shall be the function of the Office, with the assistance of agencies within the Department, other departments and agencies within the Federal Government, handicapped individuals, and public and private agencies and organizations, to—

(1) prepare and submit to the Secretary, for submission to the Congress within one year after the date of enactment of this Act, a five-year plan for the provision of services to handicapped individuals and for programs of research, evaluation, and training related to such services and individuals;

(2) analyze and review, on a continuing basis, program operation and budgeting with a view to assure, consistent with applicable provisions of law, progress toward meeting the goals and priorities set forth in the plan required under clause (1), the integration of all programs providing services to handicapped individuals, and the elimination of unnecessary duplication and overlap in such programs under the jurisdiction of the Secretary;

(3) coordinate and encourage cooperative planning designed to produce maximum effectiveness, sensitivity, and continuity in the provision of services for handicapped individuals by all programs under the jurisdiction of the Secretary;

(4) provide assistance (including staff assistance) to the National Advisory Council on Rehabilitation of the Handicapped established by section 210 of this Act, the National Advisory Council on the Education of the Handicapped established by section 604 of the Education of the Handicapped Act (title VI, public Law 91–230), and other committees advising the Secretary on programs for handicapped individuals;

(5) develop means of promoting the prompt utilization of engineering and other scientific research to assist in solving problems in education, health, employment, rehabilitation, and other areas so as to bring about the full integration of handicapped individuals into all aspects of society;

(6) provide a central clearinghouse for information and resources availability for handicapped individuals through (A) the evaluation of systems within the Department of Health, Education, and Welfare, other departments and agencies of the Federal Government, public and private agencies and organizations, and other sources, which provide (i) information and data regarding the location, provision, and availability of services and programs for handicapped individuals, regarding research and recent medical and scientific developments bearing on handicapped conditions (and their prevention, amelioration, causes, and cures), and regarding the current numbers of handicapped individuals and their needs, and (ii) any other such relevant information and data which the Office deems necessary; and (B) utilizing the results of such evaluation and existing information systems, the development within such Department of a coordinated system of information and data retrieval, which will have the capacity and responsibility to provide general and specific information regarding the information and data referred to in subclause (A) of this clause to the Congress, public and private agencies and organizations, handicapped individuals and their families, professionals in fields serving such individuals, and the general public; and

(7) carry out such additional functions and responsibilities as may be assigned to it by the Secretary or the President.

AUTHORIZATION OF APPROPRIATIONS

SEC. 502. There are authorized to be appropriated for the purposes of this title $1,000,000 for the fiscal year ending June 30, 1973, $2,000,000 for the fiscal year ending June 30, 1974, and $2,000,000 for the fiscal year ending June 30, 1975.

TITLE VI—MISCELLANEOUS

EFFECT ON EXISTING LAWS

SEC. 600. The Vocational Rehabilitation Act (29 U.S.C. 31–42) is repealed 90 days after the date of enactment of this Act and references to such vocational Rehabilitation Act in any other provision of law shall, 90 days after such date, be deemed to be references to the Rehabilitation Act of 1972. Unexpected appropriations for carrying out the Vocational Rehabilitation Act may be made available to carry out this Act, as directed by the President. Approved State plans for vocational rehabilitation, approved projects, and contractual arrangements authorized under the Vocational Rehabilitation Act will be recognized under comparable provisions of this Act so that there is no disruption of ongoing activities for which there is continuing authority.

FEDERAL INTERAGENCY COMMITTEE ON HANDICAPPED EMPLOYEES

SEC. 601. (a) There shall be established within the Federal Government an Interagency Committee on Handicapped Employees (hereinafter in this section referred to as the "Committee"), comprised of the following (or their designees whose positions are Executive Level IV or higher): the Chairman of the Civil Service Commission, the Administrator of Veterans' Affairs, and the Secretaries of Labor and Health, Education, and Welfare. The Chairman of the President's Committee on Employment of the Handicapped and the Chairman of the President's Committee on Mental Retardation shall serve as ex officio members of the Interagency Committee, and the Secretary of Health, Education, and Welfare shall serve as Chairman of the Committee. The resources of such President's Committee shall be made fully available to the Committee established pursuant to this section. The Commissioner of the Rehabilitation Services Administration shall serve as Executive Director of the Committee. It shall be the purpose and function of the Committee to insure, through the establishment of affirmative action programs, the adequacy of hiring, placement, and advancement practices with respect to handicapped individuals by each department, agency, and instrumentality in the executive branch of Government, and that the special needs of such individuals are being met.

(b) Each department, agency, and instrumentality in the executive branch shall, within 180 days after the date of enactment of this Act, submit to the Committee an affirmative action program plan for the hiring, placement, and advancement of handicapped individuals in such department, agency, or instrumentality. Such plan shall include a description of the extent to which and methods whereby the special needs of handicapped employees are being met.

(c) The Committee shall develop and recommend to the Secretary for referral to the appropriate State agencies, policies and procedures which will facilitate the hiring, placement, and advancement in employment of individuals who have received rehabilitation services under State vocational rehabilitation programs, veterans' programs, or any other program for handicapped individuals, including the promotion of job opportunities for such individuals. The Secretary shall encourage such State agencies to adopt and implement such policies and procedures.

(d) The Committee shall, on June 30, 1973, and at the end of each subsequent fiscal year, make a complete report to the appropriate committees of the Congress with respect to the practices of hiring, placement, and advancement of handicapped individuals by each department, agency, and instrumentality and the effectiveness of the affirmative action programs required by subsection (b) of this section, together with recommendations as to legislation or other appropriate action to insure the adequacy of such practices. Such report shall also include a description of the effectiveness of the Committee's activities under subsection (c) of this section.

(e) An individual who, as a part of his individualized rehabilitation written program under a State plan approved under this Act, participates in a program of unpaid work experience in a Federal agency, shall not, by reason thereof, be considered to be a Federal employee or to be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(f)(1) The Secretary of Labor and the Secretary of Health, Education, and Welfare are authorized and directed to cooperate with the President's Committee on Employment of the Handicapped in carrying out its functions.

(2) There are authorized to be appropriated for salaries and expenses of the President's Committee on Employment of the Handicapped $1,000,000 for the fiscal year ending June 30, 1973, and $1,250,000 for the fiscal year ending June 30, 1974.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SEC. 602. (a) There is established within the Federal Government the Architectural and Transportation Barriers Compliance Board (hereinafter referred to as the "Board") which shall be composed of the heads of each of the following Departments or Agencies (or their designees whose positions are Executive Level IV or higher):

(1) Department of Health, Education, and Welfare;

(2) Department of Transportation;

(3) Department of Housing and Urban Development;

(4) Department of Labor;

(5) Department of the Interior;

(6) General Services Administration;

(7) United States Postal Service; and

(8) Veterans' Administration.

(b) It shall be the function of the Board to: (1) insure compliance with the standards prescribed by the General Services Administration, the Department of Defense, and the Department of Housing and Urban Development pursuant to the Architectural Barriers Act of 1968 (Public Law 90–480), as amended by the Act of March 5, 1970 (Public Law 91–205); (2) investigate and examine alternative approaches to the architectural, transportation, and attitudinal barriers confronting handicapped individuals, particularly with respect to public buildings and monuments, parks and parklands, public transportation (including air, water, and surface transportation whether interstate, foreign, intrastate, or local), and residential and institutional housing; (3) determine what measures are being taken by Federal, State, and local governments and by other public or private nonprofit agencies to eliminate the barriers described in clause (2) of this subsection; (4) make reports to the President and to Congress, which shall describe in detail the results of its investigations under clauses (2) and (3) of this subsection; and (5) make to the President and to the Congress such recommendations for legislation and administration as it deems necessary or desirable to eliminate the barriers described in clause (2) of this subsection.

(c) In carrying out its functions under this section, the Board shall conduct investigations, hold public hearings, and issue such orders as it deems necessary to insure compliance with the provisions of the Acts cited in subsection (b). Sections 1001 to 1011 of title 5, United States Code, shall apply to procedures under this section, and an order of compliance issued by the Board shall be a final order for purposes of judicial review.

(d) The Board is authorized to appoint as many hearing examiners as are necessary for proceedings required to be conducted under this section. The provisions applicable to hearing examiners appointed under section 3105 of title 5, United States Code, shall apply to hearing examiners appointed under this subsection.

(e) The departments or agencies specified in subsection (a) of this section shall make available to the Board such technical, administrative, or other assistance as it may require to carry out its functions under this section, and the Board may appoint such other advisers, technical experts, and consultants as it deems necessary to assist it in carrying out its functions under this section.

(f) The Board shall, at the end of each fiscal year, report its activities during the preceding fiscal year to the Congress. Such report shall include an assessment of the extent of compliance with the Acts cited in subsection (b) of this section, along with a description and analysis of investigations made and actions taken by the Board.

(g) There is authorized to be appropriated for the purpose of carrying out the duties and functions of the Board under this section $1,000,000 for the fiscal year ending June 30, 1973; $1,250,000 for the fiscal year ending June 30, 1974; and $1,500,000 for the fiscal year ending June 30, 1975.

EMPLOYMENT UNDER FEDERAL CONTRACTS

SEC. 603. (a) Any contract entered into by any Federal department or agency for the procurement of personal property and nonpersonal services (including construction) for the United States shall contain a provision requiring that, in employing persons to carry out such contract, the party contracting with the United States shall take affirmative action to employ and advance in employment qualified handicapped individuals as defined in section 6(7). The provisions of this section shall apply to any subcontract entered into by a prime contract or in carrying out any contract for the procurement of personal property and nonpersonal services (including construction) for the United States. The President shall implement the provisions of this section by promulgating regulations within ninety days after the date of enactment of this section.

(b) If any handicapped individual believes any contractor has failed or refuses to comply with the provisions of his contract with the United States, relating to employment of handicapped individuals, such individual may file a complaint with the Department of Labor. The Department shall promptly investigate such complaint and shall take such action thereon as the facts and circumstances warrant consistent with the terms of such contract and the laws and regulations applicable thereto.

NONDISCRIMINATION UNDER FEDERAL GRANTS

SEC. 604. No otherwise qualified handicapped or severely handicapped individual in the United States, as defined in section 6 of this Act, shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or actively receiving Federal financial assistance.

TITLE VII—AMENDMENTS TO RANDOLPH-SHEPPARD ACT

SEC. 700. This title may be cited as the "Randolph-Sheppard Act for the Blind Amendments of 1972".

AUTHORIZATION AND PREFERENCE FOR OPERATION OF VENDING FACILITIES ON FEDERAL PROPERTY

SEC. 701. The first section of the Act entitled "An Act to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes," (hereinafter referred to as the "Randolph-Sheppard Act") approved June 20, 1936, as amended (20 U.S.C. 107), is amended by striking out all after the enacting clause and inserting in lieu thereof the following:

"That (a) for the purposes of providing blind persons with remunerative employment, enlarging the economic opportunities of the blind, and stimulating the blind to greater efforts in striving to make themselves self-supporting, blind persons licensed under the provisions of this Act shall be authorized to operate vending facilities on any Federal property.

"(b) In authorizing the operating of vending facilities on Federal property, preference shall be given to blind persons licensed by a State agency as provided in this Act; and the head of each department or agency in control of the maintenance, operation, and protection of Federal property shall, after consultation with the Secretary, and with the approval of the President, prescribe regulations designed to assure that such preference is given to such licensed blind persons (including assignment of vending machine income to achieve and protect such preference) without adversely affecting the interests of the United States."

STATE LICENSING AGENCIES AND QUALIFICATIONS FOR LICENSEES

SEC. 702. (a) Section 2(a) of the Randolph-Sheppard Act is amended as follows:

(1) paragraph (1) is amended to read as follows:

"(1) make surveys of concession vending opportunities for blind persons on Federal and other property in the United States;"

(2) paragraph (4) is amended by—

(A) striking out "at least twenty-one years of age";

(B) striking out "articles dispensed automatically or in containers or wrapping in which they are placed before receipt by the vending stand, and such other articles as may be approved for each property by the department or agency in control of the maintenance, operation, and protection thereof and the State licensing agency in accordance with the regulations prescribed pursuant to the first section:" and inserting in lieu thereof the following: "foods, beverages, and other such articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, as determined by the State licensing agency:": and

(C) striking out "stands" and "stand" and inserting in lieu thereof "facilities" and "facility", respectively.

(b) Section 2(b) of such Act is amended by—

(1) striking out "stand" where it appears in the first and second sentences and inserting in lieu thereof "facility";

(2) striking out "and have resided for at least one year in the State in which such stand is to be located"; and

(3) striking out "but are able, in spite of such infirmity, to operate such stands".

(c) Section 2(c) of such Act is amended by striking out "stand" in both places in which it appears and inserting in lieu thereof "facility".

(d) Section 2 of such Act is further amended by adding a new subsection (d) at the end thereof as follows:

"(d)(1) After January 1, 1973, no department, agency, or instrumentality of the United States shall own, rent, lease, or otherwise occupy, in whole or in part, any building unless, after consultation with the Secretary and the State licensing agency, it is determined by the Secretary that (A) such building includes a satisfactory site or sites for the location and operation of a vending facility by a blind person, or (B) if a building is to be constructed, substantially altered, or renovated for use by such department, agency, or instrumentality, the design for such construction, substantial alteration, or renovation, includes a satisfactory site or sites for the location and operation of a vending facility by a blind person.

"(2) The provisions of paragraph (1) shall not apply (A) when the Secretary and the State licensing agency determine that the number of people using the property is or will be insufficient to support a vending facility, and (B) to any privately owned building, any part of which is leased by any department, agency, or instrumentality of the United States and in which, (i) prior to the execution of such lease, the lessor or any of his tenants had in operation a restaurant or other food facility in a part of the building not included in such lease, and (ii) the operation of such a vending facility by a blind person would be in proximate and substantial direct competition with such restaurant or other food facility.

"(3) For the purposes of this subsection, the term 'satisfactory site' means an area determined by the Secretary to have sufficient space, electrical and plumbing outlets, and such other facilities as the Secretary may by regulation prescribe, for the location and operation of a vending facility by a blind person."

ARBITRATION BETWEEN OPERATORS AND LICENSING AGENCIES

SEC. 703. Section 3 of the Randolph-Sheppard Act is amended by—

(1) striking out in paragraph (2) "stand" in both places in which it appears and inserting in lieu thereof "facility";

(2) striking out in paragraph (3) "stands", in both places in which it appears, and "stand", and inserting in lieu thereof "facilities" and "facility", respectively; and

(3) by striking out in paragraph (6) "stand" and inserting in lieu thereof "facility", and by inserting immediately before the period at the end of such paragraph the following: ", and to agree to submit the grievances of any blind licensee not otherwise resolved by such hearing to binding arbitration as provided in section 6 of this Act.

ARBITRATION BETWEEN AGENCIES; ARBITRATION BOARD

SEC. 704. The Randolph-Sheppard Act is further amended by redesignating sections 6 through 8 as sections 8 through 10, respectively, and inserting immediately after section 5, the following new sections:

"SEC. 6. (a) Any blind licensee who is dissatisfied with any action arising from the operation or administration of the vending facility program may file a complaint with the Secretary who shall convene a panel to arbitrate the dispute pursuant to section 7 of this Act, and the decision of such panel shall be final and binding on the parties except as otherwise provided in this Act.

"(b) Whenever any State licensing agency, designated as such by the Secretary under this Act, determines that any department, agency, or instrumentality of the United States that has control of the maintenance, operation, and protection of Federal property is failing to comply with the provisions of this Act or any regulations issued thereunder such licensing agency may file a complaint with the Secretary who shall convene a panel to arbitrate the dispute pursuant to section of this Act, and the decision of such panel shall be final and binding on the parties except as otherwise provided in this Act.

"SEC. 7. (a) Upon receipt of a complaint filed under section 6 of this Act, the Secretary shall convene an ad hoc arbitration panel as provided in subsection (b). Such panel shall, in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, give notice, conduct a hearing, and render its decision which shall be a final agency action within the meaning of section 704 of such title 5. The appropriate court of appeals shall have jurisdiction of any appeal from the decision of any such panel in accordance with the provisions of chapter 7 of such title 5.

"(b)(1) The arbitration panel convened by the Secretary to hear the grievances of licensed blind persons shall be composed of three members appointed as follows:

"(A) one individual designated by the head of the State licensing agency;

"(B) one individual designated by the licensed blind operator; and

"(C) one individual jointly designated by the members appointed under subparagraph (A) and (B) who shall serve as chairman.

If any party fails to designate a member under paragraph (1) (A), (B), or (C) the Secretary shall designate such member on behalf of such party.

"(2) The arbitration panel convened by the Secretary to hear complaints filed by a State licensing agency shall be composed of three members appointed as follows:

"(A) one individual, who shall serve as chairman, designated by the Secretary;

"(B) one individual designated by the head of the Federal department, agency, or instrumentality controlling the Federal property over which the dispute arose; and

"(C) one individual jointly designated by the members appointed under subparagraphs (A) or (B).

If any party fails to designate a member under paragraph (2) (A), (B), or (C), the Secretary shall designate such member on behalf of such party. If the panel appointed pursuant to paragraph (2) finds that the acts or practices of any such department, agency, or instrumentality are in violation of this Act, or any regulation issued thereunder, the head of any such department, agency, or instrumentality shall cause such acts or practices to be terminated promptly and shall take such other action as may be necessary to carry out the decision of the panel.

"(c) The decisions of any panel convened by the Secretary pursuant to this section shall be matters of public record and shall be published in the Federal Register."

DEFINITIONS

SEC. 705. (a) Section 6(b) of the Randolph-Sheppard Act is amended to read as follows:

"(b) The term 'blind person' means a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees. In determining whether an individual is blind, there shall be an examination by a physician skilled in diseases of the eye or by an optometrist, whichever the individual shall select."

(b) Section 6(c) of such Act is amended by inserting after "possession," the words "Puerto Rico,".

(c) Section 6 of such Act is further amended by adding at the end thereof the following new subsection:

"(f) The term 'vending facility' means (1) automatic vending machines, snackbars, cart service, shelters, counters, and such other appropriate auxiliary equipment as the Secretary may prescribe by regulation as being necessary for the sale of the articles or services described in section 2(a)(4) and which may be operated by blind licensees, and (2) cafeterias if, upon a demonstration by the State licensing agency, the Secretary determines that the inclusion of such facilities is feasible and that there is a program of training and supervision of blind licensees that will assure the development of the skills needed to operate such a facility."

EFFECTIVE DATE

SEC. 706. Except as provided in section 702 (d), this title shall become effective on the date of its enactment.

The PRESIDING OFFICER. There is a time limit on this bill.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent—with no time limitation being applied—that the pending business be laid aside temporarily and that the Senate proceed to the consideration of unobjected-to items on the calendar, beginning with Calendar No. 1150, up to and including Calendar No. 1159

The PRESIDING OFFICER. Without objection, it is so ordered.

JERRY L. CHANCELLOR

The bill (H.R. 7946) for the relief of Jerry L. Chancellor was considered, ordered to a third reading, read the third time, and passed.

HAROLD J. SEABORG

The bill (H.R. 6467) for the relief of Harold J. Seaborg was considered, ordered to a third reading, read the third time, and passed.

DAVID J. FOSTER

The bill (H.R. 10012) for the relief of David J. Foster was considered, ordered to a third reading, read the third time, and passed.

SARA B. GARNER

The bill (H.R. 12099) for the relief of Sara B. Garner was considered, ordered to a third reading, read the third time, and passed.

ANNE M. SACK

The bill (H.R. 12903) for the relief of Anne M. Sack was considered, ordered to a third reading, read the third time, and passed.

HERBERT IMPROTE

The bill (H.R. 10363) for the relief of Herbert Improte was considered, ordered to a third reading, read the third time, and passed.

AUGUST F. WALZ

The Senate proceeded to consider the bill (S. 3008) for the relief of August F. Walz, which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That, on such terms that it deems just, the United States Postal Service is authorized to compromise, release, or discharge in whole or in part the liability of August F. Walz, postmaster, United States Post Office, Wilmington, Delaware, of the sum of $28,978.62, representing the amount of a revenue deficiency charged to his postal account as postmaster. Such deficiency resulting from unpaid postage on second-class transient mailings of the "Wilmington Suburban News" and the financial inability of the owner of such newspaper, and after his death, his estate, to pay any part of such amount.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MAURICE MARCHBANKS

The Senate proceeded to consider the bill (S. 3055) for the relief of Maurice Marchbanks, which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That Maurice Marchbanks is relieved of all liability to repay to the United States the sum of $667.20, the amount he was reimbursed by the United States in special expenses incurred in a move from the State of Texas to the State of Arizona for the purpose of employment with the United States Forest Service which expenses the United States Forest Service specially promised to pay and/or reimburse. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, full credit shall be given for the respective amounts for which liability is relieved by this Act.

SEC. 2. The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Maurice Marchbanks, the sum of any amounts received or withheld from him with respect to the indebtedness for which liability is relieved by this Act.

SEC. 3. No part of the amount appropriated in the first section of this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CPL. BOBBY R. MULLINS

The Senate proceeded to consider the bill (H.R. 11629) for the relief of Cpl. Bobby R. Mullins, which had been reported from the Committee on the Judiciary with an amendment on page 2, line 8, after the word "withheld", strike out "of" and insert "from".

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

DONALD W. WOTRING

The Senate proceeded to consider the bill (H.R. 11047) for the relief of Donald W. Wotring, which had been reported from the Committee on the Judiciary with amendments on page 1, line 6, after the word "of", where it appears the first time, strike out "$688.26,", and insert "$662.61,";

In line 7, after the word "period", strike out "beginning July 1, 1967, and ending"; and insert "January 1, 1967, through".

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The Senate continued with the consideration of the bill (S. 3987) to replace the Vocational Rehabilitation Act, to extend and revise the authorization of grants to States for vocational and comprehensive rehabilitation services, to authorize supplementary funds for vocational and comprehensive rehabilitation services to severely handicapped individuals, to expand special Federal responsibilities and research and training with respect to handicapped individuals, to establish an Office for the Handicapped within the Department of Health, Education, and Welfare, and for other purposes.

REHABILITATION ACT OF 1972

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Mr. President, I ask unanimous consent that I may now ask for the yeas and nays on the pending measure, although, after discussing the Senate measure, we will substitute a House measure and insert into it the Senate amendments.

The PRESIDING OFFICER. The Senator should ask unanimous consent that it be in order to order the yeas and nays on the House bill. Will the Senator please identify the bill by number?

Mr. CRANSTON. I so ask with respect to H.R. 8395.

The PRESIDING OFFICER. Without objection, it is in order to order the yeas and nays on H.R. 8395.

Mr. CRANSTON. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. CRANSTON. Mr. President, I ask unanimous consent that during consideration of S. 3987 and its companion measure, House bill 8395, the following staff members be afforded the privileges of the floor: From the majority staff of the Committee on Labor and Public Welfare, Jonathan Steinberg, Robert Humphreys, Michael Burns and Lisa Walker; from the minority staff of the committee, Roy Millenson, and from the staff of Senator STAFFORD, the ranking minority member of the Subcommittee on the Handicapped, Mike Francis.

The PRESIDING OFFICER. Without objection, it is ordered.

Mr. CRANSTON. Mr. President, I do wish to make a few general remarks at this point regarding the extraordinary contributions made to the development of this legislation by so many individuals. First, I wish to express my personal gratitude to the chairman of the Subcommittee on the Handicapped, the distinguished Senator from West Virginia (Mr. RANDOLPH), who some time ago requested that I act as chairman of the subcommittee for the purpose of consideration of the legislation to extend the Vocational Rehabilitation Act which expired on June 30, 1972. I was privileged to carry out these responsibilities and was favored at all times with the utmost cooperation and assistance by the Senator from West Virginia. The bill which we have brought forth from the committee bears the unmistakable imprint of his outstanding contributions.

Also providing great input and leadership in the drafting and movement through committee of this legislation was the distinguished Senator from New Jersey (Mr. WILLIAMS), the chairman of the full Committee on Labor and Public Welfare. He has likewise afforded us magnificent assistance and cooperation in this effort.

But this bill is in no way a product of the majority party of the committee. Rather it is the concerted effort of six Senators—three from the majority and three from the minority. The contributions of the Senator from Vermont (Mr. STAFFORD), the distinguished ranking minority member of the Subcommittee on the Handicapped, and those of the Senator from New York (Mr. JAVITS), the ranking minority member of the full committee, have been most substantial and their assistance and bipartisan spirit have been absolutely indispensable in bringing us to the point of floor consideration today. Finally, I want to thank for his efforts, the Senator from Ohio (Mr. TAFT), who introduced the administration bill, S. 3368.

Mr. President, this truly bipartisan measure is also due directly to the enormous energies of staff members representing these six Senators. They spent countless hours in staff meetings working out the details of the bill as reported, and thus I would like to pay tribute to these individuals for the high purpose and dedication which they have brought to this measure. I refer specifically to Bob Humphreys on behalf of Senator RANDOLPH; Lisa Walker on behalf of Chairman WILLIAMS, Roy Millenson on behalf of Senator JAVITS and the committee minority, Mike Francis on behalf of Senator STAFFORD, Pat Gwaltney who worked on this measure for Senator TAFT, and Mike Burns and Jon Steinberg who have worked with me.

Also, Mr. President, a special word of appreciation is due to the technical support which we received, throughout our consideration of this legislation from the Department of Health, Education, and Welfare and particularly from the Rehabilitation Services Administration.

Noteworthy in that regard was the great dedication, patience and cooperative spirit which Dr. Bill Bean, of the Rehabilitation Services Administration, brought to the work of responding to our many questions and requests.

Mr. President, it is a great privilege to have been afforded the task of managing on the floor today, S. 3987 as which I reported it from the Committee on Labor and Public Welfare. This is the major piece of legislation affecting handicapped individuals in the United States. Over the 3 years of authorized programs in the bill, as reported, there are authorized to be appropriated $4,910,570,000 in order to carry out the six titles of the bill.

In fiscal year 1972, approximately 1,110,045 disabled persons were served by State vocational rehabilitation agencies, and the Rehabilitation Services Administration in HEW reports that 326,138 of them were considered to be rehabilitated. This is not an insignificant achievement if these figures can indeed be verified, but even this number of successful cases must be taken in the context of the estimated 7 to 12 million handicapped individuals in the Nation who have not realized their vocational potentials.

Specifically, a great deal more—just in the case of quantity—needs to be done. But that is not the principal thrust of this bill. Even with full funding of the appropriations levels authorized for the next 3 fiscal years, the committee recognizes that there will not be available sufficient funds to serve anywhere near the numbers requiring vocational rehabilitation, as well as those for whom a more independent life, although no vocational goal, is possible. Thus, the thrust of this bill, in terms of the basic vocational rehabilitation program, is to require that far more individuals with severe handicaps be served than at present.

Recognizing that the final goal of all rehabilitation services must be to better the lives of the individuals served, this bill places particular emphasis on a method of providing services which will be responsive to individual needs, and will insure that no individual will be excluded from the program merely because his handicap is too severe.

The committee bill follows House intent to provide an emphasis on services to severely handicapped individuals, by expanding the range of services that may be provided and by earmarking funds out of the basic program so that the States will be better able to provide the services severely handicapped individuals will need. Included in the expansion of services are comprehensive rehabilitation services which include services which will enable severely handicapped individuals, for whom a vocational goal is impossible, to prepare to live more independently.

However, the committee bill, in recognition that a productive and financially independent life is of primary importance, insures that no individual may be excluded from vocational training, counseling and related rehabilitation services aimed at a vocational goal without thorough and detailed evaluation of his rehabilitation potential and an explicit statement by the rehabilitation counselor encompassing the reasons why he has concluded beyond a reasonable doubt that a vocational goal is not appropriate.

In addition, the committee bill places greater emphasis on research and on the development of innovative rehabilitation techniques, equipment and devices which will ameliorate the effects of handicapping conditions and make employment more feasible for a severely handicapped individual. By increasing funding and authority available for these purposes, and giving statutory responsibility to the Commissioner of the Rehabilitation Services Administration for all vocational rehabilitation services, research, and training in connection with services to handicapped individuals, the committee bill seeks to place greater emphasis on expanding and improving services to handicapped individuals, with particular emphasis on the needs of more severely handicapped individuals.

The committee bill also responds to the need for services within certain target populations—including spinal cord injured individuals, those suffering from end-stage renal disease, severely handicapped deaf, deaf-blind and older blind individuals and handicapped migrants—for whom services are presently inadequate, by providing special Federal categorical programs to serve these persons. The committee bill also deals with problems such as discrimination in Federal employment and Federal grants, architectural barriers, and the coordination and improvement of programming for handicapped individuals, which because of their complex nature and wide-ranging effects cannot be dealt with only by the Rehabilitation Services Administration but have a profound effect on the delivery of relevant and effective services to handicapped individuals, by establishing a number of agency-wide and executive branch-wide special programs to meet the needs of handicapped individuals.

Mr. President, while the Senate bill agrees with much of the substance in the House bill and generally concurs with the purposes of the House bill, there are certain differences in approach and emphasis, which I wish to summarize briefly at this point.

SUMMARY OF PROVISIONS

1. SERVICES TO SEVERELY HANDICAPPED INDIVIDUALS

Rather than set up a separate authorization of appropriations for supplementary services for the severely handicapped, as was done by the House, the Committee bill earmarks 15 percent of the authorization under the basic vocational rehabilitation program (part B) to be used as supplementary funds (part C) for providing vocational or comprehensive rehabilitation services. Vocational rehabilitation services which contribute to gainful employment; comprehensive rehabilitation services include all vocational rehabilitation services and other services which may be necessary to enable severely handicapped individuals to live more independently and self-sufficiently.

In order to ensure that emphasis is put on developing vocational goals for severely handicapped individuals, a 10 percent limitation is put on the expenditure of funds under part B and part C for severely handicapped individuals for whom a vocational goal is not indicated.

Supplementary funds under part C can be used only after the agency has exceeded, because of the severity of the individual's handicap, twice the average cost in providing services to an individual. This provision was included to try to ensure that agencies have the additional funds needed to provide full services to severely handicapped individuals, thus providing an incentive to these agencies to undertake to serve them. At the same time, the bill requires that the basic costs for services—vocational or comprehensive rehabilitation—will be paid from part B funds in order that there be no counterincentive to spend part C funds for those individuals who are truly severely handicapped.

Provisions have been included in the State plan requirements to ensure that planning for severely handicapped individuals is undertaken, and to require a special emphasis on serving these individuals.

An important procedural provision has been included in the committee bill requiring an individualized written rehabilitation program be drawn up for every handicapped individual served, and to be drawn up in consultation with that individual. The counselor is required to explore every means for establishing a vocational or job-oriented goal for each individual, and to specify fully in the written program the reasons why this was impossible if he finds beyond a reasonable doubt that the individual cannot realize a vocational goal.

2. RESEARCH AND TRAINING

The committee bill provides a statutory basis for the Rehabilitation Services Administration, and provides that all authority for the carrying out of functions under titles I, II, and III of the Act shall be administered only by the Commissioner of RSA, which authorities the Secretary of HEW shall delegate to him. In addition, the bill sets up within RSA a Division of Research, Training and Evaluation, and within that Division a Center for Technology Assessment and Evaluation; the Division is assigned at least 10 personnel positions to carry out purposes related to research, training and evaluation.

The bill places a great deal of emphasis on applied research and the development of technology and devices to aid in solving rehabilitation problems of handicapped individuals. Besides the general research authority, the bill directs RSA to establish and operate Rehabilitation Engineering and Research Centers in order to aid in the development of this technology. In addition, for the first time, telecommunication, sensory, and other technological devices are specified as services under the basic vocational rehabilitation program.

A program of international research and exchange of personnel and technical assistance is also included so that the United States may more fully make use of the many scientific and technological applications that have been made overseas.

3. OTHER PROVISIONS

The committee bill requires that a client advocacy system be established in each state to provide ombudsmen to seek to resolve, quickly and effectively, the complaints of clients and client applicants in each program or project assisted with funds under the Rehabilitation Act. This is a provision that I feel is extremely important and promises tremendous possibilities for improving many social services programs if it can work effectively in the vocational rehabilitation program.

The proposal for a client advocacy system to serve vocational rehabilitation clients has its genesis in the growing number of hospitals which are establishing patient advocates to attempt to give the institutionalized person a sense of being able to affect the environment in which he is confined and the rules and regulations governing his day-to-day existence. This system is intended to provide a quick, informal, and inexpensive method of providing real accountability on the part of the vocational rehabilitation system to the very personal needs of individual handicapped clients.

The Committee bill includes special programs for spinal cord injury, end-stage renal disease, severely handicapped deaf individuals, deaf-blind and older blind individuals, and an earmarking of money under special projects for migratory agricultural workers.

The Committee bill carries a Federal Interagency Committee on Handicapped Employees—and directs it to undertake an affirmative action program for hiring in each Federal agency—an Architectural and Transportation Barriers Compliance Board, requires affirmative action in employment of handicapped individuals in employment under Federal contracts, and prohibits discrimination against qualified handicapped individuals under Federal grants.

The Committee bill includes in title VII certain provisions amending the Randolph-Sheppard Act with regard to vending facilities on Federal property, which were based upon S. 2506.

Mr. President, the provisions of the bill are explained in detail in the Committee report (No. 92–1135) and I ask unanimous consent that certain excerpts from that report, with printing errors corrected, including a very detailed section-by-section analysis, be set forth in the Record at this point as part of my remarks.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

* * * * *

EXPLANATION OF PROVISIONS

Sections 1–9

1. Provides a statutory basis for the Rehabilitation Services Administration and, unlike the House bill, creates within such Administration a new Division of Research, Training and Evaluation, and within such Division, a new Center for Technology Assessment and Application; and provides that all authorities provided to the Secretary under titles I through III of the bill shall be delegated to the RSA Commissioner.

2. Specifies new definitions, not contained in the House bill or existing law, for the Act which may be summarized as follows: defines "handicapped individual" to mean any individual who has a substantial mental or physical handicap to employment and who can be expected to benefit from vocational or comprehensive rehabilitation services; defines "comprehensive rehabilitation services" as vocational rehabilitation services and any other goods or services which will make a substantial contribution in helping a handicapped or severely handicapped individual to improve his ability to live independently or function normally with his family and community (this provides authority for services leading to a nonvocational goal for the first time); and defines "severely handicapped individual" as any handicapped individual whose ability to engage in employment or to function normally is so limited by the severity of his disability that services appreciably more costly and of greater duration are required, by virtue of the severity of his handicap, to improve his ability to engage in employment or live independently or function normally in his community or family.

TITLE I: VOCATIONAL AND COMPREHENSIVE REHABILITATION SERVICES

1. Requires the State in the State plan to include a description of the method to be used to expand services to the severely handicapped, and to provide that an order of selection be included if services cannot be provided to all eligible handicapped individuals, but differs from the House bill by specifying that this order must place special emphasis on providing services to severely handicapped individuals; requires the State plan to contain policy, plans and methods to be followed in delivering comprehensive rehabilitation services to severely handicapped individuals; in a change from existing law, redefines minimum services to be provided to all handicapped individuals as evaluation of rehabilitation potential for up to 18 months duration, counseling, guidance, referral, placement and client advocacy services, vocational and other training services and family services where necessary to the adjustment or rehabilitation of a handicapped individual, physical and mental restoration services (subject to reimbursement from other programs and private insurance) and maintenance payments during the process of rehabilitation; and expands from existing law and the House bill the scope of vocational and comprehensive services to include as a discretionary service the provision of telecommunication, sensory and other aids and devices; requires the vocational rehabilitation counselor or coordinator to develop for each individual an individualized written rehabilitation program which will be reviewed on an annual basis by the counselor and the client (or where appropriate, his parent or guardian), and will contain a statement of long-range rehabilitation goals and intermediate objectives for the individual and a timetable for achieving them. Primary emphasis in the development of this program must be the determination and achievement of a vocational rehabilitation goal. The decision that this goal is not possible can be made only in full consultation with the individual (or his parent or guardian). The individual program is reviewed annually at which time the client is given the opportunity to renegotiate its terms.

2. Increases the authorization for basic vocational and comprehensive rehabilitation services (see separate charts on authorization levels under "cost estimate"), in part B and earmarks 15% of all appropriations for the basic program as supplementary funds for the provision of vocational or comprehensive rehabilitation services for a severely handicapped individual which may be used for that individual only after the cost of purchase and provision of such services (including counseling) exceeds, by virtue of the severity of his handicap (as determined in accordance with regulations prescribed by the Secretary), 200% of the average cost per individual of the purchase and provision of such services for all handicapped individuals rehabilitated in the State in the preceding fiscal year. In addition, a 10% limitation is placed on funds expended under Part B and Part C for the provision of services to individuals who do not have a vocational goal. This is a major change from the House bill which provides a separate title for services to severely handicapped individuals, and emphasized through report language a priority for the severely handicapped under the basic program.

3. Establishes a new mandatory program of client advocacy systems within each State which will provide ombudsmen to seek to resolve complaints of clients and client applicants, and authorizes the Secretary to carry out experimental client appeal and review systems. Neither provision is contained in existing law or in the House bill.

4. Proposes to make a modification effective in FY 1974 in the State allotment formula for the basic program (part B) by distributing all funds up to $700,000,000 according to the existing formula—multiplying the population of a State by the square of its allotment percentage and placing the result in ratio to all other States, and for fiscal years after FY 1973 for portions of title I appropriations up to $700,000,000 which are available for allotment under part B (85% of 700=$595,000,000), the sums in excess of that amount ($595 million) shall be apportioned as follows: ⅔ of it on the basis of population and ⅓ of it by allotment percentage. This change is not contained in the House bill.

TITLE II—SPECIAL FEDERAL RESPONSIBILITIES

Establishes new authority, similar to the House bill, for annual interest grants, to defray part of the mortgage cost on rehabilitation facilities, for Rehabilitation Centers for severely handicapped deaf individuals, for the establishment and operation of Centers for Spinal Cord Injury, for grants for services for individuals suffering from end-stage renal disease and for services to older blind individuals; and provides for the establishment of State Advisory Councils on Rehabilitation of the Handicapped, a provision not contained in the House bill; provides for an expanded program of grants for special projects and demonstrations including an expansion of the special grant program for rehabilitation services for handicapped migratory or seasonal farm workers and their families, a provision similar to the House provision; continues authority from existing law for grants for construction of rehabilitation facilities, construction and operation of the National Center for Deaf-Blind Youths and Adults, and grants for vocational training for handicapped individuals (including weekly allowances for maintenance); and expands the size and broadens the authority of the present National Advisory Council on Vocational Rehabilitation.

TITLE III—RESEARCH AND TRAINING

Consolidates all research and training authority in present law in one title; follows the intent of the House bill to provide greater emphasis on research and training relating directly to the rehabilitation of handicapped individuals, by providing that all such authorities shall be delegated to and carried out and administered only by the Commissioner of the Rehabilitation Services Administration; and further identifies priorities for research by providing for the establishment and support of new Rehabilitation Research and Training Centers, the establishment and support of Rehabilitation Engineering Research Centers, grants for spinal cord injury research, and grants for international rehabilitation research and exchange of personnel and technical assistance.

TITLE IV—PROGRAM AND PROJECT EVALUATION

Expands upon similar provisions in the House bill to provide a Federal responsibility for program and project evaluation of the impact and effectiveness of all programs authorized under the Act, and to determine and redetermine priorities for research, demonstration and related activities; and expands upon the House provision under which the Secretary would undertake a comprehensive study of the role of sheltered workshops, including a study of wage payments.

TITLE V—OFFICE FOR THE HANDICAPPED

Establishes an Office for the Handicapped in the Office of the Secretary to develop a Federal five-year plan for delivery of services to handicapped individuals and to evaluate, review, and take steps to achieve coordination in existing Federal programs for handicapped individuals; and incorporates in this Office the function of the National Information and Resources Center for the Handicapped contained in the House bill to evaluate existing data and information systems and to develop a coordinated system of information and data retrieval and dissemination relating to services, programs and information for handicapped individuals.

TITLE VI—MISCELLANEOUS

Provides for agency-wide programs, not contained in the House bill, to focus on problems of handicapped individuals, including the establishment of an Interagency Committee on Handicapped Employees to ensure the adequacy of hiring, placement and advancement practices in the Federal government in relation to handicapped employees and applicants, and the requirement of an affirmative action program to employ qualified handicapped employees by all Federal contractors and of non-discrimination by all Federal grantees.

TITLE VII—AMENDMENTS TO RANDOLPH SHEPPARD ACT

Contains amendments to the Randolph Sheppard Act for the Blind, which were ordered reported to the full Committee by the Subcommittee on the Handicapped in S. 2506 earlier this year (not part of the Rehabilitation Act of 1972).

Historical Background

The initial interest of the Congress in the rehabilitation needs of the disabled was centered in the returning World War I veterans. Proposals were first directed to "soldier rehabilitation," but bills introduced in 1917 and 1918 also contained provisions for the rehabilitation of the industrially disabled. A decision was made, however, to proceed initially with the veteran's program.

SMITH-FESS ACT

The veteran's legislation and interest in the needs of the civilian industrially disabled led to the vocational rehabilitation program enacted on June 2, 1920, when President Woodrow Wilson signed into law the Smith-Fess Act (Public Law 66-236).

The rehabilitation program is one of the nation's oldest grant-in-aid programs. In the fifty-two years since the start of the program its basic concepts have continued mainly unchanged, with substantial enlargement of scope and effectiveness in legislative authority in 1943, 1954, 1965, 1967 and 1968.

The program initially offered limited services for the physically handicapped. Each client was eligible for training, counseling, and placement services. The program finally became permanent with the passage of the Social Security Act in 1935 (P.L. 74-271), in which Congress authorized annual appropriations.

1943 AMENDMENTS

World War II brought forth the next major step in the rehabilitation program. In the summer of 1943 Congress authorized for the first time the provision of (1) medical, surgical, and other physical restorative services to eliminate or reduce an individuals disability; (2) and expanded beyond physical disability to provide services for mentally ill and mentally retarded individuals. Under the bill passed that year (P.L. 78-113) provision was first made for the entry into the Federal-State program of the separate State agency serving the blind.

In addition, the law made a significant change in the concept of rehabilitation. The law defined "vocational rehabilitation" and "vocational rehabilitation services" as "any services necessary to render a disabled individual fit to engage in a remunerative occuption."

1954 AMENDMENTS

The passage of the 1954 amendments (P.L. 83-565) provided the next major forward movement in the nations rehabilitation program. The 1954 amendments provided provisions to improve financing and included authority for research, demonstration, and training activities to advance the State rehabilitation programs as well as voluntary programs. These provisions to support program efforts substantially added to other grant-in-aid programs.

The financing provisions were changed to provide a system for alloting Federal funds in order to give greater financial support to States with relatively small per capita income. Extension (the term was changed to "expansion" in 1965) and improvement project grants to States were initiated, with Federal matching of up to 75 percent, to induce States to develop new aspects of their programs and extend their services to additional disability groups and geographical areas not previously reached.

1965 AMENDMENTS

In 1965, another major set of amendments was enacted (P.L. 89-333). The amendments were designed to expand and enlarge the public program to achieve the rehabilitation of a much larger number of handicapped individuals. Federal financing was liberalized to encourage States to provide greater matching appropriations. Provisions to improve, strengthen, and assist in workshops and rehabilitation centers, and to construct new facilities were made.

There were other 1965 legislative developments which impacted directly upon the Vocational Rehabilitation program: the medicare provision of the Social Security Act included for the first time authority to make Social Security trust funds available to the State vocational rehabilitation agencies to pay for rehabilitation services for old-age and survivors disability insurance beneficiaries. In 1965 legislation was also enacted to carry out the recommendations of the President's Commission on Health, Disease, Cancer and Stroke. In order to move promptly in this important field Congress approved special appropriations to the Vocational Rehabilitation Administration.

The Vocational Rehabilitation Administration also became involved in a 3-year study of manpower needs in the correctional field, authorized under the Correctional Rehabilitation Study Act of 1965.

1967 AMENDMENTS AND REORGANIZATION

In 1967, the President and the Congress took steps to improve and expand rehabilitation programs for the Nation's disabled. The program of basic grants to the States for rehabilitation services was extended and expanded. Provisions were enacted to establish a National Center for Deaf-Blind Youths and Adults and to extend services to disabled migrants and their families where necessary to the rehabilitation of the handicapped migrant worker. In addition, State vocational rehabilitation agencies were required to provide services to handicapped individuals without regard to their place of residence.

In a major reorganization in the Department of Health, Education, and Welfare, in August, 1967, the Vocational Rehabilitation Administration was renamed the Rehabilitation Services Administration and became one of the program bureaus forming the Social and Rehabilitation Service, which was established at that time.

1968 AMENDMENTS

In 1968, the Congress again amended the Vocational Rehabilitation Act (P.L. 90-341) by extending and expanding the basic programs through 1971 and by establishing a new program of vocational evaluation and work adjustment to serve the disadvantaged (including the disabled). (This provision has never been funded.)

The Federal share for basic support grants was increased to 80 percent and a minimum allotment to the States of $1 million was established. New authority was enacted to recruit and train handicapped persons in public service employment and to encourage individuals to enter rehabilitation work. Authority for projects with industry to train handicapped individuals was also provided.

Rehabilitation services were broadened and defined to include (1) follow-up services, (2) services which promise to contribute to the rehabilitation of a group of individuals, (3) services to families, (4) establishment and construction of rehabilitation facilities, and (5) new employment opportunities for the handicapped. Another amendment defined rehabilitation facilities to include centers, workshops, and other facilities established, for the primary purpose of providing vocational rehabilitation services to, or gainful employment for, handicapped individuals.

In 1970, the Congress extended for one year, until June 30, 1972, the programs authorized in the Act without making any substantive changes in the legislation.

ACCOMPLISHMENTS

Since the inception of the Federal-State program of vocational rehabilitation in 1920, over 3 million handicapped people have been rehabilitated.

The program through the years has represented a true partnership in serving and rehabilitating handicapped individuals. Since the last major amendments in 1968 to the Vocational Rehabilitation Act, many additional accomplishments have occurred.

A milestone was achieved in FY 1971 in that for the first time over 1 million handicapped individuals were provided vocational rehabilitation services during a single year. In fiscal year 1972, State Vocational Rehabilitation agencies served 1,110,045 physically and/or mentally disabled persons and rehabilitated 326,138 persons to productive and meaningful lives. More than 37,000 of those rehabilitated in FY 1971[1] were mentally retarded, twice the number of retarded rehabilitated four years ago.

Through these efforts and innovation projects of State agencies new knowledge is being obtained to help rehabilitate the victims of cerebral palsy, epilepsy, aphasia, arthritis, and many other disabling conditions; some of the problems of deaf individuals and of handicapped homemakers are being solved. In FY 1972, four model regional research programs in spinal cord care were begun, to add to one operation in the previous year. New techniques are being developed for helping individuals of heart disease, cancer, and stroke; in the design of artificial limbs; in mobility for the blind, and in the development of halfway houses for the mentally ill to help them adjust to jobs and the community. Projects to enhance employment and rehabilitation of disabled welfare recipients have been funded through expansion grants.

Forty-six special Training Services Projects in 30 States provided 4400 disabled people special training and work opportunities. Twenty-five percent of these were public assistance clients. Over the past several years the administration has stressed rehabilitating an increasing number of handicapped individuals who are on public assistance. It is estimated that the annual cost of maintenance of a person on public assistance in FY 1971 is $850. In FY 1972, State vocational rehabilitation agencies rehabilitated 51,084 public assistance recipients. The cost for public assistance for those persons it is estimated would amount to over $40,500,000. The Committee notes this trend with both approval and concern. It does not believe that any greater proportion of services under this Act should be targeted on handicapped welfare recipients but rather urges the purchase of services from State VR agencies with 75/25 Social Security Act matching social services funding.

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[1] At time of report, data analysis was not completed in depth for FY 1972.

Vocational rehabilitation can be justified on the basis of services to a very needy portion of the population. Even on a cost-benefit basis, the achievements of these vocational rehabilitation efforts clearly indicate the value of making a greater Federal investment. A number of benefit-cost analyses of the rehabilitation program have been completed. Although they differ with respect to methods and assumptions, they all agree on one crucial fact—the benefits of the rehabilitation program are many times its cost. Conservative estimates of the ratio of benefits to costs have ranged between 8 to 1 and 35 to 1. For instance, the total annual earnings of 291,272 individuals rehabilitated in fiscal year 1971 are estimated at $1 billion or a net increase of $750,000,000 of earnings at the time individuals entered the rehabilitation system. In addition to this contribution to the GNP, the Rehabilitation Services Administration estimates that these individuals, at a minimum, will be contributing approximately 5% of their total income or $58 million to Federal, State and local governments for taxes. This contribution is in addition to the estimated savings to the program by the government through either the removal of clients from the Public Assistance rolls or by reducing clients' dependency.

HEARINGS AND COMMITTEE ACTION

The Subcommittee on the Handicapped of the Committee on Labor and Public Welfare held hearings (generally morning and afternoon) on May 15, 18, and 26, 1972, as well as on June 2, 1972 and June 6, 1972. In the course of these five days of testimony, more than forty witnesses were heard. They were representatives of the Administration, the groups representing persons with various disabilities and consumers of vocational rehabilitation services as well as providers of services, the state agencies, rehabilitation medicine physicians, and other concerned persons. The Committee believes that these were at least as comprehensive a set of hearings as has ever been held on the Vocational Rehabilitation program. In addition, numerous written statements were taken for the record. The combination of the two has produced a most extensive hearing record, and has formed the basis for the legislation that accompanies this report.

The bills included in the hearings were: the House-passed measure, H.R. 8395; the bill introduced by Senator Taft, on behalf of the Administration, as amendments to the present Vocational Rehabilitation Act, S. 3368; S. 3158, a bill to create an Office for the Handicapped; S. 1030, to provide rehabilitation services for older blind individuals; S. 41, to provide a national Information Center for the Handicapped; and S. 2812 to provide treatment for end-stage renal disease patients.

On September 13, 1972, the Subcommittee on the Handicapped met in executive session and unanimously ordered favorably reported to the full Committee an original bill, based on H.R. 8395, but with substantial modifications, as explained in this report, and incorporating the provisions of S. 3158, S. 1030, and certain provisions of S. 3368. Also included as title VII of the bill were the provisions of S. 2506, amending the Randolph-Sheppard Vending Stand Act, which measure was reported from the Subcommittee earlier this year. This title is discussed separately as the last item under "Discussion". On September 14, 1972, that clean bill was introduced with bipartisan support as S. 3987. On September 15, 1972, the full Committee in executive session unanimously ordered favorably reported S. 3987, after adopting certain amendments set forth above under "Committee Amendments".

Discussion

NEED FOR LEGISLATION

The Committee, after careful consideration of the hearing testimony and a review of the present RSA program, concluded that substantial legislative changes were necessary. The Rehabilitation Services Administration and the states who provide 20 per cent of the funds for the program are not reaching those who are in the greatest need for rehabilitation services. During the hearings, the Committee heard varying estimates of the numbers who could benefit from rehabilitation services in the United States. Administration witnesses placed the number at near 7 million individuals. Other witnesses claimed the total to be as high as 12 million. The actual numbers, or even an accurate approximation, is not known, and the Committee believes that such data must be collected as soon as possible.

Whichever figure is accepted, it is known that rehabilitation agencies last year reached only one million handicapped people, and something just less than 250,000 of those were classified successfully rehabilitated. Testimony indicated that not even one quarter of those successfully aided could be classified as severely handicapped. The Committee saw the need for definite legislation which would not only provide more service for more people, but focus more directly on those who most need the services, the severely handicapped individual.

The focus of the Committee is very much on that group, and the burden of reaching them has been placed on the rehabilitation agencies squarely throughout the bill. Giving the Rehabilitation Services Administration direct statuory authority for the first time is aimed at making them more accountable for the way in which the program is carried out.

The Committee also found that there was a large segment of the handicapped population that could not be served under the present program parameters due to the fact that no vocational goal could be achieved, or might not seem achievable at the time of the attempt by the individual to enter the program. The Committee feels a strong responsibility to see that these individuals do receive the services that they need, particularly that maximum efforts are made to develop a vocational goal for them. The bill attempts to achieve these objectives, by stressing services to severely handicapped individuals and providing for services (not in excess of 10% of any state's basic funds) for individuals for whom a vocational goal is really not possible.

Generally, the Committee agreed with the findings of the House, and the goals of the bill that has resulted does not vary greatly from the underlying philosophy of H.R. 8395, although some of the methods adopted are different.

INTENT OF THE BILL

The key to the intent of the bill is the Committee's belief that it will provide more services for more individuals while at the same time providing more vocational and comprehensive services to individuals whose handicap is most severe. It is the bill's intent to be more responsive to the needs of the handicapped individual by providing a better basic program of service as well as some specialized programs to aid those with handicaps that need more attention than the basic program can provide. Additionally, the Committee has added provisions that will help the handicapped individual to better his life through an increase in the research and training activities to help make employment and participation in society more accessible.

SHORT TITLE

The new short title of the bill, the "Rehabilitation Act of 1972", expresses the new thrust of the bill in that, for the first time, those individuals who apply for services need not have a vocational goal. It allows entrance into the program for those whose eventual vocational outcome may not be clear when they first apply, or whose eventual goal may be only a more independent life style. While the Committee expects fully that the program will remain vocationally oriented, it does believe that there are handicapped individuals whose handicaps are so severe, or because of other circumstances, such as age, that they may never achieve employment. The Committee feels that they should not be denied services. Their being served may have the eventual outcome of freeing other members of the handicapped individual's family to return to employment, with a resultant gain in tax revenue and a rise in the standard of living of the family.

DECLARATION OF PURPOSE

The Committee fully agreed with the House that there should be a well defined declaration of purpose contained in the law. There is not now such a provision. In general terms it spells out the programs that are authorized under the bill and provides a summary of the purposes the Committee wishes to be carried out under the subsequent provisions by RSA.

REHABILITATION SERVICES ADMINISTRATION

In the course of the hearings, the Committee heard overwhelming testimony to the effect that RSA should have a statutory basis. S. 3987 provides for that basis, as does the House bill. It is the opinion of the Committee that if the Commissioner of RSA is to be called upon to answer for the effectiveness of the rehabilitation programs carried out under the bill, then, he should have direct authority to do so. The Committee intends to place the responsibility for carrying out titles I, II, and III solely in the RSA Commissioner, to whom the Secretary shall delegate his functions under these titles. The Committee has given the Commissioner many new responsibilities, especially in the area of research and training, that he does not now have. It is felt that the overall programmatic emphasis will be strengthened by placing this responsibility within RSA. The Committee also feels that, in being given this new authority and a statutory basis, as well as an authorization for 60 more personnel to carry out the functions, RSA will be far more accountable both to the public and the Congress.

With full authority over the research, training and innovation grants and contracts, RSA should be able to provide a firm direction for such programs toward easing the burden of handicapping conditions, especially severe handicaps.

In order to provide for the experience and expertise needed for an effective research and training program, the bill requires a new Division of Research, Training, and Evaluation within RSA and within that division, a new Center for Technology Assessment and

Application, headed by an Assistant Commissioner of RSA. It is the Committee's intent that this Division and its Assistant Commissioner will serve as the focal point for research and development and training funds under this Act and that he will be held responsible for the redirection of research priorities. It is expected that the Assistant Commissioner will cooperate and coordinate his programs with other agencies in HEW and if need be stimulate competition to obtain the best results. The interface of social services programs should not suffer with the placing of the research and development and training authority for RSA in this Assistant Commissioner.

ADVANCE FUNDING

The Committee recognizes that in order to have more efficient programs and prudent planning, it is desirable to have advance funding made available for the program. The Committee agrees with the House that this is a most desirable feature and hopes the administration will request and the Appropriations Committees will approve appropriations on an advance funding basis.

DEFINITIONS

The Committee chose to consolidate all of the definitions that are operative throughout the bill in one section. Many of them have not been significantly changed from present law, but there are several departures that should be noted in order better to understand the philosophy of S. 3987.

Consistent with changes the Committee has made in the operation of the basic state program for the provision of rehabilitation services, the Committee has emphasized in the definition of handicapped individual that the program is expected to serve those individuals who have substantial handicaps to employment as long as there is a reasonable expectation that they can benefit from the provision of services. While existing law conditions the provision of services on a reasonable expectation that the individual will be rendered fit to engage in a gainful occupation, the Committee agrees with the House bill that a change is needed in this part of the definition. The Senate bill thus extends services to individuals who may not, at the time of evaluation, have a vocational goal for two reasons: that the individual may be brought to a point through the provision of services that he may have a vocational goal, and that many of the services available through the vocational rehabilitation program will enable individuals without a vocational goal to live more independently. The Committee believes that the definition in existing law is too limiting, making the assumption that no change will occur over time. This limitation can operate to exclude many handicapped individuals who could greatly benefit from the program, and denies services to those individuals most in need.

In line with the change in definition, the Committee has also included a definition of severely handicapped individuals. The Committee asked virtually every witness to define "severely handicapped." Recognizing that to develop a definition which would be accurate across every disability group is extremely difficult, the Committee believes that the concept is best approximated in terms of duration and cost of services which are necessitated by the severity of a handicap and are needed to bring that individual to a vocational or independent living goal. The Committee is very clear in its conviction that individuals who are severely handicapped can and should have vocational goals, and that maximum effort must be expended to provide these individuals with a broad range of services to enable them to realize this potential. The Committee is cognizant of the fact that it may take greater effort to set up a rehabilitation program for these individuals, and it expects rehabilitation counselors to make this effort.

However, the Committee, in changing the definition of handicapped individual, has recognized that there are severely handicapped individuals who may not have a vocational goal, but who can greatly benefit from rehabilitation services. While emphasizing that every effort should be expended to provide services to individuals so that they may reach a vocational goal, the Committee also believes that individuals can benefit from rehabilitation services which will enable then to live more independently and to be more self-sufficient. For this reason, the Committee has defined comprehensive rehabilitation services to mean vocational rehabilitation services and any other service which will make a substantial contribution in helping a handicapped or severely handicapped individual improve his ability to live independently or function normally with his family and community.

The Senate bill defines, for the first time, evaluation of rehabilitation potential, including all those services which were contained in section 15 of the existing law as mandatory services under the basic program to be provided to handicapped individuals.

The definition of Federal share is changed from existing law. While the Committee has retained the Federal share at 80% under Part B for the basic formula grant program, the Federal share for Part C, supplementary funds for vocational and comprehensive rehabilitation services to severely handicapped individuals, has been set at 85%. The Committee believes that this additional support from the Federal Government is needed in order to assist the States to expand their services and provide opportunities for more severely handicapped individuals. Unless otherwise specified in the bill, the Federal share is 85%, except for construction grants where the Committee has retained the matching requirements of existing law. (See section 200(b) in the "Section-by-Section Analysis".)

Finally, the Committee points out that it has included Indian tribal organizations, or a combination of such organizations, in the definition of local agency.

TITLE I. VOCATIONAL AND COMPREHENSIVE REHABILITATION SERVICES

Allotment Formula for Basic Programs

For some time questions have been raised with respect to the State program allocation formula under the Vocational Rehabilitation Act. This formula is the product of population multiplied by the square of a reversed per capita income factor. It is this squaring aspect which, it has been felt, distorts the desirable policy of giving States with low per capita income a formula advantage, by creating widely varying differences between what various States receive for each handicapped individual residing there. Thus, while the average per capita vocational rehabilitation grant for handicapped persons for the Nation is $81.30, seven States receive less than $50 per capita while six States receive more than $100 per capita, as do the Virgin Islands, Puerto Rico, and the District of Columbia. This problem presented by the present "squared" formula would be exacerbated by the bill's appreciably increasing the authorization for basic State programs from $700 million in FY 1972 to $1.15 billion for part B programs in FY 1975 (85 percent of $1.35 billion title I authorization).

Thus, it seems clear that with the appreciable increase in funding in view, it would be a propitious time to revise the formula since no individual State is being faced with a diminution of funds—especially if protective provisions (as has been done) are inserted.

In order to avoid any dislocation as a result of a formula change, the Committee bill provides that (1) the formula change will not be effective until FY 1974, (2) that the present formula will continue to be applicable for the amount of part B funds available for allotment based upon an appropriation in excess of $700 million (the FY 1972 appropriation for State programs was $560 million); and (3) in those programs not having a State allotment formula (e.g., Special Projects and Demonstrations for which $150 million is authorized to be appropriated in FY 1975), special consideration shall be given to those States which would have received a greater allotment of funds under Part B of Title I of the Act for FY 1974 and subsequent years. With respect to this latter provision, the Secretary is required to include in his annual report the results of such computation for each State and the special consideration afforded as a result of such computations.

Under the bill, for part B of title I effective in fiscal years beginning after June 30, 1973, each State will receive for the first $595 million (85 per cent of $700 million) available for allotment under Part B an allocation computed in accord with the formula stipulated in present law. When appropriations exceed that amount, the funds appropriated in excess will be allocated as follows: Two-thirds of the additional appropriation will be distributed on a proportional population basis, a State receiving that portion of the funds so available as the ratio of its population bears to the national population; one-third of such additional appropriation will be distributed on a proportional reversed per capita income factor. Thus, with respect to this latter factor, a State having a per capita income below the national average would receive a greater distribution per capita than a State with a per capita income above the national average.

The Committee expects RSA and the Secretary of HEW to do all that is possible to arrive at a figure which would represent a close approximation of the handicapped population in each state. Only when that type of information is available can there be a truly equitable distribution of funds to states based on their handicapped population.

The Committee directs the Department of Health, Education and Welfare to cooperate with the Census Bureau and all other federal agencies concerned to ascertain this information as soon as possible and to supply it to the appropriate Committees of Congress.

Authorization of Appropriations

The authorizations that are provided by the Senate bill are approximately the same in overall amount as those in the House bill, combining the provisions of Titles I, II, III from the House bill (see table under "Cost Estimate".) The amount authorized for the basic State formula grant program in the Senate bill is $900,000,000 for FY 1973. Within the basic amount, the Committee mandates that 15% of the amount appropriated every fiscal year will be set aside as supplementary funds to provide services to severely handicapped individuals who by virtue of the severity of their handicap are more costly or require a longer duration of services to rehabilitate. Access to these funds is gained after two hundred percent of the average cost of rehabilitation (including counseling) is spent on a given individual case to ameliorate a severe handicap.

Services For Severely Handicapped Individuals

The Committee has chosen to organize the basic program provision of the bill in a manner different from the House version. S. 3987 provides for the basic program as well as the special emphasis for the severely handicapped in the same title, instead of having a separate title devoted to services for the severely handicapped. The Committee's intent was the same as that of the House bill, which was to give more attention to the rehabilitation of the severely handicapped. The Senate bill attempts to achieve this through the earmarking of funds for services for severely handicapped individuals within the basic program, thereby assuring that funds will be available for this purpose and that there is adequate incentive for the states to engage in the rehabilitation of severely handicapped individuals. By requiring that a definite amount of basic program money be spent prior to the drawing on the supplementary funds for services to severely handicapped individuals, the Committee bill attempts to ensure that the client who is severely handicapped will be served in the same manner as one who is not defined as severely handicapped.

Consistent with this philosophy, the first part of title I includes all of the administrative provisions for the rest of the title. This insures that the funds and programs for persons who are handicapped and those who are severely handicapped are treated in a uniform fashion.

State Plans

Part A of title I sets forth the requirements of the state plan, much of which is unchanged or only slightly changed from present law. As in present law and the House bill, a single state agency must be designated, unless the state has a separate state agency for the blind, in which case such separate agency, would be designated to administer that part of the plan which deals with the blind. The bill requires that the basic state agency selected must be primarily concerned with the rehabilitation of handicapped individuals or with education or vocational education needs. Further, the plan must provide for the required state participation in the funding of the program before the Federal share can be released.

The state plan must set forth the priority of selection of individuals for services and must show that special emphasis is placed on severely handicapped individuals. It is the Committee's strong feeling that this emphasis should not, in light of the increased appropriations authorizations contained in the bill, lead to any significant diminution in the number of individuals who are being served in the program under present law.

The bill also provides in the State plan requirements that the Commissioner of RSA shall establish priorities for services and that the order of priorities in the state plan shall not be inconsistent with such prescribed national order. It should be noted that the Committee, in giving RSA greater control over, and therefore accountability for establishing these priorities, does not intend to permit him to place any greater emphasis than at present on services to handicapped welfare recipients, except on the basis of reimbursement through welfare funding under the Social Security Act.

The Senate bill has provided that comprehensive rehabilitation services shall be provided to handicapped and severely handicapped individuals, and has included a limitation of 10% on the total of funds which may be spent under Part B and Part C together within the State in providing such services. The Committee intends that these services be available, but emphasizes that as many individuals as feasible are to be provided with vocationally-oriented services. The Committee has, therefore, included a provision in the State plan which specifies that the State provide satisfactory assurances that vocational rehabilitation funds for comprehensive services shall not be utilized until maximum efforts have been made to obtain assistance, in part or entirely, from such other sources as Medicare, Medicaid and social service programs under the Social Security Act, and local and State programs similar to such programs. The Committee has included this provision to ensure that as much of the funding as possible be available for expenditure on vocationally-oriented services.

The plan must also contain a complete and detailed explanation of the state policies and plans that will be used to carry out the provision of services under part C of the basic program. The specification of these plans and policies and methods of providing these services will include the scope and quality of these additional services and the extent to which they will be provided.

The bill also directs the State to consider in its plan a broad range of services for homebound individuals. It also suggests some of the modes of providing services, such as patient-release programs, which the Committee wishes to see the State consider as possibilities. This is the first time that States have been required to attempt to try to find methods and services, and methods of delivery of those services, from which the homebound could benefit. It was apparent in testimony received by the Committee from a number of witnesses that this group is not now being served, even in a superficial way, under the present Vocational Rehabilitation Act. The Committee is concerned that homebound individuals may be left out of the mainstream of life simply because no priority has been placed upon serving them.

The Senate bill directs the State to provide as mandatory services under the State plan evaluation of rehabilitation potential, counseling, guidance, referral, placement, client advocacy services, vocational and other training services, and family services and to provide the remainder of all vocational and comprehensive rehabilitation services after consideration of eligibility for similar benefits under other programs. The Committee believes that physical and mental restoration services and maintenance during rehabilitation are necessary and very important services, and wishes to ensure that handicapped individuals will be provided these services as soon as possible. The Committee, therefore, has specified that eligibility considerations will not be required where it will delay the provision of such services to any individual and when such delay will mean any discomfort and hardship for the individual.

The State plan must also provide that the State will continue to study new methods of meeting the needs of handicapped and severely handicapped and how these needs may most effectively be met with a view towards the overall effectiveness of the program.

The State plan must provide a periodic review of all those individuals who have been placed in extended employment in rehabilitation facilities, especially sheltered workshops with the aim to remove them from this type of employment and move them into the competitive labor market as quickly as possible. It is not the Committee's position that the sheltered workshop is not an acceptable place for transitional employment for handicapped and severely handicapped individuals. But overwhelming testimony in the hearings suggested that far too many individuals are placed in workshops in a "terminal" employment situation. The Committee believes that this is not a wise course to follow in rehabilitation and wishes to insure that only those without any hope of competitive employment are placed terminally in workshops. There is a body of substantial testimony that far too many states overuse the workshop as a substitute for employment and not enough effort is made to run a vigorous employment placement program. In the committee's opinion, the sheltered workshop has become far too convenient a placement site. The Committee, therefore, strongly believes that maximum efforts should be made to use public and private training and education programs available in the community as alternatives to workshop placements.

Finally, the plan requirements direct the State to include in its report on the operation and administration of the State plan periodic estimates of the population of handicapped individuals eligible for services and specification of the number of individuals who will be served, and the outcomes and service goals to be achieved for such individuals, and an estimate of the service costs. The Committee believes that far too little emphasis has been placed on comprehensive planning and surveying the needs of handicapped individuals in the State, and therefore expects RSA to require the States to place greater emphasis on such concrete planning in the future.

The Committee took full cognizance of the consolidated rehabilitation plan—under this Act and the Development Disabilities Act—provided for in the House bill. It did not feel, nor did it find in testimony, real justification for allowing the States, at their option, to consolidate the two programs. The Committee feels that the Developmental Disabilities Program is more one of habilitation than rehabilitation and that due to its unique features and its recent origins it would not be in the best interests of either program to allow the two plans to be combined, even though in some States, they may be administered by the same agency.

Individualized written rehabilitation program

After hearing extensive testimony and reviewing the data supplied to the Committee by RSA and HEW, it became apparent that the individual client was not being sufficiently consulted in his own behalf in tailoring the rehabilitation program to his individual need. This, plus the obvious need to be certain that the funds authorized by part C of title I were expended in the manner in which the committee had intended, led to the adoption of the formal written rehabilitation program for every individual who is served under the bill. It should be expressed clearly at the outset that the Committee's purpose was in no way to attempt to burden the counsellors and rehabilitation coordinators with unnecessary and cumbersome paperwork. It was felt rather that the requirement of section 102 will work to improve communication between the handicapped individual to be served and the rehabilitation counsellors who sincerely wish to see them served. A written program, with the required annual review of the program by the handicapped individual and the counselor, should serve both as a way to ensure that the rights of the individual are being protected and that the counselor feels satisfactory progress is being made towards a stated goal. The Committee wishes to make clear that this written plan is to serve as the blueprint for the rehabilitation of the severely handicapped individual as well as the handicapped individual. The bill stresses that the program should be developed with a vocational goal always in mind.

Should that goal not be achieveable, it will be up to the agent of the state to demonstrate in writing, after the fullest consultation with the client, beyond any reasonable doubt the infeasibility of achieving a vocational goal. It should rarely be the case that an individual should be judged at the time of entry into the program as needing services only to achieve a non-vocational goal. One of the explicit reasons why the Committee earmaked supplemental funds for serving severely handicapped individuals which could be used only after a certain amount of basic program funds had been expended, was to avoid the arbitrary classification of individuals into categories. The basic funds for vocational or comprehensive rehabilitation services for severely handicapped individuals are provided from the part B allotment.

It is the purpose of the Committee, in requiring an individualized written rehabilitation program to assure that each handicapped individual has an opportunity to participate in the decisionmaking regarding services he is or is not to receive; to have a written understanding that specifies such services and the objectives they are to achieve; to be able to obtain information on the progress he is making on the basis of the program; and to rewrite jointly with the rehabilitation agency the program when it is apparent that objectives cannot be achieved. It must be demonstrated beyond a reasonable doubt that the individual cannot achieve any vocational goal, with the full consent of the individual in the written program before independent living goals can be acceptable.

The individualized written rehabilitation program represents an understanding between the vocational rehabilitation agency and the handicapped individual. It is expected that its terms will be carried out, unless there are special mitigating circumstances. In such cases it is expected that alternative service approaches or timetables will be sought and that rehabilitation objectives previously agreed upon will not be altered unless renegotiated by both parties. Each handicapped individual is to have the right to review his plan at least annually and together, with the rehabilitation agency, to revise the program terms if the objectives of the programs are not being achieved.

The Committee expects that the Commissioner will utilize the written programs as a means of assessing the effectiveness of rehabilitation services in achieving the stated objectives. The Committee realizes that there may be mitigating circumstances as to why indicated objectives are not achievable. These might be, for example, lack of available funds or services. In his annual report to the Congress on the effectiveness of rehabilitation services, the Commissioner shall include specifically his assessment of the degree to which rehabilitation objectives are or are not being achieved. This shall document the reasons why such objectives have not been achieved and recommend corrective legislation or propose appropriate administrative action.

Scope of Vocational Rehabilitation Services

The scope of services that are required under the bill and the services which may be provided are specified in an operative provision of the bill, rather than in a definition provision, as in present law and the House bill. Added to those presently in existing law and the House bill are the individual written rehabilitation program, which has been described above; the access to client advocacy services which must be fully explained to the individual in conjunction with the formulation of his written program; follow-up services, which refer to services given normally for one year after case closure; and follow-along services, which refer to services which may be necessary, and are provided for longer than one year.

The Committee also limited the use of program funds for individuals who are pursuing higher education under paid for by this program to those for whom all alternative means of funding have been sought and were not available. The Committee feels that the costs for instruction at colleges should be borne by some other source of funds if in any way possible. Statistics provided to the Committee show that many states do not limit the amount that may be spent on a handicapped individual's higher education, thus diminishing basic program monies.

In view of the fact that the resources available to treat handicapped individuals and to provide for their rehabilitation will obviously not be unlimited in the foreseeable future, it is the intent of the Committee to stress services to those with the most severe handicaps.

While it is fully recognized that there is justification for serving those individuals whose only handicap may be their environment or social disadvantagement, the Committee feels that to the extent possible, these individuals who have no other handicap should be served under programs already in existence for their benefit—manpower training programs, Office of Economic Opportunity Act programs, welfare (WIN) programs.

The Committee also notes that statutory age limitations were removed from the program in the 1965 Amendments to the Vocational Rehabilitation Act. The current regulations are clear in their intent that planning for individual clients should begin when it is determined that the point at which vocational training is appropriate has been reached. Information received by the Committee indicates that some state agencies are still adhering to the prior criteria and thus anyone under the age of 16 years old, or the age up to which school attendance is required, is not being served. It is the Committee's view that services which enhance the long-term vocational potential of an individual should be provided as soon as they will be effective. Exclusion of all children below the age of 16 years may be arbitrary, and the Committee believes that the Rehabilitation Services Administration and the state agencies should be cognizant of the fact that prospective clients may benefit from services and planning at an age earlier than 16. The Committee expects that regulations implementing this Act will make clear that such individuals are not to be excluded based solely on the age factor.

Innovation and Expansion Grants

The Committee, as well as placing the authority for making innovation and expansion grants in RSA, has also allowed each state to establish project priorities within the purposes of statutory provisions with respect to no less than 50 percent of its formula allotment. With respect to the remaining allotment funds, the Commissioner may fund projects which he deems to be of a priority nature. The bill directs that these grants should be used to improve and expand services for the classes of individuals for whom rehabilitation is particularly difficult, including those whose rehabilitation may be retarded by socioeconomic factors, or who have other serious problems in connection with their rehabilitation. These grants are also expected to be used to improve services and programs for the severely handicapped. In order to provide incentives, Federal payments for these projects are set at the level of 90 percent and are to be used particularly for those individuals whose rehabilitation needs are also the responsibility of other state or federal agencies, and the allotment for each State is determined on a formula based on population (with a $50,000 State minimum). The Committee feels that too liberal an interpretation by RSA of the "in kind" provision regarding the 10 percent non-Federal share could, in some cases, result in less total services being given to handicapped individuals requiring them and, therefore, urges the special care be given with respect to the evaluation of the in-kind component.

Client Advocacy

The hearing testimony pointed up a serious lack of communication between the counselor and the client, and the administrator of a facility and the client, and the inability of the average client truly to understand the maze of bureaucratic procedures in the program. The Committee felt strongly that this was a marked deficiency in the program which must be remedied. To this end, the individualized written rehabilitation program was established and mandated as a basic service that must be provided to the handicapped or severely handicapped individual. This step insures that the client will understand what is being done, what he can expect to be done in his behalf, and what his alternatives are if his progress is not satisfactory.

The Committee felt, however, that all this awareness by the client may not be of great value unless the system could be made to work for him not on or at him. The Committee recognizes that many handicapped and severely handicapped individuals need a way to have the system translated to them in terms they understand, and conversely, have the system understand their wishes through the same type of translation. The client advocate method was agreed to as a viable method and endorsed by virtually every witness that appeared before the committee.

In view of that testimony, and the Committee's belief in this type of system as an excellent way to achieve this goal of translation of the system to the client and the translation of the client's needs and desires to the system, the client advocacy system was included in the bill. There is no similar provision in the House bill or the present law. It is intended that the function to be performed by the client advocacy system set up with respect to all programs and projects funded under the bill is to seek to resolve difficulties that the client is having with the program as quickly and amicably as possible.

The Committee feels that the advocate must also be responsive to the program; that it is within his function to act as liaison between the individuals responsible for the programs and treatment functions as well. In order to do this and do it well, the advocate of necessity must have prompt and reasonable access to the appropriate personnel in the state agencies and the regional and central offices of the Rehabilitation Services Administration.

The advocate is further charged with the responsibility to report fully his activities to the Commissioner, including any recommendations that he may have which would make this program more responsive both for the client and to aid the administration of the program. The state agency shall make every effort that arrangements are entered into, where possible, with institutions of higher learning in order to draw upon graduate students in clinical training in certain disciplines to assist in performance of the client advocacy function. The advocate shall at no time be a client or former client of the state agency nor an employee of the state agency whose task it is to administer the plan.

The Committee fully recognizes the fact that a close relationship between client and and counselor is most important for a successful rehabilitation program. It is not intended that the advocate should stand in the way of that relationship, nor supplant or reduce it in any way. The function of the advocate is merely to see that the written rehabilitation program is determined and carried out to the benefit of the handicapped individual and that complex issues which might arise should be minimized quickly. Access to the advocate must be assured if he is to aid the program and the client. The client must know that he is available; the state agency, therefore, is required to make sure that the advocacy process is available to the client as part of the process of formulating his written rehabilitation plan. It is the Committee's firm belief that the advocate can work actively with the client and the agency and that a better program should result.

The proposal for a client advocacy system to serve vocational rehabilitation clients has its genesis in the growing number of hospitals which are establishing patient advocates to attempt to give the institutionalized person a sense of being able to affect the environment in which he is confined and the rules and regulations governing his day-to-day existence. The Committee believes that the ombudsmen-type of approach is ideally suited to the structure of the rehabilitation program at this time, and further believes that this program, if successful, could be the forerunner of advocacy-type programs in numerous federal, state and local social services programs.

The Committee envisions that a typical advocacy system for a medium-sized city could be structured approximately as follows:

1. Out of the funds reserved for establishing client-advocacy systems, the state agency could hire two full-time advocates, who might be beginning their careers in fields such as law, social work, public administration, or psychology, and 1 or 2 clerical assistants.

2. The state agency and the advocates hired for the system in this city could then contact the local colleges and universities and attempt to arrange for graduate students, engaged in clerical programs, to carry out their academic responsibilities for a given period of time (a quarter, a semester, or even a full year) by working as "assistant" advocates in the system and operating under the direct supervision of the full-time client advocates. They would very likely be assigned responsibility for preliminary interviews with client complainants and the initial follow-up to determine whether or not a *prima facie* case exists. After a sufficient period of experience, such an assistant advocate might well be assigned the responsibility for conciliating particular grievances. At all times, however, they would be in contact with the full-time advocate supervising their work.

3. Based upon a prototype for this sort of program carried out quite recently, there is strong reason to believe that universities would be extremely interested in placing graduate students in such a program. This would have a double benefit: first, of providing energetic, committed, and talented young professional students to invigorate the system; and second, of involving in the advocacy system, on an informal basis, all of the good services and offices available from any college or university and particularly from the instructor or professor responsible for the clinical clerkship of the "assistant" client advocate. This academic relationship should provide an objectivity to the process because the graduate students would not be remaining in the program long enough to develop a vested interest in any particular bureaucratic structure or relationship.

4. This advocacy system—blending the expertise of the full-time advocate and the objectivity, freshness of approach and energy of the graduate students—would be responsible for handling client grievances for all of the rehabilitation programs and projects in the particular city. It is believed that after the break-in period, a substantial amount of expertise will be developed in handling clients grievances and that resolution, particularly in cases of poor communication and misunderstanding, will be quickly forthcoming.

5. Moreover, it is anticipated that the very existence of an objective and concerned client advocacy system will serve to produce considerable interpersonal sensitivity on the part of the rehabilitation programs after they have had initial experience with an effective grievance investigation and resolution process carried out by the system. Thus, although at first the case load will undoubtedly be substantial, in time this should level out and probably drop once the system proves its effectiveness in securing equity for the client—in an even-handed manner with sensitivity to the problems faced by the buraeucracy as well—to the satisfaction of both individual clients and rehabilitation projects and programs.

Experimental Appeal Projects

During the course of the hearings, many witnesses were asked their opinion of the present appeal system as to its adequacy and fairness. The Administration witnesses admitted that the appeal process may not be as well known to the client as it could be. Many of the other witnesses felt that the process was too slow or not effective enough. The Committee bill deals with this issue by setting up a system of experimental appeal projects. It is the Committee's intent that where these systems are not put into use, the system currently provided for in regulations should continue to be in effect.

The types of appeals that the Committee wishes to see implemented as experimental projects are four; a close examination of the current system in a state of appropriate size to give a wide range of experience; a system of appeals to a regional office level within the Department of Health, Education, and Welfare; appeals from the actions of one rehabilitation facility which is providing evaluation and other services to another similar facility; and a peer review in connection with the same type of facilities by counsellors and rehabilitation coordinators in another facility. The Committee feels that these experimental projects, when completed and reported on, will benefit the agency officials and the Congress in better understanding the types of problems clients have and how they should be best resolved in a formal setting.

The Committee bill directs that these experiments be carried out in representative geographical areas. It is the intent of the Committee that these geographic areas should be large enough to provide a cross section of the program, but it does not wish them to be carried out in extremely large areas with dense population since this would complicate implementation and delay analysis of the results.

Part C—Supplementary Funds for Vocational and Comprehensive Rehabilitation Services for Severely Handicapped Individuals

The bill sets aside 15 percent of title I appropriations for services that are appreciably more costly and of longer duration for severely handicapped individuals. There are no such special funds in present law, and the House bill deals with the matter of the severely handicapped in a separate title with a separate appropriations authorization. The Committee chose this approach to ensure maximum incentive for the states to serve more severely handicapped individuals than they are now. These supplementary funds are to be used for a severely handicapped client only after 200% of the average rehabilitation cost in the previous fiscal year is exceeded based on the severity of the individual's handicap. At the same time, it is not the intent of the Committee that these funds be used strictly for individuals with independent living goals.

Witness after witness testified that the severely handicapped badly need services, but that those services should not be oriented towards any defined goal other than those provided under the basic program. The Committee feels strongly that severely handicapped individuals do not want goals any different from those wanted by individuals defined as handicapped, but that because the nature of their handicap those goals may be more difficult to attain and may require more costly services and services for a longer duration of time. The severely handicapped do not want, in the main, preferential treatment, but only the chance to compete fairly with others for vocations of their choice. Unfortunately, the severity of their handicap makes it necessary for them to undergo a more prolonged period of rehabilitation, and sometimes at a greater cost. The Committee feels that the method provided in the bill will ensure the delivery of those more costly necessary services.

The average cost referred to in this part, is the average amount that was expended on a successful rehabilitation case in the preceding year. This cost enlarged by 200% is the amount that must be spent from part B funds before part C funds can be used in the rehabilitation of a severely handicapped individual.

While these part C funds are authorized on a state-by-state basis, the Committee fully recognizes that the funds may not be most effectively spent if a state spreads them into all its political subdivision. It may be more effective for funds for certain programs to be concentrated in those areas where significant numbers of severely handicapped individuals reside and where the facilities and services needed for their rehabilitation are available. Thus, the state plan with respect to severely handicapped individuals does not require that they be served on a state-wide basis using part C supplementary funds.

The Committee also recognizes that due to a lack of experience with this type of program, and the amount of time allowed in the bill (120 days) for submission of the addendum to the state plan, the regulations issued for determining when extended and costly services are due to a severe handicap (rather than, for example, merely to pay for higher education) under this part may, of necessity, be generalized until some experience is gained. It is expected that after the first year of operation more definitive regulations can, and will be drawn. The Committee expects that the states and the Rehabilitation Services Administration will make every effort to expedite the refinement of the necessary regulations, and to provide, and operate under guidelines, which will lead to excellence in the provision of these services as soon as possible.

The Committee bill, therefore, directs RSA to report to Congress in the annual report on the new program provided for under part C. It is hoped that this will include any further recommendations for changes in the law that will help facilitate the efficient provision of services to severely handicapped individuals. It is also expected that in such report, particular emphasis will be placed on the ways in which the independent living goals part of the program is being carried out.

Funds are distributed under this new part C program on a 85/15 percent Federal/non-Federal grant basis determined by a formula based on population multiplied by the allotment percentage.

TITLE II: SPECIAL FEDERAL RESPONSIBILITIES

Title II of the Committee bill contains all special programs, grants and related service activities which are not carried out by the State rehabilitation agency, but provide the basis for improvement of services and expansion of services to special target populations of handicapped individuals. This title incorporates, with changes and additions the following provisions from the Vocational Rehabilitation Act: Section 4(a)(2), with the exception of expansion grants; section 12, construction of facilities and initial staffing programs; section 13, programs related to vocational training services to handicapped individuals (including maintenance payments during training); section 16, the National Center for Deaf-Blind Youths and Adults; and section 17, the special program for handicapped migratory and agricultural workers; and provides new authority for Rehabilitation Centers for the Deaf, Centers for Spinal Cord Injuries, project grants for services to older blind individuals, and project grants for services to individuals with end-stage renal disease.

New Target Programs

The bill concentrates on providing flexibility under the basic program so that all individual needs may be served, and on building in procedural safeguards and emphases throughout the bill to ensure that the most severely handicapped individuals are able to receive services through rehabilitation agencies. Yet the Committee is aware that segments of the population of handicapped individuals have special needs, and that funding is necessary to focus attention on these needs. The committee bill therefore, includes a limited number of categorical programs to target Federal money on these special needs and to demonstrate improved methods of providing services. The Committee does not anticipate that emphasis on these categorical programs will be continued on a long-term basis, but has provided limited funding for special purposes in order to improve and expand services, and to demonstrate an effective way of providing them.

Rehabilitation Centers for Deaf Individuals

Section 206 provides authority for grants and contracts to expand and improve vocational and comprehensive rehabilitation services for deaf individuals, and specifies that this may be done through the establishment of centers for this purpose. The comparable section in the House bill authorizes Comprehensive Centers for Deaf Youths and Adults to demonstrate methods of providing the specialized services needed to rehabilitate low-achieving deaf persons. The Senate bill has placed a number of limitations on these centers which will be detailed below.

During hearings on H.R. 8395 in the Senate, the Commission was told that rehabilitation services do not always meet the needs of deaf individuals. Quite often counselors are not available who can communicate with deaf clients, and services for individuals with severe communicative disorders which will deal comprehensively with the individuals total needs are seldom provided. Witnessse from the deaf community also reported to the Committee that there were limited training options available for deaf individuals who leave secondary schools with no technical skills, and thus have great difficulty finding employment. This is especially a problem for the more severely handicapped deaf individual with limited communicative abilities and some behavioral disorders. Witnesses testified that while facilities exist for higher education and post-secondary technical training for the deaf individuals, academic post-secondary training is not feasible for individuals with severe handicaps and existing facilities such as Gallaudet College, the National Training Institute for the Deaf, and facilities at Hot Springs, Arkansas, and Delevan, Wisconsin, cannot fill the need. For individuals who are older, specialized training programs are needed, separate from other programs for handicapped individuals who do not have such severe communicative disorders.

The Committee, however, also heard testimony questioning the wisdom of creating separate facilities which would further segregate certain deaf individuals from the deaf ppoulation and from the society at large.

The Committee recognized the need to act to provide assistance in coping with the severe problems of training for deaf individuals with behavioral and communicative limitations. However, the Committee is concerned that the creation of permanent facilities for "low-achieving" deaf youths and adults, especially for young deaf individuals, may provide an additional avenue by which the existing educational system might further dispose of those individuals who are more difficult to provide with adequate services. The Committee, therefore, has included in the bill a program for grants and contracts for the improvement of services to deaf individuals who are 16 years of age or older who have passed the age of compulsory school attendance for the State in which they reside. The Committee sees this program as a demonstration program, and has specified that one means by which this demonstration might be carried out is through the establishment of demonstration Rehabilitation Centers. This authority includes training of necessary personnel, and the Committee believes that emphasis within training should include counselors for rehabilitation agencies and trained counselors who can work with individuals, especially younger individuals, through the school system.

The Committee has limited this authority to individuals who are beyond school age because it did not wish to provide other program authority for facilities and services which should be available through education programs, but are not. It therefore expects to re-examine this entire question of the adequacy of the elementary, secondary and postsecondary educational system for deaf individuals when authorization of the Elementary and Secondary Education Act comes up for renewal in the next session of the Congress. The Committee further takes note of the fact that several bills have been introduced in the Senate which would expand federal assistance for the education of handicapped individuals, including authority for continuing, adult and higher educational services, and it suggests that these bills are appropriate vehicles for reforming and improving the educational system so that the needs of deaf individuals are met. However, in order to take an initial step in the direction of improving these services for those generally already beyond the reach of the education system, the Committee has provided authority for demonstration programs for improvement of rehabilitation programs for the deaf through the creation of centers or otherwise, and has required coordination in the planning of these programs between the Rehabilitation Services Administration and the Bureau of Education for the Handicapped within the Office of Education.

National Centers for Spinal Cord Injury

Section 207 contains a program to support the establishment and operation of National Centers for Spinal Cord Injuries. This section corresponds to a similar section in the House bill which provided support for demonstration of methods of specialized intensive services in the treatment of spinal cord injuries, training of personnel, and research in rehabilitation methods and related activities to expand services or improve public awareness of the nature of the problem of the spinal cord injury. The Senate bill, however, differs substantially from the House provision.

During hearings on H.R. 8395, testimony from experts in the field of spinal cord injury such as Dr. John Young, Dr. Henry Betts, Dr. Edward Lowman, and Dr. Howard Rusk suggested that a broader program than the research-oriented program contained in the House bill was needed. Of particular note in this testimony was stress placed on the need for a regional program of spinal cord injury centers which would have the capacity of providing vocational and comprehensive rehabilitation services through a team of multidisciplinary staff, and which could provide acute medical care. This testimony also emphasized the need for a coordinated system of provision of services, and for cooperation among all organizations and agencies which provide services to individuals with spinal cord injury, and the need to provide assistance to help cover the cost of services.

The Committee believes that the testimony on the effectiveness of a regional network of spinal cord injury centers was compelling, and that the effectiveness of such a system should be tested. Often the effectiveness of treatment and the ability for restoration depends entirely on prompt and thorough treatment at the site of injury and immediate care following. Yet current methods in general use for providing services to the spinal cord injured cannot provide this immediate care because of a lack of accessible facilities, equipped with modern equipment and a multidisciplinary team of attendants. Therefore, the special target program in the Senate bill authorizes a program of grants and contracts to assist in the forming of a national network of centers, for the delivery of rehabilitation services and acute medical care, to assist in meeting the costs of services, and to assist in the development of methods for provision of services, and achieving cooperation with all organizations and agencies concerned with spinal cord injury.

In order to test the effectiveness of a regional system, preference is given to proposals which will establish on a regional basis, a multidisciplinary system of providing rehabilitation services, which will test and evaluate the benefits and cost effectiveness of such a regional system. The Committee was impressed by the testimony of witnesses about the development of new techniques, methods and equipment which are able in many instances to recapture much of the ability the individual has lost through spinal cord injury, and thus the bill gives emphasis in the awarding of grants and contracts to the evaluations of such methods, and the evaluation of new methods of outreach and advocacy in broad social areas so that individuals with spinal cord injuries will not continue to be limited by societal barriers.

Services for end-stage renal disease

Section 208 of the bill authorizes the third target program—for individuals suffering from end-stage renal disease. This section authorizes the Commissioner to make grants to States and nonprofit organizations and agencies for paying the costs of special services (including transplantation and dialysis), artificial kidneys and supplies necessary for the rehabilitation of individuals suffering from end-stage renal disease. This section is identical to the program authorized by the House bill.

Both transplantation and kidney dialysis, and special services and supplies, are included as services which may be paid for under this section. Funds authorized under this program should be utilized to pay for physical restoration services rendered to patients in need of care. The Committee believes there is a critical need for these services and that expenditures under the program should be closely regulated to assure that the highest quality services are available at the most reasonable cost. The Committee does not believe that funds available under this section should be used to pay for additional facilities, training of personnel or research, but that other funding sources should be utilized for such activities.

Testimony presented on behalf of this provision emphasized that many more lives could be saved if individuals were able to find assistance to pay for treatment. Currently, of the 7000–8000 patients who could benefit from dialysis or transplantation per year, only 2,000 individuals are able to receive it because of limitation of financial assistance. According to these same witnesses, kidney treatment facilities, training programs and treatment teams have been established throughout the country through efforts made by the Regional Medical Program funded under the Public Health Service Act. The last link in this system is assistance to the patient so that he may be able to afford this costly, but life-saving treatment.

The Committee is aware of the fact that rehabilitation agencies in as many as 42 states provide services to individuals suffering from endstage renal disease. Often, however, these agencies' ability to help an individual depends on the individual's having a source of financial aid, whether it is private income, other private sources, or the Medicaid program. The Committee, however, believes that it is a tragedy and counter productive from the point of the individual and society that individuals must give up their source of livelihood in order to become eligible for financial assistance through Medicaid. While the Committee recognizes that a national health insurance program, or insurance covering catastropic diseases, may be a more appropriate method of providing the much needed assistance so that individuals may be saved through transplantation or dialysis, there is an immediate unmet need to help thousands of individuals who could be saved through dialysis or transplantation, and it furthermore believes that the rehabilitation programs offers the comprehensive counseling, training and job placement services that are often needed by individuals suddenly faced with kidney failure.

Rehabilitation of older blind individuals

Section 209 authorizes a fourth target program included in the Senate bill—to provide rehabilitation services to older blind individuals (defined as age 55 and older). There is no similar provision in the House bill. The Senate provision contains a State formula grant program, uses a formula of population multiplied by the allotment percentage unsquared and earmarking 10% of all sums appropriated to be used for a special demonstration program for demonstrating special services needed to rehabilitate older blind individuals, for training personnel for research and for related activities which will expand services or improve public understanding of problems confronted by older blind individuals. More than 75% of all blind individuals are middle-aged or older, as a result of the fact that many individuals suffer severe vision impairment later in life, their blindness often accompanying or precipitated by some other health problem. This is especially true in the case of diabetics. Estimates show that 1 out of every 6 blind individuals was blinded by diabetes. Witnesses pointed out that becoming blind late in life often produces a total change in an individual's life, yet avenues to employment are closed off, rehabilitation services are more difficult to obtain, and sources of other support are limited. In addition, they cited a need for mobility training services, and comprehensive counseling for which social welfare agencies will not provide money. Recognizing the size of the population of older blind individuals, and the severity of their handicap and agreeing with the needs pointed out above the Committee provides authority for a State grant program, and for a specialized demonstration program to help meet these needs.

Provisions for facilities

Section 200, 201, 202, 203, and 212 of the bill contain provisions relating to rehabilitation facilities, including construction and initial staffing grants, annual interest grants for mortgages, project grants for vocational training of handicapped individuals within rehabilitation facilities including weekly allowances for such individual while undergoing vocational training programs, and general grant and contract requirements for facilities. Provisions relating to construction, project grants and annual interest grants were contained in the House bill; the only changes in these sections made by the Senate are technical, or reflect increases in authorizations or rates of allowance payments, made necessary by cost of living increases.

Availability of Mortgage Guarantees for Rehabilitation Facilities

The Senate bill, however, has deleted a provision contained in the House bill relating to mortgage insurance to multipurpose rehabilitation facilities, and has replaced this provision with a provision for loan guarantees for modernization and construction of rehabilitation facilities. This deletion was based upon reliance on a Department of the Treasury report advising the Committee that loan guarantees for rehabilitation facilities are available under the Public Health Service Act (42 U.S.C. 291j–1), and therefore, the mortgage insurance provision contained in the House bill is not necessary. The agency comment from the Department of the Treasury also stated the administration was strongly opposed to Federal guarantees of tax-exempt obligations for the following reasons: that guaranteeing such obligations results in greater Federal tax revenue loss than the corresponding interest savings for the borrower; that the guarantee of such obligations disproportionately benefits investors in high Federal income tax brackets, that guaranteed obligations heighten and competition for limited funds available to State and local borrowers from high tax brackets; that guaranteed obligations heighten the competition projects for which direct Federal credit aid is not provided; and that the guarantee of such obligations conflicts with Federal debt management policy by creating a class of tax-exempt securities which the Federal Government itself is prohibited from issuing by the Public Debt Act of 1941.

The Treasury Department letter cited the new Part B of title VI projects for which direct Federal credit aid is not provided, and raises the cost of financing other local interest savings for the borrower, that the guarantee of such obligations under the Public Health Service Act (added by Public Law 91–296), which authorized the Secretary of Health, Education and Welfare to provide credit assistance and subsidize interest rates to public and private agencies for modernization and construction of medical facilities under which rehabilitation facilities are specifically eligible as a sufficient source of credit assistance for such facilities.

Representatives of the International Association of Rehabilitation Facilities point out, however, that the Public Health Service Act provisions relate only to rehabilitation facilities which are connected with a health or medical facility supervised by a physician, and that the need for construction of facilities is so great that additional Federal assistance is clearly necessary. That being the case and since the Committee deleted the mortgage insurance provision in reliance on the availability of loan guarantees under the Hill-Burton program, an amendment to section 202 of the bill would seem to be in order.

Annual interest grants

The Senate has authorized the Secretary to make annual interest grants to States and public and nonprofit agencies to reduce the cost of borrowing from other sources for the construction of rehabilitation facilities. For the purposes of this section, there are authorized to be appropriated such sums as may be necessary for the payment of the grants. However, the section places a limitation on the total amount of interest grants which may be paid as follows: the total amount shall not exceed $1,000,000 for the fiscal year ending June 30, 1973, $2,000,000 for the fiscal year ending June 30, 1974, and $4,000,000 for the fiscal year ending June 30, 1975. Grants paid under this section may be made to any rehabilitation facility for a period not to exceed forty years. Therefore, the total amount which is authorized to be appropriated for this section must be calculated over the forty-year time period, thus amounting to $1,000,000 in each of forty years, or $40 million as a result of the amount authorized for the fiscal year ending June 30, 1973; an additional $1 million in new monies for the fiscal year ending June 30, 1974, or $40 million; and an additional $2 million for the fiscal year ending June 30, 1975, or $80 million.

Total amounts so authorized are $160 million over the fixed time period of forty-three years.

General provisions

The Senate bill also combines in one section (212) all general requirements for grants and contracts approved under title II. This section contains provisions relating to: uses of facilities constructed under Federal contract (including a prohibition of use for religious or sectarian activities), uses of Federal funds, submission of annual reports, inclusion of excellence of design and architecture in plans for construction, conformance with the Architectural Barriers Act (P.L. 90–480), conformance with the Davis-Bacon Act (wage payments and labor standards), payment provisions, residential accommodations in rehabilitation facility construction, and general conformance with the State plan for the provision of vocational and comprehensive rehabilitation services.

Most of the general provisions of section 212 were contained in the House bill, and in existing law. However, the Senate bill emphasizes the importance of facilities being in compliance with occupational health and safety regulations, and with the provisions of the Architectural Barriers Act. The Committee heard repeated testimony during hearings on this legislation that many of the rehabilitation facilities do not meet minimum standards for safety of the individuals to whom they are providing training or evaluation services. In order to meet this concern, the Committee has directed the Secretary to prescribe regulations which bring these facilities into compliance with the Architectural Barriers Act, and with occupational health and safety standards prescribed by the Secretary of Labor. The Committee has also included a specific prohibition on use of funds for construction of such portion of a facility as will be used for religious worship or sectarian activities.

The Committee substitute deletes authority for the National Policy and Performance Council which was contained in existing law and in the House bill. The Committee has expanded the authority of the National Advisory Councils (and renamed it), mandated the establishment of State Advisory Councils, and directed the Secretary to undertake an expanded program of program and project evaluation, and, therefore, believes that this Council is no longer necessary.

Special projects and services for migrants

Section 204 of the Committee bill contains all authority provided to the Commissioner for making grants for special and demonstration projects, which hold promise of expanding and improving rehabilitation services to handicapped individuals. This section is comparable to a similar section in the House bill for special projects, and authority contained in existing law. Both the Senate and the House bill have included under special projects a provision for grants for vocational and comprehensive rehabilitation services for migratory agricultural workers (seasonal farmworkers are also specified in the Senate bill), a provision contained in section 17 of existing law which has never been funded. The House bill contained a provision which allowed the Secretary to allow funds appropriated for other parts of this Act to be used for project grants for migrant and seasonal farmworkers if sums appropriated for the special projects section were not sufficient to fund 66⅔% of grants approved by him for services to such workers. The Committee believes strongly that the provision of services to migrants and seasonal farmworkers is a priority. However, it also believes that providing authority to the Secretary to transfer funds across program lines is an unwise precedent and is not an effective method of insuring funding of this program since project applications need not be approved even if meritorious. In order to achieve the required result, the Senate bill therefore earmarks 10% of all sums appropriated for special projects to be used for projects to provide vocational and comprehensive rehabilitation services to handicapped migrants and their families, and provides an additional authorization, if sums appropriated for special projects are not sufficient to result in the availability of $10 million for such services.

The Committee is well aware of the difficulties faced by migrant and seasonal agricultural workers in receiving their fair share of social services, and urges the Commissioner to search for innovative projects which may serve as models for other social service delivery to such individuals. The Committee believes that difficulties of delivery of such services can be overcome, and considers the implementation of this provision as a priority.

Special projects, in general, are an important method of experimentation and development of new patterns of service delivery, and should lead to the development of techniques which can greatly improve services to handicapped individuals throughout the nation. The Committee has directed the Commissioner to give special emphasis to projects which will improve such services to severely handicapped individuals, and believes that projects ought to be awarded with distinct goals in mind for this improvement, and for the extension of techniques, methods and patterns of delivery of services to the basic rehabilitation program throughout the States.

National center for deaf-blind youths and adults

Section 205 continues the authority for the construction and operation of the National Center for Deaf-Blind Youths and Adults, and authorizes for fiscal year 1973 the appropriation of $5 million for construction and $800,000 for operations; for fiscal year 1974, $1.2 million for operations; and $2 million for operations in fiscal year 1975. This section is identical to provisions contained in the House bill, with the exception of specific authorizations. The amounts authorized were requested during the hearings as required amounts to complete construction of the National Center and provide sufficient operating funds. The Committee was impressed with the plans for the Center and the range of services which this Center promises to provide for deaf-blind individuals. Recognizing that this Center will not be able to to serve the estimated 10,000 deaf-blind population of the country, the Committee would urge that this Center and the Industrial Home for the Blind undertake plans to ensure that techniques and methods of providing services to deaf-blind individuals developed in the Center will be transferred to the entire population of such individuals. The Committee therefore expects the Center to enter into cooperative and coordinated arrangements with schools and other institutions which provide services to individuals who are both deaf and blind so that these institutions may further benefit from the experience of the Center.

Advisory councils

The Senate bill replaces the National Advisory Council on Vocational Rehabilitation of Handicapped Individuals, expanding its functions and its membership, and creates mandatory State Advisory Councils. The 12-member National Advisory Council under present law has been expanded to 20 persons, 10 of whom are to be selected from among leading medical, educational or scientific authorities outstanding in rehabilitation, and 8 of the 20 are to be handicapped individuals, or individuals who have received vocational rehabilitation services. The House bill increased membership on the existing National Advisory Council and retained its function to review applications for special projects. However, testimony indicated that the Council as a panel has not reviewed applications for some time, and, as a matter of fact, has been meeting only on an irregular basis, and the Senate bill does not provide for such application review function for the Council.

The Committee believed that a panel of such leading authorities and experts would be extremely knowledgeable about needs within the field and therefore has provided this Council with broad advisory powers for planning, determination of priorities, review of programs operation, and evaluation of effectiveness of the programs administered by the Rehabilitation Services Administration. The Committee is particularly interested in the effectiveness of the program in meeting programs goals, and expects that this Council to be well equipped to carry out such an evaluation. The Committee has expanded the research authority for the Rehabilitation Services Administration, and has emphasized throughout this Act a need for priority of services to the severely handicapped and greater importance to be given to biomedical engineering and applicants of research. The Committee expects the National Advisory Council to play an active role for the defining and carrying out of these priorities, and has directed the Council to submit annual reports to the Congress on the results of its reviews.

Throughout the hearings, testimony was given on the lack of consumer input at the State level and individual program level. The Committee believes that this form of input is necessary and extremely valuable at all levels of government, and therefore has provided for mandatory State Advisory Councils which will advise the Governor on the State plan, provide advice on long-range planning and evaluation, and make a report of recommendations to the Governor annually on the effectiveness of the State program, areas in which services should be extended, and the need for change within the program. One percent of the total State allocation, within the ranges of $50,000 to $100,000, are to be used to carry out the activities of the State Advisory Councils. The Councils will be appointed by the Governor, from individuals with experience in the rehabilitation program and in education, representatives of labor and management, and persons who are knowledgeable about the employment of individuals who have received vocational rehabilitation services. The Committee has specified that at least a majority of the Council must be handicapped individuals or individuals who have received vocational rehabilitation services. The Committee expects that Council to oversee the implementation of the Rehabilitation Act of 1972 within its State, and believes that the most valuable role this Council could play would be to advise the State agency and local programs on methods of including and training more severely handicapped individuals and undertaking a more active role in the placement of such individuals in the competitive job market. The Committee expects that the Councils will report on the results of this activity in the reports they are required to submit annually to the National Advisory Committee, and that the National Council will summarize these activities in their report to the Congress.

The structure of the State councils, and their interaction with the National Council and with State and Federal authorities, is patterned after the State Council structure found in the Vocational Education Act of 1968, a structure which has proven successful in the education field.

TITLE III—RESEARCH AND TRAINING

Title III of the Senate bill consolidates all research and training authority in existing law and includes it in one title to be administered by the Commissioner of the Rehabilitation Services Administration. This title is comparable to Section 509(a)(1) of the House bill, but, unlike the House bill, specifically mandates four major priorities: the establishment and support of Rehabilitation Research and Training Centers, the establishment and support of Rehabilitation Engineering Research Centers, the conduct of a program for spinal cord injury research, and the conduct of a program for international rehabilitation research and the international exchange of personnel and technical information.

The Committee bill places authority and control over the expenditure of research and training funds in the hands of the Commissioner of the Rehabilitation Services Administration in order to ensure that funds that have been authorized for the purposes of research in rehabilitation methods and techniques and training of specialized personnel for delivery of such services to handicapped individuals will be used for only that purpose. The Committee emphasizes that rehabilitation of handicapped individuals is the only thrust of the Rehabilitation Act of 1972 and this rehabilitation involves complex problems and specialized needs which do not necessarily apply to the general population of persons served by other HEW programs. Until these problems have been solved and these specialized needs have been served, the Committee does not wish to have research and training funds expended to solve generic problems. With the tremendous technological, scientific, and medical knowledge within the United States, there is no excuse for failure to make full use of that knowledge because of shifting priorities and piecemeal efforts. The Committee has emphasized throughout the bill the need for the Rehabilitation Services Administration to expand its services to severely handicapped individuals, and to improve the effectiveness and focus its services to those who are not so severely handicapped.

The Committee expects the States through title I of this Act to place major emphasis on services to the severely handicapped. There is no question that to carry out this purpose, a tremendous increase in knowledge, innovative methods, devices and techniques will be needed. In order to provide the technical assistance that will be necessary a substantial and imaginative research program must be undertaken. The Committee expects the Rehabilitation Services Administration to be on the forefront of major technological breakthroughs in biomedical engineering and applied technology which would ameliorate many of the handicapping conditions of the individuals it serves. In the future, the Committee will ask that Administration to provide, in its required annual report on research, full explanation and justification for its activities, goals and priorities in the areas of research and training, focusing on the targeting of research and personnel on particular problems affecting particular disability groups.

The Committee wishes to stress that it firmly expects the research orientation to be aimed at overcoming the disability itself, not just solving a few minor service-related problems and that the goal should be enabling the handicapped individual to be employed or to receive further training or education, whenever feasible.

Division of Research, Training, and Evaluation

In order to enable the Rehabilitation Services Administration to carry out this charge, the bill has established within that Administration a Division of Research, Training and Evaluation, and within such Division a Center for Technology Assessment and Evaluation. The Committee has provided the Administration with authorization for 10 additional personnel of outstanding medical and scientific achievement to ensure that this Division and its subordinate Center will have individuals of outstanding expertise to provide direction and evaluation of the program. The Committee has also specified that the Division will carry out its duties and functions with the advice and consultation of the National Science Foundation and the National Academy of Sciences. The Committee cannot emphasize too strongly that it expects this Division to be the primary authority within the the Department of Health, Education, and Welfare on rehabilitation technology, research and training.

The Committee reviewed during the hearings the specialized needs in research and training, and was impressed with the potential of applied research in solving the problems of severely handicapped individuals.

The Committee provides general authority for research grants and projects which bear directly on development of methods, procedures and devices to assist in provision of services to handicapped as well as severely handicapped individuals.

However, the Committee believes that a commitment must be made now in the training of rehabilitation research personnel, the development of new techniques, methods and devices, and the sharing of information across international boundaries.

New priorities

Therefore, the Committee bill mandates four major priorities: (1) the establishment extension and support of Rehabilitation Research and Training Centers to be operated in collaboration with institutions of higher education, to train rehabilitation research personnel that will be needed to develop new methods, techniques and devices for the rehabilitation of handicapped individuals;

(2) the establishment and support of Rehabilitation Engineering Research Centers to develop new methods of applying technology, breakthroughs in medical and other scientific knowledge, and to develop methods of information exchange to aid in the prompt utilization and application of engineering and other knowledge to rehabilitation problems;

(3) the carrying out of a program of spinal cord injury research, in support of the National Centers for Spinal Cord Injuries, to encourage the sharing of new knowledge and the support of new approaches and to coordinate efforts in research carried on by other governmental and voluntary agencies, and

(4) the carrying out of a program of international rehabilitation research and training so that all knowledge may be utilized and shared across international boundaries.

The Committee is aware of many developments in the area of rehabilitation that have been made in other countries, an encourages the utilization of this knowledge and expertise and the sharing of scientific information. It therefore directs the Rehabilitation Services Administration to undertake this program of information, personnel and research exchange and to apply the results as soon as possible.

The Committee bill also provides general authority for the training of personnel and specifically directs RSA to utilize funds available in any year to support a balanced program of assistance to meet personnel training needs.

The Committee has combined all research and training in this title and specified four major priorities because it wishes to make very clear the importance it places on a coordinated research and training endeavor in the area of rehabilitation. The Committee was informed in hearings that although many of the priorities specified in this title are being carried out now under the authority of the Vocational Rehabilitation Act, research efforts are piecemeal and little effect is being felt in the field. The Committee has been disturbed about the budgeting trend to eliminate research funds and cutback on training funds, and the concomitant diluting of emphasis on the particular needs of handicapped individuals. It fully expects that through the creation of a Division for Research, Training and Evaluation and the increase in personnel provided, the Rehabilitation Services Administration will undertake a major effort to coordinate research and training programs in the area fo rehabilitation, in order that these efforts will have a more profound effect on the lives of individuals with handicaps. The Committee was greatly impressed with testimony reporting the development of many exciting, innovative techniques and believes that RSA should make a special effort to ensure that developments can be transferred to the field as soon as possible.

In order to emphasize even more strongly the importance it places on the application of technology to the rehabilitation of handicapped individuals, the Committee earmarked 15%, 25%, and 25% of the total funds available for research and training for the next three fiscal years to be used for the establishment and support of Rehabilitation Engineering Research Centers. It expects that these Centers will be a major force in the extension of medical, technological and scientific knowledge to rehabilitation problems, and has directed these Centers to cooperate with State agencies to ensure that prompt utilization is made of new developments, and with the Office for Handicapped so that these developments may be made known across program lines.

TITLE IV—ADMINISTRATION AND PROGRAM AND PROJECT EVALUATION

Title IV combines provisions of existing law relating to Secretarial responsibilities for administration and evaluation, and includes, with changes and additions the following: Section 7, relating to administration; section 8, promotion of employment opportunities; section 9, submission of reports; section 10, appropriations for administration; and section 13(c) provision of technical assistance and consultants. In addition, title IV of the Senate bill contains new provisions relating to program and project evaluation, and directs the Secretary to undertake a comprehensive study of sheltered workshops (and wage payments). Except for provisions relating to program and project evaluation, this title is comparable to title V of the House bill.

Specifically, the title contains provisions for Secretarial administration, including authority for technical assistance to the States, short-term training and instruction, dissemination of information, the making of rules, regulations and delegation of powers, and the conduct of studies and obtaining information of from Federal agencies. In addition, however, the Committee is concerned that little coordination and cooperation exists between the Department of Health, Education and Welfare and the Veterans' Administration with regard to comparable programs or rehabilitation. While the Committee recognizes that responsibility for such coordination rests on both administrators, the Committee directs the Secretary to ensure that maximum coordination and consultation takes place with the VA at the national and local levels with respect to rehabilitation services and related programs for disabled veterans.

Program and project evaluation

The Committee bill also contains new provisions relating to program and project evaluation which the Committee believes are necessary to help determine program effectiveness. The Committee directs the Secretary to evaluate all programs authorized by this Act to determine their effectiveness in achieving stated goals. Especially with regard to research, demonstrations and related activities carried out under title III, the Committee directs the Secretary to reassess priorities for such activities on an annual basis and to review each project to determine whether and on what basis it should be continued, and to report to the Congress the results of the evaluation of research activities within 12 months, and on April 1st each year thereafter. Thus a system of checks and balances is established with respect to research and training for which operational responsibility is assigned to RSA but priority assessment and redirection and project evaluation left to the Secretary to carry out based on his overview.

The Secretary is also directed to develop and publish general standards for evaluation, against which he shall determine whether funds under the basic program shall be denied a State submitting a State plan under the bill.

The Committee finds it necessary to question the effectiveness of the vocational rehabilitation program in meeting its stated goals. Witness after witness during the hearings raised questions regarding the population that State agencies are serving, and whether the program was being as effective as it might be in delivering services to those handicapped individuals who are most in need of the program's assistance. Although the vocational rehabilitation program continues to serve a larger number of individuals in each fiscal year, questions which were raised made it necessary for the Committee to reiterate its intent that the program should be serving only handicapped individuals whose handicap constitutes a substantial handicap to employment, and to emphasize its belief that the program must serve more severely handicapped individuals. The Department produced figures which indicated that 25% of the caseload of the basic program were severely handicapped individuals; however the Committee does not find that percentage high enough, nor does it have reason to believe that all of the 25% cited by the Department are in fact severely handicapped.

Weighted reporting and closures

The Committee met with officials of the General Accounting Office to discuss their findings regarding the administration of and services provided under the Vocational Rehabilitation Act in several states. Those findings indicated that not only was there reason to question some of the individuals being provided services under the program, but that many of the individuals served did not receive all of the services which would have benefitted them. GAO findings also indicated that followup procedures were not consistent, and for that reason, many individuals who were, in fact, rehabilitated and placed in employment, lost that employment a short time after their cases were considered "closed." Tentative though these findings were, they do suggest that improvements are badly needed in the program.

In light of the hearings and the GAO tentative findings the Senate and House Committees have made substantial changes in the operation of the basic program. The Senate bill has included several procedural changes which will provide better information about the kinds of services handicapped individuals receive. The Senate also has earmarkd 15% of the appropriations for the basic program to be used by the State agencies in order to provide intensive vocational and comprehensive rehabilitation services for severely handicapped individuals, and has placed a 10% limitation on the amount of funds expended under Part B and Part C which may be used to provide services to individuals with a non-vocational goal. The bill specifically directs the Secretary to develop appropriate reporting and evaluation procedures which will enable the Committee to evaluate how these funds are used. The Committee would like to know what services individuals receive, the duration of these services, and the time individuals spent with counselors.

The Committee wishes to stress, furthermore, that it believes that more detailed information is necessary on the closure system used by State agencies. Specifically, the Committee believes it is necessary to know more about the reasons for exclusion from the State program, and the reasons why individual cases are closed and not rehabilitated. Both the Senate and the House bills require the Secretary to submit an annual report to the Congress on the operation of the program, to be submitted not more than 120 days after the close of each fiscal year, and direct the Secretary in that report to distinguish among rehabilitation closures attributable to physical restoration, placement in competitive employment, extended or terminal employment in a sheltered workshop or rehabilitation facility, employment as a homemaker or unpaid family worker, and to provide information on provision of comprehensive rehabilitation services to handicapped individuals. During the hearings, the Administration witnesses reported that to set up a weighted closure system which would build in incentives for provision of services to severely handicapped individuals would take approximately 18 months to develop. The Committee expects the Secretary to undertake the development of this system with the maximum possible speed, and to report to the Congress on the status of that system in each of his annual reports.

Given the fact that Federal and State resources for rehabilitation will be limited for the foreseeable future. Thereby compelling choices to be made in terms of whom to serve, the Committee expects the Secretary and the RSA Commissioner to explore in depth and to develop appropriate measures to reach those who have the most severe physical and mental handicaps.

In line with this, the Committee would like to know more about the quality and quantity of services under the program to individuals with permanent handicapping conditions, particularly those with severe handicaps, such as paraplegia, hemiplegia, guadriplegia, cerebral palsy, psychosis, bilateral orthopedic conditions, deafness, blindness, and mental retardation. The Committee recognizes the perplexing and longstanding concern of both State vocational rehabilitation agencies and the Rehabilitation Services Administration to develop reasonable measures for equating the degree of difficulty faced by the agency staff in serving and rehabilitating various kinds of disabled individuals, but feels that a new system of measuring and reporting should be developed and implemented as soon as possible.

The Committee, therefore, directs the Commissioner, in the development of regulations to implement the priorities expressed in this legislation, to place special emphasis on measurement systems which will aid in defining the characteristics of those handicapped individuals to be served. In developing such measures, the Commissioner should take into account: (1) those conditions of existence which the specific disability imposes on the handicapped individual and (2) the social and individual cost benefits which can reasonably be expected as a direct result of rehabilitation services. The latter condition shall not be construed as an attempt by this committee to turn the rehabilitation program into a welfare program. Indeed, the Committee generally believes that the rehabilitation of welfare recipients should be funded with Social Security Act appropriations. However, the Committee recognizes that, other conditions being similar, the child of a welfare recipient will derive greater benefit from services under this act than the child of a millionaire, and that it is therefore appropriate to consider income as one of the many determinants of priority.

The Committee emphasizes that it has mandated a client advocacy system, and has authorized the Secretary to undertake a number of experimental appeals projects. The Committee expects these programs to be implemented immediately and directs the Secretary to report on these projects and the client advocacy program as soon as possible.

Sheltered workshop study

Finally, the Committee substitute bill directs the Secretary to undertake a comprehensive study of the role of sheltered workshops in the rehabilitation and employment of handicapped individuals, including a study of wage payments in such workshops. Witnesses reported that workshops provide training programs for handicapped individuals as it suits them, that training programs for handicapped individuals were often interrupted whenever the workshop got a new contract, that the workshop often acted as a holding ground for severely handicapped individuals who were "dumped" at the end of 18 months when their funding expired, and that the best workers were retained, without attempts being made to place them.

The Committee did not believe it could act on allegations, denied by other witnesses, because of a lack of good information on the functioning of workshops. It has therefore directed the Secretary to undertake a comprehensive study of workshops, and will subsequently act on resolutions which will detail criteria for this study.

The Committee stresses that this study must be comprehensive, and has formulated a series of questions relating to the role of workshops, the number of individuals employed in workshops, the amount of funding provided to workshops under this Act and the Vocational Rehabilitation Act, and the relationship between workshops and other programs for handicapped individuals, and programs for vocational training. The Committee includes the following questions which it believes should be covered in the study.

1. What should the role of sheltered workshops or rehabilitation facilities be?

2. How many sheltered employment settings (workshops, rehabilitation facilities, work activity centers, etc.) are now in existence? How many handicapped individuals do they employ?

3. What standards are used by vocational rehabilitation agencies to determine that a sheltered workshop is the most suitable in the community or state for training or employing a handicapped individual?

4. How many handicapped individuals are placed in workshops by state vocational rehabilitation agencies for training and evaluation? How many handicapped individuals are placed in sheltered workshops for extended evaluation.

5. How many handicapped individuals are in extended or terminal employment in sheltered workshops? What is the nature and degree of their disability?

6. What methods are utilized to determine wages for handicapped individuals in workshops?

7. How often do officials of the Wage and Hour and Public Contracts Division inspect sheltered workshops and work activity centers to determine violations of minimum wage? How often do officials of the Department of Health, Education, and Welfare and officials of state agencies inspect sheltered workshops?

8. What fringe benefits are provided to handicapped individuals in extended or terminal employment in the sheltered workshops, such as unemployment compensation, health care, and retirement plans which other non-handicapped workshop employees are entitled?

The Committee believes it important that this study be as comprehensive and as objective as possible, and has therefore provided that no individual or interest group with a financial or other direct interest in workshops may be awarded a contract to undertake this study. The Committee wishes to make clear that this proviso includes groups which have waged considerable criticism against the role of workshops, as well as individuals and groups which are involved in the running and operation of workshops.

Finally, the Committee expects that a substantial proportion of title IV appropriations will be used for this study.

TITLE V—OFFICE FOR THE HANDICAPPED

Title V of the Committee bill establishes an Office for the Handicapped in the Office of the Secretary of the Department of Health, Education and Welfare. This Office is charged with the preparation of a five-year planning document for the provision of services to handicapped individuals, the analysis and review of program operation and budgeting to assure progress toward implementation of such a plan, providing assistance to advisory committees and programs which serve the Secretary, the coordination and encouragement of cooperative planning among programs for handicapped individuals, taking steps to assure the prompt utilization of engineering and other research to assist in solving problems of handicapped individuals and the evaluation of existing information systems in order to develop a coordinated system of information retrieval and dissemination.

The Committee has not provided this Office with authority for operation of programs, except as this authority relates to evaluation and development of an information system, and the dissemination of scientific, medical and technological information. The Committee wishes to make clear that it is its intent that this Office is a coordinating office, which shall act as an advisor to the Secretary on the needs of handicapped individuals, and the many programs within the Department which provide services to such individuals. The Committee has therefore, placed this Office in the Office of the Secretary so that it may perform this advisory function, and so that the Office will have visibility and access to information about all programs run within the Department which affect handicapped individuals.

The Committee has identified a number of functions that it believes are essential to the coordination of services and priorities. The first is the preparation of a five-year plan for provision of services, research, training and evaluation. Recognizing that the needs of different disability groups are vast, and the functions of the many programs in the Department diverse, the Committee believes that the identification of priorities and the relating of individual programs to these priorities are essential to avoid a scattershot of emphases which may result in far less than the services needed. The Committee believes that by concentrating on a number of goals and focussing an all out effort toward meeting these goals the Department will be better able to meet the needs of handicapped individuals.

The Committee is aware that the President, the Secretary of Health, Education and Welfare, the Commissioner of Education and the RSA Commissioner have proposed a series of goals for handicapped individuals in recent months. The Committee is encouraged by these actions, and believes that these ends will be met much sooner with the assistance of the new Office. The Committee does not expect this five-year planning document to take the place of program innovation and new legislation. Rather, this plan is intended to be a working document, and a guideline by which programs can measure their effectiveness. The Committee further believes that focusing on the broad needs of handicapped individuals will make very clear where new program initiative is needed, and will, in fact, stimulate new legislative proposals.

The bill further directs this new Office to analyze and review program operation and budgeting to evaluate progress toward meeting the goals of the five-year plan. The Committee believes that this analysis is necessary to the Secretary and to the Congress, for it expects that many individual programs within the Department are not always aware of similar programs and projects being undertaken by other agencies. The Committee wishes to make very clear, however, that it expects no program consolidation to take place as a result of this analysis and review. One fear that was raised during hearings on this legislation was that the creation of the Office would result in program consolidation across disability group and functional responsibilities, thus resulting in lack of sensitivity and consideration given to the different problems of disability groups. The Committee emphasizes that this is not the intent of the Office.

The Committee expects that the Office's most powerful tool will be that of information: it will be in a central location within the Department for developing and providing information and assistance to programs for handicapped individuals. The Committee believes that the Office will perform an important function if it is aware of all programs for the handicapped in the Department, and is able to lead individuals in one agency working on a particular problem to other individuals in other agencies who are similarly interested. The Committee also is aware that many programs deliver services to the same individual although it may be at different times, for different services. The Committee believes that there are too many junctures and too many problems which confront an individual with a handicap which may result in that individual falling through the cracks of different service systems. The Committee emphasizes that it is important, especially early in life, that these services be available as a continuum, and be delivered in such a way that is sensitive to all of the disparate problems which may afflict that handicapped individual. Therefore, the Committee has mandated the Office to attempt to coordinate and encourage cooperative planning of services and service delivery.

The Committee has also directed the Office to evaluate all existing information and data systems which provide information to, for and about handicapped individuals, and to develop a comprehensive system of information and data retrieval and dissemination. The Committee has been distressed to discover how little information is available. Even the simplest knowledge relating to Federal Government programs for handicapped individuals is non-existent, or very poor. However, the Committee is most concerned that no definitive information exists about the number of Americans with handicaps, the extent of their handicaps, and the services they are receiving. Estimates of this population vary widely, and have to be compiled from separate agencies and programs if they are to be obtained at all. The Committee found during the hearings on the Vocational Rehabilitation Act, that although needs could be expressed for various disability groups, no one knew with any degree of certainty what the size of the population was that they were representing for. The Committee believes that this information is essential to program and service needs, and therefore, the Committee expects the Office to undertake this study as soon as possible in coordination with RSA activities under the new State plan requirements in title I of the bill.

The Committee is aware of over one hundred programs within the Federal Government which provide services to handicapped individuals, and more than 50 programs in the Department of Health, Education, and Welfare itself. The Committee expects that the Office will become an advocate for the handicapped with respect to the programs within the Department, and will attempt to relate these programs also to other programs which are administered by the Department of Housing and Urban Development, the Veterans' Administration and other Federal agencies. Because the Committee believes that handicapped individuals themselves are their own best advocates, the Committee has directed the Secretary in selecting all personnel for the Office to give special emphasis to the hiring of qualified handicapped individuals to perform these tasks. The Committee strongly believes that coordination across programs has become essential and therefore expects the Secretary to establish this Office, and hire personnel to fill the positions within this Office as soon as possible.

The Committee has been concerned over the growth in numbers of programs for handicapped individuals. While this growth has been necessary to ensure that handicapped individuals receive their fair share of resources from Federal programs and to ensure consideration of the particular problems of handicapped individuals, it has resulted in duplication of efforts, confusing priorities and a dilution of services for these individuals. The Committee points out that it has been faced with one of two strategies in trying to ensure that handicapped individuals are served by Federal programs: it has had either to earmark money within a program for the handicapped, or provide separate authority for a program for handicapped individuals. The Committee need only point out the difficulty it has had in trying to ensure that programs run under the Office of Child Development, specifically Head Start, serve handicapped children. After much effort was expended in trying to get this compliance without legislation, the Committee this year had to include legislative language directing the Secretary to ensure that at least 10% of all enrollment opportunities in the Head Start program are available for handicapped children. The Committee emphasizes that this is only one example.

In addition, there are programs administered by different agencies which could benefit from coordination because they deliver the same or similar services to individuals. Rather than providing the focus on comprehensive needs of handicapped individuals, lack of coordination has led to a diversity of purpose and a failure to provide services to as many individuals as possible.

The Committee believes that it is time for all programs to examine their priorities and to develop coordinated programs so that individuals to whom services are delivered receive the full benefit of all programs, and do not have to extend the effort themselves to coordinate all of the services that are available to them. There are obvious areas in program planning where needs could be met jointly, and where coordination and joint funding could help effect a comprehensive services system which would reduce uncertainty in the field, and create new models for service systems to solve severe gaps in service.

The Committee has been concerned that too little utilization is made of the results of scientific, medical and technological research which could alleviate the effects of handicapping conditions. It has therefore charged the Office with developing methods to ensure more prompt use of such research and technology. The Committee expects that the Office will explore alternate methods of provision of this technology to handicapped individuals, and will look into all related problems. The Committee believes that many new devices and techniques have been developed which could ease the lives of handicapped individuals, and that the Federal Government must find a way to ensure that handicapped individuals have access at minimal cost to these devices.

TITLE VI—MISCELLANEOUS

Under this title, the existing Vocational Rehabilitation Act (29 U.S.C. 31—42) is repealed upon the date of enactment of this act and any unexpended sums under that statute may be used under this act as directed by the President. Activities which are ongoing at the present time shall be insured continuity by continuing their funding. There is continuing authority in the new Act.

Federal Interagency Committee on Handicapped Employment

The Committee recognized the need for this type of committee on employment after the hearings which divulged what it considered at best, a divergent hit-and-miss type of Federal employment policy for handicapped individuals. The President's Committee on the Employment of the Handicapped stated in testimony that it was their function to create a climate for employment in the public and private sector. There appears to be no relevant statistics available on the handicapped individuals who are employed by the Federal Government. Thus, the need was felt for better coordination of effort on the part of all agencies within all branches of Federal service. The bill requires that there be established a committee which will initiate an affirmative action plan, and seek to insure that there is no discrimination in employment of handicapped individuals by and within the agencies of the Federal Government in hiring, placement, or advancement. The Committee is also directed to insure that the special needs of the handicapped are being met on the job. The bill directs each department and agency within the executive branch to submit a report to the Interagency Committee within 180 days of enactment of this bill. The Committee shall submit at the end of each fiscal year to the appropriate Committees of Congress a report on its activities and recommendations so that they may be further evaluated for possible legislative or administrative action. The report will include any legislative action that the committee feels would enhance employment and advancement of handicapped and severely handicapped individuals in government service.

The Committee is also directed to recommend policies to state and local governments and other public and private employers with respect to employment of handicapped individuals. The President's Committee on Employment of the Handicapped will provide staff support for the Interagency Committee, which shall be chaired by the Secretary of HEW. The bill also requires an annual report from the Committee and also specifies that handicapped individuals employed in Federal unpaid work experience programs shall not be deemed Federal employees for purposes of Federal personnel laws and regulations generally.

COOPERATION AMONG FEDERAL AGENCIES

As requested by the President's Committee on the Handicapped, the bill directs the Secretaries of HEW and Labor to cooperate with the President's Committee as it carries out its functions. The bill also increases the present continuing annual appropriation authorization of $1 million for the President's Committee to $1,250,000 in FY 1974. It is not the Committee's intention by this action to alter in any way the effectiveness of the continuing authorization of appropriations for the Committee after FY 1974.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

The Committee is aware through testimony on this legislation, not only of strong attitudinal barriers, but also enormous physical barriers to the mobility of the handicapped individual. The Committee strongly believes that a new Federal board is necessary to insure compliance with the present Federal statutes regarding architectural barriers, since compliance has been very spotty and there is no such comparable compliance unit in existence at this time. Such a unit will enhance the effectiveness of the other provisions of the bill since the employment opportunties for the handicapped, even if fully created, could not be filled without the ability of the handicaped individuals to get to their jobs. Barrier free design in Federal buildings and in Federally assisted projects is mandated in present law, but has never been adequately enforced. The Committee feels that to justify the expenditures authorized under this bill it is imperative that handicapped individuals be given the opportunity to move freely in the society into which they must integrate themselves. The

Committee feels this Board can serve to accomplish this.

EMPLOYMENT UNDER FEDERAL CONTRACTS AND NONDISCRIMINATION UNDER FEDERAL GRANTS

Further provided in this title is that handicapped individuals shall be given full and fair consideration for employment by any contractor who seeks to contract with the Federal Government. The President is required to issue regulations ninety days after enactment of this bill to insure that there is an affirmative action plan implemented to this effect. The bill further provides that a handicapped individual who has a discrimination complaint against a Federal contractor may file complaint with the Department of Labor.

The bill further proclaims a policy of nondiscrimination against otherwise qualified handicapped individuals with respect to participation in or access to any program which is in receipt of Federal financial assistance.

TITLE VII—AMENDMENTS TO THE RANDOLPH-SHEPPARD ACT

Summary

The principal objective of title VII is to enlarge the employment opportunities of qualified blind persons through the operation of vending facilities on federally controlled property. It provides that, in authorizing the operation of vending facilities on Federal property, blind persons licensed by a State agency as provided by the Act shall be given preference. The title requires Government agencies in control of such properties to prescribe regulations designed to assure such preference. The amendments would include vending machines in the definition of "vending facility." After January 1, 1973, provisions for vending facilities are to be included in all buildings owned, rented, leased or occupied by a Federal department, agency, or instrumentality, as well as in the design, construction, or substantial alteration or renovation of each building used by a Federal department, agency, or instrumentality. The measure would also improve procedural safeguards for aggrieved blind licenses, including provisions for binding arbitration and judicial review. Title VII of the bill reported by the Committee would make several other modernizing and clarifying changes in the basic law.

Background

The Randolph-Sheppard Act originally was enacted by the Congress on June 20, 1936, for the purpose of establishing a program for the operation of vending stands in Federal buildings by blind persons licensed by State agencies. Since 1936, the vending stand program has grown to the point that there are now approximately 3,400 blind persons concerned with the operation of vending stands throughout the country. Thousands of severely handicapped persons have thus been given the opportunity to become self-supporting entrepreneurs, and their performance has served as an inspiration to countless others who are handicapped by blindness.

At the end of fiscal year 1971, there were 881 stands on Federal properties employing 986 blind persons. In addition, the State agencies for the blind and the State vocational rehabilitation agencies which license blind operators have opened employment opportunities for concessionaries in State and municipal buildings, as well as nongovernmental buildings. There were 2,261 stands employing 2,466 blind persons on non-Federal installations last fiscal year. During the fiscal year 1971, these concessions operated by blind persons recorded a gross business of $101.3 million. The average income of the blind operators was $6,516.

BREAKDOWN OF FIGURES ON A NATIONWIDE BASIS FROM ANNUAL VENDING STAND REPORTS SUBMITTED BY STATE LICENSING AGENCIES FOR FISCAL YEAR 1971

	Fiscal year 1970	Fiscal year 1971	Percentage increase over previous year
Total number all stands	3,059	3,142	2.7
Federal locations	852	881	3.4
Non-Federal locations	2,207	2,261	2.4
A. Public	1,338	1,391	4.0
B. Private	869	870	.1
Total gross sales	$93,925,464	$101,304,773	7.9
Federal locations	$28,045,467	$30,436,007	8.5
Non-Federal locations	$65,879,997	$70,868,766	7.6

	Fiscal year 1970	Fiscal year 1971	Percentage increase over previous year
Total number of operators	3,352	3,452	3.0
Federal locations	967	986	2.0
Non-Federal locations	2,385	2,466	3.4
Net proceeds to operators	$19,731,203	$20,611,157	4.5
Federal locations	$5,919,414	$6,206,206	4.8
Non-Federal locations	$13,811,789	$14,404,951	4.3
Annual average: Earnings of operators	$6,300	$6,516	3.4

Since its enactment 36 years ago, the Randolph-Sheppard Vending Stand Act has been amended only once—in 1954—when improvements to the Act were included in the Vocational Rehabilitation Amendments of 1954.

Further improvements to meet changing conditions over the years, such as the rapid proliferation of automatic vending machines, have been suggested by representatives of national organizations for the blind and handicapped, as well as State agencies designated to administer the program. During the 91st Congress these changes, together with modifications suggested by Federal authorities, were incorporated in a bill introduced by Senator Jennings Randolph, S. 2461, for the purpose of expanding the opportunities for vending facility operations. Following hearings in July 1970, S. 2461 was reported by the Committee on Labor and Public Welfare and was subsequently passed by the Senate without a dissenting vote on September 28, 1970. The House of Representatives was unable to complete action on the bill before the adjournment of the 91st Congress.

This same bill with technical corrections was introduced on September 14, 1971 as S. 2506 by Senator Randolph and referred to the Committee on Labor and Public Welfare. The Subcommittee on Handicapped Workers held hearings on September 22, October 1, and December 9, 1971, during which testimony was submitted on the bill by witnesses on behalf of 16 agencies and organizations, including the Administration, blind organizations, postal unions, and other national associations.

The Subcommittee on the Handicapped, a reconstituted and enlarged subcommittee of the Committee on Labor and Public Welfare, was created early in 1972. On April 25, 1972 the subcommittee ordered favorably reported to the full committee S. 2506 with amendments. The subcommittee also, by resolution, directed the Comptroller General of the United States to conduct a study of the financial status of vending operations on Federal property, to include a determination of sources and uses of the proceeds from vending machine operations. Because of a heavy schedule further consideration of S. 2506 was postponed by the full committee.

The subcommittee added the provisions of S. 2506 as title VII of S. 3987, and the full committee accepted this title with the provisions of the Rehabilitation Act of 1972.

Summary of current law

The Randolph-Sheppard Act authorizes blind persons licensed by State agencies to operate vending stands on Federal property. It requires that, where feasible, preference shall be given to such blind persons by Federal agencies which control the operation, maintenance and protection of such property, so long as agencies are not unduly inconvenienced and where the interests of the United States are not adversely affected.

The Act requires the Secretary of Health, Education, and Welfare to make surveys of vending opportunities, provide information thereon to the public and the blind, and designate in each State an agency to issue licenses to blind persons who meet certain qualifications. In 1954 the Randolph-Sheppard Act was amended to specify that the sole State agency for licensing purposes is the State vocational rehabilitation agency, where a State has an approved plan under the Vocational Rehabilitation Act.

The State licensing agency is to give preference to blind persons in need of employment who have resided in the State for at least one year. The blind vendor must be at least twenty-one years of age. The State agency is authorized to select the location and type of stand, with approval of the Federal agency involved.

The State agency is required, under the Act and after approval of the governor, to provide vending stand equipment and initial stock of articles to be sold. If funds are set aside from vending stand proceeds, such funds are to be used for purchase and maintenance of equipment, management services, and assuring a fair return to blind operators. The Secretary is to determine the reasonableness of funds to be set aside.

The agency is further required to provide to the Secretary necessary reports, issue appropriate regulations, and provide a fair hearing to any blind licensee who is dissatisfied with any action concerning the program.

The Act authorizes the Secretary to cooperate with State vocational rehabilitation agencies, and to expend funds for various purposes, and it requires him, in employing personnel to administer the Act, to hire persons at least half of whom are blind.

The Act defines various terms, including "blind person", and its final section, pursuant to the 1954 amendments, coordinates the Act with the Vocational Rehabilitation Act.

Need for Legislation

The income of blind vendors is being jeopardized by a growing tendency toward the use in Federal buildings of automatic vending machines, to the exclusion of blind vending facilities. Also, although the intent of the Randolph-Sheppard Act is to provide, to the maximum extent possible, new job opportunities for the blind Federal employee groups have been permitted by agencies controlling Federal property to install vending machines and receive the income from these machines for their use in various recreational and welfare activities, despite the absence of statutory authority for this practice. The effect of this has been to curtail the installation of new vending facilities operated by blind persons on Federal property and to diminish the income of blind operators of existing vending facilities. The Comptroller General of the United States has, on two occasions, ruled that the income from vending machines on Federal property should be deposited in the Treasury as miscellaneous receipts under the provisions of 31 U.S.C. 484 unless a blind person operating a vending facility under the Randolph-Sheppard Act also operates vending machines in the building in which case the income should accrue to him. Vending machine income of Federal employee groups is not audited by the General Accounting Office.

Witnesses also pointed out that the Randolph-Sheppard program has become virtually static on Federal property owing to the fact that officials controlling such property can presently prevent the installation of vending facilities despite a determination by State licensing agencies that the property may be suitable for vending facility locations. In addition, attempts by various interested groups to obtain judicial resolution of questions arising in connection with the program have failed at the threshold due to lack of standing to sue.

Summary of major provisions

The Committee regards the Randolph-Sheppard Act program for the blind as one of the most practical and effective employment opportunity programs ever created by the Congress. The blind vending facility operators return in taxes to all levels of government amounts far in excess of the initial small investment to get them started in their businesses. The ramifications for the blind individual, his family, his community, and the nation of self-support and a normal life through one's own work effort and entrepreneurial skill go far beyond payment of taxes. They are the essence of the American way of life and a healthy society. The alternative for many of these blind individuals over the years would have been a marginal existence on welfare and burdensome, stultifying dependence.

The negligible growth of the program on Federal property has brought deep concern to the Committee, particularly in view of the rapid expansion of Federal facilities over the past decade. The Committee believes it is vitally important to expand the Randolph-Sheppard program and to accelerate its growth.

Title VII would facilitate the establishment of additional Randolph-Sheppard vending facilities operated by blind persons on Federal property in several ways. First, it would add a new subsection (d) to Section 2 of the Act to require planning for such locations in the design, construction, or substantial alteration or renovation of Federal buildings, including leased space, as long as business potential justifies the installation. Provision is made for consultation with the State licensing agency and the Secretary of Health, Education, and Welfare in determining the type and location of vending facilities on Federal property. Second, the bill establishes an arbitration procedure in Section 8 of the Act for resolution of disputes which may arise between a State licensing agency and an agency controlling Federal property. Third, the bill specifically asserts the applicability of the Administrative Procedure Act to the Randolph-Sheppard Act and authorizes judicial review. In the past, judicial resolution of problems has not been possible because the courts have ruled that plaintiffs do not have standing to sue and have not considered the merits of cases which have been brought before them. These new provisions of the Act will resolve this problem.

The Committee expects every official controlling Federal property to work cooperatively with State licensing agencies to foster expansion of the Randolph-Sheppard program to its fullest potential as rapidly as possible. Further, the Committee expects the Department of Health, Education, and Welfare and State licensing agencies to initiate an intensive effort to make this program realize its potential.

During the hearings several witnesses expressed concern about possible adverse effects the recently inaugurated minority business enterprise program on Federal property might have on the Randolph-Sheppard vending facility program for the blind. They pointed out that installation of a minority business enterprise program facility on Federal property can rule out installation of a Randolph-Sheppard vending facility altogether and that arbitrary control of items vended by blind persons in existing facilities allows Federal officials to establish minority businesses selling other items. The Committee regards a concerted effort to assist members of ethnic minority groups to establish themselves in their own businesses as highly desirable and, in fact, long overdue. However, the Committee does not consider it desirable for the Federal Government to promote business opportunities on Federal property for ethnic minorities at the expense of an even smaller minority group—the blind—among whom are seriously handicapped members of these same ethnic minorities.

It must be emphasized that the blind have been granted statutory preference in the establishment of vending facilities on Federal property since 1936, and the Committee considers it unconscionable for Federal officials to circumvent this preference by arbitrary control of items vended or refusal to permit installation of a Randolph-Sheppard facility while permitting installation of vending facilities operated by other than blind persons. The Committee intends that the statutory preference granted the blind by the Randolph-Sheppard Act be strictly enforced and that other vending enterprises on Federal property be installed only after the State licensing agency certifies to appropriate Federal officials that the type of business enterprise contemplated will not preclude establishment of a Randolph-Sheppard vending facility or curtail the income or present expansion of an existing one.

The only genuine controversy which became apparent during the hearings stemmed from insertion in S. 2506 as introduced of the word "exclusive" in front of "assignment of vending machine income to achieve and protect such preference" in Section 1 of the Act. As indicated above, officials controlling Federal property have permitted Federal employee groups to install vending machines and use the profits for their own recreational and welfare activities unrelated to their employment. In 1954, the Congress added the parenthetical phrase "(including assignment of vending machine income to achieve and protect such preference)" to Section 1 of the Act as a means of dealing with the problem. However, this provision has proved to be a minor palliative from the standpoint of blind vending facility operators, and they have been increasingly adversely affected over the years.

There may also be a question as to whether there is adequate accounting for vending machine income by Federal agencies or the employees controlling the funds. The Committee has been unable to obtain satisfactory information from agencies controlling Federal property of the amount of vending machine income their employee groups are receiving. As a result, the Subcommittee on the Handicapped by resolution directed the Comptroller General of the United States to undertake a study of vending operations on Federal property, including a detailed audit of gross receipts, and net income from such operations by blind vendors and by employees of the United States. A determination is also required to be made as to the amount of funds derived from vending operations that has been deposited in the U.S. Treasury as miscellaneous receipts, as well as the sources and uses of funds from any other vending operation on Federal property. The Comptroller General is to report to Congress within six months his findings and recommendations. The reported amendments do not contemplate the destruction of employee welfare and recreation funds. On the contrary, there is nothing in these provisions which would be likely to alter the status quo with respect to such funds. Further Committee action, if any, must await study and review of the Comptroller General's report.

In conclusion, the Committee strongly reaffirms its support for the excellent program under the Randolph-Sheppard Act for creating employment opportunities for blind persons as vending facility operators on Federal property. It believes that the changes it has made in the Act will greatly increase its effectiveness in creating many more employment opportunities. The Committee expects all Federal and State officials involved in carrying out the program to work closely and well together to make the program more effective, and reaffirms the intent of the 1936 Act to create employment opportunities for blind persons while providing a necessary service to government employees and the public. Enactment of title VII would entail no additional cost to the Federal Government.

COST ESTIMATE PURSUANT TO SECTION 252 OF THE LEGISLATIVE ACT OF 1970

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91–510), the Committee estimates that if all funds authorized were appropriated during fiscal year 1973 and the two succeeding fiscal years, the five-year costs occasioned by S. 3987, as reported, would be as follows:

REHABILITATION ACT OF 1972

	Fiscal year—				
	1973	1974	1975	1976	1977
Title I—Vocational rehabilitation services:					
Basic and comprehensive rehabilitation:					
Services (pts. B and C) (sec. 100)	$900,000,000	$1,150,000,000	$1,350,000,000		
Innovation and expansion grants (sec. 111)	50,000,000	60,000,000	75,000,000		
Title II—Special Federal responsibilities:					
Construction, staffing and planning grants (sec. 200)	35,000,000	40,000,000	45,000,000		
Vocational training services for handicapped (sec. 201)	30,000,000	35,000,000	40,000,000		
Annual interest grants (sec. 203)	1,000,000	2,000,000	4,000,000	$4,000,000	$4,000,000

	Fiscal year—				
	1973	1974	1975	1976	1977
Special projects and demonstrations (sec. 204)	[1] $50,000,000	[1] $100,000,000	[1] $150,000,000		
National Center for Deaf-Blind (sec. 205):					
Construction	5,000,000				
Operation	800,000	1,200,000	2,000,000		
Special grants for deaf rehabilitation services (sec. 206)	5,000,000	7,500,000	10,000,000		
Spinal cord injury centers (sec. 207)	15,000,000	25,000,000	30,000,000		
End stage renal disease (sec. 208)	20,000,000	25,000,000	30,000,000		
Rehabilitation services for older blind (sec. 209)	10,000,000	20,000,000	30,000,000		
National Advisory Council (sec. 210)	100,000	150,000	150,000		
Title III—Research and training:					
Research (sec. 302)	75,000,000	100,000,000	150,000,000		
Training (sec. 303)	50,000,000	75,000,000	100,000,000		
Title IV—Administration and program and project evaluation:					
Administration (sec. 400)	(2)	(2)	(2)		
Program and project evaluation (sec. 401)	[3] 2,000,000	[3] 2,000,000	[3] 2,000,000		
Title V—Office for the handicapped: Office for the handicapped (sec. 502)	1,000,000	2,000,000	2,000,000		
Title VI—miscellaneous:					
President's Committee on Employment of the Handicapped (sec. 601)	1,000,000	1,250,000			
Architectural and transportation barriers compliance board (sec. 602)	1,000,000	1,250,000	1,500,000		
Total	1,251,900,000	1,647,350,000	2,021,650,000	$4,000,000	$4,000,000
Grand total			4,918,570,000		

[1] Plus amounts for migrants.
[2] Such sums.
[3] Or ½ percent of appropriations titles I–III, whichever is greater.

VOCATIONAL REHABILITATION ACT

Authorizations in current law (fiscal year 1972)

	Amount
Vocational rehabilitation services	$700,000,000
Innovation project grants	10,000,000
Research, demonstrations, training, expansion	140,000,000
Construction and staffing	30,000,000
Rehabilitation facility improvement	30,000,000
Vocational evaluation and work adjustment	100,000,000
National Center for Deaf-Blind	[1]
Migratory agricultural worker grants	[1]
Total	1,010,000,000

[1] No authorization provided in law.

TABULATION OF VOTES CAST IN COMMITTEE PURSUANT TO SECTION 133(b) OF THE LEGISLATIVE REORGANIZATION ACT

Pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, there were no tabulated votes to report. S. 3987 was unanimously ordered favorably reported by the Labor and Public Welfare Committee on September 15, 1972.

SECTION-BY-SECTION ANALYSIS

SECTION 1

The first section designates sections 1 through 9 and titles I through VI and the table of contents of the bill as the "Rehabilitation Act of 1972".

SECTION 2

This provision describes the purposes of the Rehabilitation Act of 1972 by delineating in general terms the goals of most of its provisions, including the provision of vocational and comprehensive rehabilitation services to handicapped and severely handicapped individuals, evaluation of rehabilitation potential, construction of facilities, research and training, innovation and expansion of services, and studies of various areas of need.

SECTION 3

This section provides a statutory basis for the Rehabilitation Services Administration in its own right. The sole authority to administer titles I, II, and III of this Act is vested in the Commissioner of the Rehabilitation Services Administration, to whom the Secretary shall delegate his functions under these titles. In order to prepare RSA for its expanded role, the number of full time personnel authorized for the Administration is increased by sixty over current levels, and the number of so-called supergrade positions (GS 16, 17, and 18) assigned to RSA is increased by ten.

Established within RSA is a Division of Research, Training, and Evaluation, which will contain a Center for Technology Assessment and Application to develop and support new methods to solve rehabilitation problems and to administer research activities under section 302(b)(3).

SECTION 4

Authority for forward funding is provided in this section so that funds may be appropriated one year prior to the fiscal year to which they apply and for which they are to be obligated. The section permits, for the purpose of transition to the forward funding concept, appropriations in the first year for both that year and the next succeeding fiscal year. Thus, for example, appropriations may be enacted during this fiscal year for both fiscal year 1973 and 1974.

SECTION 5

This section provides that where two or more Federal agencies provide funds for a single project to an agency or organization assisted under this Act, the President may, pursuant to regulations consistent with all the provisions and requirements this Act, designate as the single agency to administer such funds the agency which is providing the principal share of the funds.

SECTION 6

This section provides the definitions applicable to all the operative provisions of the Act.

(1) The term "Act" means sections 1 through 9 and titles I through VI of this Act, unless the context otherwise requires.

(2) "Comprehensive rehabilitation services" means those services provided to a handicapped or severely handicapped individual, which will help improve his ability to live normally or function independently.

(3) "Construction" means construction of new buildings, acquisition, expansion, remodeling or alteration of existing buildings, and provision of initial equipment. The cost of such construction includes architects' fees and land acquisition.

(4) "Establishment of a rehabilitation facility" means acquisition, equipment, or improvement of existing buildings to adapt them to rehabilitation purposes. The term may, if appropriate, also include initial staffing.

(5) "Evaluation of rehabilitation potential" is a term which includes the various diagnostic studies and services utilized to ascertain the services and goals needed for appropriate and complete rehabilitation of handicapped and severely handicapped individuals, and includes extended evaluation for periods up to 18 months with reassessment at least once in every ninety-day period.

(6) "Federal share", except for purposes of part B of title I (which is 80 per centum) and except as otherwise specifically provided in the Act, is 85 per centum.

(7) "Handicapped individual" means one whose physical or mental disability constitutes a substantial handicap to employment, and who can be expected to benefit from vocational or comprehensive rehabilitation services.

(8) "Local agency" means a local government or Indian tribal agency which, under agreement with and supervision by a State agency, conducts a vocational rehabilitation program.

(9) "Nonprofit" means, as related to a rehabilitation facility, a facility which is exempt from payment of Federal income taxes.

(10) "Rehabilitation facility" means one whose primary purpose is to provide vocational and comprehensive rehabilitation services, or a workshop, and which provides one or more such services. The definition includes a list of services which are provided by such facilities and is largely unchanged from present law except for the inclusion of orientation and mobility services for the blind.

(11) "Secretary", except when the context otherwise requires, means the Secretary of Health, Education, and Welfare.

(12) "Severely handicapped individual" means a handicapped individual requiring rehabilitation services appreciably more (twice as) costly and of appreciably greater (twice as great) duration than services normally required for employment or ability to function normally and independently.

(13) "State" includes all U.S. possessions and territories and the Trust Territory of the Pacific Islands.

(14) "Vocational rehabilitation services" means the services provided under title I, as identified in section 103.

SECTION 7

This section specifies the "allotment percentage" used in the formula for allocation of funds to States under the Act, requires the Secretary to update such percentages every two years, and specifies how the population of States and of the United States shall be determined.

SECTION 8

This provision requires grant recipients to keep such records as the Secretary may prescribe, including amounts and disposition of funds received, and other records to facilitate an effective audit. The section authorizes access by the Secretary and Comptroller General to any books or records pertaining to such grants.

SECTION 9

This section instructs the Secretary and the Commissioner to give special consideration to the needs of State which would have received a greater part B, title I allotment for FY 1974 and subsequent fiscal years if the formula currently used in the Vocational Rehabilitation Act had been applied to all appropriations in such subsequent years and to report to the Congress annually on the exercise of this special consideration.

TITLE I—VOCATIONAL AND COMPREHENSIVE REHABILITATION SERVICES

PART A—GENERAL PROVISIONS

SECTION 100

(a) This subsection authorizes appropriations for grants under title I (except section 111) in the amounts of $900,000,000 for FY 1973, $1,150,000,000 for FY 1974, and $1,350,000,000 for FY 1975. Of the amounts appropriated each year, 15 per centum are set aside for grants under part C of title I for vocational or comprehensive rehabilitation services to severely handicapped individuals.

(b) Appropriations for innovative and expansion grants under section 111 are authorized under this subsection in the amounts of $50,000,000 for FY 1973, $60,000,000 for FY 1974, and $75,000,000 for FY 1975.

SECTION 101

(a) This subsection details the requirements to be met by the States in developing State plans for vocational rehabilitation services. Approval of such annual plan by the Secretary is required prior to the release of funds under the Act to a State.

(1)(A) A single State agency must be designated to administer the plan, except that if there is a State agency for the blind, that part of the plan relating to the blind may be administered by such agency for the blind. The Secretary may waive the sole agency requirement where a State wishes to carry out a joint program with another State or local agency.

(1)(B) The single State agency must be primarily concerned with vocational rehabilitation of handicapped individuals, or with education or vocational education, or be an agency which includes at least two other major units which administer education, health, welfare, or labor programs in the State.

(2) The State agency must conform to certain organizational and staffing requirements under this provision.

(3) The plan must provide for the required financial participation by the State, and if it elects, political subdivisions.

(4) The plan must be in effect in all political subdivisions, which requirement the Secretary may waive under certain conditions.

(5) The plan must detail the plans, policies, and methods to be followed by the State in providing vocational and comprehensive rehabilitation services, including an order of priority (not inconsistent with a national order prescribed by the Commissioner) for selection of recipients and specification of outcomes and services goals, with special emphasis on severely handicapped individuals. The provision also requires that no funds for comprehensive rehabilitation services (nonvocational goal) shall be expended unless maximum efforts have been made to secure assistance from other sources.

(6) The plan must contain plans, policies, and methods for providing vocational and comprehensive rehabilitation services under part C of title I, and provide for a detailed study by the State of various means of providing such services to severely handicapped individuals.

(7) The plan must detail its administration policies and provide for establishment of a client advocacy system.

(8) The plan must set forth personnel standards, consistent with State licensure laws, including minimum standards governing rehabilitation facilities and personnel.

(9) The plan must require that the State provide the vocational rehabilitation services identified in section 103(a) (1) through (3), and the remainder of such services after full consideration of eligibility for such services under other programs, except for services under clauses (4) and (5) where such consideration would delay (in any way causing hardship to or otherwise prejudicing the client) provision of such services.

(10) The State plan must provide that an individualized written rehabilitation plan will be developed for each individual served, and that services will be provided pursuant thereto.

(11) The State agency is required to make such reports on a timely basis as the Secretary may reasonably require, including estimates of the handicapped population within the State, members to be served, outcomes and goals for each priority category, and service costs.

(12) The State plan must provide for entering into cooperative arrangements, involving services and facilities, with State agencies administering public assistance, veterans, manpower, employment, and with other programs, with comparable Federal agencies, and other Federal, State, and local public agencies.

(13) The plan must require maximum utilization of public or other vocational or technical training facilities and resources in the community for the provision of services under this title.

(14) The plan must assure that any civil employee of the United States may have access to services on the same basis as any other handicapped individual.

(15) The plan must prohibit the imposition of any residency requirement excluding services to any individual present in the State.

(16) The plan must provide for continuing statewide studies of the needs of handicapped individuals and the means of meeting such needs, including the needs of all significant segments of the handicapped population.

(17) The plan must provide for periodic review and reevaluation of the status of handicapped individuals in extended employment in workshops and other rehabilitation facilities so that such individuals may, where appropriate, be employed or trained for employment in the competitive labor market.

(18) the plan must provide that the Federal share of the cost of construction of rehabilitation facilities shall not exceed an amount equal to 10 per centum of the total allotment for vocational and comprehensive rehabilitation services to the State in any year, and that the State will maintain its efforts to provide such services and not reduce them because of construction.

(19) The plan must assure that the views of recipients of, workers in, and providers of, vocational and comprehensive rehabilitation services are taken into account in administering the plan.

(20)(a) The plan must assure that the studies required by clause (16) and annual evaluation of the program will form the basis for amendments to the State plan.

(b) This subsection requires the Secretary to approve any plan which meets the requirements of subsection (a), and to disapprove plans which do not meet such requirements.

(c) This subsection permits the Secretary, after notice and hearings, to discontinue, reduce, or partially suspend payments to a State under this title in the event that any of the requirements of subsection (a) are not being met.

(d) This subsection provides that States may obtain judicial review of any action taken by the Secretary under subsections (b) or (c).

SECTION 102

(a) This subsection requires the Secretary to insure that the individualized written rehabilitation program required under section 101 is jointly developed by the vocational rehabilitation counselor or coordinator and the handicapped individual.

(b) Such program shall be reviewed annually, and shall include a statement of goals and other requirements. The individual shall be afforded an opportunity to review his program annually and renegotiate its terms.

(c) Subsection (c) requires the written program to emphasize a vocational goal or objective for the individual, and where it is determined that no such goal can be met, safeguards are required to insure that such a determination is absolutely necessary. Such a determination must be reviewed at least once each year.

SECTION 103

This section lists the vocational rehabilitation services which are provided under title I. Such services include the following: evaluation of rehabilitation potential; individualized rehabilitation written programs; counseling, guidance, referral, placement, and client advocacy; training services including personal and vocational adjustment and family services; physical and mental restoration services; maintenance during rehabilitation; interpreter services and reader services; recruitment and training services in public service fields; teaching, orientation, and mobility services for the blind; trade necessities; transportation; technological aids and devices and any other goods and services necessary to render a handicapped individual employable. When provided to groups of individuals, such services also may include management services, equipment, and initial supplies; and construction or establishment of rehabilitation facilities.

SECTION 104

This section excludes from a State's Federal share allotment for planning, administration, and services under this Act any portion of Federal funds provided under Federal law other than title I of this Act, and non-Federal funds required to be spent in order for a State to receive such Federal funds.

PART B—BASIC VOCATIONAL AND COMPREHENSIVE REHABILITATION SERVICES

SECTION 110

(a) This subsection provides the allotment formula for allocation of funds to the States for title I services. The formula is determined by multiplying the population of a State by the square of its allotment percentage and placing the result in ratio to all other States and for fiscal years after FY 1973 for portions of title I appropriations up to $700,000,000 which are available for allotment under part B (85% of 700=$595,000,000), the sums in excess of that amount ($595 million) shall be apportioned as follows: ⅔ of it on the basis of population and ⅓ of it by allotment percentage.

(b) Subsection (b) requires the Secretary to pay to each State the Federal share 80 per cent under part B of the cost of services up to the State's allotment. Amounts shall be reduced if non-Federal expenditures by the State under title I of this Act are less than those in FY 1972 under the Vocational Rehabilitation Act.

(c) This provision specifies that the non-Federal share for the purpose of determining Federal payment, includes contributions from any source used to construct or establish a rehabilitation facility, the use of which contributions is limited to such construction or establishment.

(d) The Secretary may transfer funds not used by one State to one or more other States. Such additional sums reallotted to a State are deemed to be an increase in such State's allotment for that year.

(e) This subsection describes the method of computing and paying State allotments. The Secretary, before each calendar quarter, estimates the amount to be paid to each State for that quarter and then pays the amount, subject to adjustment for errors in previous payments.

(f) This subsection requires each State to set aside 1 per centum of its allotment under part B to establish its State advisory council required by section 211(b), between ranges of $50,000 and $150,000.

(g) This subsection limits payments under part B to costs incurred in providing part B goods and services with respect to which no other payment is made under this Act.

SECTION 111

This section authorizes formula grants to States for innovation and expansion of services to handicapped individuals.

(a) Subsection (a) establishes State allotments on the basis of population, with a minimum allotment to any State of $50,000. The Secretary shall pay a portion of the cost of planning, preparing for, and initiating programs for services to severely handicapped individuals, and to classes of handicapped individuals with unusual and difficult problems of rehabilitation, particularly those who are poor. Grants to be used for direct services or for establishing facilities must be approved by the State agency administering the plan. The Secretary may require that no more than 50 per centum of a State's allotment under this section shall be expended for projects approved by him, the remainder to be expended in accordance with priorities established by the State consistent with the provisions of this section.

(b) This subsection provides that payments of such grants may be made for up to three years for any project, and the Federal share may not exceed 90 per centum.

(c) This subsection provides that payments may be made in advance or through reimbursement.

(d) This subsection provides that the Secretary may transfer unused funds from one State to another State or other States, the additional funds so transferred shall increase such State's allotment for that year.

SECTION 112

(a) This subsection requires the Secretary to set aside not less than 1 per centum for the purpose of establishing a system of of funds appropriated under section 100(a) for the purpose of establishing a system of client advocacy in each geographical area. Such systems are to be funded through the State agency administering the State plan. Client advocates shall serve as ombudsmen to help resolve client complaints.

(b) This subsection limits client advocates to those who are not employees, present clients, or under supervision of rehabilitation facilities or programs. The subsection specifies that advocates shall be afforded access to key personnel in the State agency and in the Rehabilitation Services Administration for the purpose of quick and effective resolution of client complaints.

(c) This subsection requires each client advocacy system to submit an annual report of its operations to the State agency and to the Secretary, including a description of case not resolved satisfactorily and recommendations for changes in the law and administration. The Secretary shall submit copies of such reports to Congress, along with his evaluation and recommendations.

(d) The recommended sources of client advocacy personnel are delineated in this subsection, to include graduate students undergoing clinical training in law, social services, rehabilitation counseling, psychology, health, and other related fields.

(e) This subsection prohibits the denial, threat, or discouragement of clients and client applicants in their relationship with the client advocacy system. Willful violation of the prohibition may result in suspension, reduction, or limitation of title I payments to a State in connection with the facility in which such violation occurred.

SECTION 113

(a) This subsection authorizes the Secretary to conduct experimental appeal projects in ten geographical areas, including examination of a small State appeals system; appeals from actions of one rehabilitation facility to a panel of counselor peers from other facilities; appeals to regional officials in the Department of Health, Education and Welfare; and appeals from actions of one rehabilitation facility to another.

(b) This subsection directs the Secretary to report to Congress within two years on the results of each experimental project under this section, and submit an evaluation of existing appeals systems in the United States.

Part C—Supplementary Funds for Vocational and Comprehensive Rehabilitation Services to Severely Handicapped Individuals

SECTION 120

(a) This subseciton specifies the State allotment formula under part C to be an amount bearing the same ratio to the total appropriated available for allotment under part C as the product of population times allotment percentage unsquared bears to such products in all States. The minimum State allotment under part C is $150,000.

(b) This subsection directs the Secretary, as under part B of this title, to transfer unused funds from one State to another State or States, which transfer shall increase the allotment of the receiving State in that fiscal year.

(c) This subsection limits allotments to expenditures for vocational and comprehensive rehabilitation services to severely handicapped individuals, to the extent that the cost of such services exceeds 200 per centum of the average cost of services to all handicapped individuals.

(d) This subsection provides that not more than 10 per centum of the total funds allotted to a State under title I, that is, the combined total of parts B and C allotments shall be expended for comprehensive rehabilitation services non-vocational goal.

(e) This subsection requires a reallocation of funds under this section pursuant to subsection (b), and the remainder to carry out the purposes of subsection (d) of section 110.

SECTION 121

This section requires a State, as a condition for receiving grant funds under the Act, to submit within 180 days after enactment an amendment to its State plan which includes a program for provision of vocational and comprehensive rehabilitation services to severely handicapped individuals. A State must include such a program in State plans submitted in subsequent fiscal years. The State agency which administers the plan must also administer the part C program. Other requirements relating to severely handicapped individuals described in the State plan requirements of section 101 are reiterated in this section.

SECTION 122

This subsection authorizes the payment of the Federal share for expenditures by the States for the part C program, according to each State's allotment. Payments may be made in advance, or by reimbursement.

TITLE II—SPECIAL FEDERAL RESPONSIBILITIES

SECTION 200

(a) This subsection authorizes appropriations for construction, planning, and initial amounts of $35,000,000 for FY 1973; $40,000,000 for FY 1974; and $45,000,000 for FY 1975. Amounts so appropriated shall remain available for expenditure until July 1, 1977.

(b) Subsection (b) authorizes the Secretary to make construction grants to States and public and private nonprofit organizations. Approval is conditioned on conformity with the general provisions in section 212. The Federal share of the cost of construction is specified as the same as that for rehabilitation facilities under section 645 of the Public Health Service Act. That Act provides, with respect to rehabilitation facilities, that the Federal share is an amount determined by the State agency, but not more than 66⅔ per centum, or the State's allotment percentage, whichever is lower, with a minimum of 50 per centum. An exception, under which the Federal share may be up to 90 per centum (which includes the Federal share described above plus an incentive per centum) is provided for projects which are determined by the Secretary to provide services primarily for persons in a rural or urban poverty area.

(c) This subsection authorizes the Secretary to make grants for the initial staffing of rehabilitation facilities constructed after enactment of this Act, in amounts not exceeding 75 per centum of professional or technical staffing costs in the first 15 months of operation, 60 per centum of such costs for the following year, 45 per centum of such costs for the second following year, and 30 per centum for the third following year.

(d) This subsection authorizes grants for planning rehabilitation facilities.

SECTION 201

(a) This subsection authorizes appropriations for grants to provide vocational training services to handicapped individuals in the amounts of $30,000,000 for FY 1973; $35,000,000 for FY 1974; and $40,000,000 for FY 1975.

(b) This subsection authorizes the Secretary to pay the Federal share of the cost of training services in rehabilitation facilities, to include occupational skill training, work evaluation and testing, provision of tools and equipment, job tryouts, and payment of weekly allowances. Allowances may not be paid to an individual for more than two years, and shall not exceed $30 per week plus $10 for each dependent, or $70, whichever is the lesser. Grants may be made only if the project's purpose is to prepare the handicapped individual for gainful employment; if those to be trained are deemed suitable for such purpose by the State agency; if the full range of training services is available to all; and if the project meets other requirements the Secretary may prescribe.

(c) This subsection authorizes the Secretary to make grants to rehabilitation facilities to improve management effectiveness and other assistance to improve the operation of such facilities, but prohibits grants under this subsection being used for construction.

SECTION 202

This section requires the Secretary, with respect to the carrying out of loan guarantee activities under the Public Health Service Act for rehabilitation facilities, to assure compliance with section 212.

SECTION 203

(a) This subsection authorizes the Secretary, subject to the general provisions of section 212, to pay annual interest grants to States and agencies to reduce borrowing costs related to mortgages for construction of rehabilitation facilities.

(b) This subsection authorizes such grants for up to forty years in an amount equal to the first 3% of the annual interest rate.

(c) This subsection authorizes the appropriation of such sums as are necessary, and limits contracts for payment of annual interest grants to the amount appropriated for such purpose. The total of grants may not exceed $1,000,000 for grants entered into during FY 1973; $2,000,000 for grants entered into prior to June 30, 1974; and $4,000,000 for grants entered into prior to June 30, 1975. The effect of this limitation is to limit the U.S. liability to $160 million over the next 43 fiscal years.

(d) This subsection limits expenditures under this section in any one State to not more than 15 per centum of the funds expended under this section in any one State in any year.

SECTION 204

(a) This subsection authorizes appropriations for special projects and demonstrations (and research and evaluations related thereto) in the amounts of $50,000,000 for FY 1973; $100,000,000 for FY 1974; and $150,000,000 for FY 1975. Ten per centum of amounts appropriated shall be available for making grants for migratory and seasonal agricultural workers under subsection (d), and additional appropriations are authorized for this purpose up to a total of $10,000,000 for both the earmarked and separate appropriation amounts.

(b) This subsection specifies the special projects demonstrations for which grants are authorized, subject to the general provisions in section 212, as including establishment of facilities and services to expand or improve rehabilitation services to handicapped, and especially severely handicapped, individuals, and application of new types or patterns of services or devices.

(c) This subsection authorizes the Secretary to make grants to a State or local agency to pay the full cost of providing services to handicapped migratory agricultural workers or seasonal farmworkers and their families, including maintenance and transportation. The grantee must cooperate with other agencies skilled in providing services to such workers, and administration of this provision shall be coordinated with other Federal laws dealing with such workers.

(d) This subsection authorizes the Secretary to make contracts with employers and organizations, for employment programs for handicapped individuals.

(e) This subsection authorizes the Secretary to provide by contract or directly, technical assistance to rehabilitation facilities, and, with respect to removal of architectural barriers to any agency. Experts or consultants are authorized compensation up to GS–18.

SECTION 205

(a) This subsection authorizes appropriations for the purpose of establishing and operating a National Center for Deaf-Blind Youths and Adults, in the amounts of $5,000,000 for construction and $800,000 for operations for FY 1973; $1,200,000 for operations for FY 1974; and $2,000,000 for operations for FY 1975.

(b) This subsection authorizes the Secretary, subject to the general provisions of section 212, to enter into an agreement to pay the costs of construction, equipment, and operation of a vocational rehabilitation center to demonstrate methods of providing services to, and training personnel to provide such services for, deaf-blind individuals; to conduct research in rehabilitation problems of deaf-blind individuals; and to improve public understanding of problems of deaf-blind individuals.

(c) This subsection provides that an agency desiring to participate shall submit a proposal to the Secretary. The Secretary shall give preference to proposals which promise maximum effectiveness in operating the center, and promise of the most skill and capability in providing a broad service program for deaf-blind individuals.

SECTION 206

(a) This subsection provides authorization of appropriations for grants for Rehabilitation Centers for Deaf Individuals, and expansion and improvement of vocational and comprehensive rehabilitation services for deaf individuals, in the amounts of $5,000,000 for FY 1973; $7,500,000 for FY 1974; and $10,000,000 for FY 1975.

(b) This subsection authorizes the Secretary subject to the general provisions of section 212, to make grants for payment of the cost of construction of centers to rehabilitate and maximize the vocational potential of deaf individuals, training professional and allied personnel to provide such services, and conducting research in the nature and prevention of problems of deaf individuals whose maximum vocational potential has not been achieved, and also to improve the public's understanding of the assets and problems of deaf individuals.

(c) This subsection requires an agency or organization desiring to receive a grant under this section to submit a proposal as required by the Secretary. The Secretary shall give preference to those proposals offering maximum effectiveness in the organization of a Center and the most substantial ability in providing a broad program of service, research, training, and related rehabilitation activities for deaf individuals whose maximum vocational potential has not been achieved.

(d) This subsection requires the Secretary to prescribe regulations to determine the population of deaf persons whose maximum vocational potential has not been achieved, require coordination between the agency receiving funds and the State and local agencies, and provide for establishment of an advisory board.

(e) This subsection specifies that to receive services under this section, a deaf individual must be 16 years of age, be beyond compulsory school attendance age, and not have achieved his maximum vocational potential.

(f) This subsection requires that programs under this section are to be coordinated with similar programs carried out by the Bureau of Education for the Handicapped to achieve a consistent educational philosophy, a continuity of services, and to avoid unnecessary duplication or overlap.

SECTION 207

(a) This subsection authorizes appropriations for establishing National Centers for Spinal Cord Injuries, in the amounts of $15,000,000 for FY 1973, $25,000,000 for FY 1974, and $30,000,000 for FY 1975.

(b) Subsection (b) authorizes the Secretary, subject to the general provisions of section 212, to enter into an agreement to pay costs of establishing centers to provide vocational and comprehensive rehabilitation services and acute medical care to spinal cord injured individuals, to assist in meeting the costs of such services, to study methods used to provide such services, and to develop new means of cooperation among organizations concerned with the problem of spinal cord injury.

(c) This subsection requires an organization desiring to enter into such agreement to submit a proposal as prescribed by the Secretary, who shall give preference to organizations which will provide multidisciplinary systems of rehabilitation services including acute medical care and inpatient and out-patient care, and will demonstrate the benefits of such services and the degree of cost effectiveness of the regional system, demonstrate and evaluate methods to improve rehabilitation of individuals with spinal cord injuries, and demonstrate methods of outreach and advocacy for such purposes.

SECTION 208

(a) This subsection authorizes to be appropriated funds for the purpose of providing services for treatment of individuals suffering from end-stage renal disease in the amounts of $20,000,000 for FY 1973; $25,000,000 for FY 1974; and $30,000,000 for FY 1975.

(b) This subsection directs the Secretary shall make grants from sums available to State and other agencies for paying all or part of the cost of projects for providing special services (including transplantation and dialysis), artificial kidneys, and supplies for rehabilitation of persons with end-stage renal disease.

(c) This provision provides that payments may be made in advance or by reimbursement and on such conditions as the Commissioner shall prescribe.

SECTION 209

(a) This subsection authorizes appropriations for the provision of rehabilitation services to older blind individuals in the amounts of $10,000,000 for FY 1973, $20,000,000 for FY 1974, and $30,000,000 for FY 1975. Of amounts appropriated 1 per centum shall be available for projects authorized under subsection (h).

(b) Allotment of funds to States is provided under this subsection, is under a formula based on population multiplied by the allotment percentage unsquared. The minimum for any State is $50,000. The Secretary shall pay the Federal share of the cost of services provided to older blind individuals under the State plan excluding any amount paid for by any other public or private agency.

(c) The subsection defines "older blind individuals" as individuals age 55 and older whose visual impairment makes gainful employment difficult to attain.

(d) This subsection prohibits the payment of funds under this section with respect to which any payment is made under any other provision of the Act.

(e) This subsection imposes additional requirements for the State plan with respect to services to older blind individuals. The plan must include provisions for policies and methods to be used in administering and supervising rehabilitation of older blind individuals and the order to be followed in providing such services, establishment of personnel standards to govern facilities used for such rehabilitation, and for cooperation by the State agency with other agencies concerned with blind individuals and joint undertakings to further the effectiveness of rehabilitation services for such individuals.

(f) This subsection requires the discontinuance of payments to States in the same manner and on the same basis as provided under section 101(c)(2) and permits judicial review of actions taken by the Secretary pursuant to the provisions in subsection (d) of such section.

(g) This subsection specifies that the provisions of section 212 shall apply to assistance under this section, unless the context otherwise requires.

(h) This subsection authorizes the Secretary to make grants to pay all or part of the costs of projects to demonstrate methods of providing special intensive services and training professional and allied personnel to rehabilitate older blind individuals, to conduct research in the problems of such persons, to aid in activities to expand or improve services and to help improve public understanding of the problems of older blind individuals.

SECTION 210

(a) This subsection establishes a National Advisory Council on Rehabilitation of the Handicapped, consisting of 20 members, appointed by the Secretary. Members shall be leaders in rehabilitation, and 10 shall be selected from leading medical education or scientific authorities, and; 8 of the 20 shall be handicapped persons or those who have received vocational rehabilitation services. This subsection provides other statutory requirements regarding members of the Council.

(b) This subsection requires the Council to provide policy advice and consultation to the Secretary on the planning, conduct and review of programs authorized under the Act, to review the administration and operation of rehabilitation programs under the Act, including their effectiveness, and to make recommendations with respect thereto including recommendations for statutory changes and annual reports to the Secretary for transmittal to Congress. This subsection also requires the Council to advise the Secretary on the conduct of independent evaluations of programs and to provide such other advisory services as the Secretary may request.

(c) This subsection provides that technical and staff assistance for the Council shall be provided from the Office for the Handicapped, the Rehabilitation Services Administration, or other Federal agencies. This subsection also authorizes appropriations in the amounts of $100,000 for FY 1973, and $150,000 for each of the two succeeding fiscal years for the Council.

(d) This subsection imposes additional duties on the Council, including a review of duplication among vocational rehabilitation programs and other programs serving handicapped individuals, submitting annual reports of such duplication, and requires that in making such review, the Council seek opinions of persons familiar with the programs, rehabilitation, and employment.

(e) This provision permits compensation at per diem rates for members of the Council.

SECTION 211

(a) This subsection requires each State to establish a State Advisory Council, with aid of amounts set aside for expenditure in carrying out its functions under Section 110. The subsection requires any State receiving assistance under this Act to establish a State Advisory Council. This subsection sets forth requirements for membership on the Council, including those who are familiar with vocational rehabilitation, experienced in training for education of handicapped individuals, representatives of labor and management, and, as a majority of members, persons who are themselves handicapped and have received vocational rehabilitation services. This subsection also requires the State Advisory Council to advise the Governor or State agency on policy matters in administration of the State plan, to advise on long range planning and studies to evaluate programs, and to submit to the Governor and the National Advisory Council on Rehabilitation of the Handicapped an annual report of its recommendations and comments.

(b) Subsection (b) requires the State to establish within 120 days prior to the beginning of any fiscal year ending after FY 1973 a State Advisory Council and inform the Secretary of its establishment. The Secretary shall then certify that such Council is in compliance with membership requirements set forth in subsection (a).

(c) This subsection requires each State Advisory Council to meet within 30 days after certification, setting forth rules of the State Advisory Council including provisions that each Council must meet at least four times a year, and that it have one public meeting each year at which the public may express views concerning vocational rehabilitation.

(d) This subsection authorizes each State Advisory Council to obtain such services as are necessary to carry out their functions under this Act.

SECTION 212

(a) This section applies to all projects assisted under title II and the general provisions contained in this section, and directs the Secretary to assure compliance with the section, except with respect to sections 201, 208, 210, and 211.

(b) This subsection requires that a construction project must be used as a public or nonprofit facility for not less than 20 years. Sufficient funds must be available to meet the non-Federal share. Federal funds are to be used only for the purpose provided. Annual reports must be submitted to the Secretary. Plans and specifications must give due consideration to excellence of architecture and design, and inclusion of works of art, comply with regulations on safety and health, and emphasize compliance with the Architectural Barriers Act of 1968. The application must provide that laborers and mechanics employed by contract shall be paid prevailing wage rates, and contain other conditions as the Secretary deems necessary.

(c) This subsection provides that the Secretary shall reserve the amount of grants approved, and in the event of an upward revision of cost estimates permits for payment from the original appropriation.

(d) This subsection provides that the Federal Government shall be entitled to reimbursement from a facility for uses made other than as a public or nonprofit facility where such use occurs within 20 years after completion of construction.

(e) This subsection provides that payment of grants or reservation of funds may be made in advance or by reimbursement.

(f) This subsection provides that workshops may, where necessary to effective operation, be awarded grants for construction of residential accommodations.

(g) This subsection prohibits the use of funds provided under this title for construction of such portion of a facility as will be used for religious worship or sectarian activity.

(h) This subsection provides that where funds are used to provide direct services under this title, services must be consistent with the State plan under section 101.

(i) This subsection requires the Secretary to afford State agencies reasonable opportunity to comment on grants or contracts under this title prior to their being made.

TITLE III—RESEARCH AND TRAINING

SECTION 300

This section authorizes Federal assistance to States to plan and conduct research, demonstrations, and related activities in the rehabilitation of handicapped individuals, and plan and conduct courses of training to increase the number of skilled rehabilitation personnel and there improve the existing skills of such personnel.

SECTION 301

(a)(1) This paragraph authorizes appropriations for section 302 of this title in amounts of $75,000,000 for FY 1973, $100,000,000 for FY 1974, and $150,000,000 for FY 1975, of which 15 per centum, 25 per centum, and 25 per centum, of the amounts appropriated in each respective fiscal year shall be available for carrying out activities under section 302(b)(2).

(a)(2) This paragraph authorizes appropriations for section 303 of this title in amounts of $50,000,000 for FY 1973, $75,000,000 for FY 1974, and $100,000,000 for FY 1975.

(b) This provision provides that funds appropriated under this title shall remain available until expended.

SECTION 302

(a) This subsection authorizes the Secretary to make grants to and contracts with States and other organizations to pay part of the cost of projects to plan and conduct research, demonstrations, and related activities to develop methods, procedures, and devices to provide vocational and comprehensive rehabilitation services to handicapped and severely handicapped individuals. Such projects may include medical, scientific and other investigations into the nature of disability, methods of analyzing it, and restorative techniques, studies and analyses of factors affecting the rehabilitation of handicapped individuals, and special problems of homebound and institutionalized individuals, and related activities which hold promise of increasing knowledge and improving methods in rehabilitating handicapped individuals.

(b) This subsection establishes priority research categories as follows:

(1) Authorization is made in this paragraph for grants to pay part or all of the costs of activities to establish and support Rehabilitation Research and Training Centers operated with institutions of higher education to coordinate and advance programs of research and training in rehabilitation.

(2) This paragraph authorizes grants for the establishment and support of Rehabilitation Engineering Research Centers to apply advanced technology and other knowledge in solving rehabilitation problems through research, including cooperative research with other organizations designed to produce new knowledge, equipment and devices. The paragraph also provides for cooperation with the Office for the Handicapped in developing information exchange systems and coordination to promote utilization of engineering and other research.

(3) This paragraph authorizes a program for spinal injury research in support of the National Centers for Spinal Cord Injuries. The purpose of such research is to insure dissemination of research findings among all spinal cord injury centers, provide encouragement and support for new approaches, and establish close working relationships with other organizations to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among spinal cord injury investigators.

(4) This paragraph authorizes a program for international rehabilitation research, demonstration, and training to develop new knowledge in rehabilitating handicapped individuals. The purpose of such program also would be to cooperate with other nations in sharing and developing information in rehabilitation, and initiating a program to exchange experts and technical assistance with other nations.

(c) This subsection applies the general provisions of section 212, unless the context indicates to the contrary; particularly applicable is the provision that funds used for direct services to handicapped individuals shall not be inconsistent with the State plan approved under section 101.

SECTION 303

(a) This subsection authorizes the Secretary to pay part of the cost of training and related activities to increase the number and skills of trained rehabilitation personnel.

(b) This subsection provides that funds under this section will be utilized for projects in rehabilitation medicine, rehabilitation counseling, rehabilitation social work, physical therapy, occupational therapy, speech pathology and audiology, rehabilitation nursing, workshop and facility administration, prosthetics and orthotics, psycology, specialized personnel for deaf and blind persons, recreation for ill and handicapped individuals and other fields contributing to rehabilitation, including for homebound and institutionalized individuals. The subsection limits education grants to not more than 4 years.

SECTION 304

This section requires the inclusion in his annual report a report with respect to research and training activities undertaken pursuant to this title, with emphasis on the contribution of such activities to the improvement of vocational and comprehensive rehabilitation services.

TITLE IV—ADMINISTRATION AND PROGRAM AND PROJECT EVALUATION

SECTION 400

(a) This subsection requires the Secretary in administering that portion of the Act under his jurisdiction to cooperate with and render technical assistance to States in the rehabilitation of handicapped individuals, provide short term training and instruction in technical matters for not more than 2 years in fields which are similar to those listed under section 303, and disseminate information on vocational rehabilitation services and promote such services.

(b) This subsection authorizes the Secretary to make rules and regulations in the administration of titles IV, V, and VI of the Act, and requires such rules and regulations and those prescribed by the Commissioner of RSA under titles I, II, and III, to be published in the Federal Register on an interim basis within 90 days after enactment of the Act.

(c) This subsection authorizes the Secretary to conduct various studies, investigations, and evaluations of programs authorized under the Act and to make reports thereon. Special mention is made of reports concerning abilities and aptitudes of handicapped individuals, development of their potentialities and use in gainful employment, and problems involved in architectural, transportation, and other environmental and attitudinal barriers, including problems of homebound, institutionalized and elderly blind persons.

(d) This provision authorizes for purposes of administration appropriation of such sums as are necessary.

(g) This subsection requires the Secretary to insure the maximum coordination and consultation with the Administrator of Veterans' Affairs concerning programs for rehabilitation of disabled veterans.

SECTION 401

(a) This provision requires the Secretary to evaluate all programs authorized under the Act to determine their effectiveness, including their cost, structure, and mechanism for delivery of services. Evaluations shall be conducted by persons who are not immediately involved in the administration of the program or project evaluated. The provision requires that in the case of research, demonstration, and related activities, the Secretary is to reassess priorities for such activities, and review existing research, demonstrations, and related activities to determine the basis for their continuance, revision or termination. The Secretary is required, within 12 months after the date of enactment and each subsequent April 1st to submit a report to the appropriate Committees of Congress on the determination and review carried out under this subsection including recommendations for additional legislation.

(b) This subsection requires the Secretary to publish standards for evaluation of programs and project effectiveness, and to consider the extent to which such standards have been met in deciding whether to renew or supplement financial assistance under this Act. Actions taken shall be described in the Secretary's annual report to the Congress.

(c) This subsection requires the Secretary, to the extent possible, to obtain the views of persons participating in the program and projects assisted under the Act.

(d) This subsection directs the Secretary to publish the results of research and summaries of evaluations of the programs within 90 days after completion of such projects or programs, and submit copies to the appropriate Committees of Congress.

(e) This subsection, requires the Secretary to take whatever action is necessary to insure that studies, evaluations, proposals, and data produced under this Act shall become the property of the United States.

SECTION 402

This section requires that agencies of the executive branch provide to the Secretary upon request such information as the Secretary deems necessary for his evaluations under this title.

SECTION 403

This section authorizes appropriations for the purpose of conducting program and project evaluations under this title in amounts the Secretary may require, not to exceed ½ of 1 per centum of the funds appropriated under titles I, II, and III of the Act or $2,000,000 whichever is greater.

SECTION 404

This section requires the Secretary, within 120 days after the close of each fiscal year, to submit to the President for transmittal to Congress a full and complete report on activities carried out under the Act. Such reports shall include statistical data in the maximum feasible detail, relating to services provided to handicapped individuals during the preceding fiscal year, and shall specifically distinguish between rehabilitation closures attributed to physical restoration, placement in competitive employment, extended or terminal employment in a sheltered workshop, and provision of supplementary services. Such report shall also evaluate the use of funds provided under part C of title I and include descriptions of actions taken under sections 9, 401(b), 601(d) and 602(f).

SECTION 405

(a) This subsection requires the Secretary to conduct a study of the role of sheltered workshops in rehabilitation and employment of handicapped individuals, including a study of wage payments. Such study is to incorporate guidelines in accordance with a resolution adopted by the Committee on Labor and Public Welfare of the United States Senate or the Committee on Education and Labor of the United States House of Representatives, or both.

(b) This subsection requires the conduct of site visits and interviews of handicapped trainees or clients in the course of such study.

(c) This subsection prohibits the awarding of contracts under this section to individuals or groups with finanical or other direct interest in sheltered workshops (either pro or con).

(d) This subsection requires the Secretary to report to the Congress his findings and recommendations on such study within 18 months after enactment of the Act.

TITLE V—OFFICE FOR THE HANDICAPPED

SECTION 500

This section establishes an Office for the Handicapped within the Office of the Secretary in the Department of Health, Education, and Welfare, to be headed by a Director. The Director will be a special assistant to the Secretary. In filling all positions in the Office, special emphasis is to be given to handicapped individuals.

SECTION 501

This section enumerates the functions of the Office for the Handicapped. With the assistance of other Federal agencies, the Office shall prepare a five-year plan for provision of services to handicapped individuals and for programs of research, evaluation, and training; analyze and review program operation and budgeting to assure progress in meeting goals and priorities set forth under the five-year plan; integration of all rehabilitation programs, and elimination of unnecessary duplication and overlap. The Office shall also coordinate planning for the provision of comprehensive services for handicapped individuals with programs under the jurisdiction of the Secretary. The Office shall provide staff assistance and other assistance to the National Advisory Council on Rehabilitation of the Handicapped and other committees advising the Secretary on programs regarding handicapped individuals. The Office shall develop means of promoting prompt utilization of research to assist in solving problems of education health, employment, rehabilitation and other areas for handicapped individuals, and provide a central clearinghouse for information and resource availability for handicapped individuals, including evaluation of information and data systems and utilization of evaluations and existing information systems. The Office shall carry out such additional functions as may be assigned to it by the Secretary or the President.

SECTION 502

This section authorizes appropriations for the Office in amounts of $1,000,000 for FY 1973, $2,000,000 for FY 1974, and $2,000,000 for FY 1975.

TITLE VI—MISCELLANEOUS

SECTION 600

This section repeals the existing Vocational Rehabilitation Act (and deems references to such Act as to this Act) effective 90 days after the date of enactment of this Act, and provides for transition from that Act to this Act, by preventing disruption of ongoing actiivties for which there is continuing authority in this Act.

SECTION 601

(a) This subsection establishes in the Federal Government as Interagency Committee on Handicapped Employees, comprised of the heads of the Civil Service Commission, the Veterans Administration, and the Departments of Labor and Health, Education, and Welfare. The Chairmen of the President's Committee on Employment of the Handicapped and of the President's Committee on Mental Retardation are ex officio members, the Commissioner of the Rehabilitation Services Administration serves as the Executive Director, and the Secretary of HEW as chairman of the Committee. The subsection specifies the purpose of the Committee to insure, through establishment of affirmative action programs, the adequacy of hiring, placement and advancement of handicapped individuals in the Federal government.

(b) This subsection requires each department, agency, and instrumentality in the executive branch of government to submit to the Committee within 180 days after enactment an affirmative action program plan concerning the hiring, placement, and advancement of handicapped individuals in such entity.

(c) This subsection requires the Committee to develop and recommend to the Secretary procedures and policies to facilities the hiring, placement and advancement of handicapped individuals who have received rehabilitation services. The Secretary shall encourage the State agencies to adopt and implement such policies and procedures.

(d) This provision requires the Committee on June 30, 1973, and in each subsequent fiscal year to make a complete report to the appropriate Committees of Congress on the hiring, placement, and advancement of handicapped individuals in the Federal government, and its recommendations as to legislation or other action to insure the adequacy of such practices.

(e) This subsection provides that unpaid work experience of an individual within a Federal agency shall not be considered Federal employment for purposes of Federal personnel laws and regulations.

(f) This subsection requires the cooperation of the Departments of Labor and HEW with the President's Committee on Employment of the Handicapped and authorizes appropriations for such Committee of $1,000,000 for FY 1973 and $1,250,000 for FY 1974.

SECTION 602

(a) This subsection establishes an Architectural and Transportation Barriers Compliance Board composed of the heads of the Department of Health, Education and Welfare, the Department of Transportation, the Department of Housing and Urban Development, the General Services Administration, the Department of Interior, the United States Postal Service, the Veterans' Administration, and the Department of Labor.

(b) This subsection specifies the function of the Board to insure compliance with standards prescribed by the General Services

Administration pursuant to the Architectural Barriers Act of 1968, investigate and examine alternative approaches to architectural transportation and attitudinal barriers confronting handicapped individuals, especially in Federally controlled or regulated areas, determine what measures are being taken by Federal, State and local governments to eliminate such barriers, make reports to the President and Congress detailing its investigations, and provide such recommendations as it deems necessary to eliminate such barriers.

(c) This provision requires the Board to conduct investigations, hold public hearings, and issue necessary orders to insure compliance with the cited acts. The provision requires the application of the Administrative Procedure Act in any action taken by the Board, including provision for judicial review.

(d) This subsection authorizes the Board to appoint as many hearing examiners as are necessary, and specifies that provisions of law with respect to hearing examiners generally shall be applicable.

(e) This subsection requires the agencies involved in membership on the Board to make available to the Board such administrative or other assistance as is necessary to carry out the Board's functions, and permits the Board to appoint such other advisors and experts as are necessary.

(f) This provision requires the Board to submit a report to the Congress on its activities during the preceding fiscal year, including an assessment of the extent of compliance with the Architectural Barriers Act and a description and analysis of investigations made by the Board.

(g) This provision authorizes appropriations for carrying out the duties and functions of the Board in the amounts of $1,000,000 for FY 1973; $1,250,000 for FY 1974; and $1,500,000 for FY 1975.

SECTION 603

(a) This subsection requires that any contract entered into by any Federal department or agency for personal property or services shall contain a provision requiring contractors to take affirmative action to employ qualified handicapped individuals. The President shall implement the provisions of this section through regulations promulgated by him within 90 days after enactment of this Act.

(b) This subsection permits any handicapped individual affected by a refusal or failure to comply with the provisions of this section to file a complaint with the Department of Labor, which shall investigate such complaints and take such actions as are necessary.

SECTION 604

This section prohibits discrimination, exclusion or denial of benefits to otherwise qualified handicapped or severely handicapped individuals by any program or activity receiving Federal financial assistance.

TITLE VII—AMENDMENTS TO RANDOLPH-SHEPPARD ACT

SECTION 700

This section provides that the short title of title VII shall be cited as the "Randolph-Sheppard Act for the Blind Amendments of 1972."

SECTION 701

This section rewrites the first section of the Randolph-Sheppard Act (hereinafter referred to as "the Act") which authorizes the licensing of blind persons to operate vending facilities on Federal property, and provides preference to blind persons in operating such facilities. The provision includes within such preference assignment of vending machine income to achieve and protect such preference.

SECTION 702

(a) This subsection amends section 2(a) of the Act in several respects most of which are technical. It would change references to "stands" to "facilities" in order to reflect the greater variety of concessions in the program, would eliminate the requirement that a blind operator be at least 21 years of age, and broaden the types of articles and services available in vending facilities.

(b) Section 2(b) of the Act is amended to change "stand" to "facility", to eliminate the one-year residence requirement for blind operators, and to eliminate archaic wording referring to blindness as an infirmity.

(c) This subsection amends section 2(c) of the Act to change the word "stand" to "facility."

(d) This subsection adds a new subsection (d) to section 2 of the Act to require buildings used, in whole or in part, by the Federal government, which are designed, constructed, or substantially altered after January 1, 1973, to include a site or sites for blind vending facalities. This requirement would not apply where the Secretary and the State licensing agency determine that such building will not support a vending facility, or where a privately-owned building had a restaurant or food facility in operation prior to the Federal lease, and operation of a blind vending facility would be in direct competition with such pre-existing facility.

SECTION 703

This section amends section 3 of the Act to change "stand" and "stands" to "facility" and "facilities", and inserts an additional requirement of the State licensing agency that such agency agree to submit blind licensee grievances to binding arbitration where a hearing by such agency does not result in a satisfactory resolution of such grievances.

SECTION 704

This section would add two new sections to the Act, sections 6 and 7, the purpose of which is to provide additional grievance and appeal procedures for blind licensees and State licensing agencies. Section 6 provides that a blind licensee dissatisfied with operation or administration of the vending facility program may file a complaint with the Secretary, who shall convene a panel for binding arbitration. A State licensing agency which determines that a Federal agency in control of Federal property is failing to comply with the Act may also file a complaint with the Secretary. Section 7 outlines the procedures the Secretary must follow in convening arbitration panels, including application of the Administrative Procedure Act to actions of such panels, and the selection of arbiters.

SECTION 705

This section alters the definitions section of the Act to precisely define the term "blind person", to add Puerto Rico as a State for purposes of the Act, and to define "vending facility" to include a broad range of concession activities within the purview of the Act.

SECTION 706

The final section makes these amendments to the Act effective on the date of enactment, except for section 72(d).

Mr. RANDOLPH. Mr. President, on September 14, 1972, I introduced S. 3987, the legislation that is pending before the Senate, with the cosponsorship of 11 of my colleagues who are members of the Committee on Labor and Public Welfare. On September 15, the committee unanimously approved the bill with amendments.

It may superficially appear to some that the measure has received little consideration. Nothing could be further from the truth.

The Rehabilitation Act of 1972 is a carefully considered, extremely thoughtful measure that will, if enacted, become a benchmark and a new beginning in the field of vocational rehabilitation in America. This is ambitious, forward-looking legislation, and I am gratified to have played a role in its development.

As chairman of the Subcommittee on the Handicapped, it was my responsibility to guide this legislation to enactment. Senator ALAN CRANSTON, the floor manager of S. 3987, its principal cosponsor, and acting chairman during the 5 days of hearings held by the subcommittee on the revision of the Vocational Rehabilitation Act, has performed superbly in the development of this legislation. He has devoted many, many hours to its creation.

I say without reservation that much of the recognition for this complex and comprehensive measure must go to the able and diligent Senator from California and his staff.

S. 3987 will, if enacted, bring new hope, dignity, and fulfillment to thousands of handicapped individuals throughout our land. Although the new rehabilitation program envisioned by this legislation cannot at the outset do more than make a beginning for a small percentage of the 7 to 12 million handicapped individuals in the United States, it will be a bright beginning. And I hope its success will be translated into ever-increasing emphasis on the needs of this too often forgotten segment of our population.

The measure now being considered breaks new ground by emphasizing services to severely handicapped individuals, by permitting comprehensive services to persons for whom no vocational goal can be established, and through several target programs, including those for older blind, spinal cord injured, deaf individuals, and those with end-stage renal disease.

As I stated at the time I introduced S. 3987, many persons who are handicapped are on the welfare rolls solely because they have not been rehabilitated so that they may engage in gainful employment. In many cases, they and their families have had their financial resources drained away by the heavy cost of medical and other care.

An expanded Federal program of vocational rehabilitation will have the effect of taking thousands of handicapped welfare recipients out of poverty and providing them with a livelihood—a life of self-sufficiency, and the dignity of paying their own way in society. This program will benefit all of society and not merely those handicapped individuals and their families who receive the services.

A number of administrative and procedural improvements are also incorporated into S. 3987, including the statutory establishment of the Rehabilitation Services Administration and assignment of program functions to its Commissioner, establishment of an Office for the Handicapped within the Department of Health, Education, and Welfare, creation of a Federal Interagency Committee on Handicapped Employees, and an Architectural and Transportation Barriers Compliance Board.

Research and training are also given new emphasis in S. 3987, so that handicapped individuals and the Nation may benefit from the latest scientific, medical and technical knowledge, devices, and aids.

I cannot hope to do justice to this measure in the short time available. The Senator from California has given a thorough explanation of the details of the bill. I do, however, want to emphasize to the Senate my wholehearted support for this very important measure. I urge my colleagues to give it the attention it deserves, together with their favorable vote.

Mr. President, in closing, I stress that this measure represents the work—the very close cooperative effort—of many Senators and their staffs.

I have noted earlier the significant contributions of the Senator from California (Mr. Cranston). Our distinguished chairman of the Committee on Labor and Public Welfare, Senator Williams, and the Senator from Vermont (Mr. Stafford) who is ranking minority member of the subcommittee, participated actively and constructively in the development of this measure.

Additionally, the very able Senator from New York (Mr. Javits), whose endeavors have been directed toward so very many progressive measures to help people, and the Senator from Ohio (Mr. Taft) have worked diligently to produce this important legislation.

This has been—as I stated—a truly cooperative effort.

Mr. CRANSTON. Mr. President, before I yield to other Senators who may wish to make any opening remarks, I send to the desk on behalf of the committee a series of noncontroversial technical amendments that I ask unanimous consent to be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

The amendments will be stated.

The legislative clerk proceeded to read the amendments.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendments will be printed in the Record.

The amendments are as follows:

On page 12, line 25, strike out "rehabilitational" and insert in lieu thereof "rehabilitation".

On page 13, line 5, strike out "the" after "for", and, on line 6, insert "individuals" after "handicapped".

On page 22, line 4, strike out the semicolon and insert in lieu thereof a comma and "and".

On page 23, line 5, strike out "of this Act".

On page 25, line 7, strike out "paragraph" and insert in lieu thereof "subsection".

On page 27, line 15, strike out "of" and insert in lieu thereof "shall prescribe" after "Secretary".

On page 29, line 12, strike out "prescribed" and insert in lieu thereof "prescribe,".

On page 30, line 4, strike out "(9)" and insert in lieu thereof "(10)" and strike out "of this Act".

On page 31, line 3, strike out "paragraph" and insert in lieu thereof "clause".

On page 31, line 9, strike out "ad" and insert in lieu thereof "and".

On page 33, line 15, insert a comma after "optometrist".

On page 33, line 20, strike out "disorder" and insert in lieu thereof "disorders".

On page 35, line 1, strike out "stands" and insert in lieu thereof "facilities".

On page 37, line 2, strike out "1974" and insert in lieu thereof "1973".

On page 37, strike out all on lines 8 through 11 and lines 17 through 20 and insert in lieu thereof in each place the following: "available for allotment under this section based upon an appropriation in excess of $700,000,000 for such year under subsection (a) of section 101 over the total amount available for such allotment based upon an amount of such appropriation equal to $700,000,000, by".

On page 42, line 20, insert a comma after "allotment".

On page 44, line 7, strike out "100" and insert in lieu thereof "100(a)".

On page 49, line 4, strike out "provisions" and insert in lieu thereof "provision".

On page 49, line 11, insert "this section and" after "under", and on line 12, strike out "and section 120".

On page 49, line 14, strike out "allocated" and insert in lieu thereof "allotted".

On page 51, line 10, strike out "102" and insert in lieu thereof "101".

On page 53, line 7, strike out "of" where it first appears, and insert "shall prescribe" after "Secretary".

On page 55, line 18, strike out "102" and insert in lieu thereof "101".

On page 58, line 22, insert a comma and "subject to the provisions of section 212," after "Secretary".

On page 61, line 7, strike out "H.R." and insert in lieu thereof "title".

On page 67, line 15, strike out "private".

On page 70, line 17, strike out "of this Act".

On page 74, line 15, strike out "services" and insert in lieu thereof "services".

On page 77, line 2, strike out "$100 per day" and insert in lieu thereof "the pro rata pay rate for a person employed as a GS–18 under section 5332 of title 5, United States Code".

On page 78, line 8, insert a comma after "of" and after "in".

On page 78, line 9, strike out "this," and, on line 10, strike out "Act" and insert in lieu thereof "section 101".

On page 78, line 18, strike out "of this Act".

On page 83, line 22, strike out "other".

On page 84, line 20, strike out "of this Act".

On page 99, line 25, strike out "vocational" and insert in lieu thereof "Vocational".

On page 100, line 3, strike out "Unexpected" and insert in lieu thereof "Unexpended".

On page 101, line 2, strike out "mittee" and insert in lieu thereof "mittees".

On page 102, line 17, insert "written" after "individualized", and, on line 18, strike out "written".

On page 104, line 17, strike out "private".

On page 105, line 5, strike out "Sections 1001 to 1011" and insert in lieu thereof "The provisions of subchapter II of chapter 5 and chapter 7".

On page 107, line 13, strike out "of this Act".

On page 107, line 16, strike out "actively" an insert in lieu thereof "activity".

On page 109, line 10, insert "and" within the quotation before "at".

On page 110, line 14, strike out "both" and insert in lieu thereof "the".

On page 113, line 13, insert "7" after "section".

On page 114, line 12, insert a comma after "(C)".

Mr. CRANSTON. Mr. President, these are strictly technical amendments. I ask unanimous consent that these amendments and the committee amendments in the bill as reported be agreed to en bloc and that the bill as thus amended be considered as original text for purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the statement by the distinguished Senator from New Jersey (Mr. Williams) be printed in the Record at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR WILLIAMS

As Chairman of the Labor and Public Welfare Committee, I am pleased to bring to the attention of the Senate today, S. 3987, the Rehabilitation Act of 1972. This bill is the culmination of many weeks of work on the part of Senators and staff, and I am especially happy to say that this is the first bill which has been worked on and reported from the newly-created Subcommittee on the Handicapped, chaired by Senator Randolph. S. 3987 is the first of many bipartisan efforts which will be worked on by that Subcommittee, and truly represents a major re-direction and emphasis on the problems confronting handicapped individuals which will be made by that Subcommittee and this Nation in the years to come. Hearings on this legislation were chaired by Senator Cranston, and it is his able leadership and that of Senator Randolph's which are responsible for the bill that is before us today.

S. 3987 is the most comprehensive vocational rehabilitation legislation ever to be reported from the Committee. It deals sensitively and directly with many issues which were brought up in the hearings, and which I and my colleagues on the Committee believed needed correcting. And I believe that it will make a substantial impact on the lives of thousands of handicapped individuals who will come to State vocational rehabilitation agencies for services.

Vocational rehabilitation is the primary program run by the States for counseling, vocational training and job placement, and many other services to handicapped individuals, and has enabled these individuals to overcome or blunt the effects of their handicaps. Yet in testimony before the Subcommittee this year it became clear that basic changes were needed in the operation of this program to enable it to better serve handicapped individuals and to better meet its stated goals. Testimony was presented which indicated that insufficient emphasis or effort has been made by the States to serve handicapped individuals with severe disabilities. In effect, the Subcommittee found that in its desire to serve larger numbers of individuals, the Vocational Rehabilitation program was putting more emphasis on case closures with the result that those with severe disabilities were not being taken because of the extra effort and time needed to close "difficult" cases.

The Subcommittee also found in its program review that not enough emphasis was being placed on important applied technological research and on the training so necessary for making advances to ameliorate handicapping conditions. In addition, testimony indicated that there were significant areas where targeted and specialized programs were needed to help fill the gaps in service delivery to individuals with end-stage renal disease, spinal cord injuries, and services to the deaf and older blind.

It is the intent and the direction of this bill, however, which I believe is most important. The Committee has worked hard and long to ensure that handicapped individuals that come to rehabilitation agencies for services will be offered all services that they need, and not be excluded because of the severity of their disabilities. The Committee has changed the definition of handicapped individual so that individuals with substantial handicaps to employment will be able to enter for services as long as he may reasonably be expected to benefit from vocational or comprehensive rehabilitation services. By altering this definition, the Committee has made clear that it believes that those who will benefit from services, but for whom a vocational goal is not immediately indicated, must be able to receive services. It has done this for two reasons: because those with severe handicaps can benefit from services and become more self-sufficient and independent in their family and community, and because the Committee believes that every effort must be made to try to find a vocational outcome for every individual.

Most important, however, is the stress which has been placed in the State plan, and in operation of the basic vocational rehabilitation program, on vocational services to individuals with more severe disabilities. The intent is very clear that the Committee expects the state agencies to make a more substantial effort for these people. The Senate bill includes a 15% earmarking of the total appropriations or the vocational rehabilitation basic program for Part C of Title I for supplementary funds to provide more intensive and individualized services to individuals with more severe handicaps.

The bill also has directed the state to submit within their state plan a detailed specification of plans, policies and methods which will be followed in expending money under Part C. Recognizing that the State will not be able to serve all individuals who could benefit from services, the bill also directs the State to specify the order of priority in which they will select individuals for services, and directs them to provide special emphasis within this order for services to severely handicapped individuals. And most important, the bill directs the State to draw up for each individual who will receive services an individualized written program which will specify in detail the intermediate and long-run goals for the individual, the services to be provided, and the time in which the counselor expects those goals to be reached. This program will be drawn up in consultation with the client, or with his parents or guardian in appropriate cases, and will be reviewed annually. Finally, if the counselor finds, after thorough evaluation of the individual's rehabilitation potential, that a vocational goal is not indicated, he must specify in the written program the reasons for this conclusion. The Committee has also established a system of client advocacy which will operate independently of the state agency. This advocacy system has been established to function as a liaison between individuals responsible for the State program and the client. The client advocate will act as a translator of individual needs to the State agency, and will be able to work out problems which individual clients are having in receiving services from the agency. The Committee has also defined comprehensive rehabilitation services to mean vocational rehabilitation services and any other services which will enable a severely handicapped individual to be more self-sufficient, and has directed the state agencies to provide these services to handicapped individuals. However, it is necessary to emphasize very strongly that the Committee believes that most effort must be placed on services oriented toward a vocational goal. For this reason, the Committee has placed an overall limitation of 10% on the amount of money which may be spent for services for an independent living goal, and has included many important procedural protections which will ensure that every opportunity is given to a handicapped individual to reach a vocational goal.

It is also important to note the emphasis placed on research and training within the Senate bill. The Committee was disturbed to find during the hearings that training and research funds have been cut back in recent years, and that what little research has been carried out has seldom been translated into real benefits to individual clients. The Committee was particularly disappointed at what little was being done in the area of application of technology and engineering to rehabilitation problems. The vast benefits which could accrue from a coordinated and well-planned research program in applied techniques technology and engineering would spell the difference between a life-style of full productivity for many individuals, and the marginality of the lives many now live. I cannot emphasize too strongly the importance which I place on this program. The waste of manpower which results from the lack of this research is an affront to a technologically advanced nation such as our own, and I wish to make very clear that I intend to follow up in detail on the implementation of the programs which have been established by this bill. The Committee has identified four major areas of priority in which it expects progress to be made in the next few years. It has mandated the establishment of Rehabilitation Research and Training Centers which will be able to provide manpower for a broad based program of rehabilitation research; the establishment of Rehabilitation Engineering Research Centers which will enable the Rehabilitation Services Administration and the State agencies to make use of the newest developments in technology, medical and bio-engineering devices; it has established a major program of spinal cord injury research; and it has directed the Rehabilitation Services Administration to undertake a major effort in international rehabilitation research in order that we may share knowledge and developments across national borders. The Committee is aware that many countries of Europe and Asia make better use of their technological and engineering knowledge toward the end of rehabilitating handicapped individuals, and it believes that this Nation must begin to make use of those developments and to cooperate with other nations in order to break new ground in this area.

The Committee found during hearings that it was very difficult to get organized and specific information on the effectiveness of the State programs from the Rehabilitation Services Administration. Not only was it difficult to extract specific information regarding services to clients, but the Committee found that detailed information was not available on research and training projects and on program and project evaluation. The Committee bill, therefore, directs the Secretary to undertake a comprehensive review of program and project evaluation, and to find measurement systems which will be able to demonstrate to the Congress the quality and quantity of services being provided, detailed analysis of the closure system utilized by State agencies, and the effectiveness of individual programs and projects in meeting their stated goals.

Finally, I am particularly pleased to draw to the attention of the Senate that my proposal to create an Office for the Handicapped in the Office of the Secretary of Health, Education and Welfare has been included in this bill as Title V. I cannot stress strongly enough how important I believe this Office will be in coordinating the many services for handicapped individuals in the Department. This Office will be an advisor to the Secretary on the many programs which provide services to handicapped individuals, and will provide a single focus on the myriad needs and priorities for federal programming for the handicapped individuals. There are now more than 50 programs in the Department alone which concern the handicapped. It is very obvious to me that without coordination these programs cannot meet all the needs of handicapped individuals, and are not able to provide the priority that is necessary to enable handicapped individuals to live normal lives in our society.

The Committee has identified a number of functions which it believes that this Office must carry out. The first is the preparation of a five-year plan for provision of services to the handicapped individuals. This plan will identify priorities, in consultation with the many programs which deliver services to the handicapped, and will help individual programs to relate to these priorities. The Committee has further directed the Office to analyze and review program operation and budgeting in order to evaluate progress toward meeting the goals of the five-year plan.

The Office incorporates the National Information and Resource Center introduced by Senator Dole. The Committee has thus directed the Office to evaluate all existing information and data systems on needs, problems and services for the handicapped, and to create within the Department a comprehensive information and data retrieval and dissemination system to offer technical, statistical and related information to all those interested in the numbers and needs of the handicapped and the services which are available for them. I cannot emphasize strongly enough how important this function is. If the Congress and the States are to provide comprehensive and coordinated services to handicapped individuals, good data must be available. Yet in recent months, it has been very clear that consistent information does not exist. Planning in a vacuum such as this is impossible, and efforts must get underway at once to develop this information system.

In conclusion, Mr. President, I would like to point out that this Office does not have authority for operation of programs except as it relates to evaluation and development of an information system, and the dissemination of scientific, medical and technological information. It does not have this authority because the Office is intended to be an advisor to the Secretary, a source of information and technical assistance to federal programs, and a coordinating voice within the Department so that all programs will be able to meet the comprehensive and varied needs of the handicapped. One fear that was raised during hearings on this legislation was that creation of the Office would result in program consolidation resulting in a lack of sensitivity and consideration being given to the very different problems of disability groups. This is not the intent of the Office. I believe that the Office's most powerful tool will be one of information, and that it will provide a most important and necessary function if it is aware of all programs for the handicapped in the Department, is able to coordinate activities which are directed at the same problem, or at different parts of the same problem, and to advise the Secretary on these programs.

This is most necessary if we are provide effective and comprehensive services to handicapped individuals.

Mr. President, S. 3987 is one of the most important pieces of social legislation which has come before the Congress in some time, and I strongly urge its passage and early implementation.

Mr. JAVITS. I yield myself 3 minutes.

Mr. President, I rise to express my support of S. 3987, the Rehabilitation Act of 1972, of which I am a cosponsor.

This bill to bring improved and new rehabilitation services to disabled people was reported unanimously by the Senate Labor and Public Works Committee. It is designed to replace the Vocational Rehabilitation Act, which we have amended and improved many times during past decades. As the Subcommittee on the Handicapped studied testimony presented by more than 40 witnesses, including national experts in rehabilitation work and from concerned agencies and organizations, the committee concluded that the legislation and the vocational rehabilitation program should bring the benefits of the program to greater numbers of severely disabled people. The committee also sought to introduce improvements in the administration of the program.

Before referring to specific provisions of the bill which merit mention, I should like to recall some of the main attributes of the vocational rehabilitation program which serves more than a million disabled citizens each year. The outstanding characteristics of this effort throughout its 52-year history has been its emphasis on achieving a vocational outcome for each client by providing a wide range of rehabilitation services for handicapped people through the State-Federal program of vocation rehabilitation.

Last year more than 250,000 people were rehabilitated into employment through the combined efforts of the State programs working through the general agencies and special agencies for the blind.

While this record is a good one, it is also true that thousands of equally or more disabled persons are not being taken into the program because of limited resources. Testimony from many individuals and organizations stress the view that the Federal legislation should be modified to enable and encourage the States to take into the program more of the severely disabled. Under our bill, this has been accomplished by providing through part C of title I funds to pay for the more costly cases who are the severely disabled.

In his recommendations to Congress which were included in the bill introduced by Senator TAFT, S. 3368, President Nixon recognizes the importance of legislative authorization for services for people with injuries to the spinal cord, disabled migrants, and deaf youth and adults with learning problems. The President recommended, also, that the benefits of the program be extended to people in outlying areas such as American Samoa and the Trust Territories of the Pacific. These and other important recommendations of the administration, including advance funding, joint funding of activities with other agencies, and greater citizen and client involvement in the administration of services at the local level have been incorporated in some form in the committee's bill.

I am particularly pleased with the clear emphasis in the bill on beginning to do more for the severely disabled. For some time I have been particularly concerned about the situation of the handicapped, including the mentally retarded. We must find ways to remove as many as possible from the institutions and to help them qualify for suitable work and living within our communities. I hope—and expect—that the rehabilitation programs will be stimulated to take an even more active role in this endeavor along with other community agencies and institutions.

Mr. President, this bill, with its strong emphasis tieing research to provision of services to people and on client advocacy, will enable disabled people to obtain more promptly the services they need. The provisions for annual interest grants should help in the development of new facilities and workshops. The grants for services for people with end-stage renal disease will keep alive and rehabilitate many people who otherwise would be lost to us because of malfunction of the kidneys which can be helped only with transplants or dialysis. Our proposals with respect to rehabilitation services for older blind people respond to the President's strong support for improving the lives of our older citizens.

I am particularly pleased with the fact that the bill recognizes the special problems of the estimated 2 million homebound handicapped, a neglected group to whom particular attention was directed during the hearings.

The bill provides for new and expanded efforts in research and training which will be administered by the same agency, the Rehabilitation Services Administration. Other special Federal responsibilities are identified. I refer, for example, to encouragement of employment of disabled individuals in Federal agencies and efforts to assure compliance with legislation to eliminate architectural and other barriers in public buildings and transportation systems, and provisions for encouraging hiring of the handicapped under Federal contracts and under Federal grants.

A final point, Mr. President. I would be remiss if I did not add a word of approbation for the ranking minority member of the Subcommittee on the Handicapped, the Senator from Vermont (Mr. STAFFORD) whose active interest in this legislation, through an extensive set of hearings, resulted in strengthening the bill in many areas. Unfortunately, Senator STAFFORD is out of the country on official business and cannot be here at this time. However, he will return in time to participate actively in the conference deliberations with the House.

I close in reiterating my support for the bill before us. It is a sound bill which improves upon a good program. We must move along to see that increasing numbers of disabled individuals are served under this established and proven program.

Mr. President, the distinguished Senator from Vermont (Mr. STAFFORD) is the ranking minority member of the Subcommittee on the Handicapped which had jurisdiction over this bill.

I am very grateful to Senator CRANSTON for the very fine things he has said about Senator STAFFORD and about the staffs of the majority and the minority, who richly deserve it.

As I indicated previously, I am strongly for the bill. It is a most constructive and magnificent reform in respect of rehabilitation of those who are handicapped. Senator CRANSTON has done a magnificent job, both of leadership and craftsmanship, in developing the bill.

Mr. President, I ask unanimous consent that a statement by Senator STAFFORD in support of the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. STAFFORD

The Rehabilitation Act of 1972, S. 3987, is designed to help handicapped individuals to achieve their full potential of participation in our society.

The tentative findings of the most recent study by the General Accounting Office have led us to the conclusion that the present legislation in this field has failed to achieve that goal.

The Vocational Rehabilitation Act, which would be replaced by S. 3987, was a first step down the path of seeking ways to help the handicapped assume meaningful roles in our society. S. 3987 is a logical second step. It will provide no final solutions, but I am convinced it will be effective primarily because it will give handicapped citizens the power to help decide their future in the program.

The Vocational Rehabilitation Program has tried to provide services to those individuals whose handicaps have been substantial enough to limit their participation in the employment process or the society around them. When the program was originated in 1920 (Smith Fenn Act), it was designed to help the handicapped individual cope with his environment and to obtain gainful employment. In the 52 years of the program, its basic frame work has remained intact although the program has been substantially enlarged over the years.

Tentative findings of the yet unpublished GAO study, which was made available to the Subcommittee, portray a program which seems to have lost some of initial direction and has gotten snarled in the bureaucratic numbers game. The GAO found that (1) the programs once so heralded were not serving individuals with substantial handicaps, nor (2) was the program beginning to serve the increment of increase in the handicapped population. The hearings held by the Subcommittee on the Handicapped bore out this tentative finding to the satisfaction of its members. Thus, we have chosen to replace the existing "Vocational Rehabilitation Act" with the "Rehabilitation Act of 1972."

This bill is the result of extensive hearings and drafting sessions. Hopefully, we have brought forth a new program that will redirect needed services to some of those individuals whose handicaps are most severe. I think that certain provisions, such as the individualized written rehabilitation program, client advocacy, experimental appeal projects and new initiatives in mid-range research, will redirect the program toward those handicapped individuals most in need of services. I shall not dwell on those areas of the bill which have been covered except for one or two which I feel do the most to humanize the rehabilitation "system."

I would like to review for my colleagues testimony the Subcommittee heard on May 26 from Mr. James Stearns, a senior at Dartmouth College, who came to the Subcommittee as a consumer of services under the Vocational Rehabilitation Program. Mr. Stearns, who suffers from cerebral palsy, had this to say to us:

"Granted, I have had some personal, physical obstacles to overcome during my lifetime and I do have certain physical limitations which I must live with.

"However, I do not consider myself to be handicapped either in the traditional sense or the literal sense. I am not handicapped because of the understanding and the attitude that has prevailed in my own home throughout my lifetime.

"My parents instilled in me a value system and an outlook on life in which handicap was never a factor that I had to contend with. I am one of the more fortunate people in this world, because, Mr. Chairman, there are individuals in this country who have cerebral palsy who will never achieve anything that I have achieved. In fact, many may never be able to walk by themselves, feed themselves, or even talk and communicate as I am doing here today."

Mr. President, I would like to take time to acquaint my fellow Senators with what I consider some very important aspects of Mr. Stearns' testimony and the dialogue that we had afterwards.

"Mr. Chairman, if I leave any message with you today it is my belief that the disabled have to get up and fight for the things they believe in because only they are in a position to know what this Government should do for them.

"We are in a new age in rehabilitation. We have opportunities opened up that, when I was growing up, never existed. Yet new opportunities always bring new responsibilities. If the disabled of this country assume their responsibilities in shaping the policy that affects them, the rehabilitation program will be one of this Nation's lasting success.

"I hope, therefore, that whether you write it into the law or write strong report language, you specifically recognize the need to involve the handicapped themselves in this program at all levels; that the handicapped themselves be given a strong voice so that they may become contributors to this program and not merely recipients of it.

"Senator STAFFORD. I would like to join in what you have just said and tell you, Mr. Stearns, that we certainly as a committee appreciate the effort you have made to come down here as an individual, not representing any group.

"I think on the basis of your presentation here that Dartmouth College would be pleased to claim you as their representative in front of this committee.

"I do have one or two questions for you.

"Taking into consideration your experience, what would you consider should be a major element in the vocational rehabilitation program that we provide?

"Mr. STEARNS. Senator Stafford, perhaps the most important thing is that idea of consumer participation which you have already talked about. Consumer participation is important because the critical factor in the minds of most handicapped people is whether they are able to develop a sense of independence.

"If I may illustrate my point with some experiences of my own, if there was one reason why I was able to be at Dartmouth College this year instead of out of school, it was that my family and community pushed me to develop a sense of independence. In every program I had, doctors, therapists, and my family consulted me on everything that was going on, and demanded that I make the final decisions in those programs, although some of those decisions were pretty hard to make.

"That prescription did instill in me a sense of independence and has enabled me to make my own judgments and to get on in the outside world.

"That is why every rehabilitation program must have a mechanism for consumer participation. If you do not develop that sense of independence, there comes a day when you are so used to having other people make your decisions that you are not able to get out in that outside world and participate and become rehabilitated.

"Senator STAFFORD. In your prepared statement, you say: 'If I leave any message with you today, it is my belief that the disabled have to get up and fight for the things they believe in because only they are in a position to know what this Government should do for them.'

"Could you elaborate for the committee on this statement?

"Mr. STEARNS. Certainly, Senator Stafford.

"I think it is quite obvious that the best person to tell you about disability is the handicapped persons himself. He is the only person who has lived through it. He is the only person who really knows what is going on in his head.

"My study has been directed toward the goal of developing those tools necessary to make the disabled active participants in the political process. I have tried to do three things; one, outline what the Federal Government has done, up to the present time, for the disabled; what rights do they have; what benefits do come their way; do that first of all.

"Second, outline what the Federal Government is contemplating doing—so that the disabled will understand what may come in the future, and can come down here and give you some input on proposed legislation.

"Third, and probably most important, Senator Stafford, is to analyze simply how policy for the disabled is made and what specific types of input the Members of Congress, of the executive branch, and of State agencies would like to have.

"I think this is most critical.

"Mr. Chairman and Senator Stafford, when I was growing up, I was not aware of many of the benefits that could have come my way. I was even less aware of what I should do to get those benefits. I suggest in this new age of rehabilitation we must have a consumer group of disabled who are knowledgeable, they know what to do, to come down here and effectively influence legislation. I think if we could develop a disabled consumer group, we are going to have better legislation coming.

"Senator STAFFORD. One more question.

"I am considering strengthening the existing legislation by requiring that under basic rehabilitation programs that priority be given to those whose handicaps are most severe.

"What would your reaction be to such a proposal?

"Mr. STEARNS. Senator Stafford and Mr. Chairman, everything I can say is that this—has got to be what comes. I had a lot of experience in debating in high school. But I wish I could be more eloquent here and try to tell you why.

"Let me tell you a short story of my growing up.

"When I was 5 or 6, we had 10 cerebral palsy cases in the room. We had a special nursery. When I was 6, I got out of the room. I did not have much of a disability. Once I got into the Laconia Schools, I went on to prep school and Dartmouth.

"But one person made it out of that room. Senator Stafford—one out of 10. The others had very severe handicaps, just as good minds, but more severely physically handicapped.

"I go back there every once in a while, and see those people on the streets. I say, Well, what are you doing now? How are you?" They say, I am not doing anything, just nothing at all."

You know, they still cannot get those services they need.

"Mr. Chairman, people like myself, we can make it. I do not think we need the services that much. We can make it. But we want those disabled who are more severely impaired to make it with us; because if they do not make it with us, then our making it just does not have any meaning at all.

"I just hope, I just hope we can get that emphasis on this severely disabled.

"Senator STAFFORD. I think your appearance here is a great credit to you and will be helpful and an inspiration to this committee.

"I thank you very much."

After listening to and later rereading, the statement and questions and answers, I felt that Mr. Stearns' point about client participation in his own program and the system was probably the most important one that could be introduced into the rehabilitation system. It is to this end that the Individualized Written Rehabilitation Program was placed in the bill. It is apparent from what Mr. Stearns said and from the testimony of other witnesses that the handicapped client was not being consulted or contributing to the rehabilitation plan that was being constructed to help him. The concept of the written program is basic to the individual's rights under the program. It offers both the system and the client an opportunity to work together in developing a program that is designed for the rehabilitation of the client.

The written program should serve as a road map for the rehabilitation process and it should provide for intermediate goals through which the counselor and the client can measure progress. The written program must be formulated with a vocational goal as its objective. While it is realized that every client may not be able to achieve a vocational goal, the opportunity for that achievement must be available to him, at least until such time that the counselor can beyond a reasonable doubt support such a change in goal. The client must also be an equal participant in that decision.

There also could develop a situation where outside influences could modify the plan, such as lack of available funds or insufficient services. These factors might alter timetables but they should not affect the long range goal of the individual. To quote the report:

"The individualized written rehabilitation program represents an understanding between the vocational rehabilitation agency and the handicapped individual. It is expected that its terms will be carried out, unless these are special mitigating circumstances. In such cases it is expected that alternative service approaches or timetables will be sought and that rehabilitation objectives previously agreed upon will not be altered unless renegotiated by both parties."

Besides providing the individual and humane influence on the system, this written program can also serve as a yardstick for the evaluation of the system at all stages of operation. The individualized written rehabilitation program is important to help make this new system work for the handicapped individual be his disability severe or the most severe.

It should also be noted that this bill, for the first time in legislative language, places special emphasis on the severely handicapped and has the state establish a priority order of services to be given to the individual client. I feel very strongly that the system should immediately redirect its priorities, and that in three years when the legislation comes up for renewal, it will be convincingly demonstrated that the program is performing the function for which it was established. I am quite aware, as is the Committee, that in order to achieve the goal of redirection of the priorities of services that RSA must quickly establish a new system of reporting which does away with numbers and concentrates on the quality of the services provided. I hope I do not hear about sheer numbers rehabilitated at the next set of hearings, all the while knowing that a new GAO study is saying that those being served have questionable handicaps and other individuals are being denied services, as was the case on this bill.

Providing services to the severely handicapped individual is costly and time consuming and presents many new problems for the rehabilitation system. It was brought to the Committee's attention that quotas were imposed on counselors by the numbers reporting system and that this quota system is most effective in excluding those individuals whose handicaps are most severe. Thus, it is incumbent upon the Administrator of RSA to develop as soon as possible a new system of reporting which emphasizes quality and not merely quantity.

The system of client advocacy and the appeals programs are again attempts on the Committee's part to install in the system a responsiveness to the human needs of the handicapped individual while he is participating in the system. I think that the client advocacy system is needed and will serve as a perfect complement to the individualized written rehabilitation program. The rights of the client to participate in the shaping of his own future and to receive speedy service from the system are undeniable.

Mr. President, there are many more aspects of the bill that deserve to be dealt with before I close but time is of utmost importance so I will only take a few more minutes to comment on the redirection of research, the sheltered workshops study and my two amendments on employment of handicapped individuals within the system.

First, the Committee, after hearing much testimony, decided that the primary function of research under this Act should be directed to alleviating the problems of the handicapped individuals. The mid-range research goal and engineering center are designed to provide needed devices and practical solutions to problems encountered daily by handicapped individuals. It was strongly felt that all research programs and projects should be coordinated within HEW so as to obtain the maximum use of the limited dollars available. Yet it is RSA's primary function to respond to the needs of the handicapped. An important addition to the evaluation system is a provision I introduced for continued observation of research to make sure it is directed toward the goals which will benefit the handicapped individual.

The sheltered workshop study of Section 405 of the bill was written in response to what was felt to be a general lack of objective knowledge about workshops and their functions in the system. The objectivity of the study is its prime merit and the functions supplied by resolutions of the Committee supply some of the basic questions that remain unanswered The misinformation that seems to permeate the subject area of workshops is reenforced by both sides of the argument. I should like to add that the report language specifies this study is to be comprehensive, and the Committee feels that a significant portion of the funds under Title IV will be used in this study. It is also expected that the study should be an original and not a compilation of past studies.

The study is important if the Committee is to act wisely when the program comes up for review in three years.

Last, I would like to comment on the two amendments; one which was offered in Committee to Title V of the bill to the Office of the Handicapped; and the second to the President's Committee on the Employment of the Handicapped. The rationale for these amendments is simply stated: a handicapped individual has more insight into the problems of the handicapped than does a nonhandicapped individual.

For many years the Federal Government, through the Congress, has voiced its feeling that, given the opportunity and training, most of America's handicapped individuals are capable of supporting themselves and of contributing fully to society. My amendments simply take the Federal Government at its word and say that a qualified, handicapped person should be employed in the federal program. This is a small start in what I think is an important direction for the handicapped and for the Government programs which try to deal with the problems of the handicapped, both in rehabilitation and in everyday life.

Mr. President, the Rehabilitation Act of 1972 represents a good step in the right direction and I wholeheartedly support this bill.

Mr. JAVITS. Mr. President, I send to the desk an amendment on behalf of Senators STAFFORD, CRANSTON, and WILLIAMS, the chairman of our committee.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment, as follows:

On page 103, line 9, insert the following new sentence: "In selecting personnel to fill all positions on the President's Committee on Employment of the Handicapped, special consideration shall be given to qualified handicapped individuals."

Mr. JAVITS. Mr. President, the effort is clearly to do our utmost to recognize the contribution of handicapped individuals in making the rehabilitation system themselves. The amendment was much more strict in its terms when first presented to the committee, but the Senator from Vermont (Mr. STAFFORD) revised it to allow a great deal more flexibility and discretion in the way it was handled.

I hope very much that it may be acceptable to the manager of the bill.

Mr. CRANSTON. Mr. President, I am delighted to join as a cosponsor of this amendment and believe that it is an important amendment to make clear that lipservice to employment of handicapped individuals is not enough. What is needed is providing qualified handicapped individuals with meaningful jobs. We were all most distressed to learn in our hearings that the President's Committee on the Employment of the Handicapped had on its staff only five handicapped individuals out of a total staff of 32.

It is our hope in proposing this amendment that this disparity will be corrected and that far more qualified handicapped individuals will themselves be working on the task of increasing employment opportunities for other handicapped individuals.

Mr. President, I believe this amendment is acceptable to the leadership on the other side and I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I send another amendment to the desk on behalf of the Senator from Vermont (Mr. STAFFORD) and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 96, line 7, strike out "eighteen" and insert in lieu thereof "twenty-four".

Mr. JAVITS. Mr. President, the Senator from Vermont (Mr. STAFFORD) explains the amendment as giving 2 years for the filing of a comprehensive study of sheltered workshops, which is requested in the amendment, instead of 18 months as provided in the bill. He feels—and I hope very much that the Senator from California will agree—considering the complexities involved, and the desire for a totally thorough study of the situation, that it would be best to give the Secretary the full 2 years time rather than a year a half.

Mr. CRANSTON. Mr. President, in view of the detail which the committee expects to be included in the sheltered workshop study, I believe it is appropriate to extend the time limit for presentation of the report on that study from 18 to 24 months. I plan later to insert into the RECORD the resolution of the Labor and Public Welfare Committee regarding the scope of the study required by section 405 of the committee bill. I accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CRANSTON. Mr. President, on behalf of the distinguished Senator from Illinois (Mr. PERCY) I send to the desk a series of amendments and ask that they be stated.

The PRESIDING OFFICER. The amendments will be stated.

The legislative clerk proceeded to read the amendments.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendments will be printed in the RECORD.

The texts of the amendments are as follows:

On page 5, line 5, strike out "and".

On page 5, line 8, strike out the period and insert in lieu thereof a semicolon and "and".

On page 5, between lines 8 and 9, insert the following new paragraph:

(11) evaluate existing approaches to architectural and transportation barriers confronting handicapped individuals, develop new such approaches, and enforce statutory and regulatory standards and requirements regarding barrier-free construction of public facilities.

On page 61, line 1, insert "and transportation" after "architectural".

On page 61, line 2, strike out "or institution" and insert in lieu thereof a comma and "institution or facility".

On page 85, line 19, insert "studies and analyses of architectural and engineering design adapted to meet the special needs of handicapped individuals;" after "individuals;".

On page 98, line, 8, insert (including promotion of the development of curricula stressing barrier-free design and the adoption of such curricula by schools of architecture, design and engineering)" after "education".

On page 98, line 9, insert "architectural and transportation barriers," after "rehabilitation,".

On page 104, line 19, after "subsection;" insert the following new clause: "(4) promote the use of the International Accessibility Symbol in all public facilities that are in compliance with the standards prescribed by the Administrator of the General Services Administration, the Secretary of Defense, and the Secretary of Housing and Urban Development pursuant to the Architectural Barriers Act of 1968;".

On page 104, line 19, strike out "(4)" and insert in lieu thereof "(5)" and, on line 22, strike out "(5)" and insert in lieu thereof "(6)".

On page 106, line 2, insert "an the reports and recommendations described in clauses (4) and (5) of subsection (b) of this section" after "the".

Mr. CRANSTON. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

Mr. CRANSTON. Mr. President, Senator Percy is, unfortunately, unable to be with us this afternoon. Pursuant to discussions with him, I am offering for him the following antienvironmental barriers amendments to the Rehabilitation Act of 1972. He is offering these amendments in order to stress the removal of architectural and transportation barriers—what he calls "environmental" barriers—in the Rehabilitation Act of 1972.

Mr. President, I ask unanimous consent that a summary of his amendment, and a copy of a statement he wished to make on these amendments, be inserted in the Record at this point.

There being no objection, the summary and statement was ordered to be printed in the Record, as follows:

Summary of Antienvironmental Barriers Amendments of Senator Charles H. Percy

AMENDMENTS TO REHABILITATION ACT OF 1972

An amendment to make the evaluation of existing approaches to architectural and transportational barriers confronting handicapped individuals, the development of new such approaches, and the enforcement of statutory and regulatory standards and requirements regarding barrier-free construction of public facilities part of the declarations of purpose of the Rehabilitation Act of 1972.

An amendment to extend technical assistance to rehabilitation facilities for the removal of not only architectural barriers but also transportational barriers.

An amendment to provide for studies and analyses of architectural and engineering design adapted to meet the special needs of handicapped individuals.

An amendment to authorize the Office for the Handicapped to promote the development of curricula stressing barrier-free design and the adoption of such curricula by schools of architecture, design and engineering.

An amendment to include the solution of architectural and transportational problems as a means to bring about the full integration of handicapped individuals into all aspects of society.

An amendment to authorize the Architectural and Transportation Barriers Compliance Board to promote the use of the International Accessibility Symbol in all public facilities that are in compliance with the standards pursuant to the Architectural Barriers Act of 1968.

An amendment to require the Architectural and Transportation Barriers Compliance Board to make annual reports and legislative and administrative recommendations to the President and Congress for the elimination of architectural and transportational barriers.

Statement of Senator Percy

Mr. President, I take great pleasure in commending the Subcommittee on the Handicapped for its outstanding work on the Rehabilitation Act of 1972. Members who deserve special commendation for their fine work include: Senator Randolph, chairman of the subcommittee; Senator Cranston, ranking majority member who acted as chairman during hearings on the bill; Senator Williams, chairman of the full Labor and Public Welfare Committee; Senator Javits, ranking minority member of the full committee; and Senator Taft, who introduced the administration bill, S. 3368.

Although the Rehabilitation Act of 1972 has many fine provisions, I would especially like to commend the subcommittee for including an Architectural and Transportation Barriers Compliance Board in the bill. The amendments that I am introducing today would take the bill's compliance board idea a step further and make the removal of architectural and transportation barriers—what I call environmental barriers—an integral part of the Rehabilitation Act of 1972.

Legislation on environmental barriers has a direct supportive role to play in the achievement of the objectives of the Rehabilitation Act of 1972. The purpose of rehabilitation is to prepare handicapped individuals to live independently and normally. Environmental barriers stand in the way of total rehabilitation.

Let me give you an example. Recently, a clerical position opened up on the Select Committee on Nutrition and Human Needs, of which I am the ranking minority member. I very much wanted to hire a handicapped person to fill that position. However, I found it impossible to hire a nonambulatory person for the job because the committee, unfortunately, is located in the Senate annex.

A person in a wheel chair would have no way to get up to the third floor where the committee's office is located, for he would not be able to get up the stairs or into the elevator. Even if the elevator were accessible, he would not be able to maneuver himself, once on the third floor, into the committee's office. My staff has so little room in that office that even if he could maneuver himself through the door, he would not be able to get to his desk because of the narrow aisles. And even if he could be comfortably situated in the office, he would not be able to use the bathroom, for the door is too narrow.

Now, I call that a disgraceful situation. This is the United States Senate, a Federal and a public institution that is supposed to serve all Americans. Yet, it is "off limits" to the nonambulatory handicapped.

As long as there are environmental barriers, we will not get the full benefits from our investment in rehabilitation. Although a handicapped individual may be rehabilitated, unnecessary environmental barriers will often make it impossible for him to support himself or live productively in his community.

Mr. President, these amendments are not controversial. They are very fine and I am delighted to accept them.

Mr. President, I congratulate the Senator from Illinois on an effective presentation of an altogether commendable amendment. He and I have discussed this matter prior to coming to the floor today and he has been most cooperative in working with us to perfect certain portions of the amendment based upon certain suggestions that we offered. I thank him for his cooperation.

I believe that the amendment provides clarification and some additional thrust in the areas of architectural and transportation barriers and would be a definite improvement to the pending measure. I know that the Senator from Illinois, as the ranking minority member of the Committee on Government Operations, has long been interested and active in this area and welcome his contribution to our work today.

Mr. President, I believe that this amendment should be acceptable to both sides of the aisle and am delighted to accept it.

The **PRESIDING OFFICER.** The question is on agreeing to the amendments en bloc of the Senator from Illinois (Mr. Percy).

The amendments were agreed to en bloc.

Mr. CRANSTON. Mr. President, I now send to the desk an amendment on behalf of the distinguished Senator from Minnesota (Mr. Humphrey) and I ask that it be stated.

The **PRESIDING OFFICER.** The amendment will be stated.

The legislative clerk read as follows:

On page 14, between lines 11 and 12, insert the following new paragraphs:

(15) The term "criminal act" means any crime, including an act, omission, or possession under the laws of the United States or a State or unit of general local government which poses a substantial threat of personal injury, notwithstanding that by reason of age, insanity, intoxication or otherwise the person engaging in the act, omission, or possession was legally incapable of committing a crime.

(16) The term "public safety officer" means a person serving the United States or a State or unit of general local government, with or without compensation, in any activity pertaining to—

(A) the enforcement of the criminal laws, including highway patrol, or the maintenance of civil peace by the national guard or the Armed Forces,

(B) a correctional program, facility, or institution where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees,

(C) a court having criminal or juvenile delinquent jurisdiction where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees, or

(D) firefighting, fire prevention, or emergency rescue missions.

On page 26, line 4, insert "(A)" before "provide", and on line 9, strike out "persons" and insert in lieu thereof "persons, and", and between lines 9 and 10 insert the following new subclause:

(B) provide that special consideration will be given to the rehabilitation under this Act of a handicapped individual whose handicapping condition arises from a disability sustained in the line of duty while such individual was performing as a public safety officer and the proximate cause of such disability was a criminal act, apparent criminal act, or a hazardous condition resulting directly from the officer's performance of duties in direct connection with the enforcement, execution, and administration of law or fire prevention, firefighting, or related public safety activities;

Mr. CRANSTON. Mr. President, the distinguished Senator from Minnesota (Mr. Humphrey) had earlier submitted for printing two amendments—Nos. 1555 and 1556—with the intention of proposing them today. Because he is unable to be present at this particular time, I have discussed these amendments with him and will now seek to dispose of them in accordance with the agreement that we have reached.

First, Mr. President, I send to the desk a revised version of amendment 1555, which I am offering on Senator Humphrey's behalf and in which I also join.

Mr. President, under the terms of this amendment a State would be required to include in its State plan under section 101(a) of the bill as reported, a provision for giving special consideration in providing rehabilitative services to handicapped individuals who have become disabled while performing in the line of duty as public safety officers when the proximate cause of their disability is a criminal act, an apparent criminal act or a hazardous condition resulting directly from duties performed in direct connection with the enforcement, execution, and administration of law or with fire prevention, firefighting or related public safety activities.

This amendment has been redrafted in consultation with Senator HUMPHREY and is based in part on title III, regarding death and dismemberment benefits for public safety officers, of the Omnibus Crime Control and Safe Streets Act (H.R. 8389), as passed by the Senate on September 18. With some modification, the definition of "criminal act" in the amendment is taken directly from that title—specifically section 525, clause (2)—and the definition of "public safety officer" in the amendment is taken with some modification from clause (7) of that section. Modifications have been made in this latter provision to include fire prevention and emergency rescue missions as activities rendering a person serving Federal, State, or local governments as eligible under the State plan special consideration provision in the amendment.

In addition, the scope of the activities considered to qualify handicapped public safety officers under the amendment is somewhat wider than the eligibility for benefits for public safety officers under the benefit provision of title III of the Omnibus Crime Control and Safe Streets Act. Under the latter measure, injury occurring while fighting a fire or engaging in a rescue mission would not result in payment of death or dismemberment benefits unless there was a criminal act, such as arson, actually or apparently involved. Senator HUMPHREY and I felt that this was too narrow a scope for the purposes of this amendment, and thus we broadened the definition.

Mr. President, I think that this amendment as we have revised it provides a measure of appropriate recognition for the extra-hazardous work carried out by our policemen, firemen, highway patrolmen, National Guardsmen, correctional officers and judicial employees by providing them with special consideration when they become handicapped in the direct execution of their important public tasks. I am sure I need not expand upon the need to provide the most effective and comprehensive rehabilitation for individuals cut down in the line of duty in the service of protecting the peace and order of society.

Mr. President, I believe that this amendment has the approval of the leadership on both sides of the aisle and I urge that it be adopted.

Mr. President, I ask unanimous consent that there be set forth in the RECORD a statement which Senator HUMPHREY would have made had he been able to be present.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR HUMPHREY—PUBLIC SAFETY OFFICER REHABILITATION

Mr. HUMPHREY. Mr. President, I am pleased to have the Senator from California (Mr. CRANSTON) offer, for himself and on my behalf, an amendment to the Rehabilitation Act of 1972, S. 3987, to provide, as a requirement under regular State plans for vocational and comprehensive rehabilitation services receiving Federal assistance, that special consideration will be given to the rehabilitation of a handicapped individual who sustained his or her disability in the line of duty as a public safety officer in dealing with a criminal act or working under a hazardous condition.

Under this amendment, the term "public safety officer" would include police officers, highway patrol officers, correctional institution and parole officials, officers of a court, and firemen and emergency rescue personnel. In a long-overdue recognition of the national importance of the vital role of our public safety officers in the protection of society, the Senate has recently passed legislation to provide death and dismemberment benefits to these public servants or their survivors. Such assistance is of crucial importance in meeting the immediate financial needs of a public safety officer disabled in the performance of duty, and of his or her family.

In 1970, 100 police officers were killed and over one-third of the 43,171 assaults on policemen resulted in injuries. That same year, 38,583 firefighters were injured in the line of duty, and last year 210 firemen lost their lives. It was in response to the continuing rise in these alarming statistics that I introduced legislation, later adopted by the Senate, to make the murder or assault of a public safety officer a federal offense, and further legislation to provide for a group life insurance program for State and local government law enforcement and firefighting officers. And it has been out of a deep concern over the continuing high incidence of crimes of violence that I introduced legislation to establish a National Institute of Justice to promote the reform of our criminal justice system, and jointly sponsored major bills adopted by the Senate in this Congress to strengthen our law enforcement resources, to improve correctional rehabilitation programs, and to provide essential assistance to the innocent victims of criminal acts.

The present amendment, a revision of a bill, S. 3690, which I originally introduced on June 8, 1972, addresses a critical problem confronted by disabled public safety officers. We depend upon the protective services of our public safety officers, for which they must develop highly specialized and demanding skills. Yet all too often, when the utilization of these skills is abruptly terminated by disabling injury, the serious need of these public servants for a continued useful and productive life is ignored by society. The amendment offered by Senator Cranston and myself would end this wrong, by establishing a requirement that public safety officers have an opportunity to obtain vocational rehabilitation services. The time has come to guarantee their right to continue to live with dignity in the performance of useful, needed, and adequately compensated work.

Mr. CRANSTON. Mr. President, I am delighted to accept the amendment as I have indicated.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota (Mr. HUMPHREY).

The amendment was agreed to.

Mr. CRANSTON. With respect to amendment No. 1556, which Senator HUMPHREY had submitted for printing with the intention of proposing it, I have discussed this matter in detail with him in the context of a resolution adopted by the Labor and Public Welfare Committee on September 22. That resolution was adopted pursuant to section 405(a) in the bill, as reported, which directs the Secretary to conduct a study of the role of sheltered workshops, including a study of wage payments in such workshops and to incorporate in such study guidelines consistent with criteria provided in resolutions of the Labor and Public Welfare Committee. Item 11 in the resolution relates specifically to the question involved in Senator HUMPHREY's amendment, wage subsidies for individuals working in sheltered workshops.

Mr. President, I ask unanimous consent to have printed in the RECORD the full text of the resolution adopted by the Committee on Labor and Public Welfare on September 22, 1972.

There being no objection, the text of the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION OF THE U.S. SENATE, COMMITTEE ON LABOR AND PUBLIC WELFARE, ADOPTED SEPTEMBER 22, 1972

Whereas Section 405(a) of the Rehabilitation Act of 1972 directs the Secretary of Health, Education and Welfare to carry out a study of sheltered workshops under criteria set forth in resolutions by the Committee on Labor and Public Welfare;

Whereas the Committee finds that such study must be comprehensive in nature and has formulated a series of questions relating to the role of workshops, the number of individuals employed in workshops, the amount of funding provided to workshops under this Act, and the relationship between workshops and other programs for handicapped individuals, and programs for vocational training;

Whereas the Committee presents the following questions to be answered and by listing these questions does not intend to limit the scope of the study;

Be it resolved that the Committee on Labor and Public Welfare believes the following questions must be covered along with other pertinent information by the study:

1. What should be the role of sheltered workshops or rehabilitation facilities? To what degree does the present system of workshops fulfill this role? How does this role relate to the broader continuum of employment and day care settings?

2. How many sheltered employment settings (workshops, rehabilitation facilities, work activity centers, etc.) are now in existence? How many handicapped individuals do they employ? What is the nature and degree of their responsibilities? How many staff are employed?

What are their job functions and qualifications? Describe the work opportunities provided including a measure of the range of complexity of the jobs available in each workshop. How much money is paid by the State Vocational Rehabilitation agency to "workshops" on an individual basis by state?

3. What are the standards used by vocational rehabilitation agencies to determine that a sheltered workshop or other rehabilitation facility is the most suitable in the community or state for training or employing a handicapped individual? What alternatives are considered and what rights does a handicapped individual have in selecting the site and type of training or employment to be provided?

4. How many handicapped individuals are placed for training in workshops by state vocational rehabilitation agencies? How much money is paid by the state agency for these training services? What is the length of training? What type of training is provided? How many individuals are placed in competitive employment following training? How many handicapped individuals are placed in sheltered workshops for extended evaluation? How much money is paid by the state agency for these services? How many are placed in employment outside of a work-

shop, or unplaced of those evaluated? To what extent are handicapped individuals, placed in workshops by rehabilitation agencies for training purposes, integrated with extended evaluation clients and terminal employees of the workshop? What is the nature and degree of the handicaps of the individuals placed in workshops for training or extended evaluation purposes?

5. How many handicapped individuals are in extended employment in sheltered workshops? What is the nature and degree of their handicaps? What type of employment activities are provided? How many individuals are ultimately placed in competitive employment?

6. How many individuals in workshops are in terminal employment? What is the nature and degree of their handicaps? What are the standards used by rehabilitation agencies or workshop personnel for determining that these individuals are incapable of competitive employment? How might careers ladder opportunities within workshops be developed to enable handicapped individuals to move into competitive employment?

7. What are methods for the determination of wages for handicapped individuals in workshops? What distinctions are there between piece work and hourly employees? How many persons are receiving wage subsidies? What are the amounts of such subsidies and the sources of funding for such subsidies? What effect do wage payments have on the amount of public assistance received by handicapped individuals in workshops, since assistance payments vary from state to state? What is the relationship of the industrial efficiency of the workshop to the amount of wages paid? What is the relationship of the types of contract work performed by workshops to the amount of wages paid to employees? What is the relationship of the specific abilities of the employees to the contract capability and wage payments? Do workshops for the any particular type of handicapped individuals generally pay higher wages than those paid in other workshops? If this is true, is it because of their contract work or because they receive their contracts through a single source? How are contracts procured? Is the type of contract pursued by a workshop related to he needs of present workers, or are workers selected by jobs available? Are there any state, regional or national procurement and coordination processes available for obtaining contracts for sheltered workshops? What should such a process entail? Compare wage payments to handicapped workers in sheltered workshops to payments made for similar employment to workers in competitive employment in comparable labor markets or otherwise.

8. Has the Wage Hour and Public Contracts Division of the Department of Labor issued certifications of exemption from the prevailing minimum wage for individual handicapped workers within workshops or have they been issued on a blanket basis per workshop? How many sheltered workshops have been issued exemptions from the minimum wage under section 6 of the Fair Labor Standards Act as work activity centers? What is the nature and degree of handicaps of handicapped individuals in such centers? To what degree has the number of such exemptions increased annually since 1967? How often do officials of the Wage Hour and Public Contracts Division inspect sheltered workshops and work activity centers to determine compliance with minimum wage requirements? How often do officials of the Department of Health, Education and Welfare inspect sheltered workshops? Officials of State agencies?

9. What fringe benefits are provided to handicapped individuals in extended or terminal employment in sheltered workshops (e.g. coverage under the Old Age, Survivors and Disability Insurance Program and Medicare of Title II and Title XVII of the Social Security Act; unemployment compensation; health care and retirement plans to which other non-handicapped workshop employees are entitled; and collective bargaining)?

10. What is being done to coordinate the wide variety of vocational training programs administered by the Rehabilitation Services Administration, the Office of Education and the Department of Labor for severely handicapped individuals who appear to have a high chance of requiring sheltered employment for some period of time?

11. Discuss and analyze the possible forms of wage supplements, their advantages and disadvantages, and their effects where applied.

Mr. CRANSTON. Mr. President, item 11 of the committee resolution states:

> Discuss and analyze the possible forms of wage supplements, their advantages and disadvantages, and their effects where applied.

In view of the imminence of this detailed study, including a close scrutiny of the role of wage subsidies in the sheltered workshop setting in relation to all the other issues posed in the Senate committee resolution, Senator HUMPHREY has decided not to proceed with his wage subsidy amendment at this time.

I think that is a wise decision and that action on a wage subsidy program would be premature, particularly in view of the strong opposition which has been registered to such an amendment from a number of groups and individuals. In that connection, I ask unanimous consent that there be printed in the RECORD at this point materials which Senator HUMPHREY has requested be included.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REHABILITATION ACT OF 1972

(Statement of Senator HUMPHREY)

Mr. President, I strongly support S. 3987, the Rehabilitation Act of 1972, as reported by the Senate Committee on Labor and Public Welfare, and urge its adoption by the Senate. It is essential that this progressive legislation be enacted, to promote innovative and comprehensive approaches in rehabilitation services for mentally and physically handicapped and severely handicapped individuals, and to focus upon applied research and the development of technology and devices to help solve rehabilitation problems of handicapped persons, and to coordinate numerous Federal agency responsibilities and programs in this increasingly important field.

Providing for a major expansion of funding authorizations—totalling more than $4.9 billion in a three-year period—and statutory authorities for rehabilitation services, this bill correctly emphasizes the need to serve more severely handicapped individuals, to make services responsive to individual needs, and to make every effort to enable handicapped persons to lead a productive and financially independent life.

I applaud the committee actions to give the Commissioner of the Rehabilitation Services Administration statutory responsibility for all vocational rehabilitation services, research, and training in connection with services to handicapped individuals, and to establish an Office for the Handicapped in the Office of the Secretary of Health, Education, and Welfare. These steps will firmly establish the priority that must now be given to the planning, coordination, and effective delivery of Federal services and assistance on behalf of millions of handicapped Americans.

This priority is correctly reflected in the further provision to establish a Federal Interagency Committee on Handicapped Employees by which the Federal government itself can and should assume the leadership in hiring, placement, and advancement practices with respect to handicapped persons. I welcome the additional requirement for an affirmative action program under which Federal contractors shall undertake to employ and advance in employment qualified handicapped individuals. Moreover, section 604 of this bill specifically prohibits discrimination against an otherwise qualified handicapped or severely handicapped individual, solely by reason of his or her handicap, resulting in that person being excluded from participation in, or denied the benefits of, any program or activity receiving Federal financial assistance.

I am deeply gratified at the inclusion of these provisions, which carry through the intent of original bills which I introduced, jointly with the Senator from Illinois (Mr. Percy), earlier this year, S. 3044 and S. 3458, to amend, respectively, Titles VI and VII of the Civil Rights Act of 1964, to guarantee the right of persons with a mental or physical handicap to participate in programs receiving Federal assistance, and to make discrimination in employment because of these handicaps, and in the absence of a bona fide occupational qualification, an unlawful employment practice. The time has come to firmly establish the right of these Americans to dignity and self-respect as equal and contributing members of society, and to end the virtual isolation of millions of children and adults from society.

Finally, there are several committee provisions in this bill which deserve particular commendation:

Clarification in the definitions of "handicapped individual," "comprehensive rehabilitation services," and "severely handicapped individual;"

—The designation of special Federal responsibilities for financial assistance for rehabilitation facilities for severely handicapped deaf individuals, for the establishment and operation of Centers for Spinal Cord Injury, and for grants for services to persons suffering from end-stage renal disease and for services to older blind individuals;

—A demonstration grant program for rehabilitation services for handicapped migrant or seasonal farmworkers and their families;

—The extension of rehabilitation facility grant authorizations which include the National Center for Deaf-Blind Youths and Adults;

—And the establishment of a Federal Architectural and Transportation Barriers Compliance Board, composed of the heads of principal Federal Departments and agencies, or their designees, and responsible for the implementation of standards, under existing law, to eliminate such barriers in housing and travel confronted every day by handicapped persons, and to develop alternative measures to solve these problems.

AMENDMENTS BY SENATOR HUMPHREY

I am gratified that the Senate floor managers on the Rehabilitation Act of 1972 have accepted my amendment, in revised form, to provide for vocational and comprehensive rehabilitation services for public safety officers disabled in the line of duty in dealing with a criminal act or working under a hazardous condition. Such assistance is of crucial importance if these public servants, handicapped in the course of protecting society, are to continue to live with dignity and self-respect in pursuing new occupational careers.

I also appreciate the notification made in the course of Senate debate on this bill, of my further amendment to establish a demonstration program to determine the feasibility of wage supplement payments to mentally and physically handicapped and severely handicapped individuals who are employed on a long-term basis in rehabilitation facilities which are sheltered workshops or work activities centers. I believe it is profoundly wrong that these persons should be institutionalized when with a modest income they could be enabled to live independently and function normally in their families and communities.

My amendment represents the first legislative formulation of a feasibility study on wage supplements, based upon recommendations made over the last several years by, among others, a previous Secretary of Labor and the President's Committees on the Employment of the Handicapped and on Mental Retardation. The program I have proposed is designed to promote maximum incentives to enable handicapped and severely handicapped individuals in sheltered work situations to achieve the highest level of occupational skills and self-sufficiency, and to address effectively certain basic problems in the operations of sheltered work facilities.

It is my intention to propose further action to meet the serious needs of thousands of handicapped and severely handicapped individuals employed in such rehabilitation facilities. However, I am deeply concerned that immediate action be taken by Congress to enact the Rehabilitation Act of 1972. For this reason, and in recognition of certain basic issues requiring a through study of sheltered workshops and work activities centers, I have not called up my amendment for Senate action at this time. I have noted the very recent action by the Senate Labor and Public Welfare Committee to request that such a study be undertaken. This will include an evaluation of wage supplements and alternative means of providing the additional income that handicapped persons employed in sheltered work situations require to become reasonably self sufficient and contributing members of society, rather than to experience an isolation from society and at additional public expense. I welcome this committee initative and urge that the recommendations based upon this study be made available to the Congress at the earliest possible time to facilitate legislative action.

Mr. CRANSTON. Mr. President, I now send to the desk an amendment of my own and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 92, between lines 2 and 3, insert the following new subsection:

(f) With respect to the administration of the program authorized by section 208, the Secretary shall insure that the provision of services under such section is coordinated with similar services provided or paid for under health programs pursuant to other Federal laws.

Mr. CRANSTON. Mr. President, under the present Vocational Rehabilitation program, some States are providing for treatment of kidney diseases, including dialysis or transplantation. Section 208 of the bill is intended to strengthen and expand the authority for these valuable programs.

Other authorities vested in the Secretary of Health, Education, and Welfare, including those under medicare and medicaid, are also being used for kidney treatment programs. It is important that the provision of services under these various authorities be coordinated. The amendment seeks to assure that the Secretary will provide for the needed coordination.

Mr. President, this amendment, as I understand it, is acceptable on both sides of the aisle, and I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment was agreed to.

Mr. RANDOLPH. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER (Mr. BENTSEN). The amendment will be stated.

The legislative clerk read as follows:

On page 2, strike out "Loans and loan guarantees for modernization and construction of rehabilitation facilities" where it appears in the Table of Contents and insert in lieu thereof "Mortgage insurance for rehabilitation facilities."

On page 56, strike out lines 12 through 22 and insert the following new section 202:

MORTGAGE INSURANCE FOR REHABILITATION FACILITIES

SEC. 202. (a) For the purpose of this section the terms "mortgage", "mortgagor", "mortgagee". "maturity date", and "State" shall have the meanings respectively set forth in section 207 of the National Housing Act.

(b) The Secretary, in consultation with the Secretary of Housing and Urban Development, and subject to the provisions of section 212, is authorized to insure 90 per centum of any mortgage (including advances on such mortgage during construction) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and make commitments for insurance of such mortgage prior to the date of its execution or disbursement thereon, except that no mortgage of any public agency shall be insured under this section if the interest from such mortgage is exempt from Federal taxation.

(c) In order to carry out the purpose of this section, the Secretary is authorized to insure any mortgage which covers construction of a public or nonprofit rehabilitation facility, including equipment to be used in its operation, subject to the following conditions:

(1) The mortgage shall be executed by a mortgagor, approved by the Secretary, who demonstrates ability successfully to operate one or more programs for the handicapped. The Secretary may in his discretion require any such mortgagor to be regulated or restricted as to minimum charges and methods of financing, and, in addition thereto, if the mortgagor is a corporate entity, as to capital structure and rate of return. As an aid to the regulation or restriction of any mortgagor with respect to any of the foregoing matters, the Secretary may make such contracts with and acquire for not to exceed $100 such stock of interest in such mortgagor as he may deem necessary. Any stock or interest so purchased shall be paid for out of the Rehabilitation Facilities Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance.

(2) The mortgage shall involve a principal obligation in an amount not to exceed the estimated replacement cost of the property or project not including any cost covered by grants in aid under this Act or any other Federal Act, including equipment to be used in the operation of the rehabilitation facility, when the proposed improvements are completed and the equipment is installed.

(3) The mortgage shall—

(A) provide for complete amortization by periodic payments within such term as the Secretary shall prescribe, and

(B) bear interest (exclusive of premium charges for insurance and service charges, if any) at not to exceed such per centum per annum on the principal obligation outstanding at any time as the Secretary finds necessary to meet the mortgage market.

(d) The Secretary shall fix and collect premium charges for the insurance of mortgages under this section which shall be payable annually in advance by the mortgagee, either in cash or in debentures of the Rehabilitation Facilities Insurance Fund (established by subsection (g) of this section) issued at par plus accrued interest. In the case of any mortgage such charge shall be not less than an amount equivalent to one-fourth of 1 per centum per annum nor more than an amount equivalent to 1 per centum per annum of the amount of the principal obligation of the mortgage outstanding at any one time, without taking into account delinquent payments or prepayments. In addition to the premium charge herein provided for, the Secretary is authorized to charge and collect such amounts as he may deem reasonable for the appraisal of a property or project during construction; but such charges for appraisal and inspection shall not aggregate more than 1 per centum of the original principal face amount of the mortgage.

(e) The Secretary may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as he shall prescribe.

(f) (1) The Secretary shall have the same functions, powers, and duties (insofar as applicable) with respect to the insurance of mortgages under this section as the Secretary of Housing and Urban Development has with respect to the insurance of mortgages under title II of the National Housing Act. The Secretary may, pursuant to a formal delegation agreement containing regulations prescribed by him, delegate to the Secretary of Housing and Urban Development authority to administer this section and section 203 of this Act.

(2) The provisions of subsections (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 of the National Housing Act shall apply to mortgages insured under this section; except that, for the purposes of their application with respect to such mortgages, all references in such provisions to the General Insurance Fund shall be deemed to refer to the Rehabilitation Facilities Insurance Fund, and all references in such provisions to "Secretary" shall be deemed to refer to the Secretary of Health, Education, and Welfare.

(g) (1) There is hereby created a Rehabilitation Facilities Insurance Fund which shall be used by the Secretary as a revolving fund for carrying out all the insurance provisions of this section. All mortgages insured under this section shall be insured under and be the obligation of the Rehabilitation Facilities Insurance Fund.

(2) The general expenses of the operations of the Department of Health, Education, and Welfare relating to mortgages insured under this section may be charged to the Rehabilitation Facilities Insurance Fund.

(3) Moneys in the Rehabilitation Facilities Insurance Fund not needed for the current operations of the Department of Health, Education, and Welfare with respect to mortgages insured under this section shall be deposited with the Treasurer of the United States to the credit of such fund, or invested in bonds or other obligations of, or in bonds or other obligations guaranteed as to principal and interest by, the United States. The Secretary may, with the approval of the Secretary of the Treasury, purchase in the open market debentures issued as obligations of the Rehabilitation Facilities Insurance

Fund. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtainable from other investments authorized by this section. Debentures so purchased shall be canceled and not reissued.

(4) Premium charges, adjusted premium charges, and appraisal and other fees received on account of the insurance of any mortgage under this section, the receipts derived from property covered by such mortgages and from any claims, debts, contracts, property, and security assigned to the Secretary in connection therewith, and all earnings as the assets of the fund, shall be credited to the Rehabilitation Facilities Insurance Fund. The principal of, and interest paid and to be paid on, debentures which are the obligation of such fund, cash insurance payments and adjustments, and expenses incurred in the handling, management, renovation, and disposal of properties acquired, in connection with mortgages insured under this section, shall be charged to such fund.

(5) There are authorized to be appropriated to provide initial capital for the Rehabilitation Facilities Insurance Fund, and to assure the soundness of such fund thereafter, such sums as may be necessary, except that the total amount of outstanding mortgages insured shall not exceed $250,000,000.

Mr. RANDOLPH. Mr. President, at this time I wish to discuss very briefly the purpose of the amendment.

Mr. President, S. 3987, the Rehabilitation Act of 1972 as reported, contains a provision, section 202, relating to loan guarantees made pursuant to the Public Health Service Act for rehabilitation facilities.

The amendment to S. 3987 which I propose is in the nature of a correction to the committee bill. Section 202 as now included in the bill was interpreted, because of a portion of a letter to this effect by the Department of the Treasury, to be applicable to all rehabilitation facilities. Information brought to my attention by several sources indicates that this is not correct. As now written, section 202 would have narrow application.

It would only apply to rehabilitation facilities which are a part of an integrated program of medical and vocational evaluation and services in connection with a hospital or in a facility which is under the general direction of a physician. This limitation would obviously be too stringent with respect to facilities assisted under the rehabilitation Act of 1972.

The amendment I propose is quite similar to that provided in the House-passed bill, H.R. 8395. It would provide mortgage insurance for rehabilitation facilities under regulations of the Secretary of Health, Education, and Welfare, in consultation with the Secretary of Housing and Urban Development. Administration of this section and section 203—relating to annual interest grants—may by formal agreement be delegated to the Secretary of Housing and Urban Development.

I would propose a ceiling on the amount of mortgages insured of $250 million. No mortgage of a public agency could be insured if the interest from such mortgage is exempt from Federal taxation. The limitation of $250,000 on individual mortgages contained in the House bill is, in my opinion, too restrictive. Other provisions of this section are virtually identical to those in the House bill.

It is my understanding that this clarifying amendment will be acceptable to most, if not all, members of the committee.

Does the able Senator from California, who is very familiar with this matter, have a comment to make in reference to the amendment?

Mr. CRANSTON. Mr. President, I am delighted to join with the Senator from West Virginia in this amendment to the bill, as reported, and concur fully in his description of its contents and the reason for our initial decision not to include it and our reconsideration of that decision and our conclusion now that this provision should indeed be included in S. 3987. I believe that there is no controversy regarding this amendment and that it is acceptable to both sides of the aisle, and I urge that it be adopted.

The PRESIDING OFFICER. Do the Senators yield back the remainder of their time?

Mr. RANDOLPH. Mr. President, I yield back the remainder of my time.

Mr. CRANSTON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from West Virginia. [Putting the question.]

The amendment was agreed to.

Mr. SCHWEIKER. Mr. President, I yield myself 1 minute on the bill.

I ask unanimous consent that Richard Segal, a member of the committee staff, be given the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I wish to point out one particular important provision of S. 3987, the vocational rehabilitation bill. In the early days of the 92d Congress, I introduced S. 41, a bill to create a National Information and Resource Center for the Handicapped. In my continuing concern for the problems of the handicapped, I had discovered a glaring deficiency in the centralization, coordination, and availability of knowledge concerning the resources, research findings, technical assistance, reports and, in general, information about the activities of various governmental agencies, private concerns, communities, businesses and colleges designed to accommodate handicapped persons. In meetings with organizations concerned with the handicapped and in mail from handicapped persons and their families and friends, I have found that few Americans are aware of the extent and availability of private and public services and programs for the handicapped. I also found a general lack of public awareness of the nature and extent of developmental disability in America, the human and economic loss it imposes, and the great potential for improving the lives of the disabled through modern, comprehensive services.

In response to these findings, I introduced the bill to create the National Information and Resource Center for the Handicapped hoping it would serve as a point of contact for individuals, families of the handicapped, as well as private and professional organizations, city, State, and Federal officials.

The proposal for the center has met with widespread support, and I was encouraged when the House, earlier this year, included a provision to establish the National Center within the Office of the Secretary of Health, Education, and Welfare in its bill extending the Vocational Rehabilitation Act. I am further encouraged by the action of the Labor and Public Welfare Subcommittee on the Handicapped included the national center within the new office of the handicapped established by the bill which it has reported.

These are extremely important steps toward fulfilling our responsibilities to the handicapped. We all know that they can be helped. Our Nation has the know-how and resources to restore many more of the disabled to productive lives, but we cannot do so unless the handicapped themselves have better access to the various types of assistance available to them. The National Information and Resource Center for the Handicapped can help provide that access and lead the way to more meaningful and productive lives for millions of handicapped citizens.

Mr. MONDALE. Mr. President, I am pleased to support S. 3987, the Vocational Rehabilitation Amendments of 1972. The bill, which I cosponsored, strengthens and expands the vocational rehabilitation program, paying tribute to its remarkable history of success. In the past, Congress has recognized the great achievements of the program—in 1943 extending the program to the mentally ill and mentally retarded, in 1954 and 1965 extending the scope of the authorized services to include comprehensive vocational evaluation and work adjustment training and to support the establishment of necessary facilities. In 1968, Congress went one step further by providing crucial evaluation and work adjustment services needed by severely disadvantaged unemployed individuals. It is a great disappointment to me that these services were never funded. It is my hope that these disadvantaged individuals, no less severely handicapped than the physically disabled, will begin to be served through the innovation and expansion grants provision of the Senate bill now before us.

In all the discussion of the "welfare ethic" versus the "work ethic" it may be well to consider the point that this "welfare" program is surely one of the most successful social programs administered by the Federal Government. It has been estimated that for every dollar invested in the rehabilitation of a disabled individual, there is a return of $5 in increased earnings. All individuals served under this program are poor. Over half of the clientele served have no incomes when they apply for services; 90 percent have incomes which are below what is ordinarily referred to as the poverty level.

The bill recognizes that there is another goal of rehabilitation than the guarantee of a job—that is, to better the lives of the individuals served, to provide the greatest measure of independence within the community and the family. In recognition of that aim, the bill earmarks funds for the severely disabled, assuring that no individual will be denied rehabilitation services merely because his disability is too severe.

Mr. President, I am pleased to be associated with this bill, and I urge its passage by the Senate.

Mr. CRANSTON. Mr. President, if there are no further amendments—and I know of none—I am prepared to yield back the remainder of my time on the bill, and I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from California has yielded back the remainder of his time.

Mr. HATFIELD. Mr. President, I yield back the remainder of our time.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ERVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The rollcall was continued.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. The Chair cannot hear the Senator.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Chair clear the aisles?

The PRESIDING OFFICER. Senators will take their seats. The Senate will be in order.

Who requests time?

Mr. RANDOLPH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 35, line 23, strike out "(1)".

On page 35, line 24, strike out "with respect to such" and strike out all on line 25 through "$700,000,000" on line 1 on page 36.

On page 37, strike out all beginning on line 1 through line 23.

Mr. RANDOLPH. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. RANDOLPH. Mr. President, in offering this amendment, I do not offer it because I feel that the formula presented in the pending bill is an inadequate or unfair formula. I say, with respect to the convictions of my colleagues from certain States, that in the subcommittee and in the full Committee on Labor and Public Welfare, the matter of the formula was a difficult subject. We spent a long time attempting to devise a formula that would take into consideration several factors, remembering that really the so-called rural and urban factors of long ago must be reevaluated, in view of the industrial developments and population shifts that have occurred in our country.

But we are interested in this vocational rehabilitation legislation moving forward. There are so many strengths written into the bill that we do not want to have it flounder here on the shoals of a fight over a formula that has been established through the years.

For that reason, after consultation with the able Senator from California and other members of our committee, including the Senator from Pennsylvania (Mr. Schweiker) and especially the Senator from New York (Mr. Javits), I have offered the pending amendment. I do it, in a sense, on my own responsibility, but hoping that we can arrive at an agreement so that we go back to the basic formula which has been a part of this program.

Mr. ERVIN. Mr. President, will the Senator yield for a question?

Mr. RANDOLPH. I yield.

Mr. ERVIN. As I understand the amendment offered by the distinguished Senator from West Virginia, it would restore the formula previously used.

Mr. RANDOLPH. That is correct.

Mr. ERVIN. And it would abolish the formula under which, as I understand it, 40 States suffer a loss or a decrease.

Mr. RANDOLPH. That is not correct. We would have had additional benefits to 28 States under the formula that was presented, with 22 States losing funds. West Virginia, under the formula that was in the bill, suffered somewhat; but I felt that was necessary because I was trying to think of the problems of all States. We endeavored to develop a fair allocation system.

Mr. ERVIN. I commend the Senator on his amendment, because I think it gets us out of a sort of unhappy legislative difficulty.

Mr. RANDOLPH. Yes. I say to the Senator from North Carolina that this is very important legislation. Many strengths are built into it, so that I would not want it just to disintegrate into a contest here over the formula.

Frankly, we were attempting to modernize the formula, if one wants to use that word, to meet the needs of industrial society and population shifts. Nevertheless, I offer the amendment to go back to the basic formula.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield to the Senator from Vermont.

Mr. AIKEN. Is it a fact that under the proposal submitted by the Senator from West Virginia, all New England States would lose substantially from what they would receive if the formula now in the bill prevailed?

Mr. RANDOLPH. Under the formula in the bill as brought to the floor, we would have helped the New England States.

Mr. AIKEN. That is true. And under the proposal of the Senator from West Virginia, all 6 New England States would lose from the formula which is proposed in the bill.

Mr. RANDOLPH. That is correct. Regrettably, when we alter funding formulas, someone gains and someone loses, if one wishes to put it on that basis.

Mr. AIKEN. I do not feel qualified to argue the situation, because it has been a long time since I have been on that committee.

Mr. RANDOLPH. I am sure the Senator would serve on it ably if he were on it now, as he did in prior service.

Mr. JAVITS. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. RANDOLPH. I yield.

Mr. JAVITS. Mr. President, who controls the time in opposition?

The PRESIDING OFFICER. The Senator from California is in favor of the amendment.

Mr. CRANSTON. In the spirit of compromise, and to prevent this bill from being stalled, I am reluctantly willing to go along with the amendment. However, I wish to point out that we made only the most minor modification in the formula in committee so that no State could possibly receive less than its basic State allotment now, and indeed, every State would be guaranteed to receive more than its present dollar allotment before the modified formula would take effect with respect to the amount of funds available for allotment under part B of title I of the bill based upon an appropriation in excess of $700,000,000. Indeed, we made changes in committee to raise the "grandfathered" level from the fiscal year 1973 appropriation level to $700,000,000 appropriated under section 100(a).

I think all Senators should understand fully the gross inequity of the existing Hill-Burton formula which we have tried to ameliorate somewhat. Under the present formula, 17 States receive more than double California's per capita distribution of fiscal year 1973 budget formula grant funds for each estimated handicapped individual within the State.

Mr. President, I ask unanimous consent that there be printed in the Record at this point a chart showing distributions of vocational rehabilitation funds under the present Hill-Burton formula for fiscal year 1972 and fiscal year 1973.

There being no objection, the material was ordered to be printed in the Record, as follows:

ANALYSIS OF VOCATIONAL REHABILITATION FUND DISTRIBUTION TO THE STATES

State or territory	1970 population [1]	4 percent of 1970 population [2]	Fiscal year 1972 grant [3]	Per capita grant [4]	Fiscal year 1973 grant [3]	Per capita grant [4]
Alabama	3,444,165	137,767	$15,750,809	$114.33	$17,539,591	$127.31
Alaska	300,382	12,015	1,000,000	83,23	1,000,000	83.23
Arizona	1,770,900	70,836	5,866,176	82.81	6,009,130	84.83
Arkansas	1,923,295	76,932	9,023,266	117.29	10,041,459	130.52
California	19,953,134	798,125	37,117,620	46.51	38,431,603	48.15
Colorado	2,207,259	88,290	6,300,698	71.36	6,599,721	74.75
Connecticut	3,031,709	121,268	4,501,056	37.12	4,803,448	39.61
Delaware	548,104	21,924	1,148,032	52,36	1,273,699	58.10
District of Columbia	756,510	30,260	4,582,581	151.44	4,914,372	162.40
Florida	6,789,443	271,578	20,668,031	76.10	22,364,550	82.35
Georgia	4,589,575	183,581	17,046,821	92.86	18,836,265	102.60
Guam	84,996	3,400	534,430	157.19	563,727	165.80
Hawaii	768,561	30,742	1,864,125	60.64	2,120,062	68.96
Idaho	712,567	28,503	2,767,011	97.08	3,132,889	109.91
Illinois	11,113,976	444,559	20,704,483	46.57	20,788,652	46.76
Indiana	5,193,669	207,747	8,384,200	40.36	8,661,188	41.69
Iowa	2,824,376	112,975	8,156,454	72.20	9,001,714	79.68
Kansas	2,246,578	89,863	6,639,096	73.88	7,059,679	78.56
Kentucky	3,218,706	128,748	12,560,860	97.56	13,067,028	101.49
Louisiana	3,641,306	145,652	14,655,456	100.62	14,715,035	101.03
Maine	992,048	39,682	2,237,428	56.38	2,425,500	61.12
Maryland	3,922,399	156,896	8,598,927	54.81	9,583,210	61.08
Massachusetts	5,689,170	227,567	11,614,197	51.04	12,824,220	56.35
Michigan	8,875,083	355,003	20,313,061	57.22	20,922,038	58.93
Minnesota	3,804,971	152,199	10,711,096	70.38	11,910,915	78.26
Mississippi	2,216,912	88,676	11,520,065	129.91	11,771,661	132.75
Missouri	4,676,501	187,060	13,971,514	74.69	14,881,051	79.55
Montana	694,409	27,776	2,443,652	87.98	2,450,354	88.22
Nebraska	1,483,493	59,340	4,286,420	72.23	4,303,846	72.52
Nevada	488,738	19,550	$1,000,000	$51.15	$1,019,798	$52.16
New Hampshire	737,681	29,502	2,174,458	73.71	2,383,603	80.79
New Jersey	7,168,164	286,727	13,749,191	47.95	13,805,085	48.15
New Mexico	1,016,000	40,640	4,056,540	99.82	4,073,031	100.22
New York	18,236,967	729,479	30,953,392	42.43	34,108,404	46.76
North Carolina	5,082,059	203,282	20,285,508	99.79	22,685,720	111.60
North Dakota	617,761	24,710	2,410,718	97.56	2,420,518	97.96
Ohio	10,652,017	426,081	19,495,723	45.76	27,386,884	64.28
Oklahoma	2,559,229	102,369	9,337,877	91.22	10,533,549	102.90
Oregon	2,091,385	83,655	5,918,578	70.75	6,706,936	80.17
Pennsylvania	11,793,909	471,756	32,179,632	68.21	34,345,057	72.80
Puerto Rico	2,712,032	108,481	16,124,320	148.64	17,012,882	156.83
Rhode Island	946,725	37,869	2,265,491	59.82	2,377,707	62.79
South Carolina	2,590,516	103,621	11,654,844	112.48	13,101,703	126.44
South Dakota	665,507	26,620	2,489,380	93.52	2,745,882	103.51
Tennessee	3,923,687	156,947	12,276,000	78.22	15,688,018	99.96
Texas	11,196,730	447,869	37,677,065	84.13	42,386,393	94.64
Utah	1,059,273	42,371	4,011,796	94.68	4,524,799	106.79
Vermont	444,330	17,773	1,485,199	83.56	1,676,696	94.34
Virginia	4,648,494	185,940	15,171,519	81.59	16,996,300	91.41
Virgin Islands	62,468	2,499	302,092	120.89	313,268	125.36
Washington	3,409,169	136,367	8,008,131	58.72	8,602,831	63.09
West Virginia	1,744,237	69,769	7,667,121	109.89	8,520,898	122.13
Wisconsin	4,417,731	176,709	12,270,770	69.44	12,516,003	70.83
Wyoming	332,416	13,297	1,067,090	80.25	1,071,428	80.58
Total			559,000,000		609,000,000	

[1] 1970 Census of population, number of inhabitants, U.S. summary, U.S. Department of Commerce, Bureau of the Census "table 1 population of the United States, Puerto Rico, and outlying areas: 1950–70." "Table 14 rank of States by population: 1920–70".

[2] Assume a 4-percent incidence of vocational-rehabilitational need per State.

[3] Department of Health, Education, and Welfare: Based on amounts States are able to match using current formula.

[4] Per capital grant based on 4 percent of 1970 population figures.

Mr. CRANSTON. Finally, Mr. President, let me also stress that at no time did we who represent the more populous States suggest that the distribution should be made strictly on the basis of population. We accept the validity of taking into account as a major factor the State's per capita income inverted. To illustrate, at present California with 10 percent of the Nation's population receives about 6 percent of the formula grant allocation. If a formula of per capita income multiplied by population were adopted without squaring the per capita allotment percentage, as is presently done with the Hill-Burton formula, California would get 8 percent of the allotments—still far short—25 percent—of its population share. And we have not even proposed this degree of modification.

Instead we proposed much less of a change.

The PRESIDING OFFICER. The time is in the control of the minority leader or his designee.

Mr. JAVITS. Mr. President, in the absence of the minority leader, as I am the ranking minority member of the committee, I yield myself 5 minutes.

The PRESIDING OFFICER. Such will be the assumption, the Senator from New York is recognized.

Mr. JAVITS. Mr. President, we have had, I think, in all our experiences here this constant problem arising. Must we perpetuate injustice, because it is the "inertial thing to do?" The current formula now law would perpetuate a serious and basic injustice.

The reason it does is that it takes no account of the march of time or progress. It had its origin 18 years ago. The Senator who in a sense brought us to where we are at this particular moment is the Senator from South Carolina. South Carolina's income per capita is about one-half of that of Connecticut, which is the highest on the list. But under the formula which is now sought to be perpetuated, South Carolina for each handicapped person—mind you, this is not a matter of fattening up the State's role—would get roughly four times per capita what Connecticut gets.

Is that fair, even on any basis? The per capita income of South Carolina compared to Connecticut is twice as much. But by perpetuating an absolutely obsolescent formula, just because we want to get on with the bill, which is what this comes down to, the Senate is going to perpetuate an injustice for a long time, simply because of inertia, because one Senator got up and said, "I do not like it."

If that is the way we legislated around here, Mr. President, we would have some pretty bad bills and some unjust situations.

Mr. President, if we look down this list, what has happened? We now have appropriations of $560 million a year, and under this bill we are grandfathering everybody at $700 million, precisely because we were hoping that people would be reasonable. It is only when appropriations exceed $700 million, and my guess is that there is very little likelihood of it, in the near future, then a new formula is put into effect for the amount over $700 million only. But what is the new formula? The new formula still cranks into the extent of one-third of the appropriation over $700 million the reverse per capita income factor. Two-thirds of the excess is based on population.

So that, Mr. President, the important point that I am making here is this: We are not arguing now about what any State will get on the old formula up to a much higher ceiling than it is at today. We are talking about the increment; that is, what may happen in the future.

I think it is most demeaning to the Senate that the minute we get into one of these debates, everybody begins to tote up how many States profit and how many States lose.

I think the important thing to note is that always the States that pay the most taxes lose. They are ordained to lose; notwithstanding that my own State, which is supposed to be a very rich State, is almost busted, as everybody knows. It has a big income tax and a sales tax and had to crank in money from revenue sharing which it did not have in order to balance its budget as required by the State constitution.

Mr. President, I am just as anxious as anybody else to get on with the business of the Senate, but I do not think we ought to get on with the business at the cost of injustice. If the Senate wants to legislate injustice, let it at least face the issue and vote it up or down and legislate it that way.

The other thing that I think is only fair is this. We have a 2-year bill here after the present fiscal year; that is 2½ years. I see no reason whatever, if we are going to roll over and play dead—which is what we are doing because one Member got up and said he did not like it and tried to marshal other States similarly situated, to say they do not like it, without any regard as to whether it is fair or unfair—why this should be for 2½ years. As is everybody else, I am under great pressure, but if the Senate wants to go through with this, I will stay here tonight as long as it takes, including 3 o'clock in the morning to resolve it properly rather than dismiss it due to the hour. That will be fine. Injustice should not go unrecompensed.

Mr. LONG. Will the Senator yield?

Mr. JAVITS. I will yield in a moment. Just let me finish my point.

If, therefore, we are going to go this way and roll over and play dead, I am going to do my utmost, at least, to reduce this bill to the size it ought to be just for this and the next fiscal year. At least do not penalize us and impose this artificiality, which is all that is being imposed, for a longer period ahead. Let us consider it on every basis, including how long it will last.

Mr. LONG. Mr. President, if I correctly understand the Senator from New York, he said that he will not let this matter come to a vote unless his argument prevails. I have sat here a considerable part of 24 hours when the Senator from South Carolina debated a matter with which he was displeased.

If that is the kind of ultimatum we will have served on us, if that is what I understand the case to be, I would like to know about it, so that I can go home, because there is no point in my sitting around here waiting for a vote that is not going to occur. I do not know whether the Senator from South Carolina still holds the record, but he held the record for the longest speech in the Record; and if he indicates that he is equally adamant, there is no point in my staying around the Senate Chamber this evening.

Mr. JAVITS. I am sorry to state to the Senator from Louisiana, my dear friend who has befriended me on many occasions, that he understood me incorrectly. There is a 20-minute limitation on every amendment. I have no desire to tie the Senate up in knots. I have none at all. I would be limited in any event by the unanimous-consent agreement. What I had in mind was that more than one amendment was necessary notwithstanding the fact that the Senator from Kansas (Mr. Dole) and I and other Senators are deeply engaged on a time basis. Another amendment will be required at the tail end. If other amendments are required, I will, or others will, offer them.

I am not threatening or ultimatuming anyone. All I am saying is that if we are going this route, it is totally new, unexpected, and different from anything contemplated in the committee. So if that is what we are going to do, at least for myself, whose ox is being gored, with 9 percent of the population of the United States in the State of New York and, incidentally, with 10 percent of the population of the United States in the State of the Senator from California (Mr. Cranston), and his ox is being even more gored, at least let us stay here and do what we can to perfect the bill on the floor of the Senate the way the Senate wants it perfected.

My feeling is that probably not more than this amendment and whatever action we take on it, and one other amendment will be required; but I cannot stand here and say to the Senator, "Let's wrap it up" when it is a completely changed deal and completely loaded against the citizens of the urbanized States that pay the most in taxes.

Mr. LONG. I just want to make it clear to the Senator from New York that if he has some plans that require the Senate to go on and on and on into the night, he can arrange to keep a quorum present because I will not be here, this one Senator.

Mr. PASTORE. Mr. President, will the Senator from New York yield?

Mr. JAVITS. The Senator is really imposing on me a stricture which I do not deserve. I said no such thing and I meant no such thing.

Mr. LONG. Then, if I misunderstood the Senator, I am sorry. I thought he said he was going to keep the Senate in session until 3 this morning, or some such thing.

Mr. JAVITS. It depends on the number of amendments required. I do not believe very many will be required. All we have said is that, notwithstanding the time pressure, when we are faced with injustice, we have to try to do something about it.

Mr. President, I now yield to the Senator from Rhode Island (Mr. Pastore).

Mr. PASTORE. Mr. President, I want to join my good friend from New York in the rational argument he is making here. I am surprised at the Senator from Louisiana. Only a short while ago we had under consideration the revenue-sharing bill and I noticed that that committee, in order to accommodate itself and its members, made a change of the formula that was instituted by the House, and the Senate went along with it. As a matter of fact, it backed up the Senator from Louisiana. Now the committee that is managing this particular bill, after due consideration, in order to achieve justice and equity with reference to the problem, came out with a formula that it thought was proper. This was resented by those who profited by the change that was made in the revenue-sharing bill. Here we are, in order to accommodate them again. The committee has seen fit to capitulate and to accommodate once again those who pay less, but always get the most.

I think it is absolutely unfair. I do not know what the result will be. But certainly I am not in favor of this condescension on the part of the committee. I think it is an unfair compromise.

Mr. JAVITS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. Bentsen). One minute remains to the Senator from New York.

Mr. JAVITS. Mr. President, how much time do the opponents have?

The PRESIDING OFFICER. The Senator from West Virginia has 2 minutes remaining.

Mr. JAVITS. Mr. President, I yield myself the 1 minute I have remaining. We have just had a discussion about this matter and in the effort to come to an agreement, in view of all the problems which we face, I would suggest that the bill be limited to 1 year after the current fiscal year, instead of 2 additional years as contained in the bill, and I am prepared to offer an amendment, if that will be acceptable. We can come back and reargue the case a lot sooner than if we had a 2-year bill.

Mr. CRANSTON. I presume the Senator is referring to section 100(a), to take up the question of the formula so that we can come back later for part B of title I.

Mr. JAVITS. Yes. That is fine. Whatever is the formula.

Mr. CRANSTON. All right.

Mr. RANDOLPH. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from West Virginia has all the time that remains.

Mr. RANDOLPH. Two minutes. Mr. President, may I have the attention of the Senate, please?

The PRESIDING OFFICER. The Senate will be in order.

Mr. RANDOLPH. Mr. President, I repeat that members of the Committee on Labor and Public Welfare who are now in the Chamber know that the Senator from West Virginia attempted to work toward a formula that he believed to be fair—fairer than the old formula. West Virginia funding was reduced. All Members worked to secure equitable allocations of funding under the bill. I feel, however, that there are many important provisions in this measure that need to become law. That is the reason I offered the amendment at this point.

I must say not only the Senator from South Carolina (Mr. Thurmond) but also seven other Senators have come and indicated to me—such as the Senator from North Carolina (Mr. Ervin) and others—that they feel their States are being discriminated against if we move from the existing formula. They come here in good conscience. I think that if we cut that part of the legislation to 1 year from 2 years, we can move forward and keep the many provisions of this legislation which are so forward-looking and necessary. I would hope that the Senate will agree to this.

Mr. THURMOND. Mr. President, will the Senator from West Virginia yield?

Mr. RANDOLPH. I yield——

The PRESIDING OFFICER (Mr. Gravel). All time has now expired.

Mr. JAVITS. Mr. President, I send to the desk an amendment——

The PRESIDING OFFICER. The question is on agreeing to the amendment, all time having expired——

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 17, line 1, delete the semicolon and substitute "and".
>
> On line 2, strike out the semicolon and insert in lieu thereof a period.
>
> On line 3, strike out from "and" to "1975," on line 4.

Mr. RANDOLPH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from West Virginia will state it.

Mr. RANDOLPH. Can I accept the language of the distinguished Senator from New York as a modification of my amendment?

The PRESIDING OFFICER. The Senator may modify it accordingly.

Mr. RANDOLPH. I thank the Chair. Mr. President, I ask unanimous consent that I may modify my amendment accordingly.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the Randolph amendment as modified is as follows:

On page 35, line 23, strike out "(1)".

On page 35, line 24, strike out "with respect to such" and strike out all on line 25 through "$700,000,000" on line 1 on page 36.

On page 37, strike out all beginning on line 1 through line 23.

On page 17, line 1, strike out the semicolon and insert in lieu thereof "and".

On line 2, strike out the semicolon and insert in lieu thereof a period.

On line 3, strike out from "and" to "1975," on line 4.

The PRESIDING OFFICER. All time has now expired and the question is on agreeing to the amendment——

Mr. THURMOND. Mr. President, just a minute—just a minute——

Mr. PASTORE. Mr. President, regular order. Regular order, please

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment——

Mr. THURMOND. Mr. President——

Mr. MANSFIELD. Mr. President, how much time does the Senator from South Carolina want?

Mr. THURMOND. I have not yet had a chance to say one word on this question.

Mr. MANSFIELD. I asked the Senator how much time did he want?

Mr. THURMOND. Two minutes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator from South Carolina may have 2 minutes.

Mr. PASTORE. I have no objection, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I want to propound an inquiry to the Senator from New York who has offered the amendment. I want to say that the point I raised here is not in derogation of any respect we have for the Senators from West Virginia or New York or any other Senator. It is simply this, that it appeared that the poorer States were losing money after we passed a certain figure here, and that is the reason we felt if we are going to try to accomplish the purpose of helping the poorer States, we felt this formula would be the best one for that purpose.

I should like to ask this question of the Senator from New York: The amendment that is being offered now, as I understand it, would limit the bill to 1 year?

Mr. JAVITS. After the present fiscal year.

Mr. THURMOND. That is the tenor of the amendment, then?

Mr. JAVITS. Yes, that is the tenor of the amendment as to the particular provision of the bill which relates to the formula the Senator has challenged.

Mr. THURMOND. As to page 37—lines 1 through 23, as I understand it, the bill would not refer to anything but just the present formula. However, the bill would terminate 1 year sooner.

Mr. JAVITS. The Senator is correct.

Mr. THURMOND. And in view of that fact, would it not be proper to strike out on page 37, lines 1 through 23.

Mr. JAVITS. I believe that is what the Senator from West Virginia (Mr. Randolph) has done, amended his amendment in that way.

Mr. RANDOLPH. Mr. President, that is the modification of my amendment.

Mr. JAVITS. My amendment goes to this page of the bill.

Mr. THURMOND. Mr. President, I wanted to make the record clear so that there would be no question as to what the amendment does.

Mr. JAVITS. Mr. President, I wish to make it clear that we use the term bill when we should use the reference to section 100(a) of title I of the bill.

Mr. CRANSTON. Section 100(a).

Mr. JAVITS. That is the formula that the Senator has challenged.

Mr. THURMOND. The Senate is now amending pages 35, 36, 37, and 17 of the reported bill.

Mr. JAVITS. Page 17 is the one I am amending. Page 37 has to do with the amendment of the Senator from West Virginia. As to page 35——

Mr. CRANSTON. Mr. President, pages 17, 35, 36, and 37 are all being amended in the amendment as modified.

The PRESIDING OFFICER (Mr. Gravel). All time has expired on the amendment. The question is on agreeing to the amendment of the Senator from West Virginia, as modified.

The amendment was agreed to.

The PRESIDING OFFICER. If there be no further amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 3987) was ordered to be engrossed for a third reading and was read the third time.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the name of the Senator from Colorado (Mr. Dominick) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare be discharged from further consideration of H.R. 8395 and that the Senate proceed to the immediate consideration of that measure.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

H.R. 8395. An act to amend the Vocational Rehabilitation Act, to extend and revise the authorization of grants to States for vocational and comprehensive rehabilitation services, to authorize grants for rehabilitation services to those with severe disabilities, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from California? The Chair hears none, and it is so ordered.

The Senate proceeded to consider the bill.

Mr. CRANSTON. Mr. President, I move to strike all after the enacting clause of H.R. 8395 and insert in lieu thereof the language of S. 3987, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from California (putting the question).

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Missouri (Mr. Eagleton), the Senator from Mississippi (Mr. Eastland), the Senator from Arkansas (Mr. Fulbright), the Senator from Oklahoma (Mr. Harris), the Senator from Minnesota (Mr. Humphrey), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Rhode Island (Mr. Pell), the Senator from Alabama (Mr. Sparkman), the Senator from Virginia (Mr. Spong), the Senator from Illinois (Mr. Stevenson), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

I further announce that the Senator from North Carolina (Mr. Jordan) and the Senator from Wyoming (Mr. McGee) are absent on official business.

I further announce that, if present and voting, the Senator from Mississippi (Mr. Eastland), the Senator from Arkansas (Mr. Fulbright), the Senator from Minnesota (Mr. Humphrey), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Virginia (Mr. Spong), the Senator from Illinois (Mr. Stevenson), and the Senator from New Jersey (Mr. Williams) would each vote "yea."

Mr. COTTON. I announce that the Senator from Colorado (Mr. Allott), the Senators from Tennessee (Mr. Baker and Mr. Brock), the Senator from Delaware (Mr. Boggs), the Senator from New York (Mr. Buckley), the Senator from Arizona (Mr. Goldwater), the Senator from Michigan (Mr. Griffin), the Senator from Illinois (Mr. Percy), the Senator from Pennsylvania (Mr. Scott), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from Ohio (Mr. Taft) and the Senator from Vermont (Mr. Stafford) are absent on official business to attend the Interparliamentary Union meetings.

The Senator from North Dakota (Mr. Young) is detained on official business.

If present and voting, the Senator from Delaware (Mr. Boggs), the Senator from Illinois (Mr. Percy), the Senator from Vermont (Mr. Stafford), the Senator from Ohio (Mr. Taft), and the Senator from Texas (Mr. Tower) would each vote "yea."

The result was announced—yeas 70, nays 0, as follows:

[No. 477 Leg.]

YEAS—70

Aiken
Allen
Anderson
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Edwards
Ervin
Fannin
Fong
Gambrell
Gravel
Gurney
Hansen
Hart
Hartke
Hatfield
Hollings
Hruska
Hughes
Inouye
Jackson
Javits
Jordan, Idaho
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
Miller
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Smith
Stennis
Stevens
Symington
Talmadge
Thurmond
Tunney
Weicker

NAYS—0

NOT VOTING—30

Allott
Baker
Boggs
Brock
Buckley
Byrd, Harry F., Jr.
Eagleton
Eastland
Fulbright
Goldwater
Griffin
Harris
Humphrey
Jordan, N.C.
McGee
McGovern
McIntyre
Metcalf
Mundt
Pell
Percy
Scott
Sparkman
Spong
Stafford
Stevenson
Taft
Tower
Williams
Young

So the bill (H.R. 8395) was passed.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further consideration of S. 3987 be postponed indefinitely.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, now that we have acted on S. 3987 and H.R. 8395, I wish to thank the leadership on both sides of the aisle for their great help in scheduling this bill for such prompt consideration on the floor today. I know that they share a warm and abiding interest in the problems of handicapped individuals and the purposes of the legislation which the Senate has adopted today.

Mr. President, I ask unanimous consent that the text of H.R. 8395 as it has been amended and passed by the Senate be printed as a separate bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, on behalf of the leadership I wish to express appreciation to the Senator from California (Mr. CRANSTON), the Senator from West Virginia (Mr. RANDOLPH), the Senator from North Carolina (Mr. ERVIN), the Senator from South Carolina (Mr. THURMOND), the Senator from New York (Mr. JAVITS), the Senator from Louisiana (Mr. LONG), and other Senators who worked in such a cooperative way and in a spirit of give and take so that this legislation could be moved forward expeditiously. I thank them and commend them.

Mr. CRANSTON. I thank the distinguished majority leader for his help.

Mr. THURMOND. Mr. President, I thank the majority leader also for his kind words.

ACT FOR THE PROTECTION OF FOREIGN OFFICIALS

Mr. HRUSKA. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 15883.

The PRESIDING OFFICER (Mr. GRAVEL) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 15883) to amend title 18, United States Code, to provide for expanded protection of foreign officials, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. HRUSKA. I move that the Senate insist upon its amendments and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. GRAVEL) appointed Mr. MCCLELLAN, Mr. EASTLAND, Mr. BURDICK, Mr. HRUSKA, and Mr. COOK conferees on the part of the Senate.

QUORUM CALL

The PRESIDING OFFICER. What is the will of the Senate?

Mr. ERVIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MODIFICATION OF BOUNDARIES OF CERTAIN NATIONAL FORESTS

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished Senator from New Mexico (Mr. ANDERSON), I ask the Chair to lay before the Senate a message from the House of Representatives on S. 447.

The Presiding Officer laid before the Senate the amendment of the House of Representatives to the bill (S. 447) to modify the boundaries of the Santa Fe, Gila, Cibola, and Carson National Forests in the State of New Mexico, and for other purposes," which was to strike out all after the enacting clause, and insert:

That the exterior boundaries of the Santa Fe, Gila, Cibola, and Carson National Forests, in New Mexico, respectively, are modified to include the following described lands:

SANTA FE NATIONAL FOREST, NEW MEXICO PRINCIPAL MERIDIAN

1. The Canon de San Diego Grant, situated in townships 16, 17, 18, and 19 north, ranges 1, 2, and 3 east, and known in the Office of the United States Surveyor General as Report numbered 36, confirmed by Congress of the United States of America on the 21st day of June 1861, and patented by the United States of America in accordance with said Act of Confirmation of the 21st day of October 1881.

2. Township 18 north, range 1 east.

Section 6, lots 1 through 8 inclusive.

Township 18 north, range 1 west.

Section 1, lots 1 through 4, inclusive, west half northeast quarter, and east half northwest quarter.

3. Township 17 north, range 2 east.

Section 25, lot 1.

Section 36, lots 1, 2, and 4.

Township 17 north, range 3 east.

Section 19, lots 1 and 2 in accordance with G.L.O. plat approved April 28, 1919.

Section 30, lots 1 through 4, inclusive.

Section 31, lots 1 through 3, inclusive and lots 5 to 9, inclusive.

Section 32, lots 1 through 4, inclusive.

Township 16 north, range 3 east.

Sections 5, 6, 7, and 8.

4. Township 15 north, range 12 east.

Section 29, lots 3, 4, and 5, southwest quarter southeast quarter.

Section 33, lots 1, 2, 3, and 4, southwest quarter southwest quarter.

5. Township 15 north, range 12 east.

Section 12, east half southwest quarter, southeast quarter.

Township 15 north, range 13 east.

Section 5, all.

Section 6, all.

Section 7, all.

Section 8, all.

Section 9, west half southwest quarter.

Section 16, west half west half.

Sestion 17, east half east half.

Section 20, east half northeast quarter.

Section 21, west half west half.

Section 28, west half.

Section 32, all.

Section 33, all.

6. A tract or parcel of land situated in the counties of Sandoval and Santa Fe in the State of New Mexico, known as the Caja del Rio Grant, as shown upon the plat of said grant on file in the United States Public Survey Office in Santa Fe, New Mexico, which plat was approved by the United States Surveyor General of New Mexico on November 23, 1894, and approved by the Court of Private Land Claims, through its Deputy Clerk Irene L. Chavez, on April 15, 1895, and representing a survey of said grant as made by Sherrard Coleman, United States Deputy Surveyor, May 8 to 18, 1894, under Contract Numbered 280, dated March 26, 1894, which tract of land is intended to include all that portion of the said grant extending westward to the Rio Grande, but exclusive of the conflict with the Cochiti Pueblo Grant and which was more particularly described in a deed from the General American Life Insurance Company to the United States of America dated November 13, 1935, and recorded in Sandoval County in book 4, DR, pages 503–515, on December 20, 1935.

7. A tract or parcel of land situated in the counties of Sandoval and Santa Fe in the State of New Mexico, known as the La Majada Grant, as shown upon the plat of the grant on file in the United States Public Survey Office in Santa Fe, New Mexico, which plat was approved by the United States Surveyor General of New Mexico on January 23, 1896, and approved by the Court of Private Land Claims, through its Deputy Clerk Irene L. Chavez, on March 25, 1896, and representing a survey of said Grant as made by Albert F. Easley, United States Deputy Surveyor, June 28 through July 7, 1895, under Contract Numbered 292, April 29, 1895, which tract of land is intended to include all of that portion of the said grant exclusive of the conflicts with the Cochiti Pueblo Grant,

the Mesita de Juana Lopez Grant, and the Caja del Rio Grant, and a portion of the said La Majada Grant lying south of the Corps of Engineers' Road Numbered 90, more particularly described as a line beginning at a point on the south boundary of the Cochiti Pueblo Grant which lies south 89 degrees 54 minutes west 18.35 chains from the half mile corner; thence south 44 degrees 15 minutes west 125.65 chains; thence south 51 degrees 50 minutes east 14.59 chains; thence south 43 degrees 50 minutes east 101.91 chains; thence south 49 degrees 35 minutes east 24.35 chains to a point on the south boundary of the La Majada Grant which lies north 73 degrees 48 minutes west 18.18 chains from the 4½ mile corner on the south boundary of the said grant.

8. Township 14 north range 13 east.
Section 35, north half.
9. Township 16 north range 14 east.
Section 5, all.
Section 8, all.
Section 27, lot 5, east half southeast quarter.
Section 34, east half east half.

GILA NATIONAL FOREST, NEW MEXICO PRINCIPAL MERIDIAN

A tract or parcel of land situated in Grant County, New Mexico, in township 17 south, ranges 12 and 13 west, as shown in the office of the United States Surveyor General on Supplemental Plat of Retracements and Resurveys, approved by the Surveyor General on July 7, 1908, excepting that portion of the said military reservation lying south of a line described as follows: Beginning at a point which is the intersection of the north right-of-way line for State Highway 180 with the east boundary of the reservation; thence southwesterly along the highway right-of-way to the south line of section 25; thence westerly along the section line between sections 25 and 36 to a point lying 735 feet west of the quarter corner between said sections; thence north 47 degrees 03 minutes east 585 feet; thence north 18 degrees 18 minutes west 2,380 feet; thence west 4,110.34 feet; thence south 01 degree 43 minutes east 2,661.24 feet to the quarter corner between sections 26 and 35; thence westerly along the section line to the west boundary of the said military reservation.

CARSON NATIONAL FOREST, NEW MEXICO PRINCIPAL MERIDIAN

1. Township 25 north, range 13 east.
Section 28, lots 4 and 12.

CIBOLA NATIONAL FOREST, NEW MEXICO PRINCIPAL MERIDIAN

1. Township 10 north, range 11west.
Sections 1 through 3, inclusive.
Sections 10 through 15, inclusive.
Township 11 north, range 11 west.
Sections 1 through 3, inclusive.
Sections 10 through 15, inclusive.
Sections 22 through 27, inclusive.
Sections 34 through 36, inclusive.
Township 12 north, range 11 west.
Sections 31 through 36, inclusive.

2. A tract of land in township 14 north range 16 west which was originally a portion of the Fort Wingate Military Reservation as established by Executive order of February 18, 1870, more particularly described as: Beginning at a point which is the quarter corner common to section 2 of township 14 north range 16 west and section 35, township 15 north range 16 west; thence southerly along the Cibola National Forest boundary approximately 3 miles to the quarter corner common to sections 14 and 23 in unsurveyed township 14 north range 16 west; thence westerly along the Cibola National Forest boundary approximately 4½ miles to a point on the east boundary of the Fort Wingate Ordnance Depot, designated 361+00 south and 20+00 east Wingate Ordnance Depot coordinating system; thence northerly along the Wingate Ordnance Depot east fence approximately 10,285 feet to a point designated 258 + 15 south and 20 + 00 east Wingate Depot coordinating system; thence in a random northeasterly direction along the Wingate Depot fence system approximately 8,500 feet to a brass cap set in concrete which is the northwest corner of the Navajo Indian School tract; thence due south 6,293.84 feet to a brass cap set in concrete which is the southwest corner of the school tract; thence due east 7,728.15 feet to a 3-inch pipe which is the southeast corner of the school tract; thence due north 6,716.00 feet to a brass cap set in concrete which is the northeast corner of the school tract; thence easterly approximately 1⅜ miles to the point of beginning, containing 6,810 acres, more or less.

SEC. 2. The exterior boundaries of the Carson National Forest in New Mexico are modified to exclude section 16, township 24 north, range 11 east, New Mexico principal meridian.

SEC. 3. Subject to valid existing rights, all lands owned by the United States in the areas described in section 1 of this Act are hereby added to the national forests as listed in that said section, and shall be administered in accordance with the laws, rules, and regulations applicable thereto.

SEC. 4. For the purposes of section 6 of the Act of September 3, 1964 (78 Stat. 903), the boundaries of the Santa Fe, Gila, Cibola, and Carson National Forests, as modified by section 1 of this Act, shall be treated as if they were the boundaries of those forests on January 1, 1965.

Mr. ROBERT C. BYRD. Mr. President, the House amendment to S. 447 corrected some typographical errors and also made two substantive changes. The House struck section 3 of the Senate-passed bill, which proposed a statutory withdrawal of lands within that portion of the Old Fort Bayard Military Reservation to be added to the Gila National Forest. These lands, if so withdrawn, would not be subject to any of the public land laws, including the mining laws, unless authorized by the Secretaries of Agriculture and Interior. These lands were originally withdrawn in 1869 when the reservation was established and have remained withdrawn since that time. The elimination of section 3 will not in any way change the status of the present withdrawal.

The House also amended S. 447 to assure that valid existing rights, if any will be preserved and inserted new language to assure that funds appropriated pursuant to the Act of September 3, 1964, the Land and Water Conservation Fund Act, can be used for the acquisition of land and waters within the national forests boundaries as enlarged by S. 447, if they are primarily valuable for outdoor recreation.

Mr. President, I am advised by the Senator from New Mexico (Mr. ANDERSON) that these amendments are acceptable to him. He is the distinguished sponsor of the bill. Therefore, I move that the Senate concur in the amendment of the House to S. 447.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

TRANSACTION OF ROUTINE MORNING BUSINESS

Routine morning business transacted during the day is printed here, as follows:

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Armed Services, without amendment:

H.R. 14542. An act to amend the Act of September 26, 1966, Public Law 89-606, to extend for four years the period during which the authorized numbers for the grades of major, lieutenant colonel, and colonel in the Air Force may be increased, and for other purposes (Rept. No. 92-1227).

By Mr. THURMOND, from the Committee on Armed Services, without amendment:

S. 3310. A bill to amend title 10, United States Code, to establish the authorized strength of the Naval Reserve in officers in the Judge Advocate General's Corps in the grade of rear admiral, and for other purposes (Rept. No. 92-1228).

STATE AND LOCAL FISCAL ASSISTANCE ACT OF 1972—REPORT OF A COMMITTEE (S. REPT. NO. 92-1229)

Mr. LONG, from the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14370) to provide payments to localities for high-priority expenditures, to encourage the States to supplement their revenue sources, and to authorize Federal collection of State individual income taxes, submitted a report thereon, which was ordered to be printed.

By Mr. LONG, from the Committee on Finance, with amendments:

H.R. 1. An act to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State Public Assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes (Rept. No. 92-1230) (together with individual views).

Mr. LONG. Mr. President, on behalf of the Committee on Finance I send to the desk the report on H.R. 1.

Mr. President, during Senate consideration of H.R. 1, including votes, I ask unanimous consent that the following Finance Committee staff members be permitted on the floor, Michael Stern, Jay Constantine, Jim Mongan, William Galvin; and the following persons from the Congressional Reference Service, Fred Arner, Joseph Humphreys, Frank Crowley, and Robert Guttman.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. INOUYE:

S. 4026. A bill for the relief of Christopher Pin-Wah Lo. Referred to the Committee on the Judiciary.

By Mr. TUNNEY (for himself and Mr. CRANSTON):

S. 4027. A bill to establish the Tijuana National Wildlife Refuge. Referred to the Committee on Commerce.

By Mr. McCLELLAN (by request):

S. 4028. A bill to amend title 35 of the United States Code to provide a remedy for postal interruptions in patent and trademark cases. Referred to the Committee on the Judiciary.

By Mr. THURMOND:

S. 4029. A bill to amend section 4 of the Internal Security Act of 1950. Referred to the Committee on Armed Services.

By Mr. TOWER:

S. 4030. A bill to amend the Social Security Act to prohibit the payment of aid or assistance under approved State public assistance plans to aliens who are illegally within the United States; and

S. 4031. A bill to amend the Internal Revenue Code of 1954 to encourage higher education, and particularly the private funding thereof, by authorizing a deduction from gross income of reasonable amounts contributed to a qualified higher education fund established by the taxpayer for the purpose of funding the higher education of his dependents. Referred to the Committee on Finance.

S. 4032. A bill to amend the Outer Continental Shelf Lands Act by providing authority for the issuance of permits to construct, operate, and maintain port and terminal facilities. Referred to the Committee on Interior and Insular Affairs.

By Mr. BENTSEN:

S. 4033. A bill for the relief of Jorge Ortuzar-Varas and Maria Pabla de Ortuzar. Referred to the Committee on the Judiciary.

By Mr. EASTLAND:

S. 4034. A bill for the relief of Jose Luis Montero. Referred to the Committee on the Judiciary.

By Mr. MONDALE:

S. 4035. A bill to amend the Public Health Service Act to provide assistance for kidney transplantation, hemodialysis and related facilities and services needed for comprehensive treatment of patients suffering from chronic renal disease. Referred to the Committee on Labor and Public Welfare.

By Mr. MAGNUSON (by request):

S. 4036. A bill to amend the Act to authorize appropriations for the fiscal year 1973 for certain maritime programs of the Department of Commerce. Referred to the Committee on Commerce.

By Mr. MAGNUSON:

S. 4037. A bill to amend the Sockeye Salmon Fisheries Act of 1947 to authorize the restoration and extension of the sockeye and pink salmon stocks of the Fraser River system, and for other purposes. Referred to the Committee on Commerce.

By Mr. FONG:

Senate Joint Resolution 270. A joint resolution to establish a National Commission on Social Security. Referred to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TUNNEY (for himself and Mr. CRANSTON):

S. 4027. A bill to establish the Tijuana National Wildlife Refuge. Referred to the Committee on Commerce.

NATIONAL WILDLIFE REFUGE IN SAN DIEGO, CALIF.

Mr. TUNNEY. Mr. President, I am pleased to introduce legislation which will establish a national wildlife refuge in the Tijuana estuary, a natural salt water marsh south of San Diego, Calif., in the southwesternmost corner of the continental United States.

Mr. President, this estuary is one of the finest salt water marshes remaining along the California coastline. Due to its size and its natural, open mouth to the Pacific Ocean, the Tijuana estuary is a valuable habitat for a large variety of birds, fish, invertebrates and other wildlife, as well as a valuable natural attraction and scientific and educational asset to the San Diego community. The estuary is made increasingly more valuable by the fact that it is one of very few such natural habitats which are in a natural state, relatively untouched by the effects of man and his technology.

Large salt marshes such as the Tijuana estuary historically existed in all major bays, but few have not been destroyed or severely damaged by harbor construction and pollution. In San Diego Bay alone, 80 to 85 percent of the bay's tidelands have been bulkheaded or filled for industrial and commercial purposes. This situation is typical of southern California as a whole: While California's coastal wetlands and estuarine acreage is about 422,000 acres—less than half of 1 percent of the State's land area—only about 31,700 acres of this is in southern California. This figure is less than 25 percent of that which existed in 1900, and a large portion of that has been highly modified, resulting in greatly decreased fish and wildlife values.

Such drastic alteration of estuarine environments ignores the fact that they rank with forests and rivers as vital natural resources, and outrank both in productivity and versatility: Estuaries are among the most naturally fertile and shared-use areas of the world. However, due to man's disinterest and misinformation, coastal wetlands have been largely ignored as a resource in need of protection, while development of all sorts continues, carving up and destroying the habitat.

While there is a vital need to preserve these natural habitats all along the coast, the Tijuana estuary is particularly deserving of governmental protection. As Sanford Wilbur, a wildlife biologist, stated in a Bureau of Sport Fisheries and Wildlife memorandum:

> I doubt there is a better place on the West Coast to use Land and Water Conservation Fund monies for habitat really essential to wildlife.

The area, abundant in plant life indigenous to a free-flowing salt water marsh, provides an excellent feeding ground and gathering place for all types of wildlife. The Tijuana River estuary and adjacent uplands are occupied seasonally or continually by at least 173 species of water fowl and other birds; 26 species of fish, and 42 species of large invertebrates such as clams, snails, crabs and shrimp are known to live in the estuary, feeding on or dwelling within habitats created by 31 species of marsh plants. All this is made possible by the high quality of the marsh, a result of the rapid tidal flushing and relative absence of pollution. In addition, four species of birds known to inhabit the estuary and adjacent beach and uplands are on the official U.S. Fish and Wildlife list of endangered species: the California clapper rail, the brown pelican, the California least tern, and the American peregrine falcon. Four more species are listed as rare or endangered. The estuary is considered one of the most important light-footed rail areas remaining.

Our duty to preserve this natural habitat is one we owe not only to the wildlife themselves, although that is a major responsibility in itself. The migratory shorebirds and water fowl, part of the Pacific flyway, are protected by international treaties, obligating us as a Nation to adequately protect these species. And this protection cannot be accomplished without preservation of the habitat on which they depend.

We also have a responsibility to the quality of human life when considering the role played by such natural environments. The tidal ebb and flow through the marsh carries algae and eel grass plant communities and plankton, which, as basic energy for a wide variety of fish and bird life, form the bottom of our food chain. The fish which swim into the estuary to feed are a link in the chain supporting the fish industry on which many depend for food and a livelihood. Even more important, perhaps, is the need we as humans have of such areas for more esthetic reasons. The Tijuana estuary is now used for a number of scientific and educational purposes, as an open air laboratory for scientists and school children alike. It also serves as an escape for those who seek out a place for walking, for sitting in solitude, or merely observing the natural world in a pleasurable surrounding, away from, although close to, the complex world they are a part of.

Our need of areas such as the Tijuana estuary certainly is not going to diminish as time passes. The San Diego South Bay area, like all urban areas, is becoming increasingly more urbanized and complex, with open space diminishing and natural environments disappearing under the high priority of land for industrial and residential development. Such a transformation of our environment is, we must recognize, irreversible, and this is particularly true of our coastal wetlands. It does not take much in the way of human interference to substantially alter—forever—the fragile ecosystem of an estuary. All along the coast, draining, diking, filling and dredging of the coastline is continuing, as development is given top priority. It is time to reverse this trend, by protecting our resources from such thoughtless destruction.

The need for official protection of the Tijuana estuary has been recognized by all levels of government. In Bureau of Sport Fisheries and Wildlife plans for a national coastal estuarine refuge complex, the Tijuana estuary is strongly recommended as an important element. The State of California Department of Fish and Game and the Department of Parks and Recreation are also strongly supportive of preservation of the natural habitat, and city of San Diego planners recently recommended protection of the estuary in the city plan. A Bureau of Sport Fisheries and Wildlife official stated it well:

> Time is running out for key estuarine habitats . . . and they need protection now.

We can take a step in this direction by taking rapid action on this legislation. The Tijuana estuary is a valuable resource, and it must be protected before irreversible damage is done.

Mr. President, I ask unanimous consent that the text of my bill may be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 4027

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to preserve the Tijuana Estuary in its natural state, recognizing its value as a natural wildlife habitat and as an educational and scientific asset to the community, the Secretary of the Interior is authorized and directed to establish the Tijuana National Wildlife Refuge (hereinafter referred to in this Act as the "refuge") as part of the national wildlife refuge system.

Sec. 2. (a) (1) The refuge shall consist of such lands and waters, as determined by the Secretary of the Interior, within the following described area:

T19S R2W, SB BM; W ½ of the NE ¼ of the NW ¼ of Sec. 5, NW ¼ of the NW ¼ of Sec. 5, W ½ of the NE ¼ of Sec. 6, that portion of the NE ¼ of the NW ¼ lying east of the mean high tide line of the Pacific Ocean; T18S R2W, SB BM: the W ½ of the SE ¼ of the SW ¼ of Sec. 32, SW ¼ of the SW ¼ of Sec. 32, SE ¼ of the SE ¼ of Sec. 31, SW ¼ of the SE ¼ of Sec. 31, NW ¼ of the SE ¼ of Sec. 31, W1.2 of the NE ¼ of Sec. 31, all that portion of the SE ¼ of Sec. 30, and the SE ¼ of the SW ¼ of Sec. 30.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, any such lands under the jurisdiction or control of the Secretary of the Navy and which are within the United States Naval Air Station, Imperial Beach, California, shall be included as a part of the refuge only with the advice and consent of the Secretary of the Navy.

(b) Upon determination of the boundaries of the refuge by the Secretary of the Interior and the Secretary of the Navy, the Secretary of the Interior shall immediately establish the area agreed upon as the refuge by publication of a description of such area in the Federal Register.

Sec. 3. The Secretary of the Interior shall determine recreational and educational use compatible with the natural state of the estuary, and shall administer the area to conform with such uses.

Sec. 4. The Secretary of the Interior shall administer the refuge in accordance with the provisions of the Act entitled "An Act to provide for the conservation, protection, and propagation of native species of fish and wildlife, including migratory birds, that are threatened with extinction; to consolidate the authorities relating to the administration by the Secretary of the Interior of the national wildlife refuge system; and for other purposes", that approved October 15, 1966 (16 U.S.C. 668dd et seq.), to the extent that such Act is not inconsistent with the operation of the United States Naval Air Station, Imperial Beach, California. In addition, the Secretary shall, in cooperation with agencies of the State of California, insure compatible usage of estuary lands which fall within Border State Park and the National Wildlife Refuge.

Sec. 5. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. McCLELLAN (by request):

S. 4028. A bill to amend title 35 of the United States Code to provide a remedy for postal interruptions in patent and trademark cases. Referred to the Committee on the Judiciary.

Mr. McCLELLAN. Mr. President, as chairman of the Subcommittee on Patents, Trademarks, and Copyrights, I introduce, by request of the Department of Commerce, for appropriate reference, a bill to amend title 35 of the United States Code to grant relief from delays or stoppages in the postal service in patent and trademark cases.

The patent and trademark laws of the United States contain certain time periods, during which specified actions must be taken by patent and trademark applicants and owners or by their attorneys or agents. Failure to take a required action within the statutory time period generally results in a forfeiture of some or all of the patent or trademark rights involved. There has occurred in the past, and may well occur in the future, disruptions of postal service because of labor disputes or exceptional circumstances, such as floods, riots, and so forth. The purpose of this legislation is to permit the Commissioner of Patents to provide relief from injury sustained by patent and trademark applicants when there is an interruption in regular postal service. Favorable action on this bill would relieve the Congress and the executive branch of the time consuming process of considering the merits of individual private bills for relief in the event of an interruption of postal service.

By Mr. THURMOND:

S. 4029. A bill to amend section 4 of the Internal Security Act of 1950. Referred to the Committee on Finance.

Mr. THURMOND. Mr. President, for many years I have favored the strengthening of our internal security system. The bill I am introducing would close one loophole in our present law which the trips of Jane Fonda and Ramsey Clark have dramatically exemplified. This problem is the travel of certain U.S. citizens without official authorization to a country whose military forces are engaged in armed conflict with the military forces of the United States.

Through misguided idealism, certain citizens have become tools for Communist propaganda. It is one thing to have misgivings about war, but quite another to willfully cooperate with an enemy by naively accepting his every assertion as truth and by broadcasting his propaganda to our troops and citizens. These broadcasts were clearly aimed at the creation of doubt and unrest in the minds of our soldiers at the very time when they were fighting for their lives. We must not allow such action to continue.

Mr. President, the trip of Jane Fonda to Hanoi is an example of the damage that such unrestricted travel can have on our war effort. In playing into North Vietnam's hands, Jane Fonda jeopardized the welfare of the very men whom she professed to be helping.

The other recent example of harm resulting from unrestricted travel is the trip of Ramsey Clark. Even Ramsey Clark after his return admitted that he saw only what Hanoi wanted him to see, but this did not prevent him from making tapes which were broadcast over Radio Hanoi.

We cannot allow our Nation's security to be threatened by trips of this nature. I am sure most Americans agree that such actions are damaging and harmful not only to our Nation as a whole but also to our men who are serving their country in wartime. I urge my colleagues to support this bill and stop unrestricted travel to enemy countries.

Mr. President, I ask unanimous consent that an article on August 2, 1972, in the New York Daily News; an article from the Guardian, a radical news weekly, on August 9, 1972; an article from the Militant, the official paper of the Socialist Workers Party, on September 8, 1972; two articles from the Washington Evening Star on August 19, 1972, and August 15, 1972; three articles from the Washington Post on August 12, 1972, August 26, 1972, and September 8, 1972; an article from the New York Times on August 24, 1972; and an article from the New York Daily News on August 24, 1972; be printed in the Congressional Record at the conclusion of my remarks. I also request that this bill be appropriately referred and ask unanimous consent that it be printed in the Congressional Record at the conclusion of my remarks.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 4029

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 4 of the Internal Security Act of 1950 (50 U.S.C. 783) is amended by adding immediately following subsection (c) of such section the following new subsection:

"(d) The President may restrict travel by citizens and nationals of the United States to, in, or through any country or area whose military forces are engaged in armed conflict with the military forces of the United States. Such restriction shall be announced by public noticed which shall be published in the Federal Register. Travel to such restricted country or area by any person may be authorized by the President when he deems such travel to be in the national interest. It shall be unlawful for any citizen or national of the United States willfully and without such authorization to travel to, in, or through any country or area in violation of a restriction on such travel pursuant to this subsection.

(b) Section 4 of such Act is further amended by redesignating existing subsections (d) through (f), as (e) through (g).

[From the New York Daily News, Aug. 2, 1972]

BEING USED, JANE WARNS SOUTH VIET GUYS

Saigon, Aug. 1.—Actress Jane Fonda told South Vietnamese troops today that they were being used "as cannon fodder for U.S. Imperialism" and hailed government soldiers who have defected to the Communist side in the war.

In a message recorded during her recent two-week visit to Hanoi and addressed specifically to South Vietnamese forces, the antiwar actress termed the U.S. war role in Vietnam as "racist aggression" and a "white man's war." She said American bombings—wantonly, accidentally, perhaps—of South Vietnamese troops reflected "a lack of concern . . . for your lives by the White American officers, both in Vietnam and in the Pentagon and in the White House."

Miss Fonda, who at a press conference

Friday in New York labeled absurd an allegation that she urged U.S. pilots in Vietnam to defect, glorified South Vietnamese troops who defected to the Communists in the latest Hanoi broadcast. "We read with interest about the growing number of you who are understanding the truth and joining with your fellow countrymen to fight for freedom and independence and democracy. We note with interest, for example, that as in the case of the 56th Regiment of the Third Division of the Saigon army, army of the Republic of Vietnam soldiers are taken into the ranks of the National Liberation Front (Viet Cong), including officers who may retain their rank."

REFERENCE TO IMPERIALISM

Miss Fonda also said in her taped message: "We know what U.S. imperialism has done to our country in the United States . . . and so we know what lies in store for any third world country that could have the misfortune of falling into the hands of a country such as the United States and becoming a colony."

The actress' earlier broadcasts from Hanoi urging U.S. servicemen not to take part in the war spurred critics in America to urge a boycott of her movies as a protest. One congressman, Rep. John G. Schmitz (R.-Calif.) called for her prosecution on grounds that she violated federal laws which prohibit encouraging "insubordination, disloyalty, mutiny or refusal of duty by U.S. servicemen.

[From the Militant, Sept. 8, 1972]

JANE FONDA UNDER ATTACK FOR TELLING TRUTH

(By Lee Smith)

AUG. 24—Since she returned from North Vietnam in late July, Jane Fonda has been spreading the word on the U.S. bombing destruction she witnessed there. The antiwar actress has described the damage done to North Vietnams dike system by deliberate U.S. air attacks in news conferences, speeches, and interviews.

While the Academy Award winner has been telling people about the criminal U.S. bombings, some politicians and prowar veterans groups have been denouncing her for treason. Much to the dismay of such flag-wavers as Representative Fletcher Thompson (R-Ga.), however, no official moves against Fonda seem likely.

Attacking Fonda for antiwar radio broadcasts she taped in Hanoi, Thompson compared her to Tokyo Rose. Calling the actress "Hanoi Hannah" the Georgia congressman publicly asked that she be subpoenaed to testify before the witch-hunting committee on which he serves, the House Internal Security Committee. The rest of the committee voted down Thompson's request. Another committee member charged that Thompson just wanted to use an investigation to get some publicity in his campaign for the U.S. Senate.

What the committee did do was request an investigation of Fonda's trip and radio broadcasts by the Justice Department. The same request was made Aug. 23 by the national convention of the Veterans of Foreign Wars in a resolution that called Fonda and former U.S. Attorney General Ramsey Clark "traitorous meddlers." A similar motion was introduced the same day at the convention of the American Veterans of World War II, Korea, and Vietnam.

Clark, who visited North Vietnam directly after Fonda, also made radio broadcasts from Hanoi and has also insisted since his return that the U.S. is systematically bombing the dikes there. A member of the Danish parliament, Frode Jacobsen, visited North Vietnam along with Clark. Jacobsen has appeared on TV in Denmark since his return, testifying to the destruction of the dikes and saying, "The American government is simply lying."

The calls for a Justice Department investigation of Fonda are a means for the prowar minority to vent its spleen. Such an investigation was already underway before the earliest public requests were issued. But Stan Carter reported in the Aug. 4 New York *Daily News* that "the administration officials, acknowledging the unpopularity of the war, doubt the advisability of prosecution, for political reasons; they fear it would merely turn the Academy Award-winning actress into a martyr."

In part of an interview with the Asia Information Group, printed in the Aug. 12 *People's World*, Fonda described how bombing around dikes where there are no military installations has caused fissures weakening the dikes, bringing about the danger of disastrous floods.

One indication that the bombing is systematic, Fonda is quoted as saying in this interview, "is the fact that the first—coastal—dikes were bombed during the typhoon season. The salt water rushing into the rice paddies will destroy the soil for a long time if not forever.

"The next wave of bombings hit the inland dikes, during the monsoon season.

"Another indication of the aim of flooding the Red River Delta is shown by the bombing of dams, hydraulic systems, sluices, and pumping stations and repair crews."

Fonda told of interviewing a woman from Thanh Hoa province on the Ma River who related what happened in an air raid carried out while a repair crew was working on a dike that had been bombed three times. "Planes dropped steel pellet bombs on them," Fonda said, "killing many."

Asked what she thought of Fonda's charges about the bombing, Pat Nixon told reporters at a White House news conference Aug. 8: "I think she should have been in Hanoi asking them to stop their aggression. . . . Then there wouldn't be any conflict."

Judging that the public will not prove receptive to charges that Fonda is a traitor, some supporters of the administration have attempted instead to use sexism to discredit her charges. For example, in the *Daily News* article already quoted, Stan Carter wrote: "Miss Fonda does not give the impression of being a conscious agent of the other side. She appeared terribly sincere—but totally taken in, like a romantic schoolgirl. . . ."

But many people are more inclined to trust Jane Fonda than Stan Carter or Pat Nixon. And some of them may be among the GIs who heard her tell them from Hanoi: "You know that when Nixon says the war is winding down that he's lying. . . . If they told you the truth, you wouldn't fight, you wouldn't kill . . . you have been told lies so that it would be possible for you to kill."

[From the Guardian, Aug. 9, 1972]

JANE FONDA SCORES BOMBING OF DIKES

(By John Cook)

U.S. bombing of the dikes and civilian centers of the Democratic Republic of Vietnam is "deliberate and systematic," declared antiwar activist Jane Fonda, the actress.

Fonda, who recently returned from a two-week visit to the DRV, told a crowded press conference in New York City late last month that "the U.S. is conducting genocide in Vietnam."

Fonda's eyewitness account of the damage caused by U.S. bombs was backed up by a 25-minute film produced during her stay in North Vietnam. The film showed dikes, housing complexes, markets, hospitals and cultural centers that had been heavily damaged by the bombings. The Nghia Minh dike alone was hit by 50 bombs which sent fissures deep into the base of the dike, leaving huge craters.

"A dike doesn't have to be hit directly for it to give way when the floods come," she explained. "More damage is done by hitting it on the side, which weaken the foundation and gives Nixon a chance to say 'we don't hit dikes.' "

Regardless of the devastation and loss of life, Fonda said the North Vietnamese were resolute in their determination to win. "Work goes on," she said. "Hanoi is crowded and busy despite the evacuation. You don't feel like you're in a country that's at war. People are exuberant and optimistic, because the land is theirs now."

After visiting bombed-out Bach Mai hospital in Hanoi, Fonda broadcast a message to U.S. servicemen over Radio Hanoi. She asked them—especially the jet pilots—to reconsider what they were doing to the people and the land in Vietnam.

She said in the broadcast: "Their land (Vietnam) is being destroyed. Why? Certainly not for anything that is in your interests, the soldiers of the United States, or in the interests of the people in the United States except the very few people who are determined to prevent the nation of Vietnam from achieving freedom and independence."

For this broadcast, Rep Fletcher Thompson (R-Ga.) made a speech asking the Justice Department to charge the actress with treason. Defending her broadcast, she said she "knew of no other way to communicate with the pilots and to let them know what kind of destruction they were causing. This country has been turned around from its true revolutionary heritage by murderers, not patriots." Fonda brought back 241 letters from POWs and talked to several of them during her visit.

"They all told me to call members of their families and tell them to get involved in the peace movement," she said.

[From the Washington Star, Aug. 19, 1972]

ATTILA, CALIGULA AND THE RAMSEY CLARK CAPER

(By Smith Hempstone)

How you feel about Ramsey Clark depends largely, but not entirely, upon your attitude toward events in Southeast Asia over the past decade. Truth is, as the say, in the eye of the beholder.

Now if you believe, with George McGovern that President Nixon's conduct of the war in Vietnam is comparable to Hitler's extermination of the Jews, then it is likely that you will agree, again with McGovern, that whatever Clark may have said in Hanoi about the American bombing of North Vietnam and the condition of our prisoners there "pales into insignificance." Indeed, you may find President Johnson's former attorney general culpable in not having compared Nixon unfavorably to Attila the Hun, Caligula and other authors of liberty.

In contrast, if in your considered opinion nothing less than a complete victory over Godless communism will suffice, if you feel there is a worldwide conspiracy against America centered in the Council on Foreign Relations and Nixon is in reality a crypto-marxist, then you will undoubtedly favor nailing Clark's hide, rather than the proverbial coonskin, to the wall. Your tendency will be to view the man whom J. Edgar Hoover once described as "a jellyfish" as a sort of Jane Fonda in drag.

But if you find it possible to believe that those who got us into the Vietnam War did so for reasons they thought honorable, that Nixon is doing his best to extricate us from the conflict and that the war, in the perspective of history, may be judged rather differently from the way it is judged now by us, then it is just possible that you may be able to find another explanation for Clark's conduct.

By way of background, it should be noted that Clark, since Nixon's election and the Texan's departure from the Justice Department, has been increasingly identified with the Berrigan brothers and elements of the Democratic party's lunatic left. That his recent two-week visit to North Vietnam was made under the auspices of the Stockholm-based "International Commission of Inquiry into United States War-crimes in Indochina" hardly adds to Clark's credentials as an unbiased observer: The group's name somehow suggests that its members' minds are made up.

It can be suggested, of course, that Clark's visit had little to do with the commission's work, that he was in Hanoi as the special representative of McGovern, who on previous occasions has expressed a high opinion of the Texan. But that is up to McGovern to affirm or deny.

All we know is that Clark has a record of anti-war activism and that he went to Hanoi under the auspices of a group which has been quick to detect a mote in Uncle Sam's eye while being unable to discern anything approaching a beam in Hanoi's.

While in North Vietnam, Clark made several comments to newsmen. He apparently waxed lyrical about Hanoi's treatment of American POWs and criticized the U.S. bombing of the North. There have been suggestions that Clark's taped statements, which were broadcast over Radio Hanoi, may have been edited—indeed changed—to give them a thrust and a slant which he had not intended. This may have been the case. But it should be said that nothing Clark is alleged to have said in North Vietnam is inconsistent with what he has said on many occasions in this country.

There have been dark mutterings in Congress to the effect that Clark, like Miss Fonda, the go-go girl of the anti-war freaks, should be charged with treason. There is, needless to say, nothing either would enjoy more and for that reason, if for no other, such thoughts should be put aside. Miss Fonda, having burned her bra and Clark his mainstream political bridges, neither requires assistance in making a spectacle of himself.

The curious thing about Clark is that he accepted the attorney-generalship in the spring of 1967, at which time that old peacenik, LBJ, was well on his way to a massive buildup of American troops in South Vietnam while merrily bombing the bejeezus out of North Vietnam. Clark was not priced out of the Justice Department until after Nixon won the 1968 election. In the interim, Clark had little to say about the immorality of the war. All of which might well lead the average person to the conclusion that Clark is either a hypocritical opportunist or a fool. And that is probably a kinder and more accurate judgment than comparing him to Lord Haw-Haw, Tokyo Rose or Benedict Arnold.

What is a matter for concern is that McGovern, who has yet to say that he is behind Clark 1,000 percent, obviously sees the Texan as a man fit to hold high office. After a while one really does begin to wonder if Miss Fonda also may not figure in the South Dakotan's cabinet plans. Perhaps as Secretary of Defense.

[From the Washington Evening Star, Aug. 15, 1972]

Messenger From Hanoi

Ever since the war in Vietnam escalated beyond the adviser stage. Americans have been subjected to free advice from a veritable parade of sincere, albeit apparently misguided, anti-warriors travelling the road to Hanoi, who invariably "discover" evidence that the United States is the real villain in the dirty and seemingly endless Indochinese fighting.

To name a few recent visitors to the North Vietnamese capital: There was Dr. Eugene Carson Blake of the World Council of Churches, followed by actress Jane Fonda, and, most recent of all, a former attorney general of the United States, Ramsey Clark.

Clark, returning to our shores after a 600-mile guided tour of North Vietnam, claims to bring the real word from Hanoi on U.S. bombing, plus the message that our prisoners will be released when "we end this murderous bombing and the war" and "get back to the business of building the peace and giving happiness to little children around the world."

But, not content with bringing his observations back with him to use in attempting to discredit the Nixon administration's conduct of Southeast Asian policy, Clark took advantage of being on the spot to involve himself in a recorded interview, promptly aired to the world by Radio Hanoi, recounting and editorializing on what he had seen, heard and been told.

In the light of his remark at a subsequent news conference in Bangkok, in which he averred that he was an American citizen and would "make my report on "American soil," one wonders just where he thought he was when he participated in Hanoi's recorded interview.

While we stop short of subscribing to the notion that his performance verged on the treasonable, we are forced to conclude: (1) That his performance was incredibly naive and (2) that a former cabinet member surely should be aware that, with Henry Kissinger commuting between here and Paris to receive any meaningful messages Hanoi has a mind to send us, the last thing the United States needs at this point is one more volunteer "messenger" to bring us to the "word" on what Hanoi is prepared to do.

A little more than five years ago newly appointed Attorney General Clark was questioned on the marked increase in crime, which, according to then recent statistics for the District of Columbia, had just registered a 59.7-percent increase over the previous year. "The level of crime has risen a little bit," he said, "but there is no wave of crime in this country." And he went on to state that "we do ourselves a great disservice with statistics."

Ramsey Clark would do well to take some of his own advice concerning statistics—Hanoi's especially. His report from Hanoi has been summed up by Representative Samuel Stratton, a New York Democrat, as "one of the most disgraceful things that have come out of the Vietnam war . . . Jane Fonda is one thing. But a former cabinet officer playing the enemy's game over Hanoi Radio . . ."

That may seem a bit harsh. But only a bit.

[From the Washington Post, Aug. 12, 1972]

Ramsey Clark Airings Called "Contemptible"

(By Tim O'Brien)

Secretary of State William P. Rogers yesterday criticized former Attorney General Ramsey Clark for an attack against U.S. bombing policy broadcast over Radio Hanoi.

Rogers said he was "shocked" by Clark's statements, calling his action "contemptible."

"I was surprised that he went to (North) Vietnam," Rogers said. "But to hear the voice of a former member of President Johnson's Cabinet—a former Attorney General of the United States, a man who was involved in sending more than half a million Americans to Vietnam—to hear him on Radio Hanoi was, to me, contemptible.

"It's beyond belief, frankly," Rogers said.

Clark was appointed Attorney General in the spring of 1967, after President Johnson's decision to begin troop buildups in Vietnam.

Since leaving his Cabinet post, Clark has been a frequent critic of U.S. war policies.

Clark is touring North Vietnam as a member of an international committee of inquiry into U.S. "war crimes" in Indochina.

Radio Hanoi broadcasts have quoted Clark as saying that U.S. bomb strikes against the country's dike system should be halted immediately. The United States denies that the dikes have been intentionally bombed, while admitting that some may have been hit accidentally.

The North Vietnamese broadcast also quoted Clark as having begged villagers of a bombed area "to forgive the criminal actions of the American people."

(Meanwhile, United Press International reported that Clark was quoted by the Vietnam News Agency, a Hanoi organization, in a broadcast heard in Tokyo, as saying in a press conference in Hanoi yesterday that there has been "massive, inhuman" American bombing of North Vietnam.

(Clark, according to the communist agency's report, said two things were clear: "That there has been massive, inhuman bombing on cities, villages, churches, schools, hospitals, dikes, sluices, canals and the wide water system that supports the culture and the life of the country. Whatever the cause and the purpose of that bombing there can be no possible justification in the eyes of common morality.

("Secondly," he was quoted as saying, "the people of this country believe their cause is just. Every person I have seen has shown by his acts and his word his total commitment.")

Rogers said there are "two types of Americans" that go to North Vietnam. "One is the Jane Fonda type, and I think people understand the Jane Fonda types.

"Ramsey Clark is different. I listened to him—I think it was him—yesterday on a broadcast that was repeated here and that was alleged to be a broadcast he made from Hanoi on Radio Hanoi.

"I am frank to say that I was shocked," Rogers said.

"Imagine going to a nation that we are at war with, taking their version of everything that is said, and then going on their radio and broadcasting back to the U.S. and around the world, at a time when American men are flying over there and losing their lives."

He said "the American people would be shocked to hear his voice on Radio Hanoi while the war is in progress, while American lives are being lost, particularly a man who was involved in the very decisions that made the whole thing come about."

Meanwhile, Rep. Fletcher Thompson (R-Ga.) asked the Justice Department to inquire into Clark's activities in North Vietnam.

Thompson accused Clark of lending his support to enemy propaganda attacks on the United States. He said he wrote Attorney General Richard Kleindienst, asking him to initiate an inquiry into whether Clark's activities constitute violations of U.S. sedition or treason laws.

"It is too bad that a former Attorney General of the United States would lend himself to support propaganda activities of the enemy and not condemn the thousands of murders and atrocities they have committed," Thompson said.

The House Internal Security Committee voted Thusday to reject Thompson's motion that it subpoena actress Jane Fonda for questioning.

Thompson had earlier asked the Justice Department to make a similar investigation of Miss Fonda's Radio Hanoi broadcasts, reportedly beamed at U.S. troops in Vietnam.

ON THE MIDEAST

On another press conference subject, Secretary Rogers reiterated his call for "active negotiations between Egypt and Israel," saying this is the only area in the world where there are longstanding hostilities where talks have not been undertaken.

Rogers supported the Israeli position that talks will eventually have to be face-to-face "because it makes sense." But he also said U.S. policy on the Mideast, as he stated it on Dec. 9, 1969, remains unchanged.

This policy would allow for only insubstantial alterations of frontiers, had been denounced by the Israelis, and has not been discussed lately by administration officials.

Rogers refused to comment on the ouster of Soviet military men from Egypt, calling it an "internal decision."

In other comments, Rogers:

Said it is possible that North Vietnam might launch a pre-election offensive in South Vietnam. "The Secretary of Defense and the members of the military establishment feel that there is a real prospect that this might occur." But he predicted that South Vietnam could handle "any such activity on the part of the enemy."

Struck out at Democratic presidential nominee George McGovern, saying that "once a political opponent says to the enemy 'we'll give you everything you want if I'm elected,' does impair the prospects for successful negotiations."

Praised the House of Representatives for defeating a provision of the foreign military aid bill that would have fixed a date for total U.S. military withdrawal from Indochina. He said that, "If the House of Representatives had voted the other way, our prospects for a negotiated settlement would have been damaged."

Rogers also said he has no plans to leave his post after the fall election, and said he will speak out on foreign policy matters, which he thinks will be important as the campaign progresses.

[From the Washington Post, Aug. 26, 1972]

United States Won't Prosecute Jane Fonda

(By Sanford J. Ungar)

The Justice Department has no intention of prosecuting actress Jane Fonda for her broadcasts to American servicemen over Radio Hanoi, sources in the department and on Capitol Hill said yesterday.

Although the department's Internal Security Division is conducting an "inquiry" at the request of the House Internal Security Committee, the sources said, there is no plan for a federal grand jury investigation of the antiwar activist.

The State Department initially reacted angrily to reports of Miss Fonda's broadcasts during a visit to Hanoi in July.

Justice Department lawyers have apparently concluded, however, that she did not violate any statutes—including the law intended to punish anyone who "advises, counsels, urges, or in any manner causes or attempts to cause insubordination, disloyality, mutiny, or refusal of duty by any member of the military or naval forces of the United States."

That is expected to be the Justice Department's advice in its report to the House committee.

The House panel, formerly known as the House Un-American Activities Committee, revived the Fonda controversy yesterday with a statement announcing it had received formal notice of the Justice Department inquiry from A. William Olson, assistant attorney general for the Internal Security Division.

Committee Chairman Richard H. Ichord (D-Mo.) used the occasion to release selected quotations from transcripts of Miss Fonda's broadcasts to GIs, provided by the Foreign Broadcast Information Service of the Central Intelligence Agency.

Among the statements attributed to her:

"Tonight when you are alone, ask yourselves: What are you doing? Accept no ready answers fed to you by rote from basic training . . . I know that if you saw and if you knew the Vietnamese under peaceful conditions, you would hate the men who are sending you on bombing missions."

"Have you any idea what your bombs are doing when you pull the levers and push the buttons?"

"Should you allow these same people and same liars to define for you who your enemy is?"

Ichord said his own committee staff "is carrying out a similar but separate analysis of her broadcasts and other activities during the trip" to Hanoi.

But committee sources said that even this investigation is likely to be dropped without ever subpoenaing Miss Fonda to testify, as originally urged by Republican Reps. Fletcher Thompson of Georgia and John G. Schmitz of California, presidential candidate of the American Independent Party.

The committee voted 8–1 on August 10 to put off the subpoena question until it had received the Justice Department report.

Ichord is opposed to calling Miss Fonda before the committee, the sources said yesterday, because he fears it would provide a forum for her strong views against American involvement in Southeast Asia.

Both congressional and Justice Department sources said that if anything comes of the Fonda broadcasts, it could be a push for new legislation to deal with such situations.

They rejected the earlier suggestions of those angered by the Fonda broadcasts that her remarks were comparable to those of Iva Toguri D'Aguino, known as "Tokyo Rose" for her broadcasts to American servicemen over Radio Tokyo in World War II.

After a 56-day trial on treason charges—the longest in American history—Mrs. D'Aquino was convicted in federal court in San Francisco in 1949 and sentenced to 10 years in prison and a $10,000 fine.

She was paroled in 1956 after serving more than six years in the Federal Reformatory for Women in Alderson, W. Va., and later successfully resisted deportation proceedings.

After Miss Fonda's return from Hanoi, Thompson urged that she be prosecuted in a similar manner. "Declared war or undeclared war, this is treason," he said last month.

But the Justice Department has interpreted the matter differently and hopes the controversy will subside. The Nixon administration has not indicated what its position would be on new legislation.

[From the Washington Post, Sept. 8, 1972]

Clark's POW Charade

(By Rowland Evans and Robert Novak)

During his two hours in Hanoi with ten carefully selected prisoners of war, Ramsey Clark lectured on American politics—indicating to the prisoners their early freedom depends on electing as president Sen. George McGovern, who he said "can win by a big vote."

These pronouncements, previously unpublished, reflect the bizare flavor of Clark's POWs. While the prisoners were ominously uncomplaining about their treatment and harshly critical of their own government, Clark delivered the repeated homillies on the virtues of North Vietnam.

Simply put, the Aug. 10 meeting was a charade, giving the dubious impression of American POWs splendidly treated by their captors and infuriated by U.S. war policies. Clark has not publicized how Hanoi rebuffed his efforts to see a wider cross-section of prisoners. Inded, the full two-hour tape leaves no doubt Clark was meeting a small, cohesive group of POWs actively opposing U.S. policy.

Clark revealed his problems in contacting prisoners only during private meetings in Washington with families of POWs. He told them he asked to see specific prisoners believed to be in North Vietnamese hands but was refused. "I wanted to go into Laos and into the South (Vietnam) to see what they had there." He was refused. He requested a list of POWs and was refused. Reducing his request to 20 prisoners, he finally got to see ten.

The Communist officials "told me there was a war going on," he explained to prisoners' relatives.

When one relative noted that the same prisoners are repeatedly "trotted out" for visitors, Clark bristled with indignation. But, he was asked, "Why aren't the North Vietnamese showing the rest?" Clark's reply: "I asked for new faces, and you take what they give you because they have the power."

The 30-minute segment of the Clark-POW meeting broadcast by ABC radio is dominated by the prisoners' testimony of their humane treatment. It does not contain Clark's gushing interjections. Devotion to "freedom," he told the POWs, "is written deep in the hearts of the North Vietnamese people" who "believe that their cause is just."

Once the prisoners related their experiences, they asked about American politics. Clark's answer, also omitted from the ABC segment, contained the hope for a "big" McGovern victory. When a prisoner referred to President Nixon's bombing policy as "idiotic," Clark delivered a denunciation of bombing.

"If McGovern were elected," Clark told the POWs, "the war would end on the day he came into office . . . There can be no question that the prisoners would be returned immediately." He then agreed with a prisoner that Mr. Nixon would not accept Hanoi's "seven points," adding that Hanoi "won't settle for anything less."

Asked why Sargent Shriver replaced Sen. Thomas Eagleton for Vice President, Clark produced a bowdlerized account. "Tom had some mental health problems", that he kept from McGovern but which columnist Jack Anderson published (untrue) based on "a plant from FBI files" (also untrue). "But McGovern then did what I think was the strong thing to do. He talked it over with Tom Eagleton. He said, 'I'm going to change.' " (If not untrue, at least distorted.)

The POWs next returned to their own problems. Clark later told prisoner families that the POWs "had complained in a number of areas." In fact, none complained about their captors. Instead, they expressed fear of government reprisals upon returning home and repeated Hanoi's libel that the U.S. government intercepts their mail.

Why didn't Clark publicly announce he talked to only a select handful of prisoners, learning nothing about the hundreds of others? His explanation to POW relatives: "You're not going to be successful if you offend them (the North Vietnamese)."

He lectured the families: "You're going to have to think about their (Hanoi's) point of view, about their suffering." In sum, say not a word about Hanoi's violations of the Geneva Convention even if the world thereby receives a glowing account from a few prisoners who may be very special indeed.

[From the New York Daily News,
Aug. 24, 1972]

Jane Inquiry Asked

New Orleans, Aug. 23.—A resolution was introduced today at the Amvets' convention calling for the Justice Department to investigate actress Jane Fonda. Robert B. Gomulinski of Potomac, Md., the head of the American Veterans of World War II, Korea, and Vietnam, said the resolution would be voted on tomorrow by the 2,500 delegates at the 28th national convention. The resolution will say that if Miss Fonda has been quoted accurately "she gives aid and comfort to the enemy."

[From the New York Times, Aug. 24, 1972]

V.F.W. Urges Prosecution of Clark and Miss Fonda

Minneapolis, Aug. 23.—The Veterans of Foreign Wars have accused Jane Fonda, the actress; and the former Attorney General, Ramsey Clark, of being "traitorous meddlers" in United States foreign policy and recommended that they be prosecuted.

The V.F.W.'s annual convention adopted yesterday a resolution urging that "individual citizens such as Jane Fonda, Ramsey Clark and other so-called unofficial ambassadors for peace be classified as traitorous meddlers in official Government security."

The resolution also said that the "legal machinery of the Federal Government be utilized to investigate and prosecute any and all of such individuals."

Miss Fonda and Mr. Clark both visited North Vietnam recently and criticized American bombing of North Vietnamese dikes.

By Mr. TOWER:

S. 4030. A bill to amend the Social Security Act to prohibit the payment of aid or assistance under approved State public assistance plans to aliens who are illegally within the United States. Referred to the Committee on Finance.

Mr. TOWER. Mr. President, I am today introducing legislation to close a loophole in the various federally funded public assistance programs. This legislation would amend the Social Security Act to prohibit the payment of welfare under State public assistance programs to illegal aliens.

Unfortunately, no substantial data exists on the number of illegal aliens receiving welfare payments. The Department of Health, Education, and Welfare has been asked on numerous occasions to supply the Congress with these figures, but to date they have been unable to meet this request. While it may be true that aliens illegally enter the United States primarily for the purpose of obtaining employment at a higher wage scale than they could receive in their native land, it is also clear that many illegal aliens eventually end up on the welfare rolls. The legislation I now propose would prohibit these payments, and authorize the States to establish methods to screen out those illegal aliens who apply for public assistance.

Over the past few years, the House Judiciary Committee has conducted hearings on the subject of illegal aliens. Last year 2 days of hearings were conducted in El Paso, Tex. At that time, officials of the various Federal and State agencies and private citizens submitted testimony on this problem. The Commissioner of the Texas Department of Public Welfare, Mr. Raymond Vowell, stated that stricter requirements for citizenship were definitely needed to effectuate a responsible public assistance program.

This problem has been enlarged by the recent proposal of a regulation— Federal Register, June 16, 1972—to revamp the public assistance programs so that they will be consistent with the Supreme Court decision in Graham against Richardson. When this proposed regulation was issued, the Department of Health, Education, and Welfare received a great deal of critical comment.

For the most part, State regulations have not differentiated between resident aliens and illegal aliens. Federal requirements of the Social Security Act, likewise, do not make any distinction between these groups. Simply put, the Supreme Court in the Graham decision stated that statutes which attempt to restrict public assistance payments from lawfully admitted resident aliens are in violation of the 14th amendment. The concern in both the public and private sectors has resulted from the apparent intention of the Department of Health, Education, and Welfare to interpret the Graham decision in such a way as to prevent the States from denying welfare payments to illegal aliens. As I have stated, this concern is manifested by the fact that existing law does not distinguish between resident and illegal aliens.

In a letter to Secretary Richardson on July 28, 1972, I reviewed the Supreme Court cases on this matter and concluded that the Court never intended to state that laws which deny welfare payments to illegal aliens are violative of the equal protection clause of the 14th amendment. The majority decision which was written by Justice Blackmun is quite clear on this point. Nevertheless, those who interpret the Constitution "loosely" no doubt believe that, under existing law, illegal aliens must be categorized in the same manner as lawfully admitted resident aliens. As I have stated, I cannot agree with this contention and cannot see how such an interpretation of the Social Security Act or the Graham decision could be formulated.

Nevertheless, the Department of Health, Education, and Welfare is still reviewing the hundreds of comments received on the proposed regulation, and, therefore, I believe it is incumbent upon the Congress to be attuned to this very difficult and complex subject matter.

As I have noted, there is evidence that illegal aliens are receiving public assistance. I do not think that the Federal and State Governments have an obligation to individuals who are in the United States on an illegal basis. Consequently, I suggest there is a great need for the Congress to categorically state the policy that illegal aliens should not receive public assistance.

The percentage of illegal aliens which comprise our welfare rolls is unknown. In certain areas of Texas, it may be substantial, however, which would explain the grave economic and social problems experienced in areas of Texas where illegal aliens are known to predominate. Their presence particularly affects the economic growth of the Mexican-American communities in these areas. The Mexican American faces enough problems without having to compete with illegal aliens for economic security. I believe this legislation would defintely serve his best interests.

Likewise, the State of Texas can ill afford further increases in its welfare rolls. There are more than 650,000 recipients of public assistance in Texas, a sizable majority of whom receive payments under the aid to families with dependent children program. Additionally, these programs are restricted by a constitutionally imposed $80 million ceiling on welfare expenditures. Those who are truly in need of public assistance would be greatly harmed by a Federal Government regulation requiring welfare assistance to illegal aliens.

I have previously called for increased enforcement activities by the Immigration and Naturalization Service to detect and deport illegal aliens found within our borders. I also feel the Congress should take the initiative in giving direction to the Supreme Court decision in the Graham case. At this time, State welfare officials are unable to make any substantive reforms in their policies due to the consideration of the proposed regulation by the Department of Health, Education, and Welfare. It is my understanding, in fact, that Governor Rockefeller vetoed a bill passed by the New York State legislature which would have established procedures to screen out illegal aliens because of his uncertainty over the HEW regulation.

On September 12 the House of Representatives passed an amendment proposed by Congressman Pickle, to H.R. 16188, a bill to amend the Immigration and Nationality Act, to require that Department of Health, Education, and Welfare personnel notify the Immigration and Naturalization Service of any illegal alien who is receiving or has received public assistance. I commend the House of Representatives on this action, which would effectuate greater cooperation between government officials in this regard; however, while I strongly support this action, it is clear that it is not sufficient to insure that illegal aliens will not receive public assistance. Under current practice, it is very difficult for government officials involved in the administration of public-assistance programs to actually know the citizenship status of a beneficiary. There is obviously a need for a clear cut congressional statement that illegal aliens should not receive public assistance. At the same time, authority must be given to the Department of Health, Education, and Welfare and the State Welfare Departments to implement effective methods of screening out illegal aliens. For these reasons, I urge expeditious consideration of this important measure.

Mr. President, I ask unanimous consent that the text of this bill be printed at this point in the Record. I also request unanimous consent that the various other supporting documents herewith attached be printed in the Record for the examination of my colleagues.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 4030

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (13) the following new paragraph:

"(14) prohibit the payment of assistance under the plan to or on behalf of any individual who is neither a citizen of the United States nor an alien lawfully admitted to or lawfully resident in the United States, and provide for the establishment of effective methods, facilities, and procedures for administering and enforcing this prohibition."

(b) Section 402(a) of such Act is amended—

(1) by striking out "and" at the end of clause (22); and

(2) by striking out the period at the end of clause (23) and inserting in lieu thereof the following: "; and (24) prohibit the payment of aid under the plan to or on behalf of any individual who is neither a citizen of

the United States nor an alien lawfully admitted to or lawfully resident in the United States, and provide for the establishment of effective methods, facilities, and procedures for administering and enforcing this prohibition."

(c) Section 1002(a) of such Act is amended—

(1) by striking out "and" at the end of clause (12); and

(2) by striking out the period at the end of clause (13) and inserting in lieu thereof the following: "; and (14) prohibit the payment of aid under the plan to or on behalf of any individual who is neither a citizen of the United States nor an alien lawfully admitted to or lawfully resident in the United States, and provide for the establishment of effective methods, facilities, and procedures for administering and enforcing this prohibition."

(d) Section 1402(a) of such Act is amended—

(1) by striking out "and" at the end of clause (11); and

(2) by striking out the period at the end of clause (12) and inserting in lieu thereof the following: "; and (13) prohibit the payment of aid under the plan to or on behalf of any individual who is neither a citizen of the United States nor an alien lawfully admitted to or lawfully resident in the United States, and provide for the establishment of effective methods, facilities, and procedures for administering and enforcing this prohibition."

(e) Section 1602(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (16);

(2) by striking out the period at the end of paragraph (17) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (17) the following new paragraph:

"(18) prohibit the payment of aid or assistance under the plan to or on behalf of any individual who is neither a citizen of the United States nor an alien lawfully admitted to or lawfully resident in the United States, and provide for the establishment of effective methods, facilities, and procedures for administering and enforcing this prohibition."

(f) Section 1902(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (30);

(2) by striking out the period at the end of paragraph (31) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (31) the following new paragraph:

"(32) prohibit the furnishing of medical assistance under the plan to or on behalf of any individual who is neither a citizen of the United States nor an alien lawfully admitted to or lawfully resident in the United States, and provide for the establishment of effective methods, facilities, and procedures for administering and enforcing this prohibition."

Sec. 2. (a) (1) The first sentence of section 6(a) of the Social Security Act is amended by inserting before the period at the end thereof the following: ", or any payments to or care in behalf of any individual who is neither a citizen of the United States nor an alien lawfully admitted to or lawfully resident in the United States".

(2) Section 6(b) of such Act is amended by inserting before the period at the end thereof the following: "or any individual who is neither a citizen of the United States nor an alien lawfully admitted to or lawfully resident in the United States".

(b) Section 406(b) of such Act is amended by adding at the end thereof (after and below clause (E)) the following new sentence: "Such term does not include any money payments with respect to, or medical or remedial care in behalf of, any individual who is neither a citizen of the United States nor an alien lawfully admitted to or lawfully resident in the United States."

(c) The first sentence of section 1006 of such Act is amended by inserting before the period at the end thereof the following: ", or any such payments to or care in behalf of any individual who is neither a citizen of the United States nor an alien lawfully admitted to or lawfully resident in the United States".

(d) The first sentence of section 1405 of such Act is amended by inserting before the period at the end thereof the following: ", or any such payments to or care in behalf of any individual who is neither a citizen of the United States nor an alien lawfully admitted to or lawfully resident in the United States".

(e) (1) The first sentence of section 1605 (a) of such Act is amended—

(A) by striking out "or" at the end of clause (1);

(B) by striking out the period at the end of clause (2) and inserting in lieu thereof "; or"; and

(C) by adding after clause (2) the following new clause;

"(3) any such payments to or care in behalf of any individual who is neither a citizen of the United States nor an alien lawfully admitted to or lawfully resident in the United States.",

(2) Section 1605(b) of such Act is amended by inserting before the period at the end thereof the following: ", or for any individual who is neither a citizen of the United States nor an alien lawfully admitted to or lawfully resident in the United States."

(f) The first sentence of section 1905(a) of such Act is amended—

(1) by striking out "or" at the end of clause (A);

(2) by striking out the period at the end of clause (B) and inserting in lieu thereof "; or"; and

(3) by adding after clause (B) the following new clause:

"(C) any such payments with respect to care or services for any individual who is neither a citizen of the United States nor an alien lawfully admitted to or lawfully resident in the United States."

Sec. 3. The amendments made by the first section of this Act shall take effect July 1, 1973. The amendments made by section 2 of this Act shall be effective with respect to expenditures made for calendar quarters beginning on or after the date of the enactment of this Act.

Department of Health, Education, and Welfare, Social and Rehabilitation Service, [45 CFR Parts 23, 248]

Financial and Medical Assistance Programs—Citizenship and Alienage

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare. The proposed regulations amend §§ 233.50 and 248.50 to implement the Supreme Court decision in Graham v. Richardson et al., June 14, 1971, the syllabus of which states:

"State statutes, like the Arizona and Pennsylvania statutes here involved, that deny welfare benefits to resident aliens or to aliens who have not resided in the United States for a specified number of years are violative of the Equal Protection Clause and encroach upon the exclusive federal power over the entrance and residence of aliens; * * *"

The amendments specify that, as a condition of approval, a State plan may not exclude an otherwise eligible individual solely on the basis that he is not a citizen or because of his alien status.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions, or objections thereto which are submitted in writing to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, DC 20201, within a period of 30 days from date of publication of this notice in the Federal Register. Comments received will be available for public inspection in room 5121 of the Department's offices at 301 C Street SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (area code 202—963–7361).

The provisions of these sections are to be issued under section 1102, 49 Stat. 647, 42 U.S.C. 1302.

Dated: April 21, 1972.

John D. Twiname,
Administrator, Social and Rehabilitation Service.

Approved: June 1, 1972.

Elliot L. Richardson,
Secretary.

1. Section 233.50 is revised to read as follows:

§ 233.50 Citizenship and alienage.

Condition for plan approval: A State plan under title I, IV–A, X, XIV, or XVI of the Social Security Act may not exclude an otherwise eligible individual on the basis that he is not a citizen, or because of his alien status.

2. Section 248.50 is revised to read as follows:

§ 248.50 Citizenship and alienage.

Condition for plan approval: A State plan under title XIX of the Social Security Act may not exclude an otherwise eligible individual on the basis that he is not a citizen, or because of his alien status.

State Department of
Public Welfare,
Austin, Tex., July 3, 1972.

Re Citizenship and Alienage—Proposed Regulations 45 CFR, Parts 233 and 248.

Hon. John G. Tower,
Member, Senate of the United States,
Washington, D.C.

Dear Senator Tower: On Friday, June 16, 1972, the Department of Health, Education, and Welfare published in the Federal Register, Volume 37, Number 117, Page 11977, proposed amendments to 45 CFR, Parts 233 and 248 and, more specifically, Sections 233.50, Citizenship and Alienage and 248.50, Citizenship and Alienage. The Secretary stated that the proposed amendments to the regulations were to implement the Supreme Court decision in *Graham* v. *Richardson et al.* The states have thirty (30) days from the date of filing prior to the adoption of the proposed regulations in which to make comments, suggestions or raise objections. A Xerox copy of the proposed regulations is attached for your ready reference.

At the time the proposed regulations were filed, the United States Department of Health, Education, and Welfare, Social and Rehabilitation Service, Office of Public Affairs, Washington, D.C., gave a new release for Friday, June 16, 1972. In this release it was implied that Texas had citizenship requirements inconsistent with these proposed regulations.

The proposed regulations as written appear innocuous. They do not explicitly state that the states will be required to pay assistance to aliens *who are unlawfully in this country.* By letter dated June 30, 1972, Mr. Dudley Hall, Associate Regional Commissioner for Assistance Payments, Department of Health, Education, and Welfare Regional Office, Dallas, Texas informed us that the Department of Health, Education, and Welfare is interpreting these regulations so that the states will be required to pay assistance and medical assistance to *all aliens, including those who are illegally in the United States*. The Secretary's statement in the news release seems to confirm this.

Since the Department of Health, Education, and Welfare is interpreting these regulations to mean that the states must pay illegal aliens assistance, we are convinced that the Department of Health, Education, and Welfare will be exceeding its authority in requiring state plans to include public assistance and medical assistance *for all aliens*, irrespective of their *lawful entry*.

If there has been some misunderstanding about the interpretation to be given this regulation by the Department of Health, Education, and Welfare and if it is intended that the states may have as a requirement *lawful entry*, then there should be no objection to clarifying the proposed regulations by adding the amendments suggested by this Department.

The regulations in their proposed form are ambiguous and subject to interpretation. Mr. Hall's letter makes it clear that the Department of Health, Education, and Welfare is interpreting the regulations as requiring the states to pay *illegal* aliens. It is imperative that the regulations be sufficiently clear that the states are not required to pay assistance or medical assistance to aliens who are *unlawfully* in this country. Such a clarification will avoid a misunderstanding at a later date.

We are enclosing a copy of this Department's protest directed to Mr. John D. Twiname, Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, and a copy of the letter the Texas Department sent to the Commissioner of the Welfare Department of each of the other states. It is our understanding that the Honorable Preston Smith, Governor of Texas and the Honorable Crawford C. Martin, Attorney General of Texas are writing letters outlining the State's position. Copies of these letters will be made available to you.

As you know, the State of Texas is continuously faced with the problem of raising additional tax funds to support the welfare programs in the State. Due to our proximity to Mexico, it is imperative that there be no misunderstanding about the citizenship requirements for eligibility for public assistance and medical assistance. When the United States Supreme Court held that the citizenship requirements were unconstitutional, the State of Texas immediately changed its policies so as to include aliens who were lawfully admitted. As pointed out in the letter to Mr. Twiname, when the Texas case was decided following the Supreme Court's decision in the *Graham* case, the Federal District Court ordered the Department to make payments to aliens who were lawfully admitted. Obviously, that Court was interpreting the United States Supreme Court decision as permitting the states to include lawful entry as a part of its program for assistance to aliens.

The Texas Department, as of June 1, 1972, was paying assistance grants and medical care to and on behalf of 11,500 aliens at a total cost of approximately $9,000,000 a year. If we are required to make payments to illegal aliens as well as those who have been lawfully admitted, this number could triple within a year.

We respectfully request you to consider our protest to these proposed regulations and to urge the Department of Health, Education, and Welfare to make modifications so that the states may limit payments to aliens who are lawfully admitted. If a modification cannot be made, then as an alternative, please give your careful consideration to a modification of the regulations or statutory enactments which will make the matter of caring for aliens who are unlawfully within the boundaries of the United States the exclusive responsibility of the Federal government. At no time have the states been required to assume the financial responsibility of a program which is and should be controlled and paid for exclusively by the Government of the United States.

We are sure that you will understand the problems confronting Texas if these regulations are permitted to become final. This matter is of vital importance to the State of Texas and it is crucial that some action be taken now for, as we understand the interpretation, all of the assistance programs and the Medical Assistance program will be placed in jeopardy if Texas refuses or is unable to comply with these proposed regulations. Therefore, we sincerely request your assistance in having them modified or altered before they become final.

Thank you for any assistance you may render us in relation to this important matter.

Sincerely yours,

Raymond W. Vowell.

U.S. Senate, Committee on Banking, Housing and Urban Affairs,
Washington, D.C., July 28, 1972.

Hon. Elliot L. Richardson,
Secretary of Health, Education, and Welfare, Department of Health, Education, and Welfare, Washington, D.C.

Dear Mr. Secretary: This letter pertains to your Department's proposed regulations published in the *Federal Register* on June 16, 1972, to amend 45 CFR Parts 233.50 and 248.50.

As you know, this regulation concerns Citizenship and Alienage eligibility for federally funded welfare programs. It is intended to implement the Supreme Court's decision in *Graham* v. *Richardson*, 403 U.S. 365 (1971). I am most concerned that your Department's final regulation may make it mandatory for states to provide welfare assistance to illegal aliens.

I have reviewed the *Graham* case and a number of other decisions relating to this issue, and find no basis for a decision which would force the states to make welfare benefits available to illegal aliens. In numerous instances in the *Graham* decision, Justice Blackmun goes out of his way to state that the Pennsylvania and Arizona statutes violated the equal protection clause since they invidiously discriminated against *lawfully* admitted aliens.

The *Graham* case cites *Takahashi* v. *Fish and Game Commission*, 334 U.S. at 420 (1948), to the effect that the equal protection clause only extends to lawfully admitted aliens and not to those which the federal government has classified as being illegally within the jurisdictional borders of the United States. Furthermore, I do not believe that *Carleson* v. *Remillard*, No. 70–250, 40 U.S. Law Week 4624 (1972), adds anything to the issue at hand. This case only further delineates past decisions that a state may not exclude groups of persons already eligible under the federal regulatory scheme of the Social Security Act. Since *Graham* clearly states that federal eligibility only reaches citizens and lawful resident aliens, I do not believe a case can be made that Congress, through a negative implication, sought the inclusion of illegal aliens under public assistance programs authorized by the Social Security Act.

Even when it has applied a "strict scrutiny test" in non-economic equal protection cases, the Supreme Court has never implied that illegal aliens were to be given the status of lawful resident aliens and citizens to determine the scope of invidious discrimination.

Already one high-ranking official of the Department of Health, Education and Welfare Regional Office in Dallas has stated in writing that the Department is interpreting the Supreme Court's rulings to include illegal aliens, and that this will be reflected in the final regulation that I understand will be issued in the near future.

I cannot emphasize enough the fiscal difficulties which would be assumed by the State of Texas if it had to make public assistance payments available to illegal aliens. To begin with, neither the State of Texas nor the Immigration and Naturalization Service really knows how many illegal aliens are actually in Texas. In discussions with State officials concerning this proposed regulation, I was told that possibly as many as 500,000 illegal aliens might be in Texas at any given point in time. Furthermore, the State of Texas has a constitutionally imposed ceiling on certain public assistance categories and if it is forced to expand the eligibility roles, a grave crisis will threaten the State's fiscal integrity. A dilemma of this nature would, no doubt, penalize those individuals and families who are deserving of public assistance.

As Secretary of Health, Education and Welfare, you are, of course, well aware of the fiscal crises facing many state and local governments. In my State, this crisis is primarily caused by increases in the welfare rolls. According to a 1971 report by the State Senate Interim Committee on Welfare, the Aid to Families with Dependent Children category has been increasing on the average of 12,000 people a month in Texas. During the decade of the 1960's, the number of payments increased by 250 percent. Even if this alarming upward trend were halted, Texas would still be continually faced with grave difficulties simply because of the present burden which the public assistance programs have placed on the State budget. I am, therefore, sure that you can understand the damaging fiscal repercussions which would take place if the Texas State Department of Public Welfare was forced to make payments to illegal aliens.

I urge you to reexamine the many ramifications involved in this matter, including the issues I have raised, as well as the need to provide a consistent federal policy on immigration.

Your most careful consideration of this matter will be greatly appreciated.

Sincerely yours,

John Tower.

The Secretary of Health, Education, and Welfare,
Washington, D.C., Sept. 19, 1972.

Hon. John Tower,
U.S. Senate,
Washington, D.C.

Dear Senator Tower: Please accept my apology for the delay in replying to your letter of July 28 regarding the Department's proposed regulations on citizenship and alienage.

The proposed regulations on citizenship and alienage in public assistance and medical assistance programs under the Social Security Act, which were published in the *Federal Register* on June 16, were developed to implement the Supreme Court decision of June 14, 1971, in the case of *Graham* v. *Richardson*.

In the *Graham* decision the court found that a citizenship requirement or a requirement that an alien has been a resident of the United States for a specified period violated the Equal Protection Clause and encroached on the exclusive congressional power to establish uniform rules for the entrance and residence of aliens. The Court stated that:

> "A congressional enactment construed so as to permit State legislatures to adopt divergent laws on the subject of citizenship requirements for federally supported welfare programs would appear to contravene this explicit constitutional requirement of uniformity."

The proposed regulations provide that a State public assistance plan "may not exclude an otherwise eligible individual on the basis that he is not a citizen, or because of his alien status." The question now being considered within the Department is whether aliens illegally in the country can be denied welfare benefits. The proposed regulations were issued in their present form with the understanding that they did not determine this issue. We are considering the effect of the *Graham* decision and also the recent decisions of the Supreme Court in *Townsend* v. *Swank* and *Carleson* v. *Remillard,* which indicated that eligibility under the public assistance programs must be measured by the standards in the Social Security Act and that HEW may not permit States to vary eligibility requirements from the Federal standards without express or clearly implied congressional authorization.

All the comments received regarding the proposed regulations are being analyzed and I will take them into account, as well as Supreme Court decisions, in making the decision on the final regulations.

With kindest regards,

Sincerely,

Elliot L. Richardson,
Secretary.

Graham Against Richardson

(Supreme Court of the United States, on appeal from the United States District Court for the District of Arizona)

SYLLABUS

No. 609. Argued March 22, 1971—Decided June 14, 1971*

State statutes, like the Arizona and Pennsylvania statutes here involved, that deny welfare benefits to resident aliens or to aliens who have not resided in the United States for a specified number of years are violative of the Equal Protection Clause and encroach upon the exclusive federal power over the entrance and residence of aliens; and there is no authorization for Arizona's 15-year durational residency requirement in § 1402(b) of the Social Security Act, Pp. 5–18.

313 F. Supp. 34 and 321 F. Supp. 250, affirmed.

Blackmun, J., delivered the opinion of the Court, in which Burger, C. J., and Black, Douglas, Brennan, Stewart, White, and Marshall, JJ., joined. Harlan, J., filed a statement joining in the judgment and in Parts III and IV of the Court's opinion.

Mr. Justice Blackmun delivered the opinion of the Court.

These are welfare cases. They provide yet another aspect of the widening litigation in this area.[1] The issue here is whether the Equal Protection Clause of the Fourteenth Amendment prevents a State from conditioning welfare benefits either (a) upon the beneficiary's possession of United States citizenship, or (b) if the beneficiary is an alien, upon his having resided in this country for a specified number of years. The facts are not in dispute.

No. 609. This case, from Arizona, concerns the State's participation in federal categorical assistance programs. These programs originate with the Social Security Act of 1935, as amended, 42 U.S.C. c. 7. They are supported in part by federal grants-in-aid and are administered by the States under federal guidelines. Arizona Rev. Stat. Title 46, Article 2, as amended, provides for assistance to persons permanently and totally disabled (APTD). See 42 U.S.C. §§ 1351–1355. Ariz. Rev. Stat. § 46–233 reads:

"A. No person shall be eligible for general assistance who does not meet and maintain the following requirements:

"1. Is a citizen of the United States or has resided in the United States a total of fifteen years. . . ."

A like eligibility provision conditioned upon citizenship or durational residence appears in § 46–252.2, providing old age assistance, and in § 46–272.4, providing assistance to the needy blind. See 42 U.S.C. §§ 1201–1206, 1381–1385.

Appellee Carmen Richardson, at the institution of this suit in July 1969, was 64 years of age. She is a lawfully admitted resident alien. She emigrated from Mexico in 1956 and since then has resided continuously in Arizona. She became permanently and totally disabled. She also met all other requirements for eligibility for APTD benefits except the 15-year residency specified for aliens by § 46–233.A.1. She applied for benefits but was denied relief solely because of the residency provision.

Mrs. Richardson instituted her class action[2] in the District of Arizona against the Commissioner of the State's Department of Public Welfare seeking declaratory relief, an injunction against the enforcement of §§ 46–233.A.1, 46–252.2 and 46–272.4, and the award of amounts allegedly due. She claimed that Arizona's alien residency requirements violate the Equal Protection Clause and the constitutional right to travel; that they conflict with the Social Security Act and are thus overborne by the Supremacy Clause; and that the regulation of aliens has been preempted by Congress.

The three-judge court upheld Mrs. Richardson's motion for summary judgment on equal protection grounds. *Richardson* v. *Graham,* 313 F. Supp. 34 (Ariz. 1970). It did so in reliance on this Court's opinions in *Takahashi* v. *Fish & Game Commission,* 334 U.S. 410 (1948), and *Shapiro* v. *Thompson,* 394 U.S. 618 (1969). The Commissioner appealed. The judgment was stayed as to all parties plaintiff other than Mrs. Richardson. Probable jurisdiction was noted. 400 U.S. 956 (1970).

No. 727. This case, from Pennsylvania, concerns that portion of a general assistance program that is not federally supported. The relevant statute is § 432 (2) of the Pennsylvania Public Welfare Code, 62 P.S. § 432 (2) (1968),[3] originally enacted in 1939. It provides that those eligible for assistance shall be (1) needy persons who qualify under the federally supported categorical assistance programs and (2) those other needy persons who are citizens of the United States. Assistance to the latter group is funded wholly by the Commonwealth.

Appellee Elsie Mary Jane Leger is a lawfully admitted resident alien. She was born in Scotland in 1937. She came to this country in 1965 at the age of 28 under contract for domestic service with a family in Havertown. She has resided continuously in Pennsylvania since then and has been a taxpaying resident of the Commonwealth. In 1967 she left her domestic employment to accept more remunerative work in Philadelphia. She entered into a common-law marriage with a United States citizen. In 1969 illness forced Mrs. Leger and her husband to give up their employment. They applied for public assistance. Each was ineligible under the federal programs. Mr. Leger, however, qualified for aid under the state program. Aid to Mrs. Leger was denied because of her alienage. The monthly grant to Mr. Leger was less than the amount determined by both federal and Pennsylvania authorities as necessary for a minimum standard of living in Philadelphia for a family of two.

Mrs. Leger instituted her class action[4] in the Eastern District of Pennsylvania against the Executive Director of the Philadelphia County Board of Assistance and the Secretary of Philadelphia County Board of Assistance and the Secretary of the Commonwealth's Department of Public Welfare. She sought declaratory relief, an injunction against the enforcement of the restriction of § 432 (2), and the ordering of back payments wrongfully withheld. She obtained a temporary restraining order preventing the defendants from continuing to deny her assistance. She then began to receive, and still receives, with her husband, a public assistance grant.

Appellee Beryl Jervis was added as a party plaintiff to the Leger action. She was born in Panama in 1912 and is a citizen of that country. In March 1968, at the age of 55, she came to the United States to undertake domestic work under contract in Philadelphia. She has resided continuously in Pennsylvania since then and has been a taxpaying resident of the Commonwealth. After working as a domestic for approximately one year, she obtained other more remunerative work in the city. In February 1970 illness forced her to give up her employment. She applied for aid. However, she was ineligible for benefits under the federally assisted programs and she was denied general assistance solely because of her alienage. Her motion for immediate relief through a temporary restraining order was denied.

It was stipulated that "the denial of General Assistance to aliens otherwise eligible for such assistance causes undue hardship to them by depriving them of the means to secure the necessities of life, including food, clothing and shelter," and that "the citizenship bar to the receipt of General Assistance in Pennsylvania discourages continued residence in Pennsylvania of indigent resident aliens and causes such needy persons to remove to other States which will meet their needs."

The three-judge court, one judge dissenting, ruled that § 432(2) was violative of the Equal Protection Clause and enjoined its further enforcement. *Leger* v. *Sailer,* 321 F. Supp. 25 (ED Pa. 1970)). The defendant appealed. Probable jurisdiction was noted. 400 U.S. 956.

II

The appellants argue initially that the States, consistent with the Equal Protection Clause, may favor United States citizens over aliens in the distribution of welfare benefits. It is said that this distinction involves no "invidious discrimination" such as was condemned in *King v. Smith,* 392 U.S. 309 (1968), for the State is not discriminating with respect to race or nationality.

The Fourteenth Amendment provides, "[N]or shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." It has long been settled, and it is not disputed here, that the term "person" in this context encompasses lawfully admitted resident aliens as well as citizens of the United States and entitles both citizens and aliens to the equal protection of the laws of the State in which they reside. *Yick Wo* v. *Hopkins,* 118 U.S. 356, 369, (1886); *Truax* v. *Raich,* 239 U.S. 33, 39 (1915); *Takahashi* v. *Fish & Game Commission,* 334 U.S. at 420. **Nor is it disputed that the Arizona and Pennsylvania statutes in question create two classes of needy persons, indistinguishable except with respect to whether they are or are not citizens of this country. Otherwise qualified United States citizens living in Arizona are entitled to federally funded categorical assistance benefits without regard to length of national residency, but aliens must have lived in this country for 15 years in order to qualify for aid. United States citizens living Pennsylvania, unable to meet the requirements for federally funded benefits, may be eligible for state supported general assistance, but resident aliens as a class are precluded from that assistance.**

Under traditional equal protection principles, a State retains broad discretion to classify as long as its classification has a reasonable basis. *Lindsley* v. *Natural Carbonic Gas Co.,* 220 U.S. 61, 78 (1911); *Williamson* v. *Lee Optical Co.,* 348 U.S. 483, 489 (1955); *Morey* v. *Doud,* 354 U.S. 457, 465 (1957); *McGowan v. Maryland,* 366 U.S. 420, 425–427 (1961). This is so in "the area of economics and social welfare." *Dandridge* v. *Williams,* 397 U.S. 471, 485 (1970). But the

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Footnote at end of article.

Court's decisions have established that classifications based on alienage, like those based on nationality[5] or race[6] are inherently suspect and subject to close judicial scrutiny. Aliens as a class are a prime example of a "discrete and insular" minority (see *United States* v. *Carolene Products Co.*, 304 U.S. 144, 152–153 n. 4 (1938)) for whom such heightened judicial solicitude is appropriate. Accordingly, it was said in *Takahashi*, 334 U.S. at 420, that ". . . the power of a state to apply its laws exclusively to its alien inhabitants as a class is confined within narrow limits."

Arizona and Pennsylvania seek to justify their restrictions on the eligibility of aliens for public assistance solely on the basis of a State's "special public interest" in favoring its own citizens over aliens in the distribution of limited resources such as welfare benefits. It is true that this Court on occasion has upheld state statutes that treat citizens and noncitizens differently, the ground for distinction having been that such laws were necessary to protect special interests of the State or its citizens. Thus, in *Truax* v. *Raich*, 239 U.S. 33 (1915), the Court, in striking down an Arizona statute restricting the employment of aliens, emphasized that "[t]he discrimination defined by the act does not pertain to the regulation or distribution of the public domain, or of the common property or resources of the people of the State, the enjoyment of which may be limited to its citizens as against both aliens and the citizens of other States." 239 U.S., at 39–40. And in *Crane* v. *New York*, 239 U.S. 195 (1915), the Court affirmed the judgment in *People* v. *Crane*, 214 N.Y. 154, 108 N.E., 427 (1915), upholding a New York statute prohibiting the employment of aliens on public works projects. The New York court's opinion contained Mr. Justice Cardozo's well-known observation:

> "To disqualify aliens is discrimination, indeed, but not arbitrary discrimination for the principle of exclusion is the restriction of the resources of the state to the advancement and profit of the members of the state. Ungenerous and unwise such discrimination may be. It is not for that reason unlawful. . . . The state in determining what use shall be made of its own moneys, may legitimately consult the welfare of its own citizens rather than that of aliens. Whatever is a privilege rather than a right, may be made dependent upon citizenship. In its war against poverty, the state is not required to dedicate its own resources to citizens and aliens alike." 214 N.Y., at 161, 164, 108 N.E., at 429, 430.

See *Heim* v. *McCall*, 239 U.S. 175 (1915); *Ohio ex rel. Clarke* v. *Deckebach*, 274 U.S. 392 (1927). On the same theory, the Court has upheld statutes that, in the absence of overriding treaties, limit the right of noncitizens to engage in exploitation of a State's natural resources, restrict the devolution of real property to aliens,[8] or deny to aliens the right to acquire and own land.[9]

Takahashi v. *Fish & Game Commission*, 334 U.S. 410 (1948), however, cast doubt on the continuing validity of the special interest doctrine in all contexts. There the Court held that California's purported ownership of fish in the ocean off its shores was not such a special public interest as would justify prohibiting aliens from making a living by fishing in those waters while permitting all others to do so. It was said:

> "The Fourteenth Amendment and the laws adopted under its authority thus embody a general policy that all persons lawfully in this country shall abide 'in any state' on an equality of legal privileges with all citizens under non-discriminatory laws." 334 U.S., at 420.

Whatever may be the contemporary vitality of the special public interest doctrine in other contexts after *Takahashi*, we conclude that a State's desire to preserve limited welfare benefits for its own citizens is inadequate to justify Pennsylvania's making noncitizens ineligible for public assistance, and Arizona's restricting benefits to citizens and longtime resident aliens. First, the special public interest doctrine was heavily grounded on the notion that "[w]hatever is a privilege rather than a right, may be made dependent upon citizenship." *People* v. *Crane*, 214 N.Y., at 164, 108 N.E., at 430. But this Court now has rejected the concept that constitutional rights turn upon whether a governmental benefit is characterized as a "right" or as a "privilege." *Sherbert* v. *Verner*, 374 U.S. 398, 404 (1963); *Shapiro* v. *Thompson*, 394 U.S., at 627, n. 6; *Goldberg* v. *Kelly*, 397 U.S. 254, 262 (1970); *Bell* v. *Burson*, ——— U.S. ———, ——— (1971). Second, as the Court recognized in *Shapiro:*

> "a State has a valid interest in preserving the fiscal integrity of its programs. It may legitimately attempt to limit its expenditures, whether for public assistance, public education, or any other program. But a State may not accomplish such a purpose by invidious distinctions between classes of its citizens. . . . The saving of welfare costs cannot justify an otherwise invidious classification." 394 U.S., at 633.

Since an alien as well as a citizen is a "person" for equal protection purposes, a concern for fiscal integrity is no more compelling a justification for the questioned classification in these cases than it was in *Shapiro.*

Appellants, however, would narrow the application of *Shapiro* to citizens by arguing that the right to travel, relied upon in that decision, extends only to citizens and not to aliens. While many of the Court's opinions do speak in terms of the right of "citizens" to travel,[10] the source of the constitutional right to travel has never been ascribed to any particular constitutional provision. See *Shapiro* v. *Thompson*, 394 U.S., at 630, n. 8; *United States* v. *Guest*, 383 U.S. 745, 757–758 (1966). The Court has never decided whether the right applies specifically to aliens, and it is unnecessary to reach that question here. It is enough to say that the classification involved in *Shapiro* was subjected to strict scrutiny under the compelling state interest test, not because it was based on any suspect criterion such as race, nationality, or alienage, but because it impinged upon the fundamental right of interstate movement. As was said there, "The waiting-period provision denies welfare benefits to otherwise eligible applicants solely because they have recently moved into the jurisdiction. But in moving from State to State or to the District of Columbia appellees were exercising a constitutional right, and any classification which serves to penalize the exercise of that right, unless shown to be necessary to promote a *compelling* governmental interest, is unconstitutional." 394 U.S., at 634. The classifications involved in the instant cases, on the other hand, are inherently suspect and are therefore subject to strict judicial scrutiny whether or not a fundamental right is impaired. Appellants' attempted reliance on *Dandridge* v. *Williams*, 397 U.S. 471 (1970), is also misplaced, since the classification involved in that case (family size) neither impinged upon a fundamental constitutional right nor employed an inherently suspect criterion.

We agree with the three-judge court in the Pennsylvania case that the "justification of limiting expenses is particularly inappropriate and unreasonable when the discriminated class consists of aliens. Aliens like citizens pay taxes and may be called into the armed forces. Unlike the short-term residents in *Shapiro*, aliens may live within a state for many years, work in the state and contribute to the economic growth of the state." 321 F.Supp., at 253. See also *Purdy & Fitzpatrick* v. *California*, 71 Cal. 2d 566, 581–582, 456 P. 2d 645, 656 (1969). There can be no "special public interest" in tax revenues to which aliens have contributed on an equal basis with the residents of the State.

Accordingly, we hold that a state statute that denies welfare benefits to resident aliens and one that denies them to aliens who have not resided in the United States for a specified number of years violates the Equal Protection Clause.

III

An additional reason why the state statutes at issue in these cases do not withstand constitutional scrutiny emerges from the area of federal-state relations. The National Government has "broad constitutional powers in determining what aliens shall be admitted to the United States, the period they may remain, regulation of their conduct before naturalization, and the terms and conditions of their naturalization." *Takahashi* v. *Fish & Game Commission*, 334 U.S., at 419; *Hines* v. *Davidowitz*, 312 U.S. 52, 66 (1941); see also *Chinese Exclusion Case*, 130 U.S. 581 (1889); *United States ex rel. Turner* v. *Williams*, 194 U.S. 279 (1904); *Fong Yue Ting* v. *United States*, 149 U.S. 698 (1893); *Harisiades* v. *Shaughnessy*, 342 U.S. 580 (1952). Pursuant to that power, Congress has provided, as part of a comprehensive plan for the regulation of immigration and naturalization, that "[a]liens who are paupers, professional beggars, or vagrants" or aliens who "are likely at any time to become public charges" shall be excluded from admission into the United States, 8 U.S.C. §§ 1182(a) (8) and 1182(a) (15), and that any alien lawfully admitted shall be deported who "has within five years after entry become a public charge from causes not affirmatively shown to have arisen after entry . . . ." 8 U.S.C. § 1251(a) (8). Admission of aliens likely to become public charges may be conditioned upon the posting of a bond or cash deposit. 8 U.S.C. § 1183. But Congress has not seen fit to impose any burden or restriction on aliens who become indigent after their entry into the United States. Rather, it has broadly declared that "All persons within the jurisdiction of the United States shall have the same right in every State and Territory . . . to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens . . ." 42 U.S.C. § 1981. The protection of this statute has been held to extend to aliens as well as to citizens. *Takahashi*, 334 U.S., at 419 n. 7. Moreover, this Court has made it clear that, whatever may be the scope of the constitutional right of interstate travel, aliens lawfully within this country have a right to enter and abide in any State in the Union "on an equality of legal privileges with all citizens under non-discriminatory laws." *Takahashi*, 334 U.S., at 420.

State laws that restrict the eligibility of aliens for welfare benefits merely because of their alienage conflict with these overriding national policies in an area constitutionally entrusted to the Federal Government. In *Hines* v. *Davidowitz*, 312 U.S., at 66–67, where this Court struck down a Pennsylvania alien registration statute (enacted in 1939, as was the statute under challenge in No. 727) on grounds of federal pre-emption, it was observed that ". . . where the federal government, in the exercise of its superior authority in this field, has enacted a complete scheme of regulation . . . states cannot, inconsistently with the purpose of Congress, conflict or interfere with, curtail or complement, the federal law, or enforce additional or auxiliary regulations." And in *Takahashi* it was said that the States:

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"can neither add to nor take from the conditions lawfully imposed by Congress upon admission, naturalization and residence of aliens in the United States or the several states. State laws which impose discriminatory burdens upon the entrance or residence of aliens lawfully within the United States conflict with this constitutionally derived federal power to regulate immigration, and have accordingly been held invalid." 334 U.S., at 419.

Congress has broadly declared as federal policy that lawfully admitted resident aliens who become public charges for causes arising after their entry are not subject to deportation, and that as long as they are here they are entitled to the full and equal benefit of all state laws for the security of persons and property. The state statutes at issue in the instant cases impose auxiliary burdens upon the entrance or residence of aliens who suffer the distress, after entry, of economic dependency on public assistance. Alien residency requirements for welfare benefits necessarily operate, as did the residency requirements in *Shapiro*, to discourage entry into or continued residency in the State. Indeed, in No. 727 the parties stipulated that this was so.

In *Traux* the Court considered the "reasonableness" of a state restriction on the employment of aliens in terms of its effect on the right of a lawfully admitted alien to live where he chooses:

"It must also be said that reasonable classification implies action consistent with the legitimate interests of the State, and it will not be disputed that these cannot be so broadly conceived as to bring them into hostility to exclusive Federal power. The authority to control immigration—to admit or exclude aliens—is vested solely in the Federal Government. . . . The assertion of an authority to deny to aliens the opportunity of earning a livelihood when lawfully admitted to the State would be tantamount to the assertion of the right to deny them entrance and abode, for in ordinary cases they cannot live where they cannot work. And, if such a policy were permissible, the practical result would be that those lawfully admitted to the country under the authority of the acts of Congress, instead of enjoying in a substantial sense and in their full scope the privileges conferred by the admission, would be segregated in such of the States as chose to offer hospitality." 239 U.S., at 42.

The same is true here, for the ordinary case an alien, becoming indigent and unable to work, will be unable to live where, because of discriminatory denial of public assistance, he cannot "secure the necessities of life, including food, clothing and shelter." State alien residency requirements, that either deny welfare benefits to noncitizens or condition them on longtime residency, equate with the assertion of a right, inconsistent with federal policy, to deny entrance and abode. Since such laws encroach upon exclusive federal power, they are constitutionally impermissible.

IV

Arizona suggests, finally, that its 15-year durational residency requirement for aliens is actually authorized by federal law. Reliance is placed on § 1402(b) of the Social Security Act of 1935, added by the Act of Aug. 28, 1950, c. 809, § 351, 64 Stat. 555, as amended, 42 U.S.C. § 1352(b). That section provides:

"The Secretary shall approve any plan which fulfills the conditions specified in subsection (a) of this section, except that he shall not approve any plan which imposes, as a condition of eligibility for aid to the permanently and totally disabled under the plan—

* * * * *

"(2) Any citizenship requirement which excludes any citizen of the United States."[11]

The meaning of this provision is not entirely clear. On its face, the statute does not affirmatively authorize, much less command, the States to adopt durational residency requirements or other eligibility restrictions applicable to aliens; it merely directs the Secretary not to approve state-submitted plans which exclude citizens of the United States from eligibility. Cf. *Shapiro* v. *Thompson*, 394 U.S., at 638–641.

We have been unable to find in the legislative history of the 1950 amendments any clear indication of congressional intent in enacting § 1402(b).[12] The provision appears to have its roots in identical language of the old age assistance and aid to the blind sections of the Social Security Act of 1935 as originally enacted. 49 Stat. 620, 42 U.S.C. § 302(b); 49 Stat. 645, 42 U.S.C. § 1202(b). The House and Senate Committee Reports expressly state, with reference to old age assistance, that:

"A person shall not be denied assistance on the ground that he has not been a United States citizen for a number of years, if in fact, when he receives assistance, he is a United States citizen. This means that a State may, if it wishes, assist only those who are citizens, but must not insist on their having been born citizens or on their having been naturalized citizens for a specified period of time."[13]

It is apparent from this that Congress' principle concern in 1935 was to prevent the States from distinguishing between native-born American citizens and naturalized citizens in the distribution of welfare benefits. It may be assumed that Congress was motivated by a similar concern in 1950 when it enacted § 1402(b). As for the indication in the 1935 Committee Reports that the States, in their discretion, could withhold benefits from non-citizens, certain members of Congress simply may have been expressing their understanding of the law only insofar as it had then developed, that is, before *Takahashi* was decided. But if § 1402(b), as well as the identical provisions for old age assistance and aid to the blind, were to be read so as to authorize discriminatory treatment of aliens at the option of the States. *Takahashi* demonstrates that serious constitutional questions are presented. Although the Federal Government admittedly has broad constitutional power to determine what aliens shall be admitted to the United States, the period they may remain, and the terms and conditions of their naturalization, Congress does not have the power to authorize the individual States to violate the Equal Protection Clause. *Shapiro* v. *Thompson*, 394 U.S., at 641. Under Art. 1, § 8, cl. 4 of the Constitution, Congress' power is to "establish an uniform Rule of Naturalization." A congressional enactment construed so as to permit state legislatures to adopt divergent laws on the subject of citizenship requirements for federally supported welfare programs would appear to contravene this explicit constitutional requirement of uniformity.[14] Since "statutes should be construed whenever possible so as to uphold their constitutionality," *United States* v. *Vuitch*, —— U.S. ——, —— (1971), we conclude that § 1402(b) does not authorize the Arizona 15-year national residency requirement.

The judgments appealed from are affirmed.

It is so ordered.

MR. JUSTICE HARLAN joins in Parts III and IV of the Court's opinion, and in the judgment of the Court.

FOOTNOTES

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*Together with No. 727, *Sailer et al.* v. *Leger et al.*, on appeal from the United States District Court for the Eastern District of Pennsylvania.

[1] See, for example, *King* v. *Smith*, 392 U.S. 309 (1968); *Shapiro* v. *Thompson*, 394 U.S. 618 (1969); *Goldberg* v. *Kelly*, 397 U.S. 254 (1970); *Rosado* v. *Wyman*, 397 U.S. 397 (1970); *Danridge* v. *Williams*, 397 U.S. 471 (1970); *Wyman* v. *James*, 400 U.S. 309 (1971).

[2] The suit is brought on behalf of appellee and similarly situated Arizona resident aliens who, but for their inability to meet the Arizona residence requirement, are eligible to receive welfare benefits under state-administered federal categorical assistance programs for the permanently and totally disabled, the aged, and the blind.

[3] "§ 432. Eligibility.

"Except as hereinafter otherwise provided . . . needy persons of the classes defined in clauses (1) and (2) of this section shall be eligible for assistance:

"(1) Persons for whose assistance Federal financial participation is available to the Commonwealth . . .

"(2) Other persons who are citizens of the United States, or who, during the period January 1, 1938 to December 31, 1939, filed their declaration of intention to become citizens. . . ."

[4] It was stipulated that the class of persons the appellees represent approximates 65 to 70 cases annually. This figure stands in striking contrast to the 585,000 persons in the Commonwealth on categorical assistance and 8,500 on general assistance. Department of Public Welfare Report of Public Assistance, December 31, 1969.

[5] See *Oyama* v. *California*, 332 U. S. 633, 644–646 (1948); *Korematsu* v. *United States*, 323 U. S. 214, 216 (1944); *Hirabayashi* v. *United States*, 320 U. S. 81, 100 (1943).

[6] *McLaughlin* v. *Florida*, 379 U. S. 184, 191–192 (1964); *Loving* v. *Virginia*, 388 U. S. 1, 9 (1967); *Bolling* v. *Sharpe*, 347 U. S. 497, 499 (1954).

[7] *McCready* v. *Virginia*, 94 U. S. 391 (1876); *Patsone* v. *Pennsylvania*, 232 U. S. 138 (1914).

[8] *Hauenstein* v. *Lynham*, 100 U. S. 483 (1879); *Blythe* v. *Hinckley*, 180 U. S. 333 (1901).

[9] *Terrace* v. *Thompson*, 263 U. S. 197 (1923); *Porterfield* v. *Webb*, 263 U. S. 225 (1923); *Webb* v. *O'Brien*, 263 U. S. 313 (1923); *Frick* v. *Webb*, 263 U. S. 326 (1923); but see *Oyama* v. *California*, 332 U. S. 633 (1948).

[10] *E. g., Passenger Cases*, 7 How, 283, 492 (1849): *Crandall* v. *Nevada*, 6 Wall. 35, 48–49 (1868); *Twining* v. *New Jersey*, 211 U. S. 78, 97 (1908); *Edwards* v. *California*, 314 U. S. 160, 178–181 (DOUGLAS, J., concurring), 183–185 (Jackon, J., concurring) (1941); *Shapiro* v. *Thompson*, 394 U. S., at 629; *Oregon* v. *Mitchell*, 400 U. S. 112, 285 (opinion of STEWART, J.) (1970).

[11] Pursuant to his rulemaking power under the Social Security Act, 42 U.S.C. § 1302, the Secretary of Health, Education, and Welfare adopted the following regulations, upon which Arizona also relies:

"3720. *Requirements for State Plan*

"A State plan under titles I, X, XIV, and XVI may not impose, as a condition of eligibility, any citizenship requirement which excludes any citizen of the United States."

"3730. *Interpretation of Requirement*

"State plans need not contain a citizenship requirement. The purpose of IV–3720 is to ensure that where a requirement is imposed, an otherwise eligible citizen of the United States, regardless of how (by birth or naturalization) or when citizenship was obtained, shall not be disqualified from receiving aid or assistance under titles I, X, XIV, and XVI.

"Where there is an eligibility requirement applicable to noncitizens, State plans may, as an alternative to excluding all noncitizens, provide for qualifying noncitizens, otherwise eligible, who have resided in the United States for a specific number of years." HEW Handbook of Public Assistance Administration, Part IV.

[12] H. R. Rep. No. 1300, 81st Cong., 1st Sess., 53, 153–154; S. Rep. No. 1669, 81st Cong., 1st

Sess.; H R. Rep. No. 2771, 81st Cong., 1st Sess, 118–119 (Conference Report)

[13] H. R. Rep. No. 615, 74th Cong., 1st Sess., 18; S. Rep. No. 628, 74th Cong., 1st Sess., 29.

[14] We have no occasion to decide whether Congress, in the exercise of the immigration and naturalization power, could itself enact a statute imposing on aliens a uniform nationwide residency requirement as a condition of federally funded welfare benefits.

CARLESON AGAINST REMILLARD

(Supreme Court of the United States, Appeal from the United States District Court for the Northern District of California)

SYLLABUS

No. 70–250. Argued April 10, 1972—Decided June 7, 1972

This is a class action for injunctive and declaratory relief by a child and mother whose husband is away from home on military duty, challenging the validity of California's Department of Social Welfare Regulation EAS § 42–350.11, pursuant to which they had been denied Aid to Families With Dependent Children (AFDC) benefits. Though California incorporates in its AFDC eligibility provisions the "continued absence" concept of the Social Security Act, under which a dependent child "deprived of parental support . . . by reason of [a parent's] continued absence from the home," is deemed eligible for AFDC benefits, EAS § 42–350.11 excludes absence because of military service from the definition of "continued absence." The District Court granted the relief sought. *Held:* Section 402(a) (10) of the Social Security Act imposes on each State participating in the AFDC program the requirement that benefits "shall be furnished with reasonable promptness to all eligible individuals." Under the Act the eligibility criterion of "continued absence" of a parent from the home means that the parent may be absent for any reason. Consequently, that criterion applies to one who is absent by reason of military service, and California's definition is invalid under the Supremacy Clause. Pp. 2–6.

325 F. Supp. 1272, affirmed.

DOUGLAS, J., delivered the opinion for a unanimous Court. BURGER, C. J., filed a concurring opinion.

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

Appellees are mother and child. The husband enlisted in the United States Army and served in Vietnam. The mother applied for AFDC benefits at a time when the amount of the monthly allotment she received by virtue of her husband's military service was less than her "need" as computed by the California agency and less than the monthly AFDC grant an adult with one child receives in California. She was denied relief. Although the Social Security Act, 42 U. S. C. § 301–1394, grants aid to families with "dependent children," and includes in the term "dependent child" one "who has been deprived of parental support or care by reason of . . . continued absence from the home." 42 U. S. C. § 606(a), California construed "continued absence" as not including military absence. It is unquestioned that her child is in fact "needy."

When the husband's allotment was stopped, appellee again applied for AFDC benefits. She again was denied the benefits, this time because California had adopted a regulation [1] which specifically prohibited the payment of AFDC benefits to needy families where the absence of a parent was due to military service.

This action is a class action seeking a declaration of the invalidity of the regulation and an injunction restraining its enforcement on the ground that it conflicts with the Social Security Act and denies appellees the Fourteenth Amendment rights of due process and equal protection.

A three-judge District Court was convened and by a divided vote granted the relief sought. 325 F. Supp. 1272. The case is here by appeal. 28 U. S. C. §§ 1253, 2101(b). We noted probable jurisdiction, 404 U. S. ——.

Section 402(a) (10) of the Social Security Act, 42 U. S. C. § 602(a) (10), places on each State participating in the AFDC program the requirement that "aid to families with dependent children shall be furnished with reasonable promptness to all eligible individuals." "Eligibility," so defined, must be measured by federal standards. *King* v. *Smith*, 392 U. S. 309. There, we were faced with an Alabama regulation which defined a mother's paramour as a "parent" for § 606(a) (1) purposes, thus permitting the State to deny AFDC benefits to needy dependent children on the theory that there was no parent who was continually absent from the home. We held that Congress had defined "parent" as a breadwinner who was legally obligated to support his children, and that Alabama was precluded from altering that federal standard. The importance of our holding was stressed in *Townsend* v. *Swank*, 404 U. S. 282, 286:

"... *King* v. *Smith* establishes that, at least in the absence of congressional authorization for the exclusion clearly evidenced from the Social Security Act or its legislative history, a state eligibility standard that excludes persons eligible for assistance under federal AFDC standards violates the Social Security Act and is therefore invalid under the Supremacy Clause." (Emphasis supplied.)

In *Townsend*, we also expressly disapproved the HEW policy which permitted States to vary eligibility requirements from the federal standards without express or clearly implied congressional authorization. 404 U.S., at 286.

Townsend involved § 406(a) (2) (B) of the Act, 42 U. S. C. § 606(a) (2) (B), which includes in the definition of "dependent children" those "under the age of 21 and (as determined by the State in accordance with standards prescribed by the Secretary) a student regularly attending a school, college, or university, or regularly attending a course of vocational or technical training designed to fit him for gainful employment." Illinois had defined AFDC eligible dependent children to include 18–20-year-old high school or vocational school children but not children of the same age group attending college. We held that § 606(a) (2) (B) precluded that classification because it varied from the federal standard for needy dependent children. Involved in the present controversy is another eligibility criterion for federal matching funds set forth in the Act, namely the "continued absence" of a parent from the home. If California's definition conflicts with the federal criterion then it, too, is invalid under the Supremacy Clause.

HEW's regulations for federal matching funds provide [2] that:

"Continued absence of a parent from the home constitutes the reason for deprivation of parental support or care when the parent is out of the home, the nature of the absence is such as either to interrupt or to terminate the parent's functioning as a provider of maintenance, physical care, or guidance for the child, and the known or indefinite duration of the absence precludes counting on the parent's performance of his function in planning for the present support or care of the child. If these conditions exist, the parent may be absent for any reason, and he may have left only recently or some time previously."

The Solicitor General advises us that although HEW reads the term "continued absence" to permit the payment of federal matching funds to families where the parental absence is due to military service, it has approved state plans under which families in this category are not eligible for AFDC benefits.[3] HEW has included "service in the armed forces or other military service" as an example of a situation falling under the above definition of "continued absence." HEW Handbook of Public Assistance Administration, Part IV, § 3422.2.

Our difficulty with that position is that "continued absence from the home" accurately describes a parent on active military duty. The House Report speaks of children "in families lacking a father's support," H.R. Rep. No. 615, 74th Cong., 1st Sess., 10, and the Senate Report refers to "children in families which have been deprived of a father's support." S. Rep. No. 628, 74th Cong., 1st Sess., 12. While the Senate Report noted that "these are principally families with female heads who are widowed, divorced, or deserted," *id.*, at 12, it was not stated nor implied that eligibility by virtue of a parent's "continued absence" was limited to cases of divorce or desertion.

We agree that "continued absence" connotes, as HEW says, that "the parent may be absent for any reason." We search the Act in vain, moreover, for any authority to make "continued absence" into an accordion-like concept, applicable to some parents because of "continued absence" but not to others.

The presence of the parent in the home who has the legal obligation to support is the key to the AFDC program, *King* v. *Smith*, *supra*, at 327; *Lewis* v. *Martin*, 397 U.S. 552, 559. Congress looked to "work relief" programs and "the revival of private industry" to help the parent find the work needed to support the family. S. Rep. No. 628, *supra*, at 17, and the AFDC program was designed to meet a need unmet by depression-era programs aimed at providing work for breadwinners. *King* v. *Smith*, *supra*, at 328. That need was the protection of children in homes without such a breadwinner. *Ibid*. It is clear that "military orphans" are in this category, for, as stated by the Supreme Court of Washington, a man in the military service.

"[H]as little control over his family's economic destiny. He has no labor union or other agency to look to as a means of persuading his employer to pay him a living wage. He is without access to collective bargaining or any negotiating forum or other means of economic persuasion, or even the informal but concerted support of his fellow employees. He cannot quit his job and seek a better paying one. . . . [T]here is no action he could lawfully take to make his earnings adequate while putting in full time on his job. His was a kind of involuntary employment where legally he could do virtually nothing to improve the economic welfare of his family." *Kennedy* v. *Dept. of Public Assistance*, 79 Wash. 2d 728, 732, 733.

Stoddard v. *Fisher*, 330 F. Supp. 566, held a Maine regulation invalid under the Supremacy Clause which denied AFDC aid where the father was continually absent because of his military service. Judge Coffin said:

"We cannot help but note the irony of a result which would deny assistance to the family of a man who finds that family disqualified from receiving AFDC on the ground that he has removed himself from the possibility of receiving public work relief by voluntarily undertaking, for inadequate compensation, the defense of his country." *Id.*, 571, n. 8.

We cannot assume here, anymore than we could in *King* v. *Smith*, *supra*, that while Congress "intended to provide programs for the economic security and protection of *all children*," it also "intended arbitrarily to leave one class of destitute children entirely without meaningful protection." 392 U.S., at 330. We are especially confident Congress could not have designed an Act leaving uncared for an entire class who became "needy children" because their father was in the Armed Services defending their country.

We hold that there is no congressional au-

Footnote at end of article.

thorization for States to exclude these so-called military orphans from AFDC benefits. Accordingly we affirm the judgment of the three-judge court.

Affirmed.

FOOTNOTES

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[1] Calif. Dept. Soc. Welfare Reg. EAS 42-350.11 provides:

"When one parent is physically absent from the home on a temporary basis. Examples are visits, trips made in connection with current or prospective employment, active duty in the Armed Services."

[2] 45 CFR § 233.90(c)(1)(iii).

[3] The present record reveals that 22 States and the District of Columbia do furnish AFDC benefits to needy families of servicemen, while 19 States and Puerto Rico do not.

By Mr. TOWER:

S. 4031. A bill to amend the Internal Revenue Code of 1954 to encourage higher education, and particularly the private funding thereof, by authorizing a deduction from gross income of reasonable amounts contributed to a qualified higher education fund established by the taxpayer for the purpose of funding the higher education of his dependents. Referred to the Committee on Finance.

Mr. TOWER. Mr. President, today, I am pleased to introduce the Higher Education Funding Act.

For some time now, I have been very concerned over the rising costs of postsecondary education in the United States. I supported the Higher Education Act of 1972 and have also introduced legislation to provide for a tax credit toward the cost of a higher education.

After careful study, however, I have concluded that the Higher Education Funding Act deserves consideration by the Senate. It represents a method similar to my tax credit proposal to ease the increasing burden of the cost of education in the United States. The merits of this proposal should be considered during any future congressional consideration of this problem.

The intent of the Higher Education Funding Act is to provide incentives to families to mobilize and accumulate their own resources to meet the rising costs of education. This would be accomplished by permitting parent-taxpayers to deduct from gross income, any funds contributed to a qualified funding plan established for the benefit of their children's future education. There is precedent for this method since the legislation itself is modeled after the Keough Act which allows employed persons to set aside a portion of their income toward their retirement on a tax-deductible basis.

Mr. President, the Higher Education Funding Act represents a positive means by which members of the private sector can be given an opportunity to help resolve a national problem. This measure is, in some ways preferable to a direct Government subsidy program since it would entail a smaller Federal dollar investment and would lack many, if not most, of the bureaucratic problems which naturally accompany the establishment of most such programs.

At this time, I ask unanimous consent that the full text of this measure be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 4031

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Higher Education Funding Act of 1972."

SEC. 2. ALLOWANCE OF DEDUCTION

(a) GENERAL RULE.—Part VII of subchapter B of Chapter 1 of the Internal Revenue Code of 1954 (relating to deductions for individuals) is amended by redesignating section 218 as section 219, and by inserting immediately after section 217 the following new section:

"SEC. 218. DEDUCTION FOR CONTRIBUTIONS TO QUALIFIED HIGHER EDUCATION FUND.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction amounts determined under subsection (b), which are contributed to a qualified higher education fund described in subsection (c).

"(b) AMOUNT DEDUCTIBLE.—The amount allowable as a deduction under subsection (a) shall be limited to contributions to a qualified fund having as its beneficiary an individual described in section 151(e)(1)(B) (relating to additional exemption for dependents) and shall not exceed the lesser of—

"(1) The product of $500 times the number of qualified beneficiaries.

"(2) Ten percent of the taxpayer's adjusted gross income for the taxable year (determined without regard to this section), or

"(3) $2,500.

For purposes of the preceding sentence, dependents of the taxpayer shall include only those who are living at the end of the taxable year.

"(c) QUALIFIED HIGHER EDUCATION FUND.—

"(1) GENERAL RULE.—For purposes of this section, a qualified higher education fund is a fund established pursuant to a written plan described in paragraph (2), but only if the fund meets the requirements of paragraph (3).

"(2) PLAN.—A plan referred to in paragraph (1) is a plan established by the taxpayer—

"(A) solely for the purpose of defraying the cost of room, board, and tuition at an institution of higher education of one or more eligible beneficiaries,

"(B) which provides that no distribution shall be made by the fund (except upon termination thereof) other than to, or on behalf of, eligible beneficiaries for the purpose specified in subparagraph (A),

"(C) which provides that upon termination of the fund all assets of the funds shall be distributed to the taxpayer or to his estate,

"(D) which prohibits contributions to the fund in excess of amounts deductible under subsection (a), and

"(E) under which the taxpayer consents to the income tax treatment upon termination of the fund provided in subsection (e)(2).

For purposes of this section, costs of room and board shall not include the cost of furnishing such items in the taxpayer's household.

"(3) FUND.—A fund meets the requirements of this paragraph only if—

"(A) it constitutes a custodial account described in section 401(f) (without regard to paragraph (1)(A) thereof), or

"(B) it is a trust.

For purposes of subparagraph (A) the reference in section 401(g) to a trust described in 401(a) shall be deemed to be a reference to a trust to which this section applies. In the case of a trust referred to in subparagraph (B) the trustee must be a bank, but a person other than a bank may be granted, under the trust instrument, the power to control the investment of the trust funds either by directing investments (including reinvestments, disposals, and exchanges) or by disapproving proposed investments (including reinvestments, disposals, and exchanges). The preceding sentence shall not apply to the extent provided by regulations prescribed by the Secretary or his delegate to a trust which uses annuity, endowment, or life insurance contracts of a life insurance company exclusively as the funding media of the trust, if the life insurance company supplies annually such information about trust transactions as the Secretary or his delegate shall by forms or regulations prescribe. For purposes of this section, the term 'bank' shall have the meaning ascribed to it by the last sentence of section 401(d)(1).

"(d) DEFINITIONS.—

"(1) ELIGIBLE BENEFICIARY.—

"(A) GENERAL RULE.—Except as provided in subparagraph (B), for purposes of this section the term 'eligible beneficiary' means a person having the relationship to the taxpayer or his spouse specified in paragraph (1), (2), (3), or (6) of section 152(a). Such a person shall cease to be an eligible beneficiary—

"(i) if payments by the fund to him, or on his behalf, for the purposes specified in subsection (c)(2)(A) do not commence within 5 years after the date on which such person was graduated or separated from secondary school, or

"(ii) after the expiration of 10 years from the date of such graduation or separation.

"(B) SPECIAL RULE.—If on any day the fund ceases to have an eligible beneficiary who is a child (within the meaning of section 151(e)(3)) of the taxpayer or his spouse, no person shall be an eligible beneficiary for purposes of this section unless—

"(i) distributions by the fund to, or on behalf of, such person for the purposes specified in subsection (c)(2)(A) had begun before such day, or

"(ii) the taxpayer designates such person as a beneficiary of the fund by notice in writing to the Secretary or his delegate within the period of 120 days after such day in accordance with regulations prescribed by the Secretary or his delegate.

An eligible beneficiary designated pursuant to clause (ii) means a person having the relationship to the taxpayer or his spouse specified in paragraph (1), (2), (3), or (6) of section 152(a) determined without reference to the support test described in paragraph (a) of section 152.

"A person who is an eligible beneficiary by reason of a designation pursuant to clause (ii) shall cease to be an eligible beneficiary not later than 10 years after the day on which such designation is made.

"(2) INSTITUTION OF HIGHER EDUCATION.—For purposes of this section, the term 'institution of higher education' means an educational institution (as defined in section 151(e)(4))—

"(A) which regularly offers education at a level above the twelfth grade;

"(B) contributions to or for the use of which constitute charitable contributions within the meaning of section 170(c);

"(C) which is legally authorized to provide and does provide a program of postsecondary education; and

"(D) which is accredited by a nationally recognized accrediting agency or association listed by the United States Commissioner of Education.

"(e) TERMINATION OF FUND.—

"(1) EVENTS CAUSING TERMINATION OF FUND.—A qualified higher education fund shall terminate if—

"(A) a contribution is made to the fund in excess of the amount allowable as a deduction under subsection (a);

"(B) a distribution is made by the fund other than to, or on behalf of, an eligible beneficiary for the purposes specified in subsection (c) (2) (A);

"(C) subject to paragraphs (B) (ii) of subsection (d) (1) of this section, the plan ceases to have an eligible beneficiary; or

"(D) in the absence of a testamentary disposition to the contrary, upon the death of the taxpayer.

"(2) INCOME TAX TREATMENT UPON TERMINATION.—

"(A) Upon termination of a fund under paragraph (1)(A) because of an excess contribution, the taxpayer shall include in his gross income for his taxable year during which such contribution is made an amount equal to twice the value of the assets of the fund on the day on which such contribution is made.

"(B) Upon termination of a fund under paragraph (1)(B), the taxpayer shall include in his gross income for the taxable year during which the terminating distribution occurs an amount equal to twice the value of the assets of the fund immediately before such distribution.

"(C) Upon termination of a fund because of the happening of the event specified in paragraph (1)(C) or (D), an amount equal to the value of the assets upon termination, reduced by any portion of that amount which is attributable to the proceeds of life insurance contracts which are excluded from gross income by section 101(a), shall be included in gross income of the taxpayer or his estate for the taxable year during which the termination occurs. The limitation of tax provided in subsection (n) of section 72 shall apply with respect to the amount included in gross income under the preceding sentence as if such amount were an amount received to which that subsection applies.

"(f) INCOME TAX TREATMENT OF CREATOR OF A QUALIFIED HIGHER EDUCATION FUND.—Except as provided in subsection (e)(2), no amount shall be included in the gross income of a taxpayer who establishes a qualified higher education fund because of any income realized by the fund or because of any payment by the fund to, or on behalf of, an eligible beneficiary for the purposes specified in subsection (c) (2) (A)."

(g) RELATED AMENDMENTS.—

(1) AMENDMENT OF SECTION 62.—Section 62 of such code (relating to definition of adjusted gross income) is amended by adding after paragraph (8) the following new paragraph:

"(9) QUALIFIED HIGHER EDUCATION FUND.—The deduction allowed by section 218."

(2) AMENDMENT OF SECTION 501.—Section 501(a) of such code (relating to exemption from tax on corporations, certain trusts, etc.) is amended by striking out "401(a)" and inserting in lieu thereof "401(a), or a qualified higher education fund described in section 218(c)".

(h) TECHNICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such code is amended by striking out the item referring to section 218 and inserting in lieu thereof:

"Sec. 218. Deduction for contributions to qualified higher education fund.
"Sec. 219. Cross references."

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall be effective for taxable years beginning after the date of enactment of this Act.

By Mr. TOWER:

S. 4032. A bill to amend the Outer Continental Shelf Lands Acts by providing authority for the issuance of permits to construct, operate, and maintain port and terminal facilities. Referred to the Committee on Interior and Insular Affairs.

Mr. TOWER. Mr. President, I have repeatedly warned that the United States is presently facing a dangerous energy crisis. Many times before I have discussed the causes, dimensions, and remedies for this crisis. I will not reiterate these aspects of the crisis today.

I would point out, however, that even if all appropriate remedies were instituted today, the national energy crisis would continue to become more severe with the concomitant threats to our national security and economic prosperity. This is so because of the long leadtime needed to provide additional supplies of energy from new sources.

There is one aspect of the energy crisis on which I would like to focus my attention at this time, and that is the urgent need to construct the terminal facilities to receive the greatly increasing quantities of imported petroleum and petroleum products to meet our burgeoning energy demands.

To place this in perspective, in 1970 we consumed about 15 million barrels of crude oil per day which satisfied approximately 40 percent of our energy requirements. Approximately one-fourth of this amount was imported in the form of crude oil, fuel oil, and other petroleum products. Of this amount, about 75 percent—or 2.6 million barrels per day—was imported by tanker. It has been reliably estimated that by 1980, imports of crude petroleum and petroleum products will treble to about 10.3 million barrels per day with approximately 87 percent—or 9 million barrels per day—being brought in by tanker. By 1985, these imports are expected to quadruple the 1970 level to approximately 14.4 million barrels per day with about 90 percent—or 12.5 million barrels per day—being delivered to our shores by tanker.

Thus, waterborne imports of crude oil and products are expected to increase dramatically in just 12 years if our projected energy demands are to be met.

The prospect of greatly increased waterborne imports into the United States adds a new dimension to U.S. petroleum logistics, particularly with respect to tank ships and the terminal facilities to accommodate them.

According to a recent appraisal by the National Petroleum Council, an official advisory body to the Department of the Interior, the optimal-sized tanker in international petroleum trade during the next 12 years may range from 300,000 to 400,000 DWT in long-haul trades. DWT is an acronym for "dead weight tons" and represents the weight of the vessel when fully loaded. By the end of 1970, there were more than 150 tankers above 200,000 DWT in service while more than 250 vessels above 200,000 DWT were on order or under construction.

For general crude oil movements, a new size range is 250,000 to 300,000 DWT and there are now two tankers of 477,000 DWT on order. Tankers in excess of 1 million DWT are envisioned.

Vessels of 300,000 DWT or over require water at least 72 feet in depth. At the present time, there are no ports or other offloading facilities in the United States which are capable of handling vessels of this size. And yet, a fleet of 367 tankers of 250,000 DWT has been estimated as the requirement to accommodate our incremental waterborne petroleum import needs until 1985.

Clearly, then, there is an urgent need for the United States to begin construction of the facilities to handle these giant tankers. If such facilities are not promptly begun, it should be obvious that a substantial portion of our energy requirement will not be met.

There are several locations and types of facilities presently being considered. The buoyed, offshore type is one of the more favored types, because neither a channel nor a harbor needs to be dredged or maintained. The facility is anchored or buoyed in position in water of the desired depth.

In order to obtain the necessary depth of water, this type of facility may have to be located several miles offshore. For example, the requisite water depth on offshore Texas varies from 17 miles near Brownsville to over 30 miles near Galveston.

Should such a facility be built in waters off the Texas coast, as I believe one should, the facility would be located in waters under the jurisdiction of the Federal Government. Texas jurisdiction extends offshore only three leagues, or 10.5 miles.

A question has been raised regarding the authority of the Department of the Interior to approve the construction of terminal facilities on Federal lands administered by it under the Outer Continental Shelf Act. In order to eliminate this doubt, I am introducing a bill today which would grant to the Department of Interior the power to authorize the construction of appropriate offshore terminal facilities. This bill would not relieve the Department of the Interior of the obligation of complying with all existing laws concerning environmental questions. However, it would make it certain that the Government does have the authority to approve, and regulate, this endeavor. Such an offshore terminal, or "superport," is of extreme importance to the State of Texas. I shall do all that I can to see that, when such a port is built, it will be built in Texas.

In view of the urgent need for these facilities, I strongly urge that consideration be given to this measure in the near future.

I ask unanimous consent that the text of this measure be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 4032

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Outer Continental Shelf Ports and Facilities Amendments of 1972".

SEC. 2. Section 5(c) of the Outer Continental Shelf Lands Act (67 Stat. 464; 43 U.S.C. 1334(c)) is amended by striking the words "produced from said submerged lands in the vicinity of the pipeline".

SEC. 3. Section 5 of the Outer Continental Shelf Lands Act is amended by adding at the end thereof the following new subsection (d):

"(d) Permits for the construction, operation and maintenance of port and terminal facilities on the submerged lands of the Outer Continental Shelf may be granted by the Secretary under such regulations and upon such conditions as may be prescribed by the Secretary: *Provided, however,* that in the issuance of any permit and the promulgation of such regulations and conditions, the Secretary shall—

(1) take into account the need for such port or terminal facility as a means of supplying the energy needs of the Nation;

(2) consider the environmental impact of any such port or terminal facility;

(3) consider the availability of alternative sites and methods of construction;

(4) consider the availability of alternative sites and methods of construction;

(5) provide for such public hearings as he deems necessary to assure thorough consideration of the factors herein identified.

By Mr. MONDALE:

S. 4035. A bill to amend the Public Health Service Act to provide assistance for kidney transplantation, hemodialysis and related facilities and services needed for comprehensive treatment of patients suffering from chronic renal disease. Referred to the Committee on Labor and Public Welfare.

KIDNEY TRANSPLANT ACT

Mr. MONDALE. Mr. President, today I am introducing the Kidney Transplant Act of 1972. This legislation seeks to alleviate the problem of chronic kidney disease in the United States by providing for a comprehensive treatment program with special emphasis upon the use of kidney transplantation. The legislation provides a coordinated approach to the problem which I think will, for the first time, enable us to provide adequately for the victims of kidney disease. Unlike any bills now before the Congress, it puts maximum emphasis on transplantation, rather than on dialysis. The principal features of the bill include, first, assistance to individuals:

Grants would be made by the Secretary of Health, Education, and Welfare to States to assist in the care and treatment of persons suffering from chronic renal diseases;

Each State would have to provide appropriate assistance to all residents who are suffering from chronic renal disease;

One hundred percent of the costs of care—including transportation—would be covered, less any amounts available from public or private insurance or assistance and any amounts which can reasonably be paid by the patient;

Fee schedules for transportation and hemodialysis would be provided; and

Payments would be made available for the care and transportation of living donors.

Second, the bill authorizes the Secretary to make grants to public or nonprofit entities to establish renal failure centers which would:

Provide a comprehensive range of services to kidney disease patients, including kidney transplantation facilities and a hemodialysis program which covers home as well as center dialysis;

Be affiliated with university medical centers; and

Have a capacity to carry out a minimum of 50 transplants per year and to maintain at least 20 patients at any one time on dialysis.

Third, grants could also be made for:

Construction of facilities for short-term organ preservation and regional tissue typing;

Public and professional information, education and training to increase the supply of cadaver kidneys;

Development of logistical systems for collecting, preserving, and transporting donor organs;

Extended care facilities for transplantation recipients; and

Planning, development, and operation of professional training programs in transplantation, dialysis, renal center management, and related fields.

I have stressed transplantation in this legislation because it is the most effective means we have of treating chronic kidney disease. Although hemodialysis also has a definite place in the treatment of chronic renal failure, it can no longer be considered the preferred long-term treatment. Approximately 55,000 persons die each year in the United States of kidney disease. Of these, 7,000 to 10,000 are regarded as "ideal" or suitable for transplants or dialysis. Dr. John Najarian, professor and chairman of the Department of Surgery at the University of Minnesota, and one of the most outstanding kidney transplant surgeons in the world, has said—

> I can categorically state that all ideal patients should be transplanted.

Dr. Najarian's confidence is founded on the impressive results being achieved at the University of Minnesota. Their "success rate" for transplants—after 4 years—is in the 70 percent range for cadaver donors and in the 90 percent range for closely related, live donors.

Several cogent reasons for the emphasis on transplants were given by Dr. Benjamin Burton, of the National Institutes of Health, in the December 1971 issue of the Annals of Internal Medicine, where he said:

> Maintenance dialysis alone, without transplantation, would at best be a dismal solution for irreversible kidney failure because of the need for continued, repetitive treatments for the life of the patient, because of the not infrequent failure to restore the patient to physiologic life, and—last but not least—because of its high and continuous cost.

Unfortunately, other kidney disease legislation enacted in the past, or introduced in the 92d Congress, has not sufficiently recognized these points. To date, we have tended to place too much emphasis upon hemodialysis as a treatment for kidney disease. Where transplantation has been considered, the complex systems needed to make it a feasible approach—nationally—have not been provided for in the legislation. I have tried to correct this with the Kidney Transplant Act of 1972.

Techniques to control severe kidney disease—both kidney transplantation and chronic hemodialysis—continue to improve, and this is especially true of transplantation. Therefore, each year, larger numbers of patients with severe kidney disease will be considered valid candidates for these procedures. For example, Dr. Najarian is already engaged in experimental work transplanting kidneys into diabetic patients, a group which heretofore had not been considered a good risk for transplantation. Dr. Najarian's work is described in a February 18, 1972 Medical World News article.

A number of social and economic problems, such as counseling and transportation need to be met. An excellent overview of the societal problems associated with kidney transplantation is provided in an article by Roberta G. Simmons and Richard L. Simmons of the University of Minnesota in the summer, 1971 issue of Social Problems. They discuss the factors involved in the selection of patients for transplantation and what elements in the health care delivery system prevent all persons who need a transplant from receiving one.

Of even greater eventual importance than research on improved forms of therapy is the research needed to understand the causes of the diseases which lead to end-stage renal failure so we can learn to prevent them. Preventive medicine, of course, is the ultimate goal of all medical research. Useful as treatment methods are, they do not contribute to the improved health of mankind as dramatically as does the prevention of disease. Furthermore, preventive medicine is relatively inexpensive. The value of preventive medicine is discussed in a thoughtful article by Lewis Thomas, M.D., which appeared in the December 9, 1971, issue of the New England Journal of Medicine.

The costs associated with the life-prolonging techniques of transplantation and hemodialysis vary according to individual needs and the institution at which the procedures are carried out, but in all cases these forms of treatment are very expensive. Initially, the costs involved in a kidney transplant are approximately $15,000 if there are no unusual complications, and up to $1,000 per year, thereafter, to cover the costs of examinations, drugs, and so forth. On the average, however, treatment subsequent to transplant would probably cost far less.

On the other hand, chronic hemodialysis is far more expensive: hospital dialysis costs $35,000 to $40,000 per year; dialysis in an ambulatory care facility generally runs between $14,000 and $20,000 or more per year; and home dialysis runs between $12,000 and $20,000 the first year—for purchase of equipment, training, and so forth—and $4,000 to $6,000 per year after that.

On the basis of these comparative costs, it can be seen that transplantation is more economical by a factor of five or 10 times, depending on the number of years that the patient lives. There are, however, even greater advantages than mere dollar savings. Transplantation offers the patient a dramatically more successful chance of recovery. Patients with kidney transplants live relatively normal lives, with full restoration of bodily functions. Those undergoing hemodialysis must be "plugged" into their artificial kidney for 8 hours, three times a week, and often have significant physiological limitations.

My legislation would also lead to lower and less variable costs for these procedures, through the encouragement of improvements in techniques and through economies of scale. That is one reason for stipulation that the renal failure centers must have a capacity to carry out a minimum of 50 transplants per year and maintain at least 20 patients at any one time on dialysis. Fee schedules will also be provided to insure that costs are kept as low as possible.

A special problem that must be faced in kidney transplantation—and other types of organ transplantation—is the pressing need for a larger supply of donor organs. In some cases, patients in need of a kidney have a close relative who can donate one of his kidneys, but often this is not feasible and a cadaver kidney must then be found.

With continuing improvements in transplant technology, we should be able to reduce very substantially reliance on living donors. This would eliminate the twin risks to the live donor—first, from the surgery itself and, second, from the possibility that he might 1 day have his remaining kidney damaged.

Unfortunately, cadaver kidneys are not often available and many people who need a transplant must wait long, uncomfortable months before a suitable donor can be found. Consequently, we must insure an increased supply of these kidneys by encouraging people to sign organ donor cards and improving systems for collecting, preserving, and distributing these donated organs.

Some regional programs in organ procurement, preservation, and tissue typing have already been initiated. For example, there is a program in the New York City area which was recently described in an article in the Journal of the American Medical Association, February 21, 1972.

This article illustrates what can be done to improve the supply of donor kidneys and also describes the problems now faced in obtaining donor organs. My bill would do much to alleviate this frustrating and tragic situation. In my proposal, grants may be made for the construction of facilities for short term organ preservation and regional tissue typing which would increase the length of time potential donor kidneys could be preserved and improve the facilities for matching donor organs with recipients.

I have discussed some of the problems faced in the treatment of kidney disease to emphasize the importance of the Kidney Transplant Act of 1972. I am glad that action is imminent to expand support for kidney disease treatment under the vocational rehabilitation program. It, however, deals only in a fractional manner with the total problem. The act I propose today is a comprehensive plan, covering all aspects of the enormously complex situation we face in the treatment of chronic kidney disease. I urge swift consideration and passage of this important bill so that kidney disease control can progress in a coordinated way. We must put an end to the tragic spectacle of thousands of people dying every year simply because services and funds for offering proven methods of treatment for their disease are not available.

Mr. President, I ask unanimous consent that the bill and the articles to which I referred be printed in the Record.

There being no objection, the bill and articles were ordered to be printed in the Record, as follows:

S. 4035

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Kidney Transplant Act of 1972".

Sec. 2. The Public Health Service Act is amended by inserting after title X the following:

"TITLE XI—CARE AND TREATMENT OF CHRONIC RENAL DISEASE

"GRANTS FOR ASSISTING IN THE CARE AND TREATMENT OF CHRONIC RENAL DISEASE

"Sec. 1101(a) The Secretary may make grants to States and, with the approval of State health authority, to political subdivisions or instrumentalities of the States under this subsection for the purpose of assisting in the care and treatment of persons suffering from chronic renal disease.

"(b) Payments under this section may be made in advance on the basis of estimates or by way or reimbursement, with necessary adjustments on account of underpayments, or overpayments, in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of this section.

"STATE PLANS

"Sec. 1102. (a) Any State which applies for a grant under section 1101 shall submit with its application a plan for the approval of the Secretary. Such plan or modification thereof shall be approved only if such plan—

"(1) provides for assistance to all persons residing within such State who are suffering from chronic renal disease and meet treatment criteria established by the renal failure center at which the patient is to be treated;

"(2) provides for the payment of 100 per centum of the costs of transplantation, hemodialysis or other techniques and of related services for the care of the chronically ill renal patient, less the amounts paid by public agencies or by public or private health insurance and less any amounts which can reasonably be paid by the patient, as determined pursuant to regulations.

"(3) gives adequate assurances that such State will devote adequate funds to the administration and enforcement of such plan;

"(4) provides for coordination of services rendered under this program and other state administered programs including aid to the medically indigent under Title XIX of the Social Security Act, and the Vocational Rehabilitation Act;

"(5) provides fee schedules for transplantation, hemodialysis and related procedures;

"(6) provides for payments for the costs of care of living donors less the amounts paid by public agencies or by public or private health insurance; and

"(7) provides that the State agency will make such reports to the Secretary in such form and containing such information as the Secretary shall from time to time require.

"(b) For the purposes of this section, the term "costs" includes, but is not limited to, physicians' services, hospitalization, drugs, transportation, mental health services and any necessary expenses of relatives required to accompany patients or donors.

"SUPPORT OF RENAL FAILURE CENTERS

"Sec. 1103. (a) The Secretary may make grants to public or private non-profit entities for the establishment, construction, and operation of renal failure centers which will provide, or arrange for, complete renal transplantation facilities, hemodialysis, and home hemodialysis.

"(b) Each renal failure center shall be affiliated with a university medical center and shall have the capability to provide a minimum of 50 transplants per year and to maintain a minimum of 20 patients on dialysis for long term treatment or in preparation for home dialysis or while awaiting transplantation or evaluation.

"GRANTS FOR TRANSPORTATION FACILITIES

"Sec. 1104. (a) The Secretary may make grants to public and private nonprofit entities for the construction or improvement of facilities and the operation of systems, including public and professional information and training programs, for the collection and short term preservation of organs, regional tissue typing, hemodialysis, and extended care facilities for transplant patients and donors."

Sec. 3. (a) Part D of title VII of the Public Health Service Act is amended by redesignating section 769B as section 769C and by adding immediately after section 769A the following new section:

"GRANTS FOR TRAINING IN THE CURE AND TREATMENT OF CHRONIC RENAL DISEASE

"Sec. 769B. (a) The Secretary may make grants to any public or private non-profit entity—

"(1) to plan, develop, operate, or assist in an approved professional training program in the fields of transplantation, dialysis nephrology, and management of renal failure centers with regard to chronic renal disease, including the related medical, social and administrative problems; and

"(2) to provide for fellowships and training grants to professional personnel to participate in kidney disease programs."

(b) (1) Section 769C, as redesignated by this Act, is amended by striking "and 769A, and 769B".

(2) Subsection (c) of such section is amended by striking "or 769A" and inserting in lieu thereof "769A, or 769B."

Sec. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

PLANNING FOR THE FUTURE IN CHRONIC KIDNEY DISEASE

During the last decade and a half, two dramatic therapies for irreversible kidney failure have come to maturity: hemodialysis with artificial kidneys and renal transplanation. Both were experimental at first and are not yet regarded as full optimal methods, but they are probably here to stay. During 1970 in the United States approximately, 1,100 new patients were placed on chronic intermittent dialysis (1) and over 900 renal transplant operations were carried out (2). Thus the clandestine experimentation in occupied Holland during World War II by Dr. Williem Kolff and the heroic surgical undertaking with twins in Boston in 1953 by Dr. John Merrill have led to their broad use in care of end stage kidney disease.

Dialysis and transplantation are not competitive but mutually supportive and dependent. The uninformed speculations of earlier years as to "which will win out in the long run" only showed a lack of comprehension of their potential. The availability of a much-needed supportive and substitute treatment like dialysis indeed made it possible to develop and improve renal transplantation to its present level. Even when we are able to deal more successfully with the rejection phenomenon (which still prevent renal transplants from becoming a routine procedure with *predictable* outcome in individual cases), dialysis will be needed. It will still support patients with kidney failure until a suitable donor or cadaver organ can be obtained, restore them to physicologic near-normalcy in preparation for surgery support the newly grafted organ in case of need, and serve as the safety net if the graft is ultimately unsuccessful.

Maintenance dialysis alone, without transplantation, would at best be a dismal solution for irreversible kidney failure because of the need for continued, repetitive treatments for the life of the patient, because of the not infrequent failure to restore the patient to physiologic life, and—last but not least—because of its high and continuous cost. Ever since 1967, when attempts were made to explore the national problem of kidney disease (3) and to draft specific plans for a countrywide solution to irreversible kidney failure (4), it has been obvious that the potentials of dialysis and transplantation could not be considered independently. Their roles must be closely intertwined if cost-effective use of these highly expensive therapies is to be obtained.

Two recent papers in the *British Medical Journal* are highly germane to this urgent problem. The first by Branch and associates (5), deals with the incidence of uremia and the requirements for maintenance hemodialysis in Britain, where an attempt has been made in recent years to provide dialysis or transplantation, or both, for all patients, except the oldest, under the National Health Service.

These workers conducted a painstaking survey for uremic patients, of all practitioners of a district in a mixed urban and rural area of South Wales, as well as in this district's one large hospital. They found that, during the 3-year period of survey, among the uremic patients presenting themselves 14 were suitable candidates for treatment by maintenance dialysis or renal transplantation. This is a rate of about 39 persons per million per year under the age of 60 (and 28 per million per year under 50). It is of interest that in the United States the number of patients suitable for dialysis is about 38 million per population per year.

The second paper, by Farrow, Fisher, and Johnson (6), describes an elegant mathematical model that they developed to assist in planning the requirements of a combined dialysis and transplantation center. This model can be used to predict the ideal number of patients (for cost-efficient use of facilities) in the dialysis unit, in the associated ward, and at home on dialysis—all in conjunction with an active effort in renal transplantation. This model can be adapted for units of different size and can be primed with data from one unit or with pooled data from an entire country. This paper describes a particularly elegant and valid statistical method that is also a rational, integrated plan for treatment of chronic renal failure via a combination of dialysis and transplantation: it is highly recommended reading.

A similar scheme was recently proposed independently at the Symposium on the Current Status of Artificial Organs for Clinical Transplantation sponsored by the Transplantation Society (New York University Medical Center, 9–10 September 1971 (7). During this symposium Dr. Belding Scribner, of the University of Washington, who had ushered in the era of prolonged maintenance dialysis in 1960, proposed a new broad and logical picture for dealing with irreversible kidney failure. A salient feature of his "plan for life" beyond the point when irreversible renal failure is about to become symptomatic is the avoidance of any approach that might interfere with utlimately successful transplantation. Dialysis is an essential component in this scheme. The patient is not allowed to deteriorate into uremia before resort to dialysis or transplantation. He is taught to dialyze himself at home before his status becomes critical; he is never transfused with blood (to cut the risk of eventual immune reactions after transplantation); he is placed on home dialysis pending the finding of a suitable donor organ and its transplantation. Once there are indications of graft rejection, the failing organ is removed early (rather than endangering the patient with heroic attempts at immunosuppression), and the patient is returned to home dialysis to wait for another matched donor organ.

In most of its features this "plan for life" is consistent with the model proposed independently by Dr. Farrow's group in Britain. The features of both plans must be considered carefully and sympathetically by any group in the United States that will undertake to plan, on a regional or larger scale, for a rational, effective, and economically feasible scheme for the saving of lives of patients with progressive, irreversible renal failure. (BENJAMIN T. BURTON, PH.D., *National Institute of Arthritis and Metabolic Diseases, National Institutes of Health, Bethesda, Md.**)

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[From Medical World News, Feb. 18, 1972]

KIDNEYS FOR DIABETICS

A diabetic patient *can* get a new kidney—and may gain years of life with it. This is the conclusion of Dr. John S. Najarian, chief of surgery at the University of Minnesota, and his colleague, professor of medicine Frederick C. Goetz. Quietly, over the past few years, the team has been lining up donors—many of them relatives—and transplanting kidneys in juvenile-onset diabetics whose own kidneys have been ravaged by the vascular lesions characteristic of the disease.

Previously, doctors have hesitated to do this transplant because of the diabetic's healing problems, not to mention scarring and the patient's generally debilitated state. Says Dr. Goetz: "It was Dr. Najarian's rationale that whatever the evidence in animals, there is no proof in humans that the lesions would necessarily return in the new organ, and if they should, no reason to think that they would accelerate beyond the normal course—taking five, perhaps ten years to do their damage."

Thus, Dr. Goetz told the recent meeting of the Diabetes Association of Greater Cleveland meeting in that city, a total of 21 diabetic patients in or approaching terminal uremia have now received new kidneys. And sixteen of them have survived longer than six months. Five of the 16 "successes" have now survived for more than two years—to Dr. Goetz, a "short-term" achievement. Ten lead essential normal lives, reported the internist, while two are still "seriously handicapped," and the remaining four are somewhere in between.

Using serum creatinine measurements as a physiologic index of success, the Minnesota team determined that 12 of the 16 surviving patients now have essentially normal levels—from 0.6 mg% to 1.5 mg%. Three patients have slightly elevated levels, ranging up to 2 mg%, and one has a level of 5 mg%, indicating a "chronic immunity reaction."

Wound healing was no great problem in the series, and no special medications were used to promote it, says Dr. Goetz. As for the basic disease state, the postoperative patient needed "moderately or sharply more" insulin, but otherwise was unchanged. Of course, immunosuppressants were administered to protect the transplant.

The Cleveland discussants weren't the first to ask the obvious question: If a kidney can "take" in a diabetic patient, why does it almost always fail when grafted along with the pancreas and attached duodenum? There is no clear answer to the question, says Dr. Goetz.

The 11 so-called double transplants he and surgeon Richard C. Lillehei have done may have been handicapped by the use of cadaver organs. But if pancreas function is a measure of success, so were these transplants. Enzyme content was normal in patients in the series. But the fact that he didn't need exogenous insulin was no consolation to the longest-lived recipient. A year after the transplant he went into a severe depression and failed to take his immunosuppressants. In a fortnight he was dead.

As for the rest of the 11 double-transplant cases, only two patients lived six months and five were dead in less than a month. Five died following sepsis plus kidney complications; one from sepsis alone; one from renal complications alone; and one each from acute necrosis of kidney and duodenal graft, duodenal perforation and sepsis, pulmonary embolism, and ruptured aneurysm of the iliac artery.

In each case, uremia had been controlled postoperatively with hemodialysis. All patients were on immunosuppressants. Those with complicating retinal disease were no worse after surgery. And out of the six patients who survived a month or more, three converted from the childhood to the adult form of the disease.

The Minnesota researchers have recently turned their attention to retinopathy because next to the kidney, they regard it as the most serious disease problem. Two pancreatic transplant cases have shed light on this pathology. Both were young women with a creatinine clearance of 30 ml or more a minute, rapidly advancing eye changes, and some evidence of kidney damage. After transplant, one patient complained of pain over the transplant area in the first week. The pancreas was removed and the graft was found to have impaired vasculature. But there was no sign of tissue rejection.

The second graft was also removed and found impaired. And the eye problems of both patients continue—though with no further deterioration. If one could achieve a long enough survival with the pancreas transplant, and the retinopathy were curbed, the operation could be pronounced beneficial. "So we continue our work," says Dr. Goetz. One final problem: Immune rejection is not an all-or-nothing process. The duodenum may suffer from necrosis and the kidney may be rejected, while the pancreas remains immune.

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* The views expressed in this note are the author's own. No official support or endorsement by the National Institutes of Health is intended or should be inferred.

[From Social Problems, Summer 1971]

ORGAN-TRANSPLANTATION: A SOCIETAL PROBLEM

(By Roberto G. Simmons and Richard L. Simmons, University of Minnesota)

As a new medical technology, organ-transplantation has created unanticipated adjustment problems for the government, the general public, medical organization, and the patient and his family. This paper attempts to specify some of these problems with a focus on kidney transplantation. Several mechanisms seem to prevent suitable patients dying from kidney disease from being treated at a transplant or dialysis center. Lags in communication between local and university physicians, limitation in number of transplant centers, severe national financial shortages prevent many patients from being treated. Arbitrary factors such as state of origin or socioeconomic status restrict many patients from being able to receive financial help or themselves afford these expensive therapies. Normative uncertainties related to the donorship of organs also increase the stress of this therapy for physicians, patients, and their families.

Technological advances in medicine, as in other fields, often outstrip the resources and social organization necessary for their optimal use. Organ transplantation is clearly a prototype, and a typical example of this "cultural lag," as originally formulated by Ogburn (1922). Changes have occurred in the "material culture," i.e., in technology, but appropriate modifications in the social structure and in public attitudes have failed to keep pace.

Consequently, as a major new medical technology, transplantation may solve important health problems, but in turn it creates unanticipated adjustment problems for the government, the general public, medical organization, and the patient and his family. The purpose of this report is to analyze these "adjustment problems," to identify the elements of the "cultural lag" and to describe the social consequences of transplantation.

The analysis will focus on kidney transplantation, and the related technological advances of hemodialysis,[1] since renal transplantation is the only type of organ transplantation that has moved from the realm of experimentation to therapeutics; that is, it is the only type that can be considered a viable cure. According to Kidney Transplant Registry statistics (1969), 81 percent of those patients who have received a kidney from a living brother or sister have survived two years post-transplant with functioning kidneys. "Two years" is the arbitrarily designated period beyond which the patient is felt to be "cured," with a good chance for a normal life-expectancy.

Many of the stresses that may be associated with large scale heart, lung, and liver transplants in the future can be predicted now by a study of kidney transplantation. Some of the problems to be discussed will be unique to transplantation (e.g., the utilization of the organ donor resource); while others are relevant to any technological advance in medicine (e.g., lags in communication within the medical world, shortage of social funds, and normative ambiguities both in the larger society and within medicine itself).

CONSEQUENCES OF TRANSPLANTATION FOR THE SOCIETY

Modern technological advances in medicine have significant consequences for the organization of medical care and its availability to the public. Therapies like organ transplantation, open-heart surgery, and cancer chemotherapy move medicine one step further toward bureaucratization, organization, and specialization that is characteristic of almost every sphere in modern industrial society, particularly those influenced by technological advances. Medicine is becoming more of a specialized team operation and less of a relationship between an individual family doctor and patient. The private family physician often is replaced by enormous hospital complexes, group practices, specialty clinics, bureaucracies of nurses, technicians, and highly qualified specialists (Rosenblatt and Suchman, 1964).

To the metropolitan, working-class patient who is accustomed to visiting hospital clinics, treatment in a kidney transplant, or cancer chemotherapy center may be just another step in the customary pattern. To the middle-class or small-town patient who is used to more personal contact with a family practitioner, however, the mode of treatment may seem very new. He is accustomed to being referred to individual specialists for specific ailments, but here he is referred to a hospital and a large, somewhat impersonal and constantly shifting medical team. Table 1 shows the organization of the renal transplant team at the University of Minnesota. The patient in the hospital may be under the care of six or seven physicians at once and be aided by a variety of special nurses, technicians, and therapists. The central therapeutic event, the transplantation operation itself, requires 12 people—two operating teams, one for the donor and one for the recipient.

After discharge the successful transplant patient returns to the hospital for tests and visits a clinic which is attended at the University of Minnesota by a surgeon, the surgical house staff, a nurse who coordinates the inpatient and outpatient care, her assistant, the clinic nurse, a psychiatrist, a social worker, and a dietician and her assistant.

Reinhard (1970) indicates that heart transplant teams may be even larger. For one particular heart transplant performed at the Texas Heart Institute, Reinhard estimated that over a five-day period 141 persons were involved in one official capacity or another; 21 were physicians.

In addition to the personnel, special facilities, laboratories, and pharmaceutical supplies are also needed. For renal transplantation, the artificial kidney (dialysis) machines are the most obvious and the most expensive of these special equipment needs.

Only relatively large hospitals can support so many personnel and special facilities. Transplantation, therefore, like other advanced medical technologies, tends to concentrate in a number of large centers throughout the country. Large cities and university areas are more likely to have such centers than are smaller cities and towns. This restriction of transplant centers is extraordinarily important when the availability of medical resources to patients is considered. What type of patients are likely to be cared for there? How do patients from various social strata and from communities all over the United States flow to these few centers? How does the individual uremic patient come to be treated at one of these transplant centers?

Lag in medical organization and communication

The optimal flow of patients to the centers of transplantation seems to be affected by a communication barrier between these centers and local referring physicians, as well as by a scarcity of facilities. It was estimated in 1967 that some 50,000 patients a year die of uremia, 7,000 to 8,000 of which were considered ideally suited for hemodialysis or renal transplantation (The Cost of Life, 1968; Gottschalk, 1967). However, due to lack of facilities and resources, treatment was available for only 1,000 new patients and 750 previous dialysis patients in 1967.

Therefore, many patients must die of a potentially curable disease. These statistics suggest that an overload of applicants is forcing kidney transplant centers to reject many candidates. There is also some evidence, however, that the flow of suitable patients to some centers is blocked at certain points. In Minnesota, for example, despite the fact that many patients with primary renal disease continue to die, who would respond to dialysis or transplantation, the renal failure centers are not over-crowded with applications. Medically eligible candidates are not being denied treatment because of shortages of facilities. Surgeons at another center report that they have virtually no applicants from one entire area of the state they service.

Referring physicians are apparently not sending all possible candidates to renal failure centers. The reasons for this have not been systematically investigated, but several channels of speculation are open. Without question, the technological potential seems to have outstripped the communication networks in medicine, as well as the resources. (See Coleman, Menzel, and Katz's study (1959) of the social processes affecting physician's adoption of a new drug.)

The diagnosis of uremia has traditionally evoked a feeling of hopelessness in most physicians. Palliative treatment was all physicians had to offer until recently, and such attitudes are not easily cast off. In addition, it is likely that many physicians are unaware of (a) the success of kidney transplanation and dialysis, (b) the categories of patients who can benefit, (c) the presence of the nearest center, and (d) the fact that some centers are not overcrowded. Even if the physician is aware of the therapeutic success of the procedures, he may be afraid the patient will be denied treatment. He may believe that the patient is too old, or that children cannot be dialyzed, or that the sacrifices in travel and expense are too great for the family.

The centralization of these specialized resources may act as a further deterrent to the referral process. It is always difficult for physicians to refer patients to persons and hospitals where they have no personal acquaintances among the professional staff. Most physicians have developed ingrained patterns of referral which are seldom varied. For most medical problems, the physician's local mutual referral network is adequate (Freidson, 1963). Most specialists can be found within a reasonable distance to participate in this network. On the other hand, the physicians within the centralized university center form their own networks and do not usually refer patients to local non-university doctors (Kendall, 1965). University physicians tend not to participate in local medical society activities. Thus, the local doctor, even within easy distance of the large medical center, may be unacquainted with many university physicians. As distance from the university center increases, personal contacts naturally decrease. Paradoxically then, it appears that there are not enough facilities for all uremic patients, yet in some areas of the country there is under-utilization of such facilities because the patient and his doctor are effectively unaware of the availability.

The effect of a patient's class background upon his chances to be referred for transplantation is another point for investigation. It has been shown that people from the lower class utilize medical services less than middle or upper class members (Rosenblatt and

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[1] Hemodialysis refers to the purification of a kidney patient's blood by means of an artificial kidney machine. The kidney patient is "hooked-up" to a dialysis machine by means of a semi-permanent shunt, or U-shaped tube, one end of which is inserted into a vein and the other into an artery in his arm or leg. Approximately twice a week, for a period of from seven to 15 hours each time, the patient's blood is cycled through the machine, where it is purified, and then returned to his body.

Suchman, 1964). Yet, if the lower class patient seeks medical care in a large city, he is likely to attend the large hospital clinic or veteran's hospital where referral to a transplantation center is probable. Perhaps investigation would show that it is the lower class patient from outside of the metropolis, from the small towns and cities, who will be the last to benefit from this type of medical advance.

In summary, social factors governing the dissemination of accurate information concerning medical innovation, and social factors affecting the interrelationships between centralized medical centers and referring physicians, would appear to play a large role in whether a patient will live or die.

At present, in the United States, the mobilization of the cadaver donor resource is also restricted by many of the same factors that prevent a uremic patient from being referred to a transplant center. Lags in medical organization and communication affect the availability of organs for transplantation, since a high percentage of such organs must come from cadavers. The role of the local referring physician is again crucial. The family physician cares for a high percentage of potential cadaver donors. It is usually he who first approaches the family with the suggestion of donation. However, the possibility of donation may not occur to him. Secondly, he may not have enough of an acquaintanceship with a transplant center for referral to be psychologically easy. In addition, he may find it difficult to approach the family. In some centers, the dying patient must be transferred to the transplant center in order to ensure rapid use of the organs after death is pronounced. Particularly if the distance is great, the physician may be unwilling to subject the grieving family to long-distance travel. The fact that transplant centers are limited in number means that many potential donors will be excluded because of the distance.

In other centers, the transplant service sends a team to the local hospital to remove the organ and rapidly transport it back to the transplant center. In such situations, the local physicians and hospital authorities must be willing to undergo considerable inconvenience. The frequently over-taxed community doctor must await the transplant surgeons and then help them mobilize the hospital facilities. The hospital must be willing to clean and set up a surgical suite, reserve some personnel to help, and sometimes disrupt schedules and rules to satisfy the necessary procedures and time pressures. Future technological advances in organ preservation and organ banks may alleviate some of the difficulties, particularly the problems of time pressure and donor travel.

Although the organizational links between the transplant centers and the local medical communities are problematic, new regional organizations among many different transplant centers in several states are emerging (Bethesda Conference Report, 1968; Crosbie, 1970; Pierce, 1970; Sadler, 1970; Schmeck, 1970). Computers and teletype terminals are used in these regional organ-procurement centers to decide which potential transplant recipient in the region is best matched to a new cadaver donor. The organ may then be transported by automobile, special flight, or truck to the required transplant service, or one of the patients may be moved.

It appears relatively easy for transplant programs, that are already highly innovative, to solve their problems by establishing new, efficient, technologically complex organizational links much more difficult for organizational links to be forged between the more innovative transplant programs and the less innovative, highly entrenched local medical communities. This lag in communications and organization limits the number of uremic patients who arrive at the transplant centers, and also the number of cadaver organs available for their treatment.

Lag in allocation of financial resources

The best known and most significant way the society lags behind the technological potential of transportation involves the allocation of adequate financial support. The report of the Committee on Chronic Kidney Disease to the Bureau of the Budget in September of 1967 recommended an expenditure of $800 million to $1 billion for the first six years (1969–75) for training, facilities, and care of kidney patients (Gottschalk, 1967), with the goal of treating all indicated patients.

This is the estimated price of treating terminal kidney disease. If transplantation of other organs also achieves success, these costs will skyrocket. For example, if heart transplant technology improves enough to treat 22,000 patients annually, the cost could easily increase to $220 million a year (Ad hoc task force, 1969). As additional medical technologies develop, the government will be increasingly confronted with a fundamental decision: is it possible for this society to allocate major sums of money to saving lives of the previously incurable?

Funds are needed not only to train more personnel and set up more centers, but to support existing facilities. Dialysis at a hospital center costs approximately $14,000 a year; home dialysis requires $10,000 to $12,000 the first year when equipment is purchased, and about $4,000 yearly after that (Bethesda Conference Report, 1968; Frye, 1969). The cost of a kidney transplant averages about $13,300, plus $200 to $1,000 in yearly follow-up costs (Gottschalk, 1967); and the cost of a heart transplant averages $18,700. However, with complications, charges can run as high as $100,000 for any organ transplant (Reinhard, 1970).

At present, without a comprehensive national program, the collection of such funds can cause major difficulties for governmental agencies, hospital, and patient. Most patients cannot afford to pay for such treatment, particularly after years of chronic illness. Some of the cost for renal transplantation is paid by federal research grants to the institution, but research funds will be withdrawn as the procedure becomes a therapeutic reality. Insurance pays some of the transplant cost, but the Arthur D. Little Report (1969) estimates conservatively that approximately only eight to ten percent of the American population is adequately covered by insurance for transplantation. Table 2 lists other sources of funding for heart and kidney transplants and for dialysis. However, these present sources cannot begin to cover the actual need.

Patients in some states can turn to government agencies for major help in paying their bills under Title 19 of Medicaid (Kidney Disease Services, 1969), but, many states have interpreted Title 19 in such a way that dialysis and transplant patients are excluded completely or almost completely. Even if Medicaid is available in the home state, the cost of transplantation can threaten whatever financial security a patient has. In order to qualify for Medicaid in Minnesota, for example, a patient has to pass a minimum means test. His earnings must be below the poverty level (less than $2200 a year plus $500 for each child). The lower-middle and middle-class patients would be expected to suffer most from such requirements.

The tendency for transplant centers to be concentrated in relatively few medical facilities has many important, unanticipated consequences. As in the case of the University of Minnesota, the limited number of transplant centers that exist must service many surrounding states. Yet these hospitals cannot afford to continually absorb the costs of patients from states with less liberal interpretation of Title 19. The losses from unpaid bills on the transplant service can be a severe financial strain for the hospital. Such transplant services are now being forced to reject all out-of-state applicants except those who can afford treatment.

Thus, unless national financial planning keeps pace with the available technology, patients will be denied treatment on arbitrary bases, such as their state of origin or their financial status. These geographical discrepancies are further widened by the fact that there are eight states that have set aside funds to pay for residents' transplantation and dialysis expenses (Little, 1969). It appears much better to be suffering from terminal kidney disease in Illinois, than in Idaho or Wyoming, where few public funds seem available.

The goal here is not to review all the present sources of transplantation funding. Instead, it is an attempt to illustrate how technological potential has outstripped the allocation of financial resources with the result that the patients may be denied treatment for arbitrary geographical and social reasons, while hospitals, patients, and local agencies are subject to great financial strain. Most of the extant dialysis and transplantation facilities have been financed largely by federal research funds, yet it unlikely they will be used to the equal benefit of all citizens. If financial shortages persist, kidney patients who are able to pay for treatment will have an increasing advantage. It would be an oversimplification, however, to perceive a middle-class bias on the part of physicians as the major cause of this situation. Although class bias may exist, the organizational and societal pressures will be much more powerful factors in the overselection of patients able to pay.

The concentration of new medical technologies in a few large hospital complexes appears to penalize those patients who are geographically removed from such centers. It has also been suggested that local physicians may be less likely to refer such patients and that funding is frequently more difficult to obtain for them.

Whether society can and should reallocate the large sums of money necessary to support organ transplantation, in the face of many other needs, is a question of value-priorities. A clear ordering of societal priorities has not emerged inside or outside the government; therefore, the extent to which this new technology will be supported is still problematic. In actuality, there is some conflict, both within the medical world and in the larger society over the policy of funding organ transplantation. Some physicians object to enormous sums being spent on transplantation to the jeopardy of other health needs, particularly the basic health needs and adequate nutrition of the poor (Allgower and Gruber, 1970; Fox, 1970; Norman 1969).

The low success-rate and high cost of heart transplantation has made this area particularly subject to attack both by prestigious medical leaders and the new medical left (Fox, 1970; Wright, I. S., 1969). Others argue that this society could afford to pay for all of its medical needs, if social and health problems were given a higher priority, relative to defense needs, than is now the case. The problems of funding organ transplantation must be seen in the larger context of a general scarcity of resources in medicine; a shortage of physicians, particularly outside the urban areas; rapidly rising hospital costs and patient bills; and discussion of national health insurance and reorganization of medical care.

Lags in the normative and legal system

As a result of organ transplantation, new situations have arisen both within the medical world and in the larger society for which there are no clear norms or rules. There is a gap between the technological advance and the extant formal laws and informal norms governing its application. In some cases the existing regulations and customs inhibit the full development of transplantation potential. In many areas, there is considerable uncertainty and conflict over the proper course of action.

PATIENT SELECTION

In the medical sphere the selection of patients for dialysis and transplantation demonstrates this normative uncertainty. Once the patient passes the hurdle of the referring physician and arrives at the transplant or dialysis center, he still must be accepted for treatment. In those areas where the communication gap between university and local physicians is closing faster than the resource gap, the number of referred patients frequently exceeds the tolerable load. How is the crucial decision made: who will live and who will die?

Physicians have few established norms to help them decide how to reject patients for life-saving treatment (Schreiner and Maher, 1965:551). As members of the transplant team from Duke University formulated the problem:

"Thus far, the available literature has contained little more than . . . general philosophical statements regarding problems and experiences surrounding the selection of donors and recipients for renal transplantation. . . . Although we believe that our own approach to the problem has been consistent with the general philosophy . . . we anticipate that some experienced physicians may not agree with the manner in which such a philosophy was applied in each patient. Indeed, in a number of situations, we found that we were often uncertain ourselves as to the correctness of our decision" (Hayes and Grunnells, 1969).

One attempt to create such norms was the establishment of an anonymous lay board to select patients for the new dialysis procedure (Alexander, 1962). Such boards, designed in part to select persons whose lives have the most social value, would be expected to reject the underemployed, the worker whose job is "less important," the person who has few family ties or obligations, the man with a history of deviance of any sort (Schreiner, 1966). However, most of these boards have been discontinued letting the burden of selection fall onto the doctors themselves (Abram, 1969; Katz and Procter, 1969).

Many centers have set up "universalistic" medical criteria, i.e., standards that apply to all, regardless of social background. The aim may be to choose those patients who are expected to have the least complicated medical course, patients within certain age limits, or patients with specific disease constellations, or only patients with living related donors.

However, many programs appear to introduce less universalistic criteria into the selection process. Psychological and social variables have been stressed, it is predicted that lower-class patients will be at a disadvantage. There are many points at which a lower-class person can be blocked from treatment. As mentioned earlier, he is less likely to seek treatment. If the lower-class person does not attend a major hospital clinic but visits a local physician, he may be less likely to be referred to a transplant center, due either to the doctor's unconscious class bias or to his fear that the costs will be too great. If the patient originates from the "wrong" state, the costs may actually be too high.

In addition, once such a patient arrives at the transplant or dialysis center, his chance might be affected by the physician's unconscious bias toward more middle-class, "respectable" patients, toward patients more like the doctor himself. Hollingshead and Redlich (1958) have indicated such a middle-class bias in the psychiatrists' treatment of mentally-ill patients, as has Sudnow (1967) in the attention given by medical personnel to dying patients.

Aside from unconscious bias, certain conscious factors should reinforce the trend toward the over-selection of middle-class patients. Particularly in the choice of dialysis patients, a great emphasis has been placed on reserving treatment for patients intelligent and stable enough to cooperate with the treatment (Stickel, 1966; Livingston, March, 1970). In a survey of 87 dialysis centers, Katz and Proctor (1969) indicate that 97 percent of the centers believe willingness to cooperate with the treatment in an important criterion for selection, and 82 percent usually use intelligence as an indicator for such cooperation (Table 3). There is less agreement on the necessity for a psychiatric evaluation of the patient, or on the importance of the patient's "social worth" or his financial resources, although many centers utilize such criteria (Abram, 1968). Three-quarters of the centers regard likelihood of vocational rehabilitation to be important (Table 3). It is reasonable to assure that more highly educated middle-class patients are more likely to exhibit this high intelligence and to be seen as able to be vocationally rehabilitated.

In fact, Katz and Procter's (1969) survey of current dialysis centers shows that 91 percent of dialysis patients are white, 45 percent have at least one year of college education (in comparison to only 18 percent of the general U.S. adult population) and 60 percent of the patients had incomes (before dialysis) at, or above, the U. S. median family income. Crane's (1969) preliminary data on heart transplantation indicate a slightly bias in the direction of middle-class patients also.

There is significant discomfort and uncertainty, however, over the use of psychological and sociological variables for selection (Abram, 1968 and 1969). Given the fact that psychiatric prediction is difficult and that uremia can cause both reversable intellectual impairment and episodic psychotic behavior, it is unclear whether the psychiatrist can predict the reaction of a severely ill patient to medical therapy accurately enough to refuse him life-saving treatment.

If the shortage of places becomes more severe as patients are increasingly referred for transplantation, such social factors might be expected to play an increasing, though controversial, role in the selection process.

SOCIETAL NORMS CONCERNING CADAVER ORGANS

The patient's opportunity to receive a transplanted organ is limited not only by the scarcity of personnel, hospital beds, and financial support. Transplantation also requires the unique resource of human organs. For the kidney transplant, a significant proportion of these will be provided by relatives. However, there is still a shortage of cadaver kidneys; patients may wait for years on dialysis. If transplantation of other organs proves successful, the need will be enormous (Ad Hoc task force, 1969; Bethesda Conference Report, 1968).

The unprecedented need for this type of resource has created another situation in which appropriate medical and social norms are lacking, and laws are absent. When can a potential donor be defined as dead? What protections are there for the powerless? What are the physician's ethical responsibilities? Under what conditions can a person donate his body? Should a family agree to donate the organs of a dying member?

It is possible that in the future, organ donation will become customary. Norms will emerge such that the family and physician of a dying patient feel a social obligation to consider this donation. At the present, a favorable attitude based seems to exist in certain population segments, from such norms might eventually develop.

A Gallup poll taken in January, 1968, indicated 70 percent of the adult American population claims to be willing to donate an organ upon death. The higher the subject's education, the more willing he was to donate. Little difference was found between members of the Catholic, Protestant, and Jewish religions. The more negative attitudes of the less educated correspond with research on the attitudes of blue collar and white collar persons toward medicine. Blue collar subjects in New York City were less knowledgeable about illness, less likely to take preventative medical precautions, less acceptant of the sick role, and more important, more skeptical about the efficacy of medical care (Rosenblatt and Suchman, 1964).

Many articles have been written detailing the ethical dangers of transplantation. One major concern has been that the poor and powerful will be exploited as donors for more advantaged citizens (Kass, 1968). Fear of undue pressure to donate and less good medical care of the dying patient has also been expressed. Whether the lower classes share this concern is not known, but the fear that one's threatened death will be met by pleasure rather than vigorous treatment by physicians has been treated humorously in the popular culture. One of the humorous buttons worn reads "Drive Carefully. Dr. Barnard is waiting."

Underlying ambivalence toward donation undoubtedly exists, along with the general positive attitudes of 70 percent of the population. Gallup has projected this 70 percent into 80 million persons, a vast source of potential donors. However, a basic positive attitude, while necessary, is not sufficient to ensure adequate donation or conveyance of potential organs to the location where needed. First of all, in a few states, an individual does not have the legal right to will his organs to medicine (Ersek, *et al.*, 1969; Sadler *et al.*, 1969). In these states, and in cases where the person has not previously expressed an opinion about donation, donation depends on the willingness of the next of kin to give the organs at a moment of grief. Since the organs of elderly patients are not useful, the death of a potential donor is almost always a sudden tragedy for the family, as in the case of a relatively young person who has become the victim of an accident. It is during this highly emotional time that the decision to donate must be made. It is probably much more difficult for the family of a dying patient to donate organs for transplantation, than for a healthy individual to will his own body parts.

The legal limitation to donating one's own body is one limitation that is being rapidly erased. In only one year, 42 states have enacted the uniform Anatomical Gift Act which allows persons to will their organs for transplantation merely by signing a wallet-sized card with two witnesses (Sadler, *et al.*, 1970; Schmeck, 1970). These cards have actually elicited considerable interest. *Modern Medicine*, a magazine which is sent to 210,000 physicians, received requests for 190,000 donor cards from physician and medical societies after an issue publicized the uniform donor card. There is a considerable difference however, in the motivation necessary to actually sign this card and that required simply to express a positive attitude on a Gallup poll. It is not known how many potential donors actually will sign the cards and carry the wallet identification necessary to inform medical personnel of their willingness.

More important, even if a number of persons carry these cards, there will still be great logistical problems in identifying such donors and in contacting a transplant center rapidly enough (Wolstenholme, 1966). The next of kin will probably still have to inform the local physicians of the dying patient's wishes; the local physicians and hospitals will have to be motivated to identify donors and to expend effort in setting the process in motion.

A more rational and rapid way to tap the potential source of organs would appear to be a widespread change in the law which would permit the state, at least in certain cases, to remove organs without family permission (Castel, 1968; Duckeminier and Sanders, 1968; Wolstenholme, 1966). Israel, France, and Sweden have had similar laws (Crosbie, 1970; Wright, I. S., 1969). In Virginia, in cases falling within his jurisdiction, the medical examiner can give permission for the use of organs for transplantation without the consent of the kin or prior consent of the individual, if there is not enough time to notify the kin, and if the family has no known objection (Pierce, 1970). Unclaimed bodies are particularly likely to be considered under this law. Although some organized resistance to extending this type of law might develop (Crosbie, 1970; Wright, I. S., 1969), the general positive attitudes toward organ donation might permit ultimate passage in many states.

Thus, advances in medical technology are constrained not only by the failure of medical communication and resources to keep pace, but also by the laws formulated in earlier situations (Castel, 1968). Other societies also are facing these legal problems. Cortesini in 1966 notes the constraint against donors created by a 1940 Italian law prohibiting removal of any organ from a living person that would permanently diminish his physical integrity (Wolstenholme, 1966).

MEDICAL NORMS CONCERNING POTENTIAL DONORS

Medical Norms Concerning Cadaver Donors—Because of the widespread ethical concern about the treatment of the dying donor, new medical norms have emerged, and most centers have drawn careful guidelines. The physicians have expressed both the overwhelming need to protect the dying patient and the obligation to the prospective recipient not to ruin unnecessarily the relevant organ. Early definitions of death, which depend on the heart's cessation, threatened to encumber transplant technology (Stickel, 1966). Under the leadership of Beecher at Harvard Medical School, new definitions of brain death have been advanced in order that the circulatory system of the body can be maintained until the time of transplantation (Moore, *et al.*, 1968; New Dimensions, 1969).

Although many physicians seem less bothered by the problem of identifying irreversible brain death than are laymen (Crosbie, 1970), there are still wide differences of opinion among doctors as to what precautions are justified and important. This is an area of great normative uncertainty (Hamburger and Crosnier, 1968; Vaux, 1969; Visscher, 1970). Some physicians do not use the electroencephalogram (EEG) routinely and some physicians believe the EEG should be flat for three or four hours; while others insist on 24 to 48 hours (Savage, 1969; Silverman, *et al.*, 1969). In some centers the heart and lung machine must be turned off after death is declared; in others, these machines are discontinued only after the organ is removed (New Dimensions, 1969; Silverman, *et al.*, 1969).

To avoid conflict of interest, it has generally been agreed that the prospective donor should be cared for by a group other than the transplant surgeons, and that the transplant team cannot be involved in the declaration of death (Merrill, 1968). The situation, however, is a more complex one than is often recognized. No one questions the fact that a donor's own chance for life must be protected, and the transplant team should not be allowed to hasten the process of death. However, should the neurologists and transplant team be allowed to consult each other before the donor's death concerning the treatment that will benefit the organ to be donated?

If the fluid balance of the patient is neglected, as occurs sometimes with hopeless patients, the patient will die with a useless kidney. Should the transplant team be allowed to question this type of inadequate therapy? Usually what is good for the kidney will be good for the patient (Stickel, 1966). Whatever the benefits, however, that might accrue to the dying donor himself, some discomfort and uncertainty has been expressed concerning the institution of any therapy designed primarily to benefit the needed organ (Stickel, 1966).

In much of the discussion of this problem, the larger context has been ignored. The question is not simply when should a perspective donor be declared dead, but how long should any apparently hopeless patient be treated by extraordinary means? Transplantation has alerted the society to an already existing problem, and this may be the reason physicians seem to be less disturbed by the issue than are outsiders who are less aware of existing practices. Patients whose brains are destroyed have routinely died in the past, not because their bodies could not be kept alive for a longer period but because extraordinary care was not instituted (Brim, 1970).

In fact, frequently the unconscious brain-damaged donor is kept alive longer, rather than less long, because of transplantation. If the hopeless patient had not been selected as a donor, some of the extraordinary treatment would have been discontinued: (a) the respirator machine would have been turned off, (b) corrective fluids and blood transfusions would not have been used, and (c) cardiac massage would not be utilized if the heart stopped. For the cadaver donor, all of these extraordinary measures persist until brain death can be declared, sometimes prolonging the comatose "life" for two to three days.

Medical Norms Concerning Living Unrelated Donors—One method of alleviating the kidney shortage and avoiding of the cadaver problems would be to utilized unrelated volunteers. However, the lack of clear norms governing such a situation has discouraged many centers from utilizing this source.

Penal volunteers were used at one time at one center as unrelated kidney donors (Crosbie, 1970). The practice was discontinued on the grounds that "the use of penal volunteers, however equitably handled in a local situation, would inevitably lead to abuse if accepted as a reasonable precedent and applied broadly" (Starzl, 1966).

Most other centers have refrained from using unrelated living donors due to ethical considerations of this type and to the failure of such kidneys, up to now, to function any better than cadaver kidneys. However, the University of California Hospitals in San Francisco have used and studied living unrelated volunteers (Sadler, 1969). In one year three public appeals for volunteer donors generated calls from 200 persons; 22 became serious volunteers and 17 were considered to be without psychological or social problems.

Seventeen additional donors a year is not an inconsiderable number for a transplant program. However, at the moment, many transplant surgeons are unsure whether it is ethical to subject an unrelated person to a nephrectomy and the small risk to his life and health involved. Fellner and Schwartz (1970) believe that the medical profession has an undue distrust of the motives of such potential donors.

If living unrelated donors are used more widely, the issue of whether they are to be paid will become a significant one. Hamburger, President of the Transplantation Society, recently sent a letter to the French Ministry of Health urging an international convention that would forbid the purchase and sale of organs. He notes the danger of black mail, of unfair advantage of the poor and the captive, and of coercion in nations where personal liberties are not protected. However, the reaction to this letter at the First International Symposium on the Socio-Medical Aspects of Organ Transplantation at Houston, Texas, March, 1970, indicates that this area is also one of normative uncertainty. Many strong opinions were voiced on both sides of the question. One clergyman noted that in the American culture "he who pays, gets" and indicated that no stance should be taken on this issue (also see Savage, 1969).

In contrast, other members of the Symposium noted that most transplant facilities have been heavily supported with public funds. If scarce places on these programs are filled by persons who can afford to purchase an organ, there will be even less opportunity for the poor to secure treatment, even though they have contributed to the taxes that support the program. The prices for organs are likely to involve thousands of dollars. If there is an opportunity to secure such high prices, voluntary donations of organs both from relatives and cadaver families might be expected to dry up.

The issue would be completely different if the model of blood donation were imitated, and if the government, hospital, or insurance company paid for the organ instead of the individual (Stickel, 1966). However, given the current shortage of funds to pay patients' bills and to expand transplant programs, it appears unlikely that sizeable amounts of money could be allocated to organ purchase in the near future.

Medical Norms Concerning Related Donors—There is also considerable uncertainty and controversy among physicians regarding the use of related donors. The attitude of the staff towards the ethics of donation, and the physician's own role in this area seems to vary from institution to institution. In one institution, the policy has been to discourage living donors. At that center, it is considered unethical to allow the sacrifice of a normal organ with the jeopardy of a normal life (McGeown, 1968). The danger of family "blackmail" and involuntary consent on the part of the donor have been emphasized (Brewer, 1970; United Nations, 1970).

Other centers try to restrict their patients to those with living related donors because they wish to devote the limited resources of equipment, money, and personnel to the cases that have the best prognosis. Such centers are aware of the Kidney Transplant Registry statistics (1969) showing that 81 percent of patients with sibling donors survive two years post transplant with functioning kidneys, in comparison to only 40 percent of the patients with cadaver kidneys. Still other institutions accept patients regardless of their donor source, and expend either more or less effort in obtaining a family donor. If no donor can be found, a cadaver is then used.

The Minnesota kidney transplant program falls in this category, placing great emphasis on securing related donors if possible.

In those programs where related donors are used, the transplant surgeon may find himself in a difficult position; asking a relative to donate a kidney is stressful for the doctor and virtually unparalleled in his experience. In a fundamental sense the situation is contrary to medical norms and role-expectations. *Primum non nocere,* "first of all, do no harm," is a traditional medical norm. The doctor's task is to help cure patients. Yet in this situation, he must ask a person to assume a surgical risk and to undergo a major operation with no physical benefit for himself. Although no deaths or major complications have been reported because of organ donation, and the statistical risk is small, physicians fully recognize that as more donors are used, such problems will occur. The risk of the operation to the patient's life has been calculated to be 0.05 percent and the long-term risk 0.07 percent (Hamburger and Crosnier, 1968).

While attempting to influence a potential donor, the doctor is placed in an ethical or role conflict between his obligation to the donor and his commitment to save the life of his patients. Although the dilemma has been widely discussed (Hamburger and Crosnier, 1968; Wolstenholme, 1966; Stickel, 1966), no clear norms have emerged to guide the doctor, except for the necessity of "informed consent." It is agreed that the prospective donor must be informed about the degree of risk and the inconveniences that will occur. There is no consensus, however, concerning the degree of effort a doctor should exert to secure a family donor, nor about the method he should use (Hamburger and Crosnier, 1968).

Some centers have routinized the selection procedure and institutionalized psychiatric review boards to reject any prospective donor whose ambivalence and anxiety appear too great, and whose volunteering is considered more the result of family pressure than individual desire (Hamburger and Crosnier, 1968; Stickel, 1966). In some programs, the policy has been to make it difficult for the donor to volunteer. In such programs, a given member of the team tries to talk him out of donation (Pierce, 1970) or the donor is not accepted until he has asked to donate many times (Korsch, oral communication. March 1970).

The Minnesota service does not force family members to beg to donate; nor has the onus of intervention been removed from the nonpsychiatric physicians and surgeons responsible for patient care. They are the ones who must advance the idea of family donation and explain both the need and the risks.

At such a center, where a large number of both cadaver and related kidneys are transplanted, there appear to be strong structural pressures on the doctor to resolve the conflict in favor of the recipient and to press hard for a family donor. The surgeons and nephrologists are likely to have had much more contact with the patient than with the donor before any decision is made, and they expect this differential contact to persist. Because of their greater exposure to the patient, they are likely to be extremely motivated to save his life. In addition, the doctor is constantly reminded by his own experience that the recipient will do twice as well with a related kidney as with a cadaver kidney. Almost all of his patients with related kidneys do well, and more than half of the cadaver recipients return sooner or later with irreversible kidney rejection. The small risk to the donor appears less real to the physician, especially if there have been no problems on his own service.

Despite any strong bias in favor of the recipient, direct solicitation of a prospective donor can be extremely uncomfortable. The physician is conscious of the norm against exerting undue pressure but has no clear normative guidelines. What is undue pressure in a specific case? If the potential donor expresses doubts, at what point should the doctor respond by informing him he should not donate?

Merton (1957) suggests that one mechanism for resolving role-conflict is to abridge the role-set, to cut off role-relations with one of the conflicting parties. Such a mechanism has developed at this center. The role-relationship between the doctor and the potential donor has not been eliminated, but contact is kept to a minimum during the decision-making period.

This pattern, as it has emerged allows the physician to urge donation by family members, while enabling him to avoid direct confrontation with potential ambivalent donors. The doctors inform the adult potential recipient (and perhaps the spouse) of the great need to secure a biologically related donor to increase the chances of functional survival. In this way the doctors communicate the statistical urgency of the problem without applying direct pressure on the donor. This task is left to the recipient himself. This tactic appears to alleviate some of the physician's discomfort about his ethical role. However, it may place the patient in an uncomfortable position since he has to request his family to save his life. The degree of stress on the patient in this situation remains to be investigated.

However, this emergent pattern has not been formally institutionalized. Therefore, the doctors' role differs somewhat from case to case, partially due to their own uncertainty about the correct course and to situational differences. The physician may come into contact with a prospective donor who is visiting the patient, or a family may request a consultation.

If a family member consents to be a donor, the procedure followed by most centers appears to be more uniform and routinized. Blood and tissue typing will be carried out to determine compatibility with the recipient. The donor will also receive a thorough medical work-up to assure that his kidneys are normal and that his general health is adequate for donation. He will also be informed about the nature of the operative risk and discomforts. If at this time he decides he does not wish to donate, the doctors at most centers will give him a medical excuse to avoid embarrassment in facing the recipient (Hamburger and Crosnier, 1968).

According to current studies (Fellner and Marshall, 1968, 1970; Eisendrath, 1969), the family donor often experiences feelings of greater self-esteem and, in fact, may think of himself as something of a hero. If kidney donation enhances the donors self-esteem, then some of the ethical problems about the morality of taking from one individual to give to another might be less urgent. On the other hand, Simmons *et al.* (1970) indicate that the donor decision-making process is a significant stress for the families involved, and in particular for the nondonor—the relative who could donate but does not volunteer to do so. Conflict between family members is noted, although some of these conflicts appear resolved once the transplantation is successful.

ORGANIZATIONAL RESPONSES TO AMBIGUITY

The ethical and normative uncertainties raised by transplantation and donation have generated an unusual amount of organizational activity (Page, 1970; United Nations, 1970). On the national level, hearings on the issues have been held in Congress (Schmeck, 1969); Senator Walter Mondale (1968) has proposed establishing a Commission on Health, Science and Society to consider the ethical, social and financial implications of transplantation. Within the medical world international and national symposia on transplantation have been held (Bethesda Conference Report, 1968; Wolstenholme, 1966; Silverman, *et al.*, 1969), and many blue-ribbon panels have been set up to establish ethical guidelines for physicians within existing specialty organizations (Shelly, 1968; Silverman *et al.*, 1969; Wright, I.S., 1969; Corday, 1970; Frye, 1969).

The effect and efficacy of such organizationally-set guidelines is unknown. The extent to which they inhibit inadvisable procedures on the one hand, or technological advance on the other hand, remains to be investigated. Whether or not they will be institutionalized is also an open question. In general, despite all the groups which have met, most of the difficult ethical problems related to organ transplantation remain unsettled.

SUMMARY

In summary, it appears that the organization of societal and medical resources, the communication patterns between university and local physicians, the state laws, and the medical and societal norms lag behind the technological potential of transplantation. The limitation in number of transplant centers creates a special problem of moving potential patients, donors, and organs from outlying communities to these centers. The economically disadvantaged patient from such an outlying community would appear to be the one who suffers most from the shortage of facilities and resources and from the communication gaps within medicine. He is probably the least likely to receive dialysis or transplant treatment.

Some of these problems of "cultural lag" could be solved by more technological advances. Improved tissue-typing and methods of long-term storage of organs could mitigate the cadaver organ shortage and allow all organs to be put to the most efficient use. Implantable artificial organs could eliminate the entire donor problem.

In the interim, patients are being denied needed treatment because of scarce resources; and physicians are experiencing uncertainty as a result of the lack of clear norms and regulations. Whether the society can affect changes in the needed areas within a short period of time, in the face of many other compelling demands, remains to be seen. In the future, more and more expensive technological advances in medicine can be expected. Whether the society can respond effectively to these opportunities is an open question.

TABLE 1.—*Personnel of a Transplant Center**

Director Transplantation Center (surgeon).

Administrative Assistant: (Nurse), Secretary.

Director Transplantation (surgeon): 1 surgical fellow, 1 full time resident, 2 full time interns, 2 part time surgical staff, 4 part time residents.

Director Hemodialysis (Nephrologist): 1 Assistant Director, Head nurse, 6 nurses, 3 technicians.

Nursing Service.

Head nurse: 12–16 nurses and practical nurses.

Special Laboratories.

Histocompatibility Testing: Director, 3 technicians.

Anti-Lymphocyte Globulin Manufacture and quality control: 1 physician, 3 technicians.

Assigned Consultants: Psychiatrist, Social Worker, Dietician, Pediatrician, Neurologist, Otolaryngologist, Orthopedist, Ophthalmologist.

Consultant Services: Nuclear Medicine, Diagnostic Radiology, Radiotherapy, Pharmacy, Vocational Rehabilitation, Physical Medicine, Occupational therapy, Blood Bank, Hematology, Microbiology, Laboratory Medicine.

TABLE 2A.—*Public Sources of Funding for Dialysis and Kidney Transplantation*

National Institute of Health Research Grants to Medical Centers.

U.S. Public Health Service Grants and Contracts to Medical Centers.

Title 19 Medicaid.

Title 18 Medicare.

Vocational Rehabilitation Program.

Regional Medical Program.

Special State Legislation for financial support of renal patients.

State Crippled Children's Services.

Public Law 89–749 (Section 314 d and e)—

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* University of Minnesota Clinical Transplantation Center (chart excludes personnel engaged primarily in research).

Support given directly to kidney disease programs.

Veterans' Administration Hospital Funds and Benefits—primarily for veterans and family.

Table adapted from Kidney Disease Services, Facilities, and Programs in the United States, Washington, D.C., United States Government Printing Office (Public Health Service Publication No. 1942, May), 1969.

TABLE 2B.—*Sources of Payment: For Cardiac Transplant Patients*

(36 cases)

Source of Funds*	*Amount*	*Per cent*
NIH	$238.281	36.3
Private Hospital Insurance	93,873	14.3
Blue Cross-Blue Shield	49,164	7.4
Medicaid	29,476	4.4
Hospital and/or Private Philanthropy	214,993	32.6
Patient or Family	7,672	1.1
Other	25,614	3.9
Total	659,073	100.0

*The distribution of funds is based on information collected as of February, 1969.

Table adapted from: Ad hoc task force on cardiac replacement, National Heart Institute, Washington, D.C. United States Government Printing Office, 1969.

TABLE 3.—*Importance of Selection Criteria Used by 87 Hemodialysis Centers*

(Percent of centers believing the Criterion to be important and using such a criterion frequently.)

Medical Suitability (good prognosis with dialysis), 97.

Absence of Disabling Disease (other than that of renal origin), 95.

Age, 82.

Sex, 3.

Willingness to Cooperate in Dialysis Regimen, 96.

Intelligence (as related to understanding treatment), 82.

Psychiatric Evaluation, 55.

Social Welfare Evaluation of Patient and his Family, 44.

Patient: Judged Congenial, Likeable by Staff, 22.

Social Welfare Burden of Patient's Dependents if not Selected, 25.

Patient's Demonstrated "Social Worth", 32.

Patient's Future Social Contribution, 42.

Likelihood of Vocational Rehabilitation, 74.

Financial Resources for Patient's Treatment, 36.

Research Potential of Patient for Staff, 15.

Primacy of Application for Vacancy Available in Facility, 54.

Table adapted from A. Katz and D. Procter: "Social Psychological characteristics of patients receiving hemodialysis treatment for chronic renal failure: Report of questionnaire survey of dialysis centers and patients during 1967," Washington, D.C., United States Government Printing Office, (July), 1969.

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Notes of a Biology-Watcher—The Technology of Medicine

(By Lewis Thomas, M.D.)

Technology assessment has become a routine exercise for the scientific enterprises on which the country is obliged to spend vast sums for its needs. Brainy committees are continually evaluating the effectiveness and cost of doing various things in space, defense, energy, transportation and the like, to give advice about prudent investments for the future.

Somehow medicine, for all the 60-odd billion dollars that it is said to cost the nation, has not yet come in for much of this analytical treatment. It seems taken for granted that the technology of medicine simply exists, take it or leave it, and the only major technologic problem in which policy-makers are interested is how to deliver today's kind of health care, with equity, to all the people.

When, as is bound to happen sooner or later, the analysts get around to the technology of medicine itself, they will have to face the problem of measuring the relative cost and effectiveness of all the things that are done in the management of disease. They make their living at this kind of thing, and I wish them well, but I imagine they will have a bewildering time. For one thing, our methods of managing disease are constantly changing—partly under the influence of new bits of information brought in from all corners of biologic science. At the same time, a great many things are done that are not so closely related to science, some not related at all.

In fact, there are three quite different levels of technology in medicine, so unlike each other as to seem altogether different undertakings. Practitioners of medicine and the analysts will be in trouble if they are not kept separate.

1. First of all, there is a large body of what might be termed "nontechnology," impossible to measure in terms of its capacity to alter either the natural course of disease or its eventual outcome. A great deal of money is spent on this. It is valued highly by the professionals as well as the patients. It consists of what is sometimes called "supportive therapy." It tides patients over through diseases that are not, by and large, undertsood. It is what is meant by the phrases "caring for" and "standing by." It is indispensable. It is not, however, a technology in any real sense, since it does not involve measures directed at the underlying mechanism of disease.

It includes the large part of any good doctor's time that is taken up with simply providing reassurance, explaining to patients who fear that they have contracted one or another lethal disease that they are, in fact, quite healthy.

It is what physicians used to be engaged in at the bedside of patients with diphtheria, meningitis, poliomyelitis, lobar pneumonia and all the rest of the infectious diseases which have since come under control.

It is what physicians must now do for patients with intractable cancer, severe rheumatoid arthritis, multiple sclerosis, stroke and advanced cirrhosis. One can think of at least 20 major diseases that require this kind of supportive medical care because of the absence of an effective technology. I would include a large amount of what is called mental disease, and most varieties of cancer, in this category.

The cost of this nontechnology is very high, and getting higher all the time. It requires not only a great deal of time but also very hard effort and skill on the part of physicians; only the very best of doctors are good at coping with this kind of defeat. It also involves long periods of hospitalization, lots of nursing, lots of involvement of nonmedical professionals in and out of the hospital. It represents, in short, a substantial segment of today's expenditures for health.

2. At the next level up is a kind of technology best termed "halfway technology." This represents the kinds of things that must be done after the fact, in efforts to compensate for the incapacitating effects of certain diseases whose course one is unable to do very much about. It is a technology deisgned to make up for disease, or to postpone death.

The outstanding examples in recent years are the transplantations of hearts, kidneys, livers and other organs, and the equally spectacular inventions of artificial organs. In the public mind, this kind of technology has come to seem like the equivalent of the high technologies of the physical sciences. The media tend to present each new procedure as though it represented a breakthrough and therapeutic triumph, instead of the makeshift that it really is.

In fact, this level of technology is, by its nature at the same time highly sophisticated and profoundly primitive. It is the kind of thing that one must continue to do until there is a genuine understanding of the mechanisms involved in disease. In chronic glomerulonephritis, for example, a much clearer insight will be needed into the events leading to the destruction of glomeruli by the immunologic reactants that now appear to govern this disease, before one will know how to intervene intelligently to prevent the process, or turn it round. But when this level of understanding has been reached, the technology of kidney replacement will not be much needed, and should no longer pose the huge problems of logistics, cost and ethics that it poses today.

An extremely complex and costly technology for the management of coronary heart disease has evolved, involving specialized ambulances and hospital units, all kinds of electronic gadgetry and whole platoons of new professional personnel, to deal with the end results of coronary thrombosis. Almost everything offered today for the treatment of heart disease is at this level of technology, with the transplanted and artificial hearts as ultimate examples. When enough has been learned to know what really goes wrong in heart disease, one ought to be in a position to figure out ways to prevent or reverse the process, and when this happens the current elaborate technology will probably be set to one side.

Much of what is done in the treatment of cancer, by surgery, irradiation and chemotherapy, represents halfway technology, in the sense that these measures are directed at the existence of already established cancer cells, but not at the mechanisms by which cells become neoplastic.

It is a characteristic of this kind of technology that it costs an enormous amount of money and requires a continuing expansion of hospital facilities. There is no end to the need for new, highly trained people to run the enterprise. And there is really no way out of this, at the present state of knowledge. If the installation of specialized coronary-care units can result in the extension of life for only a few patients with coronary disease (and there is no question that this technology is effective in a few cases), it seems to me an inevitable fact of life that as many of these as can be will be put together, and as much money as can be found will be spent. I do not see that anyone has much choice in this. The only thing that can move medicine away from this level of technology is new information, and the only imaginable source of this information is research.

3. The third type of technology is the kind that is so effective that it seems to attract the least public notice; it has come to be taken for granted. This is the genuinely decisive technology of modern medicine, exemplified best by modern methods for immunization against diphtheria, pertussis and the chilhood virus diseases, and the contemporary use of antibiotics and chemotherapy for bacterial infections. The capacity to deal effectively with syphilis and tuberculosis represents a milestone in human endeavor, even though full use of this potential has not yet been made. And there are, of course, other examples: the treatment of endocrinologic disorders with appropriate hormones, the prevention of hemolytic disease of the newborn, the treatment and prevention of various nutritional disorders and perhaps just around the corner the management of Parkinsonism and sickle-cell anemia. There are other examples, and everyone will have his favorite candidates for the list, but the truth is that there are nothing like as many as the public has been led to believe.

The point to be made about this kind of technology—the real high technology of medicine—is that it comes as the result of a genuine understanding of disease mechanisms, and when it becomes available, it is relatively inexpensive, relatively simple, and relatively easy to deliver.

Offhand, I cannot think of any important human disease for which medicine possesses the capacity to prevent or cure outright where the cost of the technology is itself a major problem. The price is never as high as the cost of managing the same diseases during the earlier stages of no-technology or halfway technology. If a case of typhoid fever had to be managed today by the best methods of 1935, it would run to a staggering expense. At, say, around 50 days of hospitalization, requiring the most demanding kind of nursing care, with the obsessive con-

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Footnote at end of article.

cern for details of diet that characterized the therapy of that time, with daily laboratory monitoring and, on occasion, surgical intervention for abdominal catastrophe, I should think $10,000 would be a conservative estimate for the illness, as contrasted with today's cost of a bottle of chloramphenicol and a day or two of fever. The halfway technology that was evolving for poliomyelitis in the early 1950's, just before the emergence of the basic research that made the vaccine possible, provides another illustration of the point. Do you remember Sister Kenney, and the cost of these institutes for rehabilitation, with all those ceremonially applied hot fomentations, and the debates about whether the affected limbs should be totally immobilized or kept in passive motion as frequently as possible, and the masses of statistically tormented data mobilized to support one view or the other? It is the cost of that kind of technology, and its relative effectiveness, that must be compared with the cost and effectiveness of the vaccine.

Pulmonary tuberculosis had similar episodes in its history. There was a sudden enthusiasm for the surgical removal of infected lung tissue in the early 1950's, and elaborate plans were being made for new and expensive installations for major pulmonary surgery in tuberculosis hospitals, and then INH and streptomycin came along and the hospitals themselves were closed up.

It is when physicians are bogged down by their incomplete technologies, by the innumerable things they are obliged to do in medicine when they lack a clear understanding of disease mechanisms, that the deficiencies of the health-care system are most conspicuous. If I were a policy-maker, interested in saving money for health care over the long haul, I would regard it as an act of high prudence to give high priority to a lot more basic research in biologic science. This is the only way to get the full mileage that biology owes to the science of medicine, even though it seems, as used to be said in the days when the phrase still had some meaning, like asking for the moon.

The Preservation of Human Cadaver Kidneys for Transplantation

(By Robert E. McCabe, Jr., M.D., and Hugh F. Fitzpatrick, M.D.)

(Note.—Figures and tables referred to are not printed in the Record.)

Since the institution of the first regional program in hemodialysis in 1960,[1] an increasing number of patients have been accepted for treatment throughout the United States. In the New York metropolitan area, approximately 700 patients are currently under treatment at 30 dialysis centers. Many of these patients are candidates for a renal allograft and have a relative willing and able to donate a kidney; more than 200, however, are less fortunate and are currently awaiting a cadaver transplant.

With such a large number of patients on the cadaver waiting list, it is not unusual for an individual to undergo twice-weekly hemodialysis for one to two years before a kidney becomes available. In considering mortality statistics, with more than 100,000 deaths per year in New York City, such an acute shortage of salvageable organs seemed inconsistent with the potential supply, especially when short-term kidney banking is now a clinical reality.[2-4]

Since we had proven capability in successful preservation of human kidneys,[5] and did not yet have a formal transplant program, it seemed appropriate for us to publicize the urgent need for viable organs and to alert the medical profession in the methods and results of organ procurement, preservation, and transplantation. Such a program has required centralized tissue typing, training of adequate technical staff in renal preservation to take call on a 24-hour basis, and close cooperation between multiple dialysis units and the transplant centers.

We have encouraged tissue typing of an expanding recipient pool from multiple dialysis units at the New York Blood Center on peripheral leucocytes collected from defibrinated blood by the microdroplet technique of Terasaki.[6] The ABO and HL-A phenotypes are stored in a computer. After the donor's ABO and HL-A phenotypes are entered, the computer has been programmed to print out all matches from identical through three major mismatches. We have also encouraged each dialysis unit to send a monthly collected specimen of serum to the blood center for the cross match. All potential recipients with a positive cross match to a potential donor have been automatically excluded from consideration for transplantation.

The preservation system (Fig. 1) is a Belzer organ-perfusion apparatus, consisting of a membrane oxygenator, pulsatile pump, two perfusion chambers, filter, and heat exchanger. The perfusate, maintained at 8 C, consists of type-specific cryoprecipitated plasma to which penicillin, hydrocortisone, dextrose, insulin, manitol, and magnesium sulfate are added according to the method of Belzer. The pH is maintained at 7.4 by regulation of carbon dioxide flow into the membrane. All kidneys are placed on the unit at a pulse rate of 60 beats per minute and a systolic pressure of 60 mm Hg. More than 300 human kidneys have been preserved with this system for a maximum of 50 hours throughout the United States. This is adequate time to complete the tissue typing, including the cross match and to permit preoperative preparation of the recipients. Transplant operations may therefore be performed semielectively, simultaneously, in sequence, at multiple institutions.

We have elected, in this congested area, to transport the kidneys to the preservation laboratory by police car or helicopter rather than attempt to remove the preservation unit to the donor hospital, as practiced in other smaller metropolitan areas. A transport box (Fig. 2) was thus devised after the method of Terasaki and consists of a presterilized one-half gallon wide-mouth polypropylene container, two prepackaged and sterilized intestinal bags and a styrofoam box filled with ice. In this manner cold flushed kidneys can be transported in a sterile container from the donor hospital to both the preservation laboratory and to the recipient hospital. Although warm ischemic time is most critical and must be kept less than 90 minutes, cold ischemic time is far less critical and may well approximate 12 to 24 hours.[7] [8] This is adequate time for transporting kidneys over widely separated geographic areas.

When we hear of a potential kidney donation, the preservation laboratory is alerted and makes the necessary arrangements for tissue typing of the donor at the blood center usually from peripheral leukocytes but on occasion from an antigen prepared from a lymph node or from spleen or kidney biopsy in the absence of peripheral blood. The Belzer perfusate and the preservation unit are set up by the technical staff, while the harvesting surgeons supervise donor maintenance in cooperation with the staff of the donor hospital until death has been pronounced.

Special care is used during donor nephrectomy to handle the ureter gently, to preserve adequate periureteral fat, and to protect the kidney from vascular injury in case of an anomaly. In all cases attempts are made to convert a double artery or vein into a single vessel by taking a cuff of the appropriate vessel.

After harvesting, the kidneys are transported in ice to the preservation laboratory for banking and testing. If flow is less than 50 ml/min at a systotolic pressure of 60 mm Hg, if pH falls, or perfusate serum glutamic loacetic transaminase or lactic dehydrogenase levels rise, preservation is considered inadequate, and the kidneys are discarded. Such pretransplant physiological evaluation of the kidneys has proven very important in allograft survival rates.[9]

During the past year, we have been fortunate enough to harvest 30 kidneys from ten different hospitals in three adjacent states (Table) through close cooperation between the astute staff at the donor hospitals and the preservation laboratory. All were patients who had sustained irreversible brain damage from head trauma, subarachnoid hemorrhage, hypoxia with cardiac arrest, or a cerebrovascular accident. Consent for organ donation was obtained in advance of cardiac arrest from the nearest relative and from the local medical examiner when indicated. During the agonal state vigorous rehydration with blood, plasma, and saline solution was encouraged. Phenoxybenzamine hydrochloride, 100 mg., and heparin sodium, 10,000 units, were administered before donor nephrectomy to reduce the effects of warm and cold ischemia.

Of these 30 kidneys, only 20 were deemed satisfactory for subsequent transplantation. Recipients from five different hospitals were selected primarily on the basis of tissue typing but secondarily on urgent need and duration on the waiting list. Those patients who had previously rejected a kidney from a related living donor were given special priority when other parameters were equal.

Ten kidneys were not used because there was not an appropriately matched rceipient[2] or preservation was considered inadequate.[3] Of these eight, three were deemed unsuitable for transplantation because of vascular anomalies in association with poor flow on the preservation system. Of the 30 kidneys, nine had such arterial or venous anomalies, but no double ureters were encountered.

An excellent preservation resulted in nine cases, in that there was prompt function following revascularization and post transplant dialysis was not necessary; an additional eight were considered good with delayed restoration of renal function after a brief period of acute renal failure. Two were classified as fair results because of complications related either to preservation or to reimplantation and rejection. One kidney failed to function and revealed a fulminating cortical necrosis at transplant nephrectomy; one additional transplant was rejected within one month for a short-term graft survival rate of 84%. Of the 20 patients to receive transplants, three have died from long-term complications of surgery, two with a functioning allograft. Sixteen recipient, or 80%, currently have a functioning allograft, the longest for nine months. Since the period of risk in these patients is two years, it is too early to predict long-term graft survival. Such a high graft-survival rate has been possible because of physiologic evaluation of graft viability while with the preservation unit, as well as improved techniques in tissue typing and recipient selection. Such excellent results also attest to the medical and surgical expertise of the recipient transplant teams.

In reviewing our first year's results we have been heartened by the unique cooperation shown by so many institutions; yet we have been equally disappointed and frustrated on numerous occasions when viable organs were lost by delay or inability to obtain consent from the nearest relative or reluctance by the responsible physician to push intravenous fluids or to declare the patient dead, even though the patient was areflexic, maintained with a respirator, and had a flat electroencephalogram.

Consequently, we have established stringent criteria for organ donation (Table 2).

Footnotes at end of article.

These are the following:

(1) Consent from family and medical examiner (if indicated).

(2) No known preexisting kidney disease, hypertension, or malignancy (except for a brain tumor).

(3) Serum creatinine level less than 3 mg/100 ml on the day of death.

(4) Warm ischemic time (from cardiac arrest to removal of kidneys) less than 90 minutes.

(5) Satisfactory flow on the perfusion system without a rising perfusion pressure, falling pH, rising enzymes.

(6) An appropriate recipient selected primarily on the basis of tissue typing.

Although we have salvaged four out of ten kidneys when cardiac arrest occurred before arrival of the surgical team at the Donor Hospital, we feel the yield is not worthy of the effort and now discourage organ donations when we must await cardiac arrest. It is readily apparent that many of our medical colleagues have of necessity redefined "death" in order to provide us with viable organs. Our criteria for neurological death, namely, (1) apnea for three minutes while off respirator in presence of normal arterial Po_2 and Pco_2, (2) areflexia, including cold calorics, and (3) flat electroencephalogram at maximum gain for 24 hours, have now been widely accepted not only by most internists and neurologists in our area but by hospital administrators as well. We will not accept kidney donation from such a patient, however, until at least two internists, neurologists, or anesthesiologists have pronounced neurological or brain "death."

We also encourage optimal donor maintenance by rehydration with plasma and saline solution in order to push the central venous pressure above 10 cm of water. Because of splanchnic pooling so often associated with neurological death, 500 to 1,000 ml of plasma and 1 to 3 liters of saline solution or lactated Ringers solution may be required before there is an acceptable cardiac output. After such hydration, most potential donors can be weaned from all vasopressor substances. Urinary output can usually be maintained above 100 ml/hr throughout the agonal state by infusing furosemide, 40 mg and manitol, 25 gm. Such donor maintenance assures us of viable organs, with good flow on the preservation system, and a posttransplant operative course free of acute renal failure that might mask an unsuspected rejection crisis.

Most internists have one or more patients in their practices with terminal renal disease. They are vaguely aware of the potentials of cadaver transplantation and are showing increasing interest in organ procurement, as is the general public. It is these dedicated physicians, with a vested interest in their patient's welfare, who have provided us most contacts for organ donation. To provide kidneys to the large number of people now awaiting a transplant is time consuming to any busy practitioner. There is no question, however, that the rewards justify the effort. To ask for an autopsy is expected; to ask for organ donation, which is a "sterile autopsy," should be an equal customary procedure, accepted by public and physicians alike in the active promotion of medical science. In view of current techniques in organ procurement and immunosuppressive therapy we feel it is more humane and far more economic to provide these many patients a cadaver transplant rather than maintain them with long-term hemodialysis.

Although the acute shortage of salvageable organs persists, we have established workable methods and procedures during the first year of our program, have made valuable contacts with multiple institutions, and have succeeded in promoting a cooperative effort in organ procurement on a regional basis. As a result of our initial experience, we anticipate and are encouraging a regional approach to organ procurement coordinated through the New York Blood Center and sponsored by the New York Metropolitan Regional Medical Program. By broader utilization of existing facilities, and with widespread community and professional support, an increasing number of kidneys are being made available to the organ pool. In the near future we consequently anticipate a substantial reduction in the duration a dialysis patient must await a cadaver transplant.

NONPROPRIETARY AND TRADE NAMES OF DRUGS

Phenoxybenzamine hydrochloride—*Dibenzyline.*

Furosemide—*Lasix.*

Dr. Albert Rubin, Rogosin Laboratories, New York Cornell Medical Center, and Dr. Marilena Fotino, Director of the Leucocyte Laboratory of the New York Blood Center, cooperated in this program.

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By Mr. MAGNUSON (by request):

S. 4036. A bill to amend the act to authorize appropriations for the fiscal year 1973 for certain maritime programs of the Department of Commerce. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to amend the act to authorize appropriations for the fiscal year 1973 for certain maritime programs of the Department of Commerce, and ask unanimous consent that the letter of transmittal and statement of purposes and provisions be printed in the Record with the text of the bill.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 4036

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Act of August 22, 1972 (86 Stat. 617; P.L. 92–402) is amended by striking out of paragraph (a) thereof the figure $280,000,000 and inserting in lieu thereof the figure $455,000,000.

Washington, D.C.,
September 13, 1972.

Hon. Spiro T. Agnew,
President of the Senate,
U.S. Senate,
Washington, D.C.

Dear Mr. President: Enclosed are four copies of a draft bill, "To amend the Act to authorize appropriations for the fiscal year 1973 for certain maritime programs of the Department of Commerce." together with a statement of purposes and need in support thereof.

The Office of Management and Budget advises that enactment of this legislation would be in accord with the program of the President.

Sincerely,

Peter G. Peterson,
Secretary of Commerce.

Statement of the Purposes and Provisions of the Draft Bill To Amend the Act To Authorize Appropriations for the Fiscal Year 1973 for Certain Maritime Programs of the Department of Commerce

Section 209 of the Merchant Marine Act, 1936, provides that after December 31, 1967, there are authorized to be appropriated for certain maritime activities only such sums as Congress may specifically authorize by law.

The bill the Department of Commerce requested to have introduced, and which was introduced and enacted as P.L. 92–402, authorized appropriations for the fiscal year 1973 for these activities. One of these activities is the, "acquisition, construction, or reconstruction of vessels and construction-differential subsidy and cost of national defense features incident to the construction, reconstruction, or reconditioning of ships." The amount the Department requested for this purpose was $250,000,000. The amount authorized by Congress in P.L. 92–402 was $280,000,000, of which $30,000,000 is for the purchase of modern or reconstructed United States-flag vessels. For the reasons hereinafter given, our request for the ship construction program understated our needs for funds in fiscal 1973 by $175,00,000. At the time we made our authorization request it was expected that the ship construction program for fiscal 1972 would use up all available funds and that supplemental funding might be required for fiscal 1973 in the estimated amount of $175,000,000. As the attached table shows, we are awarded contracts in fiscal 1972 which will be funded out of 1972 and prior years' appropriations to the extent of $279,465,000, and which will be funded out of fiscal 1973 appropriations to the extent of $96.1 million. This used up all but $16.8 million of 1972 and prior years' appropriations. Assuming the appropriations authorized by P.L. 92–402 are made, this will leave only $170.7 million available for ship construction from the fiscal 1973 and prior years' appropriations.

The signing of contracts for 16 ships on June 30, 1972, has begun a new period of substantial American shipbuilding activity. To adequately support this activity it is necessary that our authorization for ship construction in fiscal 1973 be increased by $175,000,000. This would give us $425 million (not including the $30 million for the purchase of ships) plus $16.8 million carryover, which totals $441.8 million.

We anticipate that this $441.8 million would permit us to fund ships and contract for ships in accordance with anticipated demand.

DEPARTMENT OF COMMERCE, MARITIME ADMINISTRATION, SHIP CONSTRUCTION

[In thousands of dollars]

	Number of ships	Funded 1972	Number of ships	Funded 1973
Carryover to fiscal year 1972		66,578		
Appropriated, fiscal year 1972		229,687		
Total available, 1972		296,265		
Carryover to fiscal year 1973				16,800
Authorization request 1973				250,000
Total available, 1973				266,800
1972 Contracts:				
AML (conversion)	1	4,000		
Lykes (conversion)	4	6,000		
Margate (tankers)	3	23,800		
Central Gulf (LASH)	2	23,800		
States SS (roll-on roll-off)	3 (2)	33,300	(1)	17,000
Maritime Fruit—B.T. (tankers)	3	94,300		
Aeron (tankers)	3 (1)	12,100	(2)	24,300
Langfitt (seatrain)	1	19,900		
Tyler and Polk (seatrain)	2 (1)	27,100	(1)	27,900
Sea Service (takers)	4 (1)	8,600	(3)	26,900
Total				96,100
Trade-ins (seatrain)		17,500		
Adjustments prior year contracts		5,665		
Reserve for cancellation, changes and extras		3,400		
Total		279,465		
Carryover balances		16,800		[1] 170,700

[1] Available for new contracts. Includes estimated $19200,000 reserved for cancellation, changes, and extras.

By Mr. MAGNUSON:

S. 4037. A bill to amend the Sockeye Salmon Fisheries Act of 1947 to authorize the restoration and extension of the sockeye and pink salmon stocks of the Fraser River system, and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce a bill to amend the Sockeye Salmon Fisheries Act of 1947 to authorize the restoration and extension of the sockeye and pink salmon stocks of the Fraser River system, and for other purposes.

Under a treaty, the United States and Canada jointly manage the sockeye and pink salmon runs of the Fraser River. Although the Fraser River system is located entirely within Canada, a large number of its sockeye and pink salmon migrate through U.S. waters where they can be caught by U.S. fishermen.

The runs were almost extinguished in the 1930's because rock slides caused by railroad construction blocked the river, and the fish could not get up to their spawning grounds. The United States and Canada entered negotiations which resulted in a treaty under which fish passage facilities were constructed to get the fish over the block at Hell's Gate Canyon. Since then, the runs have gradually increased until the average sockeye salmon catch by both nations amounts to about 2,402,954 fish, and the average annual catch of pinks totals 4,118,978 fish. The fish are divided as equally possible between the two nations.

The management is in the hands of the International Pacific Salmon Fisheries Commission, composed of three Canadian and three U.S. Commissioners.

In recent years, the Commission has sought to increase salmon production on the Fraser system by the use of artificial spawning channels. The two Governments shared the construction costs of the Commission and its staff. The channels have proven fantastically successful.

As a consequence, the Commission and its staff have in the past couple of years developed a 16-year—four sockeye cycles—program to increase sockeye and pink salmon production. Nine sockeye channels and three pink channels are planned. The total cost is estimated at $14 million. The U.S. share would be $7 million.

When completed, the projects would contribute fish worth over $14.6 million per year at fishermen prices, or $30.8 million at market prices. In other words, they would produce each year what the total of the projects cost.

Canadian fishery representatives are urging that the Canadian Government provide the entire $14 million in construction costs so that the Canadian fishermen could claim the entire program production of salmon. It would be catastrophic to U.S. fishermen and economy for this to happen. The United States cannot afford to let this happen.

The U.S. State Department and the Congress have rarely, if ever, provided each year as much as Canada has been willing to contribute for Commission operating and construction costs. Canada will always appropriate its 50 percent share of costs. The United States then comes up with a lesser amount, and Canada then cuts back its contribution to match. It has been a most embarrassing experience for U.S. Commissioners and U.S. fishermen.

By the time the construction program is completed, the projects will have produced about $72 million worth of fish at 1971 fishermen prices. The projects will have paid for themselves five times.

Thereafter, they will annually produce $14 million at 1971 prices. There is no guesswork in these projections. The several channels we have had in operation produced beyond our expectations and have proven that our planned program will work.

By Mr. FONG:

S.J. Res. 270. A joint resolution to establish a National Commission on Social Security. Referred to the Committee on Finance.

ESTABLISHMENT OF NEW INDEPENDENT BI-PARTISAN NATIONAL SOCIAL SECURITY COMMISSION

Mr. FONG. Mr. President, today I am introducing a Joint Resolution which will establish an independent National Social Security Commission.

The National Social Security Commission will have a continuing responsibility to study, investigate, and review the Federal Old-Age, Survivors, and Disability Insurance program and the Health Insurance programs which operate under authority of the Social Security Act.

The constant review of the social security system which will be carried on by the Commission will include: First, the fiscal status of the trust funds; second, the adequacy, scope, and conditions of qualification for benefits; third, the impact of social security on other elements in the economic security of American citizens in both the public and private sectors; fourth, quality of administration; and fifth, any substantial inequities which may exist under the programs.

At present the Social Security Act provides for such an overview—on an intermittent basis—by the Advisory Council on Social Security. My Resolution would substitute the full-time National Social Security Commission for the latter.

To rely for such important studies on an advisory council, which holds a limited number of meetings during 1 year out of 4, as is now the case, in my judgment is unfair to the American people, the Congress, and the President.

Social security is big business. In many respects it is the biggest business operation in America. There is no citizen who is not affected directly or indirectly in its financing. Over 90 percent of the people are covered as beneficiaries or potential beneficiaries.

Billions and billions of dollars are involved. The economic security of tens of millions of American citizens is dependent on social security, and its integrity. The degree of equity which prevails in the system, or is absent from it, is of serious consequence to every American.

A constant watchdog operation, independent of its administrators, is needed if the interests of the people are to be safeguarded—not a part-time, intermittent overview, but a full-time surveillance which is carried out every day. This is the intent and purpose of the National Social Security Commission which would be created by my resolution.

This National Social Security Commission will first serve the people. But it will also be of immeasurable assistance to the President, the Congress, and, indeed, the Secretary of Health, Education, and Welfare, in their several and collective efforts to make the social security system of maximum benefit to the people.

The importance of the Commission's work, as set forth in the resolution, is underscored by the manner of appointment of its nine members, and the provision that the Commission shall be bipartisan.

The Commission Chairman and four members will be appointed, on bipartisan basis, by the President with the advice and consent of the Senate. Two members each, no more than one from a single political party, will be appointed by the President Pro Tempore of the Senate and the Speaker of the House.

Members of the Commission shall be individuals of recognized standing and distinction who have demonstrated capacity to discharge the great responsibility which the resolution places upon it.

The Commission membership unquestionably should include men or women recognized as authorities in the fields of actuarial science, economics, and other disciplines.

While the language of the resolution is relatively simple, considerable effort has gone into its development. I am grateful to the many persons who have made valuable suggestions related to its provisions.

A recommendation for creation of this independent, bipartisan National Social Security Commission was made earlier in the year by Republican members of the Special Committee on Aging as part of the latter's annual report to the Senate. It has been most gratifying since then to receive expressions of support for the idea by a number of Democratic Senators.

It is late in the final session of the 92d Congress. Because of time limits and heavy workloads, I recognize the virtual impossibility of enactment of this resolution before adjournment. Certainly I do not want hasty consideration of such an important proposal—no more than I favor hurried, precipitate action on any social security measure without careful study and review by appropriate committees, and interested parties outside of Congress.

It is in the spirit of inviting such review that I now introduce Senate Joint Resolution 270 to establish the National Social Security Commission. I would be most grateful for any suggestions by Members of the Congress, or others, for improvements in its language. When adopted, I want this legislation to be the best possible.

It is my intention to reintroduce this resolution as a first order of business when the 93d Congress convenes in January. At that time I shall solicit cosponsors.

It is my hope that there will, at that time, be many Senators of both sides of the aisle who will be sponsors. The need is bipartisan. The solution, I am sure from comments I have received, will also be bipartisan.

Because of its far-reaching impact, Mr. President, I ask unanimous consent for insertion of the text of Senate Joint Resolution 270 at this point in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 270

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there is hereby established a commission to be known as the National Commission on Social Security (hereinafter referred to as the "Commission").

(b) (1) The Commission shall consist of—

(A) five members to be appointed by the President, by and with the advice and consent of the Senate, one of which members shall, at the time of appointment, be designated as Chairman of the Commission;

(B) two members to be appointed by the Speaker of the House of Representatives; and

(C) two members to be appointed by the President pro tempore of the Senate.

(2) At no time shall more than three of the members appointed by the President, one of the members appointed by the Speaker of the House of Representatives, or one of the members appointed by the President pro tempore of the Senate, be members of the same political party.

(3) The membership of the Commission shall consist of individuals who are of recognized standing and distinction and who possess demonstrated capacity to discharge the duties imposed on the Commission. No individual who is otherwise an officer or full-time employee of the United States shall serve as a member of the Commission.

(4) The Chairman of the Commission shall designate a member of the Commission to act as Vice Chairman of the Commission.

(5) A majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

(6) Members of the Commission shall be appointed for a term of 4 years.

(7) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as that herein provided for the appointment of the member first appointed to the vacant position.

(c) Members of the Commission shall receive $138.00 per diem while engaged in the actual performance of the duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(d) The Commission shall meet at the call of a majority of the members of the Commission; except that meetings of the Commission shall be held not less frequently than once in each calendar month which begins after a majority of the authorized membership of the Commission has first been appointed.

Sec. 2. (a) It shall be the duty and function of the Commission to conduct a continuing study, investigation, and review of—

(1) the Federal old-age, survivors, and disability insurance program established by title II of the Social Security Act; and

(2) the health insurance programs established by title XVIII of such Act.

(b) Such study, investigation, and review of such programs shall include (but not be limited to)—

(1) the fiscal status of the trust funds established for the financing of such programs and the adequacy of such trust funds to meet the immediate and long-range financing needs of such programs;

(2) the scope of coverage, the adequacy of benefits, and the conditions of qualification for benefits, provided by such programs;

(3) the impact of such programs on, and their relation to, public assistance programs, non-governmental pension and insurance programs, other governmental retirement and annuity programs, medical service, delivery systems, and national employment practices;

(4) the quality of the administration of such programs;

(5) Any inequities (whether attributable to provisions of law relating to the establishment and operation of such programs, to rules and regulations promulgated in connection with the administration of such programs, or to administrative practices and procedures employed in the carrying out of such programs) which affect substantial numbers of individuals who are insured under such programs.

Sec. 3. The Commission shall submit an annual report of its study, investigation, and review, of programs (referred to in section 2), together with its recommendations with respect to such programs, to the President and to the Congress. In addition, the Commission shall, at such times as it deems appropriate, submit to the Secretary of Health, Education, and Welfare, reports on, and recommendations with respect to, such programs.

Sec. 4. (a) The Commission shall appoint an Executive Director of the Commission who shall be compensated at a rate fixed by the Commission, but which shall not exceed the rate established for level V of the Executive Schedule by title 5, United States Code.

(b) In addition to the Executive Director, the Commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

Sec. 5. In carrying out its duties under this Joint Resolution, the Commission, or any duly authorized committee thereof, is authorized to hold such hearings, sit and act at such times and places, and take such testimony, with respect to matters with respect to which it has a responsibility under this Joint Resolution, as the Commission or such committee may deem advisable. The Chairman of the Commission or any member authorized by him may administer oaths or affirmations to witnesses appearing before the Commission or before any committee thereof.

Sec. 6. The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to enable it to carry out its duties under this Joint Resolution. Upon request of the Chairman of the Commission, any such department or agency shall furnish such information to the Commission.

Sec. 7. The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

Sec. 8. There are hereby authorized to be appropriated such sums as may be necessary to carry out the preceding provisions of this Joint Resolution.

Sec. 9. It shall be the duty of the Health Insurance Benefits Advisory Council (established by section 1867 of the Social Security Act) and of the Advisory Council on Medical Assistance (established by section 1906 of such Act), respectively, to provide timely notice to the Commission of any meeting thereof, and the Chairman of the Commission (or his delegate) shall be entitled to attend any such meeting.

Sec. 10. Section 706 of the Social Security Act (relating to appointment of Advisory Council on Social Security) is hereby repealed.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 3988

At the request of Mr. Mondale, the Senator from Michigan (Mr. Hart) was added as a cosponsor of S. 3988, a bill to establish a temporary Commission on National Security.

S. 4001

Mr. AIKEN. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Maine (Mrs. SMITH) be added as a cosponsor of S. 4001, the social security bill, which was introduced by Senator MANSFIELD and myself and now has about 78 cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSORS OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 97

Mr. THURMOND. Mr. President, I ask unanimous consent that the names of the following Senators be added as cosponsors to Concurrent Resolution 97, which was introduced by me on September 19, 1972, concerning prisoners of war and missing in action, and which resolution is on the calendar as No. 1162: The Senator from Oregon (Mr. HATFIELD), the Senator from Tennessee (Mr. BROCK), the Senator from Wyoming (Mr. MCGEE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Alabama (Mr. ALLEN), the Senator from Delaware (Mr. BOGGS), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. FANNIN), the Senator from Washington (Mr. MAGNUSON), the Senator from Florida (Mr. CHILES), the Senator from Utah (Mr. BENNETT), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Utah (Mr. MOSS), the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from New Hampshire (Mr. COTTON), the Senator from Connecticut (Mr. WEICKER), the Senator from Deleware (Mr. ROTH), the Senator from Wyoming (Mr. HANSEN), the Senator from Alaska (Mr. STEVENS), the Senator from Kentucky (Mr. COOPER), the Senator from Colorado (Mr. DOMINICK), the Senator from Georgia (Mr. TALMADGE), the Senator from Nevada (Mr. CANNON), the Senator from Nevada (Mr. BIBLE), the Senator from Colorado (Mr. ALLOTT), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Rhode Island (Mr. PELL), the Senator from North Dakota (Mr. BURDICK), the Senator from Michigan (Mr. GRIFFIN), the Senator from Iowa (Mr. MILLER), the Senator from Maryland (Mr. MATHIAS), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from Alabama (Mr. SPARKMAN), the Senator from Kentucky (Mr. COOK), the Senator from Nebraska (Mr. HRUSKA), the Senator from Idaho (Mr. JORDAN), the Senator from Oregon (Mr. PACKWOOD), the Senator from Arizona (Mr. GOLDWATER), the Senator from Texas (Mr. BENTSEN), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Georgia (Mr. GAMBRELL), the Senator from Maryland (Mr. BEALL), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Oklahoma (Mr. BELLMON), the Senator from Florida (Mr. GURNEY), the Senator from Tennessee (Mr. BAKER), the Senator from Texas (Mr. TOWER), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Illinois (Mr. PERCY), the Senator from Hawaii (Mr. FONG), the Senator from New York (Mr. JAVITS), and the Senator from California (Mr. CRANSTON).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I also ask unanimous consent that those names appear in the next printing and I presume that will be done.

The PRESIDING OFFICER. Without objection it is so ordered.

NATIONAL HOUSING GOALS—AMENDMENT

AMENDMENT NO. 1575

(Ordered to be printed and referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. BROCK. Mr. President, I rise to offer an amendment to my bill, S. 3373, on behalf of myself and Senators BENNETT, DOLE, DOMINICK, FANNIN, TAFT, and TOWER.

S. 3373 is aimed at ending restrictive work rule and outmoded building code bars to the use of new or improved building products and methods. On June 20 through 23, 1972, the Subcommittee on Housing and Urban Affairs held hearings on this bill.

My reasons for advocating this type of legislation are summarized in my statement submitted to the subcommittee at its hearings:

> I believe it is an absolute tragedy that Congress has allowed a situation to develop where housing is priced out of the reach of many American families—most notably those in the middle and lower income groups. When housing costs rise from 10 percent to 15 percent a year, there is no way that we in Washington can increase subsidies to keep pace with those costs. To the contrary, our past willingness to do so has contributed to our problems. The very fact that the Housing and Urban Development Act of 1972, which was reported out by this Subcommittee and recently passed the Senate, raised the federal subsidy to an amount that would cover families with earnings of $11,000, indicates something is fundamentally wrong in the industry. That is why I fought for these hearings—to try to find some way to cut the ever-spiraling increase in construction costs.

What emerged from the hearings was clear evidence that union product boycotts continue to exist and that such boycotts contribute significantly to the cost of home construction.

For instance, one witness appearing on behalf of the U.S. Chamber of Commerce testified that, in a Western State, the Painters' and Decorators' Union refused to allow the use of prefinished cabinets and doors that would cost 50 percent less than painting those same cabinets and doors on the construction site.

Another witness representing the National Woodwork Association, Inc., pointed out that in the Chicago area jobsite made roof truss systems for a medium priced house—$30,000 to $35,000—costs $355 more than using factory made trusses. Still, unions prevent the employment of this industrialized product.

We were told by a representative of the consulting engineers how his engineering firm had specified a certain type of high-pressure supply ductwork, manufactured by any one of three companies, for an air-conditioning and heating system in a St. Paul bank building. The local of the Sheet Metal Workers of America demanded that the ductwork, instead of being purchased, be fabricated on the jobsite, claiming this was work its members had traditionally performed. The union made its claim in spite of the fact that the contractor never had fabricated such ductwork and that there were no facilities in the area capable of the required milling. As this witness pointed out:

> In effect, we were being told that we could not specify the type of duct work we felt was best suited for this project, even though the client was relying upon us to assure the subsequent satisfactory operation of his facility.

Congressman BOB WILSON, of California, reported that in his State members of the Sheet Metal Workers Union refuse to allow prefabricated sheet metal products on the jobsite unless they bear union labels. Even if the factory-built product is manufactured in a plant organized by members of the union, the local will object if the plant is out of its immediate area. As a result, these products must be made at the jobsite at a substantial increase in cost.

David Kornreich, attorney for the Florida East Coast Sheet Metal Contractors Association, listed numerous examples to employ prebuilt sheet metal products. Mr. Kornreich's statement is so illustrative of union intransigence, that I ask unanimous consent that his statement be printed in full immediately following the text of my amendment.

At least one union representative testified that my bill is antilabor. I believe Representative BEN BLACKBURN, of Georgia clearly responded to this charge in his statement before the subcommittee when he said:

> Certainly it cannot be said that our bills are anti-labor since most industrialized housing projects are produced in union organized plants. When one considers that a significant part of the residential housing industry is non-union, the mass production of industrialized housing projects will actually increase the number of union jobs.

Now to my amendment. All too often we are told that the congressional hearing process is meaningless. To the contrary, the subcommittee hearings on S. 3373 resulted in the amendment I am offering today.

As a matter of background, S. 3373 allows a person prevented from employing a new product or a new construction technique to have a court set aside the union workrule or code provision that restricts its use. The bill contains an exception that would allow the restriction to stand if it is necessary to assure "safe and healthful working or living conditions." I am convinced that any legislative remedy must include this type of protection. S. 3373 also includes a presumption that the new product or technique meets these safety and health requirements if it complies with the standards of a nationally recognized standard setting or testing agency designated by HUD.

Most of the objections to my bill centered around this presumption. Several witnesses felt that allowing HUD to designate the testing or standard setting agencies in some way would be tantamount to HUD establishing national building standards. Another questioned the validity of a standard set by such agencies, pointing out that the Federal Trade Commission currently is investigating them.

In order to overcome these objections, I am introducing this amendment to S. 3373 which retains the health and safety exception, but eliminates the presumption. The new provision is a different approach by placing the burden of proof on the person invoking the exception. It requires that he show by a preponderance of the evidence that the restraint is necessary to assure safe and healthful working or living conditions and that the new product fails to provide this assurance. I believe this is a definite improvement as it avoids the recurring questions of national standards, qualified testing and standard setting agencies and HUD involvement. On the latter point, HUD has no responsibilities or rights under S. 3373 as amended. The coverage of the bill merely is limited to "any program administered by the Secretary of Housing and Urban Development." The remedy lies with an individual who is aggrieved.

Mr. President, I ask unanimous consent that the text of my amendment be printed at this point in the Record followed by Mr. Kornreich's statement.

There being no objection, the amendment and statement were ordered to be printed in the Record, as follows:

Amendment No. 1575

On page 2, line 2, strike all of the phrase starting with the word "except" through the word "conditions" in line 12, insert a colon after the word "activity" on page 2, line 2 and add the following:

Provided, That nothing contained in this paragraph (a) shall be construed to make unlawful any such provision, requirement, practice or restraint if it is shown by a preponderance of the evidence (1) that such provision, requirement, practice or restraint is necessary to assure safe and healthful working or living conditions and (2) that such technique, method, material or product fails to assure such safe and healthful working or living conditions.

Statement of David V. Kornreich

I am David V. Kornreich, a member of the Miami, Florida law firm of Muller & Mintz, which represents the Florida East Coast Sheet Metal Contractors Association (FECSMCA) and the Associated General Contractors—South Florida Chapter (AGC) in labor-management relations matters.

The FECSMCA is a trade association representing twenty-six (26) construction contractors engaged in the fabrication and installation of residential, commercial, institutional, and industrial warm-air heating, cooling, ventilating and air handling systems; architectural sheet metal and roofing; industrial sheet metal; air pollution control and specialty fabrication. All of the members of the FECSMCA have labor agreements with Local Union No 223, Sheet Metal Workers International Association and various other building trades unions affiliated with the AFL–CIO.

The AGC-South Florida Chapter is a trade association representing more than sixty (60) construction firms primarily engaged in the residential, commercial, and institutional general contracting business. Most, if not all, of the work performed by the members of the AGC is done under labor agreements between AGC and the various building trades unions and/or labor agreements between the specialty subcontractors employed by the individual AGC members (e.g., the sheet metal contractors) and a particular building trades union (e.g., Sheet Metal Workers Union).

The members of both FECSMCA and AGC perform most of their construction work in South Florida, one of the nation's largest and fastest growing residential, commercial, and institutional construction markets. Many of these firms have been and are currently engaged in single family, townhouse, garden-type, and high-rise residential construction under programs administered by the U.S. Department of Housing and Urban Development as well as construction of airport, medical, educational, and other facilities involving programs administered by other federal agencies.

On behalf of FECSMCA and AGC, we would like to take this opportunity to present our comments in support of S. 3373—a bill to promote the utilization of improved technology and federally assisted housing projects and to increase productivity in order to meet our national housing goals, and for other purposes.

Based on their vast experience in the heavily unionized South Florida construction industry, the members of the Associations feel that there is a critical need for legislation to curtail the extremely prevalent restrictive work rules and practices adopted and enforced by various building trades unions in our area. Time and time again, contractors have bid and undertaken large projects, including federally assisted residential housing, only to find that the building trades unions have imposed so many restrictions on purchase of prefabricated products and utilization of labor-saving methods that the project simply could not be delivered at the contract price, or, for that matter, any reasonable price. In those circumstances, the contractor, if he is to continue on the job and comply with the job schedule, must himself absorb the cost of complying with the unions' demands or pass such costs on to the developer. Even if the contractor adopts the former course of action, you can be sure that the next time he bids a similar job, he will make certain that he projects his costs to take into account both the previously experienced restrictive work practices and any other similar problems, which *may* cause him financial problems and/or delay the job. Needless to say, the contractor's bitter experience results in higher costs to the government, the taxpayers, and the ultimate consumer (e.g., homeowner or apartment renter) on the next federally assisted project.

We have all heard and read of the building trades unions claims that restrictive work practices and restraints on use of improved and less costly products and materials are nonexistent. We have also heard the building trades unions argue that even if such practices and restraints do exist, they occur only infrequently and are more than offset by their members increased productivity.

For proof that the aforementioned restrictive work practices and restraints are widespread—even commonplace—rather than infrequent, we have only to look at one segment of the South Florida construction industry—the sheet metal trade. In this regard, the members of FECSMCA and various other sheet metal contractors signatory to the standard labor agreement with Sheet Metal Workers Union Local No. 223 are on almost a daily basis subject to union restraints on the use of materials and products, which would substantially lower construction costs. These restraints take the form of work stoppages, slowdowns, grievances, fines, and threats against any contractor purchasing or utilizing a product of which the Union does not approve. On occasion, after delivery to the job site, a particular product not approved by the Union will "mysteriously" be damaged beyond repair.

Although the acts are too numeorus to mention, we should like the distinguished Subcommittee to be aware of the following problems, which are representative of those experienced on a regular basis:

1. On a three hundred unit federally assisted high-rise project in Miami, the mechanical contractor, acting pursuant to the engineer's instructions and in accordance with the federally approved specifications, purchased some ninety (90) exhaust fans for installation in bathrooms, which did not have outside windows. (Local code required that such fans be installed in each bathroom where was no outside window.) The exhaust fans, which were manufactured by a nationally recognized company, came equipped with two wall caps—one connecting to the fan unit itself and the other to be installed in the exterior wall of the building to permit exhaust to the ouside.

In accordance wih normal union craft practice, the mechanical contractor assigned the installation of the exhaust fans and the companion wall caps to his sheet metal subcontractor. Thereafter, the representatives of the Sheet Metal Workers Local Union refused to permit their members to install the fans and the wall caps. According to the Union, the fans could not be installed because they were not union made. With respect to the wall caps, the Union contended that even if the wall caps were union made in a production plant, they would still not be acceptable inasmuch as they would have to be fabricated by the sheet metal contractor's own workers, who earned construction wages. As a result of the Union's action in refusing to permit the installation of these purchased items, the carpenters, plasterers, and other crafts were unable to coordinate their activities with the Sheet Metal Workers and, as a result, they completed their work on the bathrooms and the exterior wall of the building without making any provision for the accommodation of the wall caps.

In order to get the job completed, the mechanical contractor was forced to incur the additional cost of bringing in a crew of employees, who would not otherwise have been present on the job, to install the fans. The wall caps, which had been purchased at $2.00 per unit, had to be replaced by wall caps fabricated by the sheet metal contractor's employees. These replacement wall caps cost the sheet metal contractor $7.000 per unit. Inasmuch as the bathroom has been completed without provision for the installation of the wall caps, the sheet metal contractor was compelled to utilize the very same Sheet Metal Workers, who were involved in the refusal to install the purchased wall fans, to drill the necessary outlet holes in the exterior wall, resurface and repaint the exterior wall, and clean up the resulting debris. Although the purchase and installation of the original fans and wall caps would have cost less than $3,000.000, those costs were tripled as a result of the Union's action. Further, while the Sheet Metal Workers profited from their wrongs, the completion and occupancy of the building was delayed.

2. Another problem, which has occurred on both federally assisted residential and institutional projects, involves the purchase of fire dampers for installation in duct work. For safety reasons, building codes, federal regulations, and engineers' specifica-

tions often require that fire dampers on federally assisted high-rise and hospital projects adhere to certain rigid fabrication standards and successfully pass "fire tests" conducted by nationally recognized testing agencies (e.g., Underwriters' Laboratories). Traditionally, fire dampers, when specified, were purchased by the sheet metal contractor from a manufacturer who had the equipment necessary to mass produce a relatively low-cost fire damper complying with both local and federal standards. The Sheet Metal Workers Local Union in South Florida, however, decided that such practice was unacceptable, although, somewhat ironically, most of the manufacturers of the purchased fire dampers had labor agreements with sister local unions affiliated with the Sheet Metal Workers International Association (i.e., so-called "blue label" shops). According to the Sheet Metal Workers Union in South Florida, its members will be permitted to install only fire dampers fabricated by the local contractors at local construction Sheet Metal Worker wage rates, which presently are $10.00 per hour. (These rates are at least 100% higher than those paid by fire damper manufacturers to their employees represented by affiliates of the same International Union.)

Some contractors, who insist on utilizing the purchased fire dampers, claim that the Union members are installing them "very slowly." Other contractors have been served with formal grievances wherein the Union claims lost wages and benefits as a result of purchase of fire dampers. In one recent case, a local contractor, realizing full well that some form of harassment was forthcoming if he purchased fire dampers from manufacturers, decided to fabricate these items in his own shop at local construction Sheet Metal wage rates. According to this contractor, the net result of this decision was an increase of 25 to 33% in fire damper costs—an increased cost, which he appropriately reflected in his bid on the project. Significantly, the aforementioned increased costs do not reflect the fact that this contractor (as well as other local contractors) have had to spend thousands of dollars to purchase machinery to fabricate fire dampers and other items in order to comply with the Union's demands.

Another contractor was confronted with a similar fire damper problem on a high-rise project and was advised by the Union that the Union members would install the fire dampers, if they each received an extra $10.00. Not having the necessary equipment to fabricate fire dampers himself and being unwilling to comply with the Union's outrageous demands, this contractor began shopping around for another local contractor with the equipment necessary to fabricate the necessary fire dampers (at construction wage rates). Much to his dismay, the harried contractor learned that it would cost him almost double the purchase price to buy the fire dampers from a local shop paying construction rates (i.e., a so-called "yellow label" shop). Thus, each of the Sheet Metal Workers received a $10.00 "bonus" for installing the previously purchased fire dampers.

3. Grills were normally purchased by sheet metal contractors from a local manufacturer whose employees were represented by a union unaffiliated with Sheet Metal Workers International Association. The Sheet Metal Workers Local Union took the position that local contractors could not purchase grills from a manufacturer whose plant was organized by an "inferior" union and that all grills must be purchased from a manufacturer having a collective bargaining agreement with an affiliate of the Sheet Metal Workers International Association. A number of local contractors decided to ignore the Union's demands inasmuch as the local manufacturer was delivering a quality, reasonably priced product without causing job delays. To purchase grills from companies "approved" by the Sheet Metal Workers Local Union would have cost an additional 10% in purchase price, but more significantly, delivery time would have been extended from a few days for the local manufacturer to four to six weeks for the "approved" manufacturers.

One contractor, who decided to continue doing business with the local manufacturer after the Union registered its objections, arrived at one of his residential projects one morning only to find that dozens of locally manufactured grills had been smashed beyond repair. Not only was the Union unsympathetic to the contractor's plight, but instead the Union representatives immediately demanded that the contractor pay penalties ranging from $150.00 to $300.00 for purchasing grills manufactured by the "wrong" union on this and similar projects.

What followed was a virtual reign of terror of threats, grievances, work stoppages, and demands for monetary penalties directed against the sheet metal contractors and malicious damage to stored and installed grills manufactured by the local company. The end result was that the local contractors could no longer afford to buy grills from the local manufacturer *at any price.*

4. One contractor, in estimating a small garden-type apartment building, determined that the air conditioning system would require only a small amount of duct work and that, therefore, costs on the job would be much lower if rigid fiberglass pipe could be used instead of metal duct. The contractor felt that the Union should have no objection to this substitution on a "residential" job. Unfortunately, the contractor was in error. The Union quickly took the position that this small apartment building was not a "residential" job and that the use of rigid fiberglass pipe deprived Union members of work and was, therefore, impermissible. In addition to refusing to permit the men to install the pipe, the Union filed charges against the contractor alleging violation of the labor agreement and seeking monetary penalties. The charges were eventually heard by a grievance panel which included a representative of the International Union. While concluding that the contractor had committed a technical violation of the labor agreement by purchasing rigid fiberglass pipe, the panel decided the Local Union's position was somewhat unreasonable and that the contractor should be permitted to complete some seven or eight small apartment projects for which fiberglass pipe had already been purchased. According to the contractor, the President of the Sheet Metal Workers International Association advised the Local Union that the contractor should be permitted to complete his existing jobs without restriction.

Quoting the contractor: "I took a bath on those next seven or eight jobs; never have I seen sheet metal workers work slower . . ."

5. A local roofing contractor, having a labor agreement with the Roofers Union, undertook to perform roofing work on a high-rise complex. In his thirty years in the roofing business in the Miami area, the contractor had always purchased roofing sheet metal items, including stucco stops, gravel stops, and assorted flashings, from local distributors and had installed these items on job sites utilizing his normal complement of Union roofers. When the roofing contractor began his high-rise project, the Sheet Metal Workers Local Union decided that the roofing company was going to fabricate its own stops and flashings rather than purchase them from a local distributor and that these stops and flashings would be installed only by Sheet Metal Workers. When the Union determined that the roofing contractor was taking a hard-nosed attitude, it commenced a harassment campaign consisting of threats of work stoppages, demands for monetary penalties, and grievances seeking assorted damages. At one point, the roofing contractor complied with the Union's demands for payment of a monetary penalty for purchasing non-union sheet metal roofing materials.

The highlight of the Union's harassment campaign occurred when a Union business agent advised the roofing contractor that if he did not capitulate to the Union's demands, the Union would file "more and more grievances and more and more charges" and would attempt to put him out of business as it had done with other companies, including the roofing contractor's brother-in-law.

Faced with the equally unpalatable alternatives of either purchasing sheet metal fabrication equipment and hiring Union sheet metal workers or purchasing the materials in dispute from a construction sheet metal shop at twice the normal price, the roofing contractor decided to resist the Union's demands and seek relief through the procedures of the National Labor Relations Board. (Under current principles of labor law, private parties cannot proceed directly to court to obtain injunctive relief against a labor organization in a case of this nature.) For some unexplained reason, the Board, although agreeing with the roofing contractor's position, took many months before it sought and obtained injunctive relief. Even then, the injunctive relief applied only to the Union's threats of work stoppages and did not restrict the Union from filing harassment grievances seeking damages against the roofing contractor in the amount of the difference between the purchase price of his roofing sheet metal materials from his normal supplier and the cost of producing the same materials in a Union sheet metal shop paying construction wages. Inasmuch as the roofing contractor purchased substantial volume of such products and the application of the aforementioned formula would more than double his material costs, he capitulated to the Union's demands, purchased sheet metal fabrication equipment, and hired Sheet Metal Workers. Ironically, the Labor Board over a year later, decided that the Union's harassment grievances were just as unlawful as its threats to picket and engage in work stoppages. (The decision of the Board appears in 196 NLRB No. 12) Unfortunately, even if the Union elects to comply with the Board's decision and permit the roofing contractor to resume purchasing rather than fabricating the subject sheet metal products, the contractor has already suffered a year of substantially increased costs as a result of the unavailability of a private right of enforcement, including injunctive relief, without the involvement of a federal agency.

6. At about the same time as the aforementioned roofing material case, the Sheet Metal Workers Union engaged in a boycott of factory-fabricated products at four major federally assisted projects. While these projects involved hospital and airport rather than residential construction, they are noted here for the purpose of showing the extremely flagrant and unreasonable nature of the Union's product boycott activities.

On each of the four projects, the design engineer specified certain high and medium efficiency filter assembly units manufactured by two out-of-town manufacturers. These pre-tested medium and high efficiency filter assembly units were designed to be used in conjunction with specified filters ranging in efficiency from 30% to 90%. (The average low efficiency filter—e.g., household filter, has an efficiency rating of less than 10%.) According to the design engineers, these specified factory-fabricated filter assembly units had to be installed at the airport job because previously installed low efficiency filter systems had been incapable of handling the extreme air pollution at the airport and properly protecting the air conditioning units from fouling. With respect to the hospital jobs, the special factory-fabricated high and medium efficiency filter assembly units were necessary to filter out minute particles, including bacteria, before they reached the critical hospital areas.

Upon inspecting the filter assembly units after receipt by the sheet metal contractor and prior to installation, the Union representatives and members determined that they did not bear yellow Sheet Metal Workers Union labels indicative of fabrication by members of the Sheet Metal Workers International Association receiving construction wages. In fact, both manufacturers were "union"—one having a contract with a production local of the Sheet Metal Workers International Association and the other a contract with the United Auto Workers. Based on the fact that the filter assembly units lacked the "proper" union label, the Sheet Metal Workers Local Union took the position that no installations would be made at the respective job sites unless the sheet metal contractors paid a substantial monetary penalty. (The formula to be used to determine the amount of the penalty was as follows: The difference between the wages paid to local construction sheet metal workers and the wages paid by the manufacturer to his production employees multiplied by the hours it would have taken for local construction Sheet Metal Workers to field fabricate the units.)

After experiencing about two weeks' of the Union's refusal to install the filter assembly units, one of the two sheet metal contractors involved capitulated and paid the penalty demanded by the Union. The other contractors stubbornly refused to comply with the Union's outrageous demands and elected to await the outcome of Labor Board charges filed by the manufacturers against the Union. In the meantime, *five months* elapsed before the filter assembly units were installed. Even then, they were installed only after the Labor Board advised the Union that it would seek injunctive relief based on the charges filed by the manufacturer many months before the units were installed.

The irony of the case is that the Union claimed that it had a right to fabricate the high and medium efficiency filter assembly units at construction wage rates. Yet, none of the local contractors had the expensive tools, dies, and testing equipment necessary to fabricate such units and guarantee that they performed as specified by the design engineer. To purchase the type of testing equipment and hire the quality-control personnel necessary to guarantee the efficiency of the units (as did the out-of-town manufacturers) specified by the engineer would involve an expenditure of many thousands of dollars.

7. In March, 1972, at about the same time the Labor Board was finding that the Sheet Metal Workers Local Union had engaged in illegal product boycott activities in both the roofing material and the filter assembly unit cases, the Union struck again. This time, the Union claimed that certain kitchen equipment purchased by an owner-developer for installation at a high-rise apartment project had been made by an "inferior union". The Union directed its members not to install the kitchen equipment and picketed the project causing a complete cessation of operations. As the "price" for installation, the Union demanded that the contractor pay a penalty of 25c for each pound of kitchen equipment purchased. When it became apparent that the Sheet Metal Workers would not install the kitchen equipment, the equipment was stored in a vacant area of the building.

A few weeks later, the general contractor decided that preparation must be made to install the kitchen equipment with or without the Sheet Metal Workers. Accordingly, supervisory personnel installed some tap-outs (i.e., links to the duct exhaust system) to prepare for installation of the kitchen hoods, which were included in the boycotted kitchen equipment. The next day, it was discovered that persons, thus far unknown, had poured acid over the kitchen counter tops and had smashed and scratched the hoods and refrigeration equipment. Coincidentally, when the manufacturer sent a crew to the job for the sole purpose of trying to salvage and repair the damaged equipment, the Union reinstated its picketing, which it had earlier removed once it became apparent that the kitchen equipment could not be installed. Once again, all of the crafts refused to cross the picket line and the job was completely shut down. The picketing continued until the manufacturer's repair crew was removed from the job and Labor Board charges were filed. Damages resulting from the Union's actions may run as high as $100,000.00.

Apart from the *ad hoc* product boycotts and restrictive work practices engaged in by the Union, it should be noted that the base labor agreement itself contains numerous clauses which restrict the contractor's ability to utilize cost-saving materials, methods and procedure. (A copy of the labor agreement is attached as Exhibit "A".) Examples of such clauses are the following:

A. Article II—Section 2: This clause states that the sheet metal contractor can only purchase sheet metal material "claimed" by the Union from manufacturers, who pay their employees wages equivalent to the construction rate of $10.00 per hour. Inasmuch as there are no manufacturers, who pay their employees $10.00 per hour, the practical impact of the clause is that almost every local sheet metal contractor has been forced to become a manufacturer, to purchase expensive shop equipment, and to hire large numbers of shop Sheet Metal Workers at the $10.00 an hour construction rate in order to produce sheet metal products, which can be purchased elsewhere at 10 to 50% of the contractor's cost.

B. Article VIII—Section 3: This clause permits purchase of some prefabricated sheet metal products from companies having contracts with production locals of the Sheet Metal Workers International Association, but expressly limits the use of prefabricated pipe and fittings to single-family residences. According to local contractors, the use of purchased, fabricated pipe and fittings would result in a substantial reduction of costs on most federally assisted projects. For example, the purchase of three-inch pipe from a manufacturer would cost about 15¢ per foot, while the same pipe fabricated in a local construction shop would cost about 45¢ a foot. Similarly, elbows can be purchased at 27¢ a unit, while local construction shop fabrication would cost $1.80 to $2.50 a unit or six to eight times the available purchase price. In addition to the savings resulting from the purchase of the fabricated pipe and fittings, the purchased pipe is available in lengths desired by the contractor, but similar construction shop fabricated pipe comes only in very short lengths. Thus, where construction shop fabricated pipe is used, different pieces of pipe must be taped and screwed together at the job site in order to achieve the desired length. This results in the expenditure of an additional one-half a man hour (i.e., $5.00 at the current construction rate) to prepare for the installation of eight to ten feet of pipe.

C. Article XXX: This clause requires the sheet metal contractor to bid and perform any and all the general contractors and/or owners work, which the Union is claiming or can claim as sheet metal work, even if the general contractor does not desire the sheet metal contractor to perform some of this work. This clause restricts the general contractor's right to effect economies by purchasing prefabricated products and or utilizing other crafts and subcontractors to perform work, which would have the effect of eliminating the need for additional sheet metal work. For example, the general contractor on a military barracks project, decided that he could avoid having to lay certain sheet metal duct work in a given area because his union carpenters had constructed a double ceiling, which could be used to convey air from the air conditioning units to the individual rooms in the barracks. The Sheet Metal Workers took the position that the double ceiling should have been built by its members and the sheet metal contractor had violated the labor agreement (although he had never been invited to bid the disputed work). Another defect of this clause is that the sheet metal contractor cannot restrict his bid to the work, which he is capable of performing profitably, efficiently, and economically. By the same token, the general contractor knows that if he does not assign almost anything that can even remotely be considered sheet metal work or a substitute thereof, he runs the risk of "trouble" from the Sheet Metal Workers.

D. Article XXXI: This clause severely restricts the use of flexible hose. Flexible hose has practical application in situations where wiring and other hardware set in a ceiling makes it difficult to utilize straight metal duct work and rigid elbow fittings. In these circumstances, the use of flexible hose eliminates the need for extensive lay-out work and fabrication of costly fittings and angled duct work. Further, there is a substantial savings in installation costs inasmuch as the flexible hose is easily bent on the job site to circumvent the ceiling obstacles encountered.

We submit that there can be no valid contention that restrictive work practices and restrictions on the use of prefabricated products are more than offset by the increased productivity of the individual Union members at the job site. In this regard, one sheet metal contractor recently advised us that six years ago his Union Sheet Metal Workers earning from $6,000.00 to $7,000.00 could make complete fiberglass duct pipe installations in eight houses in the course of a 40-hour work week. The same worker today earns $16,000.00 to $18,000.00 a year, works a 35-hour work week, and installs only four homes in a week. (Other contractors point out that the seven-hour a day Sheet Metal Worker physically works only 4½ hours a day inasmuch as he spends 2½ hours a day eating lunch, taking coffee breaks, washing up, and loading and unloading his tools. Of course, should he be "forced" to work beyond the seven-hour work day, he must be compensated at the rate of $20.00 per hour.) Should there be any doubt in the minds of the members of the distinguished Subcommittee that there exists a productivity crises in the construction industry, both the FEC-SMCA and the AGC invite each of you, at your convenience, to participate in a guided, visual tour of South Florida construction job sites.

In summary, the Associations believe that there exists no justification for restrictive work practices and restrictions on the use of prefabricated materials. From our experience, these restrictions result in substantially increased costs in all types of construction, including federally assisted residential projects. Accordingly, we endorse and support S. 3373 as an appropriate and necessary measure to increase productivity in our industry.

EXHIBIT "A"

1969–72 AGREEMENT

(Entered into between Florida East Coast Sheet Metal Contractors Association Inc. and Sheet Metal Workers International Association Local Union No. 223, Dade, Broward and Monroe Counties, Fla.)

STANDARD FORM OF UNION AGREEMENT

Sheet Metal, Roofing, Ventilating and Air Conditioning Contracting Divisions of the Construction Industry

Agreement entered into this 1st day of July, 1969, by and between Florida East Coast Sheet Metal Contractors' Association, hereinafter referred to as the Employer, and Local Union 223 of the Sheet Metal Workers' International Association, hereinafter referred to as the Union for Dade, Broward and Monroe Counties, Florida.

Article I

Section 1. This agreement covers the rates of pay, rules and working conditions of all employees of the employer engaged in but not limited to the (a) manufacture, fabrication, assembling, handling, erection, installation, dismantling, conditioning, adjustment, alteration, repairing and servicing of all ferrous or nonferrous metal work of U.S. No. 10 gauge or its equivalent or lighter gauge and all other materials used in lieu thereof and all air-veyor systems and air handling systems regardless of material used including the setting of all equipment and all reinforcements in connection therewith; (b) all lagging over insulation and all duct lining; (c) testing and balancing of all air-handling equipment and duct work; (d) the preparation of all shop and field sketches used in fabrication and erection, including those taken from original architectural and engineering drawing or sketches, and (e) all other work included in the jurisdictional claims of Sheet Metal Workers' International Association, See Addenda article XXX, XXXI, AND XXXII.

Article II

Section 1. No Employer shall subcontract or assign any of the work described herein which is to be performed at a job site to any contractor, subcontractor or other person or party who fails to agree in writing to comply with the conditions of employment contained herein including, without limitations, those relating to union security, rates of pay and working conditions, hiring and other matters covered hereby for the duration of the project.

Section 2. Subject to other applicable provisions of this Agreement, the Employer agrees that when subcontracting for prefabrication of materials covered herein, such prefabrication shall be subcontracted to fabricators who pay their employees engaged in such fabrication not less than the prevailing wage for comparable sheet metal fabrication, as established under provisions of this Agreement.

Article III

Section 1. The Employer agrees that none but journeymen and apprentice sheet metal workers shall be employed on any work described in Article I.

ARTICLE VIII

Section 1. The minimum rate of wages for journeymen sheet metal workers covered by this Agreement when employed in a shop or on a job within the jurisdiction of the Union to perform any work specified in Article I of this Agreement shall be $______ per hour, except as hereinafter specified in Section 2 of this Article. (See Addenda Article XIV)

Section 2. On all work specified in Article I of this Agreement, fabricated and/or assembled by journeymen sheet metal workers and/or apprentices within the jurisdiction of this Union, or elsewhere, for erection and/or installation within the jurisdiction of any other Local Union affiliated with Sheet Metal Workers' International Association, whose established wage scale is higher than the wage scale specified in this Agreement, the higher wage scale of the job site Union shall be paid to the journeymen employed on such work in the home shop or sent to the job site.

Section 3. The provisions of Section 2 of this Article, Section 2 of Article II and Section 1 of Article III shall not be applicable to the manufacture for sale to the trade or purchase of the following items:

1. Ventilators
2. Louvers
3. Automatic fire dampers
4. Radiator and air conditioning unit enclosures
5. Fabricated pipe and fittings for residential installations only
6. Mixing (attenuation) boxes
7. Plastic skylights
8. Air diffusers, grilles, registers
9. Sound attenuators

Section 4. The provision of Section 2 of this Article shall not be applicable to the manufacture for sale to the trade or purchase of PLENUMS—Double wall panels for use in construction of air housing.

Section 5. Except as provided in Sections 2 and 6 of this Article, the Employer agrees that journeymen sheet metal workers hired outside of the territorial jurisdiction of this Agreement shall receive the wage scale and working conditions of the local Agreement covering the territory in which such work is performed or supervised.

Section 6. When the Employer has any work specified in Article I of this Agreement to be performed outside of the area covered by this Agreement and within the area covered by another Agreement with another union affiliated with the Sheet Metal Workers' International Association and qualified sheet metal workers are available in such area, he may send no more than two (2) sheet metal workers per job into such area to perform any work which the Employer deems necessary, both of whom shall be from * * *

* * * * *

Section 4. It is agreed by both parties to this Agreement that if the party of the first part (Sheet Metal Contractors') is unable or refuses to figure work that belongs to the members of the Sheet Metal Workers' International Association, that the Sheet Metal Workers' Local Union No. 223 has the right to place sheet metal workers on these jobs. In order that the Sheet Metal Contractors' may be familiar with all types of work which has been given the Sheet Metal Workers' by Building and Construction Trades Department, Local Union No. 223 shall furnish the party of the first part with a copy of these awards.

Section 5. The Union agrees to furnish weekly to the Health and Welfare Trustees, the names of all Employers to which it furnished men, whether under the terms of this Agreement or otherwise.

Article XXX

Section 1. It is expressly agreed and included herein, for the purpose of more specifically but not by any means a limitation, that the following supplement to Article I of the Standard Form of Union Agreement shall be amended to include the furnishing of all integral components and any and all necessary fabrication.

Section 2. The employer, when accepting any contract or authorization to perform any job site or project work under the trade jurisdiction of the Sheet Metal Workers' International Association, shall be required to bid in a lump sum and man all of the work on that individual portion of the job, or on that individual portion of the construction project, which embraces and includes the fabrication on the job and installation of all materials and work that comes within the trade jurisdiction of Sheet Metal Workers' International Association.

Section 3. If all of the work on that Individual Portion of the construction project as defined in Section (2) above is not awarded to the Employer, then the Employer shall not accept a contract to perform a lesser portion of the work on that construction project.

Section 4. The intent of this provision shall include and extend to all work within the trade jurisdiction of Sheet Metal Workers' International Association which requires a composite crew under International Agreements, or under local agreements, with other International Associations, or with other Local Unions, and the fact that another union may be assigned part of the work shall not excuse the employer from failing to bid as outlined above and insist on the right to bid for such individual portion of the work, job or contract.

Section 5. The failure of the general contractor, owner, or other employer from whom the employer hereunder receives his contract or right to bid to grant the entire individual portion of the contract to this employer shall not excuse the employer hereunder from observing all of the provisions of this Article.

Section 6. In the event of a dispute concerning the application of this provision of the contract, Business Manager and Business Representatives of the Union, shall be allowed, upon request to examine the contract or contracts involved, the purchase order or invoice or any other document for the purchase or manufacture of disputed work or materials.

Section 7. No Employer shall accept or perform work covered by this Agreement, on any construction project, from any Contractor whose prime business is mechanical or sheet metal work, unless the Contractor has a collective bargaining agreement with this Union.

Definitions:

For the purpose of this Agreement, a single dwelling residence home: Shall not include high rise apartments, condominium apartments, industrial or commercial buildings or any other buildings of similar types.

The word lump used in Article XXX Section 2 shall be defined as Definition 2-B of lump by Webster's new Collegiate Dictionary, copyright 1956, G & C Merriam Company, The Riverside Press, Cambridge, Mass. The whole aggregation, collection lot "as taken in the lump."

The word individual used in Article XXX Sections 2, 3, 4, 5 shall be defined as (a) not divisible, (b) inseparable, (c) identical, by Webster's new Collegiate Dictionary, copyright 1956, G & C Merriam Company, The Riverside Press, Cambridge, Mass.

The word portion used in Article XXX Sections 2, 3, 4, 5 shall be defined as (a) an allotted part, by Webster's new Collegiate Dictionary, copy right 1956, G & C Merriam Company, The Riverside Press, Cambridge, Mass.

For the purpose of this Agreement and for the purpose of lump sum bidding, individual portion shall be an allotted part of a job or project site that is not divisible in any manner.

Air conditioning, ventilation, and/or exhaust systems together shall all be considered one individual portion of a job or project site.

The fabrication and installation of all flashings, metal skylights, scuppers, pitch pans, roof expansion joints, gutters (excluding half round) and downspouts together shall all be considered one individual portion of a job or project site.

For the purpose of this Agreement a shop is a sheet metal business that is properly equipped and manned to fabricate materials for any given job.

Article XXXI

Rules governing use of conduit and flexible hose for supply and/or return systems and fabricated items.

(a) General:

1. The use of conduit and flexible hose is divided into two categories.

A. Airtight (high pressure)

B. Conventional

2. The classification of a system, for this purpose, will not be determined by static pressure or velocity, but rather by the following requirements:

A. A high pressure system will have airtight duct work of special construction. It will be made airtight by mechanical means such as welding, gasketing and/or caulking.

B. In addition, for a system to be considered high pressure it must have pressure reduction devices such as one of the following:

a. Pressure reducing valve with lined duct.

b. Pressure reducing valve with sound trap.

c. Attenuation box with pressure reducing valve.

d. Double duct, or mixing box with valves.

e. Peripheral high velocity system.

3. Any supply system that does not have both airtight construction and a pressure reduction device will be considered a conventional system.

4. The requirements in Paragraph No. 2 above, refer to both supply and return systems, except in addition to the aforementioned, a high velocity return system must have metal flues or metal risers to be considered high pressure, and be of airtight construction to qualify.

(b). Conventional systems:

1. The use of conduit is not permitted in a conventional system.

2. Flex Hose shall not replace the fabricated fitting and/or fittings at the outlet, and shall not exceed seven (7) feet in length in any one branch or take-off line.

3. Flex Hose shall not be used as a trunk line of any system.

4. Flex Hose shall not be used on primary air, fresh air, or exhaust systems.

CONSUMER PROTECTION ACT—AMENDMENTS

AMENDMENTS NOS. 1576 THROUGH 1601

(Ordered to be printed and to lie on the table.)

Mr. ERVIN submitted 26 amendments intended to be proposed by him to the bill (S. 3970) to establish a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and serve the interests of consumers, and for other purposes.

AMENDMENTS NOS. 1603 THROUGH 1606

(Ordered to be printed and to lie on the table.)

Mr. FANNIN submitted four amendments intended to be proposed by him to the bill (S. 3970), supra.

IMPORTATION OF UPHOLSTERY REGULATORS—AMENDMENT

AMENDMENT NO. 1602

(Ordered to be printed and to lie on the table.)

Mr. RIBICOFF. Mr. President, this amendment is simply a needed clarification of the tariff schedules. The proposed changes would not result in any modifications of present duty rates.

Antifriction bearings are vital to the national security. Space vehicles, missiles, aircraft, submarines, and tanks are inoperable without ball and roller bearings. There is no one who seriously questions the paramount role of bearings as the controlling element in the manufacture of practically every item of defense hardware which has moving parts—in truth, bearings are the basic "pacing components."

All segments of the domestic bearing industry are being severely attacked by imports. While the Tariff Commission and other administrative agencies are able to measure the dimensions of this penetration for most bearings the segment made up of mounted or housed bearings was inadvertently left indefinite when the tariff schedules were enacted. Amendment No. 1602 to H.R. 640 will remedy this situation.

The Departments of State, Commerce, Treasury, Labor, and Office of Special Representative for Trade Negotiations have all offered no objections.

Further the Office of Management and Budget advises there would be no objection from the standpoint of the administration's program. I ask unanimous consent to include in the Record at this point an explanatory Tariff Commission report on H.R. 10385, a bill introduced in the House which is identical to my amendment, except for a technical change recommended by the Commission.

There being no objection, the report was ordered to be printed in the Record, as follows:

Report to the Committee on Ways and Means, House of Representatives, on H.R. 10385, 92d Congress, A Bill "To Make Specific Provisions for Ball or Roller Bearing Pillow Block, Flange Take-Up, Cartridge, and Hanger Units in the Tariff Schedules of the United States"

The bill, if enacted, would amend the existing provisions in Part 4J of Schedule 6 of the Tariff Schedules of the United States (TSUS) relating to ball and roller bearings. The object of the bill is to create a special provision for certain ball and roller bearing units which presently are classifiable in various provisions of the tariff schedules.

The domestic producers of the bearing units in question, on whose behalf the bill was introduced, are primarily interested in providing for these bearing units in a single provision to enable adequate statistical reporting with respect to imports.

Specifically, the bearing units involved are ball or roller bearings assembled into so-called pillow block, flange, take-up, cartridge, and hanger mounts or holders. These mounts or holders, sometimes also referred to as housings, are designed to facilitate the use of ball or roller bearings in certain general types of application. Comparable mounts or holders are used for other types of bearings, such as sleeve bearings, which do not use balls or rollers; however, the mounts or holders covered by the bill are clearly distinguishable in that the holders designed for ball or roller bearings are machined to basically different holding configurations than are those for other types of bearings.

It is our understanding that the principle types of ball or roller bearing holders, domestically produced and imported, are the pillow block and flange types, such types probably accounting for 75 to 85 percent of consumption, although precise data are not available. It is estimated that domestic production of all types of these bearing units approximates 88 million dollars. There are known imports of pillow block units under item 680.50 of the TSUS, and under item 680.90 for other types of bearing units. It is possible that bearing units are classifiable in other provisions as well, although exact information on this point is not available. The best estimate of the volume of imports, which may be far from accurate, is in the range of three to four million dollars.

After consideration of samples and descriptive catalogues recently submitted to the Commission by industry representatives, it is believed that technical improvement can be made in the drafting of the bill with respect to the description of the products intended to be covered. It is suggested that the purposes of the bill (secs. 2 and 3) could best be carried out if it were amended so that the provisions in the TSUS for ball or roller bearings (items 680.33–.36) would be amended to read as follows (new language italic):

	Ball or roller bearings, including such bearings with integral shafts, *and including such bearings whether or not assembled into pillow block, flange, take-up, cartridge, and hanger mounts or holders,* all the foregoing and parts thereof:		
680. 33	Ball bearings etc....		
680. 34	If Canadian etc...		
680. 35	*Bearings assembled into pillow block, flange, take-up, cartridge, and hanger mounts or holders, and parts thereof*..............	9.5% ad val.	45% ad val.
680. 36	*If Canadian article and original motor-vehicle equipment (see headnote 2, part 6B, schedule 6)*..	Free.	
680. 37	Other...............		
680. 38	If Canadian etc.....		

The rates of duty for the proposed item 680.35 are the same as the rates for items 680.80 and 680.90 under which, as indicated above ball and roller bearing units are known to be imported.

The above-suggested changes in section 2 and 3 of the bill would require a further conforming amendment of section 1. The superior heading for item 680.50 should be amended by inserting after "pillow blocks" and before the "," the following: "(except ball or roller bearing pillow blocks)".

FREE ENTRY OF CARILLON FOR MARQUETTE UNIVERSITY—AMENDMENT

AMENDMENT NO. 1607

(Ordered to be printed and to lie on the table.)

Mr. HARTKE submitted an amendment intended to be proposed by him to the bill (H.R. 3786) to provide for the free entry of a four-octave carillon for the use of Marquette University, Milwaukee, Wis.

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 895

Mr. PEARSON. Mr. President, I ask unanimous consent that at its next printing, the Senator from Alaska (Mr. Stevens) be added as a cosponsor of amendment No. 895 to H.R. 1. This amendment would provide persons 65 or older a phased annual tax credit of up to $300 for property taxes or rent paid on their residences.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

COMMITTEE REPORTS ON LEGISLATIVE REVIEW OF THE ADMINISTRATION OF LAWS

Mr. MANSFIELD. Mr. President, the Legislative Reorganization Act of 1970 requires Senate committees to make reports "not later than March 31 of each odd-numbered year" of their activities during the previous Congress in reviewing the "application, administration and execution of those laws or parts of laws, the subject matter of which is within the jurisdiction of that committee."

In an effort to assist committees in complying with section 118a of the act, the Joint Committee on Congressional Operations has sent to each committee chairman information on the legislative background of this section. This information will be extremely helpful in the preparation of these reports, and, therefore, on behalf of my colleague (Mr. METCALF), the vice chairman of the committee, I ask unanimous consent that this material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEC. 118(a) LEGISLATIVE REVIEW BY STANDING COMMITTEES (SENATE)

A. TEXT

SEC. 118. (a) (1) Section 136 of the Legislative Reorganization Act of 1946 (2 U.S.C. 190d) is amended to read as follows:

"Legislative Review by Senate Standing Committees

"SEC. 136. (a) In order to assist the Senate in—

"(1) its analysis, appraisal, and evaluation of the application, administration, and execution of the laws enacted by the Congress, and

"(2) its formulation, consideration, and enactment of such modifications of or changes in those laws, and of such additional legislation, as may be necessary or appropriate,

each standing committee of the Senate shall review and study, on a continuing basis, the application, administration, and execution of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee.

"(b) Each standing committee of the Senate shall submit, not later than March 31 of each odd-numbered year beginning on and after January 1, 1973, to the Senate a report on the activities of that committee under this section during the Congress ending at noon on January 3 of such year.

"(c) The preceding provisions of this section do not apply to the Committee on Appropriations of the Senate."

(2) Title I of the table of contents of the Legislative Reorganization Act of 1946 (60 Stat. 813) is amended by striking out—

"Sec. 136. Legislative oversight by standing committees."

and inserting in lieu thereof—

"Sec. 136. Legislative review by Senate standing committees.".

Amendments

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 136 of the Legislative Reorganization Act of 1946 (2 U.S.C. 190d), as amended by section 118 of the Legislative Reorganization Act of 1970 (84 Stat. 1156; Public Law 91–510), is amended to read as follows:

"Legislative Review by Standing Committees of the Senate and House of Representatives

"SEC. 136. (a) In order to assist the Congress in—

"(1) its analysis, appraisal, and evaluation of the application, administration, and execution of the laws enacted by the Congress, and

"(2) its formulation, consideration, and enactment of such modifications of or changes in those laws, and of such additional legislation, as may be necessary or appropriate,

each standing committee of the Senate and the House of Representatives shall review and study, on a continuing basis, the application, administration, and execution of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee.

"(b) In each odd-numbered year beginning on or after January 1, 1973, each standing committee of the Senate shall submit, not later than March 31, to the Senate, and each standing committee of the House shall submit, not later than January 2, to the House, a report on the activities of that committee under this section duirng the Congress ending at noon on January 3 of such year.

"(c) The preceding provisions of this section do not apply to the Committee on Appropriations of the Senate and the Committees on Appropriations, House Administration, Rules, and Standards of Official Conduct of the House.". Effective January 3, 1971 (83 Stat. 376; Public Law 92–136) October 11, 1971.

2. Title I of the table of contents of the Legislative Reorganization Act of 1946 (60 Stat. 813) is amended by striking out—

"Sec. 136. Legislative review by Senate standing committees."

and inserting in lieu thereof—

"Sec. 136. Legislative review by standing committees of the Senate and House of Representatives.".

B. SUMMARY

Each standing committee of the Senate shall "review and study, on a continuous basis, the application, administration, and execution of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee."

Not later than March 31 of each odd-numbered year, each Senate standing committee shall submit to the Senate a report on its review activities during the preceding Congress.

The Committee on Appropriations is exempted.

C. INTENT AND LEGISLATIVE HISTORY

As it appeared in the 1970 Legislative Reorganization Act, this subsection revised section 136 of the Legislative Reorganization Act of 1946, in part by limiting its application solely to the Senate. The subsequent amendment in P.L. 92–136 restored its applicability to both Houses of Congress.

Before it was amended by the 1970 Act, section 136 read:

SEC. 136. To assist the Congress in appraising the administration of the laws and in developing such amendments or related legislation as it may deem necessary, each standing committee of the Senate and the House of Representatives shall exercise continuous watchfulness of the execution by the administrative agencies concerned of any laws, the subject matter of which is within the jurisdiction of such committee; and, for that purpose, shall study all pertinent reports and data submitted to the Congress by the agencies in the executive branch of the Government.

The Senate report on the 1946 Act (Senate Report No. 1400, 79th Congress, 2d Session, May 31, 1946, p. 6) declared the provision was designed "to strengthen congressional surveillance of the execution of the laws by the executive branch," and to have committees "conduct a continuous review of the activities of the agencies administering laws originally reported" by them. In addition, the report continued, section 136 was intended to encourage the use of committees "as vehicles of consultation and collaboration between Congress and the corresponding administrative agencies within their respective jurisdictions." Finally, it was hoped that section 136 would inhibit the creation of special committees of investigation; these sporadic investigating groups, the report asserted, lacked continuity and did not provide members of standing committees "with direct knowledge of the information they have gathered," thus requiring the legislative committees to do much of the work over again when legislative action was indicated.

In its 1966 report, the Joint Committee on the Organization of the Congress took a somewhat narrower view of the intent of the oversight language. One of the most important responsibilities of Congress, it declared,

is to scrutinize continuously existing programs to determine whether they are being administered in accordance with congressional intent, whether amendments are desirable, or whether the program has outlived its purpose. No agency is likely to volunteer that its objective could be accomplished in another manner—or that it is no longer needed. These determinations must be made by Congress. (Final Report 1414, 89th Congress, 2d Session, July 28, 1966, p. 23.).

Section 136 of the 1946 Act, the Joint Committee concluded, "has failed to achieve the desired result. It is a statutory admonition without means of implementation. Although some standing committees have carried on extensive 'oversight' activities, most are preoccupied with new legislative programs." To remedy the situation, the Joint Committee offered five recommendations (*ibid.*, pp. 23–25):

1. The activity commonly referred to as "oversight" shall be redesignated as "review" so that there will be a better public understanding of the function.

2. In addition to the permanent professional staff otherwise authorized, each standing committee shall be entitled to one additional permanent professional staff member who shall be designated a review specialist and who shall be assigned exclusively to performance of review (oversight). He shall be selected by the chairman with the concurrence of the ranking minority member. The review specialist shall be directed to carry out review projects, or to supervise the same, contingent upon the approval of such projects by the chairman and ranking minority member of the committee.

3. Each standing committee other than the Appropriations committees shall file an annual report on the review activities of the committee during the year. The report shall include an evaluation of programs under the jurisdiction of the committee, an assessment of the quality of administration of agencies investigated during the year, and recommendations as to organizational and program changes and/or the elimination of unnecessary activities under the committee's jurisdiction. The reports shall be delivered to the majority and minority leadership of both Houses and by the leadership to the President, with a copy to the Bureau of the Budget.

4. The legislative committees should hold hearings on major reports required of the Executive.

5. The legislative committees should review reports required by law of the executive departments and agencies to determine whether the reports perform a useful function, should be reoriented, or are no longer necessary.

S. 355, the legislative reorganization bill of 1967, contained the substance of all but the fourth and fifth recommendations when it was brought to the Senate floor in 1967. There the language was amended (1) to emphasize that the review functions belonged to the committees rather than to their review specialists, (2) to make it clear that the review specialist would operate within the overall structure of the committee staff rather than separate and apart from it. (3) to make employment of review specialists permissive rather than mandatory, and (4) by the addition of language to the effect that all standing committees might request the Comptroller General "to investigate and report on any matter relating to the receipt, disbursement, and application of public funds" on laws within their jurisdictions. (Congressional Record, February 15, 1967, pp. 3400–3401; March 3, 1967, pp. 5369–5371.)

The House Committee on Rules accepted the 1967 bill's redefinition of oversight and its requirement for regular committee reports on review activities. But it rejected the whole concept of review specialists. "We believe that approach is unworkable," the Committee declared in House Report 91–1215 on its version of the reorganization bill. (June 17, 1970, p. 17.) "Such a staff member would inevitably be absorbed into the day-to-day work of his committee. It is unlikely, furthermore, that he, or two like him, could adequately perform the massive kind of analysis committees so urgently require. And finally, the proposal does not provide for coordination and cooperation among such staff, nor for a systematic exchange of information and techniques that would contribute to greater review effectiveness."

As a substitute for the review specialists, the Rules Committee proposed expansion of the functions of the General Accounting Office and the then Legislative Reference Service in the Library of Congress. See sections 204 and 321 below.

Having stricken from the bill all mention of review specialists, the Committee on Rules dealt with the remaining language in the following manner:

1. It retained from the 1967 bill the renaming of the function as "review" rather than "oversight".

2. It retained from the 1967 bill the statutory redefinition of the function. This consisted principally of removing from section 136 of the 1946 Act the phrase "exercise continuous watchfulness of the execution by the administrative agencies concerned of any laws . . . within the jurisdiction of such committee" and substituting instead "review and study, on a continuing basis, the application, administration, and execution of those laws . . ."

3. It retained from the 1967 bill the concept of regular committee reports on their review activities, but made them biennial, i.e. applicable to each Congress, rather than annual.

4. It struck from the language permission for the committees to exclude from their reports matters they might determine should not be made public in the interest of national security.

5. It struck out provisions for the transmission of the biennial committee review reports, as appropriate, to the President, the Director of the Administrative Officer of the United States Courts, the Board of Commissioners of the District of Columbia, and the heads of other appropriate agencies, corporations, and instrumentalities of the Government.

6. It struck out the language relating to requests to the Comptroller General (but see section 204 below).

The House accepted the Rules Committee's version without amendment. The Senate accepted the main thrust of the House version with an amendment; it changed the submission date for Senate committee review reports from January 2 to March 31 of each odd-numbered year "so as to provide sufficient time for the preparation of the report." (Congressional Record, October 5, 1970, p. 34940.) (Although nowhere explained in the reports or the debate on the bill, the Rules Committee set the January 2 date because technically all House committees die at the end of a Congress and it was not thought appropriate for a committee of one Congress to report on the activities of the previous Congress. No such problem arises on the Senate side since the Senate is taken to be a continuing body, a characteristic shared by its standing committees.)

For an explanation of the amendment to section 136 of 1946 Act made by P.L. 92–136, see the commentary on section 118(b) below. The amendment did not affect the Senate.

D. IMPLEMENTATION

Determination of the extent and effectiveness of the review activities of Senate committees would require an intensive inquiry into those activities. The starting point for such an inquiry would be the biennial committee reports on their review activities required by the law. These probably will not become available for Senate committees until late March of 1973 since the first effective date for report is March 31, 1973.

SEC. 118(b) LEGISLATIVE REVIEW BY STANDING COMMITTEES (HOUSE)

A. TEXT

(b) Clause 28 of Rule XI of the Rules of the House of Representatives is amended to read as follows:

"28. (a) In order to assist the House in—

"(1) its analysis, appraisal, and evaluation of the application, administration, and execution of the laws enacted by the Congress, and

"(2) its formulation, consideration, and enactment of such modifications of changes in those laws, and of such additional legislation, as may be necessary or appropriate,

each standing committee shall review and study, on a continuing basis, the application, administration, and execution of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee.

"(b) Each standing committee shall submit to the House, not later than January 2 of each odd-numbered year beginning on or after January 1, 1973, a report on the activities of that committee under this clause during the Congress ending at noon on January 3 of such year.

"(c) The preceding provisions of this clause do not apply to the Committee on Appropriations, the Committee on House Administration, the Committee on Rules, and the Committee on Standards of Official Conduct.".

Amendments

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 136 of the Legislative Reorganization Act of 1946 (2 U.S.C. 190d), as amended by section 118 of the Legislative Reorganization Act of 1970 (84 Stat. 1156; Public Law 91–510), is amended to read as follows:

"Legislative Review by Standing Committees of the Senate and House of Representatives

"SEC. 136. (a) In order to assist the Congress in—

"(1) its analysis, appraisal, and evaluation of the application, administration, and execution of the laws enacted by the Congress, and

"(2) its formulation, consideration, and enactment of such modifications of or changes in those laws, and of such additional legislation, as may be necessary or appropriate,

each standing committee of the Senate and House of Representatives shall review and study, on a continuing basis, the application, administration, and execution of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee.

"(b) In each odd-numbered year beginning on or after January 1, 1973, each standing committee of the Senate shall submit, not later than March 31, to the Senate, and each standing committee of the House shall submit, not later than January 2, to the House, a report on the activities of that committee under this section during the Congress ending at noon on January 3 of such year.

"(c) The preceding provisions of this section do not apply to the Committee on Appropriations of the Senate and the Committees on Appropriations, House Administration, Rules, and Standards of Official Conduct of the House".

* * * * *

Title I of the table of contents of the Legislative Reorganization Act of 1946 (60 Stat. 813) is amended by striking out—

"Sec. 136. Legislative review by Senate standing committees."

and inserting in lieu thereof—

"Sec. 136. Legislative review by standing committees of the Senate and House of Representatives.".

Effective January 3, 1971 (85 Stat. 376; Public Law 92–136) October 11, 1971.

B. SUMMARY

Each standing committee of the House shall "review and study, on a continuous basis, the application, administration, and execution of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee."

Not later than January 2 of each odd-numbered year, each standing committee shall submit to the House a report on its review activities during the Congress ending the following day.

Exempted committees: Appropriations, House Administration, Rules, and Standards of Official Conduct.

C. INTENT AND LEGISLATIVE HISTORY

What was called "legislative oversight" in the Legislative Reorganization Act of 1946 and in Rule XI, clause 8 of the 91st Congress, is renamed "legislative review" and the definition of that function is somewhat revised.

Entirely new in Rule XI, clause 8 is the requirement for a biennial report to the House by each standing committee on its review activities. Such reports are to be submitted no later than the last legal day of a Congress and are to deal with the committee's review activities during the whole of the Congress about to end.

The committees cited above were exempted because it was thought that their areas of jurisdiction do not include matters of the type thought suitable for such reports.

As explained earlier in this report, the 1970 Act dealt with House rulemaking provisions by direct amendment of the pertinent rules of the House rather than by amendment of the 1946 Legislative Reorganization Act. Thus, section 118(b) amends House Rule XI, clause 28, while section 118(a) amended section 136 of the 1946 Act so as to make it applicable only to the Senate.

In so doing, however, the 1970 Act inadvertently terminated the authority of House committees to expend local currencies when traveling on official congressional business. This authority was granted to the committees of both Houses by section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754) in language which made the expenditures of such currencies dependent upon committee functions under section 136 of the 1946 Act. Because the 1970 Act removed all mention of House committees from section 136, their rights to such currencies were terminated. (For a more detailed explanation, see House Report 92–34, February 26, 1971, on H.R. 4713.) Sections 1 and 2 of P.L. 92–136 restored those rights by making section 136 once again applicable to the committees of both Houses.

D. IMPLEMENTATION

Determination of the extent and effectiveness of the review activities of House committees would require an intensive inquiry into these activities. The starting point for such an inquiry would be the biennial committee reports on their review activities required by the law. These probably will not become available for House committees until after January 1, 1973, the first effective date for such reports.

VETERANS' EDUCATION BILL MUST BE PASSED

Mr. BOGGS. Mr. President, on March 6 of this year the House approved a bill (H.R. 12828) increasing GI benefits for college study, on-the-job training and vocational rehabilitation. A similar measure (S. 2161) providing a higher level of benefits which I was privileged to cosponsor passed the Senate on August 3.

The House approved an increase in the basic monthly allotment for a single veteran in a full-time course of study from the current $175 to $200. The Senate raised this figure to $250 a month.

Increases were also approved for veterans with dependents and veterans enrolled in on-the-job training and vocational rehabilitation programs. In addition, the Senate bill contained a number of important changes including advance payment of educational benefits and supplementary education assistance for veterans in the form of direct loans up to $1,575 a year for costs not covered by other Federal grant or loan programs.

Many veterans expected that agreement would be reached on this legislation long before now. They enrolled in study programs and job training programs—many beginning this month—in the expectation that the increased levels of benefits provided for in this legislation would be forthcoming. They must not be let down.

Both Houses have recognized the great need for increased educational benefits for veterans. I strongly urge that agreement be reached on this legislation as soon as possible, certainly before adjournment. I also urge that benefits be made retroactive to September 1, 1972, so that those veterans who enrolled in courses this month will receive the increase to help meet their current expenses.

NATIONAL HIGHWAY WEEK OBSERVED—AMERICA DEPENDS ON ITS ROADWAYS

Mr. RANDOLPH. Mr. President, the United States this week is observing National Highway Week. This period is set aside as an opportunity to recognize the many important contributions that modern roads make to the continuing prosperity and security of our country.

Highways are the principal means of transportation for the overwhelming majority of American people and they provide the means by which commerce moves to and from every corner of our Nation. The extent of our commitment to motor vehicle transport is reflected in the statistics. The United States today has 3.7 million miles of roads and streets which accommodate more than 100 million vehicles, about one for every two people in the country. During 1971, American motor vehicles traveled 1.17 trillion miles.

Our modern highways permit Americans to have the greatest freedom of mobility of any people in the world. Even in a large country such as ours, we are free from restraints by our highways and can travel virtually anywhere whenever we choose.

Mr. President, it is coincidental, but it is appropriate, that we observe National Highway Week at a time when the Congress is considering legislation to continue and improve our national highway program. The Senate recently passed the Federal-Aid Highway Act of 1972, legislation which is far-reaching in its response to contemporary transportation needs in all parts of the country and at all levels of society. The House of Representatives is expected to vote this week on similiar legislation.

As we observe National Highway Week and the impact of good roads on our life, I hope that we will remember neither the highway program nor any other Government activity can remain static and at the same time respond to changing conditions. We go forward in our legislative efforts, mindful of the contributions highways and motor vehicles have made in the development of our country and fully aware of the reliance we will continue to place on them in the years ahead.

RULES OF ENGAGEMENTS IN VIETNAM

Mr. GOLDWATER. Mr. President, while the Armed Services Committee has not yet reached a decision on the nomination of General Lavelle for a retired rank of lieutenant general, I feel it might be helpful to my colleagues if I recorded here some of my impressions about what happened in the air war in Indochina and involving General Lavelle. I feel that this is necessary because it is becoming very obvious that some members of the press and the communications media would like to extend this unfortunate incident as long as they can and, if possible, bring in the Secretary of Defense and others who had nothing to do with what took place to share some of the blame.

Right at the start, let me say that this is not an attempt to defend General Lavelle. He cannot be defended. What he did was to disobey orders which came to him in the form of rules of engagement for the Vietnam war. He himself has admitted this. The U.S. Air Force has recognized it, and General Lavelle has been relieved of his command, which to me is the most severe punishment that can ever be handed to an officer in uniform. Mr. President, I take particular pains to mention these facts, because I have been told that at least one well-known newscaster has been heard to say that I was trying to defend General Lavelle's action in disobeying orders. This has never been the case, nor is it the case today.

I am hopeful that before long the exact details of some of these rules of engagement which pertain to Vietnam can be declassified to the extent that Members of Congress and the American people can understand the kind of handicaps under which our men have been forced to fight this war. These rules of engagement have been promulgated by different Secretaries of Defense, Assistant Secretaries of Defense, and civilian members of other organizations such as the National Security Council. And let me explain that a rule of engagement is precisely what it says—a rule under which you engage an enemy. In only one other war, to my knowledge, has this strange method of waging hostilities been used. That was in the Korean war when our fighting men were forced to operate under a general rule which said they could not attack the enemy north of Yalu River, regardless of the circumstances.

Mr. President, if it becomes possible for me at some later time to introduce the exact contents of the rules of engagement which apply in Vietnam, I will certainly do so. But for my purposes today, it will suffice to mention just one or two rules of engagement which have previously been publicized as having existed during the November 1971–March 1972 time period.

For example, under one rule, our fighting men were not permitted to attack a Mig aircraft while it is sitting on an enemy runway. Under the rule, the only time one of these dangerous Russian-built aircraft could be attacked is if it was in operation and showed hostile intentions. Now, Mr. President, I suggest that this is a pretty tough rule to live with when you know that the Mig sighted on a particular runway has been used actively against our B–52's, against our helicopters, against our F–105's and F–4's, not to mention Navy aircraft—and to realize that it will soon be used again in attempts to kill American fighting men and destroy American aircraft.

It is important for us to understand that until this rule came along, American fighting men were able to attack enemy aircraft and attempt to destroy them wherever they happened to be, whether in the air or on a runway.

Another rule in effect said that in North Vietnam, trucks driving on a highway could not be fired upon unless they show hostile intentions toward our fighting men. I suggest that my colleagues think about that one and try and figure out what it means.

Perhaps the rule which has received the most attention and which the Joint Chiefs of Staff felt had been violated involved an enemy radar site high on a mountain range overlooking Laos. The radar site in question provided group control intercept to the Mig fighter planes which could come over low, attack our helicopters as they were doing rescue work, and attack our tactical aircraft. Because it is impossible for a radar to show hostile intentions, as such, it was very difficult for our men to make a decision whether the target should be destroyed. It is my personal belief that a radar site shows hostile intentions merely by existing in a location of strategic importance to the enemy. It exists only for purposes which mean the loss of aircraft and men to us.

This of course was the target which General Lavelle and General Abrams finally agreed should come under the rules and be attacked. As we all know, they were later rapidly corrected by the Joint Chiefs of Staff for their decision.

Mr. President, I mention these rules as background for our understanding of the case involving General Lavelle. What he did was make a decision—and he made it alone—that any of our aircraft flying over Northern Laos would be constantly engaged by groundfire, whether the fire was observed or not. And under this interpretation of the rule, he issued verbal orders that all weapons and ammunition would be expended during each reconnaissance flight and that a returning pilot, when being debriefed by the intelligence group, would report that enemy action had been taken and that he had retaliated.

Now that is the case involving General Lavelle. Let us take a look at the size of it. During the period of time in question, roughly from November 1971 to March 1972, as many as 40,000 sorties may have been flown. We are not able to get the exact number but estimates place it between 25,000 and 40,000 sorties. But the number of cases involving falsified reports is something like 20 or 30. Thus, despite what some members of the communications media have tried to make out of this violation, I believe any fair observer would have to admit that, even though General Lavelle was wrong, we are not talking about a massive number of illegal strikes. I do not give this as an excuse for General Lavelle, because it is my feeling that if only one out of 40,000 had been performed illegally and followed by a falsified report it would be sufficient to condemn the general's action. What I am saying is that the incident does not add up to an enormous and continuous disregard for the general rule in question.

I know that some Members of the Senate might ask why have not other officers involved been punished. I would remind them that the first thing a man learns in the military is the discipline of command and the absolute necessity of obeying command orders. If suddenly, in the military structure, officers junior to the men in command began to refuse orders or to question orders, the result would be utter and complete chaos. Now I will admit that there are ways a junior officer can express his dissatisfaction—he can ask for written orders and he can write a paper outlining his disagreement with those orders which can be placed in a proper file should anything ever come of the incident. This was not done in any of these cases. As General Slay explained, when he was ordered as operations officer of the 7th Air Force, to do the things that General Lavelle wanted done he naturally assumed that General Lavelle had permission from people senior to him. So General Slay obeyed the orders, as did the commanders under him, the pilots and everyone connected with the procedures. Perhaps well over 200 people knew what was going on but it was not until Sergeant Franks, a very trustworthy and valued member of the Air Force enlisted personnel decided that he could no longer do these things, because he felt it was against his Christian training. As we all know, he wrote a letter to Senator HUGHES explaining his feelings and Senator HUGHES very correctly contacted Chairman STENNIS of the Armed Services Committee and the hearings in the Lavelle case were set up.

Mr. President, although a full report will be made available to the Senate at some future date, I think it is safe for me to report here that no one other than General Lavelle is responsible for what occurred. I say this knowing full well that some segments of the communications media had intimated that other officers of higher rank participated in the decision.

The whole episode to me has been most unfortunate. It is unfortunate that a fine career officer like General Lavelle made the mistake that he did, even though I can see how he might feel in his own mind that he was justified. And, of course, the episode has not put the Air Force in a good light because the question repeatedly asked is why could it not have been detected. Let me just say that I think that if my colleagues could have sat through all the hearings they would begin to realize the impossibility of that happening. The question arises as to whether we can prevent similar incidents from happening in the future. My answer is that as long as human nature exists and men can do right or wrong there is no way that we can absolutely prevent future occurrences.

I would suggest, however, that in any future war in which we may become engaged that we try not to write rules of engagement that will hamper our chances of victory. I think I can say without any fear of contradiction that had the rules of engagement not existed this war could have been won a long time ago and a great many American men would not have died.

Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "The Lavelle Episode," written by William S. White, and published in the Washington Post of September 23, 1972.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE LAVELLE EPISODE

(By William S. White)

The case of one Air Force general who exceeded his bombing authority in Vietnam has now turned out to be just that—the case of one Air Force general who exceeded . . . et cetera, et cetera.

There is, in short, no evidence of some conspiracy within "the higher brass" to escalate the war, or to challenge in any way the constitutional supremacy of the civilian authority. Particularly, there is no valid showing that the military superiors of the now disciplined and retired Gen. John Lavelle were slyly or otherwise egging him on to hit unauthorized targets in Vietnam.

Professionally "antiwar" people inside and outside the Senate for weeks have used the Lavelle episode, which is deplorable enough in its real nature but not one-tenth so deplorable as it has been made out by them to be, for carom shots all over the place. They have hit the war itself, the military in general, and, of course, that obviously evil thing called the Pentagon.

Their intermediate target has been Gen. Creighton Abrams, who succeeded as top commander in Vietnam upon the retirement of Gen. William Westmoreland. Abrams is now under nomination by the President to be Army Chief of Staff.

It appears plain that having been well and truly cut up symbolically by the new isolationists and new pacifists he will at length be confirmed by the Senate. From the outset of the Lavelle affair the "antiwar" zealots had characteristically followed the Gilbert and Sullivan dictum of verdict first—evidence later. But even they are at last reluctantly acknowledging that Gen. Abrams (as also the chairman of the Joint Chiefs of Staff, Adm. Thomas Moorer) was innocent of Lavelle's transgressions.

If it seems a pity nevertheless that Abrams had to go through all this in order to be allowed to begin to round out the last phase of a distinguished military career, then so it is. It is a great pity, indeed. For the critics of the Vietnam command, first in Westmoreland's and then in Abrams' charge, for years have not been able to grasp one fairly obvious point. This is that the uniformed commander of Vietnam never made the war and never voted—as many of them in fact had done—for the policies that created and sustained it.

The commander's job has been solely to carry out the orders of three American Presidents, orders always harsh with difficulty and sometimes heartbreakingly so. Sometimes, indeed, diplomatic concerns at the civilian level have required the general on the spot to see the enemy run pretty well free while his own troops and air power were fettered by directions from Washington. This restraint has been right and proper; but it has not been easy.

That two successive representatives of the dreadful "brass"—Westmoreland and Abrams—have with massive fidelity and military self-sacrifice been obedient at every turn to civilian direction should speak more than sufficently for their ingrained respect for the constitutional supremacy of the civil authority.

Instead of being used as whipping boys by pacifists they should receive the thanks of a grateful country not only for their qualities of obedience and sacrifice but also for one of the most amazing achievements in all wartime. This achievement has been the maintenance of generally good troop morale in the kind of action they have had to fight in Vietnam.

Not the least of Lavelle's aims is that his conduct has given the antiwar careerists another stick with which to beat the whole concept of collective security in this world. To be sure, it is not much of a stick. But, then, they don't need much of a stick.

POSITION PAPER OF SENATOR McGOVERN ON SOUTHEAST ASIA NARCOTICS TRAFFIC

Mr. HUGHES. Mr. President, last week at a State Department conference the President reviewed the activities of his administration in the fight against drug addiction, and especially against the international traffic in narcotics. He asserted once again that great progress had been made, and he restated his determination to win the battle.

The Senator from South Dakota, as the Democratic candidate for the Presidency, has issued a detailed indictment of the administration's effort to control the international narcotics traffic. He presented facts and figures in support of his view that these efforts fall far short of the full-scale attack proclaimed by the President. The position paper presented by the Senator from South Dakota reflects a great deal of careful research. Administration sources have characterized it as naive, but they have not yet denied any of its substance. In spite of any differences, however, he has set forth certain truths which no one can deny; namely, that American involvement in the war in Southeast Asia is a major factor in the problem of drug addiction here at home; and that Southeast Asia will be the source of a larger and larger share of the heroin traffic as long as our involvement in that area continues.

In his statement on Monday the President laid great emphasis on his progress in inducing other governments to agree to intensifying their efforts to stamp out the traffic in heroin. Holding up the stick as well as the carrot, he promised to use his authority to cut off military and economic aid to any country whose leaders participate in or condone activities that contribute to our drug problem.

Mr. President, these are persuasive words. Unfortunately, they hide the grim reality known to any one who has examined the situation in Southeast Asia. With American prodding and the help of American dollars the governments of South Vietnam, Laos, and Thailand have enacted punitive legislation and added narcotics personnel to their police forces. They have made some arrests and destroyed some opium. Yet, no one serious believes that these nations are fully committed to the task.

These are societies that have traditionally tolerated both opium and official corruption. The infusion of large quantities of Amerian dollars and men has certainly not reduced that tolerance. High officials in all three nations have been accused of personal involvement or complicity in the drug traffic, and whether or not the charges are justified in any specific instance, it is obvious that individual officials have been and are now involved.

It is also obvious that these governments either cannot or will not control the heavy flow of opium and heroin right in their own capitals. Any American serviceman in Saigon knows where he can buy drugs quickly and cheaply. In Bangkok heroin abuse among the 1,500 military and civilian dependents in the American secondary school has reached epidemic levels. Officials now estimate that as many as 30 percent of these American youngsters are involved in heroin abuse. High grade heroin is available on the streets of Bangkok at 50 cents a fix.

In spite of these grim facts, the President could not possibly cut off military and economic aid to Thailand or South Vietnam as long as he continues the military action against North Vietnam in defense of the Thieu regime in the South. Even as American ground forces are being withdrawn from South Vietnam, economic and military aid to that nation becomes all the more essential to the President's policy. And as our ground forces are reduced, Thailand becomes increasingly vital as the launching pad for our air attacks.

Thus, these nations can rest assured that the threat issued by the President on Monday could not have been meant for them. They may go through the motions of enacting and enforcing laws against the opium trade if the United States insists. Indeed, there are undoubtedly some officials in these nations who are sincerely convinced of the evil nature of this trade. But in the final analysis they know there will be no penalty for negligence as long as the American military effort continues.

Mr. President, when I consider how many thousands of young Americans have encountered the living death of heroin addiction, and how many more are threatened each day, and I know that thousands could be saved if we were to leave Southeast Asia, I can see no possible offsetting gain for this Nation in pursuing the war further.

In the hope that they will contribute to greater public understanding of the cost of this war, I ask unanimous consent to have printed in the RECORD the position paper of the Senator from South Dakota and the comments of Mr. John Finlator, former Deputy Director of the Bureau of Narcotics and Dangerous Drugs.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

STATEMENT OF JOHN FINLATOR, FORMER DEPUTY DIRECTOR, BUREAU OF NARCOTICS AND DANGEROUS DRUGS, JUSTICE DEPARTMENT

I have read the position paper of Senator McGovern concerning the Southeast Asia narcotics traffic and I support the major allegations that Senator McGovern has made. Increasingly the American heroin market is being supplied from the Golden Triangle region of Laos, Burma, and Thailand. Southeast Asia clearly has the potential to replace Turkey as the major supplier of heroin to the illicit market places of this country. We are at present in the midst of a dramatic changeover. Although the seizures of heroin from Southeast Asia are smaller than those from Europe, the incidence of seizures are growing at an alarming rate.

The failure of the present administration to stop the flow of heroin to this country as well as to make inroads in the demand side of our society, is clear evidence that we do not have a total commitment to what the President calls the number one domestic priority of his administration.

President Nixon's programs have been fragmented and ineffective with the only visibility being a reorganization or shuffling around of responsibilities from time to time: a new prevention office in the White House, a new, confusing enforcement in Justice to chase the street addict-pushers, another new office in Justice to gather drug intelligence, all with high sounding titles and high salaries which outstrip those of the Director of the Bureau of Narcotics and Dangerous Drugs and the Commissioner of Customs.

We are making only a small dent in the amount of drugs coming into this country. It will remain thus until we reach that plateau of total commitment. It is just not there. We need stronger efforts than those we presently espouse in the areas of treatment, rehabilitation, education, prevention, research, and enforcement. Senator McGovern has spoken out on these subjects and I trust he will speak of them again.

We are in worse shape in the war against drug abuse today than on the day the present Administration took office. This lack of success may not be placed entirely on the desk of any one group or administration but Senator McGovernor offers a hope of a stronger commitment than any we have seen thus far.

If, indeed, the problems of narcotics trafficking and addiction is our number one priority, its solution will require the bringing together of a massive amount of the brainpower, manpower, and resources of this country. In this we have failed and instead have putted around the problem in fragmented, piecemeal manner. If the problem is not one of a high priority, then we have not done so badly.

Hopefully, Senator McGovern is going to give us more insight into an outstanding beginning.

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John Finlator was with BNDD from its inception in April, 1968. He became deputy director in 1969 and retired on January 1, 1972. He was the first director of the Bureau of Drug Abuse Control when it was created in February, 1966. He has been in government since 1936.

He is presently writing a book on the domestic and international narcotics traffic which will be published by Simon and Schuster.

CURBING THE INTERNATIONAL DRUG TRAFFIC

The crime problem in our country has never been as serious as it is today. We all know this from our own experience, and we can see it in the deserted streets and parks. The FBI crime statistics comfirm what we all know to be true. They show a 33% crime increase since 1963.

The greatest single cause of our high crime rates is the need of heroin addicts to commit muggings and burglaries to finance their habits.

The heroin refined from the seemingly innocent opium poppy is responsible each year for thousands of drug-related deaths and millions of drug-related crimes. The lives of more than half a million Americans are stunted by dependence on this drug.

Heroin addiction alone is more than sufficient to account for all of the 5.5 million robberies, burglaries, and thefts reported to the FBI last year. American heroin addicts each year spend more than five billion dollars on their drugs, making the illegal heroin traffic one of America's largest industries. Although not all crimes are reported to the FBI, this five billion dollars is three times the entire $1.5 billion price tag of the 5.5 million property crimes reported to the FBI last year.

A recent survey of New York City jails indicated that more than half of those arrested use heroin. In large cities generally, one third or more of muggings and burglaries are committed by heroin addicts. Some criminal court judges find that 75% of their cases involve individuals with a history of drug abuse. No wonder crime has been called "the heroin tax." With addicts spending at least five billion dollars a year on their habits, the heroin tax has a price tag of $100 a year for every family of four.

The addict is a victim, too. The addict's life becomes a constant search for the drug. Addiction consumes and destroys him. Seeking to escape from pain, boredom, or misery, the addict is caught in the narrowing trap of an artificial euphoria. And heroin is a major killer as well. Addiction is the greatest single cause of death in New York City for people between the ages of 15 and 35.

Furthermore, heroin addiction helps finance the growth of organized crime. It is estimated that organized crime gains profits of nearly a billion dollars a year from narcotics trafficking. These revenues can then be invested in other criminal enterprises.

For the addict and for our whole society, nothing could contribute more to improving the quality of life than an end to heroin addiction.

NIXON'S PROMISE—AND PERFORMANCE

Speaking in September, 1968 about the rising heroin problem, candidate Richard Nixon proclaimd: "We need action on the part of the nation's highest officials—that is what this crisis calls for and that is what I pledge the day after we take office in January."

After thirty months of his "action" to deal with the "crisis", Richard Nixon had to acknowledge his dismal failure and admit that the problem was still growing. "Heroin," he said on June 17, 1971, "is a fact of life and a cause of death for an increasing number of Americans." That same day, he submitted to Congress a drug bill which declared: "Drug abuse is rapidly increasing in the United States and now afflicts urban, suburban, and rural areas of this nation."

As the last quote indicates, under the three and a half years of the Nixon Administration, heroin addiction has spread rapidly throughout all segments of the population.

Suburban high schools have discovered heroin problems where there were none before. A recent study found that *one and a half million Americans between the ages of twelve and eighteen have used heroin.* This is one American youth in seventeen.

Until recently, heroin was an urban problem centered in New York City. But the Attorney General of Iowa said last year: "It is still inconceivable to most Iowans that heroin addiction *could* be a serious problem here. But the alarming fact is that heroin addiction has made a formidable inroad in Iowa."

Pointing up the failures of the Nixon years, John Ingersoll, Director of the Bureau of Narcotics and Dangerous Drugs, said in February: "At the end of 1969, our statisticians, employing proven statistical methods, estimated the actual number (of heroin addicts) to be 215,000 with a margin of error not likely to exceed plus or minus 16%. At the close of 1971, we believe the number to be almost 560,000."

Ingersoll's estimate of a 77% increase in two years is the most sophisticated estimate that has been made. Other indicators tell a similar story.

In 1968, 1,440 young men were rejected for the draft because of heroin use. In 1970, fewer young men were examined—but 50% more were rejected.

In 1969, 1,013 drug related deaths were reported in New York City. In 1971, over 1,300 were reported. Substantial increases were reported in city after city. The increases were from 72 to 139 in Baltimore; from 202 to 310 in Chicago; from 65 to 199 in Detroit; from 135 to 180 in San Francisco; and from 24 to 83 in the District of Columbia.

These facts reflect the failure of the Nixon Administration to stop the spread of heroin addiction in the United States. They explain why Richard Nixon had to admit in his drug bill last year that "drug abuse is rapidly increasing in the United States." *One American in 400 is now a heroin addict.*

WHAT CAN BE DONE?

Solving the heroin problem is an exceptionally complex matter. Crucial steps must be taken in many areas. We must increase efforts to cure individual addicts, to resolve underlying social problems, to break up the organized syndicates that purchase, refine, smuggle, distribute, and sell heroin, and to prevent the illicit production of opium.

Each of these efforts is difficult. There is no assurance that any of them will succeed. But we owe it to ourselves and to the many victims of heroin addiction to pursue every possible approach to ending the scourge of heroin addiction.

The Nixon record is vulnerable on every front. What I wish to examine in this presentation, however, is the record of the Administration in one critical area—the international heroin trade. What has President Nixon pledged; and what has he accomplished, in halting the flow of heroin from remote corners of the world into our streets and schools?

THE INTERNATIONAL DRUG TRADE

In September, 1968, candidate Richard Nixon declared: "We must move against the source of those drugs. In doing so we must seek out the cooperation of friendly nations which have been made conduits for these drugs. . . . A new Administration will accelerate the development of tools and weapons to detect narcotics in transit."

On June 17, 1971, he reaffirmed that conviction. "Domestic enforcement alone," he said, "cannot do the job. If we are to stop the flow of narcotics into the lifeblood of this country I believe we must stop it at the source."

Nixon not only has made this commitment; he has even claimed success. He claimed on July 9, 1971 that "we are dealing very effectively with the problem at its source."

Despite Nixon's claim, an increasing amount of heroin is being smuggled into this country.

On June 27, 1972, BNDD Director John Ingersoll estimated that heroin is being smuggled into the U.S. at the rate of 6½ to 10 tons a year. A year ago his estimate was 5 to 6 tons.

In September, 1970, Ingersoll said: "Every time one addict is cured, more take his place because of the ever-increasing amounts of heroin available."

A year ago Richard Nixon triumphantly announced that—continuing a policy begun under the previous Administration—opium production was being phased out in Turkey. He reminded us that Turkey has in the past accounted for 80% of heroin smuggled into the United States.

Yet recently the Administration has been hinting that stopping opium production—dealing with the problem at the source, in Nixon's phrase—is not the answer at all.

There are some questions that Americans should be asking.

If opium production in Turkey is being phased out, how can heroin importation—and addiction—be increasing?

After years of emphasizing the importance of meeting the problem at the source—and claiming success—why is the Administration backing away from emphasis in this approach?

And why is it that the drug problem is worse than ever, four years after Richard Nixon called it a crisis and demanded immediate action?

THE SOUTHEAST ASIA HEROIN TRADE

The answer is that more and more of the heroin entering the United States originates in Southeast Asia. The Bureau of Narcotics and Dangerous Drugs estimates that more than half of the world's illicit supply of opium, the raw material for heroin, is grown in the "Golden Triangle" region where the borders of Thailand, Burma, and Laos converge. One year's crop of 700 to 1000 tons can be refined into enough heroin to supply America's addicts for ten years. More and more of this heroin is reaching the American market.

Southeast Asia has been a major producer of opium and has had opium addiction problems of its own for a long time. But only in late 1969 did the white, pure No. 4 heroin that is used by American addicts begin to be produced in Southeast Asia. When it appeared it appeared in earnest. John Ingersoll says: "Our first indications of the presence of (No. 4) heroin in Southeast Asia came in December of 1969. In 1970, the trickle turned into a stream, and in 1971, the stream turned into a torrent of heroin pouring out of the Golden Triangle."

Since there was no indigenous demand for No. 4 heroin anywhere in Southeast Asia, its appearance signified an intention to supply the U.S. market. The first victims were our GIs in Vietnam. Possibly 100,000 GIs became heroin addicts in Vietnam during 1970 and 1971. Now that many of our GIs have come home and the market for No. 4 heroin has diminished in Southeast Asia, Southeast Asian heroin is being marketed in our country.

Our inability to prevent this has been a consequence of our priorities. The top and really only priority of our government in Southeast Asia has been to fight the war. The political and military priorities of the war have relegated other problems to distant back burners. The U.S. has always tolerated corruption on the part of our Southeast Asian allies as long as they fight the war and follow our policies. Black marketeering, stealing U.S. aid, currency manipulation, and smuggling are tolerated, and all are rampant. Narcotics trafficking has not been treated any differently.

Opium was being grown, smoked, and smuggled in Southeast Asia when the U.S. first became involved in the region during the 1950s and 1960s. But the opium traffic was viewed as a minor local problem and ignored. The U.S. built up a vast military and political apparatus in Indochina to fight the war. We ignored the fact that vitually every link in that apparatus was simultaneously becoming part of a vast opium producing, refining, and smuggling apparatus which today is well on its way to replacing Turkey as the major source of heroin entering the United States.

Here are some of the broad outlines of the Southeast Asia opium and heroin trade as it has developed:

In Laos, opium is grown by the Meo tribesmen we organized into General Van Pao's "secret army"; in fact, once the U.S. began providing them with liberal food supplies to assure their allegiance, many of them were able to switch to opium as virtually their only crop.

In Burma, opium is grown by the Shan rebels, the biggest opium growers in the world. They are armed with American weapons and are able to thwart central government control. Their weapons were provided by the CIA or were acquired by trading opium with government officials in Laos and Thailand for guns supplied by (and stolen from) the U.S. military aid program.

Opium is also grown by hill tribesmen in Thailand.

Opium from Burma is transported into Thailand by remnants of Nationalist Chinese (KMT) forces driven out of China in 1949. These forces are armed with U.S. weapons and have been supported in the past by the CIA. The Thai government now uses them to patrol its rugged northern frontier with Burma and to help suppress the growing insurgency in northern Thailand.

Opium is transported by the Royal Laotian Air Force and the South Vietnamese Air Force, which have been organized, financed, and supplied by the United States, and on local commercial flights as well.

Opium and morphine base (which is refined from opium) are transported from Thai ports in fishing trawlers to clandestine laboratories in Hong Kong. This could not happen without the complicity of the Thai police and customs authorities.

Heroin is refined in laboratories in Thailand, Laos, Burma, and Hong Kong. In the quantity and quality of its output, Hong Kong now rivals the refining capacity of Marseilles.

From Southeast Asia, heroin has been smuggled to the United States via many routes. There have been seizures of heroin sent to the U.S. from Southeast Asia via the military postal system. Southeast Asia heroin has been seized in France on its way to the United States, and Southeast Asian heroin is reaching the United States by way of Latin America. A courier ring was uncovered smuggling Southeast Asian heroin to the U.S. via the Philippines. Another courier ring was uncovered this year operating through Bangkok. An increasing amount of heroin refined from opium grown in Southeast Asia is smuggled to the U.S. by seamen from Hong Kong.

The Nixon Administration ignored the drug problem in Southeast Asia until 1971 when heroin use reached epidemic proportions among our GI's in Southeast Asia. By that time it was too late. The Administration's hands were tied. Our allies in Southeast Asia had developed a vast opium producing, refining, and distributing network while the U.S., with its great power in Southeast Asia, patrolled the air, the land, and the sea, organized armies, created and destroyed governments, promoted intrigue, but ignored the opium trade. Important members of the armed forces and governments of South Vietnam, Laos, and Thailand are raking in big profits from the drug trade. They are not about to forgo those profits.

The US Army Provost Marshal in South Vietnam, in a 1971 report, stated that the opium trade in South Vietnam is controlled by a four tiered pyramid. At the top "are the powers behind the scenes who can manipulate, foster, protect, and promote the illicit traffic in drugs." "The people comprising this group," the report stated "may be high level, influential political figures, government leaders, or moneyed Chinese members of the criminal syndicates now flourishing in the Cholon sector of the City of Saigon."

The Provost Marshal identified Tran Thien Khoi, chief of South Vietnam's customs fraud repression division and brother of Prime Minister Tran Thien Khiem, as "a principal in the opium traffic."

General Ngo Dzu, II Corps commander in South Vietnam and a staunch supporter of President Thieu, was identified last year as a major narcotics trafficker. Thieu promoted him after a whitewash investigation.

General Ouane Rattikone controlled the largest heroin laboratory in Southeast Asia during his tenure as chief of staff of the Royal Laotian Army (the only army other than the U.S. Army that is completely financed by the U.S. taxpayer). This laboratory was the major supplier of heroin for U.S. forces in South Vietnam at the peak of the heroin epidemic.

A high-level CIA intelligence report made public by Jack Anderson states, "A broad spectrum of Lao society is involved in the narcotics business, including Generals, Princes, high-level bureaucrats and Province Governors." Another intelligence report states, "Most of the refineries in Laos operate under the protection of the Royal Laotian Armed Forces . . ."

NBC News reported on July 15, 1971 that both President Thieu and Vice-President Ky were financing their election campaigns from the narcotics traffic and labeled President Thieu's chief intelligence adviser, General Dang Van Quang, as "the biggest pusher in South Vietnam." Quang's involvement in the heroin trade has been confirmed by other sources.

The Nixon Administration denied and covered up these facts and stood by helplessly because it cannot crack down on the corrupt governments it is trying to prop up. Meanwhile, our allies in Southeast Asia made millions of dollars peddling heroin to GI's in South Vietnam who were risking their lives trying to defend them.

Today, they are making great profits supplying heroin to addicts in America.

In 1970, the BNDD broke up a Filipino courier ring which had smuggled approximately 1,000 kilograms of Southeast Asian heroin into the United States in the previous year.

That was enough to supply 15% to 20% of the estimated U.S. consumption at the time.

On April 5, 1971, 7.7 kilos of Double U–O Globe brand Laotian heroin (the same brand produced in General Ouane Rattikone's laboratories) were seized in Fort Monmouth, New Jersey.

On November 11, 1971, 15.5 kilos of the same brand of Laotian heroin were seized in New York City.

The new Laotian Ambassador to France was caught in April, 1971 when he arrived in Paris with 60 kilograms of heroin in his suitcase. That is enough heroin to supply five thousand addicts for a full year.

In January, 1972, U.S. customs inspectors in Honolulu broke up a smuggling system and arrested three couriers body-carrying heroin from Bangkok to buyers in San Francisco and New York.

On April 5, 1972, a seaman was arrested in Miami with 10 kilos of Double U–O Globe brand Laotian heroin and on April 11 another seaman was arrested in New York with another 5 kilos of Southeast Asian heroin.

And on August 23, 1972, the same day that Richard Nixon delivered his acceptance speech, the BNDD announced the seizure of 9 kilograms of Southeast Asian heroin in New York City and the uncovering of a smuggling ring. The BNDD noted that there had been another seizure of Southeast Asian heroin in the same area the month before.

The seizures are only the tip of the iceberg. John Ingersoll of BNDD told the Senate Foreign Relations Committee on June 27 that "we have reason to believe that certain ethnic Chinese criminal elements in America have geared up an operation to take advantage of the heroin availability in Southeast Asia. . . . The evidence points to the establishment of a new pattern which affects places never previously of any significance to the drug traffic. Either as the result of actual seizures or our intelligence, we believe these shipments have come in through such diverse seaports as Norfolk, Charleston, Miami, New Orleans, Seattle, Vancouver, New York, and the Great Lakes, port of Chicago."

As one Republican Congressman has said, "Vietnam is truly coming home to haunt us. No matter what they say, . . . the first wave of this material is already on its way to our children in high school."

It is impossible to be sure just how much Southeast Asian heroin is now entering this country. NBC's estimate in a recent special broadcast was that one third of heroin entering this country now comes from Southeast Asia. A recent report by the Strategic Intelligence Office of BNDD stated, "More of the heroin reaching the U.S. is from this area than conventional knowledge has recognized. A recent study by BNDD chemists, involving 109 traceable heroin samples, revealed 28 (or 25.7 percent) to be of southeast Asian origin."

The percentage of heroin entering this country that comes from Southeast Asia is increasing; the Golden Triangle region of Laos, Burma, and Thailand clearly has the potential of replacing Turkey as this country's major heroin supplier. Whether that potential is realized will depend on how the United States responds to the problem. So far, the U.S. has met this challenge with half-measures and cover-ups.

Nixon Administration officials have heralded their achievements and claimed increasing cooperation with the governments of Southeast Asia. However, independent information from Congress, the news media, and concerned citizens has brought the Administration's credibility into serious question, and recent leaks of secret Administration documents directly contradict their public statements.

Nelson Gross, the State Department's chief narcotics spokesman, told a Congressional inquiry on June 9 that "we feel that during the past year some real progress has been achieved" and that "the governments of Thailand, Laos and Vietnam have already joined us in the fight."

This official optimism was flatly contradicted by a Cabinet level report dated February 21, 1972, prepared by officials from the CIA, the State Department, and the Department of Defense. According to *The New York Times* of July 24, the report stated that "there is no prospect . . . under any conditions that can realistically be projected" for stemming the smuggling of narcotics in Southeast Asia.

"Our answer is categorical," Nelson Gross told the Senate. "The governments of Southeast Asia are not engaged in drug trafficking." Secretary of State Rogers claimed in May that the governments in the area are actively cooperating in efforts to curb the drug trade. But the Cabinet level report stated, "The governments in the region are unable and, in some cases, unwilling, to do those things that would have to be done by them if a truly effective effort were to be made. . . . The most basic problem, and the one that unfortunately appears least likely of any early solution, is the corruption, collusion, and indifference at some places in some governments, particularly Thailand and South Vietnam, that precludes more effective suppression of traffic by the governments on whose territory it takes place."

Nelson Gross insisted that there were only "unsubstantiated allegations" implicating General Ouane Rattikone in the drug trade. However, General Rattikone has acknowledged his complicity, and John Warner, chief of the Intelligence Office of BNDD, has since confirmed Rattikone's complicity.

In July, 1971, a Congressional committee was told that "U.S. military authorities have provided Ambassador Bunker with hard intelligence that one of the chief traffickers is General Ngo Dzu, the commander of II Corps." The U.S. Embassy permitted the late John Paul Vann, the senior U.S. adviser for II Corps, to respond: "There is no information available to me that in any shape, manner or fashion would substantiate the charges." He also indicated that General Abrams had no such information. General Dzu was then promoted. *The Washington Post* later obtained the secret documents whose existence had been denied and published them in June, 1972.

Nelson Gross denied there was a serious problem. In a letter to the Senate Committee he said: "Southeast Asia is not a major source of heroin on our market" and that "only five percent" and "certainly no more than 10 percent" of heroin used in the U.S. comes from Southeast Asia. But it was pointed out above that a survey of 109 seizures of heroin in this country by BNDD found that 26% came from Southeast Asia.

The Washington Evening Star-Daily News on August 19, 1972 reported on secret intelligence summaries compiled by CIA and BNDD that contain some of the facts that the Administration will not acknowledge in public. The summaries state that "officials of the Royal Thai Army and Customs at the several checkpoints along the road to Bangkok are usually bribed and 'protection' fees prepaid by the smuggling syndicates or by the driver at the checkpoints."

The summaries also clearly explain why the U.S. has been unable to deal effectively with the Southeast Asia drug trade. They state, "priorities related to requirements of the Vietnam war may limit pressures that can be applied". The "war on drugs" has become a casualty of the war in Indochina.

Our political and military commitments to the governments of Southeast Asia have prevented any effective action to stop the narcotics traffic. These commitments are the result of our determination to fight the war in Indochina. We have allied ourselves with corrupt governments that are complicit in the drug trade and this fact is coming home to haunt us.

Ending the war in Vietnam will free us to make the narcotics traffic our number one priority in the region.

Heroin addiction in our country has brought living death to hundreds of thousands of Americans. It is a major force behind our intolerable crime rates. It is fueling the activities of organized crime.

We can no longer tolerate the narcotics traffic and we can no longer support the corrupt governments of Southeast Asia that profit from it.

Our commitment to the war in Indochina is based on a false notion of national security. Since Richard Nixon took office, the United States has spent $60 billion to fight the war compared to less than $1 billion to combat the narcotics problem. Can anyone say that the North Vietnamese are a greater threat to our national security than the crime, violence, and internal decay caused by narcotics?

It is time to stop fighting the war in Vietnam and see how we can effectively fight the war on drugs.

KEEPING THE BROKEN PROMISES

What are the prospects for the future?

In order to halt the international narcotics trade it will be necessary for the next Administration to keep the promises that Richard Nixon has broken.

He said on June 18, 1971 that controlling the heroin trade is his first priority in relations with the countries involved.

"I intend," he has said, "to leave no room for other countries to question our commitment to this matter."

Those promises have been broken. Stopping the heroin trade has not been the Administration's top priority. In failing to crack down on the Southeast Asia heroin trade, the Administration has left plenty of room for other nations to question our commitment.

There is no way to control the international narcotics trade while winking at one of the major areas of supply. We will simply have to make a top priority effort to control the Southeast Asia narcotics trade. Ending the war will be the key.

In the following specific ways, Richard Nixon's determination to continue the war in Vietnam has prevented him from being able to crack down on the Southeast Asia heroin trade:

(1) He can't cope with the problem without admitting the facts about his corrupt allies in Laos, Thailand, and South Vietnam who are supplying heroin to the U.S. market. If he admitted these facts, support for the war would dry up overnight. Richard Nixon has therefore chosen to ignore the problem.

(2) Richard Nixon is trying desperately to prop up these weak, corrupt Southeast Asian governments. He does not want to expose scandals which would threaten their fragile existence and lessen their ability to fight the war.

(3) We can never bring the necessary pressures to bear on these governments as long as we need Vietnamese soldiers, Lao mercenaries, and Thai air bases to fight our war.

The best case in point is Thailand. As a major opium grower and the conduit through which Burmese opium is smuggled, Thailand is increasingly the key to controlling the Southeast Asia drug trade.

At the same time, as we increase our reliance on air power, shift troops from South Vietnam to Thailand, and reopen air bases in Thailand, Thailand is becoming increasingly crucial to our war effort.

The war effort is also dependent on Thai mercenaries in Laos and South Vietnam.

As long as the U.S. is relying on mercenaries and air bases that are available only with the approval of the Thai government, obviously there is a limit to how much pressure we can bring to bear on them. The war gives the corrupt Thai government a veto power over American policy. As long as the war continues, we will never be able to pressure the Thai leaders to give up the enormous profits that they are making from the opium trade.

In the following ways; ending the war will facilitate controlling the Southeast Asian heroin trade:

(1) The end of the war will free us to make a crackdown on narcotics the top priority in our relations with the nations of this area.

It will free the President to meet this issue head-on instead of covering it up for political reasons.

(2) Political settlements at the end of the war are likely to lead to the emergence in Laos and South Vietnam of new governments that would be less corrupt and more likely to suppress the opium trade. The people and governments of Laos and South Vietnam are likely to realize that if they are serious about rebuilding their countries, they will have to root out corruption and curb the growing drug problems that are ravaging their societies.

(3) The end of the war would completely turn the tables in Thailand. We would no longer be dependent on the Thai government for the war effort; instead, they would be dependent on our economic aid to bolster their topheavy economy. A threat to cut off aid would give us tremendous leverage.

The Thai government could seal off the Thai-Burmese border, if they were determined to do so. Virtually all of the Burmese opium passes through Thailand. Most of it is carried in large mule caravans by the KMT. Some is carried by Burmese Shan rebels, but the KMT units tightly control the border and tax every pound of opium that crosses into Thailand. This shows that the border can be controlled. If the opium can be taxed, it can be stopped. But it will require a vigorous effort by the Thai government. The United States must pressure the Thai government to make that effort.

The U.S. House of Representatives has passed an amendment to the foreign aid bill that cuts off aid to Thailand until the President determines that Thailand is cooperating to stop the narcotics traffic. It is a step in the right direction, but it has the drawback of allowing a Presidential determination of cooperation. President Nixon will not cut off aid because he needs these air bases. The Secretary of State claims that Thailand is already "cooperating," and the President already has the power to cut off aid to Thailand but has not used it. The Senate should also pass this amendment, with the provision that restoring aid to Thailand is dependent on *significant achievements* in stopping the narcotics traffic as determined by Congress or by an independent body.

(4) The reason that the government of Burma is unable to stop the opium traffic is that the opium growing areas are controlled by rebel bands armed with American weapons (they obtain those weapons by selling opium to corrupt Thai and Laotian officials). When the war ends and the United States stops sending arms into the area, the flow of arms to the rebels will be disrupted. If corruption in Laos and Thailand were controlled and if the borders were sealed, the Burmese rebels would find it difficult to market their opium or to obtain weapons. With a shortage of weapons and money, the rebels would be weakened and it would be easier for the Burmese government to regain control of the opium growing areas. In the past, the Burmese government has cracked down on the opium traffic when it has been able to.

In addition, ending the Vietnam war and reorienting our foreign policy may improve our relations with Burma and make cooperative efforts more likely.

These points must be placed in the context of a full program to stem the international narcotics trade. Such an effort must include four components. There is nothing mysterious about these recommendations. Some are official Administration policy and all have been discussed and advocated for a long time. But these recommendations are meaningless as long as the war continues and the Southeast Asia narcotics trade continues unchecked.

(1) *Direct Diplomatic Pressure*—The United States should exert maximum pressure on other governments to crack down on the illicit production and smuggling of opium. This effort must be placed at the top of the agenda of our foreign relations. Every possible diplomatic lever, including possible reduction or cessation of foreign aid, must be brought to bear. If necessary, the President should directly take charge of this effort and should personally negotiate with the leaders of other countries.

In this effort, the U.S. must use the carrot as well as the stick. Other countries, too, have an interest in halting the drug trade. They have their own opium and heroin problems. If given a realistic alternative to involvement in the drug trade, foreign countries may well find it in their interest to cooperate in international control efforts.

Unfortunately, the opium trade is an important source of income to hundreds of thousands of farmers around the world, and, in some cases, to entire national economies. Consequently, the United States must be prepared to assist in making sure that realistic alternative sources of income are available. This should include price support payments and, in the long term, investments in the areas affected to help create alternative sources of income.

(2) *International Cooperation*—U.S. action

is needed at once, but the proposed U.S. actions would be more effective if taken by an international organization. The U.S. should attempt to organize the international community to pressure offending nations to clamp down on the narcotics trade. The International Narcotics Control Board should have authority to investigate alleged noncompliance with international obligations in any nation that is a party to the Single Convention on Narcotic Drugs. Economic sanctions, including the withholding of international development funds, and possible trade restrictions, should be available as a tool of last resort in the event of persistent failure by any nation to cooperate. An effective program of economic assistance to opium producing areas converting to other crops should be developed under international auspices. So far only a tiny step has been taken in this direction.

(3) *U.S. Agencies*—We should strengthen the U.S. agencies that are responsible for controlling the international narcotics trade. An additional $40 million should be appropriated for the Customs Bureau and the Bureau of Narcotics and Dangerous Drugs for hiring and training specialists in drug law enforcement.

A conflict of jurisdictions between BNDD and the Customs Bureau has undermined the effectiveness of Federal control efforts. We cannot expect other nations to take us seriously when we urge cooperation if we are unable to coordinate our own efforts. Yet President Nixon has been unable to gain control over this conflict between two Federal agencies, and the conflict has repeatedly jeopardized important cases. BNDD should be assigned primary responsibility in controlling the international trade, and the President should be prepared to step in personally to ensure that this mandate is carried out.

(4) Finally, increased research efforts can contribute to improving our ability to control the illicit narcotics traffic. The development of cheap, non-addictive synthetic painkillers could make it possible to completely outlaw opium production throughout the world. If legal crops for medicinal purposes can be marked with practical tracer elements, this would make it much easier to detect opium diverted into the illegal market. And there are even indications that remote sensor devices can be developed that would permit direct detection of heroin shipments. All of these possibilities should be vigorously pursued.

The international law enforcement strategy is clearly not the total solution to the drug addiction problem. A two-pronged approach is needed—rehabilitation of those who are now addicted and law enforcement and education to prevent the spread of heroin addiction. Here are some of the elements of a total approach to drug addiction:

Rehabilitation of Addicts—Any serious assault on the drug addiction problem must include an extensive rehabilitation program. A broad range of treatment facilities—methadone maintenance, therapeutic communities, detoxification, and abstinence—must be available; we must seek to guarantee that any addict seeking treatment can gain access to a suitable modality of treatment. Vocational training and counselling and other supportive services must be available, and we must attempt to eliminate unfair job discrimination against ex-addicts. Today there are waiting lists in our methadone programs; methadone is frequently the only treatment available (although for many addicts, such as young veterans who have been addicted only a short time, methadone may not be suitable); and supportive services are frequently absent. Even if it were possible to suddenly stop the flow of heroin into this country and prevent more people from becoming addicted, there are already more than a half million heroin addicts in our country who need treatment.

Domestic Law Enforcement—Domestic law enforcement efforts must be pursued as an adjunct to the international control effort, to make it as difficult as possible for the heroin traffickers to operate. Law enforcement efforts should be directed not at the street level pushers who are usually addicts themselves but at those who organize, promote, and profiteer from the spread of heroin addiction.

Even if the domestic and international control efforts cannot eliminate the heroin traffic, it is reasonable to hope that they can reduce heroin availability on the street and curtail experimentation and thus help stop the spread of addiction (although confirmed addicts will still do whatever is necessary to obtain the drug).

Drug Education—Like the law enforcement effort, drug education programs that frankly and openly present the facts about various drugs can help discourage experimentation with heroin among youths.

Although President Nixon said in March, 1970 that drug education is the highest priority of his Administration, the drug education budget for fiscal 1972 in the Office of Education was 13 million—one fourth the cost of *one* C–5A transport.

Other Drugs—International enforcement efforts must not be limited to heroin. Other drugs, including cocaine, methadone, and barbiturates, must be included; they are problems now and could become more serious if heroin becomes scarce. Synthetic drugs equivalent to heroin may also become available. Control efforts must be pursued now *before* these problems grow.

Underlying Social Problems—Solving basic problems of poverty, alienation, and lack of opportunity will be the key to a long range solution of our drug problems. Until the underlying social causes of drug abuse can be cured, drug abuse cannot be completely eliminated. As long as the belief persists that it is possible to solve problems by taking drugs, it will always be possible that a new drug problem could emerge.

These considerations, however, should not discourage us from making an immediate effort, pursuing every possible avenue, to cure the heroin plague. Heroin overshadows all other drugs in its disastrous impact on our lives. Heroin is responsible for much of the crime, violence, and insecurity that haunt urban life; heroin addiction has destroyed the lives of hundreds of thousands of addicts; and heroin trafficking has fueled the growth of organized crime. Heroin is our worst drug problem and solving it would immensely contribute to improving the quality of our lives.

The effort to solve the heroin problem must cease to be fragmented and haphazard. We must pursue it with the same determination and seriousness of purpose that we invested in the Manhattan Project and the space race.

CONCLUSION

The difficulties in attempting to control the international narcotics trade are obvious. Opium is grown in many countries and total U.S. consumption is small compared to world-wide production. The intention in this presentation is not to propose panaceas or to paper over problems but rather to clarify some of the reasons for past failures and to point the way toward a more realistic effort. International enforcement efforts are not the full answer to the drug problem nor is Southeast Asia the only opium-growing area that could replace Turkey in supplying the U.S. market. But our failure to face up to the problem in Southeast Asia has been one major reason for the failure of the "total war" that Richard Nixon declared on heroin. The next Administration must face up squarely to the fact that Southeast Asia is fast becoming this nation's major heroin supplier.

It would be wrong to see only the problems that beset the international control effort. There are also some important facts which indicate that an international control strategy will have some reasonable prospect of success. The poppy has a long growing period and is easily detected from the air or by satellite. Poppy cultivation is possible only in certain fairly restricted climates. Cultivating the poppy is exceptionally demanding; few who are not accustomed to that life would be willing to adopt it. Consequently, the international syndicates will not easily be able to persuade farmers elsewhere to cultivate the poppy, if they lose their source of supply in the Golden Triangle.

In the 1950s Iran was able to gain control over remote hill tribes and halt opium production. India and China have had considerable success in controlling the illicit production of opium and preventing diversion into illegal channels. Turkey's recent agreement to terminate opium production—culminating a decade of negotiation and pressure—illustrates what can be achieved, when narcotics control is made a top priority. It is now time to place cracking down on the heroin trade at the top of the agenda in our relations with *all* of the nations involved. No objective we are pursuing in Vietnam is so important as to justify jeopardizing our efforts to control the heroin trade.

The next President can act to end the war, and crack down on the supply of heroin from Southeast Asia. This is the fight that America should be pursuing.

This is the fight that, as President, I intend to win.

THE EAST LOS ANGELES DOCTORS HOSPITAL

Mr. TUNNEY. Mr. President, October 22, 1972, marks the 10th anniversary of the founding of the East Los Angeles Doctors Hospital. It gives me great pleasure to congratulate this private institution on its 10th anniversary because of the excellent health-care delivery services it has provided to the community. Working together, the hospital and the community have relied upon each other for the advancement of medical services, the development of health care career opportunities for young people, the encouragement of neighborhood beautification, the stimulation of art and design as an adjunct to environmental improvement, and the creation of a treatment and convalescence that not only reduces the apprehension of the patients but also serves to hasten their recovery.

It has been a decade that the East Los Angeles Doctors Hospital has grown from 39 beds to 150 beds. It has been a decade of service to an area in which resides the greatest concentration of Mexican Americans. And, it has been a decade of creative experimentation making a hospital the focus of community service—of integrating medical services with the general elevation of people's expectations and, most important of all, a decade of providing access to health care for thousands of people.

Here is a private institution—a taxpaying institution—a nongovernment funded institution, that has unilaterally developed and implemented community action programs without the need for grants or Federal subsidies.

Here is an institution—East Los Angeles Doctors Hospital—which has created cash prizes, scholarships, and purchase commissions for local Barrio artists, mosaicists, sculptors, and designers. Within the new hospital, the walls and corridors are lined with murals that borrow from the colorful and heroic Mexican heritage, depicting both the evolution of medicine and the continuing struggle of a people to emerge—done with a sensitivity and skill which would do credit to the best of the world's artisans.

Here is an institution that has quietly and privately funded its own training programs for developing entry level skills in health manpower for Chicano youth, and has annually provided numerous cash scholarship grants for advanced nursing training both in licensed vocational nursing as well as registered nursing curricula.

Here is an institution that has thrown open its door to both the militant and the quiet and invited joint participation in community outreach programs that would raise the general level of health within the Barrio.

Here is an institution, that 10 years ago under the visionary leadership of an innovative hospital administrator, Mr. Al R. Markey sought to put in practice those beliefs that many give mere lip service to: Those beliefs that say private business and the public weal cannot only coexist but effectively cooperate to the mutual benefit of both.

Here is an institution that sought to develop and prove the concept that there is a direct connection between the speed of recovery of the ill and the environment in which that treatment and recovery takes place. A concept, by the way, that only now is being integrated into Federal health-care planning.

On this 10th anniversary of East Los Angeles Doctors Hospital—an anniversary that also celebrates the opening of an expansion of that hospital which brings the most modern of health-care technology to its resident community—it gives me special pleasure to be able to recognize their achievements. It is a story that will have little impact on the world at large, and one that will probably not be heard beyond the boundaries of the Chicano community in southern California. But it is a representative story which if multiplied throughout our country would have a cumulative effect on our national strength and give an immeasurable thrust to the betterment of health-care delivery for all Americans.

INCREASED SOCIAL SECURITY BENEFITS

Mr. DOMINICK. Mr. President, I am particularly pleased to be among the Members of the Senate who have joined in cosponsoring S. 4001. The bill, which was introduced on September 19, 1972, by Senators Aiken and Mansfield, has the support of 74 Senators. The bill, which was referred to the Finance Committee, would increase the amount of income that an individual could earn without suffering any deductions in social security benefits. The present limitation on earnings amounts to $1,680 per year and under the proposed legislation, would be increased to $3,000. There would be no penalty for engaging in work which is evidenced by the provision that only 50 cents in social security benefits would be deducted for every $1 of earned income in excess of the limitation.

I was proud to cosponsor S. 639, which was introduced by the distinguished Senator from Texas (Mr. Tower) on September 22, 1971. That bill also proposed to raise the maximum earnings for a social security worker from $1,680 to $3,000 before any reduction in benefits occurred. There is no question but that present limitations prevent many senior citizens from working and earning more than a token amount. Raising the limitation will have the effect of affording many of our older, but by no means less industrious, citizens an opportunity to perform meaningful and productive work. It will provide the opportunity for these persons to once again experience the satisfaction and pride of making a contribution to society through employment. The bill would take effect for taxable years after December 1972.

I urge the prompt enactment of this legislation by Congress.

STRENGTHENING THE FAIR CREDIT REPORTING ACT

Mr. PROXMIRE. Mr. President, in 1970 Congress enacted the Fair Credit Reporting Act which for the first time brought credit reporting agencies under systematic regulation. Up until that moment, these agencies which affected millions of American people went virtually unregulated. Hearings before the Subcommittee on Financial Institutions, of which I am chairman, demonstrated that many Americans were irreparably damaged by misleading or erroneous credit reports.

These hearings also documented widespread snooping into the private lives of American citizens. In many cases the information sought was only remotely connected to the legitimate purpose of the company seeking information. For example, we learned of instances where insurance companies inquired into the housekeeping habits of persons applying for insurance. In other cases they wanted detailed information on a person's private life, his associates, and his political views.

My original legislation would have regulated the type of information which could be collected by companies ordering investigative reports on consumers. The information would have to be reasonably related to the purpose for which it was sought and it could not have unduly invaded a person's right of privacy.

Unfortunately, when the bill was reported by the Committee on Banking, Housing and Urban Affairs, a number of these safeguards were deleted. A recent article by the Los Angeles Times lists a number of shortcomings in the act. I believe this article indicates we need to take a careful look at the legislation now that it has been in effect for nearly 2 years. My subcommittee on financial institutions is planning to conduct a complete review of the legislation early next year to determine how it can be strengthened and improved. Mr. President, I ask unanimous consent that the Los Angeles Times article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Credit Probers: Consumer's Past Still Fair Game

(By Alexander Auerbach)

Sixteen months ago Congress enacted the Fair Credit Reporting Act to safeguard your privacy. The law is apparently not working.

The act was intended to ensure the "confidentality, accuracy, relevancy and proper utilization" of the millions of consumer credit reports and dossiers prepared each year by a small group of companies that call themselves "business information services." Some critics have called these outfits "credit snoopers."

An investigation by The Times into the activites of Retail Credit Co., the largest purveyor of investigative credit reports, has turned up evidence that the law has failed to live up to the hopes of its proponents in Congress.

If you apply for insurance, a job, a mortgage or even to rent an apartment, chances are good that a so-called "investigative consumer report" will be run on you. If your boss or a potential employer is curious about you, a report may be made entirely without your knowledge.

TOPLESS AND DIVORCED

Because of gaps in the law's protection:

When Judy C. of Palo Alto applied for auto insurance last year, a Retail Credit investigator was free to decide that it was "relevant" to her application to note that she was a topless dancer, and divorced.

Retail Credit's reports sometimes pass along highly personal medical information which the firm obtains with the consumer's authorization for one purpose, but which it then retains and resells without the consumer's knowledge or permission. Even the prestigious Mayo Clinic's records are used in this way.

A report can virtually brand a man a thief, based solely on hearsay. A report on a Santa Clara man in 1966 said his former boss "suspected (him) of taking money from the till" even though no charges were filed. A 1972 Retail Credit manual repeats an almost identical example.

MORE FORTUNATE MAN

Fred P., 26, was fortunate. "We learn of no connection with any Peace movement or other serversive (sic) type organization," said Retail Credit's report. "He is regarded as a normal loyal american (sic)." If the report said the opposite about him, he probably would not have found out about it until it caused him some problem.

(Reports such as these are not available to the public. These examples, as well as various other Retail Credit internal documents, were supplied to The Times by a source hostile to the company.)

The federal law does not allow people such as Fred to see reports on them before they are circulated—or even afterward, since the contents are only disclosed orally to complaining consumers. The reporting agencies in effect usually get "one free bite," and are merely required to maintain "procedures" to promote accuracy.

The law gives the Federal Trade Commission some power to regulate the credit reporting industry, but thus far the FTC—despite numerous consumer complaints and investigations of its own—has not acted.

Lawmakers in New York, California and other states are considering bills to provide stiffer protection than the federal act gives. In Canada, where Retail Credit has major operations, several provinces have passed or are considering legislation stronger than the Fair Credit Reporting Act.

Court actions in this country may also change the legal doctrine known as "conditional privilege" which until now has given the credit reporting agencies virtual immunity from libel and slander suits.

Atlanta-based Retail Credit Co. reportedly controls 60% to 85% of the market for investigative consumer reports. With almost 7,000 investigators across the country, it prepared these reports on 20 million people last year, more than 750,000 in Los Angeles alone. Its activities extend into Canada and Mexico.

(There are two types of credit reports, both regulated by the Fair Credit Reporting Act. A simple credit report summarizes the consumer's record of paying his bills, his employment history and legal information on public records, such as lawsuits and liens.

(An investigative report, however, involves an on-the-street inquiry into the consumer's finances, reputation, mode of living, health or other details.)

SEEKS ADVERSE DATA

Any examination of numerous Retail Credit internal documents plus court records and other public data, as well as interviews with company officials, former employes and state and federal agencies, all indicate that:

Retail credit competes aggressively, to gather as much adverse information as it can about the subjects of its investigative reports. It will seek "informants" when corporate or government regulations block access to personnel or other records.

Its investigators, whose income depends partly on the number of reports they turn out, routinely complete up to 20 reports a day. One man in Northern California produced 33 in one day several weeks after the FCRA was enacted.

Retail Credit was founded in 1889 as a small Atlanta credit bureau. Then, as now, much of its work was done for insurance companies wanting detailed information on applications in distant cities.

BOOM AFTER WARS

By the turn of the century the firm was also doing employment reports, first for insurance companies and then for industry. "Both world wars saw the use of reports by government agencies," says a Retail Credit manual, and private employers now "use the service liberally."

Today for $5 the company will prepare a detailed investigative report including estimates of the subject's financial condition, drinking habits and marital habits, along with any police record or legal entanglements. It will also pass along two neighbors' comments on his or her general reputation. For $10.50 an hour the firm will gather as much more detail as the customer wants.

Its list of customers ranges from Prudential Insurance Co. and the Bank of America to a San Diego dentist.

W. Lee Burge, president of Retail Credit, said last year that the "typical field representative" is 33, has been with the company more than five years, and probably has some college education.

The company's manual for its branch office managers, entered as evidence in an Oklahoma lawsuit, tells manager to look for prospects who "have a good handshake, clear voice, and look you in the eye."

A college man from a small school would be "more satisfied with average earnings and difficult working conditions." For the same reasons, the manual adds, he should come from a home where—financial and cultural advantages were rather moderate."

SUSPICION EMPHASIZED

"He should be sufficiently suspicious by nature," for his major task is tracking down what Retail Credit refers to as "protective information," meaning negative information to protect its clients from people who might be bad insurance or credit risks.

"Protective information," the manual says, "is the 'meat' of the report—the basis on which we sell our service."

In congressional hearings that preceded enactment of the FCRA, Retail Credit denied that it imposes a quota on its investigators for a fixed percentage of "protective information."

However, the company's internal documents demonstrate the emphasis placed on coming up with negative data.

PERFORMANCE RECORD

Each inspector must daily fill out a "performance control record," and note the percentage of his reports that included protective information.

The branch office manager is told: "These forms should be reviewed regularly through the month to be sure that all inspectors are developing a reasonable percentage of significant information."

Last October Norman W. Smith, a regional vice president, sent a stiff memo to his branch managers.

State Farm Insurance Co., he said, was getting more adverse information in reports from Southern California Retail Credit offices than from other offices in the West. In Southern California, 5.9% of the reports had information bad enough to warrant denial of auto insurance to the applicants, while in Northern California the figure was only 3.5%.

CLIPPINGS AND RECORDS

The "usable information," Smith said, included "rating of the residence address by crime frequency, quoting of newspaper clippings and subsequent followup with court records, police records, etc."

A company bulletin last December noted that one office had protective information in 38% of its employment reports, with 10% having information adverse enough for the applicant to be turned down.

It concluded with "Congratulations!"

Investigators' pay starts at about $575 per month, plus expenses and a quarterly bonus based on both output and quality of reports.

The investigator's inquiry begins with a look at the dossier Retail Credit has on the subject—the person being checked. Often these are only a page or two of information, but some are more lengthy. The file contains data from past reports, news clippings mentioning the subject, and other material.

The investigator's manual, also entered in the Oklahoma lawsuit, notes that even the customer firm's request form can yield "tips."

The address identifies the neighborhood, which "may give the inspector an idea of the type of person being investigated."

As for occupation, "speculative or 'get-rich-quick' occupations should be checked into carefully. Certain occupations, such as 'retired,' 'real estate,' 'pool room,' 'soft drink dealer' are at times used as a front for illegal liquor dealing. Other occupations, such as junk dealers and pawnshops indicate unreliability, and when taken with a foreign name, provide tips of great importance."

(Retail Credit President Burge told The Times "some of the material" in the manuals entered in the Oklahoma case "may have been greatly modified" since. This specific section, Burge said, "was antiquated when it went into the manual. There's been a great change in the nation's population since World War II, and this may be archaic.")

If the applicant for insurance or credit lists references, says the manual, the inspector should disregard them, since they are probably favorable, and to seek other "sources"—neighbors, an employer, banker, landlord or local storekeeper.

Police, court and other public records are routinely examined.

(Retail Credit was one of eight investigative firms indicted in January on charges of bribing New York Police Department officials to obtain arrest records, which in New York are confidential. The firms pleaded guilty to a misdemeanor charge of giving an unlawful gratuity to a public servant, and the felony charges of bribery were dropped.)

The company's "Statement of Principles" notes that "any individual or firm has the right to determine to whom he will or will not give information."

Nonetheless the branch manager's manual contains detailed instructions on opening up information sources.

If a company refuses to give out information on its employes, says the manual, "we may need to 'play upon' the company's sense of cooperation and responsibility to other members of the industrial family."

If the firm feels that security regulations block it from giving the data, "we should contact their security director. . . . Experience shows that when properly approached these people are usually sympathetic to our needs."

AUTHORIZATION SIGNED

On most insurance applications the applicant signs an authorization allowing the insurance company to get his hospital and medical records. Since Retail Credit is working for the insurer, its investigator may use the authorization.

In a bulletin to its salesmen in December of last year, Retail Credit reported:

"Personal review of medical records is now available from the Mayo Clinic!" It noted that until then "only limited information" had been available from the clinic in Rochester, Minn., in the form of an abstract prepared by the clinic's staff.

The change, allowing the investigator to examine the clinical records directly, provide "more information than can normally be found in a combination of doctor and hospital records," the bulletin notes.

(The Mayo Clinic gets a special service from Retail Credit when running credit checks on its patients. The results of the check are sent by phone or cable, the Credit Reporting Manual says, since the clinic "needs information for charge before their patient leaves the hospital.")

32,000 PHYSICIANS

Retail Credit also has file cards on 32,000 physicians who will provide the company with patient information for insurance reports.

Under the FCRA, a consumer can demand disclosure of a credit reporting agency's files on him. But the law does not require the agency to reveal medical information in the file, so there is no way for the consumer to find and correct an error in his medical record.

Retail Credit's branch manager's manual notes that medical records have a special legal status, and cautions against making any direct quotations from medical records already in Retail Credit's files. But if the investigator avoids verbatim quotations, it says, "limited factual information may be given," if it is somehow relevant to the investigation.

WAYS TO CATCH ERRORS

Long before the FCRA was enacted, Retail Credit had systems for catching and correcting errors. Reports are reviewed before they are mailed, and are reinvestigated if the customer firm questions the information it gets from Retail Credit.

Occasionally, where a substantial life insurance policy is involved, Retail Credit will have two investigators make separate, independent reports. This the company notes, not only cuts errors but it discourages its customers from ordering reports from Retail Credit's competitors.

The double-checking systems often work well. Last December an insurance company sent back a report to a Retail Credit office in Northern California, and the investigator acknowledged that a "mixup of people" apparently was caused by a "misunderstanding in the original interview."

Sometimes the procedures apparently fail, however. An insurance company is suing Retail Credit for $8 million, the amount paid to the widow of a Tulsa rancher. The firm said in its civil complaint that it relied on a Retail Credit report that the rancher was worth $37 million, when, it charges, most of his assets were mortgaged.

The rancher's widow told reporters that the investigator copied information from an erroneous newspaper clipping the couple had hung on the wall as a joke.

Retail Credit has denied that it is negligent, and says it will vigorously defend itself against the lawsuit.

FEW LOSE OUT

Retail Credit says only a small percentage of consumers it investigates are denied insurance, credit or a job because of the reports—about 5%, according to various company statements.

The company says it studied a sample group of reports on consumers who were turned down, and found that one out of every 60 contained a serious error requiring correction.

Using those figures and the company's total volume (that is, one-sixtieth of 5% of 20 million investigative reports) it would seem that 16,000 consumers each year are turned down on the basis of reports containing serious errors.

That figure does not include possible errors in reports which were not adverse enough to cause the consumer to be turned down.

MANY NOT COVERED

And it does not include the large number of retail Credit's reports which are not covered by the federal law's provisions.

These include investigations conducted on those who file claims against their own or other insurance companies, or even those who ask the mover to pay for the damaged couch.

Retail Credit's FCRA manual states that the law does not protect sole proprietors, including doctors and lawyers practicing alone, since reports on them would be business reports, not consumer reports, and thus not covered by the FCRA.

And the law covers only investigations of consumers' eligibility for benefits, not reports which discuss their desirability as customers, according to the company's manual. "We interpret this as a catch-all clause," the manual states.

HATFIELD'S PROPOSAL

A bill by Sen. Mark O. Hatfield, (R–Ore.) to strengthen the federal act has languished in the Senate banking committee for 18 months.

A number of state legislatures are closely watching an Oklahoma lawsuit which could pave the way for stiff state laws.

Tulsa consumer advocate Paul Polin, a longtime critic of the credit reporting industry, persuaded his state attorney general that a 1905 Oklahoma law covered Retail Credit.

The state law requires a credit firm to alert a consumer before making an investigation, and compels the firm to give him a copy of the completed report. (The FCRA requires only a verbal disclosure.) The case is before the state's Supreme Court.

A California lawsuit may also chip away at the agencies' traditional protection against libel suits under the so-called "conditional privilege" doctrine.

In that case Retail Credit acknowledged that its report on an Oakland insurance agent, which said that there was "a question of (his) honesty," was based on one interview with a man who volunteered that he was "prejudiced" against the agent.

Retail Credit did not deny that the report was false, but claimed that it is immune to libel action because the report was not made with malice.

A jury disagreed, and awarded $290,000 in damages. Retail Credit has appealed.

If the verdict is upheld, it could open the way for private lawsuits which federal officials say might provide more protection than the FCRA.

The federal law, they note, actually protects the credit reporting agencies from lawsuits.

INDIAN INTERN EDUCATION PROGRAM AT UNIVERSITY OF ARIZONA

Mr. FANNIN. Mr. President, recently the University of Arizona's student newspaper, the Arizona Daily Wildcat, published an article concerning an Indian education intern program at the University. This program has been designed to prepare Indians to become teachers in the tribal schools in Arizona. This is a most commendable program, as it will immeasurably assist in expanding the participation by Indians in implementing education programs.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNIVERSITY OF ARIZONA INTERNS TO SERVE AS TRIBAL SCHOOLS' EDUCATORS

(By Ellen Hale)

American Indians are learning they have much to say in today's society and a University of Arizona education program is helping them learn to say it.

The program is a two-year internship project which prepares Indians to become teachers in tribal schools in Arizona.

Under the guidance of program coordinator Dr. Vance C. Frasier and administrative coordinator Jerry Hill, 20 Indian students representing 13 tribes are studying to bridge the gap between university education and reservation teaching.

"There is a growing movement for Indians to direct their own affairs and the project is designed to involve the Indian people in the determination of their futures," Frasier says.

Now in its second year, the program will graduate 17 of the interns next spring with degrees in elementary or secondary education.

The internships are financed by the Bureau of Indian Affairs (BIA) and allot each intern a $2,600 yearly stipend.

Students enter the program as juniors and devote seven to eight hours a day to extensive and innovative training each semester.

"Rather than use the traditional teaching approach, we prefer the 'saturation technique,' teaching each subject one at a time in a block system," explains Frasier.

Two days a week students practice-teach or assist in public schools.

Frasier believes the technique is more successful in training Indians for their work in reservation schools than traditional methods.

"The idea is to develop in them a definite set of skills which are not so much knowledge-oriented as performance-oriented," he says.

After eight weeks, interns "field practice" in Indian schools.

The correct approach to teaching in Indian schools that the interns are learning involves what Frasier terms "open education."

"We create an environment with learning centers where kids are involved in their own learning process. This seems to be a more viable method than the structured, authoritarian system we all know," he argues.

The end beyond the means is to "Indianize" education.

Less than three per cent of reservation teachers are Indians, and this has created a major handicap in the development of Indian leadership. Frasier maintains.

The resultant lack of models for self-development has been reinforced by BIA governing of Indians, he adds.

"Hopefully, with programs like this, Indians will have control of their own schools within five years, although it will be much longer before all Indians' teachers are Indians themselves," Frasier says.

This year the entire Navajo school system in Arizona is being run independently of the BIA.

There is an unbelievable amount of agreement among Indians as to who should teach their children," Frasier remarks. "Almost all want their own tribesmen teaching their own tribes in their own languages."

Such concern makes the program's goals twofold and doubles its significance, according to Frasier.

"Not only does it prepare Indians for teaching and upgrading their own schools; it involves the whole Indian community in the education process," he explains.

Frasier believes there are benefits for Anglo society as well.

"We can learn a lot from the Indian. He has great respect for individuality and doesn't see the need for competition to establish his 'self'," Frasier says.

The currently popular belief that one should live in harmony with his environment is an indigenous Indian philosophy, according to Frasier.

"You see, if we let Indians keep their cultural heritage and don't try to anglicize them, and we listen to them ourselvse, we might avoid covering the face of the earth with asphalt."

EVALUATION OF ALASKA

Mr. GRAVEL. Mr. President, in Alaska this year an unusual kind of government evaluation was conducted worthy of notice on this floor for implications it has not only in Alaska but for all government evaluation.

The researcher, Michael Rowan, of Rowan Group, Inc.—a company that operates in the United States—designed an evaluation which permitted the government services delivered to Eskimo people to be evaluated by the Eskimos themselves. In his report he wrote about the difference between his research approach and the approach of other professionals in his field:

> Contrasting with other professionals in this field we feel that consumers of a government service are its best evaluators. Secondly, we feel that imaginative programming can develop from in-depth psychographic research in the same way as new products are created in the corporate environment by deep probes into the possible human uses of nonexistent products. Resonance between the government and its social service clients in the Bethel area is difficult to achieve because of massive cultural and historical media differences or absences, but in this case, psychographic feedback was a perfect (perhaps the only) tool to reach deep into the minds and hearts of these people and come up with a sense of where they want to go and why.
>
> In the past, most research in this field has been of a quantitative "perspective" nature. That is, the researcher approaches his task with a point of view which structures most of the questions he asks, and the answers he receives (whether he knows it or not).

This kind of research usually produces volumes of quantitative data about things which were always basically known (or knowable from other sources) . . . another form of justification.

The approach that we used in this project is light years away from the "perspective" mode. It is open-ended, psychological, motivational and qualitative (not quantitative). It accepts the fact that if we were to score and choreograph one human life, we would find most of the feelings and thinking and behavior to be in the subconscious, especially culturally invisible, lines of force. We try to pick up on those signals and patterns through the use of unstructured, open-ended questions about very general life-bearing kinds of probes. In his *Experiments in Hearing*, (McGraw-Hill, 1960) George von Bekesy explains the abandonment of "perspective" in media research:

"It is possible to distinguish two forms of approach to a problem. One, which may be called the theoretical approach, is to formulate the problem in relation to what is already known, to make additions for extensions on the basis of accepted principles, and then to proceed to test these hypotheses experimentally. Another, which may be called the mosaic approach, takes each problem for itself with little reference to the field in which it lies, and seeks to discover relations and principles that hold within the circumscribed area."

We permitted the Eskimo respondents to define the "circumscribed area" of our work. Our approach is "mosaic" in the sense that von Bekesy uses the word. We did not try to structure anything. We were interested only in the probe.

We found some things which are relevant and valuable. Some observations appear to be irrelevant because we were not commissioned to assess them. We found them anyway, and we present it all as part of our report. With this approach one can often find by accident something totally unanticipated by the original concept.

Edison once wrote: "When you are experimenting and you come across anything you don't understand, don't rest until you run it down; it may be the very thing you are looking for or it may be something far more important."

The findings of this unusual probe into Eskimo culture and life produce some conclusions which have, I feel, vast implications for the delivery of health and social services, new Government programing and strategy and use of a new public radio and television station going on line there:

We offer what we found in this research the way the astronomer offers the existence of a new planet from knowledge of the gravitational movements of other planets around it; in other words, we do not have causes and effects, here—we have parallelisms. And we really don't have scientific findings. We have probes.

1. ESKIMOS AND THE POWER OF SPEECH

The Eskimo people we are dealing with have been called the most adaptive people in the world. Well they may be, because they have no history. In a world with no writing and print there can be no history, there is only the memory of the oldest person around. And there is the addition and deletion of the grandmother who decides to change the meaning of the past.

In this mode, life comes all at once; it is spontaneous, homogenous, familistic. Any intrusion is accepted as a natural thing, whether it be a tundra fire, the death of a child, the end of the caribou, the school, a jet, TV, the salmon run, the next fish camp, permanent settlement, migration, the resurrection of Jesus Christ. Life is not rational to a people without a history. There is no sense of accuracy or truth the way the Western man sees it.

There is also a preponderant reliance on the power of speech. The emotional baggage of the past, the cultural dreams and hopes, the drastic deaths and disappearances and longings, are all packed into the sounds of daily speech, where they disappear instantaneously. The Eskimo people are weaved together into this semantic web of common experience and shared memory. They carry within themselves all the timelessness of the present, and whatever they remember is what works in their lives.

The Eskimos we talked to can hardly remember the old life. None of them—in the thousands of conversations electronically processed in our data—ever referred to the fact that only two generations ago everything was different, there were no villages as such, no welfare checks, no doctors, no jets, no white men. There is very little conscious longing for the past. There is a total acceptance of the present, as is.

Underneath this conscious layer is something else again, because here is where the Eskimos are paying the dues for this transition.

Moreover, in his research Rowan found what he called "transmutations" of the Eskimo culture which are being induced unconsciously by Government programing designed from an agricultural or urban bias, both of which naturally are irrelevant in the Arctic villages:

Just a few of the basic things which this mutation has radically altered, as we can pick it up from what people say, are:

(a) The shift from the ear to the eye; from the semantic connections of the ear to the 'private eye' of the Gutenberg man, the reader.

(b) The replacement of the family with impersonal, contractual institutions (schools, hospitals, courts, etc.)

(c) The obsolescence of the old and the crowning of the young.

(d) The castration of the man as providers because of the money-making possibilities open to women (welfare, arts and crafts, services) . . . the 'discovery' of unemployment with the arrival of the first compensation.

(e) The evisceration of the family power structure (as represented by the village) and the replacement of that structure with a racially and culturally ignorant foreign power who deals in alien languages (print) and removed sequences (clock time) which are neither felt nor understood.

(f) The replacement of Yupik with English, making one's first tongue a personal embarrassment.

(g) Alcoholism.

By far the most significant mutation deals with altering the ratios of speech and language. As Sapir, Whorf, Traeger, Mead, Lee, Carpenter and others have so aptly demonstrated in their media work, language is not a reflection of thinking and experience, language is something which by its very use structures and shapes thought. This is true of all media according to Innis and McLuhan, especially electronic media, so the introduction of radio and television to the Eskimo people arrives at just the perfect time if our intent is to strengthen the family integrity of the Eskimo way of life.

It comes as startling parallelism to find a deep concern for Eskimo culture and language emerging at the same time as alcoholism is massively affecting the Eskimo population, while simultaneously radio and television are coming on line.

There are inherent connections between human speech and electronic media and these connections may be what Edison was talking about when he spoke of searching something out, because 'it may be the very thing you are looking for, or it may be something far more important.' We may have found something very important in this research.

He was also interested in finding the relationship between electronic media which are just being distributed into the villages and the traditional emotional power of speech among the Yupik speaking Eskimos. To do this he enlisted the aid of Ted Carpenter, perhaps the most renowned Eskimo anthropologist and a close acquaintance of Marshall McLuhan. Carpenter's thinking began to put a frame around the use of media among the Eskimos:

McLuhan writes in *Understanding Media:* Any medium whatever is an extension, a projection in space or in time, of our various senses. Speech is the only medium that uses all the senses at once.

Carpenter goes on to say that Eskimos have a balanced sense of the real world because of the balance and integrity evolving out of a life lived all at once in the multisensory mode of human talk. This cultural integrity, which was upset by western technology and institutions, may be possible to restore (if only partially) through electronic media, which, again according to McLuhan, utilize all the senses in a balanced, integral combination:

The television image is of low definition quality. This automatically involves the television viewer in a good deal of do-it-yourselfness and in strengthening the feeble image. (He compares TV to a Suerat painting or stain-glass window art, where the light comes *through* the medium, and the effect is put together in the viewer's own head.) This gives the television image a strong sculptural and tactile quality, McLuhan says, and these tactile values elicit the highest degree of participation response of any medium we have.

Technically, McLuhan is referring to the fact that the television viewer does not see an image on the TV screen; actually, his brain is the screen. Of the millions of possible electronic dots on the TV screen, the eye at any instant is scanning about 60 to 70 of them, and "fills in" the rest. This is a massive amount of filling in. If for example, a high speed shutter photograph is taken of a TV screen, there is no image on the photoplate, illustrating the principle. The involving nature of TV is thus a multisensory kind of event involving the eye, the ear, and to a very great degree, the sense of touch.

McLuhan is convinced that it is the sense of touch which permits the brain to learn how to do all the "filling in" required by the low definition TV image. Television, therefore, is the closest medium to human speech ever achieved by media, delivering, as it does, a balanced kind of experience requiring a balanced use of the senses to incorporate it.

The most meaningful conclusion in this report is that radio and television can indeed be accepted as social services. In other words here we have a situation where use of public radio and television will be servicing Yupik speaking Eskimos who jump the gap from tribal man to electronic man and dismiss the thousands of years of writing and hundreds of years of print which have biased so much of what is in civilization. Thus the conclusion of the writer is that radio and television properly produced by Eskimos for Eskimo consumption permit what we could call a cultural resonance which will give them identity and security in a world fraught with dynamic change:

> Radio and television are social services, per se, in the Bethel region, because the only way to restore the balance of semantics and speech—so inherent in the old life—is through radio and television. Here we are not talking about the "content" of media, but the media themselves as having these inherent effects, this sensory balance. Radio and television can strengthen family life among the Eskimos in a unique way.
>
> If radio programming were used for massive distribution of personal messages, for example, and television were universally programmed as a social service resource, this might reduce the amount of transportation (and dislocation) necessary to village life at the moment. "The natural affect of the electric", McLuhan writes, "is to substitute information movement for transportation of things. That is, the faster information moves, the more the forms of knowledge, process, and experience become accessible to observation". . . And use. Not only can transportation be cut down, but money values can go up because the normal exchange rate for money in the villages is computed nowadays over airplane time. Moving money information at electric speed (like the credit card does) is just another way to use money faster. Every dollar used has another six or seven dollars generated by its quick use in the service environment, as the economist would describe. This is just one example of how media generate wealth, or why media *are* social services.
>
> Radio and television could also be programmed to achieve higher levels of electronic effects which are inherently felt in any case. Prior to this time, we have been speaking of the TV medium itself as involving, balanced, integral—corresponding by its sensuous involvement to the prior Eskimo use of speech. Now we are saying that the programming in Yupik, the surfacing of socio-cultural problems and alternative solutions, the electronic distribution of information or "education" (should one prefer the word), would only enhance the elegance of the natural behavioral effects, making it very involving and powerful.

The author also describes the powerful effect of media in the interior environment of the Eskimo home. He also suggests that the Eskimo people should have access to the microphone and the camera not just a radio and television set. In other words not only do the clients of a service become its evaluators but the listeners and viewers become the producers:

> To understand the powerful impact of radio and television in the Eskimo home, we refer here to Edward Hall, the anthropologist and author of *The Silent Language.* Hall's concept is that every language has a grammar and every culture also has a grammar, hidden signals which are invisible to their users, and which give *them* convenience and comfort. The visitor is befuddled by them, the user is convenienced. For some years now, Hall has been studying the hidden dimensions of culture and he has found that there is no such thing as experience in the abstract, as a mode separate and distinct from culture.
>
> The Eskimo culture came under direct attack by the schools because no experience in Eskimo life required a school. Children did not need preparation for life in the old Eskimo world, and, in fact, there was no word for "child" in Yupik until the white man came along with a lot of experiences which require school: numbers, print, and history. The school therefore declared an invisible war on the Eskimo culture and symbolically, the Yupik tongue. This developed a schizoid identity among those who go furthest into the western mores—the further you go the farther away wanders your identity. The Eskimo high school and university dropout rate is just one example of a side effect.
>
> This is what happens when a family and a people find their culture invisibly eroding—with their own compliance in many instances. Culture is invisible to those who use it. You never know it's gone until you lose it, and then you've got someone else's. Radio and TV come into this setting like a bombshell.
>
> "The reader must remember that the average Eskimo home is a human encasement, very small, maybe 9' by 15' at the most, packed with people. This was the custom before and after the white man introduced the walled house and permanent settlement. A radio placed inside this environment has a similar effect to the electric light. The lightbulb extends day into night, changing all the ratios of sleeping and eating and conversation.
>
> The radio surrounds the listeners invisibly, forming a backdrop of subconscious stimulation. It will only be realized fully when it is turned off, just as we only begin to feel suffocation when there's no air. Consider the effect of radio in the situation of personal, high-intensity and multi-person contact in small spaces over long periods of time (actually village Eskimos spend nine months indoors every year; spring is like being born again every year).
>
> Now consider television. Television is not a "surround" like atmosphere, light, or radio; TV is an *event* which is very involving, participative. Wholesale introduction of *commercial* TV into the Eskimo home would obviously be an invasion of the greatest possible magnitude, an outright cultural declaration of war, and a speedy, total victory for the media hijackers. We say hijackers because television can hijack the Eskimo people into the cities,* or at least drive them from their homes, if the material is not programmed properly and tuned to cultural needs. Tuning is extremely important, and this involves how many hours per day the TV should be broadcast as well as what kind of programming should be presented.
>
> Just one day of television broadcasting could take an Eskimo family on more "trips" than every one of its members had experienced in the previous year, or perhaps in their whole lives. This is why we stress the local nature of programming, the sense of villagers talking to each other, the right of personal statement in media (especially radio) the access of Eskimos to the microphone and camera, not just the speaker and the screen. The only people who can truly pick up on all the hidden signals which Hall talks about, and make them work in electronic media to strengthen (rather than eliminate) family life in the Methel region, are the Eskimo people themselves. Training the first Eskimo television crew therefore takes on a priority of highest order.
>
> The sense of this whole report comes down to the idea of dialogue. In radio and television in western societies, the production is what Tony Schwartz calls "munication" not *com*munication. Total concern for programming says nothing about the human use of the programming. Or, as McLuhan puts it, "Mere flow of the most excellent impression does not confer relevance of function on any medium whatever." We must ask, "Can the Eskimo people use this program to strengthen their lives?"
>
> One of the reasons for the research was to *let the dialogue begin at the outset.* If we design programming from anything but a deep knowledge and respect for the Eskimo way of life, we will change its ratios. (Side effects: alienation, alcoholism, listlessness). If we seek dialogue, we will set the tone and language of the programming in acceptable Eskimo forms, easy to use, natural, hidden, invisible, operable forms. Yupik is one of those forms, and we should use it. We are not going to communicate if we do not.
>
> Dialogue is a form of interplay which fits uniformly into the natural sensory balance of television reception. It may be possible (and this is the most advanced of our probes) to use Eskimo radio and television to develop counterpoint to all the other institutions which operate in the villages. Eskimo radio and television can reconnect to cutural heritage, give identity to the people, increase the flow of information and thus develop the economy, surface and deal with problems like alcoholism, return the power to the local village (re: Sky River project), and provide a trainload of psychic support to a people floundering for recognition and hope. Dialogue is a way, as McLuhan says, of making the consumer a producer, and the producer a consumer. Interchanging among Eskimos is the key to this process; command of the media is the key to interchange.

This report is meaningful to me because it involves in-depth, in-home, personal interviews of 1,404 individuals by indigenous, professionally trained, Yupik speaking, bilingual Eskimos. In other words here we have the first human data on the direction of the cultural life of present day Yupik speaking Eskimo people. The implications of this study for government are simply immense. For example, in simply asking people about their problems in the village the researcher found the problem mentioned 10 times as often as any other to be that of alcoholism. The unusual thing about this one small piece of data is that of all the Government programs in existence in the villages, none impact directly and meaningfully on this number one problem among the people the Government is supposed to service. Now it seems to me that human feed-back such as we have here in this research presents us with an opportunity to impact government programing in the areas of greatest human need and concern or it permits us to redesign entirely our programing to meet the existing human needs.

Now the fact that the writer sees media as social services in this area suggests that radio and television become to the psychic life of the Eskimo what fish and food stamps have become for the health of his body:

> Radio and television as social services have the possibility of delivering an elaborate, sophisticated identity and ability to the Eskimo people. Should it be achieved there will be inchoate side effects which may affect alcoholism, welfare, unemployment and poverty. Radio and television can also put the schools in proper cultural context, permitting a better relationship between the young and old. All these are possibilities we see proceeding out of a proper and effective use of electronic media to support the family life of the Eskimo people. It is difficult, frankly, to see this as anything but an exciting and hopeful challenge to the Alaskan government. What if it turns out that we truly can bring the Eskimos out of a psychological cycle which if left untended, leads only to more frustration, anxiety, alcoholism, and despair? Then our work will have been complete.

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*While no clear one-to-one relationship has yet been established between migratory behavior and media distribution almost everyone seriously into the anthropology of media and its side effects speak as if it is already established, and several on-going studies into the USA and out indicate that they are right.

Specific conclusions of the report involve the following recommendations written by health and social services community planner, Jon Buchholdt of Anchorage, to the Alaska Department of Health and Social Services. I hope this kind of thinking and these kind of conclusions will not be lost upon the Federal Government's Department of Health, Education, and Welfare and the Federal Communications Commission:

As has been stated before, the Department of Health and Social Services should use the electronic media to enable health and social services to individuals and families to reflect back upon the people their own values and traditions. This reflection will yield greater understanding of these services, and better response to them.

The media should be used to generate a desire for local control of these services as a conscious and planned stimulus of rural regional and village organization and development.

The media should be used to train Native paraprofessionals employed in health and social services delivery, and to provide these paraprofessional people access to college courses necessary for professional development to the point that bush health and social service systems can begin to be professionally controlled by Native people as well as democratically controlled. The media is the means to village-based higher education through prescription ITV instruction and education.

The media should be used to bring parents and children together again through common language usage. Making families fluently bilingual should be regarded as a critically needed, family-supportive and stabilizing social service. This can be accomplished through comprehensive ECD programs incorporating multi-media parent and child instructional programs, including adult basic education. If these instructional services are incidental to ECD programs, they are reimbursable under Title IVA.

Finally, the media should be used in a broad regional community mental health program attacking alcoholism.

A well coordinated radio and television production and broadcasting program will quickly establish educational TV and public radio as indispensable social services in a region where families are caught in the bind of transition between a subsistence and money culture and economy.

1. It is clear that the radio and television media must be regarded as both a valuable health and social services tool, and that public (educational) radio and television should be regarded by the Alaska Department of Health and Social Services as an essential social service, reimbursable under Titles IV, and XVI of the Social Security Act.

2. The Alaska Department of Health and Social Services should continue to contract with Bethel Broadcasting, Inc. to produce software in support of health and social services in Southwest Alaska.

3. The BIA and Alaska Native Health Service should contract with Bethel Broadcasting, Inc. to produce programs in support of their health and social service programs.

4. Those agencies employing paraprofessional health and social service employees in Southwest Alaska should cooperate in the development of a regional, multimedia community college program designed to reach out in the villages through innovative use of television and videotape to involve paraprofessional employees in systematic training and career development courses.

5. The Department of Health and Social Services should work with the Department of Education, the BIA, the State Operated Schools, and the U.S. Public Health Service to:

a. Integrate bilingual language skills development programs as essential parts of village ECD programs.

b. Contract with Bethel Broadcasting, Inc. and the University of Alaska to join forces to develop bilingual television instructional materials for use in village ECD programs; paraprofessional staff training and career development programs; and village adult basic education (ABE) programs.

6. The Department of Health and Social Services should work with the Department of Education and the new Department of Community and Regional Affairs to plan and design multi-media village ABE programs based on health, family life, and community organizational materials and themes. Through the use of television, health education, for instance, should become an opportunity for literacy.

7. Alcoholism should be addressed through a regularly produced series of programs designed to reflect back upon the people their attitudes toward liquor, and to change drinking behavior as well as community attitudes toward drinking, as well as toward agencies with alcoholism program responsibilities.

8. The role of the community service aide program should be the subject of extensive radio and television programming. A media campaign should be launched to explain who these aides are, where they are employed, and how they should be used.

9. The Yukon-Kuskokwim Health Corporation should contract with Bethel Broadcasting, Inc. to produce media materials to support village health aides, and to be used in their training.

10. The Department of Health and Social Services and the Department of Community and Regional Affairs should contract with Bethel Broadcasting, Inc. to utilize the media to assist villages to organize themselves to attack village sanitation problems through use and multiplication of shared revenue program funds, and the State's other water and sewer programs.

11. The Department of Health and Social Services should cooperate with the Department of Labor to use the media to amplify fully employment opportunities throughout the Bethel region.

12. The itinerant schedules of regional public health nurses and Bethel Hospital physicians should be faithfully provided to Bethel Broadcasting so that scheduled visitations can be announced daily as a regular radio and television program feature.

13. All health and social services media software and programs should be bilingual productions.

14. Within a year after television broadcasting is on line in Bethel, this psychographic survey should be repeated using a well distributed sample of about 200 families. The results should be compared with data contained in this report as a method of on-going program evaluation.

15. The Department of Health and Social Services should regard post-land claims settlement organization and planning as essential to family security and welfare in rural Alaska. Media software produced in support of this planning should be regarded as reimbursable under Titles IV and XVI, and Health and Social Services should cooperate with the Department of Community and Regional Affairs to provide individual, family and village involvement in post-settlement planning and organization toward good post-settlement fortune stewardship.

16. The field staff of the Department of Health and Social Services, as well as that of other State and Federal Departments should undergo training to enable them to use video-tape as a means of reporting their activities to their supervisors. Video-taped reports should also be made by the Department to the people. This would facilitate the development of program accountability. Along this line, the Department should use videatape to enable actual health and social service consumers to comment upon and evaluate services. This use of video-tape could be a joint effort between the Department and Bethel Broadcasting, Inc.

17. As a social service, the Department should use the media to help families and villages to maximize and fully exploit subsistence opportunity. For instance, intelligence regarding the fishery, game migration, hunting and fishing regulations, food preparation and storage, gardening, improvements in snowmachines, and outboard motor technology, and innovative hunting, trapping and fishing techniques. This would represent the use of the media to extend the traditional subsistence community regionally.

THE 25TH ANNIVERSARY OF THE POLITICAL EXECUTION OF THE BULGARIAN PATRIOT NIKOLA PETKOV

Mr. ALLOTT. Mr. President, last Saturday, September 23, 1972, marked the 25th anniversary of the political execution of the heroic Bulgarian freedom fighter, Nikola Petkov. It was on this date in 1947 that Petkov was executed on the gallows for the crime of conspiracy against the state. On that day he was called "an agent of Anglo-American capitalism" for his courageous opposition to the Communist Party leaders' reign of terror in Bulgaria.

In the election of 1946, Petkov's party strongly opposed the Communists. The results of this election, marked by corruption and bloodshed, sent 101 representatives of Petkov's party to the Grand National Assembly. It was in this great hall that Petkov's fate was decided.

It was not long before Petkov was arrested and tried for conspiracy against the state. In the blatantly unfair trial that followed, he was convicted and sentenced to death. This death sentence caused a massive public outcry throughout the free world. But these pleas for justice were ignored and Petkov was hanged on September 23, 1947.

Thousands of other Bulgarian citizens have followed the example of Petkov, sacrificing their lives for the cause of freedom and independence of their country. It is ironic that this Bulgarian national hero cannot be honored openly by the people for whom he gave his life. Thus it is even more important that we celebrate this anniversary for Nikola Petkov's life shall remain an inspiration to all people who believe in justice and freedom.

Mr. President, I believe that it is proper for us to honor the memory of Nikola Petkov, a patriot who can be counted among the great democrats of all time.

ACT NOW ON GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, an article in yesterday's Washington Post listed the unfinished business which Congress must handle before it adjourns sine die. The article mentioned the outstanding appropriations bills—defense, foreign aid, State-Justice-Commerce, and the new Labor-HEW appropriations, the welfare reform proposal, the water pollution act amendments, the housing bill, and the new minimum wage legislation. But no mention was made of one issue which has been pending in the Senate far, far longer than any of these issues, and which deserves consideration as much as any of the pending bills.

Mr. President, I refer, of course, to the Genocide Convention. The convention was originally submitted to the Senate by President Truman in 1950. It took 21 years for the Foreign Relations Committee to report it to the floor. That has now occurred, and the Senate has a golden opportunity to act on the convention now.

If we fail to act on this convention prior to adjournment sine die—which now looks as if it will be in the next 3 weeks—we will lose this opportunity—perhaps indefinitely. This worthwhile convention deserves our consideration, and I believe we owe it to its proponents to act up or down on this convention after 22 years of indecision.

Mr. President, let us act on this convention without further delay.

SOUTHEAST ASIA HEROIN

Mr. BUCKLEY. Mr. President, the Senator from South Dakota (Mr. McGOVERN) has challenged President Nixon to live up to his threat to cut off aid to all governments that do not cooperate with us in the war against the world heroin traffic. He and Frank Mankiewicz, his campaign manager, have demanded that the President start by immediately banning aid to Thailand, Laos, and South Vietnam. Frank Mankiewicz said:

> That is where the majority of the world's heroin is coming from.

The Senator himself did not go beyond charging that one-fourth to one-third of U.S. heroin comes from Southeast Asia. But he added:

> The reason that Richard Nixon has been unable to prevent this is that our allies in Laos, Thailand, and South Vietnam are involved in the narcotics trade.

To bolster his case, the Senator from South Dakota quoted the following paragraph from what was supposed to be "a cabinet level report," which was made the theme of an article by Seymour Hersh in the New York Times of July 24:

> . . . the governments of the (Southeast Asian) region are unable and in some cases unwilling to do the things that have to be done by them if a truly effective effort were to be made.

A few months ago the able and distinguished chairman of the Subcommittee on Internal Security (Mr. EASTLAND) commissioned Gen. Lewis W. Walt, U.S. Marine Corps (retired), to conduct an investigation of the world drug traffic. General Walt, who retired in early 1971, is one of our country's foremost soldiers and foremost citizens. I believe that he has produced a report of outstanding significance which merits the attention of every Member of Congress. In my remarks today I intend to quote specifically from those portions of General Walt's report which dealt with Southeast Asia, because I believe they constitute a definitive reply to the allegations made by the Senator from South Dakota and his campaign manager.

Fact No. 1, as General Walt points out, is that Southeast heroin accounts for no more than 10 to 15 percent of the total traffic coming into this country—not one-quarter, one-third, or one-half, as the Senator and Mr. Mankiewicz contend.

Fact No. 2 is that it is Burma and not Vietnam, Laos, and Thailand which is the heartland of the Southeast Asian drug situation.

Let me quote what General Walt had to say on the subject in his testimony of August 14:

> The Southeast Asian drug situation must be dealt with on a regional basis. As I see it, there are five factors which contribute to the making of this situation:
>
> The principal factor in the entire situation is the virtually total absence of any kind of governmental authority or machinery of control and repression in northern Burma, which is the heartland of the Southeast Asian drug situation.
>
> The second most important factor is the criminal element in Southeast Asia, largely dominated by ethnic Chinese, operating in a Mafia-like manner through the old tongs, or Triad societies.
>
> The third factor is the serious lack of experienced personnel and technological equipment, and of an established control apparatus which still hampers the efforts of the Southeast Asian governments.
>
> The fourth factor, in my opinion, is the element of Communist involvement—in Laos, in Thailand, in Burma, and probably in Vietnam.
>
> The fifth factor is corruption.
>
> Looking at it from this standpoint, it is nonsense to suggest that the prime factor contributing to the drug problem in Southeast Asia is the existence of widespread governmental corruption.
>
> Given the existence of the other four factors, there would still be a serious drug problem in Southeast Asia regardless of any corruption that might exist in any government.
>
> There may be honest differences of opinion over whether corruption should be ranked ahead of the Communist factor or ahead of the lack of personnel and equipment. But I believe that no one can challenge the assertion that the Burma factor ranks first and the criminal factor ranks second in the Southeast Asian drug equation. Anyone who ignores these factors is simply not looking at the situation objectively or as a whole.
>
> Let me expand on the statement that Burma is the heartland of the Southeast Asia drug problem.
>
> Burma produces by far the bulk of the opium exported from the so-called Golden Triangle.
>
> The great majority of the refineries in Southeast Asia are located in Burma. This was so even before the recent crackdown in Laos and Thailand which obliged many of the refineries to relocate in Burma.
>
> Burma is the prime sanctuary and base of operations for the major groups of traffickers. It is in Burma that the great opium caravans originate which are the ultimate source of 60 to 70 percent of the traffic coming out of Southeast Asia.
>
> These facts are common knowledge, and anyone who talks about the situation in Southeastern Asia, damning Laos and Thailand but ignoring Burma, is simply not presenting a balanced picture.

In his testimony of September 14, General Walt added further important information about the situation in Burma. He pointed out that the chief reason why the Burmese Government has not been able to assert its authority in northern Burma is because of the chronic state of insurgency there, involving Shan and Kachin tribesmen and White Flag Communists. The White Flag Communists' insurgency, he said, has grown to the point where it absorbs probably 80 percent of the total counterinsurgency energies of the Rangoon government in northern Burma. Furthermore, it so happens that the area between the Salween River and the Yunnan frontier, which is firmly controlled by the White Flag Communists, is the most fertile opium-producing territory in the whole of Burma.

Said General Walt:

> In view of the fact that Peking mothered the White Flag Communist movement and that it still controls them, it cannot escape morale responsibility for their role as prime producers in the Burma opium traffic. Moreover, the act of this insurgency places the Burmese Government in the invidious position of not being able to enforce its own laws in the area, and of having to tolerate opium trafficking by the regional military forces which oppose the Communists.
>
> This is a situation which calls for some plain talk—all the more so because China has now been brought into the world community of nations.

Using a map that showed the main opium growing areas in Laos and Thailand, as well as the areas under Communist occupation, General Walt further demonstrated that in Laos the Communists control fully 80 percent of the territory where opium poppies are grown, and that they also control a significant stretch inside Thailand along the Laotian frontier.

General Walt gave high marks to the governments of Thailand, Laos, and Vietnam for the cooperation they are now giving us in the regional war on opium and heroin. In the case of Thailand, he detailed some of the impressively large seizures that had been made by the Thai authorities since the beginning of the year, and described the destruction of 26 tons of opium which were surrendered to the Thai Government by the Chinese irregular forces in northern Thailand, pursuant to an agreement which gave the CIF members status as Thai residents, land of their own, and resettlement assistance.

In the case of Laos, General Walt quoted a paragraph from the so-called cabinet-level report, a paragraph which had been overlooked by Mr. Seymour Hersh of the New York Times—and was later overlooked by the Senator from South Dakota and Mr. Mankiewicz.

> Surprisingly enough, the most effective antinarcotics program in the area seems to be in Laos. . . . Ambassador Godley first convinced Premier Souvanna Phoama of the great importance the United States Government attached to the antinarcotics program and made it clear that few things could hurt the cause of Laos more with the American Congress and people than anything less than a maximum effort against the illicit traffic. Souvanna was sufficiently impressed by the importance of the effort that he placed his intelligence chief, General Khamhou, in personal charge of the program. Khamhou, one of the most powerful men in Laos, had a clear charter from his chief and went to work

with a real sense of personal dedication. He has been assisted by all appropriate parts of the U.S. mission. The overall antinarcotics effort in Laos appears to be making good progress; it is an example for other countries to follow.

I agree with General Walt's observation that, when they quote from confidential documents, newspapermen frequently have a penchant for quoting the "bad" paragraphs and ignoring the "good" paragraphs.

Mr. President, at this point, I ask unanimous consent to have printed in the Record some of the key passages from General Walt's report on the Southeast Asia drug situation.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

Excerpts From General Walt's Testimony on the World Drug Traffic Before the Senate Subcommittee on Internal Security, August 14, 1972

It is my understanding that you have asked me to present our findings on Southeast Asia before today's session of the subcommittee because there have been conflicting reports about the situation in that part of the world and because there is an intense congressional interest.

According to some accounts which have appeared in the press and on TV documentaries, the large-scale opium traffic in Southeast Asia has been made possible only because governments which are supposed to be friendly to us have failed to cooperate with us in combating the traffic and because top governmental officials in these countries have themselves been involved in the traffic. These were the allegations.

The administration has replied that these reports are false and exaggerated, that we are today receiving excellent cooperation from the governments in Southeast Asia, and that remarkable progress is being made.

Where does the truth lie?

It is obvious from a reading of the Congressional Record that many Congressmen have been disposed to believe the critics because in certain cases the critics have been able to allude to confidential official documents that appear to be highly critical of the Southeast Asian governments. I may say that I myself had read so many critical articles prior to my departure that I, too, was disposed to be skeptical, if not critical, before I embarked on this trip around the world. However, I came away with a final impression that was sharply opposed to my preconceptions.

First, Mr. Chairman, I should like to reply specifically to a statement that appeared in the New York Times of July 24, because it has been widely quoted and reproduced and has obviously had considerable impact. The article quoted the following paragraph from what it described as a "cabinet level report": I quote:

"There is no prospect of suppressing air and sea traffic of narcotics in Southeast Asia under current conditions or under any conditions that can realistically be projected. This is so because the governments in the region are unable and, in some cases, unwilling to do those things that would have to be done by them—and cannot be done by the United States—if a truly effective effort were to be made."

I have been given a copy of the so-called cabinet level report and here are my comments on it, sir.

First, let me say it is a great temptation for any newspaperman to quote from any classified document he happens to get access to. This is supposed to give him a scoop; and there are many people who believe that the mere fact that a document is classified constitutes proof that the statements made in it are accurate. But from many, many years of experience in the assessment of intelligence, I know how misleading a single document or a single quotation from a classified document can be.

Those who have had the same experience I have had, would, I believe, agree with the following general observations:

(1) Honest and conscientious men looking at the same situation can come up with substantially different assessments.

(2) The classified files on any complex situation, therefore, will inevitably contain reports that differ significantly on details and even on fundamentals.

(3) Intelligence files will frequently also contain what we call raw intelligence; that is, reports that have come in from a variety of sources which may or may not be true, and which have to be substantiated before they can be considered hard intelligence.

(4) Those who have the responsibility of decision must weigh their intelligence files or their report files in aggregate, assiduously distinguishing between raw intelligence and hard intelligence.

(5) Reports that are 6 months to a year old must never by themselves be used as a guide to the current situation, even though their validity at the time may have been generally accepted. Situations can change radically in 6 months or even less.

(6) Reports, including task force reports, will vary tremendously in quality. Some are outstanding; some are mediocre; some simply crumble before the test of time; some turn out to be odd mixtures of valid findings and of findings that miss the mark completely. Each report and each section of each report, therefore, requires careful evaluation.

In reading the report in question, I found several statements which are hardly in harmony with the paragraph quoted.

There was, for example, an entire paragraph devoted to the remarkable progress in Laos, while, on the subject of Thai trawlers, the report said, "For a number of reasons the suppression of illicit traffic by Thai trawlers appears both feasible and highly rewarding; it should clearly command highest priority."

The report to which the New York Times article referred was dated February; the team was in Vietnam in January. Their findings were based on the situation that existed during the previous 6 month's to 1 year's time. So I am not challenging gospel when I tell you that my own assessment of the situation in Southeast Asia today differs radically from the quotation reprinted in the New York Times article.

Let me first give you a general statement of my findings and then I shall proceed to deal with the situation on a country-by-country basis.

Mr. Chairman, I would welcome questions at any time during my presentation, sir.

I will not tell you that all is well in Southeast Asia and that we have nothing more to worry about as far as the opium traffic in the area is concerned. The problem remains a formidable one and there are still many weaknesses to be overcome.

To the criminal element, the gigantic profits to be had from the opium trade constitute an almost irresistible enticement. For example, sir, a kilo of opium grown in Turkey, if it is sold to the government, a farmer gets $15 for it. If it is sold illicitly he gets probably $30 for it. Now, by the time that kilo of opium is changed into heroin and sold on the streets in New York, it is worth almost $40,000—so you see the people in between, who are getting it here and selling it, are making a lot of money.

Mr. Sourwine. General, can you give us an idea of the size of a kilo?

General Walt. A kilo is $2\frac{2}{10}$ pounds.

Mr. Sourwine. But in opium, what is the size of it?

General Walt. About the size of a building brick. I hoped to have a morphine brick here this morning but I don't have it; it has not been brought in yet. It may be brought in later. It is just about the size of building brick.

The traffickers are enterprising and highly organized and it is to be anticipated that they will move to sophisticate their procedures in an effort to circumvent the stepped-up security measures of the Southeast Asian governments.

The Governments of Thailand, Laos, and Vietnam are relatively new to the business of narcotics control and they suffer from a lack of specially trained customs and police officials and of logistical communications, and technological equipment. These weaknesses we are seeking to overcome through special training programs and advisory missions and through special equipment supply programs.

Some allowance must also be made for the political and social problems that have delayed regional action on the drug problem, including the fact that the Governments of South Vietnam and Laos have been fighting desperate and costly wars against the North Vietnamese invaders while the Government of Thailand has been having increasing difficulty with the Communist insurgency in its border areas.

Corruption throughout Asia is more widespread possibly than it is here in our country and this is a problem, too, that will have to be overcome or reduced to more acceptable dimensions.

But, acknowledging the dangers and the weaknesses, I still believe there is much reason for hope in Southeast Asia. There is movement there and momentum, and this momentium is in the right direction.

As the Senators know, our own Bureau of Narcotics and Dangerous Drugs maintains missions in Vietnam, Laos, Thailand, and in many other countries. We tend to take the existence of these missions for granted. Actually, the mere fact of their existence is of profound significance because it bespeaks an extraordinary degree of cooperation between their governments and ours. There is no precedent in history for an arrangement between two governments under which government A gives government B the right to station law enforcement representatives on its territory, who operate their own intelligence system and their own network of informers, offering rewards for information in a more or less public manner. About the only power they lack is the power to arrest—and here I would observe that our own BNDD men are frequently invited to accompany law enforcement squads in other countries, in an observer capacity, in raids on traffickers and laboratories.

The implications of this arrangement go far beyond permitting American BNDD officers to operate on their territory. Every government that commits itself this far automatically incurs an obligation to cooperate with us in the field of narcotics intelligence and to take action on any hard intelligence which we pass on to them.

At the very least, this degree of cooperation must be considered pretty solid proof of good faith. It would be impressive standing by itself; but there are many other evidences of good faith.

For example, both the Thai Government and the Laotian Government have agreed in principle to special aerial photographic reconnaissance of their territory so that we will know, and they will know, precisely where the opium is being grown, and approximately how much is being grown. It is my understanding that the first systematic reconnaissance flights will probably be made in December of this year and January of next year, when the next opium crop matures and when the poppy field will have maximum visibility.

What the critics say is not completely untrue but, by and large, their criticism and the documents they quote in support of their criticism have to do with a situation that existed a year or so ago. Over the past year, however, the situation in Vietnam, Laos, and Thailand has changed radically. It would be no exaggeration to say that all three governments in this period have made the quantum jump from an indifferent or, at the best, an unmotivated attitude toward the war on drugs, to the status of allies with the United States in this war.

These are my basic observations on the situation in Southeast Asia.

The Southeast Asian drug situation must be dealt with on a regional basis. As I see it, there are five factors which contribute to the making of this situation:

The principal factor in the entire situation is the virtually total absence of any kind of governmental authority or machinery of control and repression in northern Burma, which is the heartland of the Southeast Asian drug situation.

The second most important factor is the criminal element in Southeast Asia, largely dominated by ethnic Chinese, operating in a Mafia-like manner through the old tongs, or Triad societies.

The third factor is the serious lack of experienced personnel and technological equipment, and of an established control apparatus which still hampers the efforts of the Southeast Asian governments.

The fourth factor, in my opinion, is the element of Communist involvement—in Laos, in Thailand, in Burma, and probably in Vietnam.

The fifth factor is corruption.

Looking at it from this standpoint, it is nonsense to suggest that the prime factor contributing to the drug problem in Southeast Asia is the existence of widespread government corruption.

Given the existence of the other four factors, there would still be a serious drug problem in Southeast Asia regardless of any corruption that might exist in any government.

There may be honest differences of opinion over whether corruption should be ranked ahead of the Communist factor or ahead of the lack of personnel and equipment. But I believe that no one can challenge the assertion that the Burma factor ranks first and the criminal factor ranks second in the Southeast Asian drug equation. Anyone who ignores these factors is simply not looking at the situation objectively or as a whole.

Now, sir, I would like to go to specifics on Burma.

Let me expand on the statement that Burma is the heartland of the Southeast Asia drug problem.

Burma produces by far the bulk of the opium exported from the so-called Golden Triangle.

The great majority of the refineries in Southeast Asia are located in Burma. This was so even before the recent crackdown in Laos and Thailand which obligated many of the refineries to relocate in Burma.

Burma is the prime sanctuary and base of operations for the major groups of traffickers. It is in Burma that the great opium caravans originate which are the ultimate source of 60 to 70 percent of the traffic coming out of Southeast Asia.

These facts are common knowledge, and anyone who talks about the situation in Southeastern Asia, damning Laos and Thailand but ignoring Burma, is simply not presenting a balanced picture . . . Most of the opium production in Burma, as you will see from this map, is concentrated in the Shan and Kachin States, along the Chinese frontier. The northern part of the Shan State above Lashio and east to the Chinese frontier has been the locus of the White Flag Communist insurgency which is a pro-Peking and Peking-backed group.

In a period from March to June, after the harvest but before the monsoons set in, the opium is transported to the Thai and Laotion frontiers either by trains or porters or by caravans of horses and mules. The caravans can be very elaborate undertakings.

That is a map of Burma. You can see the general location in northeastern Burma and this is the area where foreigners cannot get into; it is an area controlled primarily by the tribal and political insurgents and is definitely not under the control of the Burmese Government and this is the center of the opium growing and the heroin manufacturing activity of Burma.

When it reaches the frontier area, the opium may be processed into morphine base or heroin in the three large refinery complexes in the Tachilek area, which is situated here, or at other refineries in the triborder area which I spoke of earlier . . .

As I said earlier, we saw from the aircraft the complexes in the Tachilek area which refine opium into morphine and heroin. This manufacture of course, takes place before the heroin is moved on down toward the Thai border and the Laotian border.

Alternatively, the raw opium may be moved into Thailand by a variety of devious routes and then transhipped by trawler from Bangkok to Hong Kong, Singapore, and other points.

The KKY and the Chinese irregular forces, who operate sometimes in competition, sometimes in collusion, are supposed to conduct the major convoy operations, while the KKY is reported to be in control of the three large refinery complexes in the Tachilek area.

Burma is a signatory of the 1961 U.N. Single Convention on Narcotics. The government appears to be unhappy about what the opium trade in its northern provinces is doing to its reputation, and it feels it is wrecking its reputation as a nation incapable of controlling the opium growing. Every once in awhile it will take a small affirmative action; it will seize some opium or destroy a few poppyfields or put enough pressure on some of the refinery operators to induce them to relocate. But it fears to take more radical action against the growers and the traffickers because it is already having more trouble than it can handle with the current crop of nationalist and left-wing insurgencies. The result is that Burma remains an open conduit through which a constant flow of opium and morphine seeps through Thailand and Laos, in large quantities, into western Asia, while an already significant and growing flow of heroin seeps through them to America.

Because it is fearful of compromising its neutrality, the Burmese Government does not want to enter into any bilateral arrangement with the United States. This can be understood. But it may be carrying things a little bit too far when the Burmese Government even turns down an offer from us of logistical and communications equipment for a beefed-up antiopium effort on their part.

These are facts which have to be kept in mind assessing the situation in Thailand and Laos.

Now, sir, I would like to go to the country of Laos. I want to deal next with this country because there has been a lot in the news about the opium traffic there.

Laos has accounted at the most for some 100 tons of the 700 tons or 12 to 15 percent, of the opium produced annually in the Golden Triangle and it probably accounts for much less today. Most of this has been consumed locally, but a limited amount has gone into the export trade. Laos has had a much greater importance as a transit area for opium and morphine base coming from Burma and as the locus, until recently, of a number of heroin refineries.

In Laos, as in Thailand and Burma, the opium is grown by primitive hill tribes—in Laos primarily by the Meos and Yaos who have cultivated opium for generations. For them it represents their only cash crop and their only hedge against the possible failure of their rice crop. Their income from their plots of opium poppies may not run any more than $60 to $100 a year, but to a Meo family this is a very large amount which may make the difference between survival and starvation in a difficult year.

The opium is grown on mountain slopes at an approximate altitude of 3,000 feet, which seems best suited for its cultivation. As in Thailand and Burma, the tribesmen practice slash and burn agriculture. They clear an area on a hillside, burn the trees they have cut down, mulch the soil and then cultivate it for a number of years until it begins to show signs of exhaustion. Then they move on to another hillside or another area on that same hillside, and the process begins all over again.

Flying over northern Laos, I saw literally hundreds of clearings on the mountain slopes which had been devastated and then abandoned in this manner. In some parts of Laos the clearings occurred at such frequent intervals that it was as though an army of giant locusts had moved through the mountain jungles, pockmarking them with areas of total destruction. Needless to say, this is not good for the ecology of any country.

Here is a map which shows the major opium producing areas in Laos.

The area includes Phong Salv Province in the far north, Samneua Province in the northeast, and the Plaines des Jarres in Xiangkhoang Province. There was a time when these producing areas were divided more or less evenly between Meos under Pathet Lao, or Communist, influence, and Meos loyal to the Government in Vientiane. But as the Pathet Lao, with heavy North Vietnamese support, have extended their area of control, the anti-Communist Meos have been forced out of their opium lands and onto the plains, so that today the opium growing areas of Laos are overwhelmingly under Communist control. The opium agriculture in these areas, like all other agriculture, is under the village management of Hanoi-trained cadres.

In addition to the locally produced opium which was picked up from the hill people by ethnic Chinese entrepreneurs, horse and mule caravans brought large quantities of opinum into Laos from Burma. The opium was moved to processing laboratories at Ban Houei Sai and other centers; then the opium, morphine, and heroin was moved out, generally by plane, to Thailand, Vietnam, and Hong Kong.

Why did the Laotian Government not move sooner to deal with the opium traffic in its country? There are several reasons that help to explain the lag, sir.

The first reason is that until recently the Laotian attitude toward opium was as tolerant as were Western attitudes 100 years ago. Opium was not a serious problem among the Laotian people and the heroin problem was nonexistent. There was no law against growing opium or merchandising it and no law against processing opium into morphine or heroin. And so, without violating any law, a handful of senior officers, including Gen. Ouan Rathikone, former commander of the Laotian Army, could line their own pockets by engaging in the opium trade. General Rathikone was retired from the Army last July.

Second, there was the Government's almost total preoccupation with the war that has ravaged their country for more than a decade now. Beginning as a domestic insurgency, this war has in recent years evolved into an open invasion by North Vietnam, involving as many as five divisions of the North Vietnamese Army at times. For a small country of 3 million people, the many scores of thousands of military and civilian casualties have had a devastating impact.

On top of this, the Government must cope with some 235,000 refugees who have fled from areas under Communist control. In the light of these facts, perhaps some allowance should be made for an attitude which accepted the war and the refugees as the Government's first priorities.

Third, there was the factor of corruption and vested interest. There can be no question that many well-placed people in Laos, both Laotian and ethnic Chinese, were making a good deal of money out of the opium business and doing it without violating any law.

With the major scandals that we have had in some of our metropolitan cities, reaching all the way up to police inspectors and judges, we are not exactly in the best position in the world to lecture other countries on corruption. But it is a fact that corruption tends to be far more widespread in low-income countries. When police inspectors and judges who make $20,000 and $25,000 a year succumb to temptation in our own country, we should not be surprised when their counterparts in other countries who work for bare subsistence salaries succumb in substantially greater numbers to the temptation of big money.

Fourth, there is the fact that opium in Laos did not become a problem that vitally affected American interests until the heroin epidemic hit the American forces in Vietnam during the summer of 1970. It took several months before we realized what was happening and it was getting on to mid-1971 before our war against the heroin epidemic in Vietnam went into high gear. It was about this time that we began to use our influence to persuade the governments of Southeast Asia to join us in more vigorous measures against the opium traffickers.

All governments tend to move with a certain time lag. On the whole, I believe that the Governments of Laos, Vietnam, and Thailand must be given credit for moving quickly and dramatically since we first raised the issue with them on a top priority basis.

Looking at the situation which existed a years ago in Laos, no one could be blamed for deciding that ingrained attitudes ran too deep to make any serious improvement possible. But then things began to happen.

The strength of the American reaction to the news of the heroin epidemic among our servicemen in Vietnam persuaded the Laotian leaders that they could no longer afford to remain indifferent or unmotivated if they wished to retain American support. And so, on November 15, 1971, the Laotian Legislature took the revolutionary step of passing a law banning the production, sale or use of opium. All of the Meo deputies, following the leadership of Gen. Vang Pao, voted affirmatively on this measure.

Even before the law was passed, the Laotian Government had acted to curtail refinery operations, destroying two refineries and seizing large quantities of drugs in the process.

Alarmed by the evidence of mounting governmental pressure, several additional refineries closed down or moved their operations to Burma. Today, according to responsible officials who follow the situation in Laos, on a day-to-day basis, there is no evidence to indicate that there is a single heroin lab currently active in the country of Laos.

While there are unquestionably some corrupt officials in the Laotian police force and the Laotian Armed Forces, everyone in the Embassy with whom I discussed the matter, was completely convinced of the sincerity and motivation of Prime Minister Souvanna Phouma and Gen. Vang Pao and of the key officials appointed to deal with the problem of opium suppression.

In Vientiane I was able to meet with a number of the Laotian officials now involved in their country's war against opium and the opium traffickers. Among them were His Royal Highness Tiao Mankhara Manivong, President of Narcotics Destruction; Mr. Chanthaboun Luangraj, Director General of National Police and President of the Subcommission for Repression of the Narcotics Traffic; and Mr. Nith Singharaj, President of the Interministerial Committee for Narcotics Control. I had a chat with each one of these gentlemen and I may say that my conversations with them completely bore out what we had heard from Ambassador Godley and his staff, and that is, that the Laotian Government is now animated by a completely new spirit and that the officials assigned to deal with the problem have both a sophisticated understanding of it and the determination to really do something about it.

Despite the fact that they have had to build an antiopium apparatus almost from scratch, and despite the demands of the war, the Laotian Government's antinarcotics operation has drawn blood since the first of the year in the form of repeated seizures of small and large quantities of opium.

Their biggest haul to date was 89 kilos of opium—something over 200 pounds of opium. On June 14, when I was having lunch with Ambassador Godley in Ban Houei Sai on the Thai frontier, the report came in that the Lao police, acting on their own, had picked up another 12 kilos of opium in the nearby village of Ban Dan.

A recent report by the Embassy team contains language far more optimistic than any previous assessment of the situation in Laos. According to this report, the security measures instituted by the Laotian Government have surprised and discombobulated the traffickers so that there has been a dramatic reduction in the amount of traffic moving through Laos to other destinations. A direct result of the Government's drive has been a serious depression in the price of opium.

It is, of course, true that the Meo tribesmen whom we supported were opium cultivators, as were the Meo tribesmen on the Communist side. Virtually all Meos in both Thailand and Laos grow opium—because they have done so for generations, because they use it as a medicine and as an euphoric drug, because it is their one cash crop and because it can be stored against hard times.

Apart from declaring war on the Meos or forcibly uprooting them from their lands, there was no easy and immediate way of terminating opium cultivation by the Meos. An enduring solution would require resettling the Meos on a permanent basis, teaching them how to cultivate substitute crops, and providing transportation so that they could move these crops to market and giving them some kind of support during the period of transition. All of this is going to require a good deal of time and a good deal of money.

While there was much criticism of the fact that the Meos on our side were engaged in opium agriculture, I have thus far come across no criticism of the Pathet Lao and the North Vietnamese Communists for condoning and even encouraging the cultivation of opium by the Meo tribesmen under their control; or have I seen any mention of the fact that General Vang Pao's Meos have largely discontinued the cultivation of opium, in the first place because of Vang Pao's crop substitution program going back a number of years; in the second place, because the Communist advance has forced them out of their traditional lands, which were suitable for poppy cultivation, onto the plains, which are not suitable for poppy farming. Nor have I seen the question raised as to the ultimate purpose and destination of the opium which the Meos under Pathet Lao control are known to be growing. Obviously, if they are growing opium, they are not consuming all of it; some of it must be sold somewhere.

To sum up, I would like to quote a statement that was made to us by one officer in our Embassy:

"If you want to gage the progress that has been made here, you have to be in a position to compare how easy it was for the traffickers previously with how difficult it has now become for them."

I should also like to quote, in summing up, the paragraph on Laos from the so-called "cabinet-level report," the same report from which the New York Times quoted a paragraph that appeared to be highly critical of the Southeast Asian governments. While there are some highly sensitive matters in the document, dealing with informers and technology, the paragraph on Laos contained nothing that in itself warranted classification and I have, therefore, been given express permission to read this paragraph to the subcommittee. I quote:

"Surprisingly enough, the most effective antinarcotics program in the area seems to be in Laos. * * * Ambassador Godley first convinced Premier Souvanna Phouma of the great importance the United States Government attached to the antinarcotics program and made it clear that few things could hurt the cause of Laos more with the American Congress and people than anything less than a maximum effort against the illicit traffic. Souvanna was sufficiently impressed by the importance of the effort that he placed his intelligence chief, General Khamhou, in personal charge of the program. Khamhou, one of the most powerful men in Laos, had a clear charter from his chief and went to work with a real sense of personal dedication. He has been assisted by all appropriate parts of the U.S. mission. The overall antinarcotics effort in Laos appears to be making good progress; it is an example for other countries to follow."

This paragraph was never quoted by newsmen who had access to the document—the same as they had access to the paragraph that was quoted. I do not know why this is so, but from a number of experiences, I have the impression that when they quote from confidential documents, newspapermen have a penchant for quoting the bad paragraphs and ignoring the good paragraphs.

I would like now, sir, to go to the country of Thailand.

Thailand has come in for a tremendous amount of criticism in a recent spate of feature articles and TV documentaries.

My investigation has convinced me that while some of the criticisms may have had a measure of validity a year ago, there has been a dramatic improvement in the situation since that time, in particular over the past 8 months; and I hope that my testimony will help to update the information available to Congress so that Members of Congress, in making their assessments, will not have to rely on the data of a year ago.

Opium cultivation was made illegal in Thailand by a law passed on January 1, 1959; but, as we found out in our own country during prohibition, it is one thing to pass a law and another thing to be able to enforce it.

In Thailand the problem of enforcement was complicated by the fact that most of the opium is grown by primitive hill tribesmen—Meos, Yaos, Lahus, and others—who live in isolated settlements and move from hillside to hillside and who, like their cousins in Laos, rely on opium as their only cash crop and as their hedge against starvation in a bad year. The principal cultivators of the opium poppy are the Meo tribesmen. I show you here a map of the distribution of the Meo tribes in northern Thailand . . .

. . . The Thai Government has very little effective control over these people.

There is, of course, no firm figure on total production; the best estimates are, however, that Thailand produces between 130 and 200 tons of opium a year.

The Thai Government has for a number of years now been seeking to discourage opium production by the hill tribes; but, as everyone who has been out in the area realizes, this is going to be a complex problem and it is going to require time. The optimum solution would involve helping the opium-growing tribesmen to convert their temporary settlements into permanent settlements by building roads and schools and dispensaries, teaching them to grow substitute crops which can realistically be moved to market, and assisting them during the period of transition.

In recent years the Thai Government has been going about this problem with genuine motivation. Its motivation springs in part from a desire to cut down on opium production and traffic in Thailand, in response to international criticism; but there is another important element, an element of self-interest, to this motivation.

The slash-and-burn agriculture—as I pointed out in my remarks earlier on what is happening in Laos where they are destroying the wooded hillsides—does devastating things to the ecology of a country. When the tribesmen abandon their wornout poppy plots to move on to a new hillside, the soil is left pulverized so that with each heavy rain some of it washes down into the valley. The progressive stripping of the hillside jungles is destroying the watershed, raising water levels in the valleys beyond the point suitable for rice agriculture and silting up the dams 15 years sooner than scheduled. Thai agricultural experts are sold on the need for dramatic action and the Government itself is clearly very much concerned.

In December of last year the Thai Government signed an agreement with the U.N. Fund for Drug Abuse Control, a pioneering agreement of its kind, calling for joint planning, with U.N. support, for a project designed to eliminate opium production by the hill tribesmen through a program of village development and crop substitution. The government also set up a variety of special agencies to deal with various aspects of the drug problem in Thailand, including a special program for hill tribesmen under the patronage of the king and directed by the king's nephew, Prince Phisidet, a young man of dedication and vigor, with whom I had a long conversation in Chiang Mai in northern Thailand.

There are massive problems to be overcome in weaning the hill tribes from opium agriculture. First, there is the problem of land ownership. Traditionally, the king owns all the mountains and all the seashores of Thailand and, therefore, all hillside agriculture is technically illegal. But if the hill people are to be persuaded to shift to other crops and a more stable agriculture, they have to be assured of the ownership of the land they till. The Thai Government has been encouraging the development of permanent settlements, ignoring the technical illegality of their own position while they grapple with the legal problem of land ownership.

The second problem involves finding suitable crop substitutes. Opium is very easily moved to market and it does not take a lot of transport and it brings a large and reasonably stable cash return. Corn or fruit or market vegetables would be much more difficult to move to the distant urban markets and the prices would fluctuate widely, according to the whims of the Thai merchants. Beyond this, there is the fact that with substitute crops like tea, coffee, and fruit, it would take 5 years before the first crop came in.

Third, there is the problem of teaching the hill people entirely new agricultural techniques, including terracing and windbreaks.

Fourth, there are no educated hill people who are available for immediate recruitment as administrators or technicians and bare literacy probably does not exceed 5 or 10 percent among the hill people.

In Chiang Mai, I also had a long conversation with Mr. I. M. G. Williams, the U.N. representative who is working with the Thai Government on the hill tribe program. Mr. Williams is a dynamic man with a tremendous experience in the area. In World War II he served as a colonel with the British army in Burma and after the war he worked for many years in different parts of the Far East as an official of the British Colonial Office and the British Foreign Office.

Mr. Williams had the highest praise for the cooperation he was getting from the Thai Government, especially from his Thai counterpart, Chit Posayananda, whom we also met in Chiang Mai. Mr. Williams told me of their plans for a pilot program involving the construction of a model village with five satellite villages. The village would contain a headquarters and a dispensary and be staffed by agricultural experts who would be volunteers on the Peace Corps style.

Mr. Williams felt that despite the many difficulties there was reason for optimism. He said that there was a new mood among the hill people. They want to get away from the itinerant slash-and-burn agriculture and move into permanent settlements and get some education for their children. But he felt that the program was not moving as rapidly as it might, in part because his headquarters in Geneva insisted on the most painstaking studies before any action was taken in each case.

The government has pushed its efforts to the point where it has aroused open resentment among the Meos, making it markedly easier for the Communists to recruit Meo tribesmen for the guerrilla insurgency which has plagued northern Thailand for a number of years now. The Communists come to the Meos and say to them, in approximately these terms: "The government is trying to prevent you from growing opium poppies, which you have always done and which is your right. They are trying to take your only cash crop away from you. Come with us and we will let you grow opium poppies."

On the basis of such agitation and with cadres trained in Hanoi and Peking, the Communists have been able to establish fairly effective control over a strip of land perhaps 150 miles long by 25 to 50 miles deep along the northernmost portion of the Laotian frontier.

The Communists have about 3,000 guerrillas in the area who are extremely well equipped. We were told that they have AK47 rifles which are comparable to our M–16's, 60 and 81 millimeter mortars, B40 rockets, 57 millimeter recoilless rifles, and rubber landmines and booby traps similar to those used by the Vietcong. There is reason to believe that the movement is directed from China, among other things because the supporting propaganda operation, the Voice of Free Thailand, is located there. The Voice of Free Thailand has transmitters capable of reaching all the way to Bangkok and it carries sophisticated programs of music, news, and propaganda in both the Thai and Meo languages.

I have heard the question asked repeatedly how so much opium could be coming through Thailand if the Thais were really trying to stop it. While there is a lot of room for improvement in Thailand, I think the basic answer to this question is given by the fact that the powerful United States of America, with the largest, the best-trained and the best-equipped customs agency and drug repression agency in the world, is able to intercept no more than 15 percent to 20 percent of the drugs coming into this country.

In Saigon, before I left for Thailand, an earnest young newspaperman came to see and said that he was convinced that so much opium could not be entering Thailand from Burma without the complicity of the customs authorities at the border. There are only four customs posts on the Burma border and there are literally hundreds, if not thousands of jungle trails. The smugglers don't have to pay bribes to get by customs; there is a simpler, easier, and cheaper way of getting their stuff into Thailand. Once they get into Thailand, to avoid ambushes by the Royal Thai Army, they traverse a network of trails along remote mountain ridges, traveling mostly at night and rarely following the same route on any two trips.

In Thailand, as in other countries, I asked the BNDD representatives whether they were able to share drug intelligence with their counterparts and whether the Thai authorities took action on the information they were given. They told me that the Thai authorities had never violated a confidence, that BNDD did share their intelligence with them, and that the Thais did follow through vigorously whenever they were given a lead.

I also asked about the charges of corruption in high places. I was assured categorically by the American drug control officials that they have absolutely no information pointing to the involvement of anybody in the Thai Government at the policymaking level.

Any government can be made to look bad if one focuses only on the failures and weaknesses and on unfounded allegations against that government; but I believe every government is entitled to credit for its record of positive accomplishments; and after my visit to Thailand, I am convinced that some of the accounts that have appeared in our media have failed to give the Royal Thai Government credit for all that it has done, especially over the last year, to help bring the flow of drugs under control on a national and international scale.

I have already mentioned Thailand's agreement with the United Nations. Thailand was also the first nation to enter into an agreement with the U.N. Committee for Drug Abuse Control, and together they are now engaged in a pioneering international project aimed at the suppression of opium cultivation through education and crop substitution.

The memorandum of understanding of last September between the Thai Government and the United States Government was the first document in which two countries jointly committed themselves to an all-out battle against the international drug traffic.

In April-May of this year, the Royal Thai Government, with United States technical and logistical assistance, created a special mobile enforcement unit designed to interdict narcotics in the north. This operation now has five offices in northern Thailand.

During the first week of June, acting on its own intelligence, it struck a major blow against the drug traffickers with the seizure of 1,600 kilos of opium concealed in the wells of tank trucks, as well as a large amount of chemicals used in the manufacture of heroin. I have some pictures here showing trucks and opium seized in Lampoon. It is a regular oil tanker truck in which they found the stuff. There is the material, 2 tons of it, that they captured.

The Thai police officials took me to see the tank trucks and the seized bales of opium. It was an awesome thought to realize that when this stuff is converted into heroin, the amount seized would be worth some $60 million here in the United States on the streets of New York, and that literally thousands of human lives could be destroyed or wasted as a result of this drug.

Following up on the seizure in northern Thailand, the largest opium seizure made until that time in Thailand, Bangkok police several days later seized the first No. 4 heroin laboratory discovered in the city. There had been many other seizures, large and small of heroin and opium prior to my arrival in Thailand.

Two weeks ago the papers carried the news that the Thai authorities had seized another 2.5 tons of opium and another No. 4 heroin laboratory.

Mr. Sourwine. What does that mean; No. 4 heroin laboratory?

General Walt. That is the pure—that is the white stuff and the most difficult to make.

One of the greatest problems the Royal Thai Government had to contend with involved the activities of the Chinese Irregular Forces—CIF—along the northern Thai frontier. It had been common knowledge for years that these forces were heavily involved in the flow of opium. The Royal Thai Government in March of this year moved to resolve this problem by granting resident status and resettlement assistance to the several thousand members of the CIF in Thailand in return for their promise to get out of the opium business completely and turn over their stocks of opium.

Now, these CIF forces—Chinese Irregular Forces—sir, came out of Mainland China at the time of the Communist takeover there, and they have been without a home and without any place they could call a home. And so the Thais took advantage of this and they offered them a home and they gave them land—if they, in turn, would turn over to the Thai government the opium that they had on hand, and would get out of the opium growing business. This was a businesslike deal.

The resident status was a particularly precious item of exchange for the CIF because they had up until then been suspended in a condition of statelessness. The resettlement assistance included the grant of a tract of land away from the Burmese border, an agreement to build essential structures and roads, the provision of livestock and equipment, plus cash aid over a period of several years until the settlement became self-supporting. All told, the Thai government committed itself to some $1 million in assistance.

The CIF, on conclusion of this agreement, turned over to the Thai government 26,245 kilograms, or 26 tons of opium, which was publicly burned on March 7 of this year. For some reason this event received virtually no mention in the American press despite the fascinating history of this political-economic swap and despite the staggering amount of opium involved. At the current street price of $390,000 per kilo, this amount of opium, converted into heroin, would be worth approximately $3 billion. The amount of heroin equivalent which the Thai government negotiated off the world market in this transaction was far greater than the total amount of heroin seized by all the free world's enforcement agencies over the previous 12 months.

The news blackout of this incident is something that defies comprehension. I have had the Library of Congress research the matter and they tell me that they have been unable to find any article about the incident in 10 or 12 major newspapers which they checked.

Mr. Chairman, recently some question was raised about whether the 26 tons of opium burned actually was 26 tons of opium. I have here a few photographs I would like to show you of the preparation for the opium burn and of the actual burning.

This is the preparation for the burning. You will note the opium is on top and under the opium are piles of logs that are going to be used as fuel for the burning process. This shows the entire lot piled out on the vacant area where the burning is going to take place. This is a picture of the actual burning. There is nothing left there but the charred logs.

Mr. Ingersoll is going to elaborate on this in a few minutes.

I would like now to ask, Mr. Chairman, that my testimony be interrupted so that you can take the testimony of Mr. John Ingersoll, the director of BNDD; Mr. William Wanzeck, until recently director of the BNDD bureau in Bangkok; and Mr. Joseph Koles, forensic chemist for the BNDD, on the steps they took to make certain that the 26 tons of opium that were burned was really opium and that they were not burning hay or something else. I respectfully suggest that these three witnesses be called to the stand in a group.

EXCERPTS FROM GENERAL WALT'S TESTIMONY ON THE WORLD DRUG TRAFFIC BEFORE THE SENATE SUBCOMMITTEE ON INTERNAL SECURITY, SEPTEMBER 14, 1972

I have prepared this special map of Southeast Asia, including Burma, because I wish to enlarge on my initial presentation.

Fact No. 1 that emerges from this map is that in Laos the communists occupy some 80 to 90 percent of the opium growing areas. The diagonal lines indicate the areas under communist occupation, and the heavy black boot-shaped line indicates the major opium producing area. Obviously, the Meo tribesmen who now produce their opium under communist control aren't "eating" it all.

Fact No. 2 which emerges from the map, is that the communist-led guerrillas in Thailand are in effective control of an important stretch of opium producing land along the Laotian frontier. The diagonal shading on the Thai side of the frontier indicates the area under communist control.

In both Thailand and Laos, the villages where the opium is grown are controlled by communist manager-cadres, trained in Peking and Hanoi. Both movements are armed to a large degree with Chinese weapons, and both have their major radio propaganda operations based on Chinese territory. The money which they make from selling opium is used to support their respective insurgencies.

A highly interesting feature of the current political situation in southeast Asia is this road, marked with a double line, which 25,000 Chinese communists have been building across northern Laos in the direction of the Thai frontier. Eight meters wide and hard-surfaced, the road is now only 50 miles away from that portion of the Thai frontier where pro-Peking guerrillas are already in control. The road is reported to be very heavily protected by radar and anti-aircraft batteries.

The Communists component also plays a vital role in the Burma drug situation. Burma, as I pointed out in my previous testimony, is the single most important factor in the southeast Asia drug situation. This is where most of the opium is grown, it is where most of the refineries and traffickers are concentrated, and it is the ultimate source of most of the morphine base and heroin, as well as raw opium, that comes out of southeast Asia. The Burmese government is unhappy about the situation, but there are several major insurgencies in the area which prevent it from exercising any effective control.

Most of the opium in Burma is grown in the Shan state, which you see here. Some is also grown in the Kachin state to the north. Both the Shan tribesmen and the Kachin tribesmen have been in a state of insurgency against the Rangoon government ever since Burma became independent. But by far the most serious insurgency in the area is the white flag communist insurgency, which is under the immediate control of the Burmese Communist Party and of Peking. Here again, it is Peking which has armed the insurgents and trained their leaders, and which supports them with a China-based radio operation.

Over the past year, the white flag communist insurgency has grown to the point where it absorbs probably 80 percent of the total counter-insurgency energies of the Rangoon government, in northern Burma.

The Shan and the White Flag Communist insurgencies overlap each other. The heartland of the Shan insurgent movement is shown on this map in the area surrounded by a wavy line. The White Flag Communists are in pretty solid control of the area east of the Salween River, marked in lighter shading.

All of the armed groups in Burma, pro-Communist and anti-Communist, have been involved in the drug trade. This goes for the Shan and the Kachin insurgents: for the anti-Communist KKY or Burmese self-defense force, and for the Chinese irregular forces: and for both the White Flag Communists and the Red Flag Communists, a smaller group which is supposed to be under Trotskyist influence. Opium is the nearest thing these groups possess to gold—and they have all used it with abandon to purchase arms and support their activities.

The situation has been marked by a strange division of labor and by some highly enterprising, if unprincipled, accommodations between the rival factions. The KKY and the CIF are the dominant forces in the Thai-Laotian border area. Both of these forces have been heavily involved in the transport and smuggling of opium, and the KKY has also been heavily involved in the refinery operation. On the other hand, most of the opium in Burma, as I have pointed out, is grown by Shan tribesmen, under the control of the Shan states army or under the control of the Communists.

The shaded area which the communists control east of the Salween River is reputed to be the most fertile opium producing territory in the whole of Burma and is credited with some 25 percent of Burma's total production. Burma's production is estimated at some 400 tons a year, but the tribesmen use most of it for themselves, exporting only some 100 to 150 tons. Because it produces the largest surplus of any area in Burma, the territory under communist control may be responsible for as much as 40 to 50 percent of Burma's entire opium export.

How does the opium get from the areas where it is grown to the Thailand-Laos border? Obviously, it has to change hands in order to do so: It has to get from the Shan insurgents and from the white flag communist Shans into the hands of their hated enemies, the KKY and the CIF. To permit the consummation of these mutually profitable transactions, clearly, hostilities must be temporarily suspended by both sides. The town of Lashio—shown here on the map—is the principal exchange point, where the producers deliver their opium and where the caravans form up to move the opium south to the tri-border area.

In view of the fact that Peking mothered the white flag communist movement and that it still controls them, it cannot escape moral responsibility for their role as prime producers in the Burma opium traffic. Moreover, the act of this insurgency places the Burmese government in the invidious position of not being able to enforce its own laws in the area, and of having to tolerate opium trafficking by the regional military forces which oppose the communists.

This is a situation which calls for some plain talk—all the more so because China has now been brought into the world community of Nations.

WHAT SENSE TO THE VIETNAM WAR?

Mr. MONDALE. Mr. President, another monsoon season will soon be over in Vietnam.

But the tragedy of the war goes on. Indochina has been turned into a grim and sordid theater of the absurd, where every act is masked in falsehood, pretense, and illusion.

Where is the sense in it all?

We are fighting, so we are told, to get out of Vietnam.

Our combat troops have left Vietnam, and we might almost believe that the American presence has been ended. But we are fighting a newer war, a commuter war, shuttling daily between Hanoi and our sanctuaries offshore and in Thailand. Our deathly shadow still lies across Vietnam.

It is not enough to talk about Vietnam, as though our war in that plagued country did not now have its roots elsewhere. Nearly 100,000 Americans wait on the perimeters of Vietnam to carry on the war in our name. We do not know with certainly whose orders they may follow. The Lavelle revelations tell us we cannot be sure.

We are fighting, so we are told, to defend an ally—to show, as the President likes to say, that we will never betray our friends.

But this ally has turned his back on us. He has made a travesty of the democratic principles that we once urged on him.

He has sought refuge in martial law and rule by decree. A year ago, he turned his own election into a farce. Now he has simply canceled local elections—and abandoned the last poor pretense of democracy.

On his behalf, we send 300 airstrikes against North Vietnam every day. And on his behalf, we are now mining the waterways of the South. No matter that his people may depend on them—U.S. mines will keep the North Vietnamese from moving supplies southward by boat.

We are fighting, so we are told, to secure the release of our prisoners.

Yet in the months since the President ordered the resumption of the bombing, a merciless bombardment unprecedented in human history, we have lost prisoners at a rate unequaled since 1967.

In the first 3 years of this administration, 36 men are known to have been taken prisoner. In the first 3 months of 1972, seven men were officially lost. Since the resumption of massive U.S. bombing of the north in April, 48 men were reported to have been taken, 24 of them since July 1. Fifteen were reported in the month of August alone.

These figures tell us that more men were taken prisoner last month than in all of 1971.

More were taken prisoner over the last 2 months than in the past 2 years.

More have been taken prisoner over the past 5 months, in that very period of bombing intended to secure the release of our prisoners, than in all the other 39 months of the Nixon administration.

If we continue to lose men at this rate, we will have lost over 100 men to POW status within a year's time.

So we continue to play out the tragedy. We are bombing to defend our troops; bombing to bring our prisoners home; bombing to insure the survival of President Thieu.

Since 1969, we have achieved a single objective—the survival of President Thieu—at a cost of more than 20,000 American lives, 4 million civilian refugees, and 165,000 civilian deaths in South Vietnam alone.

The statistics numb the mind. Like the images of villages destroyed, families running for their lives, children fleeing in terror from a napalm strike, they have become part of our daily life.

After all, we are told, the cost of the war is down to $20 million a day.

We are being asked to accept the war as merely another inconvenience of modern living. There is less and less talk of turning the corner or glimpsing the light at the end of the tunnel. There is more talk of next year, or 2 years more, or 4 years if necessary.

Two months ago a New Yorker columnist noted sadly:

> The war has become part of America's business as usual . . . so much a part of our lives that we scarcely notice it any longer. The war cannot now be seen as something we are doing; it is what we are.

It is this dull acceptance that hurts us most. And we vote today to reaffirm our conviction that the war in Vietnam must not be the measure of our Nation.

URBAN MASS TRANSPORTATION AUTHORITY CRITERIA FOR SELECTION OF PROJECTS

Mr. ALLOTT. Mr. President, I have spoken many times about the criteria which UMTA proposes to use in the selection of projects for capital grants. My views opposing these criteria are well known and if the voters of Colorado see fit to return me to the Senate this November I expect to introduce legislation next year to deal with this problem.

Meanwhile one of the Nation's most widely respected transportation consultants, Mr. Stewart F. Taylor, makes some very cogent comments concerning the new criteria in the September 18, 1972, issue of Transport Central. Mr. Taylor analyzes exactly the problems I have articulated with respect to the UMTA policy.

I ask unanimous consent that Mr. Taylor's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UMTA CRITERIA CONSIDERED PROBLEM

(By Stewart F. Taylor)

"The press gave wide play to a recent setback suffered by the rail transit industry when the U.S. Senate Public Works Committee pried open the Federal Highway Trust Fund for bus projects but refused to allow any for rail systems. Less publicized was another blow struck by the Executive Branch in Washington.

"The Urban Mass Transportation Administration (UMTA) has recently published a 33-page document entitled, 'Capital Grants for Urban Mass Transportation.'[1] 'The booklet describes application procedures, the criteria for selecting projects, and the bases for determining the amount of a grant.

"In a section on guidelines there is a statement of 'objectives' on which the project selection system is based:

'1. To reinvigorate public transportation.

'2. By providing better general service and developing special services, to provide greater mobility for substantial groups of people who are totally dependent on public transportation.

'3. To promote transit as a positive force in influencing and supporting desired development patterns in urban areas and in improving environmental conditions.'

A LIMITED CHOICE

"These appear to be enlightened goals to which most leaders and planners would subscribe. But when you get into the guts of the criteria you will find a rather narrow bus bias.

"Any applicant area seeking a grant would be tossed into one of three Standard Metropolitan Statistical Area (SMSA) population categories: under 250,000; 250,000 to 1,000,000; and over 1,000,000. The key sentence indicating U.S. DOT's attitude can be found in the description of that last ('large system') category of over 1,00,000: *'Applications for rail projects will be placed in this category regardless of metropolitan area size.'* [*Italics mine*].

This statement is reinforced by a list of projects which would be given priority in medium-sized areas (250,000 to 1,000,000). Among the more significant:

1. Those helping to prevent a total halt in service.

2. Those related to Federal Highway Administration (FHWA) TOPICS and FHWA-UMTA Corridor Demonstration Projects. Examples: 'Bus lanes,' 'buses to control traffic lights,' and parking spaces . . . in conjunction with terminals for express or improved bus services.

BEYOND THE PALE

'What is the significance of these pronouncements? It appears to mean that the 90 SMSA's throughout the United States with populations between 250,000 and 1,000,000 will have an uphill battle—to say the least—in seeking federal assistance for rail or other grade separated systems. But let us be more realistic and look only at areas between 500,000 and 1,000,000. There are still 31 in that group, including Providence, R.I. (910,781), Columbus, O. (916,228), and Albany-Schenectady-Troy, N.Y. (721,910).

"It means, for example, that recent studies to determine the feasibility of low-cost rail service in Rochester, N.Y. (882,667) and Dayton, O. (850,266) could have the rug pulled out from under them. It means, moreover, that any attempt for assistance to extend the much-lauded M&O Subway in Ft. Forth, Texas would be greeted with a cold eye.

"It is more than a little ironic that many a DOT official has made the junket to Europe and apparently failed to note the successful application of grade-separated rail systems in dozens of cities with populations under 1,000,000—many with less than 500,000.

"UMTA's stance is disheartening. Worldwide trends make it clear that urban rail systems attract greater, sustained ridership, are less detrimental to the environment and exert a stronger influence on orderly urban growth than do buses. And regardless of labels, when an area institutes transportation improvements which are primarily highway oriented, the long term beneficiary is the automobile.

THE NEEDLESS KILLING OF OCEAN MAMMALS

Mr. HARRIS. Mr. President, contrary to what any of us thought before we were elected to the Senate, legislation is seldom accidental, hardly ever divinely inspired, and never historic in the sense of new subject matter.

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[1] June 1972, Information for Applicants, U.S. Department of Transportation, Urban Mass Transportation Administration. Washington, D.C. 20590. (No document number indicated.)

Since I came to the Senate 8 years ago, we have been dealing with age-old questions, albeit in new ways, of war and peace, of maldistribution of wealth and income, of help to peoples or nations, and of delivering services to all our people. In essence, redefining and rethinking all the great issues of our time.

Today, however, I rise to pay tribute to a truly rare and historic piece of legislation, the inspiration behind it, and to share with you its genesis.

I am speaking of the so-called Ocean Mammal Protection Act. In March of 1971, I joined 25 Senators and Representative DAVID PRYOR and 100 of his House colleagues introducing S. 1315, a bill which would have simply outlawed the killing of all ocean mammals by U.S. citizens and banned the imports from other countries of products from these mammals killed by other nations. The bill as passed, which I assume will now go to the President, fell far short of those simple ideals. But the war against this needless killing of ocean mammals is not over and the main reason for that is the existence of one Miss Alice Herrington of New York City.

Miss Herrington was, if you will, the mother of this ocean mammal protection legislation. No one before last year had even tried to introduce such a sweepingly simple bill—which in essence said "we are going to stop the senseless and needless slaughter of ocean mammals." But that is the way Alice Herrington thinks.

Alice Herrington has spent over 20 years in the humane movement. She started out working on local dog and cat spaying programs because she was concerned with the over-population of these animals in metropolitan areas and their consequential lack of care. She then started working in New York and other States on State humane legislation, passing legislation and harassing minor officials into doing their jobs to protect and treat humanely all of our animals.

In 1971, Alice Herrington, who is president of Friends of Animals, decided that she wanted to get some things done on the national level. She created the Committee for Humane Legislation, became its president, too, and came to Washington. She hired two capable Washington attorneys to draft what was to be the Ocean Mammal Protection Act. She got some volunteer and part-time lobbyists and they marched on Capitol Hill.

Well, the rest is history. But only the first chapter. For the first time in the history of our American Congress, we Members had to focus on a subject we would have rather ignored—that we and our Government, directly and indirectly were needlessly slaughtering hundreds of thousands of ocean mammals. These slaughters were taking place under the guise of "management" and "conservation." And huge interests had grown up around them. There were Faulk Fur Co. and furriers in New York; the dog and cat food people; the tuna fishermen; the Government bureaucrats whose livelihood depends on their "management" of these slaughters and many others. She took on all the vested interests. She has made enemies who would depict her as one of "your little old ladies in tennis shoes." And they banded together, and they won the first round.

But did they really win? I think not. Because of the public clamor which has begun because she brought back the first film from our own Pribiloff Islands stripping the mask of "harvest" from the brutal seal slaughter; she showed the first pictures of the killing of the baby white coat seals in the Gulf of St. Lawrence; she proved that the Departments of Interior and Commerce figures as to the size of the seal herd were wrong and so were their statements as to how humane they really were by killing off the old, sick, and the tired. She has brought these facts into every living room in America by television and newspaper. And because of that, Government has slowly started to respond.

The Interior Department put the great whales on the endangered species list. The State Department, feeling the rise of public opinion, pushed the International Whaling Commission to agree to reduce this next year's worldwide whaling kill by 30 percent. And the last U.S. whaling company's permit has been rescinded, putting the United States out of the whaling business. The Commerce Department has announced a $250,000 research program to attempt to reduce the killing of dolphins and porpoises incidental to tuna fishing. And Commerce is seeking a total ban on seal killing on one of the two Pribiloff Islands. The House has now passed a moritorium on the harassment and killing of polar bears and hopefully the Senate will act quickly in the same manner.

The bill itself was far from a total waste of effort. If signed as is, taking and killing of ocean mammals will be much harder, and if it occurs, public hearings will have to be held and the bright light of public scrutiny and opinion will be brought to bear on all who insist on this brutality. The fashion designers, the retail stores and the consumer are all starting to play a role. Many people are now refusing to buy coats made from seal skin or other ocean mammal products. Recently, no less than the famous Christian Dior censored his American opening by taking out all furs from the endangered species list, fearing American consumer reprisals.

No, the battle is just beginning. And the vested interests have every reason to be worried. For everywhere they turn and in everything they do they will hear the footfalls of the greatest of all "the little old ladies in tennis shoes." Alice Herrington is an implacable foe. She will not compromise on what is right. And she knows that today's young people are with her. She knows that time is with her. She will prevail, and with the help of the other truly humane organizations, such as the Humane Society of the United States, Friends of the Earth, Fund for Animals, American Horse Protection Association, World Federation for Protection of Animals, National Parks and Conservation Association, Society for Animal Protective Legislation, Sierra Club, Defenders of Wildlife, International Society for Protection of Animals, Environmental Action Council, Environmental Political Committee, a true protection bill for all ocean mammals will ultimately pass this Congress.

Alice Herrington and those working with her have brought all of us to an awareness that, if we can wind down the spiral of brutality of the acts man commits on nature, maybe we can wind down the brutality against our brothers in mankind. I will not be here next year, but you can be sure Alice Herrington will, and somehow her message through her tenacity and patience and ultimate right will win out.

I am proud to have played a small role in one of her efforts and I salute her and the Committee for Humane Legislation for helping us all try to be better citizens of our world.

THE SPENDING CEILING AS A PART OF THE DEBT LIMIT EXTENSION

Mr. ROTH. Mr. President, I am delighted to see that the House Ways and Means Committee overwhelmingly approved the spending ceiling as a part of the extension of the national debt limitation.

In a 20 to 5 vote yesterday, the committee adopted a no-holes ceiling of $250 billion using precisely the language I have been sponsoring in the Senate for over 6 months. If enacted into law, this will give the administration the absolutely necessary power to keep fiscal year 1973 outlays at or below the $250 billion mark.

Let me say, though, that I would be happy to see the Finance Committee report a stricter ceiling, for even at $250 billion, I feel the Federal budget may seriously jeopardize our domestic economic recovery. If we can successfully shepherd a lower limitation through the Senate, I will certainly support it, provided it contains the "no-holes" and no-qualifications language I have long recommended.

I will oppose, though, any efforts to weaken the limit by adding exceptions for any program category, or by putting in "stretch" clauses which allow the ceiling to float higher if future appropriations exceed the budget request. We must get serious about these galloping deficits, and the only way that I see to do it is by imposing the strict discipline of my language.

I have spoken many times before on this issue, but I would like to remind Senators that a vote against this discipline is a certain vote for a tax increase. Obviously we cannot guarantee that with such a ceiling there will not be a need for higher taxes, but without the spending lid, there will surely have to be greater tax levies. And these will not come from the "soak-the-rich" plans we have heard so much about, $20 to $30 billion in additional revenues will have to come out of every taxpayer's pocket.

Mr. President, we are all aware of the encouraging economic gains achieved within the last 6 months. More people are at work than ever before in our history; the average weekly paycheck now buys more, even adjusted for inflation; and key industries, such as homebuilding, are returning to a healthy and active state. If we, in Congress, or the administration fail to impose this needed spending restraint, we run the serious risk of undoing these measurable improvements. Worse still, we could, by irresponsible action, undermine the growing confidence of the American consumer and businessman. Their belief in the equity of wage and price controls, and their desire to take positive expansionary steps, could be quickly choked off by a Congress that refused to set the necessary spending example.

Lastly, Mr. President, I congratulate the distinguished Representative from Oregon (Mr. Ullman). At his suggestion, the Ways and Means Committee approved the creation of a bipartisan joint congressional committee to study the problems of budgetary control, and to submit to the separate Houses a plan whereby we can help prevent the need for this last minute emergency action. I have long been an advocate of better methods to manage the world's largest budget, and sincerely hope the Senate will recognize the wisdom of such a joint endeavor.

THE BALLOT

Mr. ALLOTT. Mr. President, in this political year of years, I believe it is proper for us to take a moment's respite from the rhetoric to reflect upon the true significance of that common phrase we constantly hear, the right to vote. I regard this right to vote the highest privilege that we, as citizens, possess. I have spoken many times in this Chamber in favor of the extension of this right to the citizens between the ages of 18 and 21. I was privileged to be a cosponsor of Senate Joint Resolution 7, which extended the right to vote to those 18 and over.

It is for this reason that I ask unanimous consent to have a poem printed in the Record. It is a poem from the very gifted Milford E. Shields, Poet Laureate of Colorado. I believe his poem is worthy of the consideration of the new voters as well as those of us who have already exercised this privilege.

There being no objection, the poem was ordered to be printed in the Record, as follows:

THE BALLOT

I am the great and silent voice,
I am the written will of man,
I am the witness of his choice,
I am the power of his plan,

I am the just equality,
I am the right men understand,
I am the keeper of the free,
I am the future of the land.

HUNTING AND FISHING DAY IN ALASKA — PROCLAMATION BY GOV. WILLIAM A. EGAN

Mr. GRAVEL. Mr. President, Alaskans in general are among the most conservation conscious people in the Nation. Our State provides nesting and breeding grounds for the most widely distributed wildlife in the world. On our rocks and shores, birds from three continents—North and South America and Asia—renew their life cycles. Sea mammals cruise our shores and bear their young. Some of the world's most majestic land mammals are found within our State.

Alaska's State department of fish and game has long worked to preserve and protect these natural resources through careful management and wise use of conservation techniques. Gov. William A. Egan declared September 23, 1972, as Hunting and Fishing Day. In recognition of our citizens who hunt and fish, I would like to join him in the rededication to the wise use of our natural resources and their proper management for the benefit of future generations.

Mr. President, I ask unanimous consent that Governor Egan's proclamation be printed in the Record.

There being no objection, the proclamation was ordered to be printed in the Record, as follows:

PROCLAMATION—HUNTING AND FISHING DAY

Alaskans, living in a great land abundant with fish and wildlife, have traditionally followed the recreational pursuits of fishing and hunting.

Alaska's hunters and fishermen have been leaders in major conservation programs designed to perpetuate our fish and wildlife resources. Outdoor sportsmen have formed national conservation organizations to work for the wise use of our natural resources, such as the National Wildlife Federation, Ducks Unlimited, the Izaak Walton League, and many others.

Hunters and fishermen have provided for the improvement of wildlife resources, supporting wildlife protection and management efforts in the Nation. Revenues realized from the sale of licenses, tags, permits, and stamps have been used by states to protect and manage all wildlife and fish resources, including endangered species, not just game animals. Hunters and fishermen purchased nearly 194,000 licenses, tags, permits, and stamps in Alaska last year. Additional monies for the improvement of fish and wildlife are derived from manufacturers' excise taxes on sporting arms and ammunition and on certain fishing tackle items purchased by sportsmen.

Alaska's hunters and fishermen provide a valuable asset to the economy of the State and to the well-being of all citizens by encouraging good citizenship, conservation education, and good sportsmanship. Outdoor sportsmen have promoted proper respect for private as well as public property, of courtesy in forest and field, and in firearm safety and boating safety programs.

Therefore, as Governor of the State of Alaska, I, William A. Egan, do hereby proclaim September 23, 1972, as Hunting and Fishing Day in Alaska and urge all of our citizens to join with sportsmen-conservationists in a rededication to the wise use of natural resources and their proper management for the benefit of future generations. Further, I urge all citizens to visit sportsmen's clubs to learn more about conservation and outdoor skills.

CONGRESS CUTS NIXON BUDGET AGAIN THIS YEAR AS IN ALL PAST YEARS

Mr. PROXMIRE. Mr. President, the $4.4 billion cut Congress has made in President Nixon's budget requests for appropriations makes the President's charge of a "big spending" Congress clearly in error.

Every year at this time the President and his chief budget officials charge that Congress has gone on a wild spending spree. But every year for the past 4 years, and in fact every year for the last 25 years, Congress has cut President Nixon's and every President's budget requests.

The latest figures show that Congress has already cut $4,443,253,150 from the President's total appropriation requests for $172,462,672,599.

INCREASES MORE THAN OFFSET BY CUTS

While Congress increased funds for health and education by $835 million, and made smaller increases for agriculture, environmental and consumer protection, Interior, disaster relief, and some others, it has cut a whopping $4.4 billion from the military budget, $968 million from foreign aid, and $383 million from military construction, which more than offset the increases.

President Nixon and his administration charge us with "big spending" whenever we increase funds for the human needs of the American people, but gloss over the dramatic increase in military funds both requested and spent in this fiscal year.

PRESIDENT CONTROLS OUTLAYS

The problem is that while Congress has control over appropriations, the President has control over spending or outlays. This is why the Pentagon has spent more than $20 billion more than Congress has appropriated for it over the last 5 years. This is why military outlays will increase even though Congress has cut the military budget. If the President wants to cut spending, he should take the ancient advice, "Physician, heal thyself."

The big spending increase is a product of the President's actions. With a word to Mr. Weinberger or at the stroke of a pen, he can cut $10 billion from this year's spending.

Because the Senate will pass a defense appropriation bill with no significant increase over the House cut, and because the Senate will cut the foreign aid bill far below the President's request and near the House figure, I can confidently predict that when we finish, Congress will have cut President Nixon's request for appropriations by over $4 billion and probably by $4.5 billion.

CONGRESS REORDERS PRIORITIES

What Congress has done is to reorder the President's priorities. While he has frozen funds for housing and human needs, and spent lavishly for military weapons and the bombing of North Vietnam, Congress has cut his military budget and used a part of the funds to help the American people.

M'GOVERN'S $4 BILLION DEFENSE CUT AMENDMENT VINDICATED

The $4.4 billion cut in military appropriations also vindicates the stand which Senator McGovern and those of us who have been fighting excessive military spending have taken. Only a short time ago, Senator McGovern offered an amendment in the Senate to cut military appropriations by $4 billion. This was defeated when only a single Member of the President's party voted for that amendment.

But now the House committee has gone Senator McGOVERN one better and has cut $4.4 billion from the military bill. From my knowledge as a member of the Senate Appropriations Committee, the Senate committee will sustain that cut.

We have proved McGOVERN right—in spades. The President of the United States has been wrong in charging Congress with the big spending which he should attribute to himself.

SHOULD CUT MORE

From my own point of view, I would cut even more—in space spending, highway spending, wasteful public works and water reclamation projects, for impacted school aid, and from the $63 billion annual bill for subsidies for big farmers, big shippers and others.

But we have the right and duty to set the record straight. When all the figures have been added up, Congress has made the President's charge of a "drunken sailor Congress going on a wild spending spree" look absolutely ridiculous. We have cut the President's budget requests by $4.4 billion. I hope we can cut them even more before we adjourn."

Mr. President, I ask unanimous consent that an editorial from the Thursday, September 21 issue of New York Times entitled "Resetting Priorities" be printed at the end of my remarks. At the time the editorial was written, Congress had acted on only $169 of the $172 billion Presidential requests.

I also ask unanimous consent that a table prepared September 21 by the House Committee on Appropriations, giving the details of the $4.4 billion cut by Congress, be printed in the RECORD.

There being no objection, the items were ordered to be printed in the Record, as follows:

RESETTING PRIORITIES

It is impossible to divorce politics from the cat-and-mouse game Congress and the White House are playing on Federal appropriations for health, education, welfare and labor. But, once that fact of Washington election-year life is acknowledged, it must be recognized that the sounder priorities in these areas are now being followed on Capitol Hill.

In passing a scaled-down substitute for the funding bill President Nixon vetoed last month, the House has made an earnest effort to balance its own conviction that more money is needed for schools and health services against the Administration's pressure for a holddown on domestic spending. However, the House decision to cut in half the $1.8 billion Congress originally added to the H.E.W.-Labor Department budget request goes a bit too far toward meeting the pressure for economizing in the wrong places. There is every reason to suppose that the Senate will favor restoration of some sacrificed items.

An analysis of House action on the appropriations measures sent to it by the White House this year indicates that the legislators have shown considerable responsibility in recognizing the need for trimming governmental expenditures without ignoring the need for facing up to pressing governmental obligations.

Even with the $836-million increase the House still proposes for the H.E.W.-Labor outlay, the over-all record shows a cut of more than $4 billion in the $169 billion of Administration requests acted on thus far. The reductions have been almost totally in the swollen defense budget, highly susceptible to sound cutting, and in the Appropriations Committee recommendation for foreign aid, a more questionable area for trims—especially since most of the cuts are in economic, as against military, assistance.

The central direction of budget changes on Capitol Hill has been toward greater emphasis on meeting neglected needs at home—a shift that has been much too long in coming. The revised bill enacted by the House to finance education and other vital domestic services represents a minimal estimate of what the Federal Government should provide in these fields.

ACTIONS ON BUDGET ESTIMATES OF NEW BUDGET (OBLIGATIONAL) AUTHORITY CONSIDERED IN APPROPRIATION BILLS, 92D CONGRESS, 2D SESS., REVISED TO SEPT. 21, 1972

[Does not include any "back-door" type budget or spending authority in legislative bills; or any permanent (Federal or trust) authority, under earlier or "permanent" law,[1] without further or annual action by the Congress]

Bill and fiscal year	House actions			Senate actions			(+) or (−), latest action compared with budget request
	Budget requests considered	Reported by committee	Approved by House	Budget requests considered	Approved by Senate	Enacted	
A. Bills for fiscal 1973:							
1. Legislative (H.R. 13955)	$433,627,004	$427,604,764	$427,604,764	$519,347,899	$514,722,880	$513,787,980	−$5,559,919
2. State-Justice-Commerce-Judiciary (H.R. 14989)	4,687,988,600	4,585,054,350	4,587,104,350	4,704,326,600	4,820,717,769		+116,391,169
3. HUD-Space-Science-Veterans (H.R. 15093)	20,173,185,000	19,718,490,000	19,718,490,000	[4] 20,258,183,000	20,583,370,000	20,125,951,000	−132,232,000
4. Transportation (H.R. 15097)	3,040,362,095	2,891,060,095	2,922,795,095	3,040,362,095	3,038,175,095	2,999,188,095	−41,244,000
Fiscal year 1973 amounts only	(2,909,181,095)	(2,759,879,095)	(2,791,614,095)	(2,909,181,095)	(2,906,994,095)	(2,867,937,095)	(−41,244,000)
5. District of Columbia (Federal funds) (H.R. 15259)	343,306,000	332,306,000	332,306,000	343,306,000	313,706,000	316,393,000	−26,913,000
6. Labor-HEW (H.R. 15417, Vetoed)	[27,327,323,500]	[28,239,346,500]	[28,603,179,500]	[28,767,633,500]	[31,354,930,500]	[30,538,919,500]	[+1,771,286,000]
7. Labor-HEW (H.R. 1664, New bill)	28,767,633,500	29,603,448,500	29,603,448,500				+835,815,000
8. Interior (H.R. 15418)	2,520,340,000	2,529,558,200	2,529,558,200	2,527,154,000	2,550,922,800	2,548,935,300	+21,781,300
9. Treasury-Postal Service-General Government (H.R. 15585)	5,066,603,000	5,057,145,000	5,057,145,000	5,066,603,000	5,057,186,000	5,057,827,000	−8,776,000
10. Public Works—AEC (H.R. 15586)	5,489,058,000	5,437,727,000	5,437,727,000	5,489,058,000	5,571,696,000	5,504,914,000	+15,856,000
11. Agriculture-Environmental and Consumer Protection (H.R. 15690)	12,952,177,400	12,897,010,900	12,897,010,900	12,952,190,400	13,561,055,800	13,434,032,700	+481,842,300
12. Disaster Relief Supplemental, 1973 (H.R. 16254)	1,569,800,000	1,587,300,000	1,587,300,000	1,569,800,000	1,587,300,000	1,587,300,000	+17,500,000
13. Defense (H.R. 16593)	79,594,184,000	75,227,048,000	75,227,048,000				−4,367,136,000
14. Foreign Assistance (H.R. 16705)	5,163,024,000	4,195,155,000	[5] 4,195,155,000				−967,869,000
15. Military Construction (H.R. ———)	2,661,384,000	2,278,675,000	[5] 2,278,675,000				−382,709,000
16. Supplemental, 1973 (H.R. ———)							
Total, bills for fiscal 1973	172,462,672,599	166,767,582,809	166,801,367,809	56,470,330,994	57,598,852,344	52,088,259,075	−4,443,253,150
B. Bills for fiscal 1972:							
1. Urgent Supplemental (H.J. Res. 1097)	957,476,059	957,476,059	957,476,059	957,476,059	957,476,059	957,476,059	
2. 2d Supplemental (H.R. 14582)	4,775,261,477	4,124,123,358	3,954,453,358	4,865,943,389	5,063,517,439	4,347,698,270	−518,245,119
3. Special Resolution, Gold Revaluation (H.J. Res. 1174)	[3] 1,600,000,000	[3] 1,600,000,000	[3] 1,600,000,000	[3] 1,600,000,000	[3] 1,600,000,000	[3] 1,600,000,000	
4. Supplemental, Disaster Relief (H.J. Res. 1238)	100,000,000	200,000,000	200,000,000	100,000,000	200,000,000	200,000,000	+100,000,000
Total, bills for fiscal 1972	7,432,737,536	6,881,599,417	6,711,929,417	7,523,419,448	7,820,993,498	7,105,174,329	−418,245,119
C. Cumulative totals for the session:							
1. House	179,895,410,135	173,649,182,226	173,513,297,226				−6,382,112,909
2. Senate				63,993,750,442	65,419,845,842		+1,426,095,400
3. Enacted				59,289,423,842		59,193,433,404	−95,990,438

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[1] The budget for 1973, as submitted Jan. 24, tentatively estimated total new budget authority for 1973 at $294,813,000,000 gross ($270,898,000,000 net of some $23,915,000,000 interfund and intragovernmental transactions and certain so-called proprietary receipts handled as offsets for budget summary purposes only). Of this total, an estimated $109,754,000,000 does not require current action by Congress; it involves so-called permanent appropriations such as interest, various trust funds, etc., already provided for in various basic laws. The remainder, $185,059,000,000, is for consideration at this session (mostly in the appropriation bills). About $14,394,000,000 of this $185,059,000,000 was shown in the January budget as being "for later transmittal" for new or expanded legislation, pay increases, and contingencies, and about $45,817,000,000 of the remainder requires legislative reauthorization through various annual authorization bills or where the authorization expires periodically.

[2] Reflects deletion on House floor, by point of order, of $170,000,000 for Amtrak.

[3] "Not to exceed."

[4] Excludes the $490,000,000 proposal in the 1973 budget for "proposed legislation" for Urban Community Development Revenue Sharing which the Senate bill "considered".

[5] As reported.

Prepared Sept. 21, 1972, in the House Committee on Appropriation.

GROWING EXPORT OPPORTUNITIES FOR SOYBEANS

Mr. ROTH. Mr. President, I wish to extend a word of praise to the growers, processors, and exporters of soybeans and soybean products, and point to the growing export opportunities for this valuable agricultural crop. At a time when we need to improve our foreign trade performance, soybeans and their products have become a very bright spot in our total export picture. Not only are soybeans now the Nation's leading cash crop, replacing corn at the top of the list; they have also become our first agricultural commodity to have annual exports in excess of $2 billion in value. I am proud to report that Delaware farmers have been a part of this success story. Soybeans are Delaware's No. 1 agricultural export commodity and with exports of more than $5 million, account for more than one-third of the value of our State's agricultural exports.

There are a number of factors which have contributed to the bright prospects for soybean exports. Soybeans produce a high protein meal that is especially valuable for animal feed. Our largest soybean markets are the European community and Japan where meat production and consumption are rising rapidly. Secondly, there are relatively few artificial trade restrictions on soybean products. For example, soybeans enter the European community duty free and not subject to the variable levies that have crippled our exports to Europe of feed grains, poultry products, and dairy products. Finally, and perhaps most importantly, the United States is far and away the largest and most efficient producer of soybeans. It is a great credit to the soybean industry that our exports have grown rapidly without any need for export subsidies.

Because of the continuing buoyancy in the international soybean market, the Department of Agriculture is encouraging the expansion of American soybean acreage. The Department's publication, Foreign Agriculture, for September 18, contains two articles which delve in some detail into the market prospects for soybean products. Mr. President, because of their interest to American farmers, I ask unanimous consent that these two articles be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

U.S. Soybean Complex Exports Top $2 Billion in Fiscal Year 1972

(By Bruce Baker)

For the first time, the U.S. soybean crop has become the Nation's leading cash crop. In FY 1972, U.S. farmers reported higher cash receipts for soybeans than for corn, which has long been the leading cash earner.

The soybean crop also reached another important milestone when it became the first agricultural commodity to have total annual exports valued at more than $2 billion; the total export value of soybeans and soybean products hit an alltime high of $2.004 billion in FY 1972—a 5-percent gain over the preceding year.

Gains in the value of exports within the "soybean complex" (soybeans and soybean products) were mixed, however; the value of soybeans increased by 9 percent, soybean meal stayed about the same, while the value of soybean oil declined by 7 percent.

Most of the gain in the value of soybean exports does not reflect a proportionate rise in shipments; rather, the price of soybeans jumped by 7 percent—from an average of $3.00 per bushel in FY 1971 to $3.22 per bushel in FY 1972. The total volume of exports in FY 1972, at 431,436,000 bushels, was up only 2 percent over the previous year.

The considerable price gain reflects a demand for soybeans which has outstripped production for the two previous seasons, considerably reducing the carry-in stocks for the 1972 season. Tighter supplies and a continued strong demand have pushed prices to their higher levels for this season.

Although the export market for soybeans remained strong during FY 1972, it was distorted by several factors, including the east and gulf coast dock strikes, the slowed growth of West European and Japanese livestock production, a substantial gain in European wheat output, and the Indo-Pakistani war.

The market was also affected by increased competition from foreign-produced oilseeds and protein, including palm oil, copra, palm kernels, rapeseed, linseed, and fishmeal and oil.

Of all the distorting factors perhaps the one destined to have the most lasting impact on the competitiveness of soybeans in world markets will be the international currency realinement.

The devaluation of the U.S. dollar lowered the price of a bushel of U.S. soybeans in terms of many foreign currencies. The price was reduced most for Japan and the European Community—which together take 65 percent of total U.S. soybean exports; consequently, soybeans should have an even better competitive position in these markets in the future.

U.S. soybean exports had a good year in the EC, which took almost 40 percent of total shipments in FY 1972. The volume of shipments (168,708,000 bushels) was up 9 percent, while the average price per bushel also gained (up to $3.20 per bushel); consequently, the total value of soybean exports to the EC gained by 16 percent over the preceding year.

Within the EC, the Netherlands was the leading market for U.S. soybeans. Total volume rose by over 13 million bushels—or 25 percent—a gain nearly equal to the gain of the EC as a whole. Part of this substantial gain reflects the increased use of this country as a transshipment point for U.S. soybeans destined for other EC countries. Smaller increases in imports by West Germany, Italy, and France more than offset the 6-million-bushel decline in direct shipments to Belgium-Luxembourg.

Japan, the second largest market for U.S. soybeans, took about 25 percent of total exports in FY 1972. The volume of shipments (110,223,000 bushels) was up 9 percent over the previous year. Most of this gain came immediately before and after the U.S. dock strikes, as precautionary or catch-up purchases.

Japanese importers delayed purchases until the second half of the fiscal year, in order to take advantage of the 18-percent currency adjustment (completed on December 18, 1971), and the trade liberalization which removed the Japanese 21-cent-per-bushel duty on soybeans (April 1, 1972).

Spain, the third largest market for U.S. soybeans (after the EC and Japan) had a reduced growth rate in its soybean import requirements in FY 1972. A drought in FY 1971 reduced pasture and led to accelerated slaughter of red meat animals. Pasture was more plentiful in FY 1972, animal numbers were lower, and poultry production slackened. Nevertheless, the volume of Spain's imports of U.S. soybeans rose 2 percent, to 39,949,999 bushels.

Three of the four EC applicants—the United Kingdom, Denmark, and Norway—are also important markets for U.S. soybeans.

Shipments to the United Kingdom dropped 20 percent in FY 1972, down to 4.4 million bushels. Several factors contributed to this reduction: The poultry industry was still recovering from the Newcastle disease epidemic of 1970–71; exceptionally favorable pasture conditions reduced cattle feed requirements; and imports of rapeseed and rapeseed meal were up 39 and 50 percent in FY 1971 over 1970.

Some of the decline in direct shipments to the United Kingdom was offset by transshipments through the Netherlands. Prospects for the coming months are brighter as new crushing capacity, geared almost exclusively to soybeans, comes into operation and as the poultry industry continues to recover.

Soybean shipments to Denmark declined by 9 percent in FY 1972, down to 18.2 million bushels; however, soybean meal shipments rose 45 percent to 109,000 short tons. If meal is figured on a soybean equivalent basis, then total soybean shipments declined by less than 2 percent.

The principal reason for this decline in U.S. soybean shipments was increased competition from rapeseed and rapeseed meal (both domestically produced and imported). Danish spring rapeseed area and production more than doubled between 1970 and 1971. At the same time, imports of rapeseed and rapeseed meal rose by 30 and 45 percent, respectively.

Although U.S. exports to Norway rose only 1 percent in FY 1972 (to 7.7 million bushels), the outlook for the future is good: soybean crushing capacity is now being doubled.

In other major markets for U.S. soybean exports, the FY 1972 export record was mixed. Exports to Taiwan expanded by 12 percent in volume (to 22,650,000 bushels), which value rose by 16 percent. Soybean shipments to Canada declined by 17 percent and exports of soybean meal were down by 10 percent—reflecting decreased transhipments and increased utilization of domestically produced rapeseed. U.S. soybean exports to Israel were also lower.

The total volume of fiscal 1972 soybean oil shipments was 1.562 billion pounds, 12 percent less than the previous year's total. However, the total oil equivalent of U.S. exports of soybeans and soybean oil was down only 2 percent due to the increase in exports of soybeans.

Most of the 210-million-pound decline in soybean oil exports occurred among the major foreign recipients. Yugoslavia, which was the second largest market for U.S. soybean oil in FY 1971, reduced its purchases by 34 percent, or 86 million pounds, as a result of balance-of-payments difficulties.

Combined soybean oil exports to India and Pakistan were lower by another 73 million pounds. Following the disruption of the Indo-Pakistani War, P.L. 480, shipments to India ceased. Although Pakistan (formerly West Pakistan) may some day be self-sufficient in vegetable oil, Bangladesh (formerly East Pakistan) will continue to be an oil deficit country by a substantial margin. During the last half of fiscal 1972, the United States provided Bangladesh with 78 million pounds of oil as an emergency relief measure.

Other important markets where sizable declines occurred were Israel, Egypt, and Taiwan. Tunisia and Morocco, both major importers of U.S. oil, maintained their purchases at about the previous year's level.

Are U.S. Farmers Planting Enough Soybeans To Meet World Market Opportunities

(Assistant Secretary Carroll G. Brunthaver addresses himself to this important issue—and restates U.S. opposition to an international oils agreement—in a speech before the National Soybean Processors Association August 21, 1972)

This is a particularly dynamic period for the farm industries.

On July 8, the United States completed an agreement with the Soviet Union for the sale of at least $750 million in wheat and feedgrains over a 3-year period.

Within little more than a month it was evident that the Soviets had already made purchases of grain exceeding that entire 3-year commitment.

A major commercial sale of soybeans has been made to the Soviet Union—the first purchase of U.S. beans by the Soviets since 1965–66. The quantity has been unofficially estimated at 1 million tons.

There has also been a small but significant sale of linseed oil to the People's Republic of China.

Each of these developments is a reflection of major efforts by the United States to open up trade and other relationships with two immense countries comprising one-fifth of the world's land area and 28 percent of the world's people. The success growing out of these efforts can have enormous consequences for world peace and stability in years to come.

Aside from this, these sales are an immediate contribution to farm income, to the national economy, and to the Nation's trade position. In the 12 months that began July 1, we seem very likely to exceed the record exports of the year just completed. We are almost certain to expand the favorable balance in our agricultural trade, which was over $2 billion in 1971–72.

As for returns to farmers, net income in this calendar year will be at an alltime record with a rise of around $2 billion over last year. Soybean income is a major part of this growth; we now estimate the value of the 1972 soybean crop at $4 billion—compared with $2.4 billion in 1967 and 1968.

With all of these favorable signs in the soybean picture, a question we might well consider is why there is not more of an expansion in soybean acreage—and what can be done about it.

The August crop report indicates a soybean planting this year of 45.8 million acres for harvest—compared with 42.8 million acres harvested last year. It is estimated that this acreage would give us a crop of 1,270 million bushels—an increase of 9 percent or about 100 million bushels over the 1971 crop. Moreover, this increased supply is estimated to be produced and sold with no adverse effect on soybean prices and with a further improvement in the incomes of soybean growers.

This increase of 100 million bushels would continue the upward trend in soybean production that has been going on, almost without interruption, for two decades. But given the world situation, and the current growth in demand, an increase of 100 million bushels is certainly modest; it would seem to fall short of the marketing opportunity now ahead of us.

In the past 3 years, due to policy changes including the 1970 farm act, there has been a definite move toward permitting the market to operate more freely in agriculture. As a result, we now see substantial adjustments taking place in cropping patterns.

Some of these shifts affect soybeans. Under the old programs many grain and cotton farmers, restricted in their plantings, were able to plant soybeans as a substitute crop—a fortunate thing for them that soybeans were an adaptable crop that served an expanding need. This year, some of these farmers are returning to grain and cotton while others are expanding their plantings of soybeans. On the whole, this is a healthy adjustment.

This being true, we hestitate to put into effect program gimmicks that would artificially encourage the production of soybeans. Clearly, however, we have a marketing opportunity to ship more soybeans and utilize more beans than we will evidently produce this year, even with the 100-million-bushel increase.

This raises the question: Should we consider means of encouraging a more rapid expansion in soybean acreage that we have been getting in recent years. If so, how?

This is a question that is not easily answered. Yet there is a tremendous opportunity for the soybean production and processing industries—and we need to take advantage of it. We must think through ways to stimulate additional production without depressing prices to farmers.

With 60 million to 62 million acres being idled under Government programs, we are not getting sufficient acreage planted to soybeans. To the extent that Government may have slowed soybean expansion, by releasing other crops from their straitjacket, the Government may have an obligation to adjust its program to help get more soybean acres.

There is another serious matter—the world situation for oils and some of the issues being raised as other countries become concerned about overproduction of oil crops.

World production of oils and fats has been forecast at a record 42.9 million metric tons in 1972, due to foreign producers' response to above-average prices for vegetable oils in 1969 through 1971. Moreover, the bulk of the increase seems to be in edible oils, with a large expansion in palm oil and coconut oil, Brazilian soybeans, West African peanuts, and the sunflowerseed crops in a half dozen countries. A modest increase in cottonseed and large rapeseed acreage in Canada and the European Community last year added to supplies.

This all adds up in 1972 to a world export availability larger than the increase in world demand. Tentatively, we believe that a similar situation will prevail in 1973, with export supplies exceeding import demand, but probably by a narrower margin. It appears that much of this increase may already have been discounted in the market place.

In the next few months, we believe that import competition for foreign coconut and palm oils here in the United States may taper off. This respite would be only temporary, however, with the long-term trend continuing to be one of expanding palm and coconut oil production abroad.

There is reason to be concerned about the growth in palm oil production and some other oil crops. This has the potential for a really burdensome world supply situation, and it is important that all of us, through our international organizations, encourage our colleagues in other countries to gear their production to real markets. Otherwise, their investments will be lost, and their development hopes disappointed. The palm, since it is strictly an oil crop, is going to be up against increasing competition from those oils that are byproducts of the burgeoning protein industry all over the world.

Here in the United States, we continue to have marketing problems with soybean oil, and as in recent years, we can expect that P.L. 480 will continue to be an important mechanism for the export of this product. The Department of Agriculture is continuing to facilitate the movement of soybean oil under both Title I and Title II.

In fiscal 1969–70, we exported 736 million pounds of oil under P.L. 480, representing 8 percent of total shipments of all commodities under the two titles. Shipments under Titles I and II grew to 851 million pounds in 1970–71 and 876 million pounds in 1971–72 and in both years soybean oil accounted for over 11 percent of all P.L. 480 commodities.

It appears likely that there will be additional increases in exports of soybean oil under Titles I and II in the current fiscal year and on into next year.

With increasing concern being felt over particular surplus problems in certain countries, we are once again beginning to encounter the old proposal that trade in oils be organized by means of an international oils agreement. Most recently, the proposal came up in the foreign trade section of the European Commission.

The French representative raised the issue with a statement to the effect that, notwithstanding the views of the United States and the Soviet Union, there exist real and overriding reasons why an international agreement should be established. Such an agreement, he said, would protect the producers of peanuts and other oilseeds produced in poorer countries.

This issue has been quiescent for the last year or two, most nations seeming to recognize that the oil and meal trade is so complex as to make an international agreement unworkable. But the new statement, raised in the EC Commission, poses some new and interesting questions—the views of the United States and the Soviet Union, for example.

The United States does not want to have its soybean opportunities limited by an agreement allocating world markets. The Soviet Union does not want to have its sunflowerseed oil outlets limited by such an agreement.

The United States has an interest in bringing the Soviet Union, and China as well, into the international dialogue affecting fats and oils. Both of those countries are or have been important factors in oilseed production and trade. Both have made recent purchases in the United States—soybeans in the case of the Soviets and linseed oil in the case of the Chinese.

May I say, in the strongest terms possible, that the United States position remains unchanged with respect to any international oils agreement? We are still against it. Our view is that soybeans are a growth industry, and we do not favor any agreement that would force the trade in soybeans, meal, or oil into some predetermined pattern.

With the growing need for proteins and oils, as the world's people look to improved diets, the world oilseed industry should be thinking in expansive terms. It should direct its efforts toward building markets rather than creating a structure that would artificially restrict trade by some form of market allocation. That is the U.S. view.

Returning to the Soviet purchase of U.S. soybeans, I would emphasize that this development, while it no doubt reflects temporary crop conditions, also reflects longer term Soviet goals in livestock and poultry production. So this purchase may well have longer term implications, which we should take into account as we plan future soybean production. We need an expanded dialogue with our new soybean customers to help understand their needs and to adjust our supplies.

The goal of the Soviets' current 5-year plan is to increase the protein in Russian consumer diets by 25 percent. Secretary Earl Butz, in talks with the Soviets both here and in Moscow, repeatedly emphasized that the United States has the capacity and the ability to help the Russian people meet that goal through commercial sales of U.S. feedstuffs.

Not long ago, in a conversation with the Soviet Agricultural Attaché in Washington, I mentioned that at some point we would need a recognizable signal that his country was in fact seriously interested in buying U.S. soybeans. Once such a signal came to us, we would be able to take account of that market in planning production here in the United States.

It would appear that we now have such a sign and a tangible one in the cash purchase of a sizable quantity of soybeans. It seems reasonable to suppose that, as the Soveits expand livestock and poultry production, their awareness of the value of protein supplements will increase. They will become more sensitive to the contribution soybean meal can make in boosting efficiency and extending short grain supplies.

The Soviet market is of course only one element in the growth of our export opportunities. And export growth is only one element in our need for additional soybeans, as the demand for meat and other livestock products expands here as well as in other countries. These opportunities being what they are, there would seem to be a certain inconsistency in a failure to produce enough soybeans, while at the same time holding out of production a large number of acres that could be used for this purpose.

This is the challenge we have before us—farmers, industry, and Government—as we plan for 1973.

GSA GRANTEE PROGRAMS

Mr. MONDALE. Mr. President, I ask unanimous consent to have printed in the RECORD some correspondence I have had with the General Services Administration.

The correspondence concerns the proposed discontinuation of the excess property program and GSA supply privileges for recipients of Federal grants.

Earlier this year GSA announced in the Federal Register its intention to terminate these programs. Interested parties were given until the end of June to comment on the proposed rule change. Later, after I had made a legislative attempt to stave off termination of the programs; and after vocational schools, colleges, and universities, antipoverty agencies and other affected parties began to express their opposition, GSA extended the period for receiving comments to the end of July.

I and 22 other Senators have expressed to GSA our concern that policy was being made on these programs without the consultation of Congress and in the absence of complete factual information. In addition, I have introduced S. 3882, which would continue the excess property program, and S. 3887, which provides for a study of the GSA supply program for grantees by the General Accounting Office.

On July 31, I wrote to GSA requesting an accounting of the number of letters received on the grantee programs, and a breakdown of the positions taken by the correspondents.

I particularly invite the attention of Senators to the overwhelming response in favor of continuing the excess property program. GSA reports that 1,444 letters evaluated as of August 28 favored continuing the program; only 104 recommended the excess property program be terminated.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

JULY 31, 1972.

Hon. ROD KREGER,
Acting Administrator, General Services Administration, Washington, D.C.

DEAR MR. KREGER: I am attempting to keep completely informed and up to date on the proposed termination of the eligibility of grantees for excess properly and GSA supply sources.

For this reason, I request that you provide me with the following information:

1. How many letters have been received in response to the GSA request for comments on the proposed rule change?

2. How many letters supported termination of the excess property program for grantees?

3. How many letters opposed termination of the excess property program for grantees?

4. How many letters supported termination of the use of GSA supply sources by grantees?

5. How many letters opposed termination of the use of GSA supply sources by grantees?

6. What procedure will be used by GSA in making its final decision on the proposed rule change? Please outline in detail.

I am looking forward to your prompt reply to these questions.

Sincerely,

WALTER F. MONDALE.

UNITED STATES OF AMERICA, GENERAL SERVICES ADMINISTRATION,
Washington, D.C., August 28, 1972.

Hon. WALTER F. MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONDALE: Thank you for your letter of July 31, 1972, requesting up-to-date information on the proposed discontinuance of the General Services Administration (GSA) grantee program.

As the tabulation and evaluation of responses from interested persons is still in process, the following information will, of necessity, be subject to change at a later date.

As of August 21, 1972, we received approximately 3,550 letters in response to our request for comments from interested persons. Of the 2,517 responses evaluated to date, the tabulation of positions expressed is as follows:

104 recommend discontinuing the excess program;

1,444 recommend continuing the excess program;

547 recommend discontinuing the use of GSA supply sources; and

422 recommend continuing the use of GSA supply sources.

Evaluation of these responses will provide a basis for weighing the merits of the proposal and permit the exercise of proper judgment in this matter. When a decision is reached, it will be published in the Federal Register.

We trust this information will bring you up to date on the proposal to discontinue the grantee program.

Sincerely,

ARTHUR F. SAMPSON,
Acting Administrator.

THE PROPER EDUCATION OF OUR CHILDREN

Mr. MATHIAS. Mr. President, nothing is more vital to the future of this country than the proper education of our children. Yet nothing is more elusive if it is not administered with a combination of wisdom, knowledge, love, discipline, and consistency.

George Surgeon, the principal of the Brooklyn Park Elementary School in Anne Arundel County, Md., understands this. Earlier this year I had occasion to visit the Brooklyn Park Elementary School and observe how much patience and skill he brings to his job. Happily, others have also noted this. On September 7, the Anne Arundel Times carried an article by Elmer M. Jackson, Jr., about Mr. Surgeon which I would heartily commend to the attention of my colleagues. I, therefore, ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PATHOS, LIVELY INCIDENTS SHARE SERIOUS ACTIONS OF SCHOOL PRINCIPAL

(By Elmer M. Jackson, Jr.)

At least one Anne Arundel County School principal plans drastic action and prosecution for those who damage school property. As the official also reflects on several unusual incidents in his life.

George Surgeon, principal of Brooklyn Park Elementary School has notified parents, and those residents living in the vicinity of Morgan Road and 14th avenue, Brooklyn Park, that "if by chance you ever see anybody vandalizing or mistreating either the old and, or new Brooklyn Park School, or their grounds I would greatly appreciate it if you would call one or more of the telephone numbers listed below for action."

The principal lists the telephone of the Anne Arundel County Police, the Maryland State Police, himself and Frank Kluczynski, school custodian as people who would be contacted if unauthorized persons are seen breaking in or damaging school property.

Continuing further Surgeon says most emphatically:

"I guarantee each and every one of you that as Supervising Principal of the Brooklyn Park Elementary School that if any one whomsoever commit any act of vandalism or thievery upon either the old or new Brooklyn Park Elementary School that I shall personally swear out a warrant for the culprit or culprits for "destruction of public property" and that I shall pursue the case in court until the culprit or culprits is/are deemed either guilty or innocent of all charges. We will have action.

"I am sick and tired of the permissiveness which allows "meanness" and the use the taxpayers hard earned dollars for an act of needless folly. I seek your help in putting an end to all "vandalism and thievery" in the Brooklyn Park Community.

"This is your Brooklyn Park Elementary School. This is your Brooklyn Park Community. It is the moral obligation of each and every one of us to put an end once and for all to the "foolish, asinine permissiveness" which abundantly abounds in our society of today.

"Let's have some action for the betterment of our community."

Surgeon is an unbelievable principal in many respects. A large man and athlete of note in high school and college, then a coach, Surgeon has developed into a philosopher with strong determination and a heavy hand when wrong is committed, in addition to his administrative duties in the school.

Spending long hours at the school, and often far into the night Surgeon can relate some unusual experiences.

One time he heard a noise on the roof of the school, and investigating, found a youth there for purposes unknown. He grabbed the boy gave him a good shaking and sent him home saying: "Tell your mother and father I will be in my office until noon and I will be glad to have a visit from them." They didn't appear but the boy's behavior was exemplary later.

After much money had been spent on sodding the terrace around the school and Surgeon was proud of the outcome, he saw a youth on a motorcycle riding up and down the hill tearing the sod loose. He rushed out, pushed the boy aside, and confiscated the motorcycle as the lad protested loudly. "Go home and tell your parents exactly what happened" he said "and when the sod is put back in place and you promise never to ride over it again you can have the motorcycle back, otherwise you can go to the police and we can discuss the whole matter in court." Repairs were made and the motorcycle never reappeared.

In another incident, Surgeon was in the dark basement of the school one night when he heard a noise. Soon a kid mashed out the window and slid down inside the room where

Surgeon grabbed him and scared him half to death. He told the boy to go home but that at 12 noon the next day he would expect him to be sitting on the front porch with a $10 bill in his hand to pay for the glass and the cost of replacing it.

The next day Surgeon sat in his car, around the corner from the boy's home for a few minutes until it was exactly noon. Then he drove to the youth's house and noted the child sitting on the porch. As soon as he saw Surgeon he ran to the car and gave him not a $10 bill but $10 in change. The boy became a model child in the school and said he would never ever again commit a misdeed.

Surgeon believes spanking has a fine effect on a child and is among the spanking principals of the county school system.

Children, he opines, are ashamed of having it known that they were spanked and will be very good in the future to avoid another session and further kidding by school mates.

One time after talking with a lad about his misconduct Surgeon got around to the duty of spanking the child and swatted his rear end a couple of times and tears ran from the child's eyes as he turned his head and said: "Mr. Surgeon, I love you." The principal admits his heart melted and words ended the session that day. On another occasion Surgeon was all dressed up in yellow linen pants when a teacher deemed it necessary for him to spank a first grade child. After hearing the circumstances he turned the lad over his knees and gave him a not so hard wack. The child began crying and at the same time Surgeon felt something warm on his knees. With the second spank Surgeon felt even warmer and after the third smack Surgeon became aware he was getting wet. The child had thoroughly soaked Surgeon's trousers, and on this occasion the laugh was on the principal.

Surgeon tries to know the first names of every child in his school, a building that the federal government considers unsurpassed in the nation today. Surgeon refers to it as his castle.

Surgeon greets many of the pupils each morning when they arrive at school, sees them in the corridors where he spends his lunch hour, and overall his school sustains less damage than most any other school in Anne Arundel County. This is a tribute to Surgeon and the respect and popularity he enjoys with his pupils. Children have great pride in their school.

More gentle than severe for a large man Surgeon does many things with the children like going on bus trips with groups, and congratulating those who help around the school, and who excel, or try hard at their endeavors.

The hard way to attract a PTA member is told by Surgeon:

One day a husky father arrived at the principal's office and blurted out with considerable feeling: "Im going to whip the daylight out of you?"

A bit surprised Surgeon rocked back in his chair and said: "This is interesting, but first let me say we ought to settle the matter right now. We can go to a private section of the gym. And we ought decide before we go there that only one of us will walk out. The other will be on a stretcher.

"I predict I will be the one who will walk out and that you will be carried out. You being the challenger can have your choice of bare knuckles or boxing gloves."

The parent began stuttering as Surgeon continued: "You can throw the first blow and then I will have the excuse to wrack you up. I think you will feel that a buzz saw has gone up your back and come down your front. Come now lets go to the gym and settle your grievance." Surgeon stood up and headed for the door.

Greatly deflated the father said: "Now hold on, there is no use in being too excited about this matter." To this Surgeon said "you came in here threatening me and if you are going to whip me I want to get it over with so I won't go to sleep tonight worrying about someone beating me up tomorrow."

Slowly the man worked out of the original discussion, said he would like to join the PTA of the school, and Surgeon signed him up. The two men shook hands at the end of their conversation.

"Today this man is one of my best friends" said Surgeon. He never missed a PTA meeting while his child was in the school and one day walked into my office and remarked: 'I have been delegated by a group of admirers of yours to ask you to run for Governor.' " Surgeon relates.

Naturally the respected school principal was pleased and he said so but Surgeon's love for the Brooklyn School, perhaps the best in the entire Nation is so great that we won't ever accept a promotion within the school system. And, folks that is real dedication to a job.

THE PEOPLE OF NORFOLK, CONN., SPEAK OUT ON THE VIETNAM WAR

Mr. RIBICOFF. Mr. President, our Nation's continued involvement in the Vietnam war still remains a source of deep concern to many Americans. Some claim this is becoming a forgotten conflict, others that what the people feel about this war does not matter. But the citizens of Norfolk, Conn., recently met in their townhall to debate a stop the war resolution. After spirited debate, those assembled voted convincingly to endorse a call to end the Vietnam conflict. The resolution adopted read as follows:

The Resolution

In the highest traditions of American patriotism, and in our concern for the good of our country, we citizens of Norfolk, Connecticut, resolve that the United States declare an immediate end to all its military activities in Southeast Asia and begin at once the complete withdrawal of its naval, air, and land forces, its advisers, and its materiel.

We urge the government to adopt this action for the following reasons:

1—The fundamental right to decide whether the United States goes to war rests with the people of the United States just as the future government of Vietnam rests with its own people.

2—Vietnam is not vital to the strategic position of the United States, although our presence may be profitable to some.

3—Money being spent on munitions should be used on needed items within this country rather than implementing the ecocide being carried out in Southeast Asia.

4—Too great a portion of the United States national resources (such as our youth, and engineering and industrial effort) are being spent on this way. We are paying for this involvement with internal strife and a worsening of all levels of our life. The moral conscience of too many people is being violated.

5—Withdrawal of our troops will be the most expeditious way of affecting the return of our prisoners of war to their families, as the North Vietnamese will gain no advantage by retaining them once the American presence and power ceases in Southeast Asia.

Assistance should be offered to any South Vietnamese persons who feel endangered by the prospects of a negotiated solution to the war.

This resolution in no way diminishes our respect for th courageous and self-sacrificing men who have served in our armed forces.

This is a non-partisan statement and is not to be construed as supporting one or another political group.

I ask unanimous consent that a letter to me from Mr. Richard R. Hasbrouck of Norfolk Stop the War Committee and a report of the meeting as published in the Lakeville Journal be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

Stop the War Committee,
Norfolk, Conn., September 6, 1972.

Senator Abraham Ribicoff,
Senate Office Building,
Washington, D.C.

Dear Senator Ribicoff: We trust you will be pleased to hear of the passage by the citizens of Norfolk, Connecticut of the enclosed Stop the War Resolution at the Norfolk Town Hall on the evening of Tuesday, August 29, 1972.

Dr. Philip C. Jessup, former Judge of the World Court at the Hague and the Ambassador-at-large in the Truman Administration, introduced the resolution. 62% of the Norfolk citizens present voted for adoption of the resolution. In normally conservative, rural Norfolk, this represents a significant victory for those who are opposed to the war.

Your attention is respectfully directed in particular to the sections calling for the immediate withdrawal of US troops and dealing with the POW issue.

Norfolk is proud to join the other Connecticut towns of New Haven, Westport and Torrington in voicing its opposition to U.S. military involvement in Southeast Asia.

We would be most gratified by your entering the results of this vote and the resolution into the Congressional Record thus giving widespread attention to the sentiments of your concerned constituents. We would hope, also, that this would encourage other communities, in Connecticut and elsewhere, to express their opposition to the continuing automated destruction occurring daily in Southeast Asia.

Enclosed is one of the many press reports resulting from our meeting.

Very Truly Yours,
Richard R. Hasbrouck.

Stop the War Resolution Approved in Public Meeting

(By Kathryn Bickford)

"We're not going to end the war just by passing this resolution tonight, but hopefully by next year we will have peace." With these words Richard Bowers concluded a long and intense meeting which saw its participants confirm in two separate votes the resolution calling for the end of the Vietnamese conflict.

The meeting, held in the Norfolk Town Hall, was not an official town meeting and drew a number of visitors from surrounding communities. Two votes were taken so that Norfolk citizens would be sure that an accurate consensus of the feeling of Norfolk citizens attending was recorded.

The resolution was approved by a margin of 54 to 33 by Norfolk citizens and 85 to 34 when the entire body was polled.

Feeling ran high throughout the meeting. Anthony Giansciracusa called loudly for an adjournment of the meeting before anyone had had a chance to speak. Later in the meeting he shouted at a speaker that he wished it "was 1942 so we could shoot people like you."

Prior to the discussion period, a slide show was presented on the automated war now being fought in Southeast Asia. The text accompanying the slides was allegedly based on such sources as the Pentagon Papers, Senate hearings, eye witness testimony and the like.

Dr. Philip Jessup, former ambassador to

the U.N. ambassador at large during the Truman Administration and World Court judge, read the resolution. He said that he was basing his support for the resolution on the experience he has had during his years of public service.

"I was sent as an ambassador in 1951 to try to convince the French to pull out of Vietnam," he said. "We tried to tell them then to get out, that you couldn't win a jungle war against guerilla troops with Western forces."

He said that he had had extensive experience in dealing with Communists during his career and that he felt that the resolution represented the best way to end our involvement in the war. "These people are not going to be beaten into submission by our bombing," he said.

Responding to hecklers in the crowd, he called out, "Dissent is in the American tradition. I'm entitled to my point of view on foreign policy, and no one will deny my right to assert my views."

C. Jeffry Williams, who also served in the State Department during the Truman Administration as a general counsel, disagreed with Mr. Jessup's opinion. He took exception to the portion of the resolution stating that a complete withdrawal would facilitate the return of American POWs.

He said, "I see two definite advantages to the Communists in keeping our prisoners of war after America withdraws. The first is money. They have asked for $20 million dollars already in reparations. There is nothing to stop them from asking $50 million for the POWs if we withdraw."

He suggested that secondly the Communists might use public executions of the prisoners to humiliate the United States in the future.

Dr. Mario Lazo, who escaped from Cuba a number of years ago, said, "I am probably the only person at this meeting that can tell first hand of the terror of a Communist takeover. I saw Che Guevera three times when I was in Cuba to plead for the lives of boys who were to be killed. He laughed at me; they relished in death. The rule of morality for Communists is simple, anything that aids the Communist takeover is good, anything that stands in its way is bad."

He predicted a bloodbath in Vietnam if the forces are withdrawn. "It is naive to assume that you can offer asylum to all persons in danger when the Communists take over," he said. "There are 18 million people in that country, about half of whom have resisted the invasion."

A woman in the crowd noted that France had not been dishonored when it withdrew its forces.

Andrew Casale, a resident of Lime Rock and teacher of history at Housatonic Valley Regional High School, drew applause when he said, "People here have been saying that we've lost 50,000 men killed, 300,000 wounded, and therefore we should continue so that they haven't sacrificed for nothing. That's like leaving Chicago for California, driving 500 miles before you find that you're headed for New York, and saying "We've come this far so we should keep going."

In response to Mr. William's contention that the prisoners would not be released if the United States pulled out, Mr. Casale said, "They don't release prisoners until after the war. When did they change the rules?" He said that he would be willing to pay increased taxes if the Communists ransomed the men.

Tim Childs, who has served in the State Department as desk officer in the Office of Iranian Affairs, and will soon take over the position of deputy examiner on the Board of Examiners for the Foreign Service, said that he opposed the passing of the resolution. "There are limits," he said, "to what the United States can hope to do in foreign policy in stopping the expansion of the Communists. We couldn't stop the Russian take over in Hungary in 1956, but I'm glad that we've stopped them in Southeast Asia."

Joseph Bickford, new housemaster at the Regional School in Winsted, commented "If we want to make our way of life viable, we have to make it into something honorable, rather than resorting to a paranoic patriotism. I want to be proud of my country, want to be part of a country that I can participate in. This meeting is not subversive. The worst subversion is to turn over the honor of our country for power. It is better to lose for a good cause."

A representative of the VFW and the American Legion attended to ask that the resolution be amended to eliminate the reference to Norfolk and the words "in the highest tradition of patriotism." He said that if the two references were dropped the veterans' organizations would do nothing further to oppose the resolution. "If they are not removed," he said, "we will take further action to remove the stain from our town. We will not be part fo giving aid to the enemy."

The amendment was defeated by a vote of the gathering. The members of the VFW and the American Legion boycotted the meeting.

Following the defeat of the amendment several persons left the hall in protest against the consideration of the resolution.

CRIME CONTROL—COMMENTS AND SUGGESTIONS

Mr. JAVITS. Mr. President, much has been said about the need to control crime more effectively and to reform our criminal justice system. Indeed since the Safe Streets Act was passed in 1968 thousands of persons have been at work at the State, local, and Federal level confronting the issues which relate to the failures of that system. We have seen the beginning of a critically important commitment to devote energy, money and a more informed determination to get at the root of these problems. One of the questions that has been debated over the past several years is related to the impact of certain Supreme Court decisions upon the crime problem generally. Also of great concern has been the relationship of narcotics addiction to street crime and the need for new approaches in this area.

On June 4, 1972, the Honorable Samuel R. Pierce, Jr., General Counsel of the U.S. Treasury Department, discussed these and other important questions relating to this subject in an address at the John Jay College of Criminal Justice in New York City.

Although I cannot agree with Mr. Pierce's view concerning the utilization of a heroin maintenance program, and with some implied criticism of the Warren Court—a court which I rate very highly—it is necessary to hear all points of view in this area.

I ask unanimous consent that the text of Mr. Pierce's remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

CRIME CONTROL: SOME COMMENTS AND SUGGESTIONS

(By Samuel R. Pierce, Jr.)

Since the prohibition era, when the seeds of organized crime were first sown, crime has been a major problem in the United States. How to control crime effectively—how to eliminate it or reduce it to an absolute minimum—has received a great deal of attention from legislators, law enforcement officials, judges, criminologists, penologists, and other students of human behavior in this Country over the past half century.

I first became interested in crime control some 20 odd years ago when I was a young Assistant District Attorney in Frank Hogan's office here in New York County. It is a fascinating subject and my interest in it has continued through the years. When I was invited to speak here, I could not help but think about the many changes that had taken place in crime control since I first became interested in it.

CHANGES EFFECTED BY SUPREME COURT DECISIONS

One of the first things I thought about was the effect of Supreme Court decisions on crime control. The prevention and detection of crime as well as punishment for the commission of crime are fundamental to crime control. Each of those elements were affected by the criminal law revolution that took place between 1960 and 1970. During those years the Supreme Court, with Chief Justice Warren at its helm, revolutionized the criminal law by extending to the States the application of various guarantees under the Bill of Rights of the Federal Constitution.

The revolution began when the Warren Court ruled in *Mapp v. Ohio* (367 U.S. 643) that evidence secured in violation of the Fourth Amendment, relating to unreasonable searches and seizures, could not be introduced at a State trial. Thus, the Court, for the first time, applied to the State, the Federal exclusionary rule on evidence obtained through illegal search and seizure in violation of the Fourth Amendment.

The *Mapp* case had a sharp impact on law enforcement. I can recall when I was an Assistant District Attorney it was quite common for the police to search for and seize evidence without a search warrant. Before the *Mapp* case, such evidence was not excluded and could be introduced against a defendant at his trial. After that case, of course, this could not be done. Consequently, while guaranteeing an important individual right against State action, the case made the job of law enforcement in many States a bit more difficult.

The *Mapp* case was followed by a multitude of cases during the decade of the 1960's in which the Supreme Court extended various Bill of Rights guarantees to the States. By the end of that decade nearly all of the guarantees of the Fourth Amendment (which protects against unreasonable searches and seizures), the Fifth Amendment (which protects against double jeopardy, self-incrimination and guarantees due process), and the Sixth Amendment (which guarantees an accused a fair and speedy trial) had been made binding upon the States.

The criminal law revolution that was effected by the Warren Court resulted in forcing the States to give defendants in criminal cases far more protection than they had ever had in the past. Not only did the Court rule that individual rights guaranteed by certain amendments to the Federal Constitution were enforceable against the States, but, in interpreting those amendments, the Court strengthened and expanded them to the benefit of those charged with the commission of crimes.

For example, the Court, in its interpretation of the Sixth Amendment—which relates to fair trials—held that a defendant had the right to counsel during the preparation and trial stages of his case. Subsequently, it extended that right to the interrogation room, and held that any suspect in the custody of the police had the right to consult with his attorney before he was interrogated by the police. (See *Gideon* *v. Wainwright,* 372 U.S. 335 and *Escobedo v. Illinois* 378 U.S. 478).

The Warren Court's handling of the privilege of self-incrimination provides a further illustration. The Court decided that the Fifth Amendment Privilege against self-incrimination applied to the States (*Malloy v. Hogan,* 378 U.S. 1). Subsequently, it went further. In one of its most famous and, indeed, most controversial cases—*Miranda vs. Arizona* (384 U.S. 436)—the Warren Court held that from the moment a suspect is taken into custody he must be warned by the police of his privilege against self-incrimination and of his right to counsel during interrogation.

Another example is that Court's interpretation of the Fourth Amendment in such a manner as to give greater protection against electronic eavesdropping to criminal suspects and defendants. The Court considered electronic eavesdropping to be an unlawful invasion of privacy in violation of the Fourth Amendment unless the eavesdropping was carried out pursuant to a court order issued under certain, very strict requirements as defined by that Court in the case of *Berger* v. *New York* (388 U.S. 41). The effect of the *Berger* case and other decisions of the Warren Court on eavesdropping was to curtail drastically the use of electronic eavesdropping as a legitimate means of law enforcement (see *U.S. v. Katz,* 389 U.S. 347, *Lee* v. *Florida,* 392 U.S. 378, *Alderman v. U.S.,* 394 U.S. 165, Cf. *Osborne v. U.S.,* 385 U.S. 323).

The criminal law revolution came to an end in 1969. In retrospect, some might say that the decisions of the Warren Court in the area of criminal law during the decade of the '60's were bold, extremely imaginative, and very necessary to protect the civil liberties of individuals against improper actions by the States. Others might argue that the Court was too liberal in its construction of law and this resulted in numerous decisions which helped criminals, encouraged crime, and made the job of law enforcement unnecessarily more difficult. Whether one agrees or disagrees with what the Warren Court did to criminal law, he would have to admit that the decisions of that Court had a very substantial and profound impact on crime control. In fact, many people blamed the substantial increase in crime in the late sixties on the decisions of that Court.

Since Chief Justice Burger became head of the Supreme Court about three years ago, defendants have gained some additional protections, but in several important instances, the Court has ruled in favor of Federal and State positions. For example, just recently—on May 22 of this year—the Court held that unanimous jury verdicts are not required for convictions in criminal cases in State courts (*Johnson v. Louisiana,* 40 L.W. 4524). On the same date, it decided that the United States Government may compel testimony from an unwilling witness, who invokes the Fifth Amendment privilege against compulsory self-incrimination, even though that witness may be later convicted on the basis of *other* evidence for committing the crime he was forced to discuss. (*Kastigar v. U.S.,* 40 L.W. 4550).

It is too early to state exactly what overall effect the Burger Court will have on crime control, but I believe it is fair to predict that it will be more conservative—more strict—in construing the law than the Warren Court.

OTHER CHANGES

Aside from the effect Supreme Court decisions have had upon crime control, several other changes in crime control have taken place over the years that are worthy of comment. There have been significant changes in methods and practices used by police. Some of these changes have been forced upon the police by Supreme Court decisions. For example, the requirement that a person taken into custody must be warned against self-incrimination and of his right to counsel before he is interrogated. Others, which I shall stress here, were primarily brought about by the police themselves.

When I was an Assistant District Attorney the emphasis of the police was upon arrest—upon detection of crime. Police relied primarily upon punishment to deter people from committing criminal acts. The gist of the thinking was that if a person thought he would get caught and put in jail for committing a crime, he probably would not do it.

The role of police in society has changed markedly since then. Police have found that it takes more than police science—such as fingerprinting, ballistics, etc.—and technical police skill—such as knowledge of the laws for which a person can be arrested, ability to handle firearms, competence in self-defense, knowledge of what to do when placing a suspect under arrest, etc.—to prevent and detect crime effectively.

Among other things they have found that training in community relations is important; that such training results in reducing hostilities between the police and the communities in which they operate; and that leads to greater community cooperation with the police which is helpful in both crime prevention and detection. The Brandeis University Center for the Study of Violence has cited better training in community relations as one reason for the decline in disorders over the past five years.

Today, more and more police in the United States realize that to achieve optimum effectiveness, they must perform many tasks in addition to identifying and apprehending persons committing serious criminal offenses. Such other tasks include, for example, the protection of Constitutional guarantees such as the rights to speak and to assemble; participation either directly or in conjunction with other public and social agencies in the prevention of criminal and delinquent behavior; resolution of conflict between individuals or among groups of individuals; and assistance to citizens in need of help such as a person who is mentally ill; the chronic alcoholic; or the drug addict.

Since police must engage in a multitude of complicated tasks in order to be most effective in their jobs, it is generally agreed that they should be as broadly trained as possible. Some years ago, it would have been considered unnecessary, and by some even a waste of time, to train a police officer in such subjects as sociology, psychology, constitutional law, political science, English, Spanish, and public relations. Yet, today, these and other subjects—which do not directly relate to basic police skills, but which better prepare an officer to perform his many responsibilities—are considered highly appropriate in the education of a police officer.

In the late 1960's there were enormous increases in crime. This led the Federal Government to acknowledge that it had a direct responsibility to help state and local governments combat crime. As a consequence, Congress passed the Omnibus Crime Control and Safe Streets Act of 1968 committing the Federal Government to provide substantial financial assistance to police and other state and local agencies in the criminal justice system. Well over a billion dollars has already been spent on this program.

The program has had problems. For example, a common criticism is that too much of the money is spent to maintain the status quo. For instance, much of the Federal aid has gone for such traditional items as helicopters, weapons, and communications systems. It is felt that more should be spent experimenting with new crime reduction methods. Although the program may not be as effective as it should be, I think all would agree that it has—to some extent at least—had a positive impact on crime control.

In 1965 President Johnson established a Commission on Law Enforcement and the Administration of Justice—generally known as the Crime Commission. Among other things, the Commission recommended a shift from the use of prisons to community treatment of offenders as one of the means of reducing crime.

The Commission reasoned that if a person, whose criminal conduct shows that he cannot manage his life, is locked up with others like himself, there will be an increase in his frustrations and anger, and that it will take away from him any responsibility for planning his life. Consequently, he is almost certain to be more dangerous when he gets out than when he went in.

On the basis of that rationale, the Commission urged that only the very dangerous should be held in prison. It called for the development of halfway houses, programs to send offenders home under intensive supervision, special school and employment programs, and other forms of nonprison treatment.

To date, only two states, California and Massachusetts, have made substantial progress along the lines suggested by the Commission. A few other states are moving cautiously in the same direction, but on the whole, the Country has continued to place heavy emphasis on prisons.

As time goes on, however, I believe that more and more states will follow the lead of California and Massachusetts and the recommendations of the Crime Commission in this area. Some states will move in this direction out of a sense of humanity and a belief that such action will reduce crime. Others will move in this direction out of fear of prison riots or for fiscal reasons. The programs suggested by the Crime Commission cost less than maintaining prisons, and in these years of the "fiscal squeeze", this may be enough to cause a state to seek ways to reduce its prison population and close prisons.

For many years, even before I was an Assistant District Attorney, persons interested in criminal justice have been urging reorganization of and various changes in criminal courts in large cities so that they might cope more efficiently with the huge volumes of cases they have to handle. Many lower criminal courts in big cities look more like factories than halls of justice. Under such circumstances, whatever deterrence of crime the threat of penal sanctions might exercise is undermined as thousands of defendants go free or are permitted to plead guilty to lesser crimes than they have been charged with, not because they deserve such treatment, but because courts and prosecutors are too overwhelmed by their workload to give fair and just consideration to their cases.

Cities have increased the number of courtrooms, judges, and prosecutors, but still have not been able to keep up with the ever growing volume of traffic in criminal cases. It is clear that something more than an increase in facilities and staff must be done in order to reduce this traffic. It is an area that needs bold, imaginative, and creative action. The Crime Commission recommended that most cases involving drunks, first offenders, persons in need of psychiatric treatment, and non-dangerous offenders should be handled outside the criminal system. It was also suggested by the Crime Commission that courts adopt modern administrative and business management methods that would avoid repeated appearances and continuances. I believe that the recommendations of the Crime Commission, and similar creative suggestions, must be adopted if there is to be meaningful reduction in the congested calendars that currently exist in the criminal courts of the major cities of this Nation.

SUGGESTIONS

I have spent a good deal of time today discussing certain changes that have occurred over the years relating to the prevention and detection of crime as well as to the punishment for crime, and the effect these changes have had upon crime control. On the whole, I believe the changes I discussed are encouraging as for as improvement in crime control is concerned.

Recent statistics show that the war against crime is beginning to be won. There has been a net decrease in local crime rate in over one-third of the major cities in the United States. The national crime rate increase for 1971 is the lowest it has been for the past six years. Convictions obtained against organized crime increased by 50% and the indictments doubled between 1969 and 1971. Seizures of narcotics and dangerous drugs increased by over 400% between 1969 and 1972.

Of course, the war against crime certainly has not yet been won. While improvement in law enforcement, corrections and penal systems, and reduction in congested criminal court calendars are very important and must continue, I do not believe success in those areas alone will reduce crime to a point where it will no longer be a major problem in this Country. The root causes of crime must be attacked and destroyed. Two of the most significant causes of crime in this Country are drugs, and the poverty and discrimination suffered by nonwhites residing in large cities.

Today, in most major cities of the United States, drug addicts, who are forced to commit crimes in order to raise money to support their habit, are responsible for most of the crime committed in those cities. More specifically, heroin addicts are the drug users responsible for the vast majority of crime committed by drug addicts.

Many believe that if the money factor could be taken out of heroin, the number of addicts and the amount of crime committed by them, would be drastically reduced. They argue that if the huge profits from selling heroin were no longer available, there would be very few people who would be willing to risk selling drugs, and this could be accomplished through clinics which would dispense heroin to users for nothing, or would require them to pay a few cents per dose for it.

As you know, this is called heroin-maintenance. It is highly controversial. For instance, some think that by making heroin easy to get, the number of addicts would be greatly increased. Others argue that it is morally wrong to give such a highly destructive drug to another human being.

There are three key factors which lead me to the conclusion that we should start to experiment with heroin-maintenance programs through various pilot studies. One is the fact that England adopted a heroin-maintenance program a number of years ago and, as a result, the number of addicts has stabilized at less than 3,000. (There are probably more than 40 times that number in New York City alone.) Furthermore, there appears to be little crime committed in England by addicts.

The second factor is that in spite of the tremendously great work done by federal, state and local law enforcement agencies in the narcotics area, drug addiction continues to rise, the supply of drugs remains plentiful, and the amount of crime committed by addicts continues to increase.

Finally, methadone programs alone have not proved too successful, and I doubt if they will as long as heroin remains plentiful, because heroin is clearly the drug of choice among heroin addicts. This does not mean that methadone could not be made part of a heroin-maintenance program. This is one of the reasons for suggesting pilot projects. Perhaps it will be found that it is best to use both of these drugs. Some addicts may respond to methadone. Others may not.

If, through experimentation, a feasible heroin-maintenance program could be developed, I believe it would result in a drastic reduction in crime and, over the long run, in a substantial decrease in the number of heroin addicts in this Country.

I also believe that the crime rate in this Country could be substantially reduced if the economic and social conditions of nonwhites residing in major cities were vastly improved. Nonwhites are responsible for a substantial amount of crime committed in the major cities of this Nation. In a society which continues to deny a nonwhite opportunity, where he is forced to live in slums, and where his life has been reduced to little more than a struggle to survive with no hope for anything better in the future, it is not amazing that such a person considers crime as his best route to a decent life. It is only when people have decent enough lives that they are unwilling to risk arrest and conviction by committing crime.

The Crime Commission unanimously stated that it had "no doubt whatever that the most significant action that can be taken against crime is action designed to eliminate slums and ghettos, to improve education, to provide jobs, to make sure that every American is given the opportunities and freedoms that will enable him to assume his responsibilities".

I realize that what I am suggesting is a long term project. It will require careful planning, skillful execution, and will take substantial time and millions and millions of dollars. In Washington, we speak of the order of priorities in spending money. In my judgment, I can think of no priority of greater importance because not only would such action dramatically reduce crime in this Country, but it would also result in millions of people becoming much more productive economically and much more responsible socially. A combination of those factors would be of great and lasting benefit to all the people of this Nation.

CONCLUSION

My suggestions culminate in this: Law enforcement alone, no matter how efficient, will not effectively eliminate crime. The root causes of crime, such as drugs, and the poverty and discrimination nonwhites suffer, particularly in large cities, must be substantially destroyed. Such action must be taken if crime in the United States is to be reduced to the point where it is no longer a major problem and the streets of our cities are to be safe again.

ADDRESS BY GRAHAM W. WATT, PRESIDENT, INTERNATIONAL CITY MANAGEMENT ASSOCIATION

Mr. MUSKIE. Mr. President, last week it was my privilege to attend the conference of the International City Management Association in Minneapolis. The opening speech of the conference was given by my good friend, Graham W. Watt, the association's president and the Deputy Mayor of the District of Columbia, as well as the distinguished former city manager of Portland, Maine.

Mr. Watt's enlightening address discussed the changes in management and particularly the new stress on activism and involvement of city and town managers in leading their municipalities. I believe that Senators will benefit from reading Mr. Watt's address; therefore, I ask unanimous consent that it be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Remarks of Graham W. Watt, ICMA President, Deputy Mayor of Washington, D.C., Before the 58th Annual Conference of the International City Management Association, Minneapolis, Minn., September 18, 1972

The paradoxical times we live in are well characterized by the opening lines of *A Tale of Two Cities:*

"It was the best of times, it was the worst of times," Dickens wrote, "it was the age of wisdom, it was the age of foolishness; . . . it was the season of light, it was the season of darkness; it was the spring of hope, it was the winter of despair."

Dickens was writing about the time of the French Revolution, but he could have been setting the stage for this Conference.

On the one hand, our citizens are enjoying more material wealth than any other people in history. More of our young people are in colleges and universities than have ever gone on to higher education anywhere. We have walked on the moon and touched the stars. In these respects we are living in "The Best of Times . . . The Season of Light . . . The Spring of Hope.

On the other hand, unemployment and inflation have been an unmitigated disaster for tens of millions of Americans. Our educational system teeters on the brink of bankruptcy. Never have our cities seemed in such bad shape.

In these respects, ours seems "The Worst of Times . . . The Season of Darkness . . . The Winter of Despair.

As a nation, we traditionally have not been given much to despair. Carl Sandburg once said in a most eloquent paragraph, "I see America not in the setting sun of a black night of despair ahead of us. I see America in the crimson light of a rising sun, fresh from the burning, creative hand of God. I see great days ahead, great days possible to men and women of will and vision.

President Kennedy was fond of the story of a French Marshal who asked his gardener to plant a tree. "It will take 100 years to grow," the man observed. "In that case," said the marshal, "there is no time to lose. We must plant it this afternoon."

In a similar vein, we are reminded of Lincoln, a practical man, toiling and hoping during a dark time in history, queried by a friend as to whether he might be working on some fresh plan to save the country. "No" the reply came, "There is only one thing to do, keep plugging away."

So I address you today as "men and women of will and vision," impatient to plant your tree, destined to keep plugging away, confident that these can indeed be "the best of times."

MEN AND WOMEN OF WILL AND VISION

A year ago, I came to this position as President of I.C.M.A. with a fear and a hope.

My fear was that a popular stereotype of City Managers as shadow-persons, cautious, often dull, apolitical, passive might be truly based.

My hope was that this stereotype was a myth; that it is not accurate today, if, indeed, it ever was.

What have I found about myths, fears and stereotypes?

I'm relieved to tell you now that my fear was unfounded and delighted to tell you that my hope has been sustained completely.

As I have traveled to meetings with you all across the nation, I have come to identify a growing group of action-oriented managers—a new breed of Managers—leaders and risk-takers. In our profession, we have many men and women who see themselves involved in shaping the future of our urban society and *making things happen.*

I've put a label on them. They are third generation City Managers.

How do these third generation Managers differ from their predecessors?

The first generation of City Managers were custodians of the public trust. They were the men who first brought business-like practices into local government. By their success they established the role of the professional administrator in local government.

The second generation Managers (which is the way I would have characterized most of us five years ago) are the men who added sophistication to the earlier model; they experimented with new financing techniques to accomplish physical improvement programs, they utilized computer technology, and they have institutionalized program budgeting.

But I have found in my past year of meeting with Managers across the country that there is a cadre of third generation managers working in our towns, cities, and counties—what's more important, it's a large and significant group. Just as the Cookinghams, the Ridleys, and the Brownlows were reformers and change agents in their time and in their way, the third generation Manager is a new reformer in this time.

Early municipal reform was concerned with "how to do it better." Today, this is still our concern, but we are also very much involved in the debate over what it is that cities ought to be doing.

The third generation Manager is concerned with concepts and purposes as well as operations and process. He accepts the advice of former HUD Secretary, Robert Weaver, that:

"Action without program, program solving without problem analysis, day-by-day decisions without a philosophy are a travesty of public administration. They are inexcusable and dangerous in the modern world where public policy is so vital to the well-being of all citizens."

What else sets the third generation Manager apart? It is that he has added to his formal training qualities which can't be taught in the university—*the quality of humanity and the quality of leadership.*

A principal characteristic of the third generation Manager is his humanism. To paraphrase Charles Reich, he is a man enjoying a new relationship to other men, to society, to nature, and to the land.

It is of more than passing interest that an increasing number of third generation Managers are entering the profession from new but allied fields, like the model cities program and community development, and through mid-career transitions. This new career development ladder leading to the Manager's chair produces a Manager with a humane sense of community. Managers who are leading their cities to effective participation in these new social programs share this humane quality. These Managers are accustomed to listening to the citizens they seek to serve, to getting to know them and to meeting them on their turf. They are finding out what the real needs are.

How important this is, is illustrated in one scene in the movie "The Public Will". Hal Holbrook, the actor who narrates that film, talks about priorities and how city governments must be responsive to what the people want. "Ask a man if he wants housing," Holbrook says, "and if that's the only question you ask, you're apt to go off half cocked and get his house started. But ask the same man which he wants more, a house or a job, and you're likely to get a totally different answer." If American Local Government is to be truly responsive, then the people who run the government have got to get to know those who don't.

I know that you are listening, and I know many of you are up to your elbows in making your cities better places by working with community groups and by serving as catalysts to make things happen. That is part of being a third generation Manager. Yet there is more.

The third generation Manager displays his humanism in his management style as well. He seeks to create a government which responds more sensitively to the needs of those who are a part of that system. He works to overcome the impersonality of the organization; he believes that hierarchy must concern itself with the individual. He effects a style of management which encourages this transformation of his own organization as a worthy, though difficult, goal.

Another distinguishing characteristic—perhaps the most significant—of the third generation Manager is his quality of leadership.

More than 20 years ago, Clarence Ridley told a group of Texas Managers, "To be a Manager, you must first be a man." That's what this Conference is about: The Man in Management.

The Individual.

The human being who alone, and who with his brothers everywhere, makes and will always make all the difference in the world.

Leadership is an intensely personal characteristic. Men lead and women lead. Organizations, systems, agencies cannot lead. A Manager, armed with ideas that have come to fruition exerts infinitely greater influence over progress than any management science system. Progress results from action upon a few good ideas, action which more and better techniques and technology can support, but never initiate.

Think what this means.

In 1957, a committee of citizens working under the Chairmanship of John Gardner observed:

"There is a premium on men and women with a talent for innovation, for individuals who can move beyond the limits of present fashion. In a time of breathtaking technological and social changes there is a need for people who understand the process and the nature of change and who are able to cope with it."

Men and women who will exercise courageous leadership in these times of change still command a premium.

Change can be planned and directed for the benefit of our communities. And each of us has the opportunity and the obligation to bring about in our community the kinds of changes that our vision embraces.

I say each of us, for if not the Public Manager, to whom shall we look. To whom has the community entrusted executive direction of the powers of local government? Who in the community has greatest opportunity to communicate with elected officials and with leaders of the many organizations within the community? Who has been engaged to bring professional expertise to the job of community development?

To see need, to identify a problem, to possess idealism: even these are not enough. It is the solution that we strive for. Remember Robert Kennedy's oft quoted words: "Some men see things as they are and say why? I dream of things that never were and say, why not?"

We cannot wait for others to dream, look for others to act; we must not relegate solutions to the national level and then throw up our hands in despair at the immensity of it all.

To dream the impossible dream, and to make things happen, takes more than long days at work. It takes commitment. Our new Miss America, Terry Anne Meeuwsen said it so simply in her interview two weeks ago: "Commitment is the most important word in my vocabulary, for I firmly believe that one man *is* no more than another if he *does* no more than another." Energy and commitment also distinguish the third generation Manager.

Sometimes I think that our country has been afflicted by an unrecognized plague that could be called "urban problemitis." The symptoms of the epidemic can still be detected: myriads of people in every field fretting endlessly about "urban problems," and applying that worrisome label to every variety of real or imagined ill. Sometimes, too, it has seemed that even municipal Managers have not been immune to "urban problemitis."

Certainly it is necessary to perceive the imperfections and wrongs about us, to be informed of problems. Yet I am reminded of Robert Frost's observation that "The reason worry kills more people than work is that more people worry than work."

Doing the job, as all of you know, means that from time to time you are going to be shot at, about which Winston Churchill remarked, "Nothing in the world is so exhilarating as to be shot at without result."

PLANTING AND HARVESTING—THE FERTILE SOIL OF ICMA

So far, I've been talking about the individual, personal role of Managers and managership. What about our collective characteristics, expressed by and through our Association?

Since the Goals Project of 1968 and 1969, we have become a unified profession. We are increasingly numbering as ICMA members, the COG Directors and the county administrators. Within our Association, both are accommodated as subgroups, as are Managers of large cities and Managers of our smallest communities. Perhaps it is time for us even to consider what should be our relationship with those Mayors who are the chief urban administrators in their cities, as well as with model cities, planned variation program and community development administrators who exercise broad management responsibilities.

Ours is an open profession, too. In my opinion, this is another strength which we should preserve. We ought not close the door to those who wish to join us, whose jobs qualify them for membership, and who are willing to abide by our reasonable standards of professional conduct and our Code of Ethics. We cannot close our doors any more than we can close our minds. To close either would shut out light, new vistas, and the energizing breeze of change.

Our diverse membership, unified in the Association, gives ICMA strength and it provides us the unique opportunity to speak to many new issues as we now are doing through our National Urban Issues Project.

Through ICMA and our National Urban Issues project we are developing a proper professional approach to national decision-making and priority-setting as they relate to cities and local government.

I am convinced that as a profession, we have always had a greater capability, a larger potential, than we demonstrated. Some of our most severe critics have recognized this and their criticism has been founded in our failure to apply our full potential to accomplishing the things we profess to believe in.

Now we are changing that. We are taking an historic step for our profession. Through our National Urban Issues Project we can have major impact on basic policies which determine the quality of urban life in America. This new activity will make our Association a direct participant in the discussions and decisions relating to national urban policy at the legislative and executive levels.

The national government is becoming the leading force in our society's efforts to cope with urban problems. For us, this has meant trying to deal at home with problems and difficulties affecting the citizens to whom we are responsible, while the development of the policies and the mobilization of resources to combat those problems has been out of our hands. We have desperately needed to become a part of a decision system which is national in its character. We are doing that.

We are not alone in this effort. The National League of Cities has pioneered the strategy of developing comprehensive municipal policy statements as the basis for an action program.

The work of the Committee for Economic Development is well known to all of us. More recently, the American Institute of Architects published its National Policy Task Force Report which closes with these words that have much meaning for us:

If we are to achieve some coherence and not let freedom vanish into chaos, we have no alternative but to deal with all the tumbling forces and facts of here and now, and then find levers that have the power not only to move but to win majority consent."

This is more than a "clean concern" as I'm sure you realize. Our experience in the 60's points up our need for better predictive capacity about what the future holds and a greater ability to deal more directly with the development of that future. Not only must cities be better able to anticipate the implications of such policies as model cities, employee labor relations, manpower development, neighborhood involvement, and grants review, they must be able to respond in pro-active fashion.

Our National Urban Issues Project will bring our urban expertise and our managerial point of view to bear on policies as they are being developed at the national level. The result will be more rational and reasonable programs for us to manage at the city level.

As we continue our pursuit of a glimpse into the future, remember Albert Schweitzer, a great humanitarian who served his fellow men in a remote locality in Africa, and yet through his ideas, he served people everywhere. Schweitzer was no longer a young man when he reminded us, "It is through the idealism of youth that man catches sight of truth, and in that idealism he possesses a wealth which he must never exchange for anything else."

While our profession is the product of its past, it is a young profession.

While we build on the tradition inherited from those who have gone before, I know from our work together over the years that there is a great deal of youthful idealism within all of you who serve your communities in public management.

So we listen to the youth among us. We seek to know their minds and their hearts, else we cannot know the future. That future will soon be in their hands.

True we all run along the ragged edge of that broad generalization which would say that all our young are of a single mold. There are those who have made no inquiry into the past nor examined the present and whose judgment we need not report. However, we should listen carefully to the youth who bring to the examination of our society the vision of idealism, the foresight of the informed, and the wisdom of a trained intellect.

Those who have submitted to an intellectual discipline speak with a wonderful wisdom. Listen to one young professional as he lays it out for us:

"We are not today what we were yesterday. Tomorrow we will have turned again to something else. This inherent quality of change, of constant adaptation to a changing community environment, is the essential ingredient in the recipe for our future success.

"Life is a quest to know the unknown, to make certain the uncertain future. As Managers, we must continue to develop personal curiosity, imagination, a sense of humor, distrust of dogma, and self-understanding as alternative to an all-embracing ideology; the future demands of us flexibility and not a rigid structure that breaks when hit by the unexpected.

"The Manager is an individual who alone must respond in his own way to a tomorrow much different than today."

This young professional comes out with Clarence Ridley: Management begins with a man; and with the theme of this Conference: Man in Management.

PLUGGING AWAY

One final thought, before I bring these remarks to an end. This Conference is a time when we should ask ourselves whether the unspoken values and assumptions we all carry around with us still reflect the world we really live in.

Even truth changes. What we once *knew* to be a fact just isn't any more.

Only 400 years ago,
the world was flat.
It was a fact
that people lived by.
It was true.

But even so
the round earth
spun in space.

Today,
the world is a sphere.
It is a fact
that we live by.
Now.

(But even now
there is a "Flat Earth Society.")

That
in a nutshell
is the dilemma of man:
The truth
we think we know
changes
(constantly).

I believe we face a dilemma of belief in our profession. I can express it best as questions which reflect an unknown quality inherent in our concern.

Has the stress of this decade disclosed a weakness in our form of government?

Do City Managers really *do* anything about the problem of racial discrimination? Or unemployment? Or inadequate housing? Or education?

Is our goal recovery from urban ills or is it to cushion the impact of urban decay?

Have our efforts really contributed to the improvement of our cities?

Have Mayor-Council-Manager teams in Council-Manager cities been courageous and innovative?

How often do you feel like the Red Queen in *Alice in Wonderland* who was obliged to run ever faster to stay where she was?

I have no answers for these questions, and I know many Managers are uneasy about such basic issues. Our record *is* good—on a relative scale—but we can't escape the fact that our problems today are essentially the same as those of 5 years ago—and some are even more serious today than before.

Martin Meyerson, President of the University of Pennsylvania, has this discouraging view:

"Local government, which had been in the forefront of administrative innovation has lost that vitality. The City Manager movement had once been an inspiration for all government . . . . The steam seems gone. Perhaps the malaise is a general one of our country and our world."

Another commentator, Nicholas von Hoffman, writing in the *Washington Post* exclaims:

"The long run is here. We've been buying their whimpy plans, programs and pilot projects for decades. The due date has come and gone on all of them, and there's nothing to show for it but new proposals to decentralize or centralize, to coordinate or to better utilize our resources. None of it has saved the cities or seems to have anything to do with whatever it is that has destroyed them."

Could it be that we have been so overwhelmed by the need to do things that we have had too little time left to *think* about what we are doing? Today operations seem to dominate purpose. The practical has taken over from the ideological, and while this seems to have many advantages, pragmatism may be misleading us.

Are we performing a ritual rain dance which won't necessarily bring rain even though it does make the tribe feel better?

Have we become entrapped in a snare of belief that since society is increasingly complex, then the problems of that society and their solution must be equally complex?

A central challenge before us must be the constant effort to simplify, to develop clean lines of attack, to ferret out complexity, to seek basic issues and focus on them.

One of our members has said:

"More stress must be placed on the moral edge of management. Neutrality and bargaining for their own sakes can be an illusion. A good Manager must have the capacity and confidence to lead."

Complexity and change, pragmatism and philosophy, establish a cordial climate in which the third generation Manager may function. We have these Managers in increasing number; we have opportunity for them to display their effectiveness. This fortuitous combination is ample reason for optimism about our urban future.

Recently at a meeting of ICMA's Urban Corps Advisory Committee, one of the members said of her involvement in the community, "Where you are is where it's at." A profundity so simply stated that its message to us may be missed.

Where you are is where it's at.

Not only do we not have to look for the center of urban activity, we cannot escape it. It is part of us and we of it.

There hangs on the wall of my office a poster by Sister Corita with these words found on Adlai Stevenson's night stand after his death. I suggest that they apply as aptly to you as to those whose likenesses illustrate the poster: John and Robert Kennedy, and Dr. Martin Luther King:

"It can be said of him, as of few men in like position, that he did not fear the weather and did not trim his sails, but instead, challenged the wind itself to improve its direction and to cause it to blow more softly and more kindly over the world and its people."

And when you—and those who strive with you—have caused the wind to blow more kindly over the world's people, remember then what we are told in the Book of Tao: "When the best leader's work is done, people say 'We did it ourselves!' ".

REVENUE SHARING

Mr. PERCY. Mr. President, I am today releasing a breakdown of the funds which local governments in Illinois will receive this year and next under the revenue-sharing legislation agreed by the House-Senate conference committee.

My report, which follows, includes figures for each municipality in Illinois with a population of over 2,500 and for each county governmental body, as well as a total figure for each of the State's 102 counties.

The report was prepared by my own Senate staff after the Treasury Department told them that it was unable to supply the figures.

Two of my legislative assistants, using a pocket calculator, were able to give me in 20 hours what the Treasury Department, with its vast resources, was unable to provide in 10 days.

First the Treasury said that the revenue-sharing figures for Illinois were too complicated to program. Then my staff was told that the computer had broken down.

In calendar 1970, the executive branch of the Federal Government operated 5,277 computers, at a cost of $2.2 billion. Of these computers, 77 were located in the Treasury Department alone, and given the inexorable growth of Government, I am sure that number has risen in the last 2 years. I am equally sure that all of the computers did not collapse at once.

The delay in processing revenue-sharing figures demonstrates again the overriding need for passage of legislation that would modernize and streamline the executive branch, just as we need to modernize and streamline the operations of Congress itself.

A report issued by the Joint Economic Committee showed that Federal agencies utilize their computers between 50 and 60 percent of the time.

A business that used such expensive equipment so inefficiently would soon go bankrupt. We should make the same effort to save taxpayers' dollars that a business employs to cut costs. There is no excuse for doing less.

The Joint Economic Committee report notes that the functions for which Federal agencies have used computers includes storing telephone directories and managing parking spaces for Federal employees.

I believe that the Government could afford to store a few less directories and make a much larger effort to provide vital data.

Municipalities and county governments throughout the country have been awaiting passage of revenue-sharing legislation for 4 years, and have been anticipating final action by Congress since the House passed the measure earlier this year.

Many governments have counted heavily on the funds to finance their operations for calendar 1972, and to project their operations in 1973.

Thus the amounts they receive under the final conference measure are extremely important to them and to the people who are being denied needed services. Treasury should have moved faster to provide this information so vital to formulating city and county budgets.

I ask unanimous consent that the estimated amounts of Federal revenue-sharing funds to be distributed to county and city governments in Illinois in calendar years 1972 and 1973 be included in the RECORD at this point.

There being no objection, the estimates were ordered to be printed in the RECORD, as follows:

ESTIMATED AMOUNTS OF FEDERAL REVENUE SHARING FUNDS TO BE DISTRIBUTED AMONG COUNTY AND CITY GOVERNMENTS IN ILLINOIS, IN CALENDAR YEARS 1972 AND 1973

County	Total 1972 grant	Total 1973 grant
Adams—Area	$1,576,083	$1,776,616
Adams—Government	471,231	531,188
Quincy City	725,479	817,785
Alexander—Area	286,632	323,102
Alexander—Government	134,043	151,098
Cairo City	130,066	146,615
Bond—Area	334,274	376,805
Bond—Government	123,460	139,168
Greenville City	47,376	53,404
Boone—Area	315,465	355,604
Boone—Government	131,999	148,794
Belvidere City	$101,313	$114,204
Brown—Area	133,260	150,216
Brown—Government	45,188	50,937
Bureau—Area	875,087	986,429
Bureau—Government	294,146	331,572
Princeton City	79,284	89,372
Spring Valley City	61,252	69,046
Calhoun—Area	86,748	97,785
Calhoun—Government	68,722	77,466
Carroll—Area	416,120	469,065
Carroll—Government	132,796	149,693
Savanna City	70,272	79,213
Cass—Area	339,211	382,371
Cass—Government	124,294	140,108
Beardstown City	68,362	77,060
Champaign—Area	1,945,152	2,192,644
Champaign—Government	605,471	682,508
Champaign City	492,651	555,333
Village of Rantoul	134,068	151,126
Urbana City	261,477	294,746
Christian—Area	857,585	966,699
Christian—Government	295,346	332,925
Pana City	94,530	106,557
Taylorville City	81,833	92,243
Clark—Area	329,900	371,875
Clark—Government	105,848	119,316
Casey City	30,039	33,861
Marshall City	28,415	32,030
Clay—Area	351,521	396,247
Clay—Government	200,196	225,123
Flora City	50,507	56,933
Clinton—Area	675,490	761,436
Clinton—Government	201,015	226,591
Breese City	64,462	72,664
Carlyle City	50,502	56,928
Centralia City (part)	30,019	33,839
Coles—Area	995,059	1,121,655
Coles—Government	196,413	221,404
Charleston City	197,543	222,688
Mattoon City	339,888	383,134
Cook—Area	97,444,332	109,842,659
Cook—Government	16,658,568	18,778,121
Alsip Village	36,659	41,323
Arlington Heights Village	248,211	279,792
Village of Barrington	36,657	41,321
Bartlett Village (part)	8,258	9,309
Bellwood Village	177,854	200,483
Bensenville Village (part)	11	13
Berkeley Village	13,110	14,779
Berwyn City	316,501	356,771
Blue Island City	115,347	130,023
Bridge View Village	60,208	67,869
Broadview Village	48,328	54,477
Village of Brookfield	89,863	101,297
Burnham Village	13,938	15,712
Calumet City	178,466	210,173
Calumet Park Village	37,595	42,379
Chicago City	69,335,285	78,157,158
Chicago Heights City	418,368	417,599
Chicago Ridge Village	13,110	14,779
Cicero Town	615,838	694,195
Crestwood Village	18,985	21,401
Deerfield Village (part)	29	33
Des Plaines City	327,599	369,281
Dixmoor Village	34,782	27,935
Dolton Village	120,912	136,296
East Chicago Heights Village	62,823	70,816
Elgin City (part)	42,528	47,939
Elmwood Park Village	115,083	129,726
Evanston City	515,191	580,742
Evergreen Park Village	118,604	133,695
Flossmoor Village	25,817	29,101
Forest Park Village	99,214	111,837
Franklin Park Village	190,282	214,493
Glencoe Village	34,689	39,102
Glenview Village	81,868	92,284
Glenwood Village	14,749	16,626
Harvey City	273,251	308,018
Harwood Heights Village	33,141	37,358
Hazel Crest Village	39,896	44,972
Hickory Hills Village	20,212	22,784
Hillside Village	86,941	97,496
Hinsdale Village (part)	7,433	8,374
Hometown City	28,802	32,467
Homewood Village	67,163	75,708
Justice Village	20,212	22,784
Kenilworth Village	9,805	11,053
Village of La Grange	74,193	83,633
La Grange Park Village	51,417	57,947
Lansing Village	96,334	108,591
Lemont Village	21,821	24,598
Lincolnwood Village	42,543	47,956
Lyons Village	70,726	79,725
Markham City	107,509	121,188
Matteson Village	31,343	35,331
Maywood Village	272,882	307,603
Melrose Park Village	273,160	307,915
Midlothian Village	79,761	89,910
Morton Grove Village	117,218	132,133
Mount Prospect Village	144,652	163,057
Niles Village	229,427	258,618
Norridge Village	60,736	68,464
Northbrook Village	89,821	101,249
Northfield Village	16,485	18,583
North Lake City (part)	113,350	127,772
North Riverside Village	36,223	40,832
Oak Forest Village	58,801	66,283
Village of Oak Lawn	277,042	312,283
Oak Park Village	370,223	417,328
Olympia Fields Village	11,444	12,900
Orland Park Village	$26,091	$29,411
Palatine Village	89,835	101,265
Palos Park Village	10,849	12,229
Park Forest Village	171,888	193,758
Park Ridge City	188,606	212,603
Phoenix Village	47,006	52,987
Posen Village	29,743	33,529
Richton Park Village	11,442	12,898
Riverside Village	55,785	62,882
River Forest Village	44,099	49,710
River Grove Village	45,522	51,314
Riverside Village	34,326	38,694
Robbins Village	124,008	139,786
Rolling Meadows City	72,411	81,624
Roselle Village (part)	218	245
Rosemont Village	29,217	32,935
Schiller Park Village	109,234	123,133
Skokie Village	331,035	373,154
South Chicago Heights Village	24,534	27,655
South Holland Village	80,470	90,719
Steger Village (part)	18,199	20,515
Village of Stickney	38,889	43,837
Stone Park Village	39,649	44,694
Village of Summit	92,642	104,429
Thornton Village	19,610	22,105
Tinley Park Village	44,146	49,762
Westchester Village	70,986	80,018
Western Springs Village	39,970	44,816
Wheeling Village	48,522	54,695
Willow Springs Village	12,876	14,515
Wilmette Village	105,737	119,191
Winnetka Village	46,497	52,414
Worth Village	54,189	61,083
Barrington Hills Village	8,923	10,059
Buffalo Grove Village (part)	19,841	22,366
City of CO Club Hills	25,351	28,577
Elk Grove Village (part)	136,648	154,035
Hanover Park Village (part)	38,614	43,531
Sauk Village	32,624	36,774
Streamwood Village	59,808	67,418
Schaumburg Village (part)	60,976	68,735
City of Palos Hills	26,344	29,696
Palos Heights City	32,625	36,776
Hoffman Estates Village	73,174	82,484
City of Countryside	31,559	35,574
Crawford—Area	285,002	321,265
Crawford—Government	110,853	124,958
Robinson City	51,149	57,657
Cumberland—Area	233,123	262,784
Cumberland—Government	86,658	97,684
De Kalb—Area	1,137,607	1,282,351
De Kalb—Government	374,789	422,475
De Kalb City	239,429	269,892
City of Genda	37,485	42,255
Sandwich City (part)	867,298	977,649
Sycamore City	71,914	81,064
De Witt—Area	385,402	434,438
De Witt—Government	99,339	111,979
Clinton City	65,374	73,692
Douglas—Area	453,203	510,866
Douglas—Government	125,625	141,609
Tuscola City	60,643	68,359
Villa Grove City	27,710	31,236
Du Page—Area	3,627,191	4,088,697
Du Page—Government	1,466,936	1,653,582
Addison Village	101,353	114,249
Bartlett Village (part)	3,261	3,676
Bensenville Village (part)	84,436	95,180
Bloomingdale Village	9,794	11,040
Clarendon Hill Village	22,867	25,776
Downers Grove Village	154,520	174,181
Elk Grove Village (part)	737	831
Elmhurst City	294,346	331,797
Glen Ellyn Village	72,092	81,264
Hinsdale Village (part)	46,635	52,569
Hanover Park Village (part)	595	671
Itasca Village	19,472	21,949
Lisle Village	24,219	27,301
Lombard Village	144,396	162,769
Naperville City	120,805	136,176
North Lake City (part)	201	227
Roselle Village (part)	15,289	17,234
Schaumburg Village (part)	654	734
Villa Park Village	194,060	218,752
West Chicago City	98,115	110,602
Westmont Village	30,976	34,917
Wheaton City	138,436	156,061
Winfield Village	16,986	19,147
Wood Dale Village	32,975	37,170
Oak Brook Village	19,422	21,894
Carol Stream Village	22,772	25,670
Woodridge Village	36,287	40,904
Glendale Heights Village	39,365	44,373
Edgar—Area	515,080	580,617
Edgar—Government	200,480	225,988
City of Paris	125,686	141,678
Edwards—Area	133,122	150,060
Edwards—Government	85,159	95,995
Effingham—Area	587,055	661,749
Effingham—Government	216,168	243,672
Effingham City	120,975	136,368
Fayette—Area	495,065	558,055
Fayette—Government	208,930	235,513
Vandalia City	61,910	69,787
Ford—Area	390,813	440,538
Ford—Government	133,013	149,937
Gibson City	44,315	49,954
Paxton City	32,957	37,151
Franklin—Area	914,387	1,030,729

ESTIMATED AMOUNTS OF FEDERAL REVENUE SHARING FUNDS TO BE DISTRIBUTED AMONG COUNTY AND CITY GOVERNMENTS IN ILLINOIS, IN CALENDAR YEARS 1972 AND 1973—Continued

County	Total 1972 grant	Total 1973 grant
Franklin—Government	$289, 881	$326, 764
Benton City	76, 279	85, 984
Christopher City	18, 221	20, 539
West Frankfort City	140, 521	158, 400
Fulton—Area	866, 364	976, 596
Fulton—Government	299, 135	337, 195
Canton City	154, 773	174, 466
Farmington City	32, 264	36, 369
Lewistown City	26, 999	30, 434
Gallatin—Area	176, 965	199, 481
Gallatin—Government	59, 819	67, 430
Greene—Area	400, 585	457, 533
Greene—Government	153, 189	172, 681
Carrollton City	33, 123	37, 337
White Hall City	26, 633	30, 022
Grundy—Area	361, 291	407, 260
Grundy—Government	109, 549	123, 487
Coal City Village	29, 022	32, 714
Morris City	57, 309	64, 601
Hamilton—Area	206, 714	233, 016
Hamilton—Government	81, 993	92, 425
McLeansboro City	19, 435	21, 901
Hancock—Area	564, 534	636, 363
Hancock—Government	198, 837	224, 136
Carthage City	33, 729	38, 020
Hamilton City	30, 966	34, 906
Hardin—Area	100, 536	113, 327
Hardin—Government	63, 081	71, 107
Henderson—Area	201, 609	227, 261
Henderson—Government	83, 977	94, 662
Henry—Area	817, 665	921, 700
Henry—Government	211, 696	238, 631
Galva City	32, 053	36, 131
Geneseo City	36, 011	40, 592
Green Rock City	12, 184	13, 734
Kewanee City	179, 063	201, 846
Iroquois—Area	799, 948	901, 729
Iroquois—Government	274, 162	309, 045
Waiseka City	54, 781	61, 751
Jackson—Area	1, 045, 263	1, 178, 257
Jackson—Government	376, 017	423, 860
Carbondale City	313, 588	353, 487
Murphysboro City	109, 792	123, 825
Jasper—Area	187, 411	211, 256
Jasper—Government	99, 469	112, 125
City of Newton	24, 131	27, 201
Jefferson—Area	624, 280	703, 711
Jefferson—Government	223, 738	252, 205
Mt. Vernon City	189, 639	213, 768
Jersey—Area	355, 311	400, 519
Jersey—Government	187, 377	211, 218
Jerseyville City	23, 490	26, 479
Jo Daviess—Area	519, 255	585, 323
Jo Daviess—Government	208, 450	234, 972
Galena City	39, 586	44, 623
Johnson—Area	146, 584	165, 234
Johnson—Government	83, 230	93, 819
Kane—Area	2, 682, 061	3, 023, 315
Kane—Government	653, 382	736, 515
Aurora City	740, 764	835, 015
Batavia City	52, 179	58, 818
Carpentersville Village	155, 271	175, 027
East Dundee Village	18, 706	21, 086
Elgin City (part)	459, 820	518, 325
Geneva City	41, 351	46, 612
Montgomery Village (part)	13, 770	15, 522
North Aurora Village	20, 965	23, 633
St. Charles City	73, 812	83, 203
South Elgin Village	17, 016	19, 181
West Dundee Village	9, 287	10, 468
Kankakee—Area	1, 412, 592	1, 592, 323
Kankakee—Government	551, 333	621, 482
Bourbonnais Village	19, 443	21, 917
Bradley Village	91, 152	102, 750
Kankakee City	341, 613	385, 078
Manteno Village	18, 922	21, 330
Momence City	51, 147	57, 654
Kendall—Area	336, 174	378, 938
Kendall—Government	136, 031	153, 339
Montgomery Village (part)	66	74
Plano City	43, 856	49, 436
Sandwich City (part)	95	107
Knox—Area	1, 289, 015	1, 453, 023
Knox—Government	371, 539	418, 812
Abingdon City	53, 847	60, 698
Galesburg City	578, 221	651, 791
Knoxville City	19, 291	21, 752
Lake—Area	3, 056, 398	3, 445, 279
Lake—Government	957, 806	1, 079, 673
Antioch Village	24, 261	27, 347
Buffalo Grove Village (part)	3, 649	4, 114
Deerfield Village (part)	62, 322	70, 251
Fox Lake Village	25, 166	28, 368
Grayslake Village	16, 146	18, 201
Gurnee Village	25, 283	28, 500
Highland Park City	106, 162	119, 669
Highwood City	16, 363	18, 445
Lake Bluff Village	16, 478	18, 575
Lake Forest City	56, 223	63, 377
Lake Zurich Village	24, 300	27, 391
Libertyville Village	38, 446	43, 337
Mundelein Village	90, 469	101, 980
North Chicago City	264, 846	298, 535
Round Lake Beach Village	26, 619	30, 036
Round Lake Park Village	18, 310	20, 618
Wauconda Village	$29, 771	$33, 559
Waukegan City	638, 659	719, 918
Winthrop Harbor Vilg. Off	25, 406	28, 638
Zion City	152, 686	172, 113
Lincolnshire Village	8, 323	9, 382
Village of Lindenhurst	10, 335	11, 650
Park City	9, 394	10, 589
La Salle—Area	2, 190, 847	2, 469, 600
La Salle—Government	713, 640	804, 440
La Salle City	179, 372	202, 194
Marseilles City	29, 792	33, 583
Mendota City	73, 206	82, 520
Oglesby City	43, 329	48, 842
Ottawa City	233, 815	263, 564
Peru City	120, 786	136, 155
Streator City (part)	254, 933	287, 370
Lawrence—Area	418, 009	471, 195
Lawrence—Government	168, 485	189, 922
Lawrenceville City	83, 697	94, 346
Lee—Area	905, 274	1, 020, 456
Lee—Government	326, 826	368, 410
Dixon City	264, 229	297, 848
Livingston—Area	877, 509	989, 158
Livingston—Government	296, 307	334, 007
Streator City (part)	1, 025	1, 156
Dwight Village	77, 700	84, 980
Fairbury City	60, 091	67, 737
Logan—Area	800, 091	901, 891
Logan—Government	300, 837	339, 114
Lincoln City	192, 017	216, 448
McDonough—Area	810, 149	913, 228
McDonough—Government	266, 466	299, 644
Bushnell City	45, 246	51, 002
Macomb City	212, 230	239, 234
McHenry—Area	1, 042, 937	1, 175, 635
McHenry—Government	361, 717	407, 740
Algonquin Village	16, 276	18, 347
Cary Village	22, 470	25, 330
Crystal Lake City	72, 935	82, 215
Harvard City	38, 206	43, 067
Vil. of Lake in the Hills	33, 711	38, 000
McHenry City	53, 589	60, 407
Marengo City	19, 936	22, 453
Woodstock City	79, 338	89, 433
McLean—Area	1, 767, 440	1, 992, 320
McLean—Government	565, 651	637, 622
Bloomington City	490, 930	553, 394
Normal Town	222, 579	250, 899
Macon—Area	1, 369, 809	1, 544, 097
Macon—Government	395, 290	445, 585
Decatur City	663, 693	748, 138
Macoupin—Area	885, 304	997, 945
Macoupin—Government	273, 549	308, 354
Carlinville City	69, 247	78, 058
Gillespie City	20, 035	22, 585
Staunton City	46, 524	52, 444
Virden City	19, 203	21, 646
Madison—Area	3, 637, 328	4, 007, 664
Madison—Government	740, 197	834, 376
Alton City	797, 288	673, 284
Bethalto Village	28, 494	32, 119
Collinsville City (part)	113, 849	128, 334
East Alton Village	146, 107	164, 663
Edwardsville City	96, 550	108, 834
Granite City	491, 745	554, 312
Highland City	57, 621	64, 952
Madison City	43, 962	49, 555
Venice City	111, 647	125, 852
Wood River City	150, 856	170, 050
Marion—Area	862, 363	972, 085
Marion—Government	252, 196	284, 285
Centralia City	154, 695	174, 378
Salem City	140, 436	158, 304
Marshall—Area	317, 053	358, 945
Marshall—Government	125, 690	141, 683
Henry City	22, 918	25, 834
Mason—Area	288, 093	324, 748
Mason—Government	110, 683	124, 765
Havana City	44, 185	49, 806
Mason City	19, 357	21, 820
Massac—Area	331, 339	373, 497
Massac—Government	217, 487	245, 158
Metropolis City	92, 771	104, 575
Menard—Area	182, 192	205, 373
Menard—Government	132, 961	149, 879
Petersburg City	23, 797	26, 825
Mercer—Area	412, 570	465, 064
Mercer—Government	178, 763	201, 508
Aledo City	34, 958	39, 406
Monroe—Area	177, 658	200, 262
Monroe—Government	69, 349	78, 173
Columbia City	39, 272	44, 269
Waterloo City	54, 788	61, 760
Montgomery—Area	721, 891	813, 740
Montgomery—Government	233, 115	262, 775
Hillsboro City	32, 762	36, 931
Litchfield City	79, 729	89, 874
City of Nokomis	30, 570	34, 459
Morgan—Area	862, 976	972, 777
Morgan—Government	238, 540	268, 891
Jacksonville City	236, 038	266, 071
Village of South Jacksonville	9, 706	10, 941
Moultrie—Area	316, 405	356, 663
Moultrie—Government	130, 776	147, 415
Sullivan City	40, 907	46, 112
Ogle—Area	669, 417	754, 590
Ogle—Government	242, 882	273, 786
Mount Morris Village	15, 434	17, 398
Oregon City	36, 901	41, 596
Polo City	28, 404	32, 018
Rochelle City	92, 135	103, 858
Peoria—Area	$2, 776, 231	$3, 129, 465
Peoria—Government	711, 284	801, 784
Bartonville Village	47, 115	53, 155
Chillicothe City	32, 548	36, 689
Peoria City	1, 650, 332	1, 860, 312
Peoria Heights Village	35, 460	39, 972
Pekin City (part)	44	47
Perry—Area	340, 574	383, 907
Perry—Government	208, 182	234, 670
Du Quoin City	70, 062	78, 977
Pinckneyville City	38, 711	43, 636
Piatt—Area	326, 060	367, 546
Piatt—Government	105, 749	119, 204
Monticello City	39, 739	44, 795
Pike—Area	457, 682	515, 915
Pike—Government	179, 834	202, 715
Pittsfield City	34, 597	38, 999
Pope—Area	63, 411	71, 479
Pope—Government	51, 058	57, 555
Pulaski—Area	208, 527	235, 059
Pulaski—Government	140, 833	158, 752
Putnam—Area	112, 740	127, 084
Putnam—Government	36, 543	41, 192
Randolph—Area	454, 092	511, 869
Randolph—Government	254, 573	286, 964
Chester City	47, 223	53, 231
Red Bud City	26, 437	29, 801
Sparta City	49, 486	55, 783
Richland—Area	401, 476	452, 558
Richland—Government	130, 248	146, 820
Olney City	129, 715	146, 220
Rock Island—Area	2, 606, 010	2, 937, 586
Rock Island—Government	633, 187	713, 750
Coal Valley Village	10, 160	11, 453
East Moline City	264, 511	298, 167
Milan Village	55, 377	62, 423
Moline City	577, 693	651, 196
Rock Island City	694, 267	782, 602
Silvis City	39, 240	44, 232
St. Clair—Area	4, 609, 066	5, 195, 500
St. Clair—Government	1, 392, 352	1, 569, 508
Alorton Village	22, 944	25, 863
Belleville City	351, 265	395, 958
Cahokia Village	108, 531	122, 340
Caseyville Village	19, 571	22, 061
Collinsville City (part)	1, 804	2, 033
Dupo City	14, 279	16, 096
East St. Louis City	1, 669, 843	1, 882, 306
Village of Fairmont City	9, 111	10, 270
Lebanon City	23, 794	26, 822
Mascoutah City	38, 888	43, 836
O'Fallon City	37, 491	42, 261
Swansea Village	17, 873	20, 147
Washington Park Village	31, 339	35, 326
Centreville City	100, 848	113, 679
Saline—Area	454, 828	512, 698
Saline—Government	171, 128	192, 902
Eldorado City	49, 665	55, 984
Harrisburg City	91, 544	103, 192
Sangamon—Area	2, 125, 583	2, 396, 031
Sangamon—Government	666, 614	751, 431
Auburn City	29, 364	33, 100
Chatham Village	9, 174	10, 341
City of Springfield	895, 275	1, 009, 185
Schuyler—Area	194, 071	218, 763
Schuyler—Government	56, 031	63, 160
Rushville City	18, 725	21, 107
Scott—Area	140, 011	157, 825
Scott—Government	108, 301	122, 081
Shelby—Area	538, 889	607, 454
Shelby—Government	196, 933	221, 990
Shelbyville City	38, 958	43, 915
Stark—Area	179, 160	201, 955
Stark—Government	78, 508	88, 497
Stephenson—Area	954, 022	1, 075, 407
Stephenson—Government	317, 456	357, 847
Freeport City	334, 716	377, 303
Tazewell—Area	1, 479, 655	1, 667, 919
Tazewell—Government	438, 874	494, 714
Creve Coeur Village	40, 867	46, 067
East Peoria City	184, 017	207, 431
Marquette Heights City	9, 075	10, 230
Morton Village	53, 538	60, 350
Pekin City (part)	326, 423	367, 955
Washington City	41, 257	46, 506
Union—Area	216, 514	243, 473
Union—Government	120, 207	135, 502
Anna City	52, 094	58, 722
Vermilion—Area	1, 429, 091	1, 610, 922
Vermilion—Government	383, 669	432, 485
Village of Bollingbrook (part)	1, 358	1, 531
Danville City	502, 106	565, 992
Georgetown City	17, 433	19, 651
Hoopeston City	70, 263	79, 204
Tilton Village	27, 153	30, 605
Westville Village	15, 592	17, 576
Wabash—Area	256, 142	288, 732
Wabash—Government	139, 534	157, 288
Mount Carmel City	104, 258	117, 523
Warren—Area	515, 176	580, 724
Warren—Government	174, 840	197, 086
Monmouth City	123, 378	139, 077
Washington—Area	328, 739	370, 566
Washington—Government	149, 763	168, 818
Nashville City	24, 162	27, 236
Wayne—Area	405, 651	457, 265
Wayne—Government	128, 041	144, 332
Fairfield City	65, 133	73, 420
White—Area	412, 999	465, 547
White—Government	146, 878	165, 166
Carmi City	61, 283	69, 067

County	Total 1972 grant	Total 1973 grant
Whiteside—Area	$1,170,823	$1,319,793
Whiteside—Government	368,546	415,438
Fulton City	86,598	97,616
Morrison City	29,185	32,899
Rock Falls City	101,240	114,122
Sterling City	294,699	332,195
Will—Area	2,558,005	2,883,472
Will—Government	820,840	925,280
Village of Bollingbrook (part)	11,121	12,536
Crete Village	34,508	38,899
Joliet City	846,673	954,399
Lockport City	60,578	68,276
New Lenox Village	9,394	10,589
Plainfield Village	17,377	19,587
Romeoville Village	41,703	47,010
Steger Village (part)	35,190	39,668
Wilmington City	24,607	27,738
Crest Hill City	57,833	65,191
Williamson—Area	936,971	1,056,187
Williamson—Government	481,085	542,296
Carterville City	31,831	35,881
Herrin City	115,684	130,403
Johnston City	45,615	51,419
Marion City	180,544	203,515
Winnebago—Area	3,519,565	3,967,377
Winnebago—Government	751,473	847,086
Loves Park City	89,201	100,550
Rockford City	2,019,620	2,276,586
South Beloit City	90,749	102,296
Woodford—Area	568,751	641,116
Woodford—Government	187,518	211,377
Eureka City	31,339	35,326
Totals in millions:		
Total, Illinois share	274.638	309.57
Illinois State government	91.546	103.19
Illinois local governments share	183.092	206.38

NOTES

These data showing distribution of revenue sharing funds among Illinois local governments are based on the formula for intrastate distribution contained in the Senate-passed bill. But the amount of funds distributed among these governments is the amount Illinois receives under the Conference Committee compromise. These figures are thus net of the social services funds added extraneously by the Senate.

Amounts are separately indicated for all municipalities over 2,500 population. Separate data have not been tabulated by the Treasury Department for communities under 2,500 population, or for townships.

Where municipalities are located in 1 or more counties, the notation "part" appears in the tabulation next to the name of the place.

The larger figures for 1973 represent the 1st year (of the total 5 years of the bill, calendar 1972 through calendar 1976) in which the full amount of $301,800,000 distributed to Illinois under the Conference compromise becomes available. This is increased by Illinois' share of an additional $150,000,000 allocated for 1973, and for each of the last 3 years of the bill. Thus these estimates for 1973 are subject to later correction in data to be issued by Treasury based on official computations.

THE MOST DANGEROUS PROFESSION

Mr. MATHIAS. Mr. President, the most dangerous profession in America today is that of fireman. It does not have to be so. In many other modern countries it is not so.

The Washington Post on September 23, published an editorial commenting on this problem and its solution. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE FORGOTTEN SERVICE

Fire chiefs around the country are unhappy. With crime getting most of the public attention and police departments getting massive federal support ($1.6 billion in 1969 to 1972 funding), they feel that theirs is "the forgotten service," according to a recent survey conducted by "Nation's Cities," the magazine of the National League of Cities.

Fire service salaries and fringe benefits, to be sure, have generally risen to keep pace with private industry and other municipal wages, the magazine found. But fire chiefs nevertheless complain about the lack of manpower. A third of the 797 city fire departments that responded to the survey say they are understaffed. Many of them would like to abandon the traditional 24-hour shift with 24 to 48 hours off and switch to eight-hour shifts and a 40-hour week. "We should throw out the beds in the fire stations and utilize the manpower to better advantage—we can use them as building inspectors along with fire inspections," one chief suggested.

Another complaint is that, in contrast to law enforcement, fire-fighting technology is improving only slowly. Much of the equipment is not much different from what it was a century ago, except that it has been motorized. What is most needed, however, is better protection for firemen as they battle flames and smoke: turnout coats, breathing apparatus, boots, gloves and helmets. What firefighters expect most of all from space-age technology, is well-insulated, fire-retardant, lightweight protective clothing rather than the traditional duck with rubber lining.

For most fire chiefs, however, improvements in fire prevention are even more urgent than improvements in fire-fighting technology. They would do away with "Miss Flame" contests, "Sparky the Dog" and fire-prevention-week gimmicks and have the cities get down to the guts of the matter: Stronger fire codes and enforcements of these codes. Highrise buildings in particular, they say, are a menace all over the country because they lack adequate sprinkler systems and other fire protection devices. These add to the cost of the building, of course. But they would save on the armies of men needed to subdue fires and save lives.

That cost is fearful. More than 12,000 men, women, and children have been killed by fire in each of the past six years. Although the nation spends about $2.7 billion a year on fire protection, the value of property loss last year was $2.8 billion—about $215 million more than in 1970.

The city fire departments need help—federal help—for the cities can no longer be expected to carry this burden alone. A bill introduced by Sen. Charles Mathias (R-Md.) and Rep. Robert H. Steele (R-Conn.) would come to their rescue. It would create a national fire academy to serve as a national center for fire research, along with funds for such research as well as training and improved fire-fighting equipment. But the prospects for its passage are slim this year. In fact, it seems likely that there will be no congressional action until after the President's National Fire Prevention and Control Commission makes its report next July.

Considering that the death rate due to fire in the United States is twice that of Canada, four times that of the United Kingdom and 6½ times that of Japan, that will be none too soon.

GEN. BERNARDO DE GALVEZ DAY IN NEVADA

Mr. BIBLE. Mr. President, with the American Revolution Bicentennial close at hand, our Nevada Gov. Mike O'Callaghan issued a proclamation commemorating the signing of the Constitution of the United States. The proclamation also recognizes "the brilliant contribution made to the American cause by the Spanish General, Bernardo de Galvez, in establishing a second front during the Revolutionary War by engaging and destroying the enemy in the Battle of Pensacola, as well as other victories at Mobile, Baton Rouge, and Natchez."

In honor of these accomplishments, the State of Nevada has designated today "General Bernardo de Galvez Day." This special recognition comes at a very opportune time.

We Nevadans are proud to number among our citizens thousands of persons of Spanish and Latin American descent. Their language gave our State its name—Nevada is Spanish for "snow clad"—and Spaniards have contributed greatly to the growth and development of our State and our country. So as we approach the bicentennial, we are proud to extend this special recognition to the important role of Spain and her distinguished son, Don Bernardo de Galvez, in the American Revolution.

OREGON'S JOURNEY TO A BETTER ENVIRONMENT

Mr. PACKWOOD. Mr. President, the remarkable State of Oregon has taken another first step in this long journey to a better environment. It has challenged this image of a "throwaway society" that has been imposed upon America. The flip-top can has been outlawed and a 5-cent retail deposit on all standard size beer and soft drink cans and bottles sold in Oregon has been instituted by State law.

Oregon's courage in dealing with one of our most troublesome solid waste problems is historic and precedent setting. While our roadsides, parks, forests, countryside, city streets and backyards were "literally" inundated, and an apathetic U.S. Congress chose to look the other way, Oregonians stepped forward to be counted. Once again in the leadership position on environmental issues, Oregon is beckoning to hundreds of thousands of American citizens to follow in its steps, to not lose heart. They can change the apathetic attitude here in Washington and clean up the Nation.

In last Saturday's Washington Post, Oregon's actions and the Nation's problem were noted on the editorial page. Mr. President, I ask unanimous consent that the Post editorial, entitled "Throwing Out the Throwaways," be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THROWING OUT THE THROWAWAYS

Fewer messages have been better heeded by the public than the throwaway label on beer and soft drink cans and bottles. Nonreturnable containers are a major blight on the environment, from roadsides and sidewalks trashed with beer cans to parks and beaches uglified by soda bottles. Concern, Inc., a national environmental group, notes that in 1969 some $3.5 billion was spent handling 190 million tons of collected solid wastes that included 30 billion bottles and 60 billion cans. Rather than passively wait for this inundation by garbage, the Oregon legislature that year passed a tough anti-litter law that would require a 5-cent deposit on beer and carbonated soft drink bottles and cans; in addition, the beverages are outlawed in non-returnable bottles.

The container industry, which argued against the bill—it would cause unemployment among its workers, the public doesn't want to be inconvenienced and prices will rise—sought to have the new law declared unconstitutional. Last week, an Oregon circuit court judge ruled that the law was not only valid but it was a "bold and forceful action" against the menace of bottle and can litter.

It is too early to tell whether the Oregon law will confirm the high expectations held out for it. It is the first statewide law of its kind. A similar program has been operating for two years in British Columbia and officials reported it is working well. The issue is complicated, as hearings before the Senate Subcommittee on the Environment last spring revealed. Sen. Charles Mathias (R-Md.) proposed a bill to ban non-returnables, but the legislation is not expected to get out of committee.

It's too bad. Evidence grows—aside from the excessive trash citizens can see with their own eyes—that the public knows it has been misled into thinking throwaways are convenient and cheap. The Crusade for a Cleaner Environment, a group that helped get the Oregon's law passed, reports that the difference in price per bottle between a throwaway and a returnable is 3.6 cents; the saving per six pack of 12 ounce returnables is 20 cents. As for convenience, George R. Stewart in "Not So Rich As You Think" writes that we "throw worthless objects away, and then, through taxes, pay fantastic amounts to have the worthless objects picked up."

Until Congress takes the initiative, state and local legislatures will have to choose for themselves whether or not to act. Oregon has shown that despite pressure from parts of the beverage industry, the situation is not impossible.

Mr. PACKWOOD. Mr. President, I believe details regarding Oregon's bottle bill, the court suit which followed, and other circumstances surrounding this historic event, are of extreme importance to Congress, the administration, and to the general public. I, therefore, ask unanimous consent that the complete text of the September 1, 1972, decision of Marion County Circuit Judge Val Sloper be printed in the Record, to be followed by several news accounts from the September 2, 1972, Eugene Register-Guard, by Jerry Uhrhammer, the Oregon Statesman, of September 2, 1972, by Janet Davies, an editorial from the Oregon Statesman of September 4, 1972, and an article from the Salem Capital Journal of September 4, 1972.

There being no objection, the items were ordered to be printed in the Record, as follows:

[Circuit Court of the State of Oregon, Third Judicial District—Marion County, Salem, Oreg.]

American Can Company, et al. Plaintiffs, v. Oregon Liquor Control Commission, et al., Defendants, Northwestern Glass Company, et al., Intervenors

[No. 75567]

Gentlemen: This is a suit seeking a declaratory judgment of the Court that Chapter 745, Oregon Laws 1971, hereinafter referred to as the "Act", is unconstitutional, void and unenforceable, and for an injunction, restraining the defendants from applying, or in any manner enforcing the statute.

The plaintiffs include (1) manufacturers of metal cans who supply beer and soft drink manufacturers; (2) brewers who manufacture beer which is shipped into and sold on the Oregon market; (3) contract canners who are located outside of Oregon and who package various soft drinks for the Oregon market, and for soft drink wholesalers who sell soft drink beverages in the State of Oregon; and (4) soft drink manufacturers who sell their products on the Oregon market.

The intervenors are various manufacturers of glass beverage containers.

The plaintiffs' complaint and the complaint of the intervention seek identical relief.

The defendants are the Oregon Liquor Control Commission and State Department of Agriculture which are the departments and agencies of the State government that are charged by the provision of the Act with the implementing and enforcing of said Act.

Defendants Gration, Hudson, and Young are the commissioners of the defendant Oregon Liquor Control Commission. Defendant Martin is the Administrator of the Commission and defendant Mann is the Director of the State Department of Agriculture.

The allegations of the complaint and the complaint in intervention are quite lengthy, and since most of them had been admitted in the answer to each, I will attempt to summarize the pertinent parts of each rather than to set them out in great detail.

(1) The plaintiffs in group #1 above, manufacture and sell metal cans and closures to the manufacturers of beer and soft drink beverages. The number of metal containers used annually has risen sharply in the United States in recent years. At the same time, the use of cans on the Oregon market had also increased significantly.

The plaintiffs in group #2 are brewers who are engaged in the manufacturing and packaging of beer products at breweries outside the State of Oregon for the distribution and sale on the Oregon market, as well as the national market. A large percentage of their manufacturing system is devoted to the one-way merchandising and a very large percentage of the sales of this group of plaintiffs are one-way, no-deposit containers.

The plaintiffs in group #3 are contract canneries who pack various soft drinks in plants which are located outside of Oregon for distributors and retailers in Oregon, and who sell the soft drink beverages within the State of Oregon. Again, a very large percentage of these plaintiffs' production is the one-way, non-returnable convenience containers.

The 4th group of plaintiffs are soft drink manufacturers who package and sell their own products on the Oregon market, and who also use a very high percentage of one-way, non-returnable containers in their distribution system.

Under the provisions of the Act, the plaintiffs can-manufacturers' market for metal containers would be substantially reduced. resulting, no doubt, in the closing of some portions of some of these plaintiffs' plants, or at least curtailing their production.

The brewers would be required by the provisions of the Act to prepare a new package for the Oregon market and would, by the terms of the Act, be unable to use the package mix now used by them.

The contract canners' manufacturing business for the Oregon soft drink bottlers would be greatly curtailed as would some contract canners' business because their distribution system would probably be eliminated. The soft drink manufacturers would incur additional capital and operating expense because of a restructuring of their present system of production, distribution and sales from the one-way, non-returnable containers to returnable bottles.

The intervenors' allegations in these matters are similar to the soft drink can manufacturing companies. Plaintiffs and intervenors further allege that the Act will not result in any material reduction of litter or solid waste, and that there are other alternative methods by which litter and solid waste could be more effectively handled.

The Court has had the benefit of trial memorandums from the plaintiffs, intervenors and the defendants. Amicus curiae briefs have been submitted by the Oregon Environmental Council, the Natural Resources Defense Council and the People's Lobby against non-returnables. The Court has also received post-trial briefs from the plaintiffs, the intervenors and defendants, as well as a supplemental memorandum, from amicus curiae Oregon Environmental Council.

The Court has carefully examined each and all of the memorandums and the authorities therein cited, as well as having conducted an independent research into the applicable law. The citations which are to follow herein are taken in a large degree from one or more of the memorandums referred to.

The stated purpose in Section 6 and Section 8 of the Act is to promote the use in this state of reusable beverage containers of a uniform design and to facilitate the return of such reusable containers to the manufacturers for reusage. Among other things, the Act requires a minimum refund value of not less than five cents on all non-certified malt beverage and soft drink containers sold in the state. (Sec. 2, (1). This five cent minimum refund value is reduced to the sum of two cents for any beverage container that is certified for reuse. (Sec. 2, Par. 2, and Sec. 6). Every beverage container offered for sale shall clearly indicate its refund value by having the refund value affixed on the container with certain exceptions. (Sec. 5, (1), (2), subsec. 1).

The refund value of the empty beverage container, upon being returned by the consumer to the dealer, shall be paid to the consumer and the dealer should, in turn, be paid the return value by the distributor. (Sec. 3, (1), (2).

Any person, upon approval by the defendant Oregon Liquor Control Commission, may establish a redemption center to facilitate the return of beverage containers. (Sec. 8, Subsection 1). The sale of all metal beverage containers so designed and constructed that can be opened without the aid of a can opener is prohibited. (Sec. 5, Subsection 3). This, of course, refers to the popular pull-top can.

The plaintiffs' and intervenors' attack against the Act is based upon a three-pronged constitutional challenge: (1) That the Act violates the commerce clause of the United States Constitution by imposing an undue burden on interstate commerce. (Art. I, Sec. 8, Clause 3.) (2) The Act violates the equal protection clause of the United States Constitution and the privileges and immunities clause of the Oregon Constitution. Amendment XIV, Sec. 1. (3) That the Act violates the due process of the United States Constitution and Section 18 of Article 1 of the Oregon Constitution.

During the opening statement, Mr. Leahy for the first time, presented an issue concerning plaintiff brewers under the Twenty-first Amendment of the United States Constitution and that matter has been given special treatment by counsel for the plaintiffs and intervenors in their post-trial Briefs.

I have concluded that the defendants' position is untenable, and that under more recent, better and more logical reasoned decisions, the Twenty-first Amendment no longer, if it ever did, completely insulated any alcoholic beverage regulation from the constitutional claims of interference with federal commerce, equal protection, and due process clauses.

The Twenty-First Amendment Versus The Commerce Clause, 55 Yale Law J 815 (1946):

"If the twenty-first amendment be examined in its historical matrix, no intent to vest an unlimited jurisdiction in the states is discernible. The sole function of Section 2 was to render an iron-clad protection to the 'dry states' against any possible influx of intoxicants from non-prohibition areas. * * *" (pp. 816–817)

Sail'er Inn, Inc., v. *Kirby*, 95 Cal. Rptr. 325, 485 P2d 525 (1971):

"Although some early cases painted state powers under Section 2 of the Twenty-first Amendment with a broad brush, later decisions have taken a position more in keeping with the original intent of the Amendment." (485 P2d at 535)

And as the Oregon statute might be paraphrased—plaintiffs' Brief, p. 4:

"* * * is not even tangentially related to 'transportation or importation' of liquor into [Oregon], and therefore does not fall within the literal language of the Twenty-first Amendment. The statute merely regulates [used beverage containers] at the [retail and wholesale] level, and has nothing to do with the flow of alcoholic beverages into the state." (485 P2d at 536)

Because the Act herein does not in any manner attempt to regulate alcoholic beverages but is a regulation of the containers in which the alcoholic beverage may be sold, the Twenty-first Amendment does not deprive the plaintiff brewers herein the opportunity to raise the constitutional issues presented herein.

Assuming, but not deciding, that the corporate and nonresident plaintiffs have standing to raise the equal privileges and immunity claims, the plaintiffs and intervenors, under the due process attack, allege that the Act is arbitrary, unreasonable, oppressive and that it lacks a real and substantial relationship to the objective sought. Plaintiffs and intervenors urge that the Act will not accomplish the goals for which it was enacted and will in no way assist or lessen the litter and solid waste problem but will worsen its problems and will place an unreasonable and catastrophical financial burden upon each of the various classes of plaintiffs.

The burden, of course, is upon the plaintiffs to prove their contention that the Act is unconstitutional in any respect. There is a strong presumption that any legislative act proposed to regulate business and economic matters does not violate federal standards of due process. The test to be employed is similar to the test of the equal protection challenge.

Nearly forty years ago, the United States Supreme Court in the case of *Nebbia* v. *New York*, 291 U.S. 502 (1933); defined the due process standard:

"(A) state is free to adopt whatever economic policy may reasonably be deemed to promote public welfare, and to enforce that policy by legislation adopted to its purpose. The courts are without authority to either to declare such policy, or, when it is declared by the legislature, to override it."

And in the case of *Williamson* v. *Lee Optical of Oklahoma*, 348 U.S. 483, 488 (1955), the Court said:

"The day is gone when this Court uses the Due Process Clause of the Fourteenth Amendment to strike down state laws regulatory of business and industrial conditions because they may be unwise, improvident, or out of harmony with a particular school of thought."

And in the case of *Ferguson* v. *Skrupa*, 372 U.S. 726 (1963), the Court decided:

"We refuse to sit as a super-legislative to which the wisdom of legislation," and we emphatically refuse to go back to the time when courts used the Due Process Clause "to strike down state laws, regulatory or business and industrial conditions, because they may be unwise, improvident, or out of harmony with a particular school of thought."

Neither does an allegation that as economic regulation violates due process simply because an additional financial burden is imposed. *Northwest Laundry* v. *Des Moines*, 239 U.S. 486 (1915), is which the Court refused the plaintiffs' contention that it would be necessary in order to comply with the city ordinance to remodel their existing furnaces, the Court said:

"Nor is there any valid Federal Constitutional objection in the fact that the regulation may require the discontinuance of the use of property, or subject the occupant to large expense is complying with the terms of the law or ordinance."

And in the case of *Phillips* v. *City of Bend*, 192 Or. 143, is which the Oregon State Supreme Court upheld the validity of a city ordinance under due process attack which prohibited solicitations by door-to-door peddlers.

The Oregon Court on Page 149 quotes from 341 US 622, *Jack H. Breard* v. *City of Alexandria:*

"* * * This case calls for an adjustment constitutional rights in the light of the particular living conditions of the time and place. Everyone cannot have his own way and each must yield something to the reasonable satisfaction of the needs of all . . ."

And again on Page 151,

"The Constitution's protection of property rights does not make a state or a city impotent to guard its citizens against the annoyance of life because the regulations may restrict the manner of doing a legitimate business. " * * * we think that even a legitimate occupation may be restricted or prohibited in the public interest . . ."

The plaintiffs and intervenors, under the due process attack, cite Art. I, Sections 10 and 18, Oregon Constitution. Section 10 guarantees a remedy for an injury to person, property or reputation and with open and speedy justice.

Section 18 is the constitutional guarantee of just compensation when private property is taken for a public use.

The Act, of course, in no way denies or prevents any claim that the plaintiffs or intervenors may have for the taking of any private property for a public use, nor does it deny to them any remedy for injury or access to the courts. The provisions as set forth in the Act, supra, show on their face that they bear a rational relationship to the purpose for which the Act was enacted, i.e., problems of litter and solid waste disposal, and certainly this is a matter of legitimate and proper government concern. The attack, based on the alleged failure of constitutional due process, must fail.

Turning next to the claim that the Act violates the equal protection clause of the U.S. Constitution and the privileges and the immunitive clause of the Oregon Constitution.

The plaintiffs and intervenors urge that the Act creates a number of classifications which violate these clauses, and that, therefore, these provisions are unreasonable, arbitrary and constitutionally prohibited. They say that these classifications invidiously discriminate against the plaintiffs and which have no rational basis when viewed in light of the purposes of the Act, and that the Act makes an express designation of products to be singled out for arbitrary treatment without any objective criteria for the designations.

Further, that the alleged discriminatory treatment in these classifications are prohibited by the privileges and immunity provisions of the Oregon Constitution in that the Act excludes some indistinguishable group of persons from regulation, thus creating a favored group who are given immunity from the Act.

Again, there is a strong presumption, in determining equal protection claims, of the validity of legislative enactments, and when the law is challenged, as it is in this case, a regulation which does not infringe on the specially protected rights of free speech, voting and freedom from racial discrimination, this presumption of legislative validity may be overcome only by a conclusive showing of arbitrariness: (Omicus curiae brief—National Resources Defense Council).

Appellate Courts have in deciding equal protection claims repeatedly held as they have in due process cases, that the Courts should not sit as some kind of a super-legislature and to review the wisdom of the laws enacted or the policy that may have been behind the enactment and which is most aptly expressed by Mr. Justice Frankfurter:

"Most laws dealing with economic and social problems are matters of trial and error. That which before trial appears to be demonstrably bad may belie prophesy in actual operation. It may not prove good, but it may prove innocuous. But even if a law is found wanting on trial, it is better that its defects should be demonstrated and removed than that the law should be aborted by judicial fiat." *A.F.L.* v. *American Sash Co.*, 335 U.S. 553.

Other examples of judicial deferment to the legislative judgment are found in *Railway Express Agency* v. *New York*, 336 U.S. 106 (1949):

"The local authorities may well have concluded that those who advertised their own wares on their trucks do not present the same traffic problem in view of the nature or extent of the advertising which they use. It would take a degree of omniscience which we lack to say that such is not the case."

* * *

"We cannot say that that judgment is not an allowable one. Yet if it is, the classification has relation to the purpose for which it is made and does not contain the kind of discrimination against which the Equal Protection Clause affords protection. It is by such practical consideration based on experience rather than by theoretical inconsistencies that the question of equal protection is to be answered." 336 U.S. at 110.

". . . [T]he fact that New York City sees fit to eliminate from traffic this kind of distraction but does not touch what may be even greater ones in a different category, such as the vivid displays on Times Square, is immaterial. It is no requirement of equal protection that all evils of the same genus be eradicated or none at all." 336 U.S. at 110.

And in Williamson v. Lee Optical of Oklahoma, supra, 348 U.S. 483 (1955)

"Evils in the same field may be of different dimensions and proportions, requiring different remedies. Or so the legislature may think. *Tigner v. Texas,* 310 U.S. 141. Or the reform may take one step at a time, addressing itself to the phase of the problem which seems most acute to the legislative mind. *Semler v. Dental Examiners,* 294 U.S. 608. The legislature may select one phase of one field and apply a remedy there, neglecting the others. A. F. of L. v. American Sash Co., 335 U.S. 538.

"Certainly the need of such legislation rests primarily upon the judgment of the legislature. It is only when a legislative act clearly appears arbitrary, capricious, and without reasonable relation to the object sought to be attained that courts will interfere. The presumption is in favor of the validity of the act . . ."

And finally, in the very recent case of *James* v. *Strange,* 92 U.S. 2027, 2031 (1972):

"We turn therefore to the Kansas statute, aware that our reviewing function is a limited one. We do not inquire whether this statute is wise, or desirable, or 'whether it is based on assumptions scientifically substantiated.' . . . Misguided laws may nonetheless be constitutional. It has been noted both in the briefs and at argument that only $17,000 has been recovered under the statute in its almost two years of operation and that this amount is negligible compared to the total expended. Our task, however, is not to weigh this statute's effectiveness but its constitutionality. Whether the returns under the statute justify the expense, time, and efforts of state officials is for the ongoing supervision of the legislative branch."

For a contrary holding see Society of The Plastic Industry, Inc., vs. City of New York, 326 N.Y. S 2d, 788.

The Court thus fails to find that there has been any invidious discrimination against any selected industries and that each of the alleged six discriminatory classifications on pages 14 and 15 of the plaintiffs' trial memorandum must fail.

There is one precedent which deals especially with throw-away containers. In *Anchor Hocking Glass Corp. v. Barber,* 105 A 2d 271 (1954), a Vermont statute which prohibits the sale of malt products in non-returnable glass containers was attacked by the glass manufacturers and beer wholesalers by declaratory judgment that alleged that State and Federal constitution provisions were violated. The Court sustained the demurrer and dismissed the plaintiff's action; and in so doing, held that the fact that there was litter other than beer bottles did not invalidate the Vermont law and that requiring non-returnable bottles is within police power of the Vermont Legislature.

The Court also set a standard for legislative classification as follows:

"The equal protection clause of the Fourteenth Amendment, U.S.C.A. Const., does not prohibit legislative classification, and the imposition of statutory restraints on one class which are not imposed on another. * * * The State possesses a wide discretion in exercising this phase of its police power with the qualification that the classification must not be purely arbitrary or irrational, but based upon a real and substantial difference, having a reasonable relation to the subject of the particular legislation. * * * 'A particular classification is not invalidated by the Fourteenth Amendment merely because inequality actually results. Every classification of persons or things for regulation by law produces inequity in some degrees; but the law is not thereby rendered invalid * * * unless the inequality produced be actually and palpably unreasonable and arbitrary.' * * * The burden of proving that legislative classification is essentially arbitrary and rests upon no reasonable basis is upon the party who asserts it, and it will not be declared invalid 'unless, viewed in the light of facts made known or generally assumed, it is of such a character as to preclude the assumption that the classification rests upon some rational basis within the knowledge and experience of the legislators. A statutory discrimination will not be set aside as the denial of equal protection of the laws if any state of facts reasonably may be conceived to justify it.' * * * 105 A. 2d at 275.

The Legislature is simply not required to legislate upon all possible litter problems or to attempt to solve the State's entire solid waste problem in one statute.

Because the Oregon State Legislature could have concluded and did conclude that there was, in fact, a rational relationship between the classifications in the Act and the legislative purposes. The Act is invulnerable to the plaintiffs and intervenors second constitutional attack. This is true, regardless of whether the Court believes that the Act or policy behind the Act to be wise or whether experts agree or disagree as to the results which might be reasonably anticipated by the Act.

Turning finally to the major thrust of the plaintiffs' and intervenors' case that the Act violates the Commerce Clause—Art 1, Sec. 8, Clause 3, of the Federal Constitution; this clause gives to the Congress the power to regulate commerce among the several states. Because the national "common market", which is intended by the Commerce Clause, does not absolutely prohibit State legislation in the area of commerce, a state may regulate in a constitutionally accepted manner. A state may not, however, give preferential treatment to in-state sources at the expense of out-of-state sources and a free trade that is intended by a national "common market" must be without protectionist barriers and restrictive discrimination of one state against another state's product. The Commerce Clause further protects the very instrumentalities of interstate commerce, i.e., the railroads, truck lines, buses, etc., where in the national interest it is imperative that there must be a uniform treatment among the several states. *Southern Pacific* v. *Arizona*, 325 US 761 (1945):

"[E]ver since *Gibbons* v. *Ogden* 9 Wheat. (US) 1, 6 LEd 23, the states have not been deemed to have authority to impede substantially the free flow of commerce from state to state, or to regulate those phases of the national commerce, which, because of the need of national uniformity, demand that their regulation, if any, be prescribed by a single authority." (325 U.S. 767)

Plaintiffs and intervenors principally rely for their authority, for the proposition that the Act violates the interstate Commerce Clause, on the case of *Pike* v. *Bruce Church*, 397 U.S. 137 (1970).

"Although the criteria for determining the validity of state statutes affecting interstate commerce have been variously stated, the general rule that emerges can be phrased as follows: Where the statute regulates evenhandedly to effectuate a legitimate local public interest, and its effects on interstate commerce are only incidental, it will be upheld unless the burden imposed on such commerce is clearly excessive in relation to the putative local benefits. Huron Cement Co. v. Detroit, 362 US 440, 443, 4 LEd 2d, 852, 856, 80 S Ct 813, 78 ALR 2d 1294. If a legitimate local purpose is found, then the question becomes one of degree. And the extent of the burden that will be tolerated will of course depend on the nature of the local interest involved, and on whether it could be promoted as well with a lesser impact on interstate activities. * * * (397 US at 142)

The Pike case is clearly distinguishable to the case at hand. Pike involved a challenge against an Arizona statute which required that all cantaloupes grown in Arizona be packaged in the state. The obvious legislative intent in the Pike case was a law which would further the financial interest of local farmers by restricting exports from the state. The state's interest in the matter was economic. It is obvious that the Act herein is not for an economic purpose.

A case, which the Court feels is a judicial precedent in this case is an Oregon case of *Pacific States Box & Basket Co.* v. *White* in which the U.S. Supreme Court sustained, against a burden of interstate commerce attack, a regulation of the size and shape of berry containers to be used in Oregon. The containers were to be of a certain prescribed dimension, and the regulation was attacked by a California manufacturer under the due process clause, equal protection clause, and the interstate commerce clause. The Supreme Court sustained the Oregon regulation against the plaintiffs' contentions, and Justice Brandeis stated:

"Different types of commodities require different types of containers; and as to each commodity there may be reasonable difference of opinion as to the type best adapted to the protection of the public. Whether it was necessary in Oregon to provide a standard container for raspberries and strawberries; and, if so, whether that adopted should have been made mandatory, involve questions of fact and of policy, the determination of which rests in the legislative branch of the state government. The determination may be made, if the Constitution of the state permits, by a subordinate administrative body. With the wisdom of such a regulation we have, of course, no concern. We may inquire only whether it is arbitrary or capricious. That the requirement is not arbitrary or capricious seems clear. That the type of container prescribed by Oregon is an appropriate means for attaining permissible ends cannot be doubted. . . .

[7] Fourth. The order does not unduly burden interstate commerce. It is aimed, not at the importation or sale of other type of containers, but at their use in Oregon by packers of raspberries and strawberries and the later transportation and sale of the packages. The prohibition of other types involved in prescribing the standard is nondiscriminatory. It applies regardless of the origin of the containers. The plaintiff is a manufacturer of containers, not a packer or shipper of berries. It is not prohibited from shipping its tin top containers into Oregon; nor from selling them there. The operation of the order is intrastate, beginning after the interstate movement of the containers has ceased, and after the original package has been broken. To sustain this contention of the plaintiff would be to hold that its containers, because of their origin, are entitled to immunity from the exercise of the state regulatory power. Compare Packer Corporation v. Utah, 285 U.S. 105, 111, 112, 52 S Ct. 273, 76 L Ed. 643, 79 A.L.R. 546."

Another case which is a strong precedent to sustain the validity of the Act is *Huron Portland Cement Co.* v. *Detroit*, 362 U.S. 40. In Portland Cement case, the Supreme Court upheld the validity of the City of Detroit Smoke Abatement ordinance which prohibits the firing of boilers on the plaintiff's ships which were engaged in interstate commerce on the Great Lakes even though these boilers had been approved by the United States Coast Guard.

"Legislation designed to free from pollution the very air people breathe clearly falls within the exercise of even the most traditional concept of what is compendiously known as the police power. In the exercise of that power, the states and their instrumentalities may act, in many areas of interstate commerce, concurrently with the federal government." 362 U.S. at 442.

And in the case of *Brotherhood of Locomotive Firemen & Enginemen* v. *Chicago, Rock Island & Pacific Railroad*, 39 U.S. 129, in which the Supreme Court dismissed the plaintiff's contention that a state law requiring a "full crew" violated the Commerce Clause, and was oppressive because the increase in costs exceeded any possible benefits.

"We think it plain that in striking down the full-crew laws on this basis, the District Court indulged in a legislative judgment wholly beyond its limited authority to review state legislation under the Commerce Clause * * * *

The District Court's responsibility for making "findings of fact" certainly does not authorize it to resolve conflict in the evidence against the legislature's conclusion or even to reject the legislative judgment on the basis that without convincing statistics in the record to support it, the legislative view point constitutes nothing more than what the District Court in this case was pure speculation." 393 U.S. at 136, 138–39.

In the very recent case of *Soap and Detergent Association v. Clark, et al*, which was decided on September 8, 1971, by U. S. District Court, Southern District, Florida. That Court held that the plaintiffs were not entitled to a preliminary injunction and that the legislation was not an unreasonable burden on interstate commerce, and thus did not violate the Commerce Clause of the U.S. Constitution.

In the Soap and Detergent Association case, the plaintiffs brought the action seeking a declaratory judgment that a county ordinance prohibiting the sale of detergents from on and after a certain date was unconstitutional and was an unreasonable burden on interstate commerce. The Court held plaintiffs were not entitled to a preliminary injunction unless there is a substantial likelihood that the ordinance would be declared to be unconstitutional. (330 Federal Supplement, 1218)

"To adequately grasp the breadth of the issues presented it is necessary to examine the history of phosphate detergents as well as their present day effect on water quality. Detergents containing phosphates have been marketed nationally for more than 23 years. They are used for an increasingly wide variety of household and industrial cleaning purposes. The annual sales of detergents containing phosphates exceed one billion dollars nationwide and more than 5.5 million dollars in Dade County. Of the total amount of detergents marketed for use in automatic home washing machines, more than 90%

contain phosphates. Experts for the detergent industry testified that non-phosphate detergents are not as effective cleaning agents as their phosphate counterparts, and non-phosphate detergents may be more hazardous to children in case of accidental ingestion or contact with their eyes or other sensitive parts of the anatomy . . ."

". . . The detergent industry claims both in testimony and memorandum of law that in order to comply with the County ordinance it will have to expend hundreds of thousands of dollars to make the necessary changes in product formulation and to deliver these new products in new and different labeled containers to Dade County. These large expenditures will be totally wasted if the plaintiffs prevail on the merits of the case, and the ordinance is ruled unconstitutional. Conversely, if the detergent industry chooses to refrain from complying with the ordinance and abandon the Dade County market, the resulting loss in sales and good will to them would run into the millions of dollars. Even though the detergent industry can show financial loss if the effective date of the ordinance is not enjoined, the detergent industry must also show that there is a substantial likelihood the ordinance will later be held unconstitutional.

"The judicial power cannot be invoked to invalidate the judgment of the County's citizens speaking through their elected representatives as to the price society should pay to promote health and safety in their community. Balancing the uniform agreement of the County's experts that a total ban on phosphates in detergents will substantially improve the quality of the County's waters, against the financial harm to the detergent industry from complying with such a ban, the scales are strongly tipped in favor of the legislative pronouncement by Dade County's Board of County Commissioners."

Or, as is reported in a recent Federal District Court case involving a challenge to an Indiana law regulating phosphates and detergents:

"Perhaps it [the statute] will do no good, but basically what is being asked of this Court is to say that the Indiana Legislature has no right to try this and see whether or not the experiment will work . . . . [I]f the people of Indiana prefer to wear gray shirts and have a little hardness distilled on their glasses . . . . as a price for obtaining cleaner water, or for obtaining a chance of having lesser phosphate content which in turn may produce . . . lesser amounts of algae, that is a choice which we feel the people of Indiana should make through the Indiana Legislature." *Soap and Detergent Assoc. v. Offutt*, 3 ERC 1117, 1120 (S.D. Ind. 1971) (denying a preliminary injunction).

Cases in which it has been found that a state regulation is an unreasonable burden on interstate commerce generally are those where the state regulation seeks to regulate the very instrumentalities of interstate commerce, such as trucks, trains and buses as earlier referred to. It is in these areas that the Supreme Court has found that uniformity on a national basis required and has invalidated state regulations which attempted to do so. *Bibb v. Navajo Freight Lines, Inc.*, 359 U.S. 520. *Southern Pacific v. Arizona*, 325 U.S. 761.

The other major type of case, in which state regulations have been found to be constitutionally deficient, is in which a state regulation attempts to treat intrastate commerce differently from interstate commerce, and where the regulation seeks to serve an economic purpose of some of the citizens of the state. *Pike v. Bruce Church*, 397 U.S. 1970.

It cannot be seriously contended but that Federal legislation accurately expresses the national policy when it is said that the national transportation system should be regulated by the Federal Congress.

"[The Arizona train law] materially impedes the movement of appellant's interstate trains through that State and interposes a substantial obstruction to the national policy proclaimed by Congress to promote adequate, economical, and efficient railway transportation service." 325 U.S. at 773.

The states have the right under the Commerce Clause of the Constitution to regulate local trade, manufacturing, marketing and sale of local products, consumer and environmental protection. When the purposes of a state regulation favor the health, safety and welfare of the citizens, the regulation has historically been sustained on the basis of the 'State's Police Power', and the 'State's Police Power' is one of the supporting structures that is cited in cases which determine whether or not a state regulation violates the Commerce Clause.

In determining the validity of the Act it is most relevant that the Act be consistent with the expressed Federal policy, which favors the state's exercise of its own authority over the environment. This Federal policy can be detected in The Federal Solid Waste Disposal Act of 1965 which begins:

(a) The Congress finds—

(1) that the continuing technological progress and improvement in methods of manufacture, packaging, and marketing of consumer products has resulted in an ever-mounting increase, and in a change in the characteristics, of the mass of material discarded by the purchaser of such products;

* * * * *

(4) that inefficient and improper methods of disposal of solid wastes result in scenic blights, create serious hazards to the public health, including pollution of air and water resources, accident hazards, and increase in rodent and insect vectors of disease, have an adverse effect on land values, create public nuisances, otherwise interfere with community life and development;

* * * * *

(6) that while the collection and disposal of solid wastes should continue to be primarily the function of State, regional, and local agencies, the problem of waste disposal as set forth above have become a matter national in scope and in concern and necessitate Federal action through financial and technical assistance and leadership in the development, demonstration, and application of new and improved methods and processes to reduce the amount of waste and unsalvageable materials and to provide for proper and economical solid-waste disposal practices.

Pub. L. 89–272, Title II, § 202, 79 Stat. 997, 39 U.S.C. § 3251.

The Environmental Quality Improvement Act of 1970 states:

(b) * * * (1) The Congress declares that there is a national policy for the environment which provides for the enhancement of environmental quality. This policy is evidenced by statutes heretofore enacted relating to the prevention, abatement, and control of environmental pollution, water and land resources, transportation, and economic and regional development.

(2) The primary responsibility for implementing this policy rests with State and local governments.

Pub. L. 91–224, Title II, § 202, 84 Stat. 114, 42 U.S.C. § 4371.

Similarly, in the Federal Water Pollution Control Act,

(b) * * * it is declared to be the policy of Congress to recognize, preserve, and protect the primary responsibilities and rights of the states in preventing and controlling water pollution, to support and aid technical research relating to the prevention and control of water pollution, and to provide Federal technical services and financial aid to State and interstate agencies and to municipalities in connection with the prevention and control of water pollution.

The attack by the plaintiffs and intervenors against the Act, under the Commerce Clause, does not appear to the Court to be supported by judicial precedent and violates sound, time tested legal principles as well as common sense and judgment.

The Act does not regulate any instrumentalities of interstate commerce, does not discriminate in favor of local commerce, is consistent with the announced national policy of environmental control and protection and is a valid exercise of the 'State Police Power'.

In addition, the Act does not discriminate against any out-of-state beer or soft drink manufacturer to the advantage of any in-state manufacturer nor does it impose any special requirement on beverage containers which are manufactured outside of the state or grant any special exemptions to any produced in the state.

I have not herein discussed the voluminous evidence offered in the course of the trial, although I will review very briefly a portion.

It is sufficient to observe that the evidence demonstrates that the use of malt beverages and soft drinks has increased tremendously annually in the United States in recent years. A large part of this increase is reflected in and attributed to the use of the new convenient packages both in cans and non-returnable bottles. The evidence further demonstrates that there may be an adverse economic impact, at least upon some of the plaintiffs and intervenors as a result of the Act.

As I have previously found, the fact that there may be new or additional costs incurred by the plaintiffs and intervenors, does not in and of itself invalidate the Act. *Huron Portland Cement Co.* v. *Detroit*, supra. *Soap and Detergent Association* v. *Clark, et al*, supra.

The evidence was marshaled most completely by the plaintiffs and intervenors and was presented in a skilled and workmanlike manner, and while the Court is unable to agree with counsels' interpretation of what the evidence means when applied to the law of the case, is not to indicate in any way that the evidence was not given due and deliberate consideration by the Court.

What could be more appropriate and perhaps anticipated than the State of Oregon . . . the State which has demonstrated in many ways its concern for its environment and the happiness and well-being of its citizens; the State which has the largest area percentage-wise of its beaches in the public domain; the State which has recognized the dangers of esthetic pollution, and is a leader in the removal of bill-boards from our highway system; the State which has demonstrated its concern for a way of life by enacting laws preventing air pollution and protecting our water supply, would be the first State to enact major legislation directed at the litter and solid waste disposal problems. While Oregon may be considered to be first in this field, it is no longer a lonely voice crying out in the wilderness of pollution, waste and litter, because many other states have embarked on their own perilous journeys through these troubled waters as is evidenced by intervenors' Exhibits 162 and 165, inclusive, and plaintiffs' Exhibits 255 and 256.

Plaintiffs' Exhibit 254A and defendants' Exhibits 338 and 339, which are a part of plaintiffs' Exhibit 254A demonstrates to the satisfaction of the Court that roadside litter so far as it pertains to glass and tin containers comes from malt beverage and soft drink cans and bottles and not from other types of food and beverage containers which account for only a small portion of roadside litter.

It is also informative as is seen in plaintiffs' Exhibit 106 that the buying habits of the citizens of Oregon are far different than his brother on the national market. For example, on the national market, popular priced malt beverages represent 61.7% of the market. In Oregon it is 91.21% of the market. On the national market, premium malt beverage represents 36.59% of the market but in Oregon premium malt beverage represents only 8.4% of the state market. Another significant fact, found in plaintiffs' Exhibit 107, is that returnable bottles on the national market represent 19.15%, while on the Oregon market returnable bottles represent 32.11%.

It is the obvious conclusion that the Oregon consumer is more interested in the economy of his purchase than in its convenience than is his fellow citizen on the national market, and admittedly, the cheapest way to purchase on a per-ounce basis either a malt beverage or a soft drink is in a returnable container.

It is the opinion of the Court that the Act, when judged by relevant constitutional standards, is valid in every respect and should be, and hereby is, sustained by the Court.

This bold and forceful action taken by the Fifty-Sixth Legislative Assembly in 1971 reflects and is, I believe, a major response to the concern that the citizens in Oregon feel and have demonstrated concerning their environment and its pollution and the problems presented by roadside litter and disposal of solid waste and the Court would be ill-advised to interfere in any manner in this timely and necessary endeavor.

Respectfully submitted,
VAL D. SLOPER,
Presiding Judge.

[From the Eugene, Oreg., Register Guard, Sept. 2, 1972]

BOTTLE BILL RULING CHEERED, JEERED

(By Jerry Uhrhammer)

So far as Oregon is concerned, the flip-top can is about to go the way of the buggy-whip—unless a test case decision upholding the state's new "bottle bill" is overturned on appeal.

And it definitely will be appealed, a Eugene bottling company executive promised Friday.

"Whether you're for it or against it, we should welcome an appeal to find out whether it is constitutional in the higher courts," said Jack Foster, president of the Coca-Cola Bottling Co. and Emerald Canning Corp. Foster is a member of the board of the Oregon Soft Drink Assn.

Earlier in the day, in a ruling with considerable national significance, Marion County Circuit Judge Val Sloper rejected a challenge to the controversial bill from bottle and can manufacturers, brewers and soft drink bottlers.

They argued in a non-jury trial last month that the law—which goes into effect Oct. 1—was unconstitutional, interfered with interstate commerce and will not help solve the state's litter and solid waste problems. But Sloper, in a 34-page decision, rejected the industry contentions and declared the 1971 law "valid in every respect."

The bill requires a five-cent retail deposit on all standard-size beer and soft drink cans and bottles sold in Oregon after Oct. 1, and a two-cent deposit on the smaller "stubby" bottles. Intent of the law is to eliminate the "throwaway" or nonreturnable cans and bottles.

The bill also bans use of the flip-top or pull tabs on beverage containers.

Gov. Tom McCall, who signed the bill into law last year, called the ruling "a well-written, soundly reasoned decision that recognizes the importance Oregon citizens attach to their state's super-livability.

"It is heartening to know that implementation of the law will occur on Oct. 1 as scheduled—a goal that, all along, I have directed the Oregon Liquor Commission and other affected state agencies to prepare to meet," the governor said.

Atty. Gen. Lee Johnson said: "This legislation is a pioneering effort on the part of the Oregon Legislature which has been upheld by the example of creative approach to the environmental problems of the country."

"This certainly is a great day for Oregon . . . once again we're the leader in environmental protection with a precedent that will probably be repeated throughout the country," said Larry Williams, executive director of the private Oregon Environmental Council, which spearheaded the citizens' lobbying effort that led to adoption of the bill by the 1971 Legislature.

"I think states across the country have been waiting for this," Williams said. "That's why the bottling industry challenged it . . . if we got away with it here in Oregon, it would spread all over."

The "Bottle Bill" was one of the most controversial bills argued before the 1971 session and the object of an impassioned lobbying attack by national breweries and bottlers, who apparently feared passage would spur similar legislation in other states.

George Muth, executive director of the Carbonated Beverage Container Manufacturers Assn., said, "I feel that the evidence clearly shows that this bill, if allowed to go into effect, will cause severe economic dislocation and unemployment without lessening the problems of litter and solid waste."

Eugene bottler Foster said he was "flabbergasted" at the decision.

"I just can't believe that this bill is constitutional," Foster said. "I felt people had a choice, and if people didn't want cans they shouldn't buy them." He said he didn't think government should be making such a choice for people.

During the trial, evidence was introduced suggesting the Foster's Emerald Canning Corp., which produces about 96 percent of its soft drink production in cans, would go out of business if the bill goes into effect. "It could," Foster said Friday, "but we don't know what's going to happen."

[From the Statesman, Salem, Oreg., Sept. 1972]

OREGON BOTTLE LAW UPHELD

(By Janet Davies)

Financial losses expected to be incurred by industries affected by Oregon's "bottle bill" do not, in themselves, invalidate the law, Marion County Circuit Judge Val D. Sloper ruled Friday.

Representatives of the beer, carbonated soft drink and beverage container industries had emphasized the financial effects—termed catastrophic in some cases—that imposition of the bill Oct. 1 would have on their businesses.

The two-week trial on the constitutionality of the bill ended Aug. 4, and Sloper ruled Friday the law, which will prohibit the sale of nonreturnable beer and carbonated soft drink containers in the state, is valid.

In his 34-page opinion, Sloper ruled on various contentions made by the industries, which filed the lawsuit last January.

Among the arguments was that the law's purpose of reducing the litter problem would not be accomplished.

Sloper said whether the bill, in fact, does not reduce litter is not an issue for the court to determine.

He added that testimony and exhibits about surveys taken had convinced him that "roadside litter so far as it pertains to the glass and tin containers comes from malt beverage and soft drink cans and bottles and not from other types of food and beverage containers which account for only a small portion of roadside litter."

Opponents also had contended the bill singles out their industries without regulating other products in containers.

Sloper said he failed to find there has been "any invidious discrimination against any selected industries."

He cited a Vermont statute prohibiting the sale of malt products in non-returnable glass containers that was attacked by the affected industries.

The Vermont court held that "the fact that there was litter other than beer bottles did not invalidate the Vermont law and that requiring non-returnable bottles is within police power of the Vermont Legislature," the judge said.

Part of the Vermont decision he quoted said, "'The equal protection clause of the 14th Amendment . . . does not prohibit legislative classification and the imposition of statutory restraints on one class which are not imposed on another.'

"The Legislature is simply not required to legislate upon all possible litter problems or to attempt to solve the state's entire solid waste problem in one statute," Sloper said.

Turning to the major thrust of the opponents' case—the alleged violation of the U.S. Constitution's commerce clause—Sloper ruled the argument "does not appear to the court to be supported by judicial precedent and violates sound time-tested legal principles as well as common sense and judgment."

He cited another Oregon case which he felt was "judicial precedent in this case." In Pacific States Box & Basket Co. vs. White, the U.S. Supreme Court upheld, against a burden of interstate commerce attack, the regulation of the size and shape of berry containers to be used in Oregon.

The Supreme Court's opinion, in part, as quoted by Sloper, was "'Whether it was necessary in Oregon to provide a standard container for raspberries and strawberries; and, if so, whether that adopted should have been made mandatory, involve questions of fact and of policy, the determination of which rests in the legislative branch of the state government . . . With the wisdom of such a regulation we have, of course, no concern. We may inquire only whether it is arbitrary or capricious.'"

With respect to other court cases of state regulations found to be an unreasonable burden on interstate commerce, Sloper ruled the Oregon law "does not regulate any instrumentalities of interstate commerce (such as trucks, trains or buses), does not discriminate in favor of local commerce, is consistent with the announced national policy of environmental control and protection and is a valid exercise of the 'state police power.'"

It would appear almost certain that a court appeal will be made of the circuit court decision upholding Oregon's so-called "bottle bill." Industry sources are not likely to let such legislation stand without an ultimate challenge.

It is less than a month—on Oct. 1—when the measure takes effect and non-returnable cans and bottles for soft drinks and beer will be banned.

Judge Val Sloper, in his reasoned decision spelled out the same defenses of the bill which The Statesman has been extolling since before the bill's passage by the Legislature.

Testimony at the trial revealed that many distributors are prepared or preparing for the law, others have adopted a "wait and see" attitude.

If the law takes effect on Oct. 1, some brands of soft drinks and beer may be in short supply or will vanish, at least temporarily. The "bottle bill" imposes hardships on the stores and distributors which must recycle the containers. The court had the responsibility of deciding whether the Legislature had the right to impose those hardships under the police powers of the state, for the public good.

Judge Sloper noted the determination of Oregon people to preserve the appearance of

the environment and decided the measure is justified.

The "bottle bill" and the other environmental control measures already have made a marked change in Oregon's appearance. "Education" couldn't do the job alone. It took action—the invoking of laws. The highways are far cleaner, thanks to extra state funds dedicated to more frequent cleanups. Littering along highways is decreasing as the public is responding to the cleaner roads.

Judge Sloper's decision is important, not just because of discarded cans and bottles but because of the principle involved. It is but one small step along the road to reuse of materials. If this first step were to be blocked, it would be harder to take the steps which must follow. Many materials must be recycled instead of being dumped into overflowing solid waste landfills. The nation's natural resources must not be sacrificed to the insatiable demands of a throw-away society.

[From the Capital Journal, Salem, Oreg., Sept. 4, 1972]

BOTTLE BILL DECISION SOLID

There's a lot of agreement among lawyers that Val Sloper, Marion County's presiding circuit judge, has one of the best minds in the business. He not only runs a good trial, but he writes an opinion that misses little.

A good example of his workmanship is the bottle case, which he just decided in favor of the state. This means that the bill requiring returnable containers is valid, not unconstitutional.

He let the trial run on. After the first couple of days most of the testimony was subjective trivia that didn't seem to bear on the legal points. Watchers wondered if Sloper was being misled by the sheer mass of talk.

He wasn't.

His written opinion shows that he was turning on and off at the right times.

For example, one of the drink industry's points was that the bottle bill is unconstitutional because it seeks to regulate only one part of the litter problem (beer and soft drinks) and ignores other causes such as strewn paper packages, other canned and bottled goods, etc. This, the industry maintained, is discriminatory and therefore unconstitutional.

So Sloper cited previous cases here and in other states and said, "The legislature is simply not required to legislate upon all possible litter problems or to attempt to solve the state's entire solid waste problem in one statute."

He went on to deal with each of the industry's points in like fashion, citing case after case and then synthesizing the meaning.

If he left a single hole we can't find it. It seems abundantly apparent that a legislature has the authority to specify what kind of containers can be used in a state. We can't imagine that an appeal to the Oregon Court of Appeals would result in a different finding. In fact, a jump from there to the U.S. Supreme Court would seem to be futile, for Sloper's key citation is an Oregon case regarding packaging of berries which was appealed to the highest court. The U.S. Supreme Court found that Oregon has the authority to regulate containers in interstate commerce.

The bottle bill is to go into effect Oct. 1. We hope the industry will be wise enough to save everyone time and expense by not appealing the case. Instead, it should concentrate its efforts on the next session of the legislature. The bottle bill was the result of a hard-fought battle and lots of compromises. This usually means that there is the possibility of improvements in detail when pressure is less.

CUSTOMS PORT SECURITY LEGISLATION—SPEECH OF ASSISTANT SECRETARY OF THE TREASURY EUGENE ROSSIDES ON CARGO THIEVERY

Mr. BIBLE. Mr. President, the theft, pilferage, and loss of cargo being transported by public carrier has been an unpleasant reality since man has shipped commodities by public conveyance. However, hearings before the Senate Small Business Committee over the last 3½ years covering the $1½ billion direct price tag on cargo thievery from air, truck, rail, and maritime carriers the last several years has made this criminal activity something every American consumer helps to pay for out of his pocketbook.

Two years ago at maritime thievery hearings before our committee, the Honorable Eugene T. Rossides, Assistant Secretary of the Treasury, outlined the beginning of a major new program being inaugurated by the Treasury Department to strengthen the role of the Bureau of Customs in protecting goods moving in international commerce and geared and primarily targeted to ports of entry for air and maritime carriers.

On September 25, the Senate Finance Committee reported as an amendment to H.R. 9463 an amended version of the proposed Customs Port Security Act originally introduced by the distinguished senior Senator from Utah (Mr. BENNETT) on April 26, 1971.

The recognition of this problem by the Finance Committee and its affirmative action guided by the distinguished committee chairman (Mr. LONG) and the bill's sponsor (Mr. BENNETT) are to be highly commended, in my judgment. I heartily applaud this measure as another key step in dealing with the broad problem posed by the impact of criminal activity on our commercial transport system. It is my understanding that the private carrier modes, realizing they need the Government's help in dealing with the sophisticated and increased activity of cargo thieves, have pledged their support to the Customs Port Security proposal.

Certainly, Assistant Secretary Rossides, who will be charged with enforcing provisions of this new legislation, has long been a dedicated foe of criminal forces preying on cargo moving in international commerce. Shortly after his testimony before our committee on June 24, 1970, he embarked on a program to establish pilot security projects at various ports and airports handling international commerce in an attempt to increase protection and security for goods under customs jurisdiction.

One such project, which has shown considerable success, is located at John F. Kennedy Airport and was designed to curb the extraordinary theft and pilferage from that airport cited at congressional hearings in recent years.

Some measure of the extent of the pilferage at JFK can be found in testimony by William J. Cotter, Assistant Postmaster General, before the Permanent Subcommittee on Investigations of the Senate Government Operations Committee, in which he stated that losses from U.S. mails alone between 1967 and 1970 were in excess of $70 million.

The pending bill would strengthen the role of the Treasury Department in protecting goods moving in international commerce. I commend this legislation to Senators and hope that the Senate will pass it so that the Federal war on cargo thieves can be pushed in earnest.

During the next Congress, I intend to push for additional Federal legislation which will protect cargo moving in domestic commerce in the other modes of transportation, including air, truck, and rail. It is imperative that all Federal agencies having responsibility for the safe and secure movement of goods in transportation be involved in the fight against the modern cargo thief.

Mr. President, I ask unanimous consent that the remarks of Assistant Secretary Eugene T. Rossides before the National Customs Brokers and Forwarders Association of America, Inc., on May 16, 1972, which will provide a detailed explanation of the Treasury Department's program to curb theft of international cargo, be printed in the RECORD at this point. Some changes in the legislation as reported by the committee and Mr. Rossides' remarks are evident.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

TREASURY'S ACTION PROGRAM TO COMBAT THEFT OF INTERNATIONAL CARGO

(Remarks of Eugene T. Rossides, Assistant Secretary of the Treasury)

This Administration, I am pleased to report, has made substantial progress in the fight to curb theft of international cargo. While the tide is turning, more needs to be done. Let's look at the record of what Treasury has accomplished.

Early in this Administration, President Nixon directed an all-out drive against drug smuggling and organized crime. These became Treasury's highest priorities in the area of law enforcement. It became evident in 1969 that the long-neglected problem of cargo theft fell into both these priority areas; Treasury, therefore, developed an action program and charged the Bureau of Customs with implementing it.

The Treasury program has two main thrusts—prevention of theft by improving cargo security and deterrence of theft by intensifying our law enforcement efforts.

THE PREVENTIVE PROGRAM

There are four separate but interrelated parts to our preventive program.

First, we issued several regulations to improve security of high risk cargo and to obtain data on cargo losses, by commodity and location.

Second, we instituted pilot programs in New York, San Francisco and Oakland to demonstrate that, if a few basic security measures are adopted, cargo theft can be significantly reduced.

Third, Treasury, on behalf of the Administration, proposed legislation to Congress which would give Customs the additional tools it needs to combat cargo theft and pilferage effectively.

The passage of this legislation (H. R. 8476, the Mills-Byrnes Bill and the identical S. 1654, the Bennett Bill), known as the Customs Port Security Act, would, in my judgment, result in the reduction of cargo theft to a *minimum* at all airports of entry throughout the United States within 6 months to one year and a *substantial* reduction of cargo theft at all seaports of entry within one year.

Fourth, we published the *Standards for Cargo Security* to stimulate carriers and other operators of cargo terminals to improve voluntarily the physical and procedural security of their facilities. These standards, where implemented by industry, will produce a marked reduction in cargo theft.

Although the Treasury Department's preventive program centers on international cargo at ports of entry, an important byproduct is improved security for the large amounts of domestic cargo flowing through or temporarily stored at the same facilities. Furthermore, the measures we are urging as a minimum response to this problem are equally applicable to terminals handling domestic cargo.

THE LAW ENFORCEMENT PROGRAM

In March of this year I ordered a step-up in our law enforcement efforts against cargo theft and we are already beginning to see some results.

Nationwide in the last two months we have apprehended a total of 189 individuals and recovered cargo valued at $280,000. In the Port of New York alone during that period, we have apprehended 28 individuals on cargo theft charges and recovered merchandise valued at $230,000.

The close relationship between this drive against cargo thieves and Customs' other law enforcement missions can be readily seen in the following cases. In New York, Treasury Agents working with the New York Police Department were able to crack two truck hijacking rings, arrest a total of 7 individuals and recover two truck loads of electronic equipment and general merchandise valued at $105,000. In both cases, the "hi-jacks" proved to be phony—that is, the truck driver simply gave up his load to accomplices. The role of organized crime in these cases is being investigated further.

In Miami, Customs Patrol Officers on a routine cargo security patrol of the seaport observed a crew member acting suspiciously. He left his ship carrying a suitcase which be loaded into a vehicle parked on the dock. When the car attempted to leave the dock, it was stopped and a search of the suitcase revealed 70 plastic bags containing twenty-two pounds of pure heroin having a wholesale value of $2.5 million. The crew member and two other persons in the car were arrested.

In addition to added pressure against drug smuggling and organized crime, one of the goals of this stepped-up enforcement campaign is to put the brakes on petty thievery which, when multiplied over and over again, constitutes an insidious and dangerous drain on commerce.

Senator Bible deserves a great deal of credit for focusing attention on the nationwide nature of the cargo theft problem through the hearings held by the Senate Select Committee on Small Business beginning in 1969. Senator Bible's estimate that cargo theft amounts to $1.5 billion annually has received much attention and it does underscore the magnitude of the problem.

In fact, the depredations of cargo thieves cost much more; in lost sales, markets, and jobs, in swollen insurance rates, and especially in unfair competition to the honest businessman. The Federal Government is directly affected. Treasury may not be able to collect customs duties and excise taxes on imported merchandise that has vanished, and income taxes are lost because the importers have lower incomes and claim deductions for their uninsured theft losses. And the loss of cargo hurts our balance of payments position.

As a result of the hearings held by Senator Bible's Committee, the Interagency Committee on Cargo Security was formed in 1971 to coordinate the response of the various agencies of the Federal Government. Customs, which has been active in this area since 1969, spearheads this effort at all seaports and airports of entry.

The following is a brief report on the substantial progress that Treasury has made so far and what still needs to be done.

1. The cargo security regulations

The first phase of the Treasury cargo security program involved writing regulations to increase the physical protection given cargo in international trade and to tighten up carriers accountability for cargo in their custody. Most of these regulations became effective on April 1, 1971.

The physical security regulations require all carriers to have special areas for the storage of high value and broken-packaged merchandise and, at airports, an adequate number of lockable vehicles to transport such cargo from aircraft to terminal. Failure to comply can result in the denial of a permit to unlade international cargo. These regulations have resulted in a substantial improvement in the security of high-risk, easily pilfered cargo.

As you are aware, the cargo accountability regulations require that discrepancies between delivered and manifested quantities be reported to Customs (on U.S. Customs Form 5931 or by submitting an amended copy of the manifest). A recent review of this reporting program revealed that in New York some carriers are filing inaccurate or unsubstantiated reports in many cases. In addition, some carriers are not reporting losses. Apart from the fact that the carriers involved may be violating the law and subjecting themselves to penalties, it is in the best interest of the importing community to report accurately and fully the extent and location of the cargo theft problem. I, therefore, strongly urge importers and customhouse brokers to comply with Customs' appeal that reports be filed immediately when shortages are discovered.

I have also directed Customs to develop a special theft loss report which is to be filled out whenever any Customs officer learns of the theft or unexplained loss of international cargo. Data from this form, which should be distributed to the field shortly, will provide us with a cross-check on the accuracy of the reporting system.

While the loss reporting system is still not functioning adequately, particularly in New York, I can assure you that we are reviewing our regulations and their enforcement and we intend to take every reasonable step to ensure that all losses of imported cargo in Customs custody are accurately reported to Customs. Your views and suggestions on how to improve the program are invited.

2. The pilot projects

The cargo security regulations, which merely apply sound security measures where laxity had become a tradition, were developed partly out of Customs' experience with a pilot project still in progress at New York's JFK International Airport. Measures prescribed in the regulations have been put into practice there, plus others recommended by Customs for greater cargo security, such as locked boxes to keep papers out of unauthorized hands and the use of cameras which simultaneously photograph the person who receives the merchandise, his identification card and a special pick-up form.

The program has been getting results. In the program's first year, reported cargo thefts at JFK declined by 28% and the dollar value of stolen goods by 69% (from $3.3 million). For the ten-month period ending March 31, 1972, further reductions of 21% in number and 41% in value, were achieved. I must point out that these figures were obtained from the Airport Security Council and that it deserves a great deal of credit for the success of this program.

Similar pilot projects have been undertaken at selected piers in New York, San Francisco, and Oakland. Customs has finished its comprehensive security surveys of these piers and the terminal operators who have received our recommendations are commencing to implement them. It is too early to tell if we are going to have as dramatic results on the New York and San Francisco waterfronts as we had at JFK Airport, but the initial results on the New York waterfront have been encouraging.

3. Treasury's legislative proposal

An important part of the Treasury Department program was to develop Federal legislation that would plug the loopholes still existing in Customs' control of the movement of international cargo so that it could tackle the cargo theft problem with full effectiveness. This Administration legislation was referred one year ago to the Senate Finance and the House Ways and Means Committees. Known as the Customs Port Security Act, the bill's main features are the establishment of national standards for cargo security, the screening of persons seeking access to high-risk areas, and the restructuring of certain penalties to facilitate prosecution of cargo theft cases.

A most important provision in the Customs Port Security Act is the one giving the Secretary of the Treasury authority to establish national standards for cargo security at all ports of entry. These standards will relate to matters such as special storage areas for high-value merchandise, lighting, fencing, alarm systems, patrols and guards, and separate private parking areas. I would like to emphasize that we are talking about measures as basic as putting up fences and locking doors. The lack of these basic physical and procedural safeguards is responsible for a large portion of the cargo theft problem today.

Because issuing these national standards may not be sufficient to curb theft in all instances, the bill also authorizes the Secretary to designate special "Customs-security areas" within ports where he finds there is an unusual risk of theft. Customs-security areas would be subject to more stringent security measures. The Secretary could require businesses whose employees sought access to these areas to be licensed, and anyone entering would have to display an approved identification card or badge. Customs officers would carry out these procedures and control the restricted areas.

However, the main thrust of the bill is to empower the Secretary of the Treasury to make certain that minimum security measures are adopted at all international ports of entry. By requiring the same minimum security standards at all ports and terminals, the proposed legislation avoids any port obtaining a competitive advantage over another—a major defect of some regional programs to combat cargo theft. At the same time, it provides flexibility and controls costs by spotting "Customs-security areas" only where and when they are needed; not an entire port if a dock area could be specified as especified vulnerable to theft, not an entire airport if a particular carrier terminal could be pinpointed. Treasury, in fact, expects that few "Customs-security area" will be established and that those that are will not be needed long.

The Treasury Department views passage of the Customs Port Security Act as an appropriate development of Customs' inherent strength. Customs is the only enforcement agency with a presence, and over 180 years of experience, in all of the nation's ports of entry. To carry out its mission to collect revenue and to intercept contraband, it has acquired a tremendous expertise in cargo security matters.

The proposed legislation is supported by groups which know about international cargo, including:

American Importers Association, Inc.

American Institute of Marine Underwriters.
American Watch Association, Inc.
Airport Security Council.
Air Transport Association of America.
Commerce & Industry Association of New York.
Foreign Commerce Club of New York, Inc.
National Customs Brokers & Forwarders Association of America, Inc.
New York City Chamber of Commerce.
New York State Council of Retail Merchants, Inc.
Security Bureau, Inc.
Transportation Association of America.
Transportation Cargo Security Council.

We are still hopeful there will be hearings on the bill in this session of Congress.

4. The voluntary program and the standards for cargo security

In the meantime, to provide guidance to industry and Customs officers in locating and correcting security problems, Customs developed and issued in January, 1972, the *"Standards for Cargo Security."* These standards, which will form the basis for the national standards to be issued pursuant to the Customs Port Security Act, constitute the physical and procedural security measures which we believe should be implemented by most terminal operators to provide a minimum level of cargo protection.

Underneath each standard in this pamphlet there is set forth some "recommended specifications" or suggested ways of meeting it. There may be alternate means of meeting some of these general standards and each terminal operator should determine what remedial action is most appropriate. Reactions from industry indicate it has found these guidelines useful. Our Regional Commissioners report that industry is taking steps to observe these standards and we expect that there will be significant reduction in cargo theft as a result. You can help by insisting that terminal operators observe these standards.

While Customs can lead the way, businesses engaged in handling cargo have the primary responsibility for achieving good cargo security. The joint Customs-industry effort was the key to success at JFK Airport. Customs helped develop a few common sense rules and saw to it that all airlines participated. The airlines at JFK—under the guidance of their own Airport Security Council—then pitched in with determination to implement the protective measures needed at each terminal. This is the sort of venture that succeeds. I am confident that, with the cooperation of your Association, Customs and industry can achieve similar results at all ports of entry.

CONCLUSION

This is an action program which has made maximum use of the limited resources available. It also ties in with two top priority concerns of President Nixon—the drive to stop smuggling of narcotics and dangerous drugs into the United States and the campaign against organized crime.

If the drug smuggler can remove packages containing narcotics before entry is made, he does not have to fear the more rigorous inspection of cargo which Customs has implemented in order to reduce the influx of illegal drugs into this country.

For organized crime, cargo theft has become a profitable business, especially at large deep-water ports and at major airports. For example, there was considerable evidence that organized crime was responsible for the substantial losses experienced at JFK before the institution of the pilot project.

In my judgment, the tide is turning in the war on theft of international cargo. With the cooperation of the cargo handling and only a modest addition of funds and authority in Treasury, we should be able to reduce cargo theft at our major airports and seaports to a minimum within a very short time. While I am optimistic, passage of the Customs Port Security Act and your full cooperation are needed if we are to succeed.

NATIONAL COACHES DAY—OCTOBER 6

Mr. BAYH. Mr. President, Friday, October 6, has been proclaimed by the President as National Coaches Day in recognition of the usually unacknowledged role which coaches play in the successes of amateur and professional athletes.

The fact that coaches do not receive proper recognition is probably a logical consequence of the fact that athletes' exploits are what capture the public fancy, and the hard work and coaching which goes into those exploits is far less glamorous.

But we must never lose sight of the fact that it does take great patience and effort to prepare a winner, whether it be a high school football team or an individual Olympic gold medalist. And there is a coach behind every winner.

This country very properly has a great respect and appreciation of athletics for providing a sense of teamwork, a measure of self-discipline and a spirit of competition which is helpful in the maturing process of young people. The crucial role which coaches play in this process is certainly deserving of similar respect and appreciation, which is why I was pleased by the President's determination to set October 6 aside as National Coaches Day.

I am happy to join in recognizing the valuable role which coaches play in the full range of athletics and to express my appreciation for the great job coaches are doing across this country every day in helping to develop young men and women who will be tomorrow's leaders. I request consent that the Presidential proclamation on National Coaches Day be printed in the Record so that we might have the full recognition of this deserved tribute.

There being no objection, the proclamation was ordered to be printed in the Record, as follows:

National Coaches Day

(A proclamation by the President of the United States of America)

Over the years, we as a Nation have become increasingly sportsminded. We are intensely aware of the achievements of our professional athletes and have given them well-deserved recognition. We are especially proud this year of the members of our Olympic teams. And we are also enthusiastic about the fine athletes in our high schools, colleges, and universities.

Yet, despite the talent of these men and women and their initial promise, many of them could not have risen to their current performance levels without the guidance and encouragement of those who have coached them at every stage of their progression. Whether or not they achieve athletic distinction, most of those who participate in organized sports will become better citizens because of the lessons they have learned from their coaches and because of the example which their coaches have set for them.

Coaches are highly qualified teachers—in highly specialized fields. But more than that, they are friends and counselors who help to instill in their charges important attitudes that will serve them all their lives. I know from my own experience how much an understanding coach can do to shape the life of a young person. For a coach can help to teach a student the value of teamwork, discipline, and a healthy attitude toward competition. A coach can help a young person learn how to win gracefully and how to grow from defeat. A coach can help build that moral fiber on which our future as a Nation depends.

The coaches of America, in sports and in many other fields of endeavor, do not work for personal glory. Their satisfaction usually comes through the achievements of others whom they have helped. It is appropriate that our Nation join in according them the recognition and honor which they so richly deserve, for they represent the finest elements in the American character.

Now, therefore, I, Richard Nixon, President of the United States of America, in consonance with Senate Joint Resolution 213, do hereby proclaim October 6, 1972, as National Coaches Day. I call upon the people of the United States and interested groups and organizations to observe that day with appropriate ceremonies and activities.

In witness whereof, I have hereunto set my hand this nineteenth day of September, in the year of our Lord nineteen hundred seventy-two, and of the Independence of the United States of America the one hundred ninety-seventh.

THE NEW FDA PAPERS

Mr. KENNEDY. Mr. President, as chairman of both the Health Subcommittee and of the Administrative Practice and Procedure Subcommittee, I have had considerable interest in the activities of the Food and Drug Administration. I have been critical of the agency's regulatory activities in a number of areas, but I do want to call my colleagues' attention to one recent development which has been particularly heartening and encouraging: the conversion of the agency's monthly magazine, FDA Papers, from an uninformative vehicle for self-emulation into a useful and readable publication designed exclusively for consumers. The magazine, which was renamed FDA Consumer starting with the July–August issue, previously had been written for the industries regulated by FDA. The refocused magazine's primary aim will be to educate the public about the safe and proper use of products regulated by FDA and to inform consumers about regulatory actions that affect the public health. It thus should appeal to a larger audience and help the Food and Drug Administration better fulfill its consumer protection function.

An excellent example of the magazine's new thrust is an article from the most recent issue, advising consumers in what form and to which agencies typical consumer complaints should be sent. I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

How You Can Be an Extension of FDA

If you come across a food, drug, medical device, cosmetic, hazardous substance, or toy that you believe may be mislabeled, insanitary, or otherwise harmful, you will perform a public service by reporting it to the Food and Drug Administration.

The information you supply to FDA can and often does lead to detection and correction of a violation. Many products have been recalled or removed from the market because of action initiated by a consumer.

FDA can't take action solely on the basis of your complaint, of course. But it will investigate promptly, in accordance with the requirements of the law. And if a hazard is found, FDA will seek to remedy the situation within the bounds of the law.

Here are some guidelines to follow in reporting hazards to FDA.

BEFORE YOU REPORT

Before you report to FDA about the possible hazards of a product, ask yourself these questions:

Have I used the product as labeled?

Did I follow the instructions carefully?

Did an allergy contribute toward the bad effect?

Was the product old when I opened it?

Make sure you've taken all these factors into consideration before you report a possible hazard to FDA. The hazard may lie in improper use of a product rather than in an inherent defect.

With a medicine, for example, you may suspect the product is harmful if you experience an unusual reaction. You should report this to your doctor immediately.

But the reaction may be a "side effect" rather than an indication of a defect. It may not be necessary to inform FDA about it. Your physician will be the best guide.

WHERE TO REPORT

You may refer your complaint in writing or by phone to the nearest FDA Field office or resident inspection station.

FDA has 10 Regional offices, 19 District offices, and 97 resident inspection stations throughout the United States. See the map on page 34 for the Regional and District office nearest you.

In other major cities not listed, you can find the address and phone number of the nearest FDA office in the telephone directory under U.S. Government, Department of Health, Education, and Welfare, Food and Drug Administration.

If you wish, you may write about your complaint directly to FDA headquarters. The address is Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852. The complaint will reach the correct person.

HOW TO REPORT

Report your grievance as soon as possible after it occurs. Give your name, address, telephone number, and directions on how to get to your home or place of business.

State clearly what appears to be wrong.

Describe in as much detail as possible the label of the product. Give any code marks that appear on the container. For example, markings on canned foods are usually embossed or stamped on the lid.

Give the name and address of the store where the article was bought, and the date of purchase.

Save whatever remains of the suspect product or the empty container for your doctor's guidance or possible examination by FDA.

Retain any unopened containers of the product you bought at the same time.

If an injury is involved, see your physician at once.

Report the suspect product to the manufacturer, packer or distributor shown on the label, and to the store where you bought it.

FDA has limited jurisdiction over certain consumer products. If you have complaints about any of the following, these are the Federal agencies to inform:

Suspected false advertising—Federal Trade Commission.

Meat and poultry products—U.S. Department of Agriculture.

Sanitation of restaurants—local health authorities.

Products made and sold exclusively within a State—local or State Health Department or similar law enforcement agency.

Suspected illegal sale of narcotics or dangerous drugs (such as stimulants, depressants, and hallucinogens)—Bureau of Narcotics and Dangerous Drugs, U.S. Department of Justice.

Unsolicited products by mail—U.S. Postal Service.

Accidental poisonings—Poison Control Centers.

Dispensing practices of pharmacists and drug prices—State Board of Pharmacy.

Pesticides, air and water pollution—Environmental Protection Agency.

TRAGEDY MAKES A POINT IN WYOMING

Mr. HANSEN. Mr. President, public opinion pollsters have told us recently that the single most important issue to many people in this country is not Vietnam, and is not the economy—although these matters are of concern—but is the problem of drug abuse.

A heartbreaking tragedy which struck a Worland, Wyo., family last month offers crushing evidence as to why the American people are deeply concerned about the drug problem and our inability in this country to cope with it.

Only the words of Mr. and Mrs. John Welch, the parents of a young boy on drugs who took his own life, can express the enormity of the loss that is felt, and the intensity of the hope for an answer to the drug abuse problem. And, even their words seems inadequate, for there is no way fully to express in mere words the impact of a tragedy such as this.

In an open letter to the public which appeared in several Wyoming newspapers, Mr. and Mrs. Welch have tried to impress on others the importance of facing up to the problem of drug abuse and demanding legal steps to help protect our citizens from it. They said:

> His death has caused us the greatest grief we have ever known, but perhaps it can have some meaning if by this letter the tax-paying citizens will use their power as voters to drive the dealers and pushers out of our town and into penal institutions where they belong. Demand enforcement of the laws against narcotics; the drug laws in other countries, supposedly much less enlightened than the United States, have done this. Why can't we? Save your own kids!

Mr. President, I can but pledge to Mr. and Mrs. Welch that I will do my utmost to promote responsible laws which I believe will help alleviate this problem; that I will support programs designed to prevent drug abuse, rehabilitate those already affected by drugs, and deal swiftly and mercilessly with those who profit from the agony of others.

Mr. and Mrs. Welch have invited public awareness of this very personal and terrible crisis in their lives for the purpose of awakening others, and to draw attention to the critical need for ways to meet this most vital of issues in America. If we lose our young people to the crippling and destructive vice of drugs, what hope is there for the future of our country?

I ask unanimous consent that Mr. and Mrs. Welch's very touching account of what happened to their beloved son, and their appeal for public support in meeting the drug problem, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

DRUGS ARE BEAUTIFUL

(An open letter to the citizens of Worland)

On Sunday morning, August 13, 1972, our son, Brian Welch died of Carbon monoxide poisoning in the garage of our home. This is the official reason for his death; he was murdered by drugs. He was murdered by our liberal society. He was murdered by those who close their eyes to the things that are happening in our community and throughout our country; by the complacent, self-satisfied "this can't happen to us" people who would rather not face the facts.

We quote from the last letter he wrote to us, his parents, on the eve of his death. "Don't blame drugs for this. Drugs are more beautiful than Nixon, Old Glory and Apple Pie". In another part of his letter he said, "Dear Folks, I'm sorry. Don't blame yourselves for this. I cannot live in your world." He then continued with his drug-induced philosophy and said, "Dear Family: Please join me; there is no future".

To our knowledge, this is the first death in Worland, Wyoming that can be directly attributed to drugs. Two of Brian's friends came to visit our home and to tell us of their last talk with him the night before he died. He told them he had "popped two pills" on Friday night and one early on Saturday morning. He also told them where he obtained these instruments of death. Sometime during that terrible week, we received a "sympathy" card. We received many, but only one from a person who lacked the guts to sign their name. On the envelope there was a picture of the sun shining on a field of flowers. It was hand-painted. It was signed "a friend."

We knew that Brian smoked marijuana; he told us so, but we were unable to convince him of its harmful effects. He started on "pot" and finished with a trip on some deadly hallucinatory drug. He used to argue that marijuana was not dangerous and did not lead to "hard stuff", except in this way: "When you go out looking for a joint, the pusher will usually offer you something else and say 'this will really turn you on' ".

Our son is dead; we are in agony; we knew he was troubled, mixed-up and unhappy. We tried our best to help him. We listened when he wanted to talk; we begged him to seek professional help and guidance, but he refused to do this. We knew who some of the pushers were, but felt unable to cope with them alone because of the unbelievable liberal laws enacted by "we the people" to protect the criminal.

The officials may say their hands are tied because of the present laws regarding search warrants, eye witnesses, etc. If this is indeed a fact, people of Wyoming, demand that these laws be changed! This is an election year. Vote against the misinformed politicians who are advocating the legalization of marijuana, and against those who have stifled police efforts by cries of "police brutality". Our son did this to himself, but if drugs were not available on almost any street corner and public park in Worland, he might have overcome his depression and tried again.

Brian was an intelligent, handsome and sensitive boy who was seeking something special and in the process, was taken in by the cliches of some of our college professors and drug oriented "friends" who spout phrases like "generation gap, meaningful dialogue and do your own thing".

This was not the boy we raised. His death

has caused us the greatest grief we have ever known, but perhaps it can have some meaning if by this letter the tax-paying citizens will use their power as voters to drive the dealers and pushers out of our town and into penal institutions where they belong. Demand enforcement of the laws against narcotics. The drug laws in other countries, supposedly much less enlightened than the United States, have done this. Why can't we? Save your own kids!

Endorsements were requested by us from a few close friends and acquaintances. We feel it is indicative of the feeling in our community that each person we contacted endorsed our letter without hesitation.

JOHN H. and JESSIE M. WELCH.

CONCLUSION OF MORNING BUSINESS

(Routine morning business was closed.)

ORDER FOR ADJOURNMENT TO TOMORROW AT 9 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR SCOTT FOR 15 MINUTES TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow the order previously entered recognizing the distinguished Republican leader for not to exceed 10 minutes be amended to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERICD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the orders for the recognition of Senators on tomorrow, there be a period for the transaction of routine morning business for not to exceed 15 minutes, with a limitation of 3 minutes on statements therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO LAY ASIDE UNFINISHED BUSINESS TEMPORARILY TOMORROW AND TO PROCEED TO CONSIDERATION OF H.R. 1

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when morning business is closed on tomorrow, the Senate proceed to the consideration of H.R. 1, the welfare bill; that the unfinished business be temporarily laid aside and remain in a temporarily laid-aside status until some hour during the afternoon to be determined by the distinguished majority leader or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

SOCIAL SECURITY AMENDMENTS OF 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at this time H.R. 1, the welfare bill be laid before the Senate and made the pending question temporarily, with no action to be taken thereon this evening.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read the bill by title, as follows:

A bill (H.R. 1) to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State public assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill, which had been reported by the Committee on Finance with amendments.

CONSUMER PROTECTION ORGANIZATION ACT OF 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 1 be laid aside and that the unfinished business be again laid before the Senate.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 3970) to establish a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants, in order to protect and serve the interests of consumers, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, there will be no action on the unfinished business tonight, of course.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9 o'clock a.m. tomorrow. The following Senators will be recognized for not to exceed the times stated and in the order stated: Mr. BELLMON, 15 minutes; Mr. CHURCH, 15 minutes; Mr. MOSS, 15 minutes; Mr. BAYH, 15 minutes; Mr. JAVITS, 15 minutes; Mr. ROBERT C. BYRD, 10 minutes; and Mr. SCOTT, 15 minutes.

Routine morning business for not to exceed 15 minutes, with the usual limitation of 3 minutes on statements therein, will then ensue. When the morning business is concluded, the Senate will proceed to the consideration of H.R. 1, the welfare bill.

At an appropriate time during the afternoon to be designated by the distinguished majority leader or his designee, the Senate will resume the consideration of the unfinished business, S. 3970, the Consumer Protection Act.

Amendments may be called up to either of these bills. Tabling motions are in order, of course, at any time. Conference reports may be called up at any time, they being privileged matters. Yea-and-nay votes could occur thereon. Hence, yea-and-nay votes may occur during the day tomorrow.

ADJOURNMENT TO 9 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 o'clock tomorrow morning.

The motion was agreed to; and at 6:36 p.m. the Senate adjourned until tomorrow, Wednesday, September 27, 1972, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate September 26 (legislative day of September 25), 1972:

U.S. ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be general

Gen. John Lathrop Throckmorton, [redacted] Army of the United States (major general, U.S. Army).

The following-named officers under the provisions of title 10, United States Code, section 3066, to be assigned to positions of importance and responsibility designated by the President under subsection (a) of section 3066, in grades as follows:

To be general

Lt. Gen. Walter Thomas Kerwin, Jr., [redacted] Army of the United States (major general, U.S. Army).

To be lieutenant general

Maj. Gen. Bernard William Rogers, [redacted] Army of the United States (brigadier general, U.S. Army).

CONFIRMATIONS

Executive nominations confirmed by the Senate September 26 (legislative day of September 25), 1972:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Colston A. Lewis, of Virginia, to be a member of the Equal Employment Opportunity Commission for the term expiring July 1, 1977.

ACTION

Christopher M. Mould, of the District of Columbia, to be an associate director of Action.

NATIONAL MEDIATION BOARD

Kay McMurray, of Illinois, to be a member of the National Mediation Board for the remainder of the term expiring July 1, 1974.

BOARD OF PAROLE

Thomas R. Holsclaw, of Kentucky, to be a member of the Board of Parole for the term expiring September 30, 1978.

EXTENSIONS OF REMARKS

R. J. WEBER, RURAL PASTOR

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1972

Mr. PICKLE. Mr. Speaker, some people gain fame with a great splash and a roar of the crowd; some gain fame more gradually, over long years of steady service.

One of the best of the latter category is the Reverend R. J. Weber, pastor of the Zion Lutheran Church of Zionsville, near Brenham, Tex.

Brother Weber's 745-member church is a "monument to this great preacher's influence," in the words of a Federal agriculture expert.

In a time of movement to the cities, Brother Weber has urged a movement to rural areas and has shown through his own efforts that rural life can work.

Besides being a spiritual bulwark to the Brenham area, Brother Weber has been a leader in farm-to-market road programs, 4-H programs, radio ministry, the nursing home industry, and in general, rural community development.

Recently the residents of Texas took time to honor Reverend Weber as the Texas Rural Minister of the Year. He is 71 years young now and still growing.

As the master of ceremonies noted:

> Through the years, we've had many nominations for Rural Minister of the Year, but Brother Weber is the greatest one that we've had the privilege to honor.

I would like at this time to place in the RECORD a newspaper article concerning Reverend Weber:

BRENHAM PASTOR NAMED RURAL MINISTER OF YEAR

The 71-year-old pastor of the Zion Lutheran Church of Zionsville near Brenham—R. J. Weber—has been named Texas Rural Minister of the Year.

Announcement was made Thursday (Sept. 14) by Reagan Brown, Agricultural Extension Service sociologist at Texas A&M University and coordinator of the yearly Town and Country Church Conference.

The minister will be honored during the 27th annual Town and Country Church Conference Oct. 12–13 at A&M, and he will receive an engraved silver tray from "The Progressive Farmer" magazine.

Brown said the Rev. Weber has served the Zionsville church for more than 25 years and has been a leader in agricultural development.

"The record of his ministry is an outstanding one. While serving this one church, he has baptized more than 300 children, performed 155 weddings and conducted 205 funerals. He has missed attending the Town and Country Church Conference only one time in its 27-year history," the sociologist pointed out.

The minister has been a leader in farm-to-market road programs, 4-H, radio ministry, nursing home ministry, Lake Somerville ministry, rural community development, and has encouraged people to move back to rural areas.

Brown said the 745 members of his church are a "monument to this great preacher's influence."

"Through the years, we've had many nominations for Rural Minister of the Year, but Brother Weber is the greatest one that we've had the privilege to honor," Brown said.

Ministers who were runners-up in the selection were the Rev. Bruce Alexander Will II of Mt. Zion Baptist Church, Harris Chapel, Panola County; the Rev. Charles Jaggers, Central Christian Church, Frisco, Eastland County; the Rev. Joe Aalbue (ck), Faith Lutheran Church, Sagerton, near Denton; and the Rev. Peter Suk (a Korean), First Christian Church of Mt. Pleasant.

"There are hundreds of ministers serving rural communities, and this honor is made to recognize all of them. I am sure that all Texans will receive inspiration from this great dedication and service that a man like the Rev. Weber has performed," Brown said.

MICKI KING

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1972

Mr. BROOMFIELD. Mr. Speaker, during the past Olympiad held in Munich, Capt. Micki King of the U.S. Air Force gave the rest of the world a lesson in 3-meter springboard diving as she drove toward and captured the Olympic gold medal.

Micki is the daughter of Mr. and Mrs. Leonard King of Pontiac, Mich., and I am therefore proud to rise today to offer my congratulations to Micki for her greatest victory yet in a star-studded career.

The people of Pontiac have long recognized Micki's unique and special skills. We watched and marveled at her progress through local swim clubs, at the University of Michigan and most recently in the Olympics, the greatest victory that any amateur athlete can achieve.

Fittingly, her many loyal supporters have organized a day-long civic celebration in her honor to take place October 5 in her hometown.

Mr. Speaker, Micki's victory in Munich represented a great personal triumph over adversity and against odds that seemed insurmountable. Four years ago in Mexico City the gold metal was all but hers when a freak accident near the end of the competition broke her wrist and dashed her medal hopes.

Despite this crushing disappointment, Micki persevered and rebounded to win the medal that only fate had deprived her of earlier. Her strength and determination to continue in international competition after the mishap is an illustration of the character and personal resolve that made Micki the true champion that she is.

Mr. Speaker, Capt. Micki King has proven once again that the measure of one's potential is only limited by the strength and depth of your personal resolve and determination. In her young life, she has already achieved a lifetime's worth of success. Nevertheless, I am sure that we have not heard the last from Micki because she will be a success at anything to which she applies her enormous talents.

INDIANA CENTRAL AIMS TO SERVE, AND IT DOES

HON. WILLIAM G. BRAY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1972

Mr. BRAY. Mr. Speaker, there is a great reservoir of academic strength and growth in the smaller colleges in America. One of the best of these is found in Indianapolis, with Indiana Central College. The following article from the September 24, 1972, Indianapolis Star tells why:

INDIANA CENTRAL AIMS TO SERVE, AND IT DOES

(By Harley R. Bierce)

Can a small, church-connected college on the outskirts of a growing metropolis survive in the urban crunch which is spurring the growth of a major, public urban university?

The answer is an emphatic yes, according to Dr. Gene E. Sease, president of Indiana Central College, which has had an image of operating out of a cow pasture adjacent to a church cemetery.

The next question is, will success spoil Indiana Central?

Sease holds the solution, whichever way it happens to be answered.

For a college president, he's young (41) and he boils with optimism and controlled energy.

"Indiana Central is a far cry from what it was in 1942, '52 or even '62," he says. "We've tried to swing with the times and there is a lot more here than has met the eye."

Growth in and around Indianapolis has been north and east, generally, Sease points out, focusing attention away from the Southeastside where ICC is located. In addition, the burgeoning growth of public institutions of higher learning has directed public money and academic energy into urban universities such as Indiana-Purdue University, Indianapolis.

Without anybody fully realizing it, Indiana Central started shedding provincial garb about 1958 when it started on a building program.

In 1959, the school introduced the first two-year degree-granting nursing program in the state, starting with nursing classrooms in the basement of a dormitory.

* * * * *

In 1969, ICC wanted to do something for women, before many had become so publicly conscious of their bondage, and "Mi-Lady's Day on Campus" was started.

That program offered daytime classes in art, music, cultural services and even one labeled "Stocks, Bonds and Investments."

"We expected a few women to be interested," Sease says, "but the reaction has been phenomenal." At any rate, it represented a pioneer effort by the school in finding a way better to serve its surrounding community.

In 1970, "still looking for ways to serve," ICC noted that many bank employes were taking American Institute of Banking courses without receiving college credit.

Sease met with Indianapolis bankers, telling them he was in the education business and believed ICC could provide the courses for credit.

Today more than 350 Indianapolis bankers are studying in what was the first college-level program established for the institute. Colleges across the nation have followed it.

Last year, after discussion with Marion County Sheriff Lee R. Eads and Indianapolis Police Chief Winston L. Churchill, ICC set up a criminal justice program which now has more than 75 sheriff's deputies and policemen enrolled.

"Our future is in responding to the felt needs of the community," Sease declares. "We are very sensitive to community needs and a school our size can do things quicker than anybody else because of our flexibility and autonomy."

The United Methodist-affiliated school has a day enrollment of about 1,200 and a night-school enrollment of about 1,300. These represent a limited but steady enrollment growth over the last decade.

"And we plan to stay small," Sease quickly adds.

Interestingly enough, the school has reversed its ratio of resident-to-computer enrollment in day school during the last decade. Students living in campus dormitories account for 76 per cent of the student body today.

The young president, who has degrees in theology, history and philosophy, said the misconception that Indiana Central is strictly a commuter college is fading fast, along with the impression it's an easy school to get into.

Pulling several sheets of legal paper out of a pile on his desk, he cited statistics showing 73.5 per cent of this year's entering freshmen rank in the upper third of their graduating classes.

Twenty-five per cent rank in the upper 10 per cent and 22 freshmen either were valedictorians or salutatorians in their high schools.

With obvious pride, Sease points out that the statistics include those students admitted on a contingency basis—high-risk students he feels every school should accept.

"We are flexible, versatile and ready to change. The median age of our administrative staff is 32 and the average age of our teaching-faculty is 42," Sease says.

Sease is in the forefront of college administrators who believe colleges should be institutions for teaching, not research. "We're not in the research business, but we require new professors possess a Ph.D., or be in the final stage of getting it."

That department chairman teach introductory courses and each student gets to meet and know full professors are major strengths of Indiana Central, according to Sease.

Last year, the school finished $10,000 on top of its $4 million budget. That's rare, particularly in private schools where red ink has become a standard budget item.

"We are going to stay healthy because we won't turn the first spadeful of dirt on a new building without having cash or pledges to cover it. In fact, I think the day of deficit spending in education is gone forever," he declares.

Sease doesn't feel threatened by the woe being expressed by many in private education because:

1. The school doesn't depend on government money.
2. It is located in an urban center, close to the interests of young people.
3. It has flexible, versatile programs that meet ends.
4. It doesn't spend money it doesn't have.
5. Student tuition and fees have been kept moderate.

Finally, Sease believes the church affiliation is a strength. "The anything-goes days are gone. Young people want a school that is committed to basic principles. We are."

POSTAL SERVICE GETS HIGH MARKS

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1972

Mr. YOUNG of Florida. Mr. Speaker, the St. Petersburg, Fla., Times recently gave the U.S. Postal Service high marks for delivering the mail and meeting its announced service standards.

The Times sent out 73 letters to 25 cities around the country with instructions to the recipients to mail back the enclosed self-addressed envelope. According to the Times, the Postal Service is meeting its announced service standards for all classes of mail better than 95 percent of the time.

The article also points out some of the problems confronting the Postal Service—transportation schedules, workforce turnover, and observation of collection schedules.

I include the Times article as a part of my remarks:

MAIL SERVICE MATCHES CLAIMS—BUT TEST SHOWS A LOT DEPENDS ON TRANSPORTATION AT SENDING AND RECEIVING LOCATIONS

(By Peggy Peterman)

Despite grumblings you keep hearing from women at the beauty parlor or men at the barber shop and even over your own complaints . . . all in all, the U.S. Postal Service is doing a good job of getting letters to the public in speedy fashion. At least that's what an investigation by The Times shows.

Seventy-three letters were sent to 25 cities around the country—as far away as Anchorage, Alaska, and as close as Clearwater—to managing editors of 25 newspapers. The editors were asked to mail the three self-addressed envelopes (special deliveries, air mails, 8 cent and letters with no stamps) back to the addressee. All complied. The letters were marked on the back for the city and state. The date sent and received was recorded.

Out of 25 special deliveries sent, 16 came back in one day, eight returned in two days and one from Peoria, Ill., took three days.

The sixteen cities were Bradenton, Clearwater, Atlanta, Ga., Newark, N.J., Nashville, Tenn., Boston, Mass., Little Rock, Ark., Birmingham, Ala., Columbia, S.C., Montgomery, Ala., Houston, Tex., Chicago, Ill., Denver, Col., Hartford, Conn., Gary, Ind., Charlotte, N.C.

The eight that returned in two days were New Orleans, La., Los Angeles, Calif., Hopkinsville, Ky., Phoenix, Ariz., Boise, Idaho; Anchorage, Alaska; Honolulu, Hawaii; Philadelphia, Pa.

Since coming into being some 14 months ago, the U.S. Postal Service has bragged there will be next day delivery of air mail letters to cities within a 600-mile radius and delivery within two days to cities beyond 600 miles.

Twenty-three air mail letters were sent and 15 came back in two days, seven in one day and one from Peoria, Ill., in three days. Bradenton and Clearwater were not included in the air mail test.

Twenty-five eight cent first class letters were sent, two came back in three days, 19 in two days and two in four days, from Anchorage, Alaska and Honolulu, Hawaii. It took three days for eight cent letters from Peoria, Ill., and Philadelphia.

J. A. Gonzalez, postmaster and sectional center manager in Tampa for 138 post offices, has been in the post office business for 46 years and said there are many reasons for mail from relatively short distances getting back at the same time as mail from thousands of miles away.

"It depends on where and when the letter was deposited and what the air transportation situation was in that area. When you transfer mail at an airport and the arrival flight is late, it might miss that connection and this begins to create a log jam. And then there's human error. An employe might put the letter in for distribution to the Miami or Jacksonville district instead of the Tampa district. This would be human error. But I can say, human error is very small in this business.

"The other problem is turnover. In the past, many employes were with the post office until they retired, but now employes come and go continually. Our society is more affluent and people move around," Gonzalez said.

Asked about the slowness of the letters from Peoria, Ill., Gonzalez said he's certain it involved available flight transportation. There are no flight schedules between Tampa and Peoria and he doubted if there were many regular flights out of Peoria. It might be that mail is shipped to Chicago or another close city and then down to Florida.

Gonzalez said the U.S. Postal Service is still in an organizational stage but the main thrust is to maintain the present level of service and reduce the delays and errors.

Concerning the boast by the U.S. Postal Service that air mail from cities within a 600-mile radius will reach the public in next day delivery and beyond 600 miles in two days, he said. "Distance is insignificant. What is important is available transportation. It's possible because of available air transportation to get something to Los Angeles faster than you can to Macon, Ga."

Many people do not observe collection schedules, Gonzalez said. It's very important to see when the mail will be picked up at mailboxes. You might be putting a letter in a box at a time when it will stay all night. Another misconception is that first class mail will arrive at the same time as air mail. Some people refuse to spend the extra three cents because of this misconception.

"All mail going any distance goes by air, but air mail is kept separate and goes out all day on the first available flight. First class mail is held until space is available," Gonzalez said.

The St. Petersburg Main Office processes its own mail, but mail is routed into Tampa from small towns and cities that do a limited amount of distributing in St. Petersburg. The letter is then redistributed in Tampa, thus taking more time to arrive in St. Petersburg.

STUDENT GOVERNMENT DAY

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1972

Mr. BEGICH. Mr. Speaker, in recognition of the fundamental importance played by student governments in helping young Americans gain valuable experience in the process of decision-making, Gov. William A. Egan has proclaimed September 26, 1972, as Student Government Day in Alaska.

All educational institutions, academic, vocational, and nonacademic are encouraged to join in appropriate activities to encourage wider participation in student government on this day.

I enclose for the attention of my colleagues the recent proclamation of Alaska Gov. William A. Egan:

PROCLAMATION—STUDENT GOVERNMENT DAY

Students want and deserve an appropriate voice in their own affairs, and education can be better when they have a voice.

More than 60 million Americans are now enrolled as students at all levels of education. They are entitled to participate in the educational decision-making which affects their lives today and their opportunities for many years to come. Administrators and faculty, parents, and taxpayers all should continue to exercise their proper authority; but students too have a legitimate interest in sharing in the process of school governance.

Student councils can offer young people early and vital experience in exercising a voice in matters of common concern, reconciling diverse interests, and selecting leaders to express representative views. Equally important, active and responsible student governments can exert a constructive influence in shaping our educational communities.

Most students in most schools are accepting their new opportunities with the kind of responsibility which will ensure a vital and enlightened role for student government in the Seventies. Our hopes and our efforts must be directed to their doing so, for the quality of our future in some degree depends on it.

Therefore, I, William A. Egan, Governor of Alaska, hereby proclaim September 26, 1972, as Student Government Day in Alaska, and encourage all educational institutions, academic, vocational and non-academic, to join in appropriate activities to highlight, revitalize, and to encourage wider participation in student government.

I also urge all students to acquaint themselves fully with the activities and programs of their student government, and to take a full and constructive part in that government.

Dated this 12th day of September, 1972.

WILLIAM A. EGAN, *Governor.*

GUN CONTROL

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1972

Mr. GAYDOS. Mr. Speaker, it appears that once again Congress will be considering gun control legislation. One of the bills already proposed is S. 2507, which would prohibit any American, except law officers, from purchasing a handgun unless first receiving permission from the U.S. Secretary of Treasury.

This bill has aroused considerable interest among the sportsmen in my 20th Congressional District of Pennsylvania. One of the leading figures in this group has written me a letter expressing the views of his organization on S. 2507, and gun control legislation in general. The writer is Mr. Don Hoffman, president of the McKeesport Sportsmen's Association, which has a membership of more than 500 active sportsmen and shooting enthusiasts.

They, along with thousands more of my constituents, believe this type of legislation is letting the nose of the camel get inside of the tent. They know what will follow. I have consistently opposed gun control legislation in the past. I believe in the constitutional right of Americans to own firearms and I have no intention of changing that position when S. 2507 comes to the floor of the House for a vote.

Mr. Speaker, I believe my colleagues will be interested in Mr. Hoffman's opinions and I am inserting a copy of his letter into the RECORD for their information and consideration:

MCKEESPORT SPORTSMEN'S ASSOCIATION,
Allegheny County, Pa., August 21, 1972.

DEAR SIR: The McKeesport Sportsmen's Association represents a group of over 500 active sportsmen and shooting enthusiasts. It has been in operation in its present location since 1934 serving a Metropolitan area in Allegheny and Westmoreland Counties of over 265,000 population within an 8 mile radius of the club grounds. Club facilities provide for Trap and Skeet shooting, Indoor and outdoor ranges for Pistol and Small bore rifle, Outdoor Big Bore Rifle shooting, and for Archery shooting. The aim of the club is to provide more sport, outdoor recreation, and education of youth in the shooting sports and conservation. We have provided Marksmanship and Hunter Safety Training for more than 2500 area young people. Area Police Departments and military organizations use our ranges for weapons training. Our facilities have been used by Boy Scout and Girl Scout groups and also by the Area Community College. More than 750 competitive shooters use our various ranges and they represent area sportsmen's clubs totaling better than 6000 memberships. With this background in mind, the officers and members of the McKeesport Sportsmen's Association wish to respectfully present the following thoughts and desires concerning pending firearm legislation.

The tragic shooting of Governor Wallace has precipitated another wave of hysteria for more and better gun control laws. One of the more sinister of these bills is Senator Birch Bayh's S2507, a bill that could make it illegal for anyone but law-enforcement officials to purchase handguns unless first receiving permission from the Secretary of Treasury.

We find it quite disturbing when elected officials propose and/or support such measures. Actions of this nature make it quite evident that these elected officials are not aware of their American heritage and the rights guaranteed its citizenry by the Constitution of the United States. This letter is submitted on behalf of all Americans who cherish the blessed freedoms which our Founding Fathers guaranteed to we, the people, when they drafted our Constitution, the document that established the finest form of government the world has ever known.

When our Founding Fathers wrote the Declaration of Independence, they were an Oligarchy. The government was in the hands of a small influential group. They could have done whatever they pleased. Some people even came to George Washington and asked him to be king, but he and the others did something unique in history. They divested themselves of the power that they already had and recommended a Republic . . . the limitation of government.

During the Constitutional Convention, great care was taken to specifically limit government. These men knew their history. They knew that the essence of freedom is the limitation of government. And so, that is what they gave us. They built into it diffusion of powers, checks and balances. They wisely made sure that no government bureau could become so large that it would be oppressive.

Even though they had done their work well, there were some people at the Convention who were still not satisfied. George Mason of Virginia, for example, refused to sign the Constitution. And it was largely through his efforts that the Bill of Rights was added, the first 10 Amendments to the Constitution. The Bill of Rights is nothing more than the further guarantee of the limitation of government. Limitation was not placed on the people. Limitation was placed on the government!

With respect to the Bill of Rights, it is our contention that these rights cannot be abridged or circumvented legally, and that any attempt to do so by those who are paid, and whose duty it is to protect, uphold and defend the Constitution of the United States of America, violates their oath of office.

There appears to be much misunderstanding about the 2nd Amendment. The Second Amendment does not say the militia has the right to keep and bear arms; it says the people's right to keep and bear arms shall not be infringed. Now that is pretty plain in both language and intent, and has been for 175 years of our history. This amendment denies the federal government the power to interfere with the citizenry ownership and use of weapons for lawful purposes.

An American citizenry which is well armed with personal firearms, and possesses the knowledge to use them effectively and properly, would provide more defense against invasion by an enemy (or against any internal attempt to seize power) than the federal government's annual multi-billion-dollar National Defense expenditures now provide.

The early history of our nation bears out this assertion, and the example in Switzerland confirms it. Switzerland (which has not been involved in war since 1515) bases its national defense on a militia system in which all boys between ages seventeen and nineteen take voluntary rifle training. At age nineteen, all boys take tests for military service. Those not qualified are given firearms training and are re-examined periodically. All members of the militia keep their guns, ammunition and other fighting equipment at home; they wear sidearms when going to the polls to vote—not to intimidate anyone, but to demonstrate pride in readiness to defend their nation against all enemies, domestic or foreign. In a crisis, Switzerland could instantly mobilize 850,000 men, armed and trained, out of a total population of 5,500,000. This represents, on a per-capita basis, the biggest national defense army in the world; yet Switzerland has practically no standing army to drain the public treasury for its upkeep.

In 1939 and 1940, Finland, with a population of only 4 million (but with an unusually large number of trained riflemen) was able to resist and humiliate the mammoth armies of the Soviet Union, whose population then totaled 170 million.

Requiring national registration of personally owned firearms can be quite as disastrous to freedom as total disarmament of the citizenry. France had a national gun registration law before World War II. Nazis confiscated the records and the guns, making effective resistance impossible. It was a firearms registration and control law which enabled Communists to disarm the Czechoslovakians, thus leaving them helpless when the Communists moved to take total control.

Many Americans remember the impassioned pleas of the British for personal firearms to defend their homes and families in 1940, when a Nazi invasion of England seemed imminent. The British had been disarmed by their own government, with severe firearms control regulations.

In conclusion, we wish to remind you that the illegal use—not the ownership—of a firearm is the proper object of legislative concern. Therefore, we ask you to uphold your oath of office and oppose any and all forms of legislation pertaining to registration and/or confiscation of firearms.

Sincerely,

DONALD L. HOFFMAN,
President, McKeesport Sportsmen's Association.

BAIL REDUCED FOR FORT WORTH FIVE

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1972

Mr. CONTE. Mr. Speaker, I have been closely following the situation in Northern Ireland, and particularly the recent case involving the incarceration in Fort Worth, Tex., of five members of the Irish community from New York.

I am pleased that bail has finally been granted to these five men. As you may know, last week, at the order of Supreme Court Justice William O. Douglas, these men were given the opportunity to post bail. Unfortunately, this bail was set by the courts at the exorbitant amount of $100,000. This past weekend the bail was reduced to the more reasonable amount of $5,000 to $15,000 per person and I have been advised that all have returned to their homes.

Much of this case still remains a mystery, despite repeated requests for information from Members of Congress to the Department of Justice. At least this latest action will allow these men to remain with their families for the time being while attempts are made to resolve the legal uncertainties surrounding their case.

Regrettably there is nothing hopeful to report on the situation in the six counties of Ulster. The violence perpetrated on the minority by denying them their basic human rights has been answered by violence, and on both sides it is escalating.

I do not condone violence of any kind and, to my mind, ignoring or refusing to do anything about the causes of such violence is tantamount to approval. Something must be done to relieve these suffering people.

Early this year I said that the fact that the United States remained silent throughout this tragedy was, in itself, a tragedy. I called for immediate steps to be taken to insure full civil rights for all the people in Northern Ireland; an immediate end to the policy of internment without trial, with the simultaneous release of all persons detained thereunder; and the replacement of British troops with a U.N. peacekeeping force. I also urged that arrangements be made for consultations with all parties involved, to bring about a cessation of the conflict.

This has not been done. In the ensuing months hundreds of people have been killed, countless families driven from their homes, and a whole generation of children has experienced the real violence of death and the subtle, but nearly as devastating, violence of discrimination and hatred.

America must not sit silently by in the face of this tragedy. Irish men and women have contributed greatly to this country. It is only fitting that we offer to them our support in their search for a just and lasting peace.

Mr. Speaker, I again call upon our Government to use its offices to assist in bringing about this peace.

SHABBAT SHUVAH: A RETURN TO SANITY

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1972

Mr. WHALEN. Mr. Speaker, a distinguished rabbi in my district articulated his reflections on the U.S. involvement in Indochina before his Temple Israel congregation on September 15, 1972 in Dayton, Ohio.

Rabbi Howard R. Greenstein's expostulation was among the most eloquent and dispassionate of any I have seen or heard on the critical subject of the Vietnam war.

So well thought out is his presentation, Mr. Speaker, that I will not attempt to describe it. Instead, I insert it at this point in the RECORD and urge every Member of Congress to read what this most thoughtful man of God had to say:

SHABBAT SHUVAH: A RETURN TO SANITY

The Central Conference of American Rabbis recently proposed a specific course of action to all Reform colleagues in which they might wish to invite their congregants to join them. The proposal, offered by the Committee on Justice and Peace, declared that "The continuation of the war in Vietnam is a painful burden for each of us. As responsible citizens, we cannot evade our own share of guilt because our nation is carrying on a war which we find unconscionable. As serious Jews we must try to expiate our guilt."

The resolution then urged each congregational rabbi, if he so chooses as an individual, to announce on Rosh Hashanah his intention to fast for a particular period specifically in repentance for the devastation of Vietnam and to persuade as many congregants as he can to join him in that fast.

The CCAR proposal clearly stated that the purpose of such action was not a public demonstration or protest. The proposal was aimed solely as a quiet but meaningful way of acknowledging personal guilt for our collective participation in the War.

I must confess to you that I fully intended to participate in that action and to designate one day this past week at which time all those who shared this revulsion for the Vietnam war could meet together at Temple as part of a special day of fasting and prayer. I cancelled those plans only because the magnitude of the tragedy in Munich simply obliterated any priority which the Vietnam War would ordinarily deserve.

The Munich disaster, however, in no way diminishes the enormity of the shameful record which this nation has produced in Southeast Asia. It has generated a contempt for the integrity of our beloved America which shall defile our social climate long after the smoke has cleared in the jungles of Vietnam. Undoubtedly, members of Temple Israel or any other congregation will resent the intrusion of religion on matters of political consequence. That objection would be wholly valid, if these were only matters of political consequence. But they are not. They are also matters of grave moral consequence. What is at stake is nothing less than the credibility of a nation founded on principles which originate in the dictates of human conscience. The requirements of conscience are very much the domain of religion, and especially Judaism.

This war in Indochina has long become a moral abomination. Within the past ten years more than one-and-a-half million people have been killed and millions more injured. Nearly one-third of the population of Indochina have been driven from their homes. Over three times the amount of explosives employed in World War II have saturated an area roughly the size of New England. One seventh of Vietnam's forest land has been totally burned out and thousands of acres more of farm land have been totally devastated, creating severe food shortage in several communities. Over 20 million bomb craters puncture the countryside of Indochina, and several hundred thousand unexploded bombs remain a deadly danger to life and property.

In the last six years alone, the War has produced more than 6 million refugees—one-third of the entire population. At least half a million soldiers have died. 325,000 civilians have been killed and hundreds of thousands more wounded. The devastation has spawned 284,000 orphans, 131,000 war widows, 156,000 persons physically disabled.

I do not recite these statistics to exaggerate the reality. What words could possibly exaggerate such misery and suffering? I cite these facts, and they may be found in such sources as The Congressional Record, because I tremble for all that this country stands for. I tremble as did Thomas Jefferson when I reflect with him that "God is just and that His justice cannot sleep forever." I quote these appalling figures, because I find it almost impossible to believe that the nation responsible for them is the same nation which is dedicated to the proposition that "all men are created equal and that they are endowed by their Creator with certain unalienable rights, that among these rights are life, liberty and the pursuit of happiness."

How much life, liberty and happiness we have brought to Southeast Asia each of us may judge for himself from the reports of Vietnamese victims. A 30 year-old woman refugee states that "Our lives became like those of animals desperately trying to escape their hunters . . . Human beings, whose parents brought them into the world and carefully raised them with overflowing love despite so many difficulties, these human beings would die from a single blast as explosions burst, lying still without moving again at all. And who then thinks of the blood, flesh, sweat and strength of their parents, and who will have charity and pity for them? . . . In reality, whatever happens, it is only the innocent who suffer. And as for other men, do they know all the unimaginable things happening in this war?"

A young boy of only thirteen recalls the fire of destruction which destroyed everything he ever knew and loved. "My village," he writes, stood on the edge of the road from Xieng Khouang to the Plain of Jars. There were ricefields next to the road. At first, the airplanes bombed the road, but not my village.

"At that time my life was filled with great happiness, for the mountains and forests were beautiful: land, water and climate were suitable for us. And there were many homes in our little village.

"But that did not last long, because the airplanes came bombing my ricefield until the bomb craters made farming impossible. And the village was hit and burned. And some relatives working in the fields came running out to the road to return to the village, but the airplanes saw them and shot them—killing these farmers in a most heart-rending manner. We heard their screams but could not go to help them. When the airplanes left, we went out to help them, but they were already dead." This is the testimony of a thirteen year-old boy.

The innocent farmers and children are not the only victims of this war. The victims also include the American pilots who fly these bombing missions. They may escape physically unharmed, but spiritually this "modern warfare" has inflicted mortal wounds on them from which they may never recover. This warfare from a distance" has transformed the brutality of wholesale violence into a mechanical operation. Sophisticated weapons enable a man to slaughter thousands without even seeing the results of his devastation. Consequently, conscience ceases to be a deterrent to murder. "I'll be frank," said one pilot, "I'm trained to kill people. I don't like it particularly—but when the time comes, I'm prepared to do it. It's just like your experts in the political or economic field are allowed to do their specialties. When it's in the military phase, I feel I should be allowed to employ my expertise. I mean, I guess you could say I want to be allowed to employ my expertise just like Eichmann or something."

These are not the words of a barbarian. These are the statements of a loyal, responsible American military man. The massacre in which he participates is not a crime for him, because he is never at the scene. He plots bombing raids on coordinates, not villages. He pulls a lever from 5000 feet up, not a trigger at human forms 100 yards away. His photographs reveal bomb craters and destroyed "enemy structures", not mutilated children or napalmed grandmothers. This is where the Indochina War has brought him; and this is where by our financial and political support, it has brought all of us.

Why then do we continue to wage this campaign of insanity? It is hard to find out. Is it in defense of a sovereign nation? The Geneva Accords presume the existence of only one Vietnam not two.

Is it to contain Chinese expansion? That rationale collapses in light of American efforts this past year to seek accommodation with China.

Is it treaty commitments? The SEATO treaty has never applied, the Tonkin Gulf resolution has been repealed, and the U.S. has never had a defense treaty with Vietnam, Laos or Cambodia.

Is it to prevent a bloodbath following the end of hostilities? In the past six years, American and allied armed forces have killed more civilians every six months than the other side has in 16 years. What bloodbath could possibly exceed that magnitude?

Is it in defense of American honor? Many Americans, including Congressional leaders of both parties, are convinced that the spectacle of the world's most destructive military machine relentlessly pounding a nation of simple peasants has defiled American honor as never before in our history.

Is it to protect our troops and gain the release of our prisoners? No enemy in the world has ever released all its prisoners prior to the end of all hostilities.

Reasons may exist which none of us can know. That possibility, however, is entirely extraneous. No conceivable reason on God's earth could justify this path of insanity which we continue to follow with increasing immunity to all its horror.

This is Shabbat Shuvah—the Sabbath of Repentance. The observations I share with you are not a matter of political maneuvers. It is not important whether this is Nixon's War or Johnson's War or anybody else's war. This is a filthy, cruel and needless war, and by every measure of human conscience, it must stop! It is a travesty to all that is sacred and meaningful in human life. Whatever range of alternatives may exist in Judaism on the subject of war and peace, it cannot condone the living hell which Vietnam has become.

I do not ask for resolutions of protest from this congregation. I do not ask for demonstrations or public condemnations, though they may be long overdue. I only ask that you honestly search your own heart and soul and determine whether as a Jew you can tolerate this mad venture any longer and whether it is possible for any American to ignore some degree of responsibility for what has happened.

If you agree with me that this war has become a mark of Cain for all of us, then this Sabbath of Repentance will be a moment of serious spiritual inventory. In two days we will worship together on the holiest day of our calendar. This senseless slaughter which continues every day will add at least for me a new dimension to the confession, "Chatati—I have sinned. I have sinned, I have transgressed, I have acted perversely."

I shall pray that God may grant me the strength and the courage to support every worthy effort to end this nightmare. I shall pray that, God willing, it may not be too late to salvage a portion of our conscience. Amen.

TELEPHONE PRIVACY—XXXIX

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1972

Mr. ASPIN. Mr. Speaker, I reintroduced the telephone privacy bill on May 10, 1972, with a total of 48 cosponsors.

This bill would give individuals the right to indicate to the telephone company if they do not wish to be commercially solicited over the telephone. Commercial firms wanting to solicit business over the phone would then be required to obtain from the phone company a list of customers who opted for the commercial prohibition. The FCC would also be given the option of requiring the phone company, instead of supplying a list, to put an asterisk by the name of those individuals in the phone book who have chosen to invoke the commercial solicitation ban.

Those not covered by the legislation would be charities and other nonprofit groups, political candidates or organizations, and opinion polltakers. Also not covered would be debt collection agencies or any other individual or companies with whom the individual has an existing contract or debt.

I have received an enormous amount of correspondence on this legislation from all over the country. Today, I am placing a 37th sampling of these letters into the RECORD, since they describe far more vividly than I possibly could, the need for this legislation.

The letters follow:

Hon. LES ASPIN,
House Office Building,
Washington, D.C.

DEAR SIR: I understand you have introduced H.R. 14884 to keep nuisance calls off phones.

I do hope something will be passed through Congress because the last few years we receive land development calls trying every gimmick to get us to meetings and dinners, cash gifts, vacations, etc. We get plagued by contractors, newspapers, rug and furniture companies, fund raising organizations. You name it, we get them. We are aged and could ill-afford any of these luxuries and we feel they are real intruders on our right to privacy. Calls inconvenience the aged, disabled, busy mothers and frankly are just a nuisance I'm severely crippled so it is an effort to get to phone.

Recently we were told there is a racket going people make these offers for free dinner and movies and when you are out of house your place is robbed. Therefore, any pressure than can be used to have people's right of privacy protected via phone service would be a blessing to many people. It is long overdue.

Sincerely yours,

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MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 1972

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,757 American prisoners of war and their families.

How long?